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PROCEEDINGS AND DEBATES OF THE 103^{d} CONGRESS, FIRST SESSION

SENATE—*Wednesday, October 20, 1993*

(Legislative day of Wednesday, October 13, 1993)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable PATTY MURRAY, a Senator from the State of Washington.

The PRESIDING OFFICER. The Senate will come to order.

Today's prayer will be offered by a guest chaplain, the Reverend Dr. Albert Giles, Jr., Asbury United Methodist Church, Brandywine, MD.

PRAYER

The Reverend Dr. Albert Giles, Jr., Asbury United Methodist Church, Brandywine, MD, offered the following prayer:

Let us pray:

Almighty God, we thank You for our beloved land You gave to us to use and enjoy. You gave us a new humanity with power of freedom. Free to live, free to serve, and free to enjoy and love one another through the power of Your divine love. You have blessed our Nation with great wealth, and good harvest from our farmland. Our streams, rivers, and lakes were clean, and we were able to eat, drink, and enjoy fresh air and good health. But we have strayed like lost sheep, and our streams, rivers, and lakes are polluted, and we suffer from diseases, sickness, and even death.

Our cities are not only polluted with stale air, but with poverty, violence, and diseases, which led to death and destruction. The true power of God's love must prevail over polluted cities. For it was written long ago: Except the Lord keep the city, the watchman waketh but in vain. (Psalm 127:1)

Remove O God, the elements from our land, that breed bitterness and violence among our young people. Surround them with Your love, that they may be led out of the darkness of selfishness and into the glorious sunlight of sisterhood and brotherhood, where they will be healthy, and bring up a generation free from poverty, illiteracy, violence, and preventable diseases.

In the name of Him who is the Creator and Sustainer of the land. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 20, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATTY MURRAY, a Senator from the State of Washington, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. MURRAY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Madam President, pursuant to an agreement reached late last evening and printed at page 3 of the calendar today, the Senate will proceed this morning to consider an amendment by Senator BRADLEY—in just a moment, he will be here to offer that amendment—under a 1-hour time limitation. It is expected there will be a vote on or in relation to the Bradley amendment within the next hour. That will be followed by an amendment by Senators MCCAIN and BINGAMAN, under a 1-hour time limitation, and it is expected that there will be a vote on that. So there should be two votes this morning with respect to those amendments.

Thereafter, the managers have advised that they intend to proceed as promptly as possible on the remaining amendments, and they are listed at pages 2 and 3 of the calendar this morning.

It is likely that the Senate will have to remain in session throughout the evening, as we make a renewed effort to complete action on this bill as soon as possible. In addition, we will be taking up appropriations bills conference reports as they become available from the House of Representatives, and votes are expected on one or more of those conference reports today.

So, Senators should be aware that votes will occur throughout the day, beginning this morning, and could occur at any time. Senators are on notice to be able to come to the floor within 20 minutes to cast their votes.

Mr. President, I see the distinguished manager is present, the Senator from Hawaii, and Senator BRADLEY is here to offer his amendment.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 3116, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 3116) making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 1070

(Purpose: To delete the funding for the acquisition of tactical transport aircraft for support of Army and Air National Guard missions)

Mr. BRADLEY. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 1070.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. BRADLEY. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, line 13, strike out "$785,000,000" and insert in lieu thereof "$635,000,000".

Mr. BRADLEY. Madam President, this amendment represents one more attempt on my part to cut lower priority, unnecessary public spending. During the consideration of the budget bill, we had a lot of speeches about cutting spending, and I have tried, pursuant to several principles, to offer the Senate the opportunity to do so in a series of appropriations bills. This is another example of that effort.

This amendment would cut $150 million in funding for tactical transport aircraft for the Army National Guard. This money has not been requested by the administration. Not only is the spending unrequested, it is intended for unspecified procurement. No equipment types or quantities are identified with this $150 million.

The committee report simply asks the National Guard to submit a plan identifying the mix of aircraft to be acquired by January 15, 1994, with the money appropriated in the meantime. In other words, we give the money to the National Guard and they tell us later how they are going to spend the money.

In today's tough fiscal climate, we need to allocate limited taxpayer funding to where it is most needed. This is clearly not an example of high priority spending. Again, this spending does not appear in the President's budget. The administration supports striking these funds. The House did not include these funds.

I believe that eliminating this money is the right course of action for a number of reasons.

First, it is a fact the future role and size of the National Guard is under active review today. While it is clear that President Clinton, as a former Governor, values the Guard and its capabilities, a major restructuring of the Guard is in the works. Although the cuts in force will not be as drastic as they have been proposed earlier, it is probable that the Army Guard will drop another 10 percent by 1996. Additionally, it is possible that the Bottom-Up Review may lead to the consolidation of the Guard's current 10 divisions into 5 divisions of enhanced capabilities. With such changes forthcoming, it makes no sense to approve a vague or unspecified appropriation of this magnitude, $150 million, with no statement as to how it will be spent.

The second point is the Army active forces are rapidly downsizing from 750,000 men and women in 1990, to 540,000 men and women in 1994. The Air Force is likewise being consolidated. With this consolidation and shrinking of force, this will free up vast amounts of material for use by the Guard troops. It is unwise to make such a large appropriation, $150 million, unless we are absolutely clear that these needs cannot be met out of the existing inventory of equipment. Since we do not know what the Army Guard wants, it is impossible to say whether it will need whatever this money is to be spent for or that it cannot get it out of the surplus that will be available from the downsizing of the Army and Air Force.

The third point is that the Senate appropriations bill includes $250 million that is authorized, but not requested, for purchase of 8 tactical airlift aircraft by the Air National Guard. This amendment does not challenge that spending. Whatever new airlift needs there are in the National Guard should be helped by this addition of $250 million for the Air National Guard for tactical airlift aircraft. So if we are already spending $250 million in this for the Air National Guard, why do we need $150 million for the Army National Guard?

I note, further, that the Army and Army Reserve do not own the type of planes likely to be purchased with this funding. They do not need them. These forces, the Army and the Army Reserve, traditionally rely on the Air Force to transport and to supplement their helicopter capabilities. The much smaller Army Guard, on the other hand, already owns or has ordered about 40 to 50 of these transport aircraft. Given the presence already of a 1,700-plane Air National Guard and the further expansion of the Air National Guard allowed by this $250 million appropriation, I have to question the need for another $150 million for the Army National Guard.

Last, Madam President, if the National Guard is not expected to tell us prior to January 1994 how they intend to allocate this money—how they are going to spend it—I would respectfully suggest that they wait 1 or 2 months and include that information in the fiscal year 1995 budget submission. Then, given a proper explanation, the appropriate committees can take an informed look at these needs.

Madam President, it is time to stop buying unneeded and unwarranted equipment. If funding is not requested, it is incumbent on the spending sponsors to make a solid claim as to need and purpose. Such a claim has never been made for this $150 million in funds.

The public is increasingly concerned about the use of congressional earmarks to steer Federal dollars to parochial projects. The Senate committee has strongly tried to reject earmarks, and they are to be commended for their efforts. This appropriation is, in a sense, the opposite of an earmark. Its purposes are identified by only the vaguest phrases—"tactical transport aircraft." But the ambiguity in the language makes it impossible to assess the value of the equipment to be acquired. Like the earmark, there is no objective statement of need to justify this $150 million of taxpayer money going to the Army National Guard.

We do not have $150 million to spend as Congress sees fit or as the Guard sees fit. This money must go to the highest priority needs, and those may be elsewhere. Certainly, the President and the Department of Defense believe that priority funding should be for other purposes. The President and the Department of Defense say this money should not be spent for these purposes. To quote the statement of administration policy, "These are not high priority items." Like the earmark, this language represents bad public policy.

I urge the Senate to support this amendment. It makes sense in terms of maintaining an effective military force, and it makes sense in terms of protecting the taxpayers' hard earned dollars.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUYE. Madam President, I rise to speak against the amendment.

First, I believe the record should be made clear that this was authorized by the Armed Services Committee and by the U.S. Senate. In fact, the chairman of the Appropriations Committee, the Senator from West Virginia, Mr. BYRD, and the ranking member, Mr. HATFIELD, together with Senator STEVENS, and the chairman of the Subcommittee on Defense appropriations, issued a joint letter to the Armed Services Committee requesting authorization for these amounts.

Second, it has been suggested by the author of this amendment that these aircraft are not needed, that this is a waste of money, and that it was not requested.

It has not been requested because it has been the practice for too long to give leftovers to the National Guard. Yes, leftovers. We have been providing command aircraft to the National Guard, leftovers. We have been providing transport aircraft to the National Guard, leftovers.

Yet, Madam President, we call upon our men and women in the Air and Army National Guard to place themselves in harm's way. They were in Desert Storm. They are in Somalia. And who knows they may be in Bosnia. But yet we are saying give them leftovers.

So we took it upon ourselves to call upon the Department of Defense and the Armed Services Committee to come forth with equipment. But in order to comply with the wishes of some of the Members of this body, we did not identify the aircraft. We provided a generic definition because so many Members have been complaining about earmarking. But everyone knew what we had in mind. The Armed Services Committee knew exactly, if one should follow the debate on the floor of the authorization. We wanted to purchase C–23's. These are small tactical lift aircraft, cargo planes, that can carry troops, short runway, fast takeoff.

Why should we saddle our men and women in the old DC–3's? The inventory of the Army Air National Guard still include DC–3's, DC–3's that were in operation in World War II.

And yet we expect our men and women in the Guard to, God forbid, serve us in World War III with World War II equipment.

We also knew that the National Guard, the Army and Air, wanted the C–212. They also needed replacement aircraft for medical evacuation. Are we to tell those men and women who are injured that they will have to do it the old way, carried on stretchers, picked up by helicopters, and wait hours and hours before shipped off to a hospital?

If we expect our men and women in the National Guard and the Air National Guard to stand in harm's way for us, the least we can do is to provide them with good equipment. And this amendment provides that.

Mr. STEVENS addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. INOUYE. I yield whatever time the Senator from Alaska requires.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Thank you, Madam President.

I am very strongly opposed to this Bradley amendment.

Sometime later today, the managers of this bill are going to be attacked because we earmarked specific items in this bill in other amendments. Now the Senator from New Jersey attacks us because we have not earmarked, knowing, as the Senator from Hawaii has indicated, that we have a staggering backlog of demand for replacement of aircraft for the Air National Guard and for the Army Guard. And I would point out to the Senator from New Jersey the $150 million is for both.

We went, as the Senator from Hawaii says, together with the chairman and ranking member of the full committee, to the Armed Services Committee and said, "Authorize us at least some money this year to start that replacement."

We all know about problems throughout the Guard. Let me tell the Senator from New Jersey about the Alaska situation.

We are currently operating twin-engine Otter aircraft. They are the only planes that we have that can meet the needs of remote locations in Alaska in the wintertime, using skis for takeoff and landing on unprepared, ice runways that are in use during the maneuver period when the Guard brings National Guard units from all over the Nation to Alaska to experience winter training. Units operate out on the tundra, out in areas without runways, and ice runways are prepared for evacuations.

The Otter is over 20 years old—a great airplane, the UV–18—and it must be replaced. We have not said which aircraft will replace the Otter or even that the Otter must be replaced from this money. I certainly hope it will be. But the need is there.

In the past 2 years, the National Guard has been called into service in four domestic crises: Hurricane Andrew, Hurricane Iniki, the Midwest floods, and civil disturbances in Los Angeles. In each instance, both the Army and Air Guard have flown substantial numbers of missions. The need is there to replace aircraft that have been overused in those emergency airlift needs associated with those emergencies.

Madam President, I ask unanimous consent to have printed in the RECORD following my remarks the emergency missions flown by the Army and Air National Guard during those recent domestic major emergencies.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Madam President, I urge the Senate to reject this amendment. I do so on two bases: First, this is the minimum amount necessary to replace aged aircraft that are currently operated by the Air and Army Guard. It does not meet their total needs at all. It is a beginning. As the Senator from Hawaii says, it is a beginning of replacing those aged aircraft with new aircraft so that the Guard is trained in modern, up-to-date aircraft, and their readiness and their capability to respond to emergencies at the call of the Governors or at the call of the national authorities is improved.

I can think of no time in the history of the Guard when their needs have been greater.

Madam President, my last reason is this: As we downsize the standing Army and the standing Air Force, the Active Duty Army and Air Force, we must improve the capability of our Reserve and National Guard Forces. They will be called on more and more, as the Senator from Hawaii says so succinctly, to be placed in harm's way because of the involvement of this country more and more in overseas emergencies.

I really think, if anything, we should be attacked for having requested so little, really, in view of the fact that the need is so great for the National Guard.

If I may, before I finish my time, I would like to have printed in the RECORD the provision on page 230 of the committee's report, where we explain the reason for this item, the National Guard aircraft. It is a very short paragraph.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

National Guard aircraft.—The Committee recommends $150,000,000 for the acquisition of tactical transport aircraft to support Army and Air National Guard missions. The Committee expects the Chief of the National Guard Bureau to submit a plan identifying the specific type and quantity of aircraft to be purchased with these funds and the specific missions to be supported by these assets to the House and Senate Committees on Appropriations and Armed Services not later than January 15, 1994. The Committee expects the Chief of the National Guard Bureau to prioritize procurement of aircraft to support cargo, medical evacuation, and emergency support missions.

EXHIBIT 1

Emergency Missions flown by Army and Air National Guard during recent Major Domestic Emergencies:

	Army	Air
Hurricane Andrew	1,000	519
Hurriance Iniki	1,000	812
Midwest floods	2,000	44
Civil disturbances	100	80
Total	4,100	1,455

Mr. BRADLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. BRADLEY. Madam President, in reading the paragraph that the distinguished Senator from Alaska refers to on page 230 of the report, I see no reference to C–212's or C–23's. I see only a reference to tactical transport aircraft.

I have asked any number of people in the Department: What does "tactical transport aircraft" mean? I understand what tactical airlift aircraft means, but "tactical transport aircraft?" I do not understand what that means.

The distinguished Senator from Hawaii and the distinguished Senator from Alaska have confirmed on the floor today that the aircraft they are talking about are the C–212's and the C–23's.

Is that a correct assessment? Could either the distinguished Senator from Hawaii or the distinguished Senator from Alaska confirm, are those the two aircraft that will be procured with this $150 million?

Mr. STEVENS. Madam President, I would say to the Senator from New Jersey in response, we have not limited it to those. We have left the discretion to the Guard Bureau to find those priorities which must be built first. We are quite hopeful that they will look to the needs that both the Senator from Hawaii and I have mentioned in terms of the C–212 and the C–23.

But there is no restriction in terms of this except that it is the tactical aircraft we are talking about. And we are not talking about jet aircraft; we are not talking executive jets. We are talking about the needs of the individual Guard units that must be met on a priority basis and the priority will be set by the Guard Bureau itself.

Mr. INOUYE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUYE. Madam President, the sum that was involved in this procurement was not plucked out of the sky. It was the result of intensive discussion we have had with Air National Guard officials and Army National Guard officials. And we very deliberately made it generic, without identifying. Furthermore, it is understood that if the National Guard desires not to spend the money, that is up to them.

But before I yield the floor, I would like to clarify one matter that the Senator from New Jersey brought up. He indicated that the National Guard was being downgraded or downsized and reduced. A reading of the report would clearly indicate that the Air National Guard will be increased by 2,060, not decreased, because new missions are being assigned to them, new activities have been assigned to them. The Defense Department recognizes this. So in its Bottom-Up Review, all of its reviews, they have decided to increase the number of the Air National Guard. Whereas all the other units have been decreased, the Air National Guard has been increased.

Mr. STEVENS. If the Senator will yield just one moment there?

I urge the Senator from New Jersey to read the last sentence in the paragraph I put in the RECORD. It states:

> The committee expects the Chief of the National Guard Bureau to prioritize procurement of aircraft to support cargo, medical evacuation, and emergency support missions.

Those are the main shortages in the Guard, in our opinion.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER (Mr. Mathews). The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I think this has been a very instructive exchange. Essentially what the distinguished Senator from Hawaii and the distinguished Senator from Alaska confirm is that the money for these planes in this appropriation shall be used for the C–212's or the C–23's, or any other aircraft that the Army National Guard wants—not the Air National Guard, the Army National Guard. This is money for the Army National Guard, not the Air National Guard.

Mr. STEVENS. Mr. President, will the Senator yield at that point? The Senator has repeated that. This is for the Guard Bureau. There are both Army and Air needs. The Guard Bureau will make that decision. There is no such limit in our provision of this amount of money.

Mr. BRADLEY. I thank the distinguished Senator for that clarification, as well.

At the moment, the Air Guard has an inventory of 1,750 planes. To the point that this was really a need to modernize, they have, since 1980, acquired 100 new C–130's. In fact, two-thirds of the inventory is modern.

So the argument that they have been getting the leftovers is not backed up by the fact that since 1980, they have gotten 100 C–130's, and that two-thirds of the inventory is modernized, and that the Air Guard already has 1,750 planes.

So I think this has been a very helpful exchange because there is now some clarity. It is clearly the intention of the appropriators that the money go to the C–212's. The distinguished Senator from Alaska points out, rightly, that there is a need for the C–212's in Alaska to replace the De Havilland planes. But to meet the needs of Alaska would cost about $30 million. This is an appropriation for $150 million.

The question then arises, where does the rest of the money go? It goes for procurement of C–23's, and other purposes and other planes that are not determined by anyone until the Guard decides how they will spend it. In other words we are giving them money and saying: Spend it the way you want.

There is a little more clarity now in that it is specified they will buy C–23's and C–212's. So let us address those purchases.

I would like to share with my colleagues what the Chairman of the Joint Chiefs, former Chairman Colin Powell, said about these types of planes.

> The current inventory built to support a global war exceeds what is required for our regionally oriented strategy. The current excess is compounded by the fact that Congress continues to require the services to purchase aircraft neither requested or needed. In the last 2 years alone, Congress added on funds to the defense appropriations for some 15 C–12's, some 4 C–120's, some 10 C–21, 10 C–23's, 19 C–26's, and 12 P–180's, not requested by DOD.

It should be noted that this funding was not requested by DOD. DOD has not said we need more C–23's. Here is General Powell saying specifically: You have given us 10 more than we needed; we do not want them. This proposal would give another 10. This is really not a question about the National Guard. This is a question about the appropriations process. Should we appropriate blindly or should we require the money to be appropriated for specific purposes? But it goes to the question of the C–23.

We say, what is at work here? Why are we spending $150 million, $30 million of which would have taken care of the problem of the C–12's in Alaska? Why are we spending the $150 million?

I suggest there is another effort going on here. I think it is important to recognize who produced the C–23's. The C–23 Sherpa is made by a Northern Ireland company, a Protestant company, called Shorts. They have a terrible history of discrimination against Catholic workers.

I view this effort as a way to get money to the Shorts Co. without mentioning that the money is actually going to the Shorts Co. They have discontinued their line of production. So they are not going to be producing this. These planes will be refurbished. It will be refurbished in a State in the United States, and Shorts will be the maintenance contractor.

This is, in fact, what is happening with this amendment. The distinguished Senator from Alaska has pointed out a very good reason why we should spend the money. We should spend the money for some C–212's, costing $30 million, in Alaska. We should not spend $100 million-plus for C–23's that are aimed at getting the money to the company that, if its name was mentioned, they would receive no money because of their record of discrimination against Irish Catholics, Catholics in Northern Ireland.

Why are we insinuating ourselves into that debate on the side of the Protestants in Northern Ireland? That is a question that has not been answered. It is a question that I believe cannot be answered. It is a reason to reject this amendment on its face.

But the other reason is these are taxpayer dollars. These are wasted dollars. The planes are not needed. Colin Powell has said: You have given us 10 planes more than we wanted last year. Why do we want another 10 this year? You should not spend the money this way.

Citizens Against Government Waste, in a letter on behalf of the 550,000 members of the Council for Citizens Against Government Waste, write in support of the amendment to strike the $150 million for the Army National Guard. It is a waste of money.

I hope the Senate would reconsider this money and reject it. It is not needed. There is $250 million in this appropriation for tactical airlift for the Air National Guard already—$250 million.

We do not need another $150 million that, up until this moment on the floor, was for unspecified purposes. Finally, on the floor, it is confirmed that is for C–212's and for C–23's. The C–212's would cost about $30 million. The C–23's would cost significantly more than $100 million, and the money would go to the Shorts Co., which is one of the major Protestant firms in Northern Ireland that discriminate against Catholic citizens.

So, Mr. President, I think that on the face of this, it makes very good sense to reject the $150 million and support this amendment; save the taxpayers of America $150 million and pull the United States out of a potentially embarrassing position behind the efforts of a company which has had a record of rather gross insensitivity.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Hawaii has 17 minutes 20 seconds remaining. The Senator from New Jersey has 8½ minutes.

Mr. INOUYE. I yield myself 1 minute.

Mr. President, the record should show that in the past 10 years, the Department of Defense has requested funds for new aircraft for the National Guard once. In the past 10 years, only once did they make a request. Because whether we like it or not, whether we want to admit it or not, it has been the official policy of the Department of Defense to give leftovers to the Army and Air National Guard. If it were not for the Congress of the United States, that is all they would have —leftovers.

Yet, as I have said, as the Senator from Alaska has indicated, we expect these men and women to put on the uniform of the United States and stand in harm's way in our behalf. That is the issue.

Yes, they do have 100 new C–130's, but keep in mind that there are 50 States with National Guards, with Air National Guards. All of these units need some sort of transport.

The PRESIDING OFFICER. The Senator has used 1 minute. Who yields time?

Mr. INOUYE. Mr. President, I yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the chairman of the subcommittee for giving me the opportunity to address this very important amendment. The amendment offered by the Senator from New Jersey would eliminate funding for tactical transport aircraft for the Army National Guard. I speak both as a former Governor who commanded a National Guard unit and as cochairman of the National Guard Caucus. We feel that this provision of funds for tactical aircraft is vitally important. It will enable the Guard to fulfill several extremely important roles.

First, these aircraft will be used to support important logistical needs of the Guard—moving troops and equipment for training and intertheater missions. These are missions where it would not be economical to use a larger aircraft, such as the C–130. The Senator from New Jersey pointed out there is money for C–130's. You have different missions. The Army needs the smaller aircraft for moving troops and equipment within the battle area. That is why these airplanes are needed. We are talking about using money for smaller aircraft. They could be the C–23's or other aircraft.

Second, this money will go to purchase aircraft for the critical aeromedical role where we now have an existing shortfall. These planes can be used to move injured men and women from the front back to get medical care quickly. They were not to be used to take troops from the battlegrounds in the gulf to Germany, but to get them to decent hospitals. We found in the gulf that we did not have adequate aircraft to fulfill this mission.

Third, these aircraft will allow the Guard to fulfill its important missions in State roles as well, to respond to natural disasters like hurricanes, tornadoes, earthquakes and, as we have experienced in the Midwest, floods. As one who as Governor had to respond to floods and tornadoes, I can tell you that it is a critical role. You have to get personnel, you have to get equipment to the area where the disaster has struck. I can assure you that when we have all the roads and the bridges knocked out and we need to move personnel and equipment and materiel around the State, we have to move them by air. These airplanes will enable us to fulfill those missions, vitally important missions.

The Senator from New Jersey has raised two major points in opposition to the funding. First, he says the money is not earmarked. I just do not think that is a valid argument. Later on, there will be other amendments attacking this bill because particular earmarks are included. In this area, the need is so great and the available dollars are so limited, the committee believed it was important to leave it to the discretion of the Chief of the National Guard to determine where the need is greatest. We are giving the Guard some opportunity to make the selection of the areas where those aircraft would be needed. The fact we do not specify types of aircraft or where it should go does not mean that we do not recognize their broad needs. We leave that to the experts, the professionals, people with whom we met last night who have served this country well and led the Guard with great vision.

Frankly, the fact that we do not specify the types of aircraft to be utilized fully answers the Senator's contention that he does not like a particular manufacture of aircraft. That decision will be left to the people who have the responsibility to see that they acquire aircraft where they are needed and that the aircraft that are acquired are the ones best suited to do the job.

Second, the Senator argues that the administration did not request the money. There is a simple answer for that. The distinguished Senator from Hawaii has already given it, but I will tell you once again that regardless of the administration in power, whichever party, the Guard continues to be treated as a poor cousin. They get the leftover equipment; they get the used equipment; they get whatever is left after taking care of the active force, and that is simply no longer acceptable.

As we are downsizing the force, we are putting more responsibility on the Reserve units and particularly on the Guard. We have to give them the equipment that they need to perform those missions. We need to ensure that they have the weapons and the equipment to do their jobs properly. If we deny them those aircraft, we will limit their ability to do the job.

I believe the cuts the President has proposed in the Defense budget go too far. He cuts the Guard too much. It goes for the active force. We cannot allow the cuts to force us into giving our Guard troops less than adequate equipment and weapons.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BOND. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I yield to the Senator from Alaska any time that he requires.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I will use 1 more minute to address my friend from New Jersey and tell him this. Over 20 years ago, the Appropriations Committee of the Senate went to Alaska, at my request, when Senator McClellan was the chairman. We traveled throughout the State for more than 12 weeks, and we used the Otters that are still in service. As a matter of fact, those Otters—most of them—were built before the pilots that are flying them now were born.

It is high time we recognized the safety problems involved in continued intensive use of those Otters, particularly in the wintertime when the maneuvers go on at temperatures of 30, 40, 50, 60 degrees below zero.

Those Otters have performed marvelously. I wish we had another generation of Otters, but we do not. They must be replaced. We have not attempted to dictate what plane replaces them, but there is no question that they need replacement in the interest of safety of those people who travel in the wintertime on emergency missions, cargo missions, logistical movements of troops during the maneuvers in the very cold weather in my State.

I think any attempt to delete these funds now will be a serious setback for the training that goes on in my State in the deep of winter.

Mr. INOUYE. Mr. President, for the past 2 days, this body has spent much time discussing the Constitution of the United States. We have had many speeches made on the authority of the President, the power of the President as set forth in the Constitution. The intent of our Founding Fathers has been invoked many times.

I would like to point out that the Constitution makes no mention of funds being appropriated in response to a request from the President of the United States. Nowhere does it say that the only time we can appropriate funds for military purposes must be in response to a request from a President. In fact, the Constitution says, in article I, section 8, very precisely, the Congress shall have the power, first, to raise and support armies; second, to provide and maintain a Navy. It does not say the President shall have the power to raise and support armies or to provide and maintain a Navy. It is the Congress, the 100 of us and 435 on the other side of this building. It is our responsibility, our constitutional obligation.

I do not believe, Mr. President, and I hope the Senator from New Jersey does not believe, that the Congress should be limited by any administration, this or any other, in the exercise of its constitutional powers.

Yes, Mr. President, we are empowered and required by the Constitution to appropriate funds for purposes we deem proper. The fact that this administration or the prior administration did not request funds does not mean that they are not required.

What is involved here is a very important constitutional issue, and I think all of us should bear in mind that the Congress shall have the power to raise and support armies and to provide and maintain the Navy. It is also the responsibility of the Congress and authority and power to declare war.

Our Founding Fathers, we all agree, were not only dedicated and committed, but they were wise. I think their collective wisdom has proven itself time and time again. I do not wish, by this amendment, to change that provision in the Constitution.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY. Mr. President, how much time remains on the amendment?

The PRESIDING OFFICER. The Senator from New Jersey has 8 minutes, 50 seconds; the Senator from Hawaii has 4 minutes, 40 seconds.

Mr. BRADLEY. The Senator from Hawaii has how much?

The PRESIDING OFFICER. Four minutes, forty seconds.

Mr. BRADLEY. Mr. President, I should like to salute the distinguished Senator from Hawaii for his analysis of the Constitution. I certainly do not question the right of Congress to appropriate money for whatever purpose to fulfill its constitutional responsibilities. I am only questioning the wisdom of appropriating this money, $150 million. It has not been requested by the administration. It is for unspecified purposes, at least until this debate, in this budgetary circumstance.

I am simply saying that $150 million given to the Guard to spend the way it chooses to spend is not a wise taxpayer investment. When I am told in this Chamber that the money will be spent for C–212's because the planes they will replace are 20 years old, I think, well, the B–52 is 40 years old. It is still flying. Do we need new planes in Alaska every 20 years but the B–52, which was central to our strategic security, we can keep going for 40 years?

But even with that said, if we met the need of the distinguished Senator from Alaska for C–212's, that is $30 million out of $150 million. There is still $120 million remaining. That goes to the purchase of C–23's, which again is really a back-door way of helping a company in Northern Ireland that has had a record of discrimination against Catholic citizens of Northern Ireland. Now, that company could improve its record. I hope it will improve its record. But that is the reality out there.

There has not been any official statement of justification for these aircraft, no official statement of justification. Who has said we need these aircraft? The DOD has not done any objective study on the need for these aircraft. To the contrary, last year's DOD authorization law included a requirement that there be a report on the need for additional aircraft for the Guard.

Do you know what, Mr. President? The report was never done. So the Congress passes a law saying, Guard, if you are going to request more, you have to do a report to justify it. You have to have a report. They do not do the report.

This year coming back is another request of $150 million on top of the $250 million that is in this bill for tactical airlift capability for the Air National Guard. So this year, in this budget, there is $400 million for tactical airlift. At a time when the Air Force is shrinking, the Army is shrinking, there will be surplus planes, not old planes, not useless planes, not giving planes to people because they are worn out, but making planes available because the personnel is not there to use the full inventory as when we had a much bigger military establishment.

So instead of taking those perfectly good planes and using them, not old planes but perfectly good planes, we are appropriating $400 million more for tactical airlift. I am not objecting to the $250 million. I am objecting to this $150 million which, until this debate, was unspecified, its purpose unknown. And since it has been specified, C–212's and C–23's in particular, I think it is even more imperative that we reject this $150 million.

We do not have the money to spend in this way. It will not further our national security interests, and it should be rejected.

Mr. INOUYE. Mr. President, what is the time picture?

The PRESIDING OFFICER. The time remaining to the Senator from New Jersey, 3 minutes, 53 seconds; the Senator from Hawaii, 4 minutes, 40 seconds.

Mr. INOUYE. Mr. President, I wish to suggest the absence of a quorum. However, at the same time I ask unanimous consent that the time for this call not be taken out of the allotted time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, we do not have any requests on our side. We are prepared to yield the remainder of our time.

Mr. BRADLEY. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

Mr. INOUYE. Mr. President, I move to table the amendment.

Mr. BRADLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, it is a joint motion by myself and Senator STEVENS to lay on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Hawaii [Mr. INOUYE] and the Senator from Alaska [Mr. STEVENS] to lay on the table the amendment of the Senator from New Jersey. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 80, nays 20, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—80

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Breaux
Brown
Bryan
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerry
Leahy
Lieberman
Lott
Mack
Mathews
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simpson
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—20

Bradley
Bumpers
Conrad
Danforth
Faircloth
Feingold
Gregg
Harkin
Kerrey
Kohl
Lautenberg
Levin
Lugar
Metzenbaum
Mitchell
Moseley-Braun
Nickles
Robb
Simon
Smith

So the motion to lay on the table the amendment (No. 1070) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. GLENN. Mr. President, on rollcall vote 319 I voted "no." It was my intention to vote "yea." Therefore I ask unanimous consent I be permitted to change my vote. It will in no way change the outcome and has been checked on both sides with the leadership.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona and the Senator from New Mexico are recognized to offer an amendment.

Mr. MCCAIN. Thank you, Mr. President.

AMENDMENT NO. 1071

Mr. MCCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. BINGAMAN, Mr. NUNN, Mr. THURMOND, and Mr. SMITH, proposes an amendment numbered 1071.

On page 157, between lines 9 and 10, insert the following:

SEC. 8142. No provision of this Act concerning programs, projects, or activities involving community adjustment assistance, research or development at colleges or universities, strategic environmental research, or environmental restoration may be construed as requiring a contract to be awarded, or as requiring a grant to be made, to a specific non-Federal Government entity for a new program, project, or activity: *Provided*, That it is the policy of Congress that contracts and grants for programs, projects, and activities funded by the Department of Defense should be awarded through merit-based selection procedures.

Mr. MCCAIN. Mr. President, I ask unanimous consent that a member of my staff, Mr. Mark Guadagnini, who has been involved in this issue, be allowed floor privileges.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, this amendment, in my view, is a first step toward fiscal responsibility.

My amendment does not attempt to address the problem of unauthorized appropriations, nor does it attempt to control every instance of funds earmarked for congressional interest programs.

Instead, this amendment takes aim only at the dollars earmarked for specific nongovernmental institutions and organizations in four areas: community adjustment assistance, strategic environmental research, environmental restoration, and research at colleges and universities, including medical schools.

As I have said, this amendment is a beginning, but it would effectively eliminate approximately $316 million in earmarks for special interest projects that are contained in the House-passed bill.

First of all, I thank my colleague from New Mexico, Senator BINGAMAN, who has been a leader in this effort for many years. Frankly, it is an idea that Senator BINGAMAN has pursued for a long time. He is as keenly aware as I am that our defense dollars cannot be spent on nondefense areas and especially earmarked in ways that are without competition. If we are going to spend our tax dollars, we are going to have to put them in the most competitive and most meritorious areas.

On Monday of this week, I addressed the Senate at length and in detail concerning serious problems in the congressional budget review process which result in the appropriation of funds for programs and projects which were not requested or authorized, and which allow the Congress to earmark scarce dollars for special interest projects.

The CRS prepared a comprehensive report of congressional add-ons and earmarks for fiscal years 1990–93 which I placed in the CONGRESSIONAL RECORD of October 18 for the information of my colleagues.

Mr. President, I ask unanimous consent, at this time, to have printed in the RECORD a supplemental CRS report listing all the earmarks in the past 4 years of defense appropriations bills.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EARMARKS IN THE FISCAL YEAR 1993 DEFENSE BUDGET

$166.45 million for non-specific research activities "of major importance to the Department of Defense", at specific universities in TX, MD, PA, WA, MA, CO, LA, IL, CA, MN, FL, MI, CT, OH, RI, WI, IA, AZ.

$7 million for environmental cleanup at National Presto Industries in Eau Claire, Wisconsin

$500,000 for Hawaiian Volcano Observatory to monitor volcanic activity affecting the Army's Pohakuloa Training Area.

$5 million to establish an electric vehicle technology demonstration site in Hawaii, and $2.5 million for a similar demonstration program in Sacramento, California.

$4.5 million for a visitors center at the Naval Academy.

PROVISIONS IN FISCAL YEAR 1990 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION

	Amount	Description
OPERATION AND MAINTENANCE		
O&M, Army	$250,000	Shall be available for the 1990 Memorial Day Celebration.
	3,500,000	Shall be available for a grant to the Monterey Institute of International Studies.
	46,000,000	Shall be available only for procurement for the Extended Cold Weather Clothing System (ECWCS) and intermediate cold-wet weather boots, unless 46,000,000 dollars of ECWCS and the intermediate cold-wet weather boots are procured by the Army Stock Fund during fiscal year 1990.
O&M, Navy	NA	Funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels.
	2,000,000	Shall be available for a grant to the National Museum of Naval Aviation at Pensacola, Florida.
PROCUREMENT		
Weapons proc, Navy	1,443,165,000	Ballistic Missile Programs.
	2,831,852,000	Other Missile Programs.
	438,642,000	Mark-48 ADCAP Torpedo.
	271,130,000	Mark-50 Torpedo.
	1,799,000	Sea Lance.
	12,983,000	ASW Targets.
	9,282,000	ASROC.
	9,653,000	Modification of Torpedoes.
	39,002,000	Torpedo Support Programs.
	24,205,000	ASW Range Support.
	168,838,000	Other Weapons.
	111,341,000	Spares and Repair Parts.
	30,420,000	Installation of Modernization Equipment.
Shpbldg & conv, Navy	1,132,800,000	TRIDENT ballistic missile submarine program.
	70,000,000	Dollars shall be derived by transfer from 'TRIDENT ballistic missile submarine program, 1987/1991'.
	10,000,000	Dollars shall be derived by transfer from 'TRIDENT ballistic missile submarine program, 1988/92'.
	20,000,000	Dollars shall be derived by transfer from 'TRIDENT ballistic missile submarine program, 1989/93'.
	753,300,000	SSN–688 attack submarine program.
	614,800,000	SSN–21 attack submarine program.
	630,300,000	Aircraft carrier service life extension program.
	1,422,100,000	Enterprise refueling/modernization program.

PROVISIONS IN FISCAL YEAR 1990 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION—Continued

	Amount	Description
	3,500,000,000	DDG–51 destroyer program.
	35,000,000	LHD–1 amphibious assault ship program.
	229,300,000	LSD–41 dock landing ship cargo variant program.
	341,500,000	MCM mine countermeasures program.
	197,600,000	MHC coastal mine hunter program.
	35,700,000	AO conversion program.
	155,800,000	T-AGOS surveillance ship program.
	356,400,000	AOE combat support ship program.
	273,300,000	LCAC landing craft air cushion program.
	278,100,000	Oceanographic ship program.
	220,000,000	Moored training ship demonstration program.
	600,000,000	Sealift ship program.
	368,900,000	For craft, outfitting, post delivery, and ship special support equipment.
	329,000,000	Coast Guard icebreaker ship program.
	84,000,000	Coast Guard patrol boat program.
Defense Production Act Purchases	6,000,000	That the Secretary of Defense shall transfer this amount appropriated under the heading 'Defense Production Act Purchases' (102 Stat. 2270–12, Public Law 100–463) for a demonstration project to develop a reliable source of titanium ore from ilemenite to appropriations available to the Secretary of the Interior, in order for the United States Bureau of Mines to carry out such demonstration project, known as the Soledad Canyon Demonstration Project in Los Angeles County, California.
RESEARCH, DEVELOPMENT, TEST AND EVALUATION		
RDT&E, Navy	22,000,000	Of funds appropriated in Research, Development, Test and Evaluation, Navy for fiscal year 1989, shall be transferred to Research, Development, Test and Evaluation, Defense Agencies for fiscal year 1990 for the Tactical Airborne Laser Communications program, to be merged with, and to be available for, the same purposes and the same time period as the appropriation to which transferred.
	3,000,000	Shall be made available, as a grant, to the Center for research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced anti-submarine warfare acoustics issues with focus on ocean bottom acoustics-seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation and other such projects as may be agreed upon.
	500,000	Of grant to Nat'l Ctr. for Phys. Acoustics may be used to provide such special equipment as required.
RDT&E, Air Force	100,000,000	Of amounts appropriated for research, development, test and evaluation for the Air Force for fiscal year 1989 that remain available for obligation to carry out research, development, test, and evaluation in connection with the Small ICBM program shall be obligated by Secretary of the Air Force.
	50,000,000	Of amounts appropriated for research, development test, and evaluation for the Air Force for fiscal year 1989 from the B-1B program that remain available for obligation only to carry out research, development, test, and evaluation to provide cruise missile capability on the B-1B aircraft shall be obligated..
RDT&E, Defense Agencies	18,000,000	May be available for a facility to enable collaborative research and training for Department of Defense military medical personnel in trauma care, head, neck, and spinal injury, paralysis, and neuro-degenerative diseases.
	52,000,000	Of the amount herein provided for the Strategic Defense Initiative shall be available only for the Arrow missile program.
Chem Agents and Mun Destr, Defense	6,100,000	Shall be available only for cryofracture.
M. and C. Pepper Found	10,000,000	For payment to the Mildred and Claude Pepper Foundation, a direct and unrestricted grant, including any interest or earnings therefrom, to support the purposes of the Foundation.
GENERAL PROVISIONS		
Sec. 9035	NA	Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods.
Sec. 9043	NA	The Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.
Sec. 9045	NA	Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability and the planned upgrade of this capability.
Sec. 9047	12,000,000	(a) Of the funds appropriated to the Army, shall be available only for the Reserve Component Automation System (RCAS)
Sec. 9061	NA	The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992.
Sec. 9065	NA	Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.
Sec. 9066	14,700,000	(a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed this amount to execute the cleanup of uncontrolled hazardous waste contamination in accordance with the Record of Decision on Landfill No. 26 at Hamilton Air Force Base, in Novato, in the State of California.
	4,500,000	In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in subsection (b)(3) of this section, the purchasers' deposit of this amount shall be returned by the General Services Administration and any funds eligible for reimbursement under subsection (b)(3) shall come from the funds made available to the Department of Defense by this Act.
Sec. 9074	100,000,000	Provided for Shipbuilding and Conversion, Navy under the appropriation 'Special Operations Forces Fund' contained in the Department of Defense Appropriations Act, 1989 (Public Law 100–463) shall remain available for obligation until September 30, 1990.
Sec. 9075	200,000	Effective for only fiscal year 1990, whenever the Secretary of the Army captures and removes wild horses and burros from White Sands Missile Range, the Secretary may transfer such horses and burros to the Secretary of the Interior as excess animals: Provided, That the cost of processing such animals incurred by the Department of the Interior shall be reimbursed by the Secretary of the Army, not to exceed 200,000 dollars.
Sec. 9082	6,700,000	Shall be available for the Civil Air Patrol.
Sec. 9084	NA	Funds available in this Act shall be available to the Department of Defense to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.
Sec. 9088	3,000,000	Of the funds made available in this Act for military personnel appropriations shall be available for the payment of bonuses to officers of the Army Nurse Corps, the Navy Nurse Corps and officers designated as Air Force nurses.
Sec. 9096	10,500,000	Of the amounts available to the Department of Defense for fiscal year 1990 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department. Not less than 50 per centum of the funds necessary to carry out this section shall be derived from the amounts available for the University Research Initiatives Program in 'Research, Development, Test and Evaluation, Defense Agencies', and the balance necessary shall be derived from amounts available for Defense Research Sciences under title IV of this Act.
Sec. 9099	2,500,000	Of the funds appropriated by this Act, no more 2,500,000 dollars shall be available for the health care demonstration project regarding chiropractic care required by section 632(b) of the Department of Defense Authorization Act, 1985, Public Law 98–525.
Sec. 9103	8,000,000	Of the funds made available by this Act in title III, Procurement, drawn pro rata from each appropriations account in title III, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. Sec. 1544.
Sec. 9105	5,000,000	The Secretary of the Air Force shall transfer not less than this amount from funds available to the Air Force for research, development, test and evaluation for fiscal year 1990 to the Army for the sole purpose of funding highest priority security improvements at the Kwajalein Test Range.
	2,500,000	Shall be provided by the Army for the same purpose from funds available to the Army for research, development, test and evaluation for fiscal year 1990. Funds made available by the Secretary of the Army for such purpose may not be made available from funds otherwise available for the United States Army Kwajalein Atoll Command.
Sec. 9106	1,000,000	Shall be made available for maintenance and repair of equipment and facilities and for tooling at the government owned William Langer Jewel Bearing Plant.
Sec. 9107	NA	Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to repair or replace real property, facilities, equipment, and other Department of Defense assets damaged by hurricane Hugo in September 1989.
Sec. 9108	20,000,000	Up to this amount of funds available to the Department of Defense in fiscal year 1990 may be transferred to, and consolidated with, funds made available to carry out the provisions of section 23 of the Arms Export Control Act and may be used for any of the purposes for which such funds may be used: Provided, That funds transferred pursuant to this section shall be made available only for Jordan to maintain previously purchased United States-origin defense articles: Provided further, That funds transferred pursuant to this section shall be available to Jordan on a grant basis notwithstanding any requirement for repayment.
MILITARY CONSTRUCTION—GENERAL PROVISIONS		
Sec. 102	NA	Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.
Sec. 103	NA	Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

PROVISIONS IN FISCAL YEAR 1991 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION

	Amount	Description
OPERATION AND MAINTENANCE		
O&M, Army	273,000	Shall be available only for the 1991 Capitol Fourth Project.

PROVISIONS IN FISCAL YEAR 1991 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION—Continued

	Amount	Description
O&M, Navy	NA	Funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels.
	2,000,000	Shall be available only for a grant to the Cabot/Dedalo Museum Foundation.
	15,000,000	Shall be made available only for the upgrade of port facilities in Israel in support of United States naval forces.
O&M, Defense Agencies	200,000,000	Shall be available until September 30, 1993, only to the Department of Defense Office of Economic Adjustment to assist State and local governments significantly impacted by reductions in defense industry employment or reductions in the number of Department of Defense military and civilian personnel residing in such States and communities.
	10,000,000	Shall only be available during the current fiscal year for carrying to the purpose of section 306 of Public Law 101–189.
	886,000	Of the funds for PL 101–189 shall be available only for the Killeen, Texas, Independent School District.
	167,000	Of the funds for PL 101–189 shall be available only for the Copperas Cove, Texas, Independent School District.
	912,000	Shall be available only for transfer to the Library of Congress.
	69,500,000	Of the funds appropriated for the Special Operations Command shall be transferred to the Operation and Maintenance appropriations of the Reserve components for execution.
	4,000,000	Shall be available only for the establishment of the Japanese American Museum as a component of the Japanese American Cultural Center in Ontario, Oregon.
PROCUREMENT		
Weapons procurement, Navy	1,540,001,000	Ballistic Missile Programs.
	2,935,256,000	Other Missile Programs.
	350,291,000	Mark-48 ADCAP Torpedo.
	328,266,000	Mark-50 Torpedo.
	26,409,000	ASW Targets.
	20,156,000	ASROC.
	11,740,000	Modification of Torpedoes.
	16,096,000	Quickstrike mine.
	88,360,000	Support Equipment and Logistics Support.
	202,146,000	Other Weapons.
	306,450,000	Other Ordnance.
Shpbldg & Conv, Navy	1,331,201,000	TRIDENT ballistic missile submarine program.
	1,783,000,000	SSN–21 attack submarine program.
	405,000,000	Aircraft carrier service life extension program Provided, That these funds are available only for advance procurement of material and other efforts associated with the industrial availability of the U.S.S. KENNEDY at the Philadelphia Naval Shipyard leading to the extension of the service life of the carrier.
	3,113,003,000	DDG–51 destroyer program.
	959,800,000	LHD–1 amphibious assault ship program.
	240,000,000	LSD–41 dock landing ship cargo variant program.
	204,000,000	MHC coastal mine hunter program.
	398,200,000	AOE combat support ship program.
	267,900,000	LCAC landing craft air cushion program.
	43,100,000	Oceanographic ship program.
	900,000,000	Sealift ship program.
	30,000,000	Shall be available only for the purchase of one existing petroleum product tanker.
	409,800,000	For craft, outfitting, and post delivery.
	5,800,000	For first destination transportation.
	100,000,000	For the DDG–51 destroyer program in addition to funds provided heretofore in this paragraph.
	23,000,000	Shall be available only to procure thirty Advanced Video Processor units and associated display heads.
Other Proc, Navy	160,000,000	Shall be for the procurement of sonobuoys.
	42,000,000	Shall be available only to procure fifty-three Advanced Video Processor units and associated display heads.
RESEARCH, DEVELOPMENT, TEST AND EVALUATION		
RDT&E, Army	5,480,000	Is available only for the Vectored Thrust Combat Agility Demonstrator flight test program utilizing the Vectored Thrust Ducted Propeller.
RDT&E, Navy	1,000,000	Shall be made available, as a grant, to the Mississippi Resource Development Corporation, for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced anti-submarine warfare acoustics issues with focus on ocean bottom acoustics—sesmic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation, bubble related ambient noise, acoustically active surfaces, machinery noise, propagation physics, solid state acoustics, electrorheological fluids, transducer development, ultrasonic sensors, and other such projects as may be agreed upon.
	250,000	Of the frant to Miss. Res. Dev. Corp. may be used to provide such special equipment as may be required for particular projects.
	24,000,000	Of the funds appropriated in this paragraph shall be made available to Competitive Technologies Incorporated for efforts associated with advanced shipbuilding design, materials, and manufacturing technologies.
	10,000,000	Of the funds appropriated to the Navy in fiscal year 1990 for Research, Development, Test and Evaluation is available only for the Skipper Missile Enhancement Program.
	71,000,000	Of the funds appropriated in this paragraph is available only to continue development and testing of the Sea Lance weapon system, to produce a technical data package, and to pursue technology and production engineering improvements.
	15,000,000	Shall be obligated for a Fast Sealift Technologies Development Program within 90 days after enactment of this Act.
	NA	The Secretary of the Navy shall award contracts or grants to the following universities in the amounts specified, to be provided from funds available under this heading for the Navy Defense Research Sciences and Industrial Preparedness programs.
	6,000,000	University of Hawaii at Manoa.
	8,900,000	University of Utah.
RDT&E, Air Force	30,000,000	Is available only for the National Center for Manufacturing Sciences.
	3,000,000	Of the funds appropriated in this paragraph is available only for continuing the research program on development of coal based high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels.
RDT&E, Defense Agencies	191,062,000	Shall be available for the Special Operations Command.
	2,000,000	Of the funds appropriated in this paragraph is available only for miniature diagnostic proton accelerator research.
	25,000,000	Of the funds appropriated in this paragraph shall be available only for the Defense Advanced Research Projects Agency Initiative in Concurrent Engineering (DICE).
	103,000,000	Is available only for the Extended Range Interceptor (ERINT) missile.
	45,400,000	Is available only for the Patriot system.
	42,000,000	Is available only for the joint research and development of the advanced development program for the Arrow antitactical ballistic missile program.
	5,000,000	Of the funds appropriated in this paragraph is available only to establish a coal utilization center.
	5,000,000	Of the funds appropriated in this paragraph is available only to establish a materials research center.
	7,000,000	Of the funds appropriated in this paragraph is available only to establish an Experimental Program to Stimulate Competitive Research (EPSCoR) in the Department of Defense.
	10,000,000	Of the funds appropriated in this paragraph shall be made available as a grant to establish an Institute for Advanced Science and Technology at an institution of higher education which meets the criteria specified in section 243 of the National Defense Authorization Act for fiscal year 1991.
	10,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only for facilities and equipment supporting the Center for Technology and Applied Research at the University of Scranton.
	6,000,000	Of the funds appropriated in this paragraph shall be made available as a grant to the Advanced Manufacturing Institute at the Stevens Institute of Technology.
	15,000,000	Of the funds appropriated in this paragraph shall be made available as a grant to the Liberty Science Center.
	10,000,000	Of the funds appropriated in this paragraph shall be made available as a grant to Drake University for a facility under the College of Pharmacy and Health Sciences.
	3,500,000	Of the funds appropriated in this paragraph shall be made available as a grant to Loyola College to complete the Center for Advanced Information and Resource Management Studies.
	18,000,000	Of funds appropriated for fiscal year 1991 under the heading "Research, Development, Test and Evaluation, Defense Agencies," shall be obligated within 90 days after enactment of this Act for a facility to enable collaborative research and training for Department of Defense military medical personnel in trauma care, head, neck, and spinal injury, paralysis, and neuro-degenerative diseases.
	10,000,000	Of funds provided under this heading which are available for the Defense Research Sciences Program in addition to the funds previously appropriated to the National Defense Stockpile Transaction Fund, notwithstanding the provisions of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), is appropriated to the Fund to remain available until expended, for a grant to the South Carolina Research Authority pursuant to the purposes of sections 2 and 8 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a; 50 U.S.C. 98g) to construct, equip, and operate a prototype ferrochromium strategic materials processing facility.
Drug Int & CNTR-DRG Act, Def	50,000,000	Shall be available only for non-reimbursable support of Federal, State and local government agencies having counter-drug programs.
	1,000,000	Shall be available only for the Civil Air Patrol.
	52,000,000	Shall be available only for drug interdiction equipment for the reserve components.
	28,000,000	Shall be available only for operation and maintenance expenses for the southwest border land-based aerostat drug surveillance program.
	123,000,000	Shall be available only for the National Foreign Intelligence Program.
GENERAL PROVISIONS		
Sec. 8003	NA	Funds appropriated under this Act for the Department of Defense shall be made available for the Overseas Workload Program.

PROVISIONS IN FISCAL YEAR 1991 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION—Continued

	Amount	Description
Sec. 8021	NA	Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year.
	15,000,000	Of the funds appropriated under this Act to the Department of Defense not to exceed this amount shall be made available to the Office of Humanitarian Assistance for immediate emergency airlift assistance.
Sec. 8025	NA	Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.
Sec. 8032	NA	Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.
Sec. 8034	NA	Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability: Provided, That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States.
Sec. 8037	46,904,000	Of the funds appropriated to the Army, shall be available only for the Reserve Component Automation System (RCAS).
Sec. 8046	NA	The designs of the Army LH helicopter, the Navy Advanced Tactical Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications no later than 1998.
Sec. 8047	300,000,000	Of the funds appropriated or made available in this Act shall be transferred to the United States Coast-Guard.
	295,000,000	Of the funds in Sec. 8047 shall be transferred to Operating Expenses.
	5,000,000	Of the funds in Sec. 8047 shall be transferred to 'Acquisition, Construction, and Improvement' for Coast Guard family housing.
Sec. 8048	NA	The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992.
Sec. 8051	NA	Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.
Sec. 8052	17,000,000	(a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed this amount, to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.
	4,500,000	In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of this amount shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.
	NA	The Air Force shall be reimbursed for expenditures in excess of $15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.
Sec. 8056	NA	(a) Indemnification.—(1) The United States Air Force shall, except as provided in paragraph (2), hold harmless, defend, and indemnify in full (A) the State of New Hampshire; (B) any political subdivision of the State; and (C) the lenders, officers, agents and employees of the State or political subdivision of the State, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorney's fees arising out of, or in any manner predicated upon releases or threatened releases of hazardous substances, or pollutants or contaminants resulting from Department of Defense activities at Pease Air Force Base in New Hampshire.
Sec. 8071	20,000,000	Shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.
Sec. 8073	4,000,000	Not more than this amount shall be available for the health care demonstration project regarding chiropractic care required by section 632(b) of the Department of Defense Authorization Act, 1985, Public Law 98–525.
Sec. 8077	8,000,000	Of the funds made available by this Act in title III, Procurement, drawn pro rata from each appropriations account in title III, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. 1544.
Sec. 8089	30,000,000	Shall be transferred to the Department of Energy solely for the final decontamination and decommissioning of the Nuclear Fuel Facility, Apollo, Pennsylvania, by January 1993, to meet the National Regulatory Commission's limits for unrestricted use.
Sec. 8095	NA	Using funds available in the National Defense Stockpile Transaction Fund, the President shall acquire over a period of ten years from current domestic sources not less than thirty-six million pounds of depleted uranium to be held in the National Defense Stockpile.
Sec. 8099. (a)	5,000,000	Not to exceed this amount shall be made available only for a project for the design and construction of a parliament building in the Solomon Islands, such project to be carried out so as to be completed not later than November 1993. Funds for such project shall be identified and made available to the Secretary of the Navy not later than 60 days after the date of the enactment of this Act.
	5,000,000	To remain available until expended, shall be made available to the Secretary of the Army no later than sixty days after enactment of this Act, to be used by the Chief of Engineers only for the repair, improvement, and construction of port facilities and harbor improvements, including dredging, at the islands of Ofu and Ta'u in the Territory of American Samoa.
Sec. 8101	200,000,000	Of the funds appropriated in fiscal year 1989 under the heading, "Aircraft Procurement, Navy", shall be made available to the Department of the Navy for obligation for the V–22 Osprey tilt-rotor aircraft program.
Sec. 8104	NA	This section establishes the National Commission on Defense and National Security. If funds are not otherwise available for the necessary expenses of the Commission for fiscal year 1991, the Secretary of Defense shall make available to the Commission, from funds available to the Secretary for the fiscal year concerned, such funds as the Commission requires. When funds are specifically appropriated for the expenses of the Commission, the Commission shall reimburse the Secretary from such funds for any funds provided to it under the preceding sentence.
Sec. 8108	1,000,000,000	Is appropriated for the modernization and expansion of automated data processing systems: Provided, That the Secretary of Defense shall, upon determining that such funds are necessary and further the objectives of the Corporate Information Management Initiative, transfer such amounts as necessary to the appropriate operation and maintenance appropriations provided in title II of this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred.
Abstract: Sec. 8110	NA	(a) Notwithstanding any other provision of law, funds made available to the Department of Defense in fiscal year 1991 and thereafter, shall be used to establish and maintain as part of the wartime energy reserve of the United States, a stockpile in Israel for petroleum fuels of military utility equal to 4,500,000 barrels.
Sec. 8112	7,475,000	Shall be available for the Civil Air Patrol.
Sec. 8113	NA	Funds made available under this Act to the Air Force for 'Operation and Maintenance' may be used to operate the United States Air Force education and training facility known as the Inter-American Air Forces Academy for the purposes of providing military education and training only to military personnel who are nationals of Central, South American and Caribbean countries: Provided, That only the fixed costs of operation and maintaining the Inter-American Air Forces Academy may be paid from funds available for operation and maintenance of the Air Force without reimbursement pursuant to section 37 of the Arms Export Control Act or section 632 of the Foreign Assistance Act or any other provision of law.
Sec. 8115	NA	(a) Funds shall be made available to the Secretary of Defense for the study of: (1) Israeli aerospace and avionics technology and their potential application to ATF, NATF, CAS and LH aircraft programs, as well as other anticipated aircraft programs; (2) Potential areas of joint United States-Israel collaboration in technology research and development projects including, but not limited to, tactical directed energy weapons; camouflage, concealment, deception and stealth measures; aerial and wide-area munitions; fiber optic guided missiles (FOG–M) and the adaptation of the HAVE NAP to the B–1 and B–2 bombers; (3) The features and possible contributions of Israeli space technology to Department of Defense programs, including, but not limited to, Israeli launches, and including, but not limited to, cost-effectiveness in design and production of such technologies and systems; (4) Israeli anti-terrorism technologies, and their potential applications to Department of Defense programs and operations, including, but not limited to, remote-controlled robots, security fences of all types, specialized x-ray and detection machines, and fast patrol boats. The Secretary of Defense shall work with the Office of Technology Assessment in conducting an examination of these subjects; (5) Possible applications of Israeli interdiction, including, but not limited to, unmanned aerial vehicles, fast patrol boats, state-of-the-art ship and coastal radars, integrated command and control systems, and land interdiction systems such as visual and infra-red cameras, motion sensors and electronic fences.
Sec. 8116	10,000,000	Shall be available only to transport United States beef for resale in Department of Defense commissaries in foreign countries.
Sec. 8118	1,500,000	Of the funds made available by this Act to the Department of the Navy, to remain available until September 30, 1992, shall be available only for the expenses of the Kahoolawa Island Commission.
Sec. 8120	10,000,000	Appropriated for "Operation and Maintenance, Defense Agencies" shall be available only for the establishment and support of the Legacy Resource Management Program.
Sec. 8121	2,400,000	Of the funds available in this Act for the Defense Logistics Agency, is available only for acquisition of jewel bearings from the William Langer Jewel Bearing Plant.
Sec. 8127	10,000,000	Of the funds appropriated in "Drug Interdiction and Counter-Drug Activities, Defense," shall be available only for the National Drug Intelligence Center.
Sec. 8128	3,100,000	The Department of the Army may use up to this amount in troop labor, installation equipment and supplies at Fort Sill to assist the Department of Interior in replacing an earth dam through a cooperative agreement which benefits each Department and includes such other terms as to protect the United States.
Sec. 8130	NA	Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to repair or replace real property, facilities, equipment, and other Department of Defense assets damaged by Hurricane Hugo in September 1989.
Sec. 8134	500,000	Of the funds appropriated under "Operation and Maintenance, Army," up to this amount shall be available for the environmental protection program at Fort Bragg, North Carolina.
Sec. 8137	NA	The Secretary of Interior is authorized to use such sums as are needed to erect in the Canaveral National Seashore a suitable bronze marker to commemorate the dedicated leadership of Congressman Bill Chappell in the establishment of the Canaveral National Seashore.
Sec. 8138	31,000,000	Of the amount appropriated in this Act for Research, Development, Test and Evaluation, Navy, may be obligated for an evaluation of the Assault Ballistic Rocket System.
Sec. 8139	3,625,000	The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, this amount to Shipco General, Inc., an Idaho corporation. The payment of such sum shall be in full satisfaction of any claim of Shipco General, Inc., against the United States arising out of the termination of a contract at Kirtland Air Force Base, New Mexico, for the rehabilitation of 155 housing units for Zia Park Housing (Contract No. F29650–82–C–0201).

PROVISIONS IN FISCAL YEAR 1991 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION—Continued

	Amount	Description
Sec. 8140	1,124,000	The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, this amount to John Barren, of Peckville, Pennsylvania, for damages incurred as a result of the failure of health care employees at the medical center of the Department of Veterans Affairs in Wilkes-Barre, Pennsylvania, to admit and treat him properly for a service-connected psychiatric condition.
MILITARY CONSTRUCTION		
BRAC	100,000,000	Of the funds appropriated herein shall be available solely for environmental restoration.
GENERAL PROVISIONS		
Sec. 102	NA	Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.
Sec. 103	NA	Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

PROVISIONS IN FISCAL YEAR 1992 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION

	Amount	Description
OPERATION AND MAINTENANCE		
O&M, Army	350,000	Shall be made available for the 1992 Memorial Day Celebration.
	350,000	Shall be made available for the 1992 Capitol Fourth Project.
	4,000,000	Shall be made available only for a grant to the National D-Day Museum Foundation.
	4,000,000	Shall be made available only for a grant to the Airborne and special Operations Museum Foundation.
	350,000	Shall be made available only to the Oregon Department of Economic Development.
	38,000,000	Shall be made available only for procurement of the Extended Cold Weather Clothing System (ECWCS).
	2,000,000	Shall be made available only for the procurement of intermediate cold-wet weather boots.
	22,000,000	To the Silver Valley Unified School District, Yermo, California, [the Secretary of the Army shall make a direct grant].
	10,000,000	To the Cumberland County School Board, Fayettsville, North Carolina, for support of the construction of public school structures, to be located on military facilities, sufficient to accommodate predominantly the dependents of members of the Armed Forces and dependents of Department of Defense employees employed at Fort Irwin, California, and Fort Bragg, North Carolina.
	250,000	Shall be available only for the conduct of a study on the need for and feasibility of a joint military and civilian airport at Manhattan, Kansas.
	4,500,000	Shall be available for the Army Environmental Policy Institute.
	5,000,000	Of the amount appropriated under this heading shall be available for the United States Office for POW/MIA Affairs in Hanoi.
	6,800,000	Shall be available for the refurbishment and modernization at existing railyard facilities at Fort Riley, Kansas.
O&M, Navy	78,000,000	Shall be available only for shipyard modernization projects to remain available for obligation until September 30, 1994.
	NA	Funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels.
	2,000,000	Shall be made available to the Secretary of the Navy for a study, to be submitted to the Committees on Appropriations no later than August 1, 1992, on the costs of improving the Port of Haifa, Israel, and facilities in the immediate vicinity, to accommodate the full complement of services required for the maintenance, repair and associated tasks needed to support a carrier battle group.
	300,000	Shall be made available only for the deaccession, reinterment, and reburial of ancestral skeletal remains at Mokapu, Hawaii.
	NA	Of the funds appropriated under this heading, the Navy shall provide for the transportation of U.S.S. Bennington accoutrements from China Lake Naval Air Station, California, to Bennington, Vermont.
	1,600,000	Shall be made available only for the renovation of the submarine U.S.S. Blueback for use by the Oregon Museum of Science and Industry upon the determination of the Secretary of the Navy that the renovation is in the interest of national security.
O&M, Marine Corps	3,000,000	Shall be available for the New Parent Support Program.
O&M, Defense Agencies	37,000,000	Shall be made available only to maintain the operations and personnel levels of a 100-bed facility at Letterman Hospital at the Presidio, in San Francisco, California.
	6,000,000	Shall be made available for the San Francisco Medical Command to provide for angioplasty services, increased pharmacy costs, and a 100-mile catchment area for cardiac surgery at Oakland Naval Hospital to compensate for the reduced services at Letterman Hospital.
	1,000,000	Shall be made available to the Office of the Secretary of Defense only for the development and establishment of gainsharing projects.
	750,000	Shall be made available only for the conduct and preparation of an inventory of all the real property in the State of Hawaii that is owned or controlled by the United States Department of Defense and its components.
	5,000,000	Shall be made available only for the establishment and administration of a commission, to be known as the "Defense Conversion Commission".
	25,000,000	Shall be made available only for the continued implementation of the Legacy Resource Management Program.
	10,000,000	Of Legacy program funding shall be made available only for use in implementing cooperative agreements to identify, document, and maintain biological diversity on military installations.
PROCUREMENT		
Shipbuilding and Conversion, Navy	$55,000,000	TAGS 39/40 program, Provided, That the Secretary of the Navy shall obligate 55,000,000 dollars to increase the price of the TAGS 39 and 40 contract and pay the contractor which built and delivered the TAGS 39 and 40 if the Secretary reviews the matter and determines there is justification to make such payment.
RESEARCH, DEVELOPMENT, TEST AND EVALUATION		
RDT&E, Army	$6,300,000	Is available only for the Vectored Thrust Combat Agility Demonstrator flight test program utilizing the Vectored Thrust Ducted Propeller upon successful completion of Phase I of this demonstration project.
	2,000,000	Shall be made available only to establish a Center for Prostate Disease Research at the Walter Reed Army Institute of Research.
	10,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Louisiana State University, Louisiana for the Neuroscience Center of Excellence for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
RDT&E, Navy	1,000,000	Shall be made available, as a grant, to the Mississippi Resource Development Corporation for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics.
	NA	None of the funds appropriated in this paragraph are available for development of upgrades to the Surveillance Towed Array Sensor System that do not include the AN/UYS–2 Enhanced Modular Signal Processor.
	221,000,000	Is available only for the Ship Self-Defense program which may be obligated only if it has a single program manager who is fully responsible and accountable for its execution.
	10,000,000	Shall be available only for the Submarine Laser Communications project.
	5,134,000	Shall be available only for the Gun Weapon System Advanced Technology program.
RDT&E, Air Force	30,000,000	Is available only for the National Center for Manufacturing Sciences.
	2,500,000	Of the funds appropriated in this paragraph are available only for continuing the research program on development of coal-based, high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels.
	8,000,000	Of the funds appropriated in this paragraph shall be made available only for a side-by-side evaluation of the ALR–56M and the ALR–621 radar warning receivers.
	5,700,000	Shall be made available only for the U.S./U.S.S.R. Joint Seismic Program administered by the Incorporated Research Institutions for Seismology.
	10,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to Marywood College, Pennsylvania for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	10,000,000	Shall be made available only for the modernization and upgrade of the Poker Flat Rocket Range.
	19,500,000	Shall be made available in the SPACETRACK program element only to establish an image information processing center, including a computing facility built around newly emerging massively parallel computing technology, collocated with the Air Force Maui Optical Station and the Maui Optical Tracking Facility.
RDT&E, Defense Agencies	171,000,000	Of the funds appropriated in this paragraph are available only for the Extended Range Interceptor (ERINT) missile.
	60,000,000	Of the funds appropriated in this paragraph are available only for the Arrow Continuation Experiments.
	145,500,000	Of the funds appropriated in this paragraph are available only for the Patriot missile program.
	10,000,000	Of the funds appropriated in this paragraph shall be made available as a grant to the National Biomedical Research Foundation for laboratory efforts associated with major research programs in neurology, oncology, virology, cardiology, pediatrics and associated specialty areas of critical importance to the Veterans Administration and the Department of Defense.
	10,000,000	Of the funds appropriated in this paragraph and not less than 7,000,000 dollars of the funds appropriated in Public Law 101–511 for Research, Development, Test and Evaluation, Defense Agencies shall be available only for an Experimental Program to Stimulate Competitive Research (EPSCOR) in the Department of Defense which shall include all States eligible for the National Science Foundation Experimental Program to Stimulate Competitive Research.
	25,000,000	Of the funds appropriated in Pubic Law 101–511 for Research, Development, Test and Evaluation, Defense Agencies, provided for the Strategic Environmental Research Program shall be obligated for the procurement, installation and operation of a supercomputer to support the Arctic Region Supercomputing Center.
	6,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the University of Texas at Austin for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	6,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Northeastern University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	5,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Texas Regional Institute for Environmental Studies for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.

PROVISIONS IN FISCAL YEAR 1992 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION—Continued

	Amount	Description
	7,700,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Kansas State University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	1,600,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the University of Wisconsin for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	29,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Boston University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	250,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Medical College of Ohio for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	500,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the University of South Carolina for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	750,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the George Mason University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	2,300,000	Of the funds appropriated in this paragraph shall be made available as a grant only to Monmouth College for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	10,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the University of Minnesota for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	500,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the University of Saint Thomas in Saint Paul, Minnesota for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	2,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Brandeis University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	3,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the New Mexico State University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	25,000,000	Of the funds appropriated in this paragraph shall be made available only for development of advanced superconducting multi-chip modules, superconducting materials, and diamond substrate material technologies.
Drug Int. and Cntr-Drug Act., Defense	7,500,000	Shall be available only for the Gulf States Counter-Narcotics Initiative.
GENERAL PROVISIONS		
Sec. 8021	NA	Funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239.
	NA	Upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.
Sec. 8033	NA	Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability.
Sec. 8036	172,072,000	Of the funds appropriated to the Army, shall be available only for the Reserve Component Automation System (RCAS).
Sec. 8040A	NA	The Secretary of Defense shall take such action as necessary to assure that a minimum of 75 percent of the coal and petroleum pitch carbon fiber requirement be procured from domestic sources by 1994.
Sec. 8047	NA	Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.
Sec. 8049A	710,348,000	In addition to the amounts appropriated or otherwise made available in this Act, this sum is appropriated for the operation, modernization, and expansion of automated data processing systems.
Sec. 8058	4,000,000	Shall be available for the health care demonstration project regarding chiropractic care required by section 632(b) of the Department of Defense Authorization Act, 1985, Public Law 98–525.
Sec. 8064	NA	The Secretary of Defense shall ensure that at least 50 percent of the Joint Service Missile Mission is in place at Letterkenny Army Depot by the time Systems Integration Management Activity and Depot Systems Command are scheduled to relocate to Rock Island Arsenal, Illinois. This provision is in no way intended to affect the move of the 2.5- and 5-ton truck maintenance mission from Letterkenny Army Depot to Tooele Army Depot.
Sec. 8065A	14,500,000	Shall be available for the mental health care demonstration project at Fort Bragg, North Carolina.
Sec. 8066	NA	None of the funds appropriated in this Act shall be used to produce more than two-thirds of the liquid gas requirements in-house at Andersen Air Force Base on Guam. At least one-third of Andersen Air Force Base's liquid gas requirements shall be met by acquiring liquid gas from commercial sources on Guam.
Sec. 8070A	10,000,000	Shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.
Sec. 8075	NA	None of the funds available to the Department of Defense shall be used for the training or utilization of psychologists in the prescription of drugs, except pursuant to the findings and recommendations of the Army Surgeon General's Blue Ribbon Panel as specified in its February and August 1990 meeting minutes Provided, That this training will be performed at Walter Reed Army Medical Center.
Sec. 8079	8,674,000	Shall be available for the Civil Air Patrol.
	4,400,000	Of Sec. 8079 funds shall be available for Operation and Maintenance.
Sec. 8083	40,000,000	Shall be available only for the National Drug Intelligence Center.
Sec. 8090	625,000,000	Shall be available only for the V–22 aircraft program.
Sec. 8091	NA	During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.
Sec. 8097	20,000,000	Shall be available (notwithstanding the last sentence of section 1086(c) of title 10, United States Code) to continue Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits, until age 65, under such section for a former member of a uniformed service who is entitled to retired or retainer pay or equivalent pay, or a dependent of such a member, who becomes eligible for hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) solely on the grounds of physical disability.
Sec. 8098	NA	From the amounts appropriated for the Department of Defense in the Department of Defense Appropriations Act, 1991 (Public Law 101–511), Other Procurement, Air Force, funds may be used to purchase not more than 300 passenger motor vehicles, of which 290 shall be for replacement only.
Sec. 8100	188,700,000	Is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard.
	50,000,000	Of funds in Sec. 8100 shall be available solely for the purposes of "Reserve Training" for fiscal year 1992.
	138,700,000	Of funds in Sec. 8100 shall be merged with and be available for the same purposes and same time period as "Operating Expenses."
Sec. 8103A	2,500,000	Of the funds appropriated under the heading "Drug Interdiction, Defense" in Public Law 101–165, of funds previously transferred to the Department of the Treasury shall, upon enactment of this Act, be transferred to the "Emergency Management Planning and Assistance" appropriation account of the Federal Emergency Management Agency.
Sec. 8104	NA	(a) None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the P–3 squadrons of the Navy Reserve below the levels funded in this Act. (b) The Secretary of the Navy shall obligate funds appropriated for fiscal years 1991 and 1992 for modernization of P–3B aircraft of the Navy Reserve on those P–3B aircraft which the Secretary of the Navy intends to keep in the fleet for more than five years.
Sec. 8104A	8,000,000	Is available only for, and shall be expended for, the side-by-side testing of the ALR–62I and the ALR–56M radar warning receivers.
Sec. 8105A	100,000,000	Is appropriated for payment of claims to United States military and civilian personnel for damages incurred as a result of the volcanic eruption of Mount Pinatubo in the Philippines.
	25,000,000	Is appropriated to be available only for the relocation of Air Force units from Clark Air Force Base.
	8,500,000	Of funds in previous paragraph shall be available until September 30, 1994 only for the construction and modification of F–16 facilities for the Cope Thunder and other missions at Eielson Air Force Base.
	2,500,000	Of funds for Clark relocation shall be available until September 30, 1994 only for the construction and modification of squadron operation facilities at Elmendorf Air Force Base.
	25,000,000	Is appropriated, to remain available until expended, for the unanticipated costs of disaster relief activities of the Department of Defense and the military services overseas.
Sec. 8112	NA	During fiscal year 1992, the Critical Technologies Institute shall conduct a special study of the issues regarding the production and use of machine tools necessary to support the national defense.
Sec. 8112A	8,000,000	Of funds made available by this Act in title III, Procurement, drawn pro rata from each appropriations account in title III, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. 1544.
Sec. 8814	30,000,000	Of the funds appropriated in this Act for "Operation and Maintenance, Defense Agencies", shall be transferred to the "Radiation Exposure Compensation Trust Fund" established by section 3 of the Radiation Exposure Compensation Act (Public Law 101–426; 104 Stat. 920) to be available for the same purpose and same time period as that Fund.
Sec. 8115	2,100,000	Shall be available for a grant to the Naval Undersea Museum Foundation for the completion of the Naval Undersea Museum at Keyport, Washington.
Sec. 8117	NA	Notwithstanding any other provision of law, no more than fifteen percent of the funds available to the Department of Defense for sealift may be used to acquire through charter or purchase, ships constructed in foreign shipyards.

PROVISIONS IN FISCAL YEAR 1992 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION—Continued

	Amount	Description
Sec. 8118	NA	(a) Funds shall be made available to the Secretary of Defense for the study of: (1) Israeli aerospace and avionics technology and its potential applications to ATF, NATF, CAS and LH aircraft programs, as well as other anticipated aircraft programs; (2) Potential areas of Joint United States-Israel collaboration in technology research and development projects including, but not limited to, tactical directed energy weapons; camouflage, concealment, deception and stealth measures; aerial and wide-area munitions; fiber optic guided missiles (FOG–M); and the adaption of the HAVE NAP to the B–1 and B–2 bombers; (3) The features and possible contributions of Israeli space technology to Department of Defense programs including, but not limited to, Israeli launchers, and including, but not limited to, cost-effectiveness in design and production of such technologies and systems; (4) Israeli antiterrorism technologies, and their potential applications to Department of Defense programs and operations, including, but not limited to, remote-controlled robots, security fences of all types, specialized x-ray and detection machines, and fast patrol boats. The Secretary of Defense shall work with the Office of Technology Assessment in conducting an examination of these subjects; (5) Possible applications of Israeli interdiction technologies to American efforts at drug interdiction, including, but not limited to, unmanned aerial vehicles, fast patrol boats, state-of-the-art ship and coastal radars, integrated command and control systems, and land interdiction systems such as visual and infra-red cameras, motion sensors and electronic fences; (6) Applications of environmental technologies and manufacturing capabilities to include, but not limited to, energy storage, energy conversion and renewable energy technologies; (7) Applications of critical technologies and manufacturing capabilities as defined by the Department of Defense's Critical Technologies Plan. The Secretary of Defense shall submit a final report with concrete recommendations and plans for implementation as appropriate to the Committees on Appropriations of the Senate and the House no later than August 1, 1992.
Sec. 8122	NA	(a) Notwithstanding any other provision of law, funds appropriated under this Act for the Department of Defense shall be made available for the Overseas Workload Program.
Sec. 8125	27,000,000	Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Defense Agencies' in title IV of this Act, shall be available only for the Flexible Computer Integrated Manufacturing (FCIM) Systems Programs
	4,000,000	Of the funds in Sec. 8125 shall be made available only as a grant to the Institute for Advanced Flexible Manufacturing Systems. The grant made available by this subsection shall be administered by the Defense Advanced Research Projects Agency through the National Center for Manufacturing Sciences.
	11,500,000	Of the funds in Sec. 8125 shall be made available to the Secretary of the Navy only for the continuation of the Rapid Acquisition of Manufactured Parts program (RAMP) and for establishing a RAMP–FCIM Center for Manufacturing Excellence.
	11,500,000	Of the funds in Sec. 8125 shall be made available to the Secretary of the Army only for application of RAMP–FCIM technology to selected Army depots.
Sec. 8128	105,000,000	Made available in the fiscal year 1991 Department of Defense Appropriations Act for "Aircraft Carrier Service Life Extension Program" under the heading "Shipbuilding and Conversion, Navy, 1991/1995" shall be utilized only for a large scale industrial availability, presumed to be 24 months, of the U.S.S. John F. Kennedy at the Philadelphia Naval Shipyard.
	23,000,000	Shall be transferred to "Other Procurement, Navy, 1992/1994" for the purchase of items to be used for large scale industrial availability of the U.S.S. John F. Kennedy at the Philadelphia Naval Shipyard: Provided further, That the remaining funds shall be retained in the "Aircraft Carrier Service Life Extension Program" until required for transfer for the purpose of planning, scheduling, and any other such work as is necessary to prepare for and execute a large scale industrial availability of the U.S.S. John F. Kennedy at the Philadelphia Naval Shipyard.
Sec. 8129	26,000,000	(a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed this amount, to execute the cleanup of controlled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.
	4,500,000	(b) In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement, dated September 25, 1990, between the Department of Defense the General Services Administration, and the purchaser, the purchaser's deposit of 4,500,000 dollars shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.
	15,000,000	(c) Notwithstanding any other provision of law, the Air Force shall be reimbursed this amount for expenditures in excess of in connection with the total cleanup of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.
Sec. 8132	1,500,000	(a) There is thereby established a National Commission on the Future Role of United States Nuclear Weapons, Problems of Command, Control, and Safety of Soviet Nuclear Weapons, and Reduction of Nuclear Weapons (hereafter in this section referred to as the "Commission"). (d) To assist it in carrying out its duties with respect to the matters listed in subsection (c) (3)–(6) above, the Commission is requested to obtain a study from the National Academy of Sciences on these matters. Such a study would be a follow-on endeavor to the study concluded by the National Academy in September, 1991, on the nuclear relation ship of the United States and the Soviet Union: of the funds available to the Department of Defense, this amount shall be made available to the Commission to carry out the provisions of this section.
Sec. 8136	$20,000,000	Up to this amount in unobligated and unexpended funds in any appropriation made for Air Force programs in the Department of Defense Appropriations Act, 1991, shall be available to provide reimbursements for launch services costs authorized to be waived by the 1988 Amendments to the Commercial Space Launch Act.
Sec. 8138	NA	Notwithstanding any other provision of law, the Secretary of Defense may, when he considers it in the best interest of the United States, cancel any part of an indebtedness, up to 2,500 dollars, that is or was owed to the United States by a member or former member of a uniformed service if such indebtedness, as determined by the Secretary, was incurred in connection with Operation Desert Shield/Storm.
Sec. 8139	5,600,000	In addition to the amount appropriated in Public Law 102–140 for United States Information Agency "Salaries and expenses", this amount shall be derived by transfer from unobligated balances of Board for International Broadcasting, "Israel Relay Station", to be available for the costs of the participation of the United States in 1992 Columbus Quincentennial Expositions in Seville, Spain, and Genoa, Italy.
Sec. 8141	10,000,000	Department of the Navy shall obligate not less than this amount of the funds appropriated in this Act for Research, Development, Test, and Evaluation, Navy to develop an integrated display station as an engineering change to the Advanced Video Processor and for the reestablishment of the CI Mode integration testing.
Sec. 8149	NA	(a) The Secretary of Defense, during the current fiscal year or at any time thereafter, may make a donation to an entity described in subsection (b) of a parcel of real property (including structures on such property) under the jurisdiction of the Secretary that is not currently required for the needs of the Department and that the Secretary determines is needed and appropriate for the activities of that entity. (b) A donation under subsection (a) may be made to a nonprofit entity which provides medical, educational, and emotional support in a recreational setting to children with life-threatening diseases and their families.
Sec. 8150	220,000	(a) The Secretary of the Treasury shall pay, out of funds in the Treasury not otherwise appropriated, to George D. Hand, Jr., this amount for damages sustained by George D. Hand, Jr., as a result of the scuttling of the F/V SHINNECOCK I off Shinnecock Harbor, New York, on March 14, 1991.
Sec. 8151	1,000,000	Of the funds transferred to the Department of Energy pursuant to section 8089 of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1896), not to exceed this amount shall be made available in fiscal year 1992 to the Commonwealth of Pennsylvania for independent monitoring and testing of onsite activities in the decommissioning at the Apollo, Pennsylvania site.
MILITARY CONSTRUCTION		
BRAC I	220,000,000	Of the funds appropriated herein shall be available solely for environmental restoration.
GENERAL PROVISIONS		
Sec. 102	NA	Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.
Sec. 103	NA	Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.
Sec. 128	NA	(a) The Secretary of the Army shall carry out such repairs and take such other preservation and maintenance actions as are necessary to ensure that all real property at Fort Douglas, Utah (including buildings and other improvements) that has been conveyed or is to be conveyed pursuant to section 130 of the Military Construction Appropriations Act, 1991 (Public Law 101–519; 104 Stat. 2248) is free from natural gas leaks and other safety-threatening defects. In carrying out this subsection, the Secretary shall conduct a natural gas survey of the property.

PROVISIONS IN FISCAL YEAR 1993 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION

	Amount	Description
OPERATION AND MAINTENANCE		
O&M, Army	450,000	Shall be made available only for the 1993 Memorial Day Celebration.
	450,000	Shall be made available only for the 1993 Capitol Fourth Project.
	36,000,000	Shall be made available only for the procurement of the Extended Cold Weather Clothing System (ECWCS).
	1,715,000	Shall be made available only for the environmental assessment and environmental cleanup of the Badger Army Ammunition plant.
	7,000,000	Shall be made available only for the environmental cleanup of the National Presto Industries Eau Claire facility.
	1,000,000	Of the funds appropriated under this heading shall be available for providing military police training for Marine Corps personnel at Fort McClellan, Alabama.
	14,000,000	Shall be made available for Presidio of San Francisco, to be expended for ongoing operations and maintenance costs associated with the transition to the National Park Service, to be jointly determined with the National Park Service.
	100,000	Shall be made available only to connect Lowry Grove Mobile Home Park to the St. Anthony, Minnesota, municipal water supply system.
O&M, Navy	1,000,000	Shall be made available only for the conduct of an Environmental Impact Study at Bellows Air Force Base.
	900,000	Shall be made available only for the development of a military land use plan in Hawaii, under the direction of the Commander-in-Chief, United States Pacific Command.
O&M, Marine Corps	3,000,000	Shall be available only for Marine Corps child abuse prevention program.
O&M, Air Force	7,000,000	Shall be made available only for the operation of the Theater Air Command Control and Simulation Facility at Kirtland Air Force Base.
	15,500,000	Shall be made available only to operate, maintain and enhance the Tactical Interim CAMS and REMIS Reporting System (TICARRS) and the Smart Data System (SDS).
	4,000,000	Shall be made available only to immediately complete the necessary comprehensive testing and continued environmental restoration of the former Olmsted Air Force Base, Pennsylvania.

PROVISIONS IN FISCAL YEAR 1993 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION—Continued

	Amount	Description
O&M, Def Ag	815,110,000	Shall be made available only for the Special Operations Command.
	50,000,000	Shall be made available only for the global disaster relief activities of the Department of Defense.
	10,000,000	Shall be made available only for the disaster relief planning and studies of the Department of Defense as they relate to Department of Defense installations worldwide.
	50,000,000	Shall be made available only for the Legacy Resource Management Program.
	500,000	May be made available only for the Hawaiian Volcano Observatory for monitoring volcanic activity affecting the United States Army Pohakuloa Training Area.
	50,000,000	May be made available to the Office of Economic Adjustment for economic conversion projects at the Philadelphia Naval Shipyard.
	40,000,000	May be made available for the Civilian Community Corps program.
	2,000,000	Shall be made available only for a feasibility study on the use of rotary reactor thermal destruction technology in the treatment and disposal of waste regulated under the Resource Conservation and Recovery Act of 1976.
O&M, Ar Natl Gd	10,000,000	Shall be available for a National Guard Outreach Program in the Los Angeles School District.
Env Rest, Def	200,000,000	Shall be available only for the expedited cleanup of environmentally contaminated sites and only in accordance with a comprehensive plan submitted to Congress by the Secretary of Defense.
Real Prop. Mnt., Def	27,000,000	Shall be available only for the repair of property identified as part of a backlog of maintenance and repair projects at the Presidio of San Francisco.
PROCUREMENT		
Proc. of W&TCV, Army	196,625,000	In fiscal year 1991 funds received from the sale of M48- and M60-series tanks from the Army inventory by the United States under the Arms Export Control Act shall be available only for the M1-series tank upgrade program.
	771,000	In fiscal year 1992 funds received from the sale of M48- and M60-series tanks from the Army inventory by the United States under the Arms Export Control Act shall be available only for the M1-series tank upgrade program.
Proc. of Amm, Army	200,000,000	Shall be available only for the Armament Retooling and Manufacturing Support Initiative, to remain available for obligation until September 30, 1995.
Shpbldg & Conv, Navy	832,200,000	Carrier replacement program.
	37,239,000	Refueling overhauls.
	3,265,770,000	DDG–51 destroyer program.
	305,000,000	LHD–1 amphibious assault ship program.
	300,000,000	LSD–41 cargo variant ship program.
	236,205,000	MHC coastal mine hunter program.
	300,000,000	AOE combat support ship program.
	19,500,000	Oceanographic ship program.
RESEARCH, DEVELOPMENT, TEST, AND EVALUATION		
RDT&E, Army	210,000,000	Of the funds appropriated in this paragraph shall be available for a peer reviewed breast cancer research program with the Department of the Army as executive agent: Provided further, That the Army shall coordinate with the Armed Services Biomedical Research and Evaluation Management (ASBREM) Committee to involve facilities and medical and research personnel of the Department of the Navy and the Department of the Air Force, or other entities, in addition to facilities, medical and research personnel, and resources of the Department of the Army in the breast cancer research program.
	7,500,000	Of the funds in this paragraph shall be made available only for establishment of a flexible manufacturing center at the Scranton Army Ammunition Plant and may be transferred to another appropriation in title III of this Act.
	2,000,000	Shall be made available only for the Center for Prostate Disease Research at the Walter Reed Army Institute of Research.
	3,000,000	Shall be made available only for synaptic transmission research.
	20,000,000	Of the funds appropriated in this paragraph may be made available in the Acquired Immune Deficiency Syndrome program element only for a large-scale Phase III clinical investigation of the GP–160 vaccine.
	4,000,000	Of the funds appropriated in this paragraph for medical technology may be used for Assistive Technology Center at the National Rehabilitation Hospital.
RDT&E, Navy	1,000,000	Shall be made available, as a grant, to the Mississippi Resource Development Corporation.
	250,000	Of grant to Miss. Res. Dev. Corp. may be used to provide such special equipment as may be required for particular projects.
	1,500,000	Of the funds appropriated in this paragraph shall be made available only as a grant to the West Virginia High Technology Corporation for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
RDT&E, Air Force	2,000,000	Of the funds appropriated in this paragraph shall be made available only for continuing the research program on development of coal-based, high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels.
	6,500,000	Of the funds appropriated in this paragraph shall be made available only for the Joint Seismic Program administered by the Incorporated Research Institutions for Seismology.
	45,000,000	Of the funds appropriated in this paragraph shall be made available only for the National Center for Manufacturing Sciences (NCMS).
	5,000,000	Of the funds for NCMS is available only for the National Center for Tooling and Precision Components (NCTPC).
	55,500,000	Of the funds appropriated in this paragraph shall be made available only for the Space Nuclear Thermal Propulsion Program.
	39,500,000	Shall be made available in the SPACETRACK program element only to continue the Advanced Electro-Optical System project at the Air Force Maui Optical Station.
	11,600,000	Shall be made available in the Advanced Weapons Technology program element only for a Laser Imaging Detection and Ranging (LIDAR) project.
	5,000,000	May available in the Advanced Weapons program element only to continue the establishment and operation of an image information processing center supporting the Air Force Maui Optical Station and the Maui Optical Tracking Facility.
	500,000	May be made available as a grant to the Maui Economic Development Board to assist in refining the defense and industrial requirements and user base for the aforementioned image information processing center.
	10,000,000	Shall be available only for grants to be made for the development of dual use space launch facilities to support Department of Defense and commercial space launch requirements, consistent with the terms of the National Space Policy Directive.
RDT&E DEF AG	135,000,000	Of the funds appropriated in this paragraph are available only for the Extended Range Interceptor (ERINT) missile.
	57,776,000	Of the funds appropriated in this paragraph are available only for the Arrow Continuation Experiments.
	111,140,000	Of the funds appropriated in this paragraph are available only for the Patriot missile program.
	12,000,000	Of the funds appropriated in this paragraph shall be available only for an Experimental Program to Stimulate Competitive Research (EPSCOR) in the Department of Defense which shall include all States eligible as of the date of enactment of this Act for the National Science Foundation Experimental Program to Stimulate Competitive Research.
	25,000,000	Of the funds appropriated in this paragraph shall be made available only to explore the potential for electric vehicles to enable the armed services to achieve energy cost savings, comply with environmental requirements, and meet mission objectives.
	5,000,000	Of the funds provided under the previous proviso shall be made available only to establish one of the demonstration sites for the aforementioned electric vehicle technology program in the State of Hawaii.
	2,500,000	Of the funds provided under the previous proviso shall be made available only to establish one of the demonstration sites for the aforementioned electric vehicle technology program in Sacramento, California.
	5,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Texas Regional Institute for Environmental Studies for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	7,500,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the University of Maryland for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	3,500,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the University of Scranton for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	15,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Spokane Intercollegiate Research and Technology Institute and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	9,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Northeastern University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	5,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Colorado University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	4,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Louisiana State University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	5,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Illinois Institute of Technology for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	5,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Loma Linda University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	2,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the University of Minnesota for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	2,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the University of Miami (Florida) for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	500,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the University of Michigan for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	7,500,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the University of Pennsylvania for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	3,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Science Center of Connecticut for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	2,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to Villanova University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	1,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Medical College of Ohio for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	3,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Rochester Institute of Technology for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.

PROVISIONS IN FISCAL YEAR 1993 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION—Continued

	Amount	Description
	2,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to Bryant College of Rhode Island for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	7,500,000	Of the funds appropriated in this paragraph shall be made available as a grant only to Bradley University (Illinois) for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	2,000,000	Of the funds appropriated in this paragraph shall be made available as a grant only to University of South Florida for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	10,000,000	Shall be made available as a grant to the National Biomedical Research Foundation for laboratory efforts associated with major research programs in neurology, oncology, virology, cardiology, pediatrics and associated specialty area of critical importance to the Department of Defense.
REVOLVING AND MANAGEMENT FUNDS		
DBOF	90,000,000	Shall be available for the purchase of 1.8 million cases of Meals Ready to Eat in the current fiscal year.
OTHER DEPARTMENT OF DEFENSE PROGRAMS		
Def Health Prog	40,000,000	Of available funds shall be provided to the Uniformed Services Treatment Facilities program to be used only to fulfill any recoupment action of the Health Care Financing Administration for health care provided to eligible retired Department of Defense beneficiaries over age 65 between October 1, 1986, and December 31, 1989.
	150,000	Shall be used only for the implementation of a cooperative program model at Madigan Medical Center for severely behavior disordered students.
	7,500,000	Of the funds appropriated in this paragraph shall be made available as a grant only to the Northeast Regional Cancer Institute for programs of major importance to the Department of Defense.
Drug Int. & Cntr-Drug Act., Def	25,500,000	Shall be available only for operation and maintenance expenses for five sea-based aerostat systems to provide detection and monitoring support for the United States Coast Guard anti-narcotics operations.
	7,500,000	Shall be available only for the Gulf States Counter-Narcotics Initiative.
	NA	The Secretary shall either lease or procure, and evaluate, an existing airship as an integrated sensor platform for detection and monitoring missions in the Department's Drug Interdiction and Counternarcotics program.
DEFENSE REINVESTMENT FOR ECONOMIC GROWTH		
	80,000,000	May be transferred by the Secretary of Defense under established procedures to the Department of Commerce, Economic Development Administration only for programs which assist workers and communities affected by the military drawdown.
	76,000,000	May be made available to the Secretary of Defense for the provision of temporary health transition assistance for military and civilian employees of the Department of Defense.
	72,000,000	May be made available to the Secretary of Defense for Department of Defense civilian personnel transition initiatives.
	65,000,000	May be made available to the Secretary of Defense for his efforts to provide training in the field of education for military and civilian employees of the Department of Defense to relieve shortages of elementary and secondary school teachers and teacher's aides.
	20,000,000	May be made available to the Secretary of Defense for Defense environmental research, education, and retraining programs.
	84,000,000	May be made available to the Secretary of Defense to support job training and employment and educational opportunities for members of the armed forces who are discharged or released from active duty.
	75,000,000	May be made available to the Secretary of Defense for military service members occupational conversion and training.
GENERAL PROVISIONS		
Sec. 9032	NA	Notwithstanding any other provision of law, the Department shall competitively award contracts for the geographical expansion of the CHAMPUS Reform Initiative in Florida (which may include Department of Veterans Affairs medical facilities with the concurrence of the Secretary of Veterans Affairs), Washington, Oregon, and the Alexandria, Louisiana (England Air Force Base) Forth Worth, Texas (Carswell Air Force Base) and Austin, Texas (Bergstrom Air Force Base) regions.
Sec. 9033	NA	Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability.
Sec. 9036	230,700,000	Of the funds appropriated to the Army shall be available only for the Reserve Component Automation System (RCAS).
Sec. 9039	20,000,000	Of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.
Sec. 9041A	10,000,000	(a) Shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department. (b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees. (c) Not less than 50 per centum of the funds necessary to carry out this section shall be derived from the amounts available for the University Research Initiatives Program in "Research, Development, Test and Evaluation, Defense Agencies", and the balance necessary shall be derived from amounts available for Defense Research Sciences under title IV of this Act.
Sec. 9044	NA	The designs of the Army Comanche Helicopter, the Navy A–X Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications and must fully comply with all DOD regulations requiring the use of the Ada computer programming language no later than 1998.
Sec. 9055	18,500,000	Of the funds appropriated by this Act shall be available for the mental health care demonstration project at Fort Bragg, North Carolina.
Sec. 9062A	500,000	Of the funds made available by this Act to the Department of the Navy, to remain available until September 30, 1993, shall be available only for the expenses of the Kahoolawe Island Commission which is hereby authorized to delay until March 31, 1993, the submission of its final report.
Sec. 9074	10,596,000	Shall be available for the Civil Air Patrol.
	4,471,000	Of the funds in Sec. 9074 shall be available for Operation and Maintenance.
Sec. 9078	NA	There is established, under the direction and control of the Attorney General, the National Drug Intelligence Center, whose mission it shall be to coordinate and consolidate drug intelligence from all national security and law enforcement agencies, and produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations: Provided, That funding for the operation of the National Drug Intelligence Center, including personnel costs associated therewith, shall be provided from the funds appropriated to the Department of Defense for drug interdiction and counter-drug activities.
	20,000,000	Available for the National Drug Intelligence Center may be available to the Secretary of Defense to reimburse the Department of Justice for support provided to the National Drug Intelligence Center.
Sec. 9088	20,000,000	Is appropriated to be available only for the relocation of Air Force units from Clark Air Force Base and Navy units from the Subic Bay Navy Base and Cubi Point Naval Air Station.
Sec. 9089A	NA	Of the funds appropriated under the heading 'Research, Development, Test and Evaluation, Defense Agencies' in title IV of this Act shall be made available as grants to the following institutions in the following amounts for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.
	5,000,000	University of Arizona.
	3,900,000	St. Norbert College.
	15,000,000	Johns Hopkins University.
	15,000,000	University of Wisconsin Center for Advanced Propulsion.
	5,300,000	John Carroll University.
	750,000	University of Northern Iowa.
	15,000,000	Medical College of Wisconsin.
	15,000,000	University of St. Thomas, St. Paul, Minnesota.
Sec. 9091A	8,000,000	Drawn pro rata from each appropriations account in title III, Procurement, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. 1544.
Sec. 9098	82,000,000	Made available in the fiscal year 1991 Department of Defense Appropriations Act (Public Law 101–511) for 'Aircraft Carrier Service Life Extension Program' under the heading 'Shipbuilding and Conversion, Navy, 1991/1995' shall be transferred to 'Operation and Maintenance, Navy' for a large scale industrial availability, presumed to be 24 months, of the USS JOHN F. KENNEDY at the Philadelphia Naval Shipyard.
Sec. 9099	23,270,000	Of the funds made available by this Act in title II, Operation and Maintenance, Army, shall be available only to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.
	4,500,000	In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement and Modification, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of this amount shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.
	NA	The Air Force shall be reimbursed for expenditures in excess of 15,000,000 dollars in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.
Sec. 9100	NA	Notwithstanding any other provision of law, the Secretary of Defense may, when he considers it in the best interest of the United States, cancel any part of an indebtedness, up to 2,500 dollars, that is or was owed to the United States by a member or former member of a uniformed service if such indebtedness, as determined by the Secretary, was incurred in connection with Operation Desert Shield/Storm: Provided, That the amount of an indebtedness previously paid by a member or former member and cancelled under this section shall be refunded to the member.
Sec. 9101	60,500,000	Not to exceed this amount of cash balances in the Defense Business Operations Fund shall be transferred to appropriations of the Department of Defense which are available for energy conservation improvement projects under the Department of Defense Energy Conservation Improvement Program: Provided, That the authority to make transfers pursuant to this section is in addition to any other transfer authority provided by this Act.
Sec. 9110	400,000,000	(a) The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds appropriated to the Department of Defense for fiscal year 1993, up to this amount to be available for the purposes authorized in the Former Soviet Union Demilitarization Act of 1992: Provided, That amounts so transferred shall be in addition to amounts transferred pursuant to the authority provided in section 108 of Public Law 102–229 (105 Stat. 1708).
	10,000,000	Of the funds in Sec. 9110 shall be available only for the study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic region.

PROVISIONS IN FISCAL YEAR 1993 DEFENSE APPROPRIATIONS ACTS SPECIFYING FUNDING BY PROJECT OR LOCATION—Continued

	Amount	Description
	25,000,000	Of the funds in Sec. 9110 shall be available only for Project PEACE.
	50,000,000	Of the funds in Sec. 9110 may be made available for the Multilateral Nuclear Safety Initiative announced in Lisbon, Portugal on May 23, 1992.
	40,000,000	Of the funds in Sec. 9110 may be made available for demilitarization of defense industries.
	15,000,000	Of the funds in Sec. 9110 may be made available for military-to-military contacts.
	25,000,000	Of the funds in Sec. 9110 may be made available for joint research and development program.
	10,000,000	Of the funds in Sec. 9110 may be made available for the Volunteers Investing in Peace and Security (VIPS) program.
	40,000,000	The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds available to the Department of Defense for fiscal year 1993, up to this amount to be available for international nonproliferation activities authorized in the Weapons of Mass Destruction Control Act of 1992.
	20,000,000	Of the transfer authority provided in this section may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.
Sec. 9111	NA	In order to maintain an electric furnace capacity in the United States, preference for the purchase of chromite ore and manganese ore authorized for disposal from the National Defense Stockpile shall be given to domestic producers of high carbon ferrochromium and high carbon ferromanganese.
Sec. 9116	8,000,000	Of the funds appropriated to the Department of Defense for Operation and Maintenance, Defense Agencies, shall be made available only for the mitigation of environmental impacts on Indian lands resulting from Department of Defense activities.
Sec. 9119	NA	Funds appropriated by this Act for the Defense Health Program shall be used to maintain at minimum a 50-bed medical care facility at Silas B. Hays Army Community Hospital at Fort Ord, California during fiscal year 1993.
Sec. 9123	NA	During the current fiscal year, from funds available in this Act, the Director of the Air National Guard shall establish a Command, Control, Communications and Intelligence planning office manned by three full-time Air Guard officers in the rank of 0–6, 0–5, and 0–4: Provided, That these officers shall be in addition to the strengths authorized in section 524 of title 10, United States Code.
Sec. 9134	NA	The Secretary of Defense shall provide for the conduct of an independent study, with participation by one or more federally funded research and development centers, of the Trident missile system.
Sec. 9136	25,000,000	Of the funds appropriated for drug interdiction and counter narcotics shall be appropriated for the purposes of modifying with improved radars and FLIRs and leasing up to 15 T–47 aircraft.
Sec. 9145	20,000,000	Of the funds appropriated under the heading 'Research, Development, Test and Evaluation, Army' in this Act shall be made available only for the National Defense Environmental Corporation, or its successor in interest, for the continued establishment and operation of the National Defense Center for Environmental Excellence (NDCEE).
Sec. 9148	1,000,000	Notwithstanding any other provision of law, the Secretary of Defense shall participate in an infrastructure demonstration program conducted by the Regional Equipment Center, Cambria County, Pennsylvania: Provided further, That of the funds available to the Defense Logistics Agency, this amount shall be available only to establish the Regional Equipment Center in Cambria County Pennsylvania.
Sec. 9149	125,625,000	Is appropriated to the Secretary of Defense, which shall be transferred to the Secretary of Energy by November 1, 1992, to remain available until expended for expenses necessary for the purpose of acquiring, transporting and drawing down crude oil to be stored in the Strategic Petroleum Reserve for national defense purposes, Provided, That the Secretary of Energy may transfer up to 700,000 dollars to the Strategic Petroleum Reserve Account for purposes of operating, maintaining and managing the Strategic Petroleum Reserve.
Sec. 9150	5,000,000	The Secretary of Defense is authorized to expend up to this amount of funds available to the Department of Defense during the current fiscal year or hereafter for the purpose of acquiring approximately one thousand five hundred and two acres of tidelands in the State of Washington from the Coast Oyster Company.
Sec. 9151	NA	During the current fiscal year, funds available to the Department of Defense used for a system or item procured by, or provided to, the Department of Defense containing manufactured carbonyl iron powders shall be available only for a system or item containing domestically manufactured carbonyl iron powders: for the purpose of this section 'domestically manufactured' means manufactured in a facility located in the United States or Canada.
Sec. 9154	NA	Funds appropriated in this Act under the heading 'Operation and Maintenance, Navy' shall be available for payments arising out of the deaths and injuries that resulted from the occidental striking of the Turkish ship Muavenet by a missile fired from the aircraft carrier Saratoga on October 2, 1992.
Sec. 9157	4,500,000	Is appropriated only for the construction of a visitors center at the United States Naval Academy, Annapolis, Maryland.
	5,500,000	Is appropriated only for the construction of a library at Fort Bragg, North Carolina.
	9,700,000	Is appropriated only for the construction of the 154th Composite Group Consolidated Support Facility, Hickam Air Force Base, Oahu, Hawaii.
	1,050,000	Is appropriated only for the construction of an armory at Kaunakakai, Molokai, Hawaii.
	8,500,000	Is appropriated only for the construction of FACP facilities at Barking Sands Naval Air Station, Kauai, Hawaii.
	4,300,000	Is appropriated only for the construction of an armory at Wahiawa, Oahu, Hawaii.
Sec. 9158	100,000,000	From within funds provided in title II of this Act, the Secretary of Defense, in consultation with the Secretary of State, may obligate up to this amount to provide goods, services, and other support for international peacekeeping and humanitarian relief efforts under the authorities of the United Nations Participation Ace of 1945, as amended (Public Law 79–264). SEC. 9159.
Sec. 9160	500,000	Shall be available only for the settlement of subcontractor claims associated with the Army Corps of Engineers contract DACA85–88–0025, for the construction of an Aircraft Maintenance Management Facility at Eielson Air Force Base.
Sec. 9162	34,000,000	From the funds made available in title II of this Act, the Secretary of Defense may make a grant of this amount to the American Red Cross for reimbursement for disaster relief expenditures for Guam, American Samoa and Puerto Rico.
Sec. 9163	40,000,000	The Secretary of the navy is authorized and directed to increase the current contract price (the contract price including all modifications as of the date of enactment of this act) for the T–AGS 39 and 40 design and construction contract by this amount using funds provided in Public Law 102–172 for this program, and shall pay to the contractor which built and delivered T–AGS 39 and 40 this amount no later than December 31, 1992.
Sec. 9164	350,000,000	The Secretary of the Air Force is directed to enter into a Supplemental Agreement to Air Force Prime Contract F04701–85–C–0019 for a Heavy Lift Expendable Launch Vehicle: Provided, That such a Supplemental Agreement shall address the Solid Rocket Motor Upgrade (SRMU) program and shall provide up to this amount in payment to the prime contractor and the agreed upon payments to the subcontractor: Provided further, That within funds appropriated to the Department of the Air Force either in this Act or in Public Law 102–172 not less than 200,000,000 nor more than 300,000,000 dollars shall be available for the Supplemental Agreement and that such sums shall be in addition to any amounts appropriated specifically for the Titan IV program in this Act or in Public Law 102–172.
Sec. 9165	32,000,000	Within funds appropriated in this Act for the National Foreign Intelligence Program, the Director of Central Intelligence may transfer up to this amount to the Federal Bureau of Investigations for special programs.
Sec. 9166	303,000,000	Is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard.
	253,000,000	Of funds in Sec. 9166 shall be merged with and be available for the same purposes and same time period as 'Operating Expenses' for fiscal year 1993.
	50,000,000	Of funds in Sec. 9166 shall be merged with and be available for the same purposes and same time period as 'Reserve Training' for fiscal year 1993.
MILITARY CONSTRUCTION		
MILCON, DEF AG	NA	The Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189) and the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510) and as provided for in the Military Construction Appropriations Act, 1990 (Public Law 101–148) and the Military Construction Appropriations Act, 1991 (Public Law 101–519).
BRAC I	134,600,000	Of the funds appropriated herein shall be available solely for environmental restoration.
BRAC II	308,900,000	Of the funds appropriated herein shall be available solely for environmental restoration.
GENERAL PROVISIONS		
Sec. 102	NA	Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.
Sec. 103	NA	Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

Mr. McCAIN. I hope my colleagues will each take the time to review this revealing document.

I also emphasized that this is not a problem which is peculiar to the Defense budget, but I feel it is important for my colleagues to fully understand the potential impact on our national security when these abuses of the budget process occur in a Defense appropriations bill.

Mr. President, may I pause to ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Mr. President, I pointed out on Monday that the debate in the Senate is not about just another Defense bill. The importance of this bill increases in the context of post-cold war global instability and the potential threat of proliferation of weapons of mass destruction. Most importantly, the Senate is debating these issues while American soldiers are stationed in Somalia, ready to put their lives on the line for their Nation. The decisions the Congress makes today will determine the ability of the United States in the future to play an effective role in world affairs and to protect our own security and that of our friends and allies.

My colleagues know that, in real terms, the fiscal year 1994 Defense budget is over one-third less than the amount available for our national defense in fiscal year 1985. Dollars for defense are scare and getting scarcer. Because of these huge funding cuts, we are forcing hundreds of thousands of men and women out of the military. Our defense industrial base is being cut to the bone. We are accepting compromise after compromise in our military capabilities. The United States has eliminated all programs to modernize our strategic deterrent forces, even though a great degree of uncertainty exists as to the status of such programs in the former Soviet Union. We are cutting readiness, and some aspects of our forces are rapidly becoming hollow. We have already taken our peace dividend. There are no spoils left for the Congress to divide.

Yet, the Congress insists on setting aside billions of defense dollars for unrequested, unrequired, special interest programs. These congressional earmarks threaten the viability of a necessarily smaller defense force supporting a new, more limited strategy, and thus they threaten the long-term security of our nation and its citizens. In an immediate sense, unrequested add-ons take away the livelihoods of men and women in defense industry who earn their jobs by working on programs the country really needs. And they drive highly skilled men and women out of the military services, including many minorities, and make it more difficult to attract capable men and women to enter into the military as a career.

Mr. President, as I have consistently stated to my colleagues, every dime the Congress earmarks for Members' special interest items and pork barrel projects comes at the expense of a validated military requirement necessary to ensure the security of this Nation. The fact is that there is no such thing as free pork. Every add-on requires an offset from some other program. Often these tradeoffs are difficult to identify readily. But if and when American troops are required to put their lives on the line in defense of this Nation's interests, the dangerous effect of pork barrel politics will become very obvious. We cannot afford pork barrel projects anymore. I, for one, will do all I can to see that this practice does not continue.

Mr. President, as I said earlier, the Congressional Research Service compiled a list of legislative earmarks in DOD appropriations bills over the past 4 years. By earmark, I mean a legislative or report language requirement that funds be spent in a particular manner or at a particular place, generally without consideration to merit, priority, or competitive bidding. The CRS report demonstrates just how egregious earmarking of appropriations has become. This information is contained in the CONGRESSIONAL RECORD of Monday's date.

Mr. President, let me emphasize again, as some of my colleagues from the Appropriations Committee also pointed out, some of these special interest projects may, indeed, be very meritorious projects and deserve Federal funding—but not defense dollars. But every time the Congress acts with this kind of specificity, some other project—one that may be requested and, most importantly, which is essential to national security—goes unfunded. This is wrong. It is wrong whether the project is in Minnesota or Arizona. Defense dollars are intended to enhance national security, not domestic comfort.

Mr. President, again today, I would like to point out to my colleagues that the fiscal year 1994 DOD appropriations bill passed by the House is replete with earmarks of scarce defense dollars for home-district projects. The House set aside $6.5 billion of defense dollars for special interest, noncompetitive projects at bases, universities, and other institutions in Members' home districts. In other words, the House gave its Members $6.5 billion in pork barrel projects. I have already placed into the record the complete list of $6.5 billion in earmarks in the House version of the Defense appropriations bill.

Let me again briefly tell you about a few of those earmarked projects in the House DOD Appropriations bill for next year.

Every dime—every dime—of the $236.5 million in funds intended to assist in transitioning our defense industries and personnel to commercially viable endeavors is allocated to specific projects at designated sites, universities, institutions, and other earmarked recipients.

Mr. President, my worst fears have come true. As I supported funding for defense conversion so that we could help these communities, help these businesses, help these States make adjustments as we cut defense spending, we are now seeing them earmarked not on the basis of merit but on the basis of who has the most clout.

Mr. President, we have organizations in the Defense Department who are qualified to make those decisions on a competitive basis. That is the way it should be done.

The sum of $2.3 million is set aside for cell adhesion molecule research, to be done at a "nonprofit foundation in the northeast * * * by an integrated team of scientists with extensive experience in the molecular analysis of the immune system * * * the scientific team must have extensive experience in the identification and analysis of cell adhesion, signal transduction pathways, cytokine production, and gene regulation."

That is actually the language of the bill. I do not know who that organization is, Mr. President, but I know there is only one of them.

Up to $50 million is directed by the House to be spent for environmental cleanup of an abandoned mine at the Penn Mine site in Calaveras County, CA.

My colleagues on the appropriations bill have said these are worthwhile projects. It may be worthwhile to clean up a mine in Calaveras County, CA. But how, for the life of me, that is a defense requirement is something I simply do not understand.

All this data is available in the CONGRESSIONAL RECORD of October 18.

Mr. President, again, I am happy to say that the Senate appropriators seem to have moderated the district spending spree initiated by the House. Although I do not have a complete list of earmarks in the bill before the Senate today, it appears that most of the egregious programs included in the House bill have been deleted from this version. Again, I congratulate my colleague on the Senate Appropriations Committee for their relative restraint.

However, Mr. President, I must note with dismay that the bill before the Senate today does contain some objectionable provisions which clearly earmark dollars for special interest projects. Again, I will stress that these projects may have merit, but I firmly believe that funding decisions based on competitive bidding and independent evaluation are the only means to ensure that the American taxpayers' dollars are spent for the highest priority projects.

Let me very briefly talk about a few examples of earmarks which are included in this DOD appropriations bill: $5 million is earmarked for a center of excellence for research in ocean sciences; $1.5 million of defense dollars are directed to be spent to purchase an LCU ship, convert it to a commercial cargo vessel, and then deed it to the Government of American Samoa; $500,000 for environmental remediation and wells on Walker River Paiute tribal lands; $4.5 million for the McMinville, Oregon Center for Aviation Technology and Training; two higher education systems in two separate States will share nearly $9 million under a provision in the bill which directs the establishment of an international job training program at one college and a math teachers leadership project at the other college; $2 million to establish a marine environmental research facility at Astoria, OR; $12 million for the AKAMAI project at Tripler Army Hospital in Hawaii; $1.7 million to replace a public landfill at Kotzebue, Alaska; $2.5 million is set aside to fund a joint Air Force/Navy Auroral Research Program, for which there is no request and no authorization.

I have not read this entire bill. One of the problems we have is sometimes it takes days and even weeks to ferret out all of the different kinds of appropriations.

From my reading of these provisions, it appears that my amendment may be construed to prohibit noncompetitive contract awards in only four of these instances: The grants of the two universities, the environmental research center, the landfill, and the environmental work on Indian lands. Again, however, these programs may very well receive appropriate funding under competitive procedures for these dollars.

The dollars earmarked for these and other programs like them are dollars taken away from identified, higher priority, military requirements of the Department of Defense. They are dollars taken away from working military men and women and their counterparts working in defense industries. The cost of these earmarks is the continued degradation of the readiness of our military forces at a time of continuing instability in the world.

It is time we looked around and realized what we are really doing. It is time we realized where lobbying, special interests, and narrow constituent concerns have brought us. If we continue this pattern of waste, we will be responsible for our Nation's inability to defend our interests in the future.

The amendment I offer is very simple. My amendment states that the provisions in this bill dealing with university research, community adjustment assistance, strategic environmental research, and environmental restoration shall not require the Department of Defense to award a contract or make a grant to a specific non-Federal entity. If my amendment is adopted, contracts and grants would be awarded under the competitive, merit-based selection procedures that are currently in law. In other words, there would be no earmarks in these programs in the fiscal year 1994 Defense appropriations bill.

My amendment would prohibit earmarking of appropriations in these very specific areas, most of which were included in the House version of the bill but deleted by the Senate appropriators. And in fact, my amendment would affect only a small portion of the $6.5 billion in earmarks that the House included in its bill. In total, my amendment only affects about $316 million in earmarked funds in the House bill.

But, Mr. President, I hereby serve notice that I will strenuously object to the inclusion of any of these earmarks in a conference agreement on the fiscal year 1994 Defense appropriations bill.

This amendment is just a start. On Monday, I also noted four possible solutions to deal with the problem of pork highlighted by the CRS report. I want the Senate to be on notice that, beginning with this amendment, I will be seeking to have the four points I raised become law.

Last week, during the Senate's debate on a different subject, the esteemed Senate Appropriations chairman, Senator BYRD, sought to clarify—by using the dictionary—his point. Let me now follow his lead.

The Random House College Dictionary defines an earmark as "to set aside for a specific purpose." Competition, on the other hand, is defined as "the act of competing." These two terms are not interchangeable; they are not remotely synonymous; they are, in fact, opposites. The Congress cannot, on the one hand, direct the Department of Defense to rely on competition to save money, but then provide them with a bill containing billions of dollars of noncompetitive earmarks of the Congress' choosing.

Let me give praise where praise is due. During consideration of the fiscal year 1994 Department of Transportation appropriations bill, Chairman LAUTENBERG sought to "winnow some of the earmarks—money directed to lawmakers' favorite projects—out of the bill." Congressional Quarterly reported that "Lautenberg * * * was responding to the public, which wants Congress to cut spending and pork barrel politics."

In the article, Senator LAUTENBERG is quoted as saying, "I don't think I'm the only one who sees a new era coming." He continued, "I thought it was an appropriate time to [respond to] what I hear is a clamor from the people we represent." I hope my colleagues on both sides of the aisle will attend to the words of Senator LAUTENBERG.

The Congress passed a Department of Transportation bill with considerably fewer earmarks than in the past. We can do the same with the Department of Defense bill. The Congress must choose between competition and earmarks.

The public is no longer merely clamoring for an end to pork barrel politics; it is yelling, screaming, demanding something be done—demanding that we stop pork barrel spending and earmarking. We must put the national good, our national priorities, before local political gain.

The choice is clear: earmarks versus competition—politics as usual versus fiscal responsibility. I urge my colleagues to take the first step toward fiscal responsibility. I urge my colleagues to support my amendment.

Finally, and I appreciate the patience of my colleagues, I am aware of the way the Senate and the Congress have been doing business for many years. I am aware that seniority allows certain latitudes and certain things to be done in this body. I am aware that the defense appropriations bill clearly indicated by the CRS report and other studies has been an area where billions and billions of dollars have been spent on special projects, on projects that were neither requested nor authorized, and many times appropriated.

I want to put this in the right context. In the area of defense we are telling thousands of young men and women we cannot afford to keep them in the military, and we are still able to afford billions of dollars on unnecessary, unfunded expenditures. We cannot do that.

Mr. President, 10 percent of the African-American young men in America today who are employed are in the military. We are telling them we cannot afford to keep them because we have to downsize our military. The military and our All-Volunteer Force has been, in my view, the best way for an American to lift himself or herself up from conditions of poverty and receive an education, receive an opportunity. Yet, we are going to spend billions of dollars on things such as I just enunciated.

I know, also, that I risk some retaliation in my State. I am willing to risk that retaliation because I am a U.S. Senator, not an Arizona Senator. But it has to stop. We have to get control of this process because we do not have the confidence of the American people in what we are doing. And the best way to restore that confidence of the American people, in my view, is to treat their tax dollars as if they were our very own and spend them on only needed defense spending and not other unneeded, unrequested funding. The best way we can do that is restore some regularity and formality to the process.

Mr. President, I yield the floor.

Mr. THURMOND. Will the distinguished Senator yield me 5 minutes?

Mr. McCAIN. I yield 5 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I am pleased to join as a cosponsor of the amendment offered by my good friend and colleague from Arizona, Senator JOHN MCCAIN. If approved, this amendment will put the Senate on record as being in favor of spending our shrinking defense dollars in the most effective and efficient manner. The language in Senator MCCAIN's amendment emphatically restates the congressional policy that funds expended under community adjustment assistance, university research, strategic environmental research, and environmental restoration programs are awarded on the basis of merit rather than on other considerations. This amendment makes explicit the approach followed in large measure by the Senate Appropriations Committee.

The earmarking of programs is a long-established practice in Congress. We have the power of the purse and must be sensitive to the needs of our constituents regarding the administration of Federal programs. Therefore, it is pointless and unfair to try to place the blame for earmarking practices on any member, committee or House of Congress, but this year the problem has gone to far.

We are not facing a crisis in managing defense spending. The defense budget appears to be in freefall and our military commitments around the world are shifting rather than decreasing. The Armed Services Committees are struggling to meet draconian outlay targets in the critical research and development accounts. We may have to reduce these accounts $4 billion below the House figure. We are in danger of eating our seed corn as we sacrifice our technology programs to shorter term priorities.

In this environment, large-scale earmarking is a luxury we can no longer afford. We must ensure that every dollar be expended on defense programs that are judged to be meritorious by a process freed of other considerations. If there are concerns about the process for awarding grants or contracts under these programs, then let us examine that process and make appropriate corrections. The answer, however, is not to overturn a competitive process in favor of earmarks.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield to the Senator from New Mexico such time as he needs.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, how much time remains for the proponents?

The PRESIDING OFFICER. Ten minutes, forty-seven seconds.

Mr. BINGAMAN. I request 5 minutes of that time and then I will yield the rest of it back to my colleague. I know the Senator from Georgia, the chairman of the authorizing committee, would like to speak as well.

Mr. President, I rise in support of the amendment offered by Senator McCAIN and wish to join him in this effort. I do think this is an issue that is not being addressed for the first time in the Senate. It is one that we have addressed several times before.

I want to make very clear what I believe Senator McCAIN stated in his comments as well, that the issue we are raising with this amendment is not directed at the provisions that are in the bill pending in the Senate today. I want to commend the Senator from Hawaii and the Senator from Alaska for the constructive approach that they and their colleagues on the Appropriations Committee have taken toward preserving the statutory processes and the principle of merit-based-selection procedures in the bill before us. These cost-sharing, competitive principles which the Senate committee was embracing were at the heart of last year's legislation on conversion. The principles enjoyed bipartisan support in the recommendations of the Pryor task force and the Rudman task force.

There is a broad consensus that this is the only fair way to allocate these funds, especially when they are oversubscribed by a factor of 20 to 1, as they are in the case of the technology reinvestment project, which is the name that has been given to the technology and industry component of Congress' 1992 conversion and reinvestment legislation.

So, again, I want to commend the Senate Appropriations Committee for taking this approach and for including section 8130 in the bill that is pending before us today. This section, which was offered by Congressman GEORGE BROWN on the House side ties the expenditure of technology reinvestment funds to the competition and cost-sharing and other procedures set forth in the law.

However, Mr. President, let me just point out that there are some other areas that have been referred to by Senator McCAIN where Congress has established specific statutory merit-based procedures, and we need to ensure that in those cases, the competitive procedures are followed as well.

The first of these that we are addressing in our amendment is the long list of operations and maintenance earmarks in the House report language aimed at particular communities facing dislocation due to defense cutbacks.

A second area which has been referred to is university earmarks.

A third is the earmarks contained in the House bill related to the Strategic Environmental Research and Development Program.

And, finally, the earmarks involved with the defense environmental restoration account. Clearly, we need to ensure that those programs are allowed to proceed on the basis of merit, they are allowed to proceed on the basis of competition, as was the intent of Congress from the very beginning.

I am particularly concerned about the long list of dual-use technology earmarks in the areas such as manufacturing technology, automotive technology, health care technology, electronics and materials technology. The vast majority of these appear to be projects intended for a particular recipient. These are projects that could and should be competitive under the Technology Reinvestment Program.

In each of these areas, the Advanced Research Projects Agency received in excess of 100 proposals. We have very limited funds available for defense and dual-use research and, as the Senator from South Carolina pointed out, we are being asked in the conference with the House on the defense bill to cuts in excess of $5 billion from the President's request for defense R&D. We cannot afford to spend the scarce resources we have for research and development on special projects for Members' interests.

Mr. President, I know that the appropriators and the chairman of the Appropriations Committee in the Senate, the chairman and ranking member, will have a very difficult time holding to the position which we are advocating in the Senate today. It clearly is the fair thing to do. It is the only fair way to treat the 2,800 groups which responded to the competition for the technology reinvestment project funds and for the many thousands of others who will compete in the future.

Let me conclude by again thanking the Senator from Hawaii and the Senator from Alaska for standing by the principle of merit-based procedures and the expenditure of defense funds. I hope they will continue to preserve this principle in the final bill which emerges from the conference and that the amendment we are offering today will help them in doing that.

Mr. President, I yield the floor and reserve the remainder of Senator McCAIN's time.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, before proceeding with my remarks, will the Senator from New Mexico respond to a question on my time?

Mr. BINGAMAN. I will be glad to respond.

Mr. INOUYE. Mr. President, I wish to know the intent of the authors of this measure. Does this provision apply only to the following: Programs, projects, activities involving community adjustment assistance, research and development at colleges or universities, strategic environmental research or environmental restoration, or does it go beyond that?

Mr. BINGAMAN. I will respond for myself, since I am not in a position to respond for the Senator from Arizona. But I will respond for myself that it is my intent that the amendment go beyond that and that it make it clear that as a matter of policy, the Senate wishes to maintain merit-based procedures for all contracts and grants, programs, projects, and activities funded by the Department of Defense; that those merit-based procedures should be followed. That is in the last sentence of the amendment. I do think, as a matter of principle, the Senate should be on record in support of that.

Mr. INOUYE. Mr. President, the bill before us complies with the law of the land as established by Congress. The bill before us, the Defense appropriations bill, provides substantial amounts of funds which will be awarded following full and open competition. This bill requires competition in the award of defense conversion research and development. This bill does not earmark funds provided for defense conversion community assistance and personnel programs. This bill does not earmark funds in the defense environmental restoration account or funds approved for the Strategic Environmental Research and Development Program.

Specifically, the committee added $150 million to the $324 million requested for R&D projects to aid the conversion of our defense industry under the Technology Reinvestment Program. The committee also provided additional funds for the community assistance and personnel programs which would aid our fellow citizens affected by the defense drawdown.

Mr. President, it was difficult to appropriate these funds, given the outlay constraints facing this committee. No other congressional defense committee met this challenge. I can assure you, Mr. President, that we members of the committee have worked very diligently with our colleagues in the Senate to provide additional funds for defense conversion efforts.

While my fellow Senators brought a number of excellent conversion projects to the attention of this committee, the committee sought to allow the competitive process to determine the best possible uses of defense conversion funds.

In addition to the so-called earmarks that I have mentioned on defense conversion, the committee recommended that the full Senate agree with the House bill language requiring competition in the award of Technology Reinvestment Program funds.

The committee support of the competitive process is fully consistent with the existing laws governing award of defense conversion funds and other programs highlighted by Senators MCCAIN and BINGAMAN.

Mr. President, I believe the law is clear, and most sincerely I believe we have complied with the law. Indeed, as I have said, we have further adopted a House provision mandating that Defense Technology Reinvestment Program funds be awarded based on competitive procedures outlined in the statute. I can assure one and all that we will do our best in conference to maintain these competitive procedures.

The amendment before us, I believe, seeks to refine the Senate's support for competitive award of funds available to the Department of Defense. However, I sincerely believe that the amendment's current language may be so expansive that it could have an unintended effect on overriding program priorities that the committee or the Senate have established as meritorious in the bill and report language.

Just a few minutes ago, Mr. President, we concluded an important debate on so-called earmarking of funds for the Army and Air National Guard. The issue before us involved $150 million that we in the Senate decided had merit. It was authorized by the authorization committees, and we appropriated the funds. The vote was overwhelming.

In that debate, I tried my best to remind my colleagues that a very important constitutional provision was involved. Article I, section 8 of the Constitution says that the Congress has the power to provide for and maintain armies. The Congress has the power to provide for a navy. This debate so far suggests that if the administration has not requested these programs, it is not worthy of our consideration, and yet the Constitution makes it very clear that it is not the President of the United States but the Congress that will provide for and maintain an army and provide for a navy.

Yesterday, we had a lengthy debate on the CRS report, and I tried my best to respond item by item. I will not use my limited time for that purpose. But since we are talking about the CRS report, it might be well to use that report.

> In discussing defense funding, earmarking generally refers to occasions in which amounts are specified in law or in committee reports for purposes even more narrow than those of typical line items. In light of the flexibility of the term in common usage, CRS has not referred to earmarked funds in any of the attached material. Rather, we have tried to identify all provisions of defense appropriations acts that specify that funds should be allocated to particular projects or locations. As you may know, we have not provided a similar table of provisions from defense authorization acts. The reason is that authorization measures typically include dozens if not hundreds of provisions that define or establish particular programs and activities. The results of citing them all would be unwieldy. We do not mean to suggest, however, that only appropriators earmark funds.

This amendment suggests that it may be well for authorizers to earmark funds but not for appropriators. Yet the Constitution makes it very clear it is the Congress of the United States which provides for the army and the navy.

Second, I hope my colleagues will go over the RECORD of yesterday and look over the debate that was held in preparation of this amendment because each item has been answered, and I believe rather specifically.

At the appropriate time, Mr. President, I will be, together with Senator STEVENS, making a motion either to amend or to table the amendment because I believe that, as written, this amendment is so expansive that it may have had an intention that was not intended by the authors of this measure.

I am pleased to yield to the vice chairman of the committee.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I want to emphasize what the Senator from Hawaii has just said. This amendment says "no provisions of this act." This appropriations bill will become an act. Only the appropriations process would be so limited. As the CRS has pointed out, they did not even provide a table of provisions from the Defense authorization bill because there are so many of them they could not compile them.

Now, it just so happens that the Constitution does not refer to authorization bills. We have provided for the authorization process in our procedure, but the Constitution says:

> No money shall be drawn from the Treasury but in consequence of appropriations made by law.

Now, I find it very interesting that it is all members of the authorization committee who have presented this amendment to the floor. The very people who the CRS says it cannot even count the number of earmarks they have in their bill have said you cannot earmark in an appropriations bill.

Now, let us make sure we understand what that means. It means the distinguished occupant of the chair or any other Senator cannot come in here and say, "Of the money that you have provided in this bill, I want this amount reserved for this project in my State."

Now, let us talk about environmental restoration. I started the environmental restoration concept when I was chairman of this subcommittee. I started it with an amendment on the floor. We had ignored the concept of environmental restoration on defense establishments and we now have one. It is an enormous one. It is almost $3 billion this year. Of that $3 billion almost—it is 2 point something or other—I asked the committee, and in the report we do earmark and say that $1.3 million shall be available to the Air Force to replace an existing landfill in Alaska at Kotzebue that was contaminated by the Air Force waste. As they closed an air base, they used the little town of Kotzebue's landfill and so filled it up with waste it has now been told it cannot use that landfill anymore.

So that I have asked, of the almost $3 billion in this bill, $1.3 million of that money be prioritized as a partial contribution of the Government to replace that landfill which must be done now according to the EPA.

I could come out here on the floor with an amendment. I did not do that. I asked the committee. We placed it in the report, and we have said we set that priority for the use of these funds. That has been criticized by my friend from Arizona. It is earmarking of the O&M moneys, generally. It does not take away from anyone else. It just says, from all of that money that is in here for O&M—and the total amount for that is almost $80 billion—we can urge you to use it for this account.

If the Senator from Arizona wants me to come and present that amendment, I will present that amendment. And I will ask Members of the Senate to vote against it. I would point out that I have here the requests made to me personally as the minority manager of this bill by some 31 to 35 Senators on my side. The Senator from Hawaii has a similar package. Almost every Member of the Senate that has a defense installation in their State came to me and asked me to earmark or provide some money for specific things in their State. Many of them were from the Armed Services Committee.

Look at the Armed Services Committee bill this year: $25 million for electron laser; $4 million for the helmet-mounted mission rehearsal system; $5.9 million for the stratified charge rotary engine; $11.7 million for the decoy, in Massachusetts; $1.4 million for Sacramento Peak Observatory; $10 million for the thermionic conversion unit, at Auburn University; $7.5 million for the adoption program; $50 million for the Xerox high definition display project; $14.5 million for the Z megawatt fuel cells, in Connecticut; and $3 million for the solid polymer. That is just a few of them.

There are so many of them that we could not get them all out in a book.

The CRS says—

Mr. BINGAMAN. Mr. President, will the Senator yield?

Mr. STEVENS. Not right now. The Senator can speak on his own time. I am sort of wound up on this right now.

It makes me mad, again, that the Armed Services Committee comes here and points the finger at the two of us and says, "These naughty boys again are earmarking."

I hope the Senate wakes up because we react to requests of other Senators for these earmarks. They are a legitimate exercise of congressional authority to provide funds for defense projects.

If any Member of the Senate questions what we have done, offer an amendment to delete it. Come out here and have the courage to delete it. But do not give us some broad general policy that is absolutely unworkable but only applies to this act.

The Energy Subcommittee bill appropriates money for defense. The State, Justice, Commerce appropriates some moneys that come from defense. We now have turned over to a series of other committees a portion of the defense money, Transportation appropriations part of the money for defense, for Coast Guard. But only this bill would become burdened by this. This is a policy in Congress that contracts and grants for programs, projects, and activities funded for the Department of Defense should be awarded through merit selection procedures. That says it applies only to the provisions of this act.

What are we trying to do? What are the appropriators trying to do? They are trying to say that once again we have appropriated money that was not authorized. That, by and large, is not true this time. As a matter of fact, I would put into the RECORD at this point—I do not want to load the RECORD down.

I have here a series of pages for the add-ons made by the authorizing committee under the authorizing projects for items that were not requested by the President, were not requested by the Department of Defense, were not requested by anyone other than members of the Armed Services Committee. By and large, we funded most of those because we agreed with them. But there are people within the Department of Defense who say: Hey, wait a minute. You have congressional add-ons.

The congressional add-ons do not just come from the appropriations bill. They come from earmarking, basically, in the authorization bill. They cover the very things we are talking about. They cover community projects, adjustment assistance, research and development at colleges, strategic environmental research or environmental restoration; basically, earmarked in the authorization bill. But that is not covered by this amendment; only the earmarks that we would have made. As the Senator from Hawaii said, we have not basically made any.

But the last sentence is the things that apply only to those things authorized by this bill, by the appropriations process.

I think that the Senate has to decide what it is going to do. Any Member of this Senate can come out here and, pursuant to rule XVI of the Senate, offer an amendment dealing with this bill. We invite you to do so; we invite you to do so. We should let the Senate pass on the priorities that you set.

What this means to this Senator is if this amendment is agreed to next year, the Members of this Senate must come to this floor and present their own amendments.

I might say, if it passes, I will see to it, if the Senate does not table it, I will offer an amendment to say: This or any other act. It is legislation on appropriations. It should not be here in the first place. Rule XVI prohibits that. But if we make a point of order against it, the people here will just say it is germane and we will have a vote on germaneness, and that will be equivalent to adopting the amendment.

I see my good friend from Georgia, the chairman of the Armed Services Committee. He and I have had long talks about legislation on appropriations, and the appropriations process. And we have come away as friends. I admire his ability in this area. But I will say this: This one is going too far. It is only if it applies to every act of Congress. If Congress wants to set a new policy, and it would be a new policy with regard to the concepts of this language, I say that we should think about that.

I reject the position of the Senator from Arizona that we have, by virtue of this bill, earmarked items except as requested by a Member of the Senate who came to us and we presented the bill. If you question those earmarks, come out here and take them out. Come out here and raise the question. But again, a scatter gun comes at us, and in the scatter gun is an expression of policy, a legislative policy that, in my opinion, only applies to the provisions of this act.

I believe that the way to deal with this bill is the way the Senator from Arizona did on the *Seawolf*. I voted for his amendment to limit the *Seawolf*. I did not believe in the *Seawolf*. I voted, for instance, against the tremendous amount of money that was spent on battleships for the Navy of our country, and they were out there floating for 3 or 4 years and came back in to become museums again at costs of literally tens of billions of dollars.

That is the way to deal with it: Have a vote out here on individual provisions you disagree with. But this is a scatter gun.

I tell the Members of the Senate who brought to me these requests—I think the same kinds of requests were brought by the Senator from Hawaii—that we cannot work that way anymore with regard to these provisions, with regard to these projects. Most of the provisions are not in the act. Again, they are in the report, as are the provisions that are earmarked by the Armed Services Committee. Their report is quite similar to ours. It is right here. This is the one for 1994.

I urge the Members of the Senate to look at it—the specificity of funds for the George C. Marshall Center, pilot outreach, additional support for counterdrug activities, export loan guarantees, military physicians—you can see the earmarking. I do not disagree with it. That is the function of the Armed Services Committee: To review the requests for money and put congressional limitations that it believes are necessary to assure the protection of the public interest.

But there is, particularly when the Senator from Arizona seems to believe that this earmarking of the CRS is really a report of all earmarking of defense projects—I again refer to where I started out in this report.

The CRS has not referred to earmarked funds. They have tried to identify provisions in appropriations acts only that specify where funds should be allocated or projects, or locations of projects, should be funded. And they specifically say:

> Authorization measures typically include dozens, if not hundreds, of provisions that define or establish particular programs or activities. To cite them would be unwieldy.

Where is the fairness in that kind of legislation? Again, this is where the buck stops. We are the only committee of Congress that is subject to the outlay limitations. In order to get to those outlay limitations, we have to be specific. As a matter of fact, we had one amendment presented against us this morning to delete $150 million because we were not specific enough.

Now this is an amendment that says take out all of those provisions that are specific, unless you put them in on a general category of being—they must be competitively bid. To me, it is bad legislation and it is wrong. I will be happy to listen to my friend.

Mr. BINGAMAN. Mr. President, could I try to clarify what I think this amendment does? It does not do what he is believing and stating that it does. This amendment does not try to knock out all language in the appropriations bill or in any bill which establishes particular programs and activities. I agree with the Senator from Alaska and the Senator from Hawaii that that is entirely appropriate. If the Appropriations Committee and the authorizing committee decide that a particular activity or program should be funded, then they should specify that. I voted with the chairman and ranking member on this last amendment, because I believe very strongly that we did what we should do.

Mr. STEVENS. Let me parenthetically say that you are using your time. I have used a lot of ours.

Mr. BINGAMAN. I will use my time. What this amendment does is say:

> No provision of the act concerning these programs, projects, or activities may be construed as requiring a contract to be awarded or a grant to be made to a specific nongovernmental entity.

That is a particular contract. What we are trying to get at are provisions in the House appropriations report which require that a particular contractor be given the contract. And that, to us, seems eminently reasonable, and it is something that the Senator from Alaska supported, and that is all this amendment tries to do.

Mr. STEVENS. Mr. President, I support what the Senator just said, but does it cover my $1.5 million for Kotzebue? It says to give it to a non-Federal entity without any contract.

Mr. BINGAMAN. You do not state who is to do the work.

Mr. STEVENS. No, but who the grant is to be made to.

The PRESIDING OFFICER. The Senators should direct their comments to the Chair.

Mr. BINGAMAN. As I understand the example the Senator from Alaska cited, he is specifying a purpose and an activity in a program he thinks should be funded, not which contractors are to do the work. Accordingly——

Mr. STEVENS. To the contrary, this amendment covers a grant, requiring a grant to be made. I require a grant to be made to the city of Kotzebue to be a Federal contribution to a landfill. Now, it is covered by this amendment. It specifically says environmental restoration may be construed as requiring a contract to be awarded or, as required, a grant to be made to a specific non-Federal entity for a program or activity. I require $1.5 million to be given to Kotzebue. It is a fair contribution. As a matter of fact, they should pay for the whole thing. They destroyed the landfill for what is really a very small Eskimo town in northwest Alaska. I think this amendment covers that kind of earmarking.

Mr. BINGAMAN. Mr. President, I make it clear that some of this dialog is coming out of the time of the Senator from Alaska.

Mr. STEVENS. Yes. Mine is.

Mr. BINGAMAN. Mr. President, I will yield the floor, as I know the Senator from Georgia wants to speak on this issue.

Mr. NUNN. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 3 minutes 30 seconds remaining.

Mr. NUNN. Mr. President, I want to commend the Senator from Arizona and the Senator from New Mexico for offering their amendment to make it clear that it is the policy of Congress that defense funds should not be earmarked for specific contractors or grantees.

I would also like to commend the chairman and ranking member of the Defense Appropriations Subcommittee for their approach to this bill. While I do not agree with every element of their bill—and I would not expect them to agree with every element of the authorization bill—I believe that the general approach of appropriations bill reflects the genuine concern of the leadership of the Defense Appropriations Subcommittee for our national security. I particularly note section 8130, which prohibits earmarking the technology reinvestment projects, as well as the general absence of university earmarks from the bill.

The leaders of the Defense Appropriations Subcommittee know as well as anyone what difficult choices we now face in meeting the requirements of national defense. They have, for example, reduced the administration's request for funding of research and development programs by $5.2 billion, or 14 percent. In a budget that has already been reduced considerably over the funding proposed by the previous administration, that is an enormous figure. It is $2.5 billion less than the amount provided for research and development in the authorization bill. Given the deep decline in funds available for research and development, we simply do not have the luxury of earmarking funds for parochial interests.

As defense spending is reduced, it is essential that the limited funds which remain be used to support the programs of the Department of Defense in the most cost-effective manner possible. Congress has a vital role to play in this process, by establishing sound acquisition policy and making wise funding decisions. I do not believe, however, that in authorizing and appropriating funds for the Department of Defense, Congress should not act as super contracting officers and selecting the specific contractors or grantees who will be recipients of defense funds.

There is a big difference between deciding which programs are necessary to the national defense and deciding which contractors or grantees are best capable of meeting the objectives of those programs. The award of a contract or as grant should be made on the basis of an objective evaluation of the capabilities of the contractor or grantee. That is the type of decision that is best made on the basis of objective, professional judgments by officials in the executive branch using procedures and criteria established by Congress.

Mr. President, the defense budget was never large enough to justify earmarks for specific museums, specific universities, specific contractor claims, specific environmental restoration projects, specific conversion programs without regard to national defense needs or priorities. There are a large number of these kinds of earmarks proposed in the House-passed Defense appropriations bill. In the current budget environment, such earmarks not only are unjustified, they are harmful to the national defense because they take limited defense dollars away from critical projects.

The safety, welfare, and success in combat of the men and women in our Armed Forces—today, and 20 years from today—is directly dependent on the spending decisions we make here in Congress. We must ensure that these decisions are based on the merits of our national defense needs by supporting the Bingaman amendment.

Mr. President, I commend the Senator from Hawaii and the Senator from Alaska for a very commendable job on this appropriations bill. The Senator from Alaska has mentioned the outlay problem they struggle with, and we acknowledge right up front that we did not meet that outlay target. The reason is that we hoped it would be changed. It has not been, and we are going to have to meet the outlay at some point. The Senator from Alaska is correct on that. They struggled with the outlay problem that we did not meet, and I think they are to be commended for that.

The second thing I want to say, if my friend from Alaska will listen, is the Senator from Hawaii and I have talked about this at length, and the Senator from Hawaii has assured me he is going into conference determined not to have earmarks. This bill does not have earmarks, as we interpret it. The bill that came out of the Senator's committee does not have earmarks of the kind that is set-aside money for specific contractors and specific entities that are nongovernmental. We do not aim at any of those provisions that go to activities and programs.

This amendment, as I understand it from the Senator from New Mexico, is aimed at preventing set-asides for people who would really not be competing but, rather, getting their grants or their contracts by act of Congress. What that does is gives a fair playing field to those who are competing. If we do not have some policy like this, these thousands of proposals out there on defense conversion and other funds that are coming in in good faith, thinking there is going to be merit competition, are not going to be funded, and those being chosen by the Congress in an appropriations bill will be funded.

So we are not in any way attacking this bill before us. I believe what the Senators from New Mexico and Arizona are trying to do is commendable, because their amendment would say in advance that we do not support these earmarks because it is not fair to the taxpayer or to the other people trying to compete when there is no competition. Really, it is being set aside by an act of Congress, and it is not fair to the whole system. That is what the amendment is attempting to do, and it does not cover programs and activities. We always have programs and activities that we set aside money for. That is not the same as saying who is going to get the award and contract.

I say to my friend from Alaska, the provision he alludes to is in report language, not in the bill. Therefore, it is not binding and covered by this amendment. It is up to the Secretary of Defense to make those kinds of decisions.

So I commend the Senator from Hawaii and the Senator from Alaska. They have been true to their word. They have not put earmarks in this bill. And what we are really trying to do is reinforce their position in conference, because that is where the problem usually comes. What we do not want to have happen this year is what happened in previous years—to have a conference report come back full of earmarks, which destroys the competitive process and the merit-based process. That is as I interpret the amendment. I ask the Senator from New Mexico, Have I described it correctly?

Mr. BINGAMAN. Yes; that is exactly correct, Mr. President. I think that is a correct description.

The PRESIDING OFFICER. The Senator from Hawaii has 3 minutes 9 seconds.

Mr. INOUYE. I yield myself 30 seconds.

Mr. President, this discussion has just convinced me that the authors of the amendment are not quite certain what the intent is. Both of you have indicated that it does not cover any so-called earmarks in this bill. Yet, the Senator from Arizona has pointed out a whole list of items that he feels are covered by this.

Mr. NUNN. I was not here when the Senator from Arizona gave his explanation, but the easiest way is to read the amendment.

Mr. INOUYE. Mr. President, if the Senator will permit me, he came out with a whole CRS report that cites all of these amendments.

Mr. BINGAMAN. If the Senator will yield, my understanding is that the Senator from Arizona was giving a list of various items in the bill that he personally objected to. It certainly is not the case that this amendment affects those items. This amendment does not. This amendment is a very narrowly drawn amendment and is not in any way trying to attack the items in the CRS report.

Mr. INOUYE. Mr. President, that is not what the Record shows.

I suggest the absence of a quorum and ask unanimous consent that the time not be taken out of the time allotted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

Mr. DASCHLE. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHAFEE-COOPER-GRAMM HEALTH PLANS

Mr. DASCHLE. Mr. President, I know the Senators are currently deliberating on amendments. I will be happy to cease my remarks as soon as they are prepared to consider another amendment. wish to talk briefly, if I can, about an issue that will be the subject of a great deal of discussion and debate and consideration in the months ahead.

We all know that it was just earlier this month, that President Clinton spelled out his vision for comprehensive reform of our health care system, a vision that has stimulated debate from the Halls of Congress to cafes in Des Moines.

Our country has not been so engaged since Franklin Roosevelt a half-century ago sketched a picture of an America failing to care for its senior citizens. Not since then have we worked together again to secure a new right of citizenship in our land. We have reached a crossroads, and it is time again for another great advance.

The President has paved the way by introducing a bold health reform plan, and the ensuing debate has encouraged Republicans and Democrats in Congress to introduce their own reform bills, many containing important elements of the Clinton plan.

The public and the media have scrutinized carefully the President's plan, as well they should. This is, after all, perhaps the most important domestic policy initiative in history.

Now I believe we must analyze all of the proposals before us, comparing them against a checklist of principles important to our Nation, just as we have done with the President's plan.

We must be sure that the rhetoric matches the reality.

I would like to do that with the three major plans that have been recently introduced in the Congress.

Within the last several weeks, health care reform plans have been introduced in the Senate by the Republican health task force, under the leadership of our colleague, JOHN CHAFEE, and by Senators GRAMM and MCCAIN. In the House, Representatives COOPER and GRANDY have advanced a comprehensive reform bill, with bipartisan cosponsorship.

I applaud their contribution to the health care reform debate, and am pleased that all of these bills mirror the President's plan in some important ways, by emphasizing competition, increasing consumer cost consciousness, and by cracking down on insurance practices that leave so many without coverage.

Their bills all represent serious efforts, and I welcome the sponsors' participation in the debate.

With that said, I must also express reservations about the ability of these measures to fulfill all of the goals I believe are vital to the success of health reform.

Most notably, neither the Cooper nor Gramm bill provides health security for all Americans—security that citizens of every other nation take for granted; security that our citizens want and deserve. Security that the President has stated is one of the most important goals of health reform. Only Senator CHAFEE's plan makes this a priority and in my view does not reach that goal any time in the foreseeable future.

None guarantee that skyrocketing health costs will be reined in. They all fail to assure businesses and individuals that their premiums will be affordable if competition fails to contain costs.

These are two of the most important aspects of health reform, and I believe these proposals, for the most part, fall short on both of these counts.

Let us explore further how these bills measure up on these and other important goals of health reform.

Most important of all, we must have health security, Mr. President. We need to assure Americans that they will have coverage that is always there.

This guarantee is important for containing costs; it is important for putting an end to cost shifting; and it is important for the security and peace of mind of all Americans.

I commend Senator CHAFEE for taking this goal seriously, with a plan that strives for universal coverage by the 21st century.

While I have some concerns, as I said, that he will wait until savings are achieved before providing this security, and put the onus for purchasing only on the individual, rather than creating a partnership between businesses and their workers, I believe that this plan takes an enormous step forward with its recognition that all Americans must be guaranteed coverage.

On the other hand, I am deeply disappointed that the bills Representative COOPER and Senator GRAMM introduced do not achieve this most important goal.

Neither mandates coverage, anyway. They do not require anyone—not employers, not individuals, not even the Government—to take responsibility for health care. Instead, their bills hope to expand access to care almost solely through competition and shifting more responsibility onto the consumers.

This will certainly result in a high number of uninsured Americans.

In fact, a July 1993 Congressional Budget Office analysis of the Cooper approach projected that it would result in 22 million people uninsured. And Senator GRAMM's bill actually puts more Americans at risk by leaving insurance companies free to drop people and raise their rates for reasons beyond the consumers' control.

Under either plan, employers could continue to drop costly workers from coverage or not cover their work force at all, adding to the rising number of uninsured Americans.

Under all three plans, job lock would continue, since employees will be unwilling or unable to change jobs if they fear losing coverage.

Under either plan, we would see the continued negative effect of high numbers of uninsured patients:

Cost shifting would continue, since individuals could still decide that health care is not their responsibility, thus shifting their expenses onto those who purchase insurance;

The uninsured will forego preventive and primary care and will instead receive expensive emergency room treatment;

In economic terms, this hurts individuals, it hurts businesses, and it certainly hurts the Nation.

Second, there is absolutely little effort to contain costs under the approaches by some of our competing plans. None of the plans guarantee our taxpayers and businesses that health care spending will be reined in, and this is a very important distinction between the Clinton approach and the other plans.

While all three plans receive piecemeal treatment, and there are provisions designed to control costs ranging from administrative simplification to more consumer responsibility, none has a comprehensive, guaranteed cost containment strategy.

For example, the Chafee and Cooper plans help reduce costs by pooling small businesses into purchasing groups that force plans to compete on price and quality. Evidence suggests that this will help control spending, but it certainly does not guarantee it. On the other hand, both plans cap Medicare spending, and we know from years of experience that cost shifting occurs when we control public spending but leave private costs to grow.

CBO's study of last year's version of the Cooper plan concluded that under it, health care costs would continue to rise at their current rate, or even faster. Senator GRAMM's bill does not even help individuals and small businesses join together to bargain for coverage at affordable rates. Instead, it relies on individuals with no enhanced market clout to negotiate with plans and providers for their care.

All three plans, in my view, fall short on the third principle, that of comprehensive benefits. They do not have a comprehensive set of benefits guaranteeing for all Americans the kind of security that we so deeply need. Only Senator CHAFEE's plan attempts—and I emphasize the word "attempts"—to ensure that the benefits package will cover a broad range of categories. But a health care commission must decide which services are affordable and guaranteed.

Neither the Cooper nor Gramm plan specifies, much less guarantees, a comprehensive set of benefits. Neither protects American families from exorbitant out-of-pocket expenses.

The Cooper plan shifts responsibility for the range and types of services covered to a national board, to be determined after the legislation has become law. Senator GRAMM's bill moves us in the direction of less comprehensive coverage. Not only does his bill fail to provide a range of benefits, it actually encourages people to purchase barebones, catastrophic policies.

When it comes to any major investment, including health care, the American people have a right to know up front what the guaranteed benefits will be. They have a right to know that they will enjoy the same comprehensive benefits that citizens of every other industrialized nation now take for granted.

Primary and preventive care, Mr. President, simply is not addressed in some of the plans, and that, too, ought to be a matter of concern. Reform should move our health care system from one that treats illness to one that prevents it. Despite the human and cost advantages of stressing primary and preventive care, only Senator CHAFEE's plan emphasizes this important component of health reform.

Neither Congressman COOPER's nor Senator GRAMM's plan adequately addresses this issue. Neither guarantees coverage of a range of effective services. In fact, the Gramm bill would actually provide a disincentive for seeking care early. Every visit for primary and preventive care would drain one's savings—exactly the opposite effect that we want to have.

Americans deserve to know that a prenatal care is covered, cancer screening will be reimbursed, and that they will not need to wait until they are ill to receive care. It is just common sense.

The American people also have a right to choose the type of health plan and provider that works best for them. When it comes to choice, again, the Clinton plan is clearly superior. None of the competing plans guarantee choice. Both the Cooper and Chafee proposals actually may limit choice of plans by taxing those that exceed the costs of the low-cost plans in the region.

By trying to encourage consumers to choose tightly managed, cost-efficient plans like HMO's, these proposals may end up punishing individuals and their employers for any other choice they may make. Thus, if an individual wishes to continue to get health care the way they do now, or to see the same doctor they have always used, they actually may be taxed. There is a choice tax in the Cooper plan, in particular, that I believe most Americans are going to be very concerned about.

None of these plans stop the current trend of employers cutting back on their workers' health plan options. In fact, the Gramm plan does not even begin to address the issue of choice, despite the fact that Americans have told us time and again how vitally important it is to them.

The Cooper and Chafee plans, Mr. President, squeeze Medicare also, without cost controls on the private side. They will exacerbate cost shifting and may actually reduce access. As the gap between Medicare and the private sector rates continues to widen, more doctors will choose not to see Medicare recipients and more Medicare patients will find that they have less choice of doctors, as well.

Further, these plans ask seniors to pay for health reform without providing them with assurances that costs they worry about, like prescription drugs and long-term care, will be addressed at all.

In the worst of all worlds, the Gramm plan has no cost containment on either the public or the private sides.

Finally, Mr. President, let me talk about the prescriptive drug and long-term care coverage.

Unlike the Clinton plan, none of the three alternatives address the major fears of our senior citizens: The affordability of long-term care and prescriptive drugs.

Millions of seniors, including those with comfortable incomes, live with the fear that a serious illness could wipe out their savings by forcing them to enter a nursing home. They also face rising prescriptive drug costs—their single, highest out-of-pocket expense. A viable health reform plan must address these two health cost concerns.

So, Mr. President, as we debate health reform alternatives, let us be honest about our options and let us be thorough with our analysis. We must look behind the rhetoric and give all the health care plans the scrutiny that has already been given the President's proposal. It does not matter if the plan's author is a Republican or a Democrat, a single-payer advocate or a managed-competition fan.

Any credible plan must match stated goals and must meet basic principles that we all hold valuable. If we give that kind of scrutiny to the major plans introduced in Congress, then I believe that we will find that, despite claims of comprehensive reform and cost containment, the alternatives simply do not measure up.

We may only get one shot at health reform this century. Let us make sure we do it right the first time.

Mr. President, I yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

Mr. INOUYE. Mr. President, if the Senator from Pennsylvania will withhold his statement at this moment, we are on the verge of resolving this. May we go back to regular business?

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The regular business is the McCain amendment.

AMENDMENT NO. 1071, AS MODIFIED

Mr. McCAIN. Mr. President, I ask unanimous consent for the adoption and modification of my amendment, which I send to the desk.

The PRESIDING OFFICER. Is there any objection?

Mr. STEVENS. I do not have any problem with the modification. I do have objection to the adoption until we finish our time. We have a few minutes left to explain this.

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. STEVENS. There is no objection to modifying the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 157, between lines 9 and 10, insert the following:

"SEC. 8142. No provision of this Act or any other Act concerning Department of Defense programs, projects, or activities involving community adjustment assistance, research or development at colleges or universities, strategic environmental research, or environmental restoration may be construed as requiring a contract to be awarded, or as requiring a grant to be made, to a specific non-Federal Government entity for a new program, project, or activity.

Mr. McCAIN. Mr. President, it is my understanding that the distinguished chairman and ranking member have agreed to accept this amendment, as modified. Therefore, I ask unanimous consent to vitiate the yeas and nays.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Hawaii, the chairman of the subcommittee, is recognized.

Mr. INOUYE. Before we proceed, I would like to make certain the modification is the one I have here. May I read it:

No provision of this act—

And the modification—

or any other act concerning Department of Defense programs * * *.

Period after the word "activity." And the last proviso is stricken.

The PRESIDING OFFICER. The Senator from Hawaii is correct. That is the amendment at the desk.

Mr. INOUYE. If that is the case, I have no objection.

Mr. BINGAMAN. Mr. President, could I ask the Senator from Hawaii a question.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I wanted to just clarify, it is my understanding at least the intention here would be that the Appropriations Committee would endeavor, as they have in prior years, to keep as much in the way of specific identification of contractors and grantees out of the House bill, or out of the final conference report that comes back even in areas not covered by the newly modified amendment. Is that correct?

Mr. INOUYE. If I may, I would like to assure the Senator from New Mexico that I will do my very best.

Mr. BINGAMAN. The one other point I wanted to just clarify, that is, it was the consensus of all that whatever general statements and general policy in this area should be done as part of our authorizing process?

Mr. INOUYE. The Senator is correct.

Mr. BINGAMAN. I thank the Senator.

Mr. STEVENS. Mr. President, do we have time remaining?

The PRESIDING OFFICER. All time has expired.

Mr. STEVENS. Mr. President, I ask unanimous consent to proceed for a minute or so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I still have reservation as to the provision which deals with the grants that may be made to non-Federal governments. I believe that grants that must be made, particularly under the program of community adjustment or under environmental restoration, must be made to cities, counties, and States, and when we determine those are to be made to them, that should be a valid exercise of our authority over the appropriations process.

I am not going to amend it now, but I just want to express my reservation that that provision goes too far.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the McCain amendment.

Mr. McCAIN. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Senators from Alaska, Hawaii, and New Mexico for their willingness to see—especially the chairman and the ranking member—the objections and concerns of the Senator from New Mexico, I, and others have. I appreciate their willingness to work out something which I believe will be very helpful to all concerned.

I thank the Chair.

Mr. SMITH. Mr. President, I rise in strong support of the McCain-Bingaman amendment.

Mr. President, as Yogi Berra once said, "It's deja vu all over again." Every year when we consider the Defense appropriations bill, we debate the issue of congressional earmarks and the steering of appropriated funds to parochial interests. And although the consensus always seems to be that earmarks are wrong, somehow they show up in the bill again, and we are forced to revisit this unpleasant issue.

Let me begin by saying that I appreciate the diligent effort of the Senate Appropriations Committee to reduce the number of earmarks in this year's Defense bill. We are making progress in the quest to institute competition and merit based selection procedures and I commend the appropriators for their constructive efforts.

Unfortunately, the House Appropriations Committee has not acted with similar restraint. In fact, the House bill contains some $350 million in specified, noncompetitive, earmarked funding. This is simply unacceptable.

Mr. President, defense spending is in free fall. We are laying off tens of thousands of excellent soldiers against their will. Readiness is suffering. Recruitment is down. Depot maintenance backlogs are increasing. The procurement and research and development accounts are being ravaged. In short, the United States Armed Forces are on the verge of becoming hollow.

In this constrained fiscal environment, we do not have the luxury of earmarking our limited defense resources for pork-barrel programs. The stakes are too high, and the dangers too great, for the Congress to continue this irresponsible and dangerous practice. Our defense expenditures must be based on national security, not parochialism.

I understand that those who support congressional earmarks often argue that the established competition guidelines are not sufficiently objective. If that is the case, we should be focusing our attention on the process and how it can be improved. The answer is not to circumvent competition; but rather, to enhance competition and equity in the selection process. Let us work together to reform the existing system, not ignore it.

The section 800 process is an excellent example of the type of reform to which I am referring. In the next few weeks, I will be joining with colleagues from the committees on Armed Services, Government Affairs, and Small Business to introduce a comprehensive package of acquisition reforms based on the recommendations of the so-called section 800 panel. This initial draft will serve as a focal point for member and industry input on how best to streamline and reform the acquisition process. With effective communication and bipartisan commitment, I am optimistic that the Senate will take firm and constructive action on this important issue.

In the meantime, I strongly urge my colleagues to support the McCain-Bingaman amendment. The amendment represents a responsible and appropriate statement of Congress' policy that contracts and grants funded through the defense department should be awarded through merit-based selection procedures, not parochial, pork-barrel politics. When free and fair competition occurs, our constituents benefit, the taxpayers benefit, and the national interest is advanced.

I urge my colleagues to support this important amendment, and I yield the floor.

The PRESIDING OFFICER. All time has expired. The question is now on agreeing to the McCain amendment as modified.

The amendment (No. 1071), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I ask that the Senator from Pennsylvania be recognized as though in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Pennsylvania is recognized.

CONSUMER HEALTH CARE REPORT CARD

Mr. WOFFORD. Mr. President, 2 years ago this week I came to the Senate floor to set out the principles I thought were essential to national health care reform, an issue that was on the cutting edge of my own special election campaign. As a matter of fact, 2 years ago I think I was still about 10 points down.

Soon thereafter, I teamed up with Senator DASCHLE, because he and I shared the basic concerns about health care reform. We introduced our own comprehensive reform bill, the Daschle-Wofford American Health Security Act. The health care bill I actually introduced 2 years ago this week was a symbolic one. It was to end the free health care those of us in the Senate and the House were then receiving from the attending physician, because I said it was wrong for Members of Congress to receive such free care while opposing reform that would guarantee coverage for the American people.

A lot has happened since then. Today, Members of Congress do pay for their health care from the attending physician but, far more importantly, you cannot find many who still oppose health care reform.

We have Democrats, Republicans, the President, and Congress committed to such reform. What is most remarkable is the amount of common ground we now share, common ground that simply did not exist 2 years ago. We have already won the debate about whether we are going to reform health care. Now we are in the discussion about how to do it. Senator DASCHLE and I, and many of our colleagues, like Senators KENNEDY, ROCKEFELLER, PRYOR, JEFFORDS, RIEGLE, KERREY, and BOXER, to name a few, have worked hard with Hillary Clinton and her team to see that our opinions are included in the President's health care proposal.

But the fact is there are now a lot of health care plans on the table. Very few of them have actually been introduced as legislation. But so far, almost all of the public debate has been about the extensive draft of the President's proposal. That has been worthwhile, and there will be months more of focus on the President's proposals. But it is time also to take a full and critical look at some of the other key proposals and to tell you how we think they stack up and why and where we think they fall short.

Our friends at the Republican National Committee livened things up yesterday with their new commercials, joining the other misleading ads of the Health Insurance Association of America. But we welcome that debate. Nothing will do more, I believe, to build support for the President's proposals than explaining to Americans what the actual alternatives are, alternatives such as the Chafee, Cooper, and Gramm proposals.

As Uwe Reinhardt put it in the New York Times on Monday, we think the burden of proof ought to shift to those who claim to have better answers. To varying degrees, each of those plans fails our fundamental test of real health care reform. They do not guarantee comprehensive coverage for everyone, and they do not guarantee control over skyrocketing costs. Chafee, Cooper, and Gramm in that respect are a tourniquet, a Band-Aid, and snake oil, respectively.

When measured by the realities of the current system and against the shortcomings of the alternatives in changing what is wrong and preserving what is right with the current system, the President's plan does the best job of meeting those tests.

Everybody, every newspaper, every news magazine, every Member of Congress pretty soon will have some kind of chart comparing the different alternatives. But it may not deal with the kinds of points that people keep asking me around Pennsylvania and are being asked right now at the Pennsylvania Health Care Forum organized by Congressmen MURTHA and WELDON, where I will be going in a little while.

Senator DASCHLE and I offer our consumer checklist, a report card on how we think some of the major proposals meet our tests of comprehensive health care reform.

It is not from the perspective of the Senators or Congresspersons, or reporters or policy people. It asks what the alternatives would or would not mean for families and companies in our States across the country.

First, let me talk about the Chafee plan. Here is our consumer checklist. Guarantees coverage for all, and the current system does not; ensures comprehensive benefits package, and the current system does not; promotes prevention and primary care, and our system today does not; includes coverage for retirees, long term-care, prescription drugs, which are not covered today; preserves choice of health plan for doctors, and that plan is being diminished all the time today; guarantees cost control for families, companies, and Government programs; inflation is out of control for families, companies and Government programs; increases market power for consumers and small business; that is what is missing in the system today; cuts red tape for consumers and business; we are being drowned in such redtape.

I can tell you what it was like to be a billing clerk in Jefferson University Hospital a while ago, where I saw the flood of paperwork that consumers and businesses must deal with.

Reforms insurance industry practices; obviously, there is a crisis today.

That is why today this is a blank on our chart for consumers. Every one of those things is a critical problem for families, and businesses in America. Mr. President, the comparisons we need to make are not between the President's plan and perfection, they are between the failures of the current system and whatever we can do to make it better.

So let me first speak about the Chafee plan.

The proposal introduced by Senator CHAFEE is a serious attempt at comprehensive health care reform and I salute him for his very fine work over the years in this field.

Two years ago I would not have believed that 23 Republicans would have come together on a plan that reflects so many of the things that I have been fighting for. The Chafee proposal recognizes the importance of prevention and primary care. It gets a red check for increasing the market power for consumers and small business. And it includes necessary insurance reforms in full, strong red check.

But in three of the key areas, guaranteed coverage, comprehensive benefits package, and cost control, the plan does not go far enough. That is why I call it a tourniquet, because I think its potential impact will be to squeeze out comprehensive benefits.

I give Senator CHAFEE great credit for proposing to guarantee universal access to health coverage, but to achieve that coverage the Chafee proposal requires that all individuals buy their own health insurance. But the plan will not guarantee that coverage until projected savings are realized. And since the tough cost controls are not in the plan, there is no telling when or if those savings and, therefore, the guaranteed coverage, will ever be achieved.

Nor does the Chafee proposal ensure a truly comprehensive benefits package for all Americans. All qualified health plans will be required to offer either the standard benefits package or a catastrophic benefits package alone.

We assume the standard benefits package would be broadly defined in legislation, but we do not have the legislation proposed yet. But the job under the plan is to be left largely to a national benefits commission and an up-or-down vote later by Congress. It is uncertain. That is why we put a big question in terms of the comprehensive benefits package by the Chafee plan. If costs go up faster than expected, benefits could be cut back. Insurance plans could still impose lifetime limits on services.

In short, the benefits package leaves too many areas unclear and leaves people insecure, as they are today. That is the problem people face now, and they want an end to just that kind of insecurity.

While we agree that cutting back inflation in Medicare is a key source of funding, inflation in Medicare, Mr. President—remember every time anyone writes or talks about reductions in Medicare we are talking not about reducing Medicare but about reducing the increases in Medicare which are now three times the cost of living. We are trying to ratchet down those inflationary increases. Not cutting Medicare, but impeding that inflation. This is a major source of funding. But the Chafee bill does not apply those savings to the benefits that early retirees and other older citizens need so much, including prescription drugs and long-term care assistance in the home.

The Chafee plan does not include a comprehensive plan to control health care costs because it relies largely on market competition, administrative simplification, and malpractice reforms to control costs in the private sector.

Those are not guarantees. The plan would cap the growth of spending for Medicare and Medicaid, but without stronger cost containment provisions for private sector spending. Thus, this proposal will not eliminate the current cost shifting from the public to the private payer, to families and businesses, to individuals and companies. That cost shifting is a major part of our present problem. And this plan does not solve that problem.

The likely result will be that individuals, families, and businesses will continue to pay more. The only serious cost control that will work must work for everyone, the public and the private sector at the same time, so we do not push the balloon of inflating health care costs down in one area, only to see it pop up and press more heavily upon American businesses and families.

As a final note on the Chafee plan, it does include purchasing alliances—it includes them and it is part of our common ground, common to several of the plans, including the Cooper plan. But the Chafee plan only provides alliances for small firms with fewer than 100 employees, and it calls for them to be voluntary.

Under this system, any group that can get a better deal for premiums outside of the alliance will stay outside. But by pooling vulnerable small businesses with the poor and the uninsured, it almost guarantees that premiums in the alliance are going to be higher than outside.

So in spite of some very important steps forward, which I endorse and applaud, the Chafee plan still fails the consumers' fundamental tests of health care reform. It cannot guarantee a comprehensive benefits package that will be easily portable from job to job and into retirement, and it does not guarantee cost controls for families and companies. So it is just another way of forcing people to accept fewer benefits.

I hope we can work together with those supporting the Chafee plan to find a stronger common ground.

I commend Congressman COOPER for offering a serious proposal, which reflects his deep commitment to health care reform. The Cooper plan has been well analyzed just now by my colleague, Senator DASCHLE. Therefore, I would like to finally talk about the Gramm proposal.

This is the snake oil. It is called medisave, but it is really medispend. Medispend down your life savings. It has the rhetoric of choice, but the only real choice it provides is to help American families spend their life savings on a health care system whose costs are already out of control.

Senator GRAMM's proposal fails miserably against our proposed goals for health care reform. While the proposal does include some insurance industry reforms and some administrative simplification, even that is inadequate. Senator GRAMM's proposal does not even claim to insure universal coverage, and does not even come close to moving us in that direction. Americans would have the same lack of security in their health insurance coverage as they do today.

The Gramm proposal does not only lack a guarantee of comprehensive benefits, but it encourages the purchase of bare-bones policies that cover only catastrophic health care costs.

The medical savings accounts promoted under this plan would discourage the use of preventive care. Without proper preventive care, families will pay huge human and financial costs down the line. People will wait until they are really sick before seeing their doctor for treatment. That is the point at which their illnesses are most difficult and most expensive to treat. People will have to spend their savings on care, whose costs are out of control. The bottom line: costs go up and families' savings go down.

The Gramm proposal does not include any additional assistance for the elderly and leaves our older citizens also vulnerable to today's spiraling health care costs. The Gramm proposal does nothing to preserve a consumers' choice of plan or choice of physician. These kinds of choices would continue to erode under the Gramm reform plan, as companies try to curtail their costs and reduce the benefits, and people find themselves with fewer and fewer choices of plans or of doctors.

As far as controlling costs, Senator GRAMM's proposal relies on consumers being prudent shoppers. That is like leaving Bambi to fight against Godzilla. It does not give consumers any kind of real purchasing power to deal with the big insurance companies.

The Gramm proposal allows small businesses to group together voluntarily to purchase health insurance, but this change will do virtually nothing to improve the market power of consumers. In fact, under the Gramm plan, there would be strong incentives to shift people from the comprehensive benefits packages they have today to bare bones coverage. The Gramm proposal includes some changes in insurance industry practice, including a prohibition of preexisting condition exclusions, which everyone, I am glad to say, now agrees must happen. Yet, without a community rating requirement, people with unfortunate health conditions will still be charged more for health insurance.

As you can see, the Gramm proposal does almost nothing to change the status quo—shown by the blanks here, all the way down to the half check on "reforming of insurance industry practices." It is not comprehensive; it is not real reform. For all of the talk about freedom of choice, it leaves American families to sink or swim in an ocean of insurance industry red tape and fine print.

The Gramm plan does almost nothing to reform a health care system in which costs are out of control. Millions of Americans are losing their coverage, and millions more are worried about it. It does not even accept the idea that coverage ought to be guaranteed, that benefits ought to be comprehensive, or that costs ought to be controlled. It leaves consumers and providers also alone to sink or swim in that ocean of redtape. It is medispend, not medisave.

We believe the Clinton plan fulfills the fundamental test of comprehensive reform. It guarantees coverage for everyone throughout their lives, no matter where they live or work. It guarantees cost controls for both the public and the private sector, and it assures that benefits will be truly comprehensive—no lifetime limits, preventive care, consumer choice of health plan and doctor, real simplicity through the health security card and electronic billing system. It is a serious reform proposal which reflects the essential principles which Senator DASCHLE and I and many of our colleagues have worked for and campaigned for.

In that spirit, with this consumer checklist being included in the debate, I call on us to stop thinking solely in terms of all of the structures and all the policy problems that we face today and put ourselves in the shoes of the American consumers. If you do not like our checklist for consumers, you can add to it or subtract from it; but let us test all of these plans so that we can work together to get a plan that passes these and maybe some other tests that will be added.

Mr. President, I yield the floor.

Mr. BOND. Mr. President, I ask unanimous consent that I may proceed for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I ask my friend from Pennsylvania if he would be so kind as to share his chart with me? I happen to be one of those on the Chafee plan. Unfortunately, I am farther down the food chain, so my name does not appear there. But I am most interested in the Senator's comments, and I certainly appreciate the comments that he has made. Is my colleague willing to share his chart?

Mr. WOFFORD. Yes, I am.

Mr. BOND. I thank my colleague from Pennsylvania, because I think there are some very interesting points that need to be raised here. I do believe that there are many areas of agreement where people of good faith and commitment have looked at health care and say that we need to make reforms. Certainly, reform of the insurance market is one area in need.

A year ago, I introduced a bill in this body to ban the exclusion of conditions that were preexisting, to assure portability, and to stop the practice of offering low-ball insurance premiums, cheap insurance premiums, to a healthy population and then jacking up the costs when somebody gets sick. In my own State—and I am sure my colleague from Pennsylvania has examples in his State, and in every State—we can cite examples of families who have been bankrupt when, say, the birth of a child with a significant birth defect has resulted in cancellation of their policies, and the family has gone broke trying to pay for the care of that infant. That is an outrage. I hope and believe there is broad agreement that we must deal with this.

Second, as I look down this chart, when we talk about assuring that we cut out red tape for consumers and businesses, I gather that we are talking there about the electronic filing of health care information, filing of claims, processing of claims, and paying claims.

Mr. WOFFORD. If the Senator will yield a moment. I salute the Senator from Missouri for his leadership in that area in this bill, and I look forward to working with him in regard to electronic billing and a single claims form.

Mr. BOND. I am grateful for the comment that my colleague from Pennsylvania made. I wonder if he could give us a bright red check mark, because last year the Senator from Michigan and I—and again this year—have introduced a measure to provide for an electronic claims billing.

There has been a lot of controversy over this health security card. Some people think that the health security card is the be-all and end-all. I have even heard it sold as being such a great cure-all that if one is sick, one bites into the card and becomes healthy.

Basically, it is the same as a bank ATM card. It does not create benefits that are not there, but it gives you access to what you have. It means that we will save several billions of dollars in administrative costs. It means we will save doctors and health care providers some of the time they now waste on paper forms. The AMA has said that may be as much as 30 hours a month for a doctor. It will help us eliminate waste and fraud in Medicaid and Medicare, and it will assure a consumer, when traveling outside of the area or away from home, that if he or she becomes sick or has an accident, they can get information immediately in the emergency room. I think that is very important.

I hope we get a bright red check on that. We have the bright red check for reforming insurance industry practices and on the other areas on this chart, increasing market power for consumers and small business. The Chafee plan gets a little orange mark instead of a big red mark. Frankly, I think there is one way that we can make some progress in health care, and that is by using the marketplace. Right now, we do not have a marketplace when people have first-dollar insurance. They go in and buy whatever they want, without regard to cost.

Mr. President, if we had a grocery insurance card which said that any time you went to the grocery store somebody would pick up the bill, then you would go in and buy the most expensive cuts of meat, and also the grocer would raise the price of those expensive cuts of meat.

I believe we can give consumers power, and we can do that by voluntary purchasing cooperatives. I believe that having a choice between where you choose your plans is more important and more significant than the mandatory single health alliance that the Clinton plan prescribes. The Clinton plan says that if you want to get health care, you are going to have to go to a federally designated—maybe State elected, but federally designated—health alliance. It is like going to the post office and knowing that you do not have the option of UPS, or Federal Express or DHL; you have one place, and if they do not give you any service, you are turned away.

I believe that you can make competition work, and I think competition is working in those areas where large employers have gotten together. We would say that all employers, employees, and self-employed people would have the opportunity.

I am a little bit concerned about the big red checkmark, because if you read the 290 pages of the Clinton health care plan—and I have done it and I guess everybody should do it—I find in there many, many things where the health alliance can allocate who gets to get in which plan. Also the health alliance is administering a global budget, which I think is absolutely impossible to implement.

The health alliance that is mandated under the Clinton plan actually gives less market power for consumers and small businesses than the Chafee plan, in my opinion.

Let me speak just a moment about curbing cost, cost control. If this big red checkmark here and the absence of a checkmark here for the Chafee plan means that we do not have Government price controls, we do not have global budget or premium caps, I think there ought to be no checkmark here.

Mr. President, wherever had we seen a system under which the Government has been effective in controlling prices or allocating budgets throughout the economy? If central governments were that good, I submit that the Soviet Union would be the economic powerhouse in the world today.

We have enough trouble and we have enough problems trying to make our own budget decisions. Frankly, part of the problem that we have in health care today comes about because the Government has done a bad job, a bad job of trying to control prices.

This body has been unable to deal with the exploding cost of Medicare and Medicaid, other than by lowering the reimbursement rates. You know what happens when you lower the reimbursement rate for Medicare. You cost shift. The estimates are $15 million a year is cost shifted on to the private payers because the Federal Government has been reimbursing these services on the cheap.

I will tell you something else that is even more tragic in individual situations. I travel around my State, and I talked to people in small communities. They find that doctors are only able to take so many Medicare patients. Many Medicare patients say, "I can't get service because my doctor says the reimbursements are so low he can only take so many Medicare patients and still cover his costs."

So to the extent we disagree on this one, I think that is a very significant disagreement.

Now, as to coverage for retirees' long-term care and prescription drugs, we take a different approach than the Clinton plan.

The Clinton plan has outlined every kind of possible health care service that could be desired. Surely, we would all like to have every service. But can we afford it?

That gets to the very real question raised by many economists, and others, who have examined the Clinton health care plan. Can we afford it—two-thirds, three-quarters of a trillion dollars?

Mr. President, I am afraid that that package promising all these many things that they promised, including early retiree health care benefits, drives the price out the ceiling.

In the Chafee-Dole-Bond plan, we would have a commission recommend a minimum basic benefits package which would be

These options, in my view, would cover prescription drugs. They would be available for everybody. We also include in the Chafee plan equal tax treatment for long-term care.

I know this is an important area, but when we promise many of these things, I do not think that the American people want to have a program that promises more than it can pay for.

We have taken a conservative approach, and there are some that my friend has done who object to a pay-as-you-save approach.

Mr. President, if any of us looks at the experience that Congress has had in controlling health care costs, I think we have every reason to be humble. If I recall, when we voted for that 1990 budget agreement, we were assured that it would cut $45 billion off Medicare and Medicaid over 5 years. Three years later—and I think some nine technical reassessments or readjustments, which is the Federal Government term for "Whoops, we missed it"—it now appears that we will not save $45 billion; the expenses will be $120 billion more.

That is the kind of error that has cost us. It has cost the credibility of Congress. But, more importantly, it has cost the economic stability and welfare of this country and driven the deficit up.

So while I say to my colleague we appreciate the work that he has done, we are delighted with the kind comments that he has even though I would give us a brighter red checkmark and saying we are only promising what we can provide. In some areas, we are proud not to have a checkmark.

I think there are areas of definite disagreement, but I believe we do have a number of items where we can agree. I look forward to working with my colleague and other colleagues as we move forward on this vitally important health care debate.

There are a lot of bombs that we can throw at each other, but I think we might succeed again by working on those areas where we can work together, such as insurance market reform and electronic data filing for health insurance claims and cards.

I thank the Chair, and I particularly thank my colleague from Pennsylvania, and yield the floor.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Pennsylvania.

Mr. WOFFORD. Mr. President, I appreciate the spirit of the remarks of the Senator from Missouri.

My previous remarks included the Chafee plan for the point of view it made. I believe it is a real start. That includes common ground. I look forward to working together with the Senator from Missouri. I look forward and add as often as welcome sharing this chart with the other side of the aisle. I will take it back for a few minutes.

First, to answer why the two checks on the cutting of red tape and increasing the market power for consumers and small business are faint and not big and bright and red.

The electronic billing and the single claims form and the card, of course, will be a smart card which will help in making that possible. It is a part of what gets the redness in the check. But where it fails is on a T-score, that it does not take the burden—I am talking about now, first of all, the redtape—it does not take the administrative burden off the hundreds of thousands of millions of businesses in this country.

Secretary Bentsen and I were the day after the President's first launching of the plan in the joint session visiting small businesses in Pennsylvania. The chief executive of Stockwell Rubber Co. in Philadelphia assigned out his most talented vice presidents and managers who spent about a half day or more per week dealing with their employees' health care questions and problems in a company that has less than 100 employees.

He said just imagine the burden on business all over this Philadelphia area with thousands and thousands of businesses doing just what I am doing, administering these separate plans, answering our employees' questions about them, negotiating with them at contract time as to what the plan will be, trying to deal with our costs to bring those plans down, having the problems with labor, lack of morale as you reduce benefits or reduce costs.

He was saying if the regional alliance, the purchasing cooperative, includes all employers in an area, that burden gets shifted. They pay their 80 percent of the average premium in that region, but they no longer have the rest of the administrative cost.

That is a huge administrative load on American businesses today.

Mr. BOND. Mr. President, will my colleague yield?

Mr. WOFFORD. I yield.

Mr. BOND. I thank my colleague.

I would say to him that the idea of having private purchasing cooperatives is to provide a means for handling the administrative burdens. I would certainly agree that the administrative cost of small business is one of the things that is a very real burden. That is why purchasing cooperatives are available, to do this under the Chafee plan.

And they are also available to bargain. If you have a single, exclusive health alliance, as planned by the Clinton proposal, a mandatory alliance, they cannot bargain because anybody they cut out is out of business. They have life or death powers to cut people off.

Second, do you really want to have the Post Office handling all of the administrative details for your business, or even for your own insurance policy?

I believe that the one way that you could get effective administrative service is by having the cooperatives compete. I wonder if we could redden up the mark on the chart that my colleague has for the purchasing cooperatives voluntarily established and voluntarily chosen that would do the administrative work?

Mr. WOFFORD. Not yet, Mr. President; not yet.

I cannot, as much as I would like to—and I hope we can work together and we will get redness back on the check. The major reason I cannot get redness in on the plan just described is that the plan is, as the Senator from Missouri said, voluntary. Some companies will do it; some will not. People will be left out, sink or swim, who are not in it. The individuals who are not in a company who has chosen to work with the voluntary alliance is left out, left in the lurch.

Mr. BOND. Mr. President, I wonder if my colleague from Pennsylvania realizes that the purchasing cooperatives must be open and available to individuals, and either businesses or individuals can purchase through the purchasing cooperatives which are voluntary and the subject of choice under the Chafee plan, but limited to the health alliance under the Clinton plan?

Mr. WOFFORD. Mr. President, since the Chafee plan makes such employer participation voluntary and not mandatory, and there is a mandate for every individual to have health insurance, how that is to be enforced, I am not certain; but there is to be an individual mandate.

What we are facing now—because once again, I want to stress that we are comparing these plans not with perfection but with our present system; and what is wrong with our present system very much is that every employer has the incentive today to get out of contribution, which is so costly to them. But if it is not a universal mandate, it will be an invitation to every employer—if they have a union, in every bargaining period; if they do not have a union, on their own—to reduce benefits to get out of contributing at all. So the security that comes from the guaranteed coverage for all is gone, and the consumer power for most of the consumers who are the citizens of this country gets very short shrift.

Mr. BOND. Mr. President, I would ask my colleague from Pennsylvania, if the employers now are not required to provide insurance, but they do so, why do they do so? It seems to me, quite simply, because providing health insurance coverage is a valuable employment benefit.

Now, will that benefit be more or less valuable to employees once everybody has to have it? I submit it would be more important. It is an important benefit, and employers who can do it want to do it because they know that it is an attractive way to get employees to choose their business rather than a competitor who does not have a mandate.

So I say that there is likely to be more employer-provided health insurance, particularly when the administration can be done through voluntary purchasing cooperatives. And for anybody who is not in the plan, whether they be a self-employed person—the farmer in my State and across the Nation today, who is only able to deduct 25 percent and has to do all the paperwork, clearly is heavily burdened. But here he would have the opportunity to get the administration done through the purchasing group.

And I ask why that will not give the same benefits to everybody through the voluntary, self-selected, competitive purchasing group that would be available under a mandated single, one-size-fits-all alliance.

Mr. WOFFORD. Mr. President, I will return to the one-size-fits-all misunderstanding or inaccurate description in a moment.

But the first answer to the Senator from Missouri is that, yes, there are maybe two-thirds of the American people who work for employers that now are providing health insurance. But if you look around today—come with me to Pennsylvania; I am sure it is the same in Missouri—the pressure on employers to reduce benefits, to reduce choice, to force the employees to have only one plan, an HMO plan, to go to a low-cost plan and, preferably, if they can, to get out of benefits altogether, the economic pressures on those employers, in a situation where the costs are increasing for employers three times the cost of living, those pressures are enormous today. And they are being reflected in what is happening.

Just look at what is happening to retirees. A major corporation in the country and in Pennsylvania canceled benefits for its retirees because of the financial crunch. The crunch is terrible. And the retirees all over this country are living under the shadow that those benefits, for which they thought they were working and for which they gave up wage increases, are going to be taken a way. I do not understand how, under the Chafee plan—to paraphrase a leader I do not usually quote—the sucking sound of employees withdrawing, withdrawing from their benefits, reducing their benefits, why that is not going to be greater.

And let me make another point in terms of equity to the employers that are enlightened and have been doing it for the reasons the Senator from Missouri gave: Is this equity that some employers do it and their competitors do not?

I say to the Senator from Missouri—if I could just finish the point for one moment, and then I will yield the floor to him—we had hearings in Pittston, PA, about a week ago on small business and the impact on small business of the President's proposals and the other proposals that are being presented. The president of the National Federation of Independent Businesses came, presumably opposing employer mandates.

I cannot speak for the process that led to the answers he gave, but as we finished this very penetrating hearing with his own very good testimony about his own experience as a small businessman, who does provide insurance and whose competitors, in many cases, do not, he ended, when asked, "Isn't the logic of everything you said, these facts that you are piling up, that it should be asked of all employers, the way Hawaii did, without any drastic effect or any measurable negative effect on business or small business in Hawaii?" When asked why the logic of facts did not point to a universal employer mandate, he said, "I guess they did."

I am not quoting him directly, but the thrust of what he said was very strong and clear. The New York Times reported it firsthand. He said: I suppose that is the logic. I think we have to do it. It is the fairest thing to do. We might as well get on with it.

It is only if you get to the universal employee mandate that you can control costs, that you can guarantee coverage for all, and that you can pay for this without shifting the burden to the individuals, which, under the Chafee plan, is being proposed, or to the Government for additional subsidies.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. Th Chair recognizes the Senator from Mi souri [Mr. BOND].

Mr. BOND. Mr. President, I regret t advise my colleague from Pennsylva nia, I understand there are people who want to get back to presenting amendments and debating the bill. As much as I have enjoyed this exchange, I d feel that we need to get back to th bill.

But a couple of points.

No. 1, the employer mandate d hide costs. If you can stick somethi on employers, then you do not have pay for it off budget. But it is not free benefit.

There is no question among econ mists that mandating more costs businesses will cost jobs. You can g an argument whether it will cos 600,000 jobs or 3 million jobs or mor jobs. But the businesses that are affected—many, many individual business people, such as retailers, fast foo operators, and restaurateurs—hav said they will have to cut back employ ment.

At that point, when you throw the person out of work who had a job and who did not have health coverage, the you still have to get that person heal coverage, and you shake your h that your mandate has just cost th job for the employee.

We have a system in the Chafee p for providing vouchers, 100 perc vouchers up to the level of poverty i come, sliding vouchers scaled to redu to 200 percent, full deductions for t standard employee benefit above. And economists who tell you that the burden of paying for those benefits does not ultimately rest on the consumers on one side, and the employer on the other, do not understand economic theory.

There are obviously some political benefits to an employer mandate. The last time I checked, there were a whole lot more employees out there voting than there are employers. And that is one of the reasons it is more attractive to say employer mandates.

But we, frankly, looked at the employer mandates and we concluded that having employer mandates was a significant step away from providing the jobs and keeping the jobs that we need to provide in this country.

With that comment, I thank my colleague from Pennsylvania and yield the floor.

Mr. WOFFORD. Will the Senator from Missouri yield 1½ minutes more to the Senator from Pennsylvania?

The PRESIDING OFFICER. The Chair will remind Senators any debate under the Pastore rule is appropriate. The Senator from Missouri currently controls the floor. At such time as he yields the floor the Senator from Pennsylvania may be recognized.

Mr. BOND. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. WOFFORD].

Mr. WOFFORD. Mr. President, I look forward to continuing this debate with the Senator from Missouri. I think there is plenty of good evidence that jobs are not going to be lost, but that there is going to be a net gain of jobs. We heard good testimony to that effect in the Labor and Human Resources Committee yesterday. We will debate that in full and will go into detail in the hearings.

Just imagine what would be the incentive for business to move forward if the present, ever-increasing cost burden of health care is reduced for American business; if the present cost-shifting onto the employers who are covering it is removed and they are on a level playing field with others.

But I want to close primarily on a clarification of the health alliance, the purchasing cooperatives. The kind of health alliance that I will be fighting for, and I believe the President will be proposing, is a nonprofit corporation run by consumers' and employers' representatives—not a Government entity.

The reason you do not want a variety of competing health alliances is that that creates, again, the whole maze of different plans. You want one regional nonprofit corporation, consumer driven, to run it like a supermarket or run it like the Federal employees and State employees plans and the best corporate plans that give the choices to the individuals, that let those plans compete in a region. To establish a new maze of competing regional purchasing cooperatives takes the redness totally out of the check for cutting bureaucracy and red tape.

I yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. BOND. Mr. President, as I said, we are going to have to get on with other debate. I thank my colleague. I only point out that, if the supermarket analogy is correct, and I believe it is, you can choose what supermarket you go to. I believe that is not swimming in a sea of red tape. I believe that is the marketplace. That is free competition, which gives us the best of all systems.

Again, I thank my colleague for his analysis, for the kind words, and the red and orange checkmarks. I look forward to working with him as this debate continues.

Mr. President, I yield the floor. In the absence of any Senator seeking the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. HELMS. Mr. President, may I inquire whether the understanding of the Senator from North Carolina is correct that the pending business is an amendment offered by the distinguished Senator from Arizona [Mr. MCCAIN]?

The PRESIDING OFFICER. The Senator is not correct. The pending amendment is the third committee amendment on page 154, lines 7 through 22.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

ARAB BOYCOTT OF ISRAEL

Mr. LEAHY. Mr. President, the hopes of all Americans for peace in the Middle East soared with the historic meeting between Prime Minister Yitzhak Rabin and Chairman Yasser Arafat on September 13 on the lawn of the White House. The image of the leaders of two peoples who have warred for decades shaking hands in front of the President of the United States is marked indelibly in our minds. All of us who witnessed this dramatic event believe it symbolized the beginning of a long and difficult process of reconciliation.

Recently, Prime Minister Rabin and Chairman Arafat met in Cairo under the aegis of President Hosni Mubarak. According to press reports, the talks were serious, although Prime Minister Rabin is said to have complained to Chairman Arafat that it is time to get beyond generalities and to begin negotiating detailed arrangements and agreements. These press reports do stimulate concerns in my mind that the peace process must now move quickly beyond symbolic gestures, however dramatic, to the practical steps of working out how Isrealis and Palestinians can live side by side in peace.

One of the most important of those steps toward reconciliation and normality would be the ending of the Arab economic boycott of Israel and of foreign firms that do business with Israel. Last June, some encouraging steps toward easing this obsolete and counterproductive economic boycott were taken. Kuwait announced publicly that it intended to cease enforcing the secondary boycott of firms that do business in Israel, although it apparently could not bring itself to terminate the primary boycott against Israel itself. The State Department reports that some Arab States indicated an intention to ease other aspects of the boycott, such as requiring certification that goods did not originate in Israel, accepting passports with Israel stamps in them, and similar measures.

Unfortunately, these positive steps, though grudging and far short of what was required, have been eclipsed by the astonishing declaration by many Arab States in the wake of the historic September 13 meeting that the economic boycott of Israel is to continue. This was a blow to the peace process. Now, on the heels of his White House meeting with Foreign Minister Shimon Peres, Crown Prince Hassan is reported to have said for the Arabs to terminate the boycott would be "economic suicide." This is economic suicide? This is economic baloney.

There is no excuse or justification for such a position by the Arab States. Immediately terminating the economic boycott of Israel would be a major first step toward the economic cooperation among Israel and her Arab neighbors, including the Palestinians, that holds the key to a tremendous future for this region. Reportedly, Crown Prince Hassan said the Arabs must "get something" for lifting the boycott. How about an opening of the door for economic investment and growth that will stimulate the economies of the entire region, Jordan included? Is not that getting something? If they lift this boycott, there will be economic advantages to their own people, as many Arabs already recognize.

There was a fascinating article in the Washington Post this morning on the potentiality for Israeli-Arab economic cooperation. Many Arab business people are already positioning themselves for the economic boom that is likely to follow on measures to implement Palestinian autonomy. They, too, recognize that the boycott stands in the way of Arabs sharing in that boom.

Mr. President, I ask unanimous consent that an article from the Washington Post of October 12, 1993, entitled "Arab and Israeli Businessmen See Gold in Accord" be included in the RECORD at the end of my remarks. I also ask unanimous consent that an article on the Arab boycott from the New York Times of October 11, 1993, also be included at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, let me close with this, because I see Senators on the floor now who wish to offer amendments to this bill. I just want to say the primary and secondary boycotts of Israel are anachronisms, they are holdovers of wars fought long ago. They are totally out of place in an era of peace, an era that is being born right before our eyes.

I call on all Arab States, but most especially the moderate Arab States such as Jordan, Kuwait, Saudi Arabia, Morocco, and Tunisia, to take immediate steps to end this obsolete, blunted weapon of economic warfare. If they did that, it would collapse throughout the rest of the Arab world.

I also would like the administration to make it abundantly clear to these nations which look to us for political, military, and economic support that we expect them, too, to play their parts in making peace a reality in the Middle East.

Frankly, Mr. President, they are unwilling to. When the United States is being called upon to carry so much of the burden and cost of the peace in the Middle East, then I think that each one of us, with the legislation we write and votes we cast, ought to consider that factor when issues involving these Arab States come up.

EXHIBIT 1

[From the New York Times, Oct. 18, 1993]

DESPITE U.S. URGING, ARAB LANDS HOLD FIRM TO THEIR ISRAEL BOYCOTT

(By Chris Hedges)

CAIRO, October 17.—Diplomats said today that the 43-year-old Arab ban on commercial and financial ties with Israel would not be lifted anytime soon and that the official blacklist of foreign companies that do business with Israel might even be expanded at the urging of hard-line countries.

Arab League officials are to meet in Damascus on Oct. 24, to discuss increasing the blacklist despite appeals from United States officials, who argue that the boycott of 10,000 companies should be lifted soon to add momentum to Middle East peace talks.

Assistant Secretary of State Edward Djerejian told the Senate Foreign Relations Committee on Friday in Washington that the Arab blacklist was "totally unacceptable."

THE WRONG DIRECTION

He said the Clinton Administration had told several Arab countries, including Syria, that adding companies to the list "would be a step, obviously, in the wrong direction" after the signing of an accord last month by Israel and the Palestinians.

But Arab diplomats in Damascus and Cairo said that hard-line Arab countries like Syria, Iraq and Libya were seeking to widen the boycott, in part because they were unhappy with the accord.

"Any lifting or alteration of the boycott," said a senior Arab diplomat, "would have to be unanimous, and since unanimity is impossible, it will remain in force."

Even moderate Arab governments like Saudi Arabia's are reluctant to support a repeal because they do not want to give ammunition to their Islamic hard-line critics, the diplomats said. Militant Islamic groups have denounced the pact on self-rule in the Israeli-occupied Gaza Strip and Jericho as a sellout that compromises Palestinians' interests.

Several Arab officials said they would be reluctant to give up the boycott as long as Israel has nuclear weapons, continues to occupy Gaza, the West Bank, the Golan Heights and southern Lebanon and fails to reach an agreement with its neighbors on sharing scarce water.

The boycott was adopted by Arab countries in 1950 to isolate and cripple Israel. The Arab League operates a Boycott Office in Damascus where Arab representatives are to meet this month to consider adding new companies to the list, the Arab diplomats in Cairo and Damascus said. During its last meeting, on May 1, the Boycott Office added 13 new companies to the list, including Rubbermaid and General Dynamics.

"It is too soon to talk about lifting the boycott," Fahem bin Sultan al-Qasimi, the Secretary General of the Gulf Cooperation Council, was quoted today as saying by the Arabic daily Al-Hayat.

THREE ASPECTS

The boycott includes a ban on commercial activity with Israel and a "secondary boycott" that blacklists companies doing business in Israel. A tertiary boycott targets companies dealing with blacklisted companies.

The Federation of Israeli Chambers of Commerce estimates that the boycott has cost the country $20 billion in lost exports and $16 to $32 billion in lost investment. But Arab officials contend that the losses are probably much smaller because of Arab violations of the ban. Saudi Arabia, along with other Arab states, already ignore the boycott when it is commercially convenient, these officials said.

Israel sells agricultural products, furniture and electrical appliances, valued at several hundred million dollars a year, to Arab countries—including Lebanon, Libya and Iraq—through third countries, including Greece and Cyprus, Arab diplomats and Israeli officials say.

Most gulf countries buy weapons from American companies that are also Israel's main military suppliers. "When it is in the Arab interest, they turn a blind eye to the sanctions," said Harry Wall, director of the Israeli Office of the Anti-Defamation League, in a telephone interview from Jerusalem.

SOME DO BUSINESS ANYWAY

Ford, General Dynamics, General Electric, Hilton, General Motors, Coca-Cola, Hertz and Avis are among the companies that do business with Israel and some Arab countries. Most major international banks and large financial institutions, however, refuse to do business with Israel because of a fear of Arab restrictions.

President Hosni Mubarak of Egypt said in 1991 that he would push for an end to the "secondary boycott" or blacklist if the Israeli Government, then led by Yitzhak Shamir, stopped building settlements in the occupied West Bank and Gaza Strip.

But the proposal was never accepted by other Arab nations.

"It was refused by Shamir at the time," Mr. Mubarak said in a recent interview.

Israel's current Prime Minister, Yitzhak Rabin, has said that he will not link the lifting of the boycott to the current autonomy negotiations with the Palestinians.

"Israel cannot at present demand the lifting of the boycott as a condition for talks with the Palestinians," Mr. Rabin said last week.

SEEN AS AN INSULT

But Israeli organizations that have tried to fight the boycott said the move was a slap in the face to Israel.

"The continuation of the boycott, the most tangible symbol of the refusal to recognize Israel's right to exist, is incompatible with the goal of the peace process," Mr. Wall said.

The determination to extend the boycott has stirred anger in many Western nations and in Japan. The leaders of the Group of Seven leading industrialized nations called last summer at a meeting in Tokyo for an end to the boycott.

Some Arab states, including Kuwait, have already officially eased restrictions on companies that do business in Israel.

Even Egypt, which has been at peace with Israel since 1979, has failed to develop significant trade links with its neighbor, despite numerous commercial agreements.

[From the Washington Post, Oct. 12, 1993]

ARAB, ISRAELI BUSINESSMEN SEE GOLD IN ACCORD

(By Nora Boustany)

AMMAN, JORDAN.—Eilun Meni, an Israeli who manufactures fitness equipment, used to enjoy traveling from Ashdod in Israel to the West Bank town of Bethlehem to visit his Palestinian client Issa Abuaita in his office. They would sip coffee and talk about their dream for the future—a partnership for expanding business to other parts of the Arab world.

The day the Palestine Liberation Organization and Israel signed a milestone peace accord that also sets the stage for economic cooperation, Abuaita, a specialist in the plastics industry, got a telephone call. "I told you that our cups of coffee will one day be real. They were not wasted," Meni said excitedly, Abuaita recalled recently.

Despite official mutterings that the decades-old Arab trade boycott of Israel will continue, businessmen and financiers are convinced that things are going in a new direction—unless politicians intervene. It is too early to speak of Arab-Israeli joint ventures before a comprehensive political settlement has been reached, the cautious insist.

But as money comes pouring into the new Palestinian entity to be created in the Gaza Strip and the town of Jericho in the West Bank, the only question now is how prosperous this new peace will be for everyone, and who will get in first—strong pressures that could turn the boycott into an anachronism.

"From a business point of view, when there is an opportunity one has to grab it. Emotionally and morally, however, people may need more time," one Palestinian here remarked.

"If the Israelis demonstrate their goodwill with more concessions to Palestinians, the time will come very shortly when we will be sitting together with the Israelis after all the prohibitive [boycott] laws are lifted," said Tawfiq Kawar, managing director of Amin Kawar and Sons Shipping and Chartering Agents, one of the firms looking into plans to build a harbor in Gaza.

Although a Palestinian administration is not yet in place, Palestinian investors already have formed holding companies. Those groups are expected to develop cement factories that will supply the expected construction boom of hotels, banks, an airport and seaport, television and radio stations, hospitals and schools.

French firms reportedly are planning to build a 70-mile highway fro Gaza across Hebron to Jericho and to the King Hussein Bridge, linking the West Bank to Jordan, according to business sources here.

Many of the big Palestinian contractors, engineers, bankers and former cabinet ministers who helped build up oil-rich Kuwait, Jordan and other Arab countries are putting their hearts, heads and money together to contribute toward the evolution of an entity that, they hope, will resemble Singapore more than Somalia.

If the new momentum persists, some businessmen say, and the region remains tranquil, private investment may prove to be more important than the $2 billion pledged by the United States, the European Community, Japan and Saudi Arabia over the next five years to help the Palestinians take administrative control of the territories.

"Those [Palestinians] who built Jordan and Kuwait will go back to building their own country," Nadim Zaru, a former transport minister in Jordan, said. "Now the private sector is excited. If there is stability they will perform miracles." Zaru has been rallying Palestinians from throughout the world to chip in.

"I think for the first time, we see an opportunity for better living," said Sabih Masri, a Palestinian-born Saudi businessman and one of 20 financiers who have joined Palestinians in setting up a holding corporation capitalized at $200 million for investing in the new Palestinian entity. "Before, there was always an excuse that there was an enemy next door. This excuse does not exist anymore for a lot of people."

Questions still unanswered include how the new administrative areas will be structured through the planned transitional period—whether there will be tariff borders, or how customs duties will be imposed and enforced to prevent smuggling, as well as a key question to many here: How will it all be linked to Jordan?

"Israelis are contacting us continually, trying to establish relations in the hope that there will be future cooperation," West Bank businessman Abuaita said. "I tell them it all depends on what kind of entity, what kind of markets, what kinds of laws we will have. Will we have part of the Israeli market, for example?"

While economic dealings with Israelis may become the last taboo to be dropped in the peace process, the vision of businessmen is proving to be more clear-eyed than others. "Some say Israelis will swallow us," mused Kawar, "but they are as afraid of us as we are of them."

Abuaita, 45, a business graduate of the Technical College in Cambridge, England, shuttles between his plastics plant in the West Bank and his office on Gardens Street here in Amman, a thoroughfare buzzing with new enterprises started by wealthy Palestinians expelled from Kuwait during the Persian Gulf War.

"What we need from the Israelis is technology. Joint ventures? Why not?" Abuaita said. "Israelis always considered that it is a privilege for them to get into the Arab market. I think eventually they will. They have some unique technology in the field of agriculture."

"Israelis could have a competitive edge over Western suppliers, because they are sitting in the Middle East," he added. "After the interim period is over, Arab buyers could just drive over, and they will not have to buy in container loads as they do from Europe."

At a recent conference in Ireland, Abuaita described what it was like to survive as a businessman under military occupation, with unrealistic income taxes imposed to discourage free enterprise.

"Two month ago I was living in economic depression. We were not going anywhere," he said. "Now I have high hopes that new ideas can be implemented and that they will be profitable as well. I can't forget the past so easily, but I definitely have to look for the future. I hope Israel will help us."

"I benefited from being in contact with Israeli producers, by seeing what technology they have, how they work, organize, market and export their products," he said.

"Israel is a large consumer and it has a good export network for Europe," Abuaita said, adding: "This could be good business for Arabs and Israelis."

Mr. LEAHY. Mr. President, I appreciate the courtesy of the Senator from North Carolina who made it possible for me to go forward at this time.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1072

(Purpose: To limit the use of funds for conducting operations in Haiti)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself and Mr. BROWN, proposes an amendment numbered 1072.

At the end of the committee amendment on page 154, insert the following:

SEC. 8142. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the Armed Forces of the United States to conduct operations in Haiti unless (1) operations of the Armed Forces of the United States in Haiti are specifically authorized in a law enacted in advance of the operations, or (2) the President certifies in writing to Congress that United States citizens in Haiti are in imminent danger and that a temporary deployment of the Armed Forces of the United States into Haiti is necessary in order to protect and evacuate United States citizens in Haiti. In the event of a certification under clause (2) of the preceding sentence, funds referred to in that sentence may be obligated and expended for the Armed Forces of the United States to conduct operations in Haiti only to the extent necessary for the Armed Forces to provide the protection and complete the evacuation certified as necessary.

Mr. HELMS. Mr. President, I wonder if the distinguished occupant of the chair will inquire for me of the Parliamentarian as to whether I have the section number correct. Is 8142 correct?

The PRESIDING OFFICER. The Chair informs the Senator that the clerk is reviewing the bill at this time and will be able to respond to the Senator's question momentarily.

Mr. HELMS. I believe I will suggest the absence of a quorum until that is settled.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Carolina is recognized.

Mr. HELMS. I have a slight modification, changing the section number to 8137A. I send the modification to the desk.

The PRESIDING OFFICER. The amendment is modified accordingly.

The amendment, as modified, is as follows:

At the end of the committee amendment on page 154, insert the following:

SEC. 8137A. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the Armed Forces of the United States to conduct operations in Haiti unless (1) operations of the Armed Forces of the United States in Haiti are specifically authorized in a law enacted in advance of the operations, or (2) the President certifies in writing to Congress that United States citizens in Haiti are in imminent danger and that a temporary deployment of the Armed Forces of the United States into Haiti is necessary in order to protect and evacuate United States citizens in Haiti. In the event of a certification under clause (2) of the preceding sentence, funds referred to in that sentence may be obligated and expended for the Armed Forces of the United States to conduct operations in Haiti only to the extent necessary for the Armed Forces to provide the protection and complete the evacuation certified as necessary.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina, Mr. HELMS.

Mr. HELMS. Mr. President, this amendment, as we always say around here, is very simple. It allows United States forces to be sent to Haiti under two conditions only: The first one being if the President asks and receives approval from Congress; and the second one being to protect and evacuate American citizens.

President Clinton has temporarily pulled back United States troops bound for Haiti. They are now at Guantanamo Bay awaiting his order to sail back to Port-au-Prince.

Stopping ships bound for Haiti with six United States Navy warships constitutes a blockade, by definition and otherwise, no matter what anyone else chooses to call it, including the President of the United States or any part of his administration or any Member of this Senate. It is a blockade. Many of the newspapers—not that it makes any difference as to accuracy—are describing the President's actions as a blockade. This time they are correct—it is, indeed, a blockade. You can look in this morning's paper and see the word "blockade" in just about all the headlines.

So, for all practical purposes, whether we like it or not, the United States is technically at war with Haiti. But the President has yet to explain what United States interests may be in Haiti that are worth risking the life of even one American soldier or one American sailor.

In my judgment, the United States' only interest in Haiti is to stem the flow of illegal immigrants into the United States. But the United States Government has established offices throughout Haiti to process Haitians' requests to emigrate and the procedure is working satisfactorily, I am informed. Most important, the majority of these refugees are leaving Haiti for economic reasons, not political. If they were political refugees, they would simply walk across the border to the Dominican Republic and, so far as I know, few are doing that.

So it appears that the President, under the auspices of the United Nations—and this frightens me; anything under the auspices of the United Nations frightens me these days—the President and the United Nations obviously wish to remake Haiti in the image of the United States. But this should never be United States policy in any country, as to any country, certainly not in Haiti and certainly not with President Aristide installed by use of United States military force.

Now, Assistant Secretary Watson and United States Ambassador to Haiti, Mr. Swing, acknowledged during their confirmation proceedings that the State Department has ample evidence that Aristide incited mob violence and encouraged necklacing when he was in power.

In case there may be somebody somewhere who does not understand the term "necklacing," that means the practice that originated in South Africa, with the Mandela crowd, which delighted in assembling their political enemies, taking bicycle or automobile tires, hanging them around the neck of victims, tying the victims hands behind them, putting gasoline in the tire and setting them afire.

Now, that is "necklacing," and Mrs. Mandela, I am bound to observe, made a fiery speech on one occasion when she advocated "necklacing," and she said, "We have the tires and we have the gasoline and we have the matches."

Now, who is this President Aristide whom so many in United States political circles want to put back in office? The State Department's own report of 1991 said this about Mr. Aristide. Mind you, this is the U.S. State Department, the same crowd that is pushing to get Artistide back in office today. The State Department Human Rights Report in 1991 said:

> President Aristide appeared less concerned about prosecuting members of the military accused of human rights abuses if they were supporters or appointees of his government. * * * President Aristide also failed to condemn categorically all recourse to popular justice through mob violence.

This is the State Department—U.S. State Department. I continue to quote:

> The Aristide Government made no effort to identify and to bring to justice those responsible for the wholesale killing, looting, and burning.

On September 27 of 1991, Aristide made a speech to his followers in which he encouraged necklacing.

Yesterday, I looked at a videotape in my office of that speech. Clearly, Aristide described necklacing, which is putting a burning tire filled with gasoline around a victim's neck and setting it afire. What this man Aristide said—And he is talking about the guy who was about to die a horrible death at the hands of Aristide:

> A faker who pretends to be one of our supporters, just grab him; make sure he gets what he deserves—

Meaning necklacing—

> with the tool you now have in your hands.

The burning tire—

> What a beautiful tool—

He said.

> What a beautiful instrument. It's fashionable. It smells good. And wherever you go, you want to smell it.

Now, I have a reproduction of a piece of art and I ask that a staff member bring two charts with him, placing them on the easel here beside me.

I hope, for the benefit of Americans who are viewing this on television, C-SPAN will focus its camera on it.

First of all, on Aristide's statement on this necklacing—this is a direct quote: "Make sure he gets what he deserves"— talking about the victim—"with the tool you have now in your hands." And he was referring to the burning tire.

That was a speech Aristide made on September 27, 1991 in Port-au-Prince.

If my associate will put this "work of art" up—this is the painting that intelligence sources assured me was hanging in Aristide's office. I hope the C-SPAN cameras will zoom in on that. It is hard to make a whole lot out of it, but there is the throne of the President, you see, and the burning tires are here, you see. And the rest of it—an absolute advocacy and glorification of the most horrible killing of one's political enemies that can be imagined.

President Aristide kept this painting on the wall of his presidential office. It depicts Aristide smiling down on a crowd brandishing the automobile tires. On the other side is another pile of tires, and a bottle of gasoline and a book of matches. And on the painting are these words which translated read:

> If our power is threatened, Little Aristide, if you have a problem, command us to march and solve them with necklacing.

Back to the State Department's own Human Rights Report of 1991, in January 1991, Aristide's supporters forced the Archbishop of Port-au-Prince to flee for his life because he had dared to criticize President Aristide who, by the way, is himself a defrocked Catholic priest. Aristide's mobs also attacked and destroyed the Embassy of the Vatican.

Aristide has publicly cursed the United States. He has condemned a President of the United States, President Reagan. He has blamed Hatian deaths and that country's misery on America. He even promised to give Hatians what Fidel Castro has given to the Cuban people, whatever that means.

So this is the man that is extolled by so many and one who some Senators declare deserves to be restored to office having been elected in free elections.

In my judgment, this man is a psychopath. I do not think we have any business whatsoever, Mr. President, risking the life of one soldier or one sailor or any other American to put Aristide back into office. Let the Hatians decide that.

Aristide is not a symbol of democracy. He may have won an election but he is not likely to win a medal for promoting true democracy.

Parenthetically, Mr. President, let me say that my associates recently received a CIA briefing on President Aristide. I do wish there were some way to persuade the distinguished majority leader and the distinguished Republican leader of the U.S. Senate to call the CIA to Capitol Hill and ask them to explain to Senators what this man Aristide is and what his background is. Certainly, we should do that. We owe that to the young men and women in our Armed Forces to do that before we send them into harm's way, into Haiti.

Aristide has known ties to Fidel Castro. He is a human rights abuser who controls Haiti through his bloodthirsty mobs. He has yet publicly or privately to renounce violence and necklacing. I have my doubts that he will ever rule democratically if he should regain office.

I do not mind telling Senators that "Papa Doc" Duvalier was also elected President of Haiti. That was back in 1957. I had one Senator shout at me and say he had never been elected. Not so. He was elected in 1957 in what was described as a free election. I do not think anybody today would say "Papa Doc" Duvalier was any kind of advocate of democracy.

Let us look at the truth of it. Haiti is one of the most violent societies in the world. It is not a Western Judeo-Christian society, nor has it ever been. Earlier in this century, six Haitian Presidents met violent deaths in a 4-year period. Politics and violence are motivated by voodoo factions warring against each other—conducting wars and violence against each other.

And the State Department's Human Rights Report to which I alluded earlier admits that the majority of the Haitian people practice voodooism. How do you feel about sending American soldiers and sailors in there now?

Either the State Department does not understand the terrible effect that this has had on Haitian society, or they may be just a bit embarrassed to admit this very dirty little secret. But the fact remains that if we now make a misstep, if the President of the United States makes a misstep on this one, a lot of American lives could very well be lost.

I heard President Clinton say the other day that United States troops will be sent to Haiti to "restore"—that is the President's word—"restore" democracy. But I have to reiterate that democracy has never existed in Haiti in the first place.

If anyone has gathered that I am contemptuous of the actions of President Aristide and his henchmen, you got it right. But that does not mean that I support the commander of the Haitian military for his actions, a pox on both of them.

Let me state clearly my position: The United States does not have a dog in this fight, and I am unwilling to risk the life of even one American soldier or sailor for that hornet's nest in Haiti.

And there are several points that need to be made, must be made.

First, the commander in chief of the Haitian military should relinquish power, which, as I understand it, he wishes to do. I do not know, but I have been informed of that. But he did not have to retire on October 15, or before Aristide returned to Haiti, as those in the media have reported. That is another mistake that the news media have made. They do not know what they are talking about. The October 15 date was set arbitrarily by the U.N. envoy, without the general's agreement, the commander in chief of the Haitian military.

Contrary to what the administration has said and what U.N. officials have asserted, there is no specific date in the Governors Island accord.

Mr. President, I have obtained a letter that the commander in chief of the Haitian military wrote to President Aristide over the weekend telling Aristide that he will retire and discussing the so-called amnesty. The problem is that President Aristide merely announced an amnesty. His representatives never submitted it to the Haitian parliament for approval, as agreed to by all political parties in a pact signed by the United Nations on July 16. So, as it stands, the amnesty is absolutely meaningless, and Aristide knows it.

There is one reason, and one reason only, why the United Nations wants a military force in Haiti before Aristide returns. They want to reinstate Aristide as President. All of this gibberish from Foggy Bottom about civic action projects and retraining the Haitian military and the police is just plainly a subterfuge. I hope no Senator will be taken in by that.

So the administration's pursuit of a globalist agenda puts American forces in jeopardy without competent command, all in the name of—and you have heard it time and time again—nation-building.

Why would anyone want the United States to be the peacekeeper of the world? It is an impossible job, and it is never going to happen. A State Department official recently made this comment in reference to Haiti:

> Never before has the international community been so united.

Of course, the international community is united because the United States will be sending in virtually all of the troops that are sent in, while the other countries sit back and watch. I am against that. That is the reason I have offered the pending amendment. Senators can vote it down if they wish. But I would like to be a fly on the wall when they go home and try to explain it to the American people in their respective States.

A high-level State Department official said recently that United States troops will go into Haiti "to show the Haitian military what a professional soldier looks like."

Well, then, if that is our mission, President Clinton should send a videotape of our military to the Haitian military and keep our boys the heck out of there. If the Haitian military wants to learn about American soldiers, they can fly to Fort Benning or Fort Bragg and take a look. Do not send our troops or our sailors into Haiti.

Call it what you want to, Mr. President—peacekeeping, monitoring, civic action, all of these bullish words—but there should be no misunderstanding. If the President of the United States, Mr. Clinton, plans to send United States servicemen into Haiti, where peace has never existed, into a society where voodoo-induced violence is the answer to many problems, and into a land where our Armed Forces will not be welcome, I say that is a bad deal. It is the worst possible deal for the soldiers and sailors who will be sent into that tragic set of circumstances. There are no acceptable rules of engagement, no clear objectives, and, most important, no strategy for getting out of there. In the judgment of this Senator, the planned Haiti operation does not meet President Clinton's own criteria for sending troops abroad under U.N. command.

The President and Ambassador Albright outlined quite to the contrary at the United Nations what they proposed to do, but this does not qualify in one instance. The distinguished Ambassador to the United Nations was before the Foreign Relations Committee this morning. She is a very, very charming lady, very intelligent. I asked her some questions, and she is going to give me some written answers because, frankly, she did not know the answers to some of the questions I asked. I will await hearing from her in writing.

The sum total of what I have tried to say here this afternoon, Mr. President, is that Mr. Clinton should reconsider his decision, and he should redirect United States policy concerning Haiti. He should bring home the young men and women waiting at Guantanamo Bay, and he should ask the United Nations to undertake this mission with armed forces from other member countries who are willing to send their soldiers and their sailors into Haiti.

You are going to see a lot of other countries rushing for the boondocks. They are not going to send their soldiers and sailors in there either. That is how bad they read the attitudes of the American people. I hear from an awful lot of them. They do not want their sons and daughters to be sent to Haiti. That is putting it mildly. You ought to hear some of the telephone calls. You ought to read some of the mail that I have received.

The U.N. plan is just another pie-in-the-sky experiment in nation-building—whatever that is—in which U.S. service men and women will be guinea pigs. I am against that, and I assert that the vast majority of the American people are likewise opposed to it.

There is no reason, I reiterate, no reason to risk the life of even one American sailor or soldier in Haiti.

Mr. President, I ask for the yeas and nays on the amendment?

The PRESIDING OFFICER (Mr. AKAKA). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1994 DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1993—CONFERENCE REPORT

Mr. INOUYE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2492, a bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> That the House insists on its disagreement to all the amendments of the Senate and asks for a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. INOUYE. Mr. President, I move that the Senate further insist on its amendments and agree to the conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. KOHL, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. BYRD, Mr. BURNS, Mr. MACK, and Mr. HATFIELD conferees on the part of the Senate.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

Mr. LEVIN. Mr. President, I wonder if the Senator from Hawaii would withhold on that request so I can make a unanimous consent request that I be permitted to proceed in morning business for 5 minutes.

Mr. INOUYE. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair and I thank my friend from Hawaii.

NAFTA MATH: IT DOESN'T ADD UP

Mr. LEVIN. Mr. President, today I am releasing a booklet I prepared to explain how the administration is using distorted math to claim job gains from NAFTA. It's called "NAFTA MATH: It Doesn't Add Up."

This booklet challenges the administration's often stated claim that we will gain 200,000 jobs from NAFTA.

> Obviously, people will make their own decision about whether or not to support NAFTA, but they should do so based on a full picture of the facts, not just on what they get from listening to the supporters of NAFTA.

Let me explain. The underlying premise supporting NAFTA is that United States exports to Mexico will increase and all exports create jobs.

The Commerce Department hands out a book—this book, which I have here—showing State-by-State exports to Mexico and the Commerce Department translates every billion dollars in exports into roughly 20,000 additional American jobs.

President Clinton himself has said: "Every time we sell $1 billion of American products and services overseas, we create about 20,000 jobs."

The administration has estimated that exports to Mexico will rise by "$10 billion over the next 3 years with NAFTA." And, according to the administration's math, or NAFTA math, since each $1 billion in exports creates about 20,000 jobs, $10 billion in additional exports would create about 200,000 jobs.

The Secretary of the Treasury, Lloyd Bentsen, says: "We calculate we'll pick up 200,000 more jobs" from NAFTA.

But that claim of 200,000 more jobs and NAFTA's very foundation is based on highly distorted export figures.

First, those calculations are based on export figures alone. The projection of 200,000 additional jobs from NAFTA conveniently ignores the job loss which results from imports from Mexico to the United States, which will be increased under NAFTA. It is a major distortion to only look at half the picture and claim job gains based on exports alone. It is like looking at half a ledger sheet—the revenue half—and ignoring the expense half of the ledger.

The administration has even acknowledged, after being pressed in a Washington Post article, that it does not deduct job losses from the added imports which will result from Mexico in its overall job gains claim.

An October 13 article by Howard Kurtz says a "USTR official confirmed that the 200,000 estimate is not a net figure." In other words, it only looks at the alleged gains from exports and does not deduct the jobs which will be lost as a result of increased imports. The Commerce Department does not give us figures on job losses from increased imports; it does not give us net job figures. All it gives us is the 200,000 additional jobs claim and totally ignores the job losses from imports.

Second, Mr. President, even if you only look at exports, one-third of American exports to Mexico go across the border for a few days or weeks for assembly and then come right back to America for consumption.

But, believe it or not, the Department of Commerce classifies as exports those American parts that are temporarily sent to Mexico for assembly and then shipped right back to the United States for consumption here. In reality, one-third of American exports represent little more than trading with ourselves. It is a little like an actor mailing himself fan mail and then citing that as evidence of his box office appeal.

What is more, Mr. President, that same one-third of American exports that the Commerce Department shows going to Mexico not only does not represent jobs gained, they often actually represent lost jobs to Americans.

Let me just give you an example. Take an assembly plant in the United States with a thousand workers that closes and moves to Mexico—1,000 jobs are lost. But some United States parts suppliers continue to supply the new Mexican assembly plant.

Mr. President, according to NAFTA math, if every American assembly plant closed and moved to Mexico, we would have a big jump in job creation in America. Because as long as some of the parts and components previously assembled here go to Mexico for assembly, they count as exports. And since exports are translated into job creation, the closing of every assembly plant in America would be a big job increaser, according to the Commerce Department, just so long as some of the parts and components are shipped to those assembly plants after they move to Mexico.

Now NAFTA math, which excludes the impact of additional imports and counts as exports items which actually have cost jobs in America, is math which would make most elementary school math teachers wince. It is a gross distortion. NAFTA math would make most elementary schoolteachers wince. The new jobs claimed by backers of NAFTA based on this NAFTA math is a gross distortion. It is based on a false assumption that all exports should count as job producers, even the ones representing lost jobs while job displacement for increased imports need not be counted at all. It is also based on the false assumption that although a significant portion of United States exports to Mexico are of parts and components to be assembled and promptly returned to the United States, that they still all count as job producing exports.

I put together this booklet to demonstrate in simple terms why the administration's NAFTA math does not add up. I am delivering copies of my NAFTA MATH booklet to the Department of Commerce, the U.S. Trade Representative, and the Treasury Department.

I am asking the administration to drop its use of the 200,000 jobs gained claim.

I am also asking the administration to give us a new figure—not the 200,000 figure—but one that includes job displacement from imports and excludes exports that are merely parts and components that were once assembled here in the United States.

We have asked the Commerce Department, and we are asking today, that they withdraw the 200,000 figure, that they give us accurate numbers on both job gains that they project, but also that they deduct job losses that they admit will occur.

It is time for the administration to abandon attempts to sell this agreement with distortions and NAFTA math.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I ask we return to regular business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I rise to oppose the pending Helms amendment. I would like to take a few minutes to address the issue of Haiti generally, if I may, and then I will urge my colleagues to reject this amendment for the reasons I will outline in these remarks.

The American people are looking for some very clear answers about our foreign policy. We have had an extended debate now, going on almost a week, regarding events in Somalia, culminating with the resolution adopted early last Friday morning. We have had a debate about the role of U.S. forces in multilateral peacekeeping operations. We have had amendments proposed on Bosnia and Haiti. And we now have one before us which, in effect, would prohibit the President from taking some very specific action should events warrant it, outside of the protecting of American lives, as I understand the amendment offered by the Senator from North Carolina.

I think it is important to point out that each one of these situations is different. Somalia is not Haiti. Bosnia is not Somalia or Haiti. Each situation needs to be looked at in its own right: How we have arrived at the situation we are in, what are the interests of the United States, and how we ought to respond to those interests in an appropriate fashion.

I think the point raised by Senator BOREN of Oklahoma and others yesterday is important. We are in a new age, an age that many thought might never come in our lifetimes. Who would have imagined, 4 or 5 years ago, that we would be debating a world situation in which the Warsaw Pact no longer existed; that the Berlin Wall had been torn down and was nothing more than a collection of mementos on people's desks and mantels; that debate about the Soviet Union would be merely a historical discussion and not something that was a major focus of our attention every single time a foreign policy bill or a foreign aid bill was brought to the floor, every time a Defense appropriations bill was brought to the floor?

There was not a debate, not an amendment that was ever raised in which the subject of the Soviet Union and the threat posed by the Soviet Union was not an integral part of that debate. Yet here we find ourselves in the fall of 1993, talking about a completely different world, a world that no one—or very few people—could have imagined would have existed. So it is critically important at this juncture that we start to reconfigure a foreign policy where we are the only superpower left in the world, the only one. The only comparable time in this century was in the immediate aftermath of World War I, when there were other similar debates, I might add, in this very Chamber about the League of Nations and the role of the international community and the role of the United States.

That debate and that discussion collapsed. What took its place, basically, was a vacuum. Many highly respected historians will argue that the collapse of that debate and that discussion, and the absence of formulating an architecture for the U.S. foreign policy in the 1920's and 1930's contributed to the events that unfolded in the late 1930's and early 1940's and, of course, the events thereafter.

So it is very important we take time to think about what we are doing here and not just lurch from one foreign policy crisis to the next with amendments being offered here on the floor of the Senate as a way of trying to deal with these issues.

Let me, if I can, focus specific attention on Haiti. As I said a moment ago, the American people want some clear answers. They want to know what initiatives we intend to pursue, how long they will take, how much they are going to cost, and whether these initiatives will involve placing the men and women of the U.S. military in potential harm's way. I believe the American people are certainly entitled to the answers to those questions, and I believe they are entitled to know exactly why we remain involved in Haiti, what we hope to accomplish there, and how we intend to accomplish these goals.

At the same time I also believe we should not let these difficult questions prevent us from taking appropriate steps, where necessary, to restore democracy to a people who have been long suffering in the island nation of Haiti.

Since taking office President Clinton has, in my view, clearly articulated the direction he believes we should take with respect to Haiti. Whatever legitimate criticisms people may have had about Somalia, do not apply those criticisms to Haiti. They do not apply to Haiti.

From the very outset, President Clinton has been publicly committed to a process that would lead to the restoration of democracy and the return of President Aristide to Haiti. I fully support that policy and so do most Americans. I was pleased to see early on that President Clinton turned to our allies in this hemisphere and around the globe, just as President Bush did when facing the crisis in Iraq. He was not going to go it alone, but he tried to build a coalition to respond to the coup d'etat that threw out President Aristide, the only democratically elected President in the almost 200-year history of that country.

Haiti is the second nation in this hemisphere ever to achieve its independence, in 1804. Until just a few years ago, it had never had a democratically elected President. The first time it occurred was in December 1990, when President Aristide was elected by almost 70 percent of the people of that country. Whether or not each and every one of us like President Aristide is totally irrelevant. Whether or not you like the artwork in his office is totally irrelevant. What he has on his desk, what he hangs in his closet is totally irrelevant. He was elected in the most free and most fair election that the people of that country have ever held. We in this Nation ought to be willing to support that process. That is in our interest to do so. It is in our interest to do so, to support nations that seek democratic alternatives.

That is what happened in that country. Then a group of thugs threw him out into exile.

President Bush and President Clinton have tried to come up with some answers on how you could restore that democracy. You do not need to remind people in this country of what happened afterward when the thugs threw him out. Remember the picture on the television screens of boatloads of people in rickety crafts making their way across the Windward Straits to find their way to the shores of Florida?

I promise you this, Mr. President: If the Helms amendment is adopted, I guarantee that those flotillas will start again. Remember how it occurred.

I also promise that if this amendment is adopted, you will see unprecedented carnage in that country, with the thugs absolutely and systematically taking the lives, as they have over the last 2 months, of people who tried to fight for democracy.

I also guarantee it will be very difficult, if not completely impossible, for President Aristide to return as the democratically elected President of that country. President Clinton has worked hard from the very outset of his administration to come up with some answers here on how this might occur.

He has worked with the United Nations and the Organization of American States. Dante Caputo, a distinguished diplomat in this hemisphere, has been the U.N. Special Envoy and has been active in attempting to restore this democracy. This agreement, which many may recall is known as the Governors Island accord, sets forth a series of sequential measures to be taken over a 4-month transition period culminating with the return of President Aristide to Haiti on October 30.

Among the measures set forth to occur during that transition was the development of a group of military experts by U.N. members to assist in the professionalization of the Haitian military and to undertake other civic action programs.

Not everyone may have agreed with the sequencing of the measures contained in the Governors Island accord. However, the most important point to keep in mind is that upon signing the document each side pledged before the international community to abide by its terms. Each side made that pledge.

Clearly, for reasons that are best known to himself, the military commander in Haiti, Gen. Raoul Cedras, has had second thoughts about what he signed in New York. That was made abundantly clear when a frigate containing 218 United States and Canadian troops attempted to dock in Port-au-Prince last Monday, to carry out the U.N.'s commitment to professionalize the Haitian military. This frigate was met by an armed gang of thugs who prevented the troops from landing, and attacked the U.N. and U.S. officials who were there to greet the military personnel.

The message was made even more explicit with the brutal murder last Thursday of President Aristide's Justice Minister, Guy Malary, and the subsequent refusal by General Cedras to step down last Friday, which was part of those accords, as was called for, as I said, in the Governors Island accord.

There can be no doubt that the current military leadership of Haiti has very little intention of living within the bounds of the agreement it entered into only a few short months ago.

In response to this obstruction by General Cedras and his followers, President Clinton has wisely, in my view, made it clear that reneging on this commitment is unacceptable to our country and to the international community. The unanimous vote by the Security Council and the decision of our allies in this hemisphere and elsewhere to participate in the decisions that we have made in response to the reneging of the Governors Island accord, I think, bear witness overwhelmingly to the soundness of those policies.

We expect and demand that General Cedras and his military colleagues will stay the course outlined in that accord or suffer the consequences of sanctions and other possible manners of retaliation by the international community. Specifically, the President has delayed the deployment of United States military trainers and engineers to Haiti, sought the reimposition of economic sanctions through the U.N. Security Council, and has sent six United States warships to enforce a naval embargo to cut off the provision of supplies to the de facto Haitian leadership.

The United Nations has responded quickly and positively to these important U.S. initiatives, voting last Wednesday to renew the economic sanctions—it did so unanimously, I might add—and voting on Saturday to approve the U.S. naval blockade—also unanimously—as well as sending other countries to participate in that blockade.

That only came about as a result of the international effort from the very beginning to come up with some answers to the problems of Haiti and the coup that caused the ouster of President Aristide.

Mr. President, at this juncture, it is far too early to tell whether the agreement reached at Governors Island last July can be put back on track. We hope it will. We do not know the answer to that. We know that elements of the Haitian military and the business sector were responsive to international sanctions when they were proposed earlier this year. In fact, I do not think you would have had a Governors Island accord had we not imposed those sanctions. Indeed, I think it is what helped to make the July agreement possible.

I have no reason to believe that they will be any less susceptible to economic pressure today. We hope that is the case. In fact, perhaps reactivating sanctions will help them to clarify their thinking with respect to their obligations. I certainly hope this will be the case so that President Aristide can return to Haiti at the end of this month. However, I also know that it is possible—I think all of us do—that these efforts at economic leverage will fail and more difficult and direct methods to restore democracy will have to be considered, including perhaps the use of U.S. forces, as part of a multilateral military intervention.

Let me say here, I can assure my colleagues that President Clinton has no more desire to engage in that option than any of us do. None of us do. We want to avoid that at all cost. But to write into statutory law that this is absolutely to be prohibited, except to save American lives that may be in jeopardy, sends one clear and unequivocal message to General Cedras and his friends. And that is: "Just stay the course; stay where you are; don't worry about a thing; do whatever you want to do; we are really not that interested; and that ultimately, sanctions and embargoes leak like a sieve and you will end up getting exactly what you want."

I am not advocating the opposite to what our colleague from North Carolina is proposing in his amendment. I do not want to see United States forces sent into Haiti. We have a history of having been involved in that island for many years. It has not been forgotten by many people in Haiti. So we want to avoid that option, if we can.

I do not think at this juncture, given the steps that the President of the United States, the Commander in Chief, has gone through to bring us to this point that alternatively we want to adopt an amendment that absolutely precludes and sends a message to our enemies about what steps we will take or not take. That is the danger inherent in this approach.

So I hope this amendment will be rejected. Clearly, I can agree that we need close consultation with the administration before any action is taken. Clearly, closer consultation between the administration and Congress before any steps are taken is not only advisable but absolutely essential, in my view.

But I think we would make a tremendous mistake if we went the route the Senator from North Carolina is advocating here. It would be a wrong mistake for the reasons I mentioned. Not only do I think you guarantee President Aristide would not go back to Haiti, not only would you guarantee that Raoul Cedras and his cronies would stay in power, but I also think you can guarantee what I said a moment ago, and that is that you would have a massive exodus—a massive exodus—of Haitians heading for our shores. I also think you would have a significant and systematic slaughter of innocent people in that country.

I disagree with those who say we have no interest in those kinds of events. I think they do interest us. It is in our hemisphere. It is important to try and at least do what we can. I point out to my colleagues that at no point in the history of this hemisphere have we ever had as many democracies as we do today. No one ever imagined, in some places, that we would have the kind of governments we do.

It is in our interest, Mr. President, to support and nurture, where possible, those democracies, to give them root. That strengthens our cause. If we have governments and countries that share like-minded values with us, then it is easy for us to safeguard those ideals and values around the world. If we abandon democracy here, as some are suggesting, if we say that we have no interest and who cares what goes on there, then the signal to others who may have similar intentions in other places where the interests are not as clear as they are here, is that they can do anything they want and the United States, basically, does not care at all about what happens.

I do not think we want to send that message today. I do not think that is our intention, nor should it be our purpose. Nor is it, am I suggesting, by rejecting this amendment, that we are advocating a military intervention policy. At this point in time, that would be a mistake as well.

So I hope that this amendment will be rejected; that President Clinton's efforts will be given a chance; that we will do what we can here to bring adequate pressure on those in Haiti. Let them know there is a sense of solidarity here in support of restoring the legitimately elected President of that country, to get him back to his nation.

In fact, I will tell my colleagues, in a few short minutes, President Aristide will be here on Capitol Hill to meet with Members of the Senate and talk with them. If they have questions or would like to raise questions and get an update as to what is transpiring in Haiti, I invite them to come to that meeting and to listen.

Again, I emphasize that this notion somehow that we have to like every aspect of President Aristide's life has little or nothing to do with the question of whether or not we ought to support the will of the Haitian people as expressed when they freely chose President Aristide to lead their country.

That is in our best interest to support that decision and to try and effectuate his safe return to that country. It will be hard under any set of circumstances.

I would argue forcefully, Mr. President, it would be a lot harder to effectuate that goal if the amendment of the Senator from North Carolina is adopted. That narrows and shortens and abbreviates considerably our ability to achieve the desired results that I hope and believe most Members of this body support.

So for those reasons, I urge the rejection of the Helms amendment this afternoon. Instead I support the proposals and the efforts that are presently being undertaken by the international community to restore President Aristide as President of Haiti and to give democracy a chance in a country that has never had a chance before and to give people in a little country—the poorest in this hemisphere, the most desperate in this hemisphere—a chance for a better life.

We, by voting today, can express our desire and our determination that we do care; that we do care what happens even in the poorest of countries in this hemisphere, even in the most uneducated and the most desperate; that we do care about what happens there and that we are willing to stand up and to fight for the restoration of democracy in that country.

Mr. President, I yield the floor.

Mr. STEVENS. Will the Senator yield?

Mr. DODD. I will be glad to yield.

Mr. STEVENS. Has the Senator examined the series of quotes the Senator from North Carolina provided us, "Aristide on Aristide"?

Mr. DODD. Mr. President, I looked at quotes from colleagues made here, from politicians all over the country. This is a pretty trivial game we sometimes play about quoting out of context or selecting quotes that are made in various places.

I say to my friend from Alaska, I am sure people may go back in my political career, or his political career, and find some convenient phrases or speeches or something that we have made that we would not necessarily want to have pulled out of context.

My point to my colleague from Alaska and others is, look, the people of Haiti expressed a choice. I certainly was troubled by some of the remarks attributed to President Aristide. I get disturbed by the remarks of a lot of different people, different Presidents around the world, when they say things about my country or things in their own country.

But I think we have to step back and say, is it our job, necessarily, to act as critic here on every statement or every speech that gets made? I do not think so. The fact is that 70 percent of the people of that country elected this gentleman to be their President.

Mr. STEVENS. Mr. President, that is not my question. Should the power of the United States be used to return to the Presidency of Haiti a person who has made these statements concerning not only the United States, but Presidents of the United States and the policies of the United States? It is not a question of what they want. It is a question of should we use our power to restore him to power.

Mr. DODD. If I may reclaim my time, Mr. President, I think what the Senator from Alaska is advocating is that we ought to walk away from Haiti altogether, not be involved in any way. I do not believe that is what we ought to do. You start playing that game around the world and there is no end to it, in my view. Either you support a process here that we think is in our interest to perpetuate, and that is democratic institutions, democratically elected leaders in these countries, or not.

If we are going to make the decision about whether or not we support democracy based on whether or not each of these candidates or Presidents passes our particular political correctness test, then we will have a never-ending problem in this body.

I hear a lot of people complain about political correctness. Now we are going to apply it here, as well. Was this man democratically elected in this country? Yes or no? The answer is yes. According to every international observer and everyone else there, it was one of the freest elections that could ever be held. Is it in our interest to see democracy supported, underpinned, in Haiti? I believe the answer is yes. Does that mean we necessarily would have voted for this candidate or support this particular candidate or have to support this particular President in every step we take? No. We are supporting a process and a decision made by the people of Haiti.

So I think it is in our interest.

Take President Yeltsin, for instance—or Gorbachev, for that matter. Had we made a decision in this Chamber whether or not to support a reform process in the Soviet Union based on every quote of Mikhail Gorbachev or Boris Yeltsin, we would not have done anything. We would not have done anything at all.

We saw something larger and more important instead of political speeches, or quotes from those speeches.

Mr. STEVENS. Will the Senator yield again?

Mr. DODD. I will be glad to yield.

Mr. STEVENS. Does the Senator remember any time when we sent a blockade to help either Gorbachev or Yeltsin?

Mr. DODD. I think we were prepared to provide whatever support was necessary. I think the President's decision the other day to lend the full force of the United States behind the events that were unfolding in Moscow is a critical example of our willingness to stand up and support that process in that country.

If my colleague will note, had the elements that had taken over the parliament building in Moscow prevailed, is there any doubt in anyone's mind here about what actions we would have taken in response to that activity? Would we have had a speech on the floor saying, well, Boris Yeltsin had some art work in his office, and so the fact a bunch of thugs had thrown him out means we would not help? I do not believe we would have said that. We would have been outraged by it, and we would have taken steps to try to do something about it. We would not have had a description about Boris Yeltsin's office as a justification for deciding not to support democracy in that country.

That is all I am saying here. The same thing has happened, unfortunately, here. The thugs won in Haiti. They threw a democratically elected President out. Now the issue is, will this country, that believes in those ideals and values, support his return? I think we ought to. I think it is in our interest to do so. In the absence of doing so, I think it is far more dangerous than the particular statements that this individual may have made. And that is the point I think needs to be made in this particular case.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, I find it hard to support, on the one hand, the amendment of the Senator from North Carolina. On the other hand, I do not find it hard to reach the conclusion that "Aristide on Aristide" is a very enlightening document, and it certainly should make every Member of the Senate think as to whether or not we want to support the use of American force to restore this person to control of a nation in this hemisphere.

The Senator from Connecticut has some interesting points, but I think he fails to really look into the basis of the presentation of the Senator from North Carolina. I have not heard anyone talk about necklacing yet. I have asked the CIA to confirm or to not confirm the statements made by Senator HELMS today concerning necklacing and the use of that and the advocacy of that by Aristide.

I really find it abhorrent that we would use our power to put in charge of a nation of this hemisphere a person who has this kind of venom for the United States. What are we doing?

On the other hand, the real question is whether we should take action to so tie the hands of the President of the United States, as suggested by my good friend. The real problem is it appears the President has already made the decision to do it. The Senator from Connecticut has indicated he thinks that is perfectly fine.

I find very great difficulty with the idea that we should restore a person of this caliber to power. I am very worried about what the Senate is about ready to do today.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. GRAMM].

HEALTH CARE DEBATE

Mr. GRAMM. Mr. President, I will be brief in imposing on my colleagues.

I understand that Senator WOFFORD from Pennsylvania today engaged in an attack on the Republican health plans, and it strikes me that the members of the Democratic Party are obviously panicked that the American people are rejecting the President's program of socialized medicine. It seems to me that since the President cannot quite write a plan that the Democrats could have any hope of paying for, they are now forced to attack the only real proposals to deal with the medical problems of America by attacking Republican plans.

Let me say to my dear colleague from Pennsylvania that I am going to be in Pittsburgh having a townhall meeting on health care in general, and the Clinton plan in particular, and I would be delighted to have our dear colleague come and join with me in that forum and debate that issue.

I would also be happy to go on over to Philadelphia and do it again, should he be happy to do that. I think America needs to hear about these issues. I look forward to the day coming when we can have this debate. I think it is very important, and I believe when all is said and done, the American people are going to conclude that there is not enough money in the world to pay for the Clinton health care plan and that they would not want it even if it were funded.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California [Mrs. FEINSTEIN].

(The remarks of Mrs. FEINSTEIN pertaining to the introduction of S. 1571 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I wish to commend the Senator from California for this most extraordinary and illuminating presentation of immigration and related problems in her State. I hope that my colleagues will give Senator FEINSTEIN's legislation concerning southwest border control and drug interdiction their most serious consideration.

Once again, I wish to commend my colleague.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM].

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. GRAHAM. Mr. President, I believe that the pending business before the Senate is an amendment to the Department of Defense appropriations bill, as introduced by the Senator from North Carolina [Mr. HELMS]. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAHAM. Mr. President, the amendment which has been proposed states that "None of the funds appropriated"—in the Defense appropriations bill—"shall be obligated or expended for the Armed Forces of the United States to conduct operations in Haiti unless" those operations "are specifically authorized in a law enacted in advance of the operations, or (2) the President certifies in writing to Congress that the United States citizens in Haiti are in imminent danger and that a temporary deployment of the Armed Forces of the United States into Haiti is necessary in order to protect and evacuate United States citizens in Haiti," and to the extent that such a deployment is necessary, funds can be expended for that purpose.

Mr. President, I believe this is an extremely pernicious and negative amendment in terms of U.S. interests.

I would like to discuss this amendment around a series of questions. Why is Haiti important to United States national interests? What is the role of the United States military in advancing our national interests in Haiti? What would be the consequences of the adoption of this amendment in Haiti? And what would be the consequences of the adoption of this amendment on the conduct of American foreign policy?

This amendment, Mr. President, looks around a globe which has approximately 180 nation states and selects one, Haiti, and says that in that nation, the United States cannot utilize its Armed Forces in the manner that the President is authorized in every other nation, unless these extreme limitations are met. That would indicate that we have less national interest in Haiti than in virtually any other nation in the world.

I would suggest that that conclusion is fundamentally wrong, that, in fact, the United States has very major national interests in Haiti.

What are those interests?

First, Mr. President, we have an interest in avoiding Haiti becoming the role model for democracies across the Caribbean and Latin America.

If we were holding this session of the Senate 20 years ago, and had a map of the Caribbean and Latin America, and had the countries designated by those that were ruled by a democracy and those ruled by an authoritarian government, the map would be a sea of authoritarian government flags. Today, the map would be exactly the opposite.

In 20 years, this hemisphere has become a garden of emerging democratic governments, but it is a garden in which the roots of most of those democracies are still relatively shallow. There are, in the barracks of the Caribbean and Latin America, the sons of fathers who used to rule those countries, sons who feel that it is their right to one day rule those countries, not through the democratic election process, but by a restoration of a military dictatorship. Those in the barracks are looking to Haiti as an example of how much resolve, how much commitment, does the international community have, particularly the democracies of the Western Hemisphere and specifically the oldest democracy, the United States of America, how deep is our will to protect the still fragile plants that are growing throughout this hemisphere.

The United States has a tremendous interest in the protection of those democracies, in the stabilization of those governments, and through those stable political institutions to begin to have countries that will grow in their economic strength and prosperity and become contributing and participating members in the world economy.

Second, Mr. President, we have an interest because Haiti is not thousands of miles away. It was suggested last week, almost as an axiom, that Somalia was bad. Haiti is Somalia. Therefore, Haiti is bad. We should be out of Somalia. Therefore, we should be out of, or never enter, Haiti.

Haiti is not Somalia. Haiti is 800 miles from the United States of America. Somalia is many thousands of miles away.

As much as we grieve for the circumstances in Somalia which led to the United States entering that beleaguered country, the consequences of a collapse in Somalia are relatively limited on the United States. The consequences of what has already happened in Haiti, and what could happen if there was a further deterioration of conditions, will be direct and immediate on the United States of America.

One of those forms of immediate impact will be refugees. We already have seen waves of refugees from Haiti, not only in the United States but also from other countries in this region such as the Bahamas. Those are just an indication, a harbinger, of what will happen if the hopes for restoration of democracy in Haiti are crushed.

Haiti has also become a major transshipment point for drugs as other countries throughout the Caribbean have turned away from authoritarian governments, as they have developed effective law enforcement and judicial systems. Haiti has increasingly stood out as a place in which it was relatively comfortable, accommodating, and highly profitable to conduct drug operations.

One of the principal sources of income of the military coup which has controlled Haiti for the past 25 months has been through the expansion of drug trafficking, using that country almost on a lend-lease basis to the worst elements of the drug trade. The United States has an interest in preventing a further use and expansion of Haiti for that purpose.

I know, Mr. President, it is somewhat unpopular now to talk about the U.S. interest from a humanitarian standpoint. In some ways, to suggest that the United States has an interest in human rights and how people are treated around the world puts you in a category of those who are out of touch with a tougher standard of America.

I had the recent experience of visiting the Holocaust Museum here in the Nation's Capital. As I left that museum, I was haunted with some questions.

One of those questions was, why did the United States act as it did during the 1940's when it was informed of what was happening in Nazi Germany and had some capabilities to moderate, to resist, to make it at least significantly more difficult for Hitler to carry out his horrendous program of elimination of the Jews of Europe?

The second question is, where is something that has those same seeds of hatred and bitterness happening around the world today, and what is the United States doing about it?

Mr. President, I was in Haiti a week ago. I would not analogize Haiti in 1993 to Nazi Germany in 1943. But there are tremendous human rights violations which are occurring in Haiti.

Last week, a very promising young man, trained both in Haiti and the United States, the Minister of Justice of Haiti, was assassinated in front of a church where another member of the opposition to the military coup was assassinated just a few days earlier.

Those are two examples of the level of violence which is occurring in that country, which I think should move the hearts of Americans who are concerned about human rights, who believe that when Thomas Jefferson wrote in the Declaration of Independence that all men are born with certain inalienable rights, that he was not speaking just to those men who happen to occupy the British colonies along the Atlantic coast but was making a universal statement that would influence the way the United States would use its role in the world. I believe in those words of Thomas Jefferson, and I believe they are another reason the United States has a national interest in what is happening in Haiti today.

Finally, Mr. President, if you are not moved by humanitarian concerns or by concerns of democracy or by the potential of refugees and drugs arriving on our shores or even concerned about the United States citizens who are in Haiti, of which there are somewhere between 1,000 and 10,000, depending on your definition of single and dual citizenship persons, we should be concerned about the fact that the United States has entered into some binding, legal obligations to the international community.

We were not a parent of the Governors Island accord, the set of negotiations which concluded in early July of this year with an agreement signed by President Aristide and by Commander in Chief Raoul Cedras, but we were certainly the godparents after that negotiation. We fostered, nurtured, and led to the completion of those agreements.

Under those agreements and subsequent United Nations resolutions, we took on certain national obligations. And that moves, Mr. President, to the second question.

What is the role of the United States military in advancing the United States national interests in Haiti?

There has been a long history of relationship of the United States military with Haiti. It is well known that we occupied Haiti from 1915 to 1934. What is less well known is that we have since that date had a continuing role in the training and equipping and basic acculturation of the Haitian military. When you go to Haiti and look at their military and look at their equipment, look at their arms, they look very much like an American military unit because almost every piece of equipment from the clothes worn to the rifle carried are American.

The United States has had a significant role in the training of the Haitian military. On one of my visits to Haiti prior to the 1987 election, I met with Gen. Raoul Cedras who, at that time, was one of the three people in control of the Haitian Government setting up for what was hoped to be a democratic election. I asked Gen. Raoul Cedras if he ever visited the United States and he said he had on several occasion. I said: "In what capacity?" He said, "Participating in a United States military training exercise." I asked him, "What were you being trained to do?" He said, "Fight World War II as an infantry officer."

That is what we have essentially trained the Haitian military to do. The fact is the Haitian military had relatively limited prospects of participating in World War II. They have used the skills that we have largely provided them, as well as the equipment, to terrorize their people rather than serve as a force for positive good within an impoverished country which needs every positive institution available to it.

And so what is the role of the United States military in fulfilling our national interests in Haiti? They were spelled out in these series of U.N. resolutions and the Governors Island accord, and they were that the Haitian military was to be divided. It was to be divided with the police becoming an independent law enforcement agency and the military becoming a defense institution.

Today those two operations—police and defense—are merged. It would be the responsibility of the set of nations, largely French-speaking nations such as France, itself, Canada, and others to help in the professionalization of this newly created independent police function.

It was felt that because of their linguistic capabilities, their familiarity with some of the French law enforcement traditions which will be the traditions of the Haitian police, that they represented the appropriate institutions, the appropriate nations, to be assisting in the police training.

But, as it came to the defense training, we stood out as the one nation in the world, because of this long history of involvement, best equipped to carry out that function.

So we set about committing ourselves to two essential tasks: One task was to work with the Haitian military in terms of educating it as to how a military functions in a democracy; how does a military organization itself become responsible to civilian direction and control.

I think we have a lot to contribute to the Haitian military in that regard. For 200 years, we have had a military that has functioned in that manner.

Also, Mr. President, a second task of our military was to assist the Haitian military in acquiring a new set of skills. It was not by accident that the military personnel on the U.S.S. *Harlan County* in the port of Port-au-Prince last Monday and Tuesday were Seabees, Corps of Engineers; they were construction workers; they were civil engineers.

They were going into Haiti to assist in rebuilding some of the shattered infrastructure of that country. The very first project was going to be to put a roof on a school. At the same time, they were going to be educating elements of the Haitian military as to how to conduct those type of operations in hopes that over time—and neither of these two functions, the cultivation into democracy or conversion into a Corps of Engineers-Seabee type of operation, are going to occur quickly—this would be a beginning toward that fundamental conversion of the defense component of the Haitian military into an institution that would be one of civic action and assistance to the country rather than one of repression.

I think those are in the best traditions of the U.S. military.

The amendment that we have before us would preclude those type of activities from occurring.

I believe that those are exactly the kind of roles that the U.S. military will increasingly be called upon to play, particularly in this hemisphere as we begin to assist in converting militaries that have previously had a repressive role into militaries that will be positive and constructive.

Now, because of that role, our troops, had they landed, would have been relatively lightly armed. The understanding was that they would carry only sidearms.

The fact is that their entry into Haiti was conditioned upon two circumstances: One, that there would be a permissive environment; that is that there will be sufficient tranquility; that they could actually climb up on this roof of this school and put it up without being in danger. And, second, that the Haitian military would guarantee their safety—safety coming off the boat, safety at the encampment which was going to be established near the international airport.

Neither of those two conditions on Monday or Tuesday of last week happened, and the President exercised absolute prudence in his decision to not allow the troops to disembark. To do so would have meant that our troops would have been unable to carry out their mission and it would have acquiesced into a violation of the commitment the Haitian military had made to provide safety and security for these United States Seabees and Corps of Engineers.

So I believe that the United States military has a very important role in advancing our national interest in Haiti and contributing to deepening the roots of democracy in that country.

Mr. President, the third question is what would be the consequences of passing the amendment that is before us, first, in Haiti, and then what would be the consequences in terms of United States foreign policy?

The consequences in Haiti are very clear. It would send the strongest signal to the military dictators that they had won; that, by intimidation, by refusal to meet their international commitments, they had been able to overturn the strongest nation in the world. It would give to those military tyrants the comfort of knowing that they were not going to be held to account for the violations they had committed against the human rights of their own people and the jeopardy in which they had placed other nations in this hemisphere.

It would also mean, Mr. President, that we would be held responsible for the final collapse of the Governors Island accord. The Governors Island accord still, today, on October 20, represents the best hope of restoring democracy to Haiti with a limited amount of bloodshed. Granted, it is a hope which is flickering, but the patient still has a slight heartbeat. I do not believe that the United States should take the responsibility for disengaging the patient from the life support system. The adoption of this amendment would be such an act of disengagement.

Finally, it would mean that the United States, not only in Haiti but assumedly by extension to other nations, particularly in the Western Hemisphere, would not be prepared to play a role in deepening the institution of democracy by participating in those ways in which important institutions, particularly the police and military, can be brought into a new relationship with the democratic government. All those things are going to happen, in addition to the direct impacts on the United States of refugees and drugs.

Fourth, Mr. President, what will be the consequences of the adoption of this amendment on the conduct of the U.S. foreign policy?

I do not profess to be a Ph.D. student on the history of U.S. international relations, but I know of no instance in which the Congress would have singled out one nation in the world and imposed such severe restraints on the President's ability to conduct foreign policy, including the requirement of prior approval of a President's actions for any action other than the evacuation of U.S. citizens.

I know of no example in American international history in which we have set such a limit on our U.S. President.

I would say this is an especially inappropriate place and an especially inappropriate time to be considering such a limitation on the President.

In today's Washington Post, there is an article written by the former National Security Adviser to both President Bush and President Ford, Brent Scowcroft, and the former Under Secretary of State for Political Affairs to President Bush, Mr. Arnold Kanter.

I ask unanimous consent that at the conclusion of my remarks, the full column be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. I would like to read, however, one paragraph of this very illuminating column entitled "Foreign Policy Straitjacket."

> Maneuvering in the complex environment of a Somalia—or of a Haiti, Bosnia or the other crises that loom on and just over the horizon—requires the agility of a ballet dancer, not the Mack truck of legislation. In a world that increasingly places a premium on a rapidly adaptable foreign policy, codifying highly detailed requirements in a public law is a recipe for ineffectiveness. It undermines the president's ability to threaten, cajole and pressure our adversaries by publicizing the costs we will and won't pay and by broadcasting the conditions and constraints under which our forces will operate. At the same time, it leaves our friends and allies, whose cooperation we seek, to wonder whether Congress will permit the president to follow through on his promises and commitments. Finally, it stays on the books, continuing to tie the president's hands as circumstances change and Congress's attention shifts to other priorities. Now more than ever, trying to legislate foreign policy is simply a bad idea.

Mr. President, this amendment denies the fundamental reality that Haiti is a neighbor and what happens in that country is going to affect our neighborhood. It denies the fact that the U.S. military has a very positive, constructive role to play in converting a nation which for the better part of two centuries has been wracked by despots and by a poverty unknown in any other country in the Western Hemisphere.

To deny to those people the best chance they have had for the establishment of a government of respect and dignity and hope, and our assistance in converting institutions which have stood in the way of all of those promises, would have devastating consequences today in terms of what will happen in Haiti. It will have even greater potential consequences in what will happen to democracy throughout this hemisphere. And, at a time when the United States is searching for what its role will be in the post-cold-war era, while we are looking for an adept leadership to respond in our national interests to a whole set of challenges the likes of which we have not seen in the world since at least the interwar period, to use this time as the time we will single out this one country of Haiti and impose this highly legislative, restrictive set of constraints on our President's ability to carry out America's national interest I think will be the height of folly and a folly for which this Nation would long pay.

I urge the defeat of this amendment. Rather, I urge, positively, that the United States look for some of the positive things that are in Haiti and can happen in Haiti. We have the best chance of restoring democracy. There is an absolutely superb Prime Minister, Robert Malval, who is currently leading that government. The international financial institutions have indicated their desire to be quickly available to assist in the economic restructuring of that impoverished country as soon as there is political stability.

The leadership of the country has a vision for its future, which is one that Americans should share and rejoice in. I believe this is not the time to turn our back on a neighbor, but rather to continue to extend the hand of friendship, knowing through that friendship not only would the interests of the people of the United States be advanced, but that a neighbor who has been for too long held in poverty and in oppression will soon be at the point where they can live in the full sunshine of democracy.

EXHIBIT 1

[From the Washington Post, Oct. 20, 1993]

(By Brent Scowcroft and Arnold Kanter)

FOREIGN POLICY STRAITJACKET

Following intensive negotiations with the administration, the Senate last week passed the Byrd amendment to the fiscal year 1994 defense appropriations bill, setting a variety of conditions on U.S. military involvement in Somalia. This action has been described as a good example of bipartisan leadership in the Senate, of the spirit of constructive compromise between the executive and legislative branches and as a political victory for the administration.

But it was something more. Whatever its impact on our Somalia policy, the Byrd amendment also sets an important precedent in redefining the respective roles that the president and Congress will play in deciding when, where, why and how U.S. military forces are used. It is a precedent that has disturbing implications for this or any president's ability to conduct an effective foreign policy in the post-Cold War world.

This is not the place to debate whether our Somalia policy is sensible or misguided, or whether the particular provisions in the Senate bill are wise or foolish. Somalia may be the case at hand, but what is at stake is nothing less than defining the proper role of Congress in the conduct of foreign policy and the use of our armed forces as an instrument of that policy. Not only may the "Dole amendment" on Haiti present that issue again in the days ahead, but we are likely also to face it with increasing frequency as part of the larger debate about the purposes and limits of U.S. engagement in the world. It is important that we get it right.

From this broader policy perspective, the Byrd amendment poses two kinds of problems. First, it goes beyond the legitimate congressional role in establishing policy parameters to spell out in detail what the president may and may not do in carrying out that policy, including setting a deadline for the withdrawal of U.S. troops from Somalia, specifying the military mission of our forces while they remain there, describing the capabilities they are to possess and even defining the command arrangements that are to govern them. Second, it sets out all these requirements in legislation that is intended to become the law of the land.

There are sound constitutional grounds for arguing that wherever one reasonably draws the line that separates the foreign policy responsibilities of the president from the job of Congress, the Byrd amendment crosses it. But there also are practical reasons for being concerned that if the Byrd amendment becomes the model for future congressional involvement, U.S. foreign policy will be the victim.

Maneuvering in the complex environment of a Somalia—or of a Haiti, Bosnia or the other crises that loom on and just over the horizon—requires the agility of a ballet dancer, not the Mack truck of legislation. In a world that increasingly places a premium on a rapidly adaptable foreign policy, codifying highly detailed requirements in a public law is a recipe for ineffectiveness. It undermines the president's ability to threaten, cajole and pressure our adversaries by publicizing the costs we will and won't pay and by broadcasting the conditions and constraints under which our forces will operate. At the same time, it leaves our friends and allies, whose cooperation we seek, to wonder whether Congress will permit the president to follow through on his promises and commitments. Finally, it stays on the books, continuing to tie the president's hands as circumstances change and Congress's attention shifts to other priorities. Now more than ever, trying to legislate foreign policy is simply a bad idea.

The alternative is not for Congress to give the president a blank check and abdicate its constitutional responsibilities in foreign policy. Congress is a valuable sounding board and source of wise counsel. It can offer invaluable assistance in rallying public opinion behind the president and is uniquely positioned to run political sanity checks on the president's proposed policies and actions, offering its distinctive insights into the mood of the country and how best to take the voters' concerns into account.

Nor is Congress without leverage in helping presidents remember this essential lesson. It can hold the president accountable for his actions before the bar of public opinion—and ultimately the ballot box—by calling hearings and requiring the administration to send reports detailing the progress, problems and prognosis of particular issues. If all else fails, of course, it can resort to the power of the purse to enforce its will.

The president too must do his job. First, he must exercise the foreign policy leadership that is his unique responsibility, or Congress surely will be tempted—or feel obliged—to cross the constitutional line and fill the vacuum. Second, he must build and sustain public and congressional confidence in that leadership by means of frequent, serious consultations with the Hill and clear explanations to the American people about our purposes and stakes. The recent congressional actions on Somalia and the current debate about Haiti can be read as evidence of what happens when the president does not accomplish both these tasks.

All presidents know—or learn—that their foreign policy cannot succeed and their tough foreign policy decisions will not be sustained without bipartisan support borne of clear, honest dialogue between the two branches of government. But Congress cannot exercise foreign policy leadership, and the president must not acquiesce in its ill-considered efforts to do so. Congress cannot conduct a successful foreign policy; only the president can. Likewise, Congress cannot formulate and execute an effective political-military strategy to accomplish foreign policy objectives; only the president can.

Put simply, our country can ill-afford 535 secretaries of state, and still less 535 commanders in chief. Congress, for its part, must participate in the grand debate about the scope and nature of American engagement in the new world order, but it also must resist the temptation to legislate our foreign policy and how military forces will be used to support it. For his part, the president should encourage and benefit from Congress's legitimate participation, but he also must stand ready to veto any legislation that undermines his ability to fulfill his foreign policy responsibilities.

The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. SPECTER.

Mr. SPECTER. Mr. President, in considering the pending amendment by the distinguished Senator from North Carolina, I believe the Senate should be cautious in undercutting Presidential authority based on our constitutional power over the purse, even where the circumstances show the U.S. foreign policy is most unwise.

It is understandable the temptation is present to bring amendments to limit Presidential authority in light of the serious miscalculations in Somalia and in Bosnia and in Haiti. But I suggest that this is a time for prudence before we undercut the delicate balance of constitutional authority between the President, as Commander in Chief and the principal architect of foreign policy, and the authority which the Congress has in a variety of ways, including the power of the purse.

For most of the time prior to coming to the Senate and after being here, my concerns have been over excessive exercise of Presidential authority in derogation of the sole power of the Congress to declare war. I recall very well, as a student at the University of Pennsylvania majoring in international relations, the concerns which I had about the involvement of the United States in a war, the Korean war, without the appropriate constitutional declaration of war by the Congress. I remember well the day the Korean war started, on June 25, 1950, because I was among several thousand Reserve Officer Training Corps Cadets at Lowry Air Force Base in Denver, CO, on a Sunday, June 25, 1950.

As that conflict started, most of us who were issued khakis that day thought we would never return to the universities for our final year in college, but we did. That was a very special recollection for me about a war which Congress never declared. I have raised that issue on this floor on a number of occasions, including a debate with Senator Percy, then chairman of the Foreign Relations Committee, when we were considering the War Powers Act in about 1983, concerning Lebanon, and Senator Percy concurred with my assessment that Korea was a war.

I have sought, on a number of occasions, as the distinguished Presiding Officer may recollect, in Judiciary Committee hearings, to ascertain the status of Korea as a war in terms of some guidance from Supreme Court nominees as to how they might view the congressional authority to declare war contrasted with the President's authority as Commander in Chief. Korea is an event which will never recur, so it is not a matter to come before the Court in that form.

This is a matter which has been of real concern. I also expressed the concern in the debates on the War Powers Act during Lebanon when it seemed to me the President was beyond his power, with the failure of the Congress to invoke the War Powers Act and the challenge of the President to the constitutionality of the War Powers Act.

We have seen a significant shift, I submit, in the course of the past several months, as we have had indecisive and vacillating policy from the President in three major areas: Bosnia, Somalia, and now Haiti.

There have been a series, really a raft, of amendments; a number by the Senator from West Virginia [Mr. BYRD]; by the Senator from Arizona [Mr. MCCAIN]; the Senator from Oklahoma [Mr. NICKLES]; and now by the Senator from North Carolina [Mr. HELMS]. It seems to me that we have to be cautious and not create the constitutional confrontation and the upsetting of this delicate balance.

When we talk about the constitutionality of the War Powers Act, it is worth noting, as I mentioned briefly on the floor yesterday, that there had been an effort made to have a test case of the War Powers Act back in about 1983, an effort that was encouraged by then majority leader Howard Baker, when a number of us prepared legal papers seeking the agreement of the President, but that was not forthcoming, and there was never a constitutional test in the Supreme Court.

I think had the War Powers Act been sustained, it would have taken a lot of pressure off the challenges which are now being made.

Turning to the specific language of the amendment offered by the distinguished Senator from North Carolina, it calls for a cutoff of funds where there are "operations of the Armed Forces of the United States in Haiti unless * * * specifically authorized in * * * advance of the operations, or the President certifies * * * to Congress that United States citizens in Haiti are in imminent danger and that a temporary deployment of armed forces is necessary in order to protect and evacuate United States citizens. * * *"

In my view, Mr. President, it is inappropriate and, beyond being inappropriate, dangerous to prescribe limitations on the actions of the President as Commander in Chief in advance as to what he may do. It seems to me that the War Powers Act struck the appropriate balance in not disallowing the involvement of U.S. troops and hostilities for at least 60 days and then calling for their withdrawal at the end of a 60-day period, unless specifically authorized by Congress. But there are too many emergency situations for the Congress to cut off funding, as drastic a remedy as that is, in advance of the operations.

Further, it is my view that there may be other reasons why the President would have to act, beyond the protection of United States citizens in Haiti, and that language limiting such Presidential action through a temporary deployment is also unwise.

There are, of course, very substantial reasons why the intuitive reaction is opposed to having United States troops involved in Haiti. There are very serious questions about the national interest of the United States going there. There are very serious questions about the propriety of the role of the United States in trying to put President Aristide in power. But it seems to me that under our constitutional form of government, those are judgments which have to be made by the President, and that, if there is to be appropriate Executive authority, it would be a very bad precedent for the Congress to exercise its authority to cut off funds, as proposed by this amendment.

The constitutionality of such an amendment, I think, is in real question. Certainly, if there is to be a challenge of the President's authority as Commander in Chief, the strongest grounds for such congressional action would most likely be the cutoff of funds since the Constitution expressly authorizes the Congress to control the purse.

But as a matter of prudence and as a matter of long-term institutional stature and stability, it is my view that we should not interfere in this way with the power of the President to operate as Commander in Chief.

There is a considerable body of pressure in the political arena and in the political context that may be exerted to preclude unwise actions by the President. There is certainly opportunity for consultation and for Congress to make its views known, but the precedent for cutting off funds on the limited circumstances prescribed by this amendment, and especially requiring authorization in advance of emergency action by the President, I think, would be very unwise.

Although I understand the reasons for which my colleague from North Carolina has brought this amendment forward—because of his very substantial disagreement with the policy—I believe, in the first instance, that policy appropriately remains with the President, with the power of the Congress to act thereafter in pursuit of the provisions of the War Powers Act, which I believe to be constitutional and enforceable.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Oregon.

Mr. HATFIELD. I thank the Chair.

(The remarks of Mr. HATFIELD pertaining to the introduction of S. 1572 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HATFIELD. I yield the floor.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Thank you, Mr. President.

What is the pending business?

The PRESIDING OFFICER. The pending business is amendment 1072 offered by the Senator from North Carolina.

Mr. MACK. I thank the Chair.

I rise in opposition to the Helms amendment on Haiti. There are several reasons why I do so. The first of which I wish to speak about, which several others have already touched on, is that it restricts the power of the President by limiting his options.

I should like to read a portion of a letter that the President has sent which touches on a lot of different amendments that have been proposed or that are being offered during this debate.

The letter says:

> I am fundamentally opposed to amendments which improperly limit my ability to perform my duties as Commander in Chief.

He goes on further to say:

> And which could weaken the confidence of our allies in the United States. Such amendments would provide encouragement to aggressors and repressive rulers around the world who seek to operate without fear of reprisal.

That letter could have been written by any President of the United States. It addresses an argument and debate that has gone on in this country for over 200 years regarding the role of the Congress and the role of the President with respect to foreign policy.

MAZZOLI, BRYANT, FISH, and MCCOLLUM.

As additional conferees from the Committee on Merchant Marine and Fisheries, for the consideration of sections 1351, 1352, and 1354–1359 of the House bill and sections 654 and 3501–3506 of the Senate amendment, and modifications committed to conference: Messrs. STUDDS, TAUZIN, LIPINSKI, FIELDS of Texas, and BATEMAN.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 265, 1314, and 3137 of the House bill and sections 328, 2841, 2851, 2915, 3103, and 3135 of the Senate amendment, and modifications committed to conference: Mr. STUDDS, Mrs. UNSOELD, and Messrs. REED, FIELDS of Texas, and BATEMAN.

As additional conferees from the Committee on Natural Resources, for consideration of section 2818 of the House bill and sections 2855, 3132, 3139, and 3147 of the Senate amendment, and modifications committed to conference: Messrs. MILLER of California, VENTO, LEHMAN, and YOUNG of Alaska, and Mrs. VUCANOVICH.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 364, 901, 934, 943, and 1408 of the House bill and sections 523, 1064, and 3504 of the Senate amendment, and modifications committed to conference: Mr. CLAY, Mr. MCCLOSKEY, Ms. NORTON, Mr. MYERS of Indiana, and Mrs. MORELLA.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 2816 and 2841 of the House bill and sections 1063, 1087, 2833, 2842, and 2917 of the Senate amendment, and modifications committed to conference: Messrs. MINETA, APPLEGATE, WISE, SHUSTER, and CLINGER.

As additional conferees from the Committee on Rules, for consideration of section 1008 (relating to funding structure for contingency operations) of the House bill, and modifications committed to conference: Messrs. DERRICK, BEILENSON, FROST, SOLOMON, and QUILLEN.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 215, 262, 265, 1303, 1304, 1312–1318, and 3105 of the House bill and sections 203, 233, 235, 803, and 3141–3148 of the Senate amendment, and modifications committed to conference: Mr. BROWN of California, Mr. VALENTINE, Ms. E.B. JOHNSON of Texas, Mr. WALKER, and Mr. FAWELL.

As additional conferees from the Committee on Small Business, for consideration of section 829 of the House bill, and modifications committed to conference: Mr. LAFALCE, Mr. SMITH of Iowa, and Mrs. MEYERS of Kansas.

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 1071 and 1079 of the Senate amendment, and modifications committed to conference: Messrs. MONTGOMERY, SANGMEISTER, and STUMP. Provided, Mr. SLATTERY is appointed in lieu of Mr. SANGMEISTER solely for the consideration of section 1079.

As additional conferees from the Committee on Ways and Means, for consideration of sections 653, 705, and 1087 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, ARCHER, and CRANE.

There was no objection.

□ 1930

CONFERENCE REPORT ON H.R. 2519, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

Mr. SMITH of Iowa. Mr. Speaker, I call up the conference report on the bill (H.R. 2519) making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MFUME). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, October 14, 1993, at page 24542.)

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the distinguished gentleman from Iowa [Mr. SMITH].

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and the amendments in disagreement on H.R. 2519, the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act of 1994, and that I be permitted to insert a table and extraneous matter following my remarks on the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

□ 1940

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will only take about 1 minute. This conference report has been available for the Members for 5 days. I think most everybody knows what is in the report. I will just summarize very briefly.

The total amount of money for budget authority is $23,396,781,000. Of that, $3.8 billion is to continue various programs for technology enhancement, economic development incentives, scientific research, fisheries development, weather forecasting services, international trade and tourism promotion, and for small business development.

There is $10.1 billion in discretionary appropriations for the Department of Justice and the law enforcement agencies. The conference report also includes $2.7 plus billion for the judiciary. The conference agreement also includes funding for related agencies such as, $374.4 million for the Maritime Administration, $400 million for the Legal Services Corporation, $657 million for the Small Business Administration, and $1.142 billion for the U.S. Information Agency.

Mr. Speaker, 178 amendments were added to the bill when it went to the Senate. We have been able to resolve all of these. I think there is only one upon which we will probably have a vote. It is my hope that that is the case.

Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield myself 17 minutes.

Mr. Speaker, I hope not to take that entire time.

Mr. Speaker, I rise today in strong support of the conference report to accompany H.R. 2519, the fiscal year 1994 Departments of Commerce, Justice, State, the judiciary, and related agencies appropriations bill.

Mr. Speaker, the chairmen of the House-Senate conference committee, and all the members of the conference committee, are to be commended for their diligence in crafting a conference report which I believe all Members should support.

Under the leadership of the chairmen of the conference committee—the gentleman from Iowa and the gentleman from South Carolina—and with the help of a revised 602(b) allocation, the conferees were able to make some important improvements over the House-passed bill, particularly in high priority areas such as law enforcement, and immigration controls. In addition, the conferees have placed controls on U.N. peacekeeping.

For the Department of Justice, an area of particular concern to many Members of this body, the conference agreement provides a $130 million increase over the House-passed bill. A sizable portion of this increase finances a comprehensive immigration initiative which will allow us not only to detect and apprehend, but also to detain and deport, illegal aliens. The conference report provides a $90 million increase over the House-passed bill for democracy are spotted on the open seas—I might add many times, and thank God they are spotted by their Cuban brothers in airplanes flying over the Florida straits—the United States Coast Guard goes out and picks them up and brings them to Florida where they are welcomed with open arms.

But in the case of the Haitians, as soon as they get in their boats they are interdicted by that same Coast Guard and returned to the island.

It is a policy that will not hold up very much longer. So I say to my colleagues, who have trouble and who are concerned about what our policy in Haiti should be, I would ask you to reject this amendment because this amendment really does not address the situation in Haiti and, in fact, hamstrings the President's ability to deal with that situation.

In conclusion, I would say to my colleagues I hope that they will reject this amendment because this Nation should continue its commitment to the projection of the principles and the ideas of freedom and democracy around the world.

I yield the floor. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Helms amendment.

Ms. MOSELEY-BRAUN. Thank you.

I would like an opportunity to address that amendment.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, the debate on this amendment raises two fundamental, basic sets of issues. One set of issues goes to the question of Haiti directly and what the United States policy should be with regard to that country, which is only 600 miles off of the coast of Florida.

The second issue is a much larger one. It is the relationship between Congress and the Presidency on the conduct of U.S. foreign policy in the post-cold war world. The key question is whether our foreign policy is going to be driven by CNN and opinion polls and political expediency, or a race for the Presidency, or whether coherent architecture and criterion can be developed in the new era.

As my colleagues know, the situation in Haiti is complex and fast moving. Our policy, however, Mr. President, must not simply be reactive. Instead, it must be based on the fundamentals of the situation there, and establish a framework for dealing with the events as they arise—based on our interests and on our values.

Mr. President, Haiti has a long history of dictatorship and oppression. Their recent legacy is of the Duvalier's "Papa Doc" and "Baby Doc" and a succession of military coups. The people of Haiti, however, want an end to military dictatorship and corruption. They want a chance to choose their own leaders. Mr. President, they want democracy.

The first time the people of Haiti were given the opportunity to vote in December 1990, they elected President Aristide with an overwhelming 67 percent of the vote. This was an enormous victory for the deepening of democratic institutions in that country.

Unfortunately, 9 months later, President Aristide was ousted in yet another illegal coup that has been condemned by the entire international community, including the administrations of both Presidents Bush and Clinton.

The U.S. Government under President Clinton's leadership, working under considerable handicaps, in a fast moving, fluid situation, has consistently worked diplomatically to bring about the conditions for the restoration of democracy.

It executed a policy of sanctions intended to isolate the Haitian military and bring them to the negotiating table. The President revoked the visas of coup supporters and their family members. At the request of Ambassador Albright, the U.N. Security Council passed Resolution 841 on June 23 imposing an arms and oil embargo on Haiti.

Mr. President, these sanctions were extremely successful. Haiti does not have large storage facilities for oil, and the military leaders did not impose strict rationing. As a result, after only 2 weeks, the sanctions began to have real bite, and General Cedras was negotiating with President Aristide at Governors Island in New York.

Those of us in Washington who followed this event knew that there was an accord signed by President Aristide and General Cedras on July 3. This agreement committed both sides in the Haitian conflict to peace and democracy. The Governors Island accord was not widely reported in the media as an important breakthrough. But this agreement, Mr. President, is critical to the future of a peaceful Haiti.

The Governors Island accord is a nine-step process to deny a dictatorship and restore democracy. The accord required both sides to make significant compromises, and until last week, was well on track.

In step 4, the suspension of U.N. sanctions occurred at the end of August.

In step 6, an amnesty granted by President Aristide to those participating in the coup that overthrew him was declared October 3.

The first six steps had been completed.

Step 7 was for Police Commissioner Francois to step down and the Haitian Parliament to implement legislation separating the police from the military. This was supposed to happen on October 15. But Mr. Francois did not step down, breaking, instead, the terms of the accord.

He decided to defy the Governors Island accord by arranging that the only slip in the port of Port-au-Prince that could hold, the U.S. *Harlan County*, would be occupied. It is important that the *Harlan County*, the ship, was not bringing in an occupation force. Instead, the ship carried United States forces who were to train the Haitian police and begin to work on restoring the country's devastated infrastructure.

Mr. Francois, head of the police, controls the port, so if he wanted the slip to be opened, it could have been. Instead of assisting efforts to implement the accord, he organized a group of armed thugs to protest at the port. Those protests, and pictures of the mob harassing U.S. Chargé d'Affaires, Vicki Huddleston, the highest ranking official at the U.S. Embassy at the time, as she tried to meet that ship, were broadcast into our living rooms.

After the military's abrogation of the commitment, the U.N. Security Council passed Resolution 875, which reimposes the oil and arms embargo against Haiti. President Clinton sent six warships to ensure that oil and arms do not sail into Haiti. The United States is being joined in this effort by Canada, Argentina, France, the United Kingdom, and the Netherlands. I support the enforcement of sanctions, and I support the President's decision to send those warships.

This policy is prudent. It sends a signal that the United States will not permit business as usual in Haiti, will not allow a coup to go forward because, unfortunately, business as usual means dictatorship, oppression, and poverty for all but a handful of elites.

In the specific case of Haiti, the practical effect of this amendment is to embolden those elements in Haiti that are committed to blocking the implementation of the Governors Island accord, which undermines the government of President Aristide.

I believe, Mr. President, the U.S. Government in this situation, and in many other situations, that, we are taking up now, must speak with a single voice. We must tell the illegitimate dictators of Haiti that they cannot indefinitely defy the will of their own people and of the international community. We must tell them they cannot destroy democracy. We do not want to reward the forces of oppression and instability by overly restricting President Clinton's ability to handle the situation in Haiti and its ramifications. It is not prudent policy to weaken the President's hand and ensure that the situation we are trying to avoid in Haiti, namely, the further entrenchment of the military, occurs. It is the President's concern that this is exactly what would happen if this amendment were to pass.

I would like to quote a letter from President Clinton to the majority leader with regard to this subject generally. It says:

With regard to the potential amendment on Haiti, let me caution against action that could aggravate that nation's violent conflict and undermine American interests. The situation on the ground in Haiti is highly unstable. Limiting my ability to act, or even creating the perception of such a limitation, could signal a green light to Haiti's military and police authorities in their brutal efforts to resist the return to democracy, could limit my ability to protect the more than 1,000 Americans currently in Haiti, and could trigger another mass exodus of Haitians at great risk to their lives and potential costs and disruption to our Nation and others.

Mr. President, the United States has a clear interest in making sure that the Haitian Government can provide a secure environment for its citizens. But if the Haitian people believe the current human rights abuses and political oppression will continue indefinitely, they will begin to build boats and sail for our shores.

The people of Haiti will travel at great risk to themselves in search of freedom. It is imperative the people of Haiti be able to live in freedom in Haiti.

Let me say clearly that Haiti's crisis cannot be solved entirely by us. It can only be solved by the Haitian people. All segments of Haitian society must participate. In the current climate of violence and intimidation in Haiti, the majority cannot participate.

This amendment would continue the instability because it would be interpreted by the military that they can indefinitely delay the return of democracy.

Mr. President, there are some comparisons in the discussion between this and the crisis in Somalia that are ongoing as well. This is not the same situation. This is not the same as the crisis in Somalia. The American people understand that. But for timing one would not be compared to the other.

I would like to quote from an editorial a few days ago from a major daily newspaper in central Illinois, the Peoria Journal Star:

Somalia has important lessons for future missions. The Haitian one is not one among them. In the case of Haiti the cause is callous repression and misery 600 miles off our shores. Wholly apart from the humanitarian argument, a stable, peaceful democratic Haiti is very much in the interest of the United States.

Mr. President, I ask unanimous consent to print in the RECORD the entire editorial.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> While Somalia has important lessons for future missions, the Haitian one is not among them * * *. In Somalia * * * for humanitarian reasons we dropped nearly 30,000 American soldiers into a civil war in a country 8,000 miles away, where we had not been invited. We assumed our hosts would be so grateful they would put away their guns. We were wrong. In the case of Haiti, the cause is chaos, repression and misery 600 miles off our shores * * *. If the fledgling government falls again to the military, refugees will fall again this way. For us, they will create an impossible dilemma. We cannot afford to absorb all of those who will have a legitimate claim for political asylum, but neither can we afford to exempt only Haitians from our asylum policy. Wholly apart from the humanitarian argument, a stable, peaceful, democratic Haiti is very much in the interest of the United States.

Ms. MOSELEY-BRAUN. Mr. President, last week the Senate passed the Byrd amendment to pull United States troops out of Somalia by March 31. We had a major debate about our policy toward that country. That debate was important and it is just as important for this body to debate United States policy toward Haiti. But we do not want to do so in a way that creates precedent on the relationship between Congress and the Presidency on an ad hoc basis. That can have enormous consequences in the future.

The conflict between the Congress and the President over their respective roles and responsibilities concerning the conduct of foreign policy toward Haiti is not unique. We are likely to find ourselves in similar situations in the future.

While, the Congress has the power to declare war and fund military actions, the Nation's founders intentionally created a tension between the executive and legislative branches of Government, as the distinguished minority leader so eloquently explained on the Senate floor on July 20, 1973, during the debate on the War Powers Act where he says:

> The draftsmen of the Constitution clearly intended to divide the war power between the President and the Congress, but just as clearly, did not intend to precisely define that boundary. They rejected the traditional power of kings to commit unwilling nations to war to further the king's international political objectives. At the same time, they recognized the need for quick Presidential response to rapidly developing international situations. The Framers of the Constitution, in making this division of authority between the executive and legislative branches, did not make a detailed allocation of authority between the two branches. But nearly 200 years of practice has given rise to a number of precedents and usages, although it cannot be confidently said that any sharp line of demarcation exists as a result of this history.

The distinguished Senator from Kansas went on in that debate to,

> * * * dispel any notion that the United States engage in armed hostility with a foreign power only if Congress declared war. From the earliest days of the Republic, all three branches of Government has recognized this is not so, and that not every armed conflict between forces of two sovereigns is "war."

Mr. President, there are many armed conflicts in our history in which Congress did not declare war:

In 1801 President Jefferson sent American naval vessels to the Mediterranean to protect commerce against attack by the Barbary pirates.

In 1846 President Polk ordered military forces to Mexico and the independent Republic of Texas in order to prevent interference by Mexico with the proposed annexation of Texas to the United States.

In 1861, President Lincoln called for 75,000 volunteers to suppress the rebellion by the Southern States and proclaim a blockade of the Confederacy.

In 1900, President McKinley sent 5,000 United States troops as part of an international force to stop the Boxer rebellion in China.

In my lifetime, the Korean war was not declared as such by the Congress. And finally, the military action in Vietnam never received explicit congressional authorization, although the Gulf of Tonkin resolution was sometimes cited as congressional approval for that conflict. It was that conflict that caused Congress to assert its role in the decision on whether to go to war by enacting the War Powers Act of 1973.

The War Powers Act was passed to ensure if U.S. troops were to be used extensively, for a period longer than 60 days, Congress would have a veto. It was approved over President Nixon's veto, by a vote of 75 to 18 with overwhelming bipartisan support.

The War Powers Act, with its more precisely defined relationship between Congress and the President in this most critical of policy areas, was not entered into lightly. Extensive hearings were held in both the House and Senate beginning in March 1973. That bill did not pass until November of that year, a full 8 months later. This was not an example of congressional gridlock. It was an example of appropriately thorough investigation and deliberation, because this body recognized the significance of the War Powers Act and the precedent it set.

Mr. President, we should not revise the relationship between the Congress and the President set out in the War Powers Act by forcing the President to get congressional authority for United States policy in Haiti before he takes action. That would be extraordinary change in the latitude and the authority of the President to conduct foreign policy.

This kind of change must not be made without full hearings and without careful thoughtful consideration. Acting on an appropriations bill, as this is, on a rushed, ad hoc amendatory basis, ties the President's hands, sets a precedent for future situations, and is an unwise way to address the serious issues involved with Haiti policy. It is a bad policy. It is bad for the United States. It is bad for our leadership position in the world. It is bad not only for this President but for future Presidents, and one that we should stop and seriously consider before we act.

There is no good reason to have a rushed debate on this appropriations bill. We are 20 days into a continuing resolution. This is not the vehicle, nor is it the time, to take action with consequences that go well beyond this specifics of Haiti. This amendment would affect all Presidents in the future and not just this President. But with this amendment and the amendment that was defeated yesterday, we are acting on legislation which will fundamentally change the relationship between the executive and the Congress.

Mr. President, in the last few years with the fall of the Iron Curtain in the Soviet Union, the world has changed. This administration has not created this change. Circumstances have created change, and the old framework just does not necessarily apply. Putting a new framework into place is not going to happen overnight. While that process is underway it is not in the best interest of our country to hastily revise the relationship between Congress and President, just to respond to the situation of the moment.

To pass this amendment is not only to damage this President, but future Presidents as well. It will be ill-considered and unwise precedent for us to adopt.

Mr. President, in conclusion, I just left a meeting that I was fortunate enough to be able to attend with President Aristide just moments ago.

It was heartening to hear President Aristide talk about the situation in Haiti, how he was committed to the Governors Island accord, and how he was committed to the restoration of democracy.

He said something that was really very crucial, given the debate that happened on the floor here about an hour ago. He said that he has gone to great extent—and these are my words—to say yes to democracy; that he has gone to great extent to say "yes" to non-violence.

He gave an account of the circumstances of his deposition, if you will, as the President of that country when he was actually held under armed guard and said, even at that point, he said yes to non-violence as a way of approaching the situation in his country.

He is working and doing everything that he can to bring about a peaceful resolution of the coup there, of the situation there in Haiti, so as to bring peace and prosperity to his people.

He spoke, and I think eloquently, about the need to establish peace in Haiti, to give people some security precisely so they will not build boats and risk their lives to leave their country out of fear for that security.

He spoke of the need to bring a halt to the drug trading that has so characterized the thugs that are now in power in that country right now.

And he spoke about his love for Haiti and his love for nonviolence as an approach to resolution of issues. He spoke of saying mass, and I will remind the Members of this body that President Aristide is a priest. He spoke of saying mass while 50 people in the church were killed, the church was burned when it was over, and he still called for nonviolence and he still called for peace.

Mr. President, the question before us now is whether or not we will, as the old typing test used to tell us, whether or not this is the time for all good men and women to come to the aid of democracy. That is the question before us—whether or not we are going to stand up for the values that we say we believe in to the rest of the world and protect a budding democracy not 600 miles mile away from our own border.

It seems to me that we have an obligation to ourselves as well as to our values, as well as to our future, as well as to the economies of our region and our hemisphere, to do everything we can to send a signal to the tyrants and the despots that this kind of military action, this kind of violence, this kind of coup today will not be tolerated. We will stand by those who believe and stand up for the principles that we say we believe in. Democracy in this hemisphere is important enough a value for the American people to stand in full support of the restoration of President Aristide to the Presidency of Haiti, of the restoration of democracy to that country, and of the development of an infrastructure and a construct for peace and prosperity for the Haitian people and for the people of our hemisphere.

I, therefore, Mr. President, urge my colleagues to oppose this ill-considered amendment.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I just want to commend our colleague from Illinois for a very eloquent statement, and a very thorough and comprehensive analysis of the events that led us up to the position we are in today, in going back and discussing the events of the last 2 years, particularly the events of the last several months that led to the July 3 Governors Island accord. I also want to thank her for her very thorough analysis of the 1 hour and 15 or 20 minute meeting that a rather large group of us from the U.S. Senate had with President Aristide. It was a very frank and open and blunt conversation, I might say, raising some of the very issues that some people have raised here today in the context of the amendment that is before us.

Our colleague from Illinois is providing an invaluable service in relating those responses of President Aristide, particularly the point that she has made about his nonviolent commitment in terms of the restoration of democracy. She said something else that I think was particularly important, because we have had a lot of discussion here today in this room about the implications of various speeches and pictures—which, by the way, he denies completely.

She said:

> This is not about President Aristide; this is about democracy. It is not about an individual here; it is about whether or not this country has a chance at all to have democracy restored.

And aside from the fact that President Aristide has unequivocally denied the allegations that have been raised against him personally, it is important, I think, for our colleagues to heed the words of our colleague from Illinois: This is an issue that transcends individuals. It is about a country that has never known, in its almost 200-year history, a minute of democracy outside of the 7 months that President Aristide served as President of this country. And we have a chance to express ourselves in this body in terms of trying to do what we can to see to it that democracy has a chance.

That is really what all this is about.

So I commend my colleague from Illinois again for her thoughtful and comprehensive statement about the situation in Haiti.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

Mr. President, I would just like to take a moment to thank my colleague from Connecticut for his gracious support. He is an expert on this situation. He is an expert on Haiti. He spent, as I understand it, years in the Peace Corps in Haiti. I daresay that was at least 30 years ago.

Mr. DODD. Be careful.

Ms. MOSELEY-BRAUN. I am joking. But he spent some time in that country. He knows it very well. He knows its people and he knows the issues. He is committed, again, to making certain that our response to the issues raised by this is an appropriate one, and is consistent and in the best and highest interest of U.S. foreign policy.

I am just very grateful to him for his leadership in that area.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I rise in opposition to the pending amendment. Only 2 days ago, the United Nations reimposed an embargo that is designed to bring the military leaders to the negotiating table. The United States and other members of the United Nations have demonstrated their resolve by enforcing that embargo. Along with the rest of the international community, we have sent a strong message to the military leaders and their plainclothes attaches—the thugs who have terrorized Haiti for 2 years—that it is committed to the restoration of democracy and that it will hold them accountable for promises made at Governors Island.

This amendment sends the opposite message. If this amendment is adopted, the message heard on the streets of Port-au-Prince would be that the United States is not committed to the restoration of the democratically elected government and the Governors Island accord contrary to President Clinton's statements. As President Clinton has stated, it would "signal a green light to Haiti's military and police authorities in their brutal efforts to resist a return to democracy."

This amendment severely restricts the President's ability to conduct his foreign policy in Haiti—it even prohibits the United States from sending destroyers to enforce the embargo without prior congressional approval. The President has articulated a good policy in Haiti. He has worked closely with the international community to use economic pressure to restore the democratically elected government to office and acted wisely by withdrawing the ship carrying United States military personnel from Haiti's harbors to ensure the safety of United States personnel.

As I understand, there are alternative amendments which address the issue of sending Armed Forces to Haiti that provide the President greater flexibility while retaining a key congressional role. Mr. President, I urge my colleagues to defeat the pending amendment.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank our colleague from Rhode Island, the chairman of the Foreign Relations Committee, for his statement.

I would just like to make one other point, because I did not make it earlier.

Mr. President, in the context of the implication of this amendment, it is without much question that Haiti has become a significant conduit for illegal drug trafficking. That is not my conclusion. That is the conclusion of those who follow these issues very, very closely. That has grown considerably, I am told, since the coup d'etat 2 years ago when President Aristide was thrown out of the country. And the principal beneficiaries of that drug trafficking are the very people today that are in control of Haiti.

The implications of this amendment—putting aside other issues that have been addressed—the implications of denying us the opportunity to utilize resources to be able to deal with that very issue, I think, ought to be considered by our colleagues in weighing whether or not such an amendment ought to be approved.

Certainly, one would hope other means might succeed. But to deny us the opportunity to deal with that problem—as we have, by the way, in other countries in the hemisphere—by utilizing U.S. military forces, I think, would be a significant mistake. Not that we would jump to that alternative, but to deny us that alternative or deny the President that alternative seems to me to be a mistake of significant consequences.

President Aristide specifically raised this issue in our meeting with him this afternoon. And I note that the Presiding Officer was also present today at that meeting, along with others who heard him talk about the serious implications of the pending amendment.

They say there is no U.S. interest here at all—that is the statement of the authors of this amendment. One of the major transit points of drug trafficking seems to me to be an interest. It is an interest of people in my State, and I presume it is an interest of people in every State in this country.

To deny the President of the United States one of the means available to him for dealing with that issue would be, I think, a significant error to make.

Second, I note that in the last 2 years, 40,000 Haitians have fled Haiti, many of whom have sought refuge in this country. Obviously, we cannot absorb every refugee who seeks to come to the United States.

I do not think it is an exaggeration at all, Mr. President, to suggest that if this amendment is adopted, if the force that today control Haiti remain in power, I think there is a very strong likelihood that we will once again revisit the kind of human floodtide that washed toward our country in the previous 2 years.

I note that during the 7 months of President Aristide's tenure, the departure of refugees from Haiti virtually stopped. In fact, emigration from this country to Haiti began to increase—people going back to their country that they had left—because they thought there was a future for them once again.

So, again, when the authors of this amendment say the United States has no interest, tell that to the people in this country who are already finding it hard enough to find jobs or keep jobs, when we find ourselves once again being inundated with refugees seeking political asylum.

I would argue that we would see that happen once again, were this amendment to be adopted. The message to General Cedras and Police Chief Francois, if they were to receive this evening the good news that the Helms amendment has been adopted: Relax; stay where you are. And the message to the people of Haiti would be: Pack your bags; leave. To the drug dealers: Relax; it's OK. Haiti is still a good place. Transit that illegal cargo to the United States.

I do not think anyone here wants to be a party to that. So, again, Mr. President, I urge the rejection of this amendment.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I will just take a few moments to speak to the Helms amendment.

There have been a number of arguments made on the floor of the Senate, so I do not think I want to repeat those arguments. Some of them have to do with constitutional questions dealing with the balance of power between the executive branch and the congressional branch of Government. Some of them have to do with national interests and how we define national interests and how we define our goals.

There has been some fairly powerful discussion on the floor of the Senate about our national interest as defined. Both Senators from Florida talked about the number, really the floodtides, of men, women, and children coming here from Haiti, having to flee persecution—having to flee, I would argue, murder.

Argument was made by the Senator from Connecticut that, as we think about what has happened in Haiti, let us understand another definition of our national interest which has to do with the drug trafficking, much of it coming from that country. How do we intend to respond to that?

I would like to just add one more dimension to the definition of national interest. I really love this country and I really believe in the people in the United States of America. I think people in this country believe that it is in our national interest—and it is in our national character—to stop killers. That is exactly what we have right now when we look to Haiti: Coup leaders who are killers. They are murderers.

I simply argue, among the many, many problems with the amendment on the floor is that right now we have 15 ships that are interdicting oil and arms sales to Haiti. That is the way it should be. By the way, that is a very bold action. If you look at that action with a sense of history, it is not insignificant. Whether or not it will be enough, I do not know. Whether or not poor people in Haiti, those who have nothing to do with the violence and the murders, will suffer—I worry about that, as a Senator. But the last thing in the world we want to do is to send a message to these murderers, to these killers in Haiti—and that is exactly who they are—that there will be no additional pressure beyond sanctions.

We do not know what the next step is yet. But the last thing we want to do is agree to an amendment that essentially says to them the role of the United States will be to take some action but no more, and they can continue with impunity murdering their own citizens.

I hope my colleagues will vote down this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

RUSSIAN DUMPING OF LOW-LEVEL RADIOACTIVE WASTE IN THE SEA OF JAPAN

Mr. STEVENS. Mr. President, I want to take a few moments to alert the Senate to a serious environmental hazard that I think our Government should monitor. Last weekend a Russian naval vessel dumped nearly 2,000 tons of low-level radioactive waste in the Sea of Japan. This action, which was witnessed by representatives of Greenpeace and confirmed by top Russian officials, is in direct defiance of an international moratorium on such dumping, a moratorium, incidentally, that the former Soviet Union pledged to uphold. In fact, the dumping came less than a week after President Boris Yeltsin visited Japan and signed a declaration expressing concern about the dumping of radioactive waste.

It is time for our Government to express a greater level of concern on this issue. This is not the first time Russia has used the seas as a dumping ground for radioactive garbage. Last year, Congress included $10 million, at my request, in the Defense appropriations bill to identify nuclear waste disposal by the former Soviet Union and determine what threat, if any, that waste poses to the United States.

Incidentally, those funds were the only resources that have been made available to our Government to make such an assessment. It is one of those notorious earmarks we have been hearing about today. Oversight of the investigation was headed by the Office of Naval Research, which we call ONR. What they have reported to us is most disturbing.

With the help of a report written by a committee led by Dr. Alexei Yablokov, Boris Yeltsin's environmental adviser, ONR found that since 1950, the former Soviet Union dumped at sea: 13 nuclear reactors from submarines; one complete submarine with a liquid metal cooled reactor; three damaged reactors from the ice breaker *Lenin*; and more than 17,000 containers of liquid and solid radioactive waste.

ONR has documented that the Russian powerplants and nuclear plants have dumped untold amounts of radioactive contaminants into major rivers which flow into the world's oceans.

Last May, I met with Dr. Yablokov in Moscow, and he assured me that Russia was getting a better handle on its control of nuclear waste. Clearly, Russia has a long way to go to meet Dr. Yablokov's goals.

Our Government's preliminary investigation of this threat and the assessment of these wastes will continue, I hope, next year under another $10 million that I have urged be set aside for ONR under this bill that is before us now. There may be additional dump sites that the United States will identify that contain radioactive waste dumped by the Soviet Union or Russia.

We are just now beginning to reveal the troubling history of what the former Soviet Union dumped. And, unfortunately, now Russia, as its successor, is dumping more.

When I learned of the Russians' latest action this last weekend, I had my staff contact an old friend in Alaska, Dr. Tom Royer, to determine whether any of that radioactive waste might come over to the North Pacific, over our way in the North Pacific. Dr. Royer is professor of marine science at the University of Alaska's Institutes of Marine Science. He is an expert in Pacific Ocean currents and circulation.

He predicted for me with amazing accuracy the path that the oil from the *Exxon Valdez* would take after the tragic spill in 1989. I might say, he predicted with amazing accuracy. He was really on point and told us where the oil would go, unfortunately.

Dr. Royer has sent me some maps which we have produced today. I want to call these to the attention of the Senate.

The first is Dr. Royer's map that shows that waste could be carried to the northeast where some of it would pass through the straits north and south of Hokkaido and will enter into the Oyashio Current. The Oyashio then goes on—and this is the second chart he sent to me—to join the northeastward flowing Kuroshio Current that eventually forms the sub-Arctic or North Pacific Current—which is this one—most important to us. This is the most important current to the North American Continent in the Pacific. That is the bad news.

This current carries water across the North Pacific where it splits. Some of it goes south down by California. The other goes up to the Alaska Current, up into Alaska waters. It will go through Falls Pass and then up on into the Arctic. It will be regurgitated by the polar seas and then come back down south again. That is the bad news, Mr. President. This radioactive waste could eventually find its way into our waters.

The good news, Dr. Royer tells me, is that it probably will take several years to reach us and the level of radiation so far detected is low.

Mr. President, as Dr. Royer's analysis suggests, United States fisheries will not be affected immediately by this latest Russian dumping. But how many more times can we sit by and watch Russia dump more and more radioactive wastes into our oceans?

Today, we can boast in Alaska of the purest fish in the world. Our fish come from cold, clear, pure water. But I am afraid the Russian and Japanese fishermen will not now be able to make the same claim. That is not in our best interest. Fish caught in the North Pacific are the envy of the world, and I believe they should stay that way, not only for our North America, but for all the Pacific nations. We should join together and send a clear message to Russia that nuclear dumping in the North Pacific area will not be tolerated.

Russia's defense for this recent act is that the storage facilities on land—two in the North and two in the Far East—are full and there is no place else for them to dump this radioactive waste.

I am quite hopeful that we can secure the cooperation of the Secretary of State to ask for this administration's help to protect the fisheries resources of the North Pacific. We ought to put an end to this practice and protect the fisheries of the North Pacific for future generations.

I think that we ought to see to it and ask that the President put this issue on the next summit with Russia to raise the question. We really ought to open the eyes of the administration and the American people to the fact that this nuclear dumping now will continue. If what they tell us as their defense is true—that there is no storage space left for them on land; that there is no place else for them to dump spent radioactive fuel and they are going through this downsizing of their nuclear systems—we can expect more radioactive dumping, more and more and more.

This is an issue that cannot wait if we are to protect the fisheries of the North Pacific. I am pleased to see the current occupant of the chair, who I know is very, very interested in this issue, is here today to see these charts that have been sent to me by Dr. Royer.

As I said, I think he is the most eminent American scientist in knowledge of the currents of the North Pacific. He tells me that it is just a matter of time—this dumping place, Mr. President, again was down here. As time goes by, the currents will carry it out across the Pacific where the current will split and take these wastes. The radioactivity of these wastes will come to us just as they did in the days gone by when the Russians had their nuclear test in the air.

I remember so well the problem of strontium 90 being found in the meat of caribou and reindeer being consumed by our Eskimo people. We wondered where it was coming from, and our studies showed the prevailing winds at that time brought the fallout of the nuclear tests in the air conducted by the Soviet Union to Alaska.

Eventually, unfortunately—I hope it is not too soon—the radioactivity of this spent radioactive fuel will come to the North Pacific and will come to our shores. We ought to make sure that this is the last; that they do not continue this ocean dumping of radioactive spent fuel.

Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I would like to take some time to discuss some of my feelings about the situation in Haiti, perhaps to respond to some of the comments that have been made earlier on the floor of the Senate.

I understand at the present moment there is a briefing going on in S-407 by Under Secretary of State Watson regarding Haiti. I would like to be there for it, but I am told if I do not exercise my right to the floor at this time I may not get that right to speak about Haiti.

So while I wish to be involved in that briefing, I do want to talk about the situation in Haiti, what I think our interests are there, and to comment on some earlier statements made about President Aristide and the situations that occurred while he was in office.

I have been disturbed by some of these comments regarding our interests in Haiti. Some have effectively said we have no interest there. Some have said we have no interests worth pursuing even with the use noncombat U.S. military forces, even a statement somebody made that President Aristide is not worth one U.S. soldier's life.

Mr. President, if we cannot support a duly elected democratic government of a nation just 800 miles from our shores, what kind of a message does that send to other potential coup leaders, military leaders who might be considering the overthrow of other democratically elected governments? How can we turn our backs on all those Haitians who have bravely backed the government of President Aristide through their votes, through their voices, and all too many with their lives?

At a recent briefing, President Aristide said that since the coup over 4,000 Haitians have been killed; just since the Governors Island accord this summer, over 100 Haitians have been killed by the killers, the thugs, the attachés and the members of the military in Haiti. So we cannot any longer turn our backs on the carnage that is happening there.

We must, indeed, stand up for the right of the people of Haiti to determine their own future. They did decide their future by electing President Aristide in an election that everyone has conceded was open and fair, in which the military—again I compliment General Cedras for that—did not intervene and in fact protected the people's right to exercise their vote. About 68 percent of the people voted for Mr. Aristide to be their President. As Ambassador Albright said, he received more votes than any other democratically-elected President in this hemisphere.

But to really understand Haiti one must understand a little bit of the history. The people of Haiti have never really had an elected government as we know it for almost two centuries. They received their independence in 1804 and the United States Marines occupied Haiti 18 years, from 1915 to 1934. When they left, they left behind a corrupt U.S.-trained military.

Again, I might add, Mr. President, that during all of our incursions in Haiti in the earlier parts of this century and since, our dealings with Haiti have been to prop up military rulers and other governments like Duvalier who basically did the bidding of certain private interests here in this country.

I am reminded of a comment that was attributed—I cannot say whether it is real or not—to a Marine general who had said, at least was purported to have said, that he spent all of his life in Haiti fighting for the United Fruit Co. No wonder the peasants and poor people of Haiti did not have too high an opinion of the United States of America, because for all those years we had propped up, recognized, dealt with governments that brutally repressed their people.

Haitians suffered for 29 years under the absolute dictatorship of a Duvalier, "Papa Doc" from 1957 through 1971, and his son "Baby Doc" from 1971 through 1986. Again, that whole history is one of torture, repression, and most violent kinds of acts by the Duvalier Tonton Macoutes against the people of Haiti.

But in 1986, after many years of struggle, the people of Haiti finally threw out the Duvalier regime. A new constitution was unveiled in 1987. Five interim governments were formed and fell over the next 4 years because none were popularly based. In December 1990, Jean-Bertrand Aristide was elected President of Haiti with 67.5 percent of the vote, the largest majority any elected leader ever got in the Western Hemisphere. The U.S.-backed candidate—sort of backed by the United States—was far, far behind.

The election was widely held as fair and honest, with the 7,000-member Haitian military, effectively protecting the election process. A large contingent of international observers may have helped to constrain the military, the same mechanism proposed now to restrain the Haitian military when President Aristide is scheduled to return on October 30.

But after only 8 months in office, President Aristide was overthrown and sent into exile on September 30, 1991, by those same military forces. General Cedras, whom we have seen often on CNN lately, reportedly was a reluctant participant in that coup. He said that Aristide was deposed for "meddling in army affairs." Given all of the atrocities committed by the Haitian military over this century, obviously some meddling was definitely called for by the civilian elected President to make the Haitian military subservient to the President and accountable to the elected representatives of the Haitian people.

Now, some observers charge that President Aristide incited some of the violence during his brief 8 months in power. Some say that he even incited the members of the coup who forced him into exile.

Quite frankly, I have reviewed some of the speeches, not all of them, that Father Aristide gave during his Presidency. He gave some rather strong speeches as the leading opponent and critic of the Duvalier family dictatorship. I am sure his rhetoric made Duvalier sympathizers very uncomfortable, and some of it was pretty strong language. I have been known to use some pretty strong language myself in debates here in the United States, and certainly he did. But, again, when you look at the history of Haiti and what they had to overcome, you can understand strong language to get the people to understand that they did not have to live under the violence and terror of the Tontons, attachés, and the military of Haiti.

President Aristide wanted his people to join together because he understood that in unity there is strength and that it was the military and the attachés that continued to divide the people up so they could not form these strong popular organizations to protect and defend themselves.

But to blame President Aristide for inciting violence? That reminds me of J. Edgar Hoover's efforts to falsely charge that Rev. Martin Luther King, Jr., started the violence that accompanied the civil rights movement. Both charges are outrageous.

During his 8-month government, President Aristide reduced crime in the city and started to bring the military under civilian control. More importantly, the civil society that sprang up in the rural regions of Haiti after 1986 flourished under President Aristide's rule. Again, he wanted people to have more power, to empower the poor, to give them some control over their lives. Peasant cooperatives, church groups, students, literacy programs, rural development programs, and other popular organizations began to take control of their own lives.

During the 8-month period of Aristide's government, there was a marked decline in violence and murders in Haiti. Only 25 deaths were recorded by human rights observers—25 during his 8-month period versus 241 murders in the 10 months of the Truilliot government that preceded Aristide and 89 deaths recorded during the 10 months of the Avril government before that. Our State Department has stated that there were no reported cases of disappearances during Aristide's period in power whereas dozens of disappearances have occurred since the coup.

During the coup that overthrew Father Aristide on September 30, 1991, the State Department claims, over 300 were killed, while Amnesty International says the toll was well over 1,500 killed by the military during that coup.

Since President Aristide was driven from the nation that he was elected to lead, human rights violations escalated in Haiti. The Lawyers Committee for Human Rights stated, in September 1992, that "the human rights situation in Haiti is worse than at any time since the Duvalier era." Again, this report from the Lawyers Committee for Human Rights went on to say:

> The military has executed, tortured, and illegally arrested countless Haitians. Government harassment and intimidation of journalists, human rights monitors and lawyers, priests, nuns, and grassroots leaders is intense. Popular expressions of support for ousted President Aristide are routinely met with violent reprisals by the military.

That is a report of the Lawyers Committee on Human Rights.

Similarly, Amnesty International stated, in October 1992:

> The security forces and thousands of civilians acting in collusion with them carry out a wide range of abuses with total impunity. The old repressive structures, which the deposed [Aristide] government had partly succeeded in dismantling, are back in place.

Again, from Amnesty International.

Mr. President, these statistics on death do not begin to tell the full story of the horror ripping Haiti today, threatening it with a return to the Duvalier past. Fully 70 percent of Haitians live in rural areas. Although they pay most of the taxes, these impoverished citizens receive virtually no Government services.

After "Baby Doc" Duvalier was driven into exile by a popular uprising in 1986, the rural peasants began to organize. They began to build silos to store their grain until prices increased. They began literacy programs. They formed trade unions and even started independent radio stations. Church programs and self-help activities expanded. In other words, the Haitians began to construct a civil society.

Much of this newly developed civil society was a threat to the military elites who gained their power through control of the peasant population. After the September 1991 coup, the army systematically attacked this civil structure with arrests, beatings, torture, disappearances, and murder.

After the 1991 coup that sent President Aristide into exile, all meetings were banned. Grain silos that the peasants had constructed to store their grain were systematically destroyed. Rooms where these groups were meeting were gutted and doors torn off their hinges so they could not close the doors. The army stole the weapons of these peasant groups. I do not mean guns and weapons, because they did not have any. What the army took away from them were typewriters, printing presses, and other equipment that they used to communicate with the people.

Nine independent radio stations, the main vehicle of communication with the peasant population, were closed after the September 1991 coup. Nine radio stations just closed. Remaining radio stations are under Government control or no longer broadcast news or information critical of the military regime.

The popular organizations, which were the backbone of the support for President Aristide, were driven underground. Many have been meeting secretly in small groups, but most have disbanded, giving up the power over their own lives that they had gained. This, Mr. President, is the real tragedy of the military control of Haiti. The destruction of the civil society that is necessary for the self-development, self-rule, education, and economic development of the Haitian peasants.

Mr. President, let me turn now to the Governor's Island accord. As the violence grew and constant calls for President Aristide's return to power were ignored by the Haitian military and police, the July 3, 1993, agreement signed by President Aristide and General Cedras seemed to offer some hope. This 10-step program would require General Cedras and the more dangerous police chief, Col. Michel Francois, to step down and would lead to the return to power of President Aristide on October 30, just 10 days from now. The accord also called on the United Nations to provide training for both the military and the creation of a new police force. While General Cedras signed this accord, as did President Aristide, Colonel Francois did not, and his 2,500-person police force and his thousands of quasi-police attachés have been responsible for another round of escalating violence.

Since the Governors Island accord was signed on July 3, over 100 Haitians have been murdered, including, as we know all too well, the public execution of Antoine Izmery, who was dragged out of church during mass and shot in cold blood while the military and police stood watching. And just recently, the Justice Minister Guy Malary was killed with his bodyguards and assistant; again, gunned down in cold blood. Worse yet, Duvalierists are filtering back into Haiti, ready to pick up where they left off in 1986, when "Baby Doc" Duvalier was overthrown.

Frank Roumaine, the former mayor of Port-au-Prince, returned in September. He has remained one of the most notorious members of the Tonton Macoutes, one of the most vicious of the killers in Haiti and Haitian history. He returned in September and, reportedly, is now organizing the old Tonton Macoutes. Reportedly, he was responsible for the attack on Father Aristide's St. Jean Rosco Roman Catholic Church that left 12 people dead.

An openly Duvalierist party has been formed, called the Front for Restoration of Democracy—how about that one for a play on words; it should be called the Front for the Restoration of Duvalierism—to restore the old Duvalier Tonton Macoutes regime.

Since General Cedras and Colonel Francois were not able to maintain order and quell the violence, the return of President Aristide is in great doubt.

At this critical juncture, some of my colleagues would have us throw in the towel and give up on the first democratically elected leader of Haiti—elected with 67.5 percent of the vote. Give up on democracy? Give up on the hundreds of thousands of Haitians who risked their lives to support President Aristide, who have worked for his return?

Mr. President, I do not believe that abandoning Haiti is in the best interests of our own national security. Haiti is no Somalia. We have no strategic interests in Somalia. Our military operation there was purely humanitarian, or should have been. Quite frankly, I was very proud almost a year ago when President Bush sent 25,000 American troops to Somalia to stop the starvation. And we did. I think that is a great story that we ought to be proud of, that we went there and stopped hundreds of thousands of people from starving to death. We have taken seed and fertilizer, and we have them growing crops in Somalia. We should have maintained a purely humanitarian effort in Somalia.

Be that as it may, Haiti is much more important to the United States of America. Haiti is in this hemisphere, 800 miles off the coast of Florida. Our national security would be degraded in at least three aspects if we let Haiti fall back into the hands of the murderers, the police, the military, and the Duvaliers.

First, a return to chaos would dramatically increase Haitian refugees beyond anything we have ever seen. Hundreds of thousands of Haitians are already preparing to flock to this country, flocking to airports to flee. Are we ready? Are we ready and prepared to clothe and feed a half million Haitian refugees? They will come. First of all, they will hit the Bahamas and sink them, and then move on to the United States.

Will President Clinton send destroyers out there to stop their boats, to sink them and let them drown? Will President Clinton turn them around and take them back to Haiti and dump them off? For surely he knows they will be killed. No, I do not think so. We would not stand for it.

What will happen when those 500,000 refugees come fleeing to America? Are we prepared to deal with that? In no way are we prepared. Again, Haiti is of great concern to our national interests.

Second, Haiti is a significant part of the drug highway from South America. A return to corruption and military rule will increase the flow of illegal drugs to our streets across America. Already, estimates are that over $500 million a year goes into Haitian military coffers because of the illicit drug trade from Haiti into America.

Are those who say we have no interests there, and those who say that the return of President Aristide is not worth one American life, saying that stopping the flow of drugs into this country is not important and not worth the loss of one American soldier? Well, Mr. President, what about Panama? Why did we go there? Twenty-two American soldiers and three U.S. civilians lost their lives in Panama. Why? To go after Noriega and get him because he was sending drugs from South America to the United States. Twenty-five Americans lost their lives there.

American people and this Congress said that was all right because we were stopping the flow of drugs. The amount of drugs coming from Panama into the United States is minuscule compared to the amount of drugs coming through Haiti right now, this very minute, into the United States of America.

Who is behind it? It is not the peasants; they do not have the wherewithal. We know who it is. Our CIA knows, and so does the State Department. It is the military leaders and some of their friends in high places in the police forces that are conduiting these drugs right into the streets of America, killing our young people.

Yes, Mr. President, we have a national security interest in Haiti; and, yes, we have a national interest in making sure that President Aristide is returned to power, if for no other reason, because President Aristide will stop the flow of drugs into this country. He will stop the drug trafficking.

We just learned that the President has seized or frozen all of the assets of their military in the United States. You wonder, because military people in Haiti, as I understand it, make less than about $20,000 a year in United States money, how some of them have bank accounts in this country worth millions of dollars. That is quite a savings account. I do not know how you save up millions of dollars in bank accounts in this country when you are paid less than $20,000 a year.

Where are they getting their money? We know where they are getting it. They are getting it from the drug trade. I say it is time to stop them. It was worth going after Manuel Noriega. It is worth 10 times as much to go after the ruthless killers and drug cartel in Haiti, who are shipping death and destruction to our streets in America even as we speak.

Third, Mr. President, if we abandon Haiti to the military dictators, we will be sending a strong signal to the rest of this hemisphere that the United States has lost the guts and the will to support and protect democratically elected governments in our backyard.

What they will learn is that all they have to do is send a few thugs to the docks to scare away the U.S. military, and we will turn around and run and tuck our tails between our legs. This is indeed a sad message for newly emerging democracies in this hemisphere and elsewhere around the world.

So, Mr. President, I oppose the underlying message and the substance of the Helms amendment. This amendment suggests that we should abandon Haiti at this critical juncture in its history; and, in our leadership in this hemisphere, abandon our efforts to stop the drug trade from coming into this country, as we surely know it is coming through Haiti.

This would send exactly the wrong message to the rest of our hemisphere. The President should have the option of using or threatening the use of force if the killers and thugs in Haiti's military and police forces continue their rampage in Haiti.

If we tie the President's hands at this point, then Haiti military will be given a green light to continue the torture and the murder with impunity. They will be given the green light to continue their drug trafficking to this country with impunity.

President Clinton must have the authority as Commander in Chief to protect the 1,000 or so Americans in Haiti. By leaving the President the option of using force to protect Americans, the military leaders in Haiti will have cause for concern and may curb some of their worst excesses and I hope will lead to a reimposition of the Governors Island accord.

Mr. President, we have vital interests in what happens in Haiti. It is not like Somalia. And I daresay it is not even like Bosnia. While I abhor what happened in Bosnia, and I think we could have taken a different course of action a long time ago, we must, I think, put the burden on our European allies to pay attention to what is happening in Bosnia. That is in their national interest. But here Haiti is in our national security interest.

There has been a lot said about some words President Aristide has used in speeches he has given. I have tried to read as much as I can about President Aristide, who he is and what kind of an individual he is.

I have met him on two occasions. I was impressed at the time in my meetings with him by his intelligence, by his sincerity, and by his demeanor. He did not appear to me to be anyone who incited violence. But I heard so much about it I decided to start reading.

Mr. President, if you really want to know what someone is about, especially if it is someone who has attained a high position in life, a President, maybe a Senator, take a look at what they were before. What did they do? What has their life history been? Where did they come from? What has been their intellectual development?

I picked up this book called "In The Parish of the Poor." I recommend it to everyone. It was written by Jean-Bertrand Aristide before he was elected President of the Republic of Haiti. It was written while he was a parish priest. And I think if you read this you will get an idea of just who President Aristide is and where he is coming from.

I am going to read a small part of this because I think it is important. I cannot read the whole book, and I would not put the whole book into the RECORD, but I would recommend it for anyone to read. Basically the whole book is talking about his parish that he ran for the poor in Haiti and how the people were beaten and tortured, the disappearances, the murders, the brutal repression of the people in his parish. But I think there is one passage in here that sort of says something about who Aristide is. Remember, this was written before he was President, before he probably had any idea that he would ever be President.

I will not read the whole chapter, but he talks about the poor in Haiti, and he talks about Haiti as being the parish of the poor. He talks about being a Christian and what it means to be a Christian.

Here is, I think, the most telling passage:

> Open your eyes with me, sisters and brothers. It is morning. The night has been a long

> one, very long. Now, the dawn seems to be climbing up slowly from beneath the horizon. Wisps of smoke are rising up from the little houses of the village, and you can smell good cornmeal cereal cooking. The sky grows pink. An hour later, the children in their tidy, well-fitting uniforms run off to school, clutching new books in their arms. Women wearing shoes head off to market, some on horseback and donkey, others on motorcycle and bicycle. They all take the new paved road, down which buses take other women and men to market for the day. If you listen closely, you can hear the sound of running water, of faucets being turned on in houses. Then the men emerge, carrying shiny new tools, laughing together, their bodies strong and well fed. They head off for the fields. A new irrigation project has been installed and the crops are growing where before there was almost a desert. Throughout the village, you can hear laughter and the sound of jokes being told and listened to.
>
> This is the village I call Esperancia. The day is coming when this village will exist, though now it is called Despair and its residents wear rags and never laugh. Yet when we look around this village I call Esperancia, we can see that not very much has changed since it was called Despair. This is what has changed: Everyone now eats a decent poor man's breakfast. There is a new road. The children now have books. The women have shoes. There is water, and running water. There is an irrigation project.
>
> This is not very much to change. Yet just those few changes can turn Despair into Hope, and all it takes to change them is organization. In a year, the village of Esperancia could exist in any of our lands. Esperancia, El Salvador; Esperancia, Honduras; Esperancia, Guatemala. It is an honorable address in the parishes of the poor.
>
> Let us leave our old homes of cardboard and mud floors. Let us make a plan to douse them with gasoline, and burn them to the ground. Let us turn our backs on that great fire and on that way of life, and hand in hand, calmly, intelligently, walk forward into the darkness toward the sunrise of Hope. Let us trust one another, keep faith with one another, and never falter.

That says more than anything who President Aristide really is, someone who wants to turn his back on the despair and ravages of the hundreds of years of hatred and violence, misery and suffering, and lead his people into a new village.

Mr. President, I would also suggest another book, "Jean-Bertrand Aristide, An Autobiography." I am only halfway through that. But again there is another passage in here I think that says something about who this individual is. He talks about Gandhi and Martin Luther King. He said that they are:

> * * * in a class I will never attain, and fighting for a long time, a very long time against the same enemy, but under other skies.

He is talking about Martin Luther King and Gandhi.

> Both were killed by assassins.* * * I do not aspire to martyrdom. Those heroes were not my contemporaries, but my strategy is the same as theirs: nonviolence. Nonviolence is collective resistance, not resignation.

A good lesson, right? Nonviolence is collective resistance, not resignation.

> The gospel demands it. I very quickly discovered the congruence between the attitude of Jesus and nonviolence: his way of loving his enemies, his way of giving dignity to the outsiders, of pardoning those who injured him, of speaking a word of truth whether it was pleasant or not—all of these things harbor an unbelievable power.

So again, someone who admires Gandhi and Martin Luther King preaching the gospel of nonviolence. It does not say resignation. Martin Luther King never preached that either. He did not say to the African-Americans of this country: Just sit down and go home, do not demonstrate, do not sit in the front of the bus, do not demand your rights as human beings and as citizens of this country.

Through the nonviolence demonstration of collective power, Martin Luther King organized black Americans to demand their rightful place in our own country. Yet it was Bull Connor and so many others and even, yes, J. Edgar Hoover, the head of the FBI, accusing Martin Luther King of inciting the violence.

It was not Martin Luther King that incited the violence, it was the segregationists. It was those who wanted to keep black Americans in a lower level, who did not want them to exercise not only their God-given rights, but their constitutional rights in the country. They were the ones inciting the violence, not Martin Luther King.

It is the military in Haiti, it is the police in Haiti, it is the attachés and the Tonton Maacoutes Duvaliers who are inciting the violence. It is not President Aristide. President Aristide is simply showing a nonviolent way of giving dignity and hope to the Haitian people.

Mr. President, earlier today the Senator from North Carolina took the floor. I was watching with interest in my office as the Senator alluded to a speech given by President Aristide on September 27, 1991, given in Port-au-Prince at the National Palace. References were made at that time about President Aristide talking about using necklacing—putting rubber tires around people's necks and dousing them with gasoline and lighting them.

I think the remarks made at that time and that were attributed to President Aristide were as if President Aristide said that this is what we should do. There were allusions made to "Isn't it a wonderful smell and a pretty sight."

Later, about an hour ago, I went to the recording studio to view a videotape that the Senator from North Carolina had. He was kind enough to let me see it. I wanted to see the actual speech of President Aristide where he said we should use necklacing.

Well, I watched it. It is not a very good tape. What is interesting is the tape is spliced with speeches—a part of a speech by President Aristide and then a picture of burning tires. There are some other pictures, of a mutilated human body. I could not quite tell. It was pretty gruesome. Then there was some part of a McLaughlin Group and a short speech by Pat Robertson. I did not watch it beyond that. But I listened to the speech and, of course, I do not understand Creole, so there was a translation put at the bottom of bits and pieces of the speech.

Mr. President, I have here in my hand the translation of that speech given by President Aristide on September 27, 1991, given on the occasion of his return from the United Nations to Haiti. Remember, it was only 4 days after he gave this speech that the coup occurred. And remember that at this time the coup was really already underway. The coup was already underway when President Aristide returned to Haiti on that day on the 27th of September 1991. So what I have here is a translation by FBIS, that is the Foreign Broadcasting Information Service, by our State Department. I cannot vouch for anything more than the translations they have given us. And so here is all the speech.

I ask unanimous consent that this FBIS translation of the speech of President Aristide on September 27, 1991 be printed at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD as follows:

ARISTIDE ADDRESS AFTER VISIT TO UN

[Address by President Jean-Bertrand Aristide at the National Palace in Port-au-Prince on 27 September, on his return from the United Nations—live or recorded]

[Excerpts] [passage omitted including indistinct portions] to repent and say: I acknowledge that I made this money through malpractice and, from now on, watching the national pride dancing like a flag. I will cooperate by using the money [word indistinct] to create work opportunities, and to invest in economic activity so more people can get jobs.

If you [referring to bourgeoisie] do not do so. I feel sorry for you. Really I do. [laughter from crowd] It will not be my fault because this money you have is not really yours. You acquired it through criminal activity. You made it by plundering, by embezzling. You got it through the negative choices you made. You made it under oppressive regimes. You acquired it under a corrupt system. You made this money through means that you know were wrong. Today, seven months after 7 February, on a day ending in seven, I give you one last chance. I ask you to take this chance, because you will not have two or three more chances, only one. Otherwise, it will not be good for you. [applause]

If I speak to you this way, it is because I gave you a seven-month deadline for making amends. The seven-month deadline expires today. [applause] If I speak to you this way, it does not mean that I am unaware of my power to unleash public vindication, in the name of justice, against all these thieves, in an attempt to recover from them what is not theirs. A word to the wise is enough. You understand me because you and I speak Creole. [applause]

The saying goes: God's justice is slow. It appears that justice is going too slow. It is, however, a reasonable justice because seven months—during which people have been hungry and unemployed, while you had the power to reduce unemployment and hunger—have passed. As I told you, the deadline expires today. The ball is in your court. The 7 February ball is at your feet. If you want to shoot; go ahead. [applause]

Did all of the bourgeoisie make their money through ill practices? [crowd shouts "no"] [repeats sentence twice] Congratulations, intelligent people! [repeats sentence three times] [applause] We call the bourgeoisie who made their money through foul practices, and who refuse to invest in the country, false patriots [patripoch]. We call the bourgeoisie who earned their money through honest work, and who are cooperative, patriots. [applause] Congratulations to the patriotic bourgeoisie. Congratulations to the bourgeois patriots. They are few. Unfortunately, they are not the majority. Nevertheless they do exist. [passage omitted]

I want to use this very occasion to also address political parties. I want to hail and encourage them to walk on in unity—unity among them and with the entire population—to consolidate themselves so that, in accordance with the Constitution, we will build together a strong opposition on the basis of the law. We will thus foster democracy, unity in political pluralism, unity in political diversity.

Therefore, political leaders, I am passing to you the ball of understanding with great love as usual. If you do not catch the ball, dribble, and score goals, do not later accuse me because you will have failed to live up to expectations in order to gain in popularity that you [word indistinct]. [crowd cheers] I wish you all good luck, good luck to all the [words indistinct] parties.

I hope that deputies and senators will continue to work together with the people in order to personally feel the joy of working to satisfy the aspirations of the masses, because we prefer to fail with the masses than succeed without them, but with the masses, we cannot fail. [crowd cheers] I am encouraging all the ministers [crowd cheers] I know, I know, all right! For those of you who are outside the palace, the brother here said that the deputies cannot do me any harm. I told them I know that. [loud cheers from crowd]

I am encouraging every minister to continue with the purge that we have already started. I am also encouraging each state employee [words indistinct] because you are the ones pressing on the economic pedal now, so that the economic car can run twice as fast. I am encouraging each state employee—please, I am speaking to you as a brother of yours—I encourage you to realize that, as a state employee, you must work twice as much so that the job can be done well and fast. You will thus increase, if not double, the output of public administration. We will all benefit from the increased effort that you all make. I encourage you to do so in the provinces and in the capital, wherever state employees work. If you feel that your work goes slowly, speed it up. You do not need anyone to supervise you. Be your own superviser. This is because contrary to the past, when people used to say that embezzling state money is not stealing, today we know very well that diverting state money is stealing, and thieves do not deserve to stay in public administration. [crowd cheers] [passage indistinct].

You must greet visitors in the same warm way that Haitians are greeted—with the type of welcome we received abroad. Greet people with a smile in state offices. Give people the information that they need with a welcoming smile of understanding. You too, address the state employee with great courtesy so that we will make double economic effort. [passage omitted]

However, if I catch a thief, a robber, a swindler, or an embezzler, if I catch a fake lavalas, if I catch a fake. . . [changes thought] If you catch someone who does not deserve to be where he is, do not fail to give him what he deserves. [crowd cheers] Do not fail to give him what he deserves! Do not fail to give him what he deserves! Do not fail to give him what he deserves!

Your tool is in your hands. Your instrument is in your hands. Your Constitution is in your hand. Do not fail to give him what he deserves. [loud cheers from crowd]. That device is in your hands. Your trowel is in your hands. The bugle is in your hands. The Constitution is in your hands. Do not fail to give him what he deserves.

Article 291 of the Constitution, which is symbolized by the center of my head where there is no more hair, provides that macoutes are excluded from the political game. Macoutes are excluded from the political game. Macoutes are excluded from the political game. Do not fail to give them what they deserve. Do not fail to give them what they deserve. You spent three sleepless nights in front of the National Penitentiary. If one escapes, do not fail to give him what he deserves. [loud cheers from crowd]

You are watching all macoute activities throughout the country. We are watching and praying. We are watching and praying. If we catch one, do not fail to give him what he deserves. What a nice tool! What a nice instrument! [loud cheers from crowd] What a nice device! [crowd cheers] It is a pretty one. It is elegant, attractive, splendorous, graceful, and dazzling. It smells good. Wherever you go, you feel like smelling it. [crowd cheers] It is provided for by the Constitution, which bans macoutes from the political scene.

Whatever happens to them is their problem. They should not look for it. [crowd cheers] As such, under the same flag of pride, dignity, and solidarity, and hand in hand, we will encourage one another, so that starting today, we will all receive due respect—the type of respect I share with you—and fulfill common aspiration for justice. Words will thus cease to be just words and will instead be translated into action.

Action on the economic front required me to get the ball and pass it over to you. You should dribble and kick hard at the ball once you are in front of the goal, and make sure to score a goal because if the people do not see the ball in the net, as I told you, it would not be my fault if you are given what you deserve, as provided for in the Constitution. Alone we are weak, together we are strong, tightly united we are an avalanche. Are you feeling proud? Are you feeling proud? Go home now as your hearts are full of happiness, energy, and joy and show that you are working for the progress of the country, and to make it elegant, graceful, and dazzling, show that you want to restore its former image. [loud cheers from crowd]

(Mr. CAMPBELL assumed the chair.)

Mr. HARKIN. Mr. President, it is quite a rambling speech. Obviously, he was not speaking from a prepared text. But I want to read some parts of it to put it in context.

He said:

> I want to use this very occasion to also address political parties. I want to hail and encourage them to walk on in unity—unity among them and with the entire population—to consolidate themselves so that, in accordance with the Constitution, we will build together a strong opposition on the basis of the law.

Let me repeat that—

> We will build together a strong opposition on the basis of the law. We will thus foster democracy, unity in political pluralism, unity in political diversity.

Does this sound like someone who wants to take over and be a dictator and burn people with tires? He is telling people to form political parties.

He says:

> Therefore, political leaders, I am passing to you the ball of understanding with great love as usual. If you do not catch the ball, dribble, and score goals, do not later accuse me because you will have failed to live up to expectations in order to gain in popularity * * * I wish you all good luck, good luck to all of the parties.

Now I have heard it said that President Aristide did not want other political parties forming. He just said there he wished them luck.

But let me get to the part that has been misinterpreted, I believe, as saying that somehow he was encouraging necklacing, this idea of putting rubber tires around people's heads and burning them.

I asked President Aristide about this situation. He said that he never advocated that, and, second, during his 8 months as President, there was not one recorded incident of necklacing. Let me repeat that. During President Aristide's 8 months as President, there was not one recorded incident of necklacing. We have challenged the State Department and everyone else to find it. No one can find any instance of necklacing. There was some before he came to power, before he became President, but not while he was President.

But I want to read this passage, because I believe it was not only taken out of context, words were taken out. Let us look at the exact translation. He said:

> However if I catch a thief, a robber, a swindler, or an embezzler, if I catch a fake lavalas.

That is someone belonging to his party—

> If you catch someone who does not deserve to be where he is, do not fail to give him what he deserves. Do not fail to give him what he deserves. Do not fail to give him what he deserves. do not fail to give him what he deserves.
>
> Your tool is in your hands. Your instrument is in your hands. Your Constitution is in your hand.

This phrase "Your Constitution is in your hand" is left out. That is what is conveniently left out every time I have seen this speech repeated. There is this illusion of your tools in your hands, your instruments in your hands, give them what he deserves, but that part is left out.

> Your Constitution is in your hand. Do not fail to give him what he deserves. That device is in your hands. Your trowel is in your hands. The bugle is in your hands. The Constitution is in your hands. Do not fail to give him what he deserves.

> Article 291 of the Constitution, which is symbolized by the center of my head where there is no more hair, provides that macoutes are excluded from the political game. Macoutes are excluded from the political game. Do not fail to give them what they deserve. Do not fail to give them what they deserve. You spent three sleepless nights in front of the National Penitentiary. If one escapes, do not fail to give him what he deserves.

Then he goes on to say this:

> What nice tool! What a nice instrument. What a nice device. It is a pretty one. It is elegant, attractive, splendorous, graceful, and dazzling. It smells good. Wherever you go, you feel like smelling it. It is provided for by the Constitution, which bans macoute from the political scene.

I asked President Aristide about this. He said you must understand that in Creole we speak in poetic terms. And when I read his book "In the Parish of the Poor," there is a lot of poetry, speaking in poetic terms. So when he was talking about the tool, it was the fact that the Constitution—the Constitution—banned the Tonton Macoutes from political power. And he said, "Isn't it wonderful? Isn't it dazzling? It smells good. It is graceful. It is dazzling that finally our constitution bans those murderous Tonton Macoutes from our political structure?" He says, "It is provided for by the constitution, which bans macoutes from the political scene."

Yet, those who would continue to support the military in Haiti, who would support those who traffic in drugs, I know unknowingly—no one here would support anyone who traffics in drugs, but it is well known that the military in Haiti do traffic in drugs—but they have taken this speech of Aristide and they have made a mockery of it by taking it out of context. If you read it, you can see what he was talking about.

But if there are those who say that Aristide was provoking violence, promoting violence, read the last sentence of his speech. Mind you, he is standing in the National Palace. He has a huge crowd around him. The coup was already basically underway. He has just returned from the United Nations. He has told the people go out and organize political parties, it is your right. He has told them you have the constitution in your hands, it bans the Macoutes from the political process. And then what does he tell them? Does he tell them to go out and riot? Does he tell them to go out and kill people? No. Listen to this. He says:

> Action on the economic front required me to get the ball and pass it over to you. You should dribble and kick hard at the ball once you are in front of the goal and make sure to score a goal because if the people do not see the ball in the net, as I told you, it would not be my fault if you are given what you deserved as provided for in the Constitution. Alone we are weak. Together we are strong, tightly united we are an avalanche. Are you feeling proud? Are you feeling proud? Go home now as your hearts are full of happiness, energy, and joy, and show that you are working for the progress of the country, and to make it elegant, graceful, and dazzling; show that you want to restore its former image.

Does this sound like someone inciting his people to violence? He tells them to go home with your hearts full of pride, with the constitution in your hands. He says, "Go home."

He did not say march down the street. He did not even tell them that. And, yet, this is the very speech we are told incited the military to overthrow him and send him out of the country. I am glad we got the translation. I am glad we have this, because if we did not have this, all we would have is some of the interpretations by those who obviously do not want to see President Aristide returned to his rightful place as the elected President of Haiti.

Oh, yes, one other thing. Earlier today the Senator from North Carolina put a picture on an easel over there. I saw it on my television screen in my office. It was a picture of a chair with some burning tires in front of it, a bottle that reportedly contained gasoline, a book of matches, a fire, a picture of Aristide over in one corner, some writings. It was kind of a montage. I do not see it here now.

A couple of hours ago I asked President Aristide about that picture. He absolutely had no knowledge of it.

I asked Ambassador Bob White. I called him up at that time and I said, "Had you ever visited President Aristide when he was in office as President, during his 8 months?"

He said, "Many times I have been in his office at Port-au-Prince."

I told him about this painting. "Have you ever seen a painting like this in his office?"

"To the best of my recollection I have never seen anything like that. If I had, I probably would have asked him about it."

President Aristide says it never was in his office. So I do not know where this picture comes from.

Again, I think perhaps the picture was given to the Senator from North Carolina, by those who do not have the best interests, of this country at heart in terms of making sure that President Aristide is returned to his rightful place as President of Haiti.

I wanted to take this time, first of all, to describe, why we have a national interest, a security interest in Haiti; why the Helms amendment ought to be defeated overwhelmingly; and, lastly, why I believe we ought to, again, fall back on the Governors Island accord.

This summer, in July, President Aristide and Lt. Gen. Raoul Cedras, commander in chief of the Armed Forces of Haiti, signed an agreement. It has 10 steps to it. To this date and at this point in time, this Governors Island accord has never been overtly thrown out by General Cedras or the military. There has been no overt rejection of the Governors Island accord by the Haitian military. So as far as this Senator is concerned it is still in force and effect. It was signed by President Aristide. It was signed by General Cedras.

I think it was wrong, I think it was absolutely wrong, for President Clinton to order that ship, the *Harlan County*, to turn around.

I read in the New York Times just about that same time, that the U.N. commanders had given orders to our forces and to their forces down there that, at the first sign of trouble, they were to turn away from it and run. All I can say is I am proud I was in the U.S. military at a time when we were not told to turn and run. The sight of that ship leaving—because of a few thugs on the dock creating a little disturbance—sent the wrong signal. I think it was a terrible mistake for President Clinton to do that. It not only sends the wrong message, I think it demoralizes our military.

But it is not too late. I speak directly to the President of the United States. President Clinton, it is not too late. Pick up the ball where you left off. The Governors Island accord is still in force and effect. It provides for the introduction of U.N. forces and for security forces into the Republic of Haiti. It provides that we can also send our forces to Haiti. I will read this right here.

> Implementation, following the agreements of the constitutional Government, of international cooperation:
>
> (a) technical and financial assistance for development;
>
> (b) assistance for the administrative and judicial reform;
>
> (c) assistance for modernizing the Armed Forces of Haiti and establishing a new Police Force with the presence of United Nations personnel in these fields.

It is still in force and effect.

So I say to President Clinton, pick it up. This is what we have to do—pick up the Governors Island accord, get the U.N. forces back there, put our engineers back there again.

But the Governors Island accord envisions a security force, a security force to basically do two things: Protect the people of Haiti from the military and the police, but also to protect the military from the people of Haiti. It is in everyone's best interests.

We can send our forces back there with the United Nations, send our engineers back and our trainers back, but send them back with United States military personnel, well armed, only to protect them—not to engage the Haitians in military activities; not to shoot Haitians; but United States military personnel to make sure that none of them shoot us.

If we do that, then I believe the Governors Island accord can go forward. I believe some of the well-meaning people who are in the military of Haiti will come forward because then they know they are going to be secure and they will not be afraid. There are good Haitians in the military. There are some good Haitians in the police. But they are afraid to act. They are afraid to come forward.

So this really is our course of action. Reject the Helms amendment.

I understand the leader will be offering a leadership amendment after that dealing with Haiti.

I read it, and I believe that it provides for the President of the United States, as I said, to pick up the Governors Island accord and to implement it. It is not dead. It was put on hold for a while because of the *Harlan County* being turned around, but it is not dead. I hope that the President will pick it up and reimplement it.

I think now is the time for President Clinton to look beyond the opinion polls and to realize that we have serious interest in Haiti, very serious interest in Haiti. It is time for the President of the United States to pick up the Governors Island accord and act accordingly by, once again, introducing the U.N. forces that are called for, our forces that are called for, for training and modernizing the police and also sending the requisite number of United States military forces to protect those of our forces that are there, so that we do not run into the situation like we ran into in Somalia.

I see the majority leader wanting the floor. I wanted to take this time to express my thoughts on Haiti and to correct some of the misperceptions and some of the misstatements made about President Aristide, to put into the RECORD the full translation of the speech he gave on September 27, 1991.

Mr. President, with that, I hope we can defeat the Helms amendment and adopt the bipartisan, leadership amendment that will be offered.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator HELMS' amendment be temporarily laid aside; that Senator MITCHELL be recognized to offer an amendment on behalf of himself, Senator DOLE, and others, on Bosnia; that there be 40 minutes, equally divided between the two leaders, for debate on the Bosnia amendment; that upon the conclusion or yielding back of time, the Senate vote on the amendment; that upon the disposition of the Bosnia amendment, Senator DOLE be recognized to offer an amendment, on behalf of himself and Senator MITCHELL and others, on the subject of Haiti; that there be 60 minutes for debate tonight on both the Helms and Dole Haiti amendments, equally divided between Senators DOLE and HELMS; that when the Senate resumes consideration of the Department of Defense appropriations bill tomorrow at 9:30 a.m., there be 90 more minutes for debate on both the Dole and Helms Haiti amendments, equally divided between Senators DOLE and HELMS; that at the conclusion or yielding back of that time, the Senate vote on the Helms amendment No. 1072, followed by a vote on the Dole-Mitchell Haiti amendment; that no other amendments or motions be in order prior to the disposition of these three amendments; that the preceding all occur without any intervening action or debate.

Mr. GORTON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Reserving the right to object, Mr. President, I say to the majority leader that this Senator has been here for some time wishing to speak on the Helms amendment, almost certainly on the same side of that issue represented by the Senator from Iowa and by the majority leader. But this Senator wants to make it very, very clear, while he will vote the same way the Senator from Iowa will, that he disagrees quite profoundly with the rationale which has been expounded at length by the Senator from Iowa.

The Senator from Washington does not find anything in the unanimous consent agreement that will allow him, will guarantee him that ability, a time relatively close to the time which the Senator from Iowa has spoken.

Under those circumstances, at least for a relatively brief period of time, this Senator will have to object, unless the distinguished majority leader would be willing to make the effective time of his unanimous consent agreement, say, to begin in 10 minutes or so, during which the Senator from Washington can easily conclude his remarks.

Mr. MITCHELL. Mr. President, I have no objection to that. This has been drafted to accommodate Senators on the Republican side. If the Senator wants to speak for 10 minutes now and delay the implementation of this for 10 minutes, push everything back 10 minutes——

Mr. DOLE. Why do we not just give you 10 minutes—I will give him 10 minutes out of the Bosnian time, because many of our colleagues have appointments starting at about 7. So we are trying to accommodate about 15 people.

Mr. GORTON. The remarks of this Senator are not on Bosnia.

Mr. DOLE. You can make them on anything. The Bosnia amendment will be pending.

Mr. GORTON. If the minority leader wants to take 10 minutes of his time immediately or very shortly after this unanimous-consent agreement to give me to speak on an entirely different subject, I think he may be accommodating other Members. The Senator from Washington is willing to accept that and thinks it probably would be preferable if he spoke now before this began.

Mr. DOLE. I think in the long run, it will be accommodating more Senators.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. Excuse me, reserving the right to object, am I to understand then the distinguished minority leader will yield me his first 10 minutes as soon as this debate begins?

Mr. MITCHELL. We will do better than that. As soon as I offer the Bosnia amendment, I will not say a word. The Senator from Washington then can have 10 minutes.

Mr. GORTON. That is certainly a fine accommodation to the Senator from Washington.

Mr. MITCHELL. My life is one of accommodations. I renew my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1073

(Purpose: To express the sense of Congress on funding for United States Armed Forces in Bosnia-Herzegovina)

Mr. MITCHELL. Mr. President, in accordance with the prior agreement, in behalf of myself, Senator DOLE and others, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself, Mr. DOLE, Mr. THURMOND, Mr. SIMPSON, Mr. WARNER, Mr. DOMENICI, Mrs. Hutchison and Mr. D'AMATO, proposes an amendment numbered 1073.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . (a) It is the sense of Congress that none of the funds appropriated or otherwise made available by this Act should be available for the purposes of deploying United States Armed Forces to participate in the implementation of a peace settlement in Bosnia-Herzegovina, unless previously authorized by the Congress.

(b) It is the sense of Congress that the limitation set forth in subsection (a) should not preclude missions and operations initiated on or before October 20, 1993, including the provision of any humanitarian assistance by the Department of Defense.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, it is said that in public policy, as in science, nature abhors a vacuum. I believe it is the existence of that vacuum in public policy which has caused so much of the time of this Senate to have been devoted during the last 2 weeks or so on a defense appropriations bill on military and foreign policy questions.

To be very blunt, the military foreign policy of the Clinton administration has been, at the very least, an uncertain trumpet. As a consequence, we have debated or will debate extensively our policies in Bosnia, in Somalia, and now in Haiti.

In Somalia, which we debated last week at length, for example, there have apparently been five switches in the number of our armed services sent to or withdrawn from that unhappy nation during the course of the last 2 weeks, and almost as many changes in the instructions with which they were burdened during their stay. And yet, Mr. President, we have had, we have debated here, we have largely agreed on a set of rules which ought to be considered and adopted by the people of the United States before they put the men and women of our armed services at risk, which are essentially those established by Secretary of Defense Weinberger a number of years ago.

To paraphrase the most important of them, first, before such a risk is undertaken, we must find that the country in question represents a vital national security interest to the United States.

Second, of course, we need clear and attainable goals, both as we go in, as we determine what we have accomplished and with a very clear way to get out of such engagements.

Third, and quite obviously, there should be no reasonable alternative, no other successful alternative to the risking of the lives of our men in uniform who have enlisted in the armed services.

And fourth, it is obvious that once we go in, we have to use force that is amply sufficient to meet those goals, not send people in under restrictive instructions in dribs and drabs risking them without the ability to attain their goals.

Mr. President, it is the view of this Senator and of many others that not one of those considerations was present with respect to our intervention in Somalia, at least after it moved from providing food for the starving to creating a new and different political atmosphere in that nation.

On the other hand, and I think relevant to this debate, there is a very considerable difference with respect to Haiti. Vital interests of the United States are clearly present in that nation. It is relatively close to our shores, and overwhelmingly the disturbances, the violence, the lack of security in Haiti threatens the United States with the onset of literally hundreds of thousands of refugees seeking freedom, seeking security in a way with which we all sympathize but in a place which simply does not have room for them. We cannot be the recipient of literally hundreds of thousands of people from one small country when there is any remote other alternative to provide security there.

Second, there is at least some goal which this administration has articulated in this case, the restoration of an elected government for a government which took power by a military coup.

It is in this respect that I want to disagree respectfully but most profoundly with the extended statements of the junior Senator from Iowa, who almost sanctified President Aristide of that country in a way with which this Senator rather profoundly disagrees. This Senator is not at all certain that the situation in Haiti will be any more peaceful, that there will be any more justice in Haiti after the restoration of President Aristide than there is today. But he was the duly elected President of that country, and there is at least some chance that some change might take place, so it does seem to me that that is an appropriate goal.

Whether or not there is no alternative to military intervention is an open question, and clearly the administration in its abortive attempts of a week or so ago did not provide amply sufficient force to enforce the Governors Island decision. The disgraceful dispatch of some 200 American troops unarmed in an unarmed ship to Haiti and its withdrawal in the face of a mob is discreditable to this administration and shows a lack of foresight or concern for the fate of our Armed Forces that is reprehensible.

Now, having said all of this, dealing with vacillation in Haiti, in Bosnia, in Somalia, one would think, I suppose, that this Senator would speak in favor of the Helms amendment, but he does not. He finds the Helms amendment much too drastic, greatly oversimplified, not itself reflecting the considerations, the multiple considerations, of the Weinberger rules or of any appropriate substitute for those Weinberger rules.

This Senator believes that the President of the United States would be very well advised to seek authority from this Congress before he attempts to put any of our Armed Forces at risk in that country. It would be wise for him to seek the advice and consent of the Senate and of the Congress as a whole.

But at the bottom, it seems to me far more likely that we can find an alternative which does not risk our soldiers, our sailors, our marines, and our airmen if we do not tie the hands of the President in the way in which the Helms amendment does. If we do not require it, he does have more flexibility. I wish I had a greater degree of confidence in the ability of this President to conduct foreign policy of this sort than I do. But I do recognize the fact that we have only one President. I voted and spoke for the immediate withdrawal of our troops from Somalia because they were at risk and are at risk there today. Right now, American men and women in uniform are not at risk in Haiti. As a consequence, I think the President ought to have the broadest possible authority to see to it that we can succeed in reaching our goals in Haiti without their use.

I hope he will come to us and ask for our permission to use them if he deems that necessary and that he comes with a plan in which we can have a degree of confidence. But each of those is more likely to be the case if we reject the Helms amendment and take a somewhat more moderate and somewhat more bipartisan action.

For those reasons, I will oppose the Helms amendment.

Mr. DODD. Will my colleague yield at this point?

Mr. GORTON. I certainly will.

Mr. DODD. I wish to commend my colleague from Washington. I agree with his analysis on this. I have no reason not to believe that President Clinton would certainly consult with Congress before taking any dramatic action in Haiti or any action militarily. But the Senator's analysis of the particular approach being advocated by our colleague from North Carolina is that it would have the opposite effect. So I just wanted to associate myself with his remarks and approach on this.

Mr. GORTON. I thank my friend.

Mr. HARKIN. If the Senator will yield again, I wish to compliment the Senator, my good friend from Washington, for a very thoughtful statement.

I guess we are under some time constraints. I wish we were not.

The Senator from Washington is a very thoughtful, considerate individual. Quite frankly, I do not disagree with anything he said either. I do not think I am trying to sanctify anyone. I am just trying to give a different picture here of an individual through his writings and things.

But again I say to my friend from Washington, I would like to ask the Senator to take a look at the Governors Island accord, which it seems everyone supported on both sides of the aisle. The military signed off on it, Aristide. Everyone seemed to sign off on it. It seemed to point the way toward a more peaceful—I do not say totally peaceful—Haiti.

The PRESIDING OFFICER. The time of the Senator from Washington has expired. Who yields time?

Mr. GORTON. I do not mind having the Senator go on. I wish he would go on on the time of the other side.

Mr. HARKIN. Can I ask for 2 more minutes?

Mr. MITCHELL. Mr. President, we have time limited on the Bosnia amendment. Both Senators, from Iowa and Washington, have already talked on the subject of Haiti longer than the time that I have allotted to me on Bosnia.

I will yield to the Senator an additional 2 minutes out of my time with the understanding that this is the last of this and we can get on to the pending amendment.

Mr. HARKIN. I just want to say I can associate myself with his remarks, too, because I thought them very thoughtful and very straightforward.

If the Senator wants to say anything else, I yield my 2 minutes to him.

Mr. GORTON. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. How much time remains on the pending amendment?

The PRESIDING OFFICER. The majority leader has 19 minutes 43 seconds. The Senator from Kansas [Mr. DOLE], has 9 minutes 29 seconds.

Mr. MITCHELL. Mr. President, I ask that the clerk read the pending amendment, which we interrupted to accommodate the Senator from Washington earlier.

The PRESIDING OFFICER. Without objection, the clerk will read the amendment.

The legislative clerk read as follows:

At the appropriate place in the bill insert the following:

SEC. . (a) It is the sense of Congress that none of the funds appropriated or otherwise made available by this Act should be available for the purposes of deploying United States Armed Forces to participate in the implementation of a peace settlement in Bosnia-Herzegovina, unless previously authorized by the Congress.

(b) It is the sense of Congress that the limitation set forth in subsection (a) should not preclude missions and operations initiated on or before October 20, 1993, including the provision of any humanitarian assistance by the Department of Defense.

Mr. MITCHELL. Mr. President, there are two notable facts about this amendment. First, it is a sense-of-the-Congress amendment. It does not impose legally binding restrictions upon the President in advance. That is very significant, and it distinguishes this amendment sharply from the amendment previously debated, which attempts to do so in what I believe to be an unwise fashion.

The Congress regularly expresses its opinion in sense-of-the-Senate, sense-of-the-House, or sense-of-the-Congress resolutions. Everyone should understand that these are just that, opinions. They have no legally binding effect although obviously any Chief Executive should, and sensibly in his self-interest, will take into account the opinions of Congress.

So that should be clear. This amendment is a sense of the Congress. It is not a legally binding document.

The second is that this is consistent, where indeed responsive to the prior statements and requests of President Clinton himself.

Earlier today the President delivered to me a letter on this subject.

I ask unanimous consent, Mr. President, that this letter be placed in the CONGRESSIONAL RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 20, 1993.

Hon. GEORGE MITCHELL,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: The violent conflict in the former Yugoslavia continues to be a source of deep concern. As you know, my Administration is committed to help stop the bloodshed and implement a fair and enforceable peace agreement, if the parties to the conflict can reach one. I have stated that such enforcement potentially could include American military personnel as part of a NATO operation. I have also specified a number of conditions that would need to be met before our troops would participate in such an operation.

I also have made clear that it would be helpful to have a strong expression of support from the United States Congress prior to the participation of U.S. forces in implementation of a Bosnian peace accord. For that reason, I would welcome and encourage congressional authorization of any military involvement in Bosnia.

The conflict in Bosnia ultimately is a matter for the parties to resolve, but the nations of Europe and the United States have significant interests at stake. For that reason, I am committed to keep our nation engaged in the search for a fair and workable resolution to this tragic conflict.

I want to express my lasting gratitude for the leadership you have shown in recent days as we have worked through difficult issues affecting our national security. With your help we have built a broad coalition that should provide the basis for proceeding constructively in the months ahead. Once again you have earned our respect and appreciation.

Sincerely,

BILL CLINTON.

Mr. MITCHELL. Mr. President, I wish to quote from this letter. I will not quote the letter in its entirety but read what I believe to be the pertinent part.

In the letter addressed to me the President says:

> The violent conflict in the former Yugoslavia continues to be a source of deep concern. As you know, my Administration is committed to help stop the bloodshed and implement a fair and enforceable peace agreement, if the parties to the conflict can reach one. I have stated that such enforcement potentially could include American military personnel as part of a NATO operation. I have also specified a number of conditions that would need to be met before our troops would participate in such an operation.
>
> I also have made clear that it would be helpful to have a strong expression of support from the United States Congress prior to the participation of U.S. forces in implementation of a Bosnian peace accord. For that reason, I would welcome and encourage congressional authorization of any military involvement in Bosnia.
>
> The conflict in Bosnia ultimately is a matter for the parties to resolve, but the nations of Europe and the United States have significant interests at stake. For that reason, I am committed to keep our nation engaged in the search for a fair and workable resolution to this tragic conflict.

The letter continues but with provisions that are not immediately relevant to this discussion.

So, Mr. President, I hope our colleagues will support this amendment, both as an expression of congressional opinion, not as a legally binding prior restraint upon the President, and because the President himself has indicated both in prior oral statements, and today in a letter, that he welcomes and regards as helpful expressions of support from the Congress prior to any such participation by U.S. forces.

The amendment is simple. It is straightforward. It has the support of the President and the administration. It is authored by the majority leader and the minority leader. I hope very much that my colleagues will support the amendment.

Mr. President, I reserve the remainder of my time. I note the presence of the minority leader.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader, Mr. DOLE, is recognized.

Mr. DOLE. Mr. President, I am sorry I did not hear all of the majority leader's remarks. We have been upstairs for a briefing in S. 407.

But I would just say initially we have been working for several days trying to narrow differences on this amendment and on the Haiti amendment. Obviously, the constitutional question is very difficult. They are not going to be resolved today. Maybe they will never be resolved. But we have come to an understanding on the Bosnian amendment, and I think also on Haiti.

In my view, the lesson of the Somalia debate and the Senate's vote last week is that congressional approval should be obtained in advance of a significant deployment, so that we avoid congressional moves to abruptly terminate an operation after our troops are already engaged in a mission.

Mr. President, I am not seeking to place a straitjacket on the President's powers as Commander in Chief, as some former executive branch officials have suggested. Indeed, I am trying to construct a political flak jacket to protect against congressional artillery once a deployment is underway.

Some have suggested that I am offering my amendments because there is a Democrat in the White House. Well, I would call to their attention an Associated Press story from November 13, 1990—a story which said a Senator called on the President to call Congress back into session and seek its approval for United States troop deployments in the Persian Gulf. The President was George Bush, the Senator was the Senate Republican leader. I said, "I think it ought to be put to the Congress, put up or shut up." It was my view that obtaining congressional support for our Persian Gulf policy would help build a consensus among the public. Mr. President, my views have not changed.

My amendments are not designed to tie the President's hands or to limit his ability to act in the protection of American interests. Having read their numerous editorials in support of thousands of pages of congressional restrictions on assistance to Nicaragua, and certifications on United States troops in El Salvador, I find it fascinating that the New York Times and the Washington Post are new converts to the doctrine of Presidential flexibility. It is certainly a 180-degree turnaround from their support for congressional amendments during the 1980's which precluded military, intelligence, and other options with respect to United States policy toward Central America. I do not know if the editorial writers read my amendments, but if they did, they ignored the flexibility in the text. In any case, I welcome the Post's and Times' conversion and hope it will continue when a Republican returns to the White House.

Mr. President, I do not believe that we should tie the President's hands, but I do not believe the Congress should sit on its hands, either.

It is a big, big responsibility; Congress has a lot of responsibility. If more people would listen to the briefing in S. 407, we would probably understand that responsibility more. I suggest to my friends who did not get the briefing today that you ought to get that briefing before we vote on any Haiti amendments.

What I am seeking to do is to find the right balance between Presidential prerogatives in commiting U.S. forces to military operations, in particular, multilateral and peacekeeping operations, and congressional prerogatives in appropriating funds for those activities.

To remind those outside the Congress who are watching and commenting on this debate, it is the Congress which has the power of the purse. It is the Congress which appropriates funds for foreign aid, for military bases abroad, for NATO, and for the United Nations, among other things.

It has not been my intention to usurp the President's authority in foreign policy—and in my view even my original amendments did not do so. Indeed, I would not have directed my staff to meet with administration staff to listen to the President's concerns and to make changes in the amendments to address those concerns if that were the case.

But, as the debate last week on Somalia demonstrated, the Congress will not go along and quietly foot the bill, especially if Americans are sent into harm's way for missions that are questionable, unclear, or do not reflect United States interests.

Some of my colleagues say that the Congress should not seek to give approval prior to a deployment, that we should wait and pull the plug later, if necessary. Mr. President, there is no constitutional requirement for Congress to wait for body bags before we make our views on a particular mission of operation known.

I cannot for the life of me say that we have a right to bring them home or to cut off funding, but we do not have the right to say they should not go in the first place. If it is a bad idea, if it is a bad operation, if it is putting Aristide back in power, for example, which has now been suggested, then I think we ought to speak up ahead of time. We ought to do it in advance, in fairness to the President, fairness to the American people, and certainly to all of us who should have a role in foreign policy as explained by many of my colleagues on both sides of the aisle in the past week.

Moreover, I believe that it is in the President's interest to have congressional approval in advance.

A few weeks ago, following his meeting with Bosnian President Izetbegovic, President Clinton was asked by reporters whether he would agree to the Bosnian Government's request for a guarantee of United States participation in implementation of a potential peace settlement. President Clinton responded and I quote:

> I've been willing to do that since February. But in order to do it, we have to have a fair peace that is willingly entered into by the parties. It has to be able to be enforced or, if you will, be guaranteed by a peacekeeping force from NATO, not the United Nations, but NATO. And, of course, for me to do it, the Congress would have to agree.

Last week, the Foreign Relations Committee held a hearing on United States policy toward Bosnia and Herzegovina at which Assistant Secretary Stephen Oxman and Ambassador Victor Jackovich testified. The distinguished chairman of the Foreign Relations Committee, Senator PELL, offered to hold this hearing during the Senate's debate on the foreign operations appropriations bill. At that time, I was considering offering an amendment which would have called on the President to seek congressional approval prior to committing United States forces to implement a peace settlement in Bosnia.

The Chairman agreed to hold hearings.

In light of the distinguished chairman's offer to hold hearings on United States policy toward Bosnia, I decided not to offer my amendment. I would like to thank Senator PELL for acting so quickly. Unfortunately, in his testimony, Secretary Oxman seemed to walk back the President's remarks.

Mr. President, I believe that it is critical that the Congress thoroughly consider United States policy toward Bosnia, especially since the President has made a tentative commitment to send as many as 25,000 United States troops to enforce a possible Bosnian settlement. Such a debate, in addition to congressional authorization would be necessary, in my view, even if a smaller number of ground troops were to be deployed.

And so, I am pleased that as a result of my discussions with the White House, the President has sent a letter to me which states that, and I quote:

> I have also made clear that it would be helpful to have a strong expression of support from the United States Congress prior to the participation of United States forces in implementation of a Bosnian peace accord. For that reason, I would welcome and encourage congressional authorization of any military involvement in Bosnia.

In view of the President's letter welcoming congressional authorization prior to sending United States troops to Bosnia to implement a settlement, I have removed the funding prohibition from my amendment. Therefore, my amendment now states that it is the sense of the Senate that none of the funds appropriated by this bill should be available for the purposes of deploying United States Armed Forces to participate in the implementation of a peace settlement in Bosnia and Hercegovina, unless previously authorized by the Congress. It also states that such authorization should not apply to missions and operations initiated on or before today, such as the humanitarian airlifts into Sarajevo, the NATO no-fly zone, current NATO overflights, or NATO airstrikes designed to stop the shelling of Sarajevo, which has dramatically increased over the past few days.

Mr. President, I believe that I was not alone in thinking that the President had committed to seeking congressional approval, and, I believe that I am not alone in thinking that the President should receive congressional approval in advance of sending United States ground forces to Bosnia. I am pleased that the President has taken the same view.

Mr. President, sending 25,000 troops to Bosnia is not a minor matter. This is a massive undertaking which would put American lives in harm's way for a dubious and, in my view, unprincipled purpose. This proposal must be thoroughly considered by the Congress and voted on.

I have long believed that the United States has clear interests in Bosnia and Herzegovina. I believe that the integrity of international laws and principles, including the Helsinki accords and the United Nations Charter, are at stake in Bosnia. I believe that regional stability is also at stake in Bosnia.

However, I do not believe that the current Owen-Stoltenberg plan protects or promotes those interests. This U.N.-mediated plan rewards aggression—and in so doing, it undermines the international order and fundamental international principles, such as the territorial integrity of internationally-recognized states.

And so, if the Bosnians succumb to international pressure and agree to this plan, what the Congress will have to decide is whether to send thousands of American men and women into a dangerous environment, to protect territorial gains made through the most deplorable means of ethnic cleansing.

Mr. President, my hope is that as we discuss this issue further, the administration will realize what some of us here already realize: that the Owen-Stoltenberg plan is fatally flawed, but that there are still other options—options which would support the sovereignty of the Bosnian State, promote its survival, are less costly in lives and in dollars, and which would not undermine the very values and principles that this country stands for.

There have been consultations with the Congress on Bosnia, and in those meetings, Members have raised moral, political, and military concerns about the current Owen-Stoltenberg plan. Yet, in those same meetings and in House and Senate legislation, the Congress has supported the President on lifting the arms embargo—unilaterally, if necessary—and we have authorized the necessary funds to provide arms and other military equipment to the Bosnian Government. It seems to me that the administration, until recently, has listened more to the United Nations and Europeans, and less to the Congress.

I hope that through this amendment, and my amendment on Haiti we will have started a process of genuine consensus-building between the executive branch and the Congress, not just on Bosnia and Haiti, but on all of these difficult post-cold-war foreign policy matters. I hope that we can come to a mutual understanding on the appropriate role of the United Nations in U.S. foreign policy, as well. I would like to thank the President and his staff for working with me on these amendments and look forward to continuing such a dialog and constructive relationship on foreign policy in the future.

I guess the final point I would make, this is a very, very gray area. It is not going to be easily resolved. But Congress does have some authority. I do not fault the President of the United States. Every President of the United States has always said that any encroachment upon his power as Commander in Chief or President of the United States as outlined in article 1 of the Constitution, would be inappropriate, whether it is President Bush, or President Carter or, I suppose it goes back to George Washington.

If we are talking about sending 25,000 Americans to Bosnia to keep a peace, that may be forced on this small country of Bosnia at a cost of a couple billion dollars a year, if Congress does nothing, if we do not have something on the record to indicate at least we wanted prior authorization, then I believe we would be making a mistake. And then I believe the American people can properly say, "Where was Congress? They waited until the 25,000 Americans were there. They waited until some were killed, or wounded, and then they said, 'Bring them home.' "

My view is that it helps the President, and it also brings together the American people, just as it did in the gulf crisis when we voted to authorize the use of U.S. military force in that region.

So, Mr. President, I do not want to overuse my time, but I think the majority leader discussed the President's letter, and I appreciate that very much.

This is a sense-of-the-Senate resolution, not a statute, but it is still a very clear message from the Congress on what we believe should happen. I have every confidence that the President will respect that.

We have changed the amendment, and I thank my colleague, the majority leader for his initial efforts and for the efforts of the past couple of days. We make it very clear what missions this does not apply to in our amendment. It does not apply to humanitarian airlifts in Sarajevo, the NATO no-fly zone, current NATO overflights, or NATO air strikes, which have been talked about by the administration, to stop the shelling into Sarajevo, which has increased in the past few days.

I reserve the time I have left.

Mr. MITCHELL. Mr. President, the Constitution assigns to the President the sole authority as Commander in Chief of the Armed Forces of the United States. The very same Constitution assigns to the Congress the sole authority to declare war and the authority to raise, in our terminology, "appropriate" funds for the maintenance of any Armed Forces.

This is one part of an overall constitutional scheme that is intended to prevent the accumulation of power in any one branch of Government, in any institution, or individual. The war-making power cannot be properly evaluated in isolation from the entire division of the powers which underlies the entire Constitution.

The men who wrote the American Constitution had as their central purpose the prevention of tyranny in America. They were brilliantly successful, and in more than 200 years of national history, we have had 42 American Presidents and no American kings. But, inevitably, the division of power creates ambiguities, it creates problems and inefficiencies that lead to tension and conflict between the two branches of Government, and nowhere has that tension been repeated more often, and been less capable of final resolution than in the area of war-making powers.

It has been especially a problem in recent years when we have repeatedly encountered circumstances in which conflict occurs, but falls short of a general war. The War Powers Resolution, adopted by the Congress in 1973, was an attempt to bring the war-making powers of the Constitution up to date. It was a well-intended, well-meaning effort; it plainly was defective. No President, Democrat or Republican, has ever acknowledged the validity or the effectiveness of the act, and no Congress has been able to implement the act in all the time since then. The result is that we now have the current situation.

I support this amendment because it is an expression of congressional opinion, a right which every Congress, of course, has, indeed, every American has. I also support it because it does not purport to impose prior restraints upon a President performing the duties assigned him under the Constitution. Any President acting in self-interest and in the interest of the country, must and will take into account the views of Congress—that is just plain common sense—as I am confident this President will.

But I think it is a very different matter, and everyone should understand the significance of the difference, for the Congress to say, "Mr. President, here is what we think you ought to do." It is very different for the Congress to say, "Mr. President, by law, we prohibit you from doing this." This falls in the former category. This is not a prior restraint. I do not favor prior restraints. I believe they plainly violate the Constitution.

But this is an important matter. This is an area of substantial conflict, and it is conceivable that Americans may be called upon to participate in the implementation of a peace settlement there. The President has said, both orally and today in writing, that he welcomes congressional support prior to any major action and, therefore, this amendment is not only appropriate as an expression of congressional view but is consistent with the previously expressed view of the President himself.

I think we all ought to be careful when we get into the areas of trying to legislate, by law, prior legal restraints upon a President's authority. And so, Mr. President, I hope very much that Members of the Senate will support this amendment in the context, and in the spirit, which I have described and in which it has been offered.

I say further that a few years ago, I, and a group of other Senators, proposed a series of substantive changes to the War Powers Resolution. Senator BIDEN, who is present on the floor, is perhaps the Senate's leading expert on the subject, and he himself had other suggestions with respect to that same resolution. I hope before we finish, we will take action on an expression by the Senate of our desire to revisit that subject in the light of what is occurring in the world today.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The majority leader has 8 minutes 10 seconds.

Mr. MITCHELL. I would like to comment on that, if I might, in a minute. If no other Senator wishes to use part of my time on this subject, otherwise——

Mr. NUNN. I wanted to comment on the War Powers Act.

Mr. MITCHELL. I will make a brief further comment on that, Mr. President. I believe this to be particularly significant in light of the unique situation in world history and the unique status of the United States in the world.

The United States now has the most powerful military force in the world. Indeed, it is the most powerful military force in all of human history. The United States is regularly referred to as the sole superpower, and that is clearly the case.

If you go back through history, the time of domination of the so-called British Empire, the Hapsburg Empire, the Ottoman Empire, Roman Empire, rarely, if ever, in history, has the dominant military power been invited by other countries to send its military forces onto their lands. Indeed, almost always throughout history, the dominant military power had to fight its way onto other's soils. It had to gain control of other peoples by force and maintain control by force.

Because of what I believe to be the greatness of American ideals, because of the greatness of America as a country which does not seek control and dominion over other people, people the world over trust us.

I have met with the leaders of almost every country in Europe, including the leaders of the current Republics that used to make up the Soviet Union. I asked each of them since the Soviets are withdrawing their forces from Western Europe, do they believe Americans should withdraw military forces from Western Europe. The answer unanimously has been "No." They want American military forces on their soil.

It is a situation unique in history, but it also is one that means we are going to be called upon over, and over, and over again to deploy forces to other countries, and we have to think about that very carefully. We have to try to devise standards or criteria by which we can measure such requests, to be able to say "no" when it is appropriate, to be able to say "yes" when it is appropriate.

That is why I think we want to get back to a careful and thorough review of the War Powers Resolution. I hope we will do that.

Before I use up my time, I yield 2 minutes to the Senator from Georgia.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Georgia.

Mr. NUNN. Mr. President, I commend the majority leader for his leadership in working this matter out. I, myself, if I had my preference, I see no need to legislate on Bosnia because the President of the United States has made a public commitment that he is going to seek the authority of the Congress before he makes a large troop deployment in Bosnia. He has made that commitment. He has reiterated this in a letter that I believe the majority leader has already put in the RECORD. But if we are going to speak on this subject, I think this is the way to do it: A sense-of-the-Senate resolution.

This is not a part of law, but it is part of a political statement and an expression of expectations by the United States Senate that I think has a considerable amount of sway and certainly reiterates what the President of the U.S. has already committed in this respect.

So if we are going to speak on the subject, the sense-of-the-Senate resolution, I think, is the appropriate way to handle it.

On the War Powers Act, the majority leader, Senator MITCHELL, and I, Senator BYRD, and Senator WARNER—and I believe Senator LUGAR and others—about 2 years ago introduced a revision, a very substantial revision of the War Powers Act. I welcome the opportunity to revisit that legislation and to see if it is appropriate for the circumstances today.

But one thing is for sure, Mr. President: The War Powers Act, as it is now constructed, will never work, because the War Powers Act basically says if Congress does not act, the President of the United States has to remove American forces from countries where they are to be committed. In other words, the omission by Congress, or the nonfeasance by Congress, would require the executive branch to make troop movements out of a commitment already made by the Commander in Chief.

If Congress is going to deal with these matters, we have to deal with them by affirmative action, and I think that is the heart of the revision we need to think about on war powers. Plus, we need to strengthen the consultative mechanism so we have much more consultation between the executive branch and Congress.

Mr. President, I thank the majority leader, and I yield back any time I have.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I yield 2 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the majority leader. I will just take 30 seconds.

I share the view expressed by everyone here on the floor that it is time for us to address in an institutional sense the relationship between the executive and legislative branch relative to the conflict in the Constitution. We tried it through the War Powers Act.

For all the reasons the majority leader said, it has not functioned; it has not worked. Our discussions, all of us on this floor, with the administration, as well as among ourselves, has led us to the conclusion this is a propitious time for us to revisit that subject, and it should be done in that comprehensive manner.

I wish we were not even doing these piecemeal efforts here. They are necessary as a political requirement, as well as a substantive requirement. But I hope tomorrow we will have available for the Senate a similar resolution calling on the Congress, with the consent of the administration, to work out a new mechanism over a period of time resulting in a piece of legislation to come back at some point for the consideration of the Senate.

I thank the leader. I appreciate his yielding me the time.

I yield the floor.

Mr. DOLE. Mr. President, do I have any time remaining on this side?

The PRESIDING OFFICER. The Senator has 51 seconds.

Mr. DOLE. Mr. President, I want to quote from a letter from the ACLU, which I have rarely done in my lifetime. In fact, they will probably close up if I do this.

But this is what the paragraph says:

> The ACLU believes that the Constitution requires prior congressional authorization for the President to use any type of military force in Haiti—

The same to apply to Bosnia—

> other than in self-defense or to protect the lives of Americans. The general constitutional war powers embodied in Article I, section 8, clause 11—which grants to Congress "the power to declare war [and] grant letters of marque and reprisal"—applies to all situations in which U.S. forces are authorized to use military force abroad, except "to repel sudden attacks."
>
> The Clinton Administration has suggested that any congressional limitation on the use of force would interfere with the President's Commander in Chief powers. The President claims that the "Constitution leaves to the President, for good and sufficient reasons, the ultimate decision-making authority" on when to use force. This is a gross misinterpretation of the Constitution. The decision on whether to commit the United States to military action abroad is explicitly Congress's to make. Once the initial decision has been made, then the President does have full authority as Commander in Chief to decide how to use them. In addition, the President can act unilaterally in emergency situations involving attacks on U.S. territory, U.S. forces, or U.S. persons held abroad.

This is the last time I may quote the ACLU for some time.

I ask my colleagues to weigh their opinion very carefully, because it is precisely what we suggest in our amendment.

Mr. LEVIN. Mr. President, I support this sense-of-the-Senate resolution on the subject of potential deployment of United States Armed Forces as part of any effort to support a peace accord in Bosnia and Herzegovina.

Relative thereto, I believe that President Clinton has made it very clear that he would consult fully with Congress and would seek expression of support from Congress.

I also believe that this resolution's goals would be satisfied if President Clinton makes a good faith effort to give Congress a chance to approve or disapprove any deployment of U.S. forces if Congress is not in session at the time, by giving the congressional leadership an opportunity to call Congress back into session for that purpose.

If a majority of Congress supports a deployment or shows an unwillingness to disapprove a deployment, I believe that would also constitute good faith compliance with the intent of this amendment. Otherwise, a filibuster in the Senate could deny the President the expression of majority sentiment this resolution contemplates.

Mr. WARNER. Mr. President, I am pleased to support the Dole-Mitchell amendment, which expresses the sense of the Congress that the President should seek prior congressional approval for any deployment of United States troops to participate in the implementation of a peace settlement in Bosnia.

I have long advocated a cautious approach to United States military involvement in the tragic civil war in Bosnia. United States military personnel should not be put at risk in Bosnia unless Congress authorizes United States military involvement.

If the three warring factions in Bosnia are able to conclude a peace agreement—and they are truly committed to implementing it—the United States should consider providing troops, along with our allies, to help monitor the implementation of that peace plan.

Congress must play a major role in making any decision to commit United States forces to Bosnia to implement a peace agreement, because those troops may find themselves in harm's way.

The administration has discussed the possibility of sending 25,000 United States troops to Bosnia for such a peacekeeping mission. The administration has conditioned U.S. troop participation in such an operation on a number of factors, including the following: NATO command and control for the operation; an agreed exit strategy; an understanding about which nations will contribute forces and who will bear the financial responsibilities for the operation; and congressional authorization prior to the deployment of United States ground troops to Bosnia.

Regardless of the fact that U.S. troops participating in a peace plan implementation mission would technically be considered peacekeepers, peacekeeping troops in volatile situations can quickly find themselves in a hostile and deadly environment.

The Dole amendment is intended to allow the Congress to play its appropriate role in the decision to deploy U.S. troops to such a hostile environment.

When and if all sides in Bosnia agree to a peace plan, the President should present his plan for United States troop deployments to the Congress for approval.

As the Republican leader noted, debate has occurred for 200 years over the respective military and foreign affairs powers of the President and the Congress under the Constitution. He referred to this as a gray area. I see it as an area of shared powers. Our goal is to find the best way to advance the Nation's interest through the coordinated exercise of these shared powers. The Dole-Mitchell amendment is designed to accomplish this on the question of support for implementation of a peace plan for Bosnia. I urge support of the Dole-Mitchell amendment.

Mr. MACK. Mr. President, I want to be clear about my reasons for supporting this amendment.

I recognize and support absolutely the power of the President to make and carry out foreign policy. However, I am mindful of the consequence of this particular action by the Senate.

This amendment represents the sense of Congress. It lacks the force of law. Thus, it is utterly devoid of meaning insofar as it restricts the ability of the President to act as he sees fit. However, the message behind this action is unmistakable.

The President has lost the confidence of the Senate and the American people in his ability to create and administer foreign and military policy. In coming to this judgment, I am filled with sadness and anger that the brave men and women of the U.S. Armed Forces should be sent into harm's way under these conditions.

This amendment, though toothless, is a clear warning shot directed at the Clinton administration's foreign and military policy team. They would do well not to try the patience of the Congress and American people any further.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute.

Mr. MITCHELL. Mr. President, I conclude by thanking the Republican leader for his cooperation on this matter, and the Senators involved—Senator BIDEN, Senator DODD, Senator NUNN, Senator GRAHAM, and Senator PELL, who has been very much involved in this effort in a most constructive way—and many others.

Mr. President, I yield the floor and I yield back the remainder of my time.

The PRESIDING OFFICER. The question occurs on amendment No. 1073, offered by the Senator from Maine [Mr. MITCHELL]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—99

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—1

Hatfield

So the amendment (No. 1073) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the Republican leader is to be recognized to offer an amendment on Haiti on which there will be 60 minutes of debate tonight.

The majority leader is recognized.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period of morning business for 15 minutes, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

FREEDOM OF THE PRESS

Mr. DECONCINI. Mr. President, there is no doubt President Yeltsin faced a grave crisis 2 weeks ago when armed insurgents threatened to take Moscow by force, but the army's backing of Yeltsin demonstrated that he has the power to crush his opposition. There is also no doubt that Mr. Yeltsin retains real popularity among most Russians while his opponents in the Parliament were held in very low esteem.

Mr. President, as history clearly demonstrates, power and popularity will not necessarily lead to democracy and reform. I regret Mr. Yeltsin has been acting very much the authoritarian in dealing with the opposition party. One specific instance is a government decree that has closed 13 opposition newspapers. Two other newspapers have been ordered to change their names and to fire their editors.

Granted, some of these newspapers were detestable, filled with rabid nationalist and antisemitic ravings. But there are laws in Russia to deal with slander and libel and such matters should be handled by an independent judiciary, not executive fiat.

These moves against the press and the barring of certain parties from participating in the upcoming parliamentary elections are ominous. As chairman of the Helsinki Commission, I urge Mr. Yeltsin to reconsider these ill-conceived and undemocratic attempts to silence his opposition.

I fully recognize the nature of the provocation and danger that President Yeltsin has faced. Even much better established democracies ban political parties on occasion. Germany does not allow the Nazi party to function, and last spring banned several neo-Nazi parties after antiforeign violence and criticism outside Germany of judicial leniency toward pro-Nazi perpetrators was paramount.

Much of the international community welcomed these moves, but Germany did not confront an armed attempt to overthrow the state, as took place in Moscow on October 3 and 4. It is understandable that the urge to push such fringe groups and individuals out of the political process will be much stronger in Russia. But President Yeltsin must distinguish between truly marginal hate groups and those that represent more serious constituencies and political perspectives that simply are at variance with his own. Despite Yeltsin's disapproval, Pravda, for example, is a mainstream publication even if it longs for the U.S.S.R., a planned economy and social guarantees.

The issues Pravda addresses speaks to many Russian citizens whose living standards have plunged. Yeltsin's planned reforms, which will lead to bankruptcies of large state enterprises and unemployment, affect millions of people who have the right to voice their disagreement, plain and simple, and Pravda was that voice.

Merely demanding that editors step down will not change that fact. I firmly believe President Yeltsin still offers the best hope for reform. The reform process itself must be driven objectively, in my judgment, in order to have credibility with the United States and other foreign nations.

For that reason, Congress and the administration must voice concern when Russia's reformer No. 1 uses unacceptable means to achieve those reforms.

A Washington Post article quoted the head of Mr. Yeltsin's security ministry—formerly the KGB—as saying that "his agency would monitor political opponents more carefully." This is an unpromising beginning and a dangerous thing. If we do not say so, we will not help Yeltsin and could, in fact, strengthen the hardliners.

The critical preelection period should be an open political process. Opposition parties must be allowed to freely conduct their campaigns within the limits of Russian law. The Helsinki Commission, like many other election monitoring groups, will observe the balloting on election day. But the Commission also intends to send staff to Russia before voters go to the polls to study the opportunities candidates have to campaign freely.

President Yeltsin has often demonstrated his courage in the past. I urge him now to demonstrate his leadership by restoring an essential component of any democracy and any reform process—freedom of the press—to Russia. Without this, I see little hope that the upcoming Russian elections will yield anything more than further instability in that troubled country. The dreams and talents of the Russian people deserve better.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,403,899,372,803.47 as of the close of business yesterday, October 19. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,145.20.

A TRIBUTE TO BROTHER AUGUSTINE PHILIP NELAN, FSC

Mr. D'AMATO. Mr. President, on October 5, 1993, Brother Augustine Philip Nelan, FSC passed away in New York at the age of 88 years. Brother Philip had returned to Manhattan College in New York City from Washington last November after completing his work as an adviser to the National Restaurant Association on the hiring of the handicapped in the food service industry. For 14 years, Brother Philip worked closely with food service companies, State vocational rehabilitation programs, and private training agencies to encourage the employment of people with disabilities. He testified before Congress during the consideration of the Americans With Disabilities Act and served on the President's Committee on Employment of People With Disabilities. His contributions to advancing the cause of handicapped workers were great, but they were only one part of a lifetime vocation to serve.

Brother Philip returned to Manhattan College to pursue his fourth career as art curator. In this capacity Brother Philip worked to catalog and prepare for sale art that had been donated to the college in order to further Manhattan's role as a first class institution. At the end of the summer Brother's health began to fail and after a courageous fight to recover he passed from us. At Brother Philip's wake his good friend Brother Luke Salm, FSC delivered a beautiful eulogy that I ask unanimous consent to be included in the RECORD.

BROTHER AUGUSTINE PHILIP NELAN, FSC

It is common at the wake of elderly persons to hear that death has come as a mercy, sometimes even with the implication that the entry into the possession of an eternal reward was long overdue. Except for the last week or two, that was hardly the case with Brother Philip Nelan. His rapid decline and sudden death come as a shock to us who knew so well his vigor and vitality, his wide-ranging interests, and his zest for life. It is as if we were mourning the loss of a young man cut down in his prime.

Brother Philip did not speak very much about his early childhood. An outsider can only reconstruct what the source of young Thomas Nelan's zest for life must have been in the family of his parents, Philip and Hannah Nelan. The subsequent history of the siblings gives a clue: witness the religious vocations of his sister Margaret and his brother Fred, the vibrant families raised by his sister Helen and her husband Stephen

Schweitzer, those of his brothers and their wives, John and Kathleen, Philip and Mae, Joseph and Marie, Raymond and Marguerite. The Nelan grandchildren now grow in the glow of ancestral love and life.

Baptized in the Church of the Ascension and educated in Holy Name School, Thomas Nelan must have developed something of his competitive edge in the famous rivalry that developed between those two New York Irish parishes. Upon graduation from Holy Name School in 1920, he responded with typical and youthful generosity to God's call to share in the mission entrusted by the Church to the Institute of St. John Baptist de La Salle. After two years in the Juniorate at Pocantico Hills, he entered the Novitiate and on September 7, 1922, was invested with the religious habit, and given the name Brother Augustine Philip. In those days it was not uncommon for Brothers to be given names like Aquilinus or Berthulian or Castoris. But Brother Philip was lucky, and all his life he preferred to sign himself and be known as Augustine Philip.

It didn't take long for the superiors to recognize that they had a talented young man on their hands. After only one year of teaching grade school in Newburgh, Brother Philip was assigned to the big time. At Bishop Loughlin High School in Brooklyn (later named St. Augustine's), a scholarship school, he joined a distinguished faculty, many of whom later became his confreres at Manhattan College. In the course of seven years in Brooklyn in an age before specialization, the record shows that he taught courses in math, chemistry, English, Latin, and, of course, Religion. Teaching religion, and teaching it with creativity and verve, remained a passion with him right through his college teaching career.

In 1933 he came to Manhattan College. For the next thirty years, he exercised his talent for vigorous and imaginative leadership. As professor and chair of the English department, executive vice-president, and then president, he used his intelligence, vision, and clout to bring into being an impressive list of new academic ventures: the innovative program in the liberal arts, the beginnings of the full time faculty in theology, an independent department of psychology, a program in nuclear physics, a new department of chemical engineering, a program in forensic psychology for the police, and the air force officers training program. In the days of fiscal conservatism he prevailed over the nervous nellies among the higher superiors and his own financial officers to build Jasper and Thomas Hall.

In the midst of all this, he never lost his love of learning and letters. Ever the omnivorous reader, for more than thirty years he met regularly and informally with a circle of faculty, their wives, and some of the Brothers to discuss and dissect everything from Oedipus to Undset.

As Director of the Brothers' community, Brother Philip was considerate of the needs of the Brothers and, despite the pressures of college affairs, was ever available to them. His Sunday morning conferences to the community were well prepared and models of their kind. He had the courage and the tact to deal effectively with the divisions among the Brothers, the faculty, and the resident clergy over the issues that surfaced during the McCarthy hearings. At the end of his term as president and Director in 1962, he could look backward on a mighty achievement and would have been excused if he sought a sinecure assignment to disguise a well deserved retirement.

But retirement was not on his mind. His experience was at first brought to bear on a proposal for a new college in the LI-NE District. When that project, through no fault of his, came to naught, he answered the call of the Pacific to become Auxiliary Visitor in charge of the Philippines. Shaken out of their complacency, both the missionary and the Philippine Brothers entered into a period of modernization and development that has yet to run its course. Back in the States, Brother Philip turned his experience, his faith, and zeal to direct the Foreign Services Council (FSC) designed to assist the missionary activities of the Brothers in Latin America, Asia, and Africa. In that capacity he participated actively in the mission commission of the 1967 General Chapter.

Brother Philip celebrated his golden jubilee in 1972. No sign of retirement. Soon he was actively engaged in bringing to a successful conclusion the negotiations for the sale of De La Salle College, Washington. In 1978 at the age of 72 he became involved with the National Restaurant Association and its programs for rehabilitating the handicapped. For the next fourteen years, with amazing determination and energy, he logged tens of thousands of miles annually, flying from coast to coast and remote places in between, to find jobs for the handicapped in the food industry. Not only did this effort restore a sense of usefulness and dignity to countless handicapped persons nationwide, but the restaurant owners and managers themselves were enriched by the presence of this black-suited witness to the living Christ. We can be sure Saint De La Salle would have approved.

In 1992 Brother Philip returned to Manhattan, but not to retire. He was able and anxious to help in the development program and agreed as well to take charge as curator of the College's art collection. He continued his daily walks, to read everything he could get his hands on, and would enter into earnest conversation with anyone who will listen. One would have thought that he could live forever.

Joining last August with a group of Brothers in a week of relaxation at Montauk, Brother Philip began to experience weakness and loss of appetite. The eventual diagnosis indicated by-pass surgery, which, at 87 years old, he survived with remarkable resiliency and so pursued an apparently successful program of rehabilitation. Meanwhile, the doctors prescribed a new course of treatment for a chronic skin problem. The side effects of the medication proved to be painful and debilitating and ultimately too much for his noble heart.

The theme that was stressed in the celebration of Brother Philip's 70th anniversary a year ago was vision and vitality, his zest for life. Despite his death, these perdure. His vision, we believe in faith, must now be beatific, his life now eternal, his zest for life fulfilled in the full possession of the dynamic life of his living and ever-loving God.

LUKE SALM, FSC.

TRIBUTE TO MR. ARCHIE D. GRIMMETT

Mr. SIMON. Mr. President, I rise today to salute my constituent Archie D. Grimmett on the occasion of his retirement from the Federal Government.

Mr. Grimmett, a native of East St. Louis, IL, will retire as Assistant Deputy Chief of Staff, Civilian Personnel, of the U.S. Army, Europe and 7th Army Unit 29351 this week. The Federal personnel community is indeed far richer as a result of Mr. Grimmett's contributions. From his early days at the U.S. Commission on Civil Rights to his many programmatic innovations while at Army, Mr. Grimmett has embodied what it means to be a true human resource professional.

A culminating achievement of Mr. Grimmett's outstanding career as a Federal executive is the way in which he has supported the drawdown of our forces in Europe. His humanity and concern for people marked every phase of the initiative, requiring a complete reorganization of the civilian personnel office structure to support the entire effort. All of this was achieved in a climate of caring and concern, with people's needs being the primary value. This was indeed a true accomplishment in a difficult time.

Mr. Grimmett is one of those very special people who exemplifies the spirit of what it means to be a public servant to America. I would like to offer my sincere congratulations and thanks to him for his enormous contribution over a distinguished career and I wish both him and his family well in their future endeavors.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Edwin R. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:22 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 914. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system, and for other purposes.

The message also announced that the House agrees to the report of committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2491) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1994, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 18, 57, and 129 to the bill and agrees thereto; and that the House recedes from its disagreement to the amendments of Senate numbered 38 and 113 to the bill, and has agreed thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that pursuant to the provisions of section 3(a) of Public Law 86–380, the Speaker appoints to the Advisory Commission on Intergovernmental Relations the following Members on the part of the House: Mr. PAYNE of New Jersey, Mr. MORAN, and Mr. SCHIFF.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2401) to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and that the following Members be appointed as the managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the entire House bill and the entire Senate amendment, and modifications committed to conference: Mr. DELLUMS, Mr. MONTGOMERY, Mrs. SCHROEDER, Mr. HUTTO, Mr. SKELTON, Mr. MCCURDY, Mrs. LLOYD, Mr. SISISKY, Mr. SPRATT, Mr. MCCLOSKEY, Mr. ORTIZ, Mr. HOCHBRUECKNER, Mr. TAYLOR of Mississippi, Mr. ABERCROMBIE, Mr. ANDREWS of Maine, Mr. EDWARDS of Texas, Mr. UNDERWOOD, Ms. HARMAN, Mr. SPENCE, Mr. STUMP, Mr. HUNTER, Mr. KASICH, Mr. BATEMAN, Mr. HANSEN, Mr. WELDON, Mr. KYL, Mr. RAVENEL, Mr. DORNAN, Mr. HEFLEY, and Mr. MACHTLEY.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Mr. GLICKMAN, Mr. RICHARDSON, and Mr. COMBEST.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 812 and 1316 of the House bill and sections 1087, 2854, and 2908 of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. NEAL of North Carolina, Mr. KANJORSKI, Mrs. ROUKEMA, and Mr. RIDGE.

As additional conferees from the Committee on Education and Labor, for consideration of sections 373, 1303, 1331, 1333–1337, 1343, 1344, and 3103 of the House bill and sections 338, 532, 1088, and 2853 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. CLAY, Mr. WILLIAMS, Mr. PETRI, and Mr. GOODLING.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 267, 382, 601, 1109, 1314, 2816, 2822, 2829, 2830, 2839, 3105 (b) and (c), 3132, 3137, 3140, and 3201 of the House bill and sections 322, 325, 327, 705, 822, 1088, 2802, 2803, 2833, 2842, 2844, 2913, 3106 (c), (d), (j), and (l), 3131, 3132, 3133, 3136–3147, 3149, 3150, 3201, and 3202 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. SHARP, Mr. SWIFT, Mr. MOORHEAD, and Mr. OXLEY: Provided, That Mr. BLILEY is appointed in lieu of Mr. OXLEY solely for the consideration of sections 267, 601, and 1109 of the House bill, and sections 705 and 3106 of the Senate amendment: Provided further, That Mr. BILIRAKIS is appointed in lieu of Mr. OXLEY solely for the consideration of sections 1314, 3137, 3140, and 3201 of the House bill, and sections 322, 2802, 2803, 3132, 3136, 3139–3147, 3149, 3150, 3201, and 3202 of the Senate amendment: Provided further, That Mr. STEARNS is appointed in lieu of Mr. OXLEY and Mrs. COLLINS of Illinois is appointed in lieu of Mr. SWIFT solely for the consideration of section 822 of the Senate amendment: Provided further, That Mr. SCHAEFER is appointed in lieu of Mr. OXLEY solely for the consideration of section 3138 of the Senate amendment.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 234, 237, 241, 1005, 1008—relating to funding structure for contingency operations—1009—relating to report on humanitarian assistance activities—1021, 1022, 1034, 1038, 1041, 1043–1045, 1048, 1051–1055, 1105, 1107, 1108, 1201–1203, 1205–1208, 1360, 1501–1510, and 3136 of the House bill and sections 216, 221, 223, 224, 241–245, 547, 1041, 1042, 1051–1054, 1061, 1067, 1077, 1078, 1083–1085, 1087, 1093, 1094, 1101–1103, and 1105–1107 of the Senate amendment, and modifications committed to conference: Mr. HAMILTON, Mr. GEJDENSON, Mr. LANTOS, Mr. GILMAN, and Mr. GOODLING.

As additional conferees from the Committee on Government Operations, for consideration of sections 818, 829, 1023, 1050, 2816, 2821, 2823, 2839, and 3140 of the House bill and sections 825, 2843, 2844, and 2902–2908 of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS of Illinois, Mr. ENGLISH of Oklahoma, Mr. CLINGER, and Mr. MCCANDLESS.

As additional conferees from the Committee on the Judiciary, for consideration of section 262 of the House bill, and modifications committed to conference: Mr. BROOKS, Mr. SYNAR, Mr. BERMAN, Mr. FISH, and Mr. MOORHEAD.

As additional conferees from the Committee on the Judiciary, for consideration of section 1022 of the House bill, and modifications committed to conference: Mr. BROOKS, Mr. SCHUMER, Mr. CONYERS, Mr. SENSENBRENNER, and Mr. FISH.

As additional conferees from the Committee on the Judiciary, for consideration of section 1082 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. MAZZOLI, Mr. BRYANT, Mr. FISH, and Mr. MCCOLLUM.

As additional conferees from the Committee on Merchant Marine and Fisheries, for the consideration of sections 1351, 1352, and 1354–1359 of the House bill and sections 654 and 3501–3506 of the Senate amendment, and modifications committed to conference: Mr. STUDDS, Mr. TAUZIN, Mr. LIPINSKI, Mr. FIELDS of Texas, and Mr. BATEMAN.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 265, 1314, and 3137 of the House bill and sections 328, 2841, 2851, 2915, 3103, and 3135 of the Senate amendment, and modifications committed to conference: Mr. STUDDS, Mrs. UNSOELD, Mr. REED, Mr. FIELDS of Texas, and Mr. BATEMAN.

As additional conferees from the Committee on Natural Resources, for consideration of section 2818 of the House bill and sections 2855, 3132, 3139, and 3147 of the Senate amendment, and modifications committed to conference: Mr. MILLER of California, Mr. VENTO, Mr. LEHMAN, Mr. YOUNG of Alaska, and Mrs. VUCANOVICH.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 364, 901, 934, 943, and 1408 of the House bill and sections 523, 1064, and 3504 of the Senate amendment, and modifications committed to conference: Mr. CLAY, Mr. MCCLOSKEY, Ms. NORTON, Mr. MYERS of Indiana, and Mrs. MORELLA.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 2816 and 2841 of the House bill and sections 1068, 1087, 2833, 2842, and 2917 of the Senate amendment, and modifications committed to conference: Mr. MINETA, Mr. APPLEGATE, Mr. WISE, Mr. SHUSTER, and Mr. CLINGER.

As additional conferees from the Committee on Rules, for consideration of section 1008 (relating to funding structure for contingency operations) of the House bill, and modifications committed to conference: Mr. DERRICK, Mr. BEILENSON, Mr. FROST, Mr. SOLOMON, and Mr. QUILLEN.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 215, 262, 265, 1303, 1304, 1312–1318, and 3105 of the House bill and sections 203, 233, 235, 803, and 3141–3148 of the Senate amendment, and modifications committed to conference: Mr. BROWN of California, Mr. VALENTINE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WALKER, and Mr. FAWELL.

As additional conferees from the Committee on Small Business, for consideration of section 829 of the House bill, and modifications committed to conference: Mr. LAFALCE, Mr. SMITH of Iowa, and Mrs. MEYERS of Kansas.

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 1071 and 1079 of the Senate amendment and modifications committed to conference: Mr. MONTGOMERY, Mr. SANGMEISTER, and Mr. STUMP: Provided, That Mr. SLATTERY is appointed in lieu of Mr. SANGMEISTER solely for the consideration of section 1079.

As additional conferees from the Committee on Ways and Means, for consideration of sections 653, 705, and 1087 of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. ARCHER, and Mr. CRANE.

At 2:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House insists upon its disagreement to all amendments of the Senate to the bill (H.R. 2492) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes, and asks a further conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. DIXON, Mr. STOKES, Mr. DURBIN, Ms. KAPTUR, Mr. SKAGGS, Ms. PELOSI, Mr. NATCHER, Mr. WALSH, Mr. ISTOOK, Mr. BONILLA, and Mr. MCDADE be the managers on the part of the House.

At 5:58 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2519) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 7, 11, 62, 79, 80, 99, 120, 137, 145, and 171, and has agreed thereto; and that the House recedes from its disagreement to the amendments of the Senate numbered 3, 5, 10, 21, 22, 23, 27, 30, 31, 34, 37, 44, 52, 63, 64, 67, 71, 73, 75, 78, 81, 84, 93, 97, 101, 110, 111, 113, 114, 115, 122, 129, 130, 132, 133, 135, 138, 139, 140, 141, 142, 147, 148, 149, 150, 159, 161, 162, 166, 169, 170, 174, and 175 to the bill, and has agreed thereto, each with an amendment, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following measure was read the first and second times by unanimous consent, and referred as indicated:

H.R. 914. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Red River in Kentucky as components of the national wild and scenic rivers system, and for other purposes; to the Committee on Energy and Natural Resources.

The following bill, previously received from the House of Representatives for concurrence, was read, and referred as indicated:

H.R. 2677. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct the West Court of the National Museum of Natural History building; to the Committee on Rules and Administration.

The following concurrent resolution, previously received from the House of Representatives for concurrence, was read, and referred as indicated:

H. Con. Res. 143. Concurrent resolution expressing the sense of the Congress concerning the historic opportunity for peace in the Middle East; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2351. An act to authorize appropriations for fiscal years 1994 and 1995 to carry out the National Foundation on the Arts and the Humanities Act of 1965, and the Museum Services Act.

H.R. 2632. An act to authorize appropriations for the Patent Trademark Office in the Department of Commerce for fiscal year 1994.

H.R. 2840. An act to amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1657. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report of the study of buoy chain procurement practices; to the Committee on Commerce, Science, and Transportation.

EC-1658. A communication from the Acting Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report of abnormal occurrences at licensed nuclear facilities for the period April 1 through June 30, 1993; to the Committee on Environment and Public Works.

EC-1659. A communication from the Acting General Counsel, Department of Commerce, transmitting a draft of proposed legislation entitled "Fair Trade in Auto Parts Extension Act of 1992"; to the Committee on Finance.

EC-1660. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Whistleblowing in the Federal Government: An Update"; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with amendments:

S. 483. A bill to provide for the minting of coins in commemoration of Americans who have been prisoners of war, and for other purposes.

S. 1159. A bill to require the Secretary of the Treasury to mint coins in commemoration of women who have served in the Armed Forces of the United States.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

William B. Gould IV, of California, to be a member of the National Labor Relations Board for the remainder of the term expiring August 27, 1993;

William B. Gould IV, of California, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1998;

John Calhoun Wells, of Texas, to be Federal Mediation and Conciliation Director; and

Martin John Manley, of California, to be an Assistant Secretary of Labor.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WELLSTONE:

S. 1570. A bill to amend title 18, United States Code, to prevent persons who have committed domestic abuse from obtaining a firearm; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1571. A bill to improve immigration law enforcement; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 1572. A bill to amend the Family Violence Prevention and Services Act to authorize the Secretary of Health and Human Services to administer a Federal demonstration program to coordinate response and strategy within many sectors of local communities for intervention and prevention of domestic violence; to the Committee on Labor and Human Resources.

By Mr. SIMON:

S. 1573. A bill to provide equal leave benefits for adoptive parents; to the Committee on Labor and Human Resources.

By Mr. BRADLEY:

S. 1574. A bill to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. MIKULSKI:

S. 1575. A bill to amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles; to the Committee on Governmental Affairs.

By Mr. WOFFORD:

S.J. Res. 146. A joint resolution designating May 1, 1994, through May 7, 1994, as "National Walking Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 1570. A bill to amend title 18, United States Code, to prevent persons who have committed domestic abuse from obtaining a firearm; to the Committee on the Judiciary.

THE DOMESTIC VIOLENCE FIREARM PREVENTION ACT OF 1993

• Mr. WELLSTONE. Mr. President, today, I am introducing a bill to take guns out of the hands of people who are violent toward their spouse or children. The Domestic Violence Firearm Prevention Act is one more important step toward breaking the cycle of domestic violence. I am proud to say that Minnesota was the first State to enact this type of legislation on a State level.

This is critical legislation. We know that the only difference between a battered woman and a dead woman is a gun. According to the FBI a woman is beaten every 12 seconds in the United States. Over 4,000 women are killed each year at the hands of their batterers. An estimated 150,000 incidents of domestic violence involve a weapon. A recent study in the New England Journal of Medicine found that battered women and others who have been physically abused in a previous family fight are almost five times more likely to be murdered or involved in a fatal shooting.

Currently, under Federal law, there is a list of circumstances, including conviction of a felony and mental incompetence, that prevent individuals from legally owning a gun. This legislation would add to that list those who have been convicted of domestic violence. Under this bill, anyone who has been convicted of abusing their spouse or child, or who has a restraining order issued against them because of threatened abuse, would be prohibited from obtaining a firearm. This bill would also prohibit anyone from selling or giving a gun to someone they know, or should know, is a perpetrator of domestic violence or has a court issued restraining order.

Just this past weekend in Minnesota, it was reported that a man fatally shot his girlfriend at his apartment after she tried to break up with him. He then shot and killed himself.

Representative TORRICELLI, along with Representatives SCHROEDER, LOWEY, and DELAURO, is introducing a companion bill in the House of Representatives.

My wife Sheila and I have worked together over the past several years on strategies to protect victims of domestic abuse and to break the cycle of violence.

Earlier this year I introduced two other bills that deal with prevention of domestic violence—the Child Safety Act, S. 870, a bill to establish supervised visitation centers for families that have a history of violence, and the Violence Reduction Training Act, S. 869, a bill to train health care providers to identify and refer victims of domestic abuse.

Next week we are having a hearing on domestic violence. One of the witnesses was herself a victim of domestic violence. She was shot by her ex-husband as was her 6-year-old son. She now lives with an artificial leg as a result.

Next week Sheila and I are sponsoring an art exhibit from Minnesota called the Silent Witness. This exhibit is an extraordinary visual display of the impact of domestic violence. It is a traveling memorial honoring the 26 women who were murdered in Minnesota during 1990 in acts of domestic violence. The exhibit is made up of 27 life-size silhouettes. Twenty-six of them represent women whose lives ended violently at the hands of a husband, ex-husband, partner, or acquaintance. The 27th figure represents those uncounted women whose deaths went unreported or unacknowledged. Ten of the twenty-seven died from gunshot wounds.

We must stop the violence—in homes as well as in the streets. This bill takes a strong step toward stopping the crime of domestic violence.

I urge my colleagues to join me in sponsoring this important legislation.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1570

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Violence Firearm Prevention Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) domestic violence is the leading cause of injury to women in the United States between the ages of 15 and 44;

(2) firearms are used by the abuser in 7 percent of domestic violence incidents; and

(3) individuals with a history of domestic abuse should not have easy access to firearms.

SEC. 3. PROHIBITION AGAINST DISPOSAL OF FIREARMS TO, OR RECEIPT OF FIREARMS BY, PERSONS WHO HAVE COMMITTED DOMESTIC ABUSE.

(A) PROHIBITION AGAINST DISPOSAL OF FIREARMS.—Section 922(d) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by inserting after paragraph (7) the following:

"(8)(A) has been convicted in any court of the United States of an offense that—

"(i) has as an element the use, attempted use, or threatened use of physical force against a spouse, former spouse, domestic partner, child, or former child of the person; or

"(ii) by its nature, involves a substantial risk that physical force against a spouse, former spouse, domestic partner, child, or former child of the person may be used in the course of committing the offense; or

"(B) is required, pursuant to an order issued by a court of the United States in a case involving the use, attempted use, or threatened use of physical force against a person described in subparagraph (A), to maintain a minimum distance from the person so described.".

(b) PROHIBITION AGAINST RECEIPT OF FIREARMS.—Section 922(g) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by inserting "or" at the end of paragraph (7); and

(3) by inserting after paragraph (7) the following:

"(8)(A) has been convicted in any court of the United States of an offense that—

"(i) has as an element the use, attempted use, or threatened use of physical force against a spouse, former spouse, domestic partner, child, or former child of the person; or

"(ii) by its nature, involves a substantial risk that physical force against a spouse, domestic partner, child, or former child of the person may be used in the course of committing the offense; or

"(B) is required, pursuant to an order issued by a court of the United States in a case involving the use, attempted use, or threatened use of physical force against a person described in subparagraph (A), to maintain a minimum distance for the person so described;".•

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1571. A bill to improve immigration law enforcement; to the Committee on the Judiciary.

IMMIGRATION LAW ENFORCEMENT ACT OF 1993

Mrs. FEINSTEIN. Mr. President, I rise today to introduce to the Immigration Law Enforcement Act of 1993, which sets forward a plan for the Federal Government to effectively enforce our Nation's borders.

Mr. President, I am proud that this legislation is coauthored by my colleague and friend, Senator BARBARA BOXER.

A few days prior to July 4, I think a very special holiday for all of us in America because we celebrate our heritage of independence and the growth of our Nation, I first spoke out on the issue of immigration, an idea which is really at the core of our Nation's identity.

I spoke out for one fundamental reason: Concern that America's inability to control her borders, to adequately deter and prevent illegal immigrants from flocking to the United States, could—and most probably would—cause a backlash against all immigrants.

According to a House Government Operations Committee report released in August of this year, 77 percent of all of the legal immigrants of this country reside in six States. They are California, Texas, New York, Florida, Illinois, and New Jersey.

So, essentially, six States are home to 77 percent of all of the immigrants in our country.

It is also estimated that almost 9 million, 8.9 million, people have come to this country legally over the past 10 years. But another 3 million have entered our country illegally. According to unofficial Census Bureau figures, California is home to 52 percent of all of the undocumented immigrants of this Nation. That is 2,083,000 illegal immigrants in my State alone.

This steady stream of illegal immigrants across our borders, particularly in the Southwest region, has resulted in many immigrants, including those here quite legally, feeling decidedly unwelcome.

To encourage a rational discussion of what is an emotionally charged issue, I advanced seven moderate steps this summer to enforce our borders, to begin to streamline the asylum process, and to deport illegal immigrants convicted of aggravated felonies to serve their prison time in their country of origin rather than in our jails.

I have discussed these proposals with the President, the Attorney General, INS Commissioner-designee Doris Meissner, my colleagues on the Senate Judiciary and Appropriations Committee, Hispanic-American and Asian-American elected officials and community leaders, and many others.

Additionally, I have written to President Salinas of Mexico urging that his country to step up efforts, which are now nonexistent, to enforce its borders and received a response stating that the Mexican Government is amenable to discussing these matters. I ask unanimous consent that a copy of this letter and the Mexican Government's response be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD as follows:

WASHINGTON, DC,
August 17, 1993.

His Excellency, CARLOS SALINAS DE GORTARI,
President of the Republic of Mexico, Mexico City, Mexico.

DEAR MR. PRESIDENT: On June 30th of this year I took the floor of the United States Senate to speak at length about immigration, a subject of great importance to the United States and my State of California. As the daughter and granddaughter of immigrants, I expressed concern that—unless the United States took immediate and effective steps to control illegal immigration—frustration with the economic burden of that influx could cause a retreat from our nation's longstanding commitment to legal immigration.

It is the responsibility of our respective governments to prevent such a tragedy, Mr. President. That is why I have written to you today.

According to United States Census figures just released, of the 4 million undocumented persons now estimated to be living in the United States, over half (2.083 million or 52%) are living in California. Moreover, the U.S. Immigration and Naturalization Service reported in 1992 (the last year for which figures are now available) that 95.8% of all persons apprehended entering the United States illegally were Mexican citizens.

We both understand the tremendous economic burden of caring for these people placed upon border states like California. I respectfully submit, Mr. President, that neither of our nations can tolerate any longer the inadequately regulated illegal outflow of Mexican citizens into the United States.

As detailed in my recent remarks, a copy of which are attached, I will continue to work to build further support in Congress for the expansion, equipment and professionalization of the United States Border Patrol. It is clear to me that the United States cannot—and, frankly, should not—unilaterally bear the burden of substantially curtailing illegal immigration from Mexico.

Consequently, I have urged President Clinton and Ambassador Kantor to make Mexico's affirmative commitment to help control the border with the United States a precondition of America's endorsement of the North American Free Trade Agreement. Such a commitment would, I believe, facilitate Senate ratification of the Agreement. It certainly would encourage my affirmative support.

As a matter of equity and economics, Mr. President, I feel strongly that working together to control our border is the right thing for both of our nations to do. Accordingly, in my capacity as an individual Member of Congress, I respectfully ask that you and your government make control of our mutual border as high a priority in Mexico as it clearly has become, and will remain, in the United States today.

If I or my staff can assist you in any way, Mr. President, please do not hesitate to call on us. I look forward to an ongoing and productive dialogue with you on this and other matters of common concern.

Respectfully yours,

DIANNE FEINSTEIN,
U.S. Senator.

EMBASSY OF MEXICO,
Washington, DC, September 15, 1993.

Hon. DIANNE FEINSTEIN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: Please find enclosed a letter addressed to you by Mr. Fernando Solana, Secretary of Foreign Relations of Mexico.

Yours sincerely,

JORGE MONTAÑO,
Ambassador.

[Translation]

SECRETARY OF FOREIGN RELATIONS,
Tlatelolco, Mexico, September 10, 1993.

Hon. SENATOR FEINSTEIN: I am writing in reference to your considerate letter of August 17th, in which you addressed your concerns with respect to the migration of illegal immigrants from Mexico to California.

Mexico respects the right of Mexicans to emigrate as a constitutional guarantee. At the same time, however, the Mexican government wants to export merchandise to the United States, not people. This goal was essential in the decision to open up negotiations for a North American Free Trade Agreement. Only through the advancement of mutual prosperity can we administer, together, this purpose.

We should recall that the report by the Bipartisan Commission of the United States Congress on the Study of International Migration and Cooperative Economic Development of July 1990, shows the economic aspect as one of the principal causes of the problem.

Nevertheless, my government has been and is in the best disposition to continue an honest and open dialogue with the government of the United States to confront the immigration problem while protecting the human rights of the Mexican migratory workers.

In sum, through the Group on Immigration Issues of the Binational Mexican-American Commission, the Mexican Government will continue to maintain high level contact with the government of the United States and is also disposed to continue a dialogue with you and other Congressional Representatives as well as the Executive Body of the State of California with respect to this issue.

Cordially Yours,

FERNANDO SOLANO.

I have also made two visits to the border in the past 4 months, one with Attorney General Janet Reno and Senator BARBARA BOXER. Both trips have reinforced the need for Federal action.

There I saw literally hundreds of illegal immigrants lined up on one side of the border, waiting for night to fall to play a cat-and-mouse game with a vastly outnumbered Border Patrol. In many places on that border, a single Border Patrol agent is responsible for securing up to 3 miles of border with literally hundreds of people standing atop buildings waiting to see when his back is turned so that they can sneak across. And about 2,000 a day do just that.

I saw helicopters, 25 years old and so rickety that the Border Patrol would not take a civilian up in them.

I saw an underground tunnel, 65 feet deep with air-conditioning and lighting, going from the inside of a warehouse on one side of the border to the inside of another warehouse on our side of the border, built for one purpose: to smuggle drugs from Mexico to the United States.

I saw border gates at San Diego running at half staff—just 12 out of the 24 lanes in use—with miles of backed-up traffic pumping pollution into the air, costing untold dollars as people waited hour after hour to be legally authorized to cross the border.

The facts are clear: Our immigration laws are meaningless without the resources to enforce them. And the resounding conclusion is that the men and women of the Immigration and Naturalization Service, its Border Patrol, and the Customs Service—the three agencies primarily responsible for enforcing our borders—are overwhelmed.

During testimony earlier this summer, before a House committee, I heard Henry Wray, of the General Accounting Office, state:

> We have effectively lost control of the Southwest border, and I think there are tremendous shortages in staff on the part of the Border Patrol.

The recent Operation Blockade experiment in El Paso, where 450 agents working overtime saturated a 20-mile strip of border, has shown that illegal immigration can be reduced. It is simply not true that we cannot enforce our borders. Arrests have dropped substantially, from about 1,000 a day to just about 100.

While I would like to see a variation of Operation Blockade along the southwest border in California as an interim measure, I think the long-term Federal Government solution must be a different one.

I rise today, therefor, to introduce the Immigration Law Enforcement Act of 1993, which is designed both to implement a number of proposals that I made this summer and to complement President Clinton's asylum reform and antismuggling initiative introduced by Senator KENNEDY in late July.

First and foremost, this legislation will provide the resources clearly needed to enforce our borders. Specifically, in addition to the 700 new agents for which we have obtained funding in this year's appropriations cycle, it would add 1,400 Border Patrol agents over the next 2 fiscal years.

It would dedicate a lion's share of the new agents to the southwest border.

It would give bilingual applicants priority in the hiring process.

And it would authorize the Attorney General to obtain, from other Federal agencies and the private sector, aircraft, vehicles, detection devices, and other equipment needed for the Border Patrol to function effectively.

When I visited the border between San Diego and Tijuana, while 2,000 people were coming over illegally a night, there was just one infrared detection system available to the Border Patrol.

Second, it is my hope and expectation that this legislation will help reduce cases of abuse by the small minority of Border Patrol agents responsible for them. Reports by the American Friends Service Committee and Americas Watch documented over 1,000 incidents of abuse in immigration law enforcement over the last 3 years. These incidents involved verbal and physical abuse, illegal searches, and the destruction of property. They can and should be curtailed by the additional training-in-service ongoing of current agents and enhanced training of new agents funded by this bill. In addition, the Attorney General will be required to report annually to the Congress under this legislation on the status of the Department of Justice's effort to reduce Border Patrol abuse.

Third, this legislation provides additional resources to boost efforts to interdict drugs along the border.

In 1990, along California's southern border, the INS, Customs, and Drug Enforcement Agency, working together in Operation Alliance, seized nearly 400,000 pounds of marijuana with a minimum street value of $1.2 billion and 34,000 pounds of cocaine conservatively valued at $326 million if sold on our streets. In just one night at the border, I myself saw a car that had just attempted to enter the United States whose entire interior was rimmed with kilos of marijuana.

The legislation I am introducing today authorizes additional funds, to be spent at the discretion of the Attorney General, for the Organized Crime Drug Enforcement Task Force program. Since its inception in 1982, this interagency program has put almost 25,000 drug traffickers and criminals behind bars and seized cash and property worth more than $2.5 billion. It is exactly the kind of interdiction effort worth an additional investment by our Government, an investment that this bill can help fund.

Fourth, this legislation will speed legal crossings at all land borders of our country by fully staffing existing border gates and authorizing the construction of new facilities needed to handle the transborder crossing volume.

Today in San Diego, commuters and tourists often wait 2 and 3 hours to pass through our busiest port of entry—often times, because only half of the available gates are staffed.

This legislation would provide for the staffing of all land_border crossing lanes along the southwest border during peak hours within 3 years; established lanes for frequent border crossers; build additional facilities, if needed, to speed border crossing; and fund construction of the fences, buildings and infrastructure needed by the INS, Customs and DEA to more effectively monitor the border.

Fifth, the Immigration Law Enforcement Act compliments the President's asylum reform efforts by revoking part of the 1990 Executive order granting enhanced consideration in the political asylum process for persons claiming that they are fleeing restrictive birth control policies.

In other words, now all somebody has to do is say "abortion," and they are granted political asylum. That is not what political asylum was meant to be. Such persons, in my opinion, are not the refugees that the asylum process was meant to shelter.

Sixth, this legislation addresses a costly problem that affects prisons in several States. Today, if an illegal immigrant is convicted of an aggravated felony and sentenced to our prison system, the prisoner can veto any attempt by our Government to deport him or her, even if we have a reciprocal treaty with the prisoner's country of origin to do so. That option should be removed, and prisoner transfer treaties negotiated or renegotiated with our neighbors and other nations, so that convicted alien felons can be returned to their countries of origin to serve their prison time.

The California Department of Corrections reported on January 7 of this year that over 21,000 of the 109,000 inmates in California prisons are foreign born, and an estimated 16,000 of these inmates are subject to deportation once they complete their sentences. In 11 percent of the cases, the criminal aliens are in prison for murder, while 37 percent have been found guilty of the sale, manufacture, or possession or sale of drugs.

Almost 50 percent of them therefore, either committed murder or sold drugs. The Los Angeles County Board of Supervisors estimates that criminal aliens account for about 11 percent of the L.A. County jail population, resulting in over $75 million a year in criminal justice system costs. I say that it is time to help local government and require that illegal immigrants, convicted of aggravated felonies—murder, gun or drug trafficking, or any violent crime that carries a prison sentence of 5 years or more—serve their jail time in their countries or origin.

This legislation addresses this problem in two ways. It allows Federal judges, at the time of sentencing, to authorize the deportation of illegal immigrants convicted of these crimes once they serve their time in an American prison. Believe it or not, today, there must be a second deportation hearing often held after the prisoner has been released.

Also, it would empower the Secretary of State and the Attorney General to negotiate agreements allowing the United States to return for incarceration in their home countries any illegal immigrants convicted of a deportable offense.

Seventh, the Immigration Enforcement Act also includes a funding mechanism, a modest and reasonable border crossing fee, to make these improvements. The bill establishes a revolving fund within the Treasury to accept revenues generated by a border crossing fee of $1 to be paid by anyone, whether citizen, tourist or immigrant, entering the United States at any land border crossing or seaport: north, south, east, or west.

Based on 1992 Customs Service figures, a dollar crossing fee could raise more than $400 million annually. This bill also provides the Attorney General with the authority to adjust the fee from time to time and to institute discount fee programs for frequent border crossers.

I am pleased to say that the border fee concept is under serious consideration by the administration, has been endorsed by newspapers such as USA Today and the Los Angeles Times; my colleague, Senator BARBARA BOXER; the Governor of the State of California; California Treasurer, Kathleen Brown, and the Boards of Supervisors of Los Angeles and San Diego County. A recent Los Angeles Times poll shows that more than 70 percent of the people of the State of California support such a fee.

Finally, in addition to accomplishing the primary purposes of the bill just outlined, the Immigration Law Enforcement Act also authorizes the use of border fee revenues to fund asylum reform and antismuggling measures in the administration's proposals, if needed. Funds may also go to fight drug smuggling and to assist legal immigrants to become naturalized American citizens—something we should all want to see.

When I took the floor on June 30 to address the importance of preserving legal immigration by controlling illegal breaches of our borders, and to outline the program which is now at the core of the Immigration Law Enforcement Act, I did so not simply as a U.S. Senator, but as the daughter of an immigrant and the granddaughter of immigrants.

It is my belief that this legislation, in conjunction with the administration's complimentary efforts to remake our troubled asylum system, and to heavily punish alien syndicate smugglers, constitutes a substantial step toward regaining control of our borders. Such control is a prerequisite to silencing the anti-immigration rhetoric now being heard from California to Washington.

I urge my colleagues to join me in supporting this legislation and, in doing so, to protect the thousands of men and women who risked everything to make America their own.

By Mr. HATFIELD:

S. 1572. A bill to amend the Family Violence Prevention and Services Act to authorize the Secretary of Health and Human Services to administer a Federal demonstration program to coordinate response and strategy within many sectors of local communities for intervention and prevention of domestic violence; to the Committee on Labor and Human Resources.

DOMESTIC VIOLENCE COMMUNITY INITIATIVE ACT

Mr. HATFIELD. Madam President, today I am introducing legislation that speaks to one of the most pervasive and devastating of the root causes of crime and violence in our society: violence in the home. Throughout history we have known that violence begets violence. This truth was illustrated sharply in a comprehensive study last year by the National Institute of Justice which stated that being abused or neglected as a child increased the likelihood of arrest as a juvenile by 53 percent, and increased the chance of arrest for violent crime by 38 percent.

Domestic violence is the single largest cause of injury to women in America—up to 4 million women suffer its consequences annually; every 15 seconds a woman is beaten in this country, and each day 10 women die from its effects according to a report by the Department of Health and Human Services. But, men are often its victims also. Violence can be initiated by or suffered by any member of the family. It does not limit itself within gender, racial, or economic lines. It is a disease that, in our society, is repulsively rampant.

In Portland this year, almost twice as many people have been murdered from domestic violence as those killed in gang-related murders. We like to cite statistics because they often prove useful in the business of setting national policies. However, these staggering statistics eventually begin to bounce off of us like so many nightly news tallies of the day's worldwide carnage. It is not easy to reach out, to get personally involved in a sensitive issue that welcomes denial. But, in this instance we must reach out—in our schools, our hospitals, our churches, and our civic groups. This is a problem national in scope but embedded in the most private of settings; the home. Without widespread individual involvement, any attempt by Government to tackle the issue will fail.

The Domestic Violence Community Initiative Act of 1993 which I introduce today would address a need currently unmet by any existing program. The purpose of this bill is to facilitate a coordinated community-based response to domestic violence. It would establish a Federal demonstration program authorizing grants to organizations in communities throughout the country to coordinate strategies amongst all sectors including the education community, health-care providers, the justice system, the religious community, business and civic leaders, State children services divisions, and domestic violence program advocates.

In meetings with community representatives in my State I found that there was a lack of interaction, communication, and coordination among the various sectors attempting to break this cycle of tragedy and violence. Each specialty area is working on a piece of the puzzle, but there is not a comprehensive approach to this problem which cuts across all specialties. For example, those in the medical and education communities tell me that there is now some training to recognize abuse, but that there is often no coordination with other professionals on when, how, or to whom signs of abuse should be reported. Efforts at coordination are being made in many communities, but there is a noted lack of resources for such organization.

This proposal would tie these groups together to share information, enhance awareness of the problems surrounding this issue, and coordinate action plans for intervention and prevention of domestic violence. Specifically, it would authorize $20 million to allow the Secretary of Health and Human Services to make grants to assist these efforts. This would enhance the effectiveness of current statewide programs which focus on providing shelter and counseling. And, as with other programs under the Family Violence Prevention and Services Act, this demonstration project would be periodically evaluated for effectiveness by the Secretary of HHS. The eventual goal is to form a commitment by communities and the families who live in them to take positive action to stop this cycle of abuse.

The extent of family violence is frightening. In Oregon, domestic crisis centers take over 51,000 crisis calls per year. In Multnomah County alone, shelters and hotlines logged over 13,000 domestic violence crisis calls. Even more horrifying is the fact that over 40 percent of child fatalities in Oregon occur in homes where there is adult domestic violence. When I visit shelters in Oregon I am struck by the tragedy of women trying to keep their lives together, by the faces of the innocent children at the shelter who feel the effects of this violence so poignantly, and by the knowledge that these are the lucky ones—that Portland area shelters must turn away 9 of 10 requests for help because they are filled to capacity.

In recent years we have made some progress in recognizing the extent of this problem. In the Appropriations Committee we have overseen an increase in funding for shelter and counseling programs from $8.2 million in 1989 to $24.7 million last year. All across the country during the month of October an effort is being made to enhance the awareness of domestic violence. Upon this foundation of will, we must continue to build our resolve to eradicate violence in the home.

I am also a cosponsor of the Violence Against Women Act and applaud the general funding for domestic violence programs included in that bill by Chairman BIDEN and others. The bill I introduce today is a natural enhancement to those proposals in that it specifically focuses on the concept of active involvement by all sectors of a local community. This is an idea that should be tested in a variety of forms in many different States. I welcome the support of my colleagues and hope that you will join me in this effort.

I ask unanimous consent that the letters from community groups supporting the need for this demonstration program be printed in the RECORD immediately following my remarks. I also ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Violence Community Initiative Act of 1993".

SEC. 2. ESTABLISHMENT OF COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

"(a) IN GENERAL.—The Secretary shall provide grants to nonprofit private organizations to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity—

"(1) shall be a nonprofit organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence;

"(2) shall include representatives of pertinent sectors of the local community, incuding—

"(A) health care providers;

"(B) the education community;

"(C) the religious community;

"(D) the justice system;

"(E) domestic violence program advocates;

"(F) human service entities such as State child services divisions; and

"(G) business and civic leaders;

"(c) APPLICATIONS.—An organization that desires to receive a grant under this section shall submit to the Secretary an application, in such form and in such manner as the Secretary shall prescribe through notice in the Federal Register, that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Secretary may require.

"(d) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(e) CONDITIONS OF PAYMENT.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Secretary; and

"(2) availability of appropriations.

"(f) GEOGRAPHICAL DISPERSION.—The Secretary shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"(g) USE OF GRANT MONIES.—

"(1) IN GENERAL.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(2) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

"(A) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

"(B) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(C) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.

"(h) AUTHORIZATION OF APPROPRAITIONS.—There are authorized to be appropriated to carry out this section—

"(1) $20,000,000 for fiscal year 1994; and

"(2) such sums as are necessary for each of the fiscal years 1995, 1996, and 1997,

to remain available until expended.

"(i) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall publish regulations implementing this section. Not later than 120 days after the date of enactment, the Secretary shall publish final regulations implementing this section.".

CITY OF PORTLAND, OR,
BUREAU OF POLICE,
Portland, OR, April 2, 1993.

Senator MARK O. HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: This is a letter of support from the Portland Police Bureau's Family Services Division for the proposed Community Initiative to End Domestic Violence.

It is the immediate intention of the Police Bureau to provide some enhanced service and support to the victim's of domestic abuse. We will investigate for prosecution more cases, and certainly concentrate on cases with serious indications for future violence. In our planning, it became immediately obvious that there is an important need for coordination of all components of the domestic violence systems and for heightened public awareness and support. We believe Federal assistance is necessary to the success of our system.

Law enforcement is only one piece of the answer to domestic violence in Portland. We support the initiative and request for consideration.

If you have any questions about police response to domestic violence, please call (503) 796-3161.

Sincerely,

ROBERT BROOKS,
Captain, Family Services Division.

OREGON MEDICAL ASSOCIATION,
Portland, OR, February 8, 1993.

Hon. MARK O. HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: The Oregon Medical Association is committed to the prevention of domestic violence, and to that end, supports the "Community Initiative to End Domestic Violence" proposal.

Oregon physicians have identified domestic violence as a priority public health issue because of its high cost to the health care system and adverse impact on families. In fact, the issue is so important to our members, we have formed a Task Force on Family Violence and become involved in a community-based coalition of groups, "Professionals in Partnership." This group is comprised of health care and domestic violence representatives committed to educating health care professionals about their role in prevention.

As successful as the efforts of "Professionals in Partnership" are, it is limited to health care. The "Community Initiative to End Domestic Violence" is a comprehensive plan integrating all sectors of the community. The Oregon Coalition Against Domestic & Sexual Violence has done an excellent job in bringing together key community organizations in this first-of-its-kind effort. Without federal funding, this broad-based solution to the domestic violence crisis will not be possible.

OMA is supportive of an initiative that will develop a coordinated, systemic, proactive response to eliminating domestic violence. We thank you for your efforts to make this project reality. With your help, we have the opportunity to prevent countless women and children from needless harm.

Sincerely,

JAMES A. CROSS, M.D.,
President.

PORTLAND PUBLIC SCHOOLS,
Portland, OR, March 29, 1993.

Re Proposed Community Initiative to End Domestic Violence.

Hon. MARK O. HATFIELD,
Hart Senate Building,
Washington, DC.

DEAR SENATOR HATFIELD: Portland Public Schools wholeheartedly supports the Community Initiative to End Domestic Violence proposal. We encourage your energy in working toward an appropriation to meet the goals of this proposal for the next three years.

Educators grades K-12 recognize the correlation between domestic violence and its impact on children. We are reminded daily that domestic violence and the physical abuse of students go hand in hand: our school police investigated 258 allegations of physical abuse of students between July 1992 and the end of February 1993. They estimate most of this abuse occurs in conjunction with domestic violence, and this figure is an increase over the 1991-92 school year.

The emotional and physical trauma these youngsters face when domestic violence occurs is an enormous barrier to their school success. Attendance, interpersonal skills, and academic progress all suffer. School staffs spend many hours with students and families trying to counteract the negative impact on both the total learning environment and individual student achievement. Unfortunately, we find only a tiny number of women turn to shelters or have access to resources to get them and the family away from their home violence. Our experience is that neglect is also correlated to domestic violence, and we find there are even fewer community resources for this type of child abuse.

Finally, domestic violence increases the likelihood that students will resort to violence at school to settle problems. To offset this we allocate many resources to keep schools a safe place in which to learn by teaching and modeling peaceful problem solving skills.

At a time when community resources for families are dwindling, including school resources, more than ever before there is a greater need for integrated services between community agencies. An important strength of this proposal is that it insures planning and collaboration between seven community sectors to bring intervention and prevention programs to out community.

Thank you for your personal efforts and involvement addressing this community problem.

Sincerely,

CAROLYN SHELDON,
Assistant Director,
Student Services Department.
CATHRYN C. SCHAR,
Supervisor,
Student Discipline Programs.

ECUMENICAL MINISTRIES OF OREGON,
Portland, OR, May 20, 1993.

Hon. MARK HATFIELD,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR MARK: On behalf of Ecumenical Ministries of Oregon, I wish to express our active interest in the proposed Coordinated Domestic Violence Intervention Initiative that you proposed. Our strong support has roots in our growing awareness of the incidence of violence in our communities. Our empirical knowledge comes from our observation of the Oregonians seeking services from our medical, treatment and socialization programs. It also comes from the experience of our 17 denominations and approximately 2000 congregations with their own members and with the wider parish, the neighborhoods in which they have facilities.

We acknowledge the need for prevention, intervention and treatment. We recognize our responsibility to be part of the response. We share your concern about the widespread tragedy of violence in the family and believe it is essential for the religious community to be a motivating factor in the development of an effective community response. Through our representative, Ellen Lowe, we have been involved in the planning and development of the Initiative.

As you know, we have enthusiastically agreed to sponsor the project. We believe this will promote the participation of the religious community. We also know that for there to be a significant impact on this problem, the whole community must mobilize. The initiative will enable us to do that. I understand the Initiative will be a model of community coordination and mobilization around domestic violence. There couldn't be a better place to do it than Portland, as many of us have developed cooperative relationships in addressing other community needs. As a statewide organization, we also believe we can share our expanded knowledge through congregations in all parts of Oregon. Our Community Ministries Commission has established sexual and domestic violence as its highest priority.

Your long history of supporting peace and justice efforts makes your leadership in this endeavor most important. Your acknowledgement of the importance of the family to a just community and, ultimately, to a just world is welcome leadership. The Initiative will be a significant step in our long quest for justice, equity and harmony.

Thank you for your continuing efforts on behalf of Oregonians.

Sincerely,

The Reverend RODNEY I. PAGE,
Executive Director.

U.S. BANCORP,
Portland, OR, January 27, 1993.

Hon. MARK O. HATFIELD,
U.S. Senate, Senate Hart Building, Washington, DC.

DEAR SENATOR HATFIELD: As you know, U.S. Bancorp actively participates within the communities where we do business to make Oregon a better place for all citizens. This letter is to convey to you U.S. Bancorp's support for a community wide initiative to end domestic violence.

Violence inflicted on women and children in family settings is a prevalent and serious societal problem that touches the lives of too many. Up to 50% of all women will be battered in an intimate relationship at some time in their lives. These women are employees, neighbors, friends and family members. It is a problem that results in homelessness, death, psychological and physical injury for a significant number of them. The cost to society has to be enormous. Yet, current programs and services are very poorly funded, both nationally and locally. With cutbacks in all sectors, the picture will only get worse unless we come together as a community to initiate change.

U.S. Bancorp has supported the Oregon Coalition Against Domestic and Sexual Violence (OCADSV) with monetary contributions as well as the support of staff. Our intent is to provide continued support. In addition, we would like to see a concerted effort on the part of business, in partnership with other community groups, to end the problem of domestic violence.

To gain momentum for such a project, federal leadership is needed. We urge you to consider and work for such an initiative. Without strong support from all sectors, too many women and children will continue to become victims with no place to turn.

Sincerely,

JUDITH R. RICE,
Executive Vice President.

JEWISH FEDERATION
OF PORTLAND,
Portland, OR, May 18, 1993.

Senator MARK HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: We are pleased to learn about the Coordinated Community Domestic Violence Intervention Initiative that is being developed as a result of your interest.

Domestic violence is a real problem which must be addressed. While small grassroots organizations have worked untiringly on the issue for nearly two decades, the community as a whole has not assumed responsibility for it.

The Community Initiative will mobilize all sectors of our community to determine what can be done to end domestic violence. It will also provide a way for all sectors to share information and ideas and work together in a coordinated fashion. The Community Relations Committee of the Jewish Federation of Portland supports this initiative. The project has great potential for significantly impacting the longstanding and tragic problem of domestic violence in our community.

Given the fiscal climate here in Oregon, we cannot hope to undertake this endeavor without national resources and leadership. We appreciate your leadership in helping to find solutions to this most serious and devastating problem.

Sincerely,

PENNY ROBERTS, *Chair.*

PORTLAND PUBLIC SCHOOLS,
Portland, OR, April 1, 1993.

Re: Proposed Community Initiative to End Domestic Violence.

Hon. MARK O. HATFIELD,
Hart Senate Building,
Washington, DC.

DEAR SENATOR HATFIELD: I join with many others in lending my whole-hearted support for the proposed community initiative to end domestic violence.

As a teacher and school administrator for many years and as the current administrative supervisor of the Portland Public Schools Police Department, I have long been concerned about the impact on children and their ability to learn caused by domestic violence. First hand observation of young victims dramatically illuminates the harrowing reality embodied in our national statistics on violence in American homes.

It is time for our community to take the step of bringing together organizations and leaders throughout the community to address this problem on a large scale. The proposed initiative presented to you recently is well conceived and offers real promise to not only make domestic violence a priority in this community, but also to take strong and positive action.

To succeed, this project requires staff and will incur some expense. We sincerely appreciate your efforts in working toward an appropriation to accomplish this goal for the next three years.

If I can be of assistance in any way, please let me know.

Sincerely,

JOHN LASHLEY,
Director.

OREGON DEPARTMENT OF
HUMAN RESOURCES,
Salem, OR, January 29, 1993.

Hon. MARK O. HATFIELD,
U.S. Senate,
475 Cottage NE, Salem, OR.

DEAR SENATOR HATFIELD: I support the proposal by the Oregon Coalition Against Domestic and Sexual Violence to develop the community infra-structure necessary to support and coordinate prevention and intervention services for victims of domestic violence.

I am the state coordinator for one source of funds for the domestic violence shelters, safe home networks and crisis lines in Oregon. Through my contact with these programs, I see the strong need for increased advocacy for ending domestic violence. Too often, violence is still seen by the public and other agencies as a family problem or domestic dispute without a recognition of the seriousness of the problem.

I also see the strong need for increased support for the domestic violence programs themselves. They are providing direct services to victims of domestic violence, both those who come to shelter as well as those in the community, and they are educating the community and other professionals. There is a definite lack of understanding of the issue or commitment within some sectors of the community. There is also the need for better coordination of all the players involved. It is a daunting task and the domestic violence programs lack the staff and resources to adequately take this on.

The Federal Government, through funding this project, can take a leadership role in stressing the importance of taking domestic violence seriously and through helping develop a model of a coordinated system. Even when agencies and professionals understand the issue and want to effect change, their resources are often stretched beyond the ability for them to act as the primary change agent. The project can mobilize and maximize the resources of the agencies and build additional support.

Children's Services Division is in a unique position. Our agency administers one source of funding for domestic violence programs. We work closely with an Advisory Committee with domestic violence program providers and interested community people. Additionally, we are the child protective services agency and witness the effects of domestic violence on children and our workload. We support the call for increased coordination and believe this project will positively impact the delivery of services.

Sincerely,

BONNIE JEAN BRAEUTIGAM,
Resource Development Unit.

MULTNOMAH COUNTY,
LEGAL AID SERVICE,
Portland, OR, January 26, 1993.

Re Coordinated Domestic Violence Intervention Initiative.

Senator MARK HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: I am writing to indicate Multnomah County Legal Aid's strong support for the Coordinated Domestic Violence Intervention Initiative. The project will stimulate community initiative to develop a coordinated, systemic, proactive response to domestic violence. The project includes all sectors of the community, including health care, the courts, the religious community, victim and offender programs, and other human service providers, business and civil leaders, the education system and the media.

Multnomah County Legal Aid Service (MCLAS) has worked on domestic violence issues for over 20 years, providing representation to victims, education to the courts, and public advocacy. For many years, we have worked in conjunction with the Oregon Coalition Against Domestic and Sexual Violence and local grassroots domestic violence programs. One of the landmarks in this work was the formation of the Multnomah County Family Violence Steering Committee (consisting of service providers and policymakers in the legal system). The Steering Committee conducted a needs assessment and produced a report showing a 90% turnaway rate for domestic violence shelters. The report recommended developing coordinated community intervention as an important next step in ending family violence. Through the Steering Committee, MCLAS and other participants have learned the value of coordinating the community's response to family violence. The Steering Committee has laid the groundwork for the Coordinated Domestic Violence Intervention Initiative effort and will be able to influence participation of other community sectors.

The Steering Committee, on which MCLAS is represented, has been involved in the development of the Coordinated Domestic Violence Intervention Initiative and will continue to be actively involved in the project. We support this project because it is an important project with great potential for having a significant impact on domestic violence and the ways in which the community deals with crime and social problems. What is learned from this project should be translatable and transferable to other geographic and social problem areas.

However, without federal funding, there is little likelihood that this project will be able to advance. We appreciate your past efforts in this area and hope that you will support the Coordinated Domestic Violence Intervention Initiative.

Very truly yours,

TERRY ANN ROGERS,
Executive Director.

RAPHAEL HOUSE OF PORTLAND,
Portland, OR, January 28, 1993.

Senator MARK HATFIELD,
U.S. Senate, Hart Building,
Washington, DC.

DEAR SENATOR HATFIELD: I am writing in support of the proposed Community Initiative to End Domestic Violence, a project developed by the Oregon Coalition against Domestic and Sexual Violence and other local groups.

There are many important projects being developed in this area which will impact services for domestic violence victims and perpetrators. It is critical that all of these projects and groups work together to make the prevention of domestic violence a priority in this area. The Community Initiative to End Domestic Violence would be a significant factor in coordinating the existing projects and in stimulating other necessary community action.

I am particularly excited about the involvement of Ecumenical Ministries of Oregon in this project and the goal to educate religious leaders about domestic violence. Raphael House is looking forward to working with the Initiative.

Thank you for your continuing interest in and concern for victims of domestic violence.

Sincerely,

MITCHELL JACOVER,
Executive Director.

CIRCUIT COURT OF OREGON,
FOURTH JUDICIAL DISTRICT,
Portland, OR, January 26, 1993.

Re Proposed Community Initiative to End Domestic Violence.

Hon. MARK O. HATFIELD,
Hart Senate Building,
Washington, DC.

DEAR SENATOR HATFIELD: I join with many others in lending my whole-hearted support for the proposed community initiative to end domestic violence.

I first became interested in this issue a little over five years ago when I was asked by the National Council of Juvenile and Family Court Judges to chair the first of several national projects aimed at improving court and community response to domestic violence. As part of that project, I convene a multidisciplinary group in Multnomah County which has evolved to become the Multnomah County Family Violence Steering Committee.

It is now time for this community to take the additional step of bringing together organizations and leaders throughout the community to address this problem on a larger scale. The proposed initiative presented to you a month or so ago is well conceived and offers real promise to not only make domestic violence a priority in this community, but to take strong and positive action.

To succeed, this project requires staff and will incur some expense. We sincerely appreciate your efforts in working toward an appropriation to accomplish this goal for the next three years.

If I can be of assistance in any way, please let me know. Best personal regards.

Cordially yours,

STEPHEN B. HERRELL,
Judge.

CITY OF PORTLAND, OR,
DEPARTMENT OF PUBLIC UTILITIES,
Portland, OR.

OREGON COALITION AGAINST DOMESTIC AND SEXUAL VIOLENCE,
Portland, OR.

DEAR COALITION MEMBERS: I am writing in enthusiastic support for the proposal which has been developed to submit for a federally funded pilot project on domestic violence intervention strategies for our area. I think it a particularly propitious time for this project to come forward. Locally I hear increasing concerns about the interrelated impacts of violence in the home—impacts felt in our corrections systems, in alcohol/drug problems, in the stability of our children's lives, and in the safety of our schools and neighborhoods.

Although concern about family violence has been with some of us for more than twenty years, the problem has finally come out of the "domestic" and into the public policy sphere. At a recent briefing on the police budget, the topic of family violence came up in several ways. Clearly, we cannot make significant headway on preventive measures until we are willing to deal directly, comprehensively, and resourcefully with relationship violence.

In recognition of the connection between family violence and public safety issues, the City Council allocated resources for shelter beds and program development for the first time this year. Although the amount was small ($95,000) it was significant given the competition for funding and the impending cuts. The Council based its decision on the local study *From Harassment to Homicide* produced by a local volunteer committee. As I understand the proposal you have developed, the project will build on and extend what we have been struggling to achieve here.

I deeply hope for your success. Please let me know if there is anything I might do to further that possibility.

Sincerely,

GRETCHEN KAFOURY,
Commissioner.

MICHAEL D. SCHRUNK,
Portland, OR, February 10, 1993.

Senator MARK O. HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: I'm writing in support of the proposed Community Initiative to End Domestic Violence, which evolved from an Issue Day on Domestic Violence you held in Oregon last fall.

My office has participated in the Multnomah County Family Violence Steering Committee for over 5 years, helping produce the report "Free Harassment to Homicide" which delineated the great need for collaborative efforts to address this problem. One example of a project that resulted from collaborative efforts is the deferred sentencing program for batters which we implemented in June of 1992. Eligible offenders can now enter a six-month treatment program. While in treatment the offenders are closely supervised by probation officers. Upon successful completion criminal charges are dropped. To set up and operate this program, we worked with domestic violence shelter providers, police, the court, and parole and probation, among others.

The Steering Committee's work demonstrates the success of cooperative models as well as the need to involve all relevant sectors of the community in addressing the tragic problem of domestic violence. The Community Initiative will allow Multnomah County to extend efforts begun by the Steering Committee to the religious, educational, health care and business sectors in a truly innovative approach to the problem. My office is eager to participate in this next important step.

The Community Initiative is a logical next step, but one we cannot take without federal assistance. I appreciate your personal concern and involvement in this community problem.

Very truly yours,

MICHAEL D. SCHRUNK,
District Attorney.

U.S. WEST COMMUNICATIONS, INC.,
Portland, OR, February 2, 1993.

Hon. MARK HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: I am pleased to learn that you have been in contact with the Oregon Coalition Against Domestic and Sexual Violence for a community initiative to deal with the crisis of spousal and family abuse.

Cooperation of all sectors of the community is necessary to address this complex and far reaching problem. Federal-level leadership could build the environment and direction for local business and civic involvement as well as offset diminishing local funding.

As a company, we are considering how we can most productively join in a leadership role as this project develops.

We at U.S. West recognize the value of addressing these issues in a cooperative undertaking with community-based organizations. For example, domestic violence victim advocates have been active participants in the development of Caller I.D. service for Oregon telephone users.

Please accept my thanks for launching this project.

Sincerely,

MARSHA B. CONGDON,
Vice President and CEO.

MULTNOMAH COUNTY, OR,
DEPARTMENT OF SOCIAL SERVICES,
Portland, OR, January 29, 1993.

Senator MARK HATFIELD,
U.S. Senate, Hart Building,
Washington, DC.

DEAR SENATOR HATFIELD: I am writing in support of the proposed Community Initiative to End Domestic Violence, a project developed by the Oregon Coalition Against Domestic and Sexual Violence and other local groups.

Multnomah County Housing and Community Services Division recognizes the widespread, negative impact that domestic violence has on our community. We are committed to advocating for the prevention of this violence, and see a coordinated, community initiative as a critical step in ending domestic violence.

The Housing and Community Services Division will support this initiative in whatever way we can and hope to be involved in its implementation. Thank you for your continuing interest in and concern for victims of domestic violence.

Sincerely,

NORM MONROE,
Director.

BRADLEY-ANGLE HOUSE,
Portland, OR, January 28, 1993.

Senator MARK HATFIELD,
U.S. Senate, Hart Building,
Washington, DC.

DEAR SENATOR HATFIELD: I am writing in support of the proposed Community Initiative to End Domestic Violence, a project developed by Oregon Coalition against Domestic and Sexual Violence and other local groups.

Currently, in the Tri-Country area of Oregon, there are important projects being developed which will impact services for domestic violence victims and perpetrators. It is critical that all of these projects and the groups which are developing them communicate and work together to make prevention of domestic violence a priority. The Community Initiative to End Domestic Violence would be a significant factor in coordinating the existing projects and in stimulating other necessary community action.

Bradley-Angle House is currently working with several groups in the community to expand services to domestic violence victims. These groups include: Health Care Professionals, including the Oregon Medical Association, Oregon Nursing Association, staff from Oregon Health Sciences University, to develop protocols for emergency room and medical offices to assess and intervene with domestic violence victims and to develop training materials and workshops to present this information.

Portland Public Schools, through a grant from Department of Health and Human Services, Administration for Children and Families, Family Violence Prevention funds, to develop curricula for elementary, middle and high school students on domestic and dating violence.

Portland Police Bureau, Multnomah County Corrections and District Attorney's office and other criminal justice officials, through the Portland Family Violence Steering Committee.

El Programo Hispana, a Gresham-based, Catholic Community Services program for the Hispanic community, to develop support groups, case management and outreach projects.

I have worked in the field of domestic violence intervention and prevention in several capacities for the last 13 years. During that time, I have seen an increase in the number and severity of assaults. I have also seen many women and men work hard to prevent this violence and to provide safety and support for women who have been assaulted. I believe that only through a coordinated, community-wide commitment to ending domestic violence will this violence eventually decrease.

I and other members of the staff and Board of Bradley-Angle House would be excited and pleased to work with the Community Initiative to End Domestic Violence, when it is funded. This is an important project, which needs your support.

Sincerely,

CHIQUITA ROLLINS,
Executive Director.

OREGON DEPARTMENT OF
HUMAN RESOURCES,
Portland, OR, February 3, 1993.

Senator MARK O. HATFIELD,
Hart Senate Office Building.
Washington, DC.

DEAR SENATOR HATFIELD: This letter is written to support the proposal for a Community Initiative to End Domestic Violence in Multnomah County. Metro Region, Children's Services Division is supportive of this project because of the plan to involve key sectors of the community in a coordinated effort to address family violence.

Most significant to the Children's Services Division (CSD) is the opportunity to address the correlation between wife abuse and child abuse. Last year in Oregon, 27 children died from abuse and neglect. In almost half the cases, domestic violence was also confirmed and may have occurred in several more. This reflects national studies showing that domestic violence was present in anywhere from 40% to 75% of child abuse cases.

The opportunity for collaboration between child abuse experts and domestic violence experts holds great potential for significantly impacting both problems. CSD eagerly looks forward to participation in the Community Initiative. However, with decreasing state resources, this project cannot be undertaken without assistance from the federal government. We greatly appreciate your efforts to help us address these tragic social problems which affect all Oregonians.

Sincerely,

KAY DEAN TORAN,
Regional Administrator.

COMMUNITY ADVOCATES,
Portland, OR.

I am writing in support of the "Community Initiative to End Domestic Violence." I strongly support the initiatives' goal of making the prevention of domestic violence a priority in our community.

Community Advocates is a Portland area non-profit whose programs work to prevent violence against women and children through community education. Through our violence prevention programs, we know that there is a great need in the community for further education about domestic violence, coordination of services and resource-sharing. I believe that the Community initiative would enable education and much needed collaboration to take place.

The entire community needs to work together to end family violence. Community Advocates would welcome the opportunity to participate with local agencies in this effort. I believe that this initiative has the potential to greatly improve services to battered women and abused children and it will ultimately help us create a community with less family violence. Please don't hesitate to call me if you have any questions.

Sincerely,

BELLE BENNETT,
Executive Director.

By Mr. BRADLEY:

S. 1574. A bill to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

NEW JERSEY COASTAL HERITAGE TRAIL FUNDING REAUTHORIZATION ACT OF 1993

• Mr. BRADLEY. Mr. President, I introduce a simple funding reauthorization for the New Jersey Coastal Heritage Trail. This bill brings forth the funding authorization, which was for the first year's efforts, up to date and allows for future needs.

Since 1988, the National Park Service has been working with other Federal agencies, the State of New Jersey, and local officials and citizens. Right now, the Park Service is putting the finishing touches on a series of trails that will link sites of special interest by one of several themes. These trails, which will be identified by maps, road signs, and wayside exhibits, will create a force that will add meaning and vitality to critical landmarks that too often become lost or overlooked.

Mr. President, this effort is a pioneering one to preserve and strengthen key elements of our collective heritage without an intensive Federal role or ownership. This is a new approach and is the first of its kind. It has taken time and resources. But, I feel strongly that the return to the public will more than compensate for the Federal expenditures. I urge the passage of this increased authorization.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1574

Be it enacted in the Senate and the House of Representatives in the United States of America in Congress assembled, That section 6 of Public Law 100-515 (16 U.S.C. 1244 note) is amended by striking "$250,000" and inserting in lieu thereof, "$2,500,000".•

By Ms. MIKULSKI:

S. 1575. A bill to amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES CLEAN AIR INCENTIVES ACT

• Ms. MIKULSKI. Mr. President, I introduce the Federal Employees Clean Air Incentives Act. A companion bill was introduced today in the House of Representatives by Congresswoman ELEANOR HOLMES NORTON.

This legislation gives Federal agencies the ability to offer public transportation benefits to their employees. It reauthorizes a program which I sponsored in 1990 and which expires December 31, 1993.

I believe it is appropriate for public and private employers to encourage those employees who are able to do so to ride public transportation instead of driving to work. Increased commuting by public transportation reduces wasteful energy use, air and noise pollution, and congestion on our roads and highways.

Private employers can take advantage of a provision in the tax law which allows up to $60 a month in public transportation benefits to be offered to an employee tax-free. Many Federal employers offer these benefits as well, but they need this reauthorization legislation to continue to do so.

Mr. President, I ask unanimous consent that the text of this legislation appear in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1575

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Federal Employees Clean Air Incentives Act".

(b) PURPOSE.—The purpose of this Act is to improve air quality and to reduce traffic congestion by providing for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.

SEC. 2. AUTHORITY TO ESTABLISH PROGRAMS.

(a) IN GENERAL.—Chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"§ 7905. Programs to encourage commuting by means other than single-occupancy motor vehicles

"(a) For the purpose of this section—

"(1) the term 'employee' means an employee as defined by section 2105 and a member of a uniformed service;

"(2) the term 'agency' means—

"(A) an Executive agency;

"(B) an entity of the legislative branch; and

"(C) the judicial branch;

"(3) the term 'entity of the legislative branch' means the House of Representatives, the Senate, the Office of the Architect of the Capitol (including the Botanic Garden), the Capitol Police, the Congressional Budget Office, the Copyright Royalty Tribunal, the Government Printing Office, the Library of Congress, and the Office of Technology Assessment; and

"(4) the term 'transit pass' means a transit pass as defined by section 132(f)(5) of the Internal Revenue Code of 1986.

"(b)(1) The head of each agency may establish a program to encourage employees of such agency to use means other than single-occupancy motor vehicles to commute to or from work.

"(2) A program established under this section may involve such options as—

"(A) transit passes (including cash reimbursements therefor, but only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the agency);

"(B) furnishing space, facilities, or services to bicyclists; and

"(C) any non-monetary incentive which the agency head may otherwise offer under any other provision of law or other authority.

"(c) The functions of an agency head under this section shall—

"(1) with respect to the judicial branch, be carried out by the Director of the Administrative Office of the United States Courts;

"(2) with respect to the House of Representatives, be carried out by the Committee on House Administration of the House of Representatives; and

"(3) with respect to the Senate, be carried out by the Committee on Rules and Administration of the Senate.

"(d) The President shall designate 1 or more agencies which shall—

"(1) prescribe guidelines for programs under this section;

"(2) on request, furnish information or technical advice on the design or operation of any program under this section; and

"(3) submit to the President and the Congress, before January 1, 1995, and at least every 2 years thereafter, a written report on the operation of this section, including, with respect to the period covered by the report—

"(A) the number of agencies offering programs under this section;

"(B) a brief description of each of the various programs;

"(C) the extent of employee participation in, and the costs to the Government associated with, each of the various programs;

"(D) an assessment of any environmental or other benefits realized as a result of programs established under this section; and

"(E) any other matter which may be appropriate.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 79 of title 5, United States Code, is amended by adding at the end the following:

"7905. Programs to encourage commuting by means other than single-occupancy motor vehicles.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on January 1, 1994.•

ADDITIONAL COSPONSORS

S. 327

At the request of Mr. MURKOWSKI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to permit rollovers into individual retirement accounts of separation pay from the Armed Services.

S. 691

At the request of Mr. MURKOWSKI, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 691, a bill to terminate certain economic sanctions against Vietnam, to provide for less restrictive controls on exports of sensitive technology, material, and data to Vietnam, and to increase access by United States citizens to the territory of Vietnam in order to obtain a fuller accounting of the fate of certain American servicemen from the Vietnam war.

S. 732

At the request of Mr. KENNEDY, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 732, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 815

At the request of Mr. LIEBERMAN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 815, a bill to amend the

Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes.

S. 839

At the request of Mr. HOLLINGS, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 839, a bill to establish a program to facilitate development of high-speed rail transportation in the United States, and for other purposes.

S. 1040

At the request of Mr. BINGAMAN, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1040, a bill to support systemic improvement of education and the development of a technologically literate citizenry and internationally competitive work force by establishing a comprehensive system through which appropriate technology-enhanced curriculum, instruction, and administrative support resources and services, that support the national education goals and any national education standards that may be developed, are provided to schools throughout the United States.

S. 1458

At the request of Mrs. KASSEBAUM, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1458, a bill to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

S. 1478

At the request of Mr. PRYOR, the names of the Senator from Montana [Mr. BURNS] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1478, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure that pesticide tolerances adequately safeguard the health of infants and children, and for other purposes.

S. 1511

At the request of Mr. DORGAN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1511, a bill to eliminate the crediting of "good time" for violent and repeat offenders in Federal and State prisons, authorize funding for boot camps and the conversion of military facilities to regional prisons, and for other purposes.

SENATE JOINT RESOLUTION 98

At the request of Mr. MITCHELL, the names of the Senator from Connecticut [Mr. DOOD] and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of Senate Joint Resolution 98, a joint resolution to designate the week beginning October 25, 1993, as "National Child Safety Awareness Week."

SENATE JOINT RESOLUTION 118

At the request of Mr. LAUTENBERG, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from West Virginia [Mr. BYRD], the Senator from Ohio [Mr. METZENBAUM], the Senator from Michigan [Mr. RIEGLE], the Senator from Nebraska [Mr. KERREY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. INOUYE], the Senator from Idaho [Mr. CRAIG], the Senator from Connecticut [Mr. DODD], the Senator from North Dakota [Mr. CONRAD], the Senator from Alabama [Mr. HEFLIN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Michigan [Mr. LEVIN], the Senator from Tennessee [Mr. SASSER], the Senator from Utah [Mr. HATCH], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Illinois [Mr. SIMON], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. MOYNIHAN], the Senator from Virginia [Mr. WARNER], the Senator from Nebraska [Mr. EXON], the Senator from Iowa [Mr. GRASSLEY], the Senator from Rhode Island [Mr. PELL], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Oklahoma [Mr. BOREN], were added as cosponsors of Senate Joint Resolution 118, a joint resolution to designate the week of October 17, 1993, through October 23, 1993, as "National Radon Action Week."

SENATE JOINT RESOLUTION 130

At the request of Mr. KEMPTHORNE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 130, a joint resolution designating October 27, 1993, as "National Unfunded Federal Mandates Day."

SENATE JOINT RESOLUTION 140

At the request of Mr. LAUTENBERG, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Wisconsin [Mr. KOHL], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of Senate Joint Resolution 140, a joint resolution to designate December 7, 1993, as "National Pearl Harbor Remembrance Day."

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. WOFFORD, the names of the Senator from Utah [Mr. HATCH], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Arkansas [Mr. PRYOR], the Senator from Wisconsin [Mr. KOHL], the Senator from Tennessee [Mr. MATHEWS], the Senator from New York [Mr. MOYNIHAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Washington [Mr. GORTON], the Senator from Nebraska [Mr. EXON], the Senator from Alabama [Mr. HEFLIN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Maine [Mr. COHEN], the Senator from Oregon [Mr. PACKWOOD], the Senator from Alabama [Mr. SHELBY], the Senator from Tennessee [Mr. SASSER], the Senator from Texas [Mrs. HUTCHISON], the Senator from Maryland [Mr. SARBANES], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Kentucky [Mr. FORD], the Senator from Hawaii [Mr. INOUYE], the Senator from South Dakota [Mr. PRESSLER], the Senator from Illinois [Ms. MOSELEY-BRAUN], were added as cosponsors of Senate Concurrent Resolution 35, a concurrent resolution to express the sense of the Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE RESOLUTION 64

At the request of Mr. LUGAR, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of Senate Resolution 64, a resolution expressing the sense of the Senate that increasing the effective rate of taxation by lowering the estate tax exemption would devastate homeowners, farmers, and small business owners, further hindering the creation of jobs and economic growth.

SENATE RESOLUTION 70

At the request of Mr. DOLE, his name was withdrawn as a cosponsor of Senate Resolution 70, a resolution expressing the sense of the Senate regarding the need for the President to seek the advice and consent of the Senate to the ratification of the United Nations Convention on the Rights to the Child.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

BRADLEY (AND SMITH) AMENDMENT NO. 1070

Mr. BRADLEY (for himself and Mr. SMITH) proposed an amendment to the bill (H.R. 3116) making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes; as follows:

On page 34, line 13, strike out "$785,000,000" and insert in lieu thereof "$635,000,000".

MCCAIN (AND OTHERS) AMENDMENT NO. 1071

Mr. MCCAIN (for himself, Mr. BINGAMAN, Mr. NUNN, Mr. THURMOND, and Mr. SMITH) proposed an amendment to the bill H.R. 3116, supra; as follows:

On page 157, between lines 9 and 10, insert the following:

SEC. 8142. No provision of this Act concerning programs, projects, or activities involving community adjustment assistance, research or development at colleges or universities, strategic environmental research, or environmental restoration may be construed as requiring a contract to be awarded, or as requiring a grant to be made, to a specific non-Federal Government entity for a new program, project, or activity; *Provided*, That it is the policy of Congress that contracts and grants for programs, projects, and activities funded by the Department of Defense should be awarded through merit-based selection procedures.

HELMS (AND BROWN) AMENDMENT NO. 1072

Mr. HELMS (for himself and Mr. Brown) proposed an amendment to the bill H.R. 3116, supra; as follows:

At the end of the committee amendment on page 154, insert the following:

Sec. 8142. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the Armed Forces of the United States to conduct operations in Haiti unless (1) operations of the Armed Forces of the United States in Haiti are specifically authorized in a law enacted in advance of the operations, or (2) the President certifies in writing to Congress that United States citizens in Haiti are in imminent danger and that a temporary deployment of the Armed Forces of the United States into Haiti is necessary in order to protect and evacuate United States citizens in Haiti. In the event of a certification under clause (2) of the preceding sentence, funds referred to in that sentence may be obligated and expended for the Armed Forces of the United States to conduct operations in Haiti only to the extent necessary for the Armed Forces to provide the protection and complete the evacuation certified as necessary.

MITCHELL (AND OTHERS) AMENDMENT NO. 1073

Mr. MITCHELL (for himself, Mr. Dole, Mr. Thurmond, Mr. Simpson, Mr. Warner, Mr. Domenici, Mrs. Hutchison, and Mr. D'Amato) proposed an amendment to the bill H.R. 3116, supra; as follows:

At the appropriate place in the bill insert the following:

Sec. . (a) It is the sense of Congress that none of the funds appropriated or otherwise made available by this Act should be available for the purposes of deploying United States Armed Forces to participate in the implementation of a peace settlement in Bosnia-Herzegovina, unless previously authorized by the Congress.

(b) It is the sense of Congress that the limitation set forth in subsection (a) should not preclude missions and operations initiated on or before October 20, 1993, including the provision of any humanitarian assistance by the Department of Defense.

DOLE (AND OTHERS) AMENDMENT NO. 1074

Mr. MITCHELL (for Mr. Dole for himself, Mr. Mitchell, Mr. Graham, Mr. Simpson, Mr. Thurmond, Mr. Warner, Mrs. Hutchison, Mr. D'Amato, Mr. Murkowski, Mr. Dodd, and Mr. Domenici) proposed an amendment to the bill H.R. 3116, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF CONGRESS ON THE USE OF FUNDS FOR UNITED STATES MILITARY OPERATIONS IN HAITI.

(a) Statement of Policy.—It is the sense of the Congress that—

(1) all parties should honor their obligations under the Governors Island Accord of July 3, 1993 and the New York Pact of July 16, 1993;

(2) the United States has a national interest in preventing uncontrolled emigration from Haiti; and

(3) the United States should remain engaged in Haiti to support national reconciliation and further its interest in preventing uncontrolled emigration.

(b) Limitation.—It is the sense of Congress that funds appropriated by this Act should not be obligated or expended for United States military operations in Haiti unless—

(1) authorized in advance by the Congress; or

(2) the temporary deployment of United States Armed Forces into Haiti is necessary in order to protect or evacuate United States citizens from a situation of imminent danger and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than forty-eight hours after the initiation of the temporary deployment; or

(3) the deployment of United States Armed Forces into Haiti is vital to the national security interests of the United States, including but not limited to the protection of American citizens in Haiti, there is not sufficient time to seek and receive congressional authorization, and the President reports as soon as practicable to Congress after the initiation of the deployment, but in no case later than forty-eight hours after the initiation of the deployment; or

(4) the President transmits to the Congress a written report pursuant to subsection (c).

(c) Report.—It is the sense of Congress that the limitation in subsection (b) should not apply if the President reports in advance to Congress that the intended deployment of United States Armed Forces into Haiti—

(1) is justified by United States national security interests;

(2) will be undertaken only after necessary steps have been taken to ensure the safety and security of United States Armed Forces, including steps to ensure that United States Armed Forces will not become targets due to the nature of their rules of engagement;

(3) will be undertaken only after an assessment that—

(A) the proposed mission and objectives are most appropriate for the United States Armed Forces rather than civilian personnel or armed forces from other nations, and

(B) that the United States Armed Forces proposed for deployment are necessary and sufficient to accomplish the objectives of the proposed mission;

(4) will be undertaken only after clear objectives for the deployment are established;

(5) will be undertaken only after an exit strategy for ending the deployment has been identified; and

(6) will be undertaken only after the financial costs of the deployment are established.

(d) Definition.—As used in this section, the term "United States military operations in Haiti" means the continued deployment, introduction or reintroduction of United States Armed Forces into the land territory of Haiti, irrespective of whether those Armed Forces are under United States or United Nations command, but does not include activities for the collection of foreign intelligence, activities directly related to the operations of United States diplomatic or other United States Government facilities, or operations to counter emigration from Haiti.

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on abuses in Federal student grant programs.

This hearing will take place on Wednesday, October 27, and Thursday, October 28, at 9 a.m. each day, in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanore Hill of the subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on October 20, 1993, at 9:30 a.m. on TV violence and S. 1383, S. 973, and S. 943.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on October 20, 1993, at 2 p.m. on S. 1427, Antarctic Scientific Research, Tourism and Marine Research Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, October 20, beginning at 2 p.m., to hear—Mary Dolores Nichols, nominated by the President to be Assistant Administrator for the Office of Air and Radiation, Environmental Protection Agency; and Jonathan Z. Cannon, nominated by the President to be Assistant Administrator for the Office of Administration and Resources Management and Chief Financial Officer, Environmental Protection Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to consider legislation authorizing the fiscal year 1994 and 1995 budget for the U.S. Customs Service, and to consider recommendations for legislation to implement the North American Free-Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, October 20, 1993, at 3:30 p.m. to hold nomination hearings on Larry Byrne, to be Associate Administrator for Finance and Administration of AID; and Jennifer Hillman, for the rank of Ambassador during her tenure of service as Chief Textile Negotiator.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, October 20, 1993, at 10 a.m. to hold a hearing on Somalia, the United States, and U.N. peacekeeping.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, October 20, 1993, beginning at 9:30 a.m., in 485 Russell Senate Office Building on self-governance.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON JUDICIARY

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 20, 1993 to hold a hearing on the nominations of Martha Craig Daughtrey to be U.S. Circuit Judge for the Sixth Circuit, Thomas M. Shanahan to be U.S. District Judge for the District of Nebraska, and Lawrence L. Piersol to be U.S. District Judge for the District of South Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 20, 1993, at 9:30 a.m. to hold a hearing on interim national drug control strategy: "breaking the cycle of drug abuse."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet on October 20, 1993, at 9:30 a.m., for an executive session to consider the Disadvantaged Minority Health Improvement Act of 1993; S. 1523, Stewart B. McKinney Homeless Assistance Reauthorization Act of 1993; and the nominations of William B. Gould IV to be Chairman of the National Labor Relations Board; Martin John Manley to be Assistant Secretary for the Office of the American Workplace at the Department of Labor; and John Calhoun Wells to be Federal Mediation and Conciliation Director.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the nomination of Diane Frankel to be Director of the Institute for Museum Services, during the session of the Senate on Tuesday, October 20, 1993, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Health Alliances: Building a Structure for the Health Security Act, during the session of the Senate on Tuesday, October 20, 1993, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IF THE U.S. PUBLIC KNEW ABOUT ITS PRISONS

• Mr. SIMON. Mr. President, one of the most ridiculous and wasteful policies we have is to try to stop all crime simply by putting people into prison.

People who are violent should be in prison. Others who commit nonviolent crimes probably should have short stays in prison and then be compelled to do some type of work that benefits society, such as working in a home for the homeless.

But for us to have by far the highest ratio of prisoners per 100,000 people of any nation in the world, simply has been a flawed policy, and the statistics show it.

For some reason, it remains politically popular to do so.

Recently, I was pleased to read a column in the National Catholic Reporter by Father Robert F. Drinan, with whom I had the privilege of serving in the House.

He calls for some common sense in our prison policies.

I ask to insert the Drinan column into the RECORD at this point.

The column follows:

IF THE U.S. PUBLIC KNEW ABOUT ITS PRISONS

(By Robert F. Drinan)

Of all the developments in 12 years of Reagan and Bush, one of the least known is the astonishing increase of people in prison. The number of federal prisoners more than tripled, from 24,500 to 80,259. The total number of prisoners grew from 329,821 in 1980 to 883,593 in 1992—an increase of 167.9 percent.

The upward trend has not leveled off despite mounting criticism. In 1992, federal prisoners increased by 8,651, while there were 50,809 additional state prisoners. This translates into a need for 1,143 new prison beds each week. In 1990, more people were admitted to prisons for drug offenses than for property crimes.

All these factors make melancholy reading in a recent study by the U.S. Advisory Commission on Intergovernmental Relations.

Among the reasons for this increase is the abolition of parole by the federal government and several states, and the enactment of more laws requiring a mandatory sentence. There are now almost 100 federal laws whose violation requires a mandatory jail sentence.

Another reason is the increase in the number of federal prosecutors in the Reagan years.

Federal officials, moreover, in the 1980s concentrated on catching street criminals and putting drug users in prison. Although the framers of the Constitution and the conservative tradition in America never contemplated the federal government getting into local and neighborhood crime, the White House in the 1980s introduced that new and dangerous direction in law enforcement.

The United States with a ratio of 455 prisoners per 100,000 inhabitants and almost 1 million persons behind bars, can claim the distinction of being the world leader in both categories. In 40 states and the District of Columbia, courts have ruled that jail conditions violate federal or state constitutions.

Women have a particularly difficult time in prison. The numbers, now 6 percent of the total, have since 1980 been growing at a greater rate than men. New York is the only state that allows women to keep their babies with them in jail.

A 303-page book, Global Report on Prisons, recently published by the Human Rights Watch, reveals the grim conditions in prisons around the world. Prisoners are often treated in inhuman and degrading ways. Prisons usually fall below the level of decency required by the U.N. standard minimum rules for the treatment of prisoners. The report also finds that "pretrial inmates are generally confined in far worse conditions than those endured by prisoners convicted of the most heinous crimes."

It is obvious that appropriate treatment for serious crime has never been an easy question. But the simplistic solutions of the past decade have not brought about a decrease in crime nor have they diminished the drug problem on which the federal government alone spends $11 billion each year.

Attorney General Janet Reno is beginning to urge a substantial change in the nation's programs and priorities on law enforcement. Although she was a prosecutor in Florida for 15 years, she see the counterproductive effects of the draconian measures adopted in the past dozen years.

The most effective way to punish and deter crime is to educate and motivate those persons convicted of crime so they will abandon their evil ways. A big problem is the number of recidivists. The traditional objectives of imprisonment are deterrence, punishment and rehabilitation. There is little evidence that rehabilitation is being substantially achieved in today's prisons.

It is lamentable that religious groups are seldom involved in helping prisoners. Most jails have a chaplain, but support groups from local communities are discouraged. Indeed, prisons are kept largely invisible. Human Rights Watch makes one of its top recommendations a "general call to open the prisons to the public in every way possible."

If the public knew of the vast billions being spent on prisons and saw the meager results, they would demand a thorough reexamination of imprisonment.

Dostoyevski once wrote that the morality of a civilization can be judged by the way it treats its prisoners. On that basis the United States has a long way to go.●

HONORING THREE NEW YORK HIGH SCHOOL STUDENTS, AND THEIR TEACHERS, WHO WERE AMONG 20 NATIONAL WINNERS OF NASA'S 13TH ANNUAL SPACE SCIENCE STUDENT INVOLVEMENT PROGRAM [SSIP] COMPETITION

● Mr. D'AMATO. Mr. President, I rise today to honor three fine young New Yorkers who were among the 20 national winners of NASA's 13th annual Space Science Student Involvement Program [SSIP] competition. The three students, along with their respective teachers, were honored here in Washington at the National Space Science Symposium, October 2–6.

The competition, which is cosponsored by NASA and the National Science Teachers Association, involves thousands of students annually. SSIP engages students with various academic strengths in a broad spectrum of competitions. Elementary, junior high, and high school students compete for all-expense-paid trips to NASA centers, 1-week internships, space camp scholarships, medals, ribbons, certificates, and other forms of national recognition, utilizing an impressive array of skills in mathematics, science, technology, art and creative writing.

Philip Chang, a resident of Brooklyn, and a junior at the Bronx High School of Science, was a national winner for his work entitled, "The Application of Neural Networks to Radiation Problems." Philip was accompanied by his teacher, Mitchell Fox.

Jeffrey D. Stanaway, a resident of Yorktown, and a junior at Lakeland High School in Shrub Oak, was a national winner for his project, which tested a wing design with enhanced maneuverability as a result of its being able to alter its profile during flight. Jeffrey was accompanied by his teacher, George Naumann.

Ryan E. Sours, a resident of Manlius, and a junior at Fayetteville-Manlius High School in Manlius, was a national semifinalist for his project entitled, "The Search for Gravity Waves." Ryan was accompanied by his teacher, Martin Alderman.

I would like to offer the highest commendation to these three fine young men. Their valuable work, and the recognition they have received, should serve as an inspiration to all of us. I am sure all New Yorkers join me in tipping our hats to these three winners.●

HURDLE TO PEACE: PARTING THE MIDEAST'S WATERS

● Mr. SIMON. Mr. President, recently, the New York Times had a front-page story about water being an important factor for the future of the Middle East, and a few weeks prior to that, they had an interview with King Hussein, who said that if Israel and Jordan ended up in conflict, it would likely be over water.

Recently, the Jerusalem Report, a weekly magazine out of Israel, had a full-page ad titled, "Needed: Water on the Border."

The reality is that we have to move soon to escalate our research so that we find less expensive ways of converting salt water to fresh water. That is vital in the Middle East, it is vital in parts of Africa and South America.

It is important to the future of California, Florida, and other States.

The reality is the world population is growing and our water supply is not growing.

And yet, we find that except for drinking water, the two-thirds of the world surface covered by water is unusable.

We simply have to make a breakthrough.

I am pleased to have legislation pending that is cosponsored by Senators MOYNIHAN, BRADLEY, JEFFORDS, BRYAN, REID, SHELBY, LIEBERMAN, and ROBB.

I hope we can move soon on this and creatively use the brains of this country and of other countries to solve an extremely significant problem.

I ask to insert into the RECORD the New York Times story titled, "Hurdle to Peace: Parting the Mideast's Waters" written by Alan Cowell and the advertisement that appeared in the Jerusalem Report.

The articles follow:

[From the New York Times, Oct. 10, 1993]

HURDLE TO PEACE: PARTING THE MIDEAST'S WATERS

(By Alan Cowell)

KUTAYFA, JORDAN.—Beyond all the hopeful talk of peace in the Middle East, a battle is shaping over an issue as powerful as land, as basic as oil: the region is running out of water, and no one, Israeli or Arab, is prepared to do with less so others can have more.

In a region where barren deserts and cloudless skies make water life's most precious commodity, the dispute may prove even more complicated than the brave new steps promised by Israel and the Palestine Liberation Organization.

"At present it's a zero-sum game," Munther Haddadin, Jordan's chief negotiator on water rights, said in an interview in Amman. "What is taken by Israel is taken away from other people. And what is taken by other people is taken from Israel."

Since the Middle East peace talks began in 1991, regional discussions on water rights have proved frustrating and inconclusive. But the issue is gaining urgency as the agreement on Palestinian self-rule prompts Jordan, Syria and Lebanon to seek separate accommodations with Israel.

"We say, you will not take water from us," said the Israeli negotiator on water, Avraham Katz-Oz, who spars with Mr. Haddadin in the regional water talks that are supposed to accompany progress toward a comprehensive Middle East peace. "But we are ready to work with you because water is money. We don't say, no, you will not get water. We say, yes, we can work together."

As might be expected in a region steeped in hostility and mistrust, the dispute is viewed through utterly different prisms.

What Arabs depict as Israel's disproportionate use—even theft—of water, Israelis portray as the result of foresight, technological advances like computerized irrigation and good management in securing and exploiting supplies.

And what some Arabs prefer to cast as a straight fight between them and Israel over water rights, Israelis and some foreign experts depict as a situation in which Arab has taken from Arab, where offers of regional cooperation have been spurned and even basic estimates of who gets what now are as deceptive as the starting price set by a rug-seller in a bazaar.

Whatever their differences, there is a profoundly held view, particularly in arid Jordan, that water sharing will be central to any peace deal beyond the accord signed in September by Israel and the P.L.O.

"If there's no agreement on water, there'll be no peace settlement," said Dr. Elias Salameh, a hydrologist at Jordan University in Amman. "Unless we come to terms on the redistribution of water, nothing will happen."

The reasons for worry are clear. The Israeli and Arab populations have expanded, but water resources have not.

In Jordan, Israel and the Israeli-occupied West Bank and Gaza Strip, rivers and aquifers have been so heavily tapped that some have been exhausted or spoiled. The desert horizons offer neither the prospect of more generous rain nor the terrain to utilize the rain that does fall.

When generous rains do come, as they did in 1991–92, they may offer only temporary respite because storage sites are limited and some aquifers are already brackish.

From the Arabs' point of view, the issue resembles their demand for territory in return for peace. To feed Tel Aviv and the Negev region, Israel consumes more than twice Jordan's supply from the same rivers—the Jordan and the Yarmuk—though the population of Israel outstrips its neighbor by only about one-third.

Under Israel's rationing system, according to Jordanian figures, each Israeli is entitled to almost four times as much water as a Palestinian on the West Bank—even though rain gathers in aquifers beneath the West Bank, Israel also controls water that rises in the Golan Heights, captured from Syria in 1967.

Though it acknowledges some disparities, Israel resents the suggestion that it is a water thief, arguing that its investment in water-management over the decades has totaled some $30 billion, only to be challenged by interpretations of who is entitled to what.

"There is no reason for Palestinians to claim that just because they sit on lands, they have the rights to that water," Mr. Katz–Oz said. "The mountains do not own the water that fall on them. It's the same with Canada and the United States. It's the same all over the world."

But the pressure for concessions is growing. An agenda that was formally initialed by Jordan and Israel on Sept. 15 specifically identifies water rights as an issue that must be resolved in negotiations before a comprehensive peace treaty for the region can be reached.

THE VIEW FROM JORDAN: LACK OF WATER, RISKS IN FARMING

In this farming area 20 miles southeast of Amman, where crops are coaxed from stubby land, Princess Nafaa Ali, has come to accept that neither wealth nor technology can produce water if there is none.

A member of Jordan's royal household who farms family holdings on a bald hillside, she sank a well two years ago to irrigate fields of barley to feed her sheep and garlic to send to market. Without the well, she said, there is no guessing how the spring rains might treat her crop. She has experienced everything from drought to flash floods that turn the dry stream-beds, or wadis, to sudden torrents.

Even with the well, whose waters are too steeped in iron for humans to drink, there is no guarantee how long the aquifer it taps will survive to feed the long, black lines that stretch across her fields to provide drip-irrigation to the seeds.

"It's still a gamble," she said.

Indeed, for the country as a whole, farming is a gamble with virtual no-win odds.

"The Jordanians have tapped most of the water in the country," a Western specialist said. "They have tapped the aquifers so that they are depleted or contaminated by overpumping. The demand exceeds the known resources."

Dr. Salameh, the hydrologist at Jordan University, agrees.

"We are now living in a water crisis," he said in an interview in Amman, whose summer water supply is rationed to two days of pumping a week and is stored in tanks atop many homes. "It's not yet a catastrophe, but by the year 2010, we'll end up having nothing."

HISTORY OF THE DISPUTE: POPULATION GROWTH, AND A NEW ENTITY

For centuries, water has set the rhythms of life in the Middle East, from the odysseys between oases of lean desert tribes to the lassitude of the Nile Valley. In this century, water has spawned tension as much as it has sustained life, as tribes and empires drew lines in the sand to mark the frontiers of modern statehood.

Nowhere is the struggle more evident than in the tiny triangle of land below the Sea of Galilee, where the Yarmuk and Jordan Rivers meet.

The natural expansion of populations had already strained those water resources. Then came an influx of hundreds of thousands of Soviet Jews into Israel beginning in the late 1980's. And in 1990–91, some 300,000 Palestinians arrived in Jordan after they fled or were expelled from Kuwait and other gulf states because of the P.L.O.'s support for Iraq in the Persian Gulf war.

"The population of Jordan increased at once by 12 percent," Dr. Salameh said, "and that's not easy to accommodate."

The demographics of war and peace now threaten to strain resources further. With talk of a new Palestinian authority rising in the occupied West Bank, after Israel's peace with the P.L.O., there will be another claimant to the same waters, seeking an increased share for economic and agricultural growth and for a population likely to be swollen beyond its current one million as refugees return home.

Even now, said Dr. Haddadin, the Jordanian negotiator on water rights, Israel provides its own population of about five million with nearly 400 cubic meters of water per person per year. But in the West Bank, he said, the water supply now amounts to about 115 cubic meters per person per year.

"Why should anyone entertain a disparity of that magnitude?" he asked. "There has been a unilateral usage by Israel of the entire flow of the Jordan River."

A new Palestine authority would almost certainly demand the right to tap more deeply into the aquifers of the West Bank to promote its agricultural potential than Israel now allows the Palestinians to do. The Palestinians, possibly in tandem with Jordan, would also urge Israel to release more water into the Jordan River from the Sea of Galilee, which Israel uses as its main water reservoir.

At the same time, water is running out for the 800,000 Palestinians of the barren Gaza Strip, which has been linked with the West Bank town of Jericho as the embryo of a future Palestinian government. Arab specialists say because the aquifers beneath Gaza, which are sapped by the burgeoning population above, have been contaminated with salt water from the Mediterranean.

Israeli control over water is also a crucial issue for Syria because one of the three main streams of the Jordan River—the Bajias—rises in the Golan Heights, annexed by Israel in 1981.

THE SOURCES: PRESSURE EXERTED FROM ALL SIDES

Just a glance at the region's water sources suggests the complexity of the struggles to come.

Israel taps the Jordan River, the Sea of Galilee and the Yarmuk River to pump supplies to Tel Aviv through the National Water Carrier, a system of pipelines. It also draws on rain-fed aquifers that run beneath the West Bank toward the Mediterranean. Supplies to the West Bank are limited by regulations covering the depth and use of Arab wells.

Syria has access to the Euphrates in the north and to the Yarmuk in the south where it has built dams that divert water from Jordan and Israel farther downstream.

For its agriculture in the Jordan Valley, Jordan depends on water from the Yarmuk, which it pumps into the East Ghor irrigation canal; on rain-fed aquifers further east, and on the small Zerga river, the only river that rises on its territory. Farmers in southern Jordan have stirred controversy by tapping nonrenewable fossil water lying under the border with Saudi Arabia, and the Saudis have drawn criticism for exploiting the same resource.

PLANS, PAST AND PRESENT: PROPOSED QUOTAS; WINNERS AND LOSERS

A tentative plan for sharing water was first negotiated by the parties in 1953, when Eric Johnston, an envoy of President Eisenhower, visited the Middle East to broker an accord on the division of the Yarmuk and Jordan Rivers. The plan never went into effect because, the Jordanians said, the Arab League rejected it after a technical committee from the region's riparian countries accepted it.

The quotas proposed in the plan, however, serve as a yardstick for what has happened over the last four decades. According to the Jordanian study, both Syria and Israel have vastly increased the amount of water they take from rivers to which they have access.

According to a study published recently by Jordan's Royal Society for the Conservation of Nature, the Johnston plan allocated Israel 375 million cubic meters of water per year from the Jordan River and 25 million cubic meters form the Yarmuk. Israel now takes 650 million from the Jordan and 100 million from the Yarmuk, the study says.

The Jordanians were allotted 100 million cubic meters from the Jordan River and access to a flow of 377 million cubic meters from the Yarmuk.

Today, the study said, Jordan takes only about 100 to 110 million cubic meters from the Yarmuk and none from the Jordan River. Jordanian specialists attribute that limit primarily to the water's being contaminated by saline spring water pumped downstream from the Sea of Galilee by the Israelis.

Syria was allotted 42 million cubic meters from the upper Jordan River and 90 million from the Yarmuk. Today it takes twice its proposed share from the Yarmuk but none from the upper Jordan because of Israel's annexation of the Golan Heights. The Jordan rises in three main springs in the Golan, Lebanon and Israel.

"Jordan is the major lower and Israel is the major winner," the Jordanian report concludes.

There has been much talk in recent years of ambitious projects to pump water into the area from Turkey or Iraq. And Israel, which has access to the Mediterranean and is expanding its use of desalting, has suggested joint investment in desalting projects with Jordan to meet both countries' needs.

Wealthy gulf nations like Kuwait and Saudi Arabia already rely heavily on oil-powered desalting plants, which use a complex distillation process to turn seawater into drinking water.

Many experts say the desalting technology is still too expensive for countries like Jordan. A domestic consumer in Jordan would have to pay $3 to $5 for every cubic meter (about 264 gallons) of drinking water that is desalted, specialists there estimate.

Some experts argue that water supplies in the region could simply be used more efficiently. Jordan, for instance, could use its Yarmuk supply first for drinking water rather than for irrigation, and then recycle urban wastewater to keep the crops growing, as Israel does.

Israeli representatives assert meanwhile that the debate over water has been skewed by the Arabs' emphasis on disparities in consumption.

A person living in a high-rise apartment building in Tel Aviv with a sink, dishwasher, washing machine and toilet is likely to use a lot more water than someone in a Palestinian refugee camp where such amenities are minimal.

"I'm not saying that's good," said Mr. Katz-Oz, the Israeli negotiator. But that disparity, he said, is "a socioeconomic problem—it's not a water problem."

NEEDED: WATER ON THE BORDER

"In the Middle East, a reservoir is a precious resource," commented Caroline Krumeh, an American-born member of Kibbutz Neve Ur, located on Israel's border with Jordan. "However, to Israelis who depend on shared water sources with Arab countries, a reservoir also means survival," she asserts.

Ms. Krumeh is referring to the Neve Ur Reservoir, currently being built by the Jewish National Fund as an alternative water source to the Jordan River. Survival along the border depends on a reliable water supply. So when the region's supply came under constant threat, the Israeli government turned to the JNF.

Availability of water has always been a central problem for Israel, which is subject to seasonal rainfall as well as uneven distribution of that rainwater and periodic droughts. For years, the JNF has been finding solutions to Israel's water availability and conservation problems.

In the North, JNF built the reservoirs to meet the irrigation needs of 15 farming communities. In the South, JNF built storage dams to retain water from the winter rains and prevent them from causing flash floods that erode the soil and lose water to the sea. JNF is also involved in research to develop additional water sources and explore the better utilization of available sources.

JNF's work has become even more urgent in light of the current peace talks. Of all the countries in the Middle East, Israel and Jordan, which both rely on water from the Jordan River, have the most severe water problems. JNF is therefore building dams and reservoirs around the country, enabling Israel to capture and store run-off water and create reliable water sources.

Today, JNF is focusing on the communities along the borders of Israel, which critically need reservoirs. For over 40 years, Kibbutz Neve Ur has lived less than one mile from the border of Jordan, dependent on the water it receives from the Jordan River. Originally founded by a group of Iraqi immigrants, the current population is 420, including 165 children. Neve Ur absorbed nine Russian immigrant families in 1990.

Relying on the water from the Jordan River, the kibbutz has had constant disputes with Jordan over the water supply. In addition, it has had to contend with a decreased water supply from the river in the summer and destructive floods in the winter.

To alleviate this life-threatening situation, the JNF has started the construction of the Neve Ur Reservoir to ensure the water for Kibbutz Neve Ur and the entire Beit She'an Valley, south of the Sea of Galilee. Besides providing an alternative to the water supplied by the Jordan River, the Neve Ur Reservoir will alleviate the strain on Israel's National Water Carrier.

The reservoir will also aid the economy of Kibbutz Neve Ur, which is dependent on water. The fields of the kibbutz produce alfalfa crops, grapefruit, mangoes and dates. Kibbutz members also run a fish farm, raise cattle, and plan to establish recreational facilities around the new reservoir. These activities provide jobs and ensure the stability of communities in the Beit She'an Valley.

The reservoir, including service areas and ponds, will comprise 85 acres. Holding 800,000 cubic meters of water, it will allow 500,000 cubic meters for irrigation and the balance for fish farming. The projected investment in the Neve Ur project is 5 million dollars.

JNF regions around the United States have started campaigns to promote this crucial project. In partnership with its supporters, JNF of America plans to give the people in Kibbutz Neve Ur and the Beit She'an Valley the water they so desperately need.•

DOMESTIC ASSAULT AWARENESS MONTH

• Mr. RIEGLE. Mr. President, despite the profound gains American women have made toward equality in our society, violence against women is still a critical problem. Sadly, some Americans still believe that this type of violence is rare, and that when it does occur a woman is asking for it, and can easily leave if she wants to. Unfortunately, statistics show that domestic violence is shockingly common, affecting women in every social and economic strata.

An estimated 3 to 4 million American women are battered each year by their husbands or partners. More than 1 million abused women seek medical help for battery injuries each year.

The FBI estimates that a woman is battered every 15 seconds in the United States.

Battery is the single major cause of women's injuries that require medical treatment—more prevalent than rape, muggings, and auto accidents combined.

Twenty percent of women seen in emergency rooms are victims of battery.

Thirty percent of female homicide victims are killed by their husbands or boyfriends.

Once violence begins in a relationship, it frequently escalates over time—trapping its victims through a pattern of terrorism. Sixty percent of battered women are beaten while pregnant. Many assaults last for hours. Many are planned. Clearly, society has underestimated and ignored this epidemic for too long. A comprehensive approach to dealing with domestic violence is critically needed.

Many people do not understand why it is so difficult for battered women to just pack up and go somewhere else. Every woman considering leaving her abusive partner must face the real possibility of further injury or even death. Oftentimes, the assailants have deliberately isolated their partners, depriving them of careers, educational opportunities, and job skill improvement. This isolation, combined with unequal job opportunities for women and the lack of affordable child care, can make it financially impossible for a battered woman to leave a violent relationship.

While many women do leave their abusers permanently, often it is not without extreme difficulty and danger. According to experts in this field, when a woman tries to leave a violent relationship, the perpetrator dramatically escalates his violence in order to reassert control and ownership. It is at this point that legal protection and institutional support are most ineffective—unfortunately, our communities and legal system are not adequately equipped to assist and protect battered women. In the past, police were reluctant to pursue to domestic assault cases, perceiving these situations as private matters. Even today, they are oftentimes only able to separate the couple temporarily, leaving the woman vulnerable to future violence.

Because of the current shortcomings within our legal system, some battered women have resorted to killing their abusers in self-defense. Usually, these women have tried repeatedly and unsuccessfully to obtain police protection from their abusers. A Police Foundation study in Detroit and Kansas City found that in 85 to 90 percent of partner homicides, police had been called to the home at least once during the 2 years preceding the incident; in more than half of these cases they had been called five times or more. Without critically needed improvements in legal and community support, women will continue to be condemned to choose between victimization or imprisonment.

These are just some of the compelling reasons why I believe that Federal legislation must be passed to help victims and survivors of domestic violence. I am proud to be a cosponsor of the Violence Against Women Act (S. 11). This legislation, currently awaiting floor action, takes the following actions:

Authorizes funds for law enforcement and increased lighting in areas where women are most endangered;

Helps ensure women's safety on college campuses;

Extends civil rights protection to victims of gender-motivated crimes;

Establishes programs to educate judges and prosecutors on battered women syndrome;

Improves enforcement of protective orders for battered women; and

Increases funding for shelters.

It is crucial that the Violence Against Women Act becomes law this year. It is the least that our country can do to help women who suffer or who have suffered from domestic violence. For too many years, our idea of crime has allowed us to ignore the growing epidemic of violence against women. Congress must take a leadership role in changing this pattern.

Through the Violence Against Women Act, attention will be focused on this critical issue, and solutions will be provided that work toward aiding the survivors, increasing police and prosecutor responses, and breaking stereotypes which portray violence against women as less serious than other violent crimes. These measures are urgently needed, and are the necessary first steps toward eradicating violence against women in our culture, on our streets, and in our homes.•

NO PLACE TO RUN, NO PLACE TO HIDE

• Mr. SIMON. Mr. President, earlier this month the Chicago Tribune ran an editorial entitled, "No Place To Run, No Place To Hide." With this editorial, the Tribune continues to provide news coverage, focus, and leadership, as it has through its series, "Killing Our Children," in the area of violence against and among children.

The editorial begins by describing the deaths of several Illinois students—students who have met violent deaths in the suburbs, in small towns, in rural Illinois. The editorial asks, "How far from the city do you think you could move to make sure your family is safe from gun violence?" The reality is that there is no place immune to gun related violence any more. A Lou Harris poll, commissioned earlier this year by the Chicago-based Joyce Foundation, found that a large majority of American teenagers believe they can get a gun whenever they want one. A even larger group said they feel endangered by guns in and around their schools and communities.

Illinois and the city of Chicago are attempting to come to grips with the escalation of gun related violence. Two bills are currently pending before the Illinois general assembly, bills that pattern efforts here in Congress. One would ban assault weapons in the State. The other addresses an issue I have been involved with—licensing of gun dealers. The city of Chicago has recently shut down a number of gun dealers because they failed to comply with local ordinances.

These kinds of reasonable efforts to stop gun related violence are going on across the country. I only hope Congress will follow the lead of many local and State governments. I urge my colleagues to read the editorial from the Tribune and ask that it be printed in full in the RECORD.

The editorial follows:

[From the Chicago Tribune, Oct. 4, 1993]

NO PLACE TO RUN, NO PLACE TO HIDE

How far from the city do you think you could move to make sure your family is safe from gun violence?

How about to Du Page County, one of the nation's richest? How about sending your child to Hinsdale South High School, one of the state's finest?

Barrett Modisette, the student mascot of the Hinsdale South Hornets, was shot to death as he left a football game in Downers Grove. A fellow student is charged with shooting Modisette in the head with a .25-caliber semiautomatic handgun.

So that's not far enough. Perhaps you'd better go farther afield—say, to Plainfield. It's a booming community at the outer reaches of the metropolitan area, where new housing is ringed by cornfields.

Chris Pesavento was a star football player for Plainfield High School, headed for college on a scholarship. Now he is paralyzed, the result of a bullet from a .45-caliber semiautomatic handgun. Four local teens are charged in his shooting, which originated in a quarrel that didn't involve Pesavento.

No, there is no running away. Maybe you should get your own gun to protect your family.

Shannon Herrod took her mother's revolver from home to fend off some local bullies. When the 10-year-old Chicago girl pulled her gun on the boys, one of them pulled a gun in turn and she ran home. Shannon and her 14-year-old best friend turned to playing with the weapon; the game ended with Shannon dead.

In a nation with almost as many firearms as people, there is no place distant from guns and there are few kids who can't get their hands on one. To many adolescents, a handgun seems an increasingly tempting, easy way to gain the upper hand.

Modisette and Pesavento had expected the squabbles that ended in their shootings to be settled by fistfights. But fists and words are no longer the weapons of choice in adolescent duels. Not when a gun is so easy to come by—at home, from a friend, from a dealer with a trunkful to sell to any taker.

Federal, nationwide legislation to stem the avalanche of handguns and assault weapons holds the best promise of effective action. Congress, tragically, is still to cowed to take such a step. But public sentiment is growing for meaningful gun control, and those on Capitol Hill need to see and hear countervailing influences to the unduly powerful gun lobby.

In this regard, state action can play a valuable role. And if state measures are crafted pointedly, they hold the promise of making some dents in the gun trade, saving at least some lives—each one precious.

To this end, Illinois handgun safety and control advocates have fashioned a package of proposals to state legislators. Two that hold the most promise are a statewide ban on assault weaponry—similar to laws already passed by other states—and a measure to force licensed gun dealers to operate in the open.3

An assault weapons ban—federal or state—should need no lengthy explanation. The firepower of these mini-machine guns makes them awesome instruments for killing and crippling people and offers no genuine sport to the serious hunter.

A less publicized problem is the ridiculous ease of getting a license to sell guns and the lack of limits that follow. For $30, almost anyone can get a three-year federal firearms dealer license. More than 286,000 people hold licenses—nearly 11,000 in Illinois. Only abut 7 percent sell from established stores; the rest deal from homes, offices, cars and street corners.

About 60 percent of the guns used in crimes in Illinois were bought legally in this state, according to the Federal Bureau of Alcohol, Tobacco and Firearms; 30 percent came from out of state, and only 10 percent were obtained by theft.

A proposal from the Illinois Council Against Handgun Violence would require gun sellers to operate from fixed store sites. This is a reasonable requirement that would help force gun dealing out into the public eye and provide penalties against those who peddle weapons on the sly.

The council also makes a good argument for a purchase tax—15 percent on handguns, 5 percent on long guns—that would go to compensate society somewhat for the costs of the predictable misuse of weapons.

Another citizens group, Handgun Control Inc., seeks a state law that would make adults responsible for securing weapons they own. Households with children under age 14 would have to store guns in a locked box, keep triggers locked or store weapons in a spot that a "reasonable person" would deem secure.

Opponents argue that present laws already provide punishment for adults who are lax in protecting children from harm. But punishment is not the real goal here. The aim is public education, in the way seatbelt and child-restraint laws carry the message on those basic precautions. A gun-safety bill coupled with a public campaign would have positive effect.

In a survey this year sponsored by the Joyce Foundation, a large majority of U.S. teens said they can get a gun when they want one; an even larger number said they feel endangered by guns.

It's something that we didn't think would ever happen in this area. Now it's always in the back of your mind," said Doug Sutor, dean of students at Sandburg High School in Orland Park.

A Hinsdale South mother said after Barrett Modisette's death: "It just was so frightening that something hit so close to home. . . . The outside forces that we didn't think would enter our little world did."

This whole nation is one little world, interwoven and interlocked. None of us is out of firing range.●

UNDERGROUND RAILROAD DEDICATION IN BATTLE CREEK

● **Mr. RIEGLE.** Mr. President, I rise today in honor of the underground railroad dedication celebration taking place on October 24, 1993, in Battle Creek, MI.

The underground railroad was an illegal network of hiding places used in moving escaped slaves from the South into the North to safety and freedom. It is estimated that somewhere between 40,000 and 100,000 escaped slavery through this network. Hiding places were located about a day's journey apart. Peoples' homes, basements, barns, attics, and cellars were used as places of refuge for those who sought their freedom.

There were at least six underground railroad routes that crossed through southwestern Michigan. Battle Creek, MI, became a major hub in the underground railroad network as part of the Quaker, Chicago, and Michigan central routes to Canada. The stationmaster in Battle Creek was Erastus Hussey, a Quaker and abolitionist. With the help of his wife, Sarah, and daughter, Susan, Erastus Hussey helped transport over 1,000 fugitives to safety. It was through the strength and courage of individuals like the Husseys that hiding slaves seeking freedom were able to find food and shelter.

As a dedication to this strong commitment to human rights, a sculpture was commissioned to pay tribute to the slaves who sought freedom in the North as well as those who helped them in their escape. The sculpture to be dedicated this weekend is the largest sculpture in the Nation commemorating the underground railroad. This silicone bronze sculpture, which stands 14 feet high and is 28 feet long, was created by Ed Dwight, an African-American sculpture from Denver. It brings to life the story of an African-American family seeking safety in a hideout, and the people who courageously helped them to safety.

This new sculpture is not only a monument to those involved in the underground railroad network, but is also represents an ongoing effort in Battle Creek, MI, to the goal of guaranteeing human rights for everyone. Mr. President, I would like to commend all of those involved in this important project, and thank them for their efforts to commemorate this important part of our country's history.●

HONORING THE 120TH ANNIVERSARY OF THE POLISH ROMAN CATHOLIC UNION OF AMERICA

• Mr. RIEGLE. Mr. President, on the occasion of the 120th anniversary of the Polish Roman Catholic Union of America [PRCUA], I extend my warmest regards to its membership and salute its ambitious achievements during the 20th century.

Since its inception in 1873, the PRCUA has evolved into the largest Polish Roman Catholic fraternal organization in the United States. Today, the PRCUA's membership stands over 90,000 strong, of which more than 10,000 reside in my State of Michigan.

The PRCUA has a rich history. The organization, which held its first convention in Detroit in 1873, decided to assume a Catholic character. As Polish immigrants arrived in large numbers in the late 1800's the PRCUA was integral in helping them become acclimated to the American way of life. In 1891, the Polish Emigration House of S. Joseph was establish in New York City as a haven for immigrants. During this difficult period, the suffering of the poor, widows, and orphans was eased through the group's generosity.

The PRCUA's dedication to the arts and enlightenment through education is equally impressive. In 1913, it opened a Polish library in its Chicago headquarters which has now become the largest collection of Polish works in the western hemisphere. Later, in 1935, the Polish Museum of America was established, offering Poles an opportunity to display a unique collection of rare treasures from Poland.

PRCUA remains as vivacious and active today as ever. It encourages all Americans of Polish descent to explore their Polish-Roman Catholic roots. Lessons in Polish language, folk dancing, singing, traditions, and customs are aimed to reinforce our knowledge of Polish heritage, diversify our culturally rich society, and from tighter bonds within the Polish-American community. I would particularly like to salute the 11 Polish dance schools currently operating in Michigan which PRCUA administers.

Civic and social activities are of equal importance to the PRCUA. Women's and children's groups have provided a constructive outlet for social work, brought members together, and forged lifelong friendships. The PRCUA often organizes special events for religious holidays dear to the Catholic faith, such as Easter and Christmas, in addition to dances, dinners, performances, and pilgrimages to the motherland.

Roman Catholicism plays a role in steering the organization's moral sense. The Catholic faith provides a strong ethical compass for the PRCUS's members. Historically, most Polish people have been staunch supporters of the Roman Catholic church, a tradition carried on by the immigrants who settled in this great country. Even the darkness cast on Polish religious freedoms during the 40 years of Soviet totalitarian and atheistic rule was not sufficient to extinguish the spark of religious faith in the Polish heart.

The PRCUA's dedication of time, caring, and resources to young people is indeed a wise investment for the future. The PRCUA's goals of preserving Polish-American heritage while fostering greater appreciation of other nationalities and cultures is a powerful positive step in promoting greater understanding. The many achievements of the organization and its dynamic membership have made the people of Michigan and the other 23 States in which it operates more aware and appreciative of the Polish-American experience, and better citizens through participation in civic, social, and religious activities. As the Polish Roman Catholic Union of America continues in its second century of service, I wish its members continued success in meeting the challenges our modern society poses.•

UNANIMOUS CONSENT AGREEMENT—H.R. 2519

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers the conference report on H.R. 2519, the Commerce, State, Justice appropriations bill; that the yeas and nays be ordered on the conference report; that upon disposition of the conference report, the motion to reconsider be laid upon the table; that the Senate without any intervening action or debate concur en bloc in the House amendments to the Senate amendments; that the motions to reconsider be laid on the table en bloc; and that any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, it is my intention to call up this appropriations conference report tomorrow immediately following the votes that will occur on the Haiti amendments, pursuant to the prior agreement. So there will now be three votes occurring in succession in the morning. This will permit Senators who come for one vote to remain and be present for the three votes. That is my intention with respect to this Commerce, State, Justice appropriations bill.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—INTERIOR APPROPRIATIONS CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the cloture motion I will shortly send to the desk on the Interior Appropriations Conference Report be in order, notwithstanding the fact that the Senate has not yet received the official papers from the House, and that the conference report is not now pending.

I further ask unanimous consent that there be 1 hour for debate tomorrow, October 21, following the votes now scheduled to occur at 11 a.m., equally divided between Senators BYRD and WALLOP or their designees, and 2 hours for debate on Friday, October 22, from 8 a.m. to 10 a.m., controlled in the same fashion just prior to the cloture vote with the mandatory live quorum waived.

Mr. WALLOP. Mr. President, reserving the right to object and I shall not object, this has been cleared on our side and is satisfactory.

I thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, in accordance with the agreement, I now send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 2520, the Interior Appropriations bill:

Robert C. Byrd, Wendell Ford, Harry Reid, Claiborne Pell, Russell D. Feingold, J. Lieberman, Paul Simon, Patty Murray, Pat Leahy, D. Pryor, Ernest Hollings, Harris Wofford, Barbara Boxer, Edward Kennedy, Paul Sarbanes, Joe Biden, D. Inouye.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation.

There will be no further rollcall votes this evening. There will be the introduction of an amendment pursuant to the previous order and debate on that amendment.

I remind Senators that beginning at 11 a.m. tomorrow, there will under the current schedule be three votes. Senators should be aware three votes will occur beginning at about 11 a.m. tomorrow morning.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. McCAIN. Mr. President, I rise to support, strongly, the amendment that is about to be offered by Senator DOLE and Senator MITCHELL. I understand that there are a couple of items to be worked out. I have read the amendment. I have had a chance to be involved in the formulation of it. I think it is a very important amendment and one that strongly expresses the emerging consensus in the Senate that the administration would be well advised to seek seriously the advice of Members before they embark on any new military adventures in Haiti or anywhere else.

I would like to point out that, again, my esteemed friend and colleague, Senator DOLE, has been involved in this issue. He is concerned about the possible risk of American lives, and I appreciate his efforts on this amendment. I also thank Senator MITCHELL, the distinguished majority leader, who again chooses to approach these issues of national security in a bipartisan fashion.

As my colleagues know, I have strong reservations about prospectively limiting the President's role as Commander in Chief. However, Senator DOLE's amendment avoids such constitutional pitfalls. It is a timely and constructive attempt to inject some much needed realism into the foreign policy formulations of the administration. His amendment strikes a fine balance between expressing concern over the direction of our policy toward Haiti, on the one hand, and preserving the prerogatives of the Commander in Chief on the other.

I commend the framers of this amendment, the sponsors of it, and the Republican leader for his statesmanlike attempt to prevent the administration from recklessly stumbling into a foreign policy debacle like we have experienced in Somalia, the cost of which would be measured in American lives.

Senator DOLE has pursued this matter tirelessly. It is my sincere hope that his efforts, and the considerable support they have in Congress, have convinced the President that it is time to formulate a coherent foreign policy.

For evidence that such coherence has been wholly lacking from much of the administration's foreign policy to date we need look no further than the front page of today's Washington Post. The administration has now determined to withdraw the U.S. Army Rangers from the conflict in Somalia. Two weeks ago, the President ordered the deployment of additional thousands of American troops to Somalia. Today, he is withdrawing the Rangers.

Apparently, the mission of the remaining thousands of American servicemen and women who are obligated to remain there until March 31, is to hunker down in enclaves to serve as targets for any Somali warlord who may crave a headline in the international press. Mr. President, I ask unanimous consent to insert into the RECORD a report in the Washington Post dated today, October 20, 1993, entitled: "U.S. Pulls Rangers Out of Somalia."

Such a confused, purposeless, and dangerous policy makes the most compelling case for Senator DOLE's efforts to bring the administration to the understanding that it urgently needs help in setting a sensible, hard-headed direction for its foreign policy in Haiti and elsewhere, a policy that is based on a realistic assessment of the national interests at stake and the prospects for protecting them through the use of force.

I believe the efforts of Senator DOLE have given the administration ample warning that before it commits troops, it better have the support of Congress and the American people.

The President should understand that the way to gain the support of the American people and their representatives in Congress, for any foreign policy initiative is to demonstrate a readily understandable connection to American national interests.

American service men and women understand the risks that their jobs entail. They volunteer to take these risks in service to our Nation. But before they are put in harm's way, they and their families deserve a clear explanation of how their mission will affect the interests of the Nation to which they have pledged their allegiance.

I do not believe that the administration has succeeded in making clear its case for our involvement in Haiti.

In considering the scope of our involvement in Haiti, we should remember the lessons of history. Our last military adventure in Haiti, which lasted 19 years, from 1915 to 1934, developed on an ad hoc basis. The development of that policy, and the difficulties faced by our marines in implementing it, illustrate the dangers that the direction of our current policy toward Haiti may entail.

Mr. President, there is an old saying that those who ignore the lessons of history are doomed to repeat it.

President Wilson had no intention of staying in Haiti for 19 years when he decided to intervene. The marines landed in July of 1915 to protect American property and the lives of American citizens from the threat posed by violent civil disturbances and the collapse of governing institutions.

Our mission in Haiti during our previous involvement changed from one of protecting America interests, a legitimate reason for landing troops, to one of establishing order. It then changed once again to include creating a civilian government and supervising public works projects.

Our roughly 2,000 troops were engaged in policing the streets, creating an indigenous police force, and running the civilian government. Before they left in 1934, our marines had been dragged into a civil war and had established armed garrisons throughout the country.

And the results of our efforts and the sacrifice of our marines: In the Haiti of today, very much like the Haiti of 1915, political differences are settled at the whim of the mob, or the point of a gun, and government is rendered ineffective by massive corruption.

Intervention in the civil affairs of any nation should not be taken lightly. When we interfere in the internal affairs of other nations, we ask our service men and women in the field to acquire an understanding of an alien society, an understanding that policymakers in Washington, in the safety of their offices, have difficulty grasping.

It is not at all clear that given their history and their support for Aristide, a man with connections to democracy that are tenuous at best, the people of Haiti understand what democracy means. Democracy is considerably more complex than holding an election. The founding documents of our own democracy and the writings of our Founders are a testament to the many complex protections required to guarantee freedom.

In our zeal to promote democracy in Haiti, we should not confuse the popular mandate of Father Aristide with support for American or U.N. intervention to restore him to power. Restoring democracy is one thing, intervention is another. As evidenced by recent events in Somalia, despite hardships and tyranny, often a people care more about sovereignty than democracy. Often they care more about nationalism than the well-being of their own people.

Many of those Haitians who first supported our intervention in 1915 came to oppose it. Even the efforts of the marines to supervise public works projects met with the resentment of the Haitian people. Our effort to help was met with resistance and our efforts to cope with the resistance was met with armed conflict. It became impossible for our policymakers, and the Haitian people, to distinguish between armed conflict and assistance.

The result was a resentment toward the United States that continues today as a principle aspect of our relationship with Haiti.

Before I support any United States action in Haiti, the President will have to convince me that our intervention has limited objectives and that it might do some good. The administration allowed our policy in Somalia to be determined in the United Nations, only to wake up and find that the mission had changed.

I have no intention of sitting quietly by while the administration engages our forces in Haiti in a ill-defined and constantly changing mission. Creating objectives and rationales after our troops are deployed will not win the confidence of Members of this body or of the American people.

Neither will I support a policy of idle threats. We cannot have a policy that proposes the use of force unless we are clearly committed to using it. Idle threats only undermine our credibility and our efforts to effectively use the threat of military force to achieve important foreign policy objectives.

To be effective and to gain the support of the American people, foreign policy must be purposeful, coherent, and forceful.

Again, Mr. President, I commend the Republican leader for his efforts to avoid further disasters abroad for the United States, with their consequent loss of American life, and to work in a nonpartisan manner with the administration to develop and implement a foreign policy that serves the values and the best interests of our Nation. I am pleased to support his amendment and I urge my colleagues to do likewise.

Mr. President, I commend to the attention of all of our colleagues a chapter from the history of the United States Marine Corps entitled "Occupying Haiti, 1911 to 1934." It has some very hauntingly familiar aspects that can be true today.

With all the best intentions, the United States entered Haiti with military force. They were welcomed. We set about forming a government, doing good works throughout the country. And then there was a group of Haitians who were called Cacos, much like the Tonton Macoute that are there today, who began to take up first civil and then military disobedience, and we ended up in a quagmire from which took us 19 years to extricate ourselves, the residue of which still exists in Haiti today.

So, I commend that chapter for reading by my colleagues because I think it is clear that we do not want to make that mistake again.

Again, I would like to thank Senator DOLE for his leadership, for his nonpartisan efforts on behalf of trying to help the administration and the American people see a clear and coherent policy toward Haiti.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, first, let me thank my distinguished colleague from Arizona, one of our true American heroes, who understands a lot more about this than anybody on the Senate floor. His endorsement and his support means a great deal to many of us on each side of the aisle.

As he has indicated, I think there has been bipartisanship, as there should be, in foreign policy. And there has been no effort to tie the President's hand or to put him in a straitjacket. As I said earlier, we are trying to protect him with a flak jacket. I think sometimes when Congress speaks out on these issues, it means a great deal to the President of the United States. I said back in 1990 that we should not be sending troops to the gulf without authorization by Congress, and eventually Congress did authorize use of force in the gulf, offensive force. It certainly is my view that from that day forward it changed the whole attitude of the American people toward our mission in the gulf.

I certainly hope and I do believe the President of the United States will accept what we are doing in the spirit in which it is done, not in any way to shackle the President of the United States. But we do have responsibilities under the Constitution. Congress has responsibilities. The President has responsibilities.

The President has responsibilities, and we tried to blend those two, without doing what the Senator from Arizona was concerned about, getting into some constitutional question where it might appear that Congress was usurping the rights that properly belong, in the Constitution, to the President.

The purpose of this amendment, to use Senator LUGAR's phrase, since we are not in an emergency circumstance in Haiti is to get sort of a time out; give us a chance to take a look.

After we have had a lot of discussion with the administration in the last few days, we made about a dozen changes in the amendment. There is still one change being contemplated as I speak. We hope we can make one additional change. We have removed the funding limitation; we have made this a "sense of the Congress." We did explicitly make sure the amendment does not cover the naval blockade—even though I am not convinced that the blockade is the best course—but the President has already deployed the forces. We fine-tuned the conditions, moved some paragraphs around and tried to accommodate as many concerns as possible.

With the events of the past 2 weeks, it is clear that United States troops should not casually be put in harm's way in Haiti—as trainers, construction engineers, or anything else. Two weeks ago —before the Haitian "rent-a-mob" scene on the dock in Port-au-Prince—I urged the President not to deploy American troops, and to withdraw the advance team already there. That mission does not meet the President's own criteria for U.N. operations: What is the threat to international peace? That is the first thing he asked. What are the clear objectives? What is the end point, and what will it cost?

Had the mission gone forward, it would have virtually guaranteed American casualties for another questionable exercise in nation building.

It would have made more sense for the U.S. soldiers to wear targets than to wear camouflage. When we announce that United States troops will withdraw as soon as they are shot at, we ensure that any Haitian with a gun has an incentive to be the one that "chased out the Yankees."

When we announced that U.S. troops are only there to train and to build roads, the American people wondered why—why can we not train in the United States out of harm's way, and why AID or civilian contractors cannot build roads. With 80 percent unemployment in Haiti, someone might want to consider putting Haitians to work building roads.

My amendment lays down a marker for the administration: Tread very carefully in using American force in Haiti.

Mr. President, I am not certain what our policy in Haiti is. We seem determined to put Aristide back in power, and I say to my colleagues who have not seen the briefing up in S-407, you might want to. Even though the State Department recognizes that he incited mob violence while he was President, I am not certain someone is automatically a democrat—with a small "d"—just because they received a lot of votes. I do not think we ought to lose American lives to return him to power. Restoring democracy is one thing; restoring Aristide is quite a different matter altogether. The officer who wanted United States troops in Haiti for training—General Cedras—was supposed to retire last week, and we do not have any idea who will replace him.

America does have an interest in Haiti—in preventing the massive outflow of Haitians that seek to land in the United States. We all agree that democracy and economic growth in Haiti would be the best way to prevent such an exodus. But the problem is that Haitian history does not give many examples of good government. It would be a mistake to try to impose Aristide. Maybe what we need to do is step back in Haiti—maybe we could look at the Vatican for mediation, and we could look at an independent fact-finding commission. What we should not do is rush into military intervention. We tried that from 1915 to 1934, and the Senator from Arizona just placed in the RECORD the history of that escapade. We tried it with the U.S. Marines, and we did not get a whole lot of nation-building done.

Finally, Mr. President, I want to make it crystal clear that nothing in my amendment should be read as any comfort to the bloodthirsty killers running wild in Haiti. I condemn, as I am certain every Member of this body does, political murder and intimidation in Haiti—and everywhere else. Unfortunately, political violence seems to be the rule and not the exception in Haiti.

This amendment puts the Congress on record before our troops are deployed in large numbers. It makes clear we want no confusion over the mission of our role next week or the week after that. The administration should view this as helpful to their position. They need the input of Congress at the front end. The amendment offered by myself, Senator MITCHELL, and colleagues on both sides of the aisle, would let everybody know where we stand. I urge my colleagues to support the amendment.

I will say one additional thing. There is a lot of question as to whether Congress has any right to act before somebody is deployed. It is a very close question. I read earlier from a legal opinion of the American Civil Liberties Union supporting my position. They do not do that too often. If fact, I do not think I have had many letters from the ACLU. I put it in the RECORD, I guess, because it agreed with my position. They say very flatly that we have the authority to determine, and then the Commander in Chief, the President, has the right to carry that out.

As I said in a statement on Bosnia, we do not have to wait until the body bags start coming back to America before we can say we made a mistake, or we have the wrong policy, or we are moving too fast, or someone messed up somewhere down the line.

So I believe that the amendment is offered in the spirit of cooperation and partnership with the President of the United States. It has the flexibility that he wanted. I thank Mr. Paster at the White House for his help, and I thank others in the Defense and State Departments, along with my colleagues on both sides of the aisle who have been involved in negotiating what we have now, and what we will have before the Senate in very short order.

I will send the amendment to the desk as soon as we resolve one small point.

Mr. KERRY. Mr. President, I would like to congratulate and thank the distinguished minority leader. I know he felt very strongly, as many Members here in the Senate do, that we do not want the troops placed unadvisedly in Haiti, and I think he felt very strongly about taking action to do that. Others here were clearly concerned about the constitutional prerogatives, and I think that the Senator has worked extremely effectively. And there has been a good coming together, which allows the U.S. Senate and the country to speak with one voice. It allows the President to send the message that he has been sending, while simultaneously listening to the U.S. Senate.

I think that is the way it is supposed to be. It is in the best tradition that this House is to advise, sometimes to consent, and sometimes to dissent. Here I think we have advised, and we have advised well. We have said to Haiti that it is critical that all parties adhere to the Governors Island agreement. But we have also urged—and I think cautioned—what we will ask of all of our branches of Government in the effort to try to pull people together to have a consensus when and if we decide that other steps are necessary.

I also thank the distinguished Senator from Arizona, Senator MCCAIN, who has worked hard on this, and the majority leader and others who brought us together on it. I see the distinguished whip is on his feet.

I yield the floor.

Mr. SIMPSON. Mr. President, I thank my friend from Massachusetts. I have very much listened and have been attentive, and I thank Senator MCCAIN, Senator DOLE, and Senator KERRY for their remarks and, indeed, I think we are on the right track. I think that the language of the amendment will shortly be ready. I will therefore speak for just literally 3 or 4 minutes.

What is the situation regarding time on the floor?

The PRESIDING OFFICER. There is no limit on debate at this point.

Mr. SIMPSON. I thank the Chair. Mr. President, the amendment will be presented in moments. I think the pending amendment represents a very remarkable, good-faith effort to assure that Congress is heard and consulted in this vital policy area, while at the same time preserving in full the constitutional authority of the President.

I agree with Senator DOLE, we should heed the Senator from Arizona. He speaks from a position of experience and tragic circumstance that none of us can possibly discern.

I point out that this was a good-faith effort because I have taken careful note of the various critical and uncomplimentary things which have been written and said this week in the media about our fine Republican leader. From the start, Senator DOLE has approached this issue with the aim of protecting Presidential prerogatives, but there has been precious little recognition of that among many of the Nation's media.

I think that represents an astonishing shortness and shallowness of memory. It was just last week that Senator DOLE was leading the effort to preserve the President's flexibility in Somalia, to assist him mightily, as we recall. This was, I might point out, an unpopular position among some in his own party. If he were of the mind to do the easy or the political thing, Somalia was just the place to do that. I can tell you that virtually all of our constituent phone calls were saying—and mine, too—"Get out of Somalia, now." That sentiment was not rooted in partisanship. There were many people of good faith saying "do that." There are those in our party who felt very strongly both ways, just as on the other side. But it would have been easy, if our leader were of a mind to score some easy political points, to do so last week during the Somalia debate.

It is singularly perplexing to me to see this week's debate about Bosnia and Haiti interpreted in the light of partisanship, or even as some serious power struggle between Republicans and the President. I can tell you there has been every single effort to accommodate the administration's legitimate concerns about preserving Presidential flexibility in the conduct of foreign policy. That may be very hard for the cynical and jaded to believe, especially if they have not been part of the discussion. But it ought to strike them as unlikely that Senator DOLE would be magically and inexplicably transformed from last week's statesman into this week's archpartisan. There must be a simpler explanation.

Let me just acquaint those critics with some of the very real concerns we have about Haiti. First, there is the fact that we allowed the United Nations to gradually change the nature of our involvement in Somalia and that Americans were killed, captured, and abused before Congress collectively rose in alarm to demand a more responsible use of American troops.

We saw similarly disturbing trends in Haiti. We saw a pathetic attempt to dock a small band of lightly armed Americans, when for weeks prior to this, incidents of mob violence and murder had been occurring in Haiti that ought to have served as an ample warning that this might not work.

It seems to me a legitimate question to ask whether we have to wait until Americans are killed or held captive before we become involved. We remember the debate from last week. We agreed we could not cut and run from Somalia, because we were already engaged. So if we cannot oppose our involvement after the fact, the only alternative is to try to do so before a crisis occurs. It seems to me a poor description of congressional authority to declare that Congress can only act subsequent to great tragedy, whether the loss of American lives, injuries to American personnel, or the capture of American soldiers.

Not everyone, even within my own party, agrees that Congress should have such a role before the fact. It is a postulation that concerns me as well, just as it concerned our leader. That is why discussions occurred with the administration—to ensure that Presidential powers were upheld. In the end, it was deemed necessary to vastly reduce the binding effects of these amendments, both amendments, in the interest of the powers of this President as well as future Presidents.

So there has been a perfect and clear consistency on the part of our Republican leader throughout this process, even if the same cannot be said of the many detractors in the fourth estate. I would be most interested to know how many of the noted and biased columnists lambasting Senator DOLE over Haiti were just one decade ago explaining, in panting prose, why it was so marvelously appropriate to limit the President's powers to act in Nicaragua and El Salvador. I recall more than a few of those worthies took exactly that position.

So this amendment represents our best effort to ensure congressional participation in this debate before the fact of a crisis, while at the same time upholding in full the powers of this President.

I commend the efforts of those who, in a very remarkable bipartisan fashion, drafted this language, and I certainly urge adoption of the leadership amendment.

I thank the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Pennsylvania.

Mr. WOFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WOFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAOS CONVEYANCE ACT

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 59, H.R. 328, relating to a land conveyance in Taos, NM, that the bill be deemed read a third time, passed; that the motion to reconsider be laid upon the table; and that any statements relative to the passage of this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the bill (H.R. 328) was deemed read a third time and passed.

MEASURE PLACED ON THE CALENDAR—H.R. 2351

Mr. WOFFORD. Mr. President, I ask unanimous consent that H.R. 2351, a bill to reauthorize the National Foundation on the Arts and the Humanities Act be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR—H.R. 2632 AND H.R. 2840

Mr. WOFFORD. Mr. President, I ask unanimous consent that H.R. 2632, the Patent and Trademark Office Authorization Act, and H.R. 2840, the Copyright Royalty Tribunal Act, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WOFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. PRESSLER. Mr. President, I would like to speak on the subject of Haiti.

I have been very troubled by our policy toward Haiti. It is a difficult issue to resolve. In foreign policy, there are no easy answers. This is an example of the struggle our country has with foreign policy.

I have been dissatisfied with the Clinton administration in terms of the process that has been followed with regard to both Haiti and Somalia.

Many years ago, I worked as a young lawyer in the State Department. I do not always agree with the State Department. I think the State Department frequently is not in touch with the rest of the United States. But, in any event, I worked as a young lawyer there, and I participated as a very junior grade assistant in a number of meetings. It was then that I became fascinated with the public administration and organization of foreign policy.

Having served as a member of the Senate Foreign Relations Committee since 1980, I have been fascinated with how we organize to formulate our foreign policy. Recently, on "60 Minutes," I addressed some problems that I thought existed regarding the United Nations in terms of how foreign policy is made.

I have discovered, with regard to Somalia and Haiti, that the normal meetings were not held in this administration they did not run the traps, so to speak.

There are deputies' meetings, where the Deputy Secretaries of the CIA and the Defense Department and the Joint Chiefs of Staff and the State Department and the National Security Council are supposed to meet. And there they digest policy—at least they are supposed to—on Haiti or Somalia. Those meetings were not held.

I have been trying to hold hearings in the Foreign Relations Committee, of which I am a member. They have been refused by the administration and by the majority party in the Senate. One can only guess that they are trying to cover up what went on in the early days of Somalia. Those meetings are being held again now, but they were not held then.

There are also principals' meetings in which the Secretary of State, the Secretary of Defense, the National Security Adviser, the head of the CIA, the head of other intelligence agencies, and the Joint Chief of Staff meet. They are supposed to run the traps on a decision. Those meetings were not held on Somalia or Haiti. Both cases have produced foreign policy disasters in the early days of the Clinton administration.

Let me address Haiti first. In the case of Haiti, the United States finds itself supporting Aristide.

Now, who is Aristide? He was democratically elected. I will concede that. But so was Papa Doc, who preceded him. So was Adolf Hitler popularly elected.

Once Aristide was elected, he did not rule as if he believed in democracy. He did not behave as a democrat. And I am speaking with a small "d," a democrat with a small "d."

Indeed, Aristide proceeded to hold rallies in which he advocated the necklacing of his political opponents. Indeed, he held meetings in which he insisted on the death penalty for political opponents of his, rather than the 15-year sentence which was allowed under law.

There are many quotes that I can read about Mr. Aristide. According to newspaper reports, he reportedly ordered a murder. We want a hearing to find out if that is absolutely true. If that is true, U.S. troops are standing by to defend a murderer.

Let us think about that a little bit, and what kind of reaction that would produce.

The State Department and the Clinton administration are trying to cover-up, to cover up these facts. But they are coming out in spite of the coverup.

We have repeatedly asked on my side of the aisle for hearings in the Foreign Relations Committee with the Secretary of State and the Secretary of Defense as witnesses to tell us about the principals' meetings, about the deputies' meetings, and why the formulation of these policies was not run through the traps. When did the President of the United States learn about Aristide's psychological problems? When did the President of the United States learn that he was a murderer, or did he learn? On what date? Was he ever briefed?

Now, the Defense Department and the State Department seem to be ad-libbing. Nobody knows who is reporting to whom over there. We have people running about without responsibility for who is reporting to whom? Foreign policy decisions are not being made in a rational, staffed way. They are being made on a helter-skelter basis. Hopefully that is changing now.

We have had, in this Chamber, some debate on the Nickles amendment, the Dole amendment, and the Byrd amendment on the Democratic side, which I cosponsored and on which I helped Senator BYRD.

None of those amendments would be showing up if foreign policy was being formulated properly, if there were hearings being held up here, if the high-level people were showing up.

We did have a hearing in the Foreign Relations Committee at which a Principal Deputy Under Secretary of Defense and an Under Secretary of State testified. But neither one of them had participated in any of the other meetings. We cannot seem to get anybody who has actually been in the meetings to come up here and testify to Senators.

When did we learn that Aristide is a murderer, if he is? When did we learn that he has deep psychological problems, if he does? When did we learn that he advocated necklacing? Did the President of the United States know this when we embraced him? Have we sent warships down there to defend him, and are we on the brink of sending United States troops to Haiti to put this person into office? Let us think about our actions very carefully.

Who is President Aristide? I have before me a Washington Post article by Lally Weymouth, January 24, 1993. She says,

> [If you see] a faker who pretends to be one of our supporters * * * just grab him. Make sure he gets what he deserves * * * with the tool you have now in your hands [the burning tire] * * * You have the right tool in your hands * * * the right instrument. It is nice, it is chic, it is classy, elegant and snappy. It smells good and wherever you go, you want to smell it.

For everybody who does not know, necklacing is putting a tire around a victim's neck, pouring gasoline in it and lighting it. I had a necklacing amendment on the floor with respect to South Africa some years ago, everyone on the floor voted for it and I thank them. It is one of the most hideous of crimes. This gentleman who we are supporting and trying to put back into power in Haiti advocated necklacing. I have it here from Lally Weymouth's article.

> According to the Catholic Standard of the Archdiocese of Washington, Aristide was suspended from the Salesian Order of the Catholic church in 1988 after being accused of "incitement to hatred and violence" and emphasizing "class struggle" in his sermons.

These are quotes from Aristide.

> Don't neglect to give him what he deserves. Three days and three nights you're keeping watch in front of the National Penitentiary (see Note). If someone escapes, don't neglect to give him what he deserves.
>
> NOTE.—A reference to Roger Lafontant, who had begun to serve a life sentence in the penitentiary for attempting to overthrow the government. He was murdered two days later in his cell as the coup was beginning under circumstances that remain obscure.

According to newspaper reports he was murdered under the orders of Aristide whom the United States is protecting and wants to use U.S. troops to put back in power.

> We should have discovered in the electoral campaign of this devil called Reagan, the satanic spirit was dancing in Reagan's head * * * The same spirit that Jesus chased while He was on Earth, forced these experts and Reagan to produce this document called Santa Fe * * * A bad spirit like this, don't you see, is the same bad spirit that danced in the heads of the Roman Emperors that Jesus fought.

This a quote from the man we expect young Americans to die for. He referred to Reagan as a satanic spirit.

Mr. MITCHELL. Mr. President, will the Senator yield? Could the Senator indicate how long he intends to proceed?

Mr. PRESSLER. I wish to proceed for as long as it takes me to finish this. I have the floor. If the Senator wishes to ask a question—I respect the majority leader very much—I will answer him. Does he want to ask me a question?

Mr. MITCHELL. No; I want to introduce the amendment and get a consent agreement regarding the schedule tomorrow; then have the Senate be prepared to go into recess. If the Senator will let me do that, the Senator can continue and I can leave.

Mr. PRESSLER. Can I have 3 more minutes and I will leave and let him do that? If the Senator will give me 3 more minutes, because I want to finish this particular line.

> * * * what we need to destroy these people we do not yet have. The day will come when we will have it. Nicaragua had it in 1979. Cuba had it in 1958 and 59.

This is the man we are supporting. Next he said:

> When you are sitting on top of the mountain teaching the peasants how to use necklacing, the peasant, having never seen a car before, having never seen a tire before, he will ask you, 'What is Necklacing?' He could also ask if the use of Necklacing is in the Constitution. You might answer, 'If the pressure of Necklacing in front of the Courthouse on September 29 (the judgment day of Roger Lafontant) was not there, then he would not have received the life sentence. Instead, he would have only received 15 years!

The three previous excerpts are from a transcript of a videotape of various Aristide speeches and sermons at Mass.

The 1991 State Department Human Rights Report said:

> President Aristide appeared less concerned about prosecuting members of the military accused of human rights abuses if they were supporters or appointees of his Government * * * President Aristide also failed to condemn categorically all recourse to popular justice through mob violence. The Aristide Government made no effort to identify and to bring to justice those responsible for the wholesale killing, looting, and burning * * *

Mr. President, the only possible United States interest in Haiti would be to stop the flow of refugees into our southern border. The United States established three immigration centers in Haiti and they are working. Virtually all Haitian refugees who have come to the United States are economic refugees. If they were political refugees they would walk across the border into the Dominican Republic.

There is no justification to risk the life of even one United States soldier in Haiti now or in the future. Aristide, whom we support and whom the Clinton administration supports, is a human rights abuser. The State Department has admitted in Senate hearings that President Aristide incited mob violence and encouraged necklacing while in power. Father Aristide was suspended by the Catholic Church because of his activities. Aristide ordered the destruction of the Vatican Embassy.

About the practice of necklacing, Aristide said "it is beautiful, it is chic, it is elegant; you want to smell it everywhere you go". Aristide had a painting in his Presidential office glorifying necklacing.

Aristide has known ties to Fidel Castro and had some of his henchmen trained in Cuba. Aristide publicly cursed the United States and promised to give Haitians what Castro has given the Cuban people.

Mr. President, I could go on and on, and I planned to talk longer. Out of respect for the majority leader, I shall cease.

But what I am crying out for are hearings. I asked the chairman of the Foreign Relations Committee, today, for hearings tomorrow morning with people at the highest level of the administration to explain to us how these decisions were made.

What is taking place is a great deal of ad-libbing by Les Aspin and others without consulting with the CIA, without consulting with the military. There is a process—and I learned it as a young lawyer in Washington many years ago—that should have been utilized. If you are appointed Secretary of Defense or State, that does not mean you give your opinion to the President without consultation with the other pertinent agencies. You check with the CIA, the Joint Chiefs of Staff, and so on and so forth.

When I asked about public administration and the Deputies meetings in a Foreign Relations Committee hearing, I was told they would check on it. When all is said and done, the foreign policy of the Clinton administration was formulated on a shoot-from-the-hip basis, on a basis that did not take into consideration the experts' opinions. We have been told, we have seen people in the Defense Department on TV say, "We learned lessons in Somalia." I served in the Army as a lieutenant in Vietnam. We learned those lessons there. The military knows those lessons and would have conveyed them if they had them in their meetings, but they were not included.

I can assure you that some of the things that have been published about Aristide never reached the President of the United States until some of us in this body started to protest.

I am very curious. I hope we have a hearing as to when the President of the United States learned these facts about Aristide and when the United States decided to support him and why. This is a very strange situation to be in. I am very worried about—I am not trying to put down the Clinton administration. As Members of this body know, I am considered to be bipartisan, and that has been one of my biggest problems.

But I will conclude.

I yield the floor.

Mr. MITCHELL. Mr. President, I just would like to make one comment, before my colleague leaves, on his remarks. There will be a full debate tomorrow morning on this subject, and I have no interest in debating the substance of his remarks, although I think it is very much open to debate.

Mr. PRESSLER. Will my friend yield for one brief question, respectfully? Would my friend support hearings at the highest level in the Foreign Relations Committee tomorrow or the next day as to how these decisions on Haiti were made?

We had a large meeting today, and I know the Secretary of State just left the country, but many of us want to help out. We want this President to be successful. I have helped the majority leader on many occasions. I like the majority leader, and I like the President. He has been my friend for 20 years.

The reason behind all of these resolutions being introduced on the floor is not that people want to hear constitutional arguments, it is because there is a sense that foreign policy formulation mechanisms of this country have broken down.

Mr. MITCHELL. Mr. President, it is to that precise remark to which I wish to address myself. The suggestion has been made, and just repeated, that the reason we have amendments relating to foreign policy and debate in the Congress and criticism of the administration's foreign policy is because that policy has broken down. The clear implication of that is that things are going well when Congress does not talk about foreign policy.

Mr. President, I say to my colleague, I have been in the Senate for 13 years. In 12 of those years, we have had Republican Presidents, and every year I have been here, there have been amendments in Congress about foreign policy, debates about foreign policy, criticism over foreign policy. I cannot speak for the time earlier than when I arrived in the Senate, but my impression is the same. The suggestion that the existence of amendments and debates in Congress is in and of itself proof of a failure of foreign policy by the administration is simply incorrect. If that is the case, then every administration has failed because there is always debate and amendments and criticism in Congress.

If the Senator's remarks are friendly toward the President, I can only tell the President, with friends like that, he does not need enemies.

Mr. PRESSLER. If my friend will yield very briefly, I have been on the Foreign Relations Committee since 1980 and a little bit of the experience has rubbed off, not much. The Secretary of State would normally be up here within a day or two—especially after an incident in which many American lives were lost. We are told the Secretary of State will not be available until November 4. What is this Senator supposed to do until November 4 on Haiti and Somalia?

I ask my friend from Maine, whom I respect very much, who has been a Federal judge and who is the majority leader and who is very respected, when can we get some hearings up here so Senators can find out how this policy was formulated, whether Les Aspin consulted the Joint Chiefs, whether the CIA was consulted.

There is a we-they attitude in the Defense Department. In the State Department, nobody knows who is reporting to whom.

This is a subject that is of great concern to many of us. We are crying out for some help.

During the Bush and Reagan administrations, they would have had at least the Deputy Secretary up here the next day. We cannot even get the Deputy Secretary, and the majority party in the Senate is not demanding it. But the majority party did demand it then, when the Republicans were in the White House. Bush responded and Reagan responded. Now, we cannot get anybody above a Deputy Under Secretary up here to talk to us.

Mr. MITCHELL. Mr. President, if I might say, the Secretary of State left for Russia and other States of the former Soviet Union, I believe, within the past several hours. And so it is obvious that the Secretary of State on a trip long planned on other matters cannot be present——

Mr. PRESSLER. But would my friend just yield? The Secretary did not say that. He was scheduled to come up here on Tuesday, and he canceled for no reason. I think—this is my thought—the President asked him to cancel because the administration would be embarrassed by their foreign policy disasters in Somalia and Haiti.

The Secretary of State was scheduled to come here on Tuesday. Why did he cancel?

Mr. MITCHELL. Well, Mr. President, I do not know and I submit neither does the Senator, and I think we would all be wise not to impute reasons or motives to others when we do not know the reason for it.

Second, I would just say that the Secretary of State in the previous administration, someone who I admire greatly, Secretary Baker, traveled much, much more than does Secretary Christopher, and so he was not available to testify when he was on a trip. Nobody got up here when he was in Europe or Asia or the Middle East and said, "Well, why won't the Secretary of State come here to testify?" And impute motives to him for not testifying.

I think the question of the hearings is best left to the chairman of the committee. Of course, that has always been my practice. I am asked almost every day on almost every subject to order some chairman to hold a hearing on some subject or other. I think it is best left to the individual chairmen. I have great confidence in the chairman of the Foreign Relations Committee.

If I might, Mr. President, without wanting to prolong this, I came very early this morning and if the Senator would permit I would like to get on with this and conclude. Then we can have this debate tomorrow.

I do want to make this one comment, unrelated to all of the charges. If we start requiring a psychological examination of every elected official in this country, I submit to my colleague from South Dakota a lot of Senators better start worrying. If we are now going to say that we are going to have psychological examinations by people who have never met us, and have these long distance psychological examinations read out, my gosh, I think it is something every Senator ought to be concerned about.

Mr. PRESSLER. My friend will have to yield to me once more. Yes, but we are not sending U.S. troops to South Dakota to keep U.S. Senators in office, yet.

Let me also say that Secretary Christopher was scheduled to testify here yesterday. He was not on a trip. He canceled. It is part of a pattern before our committees. We cannot get the administration to explain the process. I am not in the business of psychology.

If you read what has been written in the press about Aristide, it is pretty freightening that we support a fellow like this. I am very, very concerned.

Mr. MITCHELL. I understand the Senator's concern. But the Senator says he is not into the psychological business after having spent a great deal of time in debate discussing psychological analyses. Precisely, what he is saying is I am not doing what I have just been doing.

Mr. PRESSLER. If the majority leader will yield, in regards to human rights abuses, what I said is the State Department's records show Aristide's violations of human rights and abuses. That is very serious. I take the State Department's human rights reports very seriously.

Senator SPECTER, who sits here, and I went to 8 African countries this spring armed with 8 human rights reports. Aristide exceeds—he is one of the leading human rights abusers in the world. He did not rule as a democrat with a small "d". My friend, the majority leader, is a Democrat with a large "D". But in any event, Aristide was not a democrat, even with a small "d." He was a dictator, authoritarian.

I ask unanimous consent, Mr. President, to place all these materials in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTION FOR THE RECORD SUBMITTED TO WILLIAM LACY SWING, SENATE FOREIGN RELATIONS COMMITTEE, SEPTEMBER 29, 1993

Question. Did President Aristide incite mob violence when he was in power in Haiti?

Answer. There was evidence that President Aristide incited intimidating or violent behavior among his followers. This has been documented in our 1991 Human Rights report.

Our Ambassador at that time and other U.S. officials made clear to him our abhorrence of these tactics.

QUESTION FOR THE RECORD SUBMITTED TO ALEXANDER F. WATSON, SUBMITTED BY SENATOR HELMS, SENATE FOREIGN RELATIONS COMMITTEE, MAY 5, 1993

HAITI

Question. What information does the U.S. Government have regarding the human rights record of President Aristide?

Answer. There is evidence of several human rights violations under the Aristide presidency that we have spelled out in our annual Human Rights Reports.

These include condoning or failure to condemn mob violence and at least three incidents of politically motivated killings that may have been officially sanctioned.

Question. Would you agree with human rights activists that Aristide incited popular violence when he was in power?

Answer. There was ample evidence that President Aristide incited intimidating or violent behavior among his followers.

Our Ambassador and other U.S. officials made personally clear to him our abhorrence of these tactics.

1991 U.S. DEPARTMENT OF STATE COUNTRY REPORTS ON HUMAN RIGHTS

However, the Government proved to be unwilling or unable to restrain popular justice through mob violence and ensure the rule of law for all citizens irrespective of partisan interests.

President Aristide, however, appeared less concerned about prosecuting members of the military accused of human rights abuses if they were supporters or appointees of his Government.

President Aristide also failed to condemn categorically all recourse to popular justice through mob violence.

The Aristide Government made no effort to identify and bring to justice those responsible for the wholesale killing, looting, and burning that occurred after the failed Lafontant coup in January.

The only response to three official requests to the Aristide Government for information on the status of the investigation into the death of an American citizen, Richard Andre Emmanuel, who was killed by mob violence in late February, was that the investigator "was still in progress."

However, there were several credible reports of torture and other abuse of detainees and prisoners both during the initial Aristide tenure and since the coup.

The Aristide Government repeatedly attempted to interfere with the judicial process or usurp it through "mob justice."

On August 13, the Parliament, as well as the offices of a number of the Aristide Government's critics—the labor union Autonomous Central of Haitian Workers (CATH), and the political organizations National Front for Change and Democracy (FNCD) and United Democratic Committee (KID)—were attacked by mobs who many observers believe were inspired by those close to the Administration.

The most serious 1991 violations of freedom of travel occurred shortly after President Aristide took office when hundreds of former official of previous governments were subjected to a constitutionally questionable ban on foreign travel.

After his election victory, President Aristide and his supporters often excluded or intimidated their political opponents or those perceived as such.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

ARISTIDE'S STATEMENTS ON NECKLACING

"What a beautiful tool! What a beautiful instrument! It's beautiful, it's cute, it's pretty, it has a good smell: wherever you go you want to inhale it. Since the law of the country says Macoutes aren't in the game, whatever happens to them they deserve. * * * This is the word of justice I share with you. I throw the ball to you. You dribble it. You shoot from the penalty box. * * * All alone we are weak, but together we are strong. Together we are the flood!" (Aristide Speech, Haiti, September 27, 1991)

Aristide, referring to wealthy Haitians who refuse to help Haiti's poor majority, repeatedly urged his listeners not to "neglect to give him [or her] what he [or she] deserves." (Aristide Speech, Haiti, September 27, 1991)—

"If you [nou in the original Creole—meaning either the plural form of "you" or "we"] catch a thief, if you catch a false Lavalassien [referring to the popular movement responsible for Aristide's election], if you catch someone who doesn't deserve to be there, don't neglect to give him what he deserves.

"Your tool is in your hand. Your instrument is in your hand. Your Constitution is in your hand. Don't neglect to give him what he deserves.

"Your equipment is in your hand. Your trowel is in your hand. Your pencil is in your hand. Your Constitution is in your hand. Don't neglect to give him what he deserves.

"Article 291 [of the Constitution, which bars from public office for ten years all torturers, 'zealous' Duvalierists, and embezzlers of public funds] is always on our minds. It says: No Macoutes, no Macoutes!

"Don't neglect to give him what he deserves. Three days and three nights you're keeping watch in front of the National Penitentiary (see Note). If someone escapes, don't neglect to give him what he deserves."

NOTE.—A presumed reference to Roger Lafontant, who had begun to serve a life sentence in the penitentiary for attempting to overthrow the government. He was murdered two days later in his cell as the coup was beginning under circumstances that remain obscure.

"Throughout the four corners of the country, we are watching, we are praying, we are watching, we are praying, when we catch one of them, don't neglect to give him what he deserves.

"What a beautiful tool! What a beautiful instrument! What a beautiful appliance! It's beautiful, it's beautiful, it's pretty, it looks sharp! It's fashionable, it smells good and wherever you go you want to smell it * * *."

During the trial of Lafontant and his accused co-conspirators, a crowd of two thousand had gathered around the courthouse, chanting and calling for a life sentence for Lafontant. A few people carried tires on their heads. Lafontant thereafter received a life sentence, even though the Haitian legal code allows a maximum of only fifteen years for those found guilty of plotting against state security, the offense with which Lafontant was charged.

On August 4, 1991, Aristide spoke with approval of the crowd's actions:

"When they spoke of 15 years inside the courthouse, according to the law," Aristide said, "outside the people began to clamor for Pere Lebrun, because the anger of the people began to rise a little. That's why the verdict came out as a life sentence."

Aristide: "Was there Pere Lebrun inside the courthouse?"

Students: "No."

Aristide: "Was there Pere Lebrun outside the courthouse?"

Students: "Yes."

Aristide: "Did the people use Pere Lebrun?"

Students: "No."

Aristide: "Did the people have the right to forget it?"

Students: "No."

Aristide: "Don't say it's me who said it. Pere Lebrun or a good firm bed, which is nicer?"

Students: "Pere Lebrun."

Aristide: "For 24 hours in front of the courthouse, Pere Lebrun became a good firm bed. The people slept on it. Its springs bounced back. They were talking inside the courthouse with the law in their hands; the people also have their own pillows. They have their little matches in their hand, they have their little gasoline not too far away. Did they use it?"

Students: "No."

Aristide: "That's because the people respect the Constitution. But does the Constitution tell the people they have a right to forget little Pere Lebrun?"

Students: "No."

Aristide: "Then, when they knew inside what was going on outside, inside they had to tread carefully [literally, walk on thirteen so as not to break fourteen]."

"Fourteen is the masses of the people. The masses have their own tool, their own secret way, their own wisdom. When they spoke of fifteen years inside the courthouse, according to the law, outside the people began to clamor for Pere Lebrun because the anger of the people began to rise a little. That's why the verdict came out as a life sentence."

"The people, who respect the law, who uphold the Constitution, when they heard 'life in prison' they forgot their little matches, little gasoline and little Pere Lebrun."

Students: "No."

Aristide: "But if it hadn't gone well, wouldn't the people have used Pere Lebrun?"

Students: "Yes."

Aristide: "That means that when you are in your literacy class and you are learning to write 'Pere Lebrun,' you are learning to think about Pete Lebrun, it's because you know when to use it, how to use it and where to use it."

"And you may never use it again in a state where law prevails (that's what I hope!) as long as they stop using deception and corruption. So, that's what they call real literacy!"

(Excerpts from Americas Watch, November 1, 1991)

If you see "a faker who pretends to be one of our supporters . . . just grab him. Make sure he gets what he deserves . . . with the tool you have now in your hands [the burning tire]. . . . You have the right tool in your hands . . . the right instrument. It is nice, it is chic, it is classy, elegant and snappy. It smells good and wherever you go, you want to smell it." (Washington Post article by Lally Weymouth, January 24, 1993)

"What a beautiful instrument—what a beautiful device. It's beautiful—it's such a nice smell—you like to breathe it wherever you go." (Los Angeles Times article by William Eaton, October 5, 1991)

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

ARISTIDE'S HUMAN RIGHTS RECORD

Aristide turned on his own church when Archbishop Francois Wolff Ligonde, in a New Year's homily in 1991, denounced him for installing a "bolshevik government." Aristide's mobs destroyed one of Port-au-Prince's oldest cathedrals and the Nunciatura, the Vatican embassy. The Papal nuncio (ambassador) was stripped to his shorts and paraded through the streets; his assistant, a priest form Zaire, was gravely wounded by a machete blow. [The Vatican is the only government to accord recognition after the military coup of 1991. (The Plain Dealer, February 27, 1993)]

According to the Catholic Standard of the Archdiocese of Washington, Aristide was suspended from the Silesian Order of the Catholic church in 1988 after being accused of "incitement to hatred and violence" and emphasizing "class struggle" in his sermons.

In early October 1991 "an Aristide-inspired mob attacked Sylvio Claude, the founder of the Democratic Christian Haitian Party—a man who had been jailed and tortured by Duvalier but was a political opponent of Aristide. Although Claude sought shelter in a police station, he was turned over to the mob and burned to death." (Washington Post article by Lally Weymouth, January 24, 1993)

"According to senior U.S. government officials, Aristide also participated in a cover-up of the killing of five teenagers on July 26, 1991. Members of an anti-gang unit claimed the killings occurred when they became involved in a struggle with the youths as they tried to escape. Photographs, however, showed that the young men were severely beaten and shot at point blank range by several weapons. The Haitian armed forces—in particular Interim Commander-in-Chief Raoul Cedras—demanded that the incident be investigated. But Aristide,who had been building his own security forces outside the military chain of command, tried to block the investigation and sided publicly with one of the officers involved in the slaying." (Washington Post article by Lally Weymouth, January 24, 1993)

"U.S. Government officials cite extensive evidence showing that Aristide personally gave the order to kill Roger Lafontant. . . ." In a December 1993 interview, Lt. General Raoul Cedras revealed that he has information "that Aristide intended to have other political prisoners killed, not just Lafontant: He [Aristide] gave the orders to kill around 20 people, but they had the courage to execute only Lafontant." (Washington Post article by Lally Weymouth, January 24, 1993)

"In August 1991, Haitian legislators met to deal with the government's abuses. They planned to question Prime Minister Rene Preval—who, according to the State Department human rights report, had personally interrogated political prisoners and denied them recourse to legal counsel—and then to consider censuring him. Before parliament met, shots were fired outside the headquarters of the National Front for Change and Democracy (FNCD)—a political party that had originally supported Aristide but had begun to criticize some of his actions. The home of an FNCD legislator was also stoned.

"When the parliament met, its members found themselves surrounded by about 2,000 demonstrators, many carrying burning tires. Under the threat of the mob, the legislators decided to recess." (Washington Post article by Lally Weymouth, January 24, 1993)

Cedras on Aristide, "He spent seven months violating the constitution of this country which he was there to guarantee." (Washington Post article by Lally Weymouth, January 24, 1993)

Aristide kept a color painting on the wall in his presidential office. The painting depicts the following: Aristide smiles down on a crowd brandishing auto tires; to the side is another pile of tires, a bottle of gasoline and a book of matches. [The poster further portrays the presidential chair atop the Haitian constitution, indicating that Aristide is "above" the constitution.] A poster in the background, in Creole, explains, 'If our power is threatened Ti Tid [Little Aristide], if you have a problem, command us to march and solve them with necklacing.'

Photographs reveal "how Aristide and his street mobs let 'Pere Lebrun' deal with political opponents. The body shown is that of Sylvio Claude, a Baptist minister and head of the Haitian Christian Democratic Party who had the temerity to oppose the 'populist priest.' In September 1991, the same night that the army moved against Aristide, a mob of the president's supporters set upon Claude and beat him senseless. Claude died an agonizing death. According to eyewitness accounts, an Aristide henchman then severed the penis from Claude's corpse, put it in his mouth, and danced derisively around his body. Next, an automobile tire filled with gasoline was draped around his neck and set ablaze. Confident that Aristide had survived the military's move against him, the henchman had a photographer record this moment of triumph." (Accuracy in the Media Report, August-A, 1993)

"[Aristide] sometimes brandished a machete from his pulpit and demanded violent revolution to physically eliminate the country's elite. Violence, he argued, was the only way to reform Haiti economically and socially. 'Revolution, not elections,' he would chant with followers." (Accuracy in the Media Report, August-A, 1993)

"A neurosurgeon and former dean at a Haitian medical school had Aristide as a student of neuro-psychology during the school year 1978–79. . . . According to a statement circulating among Haitian dissidents, the physician declared, 'I was especially attracted by the tremendous instability of personality of [Aristide]. . . . My ultimate diagnosis took the direction of the bipolar disease called 'psychotic manic depressive,' and I prescribed for Jean-Bertrand carbonate of lithium . . .' Haitian exiles say that some of Aristide's worst excesses come when he is not taking his lithium." (Accuracy in the Media Report, August-A, 1993)

Aristide's accused violations of Haitian law:

Haitian constitution bars presidential paramilitary armies. Aristide created a force called "Special Intelligence for the President," or SIP, which was trained by French and Swiss military experts, and armed with weapons that bypassed the army when shipped into Haiti.

Aristide packed the Haitian Supreme Court with five new justices and refused to submit them to the Senate for confirmation. Contrary to law, he appointed several members of the electoral commission as ambassadors. When the Senate blocked the nomination of another commission member as ambassador to France, Aristide made him foreign minister. In towns in the interior, Aristide replaced elected mayors with his lavalas, and relied upon mobs to keep them in office.

When the Parliament resisted Aristide, his mobs appeared, tires and gasoline in hand. Several legislators were dragged out and beaten. Union offices and opposition political headquarters were torched.

Aristide is accused of ordering the murders of Roger Lafontant and Sylvio Claude the night he left office. They were murdered two days after Aristide's speech encouraging necklacing.

Aristide was the patron of an organization devoted to the welfare of children. VOAM, a Creole acronym for "send Haiti to the skies." At his request, Haitian refugees in the U.S. sent an estimated $2 million to VOAM; the republic of China gave another $6 million. According to Aristide's opponents, Aristide diverted $4.5 million (or more) of these funds to his own projects.

But an older Haitian friend put it more realistically: "I hear that you Americans are going to force us to take back that dreadful man who says he wants to put flaming tires around our necks." (National Review, July 5, 1993)

WHO IS PRESIDENT ARISTIDE?

"[If you see] a faker who pretends to be one of our supporters . . . just grab him. Make sure he gets what he deserves . . . with the tool you have now in your hands [the burning tire] . . . You have the right tool in your hands . . . the right instrument. It is nice, it is chic, it is classy, elegant and snappy. It smells good and wherever you go, you want to smell it." (Washington Post article by Lally Weymouth, January 24, 1993)

According to the Catholic Standard of the Archdiocese of Washington, Aristide was suspended from the Salesian Order of the Catholic church in 1988 after being accused of "incitement to hatred and violence" and emphasizing "class struggle" in his sermons.

"Don't neglect to give him what he deserves. Three days and three nights you're keeping watch in front of the National Penitentiary (see Note). If someone escapes, don't neglect to give him what he deserves."

[Note: A reference to Roger Lafontant, who had begun to serve a life sentence in the penitentiary for attempting to overthrow the government. He was murdered two days later in his cell as the coup was beginning under circumstances that remain obscure.]

"We should have discovered in the electoral campaign of this devil called Reagan, the satanic spirit was dancing in Reagan's head . . . The same spirit that Jesus chased while He was on Earth, forced these experts and Reagan to produce this document called Santa Fe . . . A bad spirit like this, don't you see, is the same bad spirit that danced in the heads of the Roman Emperors that Jesus fought."

". . . What we need to destroy these people we do not yet have. The day will come when we will have it. Nicaragua had it in 1979. Cuba had it in 1958 and 59."

"When you are sitting on top of the mountain teaching the peasants how to use necklacing, the peasant, having never seen a car before, having never seen a tire before, he will ask you, 'What is Necklacing?' He could also ask if the use of Necklacing is in the Constitution. You might answer, 'If the pressure of Necklacing in front of the Courthouse on September 29 (the judgment day of Roger Lafontant) was not there, then he would not have received the life sentence. Instead, he would have only received 15 years.'"

[The three previous excerpts are from a transcript of a videotape of various Aristide speeches and sermons at Mass.]

The 1991 State Department *Human Rights Report* said:

"President Aristide appeared less concerned about prosecuting members of the military accused of human rights abuses if they were supporters or appointees of his Government . . . President Aristide also failed to condemn categorically all recourse to popular justice through mob violence. The Aristide Government made no effort to identify and to bring to justice those responsible for the wholesale killing, looting, and burning . . ."

[From the Congressional Research Service, Library of Congress, Translation from the French]

GENERAL HEADQUARTERS,
ARMED FORCES OF HAITI,
Port-au-Prince, Haiti, October 14, 1993.

His Excellency JEAN BERTRAND ARISTIDE,
President of the Republic, Palais National

MR. PRESIDENT: I would be very grateful if you would give the necessary instruction to the responsible Government officials to begin the necessary proceedings for my anticipated retirement provided for in Point 8 of the Governors Island Political Agreement which I signed in good faith on July 3, 1993 to lift the blockade of the country and to preserve the institution of the military.

I believe that you, as well as I, are aware of the obligation parallel to this procedure of making all the necessary arrangements for granting amnesty by parliamentary law, as indicated in Article 5 of the Governors Island Agreements and Article 5 (paragraph ii) of the New York Treaty.

My concern is shared by the Prime Minister and the Special Envoy who agreed in the course of a tripartite meeting held at Mr. Malval's residence on Tuesday, October 7, 1993 to send you the Minister of the Interior for this purpose of choosing the Commander-in-Chief, according to the oath in the Constitution and the Armed Forces General Regulations and by personal letter of appointment, and the Senate ratification of the Commander-in-Chief.

I will then officially hand over the command of the Haitian Armed Forces to my replacement.

Sincerely yours,
RAOUL CEDRAS,
Lieutenant General, Armed Forces of Haiti, Commander-in-Chief.

Mr. MITCHELL. Mr. President, I think the point has been made.

Many of the assertions made by the Senator are, of course, open to dispute and refutation. I am sure they will be and have been, during the course of the debate. I have no wish to engage in that because that is not the matter which I am involved in at the moment.

I just simply repeat that if the notion that long-distance psychological examinations be made of elected officials, and that they be made public, knowing best, as I do, about Members of the U.S. Senate, we all should be very leery of that.

Mr. PRESSLER. Mr. President, will my friend yield for one more question?

Mr. MITCHELL. Certainly.

Mr. PRESSLER. I am not saying we are in the psychological business, but here is a case where we are committing the prestige of our Government to someone who, according to newspaper reports, had very severe problems; who according to newspaper reports, has committed murder; who according to our State Department has committed human rights abuses.

I want to make that clear. We are not in the business of psychologically evaluating people. But here we are putting the force of the U.S. Government, the U.S. taxpayers, the overburdened American people, behind this person.

Mr. MITCHELL. Mr. President, may I ask the Senator a question? The Senator has referred three times to newspaper reports.

Does the Senator from South Dakota hereby state that everything that ever appeared about human rights in newspapers is true?

Mr. PRESSLER. Absolutely not.

Mr. MITCHELL. I thank the Senator.

Mr. PRESSLER. But I have had to deal with the press. I hope we deal with these accounts.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the previous consent granted governing the conference report accompanying H.R. 2519 be executed upon disposition of the Dole-Mitchell amendment relating to Haiti; and that it now be in order to request the yeas and nays on adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I now ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1074

(Purpose: To express the sense of Congress on funding for the deployment of United States Armed Forces in Haiti)

Mr. MITCHELL. Mr. President, in behalf of Senator DOLE, myself, Senator GRAHAM, Senator SIMPSON, Senator THURMOND, Senator DOMENICI, Senator WARNER, Senator HUTCHISON, Senator D'AMATO, Senator MURKOWSKI, and Senator DODD, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. DOLE, for himself, Mr. MITCHELL, Mr. GRAHAM, Mr. SIMPSON, Mr. THURMOND, Mr. DOMENICI, Mr. WARNER, Mrs. HUTCHISON, Mr. D'AMATO, Mr. MURKOWSKI, and Mr. DODD, proposes an amendment numbered 1074.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

Sec. . SENSE OF CONGRESS ON THE USE OF FUNDS FOR UNITED STATES MILITARY OPERATIONS IN HAITI.

(a) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) all parties should honor their obligations under the Governors Island Accord of July 3, 1993 and the New York Pact of July 16, 1993;

(2) the United States has a national interest in preventing uncontrolled emigration from Haiti; and

(3) the United States should remain engaged in Haiti to support national reconciliation and further its interest in preventing uncontrolled emigration.

(b) LIMITATION.—It is the sense of Congress that funds appropriated by this Act should not be obligated or expended for United States military operations in Haiti unless—

(1) authorized in advanced by the Congress; or

(2) the temporary deployment of United States Armed Forces into Haiti is necessary in order to protect or evacuate United States citizens from a situation of imminent danger and the President reports as soon as practicable to Congress after the initiation of the temporary deployment; or

(3) the deployment of United States Armed Forces into Haiti is vital to the national security interests of the United States, including but not limited to the protection of American citizens in Haiti, there is not sufficient time to seek and receive Congressional authorization, and the President reports as soon as practicable to Congress after the initiation of the deployment, but in no case later than forty eight hours after the initiation of the deployment; or

(4) the President transmits to the Congress a written report pursuant to subsection (C).

(c) REPORT.—It is the sense of Congress that the limitation in subsection (b) should not apply if the President reports in advance to Congress that the intended deployment of United States Armed Forces into Haiti—

(1) is justified by U.S. national security interests;

(2) will be undertaken only after necessary steps have been taken to ensure the safety and security of U.S. Armed Forces, including steps to ensure that U.S. Armed Forces will not become targets due to the nature of their rules of engagement;

(3) will be undertaken only after an assessment that—

(A) the proposed mission and objectives are most appropriate for the U.S. Armed Forces rather than civilian personnel or armed forces from other nations, and

(B) that the U.S. Armed Forces proposed for deployment are necessary and sufficient to accomplish the objectives of the proposed mission;

(4) will be undertaken only after clear objectives for the deployment are established;

(5) will be undertaken only after an exit strategy for ending the deployment has been identified; and

(6) will be undertaken only after the financial costs of the deployment are estimated.

(d) DEFINITION.—As used in this section, the term "United States military operations in Haiti" means the continued deployment, introduction or reintroduction of United States Armed Forces into the land territory of Haiti, irrespective of whether those Armed Forces are under United States or United Nations command, but does not include activities for the collection of foreign intelligence, activities directly related to the operations of U.S. diplomatic or other U.S. government facilities, or operations to counter emigration from Haiti.

Mr. MITCHELL. Mr. President, it is my understanding that under the order there would now be up to 60 minutes for debate on that amendment this evening, controlled by Senator DOLE and myself.

Is that correct?

The PRESIDING OFFICER. The Senator is correct; 60 minutes, equally divided.

Mr. MITCHELL. In behalf of Senator DOLE and myself, I now yield that time.

The PRESIDING OFFICER. Time has been yielded back.

ORDERS FOR TOMORROW

Mr. MITCHELL. I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Thursday, October 21; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that the Senate then resume consideration of H.R. 3116, the Department of Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:45 p.m., recessed until tomorrow, Thursday, October 21, 1993, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 20, 1993:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OLIVIA A. GOLDEN, OF THE DISTRICT OF COLUMBIA, TO BE COMMISSIONER ON CHILDREN, YOUTH, AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES. (NEW POSITION)

EXECUTIVE OFFICE OF THE PRESIDENT

JANE M. WALES, OF NEW YORK, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE J. THOMAS RATCHFORD, RESIGNED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

VICE ADM. WILLIAM A. OWENS [redacted] U.S. NAVY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. THOMAS J. LOPEZ [redacted] U.S. NAVY.

HOUSE OF REPRESENTATIVES—*Wednesday, October 20, 1993*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. VOLKMER].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 20, 1993.

I hereby designate the Honorable HAROLD L. VOLKMER to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We know, O God, that before the mountains were formed or the waters filled the seas, Your grace and mercy have been Your gifts to us. You have blessed us, O God, in so many ways and Your goodness is ever with us. We pray that we will be steadfast in our commitment to justice and truth, that we will be faithful in our tasks, constant in our commitments, and devoted to that which is honorable and good. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan [Mr. STUPAK] to lead the House in the Pledge of Allegiance.

Mr. STUPAK led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now recognize 15 Members on each side for 1-minute requests.

THE FALLACY OF BORROWING MONEY TO FIGHT IN OTHER PEOPLE'S WARS

(Mr. JACOBS asked was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, to use the relaxed grammar of Abraham Lincoln, "Don't it seem strange that some of our colleagues are saying the same things about Somalia which they have condemned President Clinton for saying about Vietnam?"

I think they are right the second time. It never did make sense to borrow money to borrow trouble in other people's wars.

A BLUEPRINT FOR INCARCERATION

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, the President is proposing to put 50,000 new police officers on the street, but while I think this proposal has merit, let us not kid ourselves. Having 50,000 new officers to arrest more criminals for the second, third, fourth, fifth, sixth, and seventh offenses will not do it. We need to lock them up and keep them locked up.

Today the average murderer is sentenced for 15 years, yet serves only 8, the average rapist gets an 8-year sentence and serves only 3, and the average mugger gets a 5-year sentence and serves only 2. These career criminals cost us on an average a half a million dollars a year in theft and property damage. Society cannot afford it. Incarceration is cheaper.

Let us put them in jail, make them work, teach them a skill, and make it so miserable that when they get out, they will not want to get back in and so they will get a job.

INTRODUCTION OF LEGISLATION TO REDUCE MEMBERS' SALARIES TO MEXICAN STANDARD IF NAFTA IS PASSED

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, the essence of NAFTA is that American workers will be forced to compete against the desperate and impoverished people of Mexico who earn a minimum wage of 58 cents an hour.

It seems to me that if the United States Congress is going to force American workers to compete against our Mexican neighbors, then it is only appropriate that we ourselves, the Congress, lead by example and show the world that we, too, in terms of our paychecks, are prepared to accept the same level of compensation as those in Mexico who do the same work that we do.

Mr. Speaker, the Members of the Mexican Chamber of Deputies, Mexico's equivalent of our House of Representatives, earn the equivalent of $35,410 per year.

Therefore, Mr. Speaker, I am introducing legislation today which would mandate that if NAFTA is passed, our salaries in the House of Representatives be competitive with the Mexican Chamber of Deputies and be reduced to $35,410 a year.

Mr. Speaker, if we are going to ask American automobile workers and dairy farmers and truck drivers to be competitive with their counterparts in Mexico, then the salaries of the United States Congress should be competitive with the Mexican Congress.

THE NO. 1 ISSUE

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, the No. 1 issue facing the country today is crime.

Should the American people really trust the Clinton administration to come up with a tough anticrime package? Can we really trust liberal Democrats in this House to fight for victims of crime and against the perpetrators?

I do not think so.

The Democrats' answer to crime is to weaken current law when it comes to the death penalty.

In fact, instead of clearing the obstacles to swift justice, the Democrat crime bill puts more legal roadblocks in the way.

Instead of including the death penalty for drug kingpins, the Democrats removed it from their bill.

Instead of including a mandatory minimum sentence for the use of semiautomatic weapons, the Democrats leave it out.

Mr. Speaker, when it comes to the No. 1 issue facing this country, the Democrats don't measure up.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

69-059 O—97 Vol. 139 (Pt. 18) 4

EXPORTS THE NO. 1 SUBJECT OF NAFTA—THE EXPORT OF JOBS

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, the administration says that NAFTA is all about exports. Unfortunately, they are right, because if this agreement passes, our No. 1 export is going to be American jobs.

But Members do not have to take my word for it. A year ago, on September 24, 1992, the Wall Street Journal polled 455 of our Nation's top executives. This was before NAFTA became the volatile issue it is today, and executives stated what they saw in NAFTA. In response to this poll, 55 percent of these executives said they would move operations to Mexico if NAFTA passed—25 percent said they had used the threat of moving operations to Mexico in the collective-bargaining process.

So much for American jobs and our standard of living.

Mr. Speaker, this is exactly what the opponents of this agreement have been saying all along. If we pass NAFTA, there is a better than 50–50 chance your constituents' jobs will be gone. You do not have to take our word for it; ask your district's top executives. I did, and the Wall Street Journal did. They want to increase exports all right—your jobs.

Mr. Speaker, I urge my colleagues to vote against this agreement. We must not adopt this NAFTA agreement.

THE REPUBLICAN POSITION

(Mr. BUNNING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNNING. Mr. Speaker, on April 1, 1993, the Republican Policy Committee had this to say:

> U.S. military forces in Somalia have fulfilled the mission given them by President Bush. Republicans therefore call on President Clinton to bring our troops home.

Mr. Speaker, we're still waiting.

President Clinton chose to ignore our advice. Instead, he preferred to put our troops under U.N. command, and in real danger.

The mission has degenerated from humanitarian to humiliation, and it is past time for it to stop.

The President's response is not sufficient. He should not keep our troops in harm's way into next year without real justification and without a detailed strategy.

Republicans have been consistent in our opposition to a policy of troop commitment without focus.

I urge the President to heed our advice and bring our troops home now.

□ 1010

NAFTA: A BAD DEAL FOR A LOT OF REASONS

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, you have heard in this Chamber this morning and other days all the reasons to oppose NAFTA: the environmental reasons, loss of jobs, depressing of American wages, food safety, truck safety, all of the issues that make NAFTA a bad deal.

One issue nobody wants to talk about is that NAFTA is a new $50 billion Government program. Proponents of NAFTA do not like to talk about the lost tariff revenues that our Government will forgo. They do not like to talk about border cleanup, $20 billion for environmental costs. They do not like to talk about the request of the Governor of Texas for $10 billion, or the requests from Arizona, California, and New Mexico, for billions of dollars to prepare for NAFTA.

NAFTA is a $50 billion new program. It is something we cannot afford. It is something we have to pay for with either increased taxes or cuts in services that nobody wants to specify.

Mr. Speaker, NAFTA is a bad deal for a lot of reasons. It is a bad deal because it is a $50 billion new Government program.

STOP VIOLENCE AGAINST PEOPLE OF KASHMIR

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, the violence in Kashmir that I spoke about earlier this year continues unabated. On Friday, 1,000 Indian troops surrounded the Hazratbal mosque in the capital city of Srinagar, trapping approximately 100 Kashmiri separatists inside.

This mosque, the holiest shrine in Kashmir, contains a relic of the prophet Mohammed. For years it has been a focal point of Kashmiri separatist feelings. It appears that the siege was planned to strike at the very heart of the Kashmiri separatist movement.

Unfortunately, this is all too reminiscent of the Indian Government's 1984 siege of the Golden Temple of Amritsar in which over 1,200 people were killed.

This attack is but the latest round of violence and terror against the Kashmir people by the Indian Government since the uprising began in January 1990. Over 7,500 Kashmiris have been killed, with thousands more beaten, raped, and detained without charge, according to international human rights organizations.

Mr. Speaker, it is high time for the United States and all nations to press India to stop the violence in Kashmir, remove their troops, and give the people of Kashmir the vote on independence long ago promised.

CONGRESSIONAL PRIORITIES ASKEW

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Americans are losing their jobs, losing their homes, losing their families, losing their pensions, and losing their health insurance. There are 25,000 murders a year in our country. Kids are literally being killed in their own homes by drive-by shooters. AIDS is exploding, taxes keep going up and up, strangling this economy, our debt is now over $5 trillion, and American soldiers are literally being killed in foreign lands. And the other body today is debating Beavis and Butthead.

Beam me up. Think about it. Maybe it is time that Congress starts looking at itself in the mirror. Maybe it is not just television.

SILLY ARGUMENTS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, there is one word that adequately describes the arguments against the NAFTA treaty: silly.

NAFTA opponents say that jobs will go to Mexico if we pass this agreement. Mr. Speaker, if we do not pass this treaty jobs will continue to flow to Mexico.

High Mexican tariffs create an incentive for American companies to move south of the border. This treaty lowers tariffs and encourages companies and jobs to stay in the United States.

NAFTA opponents say that the environment will be harmed if NAFTA is passed. That is ridiculous. If NAFTA is passed, we will finally have the ability to force Mexico to uphold their environmental laws. If NAFTA fails, the leverage will be lost.

NAFTA opponents ignore the positive effects this treaty will have on illegal immigration, our regional relations with our neighbors and our balance of trade.

Scare tactics and silly arguments should not be enough to stop NAFTA from being implemented. This is a treaty we can all feel good about.

BUILD A STRONGER AMERICA BY STARTING AT HOME

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I rise this morning realizing that all over the country, all over the Nation, and, yes, indeed, some parts of the world, the foremost discussion we are involved in is about NAFTA.

Mr. Speaker, I am concerned because of the lack of discussions about community development in this Third World nation within our borders, these urban and rural communities where people have already been displaced, where people are already without jobs, where people already do not have access to good education that prepares them for jobs. As we talk about NAFTA, we are not talking about what we need to do for our own people. Some of them will be displaced. But what about those that already are? That have discovered that training programs have not prepared them adequately to be able to assume the jobs that are available or prepare them in areas where there are jobs going to be opening by virtue of the great arguments that are made for what NAFTA is going to do for this country?

Mr. Speaker, it seems to me that our first responsibility is to make sure that we are as strong a nation as we can possibly be. Certainly I think there are some who would listen very favorably to the NAFTA discussion if it was somehow related to a discussion about how to build a stronger America.

DEMOCRATS ARE ONCE AGAIN SOFT ON CRIME

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, the liberal Democrats who brought you the largest tax increase in history are preparing to sell America another Trojan horse, this time disguised as crime reform. The Democrat crime bill is worse than current law. Just listen to what they want now.

New habeas corpus language for death row criminals which allows them to avoid serving their sentence; weakened probation standards allowing drug addicts to remain on the streets; a fraudulent death penalty that will never be enacted; and the removal of the death penalty for drug kingpins which are strangling our cities.

Mr. Speaker, this is not crime reform. It is just another example of how soft the liberal Democrats are on violent criminals. Let us pass real reform in this body, stop these hardened criminals in their tracks, and provide some sort of relief to the all too often ignored victims.

AN OUNCE OF PREVENTION

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, our health care system needs reform. We spend much more money per person on health care than any other nation. But we do not get the results we should.

Even with the finest doctors, the best hospitals, and the most advanced technology, our infant mortality is among the highest in the industrialized world. Nearly half of American children between the ages of 1 and 4 lack basic childhood immunizations. We are again seeing outbreaks of measles, mumps, and whooping cough.

Our health care system skimps on low-cost prenatal care, but then spends over $30,000 a month to keep low-birthweight babies alive in high-technology neonatal units. That's just not very smart—or cost effective.

President Clinton wants to change this. He's proposed comprehensive health care reform that emphasizes the simple preventive measures that are crucial to long-term health—immunizations, checkups, education, preventive screenings and tests. The President understands that good health care means keeping people healthy, not waiting until people get sick to treat them.

An ounce of prevention really is worth a pound of cure. Controlling health-care costs and improving health-care quality depends on living by these words.

ECONOMIC WAR BEING WAGED AGAINST THE WEST

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, President Clinton and Secretary Babbitt and his Department of Ulterior Motives are waging an economic war on the West. This is not about western people prospering; this is about survival. This is about families keeping their homes. This is about ensuring that people can live and work where they choose—in the West.

Mr. Speaker, this Congress says it wants to make people and jobs a priority, so we ought to be working to keep the ones we have. The people in the West, threatened by Clinton's land policies, do not want to be handed unemployment checks because their jobs have been taken away by the Government.

This President talks a lot about jobs. He talks a lot about rejuvenating America. These are just statements—just as vague, shallow, and failed as his efforts to build other nations.

Mr. Clinton and Mr. Babbitt are reinventing a whole new constituency for unemployment benefits. If this continues, the sign at State borders in the West will read, "Last one out of the West, turn off the lights."

IMMIGRATION STABILIZATION ACT OF 1993

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, today I introduce the Immigration Stabilization Act of 1993. Along with Mr. GOODLATTE, Mr. HUNTER, Mr. LEHMAN, and Mr. TRAFICANT, I present this comprehensive piece of legislation aimed specifically at reforming, not just one section of the law, but our Nation's laws governing both legal and illegal immigration in their entirety.

Recent events have brought to light evidence of the desperate need for wholesale reform of the U.S. immigration system. The breakdown of the system is seen not only in high-profile cases like the bombing of the World Trade Center and the murder of government employees at our CIA headquarters, but also in the everyday life of our citizens and our economy.

The employment needs of our Nation have changed. No longer do we require a massive influx of unskilled labor as we did when current immigration law was written.

No longer can we afford to offer blanket asylum for all seeking protection from their enemies, whether they are real or alleged.

Our social services system is on the verge of collapse under the weight of our own citizens. We must take action so that we may retake control of our future.

Some people will say this legislation is xenophobic. Nothing could be further from the truth. Our immigrant past is one of the greatest contributions to our Nation's strength today. What this bill says, is that the United States should, like every other industrialized country, control the flow of people into our country, ensuring the best interests of our Nation are served rather than the narrow interests of certain groups.

I ask for the support of my colleagues from both sides of the aisle in seeking the swift passage of this bipartisan legislation.

□ 1020

TOP 10 REASONS TO VOTE AGAINST NAFTA

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I am happy to report to our colleagues that I just received from the home office in San Diego, CA, the top 10 reasons as to why we should vote against the North American Free-Trade Agreement.

Reason No. 10: I like living in the past. Reason No. 9: We need a good revolution in Mexico. Reason No. 8: It is best to close the barn door after the horse is out. Reason No. 7: Jobs, who needs stinking jobs. Reason No. 6: The Toronto Blue Jays. Reason No. 5: It is the best way to get labor PAC money. Reason No. 4: Pat Buchanan, Jesse Jackson, Ralph Nader, and Jerry Brown—wow. Reason No. 3: The Japanese want me to vote "no." Reason No. 2: We need more illegal immigrants.

And the No. 1 reason to vote against the North American Free-Trade Agreement: Perotnoia will destroy ya.

Mr. Speaker, there are no reasons to vote against the North American Free-Trade Agreement. We should line up and provide support for the American consumer and creation of jobs right here in the United States.

NAFTA'S EFFECTS TERMED DEVASTATING

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and her remarks.)

Ms. DELAURO. Mr. Speaker, few issues that we address here provoke such passion and are the targets of such distortion as the North American Free-Trade Agreement. The most prevalent distortion floated by the proponents of NAFTA is that it will create jobs—it won't.

We have already lost 500,000 jobs to Mexico and estimates are that enactment of this trade agreement would cost us 500,000 more jobs. In my State—Connecticut—where we have lost 180,000 to a continuing recession—we cannot afford one more job loss. But, NAFTA will cost us in other ways as well: It will cost us in lost revenues—in lost tariffs to the U.S. Government; in lost corporate tax revenues as businesses move to Mexico; in lost income tax revenues—unemployed workers cannot pay income taxes. And, hundreds of thousands of workers will lose their jobs as a result of NAFTA no matter whose economic model you use.

I am not opposed to free trade. If there were compelling evidence that the long-term payoffs of NAFTA would offset the devastating short-term effects, then I could get behind it. But the long-term effects of NAFTA will be equally devastating: a lower standard of living for workers on both sides of the border.

The bottom line is that NAFTA will cost us jobs and it will cost us money. Our workers cannot afford NAFTA. Our country cannot afford NAFTA. Not this NAFTA.

SOMALIA

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, Congress has said it wants a full and open debate and vote on Somalia. The American people have said they want a full and open debate and vote on Somalia. We were told we would have a full and open debate and a vote on Somalia by November 15, and new we see what is happening: A watered down Senate provision will be buried in a conference report. We will never have that debate. We will never have that up-or-down vote.

My colleagues, we can force that debate. We can force that vote.

Yesterday I filed a discharge petition No. 9 to force out House Resolution 227, offered by my Democrat colleague, the gentleman from Ohio [Mr. BROWN].

Ben Pilla, from Vineland, NJ, said it best, and I quote: "I ask this Congress to put as much effort into investigating this foreign policy disaster as they put into investigating Watergate and Iran-Contra. Neither Watergate nor Iran-Contra cost the lives of American soldiers."

Ben's son, Dominick, was killed in Somalia on October 3, 1993, and buried on October 11. To Ben, his father, to his son, to Dominick, we owe the American people a debate and a vote on the presence of our troops in Somalia.

BREAST CANCER AWARENESS MONTH

(Mr. POMEROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POMEROY. Mr. Speaker, I rise today in recognition of Breast Cancer Awareness Month.

Having personally witnessed how this disease afflicted my wife's family, how it robbed them of a cherished sister and daughter, I stand before this body to remind us all that the issue of breast cancer is not just a women's issue. It is an issue of finding a cure for a life-threatening disease that is killing thousands beloved family members and valuable citizens every day in our country.

With 1 in 8 women now at risk of developing this disease, all of us will be impacted one way or another by this ongoing tragedy. We must support additional funding for research and provide for adequate access to new therapies. Likewise, health care reform must provide for preventive measures such as screening mammograms in the basic benefits package.

This week, the National Breast Cancer Coalition presented President Clinton a petition, calling for increased funding for breast cancer research. It was signed by 2.6 million people throughout the country. The breast cancer survivors who participated in the event are living proof that we can win the battle against breast cancer. We must continue to elevate the public consciousness about this disease, and commit the necessary resources to end the breast cancer epidemic.

COMMERCE SECRETARY RON BROWN'S HAITIAN AND VIETNAM CONNECTIONS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, Secretary of Commerce Brown should not be a part of the decisionmaking process concerning our economic embargo on Haiti. This is due to the fact that a few years ago he legally took large fees to lobby for the former Haitian dictatorship.

Our Secretary of Commerce testified before my committee that he excluded himself from any discussion on easing the embargo on Communist Vietnam. This is due to the fact that he did not take the $700,000 that may or may not have been offered to him.

Mr. Speaker, I have been asked why all the fuss? Let me answer in human terms. A few months ago I put a list of 500 political prisoners in the hands of the head of the Communist Party of Vietnam.

I personally put the same list in President Clinton's hands. With a whisper our President could have asked for the release of these prisoners as a sign of good faith before taking any steps to ease the embargo.

Obviously no such request was made. Yesterday a story in a local paper indicates religious persecution continues unabated in Vietnam.

Let us hope the reason for our silence on human rights in Vietnam has not been an illegal deal between high government officials.

We need a special prosecutor for an impartial investigation of this issue.

□ 1030

URGING BIPARTISAN SUPPORT FOR THE PRESIDENT'S POLICY ON HAITI

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, the President's policy on Haiti is now on the most productive track possible and it deserves the bipartisan support of the entire Congress. The President has decided to go beyond the Boy Scout approach of certain naive and deceived State Department diplomats. We still support the Martin Luther King nonviolent approach of the Governor's Island Agreement. But the President now realizes that we are dealing with a Haitian army led by drug smugglers and killers. Armed protection for the constitutional democratic government of President Aristide is a definite necessity.

In order to take care of our own national interest in Haiti, in order to promote democracy in this Western Hemisphere, we have no choice but the pursuit of a policy of firmness which confronts the forces of lawlessness and brutality. For too many decades the United States has dominated Haiti by assisting the oppressors of the majority.

Now is the time to reverse the negative impact of the Monroe Doctrine. Now is the time to act with strength and firmness to support democracy and the economic redevelopment of Haiti. Help the Haitians to take democratic control of their own destiny and then the Haitians will take care of themselves.

URGING CONGRESS TO REJECT THE ADMINISTRATION'S CRIME BILL AND GET SERIOUS ABOUT CRIME

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, we do not have to be rocket scientists to know that crime in the United States has reached an epidemic level. What has the President decided to do about it? He has dropped from previously introduced bills a number of provisions. He has eliminated mandatory minimum sentences for armed career criminals. He has eliminated mandatory minimum sentences for drug trafficking near schools. He has eliminated the death penalty for convicted drug kingpins. He has eliminated increased mandatory minimum sentences for the criminal use of semiautomatic weapons, and he has eliminated language that would curtail excessive appeals by death row inmates.

In short, Mr. Speaker, the President has written a bill which is worse than our current law. Let us reject the administration's crime bill and get serious about crime.

NAFTA: A MISTAKE FOR AMERICA

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, I rise today with the strongest possible opposition to the North American Free-Trade Agreement. For too long, American textile workers have acted as the punching bag for one administration after another, and NAFTA would be more of the same.

NAFTA supporters point out that our exports to Mexico are growing. The truth is, American factories and American jobs account for the great majority of our increased exports to Mexico during the past few years.

They also say the Mexican consumer market is expanding. Mr. Speaker, Mexican workers are making 62 percent less money today than they were in 1980. Workers that only make one dollar an hour cannot offer much in the way of buying power.

The supporters also say NAFTA means jobs. That is right. NAFTA means the loss of American jobs for the sake of expanding the Mexican economy.

Average American workers are the backbone of our economy, and they are being abandoned by this agreement.

Mr. Speaker, I will not support—and I urge my colleagues not to support—this legislation that robs Americans of employment opportunities. NAFTA is a mistake, and it should fail.

CLINTON HEALTH CARE PLAN: IT IS OCTOBER 20 AND WE ARE STILL WAITING

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, on October 5, Secretary of Health and Human Services Donna Shalala testified before the Energy and Commerce Committee that in 2 weeks Congress would have the details of the Clinton health care plan. That would have been October 19, or yesterday. Well, it is October 20 and we are still waiting. The chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, has criticized the Clinton administration's delay in sending the specifics of its health care reform to his committee recently. In the meantime, committees have been holding hearings on legislation that does not exist, trying to study "devil in the details" problems with no details. My constituents, and I am sure those of every Member of this House, have asked for copies of the Clinton legislation, only to be told that the bill still doesn't exist. And, everyone wants to know, realistically, how much this will cost.

The uncertainty over this plan also is causing real concerns in our Nation's teaching hospitals. Young men and women studying medicine have legitimate concerns that a new Federal authority is being created to dictate where and what they can practice under the guise of "creating a new health work force."

There are so many fundamental questions this issue of health care reform raises, and right now none of them are being answered. It's time for the administration to stop delaying and bring forward this legislation, with facts and figures to back up their claim of a $700 billion price tag.

INTRODUCTION OF LEGISLATION PROVIDING INCENTIVES FOR REHABILITATION OF HOUSING PROJECTS

(Mr. JEFFERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFFERSON. Mr. Speaker, today I am introducing a bill to provide for 15-year straight-line depreciation for new investors in housing projects in need of rehabilitation, together with an exemption from the passive loss rules.

According to a 1992 Harvard University study, there are only 4.1 million units of HUD-assisted housing units available to a population of 13.8 million households eligible for the assistance. Many of the units that could be put in commerce to meet this need are in deteriorating buildings with financially strapped owners, who have no incentive to improve their properties and no market to dispose of them. These conditions are due in part not only to a continuing real estate recession and the general aging of housing stock, but also, in no small part, to changes this Congress made in the 1986 revisions to the tax laws.

New investors with the requisite capital that can be generated by the bill we introduce today can finance the necessary renovations and greatly increase the availability of secure housing for low-income tenants who will be the direct beneficiaries of the infusion of this new capital.

I strongly urge my colleagues to join me in support of this legislation.

URGING THE ADMINISTRATION TO CONTINUE EFFORTS TO RESTORE DEMOCRACY IN HAITI

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, the current situation in the Republic of Haiti has reached a critical point and has caused great debate. The recent incident in Port-au-Prince in which American troops were refused safe entry reveals the unstable conditions in this troubled island nation. Moreover, the imposition of United States economic sanctions shows that the administration is indeed concerned about the hope of restoring democracy in Haiti.

Many will argue that the United States should not be involved in "basket-case" countries who possess little in terms of U.S. economic interest. It is true that Haiti is one of the world's leaders in poverty. It is true that Haiti possesses immeasurable problems related to infrastructure and modernity. And, the Haitian record on human rights can best be characterized as deplorable.

So, the question remains: Why is Haiti important? Or better stated, what is America's vested interest in Haiti? First, Haiti is important because it is a nation longing for the same democratic principles we cherish here in the United States. Before the military coup on September 30, 1991, the Haitian people popularly elected Jean-Bertrand Aristide as the President of the Republic of Haiti. As the leader of the free world, the United States plays a powerful ideological and moral role in assisting aspiring democracies. We are privileged to have this distinction, and we must fulfill our responsibility. If we do not, we lose respect internationally for our complacency.

Second, Haiti is crucial for American self-interest because it is geographically located in our own precious hemisphere, only 80 miles from our shores. The most obvious way in which we are affected by the chaos in Haiti is by looking at the refugee crisis felt by the State of Florida. I know that Representative MEEK can testify to this fact.

Third, earlier this year, the United States Government ruled that boats with Haitians seeking freedom in our countries should be returned to their homeland. The United States and the international community must seek to stabilize the Haitian society so that large numbers of Haitians do not jeopardize their lives by taking to the turbulent waters with their makeshift vessels.

I urge the administration to work toward the restoration of democracy in Haiti. The Governor's Island Agreement should be honored because it is good for the thousands of Haitian people who deserve the fruits of democracy. Ultimately, the stability of Haiti is good for our hemisphere and the United States. Let us be decisive for the sake of democracy and the people of Haiti.

CALLING ON THE DEMOCRATIC LEADERSHIP TO IMPROVE SCHEDULING OF LEGISLATION

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I had no intention of speaking to the House, but I just found out that we were going to be in here until probably 10 o'clock tonight. Let me just say to the leadership of this House, we really have to do a better job of scheduling. One day we hear we are going to have votes on Monday, then Monday comes and we do not have votes. Then we hear we are going to have votes on Friday, and then they tell us we do not have votes on Friday.

We cannot schedule. We cannot know whether we can go to a children's event. We cannot know whether we can do something in our congressional district. The hours that we keep in this body and the schedule in this body is a disgrace. It must change. Husbands do not know their wives. Husbands and wives do not know their children. People do not have any control over the schedule.

I call on the leadership of the party that controls this House to do a better job of scheduling. It is unacceptable to keep the hours and the uniformed schedule that we have in this House.

□ 1040

CONFERENCE REPORT ON H.R. 2492, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1993

Mr. DIXON. Mr. Speaker, I call up the conference report on the bill (H.R. 2492) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MFUME). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, October 14, 1993, at page H7900.)

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] will be recognized for 30 minutes, and the gentleman from New York [Mr. WALSH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and on the amendments in disagreement, and that I may be permitted to include tabulations summarizing the conference agreement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. TUCKER].

(Mr. TUCKER asked and was given permission to proceed out of order.)

NOT THIS NAFTA

Mr. TUCKER. Mr. Speaker, I thank the gentleman from California for yielding the time.

Mr. Speaker, we have heard a lot about the North American Free-Trade Agreement. I rise today in opposition to that particular agreement. As has been said, not this NAFTA.

It is not that many Members on this side of the aisle, Mr. Speaker, are against the concept of free trade or the concept of a North American Free-Trade Agreement. It is a fact, Mr. Speaker, that the NAFTA that is coming to this House for a vote in the next few weeks is not a good deal. It is not a good deal for the American people, and if we take it, we will truly have been hoodwinked and bamboozled, and we will truly have been led astray, because all of these promises and representations of net job gains are just that, Mr. Speaker, promises, just the promises for a middle-class income tax cut that never came down. These promises of more jobs will not come with a NAFTA. There will be in fact the reality of job loss.

We cannot afford any more job losses, not only in California, but all across this country. This is not a good deal. We need to go back and renegotiate.

To all of those who say we have to take it or leave it, I say leave it, because we can renegotiate it. Not this NAFTA, Mr. Speaker.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to present the highlights of the conference report on the fiscal year 1994 District of Columbia Appropriations Act.

There were 48 Senate amendments, and we were able to resolve all of them in conference. In summary, the amounts recommended in this conference agreement are within the 602(b) allocation in both budget authority and outlays, and we are $5.1 million below the budget that the President requested.

The conference agreement includes $700 million in Federal funds and $3.7 billion in District funds. Over 80 percent of this budget is financed from local revenues—income taxes, property taxes, and various fees and charges.

The $700 million in Federal funds is identical to the amount that passed the House, but it is $2 million above the Senate allowance and $12 million higher than last year's appropriation. The $700 million consists of three items. First, the Federal payment of $630 million, which is based on a formula of 24 percent of the local revenues. Second is the Federal contribution of $52 million to the police, fire, teachers, and judges retirement funds. Third, the Federal contribution of $17 million for major crime and youth initiatives to reduce the District's rising crime rate and to reach out to young people who are at risk.

In District funds, the conference agreement provides $3.7 billion which is the same as the budget request, but $13 million below the House allowance and $38 million below the Senate allowance.

Mr. Speaker, the conference agreement does not include any funds for

George Washington University to build a medical center. Instead, the conferees agreed to include language under amendment No. 25 that requires the District government to submit a proposed plan by April 15 next year that provides for financing of capital rehabilitation and revitalization of the medical infrastructure within the District of Columbia. The bill language requires that the currently authorized George Washington University project be specifically addressed as part of the overall plan.

Under general provisions, Mr. Speaker, the conferees deleted language under section 135. That language would have required the Mayor to prepare a cost analysis and show a 10-percent savings before she could contract out for goods and services now provided by District employees.

The conferees also deleted language under section 136 of the House bill that would have required Council review of certain contracts over $1 million.

There is no language in the bill concerning abortions. Neither the House-passed bill nor the Senate-passed bill make reference to that issue. Both versions of the bill allow the District of Columbia to use the funds in the bill for abortions in accordance with the District's regulations and guidelines in compliance with the various Supreme Court decisions that have been handed won on this issue. These decisions apply to the District just as they apply to the 50 States.

However, I would point out to Members that Federal Medicaid funds are governed by the Hyde amendment in the Labor-HHS appropriations bill (H.R. 2518), and any Federal Medicaid funds received by the District cannot be used for abortions, except when it is made known to the Federal entity or official to which funds are appropriated under H.R. 2518 that the procedure is necessary to save the life of the mother and in the case of rape or incest. In other words, Mr. Speaker, the District is treated in the same manner as each of the 50 States are treated. There is absolutely no difference.

Mr. Speaker, I reserve the balance of my time.

Mr. WALSH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in opposition to the conference report on H.R. 2492, the District of Columbia Appropriations Act for Fiscal year 1994.

Before I state specifically why I oppose the report, I would like to compliment Chairman DIXON and my colleagues from both sides of the aisle on the responsible manner in which they addressed our constitutional responsibility to the District of Columbia.

Regarding the substance of the bill: The Federal formula payment for fiscal year 1994 is $630.6 million. The Federal contribution to the retirement fund stands at $52 million and $17 million going to the crime and youth initiative. I expressed opposition to certain portions of the bill early on. Those reservations remain. Specifically, abortion funding, the crime and youth initiative, and fiddling with the Federal employees retirement fund.

Allow me to take a moment to detail this opposition. As we know, Mr. Speaker, as this conference report is currently constructed, Federal and local taxpayer dollars will be used to fund abortion. This has never been done before. Recently the Congress voted overwhelmingly for a somewhat revised Hyde amendment on the Labor/HHS bill. At the least, this bill should comply with that language. As for the crime and youth initiatve, I consider $17 million to the District beyond our commitment. The Federal Government's obligation as cited by GAO is to pay the District $630.6 million. Let us stick to it. We enacted a law to take the guesswork out of how much we owed the District. I have accepted the argument that the District is in financial peril and that youth in the city are being killed at an alarming rate. However, I do not honestly believe that in effect paying youths to stay off the streets will accomplish our social goals. No American in any city wants to see children hurt, old people robbed, or residents carjacked, for that matter. I would suggest we look at other cities of comparable size to see what they are doing about these problems, to try to find solutions that are results-oriented. As it stands, the program is wasteful.

Last, I oppose delaying the obligation of $2 million to the Federal employees retirement fund. I support the Senate action which makes the $52 million available immediately and cuts $2 million from the crime and youth initiative.

The pension fund, which received a commitment from Congress several years ago for an annual contribution, is woefully underfunded as it is. It will require major surgery if it is to meet its obligations to those workers. To deny the fund the relatively minor amount of $2 million for the relatively short period of a couple of months still amounts to actuarial larceny. Perhaps more importantly, it sets a dangerous precedent and weakens our commitment to the District. As the ranking republican member of the subcommittee, I applaud the District, and especially Mayor Sharon Pratt Kelly, for the fiscal prudence used in sorting out the District's budget challenges. As a former city official I know tough decisions when I see them, and for everyone's information tough decisions have been made.

At the same time, for the reasons stated, I strongly urge my colleagues to reject this conference report, with one final note on how I think we can work together.

The Corporation Counsel's Office of the District of Columbia has strained relations with Congress by not prosecuting the offenders of law and order, specifically the demonstrators for D.C. statehood. Again, speaking as a former city official in my hometown, I would remind the Corporation Counsel that it has a responsibility to prosecute violators of the law—whether they like the law or not. The demonstrators have been a threat to public safety by blocking House buildings. This is not just my opinion. They were arrested for this reason. In conclusion, I urge my colleagues to vote down this conference report.

□ 1050

Mr. Speaker, I reserve the balance of my time.

Mr. DIXON. Mr. Speaker, I yield 5 minutes to the distinguished Delegate from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I rise this morning to ask my colleagues and friends in this body, on both sides of the aisle, to affirm the D.C. appropriations for which the majority voted earlier this year. May I ask my colleagues as well to consider this appropriation without discrimination or malice toward the Capital of our Nation at a time when the city is being ravaged by financial trouble.

Mr. Speaker, the District appropriation before us consists largely of funds raised in the District of Columbia itself, paid by District taxpayers and businesses. The smaller portion that is the Federal payment is different from every single appropriation that comes before the House. The District appropriation is not called a Federal payment for nought. The term "payment" is technically precise. The Federal payment is meant to pay the District for what it loses in restrictions that this body has placed on the city's ability to develop itself economically, for land taken off the tax rolls by the Federal Government and for services rendered to the Federal Government.

No one pretends that the amount has ever been adequate to make up for these restrictions, but all agree that the Federal payment is a debt owed the District, not a grant like our other appropriations. To fail to pay the full amount owed is to repudiate a debt. I ask this body to keep faith with this debt and with the District.

I especially ask my colleagues for your help this year when the Capital City has been the victim of a cruel recession that has simply refused to let go and let the city recover. I recognize that there are some among my colleagues who have sometimes looked at the District appropriation as an expendable vote. We are not your constituents so what do you have to lose, some have reasoned.

But this is your city too. It is the Capital of your country. It is in deep financial trouble. To vote against the

District appropriation this year is to vote to tell the Capital of this Nation to go to hell.

This much is sure, without this full appropriation the District's finances and stability will go south. The 600,000 residents of the District need and deserve better.

Mr. Speaker, I ask my colleagues not to engage in brinkmanship with the city's solvency. That is what a nay vote will do. A nay vote this year is not a vote without consequences. A nay vote is a cruel vote that could threaten the solvency of a city that is still struggling to balance its budget and is still laying off employees.

Whatever your vote in the past, I am asking for your vote this year. An aye vote is necessary to preserve the financial solvency of the Capital of this Nation. Please vote "aye" on H.R. 2492.

Mr. WALSH. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong opposition to this conference report.

Mr. Speaker, this is a controversial bill for several reasons. It passed this House by a vote of 213–211 on June 30. One reason that vote was so close was that the bill exceeded the authorization level by $17 million. This conference report does not change that is still at $17,000,000 over that level.

But the House should be aware that circumstances have changed in the last 3½ months that should make us even less willing than then to throw an extra $17 million in to the D.C. government.

Each Thursday since the House voted and first passed this bill, District of Columbia government officials have organized and participated in illegal demonstrations involving the arrest of several demonstrators for blocking traffic at the intersection of Independence and New Jersey Avenues, just outside this building. The last three times, demonstrators switched to blocking the entrance doors to the Longworth Building.

These demonstrations are preceded by the District's unmarked police cars with flashing red lights, they begin just outside the Mayor's office, and they are led by Mayor Kelly and other city officials. These officials, including the Mayor herself on one occasion, have been among those arrested for personally blocking traffic through the Capitol Grounds.

Yesterday, the District of Columbia government's involvement became even more blatant, when its prosecutor dropped all charges against those arrested for blocking the Capitol traffic. Moreover, he seems to have invited further direct interference with Congress by reaching an agreement with the arrestees to stop actions which are prosecutable by him, rather than by the U.S. attorney. In other words, from now on, statehood protesters are to keep blocking our office doors, rather than blocking Independence Avenue.

Admittedly, these illegal activities have not had a great effect. They have not been able to block our streets for more than about 20 minutes or our doors for more than about 5 minutes before our Capitol Police are able to clear the way.

They have failed miserably as a publicity stunt, receiving almost no notice outside the Washington area, and getting very little coverage even in the local press. If only private citizens were involved, I would not even bother mentioning this situation.

But the point the House should note is this: These are not just the actions of private individuals—these are the actions of supposedly responsible public officials who are sworn to uphold the law, but instead are violating the law in physical attacks aimed at the Congress, for which they ensure there is no punishment for the acts they committed.

Never before in the history of our country has there ever been such an attack on Congress by another government. Even early in our history, when Pennsylvania State officials failed to protect Members of Congress from disgruntled veterans—at least the State officials were not participating personally.

I know my colleagues are not ready to punish the D.C. government by appropriating below the formula level.

And there is a formula that we worked out that we thought was fair and just; but do we really still have to go beyond the formula payment and provide $17 million extra when this type of action is being taken to pressure us, to intimidate us? I do not think so. Congress must draw the line somewhere.

I ask my colleagues to vote "no" on the extra money for lawbreakers who are trying to intimidate Congress. A "no" vote on this conference report is saying that the people who direct the government of the District of Columbia ought to obey the law and cannot try to force us, to intimidate us, to block our doors, to come into this Capitol and get their way.

□ 1100

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, let's take a minute to cut through the rhetoric and be clear about what we are talking about here. Some of these points have already been made; some will be made again. But I think it is important to get them right.

First, the conference report contains no language restricting choice because that is what the House voted for last June. And that was the position of the other body as well. We have, in effect, already decided this issue. We should stand by this decision and support the conference report.

Second, it is no great secret around here that it is not difficult to vote against the District of Columbia. The harder vote is to stand up for what is right. What is right here is to allow the citizens of the District to make their own decisions about how they want to allocate their tax dollars.

D.C. citizens have limited political rights. As we all know, they do not elect full voting Members of the House, although we have taken some steps in that direction. They do not elect Senators. But they do elect a mayor and a city council.

These women and men set the policy for the city. They are accountable to their voters. As Members of Congress, we are free to disagree with their positions. But we must understand that D.C. voters ask no more than what our own constituents ask, indeed demand: The right to make their own decisions about how they will be governed.

Third, I want to make it perfectly clear that Medicaid funds that go to the District are governed by the Hyde amendment in the Labor-HHS bill. Many Members may think this debate is about Medicaid funding, but it is not. It is about preventing the District from using its funds as it chooses.

In your States, in your cities and towns, you have large taxpayers—none as large as the Federal Government, but sizable all the same. But you do not, and we in Connecticut do not, permit these individuals and taxpayers to dictate the terms on which their tax dollars can be used. That is a local governmental matter, one that is left to the will of the people and their elected representatives.

And so, Mr. Speaker, I see no reason why this House should not stand by its previous decision and support this conference report. I would urge my colleagues to maintain their original position, and vote for the conference report.

Mr. WALSH. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, this year's bill, the District of Columbia appropriation, contains no language restricting abortion funding, which means, of course, if left to the devices of the District of Columbia government, there will be abortion on demand paid for by the taxpayers.

I would only say in response to my dear friend and someone I admire greatly, the delegate from the District of Columbia, that a nay vote is not a cruel vote. A "nay" vote could save 24,000 babies, little tiny members of the human family who have a future and who we should help enjoy that future.

Washington is the Nation's Capital, but it is also the abortion capital of this country. Do you realize the District of Columbia has an abortion rate triple the rate of any State in the Union? The statistics are appalling—appalling.

The President has said he wants to make abortion safe, legal and rare—rare. The last year for which we have statistics for the District of Columbia is 1986 and that year there were 23,910 abortions and 10,945 live births, nearly 3 times the number of live births you have abortions. That is an appalling lack of reverence of life.

What does that mean? There is massive devaluing of the sanctity—forget sanctity, that may offend some people who have a different view of the first amendment that I do, let us talk about reverence, the reference for life.

Our corporations are downsizing their employment rolls. We are morally downsizing our laws when we treat abortion like we treat an appendectomy. Abortion is the only surgical procedure that intentionally exterminates a human life. That life is not animal, mineral or vegetable.

My dear friend, the gentlewoman from Connecticut, said there is no language about choice. Well, she should have specified, she did not mean choice in education. She means the right to choose to exterminate your unborn child because somebody does not want that child.

I suggest to you that we vote no on this appropriation, send it back and put the Hyde amendment in which says no public funds may be expended to pay for abortions, except where the life of the mother would be endangered if the fetus were carried to term, or in cases or rape or incest. That would put the District of Columbia in step with what I believe to be and ought to be the rest of the country and would save a lot of human lives that are precious, that deserve reverence and that certainly do not deserve to be exterminated through abortion.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this conference report. I want to specifically focus on the issue of local control as it relates to the issued of abortion.

You know, we use this bill in many ways, I would say misuse it, to send messages to our constituents at home which are really at odds with what we would be willing to do if we had the power to impose on them, our State and local governments, the same sort of controls that—with impunity—we impose on the District of Columbia.

The issue growing in this body recently has been to avoid mandates on State and local governments, Federal requirements, that we do not reimburse for. It is a bipartisan movement. You can see it on both sides of the aisle.

It is strange then that we would so inconsistently take this piece of legislation and annually attempt to mandate on the District of Columbia a different standard that most of us would not have the stomach to impose on our own local constituencies.

We are saying in this bill that the people who are in effect the State legislature and the city council, the people who run the District of Columbia, cannot use their own locally derived funds and other funds that they control for purposes that they decide.

Now, they may well conclude that putting funds into the hands of public health facilities that may use them on occasion to provide abortions is something that should not be permitted, while every other community in this country can do it. But it seems to me that is totally wrong, totally against the grain, totally out of keeping with the trends that are moving in this institution, to keep the heavy hand of the Federal Government off the necks of people who run our State and local facilities, our State and local programs all across the country.

We ought not to have a different and separate standard for the people who live in the District of Columbia.

I would hope that we would adhere to the concept of local control, put our personal views on abortion, and they range across the spectrum in this institution, aside. We should let locally elected officials who have the same cross section of views in common with us, the same public pressure on them, make this determination.

It is really the only position that we can intellectually take that is consistent with what we ask for our own constituents.

Mr. Speaker, I would hope that we would support this conference report and provide local control of this very fundamental and sensitive issue for the people of the District.

Mr. WALSH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. ISTOOK], a member of the Committee on Appropriations and the Subcommittee on the District of Columbia.

Mr. ISTOOK. Mr. Speaker, it is always interesting to hear Members of Congress talk in terms of the people who run the District of Columbia. According to the U.S. Constitution and according to the final language of the home rule charter that this Congress has granted the District of Columbia, the buck still stops here.

□ 1110

Mr. Speaker, we may not have asked for responsibility regarding the affairs of the District of Columbia, but the U.S. Constitution says we have that responsibility. We cannot escape it, we cannot evade it, we should not try to do so, and it is no excuse for us to say that something may occur in the governance of the District of Columbia that is at odds with what the American people want it to be and we say, "That is what some locally elected leaders want, and so we as Members of Congress will let them have free rein." We do not apply that philosophy, Mr. Speaker, to cities and State governments all across this country.

Having served in local government and having served in State government, I have heard constantly from people back in Oklahoma, and other Members hear it from people in their States, "Why does the Federal Government keep giving us these mandates? Why do they keep telling us how we should govern our affairs, what money we have to spend, what laws we have to pass, what redtape we have to put around the necks of other people, but then when it comes to the District of Columbia, when it comes to the issue of Federal funding of abortions, using Federal money for the District of Columbia, suddenly it surfaces that we are supposed to have a hands-off policy?"

Even though the U.S. Constitution tells us that Congress has the ultimate authority over the District of Columbia, we have the duty and we cannot escape it. We had the Hyde amendment up here earlier this year which passed overwhelmingly, and Members of Congress said, just like the people say, that taxpayers' money should not be used for funding abortions.

Mr. Speaker, we need similar language to that in the D.C. appropriations bill.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to respond to some of the issues that my colleagues on the other side have so well responded to and to once again make several points.

Most of the debate in this body this morning has focused on the issue of abortion. The most recent case on abortion is the 1989 Supreme Court case of Webster versus Reproductive Health Services, and in that case the Court held that as long as the limitations were reasonable, States could promulgate reasonable rules as it relates to abortion. Many people were very happy with that decision.

I am saying here, as my distinguished colleague, the gentlewoman from the District of Columbia [Ms. NORTON] has said, that the District stands in the same shoes as a State, and they should be allowed to do what every other State can do.

Now, addressing the question of the gentleman from Illinois [Mr. HYDE], Mr. HYDE has indicated that the Hyde amendment should be adopted here. The Hyde amendment is in H.R. 2518, and it applies exclusively to Federal funds. The language says, "None of the funds appropriated under this act."

The money in H.R. 2518 is Federal money. Now, one could argue that there is Federal money in the appropriations bill that we are discussing here today.

The gentlewoman from the District of Columbia [Ms. NORTON] makes the point that we have provided a Federal payment in lieu of the Federal Government paying property taxes on the 41 percent of the land it owns, but one could say that once that money goes to the District government, it then becomes the District government's money and the Webster case should apply to it. But even if we consider it to be Federal money, the District under the Webster case should be allowed to spend its own money.

There is $3 billion of District revenue here. One would have to argue that $3 billion was used for abortions before we ever got to Federal money. So in either case it is totally inappropriate to allow States, that we represent, to do one thing and then mandate our rule, a different rule, as it relates to the District of Columbia.

The gentleman from California [Mr. ROHRABACHER] has an interesting argument. He says that he disagrees with those people who are demonstrating about a vote on statehood, and to illustrate his displeasure with that, he would cut off money for law enforcement and initiatives to reach out to young people who are at risk. I understand his reservation about having people come to the Capitol to demonstrate on an issue that they feel strongly about. Certainly it has been traditional in this city and in the Capitol of the United States for people to address Congress through demonstrations. It happens every day. But I do not understand the gentleman's logic.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

Mr. DIXON. No, I will not yield at this point.

But I do not understand the gentleman's logic in saying "If they are demonstrating and I disagree with them, let's reduce the money the Federal Government might provide to reduce crime and for youth initiatives." I do not think the rationale is logical.

Mr. Speaker, I will now yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, let me ask, does the gentleman equate acts of blocking the roads and blocking our office hallways with demonstrating? I certainly do not equate demonstrating with that.

I certainly think that demonstrating and expressing one's opinion is a constitutional right that I respect, but we are talking about breaking the law and public officials breaking the law and actually trying to disrupt our procedures. Is there not a fundamental difference there as it relates to just demonstrating?

Mr. DIXON. Mr. Speaker, reclaiming my time, I am referring to the next-to-the-last paragraph in the gentleman's "Dear Colleague," where he said, "Such actions constitute an unprecedented illegal attack on Congress by another government."

I personally think that is open to question. The letter goes on "This is hardly the time to reward government by giving them $17 million more than authorized by the negotiated Federal payment formula

What I am saying is that if there is one thing most Members in this body have agreed on, it is that we should attack crime and try to divert as many at-risk youth away from crime. So I do not understand the logic, assuming that what the gentleman says in addressing the Congress here is unprecedented and is an illegal attack—assuming that to be the case, I do not understand the logic of cutting the police department and youth agencies to retaliate.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I rise today in support of H.R. 2492.

You know that it wasn't so long ago that I—and thousands of others—participated in nonviolent demonstrations throughout the South. Like the statehood activists here in Washington, we were engaged in a struggle for civil rights.

We were beaten, arrested, and sent to jail—numerous times. We took our punishment. The punishment was doled out to those of us who had engaged in nonviolent protest—not to the State of Alabama or the State of Mississippi or the people of Selma or the people of Jackson.

When I arrived at my office this morning, I was shocked to see this "Dear Colleague" from Congressman ROHRABACHER. It appears that he is not content with denying the people of the District of Columbia representation. He wants to deny the District of Columbia some of its Federal payment. He wants to punish the people of the District of Columbia for the nonviolent protests in which some of them have been involved.

I say to Mr. ROHRABACHER, "Isn't it enough that the citizens of the District of Columbia have taxation without representation? Isn't it enough that their vote does not count as much as yours, or mine?"

I cannot sit idly by and watch you, Mr. ROHRABACHER, attempt to punish over 700,000 people who have done nothing wrong; 700,000 people who do not have a Representative who can vote against your proposal.

I urge my colleagues to vote "yes" on H.R. 2492.

□ 1120

Mr. WALSH. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to the conference report on D.C. appropriations. I wish to associate myself with the remarks of the gentleman from Illinois [Mr. HYDE].

Mr. Speaker, in this day when 72 percent of Americans oppose Federal funding of abortion it is unthinkable that this body should bring to the floor a bill that does not address this critical issue. This conference report falls silent on this issue which almost guarantees abortion on demand. Why should abortion be so readily available? Since 1988 each D.C. appropriations bill has contained a provision that no Federal taxpayer funds may be used for abortion except to save the life of the mother. Let us send this bill back to conference until it contains this important language that prohibits the use of taxpayer funds for abortions.

Mr. WALSH. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend from New York for yielding.

Mr. Speaker, the D.C. appropriations conference report before us today radically reverses current policy as it relates to taxpayer subsidized abortion, and, if passed, will force every taxpayer in both the District of Columbia and the 50 States and territories to pay for thousands of abortions each year in the District of Columbia.

Mr. Speaker, the harsh undeniable consequence of passing this legislation into law is that more children will be put at risk of suffering violent deaths from abortion.

Sanitize it if you like, but abortion methods either rip the child apart with razar blade-tipped hoses connected to a suction device, a suction action more powerful than the force of 30 vacuum cleaners, or the child is destroyed with an injection of chemical poison.

Mr. Speaker, it seems clear to me that this is child abuse. When a child is the third, fourth, fifth, or sixth month gestation or beyond is treated in such a inhumane way, what is it—it not the abuse of kids.

Mr. Speaker, before the law in the District of Columbia was reformed in 1989, thousands of abortions each year were paid for with taxpayer funds. Today that number, I am happy to say, is almost nil.

Mr. Speaker, there have always been, I would submit, some ancillary benefits with regard to the abortion rate that is attributable to curbing abortion subsidies. The abortion rate has declined in the District of Columbia as well as the overall number of repeat abortions, which were very, very high, suggesting that if we do not provide this subsidy for the killing and the demise of these unborn children, more children will be protected from the abortionist's knife or from the abortionist's poison.

Mr. Speaker, there are kids walking the streets of the District of Columbia today, perhaps enjoying the World Series this week, perhaps playing soccer or football, who are here precisely because this Congress did not provide the wherewithal, the ways and means, to kill them. And that is the bottom line.

I would say to my colleagues who admonish us to pass the report with appeals to home rule that I support home rule, but this is not and never has been an absolute. In those circumstances when we have the opportunity to enhance and protect human lives, to protect a baby from chemical poisoning or dismemberment, we ought to do it. As lawmakers I think we have a responsibility, a moral duty, if you will, to protect and enhance human life whenever and wherever that is possible.

Mr. Speaker, the argument has been advanced that Members would be reluctant to take actions that would affect their own States. Let the record show that I would like my home State of New Jersey to show respect in law for the sacredness of human life. If there was a way via legislation to protect children in New Jersy I would be first in line to secure that protection. As the Chairman knows, however, we face a myriad of obstacles, including our own State supreme court, that precludes that. But my argument that I respectfully ask my colleagues to consider is that where we have the opportunity to safeguard human life, we ought to embrace it. Adherence to home rule to prop up injustice is a weak and morally indefensible position.

The SPEAKER pro tempore (Mr. MFUME). The Chair would advise those Members controlling the debate time that the gentleman from New York [Mr. WALSH] has 13 minutes remaining and the gentleman from California [Mr. DIXON] has 7 minutes remaining, and that the gentleman from California, under the rule, has the right to close debate.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in strong support of the conference report on D.C. appropriations. Chairman DIXON has worked hard to craft a bill that deals sensibly with the Federal Government's responsibilities toward the District of Columbia. In addition, this bill restores to the D.C. government the authority to determine the use of local tax dollars. Indeed, let us not be fooled—this bill gives the District the same choice all 50 States have—nothing more, nothing less.

Mr. Speaker, basic health care for women includes a full range of reproductive health services. For far too long, we have condoned a two-tiered health care system that penalizes poor women. Today, we have an opportunity to allow the District government to—with its own funds—correct past inequities and ensure that poor women in the District of Columbia receive the same health care as other women.

For over a decade, regressive forces have not allowed the District of Columbia to use their own, locally raised funds for abortions for poor women. This has deprived many women in the District of access to complete health care—and has jeopardized their health. It has also been an affront to the taxpayers of the District of Columbia.

Some of my colleagues may recall past debates we have had—and won—on this issue. We know that this vote is about allowing the District to decide how to use its own locally raised funds—as New York, Washington, North Carolina, and many other States do. Today we should not allow ideologically driven rhetoric to obscure the facts or distort reality.

I urge my colleagues to continue to support allowing the District of Columbia to use its own funds as it sees fit, and to vote for the same position that has passed the House for the last 3 years, including earlier this year.

Vote "yes" on the conference report.

Mr. WALSH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I rise because this conference report does not contain the Hyde language. Had it contained the Hyde language, I would not be here speaking. That is why I am here.

Mr. Speaker, I would remind all Members that just a few weeks ago we had a vote on the Hyde amendment and it passed overwhelmingly. So if you voted that way several weeks ago, you ought to vote the same way today, against this conference report.

Mr. WALSH. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I rise in strong opposition to the conference report. This report, and the spending contained in it, represents continued fiscal mismanagement by the District. Let us look at what has been said in the past. When Mayor Kelly was first elected she made strong statements that the District was going to take seriously its huge financial problems. She made sweeping promises that her new administration was going to clean house—to sweep all of the problems out the door and usher in a new fiscally responsible government. Well, for one reason or another, it has not happened. In fact, the fiscal situation is as bad as it ever has been. The District has turned its back on the fiscal crisis and continued business as usual. True, the Federal payment for the District has only climbed 1.8 percent over last year—less than the rate of inflation—but where are the sweeping changes? Where is the new fiscally responsible government we were all promised? Until this question is answered, I do not see how anyone can support this conference report.

If the fiscal situation is not enough to make you vote against this conference report, I urge you to look at another problem. This legislation is silent on the use of taxpayers dollars for abortion in the District of Columbia. This silence basically means that the District is allowed to use either its own funds for Federal funds for abortions or Federal taxpayer dollars. Something should and will be done to correct this problem. But there is a problem.

Why can we not have a separate vote on the abortion issue? Why must we defeat the entire conference report to get to this controversial issue? As I understand the situation, efforts were made to keep the abortion issue separate from the rest of the conference report. Obviously, the will of the House was not taken into consideration and a defeat of the entire conference report is necessary to change this silence on the abortion issue.

I urge all Members to vote against the conference report so that the controversial silence on the abortion issue can be addressed. It is important that no Federal funds, taxpayer dollars, go for the funding of abortion.

Mr. DIXON. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

□ 1130

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me and for his leadership in bringing this appropriations bill for the District of Columbia to the floor. I commend him and the gentleman from New York [Mr. WALSH] for their bipartisan leadership and cooperation in presenting this vote to us today.

Mr. Speaker, I do have one concern about the debate thus far. I had thought by the manner in which this bill was put together and with, frankly, the passage of the Hyde amendment a few weeks ago, which applies to Medicaid funds, that we could have put this kind of debate behind us today.

This debate on abortion does not have any role in the debate on the funding for the District of Columbia. I respect the beliefs and the thinking of my colleagues and respect the differences we have on this issue. I believe that this Congress has to resolve some of those issues. But this is not the place.

Frankly, bringing it up now is a disservice to the people of the District of Columbia, and it is a disservice to our colleagues by taxing the energy and the time of this body.

I urge my colleagues to support home rule, to support this bill, which allows the District to use its own funds as it sees fit.

I take pride in rising in association with this bill because my father chaired this committee. I believe in home rule. I hope our colleagues will, too.

Mr. WALSH. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, the Federal payment is 24 percent of locally generated revenue in the District budget. That is 20 percent of the budget, some $630 million this year.

We worked out that formula. It is a fair formula. Now we are being asked to put $17 million extra into that for a law enforcement initiative. Well, shoveling $17 million more into the District coffers for some sort of a law enforcement initiative at a time when government officials of the District of Columbia are intentionally breaking the law, trying to blockade the entrances to this building and to the streets that lead into this building and blockading the doorways to our office buildings, is absolutely ridiculous.

I believe in the right to demonstrate. I believe in the right to speak. It is something I cherish. I am someone who believes in human rights and civil rights. But blockading buildings and blockading doorways is not the same as demonstrating. What are they demonstrating for?

If those people want to have a vote, they do not need to pressure us for a vote. The Democratic Party controls this body. They control the House. If the Democrats want to give them a vote, they can have a vote without pressuring us into it. The Democrats do not want to give them a vote.

Mr. WALSH. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, this appropriation bill always brings great pain to me. Our culture is in serious trouble and, in particular, the District of Columbia is being torn apart by deteriorating family structures, crime and pervasive violence. For 10 years, I offered the Dornan amendment to protect the very life blood of the District of Columbia by defending abortion. I don't want to see more children butchered in this city, particularly with public funds. I am not going to back off, especially when I know, that the vast majority of the African-American clergy in this country, probably 85 to 90 percent, are opposed to speaking out against abortion. In fact, 73 percent of all African-Americans favor restrictions on abortion, so it is certainly no stretch to think that the clergy is even more pro-life. So I ask my colleagues to stand with me and the majority of African-Americans to stop funding abortions in the District of Columbia. It is a pity that we go through this horrible charade here every year where pro-abortion elitists want to use public money to kill black babies in the womb. Enough. In this city more babies are aborted than born every year. This has to stop.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. DORNAN. No, NANCY, I will not yield, because you think you know more than the Pope and Mother Teresa on the issue of life. Not this time, from a father of five to a mother of five you think you know more than the Pope and Mother Teresa. Tell me how you know more than Mother Teresa about death in the womb?

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. DORNAN. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, my question to the gentleman is, was he telling the body that 85 percent of the black clergy in the country has written to him on this subject?

Mr. DORNAN. No, but I assert 85 percent of African-American clergy is easily pro-life. Absolutely.

Ms. PELOSI. I do not think this discussion is appropriate on this bill, but on what do you base those statistics, sir?

Mr. DORNAN. Do you want me to send statistics on African-American attitudes on abortion to your office? You are now on my mailing list. Every time I send you a poll on black clergymen across this country, I hope you feel some pain of conscience.

Ms. PELOSI. So this is anecdotal?

Mr. DORNAN. No, it is not anecdotal. The polls tell the story. This debate tells us another story. It tells us that an elitist form of thinking in this country says it is ok that more black babies in the District of Columbia are killed in their mothers' wombs than are born.

Mr. Speaker, I yield the rest of my time to the gentlewoman from California [Ms. PELOSI] who knows more than Mother Teresa about life.

Mr. WALSH. Mr. Speaker, I yield myself the balance of my time.

In conclusion, I would just remind the Members that abortion is an issue on this bill. There are others. One is the $17 million over and above the formula funds for the District of Columbia, additional funds that other States and cities are now receiving.

Second, the commitment that we made to the District of Columbia and to the Retired Federal Employees Pension Fund that we would give them $52 million a year every year through our appropriations process. Under this arrangement, they will only receive $50 million this year. That is the first chink in the armor of commitment.

I am afraid that commitment will suffer over the long term and everyone agrees that that pension fund is woefully underfunded. We cannot be fiddling around with that money. That is a commitment.

Mr. Speaker, I thank you for your patience and judiciousness.

Mr. Speaker, I yield back the balance of my time.

Mr. DIXON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I rise in strong support of this bill.

Please, my colleagues, stop micromanaging the people of Washington, DC. How would Members like it if we did the same thing back in their districts? Pass this bill. It is a good bill.

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

□ 1140

Ms. NORTON. Mr. Speaker, it is both outrageous and heartbreaking to hear Members get up on the floor of the House and rationalize denying democracy to the District of Columbia on the basis of the Constitution of the United States. If that were ever true, this line of argument ceased having any credibility 20 years ago when this Congress delegated the responsibility of self-government to the District. Every time we make ourselves an exception to the Home Rule Act that we ourselves enacted, we violate the most cherished principles of this country.

My colleagues, this is not an abortion vote. The District has not indicated that it would spend one red cent of this money for abortion. Given its very serious financial condition, the District is very unlikely to do so. As it is, the District cannot use Medicaid funding for abortion, the only available funds for this purpose. Do not read more into this vote than is there. This vote is about providing funds, critically needed funds to the residents of the District of Columbia.

I particularly ask Members to reject the mean-spirited attempt to punish 600,000 residents because of the actions of a few who protested the absence of full democracy in the District of Columbia. I must object in the strongest terms to the argument that appropriations by this body should be voted on the basis of punishment by association.

It is nonsense to impute the actions of the protestors to District residents by making them pay the price through the Federal payment. District residents have not voted for the protests. I ask my colleagues not to compound the existing deficit in democracy in the District by assigning to its innocent residents responsibility for demonstrations in which the overwhelming majority have no say and took no part. It would be extremely unfair to defeat or deduct any part of what the Federal Government owes District residents because of the protests of a small number.

Mr. Speaker, I do not recall the use of punishment by denial of appropriations even at the height of civil rights demonstrations in the South. Southern jurisdictions and their police came at demonstrators with a fury—often with violent retaliation and certainly with arrests—but the Southern governments did not attribute to the black part of town actions of those who sat-in downtown. The responses of Southern States, cities and towns were often cruel, illegal and unconstitutional, but they were aimed at those who did the deed, at the protestors themselves, not at others who may have looked like the protestors or come from the same place as the protestors or claimed to represent the protestors.

Mr. ROHRABACHER does not stop with imputing the actions of some to all. He actually objects that the corporation counsel has chosen to drop the charges rather than engage in the show trials some of the protestors have said that they want. The U.S. attorney, of course, is still free to prosecute. How can Mr. ROHRABACHER complain that the corporation counsel's office has reached an agreement with the protestors that they will stop activities that violate District law. Give me a break. This is hardly complicity by the government. On its face, it is the opposite.

Mr. ROHRABACHER now complains that the protesters will block congressional offices in order to get trials by the U.S. attorney. However, the protesters have never attempted to interfere with Congress but have always carried out their actions nonviolently, and considerately. They have remained in an illegal spot only long enough to be arrested. In that spirit, I am certain they have no intention to block our office doors as Mr. ROHRABACHER has said, or to keep Congress from carrying out its business.

Even if you oppose the demonstrations, however, the remedy of denying part of the Federal payment to District residents is totally disproportionate. Mr. ROHRABACHER is plainly wrong that the District is receiving $17 million more than the amount to which it is entitled. A laborious audit by independent auditors and the GAO shows that the amount Mr. ROHRABACHER claims to be due, seriously short changes the District. Unfortunately, the audit and GAO accounting were not completed before the appropriations hearings. After what Members have seen of the tragic crimes in the District during this year, surely the Congress does not propose to remove $17 million that was appropriated to fight crime and keep kids alive and out of trouble.

Mr. Speaker, the protesters in the District have acted in the tradition of Ghandi and King. This body has honored Martin Luther King, Jr., with a national commemorative day in his name for doing precisely what the District protesters have done. King sat-in because African-Americans did not enjoy full democracy. He then took his punishment. The District protesters, who have their local laws and local budget decided by this body, have protested because District residents do not enjoy full democracy. They too have taken their punishment. We cannot buy into the hypocrisy of historically celebrating Southern protesters far from the Capital but taking offense when similar protests are brought here for similar reasons.

I do not ask you to sanction the abortion protests or to agree with the protesters. I do ask you to affirm the appropriation of our own conference committee. I ask you not to punish all of my constituents because you may not agree with a few of them.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the minority members of the committee, and the ranking member, the gentleman from New York [Mr. WALSH] in particular. Notwithstanding our deep philosophical differences on the issue of abortion, we have worked in a very cooperative fashion.

Mr. Speaker, there are three things that cannot be disputed on this bill, and I would ask that Members adopt the conference report. One, it is within the 602(b) allocation; two, the Hyde amendment does apply to the District, notwithstanding what the gentleman from Virginia [Mr. BLILEY] said earlier. Federal Medicaid funds cannot be used by the District for abortions except within the parameters of the Hyde language. And three, this bill treats the District the same as the 50 States are treated with respect to abortion funding.

Mr. Speaker, I ask for an aye vote on the conference report.

Mr. STARK. Mr. Speaker, I rise today in very strong support of H.R. 2492, the District of Columbia appropriations conference report for fiscal year 1994. I would like to commend the conferees and their staffs for their hard work and diligence in bringing this bill to the floor.

I especially want to express my gratitude for the efforts of JULIAN DIXON, a dedicated supporter of home rule. Throughout consideration of the budget for the District of Columbia, he has resisted attempts to load the bill with legislative matters that have no place in the appropriations bill.

I urge my colleagues to support this conference report.

Mr. MCDADE. Mr. Speaker, I rise in reluctant opposition of the conference report on H.R. 2492, the District of Columbia Appropriations Act for fiscal year 1994.

I want to first commend the efforts of the subcommittee chairman, Mr. DIXON of California, and the ranking minority member, Mr. WALSH of New York. They did a fine job in bringing to the House a conference report that meets the Federal responsibilities concerning the Federal formula payment and the Federal contribution to the retirement funds for teachers, police, firefighters and judges.

The budget authority in the bill is $12 million over the current year funding, $5 million under the President's request and it complies with the House 602 B allocation. Contained within the $700 million is the Federal payment of $630.6 million. However, the House language prevailed in conference which would delay the obligation and expenditure of $2 million of the $52 million for the Federal contribution to the retirement fund until September 30, 1994 and October 1, 1994 respectively. The House Republican members of the subcommittee objected to this delay in obligation because the retirement fund is already seriously underfunded.

It was heartening to see a sincere effort this year to streamline the District government programs, the Mayor and council made difficult but needed cuts. However, the same restraint was not used in allocating Federal funds. In addition to the Federal formula payment of $630 million an additional $17 million was provided for the mayor's youth and crime initiative. Republican members of the committee found this objectionable. Although the $17 million fell within the caps, it was felt that this program should have been funded from within the Federal payment.

The most objectionable issue for this member is the absence of any restrictions on use of funds to perform abortions. The language included in the current law was omitted by both the House and the Senate.

For all of these reasons, I am opposed to the conference report in its present form.

Mr. STARK. Mr. Speaker, I rise today to support the language in the conference report making permanent the authority of the District of Columbia over Group Hospitalization and Medical Services, Inc., hereinafter "GHMSI". It incorporates H.R. 2716, which I introduced earlier this session.

In 1939, when Congress first granted the charter to GHMSI's predecessor, Group Hospitalization, Inc., it did not foresee the severe impact that an exemption from most D.C. insurance laws and regulations would have on this insurer. Fifty years later, imprudent business practices and fiscal irresponsibility carried out by GHMSI officers began to jeopardize its solvency and the security of its policyholders.

The District of Columbia's superintendent of insurance testified during last year's congressional investigation hearings that GHMSI was beyond, the scope of most of his authority. He cannot, for example, require GHMSI to submit to an outside auditor's review or one by is own examiner. He is also unable to apply the District's insurance solvency standards on the GHMSI plan.

The amendment to the charter included in the conference report before us today permanently establishes the District of Columbia as the legal domicile of GHMSI and ensures its regulation in accordance with the laws and regulations of the District of Columbia. The amendment simply extends legislation adopted in the 1993 D.C. appropriations bill.

Mr. Speaker, as we launch into the daunting task to reform our Nation's health care system, let us make sure that we close windows of opportunity through which unscrupulous insurers and providers can and have violated the trust of millions of Americans.

The SPEAKER pro tempore (Mr. MFUME). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALSH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 206, nays 224, not voting 3, as follows:

[Roll No. 518]

YEAS—206

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barrett (WI)
Becerra
Beilenson
Berman
Bilbray
Bishop
Blackwell
Bonior
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Coyne
Darden
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
English (AZ)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kennedy
Kennelly
Kleczka
Klein
Kolbe
Kopetski
Kreidler
Lambert
Lancaster
Lantos
Laughlin
Lehman
Levin
Lewis (GA)
Long
Lowey
Maloney
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McCurdy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Molinari
Moran
Morella
Murtha
Nadler
Natcher
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickle
Pomeroy
Price (NC)
Rangel
Reed
Reynolds
Richardson
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Swett
Swift
Synar
Tanner
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—224

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clement
Coble
Collins (GA)
Combest
Condit
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (NJ)
Gallegly
Gekas
Geren
Gibbons
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kyl
LaFalce
LaRocco
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Machtley
Mann
Manton
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Moakley
Mollohan
Montgomery
Moorhead
Murphy
Myers
Neal (MA)
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Slattery
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Stupak
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—3

Engel
Neal (NC)
Santorum

□ 1203

Mr. BARLOW changed his vote from "yea" to "nay."

Mr. SISISKY changed his vote from "nay" to "yea."

So the conference report was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER APPOINTMENT OF CONFEREES ON H.R. 2492, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1993

Mr. DIXON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill—H.R. 2492—making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes, and insist on the disagreement to all Senate amendments and request a further conference with the Senate thereon.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from California. The Chair hears none and, without objection, appoints the following conferees: Messrs. DIXON, STOKES, and DURBIN, Ms. KAPTUR, Mr. SKAGGS, Ms. PELOSI, and Messrs. NATCHER, WALSH, ISTOOK, BONILLA, and MCDADE.

There was no objection.

□ 1230

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2862

Mr. LEWIS of Florida. Mr. Speaker, I ask unanimous consent to have my name removed from cosponsorship of H.R. 2862.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Florida?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1627

Mr. GUTIERREZ. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 1627.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Illinois?

There was no objection.

H.R. 2519—CONFERENCE REPORT ON DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, October 19, 1993, the unfinished business is consideration of Senate amendment number 147 to the bill (H.R. 2519) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

The Clerk read the title of the bill.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the remaining amendments in disagreement on H.R. 2519, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1994: Amendment Nos.: 147, 148, 171, 174, and 175.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERMISSION TO INSERT IN THE RECORD SUMMARY OF TABLES SHOWING COMPARABLE CONFERENCE ACTIONS, FISCAL YEARS 1993 AND 1994

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that I may be permitted to insert a summary of tables showing by department and agencies the conference action compared to the amounts provided for fiscal year 1993, the budget estimates for 1994, and the amounts contained in the House and Senate bills.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 147; page 59, after line 24, insert:

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $904,926,000, of which not to exceed $44,041,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided*, That none of the funds appropriated in this paragraph shall be available for arrearage payments to the United Nations until the Secretary of State certifies to the Congress that the United Nations has established an independent office of audits and inspections with responsibilities and powers substantially similar to offices of Inspectors General authorized by the Inspector General Act of 1978, as amended or that the United Nations has established a mechanism process, or office—

(1) to conduct and supervise audits and investigations of United Nations operations;

(2) to provide leadership and coordination, and to recommend policies, for activities designed—

(A) to promote economy, efficiency, and effectiveness in the administration of, and

(B) to prevent and detect fraud and abuse in,

such operations, and

(3) to provide a means for keeping the Secretary-Generally fully and currently informed about problems and deficiencies relating to the administration of such operations and the necessity for and progress of corrective action: *Provided further*, That the Secretary of State, acting through the United States Permanent Representative to the United Nations, may propose that the Secretary-General of the United Nations establish an advisory committee to assist in the creation within the United Nations of such mechanism, process, or office: *Provided further*, That an advisory committee established consistent with the proceeding proviso should be comprised of the permanent representatives to the United Nations from 15 countries having a commitment or interest in budgetary and management reform of the United Nations, including a wide range of contributing countries and developing countries representing the various regional groupings of countries in the United Nations: *Provided further*, That such advisory committee should evaluate and make recommendations regarding the efforts of the United Nations and its specialized agencies—

(i) to establish a system of cost-based accounting;

(ii) to continue the practice of conducting internal audits;

(iii) to remedy any irregularities found by such audits; and

(iv) to make arrangements for regular, independent audits of United Nations operations: *Provided further*, That it is the sense of the Congress that even tougher measures to achieve reform should be put in place in the event that the withholding of arrearages does not achieve necessary reform in the United Nations: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

POLICY ON THE REMOVAL OF RUSSIAN ARMED FORCES FROM THE BALTIC STATES

(a) FINDINGS.—The Congress finds that—

(1) the armed forces of the former Soviet Union currently under control of the Russian Federation, continue to be deployed on the territory of the sovereign and independent Baltic States of Estonia, Latvia, and Lithuania against the wishes of the Baltic peoples and their governments;

(2) the stationing of military forces on the territory of another sovereign state against the will of that state is contrary to international law;

(3) the presence of Russian military forces in the Baltic States may present a destabilizing effect on the governments of these states;

(4) the governments of Estonia, Latvia, and Lithuania have demanded that the Russian Federation remove such forces from their territories;

(5) Article 15 of the July 1992 Helsinki Summit Declaration of the Conference on Security and Cooperation in Europe specifically calls for the conclusion, without delay, of appropriate bilateral agreements, including timetables for the "early, orderly and complete withdrawal of such foreign troops from the territories of the Baltic States";

(6) the United States is aware of the difficulties facing the Russian Federation in resettling Russian soldiers and their families in Russia, and that the lack of housing is a factor in the expeditious removal of Russian troops;

(7) the United States is committed to providing assistance to the Russian Federation for construction of housing and job retraining for returning troops in an attempt to help alleviate this burden; and

(8) the United States is encouraged by the progress achieved thus far in removal of such troops, and welcomes the agreement reached between the Russian Federation and Lithuania establishing the August 1993 deadline for troop removal.

(b) POLICY.—The Congress calls upon the Government of the Russian Federation to continue to remove its troops from the independent Baltic States of Estonia, Latvia, and Lithuania through a firm, expeditious, and conscientiously observed schedule.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 147, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $860,885,000: *Provided*, That any payment of arrearages made from these funds shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations, ten percent of said assessment shall be available for obligation only upon a certification to the Congress by the Secretary of State that the United Nations has established an independent office with responsibilities and powers substantially similar to offices of Inspectors General authorized by the Inspector General Act of 1978, as amended: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes, and the gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. ROGERS].

□ 1210

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the amendment now that funds the general budget of the United Nations. I rise in strong support of the motion offered by the gentleman from Iowa [Mr. SMITH], and I will tell you why.

This bill is $52 million below the 1993 account. It is $97.7 million below the request. It is $44 million below the Senate level and it is $27.7 million below what our subcommittee had recommended to the full House before it was stricken on a point of order, so this number is the lowest possible number that we could possibly derive out of these proceedings here today.

This amendment funds our contributions not only to the United Nations, but also to all the other international organizations that we provide money for; for example, the International Atomic Energy Agency; but Mr. Speaker, more important in my judgment than a dollar figure in this bill is the fact that for the first time today if we pass this amendment we are reforming the United Nations.

How? Because in this bill we withhold 10 percent of the contributions to the United Nations until they certify that they have an independent inspector general to weed out waste, fraud, abuse, and report it to the Secretary General and assumably to the member nations, such as the United States.

As the Speaker knows, we fund 25 percent of the general budget of the United Nations. Many of us think that is too high a figure and would like to see it reduced, and I would hope that the authorizing committee would take that up.

Germany pays 8 percent. Japan pays 12 percent, and that is just not right.

This 1946-set figure may have been realistic in that day, but it is certainly not realistic today.

So this provision, put in at the conference level at the request of the House conferees, withholds 10 percent of our U.N. contribution until they certify they have an inspector general.

Now, 2 weeks ago, 420 Members of this body voted to instruct our conferees to put a provision in the conference report withholding this funding until the United Nations establishes an inspector general. We have that provision in this bill, so you have a chance to vote again now on the actual provision that you instructed us to put in the bill 2 weeks ago, and I would hope that you would follow up on this motion.

So if you want U.N. reform, Mr. Speaker, you want to go for this conference report if this provision should come to a vote.

Now, some people have said, "Well, what's the problem? What kind of waste or mismanagement is there in the United Nations that needs this attention?"

I would just point out that for several decades we have been trying in the U.S. Government, both the executive and the legislative branches, to force the United Nations to appoint some sort of inspector general to police its own actions. All to no avail.

Right now, Mr. Speaker, the United Nations is involved in 18 peacekeeping missions around the world. Do you know how many of the 14,000 employees in the U.N. headquarters is in the command and control of some 90,000 troops around the world in 18 different peacekeeping missions? Thirty, Mr. Speaker, 30 and only 9 of those are military type people.

You wonder why these so-called peacekeeping missions around the world are going awry and leaderless, it is because the United Nations spends all their money on bureaucrats, not involved in the peacekeeping mission, only 30 they have assigned to these 90,000 troops around the world.

Now, Mr. Speaker, I am for the United Nations. I do not want to give the idea that this is a "Bash the U.N. Day," but I think we are entitled as the one-fourth sponsor of this group to have some kind of accountability back to this body about how our tax dollars are being spent.

I would point out to you that it is upward of $300 million every year just for the general account of the United Nations.

Richard Thornburgh who was our former Attorney General and then went to the United Nations as a Deputy and came back and filed a very lengthy volume, his report on the shortcomings in bookkeeping and accounting at the United Nations. I commend that reading to you.

It is no wonder that he found:

> Too many deadwood employees doing too little work and too few staff members doing too much.

In the words of some employees of the United Nations that were quoted in the Chicago Tribune lately:

> The United Nations has become a repository for guys who want to go to cocktail parties in Geneva to celebrate somebody's national day.

According to an Arab officer of the U.N. Agency in Somalia:

> We are not doing anything here. It is just bureaucracy.

A University of Chicago professor who has extensively studied the United Nations told a U.S. panel recently:

> Hiring for U.N. offices was rather like patronage in the old Chicago Streets and Sanitation Department. That Streets and Sanitation Department actually picked up garbage, while the United Nations only complains about it.

The United Nations gives very lavish benefits and salaries to their employees. Salaries are guaranteed at rates 15 to 20 percent higher than the highest comparable private sector salaries, and by the way, those salaries are tax free, Mr. Speaker. They have guaranteed cost-of-living increases. They get payments to cover up to 75 percent of all education costs of their children, including college.

No wonder people from Third World countries around the world almost kill to get these jobs in New York at the United Nations. They make more than the national leaders back in their home countries and have much more benefits in most cases.

There are numerous reports of special financial arrangements, Mr. Speaker, given to U.N. officials who have been removed from their jobs or retirees. For example, two very high-ranking bureaucrats recently were given lucrative consulting contracts after their jobs were eliminated. One now earns $18,000 a month, Mr. Speaker, double his former salary from which he was fired at the United Nations.

One U.N. official was quoted in the Washington Post as saying:

> United Nations rules on consultants' payments are violated all over the place. The latest cases are just the tip of the iceberg.

Other examples: Recent suspension of eight high-ranking U.N. peacekeeping procurement officers on charges of procurement fraud.

□ 1220

All attempts so far to get the United Nations to launch real reform, Mr. Speaker, have fallen on deaf ears. I think it is time that we seize control of this thing. It is the only choice left to us.

Some time back we, the Congress, installed a 25-percent cap on the share the United States gives to the United Nations. We did that unilaterally. There is no reason why we should not also do this. So I ask that we include this amendment that 10 percent of all the funds that we contribute be withheld until it is certified to us that an inspector general has been appointed by the United Nations.

Mr. Speaker, we do not call it an inspector general. We call it an auditing officer, but the auditing officer has the same powers and responsibilities as the inspector generals in our departments of the U.S. Government have—nothing less, nothing more.

Mr. Speaker, I ask approval of this motion offered by the gentleman from Iowa [Mr. SMITH], and I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, former Attorney General Thornburgh went to work for the United Nations, and he made a recommendation earlier this year that the United Nations establish an inspector general. Ambassador Albright, as soon as she arrived there, said she agreed with that. We are all in agreement with the United Nations having an inspector general.

What I want to warn the Members about, though, is this: There are different definitions of "inspector general." Some inspector generals that we have in the departments of this Government represent waste themselves. They have entirely too big a bureaucracy, two or three times the number of people they ought to have to do the job that they are expected to do. Many of them are merely auditing the books, all the books in the department that have already been audited. Instead of that, what they are supposed to do is investigate, find out what may be wrong, and report to the top management. In this case, that would be the members of the Security Council, as well as the Secretary General of the United Nations.

That is what we want them to do. We do not want this to be an excuse, though. When we demand that they have an inspector general, we do not want this to be an excuse for them to build up a bureaucracy and have waste like we have in some of our departments.

We are all in agreement. The United Nations needs an inspector general that would do what they need to have done, and this would help our people at the United Nations to impress upon other members of the United Nations that we need to get on with this business and appoint an inspector general.

Mr. ROGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I was listening very intently to what the gentleman from Kentucky [Mr. ROGERS] just said, and I hope my colleagues were paying attention as well.

Seventy-five percent of the expenses of some of the U.N. employees' children's colleges are being paid for by the United Nations. I do not know how many of our colleagues here have our Government's and our taxpayers' dollars paying for 75 percent of our college education. Yet our tax dollars are going over there to do just that.

There are 179 or 180 countries in the United Nations, and we are paying 25 percent of the costs. Imagine that, that is 25 percent of the cost, and it makes no sense. They are getting us into problems all around the world. I just found out that in 1987 there were under 10,000 U.N. peacekeepers around the world, and now they have 90,000.

This administration has been going along with this, and our U.N. Ambassador has gotten us into places like Rwanda, Macedonia, Somalia, and elsewhere, and we are all going along with it and we are still paying the freight.

The gentleman from Kentucky [Mr. ROGERS] just raised issue after issue after issue where there is a waste of funds, theft of funds, and an excessive use of funds. And we are going to do what? We are going to withhold 10 percent.

I think we should make a real slash in our U.N. commitment until they change this thing, until they quit making these crazy decisions. We as a nation should not be allowing our young people to be subservient to U.N. command and to go to these places throughout the world.

We just saw 18 young men killed last week in Somalia. They were under a U.N. commander. That is a mistake. I understand that in Macedonia we have 300 American young people who are under a Danish commander. He may be very competent, but a lot of people in this country would question whether or not we ought to have 300 young American fighting men or women under a foreign commander of Danish descent.

So I would just like to say to my colleagues that the $861 million that we are talking about appropriating, 25 percent of all the money going to the United Nations, with much of it being wasted or squandered or stolen, should not go there, that we should not send it, and instead we should send a very strong signal.

So I say to my colleagues on the floor here today, let us go back to the drawing boards on this. Instead of just withholding 10 percent, let us cut. Let us cut maybe 25 percent. That would send a strong signal for them to clean up their act.

Urging them to get an inspector general is fine, and I congratulate the gentleman for moving in that direction, but once we control the pocketbook and control their money, they start paying attention. If we would cut, let us say, a couple of hundred million dollars out of this, which would be applauded by the American taxpayers, the people at the United Nations would really get the message.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. Let me just continue for a few seconds, and then I will be happy to yield to my colleague.

I also understand that they have many employees over there. Did the gentleman tell me how many employees they had just a minute ago?

Mr. ROGERS. Yes, 14,000.

Mr. BURTON of Indiana. All right, 14,000 employees. And the gentleman said that only about 30 of them were involved in peacekeeping, yet we are providing $401 million or $402 million for the peacekeeping effort, and out of 14,000 employees they assign 30 people. That is totally inadequate.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to my colleague, the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, I just wanted to correct the number the gentleman had earlier mentioned. The amount in this bill for the United Nations general budget contribution itself is $291 million. The $860.9 million figure includes many other international organizations like the International Atomic Energy Agency, and so forth.

Mr. BURTON of Indiana. I see. The U.N. number is $291 million, and you are going to withhold how much?

Mr. ROGERS. Ten percent.

Mr. BURTON of Indiana. Ten percent. If it is $291 million and we are paying 25 percent of the total cost, let us just cut it by $50 million to send a signal. If we want them to clean up their act over there, the easiest way to do it is to hold funds back or cut them off.

Can you imagine this? I hope the American people are paying attention to this debate. Some of those people are getting 75 percent of their children's college education paid for with money coming out of the United Nations, and we are providing 25 percent of those funds. That is crazy. There are 179 countries that are represented at the United Nations, and we are paying one-fourth? Give me a break.

Mr. SMITH of Iowa. Mr. Speaker will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I would like to mention to the gentleman that for 4 years in the 80's, we withheld one quarter of our assessment each year so that we were appropriating in the last quarter of the calendar year for which the assessment was due instead of appropriating the funds in the calendar year before the payments was due.

Mr. BURTON of Indiana. How much?

Mr. SMITH of Iowa. That was done in order to get them to do some things that we wanted them to do.

The SPEAKER pro tempore (Mr. MAZZOLI). The time of the gentleman from Indiana [Mr. BURTON] has expired.

Mr. SMITH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, our committee was in full support of that process it was the Reagan administration at the time. Four years the administration decided that we ought to start paying these arrearages on the basis of 20 percent a year for 5 years. The amount we were supposed to pay in this year was $97 million on arrearages. We do not have those funds in this bill. So what I am telling the gentleman is that we have cut $97 million.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman from Iowa. But let me just say that evidently nobody at the United Nations, neither Mr. Boutros Boutros-Ghali or anybody else over there, is getting the message, because if they are getting fringe benefits to the degree I just heard from the gentleman from Kentucky [Mr. ROGERS], somebody over there is not listening. They should not be getting our American tax dollars to pay for their kids' college educations in the first place, let alone 75 percent.

In addition to that, the gentleman told us that these people who have been fired would then come back with lucrative contracts that are worth more than double their previous pay. What is going on over there?

Mr. SMITH of Iowa. Mr. Speaker, if they do not get the $79 million, the United Nations is going to get the message because they are depending on it.

Mr. BURTON of Indiana. Mr. Speaker, I will object to this motion to concur because I think the message should be stronger, I think the message should be louder, and I think the American people would agree to that after what we heard today.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield further?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, the gentleman might be interpreted as objecting because we did not put the $97 million in.

Mr. BURTON of Indiana. Mr. Speaker, I do not think anybody who has heard this debate will misundertand my intention.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will wrap up in a very brief statement here. I appreciate the concerns of the gentleman from Indiana [Mr. BURTON] and all of the others who are similarly concerned. That is the same motivation that moved us to not only put this 10 percent withholding in this bill until the United Nations appoints that inspector general to root out the kinds of things that we are talking about. Not only is that 10 percent in there, but let me point out again, they requested $97.7 million more than we are giving in this bill. We are $44 million below the Senate level in the bill. We are $27.7 million below the figure that our subcommittee earlier had come up with and then was knocked out on a point of order on the floor. And we are $52 million below the 1993 figure.

So they are getting a pretty loud message, not just from the 10 percent withholding, but from the tremendous cuts that we are putting in the overall account. So if they do not get the message, Mr. Speaker, they are deaf, dumb, and blind.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, let me ask this question: Has there been any indication that the abuses the gentleman talked about just a few minutes ago are being addressed? Has anybody over there indicated they are going to change these policies?

Mr. ROGERS. Mr. Speaker, reclaiming my time, I would point out to the gentleman that Attorney General Thornburgh, who then became a deputy at the United Nations, in his report which formed the basis of my thinking about what should be done, says no, they have not yet. But we have not had a chance to act on that Thornburgh report until now. So if we adopt the chairman's position, you are adopting, number one, reform at the United nations; you are adopting the 10 percent withholding; you are adopting these big cuts in their funding from this year's level and everybody else's level. It is sending a giant message up there. If that does not work, then there will be further action.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will yield further, I appreciate what the gentleman is saying and appreciate his attempts and the attempts of the chairman to do this. But it seems to me if Mr. Thornburgh has reported that even though we have been withholding funds and are in arrearage that they continue to do these things, even just the arrearages alone are the problem, then I think we ought to not just send a giant message, but maybe a ball bat with a nail in it.

Mr. ROGERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, a yes vote on this means you really want to call to the attention of the United Nations that they had better move and put reform in place. A no vote means you are very satisfied with the ways things are going.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 422, nays 2, not voting 9, as follows:

[Roll No. 519]

YEAS—422

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
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Price (NC)
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Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
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Schiff
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Smith (OR)
Smith (TX)
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Spence
Spratt
Stark
Stearns
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Strickland
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Sundquist
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Volkmer
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Walker
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Washington
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Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—2

Burton
Stump

NOT VOTING—9

Engel
English (AZ)
Gillmor
Grandy
Greenwood
McMillan
Michel
Waters
Waxman

□ 1253

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ENGLISH of Arizona. Mr. Speaker, I was unavoidably absent for rollcall vote No. 519 on the motion to recede and concur in the amendment of the Senate regarding contributions to international organizations. Had I been present, I would have voted "aye."

The SPEAKER pro tempore (Mr. MAZZOLI). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 148: Page 60, line 5, strike out "$422,499,000" and insert "$444,736,000".

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 148, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment insert "$401,607,000"

The SPEAKER pro tempore. Does the gentleman from Kentucky [Mr. ROGERS] seek time on the motion offered by the gentleman from Iowa [Mr. SMITH]?

Mr. ROGERS. I seek time, Mr. Speaker.

The SPEAKER pro tempore. Under the rule, the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes, and the gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the last amendment dealt with the contribution to the general budget of the United Nations. This amendment deals with the contributions we make to the United Nations for peacekeeping operations, so Members should listen up.

Mr. Speaker, this is a most serious subject, because in the last 3 months our delegate in the United Nations from the United States has supported, and the Security Council has adopted, four brandnew peacekeeping missions somewhere around the world, including Rwanda and Liberia and others. The United Nations is engaged in 18 peacekeeping missions around the world with 90,000 troops, some 13,000 of whom are Americans, including Somalia. There are some 10 applications pending for more peacekeeping missions.

Not only are we talking about the loss of American lives and blood, but also American money, because in the past we have been billed for 31.7 percent of the total U.N. peacekeeping budget. I would point out to the Members that is now amounting to over $1 billion, just the American part.

Mr. Speaker, there are just no controls that this body has on how much money we get obligated to pay to the United Nations without any decisions being made on our part. The United Nations votes to go to a peacekeeping mission and then they send us the bill, 31.7 percent of it. What choice do we have in it? None. What checks do we have on making sure the right decision was made in the first place? None.

Mr. Speaker, we have launched an initiative that was included in the statement of managers in this section of the bill that instructs the Secretary of State to notify the Congress 15 days in advance before our Ambassador in the United Nations votes for any new or expanded or changed peacekeeping missions. Had we had had this provision before Somalia went bad, Mr. Speaker, we would have at least had 15 days notice of the change of mission or the fact we were going there in the first place.

Mr. Speaker, we are not seeking prior approval of the decision of whether or not our Ambassador votes for a peacekeeping mission. I doubt we can do that, but we can require that they notify us of their intent to seek a peacekeeping mission in the Security Council. Why? Because we have to budget for it, Mr. Speaker. We have to find the money for it. Their requirement this year is about $1.3 billion. We are giving them $898 million less than the requirement. It is $58.7 million below the 1993 level. This is $21 million below the House-passed level. It is $43 million below the Senate-passed level. It is $43 million less than the request.

Mr. Speaker, we are sending a message just by the dollar figure, but more importantly, Mr. Speaker, is this requirement that this administration give us notice 15 days before they seek a new peacekeeping mission in the United Nations. There is nothing extraordinary about that. It should have been done all along.

No. 2, in the statement of managers we also say we want to cut our share of this peacekeeping assessment to 25 percent. It is now 31.7 percent. Until the first of the year it was 30.4 percent. They keep increasing it.

We say no way. We cannot even pay the 25 percent, but we are going to say we are not going to pay more than 25 percent, regardless, and we are cutting back down to the same level that we support the general budget of the United Nations.

□ 1300

No. 3, in this statement of managers we say we expect the administration to submit a report to the Congress on how they are going to improve their peacemaking and peacekeeping policy in these missions around the world.

Mr. Speaker, I think we all support the United Nations. We understand the importance of alliances in battling the problems in the world. I do not think any of us want to throw away the impact of the United Nations or the other multilateral organizations.

However, I think we have to realize that there are limitations on what the United Nations can do as a body, and we are going to have to realize that if we are going to pay the costs, and be the leader of these missions with blood, then the United States needs to have more impact in the decisions in the first place. So that is what these provisions attempt to do.

The United Nations, Mr. Speaker, has 14,000 employees at their headquarters. Do Members know how many of those 14,000 employees are working on overseeing these military peacekeeping missions around the world? Guess? Would you say a third, a fourth? I wish that were so. There are 30, 30 people in the United Nations headquarters overseeing 18 peacekeeping missions around the world, Mr. Speaker, with 90,000 troops, 25,000 of whom are American boys and girls. There are 30 people in command and control in New York City. Suppose you get in trouble somewhere in one of these missions, half a day off timewise over there, and they call headquarters. Will they be open at 12 midnight in New York City time or 3 a.m.? I do not know. Will they be there on weekends? They have only got 30 people to oversee all of these missions. That is hardly enough to oversee a company of Rangers, let alone 90,000 troops.

So, Mr. Speaker, this language will at least give the Congress notice of any new peacekeeping missions that are planned. It will require the administration to tell us what it is going to cost, how long we are to be there, and the goals of that mission. At least the administration must be forced to refine in their own minds and for planning purposes all of these items in advance before they vote to send our money and our blood onto these foreign shores.

I do not think that is unreasonable, Mr. Speaker. In fact, I think it is utterly reasonable and necessary, and should be done, and should have been done a long time ago.

So, I urge the adoption of the chairman's motion. His motion cuts peacekeeping even below the House-passed level, coupled with this very strong language. It puts the administration on notice that the Congress will not look kindly on future U.N. peacekeeping missions when it has not been consulted first, and we have not been consulted in these last four that have been voted in the United Nations by our delegate there.

So, I urge the adoption of this motion, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have been very concerned about the cost of peacekeeping, and also about the worth of peacekeeping for many years.

We heard about UNIFIL. That was the peacekeeping force between Lebanon and Israel. But we sent some investigators over there several years ago, and they came back and said it had very little value. Since that time we have seen that it does not have much value because when the Israelis wanted to take a shortcut someplace, they just smashed down the gate and went through the middle.

The United Nations has a problem. They say well, we will set up some peacekeeping operations and they say we took care of a problem.

The value of these peacekeeping operations is very limited I think. The cost has been going up astronomically. I believe, if I remember correctly, about 10 years ago, the cost was about $65 million.

Then in fiscal year 1993 the request was $753 million, but we appropriated $460 million. We gave them $293 million less than they requested. I think that sent a message that the United Nations needed to get serious, because there is not going to be the kind of money there, especially when it is going to come out of salaries and expenses of the State Department. There is a cap on how much you can spend for our international organizations and operations.

The United Nations has started looking into the rate at which we are paying. The rates were established for the various nations in 1973. The assessments to the United Nations are determined on the gross national product of the various countries. Obviously the gross national product has changed a great deal since 1973.

Since 1973 our assessment for peacekeeping has been 30.4 percent. So in the fall of 1992, the administration at that time sought to cut it to the regular budget assessment of 25 percent. This effort was complicated by the breakup of the Soviet Union because those new Republics could not pay at the same rate. So instead of cutting the U.S. assessment back to 30.4 percent, our assessment went up to 31.7 percent.

We have never paid the 31.7 percent. We were successful in securing a freeze at 30.4 percent, pending completion of a study which is now being made, and it will be presented to the United Nations during this session of the General Assembly.

Our representatives at the United Nations, and I was up there in the spring and talked to all five of the Ambassadors and to some others, are determined when this study is completed to negotiate for a much lower rate. And that is what we should have done I think 3 or 4 years ago. They know that it is a serious problem and that any increase that we have in the assessments that are paid will have to come one way or another out of the salaries and expenses for the State Department.

It is a serious matter, and I think they recognize it.

In fiscal year 1993 the request for peacekeeping was $753 million, and we gave them $460 million. So we came up short last year $293 million.

This year the request was for $619 million, and we have included $401 million, which is $219 million less than they requested. Those figures should tell Members that we are serious about not paying this 30.4 percent, especially when it is going to come out of salaries and expenses and other funds that we need in this bill.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, did the gentleman say a while ago that about 10 years ago the amount of money expended for peacekeeping forces around the world by the United States through the United Nations was about $40 million.

Mr. SMITH of Iowa. It was $65 million.

Mr. BURTON of Indiana. I just wanted to confirm that for my presentation.

Mr. SMITH of Iowa. That is my memory, and it has been going up substantially in the last several years.

Mr. BURTON of Indiana. I thank the gentleman.

Mr. SMITH of Iowa. And it is too high I think, and they know that we are serious about it at the United Nations. And when Ambassador Albright was before us in the spring at the hearing, she indicated it was a concern. The administration is going to negotiate a better deal than we have now. They will have to or they will not have the money.

☐ 1310

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Maine [Ms. SNOWE] the distinguished ranking member of the subcommittee of the Committee on Foreign Affairs.

Ms. SNOWE. I thank the gentleman for yielding this time to me.

Mr. Speaker, as most of my colleagues know, I serve as ranking Republican on the Subcommittee on International Operations, which has jurisdiction over the State Department and other foreign affairs agencies.

I would like to congratulate the managers of this bill, the gentleman from Kentucky [Mr. ROGERS] and the gentleman from Iowa [Mr. SMITH] for their product. In general, the funding contained in this bill for the foreign affairs agencies is fiscally responsible and stays with House-passed authorization levels. I have been working for years to restrain budget growth in the foreign affairs agencies, and I am pleased that this appropriation accomplishes exactly that. This bill actually cuts funding for the foreign affairs agencies over $350 million below the existing appropriated level.

I am pleased by the funding cuts and report language contained in this bill for the United Nations and for the international peacekeeping account. This bill places a badly needed brake on the runaway growth in U.N. peacekeeping activities. I added an amendment to the State Department authorization addressing this problem, and I am grateful that the appropriations bill follows up on this issue.

The appropriations conference report calls on the administration to report to Congress 15 days prior to approving any new peacekeeping missions. While the report language asks the administration to notify the Appropriations Committees, I would like to emphasize the importance of prior 15-day notification of the Foreign Affairs Committee as well. In the past 4 weeks and without any consultation with Congress, the administration approved three new nation-building peacekeeping operations for Haiti, Rwanda, and Liberia. This was done though it was clear that appropriations were insufficient even to pay for existing peacekeeping operations.

Today, there are 18 U.N. peacekeeping operations, 15 of which were established since 1990. In 1987, the United Nations spent $233 million on all of its international peacekeeping operations, compared to $3.8 billion budgeted for this function in 1993. The current funding level does not even count the cost of the three new U.N. nation-building operations, which have an estimated cost of $253 million just for the first 6 months. And if the proposed 50,000 peacekeeping force for Bosnia were approved, it would immediately double the U.N. peacekeeping budget to nearly $8 billion.

Furthermore, until this year the United States was overbilled at a 30.4-percent rate for all U.N. peacekeeping costs, compared to the 25 percent U.S. assessment level for the regular U.N. budget. But in January of this year, the United Nations unilaterally raised the U.S. peacekeeping assessment even further to 31.7 percent without any protest by the new administration. The report language in this conference report calls for a moratorium on any new U.N. peacekeeping operations until the United Nations agrees to reduce the U.S. assessment to no more than 25 percent.

Today, the United Nations is placing a new emphasis on direct military intervention into internal conflicts. The dangers of what Ambassador Madeline Albright has termed assertive multilateralism were graphically displayed in the back alleys of South Mogadishu and on the docks of Port-au-Prince.

For the cost of this new form of U.N. interventionism is not just runaway spending, but the lives of American troops. I am extremely concerned that U.S. soldiers are increasingly being called not just to defend vital American interests, but to advance nebulous U.N. nation-building goals. Just this weekend I attended the funeral in Lincoln, ME, for M. Sgt. Gary Gordon, who was killed in action 2 weeks ago in Somalia. I regret that because of my congressional duties I was unable to attend a funeral earlier in the week of S. Sgt. Thomas Field of Lisbon, ME, who also lost his life in Somalia. Maine may be a small State, but patriotism runs strong and Mainers serve proudly in our Nation's Armed Forces. We must be sure that our own Government always keeps its faith with these brave men and women.

So again, I would like to congratulate the Republican manager of this bill, the gentleman from Kentucky [Mr. ROGERS], for insisting on forceful action on this timely issue.

Mr. SMITH of Iowa. Mr. Speaker, I yield 1 minute additional to the gentlewoman from Maine [Ms. SNOWE].

Mr. Speaker, will the gentlewoman yield?

Ms. SNOWE. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentlewoman for yielding.

Mr. Speaker, I have no quarrel with what the gentlewoman said except one thing. I think maybe the gentlewoman made an error when she said there was no protest against the 31.7 assessment rate. Both the last administration and this administration have refused to recognize that increase.

Ms. SNOWE. I thank the gentleman.

Mr. ROGERS. Mr. Speaker, I yield 6 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding this time to me.

Mr. Speaker, I do not agree with much of what my colleagues have said, and I think they are moving in the right direction. The fact of the matter is that in 1978 there were 10,000 U.N. peackeeping troops around the world. And now there are over 90,000.

The gentlewoman just expressed her concern that it is expanding, we are going into nation-building in other parts of the world, and I agree with that. We are still going to be spending 25 percent of the total U.N. budget for peacekeeping forces around the world. Why should we be doing that? I do not understand; I simply cannot understand why we are going to pick up 25 percent of the freight when we are not 25 percent of the world's land mass, we are not 25 percent of the world's population. Of the 90,000 troops in the field right now, over one-fourth of those are young American men and women. Why are we providing the lion's share of that? Why is, for instance, Japan providing only 12.5 percent and Germany providing only 8.9 percent while we are assessed 31.7 percent? Even 25 percent is too much.

It seems to me we ought to send a much stronger signal. I agree with the 15 days' advance notice. I agree with a lot of the things that my colleagues have been talking about. But it seems to me we should not be sending $402 million when just 10 years ago the total amount of spending for the U.N. peacekeeping efforts was $40 million.

The U.S. participation is going to be 10 times what it was 10 years ago for the whole world. It seems to me that $402 million is excessive.

Mr. Speaker, we have severe budgetary problems in this country. Everybody knows what the national debt is, what the deficit is, and what the interest on that debt is. Yet we are sending 10 times what the total United Nations peacekeeping costs were 10 years ago, just from the United States alone. And I think that is excessive.

Now, if we want to control what the United Nations is doing as far as sending peacekeeping troops around the world, the best way to do it is with the dollars; if you do not send them the money, they cannot send those people around out in the field.

I agree that getting 15 days' advance notice, if possible, from our U.S. Ambassador is a step in the right direction, but more than that should be done. We should not be sending at this time $402 million to the United Nations for this effort. We just should not be doing it. They are making mistakes doing it.

Boutras-Ghali has made numerous mistakes that have not only cost us lives but millions and maybe ultimately billions of dollars.

We went into Somalia to feed the starving masses, and then we got into nation building. As we just heard from the gentlewoman a few moments ago, there are three or four more nations that we are going to be nation building. These people do not want nation-building. They want food and they want other things, but they do not want us to come in telling them how to run their country.

Our tax dollars, $402 million of them, is going to be used, in large part, for that purpose. I do not believe the American people want that. I believe the American people would like to see this cut dramatically. I think we should cut it.

So, I will object and I will ask for a rollcall vote on this. I do not expect a lot of support, because this is a cut and people coming in and saying, "Well, you are already cutting. How are you going to explain that back home?" Well, I think you can refer to the CONGRESSIONAL RECORD of this debate. I want to cut more. I do not think we should be sending 25 percent. We should be sending a lot less than that, if any, a lot less than that, and we should be controlling what is going on over there instead of just protesting.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Kentucky.

Mr. ROGERS. I thank the gentleman for yielding to me.

Mr. Speaker, does the gentleman realize that we in this bill are appropriating $402 million; does the gentleman know how much they requested?

Mr. BURTON of Indiana. $642 million.

Mr. ROGERS. Their requirement was $1.3 billion. That is not the request, that is the amount they say it would take to pay their bills. They now currently estimate for the 18 ongoing missions.

Mr. BURTON of Indiana. They requested $642 million.

Mr. ROGERS. That is right, the request was that. But they say it would take $1.3 billion to pay all the bills, our share of the bills, they say. So, we are $898 million less than that figure, and we are $43 million less than their official request, lower than the Senate and the House.

Mr. BURTON of Indiana. May I ask the gentleman a question. Let me just say one thing. If my children said that they wanted a Chevrolet and they knew that I was in a negotiating mood, they would probably ask for a Mercedes or a Cadillac. And I submit to you we do not have a lot of morons over there at the United Nations. They are probably asking for an excessive amount of money, knowing that we are going to compromise down like we do on every other single thing around this place. But the fact of the matter is, 10 years ago the total amount of expenditures for U.N. peacekeeping was about $40 million, according to the chairman, for all the worldwide costs. All the countries of the world kicked in for that, $40 million. Today we are going to be appropriating $402 million, 10 times that, just for the United States share. Granted, that is a lot less than they requested.

□ 1320

We should not be giving them 25 percent and we most certainly should not be giving them all the young American men and women who are sacrificing their lives and everything else in these various God-forsaken places, and we should not be giving them $402 million in American taxpayer dollars.

Let us send this back to the conference committee and cut this figure.

Mr. ROGERS. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa [Mr. LIGHTFOOT], a member of our committee.

Mr. LIGHTFOOT. Mr. Speaker, I thank the gentleman for yielding this time to me.

I would say to our distinguished committee chairman, the gentleman from Iowa [Mr. SMITH], and to our ranking member, the gentleman from Kentucky [Mr. ROGERS], listening to their voices, we have a veterinary back in Iowa who could probably fix that problem. It is kind of a red liquid in a bottle, but I am not sure it has been approved by the FDA.

Mr. Speaker, there has been a lot of discussion about peacekeeping and we discussed it here on the floor some last night. I think one of the things that I do not believe is a partisan issue, that there is very strong agreement on both sides of the aisle that we are treading into some dangerous waters with these peacekeeping efforts. We have heard that from both Republicans and Democrats alike.

I think there is one thing probably that is driving a lot of that. In the instance of the United States, the young men and women who we are sending off to do these peacekeeping missions raised their hands and took an oath to put their lives on the line for their country. Quite frankly, some of the people who are promoting peacekeeping have never had the will or the backbone to do that. That is creating some problems, at least in our thought processes.

As the gentleman from Indiana [Mr. BURTON] pointed out, and I think accurately so, why are we spending these kinds of dollars in countries that we cannot even pronounce, in which we have absolutely no national interest whatsoever? I think it is a good point and it is a good question that we need to answer.

One of the things that concerns me a great deal about this whole process is Presidential Decision Directive 13, which has been kept very conveniently out of the public's eye. President Clinton in that PDD 13 has stated that he wants to place U.S. troops under the command of U.N. or foreign commanders. He states in that directive that he wants to eliminate the law which puts a cap on the number of U.S. soldiers that can be committed to a U.N. peacekeeping effort.

In that directive he wants to share our intelligence with members of the United Nations. We have not seen that here in the Congress. I think that is where a lot of the consternation is coming from, that so much of this is being done behind our backs and around the corner.

By putting in this 15-day notification, at least it is a step in the right direction.

By reducing the amount of funding that has been asked for is a step in the right direction.

I would agree with the gentleman from Indiana [Mr. BURTON] that it needs to go further, but I think if we can show our will here as a group that we are going to put the reins on the United Nations and try through the IG process to shake out the cronyism and the absolute corruption that is from the basement of that building to the attic and everywhere in between, that the people of the United States represented by those of us who were sent here finally have said it is time to draw the line on the shenanigans in the United Nations, then we have accomplished something and we can get the American people to continue to support us in that measure. Then possibly we can do something constructive in reforming the United Nations.

A lot of us would like to see it abolished, quite frankly, but as Mr. MacDougal, a member of the U.S. Commission on Reporting the Effectiveness of the United Nations, made the comment if this unit were to be constructed as it is now, no one could possibly conceive of ever putting something together that was like the United Nations. As it currently exists, it does not make any sense at all. It is a huge power play by a lot of little countries around the world who basically are prospering at the behest of the American taxpayer and on the blood of American citizens.

Mr. ROGERS. Mr. Speaker, I yield myself such time as I may consume. I am prepared to conclude.

Mr. Speaker, in addition to the money reductions that we have in this conference report, there are four major provisions in the Statement of Managers. The dollar figures, first off, were 10 percent below their request, were 13 percent below what we gave them in 1993, were 223 percent below what they say is their actual requirements for peacekeeping in 1994, were 5 percent below what the House figure was and were 10 percent below what the Senate figure was; so our conference came way down, I say to the gentleman from Indiana [Mr. BURTON], even from all the other levels, including the House and the Senate; so we have made substantial cuts in the amount of money that we are giving to the United Nations for peacekeeping operations.

Then in addition to that cut are these four provisions in the statement of managers:

One. We instruct the administration to conduct a thorough review of the current process of committing to peacekeeping operations. Change, we are saying, the way you actually commit us to these operations.

Two. We Say to the United Nations, we are not going to accept more than 25 percent of these peacekeeping costs, if that much. We are not going to pay the 31.7 percent that you arbitrarily billed us for. If we pay anything, it will be no more than 25 percent.

Three. The statement of managers says that the administration shall undertake badly needed organizational and management changes to carry out peacekeeping activities effectively. We are not happy with the way you are carrying out these peacekeeping operations. Change, we are saying.

Then number four is an instruction of 15 days' notice to the Congress. Before you want to go into another new peacekeeping operation, all we ask is just 2 weeks' notice, and in that notice we want to know where you are proposing to take us.

Number two, How much is it going to cost?

Three. What is the mission? What are you trying to achieve there? What is the goal of the mission?

Four. How long are you going to be there?

And five, How are you going to pay for it? What source of U.S. funding are you going to use to pay for it, reprogramming, a budget amendment, a supplemental request, just what?

We think these are reasonable requests and we think that the State Department and the administration would be very well-advised to follow the requests that we are making in this statement of managers, because this is the subcommittee, after all, that you will be looking to for future funding of all the activities of the State Department, the United Nations and so forth, so we think they will be reasonable in adhering to these simple requests.

Now, in the event that does not take place, Mr. Speaker, I filed a free-standing bill yesterday that incorporates the 15 days' notice for new peacekeeping operations. Members are invited to sign on to the bill. I do not know the number, but you can find that out. If you would like to be a part of that bill that we want to make into the law, then I would urge Members to sign on to that bill.

I would point out that what we are talking about today, though, is merely language in the Statement of Managers to this conference report.

Mr. Speaker, I urge support for the motion offered by the gentleman from Iowa [Mr. SMITH]. It is altogether fair and reasonable. We have the figures. We have reforms built into the United Nations and U.S. procedures here and we think we have made tremendous progress toward cutting costs, cutting our share and putting in place some significant changes and reforms that are desperately needed.

Mr. Speaker, I want to express my strong support for a provision included in the conference report to accompany H.R. 2519, the

Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act for fiscal 1994.

Included in the conference report is a provision for a grant from the Small Business Administration to the city of Prestonsburg, KY, for small business development. It is my understanding this grant will be used to help design and construct a Mountain Arts Center in Prestonsburg, KY. This center will be a tremendous boon to small businesses in an economically depressed area. Not only will the project stimulate small businesses throughout the area during the construction phase of the project, once completed, the center will be a boon for small business creation and development through the increased tourism and economic activity which will be attracted.

I am grateful for its inclusion in the conference report.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume, just for a brief summary.

Mr. Speaker, I think we are making some progress. We had soldiers in Lebanon. This subcommittee went over to Lebanon several years ago, looked the situation over, and came back and said immediately, "Get those boys out of there. They should not even be there."

I understand that the gentleman from Pennsylvania [Mr. MURTHA] went over there with his subcommittee. He came back and was concerned. About 2 weeks later, you know what happened. We lost 250 boys.

Soldiers from major nations are sort of a target. They are a built-in target. It is better to have soldiers from Third World countries in these peacekeeping operations.

☐ 1330

On the other hand, Mr. Speaker, I say to my colleagues, "If you do establish peacekeeping forces, there's very little they can do, go in, and set up a camp, and put a guard around the perimeter. What more can they do? They are not going to fight anybody."

So, there is very limited value, I think, to some of these peacekeeping operations but in the last year we finally have been getting attention on this. I think that last year the last administration finally recognized that this is a serious problem and that could not continue to escalate the cost, and this administration, I know, believes that because I talked to them about it a number of times.

So, what we have here is a request for $619 million, and we are cutting it back to $401 million, a reduction of $218 million, and a yes vote on this would mean endorsement of the approach that we are taking, and, if my colleagues do not believe we ought to do that, then they can vote "no."

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MFUME). Without objection, the previous question is ordered on the motion.

There was no objection.

The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 61, not voting 5, as follows:

[Roll No. 520]

YEAS—367

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Armey
Bacchus (FL)
Baesler
Ballenger
Barca
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crapo
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Dreier
Dunn
Durbin
Edwards (CA)
Edwards (TX)
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
King
Kingston
Kleczka
Klein
Klink
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)

NAYS—61

Allard
Archer
Bachus (AL)
Baker (CA)
Baker (LA)
Barcia
Bartlett
Barton
Bilirakis
Bonilla
Burton
Coble
Collins (GA)
Combest
Crane
Cunningham
DeLay
Doolittle
Dornan
Duncan
Emerson
Fields (TX)
Gekas
Gonzalez
Hall (TX)
Hancock
Hansen
Hefley
Herger
Hoekstra
Hunter
Inhofe
Jacobs
Kim
Klug
Lewis (CA)
Lewis (FL)
Lightfoot
Manzullo
McHugh
McInnis
Molinari
Petri
Pombo
Quinn
Ravenel
Roth
Schaefer
Sensenbrenner
Shuster
Smith (MI)
Solomon
Spence
Stump
Traficant
Upton
Walker
Walsh
Young (AK)
Zeliff
Zimmer

NOT VOTING—5

Conyers
Engel
Hinchey
McMillan
Miller (CA)

☐ 1353

Mr. HALL of Texas and Mr. KIM changed their vote from "yea" to "nay."

Mrs. KENNELLY, and Messrs. PETERSON of Florida, ABERCROMBIE, CAMP, and MOORHEAD changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ENGEL. Mr. Speaker, I was unable to vote ofn rollcall votes 518 through 524 due to the hospitalization of my wife. Had I been present, I would have voted:

On Rollcall 518, "yea."
On Rollcall 519, "yea."
On Rollcall 520, "yea."
On Rollcall 521, "yea."
On Rollcall 522, "yea."
On Rollcall 523, "yea."
On Rollcall 524, "yea."

The SPEAKER pro tempore (Mr. MAZZOLI). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 171: Page 68, after line 26, insert:

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $35,000,000, to remain available until expended: *Provided*, That none of the funds appropriated under this heading may be disbursed to grantees who have not reimbursed the National Endowment for Democracy, from nongovernmental funds, for disallowed expenditures by such grantees for first class travel, alcohol and entertainment, identified in the March 1993 report of the Inspector General of the United States Information Agency.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 171, and concur therein.

The SPEAKER pro tempore. Does the gentleman from Iowa [Mr. SMITH] wish time on this motion?

Mr. SMITH of Iowa. Yes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

Does the gentleman from Pennsylvania [Mr. KANJORSKI] seek time on the motion offered by the gentleman from Iowa [Mr. SMITH]?

Mr. KANJORSKI. Yes, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from Kentucky [Mr. ROGERS] oppose the motion offered by the gentleman from Iowa [Mr. SMITH]?

Mr. ROGERS. Mr. Speaker, I am not opposed.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. KANJORSKI] will be recognized for 20 minutes, the gentleman from Iowa [Mr. SMITH] will be recognized for 20 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 20 minutes.

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to yield 17 minutes of my time to the gentleman from California [Mr. BERMAN], and that he have the right to yield to others.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. BERMAN] will be recognized for 17 minutes and, in turn, have the right to yield time. The gentleman from Iowa [Mr. SMITH] will retain 3 minutes.

Mr. SMITH of Iowa. Mr. Speaker, I reserve my time.

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], a member of our committee.

Mr. LIVINGSTON. Mr. Speaker, I am very pleased to take the well and speak on behalf of the National Endowment for Democracy and hope that this body will recede to the Senate amendment which included some $35 million in funding.

The White House had requested $50 million. If we pass this $35 million, it will be a bargain for this country. And, it will be a bargain for democracy all throughout the world.

That $35 million will go to grantees, including the Democrat and Republican Party Institutes, and institutes linked to the AFL-CIO, the Chamber of Commerce and numerous other private voluntary organizations who send people throughout the world with meager resources to encourage countries to study the democratic system and become democratic, free nations.

NED is a small, cost-effective, nongovernmental institution. It has the bipartisan support of the current administration as well as all former living Presidents who regard it as an investment in a safer world, beneficial to American security and economic interests.

NED is a dynamic, flexible and cost-effective means of furthering United States interests by promoting the development of stable democracies in strategic, important parts of the world. NED provides aid to democratic movements around the globe by dispatching experts to help those seeking freedom to assemble the building blocks necessary to sustain a stable and democratic system, including representative political parties, a free market economy, independent trade unions and a free press.

I can say definitively to this body that the predecessor of NED helped fund the AFL-CIO go to El Salvador and plant the seeds of democracy there, while the Communists were trying to take over that country by force. Likewise, the AFL-CIO went to Poland to establish a framework of support for Solidarity, which ultimately led not only to freedom and democracy in Poland, but also to the collapse of the Soviet empire. NED is now all over the globe, helping privatization in Russia, helping Bulgaria write their constitution, helping Ukraine solve their economic problems, and helping democracy establish roots in Latin America. The list goes on and on.

This is a good program. It works. It is cost-effective.

□ 1400

By promoting democracy around the world, this proposal is in our national interest, and this money is an investment in a peaceful future so the United States can spend less on defense and more on our own people. It is the best deal going. I urge the adoption of the motion.

Mr. KANJORSKI. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I bring up this issue, the National Endowment for Democracy, again. It is almost 4 months to the day that we addressed this same matter in the House, and the House chose to eliminate NED by a resounding vote of 247 to 171. NED's fate was then sent to the other body where it was debated on the Senate floor. I have to say that any Member of the House that read Senator BUMPERS' statement on this can appreciate what I would like to say today, but will not take the time.

Obviously, the proponents of the NED think that it is totally responsible for the breakdown of the Soviet Union and the emergence of democracy throughout the world. If only we had known in early 1980 that for a mere $35 million we could have saved $2 trillion in defense and other foreign aid, we would have looked like geniuses in the Congress.

I would say that, one, my opposition to this is based on the fact that the Founding Fathers in our Constitution directed that the President of the United States through the State Department, should carry on the foreign affairs of this country. NED is a divergence from that principle. Through NED taxpayers' money is delegated and earmarked specifically for a private fund to use as it will, without any direct accountability as to how those funds are expended, and no oversight by this Congress. I think that is one fundamental mistake.

Two, this organization in the past, over the past 8 years, has funded such things as campaigns in Great Britain, France, and New Zealand. I do not know what is wrong with these nations' democracies, but I would suggest that they may have been democratic for a few years and the American taxpayers' money, one, is not necessary to keep them democratic, but two, quite an intrusion by one great democracy in the democracies of others.

Often we find that NED money is spent promoting programs that are in contradiction of known American policy. I think we need that to be brought into check by putting all of this entity under the State Department and under the executive branch as intended by the Constitution.

Finally, it is hard to argue against the National Endowment for Democracy, because my friends say I am not a Democrat. I resent that, but there is nothing that can be said to that. Let me tell the Members what the real name of this organization should be: The National Endowment for the Republican Party, the Democratic Party, the AFL–CIO, and the U.S. Chamber of Commerce, that is who it really funds. Maybe another name should be the Political Consultants Relief Act of 1993, because that is who it funds, the Washington "beltway bandits" that operate in our campaigns and presidential campaigns, but in off years like to sell their wares around this world, instilling their political information and ability to emerging parties or democracies.

I suggest, one, Mr. Speaker, that is an insult. Two, that is not building the know-how of how to carry on democratic campaigns in other countries. It is financing the consultants in this country.

Finally, Mr. Speaker, I will tell the Members, I have watched this House run under tremendous pressure when we defeated SSC yesterday. I have also seen us try to eliminate or run in other projects or programs, but never have I seen a harder lobbying effort by all the former Presidents, by all the leadership on both the Democratic side and the Republican side, by all the people who are anything in this town, and most of all, by the estate of our commentators and our journalists throughout the United States.

I think it is unfortunate that, the 30 or 40 votes that made the difference last time have probably been changed by this pressure. I think we are going to lose this, and I think the lobbyists and the political forces of this city and this country and the journalists of America have done their work well.

I think they are going to change 30 or 40 votes from that June 22 vote, but all it attests to is what Mr. Perot said: The people who are wearing the Gucci shoes and carrying the alligator bags are going to prove again in this town that they can do their job and do it well when they are at risk.

It is unfortunate for democracy, that we cannot, in 1993, send the message that we will not spend 17.5 percent more this year than we spent last year for an endowment that does well at some things but is questionable on other things. The fact of the matter is that all of those things could be accomplished by a direct contract between the State Department and any other private entity, including the Endowment for Democracy, if the worthwhile work is worth supporting. At least if the State Department were involved, we would have programmatic accountability.

I would urge my colleagues to hold tight with that vote we made in June, and send the proper message to the American people that their representatives are trying to take a responsible budgetary course in this country, and not letting our economy and our Nation go to rot.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I have laryngitis, so I am not going to talk very much. I think that if all these people are lobbying, that they would not have, any of them, contacted the chairman of the subcommittee that is handling the bill. I have not heard from any of those people.

I will tell the Members who I have heard from, or who did make an impression on me. I was in Albania. there was not a country that was more despotic than Albania. The new President of Albania said:

> The greatest thing that ever helped me was the National Endowment for Democracy.

He said:

> Those people came over here; they are not a part of your government, they are independent, but they came over here and told me about how private organizations work.

If any of the Members have been to Albania, they know what it is. It is a country filled with pillboxes. The former dictator filled it with pillboxes. The Albanians had no freedom at all, had no idea how to operate these institutions. The President of Albania said:

> Those people came over here and they did the best service that anybody could possibly do. Nobody from our government could have done that.

I think this is a very good investment at $35 million.

Mr. Speaker, at this point in the RECORD I would like to insist a table which compares conference agreement for the items funded in the bill with the amounts appropriated for fiscal year 1993, the amount requested for fiscal year 1994, and the House and Senate bills.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, FY 1994 Appropriations Bill (H.R. 2519)

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF JUSTICE AND RELATED AGENCIES						
DEPARTMENT OF JUSTICE						
Office of Justice Programs						
Justice Assistance	665,299,000	665,652,000	650,000,000	683,314,000	679,605,000	+14,306,000
(Transfer out)					-500,000	-500,000
Law Enforcement Personnel (H.R. 2118 Supp.)	150,000,000					-150,000,000
Public safety officers benefits program:						
Death benefits	28,013,000	28,936,000	28,936,000	28,936,000	28,936,000	+923,000
Disability benefits		2,000,000				
Total, Office of Justice Programs	843,312,000	696,588,000	678,936,000	712,250,000	708,041,000	-135,271,000
General Administration						
Salaries and expenses	115,929,000	119,289,000	117,196,000	115,000,000	119,000,000	+3,071,000
Advance appropriation		20,000,000		20,000,000	20,000,000	+20,000,000
Repeal of Advance Appropriation				-20,000,000	-20,000,000	-20,000,000
Office of Inspector General	30,622,000	30,898,000	30,898,000	30,723,000	30,000,000	-622,000
Quantico Training Center	7,700,000					-7,700,000
Weed and Seed Fund	13,150,000	13,492,000	12,829,000	13,150,000	13,150,000	
Federal/State partnershps		100,000,000				
Total	167,401,000	283,679,000	160,923,000	158,873,000	162,150,000	-5,251,000
United States Parole Commission						
Salaries and expenses	9,309,000	9,385,000	9,385,000	9,123,000	9,123,000	-186,000
Legal Activities						
Salaries and expenses, general legal activities	395,500,000	409,984,000	400,968,000	400,086,000	403,968,000	+8,468,000
Vaccine injury compensation trust fund	2,000,000	3,000,000	1,900,000	2,000,000	2,000,000	
Independent counsel (permanent, indefinite)	4,500,000	4,000,000	4,000,000	4,000,000	4,000,000	-500,000
Civil liberties public education fund (permanent, definite)	500,000,000	100,000,000	100,000,000	100,000,000	100,000,000	-400,000,000
Civil liberties public education fund		5,000,000				
Salaries and expenses, Antitrust Division	44,626,000	44,817,000	44,817,000	43,092,000	45,997,000	+1,371,000
Offsetting fee collections	(16,900,000)	(17,275,000)	(19,000,000)	(19,000,000)	(20,820,000)	(+3,920,000)
Total budget authority available	(61,526,000)	(62,092,000)	(63,817,000)	(62,092,000)	(66,817,000)	(+5,291,000)
Salaries and expenses, United States Attorneys	768,300,000	808,797,000	808,797,000	818,797,000	813,797,000	+45,497,000
Assets forfeiture fund surplus	22,400,000					-22,400,000
Total budget authority available	790,700,000	808,797,000	808,797,000	818,797,000	813,797,000	+23,097,000
United States Trustee System Fund	57,221,000	57,350,000	56,521,000	46,150,000	61,513,000	+4,292,000
Offsetting fee collections	(32,300,000)	(37,487,000)	(37,487,000)	(53,687,000)	(37,487,000)	(+5,187,000)
Total budget authority available	(89,521,000)	(94,837,000)	(94,008,000)	(99,837,000)	(99,000,000)	(+9,479,000)
Salaries and expenses, Foreign Claims Settlement Commission	898,000	940,000	940,000	898,000	940,000	+42,000
Salaries and expenses, United States Marshals Service	333,300,000	339,808,000	339,808,000	339,808,000	339,808,000	+6,508,000
Support of United States prisoners	234,125,000	319,384,000	307,700,000	312,884,000	312,884,000	+78,759,000
Assets forfeiture fund surplus	27,600,000					-27,600,000
Total budget authority available	261,725,000	319,384,000	307,700,000	312,884,000	312,884,000	+51,159,000
Fees and expenses of witnesses	81,010,000	103,022,000	103,022,000	103,022,000	103,022,000	+22,012,000
D.C. Informant Protection		1,400,000				
Total budget authority available	81,010,000	104,422,000	103,022,000	103,022,000	103,022,000	+22,012,000
Salaries and expenses, Community Relations Service	26,106,000	34,545,000	26,792,000	26,106,000	26,106,000	
Assets forfeiture Fund (Incl. H.R. 2118 Supp.)	58,000,000	63,000,000	60,275,000	58,000,000	55,000,000	-3,000,000
Total, Legal activities	2,555,586,000	2,295,047,000	2,255,540,000	2,254,843,000	2,269,035,000	-286,551,000
Radiation Exposure Compensation						
Administrative expenses	2,722,000	2,722,000	2,586,000	2,668,000	2,668,000	-54,000
Payment to radiation exposure compensation trust fund	170,750,000	250,000				-170,750,000
Total	173,472,000	2,972,000	2,586,000	2,668,000	2,668,000	-170,804,000
Interagency Law Enforcement						
Organized crime drug enforcement	385,248,000	384,381,000	384,381,000	382,381,000	382,381,000	-2,867,000
Federal Bureau of Investigation						
Salaries and expenses (Incl. H.R. 2118 Supp.)	1,932,023,000	1,976,005,000	1,949,305,000	1,954,305,000	1,954,305,000	+22,282,000
Identification division automation	75,400,000	84,400,000	75,400,000	84,400,000	84,400,000	+9,000,000
Total	2,007,423,000	2,060,405,000	2,024,705,000	2,038,705,000	2,038,705,000	+31,282,000

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, FY 1994 Appropriations Bill (H.R. 2519) - Continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
Drug Enforcement Administration						
Salaries and expenses	718,684,000	731,639,000	718,684,000	727,161,000	722,000,000	+3,316,000
Diversion control fund	(12,000,000)	(42,123,000)	(42,123,000)	(42,123,000)	(42,123,000)	(+30,123,000)
Total budget authority available	(730,684,000)	(773,762,000)	(760,807,000)	(769,284,000)	(764,123,000)	(+33,439,000)
Immigration and Naturalization Service						
Salaries and expenses	965,000,000	1,094,052,000	1,059,000,000	1,048,538,000	1,048,538,000	+83,538,000
Immigration legalization fund	(8,281,000)	(2,248,000)	(2,248,000)	(2,248,000)	(2,248,000)	(-6,033,000)
Immigration user fund	(253,608,000)	(255,016,000)	(255,016,000)	(255,016,000)	(305,016,000)	(+51,408,000)
Land border inspection fund	(4,000,000)	(4,094,000)	(17,094,000)	(17,094,000)	(17,094,000)	(+13,094,000)
Immigration examinations fund	(337,415,000)	(347,529,000)	(347,529,000)	(347,529,000)	(347,529,000)	(+10,114,000)
Breached bond fund	(5,000,000)	(5,900,000)	(5,900,000)	(5,900,000)	(5,900,000)	(+900,000)
Immigration Emergency Fund		6,000,000			6,000,000	+6,000,000
Total budget authority available	(1,573,304,000)	(1,714,839,000)	(1,686,787,000)	(1,676,325,000)	(1,732,325,000)	(+159,021,000)
Federal Prison System						
Salaries and expenses	1,681,822,000	1,988,003,000	1,950,000,000	1,971,615,000	1,950,000,000	+268,178,000
Prior year carryover	(40,000,000)					(-40,000,000)
Transfer of excess criminal fines	(63,000,000)					(-63,000,000)
Offsetting fee collections		(48,360,000)	(48,360,000)	(48,360,000)	(48,360,000)	(+48,360,000)
Total budget authority available	(1,784,822,000)	(2,036,363,000)	(1,998,360,000)	(2,019,975,000)	(1,998,360,000)	(+213,538,000)
Proposed fees, offsetting receipts	-48,360,000					+48,360,000
National Institute of Corrections	10,250,000	10,211,000	10,211,000	9,995,000	10,211,000	-39,000
Buildings and facilities (incl. H.R. 2118 Supp.)	194,225,000	276,850,000	175,000,000	351,850,000	269,543,000	+75,318,000
Transfer from assets forfeiture fund			20,000,000			
Subtotal	194,225,000	276,850,000	195,000,000	351,850,000	269,543,000	+75,318,000
Federal Prison Industries, Incorporated (limitation on administrative expenses)	(3,181,000)	(3,395,000)	(3,100,000)	(3,395,000)	(3,395,000)	(+214,000)
Total	1,837,937,000	2,275,064,000	2,155,211,000	2,333,460,000	2,229,754,000	+391,817,000
Total, Department of Justice	9,663,372,000	9,839,212,000	9,449,351,000	9,668,002,000	9,578,895,000	-84,477,000
(Limitation on administrative expenses)	(3,181,000)	(3,395,000)	(3,100,000)	(3,395,000)	(3,395,000)	(+214,000)
RELATED AGENCIES						
Commission on Civil Rights						
Salaries and expenses	7,776,000	7,923,000	7,565,000	7,923,000	7,776,000	
Equal Employment Opportunity Commission						
Salaries and expenses	222,000,000	234,845,000	230,000,000	227,305,000	230,000,000	+8,000,000
Federal Communications Commission						
Salaries and expenses (incl. H.R. 2118 Supp.)	140,000,000	129,889,000	129,889,000	129,889,000	99,900,000	-40,100,000
Offsetting fee collections		(16,105,000)			(60,400,000)	(+60,400,000)
Total budget authority available	(140,000,000)	(145,994,000)	(129,889,000)	(129,889,000)	(160,300,000)	(+20,300,000)
Federal Maritime Commission						
Salaries and expenses	18,300,000	19,450,000	18,383,000	19,450,000	18,900,000	+600,000
Federal Trade Commission						
Salaries and expenses	69,650,000	71,740,000	69,740,000	69,740,000	67,920,000	-1,730,000
Offsetting fee collections	(16,900,000)	(17,275,000)	(19,000,000)	(19,000,000)	(20,820,000)	(+3,920,000)
Total budget authority available	(86,550,000)	(89,015,000)	(88,740,000)	(88,740,000)	(88,740,000)	(+2,190,000)
National Commission to Support Law Enforcement						
Salaries and expenses			500,000		500,000	+500,000
Securities and Exchange Commission						
Salaries and expenses (incl. H.R. 2118 Supp.)	115,535,000	57,856,000	57,856,000	57,856,000	57,856,000	-57,679,000
Offsetting fee collections - new	(96,000,000)			(172,000,000)	(171,621,000)	(+75,621,000)
Offsetting fee collections - carryover	(30,000,000)			(31,238,000)	(30,840,000)	(+840,000)
Investment Advisor Fee		16,587,000				
Investment advisor fee offsetting receipt		-16,587,000				
Special Fund (Registration Fees)		180,000,000				
Offsetting receipts		-180,000,000				
Total budget authority available	(241,535,000)	(57,856,000)	(57,856,000)	(261,094,000)	(260,317,000)	(+18,782,000)

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, FY 1994 Appropriations Bill (H.R. 2519) - Continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
State Justice Institute						
Salaries and expenses 1/	13,550,000	20,000,000	13,550,000	13,000,000	13,550,000	
Total, related agencies	586,811,000	541,703,000	527,483,000	525,163,000	496,402,000	-90,409,000
Total, title I, Department of Justice and related agencies	10,250,183,000	10,380,915,000	9,976,834,000	10,193,165,000	10,074,797,000	-175,386,000
(Limitation on administrative expenses)	(3,181,000)	(3,395,000)	(3,100,000)	(3,395,000)	(3,395,000)	(+214,000)
TITLE II - DEPARTMENT OF COMMERCE						
National Institute of Standards and Technology						
Scientific and technical research and services	192,940,000	240,988,000	210,000,000	240,988,000	226,000,000	+33,060,000
(Transfer out)					-1,500,000	-1,500,000
Industrial technology services	86,067,000	232,524,000		232,524,000	232,524,000	+146,457,000
Construction of research facilities	105,000,000	61,686,000		61,686,000	61,686,000	-43,314,000
Total	384,007,000	535,198,000	210,000,000	535,198,000	518,710,000	+134,703,000
National Oceanic and Atmospheric Administration						
Operations, research & facilities (inc. HR 2118 Supp)	1,519,872,000	1,757,672,000	1,650,000,000	1,685,000,000	1,694,753,000	+174,881,000
(By transfer from Promote and Develop Fund)	(55,000,000)	(61,400,000)	(55,544,000)	(54,000,000)	(54,800,000)	(-200,000)
(By transfer from Damage assessment & restoration revolving fund, permanent)		1,500,000	1,500,000	1,500,000	1,500,000	+1,500,000
(Damage assessment & restoration revolving fund)	-17,506,000	-1,500,000	-1,500,000	-1,500,000	-1,500,000	+16,006,000
Total	1,502,366,000	1,757,672,000	1,650,000,000	1,685,000,000	1,694,753,000	+192,387,000
Construction	94,500,000	79,063,000	89,775,000	109,703,000	109,703,000	+15,203,000
Fleet modernization, shipbuilding and conversion	30,000,000	23,064,000	23,064,000	77,064,000	77,064,000	+47,064,000
Aircraft procurement and modernization				46,000,000	43,000,000	+43,000,000
Fishing vessel obligations guarantee	470,000		459,000	459,000	459,000	-11,000
Fishing vessel and gear damage fund	1,306,000	1,335,000	1,273,000	1,273,000	1,273,000	-33,000
Fishermen's contingency fund	1,025,000	1,051,000	999,000	999,000	999,000	-26,000
Foreign fishing observer fund	565,000	564,000	550,000	550,000	550,000	-15,000
Total, National Oceanic and Atmospheric Administration	1,630,232,000	1,862,749,000	1,766,120,000	1,921,048,000	1,927,801,000	+297,569,000
General Administration						
Salaries and expenses	31,712,000	38,042,000	33,042,000	31,712,000	33,042,000	+1,330,000
Office of Inspector General	15,805,000	18,381,000	15,860,000	16,500,000	16,000,000	+195,000
Working capital fund (transfer in)					1,500,000	+1,500,000
Total	47,517,000	56,423,000	48,902,000	48,212,000	50,542,000	+3,025,000
Bureau of the Census						
Salaries and expenses	123,955,000	140,798,000	131,170,000	128,286,000	128,286,000	+4,331,000
Periodic censuses and programs	173,300,000	130,918,000	110,000,000	120,084,000	110,000,000	-63,300,000
Total	297,255,000	271,716,000	241,170,000	248,370,000	238,286,000	-58,969,000
Economic and Statistical Analysis						
Salaries and expenses	39,353,000	49,802,000	45,220,000	45,220,000	45,220,000	+5,867,000
International Trade Administration						
Operations and administration	213,851,000	246,333,000	221,445,000	251,103,000	248,590,000	+34,739,000
Export Administration						
Operations and administration	41,015,000	34,747,000	34,747,000	34,747,000	34,747,000	-6,268,000
Minority Business Development Agency						
Minority business development	37,889,000	45,381,000	38,362,000	43,381,000	42,100,000	+4,211,000
United States Travel and Tourism Administration						
Salaries and expenses	15,608,000	20,298,000		20,298,000	17,120,000	+1,512,000
Proposed fees, offsetting receipts	-3,000,000	-3,000,000		-3,000,000	-3,000,000	
Patent and Trademark Office						
Salaries and expenses	86,672,000	103,000,000	88,329,000	88,329,000	88,329,000	+1,657,000
Technology Administration						
Salaries and expenses	4,450,000	5,425,000	4,500,000	6,000,000	5,700,000	+1,250,000
National Technical Information Service						
NTIS revolving fund	8,000,000					-8,000,000
National Telecommunications and Information Administration						
Salaries and expenses	17,900,000	21,927,000	18,927,000	20,927,000	19,927,000	+2,027,000
Public telecommunications facilities, planning and construction	21,320,000	20,636,000	20,254,000	28,000,000	24,000,000	+2,680,000

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, FY 1994 Appropriations Bill (H.R. 2519) - Continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
Endowment for Children's Educational Television	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	
Information infrastructure grants		51,000,000	21,746,000	31,000,000	26,000,000	+26,000,000
Total	40,220,000	94,563,000	61,927,000	80,927,000	70,927,000	+30,707,000
Economic Development Administration						
Economic dev. assistance programs (inc. H.R. 2667 Supp)	417,000,000	223,150,000		242,642,000	322,642,000	-94,358,000
Defense Economic Adjustment Community Assistance				80,000,000		
Salaries and expenses	26,243,000	30,151,000	26,284,000	30,151,000	28,000,000	+1,757,000
Administrative expenses	875,000					-875,000
Total	444,118,000	253,301,000	26,284,000	352,793,000	350,642,000	-93,476,000
Total, Department of Commerce	3,287,187,000	3,575,936,000	2,787,006,000	3,672,626,000	3,635,714,000	+348,527,000
(By transfer)	(55,000,000)	(61,400,000)	(55,544,000)	(54,000,000)	(54,800,000)	(-200,000)
TITLE III - THE JUDICIARY						
Supreme Court of the United States						
Salaries and expenses:						
Salaries of justices	1,601,000	1,641,000	1,616,000	1,616,000	1,616,000	+15,000
Other salaries and expenses	20,685,000	22,934,000	20,710,000	21,601,000	21,384,000	+699,000
Total	22,286,000	24,575,000	22,326,000	23,217,000	23,000,000	+714,000
Care of the building and grounds	3,320,000	3,120,000	2,699,000	2,983,000	2,850,000	-470,000
Total, Supreme Court of the United States	25,606,000	27,695,000	25,025,000	26,200,000	25,850,000	+244,000
United States Court of Appeals for the Federal Circuit						
Salaries and expenses:						
Salaries of judges	1,714,000	1,755,000	1,727,000	1,727,000	1,727,000	+13,000
Other salaries and expenses	9,840,000	13,357,000	11,400,000	10,468,000	11,173,000	+1,333,000
Total	11,554,000	15,112,000	13,127,000	12,195,000	12,900,000	+1,346,000
United States Court of International Trade						
Salaries and expenses:						
Salaries of judges	1,307,000	1,358,000	1,331,000	1,331,000	1,331,000	+24,000
Other salaries and expenses	9,038,000	10,904,000	9,769,000	9,387,000	9,669,000	+631,000
Total	10,345,000	12,262,000	11,100,000	10,718,000	11,000,000	+655,000
Courts of Appeals, District Courts, and Other Judicial Services						
Salaries and expenses:						
Salaries of judges	165,777,000	174,921,000	172,131,000	172,131,000	172,131,000	+6,354,000
Other salaries and expenses	1,813,223,000	2,252,519,000	2,017,000,000	1,898,269,000	1,983,869,000	+170,646,000
Offsetting fee collections					(12,800,000)	(+12,800,000)
Total budget authority available	(1,979,000,000)	(2,427,440,000)	(2,189,131,000)	(2,070,400,000)	(2,168,800,000)	(+189,800,000)
Vaccine Injury Compensation Trust Fund	2,075,000	2,172,000	2,063,000	2,075,000	2,160,000	+85,000
Defender services (Incl. H.R. 2118 Supp.)	270,121,000	387,268,000	297,252,000	286,170,000	280,000,000	+9,879,000
Fees of jurors and commissioners (Inc. HR 2118 Supp)	74,320,000	79,095,000	77,095,000	77,095,000	77,095,000	+2,775,000
Court security	81,253,000	105,965,000	84,500,000	80,952,000	86,000,000	+4,747,000
Total, Courts of Appeals, District Courts, and Other Judicial Services	2,406,769,000	3,001,940,000	2,650,041,000	2,516,692,000	2,601,255,000	+194,486,000
Administrative Office of the United States Courts						
Salaries and expenses	45,100,000	57,553,000	44,612,000	43,358,000	44,900,000	-200,000
Federal Judicial Center						
Salaries and expenses	17,500,000	20,453,000	18,467,000	18,296,000	18,450,000	+950,000
Judicial Retirement Funds						
Payment to Judiciary Trust Funds	8,520,000	20,545,000	20,545,000	20,545,000	20,545,000	+12,025,000
National Commission on Judicial Discipline and Removal						
Salaries and expenses	443,000					-443,000
United States Sentencing Commission						
Salaries and expenses	9,000,000	9,000,000	8,468,000	8,474,000	8,468,000	-532,000
Total, title III, the Judiciary	2,534,837,000	3,164,560,000	2,791,385,000	2,656,478,000	2,743,368,000	+208,531,000

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, FY 1994 Appropriations Bill (H.R. 2519) - Continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE IV - RELATED AGENCIES						
Department of Transportation						
Maritime Administration						
Operating-differential subsidies (liquidation of contract authority)	(225,000,000)	(240,870,000)	(240,870,000)	(240,870,000)	(240,870,000)	(+15,870,000)
Operations and training	71,736,000	80,081,000	76,423,000	76,423,000	76,423,000	+4,687,000
Ready reserve force: Maintenance, Operations, and facilities	240,500,000	140,000,000	140,000,000	138,000,000	138,000,000	-102,500,000
Fleet addition	200,000,000	160,000,000	160,000,000	160,000,000	160,000,000	-40,000,000
Total, Ready reserve force	440,500,000	300,000,000	300,000,000	298,000,000	298,000,000	-142,500,000
Military useful vessel obligation guarantees:						
Guaranteed loans subsidy	48,000,000					-48,000,000
Administrative expenses	4,000,000					-4,000,000
Total, Military useful vessel obligation guarantees	52,000,000					-52,000,000
Total, Maritime Administration	564,236,000	380,081,000	376,423,000	374,423,000	374,423,000	-189,813,000
Christopher Columbus Quincentenary Jubilee Commission						
Salaries and expenses	200,000					-200,000
Commission on Agricultural Workers						
Salaries and expenses	578,000					-578,000
Commission on Immigration Reform						
Salaries and expenses	300,000	1,452,000	900,000	500,000	618,000	+318,000
(By transfer)					(500,000)	(+500,000)
Commission on Security and Cooperation in Europe						
Salaries and expenses	1,102,000	1,099,000	1,047,000	1,099,000	1,099,000	-3,000
Competitiveness Policy Council						
Salaries and expenses	1,223,000	1,200,000	1,140,000	1,140,000	1,140,000	-83,000
Marine Mammal Commission						
Salaries and expenses	1,260,000	1,290,000	1,226,000	1,290,000	1,290,000	+30,000
Martin Luther King, Jr. Federal Holiday Commission						
Salaries and expenses	300,000	302,000	300,000	500,000	500,000	+200,000
Office of the United States Trade Representative						
Salaries and expenses (Incl. H.R. 2118 Supp.)	20,492,000	20,143,000	21,318,000	20,143,000	20,600,000	+108,000
Small Business Administration						
Salaries and expenses	246,800,000	227,494,000	243,326,000	215,000,000	258,900,000	+12,100,000
Office of Inspector General	8,300,000	9,454,000	7,962,000	7,962,000	7,962,000	-338,000
Business Loans Program Account:						
Direct loans subsidy	20,479,000	21,032,000	22,994,000	21,032,000	16,946,000	-3,533,000
Guaranteed loans subsidy (Incl. H.R. 2118 Supp.)	388,920,000	191,955,000	219,459,000	191,955,000	196,041,000	-192,879,000
Administrative expenses (Incl. H.R. 2667 Supp.)	107,101,000	99,723,000	94,737,000	94,737,000	94,737,000	-12,364,000
Total	516,500,000	312,710,000	337,190,000	307,724,000	307,724,000	-208,776,000
Disaster Loans Program Account:						
Direct loans subsidy (Incl. H.R. 2118 & 2667 Supps)	60,000,000	49,925,000	75,000,000	65,000,000		-60,000,000
Administrative expenses	78,000,000	80,106,000	76,101,000	76,101,000	76,101,000	-1,899,000
Subtotal	138,000,000	130,031,000	151,101,000	141,101,000	76,101,000	-61,899,000
Contingency fund (Incl. H.R. 2667 Supp.)	(95,000,000)			(75,000,000)	(140,000,000)	(+45,000,000)
Surety bond guarantees revolving fund	13,020,000	13,372,000	12,369,000	12,369,000	7,000,000	-6,020,000
Total, Small Business Administration	922,620,000	693,061,000	751,948,000	684,156,000	657,687,000	-264,933,000
Thomas Jefferson Commemoration Commission						
Salaries and expenses (Incl. H.R. 2118 Supp.)	100,000	200,000	62,000		62,000	-38,000
Legal Services Corporation						
Payment to the Legal Services Corporation 2/	357,300,000	525,515,000		349,000,000	400,000,000	+42,700,000
Total, Related agencies	1,869,711,000	1,624,343,000	1,154,364,000	1,432,251,000	1,457,419,000	-412,292,000
(Limitation on direct loans)						
(Limitation on guaranteed loans)						
(Liquidation of contract authority)	(225,000,000)	(240,870,000)	(240,870,000)	(240,870,000)	(240,870,000)	(+15,870,000)

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, FY 1994 Appropriations Bill (H.R. 2519) - Continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE V - DEPARTMENT OF STATE AND RELATED AGENCIES						
DEPARTMENT OF STATE						
Administration of Foreign Affairs						
Diplomatic and Consular Programs 3/		1,667,584,000	1,612,206,000	1,653,184,000	1,704,589,000	+1,704,589,000
Salaries and expenses 3/	2,134,000,000	506,416,000	481,416,000	455,816,000	396,722,000	-1,737,278,000
Registration fees	700,000	700,000	665,000	665,000	665,000	-35,000
Total	2,134,700,000	2,174,700,000	2,094,287,000	2,109,665,000	2,101,976,000	-32,724,000
Buying power maintenance	14,000,000	4,000,000	3,800,000	3,000,000		-14,000,000
Office of Inspector General	24,055,000	24,055,000	23,469,000	23,469,000	23,469,000	-586,000
Representation allowances	4,900,000	4,881,000	4,780,000	4,780,000	4,780,000	-120,000
Protection of foreign missions and officials	10,814,000	10,814,000	10,551,000	10,551,000	10,551,000	-263,000
Acquisition and maintenance of buildings abroad	570,500,000	420,500,000	381,481,000	410,000,000	410,000,000	-160,500,000
New Diplomatic posts	25,000,000					-25,000,000
Emergencies in the diplomatic and consular service	8,000,000	8,000,000	7,805,000	7,805,000	7,805,000	-195,000
Repatriation loans program account:						
Direct loans subsidy	624,000	624,000	186,000	593,000	593,000	-31,000
(Limitation on direct loans)	(780,000)	(780,000)				(-780,000)
Administrative expenses	193,000	193,000		183,000	183,000	-10,000
Total	817,000	817,000	186,000	776,000	776,000	-41,000
Payment to the American Institute in Taiwan	15,543,000	15,484,000	15,165,000	15,165,000	15,165,000	-378,000
Payment to the Foreign Service Retirement and Disability Fund	119,082,000	125,084,000	125,084,000	125,084,000	125,084,000	+6,002,000
Total, Administration of Foreign Affairs	2,927,411,000	2,788,335,000	2,666,608,000	2,710,295,000	2,699,606,000	-227,805,000
International Organizations and Conferences						
Contributions to international organizations	820,495,000	860,885,000		860,885,000	860,885,000	+40,390,000
Arrearage payments	92,719,000	97,719,000		44,041,000		-92,719,000
Arrearage payments, advance appropriation, FY 1995		163,016,000				
Total	913,214,000	1,121,620,000		904,926,000	860,885,000	-52,329,000
Contributions for international peacekeeping activities	438,323,000	597,744,000	401,607,000	422,744,000	401,607,000	-36,716,000
Arrearage payments	21,992,000	21,992,000	20,892,000	21,992,000		-21,992,000
Arrearage payments, advance appropriation, FY 1995		21,992,000				
Total	460,315,000	641,728,000	422,499,000	444,736,000	401,607,000	-58,708,000
International conferences and contingencies	5,600,000	6,600,000	5,463,000	6,600,000	6,000,000	+400,000
Total, International Organizations and Conferences	1,379,129,000	1,769,948,000	427,962,000	1,356,262,000	1,268,492,000	-110,637,000
International Commissions						
International Boundary and Water Commission, United States and Mexico:						
Salaries and expenses	11,330,000	11,330,000	11,054,000	11,330,000	11,200,000	-130,000
Construction	14,790,000	14,790,000	14,051,000	14,790,000	14,400,000	-390,000
American sections, international commissions	4,403,000	4,403,000	4,290,000	4,290,000	4,290,000	-113,000
International fisheries commissions	14,200,000	14,200,000	14,200,000	18,200,000	16,200,000	+2,000,000
Total	44,723,000	44,723,000	43,595,000	48,610,000	46,090,000	+1,367,000
Other						
United States Bilateral Science and Technology Agreements	4,500,000	4,500,000	4,275,000	4,275,000	4,275,000	-225,000
Payment to the Asia Foundation	16,693,000	16,693,000	16,287,000	15,000,000	16,000,000	-693,000
Russian, Eurasian, and East European research and training program	4,961,000					-4,961,000
Total	26,154,000	21,193,000	20,562,000	19,275,000	20,275,000	-5,879,000
Total, Department of State	4,377,417,000	4,624,199,000	3,158,727,000	4,134,442,000	4,034,463,000	-342,954,000
RELATED AGENCIES						
Arms Control and Disarmament Agency						
Arms control and disarmament activities	46,500,000	62,500,000	47,279,000	58,000,000	53,500,000	+7,000,000
Board for International Broadcasting						
Grants and expenses	220,000,000	220,000,000		206,000,000	210,000,000	-10,000,000
Israel Relay Station (rescission) & (H.R. 2118 Resc.)	-180,000,000		-180,000,000			+180,000,000
Commission for the Preservation of America's Heritage Abroad						
Salaries and expenses	200,000	200,000	200,000	200,000	200,000	

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, FY 1994 Appropriations Bill (H.R. 2519) - Continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
International Trade Commission						
Salaries and expenses	44,852,000	45,416,000	44,391,000	42,000,000	43,500,000	-1,352,000
Japan - United States Friendship Commission						
Japan - United States Friendship Trust Fund	1,250,000	1,250,000	1,250,000	1,250,000	1,250,000	
(Foreign currency appropriation)	(1,420,000)	(1,420,000)	(1,420,000)	(1,420,000)	(1,420,000)	
United States Information Agency						
Salaries and expenses	736,693,000	773,024,000	730,000,000	741,693,000	730,000,000	-6,693,000
Office of Inspector General	4,390,000	4,390,000	4,247,000	4,247,000	4,247,000	-143,000
Educational and cultural exchange programs	223,447,000	242,922,000	217,650,000	250,702,000	242,000,000	+18,553,000
Eisenhower Exchange Fellowship Program, trust fund	300,000	300,000	300,000	300,000	300,000	
Israeli Arab scholarship program	397,000	159,000	159,000	159,000	159,000	-238,000
Radio construction	103,647,000	103,620,000	75,164,000	57,620,000	75,164,000	-28,483,000
Broadcasting to Cuba	28,531,000	28,351,000		28,351,000	21,000,000	-7,531,000
East-West Center	26,000,000	26,000,000	23,000,000	26,000,000	26,000,000	
Russian Far East technical assistance center	2,000,000					-2,000,000
North/South Center	8,700,000		8,000,000		8,700,000	
National Endowment for Democracy	30,000,000	50,000,000		35,000,000	35,000,000	+5,000,000
Total	1,164,105,000	1,228,766,000	1,058,520,000	1,144,072,000	1,142,570,000	-21,535,000
Total, related agencies	1,296,907,000	1,558,132,000	971,640,000	1,451,522,000	1,451,020,000	+154,113,000
Total, title V, Department of State and related agencies	5,674,324,000	6,182,331,000	4,130,367,000	5,585,964,000	5,485,483,000	-188,841,000
Grand total	23,616,242,000	24,928,085,000	20,839,956,000	23,540,484,000	23,396,781,000	-219,461,000
Fiscal year 1994	(23,616,242,000)	(24,743,077,000)	(20,839,956,000)	(23,540,484,000)	(23,396,781,000)	(-219,461,000)
Fiscal year 1995		(185,008,000)				
(By transfer)	(55,000,000)	(61,400,000)	(55,544,000)	(54,000,000)	(55,300,000)	(+300,000)
(Limitation on administrative expenses)	(3,181,000)	(3,395,000)	(3,100,000)	(3,395,000)	(3,395,000)	(+214,000)
(Limitation on direct loans)	(780,000)	(780,000)				(-780,000)
(Liquidation of contract authority)	(225,000,000)	(240,870,000)	(240,870,000)	(240,870,000)	(240,870,000)	(+15,870,000)
(Foreign currency appropriation)	(1,420,000)	(1,420,000)	(1,420,000)	(1,420,000)	(1,420,000)	

1/ The State Justice Institute is authorized to submit its budget directly to Congress. The President's budget proposes elimination of the Institute.

2/ The Legal Services Corporation is authorized to submit its budget request directly to Congress. The President's budget includes $432,000,000 for the Corporation. Includes H.R. 2667 Supp.H.R. 2667 Supp.

3/ The President's budget included this request in a combined Salaries and expenses account which totaled $2,174,000,000.

Mr. SMITH of Iowa. Mr. Speaker, a number of questions have been raised on the intent of the conferees regarding the appropriations for the U.S. Information Agency educational and cultural exchange programs account.

The House proposed an appropriation of $217,650,000 for this USIA appropriation account and provided 95 percent of adjusted current services for programs. The House allowance also assumed that Freedom Support Act exchange programs that had been previously funded by the Foreign Operations, Export Financing, and Related Programs Appropriations Act should continue to be funded by that act. The House report did not provide a table detailing recommended funding levels for each program.

The Senate version of H.R. 2519 provided $250,702,000 for the educational and cultural exchange programs account and Senate Report 103–105 on pages 115 and 116 provided a table that provides recommended funding levels by exchange program. The Senate also concurred with the House and deleted funding requested by the administration for Freedom Support Act exchanges. Finally, and most importantly, the Senate recommended that $19,255,000 in exchange support costs be supported from within funds provided for the educational and cultural exchange program account.

The conferees agreed to provide $242,000,000 for the educational and cultural exchange programs account, but did not provide a table detailing recommendations by exchange program. The conferees did, however, note that increases should be provided for the following programs; the International Visitor Program, the Fulbright and other academic programs—to include Vietnamese student exchanges and CAMPUS—the Claude and Mildred Pepper Scholarship Program, various new exchange programs—to include the Mike Mansfield Fellowship Program and exchanges for Pacific Island nations in the Western and South Pacific, if authorized—the American Studies Program—if authorized, and the Humphrey Fellowship. This approach was taken because the House felt that we should provide flexibility to the Director of USIA in the funding levels for various exchanges, and that the USIA should submit a reprogramming proposal to the House and Senate Appropriations Committees.

Mr. Speaker, unfortunately the Statement of Managers inadvertently omitted to mention that the conferees had also agreed to include exchange support costs within the educational and cultural exchange programs appropriation account. It is my belief that the reprogramming that USIA sends to us should include at least $13 million for exchange support costs.

I hope that this statement clears up any confusion regarding the conferees intent.

Mr. KANJORSKI. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think the gentleman made the point. I think we have to assist countries like Albania, but can the Members tell me anything that disallows the State Department of the United States to enter into a contract with an agency such as the Endowment for Democracy that could not provide funds for countries like Albania? Why does this have to be a direct earmarked amount of money that has been unaccountable to the Congress or to the President or to the State Department?

Mr. SMITH of Iowa. Will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. It is not unaccountable, I would say to the gentleman.

Mr. KANJORSKI. If it is accountable, does the chairman of the subcommittee know all the consultants? Does the chairman know all the people that have used money to travel including Members of the House and Senate?

Mr. SMITH of Iowa. If the gentleman will continue to yield, in the first 2 years when the NED set up there were some abuses. I do not think they have had those abuses since. In the first 2 years they could not make the grants because there were not institutions that could take the funds and use them wisely. The NED made the grants too fast, but that is not going on now.

Mr. KANJORSKI. I would ask the gentleman, is there any reason why the same activities carried on in Albania could not be carried on through contract arrangements with the State Department, and without a direct earmark to the Endowment for Democracy?

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in strong support of the committee position on the National Endowment for Democracy.

Mr. Speaker, I rise in opposition to the Kanjorski amendment, which would insist on the House position eliminating funding for the National Endowment for Democracy.

I oppose the Kanjorski amendment because the Endowment and its four core grantees—the National Democratic Institute, the International Republican Institute, the Center for International Private Enterprise and the Free Trade Union Institute—provide the best kind of aid the United States can provide. They export democracy.

I know. I have seen the Endowment's work.

In April, as a member of the Appropriation Committee's Subcommittee on Foreign Operations, I participated in the leadership's study mission to Russia and Ukraine. When our delegation arrived in Kiev, in Ukraine, we were met by Sarah Farnsworth, who heads a two-person National Democratic Institute team in Kiev.

Sarah, a young political organizer from the United States, told us that her job in Ukraine is to teach Ukranians how to run a modern democracy. She advises political parties and local officials. She works with city councils and with the Ukranian parliament.

And every Ukranian we talked to told us how important her work is. After all, Ukraine is a new democracy and after decades under the Soviet boot, Ukranians need American know-how to help them make democracy work.

Sarah's work is typical of programs the National Endowment for Democracy Funds throughout the world.

In Cambodia, the National Democrat and Republican Institutes worked to organize the first democratic elections ever held in that country. Young Americans spent a year living in Cambodia, risking their lives to give the people of that country a chance for peace and democracy after decades of war and genocide.

In Russia, the National Democratic Institute is working with Russian television, civic organizations, and political parties to promote voter education and participation in the election scheduled for December. Recent events in Russia demonstrate just how essential such United States-Russian cooperation is if real democracy is to take hold.

In South Africa, the National Democratic and Republican Institutes are there helping to organize next April's election which will lead to the establishment of a democratic South Africa and the dismantling of apartheid.

In short, the Endowment and its core grantees, are all over the world helping to create that new world order we talk about so much.

It is inconceivable that we would cut funding for a program that has done so much to build democracy in places that have never known democracy

The National Endowment for Democracy deserves our support. It is one Government agency that would make Thomas Jefferson proud.

Defeat this amendment.

Mr. BERMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, I rise to join Presidents Clinton, Bush, Reagan, Carter, Ford, and Nixon, and many colleagues in support for $35 million for the National Endowment for Democracy.

I can personally attest to the importance and effectiveness of NED-funded activities, having participated in a number of programs of the National democratic Institute [NDI]. NDI is a core grantee of the NED, as is the National Republican Institute [NRI].

In 1988, I served as a member of the bipartisan international observer delegation to the historic presidential plebiscite which led to the defeat of General Pinochet. That delegation was led by Bruce Babbitt and former President Adolfo Suarez of Spain. NDI's program and other NED-funded activities provided timely support to Chile's free elections movement which spearheaded the country's return to democracy after 16 years of brutal dictatorship.

In 1990, I participated in bipartisan political development programs in Hungary and Czechoslovakia in preparation for their first multiparty elections in nearly 50 years. As Vaclav Havel has noted, NDI was one of the first supporting actors in the democratic resolution in the Czech and Slovak Republics and contributed significantly to the country's first free elections.

From my experience, the success of NED-funded programs in these three countries alone would have justified the Endowment's entire worldwide budget. Today, requests for assistance from democratic leaders overseas far outstrip the Endowment's modest resources.

I have witnessed the importance of these highly innovative democratic development programs and believe that they represent a convergence of the moral and strategic interests of the United States. The promotion of democracy and human rights not only reflects the best values of our country, but serves our strategic interests by promoting a more peaceful world.

I urge my colleagues to adopt the motion and support this valuable program.

□ 1410

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER], a very valued member of our committee.

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, the debate today over NED funding is, part of a larger debate that has gained momentum as the cold war recedes into the past, a debate over the direction that America will play in the coming years in promoting its interests overseas.

Will we turn inward or look outward? History tells us that retreating inward is a shortsighted and ultimately destructive path for our Nation. In an increasingly linked and interdependent world, it is in our national interest that we take every opportunity to project our values outward—to peoples beyond our shores.

We must use tools other than diplomacy or the force of arms to ensure that communism does not reemerge in nations that have only recently shaken its yoke and is buried in the nations where it remains—including China, Cuba, Vietnam, and North Korea. Those tools include VOA and the surrogate radio RFE, RL, RFA, and yes NED. NED is in fact one of the best tools we have to project our Nation's values—human rights, rule of law, democratic institutions and a market oriented economy and it deserves our support.

NED has been criticized for providing grants to labor and business, Republicans and Democrats. From a political standpoint this approach gives everyone something to dislike about the activities of NED. It seems to me, however, that the activities funded by NED accurately reflect the very diversity of our Nation that we are trying to promote in countries whose institutions have been monolithic and centrally controlled for generations. Our goal as a nation—and de Tocqueville would not be surprised to see America promoting this concept—is to foster a wealth of institutions, both public and private, in emerging democracies. We have done it here at home and these institutions are the backbone of our pluralistic system. It is in our best interests to help other nations develop alternatives to central planning. NED is serving a vital national need that we should be supporting now more than ever. I hope that Members will recognize that cementing the gains we have made during the cold war is essential to our own future prosperity and support the conference report funding for NED.

Mr. BERMAN. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I oftentimes come to the floor to encourage my colleagues to vote against the space station, to vote against the advanced solid rocket motor, and to try to lead efforts to reform Congress. In the spirit of all three of those things, I encourage my colleagues today to support the reforms that we are making in the National Endowment for Democracy, and we are making those reforms.

There are three reasons why we should support the gentleman from California [Mr. BERMAN] in his efforts. First of all, the world is changing and we must respond to those changes. Who would have imagined 5 years ago that Mr. Mandela and Mr. de Klerk would be awarded the Nobel Peace Prize? Who would have imagined many of us would have viewed or had an opportunity to see Mr. Arafat and Mr. Rabin shake hands on the White House lawn? We must respond to those efforts of peace in the world.

Second, we need to be proactive. We have spent hours of debate over the few weeks on Haiti and Somalia. Let us be proactive so as not to get into those situations, and the National Endowment for Democracy can help us not become engulfed in those situations.

Finally, we have reformed this program. We have gone down from your vote a few months ago, from $48 to $35 million. And we have come up with better auditing and accounting principles to account for money spent in this program.

I encourage my colleagues, with a tough vote, to support the National Endowment for Democracy.

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from New York [Mr. GILMAN], the ranking Republican on the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I am pleased to rise in strong support for the funding contained in this appropriations conference report for the National Endowment for Democracy. I commend the leadership of the House conferees, specifically the chairman of the Subcommittee on Commerce, Justice, State and Judiciary Subcommittee, the gentleman from Iowa [Mr. SMITH] and the gentleman from Kentucky [Mr. ROGERS], the ranking Republican member, and the gentleman from California [Mr. BERMAN] who serves on our Foreign Affairs Committee for their efforts to continue funding for this important tool of our Nation's foreign policy.

As recent events have dramatized, no single foreign policy challenge facing the United States today in the postcold war era is of greater importance than helping the former States of the Soviet Union and other countries as they make the transition to democracy. This is a long and difficult process. Many of these countries remain in turmoil and will for years to come. A return to authoritarian order would impose a threat to our national interests and to the prospects for a peaceful world.

That is why it is so important to assist those who are trying to build democracy in the successor States of the Soviet Union, and the other courageous countries who share our values. If they succeed, it will serve American interests. It will mean lower defense costs, more stable trading partners, fewer refugees who must flee tyranny, and a more stable world.

Cementing this stability is one of the best arguments for continuation of the National Endowment for Democracy. It is a cost effective program that seeks to help people organize to meet the challenges of managing and running democratic governments. Establishing democratic institutions is often a matter of breaking new ground and, therefore, requires the kind of reliable support provided by NED. Withdrawing from these commitments, and the programs the organizations and its grantees already have underway would undermine the goals which we all seek.

We are reorienting our priorities in the post-cold-war era. Our Nation's emphasis is one of supporting the transition to democratic governments and to securing our national interests by creating the environment for a politically, and economically stable world. NED is our frontline force to carry out these policies. Accordingly, I urge my colleagues to reject any effort to cut funding for the National Endowment for Democracy and agree to recede and concur in the Senate amendment.

As the Wall Street Journal editorialized yesterday, October 20, 1993:

> It's abundantly obvious that many emerging nations need help in constructing democratic institutions (the U.S. hardly got it right overnight) and a vote to support the Endowment would show that the House recognizes that fact.

Mr. ROGERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in strong support of the National Endowment for Democracy.

Mr. Speaker, I would like to express my support for the appropriation for the National Endowment for Democracy and ask my colleagues to reverse the House's decision and join me in support of this vital program. This vote will be one that our children and grandchildren will look back upon as one that decided whether the United States would offer support to countries trying to develop democratic systems.

Mr. Speaker, we all rejoiced when Boris Yeltsin was victorious in his confrontation with the Communist-era Supreme Soviet. Yet for that victory to mean anything, the Russian parliamentary elections scheduled for December must be free and fair and elect a parliament committed to reform and democracy. Shouldn't the United States provide some assistance to the pro-democracy candidates and parties? The National Endowment for Democracy is the best—and in many cases the only—way to provide this assistance. Or are we willing to see an election where the neo-Communists, Fascists, and ultra-nationalists have the organizational advantage? It would be a bitter irony indeed, if the forces loyal to Rutskoi and Khasbulatov could win this election because they had a better political machine than the democratic reformers.

The National Endowment for Democracy was developed during the cold war, and played an important role in ending communism. Yet it is still vitally important in consolidating that victory. It is still an open question whether these formerly Communist countries will become democracies or disintegrate into ethnic civil wars. If you would prefer to send trade missions overseas rather than peacekeeping troops, support the NED. It is important.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

□ 1420

Mr. HOYER. I thank the gentleman for yielding this time to me. I thank the gentleman from California, [Mr. BERMAN], chairman, of the subcommittee, as well as the chairman of the committee, the gentleman from Iowa, [Mr. SMITH].

I rise in very, very strong support of the committee's action. The $35 million to further democracy is certainly one of the best investments we will make this year. As you have heard the gentlewoman from California say, every living President, Republican and Democratic, supports NED. Why? Because they have confronted firsthand the challenge of enshrining and furthering democracy around the world, which is in the best interest of every American and it is in the best interest of international stability and security.

This is one, as I said before, of the best investments we will make this year. We ought not to shrink from the world, we ought to engage it.

I would respond to my friend from Pennsylvania [Mr. KANJORSKI] when he implies that the Democratic Party and the Republican Party are somehow special interests—they are indeed in the general interest. The parties have philosophical differences, but something that they have in common with one another is a belief in democracy, in freedom, and in justice. And it is together, because that is our common interest and our common cause.

We go abroad and we encourage those who reach for freedom, who reach for democracy, who reach for the dream that they call American democracy, as Vaclev Havel said on this floor to a joint session. We reach out to them not in a partisan sense but in an American sense. That is why this program engages both parties.

Then, yes, we have differences. Labor and business have differences, they have different perspectives; but a perspective that they share in common is that democracy leads to the welfare of all of us and leads to the welfare of both labor and of business. That is why I suggest to my friend from Pennsylvania that we have adopted a program that brings together the partisans in this country, business and labor, to say that while we have differences, it is not on the importance of furthering democracy in this globe. I believe that we ought to support this program as strongly as possible.

Mr. Speaker, I would be glad to yield to the gentleman from Pennsylvania [Mr. KANJORSKI] on his time, as I do not have any time remaining.

Mr. KANJORSKI. Mr. Speaker, I rise today in strong support of the National Endowment for Democracy.

This is a program that works and that we need to have continue with its work. It is a program strongly supported by our President and by two former Presidents. It is a program vigorously supported by Presidents of foreign countries who have come to power through democratic means and who are now in need of America's help in building democratic institutions.

Mr. Speaker, it is true that we are witness to an unprecedented era of democratization across the globe and that more people are living more freely than ever before. But the sad truth is that the clear majority of the member States in the United Nations lack even the superficial trappings of the rule of law based on justice. Even in places where progress has apparently been achieved, events in Moscow are a stark reminder of just how very fragile progress may be. Mr. Speaker, to vote against NED would destroy an organization that has actively and constructively furthered democracy worldwide and seriously cripple a major U.S. foreign policy objective to shore up democracies worldwide. The fact is we have spent hundreds of billions of dollars on defense and on arming other countries in the name of making the world safe for democracy—how can we now—with the wave of the future surely being one of democracy, not invest $35 million to solidify our gains and ultimately ensure their success. Why now, at the very moment when we are perched on the threshold of realizing the sacrifices we have made as a Nation and a people in the name of democracy, human rights, and freedom, would we stop a program specifically mandated to help groups construct and build upon the democratic gains already made. Frankly, Mr. Speaker, NED is needed more now than ever before.

As cochairman of the Commission on Security and Cooperation in Europe, I am particularly familiar with NED's work in East-Central Europe and in Russia. Nobody needs to be reminded of the sweeping changes we have seen in those regions—changes that continue to impress and inspire. But while communism seemed to collapse overnight, democracy will take years to secure, and while NED's assistance has directly contributed to the democratic changes that have already taken place in East-Central Europe and in Russia, I want to stress that NED's continuing assistance will be vital to ensure that democracy survives.

Mr. Speaker, how can we seriously speak of denying tools by which to construct their democratic future to those very people and groups who look to the United States and its arsenal of democracy as a beacon of hope—and of what can be. Are we prepared to say to these people that having won the cold-war we are no longer interested in ensuring democratic systems and maintaining peace and stability. This is not only short-sighted, it will in the long run undermine all our successes.

Across the former Soviet Union, all but one of the newly independent states has an ex-Communist as its president. Gradually we have seen the restoration of the old elite. This is not good news for the long-term prospects for democracy. Azerbaijan and Armenia remain locked in battle in one of the bloodiest and longest running conflicts in the former Soviet Union. In the past year, thousands in Georgia have been killed and many more have become refugees in the war with Abkhazia. Georgia's defeat several weeks ago and the fall of the Abkhaz capital, to Abkhaz forces aided by Russians and northern Caucasians, have inaugurated a new stage in the multiple crises that have bedeviled this beautiful country. The fact is, Mr. Speaker, we have yet to read the final chapter on democratization. If we refuse to assist fledgling democracies we will have dictated a better ending to a peace that could have yielded institutions to protect and promote human rights.

Mr. Speaker, if there is a cost-saving mechanism this is it. It is an investment in our future and in America's security. For a small amount today, we can in the long-term save literally billions of dollars. The reason is simple: democracies do not go to war with other democracies, democracies attempt to resolve conflicts in peaceful ways, democracies make valuable trading partners, and democracies honor the rights of its citizens. Today, we are asked to make a small investment in people and programs that can yield extraordinary dividends in years to come if we keep the vision within sight. The real fact is that we cannot afford the failure of those groups, individuals and programs that NED supports. It is in our national interests that democracy be actively promoted abroad.

Just in the past year NED has provided assistance in almost 80 countries—in Africa, Asia, Europe, Latin America and the Middle East. It has supported women's leadership conferences, election monitoring activities, political party training programs, grassroots participation and technical assistance to local governments, political parties, parliaments, businesses and civic groups. Our support for NED has been a small investment that has already delivered a tremendous return and promises much more.

Mr. Speaker, I understand my colleagues' concern that NED's funds be carefully and comprehensively accounted for and spent wisely. Certainly, we all have a responsibility to ensure that taxpayer dollars are responsibly spent. The fact is that NED has already increased internal auditing to ensure that its resources are used as cost-effectively as possible. Frankly, killing the endowment will send a terrible signal to the numerous democratic organizations that depend on NED for assistance. It will send a terrible signal to the brave individuals around the world who rely on NED's commitment to democracy. It will send a terrible signal to the fledgling democracies at a time when they need our determined support. In short, it will be a terrible mistake.

Mr. KANJORSKI. Mr. Speaker, I yield 30 seconds to the gentleman from Maryland in order that I may ask him a question.

Mr. HOYER. I am glad to yield to the gentleman.

Mr. KANJORSKI. I thank the gentleman.

Mr. Speaker, if it is so good for democracy that the Republican Party and the Democratic Party and the Chamber of Commerce and the AFL–CIO are getting together and spending this money, particularly here in the House, would the gentleman not agree that part of democracy is disclosure? And does the gentleman not think then that it is responsible that the NED and its grantees disclose how many congressional staff and how many Members of the House and Senate travel of these funds but do not make public disclosure to their constituents and to the taxpayers?

Mr. HOYER. I would say to my friend from Pennsylvania that there is no doubt in my mind that the institutes and that the National Endowment for Democracy will in fact disclose such information as the committees believe appropriate to carry out their oversight responsibilities.

Mr. KANJORSKI. The committee has never asked for it.

Mr. BERMAN. Mr. Speaker, I yield myself 30 seconds in order to respond to the gentleman.

No. 1, I take umbrage, as chairman of the subcommittee with oversight jurisdiction over the National Endowment for Democracy, I take umbrage at the implication that there is no oversight, that this committee does not do its job, that this committee does not have access to any piece of information that it wants from either the National Endowment for Democracy or any of its core grantees. The fact is there is oversight, there is a description of every single program, there is a description of exactly how these core grantees do business. If the gentleman from Pennsylvania wants a specific piece of information, then the gentleman can inquire.

Mr. ROGERS. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from California [Mr. DREIER], a member of the Committee on Rules.

Mr. DREIER. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of the National Endowment for Democracy. Some around here have talked about the need to bring about this $35 million cut in the name of deficit reduction. Well, quite frankly, the idea of believing that you can cut NED in the name of deficit reduction is about as smart as a weight-loss program that advocates losing 10 pounds by cutting off your arm. Killing NED is something best proposed during "Be Kind to Dictators Week." If NED dies, there will be applause the world over. Unfortunately, it will resonate from the headquarters of every military strong-man, antidemocratic warlord, Communist apparatchik and local meeting of Future Dictators Anonymous.

On the other hand, if NED goes forward, there will also be cheers. Mr. Speaker, in this case, they will be led by the captains of groups and parties who are on the front lines of democracy-building in places as far away as China, Russia, Southern Africa, Southeast Asia, and central Europe.

Mr. Speaker, it is easy to claim victory, to claim to support to democracy when you sit behind a very comfortable desk here in Washington, DC. On the other hand, it is tough to fight for those principles in the face of police states, fascist thugs and Communist dictators. When you fight for democracy in places like China, Cambodia, and Tibet, you put your life on the line.

Fang Lizhi, known as China's Sakharov, has done just that, and he strongly supports National Endowment for Democracy funding. It is very much the same thing throughout Central and Eastern Europe. Communism has large collapsed, but democracy has not yet won. Just as the cold war was a 45-year, twilight struggle between good and evil, the ultimate victory of democracy, human rights, and human dignity will not be achieved in a year or two. That is why Vytautus Landsbergis and Elena Bonner strongly support the NED. There is no longer one major battle between democracy and dictatorship personified by the United States and the Soviet Union. Instead, democracy and dictatorship are engaged in 100 guerrilla wars around the world. We cannot fight those wars. As we learned in Somalia and Bosnia, United States troops cannot maintain peace and freedom everywhere. But we can provide some meager assistance to those who are on the front lines in those fights. We do not help them because it is nice, we do not send tax dollars overseas because of feel-good humanitarian reasons; we do it because it is in our rock-solid national interest that democracy prevail in those struggles.

I urge support for the National Endowment for Democracy. We have to move ahead and give these people an opportunity to enjoy the same political pluralism which we enjoy in the United States.

Faced by this crisis, how many of us asked ourselves what we could do to help ensure a peaceful transition to democracy in Russia? We know how important it is, but what can we do? Many of us don't think billions more economic aid is the answer. We all know that the United States could never intervene militarily in Russia. What can we do other than watch CNN?

Mr. Speaker, I contend that supporting NED, supporting the motion of the Chairman, is the single concrete thing that we can do. If you want to help bring about the eventual victory of democracy in Russia, it's that simple. By the way, it's also the best thing we can do to help bring democracy to places like China, Cuba, and Vietnam, and to lock in gains in Eastern Europe and Central America. NED, created with bipartisan support by Ronald Reagan, still promotes our national interests and national security, and it still deserves our strong support.

Mr. Speaker, I enclose a letter from former President Ronald Reagan:

JULY 4, 1993.

FRANK J. FAHRENKOPF, JR., Esq.,
Hogan & Hartson, Columbia Square, Washington, DC.

DEAR FRANK: On this 217th anniversary of our nation's independence, I am reminded that America's greatness lies not only in our success at home, but in the example of leadership that we provide the entire world. It is a testament to our nation's ideals that America's democratic political system continues to be a source of inspiration and admiration throughout the globe. And it is a credit to our work together that our democratic ideals actually have begun to prevail.

Our work, however, is not complete. As I look abroad, I see that the struggle between freedom and tyranny continues to be waged. Disappointingly, in some places, it is autocracy, not freedom, that is winning the day.

This is why I strongly support continued Congressional funding for the National Endowment for Democracy (NED). Ten years ago, at Westminster, you will recall that I outlined a new, bold initiative for our country to publicly lead the struggle for freedom abroad. As part of this effort, at my request, the National Endowment for Democracy was created.

In its short life, NED has been on the cutting edge of America's work to strengthen new democracies and to open closed societies to democratic ideas. During my time in Washington, and even since returning to California, I have seen firsthand that, from Moscow to Managua, NED's work has opened the dream of freedom to millions. This, in turn, has advanced the American interest in peace and freedom, making the world safer for our children.

Yet, these new democracies are still fragile, and over half of the world still remains in the hands of tyrants. From Havana to Hanoi, much work remains to be done. Clearly, now is not the time for us to abandon the courageous men and women who continue our fight for freedom and look to us for inspiration and support. Without the strong and energetic support of NED, however, it is unlikely that these struggling democracies can prevail. And should they fail, we run the risk of reversing the great global strides that we made together. This could potentially jeopardize our own very freedom.

I urge now, as I did ten years ago, for continued support of NED to ensure that America remains that shining city on the hill.

Sincerely,

RONALD REAGAN.

Mr. KANJORSKI. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I heard the gentleman from California Mr. BERMAN, indicate that he has held hearings. To my knowledge, NED's funding has increased from $17 million in 1990 to now a proposed $35 million. It was only in 1991 that hearings were held. No hearings have been held since that time.

So the two largest increases were held without hearings.

What I would like to say to the gentleman from California [Mr. BERMAN], is if he has held all these hearings and if he has information that we do not have, could we get an agreement from him on the record today that he will request a complete list from the Republican Institute, the Democratic Institute, the AFL-CIO, and the Chamber of Commerce of all individuals who received any finances for any trips anywhere in the world that used any of these funds? Can we have those for publication in the CONGRESSIONAL RECORD?

Mr. BERMAN. Mr. Speaker, will the gentleman yield on his time?

Mr. KANJORSKI. I yield to the gentleman.

Mr. BERMAN. I thank the gentleman for yielding.

The gentleman commits to disclosing any aspect of information the gentleman wants except insofar as the safety of individuals in totalitarian countries working on democracy programs might be jeopardized.

Mr. KANJORSKI. My understanding, Mr. Speaker, is that the gentleman will provide a list of every Member of the House and the Senate and any member of the staff of these bodies that has ever traveled on any of the funds since the inception in 1985.

Mr. BERMAN. The chairman commits to providing that list. The gentleman could get it right now from every disclosure form, from every Member of Congress and from every staff person that is part of the required disclosure.

□ 1430

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the very distinguished member of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the cold war is over. We have heard that 20 times a day ad nauseum, but the struggle for democracy is not over. The struggle for democracy and justice and peace around the world goes on all over the globe from Managua to Manila, from the Baltics to South Africa.

Now, the U.S. Government cannot do it all. We cannot get into every place; we cannot obtain the confidence of all the people that we would like to have, but private enterprise, organized labor, they can do that.

Is it not marvelous, there is no gridlock between Democrats, Republicans, management and labor, on the topic of building democracy? This is a task that is never won. It goes on and on, and this institute, which is independent of the Government but funded by the Government, is uniquely constituted to answer requests from organizations and labor unions, like Solidarity, to help them with printing presses, with publications, with communications. It is invaluable.

If there are mistakes, if they have not got the accounting that the gentleman from Pennsylvania [Mr. KANJORSKI] would like, it can be gotten for them. These are honest people, doing indispensable work in the struggle for democracy.

The National Endowment for Democracy [NED] grew from an idea by Ronald Reagan in 1983 as a creative effort to foster democracy throughout the world.

The Reagan-Bush years saw dozens of authoritarian and Communist regimes crumble under the weight of their discredited political and economic systems, culminating in the collapse of the Soviet Union. Millions of people across the globe are suddenly at a crossroads. Will they construct governments that protect basic human rights and respond to the will of the people? Will they establish free market economies that will thrive and provide huge markets for international trade? Or will their societies be swept backward into the abyss of totalitarian tyranny that will threaten our national interests?

The Soviet bear is comatose, but with 30,000 nuclear weapons aimed at us, it's hard to say that bear is dead. But the forest is full of snakes—the poisonous snakes of ethnic and religious hatreds, and their bite is deadly for peace, justice, and freedom.

NED is active in almost 100 countries working through some 75 grant recipients to help emerging democracies develop the building blocks to firmly establish stable democratic systems from the Baltic to South Africa, from Manila to Managua. Through its grant recipients, including the International Republican Institute, the National Democratic Institute, the AFL-CIO, and Chamber of commerce, NED helps to formulate election laws, train poll workers, and teach activists to build political parties—the nitty gritty of building democracy.

NED is an affirmation of the vision of President Reagan and a wise investment in the future of freedom. It is a prudent—and relatively modest—expenditure to protect our national security.

Please note that we spare no expense in funding the National Endowment for the Humanities and the National Endowment for the Arts. They receive an appropriation that is at least 10 times what NED will receive in this bill. Which do you think is the more important investment?

I plead with my colleagues to support funding for the National Endowment for Democracy. It is bipartisan, cost-effective, and immensely important in the difficult task of democracy building in a world that, with the cold war over, is not less dangerous—only differently dangerous.

Mr. KANJORSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I would hope that we would reject the funding for the National Endowment for Democracy. I do not think there are many of us who disagree, or any of us who disagree with the goals, the promotion, and the establishment of democracy to help other countries.

I just do not know why these organizations need Federal moneys to do this. These organizations all have large memberships, have rich treasuries, they use money for every purpose under the Sun. If they want to engage in this with their counter organizations in other countries, or fledgling organizations in other countries within the trade movement and the business communities or others, they ought to be able to do that.

I just do not think when we are looking at the budget priorities of this country that this is where we ought to be putting Federal dollars.

I think it is very clear that these organizations are capable of engaging in this. There is private money available for sending people on these trips that have the wherewithal, if this is their gift to the country, they have the wherewithal to provide for their own travel, to provide for their stays, and they can engage in this as private citizens of the United States.

This idea grew in the cold war. It has had many uses. It has been manipulated a number of different ways.

The fact is, it was not a good idea then, and it is not a good idea now. It is simply a bad use of the very limited Federal dollars that our taxpayers send us to be used in the priorities of this country. This ought not to be one of them.

We ought to encourage these organizations, the AFL-CIO, the Chamber of Commerce, to continue this effort. I do not think we need Federal involvement in that issue.

Mr. BERMAN. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON], the chairman of the freshmen Democratic class.

Mrs. CLAYTON. Mr. Speaker, earlier, when this program was brought to the House floor, I voted against it. I was not persuaded that it was needed, and that it was limited in its scope of service. Some critics said because the program supported grassroot organization it was ineffective. In the wake of the cold war, we are learning that the world remains a troubled and turbulent place. At the same time, the United States plays a significant role in spreading the benefits of democracy and market reform throughout the world.

Recently, we have seen the problems associated with involving our military in localized political conflicts. We have heard the public outcry that our Armed Forces should not be used for the purposes of state building. We have visually witnessed the difficulty of deploying our troops on foreign soil.

Mr. Speaker, today I rise in support for the National Endowment for Democracy because it represents the kind of preventative medicine needed to reduce the likelihood of future political crises in developing democracies. The National Endowment for Democracy is involved in funding grassroots level projects assisting countries in developing democratic political parties, monitoring elections, enhancing international private-sector initiatives, and strengthening indigenous labor unions in order to improve working standards. The National Endowment for Democracy is involved throughout the African continent—from Zaire to Kenya to South Africa—in fostering democratic foundations.

Mr. Speaker, let us put our money where our mouth is. Let us fund the National Endowment for Democracy, because it works in building democracy in developing countries. I urge my colleagues to defeat the motion to restrict funding for the National Endowment for Democracy.

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the National Endowment for Democracy.

As a person who has been, and is still, pursuing democracy in Central America, I would like to take this opportunity to express my public support for the National Endowment for Democracy [NED]. Through NED I have helped assure honest elections in Nicaragua, El Salvador, and Guatemala and I hope, developed democracy there, often with my own money.

In my opinion, the NED has played an important role in supporting the democratic cause all around the world. The pro-democracy movements of many countries are directly encouraged by NED's efforts. It is true that the cold war is over, but is does not mean that democracy has been achieved. In fact, many countries today are still ruled by dictators, still lack freedom of speech, still have no meaningful elections, and still hold political prisoners. Therefore, NED's functions are still absolutely necessary for the leadership of the United States in the international arena.

Recently, I signed a "Dear Colleague" offered by Congressmen HAMILTON and GILMAN urging Member's to support the conferee's position regarding funding for the NED in the Commerce, State, Justice conference report. As the "Dear Colleague" stated, NED is a critical element in America's political strategy. While NED is only part of a larger strategy to support democracy, it plays a pivotal role as a private entity in mobilizing the dynamics of America's private sector, our two political parties, and numerous other private groups.

Mr. Speaker, I urge support for NED.

Mr. BERMAN. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. MORAN], a member of the subcommittee.

Mr. MORAN. Mr. Speaker, I would suggest to my good friend, the gentleman from Pennsylvania, that the National Endowment for Democracy is reviewed by four congressional committees. It is reviewed by a CPA firm every year. Every single one of its grants is in its annual report. It is subject to the Freedom of Information Act, every OMB regulation; but most importantly, this is the kind of program that my friend, the gentleman from Pennsylvania, ought to be behind, because it is result-oriented rather than process-oriented, which is the case with too many Federal grants.

But the State Department cannot go funding the National Republican Committee, or the Democratic Committee, or the AFL-CIO, or the Chamber of Commerce, and yet they are the essence of how our democracy works.

The State Department is not going to be funding leaflets that they distributed in the August 1991, coup to the Soviet troops, but yet, that was important.

We do not have the kind of flexibility to accomplish that. We cannot get involved in the kind of solidarity movement efforts that the National Endowment for Democracy did.

Look at the testimonials from the Solidarity people in Poland and what a difference they made.

Go through the list of all the people that we respect so much, the Dalai Lama, Fang Lizhi of China, and Mrs. Bonner.

□ 1440

Every single one of them, Mr. Speaker, say the National Endowment for Democracy is creating an enormous difference all over the world. That is what the United States is all about. That is what our Federal programs ought to be all about. We have got to keep this program. There is a substantial reduction from what the House wanted. There is a substantial reduction, even more substantial, from what the administration wanted.

Mr. Speaker, this is money well spent, a lot better spent than most of the money funded by the Federal programs that we consistently approve day after day in this House.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, as one who had opposed the funding for NED before rising today in strong support of this, I say, "You cannot have seen the shooting in Moscow and the rioting in the streets without realizing that the National Endowment for Democracy is our best national security tool."

Mr. ROGERS. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, I thank the gentleman from Kentucky [Mr. ROGERS] for yielding this time to me.

Mr. Speaker, as we have heard over and over today, the recent events in Haiti and Somalia have created a great deal of concern in the Congress and among our constituents. I am constantly asked why the United States is sending American troops to areas of the world where there is no vital national security interest at stake. I answer this question, "We should not send our troops under these conditions and should bring our troops home." Our current operation in Somalia has cost over a billion dollars and more importantly taken the lives of 30 of this Nation's finest soldiers. This is a difficult issue, but there are certain basic lessons that appear self-evident, and all point in the direction of using other avenues to the promotion of democracy abroad. More specifically, we must support efforts such as the National Endowment for Democracy. It is far more cost effective and humanitarian to our own citizens to reserve our troops for national security purposes and look to the National Endowment for Democracy to support democracy.

I think there are four lessons here, Mr. Speaker:

The first lesson is one cannot impose democracy. It has to grow from within a society. The most that can be done from the outside is to provide some help, like watering a plant. And that is what the National Endowment for Democracy does. It provides modest financial assistance to grassroots democratic groups, as well as training and education in the tools of democracy. It believes that you cannot do for others what they cannot do for themselves, but that you should provide a helping hand. That is not a bad principle.

The second lesson—democracy is much more than elections. It only works if there is a strong civil society and market economy that is working every day of the year, not just when people go to vote. One of the most attractive features of the National Endowment for Democracy is the fact that it recognizes that democracy is a whole system of institutions that protects individual rights and that makes freedom work for the people.

The third lesson—democracy doesn't come quickly. It didn't come quickly in our own country, and it certainly won't come quickly in poor countries that lack a democratic tradition. Therefore we have to be ready to help over the long term—to stay with democratic movements in good times and bad. The United States is not a fair weather friend of democracy. That is why we need an organization like the National Endowment for Democracy which has the commitment, the staying power and the experience to work democracy over time so that we will not wait until a crisis occurs and then use that crisis to justify sending in our troops.

The fourth and final lesson—the United States will not stay with an undertaking of this kind if the cost is too high. We have our own problems. The budget deficit being one of the most important. We, therefore, need to find cost-effective ways to assist democracy. That, too, points in the direction of the National Endowment for Democracy because it works at the grassroots level, with highly efficient, nonbureaucratic private organizations. I would have preferred to continue funding at last years National Endowment for Democracy budget level of $30 million. At this time, we just do not have the latitude to change the funding level. But, we should keep in mind the global nature of the endowment's mission, which includes programs in Asia, Africa, Latin America, the former Soviet Union, Eastern Europe, and the Middle East. It would seem that this is a relatively inexpensive way to carry out a far-reaching public function and far cheaper than dropping a billion dollars in troop support in areas where our national security is not impaired.

As a conservative, Mr. Speaker, I say to those who are offended, as I am, that the President is still sending our troops to remote areas with no defined mission. There is an alternative, and I urge my colleagues to support the most cost-effective alternative, the National Endowment for Democracy.

Mr. KANJORSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. KANJORSKI] for yielding this time to me.

Mr. Speaker, I know that we all here are concerned about the deficit, and it is also clear that we have to begin to tighten our belts whether it is the Congress or any other Federal agency.

Mr. Speaker, this week I would have liked to have voted to support the super collider, but I could not. I could not with a $250 billion deficit. I would have liked to have supported the space station as well, but I could not, not with a $250 billion deficit. And I would have preferred not to close down military bases across the country, but we had to especially with a $250 billion deficit. NED is the same way.

I will remind all of my colleagues that we voted to kill this agency by a lopsided margin earlier this summer, and somehow it comes back to the floor with a 17½-percent increase from last year. No wonder the rest of the country outside the Beltway thinks that we are a bunch of loonies. We have got a deficit, and we have got to begin to make some tough choices, and frankly sending private citizens on a red carpet travel service, often first class, so that they can see the rest of the world is something that I cannot justify. I cannot justify this with so many other unfunded Federal mandates.

Let us not stick the taxpayers with these junkets, with another $35 million. Let us make NED stand for "not enough dough" because we simply do not have it, not with a $250 billion deficit. This is real money, funded from private resources, not the public trough.

Mr. KANJORSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I have been listening to this debate and feeling a little guilty. On June 22 this great House by a vote of 247 to 171 chose not to fund NED. I was directly involved in this effort with the Kanjorski-Shays amendment. When I started reading all the criticism of his amendment, I was grateful I wasn't getting much credit for it.

Note I said his amendment. I was truly grateful my name was not associated with it. Great Americans editorial boards and others have spoken in favor of NED and have criticized the gentleman from Pennsylvania [Mr. KANJORSKI] for his efforts, I was happy not to be criticized. But I just have to say to my colleagues, "Mr. Kanjorski is a very brave man. He is so right on this issue. And, while everyone speaks differently, he has focused on the main issue that everyone seems to ignore."

It is clear the cold war has ended, and it is also clear the world is not a safer place. We acknowledge that. We need to help fledgling democracies, and we acknowledge that. What we do not acknowledge is that the U.S. Chamber of Commerce, that the AFL–CIO, that the Republican Party or the Democrat Party should be given $35 million to spend taxpayer's money as they see fit.

Now I know they have institutes that are somewhat separate from their organizations, but, when we hear from the U.S. Chamber of Commerce, for instance, it sends us information about the Center for International Private Enterprise under its own masthead. The literature says the U.S. Chamber of Commerce, and then it tells about the institute, as if it were an integral part of the chamber. The chamber gives us a lot of promotional material and no documentation on how it spends our money.

I do not know how many Members of this Congress have gone on trips, and I would not be able to find out. I do not know how many fundraisers for the Democrat or Republican Parties go on trips, and I would not be able to find out.

Mr. Speaker, I hear comments that we can find answers to our questions but, when we seek to find them, they are not available.

I am troubled the committee has not had hearings on NED in recent years. I am also troubled by the fact that, GAO reports of 1986 and 1991, strongly criticize how NED does what it does. And I'm further troubled when I read a 1992 GAO report that says it's too soon to find out if NED has made the necessary reforms. Too soon?

A few years ago NED was a $15 million program, now it is a $35 million program. It has gone up 17 percent at the same time we are cutting so many other programs.

But what troubles me the most is what we cannot even talk about, the stories we hear that we cannot document. I remember something that happened when I was in the general assembly in Connecticut. A young legislator took a political position on an important issue that the Republican Party leadership in Connecticut did not like. Eventually he changed his position so his party, which is also my party, would like it, and 2 years later he took a $10,000 trip on NED as his reward. Now I know that was 1988, but I do not know if this practice has changed or not and neither does anyone else.

We hear accusations that certain groups, are funded in contradiction. We hear, for instance, that the unions sometimes fund one group and the Chamber funds the opposite group. They are competing forces working at cross purposes.

It is obscene in my judgment, for the Republican Party, or Democrat Party, to be given Federal money. Why not some other political parties? Are we with Federal dollars institutionalizing these two parties? And what about labor and business? It's the same problem. We fund labor and we fund the U.S. Chamber of Commerce both. Neither are not going to oppose NED because they are both dipping their hands right in there. And when we fund both the Democratic Party and the Republican Party, there is no countervailing force. Everyone is getting something so no one objects.

□ 1450

In closing I would say to the gentleman from Pennsylvania [Mr. KANJORSKI], "You are a brave man. You are right on target." We may need an organization like NED to help fledgling democracies but we do not need these four institutes. We do not need lobbyists on these institutes. We do not need political fundraisers on these institutes. We do not need legislators on these institutes. We need to separate the Republican and Democratic Parties and the AFL–CIO and U.S. Chamber of Commerce from NED. If we don't we are simply giving taxpayer's money to organizations that are not accountable to the President, Congress or the American people.

Mr. BERMAN. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, the National Endowment for Democracy's financial control and grant monitoring procedures are employed at every stage of the grant process for each of the 200 or so grants awarded annually, from a CETA proposal through grant award monitoring. There is more oversight over NED and core grantee programs than there is over the State Department and AID programs set up in this whole process.

Mr. Speaker, I yield 1½ minutes to the gentleman from North Carolina [Mr. PRICE], a member of the subcommittee.

Mr. PRICE of North Carolina. Mr. Speaker, I rise in strong support of the National Endowment for Democracy. In July I was privileged to travel with the gentleman from Texas [Mr. FROST], the gentleman from Nebraska [Mr. BEREUTER], the gentleman from New York [Mr. SOLOMON], and others, with the Speaker's task force on interparliamentary cooperation, to Eastern and Central Europe. And I can only wish that all of our colleagues had been with us on that journey as we heard the testimony about NED's effectiveness from numerous Eastern European leaders, effectiveness made possible by the flexibility of NED's organizational and funding mechanisms.

We were all particularly struck in Albania by the credit repeatedly given to NED-financed programs as playing perhaps the critical role in bringing democracy to that country through free and fair parliamentary elections.

The same is true throughout Eastern Europe. Working with "Solidarity" in Poland to develop machinery to resolve labor disputes. Helping prepare a new citizenship education curriculum in Poland. Supporting the main organization in Bulgaria developing privatization policy, and supporting grass roots political education programs in Romania.

And then throughout the former Soviet Union: NED-sponsored local party training seminars for hundreds of political activists in Russia. 127 activists from across Central Asia coming together for 3 days of democratic education in Kazakhstan, developing an informational resource bank to assist entrepreneurs in Ukraine. And on and on.

The testimony is just overwhelming that NED continues to play a key role, not only in Eastern Europe, but in many emerging democracies around the world.

So let us not step back from this leadership. Let us step forward, to give these countries and these peoples the tools they sorely need at a critical time in their struggles to build democratic institutions that can weather the storms ahead.

This is a $35 million appropriation. It represents modest support, but it is strategically targeted to make a real difference, to give democracy a chance in an often hostile world.

The SPEAKER pro tempore (Mr. MFUME). The Chair will advise Members designated to control time that the gentleman from Kentucky [Mr. ROGERS] has 3 minutes remaining, the gentleman from Pennsylvania [Mr. KANJORSKI] has 5½ minutes remaining, the gentleman from Iowa [Mr. SMITH] has 1½ minutes remaining, and the gentleman from California [Mr. BERMAN] has 8¼ minutes remaining. The gentleman from Iowa [Mr. SMITH], under the rule, reserves the right to close debate.

Mr. ROGERS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I guess like so many things in life, it is a question of priorities. When I hear people wave the fiscal flag, I applaud, because we are in trouble in terms of deficits and national debt. But, again, it is a question of priorities.

The last two gentlemen, who oppose the National Endowment for Democracy, and who are excellent Republicans and who are fiscally sound thinkers, it was their priority to support the final passage for the National Endowment for the Arts and the National Endowment for the Humanities, worthy causes, to the tune of $174.6 million. That is wonderful.

Now here we have the National Endowment for Democracy asking for a measly $35 million, in comparison to the other endowments that subsidize street theater and some poetry and wonderful things. And, if we had that money, we should subsidize those things.

But democracy in 100 different countries is under siege. Again, it is a matter of priorities.

Mr. KANJORSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I voted for the amendment of the gentleman from Pennsylvania [Mr. KANJORSKI] when it came up the first time. I have, legitimately, as have many others, struggled with this decision, particularly so because so many people whose opinions I respect are on the other side of this question, particularly my friend, the gentleman from California [Mr. BERMAN], with whom I serve on the Committee on Foreign Affairs.

I have no doubt, after listening to the arguments these last few weeks and today on the floor, that this program has great merit. Indeed, one of the points that has been made to me over and over again is that this is precisely the kind of foreign aid program that we ought to pursue. This is new foreign aid. In fact, it is more accountable, as the gentleman from California [Mr. BERMAN] said, than some of the old programs. It more directly goes to subsidize democracy than some of the old programs.

But what we have failed to do, if we want to support this new foreign aid, is what we have failed to do time and time again on this floor, and that is get rid of the old before we keep funding the new.

If we should fund this new foreign aid, if it is a better program, then let us cut that which is inefficient, cut that which does not have oversight.

Mr. Speaker, I was watching this debate up in the gallery with the Phillips Osborne School from my district. We took a picture on the steps of the Capitol and then we came upstairs.

I was watching this debate. I said, "Ladies and gentlemen of the school, this is really democracy at work, because this is a difficult question that your Representatives are struggling with." But what I have decided, as I stood up there, is that the future that I care about is them, and what we have got to do in terms of our priorities, I would say to the gentleman from Illinois [Mr. HYDE] and others, is get this deficit under control when we are willing to cut away that which we should not do anymore.

Mr. Speaker, I am willing and ready to support the new. I appreciate the support of the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. BERMAN. Mr. Speaker, I yield myself 45 seconds.

Mr. Speaker, I would like to just take up where the gentleman from Ohio [Mr. FINGERHUT] concluded. In the budget that our chairman, the gentleman from Iowa [Mr. SMITH] has passed in this conference report, which increases the National Endowment for Democracy by $5 million, $15 million less than the President, the conference report cuts $72 million from State Department operating accounts; $160 million, 28 percent, from foreign buildings; $58 million, 12.8 percent, from peacekeeping; 5.7 percent, $52 million, from international organizations; 13.1 percent, $46 million below in international broadcasting.

Mr. Speaker, these are all cuts below last year's level. The total, when you add the cuts in foreign aid, comes to over $600 million in cuts. And, Mr. Speaker, we have done exactly what the gentleman from Ohio [Mr. FINGERHUT] said. We have prioritized, the gentleman from Iowa [Mr. SMITH] has prioritized, a small addition for an effort to promote democracy. Massive cuts in international relations, perhaps.

Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, America is faced with a great post-cold-war challenge. American democratic values are being put to the test throughout the world. Americans have never run from a challenge, and they shouldn't start now.

I ask my colleagues to make up their minds. Do you want to support democracy so we may meet these challenges? Or would you want more headaches—headaches that will multiply if we reject this program?

The National Endowment for Democracy educates leaders and grassroots organizers so that they can consolidate the democratic process in their countries.

Does NED work? Ask former dissident, playwright and hero of the Velvet Revolution in Czechoslovakia, Vaclav Havel, now President of the free Czech Republic. President Havel officially cited NED for "building new democratic societies in Central and Eastern Europe."

Ask Polish dissident and labor leader, Lech Walesa, also now President of his country. Ask the Dalai Lama, who fights for a free Tibet. Ask President Aylwin of Chile, who helped end the Pinochet dictatorship. Ask the Organization of African Unity, or South Africans working for a nonracial democracy. Ask Boris Yeltsin.

Mr. Speaker, we won the cold war because we had principles. In the great American tradition, we stuck to those principles. Let us not turn our backs on democracy at this critical time. Support the National Endowment for Democracy.

□ 1500

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I rise in strong support of the Smith motion and in support of $35 million for the National Endowment for Democracy.

Mr. Chairman, I rise in support of the National Endowment of Democracy [NED] and in opposition to the motion to instruct conferees.

The promotion of democratic values serves U.S. national interests. A world where democracy flourishes is a safer and more prosperous one. Democratic governments rarely go to war with each other. Democracy also offers countries the best chance to solve their own problems, preventing them from becoming American problems.

The National Endowment for Democracy:

Plays a critical role in America's democracy promotion strategy.

Mobilizes America's private sector—labor, business, our two political parties, and numerous other private groups—to help people in dozens of nations working against great odds to build societies based on democratic principles, the rule of law, and respect for human rights.

Supports democratic forces when the U.S. Government cannot. Acting as private organizations, NED and its affiliates are able to work with groups unwilling or unable to take funding directly from the U.S. Government.

Is responsive to congressional concerns. NED initiated a series of management reforms in response to a 1991 GAO report. GAO praised NED's reforms in a follow-up review. NED has also increased internal auditing.

In my opinion, given the importance of its work, NED is a bargain. The $35 million in funding proposed in the conference report is 30 percent less than the President requested.

Congress has already cut international affairs spending dramatically this year. Funding for NED will be drawn from cuts in less essential international programs. Shifting funds from the cold war programs to democracy-promotion is a sensible and responsible use of scarce U.S. resources.

NED has been praised by many of the world's most respected advocates of human rights and democracy, people who have worked for many years to promote democratic change in repressive societies. NED supporters include Elena Bonner of Russia, Oscar Arias of Costa Rica, the Dalia Lama of Tibet, Fred Chiluba of Zambia, Vytautus Landsbergis of Lithuania, and Fang Lizhi of China.

Mr. ROGERS. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, does democracy have a chance in the Third World? That is what we are deciding here today. That is what it is all about. Does democracy have a chance in the Third World?

Vote against NED and Members are voting against democracy in the Third World, because it does not have a chance because no one else is going to be in there with the resources they need to create the democratic institutions.

Does democracy have a chance in some of these countries that are trying to evolve out of Soviet tyranny? A vote against NED is a vote to thwart the actual transition out of communism in some of these societies, societies that if they are democratic are no threat to us but as authoritarian with their hands on nuclear weapons pose a great threat to us.

The cold war is over. The new challenge is not thwarting communism. The new challenge we have in our generation is advancing democracy. Our security depends on democracy and the progress democracy will make in the Third World and those countries that have lived under tyranny.

We will have a more peaceful world if we have a freer world. NED will work for a freer world. It is a wise investment.

Mr. BERMAN. Mr. Speaker, I yield 30 seconds to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. Mr. Speaker, I thank the gentleman for yielding time to me.

The National Endowment for Democracy has served to enhance America's image. In Africa, the Western Hemisphere, and the world, many institutions and organizations have fostered democratic efforts and principles because of the National Endowment for Democracy.

Isolationism and xenophobia will not assist us as a country in promoting better understanding between the peoples of the world. I strongly support the National Endowment for Democracy.

Mr. SMITH of Iowa. Mr. Speaker, I reserve the balance of my time.

Mr. ROGERS. Mr. Speaker, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I rise in support of the Smith motion.

There have been problems with the Endowment, but the Endowment has endeavored to address these problems, and it is not relevant to talk about GAO reports of several years ago.

The Endowment is a partnership between the public and the private sector. We do this in a number of areas. It is a creative partnership. We ought to be proud of the efforts.

I received a letter from the American chairman of the Hungarian United States Business Council. He describes how the programs of NED are essential, and I quote:

> * * * to ensuring that democratic institutions are strengthened and economic reforms are sustained throughout Central Eastern Europe and the states of the former Soviet Union.

There has been talk here about fiscal responsibility, and it is very important. But let that flag not be used to be irresponsible when it comes to democratic institutions in other countries. We have a stake. It is important that the Endowment continue its work.

Mr. KANJORSKI. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding time to me.

What this debate demonstrates here this afternoon is not the power of democracy but the power of a label. If we put a label on something, it will pass.

National Endowment for Democracy, everyone wants to vote for democracy. Hey, wait a minute, do we have faith in democracy? Then why do we have to go around the world and propagandize it? Why do we have to go around the world and sell it?

If it is a great idea, it will sell itself. This is not an issue of democracy, my colleagues. This is an issue of whether we are going to give $35 million of taxpayers' money to special interests in the United States.

Stop and analyze it. Who gets this money? The average people? No. It goes to special-interest groups to fly around the country.

I say to my friends, "If you want to do something for democracy, do it on your own time. Don't come to the Congress and ask for $35 million. We have got all kinds of problems here in our country. We can use this money here. We don't have to spend it overseas."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair will advise those in the gallery that they are here as guests of the House of Representatives, and that any manifestation of approval or disapproval of the proceedings on the floor is in violation of the spirit of that invitation.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. HAMILTON], chairman of the Committee on Foreign Affairs.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of the conference committee's provision of funding for the National Endowment for Democracy. I want to express a word of appreciation to the gentleman from Iowa [Mr. SMITH], who has been exceedingly helpful to the Committee on Foreign Affairs, when asked, and a word of appreciation to the gentleman from California [Mr. BERMAN], who has been a remarkable leader in getting support for this bill.

The National Endowment for Democracy is a very small but very important program. In comparison to our overall efforts to protect and to promote our national interests, this is among the most important programs, even though the amount of money is very small.

All of us know that small investments can pay large dividends, and the National Endowment for Democracy is that kind of an investment.

It plays a critical role that the Government of the United States cannot play in furthering this country's political values around the globe, in promoting democracy and the rule of law, and in trying to safeguard basic human rights.

NED promotes democratic values, free and periodic elections, majority rule with protection for minority rights, the rule of law, and the respect for the dignity of each person.

We are a long way from that ideal, as all of us know, in the world, for all kinds of reasons. But we are moving in the right direction with our support of NED.

The distinguished National Security Adviser to the President, Tony Lake, gave a speech the other day in which he tried to set out a rationale to succeed the rationale of containment that had been the basis of American foreign policy for many years. He said that what we should do is to have a strategy of enlargement, enlargement of the world's free community of market democracies.

All of us, I think, subscribe to that kind of a doctrine. The question is, what are the tactics? That is a big question, but one of the most important elements of the tactics will be the National Endowment for Democracy.

I strongly urge the approval of it.

The SPEAKER pro tempore. As we are nearing the end of debate, the Chair would advise those Members designated to control time that the gentleman from Kentucky [Mr. ROGERS] has 1 minute remaining; the gentleman from Pennsylvania [Mr. KANJORSKI] has 3 minutes remaining; the gentleman from California [Mr. BERMAN] has 2½ minutes remaining; and the gentleman from Iowa [Mr. SMITH] has 1½ minutes remaining and reserves, under the rule, the right to close debate.

Mr. KANJORSKI. Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. MFUME). The gentleman from California [Mr. BERMAN] is recognized for 2½ minutes.

Mr. BERMAN. Mr. Speaker, if we parse this debate, if we cut right through, what essentially the gentleman from Pennsylvania [Mr. KANJORSKI] and his co-author, the gentleman from Connecticut, are saying is this: The NED has done some great work in the Philippines and in Chile and in Namibia and in Eastern Europe and in Albania, and yes, we want to promote democracy in republics of the former Soviet Union, and this is a critical issue, and we need to persevere.

However, what they are saying is, notwithstanding the great work that the National Endowment, through its grantees, has done, notwithstanding the incredible, formidable tasks that remain ahead, because my friend, the gentleman from Wisconsin [Mr. ROTH] said, "But it is not so. If democracy is a good idea, it will take care of itself."

Ask the people who lived under Stalin and Bolshevism for 70 years, or the people occupied by Nazi Germany, or the people who have been living under Papa Doc and Baby Doc and all the dictators and tyrants in Haiti, whether democracy, if it is a good idea, will take care of itself and will not need assistance and work and help in fertilization and promotion.

What these gentleman are saying is, This is organized the wrong way. This is organized the wrong way. Then they throw out, at a time long after I thought McCarthyism was dead, without naming any names, that there are Members and there are staffers whose motivation for supporting NED is so corrupt that it is based on the fact that they may have taken a trip or gotten in one of these programs, without naming the Members, without naming the staffers. Maybe it was the two who almost died in Namibia working on the elections, the first free elections ever in the history of that successful transition to democracy.

Where are these specifics? They have never talked to me. They have never come to my staff. They have never come to the chairman of the subcommittee of the Committee on Appropriations to get the list of Members that have taken trips or the staffers that have been granted them. They have no specific charges.

This is not the way to fight a program, but they missed the point in an even broader sense. It is because the NED succeeds, NED succeeds because of its organizational structure, not in spite of it, because of its funding arrangement. It exemplifies the benefits of reinventing Government.

In a dynamic and shifting environment, NED can respond to requests swiftly and appropriately. Sustainable democracy is built from the ground up, person-by-person, institution-by-institution. It is because of this structure that it is working.

If this was simply an agency of the Federal Government, believe me, it would not have this success rate and flexibility. I urge an aye vote on the motion of the gentleman from Iowa [Mr. SMITH].

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard a lot of comment tonight, or this afternoon, but I have to agree with my friend, the gentleman from Wisconsin [Mr. ROTH], that the real question is who is benefiting from these funds.

This whole argument is not about democracy. This country spends billions and billions and billions of dollars around the world for democracy, and in the last 10 years, trillions of dollars for democracy. This is an argument about special interest groups that have their hands in the Federal Treasury for their purposes, and it is an unholy bedfellow alliance.

It is disgraceful that the Republican Party, the Democratic Party, the Chamber of Commerce, the AFL–CIO, who are supposed to be watching each other, are supposed to be protecting the institutions of democracy in America, have formed together in an unholy alliance to pay for their travel around the world.

The gentleman from California [Mr. BERMAN] tells us we can hear these names. Why do we have an exemption, that they do not even have to disclose trips paid by these institutes on official forms in the Government? If we can disclose these, why have we not seen these forms? Why do they not put their trips in the CONGRESSIONAL RECORD?

Mr. BERMAN. Will the gentleman yield on that point?

Mr. KANJORSKI. I do not have the time. We spent an hour on this, I would say to the gentleman from California [Mr. BERMAN], and we have spent years.

This argument boils down to whether or not there is any project or program in America that we can cut to save money, and whether or not we can say no to special interest groups. It is not the National Endowment for Democracy, it is the National Endowment for the Republican Party, the Democratic Party, the AFL–CIO, and the U.S. Chamber of Commerce. It is not the National Endowment for Democracy, it is the Welfare Act for the Support of Political Consultants of 1993, as it has been for the last 8 years.

Mr. Speaker, I have never seen more lobbying, more pressure brought upon the membership of this House over any issue this year than has been on this. We have had former Presidents of the United States as late as last night calling Members to change their vote from their June 22 vote. Why is it so vitally important? Even my friend, the chairman of the Committee on Foreign Affairs, who I have the highest regard for, has voted against NED. I think he was right then, but he is entitled to his position now.

All I urge of the 110 new freshmen that came to this Congress, I would say to them, they were sent here by the American people to set priorities and not collapse in the face of pressure from special interest groups. It is sinful for the American democracy, and it puts our American democracy in jeopardy, when there is an unholy alliance between the two political parties to take the public taxpayers' money. It is a bad omen for our economic free system when labor and organized business get together and form an unholy alliance, spending taxpayers' money.

I think the gentleman from Wisconsin [Mr. ROTH] put it very well. If they want to travel around the world to further democracy, let them use their own dime, and then we will be happy. If this is such a great program, why have they not raised private funds as a charity to fund their program?

I urge my colleagues in Congress to stand up, make a vote of courage and confidence today, hold with the vote of June 22 and vote no on the motion to recede.

Mr. ROGERS. Mr. Speaker, I urge an aye vote, and I yield the balance of my time to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I have listened with great interest to the dialog this afternoon on the National Endowment for Democracy. I have never taken a dime from that endowment.

As I listened, I thought how easy it is to talk about democracy in the comfort of this Chamber, the comfort of this Nation. We had 150 years of colonial experience and evolving democracy prior to the Articles of Confederation and the Constitution of the United States. Since then we have had two centuries more of experience with democracy. It is not that easy for the rest of the world. They need Americans from all walks of life—labor, management, both sides of politics, and many sides of politics—to go abroad and share their experience. We need each one of us to teach many of them. That is the effort that will count if we are going to invest this small amount of money, $35 million, and spread democracy around the world.

How much better it is to support the grassroots efforts of the National Endowment for Democracy than to run up another $1 trillion or $2 trillion in national expenditures because we will have to revitalize the defense forces of this country if some of these countries fall back into authoritarian practices. That $35 million is the cheapest investment this Congress could make to promote democracy in the world.

The SPEAKER pro tempore (Mr. MFUME). The Chair recognizes the gentleman from Iowa [Mr. SMITH] to close debate.

Mr. SMITH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of the most difficult things for people to understand that have never lived in a democracy is how private institutions can make their own decisions. No one could help them better understand that than someone from a private institution, from a labor union, from a business, or from a political party. It is essential that we use those people. They do not need to have people with annual salaries. It is better that they have volunteers working with these countries and institutions.

The House was requested $50 million by the administration. It voted down the $50 million, but this amendment is for $35 million. I repeat what the new President of Albania said. He said that the greatest help that his country could have—a lot greater than foreign aid or any grant, was the help that they got from the National Endowment for Democracy, because individuals from political parties, individuals from business, individuals from labor came over there and helped his people to understand how institutions, private institutions, make their own decisions and relate to the government.

□ 1520

The need has never been greater. We have more countries now that need this kind of help than ever before. They are emerging and ready to go into democratic institutions.

We have many democratic institutions in the Western countries, but now we have to do the same thing in the other parts of the world.

So I ask Members to support the $35 million for NED.

Mr. RICHARDSON. Mr. Speaker, I rise in support today of the National Endowment for Democracy.

The National Endowment for Democracy is a nonprofit organization which promotes democratic values, making U.S. national interests safer worldwide. It provides grants to projects for strengthening democratic institutions and processes. The NED funds projects in Russia, Ukraine, Peru, Argentina, Brazil, Paraguay, Uruguay, Poland, the Philippines, and South Africa.

Mr. Speaker, major events are shaping our world; Russia will hold elections and vote on a constitution on December 12, 1993; democracy's roots are growing strong in Latin America; democratic institutions are rising out of the ashes of communism in Eastern Europe; Asia continues to advance democratically and economically. The need for NED is clear. NED's record and global events demand our attention.

NED promotes respect for human rights. Bonner of Russia, Arias of Costa Rica, the Dalai Lama, Chiluba of Zambia, Landsbergis of Lithuania, and Lizhi of China have worked with and support the National Endowment for Democracy. Additionally, the NED supports U.S. interests when the U.S. Government is unable to influence a situation. Lastly, the NED provides timely and useful information to Congress on a variety of subjects. Let us not forget that the NED has remained responsive to congressional concerns through instituting managerial and accounting reforms.

Mr. Speaker, today we should vote to reduce NED's funding, not delete it. Today's vote will reduce NED's funding to $35 million, fund a successful and efficient method of promoting democracy abroad, support the administration's request that NED be saved, and maintain our focus on building democratic institutions and processes aboard.

Mr. Speaker, the NED is not an organization inspired by the cold war. It is not ideologically motivated nor is it controlled by any private interests.

Mr. Speaker, I urge my colleagues to vote to fund the National Endowment for Democracy.

The SPEAKER pro tempore (Mr. MFUME). All time has expired. Without objection the previous question is ordered.

There was no objection.

Mr. KANJORSKI. Mr. Speaker, I demand that the question be divided.

The SPEAKER pro tempore. The question will be divided.

The question is, will the House recede from its disagreement to the amendment of the Senate numbered 171.

The question was taken; and the Speaker pro tempore being in doubt, the House divided and there were—ayes 23, noes 17.

Mr. KANJORSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 259, nays 172, not voting 2, as follows:

[Roll No. 521]

YEAS—259

Abercrombie
Ackerman
Andrews (TX)
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Ballenger
Barlow
Bartlett
Barton
Bateman
Becerra
Beilenson
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Boehlert
Bonilla
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Calvert
Canady
Cardin
Castle
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Cooper
Coppersmith
Cox
Crapo
Cunningham
Darden
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Edwards (CA)
Edwards (TX)
English (AZ)
Eshoo
Everett
Farr
Fazio
Fields (LA)
Filner
Fish
Flake
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goss
Green
Gunderson
Gutierrez
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hyde
Inhofe
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Klein
Klink
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
Laughlin
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Linder
Livingston
Lowey
Maloney
Manton
Markey
Martinez
Matsui
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McKeon
McMillan
McNulty
Meek
Menendez
Meyers
Michel
Miller (FL)
Mineta
Minge
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickle
Pombo
Pomeroy
Porter
Portman
Price (NC)
Rahall
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sawyer
Saxton
Schiff
Schumer
Scott
Sharp
Shaw
Skaggs
Skeen
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Spence
Spratt
Swift
Synar
Tejeda
Thomas (CA)
Thompson
Thornton
Torres
Torricelli
Tucker
Unsoeld
Vento
Vucanovich
Walker
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Wolf
Young (FL)
Zeliff

NAYS—172

Allard
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Baesler
Baker (LA)
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bentley
Bevill
Blute
Boehner
Brewster
Browder
Byrne
Callahan
Camp
Cantwell
Carr
Clay
Coble
Collins (GA)
Combest
Condit
Conyers
Costello
Coyne
Cramer
Crane
Danner
DeFazio
Dellums
Derrick
Duncan
Emerson
English (OK)
Evans
Ewing
Fawell
Fields (TX)
Fingerhut
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Gallegly
Gekas
Gonzalez
Goodling
Gordon
Grams
Grandy
Greenwood
Hall (OH)
Hamburg
Hancock
Hayes
Hefley
Hefner
Herger
Hilliard
Hoekstra
Holden
Hutto
Inglis
Jacobs
Kanjorski
Kaptur
Kleczka
Klug
Knollenberg
LaRocco
Lazio
Lewis (FL)
Lightfoot
Lipinski
Lloyd
Long
Machtley
Mann
Manzullo
Margolies-Mezvinsky
Mazzoli
McCandless
McHale
McHugh
McInnis
McKinney
Meehan
Mfume
Mica
Miller (CA)
Mink
Montgomery
Murphy
Myers
Nussle
Orton
Owens
Parker
Peterson (MN)
Petri
Pickett
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Rangel
Ravenel
Ridge
Rostenkowski
Roth
Roukema
Sanders
Sangmeister
Santorum
Sarpalius
Schaefer
Schenk
Schroeder
Sensenbrenner
Serrano
Shays
Shepherd
Shuster
Sisisky
Skelton
Slattery
Smith (MI)
Snowe
Solomon
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Thurman
Torkildsen
Towns
Traficant
Upton
Valentine
Velazquez
Visclosky
Volkmer
Walsh
Washington
Weldon
Whitten
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zimmer

NOT VOTING—2

Chapman
Engel

☐ 1542

Messrs. BARRETT of Nebraska, GRAMS, HERGER, and HILLIARD changed their vote from "yea" to "nay."

Mr. DINGELL, Mrs. COLLINS of Illinois, and Messrs. LAFALCE, PETERSON of Florida, and CLINGER changed their vote from "nay" to "yea."

So the House receded from its disagreement to the amendment of the Senate numbered 171.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is: Will the House concur in the amendment of the Senate numbered 171?

The House concurred in the amendment of the Senate numbered 171.

PERSONAL EXPLANATION

Mr. COYNE. Mr. Speaker, on the previous vote, on rollcall 521, I inadvertently voted "no" when I intended to vote "aye."

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 174: Page 71, strike out lines 3 to 16.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The test of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 174, and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

SEC. 606 (a) PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance, to the extent feasible, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Head of the agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 607. (a) None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

(b) None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), conversion, or modernization of aircraft for the National Oceanic and Atmospheric Administration in facilities located outside the United States and Canada.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 175: Page 71, after line 16, insert:

SEC. 607. (a) Funds appropriated under this Act to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1994 pursuant to the number of poor people determined by the Bureau of Census to be within its geographical area shall be distributed in the following order: grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation for basic field programs shall be maintained in fiscal year 1994 and not less than 97.903 per centum of the annual level at which each grantee and contractor was funded in fiscal year 1993 pursuant to Public Law 102-395;

(b) None of the funds appropriated under this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

(1) section 607 of Public Law 101-515, and that, except for the funding formula, all funds appropriated for the Legal Services Corporation shall be subject to the same terms and conditions set forth in section 607 of Public Law 101-515 and all references to "1991" in section 607 of Public Law 101-515 shall be deemed to be "1994" unless paragraph (2) or (3) applies;

(2) paragraph 1, except that, if a Board of eleven Directors is nominated by the President and confirmed by the Senate, provisos 20 and 22 shall not apply;

(3) authorizing legislation for fiscal year 1994 for the Legal Services Corporation is enacted into law.

MOTION OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. SMITH of Iowa moves that the House recede from its disagreement to the amendment of the Senate numbered 175, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

SEC. 608. (a) Funds appropriated under this Act to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1994, pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area, shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) of the Legal Services Corporation Act, as amended, shall be maintained in fiscal year 1994 at not less than the annual level at which each grantee and contractor was funded in fiscal year 1993 pursuant to Public Law 102-395; and

(2) each grantee or contractor for basic field funds under section 1006(a)(1) shall receive an increase of not less than 2.5% over its fiscal year 1993 grant level. Any additional increase in funding for grants and contracts to basic field programs under section 1006(a)(1) shall be awarded to grantees and contractors funded at the lowest levels per-poor-person (calculated for each grantee or contractor by dividing each such grantee's or contractor's fiscal year 1993 grant level by the number of poor persons within its geographical area under the 1990 census) so as to fund the largest number of programs possible at an equal per-poor-person amount; and

(3) any increase above the fiscal year 1993 level for grants and contracts to migrant programs under section 1006(a)(1) shall be awarded on a per migrant and dependent basis calculated by dividing each such grantee's or contractor's fiscal year 1993 grant level by the state migrant and dependent population, which shall be derived by applying the state migrant and dependent population percentage as determined by the 1992 Larson-Plascencia study of the Tomas Rivera Center migrant enumeration project. This percentage shall be applied to a population figure of 1,661,875 migrants and dependents. These funds shall be distributed in the following order:

(A) forty percent to migrant grantees and contractors funded at the lowest levels per migrant (including dependents) so as to fund the largest number of programs possible at an equal per migrant and dependent amount; and

(B) forty percent to migrant grantees and contractors such that each grantee or contractor funded at a level of less than $19.74 per migrant and dependent shall be increased by an equal percentage of the amount by which such grantee's or contractor's funding, including the increases under subparagraph (A) above, falls below $19.74 per migrant and dependent, within its State; and

(C) twenty percent on an equal migrant and dependent basis to all migrant grantees and contractors funded below $19.74 per migrant and dependent within its State.

(b) None of the funds appropriated under this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

(1) section 607 of Public Law 101-515, and that, except for the funding formula, all funds appropriated for the legal Services Corporation shall be subject to the same terms and conditions as set forth in section 607 of Public Law 101-515 and all references to "1991" in section 607 of Public Law 101-515 shall be deemed to be "1994" unless subparagraph (2) or (3) applies;

(2) subparagraph 1, except that, if a Board of eleven Directors is nominated by the President and confirmed by the Senate, provisos 20 and 22 shall not apply to such a confirmed Board;

(3) authorizing legislation for fiscal year 1994 for the Legal Services Corporation that is enacted into law.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

Mr. POMEROY. Mr. Speaker, I rise today in strong support for the funding included in the conference report for the Legal Services Corporation. This program provides much-needed legal assistance to the indigent of this country. The funding level approved by the Conference Committee is by no means too much money. On the contrary, the poor across this country are being denied equal access to our Nation's system of justice simply because there are not enough resources. If you look at the statistics, they show that the Federal Government now provides less than 40 percent of the support necessary to achieve even minimum access to justice.

The appropriation agreed to by the conferees is necessary simply to bring the program back up to 1981 funding levels. The poor in 1991 were served by a third fewer legal services attorneys than were available to them in 1981. To meet the goal of providing minimum access—which is a mere two attorneys for every 10,000 poor people in the country—we would need to fund this program at $823 million—more than twice the proposed appropriation. I find it truly remarkable that this Chamber can continue to fund ballistic missile defense—formerly known as SDI—to the tune of $3 billion a year and at the same time attempt to slash funds for this program when studies show that over 60 percent of indigent people in need of help are turned away on a regular basis because there are no resources available. What kind of justice is that? This is not the justice guaranteed by our Constitution.

This appropriation should receive the support of each and every member here who represent poor people. The last census indicates that nearly one-fourth of the entire population is living at 125 percent of the poverty level or below. While poverty may not be a prevalent problem in some of your districts, I am not so fortunate. In my home State of North Dakota, 14.5 percent of the population live in poverty while the national average is only 13.5 percent. And yet, the percentage of people receiving public assistance in North Dakota is one of the lowest in the Nation. Legal assistance of North Dakota, or LAND—which provides legal expertise and know-how to low-income people in my State—faces not only widespread poverty but also problems of geography. LAND must serve the entire State with only four law offices.

Americans have a fundamental right to seek justice. This should be guaranteed regardless of where they live, how much they make, or the color of their skin. Again, the statistics show that the indigent are underserved: The general population can claim one attorney for every 320 people, while the poor in this country have only one legal services attorney per nearly 7,000 people.

I urge my colleagues to support the appropriation approved by the Conference Committee. We presume equal access is guaranteed by our Constitution. This appropriation puts us one step closer toward making equal access a reality for the poor of our Nation.

Mr. FAZIO. Mr. Speaker, I rise in strong support of the conference report on H.R. 2519, the bill that funds the Commerce, Justice and State Departments, the Federal judiciary, and related agencies for fiscal year 1994.

First, I would like to commend Chairman NEIL SMITH and the conferees for meeting the challenge that was before them. The conferees were able to set priorities in determining the funding levels for the various agencies and programs that this conference report supports, given the fiscal restraints they faced. But, the funding level in the resulting conference report is not only below the subcommittee's target, as set by the Appropriations Committee based on this year's budget resolution. It is also less than the amount requested by the President, and below last year's funding level.

The Commerce-Justice-State conference report supports a diverse number of agencies and programs. They include community policing efforts, law enforcement against organized crime, the Federal Bureau of Investigation [FBI], and our Federal prisons; the operation of our national fisheries and our marine, weather, environmental and satellite programs; the Immigration and Naturalization Service; the National Weather Service, and the Small Business Administration.

The conference report's support of the President's new immigration initiative is of tremendous importance to California, given the serious problems that we are having with illegal immigration. It targets funds for additional land border inspectors, additional border patrol agents, increased pre-inspection at airports, and more asylum officers. The conference report also increases immigration inspection fees on foreigners entering the country by plane or boat from $5 to $6—an increase that is expected to raise $50 million.

The conference report provides grants to State and local law enforcement agencies to assist them in safeguarding our neighborhoods and communities. It also supports juvenile justice programs, FBI start-up costs for creating a national background check system, and a new community policing effort so that State and local governments can put more officers on the street and employ innovative techniques to prevent crime.

The Small Business Administration—known for its direct and guaranteed loan assistance to small businesses—is funded by this conference report, as is the Economic Development Administration [EDA]. The EDA, in turn, supports the efforts of my district's Tri-County Economic Development Corporation [TCEDC], which was formed in 1985 to serve as the economic development planning and coordinating agency for Butte, Glenn, and Tehama Counties. Over the past 8 years, TCEDC has financed a revolving loan fund that has worked in partnership with private lenders to provide loans to small businesses, creating over 250 jobs. Without the financial support provided in this conference report, economic development programs in these three counties would be seriously jeopardized.

Also important to my constituents is the conference report's support of SEARCH, the National Consortium for Justice Information and Statistics. SEARCH is comprised of Governors' appointees for all States. These appointees are dedicated to assisting State and local criminal justice agencies in building, operating and improving their computer systems to combat crime, all at no cost. In the past, SEARCH has assisted the Sacramento County Sheriff's Department Crime Analysis Unit in mapping a series of car-jackings that took place at gunpoint in the Sacramento area; this mapped information was then distributed to patrol forces. SEARCH also helped the Sutter County Sheriff's Department examine two computer disks that were suspected of containing evidence in a homicide case.

The programs funded in this conference report safeguard our children, neighborhoods and communities, and preserve our resources. They protect our industries, both locally and globally, and help us maintain our position as an international leader—economically, socially and politically. Mr. Speaker, I urge my colleagues on both sides of the aisle to vote for maintaining our quality of life to and support final passage of this conference report.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title.

H. Con. Res. 146. Concurrent resolution authorizing the use of the Capitol Building and grounds for events to commemorate the 200th anniversary of the laying of the cornerstone of the Capitol.

The message also announced that the Senate further insists upon its amendments to the bill (H.R. 2492), an act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes, disagreed to by the House and agrees to a further conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KOHL, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. BYRD, Mr. BURNS, Mr. MACK, and Mr. HATFIELD to be the conferees on the part of the Senate.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, 1994

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 279 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 279

Resolved, That during the consideration of amendments reported from conference in disagreement on the bill (H.R. 2520) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1994, and for other purposes, motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement, and the motion printed in section 2 of this resolution, shall be considered as read. Points of order under clause 7 of rule XVI against the motions printed in the joint explanatory statement of the committee of conference to dispose of the amendments of the Senate numbered 10, 24, 81, 102, 123, and 125, and the motion printed in section 2 of this resolution to dispose of the amendment of the Senate numbered 18, are waived.

SEC. 2. The motion to dispose of the amendment of the Senate numbered 18 is as follows:

"Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 18, and concur therein with an amendment, as follows:

"In lieu of the matter proposed by said amendment, insert ': *Provided*, That none of the funds under this head shall be used to conduct new surveys on private property unless specifically authorized in writing by the property owner'.".

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. At this time I yield the customary 30 minutes, for the purpose of debate only, to the gentleman from Tennessee [Mr. QUILLEN], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 279 provides for the consideration of the conference report on H.R. 2520, the Department of the Interior and related agencies appropriations bill for fiscal year 1994.

The rule provides that the motions printed in the joint explanatory statement accompanying the conference report and the motion printed in section 2 of the rule shall be considered as read.

House Resolution 279 waives clause 7 of rule XVI—which prohibits nongermane amendments—against the motions printed in the joint explanatory statement to dispose of the Senate amendments numbered 10, 24, 81, 102, 123 and 125, and the motion printed in section 2 to dispose of the Senate amendment numbered 18.

Mr. Speaker, I urge swift passage of this rule so that we can consider this important conference report.

I would like to commend Chairman YATES and ranking Republican RALPH REGULA and their staff for crafting this conference agreement. I think every Member knows this conference committee worked long hours and dealt with complicated and contentious issues. I would like to thank them for their dedication and diligence.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, my colleague, the gentleman from Tennessee [Mr. GORDON], has thoroughly explained the provisions of this rule. I want to reiterate that this rule waives no points of order against the conference agreement—it only provides germaneness waivers against motions to dispose of seven amendments reported in disagreement. Although I do not generally support waiving germaneness rules, these waivers seem necessary in order to properly dispose of these amendments in disagreement. Therefore, I will support this rule.

This Interior appropriations bill has been the subject of much controversy, particularly on the grazing fee issue and funding for the National Biological Survey. I commend Chairman SID YATES and RALPH REGULA, the ranking Republican, and all the conferees for their hard work.

I do want to express my concern over funding for the National Biological Survey contained in this bill. The NBS is a major new proposal, and the authorization bill is still pending further consideration by the House. I hope we can move that measure soon so that the $165.5 million appropriated is justified by an authorization bill.

Again, Mr. Speaker, I rise in support of this rule and urge its adoption.

□ 1550

Mr. Speaker, I reserve the balance of my time and would like to advise the gentleman from Tennessee [Mr. GORDON] that I have all the time, the 30 minutes, allocated.

Mr. GORDON. The gentleman does have all his time allocated?

Mr. QUILLEN. I am going to use all of my time, Mr. Speaker, and, if the gentleman from Tennessee [Mr. GORDON] would like me to yield time now, I will be glad to do so.

Mr. GORDON. We have no requests for time right now, Mr. Speaker, so I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I rise in opposition to the rule and urge my colleagues to defeat this rule. Secretary Babbitt's National Biological Survey has struck fear in the hearts of many Americans, especially those living in the West. Every single Member of this House should also be concerned about creating a brand new Federal agency through the appropriations process. The National Biological Survey is not authorized and in fact was pulled from this floor because of the heavy opposition and the numerous amendments that were made by this body.

On October 6 this House debated the National Biological Survey and added several amendments, including protections for private property, peer review guidelines, a prohibition against using untrained volunteers, and others. Chairman STUDDS has agreed to accept several other amendments including a wildlife amendment to preserve migratory bird research and hunting. None of these protections are included in the appropriations bill. Secretary Babbitt will simply take his money and run, ignoring the will of this House. If this new agency is unable to stand up to the scrutiny of Congress then perhaps the paranoia is confirmed. Let's not turn Secretary Babbitt loose with over $150 million without protecting our private property rights, our ability to hunt migratory birds and, most of all, our duty as Congress to establish the laws regarding our natural resources.

It is time to take a hard stand against the administration establishing new Federal agencies without the approval of Congress. Bring this legislation back to the floor for continuation of this debate. Vote "no" on the rule to H.R. 2520.

Mr. GORDON. Mr. Speaker, at this moment we still have no requests for time, so I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DREIER], a valuable member of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding me this time.

When the House considered the Biological Survey bill on October 6, eight amendments were adopted to protect private property rights. However, because that bill was withdrawn, language will be included in the motion to dispose of Senate amendment 18, which was reported in disagreement on the Interior appropriations conference report. That language consists of part of the amendment by the gentleman from North Carolina [Mr. TAYLOR] that passed the House by a vote of 309 to 115.

While I oppose unauthorized appropriations, I am particularly disturbed by this form of selective authorization, which seeks to subvert the will of the House both procedurally and from a policy perspective.

This conference report creates a new Government bureaucracy without congressional authorization. That bureaucracy will be able to pursue its objectives contrary to the will of the House that:

The survey obey State property rights laws,

Data collected by the Survey be disclosed to the land owner,

Safeguards be put in place to protect against untrained volunteers who gather information; and

There be peer review of scientific data and research.

Mr. Speaker, this is not reinventing Government. This is reinventing the Soviet Union. We should vote down this rule and hold off on the Biological Survey until it is authorized by Congress. In addition, Mr. Speaker, we should not be waiving points of order against a motion to increase grazing fees.

While I believe that grazing fees should be increased, the Natural Resources Committee should send a grazing fee recommendation to the full House, rather than punting that responsibility to the appropriators.

Mr. Speaker, if the authorizers are sincere about protecting the prerogatives of their committees, they would not be asking the Appropriations Committee to do their dirty work for them. But since they insist on playing this cat and mouse game, the Appropriations Committee should, in the words of a great First Lady, "just say no."

Let us give the Appropriations Committee a hand and just say no to this rule.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Illinois [Mr. YATES], the chairman of the Subcommittee of Interior of the Committee on Appropriations.

Mr. YATES. Mr. Speaker, Members of the House have received letters from friends of mine, from the gentleman from Louisiana [Mr. TAUZIN] and a few others, who have complained, and from the gentleman from Alaska [Mr. YOUNG], who has complained about what the conference committee did on biodiversity. The conference committee did not increase any of the authority or any of the powers of the Secretary of the Interior with respect to biodiversity. On the contrary, Mr. Speaker, I suggest to the House that what those Members want, in asking us to kill the rule, is to go after grazing fees because, if we kill the rule, we will make grazing fees subject to a point of order. And, as my colleagues know, there are some people in the House who are opposed to the increase in grazing fees. With respect to the question of biodiversity, Mr. Speaker, I say, if you kill the rule, I can still bring the conference report to the floor. So, the question of biodiversity really is a sham as it is presented here.

Let me point out that what the Secretary of the Interior has done essentially is to undertake a reorganization of the scientific agencies within the Department of the Interior. He has given the National Biological Survey no additional powers because he does not have the legislative authority himself to give it powers of that kind.

What we have done here is, until such time as an authorization is enacted, and only when an authorization is enacted does the Secretary of the Interior obtain whatever additional powers that legislation will give. He has no additional powers in our bill beyond those that he had previously, and to say that this give the Secretary additional powers is to mislead the House.

Mr. Speaker, I urge Members of the House to vote up the rule, not for the purpose of having anything to do with biodiversity, because that is a nonexistent issue, but the real issue before the House is whether or not my colleagues want to approve the conference agreement that provides for an increase in grazing fees.

□ 1600

In the event the rules goes down, that provision is subject to a point of order, and grazing fee increases will be killed.

Mr. QUILLEN. Mr. Speaker I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise in strong opposition to the rule to the conference report to H.R. 2520.

This rule protects a conference report that contains sweeping grazing management legislative provisions, which were never the subject of any congressional hearing and, it establishes an unauthorized new agency, the National Biological Survey.

The National Biological Survey [NBS] is safely secured from threat in this bill—even though it has not been authorized and may never be. The Rules Committee chose to permit the unauthorized establishment of this new agency in violation of House rules in the House-passed bill and, as a result, the NBS can now avoid the House rule barring unauthorized appropriations—rule 21, clause 2.

This is particularly egregious because it flies in the face of overwhelming House support for a more restricted

Biological Survey than is contained in this bill. The result is a bill that directly contravenes the will of the House.

Indeed, the House adopted a total of eight amendments—most dealing with property rights. None of these amendments are incorporated into this protected appropriations bill.

The Taylor amendment was adopted by an overwhelming vote of 309 to 115. An even greater margin than the vote on the superconducting super collider.

Don't be fooled. Only a small part of the Taylor amendment is included in this bill. Gone from the language the House supported so convincingly are provisions which require the NBS to obey State property and privacy laws; require NBS employees to notify property owners of access so that the owner can accompany them; disclose the data gathered from the owner's land to the owner; survey Federal lands before private lands; require peer review of data and research to ensure reliability and validity—to name just some of the amendments adopted by the House.

Besides the amendments already agreed to by the House, at least 10 additional amendments may be offered to the authorizing legislation for the NBS. The only responsible course of action is to let the authorizing committees in both the House and Senate complete their work on the NBS—first—before we establish this new agency in an appropriations bill.

It is bad enough to circumvent the rules of this body—worse still when it is done in direct contravention of the will of this body. But it is unacceptable when the subject is the cornerstone of our constitutional democracy: private property. Make no mistake: Support for this rule is opposition to private property rights.

If you believe that new Federal agencies ought to be authorized by Congress, especially when the subject pertains to something so fundamental as private property, defeat this rule. Private property rights are too important to do otherwise.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I would just like the Members to please make reference to page 17 of the conference report, which makes it absolutely clear that the comments just made about, for instance, private property rights, are not at all accurate. In fact, the conferees state explicitly that:

> None of the funds under this legislation shall be used to conduct new surveys on private property unless specifically authorized in writing by the property owner.

To go further, on the same page, the report makes it absolutely clear, as the chairman indicated, that this does not create a new agency. It merely funds programs already authorized in law and provides no additional authorities that the Secretary does not already have.

Mr. GORDON. Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, let me first of all thank the gentleman for yielding.

Mr. Speaker, let me point out that there have been some improvements in the conference committee with reference to property rights. The improvement is that the conference committee did adopt language saying that before this biological survey can go forward, which is a function of the Interior Department anyhow, that written consent of the property owner must be obtained. We appreciate that. That is an improvement.

But what is not contained in the conference report in authorizing the funds for this program are the other protections that this House voted for, protections that said the volunteers would not be used in this scientific survey. Apparently the money appropriated will be spent by the Interior Secretary with his current authority to use volunteers.

The second point we want to make is that there were other amendments adopted on the floor on the authorizing bill which would have made sure that State privacy laws were protected, but data gathered would have been shared with the landowner, that the survey of Federal lands were to go first before private property would be surveyed, and that peer review of the data would be permitted.

Those provisions, which are contained in the authorizing legislation, are not here in the conference report, and that is a shame, because they should be if this biological survey is going to go forward.

Mr. Speaker, let me tell Members, we have some assurances from the authors of the biological survey bill, and I believe they are going to make them on the floor today, that that bill is yet to come before the House. It will be brought up, I understand, with that assurance. I think we will have a chance when the bill is brought up to maybe hopefully get those protections built into law.

But I want to point out if something happens to that bill, if it is not brought up, if it dies somewhere in this process, if the Senate does not bring it up, if we do not get a separate authorizing bill with all the protections that are left out of this conference report, then the Interior Secretary, if this rule passes, will be able to go forward with volunteers, without all the protections that we adopted on the floor of this House.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I would say to my good friend the gentleman from Louisiana [Mr. TAUZIN], we on the Committee on Appropriations are trying at the direction of the authorizing committees to limit the amount of legislation that we put in these appropriations bills. I regret that we could not take care of all of the problems. We certainly made an effort in that direction. But I certainly would hope we would not defeat the rule on this bill because the authorizers have not passed the National Biological Survey legislation.

Mr. TAUZIN. Mr. Speaker, reclaiming my time, the gentleman from Washington [Mr. DICKS] makes a valid point. I would point out, however, that until this Congress, this House and this Senate, acts on all of these private property protections, there are many of us in this body who feel that the Secretary of Interior, getting a bunch of volunteers to run all over private property in America to do this survey creates some real problems for us.

Mr. DICKS. Mr. Speaker, we took care of the private property issue.

Mr. TAUZIN. We would like the opportunity, and I hope we get it, to vote on the authorizing legislation sometime this year, and hopefully get the bill out, so the protections are built in.

Mr. DICKS. We urge the gentleman to do that.

Mr. TAUZIN. I do, too. Our problem is this bill does not have it. It has real problems.

Mr. QUILLEN. Mr. Speaker, I yield 2¼ minutes to the distinguished gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, nearly every appropriations bill, especially the conference reports this year, have been considered under a rule that has waived the rules of the House. Why do we have rules if we do not intend to follow them? Why is that important to this particular issue?

In this particular conference report we create a new agency, the National Biological Survey, and it has not been authorized.

Mr. Speaker, I am aware that it is claimed that it does not require authorization. There are those of us in the House that feel it does extend far beyond the existing organizations, and, thus, does need to be authorized.

When the House originally considered the Interior bill, the rule granted waived points of order against the NBS. Some Members were concerned, but we did not attempt to defeat the rule, because we were assured that the authorizing committee would bring an authorization bill to the floor.

Well, a funny thing happened along the way. It was brought to the floor, and the intent was that during the authorization process, it would expand the Interior Secretary's power. Yet the House worked its will and passed several amendments that actually constrained the power of the Secretary. As a result, the bill was quickly pulled from consideration and it was not authorized.

I am aware also there have been commitments that it will be brought for authorization. But that is after the fact, and after we pass on this rule.

Mr. Speaker, the House has an obligation to protect the Members that pass amendments during the NBS authorization. As a result, it has an obligation to protect certain rights and will of the House as passed, in the process of addressing it.

Mr. GORDON. Mr. Speaker, I yield 45 seconds to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, my friend, the gentleman from California [Mr. PACKARD], of course, is a very valuable member of our subcommittee and was one of the managers in conference. Let me read to my friend what the managers say about the biological survey.

> The managers agree that funding for the National Biological Survey is provided only to the extent authorized by law and shall be used to carry out ongoing research activities of the department previously carried out by a variety of separate agencies within the department.

□ 1610

All we have got now in the conference agreement is the authority the Secretary now possesses. We gave him no additional powers in this bill.

Mr. PACKARD. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. PACKARD. Then I have to ask, why, as I did in the process of conferencing, why then do we ask for the authorization to even bring before the House an authorization bill?

Mr. YATES. Mr. Speaker, the Secretary wants additional duties and he can only get those additional duties in an authorizing bill. That is the reason that we are going to have an authorizing bill. But in this bill he does not have additional duties.

Mr. PACKARD. But in this bill we fund the full amount that would encompass those additional duties.

Mr. YATES. Mr. Speaker, no, we do not. We only fund the amount for responsibilities in the existing agencies.

Mr. GORDON. Mr. Speaker, for the purpose of debate only, I yield 1 minute to the gentleman from Massachusetts [Mr. STUDDS], chairman of the Committee on Merchant Marine and Fisheries, to answer some questions that were raised earlier.

Mr. STUDDS. Mr. Speaker, I thank the gentleman for yielding time to me.

I notice the chairman of the Committee on Natural Resources presumably is about to say a similar thing. As managers of this authorizing bill, I just want the House to know that it is our intention, as it has always been, to return, as soon as the schedule permits, to conclude our consideration of that bill.

Members should also know that a companion bill has been introduced by the chairman of the committee of jurisdiction in the other body, indicating that there is at least a possibility of its being seriously considered over there as well.

It is our hope and our intention that that will be the case.

In any event, the House will work its will and the authorizing bill will be brought back, we hope and expect perhaps as early as next week, for final consideration by this House. Members should know that.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in opposition to the rule. I suspect most of my colleagues know why.

I rise because it seems to me there are extensive statutory changes made in this appropriations bill, particularly as they regard grazing.

I first should say that I do appreciate the work of the committee. I appreciate the work of the chairman, who is always a gentleman working with these things.

I have been around legislation for a while, in the State legislature, been here a few years. We have some rules. And it seems to me that if we do not go by those rules, there is not much point in having them.

The rule is that we are supposed to legislate in the authorizing committees. We are supposed to appropriate in the appropriating committees.

Here are 19 pages of new rules and regulations put into statute here on grazing. I am not talking about fees. I am not talking about fees. I am talking about reform, the reform, the statutory reform that is put forth by the Secretary is right here, and eight pages in this one.

These are significant kinds of changes, not just little changes.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, when the Interior bill passed the House originally, we had no provision for grazing fees because it was stricken as being legislative. The first time that this came up again was when instructed by the House, in going to conference, to do something about increasing grazing fees. That was the reason for the provision being included.

Mr. THOMAS of Wyoming. Mr. Speaker, I understand that. But the gentleman was not instructed to put in 18 pages of new rules on grazing reform. He was talking about fees. These are not fees. These go far beyond fees.

Mr. YATES. Mr. Speaker, if the gentleman will continue to yield, this was started by the Senators, I will say, rather than by Members of the House.

Mr. THOMAS of Wyoming. Mr. Speaker, that does not mean we have to like everything the Senate goes for. I do not believe we ought to do that. I think we ought to reject this rule. I find Members embracing everything the Senate is for. I see my dear chairman down here from the authorizing committee who has written letters on this. I support that, but we are not in keeping with the letters that my chairman has written.

Mr. Speaker, I oppose the rule.

Mr. GORDON. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. MILLER], chairman of the Committee on Natural Resources.

Mr. MILLER of California. Mr. Speaker, I would hope that we would support this rule.

Let me see if I can put some of this in perspective.

One is that clearly it is the intent of the gentleman from Massachusetts [Mr. STUDDS] and myself and the others involved in the Biological Survey to bring that legislation back to the floor and to push for final passage and, as the gentleman pointed out, we expect to do that. We have two ships passing in the night here, the appropriations and the authorization bill.

Had we stuck with the original schedule, the House would have voted the Biological Survey off of the floor and been done with it. I appreciate the concerns of Members who won those amendments, because they are concerned, as everyone is, that somehow this will all be lost as the bill goes to conference or somewhere else. And they bought an insurance policy in the Appropriations Committee with respect to private property rights, which I think they were quite proper to ask for. And they got a limitation so that they could protect that and to say that they were serious and they did not want to give it away. Message sent and received.

Now we have grazing fees. The House, by a vote of over 313, told the Committee on Appropriations not to accept the moratorium by the Senate on what the Secretary has done, which dealt with rules and regulations and fees on grazing lands, to respond to the fact that the House has passed overwhelmingly time and again both fee increases and regulation, never having dealt with the Senate.

Those instructions were picked up. They were managed by the House and the Senate conferees and in consultation with a lot of other Members involved. They came up with this.

What Members are saying here is they would like a little more authorization on the Biological Survey and a little less on the grazing fees. The fact is, they cannot get it perfect. But there is a mandate from the House to deal with this, and they have done so. And they are reporting that back.

On the Biological Survey, we are right in the middle of the authorization. We will continue those amendments. Those amendments will be honored and, as the gentleman from Massachusetts pointed out, a companion bill has been introduced by the chairman of the appropriate committee in the other body. And the Secretary says he wants this legislation because that is the only way he can expand his authority that he does not have under current law.

I think this rule and the bill is fairly fair to all parties involved. I think this is a good, fair operation. Not everybody is happy, but it has sort of worked out reasonable.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Speaker, I rise in opposition to this rule. The conference report on the fiscal year 1994 appropriations for the Department of the Interior, while funding many valuable projects and programs, includes a provision that causes me great concern.

This provision would allow for the creation of the National Biological Survey, a new agency that has not even been authorized by Congress. The conference report provides for the establishment of the National Biological Survey in the Department of the Interior through the transfer and consolidation of research elements from various bureaus.

I oppose this rule because I am deeply concerned that its adoption will send a wrong signal. It will send the message that the authorizing process is unnecessary. It will say that it's okay to leave the details of establishing new agencies with the bureaucracy. And, it will mean that we in Congress have abrogated and abandoned our constitutional responsibilities.

Mr. Speaker, H.R. 1845 authorizes the establishment of the National Biological Survey in the Department of the Interior—an agency that would be tasked with gathering, analyzing, and disseminating information on plant and animal species in this country. This bill was referred to the Committee on Merchant Marine and Fisheries, the Committee on Natural Resources, and the Committee on Science, Space, and Technology.

On October 6, H.R. 1845 was considered under an open rule. After considerable debate, the House adopted eight amendments—changes that significantly improved the bill. Perhaps the most important of these was the Taylor amendment, critical because it protects private property rights. The Taylor amendment requires written consent from, and notice to, private landowners before any Government agent enters their property, and further requires the Government to share any data collected on the property with the landowner.

Taylor is important, but there were seven other significant amendments that considerably improved the legislation. Those amendments would prohibit the use of volunteers in collecting data; require more rigorous independent review of survey data; require the surveying of all Federal lands before private lands; prohibit the acceptance of donated property; and clarify the survey's international responsibilities.

Despite assurances that this authorizing legislation would be put on a fast track and enacted before the appropriations bills were finalized, that has not happened. H.R. 1845 has not even been rescheduled for floor action. How, we are being asked to fund a program that we have not authorized and without most of the refinements approved on this floor a few short weeks ago.

Amendment No. 18 in the conference report includes only one small part of the Taylor amendment and ignores the other seven amendments adopted by the House on October 6. While I see that this is an attempt by the conferees to address one concern raised by the House, it in no way should replace the full text of the Taylor private property rights amendment.

This program should not be funded until it is authorized. Therefore, Mr. Speaker, I oppose this rule, and I urge my colleagues who care anything about constitutional rights and constitutional responsibilities to join me in voting against it.

□ 1620

The SPEAKER pro tempore (Mr. MFUME). The Chair wishes to advise Members designated to control time that the gentleman from Tennessee [Mr. GORDON] has 17 minutes remaining, and the gentleman from Tennessee [Mr. QUILLEN] has 14 minutes remaining.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I apologize to the House for so many interventions.

I rise, Mr. Speaker, to correct the gentleman from Texas [Mr. FIELDS] in his assertion that the biodiversity survey was created by our bill. It was not created by our bill. It was created by a reorganization plan by the Department of the Interior of existing powers that resided in the national parks and in the fish and wildlife refuges. That reorganization plan gave no additional powers to the Secretary that he did not have before. It just limited those powers.

Mr. Speaker, I have an opinion by the Solicitor of the Department of the Interior, in which he says:

> So long as the function is not a new one and is within the contemplated purposes of the current appropriation . . . the essential function, biological research, is not new or different. Rather, only its organizational address will change. Accordingly, we believe this kind of a transfer during the current budget year is authorized by section 5 of [the reorganization plan].

It is a reorganization.

Mr. QUILLEN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in strong opposition to the resolution.

Mr. Speaker, I rise in strong opposition to this resolution for consideration of the conference report on H.R. 2520. Once again, the Rules committee has ignored a majority of the Members of this body. Once more we have a protective rule for an appropriations bill that would thwart the will of the full House for the gain of a few.

On October 6 this body spoke loudly and clearly—private property rights must be protected in carrying out the mission of the National Biological. Survey. It's not often I'm on the side of a 200 vote victory margin, but on the Taylor-Condit-Pombo amendment many Members joined the fight for a basic privacy right.

Mr. Speaker, the conferees half-hearted attempted to assuage Members with "Taylor-like" language doesn't pass the acid test. Just ask Mr. TAYLOR, Mr. CONDIT, or Mr. POMBO, or those organizations, such as the National Federation of Independent Businessmen, American Farm Bureau, and many others which strongly supported the amendment to H.R. 1845. Are any of them satisfied the conferees have captured the essence of property rights protection embodied in our vote of October 6? Of course not.

Mr. Speaker, we have been disenfranchised by the parliamentary process one more time. Not only is the Taylor amendment a shadow of its former self, but the amendments of Mr. TAUZIN, Mr. HAYES, and others which we adopted on October 6 are nowhere to be found.

Therefore, I urge my colleagues to rise up and defeat this rule. Send a message to the leadership of this body—No more business as usual—the 103d Congress will be heard and its collective voice says "private property rights must be respected by government." Vote "nay" on the rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes and 30 seconds to the distinguished gentleman from North Carolina [Mr. TAYLOR].

Mr. TAYLOR of North Carolina. Mr. Speaker, when the First Congress in this Nation met for the first time, it set to work on the Bill of Rights. It said in the preamble of its work that it did that because it was a promise to the people. It wanted to maintain the confidence of the people in a very shaky new government that was starting, and democracy was starting.

The whole debate we are here having about private property rights, and we expressed this in the Committee on

Merchant Marine and Fisheries, was to try to return some confidence about this body's providing security for private-property rights that have been abused and trampled, many of us think, for years.

First of all, in that hearing we heard the Secretary of the Interior say that he was asking for an exemption to the Freedom of Information Act on the biological survey, and he said to me personally, "It is because if we let them know what we are doing, people may destroy the habitat." My response was, "Is this bill so bad, is this action so bad, we cannot tell people about it?"

Later we passed in the Committee on Merchant Marine and Fisheries almost unanimously amendments that were brought later to this floor. Those amendments went over to Interior and there they were killed. We came back in a joint committee, and I asked the Secretary of the Interior if he was planning to move ahead with this biological survey, even without authorization. He said he was, he intended to do it. He said his counsel told him he could do it, and he was moving ahead. We took the matter to the floor, and won.

That is a brief history of what has happened. First of all, we had a Secretary of the Interior saying that he did not want people to know about this, because it might cause some damage. The Government could not really trust the people.

Second, the amendments of the Committee on Merchant Marine and Fisheries were ambushed in Interior and killed.

Third, we had the Secretary saying he was going ahead without authorization.

Fourth, we won this on the floor, by a large margin. Then the authorization was held up, and Interior, has brought us an appropriation bill authorizing the creation of the National Biological Survey with a small amount of private property protection. This is not my amendment for private property rights protection. It was done without my consent and without discussion. The sum of this action does not retain the public confidence.

What I am saying is that as we look back over the history, we have in fact destroyed that public confidence, that confidence that people thought they had in this body for protecting private property rights. I do not think we can get it back unless we defeat this rule and come up with something that will enable us to restore public confidence.

Mr. FIELDS of Texas. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Speaker, on page 21 of the committee report from the Committee on Appropriations it says "The National Biological Survey is proposed new organization." That causes us concern, a number of us. Going back to the gentleman's particular amendment that passed on the floor, as I understand the distinction with what is in the conference report, there is no notice to the landowner. There is a requirement of written consent, but then there is no requirement that any information that is gathered or found be shared with the landowner.

Mr. TAYLOR of North Carolina. The gentleman is correct. I think that undermines the private property protection people thought they would have in this bill when we passed the authorization.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I want to thank, my friend, the gentleman from Tennessee [Mr. GORDON], for making this time available to me. My remarks will be brief.

Mr. Speaker, I want to tell the House about a problem that is in this bill. The Biological Survey is put in here, in theory, that it is going to make things better. In point of fact, what we are doing is stripping the line agencies like Fish and Wildlife and other agencies of their ability to gather the facts, and quite honestly, their ability to inform the Congress properly of what is going on with regard to the administration law.

Mr. Babbitt, the Secretary, wants this. That is nice. I have seen other Secretaries want this kind of centralization of authority, and the result of it is always bad, because if we get a bad Secretary that wants to plunder the public lands, that wants to dissipate the authorities and the protections of Fish and Wildlife and habitat, this is the perfect tool under which that can be done.

It is said that this does not constitute any change, we are just moving money around. Do not believe it. What is happening here is not that money is being moved, but the basis is being laid for a change in the entire structure of Fish and Wildlife, and a number of other legislation. We are talking about moving the authorities out of endangered species, over the Fish and Wildlife Coordination Act. Information that might flow up to this body from Fish and Wildlife or from those other agencies will no longer be coming this way, because Mr. Babbitt will have his hands right around the neck and windpipe of those agencies.

My warning to this House is that the adoption of amendment No. 16, inclusion of the biological survey, is extremely bad. It is not in the interest of the environment, it is not in the interest of conservation, and it is a bad proposal. It is not going to save money, it is not going to make for better science, it is simply going to move it all beyond the control of the Secretary.

Perhaps Mr. Babbitt might want to move those authorities in a direction that the Members of this body might want, but I want to remind the gentleman that some years ago there was a fellow by the name of Doug McKay who was diligently dissipating the public lands, plundering the refuge system, destroying the administration of BLM, and causing significant other troubles in the handling of the public lands of the United States and the protection of the resources there, including fish and wildlife.

A similar situation can much more easily occur now, because of the provision here with regard to the biological survey. The biological survey is not progress. Remember, in the old days there was a biological survey. That was the Fish and Wildlife Service. I do not think we want to go back to that kind of stratified approach to our protection of the public lands.

□ 1630

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Speaker, 2 weeks ago, I spoke in support of the Taylor amendment which passed this body by an overwhelming bipartisan vote of 309 to 115.

Clearly, the vast majority of this House believed that it was important to protect the privacy rights of people whose land will be subject to the scrutiny of the national biological survey [NBS].

What happened to our amendment?

Does the clear will of the House mean so little to the Appropriations Committee that its members are willing to establish the NBS without most of the privacy protections that we approved?

If so, what happened to the will of the majority?

Mr. Speaker, my constituents want the protections provided by the Taylor amendment, all of them.

They want the NBS to obey State property and privacy laws.

They want the NBS to disclose to a property owner the data gathered from his or her land.

And, they want peer review of data and research to ensure reliability.

Mr. Speaker, on behalf of the private property owners of my district, and throughout the United States, I urge my colleagues to defeat the rule on the Interior appropriations bill.

The conference should reconvene and report back a bill that withholds funding for the national biological survey until it is authorized by the Congress.

Mr. GORDON. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of the rule on the conference report.

In the past I have been actively involved in consideration of bills and rules on Interior appropriation bills and have made my concerns well known when I felt the appropriations measures have overstepped their authority. That is not the case today.

The rule provides for fair consideration of the matters considered in conference by the House and the Senate. As the bill left here, there were authorizing measures in it that were protected by the rule that came out of the Rules Committee. As the bill came to the floor, it was I who rose and struck the authorizing language from the biological survey at that time.

The bill that left here had the money in for the biological survey. The fact is that during the course of consideration we considered an authorization bill, and it is the intention of the manager of that bill, Chairman STUDDS, to move ahead with the consideration of that and to, in fact, act on an authorizing measure.

I think in good faith my colleague, the gentleman from Ohio [Mr. REGULA], added language which he thought represented the will of this House in terms of approval of landowners. I for one, based on the votes that occurred here, have no intention of trying to frustrate the will of the House with regards to owner consent for access to land. I think it is the clear will of this House that that be the case, and I think it is the will and understanding of the Secretary that that is going to occur. We are trying to operate in good faith.

But I think what is operating here today really is an effort to use the biological survey as a heat shield. I disagree with the policy path we have taken with regard to owner consent, but really, the issue is grazing. And we have had debate and gridlock for 10 years on grazing fee increases, and on policies around this House with regard to it. We have sent the Senate bill after bill over there to sit and to languish while we waited for them to act on a reform grazing policy. We did not ask for this grazing policy to be foisted on this particular Interior conference. It was the Senate that acted on such policy and stated that we will not do anything on grazing fees, and said the Secretary should be stopped, he could not even study the issue of grazing.

Then in conference, finally, Senator REID stood up, and I commend Senator REID from a western State for his courage, and we went to the table and we resolved this grazing issue policy and fee in the compromise embodied in this measure before us. In this House we can resolve it today by passing this rule and passing these grazing fees and dealing with these issues on a good-faith basis.

Unfortunately, there is some effort underway to attempt to defeat the rule based, I gather, on what the conference committee did or did not do regarding the National Biological Survey and grazing fees.This is an effort in subterfuge. There is nothing in this rule that will prevent the House from appropriately voting on the controversial matters addressed by the conference and being debated today.

Let's look at the question of the National Biological Survey. When H.R. 2520 was first considered by the House it included funding for the National Biological Survey as well as authorizing language regarding donations and the use of volunteers. I am the Member who raised a point of order on the authorizing language and it was stricken from the bill. When the Senate considered H.R. 2520, they included not only funding for the National Biological Survey but they reinserted the authorizing provisions on donations and volunteers. So that was what was before the conference. Chairman YATES, to his credit, upheld the House position and got the Senate conferees to agree to delete the authorizing language in the bill. But that was not enough for some. They wanted the conference to address matters not committed to it by either body. Through the efforts of Representative REGULA, an agreement was reached to include a spending limitation requiring the written consent of the landowner by the National Biological Survey when surveys are done on private property. So what's the point of the opponents of the National Biological Survey? The conference committee agreement is, in fact, consistent with the votes taken by the House regarding volunteers and written consent and if you don't like the language on written consent, furthermore there is nothing in this rule to prevent you from seeking or obtaining an up-or-down vote on this question.

Now the debate on this rule reminds me of what happens when one dog barks at the moon; other dogs join in to sing a chorus. So it is with the opponents of grazing reform. Let me make this perfectly clear. I would not be unhappy if the appropriations bill were silent on grazing. Secretary Babbitt then could proceed with his grazing reform rulemaking as he is authorized to do under current law. It is the Senate that picked this fight with their attempt to dismantle and completely block the Secretary's rulemaking grazing permit authority. By a vote of 314 to 109, the House soundly rejected this Senate action. But the Senate was insistent that something be done, this, the same body that stonewalled the House on four different occasions on the question of grazing fees and range reform. Despite that record, I sat down at the table with Members of the Senate in an attempt to forge an agreement, to end a decade of gridlock on this issue. Our jobs as legislators is to address issues, not shy away from them. Finally, yes, we reached agreement and that agreement was adopted by the conference committee. It embodies give-and-take on all sides. It is fair and reasonable and embodies the spirit and intent of past House actions on grazing fees. This rule in no way, shape, or form prevents an up-or-down vote on the grazing reform agreement. Knowing how the House has voted in the past, opponents certainly realize that the House will give its strong approval to the agreement.

If you want to end a decade of grazing gridlock and settle this perennial question of grazing reform, I urge Members to vote for this rule and the conference committee agreement.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Speaker, I thank the gentleman for the time.

I would just like to rise for a couple of minutes here and speak against the rule. There are a number of reasons why I think that this rule ought to be defeated, but one of the main reasons why is because the National Biological Survey is authorized in this conference report. Regardless of what we are hearing, it is authorized. It is $25 to $30 million of new money.

If it was not authorized in this conference report, if it was only going ahead with what the Secretary has the ability to do now, he would not need separate language in a conference report to make it work, because what he is doing is expanding the authority that he has and putting together and reorganizing his department, expending money that he is spending and going out and doing something that we have not authorized yet.

To me this argument on the rule does not have to do with grazing fees. It has to do with the National Biological Survey.

What I feel we should do is put aside the money until the authorizing language has been passed, until this House has had the ability to pass on this question.

I also believe that with the language that is included in this conference report we do not have protection of property rights in the same way that we did with our amendment when we passed our amendment overwhelmingly in this body. It had different language than what is included, as well as the other amendments that were passed that day which are not protected by this.

I hope very much that the chairmen who have gotten up previously and promised we will have the National Biological Survey back are correct, and that we do get that back, and that we are able to finish that process. But it is not at this current time possible.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I can assure the gentleman that we will make every effort in the House, but in suggesting what we can do to control the Senate is another matter. We will do our best to work with the gentleman on that.

Mr. POMBO. Unfortunately, I realize that we do not control the other body. But I just would like to make the final point that if you call the Interior Department now you can get the number of the National Biological Survey. So they are already moving ahead.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, my friends, I come to this well to compliment the gentleman from Illinois [Mr. YATES], chairman of the subcommittee for this work, and the work of the conference, with the understanding that I am terribly disturbed about the Biological Survey that has been put in this legislation. As the gentleman from California just mentioned, the Secretary is already doing it. The Secretary is already stripping the money from the Fish and Wildlife Service, and as my good friend from Michigan said, depleting the resources and putting in this Biological Survey.

This, as I said before, is a nationalization under one umbrella of the planning and use of our land. But it is my understanding, and I have the assurance of the gentleman from California [Mr. MILLER] and the gentleman from Massachusetts [Mr. STUDDS] that we are going to bring the authorization bill to the floor tomorrow or some time this week, and we will have an opportunity once and for all to establish, without any doubt, that the private landholder's rights are protected, that the volunteers will not be used, and that we will have a chance to make sure that the survey will be done on Federal lands prior to private lands, and that we, the Congress, will be setting the guidelines for the Biological Survey, and that should be done. No executive branch should be doing what my good Secretary is doing now. No Secretary, no Cabinet member should be setting policy. This Congress should be setting policy. This Congress should be directing, and only through authorization can we do that.

I am not happy with the conference report. I wish the Biological Survey was not in this report. But the Senate put it in. It was in the Senate side and, in fact, the House, with the help of the gentleman from Ohio [Mr. REGULA] and the gentleman from Washington [Mr. DICKS] did improve that lot which we are faced with today.

But let us come to this floor tomorrow with the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Massachusetts [Mr. STUDDS], the gentleman from California [Mr. MILLER], and myself and pass an authorization bill that directs the Secretary on this survey shall be conducted. That is the way we should proceed.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge adoption of this rule. I have heard all of the pros and cons, but we realize now here it is the latter part of October. November is coming up. The Rules Committee has scheduled an emergency bill for a CR.

We are not making any progress. Let us bring this measure to the floor and hammer it out and pass it. It is time for action and not colloquy.

Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Ohio [Mr. REGULA], the ranking minority member of the committee.

The SPEAKER pro tempore (Mr. MFUME). The gentleman from Ohio [Mr. REGULA] is recognized for 5 minutes.

□ 1640

Mr. REGULA. My colleagues, as I have listened to the debate this afternoon, I am not sure we are talking about the bill or the conference report that we brought back. I have heard that we authorized the Biological Survey. We did not authorize any survey. The Secretary has done this under secretarial order by the authority granted by this Congress in 1950, which allows reorganization. I am no fan of the Biological Survey, believe me. I voted for the Taylor amendment. In order to protect the property owners, at the request of four of my colleagues from the Republican side, who wrote me a letter on October 7, requesting that we put in a requirement that there be written permission if anyone were to go in on private lands, we put it in.

Second, they said in their letter to me, signed by four of my colleagues, "Do not allow volunteers." The Senate language authorized the use of volunteers. We in the House objected and we struck it out so they cannot use volunteers.

Third, they said be sure that they do not do anything beyond what is already authorized in the law. And if you read the conference report, the statement of managers, we make it very clear that they should not do anything that is not already authorized by law.

It has been done; Secretary Watt, in 1982, reorganized and created the Minerals Management Service. He did it without any additional action by this Congress.

So let me make it clear: The Biological Survey issue here is just a Trojan horse in a cowboy hat. The real issue is grazing. They are using the Biological Survey to obfuscate the questions of grazing. That is the target.

The truth of the matter is this conference report tightens up the Secretary's authorities.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

When the gentleman refers to minerals management, he means biodiversity?

Mr. REGULA. No. I said 1982.

Mr. YATES. That is what they are doing.

Mr. REGULA. Yes, that is what they are doing.

Let me make clear, if this rule is defeated, the Biological Survey will go ahead regardless because it is already authorized. The money will be spent with no controls.

So, if you want written permission to go on private land, if you want no volunteers, and if you want a requirement that they get authorization for further activities, you should vote for the rule and for the conference report and do not get distracted by that issue because we tightened it up considerably.

The Senate bill had the money in, the House bill had the money in, we passed the rule on a voice vote. Nothing was said on the floor about the money when we had the original bill. Therefore, if the rule is defeated, we go back to conference.

There is not an issue. The money in the House and the Senate bill is already there, and you will not have the requirement for written permission, you will not have the elimination of the volunteers, and you will not have a requirement for additional authorization.

If you are for restrictions on the Biological Survey, you must vote for the rule.

Now, the grazing issue has been debated extensively in both Houses, and I think we are pretty much all aware of that. Three hundred and fourteen Members of this body voted for the motion to instruct our conferees to get a grazing compromise, to get grazing-fee language in the bill. We have followed the instructions given to us as conferees. And if you are one of the 314 that voted for that motion to instruct, you should also be voting "yes" on this rule and "yes" on the conference report because the Biological Survey—and I keep emphasizing this because it has been distorted by way of information here—we tightened it up considerably over what will happen without our language.

I hope the authorizing committee will move tomorrow and get this done.

Mr. GORDON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio, the ranking member of the subcommittee.

Mr. REGULA. I thank the gentleman for yielding further to me.

Mr. Speaker, it is vitally important that we get an authorizing bill because without it and without this language, you are giving the Secretary a free hand.

If you want him to have a free hand, then you are against the rule. If you want him to be constrained in what he can do and if you want to avoid those volunteers, you want to vote "yes" on the rule, "yes" on the bill.

We have made every effort to protect and conform to the will of the House.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman in the well. I think what he is telling us is the Biological Survey is now reduced to one species: It is a beef about the beef.

Mr. REGULA. What is that?

Mr. VENTO. It is a beef about the beef—grazing permits and cost changes.

Mr. THOMAS of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. I thank the gentleman for yielding.

Mr. Speaker, the gentleman in the well has not spoken at all about the regulations. He talked about the fees. What about these 19 pages of regulations, is that what was instructed from this House?

Mr. REGULA. Yes. And the instruction from the House did not specify what should be done. The Senate, of course, put a moratorium on having anything done. I am not totally happy with the restrictions, but nevertheless that was the way it was worked out by the Senate and House conferees. It is much less onerous than the Secretary's rules.

Let me say that if we go back to conference, there is a good possibility that we end up with nothing in the way of language, and then the Secretary will, by Executive order, do something far worse in terms of grazing fees and rules and the whole 9 yards then you have here.

We have really restricted what the Secretary can do.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Speaker, the Secretary of the Interior has made it very clear that he thinks that this is the minimal amount that the House should do. He would love us to defeat this conference report so that he could put real onerous restrictions on grazing fees much more in terms of money and much more in terms of environmental restrictions.

So I think the people who come from the West, as I do, have got to look at their hole card here, because they could bring down a much more onerous package than what has been negotiated out fairly between the administration and the Congress.

Mr. GORDON. Mr. Speaker, due to the fact that we have other speakers, I would like to limit the time of the gentleman from Ohio [Mr. REGULA] to 1 additional minute.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

Mr. Speaker, I point out that when the arguments were made on the floor against Secretary Babbitt, it was said that the Congress ought to be the ones who fix the grazing fees, and not the Secretary of the Interior, and that is exactly what has happened here. The Congress has acted and will act on the grazing fees, not the Secretary.

Mr. REGULA. If we do not pass this, he will set these and they will be far worse than these here.

Mr. THOMAS of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. I thank the gentleman.

Mr. Speaker, we have had no hearings on this. There are not five people in this place that know what those regulations are, and the gentleman is saying that the Congress is doing this? That is a farce, that is not true. No one in here knows what those regulations are. We are doing it simply because you put them on an appropriations.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Minnesota.

Mr. VENTO. We had a briefing on the Secretary's proposal, and I know that the gentleman was unable to be there, but several of us were there. Some of us actually had the opportunity—I would be happy to share with the gentleman a copy of the land reform policies that the Secretary provided each of us.

Mr. REGULA. Mr. Speaker, bottom line, a "yes" vote on the rule is to restrict the Secretary, a "no" vote is to give him a free hand.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. I thank the gentleman for yielding this time to me.

Mr. Speaker, there has been a great deal of discussion here about the rule, and Members are going to have to decide which way they want to vote on this rule for themselves.

But what seems to be missing in some of the discussion is the substance of the topic contained in the appropriation.

I want to address that. And one of those topics, that is, the act to study the biological systems of the United States, the Biological Systems Act. There are several positive things that Members need to know out there: Property rights are protected in the bill. There is no question. The information will be invaluable for local planners to compare that to digital computerized mapping of their regions so that they can more expertly, based on knowledge and intelligence, plan and manage the growth of their communities.

□ 1650

This is how this all intersects. The last thing, if you are a farmer, you have an agricultural community, understanding where the weeds are and where the pests are is vitally important.

So Mr. Speaker, I urge you to vote on this bill based on the substance of the material.

Mr. GORDON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. YATES], the chairman of the Subcommittee on Interior of the Committee on Appropriations.

Mr. YATES. Mr. Speaker, I thank the distinguished gentleman for yielding this time to me.

Mr. Speaker, I want to reiterate what my friend and ranking member of the Interior Appropriations Subcommittee said. If you do not vote this rule up, the Biological Survey will lose. I mean, those who want to apply restrictions to the Secretary of the Interior will have the restrictions that are in this bill removed, and I do not think that is what they want. The rule protects those.

Second, if you are interested in increasing grazing fees and adjusting the grazing fees, as the House demonstrated, if you defeat the rule you are going to lose the grazing fees, because it will be subject to a point of order.

Mr. Speaker, I urge the House to approve the rule.

Mr. HEFLEY. Mr. Speaker, I rise to urge defeat of the rule before the House.

Last week, this body conducted an extended debate on the National Biological Survey.

I thought that, by the time we were done, we'd made pretty clear what the intent of the House was toward the Survey. We wanted the surveyors to get written permission before entering private land. We did not want unqualified volunteers conducting the Survey. We wanted the data collected to be open to all, including the owners of the land surveyed, and to be subject to peer review.

More then 300 of us said we wanted these things. Well, for all intents and purposes, that's out of there. For all intents and purposes, most of us are being ignored in this conference report. But then there is something in this conference report to outrage virtually everyone.

The unamended Biological Survey. Funding for that Survey, which has never been authorized. Treatment of the grazing issue which, as with so much else in this bill, will pretty much allow the Interior Secretary to do whatever he wants to do. You vote for this rule and you are ceding any semblance of control this House has over the Interior Department and public lands policy. Vote "no" on this rule and keep some self-respect.

Mr. STUMP. Mr. Speaker, I stand before you today to urge your vote against the restrictive rule allowing for the consideration of the fiscal year 1994 Interior appropriations bill.

It was only a few short weeks ago that an overwhelming majority of the Members of this Chamber voted to uphold private property rights by supporting Congressman CHARLES TAYLOR's amendment to the National Biological Survey [NBS] bill.

From across the country, property owners wanted to make sure we got the message loud and clear: private property must be protected against unreasonable Government searches. Further, they expressed concern about the shortfalls, and the excesses, of the Biological Survey bill.

Americans have legitimate concerns that the National Biological Survey would give the Government the unrestrained right to enter private property under the guise of conducting a survey, without providing any reasonable guidelines to address the important issues of privacy, liability for any injury or damage incurred by NBS personnel while conducting activities on private lands, reimbursements for damages to the lands caused by surveyors, and protections against unreasonable search and seizures.

During House consideration of the Biological Survey bill, eight amendments were passed that would help to address the concerns of private property owners, and to safeguard against the Federal Government running amok on non-Federal lands and private property. Several additional amendments were anticipated, but the bill was pulled from further consideration, leaving the many issues unresolved. I believe that the high number of amendments to the bill is evidence that the National Biological Survey is flawed, and has serious shortcomings.

Today, we are being asked to consider the fiscal year 1994 Interior appropriations bill, that will provide $163.5 million in funding for the National Biological Survey. With the exception of retaining a portion of an amendment that would require the written permission of a private property owner prior to entering lands to conduct survey activities, all other amendments were scrapped from the Interior appropriations bill.

I do not believe that it is unreasonable to ask that the Rules Committee take another look at the limits placed on the debate on the rule, when fully 73 percent of the Members of the House voted in support of protecting private property rights.

The Rules Committee has ignored the strong will of the House by allowing this bill to come to the floor for consideration under such restrictive and limited language as to stifle any meaningful debate on major legislative and policy issues, and I ask that my colleagues vote against the rule.

Mr. GORDON. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MFUME). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KOLBE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 253, nays 174, not voting 6, as follows:

[Roll No. 522]

YEAS—253

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Barca
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klug
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
Levin
Lewis (GA)
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickle
Porter
Portman
Price (NC)
Pryce (OH)
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Slattery
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NAYS—174

Allard
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English (AZ)
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Geren
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hayes
Hefley
Herger
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (SD)
Johnson, Sam
Kasich
Kim
King
Kingston
Klink
Knollenberg
Kolbe
Kyl
Lambert
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Manzullo
Martinez
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Nussle
Orton
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Poshard
Quinn
Ridge
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wolf
Young (AK)
Zeliff

NOT VOTING—6

Engel
Gekas
Hastert
Meek
Michel
Reynolds

□ 1714

Messrs. SUNDQUIST, JOHNSON of South Dakota, POMEROY, ROHRABACHER, and ENGLISH of Oklahoma changed their vote from "yea" to "nay."

Ms. PRYCE of Ohio, and Messrs. GUTIERREZ, PORTMAN, GLICKMAN, and BLUTE changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. YATES. Mr. Speaker, pursuant to the provisions of House Resolution 279, I call up the conference report on the bill (H.R. 2520) making appropriations for the Department of the Interior and related agencies, for the fiscal year ending September 30, 1994, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MFUME). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Friday, October 15, 1993, at page 24833.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, today we consider the conference report on fiscal year 1994 appropriations for the Department of the Interior and related agencies. Contrary to the debate during the rule which gave the impression that this bill may be limited to the National Biological Survey and grazing fees, this bill contains much more. It contains funds for our national parks, our wildlife refuges, our public lands, our forests, Indian programs, energy programs, and cultural programs.

Mr. Speaker, the conference agreement is well within our 602(b) allocation for both discretionary budget authority and discretionary outlays. In budget authority, we are $14,375,000 below the allocation, and $8,926,000 below the allocation for outlays. The agreement is also $229 million below the President's request.

Mr. Speaker, the conference agreement is above the amount that the House passed by $702,869,000. Before Members go into shock at that statement, the principal reason for this increase is the reinstatement of funds for the Bureau of Land Management. When the bill was before the House, funds for the Bureau of Land Management were stricken under a point of order because the Bureau of Land Management had not been reauthorized. The Senate did include money for the Bureau of Land Management, and the House on September 13 passed an authorization for BLM. That is why we have that amount of money in this bill; to take care of funding for that agency.

One of the issues facing the conference, of course, and you have already heard something about it, is the grazing program. The conferees were instructed to go to conference and work out a grazing fee increase and a grazing program with the Senate. The Senate had placed a moratorium on the effort by Secretary Babbitt to increase grazing fees, and the conferees removed that moratorium.

Mr. Speaker, the agreement that we have reached provides an increase in grazing fees to $3.45 over a 3-year period and legislates certain grazing reforms. It is a significant and positive resolution to an issue that has been contentious over many, many years.

With respect to the National Biological Survey, I would like to repeat what I said during the debate, that the appropriations for the National Biological Survey that are in this bill in no way expand the authority for the Secretary of the Interior.

□ 1720

Until such time as the authorizing bill is passed, the Secretary of the Interior is required to operate the Biological Survey only under the authority that he currently has and consistent with responsibilities being carried out at the present time by the different agencies within the Department.

As was pointed out so eloquently by my friend, the gentleman from Ohio [Mr. REGULA], amendment No. 18 in this bill carries out the intention of those who want to put restrictions on the National Biological Survey in that the Secretary is prevented from initiating new surveys on private lands without the written permission of the landowners. This is in accordance with amendments that were passed when the authorizing bill was under consideration on this floor.

Under the Forest Service, the conferees agreed to language which was included in the House version of the bill, which will require all new timber sales in fiscal year 1994 to be conducted using the tree measurement method, instead of scaling. Certain exceptions will be allowed for salvage or thinning sales, but even in these cases, the sales will be scaled by Forest Service personnel or by companies under contract to the Forest Service, rather than by third party scaling bureaus paid for by the timber companies. These provisions will be helpful in reducing fraud and theft in the national forests.

The conferees also agreed to the House proposal for organizational independence for the Forest Service criminal investigations staff, while agreeing that general law enforcement personnel would remain integrated into the Forest Service management structure. The conference agreement also includes an increase of $900,000 for criminal investigations and timber theft activities, and moves the law enforcement funding back to the National Forest System account, with bill language providing that not less than $55.6 million will be available for law enforcement. Together with funds provided elsewhere in the bill, the total available for law enforcement will be at least $66.7 million in 1994.

Also under the Forest Service, the conferees agreed to include certain provisions and programs related to the administration's Pacific Northwest forest plan. These include increases of $10 million for community assistance, $5 million for old growth diversification projects, and $20 million for watershed restoration projects on national forest lands. An additional $26 million will be available from timber salvage funds to carry out assessments related to the watershed restoration program. A reduction of $35 million to the roads budget, including $25 million for timber roads, will offset partially these increases. Also related to the forest plan, there is $7 million for an ecosystems restoration fund in the Department of the Interior.

The conferees also agreed to include language proposed by the Senate which will allow the Forest Service to offer early outs to a number of employees who will have to be let go due to the decrease in the timber program. Savings of up to $25 million could be achieved by offering these early outs rather than having to conduct a costly reduction-in-force [RIF]. This provision will expire as soon as legislation providing Government-wide early out authority is enacted into law.

The final product of the conference follows the pattern established in the House bill to increase the operating programs of the Department of the Interior. The principal land management agencies of the Department, the Bureau of Land Management, the U.S. Fish and Wildlife Service and the National Park Service, each have significant operating increases. For the Bureau of Land Management, the increase is $65 million or 12 percent over 1993. For the U.S. Fish and Wildlife Service the increase is $60 million, or 14 percent, over 1993. For the National Park Service the increase is $110 million, or 11.6 percent.

Offsetting these increases in part, the conference agreement reduced the construction program in this bill by $112 million below the 1993 level of $1.1 billion and reduced land acquisition $31 million below 1993.

There is a total of $254,277,000 for land acquisition and State assistance in the conference agreement. Appropriations for Federal acquisitions total $226,224,000. State grants from the Fund are set at $28 million, the same level as fiscal year 1993 and the President's request. Requests to the subcommittee from Members and others for land acquisition totaled well over $1 billion. The projects incorporated in the conference report include many worthy items for which members of this House have requested consideration. We could not fund all the projects requested nor fund all the projects we did include at the levels we would have liked but, on the whole, I believe the agreements reached by the conferees amount to a good compromise which fairly balances the many competing needs.

The conference agreement continues the current moratoria on offshore oil and gas leasing and development. The current administration has supported continuing these moratoria while it reviews the OCS program. The moratoria cover the entire east and west coast, the eastern Gulf of Mexico and Bristol Bay in Alaska.

Amounts for the Department of Energy include an increase of $111,472,000, or over 19 percent above fiscal year 1993 levels, for energy conservation programs reflecting substantial increases for both research and development and grant programs such as low income weatherization. The program total is $690,375,000.

In the statement of the managers accompanying the conference report, there is an incorrect number. Under amendment No. 48, the total amount included for the Northern Mariana Islands should be $27,720,000. Also, with regard to the Blackstone River Valley NHC, the statement of the managers left out the clarification that the $500,000 included is for technical assistance.

Within the total funds provided for operations, the Park Service may allocate funds for the Keweenaw National Historical Park not to exceed $150,000.

Two other corrections should be noted in the statement of the managers. The Emiquon National Wildlife Refuge, referenced on page 15, is in Illinois and the White Earth Clinic, referenced on page 57, is in Minnesota.

I want to express my appreciation to my good friend, my partner in this program, the ranking member, the gentleman from Illinois [Mr. REGULA], who has done so much in shaping this bill.

I want to pay my respects to all the members of my team. I see the gentleman from Arizona [Mr. KOLBE] on the floor. He was a very effective member of our subcommittee and contributed a great deal to the final report. We did a good job under difficult circumstances, and I would urge support for this conference report.

I want to also pay my respects to the gentleman from California [Mr. PACKARD], who was more than faithful in his attention to his duties. I do not remember a single day of hearings that he did not attend. He, too, helped fashion a good bill.

I want to pay my tribute as well to a group of young people who make up the staff of our subcommittee, the best staff, I think, of any subcommittee in the House. Under the leadership of Neal Sigmon, they have done a remarkable job. I give them my highest thanks and tribute.

At this point, I ask that a table detailing the various accounts in the bill, as agreed to by the conferees, be inserted in the RECORD:

FY 1994 INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 2520)

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF THE INTERIOR						
Bureau of Land Management						
Management of lands and resources	540,246,000	600,844,000		604,415,000	599,860,000	+59,614,000
Fire protection	118,296,000	117,143,000	117,143,000	117,143,000	117,143,000	-1,153,000
Emergency Department of the Interior firefighting fund	112,674,000	116,674,000	116,674,000	116,674,000	116,674,000	+4,000,000
Emergency contingency	(51,200,000)					(-51,200,000)
Construction and access	15,676,000	7,167,000		10,817,000	10,467,000	-5,209,000
Payments in lieu of taxes	104,108,000	104,108,000	104,108,000	104,108,000	104,108,000	
Land acquisition	27,796,000	16,377,000	14,877,000	8,177,000	12,122,000	-15,674,000
Oregon and California grant lands	82,415,000	88,552,000	83,052,000	83,052,000	83,052,000	+637,000
Forest ecosystems health and recovery	991,000					-991,000
Mandatory		1,500,000	1,500,000	1,500,000	1,500,000	+1,500,000
Range improvements (indefinite)	10,747,000	10,025,000		10,025,000	10,025,000	-722,000
Service charges, deposits, and forfeitures (indefinite)	7,932,000	7,932,000		7,932,000	7,932,000	
Payments to counties		26,111,000	12,000,000			
Miscellaneous trust funds (indefinite)	7,380,000	7,505,000		7,505,000	7,505,000	+125,000
Total, Bureau of Land Management	1,028,261,000	1,103,938,000	449,354,000	1,071,348,000	1,070,388,000	+42,127,000
United States Fish and Wildlife Service						
Resource management	530,537,000	496,312,000	492,229,000	476,831,000	484,313,000	-46,224,000
Construction	109,887,000	78,438,000	53,209,000	75,388,000	73,565,000	-36,322,000
Natural resource damage assessment and restoration fund	4,645,000	8,760,000	7,260,000	6,260,000	6,700,000	+2,055,000
Land acquisition	76,544,000	55,404,000	61,610,000	76,204,000	82,655,000	+6,111,000
Cooperative endangered species conservation fund	6,565,000	10,571,000	9,571,000	8,571,000	9,000,000	+2,435,000
National wildlife refuge fund	11,748,000	14,079,000	11,748,000	13,748,000	12,000,000	+252,000
Rewards and operations	1,191,000	1,169,000	1,169,000	1,169,000	1,169,000	-22,000
North American wetlands conservation fund	9,171,000	13,957,000	11,257,000	13,257,000	12,000,000	+2,829,000
Wildlife conservation and appreciation fund		1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000
Total, United States Fish and Wildlife Service	750,288,000	679,690,000	649,053,000	672,428,000	682,402,000	-67,886,000
National Biological Survey						
Research, inventories, and surveys		179,445,000	163,604,000	156,837,000	163,519,000	+163,519,000
National Park Service						
Operation of the national park system	971,655,000	1,128,667,000	1,059,033,000	1,063,335,000	1,061,823,000	+90,168,000
National recreation and preservation	35,903,000	42,929,000	35,606,000	43,844,000	42,585,000	+6,682,000
Historic preservation fund	41,617,000	40,000,000	40,000,000	40,000,000	40,000,000	-1,617,000
Construction	228,031,000	185,700,000	183,949,000	191,136,000	201,724,000	-26,307,000
Urban park and recreation fund		5,000,000	5,000,000		5,000,000	+5,000,000
Land and water conservation fund (rescission of contract authority)	-30,000,000	-30,000,000	-30,000,000	-30,000,000	-30,000,000	
Land acquisition and state assistance	117,900,000	77,600,000	89,460,000	95,587,000	95,250,000	-22,650,000
John F. Kennedy Center for the Performing Arts	20,629,000	20,260,000	20,629,000	20,629,000	20,629,000	
Illinois and Michigan Canal National Heritage Corridor Commission	248,000	250,000	250,000	250,000	250,000	+2,000
Total, National Park Service (net)	1,385,983,000	1,470,406,000	1,403,927,000	1,424,781,000	1,437,261,000	+51,278,000
United States Geological Survey						
Surveys, investigations, and research	578,187,000	597,364,000	584,685,000	584,685,000	584,685,000	+6,498,000
Minerals Management Service						
Leasing and royalty management	195,339,000	196,686,000	193,197,000	192,897,000	193,197,000	-2,142,000
Oil spill research	5,331,000	5,331,000	5,681,000	5,331,000	5,331,000	
Total, Minerals Management Service	200,670,000	202,017,000	198,878,000	198,228,000	198,528,000	-2,142,000
Bureau of Mines						
Mines and minerals	174,235,000	153,656,000	169,336,000	171,584,000	169,436,000	-4,799,000
Office of Surface Mining Reclamation and Enforcement						
Regulation and technology	111,716,000	110,009,000	110,552,000	110,552,000	110,552,000	-1,164,000
Receipts from performance bond forfeitures (indefinite)	1,190,000	1,190,000	1,190,000	1,190,000	1,190,000	
Total	112,906,000	111,199,000	111,742,000	111,742,000	111,742,000	-1,164,000
Abandoned mine reclamation fund (definite, trust fund)	187,930,000	191,629,000	190,107,000	190,107,000	190,107,000	+2,177,000
Total, Office of Surface Mining Reclamation and Enforcement	300,836,000	302,828,000	301,849,000	301,849,000	301,849,000	+1,013,000
Bureau of Indian Affairs						
Operation of Indian programs	1,363,663,000	1,473,306,000	1,492,650,000	1,489,885,000	1,490,805,000	+127,142,000
(By transfer)	(3,900,000)					(-3,900,000)
Construction	149,613,000	114,110,000	172,799,000	150,429,000	166,979,000	+17,366,000

FY 1994 INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 2520), continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
Indian land and water claim settlements and miscellaneous payments to Indians	38,609,000	204,260,000	103,259,000	103,259,000	103,259,000	+64,650,000
Navajo rehabilitation trust fund	3,966,000	2,466,000	2,466,000	2,466,000	2,466,000	-1,500,000
Technical assistance of Indian enterprises	1,970,000	1,970,000	1,970,000	1,970,000	1,970,000	
Indian direct loan program account	2,479,000	2,484,000	2,484,000	2,484,000	2,484,000	+5,000
(Limitation on direct loans)	(11,300,000)	(10,890,000)	(10,890,000)	(10,890,000)	(10,890,000)	(-410,000)
Indian guaranteed loan program account	9,687,000	9,690,000	9,690,000	9,690,000	9,690,000	+3,000
(Limitation on guaranteed loans)	(68,800,000)	(69,000,000)	(69,000,000)	(69,000,000)	(69,000,000)	(+200,000)
Miscellaneous permanent appropriations (by transfer)	(6,000,000)					(-6,000,000)
Total, Bureau of Indian Affairs	1,569,987,000	1,808,286,000	1,785,318,000	1,760,183,000	1,777,653,000	+207,666,000
Territorial and International Affairs						
Administration of territories	52,223,000	53,237,000	54,387,000	53,737,000	54,187,000	+1,964,000
Northern Mariana Islands Covenant	28,980,000	27,720,000	27,720,000	27,720,000	27,720,000	-1,260,000
Total	81,203,000	80,957,000	82,107,000	81,457,000	81,907,000	+704,000
Trust Territory of the Pacific Islands	23,051,000	20,338,000	24,038,000	23,338,000	23,838,000	+787,000
Compact of Free Association	10,368,000	10,602,000	12,102,000	12,102,000	12,102,000	+1,734,000
Mandatory payments	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	
Total	20,368,000	20,602,000	22,102,000	22,102,000	22,102,000	+1,734,000
Total, Territorial and International Affairs	124,622,000	121,897,000	128,247,000	126,897,000	127,847,000	+3,225,000
Departmental Offices						
Office of the Secretary	63,092,000	64,496,000	64,111,000	64,111,000	64,111,000	+1,019,000
Ecosystem restoration funds				7,000,000	7,000,000	+7,000,000
Office of the Solicitor	31,457,000	33,709,000	33,359,000	33,359,000	33,359,000	+1,902,000
Office of Inspector General	23,539,000	24,683,000	24,283,000	24,283,000	24,283,000	+744,000
Construction Management	2,172,000	2,194,000	2,494,000	2,194,000	2,394,000	+222,000
National Indian Gaming Commission	2,040,000	1,500,000	1,000,000	1,500,000	1,000,000	-1,040,000
Total, Departmental Offices	122,300,000	126,582,000	125,247,000	132,447,000	132,147,000	+9,847,000
Total, title I, Department of the Interior (net)	6,235,369,000	6,746,109,000	5,959,498,000	6,601,267,000	6,645,715,000	+410,346,000
Appropriations	(6,265,369,000)	(6,776,109,000)	(5,989,498,000)	(6,631,267,000)	(6,675,715,000)	(+410,346,000)
Rescission	(-30,000,000)	(-30,000,000)	(-30,000,000)	(-30,000,000)	(-30,000,000)	
(Limitation on direct loans)	(11,300,000)	(10,890,000)	(10,890,000)	(10,890,000)	(10,890,000)	(-410,000)
(Limitation on guaranteed loans)	(68,800,000)	(69,000,000)	(69,000,000)	(69,000,000)	(69,000,000)	(+200,000)
TITLE II - RELATED AGENCIES						
DEPARTMENT OF AGRICULTURE						
Forest Service						
Forest research	182,715,000	194,383,000	193,083,000	192,983,000	193,083,000	+10,368,000
State and private forestry	156,227,000	175,657,000	148,955,000	169,107,000	168,107,000	+11,880,000
Emergency pest suppression fund	(26,000,000)		(15,000,000)	(15,000,000)	(15,000,000)	(-11,000,000)
International forestry		36,996,000	11,996,000	6,996,000	6,996,000	+6,996,000
National forest system	1,307,274,000	1,337,253,000	1,237,272,000	1,300,153,000	1,304,891,000	-2,383,000
Forest Service law enforcement			67,781,000			
Forest Service fire protection	189,163,000	190,108,000	190,108,000	190,108,000	190,108,000	+945,000
Emergency Forest Service firefighting fund	185,411,000	190,222,000	190,222,000	190,222,000	190,222,000	+4,811,000
Emergency contingency	(188,000,000)					(-188,000,000)
Construction	255,259,000	274,160,000	237,423,000	264,795,000	249,002,000	-6,257,000
Timber receipts transfer to general fund (indefinite)	(-75,366,000)	(-71,895,000)	(-71,895,000)	(-71,895,000)	(-71,895,000)	(+3,471,000)
Timber purchaser credits	(110,669,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(-50,669,000)
Land acquisition	62,412,000	63,955,000	56,700,000	51,050,000	64,250,000	+1,838,000
Acquisition of lands for national forests, special acts	1,180,000	1,212,000	1,212,000	1,212,000	1,212,000	+32,000
Acquisition of lands to complete land exchanges (indefinite)	198,000	203,000	203,000	203,000	203,000	+5,000
Range betterment fund (indefinite)	5,264,000	4,600,000	4,600,000	4,600,000	4,600,000	-664,000
Gifts, donations and bequests for forest and rangeland research	104,000	96,000	96,000	96,000	96,000	-8,000
Payments to counties		25,000,000				
Total, Forest Service	2,345,207,000	2,493,845,000	2,339,651,000	2,371,525,000	2,372,770,000	+27,563,000
DEPARTMENT OF ENERGY						
Clean coal technology	-525,000,000	-150,000,000	-150,000,000	-150,000,000	-175,000,000	+350,000,000
Fossil energy research and development	418,353,000	398,442,000	433,163,000	429,070,000	430,674,000	+12,321,000
Alternative fuels production (indefinite)	-7,500,000		-5,200,000	-5,200,000	-5,200,000	+2,300,000
Naval petroleum and oil shale reserves	236,070,000	231,216,000	214,772,000	214,772,000	214,772,000	-21,298,000
Energy conservation	578,903,000	778,439,000	702,825,000	677,013,000	690,375,000	+111,472,000
Economic regulation	14,441,000	12,994,000	12,994,000	12,994,000	12,994,000	-1,447,000
Emergency preparedness	9,168,000	8,901,000	8,901,000	8,901,000	8,901,000	-267,000
Strategic Petroleum Reserve	176,167,000	173,110,000	206,810,000	206,810,000	206,810,000	+30,643,000
SPR petroleum account	-125,625,000					+125,625,000
Energy Information Administration	82,341,000	89,373,000	86,053,000	86,953,000	86,553,000	+4,212,000
Biomass Energy Development (Transfer)	-49,000,000					+49,000,000

FY 1994 INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 2520), continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
Revisions of amounts for Department of Energy			-24,873,000			
Total, Department of Energy	808,318,000	1,542,475,000	1,485,445,000	1,481,313,000	1,470,879,000	+662,561,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Indian Health Service						
Indian health services	1,524,779,000	1,601,309,000	1,652,394,000	1,641,592,000	1,645,877,000	+121,098,000
Indian health facilities	333,640,000	278,811,000	296,997,000	293,682,000	296,982,000	-36,658,000
Total, Indian Health Service	1,858,419,000	1,880,120,000	1,949,391,000	1,935,274,000	1,942,859,000	+84,440,000
DEPARTMENT OF EDUCATION						
Office of Elementary and Secondary Education						
Indian education	80,583,000	84,006,000	83,500,000	83,405,000	83,500,000	+2,917,000
OTHER RELATED AGENCIES						
Office of Navajo and Hopi Indian Relocation						
Salaries and expenses	24,698,000	28,336,000	26,936,000	28,436,000	26,936,000	+2,238,000
Institute of American Indian and Alaska Native Culture and Arts Development						
Payment to the Institute	9,312,000	9,563,000	12,563,000	12,563,000	12,563,000	+3,251,000
Smithsonian Institution						
Salaries and expenses	295,560,000	299,649,000	302,083,000	302,349,000	302,349,000	+6,789,000
Construction and improvements, National Zoological Park	7,833,000	5,400,000	5,400,000	5,400,000	5,400,000	-2,433,000
Repair and restoration of buildings	24,193,000	24,000,000	24,000,000	24,000,000	24,000,000	-193,000
Construction	16,687,000	10,400,000	10,400,000	10,400,000	10,400,000	-6,287,000
Total, Smithsonian Institution	344,273,000	339,449,000	341,883,000	342,149,000	342,149,000	-2,124,000
National Gallery of Art						
Salaries and expenses	51,188,000	51,018,000	51,908,000	51,908,000	51,908,000	+720,000
Repair, restoration and renovation of buildings	3,531,000	2,831,000	2,831,000	2,831,000	2,831,000	-700,000
Total, National Gallery of Art	54,719,000	53,849,000	54,739,000	54,739,000	54,739,000	+20,000
Woodrow Wilson International Center for Scholars						
Salaries and expenses	6,252,000	6,252,000	6,352,000	6,352,000	6,352,000	+100,000
National Foundation on the Arts and the Humanities						
National Endowment for the Arts						
Grants and administration	144,318,000	144,451,000	137,228,000	140,836,000	140,836,000	-3,482,000
Matching grants	30,142,000	30,142,000	28,635,000	29,392,000	29,392,000	-750,000
Total, National Endowment for the Arts	174,460,000	174,593,000	165,863,000	170,228,000	170,228,000	-4,232,000
National Endowment for the Humanities						
Grants and administration	151,222,000	151,300,000	151,300,000	151,300,000	151,300,000	+78,000
Matching grants	26,191,000	26,191,000	26,191,000	26,191,000	26,191,000	
Total, National Endowment for the Humanities	177,413,000	177,491,000	177,491,000	177,491,000	177,491,000	+78,000
Institute of Museum Services						
Grants and administration	28,754,000	28,777,000	28,777,000	28,777,000	28,777,000	+23,000
Total, National Foundation on the Arts and the Humanities	380,627,000	380,861,000	372,131,000	376,496,000	376,496,000	-4,131,000
Commission of Fine Arts						
Salaries and expenses	791,000	809,000	805,000	805,000	805,000	+14,000
National Capital Arts and Cultural Affairs						
Grants	7,000,000	7,189,000	7,500,000	7,500,000	7,500,000	+500,000
Advisory Council on Historic Preservation						
Salaries and expenses	2,757,000	2,809,000	2,959,000	2,959,000	2,959,000	+202,000
National Capital Planning Commission						
Salaries and expenses	5,750,000	5,868,000	5,868,000	5,868,000	5,868,000	+118,000
Franklin Delano Roosevelt Memorial Commission						
Salaries and expenses	535,000	49,000	49,000	49,000	49,000	-486,000

FY 1994 INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL (H.R. 2520), continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
Pennsylvania Avenue Development Corporation						
Salaries and expenses	2,686,000	2,738,000	2,738,000	2,738,000	2,738,000	+52,000
Public development	4,947,000	4,489,000	4,289,000	4,389,000	4,289,000	-658,000
Land acquisition and development fund	6,445,000	7,193,000	7,193,000	7,193,000	7,193,000	+748,000
Total, Pennsylvania Avenue Development Corporation	14,078,000	14,420,000	14,220,000	14,320,000	14,220,000	+142,000
United States Holocaust Memorial Council						
Holocaust Memorial Council	21,268,000	21,679,000	21,679,000	21,679,000	21,679,000	+411,000
Total, title II, Related Agencies	5,964,587,000	6,871,579,000	6,725,671,000	6,745,432,000	6,742,323,000	+777,736,000
(Timber receipts transfer to general fund, indefinite)	(-75,366,000)	(-71,895,000)	(-71,895,000)	(-71,895,000)	(-71,895,000)	(+3,471,000)
(Timber purchaser credits)	(110,669,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(-50,669,000)
Grand total:						
New budget (obligational) authority (net)	12,199,956,000	13,617,688,000	12,685,169,000	13,346,699,000	13,388,038,000	+1,188,082,000
Appropriations	(12,229,956,000)	(13,647,688,000)	(12,715,169,000)	(13,376,699,000)	(13,418,038,000)	(+1,188,082,000)
Rescissions	(-30,000,000)	(-30,000,000)	(-30,000,000)	(-30,000,000)	(-30,000,000)	
(Timber receipts transfer to general fund, indefinite)	(-75,366,000)	(-71,895,000)	(-71,895,000)	(-71,895,000)	(-71,895,000)	(+3,471,000)
(Timber purchaser credits)	(110,669,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(-50,669,000)
TITLE I -DEPARTMENT OF THE INTERIOR						
Bureau of Land Management	1,028,261,000	1,103,938,000	449,354,000	1,071,348,000	1,070,388,000	+42,127,000
United States Fish and Wildlife Service	750,288,000	679,690,000	649,053,000	672,428,000	682,402,000	-67,886,000
National Biological Survey		179,445,000	163,604,000	156,837,000	163,519,000	+163,519,000
National Park Service	1,385,983,000	1,470,406,000	1,403,927,000	1,424,781,000	1,437,261,000	+51,278,000
United States Geological Survey	578,187,000	597,364,000	584,685,000	584,685,000	584,685,000	+6,498,000
Minerals Management Service	200,670,000	202,017,000	198,878,000	198,228,000	198,528,000	-2,142,000
Bureau of Mines	174,235,000	153,656,000	169,336,000	171,584,000	169,436,000	-4,799,000
Office of Surface Mining Reclamation and Enforcement	300,836,000	302,828,000	301,849,000	301,849,000	301,849,000	+1,013,000
Bureau of Indian Affairs	1,569,987,000	1,808,286,000	1,785,318,000	1,760,183,000	1,777,653,000	+207,666,000
Territorial and International Affairs	124,622,000	121,897,000	128,247,000	126,897,000	127,847,000	+3,225,000
Departmental Offices	122,300,000	126,582,000	125,247,000	132,447,000	132,147,000	+9,847,000
Total, Title I - Department of the Interior	6,235,369,000	6,746,109,000	5,959,498,000	6,601,267,000	6,645,715,000	+410,346,000
TITLE II - RELATED AGENCIES						
Forest Service	2,345,207,000	2,493,845,000	2,339,651,000	2,371,525,000	2,372,770,000	+27,563,000
Department of Energy	808,318,000	1,542,475,000	1,485,445,000	1,481,313,000	1,470,879,000	+662,561,000
Indian Health	1,858,419,000	1,880,120,000	1,949,391,000	1,935,274,000	1,942,859,000	+84,440,000
Indian Education	80,583,000	84,006,000	83,500,000	83,405,000	83,500,000	+2,917,000
Office of Navajo and Hopi Indian Relocation	24,698,000	28,336,000	26,936,000	28,436,000	26,936,000	+2,238,000
Institute of American Indian and Alaska Native Culture and Arts Development	9,312,000	9,563,000	12,563,000	12,563,000	12,563,000	+3,251,000
Smithsonian	344,273,000	339,449,000	341,883,000	342,149,000	342,149,000	-2,124,000
National Gallery of Art	54,719,000	53,849,000	54,739,000	54,739,000	54,739,000	+20,000
Woodrow Wilson International Center for Scholars	6,252,000	6,252,000	6,352,000	6,352,000	6,352,000	+100,000
National Endowment for the Arts	174,460,000	174,593,000	165,863,000	170,228,000	170,228,000	-4,232,000
National Endowment for the Humanities	177,413,000	177,491,000	177,491,000	177,491,000	177,491,000	+78,000
Institute of Museum Services	28,754,000	28,777,000	28,777,000	28,777,000	28,777,000	+23,000
Commission of Fine Arts	791,000	809,000	805,000	805,000	805,000	+14,000
National Capital Arts and Cultural Affairs	7,000,000	7,189,000	7,500,000	7,500,000	7,500,000	+500,000
Advisory Council on Historic Preservation	2,757,000	2,809,000	2,959,000	2,959,000	2,959,000	+202,000
National Capital Planning Commission	5,750,000	5,868,000	5,868,000	5,868,000	5,868,000	+118,000
Franklin Delano Roosevelt Memorial Commission	535,000	49,000	49,000	49,000	49,000	-486,000
Pennsylvania Avenue Development Corporation	14,078,000	14,420,000	14,220,000	14,320,000	14,220,000	+142,000
Holocaust Memorial Council	21,268,000	21,679,000	21,679,000	21,679,000	21,679,000	+411,000
Total, Title II - Related Agencies	5,964,587,000	6,871,579,000	6,725,671,000	6,745,432,000	6,742,323,000	+777,736,000
Grand total	12,199,956,000	13,617,688,000	12,685,169,000	13,346,699,000	13,388,038,000	+1,188,082,000

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield 15 minutes to the gentleman from Arizona [Mr. KOLBE], and I ask unanimous consent that he be allowed to control the time during that 15-minute period.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. YATES. Mr. Speaker, I yield 5 minutes of my time to the gentleman from Arizona [Mr. KOLBE] as well so that he shares the same amount of time that we have, and I ask unanimous consent that the gentleman be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. KOLBE] will be recognized for 20 minutes.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

My colleagues, we have debated this issue in part on the rule. I just want to make a few points.

Approximately one-third of all the land in the United States of America is Federal lands. What this bill does is provide the money to manage those lands.

Before coming over here, I had a call from a physician in my district who had just come back from a visit to Yosemite with his three small children. He just wanted to tell me what a wonderful experience it was to go to this national park and to see the beauty of it, to enjoy the ambience of this great national treasure.

It is these treasures that we take care of in this bill. The United States has approximately 367 parks and recreation areas. We have 192 million acres of forestland. All of that is managed with the funds provided in the bill, and I think that we have done a good job. We have a great subcommittee and staff, all the members work together, it is not partisan. We work as a team. We try to use the dollars available in the best possible way.

We get probably 250 to 300 Members that make requests for projects in their districts. We make every effort to accommodate those. We cannot do everything that we would like to do, but we recognize that the visitors to our parks and our forests want to have an experience without problems. They want to have an experience with quality surroundings. In funding these operations, we are very sensitive to those issues.

We do have new challenges, because the visitations to the national parks are growing by leaps and bounds. At Yosemite in the summertime they have to ration the number of cars that they can leave in, the number of people, simply because the demand is so great. Of course, that is happening in many of the national parks, and that means that the funds to restore the surroundings, the services are under pressure.

We need more and, therefore, we have to allocate it very carefully.

We also have increasing law enforcement problems. Some of the changes we experience in society have put greater pressures on the individuals that manage our parks and our forests our Bureau of Land Management, and our Fish and Wildlife facilities. Likewise, we fund the Smithsonian. Again, the growing visitor demand at places like the Air and Space Museum mean that we need to have additional funding.

Given all those requirements, we have a very limited amount of extra funds so we have worked very diligently to try to allocate these resources in the best way possible.

I think a little aside here is rather interesting. That is that we are going to be debating a health program for America. We are going to be developing a universal health care bill. One of the greatest ways to reduce health care costs is preventive medicine. And to take advantage of the recreational opportunities that exist on our public lands, so that in funding the programs in the forests and the parks and the other public lands, we are really adding health-giving opportunities for all American citizens.

I certainly urge all of our colleagues here to support this bill. It is carefully crafted, and it does a lot of excellent work in providing facilities throughout the United States for the benefit and the enjoyment of the American people.

Mr. Speaker, I reserve the balance of my time.

☐ 1730

Mr. KOLBE. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. SKEEN], a member of the Committee on Appropriations.

Mr. SKEEN. Mr. Speaker, I think we have had about all of the debate on this issue that was cogent. I want to say to the folks that persevered through many, many years, particularly one young lady that has really been, I think, more interested in this topic than any others in her purview of operation—she knows who I am talking about. She can hold her head up.

I just want to say that what we have done in this particular piece of legislation and in the conference committee set a new form or new standard for doing legislation. Now I want to compliment the Committee on Natural Resources, because they have really been inventive. They have come up with a new system; one size fits all. If you do not get what you want through the authorizing committee or the appropriations committee, now you can do it all in conference.

What they have done is not just raise grazing fees and put some restrictions on the Secretary of the Interior. Now they have infringed on the right of private property and the mandate of preservation of private property, because what they have allowed the Secretary to do is to absolutely confiscate private property, including water rights improvements that may have been paid for by people who have grazed on these lands but that has been part of the argument, so one size fits all.

We are not through with this argument yet. I hope that the results are not as disastrous for Western States as I think they are probably going to be. I want to say, too, that the ingenuity of taking a conference of the Committee on Appropriations and doing all sorts of authorizing legislation in it, pages and pages of it, sets a new standard and I think a dangerous one.

I think that before this is all over with, that maybe we ought to come up with a bill, that what we ought to do with the Western States, the 13 Western States that have public lands, is to consider the idea of selling those lands to people who are operating grazing operations. If we want to maximize the return on those lands, then sell the public land to them. We used to do it. We ought to consider this issue and lift the moratorium on the banning of sales on these lands.

This will answer a lot of this problem. Some of these lands are totally inaccessible to anybody else but the permittees. We have tried to make that point over and over again.

Maybe the rates were not right, but on the other hand, they have private property rights because they have put their improvements on the public lands, developed the water on it, and it is time that we go back to the idea of maybe it is an opportunity to maximize the return to the Federal Government and take this money that we get from selling those lands to permittees, if they want to graze on them, and reduce the national debt. It is just an idea. I think I will probably advance that idea.

I have talked to the gentleman from Minnesota [Mr. VENTO] and I have talked to the gentleman from California [Mr. MILLER] with that idea, with mixed response. I understand that.

The Members who do not live in Western States do not understand what we live with day-by-day. I think we ought to bring it home to the American people that some States were put in a secondary position to other States, because these States were not given the right of ownership of the land when they came into this Union as sovereign States.

I thank the gentleman from Arizona [Mr. KOLBE] for yielding me this time so I can vent my spleen a little bit.

The SPEAKER pro tempore. Does the gentleman from Washington [Mr. DICKS] seek to control the time of the gentleman from Illinois [Mr. YATES]?

Mr. DICKS. Yes, Mr. Speaker. The gentleman from Illinois [Mr. YATES] has yielded me the time until he regains the time.

The SPEAKER pro tempore. Without objection, the gentleman from Washington [Mr. DICKS] is allowed to control the time for the gentleman from Illinois [Mr. YATES].

There was no objection.

Mr. DICKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Speaker, I thank the distinguished gentleman from Washington for yielding me this time.

Mr. Speaker, I will tell the distinguished gentleman from New Mexico [Mr. SKEEN], who was just in the well, that many of his remarks resonated very much with some of the things I have been saying for over the several years about legislating on appropriation bills.

Mr. Speaker, I commend Chairman YATES for his efforts in bringing the bill before us today. The bill contains funding for key Department of Energy programs such as fossil fuels and energy conservation, which fall within the jurisdiction of the Committee on Science, Space, and Technology. The committee increased funding for conservation research and development from last year's levels. I believe the increase is appropriate because of the clear benefits to our national security, environment, and competitiveness. Several initiatives authorized by the Energy Policy Act of 1992 have been included in the bill, such as the pulp and paper initiative, and advanced buildings work to meet national energy and environmental objectives. In addition, materials development and fuel cells for transportation received increased emphasis. All of these programs are vital for our healthy technology future.

I look forward to working with the Appropriations Committee to ensure that the Department of Energy programs put in place by the legislation will continue to be of the most benefit to our Nation.

Mr. DICKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Speaker, I rise in support of the Department of Interior appropriations conference report.

I understand that Chairman YATES has clarified the intent of the managers of this legislation regarding funding for the Keewenaw National Historical Park in Calumet, MI. Within the total funds provided for operations, the Park Service may allocate funds for the Keewenaw Historical Park, not exceeding $150,000. I appreciate Chairman YATES' work on this issue and his willingness to insure that development of this important park continues.

Mr. Speaker, the Keweenaw Park is essential to preserving an important chapter in America's industrial, labor, and cultural history. Michigan's Copper Country is the site of the first mining boom in the United States, as well as home to our country's fledgling labor movement.

I again want to thank Chairman YATES for his cooperation on this important project.

Mr. KOLBE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I rise in strong opposition to the grazing fee language that is before us today. While proponents of this so-called compromise argue that its grazing fee is less severe than President Clinton's rangeland reform proposal, rural communities who depend on the western livestock industry for their existence don't think so. At a time when jobs and economic growth are foremost on the minds of the American people, it is stunning to have a measure before us today supporting a policy that would nearly double the current grazing fee and devastate thousands of family farmers and ranchers.

As hard as it is to believe, ranchers get an even worse deal in this so-called compromise than in the President's original proposal. By codifying restrictive water, extreme environmental rules, and advisory board provisions, this compromise will put even more ranchers and family farmers out of business.

The livestock industry is the key to rural development throughout much of the West. Every dollar a rancher spends yields another $5 in economic activity. The vast majority of ranch families are small businesses which earn less than $28,000 a year. The severe increase in the Federal grazing fee that this bill proposes will throw many of these ranchers off the land—the last thing Congress needs to do is support a policy which strangles an important pillar of our rural economy.

Mr. Speaker, let us stop this extreme effort to lock up our rangelands. I strongly urge my colleagues to vote against this so-called compromise.

Mr. REGULA. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. PACKARD].

□ 1740

Mr. PACKARD. Mr. Speaker, I want to rise to congratulate Chairman YATES and ranking member REGULA for leading us through a very controversial and a very difficult conference. Over all, this is a very, very good piece of work.

I think it has been clear that there are some issues that I have some problems with. But we have had our day in court on that, and we will perhaps still have some additional time to discuss the Biological Survey.

But there are many, many other things in this bill that are extremely important to the progress of this country. My State is well over half made up of government lands that are under the control of Federal and State government, the BLM lands, Indian reservations, National Forest Service lands, Fish and Wildlife lands, the National Park Service lands, and this bill addresses those issues in a very comprehensive way, and we fund important programs that help to better manage these in my State.

In addition, there are many projects that I personally asked the chairman for help and for funding, and they have truly come to my rescue. And I want to thank them very much.

I want to thank the staff, both the majority and the minority staff. They have worked with us, all members of the committee, and they have been extremely helpful. I want to thank them, because I think they have done an extraordinary job in helping us do what we need to do in terms of managing these very important resources in our country.

Finally, I want to mention one particular area which is very important to me and to I think the entire country. There are many endangered and potentially endangered species listed, and they have created a great deal of concern for people around this country in terms of being able to manage and develop their private properties, and even public properties. And we have started the process of multiple specie management. I believe that this is the beginning of a process that Secretary Babbitt has signed on to and has agreed to move forward on, and we have laid the groundwork in this year's budget, and in this year's piece of legislation that will allow us to do multiple specie planning that will help to address the many serious problems that we struggle with, with specific endangered species. In my State the gnat catcher has loomed as one of the major ones.

Again, I want to thank the chairman and the ranking member and the staff and all of those who have helped to craft what I consider to be a very comprehensive and very effective bill. Obviously with a few exceptions I support the conference report, and will be there to vote for it.

Mr. KOLBE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding the time. I rise in opposition to several aspects of this report.

I do, however, want to say that I appreciate the work of the committee and I appreciate the cooperation of the chairman and ranking member and others. Certainly they are always very responsive to our concerns.

It does seem to me, however, that it is reasonable for us to, in a bill as broad as this, to be able to be opposed to some of the aspects of it, and I am. And one of them is the grazing regulations.

There are 19 pages of grazing regulations put in here that will be statutory that did not go through the authorizing committees. And these are not minor changes. These are changes like ownership of facilities, like tenure. Like water rights, tenure is very important if you have a small deeded part of your land, and depend on the rest of it for grazing, it has got to do with the value of your property.

On the Biological Survey, let me read one quick quote. Thomas Lovejoy, senior government scientific adviser says, "The Survey should determine the development for the whole country and regulate it all." We need to be a little bit careful about that. And even though I agree with the idea of putting on there the private property thing, that still is legislating on an appropriations bill, and it is tough, it seems to me, when you have to rise above principal to do that. If we have a rule, we ought to have a rule.

I am further a little concerned that this bill requires that the reorganization study that was in the authorization committee is designed to report back to the Appropriations Committee. and I intend to raise that when that issue comes up.

It is a little different when you take a look, and the gentleman from Ohio [Mr. REGULA] talked in glowing words, and I agree with him, about parks, and recreation, and what good it is for our soul. That is right, but there is a lot more to it than that when you live in a Western State and half of your State belongs to the Federal Government. It has to do with the economy, and families, and lives, and looking forward to being able to make a living. It has to do with grazing fees and regulations, and timber, and moratorium on gas and oil, and increases in reclamation fees. We have a kind of an economic assault on the West, and it is going on. And it is a little more than whether your park is up to date, even as important as that may be.

So I do appreciate what has been done here. But I have to tell Members that I oppose very vigorously several of these provisions.

Mr. DICKS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I am pleased to rise in strong support of the conference report to H.R. 2520, the fiscal year 1994 Interior appropriations bill, and ask that my colleagues support the bill's adoption as presented by the conferees.

As a member of the Interior Subcommittee, I want to convey that I am greatly pleased with the final bill that is being presented. I especially want to express my appreciation to our very distinguished Chairman, Mr. YATES, and his staff, and to our very able ranking minority member, Mr. REGULA, for the fine work and leadership they have provided in developing this important legislation.

Mr. Speaker, given that the Interior Appropriations Subcommittee has the principle responsibility for funding natural resource programs for the Nation, it is not surprising that many aspects of this bill are controversial, as is witnessed by the debates over such programs and policies as the National Biological Survey and grazing fee increases.

Much of the controversy surrounding natural resource programs has to do with the reality that we are a Nation in transition in addressing how we manage the relationship between human beings and their environment. In regard to my region of the country, the Pacific Northwest, I am pleased to see that the fiscal year 1994 Interior Appropriations bill makes a tremendous investment in seeing that our region takes a prospective approach to managing the changes it faces in forest management. I agree with the President's view that when change is inevitable it must be managed to our advantage.

In order to help address the impacts of a greatly reduced timber supply in the Northwest due to court injunctions and endangered species listings, and in accordance with the President's request, this bill includes an additional $15 million in economic assistance targeted to Washington, Oregon, and northern California, to be distributed as $10 million for community assistance and $5 million for old growth diversification. These monies are important to helping effectively address the current transition.

Additionally, I am pleased that the conference report includes significant monies to begin a comprehensive, multi-year watershed restoration program in the Northwest that will allow for the significant rehabilitation of salmon habitat, while creating family wage jobs in the region. Specifically, the bill includes $26 million to allow for watershed assessment activities through the Forest Service, $20 million for watershed restoration through the Forest Service, and $7 million for watershed restoration in the Interior Department through the Ecosystem Restoration Fund.

It is becoming increasingly evident that protection for salmon stocks is the new area of critical focus in the Northwest, and where a great deal of work needs to be done in the region. The rivers of the Northwestern States and northern California serve as habitat for the most magnificent runs of wild salmon stocks in the world. A major benefit to initiating a comprehensive, regionwide watershed restoration program is to allow the Northwest to get ahead of the curve in species protection. The implementation of a watershed restoration program will aide in the prevention of listings because the focus will be on avoiding further degradation to existing healthy habitat, and where feasible will allow for slope stabilization and the rehabilitation of streambeds.

In addition to the clear ecological benefits of habitat restoration and ensuring the viability of salmon populations, I am pleased that the initiation of a comprehensive watershed restoration strategy will create numerous family wage jobs in the region, and in rural timber-dependent communities where they are needed most.

Watershed restoration work in the Northwest region will serve as an important building block towards comprehensive ecosystems management.

I am pleased to see the bipartisan leadership being shown by the Interior Appropriations conferees on this issue.

Again, I urge my colleagues to support passage of this conference report.

Mr. Speaker, I want to congratulate Chairman YATES and ranking member RALPH REGULA for their outstanding work on this bill, and I too want to commend the staff of the Subcommittee on the Interior. I have had the pleasure of serving on the subcommittee for 17 years, and the staff does an outstanding job, and I have great respect for their effort and contribution in this process.

I want to take a few minutes here today just to say how much I appreciate the work that has been done in this bill to help the people of the Pacific Northwest as we struggle with our endangered species problems that relate to the northern spotted owl and the marbled murrelet, and many of our endangered or threatened salmon species.

President Clinton, we all recall, earlier this spring convened a conference in Portland, OR to try and bring together all of the factions in the Northwest to deal with this problem. He came up with a solution which was not endorsed by everyone, but as part of that solution he put together a package of programs to try and help the people of Washington, Oregon, and northern California deal with the consequences of the listing of the northern spotted owl.

I can tell the Members of this House that in the Olympic Forest in the State of Washington, for example, we used to harvest about 300 million board feet of old-growth timber every single year, and we were told by the Forest Service that this could go on forever. Well, that simply was not true. Today we are harvesting 15 million board feet off the Olympic National Forest, because we are preserving all of the rest of it for primarily the northern spotted owl, and it has had a dramatic effect on the workers and the communities in that area.

But in this bill we have I think the beginning of a new effort on an issue that I have been championing, with the help of the committee members, and that is the issue of watershed restoration. The gentleman from Minnesota [Mr. VENTO] held some very good hearings on this issue earlier this year. The Committee on Merchant Marine and Fisheries has held hearings. The distinguished chairman of the Committee on Natural Resources, the gentleman from California [Mr. MILLER] has been interested in this issue.

In this bill we have $53 million to start a program for Washington, Oregon, and northern California to protect our watersheds, and to restore the habitat that has been damaged. I am pleased with this initial effort. However, I want to make sure that these funds are spent in an interagency cooperative way so that we can actually put people back to work restoring the habitat, and hopefully restoring the salmon runs, and the steelhead runs that are so important to the culture, lifestyle, and economy of the Northwest.

We are certainly hopeful that the President's plan will lead to the lifting of the injunctions that have stopped timber harvesting on Federal lands in Washington, Oregon, and in northern California. And I will say this, though I disagreed with the President's Option 9 plan, I nevertheless think that it offers us the best chance of being able to go into court and get these injunctions lifted. I hope that will occur later this year or early next year.

But we have serious problems. There are other provisions in this bill that ensure funding for old-growth diversification initiatives so that we can take some of these mills that were tooled up to cut old growth, and have them now cut the smaller second growth trees, and to do things using other techniques in forestry.

□ 1750

But we could not have gotten this started without the cooperation of not only the authorizing committees, but also the Appropriations Committee, and with the help of the members of this subcommittee in the other body.

So I just want to report to the House that I think we are off to a good start. However, we are going to need more help.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to my classmate, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman and commend him. We hear a lot of confrontation about this issue, but there are a lot of areas that we agree upon, many areas, and there is collaboration and cooperation on these watershed restoration areas where the gentleman from Washington [Mr. DICKS] has led in terms of fighting for the money in the appropriations process. It is very, very important to lead to a policy path where we can begin to address and get ahead of the problems with the vertebrate species problems, the fish species problems that are going to occur in terms of the Endangered Species Act. I commend the gentleman for his work and pledge to continue to work with him.

Mr. DICKS. I appreciate the gentleman's words.

Mr. YATES. Mr. Speaker, I reserve the balance of my time.

Mr. KOLBE. Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. I thank the distinguished ranking member for yielding this time to me.

Mr. Speaker, I hate to put a wet blanket on all the self-congratulations that we have heard in the past 10 minutes. But I would like to point out that with respect to the grazing fees and the problem that I have with this is that we have not heard any suggestion of the one solution that stands out on the table that waits for us to grasp but that would genuinely make a difference. That is the privatization of the public lands in the West. These lands should be sold and they should be sold fairly, they should be sold at auction, they should be sold in a way that will bring funds to the Federal treasury. It has extremely tremendous impact with respect to our Federal debt. But most importantly, it sends a very strong message that the very best stewards of these lands is not the Federal Government but in fact the private citizens.

The problems that we have in the Western States, as was pointed out very brilliantly earlier, is that those Western lands are in fact Federal lands. They ought to be sold, they should be sold in a way that makes them accessible to private citizens, to corporations in a way that will divide them fairly. But that is the real solution. That is what this body should be talking about. We ought to be thinking about it, we should deliberate about it. We should do it in an orderly and fair-minded way, but that is where this body should be thinking, not about how we can control it, regulate it, et certera, et cetera.

Mr. KOLBE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada, [Mr. VUCANOVICH], a distinguished member of the Committee on Appropriations.

Mrs. VUCANOVICH. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong opposition to this conference report on H.R. 2520. Once more we have a protective rule for an appropriations bill that would thwart the will of the full House for the gain of a few.

On October 6 this body spoke loudly and clearly—private property rights must be protected in carrying out the mission of the National Biological Survey. It is not often I am on the side of a 200 vote victory margin, but on the Taylor-Condit-Pombo amendment many Members joined the fight for a basic privacy right.

Mr. Speaker, the conferees half-hearted attempt to assuage Members with Taylor-like language does not pass the acid test. Just ask Mr. TAYLOR, Mr. CONDIT, or Mr. POMBO, or those organizations, such as the National Federation of Independent Businessmen, American Farm Bureau, and many others which strongly supported the amendment to H.R. 1845. Are any of them satisfied the conferees have captured the essence of property rights protection embodied in our vote of October 6? Of course not.

Mr. Speaker, we have been disenfranchised by the parliamentary process one more time. Not only is the Taylor amendment a shadow of its former self, but the amendments of Mr. TAUZIN, Mr. HAYES, and others which we adopted on October 6 are nowhere to be found.

On top of this is the grazing policy issue upon which I intend to speak later. For both reasons I urge my colleagues to defeat this conference report. Send a message to the leadership of this body: "No more business as usual." The 103d Congress will be heard and its collective voice says "private property rights must be respected by Government." The conferees did not do so, so let us send them back to get it right.

Mr. YATES. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding this time to me.

Mr. Speaker, I intend to enter into a colloquy with the chairman.

Mr. Chairman, the statement of mangers regarding the funds in the conference report for land acquisition by the Bureau of Land Management includes some sentence about a proposed acquisition in Utah. It seems to say that the managers expect that before BLM expends those funds, it will have attempted to identify public lands in the same county that would be suitable for exchange, on an equal-value basis, with the county. From my reading of the language, it appears that there is nothing that would change existing law applicable to BLM land exchanges, including the requirement that public lands suitable for exchange be identified through the land-planning process. Can the chairman assure me that my reading is correct?

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the chairman.

Mr. YATES. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is correct. Existing law governing land exchanges by BLM would not be changed.

Mr. VENTO. It is also my understanding that the language does not constitute a legal mandate for BLM to undertake exchanges with that county or any other party, and is not intended to establish any new policy with regard to increases or decreases in nationally owned lands in Utah or elsewhere. Is that correct?

Mr. YATES. The gentleman is correct. The language does not do anything like that.

Mr. VENTO. When the House originally considered H.R. 2520, the bill as reported from committee included National Park Service funding of $670,000 for a local park in Scranton, PA called the Lackawanna Heritage Park. This funding was to be a combination of National Park Service technical assistance as well as a direct grant to the local park authority. As the chairman knows, such grants are not authorized by law and the House approved an amendment I offered to strike such grant funds from the bill. In reviewing the conference report on H.R. 2520, I note that $670,000 is provided to this Lackawanna Heritage Park and that the funds are labeled for technical assistance only. Can the chairman assure me that the funds are, in fact, for National Park Service technical assistance and that no attempted will be made to pass through any of these funds to the local park authority for their use?

Mr. YATES. As the conference report states, these funds are for technical assistance only.

Mr. VENTO. I thank the chairman. I rise, of course, in support of the bill. I urge my colleagues to support it. There is a great deal of discussion today on that, and I hope we can all get behind it.

Mr. KOLBE. Mr. Speaker, I yield 2 minutes to the gentleman from California, [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I rise to oppose this measure. The arguments against the grazing fee have been made, and I endorse them and I think they should be considered. But my primary concern is the National Biological Survey. This is going to turbocharge the Endangered Species Act. Proponents admit that. We know from previous charts we had up here what the land area of the United States looks like for the one-fourth of the existing endangered species whose range has been ascertained. The purpose of the National Biological Survey is to go out and find the ranges of the other three-fourths that we do not know about yet. Yes, there are another 3,300 that are candidates to be listed. This is a disaster. The way this language has been inserted into the appropriations bill does not really provide the protection at all that we need, because it did not deal with volunteers, quote unquote, that even Senator GEORGE MITCHELL said should be discontinued because of the abuses that went on with the National Park Service.

Speaking of the National Park Service and getting to the next point, this bill, here we have a $4.3 trillion national cumulative debt and yet we are going to spend in this bill over $254 million to purchase more public lands. We already own, the United States of America, one-third of the entire land mass of the United States. In the depths of this economic problem that we face, we are going to spend more money—I should say borrow more money—to spend to buy yet more public land. It is unbelievable.

Mr. Speaker, this measure is bad, it should be defeated. We should come back and consider the authorization measure of the NBS and provide all the protections necessary before that ill-fated measure goes forward.

I urge defeat of the proposal.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair would caution all Members to refrain from referring to the remarks of the other body and Members of the other body.

Mr. YATES. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER], the distinguished chairman of the Committee on Natural Resources.

□ 1800

Mr. MILLER of California. Mr. Speaker, I rise in support of this conference report. I rise also to commend Chairman YATES and Congressman REGULA for the efforts they have made on behalf of resource management in this country.

This committee is called upon very often to struggle with very difficult, very emotional issues. There is no issue which they deal with that is in the abstract. All these issues affect our constituents one way or another, and they are called upon to walk through that mine field and bring us a bill resolving those issues.

This year they were called upon to finally deal after a decade of delay by every other authority that could deal with it the issue of grazing fees. I think they have struck a compromise that works, that will protect the cattle industry in its ability to continue to use these lands, and at the same time assure our constituents that as taxpayers they will be protected on a fair return and the lands will be taken care of, and I just simply want to commend the committee and the staffs on both sides for the long hours and the time that they spent to work out these compromises.

Mr. KOLBE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is common at the outset of this kind of debate to say nice words about the chairman of the subcommittee and the ranking member, but the words that I would say are very truly meant this evening.

In the 10 years that I have served in this body, I have never served with a subcommittee chairman who has been more straightforward, candid, forthright and open in his dealings with all members of the subcommittee than the gentleman from Illinois [Mr. YATES]. It is truly a pleasure to work on this subcommittee with him.

I would say the same of my good friend, the gentleman from Ohio [Mr. REGULA], with whom we certainly have our share of differences on policy matters. But, he and his staff have also been very open with us and it has made the work of this subcommittee, I think, a pleasure. The subcommittee meets what I think is the test for this body about how we should function in a collegial fashion as we try to come to the resolution of issues which are sometimes very contentious and difficult. The most contentious issues are defused by the chairman of the subcommittee, because he is willing to listen to all sides.

As has been suggested by the previous speaker, this is a bill which opens up all kinds of major policy issues. It is also one of the most diverse bills that the Appropriations Committee considers. It is very important from the standpoint of the management of lands in the United States. It is very important from the standpoint of the arts and the culture of our country.

I am in agreement with almost all this legislation. We have heard today about two issues with which I have not been in agreement. So, the remarks I make about those issues certainly in no way reflect the fact that I am not in agreement with the chairman and the ranking member on most of what has been done in this. I commend them for their willingness to accommodate Members.

On the rule, we just had a discussion of the National Biological Survey. I do not intend to discuss that issue now. What I do want to take a few moments to discuss in this issue of grazing fees. Of course, we will have an opportunity to do so again, when we get to the amendment and it is considered.

Let me make it clear that this has been, as has been suggested by others, an issue that has been very contentious over the years. We have gone back and forth, on the issue of offshore oil and on grazing fees. These are issues that come up year after year.

I also want a resolution of this issue at long last; I want to put this behind us.

Those of us who live in the west have always said that we believe there is room for accommodation on the issue of grazing fees on public lands. We understand there is a need to have an increase, not to be locked into the formula that has been in effect for years. But, at the same time, have tried to point out that there are differences between grazing on public lands and grazing on private lands.

Nevertheless, that issue is now before us today. Aside from the fact that we would prefer to phase in the $3.45 fee over 6 years, we are willing to accept the higher fee. That was proposed by our side in the conference committee.

The issue today is the range land reforms provisions, as they are called, that Secretary Babbitt has decided to write into this bill, using the conference committee as the vehicle to do so. It is being done without ever holding a public hearing in either the House or the Senate.

Mr. Speaker, that is the issue that is here today.

Now, I know the chairmen of the subcommittees will say they have had hearing after hearing, and there has been report after report, but the fact remains, we have never had a hearing on these specific issues.

Yes, Mr. Babbitt proposed them a few months ago. Yes, there have been some hearings scattered around the entire Western United States. But no, before these authorizing committees, we have not had such a hearing. We need to have them because there are extremely complicated issues that are involved here.

Mr. Speaker, I would just like to call attention to one of those here today. This eight and one-half pages of legislation is going to be written into an appropriations bill, despite the fact that we have the chairman of the authorizing committee sending a letter to the Rules Committee saying, "Don't do this on appropriations bills with authorizing legislation, despite that, we are going to do it. Now, here is the example I would like to discuss.

On page 64 of the bill, it says under "water rights," subsection (d):

> Subject to valid water rights existing on the date of enactment, no water rights shall be obtained for grazing-related actions on public lands except in the name of the United States.

Well, Mr. Speaker, I have a few simple and important questions. Exactly what does that mean? What is the definition of water rights? What are valid water rights? Can somebody here today tell me that they know exactly what we know that we are talking about when we talk about valid water rights here?

I would suggest that we do not know the answer to these questions: Can anybody tell me who makes the determination of the validity of valid water rights? Can anybody tell me, is there a basis for the Department to challenge these water rights?

Is there a junior right that exists if there is not sufficient water to satisfy all the senior right holders? Would determinations of validity be determined in a Federal court?

These are some of the questions, extraordinarily complicated questions, as anybody from the West knows when you are talking about water questions that must be addressed carefully, thoroughly, in a committee with lawyers, economists, and others; and yet we are going to write this today without a clue as to what this legislation truly means, because there is no legislation record on that issue.

This is just one of the examples of the several issues that have been included in this legislation, in this appropriations bill by writing all this legislation in here.

Mr. Speaker, I would say with all respect to those who I know want to see this issue put to rest and want to put this issue behind us, that on this kind of legislation that affects so broadly and in such a sweeping fashion, the management of Federal lands, that we ought not to do this without understanding what it means and having a thorough airing and debate on it.

It is for that reason, Mr. Speaker, that I rise sadly in opposition to what is being done here today, and I would urge my colleagues to consider this as we go through this process.

Mr. Speaker, I yield back the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a good bill. I urge you to support it.

We have tried to be very fair in what we have done. You have heard the discussion about the rules that were put in on grazing.

Let me point out something. These rules are no different than the Forest Service uses for its grazing lands. All this does is bring the BLM lands into conformance with the Forest Service lands, so this is nothing new.

Furthermore, these were the rules that were in place prior to 1982, when Secretary Watt, through regulations, changed them.

□ 1810

So, Mr. Speaker, we are just going back to what was in place. As far as the rules for the management of the land, that was the case prior to 1982 and has always been the rule on the Forest Service lands. This is not unreasonable.

Let me point out that the Secretary of the Interior proposed that the grazing fee go to $4.28 per animal unit month. Our bill puts the cap at $3.45 per animal unit month. We have scaled back from what the Secretary proposed. He proposed that it could increase up to 25 percent a year. We have scaled back to a 15-percent increase or decrease per year.

Mr. Speaker, it is a very reasonable bill, and I think that those who are grazing on public lands ought to be grateful that our committee has put restraints in because I say to my colleagues,

> If we defeat the bill, and we go back to conference, and we take out all the language, then the Secretary of the Interior can do as he pleases on the Biological Survey because the authority already exists for him to do it. Then he can do as he pleases on grazing fees and on conditions on the rules and regulations.

Actually, Mr. Speaker, those who are concerned about property rights ought to be the strongest proponents of this bill because we put in restraints on the Secretary of the Interior. We said that they have to get written permission to go on private lands. We said they cannot use volunteers. We said that they need to get to the authorizing committee, that our authorizing committee should get language in place.

So, we have restrained what the Secretary could do; likewise the rules and regulations and the grazing fees proposed by the Secretary. They are far more burdensome on the permitees than what we have done in here, so this is a very modest bill. It is a response in fairness to a policy that is our responsibility, and I would urge all of my colleagues to support his bill. It is a measured, restrained addressing of the challenges of the grazing, it is fair, and likewise in the case of the Biological Survey. I do hope the authorizing committee will address that issue forthwith, because I, too, have some concerns about it, and that is the reason we put in the restraining language.

So I think everyone should be in support of this bill, and of course, as has been mentioned many times earlier, this bill does many of the good things that are vital to the 250 million Americans that enjoy our public lands. They hunt, they fish, they birdwatch, they take their children to see the magnificent vistas of the Grand Canyon, of Yosemite, the Golden Gate, and many others, and we have tried to manage those facilities so the public feels safe, so they can enjoy these facilities, so they have decent places to camp, pitch a tent, to do whatever they find in the way of recreation that is enjoyable, and certainly all the members of the subcommittee have worked hard in participating.

It was mentioned that we buy some additional lands, and much of this is to enhance the experience of those who use our public lands. These suggestions come from the Members, some 250 to 300 that submitted requests, and I think that what we have crafted here is a bill that is fair to all involved, and I would urge all of my colleagues to support this bill in the interests of good policies for the United States and for our public lands.

Mr. YATES. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I rise to express my support for the conference report on H.R. 2520, the Interior appropriations for fiscal year 1994.

The conference report is the result of 3 weeks of meetings and negotiations. These deliberations were greatly complicated by the controversy over grazing fees and range management. The controversy was aggravated by a provision added during its consideration in the Senate—a provision imposing a moratorium on Secretary of the Interior Babbitt's proposed rangeland reform regulations. Last month, by an overwhelming vote, the House instructed its conferees to reject the Senate's moratorium, but in conference the Senate did not recede.

Instead, a compromise agreement was developed by Senate conferees, the Chair of the House authorizing committee and subcommittee, and the Secretary of the Interior. This agreement is a decent and workable compromise on the issue of grazing fees and range management. It will mean a gradual increase in fees, which ought to be tolerable to ranchers with BLM grazing permits. Even after the grazing fee increase is fully phased in, it will still be only about three-quarters of the fee now received by Colorado for its grazing leases on State land, and about a third of the current private land lease rates.

This compromise will also bring significant reform and improvement in the BLM's environmental practices. It will apply to the Bureau of Land Management several policies which are well established practices at the Forest Service, and reverse several regulatory changes made by former Secretary Jim Watt—changes which have resulted in a management nightmare for BLM officials.

I have spoken with many Colorado ranchers in the past few weeks about these provisions. While I recognize that some will adamantly oppose any change to the current fee and range management rules, I believe that the compromise addresses most of their legitimate concerns.

At the same time, environmental and taxpayers groups have expressed equally strong views. Some of them will undoubtedly criticize this compromise as falling far short of their ideals. However, I believe it makes several important, positive changes. For example, it redirects range funding toward critical environmental needs, such as riparian area rehabilitation. And it ensures that the BLM will receive better advice on investing lease funds—as well as making other range management decisions—by abolishing grazing advisory boards and establishing resource advisory councils, with broader representation drawn from the spectrum of citizens and groups interested in how these national resources are managed.

The grazing compromise is a reasonable solution to an extremely divisive problem, and I urge my colleagues in the House to support it. On substance, I would say that it could have been stronger, and on several issues I might have preferred a different outcome, but that is the nature of compromise. On process, I can only say that these issues have been debated for several years. Hundreds of studies and hearings have been held, and none of the provisions adopted in this compromise involve particularly new ideas, or surprise approaches.

The conferees have also approved many important land acquisitions for our parks, forests and public lands. Among the Land and Water Conservation Fund acquisitions approved in this bill are several of importance to Coloradans. These include $2.7 million to purchase 18,000 acres of prime recreational lands and critical wildlife habitat in the Cherokee Park areas of the Arapaho-Roosevelt National Forest; $500,000 for BLM to acquire 920 acres needed to protect the nationally known dinosaur site, Garden Park Fossil Area; $1.8 million for the U.S. Fish and Wildlife Service to complete land purchases for Two Ponds National Wildlife Preserve; and, $550,000 for BLM to acquire the first of two tracts needed to protect McIntire Spring's unique warm water riparian area.

In addition to these specific purchases, the conference agreement provides $1,250,000 for the Forest Service to begin purchasing some of the many inholdings remaining in Colorado's magnificent wilderness areas. At my request, the conference managers have also included a directive to the Forest Service to provide the Appropriations Committees with an inventory and status report on its wilderness inholdings, including specific information on the conflicts they pose for wilderness management.

The policies that the Forest Service adopts toward inholdings influences both the degree of conflict which will result with wilderness protection, and the price the government will pay to acquire these lands. In some recent instances, there has been a great deal of public criticism of the high purchase prices demanded by wilderness inholding owners. In another instance, involving the Maroon Bells-Snowmass Wilderness Area, the Forest Service has adopted a hands-off policy toward proposed mining which has potentially serious consequences for inholdings throughout the West.

As a strong supporter of wilderness, and sponsor of the recently passed Colorado wilderness bill, these inholdings and the Forest Service's management policies toward them are matters of particular concern to me. These are also matters of concern to the Appropriations Committee, which must provide the funds to purchase inholdings. There is a substantial backlog of wilderness inholdings, representing perhaps hundreds of millions of dollars in potential expenditures. The report mandated by the conference will help Congress better assess the extent and magnitude of the problems posed by wilderness inholdings.

The conference agreement also provides for $3 million in additional funding for the Forest Service's rural fire protection program, increasing total funding to $17.1 million in fiscal year 1994. In Colorado, these funds support local county and volunteer firefighters by providing the equipment and training essential to address an increasing fire protection obligation. According to both the Colorado Forest Service and the National Association of State Foresters, this increase is critical to provide continued fire protection for rural homeowners.

The conference also agreed to the House committee's directive that an additional $1 million be provided for law enforcement efforts of the U.S. Fish and Wildlife Service. These funds are to be used in Hawaii and the Rocky Mountain region, and are expected to result in five or six additional enforcement officers in the Rocky Mountain region. The new enforcement staff are intended to meet the agency's enforcement problems related to the rapid expansion of cyanide leach mining in the region and its potential impact upon fish and wildlife habitat, as well as human health and safety. The potential problems posed by cyanide leach operations are exemplified by Colorado's Summitville Mine, which is now a notorious Superfund site.

Finally, there are several provisions which were adopted by both the House and Senate committees worth noting. Both the House and Senate committees direct the Fish and Wildlife Service to continue providing full funding for the Colorado River Endangered Fish Recovery Program. Also, both have agreed to a sense of the Congress provision directing the Forest Service to issue rules at the earliest practicable date to implement its proposed below-cost sales phaseout initiative.

These are only a few of the positive provisions of this bill. From the standpoint of both Colorado and the Nation, the conference agreement makes important investments in our national and our natural heritage. It provides a 9-percent increase for national park operations to begin addressing the urgent maintenance and repair backlog of the Park Service. It increases funding for the Department of Energy's energy efficiency program by 19 percent, and the U.S. Fish and Wildlife Service's endangered species efforts by over 50 percent.

We should also note the funding this bill provides for the National Endowment for the Arts, the National Endowment for the Humanities, and the Smithsonian Institution. Even as we hold the line on spending, it's important to sustain with these relatively modest appropriations the cultural, historical, and intellectual heritage and life of the Nation. The good sense of any people, including the American people, depends in part on nurturing the sensibilities of the people, and we neglect these pursuits at some risk to our civilization. So, Government has a real and legitimate interest here. I am particularly supportive of the decision by the conference committee recommend the Senate's higher funding level for the National Endowment for the Arts and the Smithsonian Institution, restoring funds cut earlier by the House.

I urge my colleagues to support the conference agreement.

Mr. KANJORSKI. Mr. Speaker, I rise today in support of the conference report for the bill H.R. 2520, Interior appropriations for fiscal year 1994. I do so with mixed emotions, for there are some parts of the bill that I like more than others. Overall, however, I am confident that this bill is leading us in the right direction fiscally and environmentally and intend to support its final passage.

One issue which was in disagreement between the two houses was whether or not to include a provision specifically mandating that the anthracite coal office of the Office of Surface Mining in Wilkes-Barre, PA be staffed with 16 full-time people. Past similar provisions have been criticized as both wasteful spending and as an example of Congress micro-managing the executive branch.

Let me be clear on one issue: I support whole-heartedly the goals of the Clinton administration to make government more responsive to the American public and to make it more cost-efficient. Along this line, I have started a reinventing government caucus to help promote the President's National Performance Review in Congress. I am also hopeful that this caucus will enable Members such as myself publicize and promote ideas that we have on how to improve the Federal Government.

Even when an action may disrupt an accepted routine in the area I represent, I am dedicated to seeing that the Federal Government is streamlined into becoming the most cost-efficient operation possible.

Because service is as important as cost in this process, I am hopeful that despite the fact that an office is closed or its staff decreased, the Federal Government will do its best to insure that the services provided by that office are not disrupted or eliminated.

Mr. Speaker, as you probably know the Office of Surface Mining provides crucial support in seeing that the effects and damages of decades of mining anthracite coal are dealt with in an effective manner that will ensure the security of the health and environment of the people living in the region.

Although there is currently very little mining of anthracite coal, a great deal of mine-scarred land remains from decades of past mining and is desperately in need of intensive land reclamation. Historically northeastern Pennsylvania has not received an adequate share of funds necessary to bring this ravaged land back to a productive and environmentally sound state.

Mr. Speaker, I trust that the Department of the Interior will use this opportunity to show the American people that it can reduce cost without reducing the quality of its services. I hope that the Department will continue to provide the unique services needed in the anthracite coal region despite the fact that an office may close or the number of staff may shrink dramatically.

In short, Mr. Speaker, I support the concept of saving the taxpayers' money and hope that the Department of the Interior will use this opportunity to prove to the American public that it does not need to be micro-managed and that it can operate in a competent manner with less money.

Mr. PENNY. I rise in opposition to this bill. I can't in good conscience support a bill that increases funding for the Department of the Interior by 10 percent while we're in the midst of an undeclared budgetary crisis. The gravity of the situation must be realized now, before our interest payments eat up money that should be spent on the education, health, and defense of our grandchildren.

I fully support the increase in grazing fees on public land, however. The Federal Government can't afford to continue to subsidize the private market to the tune of $30 million a year. Current grazing fees don't even come close to matching the costs of administering Federal grazing programs. Not only is it questionable economic policy, it's questionable environmentally by encouraging grazing at below-market rates.

We must look past special interests, toward the good of the country as a whole. The administration has made a valiant effort to eliminate Federal subsidization of the depletion of our natural resources. I applaud their efforts.

Mr. FAWELL. The conference report provides $201,724,000 for National Park Service construction in fiscal year 1994, including $161,524,000 for 70 site-specific line items. This total is $16,024,000 above the requested level; $17,775,000 above the House-approved level; and $10,588,000 above the Senate-approved level.

The conferees recommend $74,588,000 for construction of 44 projects lacking sufficient authorization, including 41 unauthorized projects totaling $56,756,000 which were not requested by the administration, and $17,832,000 for three administration-requested projects lacking sufficient authorization.

I want to note that Amendment No. 23 includes bill language that makes the National Park Service construction account subject to the provisions of the act of August 24, 1912, as amended (16 U.S.C. 451) which state: "No expenditure for construction of administration or other buildings cost in case of any building exceeding $3,000 shall be made in any national park except under express authority of Congress." If this amendment is enacted into law and the provisions of the act of August 24, 1912, are unchanged, then no more than $3,000 may be expended in fiscal year 1994 on any unauthorized project listed on pages 19 and 20 of the conference report (H. Rept. 103–299) accompanying H.R. 2520. Furthermore, no funds in excess of the current authorization level may be expended for any authorized project listed on pages 19 and 20 of the conference report.

A list of the above-referenced projects follows:

1. Allegheny Portage Railroad National Historic Site, Pennsylvania—$1,930,000 increase to $0 request for Lemon House rehabilitation. (Report language)

Authorization: Unauthorized. Appropriation: $1,930,000 (House); $0 (Senate).

2. Blackstone River Valley NHC, Massachusetts/Rhode Island—$500,000 increase to $0 request. (Report language)

Authorization: Unauthorized. Appropriation: $0 (House); $1,000,000 (Senate).

3. Boston National Historical Park, Massachusetts—$2,400,000 increase to $0 request for Old South Meeting House. (Report language) Authorization: Unauthorized. Appropriation: $2,700,000 (House); $0 (Senate).

4. Boston National Historical Park, Massachusetts—$700,000 increase to $0 request for Dorchester Heights. (Report language) Authorization: Unauthorized. Appropriation: $700,000 (House); $0 (Senate).

5. Boston National Historical Park, Massachusetts—$1,900,000 increase to $0 request for U.S.S. *Constitution* Museum. (Report language) Authorization: Unauthorized. Appropriation: $0 (House); $1,900,000 (Senate).

6. Chamizal National Monument, Texas—$840,000 increase to $0 request (Report language) Authorization: Unauthorized. Appropriation: $840,000 (House); $0 (Senate).

7. Chickamauga-Chattanooga National Military Park, Tennessee—$3,600,000 increase to $0 request for road relocation. (Report language) Authorization: Unauthorized. Appropriation: $5,000,000 (House); $0 (Senate).

8. Chickasaw National Recreation Area, Oklahoma—$1,420,000 increase to $0 request for campground. (Report language) Authorization: Unauthorized. Appropriation: $0 (House); $1,420,000 (Senate).

9. Coulee Dam National Recreation Area, Washington—$416,000 increase to $0 request for boat launch. (Report language) Authorization: Unauthorized. Appropriation: $416,000 (House); $0 (Senate).

10. Crater Lake National Park, Oregon—$150,000 increase to $0 request for campground expansion. (Report language) Authorization: Unauthorized. Appropriation: $0 (House); $150,000 (Senate).

11. Cuyahoga Valley National Recreational Area, Ohio—$1,000,000 increase to $0 request to rehabilitate historic structures. (Report language) Authorization: Unauthorized. Appropriation: $1,264,000 (House); $0 (Senate).

12. Cuyahoga Valley National Recreational Area, Ohio—$2,000,000 increase to $0 request for railroad track and bridges. (Report language) Authorization: Unauthorized. Appropriation: $2,000,000 (House); $0 (Senate).

13. Delaware Water Gap National Recreational Area, Pennsylvania—$195,000 increase to $0 request for trail development. (Report language) Authorization: Unauthorized. Appropriation: $195,000 (House); $0 (Senate).

14. Franklin D. Roosevelt Memorial, DC—$11,000,000 increase to $0 request. (Report language) Authorization: Unauthorized. Appropriation: $0 (House); $11,000,000 (Senate).

15. Gateway National Recreational Area, New York—$7,150,000: a $5,880,000 decrease to $13,030,000 request for Great Kills Bathhouse. (Report language) Authorization: $6,974,000. Appropriation: $6,600,000 (House); $13,030,000 (Senate).

16. Gateway National Recreational Area, New York—$5,200,000 increase to $0 request for Jacob Riis Park. (Report language) Authorization: Unauthorized. Appropriation: $5,200,000 (House); $5,200,000 (Senate).

17. Gettysburg National Military Park, Pennsylvania—$100,000 increase to $0 request for technical assistance. (Report language) Authorization: Unauthorized. Appropriation: $100,000 (House); $100,000 (Senate).

18. Great Basin National Park, Nevada—$250,000 increase to $0 request for water system. (Report language) Authorization: Unauthorized. Appropriation: $250,000 (House); $250,000 (Senate).

19. Harpers Ferry National Historic Park, West Virginia—$2,637,000 increase to $0 request for lower town. (Report language)

Authorization: Unauthorized. Appropriation: $0 (House); $2,637,000 (Senate).

20. Hot Springs, Arkansas—$350,000 increase to $0 request for a cost-shared feasibility study of flood protection for the downtown area. (Bill language)

Authorization: Unauthorized. Appropriation: $0 (House); $450,000 (Senate).

21. Ice Age Scientific Reserve, Wisconsin—$500,000 increase to $0 request for exhibits. (Report language)

Authorization: Unauthorized. Appropriation: $500,000 (House); $500,000 (Senate).

22. Indiana Dunes National Lakeshore, Indiana—$125,000 increase to $0 request for Long Lake Wetlands Overlook. (Report language)

Authorization: Unauthorized. Appropriations: $125,000 (House); $0 (Senate).

23. James A. Garfield National Historic Site, Ohio—$1,311,000 increase to $0 request for site, building restoration. (Report language)

Authorization: Unauthorized. Appropriation: $1,311,000 (House); $0 (Senate).

24. Jean Lafitte National Historical Park, Louisiana—$925,000 increase to $0 request for various projects. (Report language)

Authorization: Unauthorized. Appropriation: $100,000 (House); $925,000 (Senate).

25. John D. Rockefeller Parkway, Wyoming—$700,000: a $2,159,000 decrease to $2,859,000 request to relocate Flagg Ranch. (Report language)

Authorization: Unauthorized. Appropriation: $700,000 (House); $700,000 (Senate).

26. Kalaupapa National Historic Site, Hawaii—$525,000 increase to $0 request for various projects. (Report language)

Authorization: Unauthorized. Appropriation: $0 (House); $525,000 (Senate).

27. Lackawanna Heritage Park, Pennsylvania—$670,000 increase to $0 request for technical assistance. (Report language)

Authorization: Unauthorized. Appropriation: $175,000 (House); $670,000 (Senate).

28. Lincoln Research Center, Illinois—$3,000,000 increase to $0 request to begin construction. (Report language)

Authorization: Unauthorized. Appropriation: $3,000,000 (House) $0 (Senate).

29. Lincoln Home National Historic Site, Illinois—$709,000 increase to $0 request for Dubois House relocation. (Report language)

Authorization: Unauthorized. Appropriation: $709,000 (House); $0 (Senate).

30. Lyndon B. Johnson Ranch National Historic Site, Texas—$100,000 increase to $1,300,000 request for exhibits. (Report language)

Authorization: Unauthorized. Appropriation: $1,400,000 (House); $0 (Senate).

31. Martin Luther King, Jr., National Historic Site—$9,982,000: $0 increase to $9,982,000 request for visitor facilities. (Report language)

Authorization: $3,177,000. Appropriation: $0 (House); $9,982,000 (Senate).

32. Mount Vernon Bicycle Trail, Virginia—$250,000 increase to $0 request correct safety hazards. (Report language)

Authorization: Unauthorized. Appropriation: $450,000 (House); $0 (Senate).

33. Natchez Trace Parkway, Mississippi—$4,000,000 increase to $0 request for Parkway construction. (Report language)

Authorization: Unauthorized. Appropriation: $4,000,000 (House); $0 (Senate).

34. New England Conservatory, Massachusetts—$1,500,000 increase to $0 request for Jordon Hall. (Bill language)

Authorization: Unauthorized. Appropriation: $0 (House); $3,000,000 (Senate).

35. New River Gorge National River, West Virginia—$830,000 increase to $0 request. (Report language)

Authorization: Unauthorized. Appropriation: $0 (House); $830,000 (Senate).

36. Penn Center, South Carolina—$500,000 increase to $0 request for rehabilitation. (Bill language)

Authorization: Unauthorized. Appropriation: $0 (House); $850,000 (Senate).

37. Port Chicago National Memorial, California—$308,000 increase to $0 request for memorial fabrication/construction. (Report language)

Authorization: Unauthorized. Appropriation: $308,000 (House); $0 (Senate).

38. Salem Maritime National Historical Park, Massachusetts—$2,120,000 increase to $0 request for various projects. (Report language)

Authorization: Unauthorized. Appropriation: $1,300,000 (House); $2,850,000 (Senate).

39. Stones River National Battlefield, Tennessee—$700,000 increase to $0 for trail connector. (Report language)

Authorization: Unauthorized. Appropriation: $700,000 (House); $0 (Senate).

40. Thomas Stone National Historic Site, Maryland—$1,000,000 increase to $0 for main house restoration. (Report language)

Authorization: Unauthorized. Appropriation: $1,170,000 (House); $0 (Senate).

41. Ulysses S. Grant National Historic Site, Missouri—$150,000 increase to $0 to restore historic structures. (Report language)

Authorization: Unauthorized. Appropriation: $150,000 (House); $0 (Senate).

42. Upper Susquehanna Heritage, Pennsylvania—$50,000 increase for technical assistance. (Report language)

Authorization: Unauthorized. Appropriation: $50,000 (House); $0 (Senate).

43. War in the Pacific, Guam—$500,000 increase to $0 request for monument. (Report language)

Authorization: Unauthorized. Appropriation: $500,000 (House); $500,000 (Senate).

44. Weir Farm National Historic Site, Connecticut—$395,000 increase to $0 request to restore historic structures. (Report language)

Authorization: Unauthorized. Appropriation: $395,000 (House); $395,000 (Senate).

Mr. STUMP. Mr. Speaker, free and open. Our Founding Fathers, when writing the Constitution, envisioned a free and open legislative process, of the people, by the people and for the people.

I shudder to think of how our Founding Fathers would view the process by which we are now presented with the conference report on the fiscal year 1994 Interior Appropriations bill. We have been presented with a bill which contains sweeping new policies that were arrived at in the eleventh hour, cloaked in secrecy, and without the benefit of hearings or consideration by the authorizing committees.

Today, we are being asked to vote on an appropriations measure that would not only drastically increase grazing fees and spell economic ruin for Western ranching families and communities, but would also rob public rangeland ranchers, and others of water rights and set new public lands use policies.

The rangeland reform amendment is littered with vague and bureaucratic language. For example, the amendment proclaims U.S. rights and claims to water developed on public lands, and does not provide specific citations to support such rights.

Public rangeland ranchers are not opposed to efforts to improve public rangelands policies and have long been willing to address environmental concerns associated with grazing of livestock on public lands. In fact, ranchers and others have responded in earnest to the Department of the Interior's request for public comment on proposals to reform rangeland polices. Ironically, the public comment period ended today.

If the Interior Appropriations bill passes with the rangeland reform language, the House will be sending a clear and distressing message that comments and concerns of those who know the land, and who will be most directly affected by the reforms, are meaningless.

The bottom line is that this is a sneaky, underhanded way to advance an anti-Western, anti-public lands policy agenda. I am against the grazing and water language being included in the Interior appropriations bill, and ask my colleagues to support removing the rangeland reform language.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 2520, which provides appropriations for the Department of the Interior and related agencies.

This legislation provides important funding for the Fish and Wildlife Service, the National Park Service, the Smithsonian Institute and other programs that are necessary to conserving and fostering our natural and cultural resources.

In particular, the funding that the bill provides to the Fish and Wildlife Service and the Park Service will have a special impact in the State of New Jersey. This money is crucial to New Jersey's efforts to protect and preserve important habitat and cultural resources in one of the fastest growing States in the Nation.

Mr. Speaker, I am especially pleased that this legislation provides funding to the Fish and Wildlife Service for two very significant land acquisition projects in New Jersey: one at the Cape May National Wildlife Refuge and the other at the E.B. Forsythe Refuge.

For the Cape May refuge, the bill contains $2.1 million that will enable the service to expand the refuge. These funds will help the Service follow through with some of the options and negotiations now in progress, and keep alive the movement to protect South Jersey's natural resources. The wetlands included in the refuge are vitally important to Cape May County for aquifer recharge, flood storage, and shore stabilization.

The Cape May refuge also provides critical habitat for a myriad of local and migrating birds and many rare, threatened, and endangered plant and animal species. In fact, the Cape May Peninsula is host to the second largest number of migratory birds of prey in the Nation, including northern harrier, osprey, peregrine falcon, merlin, American Kestrel, sharp-shinned, cooper's and red-shouldered hawk, in addition to hundreds of American bald eagles each year. Additionally, some 34 percent of the Atlantic flyway's black duck population, unusual concentrations of gamebirds, and overwhelming numbers of songbirds overwinter or temporarily rest in their migration in the Cape May refuge's wetlands. These species have the Cape May refuge as their best chance of survival.

The $4.5 million included in the bill for the E.B. Forsythe National Wildlife Refuge will allow the Fish and Wildlife Service to continue to purchase land in this refuge that is so worthy of protection, yet so endangered due to its location at the Jersey shore.

I am particularly grateful to the conferees for including funds and report language to ensure purchases of historical property in the town of Port Republic, in order to incorporate it into the refuge.

The Port Republic property holds great significance for the State and the Nation as the historic site known as Chestnut Neck. It was here that Fort Hill, a revolutionary war encampment, was located to protect shipping and privateering during the American Revolutionary War. The site is also the location of a battleground at which a large contingent of continental soldiers was massacred by a British raiding party in 1788 while the community of Chestnut Neck was burned to the ground.

This location still retains an enormous wealth of artifacts from this crucial period of our history. The site of Fort Hill and Chestnut Neck battleground remains undeveloped and is largely undisturbed. Acquisition of this land will protect it from incompatible development with an eye toward preserving the site's unique place in history, as well as its archeological and environmental values.

The Fish and Wildlife Service placed these properties on their top priority list, and has already purchased one of them. This funding will help the service to acquire a companion property and significantly aid the effort to preserve the unique value of this area.

I would like to point out, Mr. Speaker, that the acquisition of the properties at the Cape May and Forsythe Wildlife Refuges will be funded by money from the Land and Water Conservation Fund. I think that it is important to note that the fund derives most of its revenues from Federal motorboat fuel taxes and offshore leasing of oil and gas sites—not from the General Treasury.

Mr. Speaker, last year Congress designated some 129 miles of the Great Egg Harbor River as components of the National Wild and Scenic Rivers System. This was a landmark occasion for New Jersey—the State's first wild and scenic river. This watershed constitutes a major source of drinking water and hosts many recreational, cultural, and historical points of interest.

The Great Egg Harbor River is one of New Jersey's most magnificent treasures. This region provides important habitat for a wide variety of animals, birds, and plants, including such rare and endangered species as the bald eagle and the peregrine falcon. This river is also one of the longest canoeable rivers in the Pinelands and is well know for its fishing, boating and recreational activities. Furthermore, there are many sites of cultural and historical interest along the river corridor including the remains of the iron and shipping industry.

National scenic and recreational designation of this river was the culmination of a 6-year study and represents a consensus between the local municipalities, and the county, State and Federal governments to cooperate in drawing up local river management plans for the Great Egg Harbor River. A cooperative effort on such a scale is indicative of the uniqueness of this area and the local and State support it receives.

The $81,000 included in the bill will enable the National Park Service to assist in the development of local river management plans, in preparing the comprehensive river protection plan, and in entering into agreements with local, State and other Federal groups. These funds are necessary to prevent further delay in carrying out the goals of this designation and provide long-term protection to this unique natural resource.

The Cape May, Forsythe, and Great Egg Harbor River projects represent rare opportunities to preserve the important environmental, cultural and historical values of New Jersey and the Nation.

I would like to thank the chairman and ranking Republican of the Appropriations Committee and the chairman and ranking member of the Interior Subcommittee. I would especially like to praise the fine work of Chairman YATES, as well as Mr. REGULA, the ranking Republican member of that panel. They have done an excellent job in crafting this bill as a whole. Chairman YATES and Mr. REGULA have been particularly sensitive to the need to protect natural resources in the face of increasing developmental pressures in New Jersey—the most urbanized and densely populated State in the Nation.

Mr. Speaker, despite these austere times and the necessary budget cuts, I believe that this bill reflects Congress' strong commitment to the preservation and protection of our natural and historical resources. This is a rational bill and I urge my colleagues' support for its passage.

Mr. POMEROY. Mr. Speaker, I rise today, regretfully to oppose this Interior appropriations legislation because the grazing proposal contained within it bypasses public discussion. I have no quarrel with other parts of the bill. Indeed, the committee has done a fine job putting the appropriations together and has treated my State of North Dakota fairly.

However, the sharp increase in grazing fees from $1.86 to $3.45 per animal unit month over 3 years will dramatically affect the family-size ranches in North Dakota. Since Congress has not invited the ranchers to testify before the House, I went to the ranchers. I recently spent a day in western North Dakota with members of the Little Missouri Grazing Association. These family ranchers have been raising cattle on this land for three generations. Even with the opportunity to lease public lands they net on average $20,000 or less per year per family.

Ranchers are not asking that no changes be made in Federal range management. They are asking that the process include them since its financial effect is significant.

In good conscience, I cannot vote for this conference report without testimony being heard by the House or the other body. To institute reforms without public discourse is a disservice to ranchers and the people.

Mr. BAKER of California. Mr. Speaker, I regretfully rise in opposition to the Interior appropriations conference report for fiscal year 1994. I had hoped I could vote for this conference report because there are many things in this bill that I support; however, the amount of money appropriated in this bill represents nearly a 10-percent increase over last year. The people of my congressional district did not receive a 10-percent salary hike, and they simply cannot afford a 10-percent increase for this bill. In fact, many of the people of my congressional district will receive a tax increase, and this bill only adds to their share of the Federal debt. I sincerely hope we can begin setting priorities in Federal spending so that we can take serious steps to reduce our Federal deficit. We must begin to set priorities. Let's do it for our children's sake.

Mr. MCDADE. Mr. Speaker, I rise in support of the conference report on the Interior and related agencies appropriations bill for fiscal year 1994. I want to commend my two House colleagues, Chairman SID YATES and ranking Republican RALPH REGULA, for their leadership and tireless efforts in an enormously difficult undertaking to reach a conference agreement that is acceptable to most Members of the House.

The agreement is the product of weeks of delicate negotiations between House and Senate conferees. As usual, the Interior appropriations bill has no shortage of controversies. The conference produced strong differences of opinion on such issues as Federal grazing fees, the new National Biological Survey, Forest Service road funding and Federal mining patents.

The most contentious of these, grazing fees, was resolved with a compromise that increases grazing fees over 3 years from the current $1.86 to $3.45 per animal unit month [AUM] and institutes a number of rangeland reforms. The conference debated these changes extensively before acting.

The agreement reflects the wishes of an increasing majority in the House who have voted on numerous occasions over the past several years for increased fees. The most recent vote came on September 29 when the House passed 314 to 109 a motion to instruct conferees to reject the Senate's 1-year moratorium on the implementation of grazing fee increases. To critics of the compromise, it should be pointed out that the agreement will prevent the Secretary of the Interior from implementing a higher fee schedule and more comprehensive reforms.

In regard to the National Biological Survey, the conferees included bill language prohibiting the use of Federal funds to conduct new surveys on private property unless specifically authorized in writing by the property owner. The statement of the managers contains language which clearly states that National Biological Survey funding is only provided to the extent authorized by law to continue ongoing research activities. The survey, as well intentioned as it may be, has been the subject of controversy in the House, and I believe funds should not be expended until Congress has fully expressed its will.

Much attention has been focused on the contentious issues faced by the conference, but that should not obscure our vision to the fact that the final figure of $13.4 billion falls under the administration request, the 602(b) allocation and the funding levels in the House and Senate Interior appropriations bills.

Even with this year's severe budget restrictions, the conference was able to provide for the essential program needs of the Forest Service, Department of Interior, conservation and fossil fuel programs of the Department of Energy, Indian education and health, and cultural and artistic programs.

The conference report also facilitates a number of goals in the Vice President's report on reinventing Government, including a measure to eliminate all employee floors and ceilings in the Department of the Interior. This gives the Secretary the flexibility needed to meet the goal of greater efficiency by reducing the number of employees in the Department.

I have been a member of the Interior Appropriations Subcommittee for nearly three decades. As always, it is a labor of love to work on issues affecting our glorious public lands—the national parks, forests, rivers, and wildlife refuges. This bill preserves and protects our cultural heritage, provides low-income weatherization assistance and promotes needed research on energy conservation and development. These wonderful projects and programs are worthy of our support. I urge adoption of this conference report.

Mr. SYNAR. Mr. Speaker, today's vote is about gridlock, not grazing fees.

It is about managing public lands, not private property rights.

There were are only two important questions before the House: Whether we can break the gridlock on public lands reform? Whether we can take on the special interests and reduce the Federal deficit?

The day the Senate passed its so-called moratorium was a sad day for both the taxpayers, the environment.

However, the day that they voted 314 to 109 to instruct conferees not to agree to the Senate moratorium effort on grazing fees was just the opposite.

That was the beginning of a new era of bipartisan cooperation on public land reform and grazing reform.

The conferees have followed the House's instruction and returned with a conference report that breaks the gridlock over grazing fees and presents a good deal for the grazers, and a fair deal for the taxpayers.

Contrary to some wild claims by those who oppose increasing Federal grazing fee, this conference report is not an attack on private property rights.

Federal grazing permits do not confer private property rights in Federal lands and low grazing fees are not a private property rights.

Some Federal grazers made those allegations when the first Federal grazing fees were assessed in 1906.

They maintained that any grazing fee on Federal lands amounted to a "taking" without just compensation, which is prohibited by the fifth amendment.

In 1911, the U.S. Supreme Court ruled that the grazers were wrong and that grazing permits confer no private property rights in Federal public lands, See: *Light* v. *United States* (220 U.S. 523).

The Court said clearly that: "Grazing on public land does not confer any vested right * * * nor deprive the United States of the power of recalling any * * * license under which the land has been used for private purposes."

Nothing in this conference report changes that.

In fact, all land reform changes contained in the conference report are prefaced with the phrase "subject to valid existing rights."

So, the conference report respects valid existing private property rights.

The bottom line—for those who do not support the conference report—is that there is no right time to increase Federal grazing fees, no fee increase that is acceptable and no argument that can be foregone to prevent a fair return to the taxpayers.

For those of us who disagree, there is no time like the present.

The conference report is right on target.

Federal grazing fees are ridiculously low.

Current Federal range condition is too poor.

The conference report is sound and practical because it recognizes that only the market place can allocate Federal rangeland resources.

Because of the conference report, we can at last start running the Federal Government more like a business.

It presents a good deal for the grazers, and a fair deal for the taxpayers.

Mr. KYL. Mr. Speaker, I rise in opposition to the rule and the conference report on the fiscal year 1994 Interior appropriations bill as it comes before the House today.

Mr. Speaker, the House never had an opportunity to fully debate and consider the Rangeland Reform 1994 provisions included in the conference report. The Clinton administration didn't even announce its reform proposal until several weeks after the House had acted on the original version of the Interior bill.

Far from including rangeland reform in its version of the bill, the Senate voted a one-year moratorium on the implementation of the Clinton Rangeland Reform program.

Yet, somehow, a handful of conferees secretly negotiated a deal behind closed doors to add these provisions which neither the House not the Senate had ever approved.

Mr. Speaker, the grazing fee increase in this legislation will be devastating to the many small ranching families across the West. The policy changes this conference report will also codify represent a sweeping change in the way our public lands are managed. The changes infringe upon private property rights. Land managers are given broad, new, unilateral authority to implement decisions from which there is no recourse.

All this despite administration officials' own admission, made in an internal Department memo, that their "own statistics can be used to show that the range is in better shape than at any point in this century."

As if that weren't bad enough, the Interior conference report fully authorizes and funds the National Biological Survey—a program that had to be pulled from the House floor last week by its sponsors. This is a back-door effort to evade even the modest protections for private property rights which were approved during the course of debate on the Biological Survey bill.

I urge my colleagues to vote against the rule. The conference committee should reconvene and bring back a bill which withholds funding for the Biological Survey until it is properly authorized. It should excise the rangeland reform provisions to avert a certain Senate filibuster, and avoid delaying the many other important programs funded by the Interior bill.

Mr. BEREUTER. Mr. Speaker, this Member rises today to thank the chairman of the Interior Appropriations Subcommittee, the gentleman from Illinois [Mr. YATES] and the ranking Republican on that subcommittee, the gentleman from Ohio [Mr. REGULA] for their support of appropriations for construction of a new hospital in Winnebago, NE. The quest for a new hospital has been a long and drawn-out process. The Winnebago Hospital provides vital health care services to the native American population of Nebraska and is in dire need for replacement; therefore this Member is pleased that the subcommittee allocated $300,000 in planning money for a replacement facility at Winnebago, contingent on the approval of a project justification document.

Mr. YATES. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MFUME). The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. Pursuant to House Resolution 279, the motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement are considered as read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 1: Page 2, after line 2, insert:

"MANAGEMENT OF LANDS AND RESOURCES

"For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $604,415,000, of which the following amounts shall remain available until expended: not to exceed $1,462,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–6a(i)), and $69,418,000 for the Automated Land and Mineral Record System Project: *Provided*, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors; and in addition, $15,300,000 for Mining Law Administration program operations to remain available through September 30, 1994, to be reduced by amounts collected by the Bureau of Land Management and credited to this appropriation from annual mining claim fees so as to result in a final fiscal year 1994 appropriation estimated at not more than $604,415,000: *Provided further*, That in addition to funds otherwise available, not to exceed $5,000,000 from annual mining claim fees shall be credited to this account for the costs of administering the mining claim fee program, and shall remain available until expended."

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 1, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"MANAGEMENT OF LANDS AND RESOURCES

"For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $599,860,000, of which the following amounts shall remain available until expended: $1,462,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–6a(i)), and $69,418,000 for the Automated Land and Mineral Record System Project: *Provided*, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors; and in addition, $15,300,000 for Mining Law Administration program operations to remain available through September 30, 1994, to be reduced by amounts collected by the Bureau of Land Management and credited to this appropriation from annual mining claim fees so as to result in a final fiscal year 1994 appropriation estimated at not more than $599,860,000: *Provided further*, That in addition to funds otherwise available, not to exceed $5,000,000 from annual mining claim fees shall be credited to this account for the costs of administering the mining claim fee program, and shall remain available until expended."

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Mr. Speaker, I object.

The SPEAKER pro tempore. Does the gentleman from Indiana object to adoption of the motion by unanimous consent?

Mr. BURTON of Indiana. Mr. Speaker, could the motion be restated? What was the motion? I think I understood the motion, but I would be happy to hear it restated.

The SPEAKER pro tempore. Does the gentleman from Illinois [Mr. YATES], since he has 30 minutes, wish to debate the motion?

Mr. YATES. Mr. Speaker, I ask unanimous consent that the Clerk repeat the motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The Clerk will redesignate the motion.

The Clerk redesignated the motion.

Mr. BURTON of Indiana. Mr. Speaker, I object.

The SPEAKER pro tempore. What is the gentleman's objection?

Mr. BURTON of Indiana. Mr. Speaker, this $599 million was struck when it left the House on a point of order. It was struck on a point of order when it left the House, and I think the House's sentiments should be what we live with here. I do not think we should put that money back in.

The SPEAKER pro tempore. The gentleman from Indiana should then proceed or debate time yielded to him. Does the gentleman from Illinois [Mr. YATES] yield time to the gentleman from Indiana in order to debate the matter?

Mr. YATES. Mr. Speaker, if the gentleman from Indiana is requesting time, I will be glad to yield to him if he wants.

Mr. BURTON of Indiana. Yes. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I think we probably ought to try to illuminate the issue a little bit.

Mr. YATES. Reclaiming my time, Mr. Speaker, this amount of money to which the gentleman objects is for the Bureau of Land Management.

As the gentleman will recall, Mr. Speaker, the committee put an appropriation into the bill, and did not ask for a rule to protect the Bureau of Land Management appropriation on the House floor because BLM had no current authorization. I am sure the gentleman will recall that it was on his point of order that that amount of money was stricken.

☐ 1820

Subsequently, as we went into the conference, the House had passed an authorization and the Senate had restored the funding for the Bureau of Land Management. The conferees, in order to provide the funds for the Bureau of Management, which has such important operations throughout the country and particularly in the West, agreed to the funding.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will yield, can the gentleman from Illinois [Mr. YATES] tell me how much the Bureau of Land Management received last year to run its operation nationwide?

Mr. YATES. Mr. Speaker, the amount is $542 million.

Mr. BURTON of Indiana. So this is $57 million above last year's figure?

Mr. YATES. The gentleman is correct, for the reason there were additional duties on the part of the Bureau of Land Management that had been passed by the Congress, and funds were necessary for that purpose.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will yield further, the concern that I have is with the severe fiscal problems that this country faces, to have a $57 million increase, which is almost 10 percent, in one year for one agency of Government, seems to me to be excessive. I would hope that we could maybe send this back to conference and have it cut back. If we increase every area of Government by 10 percent this year, we would have an exorbitant increase in spending.

Mr. YATES. Mr. Speaker, I would suggest to the gentleman that the House tried to get a lesser figure. The amount is actually $5 million less than the Senate appropriated in its original bill. But I could not obtain Senate approval for a lesser amount. I doubt that if the bill was sent back to conference that we would be able to do much better.

Mr. BURTON of Indiana. Mr. Speaker, I feel that somebody has to draw the line someplace, and for that reason I will ask for a rollcall vote on this, because I think over a 10-percent increase in funding for one agency of Government is excessive, and it should not be passed.

The SPEAKER pro tempore (Mr. MFUME). Does the gentleman from Ohio [Mr. REGULA] desire time?

Mr. REGULA. Mr. Speaker, I have no requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The question was taken; and the Speaker pro tempore annnounced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 296, nays 131, not voting 6, as follows:

[Roll No. 523]

YEAS—296

Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barlow
Barrett (WI)
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Bliley
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Camp
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Gonzalez
Gordon
Goss
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Houghton
Hoyer
Huffington
Hughes
Hutto
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Miller (FL)
Mineta
Mink
Moakley

Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velázquez
Vento
Visclosky
Volkmer
Waters
Watt
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—131

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Castle
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Franks (NJ)
Gallegly
Gekas
Gilman
Goodlatte
Goodling
Grams
Greenwood
Hall (TX)
Hancock
Hansen
Hefley
Herger
Hoke
Horn
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Lewis (FL)
Lightfoot
Linder
Livingston
Mann
Manzullo
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Minge
Molinari
Moorhead
Nussle
Orton
Oxley
Paxon
Penny
Petri
Pickett
Pombo
Portman
Quinn
Ramstad
Ridge
Roberts
Rohrabacher
Royce
Santorum
Sarpalius
Schaefer
Sensenbrenner
Shays
Shuster
Smith (MI)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (WY)
Torkildsen
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—6

Abercrombie
Engel
Gibbons
Hastert
Washington
Waxman

□ 1843

The Clerk announced the following pair:

On this vote:

Mr. Abercrombie for, Mr. Hastert against.

Messrs. SHAYS, ARCHER, MINGE, MOORHEAD, SARPALIUS, HORN, BARCIA of Michigan, and HYDE changed their vote from "yea" to "nay."

Ms. PRYCE of Ohio, Mr. MCMILLAN, and Mr. WELDON changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

□ 1844

The SPEAKER pro tempore (Mr. MFUME). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 2: Page 2, after line 26, insert:

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $10,817,000, to remain available until expended.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 2, and concur therein with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of the sum named in said amendment, insert: "$10,467,000"

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Mr. Speaker, I object.

Mr. YATES. Mr. Speaker, I will be glad to yield to the gentleman from Indiana [Mr. BURTON] if he wishes to debate the motion.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] is recognized for 30 minutes.

Mr. YATES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, this is $10.467 million for the Bureau of Land Management construction and access. This was struck on a point of order in the House and the Senate amendment was, I guess, about the same amount, maybe a little bit more.

Can the gentleman tell me what this $10.467 million is for?

Mr. YATES. I would reply to the gentleman that this is another Bureau of Land Management item. The 1993 amount, last year's amount, was $15,676,000. This year the Senate put in $10.8 million. The amount that the Committee had in the bill was stricken on the House floor on the gentleman's point of order. The Senate put in $10,817,000. The conferees agreed on a lesser figure, $10,467,000.

Mr. BURTON of Indiana. If the gentleman will yield further, Mr. Speaker, I would ask, are these new projects, old projects, or are these being refunded?

Mr. YATES. These are the projects that were ongoing.

Mr. BURTON of Indiana. They are all ongoing projects?

Mr. YATES. They are ongoing projects.

Mr. BURTON of Indiana. And not new ones?

Mr. YATES. That is correct.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 4, after line 4, insert:

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,025,000, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: Provided, that notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: Provided further, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: Provided, that appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": Provided further, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 4, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,025,000, to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided*, That notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further*, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title: up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the co-operators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Mr. Speaker, I object. Will the gentleman yield?

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] is recognized for 30 minutes.

Mr. YATES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I would say to the gentleman, this is $10.025 million, again for the Bureau of Land Management, range improvements. This was struck on a point of order when it left the House. I raised the point of order.

Can the gentleman tell me what this is for, and are there any new projects? Are these all ongoing old projects?

Mr. YATES. This is an amount that is received from grazing fees, and it is used for the improvement of the public lands. It is the same amount, roughly, as we had last year.

Mr. BURTON of Indiana. The same amount as last year?

Mr. YATES. That is correct.

Mr. BURTON of Indiana. Mr. Speaker, I withdrew my reservation of objection.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

There was no objection.

The SPEAKER pro tempore. The clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 10: Page 5, line 13, strike out all after "expended" down to and including "Marsh" in line 16

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 10, and concur therein with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert the following:

"of which $1,800,000 shall be available as a grant from the United States Fish and Wildlife Service to Ducks Unlimited, Inc., for construction of the Federal portion of the dike and pumping station at Metzger Marsh: *Provided*, That notwithstanding any other provision of law a single procurement for the construction of facilities at the Walnut Creek National Wildlife Refuge, Iowa may be issued which includes the full scope of the project: *Provided further*, That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.323.18".

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Mr. Speaker, I object.

Will the gentleman yield?

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] is recognized for 30 minutes.

Mr. YATES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, this is $1.78 million for Ducks, Unlimited. It was not requested by the President. Is this a new appropriation or is this a continuation of an old program?

Mr. YATES. This is a continuation of an ongoing project. It is not a new project.

Mr. BURTON of Indiana. Is this comparable to the amount that was appropriated last year?

Mr. YATES. It is less than the amount appropriated last year.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 12: Page 7, line 3, strike out "$61,610,000" and insert: "$76,204,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 12, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$82,655,000".

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Mr. Speaker, I object.

Will the gentleman yield?

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] is recognized for 30 minutes.

Mr. YATES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, the House had $61.61 million for this purpose, and the Senate had $76.204 million, and yet the amount that is appropriated is $82.655 million, which is substantially higher than both the House and the Senate.

Can the gentleman explain why it is higher than both the House and the Senate figures?

Mr. YATES. I will tell the gentleman, the House had its list of projects that Members had requested for land acquisition for the Fish and Wildlife Service. The Senate had its own list of projects that its Members had requested. The total of both lists was about $110 million.

☐ 1950

The figure that was agreed upon by the conferees was $82,655,000, which was significantly lower.

Mr. BURTON of Indiana. Further reserving the right to object, if the gentleman will yield, are any of these new pork barrel projects or projects for individual Senators or House Members?

Mr. YATES. No. These are not pork barrel projects.

Mr. BURTON of Indiana. Are there any new projects in there?

Mr. YATES. There are two new projects, may I tell the gentleman, out of about 50.

Mr. BURTON of Indiana. Could the gentleman tell me where those projects are and how much they are?

Mr. YATES. There is one in the Emiquon National Wildlife Refuge in Illinois. Incidentally, I did not request it. It is requested by Mr. MICHEL, I understand.

Mr. BURTON of Indiana. What is the other one?

Mr. YATES. It is Lake Wales Ridge in Florida, which is $2 million.

Mr. BURTON of Indiana. And is this figure, this total of $82,655,000, is that higher than last year's future?

Mr. YATES. It is roughly the equivalent, perhaps higher by $1 million, or $2 million, or $3 million.

Mr. BURTON of Indiana. But it is higher than last year, and we have two new projects?

Mr. YATES. Insignificantly higher.

Mr. BURTON of Indiana. Insignificantly.

Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. MFUME). Does the gentleman from Illinois [Mr. YATES] wish more time?

Mr. YATES. No, I do not, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from Indiana [Mr. BURTON] wish more time?

Mr. BURTON of Indiana. No, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 293, nays 131, not voting 9, as follows:

[Roll No. 524]

YEAS—293

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barlow
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Calvert
Canady
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Farr
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Houghton
Hoyer
Hughes
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Parker
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Pomeroy
Poshard
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Watt
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NAYS—131

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bentley
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Camp
Castle
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Franks (NJ)
Gallegly
Gekas
Geren
Glickman
Goodlatte
Grams
Grandy
Greenwood

Gunderson
Hall (TX)
Hancock
Hansen
Hefley
Herger
Hoekstra
Hoke
Huffington
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Lambert
Levy
Lightfoot
Linder
Manzullo
McCurdy
McHugh
McInnis
McKeon
Meyers
Minge
Molinari
Moorhead
Nussle
Orton
Oxley
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ridge
Roberts
Rohrabacher
Roth
Royce
Santorum
Sarpalius
Schaefer
Sensenbrenner
Shaw
Shuster
Slattery
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Taylor (NC)
Upton
Vucanovich
Walker
Zeliff

NOT VOTING—9

Brooks
Fazio
Hastert
Hunter
Lehman
Pastor
Sabo
Sharp
Waxman

□ 1911

Messrs. BREWSTER, SLATTERY, McCURDY, and JACOBS, and Mrs. MEYERS of Kansas changed their vote from "yea" to "nay."

Mr. LIVINGSTON and Mr. BEREUTER changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. LAMBERT. Mr. Speaker, I rushed in late on rollcall vote No. 524 and misunderstood the explanation of the vote. I intended to vote "yea."

□ 1910

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 18: Page 9, line 19, after "construction" insert ": *Provided*, That the National Biological Survey is authorized to accept lands, buildings, equipment, and other contributions, either cash or in-kind, from public and private sources, and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided further*, That the National Biological Survey is authorized to accept the services of outside individuals or entities without compensation".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 18, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"In lieu of the matter proposed by said amendment, insert ": *Provided*, That none of the funds under this head shall be used to conduct new surveys on private property unless specifically authorized in writing by the property owner".".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 23: Page 11, line 7, strike out "$183,949,000" and insert "$191,136,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 23, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$201,724,000".

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] is recognized for 30 minutes.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, may I ask the committee chairman, the House had $184 million for National Park Service construction. The Senate had $191 million and yet this is $18 million above the House and $10 million above the Senate. It is above both.

I understand that there is $2 million for new construction for the Boston Library; $3 million for a Lincoln Research Facility in Massachusetts, and that project could go as high as $30 million to $40 million over the long term, the first tranche is $3 million.

For Atlantic, there is $3 million in there, I guess for the Olympics for the Martin Luther King project.

Mr. YATES. Mr. Speaker, I do not understand what the gentleman means.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will continue to yield, what I was doing was asking why this is above both the House and the Senate. It is $18 million above the House and $10 million above the Senate figure, and why do we have about four or five new projects that I do not believe were authorized that are going to cost $50 million or $60 million over the long pull.

One is in Boston, the Library in Boston; the Lincoln Research Project which is starting off at $3 million and it is going to cost $30 million to $40 million long term; the Martin Luther King project in Atlanta which is going to cost $9 million and something nobody over here can find out about or explain to me that is called the New England Conservatory, which is another $2 million.

All these are new projects, and I do not believe they are authorized.

Mr. YATES. Mr. Speaker the gentleman is partially correct. The Boston Public Library is an authorized project.

Mr. BURTON of Indiana. It is authorized?

Mr. YATES. It is an authorized project, yes. It is a landmark. It is one of the distinguished architectural buildings in the country. It is now engaged in a fundraising of which the Federal Government is providing a very small amount. Private sources will be providing the major amount of this project.

The gentleman also made references to a project which he said may cost $30 million. That I think is the $3 million project in the report.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will yield further, that is the first phase of it, through, I understand.

Mr. YATES. I was just going to say, that project is not authorized, and the $3 million will become available only if and when the project is authorized. It is not made available in this budget.

Mr. BURTON of Indiana. What about the project in Atlanta and the New England Conservatory?

Mr. YATES. The Atlanta project is authorized.

The New England Conservatory project is subject to authorization. The money is not made available until the conservatory is designated a National landmark.

Mr. BURTON of Indiana. Well, if the gentleman will yield further, as I said before, this is $18 million above the House, $10 million above the Senate.

How does this compare to last year's figure, the appropriation for last year?

Mr. YATES. This appropriation is $27 million below last year's appropriation.

Mr. BURTON of Indiana. Below last year?

Mr. YATES. Below last year's appropriation.

Mr. BURTON of Indiana. That being the case, Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 24: Page 11, line 8, strike out all after "expended" down to and including "470a" in line 10 and insert: "*Provided*, That of the funds provided under this heading, not to exceed $450,000 shall be made available to the City of Hot Springs, Arkansas, to be used as part of the non-Federal share of a cost-shared feasibility study of flood protection for the downtown area which contains a significant amount of National Park Service property and improvements: *Provided further*, That notwithstanding any other provision of law a single procurement for the construction of the Franklin Delano Roosevelt Memorial may be issued which includes the full scope of the project: *Provided further*, That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.323.18".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

> Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 24, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert "$4,377,000 to be derived from amounts made available under this head in Public Law 101–512 as a grant for the restoration of the Keith Albee Theatre in Huntington, West Virginia, and $1,844,000 to be derived from amounts made available under this head in Public Law 102–381 for a pedestrian walkway and interpretive park (A Walk on the Mountain): *Provided*, That $2,000,000 for the Boston Public Library and $500,000 for the Penn Center shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a: *Provided further*, That of the funds provided under this heading, not to exceed $350,000 shall be made available to the City of Hot Springs, Arkansas, to be used as part of the non-Federal share of cost-shared feasibility study of flood protection for the downtown area which contains a significant amount of National Park Service property and improvements: *Provided further*, That notwithstanding any other provision of law a single procurement for the construction of the Franklin Delano Roosevelt Memorial may be issued which includes the full scope of the Project: *Provided further*, That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.323.18: *Provided further*, that for the purpose of performing an environmental impact statement (EIS) on the Paseo del Norte alignment, the National Park Service's proposed Calabacillas alternative road alignment, and any other alternative routes in association with the Petroglyph National Monument in Albuquerque, New Mexico $400,000 are to be allocated to the City of Albuquerque to perform the EIS, only in the event that the City of Albuquerque and the National Park Service reach mutual agreement, within 75 days of the date of enactment of this Act, on the conditions that must be met for the study, such funds to be derived by transfer from balances available in the "Land acquisition and State assistance" account, National Park Service: *Provided further*, That $1,500,000 for the New England Conservatory shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a upon designation as a National Historic Landmark".

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I think this one is particularly onerous. I appreciate the gentleman yielding to me.

This project includes a litany of pork-barrel projects, and I think anybody in this place who listens to this will agree with that.

First of all, there is $4.377 million for the restoration of the Keith Albee Theater in Huntington, WV. This funding was not requested by the President. It was not in the House or the Senate bill. It happens to be in the state of the chairman of the Senate Appropriations Committee.

Mr. YATES. Mr. Speaker, if the gentleman will permit me to correct him, this is not a project that receives money. This is in fact a rescission; money is taken from the Keith Albee Theater.

Mr. BURTON of Indiana. There is no money for this project?

Mr. YATES. That is correct. We take money away from this project and use it somewhere else.

Mr. BURTON of Indiana. So this project is not an ongoing project.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I want to commend the committee for rescinding basically this money that was put in past appropriation bills and being withdrawn. Some of the funds here are projects, the Boston Library which is an authorized project, the conservatory in Massachusetts which is subject to authorization.

In other words, what is happening here, they are making up for some past mistakes that occurred.

I want to commend the conference and the chairman especially for in fact subscribing to this particular policy in this instance. This is an amendment that actually pulls back that money which was improperly appropriated.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will yield further, I think what the gentleman just alluded to was the previous amendment, to which I did not object.

Mr. YATES. Mr. Speaker, I must tell the gentleman, I had a contrary opinion.

Mr. BURTON of Indiana. We are on amendment No. 24 now.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Washington.

Mr. DICKS. That is what we are talking about. It is No. 24. The money was rescinded.

Mr. BURTON of Indiana. No, no. He is talking about the Boston Library, which was in the previous amendment.

Mr. YATES. It is in this one. The library is in this amendment.

Mr. VENTO. Mr. Speaker, if the gentleman will yield, the library is in this. The gentleman previously discussed it, but it is in this amendment, and I thank the committee chairman for yielding to me.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will continue to yield, this $4.777 million the gentleman says has been stricken?

Mr. YATES. Yes.

Mr. BURTON of Indiana. There is $1.844 million for a walk on the Mountain Park, a pedestrian walkway, Interpretive Park in Tacoma, WA. This was not requested by the President. It was not in the House or in the Senate.

Mr. YATES. This is an amount that is rescinded. It is not made available.

Mr. DICKS. Mr. Speaker, if the gentleman will yield, we rescinded that money. That was rescinded as well.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman.

□ 1920

The Boston Library, $2 million, that is in here; $500,000 for the Penn Center in South Carolina?

Mr. YATES. The gentleman from Indiana [Mr. BURTON] is correct. Both of them are authorized.

Mr. BURTON of Indiana. Says in my notes that the funding was not requested by the President but was in the Senate bill.

Mr. YATES. Well, the Boston Public Library funding was approved at the request of the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY] and, as I indicated to the gentleman a few moments ago, the $2 million is a small amount of the total amount that is being raised from private sources.

Mr. BURTON of Indiana. All right. I was talking about the Penn Center in South Carolina, the $500,000.

Mr. YATES. The Penn Center in South Carolina is a very old historic center which used to house slaves, and it was requested by Senator HOLLINGS over in the Senate because it is an historical center in which the gentleman from South Carolina [Mr. RAVENEL] is interested and the gentleman from South Carolina [Mr. CLYBURN] is interested. It is one of the projects which has particular importance to the African American population.

Mr. BURTON of Indiana. What about the $350,000 for the non-Federal share of a cost-shared feasibility study for flood control in downtown Hot Springs, AR? That was not requested by the President but was in the Senate bill. Is that authorized?

Mr. Yates. It is not authorized, but it is a project that needs repair because, without adequate flood protection, many valuable Park Service facilities in Hot Springs could be flooded and would require extensive future appropriations to repair the flooding. This is in the nature of saving money by making repairs at this time so we will not have to make a much more extensive repairs in the future.

These are historic projects, too. The baths in Hot Springs are authorized as historic projects.

Mr. BURTON of Indiana. OK; how about $400,000 for——

The SPEAKER pro tempore (Mr. MFUME). Does the gentleman from Illinois [Mr. YATES] yield further?

Mr. YATES. Mr. Speaker, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. How about the $400,000 for a road through the Petroglyph National Monument in Albuquerque, NM? It was not requested by the President, not in the House, nor the Senate bill.

Mr. YATES. This was requested by Senator DOMENICI of New Mexico, and the reason for this is——

Mr. BURTON of Indiana. He wants it?

Mr. YATES. Well, he points out that the city of Albuquerque is growing right up to that Petroglyph Monument, and this is requested by the city of Albuquerque in order to expedite traffic through the area.

Mr. BURTON of Indiana. Well, finally, Mr. Speaker, the $1½ million for Jordan Hall at the New England Conservatory. That was not requested by the President, nor in the House bill.

Mr. YATES. That is subject to authorization. It is not authorized. The money is not made available in this bill until the conservatory is designated a national landmark.

Mr. BURTON of Indiana. Mr. Speaker, most of the objections I had have been answered, so I will withdraw my reservation of objections.

Mr. YATES. Mr. Speaker, I thank the gentleman from Indiana.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 27: Page 13, line 3, after "1913" insert ": *Provided further*, That notwithstanding any other provision of law, the National Park Service may hereafter recover all costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 27, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 38: Page 22, line 15, after "Act" insert ": *Provided further*, That of the amount appropriated under this head in Public Law 102-381, $250,000 for activities related to the Alaska Native Claims Settlement Act shall remain available until expended".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 38, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following ": *Provided further*, That of the amount appropriated under this head in Public Law 102-381, any unobligated balance as of September 30, 1993 related to the Alaska Native Claims Settlement Act shall remain available until expended and may be obligated under a grant to the Alaska Native Foundation for education, training, and technical assistance to Alaskan village corporations for reconveyance requirements".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 39: Page 22, line 18, after "ties" insert ": *Provided further*, That not to exceed $84,808,000 of the funds in this Act shall be available for payments to tribes and tribal organizations for indirect costs associated with contracts or grants or compacts authorized by the Indian Self-Determination Act of 1975, as amended".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 39, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert ": *Provided further*, That not to exceed $91,223,000 of the funds in this Act shall be available for payments to tribes and tribal organizations for indirect cots associated with contracts or grants or compacts authorized by the Indian Self-Determination Act of 1975, as amended, for fiscal year 1994 and previous years".

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] is recognized for 30 minutes.

Mr. YATES. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Speaker, I rise in support of the conference report on the Interior appropriations bill, and the funding it contains for the preservation and restoration of the Boston Public Library and Jordan Hall of the New England Conservatory. I would like to thank the gentleman from Illinois [Mr. YATES] and the gentleman from Ohio [Mr. REGULA] for including the funding this year.

The rehabilitation of the Boston Public Library is authorized under 16 U.S.C. 470A, which provides for the preservation and restoration of national historic landmarks. The restoration and preservation work going on at the Boston Public Library is a joint effort that should involve the local, State, and Federal governments, as well as the private sector, just as the Historic Preservation Act envisioned. To date, the city and State governments have already approved spending over $20 million on the library and a paramount local effort to raise private funds has been very successful. It is time for the Federal share to be allocated.

The Boston Public Library has been, since 1895, the cornerstone of Boston's and New England's cultural and social life. Designed by the legendary Charles McKim, the Boston Public Library is the largest in New England. For almost a century, the BPL has been the regional depository for U.S. Government documents and patents, and houses the extensive and definitive collections of the papers of John and Abigail Adams. The library itself was founded in 1848 and has, since that date, served the city of Boston, the Commonwealth, and the Nation in a myriad of ways. Funds committed to preserve and enhance the library's physical plant, interior collection of historic frescos, and irreplaceable historic data, will allow the library to continue to serve this generation and the generations to come.

Mr. Speaker, Jordan Hall is another structure that is in the same class as the Boston Public Library and will be authorized under the same preservation law. The $1.5 million appropriated here is made subject to Jordan Hall receiving national landmark status. The review for the designation is now underway and is expected to be completed by March 31, 1994. Once the designation is made the money will be released. This money is urgently needed to keep the structure safe for public use. Like the library, the effort to raise private money through donations has been very successful. Over $2.7 million is already in hand and the effort continues toward the goal of $8 million for complete rehabilitation.

Mr. Speaker, Jordan Hall houses the New England Conservatory, the Nation's oldest continuing institution of higher learning devoted to music. Since its construction in 1903, the conservatory's Jordan Hall has served as New England's premier performance hall and a living, thriving classroom, for instruction in music performance and education. Jordan Hall is known around the world for its excellent acoustics, for the legions of musical greats that have performed there, and for the conservatory's track record of involvement in the city. It services Boston and the Commonwealth by hosting over 100 free concerts a year, offers free musical instruction to urban residents incapable of paying tuition, and has clearly merited its pending designation as a national historic landmark.

Funds directed to the conservatory at Jordan Hall will allow for the first renovation effort there since 1932. Completion of this work will allow the conservatory to continue its rich history of serving New Englanders and citizens of the world desirous of hearing great music and contributing their talents to the world's ever-expanding body of music.

Mr. Speaker, I urge the House to adopt the motion at hand so that the Federal Government can contribute its fair share to preserving these two magnificent buildings that play such a central, significant, and ongoing role in the cultural and historical life of New England and the Nation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Mr. YATES. Mr. Speaker, I ask unanimous consent that the amendments of the Senate numbered 41, 43, 49, 50, 51, 67, 76, 82, 95, 101, and 111, be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The texts of the various Senate amendments referred to in the unanimous consent request are as follows:

Senate amendment No. 41: Page 22, line 18, after "ties" insert ": *Provided further*, That for the purpose of Indian Reservation road construction, all public Indian reservation roads (as defined in 23 U.S.C. 101), identified in the 1990 Bureau of Indian Affairs Juneau Area Transportation Study (and in any subsequent update of such Transportation Study) shall be included as BIA system adjusted miles in the Bureau of Indian Affairs highway trust fund formula for distribution for fiscal year 1994: *Provided further*, That this provision shall expire upon implementation by the Secretary of the Interior of a relative needs based highway trust fund allocation formula pursuant to 23 U.S.C. 202(d)".

Senate amendment No. 43: Page 25, line 13, after "1994" insert ": *Provided further*, That any funds provided under this head or previously provided for tribally-controlled community colleges which are distributed prior to September 30, 1994, which have been or are being invested or administered in compliance with section 331 of the Higher Education Act shall be deemed to be in compliance for current and future purposes with Title III of the Tribally Controlled Community Colleges Assistance Act".

Senate amendment No. 49: Page 30, line 6, after "99-396," insert "or any subsequent legislation related to Commonwealth of the Northern Mariana Islands covenant grant funding,".

Senate amendment No. 50: Page 30, line 13, after "Foundation" insert ": *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets)".

Senate amendment No. 51: Page 30, line 13, after "Foundation" insert ": *Provided further*, That any appropriation for disaster assistance under this head in this act or previous appropriations acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c)".

Senate amendment No. 67: Page 40, after line 23 insert:

INTERNATIONAL FORESTRY

For necessary expenses of international forestry as authorized by Public Laws 101-513 and 101-624, $6,996,000, to remain available until September 30, 1995.

Senate amendment No. 76: Page 50, strike out all after line 22 over to and including line 2 on page 51, and insert:

To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.

Senate amendment No. 82: Page 52, after line 10 insert:

The Secretary of Agriculture, acting through the Forest Service, shall reimburse the Agricultural Stabilization and Conservation Service for administrative costs incurred under the Stewardship Incentive Program for the actual cost of services provided by the Agricultural Stabilization and Conservation Service, except that the actual costs shall not exceed 10 percent of the total annual appropriation for the program.

Senate amendment No. 95: Page 58, after line 20 insert:

The thirty-day waiting period required under this head in Public Law 101-512, Department of Energy Administrative Provisions, relating to a contract, agreement, or arrangement with a profit-making or nonprofit entity to conduct activities at the Department of Energy's research facilities at Bartlesville, Oklahoma, is hereby waived.

Senate amendment No. 101: Page 62, line 13, after "buildings" insert "and renovation of existing facilities".

Senate amendment No. 111: Page 74, line 2, after "1995" insert ": *Provided*, That funds provided under this head in Public Law 102-381 shall remain available until expended".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreements to the amendments of the Senate numbered 41, 43, 49, 50, 51, 67, 76, 82, 95, 101, and 111, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 42: Page 23, line 16, after "1991" insert ": *Provided further*, That any reorganization proposal shall not be implemented until the Task Force has reviewed it and recommended its implementation to the Secretary and such proposal has been submitted to and approved by the Committees on Appropriations, except that the Bureau may submit a reorganization proposal related only to management improvements, along with Task Force comments or recommendations to the Committees on Appropriations for review and disposition by the Committees".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 42, and concur therein.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. THOMAS of Wyoming. Mr. Speaker, I object to this package.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. YATES] is recognized for 30 minutes.

Mr. YATES. Mr. Speaker, I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Speaker, I wonder if I can discuss amendment No. 42. It provides that the review and approval of the reauthorization proposals by the task force on the Bureau of Indian Affairs reorganization be submitted to the Committee on Appropriations.

Mr. Speaker, we talked about this earlier, and the chairman pulled that out. It was put back in by the Senate. It does seem to me that the authorizing committees are the appropriate place for this study to be returned.

Mr. YATES. Mr. Speaker, if the gentleman from Wyoming would permit me to intervene here, I am telling the gentleman that I agree completely with the gentleman, and I want to assure the gentleman that our committee will urge the Bureau of Indian Affairs to make its reorganization proposals available to the authorizing committees as well.

Mr. THOMAS of Wyoming. Mr. Speaker, I appreciate that and thank the gentleman from Illinois [Mr. YATES] very much.

Mr. Speaker, I withdraw my objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 54: Page 32, after line 6, insert:

ECOSYSTEM RESTORATION FUND

For expenses necessary to implement the President's Forest Plan for "Jobs in the Woods" ecosystem restoration in Northern California, Washington, and Oregon, $7,000,000, to remain available until September 30, 1995: Provided, That with the approval of the Secretary, such amounts as may be identified in implementation plans may be transferred to the Bureau of Land Management, the Fish and Wildlife Service, and the Bureau of Indian Affairs.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 54, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 62: Page 39, after line 12, insert:

SEC. 117. In implementing Section 1307 of Public Law 96-487 (94 Stat. 2479), the Secretary shall deem the holder of entry permit LP-GLBA005-93 to be a person who, on or before January 1, 1979, was engaged in adequately providing visitor services of the type authorized in said permit with Glacier Bay National Park.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 62, and concur therein with an amendment, as follows: Retain the matter inserted by said amendment, amended as follows:

In lieu of the first section number named in said amendment, insert "114".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 69: Page 41, line 8, strike out "$1,237,272,000" and insert "$1,300,153,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 69, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert the following: "$1,304,891,000, including not less than $55,552,000 for law enforcement".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. Yates].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 71: Page 43, line 5, strike out "$237,423,000" and insert "$264,795,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 71, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "$249,002,000, including road obliteration and watershed restoration".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 72: Page 43, line 6, strike out "$96,495,000" and insert "$97,867,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 72, and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "$20,000,000, is for watershed restoration; $99,347,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 73: Page 43, line 8, strike out "$140,228,000" and insert "$166,928,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 73, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$129,655,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 74: Page 43, line 24, strike out "$56,700,000" and insert "$51,050,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 74, and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$64,250,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 75: Page 47, line 18, after "forest" insert ", and for timber sales preparation to replace sales lost to fire or other causes, and sales preparation to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above: *Provided*, That notwithstanding any other provision of law, monies received from the timber salvage sales program shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 75, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert ", and for timber sales preparation to replace sales lost to fire or other causes, and sales preparation to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above, and for watershed assessment activities: *Provided*, That notwithstanding any other provision of law, monies received from the timber salvage sales program shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

□ 1930

The SPEAKER pro tempore [Mr. MFUME]. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 77: Page 51, strike out lines 3 to 6 and insert "None of the funds made available in this Act shall be used for timber sale planning or scoping using clearcutting on the Ozark-St. Francis National Forest in Arkansas, except for sales that, in the discretion of the forest supervisor, are necessary as a result of natural disaster or a threat to forest health, or for maintaining or enhancing wildlife habitat, or habitat for endangered and threatened species, or for research purposes.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 77, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "None of the funds made available in this Act shall be used for timber sale planning or scoping using clearcutting in the Ouachita and Ozark-St. Francis National Forests in Arkansas, except for sales that are necessary as a result of natural disaster or a threat to forest health, or for maintaining or enhancing wildlife habitat, or habitat for endangered and threatened species, or for research purposes.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 81: Page 52, strike out lines 5 to 7.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 81, and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"None of the funds available to the Forest Service in this Act shall be used to begin preparation of timber sales in fiscal year 1994 using the scaling method: *Provided*, That this limitation shall not apply to timber salvage sales: *Provided further*, That thinning sales may be prepared using the scaling method if determined by the Regional Forester to be the most effective means of achieving a stated environmental objective: *Provided further*, That this limitation shall not apply to sales prepared pursuant to existing timber contracts: *Provided further*, That any timber sales prepared during fiscal year 1994 which involve the use of the scaling method must be scaled by the Forest Service, or under contracts issued by the Forest Service and paid for using deposits by the timber purchaser.

Total outlays by the Forest Service pursuant to the cooperative work trust funds accounts (12-8028-0-7-302) shall not exceed $279,668,000 in fiscal year 1994.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 84: Page 52, after line 10, insert: "Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes outside the boundaries of National Forest System lands.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 84, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert: "Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 90: Page 54, line 16, strike out [$18,810,000] and insert "$19,310,000".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 90, and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$18,310,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 100: Page 62, line 4, after "facilities" insert ": *Provided further*, That of the funds provided herein, $500,000 is available to initiate planning and design for the replacement facility at Winnebago, Nebraska upon approval of a program justification document by the Assistant Secretary for Health".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 100, and concur therein with an amendment, as follows: Retain the matter proposed by said amendment, amended as follows: In lieu of the sum named in said amendment insert "$300,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 102: Page 63, line 18, strike out all after "policy" down to and including "Appropriations" in line 24.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 102, and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided further*, That, notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant or agreement authorized by Title I of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), may be deobligated and reobligated to a self-governance funding agreement under Title III of the Indian Self-Determination and Education Assistance Act of 1975 and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 118: Page 80, after line 5 insert:

"SEC. 315. The Forest Service and Bureau of land Management may offer for sale salvageable timber in the Pacific Northwest in fiscal year 1994: Provided, That for public lands known to contain the Northern spotted owl, such salvage sales may be offered as long as the offering of such sale will not render the area unsuitable as habitat for the Northern spotted owl: Provided further, That timber salvage activity in spotted owl habitat is to be done in full compliance with all existing environmental and forest management laws.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 118, and concur therein with an amendment, as follows: Retain the matter inserted by said amendment, amended as follows: In lieu of the section number named in said amendment, insert "314".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 120, Page 80, after line 5 insert:

"SEC. 317. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves will be done only to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 120, and concur therein with an amendment, as follows: Retain the matter inserted by said amendment, amended as follows: In lieu of the section number named in said amendment, insert. "315".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 121: Page 80, after line 5 insert:

"SEC. 318. None of the funds appropriated in this Act may be used to implement any increase in government housing rental rates in excess of 10 per centum more than".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 121, and concur therein with an amendment, as follows: Retain the matter inserted by said amendment, amended as follows; In lieu of the section number named in said amendment, insert "316".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 123: Page 80, after line 5 insert:

"SEC. 320. None of the funds made available by this or any other law may be used to revise part 4, 1780, or 4100 of title 43 of the Code of Federal Regulations in accordance with Part VI, Department of the Interior, Bureau of Land Management or part 222 of title 36 of the Code of Federal Regulations in accordance with Part V, Department of Agriculture, Forest Service, of volume 58, number 155, of the Federal Register, dated August 13, 1993, or to continue any action involving the proposed rulemaking contained in such Federal Register prior to October 1, 1994.".

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 123, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 317. GRAZING.

Title IV of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751 et seq.) is amended by adding the following new sections:

"SEC. 405. GRAZING FEES.

"(a) ESTABLISHMENT.—The Secretary of the Interior and the Secretary of Agriculture shall annually establish grazing fees.

"(b) PHASE-IN.—The grazing fee for the grazing years 1994, 1995, and 1996 shall be as follows:

"(1) Grazing Fee for 1994=$2.39 per AUM

"(2) Grazing Fee for 1995=$2.92 per AUM

"(3) Grazing Fee for 1996=$3.45 per AUM

"(c) CALCULATION.—Beginning in the grazing year 1997, the grazing fee per AUM shall be equal to a $3.45 base value multiplied by the forage value index computed annually from data supplied by the National Agricultural Statistics Service, in accordance with the following formula:

"Grazing Fee Per AUM=$3.45 Forage Value Index

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Forage Value Index (FVI)' means the average estimate (weighted by AUMs) of the annual rental charge per AUM for pasturing cattle on private rangelands in the 17 contiguous Western States (Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming) divided by $8.67 (average for the years 1990, and 1991, and 1992); and

"(2) the term 'Animal Unit Month (AUM)', means the amount of forage necessary for the sustenance of 1 cow or its equivalent for a period of 1 month.

"(e) INCREASES OR DECREASES.—Any annual increase or decrease in the grazing fee occurring after 1996 shall be limited to not more than 15 percent of the fee in the previous year.

"(f) LANDS AFFECTED.—Fees shall be charged for livestock grazing upon or crossing the public lands and other lands administered by the Bureau of Land Management and the National Forest System lands in the 17 contiguous Western States, excluding the National Forests in Texas, at a specified rate per animal unit month.

"(g) GRAZING AFFECTED.—The full fee shall be charged for each paying animal unit which is defined as each animal 6 months of age or over at the time of entering the public lands, or National Forest System lands, for all weaned animals regardless of age, and for such animals as will become 12 months of age during the authorized period of use. No charge will be made for animals under 6 months of age at the time of entering the public lands, or National Forest System lands, that are the natural progeny of animals upon which fees are paid, provided they will not become 12 months of age during the authorized period of use, or for progeny born during that period.

"SEC. 406. RANGELAND REFORM.

"(a) REGULATIONS.—The Secretary of the Interior shall promulgate regulations to establish payment dates, late fee assessments, and service charges for the grazing fee established pursuant to section 405 of this Act and as provided for in section 4130.7-3 of title 43, Code of Federal Regulations.

"(b) EXECUTIVE ORDER.—Executive Order No. 12548 (43 U.S.C. 1905 note) shall not apply to grazing fees established after the date of enactment of this section.

"(c) PROPOSED DECISIONS AND APPEALS ON PERMITS OR LEASES.—The Secretary of the Interior shall issue regulations providing for decisions and appeals of final decisions on razing permits or leases. Such regulations shall provide the following:

"(1) CHANGES IN LIVESTOCK MANAGEMENT PRACTICES.—After consultation, reductions of permitted use or changes in livestock management practices necessary to protect rangeland ecosystem health shall be implemented through a documented agreement or by decision of the authorized officer. Determinations regarding the ecological health of ecosystems or the actions necessary to achieve healthy ecosystems shall be based on the standards and guidelines promulgated pursuant to subsection (o), or monitoring, inventory, or other forage production data acceptable to the authorized officer.

"(2) OTHER CHANGES.—When the authorized officer determines that the soil, vegetation, or other resources on the public lands require protection because of conditions such as drought, fire, flood, or insect infestation, or when continued grazing use poses a significant risk of resource damage from these factors, after consultation with, or a reasonable attempt to consult with affected permittees or lessees, other interested parties, and the State having lands or responsible for managing resources within the area, the authorized officer shall close allotments or portions of allotments to grazing by any kind of livestock, or modify authorized grazing use. Notices of closure and decisions requiring modification of authorized grazing use may be issued as final decisions effective upon issuance or on the date specified in the decision. Such decisions shall remain in effect pending the decision on appeal unless a stay is granted by the office of Hearings and Appeals.

"(d) WATER RIGHTS.—Subject to valid water rights existing on the date of enactment, no water rights shall be obtained for grazing-related actions on public lands except in the name of the United States.

"(e) SUBLEASING.—A leasing surcharge shall be added by the Secretary of the Interior to the grazing fee billings for authorized leasing of base property to which public land grazing preference is attached or authorized grazing of livestock owned by persons other than the permittee or lessee. The surcharge shall be in addition to any other fees that may be charged for using public land forage. Surcharges shall be paid for grazing use calculated in accordance with the following:

11(1) 20 percent of the grazing bill for the permitted grazing use that is attached to a leased base property by an approved transfer, or that was leased and attached to the base property of another party through an approved transfer.

"(2) 50 percent of the grazing bill for pasturing livestock owned by persons other than the permittee or lessee under a grazing authorization.

"(3) 70 percent of the grazing bill when base property is leased and a transfer has been approved and livestock owned by mesons other than the permittee or lessee are pastured under a grazing authorization.

"(f) UNAUTHORIZED GRAZING USE.—

"(1) VIOLATIONS.—

"(A) Violation of section 4140.1(b)(1) of title 43, Code of Federal Regulations, constitutes unauthorized grazing use.

"(B) The authorized officer shall determine whether a violation is nonwillful, willful, or repeated willful.

"(C) Violators shall be liable in damages to the United States for the forage consumed by their livestock, for injury to public lands and other property of the United States caused by their unauthorized grazing use, and for expenses incurred in impoundment and disposal of their livestock, and may be subject to civil penalties or criminal sanction for such unlawful acts.

"(2) NOTICE AND ORDER TO REMOVE.—

"(A) Whenever a violation has been determined to be nonwillful and incidental, and the owner of the unauthorized livestock is known, the authorized officer shall notify the alleged violator that a violation has been reported, that the violation must be corrected, and how it can be settled, based upon the discretion of the authorized officer.

"(B) Whenever it appears that a violation exists and the owner of the unauthorized livestock is known, written notice of unauthorized use and order to remove livestock by a specified date shall be served upon the alleged violator or the agent of record, or both, by certified mail or personal delivery. The written notice shall also allow a specified time from receipt of notice for the alleged violator to show that there has been no violation or to make settlement under paragraph (3).

"(C) When neither the owner of the unauthorized livestock nor his agent is known, the authorized officer may proceed to impound the livestock under paragraph (3).

"(3) SETTLEMENT.—

"(A) The authorized officer shall determine whether the violation is nonwillful, willful, or repeated willful. Where violations are repeated willful, the authorized officer shall take action under section 4170.1-1(b) of title 43, Code of Federal Regulations. The amount due for settlement shall include the value of forage consumed as determined under subparagraph (B). Settlement for willful and repeated willful violations shall also include the full value for all damages to the public lands and other property of the United States, and all reasonable expenses incurred by the United States in detecting, investigating, resolving violations, and livestock impoundment costs.

"(B) For purposes of subparagraph (A), the value of forage consumed shall be determined as follows:

"(i) For nonwillful violations, the value of forage consumed as determined by the average monthly rate per AUM for pasturing livestock on privately owned land (excluding irrigated land) for the 17 Western States as published annually by the Department of Agriculture. The authorized officer may approve nonmonetary settlement of unauthorized use when the authorized officer determines that each of the following conditions are met:

"(I) Evidence shows that the unauthorized use occurred through no fault of the livestock operator.

"(II) The forage use is insignificant.

"(III) The public lands have not been damaged.

"(IV) Nonmonetary settlement is in the best interests of the United States.

"(ii) For willful violations, twice the value of forage consumed as determined in clause (i) of this paragraph.

"(iii) For repeated willful violations, three times the value of the forage consumed as determined in clause (i) of this paragraph.

"(iv) Payment made under this paragraph does not relieve the alleged violator of any criminal liability under Federal or State law.

"(v) Violators shall not be authorized to make grazing use on the public lands administered by the Bureau of Land Management until any amount found to be due the United States under this section has been paid. The authorized officer may take action under section 4160.1-2 of title 43, Code of Federal Regulations, to cancel or suspend grazing authorizations or to deny approval of applications for grazing use until such amounts have been paid. The proposed decision shall include a demand for payment.

"(g) RESOURCE ADVISORY COUNCILS.—

"(1) One or more resource advisory councils, as provided for in section 309, shall be established for the area within the jurisdiction of each Bureau of Land Management State Office to provide guidance on the management of public lands and resources.

"(2) The Secretary or a designee of the Secretary shall appoint not less than 10 nor more than 15 members to serve on each resource advisory council. One appointee of each resource advisory council shall be an official elected to a position in State or local government serving the people of the area for which the council is established.

"(3) A resource advisory council advises the Bureau of Land Management official to whom it reports regarding multiple use plans and programs for public lands and resources within its area.

"(4) A resource advisory council and its subcommittees shall meet at the call of the designated Federal officer and elect their own officers. The designated Federal officer shall attend all meetings of the council and its subcommittees.

"(5) Administrative support for a resource advisory council and its subcommittees shall be provided by the office of the designated Federal officer.

"(h) RANGE IMPROVEMENT FUND.—

"(1) With respect to public lands, in addition to range developments accomplished through other resources management funds, authorized range improvement may be secured through the use of the appropriated range improvement fund provided for by section 401 of this Act. One-half of the available funds shall be expended in the State and district from which they were derived. The remaining one-half of the fund shall be allocated, on a priority basis, by the Secretary or designee for on-the-ground ecosystem rehabilitation, protection and improvement.

"(2) All appropriated funds for range improvement are to be used for cost-effective investment in improvements that benefit all rangeland resources, including riparian area rehabilitation, improvement, and protection, fish and wildlife habitat improvement or protection, soil and water resource improvement, wild horse and burro habitat management facilities, vegetation improvement and management and livestock grazing management. The funds may be used for activities including the planning, design, layout, modification, and monitoring and evaluating the effectiveness of specific range improvement projects.

"(3) During the planning of the range development or range improvement programs, authorized officers shall consult affected permittees, lessees, and other interested parties.

"(i) RANGE IMPROVEMENT OWNERSHIP.—

"(1) With respect to public lands, any permittee or lessee may apply for a range improvement permit to install, use, maintain, or modify range improvements that are needed to achieve management objectives within his or her designated allotment. The permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance. Such range improvement permit may be issued at the discretion of the authorized officer.

"(2) The permittee or lessee may hold the title to all temporary range improvements authorized as livestock handling facilities such as corrals and dipping vats and temporary, readily removable improvements such as troughs for hauled water. The authorization for permanent water developments, such as spring developments, well, reservoirs, stock tanks, and pipelines, shall be through cooperative range improvement agreement to protect the public interest for multiple use of rangeland ecosystems. The United States shall assert its claims and exercise its rights to water developed on public lands to benefit the public lands and resources thereon.

"(3) Where a permittee or lessee cannot make use of the forage available for livestock and an application for nonuse has been denied or the opportunity to make use of the available forage is requested by the authorized officer, the permittee or lessee shall cooperate with the temporary authorized use of forage by another operator, when it is authorized by the authorized officer following consultation with the preference permittee or lessee.

"(4) A permittee or lessee shall be reasonably compensated for the use and maintenance of improvements and facilities by the operator who has an authorization for temporary grazing use.

"(5) The authorized officer may mediate disputes about reasonable compensation and, following consultation with the interested parties, make a determination concerning the fair and reasonable share of operation and maintenance expenses and compensation for use of improvements and facilities.

"(6) Where a settlement cannot be reached, the authorized officer shall issue a temporary grazing authorization including appropriate terms and conditions and the requirement to compensate the preference permittee or lessee for the fair share of operation and maintenance as determined by the authorized officer under subpart 4160 of title 43, Code of Federal Regulations.

"(j) MANDATORY QUALIFICATIONS.—

"(1) Except as provided in sections 4110.1-1, 4130.3, and 4130.4-3 of title 43, Code of Federal Regulations, to qualify for a grazing permit or lease on the public lands an applicant must own or control land or water base property, and must be—

"(A) a citizen of the United States or have properly filed a valid declaration of intention to become a citizen or a valid petition for naturalization;

"(B) a group or association authorized to conduct business in the State in which the grazing use is sought, all members of which are qualified under subparagraph (A); or

"(C) a corporation authorized to conduct business in the State in which the grazing use is sought.

"(2) Any applicant who currently holds or has previously held a Federal grazing permit or lease, either directly or indirectly, must be determined by the authorized officer to have a satisfactory record of performance.

"(3) The applicant and any affiliate must at the time of permit or lease issuance be determined by the authorized officer to be in substantial compliance with the terms and conditions of any Federal or State grazing permit or lease presently held and with the rules and regulations applicable to those permits and leases. The authorized officer may take into consideration circumstances beyond the control of the applicant or affiliate in determining whether the applicant and affiliate, if any, are in compliance with existing permit or lease terms and conditions and applicable rules and regulations.

"(4) Any applicant or affiliate who has had any Federal or State grazing permit or lease canceled for violation of the permit or lease within the 36 calendar months immediately preceding the date of application shall be deemed to have an unsatisfactory performance record.

"(5) In determining whether affiliation exists, the authorized officer shall consider all appropriate factors, including, but not limited to, common ownership, common management, identity of interests among family members, and contractual relationships.

"(6) Applicants shall submit an application and any other information requested by the authorized officer in order to determine that all qualifications have been met.

"(k) SUSPENDED NONUSE.—The Secretary shall promulgate regulations to remove references in existing regulations to long-term suspended nonuse.

"(l) PROHIBITED ACTS.—The Secretary shall promulgate regulations which would make violations of the Wild Horse and Burro Act, Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other Federal or State laws concerning conservation, protection of natural or cultural resources, and protection of environmental quality prohibited acts. Upon the expiration of appeal or review periods following a conviction for violation or an administrative finding of violation of these laws the authorized officer may consider cancellation or suspension of permits and leases when the violation occurred on public land or is found to be related to authorized grazing of public land.

"(m) RANGE IMPROVEMENTS.—Subject to valid rights existing on the date of enactment of this section, all rights to permanent improvements contained on or in public lands are vested in the United States.

"(n) CONSERVATION NONUSE.—The Secretary shall promulgate regulations to authorize persons or entities owning or controlling base property which is capable of serving as a base for livestock use of public lands to apply for up to 10 consecutive years of conservation use of a permit or lease, and up to 3 consecutive years of temporary nonuse.

"(o) STANDARDS.—The Secretary of the Interior shall develop standards and guidelines that establish minimum conditions for the protection of rangeland ecological health. These standards and guidelines shall be promulgated pursuant to the National Environmental Policy Act of 1969, and chapter 5 of title 5, United States Code, to the extent each is applicable. Permits and leases shall incorporate applicable standards and guidelines to ensure the proper management of public rangelands. These standards shall provide for—

"(1) the restoration and protection of riparian values, such as healthy wildlife and fish habitat and diverse vegetation;

"(2) compliance with the Clean Water Act (33 U.S.C. 1251 et seq.);

"(3) compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

"(4) restoration, maintenance, and improvement of ecosystem health, such as diversity, resilience, and sustainability.".

SEC. 318. USE OF FUNDS.

Except as provided by this Act, none of the funds made available to the Secretary of the Interior by this Act may be used to implement any grazing reform program, including a grazing fee increase, unless Congress has approved such program or fee increase. Nothing in this section shall prohibit the Secretary from promulgating regulations, modifying existing regulations, or taking other actions, as necessary, to implement the provisions of sections 405 and 406 of the Federal Land Policy and Management Act of 1976 as added by this Act.

SEC. 319. REPEAL.

Section 403 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753) is repealed.

The SPEAKER. Without objection, the motion is agreed to.

Mr. PACKARD. Mr. Speaker, I object to the motion. Pursuant to clause 1(b) of rule XXVIII, I request one-third of the time.

The SPEAKER pro tempore. Is the gentleman from Ohio opposed to the motion? If not, the gentleman from Illinois [Mr. YATES] will be recognized for 20 minutes, the gentleman from Ohio [Mr. REGULA] will be recognized for 20 minutes, and the gentleman from California [Mr. PACKARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Speaker, I yield myself such time as I may consume.

The Speaker, this is the grazing fee amendment which has already been discussed very thoroughly during the debate on the rule. I think it is a good proposal. The House will recall that the House-passed bill did not contain any provision respecting grazing fees. The Senate, on the other hand, had attempted to stop Secretary Babbitt from taking any action with respect to increasing grazing fees and making other changes, and it passed a moratorium which prohibited the Secretary from taking any action.

Mr. Speaker, we met in conference on the Senate provision, and, as a result of the conference, an agreement was reached containing a number of measures respecting the operation of the grazing program, and which increased grazing fees over a 3-year period to $3.45.

Mr. Speaker, we think this is a fair provision. We think it is one that is acceptable to the Members of the House who mandated the committee to come to some resolution with the Senate on grazing fees. We acted in accordance with the mandate of the House. We now ask the House to approve my motion.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just again point out that what the subcommittee did is restrain the Secretary. If this fails, the result will be no language, no fee, and we will go back to the Secretary's proposal, which would increase the fee in a 3-year period to $4.28 per animal unit month.

Mr. Speaker, our bill restricts it to $3.45 per animal unit month. In other words, we are about $1 less than the Secretary's proposal. Likewise, we only allow a 15-percent increase or decrease in any 1 year. The Secretary allows 25 percent. So the fee proposal in here is modest compared to what the Secretary has proposed.

Mr. Speaker, if this were to be defeated, the result would be that we would end up with no language, and, therefore, the Secretary's proposal. So I think that those opposed to the grazing fee ought to weigh the fact that this is a better arrangement for the permittees than would be the case if we were to defeat it.

Second, the Secretary's proposal on the rules and regulations are more severe, substantially more severe, than those that we have proposed to place in the law.

Mr. Speaker, again, I think it is not in the interest of the permittees to allow the Secretary's proposal, which would be the result ultimately of a no vote.

Last, I would point out once again that the standards, the requirements, are similar to what we have in the Forest Service. The Forest Service has those standards already. We had them for the BLM prior to 1982. So all this does is establish a uniform standard of requirements for the permittees so that everybody is treated the same, whether they are on Forest Service land or whether they are on BLM land. Certainly, it is only fair that permittees should play by the same rules, as long as they are on public lands. This simply establishes the uniform standard.

So I think it is a policy that is fair to the taxpayers of these United States, fair to the grazers, and certainly more modest than that proposed by the Secretary of Interior.

Mr. Speaker, I reserve the balance of my time.

Mr. PACKARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, deep inside this conference report are 17 pages of unauthorized new legislation that would make new law if this passes. There have been no hearings, no review, no public comment, no congressional oversight. This would be new law, and it was agreed upon only in the conference committee.

Mr. Speaker, this particular proposal of $3.45, none of us really have any complaint about the fee increase. The real concern, as expressed by several of my colleagues, many of whom wish to speak to this issue tonight, is that there are regulations and land reform in the bill that have not been discussed, have not been approved nor authorized, and that is where the complaint really is.

☐ 1940

We made proposals in the conference committee that would agree to the $3.45 over a more extended period of time but also would put a hold on the reform measures, the land reform measures, until we were able to have hearings and have authorizations. That is all we are asking for, is that we reconsider those land reform measures.

Mr. Speaker, I have several Members that would like to speak to the issue, and I reserve the balance of my time.

Mr. YATES. Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I reserve the balance of my time.

Mr. PACKARD. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH], who is a member of the Committee on Appropriations.

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for yielding time to me. I rise in strong opposition to the amendment of the House to the Senate amendment regarding the grazing management program on the public lands. The agreement reached by the conferees is yet another example of what all our constituents tell us is wrong with Congress—deals are struck in smoke-filled rooms with no public input that lead to burdensome mandates and serious infringement upon our rights as citizens.

Mr. Speaker, let me say to my colleagues that the amendment in question would codify 19 pages of text without one legislative hearing in either body. This alone is reason enough to sink this deal, but wait, there is more. This so-called compromise is anything but. In return for a fee increase just 83 cents less than that which the administration seeks the Federal Government would gain complete control over water rights and privately constructed range improvements. What a deal! I guess this means the price of granting Federal dominance over what has always been a State function—the adjudication of water rights—is just 83 cents per animal unit month.

Mr. Speaker, the dealmakers on this amendment are not from the arid States where water is so precious, save for one, and I must admit Senator REID is from my own State of Nevada. I cannot understand how he sincerely believes this deal is the best the West can get, but I can tell you the ranchers in my State are not in the least bit satisfied. And its not only ranchers who are worried. Plenty of other public lands users ask "Just how broad-reaching are these water provisions, in particular?"

No one seems to know, of course, because no testimony has been sought from the public or the executive branch. The Secretary's public meetings in the West early last summer were scoping sessions only. No language was forthcoming then. As soon as the administration put it's views into print a firestorm of protest ignited. But, westerners were led to believe an orderly rulemaking process of a year's duration or more would ensue and their comments to draft rules would be considered.

Not anymore, if this amendment becomes law. A few shrewd politicians found a way around the messy business of actually having to digest public comment and analyze impacts before assaulting a longstanding policy. Just amend a conference report without any hearing. No comments and no testimony to concern them. And better still, we can pass this because it's a spending bill. Members will not vote against it because it might imperil their pork-barrel projects.

Mr. Speaker, I am one who will. And let me remind my colleagues, I do serve on the Appropriations Committee. But, the grazing policy back-room deal is too odious for me to hold my nose and vote for this conference report. I ask that this amendment in technical disagreement be defeated. Send our conferees back to negotiate a provision that does not sell out the states' rights to administer water resources within their borders. Let them negotiate a compromise that doesn't take away the ownership of fences, windmills, stock-watering tanks, and such built with private funds—not Federal money.

Mr. Speaker, I urge a "no" vote.

The SPEAKER pro tempore (Mr. MFUME). Does the gentleman from Colorado [Mr. SKAGGS] seek to control the time of the gentleman from Illinois [Mr. YATES].

Mr. SKAGGS. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO], chairman of the Subcommittee on National Parks, Forests and Public Lands.

Mr. VENTO. Mr. Speaker, I rise in support of this language. The House, over the last decade, and the Senate have been deadlocked in an effort to try and deal with the grazing fee and policy matter. Of course, I think that Secretary Babbitt, this year, appeared in the West in five different meetings, met extensively, heard from thousands of witnesses, which parallels the experience that the House committees have had in terms of numerous hearings over the years. Unfortunately, sending bills to the Senate has not resulted in action.

I would remind my colleagues that if the Senate or others want to engage in authorizing or final different policy changes in this, all they have to do is begin to act and pass bills to the House to be considered. But repeatedly, they have not done that. They have refused to act.

Some of my colleagues were happy with that particular circumstance. In fact, they voted for and wanted and would have accepted the moratorium that the Senate had tried to foist upon the House here during this consideration of the appropriations bill. This was not the form that I sought to debate this nor that the appropriators in our House sought to debate or to consider this policy issue. This is something that was put upon us by the other body.

We tried to make the best we could out of the situation. I want to commend Senator REID. He was a tough negotiator, along with others in the Senate and individuals that wanted to resolve this problem. And the fact is that this does not go as far as I would like to go in terms of $3.45 in 3 years, when we have almost all the prices charged by the State lands are higher, public lands in almost every one of the Western States. Certainly, the private land costs are much higher.

As far as the policies are concerned in this initiative, they parallel what the situation has been in the Forest Service throughout the 1980's. These are not a radical departure. They deny or take nobody's property rights or improvements. It is a case here where if you are the landlord, you do not simply give away the house on the basis that somebody has painted the room. You do not give away the water rights that belong to the National Government and the national lands. You do not give away the property.

That is exactly what the case has been with regard to the Forest Service. That is exactly what the case was prior to 1982, when Secretary Watt changed that policy.

Mr. Speaker, I rise in support of the Yates motion regarding grazing fees and range management, and ask unanimous consent to revise and extend my remarks.

The provisions adopted by the conference committee deal with the important issue of management of the public rangelands, including the fees that the taxpayers receive from ranchers who exercise the privilege of grazing livestock on those rangelands.

Clearly, these provisions are legislative in nature. Other matter being equal, such provisions should not be included in an appropriations measure.

But when it comes to the issue of grazing policy and fees, other things are not equal. This is an unusual case, a case of protracted deadlock between the House and the Senate that seemingly can be resolved in no other way.

As all Members are aware, Mr. Speaker, the House has been trying for a number of years, in fact for over a decade to resolve this issue of grazing fees and range management. In past years, the House twice has addressed grazing fees and range reforms as part of bills to reauthorize appropriations for the Bureau of Land Management. Those authorization bills originated in the authorizing committee of jurisdiction, which is the Committee on Natural Resources. The Senate did not act on either of those bills, and they have shown no readiness to act on any authorization bill that would address grazing fees or range reform.

And, this year, it was not the House that introduced this subject into an appropriations bill. As it passed the House, this Interior appropriation bill did not include any provisions related to grazing fees or range management.

But, when the bill got to the Senate, a range management amendment was added—an amendment to prevent the administration from acting on the subject administratively, which the administration undoubtedly has the authority to do.

That Senate amendment was described as a "moratorium" on grazing fees. But in reality it was just more of the same, more of the gridlock that had frustrated every attempt at range reform for year after year after year.

The House rejected that "moratorium", Mr. Speaker. By a vote of 314 to 109, the House voted to end the gridlock, and to let the process of range reform go forward.

If that were all, Mr. Speaker, if the "moratorium" were dropped and nothing else included in this bill, that would be an acceptable outcome, because the administration could go forward with its plan for range reform.

That administration plan is sound. It is both fair to ranchers and good for the environment. It combines overdue protection for rangeland resources with recognition of the need for economic stability in the rural west.

However, after the House's rejection of the Senate's moratorium, there were discussions to see if an agreement could be reached that would resolve this issue now, without waiting for the administration's plan to go into effect.

In particular, our former colleague from Nevada, now the senior Senator from Nevada, Senator REID, acted to try to develop a compromise. After lengthy discussions, a compromise was reached, one which was adopted by the conference committee and which is now before the House.

In my opinion, this grazing compromise is acceptable.

I do not think it is as complete or as balanced as the administration's range reform plan, and it provides for grazing fees that would be far lower than those approved by the House in the past.

But, overall, it is acceptable because it would combine a necessary minimum level of range reform with a highly desirable degree of certainty for everyone. Ranchers will know what their fees will be, and what the rules will be. The taxpayers will realize a more equitable return, even if not the full fair market value, for their forge. And the land managers will have the necessary mandate for better management of these public rangelands that belong to all the American people.

Mr. Speaker, I will vote for the grazing provisions, and I am confident that the House will give them overwhelming support.

I am hopeful that the Senate will approve the grazing provisions as well.

But, Mr. Speaker, members of the other body should understand that if this compromise is not adopted, the administration's plan should, can and will go forward.

The time for reform on the range has come. Reform may come under this compromise plan, or under the administration's plan. But either way, it is coming.

Mr. Speaker, for too long previous administrations have paid lip service to the need to improve management of the national rangelands, while allowing continued mismanagement. The Forest Service and the Bureau of Land Management in the past have developed policies—on paper—that rightly stressed the need to take better care of sensitive riparian areas, restore and improve wildlife habitat, and balance grazing and other consumptive uses of the public lands with other uses. But the agencies have not been able to implement those plans on the ground, because the policy in practice has favored mining and grazing rather than a balanced approach. Grazing fees have been only a part of that pattern.

The Reagan-era grazing fee formula was specifically designed to artificially depress grazing fees. As shown by GAO's calculations, it accomplished its purpose; in constant dollars the 1991 western Federal grazing fee had decreased by 15 percent over the last 10 years while private grazing prices had increased by 17 percent—and since 1991, the Federal fee, incredibly, has gone down.

The Clinton administration's plan would replace that sweetheart deal with a market-based—but still low-priced—standard based on data from thousands of actual grazing operations throughout the West.

The compromise included in this conference report would increase fees less than the administration has proposed, and would restrict any future increases more severely.

Under the administration's proposal, fees would rise to $4.28 per aum in 1996, and then would be set according to a formula with a base value of $3.96 per aum. The compromise would raise the 1996 fee to $3.45, and thereafter would establish fees through a formula with the same base value—$3.45 per aum.

In the "Out Years," the administration's proposal would provide for increases or decreases—based on the formula—of up to 25 percent annually, while the compromise in the conference report would limit annual increases or decreases to 15 percent of the preceding year's fee.

The claims that the administration's grazing fees proposal was arbitrary are simply wrong. So are claims that either the administration's proposed new fees or the new fees provided for by the compromise would be above the market value.

In fact, even if the administration's plan takes full effect, the American people would get less for public range forage than most private landowners receive, and the national Government would be charging less than many western States now charge for grazing on their State lands.

Of course, the compromise adopted by the conference committee would establish even lower fees than the administration's proposal.

More important, this grazing compromise like the administration's plan—would reverse many of the worst excesses of the last 12 years, and bring an end to the James Watt era of grazing management,

I strongly support the planned development of environmental standards and guidelines that will apply to grazing management and that will help the agencies give needed priority to improvement of riparian areas, the recovery of threatened or endangered species—and prevent other species from becoming threatened or endangered—limit overlong grazing seasons, minimize the risks of pesticide use, and maintain or restore water quality. These are things that will benefit not just the range environment but grazing permittees, too—both today and tomorrow.

Requiring grazing permittees to comply with environmental laws to hold their permits is good government. This, too, should have been done long ago.

The compromise would replace the present grazing advisory boards, which lack a statutory basis, with the kind of true multiple-use advisory councils envisioned and provided for by the Federal Land Policy and Management Act of 1976, or "FLPMA", which is BLM's organic act. This also is something long overdue.

Unlike the advisory councils mandated by law, the current grazing boards represent only one user group—grazers. They have been the embodiment of the excessive political influence that this single, myopic user group has too often been able to exert over decisions about public rangeland management.

It is high time that piecemeal "privatization" of public waters was ended. This is another important part of the compromise as well as the administration plan's—one that does not affect any existing water rights of anybody, but that will prevent future giveaways.

Finally, the compromise, like the administration's plan addresses subleasing—a fancy word for profiteering at the expense of the taxpayers.

We should also recognize that both the compromise and the administration's plan are based on the authority provided under current law. Thus, there are some matters that neither the compromise nor the administration plan includes—reforms that would require new law, such a change in the allocation of grazing fee receipts.

Mr. Speaker, the Congress should either approve the compromise adopted by the conference or should allow the administration to go forward to implement its sound proposals.

Mr. REGULA. Mr. Speaker, I reserve the balance of my time.

Mr. PACKARD. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Speaker, I thank the gentleman for yielding time to me.

Unfortunately, tonight 11 Western States in the West are sentenced to a crime they did not commit. The idea that somehow livestock grazing on public lands deprives other uses is simply wrong. The facts are that public lands are improving. Notice by the big game improvements, whether it be elk or deer or antelope. So the livestock producer is being sentenced to death tonight with this huge increase in grazing fees, along with the so-called rangeland reform program, codified into law without a hearing, without even one hearing in this Chamber or the Senate, which condemns livestock operators across the West.

I call that unfair sentencing. I say to my colleagues that this so-called compromise was not a compromise at all. We in the West support a reasonable increase in fees.

I serve on the Committee on Natural Resources and the Committee on Agriculture. We have been listening to these issues for years. There has never been a bill offered or passed by either committee that I serve on. Why is that? Because it was unreasonable, the requests that came forward through the authorizing committees.

This eliminates the authorizing committees of the House and Senate. Why should we have a Congress? We have a Secretary of the Interior and a President who do whatever they wish to the West.

If I were going to eliminate the West, do Members know what I would do? I would eliminate 75 percent of the timber harvest in the Northwest to start with. We have already done that. I would pass a grazing fee that eliminates grazing on public lands. We will do that tonight.

Then I would eliminate mining on public lands. I would turn the West into the great wilderness area that some of my colleagues want.

I suggest to my colleagues, if they have any compassion for those who live in an area that they do not know about, if they have any compassion for those who are managing the resources properly, then they will vote against this bill. I ask them to do that tonight.

□ 1950

The SPEAKER pro tempore (Mr. MFUME). The Chair wishes to advise Members designated to control debate time that the gentleman from California [Mr. PACKARD] has 12 minutes remaining, and the gentleman from Ohio [Mr. REGULA] has 17 minutes remaining, and the gentleman from Colorado [Mr. SKAGGS] has 16 minutes remaining.

Mr. PACKARD. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in opposition to the motion. We have talked about it a great deal, of course, not only tonight but in previous times.

Let me say that basically I am opposed to this evening's action based on procedures, two procedures. One of them is the procedure followed by the Secretary of the Interior when he put together his so-called reform of the rangelands. He came out to the West. He had several hearings, and he brought in ranch people. Many ranch people appeared. Many of them made statements.

Unfortunately, the memo that was in the hands of the Secretary before the hearings ever started was exactly what he imposed after the hearings were over. This was certainly not what he heard. This procedure was a sham. This procedure was not out there to listen or to hear, it was an exercise in trying to appear on the scene and not listening to what was heard.

The other, of course, is the procedure here in the Congress, where we do have rules. We have rules to do these kinds of things, not on the appropriations but through the authorization. We are not doing that. We are ignoring that. We are saying, "That is what we ought to do," except when it suits us, and then we say, "It is OK, we need to do it, we will rise above principle and go ahead and fix it." That is wrong. That is wrong.

There is a great deal of impact here in the West. We talk about jobs and we talk about the economy. We spend a lot of time figuring out how we are going to fix that, how we are going to take care of communities, keep people off the welfare rolls.

This kind of thing, coupled with timber, coupled with a moratorium on oil and gas, coupled with increased costs of reclamation water, coupled with these regulations, coupled with the demise of the Wool Act, this is a hard, hard, hard lesson for the West, the minority of us in the West.

I understand, if Members do not live there, they just do not care a lot, but we care. We care a lot about people who are trying to make a living on the ranch, trying to make a living on the range, not rich people, just families who have lived there forever, utilizing the lands that are left. These are not reserved lands, withdrawn lands, these are the lands that are residual and depend upon the deeded lands for the water and winter feed for wildlife.

Mr. Speaker, I am not talking about the fee, I am talking about the regulations, which I think will have a great impact. I would urge Members to consider sending this back to the committee; stick with the fee, if they have to, but put the rules through the authorization process, have some hearings, let the folks be heard. I urge Members to oppose the motion.

Mr. SKAGGS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MILLER], chairman of the Committee on Natural Resources.

Mr. MILLER of California. Mr. Speaker, I would hope that we would support the motion and go forward with the bill as reported by the Committee on Appropriations, and certainly with respect to grazing fees, that we would recognize that we in fact do have a compromise here, a compromise that was hammered out over many, many days and many weeks.

We of the authorizing committee, we did not choose this forum. We did not choose this fight. We have tried in the past, over the past decade, to address the issues of the Bureau of Land Management, the reform of that agency, the changes in that agency to bring it into modern times, to bring it into current thinking. We have been resisted at every step.

We have passed legislation that has addressed many of the issues that we address here tonight, only to find it received as a dead letter on the door of the Senate, never to be taken up; a pledge that it would never be taken up. Time and time again we have tried that. Through the efforts of the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Ohio [Mr. REGULA], and others who are fed up with what has happened to the taxpayers in this program, we have constantly addressed the fees within the appropriation bill, recognizing the difficulty of legislating on an appropriation.

We have continued that process over the last several years. The House has voted time and again for a much higher fee than this fee, and for other issues dealing with the BLM. This year the Senate, when the Secretary of the Interior started through an orderly process, a public process, after he had traveled to the grazing States of the West, met with the cattlemen's associations, met with the ranchers, met with farmers, met with the community, came back and proposed a series of rules to change the management of the BLM. It was a public process, asking for comments.

The Senate immediately has done the same thing that it did for 10 years. It put a rider on appropriations, saying that he could expend no money to go forward in that process. He could not even read the comments of the gentlemen's constituents who wanted to tell him what they thought was good, bad, or otherwise about what he was proposing. They put that prohibition on.

This House would not accept it, and this House voted on a bipartisan basis, 314 of us, to reject that. That is why now we have dealt, with the help of the Committee on Appropriations, we have dealt with the legislation, because it is very clear that we will not get a hearing in the Senate. They are planning to engage in a filibuster.

That is their proposal, to address grazing reform, to address our concerns for the stewardship of the lands, to address our concerns for the taxpayers of this country who have been subsidizing this program. Their answer is gridlock and a filibuster. That is not good enough.

Tonight we put an end to that.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would advise all Members to refrain from characterizations of the other body.

Mr. MILLER of California. This is going to be hard.

The SPEAKER pro tempore. The Chair understands.

Mr. MILLER of California. Mr. Speaker, because of the efforts of this committee, not choosing to authorize, but the fact that we were provided no other forum, and even in these negotiations Senator REID invited the Republican Senators, the western Senators, to participate. Some of them did, and some of them opted out, because they preferred gridlock. That is not fair to the taxpayers.

This fee increase will not even pay the cost of the program for maybe the next 4 or 5 years. We cannot even get back the cost of this program with this increase. I am not happy with it. I am sure the Secretary of the Interior is not happy with this, but this is, in fact, a compromise.

In 3 years, they are going to take this up to $3.45. This House has voted overwhelmingly to go to $8, recognizing the outrage, the insult against the taxpayers of this program.

Mr. Speaker, I was out in Colorado a few weeks ago talking to ranchers who farm 5,000, 6,000, 7,000 acres of their own land and graze on 10,000 or 12,000 acres of BLM land. I asked them about the Secretary's figure. They said they did not like it. Yes; they could possibly live with it. They did not like it. They could live with it.

That is what is really going on around here. We owe it to our constituents, in terms of the stewardship of the land and the care for the Treasury and the taxpayers, to vote for the committee position. It has been 10 years in the making and it is long overdue.

Mr. Speaker, I rise in support of this conference report. For many years, this House has supported substantial reform of the grazing program, only to be rebuffed time and again by the Senate and by the past administrations. In fact, under those prior administrations, the grazing fee actually was reduced, and the property rights of the United States were compromised through regulatory actions that were unauthorized by Congress and never subjected to public hearings.

Finally, we have an Interior Secretary who intends to enforce the law and utilize his administrative powers on behalf of consumers and taxpayers rather than on behalf of a very small number of people who really seek the subsidized and exclusive use of tens of millions of acres of public lands.

Now, personally, I have no quarrel with Secretary Babbitt's proceeding with his administrative reform of the program: the $4.28 per AUM fee, as well as his broad management improvements. This is well within his authority. It ought to have been done years ago, as the House voted.

But I am prepared to stand by the compromise I have negotiated with Senator HARRY REID, along with my colleagues BRUCE VENTO and MIKE SYNAR, because that compromise retains the essence of the reform plan, and because it would provide certainty to the ranchers and to the taxpayers who both have so much at stake.

But what I will not stand for, and what this House must vigorously resist, is the siren call of the western Senators who insist on more delay, more equivocation, more half-hearted proposals that are really the dying gasps of an outdated and very expensive public land use scheme.

I know that some Senators are threatening a filibuster against this conference report because of the grazing reform. They claim they are prepared to delay passage of this bill, hold up the funding for dozens of programs that are very important to everyone in this body—myself included—because they want to protect the grazing goodies enjoyed by a few of their constituents.

Well, Senators, the House of Representatives is fed up with your filibusters, your gridlock, and your ultimatums. Filibuster if you choose, but do so at your peril. Because if this compromise is filibustered, here is what you will get in its place: the full boat, the complete Babbitt reform package; the very reforms that Senator REID and others have labored valiantly to modify for the benefit of the grazing community.

Mr. Speaker, I don't like playing parliamentary games. I think the House and the Senate should have a chance to vote this compromise up or down. It was developed by strong advocates for the ranchers and strong advocates for taxpayers and the environment. We have had over 300 studies, reports, hearings, and analyses of the shortcomings of the grazing program. Those who request more in lieu of action are not being constructive and are not helping to resolve this problem.

My hat goes off to Senator REID. I have known and respected him since his service here in the House. He has consistently demonstrated the kind of political courage and integrity with which the Congress in general could prosper by emulating. If anyone doubts the courage it took a Senator from Nevada to take the lead in this effort, review the sordid rhetoric of the conference committee to see how his opponents mischaracterize him.

It is important that the membership of the House understand that the facts are being severely misrepresented by those who want to kill this compromise. Taking a page from recent House actions, those opponents are pretending that the grazing reform plan would interfere with property rights and water rights. Nothing could be further from the truth. The conference report clearly leaves in place all water rights and improvements granted to private parties during the pendency of existing rules.

Nor can we give any credibility to the argument that Secretary Babbitt should not have moved ahead with his reforms. On the fee, let us recall, the House has voted for a fee nearly twice that proposed by the Secretary. And the $3.45 compromise to be reached in 1996 would not even cover the current cost of administering the program. Moreover, those same people who today criticize the Secretary for his action offered no opposition when, a decade ago, Secretary James Watt not only took sweeping administrative action without any hearings, but in doing so gave away tens of millions of dollars in public resources and rights.

I also reject the notion that anyone was excluded from the effort to reach this compromise plan. Everyone knew discussions were underway. Those who chose to remain out of the process until the very last minute have only themselves to blame. They wanted to be excluded so they could throw rocks at the good work done by HARRY REID and the rest of us. The last thing they wanted was to be in that room, constructively working to reform the grazing program.

In a world of unparalleled political upheaval, in which leaders have taken stands that cost them their jobs and even their lives, can the U.S. Senate confront one great challenge and agree to reform the subsidized grazing program. It is comical and absurd that the Senate of the United States could become gridlocked over the question of raising grazing fees on lands that produce just 2 percent of beef cattle.

Members of the House, we are nearing the end of this great debate over the management of public grazing lands, and I know that every member of the House will sigh with relief, because it has gone on entirely too long. The House cannot walk away from this process. We cannot allow the Senate—and a minority of the Senate at that—to dictate whether we can act on reforms that clearly have the support of a majority of House and Senate memberships, and the support of the Interior Department and the White House, as well.

I would hope that, after reviewing the Reid plan, the Babbitt draft, and the legislative options, thoughtful Senators will allow the full Senate to vote, up or down, on the Reid plan, just as we will do in the House.

The choice is $4.28 or $3.45. The choice is national interest or special interest. The choice is gridlock or doing the job we are sent here and paid to do: make decisions.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will go ahead while the gentleman from California [Mr. PACKARD] may have another speaker.

Mr. Speaker, I would just again emphasize, these are public lands. They are owned by all of the people of the United States. We do not do anything in here that affects the private lands. Therefore, it is only fair that we have some conditions.

I would also point out, Mr. Speaker, that we grandfather the people who have existing facilities that they have put on these public lands. They are protected. This would only apply to future improvements and water rights. Permittees would understand what the rules are going in, in case they want to lease these lands.

Mr. Speaker, as the gentleman from California [Mr. MILLER] pointed out, let me say to my colleagues, we spend $70 million taking care of these lands. We collect $27 million in grazing fees. Even with this increase, we will not come close to collecting in fees what we spend on management of the lands.

Mr. Speaker, I concede that in managing the lands, we enhance the range for wildlife, and there are other benefits.

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But, nevertheless, we are not even breaking even, and all we are saying in this is let us manage these lands in a way that is fair to everybody concerned, and I think this achieves that objective.

Mr. Speaker, I reserve the balance of my time.

Mr. PACKARD. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding the time.

You know we often say that we are a government of laws rather than of men. Today evidently we are going to abandon that premise and become a government where powerful people are above the laws and the rules.

The issue here, in my opinion, is not the grazing fee issue. I have voted on both sides of that issue, depending upon the circumstances and what the moneys are. But I will tell you, I think that there are some real concerns here about the 16 pages of sweeping changes to grazing management policy that are contained in an appropriations bill. We are also talking about changing property rights issues.

Some of us on the authorizing committees, including some of the chairmen on the authorizing committees who are directly concerned with some of these issues have said that never should we have the appropriators moving in this kind of a direction of doing the authorizing in appropriations bills. And yet here is not just a minor violation, this is not just a small little item that they carved out, but here is a major, 16-page change in the entire policy that we are going to adopt as a part of an appropriations bill. This may be something in technical disagreement, but when you violate the rules in the way we are doing it here, it seems to me that what we do is call into question the entire process.

What we have here is nongermane legislation on an appropriations bill with language that was never subject to any congressional hearing. This is not just that the appropriators have decided to go out and put legislative language in the bill. There were not even any hearings held on this approach, and so we do not have any record to tell what Congress heard in order to adopt this particular policy.

One would think that this legislation put in an appropriations bill would cause an objection from the authorizing committees. But the problem is that we are dealing here with an amendment in disagreement, and the authorizing committees feel somewhat powerless in all of this.

It is clear then that the only time that we follow the House rules are when the power elite need them for what they want to do, and need them for a particular desire or result. But when they are not needed, they get easily discarded. And what is happening here tonight is that we are seeing the rules of this House, and the processes under which we are supposed to proceed ignored.

If the House rules mean anything, and specifically if the germaneness rule is to have any credibility, this waiver should never have been granted. We should not be considering this kind of legislation on the floor. But, like clockwork, when it comes to the needs of driving something through the process, the problem is that we tend to make a mockery of our own rules.

Had we followed the rules of the House, this issue would not even be before us. We should have followed the rules of the House.

Mr. PACKARD. Mr. Speaker, I yield myself such time as I may consume to simply say that this proposal came to us after an all night session where the gentleman from Nevada, who was asked to negotiate the agreement, called in to negotiate that agreement only those who were supporting the administration's position of lifting the fees significantly and imposing the land use reforms upon the conference. No one from the Western States that represented the ranchers was invited into that conference process, and no one who represented the views that we have heard from tonight that oppose this amendment were represented there.

So I am convinced that we could go back and negotiate a better settlement agreement. But that is not the issue tonight.

Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. SMITH] to close the debate.

Mr. SMITH of Oregon. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, you have heard the debate, and you have heard it over and over again.

I think the question before the House is first are we going to legislate by executive fiat. In case we pass this program, that is the true story.

I thought this was a deliberative body, the finest in the world, and yet we have not been called upon to deliberate on this issue. We have been overrun.

Many of the Members on this side have written to the Rules Committee and to the Appropriations Committee especially, saying do not authorize on appropriation bills. And that is what is happening tonight.

Now for the effect. We have a study from Oregon State University which indicates that one-third of the 31,000 family ranchers are out of business with a $3.45 fee, plus the other rangeland programs offered, codified in this legislation. That is punishment without realization of fault.

I ask those Members who have any compassion about the West to use their influence to vote against this program simply because it is wrong. The idea, for instance, that we spend $73 million for rangeland management and livestock do not pay it all, of course they do not. If we eliminated the livestock from the rangeland management we would still spend $50 million per year for the other concerns of the range and the wildlife. So do not be caught up in this idea that the livestock industry is not supporting this program and every other program, and do not get caught up in the idea that we are decimating the land in the West, because we are not.

This is a key issue of existence for the West. I ask Members to vote against it.

Mr. PACKARD. Mr. Speaker, I yield back the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just to keep the record straight, these 16 pages of rules did not come out of nowhere. These are the Forest Service rules. They have been in place for a long time. They are identical to what the Forest Service uses for the lands that they lease for grazing, so this has been part of the public policy.

The BLM rules prior to 1982 were the same as what we are proposing here. The reason that they were changed is because Secretary Watt, by executive fiat, changed the rules to eliminate these requirements. We are simply going back to what was in place prior to 1982, and that are consistent with the Forest Service. And I think that is a very reasonable approach as a policy matter.

Mr. Speaker, I yield back the balance of my time.

Mr. SKAGGS. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma [Mr. SYNAR] to close the debate.

Mr. SYNAR. Mr. Speaker, I am kind of a little bit melancholy tonight as we begin what I think will be the last debate on this issue of grazing in the career of most of us. I want to start tonight by giving a few accolades, particularly to the gentleman from California [Mr. MILLER] and the gentleman from Minnesota [Mr. VENTO], who both have been very sincere in the negotiations over the last couple of weeks that have brought us to this point today.

I also want to thank the gentleman from Illinois [Mr. YATES] for his outstanding service, not only to this particular cause, but to the entire cause of the Department of the Interior over the years, and in some ways apologize for having tied up his bill for many years on this very vital issue.

But I want to say the greatest praise to a gentleman that I think really brings us to this point tonight, and that is the gentleman from Ohio [Mr. REGULA], my friend and colleague. There is probably not a gentleman that I have more respect for in this institution than that gentleman. It has been his sincere tenaciousness as well as persuasive factual presentation of the case that has made it possible for us to finally conclude after 14 years an issue which should have been concluded many years ago. You are a fine gentleman. You are a tribute to the institution, and I am honored and privileged to serve with you tonight and all of the days that you serve ahead.

What I would like to do is to try to address the two very serious assertions and complaints voiced tonight as we end this debate. We have long abandoned the debate on the merits and the facts of the issue, and we really come down to two major complaints.

The first is that this conference report is an attack on private property rights. You know, I find it interesting that that particular complaint was a complaint that the grazers made as early as 1906 when they first made that allegation, when we first imposed fees on Federal lands. And it was in 1911, 1911 that the U.S. Supreme Court ruled that the grazers were wrong then, and have been wrong ever since, and that grazing permits do not confer any private property rights.

□ 2010

The second major objection to the action tonight, as posed by those who do not want to complete this task, is that this conference report changes the relationship between the Federal Government and the West without adequate public input and without one single public hearing.

Well, ladies and gentlemen, I am here to tell you that that is completely false. The facts are that this department, under the leadership of Bruce Babbitt, held not one, not two, but five public hearings in the West on this important issue during this year.

Second, the administration has received over 30,000 comments on the range reform bill of 1994, and they have been running 2-to-1 in favor of that report.

Third, these reforms are not new. They simply return us to the management of the BLM lands the way they were before Secretary Watt unilaterally changed the grazing management in the 1980's.

Fourth, for those who think we have never discussed it, I remind them of the hearings that my subcommittee, which I chaired, held in 1985 on this very issue that documented the problems with our grazing throughout the West. It is from that conference report that the Range Reform Act of 1994 was written and that we have studied this issue almost to a point of ad nauseam.

Finally, need I remind my colleagues that we have debated this very issue not once but every year since 1976 on this floor of the House.

You know, in the 14 years that we have debated this issue, there have been very simple facts that have been undisputed even as we end this debate tonight.

Fact No. 1 is that the power elite, as the gentleman from Pennsylvania [Mr. WALKER] would call them, the taxpayers of this country, have lost more than a billion dollars during the decade of the 1980's subsidizing 2 percent of the cattle industry. And the second fact which is undeniable, as much as 60 percent of the public rangelands throughout our country will continue to be in fair or poor condition well into the next century.

Tonight we turn the page of history, ending an era of gridlock and confrontation and opening a new age of bipartisan cooperation for public land and for budget reform.

I encourage my colleagues to stay the course. Let us complete the task.

Mr. SKAGGS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MFUME). The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KOLBE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 317, nays 106, not voting 10, as following:

[Roll No. 525]

YEAS—317

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Duncan
Durbin
Edwards (CA)
Engel
English (OK)
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodlatte
Gordon
Goss
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Hughes
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kleczka
Klein
Klink
Klug
Knollenberg
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Laughlin
Lazio
Leach
Levin
Levy
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDermott
McHale
McHugh
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Petri
Pickett
Pickle
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Wise
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NAYS—106

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bentley
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Dooley
Doolittle
Dornan
Dreier
Dunn
Edwards (TX)
Emerson
English (AZ)
Everett
Fields (TX)
Gallegly
Geren
Gilchrest
Gingrich
Goodling
Grams
Hall (TX)
Hancock
Hansen
Hayes
Hefley
Herger
Houghton
Huffington
Hunter
Hutchinson
Inhofe
Johnson (SD)
Johnson, Sam
Kingston
Kolbe
Kopetski
Kyl
LaRocco
Lehman
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McInnis
McKeon
Mica
Michel
Moorhead
Myers
Orton
Packard
Pastor
Peterson (MN)
Pombo
Pomeroy
Quillen
Roberts
Rogers
Sarpalius
Schaefer
Schiff
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Stenholm
Stump
Sundquist
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Williams
Wolf
Young (AK)
Zeliff

NOT VOTING—10

Bateman
Ford (TN)
Hall (OH)
Hastert
McDade
Murphy
Oxley
Washington
Whitten
Wilson

□ 2032

Mr. SARPALIUS and Mr. PASTOR changed their vote from "yea" to "nay."

Mrs. COLLINS of Illinois, and Messrs. ISTOOK, GREENWOOD, BROOKS, TANNER, and DUNCAN changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 124: Page 80, after line 5 insert:

SEC. 321. FOREST SERVICE SEPARATION PAY.—(a) In order to avoid or minimize the need for involuntary separations, effective for the period beginning upon the date of enactment of this Act through and including September 30, 1994, the Secretary of Agriculture, under such regulations and subject to such conditions as the Secretary of Agriculture may prescribe, shall have authority to offer separation pay to employees of the Forest Service to the same extent the Secretary of Defense is authorized to offer separation pay to employees of a defense agency in section 5597 of title 5, United States Code.

(b) In the event that an authority is enacted to offer separation incentive similar to such section 5597 of title 5, United States Code, but applicable to employees in the executive branch generally, the authority under subsection (a) shall terminate.

(c) Such payments may be made to employees who agree, during a continuous 90 day period designated by the agency head, beginning no earlier than the date of enactment of this Act and ending no later than September 30, 1994, to separate from service with the agency, whether by retirement or resignation.

(d) An employee who has received a voluntary separation incentive under this section and accepts employment with the Government of the United States within 2 years of the date of the separation on which payment of the incentive is based shall be required to repay the entire amount of the incentive to the agency that paid the incentive.

(e) Total outlays by the Forest Service pursuant to the cooperative work trust funds accounts (12-8028-0-7-302) shall not exceed $279,668,000 in fiscal year 1994.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 124, and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

"SEC. 320. FOREST SERVICE SEPARATION PAY.—(a) In order to avoid or minimize the need for involuntary separations, effective for the period beginning upon the date of enactment of this Act through and including September 30, 1994, the Secretary of Agriculture, under such regulations and subject to such conditions as the Secretary of Agriculture may prescribe, shall have authority to offer separation pay to employees of the Forest Service to the same extent the Secretary of Defense is authorized to offer separation pay to employees of a defense agency in section 5597 of title 5, United States Code.

"(b) In the event that an authority is enacted to offer separation pay or a voluntary separation incentive similar to such section 5597 of title 5, United States Code, but applicable to employees in the executive branch generally, the authority under subsection (a) shall terminate.

"(c) Such payments may be made to employees who agree, during a continuous 90 day period designated by the agency head, beginning no earlier than the date of enactment of this Act and ending no later than September 30, 1994, to separate from service with the agency, whether by retirement or resignation.

"(d) An employee who has received a voluntary separation incentive under this section and accepts employment with the Government of the United States within 2 years of the date of the separation on which payment of the incentive is based shall be required to repay the entire amount of the incentive to the agency that paid the incentive."

PREFERENTIAL MOTION OFFERED BY MR. CLAY

Mr. CLAY. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. MFUME). The Clerk will report the motion.

The Clerk read as follows:

Pursuant to clause 2(b)(2) of rule XXVIII, Mr. CLAY moves to insist on disagreement to Senate amendment numbered 124.

The SPEAKER pro tempore. The Chair finds that the motion offered by the gentleman from Illinois [Mr. YATES] proposes changes in existing law as written and is within the jurisdiction of the Committee on Post Office and Civil Service. So the chairman of that committee, the gentleman from Missouri [Mr. CLAY] is then recognized to offer a preferential motion which the Clerk will report by title.

The Clerk reread the preferential motion.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. CLAY] will be recognized for 30 minutes and the gentleman from Illinois [Mr. YATES] will be recognized for 30 minutes.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support this motion to protect the prerogatives of the authorizing committees. On October 1, the administration submitted proposed legislation to establish voluntary separation incentives on a Governmentwide basis. On October 5, I introduced H.R. 3218, the Federal Workforce Restructuring Act, by request. That legislation has been referred to the Committee on Post Office and Civil Service. Legislative hearings were conducted on H.R. 3218 by the Subcommittee on the Civil Service and the Subcommittee on Compensation and Employee Benefits on October 13 and October 19. The Subcommittee on the Civil Service marked up H.R. 3218 today and the Subcommittee on Compensation and Employee Benefits will mark up the bill tomorrow. The full Committee on Post Office and Civil Service is scheduled to consider this legislation next Wednesday—and it is my intention to bring this legislation before the House as expeditiously as possible. Similar legislation is pending in the Senate and has already been the subject of hearings.

In our consideration of H.R. 3218, we have worked closely with the administration. At hearings on the legislation we have heard from representatives of the Office of Management and Budget, the Office of Personnel Management, the Department of Defense, the Department of Energy, the Treasury Department, and the Department of Housing and Urban Development. In addition, my committee has heard from representatives of all classes of Federal employees, from rank and file workers to the senior executive service. While operating on a very quick time schedule, my committee is nevertheless intent on producing a program that will truly serve the needs of the American people. We are seeking to ensure that agencies will realistically appraise their future needs and not just their immediate budget imperatives. The reduction of the Federal work force must be targeted to take into account undue layers of management, the goals of the programs administered by the agencies, the needs of the agencies' clients, and their long-term goals. Finally, my committee is developing a uniform policy that will apply to all executive agencies that do not have retirement incentive authority, including the Forest Service.

In their version of the Interior appropriations bill, the Senate incorporated a provision authorizing the Forest Service to offer separation bonuses to its employees. At the same time that my committee is considering comprehensive legislation on this very subject, the conferees are now asking this body to legislate on an appropriations bill and authorize the use of separation bonuses by the Forest Service. I am asking the House to adopt my motion and reject that language.

By contrast to H.R. 3218, no one from the Office of Management and Budget or the Office of Personnel Management has ever consulted with my committee regarding the Senate provision the conferees are asking the House to adopt. Indeed, no one from either the Agriculture Department or even the Forest Service ever sought to consult with my committee regarding this provision until I raised objections to the manner of its consideration. It is contended that the Forest Service has a pressing need, but that need is no greater than that of many other agencies in the Government, including other agencies of the Agriculture Department. Rather, at the insistence of the other body, we are being asked to adopt authorizing legislation that has never been considered by an appropriate authorizing committee, that singles out one agency for special treatment regardless of the treatment accorded other agencies, and that may or may not achieve appropriate ends. If the provision we are being asked by the conferees to adopt addresses a problem, it is a problem for which a more appropriate solution is imminently pending.

We have an established committee structure to ensure that the legislation enacted by Congress is fully considered before it becomes law. On this issue, in particular, it is appropriate that we insist that regular procedures are complied with. I am not simply objecting to the fact that the Appropriations Committee is seeking to legislate on a subject within the jurisdiction of the Post Office and Civil Service Committee. In this case, they are seeking to legislate on a subject on which my committee is already actively engaged—on which we have worked closely with the administration—and on which we will very shortly be bringing to the floor a comprehensive legislative proposal. The issue is not whether the Forest Service needs to downsize, nor even whether or not they should have buy-out authority. H.R. 3218 confers such authority to the Forest Service as well as other Government agencies. Rather, the issue is whether or not the authorizing committees of the House are to be able to develop reasoned legislation within the jurisdiction that has been granted them by the rules of the House. The issue is whether or not the Members of both sides of the aisle are to be able to influence the development of that legislation. The issue is whether or not the full House will be able to consider such legislative proposals in an orderly process that permits the Members of this body to work their will. I urge the adoption of the motion.

□ 2040

Mr. Speaker, I reserve the balance of my time.

Mr. YATES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the distinguished gentleman from Missouri [Mr. CLAY] knows, he and I had a conversation before I went to conference in which I told the gentleman that I would do my best to sustain his objection to the provision in the Senate bill. And I did that, Mr. Speaker. I worked very hard with the Senate in conference, telling them what I faced; that I was under an imprimatur from the House, a mandate not to accept legislation in my appropriation bill. I pointed out the rule that the House had adopted earlier this year that if legislation were adopted, it would call for a separate vote.

We discussed this with the Senate, back and forth, literally for days. It appears that President Clinton's Pacific Northwest forest plan will result in the Forest Service having to reduce an estimated 1,500 positions related to the timber sales program in 1994. The Forest Service estimates that this, due to RIF's and resignations, would cost $116 million. I want to point out that the early-out authority in this bill which I finally agreed to would save $26 million from that amount.

Second, I want to point out that I insisted upon protecting the rights of the legislative committee, of protecting the rights of the gentleman from Missouri [Mr. CLAY], by inserting a provision in the bill that would give precedence to any bill that the gentleman's committee passed that was enacted into law. The gentleman can proceed in an orderly fashion, as he says he should. He can pass the bill, as they are ready to do. The Senate can pass its version of the bill, as it is ready to do. At such time as that bill becomes law, it supersedes what we did in the conference report.

Mr. Speaker, the only effect that will result from the action of the conferees is that we will have saved $26 million by our action at this particular time.

Mr. Speaker, I want to tell the gentleman from Missouri [Mr. CLAY] that I am sorry that I had to yield to the Senate. The ways of conferences are like that. The gentleman has been in conferences himself. He knows that occasionally you have to accept a Senate provision in order to get a bill.

Mr. Speaker, I would hope that the House would sustain the committee and vote "no" on the motion.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just want to point out it is not a partisan issue. This was something that was urged upon us by the Members of the Senate from both parties in the Northwest because they were concerned about what happens to these people as we downsize the Forest Service because of the policy of the President and the spotted owl issue.

Mr. Speaker, it seems to me that it is a matter of compassion for the individuals involved that there ought to be some form of separation. Private industry does this all the time when they have to separate people. It will save an estimated $25 million by not RIFing them.

Mr. Speaker, I can understand the position of the chairman of the Committee on Post Office and Civil Service. I hope they get a bill. We clearly provide that in the event of a bill, all of these arrangements drop out and the procedure goes forward under the terms of any bill that comes out of the authorizing committee.

Mr. Speaker, so we at least will get all of the facts out on this. They are contained in the report.

Mr. YATES. Mr. Speaker, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the motion offered by the gentleman from Missouri [Mr. CLAY]. There is no reason for us to be dealing with this issue in an appropriations measure. This is a clear case of an authorization in an appropriations bill.

The Senate has to stop putting legislation in appropriations measures. It is often done in conference agreements. In last year's conference agreement on the VA, HUD, and independent agencies bill, the Senate took $400 million from VA housing programs.

Now on this provision, the Post Office and Civil Service Committee, chaired by the Gentleman from Missouri [Mr. CLAY], is addressing this very issue in his Committee next week. The gentleman from Missouri and his committee members are the experts on this subject matter. It is their business to report legislation on this topic, and they are in the process of doing their job. Let us support the House Rules and the role of the authorizing committees. The Post Office and Civil Service Committee handles this issue which it is well-qualified to do.

I urge my colleagues to support Chairman CLAY's motion.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, I thank my colleague and chairman for yielding. I have to decide which hat I am going to wear tonight. I have been wearing most of the time the appropriations hat. I know the predicament we find ourselves in tonight. But particularly tonight it is not an urgency which we often find in appropriations, where we must authorize because something is going to happen if we do not that is detrimental to the program.

Mr. Speaker, I understand the Forest Service needs more people, not less people. But because of the recent idea about reinventing government, we are going to have to strike some people here. I am not sure what the consequences are. But what concerns me, unlike many times when the Committee on Appropriations must put authorization in, there is legislation pending now before the committee that the gentleman from Missouri [Mr. CLAY] is chairman of. Something will be done later this year, I am quite certain. The precedence we establish here, if we start providing early-outs for these people, what precedence do we provide for the legislation we are going to come back with, maybe hopefully in the next 30 to 60 days?

So, Mr. Speaker, I must say that even though I am a member of the Committee on Appropriations and also the ranking Republican on this committee, I must side with my Committee on Post Office and Civil Service, because we are setting a precedent here that I think will be dangerous with this type of legislation as to what we will have to do in the future. So I would hope that Members would know it is not the responsibility of the House; this was a Senate-added amendment here to this committee. I hope Members will wait and give at least the authorizing committee here, who has jurisdictional responsibility, who has already started legislation, we are having hearings, we are going to do everything we can, I would hope we would wait and give this committee an opportunity to function.

□ 2050

I hope we will support our chairman of the Committee on Post Office and Civil Service.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I rise in support of the motion offered by Chairman Clay, that the House insist on its disagreement to Senate amendment 124 to H.R. 2520, the conference report on the Interior and related agencies appropriations bill.

My first objection to the Senate amendment is that it constitutes authorizing legislation on an appropriations bill. I am sure my colleagues recognize that this is not an unusual type of amendment to have returned from an appropriations conference. I do not fault the House conferees for bringing this amendment back to us. This is Senate amendment number 124. Clearly, our House colleagues had to make more than 100 trade offs with their counterparts from the other body. It is the other body which originated this provision and created this problem.

It is time to send a message to that body that the practice of legislating outside the authorizing process has to stop. With a new tool provided by the House rules, we have greater strength in enforcing our prerogatives.

Rule XXVIII, clause 2(B)(2) establishes a "legislative committee's preferential motion to insist." The procedure may be invoked by the chair of the committee of jurisdiction when the motion of the Appropriations Committee's floor manager to dispose of a Senate amendment would have the effect of changing existing law.

In effect, the new rule allows authorizing committee chairs to control debate on offending Senate provisions where the Appropriations chair has taken steps to accept it. This is the case here. Chairman Clay has acted on his right under the House rule to insist on disagreeing to the Senate amendment.

In this case, the Senate amendment would authorize the Forest Service to establish a separation bonus program. Not only does the amendment constitute authorizing legislation on an appropriations bill, it conflicts with H.R. 3218, legislation introduced at the request of the administration that is under consideration by the Committee on Post Office and Civil Service.

H.R. 3218 would authorize executive agencies to establish a program to encourage voluntary separations to minimize the need for involuntary separations caused by reductions-in-force. It would allow the heads of agencies that have no current authority to establish voluntary separation programs to offer employees up to $25,000 to agree to separate.

Chairman CLAY has moved aggressively to gather views on H.R. 3218. Since its introduction, two subcommittees have held hearings. A full committee markup is anticipated for later this month.

The Senate amendment would move ahead of this process, allowing one particular agency to establish a program without taking the responsible step of holding hearings and marking up legislation. This is an unacceptable eclipse of the authorizing process.

Mr. Speaker, I urge my colleagues to support the motion.

Mr. CLAY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I will be brief.

To me this is a battle between the authorization and appropriations committee. I think the other body has done a much better job on legislation than we have, but in this case I think that we are really looking at a precedent.

As I understood it, when I came here in the 102d Congress, we go through the authorization process. Then we appropriate.

I think we ought to stick to that. The gentleman from Illinois, I think he has a legitimate concern. I will probably support the gentleman from Illinois, if it goes through the authorization and then the appropriation committee. But the other concern I have is with the shortage of those types of individuals. We are going to have legislation here on the California Desert Plan. They are going to have over 6 million acres, and they do not have enough people to control it as it is.

They are going to legislate new National Parks, and they are still going to have a shortage.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Speaker, in many ways what the House is seeing here this evening is unique in its history. I would advise all the Members to pay careful attention to it.

The gentleman from Missouri [Mr. CLAY] is invoking, I think for the first time, although if it were invoked in the case of the Transportation Appropriation, I was not watching, a rule that we adopted at the beginning of this year aimed at the problem of legislating on appropriation bills. It did not aim to eliminate legislation on appropriations bills, as we saw from the previous action in which we legislated with regard to grazing fees on this very same bill. What the rule does is allow the House to determine, after full debate, whether they wish to legislate on an appropriations bill.

I will say to all of my colleagues that there are times when we will wish to legislate, as we have just demonstrated. I have asked subcommittees of the Committee on Appropriations to legislate on appropriations bills and, yet, I am sometimes criticized as being a purist who is objecting to everything the Committee on Appropriations does.

I am not. I want this body to operate properly, according to its rules, with common sense, with an opportunity to debate every issue and to come to reasoned conclusions on it. That is done when we abide by the rules and when we make them work. We are in the process of doing that tonight.

I urge that we support the gentleman from Missouri [Mr. CLAY]. I have an identical situation in NASA where the President says, "You have got to downsize." They are laying off people like mad.

I have spoken to the gentleman from Missouri [Mr. CLAY] about this. We have agreed that it is proper to deal with it on a governmentwide basis.

I think we can do the same thing here. The problem is, if we do it on this bill, the Senators are notorious for not dealing with the authorization legislation, if they have already acted on an appropriations bill. It might be till hell freezes over before they pass the bill that the distinguished chairman will offer.

Mr. Speaker, I rise in support of the motion to disagree offered by the gentleman from Missouri [Mr. CLAY], the Chairman of the Post Office and Civil Service Committee.

Mr. Speaker, this is an important vote because it represents the first time that a new procedure which was included in the House rules of this Congress is being used to protect the prerogatives of the authorizing committees.

The great majority of the Members of this House who serve on authorizing committees should therefore pay careful attention to this motion and support the efforts of the distinguished Chairman of the Post Office and Civil Service Committee.

Mr. Speaker, the historical role of the authorizing committees is to set the basic policy framework for the Executive Branch through authorization bills. The role of the appropriations committee, of course, is to provide funding for the authorized programs, within the overall constraints of the budget. These roles are clearly spelled out in the House Rules, which prohibit any general appropriations bills from containing legislation or funding for unauthorized programs.

Unfortunately, the separation of the authorizing and appropriating powers is not as clearly distinguished (or respected) in the other body as it is in the House. For a variety of reasons which I will not detail here, there has been an increasing tendency in the last few years for the other body to add legislative language to appropriations bills. Under the House rules, such legislative amendments must be reported back to the House in technical disagreement, where it has been procedurally difficult for the authorizing committees to defeat the Senate legislative language.

Over the years, the authorizing committees have expressed deep concern about this practice of adopting Senate legislative amendments on appropriation conference reports. We have brought those concerns to the attention of the leadership, the Rules Committee, and the Appropriations Committee, but the practice has continued. In response to this continuing problem, chairmen of several of the authorizing committees last year proposed a new provision in the House Rules which permits the authorizers to offer a preferential motion to insist on disagreement with the Senate amendment.

We are faced with an example of a legislative amendment with Senate amendment No. 124, which authorizes the Forest Service to establish a separation bonus program. The question is not whether this is an appropriate policy. The question is whether the role of the authorizing committee in determining policy is to be respected.

The Committee on Post Office and Civil Service is working closely with the Administration on legislation to provide a government-wide voluntary separation bonus authority. This Senate amendment, if adopted, would provide piecemeal authority for the Forest Service which conflicts with the Administration's own legislative proposal. In addition, and more importantly in my view, the provision fundamentally undermines the authority of the Post Office and Civil Service Committee members to debate and determine what the appropriate policies should be.

If the motion to disagree is adopted, this provision will be sent back to conference; it will not affect any other provision in the conference report or any other amendment disposed of today.

Mr. Speaker, a vote for the Clay motion is a vote to respect regular order in this body. It is a vote to ensure that each of the Members who sit on an authorizing committee retains his or her right to participate, debate, and vote on the policy issues entrusted to their responsibility. It is a vote to ensure that the handful of Senators who sit on the Appropriations Committee do not have greater power to set policy than the hundreds of the Members of this body who sit on authorizing committees.

I urge my colleagues to support the authorizing committees and to vote for the Clay motion to insist on disagreement.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MFUME). The Chair will advise Members to refrain from all characterizations of the other body.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I rise in support of the Clay motion and to support the chairman of the House Committee on Post Office and Civil Service.

I am chair of the Subcommittee on Compensation and Employee Benefits before whom the offending language should have come. When the chairman of one of our authorizing committees objects to the inclusion of authorizing language in an appropriations bill, I believe we must support the chair. I can appreciate the position that the gentleman from Illinois, Chairman YATES, was placed in. I am sure that he tried as hard as he could. It may be that for that reason this body needs to act, because I do not see how he could have acted otherwise.

This language is especially unnecessary in this case where the chairman put the matter on the fastest conceivable track and instructed me to do so in subcommittee and where the authorizing language inserted in an appropriations bill, as it turns out, is completely unnecessary.

We turned somersaults in an effort to see if this language would be necessary before the bill is passed. Everywhere we looked, the answer was no. We determined that we were actually ahead of the need for this language. I was prepared to ask the chairman to consider an exception in the event of an emergency or a special need, but there seemed to be only anxiety, not a need.

We must not begin to operate in this House as the other body has done, especially because of the size of our membership. We must adhere to well-established rules and protocol governing the manner in which we do business.

This amendment violates our rules, which should not be compromised without the unanimous consent of Members. This is the long and short of it, and it should be the end of it.

Please vote for the Clay motion.

Mr. CLAY. Mr. Speaker, I have no further requests for time, I urge an aye vote on the motion, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Missouri [Mr. CLAY].

The preferential motion was agreed to.

□ 2100

The SPEAKER pro tempore (Mr. MFUME). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 125: Page 80, after line 5 insert:

Sec. 322. None of the funds provided in this Act may be used to study or implement the Bureau of Land Management/United States Forest Service comprehensive strategy for Pacific salmon and steelhead habitat ("PACFISH") in the Tongass National Forest.

MOTION OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. YATES moves that the House recede from its disagreement to the amendment of the Senate numbered 125, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"SEC. 321. None of the funds provided in this Act may be used to implement the Bureau of Land Management/United States Forest Service comprehensive strategy for Pacific salmon and steelhead habitat (PACFISH) or to impose interim guidelines for such strategy in the Tongass National Forest: *Provided*, That nothing in this section shall be construed to enlarge or diminish minimum timber no harvest buffer zones required by the Tongass Timber Reform Act or to enlarge or diminish site-specific management prescriptions which increase no harvest fish stream buffer zones applied under the Tongass Land Management Plan and existing standards and guidelines of the Tongass National Forest."

And on page 52, line 21 of the House engrossed bill, H.R. 2520, strike "$150,000,000 on October 1, 1993, $250,000,000" and insert "$125,000,000 on October 1, 1993, $275,000,000"

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

PERSONAL EXPLANATION

Mr. HASTERT. Mr. Speaker, I was unavoidably delayed during rollcall votes No. 522, 523, 524, and 525 on H.R. 2520. Had I been present I would have voted "no" on rollcall vote No. 522, "no" on rollcall vote No. 523, "no" on rollcall vote No. 524, and "yes" on rollcall vote No. 525 .

PERSONAL EXPLANATION

Mr. BATEMAN. Mr. Speaker, on October 20, I missed roll-call vote 525. Had I been present, I would have voted "yea."

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have five legislative days in which to revise and extend their remarks, and include extraneous and tabular material, on H.R. 2520, the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 2492, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1993

Mr. DIXON submitted the following conference report and statement on the bill (H.R. 2492) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes:

CONFERENCE REPORT (H. REPT 103-303)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2492) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes," having met, after further full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 8, 9, 13, 18, and 24.

That the House recede from its disagreement to the amendments of the Senate numbered 12, 14, 16, 20, 28, 39, 40, 41, 42, 43, 44, 45, 46, 47, and 48, and agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$115,888,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$892,156,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$711,742,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$882,359,000*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$206,191,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$2,202,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

Delete the matter proposed by the House and stricken by the Senate and delete the matter proposed by the Senate; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the matter proposed in said amendment, insert:

SEC. 138. AMENDMENTS TO CHARTER FOR GROUP HOSPITALIZATION AND MEDICAL SERVICES.

(a) LEGAL DOMICILE.—The first section of the Act entitled "An Act providing for the incorporation of certain persons as Group Hospitalization, Inc.", approved August 11, 1939 (hereafter referred to as "the Act"), is amended by adding at the end thereof the following: "The District of Columbia shall be the legal domicile of the corporation.".

(b) REGULATORY AUTHORITY.—

(1) IN GENERAL.—Section 5 of the Act is amended to read as follows:

"SEC. 5. The corporation shall be licensed and regulated by the District of Columbia in accordance with the laws and regulations of the District of Columbia.".

(2) REPEAL.—The Act is amended by striking section 7.

(c) REIMBURSEMENT OF REGULATORY COSTS BY THE CORPORATION.—The Act (as amended by subsection (b) of this section) is amended by inserting after section 6 the following new section:

"SEC. 7. The corporation shall reimburse the District of Columbia for the costs of insurance regulation (including financial and market conduct examinations) of the corporation and its affiliates and subsidiaries by the District of Columbia.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1993.

SEC. 139. (a) Title IV of the District of Columbia Omnibus Budget Support Act of 1992 (D.C. Law 9-145) is hereby repealed, and any provision of the District of Columbia Retirement Reform Act amended by such title is restored as if such title had not been enacted into law.

(b) Subsection (a) shall apply beginning September 10, 1992.

SEC. 140. Section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; D.C. Code, sec. 1–242(3)), is amended by striking the period at the end of the fourth sentence and inserting the following:

", and except that nothing in this section shall prohibit the District from paying an employee overtime pay in accordance with section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207).".

SEC. 141. Effective October 1, 1993, there is hereby established pursuant to the District of Columbia Fund Accounting Act of 1980, effective June 14, 1980 (D.C. Law 3–70; D.C. Code, sec. 47–371 et seq.), a Cash Reserve Fund to replenish the consolidated cash balances of the District of Columbia.

SEC. 142. None of the Federal funds appropriated under this Act shall be expended for any abortion except when it is made known to the entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,342,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,202,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,040,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$20,578,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$14,348,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 5, 6, 10, 19, 22, 23, 25, 26, 29, 31, 33, and 38.

Julian C. Dixon,
Louis Stokes,
Richard J. Durbin,
Marcy Kaptur,
David E. Skaggs,
Nancy Pelosi,
William H. Natcher,
Managers on the Part of the House.

Herb Kohl,
Patty Murray,

Dianne Feinstein,
Robert C. Byrd,
Conrad Burns,
Connie Mack,
Mark O. Hatfield,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2492) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes, submit the following joint statement of the House and the Senate in explanation of the effect of the actions agreed upon by the managers and recommended in the accompanying conference report.

Retirement of Chief Judge Fred B. Ugast

The conferees note the impending retirement of Judge Fred B. Ugast, Chief Judge of the District of Columbia Superior Court, after 20 years of judicial service, and congratulate him on his accomplishments in the areas of innovative programs, case processing efficiencies, and expanding access to court services. Chief Judge Ugast encouraged the development of the nationally recognized Civil Delay Reduction Program in 1989. His administration also developed the Specialized Felony Drug Calendar program which resulted in earlier disposition of criminal drug cases. He expanded the court's "Settlement Week" program into a formalized alternative dispute resolution program that is integrated into the civil, small claims, and domestic relations case processing systems. His administration has also emphasized expanded access to justice services.

Chief Judge Ugast's strong leadership and vision has truly enhanced the administration of justice in the District of Columbia. He leaves a lasting legacy of significant accomplishments in public service.

Developmental Day Care For Homeless Children

Homeless preschool children represent the fastest growing, most fragile and vulnerable segment of the homeless population. Currently, 725 homeless families with approximately 957 preschoolers live in shelters in the District.

Programs serving homeless preschool children in the District should receive a fair share of day care funds made available to the District through Federal child care and block grant funding such as the Stewart B. McKinney Homeless Assistance Act of 1987 (Public Law 100–177). The Department of Human Services is urged to review its funding commitments and take expeditious steps to ensure that programs serving these homeless children are included in the allocation of available day care resources. Although McKinney Act funds are provided through the District's public schools to assist in meeting the needs of homeless school age children, the District currently has no program or special funding available to satisfy the very special developmental needs of the homeless preschool population.

The Committee encourages District officials to take the necessary creative steps to seek and use available Federal resources to meet the acute needs of homeless children and their families. In particular, District officials should improve coordination of resources directed toward the homeless and seek out additional existing funding available under the McKinney Act.

National Child Protection, Trauma and Research Center

The House and Senate Subcommittees on District of Columbia Appropriations have provided significant support for the National Child Protection, Trauma and Research Center in previous years and the conferees wish to reiterate their strong support for the project. Although the Subcommittees lack sufficient Federal funds in their 602(b) allocations at this time to fund the project, the conferees continue their strong interest in supporting the Center through the appropriations process.

Department of Corrections

The District of Columbia is party to several court orders and consent decrees meant to alleviate overcrowding and to mandate staff levels, security requirements, and standards of health and sanitation in facilities operated by the Department of Corrections. In the past 10 years, the Department's average daily inmate population has grown from approximately 6,500 to over 11,500. In order to comply with judicial requirements and to avoid additional court fines, the District has for several years outplaced prisoners in private and public corrections facilities in other states. In light of budget constraints, however, and citing a leveling trend in prison population, the District has recently reduced its out-of-state correctional contracting.

The conferees commend the District in its effort to secure the most cost-effective inmate housing. The conferees note, however, that according to information provided to them, the cost competitiveness and general quality of corrections contractors appear well documented. Moreover, the conferees are concerned that District inmates not be eligible for early release to reduce overcrowding as a result of returning D.C. prisoners to District-owned facilities. Even if this is not the case and inmate population is stable at an acceptable level, the prospect of future requirements makes it appear prudent to maintain some ongoing outside contracting capacity until additional new capacity is available in District-owned facilities. Should the Department of Corrections require expanded use of outside contracted prison or jail capacity the conferees will consider a supplemental or reprogramming request for the necessary increased costs, if any.

Georgetown University Cogeneration Facility

In 1989, Georgetown University, operating under that applicable local and Federal energy policy statutes, initiated District of Columbia approvals to develop a cogeneration plant on its campus. It is the conferees' understanding that approvals for this facility include three environmental policy acts enacted by the Council of the District of Columbia and 19 regulatory approvals as well as zoning approval granted and upheld by the D.C. Court of Appeals.

The proposed facility would continue to provide the much needed steam for the University at the same time that it provides the Potomac Electric Power Company with additional capacity on its system. Because of the energy and financial savings and the need for additional power, the conferees, encourage the District of Columbia to review, with the applicants, the basis for withdrawal of the environmental approval to construct the cogeneration facility.

TITLE I

FISCAL YEAR 1994 APPROPRIATIONS

Federal Funds

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

Amendment No. 1: Restores language proposed by the House and stricken by the Senate which delays the obligation and expenditure of $2,000,000 until September 30, 1994, and October 1, 1994, respectively.

FEDERAL CONTRIBUTION FOR CRIME AND YOUTH INITIATIVES

Amendment No. 2: Appropriates $17,327,000 as proposed by the House instead of $15,327,000 as proposed by the Senate.

Amendment No. 3: Deletes language proposed by the Senate which would have allowed the Mayor to use a portion of the appropriations for Federal Crime and Youth Initiatives for the operation of the Trauma Care Fund established in Public Law 102–382 (106 Stat. 1428).

District of Columbia Funds

GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 4: Appropriates $115,888,000 instead of $118,543,000 as proposed by the House and $114,781,000 as proposed by the Senate. The increase of $1,107,000 above the Senate allowance reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires the District to identify local sources of revenues for the account "Admission to Statehood".

ECONOMIC DEVELOPMENT AND REGULATION

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: *$87,293,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates $87,293,000 instead of $85,348,000 as proposed by the House and $85,629,000 as proposed by the Senate.

The increase of $1,644,000 above the Senate allowance reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

PUBLIC SAFETY AND JUSTICE

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 7: Appropriates $892,156,000 instead of $907,966,000 as proposed by the House and $877,703,000 as proposed by the Senate.

The conference agreement reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

Police and Fire Clinic.—The conferees were recently informed that the District has undertaken a study to examine the costs and services now provided by the Clinic and plan to have a comprehensive package developed by January 1994 that will (1) recommend a system for providing performance of duty medical services to District police and fire fighters and for determining the impact of the system on Federal agencies currently receiving services from the Clinic on a reimbursable basis; (2) compare the cost of providing the Clinic's current services with the cost of providing these services through private health care providers; and (3) provide an implementation schedule and cost analysis for establishing the new system. The conferees request that the study and comprehensive package address the comments and recommendations for the Federal agencies using the Clinic's services. The conferees note that the Federal agencies involved probably have not had an opportunity to consider the impact of changes proposed in the Clinic's operations on their fiscal year 1994 budgets, and therefore request District officials to make every effort to ensure that no changes are made in the availability of the Clinic's services prior to the Federal agency's concurrence with the changes or arrangement for alternative services. The conferees look forward to receiving the comprehensive package in early 1994, and direct that the Police and Fire Health Clinic continue operating in fiscal year 1994 at the fiscal year 1993 level until such time as the comprehensive plan is approved by the Committees on Appropriations of the House and the Senate. The conferees commend the District for identifying and implementing several cost cutting measures which have resulted in reducing nonpersonal services costs by $400,000. The conferees encourage District officials to continue their efforts to identify and implement cost cutting measures relative to the Clinic's current operations.

Fire suppression liquid.—The conferees have received the Fire Department's report regarding the features of a fire suppression liquid concentrate called Pyrocap B–136. The Department's report indicates that the concentrate greatly reduces toxic smoke, heat, and "completely relieves the problem of burnback in cases of petroleum fires". The conferees urge the Department to use this technology whenever possible, and to place it on trucks that answer fire emergencies in several parts of the city including several inner-city areas that have high fire incident rates as well as the White House and the Federal enclave. The conferees plan to review the use of this technology with fire officials at next year's hearings.

Amendment No. 8: Deletes language proposed by the Senate which would have provided $4,000,000 "from other Federal sources hereafter appropriated" to fund the D.C. National Guard ($1,100,000); the Office of Emergency Preparedness ($1,848,000); and object class 70 (equipment) of the Metropolitan Police Department ($1,052,000).

Amendment No. 9: Restores language proposed by the House and stricken by the Senate that prohibit the elimination of the Administrative Assistants to the Battalion Fire Chiefs in the Fire Department.

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed in said amendment, insert: *: Provided further, That in addition to the $892,156,000 appropriated under this heading, an additional $1,025,000 and 11 full-time equivalent positions shall be transferred from the Department of Administrative Services to the District of Columbia Court System for janitorial services, pest control, window washing, trash collection and removal, and landscaping*

, and

on page 5, after line 7 of the House engrossed bill H.R. 2492 insert "(Including Transfer of Funds)" as a centerhead.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes a proviso proposed by the Senate that would have prohibited the closing of Engine Company 3 located at 439 New Jersey Avenue, Northwest, and inserts a new proviso that transfers $1,025,000 and 11 full-time equivalent positions from the Department of Administrative Services under Governmental Direction and Support to the District of Columbia Court System for janitorial services, pest control, window washing, trash collection and removal, and landscaping. The conference action also inserts a new centerhead "Including Transfer of Funds" under the Public Safety and Justice appropriation heading.

Regarding the closing of Engine Company 3 located at 439 New Jersey Avenue, Northwest, the conferees have received assurances from the City Administrator that the closing ". . . will *not* impact on the level of fire protection afforded the U.S. Capitol or any part of the Capitol Hill area" and that the "Fire Department anticipates upgrading Ambulance Number 15, which is currently housed at Engine Company 3, to an Advanced Life Support unit staffed with paramedics . . . during the first quarter of fiscal year 1994. It will be moved to one of the four fire stations within a mile of the U.S. Capitol."

This action by the conferees is taken on the condition that District officials, at least 15 days prior to the closing of Engine Company 3, fully brief appropriate officials of the Architect of the Capitol on the District's plans for closing Engine Company 3 and continuing to provide the excellent service to the Capitol complex that has been provided in the past. The conferees stress the statement made by the head of the Architect's fire protection division that, "There needs to be assurance that the excellent service provided by the Fire Department in the past will not be diminished by any proposed change."

The conference agreement approves the transfer of $1,025,000 and 11 positions, to the D.C. Court System. The conferees were informed by the executive officer of the courts that the Department of Administrative Services has agreed to the transfer of these resources to the Court System. The executive officer further stated that while the Department of Administrative Service "appears to do the best it can under difficult circumstances, the courts suffer the consequences of reductions in service delivery."

PUBLIC EDUCATION SYSTEM

Amendment No. 11: Appropriates $711,742,000 instead of $711,813,000 as proposed by the House and $710,742,000 as proposed by the Senate. The conference action reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

Amendment No. 12: Allocates $3,474,000 for the Commission on the Arts and Humanities as proposed by the Senate instead of $3,540,000 as proposed by the House. The reduction of $66,000 below the House allowance reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

Amendment No. 13: Allocates $4,500,000 for the D.C. School of Law as proposed by the House instead of $3,500,000 as proposed by the Senate. The increase of $1,000,000 above the Senate allowance reflects the restoration of $1,000,000 that was included in final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

Amendment No. 14: Allocates $487,000 for the Education Licensure Commission as proposed by the Senate instead of $492,000 as proposed by the House. The conference agreement reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

HUMAN SUPPORT SERVICES

Amendment No. 15: Appropriates $882,359,000 instead of $914,830,000 as proposed by the House and $869,587,000 as proposed by the Senate. The increase of $12,772,000 above the Senate allowance reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

Amendment No. 16: Provides that $20,905,000 is to remain available until expended for the District's employees' disability compensation program as proposed by the Senate instead of $17,905,000 as proposed by the House. The increase of $3,000,000 above the House allowance reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

PUBLIC WORKS

Amendment No. 17: Appropriates $206,191,000 instead of $215,749,000 as proposed by the House and $203,939,000 as proposed by the Senate. The increase of $2,252,000 above the Senate allowance reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

Water and Sewer Utility Administration.—The conference action abolishes 51 positions to reflect final action by the Mayor and Council on the District's fiscal year 1994 budget amendment (H. Doc. 103–136).

REPAYMENT OF LOANS AND INTEREST

Amendment No. 18: Deletes language proposed by the Senate which would have authorized the use of funds appropriated under this heading to pay the debt service for the first year on $50,000,000 that the District would have been authorized to borrow under capital outlay as matching funds for constructing or modernizing the George Washington University Hospital.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed in said amendment, insert: *$306,264,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $306,264,000 instead of $312,948,000 as proposed by the House and $316,948,000 as proposed by the Senate.

The reduction of $6,684,000 below the House allowance reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103–136). The Senate allowance included $4,000,000 to cover the first year debt service for $50,000,000 in general obligation bonds the District would have issued under amendment number 24 to provide matching funds for modernization of the George Washington University Hospital. Section 6 of the Trauma Care Systems Planning and Development Act of 1990 (Public Law 101–590; 104 Stat. 2929) authorizes a total of $50,000,000 to George Washington University Hospital as matching funds for the purpose of constructing or modernizing their medical facility.

PAY ADJUSTMENT

Amendment No. 20: Appropriates $81,680,000 as proposed by the Senate instead of $70,680,000 as proposed by the House. The increase of $11,000,000 above the House allowance reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103-136).

SEVERANCE PAY

Amendment No. 21: Inserts new heading and paragraph as proposed by the Senate and appropriates $2,202,000 instead of $11,033,000 as proposed by the Senate. The decrease of $8,831,000 below the Senate allowance reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment that was transmitted to Congress September 13, 1993 (H. Doc. 103-136). The Senate action reflected the Mayor's proposal as submitted to the Council.

D.C. GENERAL HOSPITAL DEFICIT PAYMENT

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed in said amendment, insert:

D.C. GENERAL HOSPITAL DEFICIT PAYMENT

For the purpose of reimbursing the General Fund for costs incurred for the operation of the D.C. General Hospital pursuant to D.C. Law 1-134, the D.C. General Hospital Commission Act of 1977, $10,000,000.

ENERGY ADJUSTMENTS

The Mayor shall reduce appropriations and expenditures for energy costs in the amount of $482,000 within one or several of the various appropriation headings in this Act.

COMMUNICATIONS ADJUSTMENTS

The Mayor shall reduce appropriations and expenditures for communications costs in the amount of $158,000 within one or several of the various appropriation headings in this Act.

CONTRACTUAL SERVICES ADJUSTMENTS

The Mayor shall reduce contractual services appropriations and expenditures within object class 40 in the amount of $1,500,000 within one or several of the various appropriations headings in this Act: Provided, That no reductions shall be made to agencies not under the direct control of the Mayor or to the Department of Human Services.

CASH RESERVE FUND

For the purpose of a cash reserve fund to replenish the consolidated cash balances of the District of Columbia, $3,957,000.

, and

on page 13 line 3 of the House engrossed bill, H.R. 2492, strike "$3,423,000" and insert "$3,323,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action appropriates $10,000,000 instead of $20,000,000 as proposed by the Senate for the D.C. General Hospital Deficit Payment to the District's general fund. The reduction of $10,000,000 below the Senate allowance reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment transmitted to Congress September 13, 1993 (H. Doc. 103-136). The conference action also inserts three new headings and paragraphs requested by the Mayor and Council in H. Doc. 103-136 which authorize the Mayor to reduce appropriations and expenditures throughout the District government in energy (−$482,000), communications (−$158,000), and contractual services for all agencies under the Mayor's direct control except for the Department of Human Services (−$1,500,000). The conference action also inserts a new heading "Cash Reserve Fund" and paragraph appropriating $3,957,000 to replenish the consolidated cash balances of the District government as requested by the Mayor and Council in H. Doc. 103-136.

In addition, the conference action appropriates $3,323,000 for optical and dental benefits as requested by the Mayor and Council in H. Doc. 103-136 instead of $3,423,000 as proposed by the House and the Senate.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Delete the sum stricken by said amendment and delete the sum inserted by said amendment and strike out line 10 through and including line 14 on page 13 of the House engrossed bill H.R. 2492, and on page 29, line 12 of the House engrossed bill H.R. 2492 strike out "1993" and insert in lieu thereof "1994".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes reductions of $27,062,000 proposed by the House and stricken by the Senate and $7,000,000 proposed by the Senate and deletes the heading and paragraph relative to Personal and Nonpersonal Services Adjustments which would have authorized the Mayor to reduce appropriations and expenditures throughout the District government to keep the budget in balance. The conference agreement reflects final action by the Mayor and Council on the fiscal year 1994 budget amendment transmitted to Congress September 13, 1993 (H. Doc. 103-136). The budget amendment distributes the reductions proposed by the House and Senate to agency budgets.

The conference action also extends for 12 months (from December 31, 1993, to December 31, 1994) the District's authority to retire up to 50 fire fighters or members of the Fire and Emergency Medical Services Department who were hired before February 14, 1980, and exclude those disability retirements from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act (Public Law 96-122). The conferees have been advised by District officials that the additional 12 months are required to properly process these cases. The intent of section 132 in H.R. 2492 is to exempt up to 50 disability retirements from the trigger mechanism calculation for any period from October 1, 1993 through December 31, 1994. The trigger mechanism calculation is included in Public Law 96-122 and allows the annual Federal payment of $52,070,000 to the police officers and fire fighters retirement fund to be reduced when the disability retirement rate exceeds an established limit.

CAPITAL OUTLAY

Amendment No. 24: Appropriates $108,743,000 as proposed by the House instead of $158,743,000 as proposed by the Senate. The Senate allowance included $50,000,000 that the District government would have borrowed and transferred to George Washington University for use as matching funds for modernization of the George Washington University Hospital. Section 6 of the Trauma Care Systems Planning and Development Act of 1990 (Public Law 101-590) authorizes a total of $50,000,000 to George Washington University Hospital for the purpose of constructing or modernizing its medical facility.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed in said amendment, insert: *: Provided further, That the District of Columbia government shall transmit to the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, and the Senate Committee on Governmental Affairs, no later than April 15, 1994, a proposed plan providing for the financing of the capital rehabilitation and revitalization of the medical infrastructure within the District of Columbia: Provided further, That this plan shall include how the capital needs of all hospitals will be addressed: Provided further, That this plan shall specifically address the currently authorized George Washington University project as part of the overall plan.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action deletes language proposed by the Senate that would have allocated $50,000,000 of the funds borrowed under Capital Outlay solely for the purpose of carrying out section 6 of Public Law 101-590 (104 Stat. 2929) and would have required the funds to be transferred within 45 days of receipt of the bond proceeds and inserts in lieu thereof a proviso that requires the District government to transmit a plan by April 15, 1994, to the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, and the Senate Committee on Governmental Affairs. The plan is to provide proposals for the financing of the capital rehabilitation and revitalization of the medical infrastructure within the District of Columbia. The conferees request that the plan include how the capital needs of all hospitals will be addressed and how the plan will specifically address the currently authorized George Washington University project as part of the overall plan.

The George Washington University Hospital. The history of federal support to hospitals in Washington, D.C. dates to June 1941 when the Congress enacted the National Defense Public Works Act that has become known as the Lanham Act (Public Law 137, 77th Congress; 55 Stat. 361). The Lanham Act provided for the construction of waterworks, sewage disposal systems, streets, and hospitals. It was through this authority that the current George Washington University Hospital was built. In 1946, the Congress enacted the Washington Hospital Center Act (Public Law 648, 79th Congress) which provided for the consolidation of three District hospitals into the Washington Hospital Corporation. This Act was amended several times to include the other hospitals in the city. In the 1968 District of Columbia Hospital and Medical Facilities Construction amendments, funds were authorized for seven hospitals because the District was unable to raise the necessary matching funds to make use of Hill-Burton funds. In 1990, the Congress enacted the Trauma Care System Planning and Development Act which authorized a 50-percent matching federal grant for George Washington University Hospital to complete its estimated $100 million modernization project.

The conferees believe that the above history makes it clear that the Federal government has historically played a significant role in financing the construction, renovation, and expansion of medical care facilities in the District of Columbia. Since the last use of the original 1946 Act, the enactment of the District's Home Rule Act has changed the relationship between the District and Federal governments. This change necessitates a review of the funding mechanism for District hospital capitol projects. The conference agreement includes language requiring such a review and submission of a plan contemporaneous with the submission of the District's fiscal year 1995 budget on April 15, 1994.

The conferees note that, according to information available to them, most states and some local governments provide financial assistance to health care facilities within their jurisdictions. It has not been necessary for the District government to address this matter since Home Rule; however, it has now become necessary. As noted above the current physical plants of most of the hospitals in the District are approximately the same age and will soon, if they do not now, require substantial rehabilitation, renovation or reconstruction. As a general rule the financing of the capital needs of public hospitals requires some public assistance from government at some level. To ensure that help is applied evenly and that everyone knows what the procedure is there must be a plan. The conferees have asked the District government to develop and submit such a plan. In developing this plan, the conferees anticipate that the District will make use of available resources, including the Mayor's Task Force on Long Term Strategies to Improve the District of Columbia Public Health Care Delivery systems, the D.C. Hospital Association, the General Accounting Office and other interested public and private organizations.

This plan will specifically address the George Washington University Medical Center because it has an existing authorization to undertake a project of renovation and construction. George Washington University Hospital is a private institution with a public mission. It is the closest emergency medical facility to the White House, State Department and most foreign embassies. Everyone is familiar with the heroic efforts of its staff in March 1981 after an assassination attempt on the President of the United States. The hospital has specific emergency arrangements with the White House for such occasions and undertake additional preparedness during events such as summit conferences and major world meetings that take place in Washington, D.C. What goes unreported, but is more compelling, are the everyday crises that befall visitors or government workers downtown that find their way to the George Washington University Hospital. The emergency room currently sees 50,000 patients in a space designed for 30,000 annually. The University's own consultant has stated that the facility is 38 percent too small. Planning for expansion and renovation has identified minimum needs of $100 million. Included are expansion of the emergency room, additional operating rooms, and expanded critical care areas as well as physical, mechanical and space requirements for modern medical technology.

Children's National Medical Center.—Similarly, Children's National Medical Center has undertaken construction to house the National Child Protection, Trauma and Research Center. There is now nowhere in the District for such facilities to seek financial assistance. This omission should be addressed and a policy decision reached as to how such projects will be handled, currently and in the future.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the Washington Aqueduct to use $500,000 of the funds borrowed under this heading to initiate construction of modifications to the Little Falls Dam facility to allow passage for anadromous fish on the Potomac River.

GENERAL PROVISIONS

Amendment No. 27: Deletes section 135 proposed by the House and stricken by the Senate and deletes a new section 135 proposed by the Senate. The House language stricken by the Senate and the Senate language deleted by the conferees are identical and would have prohibited the Mayor from contracting out for goods and services now provided by District employees until the Mayor submitted to the Council and the Council approved revised contracting policies and procedures that (1) provided a cost analysis for each contract and (2) showed that contracting out would provide savings of at least 10 percent over the duration of the contract.

Amendment No. 28: Deletes language proposed by the House and stricken by the Senate that would have prohibited the Mayor from awarding certain contracts over $1,000,000 until after the Council had approved the proposed contract award.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *137*

, and

on page 33, line 11 of the House engrossed bill H.R. 2492 strike out "Sec. 137" and insert in lieu thereof "Sec. 135"

, and

on page 33, line 23 of the House engrossed bill H.R. 2492 strike out "Sec. 138" and insert in lieu thereof "Sec. 136".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action changes section number 139 proposed by the Senate to section number 137 and inserts language proposed by the Senate which requires the Mayor to report to the Congress within 90 days on the status of construction of a new Federal prison in the District of Columbia that was previously authorized.

The conference action also makes technical changes by renumbering sections 137 and 138 to 135 and 136, respectively, to reflect action by the conferees on amendment numbers 27 and 28.

Amendment No. 30: Changes the section number from 140 as proposed by the Senate to 138 and adds a new section as proposed by the Senate amending the congressional charter for Group Hospitalization, Inc. to establish the District of Columbia as the legal domicile for the corporation. The language requires the corporation to be licensed in and regulated by the laws and regulations of the District of Columbia government. The amendments are permanent legislation and takes effect October 1, 1993, instead of on the date of enactment of this Act. Identical substantive language was included in section 137 of the FY 1993 D.C. Appropriations Act (Public Law 102–382; 106 Stat. 1435) for a one-year period with the understanding that specific authorizing legislation would be enacted. The language in Public Law 102–382 will expire September 30, 1993.

Section 139 repeals three amendments to the District of Columbia Retirement Reform Act of 1976 (Public Law 96–122) that were included as part of the District's Omnibus Budget Support Act of 1992. Testimony was received from the Board's chairman requesting the repeal of these amendments. In a follow-up letter dated September 21, 1993, the Board chairman stated "As fiduciaries charged with the responsibility of managing the retirement funds for the District's police officers, fire fighters, teachers, and judges . . . the Board believed that the District's actions dangerously eroded the independence of the Board, and had therefore looked to Congress for relief." The three amendments that are being repealed: (1) provided the District with the authority to determine the source of funding for the Board's administrative expenses and eliminated the prohibitions on the District against specifying how the Board could spend its appropriated budget; (2) permitted the District to include grant funds in its annual contribution to the retirement funds; and (3) eliminated congressionally mandated prohibitions against "party-in-interest" transactions which were specifically designed by the Congress to guard against conflicts of interest and to ensure arms-length transactions between the Board and the District government. According to the September 21, 1993, letter referred to earlier, the Board chairman states that the repeal of the three amendments are necessary ". . . to ensure the continued independence of the Board and financial security of the Funds . . .".

The conference action also adds two new sections requested by the Mayor and Council in H. Doc. 103–136. Section 140 amends the Home Rule Act to clarify the District's authority to pay overtime to District government employees in accordance with the Fair Labor Standards Act of 1938. The report accompanying the District's request states that this change will reduce recordkeeping costs and the higher costs of more generous overtime provisions for employees hired prior to enactment of the District's Comprehensive Merit Personnel Act of 1978. The report further states that this amendment will not affect overtime provisions in existing compensation settlements.

Section 141 establishes a cash reserve fund to replenish the consolidated cash balances of the District government.

Language in section 142 prohibits the use of Federal funds for abortions except when it is made known to the entity or official to which funds are appropriated that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

TITLE II

FISCAL YEAR 1993 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed in said amendment, insert: *$14,231,000*

, and

on page 35, line 12 of the House engrossed bill H.R. 2492 strike out "$10,587,000" and insert in lieu thereof "$10,242,000"

, and

on page 37, line 4 of the House engrossed bill H.R. 2492 after "*Provided*," insert:

"That $7,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further,"

, and

on page 37, line 11 of the House engrossed bill H.R. 2492 strike out "(Rescission)" and insert in lieu thereof "Including Rescission"

, and

on page 37, line 12 of the House engrossed bill H.R. 2492 strike out "Of" and insert in lieu thereof "For an additional amount for "Public works", $23,447,000: *Provided*, That of"

, and

on page 37, line 16 of the House engrossed bill H.R. 2492 after "rescinded" insert "for a net increase of $20,176,000"

, and

on page 44, after line 14 of the House engrossed bill H.R. 2492 insert "Sec. 203. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1993."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $14,231,000 instead of $15,133,000 as proposed by the House and $15,501,000 as proposed by the Senate. The decrease below the House and Senate allowances reflects the District's revised fiscal year 1993 supplemental request that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

The conference agreement also rescinds $10,242,000 under the Economic Development and Regulation appropriation title instead of $10,587,000 as proposed by the House and the Senate. The reduction of $345,000 below the House and Senate allowance relates to the Office of International Business as reflected in the District's final action on the revised fiscal year 1993 supplemental request that was transmitted to Congress September 13, 1993, too late for consideration by the House or the Senate.

The conferees have agreed to a new proviso requested by the District under "Human Support Services" that allows $7,000,000 to remain available until expended for employees' disability compensation.

Under the Public Works appropriation title the conference action inserts "Including Rescission" as a centerhead and appropriates an additional $23,447,000 requested by the District in H. Doc. 103–136 for payment to the Washington Metropolitan Area Transit Authority (WMATA) to cover the July–September 1992 quarterly operating subsidy. This action provides a net increase of $20,176,000 under the Public Works appropriation title instead of a rescission of $3,271,000 as proposed by the House and the Senate. The District's fiscal year 1992 supplemental request included a $26,000,000 reduction to reflect a change in the method used by the District to make its quarterly payments to WMATA. The District proposed to change from a forward-payment basis to a pay-behind basis. Although the proposal was not approved, the necessary budget authority was not provided. The conference action provides the budget authority required in order for the District to legally pay WMATA the amount owed for fiscal year 1992. The conferees have been informed that with this action the District has sufficient authority to pay the remaining fiscal year 1992 quarterly payment and all four fiscal year 1993 quarterly payments in accordance with current policies followed by WMATA and the Compact jurisdictions.

The conference action also inserts a new section 203 that deems the appropriations and language provisions in Title II to be available for the fiscal year ending September 30, 1993. This language in effect ratifies all obligations and expenditures made in anticipation of the enactment of the District's fiscal year 1993 supplemental request as approved in title II of this Act.

Amendment No. 32: Rescinds $6,342,000 instead of $4,760,000 as proposed by the House and $7,162,000 as proposed by the Senate.

The conference agreement reflects the District's revised fiscal year 1993 supplemental request that was transmitted to Congress September 13, 1993 (H. Doc. 103–136).

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed in said amendment, insert: *$7,889,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides a net increase of $7,889,000 instead of $10,373,000 as proposed by the House and $8,339,000 as proposed by the Senate. The action by the conferees reflects the District's revised fiscal year 1993 supplemental request that was transmitted to Congress September 13, 1993 (H. Doc. 103–136). The reduction of $450,000 in the net increase below the Senate allowance reflects a reduction in contractual services in the Office of City Administrator/Deputy Mayor for Operations.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

Amendment Nos. 34 and 35: Appropriate $5,202,000 for a net decrease of $5,040,000 instead of $1,047,000 for a net decrease of $9,540,000 as proposed by the House and $6,047,000 for a net decrease of $4,540,000 as proposed by the Senate.

The conference action reflects the District's revised fiscal year 1993 supplemental request that was transmitted to Congress September 13, 1993 (H. Doc. 103–136). The increase of $500,000 in the net decrease proposed by the Senate reflects a reduction in the District's Employer-Assisted Housing Program.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

Amendment Nos. 36 and 37: Rescind $20,578,000 for a net decrease of $14,348,000 instead of $18,921,000 for a net decrease of $12,691,000 as proposed by the House and $21,078,000 for a net decrease of $14,848,000 as proposed by the Senate.

The conference agreement reflects the District's revised fiscal year 1993 supplemental request that was transmitted to Congress September 13, 1993 (H. Doc. 103–136). The reduction of $500,000 below the net decrease proposed by the Senate reflects an increase for the purchase of police vehicles and radio equipment.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that unspent funds remaining in the personal and nonpersonal services budget of the Metropolitan Police Department at the end of fiscal year 1993 shall remain available for the exclusive use of the Metropolitan Police Department for the purchase of equipment in fiscal year 1994. The House language provided for the carryover of unspent nonpersonal services funds.

Amendment No. 39: Corrects a misspelling in the printing of the bill as proposed by the Senate.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

Amendment Nos. 40 and 41: Appropriate $4,000,000 for the public schools of the District for a net decrease of $3,257,000 in the Public Education System appropriation as proposed by the Senate instead of a net decrease of $7,257,000 in the Public Education System appropriation as proposed by the House. The Senate action reflects the District's revised supplemental request for fiscal year 1993 which was not available at the time the bill was under consideration by the House.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

Amendment Nos. 42 and 43: Appropriate $81,772,000 for a net increase of $79,551,000 as proposed by the Senate instead of $70,772,000 for a net increase of $68,551,000 as proposed by the House.

The conference agreement reflects the District's revised supplemental request for fiscal year 1993 which was not available at the time the bill was under consideration by the House.

REPAYMENT OF LOANS AND INTEREST

Amendment No. 44: Appropriates $11,059,000 as proposed by the Senate instead of $19,051,000 as proposed by the House.

The conference agreement reflects the District's revised supplemental request for fiscal year 1993 which was not available at the time the bill was under consideration by the House.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

Amendment No. 45: Deletes language proposed by the House and stricken by the Senate which would have authorized the Mayor to reduce $29,730,000 in fiscal year 1993 appropriations and expenditures throughout the District government to keep the budget in balance because of declining local revenues. The Senate action agreed to by the conferees reflects the District government's revised supplemental request for fiscal year 1993 which was not available at the time the bill was under consideration by the House. The revised supplemental request allocates the reduction proposed by the House and stricken by the Senate to agency budgets reflected throughout Title II of the bill.

GENERAL PROVISIONS

Amendment Nos. 46, 47, and 48: Delete language proposed by the House and stricken by the Senate concerning requirements of the Buy American Act as codified under 41 U.S.C. 10a et seq. These provisions already apply to all procurements made by the District of Columbia government since 41 U.S.C. 5a defines the word "department" as follows: "The word 'department' as used in this Act shall be construed to include independent establishments, other agencies, wholly owned Government corporations * * * and the government of the District of Columbia * * *.".

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1994 recommended by the Committee of Conference, with comparisons to the fiscal year 1993 amount, the 1994 budget estimates, and the House and Senate bills for 1994 follow:

Federal Funds

New budget (obligational) authority, fiscal year 1993 .... $688,000,000

Budget estimates of new (obligational) authority, fiscal year 1994	705,101,000
House bill, fiscal year 1994	700,000,000
Senate bill, fiscal year 1994	698,000,000
Conference agreement, fiscal year 1994	700,000,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1993	+12,000,000
Budget estimates of new (obligational) authority, fiscal year 1994	−5,101,000
House bill, fiscal year 1994	....
Senate bill, fiscal year 1994	+2,000,000

District of Columbia Funds

New budget (obligational) authority, fiscal year 1993	*3,988,421,000*
Budget estimates of new (obligational) authority, fiscal year 1994	*3,740,382,000*
House bill, fiscal year 1994	*3,753,705,000*
Senate bill, fiscal year 1994	*3,777,932,000*
Conference agreement, fiscal year 1994	*3,740,382,000*
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1993	*(248,039,000)*
Budget estimates of new (obligational) authority, fiscal year 1994	*0*
House bill, fiscal year 1994	*(13,323,000)*
Senate bill, fiscal year 1994	*(37,550,000)*

JULIAN C. DIXON,
LOUIS STOKES,
RICHARD J. DURBIN,
MARCY KAPTUR,
DAVID E. SKAGGS,
NANCY PELOSI,
WILLIAM H. NATCHER,
Managers on the Part of the House.

HERB KOHL,
PATTY MURRAY,
DIANNE FEINSTEIN,
ROBERT C. BYRD,
CONRAD BURNS,
CONNIE MACK,
MARK O. HATFIELD,
Managers on the Part of the Senate.

TAMPER-PROOF ID FOR BOTH WORK AND HEALTH CARE ELIGIBILITY

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FISH. Mr. Speaker, over a decade ago, the Select Commission on Immigration and Refugee Policy recognized that the magnet of job opportunities in the United States is a potent inducement to illegal immigration. Although Congress in 1986 passed legislation making it illegal knowingly to employ aliens lacking work authorization, we have not yet provided the essential missing element in the enforcement scheme. What remains lacking is tamper-resistant identification to facilitate accurate determinations of employment eligibility. The ready availability of fraudulent identifiers defeats the efforts of conscientious employers to avoid hiring persons illegally in this country.

In 1980, as a member of the Select Commission, I welcomed the opportunity to vote in favor of recommending employer sanctions combined with secure identification. After having sought for many years to implement the concept of secure identification, I am pleased to note that the time for successful action along these lines seems to be approaching quickly.

Today I want to share with my colleagues recent correspondence between Father Theodore Hesburgh, president emeritus of the University of Notre Dame, and Doris Meissner, the new Commissioner of the Immigration and Naturalization Service. Father Hesburgh advocated an upgraded, counterfeit resistant Social Security card years ago when he chaired the Select Commission on Immigration and Refugee Policy. It is very significant that this great civil libertarian and former Chairman of the U.S. Commission on Civil Rights continues to emphasize the importance of a noncounterfeitable identification card, pointing out this would simplify the participation of employers in verifying work eligibility.

Recently, the President has recommended a health care identifier to obtain health care benefits. Why shouldn't the tamper-resistant document that prospective employees present be a new combined work eligibility card and health care identifier? Father Hesburgh, I am pleased to note, reacted favorably to my suggestion relating to the potential dual use of a new health care card; U.S. citizens and permanent resident aliens will carry such a card anyway to obtain health benefits.

Finally, I believe Commissioner Meissner's recognition of the ID issue's importance will be most helpful in the months ahead.

The correspondence referred to follows:

UNIVERSITY OF NOTRE DAME,
Notre Dame, IN, June 21, 1993.
DORIS M. MEISSNER,
Commissioner, Immigration and Naturalization, Washington, DC.

DEAR DORIS: Best congratulations on your appointment by the President to become Commissioner of INS. I was delighted to read the oratory report of your abilities and wisdom in the New York Times. Of course, I already knew about that.

As the years have passed since we worked together on reforming the Immigration Law, I am still of the opinion that the simplest way to achieve progress against illegals is to have a non-conterfeitable ID card which could operate as simply as credit cards do. I would prefer that it be the Social Security card since it serves so many other useful purposes in our society. This, of course, puts a burden on employers but we already did that in the latest Immigration Law. This simplifies their participation. You have already heard me say this many times, but I simply repeat it because I think it is the one glaring weakness in the present enforcement rules.

Be sure of my best wishes and prayers for all success in your new endeavor. I am sure you will be a breathe of fresh air, as well as bringing new hope to your Service.

With cordial best wishes and prayers for all success.

Ever devoted in Notre Dame,
(Rev.) THEODORE M. HESBURGH, C.S.C.,
President Emeritus.

CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE,
September 20, 1993.
Rev. THEODORE M. HESBURGH, C.S.C.,
University of Notre Dame,
Notre Dame, IN.

DEAR FATHER TED: Thanks so much for your kind words and good wishes.

You know I agree with your thoughts on matters of employment enforcement, and I'm pleased to know they remain of concern to you. One of my goals is to press the debate on ID issues from the platform of a credible INS that inspires public confidence in the government's ability to handle its responsibilities effectively. Perhaps that will help influence public attitudes in favor of what you correctly suggest.

I hope you are well and thriving. All best wishes.

Sincerely,
DORIS M. MEISSNER,
Senior Associate.

UNIVERSITY OF NOTRE DAME,
Notre Dame, IN, September 28, 1993.
DORIS M. MEISSNER,
Senior Associate, Carnegie Endowment for International Peace, Washington, DC.

DEAR DORIS: I had a call from Hamilton Fish today asking why we could not use the proposed card for the new health service. It would also serve as an identification for employment, especially in the case of immigrants who may or may not be legal. I told him I had the same idea the first time I saw President Clinton waiving that card on television. I am sure Al Simpson and Ted Kennedy will also be in favor of this.

Thanks again for your note.

Ever devotedly yours,
(Rev.) THEODORE M. HESBURGH, C.S.C.,
President Emeritus.

ON THE NORTH AMERICAN FREE-TRADE AGREEMENT

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, we are all faced with contradictory views on what NAFTA means for U.S. jobs. Maybe we would be wise to focus on the view from Mexico.

I am holding an ad paid for by the Government of Yucatan. It shows an American business executive stating: "I can't find good, loyal workers for a dollar an hour within a thousand miles of here."

The ad's response is: "Yes you can. Yucatan."

Here is another. "You can't cut labor costs 300 percent in 90 minutes. Yes, you can, Yucatan."

Keeping wages low is a part of the Mexican Government's strategy for attracting United States investment. This isn't anti-Mexico rhetoric. It is the unfortunate truth.

A NAFTA which fails to reverse Mexico's policy of menial wages and fails to bolster Mexican labor rights is bad news for their workers and bad news for our workers. It is one of the reasons why I cannot support this NAFTA.

Mr. Speaker, I include for the RECORD the ads to which I referred:

"YOU CAN'T CUT LABOR COSTS 300% IN 90 MINUTES."

YES YOU CAN

YUCATAN

Where labor cost average under $1 an hour, including benefits. Far, far less than in the Far East. And less than CBI. Central America and even less than the rest of Mexico.

The employee turnover rate is less than 5% a year.

We're only 460 miles and 90 minutes by air from the U.S.

And you can save over $15,000 a year, per worker, if you had an off-shore production plant here.

So if you want to see how well you or your plant managers can live here while making your company more competitive in world markets, call for a free video tour of the State of Yucatan at 708-295-1793.

When the U.S. is too expensive and Far East too far,

"Yes You Can in Yucatan."

Government of the State of Yucatan, Mexico.

Department of Industrial and Commercial Development.

"I CAN'T FIND GOOD, LOYAL WORKERS FOR A DOLLAR AN HOUR WITHIN A THOUSAND MILES OF HERE"

YES YOU CAN

YUCATAN

We're only 460 miles and 90 minutes by air from the U.S.

Labor costs average under $1 an hour, including benefits. Far lower than in the Far East. And less than CBI, Central America and even less than the rest of Mexico.

The turnover rate is less than 5% a year.

And you could save over $15,000 a year, per worker, if you had an offshore production plant here.

So if you want to see how well you or your plant managers can live here while making your company more competitive, call for a free video tour of the State of Yucatan at 708-295-1793.

When the U.S. is too expensive and the Far East too far,

"Yes You Can In Yucatan."

Government of the State of Yucatan, Mexico.

Department of Industrial and Commercial Development.

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Ms. LAMBERT. Mr. Speaker, I ask unanimous consent to change the 60-minute special order on October 21, 1993, for the gentleman from New York [Mr. OWENS] to a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Arkansas?

There was no objection.

OPERATION OF AMTRAK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. PARKER] is recognized for 5 minutes.

Mr. PARKER. Mr. Speaker, I come to the well of the House tonight to express my extreme displeasure with the tactics presently being used by Amtrak. With the conference report on the Transportation appropriation bill scheduled to be considered in this body tomorrow, Amtrak has taken actions over the past few days to notify station managers and workers in 15 stations across the country that their facility will be closed—some as soon as Tuesday of next week. That is only 5 days notice.

Although I hate to make this assumption, it seems like Amtrak is playing political games with Congress. Mr. Speaker, as you know, Amtrak requested $381 million for operating expenses in 1994. The administration's request, however, was for only $331 million. Although the conference report contains $352 million, Amtrak officials seem to have started actions to show the American people, and especially Members of this body, why they need the additional $29 million not included in the Transportation appropriations bill—and I do believe they need the additional money.

In my conversation today with W. Graham Clayter, Jr., president of Amtrak, I was informed that these cuts have to be made because of the lack of operating capital. However, Mr. Clayter informed me that not one person in Amtrak's Washington office would lose their job. While some 30 employees in the 15 stations listed by Amtrak for closing today will lose their jobs, not one person in the stable of lawyers and other highly paid executives at Amtrak's headquarters will be effected.

Mr. Speaker, personally I find that decision to be absurd. While shutting down stations such as McComb, MS, located in my Congressional District, with only two employees—and the source of some $20,000 per month in revenue, Amtrak has decided that top heavy management is more important than their presence in local communities.

I also think that it is ridiculous to think that Amtrak can save the $29 million they claim to need by closing the stations in Amsterdam, NY, Centralia, IL, Cheyenne, WY, Chillicothe, IL, Del Ray Beach, FL, Devil's Lake, ND, Forth Wayne, IN, Malta, MT, Matoon, IL, McComb, MS, Pocatello, ID, Southern Pines, NC, Temple, TX, Youngstown, OH, and Hattiesburg, MS.

Mr. Speaker, I am not sure if Amtrak is trying to send a message by taking these steps or what. However, I am appalled not only that Amtrak has taken the steps to close these stations during the debate on their appropriations bill, but also that they would take such a step without first notifying the Members of Congress that have stations that will be effected by these closures.

The very last thing a business would do when trying to get its' financial house in order would be to close the doors where the money comes in. It makes no sense—it is absurd. When you close these stations, you lose money. If a station is losing money, then there is an argument that it should be closed. If a station is making a profit, there is absolutely no—I repeat, no—reason to close it.

Finally, Mr. Speaker, this whole situation causes me to question the entirety of the funding for Amtrak. In the future if they do not get their way, what will they do?

AN ALTERNATIVE TO NAFTA: A CONTINENTAL AGREEMENT FOR DEVELOPMENT, EQUITY, AND EMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, this evening I would like to read into the RECORD remarks of a woman leader from Mexico on the proposed North American Free-Trade Agreement. I will not give her name for the RECORD, because I do not want to jeopardize her personal safety in her own country, but when our women's delegation visited down there last May she pleaded with me to read this suggestion to our President of the United States, Bill Clinton, as an alternative to the proposed agreement that we will be voting on shortly here.

She says: "What we really need is an alternative to the NAFTA, a continental agreement for development, equity, and employment." She goes back many years and says,

> The forerunner of an Hemispheric policy is the Alliance for Progress, which, though an answer to the Cuban Revolution, was inspired in a framework of democracy and shared development on a continental level. On the other hand, NAFTA, the North American Trade Agreement, tries to use the countries of the South as cheap labor, raw material, and minor manufacturing supplies, and as a vast field for investments.

She calls upon the new Democratic administration of the United States to bring together the Organization of American States and other regional entities as well, where the finest experts of the hemisphere could lay out the foundations for a different agreement.

□ 2110

She says the lack of competitiveness in North America is not caused by barriers to trade, or by the lack of institutional stimuli to investment, but by deep structural imbalances brought by the unregulated and predatory attitudes of the multinational corporations.

She says until the late 1970's the so-called Third World countries sought to implement formulas to establish a code of conduct for multinational conglomerates, but these enterprises have helped to develop an ideological climate that weakens national sovereignty in favor of the what she calls "globalizers." This rarefied atmosphere makes the rights of individuals and communities diluted in the face of these conglomerates.

It becomes increasingly clear that a handful of European, American, and Japanese corporations will direct what will be a new world economic order.

And she says NAFTA is just another version of trickle-down economics applied to all of North America that will only mean more corporate profits, and income concentration, and less jobs because of the intensive use of capital and automatized technology, and more pressure to occupy badly paid jobs.

She says NAFTA was negotiated with no other objective than giving transnationals more power and abandoning medium and small industries to their own fate. Besides the interest of wage earners, peasants, and other sectors of each country are ignored as well as the asymmetries between future partners.

She says NAFTA is the final thrust of a vertical integration process that began several years ago after the signing of the letter of intention with the International Monetary Fund in 1982. Since then, the IMF and other institutions linked with the interest of the United States has been able to exert an enormous influence in Mexico's macroeconomic policies, especially in the financial and public sectors.

And she says even though great volumes of capital have come in, they are mostly speculative and therefore force the monetary authorities to safekeeping a high amount of reserves to confront eventual instabilities in the external sector. The government, far from stimulating public investment from infrastructure, productive and social development, raises taxes and withdraws longly held social benefits.

She says NAFTA neglects the fact that Mexico has already taken advantage of its closeness to the world's largest market by selling 70 percent of its exports and buying from it 68 percent of its total imports. Factors like the strong reappearance of high deficits in the commercial and payments balances, which commanded no less than $20 billion in 1992, are spoken of in low whispers. Productive infrastructure is severely deteriorated in key sectors such as highways, railroads, water, and the oil industry.

And she says finally that we believe a visionary focus is needed, one of great perspective, not unlike the Alliance for Progress that President Kennedy envisioned, that failed because of the resistance and even sabotage of the Latino-American oligarchies, among others.

She says unlike NAFTA, this pact must recognize the differences in living standards, development and productivity of the various economies.

And she says continental integration implies stimulating the Central American Common Market, the Andean Pact, the Mercosur and similar associations, and adjusting them to the bases and principles of the Hemispheric Pact.

She says the realization of such an agreement is already in the minds of many organizations, among them the Latin American Parliament, and she says it is a big purpose, it is a high goal, but I suspect it should be America's purpose too, the shared purpose of millions of people from the whole continent, the continent that once upon a time called itself the New World.

And I would say to our President, if he is listening this evening, and others who are listening tonight, to hear from a women who is a human rights activist in Mexico bears repeating in this Chamber of our free people because, in fact, these words cannot be uttered on the floor of the Parliament of Mexico in Mexico City. In fact, I cannot even read into the RECORD the name of this woman this evening. But she has a vision of not just this continent, but of South America and our neighbors in the Caribbean that goes far beyond this particular treaty.

We need to give people who have this type of vision a chance to have their ideas enacted as we move into the 21st century.

Mr. Speaker, I submit for the RECORD this evening an alternative to NAFTA written by a leader in Mexico. God bless her.

TRANSFER OF SPECIAL ORDER TIME

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent to yield my 60-minute special order this evening to the gentleman from Colorado [Mr. McINNIS].

The SPEAKER pro tempore (Mr. JOHNSON of Georgia). Is there objection to the request of the gentleman from Indiana?

There was no objection.

MULTIPLE USE OF PUBLIC LANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. McINNIS] is recognized for 60 minutes.

Mr. McINNIS. Mr. Speaker, I would like to take the opportunity this evening, I know we have had a lot of discussions in the last few days in regards to grazing on public lands, and I think it is necessary tonight for us to take a little time, sit back and get a picture of what the history looks like in regards to the public lands.

I, of course, am elected from the Third Congressional District of the State of Colorado. That particular district contains about 90 percent of the public lands in the State of Colorado. In Colorado we have about 20 million acres, 20 million acres of public lands.

Let us start back more or less at the beginning of the country and talk about how public lands came about. Many of my colleagues recall the saying, "Go West, young man." That all started when the United States decided that it wanted to expand this Nation, this newly conceived Nation from the Atlantic Ocean to the Pacific Ocean. And in carrying out that manifest destiny, so to speak, they decided, the government decided at that point that they wanted to give incentives so that the settlers would move toward the Pacific Ocean.

That occurred. There were a lot of incentives. You may remember some of the Gold Rush days, the land giveaways and so on. But what occurred in the early days of that wave of people going from the Atlantic Ocean to the Pacific Ocean is that not a lot of them stopped in the mountains. They did not stop in the Colorados, and they did not stop in the Wyomings, and they did not stop in the Oklahomas or the Utahs. They went through that area and went to the Pacific.

The Federal Government wanted communities in the mountain States. The Federal Government wanted settlements in the mountain States. They wanted grazing, they wanted harvesting of the beautiful natural resources that we have, the timber. So what they did was they offered special incentives under the Homestead Act, or the Desert Lands Entry Act or some of the other acts our history books would show us to try and get the people that were going to the West, these bold, young, tough settlers to go ahead and stay in some of these mountain States and to try and to develop that community as a part of a growing nation. And a lot of people did so.

In fact, in the mountains of Colorado it has often been assumed that the first people to settle there were the cattlemen. That is not true. It was the mining community and the miners. The cattlemen came later to provide food for the miners. Then, of course, we had the railroads and so on.

As part of the incentives the U.S. Government gave away land, and during the first part of the last century that is how they gave the incentives, and really the energy for these people to go out, and that is to give land to these settlers so that they went to these Mountain States they could get a start, they could have a head start, and hopefully they could develop communities. It worked very well. In fact, many small communities began popping up all over the mountains.

It is interesting. I am sure a lot of you vacation in the State of Colorado and you have been up in that very high country. You can get very high in the Mountains and you will see the remains of old settler camps. You can imagine how hard the life must have been back then.

But as the turn of the century came, the Federal Government began to change its policy. The Federal Government decided that it should adopt the policy of instead of giving away the land that the Government would no longer dispose of the land but keep its land within its own ownership. That was the policy, that while there was some disagreement, most people agreed with it.

But the basic ingredient, and probably the most critical ingredient that we need to discuss today, was the incentive that the Government kept in the program in order that these communities, which by then had been underway for many many years, and the traditions of the Western life, which was the dream of most of the people in this fine young country, the policy was to allow those people to continue multiple use, multiple use of the public lands. No longer would this Federal Government dispense with the Federal lands. Instead it would keep the Federal lands, but allow multiple use of those Federal lands, and that is the policy that is in effect today.

But sadly, I must report to all of my colleagues, I think it is under serious threat by people who I think have very little knowledge of the history of how these public lands came about, by people who are more concerned about their own personal agendas than they are about the tradition and the generations of families that settled back in the Colorado Rockies, or the Wyomings, or the Oklahomas, or the Kansases.

□ 2120

What is multiple use? What is multiple use? Let us talk about multiple use.

Multiple use on public lands means that while the Government owns the land, it has the philosophy that that land should be used for many different purposes.

Let us take an example: the environment. There are a lot of people in this country, and in fact I am proud to say I think the majority of people in this country, who want a beautiful environment.

So one of the things that the Government first did with its lands was to begin to name parks, set aside things like the Yellowstone National Park up in Wyoming, like the Rocky Mountain Flat Park in Colorado. They began to set aside forests, like the White River National Forest in the State of Colorado; beautiful areas were to be preserved for the future.

But they did not put all of these areas in a park. They did not put all of these areas in a national forest. They sat down and, I think, through very long studies said a portion of this should be used as protection—they did not use the word "environment" back then, but that is the word we use today—protection of those resources in its primitive form so that people can see what this country was like many, many years ago.

A portion of these public lands need to be used to support agricultural communities. A portion of these lands needs to be used for recreation. Back then they never even heard of skiing. They did not hear of some of the things, rafting of the rivers, at least not rafting the rivers for recreation. Of course, they were rafting the river with primitive rafts, nothing like we are using. But their recreation was hunting, so they preserved a part of that for hunting. They preserved a part of the Federal lands for transportation of water because in States like Colorado. Colorado is the only State of the Union where all of our water runs out of the State, none of the water comes into the State. And the very finest and purest water, of course, falls like snow on the top of the mountains and it is necessary to store water, necessary to move water by ditch, by canal, by pipeline. The Federal Government knew that was going to be necessary, and they preserved lands for that.

In fact, that policy became so strongly embedded—that is, the policy of multiple use—so strongly embedded in the Government's agenda that still today you can travel into these Federal lands and you will see a big sign that says, "You are now entering the White River National Forest," and underneath the sign it says, "A land of many uses."

A land of many uses: Well, I think there is a strong attempt to ignore that history, to ignore the traditions of the ranching families, the families who for generations have worked with the land, who love the land, who care for the land, who made the land productive.

They want to take that sign that says, "The land of many uses," and replace it with a sign that says, "No trespassing."

What are some other multiple uses that a lot of us do not even think about? You know, in the big cities like Washington, DC, and so on, you have cellular telephones, you have all kinds of the ability for communications. But, of course, in the mountain country, in the remote rural of America, it is necessary for us to use satellites, microwave beams; just the same as it is necessary for us to transport water in canals and in ditches across large areas of land, it is also necessary for us to put on the high mountain peaks radio antennas, microwave equipment, so that we too in the mountain areas and the rural areas of America can share in the great communication accomplishments that our country has.

So the location of towers, as I mentioned earlier, water storage on Federal lands. Recreation, there are probably not many of you in this room who have not enjoyed recreation on public lands, whether it is a nature walk through Yellowstone, rafting down the Colorado River, or going through Dinosaur National Park in the northeast corner of Colorado and Utah, or whether it is skiing at one of the fine ski areas in one of those States.

It could be hunting, it could be hiking, it could be taking a mountain bike and enjoying the public lands in that sense. All of that is recreation.

Some of you will have heard in the last few weeks that the multiple use of the Federal lands is draining the Federal budget, that that is the cause of the Federal deficit, that it is not carrying its own load. Let us look and see which industries are the heaviest subsidized. Recreation is, of course, the heaviest subsidized multiple use on Federal lands. But does that mean they are not carrying their fair share? To an extent, it does. But to an extent it does not, because a lot of these people helped watch that land, they were kind of chaperones of the lands. What is really happening back here, in my opinion, is that there is a strong effort for people to mask their own agenda with very pretty words, "Cheese"; pro-environment means you want single use of the environment; pro-environment means there is no room for ranchers, generations of families that have worked on that land, depended on that land, raised their families on that land. They put all kinds of buzzwords to put a pretty face on their own personal agenda. And it cannot work. They are going to ruin, they are going to ruin the history of this country and a very proud tradition; they are going to ruin many, many families and lives; they are going to wipe out agriculture on the public lands.

We need to maintain a balance, that commonsense ingredient that sometimes is very difficult to find amongst politicians and bureaucrats.

How do we do that? I think what we have to do is to study very carefully each of these uses and the importance that they have in those communities. We have to give heavy weight to the history and to the families that live on those particular areas that are going to be affected.

It is somewhat discouraging to hear, especially as you come back here to the Nation's Capital, that there seems to be more weight given to people who do not make a living off those lands, who do not live on the lands that are being affected, but yet their opinion and their pushing of non-use of these lands, pushing these lands to single use, seems to carry the day.

So we need to slow that down. The best way we can slow that down, in my opinion, is to begin to try and educate the importance of multiple use. There is plenty of room for everyone on those public lands. You need to have timber harvests, it needs to be managed carefully. If you have somebody who violates it, they need to be punished severely. We need to have national parks, we need to have wilderness areas, such as the one we just put into the 3d Congressional District in the State of Colorado; we need to allow for exploration, some exploration of minerals; we need to allow people who want to ski; we need to allow the mountain bikes up there; we need to allow the people who would like to hike or people who maybe are too elderly to hike who love to drive up and enjoy the mountains and that country.

Those are some of the things that I think are going to be very, very important to us.

Mr. Speaker, I yield to the gentleman from California, [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding.

I just wanted to add, as I have listened to his discussion about the need for multiple use of property, public property, and the need to allow Americans to use this land, I have a lot of this property in my district also. You know, we have a series of legislative issues coming before us, bills coming before us that basically lock out the public. There is a definite difference between preserving the public lands, protecting the public lands, and protecting the public lands from public use; that is, letting the American people use that land.

I listened to the gentleman and appreciate very, very much his articulate statements. I hope we can work together to help maintain, preserve America for American use and allow all our kids to do all the things on public lands that they enjoy: hunting, fishing, trailbiking, also our commercial interests, those people who mine and graze cattle and do all the other things that good stewards of our land do.

So I thank the gentleman and I look forward to listening to the rest of his remarks.

□ 2130

Mr. MCINNIS. Mr. Speaker, I thank the gentleman from California for his contribution.

I think it is important to the gentleman from California and to all my colleagues and, of course, the people who are able to observe some of the comments that we are able to make, that we keep a very, very close eye on one of the most important ingredients that made this country great, and that is the opportunity to enjoy the ownership of land. I can remember as a small child it was always my dream someday to own some acreage, to have a horse, to have the opportunity to have a home.

As we move into this next decade, I am very concerned that the strength of private property is being weakened under the guise of the language of the public good.

I think any kind of infringement on private property ownership must be watched with the same kind of scrutiny that our government watches some of the dissidents and some of those policies over the last 20 or 30 years that took place.

So for the gentleman from California, I look forward in the next few days, hopefully we can have a discussion on this floor about private property and some of the threats that we see occurring.

But before we can continue on with private property, we need to maintain or update, excuse me, an understanding of why it is so important that we keep multiple use on public lands.

Let me tell you a short story. I have a ranching friend in Colorado. He told me that an activist who was not really too excited about ranchers being on public lands came to the rancher and said, "You know, we think we could reach an agreement with some of the ranching community if we could come on to your ranch and see a baby growth, just a beginning growth of some vegetation, a middle-age growth and an old growth of vegetation."

And the rancher told me that he looked at this very young person and said, "I completely agree with you, but you have forgotten one ingredient. I want to be able to come on to this land and see what you have asked for, but I also want to see a baby rancher, a middle-aged rancher and an old rancher."

In other words, there is room for both.

So to my colleagues this evening, I hope that as we continue our debates on grazing and some of these other issues that we look at the long-term impact of what some of the changes are that are being proposed here in this U.S. Congress.

Let me tell you that in the last couple months the Secretary of the Interior, Mr. Babbitt, has proposed not only a hike in the grazing fees, but a very, very significant change in the management of public lands.

What has discouraged me the most about Mr. Babbitt's motives is that it appears his own personal agenda is moving ahead of the agenda of the interests of the people of this country.

Let me tell you that we recently have gotten our hands on an internal memo, a memo from Mr. Babbitt's right-hand people to the Secretary of the Interior, Mr. Babbitt. In that memo, the language says:

> Mr. Secretary, we know that it is your intent to use the grazing fee increase as a straw man to divert attention away from these other management issues.

These are the management issues, Mr. Speaker, that I was talking about just a few minutes ago that are so critical to the future management of those lands.

So you can see what is happening here is to divert everybody's attention to grazing fees and then let us sneak in, grab the water, let us sneak in and put in management changes that will be the most dramatic changes, negative changes that we have seen in this century.

The memo goes on even further from that, and the gentleman from California will be interested in this. The memo goes on to say that their own records, the Department of the Interior's own records show that the riparian areas in this country are the best they have been in this entire century.

The memo says further:

> So we must make deliberate attempts to show the bad riparian areas. We must be able to manage the comments that are coming in from the public so that it looks like these management changes—

which by the way narrow the opportunity for multiple use—

> so that it makes the changes look like they are reasonable.

I have to say to the people of this country, the frontiers of the mountains and the western states and the plains of Kansas, it still exists. It exists with people on it.

In fact, I think it has been made better by the good and fine people who have spent generations out there; but slowly and surely, if we continue to let the U.S. Congress in Washington, DC, chip away at those rights, chip away at those traditions, we are going to be reading about ranching communities and multiple uses on federal lands in our history books.

Mr. Speaker, I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, once again I thank the gentleman for his good words. I just wanted to say one thing about what I consider to be one of the most important American ideals, and that is the American conservation ethic.

The gentleman mentioned that the riparian areas are just as good as they have been for the last 40 or 50 years right now.

I might add something to that. If you look at our wild game species, there are more white-tailed deer in America than there have been for several hundred years. There are more white-tailed deer in America now than since when Lewis and Clark came through the great Northwest.

Our restocking programs for game animals have been tremendously successful. We have more elk than we have had in the last 30 or 40 years, more antelope on the Great Plains in Wyoming and Idaho and Montana and, of course, in the great State of Colorado we have enormous game herds, because Americans are good stewards of the land, and because they are good stewards of the land without a government bureaucrat looking over them and making them do things, the American conservation ethic that is a private ethic is what keeps this land in good shape.

I look forward to working with the gentleman toward expanding that conservation, that private ethic, and pulling the bureaucracy out of land use and land control.

Mr. McINNIS. Mr. Speaker, the comments of the gentleman from California are well-taken.

I am very excited about what we have done in Colorado, in the Mountain States and some of the States surrounding in our environment. We are learning a lot about how to protect that environment; but do you know what, we are able to protect that environment without running off the ranching communities, without destroying the skiing opportunities, without forcing us to tell the people who are riding mountain bikes, you can no longer ride your mountain bikes or ride your horses, but you can still have access to some of the most beautiful country in the world. We can do both of them. They are not opposite, they do not run opposite courses.

The opportunity for multiple use and the opportunity for protection of the environment has been proved in Colorado; but that is not the agenda, unfortunately, of some of our colleagues and of some of the bureaucrats in Washington, DC. They think they know best.

Let me conclude this by simply saying that I am looking forward to next week. I would like to talk a little about the water and the issues of water in the West and how important it is.

I can say that I am very proud to be from the West. I think we have a wonderful, wonderful time ahead of us if we could just maintain that balance.

Mr. Speaker, I ask unanimous consent that the balance of my time be allotted to the gentleman from Arizona [Mr. KOLBE].

The SPEAKER pro tempore (Mr. JOHNSON of Georgia). Is there objection to the request of the gentleman from Colorado?

There was no objection.

NAFTA AS IT RELATES TO THE STATES

Mr. KOLBE. Mr. Speaker, may I inquire how much time is remaining in the gentleman's hour?

The SPEAKER pro tempore. The gentleman has 40 minutes.

Mr. KOLBE. Mr. Speaker, I appreciate the gentleman yielding his time to us on this issue.

I would just say before I get into discussion on the other issue, I think it really does tie into the issue that the gentleman from Colorado was discussing a moment ago, and that is the issue of the rights of Federal land use. Those of us who come from the West and have lived out there understand the need to be able to be competitive in our world economy.

As a matter of fact, the cattle ranching business, and I represent a fair number of cattle ranchers, has been enormously successful in competing in what is a very tough environment today. In fact, with our neighbor to the south of us, the cattle industry has been very successful. We have taken a very large share of the Mexican cattle market, because our cattle are produced more cheaply, because we are more productive in our management techniques, because we are able to produce a better quality of beef.

So I think all these things lead very nicely into the issue that I want to take the remaining time to discuss, and that is this evening to focus on the North American Free-Trade Agreement, and specifically how it relates to the States, how do States gain from the North American Free-Trade Agreement, how important is trade with Mexico on a State level.

□ 2140

Well, the very simple answer to this, and the broad answer, is that Mexico is our faster growing export market in the world. It is the second most common destination for our manufactured goods that are in export, and State-by-State export data show the continued importance of trade with Mexico.

I say to my colleagues, "If you were to underscore the importance of this, it would be with these words: Virtually every State has benefited from the rapid growth in United States exports to Mexico from 1987 to 1992."

Now, first question, I think, that has to be addressed is: Why is this the case? How is this so?

And the simple answer to that is that Mexico joined the General Agreement on Trade and Tariffs in 1986, and, when they did that, they began a systematic reduction in their tariff structure, and the result is that the United States, with our more productive processes, with our tremendous manufacturing techniques, we have been able to sell more and more of our goods to Mexico.

Mr. DREIER. Mr. Speaker, would the gentleman yield on that point?

Mr. KOLBE. And each and every State has gained from that, and I would like to yield to the gentleman from California, and, as I do that, I would point out that his State, the State of California, has seen an increase in the last 5 years. This is not the total amount, but an increase of $47.3 billion in additional sales of goods to Mexico on an annualized basis in the last 5 years, and with that I would like to yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from Arizona [Mr. KOLBE], for yielding to me, and I would like to congratulate him for all of the effort that he has put into passage of what I clearly believe to be the most important domestic and international policy vote we are going to be facing here, and I would also like to compliment him for his stellar performance on the Cable News Network's "Crossfire" program which was on a couple of hours ago.

Let me just say, following on the one point that my friend made, he said virtually every State has seen a tremendous increase in the level of exports to Mexico over the past 6 or 7 years, and the fact of the matter is, with the exception of only two States, we have seen an increase in the level of exports to Mexico that has ranged from a 100- to a 300-percent increase in the level of exports, and it has come about not only because of the fact that the Mexican Government joined in 1985, as they did, the General Agreement on Tariffs and Trade which is designed to decrease trade barriers, but also due to the tremendous level of privatization which has taken place in Mexico in that same period of time as we watched the Mexican Government move from Socialist policies toward a bold free-market system. And I think it is very important for us to realize that, and we are gratified by the fact that so many Members of Congress are finally beginning to get the message that there are tremendous benefits to both sides of the border on this issue, and I thank my friend for yielding.

Mr. KOLBE. Certainly, and I hope that we will continue this dialog.

As the gentleman said, the stakes have increased so tremendously. Again let me emphasize the figures for the gentleman's State:

In 1987 California sold $2.3 billion of goods and services to Mexico. Now, even in the midst of the recession that the gentleman's State has been suffering from, last year they sold $6.6 billion of goods and services to Mexico. They are the second highest; no other State except Texas sells more to Mexico than does the State of California.

Mr. DREIER. The gentleman from Arizona [Mr. KOLBE] has convinced me to support NAFTA.

Mr. KOLBE. So, it is almost a threefold increase right there, and I think that is one of the really significant aspects of this, and I see that my colleague, my friend, from Arizona, is over on the other side there, and I would be happy to yield to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Speaker, I do not want to leave my colleague from the Copper State quoting only California statistics, and I have some Arizona statistics from the State that we share, and the point is that it is not just big States that have benefited. It is also some of the smaller States such as Arizona, and in Arizona we have seen total

Arizona exports from Mexico in 1987 were about a little under $650 million, are now $1.8 billion, and the most significant fact, I think, to emphasize is the growth that we have seen are in exactly those sectors of the economy that we want to encourage. Some of the areas where we have seen the greatest increase are in fabricated metal products which is up over 2,800 percent in that period. Electric and electronic equipment, which exports from Arizona, grew. This is the growth of over $350 million and transportation equipment where the absolute dollar change was about $300,000.

Mr. Speaker, these numbers show that the types of businesses that have benefited from access to the rapidly growing Mexican market are generally exactly those types of high-growth, high-value-added businesses that we need to encourage.

Whatever the cause has been, Mexico is growing, and exactly those businesses we need to encourage to be competitive have benefited thereby.

Mr. KOLBE. Mr. Speaker, I appreciate the gentleman's comments, and the gentleman is absolutely correct when he talks about the different types of products that would benefit so tremendously from having a North American Free Trade Agreement, and I am sure that my friend from slightly north of me in Arizona, from the Valley of the Sun, is aware of the fact that even with the tremendous reductions in tariffs that has taken place in Mexico they continue to have a tariff that is 2½ times on average, 2½ times greater than ours——

Mr. COPPERSMITH. And that is just an average tariff if the——

Mr. KOLBE. That is an average tariff.

If the NAFTA were, and I am going to cover a few that are not so average, but if NAFTA were to be implemented, more than 50 percent of all products would go to zero the first day of implementation.

Now that means that basically there is going to be a complete reduction in taxes by Mexicans on our products. Now I cannot understand why somebody is against having the Mexicans reduce taxes on our products being sold in Mexico. That is what the North American Free Trade Agreement is all about.

And as the gentleman pointed out, some of these products have a much higher tariff. For example, our tariff on chemicals that come in from Mexico are at 4 percent. The tariffs that the Mexican applies to our chemicals, and it is a huge industry in the United States, the chemical industry, is 20 percent, so the ration is 5 to 1, and there is some that is even more than that.

For example, household appliances. Now here is an area where Mexico's economy, with the growth in disposable income, people have more money to buy refrigerators, to buy stoves, to buy other things, and yet Mexico continues to apply a 17-percent tariff to household appliances, and we apply a 1-percent tariff, a ratio of 17 to 1.

I guess we could take the one that is the most of all, and that is flat glass where there is a 20-percent Mexican tariff and there is a three-tenths of a percent U.S. tariff, and I see that the gentleman from California down there in the well has some of these statistics shown in a very graphic fashion, and I would like to yield to him for a moment to describe some of these.

Mr. DREIER. Well, I have set it up in such a way that I cannot see it, but I know that computers are on here first. It has an average tariff of 10 percent. Actually it is as high as 20 percent for computers, for U.S.-manufactured computers, going into Mexico, whereas the tariff on Mexican computers coming into the United States is only 2 percent, 2.2 percent, so, as my friend from Phoenix has said very accurately, that 2½ times disparity is only an average, but it is much greater, and the President of IBM has said that if we do not pass the North American Free Trade Agreement he will have no choice but to move more operations to Mexico.

Why? Because that 10- to 20-percent tariff will remain, and unfortunately he will have to gain access to the Mexican consumer market by moving there rather than doing what he would rather do, and that is manufacturing in the United States.

Mr. KOLBE. And, as that chart goes on to show, that we have no tariffs whatever on computer chips, for example, while the Mexicans apply a 10-percent tariff. So, we would have a tremendous advantage when the Mexican tariff was reduced.

Mr. COPPERSMITH. Mr. Speaker, if the gentleman will yield——

Mr. KOLBE. I yield to the gentleman from Arizona.

Mr. COPPERSMITH. I think that it is important to note that the charts in front of us show only the relative tariffs between the United States and Mexico, what happens now, what happens after NAFTA. But what many people may not realize is that after NAFTA the Mexican tariff goes to zero only for goods from the United States. That 20-percent tariff for computer products and 10-percent tariff for computer chips remains in place for the Japanese and for the Western Europeans. What NAFTA does are two things. First, it requires far more of the Mexicans than it does of us in the tariff structure. They have to lower their tariffs far more than we need to. The second thing it does is ensure preferential access to the rapidly growing Mexican market for American workers and American products.

Mr. KOLBE. Mr. Speaker, I appreciate the comments that the gentleman from Arizona [Mr. COPPERSMITH] has made because I think they very accurately reflect the realities of the gains we are going to make with this kind of trade agreement.

I am going to yield in just one moment to the gentleman from Arkansas who has been a real stalwart on this issue. Before we do and before we leave these charts, the next one deals with cars, and light trucks and auto parts, and I cannot help but make a comment about that because we have seen the opposition that has come from labor unions representing the automobile industry on this agreement.

□ 2150

The irony is that automobiles and auto parts and truck manufacturers in the United States will be among the biggest beneficiaries of the Free Trade Agreement. To understand why that is the case you have to understand what the situation is today. There is a law in Mexico, very simply put, called the Pact, the Auto Pact, which says that if you want to ship a car to Mexico, if you want to import a car into Mexico and sell it, that is, if General Motors wants to send a light truck down there and sell it, you first have to export two trucks or two automobiles from Mexico to the United States. So that has forced manufacturers to establish plants in Mexico and to get into the export business.

With NAFTA, over the course of the next 10 years, all of that will change and there will be no such limitation. It will be possible for manufacturers to rationalize their production, do their production of automobiles here in the United States and ship them to Mexico without having the tariffs on them.

Indeed, even with the initial reduction in tariffs that are expected at the beginning of this agreement, the big three auto makers estimate that their exports of automobiles to Mexico will increase from 1,000, which is almost nothing, to 66,000 the first year. By the end of the 10 years, with full implementation, they expect that they will have exports to Mexico of several hundred thousand cars per year. That means literally tens of thousands of auto manufacturing workers in the United States are going to be employed because of the sales that we are going to be making in Mexico. That is the tremendous advantage that this agreement has for the United States and for workers in the automobile industry.

With that, let me yield to my good friend from Arkansas [Mr. DICKEY], a close friend, who has really been one of the individuals who has worked so hard on this to understand what this is about. His State is one of our major agricultural producers in this country and stands also to benefit from selling more agricultural products in Mexico.

Mr. DICKEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to add to this discussion the definition of market share. I own two Taco Bells in Pine Bluff, AR. We started out in 1985 with the idea that we were going to try to get all of the market share of Mexican food, and we did it. We got as much as we could possibly get.

We then had to move forward, and we did it with quality, low cost, cleanliness, and speed.

We then moved into what we called the hamburger market share, and we went after the hamburger market share. We have now started competing with the value menu and so forth like that, and we now have the market share. We are gaining market share in that particular industry in the hamburger business.

What does that mean as far as this NAFTA discussion is concerned? Market and market availability is the most important thing that you can have in this business. You can do the best job in every way, with quality, with speed, with cost, with cleanliness, or whatever, and you can only get your share of the market.

When you can find other markets that are available, it is imperative that you move forward, if in fact you want to gain jobs and have your economy grow.

Our United States has hit the ceiling. The market share has been cut down. It is dwindling. Our global competition and our efforts in that direction have reached a limit, and we must have market share.

Here on our border to the south are 90 million people who are trying to raise their standard of living, trying to find ways to buy more products, and we have a chance to get that market share. What is limiting us right now is the tax, or the tariff. We cannot get to those people as well as we could without the tax.

The 10,000 jobs we are losing a month are an indication of what the market share is doing and how our particular economy is going. We cannot blame that on Mexico. We can blame it on the fact we are not competing worldwide, and we need to gain more of the market globally.

We have got 90 million people, as I mentioned, 700 million people in all of South America. This, businesswise, is a bonanza, a place where we can go and sell our goods and export. And when we export, we export with salaries and jobs that are higher paying than ordinary.

This is something we should have ambition for. We should want the middle class to grow in Mexico, for a lot of reasons. One is so they can buy more American products.

But we have this tax standing in our way. What was mentioned about the light trucks and the cars, we have 25 percent on trucks, 20 percent on cars. This is what happens in business. If we have got that tax on all of the things that we are selling down there, it limits our competition.

If someone wants to move a plant to Mexico and they are paying that tax, they can finance the construction of manufacturing a Mexico building there and avoid that tax, which means that the 20 or 25 percent that they would have to pay is no longer necessary for them to pay. It compels plants to look at moving to Mexico, even when they do not want to.

It is not even necessary for plants to locate there. We have the finest workers in the world in the United States. There is no question about it. We are acting as if we do not. We are acting as if somebody in Mexico could give a better quality product, better productivity, and they cannot.

So what we are having to do is we are having to get our plants and our manufacturing units, particularly automobiles, to consider moving down there to reach this market.

We cannot deny that we need market. We cannot deny that there is a market down there. So what we do, if we vote for NAFTA, we knock those barriers down. The people can live in the United States, plants can service that market share with products from America, and we can have our goods sent there value-added.

An indication of that, of the productivity of the American worker, recently a European manufacturer moved to South Carolina from Europe. They had a choice to move to Mexico, but they chose not to, because we have the best workers. We have the cheapest productivity, because our workers can do better than anybody else.

Lee Iacocca said today we can build a car in America cheaper than anywhere in the world. So why force people to consider moving down there with this tariff and this tax?

Speaking of moving, our Arkansas assets are tied to the land. We have timber and we have agriculture, and these are assets that cannot be moved. So we are pretty secure. We also are in close proximity to the border.

I am puzzled why anybody from Arkansas would ever consider NAFTA a bad deal. I would consider that Arkansas would get a boon in economics and in development of our economy. We cannot deny that. But we also have to look at America's problems, not just those of Arkansas.

So we hear people say "no" to NAFTA from other parts of the country. Historically we have sent our raw materials up North and we have gotten their value-added sent back to us, where we buy it.

To give an illustration, historically we have our workers at $2.50 an hour trying to buy cars being built by workers who are getting $10 an hour. That is the status quo. But what is happening is we can get in the same position, accept the same role in our looking at Mexico and South America. Here the people who are wanting the status quo, who want things to stay the same, do they want to keep us in that position? I do not think so. Heaven forbid, they may consider the fact that they have to move to the lower States in the South to relocate when the jobs are really brought to our area of the country.

It has been hard struggling like that in Arkansas, but we are ready to step up and take our position.

We also have other reasons for the opposition. One is political, and it is hard to figure. It is hard to figure how jobs, higher paying jobs, can actually be any harm to anybody. But it is this failure to want to relocate, to adjust, to get away from the status quo, that is causing this.

We either can look back, or we can look forward, and we are asking you as proponents of NAFTA to look forward. If we do not pass NAFTA, what happens? Well, we then have the progress that Mexico has brought upon itself by reducing the tariff, we have that progress halted. We have further need for immigration, further need to burden our system with health care costs, schooling costs, welfare, and unemployment. We also have enforcement problems that come from this.

So what we are saying is you say "no" to NAFTA and you increase the chances of that happening. You say "yes" to NAFTA and we decrease the chances of that happening. So we not only make more money on our exports, pay more tax revenues, but we have to do less as far as defending our borders.

The other thing that might happen is that Japan and Germany are sitting wanting us to turn NAFTA down.

□ 2200

They want to come in there and build these markets. They cannot do it now because of our competition, and that goes back to market share. But if they start building their system of delivery and their infrastructure so that they can deliver goods to Mexico and Mexico has to turn to them and say, here is no tariff to you, then we are going to lose this market. And it is going to be all but impossible to get it back.

We are going to have trouble explaining that to our Nation, to our children, and to our grandchildren.

What we have to do is to look at what the status quo will do. It will suffocate Mexico. It will suffocate us. We can look back to nothing. We look forward to market share, more jobs, more tax revenues, more help for our labor, more help for our economy and better bargaining power in the global market.

I say "yes" to NAFTA for these reasons, and I think these reasons are compelling.

Mr. KOLBE. Mr. Speaker, I thank the gentleman from Arkansas for his contribution, and I think he is absolutely right when he talks about market share and how we build that.

When we speak about market share, one of the States that has done so well in that regard is the State of Washington, which in the last 5 years, with Mexico alone, has increased its exports by $482 million, a rather substantial figure, one of the top 10 States, as a matter of fact, in terms of the increases of exports to the country of Mexico.

I yield to the gentleman from Selah, WA [Mr. INSLEE], on this issue.

Mr. INSLEE. Mr. Speaker, I appreciate that, and the gentleman is correct. The State of Washington has paved the way to show the importance of free and fair trade with Mexico. And as you have pointed out, the State of Washington has created over 2,000 new jobs in the last 5 years because we have had a certain medicine we have used for this problem of jobs and job loss in this country.

The people we represent, they want job creation. They want better wages. And in the State of Washington, we have had some medicine we have taken. And that is fair trade with Mexico.

That medicine has been that we have got Mexico to bring down, to knock down their tariff barriers half of what they used to be 5 years ago, and the result of taking that medicine is that we have created over 2,000 new jobs in my State alone.

The problem is, we have not solved that sickness down in Mexico, as previous speakers have alluded to. We still have a 10-percent tariff sickness that we have got to cure in Mexico so that we can create more jobs.

Americans who may be watching this debate this evening wonder whether this is going to be a job creator or, as the opponents argue, it is a job loser. It is kind of like, it seems to me, as if we have a sickness. Who would we trust to decide what medicine to take. It seems to me if we had pneumonia, we would trust a doctor. We would not trust someone who is a bus driver or a lawyer. We would trust a doctor.

In this case, look what people who have studied this issue say. They have awarded, in the international community, 12 Nobel Prizes to economists who are American in the past 30 years, and what do these Nobel Prize-winning economists say? Every single one of them says this is going to be a job creator and a wage enhancer in this country. And it seems to me that we need to give some credence to the people who have studied this, including all six Presidents who have said this is a job creator. And we know that because in the State of Washington it has been exactly that.

Let me just close by saying one thing: More importantly than the Nobel Prize winners, more importantly than the Presidents, let me tell you who else believes NAFTA is a good deal for America. That is the people I meet, who are working people.

I went back and met with some working people last week in my district. I said, "Folks, if I could knock down a Mexican trade barrier that is twice as high as ours, take theirs from 10 to 0 or ours goes to 4 to 0 so you will not have to pay that unconscionable tax that you are now paying, do you think I should do that?" And to a person, they said, "You're darn right. Not only do we want you to do that, we expect you to do that."

I said, "Fellows, that is NAFTA." And when the American people, who are the most important, more important than the Nobel Prize winners, more important than Presidents, when they learn that this evens the playing field with Mexico, they support NAFTA. That is why we ought to pass it.

Mr. KOLBE. Mr. Speaker, I appreciate the gentleman's comments. I think he has put his finger right on it, when he talks about NAFTA is really a tax issue. It is an issue of Mexicans taxing our exports to their country. And when that happens, when they tax it, we cannot sell as much product or as much services. When we take that tax off, we will sell more and that, of course, means jobs here in the United States. I appreciate the gentleman's contribution.

I yield to the gentleman from Michigan [Mr. KNOLLENBERG], who comes from a State which, because of the automobile industry, will be certainly very much affected by NAFTA.

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman for yielding to me. I appreciate the time to participate in this special order. I have watched with some humor as the debate over NAFTA has escalated in the past year.

It has often been said that truth is the first casualty of war.

Well, in this war of words, the first casualty has been our sense of perspective.

Just look at what we listen to day after day. On one side, we have people like Ross Perot claiming that passage of NAFTA will throw millions of people out of work, cause a full blown depression—and I guess, turn us into nomadic bands of economic refugees hunting for nuts and berries.

Admittedly, we also have naive freetraders who tout the NAFTA as the cure for all America's economic ills.

In reality, NAFTA is not that big of a deal. While there is nearly universal consensus among economists and business analysts that NAFTA will create jobs and spur export-driven economic growth, its overall impact on the U.S. economy will be small compared to other factors like interest rates, taxes, and Government regulation and mandates.

But there are notable exceptions—take Michigan for example. Michigan is home to arguably the biggest winner under NAFTA—the U.S. auto industry.

It's true, the U.S. auto industry probably stands to gain more from NAFTA than any other sector of the American economy—and not just for the guys in the boardroom.

This agreement will create new jobs at every level: Blue collar and white collar, on the line and in the office, designers, assemblers, engineers, marketers, suppliers—you name it.

Ironically however, the very State that stands to benefit most, has become the epicenter of NAFTA opposition.

I personally believe this opposition emanates not so much from the details of the agreement, but from an unfocused fear that America is losing its competitive edge.

After all, Michigan watched for 20 years as the Big Three's grip over the American market dissolved into ruthless international competition, and many workers lost their jobs during this transition, as plants were moved elsewhere and became increasingly automated.

Because of their experience, I can see how some people make the leap and believe that open trade costs jobs.

But I am here tonight to tell you that past experiences do not apply to NAFTA. Here's why.

NAFTA is about lowering Mexican tariffs. Presently, Mexico's tariff on United States built cars is 20 percent, eight times higher than the 2.5-percent tariff the United States levies on Mexican-built autos. By eliminating them all together, the United States obviously comes out ahead.

But the untold story lies with Mexico's nontariff barriers. Right now, they essentially say, "If you want to sell cars and trucks here, you have to make them here."

Specifically, the Mexican Government requires that American car companies maintain an import/export ratio of 1.75 to 1 with Mexico.

That means, if GM or Ford wanted to export a $10,000 car to Mexico, it would have to import $17,500 worth of vehicles and parts from their plants in Mexico into the United States.

Because of these restrictions, American carmakers are left with no choice but to locate plants in Mexico.

Consider the most recent example: Chrysler will soon introduce its Neon subcompact in North America. The company plans on selling 300,000 Neons in America next year, and 75,000 in Mexico. While the main Neon plant is located in Illinois, Mexican rules have forced Chrysler to build an additional plant in Mexico to produce those 75,000 cars destined for the Mexican market.

As Chrysler president Bob Lutz stated recently, "If we had NAFTA, we wouldn't have had the expense of putting in the Mexican facility."

Under NAFTA, the import/export ratio would be halved immediately and eliminated altogether over 10 years.

You will also notice that Chrysler did not choose simply to build all of its Neons in Mexico. And I doubt they opted for U.S. production out of pity for the American worker. They located here because American workers are second to none.

And, believe it or not, it is actually cheaper to build a car here in America than it is in Mexico. The Congressional Office of Technology Assessment did a study on auto production in Mexico. They found that because of higher parts, shipping, and inventory costs, it costs over $400 more to build a car in Mexico, regardless of its cheaper wages.

Yet, because of prohibitive tariffs and quotas on United States-built cars, we only ship 1,000 cars into Mexico each year. If NAFTA is implemented, the Big Three plan to increase that number to 60,000 in the first year alone. And as Mexico's restrictions are phased out, that number is sure to grow.

Taken together, lower tariffs and more access to the Mexican market means more sales, more profits, and more jobs for American auto companies and their workers.

Now, let's take a look the three most common myths about NAFTA as it relates to the auto industry—

Myth No. 1. NAFTA will accelerate the movement of car plants to Mexico. As I just explained, United States carmakers have moved to Mexico because they are forced to by the status quo trade policy. But I ask you, if it were the intention of the Big Three to move their plants south of the border, wouldn't they have done so already? It makes absolutely no sense that an agreement that makes it easier to export cars from the United States would somehow act as an incentive for U.S. companies to move across the border.

Myth No. 2. The Mexican people are too poor to afford our cars. Trade statistics don't lie. According to the International Trade Commission, "Mexico has the fastest growing market for motor vehicle cars in North America, and the market in the year 2000 is expected to be as large as the Canadian market."

In fact, Mexico's need for light and heavy trucks is so great, that people are actually smuggling them over the border and selling them on the black market.

What's more, NAFTA will allow financing companies like GMAC to do business in Mexico, thus making cars more affordable to the average consumer.

Myth No. 3. Under NAFTA, Mexico will become a giant export platform into the United States. In fact, NAFTA prevents foreign automakers from dodging tariffs by assembling cars in Mexico with imported parts, then shipping them to the United States. Under NAFTA, cars built in North America must have at least a 62.5 percent local part content—local meaning United States, Canada, or Mexico—to receive duty-free treatment.

Let me make one final point. There is one common theme that runs through the arguments of NAFTA's opponents—that somehow, Mexican workers are dollar for dollar, better than their American counterparts.

I happen to disagree. Like anything else, you get what you pay for. Sure, Mexican wages are cheaper, but so is the workmanship.

The other day, I was looking through the latest issue of "Car and Driver" and I was struck by the comments of staff writer Frank Markus on the Mexican-built Volkswagen Jetta. He writes, and I quote:

> The Big Three have been praised for putting new models in rental fleets to get real-world feedback on quality control before they sell the cars to the public.
>
> VW expanded this idea by selling a full year's production of the Mexican-built Jetta and Golf in Mexico before bringing the cars here. So our test car can be assumed to represent normal series production quality.
>
> Unfortunately, the four cylinder engine was reluctant to start, the reasonably styled dash buzzed, and the manual windows required incredibly high effort plus a zillion cranks. Can we pllleeease have all our Jettas built in Germany?

Again, you get what you pay for.

On average, the wages of American manufacturing workers are paid 4.6 times more than their Mexican counterparts, but they are also 4.5 times more productive, making the so-called wage differential is really is nonissue.

The State of Michigan and the U.S. auto industry needs NAFTA now.

We need the lower tariffs; we need to be rid of onerous quotas and import restrictions; we need to use our extra production capacity, now going to waste, to serve Mexico's burgeoning market; and above all, the world needs the quality automotive products that only American men and women can build.

It's time to put the rhetoric aside and do the right thing: pass NAFTA.

□ 2210

Mr. KOLBE. I think the gentleman from Michigan for his comments. I cannot think of a more lucid explanation of what this really means.

I note in my list where it states rank, that Michigan is the fourth ranking State in terms of total exports to Mexico, despite its distance from the border. It is interesting, the first three are Texas, then California, and now, I might add, Arizona. We used to be fourth, behind the gentleman, but now we are third. We passed him up just last year.

Mr. Speaker, it is still indicative of the importance of this trade, the fact that Michigan has such a tremendous trade with Mexico. Of course, it is very largely in the area of auto parts.

Another individual, if I might, who has very recently been talking about this issue, I know in his own State, is an individual for whom I have the greatest respect. I yield to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to talk about a few issues surrounding NAFTA. Today a Mr. Charles Reid and his son, Charles Reid, came at their own expense to Washington to try and talk to us in Congress about the real world, what happens beyond the beltway. They are in the import-export business. They have been dealing with Mexico for many years. They are in the gallery at this moment, because they care about making sure that the truth of NAFTA is promoted, and not many of the falsehoods and exaggerations which the opponents of NAFTA have tried to perpetrate on the American people.

The truth is that the Mexican economy is really one-twelfth the size of the United States economy. They have less than 5 percent of our gross domestic product. There is no question that they are not in the same economic league as the United States. They are going to reduce their tariffs by an average of about 10 percent. We are going to reduce our tariffs by an average of 2.8 percent.

We, as the major manufacturer of consumer products in the world, are going to have an enormous benefit, much greater than Mexico. Despite what some may say about this great sucking sound which will occur in Mexico, the reality is that if businesses wanted to go to Mexico, they would already be there.

Clearly there is a differential in wages. As Michael Porter has indicated in his research from Harvard, wages is a very small factor in business decisions. The factors which affect companies moving are quality of work, education of workers, productivity, and the ability to use technology.

Many companies have already gone to Mexico, and they have come back because, while the wages of the Mexican worker are very low, their educational structure is very inadequate, their training of their workers is at the moment very inadequate, their productivity is much less than what we have in the United States right now.

That is not to say that in the future they will not be a better society and have a better educated work force, but today the American worker is still the most productive worker in the world.

If we are willing to understand the realities of what we are dealing with today, then we are not afraid of competition. We will understand that this is the beginning of a worldwide trade, making sure that we open up this hemisphere and that we are, even more importantly, going to tell all of the countries in Latin America and South America that we are going to help our hemisphere.

President Salinas has done a great deal for his country. He has moved it towards a more productive and more democratic nation. If we turn our backs on President Salinas it will send the message to all of Latin America that we do not care about their progress towards democracy. If we turn our backs on this agreement, it is my opinion that the peso will be devalued, that the wages will drop in Mexico, that we will have even more people migrating into this country, and that the problems associated with not passing NAFTA are going to be far greater.

In fact, if we do not pass NAFTA, as many companies have told me, from large international auto makers to small companies who are manufacturing goods and sending them into Mexico, they will have to go to Mexico because of the content limits on goods which are currently in existence in Mexico, to open up their plants, to build their goods in Mexico.

It is essential, Mr. Speaker, for this country to recognize that if we are going to deal in a global marketplace, we have to be competitive. That means that we have to get rid of these trade barriers that we can see. The chemicals have a 10 percent to a 20 percent trade barrier that Mexico is willing to drop, 15 percent for pharmaceuticals, and in my State of Rhode Island, they have a tariff on textiles of 14 to 20 percent. In my State, which does a lot of textiles, we are actually going to benefit.

Mr. Speaker, we have a lot of labor in our State. We have a lot of people who are concerned about jobs. Unfortunately, this NAFTA agreement has, I think, crystallized the fears of American workers who have lost their jobs, thinking that this is the reason, or that it will precipitate more losses of jobs in the future.

My view is, frankly, it is going to help our economy. In my State, which has created the industrial revolution with the creation of the Slater mill in the early 1700's, we increased our exports to Mexico this last year alone from $21 to $44 million, a 77-percent increase. NAFTA is good for jobs in America. It is good for our leadership. With that, I would like to turn it back to the distinguished gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his contribution. We have heard here tonight representatives from six States, from Arizona, from California, from Michigan, from Washington, from Arkansas, from Rhode Island, talk about how NAFTA is going to increase jobs in their State. During the course of the next several weeks we will have an opportunity to continue this discussion about why NAFTA is good for jobs, is good for America, is good for the American worker.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 281, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-304) on the resolution (H. Res. 282) providing for consideration of the joint resolution (H.J. Res. 281) making further continuing appropriations for the fiscal year 1994, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE NORTH AMERICAN FREE TRADE AGREEMENT

The SPEAKER pro tempore (Mr. JOHNSON of Georgia). Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR. Mr. Speaker, I am here once again this evening with my colleagues, the gentleman from Michigan [Mr. STUPAK], the gentleman from Ohio [Mr. BROWN], the gentlewoman from Ohio [Ms. KAPTUR], and the gentleman from Pennsylvania [Mr. KLINK], to talk about the North American Free Trade Agreement.

To be honest, Mr. Speaker, the longer this debate goes on, and the more I listen to the arguments of the people in favor of this treaty, once again I cannot help but think of that story about those two brothers who went up to the wilds of Canada to hunt moose.

They hunted for a week, and each of them had bagged a huge moose.

When their pilot landed to take them home, he saw all their gear and the two moose and said, "I can't fly you two out of here with all that stuff. The load will be too heavy."

One of the brothers said: "I don't understand. Last year, each of us had a moose, and the pilot loaded everything."

"Well," said the pilot. "I guess if you did it last year, I can do it, too."

So they loaded the plane. It moved slowly across the lake, over the trees, and toward the mountain. but it was too heavy and it crashed into the mountain.

Luckily, no one was hurt, and as they crawled out of the wreckage, one brother asked, "where are we?"

The other brother looked around and said, "Oh, about a mile farther than we got last year."

The point, is, the brothers didn't give the pilot all the information he needed, and the plane crashed.

NAFTA supporters have been trying to keep some information about NAFTA from going public because they know if the truth comes out NAFTA will crash.

As I said last week, since this debate began, there has been a deep, dark secret hidden within NAFTA.

It is something NAFTA supporters wouldn't talk about.

They did their best to hide it.

And they acted like it didn't exist.

But the public is catching on.

The truth is coming out.

And the more it does, the closer NAFTA comes to crashing.

Mr. Speaker, the deep, dark truth behind NAFTA is that it is going to cost more than $50 billion to implement.

$50 billion that we don't have.

And if NAFTA supporters have their way, we're going to be asked to raise taxes to pay for it.

NAFTA supporters want us to raise taxes in order to send our jobs to Mexico.

And make no mistake about it, Mr. Speaker. NAFTA will send our jobs to Mexico.

We have lost 500,000 jobs to Mexico the past 12 years, and NAFTA will send another 500,000 jobs to Mexico.

How do we know? Because business leaders told us so.

Do not take my word for it. Listen to their own words.

□ 2220

Mr. Speaker, I put these charts up because I think they make my points better than I personally could make them.

Last year, the Wall Street Journal asked business leaders what impact NAFTA would have on their business decisions.

I think the headline just about says it all. It reads, "Heading South: U.S. Companies Plan Major Moves Into Mexico".

The study found that, "in a sign of American eagerness to expand in Mexico, 40 percent of respondents say it's very likely or somewhat likely that they will shift some production to Mexico in the next few years. That share is, even higher—55 percent—for executives at companies with $1 billion a year in sales."

Let me say that again: If NAFTA passes, 55 percent of America's largest businesses said they'd move manufacturing to Mexico the next few years.

And what's more damning is what they said about wages.

Even if they don't move directly to Mexico, the poll found that "about one-quarter of executives surveyed say they are very likely or somewhat likely to use the trade accord as a "bargaining chip" to try to hold down wages in the U.S."

Again, one out of every four business executives said they'd use NAFTA to force down our standard of living.

And this is just what they'd admit. When you look at their track record the past 10 years, you know the reality has got to be a lot worse.

And on top of all that, we are going to be asked to raise taxes to make it all happen.

Now you have American business suggesting to us that they will move down to Mexico once NAFTA is passed in huge numbers, 40 percent in one instance, 55 percent in the other. Twenty-five percent say they are going to lower wages.

Now what does the Mexican Government have to say about all of this? Well they say very clearly, very clearly, Mr. Speaker, in this chart right here that we have been showing for the last few months that you can come down to Mexico if you have a business and you can pay workers, with benefits, less than a dollar an hour. You can save $15,000 per worker, and you and your plant manager can live very well.

So we have the government inviting, the Mexican Government inviting business down, and business in this country saying we are going.

I do not have to make the case, BART STUPAK does not have to make the case, SHERROD BROWN, MARCY KAPTUR, RON KLINK, and my independent friend from Vermont, BERNIE SANDERS, we do not have to make the case. The business communities in this country as well as the Government of Mexico have made the case, and they want us to use your taxes to send our jobs there.

If that doesn't sound like the straw that broke the camel's back, I don't know what is.

Mr. Speaker, we have come to this floor once a week for the past 5 months to talk about NAFTA.

We have talked about the high cost of implementing NAFTA.

We have talked about the fact that the European Community took 40 years and spent over $100 billion the past 4 years to integrate economies much closer than ours and Mexicos.

And in all that time, we have not been able to find one NAFTA supporter who would come forward and tell us how they were going to pay for this treaty.

Not one person could tell us how, in these tight budgetary times, we were going to make up the $2.5 billion we'll lose in tariff revenue under NAFTA, every year.

Or how we'll pay the $21 billion it will cost to clean up the environmental cesspool on the border.

Or how we'll pay the $15 to $20 billion the Secretary of Commerce has told us it will cost to rebuild roads, bridges, and sewer systems along the border.

Not one person has come forward to tell us where we're going to find the $10 billion that Texas alone has requested to implement NAFTA.

Or where we'll find the $5 billion-plus it will cost to replace workers whose jobs leave for Mexico.

Or where we'll find the money to pay increased unemployment benefits expected, or increased agriculture price supports that NAFTA will force, or extra customs inspectors to stop drugs from coming over the border.

Not one person could tell us how we'll make up the loss of revenue and dislocation costs we experience when 500,000 workers lose their jobs.

Like I said earlier, all told, even conservative estimates of the cost of implementing NAFTA say that it will cost the United States somewhere between $40 -$50 billion.

That is $50 billion.

That's the $50 billion question NAFTA supporters have been ducking for 5 months.

That's the $50 billion question that not a single NAFTA supporter would come forward to answer, only because the answer is one of two things.

You cut existing entitlement programs or programs you raise taxes.

Two weeks ago, the New York Times reported that the administration is planning to double customs, immigration, and agricultural fees in order to pay for the tariff revenue loss from NAFTA.

It also says that the administration has been looking at imposing border crossing fees on trains, trucks, and individuals who cross the border.

And that's just the beginning.

According to the story, U.S. Trade Representative Mickey Kantor said that "there are a number of different alternatives" under consideration. He says: "Higher customs fees are only one of them. We've looked at 15 or 20" different alternatives.

And when an aide was asked to cite what areas they were looking at as alternatives, he said, "Medicare, disability, and Social Security."

Now, Mr. Speaker, are they really considering taking money from Social Security in order to pay for NAFTA?

Are they really thinking about taking money from Medicare in order to pay for this treaty?

Are they really considering ways to use money from disability payments to come up with the money for NAFTA?

Well, if they are, they better think again. We're not touching Social Security or Medicare to pay for this fatally flawed treaty.

Of course, after this report came out, some of NAFTA's strongest supporters sent a letter to the White House saying they could not support a NAFTA which includes tax increases."

And if NAFTA's strongest supporters say that, you know it's got to be bad.

But even still, today Budget Director Leon Panetta came out of a meeting on NAFTA financing and said that NAFTA would have to be paid for by either increasing taxes or cutting entitlement programs.

And he added, that cutting Social Security, and Medicare, and disability payments "to pay for the trade agreement would be even more controversial" than tax increases.

But, he said, he is willing to listen to possible entitlement cut suggestions, but so far he has not heard any.

Keep in mind, Mr. Speaker, right now we're not talking about the $50 billion price tag of implementing NAFTA.

We're just talking about how to make up the $2.5 billion that we'll lose in tariff revenue under NAFTA.

Earlier today, the Senate Finance Committee in the other body voted to extend the proposed NAFTA dislocation program from 18 months to 5 years. By doing that, they added $47 million to the price tag. And they couldn't even come up with a way to finance that.

If we can't even find $47 million—that's with an m—how are we supposed to find $50 billion—with a b—to pay for NAFTA?

Are we going to be asked to raise taxes in order to send our jobs to Mexico?

Are laid-off autoworkers in Michigan going to have their taxes raised to clean up environmental waste coming from Mexican factories that took their jobs?

Are garment workers in North Carolina going to have their taxes go up to pay for new bridges carrying products from Mexico that used to be made in North Carolina?

Are laid-off furniture workers in California going to have their tax bill go up to rebuild the roads that carried the trucks that took their jobs and their factories to Tijuana?

Are workers in the Northeast and the Midwest who lose jobs going to be asked to pay extra taxes out of their unemployment checks to help with economic development in border States that have taken their jobs?

Where does it end, Mr. Speaker?

Well, I say it's got to end here.

The buck has got to stop here.

We have got to defeat this treaty here.

There's no question who will pay the costs of NAFTA.

The American people will pay the costs.

In lost jobs.

In a lower standard of living.

In higher taxes.

In uprooted families.

In decimated communities.

And the years spent wondering how we will put the lives of our families and our neighbors back together after NAFTA will be extremely difficult.

□ 2230

America's business leaders themselves told us they will use NAFTA to send our jobs south and force wages down. They told us that. We cannot afford these social costs, we cannot afford these human costs, we cannot afford these economic costs, and we cannot afford to raise taxes in order to send our jobs to Mexico. This charade has gone on long enough. We have got to stand up and when we vote on this on the 17th or whenever they call it up under the administration, we have got to say "no" to this NAFTA.

I would be happy at this time to yield to my distinguished colleague, the gentleman from Michigan [Mr. STUPAK] and then to the gentleman from Ohio and others so that they may contribute to this dialog. I thank them for staying so late tonight to inform the American people and our colleagues about their deep concern over this issue.

Mr. Speaker, I yield to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. I thank the gentleman for yielding and for organizing this special order on NAFTA tonight.

You know, the gentleman mentioned the Wall Street Journal article which over a year ago, September 24, 1992, was that poll in which they indicated 55 percent of the major companies would be moving their plants to Mexico if NAFTA passes. Probably a more disgusting statistic is that 25 percent are already using the threat of NAFTA, moving their jobs, moving our jobs to Mexico, if our employees do not take lesser wages. They have been beating them over the head with this North American Free-Trade Agreement.

We could go on and on about how bad NAFTA is and how terrible it would be for our country.

I would like to read a letter from a constituent of mine, Adolph Kratt. Mr. Kratt is a retiree. He lives up in Hubbell, MI. Hubbell is the copper country of Michigan, where the snow has already fallen. The copper country was the home of the first mining boom in this country. Copper was the ore that they mined.

Today on this floor I argued for some money to create the Keew National Park to honor the labor of those first miners which gave birth to the U.S. labor movement. But more than money for the national park honoring his labor, Mr. Kratt asked a more fundamental question that I think we should all be asking ourselves. I will start with the second paragraph of this letter.

It says:

> I am going to tell you a true story and ask you what you think. My wife and I went uptown, we bought a new car, one of the most popular makes. I then went to the K-Mart, we needed house slippers and a mason trowel and home light switch, my wife needed a saucepan. When washing the saucepan, my wife said this pan is made in Mexico. I looked at the switch, and it said, "GE. Made in Mexico." The slippers, made in China; the trowel made in Japan; and our candy made in Germany; our car made in Canada with European tires on it. We paid about $20,000 for all, and not $1 went for American labor. Bart, what is wrong with our good old party and our Government? Please give me an answer.

Well, Mr. Kratt, what do I think? What has happened to our country? I think we forgot you, Mr. Kratt, we forgot American pride. With NAFTA, we forget, we forgot an American way of life, which was our pride in manufacturing, our pride in mining. Some people want to ship everything we stand for to Mexico. Our textiles, our apparel. They want to ship that to Mexico. Our auto industry, they want to ship that to Mexico; our electrical components, they want to ship that to Mexico.

I said Mr. Kratt is a retiree, and I am proud of the labor that he performed that helped create the high standard of living that we enjoy today in the United States. Mr. Kratt and his wife Irene are retired, but can still go out and buy an American car, while maybe not made here, certainly sold here in the United States. But the point is he can buy one. Why? Because of his pension, because of his labors, because of his labor union, because of the labor movement.

What is wrong, Mr. Kratt? Mr. Kratt hit it on the head: Not $1 went to an American worker or to an American plant. Yet Mr. Kratt, as his letter stated, he spent $20,000 and not $1 was here in this country for our people.

What will become of our consumers when we do not put any money back into our plants or back into our American workers? Mr. Kratt, we are all here tonight to fight for you, to fight against NAFTA, to fight for American workers, put money back into our American plants, into our American products.

We must defeat NAFTA, and maybe we will not have some more letters such as those we have been receiving from people like Mr. Kratt who are concerned with American jobs, who are concerned with American labor, who are concerned about the American economy and who want to protect our standard of living.

Mr. Kratt knows what we all here know tonight: We must defeat NAFTA to protect the American worker, to preserve the American workers, our American pride, but most importantly our American standard of living.

I thank Mr. Kratt for writing me that letter. I thank him for being so concerned, as I know so many Americans listening to us tonight are.

Mr. BONIOR. I thank my colleague for his comments and for bringing to our attention the concern of his constituent.

It is obviously not something that we are not familiar with. We receive these letters on a constant basis all year round, but they have been particularly heavy as a result of this debate that is now raging in the country and certainly in this body.

I think every one of us here can point to letters like that that we have received. People are tired of having our jobs shipped overseas or to Mexico, and they certainly want us to do something about it. We have a wonderful opportunity to do just that.

Mr. Speaker, I yield to my friend, the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. I thank the gentleman [Mr. BONIOR]. I echo the words of my friend, BART STUPAK from Michigan, that there are Mr. Kratts all over this country whom you know are not economists, they are not newspaper editors or newspaper publishers or newspaper owners, not corporate executives with Fortune 500 companies. But they very much feel the fear of NAFTA. When 55 percent of American executives of large companies say they are going south, they are going to move a lot of their production to Mexico if NAFTA passes, they sense that fear. It is a real visceral kind of thing for most Americans that the jobs are going to go south if NAFTA passes and if jobs do not go south corporations in this country are going to use NAFTA, use the threat of NAFTA going to Mexico as a threat to keep wages down, or wage givebacks, loss of health care benefits and all those kinds of things.

I want to talk, as Mr. BONIOR did earlier, about this whole cost issue.

There are so many reasons to oppose NAFTA, as BART STUPAK and MARCY KAPTUR, RON KLINK and BERNIE SANDERS and DAVID BONIOR and others who said the issues such as food safety, truck safety, job loss, depression of wages, environmental issues, and all of those reasons that NAFTA is a bad deal for all of us Americans. The one issue, though, as the gentleman from Michigan [Mr. BONIOR] and others have said in the last couple of weeks, the proponents do not want to talk about is is this a $50 billion new Government program, $50 billion that this Government has to come up with either through an increase in taxes or cutting social programs or cutting programs of some sort to make up for this money. That is a $50 billion new program.

The problem with that, in addition to the overall cost, is the speed with which all of this has happened. The European Community took 30 years to put together some sort of economic unit so it would help all the countries in Europe—Greece, Spain, Portugal, the poorer countries, and Germany, at least in central western Europe, Germany, Sweden, France, and England—the wealthier countries. They took 30 years to do this. George Bush, 3 years ago, set off with fast track on NAFTA to try to rush this agreement through as a self-imposed deadline. Then when Bush wanted to make that announcement prior to the election in 1992 to help his campaign, and right after the election they had the signing real quick of the agreement by Mulroney of Canada and Bush and Salinas of Mexico. Two of the three leaders are out, and the third one is soon to be out in Mexico.

The speed with which this administration wants us to get a vote on NAFTA, hurrying up to the side agreements, hurrying up with this November

17 vote, hurrying up so that on December 31 or January 1 the agreement will go into effect. They have rushed and rushed and rushed through this process, and then all of a sudden, when Mr. BONIOR comes forward and says, "How are you going to pay for this $50 billion program," they do not have any answers.

They have rushed through this, one issue after another issue, and never figured out how to tell the American people what they are going to do because they do not have the answers as to how they are going to pay the $50 billion.

Some people want us to see a tax increase, the Republicans have said we are not for tax increases, we are for cuts, but they will not tell us what the cuts are. They just say, OK, "Pass NAFTA and then we will figure out what the cuts are and how much they are going to hurt the American people."

□ 2240

The fact is that it is a bad idea. It is bad to rush this through. They are not being honest. They had a closed hearing in the Ways and Means Committee today to figure out how they are going to raise this revenue, to figure out how they are going to make the cuts, how to make up this $50 billion one way or another.

It is just one more reason, almost as good a reason as the others we have cited, why it is a bad idea. Clearly, a $50 billion new Government program is not what the people want, especially when that new program costs jobs, depresses wages, and does all the other things that NAFTA hurts us as a country.

Mr. BONIOR. Mr. Speaker, I thank my colleague for his contribution. I just want to underline and underscore again the choices that we are facing here.

Assuming we are going to go ahead and do this NAFTA thing, which I fervently believe that we will not do, we will defeat it, but let us assume it is going ahead. The choice the people who support it will have to make is that they are going to have to raise taxes. They are going to have to waive the Budget Act, get the votes to do that, so that we can add it to the deficit, or they are going to have to cut some entitlement programs to make up the horrendous dollar costs of this thing. That is it.

The payback on that, even if you believe the rosiest of scenarios is down the line, a decade or a generation away.

So the question that supporters of this have to face is are they willing to raise taxes on the American people to send their jobs south to Mexico. Are they willing to cut Social Security, Medicare, disability insurance, what are they willing to do to pay for this program that the American people do not want. Every poll that I have seen now shows a widening margin of people disagreeing, despite the $25 million or $30 million that the administration is putting into ads in the campaign. Every poll is showing the American people sense this is a bad deal.

The Canadians will probably throw out their government over this issue of trade.

The latest polls in Mexico, the ones taken in Mexico City show a huge drop, down to 32 percent that support this treaty. The rest do not feel this treaty is worth it or worth going through on.

So the support is eroding and it is eroding simply because people try to do this at the top. The elites try to do it, the corporate leaders, the political leaders, without consulting the people who actually do the work and will pay the costs on this thing. That is why the bottom is falling out on this.

Mr. Speaker, I yield to my friend, the gentlewomen from Ohio [Ms. KAPTUR] who has been so staunch and strong in her disagreement with this, and then I will move to my friends from Vermont and Pennsylvania.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Michigan [Mr. BONIOR] so very much for his strong and continuing leadership in this important effort to take the case against NAFTA to the American people. It is a real pleasure to be here with my colleagues this evening in the closing hours of today's work to perhaps give a bit of history to the important information that the gentleman from Michigan has brought forward this evening.

America has only signed two other free trade agreements in our entire history. The first was back in 1985 with Israel, a nation that has a work force of a little over a million people and an average income of about $11,000 a year.

In 1989 we find a second free trade agreement with Canada, a work force about 14 times that much, 14 million workers up in Canada, with an average income, GDP divided over their work force of about $14,000 a year.

Now we are being asked to sign a free trade agreement with a country that has a work force of 37 million people and an average earned income of about $3,000 year.

Never before in America's history have we signed a free trade agreement with a nation whose standard of living is as low as Mexico's, and certainly we have never signed a free trade agreement with a nation that is not free and is not a functioning democracy.

This is an historic proposal and the first post-cold-war trade agreement this Nation has been asked to approve, so this is very, very serious business.

For the life of me, I cannot understand why as we are moving into the 21st century, not the 20th or the 19th, we cannot try to link trade, as we must, to democracy building around the world and to deal with some of the related issues that go beyond the simple issue of moving goods or money across borders, but rather ways of life, standards and benefits, environmental improvement, and at the base of all of it, true democracy building.

Mr. BONIOR. Mr. Speaker, if the gentlewoman will allow me to comment, because it all relates, I mean, it is all interrelated. The Europeans were very wise. They understood the interrelationship between free labor unions, free elections, the empowerment of the people in terms of making sure that people would have the resources to trade freely and to produce well.

What we have failed to understand here in this agreement is that if you do not have free labor unions, independent unions, which they do not have in Mexico, if you do not have free and fair elections, which they obviously have had some difficulty proving over the last many years, if you are not free from human rights abuses, those things are going to inhibit countries from trading with you, No. 1, and they are going to inhibit your people from developing a standard of living which will allow them to purchase products from us so that we can produce jobs here.

It is fundamental in the mix, that is why the Europeans before they allowed Greece, Portugal, Spain, and now Turkey to enter into the common economic community of Europe, required them to raise those standards, and with those standards wages automatically rose and people were able to engage in free and fair trade.

Ms. KAPTUR. I think the gentleman brings up a very good point, because trade without freedom cannot possibly be free. Trade without democracy cannot be free, and even after World War II we recognized that to bring Turkey into the Common Market, certain internal changes had to occur within that nation.

After the Korean war when we attempted as a free nation to help South Korea move up its standard of living, we just did not cash out our corporations to South Korea, but in fact we worked with South Korea in order to link any investment to democracy building as well as to the acceptance of a high-wage policy as a part of that development activity.

We should have learned a lot from that. It is amazing to me that we are going to a throw-back approach which really is so very short-sighted.

I just wanted to say that this week in the Wall Street Journal there was a very interesting set of figures, that in this country which we are elected to represent, in the last year over half of the jobs that were created, over 60 percent have been in three areas; first of all, and not surprising to me, temporary work.

Mr. BONIOR. That is the big thing in the country, temporary work. You do not have to deal with benefits if you do not want to.

Ms. KAPTUR. That is right.

Mr. BONIOR. You have got flexibility, and everybody out there knows who have families in the neighborhoods that that is what is going on. They are just hiring temporary workers, and the other two categories are interesting as well, and I will yield further to my colleague, the gentlewoman from Ohio.

Ms. KAPTUR. Restaurant work.

Mr. BONIOR. Restaurant work.

Ms. KAPTUR. Not exactly the highest paying work, and finally health and health care, all service-related activities that do not go to the heart of value-added production in manufacturing and agriculture in our country.

I just want to thank the gentleman this evening for bringing up this information, because in fact what we have here is the inability of a political body, in fact the Government of the United States, to take control of its own economy in a way that it can raise the standard of living of its own citizens as we move into the 21st century and help bring up the standard of living of our neighbors to the South, East, and West, but in fact we are going down a very narrow path here, and what a tragedy if this agreement is approved as it is, because it will be a precedent-setting agreement for the 21st century for the entire developing world. If we cannot do better than this and if the President of the United States cannot do better than this, then we do not deserve to be elected.

Mr. BONIOR. The gentlewoman is absolutely right, in terms of this precedent-setting pattern that we are doing here.

I will yield to my friend, the gentleman from Vermont, on that issue in a moment; but what we are setting here is a pattern for the rest of Latin America, certainly.

We are saying to Mexico, "It was OK for you to have fraudulent elections. It was OK for you to throw people like Agapito Gonzalez in jail because he wanted to organize free and independent labor unions in Matamoras for the workers who were so pitifully treated.

□ 2250

It was OK for you to allow 60-some journalists to be killed in the last decade or 58 opposition leaders in the last few years. It was OK to do all of those things and keep the wages of your workers lower today than they were in 1979, and that's OK. I mean you do what you want, but we are going to engage in a free-trade agreement so our corporations and companies can have access to cheap labor."

We are sanctioning this, Mr. Speaker, if we agree with this NAFTA agreement, and we are telling Chile, Argentina, Brazil, Colombia, and all the other Latin American companies that this is the standard in which we want to engage them in future trade relations.

What a tragedy. How unconscionable. What did we fight human rights abuses in Nicaragua and El Salvador for, for the last 12 years; to do this? I mean what did Reuther, what did Phillip Randolph and all our great labor leaders, what did they go through such pain and agony for, for human decency and worker rights, King and all the great civil rights leaders in our country? What did they struggle for if we are just going to kind of throw it all away here in the last weeks of this session by OK'ing this agreement?

My colleagues, it is not as if we do not know any better. I mean the Mexicans are inviting us down. They brag about, "You come down and pay less than a dollar an hour, say $15,000 a year per worker," and our American business folks in a poll done by the Wall Street Journal, commissioned by them, done by Roper, say that, "Yeah, if it goes through, we are taking our production down there," 40 percent to 55 percent big corporations, "We are going." They are telling us that, and 25 percent of them are telling us, "Well, we are going to use the NAFTA to drive down our standard of living and bargaining."

Mr. Speaker, it is quite clear. I do not know how much more clear it can be made, and unbelievable, and yet we keep inexorably moving toward the point where this might happen.

We have a chance to stop this. People ought to let their legislators know about their total anger and frustration over this as we move into the last 4 weeks, and I yield to my friend, the gentleman from Vermont [Mr. SANDERS] on this issue.

Mr. SANDERS. I say to the gentleman, "Thank you very much, Mr. BONIOR."

I would imagine that for the viewers, people who are watching this debate, the issues are pretty complicated. In the last hour we had people on the floor, our colleagues, who are saying NAFTA is going to create more jobs, going to increase production in Mexico, going to raise our wages, and we are here saying something different.

I would ask the viewers as they try to form an opinion on this debate, and that is to understand who is on whose side:

> If you have confidence and if you believe that the multinational corporations in America, and virtually every one of them, is fighting for the NAFTA agreement, if you think they are on the side of the average American worker and if you think that their track record in the last 20 years is in terms of lifting up the wages and benefits of the average American worker, then you might want to support the NAFTA agreement. And if you think that the Mexican government, which is dominated by a handful of billionaire families, and that government is putting some $30 million into this campaign to persuade this body to vote for NAFTA, if you think they are on the side of the American worker, well then you may want to support NAFTA. But if you believe that virtually every trade union in Canada and in the United States, people who have been fighting for the rights of working people for decades, if you believe that they are on the side of the American and Canadian workers, then you might want to be in opposition to NAFTA.

Mr. Speaker, I say to my colleague, the gentleman from Michigan [Mr. BONIOR], "As I heard the discussion here last hour by those people who are supporting NAFTA, it reminded me of a song that was played in this body about 11 or 12 years ago, and that was the beginning of Reaganomics, and you remember what that song was about. What that mantra was about was, they said, if you give tax breaks to the wealthy and if you give tax breaks to large corporations, what they are going to do is reinvest in America and create new jobs. That's all you got to do: Trust those people, trust the multinationals, trust the wealthy. They are on the side of the American worker, and they want to create new jobs. That's all they really want to do. They don't want to make more money."

Well, we know what happened in Reaganomics. We know that the wealthiest 1 and 2 percent saw a tremendous increase in their incomes while the vast majority of working people sort of declined in their standard of living. Well, after a massive transfer of wealth in the 1980's from the working people and the poor to the rich, well, these guys got a new song, brandnew tune, and the tune is free trade with Mexico, and how the song goes is:

> Trust us. We, the multinationals, are on your side, and allow us free access to Mexico. We are not going to throw you out on the streets; oh, no. We are going to create new jobs because we love the American worker. Just trust us.

Let me say, if I might, Mr. Speaker, "If you believe that, that's fine. I think most sane Americans do not believe that. Let me give you a little bit of a context for what I believe the NAFTA discussion is about."

Twenty years ago in the United States of America we led the world. We were No. 1 in wages and benefits that our workers had. Today we are 12th. That is the trend. Since 1973 the real wages of American production workers have declined by 20 percent. We are becoming a poorer nation.

This is important because I think this is really what the whole NAFTA discussion is about:

In 1965, Mr. Speaker, 27 percent of the jobs in America were in manufacturing. In 1991, 17 percent of the jobs were in manufacturing. That means we are hemorrhaging manufacturing jobs, we are in the process of deindustrialization, and that is what this whole debate is about.

Some of us believe that the only way we can turn that trend about is to reindustrialize America, say to the multinationals, "You can't build your shiny new state-of-the-art plants in Mexico or in the Far East where you're hiring slave labor for a buck an hour or a buck fifty an hour. We want you to come back home and reinvest in America."

That is what the debate is about, and, as the gentleman indicated quite properly, and I have that same poll right here, our friends, the chief executive officers of the major corporations, they have already said it. What they have said is, "If NAFTA goes through, we are taking our plants to Mexico," and it is common sense that they will. Why are they going to pay an American worker $10 or $15 an hour when you got hard-working people in Mexico for a buck, a buck fifty an hour?

I say to the gentleman from Michigan [Mr. BONIOR], let me mention something that I did today which I think is relevant. I get a kick out of many of our pro-NAFTA friends here who are saying to the American workers, "Hey, we can do it, American workers. We can be competitive with the workers in Mexico. So what if they are making 58 cents an hour, minimum wage, or a buck an hour. We can take them on; don't worry about the loss of your jobs."

So, today I introduced a very simple piece of legislation, and what the legislation says is that for the Members of Congress, if they believe that our truck drivers, and our dairy farmers in Vermont and the people in the automobile plants, if they believe that it is OK for our workers to compete against the desperate and impoverished workers of Mexico, if that is what they want to see, then I have got a simple suggestion: "Why doesn't the U.S. Congress take a leadership role and show how courageous we are, say that we will place our salaries on the line and we will earn the same salaries as Mexicans who are in the House of Representatives there?"

And, as the gentleman may know, the Mexican Chamber of Deputies, their equivalent to the House of Representatives, they earn $35,000 a year.

So, Mr. Speaker, I say, if the Congress wants farmers and workers to be competitive with Mexicans, support my legislation, Members of Congress, so that we can lower, if NAFTA is passed, our salaries to the same level as our Mexican Members of Congress, and the Mexican President and the Mexican Senate receive. Let us take a leadership role and show the American people that we are not afraid to compete. We will cut our salaries by 75 percent.

I yield back.

Mr. BONIOR. Mr. Speaker, I thank my colleague, the gentleman from Vermont [Mr. SANDERS] for his comments, and let me just, before I yield to my friend, the gentleman from Pennsylvania [Mr. KLINK], talk a little bit about the NAFTA math. I call it NAFTA math because we are going to hear a lot of figures thrown around in the last month about how we have increased our exports to Mexico.

☐ 2300

We have now a $6.5 billion surplus. But what they will not tell you is 21 percent of that surplus to Mexico is for factory parts and buildings. In other words, drills, presses, and construction material for factories. That other 64 percent is for parts that are manufactured here, some of them in maquiladoras on the border and brought back here. Fully 85 percent never touch the Mexican consumer markets. They never buy it at all.

Basically what we are doing is shipping our factories down there, and our jobs are certainly following that.

Another NAFTA math lesson here is how they compute the fact that we are creating jobs by trade with Mexico. Let me give you a good example: Smith Corona, 850 workers in their plant in New York. They decided to go to Mexico.

They go down to Mexico, shut the plant up in New York. That plant in New York was also being fed by about 2,000 jobs with smaller suppliers in the New York area. Now, the plant goes down to Mexico, takes the 850 jobs. The way they figure it out with NAFTA math is not that we lost 850 jobs to Mexico, but that we gained 2,000 jobs, because the suppliers in New York now are supplying Mexico. It is absolutely crazy, and it is fraudulent and deceptive, and it is not right.

It sort of reminds me a little bit of the University of Maryland football team. The University of Maryland football team scored about 24 points a game. They may have 450 yards a game. You think, well, that is a pretty impressive record, until you understand that they give up 42 points a game and give up 500 yards a game and their record is 1 and 6 or something like that.

It is the difference between net product and gross product. They do not tell you the full story.

So as we move into this debate, people ought to be very conscious of the figures.

Now I yield to my friend from Pennsylvania, who has been so patiently waiting this evening to talk about this issue, the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. I thank my friend from Michigan. I came here tonight really to take part in this and came without notes because I wanted to speak from my heart about this NAFTA debate and what some of my concerns are.

Mr. BROWN from Ohio and myself were talking, Mr. STUPAK, the three of us are new Members. We realized that as we came into this 103d Congress as new Members that we would take on this NAFTA issue, and we may never in our minds, if we are here 40 or 50 years, take on a battle that is more important to the people who we represent and to the people of this country.

I have to tell you that I am not here at 11 o'clock at night eastern time, nor Mr. BONIOR, nor the rest of the speakers, because we enjoy being on television and because we want to bore people with details about something that is not important. We are here because, just as those workers that Mr. SANDERS talked about from the labor unions who fought, and in some cases died, to get those wages up, to get certain working conditions for the working people of this area. Those battles took place in Homestead, PA, in Flint, MI, in the coalfields of southern Ohio, Kentucky, western Pennsylvania, southern Pennsylvania, in the textile mills and steel mills of the east coast. Everything that those people have fought for we stand to lose by one vote in this 103d Congress, and the people have to understand that.

You talked about NAFTA math. It is true. My previous life was as a news reporter. I was a very young reporter, and I stood on a line one time. They were picketing. They were on strike.

I talked to an old-time labor organizer who was there and said, "How can you be on strike? The company said that they have their books and they can show us figures that they cannot afford to pay you a dime more."

The fellow told me something that stuck with me a long time, and it sticks with me in this NAFTA debate, and that is that figures don't lie, but liars sure know how to figure. And there is an unusual way of figuring out all of these different math equations that have to do with NAFTA.

But let us just ask one thing, and that is if NAFTA is so good, if there is such a great market in Mexico, the people that are proponents of NAFTA will agree that even without NAFTA we are losing jobs, General Motors, all the electronic firms, the car firms, Volkswagen in my own area that was in New Stanton, PA. They took 5,000 jobs out of Pennsylvania that are now outside of Mexico City. So those jobs are going there without the NAFTA agreement.

They will point to that and say, "What is your answer to that?"

My answer is this: Why, from 1980 to 1992, when productivity in Mexico went up 30 percent, did the real wages of the Mexicans go down 30 percent? If you say we want to get into that period after the problems in the oil market, then we will say fine. Why since 1987, after those problems, did the productivity go up 24 percent, yet the real wages went up less than half that?

So that is the real math. The Mexican people, quite frankly, cannot afford to buy our goods. They cannot buy the things that we have to sell them.

The gentleman is absolutely correct. What originally happened, and I do believe this part from the NAFTA proponents, companies went down there for the opportunity, General Motors and other corporations, for the opportunity to be able to manufacture in Mexico so that they could acquire a portion of that market. But they found out once they got there, my goodness, we have struck the mother lode. We have got more free labor here, or nearly free labor, than we could ever imagine. And now we have to figure out a way to be able to take advantage of this labor and ship not across an ocean, not across a continent, but across the Rio Grande ditch, to the largest consumer market in the entire world.

That, ladies and gentlemen, is what this NAFTA agreement is about, pure and simple.

Mr. BONIOR. And that consumer market is the United States. It is shipping back here. The market is here. It is not in Mexico. Mexico is a country of 80 million people. They have basically 70 million people that cannot afford to purchase our American products. Mexico will be used as a platform by Japan and by European countries to ship into this country. It is absolutely the wrong solution for a very serious problem.

Mr. KLINK. If I can continue, the gentleman from Michigan made a point just before I started to talk, and I just want to go back on that again.

We hear all these figures. You talk about NAFTA math, about the $450 to $500 the average Mexican family spends. And the gentleman is right, that is if the Mexican family is buying factories and equipment. That is if they are buying all the parts for our automobiles that are then turned around and shipped back here, if they are buying all the parts for our television sets and our stereo equipment, when those parts are shipped down to Mexico, assembled into final products, and brought here.

The other thing they scare us with is the fact if we do not do this, then Japan will do it. The only interest that Japan has in Mexico is it is an import platform. They can import to the United States from that platform that is created in Mexico. That is the only reason that Japan has any interest, because they understand that those same poor Mexicans down there that are not making even a dollar an hour in most cases are not going to be able to buy goods and services that are manufactured in Japan. So that is just ludicrous.

I just want to end, my good friend, Mr. BONIOR, by saying this: I spent the last 14 years, as I said, in my previous career in Pittsburgh, PA, as a television newscaster. During that time I was the one who was standing outside the factories while they closed, while workers walked out with stunned looks on their faces, in many cases with tears running down their eyes, knowing that thousands of them were going to be displaced.

That experience is what moved me to run for Congress. In one town in my district 13,000 people worked at a factory, a steelmill that covered 7½ miles along the Ohio River. There are less than 700 people that work there today.

That is why at 10 minutes after 11 o'clock, RON KLINK is here talking about NAFTA and the ill effects, and Mr. BONIOR from Michigan is here, and our other good friend from California, and our good friend from Wisconsin, who I think is going to join us.

We know that this is going to be the most important vote that we will ever take.

I wish the gentleman good luck and Godspeed.

Mr. BONIOR. I thank my colleague for his comments and for his concern for the workers of the State of Pennsylvania in his district. He is absolutely correct.

I yield now to my friend from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding. I appreciate the effort that he is making in this debate.

I wanted to offer, having heard a number of concerns, and I think well-placed concerns about NAFTA, from my colleagues on the Democrat side of the aisle, I thought I would offer the conservative Republican perspective on this issue.

First, I want to verify and restate what the whip has said, what Mr. BONIOR has said, over and over again, and that is the fact that the math that is being used, the numbers that are being used to support the pro-NAFTA argument, are smoke and mirrors. In fact, they give smoke and mirrors a bad name.

□ 2310

I have participated now on our side of the aisle in about eight debates on NAFTA. A number of Republicans are very concerned about it. A number of conservative Republicans feel that it goes against our basic principles.

And the $40 billion figure that is still being used by the Clinton administration and by Trade Ambassador Mickey Kantor has been totally refuted by the facts.

The facts are, as the Whip said, that that includes what we call "U-turn exports." That means that if this podium right here that I am standing in front of was made here in Washington, DC, by American workers, put on a bus, driven down through my district near San Diego, CA, and taken to Juarez to be sanded and varnished for say $10, let us say it is made in America for $100, when it crosses the line on the bus, Mickey Kantor will count that as an export to Mexico, sanded and varnished, put back on the bus and sent back to be sold to the United States in Washington, DC. So it is mostly made by Americans, sold to Americans, and that will be counted as a $110 export to the United States. So the $40 billion figure that then is used to extrapolate 700,000 jobs created by NAFTA is a phony figure, and I hope that the proponents on the other side, since they, in at least the debates that I participated in and the debates that I have seen, none of them have been able to challenge that fact, that about 30 percent of this is U-turn exports that are not real exports. I hope they will stop using the $40 billion figure. I think that has been fairly well, that point has been made. It has been raised. I think that that has been revealed to be fake.

I think the American people are entitled to just some basic facts about NAFTA.

Let me just offer to my friend and colleague that the NAFTA debate should not be a labor versus business debate. There are a lot of great businesses in America who do not want to go south, who are fighting NAFTA.

Mr. BONIOR. The gentleman is absolutely right. There are some businesses in this country who understand inherently how negatively they will be impacted in this country. A number in the agriculture industry are concerned about it; the flat glass industry is another industry. I could go on and on and name other businesses, especially small businesses. Small businesses understand that once a community dries up, once the jobs are gone, the grocer, the hardware store, the dentist, the doctor, all of these people are affected negatively.

I can take the gentleman through towns in Pennsylvania and Ohio and Michigan and Illinois and other places that have been devastated over the last 12 years because of the movement of jobs and plants and facilities to Mexico and show how those communities have been uprooted and people's lives have been destroyed, including a lot of decent, good business people.

When large plants go, of course, feeder plants follow as well. So I understand the gentleman's point well.

Mr. HUNTER. The gentleman is absolutely right. I would offer something else, that a lot of American business men and women want to keep their companies in the United States and do not want NAFTA to pass for another reason. And that is because they feel a loyalty and a kinship and a bond with the working people that work in their companies and factories.

The gentleman has shown that, and that comity between business people and labor and working people in this country has been one of our great national assets. Many of our people who take capital and create factories and create employment and have companies feel a great loyalty to the people that work in those companies, and those people do not want to see NAFTA happen.

My father falls in that category. As a businessman who built houses for many years and could have bought foreign steel, for example, and once you drive a nail in a framing job into a stud, nobody knows where it came from, but he always said that it was important for people to make good paychecks in this country because that enabled them to maintain a standard of living and buy houses and cars and all the things that make America such a wonderful place.

Mr. BONIOR. That was the secret, as the gentleman well knows, of Ford Motor Co. Henry Ford decided at some point that his workers were not being paid enough. He went into the $5 a day pay, which was extraordinarily high at that point. His workers were able to purchase automobiles. And things took off from there. Unlike the situation in Mexico today, where real wages for workers are 32 percent below what they were in 1979.

Mr. HUNTER. The gentleman is right on point. The reason Henry Ford said, "I pay my people good wages so they will be able to buy my cars," is a point that is not shared by many entrepreneurs in Mexico, because those entrepreneurs do not rely on their people ever acquiring the capability to buy consumer items. They rely on exports to somebody else's market to make their money. And keeping labor low means that they are going to make a bigger profit and a bigger delta between costs and sales price.

Mr. BONIOR. I might say to my friend from California, here is where labor comes in.

If the people in Mexico were able to organize free and independent labor unions to challenge that, they would have an avenue to increase their own standard of living and at least be competitive in the labor market. But if you try to do that in Mexico, you are liable to end up in jail, as Mr. Gonzales, as I have indicated, was thrown in jail for 6 months for trying to organize in Matamoras. And there are examples after examples of this occurrence.

Mr. HUNTER. I thank the gentleman for his comments. He is right on point.

Let me leave him with one idea from a conservative Republican who is a supply sider and believes that freeing up capital is good for workers and for management.

Basically, NAFTA is shaped to make Mexico investment friendly so that our production will move south. I agree totally that the market remains in the United States, meaning that we are moving good blue collar jobs south. We should work to make American investment friendly. Labor and management, Democrats and Republicans, liberals and conservatives all have a stake in making America investment friendly to the point where people free up capital, where they build factories instead of moving factories, where they build housing development tracts instead of taking their money and putting it in government bonds, and where America's economy grows and people feel good about investing in this country. That is a job that is an unfinished job before this House.

Mr. BONIOR. I thank my colleague for staying this late and joining us. We had Republicans, Independents, Democrats, all talking about the importance of this issue.

I just want to repeat one more time, before I yield back my time, Mr. Speaker, that it is quite unbelievable that we have a situation in which the Mexican Government has invited our corporations to come down, to pay less than a dollar an hour to save $15,000 a year per worker, and our corporate leaders in this country, at least in a poll, suggest that they, in fact, many of them suggest that they will go. So the question is quite clear. We have got to resolve this issue legislatively and do this carefully, thoughtfully, over a period of time and not rush to it over a 2- or 3-year period.

I thank my colleagues for joining me this evening.

MORE ON NAFTA

The SPEAKER pro tempore (Mr. JOHNSON of Georgia). Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 15 minutes.)

Mr. HUNTER. Mr. Speaker, I wanted to say just a couple of things that I think are important to come from the Republican side of the aisle with respect to NAFTA. I enjoyed having a discussion with the majority whip about the need to make American investment friendly.

Let me just give a couple of reasons for Republicans to be against NAFTA. First, Republicans believe in good business deals. We have often been called the party of business. I like to think that we are the party of working people also.

I would like to think that our tradition is with Theodore Roosevelt, that great protectionist, who told Henry Cabot Lodge, in a letter in 1904, when we were putting our party's platform together, we must see to it that we have tariffs that represent the difference in pay between American working men and their foreign counterparts, because the standard of living of American working men is a centerpiece of the Republican Party.

□ 2320

I would like to see a time when that is once again a part of the Republican platform. Let me tell the Members just about a couple of myths that free traders, professors and philosophers have discovered in the real world, and are discovering particularly with respect to NAFTA.

First, Mr. Speaker, the idea of NAFTA is that somehow we are going to have open trade with Mexico, that we are going to make Mexico investment friendly, which we are doing, NAFTA or no NAFTA, and even as business moves south that Mexican workers are going, perhaps, to increase productivity.

The theory is that as they increase productivity they are going to see their wages go up from $2,500 a year per capita to something much greater than that, and they are going to end up buying American goods. Let me tell the Members what has really happened. The philosophers, as we have found out so many times in the real world, with respect to armed services, for example, that we are often surprised by what happens in the real world, and that things do not seem to work out according to the book.

We saw that when the war started in the Falklands, and we are seeing it now, as we are dragged into a quagmire in Somalia that nobody would have predicted a few months ago. We also see it in economics.

The philosophers have said, with respect to NAFTA, that Mexican wages will rise, and that as those wages rise, a so-called rising tide lifts all boats, and that they will be buying products from the United States of America. That has not happened.

When the maquiladoras were founded about 20 years ago, or about 13 years ago, in 1980, the philosophers told us and the academicians and the theorists who tell us now that NAFTA will work, they told us that when the maquiladoras were well under way two things would happen. First, they said Mexican wages would go up, and then they said illegal immigration will be cut dramatically, because Mexican workers will be making good wages in their own country.

We now have 500,000 Mexican workers working in maquiladoras, the twin plants on the south side of the border. What has really happened is that wages have actually gone down since 1980. They have gone down about 30 percent in real buying power. Illegal immigration has skyrocketed.

The professors, the academicians, the theorists are back at their table. They say, "This time we really think we are right." One professor, Harley Shakin, of the University of California, formerly at San Diego, has punctured another error in their formula. That error is this. Harley Shakin has discovered that Mexican workers are increasing productivity, and not only are they increasing productivity, but they are acquiring the productivity to do high technology work.

The theory under NAFTA, the whole free trade theory, is that we are going to have a division of labor. That means Americans are going to do the high technology things, the good paying jobs, and the Mexican workers are going to make brooms and make ceramics and make other things that are low technology, and they are going to have the low technology jobs.

What has really happened is this. American companies have gone to Mexico, and they have undertaken experiments. One experiment is the Ford plant in Hermosillo, Mexico. At the Ford plant in Hermosillo, Mexico, where Mexican workers make 168,000 cars a year to sell to American consumers, none of them are sold in Mexico. The workers make about $2.38 an hour. Interestingly, however, these workers are excellent, productive workers.

That Ford plant in Hermosillo just got fifth place in the very prestigious J.D. Power Quality Award for having the fifth ranking plant in terms of quality of the 46 automobile plants in North America. They beat out a host of American companies, and they beat out five Japanese companies in this quality competition.

In machine yield, which is one of the best measures of productivity, the Mexican workers did a very, very fine job. They came very close to the productivity level of the American workers. These experiments showed this. They showed that while Mexican workers historically have had a low productivity level, when they are well equipped, when they have the best equipment, and when they are well trained, they have a very high productivity level.

Didn't we Americans always know that? Aren't we the people who realize that when we give people what it takes in terms of equipment and opportunity, that they will produce? We are not elitists. People come to America from all over the world and become productive, working in the American infrastructure, in American manufacturing.

When these companies go south, and they provide the equipment and the training for their workers in Mexico, they are going to be very productive. What does that mean to an American worker? That means to an American worker that you have on the other side of the border, from your perspective, the worst of all worlds. You have a counterpart in the Mexican worker who is able to take your job from a quality standpoint, and yet he is not making enough money to buy your products.

This incredible situation was illustrated a couple of days ago in a story in the Union Tribune in San Diego. When they did a story about Mexican workers at the twin plants in Tijuana, just south of my district, who walk out of huts with dirt floors and they walk into so-called clean rooms, sterile rooms at the Hughes electronic plant, and they make high technology electronics equipment for $1.20 an hour, all the professors hopping around saying, "Those people should be getting more wages, the wages will rise and they will be able to buy large numbers of American consumer items, thereby stimulating the American market," have been proven wrong.

The average worker in the twin plants in Tijuana works about 3 hours a day doing a high-technology job to be able to buy a pound of meat for his family. The average worker at the television plant there, at the Sony plant, could work for an entire year and not feed his family and not pay rent. He could not buy a single television.

The world, just like in the military and in national security policy, the world is a lot more complicated and very much a different world from that which the theorists and the philosophers and the academicians paint.

What are we getting with NAFTA? What we are getting is very plainly a bad business deal. We are getting access to a market that is a very small market. The entire nation of Mexico has a smaller consumer market than the city of San Diego in real terms. We have exposed the U-turn exports, we have exposed the fact that when Briggs & Stratton takes $2 million worth of equipment south, Bill Clinton, President Clinton, calls that a job creating export, when the flatbed truck carrying our machine tools crosses the border after we have fired our workers.

That is the theory, if all of American industry went south, Bill Clinton would register a giant surge in American exports. The plant going south he counts as exports. It is quite remarkable.

What are we getting? We are getting a very small consumer market that is not going to grow any time soon, because President Salinas cannot allow it to grow. He is telling international investors, "Come on in. I will give you cheap labor." He cannot turn to us and say, "The labor is not going to be cheap any more, because I want to give them enough money, make sure they make enough money so they can buy your products." He cannot make his workers rich and poor at the same time. He cannot have the wages low and high at the same time.

What he should do is make America investment-friendly. Democrats and Republicans, labor and management and business, should come together and put together a plan for America to pass a capital gains tax cut that will spur investment in the United States. We should pass investment tax credits, and we should deregulate the industries that are saddled with many regulations that have no real beneficial effect on the environment, but have become, nonetheless, bureaucratic messes.

In San Diego, California, it takes about 4 years to subdivide 10 acres of land, just to do the paper work, before you can move. We have a workmen's compensation system where you can get money if you say that you are stressed, and you get a doctor to confirm that you have been stressed. You can then pick up a nice pay check.

We have clean air regulations that are driving our businesses out of the State, going to other States. That is a microcosm of the United States. The United States has become unfriendly to business. I think labor and people who are concerned about business, conservatives and liberals, Democrats and Republicans, understand that now. Companies are voting with their feet.

We want to defeat NAFTA, but on the heels of defeating NAFTA we want to create an investment-friendly America, where people are incentivized to build plants, but not in Hermosillo and not in Tijuana, but in San Diego, CA; in Buffalo, NY; in Des Moines, IA; and across this Nation, where American working people, in the vision of Theodore Roosevelt, make a good enough wage to have a high standard of living in this country.

□ 2320

GENERAL LEAVE

Mr. THORNTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

SATURDAY NIGHT MASSACRE ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. THORNTON] is recognized for 60 minutes.

Mr. THORNTON. Mr. Speaker, in the early 1970's, this country faced complicated issues—energy shortages held us hostage; our economy was distressed by inflation; and there were doubts whether Government could resolve these issues. There were serious problems associated with trade and the security of our Nation both at home and abroad. Few people were concerned about who was to blame for the breakin at the Democratic headquarters during the summer of 1972.

I have taken this special order this evening to remember that 20 years ago today, on October 20, 1973, events occurred which awakened the Congress and the nation to the Watergate crisis. Those events, which culminated in the dismissal of the Attorney General, a Deputy Attorney General, and the special prosecutor investigating the Watergate burglary, became known as the Saturday Night Massacre.

People who had not been concerned much about the Watergate breakin were stunned when President Nixon, demanding that someone dismiss Special Prosecutor Archibald Cox, began dismissing Justice Department officials who refused to cooperate. Elliot Richardson and William Ruckelshaus were expelled from the Nixon administration before the President found someone willing to remove Mr. Cox.

As Mr. BROOKS of Texas says:

Mr. Speaker, I am pleased to join my colleagues in recognition of the twentieth anniversary of the infamous "Saturday Night Massacre." As Members will recall, President Nixon was determined to block Independent Counsel Archibald's Cox's investigation into the Watergate affair and directed his attorney general to remove Mr. Cox from office. To his credit, Attorney General Elliott Richardson refused to honor such an outrageous suggestion and honorably resigned his cabinet position. This act was followed by Deputy Attorney General William D. Ruckelshaus' refusal to remove Cox from office and his subsequent resignation.

Mr. Speaker, I include the balance of Mr. BROOKS' statement at this point in the RECORD, as follows:

So twenty years ago, our Nation found itself in the midst of a national crisis that threatened the foundation of our constitutional system. This crisis, most thoughtful Americans then agreed, was brought on almost singlehandedly by President Richard Nixon's disregard for the American constitutional process. It was a critical juncture in American history and future generations will be forever grateful for the integrity, determination, and courage of men like Elliot Richardson and William Ruckelshaus who refused to knuckle under to the demands of a presidency out of control. When we needed it most, we had leaders in the Justice Department who had profound respect for the Constitution of the United States and an intense commitment to the democratic process.

As events would have it, Archibald Cox was, in fact, removed from office, but a new independent counsel, Leon Jaworski, followed in his footsteps and brought the Nixon Presidency to justice. Today, Congress is once again debating the merits of an independent counsel statute. I believe we should move forthrightly to reauthorize the Office of the Independent Counsel for five more years. In our constitutional system of government, the American people need the protection of an office dedicated to an objective and independent investigation of wrongdoing at the highest levels of government. I believe the Office of Independent Counsel, if reauthorized, would satisfy this requirement. Meanwhile, let us hope that we never again confront the constitutional crisis of twenty year ago that we know as the "Saturday Night Massacre."

Mr. THORTON. Mr. Speaker, the Saturday Night Massacre prompted the beginning of the Judiciary Committee's inquiry on whether impeachment articles should be brought against President Nixon. It also marked the onset of one of the gravest constitutional crises this Nation has ever faced—as well as a crisis of confidence in the integrity of our system of governance.

Some of my colleagues and I who participated in those proceedings believe that this event is remarkable, not only for its historical importance, but because it also reminds us of lessons we could apply to our work today.

Virtually, every member of that Judiciary Committee recognized that this decision required their best efforts to reach a conclusion that was in the interest of preserving the constitutional system of governing. There were, of course, differences—mainly procedural—which divided our committee on party lines, but again and again, on issues of substance, there was bipartisan accord.

My friend, the gentleman from New York [Mr. FISH] has asked me to insert his remarks at this point in the RECORD.

My colleague was here earlier this evening and had to leave, but I include his remarks with regard to the Saturday Night Massacre at this point in the RECORD, as follows:

I congratulate my friend and colleague for remembering events of October 20, 1973.

The events 20 years ago were viewed by many as a constitutional crisis.

What followed—the thorough, deliberate, and fair consideration by the Judiciary Committee of impeachment resolutions did much to dispel the crisis atmosphere and restore public confidence in the institutions of Government.

I recall months after October 20, Archibald Cox wrote that our committee's approval must have a moral and legal basis acceptable to the American people.

I think history will judge that our committee's approach was faithful to this charge.

Mr. THORNTON. Mr. Speaker, each member of the Judiciary Committee probably remembers the significance of that Saturday night. My own recollections were reflected in a speech given to the Grant County Chamber of Commerce in Arkansas within a few days of the "Saturday Night Massacre." My topic was "Our Wounded Nation: What Is Needed to Recover."

Up until that time, my own work in Congress had related largely to efforts to address the energy crisis and to improve the economy of my area. But that night in Arkansas, I told my constituents that the events of a few days earlier had changed all of that.

I told the people I represented that it was my sworn duty to support and defend the Constitution and public laws of the United States and to faithfully perform the task referred to the Judiciary Committee. I advised them that I would not shrink from that duty.

Then I added, "I will not hesitate to vote my conviction after hearing evidence whether the President supports the Constitution and the laws of our Nation * * * The preservation of our system of government is more important to me than any person's continuation in office, including my own * * *"

Mr. Speaker, I ask to include the text of my 1973 speech in the RECORD at this point.

The statement referred to is as follows:

GRANT COUNTY CHAMBER OF COMMERCE ANNUAL BANQUET, AUTUMN, 1973

It is always good to be back home in Sheridan, there is always something special about coming home and I want you to know how much I appreciate each one of you. Your friendship, your confidence, and your example of how to meet life's challenges with courage and enthusiasm lifts me up and makes me glad to be here.

We seem to be living today in an era of declining respect for society's institutions. The government of the people seems to lack human qualities, and appears to many of our citizens as impersonal, unresponsive, or even deceitful. The relevance of religious faith, and acceptance of standards of moral and ethical conduct, are being questioned and challenged. In my book, "Everyone Else Is Doing It" still doesn't make it right.

Our public schools are caught in cross currents of forces which question methods, direction, and purpose of education while imposing greater demands for preparing our youth to accept responsibilities of life.

The military is seen not only as a defender of the nation, but as a bureaucracy interested in preserving its own establishment and prerogatives.

Even private institutions are sometimes thought to be heartless and selfish and the worthwhile purpose of providing services in order to make a profit is challenged by those who would substitute governmental regulation for a free enterprise system.

And finally, the structure and integrity of our government itself is being tested. I realize that I have just described a rather dark picture, and I'm also aware of the tendency to remember the past as being somehow better than it was. But who can escape the realization of the changing conditions of our country during the last few years. Our Nation today is not as solid and secure as it was during the days of President Eisenhower. It is not as full of spunk as it was under Truman, nor as full of hope and promise as it was under President Kennedy.

The intervening years have left us deeply divided—a nation beset with problems, both of the pocketbook and of the spirit.

So tonight, for a moment, I would like to talk with you about Our Wounded Nation: What Is Needed to Recover.

There are, I believe, two levels of concern. First, there are those things which affect our material well-being, things such as our economy and balance of payments, the security of our Nation and the energy crises, and second, those affecting the functioning of the system itself, divisions, strife, dishonesty in government, mistrust of government, even the basic question whether everyone must abide by the rule of law.

It is most appropriate that we discuss these problems here tonight, because in this room are gathered community leaders, who have demonstrated their ability to meet challenges and accept the increased responsibilities which accompany success. And in a very real sense, the same resources which are useful in solving our community problems will be called forth to forge constructive change for our Nation.

We cannot afford to indulge ourselves in a fantasy world. We cannot dream and hope to return to some earlier imagined state of well-being. Material shortages and economic reality will not permit us to return to a world of wild, unchecked use and waste of our resources, that world no longer is available. And we should not seek to return to what no longer exists.

Much of my own work in Congress has related to an effort to meet the energy crisis. On April 19, 1973, I made a speech to the House of Representatives in which I outlined the gravity of the energy crisis which our Nation faces. This was, as you may recall, the same day on which the President said there was no energy crisis and that voluntary reductions in energy consumption would be adequate to solve our Nation's problems. In my speech I called attention to the developing crises * * * then, just a few weeks ago, I was flattered that remarks which I made concerning our need to conserve our energy resources were published on the editorial page of the Washington Post.

The energy crisis, like the economic crisis of inflation eroding the value of the dollar will not be quickly or easily solved, but both are subject to the same ultimate solution—we must bring into balance our needs and our supplies, our expenditures and our revenues.

All of these problems—energy shortages, inflation, our balance of trade with foreign countries, and our resources for defense of our country are vital, and have taken up the greatest part of my own time in Congress, and have been the focus of virtually all of the committee work and legislation in the House of Representatives. As I mentioned during August, less than 2 percent of all congressional work has been concerned with the Watergate matter.

Then, a few days ago, all of that changed.

The House Judiciary Committee found itself faced with decisions and recommendations on the confirmation of Gerald Ford as Vice-President. This was not thought up by Congress but was required by Mr. Agnew's resignation. We should proceed promptly to investigate and report on the confirmation of Gerald Ford as Vice-President.

To our committee have also been referred proposals to create a special prosecutor independent of the executive branch of government, and the duty of inquiring whether the House should bring charges against the President of the United States. Again, these were not thought up by Congress but followed the dismissal and resignations of the Special Prosecutor, Mr. Archibald Cox, the Attorney General, Mr. Elliot Richardson, and Deputy Attorney General William Ruckelshaus.

I did not seek—nor could anybody have expected—the task of judging these extraordinary questions, but I am in that position because of my membership on the Judiciary Committee, which has the duty and responsibility of reviewing these matters, and making its recommendations. I have publicly stated my belief that it is time to begin our inquiry.

It is my sworn duty to support and defend the Constitution and public laws of the United States, and to faithfully perform the task referred to this committee, and I will not shrink from that duty.

Because the last of these questions is similar to those which are presented to a grand jury, it would be inappropriate for me to discuss the proceedings, or make comments upon the evidence or allegations before the committee.

But I believe you should know what considerations will guide me in these deliberations. I truly appreciate the many expressions of confidence which I have received. Again and again, I have received expressions of concern and support, expressing confidence that we will find the right course to heal our Nation's wounds.

Other letters have been received praising and condemning the President, and calling for his removal or to leave him alone.

Many thoughtful people have the impression that the question is whether or not the President is doing a good job. To me, the question is not whether he is doing a good job or a bad job, but simply whether he will perform his sworn duty to preserve, protect and defend the Constitution of the United States and to follow its laws.

I have responded to those letters by expressing my hope that it will not be necessary to bring charges against the President because of the effect such proceedings would have upon our country. However, I will not hesitate to vote my conviction after hearing evidence whether our President supports the Constitution and laws of this great free land.

The preservation of our system of government is more important to me than any person's continuation in office, including my own, and my own prayer is that I may clearly see the right course in our Nation's interest . . . we must always remember our country's strength is in the character and faith of its people.

President Kennedy sounded a clear call for such faith when he said: "In the long history of the world only a few governments have been granted the role of defending freedom in its hour of greatest danger. I do not shrink from that responsibility. I welcome it."

Tonight that call to Americans must be sounded again.

Let us remember that this country of ours—great and powerful though it may be because of natural resources—is important in the stream of world history because of the principles of integrity, liberty and honor in which each of you believes. We must not forget that these principles and our material well-being have been gained because men of character, strength, and courage have in the past squeezed them out of a hostile world one small step at a time.

In looking around this room, into the faces of friends from early childhood years and those of later years as well, I am confident that we have the strength of character and of will, and of faith, to ensure that this land will long remain both strong and free.

Mr. Speaker, each member of the Judiciary Committee probably had similar thoughts about the gravity of the situation which faced us.

We faced a constitutional crisis as to whether the Constitution and the rule of law applied to everyone. We faced an institutional crisis as to whether we could conduct a full and fair inquiry without being fragmented along partisan lines. We were at a crossroads, with only one of the paths keeping us on course. We had to choose the right new path.

Congress responded to these challenges, and weathered a crisis of confidence in Government itself by taking the high ground and acting carefully and deliberately. The system worked.

People throughout the Nation recognized that a Congress, made up of individual Members from various backgrounds, could take on tough problems and resolve them in a firm, fair, and responsible way. Having restored confidence in Government, the Congress moved boldly toward congressional reform.

Again today, confidence in Government has faltered. Our institutions are seen as unresponsive and uncaring.

During the 1970's, Congress met the challenge of correcting abuses in another branch of government. Now, the task is more difficult. Congress must set out to improve itself.

The American people are frustrated and see Congress as part of the problem rather than part of the solution. Its seems clear that our efforts must be both procedural and substantive.

Procedurally, it is important that recommendations, such as those being considered by the Joint Committee on the Organization of Congress, be taken seriously and that changes which will improve efficiency be adopted.

We should, however, keep in mind the distinction between efficiency and effectiveness. Even more important than the efficiency of doing things right is the substantive question of doing right things.

For example, serious questions about minority and majority rights should be addressed in a consistent and fair way throughout the legislative branch.

In the months following the Watergate decisions. I remember one reform, which was considered by Speaker Carl Albert, that a two-thirds vote of the House be required to approve nongermane amendments added by the other body. We were quickly advised by Members of the other body that such a super-majority should not be approved.

Believing in the democratic principle that a majority should have a right to bring an issue forward to a vote, the House has recently adopted a discharge procedure to advance that principle. If such a process is a sound expressive of majority rights, should it not be uniformly applied throughout the legislative branch of Government?

In addition to changes within the legislative branch as an institution, reform is needed in assuring that elections provide a level playing field on which challengers can compete with incumbents. Campaign finance reform is one means to enhance this objective.

But more basic than procedural and substantive reform of laws and institutions, is the need for individual dedication to the people's business.

Just as members of the Judiciary Committee rose above themselves to perform their duty to the principles of justice and accountability that were central to the Watergate matter, we should now reaffirm that the purpose of debate is to inform and persuade Members, not television audiences.

We should assure that decisions be made on principle rather than expediency, that the institution of Congress as well as the privilege of representing the people be respected and accorded dignity.

It is time, once again, to take the high road. The American people will notice, and they will approve.

□ 2340

DEPOSITORY INSTITUTION RETAIL INVESTMENT SALES AND DISCLOSURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I am pleased to introduce today the Depository Institution Retail Investment Sales and Disclosure Act with my colleague from New York, Congressman CHUCK SCHUMER. This legislation is prompted by our great concern over the retail sales of nondeposit investment products by insured depository institutions. The timing of this bill is critical. In the past few years, mutual funds have exploded into a $2.1 trillion market—from $135 billion in 1980 to $2.1 trillion in 1993. Assets of mutual funds have exceeded that of deposits for the first time in our history. More than one-third of the banking industry now sells mutual funds. The purpose of this legislation is to prevent consumers from buying an uninsured product such as a mutual fund or annuity, mistakenly believing that the product is federally insured. We don't need another Lincoln Savings and Loan debacle where thousands of customers bought bonds thinking they were as safe as CD's, only to learn they were really worthless junk bonds.

Although some Federal banking agencies have issued guidelines regarding sales of uninsured products, this legislation would go further to protect consumers from misleading and deceptive sales practices. Our bill would ensure that not only will banks be required to follow the SEC's rules for brokers and dealers, but also that they take into account the special rules of unsophisticated customers. This bill is designed to protect the vulnerable customer from unsafe and unsound tactics we have seen used in previous scandals.

We cannot trust that banks' self-policing practices will avert another tragedy like the Lincoln Savings and Loan debacle of the 1980s when thousands of mostly elderly customers bought uninsured bonds from the California savings and loan believing they were federally insured. No one told them these bonds were uninsured—if anything, Lincoln employees contributed to the problem by disabusing the customers of any notion that the bonds might be uninsured. When Lincoln was taken over by the Government in April 1989, more than 23,000 customers were left with $255 million of worthless bonds. Many people lost their life's savings. Our legislation will keep bank customers fully apprised of all of the risks of purchasing investment products.

This bill is critical, because, unfortunately, many people still think that anything they get from a bank is federally insured. We need to make sure that tellers and customer representatives—who deal most frequently with customers—clarify the uninsured nature of these products.

This legislation requires full disclosure that the product is not insured by the Government and that the consumer is aware that money may be lost on the investment. In addition, the customer must sign a form acknowledging the disclosure before any initial purchase.

The legislation also addresses the scenario where a customer, understandably, is confused over the association between a bank, which is federally insured, or name of the uninsured products offered by or through the bank. For example, how can a consumer be expected to immediately make the distinction between the federally insured American Bank or its uninsured so-called American Bank mutual funds? The Office of the Comptroller of the Currency [OCC] says that banks may not use their name in the labeling of uninsured bank products. The Gonzalez-Schumer bill specifically prohibits banks from using similar names or logos. This bill will help avoid such confusion in the future. It also allows banks a transition period in recognition of existing arrangements.

To further prevent customer confusion, the legislation regulates the setting and circumstances of investment sales by physically isolating the area where uninsured mutual funds or annuities are sold, from the area where a customer engages in everyday banking services such as making deposits. Thus, the customer will have to seek out the services on his or her initiative. This bill serves to deter methods used in the Lincoln Savings and Loan crisis, where tellers were receiving bonuses for pushing uninsured bonds and meeting quotas established by each branch.

Currently, Federal banking agencies only require "to the extent permitted by space and personnel considerations," that banks take steps to separate the retail deposit-taking and retail nondeposit sales functions of banks. Clearly, this is not enough. Under our legislation, even the smallest depository institution must figure out a way to physically separate its noninsured businesses from its insured. While this may cause some inconvenience at first, the payback in greater customer protection is worth it.

Tellers must also refer customers to the area of the bank where they can purchase uninsured financial instruments. Under our legislation, the teller is not even allowed to comment on customer requests for information on uninsured products but must refer them to the employee or employees responsible for selling the product. As it stands today, customers may be misled by the teller who deposits their federally insured money and then turns around and sells them an uninsured investment product.

Currently, banks provide names and addresses of their customers, along with CD balances and maturity dates, to affiliated brokers who sell uninsured products. The Federal banking agencies do not address issues of confidentiality in this situation. This bill would require written customer consent prior to the disclosure of any confidential information.

The reforms in this bill are needed because they exceed those of Federal banking agencies which emphasize, recommend, or advise requirements of the banks they oversee. This legislation mandates reforms.

The Lincoln Savings and Loan scandal serves to remind us that consumers who are not informed about the risks involved with their investments, can lose big. I urge all members to support passage of this bill to protect those who may not have all the information they need. It is my intention to bring this bill to a committee vote this year since the sooner the consumer is protected, the better.

DEPOSITORY INSTITUTION RETAIL INVESTMENT SALES AND DISCLOSURE ACT—SECTION-BY-SECTION ANALYSIS

Section 1. Short title. "Depository Institution Retail Investment Sales and Disclosure Act."

Section 2. Regulation of retail sales of nondeposit investment products by insured depository institutions.

The Act amends the Federal Deposit Insurance Act (FDI Act) by adding a new section 44, "Regulation of Retail Sales of Nondeposit Investment Products by Insured Depository Institutions".

Definitions. Section 449(a)(1) defines "banking office" as any office or part of any office of an insured depository institution that is commonly accessible to the general public for the purpose of accepting or withdrawing deposits.

"Nondeposit investment product" is defined in section 44(a)(2) broadly to include any shares issues by a registered investment company. It does not include any deposit, loan or extension or credit, letter of credit, or any other instrument or investment product specifically excluded from the definition by regulations prescribed jointly by the Federal banking agencies.

Scope of Application. Section 44(b)(1) provides that the Act applies only to retail sales of nondeposit investment products. It does not apply to transactions between any insured depository institution, any affiliate, or any other person subject to section 44 and any other insured depository institution, any affiliate, any registered broker or dealer, any accredited investor (as defined in section 2(15)(i) of the Securities Act of 1933), or any other class of customers which the Federal banking agency determines, on the basis of the customer's financial sophistication, does not need the protections of the Act.

Section 44(b)(2) provides that the Act should not be construed as limiting or otherwise affecting any authority of the SEC, any self-regulatory organization (SRO), the Municipal Securities Rulemaking Board (MSRB), or the Secretary of the Treasury under any Federal securities law or the applicability of any Federal securities law or regulation. The Act does impose requirements on insured depository institutions who must ensure compliance by certain SEC registered and regulated persons who operate on behalf of or upon the premises of the insured depository institution. Some of these requirements are in addition to those imposed by the Federal securities laws and regulations issued thereunder. However, the requirements of, and the regulatory and enforcement authority of the Federal banking agencies under, the Act are not intended to diminish the regulatory and enforcement authority of the SEC, any SRO, the MSRB, or the Secretary of the Treasury over persons registered with or otherwise regulated by them.

Prohibition on Misleading and Deceptive Practices. Section 44(c) of the FDI Act prohibits any insured depository institutions from permitting any person from engaging in any practice or using advertising which could mislead a customer as to: (1) the uninsured nature of any nondeposit investment product offered or sold by the institution, any affiliate, or any other person at or on behalf of the institution, or (2) the investment risk associated with such product.

The Federal banking agencies are required to jointly prescribe rules of fair practice governing such sales. The regulators are to take into account the National Association of Securities Dealers (NASD) Rules of Fair Practice when prescribing such regulations and any other applicable regulations which the agencies determine to be appropriate.

Disclosure. Under section 44(d), an insured depository institution shall require any person who offers or sells any nondeposit investment product to disclose to any potential customer the following information: (1) the nondeposit investment product is not insured by the FDIC, the U.S. Government, or the institution; (2) the product poses some investment risk and may involve the loss of principal; (3) a description of the relationship between the insured depository institution and any other person which originated the product or underwrites, sells or distributes the product; and (4) in the case of sales of shares of a registered investment company, the relationship between the institution, any affiliate, and the investment company.

At the time of the initial purchase of a nondeposit investment product, the insured depository institution must obtain a separate statement signed and dated by the purchaser which contains the declaration that the purchaser has received, read and understood the required disclosures. The declaration must be prominently placed on a sheet of paper separate from any application or other paper which the person signs or obtains in connection with the initial purchase. Signed declarations must be obtained for the initial purchase of each type of nondeposit product, i.e. mutual fund, annuity, or shares of stock. Signed declarations are not required for subsequent purchases of the same type of nondeposit product.

With respect to a purchase of a nondeposit investment products (other than an initial purchase described above) which takes place through an electronic funds transfer, the visual or oral disclosure described above must be provided through the device used by the purchaser to carry out the transfer.

The Federal banking agencies must jointly establish model forms for disclosure and signed declarations.

The disclosures required under section 44(d)(1) must be contained in any advertisement, solicitation, or promotional or sales material of any insured depository institution regarding any nondeposit investment product, as well as in any sale confirmation notice or periodic statement issued in connection with such product.

Location. An insured depository institution may not permit any part of any banking office of the institution to be used for offers of, sales of, or offers of opinions or investment advice regarding, any nondeposit investment product. Such activity may be conducted in an area physically segregated from the banking office.

A notice must be posted in any area in which nondeposit investment products are offered or sold or in which investment advice regarding such products is given stating that such part of the office is devoted to the sale of nondeposit investment products that are not insured by the FDIC or the U.S. government and that deposits are not accepted at that location.

Employee Sales, Training, and Compensation. An insured depository institution may not allow any person who accepts deposits to sell or offer investment advice regarding any nondeposit investment product. Such person may refer a customer to a person who does sell such products or offers such advice if the customer explicitly requests the referral and if the person who accepts deposits does not solicit such requests, discloses to the customer the uninsured nature of such products, and does not receive any referral based compensation.

In order to sell any nondeposit investment product at or on behalf of an insured depository institution, a person must either be registered with the SEC as a broker or dealer, registered representative, or an investment adviser or the person must meet qualification and training requirements which the Federal banking agencies jointly determine to be equivalent to the training and qualification requirements applicable to a registered broker or dealer, registered representative, or registered investment adviser. Such training must include training regarding suitability of investments.

Generally, the Federal banking agencies are instructed to prescribe regulations establishing minimum requirements for insured depository institution compensation programs designed to ensure that the programs do not provide an incentive for the sale of nondeposit investment products to any customer in lieu of a more suitable investment.

Common Names. No insured depository institution and no affiliate may use the name, title or logo of the institution or any word or design which the same as or similar to, or a variation of, the name, title, or logo of such institution in connection with the name of any investment company for which the institution or affiliate acts as investment adviser, or any nondeposit investment products which is sold by the institution or affiliate or with respect to which the institution or affiliate provides an opinion or investment advice. This prohibition shall not apply to any institution currently using such name, title, logo, word or design until 6 months after the date of enactment of this Act if the use of such name, title, logo, word or design began prior to the date of enactment. The appropriate Federal banking agency may permit such use to continue after the expiration of the 6 month period if the agency determines, in writing and on a case by case basis, that such use is unlikely to mislead any person as to the uninsured nature of the nondeposit investment product.

Confidential Customer information. Section 44(g) prohibits the disclosure of any confidential customer information by an insured depository institution to any person, including any affiliate of the institution, without the prior written consent of the customer. "Customer" is defined as any person who after the date of enactment of this Act establishes a deposit, trust, or credit relationship with an insured depository institution. A renewal of an account or rollover of a deposit is treated as the establishment of a new deposit relationship. "Confidential customer information" is defined as financial information regarding any specific individual which has been derived from any record of the institution and pertains to the individual's relationship to the institution. Specific exceptions from the definition are provided. The Federal banking agencies may prescribe additional regulations limiting disclosures of nonpublic customer information.

Compliance. Section 44(i) requires each Federal banking agency to review the institution's record of compliance with section 44 when conducting any examination. The insured depository institution which permits third parties to offer, sell, or provide investment advice regarding, nondeposit investment products must establish procedures to ensure that such third parties adhere to the requirements of section 44.

Seciton 44(i)(3) states the sense of the Congress that the Federal banking agencies use testers to monitor compliance with the requirements of this section.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HASTERT (at the request of Mr. MICHEL), from 4:30 p.m. and for the balance of the day, on account of illness.

Mr. ENGEL (at the request of Mr. GEPHARDT), for today until 6:50 p.m., on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. HUNTER, for 15 minutes, today.

(The following Members (at the request of Ms. MOLINARI) to revise and extend their remarks and include extraneous material:)

Mr. GILLMOR, for 60 minutes each day, on October 22, 25, and 26.

Mr. SMITH of New Jersey, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today, and for 60 minutes, on October 21.

(The following Members (at the request of Ms. LAMBERT) to revise and extend their remarks and include extraneous material:)

Mr. PARKER, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

Mr. SANDERS, for 5 minutes each day, October 20 and 21.

Mrs. MEEK, for 5 minutes, on October 21.

Ms. MCKINNEY, for 5 minutes, on October 21.

Ms. BROWN of Florida, for 5 minutes, on October 21.

Mr. SANDERS, for 60 minutes each day, on October 26 and 27.

Mr. FINGERHUT, for 60 minutes each day, on October 20 and 21.

Mr. HINCHEY, for 10 minutes, on October 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. MOLINARI) and to include extraneous matter:)

Mr. MICHEL.

Mr. KYL.

Mr. ROHRABACHER.

Mr. CAMP.

Mr. REGULA.

Mr. FIELDS of Texas.

Mrs. MEYERS of Kansas.

Mr. KOLBE.

Mr. SMITH of New Jersey.

Mr. KNOLLENBERG.

Mr. LEWIS of California in two instances.

Mr. TALENT in three instances.

Ms. MOLINARI.

Mrs. MORELLA.

Mr. HEFLEY.

Mr. COLLINS of Georgia in three instances.

(The following Members (at the request of Ms. LAMBERT) and to include extraneous matter:)

Mr. DINGELL.

Mr. HOLDEN.

Mr. MINETA.

Mr. MANTON.

Mr. SWETT in two instances.
Mr. RUSH in three instances.
Mr. ENGEL.
Mr. HILLIARD.
Mr. HINCHEY.
Mr. SANDERS.
Mr. LIPINSKI.
Mr. JEFFERSON.
Mr. COYNE.
Mr. FOGLIETTA.
Mr. BARCIA.
Mr. SERRANO in four instances.
Mrs. SCHROEDER.
Mr. EDWARDS of Texas.
Mr. BLACKWELL.
Mr. HOCHBRUECKNER in two instances.
Mr. LEHMAN.
Mr. TRAFICANT in two instances.
Ms. ENGLISH of Arizona.
Mr. LANTOS.
Ms. HASTINGS.
Mr. CONDIT.

ADJOURNMENT

Mr. THORNTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 44 minutes p.m.), the House adjourned until tomorrow, Thursday, October 21, 1993, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2045. A letter from the Department of Energy, transmitting the first interim report of the Federal Fleet Conversion Task Force; to the Committee on Energy and Commerce.

2046. A letter from the Chief Financial Officer, Nuclear Regulatory Commission, transmitting the Commission's report on mixed waste streams, pursuant to 42 U.S.C. 6965; to the Committee on Energy and Commerce.

2047. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed transfer of defense articles or defense services valued at $50 million or more reexported from Canada to Australia, pursuant to 22 U.S.C. 2753(d)(3); to the Committee on Foreign Affairs.

2048. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of defense equipment sold commercially to Japan (Transmittal No. DTC-38-93), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2049. A letter from the Railroad Retirement Board, transmitting the Board's report on the Program Fraud Civil Remedies Act for Fiscal Year 1993, pursuant to 31 U.S.C. 3810; to the Committee on Government Operations.

2050. A letter from the Chairman, Board of Directors, Tennessee Valley Authority, transmitting a report of activities under the Freedom of Information Act for calendar year 1992, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIXON: Committee on conference. Conference report on H.R. 2492. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103-303). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 282. Resolution providing for consideration of the joint resolution (H.J. Res. 281) making further continuing appropriations for the fiscal year 1994, and for other purposes (Rept. 103-304). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. NORTON (for herself, Mrs. MORELLA, Mr. ACKERMAN, Mr. YOUNG of Alaska, Ms. BYRNE, Mr. MORAN, Mr. HOYER, Mrs. UNSOELD, Mr. BATEMAN, Mr. GILCHREST, and Mr. CARDIN):

H.R. 3318. A bill to amend title 5, United States Code, to provide for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles; to the Committees on Post Office and Civil Service, House Administration, and the Judiciary.

By Mr. BARRETT of Nebraska:

H.R. 3319. A bill to impose limitations on the placing of U.S. Armed Forces under the operational control of a foreign national acting on behalf of the United Nations; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. BILBRAY (for himself, Mr. GOODLATTE, Mr. HUNTER, Mr. LEHMAN, and Mr. TRAFICANT):

H.R. 3320. A bill to curb criminal activity by aliens, to defend against acts of international terrorism, to protect American workers from unfair labor competition, and to relieve pressure on public services by strengthening border security and stabilizing immigration into the United States; to the Committee on the Judiciary.

By Mr. FRANK of Massachusetts:

H.R. 3321. A bill to provide increased flexibility to States in carrying out the Low-Income Home Energy Assistance Program; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and Labor, and Energy and Commerce.

By Mr. JEFFERSON (for himself, Mr. RANGEL, Mr. FORD of Tennessee, Mr. LEWIS of Georgia, Mr. REYNOLDS, Mr. FROST, Mr. WASHINGTON, Mr. TOWNS, Mr. MURPHY, and Mr. KLEIN):

H.R. 3322. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing; to the Committee on Ways and Means.

By Mr. SANDERS:

H.R. 3323. A bill to provide that rates of pay for the President and Members of Congress shall be made equivalent to the rates of pay for their counterparts in the United Mexican States if legislation implementing the North American Free-Trade Agreement is enacted; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mrs. SCHROEDER:

H.R. 3324. A bill to amend the Public Health Service Act to establish a program of providing information and education to the public on the prevention and treatment of eating disorders; to the Committee on Energy and Commerce.

By Mr. SHAYS (for himself, Mr. ANDREWS of Texas, Mr. WALSH, Mr. KOLBE, Mr. SMITH of Texas, Mr. BOEHNER, Mr. FRANK of Massachusetts, and Mr. BALLENGER):

H.R. 3325. A bill to amend certain provisions of title 5, United States Code, relating to the age and service requirements for entitlement to an immediate annuity under the Civil Service Retirement System or the Federal Employees' Retirement System, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. KLINK (for himself and Mr. COYNE):

H.R. 3326. A bill to delay the effective date of regulations issued by the Secretary of Housing and Urban Development governing the admission of single persons into public and assisted housing for the elderly; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NATCHER:

H.J. Res. 281. Joint resolution making further continuing appropriations for the fiscal year 1994, and for other purposes; to the Committee on Appropriations.

By Mr. STUDDS (for himself, Mr. MANTON, Mr. YOUNG of Alaska, Mr. PALLONE, Mr. SAXTON, and Ms. SNOWE):

H. Con. Res. 169. Concurrent resolution to express the sense of the Congress that the United States should seek compliance by all countries with the conservation and management recommendations for Atlantic bluefin tuna adopted by the International Commission for the Conservation of Atlantic Tunas, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. SMITH of New Jersey (for himself, Mr. DOOLITTLE, Mr. MCMILLAN, Mr. PARKER, Mr. HYDE, Mr. SOLOMON, Mr. BARRETT of Nebraska, Mr. DELAY, Mr. FIELDS of Texas, Mr. BUYER, Mr. CANADY, Mr. WOLF, Mr. HUTCHINSON, Mr. RAHALL, Mr. DICKEY, Mr. GILCHREST, Mr. HEFLEY, Mr. SENSENBRENNER, Mr. PORTER, Mr. BACHUS of Alabama, Mr. LINDER, Mr. HOEKSTRA, Mr. LEWIS of Florida, Mr. BAKER of California, Mr. COX, Mr. RAVENEL, Mr. DORNAN, Mr. ROYCE, Mr. CAMP, Mr. CUNNINGHAM, Mr. SUNDQUIST, Mr. BAKER of Louisiana, Mr. ROTH, Mr. TALENT, Mr. HERGER, Mr. STUMP, Mr. BATEMAN, Mr. QUILLEN, Mr. RIDGE, Mr. HANCOCK, Mr. SANTORUM, Mr. HORN, Mr. LIPINSKI, Mrs. ROUKEMA, Mr. TAYLOR of North Carolina, Mr. BARTLETT of Maryland, Mr. CALLAHAN, Mr. SAXTON, Mr. HUTTO, Mr. FALEOMAVAEGA, Mr. WALSH, Mr. INGLIS of South Carolina, Mr. HUNTER, Mr. ZELIFF, Mr. GINGRICH, Mr. GEKAS, Mr. MCCOLLUM, and Mr. KYL):

H. Res. 281. Resolution respecting child pornography; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

251. By the SPEAKER: Memorial of the Legislature of the State of California, relative to pest containment and quarantine facilities; to the Committee on Agriculture.

252. Also, memorial of the Legislature of the State of California, relative to Mare Island Naval Shipyard; to the Committee on Armed Services.

253. Also, memorial of the Legislature of the State of California, relative to the aircraft carrier *Midway*; to the Committee on Armed Services.

254. Also, memorial of the Legislature of the State of California, relative to community development financial institutions; to the Committee on Banking, Finance and Urban Affairs.

255. Also, memorial of the Senate of the State of California, relative to establishing a model for career pathways for youth programs; to the Committee on Education and Labor.

256. Also, memorial of the Legislature of the State of California, relative to long-term care; to the Committee on Energy and Commerce.

257. Also, memorial of the Legislature of the State of California, relative to cannabis/marijuana; to the Committee on Energy and Commerce.

258. Also, memorial of the Senate of the State of California, relative to the range livestock industry; to the Committee on Natural Resources.

259. Also, memorial of the Legislature of the State of California, relative to military airspace; to the Committee on Public Works and Transportation.

260. Also, memorial of the Legislature of the State of California, relative to tax refund liability; to the Committee on Ways and Means.

261. Also, memorial of the Legislature of the State of California, relative to American prisoners of war or missing in action; jointly, to the Committee on Foreign Affairs and Ways and Means.

262. Also, memorial of the Legislature of the State of California, relative to sustainable development; jointly, to the Committees on Foreign Affairs, Energy and Commerce, Public Works and Transportation, and Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Mr. BARCA of Wisconsin.

H.R. 140: Mr. HANSEN, Mr. BAESLER, Mr. FAZIO, Mr. DEAL, Mr. SCHIFF, Mr. WHITTEN, and Mr. BACHUS of Alabama.

H.R. 250: Mr. DORNAN.

H.R. 323: Mr. BALLENGER, Mr. SENSENBRENNER, Mr. ROHRABACHER, Mr. PETE GEREN of Texas, Mr. MCHUGH, Mr. LINDER, Mr. PENNY, Mr. ANDREWS of New Jersey, Mr. STENHOLM, Mr. CONDIT, Mr. ALLARD, Mr. ARCHER, Mr. ARMEY, Mr. BAKER of Louisiana, Mr. BATEMAN, Mr. BILIRAKIS, Mr. BLUTE, Mr. BOEHNER, Mr. BUNNING, Mr. CALLAHAN, Mr. CALVERT, Mr. CAMP, Mr. CANADY, Mr. CLINGER, Mr. COBLE, Mr. COLLINS of Georgia, Mr. CUNNINGHAM, Mr. DIAZ-BALART, Mr. DICKEY, Mr. DOOLITTLE, Mr. DORNAN, Mr. DREIER, Ms. DUNN, Mr. EMERSON, Mr. FIELDS of Texas, Mr. GALLO, Mr. GEKAS, Mr. HANCOCK, Mr. HASTERT, Mr. HEFLEY, Mr. HOUGHTON, Mr. HUNTER, Mr. HYDE, Mr. INHOFE, Mr. ISTOOK, Mr. KING, Mr. KLUG, Mr. KYL, Mr. LAZIO, Mr. LEWIS of California, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mr. MCCOLLUM, Mr. MICA, Mr. MILLER of Florida, Mr. MOORHEAD, Mr. MYERS of Indiana, Mr. PACKARD, Mr. PAXON, Mr. PETRI, Mr. POMBO, Mr. PORTMAN, Mr. QUINN, Mr. REGULA, Mr. ROBERTS, Ms. ROS-LEHTINEN, Mr. SANTORUM, Mr. SAXTON, Mr. SKEEN, Mr. SMITH of New Jersey, Mr. SPENCE, Mr. STEARNS, Mr. STUMP, Mr. THOMAS of California, Mr. TORKILDSEN, Mr. WALKER, Mr. WALSH, Mr. WELDON, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. ZELIFF, Mr. HORN, Mr. BARTLETT of Maryland, Mr. OXLEY, Mr. FISH, Mr. GALLEGLY, Mr. DELAY, Mr. NUSSLE, Mr. KNOLLENBERG, and Mr. BONILLA.

H.R. 339: Mr. STENHOLM.

H.R. 411: Mr. KINGSTON and Mr. BAKER of Louisiana.

H.R. 417: Mr. HOKE.

H.R. 455: Ms. NORTON.

H.R. 509: Mr. ROHRABACHER and Mr. ARCHER.

H.R. 635: Mr. MCCRERY.

H.R. 794: Mr. ALLARD.

H.R. 796: Mr. COOPER.

H.R. 799: Mrs. LLOYD.

H.R. 878: Mr. KILDEE and Miss COLLINS of Michigan.

H.R. 1012: Mr. KNOLLENBERG.

H.R. 1504: Mr. JACOBS.

H.R. 1552: Mr. BROWN of Ohio.

H.R. 1583: Mr. WYNN, Mrs. THURMAN, and Ms. FURSE.

H.R. 1627: Mr. ISTOOK and Mr. COSTELLO.

H.R. 1749: Mr. GREENWOOD.

H.R. 1801: Mr. TORKILDSEN.

H.R. 1968: Ms. FURSE.

H.R. 2076: Mr. NEAL of North Carolina, Mr. OLVER, Mr. FORD of Michigan, and Ms. BYRNE.

H.R. 2173: Mr. KLEIN.

H.R. 2326: Mr. HINCHEY, Mr. CALVERT, Mr. CAMP, Mr. JOHNSTON of Florida, Mr. EWING, Mr. PAXON, Mr. VENTO, Mr. HOAGLAND, Mr. BUYER, Mr. SUNDQUIST, Mr. BROWN of Ohio, Mr. GORDON, and Mr. BAKER of Louisiana.

H.R. 2341: Mr. ORTIZ, and Mr. SOLOMON.

H.R. 2417: Mr. DUNCAN, Mr. SWIFT, Mr. HOLDEN, and Mr. CRANE.

H.R. 2425: Mr. GRAMS.

H.R. 2467: Mr. BOUCHER, Ms. BROWN of Florida, Mr. PETE GEREN of Texas, Mr. HALL of Ohio, Mr. LINDER, Mr. MANTON, Mr. MANZULLO, Mr. OLVER, Mr. SARPALIUS, Mr. SKEEN, and Mr. WILSON.

H.R. 2521: Mrs. THURMAN, Mr. UPTON, Mr. POMBO, Mr. HOLDEN, Mr. TORRES, Mr. TORKILDSEN, Mr. MCCRERY, Mr. WOLF, and Ms. SNOWE.

H.R. 2556: Mr. HOKE.

H.R. 2572: Mr. KLEIN.

H.R. 2612: Mr. THOMAS of California and Mr. HERGER.

H.R. 2623: Mr. KLEIN and Mr. MYERS of Indiana.

H.R. 2758: Mr. MILLER of Florida and Mr. BROWN of Ohio.

H.R. 2787: Ms. VELAZQUEZ.

H.R. 2814: Mr. VALENTINE.

H.R. 2866: Mr. KLEIN, Ms. ENGLISH of Arizona, Mr. THOMPSON, Mr. PETERSON OF MINNESOTA, Mr. BECERRA, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. FINGERHUT, and Mr. FOGLIETTA.

H.R. 2896: Mr. ROHRABACHER and Mr. DEAL.

H.R. 2898: Mr. PALLONE.

H.R. 2950: Mr. BAESLER.

H.R. 2959: Mr. GALLEGLY, Mr. DORNAN, Mr. EWING, Mrs. VUCANOVICH, Mr. BALLENGER, Mr. SENSENBRENNER, and Mr. HEFLEY.

H.R. 3030: Mr. KINGSTON and Mr. WELDON.

H.R. 3039: Mr. BROWDER and Mr. SAM JOHNSON.

H.R. 3041: Mr. APPLEGATE.

H.R. 3088: Ms. NORTON, Mr. OBERSTAR, Mr. GALLEGLY, Mr. FOGLIETTA, and Mr. FALEOMAVAEGA.

H.R. 3109: Mr. FISH.

H.R. 3121: Mr. BOUCHER, Mr. ACKERMAN, Mr. SKEEN, and Mr. MCDADE.

H.R. 3132: Ms. PELOSI, and Mr. ROMERO-BARCELÓ.

H.R. 3173: Mr. LIGHTFOOT.

H.R. 3194: Mr. MYERS of Indiana, Mr. SCHUMER, and Mr. FROST.

H.R. 3195: Mr. SCHUMER, Mr. LEVY, and Mr. GENE GREEN of Texas.

H.R. 3205: Mrs. MALONEY, Mr. ROYCE, Mr. MANN, Mr. POSHARD, Mr. DEFAZIO, Mr. BYRANT, Mr. FINGERHUT, Mr. COOPERSMITH, Mr. MEEHAN, Mr. JOHNSON of South Dakota, Mr. BROWN of Ohio, Mr. BARRETT of Wisconsin, Mr. INSLEE, Mr. JOHNSON of Georgia, Mr. DEAL, Mr. TANNER, and Mr. PENNY.

H.R. 3212: Mr. BACHUS of Alabama.

H.R. 3213: Mr. STUMP and Mr. LIGHTFOOT.

H.J. Res. 79: Mr. CHAPMAN.

H.J. Res. 113: Mr. JOHNSON of Georgia.

H.J. Res. 274: Mr. GREENWOOD.

H. Con. Res. 91: Mr. BAESLER, Mr. CUNNINGHAM, Mr. COOPER, Ms. KAPTUR, Mr. BOEHNER, Mr. BLUTE, Ms. FURSE, and Mr. ROEMER.

H. Con. Res. 141: Mr. MCCRERY and Ms. CANTWELL.

H. Con. Res. 154: Mr. GILMAN, Mr. MORAN, Mr. ROYCE, Mr. FRANK of Massachusetts, Mr. MARKEY, Mr. BARTLETT of Maryland, Mr. LIPINSKI, Mr. SOLOMON, Mr. SERRANO, Mr. GUNDERSON, Mr. BERMAN, Mr. BONIOR, Mr. FISH, Mr. SMITH of New Jersey, Ms. BYRNE, Mr. SENSENBRENNER, Mr. MANZULLO, Mr. LAZIO.

H. Res. 127: Mr. SANTORUM.

H. Res. 227: Mr. KLUG, Mr. MAZZOLI, Ms. BYRNE, Mr. BILIRAKIS, and Mr. THOMAS of Wyoming.

H. Res. 234: Ms. BYRNE, Mr. TAYLOR of Mississippi, Mr. SHARP, Mr. CRAMER, Mr. PAXON, Mr. DE LA GARZA, Miss COLLINS of Michigan, Mr. FRANKS of Connecticut, Mr. KING, and Mr. CALLAHAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

HR. 1627: Mr. GUTIERREZ.

H.R. 2862: Mr. LEWIS of Florida.

EXTENSIONS OF REMARKS

THE COMMON GOOD

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. MICHEL. Mr. Speaker, on Sunday, October 3, 1993, Joseph Cardinal Bernardin of Chicago delivered the homily for the "Red Mass," celebrated on the Sunday prior to the first Monday in October, which traditionally marks the opening of the Supreme Court's new term. Cardinal Bernardin's topic "Promoting the Common Good Through the Practice of Virtues" deals with the relationship between private virtues and the public good, a topic which, in my view, usually does not get the kind of serious attention it deserves in public policy debates. I commend the Cardinal's views to all our colleagues.

At this time I wish to insert in the RECORD the text of the homily "Promoting the Common Good Through the Practice of Virtues," by Joseph Cardinal Bernardin:

PROMOTING THE COMMON GOOD THROUGH THE PRACTICE OF VIRTUES

(By Joseph Cardinal Bernardin)

My dear brothers and sisters in the Lord:

I am grateful to Cardinal Hickey for the invitation to be the homilist for this year's Red Mass, sponsored by the John Carroll Society. This Mass on the Sunday prior to the first Monday in October, which traditionally marks the opening of the Supreme Court's new term, is an appropriate occasion for us to gather in prayer. We ask God's guidance and wisdom for the President, the Supreme Court, the Congress, the Judiciary, the Diplomatic Corps, and all who serve our nation.

The scriptural readings we have just heard give us the image of a vineyard. As described by the prophet Isaiah, this vineyard was very valuable property which symbolized the wealth of the land. However, his parable suggests that this wealth had not produced a just society. The threat that the vineyard would be turned into a ruir was fulfilled quite literally after the Assyrian invasions during the eighth century B.C.[1]

Isaiah used the song of the vineyard to establish why judgment was appropriate for God's people, and to show that their behavior was tantamount to a total failure to live up to the demands of their privileged position.[2] The song, therefore, is a sophisticated form of legal indictment of those who had broken the covenant of justice and love.

The Gospel of St. Matthew continues Isaiah's image of the vineyard. The interpretation of this gospel parable is made clear to us by its connection to Isaiah's song of the vineyard: God is the owner of the vineyard; the vineyard is the community; the vinedressers are the religious and political leaders who have been entrusted with the care of the community; the servants who were sent to the vineyard were the prophets, but they all met the same bad fate. The son is Jesus Christ. The owner expects that at least his son (Jesus) will be received with respect. In fact, he receives even worse treatment, to the point of being killed. His murder is the rejection of the gospel message by the vinedressers, the leaders.[3]

The threat that the vineyard would be taken away and given over to others, who live in accord with the dictates of justice, is a cogent reminder for us who exercise leadership positions in our religious and political communities. If we do not act as responsible stewards and servants of the communities in our care, our leadership will be taken away and given to those who will act responsibly and in accord with the demands of justice. (Those of you who face the prospect of a reelection campaign know all too well the reality of that challenge!)

As we look out across the nation, the vineyard in our care, we see a valuable community of people with a wealth of talents and resources. But it is threatened with destruction and ruin by the forces of violence and narrow self-interest. Perhaps now as never before, people in many of the communities of our nation live in fear of crime. Perhaps now as never before, human life cries out for dignity and respect at every stage and in all circumstances—from conception to natural death. Perhaps now as never before, our failings as individual citizens threaten the common good of the vineyard in our care, the vineyard of our nation.

May I suggest a way to address this threat, a way which will entail no new government programs, no new laws, and best of all, no new expenditures of funds! That is because the means I suggest are not political, legal, or financial, but spiritual. My suggestion is that, as a nation, we embark on a concerted effort to promote the common good through the practice of virtues. Although not requiring any new government programs, new laws, or new expenditures of funds, the promotion of the common good in this way does call for a change of focus, a change of emphasis, a change of direction, a change of attitudes, and, most of all, a change of heart.

When considering the common good, it is far too easy to fall into the trap of seeing the common good as somehow opposed to individual rights and freedoms. This is a false dichotomy since individual concerns are inherently contained in any consideration of the common good. The common good is not concerned with the good of the community in a way that sets itself in opposition to the rights and freedoms of individual persons. In fact, the common good of the community is harmed when individual rights and freedoms are not respected. On the other hand, the individual is harmed when narrow self-interests and the pursuit of purely private gain are pursued without reference to the needs and interests of the community as a whole.

As described by the Second Vatican Council in the *Pastoral Constitution on the Church in the Modern World*, "The common good * * * is the sum total of all conditions which allow people, either as groups or as individuals, to reach their fulfillment more fully and more easily."[4] Thus, there is a dynamic relationship between the individual and the rest of society in promoting the common good. This relationship is reflected in the law of the Catholic Church, which says that "in exercising their rights, individuals and social groups are bound by the moral law to have regard for the rights of others, their own duties to others and the common good."[5]

While the United States Constitution has no similar provision, the common good does have a special place in our nation's understanding of its laws and system of justice. The Constitutional Convention of 1787 voted unanimously against adding a Bill of Rights to the Constitution, considering it unnecessary. It was not that the delegates were against such rights; they simply considered the matter already covered inherently in the Constitution and its parameters for the governance of the nation.[6] As Alexander Hamilton said, an enumeration of rights "would sound much better in a treatise of ethics than in a constitution of government."[7]

As we all know, proponents for a specific listing of protected rights, led by Thomas Jefferson, prevailed within two years of the Constitution's ratification and amended the document to include the first ten amendments as the Bill of Rights. This listing has made us keenly aware of the individual rights which we enjoy in this country. May I suggest that, even though not mentioned specifically in the Constitution, the common good is a fundamental principle which serves as a basis pillar or our nation's understanding of its laws and system of justice.

Just as respect for individual rights is inherent in promoting the common good, so also, when individuals conduct their lives in accord with the virtues, the common good is promoted. Perhaps this is more easily seen by considering the opposite. When individuals fail to live their lives virtuously, that is, when their conduct is marked by a life of sin and vice, then society as a whole, and thus the common good, is harmed.

Let me give you an example. Some time ago, a philosophy professor wrote an article criticizing the way ethics is taught in U.S. higher education. She charged that social policy questions were being overemphasized with little or no attention being paid to private morality. A colleague of hers objected to the article and alleged that "You are not going to have moral people until you have moral institutions." Promoting "bourgeois virtues" instead of awakening the social conscience of students was a waste of time, she said. This colleague changed her mind, however, when she discovered that more than half of her students had cheated on a social justice final exam![8] In other words, it is a question of both personal morality and social justice. One without the other will not work.

Although it may be impossible to provide a list of virtues upon which everyone would agree, the ethics of virtue has certain common features which primarily involve a focus on individual character: Actions are important because they show a person's values and commitments. It is a person's good character that produces practical moral decisions "based on beliefs, experience, and

Footnotes at end of article.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sensitivity, more than on rules and principles."[9]

The new Catechism of the Catholic Church, reflecting our Catholic tradition, defines virtue as "a habitual and firm disposition to do good. It permits a person not only to do good deeds, but also to give the best of himself or herself."[10] We distinguish virtues as being human and theological.

Human virtues are attitudes, dispositions, and understandings by which we regulate our actions, control our passions, and guide our conduct in accord with reason and faith.[11] Four virtues are called cardinal, not because they apply only to Cardinals (!), but because, coming from the Latin word, cardo, which means "hinge," all other virtues depend on these: prudence, justice, fortitude, and temperance.

Prudence is the virtue which disposes practical reason to discern in every circumstance our true well-being and to choose the correct means to achieve it. St. Thomas Aquinas, following Aristotle, described prudence as the "right rule of action."[12] It is prudence which directly guides the judgments of conscience.[13]

Justice is the moral virtue which consists in the constant and firm willingness to give to God and neighbor that which is due. Justice disposes one to respect the rights of all and to establish in human relations that harmony which promotes the common good and fairness respecting all persons.[14]

Fortitude is the moral virtue which secures strength and constancy in the search for well-being when faced with difficulties. The virtue of fortitude is able to conquer fear, even fear of death, so that a person is willing to sacrifice his or her own life in order to defend a just cause.[15]

Temperance is the virtue which moderates the attraction of pleasures and provides a balance in the use of created things. Through temperance, persons are able to exercise control over the instincts and appetites of the senses and maintain their desires within appropriate limits.[16]

The human virtues are rooted in the theological virtues of faith, hope, and love. They are called theological virtues because their reference point is God himself, leading human beings to a participation in God's divine nature.[17]

Faith is the theological virtue by which we believe in God and all that he has said and revealed, and which the Church proposes, because God is the essence of Truth.[18]

Hope is the theological virtue by which we aspire to the kingdom of heaven and to the happiness of eternal life, placing our confidence in the promises of Christ and in the assistance of the grace of the Holy Spirit rather than in our own powers and abilities.[19]

Charity or love is the theological virtue by which we love God above all else and our neighbor as ourselves.[20] Loving one another, the disciples imitated the love of Jesus.[21] For this reason, Jesus said: "As the Father has loved me, so I have loved you; live on in my love" (John 15:12).

Charity is greater than all the other virtues.[22] The exercise of all the virtues is animated and inspired by charity.[23] As St. Paul wrote, "There are in the end three things that last: faith, hope, and love, and the greatest of these is love" (1 Cor. 13:13).

Although I am speaking to you as a pastor in the context of a Catholic celebration of the Eucharist, my message of promoting the common good through the practice of virtue is by no means limited only to Catholics. Indeed, we have the example of none other than St. Paul, who relied on the ethical teaching of the Stoics and not on any uniquely Christian doctrine when he wrote the words we heard in today's second reading from his Letter to the Philippians: "Your thoughts should be wholly directed to all that is true, all that deserves respect, all that is honest, pure, admirable, decent, virtuous, or worthy of praise. Live according to what you have learned and accepted, what you have heard me say and seen me do. Then will the peace of God be with you" (Phil. 4:8–9).

Just as St. Paul did not assert that there was anything distinctively Christian about this exhortation, neither do I contend that my call for promoting the common good through the practice of virtues is uniquely Catholic or even Christian. Nor is there really anything novel about the concepts of the common good and the virtues. However, we should not necessarily expect this message to have great popular appeal. As Mark Twain said, "Virtue has never been as respectable as money."[24] Nevertheless, I believe that this message has great timeliness and necessity for us at this point in our history.

This timeliness and necessity were recognized recently by three organizations representing some 100 million American Christians and Jews. A joint statement issued a few months ago by the United States Catholic Conference, the National Council of Churches, and the Synagogue Council of American said:

The common good is an old idea with a new urgency. It is an imperative to put the welfare of the whole ahead of our own narrow interests. It is an imperative which we fervently hope will guide our people and leaders at this new moment.

It is an imperative for a national embrace of responsibility and sacrifice, of compassion and caring as building blocks for meaningful lives and for a health society. We believe we can and must do better.[25]

I, too, believe that we can and must do better, and I echo the call of our Nation's religious leaders that our "faith communities must continue to strengthen our ongoing efforts to engage our constituencies in study, dialog and action in pursuit of the common good. Let then the leaders of our Nation pursue this call and pursue its direction with urgency and creativity."[26]

May God who has begun a good work in you bring it to fulfillment.

FOOTNOTES

[1] John J. Collins, "Isaiah" in *The Collegeville Biblical Commentary* (Collegeville, Minnesota: The Liturgical Press, 1989), p. 419.

[2] R.E. Clements, *Isaiah 1-39*, New Century Bible (Grand Rapids: Wm. B. Eerdmans, 1980), p. 57.

[3] Cf. Daniel J. Harrington, *The Gospel of Matthew*, Sacra Pagina (Collegeville, Minnesota: The Liturgical Press, 1991), pp. 301–305.

[4] Vatican Council II, Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes*, 26.

[5] Vatican Council II, Declaration on Religious Liberty, *Dignitatis Humanae*, 7; see also canon 223 of the Revised Code of Canon Law (1983).

[6] Catherine Drinker Bowen, *Miracle at Philadelphia: The Story of the Constitution Convention—May to September 1787* (Boston: Little, Brown & Co., 1966), pp. 245–247.

[7] Alexander Hamilton, James Madison and John Jay [Publius, pseud.], *The Federalist Papers: A Collection of Essays Written in Support of the Constitution of the United States*, ed. Roy P. Fairfield (1788; reprint, Baltimore: The Johns Hopkins University Press, 1981), no. 84, p. 262.

[8] Christina Hoff Sommers, "Teaching the Virtues: a blueprint for moral education," *Chicago Tribune Magazine*, September 12, 1993, p. 14.

[9] William C. Spohn, S.J., "The Return of Virtue Ethics," *Theological Studies*, 53 (March, 1992), p. 61.

[10] *Catéchisme de l'Église Catholique*, unofficial translation (Paris: Mame-Libraire Editrice Vaticane, 1992), p. 381, Art. 7, par. 1803.

[11] *Ibid.*, par. 1804.

[12] *S. Th.* 2–2, 47, 2.

[13] *Catéchisme*, par. 1806.

[14] *Ibid.*, par. 1807.

[15] *Ibid.*, par. 1808.

[16] *Ibid.*, par. 1809.

[17] *Ibid.*, par. 1812.

[18] *Ibid.*, par. 1814.

[19] *Ibid.*, par. 1817.

[20] *Ibid.*, par. 1822.

[21] *Ibid.*, par. 1823.

[22] *Ibid.*, par. 1826.

[23] *Ibid.*, par. 1827.

[24] Quoted in Charles E. Bouchard, O.P., "Make Virtue Your Habit," *The Catholic Digest* (March, 1993), p. 110.

[25] "The Common Good: Old Idea, New Urgency," *Origins* 23 (June 24, 1993), p. 83.

[26] *Ibid.*, p. 85.

GOVERNORS ISLAND AGREEMENT MUST BE RESPECTED

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. RUSH. Mr. Speaker, I rise today to express my utter dismay over the current state of affairs in Haiti.

Last June, when Gen. Raoul Cedras' military government signed the Governors Island Accord agreeing to cede power to the democratically elected President Aristide, I rejoiced. Today, it seems highly unlikely that Cedras or the other military leaders in Haiti will step down on October 30 and allow President Aristide to return.

I call upon Haiti's military leaders to agree to the terms of the Governors Island Agreement and cede power to the democratically elected President Aristide.

I call upon Haiti's military leaders to relinquish greed, totalitarianism, violence, and repression.

I call upon Haiti's military leaders to respect for basic human rights, justice and democracy which are due all peoples.

We must never forget that a nation and a government that has neither the support of its people nor the best interest of its people at heart can ever survive.

TRIBUTE TO THE 1993 INDUCTEES TO THE ENTREPRENEURSHIP HALL OF FAME

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. LIPINSKI. Mr. Speaker, I rise today to recognize the entrepreneurial achievements of 34 leaders of the Chicago metropolitan business community. I am proud to salute these chairmen and presidents of small and midsized businesses for their induction into "The Entrepreneurship Hall of Fame."

The Institute for Entrepreneurial Studies in the College of Business Administration at the University of Illinois at Chicago cofounded and continues to sponsor the Entrepreneurship Hall of Fame, honoring outstanding business leaders whose spirit and success help keep America's business community strong and vital. This year's awards ceremony will be held Thursday evening, October 21, 1993, in Chicago, where these distinguished entrepreneurs from the Chicago area will be inducted into the Entrepreneurship Hall of Fame.

The program is exceptional because it creates an active partnership between academia and the business community. Students and entrepreneurs alike benefit from an exchange of knowledge, experience, and creativity. Cosponsors such as the Reliable Corp., LaSalle National Bank, William Blair & Co., and the Arthur Andersen Enterprise Group, have helped the university cement this partnership.

Today, I would like to congratulate these leaders for using their imagination and resources to foster an excellent program which enhances the quality of higher education and underscores the value of entrepreneurship in America. I am sure that my colleagues join me in recognizing these entrepreneurial leaders for their important contributions.

SALUTING ROBERT ONSTEAD ON HIS INDUCTION INTO THE TEXAS BUSINESS HALL OF FAME

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. FIELDS of Texas. Mr. Speaker, Robert "Bob" Onstead—a distinguished Texan, a highly successful and hard-working businessman, a man who has given mightily to his community, a friend of mine, and just a heck of a nice guy—recently was inducted into the Texas Business Hall of Fame. I'd like to take this opportunity to salute him on this tremendous honor that has been accorded him.

Bob is chairman and chief executive officer of Randall's Food Markets, Inc., a chain of grocery stores in Houston, Dallas, Fort Worth, and Austin. Bob founded Randall's in 1966 when he and two partners bought two mom-and-pop grocery stores. Today, Randall's is a 110-store chain that holds the largest market share among retail groceries in Houston and Dallas, that benefits from the dedication and hard work of its more than 20,000 employees, and that boasts over $2.1 billion in sales annually.

On a personal note, I want to point out that Bob Onstead is not only a superb businessman, but is also an individual who cares deeply about his community, his family, and his church. I think it's fair to say that no one knows the retail grocery business better than Bob; his knowledge is reflected in each and every Randall's and Tom Thumb store located in Texas. Their unfailing cleanliness, high-quality merchandise, wide product selection, and low prices reflect Bob's personal commitment to providing his customers with value and variety in a pleasant shopping environment. But Bob's success in the retail grocery trade is the result of more than making correct decisions about shelf space or pricing.

Bob's success, and the high esteem in which he is held by his colleagues, his competitors and his fellow citizens alike, is the result of his work to help his neighbors and his long-time efforts to improve Houston.

Undoubtedly, Bob is one of the best and brightest business leaders in Texas today. But that alone is not why he was inducted into the Texas Business Hall of Fame. Indeed, when deciding whether or not to induct a prospective member into the Hall of Fame, the Texas Business Hall of Fame examines an individual's business success as well as that individual's record of community service. And on that measure, it is easy to see why Bob was inducted; his record of community service is long and legendary.

He serves on the board of trustees of Abilene Christian University. He serves on the board of directors of the Methodist Hospital System and on the board of the University Cancer Foundation.

His business expertise is much in demand, as well. Bob serves on the board of directors of the Greater Houston Partnership, of which he is a past chairman. He serves on the board of directors of the Food Marketing Institute, and Texas Commerce Bancshares, Inc. He is a past president of the Houston Economic Development Council, the Better Business Bureau of Houston, and the Houston Retail Grocers Association.

Bob's outstanding record of community service has been recognized by a host of organizations in the Houston area and throughout Texas.

Bob is the recipient of the 1986 Religious Heritage of America Business and Professional Award. He was honored with the 1987 Humanitarian Award from the Houston Chapter of the American Jewish Committee, the 1989 Brotherhood Award from the National Conference of Christians and Jews, the 1990 Father of the Year Award from the Community Partners of Houston, the 1990 People of Vision Award from the Texas Society to Prevent Blindness, and the 1992 Rotary Club of Houston Distinguished Citizen Award.

Knowing Bob as I do, I know he probably feels a little embarrassed at the accolades that have come his way since his induction into the Texas Business Hall of Fame. Nonetheless, Mr. Speaker, I would ask you to join with me in saluting Bob on this latest honor that has come his way, and in wishing Bob and his wife, Kay, the very best in the years ahead.

TRIBUTE TO BEVERLY NELSON

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mrs. MORELLA. Mr. Speaker, I rise to pay tribute to Mrs. Beverly Nelson, a constituent of mine from Rockville, MD, on her recent selection by the Secretary of the Navy to be the sponsor of the oceanographic ship, USNS *Pathfinder.* The *Pathfinder* was launched on October 7 at Halter Marine, Inc., Moss Point, MS, and is the first of a new line of ships capable of performing a wide range of ocean studies and surveys.

As the sponsor, Beverly Nelson christened the ship by breaking a ceremonial bottle of champagne against her bow. This honor recognizes Mrs. Nelson's leadership and courage as a "pathfinder" in her own right, helping others who are disabled to face the challenges of new frontiers. It also recognizes the accomplishments and contributions of her husband, Dr. Stuart Nelson, who is an oceanographer and noted historian.

Although she has been stricken with multiple sclerosis, Beverly Nelson has not allowed her confinement to a wheelchair to keep her from traveling throughout the United States and the world. She shares her experiences, her insights, and her expertise with others who are disabled through her newsletter "The Very Special Traveler." This publication, in her own words, "is dedicated to providing the disabled and the 'not-so-nimble' traveler with advice and reassurances needed for successfully planning and making a trip."

Beverly Nelson is a pioneer and an individualist, Mr. Speaker. She is a woman who believes in equal opportunity for all men and women and upholds the virtues of hard work and a positive approach as the best means to achieve a full and rewarding life. She has dared to challenge the barriers of discrimination against the disabled, and her tireless efforts have been an inspiration to others in her Montgomery County, MD, community, and beyond. I am proud that Beverly Nelson resides in the district that I represent in Congress, and I am honored to add my voice to the praises of friends, colleagues, and family who salute her on this momentous occasion.

EMPLOYEE STOCK OWNERSHIP PLANS [ESOP'S]

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. ROHRABACHER. Mr. Speaker, employee ownership has always represented a lucrative opportunity for companies, both large and small, and their employees. In the words of Senator Russell Long, "the wealth of our Nation should be more widely held." But as the Senator also pointed out, "broadened ownership will not be the result of a Robin Hood redistribution, but of enlightened, foresighted management which knows that most deals are better if employees share more fully the rewards." Employee stock ownership plans [ESOP's] in corporations and companies allow American employees opportunities to be included in the operations of their business, while simultaneously obtaining a stake in the company's success. As a result, employees become more an integral part of their companies and can amass the capital credit they need to form investments of their own.

The number of ESOP's in the United States is estimated to be approximately 12,000, involving over 12 million employees. Since the 1970's, ESOP's have undergone dramatic growth and expansion. The need for new information sources on ESOP's has never been greater.

A book with annual yearbook supplements, "Employee Stock Ownership Plans: Business Planning, Implementation, Law & Taxation," authored by Robert W. Smiley, Jr., and Ronald J. Gilbert, and published by Warren Gorham Lamont, offers the American entrepreneur a comprehensive text describing the legal and practical ramifications of implementation and employee ownership.

Robert W. Smiley, Jr., is chairman of the Benefit Capital Companies Inc., headquartered in Los Angeles, CA, which he founded in 1984. Ronald J. Gilbert is the cofounder and president of ESOP Services, Inc., headquartered in Scottsville, VA. ESOP Services, Inc., also operates in central and eastern Europe and Latin America. Prior to founding ESOP Services, Inc., he was a vice president with Kelso & Co. in San Francisco. Their book, in short, is a monumental work.

Over 850 pages of text, supplemented annually by over 500 pages in the updated yearbook, illustrate practical, rather than theoretical, considerations. While the book is dedicated "To employees throughout the world * * *" it is written to appeal to everyone involved with ESOP's whether one seeks guidance as part of a management team wrestling with one of the many complex issues that deal with the feasibility of an ESOP or whether one is acting as legal or tax counsel. It would also be helpful to Members of Congress that want more information on the benefits of employee ownership.

Smiley and Gilbert's book is more complete than anything published before on the subject of ESOP's. It combines the best of both general and technical information. I urge members of the business community and Members of Congress to study the ESOP alternative. "Employee Stock Ownership Plans" by Smiley and Gilbert offers businessmen and Congressmen a great place to start studying.

EMERGENCY PROCESSING OF APPLICANTS FROM GEORGIA

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. HINCHEY. Mr. Speaker, the collapse of communism in Russia has been a welcome development for the Jews of that country. While the future there remains uncertain, the climate has changed, and the fear of persecution has at least diminished if it has not disappeared. But our focus on events in Russia should not deflect our attention from what is happening in some of the other former Soviet republics, now torn by strife and civil war. In some of those places, the Jewish minority continues to be a target. In Georgia, the threat is immediate, and it is not only a threat to their rights, but to their lives.

The Caucasus Network, an organization dedicated to assisting the Jews of the Caucasian and Central Asian republics of the former Soviet Union, has contacted the State Department's Washington Processing Center for refugees to ask it to expedite processing of applicants from Georgia. I ask that the letter be printed in the RECORD to let my colleagues know of the terror that Georgian Jews are facing and of their urgent need for assistance in emigrating. The letter follows:

THE CAUCASUS NETWORK,
Esopus, NY, September 29, 1993.

TREVOR SNELLGROVE,
Washington Processing Center, Arlington, VA.

RE: Emergency Processing of Applicants from Georgia.

DEAR TREVOR, the WPC's decision to give emergency processing to eligible applicants from Tajikistan has done much to save that republic's Jewish community, the majority of which either has emigrated or soon will be in a position to do so. Now Georgia's Jews are in so desperate a situation that their rescue is imperative.

Anarchy reigns in Georgia. Ethnic hatred is being fanned by religious fanaticism, catastrophic economic conditions, and political confrontations. Where Christian Georgians are fighting their bitter wars with Moslem Ossetians and Abkhazians, Jews are caught in the middle. Where Shevardnadze's supporters are battling partisans of former president Gamsakhurdia, the latter's demands for the "purification's of Georgia and expulsion of all non-Georgians from the republic strike terror into Jewish hearts.

Everywhere, defenseless Jewish families are being victimized. Reports have been pouring into our office detailing the escalating violence against them: the countless murders, the kidnappings, the extortion, the vicious beatings, and the assaults. A few days ago, we learned of these two brutal incidents, which are distressingly typical of what has been happening to members of Georgia's Jewish community:

Four Georgian state troopers armed with machine guns stormed into a Jewish home. They beat family members with their fists and the butts of their guns while cursing and making anti-Semitic remarks. Then they ransacked the apartment. They declared that Georgia must be freed of Jews, demanded that the family emigrate, and said that if they did not, they would have to pay monthly "dues" or they would be beaten again. When the family reported the attack to the police, they were told: "If you Jews don't like it here, you can leave. We won't protect Jews from Georgian state troopers."

A young Jewish man was kidnapped by armed men, taken to a local police station, then charged with maintaining contact with Jewish organizations in the US and Israel. He was questioned for two hours, during which time numerous anti-Semitic comments were made by the police and he was beaten mercilessly until his entire body was bruised. After the man broke down and "confessed" that he had committed "treason against Georgia," the police summoned his parents and told them that they had twenty-four hours within which to pay an exorbitant ransom if they wished to see their "Jewish bastard" again. When his mother said they did not have so much money, she was told, "Go and ask your people here and abroad for the money." The extortion payment was raised with the help of the local synagogue and the victim was released. He had suffered a concussion and severe bruises. After he was released from the hospital, the young Jew and his brothers went into hiding.

We bring these two incidents to your attention because they illustrate the devastating truth that Georgia's Jews have nowhere to turn for protection; that the very people whose job it is to guard them from anti-semitic violence are among those who are organizing and perpetrating the attacks upon them. Law enforcement officials in Georgia have assaulted Jews; ransacked their homes; arrested innocent people and beaten them while they were held in custody; compelled their families to pay money for their release; refused to rescue Jews who have been kidnapped or to prosecute those who have preyed upon the Jewish community. As a Georgian rabbi wrote in a letter to The Caucasus Network:

The most tragic part of their situation is the silence of the government, [which chooses] to ignore the pleas of their minorities . . . Their silence supports the actions of these bandits, which include members of the Georgian National Guard, who are connected with participants of a corrupt Georgian legal system.

The authorities in Georgia, by their refusal to take action to protect the Jewish community, have condoned popular anti-Semitism. The authorities in Georgia, by their own crimes against the Jews, have mounted what is, in effect, an official campaign of violence and intimidation against Georgia's Jews. The survival of Georgia's Jewish community is seriously in question.

Category applicants from Georgia with first-degree relatives in the US are eligible to emigrate to the US under the WPC's refugee program. The critical issue is when they will be able to do so. Given the disastrous situation in Georgia, it would be a tragedy to force them to wait years to emigrate. Therefore, we ask that the WPC give qualified category applicants from Georgia immediate computer numbers, the earliest available interviews, and whatever emergency processing will accelerate their emigration from that beleaguered republic.

We understand that the WPC's computer program does not provide the means to retrieve all of the names of the category applicants from any particular republic. Accordingly, we are sending you the enclosed list from our files, giving eligible applicants from Georgia who do not yet have computer numbers. We ask that these families be authorized for immediate computer numbers and emergency processing. We ask for the privilege of continuing to provide such names to you as they become known to us, so that as many eligible applicants from Georgia as can be identified may receive emergency processing.

We beg you to help expedite the rescue of Georgia's Jews and other eligible category applicants and to ensure their most rapid possible reunification with their relatives in the US.

Sincerely yours,
HELENE KENVIN,
President, The Caucasus Network.
GOLDIE ELLMAN,
Chairman of the Board of Directors.

TRIBUTE TO LOU PARDO

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. RUSH. Mr. Speaker, it is with great pleasure that I rise today to offer these words of tribute to a man who will, some time this fall, register his 100,000th voter. This remarkable accomplishment is but one of many that Mr. Lou Pardo has bestowed upon the city of Chicago. In this particular regard, Lou has come to typify the consummate election volunteer, and is undeniably one of the main reasons behind the high numbers of registered voters that Chicago has seen in the past several elections.

Lou has dedicated his life to political activism. From his many years in the labor movement, to his recent endeavors in voter registration, my good friend Lou Pardo has shown great determination and drive toward public service.

Mr. Speaker, I ask colleagues to join with me to extend to Lou our warmest congratulations on the event of his 100,000th voter registration.

IN MEMORY OF CHARLES KINDLE

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. COYNE. Mr. Speaker, today I want to pay tribute to Charles Kindle, of Penn Hills, PA, who died on October 12, 1993. It is fitting that the House should take note of Charles Kindle's passing because he was a man who labored for many years to advance the cause of civil rights for African-Americans in this country. He also struggled to raise the consciousness of people in the Pittsburgh area and across the United States regarding the injustice of the apartheid system in South Africa.

Charles Kindle was a strong believer in the idea of citizen power in the battle against inequality both at home and overseas. A 35-year veteran of the U.S. Postal Service, Charles Kindle stood up for the rights of others in the workplace and in the neighborhoods of local communities. At the time of his retirement in 1983, he worked in the Postal Service's equal employment opportunity office. He was also an active leader in the United Negro Protest Committee, the action arm of the Pittsburgh Chapter of the National Association for the Advancement of Colored People. Charles Kindle was not afraid to take to the streets in public demonstrations on behalf of fellow African-Americans who sought expanded job opportunities. He was always ready to speak out against the lack of African-American participation in both the public and private sector economies of his community.

Charles Kindle was also a leader in efforts within the Pittsburgh area and across the Nation to generate public support for sanctions against South Africa. He succeeded in focusing local attention on the evils of the South African apartheid system as chairman of the first African affairs committee of any NAACP chapter in the United States. Charles Kindle protested plans to set up a South African consulate in Pittsburgh and worked with others for the freedom of Nelson Mandela. His efforts, along with those of many other dedicated individuals, played a key role in exposing the failure of the Reagan administration's policy of constructive engagement with minority-ruled South Africa. The successful enactment, over the veto of President Reagan, of South African sanctions legislation banning United States investment in that country was made possible in large part by the efforts of individuals like Charles Kindle.

Charles Kindle was a graduate of Schenley High School and received a bachelor's degree in sociology and psychology from the University of Pittsburgh in 1971. In addition to his many other civic efforts, Charles Kindle was active in the Greater Pittsburgh Coalition of Black Trade Unionists, for which he chaired the African and foreign affairs committee.

This man passed away in the midst of a campaign to serve his community as a member of the Penn Hills Council. As was true throughout his life, this final effort was animated by a sense of civic responsibility and citizen power. In the words of Charles Kindle, "I believe you have to participate in the political process of this country if you want to see change."

Charles Kindle's actions were rooted in the history of the civil rights movement of the 1960's, when he joined hundreds of thousands of Americans, black and white, in the 1963 march on Washington to hear Dr. Martin Luther King, Jr., proclaim "I Have A Dream." Charles Kindle devoted his life to the cause of justice. He provided an example to friends and neighbors of the fact that individual men and women can combat the wrongs of the world without giving in to despair, bitterness, or resignation.

It is appropriate to note that Charles Kindle returned to Washington this past August to celebrate the 30th anniversary of the march on Washington. I am sure that for Charles Kindle, and many others, this event was both a celebration of the past and a rededication of commitment to work for a better future. While Charles Kindle has passed from this world, I am confident that his memory will continue to inspire many to carry on the struggle for justice.

Mr. Speaker, I know that the people of Penn Hills, Pittsburgh, and Allegheny County will mourn the tragic loss of Charles Kindle for some time. I want to join with everyone else in my community in wishing the very best to Charles Kindle's wife of 35 years, Anna, the Kindle family, and his many friends.

TRIBUTE TO COL. EUGENE VINCENT LOMBARDO

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. MANTON. Mr. Speaker, I rise to pay tribute to Col. Eugene Vincent Lombardo, who is retiring after a most distinguished military career.

Eugene is an advertising, sales and public relations executive who has spent 25 years with his wife Carol in the New York City area.

Eugene's service in the military has taken him from Brooklyn, to Fort Dix, to the Berlin Wall crisis, returning to New York City and the Empire State Military Academy, Officer Candidate School. After he received his commission as an infantry officer, he went on to the New York Army National Guard, as a company commander, then on to Army Public Affairs. From there Eugene served in Venice, Italy in the Army Civil Affairs Division. His military career culminated as deputy chief staff for information management, 77th U.S. Army Reserve Command, during the Persian Gulf war.

Eugene was also awarded one of the most prestigious medals our Nation may bestow upon a soldier, the Legion of Merit. This medal was awarded for exceptionally meritorious service throughout his distinguished 32-year military career.

Eugene is a well known advertising and public relations executive who gives his time and effort to humanitarian causes and to varied civic and community service activities throughout the greater New York area.

Mr. Speaker, Eugene is the epitome of an officer, a gentleman, as well as a leader, and tonight he concludes over three decades of military service. I know my colleagues join me in saluting him and saying thank you for the many years of service he has given to the Nation and his community.

SHORTAGE OF AFFORDABLE HOUSING IN AMERICA

HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. JEFFERSON. Mr. Speaker, I come before you today to address the issue of the shortage of affordable housing stock plaguing many of our urban centers across the Nation. A 1992 Harvard University study estimated that there were only 4.1 million units of HUD or privately owned, publicly assisted housing units available to a population of 13.8 million households that are eligible to receive HUD-financed housing assistance. There is a great need to preserve these housing units and to make the necessary investment in rehabilitation to maintain them as decent housing for tenants who otherwise could not afford decent housing.

The administration has underscored this need in its February report, "A Vision of Change for America." In that report the administration called for additional funding to "repair and restore the Nation's stock of assisted rental housing, most of which is 20 to 30 years old. Many units are in deteriorated buildings. Many operators of buildings are also financially troubled." What these projects need above all else is capital. Due to the effects of the prolonged recession on the real estate market, it is not practicable to seek this additional capital from the current owners of the projects. These owners have no incentive, given the depressed market prices of the properties, to invest more capital in investments currently earning little or no return. It is also not realistic to expect these owners to sell the properties to new owners who can raise the additional capital needed. Given the depressed state of the market, current owners cannot afford to sell the projects because they would suffer large, out-of-pocket losses. These losses are the result of the changes in the tax laws made in 1986 and the general aging of the projects, which have substantially reduced the market value of the projects. In addition, many of these investors are getting older and have the option of bequeathing their interests to their heirs with a stepped up basis, thereby avoiding paying any capital gains taxes at all with respect to the properties.

The bill I am introducing provides for 15-year, straight-line depreciation for new investors in the housing projects, together with an exemption from the passive loss rules. The effect of these provisions will likely be to cause a modest increase in the value of the properties over their current depressed levels. This, in turn, would allow the current investors to sell the properties at a price sufficient for them to pay the capital gains taxes that will be due upon sale. Because of this infusion of revenue to the Treasury from capital gains taxes, the legislation will, in all likelihood, pay for itself and thus be revenue neutral. New investors with the requisite capital could then finance the necessary renovations subject to the continuing regulatory supervision of HUD.

It is my firm belief that this proposal will result in a "win-win" situation. The legislation ensures that the projects will continue to be maintained for low-income tenants who will be the direct beneficiaries of the infusion of new capital. Moreover, it is far more cost-effective for the Federal Government to provide incentives to funnel private capital into maintaining existing low-income housing than to continue to emphasize programs designed solely for the construction of new low-income housing. I strongly urge my colleagues to join me in support of this legislation.

THE WINDOW OF OPPORTUNITY ACT

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. KYL. Mr. Speaker, on September 21, I introduced the Window of Opportunity Act, H.R. 3101, a measure designed to quickly jump start the Nation's sputtering economy by providing a temporary reduction in the capital gains tax rate.

Capital gains tax realizations have fallen sharply since 1986, when capital gains tax rates were increased. That is because people are now holding on to their assets rather than selling them and paying the higher tax.

Nevertheless, the issue of capital gains is one which has, and continues to, divide the House and Senate. It has always prompted questions about who will benefit most, what the effect on the Treasury will be, and so forth. And as a result, Congress has never been able to reach a consensus about how to reform capital gains taxes.

There's now a way to find concrete answers to those questions and, at the same time, give the economy the critical shot in the arm it needs. It is Window of Opportunity Act.

The bill would set a maximum capital gains tax rate of 6 percent, for 1 year only, for those in the highest income tax bracket. A top rate of 3 percent would be set for everyone else. And, the bill would permanently index capital gains to ensure that taxpayers are not penalized for the effects of inflation.

The temporary reduction included in the Window of Opportunity Act will provide quick economic stimulus, helping to unlock a sizable share of the estimated $7 trillion of capital that is pent up as a result of high tax rates. With more gains to tax, even at lower rates, revenues to the Treasury will increase. And when all is said and done, I believe the temporary reduction will help demonstrate that a permanent rate cut is not only justified, but that it would be highly beneficial to the economy.

Let's find out exactly who will pay if capital gains taxes are cut; what the real-life dynamic—not just the static—effect on the economy will be; and just how much additional revenue flows to the Treasury.

I invite my colleagues to review the following comments of the National Center for Policy Analysis [NCPA], which has endorsed the proposal, and to join me today as a cosponsor of this very important initiative.

I submit the NCPA's letter to be printed in the RECORD.

NCPA,
October 1, 1993.

Hon. JON L. KYL,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN KYL: I am writing in response to your recent letter soliciting our comment and analysis on the effects of a temporary capital gains tax rate cut and a permanent indexing of capital gains. The National Center for Policy Analysis (NCPA) has studied capital gains taxes extensively.

Based on that work, we conclude that the temporary reduction in the capital gains tax rate proposed in your Window of Opportunity Act would increase tax revenues temporarily. As you know, capital gains tax revenue has fallen sharply since 1986 because people are holding assets rather than paying the higher tax. Your bill would encourage the sale of those assets, producing more capital gains and more capital gains tax revenue.

A permanent reduction in the capital gains tax rate would, however, be preferable because it would have long-term benefits in the generation of new assets, new capital, economic growth and more tax revenue. Your proposal for permanent indexing of capital gains would do just that.

While some government economists project that indexing for inflation would result in a permanent loss of tax revenue following a temporary initial gain, our analyses of past indexing proposals have shown that indexing will cause overall federal revenue to increase in all future years. There appears to be no reason to think this same effect would not be produced by your proposal.

I appreciate the opportunity to comment on your efforts and proposed legislation.

Warm regards,

JOHN C. GOODMAN,
President.

TRIBUTE TO JOSEPH CARDINAL BERNARDIN: RECIPIENT OF THE MARYVILLE STANDING TALL AWARD

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. RUSH. Mr. Speaker, it is with great pleasure that I rise today to pay homage to Chicago's spiritual leader, Joseph Cardinal Bernardin, who will be presented with the 1993 Maryville Standing Tall Award this Friday, October 22, 1993. This award is in recognition of Cardinal Bernardin's unrelenting work on behalf of the needy children of Maryville Academy.

Since 1883, Maryville Academy has been a home for children who have been abandoned by society. Maryville offers these children the love, the understanding, and the hope that could not be offered anywhere else. Cardinal Bernardin has worked with these children tirelessly as a teacher, healer, and mentor, and has given so many of them the sense of self-worth that has been all too absent in their young lives.

Mr. Speaker, I cannot think of a man more deserving of this award than His Eminence, Joseph Cardinal Bernardin; and I urge my colleagues in this body to join me in extending our sincerest and heartfelt congratulations on this wonderful event.

70TH ANNIVERSARY OF THE ST. JOSEPH POLISH NATIONAL CATHOLIC CHURCH

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. HOLDEN. Mr. Speaker, I rise today in recognition of the 70th anniversary of the St. Joseph Polish National Catholic Church in Middleport, PA. Located in the picturesque Schuylkill Valley, Middleport's coal industry attracted many Poles, Slovaks, Russians, and Lithuanians from 1900 to 1920. During these years the Poles grew uncomfortable with the Roman Catholic Church, so in 1923 ties with Rome were cut. The newly independent Poles united to form the Polish National Catholic Church. On October 29, 1923, the first Holy Mass in the Polish language was held in the Russian church. Shortly afterwards the PNCC parish of Middleport was organized.

Under the leadership of their first pastor, Rev. Jezef Brzozowski, and Karol Pituch, chairman of the first parish committee, the parishioners bought a house and land for the church. In 1927 parishioner and builder Felix Bartush supervised the construction of the church and was aided by many parishioners who labored out of the goodness of their hearts to complete the project.

The years of the Great Depression were difficult for the parish, since there were no pastors available and no money to pay parish debts. At long last, Rev. Franciszek Kaczmarczyk arrived at St. Joseph's and revived the parish, urging them to abandon the idea of selling the church to pay back debts. Since Rev. Kaczmarczyk's 10 years of service, the church has continued to thrive and grow under the leadership of fine pastors such as Rev. Stanley Skrzpek, Rev. Walter Thomas, Rev. Marian Gora, Rev. Kazimierz Grotnik, and others.

Over the past 70 years the wonderful Polish people of the parish have made the growth, remodeling, rebuilding, and new additions possible for St. Joseph's. Through their hard work and dedication, the parishioners who have kept the church going through both the good and bad years. The current parishioners still emulate the heart and good work of the original builders.

Mr. Speaker, I am honored to take this opportunity today to congratulate St. Joseph's on their 70th anniversary. I hope there will be 70 more years of dedicated people bringing continued success and happiness to the parish of St. Joseph.

ALTERNATIVES TO LIVING IN VIOLENT ENVIRONMENTS [ALIVE]

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. TALENT. Mr. Speaker, I would like to take this opportunity to recognize and congratulate the organization known as ALIVE, Alternatives To Living In Violent Environments, in acknowledgement of their 10 years of dedicated service to victims of domestic violence in the St. Louis area.

Alternatives To Living In Violent Environments [ALIVE] was founded in 1983 to provide accessible and affordable alternatives to violence for battered women and their children in the St. Louis area. Battering is the single largest cause of injury to women in the United States as it is estimated that a woman is battered at least once every 15 seconds. A not-for-profit agency, ALIVE seeks to address this terrible problem by empowering battered women to take control of their own lives and to realize their strengths and abilities. In order to raise awareness of this problem, ALIVE also provides a variety of community education programs to increase awareness of the problems of family violence.

Domestic violence against women is detrimental not only to the women involved but also to their children, their community, and the Nation as a whole. Violence to women in their homes is a terrible problem facing our country, but thanks to organizations like ALIVE, we are beginning to address this problem. I would ask my fellow Congressmen to join with me in congratulating Alternatives To Living In Violent Environments on their 10th anniversary.

TRIBUTE TO THE 50TH ANNIVERSARY CELEBRATION OF CHINA LAKE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding national service provided by one of our country's finest naval facilities—the China Lake site of the Naval Air Warfare Center Weapons Division located in California's high Mojave Desert. In early November, this 1-million acre facility will be recognized for 50 years of service in providing technical assistance and innovative research in meeting our country's national defense needs.

China Lake, with its impressive cadre of scientists, engineers, technicians, and support personnel, is the cornerstone of the Navy's research, development, test, evaluation, and inservice engineering center for weapons systems associated with air warfare, missile systems, aircraft weapons integration, and airborne electronic warfare systems. The site is also an integral player in the operation and maintenance of air, land, and sea naval testing.

From its beginnings in 1943, China Lake's 17,000 square miles of restricted airspace, lack of encroachment, and isolated location have made it an ideal and secure site for the development of air weaponry. Its early contributions in rocketry and bombs during World War II laid the groundwork for the development of the first air-to-air guided missile, the first antiradiation missiles, and subsequent missile systems.

As the Navy's largest land holder, China Lake accommodates extensive, highly instrumented air and ground ranges as well as specialized laboratory facilities. With those capabilities, China Lake has for years responded rapidly with technical innovation to the many short-term military conflicts our country has experienced since World War II.

Mr. Speaker, I ask that you join me, our colleagues, and the many past and present civilian and military employees of China Lake in recognizing the vast and diversified contributions of this facility to our national defense over the past 50 years. In our everchanging defense environment, China Lake remains poised to continue playing a critical role in maintaining our defense readiness for years to come. It is only fitting that the House pay tribute to China Lake today.

CONGRATULATIONS TO DR. JAMES A. BIRD

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. EDWARDS of Texas. Mr. Speaker, I rise today to give special tribute to Dr. James A. Bird upon his retirement from the Texas State Technical College system. In a career which spanned 30 years of service to the technical education of Texas, Dr. Bird exemplifies one who strives to help make the future brighter for others in their efforts to further their education. I want to take this opportunity to extend my heartfelt congratulations to him for his selfless and tireless efforts for the betterment of the statewide education community in Texas. He is to be commended for his work and dedication and has distinguished himself as a systems vice president, systems vice chancellor, and acting chancellor.

I know that he is fulfilled and sustained by the many fond memories he has from his years with the TSTC System. It is my hope, however, that as he enters retirement years, he will enjoy this new chapter in his life with as much fondness.

I urge my colleagues to join me today in recognizing and honoring this man and his contribution to education and to the State of Texas.

A TRIBUTE TO ELDER LOVICK P. BELLINGER, JR.

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. BLACKWELL. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to pay tribute to one of Philadelphia's most beloved clergymen. On Sunday, October 29, Elder Lovick P. Bellinger, Jr. will be honored at a banquet celebrating his 10 years of service to the Lord Jesus Christ at the Heavenly Temple Church of God in Christ. To commemorate this most special occasion, I would like to take a moment to reflect on the remarkable career of this outstanding individual.

As the senior pastor and founder of the Heavenly Temple Church of God in Christ in the great city of Philadelphia, Elder Bellinger has led his congregation with the greatest sense of dedication and commitment to the good works of the Lord Jesus Christ. Elder Bellinger has always fought for the betterment of the Philadelphia community, and has proven himself an excellent advocate and fighter for the urgent needs that constantly face our area.

Mr. Speaker, throughout his career, Elder Bellinger has also been a major asset to many organizations in our community. Through his constant dedication and boundless energy, Elder Bellinger has certainly provided a great many Philadelphians with new opportunities, and restored hope and faith.

I would like to ask my colleagues to rise and join me in paying our greatest tributes to my dear friend Elder Lovick P. Bellinger, Jr. I would also like to extend our warmest appreciation to Elder Bellinger's beloved family and congregation. On behalf of the entire U.S. Congress, I would like to offer my greatest thanks and appreciation to Elder Lovick P. Bellinger, Jr. May God continue to bless and smile on this truly great man, so that he may continue to preside over our spiritual community well into the next century.

TRIBUTE TO MAX BRUDER, SR.

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize an outstanding individual, Mr. Max Bruder. Max was recently recognized by the Ogemaw County Veterans Alliance in Michigan as the Veteran of the Year.

Mr. Max Bruder bravely served our country during World War II and continues to be an advocate for our Nation's veterans. He has been an active member of many veterans organizations in Ogemaw County. Max is a lifetime member of the D.A.V., V.F.W. Post 3775, and American Legion Post 103. He serves as the community service officer for both the V.F.W. and the American Legion.

He lives in the Channel Lake area of Ogemaw County and is involved in numerous civic organizations. Max has distinguished himself in many ways, especially in administering the Community Food Basket Program that has raised over $15,000 for the elderly and needy which has distributed over 20 tons of food to the people of Ogemaw County during 1992–93.

In addition, Max has contributed over 400 hours of civic duty to the Department of Social Services and Senior Citizens of Ogemaw

County. His activities have been as varied as assisting individuals in need, raising much needed funds, and working on construction projects in the area.

Max Bruder was further honored recently when he was selected as first runner-up for the Michigan Veteran of the Year in 1993.

The Veterans Alliance of Ogemaw County is an umbrella group that represents all veterans in Ogemaw County. The Veteran of the Year award is considered their highest honor.

Mr. Bruder is truly a fine citizen and an asset to the people of Ogemaw County. Mr. Speaker, I know that you will join with me in commending this outstanding individual.

TIME TO CURB BIG GOVERNMENT

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. KNOLLENBERG. Mr. Speaker, I would like to share with my colleagues an excellent article by Mr. Cesar Conda of the Alexis de Tocqueville Institution. In this article Mr. Conda outlines the dangers of an out of control Federal budget.

The U.S. Government now consumes 37 percent of GDP. This figure has grown steadily over the last several decades. Unless the growth of Government is checked we will soon approach the levels of spending in the Socialist economics of Western Europe.

Mr. Conda points out what many have ignored. Due to their high levels of government spending and taxation, the average unemployment in the major European economies has increased from about 2 percent in the 1960's to between 9 and 10 percent in the late 1980's.

[From the National Conservative Weekly, Sept. 26, 1993]

ENTITLEMENT TRAP WILL KILL U.S. JOBS

(By Cesar V. Conda and Roman Lyniuk)

If President Bill Clinton's proposals creating several additional new entitlement spending programs—chief among them a costly federal health care plan—are enacted by the U.S. Congress, America could develop a bad case of "Eurosclerosis"—the economic disease of anemic growth and feeble job creation that has plagued European economics for the better part of two decades.

The evidence of the past three decades now confirms the "Rahn Curve" theory of former Chamber of Commerce chief economist Richard Rahn suggesting an inverse correlation between government spending and economic growth.

Nowhere is this correlation more evident than in Europe, where the public sector in several countries has now ballooned to almost half of the national income and the rate of economic growth has plummeted to less than 2% per year on average.

The driving force behind this colossal expansion of government in Europe has been the tremendous growth in social welfare expenditures, unemployment, retirement, income maintenance and health benefits.

At the beginning of the 1960s, social spending in the major European countries (France, U.K., Germany and Italy) averaged about 16% of Gross Domestic Product (GDP). By the end of the 1980s, this spending had increased to about 27% of GDP on average.

This surge in social spending however well-intentioned, has had a profoundly negative impact on the ability of the European economies to create jobs and raise incomes.

For example, average unemployment rates in the major European states have increased from about 2% in the early 1960s to between 9% and 10% in the late 1980s. By contrast, unemployment rates have risen much less in the relatively lower social spending share countries like the U.S. and Japan.

Many of these social welfare programs actually reduce the incentive to work. As economist John Mueller recently noted: "Social benefits put an above market floor under wages, because at some point it is more attractive to collect benefits than to work."

If we look at how some of these programs actually work, it isn't difficult to see why many Europeans choose not to work.

For example, in Italy, unemployment insurance compensates up to 80 percent of lost wages under certain conditions and in France a worker could conceivably collect unemployment checks for three years and six months.

Furthermore, as the European experience demonstrates, entitlement programs inevitably grow and therefore require higher taxes on employers.

According to the German Industry Institute, because of the social welfare state, the total business tax burden is 61 percent in Germany and 52 percent in France, compared to "only" 45 percent in the U.S. This tax burden has added as much as 50 percent to the cost of labor in Europe, according to the New York Times. As a result, European labor is as much as 50 percent more expensive than its major non-European competitors.

For example, the average German manufacturing worker—the highest paid in Europe—received $26.89 an hour in wages and benefits last year, of which $12.47 came in the form of social benefits.

The growth in social benefit costs has caused unit labor costs in the European Community to outpace those of its economic rivals since the 1970s.

In 1992 alone, average European unit labor costs grew 4.1 percent compared to only 1.4 percent in the U.S. and 2.4 percent in Japan. To stay competitive, European businesses have been forced to either reduce employment or relocate their operations to countries with lower labor costs.

The combination of more people in the social welfare state—and fewer people working in full-time, taxpaying jobs—has pushed some European governments to the brink of financial collapse. Europe's political leaders have either taken or are considering steps to reduce social spending: France has frozen state pensions at current levels, Germany has reduced unemployment expenditures, and the U.K. has ordered a complete review of welfare spending.

Unfortunately, the social welfare state has become so large and the "culture of entitlement" so ingrained in European society it may be politically impossible to significantly reduce. Even Margaret Thatcher in 12 years could not dismantle the basic pillars of the welfare state in the United Kingdom.

To be sure, the U.S. is by no means a Sweden or a France where government gobbles up almost half of national income. But with the U.S. government share at 37% of GDP, we are clearly entering the "danger zone" where the size of government has begun to limit the potential growth of the economy.

As in Europe, social spending has fueled the growth of government in the U.S.: According to Mueller, from 1965 to 1992, U.S. entitlement programs have nearly tripled to more than 14% of GDP and unemployment has risen on average by more than half a percentage point for each one-percentage-point rise in social spending as a share of GDP.

Under the recently passed Clinton budget, entitlement spending will still rise by more than $50 billion annually—or $260 billion over the next five years. In fact, this so-called "deficit reduction" package calls for some $40 billion in entitlement expansions over the next five years, including broadened eligibility for food stamps and low-income home energy assistance programs.

On top of these hefty social spending increases, President Clinton wants to create a panoply of new entitlements, ranging from a "national service" program to job training expenditures for welfare recipients to a government-run health care system estimated to cost taxpayers between $60 billon and $150 billion annually.

The Administration argues that these programs will be limited in terms of costs and program coverage, but the history of the welfare state tells us that social spending programs develop politically powerful constituencies and eventually expand far beyond original expectations.

It may not be too late for the U.S. to avoid the entitlement trap that vexes the European economies. U.S. policymakers must take the following steps to prevent Eurosclerosis in America:

First, reject Clinton's new entitlement proposals and instead enact IRA-like tax incentives for individuals and businesses that promote private sector saving, health care and retirement vehicles.

Second, cap the growth of entitlement spending to the rate of inflation and population growth. Such a plan would significantly limit the growth in the social spending budget to a rate that we can afford, thereby increasing the economy's job-creating potential.

Third, fundamentally overhaul the welfare system by mandating welfare recipients to do something productive in return for government assistance—working in community service jobs, ensuring that their kids stay in school, and keeping two-parent families intact.

This is a critical moment in U.S. economic history: If Clinton is successful in creating new entitlement programs—particularly a federal health care plan that forces the American middle class to rely on Big Government—the U.S., like Europe, will be trapped in a vicious cycle of growing government and declining employment.

JAPAN THE GREAT FREE TRADER????

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. KOLBE. Mr. Speaker, the time has come for the United States to take a stand in defense of free trade not just with Japan but also in Japan.

Japanese Government officials love to boast to us about how important free trade is to Japan—rattling off statistics like the fact that at 3.5 percent, Japan's composite most favored nation [MFN] tariff level is even lower than that of the United States. However, tariffs only restrict the flow of foreign made goods at a nation's borders. Once inside an economy, the marketability and relative competitiveness of products can just as easily be hampered by rules and regulations impeding freedom of movement. You will never hear a Japanese bureaucrat use the word free to describe the way trade takes place inside Japan's economy.

Japan's domestic economy is riddled with complex regulations and procedures. As of last count there were over 10,900 government licensing and authorization processes affecting business activities in Japan. Almost every one of these procedures is subjectively and nontransparently administered by the Japanese bureaucracy, whose power to restrain newcomers that might disrupt the market order is legendary—especially it seems when newcomers are foreign companies with innovative products not made in Japan.

Thus—despite what the Japanese Government may say—rather than being flat, because of massive bureaucratic interference the playing field for business in Japan is more like a steep upward slope. The solution to America's market access problems in Japan is to target the bureaucratic impediments that stand in the way of level access—not to further empower the Japanese bureaucracy to supervise even more managed trade agreements. Our companies need real, not simulated, access.

The new Japanese Trade Minister, Mr. Hiroshi Kumagai, himself recognizes that the bureaucracy acts to keep Japan's market closed. He is against the Clinton administration's managed trade proposals but for any help the United States can give in supporting his favorite cause: deregulation.

I would like to submit to the RECORD the following recent article from the International Herald Tribune on Mr. Kumagai. In our trade talks we should work with him not against him. He says he wants free trade in Japan. I say we make sure he sticks to his commitment. Wouldn't it be nice someday to see that MITI has changed its name to the Ministry of Importing Trade and Industry?

NEW MITI CHIEF SPEAKS HIS MIND; BUT IS HIS OUTSPOKENNESS ONLY A POLITICAL TACTIC?

(By Steven Brull)

"Big Business in Japan is a hotbed of collusion."

"We need radical reform of the Japanese economy."

"If Japan's trade surplus continues, it will be one factor leading to the destruction of the world economy."

These comments may resonate with the frustrations of Western trade officials, but in fact they are views that Japan's powerful minister of International Trade and Industry, Hiroshi Kumagai, has expressed over the past two months.

Perhaps more than anyone else in the coalition government formed two months ago, the feisty 53-year-old trade minister has helped fashion an image of a new, outspoken style of politics in Japan.

Yet political insiders say there may be less than meets the eye to Mr. Kumagai's rhetoric. To many longtime observers, his stridency is less a new face for Japanese politics than an echo of the strong men of the Liberal Democratic Party that dominated Japanese politics for 38 years.

Without doubt, Mr. Kumagai has added substance to the rhetoric of Prime Minister Morihiro Hosokawa, whose coalition overturned the Liberal Democrats last summer with a message of reforming Japan's politics.

Mr. Kumagai has openly criticized his fellow cabinet minister and has campaigned for tougher enforcement of antitrust laws, more transparent public works bidding procedures, and drastic corporate restructuring. Even then, he has warned, unemployment will rise.

His comments are remarkable for a ministry that was a major architect of Japan's postwar economic miracle. Just a year ago MITI, as the ministry is known, was defending Japan's markets as the most open in the world, and criticizing foreign countries on how unfair their trade policies were.

"These are things that ministers have never said before," said one recently retired MITI official. "That in itself is striking."

"I've been quite struck," said Norman Neuriter, vice president of Texas Instruments Asia Ltd., echoing views common in the foreign community here about the new administration. "Everyone's talking about addressing problems, which is quite salutary."

Yet while Mr. Kumagai's comments are unusually sharp for a MITI official, they are hardly without precedent in Japanese politics. Many observers place his comments within the long tradition of the old ruling party leadership.

To them, Mr. Kumagai's caustic criticisms of the Bank of Japan are reminiscent of Shin Kanemaru, the disgraced Liberal Democratic kingpin who once threatened to fire the bank's governor, Yasushi Mieno. In fact, Mr. Kumagai is a close associate of Mr. Kanemaru's protege, Ichiro Ozawa, a politician whom many consider to be the brains and the brawn behind the governing coalition. "He's speaking with more authority than is evident," the former official said.

Even at MITI, Mr. Kumagai's rhetoric is part of a long tradition of inter-ministerial turf battles, in which the agency's ministers try to aid their charges in the business community. Like his predecessors, he has defended MITI, saying recently that "the Japanese economy is one of the most open markets in the area of industrial goods."

"It's not at all surprising," said Haruo Shimada, a Keio University economist and longtime adviser to Mr. Hosokawa. His warnings about economic destruction and rising unemployment in Japan are aimed at reinforcing perceptions that the Japanese economy needs serious medicine, he said.

As such, his views parallel those of Noboru Hatakeyama, MITI's unflinching top negotiator, who resigned earlier this year. "I'm for restructuring our economy," he said. "However, this is quite different from recognizing that our markets are generally closed."

Mr. Kumagai began his career as a MITI bureaucrat in 1964, but dropped out 11 years later. As a member of the liberal Democratic party he showed independence, becoming associated more with the party than the bureaucracy he came from, unlike most former bureaucrats. He bolted the Liberal Democrats to join the Japan New Party earlier this year.

Mr. Kumagai's immediate goal appears to be to pressure the Ministry of Finance and the Bank of Japan to pump more money into the economy. He also wants other ministries, especially those overseeing construction and telecommunications, to prune the thicket of regulations that act as the primary barrier to imports and business expansion.

In some ways, Mr. Kumagai's stridency is the mirror image of the ministry's growing irrelevancy. "MITI feels really powerless," Mr. Shimada said, noting that high tariffs, foreign exchange controls and the other tools MITI once exercised were phased out years ago. "MITI has no instruments, but foreign pressure is increasing.

If MITI feels powerless, however, its minister may be even more so. Few stay in office long enough to grasp the details of what their bureaucracies are really up to. Few, in fact, have ever managed to impose their will on institutions in which information and power generally flow from the bottom up. This is especially so with the current cabinet, which is comprised mainly of politicians new to power.

"I haven't been paying too much attention to what he's been saying," said one mid-level MITI official who refused to be identified. "I've never even met him."

Still, the fact that his gibes have gone largely without retort is a reflection of how much the political atmosphere has changed since Mr. Hosokawa took power in early August. With major contractors being arrested for bribery seemingly every week, few are willing to defend the Construction Ministry. Likewise, as fears grow that the floor may fall out under the economy, pressure is growing on the Finance Ministry to abandon its opposition to deep cuts in income taxes.

TRIBUTE TO DUCKETT CREEK SEWER DISTRICT

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. TALENT. Mr. Speaker, I would like to take this opportunity to recognize and congratulate the Duckett Creek Sewer District in St. Charles County, MO which has been awarded the Environmental Protection Agency Certificate of Merit for Region VII in the United States.

The award is one of three in the four State region which covers Missouri, Nebraska, Iowa, and Kansas. By presenting the award, the EPA recognizes Duckett Creek and its staff for demonstrating its commitment to clean water through excellent performance as a waste water treatment plant. In addition to the EPA, Duckett Creek was also named the 1993 Treatment Plant of the Year Award by the State of Missouri.

A few of the plants accomplishments include: 100 percent compliance since its startup in 1988, plant improvements for energy savings that have reduced electrical consumption and expense by as much as $265,000 over a 5-year period, and effective land application programs which have provided effective beneficial reuse of the waste product. All these were accomplished despite experiencing a phenomenal growth over the last 3 years in which the water treated has increased from 2.5 to 4.4 million gallons a day.

The Duckett Creek Sewer District serves a high growth area in St. Charles County and has consistently shown, through operational excellence, a solid commitment to meet the demands for clean water in the future. The dedication of the managers and workers at Duckett Creek to efficiency and the environment has proven that they are well deserving of the award presented by the EPA. I would ask my fellow Members of the House of Representatives to join with me in congratulating Richard Higgins, superintendent; Thomas Szilasi, director; Barry E. Smith, administrator; David Fletcher, plant operator; and the members of the board of trustees: Chairman David Crosby, Vice-Chairman David Heideman, Harold Burkemper, Thomas Heinsz, and Eugene Schwendemann, on this recognition of the Duckett Creek Sewer District.

TRIBUTE TO GERALD HANSON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of Gerald Hanson. Jerry is retiring after a 29 year career with the San Bernardino County Department of Weights and Measures and will be recognized at a ceremony in his honor on November 13.

Gerald Hanson was born on Christmas day in 1938 in Alexandria, MN and has lived in Redlands since 1949. He received his B.A. and M.A. from the University of Redlands, and was a candidate for an Ed.D. at Pepperdine University. In addition, Jerry served in the U.S. Navy from 1960–66.

Jerry began his career with Grand Central Rocket in 1958 as a scale mechanic. In 1964, he began a long and distinguished career with the San Bernardino County Department of Weights and Measures. He was promoted from his initial position of inspector to division chief in 1980 and became director of the department in 1985.

Over the years, Jerry has been an active member of a number of civic and community based organizations including the Redlands Masonic Lodge, the Redlands Shrine Club, the San Bernardino Public Employees Association, the Redlands Noon Kiwanis Club and others. In addition, he is a life member of the U.S. Metric Association, and enjoys membership in the National Conference on Weights and Measures, the Western Weights and Measurers Association, and the California Agriculture Commissioners and Sealers Association.

Mr. Speaker, I ask that you jonin me, our colleagues, Jerry's wife Sandra, his daughter, Cynthia, and many friends in wishing Jerry the very best in his retirement. In his many years of devoted service, Jerry Hanson has touched the lives of many people in our community and it is only fitting that the House recognize him today.

TRIBUTE TO COL. EUGENE V. LOMBARDO ON THE OCCASION OF HIS RETIREMENT FROM THE U.S. ARMY RESERVES

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Ms. MOLINARI. Mr. Speaker, on October 22, 1993, a special celebration will take place in Flushing Meadow, Queens, NY. On this evening, an outstanding citizen and soldier, Col. Eugene V. Lombardo, will be recognized on his retirement from a remarkable career. A native of Brooklyn, NY, Colonel Lombardo will retire from the U.S. Army Reserve after 32 years of service.

Colonel Lombardo earned a bachelor of professional studies degree in business communication from the State University of New York, Empire State College. He also holds a diploma from the Business Professional Advertising Association as a certified business communicator and is a graduate of the Dale Carnegie Institute.

His military career was a prolific one, and included distinguished service during the Persian Gulf war in Operation Desert Shield and Desert Storm. He served as division chief for public education with the 353d Civil Affairs Command assigned to Southern European Task Force theater of operations in Vicenza, Italy. During his last tour of duty, he was the deputy chief of staff for information management for the 77th U.S. Army Reserve Command. Additionally, he directed U.S. Army participation in the Statute of Liberty and Ellis Island commemorative celebrations, achieving recognition for his leadership and excellence in coordinating all public affairs and promotional activities.

Active in German-American community and public relations, broadcasting, and newspaper journalism for the U.S. Army's NATO Command, Third Infantry Division, Colonel Lombardo served during the Berlin and Cuban crises in the early sixties. Among his numerous military awards, he holds the Meritorious Service Medal with four oak leaf clusters and the Army Commendation Medal. A graduate of the Empire State Military Academy, the U.S. Army Command and General Staff College, the National Defense University, the Senior Defense Information School, and the U.S. Army War College, Colonel Lombardo has held command and staff assignments with the 42d Infantry—Rainbow—Division, N.Y. Army National Guard and the U.S. Army Reserve. He also served as chief of public affairs for the 77th U.S. Army Reserve Command.

He lives with his wife, Carol, on Staten Island, where he is active in professional, community, and civic organizations and has received a number of awards for community service. Mr. Lombardo is a member of the Knights of Columbus, the Business Advertising Association, the American Management Association, and the Magazine Publishers Association. He is also a member of the Reserve Officers Association of the United States Armed Forces, and the American Legion, among others.

Mr. Speaker, too often the peacetime work of our Nation military goes unnoticed. Military service is frequently a difficult and thankless profession. Colonel Lombardo reminds us of the Army Reserves' critical duty and the professionalism with which its members fulfill their mission. It is a privilege for me to have this opportunity to salute Col. Eugene V. Lombardo. On behalf of the Staten Island and Brooklyn communities, I thank him for his 32 years of selfless service to our community and our Nation.

STATEMENT OF HON. ELIOT ENGEL OF NEW YORK HONORING CHARLES SALK

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I recognize today an individual who has dedicated more than 50 years of his life to improving the quality of life for working men and women.

Charles Salk is being honored this weekend by the National Association of Retired Federal Employee [NARFE], Manhattan-Bronx chapter, for his many good works. I can think of no other person who better exemplifies the character and commitment demonstrated by our Federal employees.

For 35 years, Charlie Salk worked in the U.S. Postal Service, where he was always involved in labor issues. He eventually rose to the position of vice president in the largest chapter of the postal workers' union.

When his career ended, Charlie's dedication to his colleagues did not cease. He has continued his tireless efforts in NARFE, where he has been active for the past 15 years, including the past decade as president of the 4,000-member Manhattan-Bronx chapter.

Over the years, Charlie Salk has been a friend and adviser to me, and a constant advocate for many other individuals. He embodies the true spirit of the American worker, who will give the best effort possible at all times while asking only for fair treatment in return.

Charlie Salk will be modest and say he does not deserve to be honored by NARFE. But on behalf of the countless people whose lives he has touched, I can testify that such an honor is long overdue.

TRIBUTE TO DR. FREDERICK C. STEWARD

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. HILLIARD. Mr. Speaker, today, I come to speak of a great man, Dr. Frederick C. Steward, who recently passed away in Tuscaloosa, AL. Dr. Steward was a giant among his many peers in the area of science. He was one of the Nation's leading botanists and plant physiologists, having been the originator of the now proven fact that plants may be regenerated from one single cell. His discovery of the means to obtain such regeneration of entire plants from one single cell has formed the underpinning of modern plant molecular biology. All of us who are lovers of knowledge and science mourn the loss of this great man. I wish to extend the sympathy of the entire Nation to his widow, Anne, and his son, Gordon, all who reside in Tuscaloosa.

CONGRESSMAN DOUG BEREUTER GIVES THOUGHTFUL EVALUATION OF NATO'S ROLE

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. REGULA. Mr. Speaker, during a debate at the recent North Atlantic Assembly meeting in Copenhagen, Denmark, our colleague DOUG BEREUTER, who also serves as Vice President of the Assembly, gave a very thoughtful evaluation of the role of NATO vis a vis the United Nations. The text of the remarks are attached herewith:

REMARKS OF REPRESENTATIVE DOUG BEREUTER AT THE 39TH ANNUAL MEETING OF THE NORTH ATLANTIC ASSEMBLY

Mr. President and Ladies and Gentlemen of the Assembly. The discussion and debate over the last four days has been useful and insightful. Many important issues have been discussed, from new membership to the long-term prospects for democracy in Russia.

But in the short time allotted to me today, I would like to offer some thoughts on two matters that the members of the President's Task Force discussed at length as we drafted the report America and Europe.

As the Task Force recognized, there is no longer a debate about whether NATO can act "out-of-area." That decision already has been made and such action already undertaken. NATO has concluded that, if it is to remain relevant as a security institution, it must be able to respond beyond its traditional borders when the member-states determine that it is in their vital interest.

The question which has begun to be asked by a few of our delegates and which we must face—a question which has been indirectly discussed on several occasions this weekend—is whether NATO can act on its own, out-of-area, without a mandate from another institution such as the U.N. or CSCE.

It is certainly possible, and indeed likely, that any future NATO action could be launched under U.N. or CSCE auspices. My NATO country parliamentarians, I believe, quite strongly, that we cannot make the existence of a U.N. mandate the prerequisite for out-of-area action.

My Assembly colleagues, to do so would inappropriately turn NATO solely into a "security subcontractor" for the U.N.—a very unsatisfactory and unacceptable development.

First, while it is likely that NATO interests will coincide with the interests of the U.N. or the CSCE, we cannot depend on this happening on all occasions.

Second, we cannot always depend on action when we need it. Action can be delayed or stopped, for example, by a veto from the PRC. And the events of the last two weeks in Moscow suggest, of course, that we should not take it for granted that Russia will always, routinely, support our objectives in the Security Council.

Third, it is quite possible that the United Nations will adopt rules of engagement that NATO simply cannot accept. In Somalia, the United States is burdened with rules of engagement that have effectively undermined the ability to fulfill the mission. British, French, Canadian and other peacekeepers in Bosnia have faced similar difficulties. I would suggest that it is increasingly unacceptable for the U.N. to deny NATO peacekeepers that ability to exploit our great military capability.

Consequently, although it is not expressly stated NATO policy, I believe we must realistically acknowledge that autonomous out-of-area action is not only a possibility—it may be essential to preserve the peace. Moreover, retaining the option of autonomous out-of-area action should have a healthy deterrent value. If a potential adversary believes NATO will act out-of area to protect its interests, such an aggressor will be less likely to provoke a crisis.

Now, colleagues, a second concern that the Presidential Task Force addressed while drafting the *America and Europe* report is the general issue of changes in force structure and ongoing reductions in defense spending. We all recognize that the risk of massive armored assault through the Fulda Gap or across the Central European Plain is now unlikely. The Cold War is over and that certainly means that it is appropriate to reduce defense expenditures within the Alliance. But, a pell-mell, preemptive, uncoordinated race to slash defense spending by the unilateral actions of our 16 member states is both reckless and counterproductive.

The members of the Alliance must coordinate our decisions on changes in force size and structure, combat support, and infrastructure. If we do not, the Alliance could well become a paper tiger. Already we see the strains brought on by existing peacekeeping commitments and the prospects for very large commitments in Bosnia.

My friends, this is too important a matter to fall back on diplomatic niceties. I must be blunt. I am concerned that my own nation may be reducing defense spending at too rapid a rate. And, I fear that the currently announced U.S. force reductions may cause difficulties in the years ahead. But, the American reductions are modest indeed when compared with the reductions that some of our NATO allies have announced. I need not go into specifics here. In his report to the Defense and Security Committee, our Spanish colleague, Rafael Estrella, describes in detail the cascading military cuts that have begun within the Alliance.

Again, it is clear that reductions in spending and reduction in forces are now appropriate. But, I plead that these reductions take place within a comprehensive, coordinated effort. My Assembly colleagues, if our respective national parliaments refuse to support a basic minimal level for defense, the much-discussed Strategic Concept cannot protect nations when they lose either the will or means to defend themselves. We must urge our governments to use the January 1994 NATO Summit as an opportunity to realistically coordinate levels of defense spending.

In summary and conclusion, then, my Assembly colleagues, I ask you to first resist any erosion of NATO's autonomy to the U.N., WEU, or CSCE—within the territory of our NATO countries or out-of-area, and secondly to demand that our defense ministers develop by unanimous action a precise framework to strongly influence and coordinate the defense reductions and changes in our sixteen nation states.

TRIBUTE TO MICHAEL BERRY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. DINGELL. Mr. Speaker, over the years I have served in Congress, I have known few people who have served their community as well as Michael Berry. On Thursday, October 21, Michael will be honored before 600 people in Michigan with the presentation of the National Order of the Cedar of Lebanon Knight Award.

This special testimonial gathering of Michael's admirers, of whom I am one, will pay tribute to his professionalism and commitment to public service. He served with distinction as the chairperson of the Wayne County Road Commission. His work on that commission included his stalwart efforts on behalf of Detroit Metropolitan Airport, where his devotion and dedication resulted in the Berry International Terminal being named in his honor.

As a humanitarian, Michael Berry has made his presence and concern the object of admiration and respect. Particularly close to his heart have been his undertakings on behalf of Lebanon in the interest of peace, harmony, and justice in the Middle East. He succeeded in sending $1.6 million worth of medical supplies to three supply-drained public hospitals in Lebanon in 1992. As an executive committee member of the American Task Force for Lebanon [ATFL], he has been instrumental in providing guidance and counsel in formulating the basic principles and policies of that organization.

Mr. Speaker, it is with the same vigor and foresight that Michael has committed himself to the ongoing battle against illness and disease on the executive committee on the March of Dimes and the Board of Directors of St. Jude's Hospital. Michael has also been a contributing member of the Wayne County Citizens Committee on Juvenile Delinquency, the Keep Detroit Beautiful Committee, president of Dearborn United Community Services, board member of Children's Hospital and of the Michigan chapter of the Arthritic Foundation, and the first Muslim co-chairperson of the Greater Detroit Round Table of the National Conference of Christians, Jews, and Muslims.

Michael Berry's reputation extends beyond our community. He has served as a presidential appointee to the Small Business Conference, and was selected by the U.S. Department of State in 1966 to travel to the Near East. There, he was the featured speaker at the Dodge Hall of the American University of Beirut. He was also a featured speaker at the Palace of Justice in Lebanon, where he addressed the Lebanese Bar Association and the judiciary.

Mr. Speaker, I urge you and my House colleagues to join Michael's family and friends in extending the heartiest congratulations to him on the occasion of his being awarded the National Order of the Cedar of Lebanon Knight Award.

TRIBUTE TO RON NEUBAUER

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. TALENT. Mr. Speaker, I would like to take this time to congratulate and recognize Ron Neubauer, chief of police of St. Peters, MO, who will be elected sixth vice president of the International Association of Chiefs of Police on October 20, 1993.

This office is a volunteer position which requires an 8-year commitment. Each year, Chief Neubauer will move up a chair in the organization until he becomes the president of the International Association of Chiefs of Police [IACP]. The IACP has over 13,000 members from 83 countries. The mission of the association is to address major issues facing law enforcement throughout the world. The organization deals with national, State, and local legislation; the training of officers; testing officers and departments; and any other area that enhances law enforcement.

Ron Neubauer is a tremendous example of how members of the law enforcement community continue to make extra efforts to enhance the safety of the citizens in their community. By accepting this position, Chief Neubauer will be assisting law enforcement in St. Peters, St. Charles County, and the State of Missouri. I would ask the Members of the House of Representatives to join with me in congratulating Chief Neubauer as he accepts his new position.

SALUTE TO DR. E.L. CLARK

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. FOGLIETTA. Mr. Speaker, I rise on this occasion to salute a great member of the Philadelphia community, Dr. E.L. Clark, who will be honored by the Susquehanna Neighborhood Advisory Council in Philadelphia this Friday. Dr. Clark was born and raised in Hattiesburg, MI, and completed his undergraduate studies at Tugaloo College in Mississippi in 1940. He received his M.D. from Nashville, Tennessee's Meharry Medical College in 1944. From there, he went to intern programs at Provident Medical Hospital, in Baltimore, as well as Harlem Hospital in New York City.

In 1946, Dr. Clark established a medical clinic in Meridian, MI where he practiced until 1952, when he was inducted into the U.S. Army. In 1954, his tour of duty having ended, he decided to settle in Philadelphia, making house calls, and serving on the staff at Mercy Douglas Hospital. Dr. Clark then opened an office on Diamond Street in Philadelphia in 1957, which quickly blossomed into a thriving medical practice serving the community until 1988 when he moved permanently to another office which he had opened in 1984 on 66th Avenue in Philadelphia. Several generations of his patients' families continue to seek his medical services, following him to his current facility.

Dr. Clark has been active in numerous civic and medical organizations over the years, including the Pennsylvania County Medical Society, the Pennsylvania Academy of Family Physicians, Chi Delta Mu—a fraternal order of Philadelphia based health care professionals, and the Meharry College Alumni Association. Additionally, Dr. Clark has received the physician of the year award from the Pennsylvania County Medical Society, and he is a trustee of the Bright Hope Baptist Church. The list goes on and on.

Dr. Clark has been a mentor to a number of African American physicians. He has been involved in Temple University Medical School's Preceptor's Program, making his offices available to medical students during their family practice rotations in local medical offices. Dr. Clark's offices also have been the first home to many local physicians who then went to establish thriving practices of their own.

Dr. Clark is a husband, a father, and a grandfather. He is married to Ann B. Clark, and they have two sons, a daughter-in-law, and two grandchildren, all residing in the Philadelphia area.

Dr. Clark is a shining example of a great Philadelphian, and I salute him for his great contributions to his community.

PUTTING THE SQUEEZE ON EATING DISORDERS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mrs. SCHROEDER. Mr. Speaker, the Federal Trade Commission recently charged five of the Nation's largest commercial diet programs with deceptive advertising. The FTC contends that diet programs like Weight Watchers, Jenny Craig, and Nutri/System have falsely advertised high success rates and encouraged millions of Americans to unnecessarily lose millions of pounds.

Weight loss is big business—generating over $2 billion a year.

An estimated 50 million Americans will go on diets this year. Some diets might be launched for health reasons—like reducing risk for heart disease. But most diets will be for no other reason than thin is in. These diets can easily become eating disorders.

Eating disorders include anorexia, bulimia, and other abnormal eating behaviors. Eating disorders are common in our diet-conscious society, and can result in cardiac problems, osteoporosis, anemia, and, in the more extreme cases, death. They are also linked to severe depression and substance abuse.

Eating disorders primarily affect women, and symptoms like binge eating, self-induced vomiting, and self-starvation are often seen in little girls trying to be the best ballerina, the best field hockey player, the best student, or simply the best daughter. Some experts contend that images generated by the beauty industry and fashion magazines promote eating disorders. Others believe that eating disorders may be physiologically based. Regardless, these folks need help before it is too late.

Today, I am introducing the Eating Disorders Information and Education Act of 1993. This bill establishes, at the Center for Mental Health Services, an outreach program and a toll-free hotline for eating disorders. The Center is the logical location for such a program since it already has the infrastructure and expertise in developing effective mental health and substance abuse programs.

Although eating disorders affect men, they are one in a series of serious health issues that hit women harder. Eating disorders can result in serious medical complications if they are not treated early and effectively. That is why I am pleased that the Eating Disorders and Education Awareness Act is already part of the Women's Health Equity Act. For the sake of all the women in our country, I urge Congress to pass the Women's Health Equity Act and the Eating Disorders Information and Education Act.

TRIBUTE TO THE VICTIMS OF THE FAMINE IN UKRAINE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. TRAFICANT. Mr. Speaker, I rise in honor of the victims of the 1933 famine in Ukraine. The famine, which killed more than 7 million people 60 years ago, had a powerful impact on the Ukrainian community in Ohio.

To commemorate the tragic event, St. Vladimir's Ukrainian Orthodox Cathedral in Parma, OH erected the Famine Monument on their parish grounds. On October 31, 1993, a formal dedication and blessing will be observed at the cathedral. I commend His Grace Archbishop Anthony and the Most Reverend Bishop Robert for their role in bringing attention to this devastating event in Ukraine history.

Mr. Speaker, I join the citizens of Ohio in commemorating the 60th anniversary of the famine in Ukraine, and in saluting the individuals who have worked so hard to keep the memory of the perished from fading.

TRIBUTE TO MONROE COLLEGE ON IT 60TH ANNIVERSARY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Monroe College, an invaluable Bronx institution which tomorrow will celebrate its 60th anniversary.

At the height of the Great Depression in 1933, an energetic teacher named Mildred King launched an enterprise that was ultimately to help tens of thousands of ambitious people to find a place and advance in the business world. Originally called the Monroe School of Business, the institution she founded with four tiny classrooms on Boston Road in the Bronx taught basic office skills such as typing, stenography, and bookkeeping to students whose complete course of enrollment typically lasted only 6 months.

In the ensuing six decades, under the leadership of Mildred King, Harry Jerome and Stephen Jerome, who has been president since 1978, Monroe has grown to be a modern junior college with an enrollment of more than 2,000 students on two campuses offering 2-year associate degree programs in accounting, business administration, computer science, hospitality management, secretarial science and word processing.

Throughout its existence Monroe has adhered to the highest standards of quality. In its early days the reputation it built through the success of its graduates helped Monroe to achieve steady growth in difficult economic times, while all around it similar schools failed. In 1990 Monroe was accredited by the Middle States Association of Colleges and Schools, the highest level of accreditation a collegiate institution can receive. More than 90 percent of all Monroe graduates find employment in positions related to their fields of study. And 13 percent of the 639 students who received their degrees at the last commencement are pursuing a baccalaureate degree on either a full- or part-time basis at other institutions.

Mr. Speaker, I have had the privilege of knowing Stephen Jerome, the president of Monroe College, for many years, and I am delighted by his success. I ask my colleagues to join me in paying tribute to him, to the rest of his administration and faculty, and to the students of Monroe College, whose ambition and hard work have made this institution a tremendous source of pride and success for the last 60 years.

HENRY COUNTY SCHOOL SYSTEM HONORED

HON. MICHAEL A. "MAC" COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. COLLINS of Georgia. Mr. Speaker, in a time where many school systems across our Nation are installing metal detectors to curb violence, I would like to share with this body a much different story. An example of what can be done at the local level when parents, educators, and community leaders work together.

The Henry County School System, located in Georgia's Third Congressional District, is vying to win its fourth consecutive "Governor's Award for Drug Free Living"—given annually to the school system which best promotes a drug free lifestyle. "Red Ribbon Week" gives each school system an opportunity to present their campaign to fight drug abuse. The citizens of Henry County continue to show their dedication to the well being of their children and the safety of their community. This commitment serves as an example of the best America has to offer—people working together and taking responsibility for their community.

Mr. Speaker, I commend the citizens of Henry County for their dedication to this project. While some still claim that big government and more social programs will solve our Nation's problems, the people of Henry County will prove them wrong once again this year.

DEMOCRACY IN HAITI

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. HASTINGS. Mr. Speaker, I rise today to express my continued support for the restoration of democracy in Haiti. We must stop the violence in Haiti now.

Recently, I had the opportunity to meet with Prime Minister Robert Malwal and Justice Minister Guy Malary. Mr. Malary begged me not to let the U.S.S. *Harlan County* leave Haiti or the prodemocracy supporters would be in jeopardy. A few days later, Mr. Malary was assassinated. His untimely death is a setback to the struggle of restoring democracy in Haiti and a warning to prodemocratic forces to stay away.

The United States has an obvious interest in restoring democracy to Haiti. An unstable economy in Haiti would not only hurt the Haitian people but also the United States. There would be a renewed flow of Haitian refugees into this country, and drugs that have traveled through Haiti would end up in the streets of America.

The administration played a crucial role in laying the groundwork for the restoration of democracy in Haiti. Thus, we cannot allow this process to be undermined by an armed and recalcitrant few. We must force Gen. Raoul Cedras and his supporters out quickly, swiftly, and decisively or thousands of people in Haiti will surely be murdered. And the ones who are not murdered will be swimming for south Florida.

Mr. Speaker, I urge the Clinton administration to make it all possible to keep the restoration of democracy to Haiti on track and restore the democratically elected government to its rightful place in Haiti.

THIRD MILLENNIUM HONORED

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. CONDIT. Mr. Speaker, I rise today to bring attention to a group which has recently been formed to address perhaps the most vital issue facing our Nation today; the future. Third Millennium is a group composed of post-baby boomers who differ in many ways and yet are united in their commitment to solving the problems which they see as debilitating to their own future and that of future generations. They focus on issues that have always held great resonance for me; specifically, the rampant growth of our national debt, and the urban crisis which is dividing our cities and destroying our education system.

The declaration which Third Millennium has put forth to establish their position is full of criticisms of the current establishment. They are quick to point out the failures of the current trend of excess and the consequences which will be paid for such action. However, the declaration is far from simply an indictment of the older generation. Responsibility is the recurring theme of the message. Members of Third Millennium are ready to tackle the problems with cooperation from all members of our community and are willing to make sacrifices to achieve their goals. This impressive group of young people are an inspiration and encouragement to us not just to address, analyze, or inspect the problem, but to attack it and to solve it.

Their declaration is a straight-forward, well-organized analysis of problems that can no longer be ignored. It is also a thoughtful strategy for solving those problems. The mere fact that this group, which has been in existence for little over 3 months is closing in on a membership of a 1,000, indicates the importance of their message, and their insistence that their message be heard. Therefore, I respectfully submit the preamble of Third Millennium's declaration for inclusion in the CONGRESSIONAL RECORD. We can no longer ignore the voices of this group and the chorus of voices shouting the same message. We must begin to govern our country with responsibility and foresight. If we do not, we will only continue along the current path of what Third Millennium refers to as "fiscal child abuse." The words are difficult to listen to, but they will be far more difficult to hear if we fail to take action, and the words came back to haunt us long after the time when effective action could have been taken.

PREAMBLE

We stand at the edge of a new millennium. The superpower confrontation, which brought fear of the apocalypse into the lives of three generations, is over. We live in the richest, freest, and most powerful country the world has ever seen. Most excellent.

But we fear for the future.

Political and social time bombs threaten our fragile successes at home and abroad. Like Wile E. Coyote waiting for a 20 ton Acme anvil to fall on his head, our generation labors in the expanding shadow of a monstrous national debt. Racial, sexual and economic divisions have made fellow citizens brutal enemies. Our cities have fallen into a shameful state where ordinary acts of daily life have become painful struggles.

For too long, we as a nation have failed to exercise self-control. We've trashed the ethic of individual responsibility. We've exploited racial and sexual differences for political gains. Those in power have practiced fiscal child abuse, mortgaging our future, and the futures of those to come. Meanwhile, the engine of democracy has stalled, paralyzed by fringe issues.

It is time to take responsibility. The grave problems facing our country—economic stagnation, social fragmentation and the deterioration of the environment—demand solutions that transcend partisanship. We believe it is the challenge of our generation to move the country beyond partisan stagnation and focus on the real challenges at hand.

Those of us offering this declaration don't pretend to represent our entire generation. We recognize our generation's intense individualism as one of its strengths. The post-baby boom generation, born after 1960, is far too diverse to let one group represent it all. But we believe young people must initiate change. Our role in serving our country must be to stop the dumping of toxic policies on future generations.

The writers of this statement come from a wide array of backgrounds, careers and political persuasions, and not every one of us subscribes to every last letter in this statement. We are drawn together, however, by the belief that we can't let our differences—real as they are—excuse further inaction. Conservative, liberal, or none of the above, we unite in the sentiment that the time to act is now.

We look to President Abraham Lincoln, who, at another time when division threatened to destroy the country, pleaded for change: "The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so must we act anew."

Divisive issues such as abortion and the death penalty must recede to the background. It is up to us to direct our energies to the problems that threaten the future of our nation.

Our generation is often derided for its cynicism. We grew up amidst the betrayals of Vietnam, Watergate and the S&L scandal. We are witness to the highest divorce rate ever. We see neighborhoods across America battle lawlessness, drug abuse, dysfunctional families and substandard school systems. At the same time, divisive right-wing tactics fuel our country's worst fears and hatreds, while impotent left-wing dogma transforms us into a society of victims and dependents.

But if our common experience has jaded us, it has also added urgency to our outlook. We seek no sympathy and we ask for no handout. We know solving our problems will be tough, and we reject demagogues who tell us they can be solved without breaking a sweat. We must make the sacrifices necessary to address the dire problems facing our country.

To the new generation in power, we say: If you are ready to make the tough choices, we will support you. If you are ready to fight, we will join you. If you are ready to lead, we might in fact follow you. But if not, move out of the way.

The last thing we want is a generational war. We present this statement in the sincere hope that members of our generation—whatever their politics—can together chart a new direction for the country, and that members of all generations can embrace it.

A TRIBUTE TO THE RECIPIENTS OF THE 1993 NOBEL PEACE PRIZE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to Nelson Mandela and President F.W. de Klerk of South Africa, recipients of this year's Nobel Peace Prize. Nelson Mandela and President de Klerk of South Africa share the prize for negotiating the end of an apartheid state and for cooperating in the journey toward a nonracial democracy in South Africa.

Nelson Mandela, President of the African National Congress, and F.W. de Klerk, President of South Africa, have dedicated their efforts to work together to create a nonviolent South Africa in which the human rights of all citizens will be respected. They have pledged themselves as partners to a transition to democracy in their country.

As allies and adversaries, they are working to build a society in which every South African—regardless of race—can participate equally. These two South Africans have transformed the politics of South Africa in a way few people expected would occur in this century.

Mr. Speaker, as a Member of Congress dedicated to the ideals and goals of human rights, I salute the Norwegian Nobel Prize Committee for its continued efforts to recognize those individuals who take risks to better the world in which we live. I applaud Mr. Mandela and President de Klerk for their outstanding efforts to bring peace, democracy and reconciliation to South Africa. This year's award reflects and strengthens the tradition of the Nobel Peace Prize and ensures that the legacy of human rights remains a guiding principle in the world today.

HONORING THE SENIOR AND JUNIOR COMPANION PROGRAMS

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to honor the Senior and Junior Companion Programs of Suffolk County, Long Island, NY, as they celebrate 12 years of outreach and advocacy for people who need mental health services.

The Federation of Organizations for the New York State mentally disabled is a statewide organization that advocates on behalf of the mentally disabled. The federation was founded by the concerned parents of the mentally ill, and has been working to improve services to the mentally disabled and their families in Suffolk County, Long Island, NY.

The Senior Companion Program places people with psychiatric disabilities in various community settings. The companions act as role models and assist other disabled people in learning new skills in a peer-support network. The program is based on the concept that through a one-to-one caring relationship, people can progress toward greater independence and self-confidence, no matter how severe the disability.

Senior companions are 60 years of age and over, work 4 hours a day, 5 days a week, for a small stipend. They provide outreach, advocacy and recreational activities as they educate people about everyday life. Peer interaction leads to the awareness of community resources and links individuals to needed services. The fact that the companions are themselves recovering from mental illnesses enhances their effectiveness, and facilitates the development of new friendships.

The Junior Companion Program was developed for the younger psychiatrically disabled person between the ages of 18 and 59. The Junior Companion Program provides activities in which the individual can rebuild their skills and confidence in the community while exploring individual potential and possibilities for employment and training.

Mr. Speaker, it is my privilege and honor to recognize the many men and women who spend their days assisting over 400 mentally disabled Long Islanders everyday in 57 community sites.

TRIBUTE TO FATHER ROBERT A. JEFFERS, PASTOR OF SAINT AUGUSTINE R.C. CHURCH

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Father Robert A. Jeffers, who on Friday, October 22 will be honored on the occasion of the completion of his third and final term as pastor of the parish of Saint Augustine R.C. Church in the Bronx.

Father Jeffers first entered the archdiocesan priesthood in 1964 in the Bronx Parish of Blessed Sacrement. Following an assignment in Staten Island and an assignment in Yonkers, Father Jeffers came back to the Bronx to serve as an associate pastor at St. Augustine's in September 1969. He rose to the position of pastor on June 25, 1974.

Mr. Speaker, Father Jeffers is loved not only by his congregation but by the community at large. As a member of the Morrisania Community Corp., a member of Community Board No. 3, and a board member of Share New York and of South Bronx churches, Father Jeffers has been an active leader of community-wide efforts to improve the living conditions and alleviate the despair of people of all faiths in the South Bronx.

Mr. Speaker, I ask that my colleagues join me in wishing health and joy to Father Jeffers, who will be leaving St. Augustine Church in the Bronx after 24 years of devoted service.

IMMIGRATION STABILIZATION ACT OF 1993

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. LEHMAN. Mr. Speaker, today, with my colleagues JAMES BILBRAY, DUNCAN HUNTER, JAMES TRAFICANT and BOB GOODLATTE, I am introducing a bill to reform American's immigration system, entitled the Immigration Stabilization Act of 1993.

Even a casual observer cannot help but recognize that immigration has become one of the most important public policy issues facing the nation and that our country's immigration laws are ill-equipped to deal with the realities of the 1990's. The American people no longer believe that our immigration policies are serving the national interest.

When my State of California is placed in a position where it must build a new school a day to keep up with the immigration influx, we cannot possibly uphold our obligation to give our children the training they need to compete in the world economy. When California is forced to spend $1 billion a year to provide health care to illegal immigrants, we cannot possibly provide the kind of quality health care our own citizens have a right to expect.

It is time to make our Nation's immigration policies responsive to the national interests of the United States. Along with my colleagues, we are proposing a top to bottom reform of all aspects of U.S. immigration law.

Under the Immigration Stabilization Act, we are putting forth a plan that will allow us to regain control of our Nation's borders. The American people are demanding that illegal immigration be stopped, and it's time we in Congress begin to recognize the serious economic and national security implications of our uncontrolled borders.

The American people are angry, and rightly so, by the flagrant abuse of the political asylum process by people who simply want to circumvent our immigration laws. The Immigration Stabilization Act would allow the United States to act morally and intelligently at the same time.

The American people—regardless of race, religion, or ethnicity—believe that overall immigration must be reduced to more manageable levels. Immigration is a vital national policy that will have a profound effect on our Nation's future. I urge my fellow Colleagues to join us in this effort to reform immigration laws in a way that will ensure a harmonious and prosperous future for this nation.

TRIBUTE TO MRS. ODESSA CLINKSCALE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. TRAFICANT. Mr. Speaker, I rise in honor of Mrs. Odessa Clinkscale, an outstanding community leader in my 17th Congressional District in Ohio.

Mr. Speaker, on November 7, 1993, Mrs. Clinkscale will be honored by the A. Philip Randolph Institute [APRI] for her tireless service to her community. Mrs. Clinkscale is seemingly everywhere, deeply involved in a wide array of organizations, boards and leagues. Mr. Speaker, here is just a cross-section of these groups: Elizabeth Missionary Baptist Church, Board of Christian Education Program, (chairperson), Baptist Minister Wives Council, (past president), Jury Commissioner, National Association for the Advancement of Colored People [NAACP], Black Leadership Conference, Youngstown Urban League, and the National Council of Negro Women. In addition, she has served as a precinct committeewoman for over 25 years and is currently the fifth ward councilwoman.

The awards banquet on November 7, I am sure, will be an honor for Mrs. Clinkscale, but it will by no means be a unique experience for this mother for four and grandmother of eight. In her accolade-filled past, she has been awarded the Outstanding Community Service Award by the Youngstown Urban League, the Meritorious Service Award by the United Negro College Fund, and the Democrat Woman of the Year by the John F. Kennedy Democrat Women's Club, 1989.

Mr. Speaker, I join her husband, Rev. Henry Clinkscale, Jr., and the citizens of my district in saluting Mrs. Clinkscale's exemplary efforts on behalf of her community. Her honors can only be a token of how much we appreciate her tireless involvement.

NORMAN E. MOORE: A MAN OF MANY ACHIEVEMENTS

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. BARCIA. Mr. Speaker, I rise today to highlight the outstanding achievements of Norman E. Moore. One of the truly exceptional men in the insurance profession, Mr. Moore has developed a stellar reputation within our community as someone committed to his family, his neighbors and his profession. This unusual dedication is celebrated today among his many friends as Norm is sworn in as the president of Life Insurance Leaders of Michigan.

The post Norm enters is a most significant one, as Life Insurance Leaders of Michigan maintains the confidence of the public, provides an internal avenue of support and, most importantly, represents and promotes the ethical standard to which Michigan life and health insurance agents subscribe.

Entering the insurance business in 1962, Norm has established himself as one of the preeminent members of the Michigan business community, earning commercial and industry recognition while serving as regional vice president of the Mid Michigan Association of Life Underwriters, and State chairman of the Michigan LUPAC.

Norman has further distinguished himself within the industry as president of Saginaw Life Underwriters, Certified Life Underwriters Society, Estate Planning Council, and Health Underwriters. Such acknowledgment is a testimony to his place in Michigan business as an example of perseverance and success destined to be remembered for years to come.

More importantly, Norman's ability to direct his efforts for the long-term, and unique perspective on financial markets has ultimately empowered many of my neighbors in the Fifth District to realize the financial goals so hard to attain in these troubled economic times.

I know I speak for my friends in Bay City and the Fifth District when I thank Norman for his tireless efforts to foster economic stability in our community. I urge all my colleagues to wish him, his lovely wife, Gloria, and his children, Norman Jr., Vicky, Michele, and Christine our very best.

TRIBUTE TO THE MORRISANIA FAMILY PRESERVATION SITE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to the Morrisania Site of the New York City Child Welfare Administration's Family Preservation Program [CWA/FPP], which will hold its first open house on Tuesday, October 26, 1993.

Initiated in New York City by Mayor Dinkins, human resources administrator Barbara J. Sabol, and executive deputy commissioner for the Child Welfare Administration Robert L. Little, the Family Preservation Program provides intensive, short-term—4 to 8 weeks—family centered, home-based crisis intervention to families whose children are at imminent risk of being placed outside the home. The Morrisania site serves New York's community district 3, one of the fifteen community districts in New York City where out-of-home placements have been the highest.

Mr. Speaker, the New York City Child Welfare Administration is committed to ensuring the safety of New York's children. However, while placing an endangered child out of the home may remove him or her from danger, it can also exact tremendous emotional and social costs upon all members of the family.

The Family Preservation Program builds upon models that have been used successfully in over 250 communities across the country to keep families together safely by improving parenting skills and resolving sources of conflict. As in many of these other programs, specially trained family preservation workers carrying a caseload of only two families at a time spend between 10 and 20 hours a week in their clients' home and are always on call.

The Family Preservation Program is dedicated to providing services that are responsive to the families' ethno-cultural and religious needs. It also incorporates special approaches to dealing with the stresses that arise from substance abuse, physical and mental health problems, and the impacts of poverty and racism.

The New York City program also provides for a community and family advocate to work with FPP families and the community at large to address local problems, such as drug dealing and the need for day care centers, and a family mentor, an individual aged 55 or older recruited from the family's community who can serve as a surrogate grandparent and trusted advisor for up to 10 months after the period of intensive services has ended.

Mr. Speaker, I ask that my colleagues join me in supporting district director Millie Manzanet, community and family advocate Natanya Siegel, and the 12 family preservation workers of the Morrisania Site of the Family Preservation Program who are doing such excellent work healing distressed families in my community.

CLINTON ADMINISTRATION REINTERPRETATION OF CHILD PORNOGRAPHY LAW

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. SMITH of New Jersey. Mr. Speaker, with all eyes fixed on the explosive situations in Haiti, Somalia, Bosnia, and other hot spots and with every new wrinkle in health care reform gobbling up scads of media air time and ink, the Clinton Justice Department has quietly, and—I would submit—shamefully, turned its back on children by seeking to reinterpret, loosen, and weaken existing Federal child pornography law.

On September 17, the Justice Department petitioned the U.S. Supreme Court in Knox versus United States to remand the case of a man convicted under Federal child pornography law back to a lower court for review. The Clinton brief argues that a much more narrow, weaker standard be applied in this precedent setting case than that which was affirmed by the Court of Appeals for the Third Circuit. If Mr. Clinton prevails, efforts to curb this hideous form of child abuse will be seriously undermined.

The Clinton policy seriously weakens law enforcement efforts to crackdown on child porn in this country by inventing a new two-part test of what constitutes a crime. Under Clinton, both criteria must be met for a successful prosecution. The Clinton administration's policy would transfer the burden from the pornographer's intent in arousing a pedophile to the actions of the exploited child. This clearly undermines the meaning of the law as supported by the 1989 case *United States* v. *Villard* which stated that lasciviousness depends on the intention of the photographer of the material to elicit a sexual response from the viewer. For example, sexually explicit photographs of sleeping children or videos of unclothed children innocently playing on a beach who are secretly filmed by a pedophile could not be said to depict minors engaged in conduct of lasciviously exhibiting their genitals or pubic areas.

The brief also argues that nudity or visibility of the child's genitalia or pubic area is required. This reinterpretation of the Nation's child pornography statute by Mr. Clinton would shield from prosecution a sizable element within the child pornography industry. This immunity, however, would be conferred to the purveyors and users of kiddie smut at the direct expense of vulnerable children. The court of appeals correctly summed up congressional intent on this point in stating:

> The harm Congress attempted to eradicate by enacting the child pornography laws is present when a photographer unnaturally focuses on a minor child's clothed genital area with the obvious intent to produce an image sexually arousing to pedophiles. . . . Our interpretation simply declines to create an absolute immunity for pornographers who pander to pedophiles by using as their subjects children whose genital areas are barely covered.

It is outrageous to me that the Clinton Justice Department seeks to have this standard, designed to protect children from exploitation, declared null and void. Patrick Trueman, head of the child exploitation and obscenity office at the Bush Justice Department, notes that the Clinton brief "writes a recipe for 'legal' child pornography, i.e., child pornography that the Reno Justice Department will no longer prosecute. * * * With its new interpretation of the federal child pornography law, the Department gives to pedophiles what they could never get from Congress." Patrick Trueman can be reached at the American Family Association in Washington, DC.

The pornographic tapes which were the basis of the Knox case and which would likely receive immunity under the Clinton Justice Department, were described by the Third Circuit Court of Appeals as containing:

> various vignettes of teenage and preteen females, between the ages of 10 and 17, striking provocative poses for the camera. The children were obviously being directed by someone off-camera. All of the children wore bikini bathing suits, leotards, underwear or other abbreviated attire while they were being filmed. . . . The photographer would zoom in on the children's pubic and genital area and display a close-up for an extended period of time.

The lower court offered this portrayal of how a catalogue described a scene on the tape:

> an enchanting scene showing a dark-haired beauty of 11 letting us have a long, slow look up her dress to view her snow-white panties. . [and] . . scenes of a 13 year old in a leopard skin bikini with a magnificent ass that she puts on display for you as she walks back and forth slowly and teasingly.

The company which produced these tapes described one of them, "Sassy Sylphs," in promotional materials as:

> Just look at what we have in this incredible tape: about 14 girls between the ages of 11 and 17 showing so much panty and ass you'll get dizzy. There are panties showing under shorts and under dresses and skirts; there are boobs galore and T-back (thong) bathing suits on girls as young as 15 that are so revealing it's almost like seeing them naked (some say even better).

Today, my colleague from California, JOHN DOOLITTLE, and I—127 Members from both sides of the aisle—have sent a letter to Attorney General Janet Reno urging her to abandon this morally indefensible position. The Clinton Justice Department has devised a thoroughly flawed legal reinterpretation of congressional intent, has radically reversed the Bush prosecution strategy as it relates to child pornography, and as a consequence has concocted a formula for creating a new protected category of child pornography which will open the flood gates to the exploitation of children.

In addition, Mr. DOOLITTLE and I will be introducing a resolution today reaffirming Congress' purpose in passing existing child pornography law and opposing the Justice Department's misinterpretation of this statute.

In addition to the simple standard of decency in protecting a child from the exploitation of child pornography, there is a proven and consistently supported compelling interest in the elimination of such materials. The crime we are determined to prevent is, as so aptly phrased in the court of appeals Knox decision, "the affront to the dignity and privacy of the child and the invasion of the child's vulnerability." It is our obligation to protect children from this victimization.

A CALL FOR WELFARE REFORM

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. SWETT. Mr. Speaker, earlier today I joined with some of my colleagues to announce the formation of the Mainstream Forum Welfare Working Group. This special task force will work with President Clinton to reform the current welfare system.

Our working group also released a letter today to President Clinton signed by 80 Members of Congress, outlining some of the general goals we hope to achieve by reforming our country's welfare system. We applauded the President's ongoing review of the current welfare system and his pledge to end welfare as we know it.

Mr. Speaker, the best social program is a job. Poor Americans are not looking for a handout—what they need is a hand up. Poor Americans are looking for opportunity, and it is time we gave it to them. We need to help people go from a welfare check to a paycheck, moving them from dependency to self-sufficiency. Welfare reform will not be about taking away from people. It will be about giving back to poor Americans hope, pride, opportunity, and the chance to become connected to their communities again.

Our current system has fundamental flaws—it discourages work, isolates the poor into a separate welfare economy, fosters dependency, and it rewards failure, not success. Most absurd, perhaps, is that our current welfare system promotes the breakup of families—a practice which tears at the very fabric of this country.

Mr. Speaker, we must give every able person in this country the opportunity to work, so that everyone can have the dignity to feel good about themselves and have the means to support those who depend upon them. As it stands now, children—our most precious resource—are suffering the most. One in five children now lives in poverty. One in six children has no health insurance. One in two babies is not immunized by 1 year of age. One in two children has a mother in the labor force, yet lacks adequate, safe, affordable, quality child care.

No State is free from the problems of poverty, joblessness, and homelessness. In New Hampshire, the caseload growth for Aid to Families With Dependent Children [AFDC] has shown significant increases in recent years. AFDC grant payments for 1992 totaled over $54 million, a 29.7-percent increase over State fiscal year 1991. Our present system which encourages permanent dependency has no hope of reversing this mounting problem.

We must make work pay instead of making work hinder. We must make it more worthwhile to put in an honest day of work than to stay home and collect welfare. We must also establish a 2-year transitional period to move recipients off welfare and into jobs. Welfare should be a way station, not a destination. These are just two of the essential steps necessary to reform an outdated and flawed system.

Mr. Speaker, transforming the Nation's health care system is a first and crucial step toward moving recipients off of welfare. Universal access to health care should eliminate the need to choose between staying on welfare and receiving Medicaid benefits or working at a low-wage job that does not provide coverage. We also endorse the administration's call for community service employment for those welfare recipients who are not able to find a job in the private sector. Community service gives people the opportunity to support themselves through honest work.

As a member of the Mainstream Forum Welfare Reform Group, I am dedicated to working with President Clinton to continue this trend of helping people to become self-reliant. In the process, we will be able to move this Nation from a system centered on maintenance and consumption to a system oriented around work and the development of self-esteem and personal assets.

The President's new covenant on welfare offers poor Americans greater opportunities, but also demands greater responsibility. If public welfare assistance demands mutual responsibility both by Government and recipient, I believe people will rise to this challenge.

Mr. Speaker, I ask all of my colleagues to work together both with the Mainstream Forum

Welfare Working Group and the administration to find ways to reform our country's welfare system. While we may have differences in our ideas and approach to welfare reform, we all can agree that our welfare system is greatly in need of reform. And this is the time to start.

CELEBRATION OF THE ARTS AND HUMANITIES

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. HEFLEY. Mr. Speaker, in celebration of National Arts and Humanities Month, I would like to express my hope that the arts and humanities, which have added much richness to the culture of American society, will evoke continued encouragement, support, and appreciation from the public.

By placing importance on the arts and humanities, and recognizing their role in the development of our unique heritage, we provide ourselves the opportunity to share in the creative experience provided by so many gifted and talented artists.

To make the most of this monthlong celebration, a coalition of 42 arts and humanities organizations representing more than 23,000 cultural groups, have formed the National Cultural Alliance to develop a multiyear public awareness campaign on the availability and importance of the arts and humanities to all Americans.

The campaign's theme: "There's Something in it for You," emphasizes that because of the diversity of art that surrounds us, everyone should be able to find at least something to participate in, appreciate, or value for its cultural and artistic impact.

TRIBUTE TO ELLEN RUESCH ON HER 100TH BIRTHDAY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 20, 1993

Mr. SERRANO. Mr. Speaker, I rise today in celebration of the birthday of my constituent, Ellen Ruesch, who on Tuesday, October 26 will turn 100 years old.

Ellen Ruesch came to the United States from Finland in 1912 and has lived in the Bronx since 1968. With assistance from the dedicated social workers of the Highbridge Community Life Center, of which she is a client, Mrs. Ruesch continues to lead an independent life in her own apartment. And with the exception of the last election, which she unfortunately missed, Mrs. Ruesch has voted at every opportunity since she obtained her citizenship in 1920.

Mr. Speaker, with just a little outside support, senior citizens like Mrs. Ruesch can continue to make their own way in society. We can all hope that in our own golden years we will be as active and independent as she is. I ask my colleagues to join me in wishing a very happy 100th birthday to a wonderful role model, Mrs. Ellen Ruesch.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 21, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 22

10:00 a.m.

Labor and Human Resources

To resume hearings to examine the Administration's proposed Health Security Act, to establish comprehensive health care for every American, focusing on the budgets and competition.

SD-430

OCTOBER 26

10:00 a.m.

Environment and Public Works

To hold joint hearings with the Committee on Environment and Public Works' Subcommittee on Clean Air and Nuclear Regulation on the Administration's National Action Plan on Global Climate Change.

SD-406

Foreign Relations

To hold hearings on the 1992 Protocol to the 1966 Conservation of Atlantic Tunas Convention (Treaty Doc. 103-4), 1990 Protocol to the 1983 Marine Environment of the Wider Caribbean Region Convention (Treaty Doc. 103-5), Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (Treaty Doc. 103-9), Convention on the Marking of Plastic Explosives for the Purpose of Detection (Treaty Doc. 103-8), and Convention on the Limitation Period in the International Sale of Goods (Treaty Doc. 103-10).

SD-419

2:30 p.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on S. 1537, to revise the Stevenson-Wydler Technology Innovation Act of 1980 to improve the use of Federal laboratories and advance American international competitiveness.

SR-253

OCTOBER 27

9:30 a.m.

Environment and Public Works

To hold hearings on S. 1547, authorizing funds for fiscal years 1994-2000 for programs of the Safe Drinking Water Act.

SD-406

10:00 a.m.

Judiciary

Antitrust, Monopolies and Business Rights Subcommittee

To hold hearings to examine the effects of telecommunication megamergers on competition and inflation.

SD-226

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 589 and H.R. 1348, bills to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor, S. 1332, to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System, and S. 1380 and H.R. 2650, to designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System.

SD-366

3:00 p.m.

Conferees On H.R. 1268, to assist the development of tribal judicial systems.

EF-100, Capitol

OCTOBER 28

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings on the Administration's National Action Plan to reduce greenhouse gases.

SD-366

Rules and Administration

To hold hearings on the nomination of Michael F. DiMario, of Maryland, to be Public Printer, Government Printing Office, S.J. Res. 143, providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution, and S.J. Res. 144, providing for the appointment of Manuel Luis Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution.

SR-301

Indian Affairs

To hold oversight hearings on issues relating to Indian child abuse.

SR-485

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to mark up S. 783, to strengthen the accuracy and the privacy protection provisions of the Fair Credit Reporting Act with regard to credit reporting agencies' file information systems, and to consider other pending calendar business.

SD-538

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine the National Aeronautics and Space Administration's (NASA) relevance to the economy.

SR-253

Environment and Public Works

Clean Air and Nuclear Regulation Subcommittee

Business meeting, to mark up S. 1162, to authorize funds for fiscal years 1994 and 1995 for the Nuclear Regulatory Commission, S. 1165, to provide judicial review of petitions submitted to the Nuclear Regulatory Commission requesting that the NRC take enforcement action against NRC licensees regarding safety problems or regulatory violations, and S. 1166, to enhance the safety and security of nuclear power facilities.

SD-406

2:00 p.m.

Energy and Natural Resources

To hold oversight hearings to examine U.S. efforts to help nations operating Soviet-built nuclear power plants to reduce the risk of a serious nuclear accident.

SD-366

Veterans' Affairs

Business meeting, to consider pending calendar business.

SR-418

2:30 p.m.

Veterans' Affairs

To hold hearings on the nominations of Eugene A. Brickhouse, of Virginia, to be an Assistant Secretary of Veterans Affairs (Human Resources and Administration), and Kathy Elena Jurado, of Florida, to be an Assistant Secretary of Veteran Affairs (Public and Intergovernmental Affairs).

SR-418

OCTOBER 29

9:30 a.m.

Indian Affairs

To hold hearings on S. 1526, to improve the management of Indian fish and wildlife and gathering resources.

SR-485

NOVEMBER 2

10:00 a.m.

Veterans' Affairs

To hold hearings to review research on the health effects of agent orange and other herbicides used in Vietnam.

SR-418

NOVEMBER 3

9:30 a.m.

Indian Affairs

To hold hearings on S. 720, to clean up open dumps on Indian lands.

SR-485

10:00 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on the effects of potential restructuring in the National Aeronautics and Space Administration (NASA).

SR-253

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 297, to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs, S. 455, to increase Federal payments to units of general local government for entitlement lands, S. 761, to revise the "unit of general local government" definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska, S. 1047, to convey certain real property in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and H.R. 1134, to provide for the transfer of certain public lands located in Clear Creek County, Colorado, to the United States Forest Service, the State of Colorado, and certain local governments in the State of Colorado.

SD-366

NOVEMBER 4

9:00 a.m.

Office of Technology Assesment Board meeting, to consider pending business.

EF-100, Capitol

10:00 a.m.

Foreign Relations

To hold hearings to review foreign policy issues.

SD-419

2:00 p.m.

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold oversight hearings on ocean mining policy.

SD-366

NOVEMBER 16

9:30 a.m.

Indian Affairs

To hold hearings on S. 1146, to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona.

SR-485

NOVEMBER 18

9:30 a.m.

Indian Affairs

To hold hearings on S. 1345, to provide land-grant status for tribally controlled community colleges, tribally controlled postsecondary vocational institutions, the Institute of American Indian and Alaska Native Culture and Arts Development, Southwest Indian Polytechnic Institute, and Haskell Indian Junior College.

SR-485

CANCELLATIONS

OCTOBER 21

10:00 a.m.

Finance

To resume hearings on the Administration's proposed Health Security Act, to establish comprehensive health care for every American, focusing on medical practice patterns and appropriateness of care.

SD-215

HOUSE OF REPRESENTATIVES—*Thursday, October 21, 1993*

The House met at 10 a.m.

The Reverend Chris Holmes, Community United Methodist Church, Crofton, MD, offered the following prayer:

One Everlasting God, wide in mercy, broad in justice, we begin in prayer this morning not really to invoke Your presence—for we know that You are already here.

Long before anyone of us arose today, You were awake guiding the night into daylight, just waiting for us to join in with what You had already begun in this day.

So we begin this session of Congress acknowledging that we are in Your presence, and that this is therefore holy ground.

We ask that You guide these Members of Congress in their decisions, the Speaker in his leadership, and even the pages and congressional staffs as they go about their duties.

May all the work of this day glorify You, our one God of many traditions we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey [Mr. ZIMMER] please come forward and lead the House in the Pledge of Allegiance.

Mr. ZIMMER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING THE REVEREND CHRIS HOLMES OF CROFTON, MD

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, on behalf of all our colleagues, I am delighted to welcome to the House of Representatives our guest chaplain for the day, the Reverend Chris Holmes, who is the pastor of the Community United Methodist Church in Crofton, MD, located in my district.

Reverend Holmes is the pastor of one of the strong and vibrant congregations in my district.

It is interesting that his church is called the Community United Methodist Church, for indeed Pastor Holmes and the people of the church are community builders in our area doing the good works that bring people of all backgrounds together in faith and in trust.

Mr. Holmes was graduated from Western Maryland College and from Drew Theological Seminary and is married to Margaret Fry Holmes, who is with us today.

They are the parents of Lindsey, Jenny, and Taylor.

I am delighted to join my colleagues in welcoming the Reverend Holmes to the Chamber today and thank him for his inspiring prayer, which as all of us heard, included, uniquely in some regards, a prayer for our pages, for he, too, was once a page.

Mr. Speaker, I would now like to yield to the distinguished gentleman from Texas [Mr. PICKLE], who appointed Reverend Holmes a page in 1974.

Mr. PICKLE. Mr. Speaker, I thank our leader for yielding to me.

Mr. Speaker, I am delighted to add my voice to the chorus of praise for the Reverend Chris Holmes who opened this session with a word to the Almighty.

In 1974, I was pleased to appoint a strapping young go-getter as a page. The young Chris Holmes is the son of the venerable Dr. William Holmes, who was back then, the pastor of the University United Methodist Church in the shadow of the tower of the University of Texas at Austin, and is now the senior minister at the National United Methodist Church here in the Nation's Capital. I am happy to see that the acorn didn't fall far from the tree.

Of course, young Chris was a fine, hard-working page and a good student, but some of us remember him as a star on the Page School basketball team. Indeed he once scored 54 points in a single game, and I believe that record still stands. Who knows, if not for his higher calling into the ministry, he might have been the Michael Jordan of the 1970's.

I am honored and proud that the young man I appointed to serve this honorable body some two decades ago has gone on to become the outstanding young pastor he is today.

ONE IN EIGHT, WE CAN'T WAIT

(Mr. FISH asked and was given permission to address the House for 1 minute.)

Mr. FISH. Mr. Speaker, on Monday, thousands of Americans marched on Washington to deliver to President Clinton a petition signed by 2.6 million people drawing attention to a most important cause—the prevention and treatment of and finding a cure for breast cancer. One of those activists was my constituent, Tina Rohrer.

Ms. Rohrer is an artist who has contributed to the breast cancer arts project "Healing Legacies: A collection of art and writing by women with breast cancer." This collection provides breast cancer survivors and families of those who have not survived an opportunity to raise public awareness about the impact breast cancer has on our lives. It will be displayed in our Cannon rotunda through October 29.

Mr. Speaker, breast cancer is an epidemic in which 182,000 new cases are reported in the United States each year and which causes more than 46,000 deaths annually. Some researchers now believe it may be striking one women in eight during her life. I echo the chant of the marchers on Monday—"one in eight, we can't wait." We need a national strategy to tackle this disease, one that adequately funds research, prevention, and treatment.

DISEASE PREVENTION IS KEY ELEMENT OF ADMINISTRATION'S HEALTH REFORM PLAN

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, the President's health reform plan would make prevention a real priority in our health care system for the first time. Let me cite one example where the priority will benefit millions of our people.

This week the National Academy of Sciences released a report that makes clear why disease prevention is so important. The academy reviewed the impact that lead poisoning is having on our Nation's children.

The study found that even low levels of lead can hurt the neurological development of our children, increasing their likelihood of having a reading or behavioral disorder and increasing the likelihood that they will not graduate from high school.

Over 3 million young children in the United States have unsafe levels of lead in their blood. While treatments are available, we know that many of the effects of lead poisoning are irreversible.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

Mr. Speaker, the only cure for lead poisoning is prevention. One reason to support the Clinton health reform initiative is the priority it places on prevention.

THE SUPER SIX

(Mr. BALLENGER asked was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I was listening to the radio the other day, and I heard a political advertisement that must make opponents of NAFTA very comfortable.

Lyndon Larouche, the erstwhile candidate for President and convicted felon, announced his strong opposition to NAFTA.

He opposes this agreement because it will undermine both the Mexican and American currency systems. Frankly, his arguments sound as plausible as some of the others against NAFTA.

That makes it six marginal Presidential candidates who oppose NAFTA: Larouche, Ross Perot, Jerry Brown, Pat Buchanan, Jesse Jackson, and Ralph Nader.

Mr. Speaker, there's a reason these failed Presidential candidates failed in the efforts to become President. They lacked credibility. Their arguments against NAFTA are just as credible. Jobs will be created, not lost, because of NAFTA. The environment will be helped, not harmed, if the Congress passes this agreement.

When it comes to the Super Six and their arguments against NAFTA, I urge my colleagues to think twice about their credibility.

PREVENTIVE CARE IS CORNERSTONE OF CLINTON'S HEALTH PLAN

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, on Monday, I paid a visit to a mobile mammography van run by the Yale University Comprehensive Cancer Center. This van travels across my district providing critical preventive health services to underserved women.

I visited this program in recognition of this month's designation as Breast Cancer Awareness Month. Also, I wanted to applaud the program's efforts in leading the way in health care reform by focusing on preventive care. But, preventive care does not have to come in the form of a traveling examining room—it can be something as simple as a basic flu shot or a blood pressure test.

Preventive care is the cornerstone of President Clinton's Health Security Act. This plan focuses on keeping people well rather than treating them when they get sick—a common sense approach that reduces both human suffering and reduces our overall health care bill.

The bottom line is this: Preventive medicine makes good health care policy and good fiscal policy. It is one more reason for us to support the Health Security Act.

□ 1010

CLINTON'S TAX-HIKE PROPENSITY EXTENDS TO NAFTA

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, it seems that the Clinton administration views every national issue as an opportunity to raise taxes. What a shame and how out of touch with what Americans want.

Already this year President Clinton and the Democratic Congress has passed the largest tax increase in American history. All Americans are paying higher taxes under that plan, especially senior citizens and small businesses.

We all know that the health care plan being proposed by the Clinton administration will require massive new taxes on the middle class. Yesterday it was reported that the administration will propose an increase in the cigarette tax of 75 cents, and that will be just the start. That cigarette tax will only raise a tiny fraction of what the Clinton plan will need.

As if these tax increases were not enough, now the President is trying to raise transportation taxes in the NAFTA instead of cutting a modest $2½ billion spread over 5 years.

Does every initiative of this administration require a tax increase? Let us not kill NAFTA by making it a tax bill. If the President cannot cut $2.5 billion over 5 years, how are we ever going to balance the budget? Let us reject Clinton tax propensity and start trimming instead.

NAFTA: A BAD DEAL FOR AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, experts say without NAFTA our borders will literally be flooded with illegal immigrants. Can you believe that? It is already so bad there were two Federal judges appointed to be U.S. Attorney General, and they had to disqualify themselves because they hired illegal immigrants.

Let us tell it like it is: if this were about illegal immigrants, there would not be $90 million going for retraining American workers that are going to be losing their jobs because of NAFTA. It would be going to the border patrol.

There are two points that need to be made here today: if NAFTA is so good, why does not Japan do it? And, Mr. Iacocca, if I owned all that stock, like you do, in Chrysler, I would be making TV ads for NAFTA, too.

Congress, you better take a good look at NAFTA, because we have all the welders, mechanics, and carpenters we need.

TAXPAYERS' MONEY WASTED, AGAIN

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, not only is the President spending thousands of dollars flying around the country to convince the American people that a Government-run, Government-controlled health care system is for the good of the entire country, he is also spending taxpayer dollars to send political messages to Congress on his health care plan.

Yesterday I received a fax in my office from the White House's health care "delivery room." It is a blatant, petty, partisan attack on the Republican National Committee, and Republicans in general, for speaking out against the President's health care plan. Mr. Speaker, there are many groups speaking out against the Clinton plan, not just the Republicans.

I think this is an outrageous use of taxpayer's dollars to set up an office in the White House whose specific purpose is to engage in purely political activity via the fax machine. How many taxpayer dollars were used to set up this office, hire the staff, and buy the equipment to engage in this partisan warfare?

Mr. Speaker, the President has not even sent his health care legislation to Congress yet, much less told us how it is paid for. But judging from his careless use of taxpayer dollars in the White House, I'm sure he'll have no problem really sticking it to the American people when it comes to his health care plan.

NAFTA IS DEAD

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the gentleman from California, Mr. Panetta said several months ago that NAFTA was dead. Mr. Speaker, NAFTA is dead. And let me say this: it is an issue today in the Canadian elections, and it is going to help oust Prime Minister Kim Campbell before it is all over. Her opponents want to renegotiate NAFTA. Why? Because of the same reasons that it is bad for the United States.

Second, we are going to need $2.5 billion to offset the loss of tariffs, which means that your taxes are going to have to be increased.

Mr. Speaker, who in this Congress of the United States is going to vote to raise taxes to fund a trade treaty that denigrates the U.S. industrial base and denigrates American jobs? They say they will retrain workers. Retrain workers? To do what? To sell pants and shirts in a mall?

Give me a break, folks. This is not going to work. I say, let Mexico prove itself. Let them bring themselves up to our standards. But, by god, let us not bring the American standards down to the Mexican standards.

JOINT COMMITTEE ON ORGANIZATION OF CONGRESS CHANGING COURSE

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, first let me say, NAFTA ain't dead.

Mr. Speaker, let me say that there is a very disturbing development which has taken place just this week here in the House. Several senior Democrats have chosen to resort to sabotage when it comes to our Joint Committee on the Organization of Congress. Just 2 months before we are scheduled to complete our work and go out of existence, several of these Democrats want to change the rules.

The rules of the resolution that put our committee in place basically say that Members of the House deal with issues that affect the House, and Members of the Senate deal with issues that affect the Senate. The Senate filibuster is their priority item. We do not have responsibility to deal with that.

Mr. Speaker, their goal is simply sabotage. They want to prevent us bringing about meaningful reform of this institution.

All Republicans and many Democrats want to do what the American people want. They want to bring about accountability and deliberative democracy for this institution. Let us not let these Members block our responsible efforts to change this place.

REFORM HEALTH CARE SYSTEM

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, as our parents told us, an ounce of prevention is worth a pound of cure. Unfortunately, our health care system foolishly squanders this sage advice.

Instead of a few pennies for childhood immunization, we spend a great many dollars combating preventable disease. Instead of focusing on the prevention of heart disease, we rely on bypass operations. Instead of concentrating on prenatal care, we are left with sick infants in intensive care.

This results in the United States having a higher infant mortality rate than 20 other nations. We rank just 20th in combating fatal heart disease.

President Clinton's reform plan will return common sense to our health care system. Beginning with prenatal care, and including everything from breast cancer to heart disease, the President's plan will work to help keep all Americans healthy.

Mr. Speaker, we must all work together with President Clinton to reform our health care system so that the strongest Nation on Earth can also be the healthiest Nation on Earth.

UNDUE INFLUENCE OF SPECIAL INTEREST LOBBYISTS

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I want to spend 1 minute talking about the undue influence of special interest lobbyists—15 years ago I was elected to the Michigan Legislature. At that time it was not uncommon for the special interest lobbyists, especially the multiclient lobbyists, to come before legislators right before a key vote and hand them a bundle of checks and say how important this vote was to their special clients.

We have a chance to change campaign finance reform. We have a chance to diminish the amount of influence that these special interests are having as they write words in legislation, as they write numbers in appropriation bills.

Mr. Speaker, they are not dumb. They spent over $100 million last election. The problem is that too often they are getting their money's worth.

Mr. Speaker, I hope Members will join me in urging that we have the opportunity to have real campaign finance reform in the next couple of weeks.

Mr. Speaker, I want to talk about the undue influence of special interest lobbyists and their PAC's. Last November the voters expressed unprecedented hostility to the status quo in Congress. They demanded change. But we've done little if anything.

Soon, Mr. Speaker, this body will have the opportunity to serve the voters, and stand up to the special interests. This week, the Republican Task Force on Campaign Reform announced its bill which would ban PAC contributions entirely, and would cut many other forms of special interest lobbying.

These special interests are standing in the way of the change the voters want. In the last congressional election, PAC's gave more than $97 million to incumbents, and just $12 million to challengers. This 8-to-1 support for incumbents prevents reform, and has led to the scandals, and loss of prestige in Congress in the last few years.

Congress cannot regain the public trust until the power of the special interests is broken. That's why we must enact strong campaign finance reform.

Fifteen years ago I was elected to the Michigan Legislature. At that time, it was not common for the multiclient lobbyist to bring you contributions. Lobbyists of today are much more subtle. I decided in that first year to not accept PAC money from lobbyists.

HAITIAN PRESIDENT ARISTIDE HELD IN HIGH REGARD, DESERVES SUPPORT

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, I rise today to express my strong support for Haitian President Jean Bertrand Aristide and the return of democracy to the troubled nation of Haiti.

Yesterday, I was outraged when I heard a Member of the other body refer to President Aristide as a psychopath. This same Senator went on to say that President Aristide was responsible for widespread human rights abuses when he was in office.

These charges are absurd.

I have met with President Aristide many times. He is a man of unbounding intelligence, compassion, perseverance, and high moral character.

I am proud of this friendship.

I am not the only one who holds President Aristide in high regard. Sixty-seven percent of the Haitian people overwhelmingly elected him President over 2 years ago. The people of Haiti have spoken. It is imperative that the United States in concert with the international community continue to do everything possible to honor the will of the Haitian people and bring President Aristide back to his rightful place as President of that Republic.

□ 1020

THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, the Joint Committee on the Organization of Congress, which is the congressional reform committee on which I serve, has worked hard all year to develop bold recommendations that I believe will fundamentally change this Congress. We have compiled the most extensive hearing record of its kind in history.

We have sought the advice of outside experts, and we have received hundreds of letters from the public around this country.

More important, we have worked together in a bicameral and a bipartisan fashion.

Now, Mr. Speaker, at the 11th hour, with adjournment of this body looming and the sunsetting of the reform committee by the end of this year, a handful of House Democrats have decided to embark on a course that can only prevent the joint committee from ever completing our work. Demanding the abolition of the Senate filibuster before even beginning to deal with the rules and the problems of the House is little more than a smokescreen, Mr. Speaker, nothing more than an arrogant ruse to prevent the rest of us who want to reform this body from getting it.

I believe, Mr. Speaker, that Democrats and Republicans who care about reform cannot be deterred by this smokescreen. We have got to take advantage of this opportunity and give the American people the deliberative system in this Congress they have asked for.

WELFARE SYSTEM REFORM NEEDED

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, yesterday, I attended a meeting with some of our colleagues on a very important topic: The critical need to reform the welfare system.

There are two victims of the current welfare system: The needy people it is supposed to help and the working people, especially the working poor, who pay for it. The current system makes one group dependent on Government and costs the second group—taxpayers—roughly $290 billion a year.

No one better understands how defective our welfare system is than those who live under it and the working poor who do not qualify for assistance, but have to pay for it anyway. Many middle-class and lower middle class workers, who would rather stay at home with their children, are struggling to make ends meet. And their taxes go to help pay for people on welfare, who get to stay home with their children. I do not think it is fair for a hardworking person, who limits the size of their family because they cannot afford to have more children, to pay for those on welfare indefinitely.

We need to end long-term dependency through time-limited assistance. For many, welfare is not the system of transition it should be. Fully one-quarter of those on welfare remain there for more than 10 years. Welfare should be only a way station on the road to work, not a final destination.

THE SENATE FILIBUSTER RULE

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, this morning's press reports efforts by a few—and I emphasize few—House Democrats efforts to torpedo meaningful congressional reform if their clique does not get to mandate the rules of the Senate. This is clearly a tactic to divert attention from doable reform.

Yesterday, they issued a threat to the committee to derail all reform efforts unless the other body's filibuster rule is changed to their satisfaction. There is, indeed, what I would call the designated-hitter for antireform efforts. The majority of the committee has worked in a collegial, bipartisan manner to attempt to achieve meaningful reform. The House chairman and vice chairman, our respected colleagues HAMILTON and DREIER, have admirably led a majority of the House contingent in a true statesmanlike manner.

Yesterday's self-serving, staged event should be seen for exactly what it is—an attempt to sabotage congressional reform. It is regrettable that a few, antireform Members on the Democrat side are willing to torpedo the genuine, and genuinely bipartisan reform efforts of the joint committee.

I could count the number of Members in this Chamber who do not want to see reform happen—but that is not necessary. Yesterday's actions are transparent.

THREAT TO LABOR STANDARDS BRINGS OPPOSITION TO NAFTA

(Mr. HAMBURG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMBURG. Mr. Speaker, Mexico currently imports 3.8 billion dollars worth of products into the United States duty free. This is possible because Mexico is a beneficiary of the generalized system of preferences [GSP].

One of the conditions for beneficiary status is the guarantee of internationally recognized labor standards, such as the right to organize and collectively bargain, guarantees of decent minimum wages, and prohibitions against child labor.

Under GSP law, independent parties can petition to have a country removed from the GSP for failure to enforce these standards. Such a petition was filed in June by the International Labor Rights Fund.

The United States Trade Representative first delayed consideration, and then rejected the petition based on the assumption that the NAFTA will improve labor standards in Mexico.

NAFTA does nothing of the kind. As drafted, the labor supplemental is weaker than the GSP. Where the GSP conditions duty-free access to our markets on the recognition of labor rights, the NAFTA does not. There is no independent petition procedure, the review process is more arduous, and the penalties are weaker.

The GSP represents the correct direction for our trade policy. The NAFTA represents a step backward.

THE NEED FOR CONGRESSIONAL REFORM

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, first you proclaim in the House that October is reform month. Then you proclaim the last week of October as reform week. And now, you indicate that the Joint Committee on Reorganization of Congress should be extended into next year.

This is the irony of all ironies. A committee to eliminate committees, is extended further beyond its expiration date.

Mr. Speaker, a couple of democratic members of the Committee on the Reorganization of Congress now want to use the Senate filibuster rule as a condition for reform action, while they fully realize it will mean deadlock.

Here Congress goes again. Trying to proclaim action, when in reality nothing is going to happen.

CONGRESSIONALLY IMPOSED STAFFING LIMITS FOR THE OFFICE OF HOUSING ENTERPRISE OVERSIGHT

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I rise this morning to call the attention of my colleagues to recent developments in the continuing struggle to protect the public against the financial risks associated with the activities of Fannie Mae and Freddie Mac, the two largest Government-sponsored enterprises.

Last year, in an effort to ensure the financial safety and soundness of these two housing industry giants, Congress created the Office of Federal Housing Enterprise Oversight [OFHEO], and required this new office to develop comprehensive risk-based capital standards by the end of 1994.

The establishment and enforcement of meaningful capital standards for these two federally chartered corporations is critically important because, while they pose no immediate risk to taxpayers, they remain two of the most thinly capitalized financial institutions in the country. Their current level of capitalization is well below that required of all other federally chartered banks and thrifts.

At the time the Office of Federal Housing Enterprise Oversight was established I expressed my concern that the regulator lacked the independence and stature necessary to properly monitor and regulate the financial operations of Fannie Mae and Freddie Mac. I still have these concerns, and while I hope they prove misplaced, the recent congressional actions to cap the staffing of OFHEO to only 45 employees should be troubling to any objective observer of this situation.

Clearly, it is impossible for 45 employees to effectively oversee Fannie Mae and Freddie Mac, whose combined assets exceed $1 trillion. By comparison, the Office of Thrift Supervision has over 2,500 employees to oversee financial institutions with an asset base of $800 billion and the Comptroller of the Currency has over 3,600 employees supervising institutions with a $2 trillion asset base.

Aida Alvarez, the newly appointed Director of OFHEO, has already expressed her concern that this congressionally limited level of staffing will be insufficient. Having short-changed this new agency, Members should not be surprised when we later learn of delays in developing and implementing the required risk-based capital standards.

Let me also observe that this is exactly the kind of micromanagement about which the Reagan, Bush, and Clinton administrations have complained, and which Vice President GORE highlighted in the administration's recently released "National Performance Review." Even more troubling, this is exactly the kind of regulatory interference that undermined the ability of the Federal Savings and Loan Insurance Corporation to regulate the thrift industry.

Mr. Speaker, it may not be politically expedient to irritate Fannie Mae and Freddie Mac by subjecting them to aggressive financial scrutiny, and assessing them for the cost of such oversight. It also may not be politically expedient to support the hiring of more Federal employees at a time when there is such a hue and cry from all quarters to cut the size of Government. But, Mr. Speaker, let me remind all my colleagues that, if either of these two corporations ever gets into financial trouble and requires special assistance, as has happened in the past, it certainly won't be politically expedient to vote for the bailout that will inevitably occur. At that time I doubt the public will be impressed with this unfortunate instance of congressional meddling.

Finally, Mr. Speaker, I would note that as troubling as this action is, it has probably not yet done serious damage. OFHEO is just getting started, and currently has only a handful of employees. However, at such time as OFHEO becomes fully operational and Director Alvarez determines that additional staff is needed, I hope that we will fully support her request. To do less could seriously undermine the intended purpose of the legislation creating OFHEO as an independent regulator and will ultimately threaten the integrity of our entire system of housing finance.

Somebody, somewhere ought to "ride herd" on Fannie Mae and Freddie Mac, good agencies but agencies which must have proper capital reserve standards.

HEALTH CARE REFORM

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, for the 182 million Americans presently covered by private health insurance, health care reform need not involve a reduction of services, more bureaucracy, higher taxes, or diminished freedom of choice. In fact, there is a simple, easy-to-implement proposal that gives individual Americans more power over their personal health care than they have had in 30 years.

The solution, Mr. Speaker, is Medisave. Medisave is a common-sense idea that protects families from catastrophic medical expense. It provides them with a powerful new incentive to manage their own health needs responsibly. It keeps doctors working for patients, not for bureaucrats. And it restores badly needed competition to the health care market.

Ultimately, the question that each one of us must ask is how much power over our individual lives do we want to assign to big government. Personally, my confidence is in the individual, the family, private institutions. And I, frankly, find it ironic that a President who correctly recognizes that our Government is broken and needs to be reinvented would trust that same broken Government to fix the Nation's health care industry.

□ 1030

TIME FOR A NATIONAL DEBATE ON AMERICA'S FOREIGN POLICY

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute.)

Mr. TORRICELLI. Mr. Speaker, the individual crises in Somalia, Haiti, and Bosnia are indeed symptoms of a larger national problem. In the post-cold-war period, this Nation is largely without a vision of what it is we want to achieve in the world, how we will do it, and what prices we are prepared to pay.

In the cold war, it was contain communism. In the Persian Gulf war, it was to assure that naked aggression was not rewarded. Now it is time for President Clinton, with all the clarity that he brought to the health care debate and the certainty of deficit reduction, to come before this Congress and begin a new debate. What is it we want to achieve in the world? To protect humanity? To assure the protection of democracy? What relationships will we have with international organizations, and what prices are we prepared to bear?

Until and unless this Nation has that vision, we indeed may stumble from international crisis to international crisis, with parents unsure of why they are losing children, taxpayers unsure of why they are spending dollars. It is time for that debate nationally to begin.

HEALTH CARE: GOOD INTENTIONS ARE NOT ENOUGH

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, weeks ago, the administration began its campaign to reform the Nation's health care system.

We cannot let a Washington public relations blitz take us too far from what we already know about health care. We must acknowledge that problems exist, and that these must be addressed.

However, we must also remember that America's health care system has many more strong points than weaknesses.

Republicans have introduced health care reform legislation in both this Congress and in the last one. Our plan focuses on our health care system's strengths.

Our plan endeavors to raise the parts of the American health care system that fall short of these strengths, not cap its strengths in hopes of removing its weaknesses.

Bringing good intentions to this debate is not enough. We have to get it right.

To do that, we must first keep it right for the vast majority of Americans for whom health care is working well.

HEALTH CARE REFORM

(Mr. MINGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINGE. Mr. Speaker, by the time I finish this brief speech, 46 Americans will have lost their health care insurance. That is a national embarrassment. Another embarrassment is the fact that the United States has a higher rate of infant mortality than 20 other nations, including Japan and Canada. If we want to lower our infant mortality rate we must focus on preventive care. We must work with young women so they understand the importance of prenatal care.

I am pleased to say that President Clinton is doing this in his health security plan. This reform initiative will include a schedule of preventive screenings, tests, and checkups covered in only a few of today's health insurance policies. The plan will also encourage new research initiatives in the child health care area, including birth defects, prenatal care, and adolescent health.

Mr. Speaker, we must move ahead. We must reform our health care system, if not for us, then for the future of our country—our children.

AMERICA SHOULD LEARN FROM NEW JERSEY'S DISASTROUS TAX EXPERIMENT

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, if the States are indeed the laboratories of democracy, then New Jersey is one laboratory that blew up because of an experiment that was attempted by our Governor, former Congressman Jim Florio.

In 1990, Governor Florio increased taxes in New Jersey by $2.8 billion. At the time, this was the largest tax hike in any State in history. New Jersey government truly demonstrated Ronald Reagan's observation that government is like a baby with an endless appetite at one end and no sense of responsibility at the other.

At the time when the Nation has created 3.2 million new jobs, New Jersey has lost 277,000 jobs. That is failure created by destructive taxation.

Two hundred seventy-seven thousand jobs killed. New Jersey and the Nation should learn from the Garden State's disastrous tax experiment.

INTRODUCTION OF THE FRONTLINE MEDICAL EDUCATION ACT

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Wisconsin. Mr. Speaker, today, I rise to introduce legislation that allows community health centers more opportunity to serve as medical training sites for new primary care doctors.

This proposal allows centers with approved residency programs to receive medical education funds directly.

It is time we broaden the sites available for new doctors to gain experience. Right now, only 20 percent of new physicians are entering the primary care field. We need greater emphasis on education and training in community-based sites to change that.

Developing community-based centers with greater emphasis on teaching will help move the extra burden of primary care out of the hospital and let hospitals focus on what they were meant to do: save lives and provide treatment for serious illness.

The Frontline Medical Education Act lays the groundwork for this shift by providing reimbursements to community health centers.

Mr. Speaker, primary care training should take place where it will most often be practiced. This bill lets that happen.

SHORT-TERM CONTINUING RESOLUTION FOR FISCAL YEAR 1994

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, Congress again has failed in its most basic duty under our Constitution—to provide comprehensive spending measures for the Federal Government. Today, we will consider yet another stop-gap spending measure, because we have failed to act on time. This time, we are over three weeks late.

In an effort to help curb this sort of irresponsibility, I have introduced H.R. 1922, the Congressional Pay for Performance Act. My bill would require Congress to pass the other 12 general appropriation bills before the appropriation for the legislative branch.

The intent of my bill is simple. I think it is outrageous for Congress to approve money for its own operations or our own salaries while we consistently delay, avoid, and fail to approve many regular appropriation bills by the end of the fiscal year.

We almost yearly bring the Government to a halt and create anxiety among the beneficiaries of Federal programs—while we approve our own budget months ahead of the October 1 deadline. My bill would not cure all institutional flaws, but it would represent a change in thinking and attitude. I think people would prefer to see Congress step to the back of the line for a change.

MOVE TO MEXICO OR GO OUT OF BUSINESS

(Mr. KLEIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN. Mr. Speaker, North Jersey was the center of a great apparel and textile manufacturing industry. Much of that remains in small companies which provide jobs to thousands of workers.

Recently, I was approached by a constituent who urged me to oppose NAFTA. He was not a labor leader or a factory worker. He was a small businessman, one of many apparel manufacturers in my area. He employs 250 people. He showed me this letter sent to him by a Mexican trade group urging him to move his plant to Mexico.

This letter says, "Today in Mexico, one dollar buys * * *." It continues by encouraging my constituent to relocate his business to Mexico in order to find, and here I quote, a "low cost workforce for less than a dollar an hour that is not 6,000 miles away."

My constituent said, "Herb, if you pass NAFTA, I have only two choices—move my plant to Mexico or go out of business."

Dozens of other small companies in North Jersey are in exactly the same boat. Either way, we lose thousands of jobs—jobs we cannot afford to lose.

Mr. Speaker, this NAFTA is a bad deal for American workers.

URGING PASSAGE OF HOUSE RESOLUTION 238, TO FULLY INVESTIGATE SCANDALS IN THE HOUSE

(Mr. ISTOOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISTOOK. Mr. Speaker, I am glad that some Members of this Congress are finally waking up, and I hope that everyone else soon will, to the House Post Office scandal and the stories of embezzlement by Members of this House. Yesterday a bipartisan panel of our Committee on House Administration finally called for the Committee on Standards of Official Conduct to get involved on one part of this scandal, missing payroll records. That is a good start, but it is not enough. Let us not mistake the big picture. Let us not ignore the embezzlement charges, charges that Members of this House stole tens of thousands of dollars through the House Post Office.

Since August, I have called for the Committee on Standards of Official Conduct to fully investigate this issue. Now the news this week is that it is going to be a long, long time before the Justice Department can be expected to act, but their probe is getting bigger. Meanwhile, a cloud remains over this Chamber.

Mr. Speaker, the longer we bury our heads in the sand, the dirtier it makes us look. We have the duty to look into all the charges and to have the Committee on Standards of Official Conduct do so. Let us pass House Resolution 238 and get to the bottom of the full scandal.

□ 1040

CONGRATULATIONS TO BPW/USA ON 75TH ANNIVERSARY

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, I rise to congratulate BPW/USA as it begins its 75th anniversary year. I am a member at large of this organization, and I want to tell you and my colleagues a little about its esteemed history.

Founded in 1919—a year before women had the right to vote—BPW/USA's long history of advocacy on behalf of women's equality started when women in similar clubs across the country banded together to form a federation.

BPW/USA was one of the original supporters of child labor laws and the first women's organization to endorse Alice Paul's equal rights amendment in 1937. BPW/USA took part in the battle for the establishment of the Equal Employment Opportunity Commission in 1972, the Equal Credit Opportunity Act of 1974 and the Women's Educational Equity Act of 1974.

BPW/USA has additionally led the fight in passing much of the Nation's landmark civil and women's rights legislation including: the Women's Business Ownership Act; the Child Care Act of 1991; the Civil Rights Act of 1964 and 1991; the Equal Pay Act; and the Equal Credit Opportunity Act.

This organization represents approximately 80,000 members in 2,800 clubs nationwide. There are BPW/USA members in every congressional district, Mr. Speaker. I hope you and my colleagues will join me in saluting this fine organization.

THE NEED FOR A BALANCED BUDGET AMENDMENT

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, yesterday's Washington Post sought to defend the indefensible—rallying around the status quo budget policies in Congress. The Post says "a balanced budget amendment would destroy political accountability." What political accountability? As far as I can see there is no discernible accountability for our budget crisis. For 40 years the Democrat leadership has controlled Congress, and our national debt has skyrocketed. Where is the accountability? What about the $4-plus-trillion-and-rising debt we face? How about the hundreds of billions of dollars of Government waste each year? What about the ease with which legislated ceilings are lifted to accommodate still more spending? Our current system just does not work. We are doing our third CR today. Congress is woefully incapable of balancing the Federal budget on its own. The Post calls the balanced budget a simplistic and dangerous idea. Perhaps it is the Post that is simplistic and dangerous.

AMTRAK STATION CLOSINGS

(Mr. PARKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARKER. Mr. Speaker, I reluctantly come before the House again today to bring to my colleagues attention a problem that has arisen at Amtrak. It seems as though Amtrak has unilaterally taken steps to close some 15 stations across the country in anticipation of what they foresee as a shortfall in funding provided by Congress.

Sure, we all agree that cutbacks have to be made in many different areas to get our fiscal house in order. Amtrak should have to participate in that downsizing as well. However, I encourage you to ask Amtrak how many officials are being eliminated in its corporate hierarchy. Would you believe none? While none of the highly paid executives and lawyers at Amtrak's headquarters will be affected, our front line station managers and employees are getting the ax. If a station is losing money, I have no argument with closing it. But if it is making money, it is absurd to close it.

The very last thing a business would do when trying to get its financial house in order would be to close the doors where the money comes in. However, Amtrak has made that choice. That is no way to run a railroad.

I encourage you to sign a letter that I will be sending to Amtrak today to demand that they change this stupid decision.

RESTRICTIONS ON FEE FOR SERVICE IN THE CLINTON HEALTH CARE PLAN: CAN YOU CHOOSE YOUR PERSONAL PHYSICIAN?

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, Americans believe that the freedom to choose their own physician is of primary importance in evaluating the various health reform proposals. When an individual is facing a life-threatening moment of decision. That person wants to know that they, and not some faceless Government bureaucrat, can choose their personal physician. The administration knows this and has stated over and over that the fee-for-service option must be offered to all. But when you work through the fine print of the September 7 draft, the fee-for-service option appears to shrink and then disappear, just like our doctor friend on the chart. For in the Clinton plan, the proposed fee-for-service actually eliminates many of the elements of fee-for-service. Let's walk with our fee-for-service [FFS] doctor through these stop signs, or, as Ira Magaziner would say, "toll gates," and see if we can still find our FFS doctor after this long and tortuous journey.

First there are a number of ways that States can waive a fee-for-service [FFS] option. These include, first, the FFS plan is not viable—page 62, September 7, 1993 draft; second there is insufficient provider or beneficiary interest—page 62; or third, the State elects a single-payer system—page 54.

If FFS makes it past the State waivers, it then faces a number of alliance restrictions. First, even if many FFS plans want to contract with an alliance, the alliance can limit FFS plans to three—page 61. Second, an alliance may refuse to contract with plans that exceed the average premium by 20 percent—page 60. This will almost exclusively affect higher cost FFS plans. Finally, the alliance may exclude any plan that might cause an alliance to go over budget—page 61. Again, this would primarily affect higher price FFS plans.

Now there are two more alliance restrictions on fee-for-service plans. First, there must be a mandatory fee schedule, and second, no-balance billing is allowed.

But we are not finished. The State has the following additional authorities. First, States have the authority to impose prospective budgeting on the FFS plan—page 62; second, it can establish spending targets—page 63; and third, it can periodically review utilization and reduce payments to physicians for services to comply with its budget—page 63. I think it is safe to say that no physician or insurer has ever seen or participated in a FFS plan with these types of restrictions.

At this point in our journey there is literally very little fee-for-service option left. After passing through these four stop signs, FFS has been whittled away to nothing. It is like telling the American public you can choose a FFS plan as long as it "walks and talks" like an HMO. Interestingly, the Washington Post October 12 poll shows that the American people have not been fooled. The lack of freedom of choice is identified as the public's No. 1 complaint with the Clinton plan. I am sure we will come to the same conclusion—that is, fee-for-service under the Clinton plan is an illusion rather than reality.

RESTRICTIONS ON FEE-FOR-SERVICE: CAN YOU REALLY CHOOSE YOUR DOCTOR?

STATE WAIVERS

1. FFS not financially viable.
2. Insufficient Provider or Beneficiary interest.
3. State elects for a single-payer system.

STATE AUTHORITY

1. Prospective budgeting on FFS.
2. Spending targets.
3. Provider review of utilization and fee reduction.

ALLIANCE RESTRICTIONS

1. Alliance may limit to 3 FFS plans.
2. Alliance may refuse any plan that exceeds average premium by 20%.
3. May exclude any plan that might cause alliance to go over budget.

FEE-FOR-SERVICE UNDER ALLIANCE

1. Mandatory Fee Schedule.
2. No Balance Billing.

NAFTA: FEWER JOBS FOR AFRICAN-AMERICANS

(Miss COLLINS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Miss COLLINS of Michigan. Mr. Speaker, as the pro-NAFTA forces turn up the heat to pass the trade treaty, with promises of renewed vitality in the American economy, I want to remind my colleagues that NAFTA will not mean economic vitality for many of my constituents.

Indeed, for many African-Americans and other minorities, NAFTA will mean job loss, not job gain. This is because even without NAFTA, the U.S. labor market is moving away from its blue-collar, manufacturing jobs base and into a more white-collar, service-industry economy.

NAFTA will liberalize access to Mexico manufacturing. This, in my view, will cause the number of jobs traditionally held by blue-collar workers in this country to evaporate. Because minorities are concentrated disproportionately in these jobs, we will see unemployment among minorities shoot up.

At 14.6 percent, unemployment among African-Americans is already more than double that of other Americans. NAFTA will not be a job producer for my constituents. It will be a job loser.

I call on my colleagues to reject NAFTA. It will close the door to a good job at a good wage.

DEMOCRAT CONGRESSIONAL REFORM PLAN PITIFUL AND PATHETIC

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, why would several senior Democrats set out now to torpedo congressional reform?

First, time is running out. The committee ceases to exist at the end of the year. Sabotaging it now assures that nothing gets done; congressional reform dies.

Second, the Democrats' plan to reform the Congress is so weak that it will not pass the laugh test. Republican members of the joint committee had our first look at the proposed bill yesterday. Only two words come to mind to describe their plan: pitiful and pathetic.

So some Democrats evidently have decided that the best politics is to sabotage the whole process.

Congressional reform is about to die. It is going to die a slow, agonizing death. How sad, but how typical of 40 years of Democrat mismanagement of the Congress.

JAPAN'S CONTRIBUTION TO THE ARAB-ISRAELI PEACE PROCESS

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, when Yitzak Rabin and Yassir Arafat shook hands on the White House lawn, we were gratified that a new era of peaceful resolution of conflict was now possible.

We know that the process of making that peace in the Middle East must involve nations outside the region.

Besides the United States, one nation with a role to play undoubtedly will be Japan. The question is: How, exactly, will Japan's impact be felt?

As one possible answer, I cite the work of Prof. Yasumasa Kuroda of the University of Hawaii Political Science Department. Professor Kuroda has prepared a study entitled "Japan in a New World Order: Contributing to the Arab-Israeli Peace Process."

I will submit a summary of this work as an extension of my remarks. It is well worth studying and I commend it to the attention of my colleagues and policymakers everywhere.

WHO'S ON FIRST AND WHAT IS ON SECOND?

(Mr. GALLEGLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GALLEGLY. Mr. Speaker, with the World Series going on, I am one Member that would like to know who is on first and what is on second.

A couple of weeks ago our new Commissioner of INS was quoted in the Washington Post. Let me read:

> Over the past year she has repeatedly argued that even if NAFTA meets its goals of promoting economic development in Mexico, it could actually increase the flow of illegal immigration for up to 20 years.

This morning in the Washington Post the President of the United States, the gentleman who appointed her Commissioner on INS, was quoted as saying if NAFTA is rejected it "would result in a flood of illegal immigrants."

Further, if rejected, "The trade agreement would encourage more Mexicans to enter the United States illegally in search of better jobs."

Mr. Speaker, I think it is time that we ask the administration who is on first and what is on second.

□ 1050

NAFTA: THE LARGEST THREAT TO THE U.S. ECONOMY AND AMERICAN WORKERS

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I rise today to address an issue that serves to be the single largest threat to the U.S. economy and the American worker—the present NAFTA agreement.

NAFTA supporters argue this agreement will benefit the United States by creating thousands of jobs. What these people admittedly fail to recognize is that NAFTA will send hundreds of thousands of needed American jobs to Mexico. NAFTA is a job loser for the United States and a bust for the American worker. The United States cannot afford to lose one single additional job to our foreign competitors, much less make it easier for United States jobs to be pulled out from underneath American workers and sent to Mexico.

For my constituents a lost job is a lost job. It is hard for me to justify to these individuals who have lost their jobs because of increased imports or their company has moved out of the United States, that NAFTA by reducing tariffs and encouraging more imports will have a positive impact on them.

Mr. Speaker, millions of American workers have lost their jobs to cheap foreign labor and increased imports. NAFTA through reduced tariffs and encouraged imports will only expedite the mass exodus of needed American jobs. For me, the choice to oppose NAFTA is plain and simple. The United States must have fair trade. We in the Congress have the opportunity and the power to halt further assaults on American workers by opposing this NAFTA.

CLINTON PUSHES TO WEAKEN CHILD PORN LAW

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, the Clinton Justice Department has quietly, and—I would submit—shamefully, turned its back on children by seeking to reinterpret, loosen, and weaken existing Federal child pornography law.

In brief, the Justice Department has petitioned the U.S. Supreme Court in Knox versus United States to remand the case of a man convicted under Federal child pornography law back to a lower court for review. The Clinton brief argues that a weak, ineffective standard be applied in this precedent setting case than that which was affirmed by the Court of Appeals for the Third Circuit. If Mr. Clinton prevails in defending a convicted pedophile efforts to curb this hideous form of child abuse will be seriously undermined.

The Clinton policy seriously weakens law enforcement efforts to crack down on child porn in this country by inventing a new two-part test of what constitutes a crime. Under Clinton, both criteria must be met for a successful prosecution. The Clinton administration's policy would transfer the burden from the pornographer's intent in arousing a pedophile to the actions of the exploited child. This clearly undermines the meaning of the law as supported by the 1989 case United States versus Villard which stated that lasciviousness depends on the intention of the photographer of the material to elicit a sexual response form the viewer. For example, sexually explicit photographs of sleeping children or videos of unclothed children innocently playing on a beach who are secretly filmed by a pedophile could not be said to depict minors "engaged in conduct of lasciviously exhibiting their genitals or pubic areas."

The brief also argues that nudity or visibility of the child's genitalia or pubic area is required. This reinterpretation of the Nation's child pornography statute by Mr. Clinton would shield from prosecution a sizable element within the child pornography industry. This immunity, however, would be conferred to the purveyors and users of kiddie smut at the direct expense of vulnerable children. The court of appeals correctly summed up congressional intent on this point in stating:

> The harm Congress attempted to eradicate by enacting the child pornography laws is present when a photographer unnaturally focuses on a minor child's clothed genital area with the obvious intent to produce an image sexually arousing to pedophiles. * * * Our interpretation simply declines to create an absolute immunity for pornographers who pander to pedophiles by using as their subjects children whose genital areas are barely covered.

It is outrageous to me that the Clinton Justice Department seeks to have our current standard, designed to protect children from exploitation, declared "null and void."

Patrick Trueman, head of the Child Exploitation and Obscenity Office at the Bush Justice Department, notes that the Clinton brief "writes a recipe for 'legal' child pornography, i.e., child pornography that the Reno Justice Department will no longer prosecute. * * * With its new interpretation of the Federal child pornography law, the Department gives to pedophiles what they could never get from Congress."

The pornographic tapes which were the basis of the Knox case and which would likely receive immunity under the Clinton Justice Department, were described by the Third Circuit Court of Appeals as containing:

> * * * various vignettes of teenage and preteen females, between the ages of 10 and 17, striking provocative poses for the camera. The children were obviously being directed by someone off-camera. All of the children wore bikini bathing suites, leotards, underwear or other abbreviated attire while they were being filmed. . . . The photographer would zoom in on the children's pubic and genital area and display a close-up for an extended period of time.

This week 130 Members from both sides of the aisle—have sent a letter to Attorney General Janet Reno urging her to abandon this morally indefensible position. The Clinton Justice Department has devised a thoroughly flawed legal reinterpretation of congressional intent, has radically reversed the Bush prosecution strategy as it relates to child pornography, and as a consequence has concocted a formula for creating a new protected category of child pornography which will open the floodgates to the exploitation of children.

HAITIAN EMIGRATION BEFORE AND AFTER THE COUP D'ETAT

(Mr. PAYNE of New Jersey asked and was given permission to address the House for 1 minute.)

Mr. PAYNE of New Jersey. Mr. Speaker, several years ago the people of Haiti had their first democratically held election and elected President Aristide by 67 percent of the vote. During that period of time, 38 people left that country by boats over the course of his tenure. Lieutenant Cedras and Lieutenant Colonel Francois overthrew the Government, and since that time 40,000 Haitians left there to come to the United States until our embargo was placed there in January.

I commend the President's resolve to return President Aristide, but actually deplore the role the CIA is playing at the present time in discrediting President Aristide.

I call on President Clinton to use the week of October 24, the 48th anniversary of the United Nations, to speak to the American people about the new world order, the multinational approach to world problems and our support for the United Nations.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would caution Members they cannot refer to the gallery during their remarks.

FIRST ORDER OF BUSINESS ON REFORMING THE CONGRESS

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, for the last half hour a number of Republican Members of the House have been hyperventilating because I and two other Democrats yesterday held a press conference demanding that the first order of business under reform be the elimination of the filibuster and the practice of holds in the other body.

I want to read the language of the resolution which we submitted to the caucus yesterday:

> Because the first obligation of any legislative body is to do its work, the Democratic caucus hereby recommends to the members of the Joint Committee on the Organization of Congress that reforms be fashioned to assure the right of the majority to obtain a vote on key legislation by substantial modification of the Senate filibuster and that it provide recommendations for the elimination of the anonymous system of Senate holds before it produces recommendations to substantially enhance minority powers.

Mr. Speaker, I make no apology for that recommendation; I insist on it. I insist on it.

I think that we have an absolute right to expect that a majority in either body in this Congress can obtain a vote on crucial national matters. If that is not a legitimate matter that ought to be at the forefront of reform efforts, I do not know what is.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would caution Members not to refer to the procedures of the other body.

"NO" ON NAFTA

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, yesterday, as I was driving to the Capitol, I listened to two news items on National Public Radio—the first on Staten Island's efforts to secede from New York City and the second on companies' urging their employees to pressure Washington on NAFTA.

I wondered if there was a connection between the stories.

During my 9 years here, many measures have come to the floor that have severe negative consequences for the United States economy.

However, there have been few occasions that companies have asked their employees to lobby us.

We have seen destructive tax increases, bills that regulate, that render property useless by regulation, and still no serious lobbying efforts from U.S. business.

But on NAFTA there are.

Congress should take note of these trends, and try to understand why our businesses are trying to improve business conditions outside of U.S. borders.

Are the NPR stories related? With higher taxes, overly restrictive environmental mandates, and unbelievable endless regulations, it appears American companies believe they can no longer do business here and are trying to secede from the United States to go where they are welcome.

SEGREGATING OUT UNEMPLOYMENT COMPENSATION AND EMPLOYMENT SERVICES FROM THE UNIFIED BUDGET

(Mr. BARCA of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARCA of Wisconsin. Mr. Speaker, Representative JILL LONG and I will be introducing a bill next week to segregate unemployment compensation and employment services from the unified budget. As all the Members know, employers are currently financing these programs through a payroll tax in order to insure that there is quality employment services provided to the people of this country. What they find is that their investment is being used to offset the deficit and these programs are being micromanaged by Congress. This is something that always troubled me as a State legislator. We know that in order to have a vibrant economy, employees need to be aware of job opportunities and employers need to be able to readily find qualified employees. That is why I ask Members on both sides of the aisle to join Representative JILL LONG and me in this effort.

FOREIGN POLICY PERFORMANCE OF CLINTON ADMINISTRATION

(Mr. LAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAZIO. Mr. Speaker, my constituents and I are increasingly concerned with the foreign policy performance of the Clinton administration.

It is apparent that we now have a President who believes foreign policy can be delegated. This wrong headed notion is only made worse when foreign policy is delegated to subordinates who lack vision.

Mr. Speaker, it is possible to sail a boat into the wind, but only if the vessel has a keel, a captain, and a capable crew. Without any of these attributes, the boat will only drift aimlessly with the winds and the currents.

Leading the world is much the same. It requires a leader who is both engaged and knows where he wants to go. And it requires a competent team.

That we know all this from past experience is a blessing. That we know this from recent experience is a tragedy.

□ 1100

REINVENTING GOVERNMENT: GAO AUDIT SAYS NO EFFECT

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remark.)

Mr. STEARNS. Mr. Speaker, when you hear the White House talk about reinventing Government, please ask President Clinton and Vice President GORE just what it is they hope to create. If they tell you its a leaner and cleaner Federal bureaucracy, please tell them they have more work to do—lots more.

The General Accounting Office recently concluded that the President's executive order in February to improve efficiency and productivity in the Federal bureaucracy will do neither.

The GAO report says, and I quote:

> The order's required reductions as envisioned probably will not effect significantly the federal budget deficit or improve the efficiency and effectiveness of government programs.

It looks to me like the administration's path to reinventing government is paved with reinvented history. Mr. Speaker, measuring by bills sponsored and by votes cast, Vice President GORE was the Senate's biggest spender during his tenure there. And, Mr. Speaker, President Clinton will not reinvent Government by simply telling the Federal bureaucracy to be more productive.

The GAO report illustrates that, rather than really take on the Federal bureaucracy, the White House has merely asked the bureaucrats to change the way they shuffle their paperwork.

WESTHILL HIGH, AN OUTSTANDING BLUE RIBBON SCHOOL

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, I rise today to honor educators in my district who have achieved a great honor. Westhill High School has been named an outstanding blue ribbon school, one of 260 across the Nation to be so honored, and I am very proud.

I am proud because our two oldest children go to Westhill High School. And I am proud because I, as a parent, have played a role in establishing Westhill as an excellent learning institution. That does not mean I am taking credit. Quite the contrary. The credit is due to the administration and the teachers, the support staff and others who actually encourage parents to join in the project of teaching our children. Parents are part of the team. Parents are welcome and parents have access to the team of teachers dedicated to the kids they teach.

The educators on faculty are deeply aware that academic motivation comes from home and the classroom. They are ready to refer students to personnel counselors or career counselors. They are aware that higher motivation creates demands and higher expectations of their services. They welcome this challenge. They attribute much of the success, represented in numbers of graduates, college attendance and other statistics, to the participation of students in extracurricular clubs and activities. All in all, Westhill creates a community environment of caring and stimulation.

The district boasts a strong program for drug and alcohol abuse prevention provided through our own programs and those of various community agencies.

I ask my colleagues to join me in saluting the principal, Mr. Richard J. Cavallaro, and the entire faculty and staff at Westhill. We recognize their achievement and we encourage them and all other schools to strive for excellence every day.

SELLING NAFTA

(Mr. DICKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKEY. Mr. Speaker, I am selling NAFTA. I have noticed in my business career and my legal career that when someone is coming to sell me something, if they had enough confidence in the particular project that they wanted to sell that they would say, "Look, you can get out of it anytime you want."

That impressed me then. It impresses me now.

What I want to emphasize today is that fact that this NAFTA agreement allows for a 6-month termination notice. In other words, if we get into this thing with Mexico and Canada and we do not see that combining the largest economic bloc in the world is beneficial to us, we can get out of it.

I would like for the opposition to understand that is how much confidence we have in this particular program. That is what we have built into it and anytime that they want to get out of it, they can, if in fact they get the support of this body. That is confidence. That is a compelling reason to support NAFTA and that is one of the reasons, one of the many reasons why I am supporting it and I hope my colleagues do the same.

CONFERENCE REPORT ON H.R. 2750, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

Mr. CARR. Mr. Speaker, I call up the conference report on the bill (H.R. 2750) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 18, 1993, at page H8066.)

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CARR] will be recognized for 30 minutes, and the gentleman from Virginia [Mr. WOLF] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CARR].

GENERAL LEAVE

Mr. CARR of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the conference report on the bill, H.R. 2750, and the amendments in disagreement thereto now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CARR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Subcommittee on Transportation of the Committee on Appropriations brings to the House today the conference report on the 1994 Transportation appropriations bill. I believe this is a package that virtually all Members will be able to support. As the membership knows, this bill has not been without controversy this year. This conference agreement represents a good faith effort to accommodate all the competing pressures that the subcommittee faced in putting together the final version of this legislation.

Before getting into a few specifics, I want to acknowledge the tremendous contribution made to our final product by the ranking minority member of the subcommittee, the gentleman from Virginia, FRANK WOLF. His advise and counsel not only during the conference, but throughout the many months we have worked on this legislation has been invaluable, not only to the committee but to this Member personally, and I want to thank the gentleman.

Let me also salute the other members of the subcommittee, Mr. DURBIN, Mr. SABO, Mr. PRICE, Mr. COLEMAN, Mr. FOGLIETTA, Mr. DELAY, and Mr. REGULA, for their valuable contributions. Also, I want to commend the chairman and ranking minority member of the Senate appropriations subcommittee for their efforts. Their cooperation and understanding made the task of resolving 187 issues in disagreement much easier than might otherwise have been the case.

I think most importantly, Mr. Speaker, I want to commend our fine and very valuable professional staff. We get a lot of the credit for doing what happens in the legislation, but it is the staff who spends the hours making preparation for hearings, making sure that the hearings have adequate and accurate transcripts, working on the myriad requests that come from Members and other staff, not to mention the great Nation of taxpaying people interested in the welfare of their transportation systems. Our staff is of high quality, of high caliber, and high professional standards on both sides of the aisle, and without their help this bill simply would not have occurred.

Mr. Speaker, the conference agreement appropriates $13.38 billion in new discretionary budget authority and assumes outlays of $34.9 billion, virtually identical to the subcommittee's section 602(b) allocation. The total obligational authority provided in the bill, including limitations on obligations and exempt obligations in the highway program, is $38.6 billion.

I want first to address the issue of high-speed rail. I know full well that this program is a very high priority within the administration. I know that some Members are disappointed that the conference agreement provides no funds for this new initiative. I am aware of comments that I am reported to be adamantly opposed to high-speed rail. That is not true. Let me repeat that. I am not opposed to high-speed rail. I am in favor of an incremental approach to high-speed rail. This conference agreement supports such an approach. It includes $225 million for the Northeast Corridor Improvement Program and an additional $195 million for Amtrak capital. The Northeast Corridor is the only high-speed corridor in the Nation. I believe the incremental approach should demonstrate the feasibility and economics of high-speed rail systems in a densely populated corridor before we finance routes around the country.

The principal reason we have not included funds for the high-speed rail initiative, though, is that the effort is not authorized. Let the committees of legislative jurisdiction complete their work and enact an authorization, and we on the Appropriations Committee will reconsider the issue. The potentially difficult matters such as freight railroad company liability and any requirements for prevailing wage rates should be resolved in the authorization process before money is provided for the program.

I would like briefly to address some of the major provisions in the bill.

It provides $17.6 billion for the Federal-aid highway program, an increase of $2.26 billion above the 1993 level, and that surely should be a welcome improvement to our infrastructure and to the creation of jobs.

It provides $2.4 billion for transit formula grants, an increase of $700 million above last year.

It provides $1.785 billion for transit discretionary grants, as follows: $357 million for buses and bus facilities, $760 million for rail modernization, and $668 million for section 3 new fixed guideway systems.

It provides fewer earmarks for special projects and allows greater discretion for the Department of Transportation.

We have included $100 million in unallocated funds for buses and bus facilities and $45 million in unallocated funds for section 3 new starts.

We have appropriated less than half as much for specially earmarked highway projects as was done in 1993. We have provided no funding for unauthorized, airway science projects which direct funds to specific colleges and universities.

This has been a reform effort. This is a reform bill, and we will continue that effort next year as we approach our task in the further development and utilization of economically based criteria for the use of the taxpayers hard-earned dollars.

In line with the recommendation in Vice President GORE's Reinventing Government effort, the bill prohibits essential air service in communities less than 70 miles from a large or medium hub airport and with subsidy costs more than $200 per passenger, with certain exceptions.

The bill provides $1.69 billion for the FAA's Airport Improvement Program and it provides for the use of the airport priority status list for the last time.

We have included $4.58 billion for the operation of the Federal Aviation Administration including $15 million to continue the pay demonstration program through June 1994.

We have provided $2.57 billion for operations of the Coast Guard, reflecting 98.5 percent of the amount requested.

Mr. Speaker, additional details of the bill are addressed in the conference report and joint explanatory statement of the managers.

Finally, Mr. Speaker, I should mention one item agreed upon by the conferees that was inadvertently omitted from the conference agreement. It concerns the right-of-way revolving fund within the Federal Highway Administration. The statement of the managers should have indicated that the conferees agree upon the distribution of funds contained in the House report. Specifically, it is agreed that $2.5 million is to be used for the Neuse River bridge in North Carolina and $4 million for the Yuba City bridge in California.

Mr. Speaker, this agreement is a balanced compromise that protects the major provisions and interests of the House-passed bill. It has been developed in a bipartisan fashion with full participation by our conferees from the other side of the aisle. There have been certain major compromises and tough decisions to get us to this point. I believe the conference report deserves the Members' support and I strongly urge its adoption.

□ 1110

Mr. Speaker, I reserve the balance of my time.

Mr. WOLF. Mr. Speaker, I yield myself such time as may be necessary.

Mr. Speaker, I rise in support of the conference report on H.R. 2750.

Mr. Speaker, I want to commend the chairman of the subcommittee, the gentleman from Michigan [Mr. CARR], for his leadership and also, I might say, his persistence in bringing this conference report to the floor today after a number of challenges to the bill.

I think it is important that I say, if the gentleman does not want to say it himself, that I think history will demonstrate that what the chairman has done has made a difference and has made this committee better for it, as well as the entire Congress, and that is to develop criteria that we can look at for evaluating a project. We never had that, and now that this battle has taken place between the authorizing committee and the appropriation committee, it is my understanding that the authorizing committee will now have it, and this is positive. So whether it is in their bill or in our bill, I think the credit should be given to the gentleman from Michigan [Mr. CARR].

Second, it will do a number of other things, such as rescissions and things like that that for years never were talked about here. That precedent has now been established.

So I think the Congress ought to thank the gentleman from Michigan [Mr. CARR] not only for this bill but also for really developing a whole new path, if you will, that hopefully other authorizing committees and appropriation committees will develop.

Without dwelling on the past, it need to be noted for the record that many transportation initiatives included in the original committee legislation fell victim to procedural disputes.

One example that comes quickly to mind is the request brought to us by the gentlewoman from Florida [Mrs. FOWLER] concerning assistance in repairing a large crater on an interstate bridge in Jacksonville. This was an urgent safety problem, and I wish the committee could have assisted her. I think it is important that her constituents in Jacksonville know that no one worked harder than the gentlewoman from Florida [Mrs. FOWLER] on this issue, and I am hopeful, after talking to the ranking member of the Committee on Public Works and Transportation, the gentleman from Pennsylvania [Mr. SHUSTER], who is a fine Member, that the Committee on Public Works and Transportation will deal with Mrs. FOWLER's problem, because it is a serious problem, and I appreciate their willingness to look at it and help her.

There are numerous other examples of requests for assistance with critical transportation problems which will go unmet for this fiscal year. Obviously we regret that, and I want to express my hope that next year we can put aside individual prerogatives of both the authorizers and the appropriators and instead perhaps deal with some of these critical problems.

Despite the setbacks, there is much to talk about that is good with regard to this bill. The conference report provides for $34.9 billion to fund needed improvements in our Nation's transportation infrastructure. This includes all modes of transportation: highways, transit, railroads, and aviation. I believe that H.R. 2750 represents a good balance among the transportation modes. This balance is especially critical to the urban areas of our Nation that have difficult times with traffic and gridlock.

In allocating limited resources to provide for the Nation's mobility, the committee has tried to achieve the highest use of taxpayers' dollars.

In addition to helping the Nation move people and goods as efficiently as possible, the bill also seeks to do it as safely and as humanely as possible. The bill provides for the search-and-rescue efforts of the U.S. Coast Guard. It provides for the finest air traffic control system in the world, and for so many other things that are important to the country.

The bill also includes measures to hopefully prevent oil spills that often not only destroy fragile wildlife ecosystems, but people habitats as well.

There is another measure in the bill that I feel an obligation to tell our colleagues about and let them know that it is in this legislation. I am speaking of the provision which will provide $150,000 to pay the legal expenses of the five White House Travel Office employees who were placed on administrative leave in the so-called Travelgate affair. In this matter—and I might say one of these individuals involved is a constituent of mine—Federal employees were accused of a crime, fired from their jobs without just cause, and publicly criticized for political gain. This then left these five career employees unemployed and saddled with thousands of dollars in legal fees. They have since been unfired and promised comparable jobs, but there is no current mechanism for ensuring them help with their legal bills.

I will also say that I will be introducing legislation to deal with this dilemma should it take place in the future. I plan to propose rectifying this problem with an amendment to the Back Pay Act, which currently only permits an employee to recover attorney fees if he or she has suffered a monetary loss. Since the five Travel Office employees were quickly reinstated once the White House got caught up in the media glare of this embarrassing goof, these employees have not suffered pay loss and are, therefore, ineligible to recover legal fees. Never mind that they have been substantially harmed in reputation and standing in the community through all the adverse publicity. And I might say that all of them have legal fees in the range of $30,000.

I have one last thing, and I want to be very careful as I say this, because I feel an obligation to the body and particularly to a constituent and to all Federal employees that could get caught up in this: I think someone from outside should look at this issue. The reason is that I just have an innate sense that some in the White House are looking to bring about a charge, perhaps a criminal charge, with regard to these individuals in order to say, "See, the reason we did this is because of this."

But I think the chairman of the subcommittee for being willing to help these Federal career employees with regard to this matter.

I would be remiss if I did not recognize in closing, Mr. Speaker, the long hours and yeoman work that have been provided by our staffs. I want to thank Del Davis, Rich Efford, Cheryl Smith, and Linda Muir of the majority staff, and Jan Powell and John Blazey of the minority staff for their work in bringing this bill to final passage.

In closing, Mr. Speaker, I want to again let our colleagues know that the work that the gentleman from Michigan [Mr. CARR] has done will, I think, live on long after this bill and will be helpful in other appropriation bills, but particularly and perhaps even more importantly, in other authorization bills.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Speaker, I appreciate the distinguished gentleman from Virginia yielding time to me, and I would like to engage him in a colloquy.

As the gentleman knows, last December the National Highway Traffic Safety Administration issued regulations requiring red and white reflective devices on the sides and backs of trailers with an overall width of 80 inches or more and a gross vehicle weight of more than 10,000 pounds. I understand the rule is effective on December 1, 1993.

Mr. WOLF. Mr. Speaker, if the gentleman will yield, let me state that that is my understanding.

Mr. TALENT. Mr. Speaker, these regulations were promulgated in response to section 15 of the Motor Carriers Safety Act of 1990. That section directs the Secretary of Transportation to initiate a rulemaking that would make trucks more visible to motorists. The section did not mandate specific reflective materials or colors but was intended to permit flexibility for the owners and operators of the trailers.

Nevertheless, the Department mandated that all truck owners be required to place red and white stickers on their trucks.

Earlier this year, several organizations representing the trucking industry petitioned the Department to delay implementation of this regulation for 6 months so that they could propose alternative colors to red and white.

□ 1120

These alternative colors would accomplish the same goal as the red and white stickers; in fact, there is some evidence that these colors would be easier for motorists to see.

Would the gentleman from Virginia [Mr. WOLF] support this request to work with the department to gain a reprieve in implementation of these regulations so that a compromise can be reached?

Mr. WOLF. Mr. Speaker, if the gentleman would yield, I am not a safety expert, but I think the gentleman makes a valid point. And I am interested in this issue. As the gentleman may know, I am working with the Federal Highway Administration on a truck safety initiative on the Capital Beltway because we have had so many accidents with regard to trucks and also death. I do not know the answer to this dilemma. But since we do not have an appointed NHTSA Administrator, I would urge Secretary Pena to sit down with the trucking industry before this regulation takes effect. I would hope this matter could be worked out in a way that does not compromise highway safety, but in fact enhances highway safety.

Mr. TALENT. Mr. Speaker, I know of the gentleman's fine work in that area. I look forward to working with the gentleman, and thank him for yielding.

Mr. CARR of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. PRICE], a veteran member of the subcommittee.

Mr. PRICE of North Carolina. Mr. Speaker, I rise today in support of H.R. 2750, a bill making appropriations for the Department of Transportation and related agencies for fiscal year 1994.

I want to begin by commending our chairman, BOB CARR, and the new ranking minority member on this subcommittee, FRANK WOLF, for their work this year. Mr. CARR and Mr. WOLF have continued the bipartisan tradition of this subcommittee, and the conference agreement reflects this spirit of cooperation and comity. I also want to thank the fine professional staff of this subcommittee, Del Davis, Rich Efford, Linda Muir, and Cheryl Smith for their critical contributions to this bill.

Mr. Speaker, the bill before us today increases the efficiency and effectiveness of the Federal investment in transportation. These investments are critical to economic growth in our country; without them, our roads would be more congested and less safe, our airways more dangerous, and our public transportation less efficient.

I am particularly grateful for the recognition of North Carolina priorities in this bill. Under the bill, highway planning and construction, public transportation, and railroad travel in North Carolina will be improved. North Carolina is trying to meet the challenges posed by its diverse economy and geography, and I am glad the committee has been supportive of their transportation goals and needs.

The bill also responds to our Nation's pressing need to reduce the Federal deficit. The bill is almost $1.5 billion below the administration's request for transportation spending. This has made it necessary for the committee to make some tough decisions and set some real priorities.

In setting these priorities, the subcommittee took a number of other steps critical to improve transportation decisionmaking in this country. The Coast Guard, which has had difficulty measuring the impact of their work, is directed to develop better methods of evaluating their performance. The research and development budget of the Coast Guard is particularly inadequate in this regard, and the subcommittee has devoted particular attention to developing performance measures in this area.

The subcommittee also made the decision not to fund the airway sciences program. I have been concerned to improve education and training programs in technology fields in this country, but I feel that this particular program has lost its sense of purpose. It has been used by some to fund projects that do not deserve to be in a transportation, or for that matter an education, bill. Until this program can regain its integrity, it does not deserve funding.

In closing, I urge my colleagues to support this conference report. It is a good bill and one which will make key transportation investments in a cost-effective manner.

Mr. WOLF. Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding. The gentleman from Virginia [Mr. WOLF] and the chairman, the gentleman from Michigan [Mr. CARR], have worked long and hard on this bill. I would just point out from the standpoint of an authorizer and somebody who watches this that there are a couple of problems I do have.

Mr. Speaker, we are $2.3 billion in increase over current spending, which is a 6 percent increase, which gives some of us some pause. Also there are a couple of areas that I think give me a little bit of concern.

We are above the House-passed level on the mag lev. You have got $20 million in here out of the general fund for the magnetic levitation system, when the House-passed had zero in it.

For the intelligent vehicle highway system research, you are funded at $90.3 million, which is $56.3 million over the available authorization and $4 million over the House-passed version. In that particular instance, I am particularly concerned that we are pretty far over where the authorization level is.

Then when I looked down through there and found $57 million of unauthorized, or I should not say unauthorized, of unrequested highway project earmarked money for the Appalachian corridor improvement project, that also gave me a little bit of concern, because I know the chairman has been very concerned about the whole business of earmarks. Here we are allowing the Senate then to come back and throw an earmark into this bill. That, I think, is really a matter of concern.

Then, finally, I am concerned about the $908.7 million for Amtrak and the related subsidies to that, which is $210.7 million over the House-passed version of the bill and $71.6 million over the request.

I say that as someone who in the last week or two has been faced with an Amtrak decision to close down rail service in my area that is not getting a Federal subsidy. Because what has become apparent to me in the course of dealing with them is this is a railroad being run for the subsidies, not as a business. When we start increasing the levels of these subsidies, what you are doing is just making Amtrak even more dependent upon the subsidy system.

Mr. Speaker, let me give you something that came out of a meeting that I had with them just a couple of days ago that really gives me cause for concern. They suggested in that meeting that they would rather carry 1 passenger 3,000 miles than 3,000 passengers 1 mile; that from the standpoint of their railroad, they think that they can make more money with a system carrying 1 passenger for 3,000 miles.

Well, that may be true, if what you are doing is running a railroad designed to pick up subsidies as you run out across the country. It certainly has no relationship to how rail service is going to have to be run in the country to be an integral part of a real transportation system. Because I will tell you, as the chairman well knows and other Members who have looked at transportation, the only way you make money in transportation is with business travelers, and you do not have business travelers getting up in the morning in my district in Lancaster or Westminster, PA, saying to themselves, "I have business in Chicago; I think I will take the train." They may get up and say, "I have business in New York City; I think I will take the train," or "I have business in Harrisburg; I think I will take the train," or "I have business in Boston; I think I will take the train," or "I have business in Washington; I think I will take the train."

Mr. Speaker, that is where the money can be made, with the business travelers. That is what we should be helping, and that is what we are not helping when we subsidize in the way we are doing here and encourage Amtrak to believe they are better off carrying 1 passenger 3,000 miles than 3,000 passengers 1 mile. This is not a railroad being run to make money, if that is the case.

Mr. CARR. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. CARR. Mr. Speaker, I thank the gentleman for yielding. The gentleman has put his finger on a problem our committee has faced. We have a ways to go. But our committee has had discussions and hearings on these issues. I think we have turned the corner. That is a reference to the kind remarks made by the gentleman from Virginia [Mr. WOLF], and I thank him.

For too long we have looked at transportation funding not so much as funding transportation, but as a jobs program or as an economic development program or for some other good cause. Our committee this year has sought to rein in that type of thinking. We have a lot of work to do, because turning that ship will take several miles. It will not happen on a dime.

But I thank the gentleman from Pennsylvania [Mr. WALKER] for his recognition that we have started that effort. To the best extent that we know how we are requiring project sponsors who come before us to provide data on criteria that will determine the economic rate of return of the project involved to the economy. We will be providing less subsidy, or, if there is a subsidy, to make sure that it is more precisely targeted.

One of the challenges we have in our democratic society is that everybody seems to want a little piece of the action, regardless of whether or not they can put together an economically viable, operable segment of anything. So everybody wants a little Amtrak route; everybody wants a little highway; everybody wants a little high speed rail route; everybody, but maybe those in Nebraska, want a port.

□ 1130

Mr. WALKER. Let me say to the chairman, though, that the concern that I have in this particular instance on Amtrak is that the stations that we are talking about them running between where they are going to reduce the service, one of them is the 20th busiest station in the country; the other is the 4th busiest station in the country. What they are suggesting is they cannot make money on those lines. And when we take a look at their fare structure, one of the reasons why they are not making any money on the railroad is because their fare structure does not reflect realities and is, in fact, designed in a way that only increases their ability to get subsidies.

I would suggest to Members that most businessmen would probably figure out a way to take some of the busiest stations in terms of passenger travel in the country and make money off that line. Amtrak does not seem to be capable of doing that and, instead, would rather come to the Congress, come to State legislatures or come to State departments of transportation and say to them, "Give me subsidy money instead of asking me to run a real business."

Mr. WOLF. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Speaker, I am very aware of the line the gentleman is talking about, having been raised in the Philadelphia area, coming out of Harrisburg, going through Lancaster and going down the mainline. And that should be one of the most profitable routes. I think the gentleman makes a valid point. I will be glad to work with him, with Amtrak, whatever way we possibly can, but those lines clearly should be very profitable, should not be lines that should be canceled.

I think some of the more long distance lines, where airlines can serve them, and there are not that many riders, so to cancel routes from Harrisburg to Philadelphia 30th Street Station is just not really appropriate.

If we can help, I will be glad to.

Mr. WALKER. Mr. Speaker, I thank the gentleman very much.

Mr. WOLF. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of this Transportation appropriations conference report.

I might respond to the gentleman from Pennsylvania, his concerns are very valid, but I also have got to say, because of the actions of this House, our subcommittee was put at a very distinct disadvantage in negotiating with the Senate, that the Senate actually got to write the bill. And then we had to negotiate down from what the Senate bill was.

I think Members really have to take note and evaluate what happened in the House with this bill and be very careful in the future, because I know my chairman and my ranking member are going to be very careful, as they always have been, in presenting this bill next year and understand that unless the Committee on Public Works and Transportation passes a bill that takes care of some of these authorizing type problems that we had earlier with this bill, we are going to visit this again where we are put, as a House, at a disadvantage with the Senate.

I might say to the gentleman from Pennsylvania, I do not want any money for maglev. I do not think we ought to be involved in maglev, but the Senate has $107 million in their bill for maglev and through the great negotiating techniques of our chairman, he brought it down to 20 million. In essence, I guess with our kind of doing numbers in this place, we saved $87 million by negotiations by our chairman and ranking member.

Developing this bill over the last 9 months has been interesting, to say the least. There have been all these battles won and lost both in committee and here on the House floor.

Regardless of this legislation's colorful and memorable past, the conference report this committee brings before the House today is, I think, a good one, a conference report that funds mobility projects nationwide and strengthens our Nation's transportation infrastructure.

I would like to take a brief moment to say that it has been a pleasure working with my chairman, BOB CARR and my ranking member, Mr. WOLF. Both of these gentleman, new to their positions, have done yeoman's work crafting this legislation, and I certainly appreciate their efforts.

I also appreciate the efforts of the staff who have had to do incredible work, the staff on both sides, in order to bring this bill to the floor. Our conference proceeded smoothly compared to years past and I attribute that efficiency to the hard work of the Chairman and Ranking Member and the staff.

With that said, I would like to talk about several projects and programs that are of interest to me and my district.

Houston is the leader in mass transportation and intelligent vehicle highway systems. These systems serve as a model for the rest of the Nation. Houston's regional bus plan, which is funded in this bill, boasts one of the lowest cost per new rider index figure in the Nation. This project is the backbone of the city's intermodal infrastructure. Intelligent vehicles, roads and transit vehicles will very much be a part of our Nation's transportation future. It is only fitting that Houston also has the most technologically advanced traffic management program in America. Further, the city is well known for having one of the most efficient and cost effective enhanced street maintenance programs, neighborhood infrastructure systems such as hike and bike trails and street and sidewalk improvements in America.

As you can tell from that list of transportation programs, unlike many other cities in this Nation, Houston addresses its transportation efforts in a complete and comprehensive manner. They don't just look at one problem area and try to fix it by pouring money into a black hole. Each project and program is carefully thought out and fit together. It is this comprehensive philosophy that has enabled Houston to provide the best service for the lowest cost. I recommend their efforts.

Mr. Speaker, Houston is in the process of constructing the most state of the art transportation plan in the Nation and probably the world. For that I am proud of the convictions the people of Houston have shown by supporting this program and I am proud to represent the transportation interests for the Houston area and the rest of the Nation. I sincerely hope to have the distinct opportunity to assist Houston in the future with their transportation goals and objectives.

Mr. WOLF. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Speaker, first of all, I want to commend Chairman CARR and Mr. WOLF for their hard work and leadership in laying the groundwork in developing a specific, investment-based criteria for evaluating requests for transportation related projects. I believe that the Federal Government should only fund those projects that contribute to economic growth and avoid those that are not sound investments.

I believe the recent action by Chairman RAHALL in asking 18 specific questions before authorizing any future transportation projects can be directly attributed to Mr. CARR's subcommittee's efforts. I applaud Mr. RAHALL's action and look forward to working with him on projects in Texas that meet those standards.

This bill is a good bill. This bill appropriates a reasonable amount of dollars to help build our Nation's infrastructure. Let me provide an example of how this bill creates jobs and fosters economic growth.

The Laredo intermodal transit center is part of a two-part project, consisting of a bus maintenance facility and an intermodal transfer facility. The downtown intermodal transit center will serve to only the city of Laredo bus system, El Metro, but also the Webb County rural transportation program, El Aquila; also private interstate carriers such as Greyhound; and Mexican carriers such as Transportes del Norte. It is a true hub project for the region, as well as a national and international facility.

The proposed facility will also include a much needed downtown park and ride station that will accommodate 500 vehicles, and when completed will serve almost 20,000 passengers daily. It will create over 250 jobs and will help revitalize the historic downtown central business district in Laredo.

The total project has been fully planned and designed. All local, State and Federal environmental clearances have been obtained, all other permits and clearances, including section 13–C certification from the U.S. Department of Labor, have been secured, and the proper notices and other procedures have been taken to acquire the privately owned land needed for the project.

The total cost of the transit center is $12 million. Of that amount, $4 million will come from local funds, $1 million has already been allocated by the State of Texas, and the remaining $7 million will come from Federal sources.

In April 1992, the city received a grant from the Federal Transit Administration discretionary funds of $3 million for the bus maintenance facility portion of the project but no Federal funds for the transit center. Instead, DOT issued, in May 1992, a letter of no prejudice for the $7 million Federal share of the transit center.

The city of Laredo has already received voter approval for a dedicated sales tax increase to pay for its share, the bonds have already been sold, and the city is fast approaching the deadline to begin spending these funds. This project can go forward and create jobs once we pass this year's appropriations bill.

I would offer this project as a model for the future of transportation projects. It met a series of goals and economic conditions that finds support at the local, State, and now Federal level. I hope all future transportation dollars have to meet a few criteria in order to ensure that the American taxpayers get the most cost-effective bang for their transportation buck.

□ 1140

Mr. WOLF. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CARR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in a few minutes we will be voting on the conference report. I urge all Members to give it their support. To those who looked at our handiwork and found that we came up short, I would only make the following observation. As human beings, we are intimately involved with our own physical movement. Whether it is crawling, walking, or running, it represents our individuality, it represents our freedom. Through the ingenuity of mankind, we have managed to leap some barriers in terms of speed and altitude and comfort. Indeed, transportation has assumed a passionate place in the hearts of Americans and people throughout the world.

We even talk about it in those terms. We have the romance of the rails, and we write songs about the trains, "The City of New Orleans" and "The Wabash Cannonball." We are consumed by the challenge of the skies and space, and we write songs about the wild blue yonder.

We have a love affair with motor vehicles. In my own hometown, we build Oldsmobiles which have been immortalized in "Merry Oldsmobile", the old song. We have fantasies about life and adventure on the seas. We dream, and we dream visions about transportation and the horizons and the barriers that we are going to break.

Every once in a while those visions get ahead of the resources and the dreams get ahead of economic reality. While this committee dreams and has visions, too, about what might be in America and in transportation, it falls to us to be the committee of economic reality. The country and the Congress give us a certain amount of resources to divvy up in any particular year. This committee has done it with a great deal of dedication and a great deal of forethought, taking care of today's needs while pointing us in a direction for the future.

Even for those who wished we could have done better, and even to those who thought we did not crash enough barriers to the future, we would kindly ask for their support.

Ms. FURSE. Mr. Speaker, I rise today in support of the conference report on H.R. 2750, appropriations for the Department of Transportation and related agencies. I have long been an avid supporter of investment in our Nation's infrastructure, and believe that this bill will help us move in the right direction. Chairman CARR and all the members of the subcommittee deserve credit for the long hours they worked in preparation for today. I also want to pay a special thanks to the dean of our delegation, Representative WYDEN, who was so helpful to me in support of Westside Light Rail here in the House. I can't thank him enough for his leadership and guidance.

While there are many accomplishments in this bill worthy of note, I want to speak for a moment about a project that is so important to my region of the country: Westside Light Rail. The bill before us today contains $83.5 million in section 3 funds, and contains a provision which allows funds previously appropriated, but not spent, for another rail project in the Portland area to be used for Westside Light Rail in Portland. In total, the bill before us will provide $97 million for Westside Light Rail in fiscal year 1994, one of its most critical funding years. While this amount is $7 million below the level designated by the Federal Transit Administration as a sufficient sum, I am extremely pleased that the conference committee went the extra mile to maximize funding—even in these difficult budget times. It is also my understanding that we will be eligible to compete for the Secretary of Transportation's discretionary account to make up the difference.

Since I came to Washington in January, making sure that funding for Westside Light Rail stays on track has been one of my top priorities. In its final form, Westside Light Rail will stretch 18 miles from downtown Portland to Hillsboro. In terms of pure numbers, it is estimated the project will create 1,700 family-wage jobs during construction with an economic impact to the State's economy of over

$2.1 billion through the year 2000. Builders and propertyowners also benefit from this project, as propertyowners near the railline report higher occupancy rates and faster leasing rates than owners not on the line. Two large-scale development projects in our area built in conjunction with the existing light railline, the Oregon Convention Center, and the new Trailblazer Arena, will bring over $1 billion in new investment to Portland. These figures, in and of themselves, are compelling.

More importantly, in my view, is how important Westside Light Rail is to the future of the Portland area and our quality of life. In Oregon, we are fortunate to have some of the best land-use planners in the Nation. We desperately need their expertise as our region prepares for an expected influx of 500,000 new residents over the next 20 years. Westside Light Rail is a vital part of that important plan, and will help maintain our quality of life by reducing congestion and improving air quality. Having spent a good portion of time in traffic along the Sunset Highway—Highway 26—myself, along with communications from my constituents about their similar experiences with congestion in that area, Westside Light Rail will help provide some relief. As a matter of fact, the topography of the region makes Westside Light Rail virtually the only option. Specifically, the project is designed to eliminate bottlenecks on Highway 26 between the Metro Washington Park Zoo and Cedar Hills Boulevard, and on Highway 217 between Highway 26 and Canyon road.

My predecessor, Les AuCoin, worked very closely with now-Chairman MINETA of the House Public Works and Transportation Committee to authorize Westside Light Rail in the Intermodal Surface Transportation Efficiency Act [ISTEA] in 1991, and then with his colleagues on the Appropriations Committee to ensure that the necessary funds were available to ensure timely construction. Before I was elected to Congress last fall, I learned that Westside Light Rail funding was not set in stone and depended on an annual appropriation from Congress. At any point in the process, Congress could either reduce or eliminate funding and put the money somewhere else. With the Nation's budget strings getting tighter and tighter, and Mr. AuCoin no longer in this body—no one from Oregon on the Appropriations Committee at all—I knew it would take an extra level of effort to keep Westside Light Rail on track. I also knew that this year's appropriation was particularly important because virtually every major element of Westside Light Rail construction will be under contract at some point during 1994. With so much on the line for a project that is so important to the people who elected me, I decided I would advocate the cause of Westside Light Rail at every opportunity within the House of Representatives.

Less than a month after I was sworn in as a Member of Congress, I personally contacted President Clinton about the Westside project's importance to our community. In February, I testified before the Public Works and Transportation Subcommittee on Economic Development to ensure that Congress was aware of the importance of Westside Light Rail to our economy in Oregon, and what a vital role it has in planning for our region's future. In March, I held a briefing with Representative WYDEN for the entire delegation to learn about the future of Oregon's largest public works project from the people who work on its advancement on a daily basis. Throughout March and April, I personally sat down with every majority member of the Transportation Appropriations Subcommittee and explained in detail where Westside Light Rail was at in terms of budget and construction, and tried to get across to them the importance of this year's appropriation.

During the first week of May, I invited former Hillsboro, OR, Mayor Shirley Huffman and Tom Walsh, general manager of Tri-Met, to come and testify with me and Representative WYDEN in front of the Appropriations Subcommittee on Transportation. They all did a great job, and I followed up their testimony by meeting with Chairman CARR later in the month. I must say, Mr. Speaker, that Chairman CARR and I had a very lively discussion concerning transportation policy in general and Westside Light Rail in particular. I followed up our meeting with a letter to ensure that he was fully aware of our position on a few concerns he had raised. I also worked with Tri-Met officials to ensure that Westside Light Rail's response to the Transportation Appropriations Subcommittee investment criteria was timely and well-received. They deserve credit for their efforts, and it is my understanding that their work was one of the top responses in the country by a transit district.

The hard work by everyone paid off in June, when the House passed Westside Light Rail at its highest level ever, despite the fact the section 3 account was cut by over 18 percent. The figure was even higher than the total amount passed for fiscal year 1993; next to Los Angeles, Portland received the highest amount of light rail funds. Obviously, the subcommittee heard the message I was trying to get across for a number of months: Westside Light Rail is the single most important public works project in the first district of Oregon, and a vital community development undertaking with important ramifications for the entire State.

With Westside Light Rail in the hands of the Senate, I worked to solidify the Oregon delegation's support of the project. Senator HATFIELD worked diligently, as he always has on Westside Light Rail, to champion this cause on the Senate side. I must pause a moment to commend Senator HATFIELD's commitment to this project. The Senator and I have talked often—and often at great length—about the importance of this project to my community. I am so grateful to him for all of his efforts, and want it stated for the record how personally grateful I am for his efforts. With Senator HATFIELD's work paying dividends in the Senate, I organized a delegation letter to the conference committee to urge that Westside Light Rail be funded as close as possible to the amount specified by the Federal Transit Administration. I was so pleased when the entire delegation supported my efforts. Just yesterday, I was at the House Public Works and Transportation Subcommittee on Investigation and Oversight to testify on how the Westside Light Rail has been a model of ISTEA implementation, letting more and more decisionmakers know about the good work going on in Oregon.

The end result of all this, Mr. Chairman, is that the $97 million for Westside Light Rail in Portland, OR, contained in the conference report is proof that relentless advocacy can bring results. I have long believed that much can be achieved through hard work and determination. I am fortunate to have so many good people working with me in this cause in Oregon at all levels: Good people at Tri-Met working on Westside Light Rail everyday, good people at the State level making sure Westside fits into our statewide plan, and good people at our local metropolitan planning organization advancing the cause regionally. Faced with an array of problems in Oregon, well designed and executed planning is so critical to our collective future. I thank all of them for their hard work.

I thank Chairman CARR for his leadership on transportation issues, and the time he took with me personally as a new Member of Congress. I look forward to working with him on issues in the future. In addition, I also want all members of the subcommittee who were quite gracious as I badgered them endlessly about Westside Light Rail; I thank them even more for listening and action on our discussions. Today marks a good day for Westside Light Rail and the future of the first district, and I urge my colleagues to support the conference report on H.R. 2750, 1994 Transportation appropriations.

Mrs. MORELLA. Mr. Speaker, I rise in support of the Department of Transportation fiscal year 1994 appropriations conference report. It contains $200 million in funding for the Washington Metropolitan Area Transit Authority, which will allow WMATA to continue its fast track construction plan for Metrorail. I testified before the Transportation Subcommittee in May, 1993, that the fast-track program will generate over 1,000 new jobs in heavy construction in this area alone. Metro is working to bring the full 103-mile system into revenue-generating operation by the year 2001, 5 years ahead of schedule. My congressional district will see the completion of the red line to Glenmont by mid-1998.

The Clean Air Act requires the Washington region to meet Federal ozone standards by 1999. Vehicle emissions account for approximately two-thirds of the area's hydrocarbons and a little less than 40 percent of the nitrogen oxides, principal ingredients of ozone. A completed Metrorail system will assist with getting cars off the road and meeting the clean air mandate, as well as conserving energy.

I thank the conferees for their consideration of the needs of Montgomery County, MD. This conference report includes $1 million to assist the county with expanding the Intelligent Vehicle Highway System [IVHS] and in designing the Silver Spring Intermodal Facility, which will eventually link the Maryland Commuter Rail [MARC] with Metrorail. MARC, the State's most rapidly growing transit service, has also received $23.5 million for its continuing improvement program. In addition, the Maglev Program will be funded at $20 million for research and development.

Finally, Mr. Speaker, I strongly support the increase in section 402 State and community highway safety grants. This year's total $123 million includes $8 million to be targeted to reduce underage drunk driving. This $8 million will supplement, but not supplant, the States' current level of funding in this area. In March 1993, the National Transportation Safety Board recommended that measures be taken by the States to deal with the young high-risk driver. This additional funding will assist States in implementing such measures as provisional licensing for minors, promoting increased seatbelt use, and initiating staff penalties for selling alcohol to minors. This is a welcome increase in the safety grant programs, but it is appropriations for 1 year only. Legislation introduced by our colleague, FRANK WOLF, would authorize programs for the high-risk driver. I am a cosponsor of the bill, H.R. 1719, and urge my colleagues to consider cosponsoring it. This increase for fiscal year 1994 will save lives and H.R. 1719 would continue the work begun this year. I thank the appropriators for their hard work to complete the fiscal year 1994 Transportation appropriations.

Ms. VELASQUEZ. Mr. Speaker, I rise today in support of the Transportation and related agencies conference report, H.R. 2750. This bill will help our Nation's infrastructure and provides for the future development of roads and highways so important for our cities. However, I want to express my dissatisfaction with a provision in the bill, inserted in the Senate that will have a devastating impact on my constituents and the city of New York.

Mr. Speaker, section 324 of the fiscal year 1985 Department of Transportation Appropriations Act required that tolls collected on the Verrazano Narrows Bridge, connecting Brooklyn and Staten Island in New York City, be collected only from cars leaving the bridge on the Staten Island side of the bridge. The one-way toll, established in 1986 as an experimental and temporary program was reimposed in the fiscal year 1993 Transportation appropriation bill and will be extended in this year's legislation.

This ill-conceived experiment has been responsible for a tremendous rise of air pollution on the already overpolluted communities in Brooklyn and lower Manhattan, and has caused the traffic to become gridlocked and impossible to cope with. Furthermore, the commercial and residential areas of lower Manhattan have been severely depressed causing economic hardship for thousands of hard-working families in my district. This disastrous policy is accountable for losses of up to $70 million in toll revenues. In times of economic hardship and budgetary cuts, these funds are badly needed to keep and develop our transportation infrastructure.

The State of New York is having trouble complying with the provisions of the Clean Air Act, trouble caused in part by the hot spots created by increasingly heavy traffic due to the oneway toll. Extending this policy will make future compliance with the Clean Air Act almost impossible. If the city of New York fails to meet the goals of the Clean Air Act, we will lose billions of dollars in Federal aid in transportation and will continue to place our constituents' health in jeopardy.

Mr. Speaker, this is an environmentally and economically disastrous policy for the city of New York. We should work to end this Federal mandate and return jurisdiction over the tolls to the local authorities.

Mr. COPPERSMITH. Mr. Speaker, I wish to discuss the use of recycled rubber materials, also known as crumb rubber modifiers, in asphalt pavements, in light of section 330 of H.R. 2750. Section 330 prevents the U.S. Department of Transportation from using any funds appropriated for 1994 to implement, administer, or enforce section 1038(d) of the Intermodal Surface Transportation Efficiency Act (Public Law 102–240), known as ISTEA. Section 1038(d) of ISTEA mandated that State departments of transportation, beginning in 1994, use minimum amounts of recycled materials in asphalt pavements, and increasing amounts of crumb rubber from scrap tires in future years.

Mr. Speaker, while section 330 was not at issue in the conference on this bill, I think it is important to understand that section 330 of this Transportation appropriations bill only affects the enforcement mechanisms of ISTEA's minimum use requirement. Section 330 does not alter the goal of section 1038; our policy still will encourage States to use crumb rubber products in highway projects.

This point is important because the benefits of using recycled rubber in asphalt pavements are numerous and well-documented. My State of Arizona has found that asphalt rubber, properly applied, makes longer-lasting roads in nearly every climactic and road condition throughout our State.

We face a growing environmental crisis. We discard millions of used tires annually in this country, and we have no established procedure for dealing with this huge volume of waste. Disposing of tires legally is expensive and often difficult to arrange. Citizens often find it easier to dump old tires than to arrange for legal disposal.

Improving access to legal tire disposal represents only a stop-gap solution, however. Fires can occur at storage facilities and may increase unless we develop and encourage other alternatives to dumping, such as recycling. As an aside, the environmental concerns presented when a small mountain of tires burn uncontrolled for days far exceed any effects claimed for use of crumb rubber in asphalt.

I am no great fan of Federal mandates on the States. However, the existing contracting system, fueled in great measure by Federal trust fund receipts, has failed to accept the environmental and road-quality benefits of crumb rubber technology. Section 1038 of ISTEA was designed to counteract foot-dragging; unfortunately, section 330 may only encourage it.

Mr. Speaker, we cannot afford to continue to ignore this technology. According to the House Public Works Committee, 235,000 miles of Federal-aid highways are in poor condition. If we must spend the billions of dollars required to repair our roads, we should demand that those roads be built to last. And if, as the evidence seems to indicate, crumb rubber technology lengthens the life of our highways, on top of offering environmental benefits, we cannot justify continued avoidance of this technology.

Section 1038 of ISTEA may have lost its teeth, but the intent and the need for that provision remain valid. States should seek to incorporate some significant amounts of recycled rubber in their highway projects. States also should not fear that using crumb rubber in a proposal will render their project ineligible for Federal funds. They only need fear what will happen when their roads do not wear as well as those of States that use crumb rubber technology.

I plan to raise the issue of use of crumb rubber modifiers when the Committee on Public Works and Transportation begins work on authorizing the National Highway System early next year. I believe we can reach a compromise that will encourage States to use recycled rubber not only in asphalt pavement but also in other creative highway applications. I look forward to working on this issue with the distinguished chairman of the Transportation Appropriations Subcommittee, as well as other interested Members, as that legislation moves forward.

Mr. MINETA. Mr. Speaker, this has been a long year for the Transportation appropriations bill. And while there obviously have been difficulties along the way, I think the result is a positive one.

We began with serious issues about inequitable distribution of resources, about unauthorized projects, about the rules of the House, about lack of cooperation and communication. But these problems have basically been resolved along the way. I wish they had been more easily resolved. I wish they had been resolved with less conflict and with less divisiveness. But they have basically been resolved. This conference report represents a great improvement in the equitable distribution of these limited transportation dollars. With respect to unauthorized projects, this conference report is without a doubt the cleanest Transportation appropriations conference report in years.

I think we have shown that working together, we can improve the way we do business around here. We have significantly cleaned up the process. And I hope we will continue to make improvement in the way we handle these very important decisions regarding investment in desperately needed transportation infrastructure.

I certainly pledge my continued efforts to achieve these improvements. I commend my friend, the gentleman from Michigan [Mr. CARR], for the substantial progress made in this conference report. I know that we will work together in a cooperative and open way in the future to try to continue to improve the process by which we make transportation investment decisions.

I support the conference report, and I urge my colleagues to do the same.

Mr. BORSKI. Mr. Speaker, I support the conference report on H.R. 2750 which will fund our Nation's transportation programs for fiscal year 1994 but with our huge needs for infrastructure investment, this bill does not go far enough.

Infrastructure investment, whether it is highways, transit systems or airports, is not simply another Government spending program. It is an investment in our Nation's economic future but in a shortsighted, pennywise pound foolish approach, we continue to place artificial restrictions on our transportation investment.

In fact, all of our major transportation investment programs—highways, transit, and airports—are being funded at levels below that requested by the administration. The highway and transit programs have been increased but remain below the authorized levels. The Airport Improvement Program has even been cut $110 million below last year's funding level.

What makes this situation even worse is that these programs are, for the most part, funded through user fee supported trust fund programs. Reducing the level of spending from these trust funds doesn't aid in reducing the budget deficit. It merely builds up the surplus in the trust funds.

This past week we held hearings in the Investigations and Oversight Subcommittee on the Public Works and Transportation Committee in which we heard about the significant backlog in funding our highway and transit needs. We heard that funding below the authorized levels has, in many cases, made the Intermodal Surface Transportation Efficiency Act of 1991 an empty promise.

We heard that the surplus in the highway account of the highway trust fund is $8.9 billion and the surplus in the transit account is an astounding $10 billion, enough to fund the transit program at its current level for more than 2 years.

At the same time, we heard about the unmet needs of our Nation's transportation system. All levels of Government spent $36 billion for highways and bridges in 1991, $15 billion less than was needed to maintain current conditions. That means not only less economic activity from construction but less productivity and a limit on our ability to move people and goods.

Meanwhile, the transit industry estimates that its capital investment needs are more than $15 billion annually or three times our total Federal funding of the transit program.

I have no doubt that the Members of the appropriations did the best they could within the framework of existing budget process which treats all spending, for whatever purpose, exactly alike.

I am concerned, however, that this approach will continue to produce larger and larger balances in the trust funds while failing to meet our Nation's capital investment needs. I believe it is time for Congress and the administration to step back and look at the big picture of the level of capital investment needed to support a growing economy in the coming years.

Mr. BROWN of California. Mr. Speaker, I rise to commend Chairman CARR and the conferees of the House and the Senate for their efforts in making appropriations which will provide for a dynamic and progressive surface transportation program. This program will strengthen our transportation infrastructure and enable the United States to put in place a modern national system which will enhance the safety and mobility of every American in the future.

I especially commend the conferees in appropriating funds for the automated highway system [AHS] and the maglev prototype.

The AHS is a pure research and development effort which calls for the combined expertise of engineers of many disciplines. It's a long-term effort that has been endorsed by the Ford Motor Co. and General Motors. It is futuristic in nature and will not be ready for deployment until the year 2002. But this program will not be successful unless it is carefully managed under the Department of Transportation and properly supported by the Congress as originally intended in the ISTEA authorization bill, Public Law 102–240.

Unfortunately, the report language contained in the Senate report to accompany H.R. 2750, broadens the intent of the AHS Program as authorized. The Senate report language calls for research and development to be performed by multiple consortia. I appreciate the apparent frustration of the Senate in noting the AHS has not proceeded expeditiously, but we should recognize the change in the administration and maintain confidence in those who now oversee this effort. I also believe the Congress should leave the organization of the AHS to the Department of Transportation while holding them accountable for the success of the program.

The Senate report language also calls for the integration of all current intelligent-vehicle highway system [IVHS] technologies. However, no current IVHS system is applicable to the AHS. The AHS established under Public Law 102–240 requires the development, the invention, of new sensing and control systems.

At this point, I do not feel it necessary to go beyond the current program objectives, as authorized. They are:

First, develop a prototype system by 1997 to demonstrate AHS technical and systems performance and thereby determine necessary additional requirements;

Second, prove that the AHS system can enhance highway safety. This prototype would be the basis for continuing development to the commercial level around the year 2002;

Third, establish the cost and economics of the system after hardware has been made and tested so that the estimated cost can be realistic and not just paper guesswork and;

Fourth, perform human factors engineering to confirm the effectiveness of man-machine relationships.

I ask the conferees to proceed with the development of the AHS as provided for by the authorizing legislation in ISTEA. Public Law 102–240.

Mr. TOWNS. Mr. Speaker, I want to voice my opposition to amendment 172 which will mandate the continuance of one-way westbound toll collection at the Verrazano Narrows Bridge which connects the boroughs of Brooklyn and Staten Island. This provision will continue the already serious environmental problems, in my congressional district, which were first crated by an appropriations rider in 1986.

The environmental impacts caused by the one-way toll are indeed significant. Brooklyn, a borough, with much greater population and traffic density than Staten Island, has been forced to absorb additional traffic due to the toll's diversionary effects. The lion's share of this diversion has resulted in heavy trucks using the Gowanus and Brooklyn-Queens Expressways. This diversion has hastened the deterioration of roadway infrastructure, caused damage to private property, increased air pollution and noise, with the result that these communities have borne societal and economic costs of between $100 and $200 million a year for the last 6 years. The addition of these diverted vehicles has added pollution hot spots where the concentration of carbon monoxide exceeds the National Ambient Air Quality Standards. Moreover, the Gowanus and Brooklyn-Queens Expressways will have to be reconstructed over the next 10 to 15 years at a cost of $500 million. This reconstruction will also cause further hardship to residents in the adjacent neighborhoods of Boerum Hill, Brooklyn Heights, Carroll Gardens, Cobble Hill and Red Hook.

Moreover, this restriction has resulted in a loss of revenue for the Metropolitan Transportation Authority [MTA]. The Verrazano Bridge, operated by the Triborough Bridge and Tunnel Authority [TBTA], collected tolls in both directions from 1964 until 1986. The MTA has lost $12 million in annual revenues since the imposition of this one-way toll in 1986.

Mr. Speaker, I am sure you will agree the Federal Government should not be used to prohibit current negotiations, which are underway at the State level, to resolve this longstanding issue. I would hope that this bill will not continue to be used to block a New York State resolution on this toll dispute. This is clearly an issue which should be resolved without congressional interference.

Mr. CRANE. Mr. Speaker, the conference report before us today on the Transportation appropriations bill, H.R. 2750, contains a number of worthwhile provisions. Most important to my constituents in Illinois is the funding in the bill for the Wisconsin Central Commuter Rail Line that would establish commuter rail service with numerous stops between Antioch and Franklin Park, IL. Indeed, the Wisconsin Central Commuter Rail Line serves as a model for other proposals of this type. Its development represents a joint endeavor by State government, local communities, and METRA, who have each pledged their financial support to its completion and have continuously worked to pare down its cost. I was pleased to work with my colleagues on the Appropriations Committee this year in fully funding the Wisconsin Central Commuter Rail Line in the Transportation appropriations bill. Although this funding level was lowered in conference through the adoption of the $8 million appropriation in the Senate version of the bill, I believe that this amount represents a significant Federal commitment toward the establishment of commuter rail service in northeastern Illinois. For this reason, I would like to take this opportunity to thank the members of the conference committee for their work in this area.

Mr. CARR of Michigan. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. Pursuant to the order of the House of Monday, October 18, 1993, the amendments in disagreement and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement are considered as having been read.

The Clerk will designate the first amendment in disagreement.

Mr. CARR of Michigan. Mr. Speaker, I ask unanimous consent that the Senate amendments numbered 1, 2, 3, 4, 5, 6, 7, 12, 13, 14, 21, 23, 26, 56, 122, 149, 154, 155, and 172 be considered en block and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The texts of the various Senate amendments referred to in the unanimous consent request are as follows:

Senate amendment No. 1: Page 2, after line 2, insert:

IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, $1,173,000.

Senate amendment No. 2: Page 2, after line 2, insert:

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Immediate Office of the Deputy Secretary, $481,000.

Senate amendment No. 3: Page 2, after line 2, insert:

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $7,667,000.

Senate amendment No. 4: Page 2, after line 2, insert:

For the necessary legal expenses of the 5 former employees of the White House Travel Office who were placed on paid administrative leave during calendar year 1993, $150,000 to be made available to the Office of the General Counsel: Provided, That such funds shall be deposited in a Fund established by the General Counsel: *Provided further*, That the General Counsel shall disburse a portion of such funds to any such employee—

(1) after submission of a valid claim for reimbursement of necessary legal expenses incurred as a result of an investigation of the operations of the White House Travel Office during calendar year 1993; and

(2) upon notification or finding by the department of Justice that such employee is not a subject of such investigation.

Senate amendment No. 5: Page 2, after line 2, insert:

OFFICE OF THE ASSISTANT SECRETARY FOR TRANSPORTATION POLICY

For necessary expenses of the Office of the Assistant Secretary for Transportation Policy, $2,410,000.

Senate amendment No. 6: Page 2, after line 2, insert:

OFFICE OF THE ASSISTANT SECRETARY FOR AVIATION AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Aviation and International Affairs, $8,000,000.

Senate amendment No. 7: Page 2, after line 2, insert:

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $2,826,000, including not to exceed $60,000 for allocation within the Department for official reception and representation expenses as the Secretary may determine.

Senate amendment No. 12: Page 2, after line 2, insert:

CONTRACT APPEALS BOARD

For necessary expenses of the Contract Appeals Board, $602,000.

Senate amendment No. 13: Page 2, after line 2, insert:

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $1,430,000.

Senate amendment No. 14: Page 2, after line 2, insert:

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $934,000: *Provided*, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

Senate amendment No. 21: Page 3, line 7, after "provision" insert ": *Provided further*, That none of the funds in this Act shall be available for service to communities in the forty-eight contiguous States that are located fewer than seventy highway miles from the nearest large or medium hub airport, or that require a rate of subsidy per passenger in excess of $200, unless such point is greater than two hundred and ten miles from the nearest large or medium hub airport".

Senate amendment No. 23: Page 3, line 25, after "*Provided*," insert "That of this amount, $120,000 shall be derived from unobligated balances of the Office of Small and Disadvantaged Business Utilization: Provided further,".

Senate amendment No. 26: Page 4, line 6, after "$220,000" insert ": *Provided further*, That of this amount $180,000 shall be derived from unobligated balances of the Office of Small and Disadvantaged Business Utilization".

Senate amendment No. 56: Page 15, line 8, after "100–457" insert "and Public Law 101–516".

Senate amendment No. 122: Page 30, after line 8, insert "$6,700,000 for the Hawthorne-Warwick Commuter Rail Project;".

Senate amendment No. 149: Page 35, line 13, after "Transportation" insert "and the National Institute of Environmental Health Sciences".

Senate amendment No. 154: Page 41, line 4, after "Center" insert ": *Provided*, That the Secretary may plan for further development of the Volpe National Transportation Systems Center and for other compatible uses of the Center's real property".

Senate amendment No. 155: Page 41, line 4, after "Center" insert ": *Provided further*, That any such planning does not alter the Federal status of the Center's research and development operation".

Senate amendment No. 172: Page 51, after line 14, insert:

SEC. 335. Notwithstanding any other provisions of law, tolls collected for motor vehicles on any bridge connecting the boroughs of Brooklyn, New York, and Staten Island, New York, shall continue to be collected for only those vehicles exiting from such bridge in Staten Island.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CARR of Michigan moves that the house recede from its disagreements to the amendments of the senate numbered 1, 2, 3, 4, 5, 6, 7, 12, 13, 14, 21, 23, 26, 56, 122, 149, 154, 155, 172, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 2, after line 2, insert:

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $2,225,000.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, inert "$2,100,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 9: Page 2, after line 2, insert:

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $33,794,000, of which $6,417,000 shall remain available until expended.

MOTION OFFERED BY MR. CARR OF MICHIGAN

The CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 9 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $27,066,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 10: Page 2, after line 2, insert:

OFFICE OF PUBLIC AFFAIRS

For necessary expenses of the Office of Public Affairs, $1,388,000.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$1,355,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 11: Page 2, after line 2, insert:

EXECUTIVE SECRETARIAT

For necessary expenses of the Executive Secretariat, $901,000.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$900,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 2, after line 2, insert:

OFFICE OF INTELLIGENCE AND SECURITY

For necessary expenses of the Office of Intelligence and Security, $1,214,000.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$1,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 16: Page 2, after line 2, insert:

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, to remain available until expended, $2,815,000.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$9,232,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 17: Page 2, after line 2, insert:

OFFICE OF COMMERCIAL SPACE TRANSPORTATION OPERATIONS AND RESEARCH

For necessary expenses for operations and research activities related to commercial space transportation, $4,990,000, of which $1,500,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, there may be credited to this account up to $200,000 received from user fees established for regulatory services.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows: In lieu of the first sum named in said amendment, insert "$4,700,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 29: Page 5, line 4, strike out all after "*further*," down to and including "shipyards" in line 9 and insert "That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 29 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "That of the funds provided under this head, not less than $6,000,000 in work currently scheduled to be conducted at the Coast Guard Yard is to be awarded based upon a competitive solicitation of both public and private shipyards: *Provided further*, That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 33: Page 5, line 21, strike out "$47,700,000" and insert $50,200,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$44,500,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 35: Page 5, line 25, strike out "$37,500,000" and insert "$40,615,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$41,615,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 36: Page 6, line 2, after "1994" insert ":*Provided*, That funds received from the sale of the VC–11A and VC–

4 aircraft shall be credited to this appropriation for the purpose of acquiring new aircraft and increasing aviation capacity".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert ":*Provided*, That funds received from the sale of the VC-11A aircraft shall be credited to this appropriation for the purpose of acquiring new aircraft and increasing aviation capacity".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 45: Page 9, line 3, after "aircraft" insert ": *Provided further*, That none of the funds provided shall be made available for pay raises or bonuses in fiscal year 1994 for Federal Aviation Administration employees whose responsibilities include noise abatement policy function, managing aircraft route design or changes, and responsibility for preparing, managing, and overseeing the environmental impact statement mandated by section 9199 of Public Law 91-508, until the final report on such impact statement is issued".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of "section 9199 of Public Law 91-508" named in said amendment, insert "section 9119 of Public Law 101-508".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 46: Page 9, line 23, strike out "$2,142,000,000" and insert "$2,162,578,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$2,120,104,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

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The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 47: Page 9, line 23, strike out "$1,945,500,000 and insert "$1,988,488,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$1,922,104,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 53: Page 14, strike out lines 7 to 11.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended as follows: In lieu of the sum named, insert "$30,262,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 54: Page 14, line 17, strike out "$17,482,663,000" and insert "$18,020,000,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$17,590,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 60: Page 17, strike out lines 11 to 17.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended) and the National Traffic and Motor Vehicle Safety Act, $75,909,000, to remain available until September 30, 1996.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 70: Page 21, line 11, strike out "$20,166,000" and insert "$17,113,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 70 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$37,613,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 73: Page 22, line 6, strike out "$331,000,000" and insert "$351,000,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 73 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$351,700,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 74: Page 22, line 8, strike out "$100,000,000" and insert "$208,580,000, not to become available until July 1, 1994,".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 74 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "$195,000,000, not to become available until July 1, 1994,".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 88: Page 26, line 14, strike out "$2,404,867,000" and insert "$2,336,000,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 88 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$2,414,867,000" and, on page 26, line 13 of the House engrossed bill, H.R. 2750, delete "$1,324,916,000" and insert in lieu thereof "$1,284,916,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 92: Page 27, line 15, strike out "$1,140,000,000" and insert "$1,076,133,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 92 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$1,195,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 93: Page 27, line 21, strike out "$1,079,951,000" and insert "$1,011,084,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 93 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$1,129,951,000".

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 106: Page 29, strike out lines 11 and 12 and insert "$500,000 for the South Jersey alternatives analysis;".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 106 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "$1,000,000 for the Northeast Ohio Commuter Rail Project; $500,000 for the South Jersey alternatives analysis;".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 124: Page 30, after line 8, insert "$1,850,000 for alternatives analysis for Cincinnati, Ohio Commuter Rail; and".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 124 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert "$1,350,000 for alternatives analysis for Cincinnati, Ohio Commuter Rail; and".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 125: Page 30, after line 8, insert "$600,000 for Memphis, Tennessee Regional Rail Plan".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 125 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert "$500,000 for Memphis, Tennessee Regional Rail Plan".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 127: Page 30, line 16, strike out all after "proviso," down to and including "$50,000,000" in line 18 and insert "$4,000,000 shall be for the Milwaukee, Wisconsin East-West Corridor Project and $3,200,000 shall be for the RAILTRAN Corridor project of Dallas, Texas and Fort Worth, Texas, and $69,300,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 127 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "$10,000,000 shall be for the South Boston Piers Transitway, $8,500,000 shall be for the Chicago Central Area Circulator Project, $4,000,000 shall be for the Dallas South Oak Cliff LRT Project, $1,000,000 shall be for the Houston Regional Bus Plan Program of Projects, $5,000,000 shall be for the Pittsburgh Busway Projects, $3,000,000 shall be for the Milwaukee, Wisconsin East-West Corridor Project, and $45,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 128: Page 31, after line 2 insert:

INTERSTATE TRANSFER GRANT—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $45,000,000, to remain available until expended.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 128 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $45,000,000, to remain available until expended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 133: Page 32, after line 12, insert:

PITTSBURGH BUSWAY

For 80 percent of the expenses necessary for the Pittsburgh Busway, as authorized by section 1069(e) of Public Law 102-240, $28,000,000.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from it disagreement to the amendment of the Senate numbered 133 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

LOCK AND DAM NO. 4 BRIDGE

For 80 percent of the expenses necessary for the Lock and Dam No. 4 bridge in Pine Bluff, Arkansas, $4,000,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 134: Page 32, after line 12, insert:

MINEOLA GRADE CROSSING

For 80 percent of the expenses necessary for the Mineola, New York grade crossing, as authorized by Public Law 99-591, $7,800,000.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 134 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

MINEOLA GRADE CROSSING

(HIGHWAY TRUST FUND)

For 80 percent of the expenses necessary for the Mineola, New York grade crossing project, as authorized by Public Law 99-591, $7,800,000, to be derived from the Highway Trust Fund and to remain available until expended.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 140: Page 32, after line 14, insert:

HAZARDOUS MATERIALS SAFETY

For expenses necessary to discharge the functions of Hazardous Materials Safety and for expenses for conducting research and development, $12,721,000, of which $1,334,000 shall remain available until expended: *Provided*, That up to $1,000,000 in fees collected under section 106(c)(11) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1805(c)(11)) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, and for reports publication and dissemination.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 140 and concur therein with an amendment, as follows: In lieu of the first sum named in said amendment, insert "$12,600,000" and, in lieu of the second sum named in said amendment, insert "$1,364,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 142: Page 33, line 9, strike our "$915,000" and insert "$884,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 142 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$842,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 143: Page 33, line 17, strike out "$1,863,000" and insert "$1,781,000".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 143 and concur therein with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "$1,766,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 150: Page 35, after line 13, insert:

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $36,595,000: *Provided*, That not more than $1,000,000 of the funds made available under this head shall be available for implementation of Public Law 101-576.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 150 and concur therein with an amendment, as follows:

In lieu of the first sum named in said amendment, insert "$39,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows

Senate amendment No. 158: Page 43, line 5, after "240" insert: "and $458,629 for the National Commission on Intermodal Transportation authorized by section 5005 of Public Law 102-240, and $15,000,000 for administrative costs and allocation to States under section 1302(d) of the Symms National Recreational Trails Act of 1991 and $5,000,000 for Lock and Dam No. 4 located at Pine Bluff, Arkansas. Amounts for section 5002 and section 5005 of Public Law 102-240 and amounts for section 1302(d) of the Symms National Recreational Trails Act of 1991 shall be deemed necessary for administration under section 104(a) of title 23, United States Code; and

"(4) Notwithstanding subsection (a) or any other provision of law, the Secretary shall withhold from initial distribution the fiscal year 1994 Federal-aid highways obligation limitation set aside for Interstate Construction Discretionary projects: *Provided*, That the Secretary shall distribute only after August 1, 1994, such obligation limitation withheld in accordance with this section to those States receiving Interstate Discretionary allocations".

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 158 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

and $458,629 for the National Commission on Intermodal Transportation authorized by section 5005 of Public Law 102-240. Amounts for section 5002 and section 5005 of Public Law 102-240 shall be deemed necessary for administration under section 104(a) of title 23, United States Code; and

(4) Notwithstanding subsection (a), the Secretary shall withhold from initial distribution the fiscal year 1994 Federal-aid highways obligation limitation set aside for Interstate Construction Discretionary projects: *Provided*, That the Secretary shall distribute only after August 1, 1994, such obligation limitation withheld in accordance with this section to those States receiving Interstate Discretionary allocations

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 159: Page 43, strike out lines 6 to 20, and insert:

(d)(1) During the period October 1 through December 31, 1993, the aggregate amount of obligations under section 157 of title 23, United States Code for projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, sections 131(b), 131(j), and 404 of Public Law 97-424, sections 1061, 1103 through 1109, 4008, and 6023(b)(8) and 6023(b)(10) of Public Law 102-240, and for projects authorized by Public Law 99-500 and Public Law 100-17, shall not exceed $302,551,350.

"(2) The limitation on obligations for Federal-aid highways for fiscal year 1994 shall apply, notwithstanding any other provision of law, to obligations for priority corridor feasibility studies under section 1105(h) of Public Law 102-240; obligations for the Priority Corridor Revolving Loan Fund under section 1105(i) of Public Law 102-240; and obligations for the Applied Research and Technology Program under section 307(e) of title 23, United States Code.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 159 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

(d) During the period October 1 through December 31, 1993, the aggregate amount of obligations under section 157 of title 23, United States Code for projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, sections 131(b), 131(j), and 404 of Public Law 97-424, sections 1061, 1103 through 1109, 4008, and 6023(b)(8) and 6023(b)(10) of Public Law 102-240, and for projects authorized by Public Law 99-500 and Public Law 100-17, shall not exceed $302,551,350.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 163: Page 47, after line 25, insert:

SEC. 324. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act or previous Acts under "Federal Transit Administration, Discretionary Grants" for projects specified in this Act or previous Acts or identified in reports accompanying this Act or previous Acts not obligated by September 30, 1996, shall be made available for other projects under section 3 of the Federal Transit Act, as amended.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 163 and concur therein with an amendment, as follows:

In lieu of the section number "324", insert "326".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 175: Page 51, after line 14, insert:

SEC. 338. None of the funds provided in this or any other Act shall be used to remote radar coverage from the Roswell, New Mexico, airport prior to the Federal Aviation Administration obtaining congressional approval based upon a cost study applying (1) actual personnel staffing levels used at comparable facilities such as Moses Lake, Washington, and Waterloo, Iowa, and (2) the actual equipment costs based on integration with existing systems rather than acquisition of wholly redundant systems. The Federal Aviation Administration will report back to the committee with an appropriate study not later than December 31, 1993.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 175 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 336. None of the funds provided in this Act shall be used to remote radar coverage from the Roswell, New Mexico, airport unless that Federal Aviation Administration shows a significant cost savings by remote radar coverage based upon a cost study applying (1) actual personnel staffing levels used at comparable facilities, and (2) the actual equipment costs based on integration with existing systems rather than acquisition of wholly redundant systems. The Federal Aviation Administration will report back to the House and Senate Committees on Appropriations with an appropriate study not later than December 31, 1993.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 176: Page 51, after line 14, insert:

SEC. 339. Notwithstanding any other provision of law, monies previously appropriated for the Chattanooga fixed rail project out of the section 3 "New Construction" account shall be made available for the Chattanooga electric vehicle project through the "Bus and Bus Facilities" account.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 176 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 337. Monies previously appropriated for the Chattanooga fixed rail project out of the section 3 "New Construction" account shall be made available for the Chattanooga electric vehicle project through the "Bus and Bus Facilities" account.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 177: Page 51, after line 14, insert:

SEC. 340. Notwithstanding any other provision of law, funds previously appropriated for Project Breakeven in Portland, Oregon, may, upon application by Tri-Met to the Federal Transit Administration, be expended on other eligible transit projects in the Portland metropolitan region.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 177 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 338. Funds previously appropriated for Project Breakeven in Portland, Oregon, may, upon application by Tri-Met to the Federal Transit Administration, be expended on the Westside Light Rail Project in the Portland metropolitan region.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 180: Page 51, after line 14, insert:

SEC. 343. NEXRAD Installation.—Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration (FAA), pursuant to the FAA's participation in the National Implementation Plan for the Modernization and Associated Restructuring of the National Weather Service, shall install nine standard FAA redundant configuration NEXRAD radar, to provide coverage to each of the following areas in Alaska, by the date indicated: Anchorage by June 1995; Sitka by July 1995; King Salmon by July 1995; Middleton Island by August 1995; Fairbanks by September 1995; Nome by October 1995; Bethel by October 1995; McGrath by September 1996; and the Bering Sea near Cold Bay or Sand Point by September 1996.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 180 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 339. The Administrator of the Federal Aviation Administration, pursuant to the Federal Aviation Administration's participation in the National Implementation Plan for the Modernization and Associated Restructuring of the National Weather Service, shall install seven standard Federal Aviation Administration redundant configuration NEXRAD radar systems, to provide coverage to each of the following areas in Alaska: Anchorage; Sitka; King Salmon; Middleton Island; Fairbanks; Nome; and Bethel. *Provided*, That the Administrator of the Federal Aviation Administration shall submit a study to the House and Senate Committees on Appropriations on the adequacy and effect on aviation safety of installing fewer than nine NEXRAD systems in Alaska.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 182: Page 51, after line 14, insert:

SEC. 345. TRANSFER OF APPORTIONED TITLE 23 FUNDING.—The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-county Commuter Rail project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. I offer a motion.

The SPEAKER pro tempore [Mr. MONTGOMERY]. The Clerk will designate the motion.

The text of the amendment is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 182 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 340. (a) The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

(b) The Secretary of Transportation shall permit the obligation of not to exceed $9,000,000, apportioned under title 23, United States Code, section 104(b)(1) for the State of North Carolina for capital improvements for their Rail Impact project in the Interstate 40/85 corridor from Raleigh to Charlotte during reconstruction of Interstate 40/85.

Mr. CARR of Michigan (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

□ 1200

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 185: Page 51, after line 14, insert:

SEC. 348. None of the funds appropriated by this Act shall be available for use for closing or otherwise reducing the services of any flight service station in the State of Alaska in operation on the date of the enactment of this Act, until after the expiration of the 90-day period following the date that the Secretary of Transportation has reported to Congress regarding the effects on safety of the flight service station closing and reduction in services plan being carried out by the Federal Aviation Administration in the State of Alaska on the date immediately preceding the date of the enactment of this Act. Such report shall be submitted no later than 90 days after enactment of this Act.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 185 and concur therein with an amendment, as follows:

In lieu of the section number "348", insert "341".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the final amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 186: Page 51, after line 14, insert:

SEC. 349. If any State or local interest, within one year following the date of the enactment of this Act, can demonstrate to the satisfaction of the National Railroad Passenger Corporation that such State or local interest can cover any potential operating losses including the cost of equipment depreciation, or that the National Railroad Passenger Corporation will not incur or absorb any part of operational losses including the cost of equipment depreciation due to the initiation of new State-supported service, the Corporation shall initiate such new service: *Provided*, That the corporation determines equipment is available to initiate such service.

MOTION OFFERED BY MR. CARR OF MICHIGAN

Mr. CARR of Michigan. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CARR of Michigan moves that the House recede from its disagreement to the amendment of the Senate numbered 186 and concur therein with an amendment, as follows: In lieu of the section number "349", insert "342"

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CARR].

The motion was agreed to.

REQUEST TO VACATE DISPOSITION OF SENATE AMENDMENT NUMBERED 172 AND RECONSIDER SENATE AMENDMENT NUMBERED 172

Mr. CARR of Michigan. Mr. Speaker, I ask unanimous consent to vacate the earlier disposition of Senate amendment No. 172 and to reconsider that amendment at this point.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Michigan?

Mr. WOLF. Mr. Speaker, reserving the right to object, is there a way that we could put that off for a minute or two? I have called the gentlewoman from New York [Ms. MOLINARI], who represents that area.

Mr. CARR of Michigan. Mr. Speaker, I withdraw my unanimous consent request at this time.

REQUEST TO VACATE DISPOSITION OF SENATE AMENDMENT NUMBERED 172 AND TO RECONSIDER SENATE AMENDMENT NUMBERED 172

Mr. CARR of Michigan. Mr. Speaker, I ask unanimous consent to vacate the earlier disposition of the Senate amendment numbered 172 and to consider that amendment at this point. This is a restatement of my earlier unanimous consent request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WOLF. Mr. Speaker, reserving the right to object, I will talk for just a minute on this objection I have.

Mr. Speaker, I yield at this point to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I thank the gentleman for yielding under his reservation.

Mr. Speaker, could we ask the Chair what is this amendment and what is the effect of this amendment?

Mr. CARR of Michigan. Mr. Speaker, may we ask the Clerk to read the amendment?

The SPEAKER pro tempore. The Clerk will report Senate amendment numbered 172.

The Clerk read as follows:

Senate amendment No. 172: Page 51, after line 14, insert:

SEC. 335. Notwithstanding any other provisions of law, tolls collected for motor vehicles on any bridge connecting the boroughs of Brooklyn, New York, and Staten Island, New York, shall continue to be collected for only those vehicles exiting from such bridge in Staten Island.

Mr. WOLF. Mr. Speaker, continuing my reservation of objection, and I think I will object, but I yield to the gentleman from New York to talk about this issue for a minute or two, but because of my protection of Ms. MOLINARI, I will object. But I will yield to the gentleman if he would like to comment.

Mr. NADLER. Mr. Speaker, I appreciate the gesture of the gentleman.

Mr. Speaker, I rise in opposition to the motion offered by the distinguished chairman.

Let me be clear on what this provision would do. It would dictate to the city of New York how we should collect tolls on one local bridge. It is an outrageous and unjustified intervention in a purely local matter.

We hear a great deal of talk these days about reforming the way Congress does its business—that we should respect the rights of local communities, we should avoid Federal micromanagement of municipal affairs, and we should put an end to congressional stunts that cost local taxpayers millions of dollars.

If we agree to the language placed in this bill by the other body, Congress would mandate that New York continue collecting tolls on the Verrazano-Narrows Bridge in the westbound direction only. This method of toll collection, originally put in place by a Congressionally imposed mandate, has been an unmitigated disaster for the people of the city I represent.

Make no mistake, if you support imposing this measure, you will be doing so against the will of the people of our city—the very people who will have to live with the consequences.

The mayor of New York City, the Governor of New York State, and all but one member of our city's delegation oppose this measure.

What have been the consequences of this congressional mandate for one-way tolls on this one bridge? I urge my colleagues to study the findings of the draft environmental impact statement on this subject: The one-way tolls have increased congestion in the Holland Tunnel because heavy trucks traveling through New York City can avoid tolls by entering the city through the Verrazano Bridge, avoiding its congressionally mandated westbound toll collection and exiting through the Holland Tunnel, avoiding its eastbound toll collection. The one-way tolls have increased air pollution. According to the draft environmental impact statement, vehicles diverted into lower Manhattan, my district, entirely to avoid tolls, have increased air pollution and created several pollution hotspots where the 8-hour concentration of carbon monoxide greatly exceeds the national air quality standards.

We cannot afford stunts like this which increase air pollution in New York. We are already a nonattainment area, and will soon be faced with penalties imposed by—that is, right, you guessed it—the U.S. Congress unless we clean up our air. But the same Congress that would penalize us if we do not clean up our air tells us not to take a purely local action to reduce congestion and clean up our pollution problems.

The one-way tolls have increased traffic on the Gowanus Expressway and the Brooklyn/Queens Expressway by diverting traffic onto them as they are the route between the Verrazano Bridge and the Holland Tunnel. This is a serious matter. It is more than a cause of increased pollution, it is more than an inconvenience for local residents. This is choking off the Red Hook and South Brooklyn marine terminals in Brooklyn as well as numerous small commercial and light manufacturing businesses on the Brooklyn waterfront and in industrial Sunset Park. It is causing major job loss, and it will get worse. The Gowanus Expressway, scheduled for a 10-year reconstruction job. Soon all this car and truck traffic will be diverted onto the local streets of Sunset Park and Red Hook.

One-way tolls have cost our city locally generated transportation dollars. Drivers taking advantage on one-way tolls, successfully evade toll collection. This has cost our transportation agencies between $7 and $8.2 million annually.

Since we're discussing transportation appropriations, let me turn my attention for a moment from this legislative issue to one of actual transportation funding. Does anyone here feel so strongly that they have to tell New York how to run our local roads that they would be willing to make up these lost dollars out of their State's appropriations? We're not talking about money paid by your constituents, we're talking about money New Yorkers pay to our own local transportation agencies for our local transportation system. Why should Congress tell New York City how to raise money locally?

I have been told by many of my colleagues that they would prefer not to get involved in a local dispute. I strongly agree. Unfortunately, Congress has been involved in a local dispute for nearly a decade. This congressional meddling has cost us over $70 million of local funds so far, has clogged our streets, killed local businesses, destroyed the quality of life in some of our communities, and, unless we send this provision back to the other body, Congress will do it to us for another year.

Why do this now? The only reason this amendment is in this bill today is because its sponsors know that left alone, New Yorkers will do what is in our own best interest and get rid of the one-way tolls. A small minority in our city wants to use the power of the Federal Government to circumvent the popular will of the majority in our city. Don't help them do it. I urge the defeat of the motion.

Mr. WOLF. Mr. Speaker, further reserving the right to object, I am going to yield to the gentlewoman from New York in a moment. I will just tell the gentleman that the committee looked at this and felt that Ms. MOLINARI had made a compelling case. And because, if you have people back and forth, you back up on both sides, and one-way collection has been the trend on Route 95 and has been the trend and is the case in the Holland Tunnel. So the committee felt that was important.

Mr. Speaker, continuing my reservation of objection, I yield to the gentlewoman from New York.

Ms. MOLINARI. I thank the gentleman for yielding to me.

Mr. Speaker, I want to take just a few moments to explain why this is a national issue.

No. 1, it is a national issue because the interstate to which my colleague from New York refers and the bridge that connects it is not a local road, it is a road that is a part of the Federal Interstate Highway System. And the Verrazano Narrows Bridge connects those two. It is also the subject of a Federal Navigable Waters Bridge Act and Verrazano Narrows Bridge was implicitly constructed under Federal statute. So therefore the tolls on that bridge can in fact be regulated by Congress.

The last point is that if this was in fact a local issue that pitted one district against another, this would not have only been an issue handled by Senator D'AMATO in the Senate.

□ 1210

It was in fact an issue that despite the please of the mayor of the city of New York received the support and the assurances of Senator FRANK LAUTENBERG from New Jersey, as it did with the majority of the Members of this body relative to both Democrats and Republicans from New Jersey who believe that this is a Federal interstate and therefore a very important venue of travel for residents of New Jersey also into New York City and out. So this is a lot more encompassing than just one borough against another.

Mr. Speaker, let me make just one more point. When we talk about revenues, please understand, and to those of you who are not from New York City, this may be a subject that is absolutely inconceivable to you, but please understand, I represent a borough from the city of New York. My colleague represents a borough from the city of New York. My borough, Staten Island, is the only borough that does not have a free access road to another borough in the very same city.

The people that I represent have to pay in order to get home from work every day a $6 toll; $5 out of that $6 leaves Staten Island and the majority of it goes into another borough, called Manhattan, where it subsidizes mass transportation on the subway systems. It subsidizes the Long Island Railroad and train routes in New Haven, CT.

So Mr. Speaker, this is an issue for the Federal Government to get involved in because it is an issue that discusses transportation fairness. It discusses the ability of Staten Islanders to receive some relief while we continue to support the subsidies of other boroughs, and also, lastly, it is an issue that affects two States, New York and New Jersey.

For that reason, I understand when the issue did come up in the other body the support of Senator LAUTENBERG helped to persuade this institution and the other institutions that in fact this was an appropriate venue for the Federal Government in which to get involved.

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, I simply want to make a couple very brief comments.

No. 1, this issue does not affect New Jersey. The only way conceivably it could affect New Jersey would be if you assume a better than 7-mile backup into New Jersey, and that is inconceivable.

Second of all, there are plenty of highways and roads and bridges paid for partially or almost entirely with Federal funds, but the local way in which they operate is generally considered a local issue. This is properly a local issue.

There are ramifications here. We could debate this for hours. The ramifications are a lot more complex than we can do justice to in 2 or 3 minutes. I am not going to go into them now, but the ramifications are much more complex and they are of local concern, local import, and the local governments concerned ought to decide that. That is why I think this amendment is an imposition on New York and not a good idea.

Ms. MOLINARI. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentlewoman from New York.

Ms. MOLINARI. I would only conclude, Mr. Speaker, that perhaps after this election day in November I may in fact agree with the gentleman that this should be a situation that the local governments should decide.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Michigan [Mr. CARR]?

Mr. WOLF. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The SPEAKER pro tempore. We have concluded the consideration of amendments in disagreement.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 281, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1994

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 282 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 282

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider in the House the joint resolution (H.J. Res. 281) making further continuing appropriations for the fiscal year 1994, and for other purposes. Debate on the joint resolution shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

Mr. GORDON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may use. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 282 allows this body to consider House Joint Resolution 281, making further continuing appropriations for fiscal year 1994, in the House—any rule of the House to the contrary notwithstanding. The hour of debate time will be equally divided and controlled by the chairman and ranking minority member of the Appropriations Committee. The rule provides one motion to recommit.

House Joint Resolution 281 is a one-sentence joint resolution, simply changing the end date for the continuing resolution from October 21 to October 28.

Mr. Speaker, the situation is not hard to understand. Tonight, the short-term continuing resolution will run out. The Appropriations Committee struggled mightily to finish all their bills before the deadline. Serious and important issues delayed us. No one should object to the committee, the House, or the Congress taking the time to debate and vote on these serious matters.

Realistically, we are still on track, with some hard work, to complete the regular appropriations bills by the end of next week.

Mr. Speaker, the joint resolution before us is a simple, clean extension through October 28 of the most restrictive form of a continuing resolution: providing the lowest amount among last year's level, the House-passed or the Senate-passed amount for each account. The only question is whether to continue the operations of the Government for 1 more week until we complete the regular appropriations process. The rule gives the House an up-or-down vote on that question.

Mr. Speaker, House Resolution 282 is a fair rule and I urge its adoption.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, by now just about all observers of Congress know that advanced planning and careful forethought are not generally considered to be among the strong suits of this House and the majority leadership as we go about our business here, and so it probably does not come as much of a surprise that we are here today, on October 21, 16 days after the targeted adjournment date, once again extending the ominous continuing resolution or CR so commonplace just referred to as a CR. As it is called that is so commonplace around here now that it has its own acronym. Many Americans remember it as that great document that President Reagan dropped upon the podium, and caught national attention with, to keep the Government funded while we scramble to complete our appropriations business. After all, we missed the statutory deadline for finishing all spending measures for the coming fiscal year. That milestone came and went on October 2, so we adopted a 3-week CR that expires today. Then a host of thorny problems jostled the schedule—certainly we have had skirmishing, if not open warfare between the authorizers and the appropriators on a number of issues, and despite the best intentions of the distinguished chairman of the Appropriations Committee, the gentleman from Kentucky [Mr. NATCHER] who has labored mightily to hit all the deadlines, regrettably all 13 spending bills are still not ready for the President's signature. In fact, I understand only two or so have been signed. As late as 3 p.m. yesterday, Chairman NATCHER was expressing his supreme reluctance to further extend this CR—and I commend him for his commitment to getting our appropriations work done as expeditiously as possible and on schedule. The chairman, this Member, and I believe all Members of this body are all uncomfortable with having to fall back on short-term, stopgap funding resolutions like the one before us today. Even though this CR is basically a very clean bill coming out of this House, regrettably it offers a temptation to the other body, and that is always a danger that we have to undergo with CR's. It is only a 1-week extension, but in my view it further erodes the credibility of this Congress. We just cannot seem to get our work done well and timely. When we fail to meet important deadlines and targets in the budget process, what signal are we sending to the people we represent? And why should they have confidence in our ability to meet the next deadline we are setting, considering the first two have already come and gone? Mr. Speaker, I certainly hope that next week at this time we will have met our responsibilities and completed our work.

Mr. Speaker, I think everybody knows that we have a budget that does not balance. I think everybody knows that we have taken action this year that has raised our taxes in the neighborhood of $250 billion, and I think that everybody still knows we are waiting for promised spending cuts to materialize from the White House and be considered by this body. All those things are important business that ought to be taken up, and instead we are absorbed with the routine business which we are not completing on time. I think that is a shame, and I hope we can do better.

□ 1220

Mr. Speaker, I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on consideration of House Joint Resolution 281, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1994

Mr. NATCHER. Mr. Speaker, pursuant to House Resolution 282, the rule just adopted, I call up the joint resolution (H.J. Res. 281) making further continuing appropriations for the fiscal year 1994, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 281

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106(c) of Public Law 103–88 is amended by striking out "October 21, 1993" and inserting in lieu thereof "October 28, 1993".

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 282, the gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER], the chairman of the Committee on Appropriations.

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we bring to the House a 1-week extension of the continuing resolution.

The House has been considering, as the Members know, conference reports on appropriations bills all week. The House has acted on 12 of our regular 13 appropriations conference reports, but further action by the House on the District of Columbia and energy and water development conference reports is necessary and is scheduled for tomorrow. The Senate is still considering the Defense appropriations bill.

Conference reports that are pending on the Senate side are Treasury-Postal Service, Veterans Affairs-HUD, Commerce-Justice-State-Judiciary, Interior, and now Transportation. Agriculture, military construction, and Labor-Health and Human Services-Education are at the White House awaiting signature. While two bills are enacted, legislative and foreign operations, it is apparent that action on all the rest of the appropriations bills will not be completed by midnight tonight, the expiration date of the present continuing resolution.

To provide time for the Senate to complete action and for the President to review the bills, and for conference action to proceed on the Defense appropriations bill, this 1-week extension of the continuing resolution is absolutely necessary. The resolution before the House simply extends the present continuing resolution until midnight Thursday, October 28. No extraneous provisions are included. It is clean.

The House has worked hard all week trying to get our conference reports on our appropriations bills adopted. I want all Members to know I appreciate their cooperation. This applies to every Member of the House, Mr. Speaker. They have all helped us, and as we said when we started out we are going to do it right. We have almost completed our task. We have worked long hours, and I appreciate it.

This extension is supported by the President, the Speaker, Senator BYRD, and the Director of the Office of Management and Budget. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must disagree—and this is one of those rare times when I do so—with my dear friend, the gentleman from Kentucky [Mr. NATCHER], the distinguished chairman of the Committee on Appropriations, who does such an able job in leading the committee.

I do so, Mr. Speaker, because I strongly hold to the belief that this joint resolution in its current form will not do the job, that in fact we will be back here looking at continuing resolution No. 3, that the defense bill will never be ready in time to fit within the parameters of this resolution.

I agree with the chairman of the committee completely when he says that the other 12 bills can and should and hopefully will be done even before the week is out, but I see little evidence that the Senate, still having an appropriation bill on the Senate floor and probably going to have it there again tomorrow, is likely to complete its work.

Therefore, I oppose this joint resolution in its current form, Mr. Speaker, and at the appropriate time I will offer a motion to recommit it.

Mr. Speaker, I am delighted to yield 1½ minutes to the distinguished gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, today, Congress will take up the second continuing resolution of this fiscal year. The passing of continuing resolutions because we cannot get our budgets done on time has become an annual shame for this institution.

We waste too much time either out of session or working on trivial matters, while many of the most important issues of the day are never even discussed on the floor of this House.

The constant use of continuing resolutions in this House keeps us from having the most important tool necessary to any negotiating process—a firm deadline. Without it, Congress limps along for weeks, even months, at a time, without the budget that it is our first task to produce and approve.

This leaves the American public with the impression that the House cannot take care of its most basic tasks. It undermines faith in the process and forces us to spend too much time away from our home districts and constituents.

Members in this House may have differing ideas of what should be emphasized in a congressional reform package. I hope, though, that we can all agree that the annual budget charade has to end and that this continuing resolution should be the last continuing resolution.

Mr. COX. Mr. Speaker, pity the poor soul who misses a deadline for paying Federal taxes. No matter how small the amount owed, if payment arrives late the barrage of IRS dunning letters, interest charges and penalties will be merciless.

Don't expect such Prussian punctuality from the people who authorize spending our tax dollars. Just this year, Congress already has ignored at least 25 deadlines required by the Congressional Budget Act of 1974. By June 10, the House Appropriations Committee was required to have reported all 13 of the regular appropriations bills for fiscal year 1994; it only reported two bills by the deadline. Only 9 of the 13 bills cleared the House floor by the budget law's June 30 deadline.

By October 1, the beginning of the new fiscal year and the date on which President Clinton's $1½ trillion budget was to have taken effect, only two of the 13 spending bills for operations of the Federal Government had been passed by both Houses of Congress and signed by the President. Almost routinely, on the eve of the new fiscal year, the congressional leadership pushed through a continuing resolution to provide stopgap spending authority for 3 weeks.

Now that the stopgap extension is expiring, still only two regular appropriations bills have been passed and signed by the President. This week, because it cannot even meet its own extended deadlines, Congress passed still another stopgap spending bill. For 12 of the last 13 years now, Congress has exhibited this inability to abide by the budget law.

Will any of the responsible parties pay a penalty for violating the budget law? Perish the thought. The law that created the current budget process has no effective enforcement mechanisms—and that's just the way congressional big spenders like it.

If we are ever to get Federal spending under control, we must overhaul the budget process and make it work. Democrats and Republicans alike should be able to agree upon a better system for developing and enforcing the annual budget—so that tax and spending decisions are made in an organized, timely and rational fashion, and then backed up by budget discipline.

To this end, Representative CHARLES STENHOLM and I have introduced H.R. 2929, the Budget Process Reform Act. More than 160 other reform-minded House members have joined as cosponsors, including House Republican budget leader JOHN KASICH, JANE HARMAN, and KEN CALVERT, cochairmen of the bipartisan Freshman Class Task Force on Reinventing Government. Senators TRENT LOTT and RICHARD SHELBY soon will introduce this bipartisan reform bill in the Senate.

The hallmarks of our reform plan are clarity, evenhandedness regarding the role of the President and Congress, and discipline.

In place of the unenforceable concurrent resolution now in use, Congress would have to pass a budget in the form of a legally binding joint resolution, signed by the President. Until the budget is signed into law, no authorization or appropriations bill would be allowed to come to the floor of either the Senate or the House, nor to any committee. This will encourage Congress and the President to cooperate and come to agreement early in the process.

Our bill would ban baseline budgeting. Instead of calling a scaled-back increase a cut, the budget will use real dollars to compare last year's actual spending to next year's proposed spending.

We'll halt the commonplace abuse of waivers. On more than half of all the spending bills enacted last year, Congress declared the budget law's restraints and deadlines not to be in force. This year already, Congress has waived the budget law more than 20 times. These waivers now pass almost routinely by simple-majority vote. The Budget Process Reform Act will make it far more difficult to bend the budget law, requiring a two-thirds majority in both the House and the Senate to approve a waiver.

Congress will have to stop its blank-check spending binge. Our bill abolishes open-ended appropriations for such sums as may be necessary. Fixed-dollar appropriations will be required for all accounts except Social Security and interest on the debt.

Finally, our bill would automatically authorize the previous year's funding level for any program or activity if Congress fails to complete its budget work on time. This would banish the threat of Government shutdowns caused by congressional inaction and delay and give Congress a powerful incentive to finish its business by the start of the fiscal year.

We shouldn't let another year go by without overhaul of the Federal budget system. We need a tough, enforceable budget law to replace the laughable procedures Congress now uses to circumvent fiscal discipline. The Budget Process Reform Act makes solid bipartisan sense. It merits support from every responsible Member of Congress who believes Congress should stop breaking the budget law's deadlines. Taxpayers who work hard to meet the April 15 congressional deadline for paying the IRS deserve no less.

Mr. PORTER. Mr. Speaker, I rise in opposition to this continuing resolution. It is unnecessary, unwise, and will assist the forces opposed to the change called for by our President.

Mr. Speaker, the argument for another continuing resolution at this time is extremely weak. And the argument for no continuing resolution—or at least a continuing resolution only covering the Defense Department—is extremely strong.

If you are opposed to further funding for the super collider, you should be opposed to this continuing resolution. This continuing resolution will give the Senate a week to figure out some way to save this expensive project, and undermine the strong desire of this body that the program be ended.

If you are in favor of grazing fee reform, you should be opposed to this continuing resolution. The continuing resolution will give the Senators a week to filibuster the Interior Appropriations conference report and force changes to the fee reforms achieved in conference and adopted overwhelmingly by this body.

Mr. Speaker, if the other body wants to neglect its duty to act expeditiously on appropriations conference reports it should pay a political price for doing so. Seven conference reports are now stacked up in that body, like airplanes circling a fogged-in airport. This failure to act should have consequences. The fog in the other body is not a result of natural causes, and those who are promoting gridlock should be made to explain why their individual interest justifies shutting down the Government. Such an explanation is extremely hard to make in a convincing manner.

Mr. Speaker, in endorsing this continuing resolution you have forgotten the lesson that physics teaches—a body at rest tends to remain at rest in the absence of the application of force. This continuing resolution removes the pressure and dissipates the force. It endorses our institutional incompetence, it reinforces in the minds of many Americans the contempt in which they hold us, and it gives the upper hand to the status quo.

Mr. Speaker, I sincerely hope that you, and the majority leader of the Senate, and the President all understand that we should not be in this situation—that continuing resolutions are not a necessary evil but rather that they are absolutely avoidable through the exercise of strong leadership.

This leadership must come from the President, and it must begin in January—at the commencement of the annual budget cycle. The President must submit his budget proposal on time. The President must ask for its expeditious consideration. And the President must indicate that he expects the Congress to complete its work on time and within budget.

Delay in submission of a complete budget on time sets the process off on the wrong foot. Further delays come as a consequence of initial delay and the result is seen 10 months later when an embarrassed institution must temporarily extend the agencies of Government in a manner reminiscent of a fledgling Government, not the world's greatest democracy.

The President needs to understand that when he signed the first continuing resolution a few weeks ago, he endorsed a governmental process that is inimical to the good government, reform and change he seeks.

Indeed, the President should understand that delay in the budget process undermines his entire Presidential agenda and hurts him.

Consider the case of health care reform. Delay in the budget process drew attention away from this top Presidential priority. His people were diverted from addressing the details of health reform, and the timetable for introducing a health bill was pushed back. As a result, the President still hasn't given us a health reform bill, administration witnesses can't answer basic questions about the plan, and Halloween, Thanksgiving, and congressional adjournment are around the corner. The prospects for congressional action this year are zero, and the prospects for action in this Congress are somewhat diminished.

In sum, Mr. Speaker, delay on the budget damages the President and it is in his own self interest to put an end to it.

When we passed the first continuing resolution a few weeks ago, I acknowledged that a new President needs time to get his feet underneath him. But, Mr. Speaker, no such problem will exist next year or the year after or the year after that. And the President needs to take command of the budget timetable. He needs to submit his budget—with full detail and numbers that add up—on time.

Then, he needs to demand that the Congress do the same—he must hold our feet to the fire and ensure that on his watch there will be no more continuing resolutions. This is, quite simply, the essence of good government.

Mr. NATCHER. Mr. Speaker, I have no requests for time on this side.

Mr. McDADE. Mr. Speaker, I have no further requests on this side, and I yield back the balance of my time.

Mr. NATCHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 282, the previous question is ordered on the joint resolution.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MCDADE

Mr. McDADE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. McDADE. In its current form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. McDADE moves to recommit the joint resolution (H.J. Res. 281) to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The joint resolution was passed.

A motion to reconsider was laid on the table.

WE HAVE CULTURAL WAR IN THIS COUNTRY

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, we are not just in a cultural war, we are in a cultural meltdown. And the lead attack on Mosaic law, Judaeo-Christian ethics and the traditional values of our country is now being led by the White House itself.

Here is a story from today's Washington Times.

On the lawn of the White House yesterday, a Ms. Gebbie, the President's newly appointed AIDS czar told the Nation that we have to dump our repressed Victorian society and that we have to stop denying homosexual sexuality, particularly in teens. According to Ms. Gebbie, to deny their sexual appetite would leave people abandoned with no place to go.

One of the people responding to Gebbie's comments was an AIDS activist by the name of Luke Sissyfag—this is no joke, Mr. Speaker. It is an indication of the moral sickness of our society. This Luke Sissyfag says, "Kristine, put your money where your mouth is." If she puts her mouth where his has been, she would probably die of AIDS.

President Clinton's administration is in a meltdown and they are contaminating the rest of us. It is going to be 3 long, painful years to November 5, 1996, when we get rid of this moral sickness.

Mr. Speaker, please include a copy of the article following my remarks.

[From the Washington Times, Oct. 21, 1993]

AIDS CZAR TELLS AMERICANS TO SEEK THEIR PLEASURE IN SEX

(By Joyce Price)

President Clinton's AIDS czar says talking about sex "in terms of don't and disease" is not working, and Americans must start viewing sex as an "essentially important and pleasurable thing."

Until they do so, "we will continue to be a repressed Victorian society that misrepresents information, denies sexuality early, denies homosexual sexuality—particularly in teens—and leaves people abandoned with no place to go," Kristine Gebbie told a conference on teen-age pregnancy yesterday.

"I can help just a little bit in my job, standing on the White House lawn talking about sex with no lightning bolts falling on my head," said Miss Gebbie, a former nursing educator and Washington state health official.

Miss Gebbie is the first person to be put in charge of coordinating the government's effort to fight AIDS.

She delivered her remarks at a conference sponsored by the Association of Reproductive Health Professionals, the American Social Health Association and the Centers for Disease Control and Prevention.

Miss Gebbie's comments were immediately attacked by leaders of conservative pro-family groups.

"Her statements are utterly stupid, totally irresponsible and unfounded" said the Rev. Donald Wildmon, president of the American Family Association, based in Tupelo, Miss.

"What porn company does she work for?" he asked. "It sounds like 'Clinton and Co.' What she's saying sounds like something that came out of the Gay and Lesbian Task Force."

Phyllis Schlafly, president of the Eagle Forum, said: "The people who believe what she's saying are the ones getting the diseases. . . . People who have Victorian morality aren't."

"The ones with AIDS are the ones who had sexual freedom," Mr. Wildmon said.

Ben Merrill, special assistant to Miss Gebbie, said her message at the teen pregnancy conference has been a "common theme" of hers and is "something that needs to be said."

"It came up at the Gay and Lesbian Journalists Convention last month," he said. "And it's been well received."

He said Miss Gebbie wants "to change the way the nation looks at AIDS."

To accomplish that, she believes the "nation's puritanical roots need to be examined," a federal source said.

"When we approach AIDS, we approach it as a sexual disease, not a plague," Mr. Merrill said.

Luke Sissyfag, an AIDS activist who has criticized Miss Gebbie, said of her comments yesterday: "Kristine, put your money where your mouth is. She says the right things, like Bill Clinton, but doesn't do anything."

Mr. Sissyfag wants Miss Gebbie to follow the 30 recommendations of the National Commission on AIDS—proposals he says Mr. Clinton promised to implement during his campaign.

"If you are concerned about teen pregnancy and about transmission of HIV [the virus that causes AIDS] in adolescents, you should be implementing a coordinated federal AIDS education in high schools which includes a distribution of condoms," he said

"That was one of the recommendations of the National Commission on AIDS, but all those recommendations are just sitting on the shelf gathering dust."

IN OPPOSITION TO H.R. 2520, FISCAL YEAR 1994 INTERIOR APPROPRIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I voted against the rule on H.R. 2520, the fiscal year 1994 Interior appropriations bill and opposed the legislation itself because it is the only means I had to express my grave concern about recent actions by the U.S. Fish and Wildlife Service.

While I could cite many examples of Fish and Wildlife officials overstepping their legal authority, I particularly call attention to the efforts of one employee to effectively close the Tennessee-Tombigbee Waterway by insisting that the so-called Alabama sturgeon be declared endangered.

Public hearings were recently held on the subject. More than 600 people attended the October 4 hearing in Mobile and only one person spoke in support of listing the fish as endangered. In contrast, members of the Alabama congressional delegation, the U.S. Corps of Engineers, the U.S. Coast Guard, and the Southeast Power Administration pointed out that there is no scientific justification for this proposal. A biology professor from Samford University testified that the Alabama sturgeon is most likely the same species as the Mississippi shovelnose sturgeon, which is a common fish throughout the Mississippi River watershed. The Alabama sturgeon has been proposed as a separate species three times before, and each time, it was eventually recognized not to be different than others already identified.

Testimony was also heard about the tremendously adverse economic consequences this listing would cause if it forced curtailment or even closure of the Tenn-Tom Waterway. This action is not justified and it is my hope that my vote and the attention directed to this issue will send a strong and clear message to the U.S. Fish and Wildlife Service to use a little common sense in its regulatory activities. Its decisions should be based on the scientific evidence and in this case, when that evidence is examined, I think it is clear that the Alabama sturgeon should not be placed on the endangered list.

RECESS

The SPEAKER pro tempore. Pursuant to rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 34 minutes p.m.) the House stood in recess subject to the call of the Chair.

□ 1435

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Ms. WATERS) at 2 o'clock and 35 minutes p.m.

REQUEST FOR PERMISSION TO FILE FURTHER CONFERENCE REPORT ON H.R. 2445, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1994

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight, October 21, 1993, to file a further conference report on the bill (H.R. 2445) making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BARTON of Texas. Madam Speaker, reserving the right to object, could I engage in a colloquy or dialog with the distinguished chairman of the Committee on Appropriations.

Madam Speaker, could the chairman inform me as to the reason the gentleman would want to file this particular conference report this evening, as opposed to during the normal regular order next week?

Mr. NATCHER. Madam Speaker, if the gentleman will yield to me, we know on this side and on both sides of the gentleman's interest in the particular matter. It has been cleared through the leadership on the gentleman's side. The gentleman from Illinois [Mr. MICHEL] is present with us on the floor at this time. It has been cleared.

In the conference that is now being held on the Senate side, it is being held in S-128. Senator JOHNSTON and his conferees are there. The gentleman from Alabama [Mr. BEVILL] and his conferees are there. They are holding a conference on this particular matter that the gentleman is concerned about at this particular time in that room. It would be of advantage and it would be of assistance to our committee if the gentleman would permit us to file it. That is all we want to do.

Knowing the gentleman's interest, the gentleman is entitled to attend the conference right now. Any Member of the House is entitled to attend it.

The gentleman is a good Member of the House. I know of his interest in this particular project.

I think the gentleman with this information ought to go over and attend the conference, but I believe he ought to let us file.

Mr. BARTON of Texas. Madam Speaker, if I could ask another question of the distinguished chairman, if I were to object, would the gentleman not file next Tuesday? Would that not be possible?

Mr. NATCHER. Yes, I guess I would. No question about that. We would file as soon as we were permitted to file. If that would be Tuesday, that would be the day, but this only prints the matter. That is all it does.

Mr. BARTON of Texas. If it were to be filed next Tuesday, would the gentleman still not be able to bring the bill to the floor next week while the continuing resolution is still in effect?

Mr. NATCHER. We would have to have the assistance of the Rules Committee at that particular time.

The gentleman knows as far as I as the chairman of the committee is concerned, I was here a long time before I found out where the Rules Committee met.

Mr. BARTON of Texas. Well, Madam Speaker, I have nothing but great admiration for the distinguished chairman of the Appropriations Committee; but due to the sensitivity and the nature of this, and I have been attending the conference——

Mr. WALKER. Madam Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Madam Speaker, I would like to just assert what the timing might end up being. If the conference report were filed by midnight tonight, would that anticipate then that we would have the bill on the floor on Tuesday?

Mr. NATCHER. Madam Speaker, if the gentleman will yield, I would say to my friend, the gentleman from Pennsylvania, the leadership would have to pass upon that. That will be a matter for the leadership to pass upon.

Mr. WALKER. Madam Speaker, if the gentleman will yield further, I am just trying to ascertain what this means in terms of the schedule. There are a number of people who are concerned about what will be in the conference report. The gentleman from Kentucky is absolutely right. All he is doing is asking permission for it to be filed so it can be printed.

On the other hand, what is being printed becomes fairly important to a lot of members, including the gentleman from Texas, and their ability to examine this and decide whether or not the conference report does in fact meet what they thought it was going to do.

□ 1440

If it is taken up on Tuesday, that would be a limited ability for Members to have a chance to examine the conference report before they might have to vote. If, in fact, though it were filed on Tuesday, and therefore, did not come to the floor until Wednesday, it would give Members somewhat more time to understand what took place in the conference.

Madam Speaker, I am just trying to figure out what the schedule might be so that the Members——

Mr. NATCHER. Madam Speaker, if the gentleman would yield further, I could help him as to that matter.

This would have to go to the Committee on Rules. It would have to go, it would have to go to the Committee on Rules on Tuesday. It could not be brought up sooner than on Wednesday of next week. It would have to go to the Committee on Rules, and, since that is the situation, it would help us if the gentleman would not object.

Mr. BARTON of Texas. Well, Madam Speaker, I would do any personal favor for the gentleman from Kentucky [Mr. NATCHER] because he is such a distinguished Member of this body, but, due to the sensitivity of it, and I have been attending the conference committee, and I am not sure there will be a resolution this afternoon, again, with great respect, I am going to object.

So, Madam Speaker, I do object.

The SPEAKER pro tempore (Ms. WATERS). Objection is heard.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Madam Speaker, I ask for this time for the purpose of inquiring of the distinguished majority leader the program for next week and possibly beyond.

Mr. GEPHARDT. Madam Speaker, will the gentleman yield?

Mr. MICHEL. Madam Speaker, I am happy to yield to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Madam Speaker, I thank the gentleman from Illinois [Mr. MICHEL] for yielding to me.

Madam Speaker, there will not be further votes today. There will be a pro forma session tomorrow, but no votes.

On Monday, October 25, the House will not be in session.

On Tuesday, October 26, and the balance of the week, the House will meet at noon on Tuesday and 10 a.m. on Wednesday, Thursday, and Friday.

On Tuesday, Madam Speaker, we have the possibility of these options:

H.R. 3116, motion to go to conference on defense appropriations; H.R. 2445, the energy and water development appropriations conference report which we just had some discussion about, and H.R. 1845, the Nation Biological Survey Act of 1993, to complete consideration.

Further, Madam Speaker, during the week we have the District of Columbia appropriation conference report, H.R. 1036 to amend the Employee Retirement Income Security Act of 1974, subject to a rule, and H.R. 3116, defense appropriations conference report, subject to a rule, and H.R. 2151, Maritime Security and Competitiveness Act of 1993, subject to a rule.

As the gentleman knows, the continuing appropriation, we believe, will pass through the other body later today, but it goes until the 28th, which is Thursday, so, if we cannot get all these appropriations finished, and we hope we can, then we would have to think about another continuing, but we obviously hope that does not happen.

Now, to give the gentleman and the Members a sense of the coming month, Madam Speaker, I would like to talk for a moment about November.

We are now anticipating the following days for votes, and on other days there will not be votes. We are planning no votes on the 1st or the 2d of November. As the gentleman knows, there is an election in many States on the 2d. But there will be votes on the 3d, 4th, and 5th of November. There would be votes on Monday, the 8th; Tuesday, the 9th; and Wednesday, the 10th, but no votes on Veterans Day, the 11th, Thursday, the 11th, or Friday, the 12th. There then would be votes on the 15th, Monday; the 16th, Tuesday; the 17th, Wednesday; the 18th, Thursday; the 19th, Friday, and possibly votes on the weekend of the 20th and the 21st, even Saturday and Sunday, and votes on the 22d, Monday, with the target adjournment day for this year on November 22, 1993.

Mr. MICHEL. Madam Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT] for that information because I know the Members have all been inquiring about it, and it also indicates that, if we can keep up to our schedule, then that cherished adjournment date could very well be then a couple days before Thanksgiving, and I appreciate the gentleman informing the Members of such.

ADJOURNMENT FROM FRIDAY, OCTOBER 22, 1993, TO TUESDAY, OCTOBER 26, 1993

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that when the House adjourns on Friday, October 22, 1993, it adjourn to meet at noon on Tuesday, October 26, 1993.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 21, 1993.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Thursday October 21, 1993 at 1:05 p.m.: that the Senate passed without amendment: H.R. 328; and agreed to the Conference Report and amendments in disagreement to H.R. 2519.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk.

GIVE THESE BLUE RIBBON SCHOOLS AN "A"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Madam Speaker, I proudly take to the floor today to celebrate the achievements of three schools in my district: Farmington High School, Rolla Senior High School, and Rolla Middle School. These three schools from southern Missouri have been chosen as outstanding Blue Ribbon Schools.

So often, Mr. Speaker, Congress debates and considers what is wrong and broken with our Nation. The public education system has not missed out on this discussion and has been the target of a great deal of criticism. As often happens in the Nation, we forget to remember that there are hundreds of education success stories—millions of students who are learning and excelling. It is my honor and pleasure to join in the Department of Education's celebration of what is good in our public education system.

Let me tell you a little about the schools from the Eighth District of Missouri that are being honored this week. Farmington High School serves a rural community 75 miles south of St. Louis. The school district, along with the community, is rapidly growing and the city of Farmington's theme for the school district is tradition and progress.

Farmington High School has achieved success by having the flexibility to adapt its programs to meet the specific needs of the student population. Besides being flexible, Farmington High School is both innovative and prudent. Even though the money spent by Farmington High School is moderate by national standards, the performance of their students is above both National and State averages. This is a statement worthy of repeating. Even through Farmington's spending per pupil is average, the students at Farmington High School perform far above the national and State averages.

The second school receiving a Blue Ribbon Award is Rolla Senior High School. Rolla High School has a great tradition of academic excellence and proven success in educating students from highly diverse backgrounds. In the last 5 years, Rolla High School has had 58 students who were commended, semifinalists, and finalists in the National Merit Scholarship Program. Eighty-five students qualified for the Missouri Higher Education Academic Scholarship Program by achieving a national score in the top 3 percent on the ACT or SAT exams. Additionally, the Presidential Academic Fitness Award was earned by 257 students.

Finally, Madam Speaker, I want to congratulate the third school from the Eighth District of Missouri to receive the Blue Ribbon School Award, Rolla Middle School. One of the most remarkable features about Rolla Middle School is its strong commitment to parental and community involvement in education. Rolla Middle School boasts an 85 percent participation rate in biannual parent-student-teacher conferences. Rolla students flourish in this environment. Students have been recognized for excellence at both State and National levels and school attendance exceeds 93 percent. Rolla Middle School is most certainly on the right track.

Once again, I want to applaud Farmington High School, Rolla High School, and Rolla Middle School for their selection as recipients of the prestigious Blue Ribbon Schools Award. They are clearly among the most distinguished schools in the Nation with a tireless commitment to excellence in education.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RUSH (at the request of Mr. GEPHARDT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STEARNS) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, today.

Mr. TALENT, for 60 minutes, on November 9.

(The following Member (at the request of Mr. SABO) to revise and extend his remarks and include extraneous material:)

Mr. MONTGOMERY, for 5 minutes, today.

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. EMERSON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. STEARNS) and to include extraneous matter:)

Mr. HASTERT.

Mr. ALLARD.

Mr. ZIMMER.

(The following Members (at the request of Mr. SABO) and to include extraneous matter:)

Mr. COPPERSMITH.

Mr. STARK in two instances.

Mr. MORAN.

Mr. BONIOR.

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mr. OXLEY.

Mr. SMITH of New Jersey.

Mr. BILIRAKIS.

Mr. PACKARD.

Ms. FURSE.

Mr. COOPER.

Ms. VELÁZQUEZ.

Mr. ABERCROMBIE.

Mr. BARCA of Wisconsin.

Mr. WOLF.

Mrs. LOWEY.

Mr. SKELTON.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On October 20, 1993:

H.J. Res. 111. Joint resolution designating October 21, 1993, as "National Biomedical Research Day."

H.R. 2446. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 2518. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 3123. An act to improve the electric and telephone loan programs carried out under the Rural Electrification Act of 1936, and for other purposes.

ADJOURNMENT

Mr. WALKER. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Friday, October 22, 1993, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2051. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the transfer of 25 naval vessels to certain foreign countries; to the Committee on Armed Services.

2052. A letter from the Executive Officer, National Science Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1992, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2053. A communication from the President of the United States, transmitting notification of the deployment of U.S. Naval Forces to participate in the implementation of the petroleum and arms embargo of Haiti (H. Doc. No. 103–153); to the Committee on Ways and Means and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABERCROMBIE (for himself, Mr. OBERSTAR and Mr. BACCHUS of Florida):

H.R. 3327. A bill to amend title 18, United States Code, to protect domestic and foreign tourists and other travelers in interstate and foreign commerce; to the Committee on the Judiciary.

By Ms. BYRNE:

H.R. 3328. A bill to prohibit the U.S. Postal Service from expending any further funds in connection with instituting a new logo until such time as its operations are no longer being conducted at an annual loss; to the Committee on Post Office and Civil Service.

By Mr. CONYERS:

H.R. 3329. A bill to assure due process and equal protection of the law by permitting the use of statistical and other evidence to challenge the death penalty on the grounds of disproportionate patterns of imposition with respect to racial groups, to prohibit such patterns, and for other purposes; to the Committee on the Judiciary.

H.R. 3330. A bill to amend title 18, United States Code, with respect to civil rights related crimes; to the Committee on the Judiciary.

H.R. 3331. A bill to protect civil rights; to the Committee on the Judiciary.

H.R. 3332. A bill to strengthen the Federal response to police misconduct; to the Committee on the Judiciary.

By Mr. HOKE:

H.R. 3333. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for contributions to a Medisave account; to the Committee on Ways and Means.

By Mr. DOOLITTLE (for himself, Mr. DORNAN, Mr. HANSEN, Mr. KYL, Mr.

Hunter, Mr. Ballenger, Mr. Baker of California, Mr. Barton of Texas, Mr. Ewing, Mr. Sam Johnson of Texas, Mr. Stump, Mr. Inhofe, and Mr. Fields of Texas):

H.R. 3334. A bill to impose limitations on the placing of U.S. Armed Forces under the operational control of a foreign national acting on behalf of the United Nations; jointly, to the Committees on Foreign Affairs and Armed Services.

By Ms. FURSE:

H.R. 3335. A bill to amend the Family Violence Prevention and Services Act to authorize the Secretary of Health and Human Services to administer a Federal demonstration program to coordinate response and strategy within many sectors of local communities for intervention and prevention of domestic violence; to the Committee on Education and Labor.

By Mr. LIVINGSTON:

H.R. 3336. A bill to amend title 18, United States Code, to provide mandatory life imprisonment for persons convicted of a third violent felony and to provide for the conversion of three military installations to be closed under the base closure laws into Federal prison facilities capable of incarcerating these persons; jointly, to the Committees on the Judiciary and Armed Services.

By Mrs. LOWEY:

H.R. 3337. A bill to amend chapter 44 of title 18, United States Code, to strengthen Federal standards for licensing firearms dealers and heighten reporting requirements, and for other purposes; to the Committee on the Judiciary.

By Mr. MONTGOMERY:

H.R. 3338. A bill to amend title 38, United States code, to repeal a requirement that the Under Secretary for Health in the Department of Veterans Affairs be a doctor of medicine; to the Committee on Veterans' Affairs.

By Mr. NADLER (for himself, Mr. Towns, Ms. Velázquez, and Mrs. Maloney):

H.R. 3339. A bill to provide that tolls may not be collected solely from vehicles exiting into Richmond County, NY, from a bridge connecting Kings and Richmond Counties, NY; to the Committee on Public Works and Transportation.

By Mr. SLATTERY (for himself, Mr. Bilirakis, Mr. Montgomery, and Mr. Stump, Mr. Applegate, Mr. Everett, Mr. Evans, Mr. Stearns, Mr. Sangmeister, Mr. King, Mr. Edwards of Texas, Mr. Tejeda, and Mr. Spence):

H.R. 3340. A bill to amend title 38, United States code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SLATTERY (for himself, Mr. Spence, Mr. McNulty, Mr. Bilirakis, Mr. Montgomery, Mr. Stump, Mr. Applegate, Mr. Everett, Mr. Evans, Mr. Stearns, Mr. Sangmeister, Mr. King, Mr. Edwards of Texas, and Mr. Tejeda):

H.R. 3341. A bill to amend title 38, United States code, to increase the rate of special pension payable to persons who have received the Congressional Medal of Honor; to the Committee on Veterans' Affairs.

By Mr. TRAFICANT:

H.R. 3342. A bill to establish a toll free number in the Department of Commerce to assist consumers in determining if products are American made; to the Committee on Energy and Commerce.

By Mr. WILLIAMS:

H.R. 3343. A bill to prohibit the expenditure of Federal funds on metric system highway signing, and for other purposes; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Ms. BYRNE introduced a bill (H.R. 3344) for the relief of Lloyd B. Gamble; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 323: Mr. Herger, Mr. Barrett of Nebraska, Mr. Gilchrest, Mr. Combest, Mr. Roth, Mr. Barton of Texas, Mr. Crane, Mr. Goss, Mr. Sam Johnson.

H.R. 441: Mr. Barca of Wisconsin.

H.R. 466: Ms. Margolies-Mezvinsky.

H.R. 830: Mr. Peterson of Minnesota, Mr. Slattery, Mr. Pombo, and Mr. Barca of Wisconsin.

H.R. 1360: Mr. Wynn.

H.R. 1504: Mr. Kasich and Mr. Hoke.

H.R. 1645: Mr. Dellums, Mr. Underwood, Mr. Farr, Mrs. Morella, and Mr. Hochbrueckner.

H.R. 1671: Mr. Synar, Mr. McDermott, Mr. Cramer, and Mr. Hochbrueckner.

H.R. 1753: Ms. Byrne.

H.R. 2091: Mr. Bachus of Alabama.

H.R. 2444: Mr. Herger.

H.R. 2735: Mr. Meehan.

H.R. 2835: Mr. Browder, Mr. Coppersmith, Ms. Byrne, and Mr. Barca of Wisconsin.

H.R. 2918: Mr. Ford of Michigan, Mr. Farr, Mr. Paxon, Mr. Smith of New Jersey, Mrs. Lowey, Ms. Woolsey, Ms. Pelosi, Mr. Wynn, Mr. Bishop, Mrs. Johnson of Connecticut, Mr. Gingrich, and Ms. Furse.

H.R. 2962: Mr. Matsui.

H.R. 3014: Mr Barca of Wisconsin.

H.R. 3023: Mr. Gilman, Mr. Bliley, Ms. Furse, Mr. Fish, Mr. King, Mr. Wolf, Mr. Lightfoot, Mr. Spence, and Mr. English of Oklahoma.

H.R. 3173: Mr. Linder and Mr. Shuster.

H.R. 3182: Mr. Nadler.

H.R. 3203: Mr. Blute, Mrs. Lowey, Mr. Foglietta, Mr. Johnston of Florida, and Mr. Dellums.

H.R. 3315: Mrs. Meek, Mr. Stokes, and Mr. Jefferson.

H.J. Res. 274: Mr. Manton and Mr. Jefferson.

H. Res. 148: Mr. Pomeroy.

H. Res. 165: Mr. Carr, Mr. Becerra, Mr. Cunningham, Mrs. Lowey, Mr. Abercrombie, Mr. Ford of Michigan, Ms. Pryce of Ohio, Mr. Dooley, Mr. Bonior, Mr. Studds, Mr. Inglis of South Carolina, Mr. Kingston, Mr. Doolittle, Mr. Hamburg, Mr. Mineta, Mr. Farr, Mr. Condit, Ms. Roybal-Allard, Mr. Barca of Wisconsin, Mr. Chapman, Ms. Waters, Mr. Holden, Ms. Molinari, Mr. Sensenbrenner, Mr. McCurdy, and Mr. Andrews of Texas.

H. Res. 271: Mr. Bilirakis and Mr. Baker of Louisiana.

SENATE—*Thursday, October 21, 1993*

(Legislative day of Wednesday, October 13, 1993)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Lo, children are an heritage of the Lord: and the fruit of the womb is his reward.—Psalm 127:3.

Father God, it is overwhelming to think of the responsibility and opportunity of parents and the consummate tragedy when responsibility is rejected and opportunity is lost. Our hearts are heavy as we contemplate the situation with many children and youth of our culture—abuse, abandonment, violence, sexual promiscuity—all resulting from indifferent parenthood.

Parents are irreplaceable in the formative years of the child. By the time a child is 3, he has learned half of all he will ever know. By the time he is 7, his character and personality are set.

Patient God, the breakdown of our culture is due, primarily, to parental failure. Forgive us, Lord. Help us to retake the home front and recover the values and virtues which will accrue from such an awakening.

We pray in Jesus' name who said, "suffer the little children to come unto me, and forbid them not; for of such is the kingdom of Heaven." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 21, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. MATHEWS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 3116, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3116) making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Helms/Brown modified amendment No. 1072 (to committee amendment on page 154), to limit the use of funds for the Armed Forces of the United States to conduct operations in Haiti.

(2) Mitchell (for Dole/Mitchell) amendment No. 1074, to express the sense of the Congress on funding for the deployment of the United States Armed Forces in Haiti.

AMENDMENT NO. 1072 TO COMMITTEE AMENDMENT ON PAGE 154; AMENDMENT NO. 1074

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 90 minutes of debate, evenly divided, on the two pending amendments.

If no one yields time, it will be deducted equally from both sides.

In my capacity as a Senator from the State of Tennessee, I suggest the absence of a quorum, with the time being charged equally to both sides.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, in a few hours we shall vote on the Helms amendment relating to Haiti, and I will cast a vote against the Helms amendment. But I rise to make a few comments to make it very clear that by that vote I am in no way endorsing the position of the administration with respect to Haiti. We have had a great deal of information from this——

The ACTING PRESIDENT pro tempore. The Senator will suspend for one moment.

I am advised the time for the next 90 minutes is controlled by Senator Helms, Senator Dole, and Senator Mitchell, and one of those parties will need to yield time in order for the Senator to be recognized.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed for 5 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HAITI

Mr. BENNETT. Mr. President, as I said, the vote will be on the Helms amendment, and I intend to vote against the Helms amendment, but I wish to make it very clear that in that vote I am not endorsing the position of the administration with respect to Mr. Aristide.

We have had a great deal of conversation about Mr. Aristide here on the floor of the Senate, and some people have suggested that it is the duty of the United States of America, as the leading democracy in the world, to return Mr. Aristide to power. He won a democratically conducted election; therefore, it is the American duty, so the reasoning goes, to see to it that he is returned to power on the basis of that election.

Without wishing to overstate the case, I would, nonetheless, point out that historically Adolf Hitler won a democratically free election and thereby came to power, immediately after which he abused his power. The question would be asked, would the United States in the reasoning that we have had before attempt to return Hitler to power if the military coup within the German military had succeeded in removing him?

As I say, I recognize that overstates the issue, but it makes it clear that simply winning one election does not automatically mean that an individual is worthy of calling upon all the international community to support him if his actions after his election demonstrate he is unworthy of power.

In my view, Mr. Aristide's actions have so demonstrated, and the record is very clear that once in power he used his position as the President to be the worst kind of demagogue, including inciting riots, violence, and murder, if you will, on the part of Haitian citizens.

That is not the kind of individual that I want American military gunboats or other power to be involved in in restoring the power in Haiti.

The problem in Haiti, of course, is very serious. The people in Haiti suffer tremendously. It is a tortured and difficult kind of problem. But it will not be solved in any way by taking a man who has a history of murder and violation of his office and putting him back on the throne from which he was ousted by the citizens of his own country.

So I wish to make it very clear, Mr. President, even though I will vote against the Helms amendment because I think it sets bad precedent. That does not in any sense mean that I am in support of Mr. Aristide or his murderous background.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. BROWN. Mr. President, while we are waiting for Members from both sides to come to add to the debate, I would simply note that I think it is appropriate that the time be allocated to both sides.

I ask unanimous consent that we note the absence of a quorum and that the time it consumes count against both sides equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair would ask at this point, who yields time?

Mr. CHAFEE. Mr. President, time is counting anyway under the quorum call, is it not? Is time equally divided now under the quorum call?

The ACTING PRESIDENT pro tempore. That had been the previous order, yes.

Mr. CHAFEE. Well, I ask unanimous consent that I might speak for 10 minutes and the time be equally divided between the sides.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DODD. Reserving the right to object, and I will not object, all I want to make sure is that the clock is running on this so we are not going to be in morning business or other business that would delay the vote at 11 o'clock.

The ACTING PRESIDENT pro tempore. The clock is running; the Senator is correct.

Mr. CHAFEE. So, Mr. President, I am free now to proceed for 10 minutes, as if in morning business, is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct. Time will be charged equally to both sides.

Mr. CHAFEE. Thank you, Mr. President.

And I thank the distinguished Senator from Connecticut.

(Ms. MOSELEY-BRAUN assumed the chair.)

BAN ON HANDGUNS SHOULD BE ENACTED

Mr. CHAFEE. Madam President, as my colleagues know, in May of this year, I reintroduced my Public Health and Safety Act.

What does this bill do? This bill bans the sale, the manufacture, and the possession of handguns in the United States of America. My legislation, which is S. 892, would establish a grace period of 6 months during which time handgun owners could turn in their handguns and receive the weapon's fair market value or $25, whichever is the greater.

After the 6-month period, Madam President, no one would be permitted to possess a handgun in the United States of America, except for law enforcement officials, military officials, antique collectors, target shooters—target shooters who belong to clubs where the weapons are kept under lock and key—and security guards with the proper credentials.

Madam President, every single day that goes by produces further shocking evidence that this legislation should be enacted.

I call my colleagues' attention to the lead stories in the Metro section of last Tuesday's Washington Post. This is it, Madam President. This is what it says: "Student, 13, Is Shot Inside SE Junior High."

The details of the incident are somewhat sketchy, but it indicates, say the police, that the victim, Robert Williams, was shot in the chest last Tuesday in the boys' locker room at J.H. Johnson Junior High School. Not senior high school; junior high school.

The police did not discuss the weapon, but you can rest assured the weapon was a handgun.

Further down in the article we learn that Johnson Junior High School, like 12 other schools in this district of the Washington, DC, area, has metal detectors at its main entrance.

Everybody knows that metal detectors are expensive. The school system, which does not have enough money for books and does not have enough money for athletic equipment or building repairs, has to spend its money on metal detectors and somebody to monitor the metal detector to keep handguns and other weapons out of the school.

This is a pathetic situation that is occurring in our Nation. But it is even sadder, even with this expensive hardware—the metal detector and the guards on it—that a student managed to bring a handgun into the school and to use it against another student. This is nothing short of insanity, and it is not at all uncommon. According to one survey, 135,000 students in this Nation of ours bring a weapon, a gun, a handgun to school every single day, just like it is a lunch box. How in the world are teachers to teach and students to learn in this environment of violence?

In the same section of the Washington Post of last Tuesday, 2 days ago, there are three other examples of the devastation that is occurring as a result of more than 70 million handguns circulating in our society and the easy access which we permit all individuals, including youngsters, to have to these weapons.

Page 2, Washington Post: "Gun Used to Kill Va. Trooper Linked to Earlier Case."

Virginia State Trooper Jose Cavazos was killed when he pulled over 21-year-old Lonnie Weeks and a friend on a routine speeding violation. Unbeknownst to the trooper, Weeks had stolen the car. When he was pulled over, he panicked, pulled out a 9 mm semiautomatic pistol, and began firing, hitting Trooper Cavazos at least five times and killing him.

Further down, page 3: "Youth Surrenders in D.C. Pool Shooting."

We all remember with horror the incident which took place last June in which an unidentified individual, standing on a faraway hill, fired 10 to 20 bullets from a semiautomatic handgun into a crowded swimming pool in Southeast Washington.

If a youngster cannot go to a swimming pool and be safe, where in the world is he going to go? No one was killed, but six children enjoying the first days of summer were physically wounded. Never mind the psychological trauma that those youngsters endured. The article tells us that a 14-year-old boy has turned himself in and confessed the crime—14 years old, and he had a handgun.

The same newspaper: "Police Wound Man at Club."

Two nights ago, in a Prince Georges County night club, 22-year-old Thomas Weems got into an argument with several of the patrons. He left, and threatened to settle the matter with a handgun. The employee informed two police officers. Weems came back, shot, and the police fired back, hitting him twice.

So it goes.

Listen to what is happening in my State, nice little Rhode Island.

October 12, Middletown, RI. Police arrest a 15-year-old boy for bringing a handgun to Middletown High School.

This is a quiet, small, rural town near the ocean. Yet, we have children bringing handguns to school.

September 18, Central Falls, RI. Fifteen-year-old Tommy DeGraft, of Pawtucket, was killed and his friend, Albert Robinson, was seriously wounded when another boy fired approximately 20 shots from his 9 mm semiautomatic handgun into their vehicle.

September 11, South Providence, RI. Eighteen-year-old Douglas Buchanan was shot and killed by another 18-year-old with a .38 caliber handgun following an argument at a party.

August 8, Cranston, RI. Norma Arevalo stepped out of her sister's apartment with her 2-year-old granddaughter just as 29-year-old Luis Torres, armed with a 9 mm semiautomatic handgun, began exchanging fire with two men in a van. Ms. Arevalo was shot once in the abdomen and once in the ankle.

This is a terrible situation. Seventy million handguns are circulating in our country, and 2 million are being added every year.

The NRA claims that handgun possession deters violence. On this basis, this should be the safest country in the world. But, of course, this is nonsense; the opposite is the case. The more handguns, the more violence there is in our society. More handguns simply spawn more slaughter.

A recent study published in the New England Journal of Medicine confirmed this point: Keep a handgun in the household and there is an eight times greater chance that somebody in that household will be shot by a handgun than if you did not have the handgun in the household.

And the chances are it is going to be a family member or an acquaintance, an intimate acquaintance, who is going to be shot by that handgun you have in the household.

This is the time for a radical reexamination of our handgun policy in the United States of America. The Brady bill, Senator KOHL's proposal, likewise, which prohibits handgun ownership by minors, is a good step. But, frankly, we have to face up to the whole situation and ban these guns totally in our society.

This violence is going to continue. Every single day is going to bring more evidence of it. I am absolutely convinced that by the end of this century, we will have a situation where every single family in America will have been affected by these handguns. That does not mean a mother or a father or child, daughter or son—perhaps that, perhaps a cousin or an uncle or an aunt—somebody in every single family in America is going to be shot and perhaps killed by this handgun slaughter that is going on.

So I commend to my colleagues the support of the legislation which I have introduced. It is Senate bill 892. I do seek cosponsors.

I am going to continue this battle and look for allies in it.

I thank the Chair.

Madam President, I ask unanimous consent to have these articles that I referred to printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 19, 1993]

STUDENT, 13, IS SHOT INSIDE SE JUNIOR HIGH

(By Ruben Castaneda)

A 13-year-old youth was shot in the chest by another teenager yesterday morning apparently in the locker room of the Southeast Washington junior high school where both are students, police officials said.

The youth, Robert Williams, was reported in fair condition at Children's Hospital. A 15-year-old has been charged with assault with intent to kill.

Police said evidence indicates that Robert was shot while he and the 15-year-old were in the boys locker room at J.H. Johnson Junior High, which is at Robinson and Bruce streets SE. They said the motive for the shooting had not been determined. The 15-year-old, accompanied by his parents, turned himself in yesterday afternoon. He was not identified because he is charged as a juvenile.

The wounded teenager apparently ran outside after being shot, then staggered in the school's front entrance about 11:30 a.m. and went to the security office, where he asked for help, police said. He was taken by ambulance to Children's Hospital.

Attendance records show that Robert was not in class yesterday, said Linda Moody, who represents Ward 8 on the D.C. school board. Moody was at a nearby school when she heard about the injured youth and went to Johnson immediately.

No school employee reported hearing any shots, Moody said, and classes were not disrupted.

Detectives and officers from the new violent crime and gang task force, which investigates nonfatal shootings in the 7th Police District east of the Anacostia River, are handling the case.

Authorities initially said that it appeared the shooting occurred off school grounds, but later found evidence of the shooting in the locker room.

Police would not say whether they determined how or why the gun was brought into the locker room. Johnson, like 12 other junior high and middle schools in the District, has a metal detector at its main entrance. However, a school system spokeswoman said such measures cannot guarantee that weapons will be kept out.

"Some of our schools have as many as 80 doors and windows that can be used by a student to introduce a gun inside the building," the spokeswoman, Karen Hinton, said. "There will never be enough security guards or metal detectors to stop that."

She said the school gymnasium is under the supervision of a physical education teacher during scheduled classes, but she did not know whether the locker room is supervised when no activities are scheduled.

"I don't think you can ask anybody to supervise a student all the way to a toilet seat," said.

Moody said it is difficult to secure every entrance to the building. "We have a constant feud with the fire department over this; they say keeping the doors locked is a fire hazard and we say that keeping them open is a security hazard," she said.

Dianne Sledge, mother of the wounded youth, said that she believed her son had been in school yesterday and could not think of any reason anyone would want to hurt him.

A school security employee described Robert as well-behaved, and school officials said he attended classes regularly. There are about 350 seventh-, eighth- and ninth-graders at Johnson.

In another violent incident last night, a 24-year-old District man was fatally shot in the middle of Seventh Street NE in the Stanton Park neighborhood.

The man, whose identity was not released, was killed about 9:40 p.m. in the 900 block of Seventh Street NE. Police said they found about 20 casings from two firearms along a 100-yard path leading to the body.

No one was arrested last night.

As of yesterday, 373 people had been slain in the District so far this year, compared with 361 killed by the same date last year.

[From the Washington Post, Oct. 19, 1993]

POLICE WOUND MAN AT CLUB

(By Jon Jeter)

A Prince George's County man was wounded yesterday in an exchange of gunfire with two off-duty police officers outside an Oxon Hill nightclub, authorities said.

Police said Thomas Chapman Weems, 22, of Temple Hills, fired first at the two officers and was struck in the shoulder and arm when they returned fire. He was in stable condition yesterday at Prince George's Hospital Center.

Police said Weems and several other patrons at the Oak Tree nightclub in the 6100 block of Oxon Hill Road were arguing. Weems left, but threatened to return with a gun.

A club employee reported the incident to off-duty police officers Harold Hayes, who was in uniform after completing his shift at the Oxon Hill precinct, and Eddie Smith, who was out of uniform, said Capt. James Terracciano, a department spokesman. Hayes had stopped by the club to speak with Smith, Terracciano said.

As Hayes and Smith stood outside the club about 2:15 a.m., Weems returned from the parking lot carrying a handgun, police said. The officers identified themselves and ordered him to drop the gun as he stood in the parking lot, police said. Instead, said Terracciano, Weems fired at least one shot at the officers, they returned his fire, and he ran to his car and sped away.

Patrol officers arriving to provide assistance saw Weems throw a handgun out of his car as he drove north on St. Barnabas Road and crossed under the Capital Beltway, police said. The officers gave chase, and Weems was arrested near his home in the 2200 block of Alice Avenue. A .38 caliber handgun with six spent rounds of ammunition was recovered on St. Barnabas Road, police said.

During the arrest, police discovered that Weems had been hit by gunfire at least twice. He was taken by ambulance to Prince George's Hospital Center, police said.

Smith and Hayes, each with one year of experience, have been placed on routine administrative leave with pay pending an internal investigation. The shooting is the first for both officers. It is the 16th this year by county police officers. Eight were fatal.

[From the Washington Post, Oct. 19, 1993]

YOUTH SURRENDERS IN D.C. POOL SHOOTING

(By Ruben Castaneda)

A 14-year-old who was being sought by D.C. police as the suspected gunman in an attack at a crowded city swimming pool last summer turned himself in yesterday.

The Southeast Washington youth, who was not identified because he is charged as a juvenile, is to be presented today in juvenile court on six counts of assault with intent to kill.

Accompanied by a lawyer, the teenager surrendered about 11 a.m. at police headquarters at Third Street and Indiana Avenue NW, police said.

Investigators said they are not seeking any other suspects in the June 22 attack at the Benning Road Recreation Center in Southeast Washington. A 17-year-old, believed to be an accomplice in the pool shootings, was arrested Friday. He also is charged in the slaying of a 15-year-old male in 1992.

Investigators did not divulge further details yesterday about the investigation and did not say whether they knew of a motive.

At the time of the shooting, police said it was linked to a feud between a gang, or crew, based near Alabama Avenue SE and another gang from the Eastgate public housing complex located near the recreation center.

Police did not say whether the teenager arrested yesterday lives in either neighborhood.

Six children from 5 to 14 years old were wounded in the attack at the pool, which sent scores of people diving and scrambling for cover. Using a semiautomatic handgun, the gunman fired 10 to 20 shots toward the pool from a hill about 40 yards away.

Yesterday's arrest culminated the second investigation into the pool shooting, police said.

In early July, D.C. detectives arrested a 23-year-old man and charged him in the shooting. But at the request of the U.S. attorney's office, which cited weak and contradictory evidence, a Superior Court judge dismissed charges against the man three weeks later. The investigation then was turned over to a group of D.C. detectives who handle old cases, along with agents from the FBI and the federal Bureau of Alcohol, Tobacco and Firearms.

D.C. Council member Kevin P. Chavous (D-Ward 7), who represents the area in which the pool shootings occurred, said he was pleased with the arrest but would not be satisfied until there are court convictions.

Many residents of his ward feel the same. Chavous said. "I don't think you'll see a tremendous public expression of relief," the council member said.

Chavous said he was particularly pleased that the alleged gunman turned himself in. Chavous said he hoped community outrage at the shootings played a role in the youth's decision to give himself up.

"He must have gotten the message that the community will not stand for this," Chavous said.

[From the Washington Post, Oct. 19, 1993]

GUN USED TO KILL VIRGINIA TROOPER LINKED TO EARLIER CASE

(By Carlos Sanchez)

The gun that killed a Virginia state trooper earlier this year had been used only weeks earlier in another slaying in North Carolina, a Prince William County prosecutor said yesterday.

Assistant Commonwealth's Attorney James Willitt said that Lonnie Weeks Jr., of Fayetteville, N.C., was hiding the 9mm Glock semiautomatic pistol when Trooper Jose M. Cavazos pulled him and a relative over during a traffic stop near Dale City on Feb. 24.

Weeks, 21, has been charged with capital murder in the state trooper's slaying, and his trial on that charge began in Manassas yesterday. Few details of the earlier killing, for which Weeks has not been charged, were given to jurors during the prosecutor's 15-minute opening statement.

"Trooper Cavazos was a busy man." Willitt told the jury of nine women and four men. "He was busy with his duties as a state trooper, as a father to two children and as a husband. But Lonnie Weeks was also busy. In North Carolina, he was burglarizing a home in which several items were taken, including a car."

But it was because of that stolen car, defense attorney Daniel Morissette told jurors, that Weeks "had reason to be afraid" when he shot Cavazos, an eight-year member of the force who was called "Poppa" by colleagues.

In a short opening statement and in the line of questioning that defense attorneys presented in choosing the jury, Morissette suggested that though Weeks might be guilty of murder, he is not guilty of capital murder, which can carry the death penalty.

"He panicked. He did something that he deeply regrets," Morissette said, noting that Weeks returned to the scene of the shooting "to see what he could do for Trooper Cavazos."

According to Willitt, Weeks stole a 1987 Volkswagen Jetta and then drove to Washington to meet his uncle, Louis Dukes Jr., 21. Dukes has been charged with first-degree murder in Cavazos's slaying. His trial is scheduled for Nov. 15.

The two men soon headed south on Interstate 95, Willitt said, "and it was at that time that fate caused [them] and Trooper Cavazos to meet."

Cavazos 50, a Persian Gulf War veteran, pulled the vehicle over shortly after midnight on a speeding violation. Willitt said. He told Dukes, who was driving the car, to step out and then ordered Weeks out of the passenger side.

Willitt said that after Cavazos issued a second order to Weeks, the defendant raised the hidden handgun and began firing, striking Cavazos at least five times. As Willitt described the shooting to jurors, the slain trooper's wife, Linda, could be heard crying quietly in the back of the courtroom.

Weeks then took over the driving, but the two men abandoned the car about half a mile away, according to Willitt. He said that witnesses later saw Weeks near the trooper's body. He did not try to render aid, but bent over and picked up a piece of paper, Willitt said. The paper remains a mystery, although Willitt suggested that it was some identification that would tie Weeks to the killing.

Before jury selection began yesterday morning, Weeks pleaded guilty before Circuit Court Judge Herman A. Whisenant Jr. to car theft and also to using a handgun in the commission of a felony.

Commonwealth's Attorney Paul B. Ebert later said that he couldn't understand how Weeks could be guilty of those two crimes without being guilty of the trooper's murder. The pleas, he said, were not part of any plea bargain.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Madam President, I ask unanimous consent I may use such time as I may consume under the control of the Republican leader—but not too much time, I am just told.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN POLICY

Mr. COATS. Madam President, very briefly, I just want to say a couple of things here because I know the time is limited and the requests for that time are numerous.

No. 1, I, like many Senators, abhor the situation that currently exists with the disarray in the administration over establishing clear-cut national foreign policy goals. That leaves a vacuum, and Congress has stepped in to attempt to fill that vacuum. We are really not equipped to do so. We ought to speak in this Nation with one voice. That voice ought to be out of the administration.

As much as I deplore the lack of firm, concise, clear direction out of the administration, I believe that is where the responsibility lies and must lie. Therefore, I will reluctantly vote against the amendment of my friend, the Senator from North Carolina, and support the leadership amendment because it does, I think, retain that necessary balance between the executive branch and the legislative branch in terms of dictating foreign policy.

I clearly have grave reservations about our sending troops to either Haiti or Bosnia. I do think Congress has a voice and needs to play a role. But I do think that direction must come from the executive branch.

Again, as I have on this floor on a number of occasions, I urge the President and his national security team to take this matter with the utmost seriousness. I am encouraged by the comments, the very honest and straightforward comments, made yesterday by Tony Lake, the President's National Security Adviser, in which he admits that the administration has made a series of mistakes in its handling of the issues in Somalia and Haiti.

They have indicated that there are top to bottom weaknesses that they are moving to change. I am pleased that they are finally recognizing this. I am pleased that they are taking steps to change this, and I hope they can do so with clarity and with speed, which will give us some reassurance that we are making progress in these areas.

FAMILY, INVESTMENT, RETIREMENT, SAVINGS AND TAX FAIRNESS ACT

Mr. COATS. Madam President, just taking 1 more minute of time, I will be introducing today legislation on another matter. It addresses the inequities that exist in the Tax Code relative to support for families. It encourages savings and investment to provide jobs for Americans, and it addresses the deficit and deficit reduction, all items that I think are important.

We hope to carve out some time where a number of Members can come over and discuss this in detail. It is called the Family, Investment, Retirement, Savings, and Tax Fairness Act. I am going to introduce it today, along with cosponsors Senators HUTCHISON, LOTT, CRAIG, MACK, NICKLES, BURNS, MCCAIN, GRAMM, and BENNETT, and others who have shown interest. We will carve out some time, hopefully next week, to detail this in terms of what it seeks to accomplish.

Madam President, with that, I yield the floor.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. MATHEWS addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. MATHEWS. Madam President, I ask unanimous consent that I be allowed to speak for up to 5 minutes on the time allotted to the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHEWS. Madam President, this current debate concerns me, and I come this morning to speak to the body and speak as a freshman Member and one who might be a little quieter than those who have already spoken. There are some things on my mind that I would like to share with my colleagues.

I am told that on every Senator's desk, somewhere on Capitol Hill, is a set of book-bound reports titled "Legislation on Foreign Relations."

Those reports itemize every bill currently in force that affects conduct of U.S. foreign policy. In 1960—when the Congressional Research Service first prepared that document—it was 1 volume and 519 pages. Today, foreign policy legislation sprawls over five CRS volumes, nearly 8,000 pages.

Over 30-plus years, Congress has intruded steadily into the prominence of the Executive branch to set and execute foreign policy. Three decades of incursion is unacceptable enough. But in recent legislative days, Congress' desire to impede Presidential authority has gone beyond our reasonable role. It is time that it ceased.

I speak as a freshman Senator—a freshman who respects the intentions of predecessors who filled the five volumes I spoke of—and a freshman who believes his current colleagues act from good intentions. But freshman or not, this Senator also supports the separation of powers doctrine. I believe our Constitution does the wise thing in granting the Executive power to propose and direct while granting Congress power to dispose and disburse funds.

The Framers of our Constitution knew that the President could not seek congressional consent for every response to threats against American interests. Today, American troops are deployed because their President had to make several such decisions. Congress shares a responsibility when American forces are sent into action. But the paramount decision rests with the Commander in Chief, and so does the power to carry out that decision.

The line between congressional and Executive power moves with time and circumstance. But that line should not meander with an occasion for political point-making. When Ronald Reagan committed American troops in Grenada—when George Bush drew the line in Panama and again in the sands of Saudi Arabia—they were backed by those who would now curtail this President in exerting his Presidential authority. The comparison and the conclusions from it are unavoidable.

The President must retain power to commit military forces, deal with unstable situations, and react to threats against American lives and national interests. We cannot ask allies to join us in the rightful use of arms if they know political alliances on Capitol Hill will abridge our involvement. Adversaries will not respect the threat of American military might unless the word of our Commander in Chief can bring that might to bear.

Congress must exercise its right to demand explanation of the President, to call his advisers to account, and to air conflicting viewpoints through committee testimony. Above all, Congress must demand its right to be consulted. Frankly, this issue might have been defused if we had been consulted before some recent actions.

However, that does not change the basic point I wish to make this morning. The powers of the Executive are distinctly different from those of the Congress. Trying to micromanage foreign policy by legislation—or conduct military operations by amendment—does little to refute charges that Congress is trying to dictate in the domain of the Executive. The rightful power of Congress is the power of the purse. We should exercise that power in foreign policy only when a dire breach of sense—or a grotesque interpretation of national interest—makes it unconscionable to risk American lives.

Such is clearly not the case today. That extreme has not been reached. The extreme rests with those who call Congress to unwarranted use of budgetary power.

I would be remiss if I failed to thank both the majority and Republican leaders for the accord which they reached yesterday. It appears that reason has won over emotion and expediency.

I plan to support the Dole-Mitchell amendment today, and I want to thank the Chair and thank my colleagues for the opportunity to speak this morning on this subject.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I ask unanimous consent to use up to 10 minutes of the time of the supporter of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I rise in support of the amendment under consideration that is being proposed by Senator DOLE, Senator MITCHELL, and others. I want to especially express my appreciation and, to some extent, sympathize with Senator DOLE as he and every Member of this body has struggled to respond to the will of the American people, which is to stop this reckless adventurism and unfocused military policy and, at the same time, not infringe upon the constitutional powers of the President of the United States.

I appreciate his continued negotiations with the administration and with others, including this Senator, as we have tried to find a balanced amendment, yet one that sends a clear and unmistakable message to the President of the United States that the people of this country are not prepared to send military troops into Haiti without prior approval of the Congress and the American people.

I believe that the amendment which we are considering, largely due to the efforts of Senator DOLE, is an appropriate one. It is a very serious mistake for us to militarily intervene in Haiti, and I remind my colleagues again that the only way we will prevent a repetition of the lessons of history is to pay close attention to them.

In the book entitled the "History of the United States Marine Corps," is well chronicled the events that took place, our earlier occupation of Haiti, which lasted from 1915 to 1934, where our original intent was to "protect the Americans and their interests in Haiti."

It was an incursion that was envisioned to be of a very short period of time, a matter of a few months, but ended up lasting 19 years, with the loss of many American lives and the loss of many Haitian lives. I know of no historian who judges Haiti to be better off from having been occupied by the United States Marine Corps for 19 years.

I do not know, Madam President—and I believe and I hope that an investigation will so show—why the United States of America dispatched a few hundred lightly armed Americans to Port-au-Prince to be frightened off by a band of thugs. Some incredibly bad prior planning must have gone into what can only be perceived to be a national embarrassment.

I would also like to say a few words about President Aristide. I heard passionate defenses of President Aristide in this Chamber and in the media in the last few days.

Madam President, I think there should be a thorough examination of all President Aristide's behavior and the information that was received by Senators yesterday in a briefing by the CIA and the State Department before we put all our money and the U.S. prestige behind this individual. The total record of this man's behavior should be made clear to the American people and let them judge.

Did President Aristide have a role in the execution of one of his political opponents? That should be known. Did President Aristide glorify the horrible practice of "necklacing," of putting automobile tires around people's necks and lighting them on fire? That is a question that needs to be examined and fully, I believe, understood by the people of this country before we support him.

Is there another way to bring about a peaceful settlement in Haiti? I do not know, but I am concerned. I am concerned that in the past we have placed all of our prestige and United States influence behind one individual and more than once we have been disappointed, including the early days of the Vietnam war when we supported Ngo Dinh Diem and then later colluded in his assassination.

Madam President, I am very worried about the events that are still continuing in Somalia. What we have done is we have placed Americans in bunkers. They are hunkered down.

According to the Washington Post, they are not even going out on patrols. They are not trying to control the streets. The Rangers have been withdrawn. The Clinton administration has added troops to or withdrawn them from Somalia at least five times. According to the Washington Post:

> "This whipsawing of the force package and the description of what we think we are doing is fairly typical of this administration so far," said one senior officer who usually reflects the thinking of top military leaders. "The MTV generation doesn't seem to have much of an attention span."

I think that is true about Haiti. I think it is true about Somalia. I think it is true about Bosnia. Madam President, the American people deserve better. We are not talking about domestic issues. We are talking about the lives of the men and women who volunteer to serve this Nation.

In Bosnia, we have taken every possible position that we could. In the case of Somalia, clearly the military advice and recommendation of our military leaders has been overruled.

> President Clinton told reporters the Joint Chiefs, the chairman, vice chairman, and force service chiefs were themselves split on the question of sending armor to Somalia. However, reliable sources say General Montgomery's request was never discussed by the Joint Chiefs. The White House put the military on course in Somalia of following U.N. wishes to hunt down fugitive warlord Mohamed Farah Aideed, yet Marine Corps Commander * * * of U.S. Central Command which oversees forces in Somalia told a closed meeting of the Senate Armed Services Committee last week that he opposed the hunt for General Aideed.

General Aideed must be a chameleon-like character; he has gone from a thug and fugitive to a major player in the peace process in Somalia, an amazing transformation.

> Military officials in the Pentagon opposed sending a group of lightly armed military engineers to Haiti because of their concerns for their safety.

Madam President, why were not the views of military officials taken into consideration when they went to Haiti and then were scared off by a band of thugs at the dock at Port-au-Prince? What is wrong with the decisionmaking process in this country? It is badly in need of repair.

I support the amendment and appreciate the leadership of Senator DOLE on this issue.

Mr. DOLE. Madam President, I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I thank my distinguished colleague, Senator DOLE, for the allocation of some time. I support the Mitchell-Dole amendment, Madam President, because I think it is an appropriate political accommodation to the very pressing problems pending in Haiti. It also demonstrates that even with strident differences of opinion between Members of the Congress and the executive branch over serious foreign relations problems, the Constitution of the United States is working. A good faith effort has been made to work out the details of a political accommodation which will leave the President sufficient flexibility in his authority as Commander in Chief and yet set a broad range of conditions for appropriate congressional involvement.

During the course of the last several weeks, there has been a temptation for the Congress to exercise greater authority over foreign policy through the power of the purse, the power to control expenditures. We have seen a series of amendments by Senator BYRD, Senator MCCAIN, Senator NICKLES, Senator HELMS, and others to ensure congressional involvement and to stop certain Presidential activity. The temptation has been great, Madam President, because the administration policy has been uncertain, vacillating, indefinite and sometimes near panic. As we have looked at circumstances in Somalia there have also been major reversals of administration policy in Bosnia; and in Haiti there has been uncertainty and vacillation with respect to what the President intends to do.

This has been followed by consultation with the Congress where there are people who have extensive experience in matters of foreign affairs and who want to still leave appropriate latitude for the executive branch.

Yesterday, Madam President, I spoke in opposition to the amendment offered by the distinguished Senator from North Carolina, because I thought it was too restrictive of executive authority in that it requires authorization in advance, thus limiting the President's authority to temporary deployment.

An amendment has been carefully crafted and presented by many Senators, led by our leaders, Senator MITCHELL and Senator DOLE, which leaves appropriate latitude for Presidential discretion. Without reviewing the details of the amendment, again because of insufficient time, there are provisions in section (b)(3) for Presidential action where there are vital national security interests involved.

While there are some other limitations and parameters, the President has extensive discretion to make that determination of national security interest.

There is a further exception for the President in subsection (c) where there are again a variety of conditions but the critical issue is whether there is justification by U.S. national security interests. As I read this amendment, there is sufficient latitude.

So the important events in Bosnia, Somalia, and Haiti have led the Senate to negotiate with the President, and work out a formula which may well apply in the future for situations where the parameters of Presidential authority are circumscribed to some extent. However, there is still the essence of Presidential power to determine when the national security interests of the United States require executive action.

It would be counterproductive and set a bad precedent if the events of today led us to excessive limitations on Presidential authority.

So this is an appropriate political accommodation. It shows that the United States Constitution is working, and it sets the parameters for appropriate action in Haiti.

Mr. DOLE. Madam President, as I understand the time of the proponents has expired?

The PRESIDING OFFICER. The Senator from Kansas continues to control 6 minutes 10 seconds.

Mr. DOLE. If I could just take 1 minute of the 6 minutes, I think Senator HELMS is going to yield a few minutes to the Senator from Kentucky.

I want to make one statement because I think the press—I never quarrel with the press. We were honored to have President Bush to come by to meet with a few of us yesterday at the luncheon. I said, if you have any questions of the President, come in. They came in, and the President very obligingly said, I will support the leadership here.

I was there, and Congressman BOB MICHEL. They never even touched on the Haiti amendment or the Bosnian amendment.

I am appalled to read in this morning's paper, I guess it started with AP—that President Bush is supporting limits on Presidential powers, which he obviously never has done and did not do yesterday. What he was saying in effect, because we were all friendly, was what a great job we were doing. That is about all, in a very general way.

So, I want to correct any impression that the press may have, or anybody else may have, that President Bush came up here yesterday and in effect tried to pick a quarrel with President Clinton. He did not. He agreed with President Clinton. Every President agrees that there should not be any infringement on their authority.

We do not agree with that, but the President and the former Presidents do.

So, I wanted to set the record straight. And we were very honored to have President Bush here. I am sorry that happened, and I hope I did not cause him any discomfort. But he did issue a statement this morning saying pretty much what I just related.

He is not quarreling with Presidential authority. In fact, he wants to protect it. We have a different view as Members of Congress. We are in a different branch.

But I thought the record should be corrected. I hope whoever made the mistake—because there were several people in the press there, and only one or two got that impression—would now run a correction that President Bush did not even indicate, in fact barely discussed this issue, or Bosnia, or Somalia in our 1-hour meeting.

Madam President, the majority leader is on the floor.

Mr. HELMS addressed the Chair.

Mr. DOLE. Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Madam President, I yield 4 minutes to the distinguished Senator from Kentucky, Mr. McCONNELL, and 3 minutes to the distinguished Senator from Virginia, Mr. WARNER.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. McCONNELL] is recognized.

Mr. McCONNELL. Madam President, I thank my friend from North Carolina very much for giving me a few minutes.

The reason we have been having these foreign policy debates for the last week or so is because the Congress simply does not have any confidence in the President's ability in this area.

I think it has been useful, very useful for him. I think we have gotten his attention. I think he is finally beginning to sort out his priorities.

I have consistently opposed efforts to restrict President Clinton's options over the last week as we have dealt with various amendments on Somalia. And we will be dealing with Bosnia as well.

I am going to oppose efforts to restrict his options on Haiti, not because I have any great confidence in the ability that he has exhibited in foreign policy, but because I think it is important having argued against those kinds of prior restrictions under President Reagan and President Bush to take the same position with regard to President Clinton.

Having made that point, it seems to me, Madam President, that the message the President ought to get is clear. We do have a national interest in Haiti. Any way you want to define it, national security interests, national interests, vital interests, regardless of what you think the test ought to be, we have that interest in Haiti.

From my point of view, Aristide is not the issue. He won the election. But Aristide is not the issue. The Haitians can sort that out and decide who they want to be in charge of their country. Obviously they have a horrible mess down there. But America's interest is not in going around the world restoring leaders of one kind or another in power. America's interest is in protecting the United States.

Why do we have a vital interest in Haiti? It has been stated time and time again on the floor. It is not because unhappy Haitians want to come to the United States. In fact, the President before he was sworn in almost invited them to come in the United States, before he switched the policy back to essentially the same position President Bush took.

I think the President is now on the right track. At least insofar as he is sending warships down to the area, making the message clear that we would like for Haitians to stay in Haiti and work this problem out for themselves.

I think we are moving in the right direction. I do not think we ought to restrict any of the President's options that he may employ in dealing with the Haitian problem, because dealing with the Haitian problem is directly in our national interest, unlike the situation in Somalia where there is no American national interest whatsoever.

I am going to reluctantly oppose the amendment of my friend from North Carolina. My own view is that Aristide is not the issue.

I think Haiti is important to the United States. I hope this President is going to spend more time focusing his foreign policy attention on Haiti, because that is the place where we clearly by any standard have a national interest.

I am going to support the Senate leadership amendment. I think it goes in the right direction.

I want to thank my friend from North Carolina.

Mr. DODD. Madam President, will my colleague from Kentucky yield?

Mr. McCONNELL. I have no time to yield.

Mr. DODD. Madam President, I ask unanimous consent that the Senator from Kentucky have 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DODD. I want to commend the Senator from Kentucky. He has put it about as neatly and tightly as can be said. We can end the debate as far as I am concerned. He has pointed out exactly the issue. It is not about individuals or personalities. It is about our interest. It is a process we would like to support.

The Senator from Kentucky has said it very well. I commend him.

Mr. McCONNELL. I thank my friend from Connecticut.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Madam President, I would like to commend our leadership for this amendment on Haiti. I am pleased to be a cosponsor of it and to have assisted in its development.

For over 200 years, debate has occurred about the scope and extent of the respective military and foreign affairs powers of the President and the Congress under the Constitution. Our objective must be to advance U.S. interests through the coordinated exercise of the shared constitutional powers of the President and the Congress. The Dole-Mitchell amendment is designed to accomplish that goal.

The United States seeks to support democracy, freedom, and free enterprise in Haiti. There is in the United States a significant debate about whether there should be any U.S. military role in that effort and what any such role should be. Thus, it is particularly important that Congress have a role in making any future decision on a United States military role in Haiti. We need close consultation between the executive branch and the Congress and careful deliberation before any decision is made to commit United States forces to Haiti.

The Dole-Mitchell amendment expresses the sense of Congress that United States troops generally should not be sent into Haiti unless Congress enacts a law authorizing it. The amendment is, of course, careful not to interfere in any way with use of the armed forces for the evacuation or protection of Americans in Haiti.

The Dole-Mitchell amendment also excludes any restrictions on use of members of the Armed Forces to collect foreign intelligence, operate and protect diplomatic facilities, or counter emigration from Haiti to the United States. As vice chairman of the Select Committee on Intelligence, and without referring in any way to anything that may or may not be occurring in Haiti, I note that I asked for the exclusion of collection of foreign intelligence in recognition that use of members of the Armed Forces can become urgently necessary in these types of situations for advance force reconnaissance, rescue of cooperating sources of foreign intelligence, or collection of imagery, signals, and other types of intelligence. These intelligence activities are, of course, all subject to congressional oversight in accordance with title V of the National Security Act of 1947.

I urge my colleagues to support the Dole-Mitchell amendment to allow Congress to fulfill its proper role in any future national debate on whether to send United States troops to Haiti.

Because of the importance of the constitutional principles the Senate has discussed in connection with its debates of recent days on the situations in Haiti, Somalia, and Bosnia, I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD at this point the legal opinion of the Assistant Attorney General of the Office of Legal Counsel dated February 12, 1980, entitled "Presidential Power to Use the Armed Forces Abroad Without Statutory Authorization" and the accompanying appendix containing the legal opinion of the Assistant Attorney General of the Office of Legal Counsel dated October 26, 1983, entitled "War Powers Resolution: Detailing of Military Personnel to the CIA."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL POWER TO USE THE ARMED FORCES ABROAD WITHOUT STATUTORY AUTHORIZATION

FEBRUARY 12, 1980.

MEMORANDUM OPINION FOR THE ATTORNEY GENERAL

This responds to your request for our review of certain questions regarding the effect of the War Powers Resolution on the President's power to use military force without special congressional authorization and related issues. We have considered the President's existing power to employ the armed forces in any of three distinct kinds of operations: (1) deployment abroad at some risk of engagement—for example, the current presence of the fleet in the Persian Gulf region; (2) a military expedition to rescue the hostages or to retaliate against Iran if the hostages are harmed; (3) an attempt to repel an assault that threatens our vital interests in that region. We believe that the President has constitutional authority to order all of the foregoing operations.

We also conclude that the War Powers Resolution, 50 U.S.C. §§1541-1548, has neither the purpose nor the effect of modifying the President's power in this regard. The Resolution does, however, impose procedural requirements of consultation and reporting on certain presidential actions, which we summarize. The Resolution also provides for the termination of the use of the armed forces in hostilities within 60 days or sooner if directed by a concurrent resolution of Congress. We believe that Congress may terminate presidentially initiated hostilities through the enactment of legislation, but that it cannot do so by means of a legislative veto device such as a concurrent resolution.

I. The President's Constitutional Authority to Employ the Armed Forces

The centrally relevant constitutional provisions are Article II, §2, which declares that "the President shall be Commander in Chief of the Army and Navy of the United States," and Article I, §8, which grants Congress the power "To declare War." Early in our constitutional history, it perhaps could have been successfully argued that the Framers intended to confine the President to directing the military forces in wars declared by Congress.[1] Even then, however, it was clear that the Framers contemplated that the President might use force to repel sudden invasions or rebellions without first seeking congressional approval.[2]

In addition to the Commander-in-Chief Clause, the President's broad foreign policy powers support deployment of the armed forces abroad.[3] The President also derives authority from his duty to "take Care that the Laws be faithfully executed,"[4] for both treaties and customary international law are part of our law and Presidents have repeatedly asserted authority to enforce our international obligations[5] even when Congress has not enacted implementing legislation.

We believe that the substantive constitutional limits on the exercise of these inherent powers by the President are, at any particular time, a function of historical practice and the political relationship between the President and Congress. Our history is replete with instances of presidential uses of military force abroad in the absence of prior congressional approval. This pattern of presidential initiative and congressional acquiescence may be said to reflect the implicit advantage held by the executive over the legislature under our constitutional scheme in situations calling for immediate action. Thus, constitutional practice over two centuries, supported by the nature of the functions exercised and by the few legal benchmarks that exist, evidences the existence of broad constitutional power.[6]

The power to deploy troops abroad without the initiation of hostilities is the most clearly established exercise of the President's general power as a matter of historical practice. Examples such actions in the past include the use of the Navy to "open up" Japan, and President Johnson's introduction of the armed forces into the Dominican Republic in 1965 to forestall revolution.

Operations of rescue and retaliation have also been ordered by the President without congressional authorization even when they involved hostilities. Presidents have repeatedly employed troops abroad in defense of American lives and property. A famous early example is President Jefferson's use of the Navy to suppress the Barbary pirates. Other instances abound, including protection of American citizens in China during the Boxer Rebellion in 1900, and the use of troops in 1916 to pursue Pancho Villa across the Mexican border. Recent examples include the Danang sealift during the collapse of Vietnam's defenses (1975); the evacuation of Phnom Penh (Cambodia, 1975); the evacuation of Saigon (1975); the *Mayaguez* incident (1975); evacuation of civilians during the civil war in Lebanon (1976); and the dispatch of forces to aid American victims in Guyana (1978).

This history reveals that purposes of protecting American lives and property and *retaliating* against those causing injury to them are often intertwined. In *Durand* v. *Hollins*, 8 F. Cas. 111 (No. 4186) (C.C.S.D.N.Y. 1860), the court upheld the legality of the bombardment of a Nicaraguan town which was ordered because the local authorities refused to pay reparations for an attack by a mob on the United States Consul. Policies of deterrence seem to have eroded any clear distinction between cases of rescue and retaliation.

Thus, there is much historical support for the power of the President to deploy troops without initiating hostilities and to direct rescue and retaliation operations even where hostilities are a certainty. There is precedent as well for the commitment of United States armed forces, without prior congressional approval or declaration of war, to aid an ally in repelling an armed invasion, in President Truman's response to the North Korean invasion of South Korea.[7] But clearly such a response cannot be sustained over time without the acquiescence, indeed the approval, of Congress, for it is Congress that must appropriate the money to fight a war or a police action. While President have exercised their authority to introduce troops into Korea and Vietnam[8] without prior congressional authorization, those troops remained only with the approval of Congress.

II. Judicial Review of the President's Exercise of Constitutional Power

In the only major case dealing with the role of the courts with regard to this general subject, the Supreme Court upheld presidential power to act in an emergency without prior congressional authority. In the *Prize Cases*, 67 U.S. 635 (1863), the Court upheld President Lincoln's blockade of Southern ports following the attack on Fort Sumter. The Court thought that particular uses of inherent executive power to repel invasion or rebellion were "political questions" not subject to judicial review: "This Court must be governed by the decisions and acts of the political department of the Government to which this power was entrusted." (*Id.* at 670). The Court's unwillingness to review the need for presidential action in a particular instance in the *Prize Cases* or since has left the field to the President and Congress; much has depended on presidential restraint in responding to provocation, and on congressional willingness to support his initiatives by raising and funding armies.

More recently, the courts have applied the rationale of the *Prize Cases* to avoid judicial review of the constitutionality of the President's actions with regard to the Vietnam conflict.[9] Although the Supreme Court did not hear argument in the case, we believe some significance may be attached to the Court's summary affirmance of a three-judge court's decision that the constitutionality of the government's involvement in that conflict was a political question and thus unsuitable for judicial resolution. *Atlee* v. *Laird*, 347 F. Supp. 689 (E.D.Pa. 1972), *aff'd.* 411 U.S. 911 (1973).

III. The President's Statutory Powers

Congress has restricted the President's ability to rely on statutory authority for the

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Footnotes at end of article.

use of armed force abroad by its provision in the War Powers Resolution that authority to introduce the armed forces into hostilities or into situations "wherein involvement in hostilities is clearly indicated by the circumstances" is not to be inferred from any statutory provision not specifically authorizing the use of troops and referring to the War Powers Resolution. 50 U.S.C. §1547. Thus, the President may not rely on statutory authority for military actions clearly involving hostilities unless the statute expressly authorizes such actions.

Nevertheless, it may be possible for the President to draw authority for some actions not involving the use of the armed forces in actual or imminent hostilities from the provisions of an 1868 statute, now 22 U.S.C. §1732:

"Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress."

We are unaware of any instances in which this provision has been invoked. It was passed in response to a dispute with Great Britain after the Civil War, in which that nation was trying its former subjects, who had become naturalized Americans, for treason. The House version of the bill, which would have authorized the President to suspend all commerce with the offending nation and to round up its citizens found in this country as hostages, was replaced by the present language which was in the Senate bill. Cong. Globe, 40th Cong., 2d Sess. 4205, 4445–46 (1868). It is not clear whether this change was meant to restrict the President to measures less drastic than those specified in the House bill. It is also not clear what Congress meant by the phrase "not amounting to acts of war." At least Congress did not seem to be attempting to limit the President's constitutional powers.

IV. The War Powers Resolution

The War Powers Resolution, 50 U.S.C. §§1541–48, begins with a statement of purpose and policy that seems designed to limit presidential use of armed forces in hostilities to situations involving a declaration of war, specific statutory authorization, or an attack on the United States, its possessions, or its armed forces. This policy statement, however, is not to be viewed as limiting presidential action in any substantive manner. That much is clear from the conference report, which states that subsequent portions of the Resolution are not dependent on the policy statement,[10] and from its construction by the President since its enactment.

The important provisions of the Resolution concern consultation and reporting requirements and termination of the involvement of the armed forces in hostilities. The Resolution requires that the President consult with Congress "in every possible instance" before introducing the armed forces into hostilities, and regularly thereafter. 50 U.S.C. §1542.

The reporting requirements apply not only when hostilities are taking place or are imminent, but also when armed forces are sent to a foreign country equipped for combat. 50 U.S.C. §1543(a) (2), (3). The report must be filed within 48 hours from the time that they are introduced into the area triggering the requirement, and not from the time that the decision to dispatch them is made.[11] The report must include:

(A) The circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

50 U.S.C. §1543(a)(3). Reports which have been filed in the past have been brief and to the point. The reference to legal authority has been one sentence, referring to the President's constitutional power as Commander-in-Chief and Chief Executive.[12]

The Resolution requires the President to terminate any use of the armed forces in hostilities after 60 days unless Congress has authorized his action.[13] It also requires termination whenever Congress so directs by concurrent resolution.[14]

As enacted, the ambiguous language of the Resolution raises several issues of practical importance regarding the scope of its coverage as well as questions of constitutional magnitude. We shall discuss first several issues related to the scope of its coverage and then discuss several constitutional issues it raises.

A threshold question is whether the Resolution's use of the term "United States Armed Forces" was intended to reach deployment or use by the President of personnel other than members of the Army, Air Force, Marine Corps, Navy, or Coast Guard functioning under the control of the Secretary of Defense and the Joint Chiefs of Staff. For example, does it extend to military personnel detailed to and under the control of the Central Intelligence Agency (CIA), CIA agents themselves, or other individuals contracting to perform services for the CIA or the Department of Defense? We believe that none of these personnel are covered by the Resolution.*

The provision most closely on point is §1547(c), which defines the term "introduction of United States Armed Forces" to include "the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country" in actual or imminent hostilities. This provision appears to be intended to identify activities subject to the Resolution, and not the identity of persons constituting "members of such armed forces." It could be argued that anyone officially a member of the armed forces of this country, although on temporary detail to a civilian agency, is within this provision and therefore covered by the Resolution. The legislative history of the Resolution, however, persuades us to take a contrary view. In the Senate, where §1547(c) originated, Senator Eagleton introduced the following amendment:

"Any person employed by, under contract to, or under the direction of any department or agency of the United States Government who is either (a) actively engaged in hostilities in any foreign country; or (b) advising any regular or irregular military forces engaged in hostilities in any foreign country shall be deemed to be a member of the Armed Forces of the United States for the purposes of this Act."

He explained that it was intended to cover CIA paramilitary operations involving persons who might be military officers under contract to the CIA. 119 Cong. Rec. 25,079–83 (1973). He recognized that without this amendment the Resolution as drafted would not cover the activities in Laos as leading to America's Indo-China involvement. Senators Muskie and Javits opposed the amendment, principally for reasons of committee jurisdiction. They argued that if the Resolution were extended to cover the CIA, its chances to escape presidential veto might be jeopardized, and that the matter should be considered pursuant to proposed legislation to govern the CIA. Senator Javits also argued that the amendment was overbroad, since it would include foreign nationals contracting with the CIA. He argued that CIA activities should not be within the Resolution, because the CIA lacks the appreciable armed force that can commit the Nation to war. Senator Fulbright came to Senator Eagleton's defense, arguing that the amendment, applying to the CIA and DOD civilians alike, would avoid circumvention of the Resolution *Id.* at 25,083–84. No one suggested that the Resolution would apply to anyone other than military personnel under Department of Defense control unless the amendment passed. The amendment was defeated.[15]

In the House of Representatives, Congressman Badillo asked Congressman Zablocki, the manager of the bill, whether he would support in the conference committee a Senate provision that would include the CIA within the bill when it carried out military functions. Congressman Zablocki replied that he would support the Eagleton amendment if it passed the Senate. 119 Cong. Rec. 24,697 (1973).

Another provision of the Resolution that had its source in the House is consistent with the view that the Resolution was not intended to apply to CIA paramilitary activities. The reporting requirements of §1543(a)(2) apply when the armed forces are introduced "into the territory, air space or waters of a foreign nation, while equipped for combat * * *." It is clear from H.R. Rep. No. 287, 93d Cong., 1st Sess. 8 (1973), that this provision was using the term "armed forces" to mean significant bodies of military personnel:

"A report would be required any time combat military forces were sent to another nation to alter or preserve the existing political status quo or to make the U.S. presence felt. Thus, for example, the dispatch of Marines to Thailand in 1962 and the quarantine of Cuba in the same year would have required Presidential reports."

A companion provision reinforces the view that the Resolution applies only to significant bodies of military personnel. The House report goes on to discuss §1543(a)(3), which requires a report when the number of armed forces equipped for combat is substantially enlarged in a foreign nation. For examples of substantial increases in combat troops, the report gives the dispatch of 25% more troops to an existing station, or President Kennedy's increase in U.S. military advisers in Vietnam from 700 to 16,000 in 1962.

The second threshold question raised by the War Powers Resolution regards the meaning of the word "hostilities" as used in §1543(a)(1). In the 1975 hearings on executive compliance with the Resolution, Chairman Zablocki of the subcommittee on International Security and Scientific Affairs drew the Legal Adviser' attention to a discussion of "hostilities" in the House report on the Resolution:

"The word hostilities was substituted for the phrase armed conflict during the subcommittee drafting process because it was considered to be somewhat broader in scope. In addition to a situation in which fighting actually has begun, hostilities also encompasses a state of confrontation in which no shots have been fired but where there is a clear and present danger of armed conflict. 'Imminent hostilities' denotes a situation in which there is a clear potential either for such a state of confrontation or for actual armed conflict."

H.R. Rep. No. 287, 93d Cong., 1st Sess. 7 (1983) (emphasis added) Chairman Zablocki then requested the views of the Department of State and Defense regarding the executive's interpretation of the term "hostilities" in view of the language quoted above. Those Departments responded in a letter to the Chairman dated June 5, 1975, reprinted in War Powers: A Test of Compliance at 38–40. After first noting that "hostilities" is "definable in a meaningful way only in the context of an actual set of facts," the letter went on to state that, as applied by the executive, the term included: "a situation in which units of the U.S. armed forces are actively engaged in exchanges of fire with opposing units of hostile forces, and "imminent hostilities" was considered to mean a situation in which there is a serious risk from hostile fire to the safety of United States forces. In our view, neither term necessarily encompasses irregular or infrequent violence which may occur in a particular area."

*Id.*at 39.

We agree that the term "hostilities" should not be read necessarily to include sporadic military or paramilitary attacks on our armed forces stationed abroad. Such situations do not generally involve the full military engagements with which the Resolution is primarily concerned. For the same reason, we also believe that as a general matter the presence of our armed forces in a foreign country whose government comes under attack by "guerrilla" operations would not trigger the reporting provisions of the War Powers Resolution unless our armed forces were assigned to "command, coordinate, participate in the movement of, or accompany" the forces of the host government in operations against such guerrilla operations.[16] 50 U.S.C. §1547(c).

Furthermore, if our armed forces otherwise lawfully stationed in a foreign country were fired upon and defended themselves, we doubt that such engagement in hostilities would be covered by the consultation and reporting provisions of the War Powers Resolution. The structure and thrust of those provisions is the "introduction" of our armed forces into such a situation and not the fact that those forces may be engaged in hostilities. It seems fair to read "introduction" to require an active decision to place forces in a hostile situation rather than their simply acting in self-defense.[17]

A final issue of statutory construction involves interpretation of the requirement for consultation with "Congress."[18] As a practical matter, consultation with more than a select group of congressional leaders has never been attempted. The Legal Adviser of the State Department has argued for this Administration, correctly in our view, that there are practical limits to the consultation requirement; he has said that meaningful consultations with "an appropriate group of congressional representatives should be possible."[19] During the *Mayaguez* incident about ten House and eleven Senate Members were contacted concerning the measures to be taken by the President.[20]

In requiring consultation in "every possible instance," Congress meant to be firm yet flexible. H.R. Rep. No. 287, 93d Cong., 1st Sess. 6 (1973). The House report continued:

"The use of the word "every" reflects the committee's belief that such consultation prior to the commitment of armed forces should be inclusive. In other words, it should apply to extraordinary and emergency circumstances—even when it is not possible to get formal congressional approval in the form of a declaration of war or other specific authorization.

"At the same time, through use of the word "possible" it recognizes that a situation may be so dire, e.g., hostile missile attack underway, and require such instantaneous action that no prior consultation will be possible."

The State Department Legal Adviser, again speaking for this Administration, has pointed out the problem that exists in emergencies, noting that "[B]y their very nature some emergencies may preclude opportunity for legislative debate prior to involvement of the Armed Forces in hostile or potentially hostile situations." He recognized, however, that consultation may be had "in the great majority of cases."[21]

There may be constitutional considerations involved in the consultation requirement. When President Nixon vetoed the Resolution, he did not suggest that either the reporting or consultation requirements were unconstitutional. Department of State Bulletin, November 26, 1973, at 662–64. No Administration has taken the position that these requirements are unconstitutional on their face. Nevertheless, there may be applications which raise constitutional questions. This view was stated succinctly by State Department Legal Adviser Leigh:

"Section 3 of the War Powers Resolution has, in my view, been drafted so as not to hamper the President's exercise of his constitutional authority. Thus, Section 3 leaves it to the President to determine precisely how consultation is to be carried out. In so doing the President may, I am sure, take into account the effect various possible modes of consultation may have upon the risk of a breach in security. Whether he could on security grounds alone dispense entirely with "consultation" when exercising an independent constitutional power, presents a question of constitutional and legislative interpretation to which there is no easy answer. In my personal view, the resolution contemplates at least some consultation in every case irrespective of security considerations unless the President determines that such consultation is inconsistent with his constitutional obligation. In the latter event the President's decision could not as a practical matter be challenged but he would have to be prepared to accept the political consequences of such action, which might be heavy."

War Powers: A Test of Compliance at 100. Other constitutional issues raised by the Resolution concern the provisions terminating the use of our armed forces either through the passage of time (60 days) or the passage of a concurrent resolution.

We believe that Congress may, as a general constitutional matter, place a 60-day limit on the use of our armed forces as required by the provisions of §1544(b) of the Resolution. The Resolution gives the President the flexibility to extend that deadline for up to 30 days in cases of "unavoidable military necessity." This flexibility is, we believe, sufficient under any scenarios we can hypothesize to preserve his constitutional function as Commander-in-Chief. The practical effect of the 60-day limit is to shift the burden to the President to convince the Congress of the continuing need for the use of our armed forces abroad. We cannot say that placing that burden on the President unconstitutionally intrudes upon his executive powers.

Finally, Congress may regulate the President's exercise of his inherent powers by imposing limits *by statute*. We do not believe that Congress may, on a case-by-case basis, require the removal of our armed forces by passage of a concurrent resolution which is not submitted to the President for his approval or disapproval pursuant to Article I, §7 of the Constitution.

JOHN M. HARMON,
Assistant Attorney General,
Office of Legal Counsel.

FOOTNOTES

[1] Hamilton, in The Federalist No. 69, disparaged the President's power as that of "first General and Admiral" of the Nation, contrasting it to that of the British king, who could declare war and raise and regulate armies.

[2] *See* M. Farrand, 2 The Records of the Federal Convention of 1787, 318–19 (1911). Other presidential actions, such as protecting American lives and property abroad and defending our allies, were not directly considered by the Framers. This is understandable: the military needs of the 18th century probably did not require constitutional authority for immediate presidential action in case of an attack on an ally.

[3] *See generally United States* v. *Curtiss-Wright Export Corp.*, 299 U.S. 304 (1936).

[4] *See In re Neagle*, 135 U.S. 1 (1890) (broad view of inherent presidential power to enforce constitutional as well as statutory provisions).

[5] It should be observed, however, that treaties may not modify the basic allocation of powers in our constitutional scheme *Reid* v. *Covert*, 354 U.S. 1 (1957). Mutual defense treaties are generally not self-executing regarding the internal processes of the signatory powers. Similarly, customary international law, which includes authority for reasonable reprisals in response to another country's breach of international obligation, probably does not confer authority on the President beyond the warrant of necessity.

[6] In other contexts, the Supreme Court has recognized the validity of longstanding presidential practices never expressly authorized by Congress but arguably ratified by its silence. *See United States* v. *Midwest Oil Co.*, 236 U.S. 459 (1915) (withdrawal of public lands from private acquisition).

[7] Although support for this introduction of our armed forces into a "hot" war could be found in the U.N. Charter and a Security Council resolution, the fact remains that this commitment of substantial forces occurred without congressional approval.

[8] The substantial American military presence in Vietnam before the Tonkin Gulf Resolution was known to and supported by Congress.

[9] *See, e.g., Mora* v. *McNamara*, 387 F.2d 862 (D.C. Cir.), *cert. denied* 389 U.S. 934 (1967), *McArthur* v. *Clifford*, 393 U.S. 1002 (1968), *Massachusetts* v. *Laird*, 400 U.S. 886 (1970).

[10] *See* H.R. Rep. No. 547, 93d Cong., 1st Sess. 8 (1973). Section 1547(d)(1) states that the Resolution is not intended to alter the constitutional authority of the President. Fisher, *A Political Context for Legislative Vetos*, 93 Political Science Quarterly 241, 246 (1978), explains that because the two Houses could not agree on the President's responsibilities under Article II, Congress fell back on purely procedural controls.

[11] *See generally* Franck, *After the Fall: The New Procedural Framework for Congressional Control over the War Power*, 71 Am. J. Int'l L. 605, 615 (1977).

[12] *See War Powers: A Test of Compliance Relative to the Danang Sealift, the Evacuation of Phnom Penh, the Evacuation of Saigon, and the Mayaguez Incident, Hearings before the Subcommittee on Int'l Security and Scientific Affairs of the House Comm. on Int'l Relations*, 94th Cong., 1st Sess. 75 (Mayaguez) (1975) (hereafter *War Powers: A Test of Compliance*); *The War Powers Resolution, Relevant Documents, Correspondence, Reports*, Subcomm. on Int'l Security and Scientific Affairs, House Comm. on Int'l Relations, 94th Cong., 1st Sess. 40 (Danang); 42 (Phnom Penh); 45 (*Mayaguez*) (Comm. Print 1976).

[13] 50 U.S.C. §1544(b). There are exceptions to the 60-day period if Congress extends the period or is unable to meet, or if the President certifies that more time is needed to extract the forces.

[14] 50 U.S.C. §1544(c).

NOTE: This conclusion respecting the applicability of the War Powers Resolution to military personnel detailed to the Central Intelligence Agency was reconsidered and reversed in an opinion dated October 26, 1983, which appears as an appendix to this opinion at p. 197 *infra* Ed.

[15] It is an accepted canon of statutory construction that the rejection of an amendment indicates that the bill is not meant to include the provisions in the failed amendment. *See, e.g., Norwegian Nitrogen Products Co.* v. *United States*, 288 U.S. 294, 306 (1933).

[16] We believe that the definition of "introduction of United States Armed Forces" in §1547(c) supports the proposition that members of the armed forces stationed in a foreign country for purposes of training or advising military forces of the host government are not generally to be viewed as subject to the War Powers Resolution.

[17] In contrast, as passed by the Senate, the bill would have required a report whenever our armed forces are "engaged in hostilities." S. 440, 93d Cong., 1st Sess. §4, 119 Cong. Rec. 25,119 (1973).

[18] This replaced an earlier version which merely required consultation with the leadership and appropriate committees of Congress. H.R. Conf. Rep. No. 547, 93d Cong., 1st Sess. 8 (1973); H.R. Rep. No. 287, 93d Cong., 1st Sess. 6 (1973).

[19] Statement of State Department Legal Adviser Hansell before the Senate Foreign Relations Committee, reprinted in State Department Bulletin, August 29, 1977, at 291–92.

[20] Testimony of State Department Legal Adviser Leigh in *War Powers: A Test of Compliance* at 78.

[21] Statement of Legal Adviser Hansell, *id.*

APPENDIX

WAR POWERS RESOLUTION: DETAILING OF MILITARY PERSONNEL TO THE CIA

OCTOBER 26, 1983.

MEMORANDUM OPINION FOR THE DEPUTY ATTORNEY GENERAL

This responds to your inquiry whether a Central Intelligence Agency (CIA) operation utilizing military equipment and military personnel detailed to the CIA would require compliance with the War Powers Resolution. In responding to this inquiry, this Office has found it necessary to re-examine and revise a broad conclusion expressed by this Office in its February 12, 1980 memorandum, the "Harmon Memorandum,"[1] that "military personnel detailed to and under the control of the CIA * * *"would not be covered by the War Powers Resolution were they to be deployed into hostilities or a situation otherwise triggering that Resolution.

The heart of the argument in the Harmon Memorandum is the essentially negative inference drawn from the Senate's rejection of the so-called "Eagleton amendment,"[2] which is reprinted on page 8 of that memorandum. The Eagleton amendment would have supplemented §8(c) of the War Powers Resolution regarding the definition of the term "introduction of United States Armed Forces." As enacted, §8(c) now provides:

"For purposes of this chapter, the term 'introduction of United States Armed Forces' includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities."

50 U.S.C. §1547(c). Senator Eagleton urged adding the following sentence:

"Any person employed by, under contract to, or under the direction of any department or agency of the United States Government who is either (a) actively engaged in hostilities in any foreign country; or (b) advising any regular or irregular military forces engaged in hostilities in any foreign country shall be deemed to be a member of the Armed Forces of the United States for the purposes of this Act."

119 Cong. Rec. 25,079 (1973).

We observe at the outset that the Eagleton amendment on its face does not suggest that it deals with a situation in which uniformed personnel would be detailed to the CIA; indeed, what it would have done on its face was to provide that all government employees under the direction of any department or agency either engaged in hostilities in any foreign country or advising any regular or irregular military forces engaged in hostilities would be deemed to be a member of the armed forces for purposes of the War Powers Resolution. In other words, military or paramilitary activities by the CIA would have triggered the War Powers Resolution irrespective of whether the activities were performed by military personnel, civilian employees, or persons under contract to or under the control of the CIA.

The sentences in the Harmon memorandum that follow the quotation of the Eagleton amendment read as follows:

"He [Senator Eagleton] explained that it [his amendment] was intended to cover CIA paramilitary operations involving persons who might be military officers under contract to the CIA. 119 Cong. Rec. 25079–83 (1973). He recognized that without this amendment the Resolution as drafted would not cover the activities of such personnel, and argued that it should, citing CIA activities in Laos as leading to America's Indo-China involvement."

We have carefully reviewed not only the remarks of Senator Eagleton contained in the cited pages of the Congressional Record, but also the full Senate debate on the Eagleton amendment. We have been unable to find a single remark made by Senator Eagleton or any other Senator that reasonably could be read to support the assertion contained in the sentences quoted above from the Harmon Memorandum. In fact, Senator Eagleton and the other Senators who spoke at length for or against the Eagleton amendment manifested an understanding that the debate revolved around the CIA's potential use of *civilian* personnel to conduct combat operations rather than situations in which the conduct of the same operations by military forces might occur. Senator Eagleton and his principal ally in the floor debate, Senator Fulbright, repeatedly expressed the view that failing to include activities which the CIA might conduct with civilian personnel was a major "loophole" which would allow Presidents to evade the War Powers Resolution. The whole point of the Eagleton amendment, which emerges with considerable clarity once the legislative history is examined closely, is that Senator Eagleton intended that *civilian* forces were to be treated the same as military forces for purposes of application of the War Powers Resolution:

"My amendment would circumscribe the President's use of American *civilian* combatants in the same manner uniformed Armed Forces are circumscribed by S. 440 as presently drafted. It would, in other words, prevent a President from engaging *American civilians*, either directly or as advisers, in a hostile situation without the express consent of Congress."

119 Cong. Rec. 25,079 (1973) (emphasis added). Thus, Senator Eagleton spoke at considerable length about his concern that wars or lengthy and costly military engagements could be caused by CIA covert civilian operations. The discussion did not relate to covering, by this amendment, the detailing of military personnel to the CIA.

Furthermore, the record implies, albeit less strongly on this point, that CIA activities which actually used military personnel would be covered by the War Powers Resolution irrespective of the Eagleton amendment.

The closest that Senator Eagleton himself comes to saying something similar to what was attributed to him by the Harmon Memorandum is in a paragraph that reads as follows:

"So military activities will be carried on by *civilian* employees of the Pentagon, because under the War Powers bill nothing prevents the Pentagon from hiring or contracting with civilian employees, *ex-military* people perhaps, but people that are called civilians."

Id. at 25,083 (emphasis added).

Senator Eagleton's statements do not support the argument that the Eagleton amendment was an attempt to expand the War Powers Resolution to embrace CIA activities using military personnel. When examined in their full context, it was concern over *any* American involvement in a military context which the Eagleton amendment was intended to address. He also said: "unless we treat all Americans in military situations alike, whether they are wearing a green uniform, red-white-and-blue or a seersucker suit with arms—what payroll you are on is really secondary; whether you get it from the Pentagon or whether you become a member of the Armed Forces, the end result is the same: Americans are exposed to the risk of war. And as they are exposed to the risk of war, the country, then makes a commitment to war."

Id. at 25,080 (1973).

In this same debate, Senator Javits, speaking in opposition to the Eagleton amendment, stated his understanding of the applicability of the War Powers Resolution to paramilitary activities conducted by the CIA as follows:

"Another important consideration is that there [is] outside the Armed Forces * * * no agency of the United States which has any appreciable armed forces power, not even the CIA. They [the CIA] might have some clandestine agent with rifles and pistols engaging in dirty tricks, but there is no capability of appreciable military action that would amount to war. Even in the Laotian war, the regular U.S. Armed Forces had to be called in to give air support. *The minute combat air support is required you have the Armed Forces, and the [War Powers Resolution] becomes operative.*

Id. at 25,082 (emphasis added).

This debate over the Eagleton amendment stands rather clearly for the proposition that CIA civilian operations (at least most of them) were not embraced by the War Powers Resolution as ultimately passed by the Congress unadorned with the Eagleton amendment. We do not believe the negative inference to be drawn from the defeat of the Eagleton amendment can be stretched further than to confirm that CIA civilian operations are not embraced by the War Powers Resolution.

In summary, we believe the legislative history relied on in the Harmon Memorandum supports the proposition that Congress assumed that the CIA's use of civilian or ex-military personnel would not trigger the War Powers Resolution. We do not believe that that legislative history may be relied upon for the conclusion that the involvement of military personnel, if temporary detailed to the CIA and under civilian control, would remain outside the War Powers Resolution.

THEODORE B. OLSON,
Assistant Attorney General,
Office of Legal Counsel.

FOOTNOTES

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[1] Memorandum for the Attorney General entitled "Presidential Power to Use the Armed Forces Abroad without Statutory Authorization" from John M. Harmon, Assistant Attorney General, Office of Legal Counsel, Feb. 12, 1980. The occasion for this memorandum was planning relative to the holding by Iran of American hostages and a range of potential American responses to that situation including a possible rescue attempt. The memorandum was general, however, and did not focus on a specific factual situation. Particularly, the Harmon Memorandum's comments concerning a CIA operation involving detailed military personnel was a part of a general discussion and was not in response to a precise fact-specific question.

[2] Senator Eagleton introduced several amendments to the War Powers Resolution. Some were adopted. This particular amendment was enumerated as amendment No. 366, and is set out in 119 Cong. Rec. 25.079 (1973).

INQUIRY INTO SOMALIA OPERATION

Mr. WARNER. Madam President, yesterday, October 20, 1993, an article appeared in USA Today entitled, "Did My Son Have To Die?" The subheading says "A grieving father has some pointed questions for the President and the Secretary of Defense."

It is imperative that the Congress be a partner with the President when our troops are committed to situations where there is a high degree of risk.

This father goes on, and I would like to read: "I've spoken to parents and loved ones of other Rangers"—his son was a Ranger—"who were killed or wounded in Mogadishu. I've spoken to several Rangers who served with my son—some of them were wounded. I don't want to suggest that I'm speaking for any of them, but maybe I am. I certainly think it's reasonable to ask for them and for all concerned Americans that a thorough investigation of this debacle be conducted immediately, and the results be made public. Those who are responsible must be held accountable."

Yesterday, I wrote the distinguished chairman, Senator NUNN, and the distinguished ranking member, Mr. THURMOND, of the Armed Services Committee, a letter asking that our committee immediately hold an inquiry, including extensive hearings—underlining the word "extensive."

I ask unanimous consent that my letter of October 20, 1993, to Senate Armed Services Committee Chairman NUNN, and the ranking Republican, Senator THURMOND, appear at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 20, 1993.

Hon. SAM NUNN,
Chairman,
Hon. STROM THURMOND,
Ranking Republican Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR THURMOND: As you both will recall, in 1980, shortly after the failed Iranian hostage rescue mission, Chairman Stennis tasked me and a few other Members of the Committee to look into the facts surrounding that mission. Following our report, the Committee then conducted a series of hearings which provided the Committee the opportunity to fully investigate and create a record of facts for the Senate concerning that mission.

I believe the recent military operations in Somalia, and particularly the operation conducted on October 3, 1993, which resulted in a significant number of American casualties, require that the Committee immediately commence a similar inquiry, to include holding of hearings to create a record for the Senate about the conduct of these operations. As you are aware, there are a number of assertions and rumors being reported in the press about how this operation was planned and conducted, about the roles played by various American and foreign military and civilian officials, and about the chain of command in this operation. I believe the Committee has an obligation to the American people, to the Senate, and to our military personnel to establish a factual record concerning these operations so that untrue rumors can be put to rest and so that we can learn from any mistakes that may have been made.

I am prepared to assist both of you in any way you desire in such an inquiry and to actively participate with you in hearings on this matter.

Sincerely,

JOHN WARNER.

Mr. WARNER. I remember very well in the aftermath of Desert One—when President Carter initiated a military action to rescue our hostages in Iran that failed—Senator Stennis, then chairman of the Armed Services Committee, had an investigation which was very thorough and resulted in a report which enabled America to better understand that military operation and take any needed corrective action. I am confident, since I have confidence in the leadership of the Armed Services Committee and its members, that our committee will do likewise.

It is regrettable that the Congress did not have the consultation that would enable us to answer this letter today. But I am certain that in the future this consultation, as a consequence of these amendments, will be approved such that the Congress can be a part of and can accept this measure of responsibility regarding the men and women in the Armed Forces and their deployments beyond our shores when risk to them is involved.

I yield the floor.

Mr. MITCHELL. Madam President, I ask unanimous consent that there be an additional 20 minutes for debate on the pending amendments, 5 additional minutes under the control of Senator HELMS and 15 minutes under my control.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Madam President, I yield myself such time as I may require. I request that the Chair notify me when I have consumed 10 minutes.

I ask the Chair, how much time do I have remaining, including the 5 minutes just granted?

The PRESIDING OFFICER. The Senator has 27 minutes.

Mr. HELMS. I thank the Chair.

Madam President, what we are witnessing in advance of the vote, is a series of cop-outs. When I hear a Senator say, "Well, I agree with you on Aristide, but Aristide is not the issue." The heck he is not. Of course, he is the issue.

But the real issue is: Will Senators vote to permit the President of the United States to send American soldiers and sailors into harm's way in Haiti? What are the Senators going to say when the body bags start coming back from Haiti? What are they going to say was the interest of the United States in sending our soldiers and sailors to fight and die there?

I say to Senators that they had better ask the American people, because when you get home, I say to Senators, you are going to be questioned about your vote on this amendment. Senators may be asked a hundred questions. As a matter of fact, there was a poll announced this morning—I knew nothing about it until early today—and the poll question, without identifying the Helms amendment, was: Do you favor the provision of it or not? The CBS News poll showed that 77 percent support using United States troops to evacuate Americans from Haiti. So does the Helms amendment. Fourteen percent support using U.S. troops to restore Aristide to power. I am surprised it is even 14 percent. I have not heard from any of the 14 percent.

But let me say this—and I compliment the distinguished majority leader and minority leader, Senator MITCHELL and Senator DOLE, who did a most commendable thing yesterday afternoon. It was suggested to them—and they agreed immediately to do it—that they arrange for the CIA to send up to the Senate a knowledgeable and candid representative to discuss the situation in Haiti. The meeting was held on the fourth floor of the Capitol, in the secure room. The CIA representative answered all of the questions for Senators who wanted to learn the truth about Haiti's President Aristide, and the general situation in Haiti, as it relates to whether the U.S. should send our soldiers and sailors and put them in harm's way.

Thirteen Senators showed up. Not one Senator who stood up here and glowingly talked about "restoring democracy in Haiti"—I get a kick out of my distinguished friend from Connecticut, Mr. DODD. He so often gets all wound up talking about "democracy." Well, the CIA told those 13 Senators who were there on the fourth floor of the Capitol yesterday afternoon what kind of democracy Haiti is facing.

Interestingly enough, not one of the Senators who engaged in the oratorical attacks on my Haiti amendment yesterday afternoon and/or this morning bothered to attend the CIA briefing yesterday. Senator PELL went in his capacity as chairman of the Foreign Relations Committee, but none of the Senators who got up and waved their arms about restoring democracy in Haiti attended the CIA briefing.

These 13 Senators met on the fourth floor, while downstairs in S–116, other Senators gathered around Aristide in what has been described to me as a "love-in."

On this Senate floor yesterday, I spoke at some length about my total and unalterable opposition to risking the life of even one American sailor or soldier in that mess in Haiti. I do not want to hear all of this esoteric rhetoric about, "Well, I do not want to intrude upon the President's power."

Madam President, sometimes I feel that we have about 15 or 20 "Supreme Court Justices" among the Members of the Senate; they just do not wear black robes. I have been pleading for years that Congress ask the Supreme Court to decide what the Constitution means about separation of powers. I go back far enough, to 1973, when the Senate made the mistake of approving the War Powers Act. I voted against that unwise legislative adventure, and I have been hoping and praying and working that some administration that would have the guts to ask the Supreme Court to rule on the constitutionality of the War Powers Act.

Madam President, I do not think that it is constitutional, but I am not a Supreme Court Justice, and I am not going to pretend to be one. Anyway, we hear so much sophistry enunciated in this Chamber on that general subject.

But back to that CIA briefing yesterday afternoon on the fourth floor of the Capitol. By the way, that room was built and designed for the old Atomic Energy Commission to hold its secret meetings. It is said to be absolutely secure—at least we believe that nobody can bug it; nobody outside the room can know what was said.

Madam President, the information that I discussed yesterday afternoon on this floor is common knowledge in Haiti.

In any event, the CIA yesterday confirmed every jot and tittle of what I said on this floor yesterday afternoon about Aristide. The CIA confirmed the perilous situation involving Aristide and the necklacing that Mr. Aristide has practiced, but which he denied yesterday afternoon. I do not know how careless he is with the truth on other matters, but when I read the news report on what he said in S–116 yesterday, I was reminded of what Churchill said about a fellow who could not tell the truth. Churchill remarked to the effect that, "Once in a while the fellow stumbles over the truth, but he quickly straightens himself up and goes along as if nothing had happened."

The CIA briefing yesterday, I reiterate, confirmed everything that I had said in my remarks to the Senate earlier. If Senators want to take a look at it in the CONGRESSIONAL RECORD this morning, fine. But the news media have been saying all morning on the radio and television that the Helms amendment is not going to pass, and they probably will get their wish.

Aristide is a killer. He is a demonstrable killer. And I do not want one life of one soldier or sailor from the United States of America to die in the interest of that man.

"He is a psychopath." The news media say, "Good God; did Helms say that?" You bet Helms said it, and so did the CIA. By the way, for the Record here are Senators who did go yesterday: Senator MCCAIN, Senator COHEN, Senator BENNETT, Senator HELMS, Senator KERRY of Massachusetts, Senator EXON, Senator NICKLES, Senator BURNS, Senator PELL, Senator DOLE, Senator DOMENICI, Senator PRESSLER, and I cannot read my writing on the last one. Oh, it begins with an "M," so it was Senator MURKOWSKI.

(Disturbance in the visitors galleries)

The PRESIDING OFFICER. There will be no demonstrations from the galleries.

Mr. HELMS. It also has been determined, and the State Department admits it, that President Clinton knew about Aristide's background, about his mental illness, about his use of the necklace in horribly executing his political enemies. The State Department acknowledges that the Secretary of State has known about it.

Let us talk about necklacing, exactly what it is. It began in South Africa with the Mandela people. I remember the news accounts of one of Mrs. Mandela's speeches. She is a great advocate of putting bicycle tires around her political adversaries' necks with their hands bound behind them, filling the tires with gasoline and striking a match. And I remember Mrs. Mandela saying, "We've got the matches."

So has the President of Haiti. This cruel man has made fiery speeches exhorting his followers to use the necklace method, as it is called, to destroy his political enemies in agony.

This is not hearsay; it is a demonstrable fact. The President of the United States has known it, and the Secretary of State of the United States has known it. But not until yesterday, when the Senator from North Carolina began talking about this and we got the CIA up on the fourth floor of the Capitol, was it confirmed.

Madam President, I am going to reserve the remainder of my time, pending whatever comment may be made by opponents of this amendment.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. HELMS. Fifteen minutes. Very well.

The PRESIDING OFFICER. Who yields time?

The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Madam President.

Since I only really have a few minutes, I would like ask unanimous consent to have printed in the RECORD at the end of my statement the opening section of a report issued in March by America's Watch entitled "Silencing a People: The Destruction of Civil Society in Haiti."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WELLSTONE. America's Watch is one of the most highly respected human rights organization in the country, and I know its finding will be of interest to my colleagues. I would also like to include a short report by America's Watch on President Aristide's human rights record during his tenure, to help address some of the outlandish claims that have been made on the floor on this subject.

Madam President, not in regard to comments of any particular individual, but in relation to all of the rumors and shopworn gossip about President Aristide—much of which we have heard before—it reminds me of Mark Twain, who said: "A lie travels around the world before the truth gets its pants on."

I do not have the time to respond point by point to some of what has been said about President Aristide, but I would like to point out today that if we were to look at the history of Haiti, we would see a very different picture than has emerged thus far in the debate.

Senator DODD certainly has a great deal of substantive knowledge about Haiti. He knows that over the last 7 or 8 years there, since the fall of the Duvalier family there was one brutal military regime after another. We have heard today a long litany of human rights abuses and incidents of political intimidation, for which they were responsible, which has resulted in hundreds of deaths.

If we were to compare President Aristide's brief tenure and his human rights record, much less the stopping of the drug trafficking, which so dramatically affects our country, much less the number of refugees coming to our country, fleeing persecution before the inauguration of President Aristide, as opposed to what happened during his tenure, we would understand what is really at issue here.

For a moment let us put in parentheses some of what we have heard about President Aristide, rumors and innuendo that have been around for a good many years, and let us focus on the issue.

The issue is one of whether or not our country stands for restoration of democracy. The issue is what we are willing to do to support the democratically elected Government of Haiti.

The President has taken, I think, decisive action. I think this blockade by our ships there, if you view that with a sense of history, is a very strong action.

I support the leadership amendment because I think it balances the constitutional obligations of Congress with the President's need for flexibility in working with Congress on Haiti policy. The pressure is on. Maybe there are other options yet to come before this situation is resolved.

I think this amendment sends a powerful message. It sends a message to the people of Haiti, who have been so courageous, but who now live in terror, with the threat of violence against innocent people always present with this group of brutal military rulers. It says that our country supports democracy, we support the brave people of Haiti, and we support democratically elected governments.

It is really not up for us to decide for the people of Haiti who they elect to office. They decided 3 years ago to elect Aristide. But as a great Nation and as a great people, as a country of immigrants, we understand persecution; we understand violence; we understand murder; and we understand how important it is for our Nation to send a signal to the people of Haiti: We support you in your struggle for democracy.

Let me briefly review where we have been with respect to United States policy in Haiti, to see if it holds clues for where we ought to go from here.

Mr. President, as we debate this amendment, this body is in dire need of some reminders about the troubled recent history of Haiti.

About 7 years ago, Americans watched as Baby Doc Duvalier was spirited out of Haiti in a black limousine, his departure hastened by the erosion of his power base and popular discontent with the cool brutality of his regime, and facilitated by United States and European diplomats.

There followed a stream of dictatorial, brutal military rulers and police officials with close ties to the Duvalier regime with names like Gen. Henri Namphy, Colonel Regala, Frank Romain, Prosper Avril, and a host of others.

Their human rights records were appalling, driven by a willingness to crush nascent democratic forces in Haiti, and retain their own feudal power over drug running and transshipment, protection rackets, and other forms of corruption for which they have become infamous.

That is why when I hear on this floor comparisons on human rights between this period of relentless brutality in Haiti compared to the brief tenure of President Aristide, it takes my breath away.

Anyone who has followed Haiti at all over the years, even with just one eye, knows that there is no comparison between the human rights record of these successive military regimes and that of President Aristide.

I challenge my colleagues to examine the voluminous evidence from United States, European, and indigenous Haitian human rights organizations, and from our own State Department, during this period. It is overwhelmingly clear: The record of these successive military governments on human rights was disgraceful. Disgraceful.

Haiti's human rights record during the tenure of President Aristide's government on human rights was not perfect, that is true. But it was light years better than any that Haiti had known for decades.

There was a period of violence, most of it mob driven, which released the pent up frustrations and fury of Haiti's poor, and involved horrendously brutal abuses involving necklacing and worse.

But let us not lose all sense of proportion. During Aristide's government, Americas Watch and other respected human rights monitors confirmed approximately 20 deaths attributable to mob violence—none attributable to Aristide's government. Not a single one.

That number, compared to the between 1,500 and 2,000 innocent Haitians killed by the army, police, and their auxiliaries. 20 under Aristide, 1,500 to 2,000 since the military coup.

Brutality is not new to Haiti. Since before the notoriously brutal mob killed the then leader of Haiti in 1915 by literally tearing him limb from limb through the spaces in a metal fence designed to protect him—an incident that in part sparked the United States Marines' arrival on Haitian shores that year—it has been a way of life for many there, especially Haiti's poor.

Of course, no one condones this violence. I condemn it in the strongest possible terms. But I think I understand at least partly what drives it: the pent-up fury that is a response to the relentless, grinding poverty and despair that is at the center of most Haitians' lives, and that has been for generations.

But let us not lose sight of one central fact by blurring the lines of responsibility for violence. Under military rule, agents of these de facto governments, especially the military and police and their allies in the countryside, engaged in a campaign of terror and abuse. They were responsible for the abuses, and because they control Haiti's judicial system, for the climate of impunity that prevailed.

But the violence that's been ascribed to Aristide has been that of mobs in the street, not agents of the government. That is an important distinction which we must keep in mind during this debate.

Now, could Aristide have condemned more forcefully the violence of the time? Tried more vigorously to rein in his supporters by public pronouncements, condemnations of the violence?

Perhaps, but only a careful review of the complete record of his administration's statements at the time would allow that to be determined. That certainly has not been done by those engaged in this debate today.

And even if one were to conclude after such a study that President Aristide's statements, taken out of context and strained through translations from Creole, did not condemn the violence strongly enough, or worse, indirectly encouraged it, that is a very different charge than the one directed at his military predecessors, that has not been disputed ever on this floor. That charge is they engaged and continue to engage in a conspiracy of murder, intimidation, drug running and worse to sustain themselves in power.

To compare the planned, systematic pattern of widespread and brutal human rights abuses, and the culture of complete impunity for political crimes that was fostered by these military governments, to Aristide's policy, is to ignore the facts.

It is to betray the truth. And it betrays the Haitian people who have suffered so long and fought and died to plant the seeds of a new democracy there.

Aristide abolished the system of rural section chiefs that had provided the infrastructure of brutality for Haiti's Duvalierist government, replacing it with elected mayoral councils.

And for those concerned about refugees, and its relation to political violence, let us be clear: The flow of refugees slowed to a trickle under his administration.

After the coup, it again exploded, pressed on by the increase in political violence and intimidation.

The tired, 2-year-old, shopworn gossip that has been dredged up again by a few Senators over the last few days—about President Aristide's personal character and emotional stability, the pictures he hangs in his office, the allegation that he had ordered a political enemy killed through a mysterious late evening phone call on the eve of the coup—while our own Ambassador Adams was pleading for his safety at the time and his life under threat—is just that: political gossip.

Gossip generated in a cauldron of political gossip that is the stock in trade of Haiti's elite.

The person killed was being detained in an army facility, and we are to believe that an army officer took orders from Aristide on the night before the coup to kill Lafontant, a noted Duvalierist? I think my colleagues would agree that this is highly unlikely.

The story was covered widely in Haitian newspapers, and those in Florida, and the details could have been read by anyone at the time.

This kind of gossip is unworthy of this Senate, a steaming brew of mediocre police work, media speculation and conjecture based on thin evidence that does not hold up under scrutiny.

These rumors are not new to those who have followed Haiti. And if there is anything I have learned about Haiti, it is that things are not always as they appear.

And that you need to check out carefully allegations that are made in the context of a very volatile, and deeply polarized, political context like Haiti where the gap between the rich and the poor, the powerful and the powerless, is so wide—and the stakes so high.

Let's understand what's happened here in the Senate in the last couple of days, my colleagues.

A liberationist priest known for his fiery, populist—perhaps sometimes even demagogic—rhetoric, has been made the victim of a whispering campaign focusing on 2-year-old unproven charges which have re-emerged now when the chips are down, and the time approaches for his return.

Allegations made in psychological profiles prepared by elements within the U.S. intelligence community of President Aristide, discredited by high administration officials, are repeated on this floor and to international news reporters as if fact.

President Aristide is a quiet, soft-spoken man. Senator HARKIN yesterday on this floor described carefully his background, read from some of his writings as a parish priest in the desperately poor sections of Cite Soleil and elsewhere, and spoke of his personal interactions with him.

This is a man who lives in a modest Georgetown apartment, a man whose idea of a good time is to play soccer on Sunday mornings with neighborhood children.

To suggest, as some have on this floor, that he is a murderous psychopath, or worse, is character assassination, pure and simple.

As a priest, he served in some of Haiti's poorest parishes. His ministry included work with hundreds of Haitian orphans. His churches have been raided by thugs and torched; he has been beaten and harassed by Haitian police and military thugs repeatedly.

Driven by public relations experts and other hired guns reportedly paid for by the ruling families of Haiti and their military allies, this gossip has been given legs in the Senate.

But through these distortions and half-truths, one fact shines clear, and it has been the basis for United States policy toward Haiti for several years.

Almost 3 years ago, on a day of great jubilation for most Haitians, the citizens of that tiny island nation voted overwhelmingly, by almost 70 percent, for a new President: Jean Bertrande Aristide.

Hundreds of election observers from the OAS, the United Nations, United States and European private voluntary organizations, and others, spread out throughout the island, from Jeremy to Cap Haitien, from Port-au-Prince to Les Cayes.

They watched as Haitians took to the streets by the hundreds of thousands to cast their votes for Aristide.

They watched as desperately poor Haitian peasants, some of whom had walked for miles to get to polling places, stood for hours in blazing heat to cast their ballots for their candidate.

They took this risk for a more just and democratic future, even though the memory was fresh in their minds of prior election efforts that ended in murderous rampages by Haitian military thugs, working with the Duvalierist secret police known in Haiti as the Ton Ton Macoutes—the boogeymen who skulk around Port-au-Prince in their trademark black eyeglasses and whose reputation for ruthlessness is legendary.

Some of my colleagues may recall the gripping accounts and TV footage of those sickening episodes, with pictures of the carnage wrought by these thugs, of innocent Haitians who had been gunned down in cold blood as they stood in line to vote.

Gunned down or hacked to death by machetes while waiting in line to vote, their blood smeared on the walls and their mangled corpses desecrated by their attackers in rooms that smelled like butcher shops from the drying blood.

When I consider the struggles that people are willing to endure to cast their ballots in other countries, it gives me serious pause. How can such sacrifice not be affecting to those of us whose democracy serves as a model to budding democracies in the world?

It is awesome testimony to the power of the democratic ideal, to the notion that every citizen, no matter how poor or obscure, can register his view about how his nation should be governed and by whom. And that his vote will count just as much as the wealthy and well-connected of the posh Port-au-Prince suburb of Petionville.

I fear we have lost much of that commitment, that zeal for democratic self-government, here in the United States, where only about 60 percent of us show up to vote on election day.

Haiti, and other countries in our own hemisphere, can teach us more than we might think about the raw, compelling power, and the tenacity, if not the technology and institutions, of democracy.

For at least that one moment in an election, the egalitarian ideal—that each person counts as one and no more than one—holds sway.

And it held sway in this case. It swept to power a Catholic priest who made no secret of his desire to transform the current power structure in Haiti, to begin to rectify the grossly skewed distribution of wealth and power that have characterized that society for so long.

But his rise to power was not unobstructed. As he prepared to take office, potential disaster loomed, and a month before his inauguration an attempted coup was followed by violent demonstrations by his supporters and others in the streets of Port-au-Prince.

Faced with this volatile and uncertain situation, many representatives of the international institutions that had made the elections possible, sensitive to fiercely nationalist forces within Haitian society, and reluctant to respond by building up the international presence there, decided to scale back their efforts.

Many withdrew. Just over 30 weeks later, following a bloody coup in which many innocent Haitians were killed, President Aristide was forced to flee.

The basic problem in Haiti is, as it has always been there and is so often true elsewhere in Latin America and the Caribbean, that a tiny portion of the population—the upper 3 percent francophone elite—cling to power even against strong odds.

This tiny elite, composed of the grand families of Haiti, together with their allies in the Haitian military, have ruled Haiti for almost 200 years.

They controlled the levers of power in that tiny, isolated society, and they still do.

They nourished a hatred for Aristide, a Salesian priest who had become one of Haiti's most famous proponents of a theological tradition that has its roots in the works of people like Paolo Friere, Ernesto Cardenal, Gustavo Gutierrez, and many others.

Aristide has for years preached and written about the implications of his faith in the particular concrete situation in Haiti, where wealth and power rule and a system of brutal political and social control dominates.

The leadership amendment, Mr. President, provides the President with the needed flexibility he may need to address potential contingencies in Haiti.

It focuses on the Governors Island accord, which the military has now breached, and on the necessity of their abiding by the terms of that accord.

By doing so, it sends a strong signal of support for President Aristide's embattled government, and that of Prime Minister Malval.

It rejects the efforts by Haitian military officials to seek a compromise solution which would allow antidemocratic Duvalierist forces to remain in key posts in the Interior, Defense, and other key security ministries.

It urges continued United States engagement in Haiti, to press for a just solution to the crisis there in accordance with the Governer's Island agreement.

The violence in Haiti since July has been breathtaking, even by Haitian standards. Hundreds have been killed or injured in the campaign of street violence—mysterious fires, disappearances, kidnapings, assassinations in broad daylight of Aristide supporters in full view of police onlookers, and one Cabinet minister—that are the traditional techniques of terror for Haiti's military.

This campaign of violence and intimidation is designed to send a signal from the military and their allies to all Haitians: that no matter what the people say about the return of President Aristide to power, those who have always held power in Haiti still hold it.

We must respond as forcefully as we can to this violence by using all the levers of economic and political pressure at our disposal to force the military there to comply with the accords.

The administration has adopted the right tack. The sanctions, the embargo and its strong enforcement, are all important steps designed to bring about this result. I hope it works. I fear the Haitian military will hang on regardless, unless clear signals are sent from the United States and elsewhere that their continued intransigence will not be tolerated by the international community.

We must help Haiti to create the means, mediating institutions, and traditions of democracy in Haiti. That can only be done if those now in power observe the accords and step aside.

I urge my colleagues to support the leadership amendment, and to oppose the ill-conceived Helms amendment, later this morning.

EXHIBIT 1

SILENCING A PEOPLE: THE DESTRUCTION OF CIVIL SOCIETY IN HAITI

(Americas Watch, A Division of Human Rights Watch, National Coalition for Haitian Refugees)

ACKNOWLEDGMENTS

Much of this report is based on a two-month investigation in Haiti in June and July 1992. During this time, representatives of Americas Watch and the National Coalition for Haitian Refugees traveled extensively throughout the country, visiting eight of the country's nine departments including the island of La Gonave, and compiling what we believe is the most comprehensive picture yet produced of the disastrous state of civil society since the coup. Because much reporting on Haiti has stressed conditions in Port-au-Prince, we focused in particular on conditions in the provinces, where repression has also been severe and systematic.

Most of our information was gathered in some 250 interviews that we conducted ourselves. This report provides the names of these witnesses whenever possible, but a majority asked us not to identify them for fear of retaliation by military authorities. In places in this report we have also relied on excellent reports by the Justice and Peace Commission of the Diocese of Gonaïves and the Port-au-Prince-based Platform of Haitian Human Rights Organizations.

Because we generally insisted on eyewitness accounts, this survey does not provide an exhaustive accounting of attacks on Haitian civil society. Still, we believe that the many abuses detailed in this report provide a representative cross-section of the violent repression facing independent associations throughout the country.

Research for this report was conducted by Andrew Levin, a consultant to Americas Watch, and Anne Fuller, associate director of the National Coalition for Haitian Refugees (NCHR), with assistance from Pierre Espérance, an NCHR associate. The report was written by Kelly McCowan, a consultant to Americas Watch; Mary Jane Camejo, research associate for Americas Watch; Fuller and Levin. Helen Katel assisted in translation. The report was edited by Kenneth Roth, deputy director of Human Rights Watch, the parent organization of Americas Watch.

INTRODUCTION

The military forces that overthrew Haiti's first freely elected president, Jean-Bertrand Aristide, have consolidated their rule by ruthlessly suppressing Haiti's once diverse and vibrant civil society—the range of civic, popular and professional organizations that had blossomed since the downfall of the Duvalier dictatorship seven years ago. In a country where only nine months before the September 30, 1991 coup 67 percent of the voters cast their lot with Father Aristide, the army has presumed that the majority of the population is hostile to military rule. Seeking to avoid the kind of popular unrest that brought down past military regimes, the army has attempted to deny the Haitian population an organized platform for its discontent by systematically repressing virtually all forms of independent association. The aim is to return Haiti to the atomized and fearful society of the Duvalier-era so that even if international pressure secures the return of President Aristide, he would have difficulty transforming his personal popularity into the organized support needed to exert civilian authority over a violent and recalcitrant army.

Those behind this systematic repression of civil society range from the army commander-in-chief, General Raoul Cédras, who has overseen countless acts of brutality without making any effort to hold murderers and torturers accountable, to the rural section chiefs, who wreak havoc in remote hamlets across the country. The cost has been the vigorous civil society that Haiti needs not only as the foundation for any meaningful democracy but also to begin to confront the country's desperate economic and social problems.

The range of organizations targeted by the army's campaign of repression is exceedingly broad. Since hostility to military dictatorship is widespread among Haitians, the army views virtually any popular association as a potential conduit for organized opposition. As a result, all gatherings not controlled by pro-military forces are suspect. Any sign of public protest or dissent is swiftly and violently repressed. The tools of this repression have been intimidation, arrests, beatings and murder.

"The biggest change," a priest in the rural Northeast told us, "has been in the social organization of society. Things like *konbits* [collective work groups] and grain storage cooperatives—all of which gave people hope—are destroyed now. Everyone is back to working and trying to subsist on his own, and the powerful do what they want to the weak. The solidarity is gone; it's each person for himself." Haitians are encouraged to work hard, send their children to school, accept the new military-backed authorities as "constitutional," and blame their poverty on the OAS-approved trade embargo.

As international efforts to negotiate an end to the crisis in Haiti pick up steam with a new administration in Washington, the restoration of a free and vigorous civil society must be a central goal. It is not enough for the de facto authorities in Port-au-Prince to give formal recognition to Father Aristide as the legitimate President of Haiti. Rather, to reinstate any semblance of democracy, guarantees must also be put in place to ensure that freedom of speech and association will flourish once more.

Several concrete steps can be taken to lay the foundation for a reinvigorated civil society. The army should formally and publicly withdraw the de facto ban on public dissent and independent assembly and association. Haitians from all walks of life must feel free, without fear of arrest or intimidation, to meet with popular organizations, to assemble and demonstrate their grievances publicly, to listen to religious sermons of their choice, and to read newspapers or listen to radio stations that report critically on government actions.

The army must also subject itself to civilian authority and withdraw to the apolitical role that the popularly approved Constitution of 1987 envisions. Those who have been responsible for murder, torture and other gross abuses should, at minimum, be dismissed from the army, and their crimes should be formally acknowledged.

In this respect, we subscribe to the principle of accountability that President Aristide has been seeking to uphold despite pressure from the Bush administration to forget the past. Whether through prosecution or lesser disciplinary sanctions, Haiti desperately needs to purge its army of the soldiers who are responsible for this violent repression, perhaps along the lines used with partial success as part of the peace process in El Salvador. We hope that the Clinton administration, which has yet to take a stand on this issue, recognizes the importance of such accountability to the future of democracy in Haiti.

On the other hand, we disagree with President Aristide's exclusive focus on General Cédras and a small coterie of senior officers, and his apparent willingness to ignore abuses committed by junior members of the army. While it is most important to establish the principle of accountability with respect to senior military officials, this report identifies by name many local military officials, including section chiefs, who have been responsible for repeated acts of violent abuse, and these crimes should not be forgotten.

The blossoming of civil society in post-Duvalier Haiti

Until the September 1991 coup, Haiti boasted an abundance of peasant associations, grass-roots development projects trade unions, student organizations, church groups and independent radio stations. Civil society began its rapid growth with the fall of the Duvalier dictatorship in 1986 and reached its zenith under the Aristide government. Jean-Claude Duvalier's flight to France, just a step ahead of country-wide popular protests, created a profound opening for independent associations which Haitians vigorously seized. In part this took the form of an assortment of political parties, which had been banned throughout most of the 29-year Duvalier dicatorship. But many of these political parties were no more than vehicles for the advancement of a single politician and, like the national government, made little effort to address the needs of the majority of

Haitians who live outside of Port-au-Prince and other urban areas.

In the countryside, this vacuum was filled by a variety of groups that responded more directly to local needs. Known broadly as "popular organizations," the members of these groups mostly from the country's vast poor majority. They formed farming co-operatives, literacy programs and rural development projects, often with support from abroad. Churches—Catholic and sometimes Protestant—nurtured this movement, and lay participation in church activities exploded. Some associations evolved in political directions to address issues of land distribution, corruption and human rights abuse.

In urban areas as well, the realm of organized activity broadened rapidly. Politically active trade unions, professional, student and women's organizations, and thousands of block associations and community groups were born. A vibrant press emerged, primarily in the form of the much-listened-to radio, providing information about other organizational activities and a forum to denounce periodic attacks on this independent movement.

While many international observes of Haiti bemoan its lack of economic development, its civil society was remarkably advanced. In contrast to many other countries emerging from dictatorial rule, where pluralism among political parties was not matched by social and ideological diversity, political parties in Haiti were among the least developed parts of civil society. Rather, the strength of Haitian civil society lay in its breadth and diversity outside the narrow realm of electoral politics. This development allowed Haitians a considerable voice in local affairs, even as their ability to influence national politics was limited by an unrepentant army intent on preserving the spoils of power.

The diversity and depth of civil society, as opposed to any particular political party, provided the base of support for Jean-Bertrand Aristide's electoral campaign and overwhelming victory in Haiti's first free elections, held on December 16, 1990. Although not all popular groups endorsed Aristide, many if not most backed the charismatic priest, providing his last-minute candidacy with the organizational muscle needed to pull off his electoral landslide. Most independent organizations flourished in the relatively free environment of Aristide's nearly eight-month presidency. Many added members and redoubled their efforts.

It was one of the profound tragedies of the violent military coup of September 1991 that this surge of organized popular activity came to a bloody halt. Indeed, far from a peripheral casualty of the coup, these organizations were as much the target of the army's repression as was the elected Aristide government. Violence unprecedented in Haiti was directed against popular organizations, the independent media, the *Ti Legliz* or popular church, and anyone else who brought together previously powerless people.

The army's campaign, which continues to this day, has been systematic and ruthless. On the first day of the coup, ten radio stations were destroyed or shut down. By the end of 1992, only two of those stations had resumed broadcasting. Five journalists have been killed or disappeared. Section chiefs outside the capital intimidate, arrest and beat reporters. Few correspondents still work in the countryside and those who dare to continue limit themselves to pro-government or noncontroversial reporting.

Other targets of this violence include pro-Aristide elected officials, rural development and peasant organizations, neighborhood and community associations, trade unions, and literacy, pro-democracy, students' and women's groups. Soldiers and section chiefs have hunted down, arrested, beaten and killed leaders and members of these groups.

All signs of public dissatisfaction with military rule are swiftly repressed, including the mere possession of opposition newspapers or leaflets. Demonstrations by students in support of President Aristide as well as meetings inside the university have been suppressed by the Haitian army, using tear gas, arrests, beatings and gunfire.

The Catholic Church has come under particularly fierce attack. While the conservative Catholic hierarchy showed barely concealed distaste for the priest-turned-president, many priests, nuns and lay workers—including large numbers of those active in the Ti Legliz movement or involved in peasant organizing, community development or monitoring human rights—are strong supporters of President Aristide and thus have been targeted for retribution, including harassment, threats and arrests. Some Protestant groups that had become strongly identified with social activism and development also face retaliation.

While de facto prime minister Marc Bazin has attempted to place a benign face on this repression, he has done nothing visible to stop it. As demonstrated by the repeated instances of post-Bazin repression documented in this report, the change in occupants of the National Palace on June 19, 1992 did nothing to alter the persistent crackdown on civil society.

Meetings banned

Central to this concerted attack on civil society has been a ban on holding meetings. Particularly in rural areas, the army has used intimidation, threats, arrests and beatings to dissuade people from gathering. In our travels throughout the Haitian countryside, we were told of orders, issued by local army officers within weeks of the coup, barring all meetings. People learned of this prohibition over the radio and often were personally informed by local military commanders.

At times the prohibition has been couched artfully, as in the November 26, 1991 press release issued by the Port-au-Prince police, a division of the army, which required the organizers of any assembly to identify themselves to the police 48 hours in advance of the proposed gathering—formal notice that under the violent circumstances of post-coup Haiti few would dare to provide. More often, local military officials articulated the ban in absolute terms. Typical was section chief Joel Jean-Baptiste of Mahotière, who told members of the Tèt Kole peasant movement shortly after the coup: "The question of having meetings is over with. You cannot meet."

Meetings deemed subject to such bans include not only formal gatherings but also activities of peasant cooperatives, prayer meetings and even chance encounters. Enforcement of the ban is often left to Haiti's notoriously abusive section chiefs—a post that was abolished by the Aristide government but reinstated shortly after the coup. Warrantless arrest and short-term detention, almost invariably accompanied by beatings, are used to intimidate and deter would-be activists.

The targeting of civil society continues against a backdrop of an army allowed to pillage with impunity. Soldiers and section chiefs prey on their victims, demanding payment to avoid detention or torture. Haitians in hiding for fear of army oppression are told that they must pay a fee to return to their homes. Soldiers at military checkpoints have been known to shake down virtually anyone who dares to travel the roads. All of this occurs with absolute impunity.

U.S. policy

While Washington's capacity to curb attacks on civil society is tremendous, this power was largely unexercised by the Bush administration. Preoccupied with stemming the flow of Haitian boat people, Bush officials sought to convey an image of normalcy rather than suggest through their condemnation of ongoing abuses that political persecution might be motivating large numbers of Haitians to flee. President Clinton, while continuing to repatriate all Haitian boat people summarily, has vowed to address the political crisis at its core. Yet it remains to be seen whether this approach will be limited to achieving nominal recognition of President Aristide's legitimacy or whether it will also address the ongoing repression of Haitian civil society. One important step has been the Haitian army's hesitant acceptance in principle of an international observer mission, following diplomatic initiatives taken by Clinton aides working together with the United Nations. But other forceful steps remain to be taken to protect the freedom of expression and association for all Haitians needed to build a meaningful democracy in Haiti.

First, serious abuses should be immediately and publicly denounced, without regard to the public-relations effect on U.S. efforts to limit the flow of boat people.

Second, efforts should be made to ensure that the U.N.-OAS observer mission is sufficiently numerous to permit its members to spread out throughout the Haitian countryside. The observers should have the right to travel unimpeded and unaccompanied to any facility or location in the country. Like the successful observer mission for the December 1990 elections, the observers should also include uniformed (but unarmed) soldiers to facilitate communication with Haitian troops. To fulfill their deterrent function, these observers should not allow their public denunciations of systematic abuses to be tempered by fear of antagonizing the parties to ongoing political negotiations.

Third, to establish the rule of law, U.S. support should be lent to efforts to purge the Haitian army of its most abusive elements. While the Bush administration was eager to let bygones be bygones wherever the issue of accountability for past gross abuses arose in this hemisphere, the Clinton administration should recognize that democracy cannot be built on a foundation of impunity for murder and torture. Haiti is an ideal first site to put that principle into practice.

Finally, in beginning to rebuild Haiti, the Clinton administration should resist the temptation to view the Haitian army as the sole vehicle to stability and development. The lesson of the painful 16 months since the coup is that peace and prosperity can be secured in Haiti only if the violent order of the army is replaced by the firmer foundation of a free and vibrant civil society.

HAITI: THE ARISTIDE GOVERNMENT'S HUMAN RIGHTS RECORD

(A report by Americas Watch, the National Coalition for Haitian Refugees and Caribbean Rights, November 1, 1991)

INTRODUCTION

The September 30 military coup d'etat in Haiti has thrust to center stage the human rights record of the ousted government of President Jean-Bertrand Aristide. The coup was less than a day old when its perpetrators began to justify the overthrow of the country's elected president by alleging human rights abuses under his rule.

The irony of this criticism, coming from troops who had just toppled a popularly elected government and murdered at least three hundred civilians, has been widely noted. Nonetheless, the charges are sufficiently troublesome to warrant a serious response—all the more so because the military has since chosen Jean-Jacques Honorat, a leading human rights figure, as the prime minister of their provisional government. Until then perhaps Haiti's preeminent human rights monitor, Honorat has sought to justify the coup by comparing President Aristide's human rights record to that of Uganda's Idi Amin and Cambodia's Pol Pot.[1]

The issue of human rights under President Aristide took on critical importance for Haiti's future when charges of abuse appeared to be taken up by the U.S. State Department. According to The New York Times, U.S. officials began "mov[ing] away from the unequivocal support they have voiced for the ousted Haitian President . . . citing concerns over his human rights record." Was it possible that Washington would withhold its support for the deposed president because of these charges? "American officials," the Times continued, "are beginning to quietly disclose a thick notebook detailing accounts of human rights abuses that took place during Father Aristide's rule" which "jeopardized his moral authority and popularity."[2]

At the time of the coup, we were completing an assessment of the Aristide government's human rights record as part of our long-standing monitoring of human rights in Haiti. Our evaluation is based on fact-finding missions to Haiti in February, March April, June and September 1991, as well as extensive telephone contacts with sources in Haiti throughout the year. We issue this report now both to provide a concrete factual record for the debate over the Aristide human rights record as well as to contribute to improvements in the human rights practices of an Aristide government that might return to power in the future.

In providing what we hope is an honest and objective assessment—setting forth both the setbacks and the advances for human rights under President Aristide—we have no intention to lend our voice to those responsible for his ouster or to those working to prevent his return to power. In our view, President Aristide is the sole legitimate Haitian head of state. His overwhelming popular mandate—over two-thirds of the vote in a free and fair election held less than a year ago—can be matched by few if any leaders in the hemisphere. That mandate should not be dismissed lightly. While we recognize the need to correct the human rights shortcomings of the Aristide government—and welcome international attention to these deficiencies—we believe firmly that these failings cannot be used to justify committing yet a further, serious human rights violation by depriving the Haitian people of the right to elect their government.

Our conviction in this regard is only reinforced by the brutal military regime that has replaced President Aristide's government. The new regime's ruthlessness can be seen in the forty civilians killed in Lamentin, just south of Port-au-Prince, when soldiers seeking to avenge the murder of one or two troops went on a rampage, mowing down pedestrians and shooting into homes; in the at least three hundred civilians estimated to have been killed by soldiers during the few days of the coup and its immediate aftermath—dwarfing the number killed by any means under seven months of President Aristide's rule; in the long list of independent radio stations which have been silenced by marauding soldiers; in the arbitrary arrest, and at times severe beating, of leading Aristide supporters; and in the warrantless raids on homes and offices of those deemed opponents of the military regime. As the U.S. Embassy in Port-au-Prince announced on October 24, 1991, there is reason for "profound[] concern[]" over "ongoing fundamental human rights abuses," including credible reports of indiscriminate killings, police harassment, illegal searches and looting of private homes and radio stations, arrests without warrants and detentions of persons without charges and mistreatment of persons in the custody of Haiti's de facto authorities."[3]

Our convictions that President Aristide must be returned to power is certainly not shaken by the charade of the National Assembly endorsing at gunpoint the army's choice for a new figurehead government. We recognize that various elements of Haitian society have their reasons for disliking President Aristide. The wealthy feared his talk of redistributing wealth. The established political class resented the priest-turned-candidate who transformed established political figures into distant also-rans. But disgruntled minorities, no matter how powerful, cannot snuff out the overwhelming mandate of the Haitian people. While the millions of Haitians who voted for Aristide may not have the international influence that the Haitian elite is now attempting to wield, their Election Day ballots should be influence enough to ensure that their considered judgment is respected. Certainly, a bunch of thugs brandishing Uzis should not be allowed to silence their vote.

Still, while affirming the duty of the international community to press firmly and effectively for the early restoration of the legitimate constitutional government of President Aristide, we believe that an assessment of the Aristide administration's record on human rights is appropriate, and the allegations of abusive practices under the Aristide government should be fully and carefully addressed. This report is devoted to that task.

* * * * *

The government of Jean-Bertrand Aristide compiled a record on human rights which showed much promise but which was also marked by certain troubling practices.[4] His administration began to pay close attention to much-needed structural reforms in some of the institutions that had long been used to repress the Haitian people, particularly the army, the rural section chiefs, and the prison administration. The result was most visible in a dramatic decrease in violence by military and allied repressive forces. However, efforts to reform other institutions—notably the criminal justice system—were more sluggish. Popular frustration with dysfunctional legal remedies led many Haitians to take the law into their own hands. In a disturbing deviation from his stated commitment to human rights, President Aristide voiced a certain tolerance for this popular violence as a substitute for the profound reforms of the legal system that were needed.

Since 1986, the military has been the chief barrier to democracy in Haiti. As we have shown in earlier reports,[5] Duvalierist forces, including former members of the Tontons Macoutes militia, have been to block democratic progress only when they were able to secure the army's collaboration. When on rare occasion the army defended the democratic process and stood up against these forces, the violence was quickly quelled.

Under President Aristide, the generals who had controlled the army on behalf of past military regimes were pressured to retire, and a new generation of officers, believed to be committed to democracy, were promoted to take their place. A number of military men who previously had been dismissed from the army for opposing its brutal actions, or who had resigned because they refused to commit violent abuses, were re-enrolled and promoted. A handful of soldiers were suspended from duty and even arrested following charges that they had killed or wounded civilians, denting the customary impunity enjoyed by the military for abuses against civilians.

As abusive commanders were transferred to obscure posts or dismissed, President Aristide went out of his way to woo rank-and-file soldiers and to shower praise on officers who appeared to support a role for the army in support of democracy. In response to popular demands, implementing the constitutional requirement that a civilian police force be established independent of the military, section chiefs were recast as "communal police agents" under the authority of the public prosecutor (commissaire de government). They were instructed to turn in their weapons, and an effort was undertaken to weed out the worst human rights abusers among them. The Justice Ministry also submitted to parliament a long-awaited bill to reform the security forces.

The Investigations and Anti-Gang Bureau of the Port-au-Prince Police, strengthened by the admission into its ranks of reform-minded officers, became increasingly effective in combatting the wave of violent and frequently politically motivated, crime that had swept Port-au-Prince and other cities since 1986. Prime Minister René Préval, in particular, insisted on ending violence by criminal gangs as a prerequisite to the establishment of democracy, gaining himself the reputation as the chief law-enforcement officer in Haiti.

The army was by no means thoroughly reformed. As this report shows, soldiers as well as police (who remained part of the army) continued to be responsible for some abuse of civilians, including killings. Moreover, the President's confidence in this new army turned out to have been misplaced, and there was apparently a swelling resentment that went unexpressed until it erupted the coup of September 30. However, these failings do not detract from Aristide's profound commitment to construct an army that marched side by side with the Haitian people, instead of against them.[6]

Along with his reforms of the military, President Aristide announced the creation of a commission to investigate the major human rights crimes of the past and named a group of distinguished citizens to lead it. He saw to it that a number of individuals alleged to have directed killings and torture under past repressive governments were arrested—albeit usually for the separate crime of plotting against the state—and that warrants for the arrest of others were issued. In an important symbolic move, he closed Fort Dimanche—long a center for torturing and murdering opponents of the reigning dictatorship—and dedicated a museum to its victims on the site. Aristide's military predecessors had long promised but had never acted to shut down this infamous prison.

Footnotes at end of article.

Overall, violence in Haiti of all sorts—including criminal violence, killings by soldiers and violent rural land conflicts—dropped conspicuously during President Aristide's tenure. From February 7 through the end of August 1991, twelve civilians were killed by soldiers, in contrast to twenty-six under the eleven-month government of Ertha Pascal Trouillot—a drop due in large measure to Aristide's efforts to exert civilian control over the army and to weed out abusive army officials. Active intervention by the Aristide government to resolve land conflicts peacefully left a toll of six lives, compared to forty-seven under Trouillot. The drop was even more precipitous in the number of murders classified as common crimes. A survey of crime-related murders reported in the Haitian press reveals at least sixty such killings during the Trouillot period and fewer than ten during Aristide's government, reflecting the more aggressive police work initiated under Aristide. Only in the area of lynchings of presumed criminals did the number of killings hold steady.

In fits and starts, the Aristide Justice Ministry attempted to improve deplorable conditions inside the country's prisons. It also permitted large numbers of journalists to enter the prisons for the first time, so that all of Haiti could learn about the inhumane conditions in which the prisoners lived. However, serious problems remained.

There was little improvement in the sluggish pace of justice for either common criminals or those alleged to have plotted against the government, and detainees continued to spend many months in prison before being formally charged, let alone brought to trial. The few trials that did take place made evident that the judicial system remained as inept as ever and almost as corrupt.

In the countryside, the advent of elected government did not prevent the eruption of several bloody conflicts over land, usually pitting groups of peasants against each other with one side often backed by a large landowner. However, appeals by President Aristide and intervention by his ministers may have headed off more extensive bloodletting. Far fewer people were killed in such conflicts than under past governments.

These limited yet important advances in respect for human rights in Haiti have been largely overlooked by the international community in its focus on popular violence under President Aristide—the practice known as "Père Lebrun,"[7] the Haitian name for murder by necklacing with a burning tire. Indeed, the lynching of suspected criminals continued to be a problem under the Aristide government, as it had been under most of the governments since the downfall of the Duvalier dictatorship. The number of incidents of summary justice by crowds under Aristide was roughly equal to the number under the first seven months of the government of Ertha Pascal Trouillot, and considerably less than the surge of bloodletting that followed the failed coup attempt of January 1991, during the last month of the Trouillot government.

Of deep concern, however, is President Aristide's apparently ambivalent attitude toward such lynchings. Although his government on at least one occasion condemned popular violence and on at least another occasion arrested participants in such violence, President Aristide failed to lend his personal voice to these condemnations. The distinction was critical given President Aristide's tremendous personal moral prestige.

The absence of the president's voice was most urgently felt during the past summer, as crowds of Aristide supporters threatened the court trying those accused of plotting the overthrow of the civilian government in January 1991, and legislators engaged in a political battle for jurisdiction and power with the executive branch. Firm condemnations from the popular president would not only have radically curtailed the incidence of such violence and threats of violence but would also have gone a long way toward strengthening the legal institutions whose failure had bred the popular frustration that was fueling resort to Père Lebrun.

More troublesome, while President Aristide often spoke eloquently of the need to respect constitutional remedies and political pluralism, and of the importance of love, brotherhood and non-violence, he seemed to view Père Lebrun as a necessary evil—particularly in two recent speeches described in greater detail below. To our knowledge, it was not until he was ousted from power that Aristide explicitly condemned lynching in public comments to the Haitian people.

This does not mean that we hold President Aristide responsible for inciting the threats and intimidation used by his supporters or the lynchings that did take place. We have seen no evidence to suggest that Aristide ordered these apparently spontaneous actions. But Aristide deserves strong criticism for failing to use his extraordinary moral authority with the Haitian people to instruct them in forceful terms that such methods have no place in a democracy. In this sense, responsibility for the killings is properly placed with Aristide.

Background: The election of December 16, 1990

On December 16, 1990, almost five years after President-for-Life Jean-Claude Duvalier was overthrown, Haiti held its first free and fair elections.[8] Since Duvalier's downfall Haitians had lived through three different military dictatorships and a short-lived civilian puppet regime, and were trying to survive under a weak and tumultuous provisional government headed by former Supreme Court Justice Ertha Pascal Trouillot.

President Trouillot's appointed nine-member Provisional Electoral Council sought extensive international monitoring and assistance for the elections. The United Nations and the Organization of American States sent several hundred representatives to Haiti to support and observe the elections. These forces helped to ensure that the elections were conducted successfully.

Father Jean-Bertrand Aristide, an extraordinarily popular Roman Catholic priest who had survived two attempts against his life by Duvalierist thugs, declared his candidacy for president at the end of October 1990, just days before the close of nominations. His decision to run electrified Haitians everywhere, and turned on their head widespread predictions of poorly attended, "managed" elections. Voter registration soared and with it excitement about the elections. There was only one significant incident of violence during the campaign: on December 5, about an hour after Aristide had spoken at a vast rally in the Port-au-Prince suburb of Petionville, one or more grenades were tossed into the large crowd still milling about. Eight people were killed and seventy wounded.

On Election Day, December 16, voters stood in line all over Haiti to cast their ballots for president, senators, deputies, mayors and members of Communal Administrative Councils. There was no violence and little intimidation. The army defended the integrity of the balloting. It was a day of awesome achievement for the Haitian people.

One day later, with spot returns counted, Aristide was projected, and then internationally acknowledged, as the overwhelming winner in the twelve-candidate field. When the Electoral Council's final tallies were made public on January 14, Aristide was shown to have secured 67.48 percent of the vote. His closest rival, Marc Bazin, obtained 14.22 percent.

Before he could take office, Aristide had to survive an attempted coup d'etat led by former Tontons Macoutes chief Roger Lafontant on January 6 and 7. But the people and the army proved loyal to their elected government.

On Inauguration Day, February 7, 1991, Aristide became Haiti's first popularly elected leader. His legitimacy was uncontestable.

POSITIVE STEPS BY THE ARISTIDE GOVERNMENT

Extending civilian control over the military

President Aristide's attempts to transform the Haitian army into an institution that respected human rights and upheld democracy began with his inaugural speech.

"I love you, General Abraham," he told the army's commander-in-chief, Hèrard Abraham, as he announced the beginning of what he called "a marriage between the army and civilians." The new president promised to turn over to the military a six-million-dollar interest-free loan promised by Taiwan. But after gushing praise, especially for the army's peace-keeping role during the elections, Aristide asked Abraham for a favor in return: would he please retire six of the seven highest ranking generals in the army, and promote in their stead some of the colonels who had supervised security for the elections?

It seemed a masterful move. Indeed, Abraham, who himself had emerged as a hero by ensuring the Haitian army's support for the electoral process, complied. Within a week, Generals Gérard Lacrete, Serge St.-Eloi, Acédius St. Louis, Fritz Romulus, Jean-Claude Laurenceau and Roland Chavannes, and Colonel Christophe Dardompré retired on full pensions. Colonel Raoul Cédras, who had headed the election security committee, was made a major general and army chief of staff.

General Abraham stayed on as army commander-in-chief until July 2, when in what was presumed to be another successful effort by Aristide to reshape the army, he resigned "for personal reasons" and Colonel Cédras was promoted to Brigadier General and named as interim commander-in-chief.

A small number of officers who were notorious for human rights abuses were transferred to obscure posts. A particularly abusive example was the army commander of Petite Rivière de l'Artibonite, Maxi Maxime.

A group of reform-minded officers and soldiers who had been dismissed under General Prosper Avril, or who had, in some cases, deserted the army rather than carry out retrograde orders, were reinstated and in some instances promoted. Among them were Pierre Chérubin, who was named chief of the Port-au-Prince Police, and several who became members of Aristide's personal security detail, including Dany Toussaint, who was promoted to captain, and Fritz Pierre-Louis, who became a lieutenant. Pierre-Louis was killed by soldiers who arrested President Aristide in the course of the coup.

Abolishing the system of section chiefs

The most significant administrative change undertaken by the Aristide government was the abolishment of the system of section chiefs (chefs de sections). These rural sheriffs, integrated into the army and reporting to the local sub-district commanders, had for decades been the real rulers of the rural sections of Haiti's rugged interior. They collected taxes, policed the villages with the aid of dozens of deputies, arbitrated land and personal disputes (for a fee), jailed and punished malefactors and decided what independent groups were allowed to operate in the section. The worst section chiefs kept their sections poor and cowed through extortion and violence.

In early April the Justice Ministry announced that Haiti's 555 section chiefs would be transferred from military to civilian jurisdiction, under Justice Ministry control. The renamed "communal police agents" would be accountable to local prosecutors. The section chiefs were ordered to turn in their arms and munitions but were assured that they would not lose their pension rights. The ministry also announced that those who were found guilty of corruption or other violations would be discharged.

Although the announcement was widely praised, putting it into practice proved more complex than anticipated, and a lack of guidelines for the transition added to the difficulties. Some of the old section chiefs slipped into their new posts and continued to operate in the old way. Peasant organizations—including Tet Kolé, the Haitian group that has taken the lead in monitoring section-chief abuses—objected to any of the former section chiefs staying on as communal police agents. They called for the training of a new police force to make a clean break with the coercive practices of the past. In other areas, the section chiefs quit the vicinity, leaving it without any police force and allowing violent quarrels to thrive.

In June, reflecting problems that occurred in many parts of the country, members of the elected councils of towns and rural communal sections in southeastern Haiti wrote an open letter to Aristide's prime minister, Rene Preval, alerting him "to the problems we are facing relating to the procedure you decided upon for choosing the communal police agents." Among the problems cited were the former section chiefs' refusal to play any role in controlling crime because, they argued, "they no longer have firearms to use as instruments of intimidation against evildoers. . . ." As a result, the letter noted, "Banditry has increased considerably in the communal sections; [and] thieves act with total impunity in the absence of the police." The council members noted that "conflicts have increased in the countryside between members of peasant groups" and that "in certain localities, there is even the threat of bloody tragedy, because of the excitement provoked by the business of choosing" the police agent. The letter writers recommended that the prime minister name the communal police agents himself.[9]

Attempts to curb military impunity

Under President Aristide, and the officers he induced the army to promote to positions of power, human rights abuses by soldiers against civilians decreased markedly. During the government's first seven months (February–August), twelve civilians were murdered by soldiers. By contrast, during the first seven months of the Trouillot government (March–September 1990), twenty-six civilians were killed by the military. Under prior military governments the figures were considerably higher.[10]

The decline in military abuses was due to the unprecedented steps taken by the Aristide government and military commanders to discipline soldiers accused of abusing civilians. Impunity for rights violations was no longer taken for granted.

This new approach was evident in the treatment of an incident in Montrouis in the lower Artibonite, where on March 9, two soldiers from the St. Marc garrison, reportedly trying to extort money from a 14-year-old peasant boy, killed him when he resisted. The population of the coastal town reacted by attacking and killing the soldiers and setting fire to the small army post in their town. Soldiers shot and killed another civilian in the fighting. After Prime Minister Rene Preval visited the scene, six soldiers were arrested and dozens of others disciplined. The arrest of soldiers for infractions against civilians had been unheard of in Haitian history. However, no civilians were arrested for lynching the soldiers.

Elements of the new approach—though, unfortunately, tempered with a substantial dose of the old—could also be seen in the reaction to the deaths of five youths in police hands at the end of July. A lieutenant was arrested, and a captain was suspended from duty while an investigation was launched. However, the results of the investigation were never announced. (For further on these killings, see "Continuing Military Abuse," below.)

Toward prison reform

The Aristide government allowed unprecedented access by the Haitian press to Haiti's prisons and thus focused considerable attention on the conditions in which prisoners were held. The government's second minister of justice, Karl Auguste, seemed to take a particularly serious view of the problems in Haiti's prisons and began a number of constructive efforts for their improvement.

Haiti's prisons traditionally have been run by the military. Outside the capital, prisons are found inside army barracks. Typical conditions for prisoners, the overwhelming majority of whom are pre-trial detainees, have been characterized by beatings, severe overcrowding, lack of food, co-mingling of minors and adults, and inadequate sanitary and medical facilities. In the recent past, deaths from torture and starvation were virtually routine in some detention centers.

Early in its term, the Aristide government finally transferred prison administration from the military to the Justice Ministry. The public prosecutor was the titular head of the prison, which made gaining access to the jail easier for visiting human rights delegations, but soldiers continued to serve as prison guards and the warden was an army officer.

Aristide demonstrated a commitment to prison reform by visiting the National Penitentiary in one of his first acts as president-elect. On December 28, 1990, he spoke with the inmates and listened to their complaints. He promised that all prisoners would have their cases heard, and that those who were wrongfully confined would be released. He announced: "Starting next February 7 [Inauguration Day], we are going to fight so that justice reigns in this country. Each and every case will be studied."[11]

Aristide was not the only official of the new government to visit the penitentiary. In sharp contrast to their predecessors, both of Aristide's justice ministers paid visits to the prison early in their terms.

After a visit to the National Penitentiary shortly after Aristide's inauguration, Bayard Vincent announced that $10,000 a month would be made available to purchase food for the prisoners and that a section of the Ministry of Social Affairs would be delegated to handle the logistics. He also announced that the Haitian Red Cross would be donating 65 beds to the prison. Vincent spoke of the need for "uniform" treatment of all prisoners and admitted that there were no decent prisons in the country.[12]

Our representatives visited the National Penitentiary on May 1, 1991, in the company of then public prosecutor Anthony Alouidor. We found conditions in the prison essentially unchanged from those observed during previous visits.[13] The prison held 896 inmates that day, Alouidor said. Of these, 227 were under investigation—that is they had not yet been formally charged with any crime. About one quarter of the remaining 669 had been arrested prior to February 7, 1991, and their status was unclear. The rest, he said, had either been convicted of a crime or had been formally charged with one and were awaiting trial.

The section for male common prisoners, the largest in the prison, held some 700 inmates. Food was inadequate, open sewers spewed filth into the compound when it rained; there were large garbage dumps inside the facility; rats, mice and insects plagued the prisoners; and most prisoners were forced to sleep on the ground.

The delegation found nine boys between the ages of 14 and 17 living in the midst of the adult prisoners; this, too, was a continuation of past prison practices. The boys were released when this was brought to the prosecutor's attention.

The delegation heard complaints from prisoners that they were still subject to beatings by guards. They were told that in mid-April, a detainee had been beaten to death in the National Penitentiary after he tried to escape. The public prosecutor first denied knowing about the incident but later admitted that it had occurred and that the inmate had died from his injuries.

The delegation encountered several men who had been deported from the United States after serving a criminal sentence there. These men had been taken into custody at the Port-au Prince airport and brought to the prison without any legal formalities.[14]

Aristide's second justice minister, Karl Auguste, visited the National Penitentiary on May 22 together with Prime Minister Préval. Auguste, too, listened to many prisoners' complaints and spoke at length with Roger Lafontant, Marjorie Robbins and Serge Beaulieu, all in prison on charges of attempting to overthrow the government. He pledged to work toward improving detention conditions. Auguste told the press that he had called on the Division of Public Hygiene of the Health Ministry to fix the prison's latrines and announced that he was going to hire a private company to rid the prison of mosquitoes and rodents. He denied seeing any evidence that prisoners were being beaten.

On June 3, Prime Minister Préval visited the prison in Pétionville, where he said he saw evidence of very bad conditions. He promised that the Ministry of Justice would address the just complaints of the inmates.

On June 13, Auguste visited the prisons in Petionville and Croix des Bouquets. According to a Justice Ministry press release, Auguste and the chief of the ministry's Detention Service, Raoul Elysee, interviewed detainees and evaluated the facilities. They found the cells in the Petionville prison to be seriously deficient—poorly ventilated and lacking basic necessities. The toilets functioned poorly, no food or medical care was provided to the prisoners, and boys as young as twelve were kept in the cells.

Later the same day, the minister's party visited the headquarters of the Military Department of the West in Croix des Bouquets.

This prison, the ministry reported, had fewer detainees, the majority of whom were apparently serving sentences of several months for theft. No minors were discovered in this prison.[15]

Several days after these visits, Auguste announced that the detention section of the Ministry of Justice would be spending 60,000 gourdes (US$ 12,000 at the official rate of exchange) a month to improve the food available to inmates in the National Penitentiary. (This is virtually the same sum that had been promised by Bayard Vincent. It is not clear whether Vincent's food-supply program had ever been implemented.)

Auguste also announced his intention to reduce the population of the National Penitentiary from nine to six hundred. A commission was created to review the cases of all prisoners. Auguste vowed to correct the prison authorities' failure to maintain a register recording each prisoner's name, age and sex, the time and date of detention, and the reason for detention. He recognized the need to segregate juvenile from adult inmates, though noting that inadequate facilities made this goal difficult to meet in the short term. And he pledged to establish a corps of civilian wardens trained in the requirements of United Nations standards governing the treatment of prisoners.

It was evident that under Auguste, the Justice Ministry was making a serious attempt to improve prison conditions, at least in detention centers in or near the capital. But these efforts had not yet borne much fruit, as was apparent from the early September 1991 report by the United Nations expert on Haiti, Bruni Celli. Celli spent a week in Haiti investigating human rights conditions. He visited the National Penitentiary and the prison in St. Marc, and reported that conditions in both prisons were extremely bad from the point of view of hygiene, food and medical care. During the time of his visit, he said, the National Penitentiary had more than one thousand inmates; not a single bed could be found in the St. Marc prison; and lengthy detention without trial continued to be the norm.

Seeking justice for past crimes

Although "justice" was a watchword of the Aristide campaign, the new government moved slowly in shedding light on the major human rights crimes of past years. On February 25, less than three weeks after Aristide's inauguration, the Ministry of Information announced the formation of a commission to address "current burning" human rights concerns, including "the massacres at Jean Rabel, Danti and Labadie, and the conditions of detention in the prisons." The commission was to be made up of the ministers of justice, social affairs, agriculture, and planning. Choosing the ministers themselves, who had so many other pressing concerns, seemed to doom the commission from the start. And, in fact, this commission never seems to have gotten off the ground.

On August 23, a second commission was announced.[16] Five independent figures were named as members: Necker Dessables, director of the Catholic Church's human rights division, the Justice and Peace Commission; Jean-Claude Bajeux, the director of a leading human rights group, the Ecumenical Center for Human Rights; Lucien Pardo, a respected politician from the Artibonite region; and two young activists from popular organizations, Patrick Henry and Georges Moises. Bajeux and Pardo's identification with KONAKOM, a political party often at odds with Aristide, seemed to underscore the commission's independence.

The second commission's mandate was to investigate the major human rights crimes of the period 1986 to 1990, that is, the period from the fall of the Duvalier dictatorship through the election of Aristide as president. It was to have a four-month term, renewable as necessary. In a September interview, Necker Dessables told our representative that there was strong interest among the members in extending the mandate to include the crimes of the Duvalier period. He informed us that the government had allocated office space to the commission but that a budget was still in the works.

The lack of a working commission throughout Aristide's tenure did not prevent action from being taken against a number of individuals believed responsible for abhorrent crimes in the past. Nikol Poitevien, a major landowner implicated in the July 23, 1987, massacre of hundreds of peasants in Jean-Rabel in Haiti's Northwest, was arrested in March 1991. Five other suspects in the Jean Rabel massacre, the largest mass-killing in recent Haitian history, were arrested in April but quickly released for purported lack of evidence. In a May interview, members of Tet Kolé, a peasant organization active in the Jean Rabel area, said the others were released under pressure from influential individuals in the region. Poitevien had not yet gone to trial when the Aristide government was overthrown.

On the fourth anniversary of the Jean-Rabel massacre, Prime Minister Préval, Justice Minister Auguste and Agriculture Minister François Severin traveled north to commemorate the terrible incident. In a speech at the scene, Auguste promised that all those who had taken part in the massacre would be arrested, judged and convicted.

In anticipation of the anniversary, a number of common graves where the bodies of victims of the massacre had been unceremoniously dumped were excavated. Delegations of peasants from Haiti's nine departments took part in a ceremony in Jean Rabel on July 22. A symbolic funeral mass was held on July 23 in the Church of St. Jean Baptiste in Jean-Rabel.[17]

A few days later, the Jean-Rabel police arrested two others accused of participating in the massacre: Patrick Lucas and Loudy Hèrard, the former section chief of Djondjon, the seventh communal section of Jean-Rabel. According to state-run radio, Justice Minister Auguste, following interviews he conducted in Jean-Rabel, had asked the local justice of the peace to issue arrest warrants for a number of people implicated in the massacre, but most succeeded in eluding the police. Lucas and Hérard, accompanied by their lawyers, appeared before a judge in Port-de-Paix on July 26. After questioning they were jailed in Port-de-Paix.[18]

In separate matters, the Aristide government in its first several months issued warrants for the arrest of Franck Romain, the former mayor of Port-au-Prince who is widely believed to have masterminded the massacre of parishioners at the Church of St. Jean Bosco in September 1988, and Williams Regala, defense minister under the abusive government of Henri Namphy. Romain, however, had been granted political asylum in the Dominican Republic, and Regala was also believed to be living abroad.

Many figures from previous regimes who were widely believed responsible for human rights abuses were sought not for these crimes but on charges stemming from their alleged actions during the Aristide period. Two prominent allies of former dictator Prosper Avril were arrested on March 26 and charged with "plotting against state security" and attempting to overthrow the civilian government. Evidence supporting the charges against ex-Information Minister Anthony Virginie St.-Pierre and former Fort Dimanche commander Isidore Pongnon was not made public. Numerous accusations have been made against Pongnon, especially for directing the torture of prisoners in his custody at the infamous detention center, but these charges were not pressed.

The public prosecutor at the time, Anthony Alouidor, also issued a summons to Colonel Joseph Baguidy in connection with the same plot. The former commander of the Police's Criminal Research Bureau (Recherches Criminelles), Baguidy is a prime suspect in the 1987 murder of presidential candidate Yves Volel and an often-accused participant in acts of torture, but no charges relating to these actions were filed.

Even given the limited scope of these charges, the military was at first apparently displeased by the sight of civilian authorities issuing a warrant against a high military officer. Later, however, the army itself moved against Baguidy, ordering him to return to Haiti from the Dominican Republic where he had been dispatched as a military attaché by the Trouillot government. When he did not return the army, in a groundbreaking move, court-martialed him in absentia for desertion, sentencing him in August to two years in prison.

Daniel Narcisse, another close associate of Prosper Avril, was arrested on July 13 for allegedly plotting to overthrow the government. Narcisse had headed the Commissariat for Overseas Haitians under the Avril government. Arrested at the same time, and allegedly involved in the same plot, were Antonio Paul (brother of deceased Colonel Jean-Claude Paul), Major Wilner Louis of the Haitian Marines, and a half-dozen others. At a press conference Police Chief Chérubin presented 46 molotov cocktails which he said had been seized at various homes.

None of those arrested for allegedly plotting against the state was ever brought to trial, and the evidence against them that was made public was not terribly convincing. At the time of the coup, it remained unclear whether these were valid prosecutions. What was clear, however, was that the decision to pursue charges of coup plotting to the exclusion of pressing charges for past human rights abuses fueled popular frustration with the legal system as a mechanism for confronting violence.

Creating a civilian police force

The 1987 Haitian Constitution mandates the creation of a police force under the jurisdiction of the Ministry of Justice. Haiti's police force has historically been a division of the army and no Haitian president before Aristide had taken any steps to form this separate force.

In August Minister of Justice Karl Auguste submitted a bill to parliament outlining the creation of a separate police force. The bill was never made a part of the public record, hindering public debate that might have helped to break the legislative deadlock over the bill which evolved behind closed doors.

According to a copy made available to us privately, the bill envisioned a centralized force under the jurisdiction of the Justice Ministry with a command structure similar to the army's. The bill called for the establishment of an "administrative" and "judicial" branch of the police. The administrative branch would be responsible for traditional policing duties including riot control. It would include six units: penitentiary, anti-riot, firefighting, traffic, anti-gang and narcotics, and anti-contraband. The judicial police would be composed of the public prosecutor and his deputies (commissaires de gouvernement and substituts de commissaires), investigative magistrates, justices of the peace, and officers and police agents as defined in the criminal code.

Advocates of greater civilian control over the police objected to the bill because it allowed for civilian oversight only at the pinnacle of the hierarchy, where the Justice Ministry would replace the Defense Ministry as the supervising agency, while retaining a military chain-of-command within the police department. On the other hand, many in the army and the police objected to any form of submission to civilian authority.

In response to those who said the bill did not go far enough, the legislators developed an alternative plan which would have had the police report not only to Justice Ministry officials but also to local elected officials. However, the plan was criticized for creating a complex and overlapping chain of command. The dispute over the bill had not been resolved at the time of the coup.

The President's personal security guard

There has been considerable speculation in Haiti about the Service de Sécurité du President (SSP). President Aristide has said that he sought to create a small, well trained security force to assure his personal protection. As a popular civilian president in a country traditionally ruled by the army, his nervousness about his own safety was not surprising. Yet extravagant rumors have likened the SSP to the brutal Tontons Macoutes militia created by François Duvalier as a counterweight to the army. The SSP's existence became a bone of contention between the president and the army, and was cited by the military after their coup as one of their chief grievances.

What was this SSP? As the interview below makes clear, it consisted of some thirty men—soldiers and civilians—who received training in security techniques from a handful of French and Swiss police officers. It seems that the wild charges about the force were deliberately invented to stir up resentment against the president among army troops—that, in fact, the SSP should have been no more an affront to the army than the civilian U.S. Secret Service is to the Pentagon. The army's unwillingness to accept the SSP was yet another example of its refusal to submit to civilian authority.

In an October 6 interview with Radio Canada,[19] Laurent Walpen, the chief of the Geneva police, explained his role in training this security corps and providing advice on the formation of a civilian police force:

"When I came to Haiti in the month of June, I realized that the people, after all the suffering they had been through, had an enormous need for security. . . . It was this that persuaded President Aristide to ask the French first, and then the Swiss for advice on setting up this civilian, democratic police force that would respect human rights.

"So, it was in this context that the Geneva police undertook an exploratory mission at the beginning of June; and in the course of the month of September, two officials from the Geneva police, and then a third, went to Haiti for two and a half weeks. Their mission was the following: first of all, it was to provide training for the personal security guard (*garde rapprochée*) of the President, who felt threatened (and the events have shown that he was not wrong.) Next, he asked to be counseled on protective measures, especially architectural, to take for the security of official buildings. In the longer term, we would have proposed the creation of a police academy that he hoped would be open to women, and finally, proposed to him new structures for the national police."

Asked by the interviewer whether the Swiss were training a "personal militia" for Aristide, Walpen replied:

"It's absolutely false. The mission of our collaborators was to train the personal security guard of the president. This guard was not a private militia; besides it was made up of civilians and military personnel. The commander of the guard was himself a major in the army, a physician/major who, naturally, as a function of his role as a doctor, did not have immense experience with the problems of security and protection of people. We trained (as the French did before us) for some three months. We had just completed the training of the personal security guard of the president. We trained some thirty persons. . . .

"This story of the personal militia is absolutely unknown to our trainers. They never had the impression that President Aristide was forming a parallel militia; they went there at the request of the President in a very traditional mission of collaboration, as they have in other countries."

Asked by the reporter to comment on the source of the Haitian army's discontent, the Geneva police chief said:

"I think this is very simple. You must know that in Haiti there has only been but one real and true power: the army . . . with its excesses, its exactions, its abuses that we know about. Clearly, if a civilian police force had been created, the army would see its power amputated, because its mission would be reduced to the protection of the state.

"Now, for the army to lose this police power, was to lose a great part of its prerogatives, and beyond that the fact that President Aristide had dismissed a certain number of military officials was doubtless of a nature to irritate the military. It is possible that the presence of police officers from Geneva in Haiti could have been the crystallization, the demonstration for the military, that President Aristide wanted to move from talk into action and create a civilian police."

ONGOING ABUSES UNDER PRESIDENT ARISTIDE

Popular violence

One product of this dysfunctional legal system as a means for addressing human rights abuse was a rise in popular violence, as Haitians simply took the law into their own hands. Under President Aristide, no progress was made in combating the practice of summary justice, or lynching. Lynching of suspected criminals continued to occur at approximately the same pace as it had under most of the Trouillot government's tenure.

Threats of lynching also became a tool used by some supporters of the Aristide government to intimidate opposition politicians. Although no one was ever killed by the large crowds that gathered on several instances to support the Aristide government, several members of Parliament were roughed up, the offices of a trade union were burned down and those of a popular organization looted. President Aristide did not publicly discourage this activity, and his government rarely intervened.

In addition, both explicit and implicit threats of lynching had the effect of discouraging lawyers from defending unpopular figures.

Haiti's long history of entrenched lawlessness—dominated by corrupt dictators, presidents-for-life, and military strongmen, backed by a cowed and ineffectual judicial system, and sustained by police forces that answered only to the army—has bred resort to "popular justice" as the only form of redress for the overwhelming majority of the population without access to or confidence in the courts.

Since the fall of the Duvalier dynasty, "dechoukage," or uprooting, in which people take the law into their own hands, has been a recurrent form of alternative "justice," and until recently, it was the only kind of "justice" people ever experienced on their behalves.

In 1986, when Jean-Claude Duvalier fled Haiti and was replaced by a military junta, hundreds of Tontons Macoutes were believed killed in retaliation for twenty-nine years of oppression. By contrast, only two Duvalierist leaders were ever brought to trial and convicted.

In September 1988, a few days after military-backed gunmen killed thirteen people and wounded more than seventy at a mass in Father Aristide's Church of St. Jean Bosco, soldiers promising reforms launched a coup d'etat and a surge of dechoukage began again. Some of those alleged to have murdered in the church were executed in the streets. Once again, the new regime of General Prosper Avril failed to substitute any justice in the courtroom.

By 1990, dechoukage had become such a common feature of political upheaval in Haiti that many of Aristide's detractors said they feared that his victory in the December elections would lead to a repeat of the popular killings of 1986 and 1988. The lack of any significant prosecutions under the interim Trouillot government only heightened the potential for violence. In fact, election day and many days after were tranquil.

Dechoukage resurfaced only after former Tontons Macoutes leader Roger Lafontant tried to take away Aristide's electoral victory a month before his inauguration. On January 6, at the first word of the attempted coup d'etat, crowds went into the streets, built barricades and demanded that the army move against the plotters. Dozens of people were killed in battles between Lafontant supporters and loyal civilian and military groups. Nobody knew how deep Lafontant's support ran, and mobs attacked others alleged to be supporting him, sometimes mutilating and burning them alive. One target was the conservative archbishop of Port-au-Prince, Francois Wolff Ligondé, and Aristide opponent. He escaped, but the Vatican's representative in Haiti was nearly lynched, and several church buildings were destroyed. At least thirty people were killed in Port-au-Prince in such incidents over three days.

Lafontant and his cohorts were captured and jailed, and trials were prepared. But the dream that began on December 16, of a Haiti that could choose its leaders in peaceful elections instead of through violence, had been tarnished.

The Lafontant coup left many Haitians believing that only popular vigilance could keep the Aristide government in power. Given Haiti's inexperience with democratic pluralism, many Aristide supporters were unable to distinguish lawful criticism of the president or his appointees from the destabilizing efforts of Tontons Macoutes or coup-plotting soldiers. They viewed the need for popular mobilization—including the threat of violence—as a necessary tool to deter further military or right-wing adventurism.

Unfortunately, this arguably defensive use of the threat of popular violence gave way increasingly to an offensive use—not against enemies of democracy but against legitimate political opponents of President Aristide. The Aristide government's first seven months in office were marked by ongoing friction between the executive branch and the majority of legislators in the two-chamber parliament. The root of the conflict, according to most observers, was less ideology than competition for power and jobs. Parliamentarians who were members of the National Front for Change and Democracy (FNCD), the coalition which had sponsored Aristide's candidacy, were disappointed when Aristide appointed a government of close associates, many of them without political experience, while passing over the political parties and leaders who had campaigned with him. Aristide rubbed salt in their wounds when he proceeded to replace Supreme Court judges and make other important decisions without consulting the legislature.

At first, the legislators manifested their dissatisfaction by bickering with the executive, delaying approval of executive appointments and summoning ministers to appear before the chambers. But as the stand-off continued, members of parliament began to call for Prime Minister Préval's resignation. As the battle heated up, with some Aristide supporters viewing criticisms of Préval as attacks on the president, the galleries above the legislative chambers filled daily with hostile spectators, some of whom shouted threats of Père Lebrun at legislators who criticized the government. Members of parliament complained but there was no apparent tightening of security.

In August, as the Parliament threatened a vote of no confidence against the Préval government, threats against the legislators reached a fever pitch. Géla Jean-Simon, a deputy from Vallières, was beaten by demonstrators as he left the Legislative Palace on August 6. During the night of August 7, a crowd stoned the home of Turneb Delpé, a senator and FNCD leader, breaking windows and objects inside the house.

Attacks by pro-Aristide groups were not confined to the legislature. On August 13, a mob burned down the headquarters of the Autonomous Federation of Haitian Workers (CATH). CATH is headed by Jean-Auguste Mesyeux, the spokesman for Operation Windstorm, a campaign which had called for the government's resignation.

According to some reports, it was the same mob which then looted the offices of the Democratic Unity Confederation (KID), the political base of Port-au-Prince Mayor and FNCD leader Evans Paul. The mob later stoned the mayor's office.

The same day, a crowd of 2,000 demonstrators massed around the parliament, threatening to lynch legislators if they voted to censure the prime minister. Josué Lafrance, a deputy from Port-de-Paix, was badly beaten, and Franz Monde, vice-president of the Chamber of Deputies, was attacked.

On this occasion, the Artistide government took some steps to end the violence. Police interceded with tear gas to break up the violent crowd, according to Radio Galaxie.[20] The following day, Minister of Information Marie Laurence Jocelyn Lassegue issued a communique that distanced the government from the previous day's violence, expressed sympathy for the victims, and called on the population to respect one another's rights.[21]

Lawyers intimidated from taking controversial cases

One by-product of the popular hatred of Lafontant and the killing of Duvalierists following his coup attempt was that no lawyer could be found to take the plotters as clients. In a January 28 letter, Jean-Jacques Honorat, executive director of the Haitian Center for Human Rights (CHADEL) and currently prime minister of the military-backed Haitian government, solicited assistance from the international community "to ensure that some kind of protection be given to any lawyer who might be willing to provide his/her professional services" to defend Roger Lafontant and his cohorts. Honorat stated: "Let me remind you that I have no personal sympathy for the individuals involved. I was ten years (1964-74) on Roger Lafantont's hit list when he was a Tonton Macoute commandant." Yet, Honorat stressed, "No one can deny these people their right to due process and to have access to an attorney. It so happens, however, that no lawyer has thus far accepted to take their cases. Given the threat of 'dechoukaj,'. . . all lawyers contacted for or by the culprits have turned down the request. . . ."[22]

Attorney Lherisson Alezi, a public prosecutor under Jean-Claude Duvalier who had represented Lafontant in 1990 and other Duvalierists including Luc Desir and Samuel Jeremie in earlier years,[23] declined to defend Lafontant against the coup charges. "In any other country, I would accept to defend him," he said. "But in Haiti with these people who don't understand anything, I will not agree . . . because the people can do anything to you, can dechouker you even for exercising your profession."[24] Regardless of whether such a statement was motivated in part by political antipathy toward the new government, the climate at the time in fact was not conducive to lawyers working without fear of persecution.

In the end, most of the defendants in the case received court-appointed lawyers with whom they were able to confer only a few days before the trial. Lafontant refused to accept an appointed lawyer. Two defendants, Marjorie Robbins and Serge Beaulieu, were able to obtain private lawyers a few months after their imprisonment.

Even outside the case of Roger Lafontant and his co-defendants, the atmosphere of intimidation affected lawyers representing unpopular clients. We spoke with several such lawyers during an April visit to Haiti:

Moyse Senatus, a practicing attorney and human rights advocate, said he received telephone threats for taking up the defense of former Provisional President Ertha Pascal-Trouillot, after her arrest on April 4.

Raymonde Joseph, an attorney who is the widow of slain human rights leader Lafontant Joseph, described "all lawyers" as afraid to take controversial cases.

Arnold Charles, the chief judge of the Port-au-Prince court, said he feared that the Aristide government was promoting violence by not acting decisively to stop the "dechoukage." Charles felt that most lawyers were intimidated from taking controversial cases.

President Aristide took no public stance against the intimidation of lawyers.

Lynchings under the Aristide government

A survey of human rights violations during the Aristide government's first seven months in office (February 7 through the end of August) turns up twenty-five instances of people killed by mob lynching.[25] By comparison, during the ten months of the government of Ertha Pascal Trouillot, at least seventy-five people were lynched, although some thirty of these were killed in dechoukage after 'the attempted coup d'etat by Roger Lafontant in early January 1991 was put down, and some twenty more were murdered on January 27, following a false coup rumor. Apart from the January killings, there were twenty-six cases of mob lynchings recorded from April 1990 through the end of the Trouillot term—virtually the same number as under the Aristide government.

As for the mob killings that took place during Aristide's tenure, several involved soldiers and a former section chief who were turned upon by crowds for allegedly killing civilians or associating with an accused killer.

On June 2, in St. Michel de l'Attalaye in the Artibonite, the former section chief, Mérès Joachim, shot and killed Dieulibon Narcisse, a member of the elected administrative council of the section (Conseil d'Administration de la Section Communale, or CASEC), reportedly because Narcisse had opposed Joachim's attempts to reassert his lost authority in the village after the abolition of the office of section chief. In retaliation, on June 3, a group of villagers seized a soldier named Dornévil Jean, who they said was a follower of Joachim, beat him, and burned him alive. On June 4, members of the local population captured and killed Joachim himself.

On March 9, two solders based in Montrouis in the Artibonite, Rony Pierre and Dorélus Mirabeau, shot and killed fourteen-year-old Phanor Mérantus after he refused to give them the $150 he had obtained for selling a pig. The local population, in turn, chased the soldiers. The soldier took refuge at the small local military post, where they opened fired on the crowd, killing a man known as Lebreton. Enraged, the crowd burned down the post and killed the two soldiers. Following a visit to the scene by Prime Minister Préal, six soldiers from the St. Marc garrison were arrested for having disobeyed orders and fired into the crowd when they were dispatched as reinforcements to Montrouis.

On June 23, Sergeant Raymond Tassy, who was stationed at the Toussaint L'ouverture Barracks in Gonaïves, was killed with machetes and stones and then burned in Boisneuf, a section of Terre-Neuve, twenty miles north of Gonaïves. He had been attending the funeral of one of his sons, and he publicly accused a local woman of causing the son's death through witchcraft. When the woman, Jeunice Defrène, was found dead, Tassy was believed to have killed her.

In one case, there was no immediate or specific crime that the victim was alleged to have committed. On July 29, the day of the trial of former Tontons Macoutes Chief Roger Lafontant, and the anniversary of Duvalier's annual Tontons Macoutes parade, two thousand local residents demonstrated in the streets of the Arbitonite town of St. Marc to dechoiké, or uproot, alleged Duvalierists in the region. Some carried machetes, gasolines and matches. As the dechoukage progressed, two alleged Duvalierist bandits, Joseph Saint-Hilaire and Anatyle. Ovilma, were hacked and burned to death by crowds in La Voûte, the fourth section of St. Marc. More than twenty houses were also destroyed. In this case, the police arrested and jailed twelve people involved in the violence.

In the case of the other eighteen popular killings that took place under Aristide's presidency, the victims were civilians believed by the crowd to be common criminals. Often, they were surprised in the act of committing a crime, such as when two armed men were caught and killed by bystanders at the state industrial park outside Port-au-Prince after they had allegedly killed security guard Húbert Děliceon on June 23, or when alleged criminal, Dieudonné Desir was hacked to death by inhabitants of Petite Rivière de l'Arbitonite on June 5.

Aristide's responsibility for popular violence

What responsibility does President Aristide bear for attacks by his supporters on opposition parliamentarians? For anonymous threats against attorneys of unpopular clients? For the lynching of presumed criminals:

We cannot hold Aristide responsible for inciting reprehensible actions by his followers since the violent crowds acted quite spontaneously. Indeed, police acted to restrain mobs or make arrests on at least two occasions noted above, on July 29 in St. Marc and on August 13 in Port-au-Prince. But Aristide deserves blame for choosing not to use his exceptional moral authority to speak forcefully against this violence. In our view, much of the violence could have been avoided had Aristide personally condemned it publicly and unequivocally.

While Aristide occasionally spoke against Père Lebrun in interviews and conversations, his public speeches were more ambiguous. For instance, after the February 13 lynching of Richard Vincent Emmanuel, a Haitian-American engineer who had been mistaken for a criminal, Aristide intervened on a radio talk show to express his sympathy to Emmanuel's widow. He affirmed his determination to see justice done in the case,[26] and deplored all violence. What he did not do was to take the opportunity to call on Haitians in specific terms to cease taking justice into their own hands.

Most disturbing is that on two occasions Aristide seemed to endorse the practice of Père Lebrun. Aristide has a masterful command of his mother tongue, Creole, and is expert at the practice of "voye pwen," or speaking with double and triple meanings, enabling him to direct different messages at different audiences or sectors of society. He rarely works from a printed speech and, translations of his speeches often do not convey their subtle subtext. Still, we believe that the two speeches quoted below have been fairly interpreted as condoning popular violence.

On September 27, just two days before the coup that would topple him began, Aristide made a speech that was widely understood as a bitter attack on Haiti's elite for not investing in the country and an encouragement of the practice of Père Lebrun, although the speech contained no explicit mention of the practice of necklacing. Sources close to President Aristide contend that the tone of this speech was influenced by information he had received about the impending coup d'etat. Aristide, referring to wealthy Haitians who refuse to help Haiti's poor majority, repeatedly urged his listeners his listeners not to "neglect to give him [or her] what he [or she] deserves."[27]

"If you [nou in the original Creole—meaning either the plural form of "you" or "we"] catch a thief, if you catch a false Lavalassien [referring to the popular movement responsible for Aristide's election], if you catch someone who doesn't deserve to be there, don't neglect to give him what he deserves.

"Your tool is in your hand. Your instrument is in your hand. Your Constitution is in your hand. Don't neglect to give him what he deserves.

"Your equipment is in your hand. Your trowel is in your hand. Your pencil is in your hand. Your Constitution is in your hand. Don't neglect to give him what he deserves.

"Article 291 [of the Constitution, which bars from public office for ten years all torturers, 'zealous' Duvalierists, and embezzlers of public funds] is always on our minds. It says: No Macoutes, Macoutes!

"Don't neglect to give him what he deserves. Three days and three nights you're keeping watch in front of the National Penitentiary.[28] If someone escapes, don't neglect to give him what he deserves.

"Throughout the four corners of the country, we are watching, we are praying, we are watching, we are praying, when we catch one of them, don't neglect to give him what he deserves.

"What a beautiful tool! What a beautiful instrument! What a beautiful appliance! It's beautiful, it's beautiful, it's pretty, it looks sharp! It's fashionable, it smells good and wherever you go you want to smell it..."

The second speech often cited to demonstrate Aristide's support for Père Lebrun was made on August 4 to a large gathering of secondary-school students. In the speech, Aristide seemed to express support for Père Lebrun as a guarantee of courtroom justice. The speech was made a few days after the trial in which Roger Lafontant and his associates were found guilty of plotting against the state.

In an early July interview with Anne-Christine d'Adesky, published in "Interview" magazine,[29] Aristide had offered a rationale for his support of popular pressure on the courts:

"I expect justice, backed up by the force of the judiciary, despite its current institutionalized corruption. The people must become a force of credibility, capable of exerting legitimate pressure on the judicial system, but without threatening it, so that when the judge knows that the people are there, united, awaiting justice, the judge can feel strengthened to render justice and not succumb to the weight of money or the pressures that will come upon him."

In commencing on the July 29 incident, however, Aristide went well beyond any legitimate call for popular vigilance over the legal system. During the trial of Lafontant and his accused co-conspirations, a crowd of two thousand had gathered around the courthouse, chanting and calling for a life sentence for Lafontant. A few people carried tires on their heads. Lafontant thereafter received a life sentence, even though the Haitian legal code allows a maximum of only fifteen years for those found guilty of plotting against state security, the offense with which Lafontant was charged.[30]

On August 4, Aristide spoke with approval of the crowd's actions:

"When they spoke of 15 years inside the courthouse, according to the law," Aristide said, "outside the people began to clamor for Père Lebrun, because the anger of the people began to rise a little. That's why the verdict came out as a life sentence."[31]

The following is the pertinent remainder of that August 4 speech (Aristide's remarks are in boldface; the students' responses are in standard type):

"Was there Père Lebrun inside the courthouse?"

"No."

"Was there Père Lebrun outside the courthouse?"

"Yes."

"Did the people use Père Lebrun?"

"No."

"Did the people have the right to forget it?"

"No."

"Don't say its me who said it. Père Lebrun or a good firm bed, which is nicer?"

"Père Lebrun."

"For 24 hours in front of the courthouse, Père Lebrun became a good firm bed. The people slept on it. Its springs bounced back. They were talking inside the courthouse with the law in their hands; the people also have their own pillows. They have their little matches in their hand, they have their little gasoline not too far away. Did they use it?"

"No."

"That's because the people respect the Constitution. But does the Constitution tell the people they have a right to forget little Père Lebrun?"

"No."

"Then, when they knew inside what was going on outside, inside they had to tread carefully [literally, walk on thirteen so as not to break fourteen]."

"Fourteen is the masses of the people. The masses have their own tool, their own secret way, their own wisdom. When they spoke of fifteen years inside the courthouse, according to the law, outside the people began to clamor for Père Lebrun because the anger of the people began to rise a little. That's why the verdict came out as a life sentence.

"The people, who respect the law, who uphold the Constitution, when they heard 'life in prison' they forgot their little matches, little gasoline and little Père Lebrun.

"Did the people use Père Lebrun that day?"

"No."

"But if it hadn't gone well, wouldn't the people have used Père Lebrun?"

"Yes."

"That means that when you are in your literacy class and you are learning to write 'Père Lebrun,' you are learning to think about Père Lebrun, it's because you have to know when to use it, how to use it and where to use it.

"And you may never use it again in a state where law prevails (that's what I hope!) as long as they stop using deception and corruption. So, that's what they call real literacy!"

Speeches given by Aristide on other occasions gave very different messages. In April, in addressing members of popular organizations in the southern city of Les Cayes, the president said:

"The law is the law, which means that it is the people who have the power to organize, together with the military, and with the civilian authorities. From the moment that a Macoute makes trouble, it's not enough to talk about it. That's what we used to do, but now we are in power! If you live in the city of Cayes, gather your courage, and go to the colonel or the commander in an organized way, with discipline and respect, and say what you have seen or heard and what the danger is. Then you will see the reaction of the commander. . . . He knows that the role of the army is to reestablish order everywhere, and if the Macoutes create disorder, the Haitian army and the people, organized and disciplined, will step on the feet of the Macoutes—

"Your force will be the strongest—a force tied to legality and which must follow the law—that the country will position itself as a legal force, a democratic force.[32]

At the March 23 funeral of Fritz Dor, a Miami-based journalist and activist who was killed during a robbery, Aristide said, "This evening, we say to the zenglendos [the name given by many Haitians to violent, repressive forces], whoever they are, that we declare war on them, a war to put an end to them once and all. To declare war on the zenglendos means that we are going to use the law to combat all the criminals . . . who block the road to democracy."[33]

It is unfortunate but understandable that Aristide's speeches in support of Père Lebrun have overshadowed other speeches in which he advocated lawful redress for abuse. In our view, it was not enough for the president to balance one speech condoning Père Lebrun with another that, without referring to Père Lebrun, suggested that the law should be respected. As the head of state ultimately responsible for upholding the law and human rights, President Aristide had a duty to refrain from any statement that could be understood to support Père Lebrun, and to speak out firmly and consistently against this barbaric practice. His failure to fulfill this duty is a serious blemish on his human rights record.

The continuing weakness of the justice system

The Aristide government during its seven months in office was able to make only limited progress in reforming the country's moribund and corrupt judiciary. The Justice Ministry's reform efforts were hampered by a high turnover in its senior posts. President Aristide first appointed as justice minister Bayard Vincent, a former Port-au-Prince public prosecutor (commissarie de gouvernement) who had won praise for his efforts in 1990 to have Roger Lafontant arrested. Vincent resigned in May 1991, saying he accepted some of the responsibility for a scandal that sent his own appointed public prosecutor, Anthony Alouidor, to prison. While Vincent was not publicly accused of wrongdoing, Prime Minister Préval implied that he had tolerated gross negligence by failing to exercise surveillance over Justice officials.[34]

Karl Auguste, legal councillor to Prime Minister Préval, became the new justice minister. On May 22, Alouidor was replaced as public prosecutor by Josue Pierre, who in turn resigned less than two months later, on July 4. No new prosecutor was named through the time of the coup. With this rotation of senior personnel in the Justice Ministry, little was done to address the deep flaws in Haiti's legal system.

Many of the continuing flaws in the judicial system were evident in the high-profile trial of Roger Lafontant. Lafontant had held several high posts under François and Jean-Claude Duvalier. As Interior Minister under Jean-Claude Duvalier he supervised the infamous Volunteers for National Security (VSN), or Tontons Macoutes. Lafontant returned to Haiti from self-imposed exile in July 1990, and set about reviving Duvalierism as a political force in Haiti. Then public prosecutor Bayard Vincent issued a warrant for Lafontant's arrest but the police declined to serve it and Lafontant paraded with increasing boldness around the country. He organized a political convention, formed a political party and declared himself a candidate for the presidency. When he was ruled off the ballot for technical reason by the electoral council, Lafontant denounced the elections as a fraud.

On January 6, 1991, Lafontant and a small band of cohorts kidnapped President Ertha Pascal Trouillot at her private residence, brought her to the National Palace in an armored vehicle and forced her to broadcast a resignation statement. Lafontant announced that he had assumed the provisional presidency of the country.

The announcement galvanized the people of Port-au-Prince to take to the streets to block the coup. The massive civilian effort to save the newly won democracy is widely credited with convincing the army to demonstrate its loyalty to the constitutional process. By mid-day on January 7, Lafontant and his band had been arrested.

The conspirators were held in the National penitentiary until their trial at the end of July. Apparently fearful of the possibility of escape, prison authorities kept Lafontant in chains for some time. All the defendants were held incommunicado during at least the first two months of their imprisonment. Lawyers who had represented Lafontant in the past declined to take the plotter's case for fear of popular retaliation. Court-appointed lawyers saw their clients for the first time only three days before the trial.

The trial was held in Port-au-Prince's Palais de Justice, with Judge Arnold Charles, the criminal court's most senior judge, presiding. Because the post of chief public prosecutor was vacant, three assistant prosecutors handled the case. The Jury deliberated for one-and-a-half hours before returning a guilty verdict against all defendants at 8:00 a.m. on July 30, capping a marathon twenty-two-hour trial. Roger Lafontant and twenty-one co-defendants were convicted of conspiring against the state for their attempted coup d'etat of January 6 and 7.

The conduct of the trial left much to be desired. The prosecution limited the questioning of witnesses, mostly soldiers, to the identification of the accused and a description of their actions in the presidential palace during the coup attempt. The information given simply rehashed what already had been widely circulated in the press. There was no attempt to explore the planning of the coup, which might have implicated high army officials. Nor was much information offered to demonstrate the responsibility of individual defendants.

One of the trial's few surprises was the motion submitted by former President Trouillot asking to be excused from testifying. She had been expected to be a key witness for the prosecution, describing her kidnapping by the defendants on January 6, but in a sworn statement Trouillot declared that testifying could imperil the civil suit she herself had filed against Lafontant. No details were ever made public about this civil suit, nor was it ever explained how testifying in the criminal case would impair any civil proceeding. The former president was not required to testify.

Lafontant and seventeen others were sentenced to life at hard labor, Haiti's maximum penalty under the 1987 Constitution. But Article 64 of Haiti's Penal Code states that the maximum sentence for plotting against the state (complot and attentat contre la surete d'etat) is fifteen years. Four of the defendants received ten-year prison sentences.

The Haitian media and political leaders widely criticized the trial. The most common reproach was that the trial failed to elicit testimony that might have implicated high-ranking military officers. Others who believe former President Trouillot herself to have been involved in the plot were disappointed that evidence of this did not emerge. Still others pointed out that the accused men had only a few days to consult with their appointed lawyers, that witnesses conferred among themselves in the courtroom, and that a circus atmosphere prevailed throughout the proceedings. The audience often interrupted the trial participants, intimidating lawyers for the accused without rebuke from the presiding judge. The trial was also often interrupted by cameras and sound-system operators under the direction of Information Minister Marie Laurence Lassègue. Twice the proceedings were suspended when crowds outside, who were watching on television monitors, lit up tires and threatened to move on the courtroom as the accused were called to testify. Justice Minister Auguste acknowledged the weakness of the work done by the investigating judge who had prepared the indictments, but said he was pleased that the government had been able to conclude the trial successfully.

Two of Lafontant's accused co-conspirators were granted a separate trial because they had challenged the charges against them in court: Marjorie Robbins, the sole woman in the case, and Serge Beaulieu, the only alleged conspirator who was not arrested at the National Palace. In September an appeals court refused to drop the charges against them.

Robbins, 34, Lafontant's secretary and press spokeswoman, argued that she was present in the palace on the night of the coup only "in a paid professional capacity." Lafontant, she said, had telephoned her and asked her in the middle of the night to come to the palace as his employee; she complied. The judge ruled on September 10 that her story was not credible.

Serge Beaulieu's case was more complicated. The authorities' failure for many weeks to make public the charges against him led the New York-based Committee to Protect Journalists to question his detention.

Beaulieu, 53, had worked as a reporter for many years but was also deeply involved in politics. He was appointed an ambassador at large by François Duvalier, and twice ran for office as a quasi-independent candidate in showcase elections sponsored by Jean-Claude Duvalier. He ran and was elected to the Chamber of Deputies in the fraudulent elections of January 1988 which carried Leslie Manigat to the presidency.

In April 1988, Beaulieu started a Port-au-Prince radio station, Radio Liberté. Most Haitians describe his broadcasts as "hate-filled" and say he fomented violence. Calling himself the "leader of the national majority," he helped kindle a short-lived Duvalierist revival in mid-1990, when Roger Lafontant returned to Haiti from abroad. Beaulieu was present at Lafontant's political convention last fall, but never formally allied himself with Lafontant and instead claimed to have created his own political party, the National Authentic Party. He recently told reporters, "Lafontant is my enemy."

On January 7, 1991, Beaulieu sought refuge in the Petionville army post when he learned that a mob was planning to attack his house. Many alleged Duvalierists were killed in the aftermath of the coup. He was then arrested by the police. It was not until several months later that he was publicly charged with being an accomplice in the coup by way of making financial contributions and inciting people to rebellion.

On September 10, in a glaring example of the judiciary's weakness, the appeals court that was considering Beaulieu's challenge to his prosecution said it was rejecting Beaulieu's appeal because the people must have had a reason for setting fire to his house after the coup. "Those who burned down his house put him in the same basket with the putchists."

Beaulieu and Robbins, together with those convicted for participating in the January coup attempt, were freed following the ouster of the Aristide government.

Few others were brought to trial during the Aristide government's seven months in power. Efforts to reform and speed up the snail-like pace of justice in Haiti appear not to have made much difference.

Haiti's criminal code calls for ordinarily holding only two criminal-court sessions, or assizes, a year in each of Haiti's nine departmental capitals. During the most recent criminal-court session in Port-au-Prince from April 16 to 22, 1991, only four cases were on the docket, although hundreds of prisoners, jailed on various charges, were awaiting trial. Two of the scheduled cases were dismissed. Two others, both politically motivated crimes, resulted in convictions. The convictions were in the following cases:

Elysée Jean-François, the only person arrested for participating in the St. Jean Bosco killings, was found guilty and sentenced to life at forced labor, the maximum penalty.

The trial of Marc-Antoine Lacroix, accused of killing seven young people in the Martissant section of Port-au-Prince during unrest on March 10, 1990, was scheduled for April 16, 1991. When hostile spectators threatened to lynch Lacroix and attempted to wrest him from the hands of the police, the trial was rescheduled for April 22. When the defense attorney failed to appear on the 22nd, the trial was rescheduled for the July criminal court session, during which Lacroix was found guilty and sentenced to life imprisonment.

To our knowledge, there were similarly few trials in provincial courts. For example during a criminal-court session in the northern city of Port-au-Paix from July 22 to 25 1991, only four cases were tried.

Ongoing military abuse

The most serious case of human rights abuse by soldiers during President Aristide's tenure occurred in Port-au-Prince in July, when the bullet-ridden bodies of five young men—one who had been publicly executed by the police and four who had been taken into police custody—turned up in the public morgue. While the initial response by the government and police authorities encouraged expectations that the case might prove a watershed—with the truth about the incident discovered and the guilty punished—no known progress had been made in the police investigation at the time of Aristide's overthrow.

The five—brothers Stevenson and Bastien Desrosiers, who were 18 and 16 years old; Walky Louis, 19; Schiller Pierre, 16; and Jacques Nélio, 24—were killed on or shortly after the night of July 26. The police claimed that they were zenglendo bandits attempting to escape, while several of the victims' parents described their sons as the innocent victims of police murder.

Some of the facts of the case remain murky, but the testimony of several witnesses is clear about how the incident began. On the evening of July 26, in the parking lot of the Lalue Supermarket on the Route de Delmas, an argument began between four young middle-class high school students who were driving a Toyota and a group of policemen. One of the policemen, who was believed by some bystanders to be Colonel P. Cantave Neptune, the chief of the Investigations and Anti-Gang Service of the police, shot and killed the driver of the car, Stevenson Desrosiers, on the spot.

Twenty-four-year-old Jacques Nélio had just come out of the drug store across the street. Witnessing the shooting, he called out, "Abuse, abuse! You can't do that any more!" He was seized by the police and removed from the scene in a police vehicle, along with the three surviving young men, and the body of Stevenson Desrosiers.

The next day, the youths' Toyota was found, with blood-stained seats, behind the building of the Haitian-American Sugar Company, outside Port-au-Prince. Their bodies, bearing multiple bullet wounds and signs of other abuse, turned up in the morgue at the main public hospital. The parents of the Desrosiers brothers immediately denounced the killings and appealed for justice. They were quoted extensively in the media, and President Aristide met with them and expressed concern about the incident.

A police lieutenant, Richard Salomon, was arrested, and Colonel Neptune was suspended from duty, while the police announced the launching of an investigation. However, police officials, including the police chief, Colonel Pierre Chérubin, publicly contended that the five youths had been armed and dangerous, and that the killings had taken place in an effort to protect the populace from them. No witnesses to the execution of Stevenson Desrosiers or the arrest of the other young men had noted any armed resistance.

On August 8, independent Radio Metropole reported that five policemen, including Captain Neptune and Lieutenant Salomon, had appeared before the commission investigating the killings. The radio said other people, including the victims' parents, would also testify.[35]

During a day-long ceremony on September 11, 1991, marking the anniversary of the 1988 massacre at his church of St. Jean Bosco, President Aristide responded to questions about the murder of the five young men. Asked about why the investigation was taking so long, he expressed confidence in the police:

"Today or tomorrow, the results of the investigation will have to be delivered to me. And my wish, my hope, based on the information that I have, leads me to believe that there is a good chance that Lieutenant Chacha [Salomon], Captain Neptune, and Colonel Chérubin will be given the normal and legal opportunity to begin to once again lead the struggle against the zenglendo, as they led it before."[36]

The president, speaking of the logistical problems confronting the police, also intimated that a resurgence in banditry at the time was related to Neptune's suspension.

Aristide's response was rightfully criticized as an unjustified attempt to take the heat off his then-allies in the police. In fact, Captain Neptune had been credited with doing much to stem the crime wave in the country. His men, as noted above, had made numerous arrests, broken up several alleged criminal gangs, and arrested some prominent supporters of past regimes on charges of plotting against the government. But Aristide was clearly wrong to point to police accomplishments to justify an apparently clear case of police abuse.

Military resistance to civilian authority was demonstrated in a May 7 confrontation at the National Penitentiary. Monique Brisson, a practicing attorney and former legal adviser to President Aristide, went to the prison with a court order to obtain the temporary release of five inmates who were scheduled to appear before a judge.[37] She was told by a prison official, Warrant Officer Yves Perrin, that the prisoners would not be released because the prison commander was not present. Brisson, in turn, told the prison official, "It is your job to obey the orders of the Justice Ministry." The official responded that he answered to the military, not to civilians. In the argument that followed, Perrin slapped Brisson and threw her to the floor. Bloody, she was locked up in a cell for several hours.

Brisson filed a compliant against the officer but, she said, he failed to show up for five scheduled hearings, effectively blocking her legal action. Before the coup, she was optimistic that Perrin would be found guilty, but added that she had been threatened in the courtroom by people she described as military personnel in civilian clothing. Thereafter she went to court under police protection.

The army, for its part, announced in May that it had set up a commission, headed by Lieutenant Colonel Néoclès P. Arné, to investigate the incident.

In the early morning hours of March 18, after capturing an alleged criminal, Exumé Jean, residents of the Delmas 48 neighborhood notified the 22nd Company of the Delmas Military District and asked that he be arrested. Instead, a group of soldiers from the post arrested four members of the local block association: Edner Jacques, the president, and Mercidieu Cicéron, Astel Hyppolite and Dieunor Hyppolite. The officers made the four lie on the ground and then walked on them. Jacques was also beaten with a baton on this knees and hips; Dieunot Hyppolite was punched in the head and was bleeding through the ears; and Cicéron had four teeth knocked out and was bleeding through his nose and left ear.

Army officials from the military district of Lamentin, on the outskirts of Port-au-Prince, shot and wounded four people and severely beat several others during a demonstration on August 23 on Route de Carrefour. The police attacks occurred during a demonstration by some 100 members of the "Assembly of Carrefour Militants" (RMK), who had gathered to demand various governmental reforms in Carrefour. The demands included the firing of two Carrefour officials and the arrest of Carrefour's Lieutenant Guillaume, who allegedly had opened fire on pro-Aristide demonstrators on January 27. (Lamentin was also the site of a massacre following the September 30 coup, in which the army responded to the killing of one or two soldiers by a local crowd by firing randomly at pedestrians and into homes, killing an estimated forty.)

Land conflicts

Land conflicts continued to plague the fertile Artibonite region in the early months of the Aristide government. In two major conflicts, the military was not known to have played an active role, either in investigating the violence or in attempting to stop it by bringing those responsible to justice. In two other cases, the military contributed to the violence. Beginning in June, however, the Aristide government intervened actively to curtail such violence.

The two incidents in which the military played a passive role were the following:

A land conflict in Habitation Blain, in the first communal section of Petite Rivière de l'Artibonite, between the heirs of Adam Simon and Nicolas Jean-Baptiste, led to recurring violence in 1991. Rochemy Toussaint was killed on February 1 in Habitation Blain in connection with the conflict. On February 16, a group of peasants armed with machetes and guns, supporters of the heirs of Nicolas Jean-Baptiste, invaded a twenty-seven-acre plot of disputed land. Three people were gravely wounded: Fanel Silencieux, Marius Cinéus and a woman known as Anette. Twenty homes and a considerable amount of livestock were damaged. The attackers also stole one thousand dollars from the home of Mrs. Saint-Charles Cius. Jocelin Georges of Blain was killed on June 4 when the conflict flared up. On June 21, a group from Blain, armed with guns, machetes and tear gas, entered Habitation Brizard and pillaged three hundred homes, confiscated livestock and shot and killed Dieudonné Louis. One of the Blain group, Yves Altéant, also died in the gunfire.

Three houses were burned and six people injured in a bloody confrontation on March 16 between the peasants of Upper Lakou and Lower Lakou in Latapie, in the first communal section of Grande-Saline. Lapot Philius was wounded on his left arm by a machete; Boutin Pierre and Mérité Pierre were stoned and injured in the head; and Samuel Nicolas, Exant Joseph and Saint-Jacques Noel suffered minor injuries. Two days later, on March 18, both groups of peasants went to the Ministry of Justice in Port-au-Prince to report the incident. Residents of Upper Lakou said that four people from Lower Lakou—Exant Cyprius, Geffrard Joseph, Cémoine Philistin and Dumé Noel—had started the dispute. These four were jailed, though no formal charges were brought against them, and they were released on March 28. Meanwhile, in Latapie, three residents of Lower Lakou, Vanyo, Chesnel and Esnel Noel, avenged the arrest of their fellow villagers by beating Francklin Valcin, a resident of Upper Lakou.

Soldiers intervened with unjustified violence against civilians in two other incidents:

In an episode stemming from a land conflict, a group of soldiers from the Gonaïves barracks and civilians carrying machetes, led by Second Lieutenant Renaud, marched into the Parc-Cheval neighborhood of l'Estere in the Artibonite on June 17, ransacked eleven homes and stole thirty goats and eight pigs. The following day, soldiers in l'Estere opened fire on a group of citizens who had come to the military post to discuss the incident. Dorcéus Dort was killed and Irec Stinvil, 36, was wounded and hospitalized in Deschapelles.

On July 1, four civilians and a soldier were killed in confused circumstances in the Cerca-Carvajal section of Cerca-la-Source, in the Central Plateau, in a dispute that had its roots in an argument about land use. A group of people from Cerca-Carvajal protested the June 28 arrest of Ducange Joseph and Anel Bélizaire in connection with a legal dispute over a field on which local youths played soccer. The protestors blocked roads with burning barricades and threw stones at the local military post. One soldier was stoned to death and eight were wounded. The soldiers retaliated and shot and killed four of the demonstrators and wounded six.

A wave of violence in late June led President Aristide to launch an impassioned radio appeal for an end to the killing:

"While we wait for the creation of the National Institute of Agrarian Reform and a solution . . . to these land problems, I ask each brother and each sister in the Artibonite to use their machetes to work the land and not to wound their fellow creatures. Those who have firearms, whether soldiers or civilians, should not use them to kill. . . . No one should kill over a land conflict."[38]

Also in late June, a delegation made up of Prime Minister Préval and the ministers of agriculture and justice spent several days in the Artibonite, visiting towns where there had been outbreaks of violence and conflicts over land, in an attempt to assess the problem and bring peace to the region. Such a tour was without precedent under previous governments. The ministers met with various parties to the conflicts and left soldiers in some spots to keep the peace. Perhaps as a result of these efforts, there were no major incidents of violence in the region in August and September.

* * * * *

This report was written by Anne Fuller, associate director of the National Coalition for Haitian Refugees, and edited by Kenneth Roth, deputy director of Human Rights Watch, the parent organization of Americas Watch. Fact-finding investigations were conducted by Jocelyn McCalla, NCHR's executive director; Mary Jane Camejo, an Americas Watch research associate; and Victor Cuffy, executive secretary of Caribbean Rights. Additional research assistance was provided by Ellen Zeisler, NCHR research/administrative associate.

Americas Watch and the National Coalition for Haitian Refugees have been monitoring human rights in Haiti since 1983. This is their twelfth report on Haiti, the fourth with Caribbean Rights.

Americas Watch was established in 1981 to monitor and promote observance of human rights in Latin America and the Caribbean. The chair is Peter Bell and the vice-chairs are Stephen Kass and Marina Kaufman. Its Executive Director is Juan E. Méndez; Associate Directors, Cynthia Arnson and Anne Manuel; Director of San Salvador Office, David Holiday; Representative in Santiago, Cynthia Brown; Representative in Buenos Aires, Patricia Pittman; Research Associate, Mary Jane Camejo; Associates, Clifford C. Rohde and Patricia Sinay.

Americas Watch is a division of Human Rights Watch, which also includes Africa Watch, Asia Watch, Helsinki Watch, Middle East Watch, and the Fund for Free Expression. Robert Bernstein is the chair of Human Rights Watch; Adrian DeWind is the vice-chair; Aryeh Neier, executive director; Kenneth Roth, deputy director; Holly J. Burkhalter, Washington director; Ellen Lutz, California director; Susan Osnos, press director; Jemera Rone, counsel; Joanna Weschler, Prison Project director; and Dorothy Q. Thomas, Women's Rights Project director.

The National Coalition for Haitian Refugees is composed of 47 legal, human rights, civil rights, church, labor and Haitian community organizations working together to seek justice for Haitian refugees in the United States and to monitor and promote human rights in Haiti. Its executive director is Jocelyn McCalla and its associate director is Anne Fuller.

Caribbean Rights is a coalition of human rights organizations from the Bahamas, Belize, Guyana, Haiti, Jamaica, Puerto Rico, and St. Vincent and the Grenadines, which headquarters in Barbados. Its chair is Caleb E. Morales de León, its executive secretary is Victor Cuffy, and its coordinator is Wendy Singh.

Other reports issued on human rights in Haiti include the following:

Americas Watch and the National Coalition for Haitian Refugees, In the Army's Hands: Human Rights in Haiti on the Eve of the Elections, December 1990.

Americas Watch, the National Coalition for Haitian Refugees, Caribbean Rights and the International Commission of Jurists, Reverting to Despotism: Human Rights in Haiti, March 1990.

Americas Watch and the National Coalition for Haitian Refugees, Human Rights in Haiti: One Year Under Prosper Avril, September 1989.

Americas Watch, the National Coalition for Haitian Refugees and Caribbean Rights, The More Things Change . . . Human Rights in Haiti, February 1989.

Americas Watch and the National Coalition for Haitian Refugees, Haiti: Duvalierism Since Duvalier, October 1986.

Reports on abuses against Haitians in the Dominican Republic include the following:

Americas Watch, the National Coalition for Haitian Refugees and Caribbean Rights, Half-Measures: Reform, Forced Labor and the Dominican Sugar Industry, March 1991.

Americas Watch, the National Coalition for Haitian Refugees and Caribbean Rights, Harvesting Oppression: Forced Haitian Labor in the Dominican Sugar Industry, June 1990.

Americas Watch, the National Coalition for Haitian Refugees and Caribbean Rights, Haitian Sugar-Cane Cutters in the Dominican Republic, November 1989.

FOOTNOTES

[1] "Jean-Jacques le Juriste . . .." Haïti en Marche, October 23–29, 1991.

[2] Clifford Krauss, "In policy shift, U.S. criticizes Haitian on Rights Abuses," The New York Times, October 7, 1991.

[3] Transcript provided by the Embassy.

[4] It is beyond the scope of this report to discuss the achievements of the Aristide administration outside the realm of human rights. We note, however, that the progress that was made on the human rights front came despite such burdens as the Dominican government's summary expulsion of some three to five thousand "Haitians," and the resulting exodus of some sixty thousand more to Haiti. The Aristide government also devoted its energies to reducing corruption, addressing the needs of Haiti's poor and soliciting international aid to meet the country's many pressing problems.

[5] See especially "In the Army's Hands: Human Rights in Haiti on the Eve of Elections," published in December 1990 by Americas Watch and the National Coalition for Haitian Refugees; and "The More Things Change . . . Human Rights in Haiti," published in February 1989 by Americas Watch, the National Coalition for Haitian Refugees, and Caribbean Rights.

[6] "I have a dream, a dream that is in the process of being realized," said Aristide on May 14 at the Military Hospital in Port-au-Prince, after he had successfully negotiated an end to a rebellion by rank-and-file soldiers at the Petionville Barracks. "This dream is that before the end of five years, the Haitian people will recognize that the soldiers (se moun pa yo) are their people, are their brothers, that they are going forward with them to make the country more beautiful. And that the soldiers, seeing how happy the people are with this unity, will feel proud." "Témoignage d'un soldat: l'état d'esprit à la base de l'armée," Haïti Progrès, June 12–18, 1991.

[7] Père Lebrun, or Papa Lebrun, is a major retailer of automobile tires in Haiti. His television ads used to show him popping his head through one of his tires.

[8] For a more complete account of the Haitian election, see "Haiti: The Birth of a Democracy: Report of the General Elections Held in Haiti on December 16, 1990," by Caribbean Rights, the National Coalition for Haitian Refugees, Americas Watch and the Lutheran World Federation.

[9] "Un cri d'alarme lancé au Premier Ministre," Le Matin, June 11, 1991.

[10] These figures are taken from the monthly list of human rights violations in Haiti published in Haiti Insight, the bulletin of the National Coalition for Haitian Refugees. They are gleaned from several sources in Haiti. Killings for which the culprit was not known to be a soldier are presumed to be the work of civilians.

[11] "Pas d'amnistie, mais une justice égale pour tous," *Haïti en Marche*, January 2–8, 1991.

[12] "en bref," *Haïti Progrès*, March 27–April 2, 1991.

[13] Previous visits had been conducted under the governments of General Prosper Avril, General Henri Namphy and the Namphy-led National Governing Council.

[14] The practice of jailing such deportees—usually for several weeks—had begun in 1990 under the Trouillot government and apparently continued under the Aristide government. The police defend the practice as part of their fight against crime. According to information obtained in September 1991 from the Haitian Human Rights Center (CHADEL), even deportees whose only offense was entering the United States with a fraudulent visa were being detained for several days in prison for questioning upon their return to Haiti.

[15] The account of Auguste's visit to the prisons in Petionville and Croix-des-Bouquets is taken from "Visite du ministre de la justice á la prison de Petion-ville et de la Croix-des-Bouquest." Agence Haitienne de Presse. 74th Summary of National News, June 10–15, 1991.

[16] The second commission was modeled after a commission that had been decreed in October 1990 by President Trouillot but never constituted.

[17] "23 juillet 1987–23 juillet 1991: Quatre annèes après," Agence Haitienne de Presse, 80th Summary of National News, July 22–27, 1991.

[18] "Peasant Massacre Suspects Arrested in Jean Rabel," Radio Nationale, July 26, 1991, as reported in Federal Broadcast Information Service.

[19] Transcript excerpted from "Le chef de la police de Genève dément formellement la création d'une milice par Aristide," *Haïti Progrès*, October 9–15, 1991, and confirmed in an October 23, 1991 telephone interview with Marcel Vaudroz, press officer for the Geneva police.

[20] "Police Use Tear Gas to End Demonstration 13 August," Radio Galaxie, August 14, 1991, as reported in Federal Broadcast Information Service.

[21] "Government Urges Respect," Radio Metropole, August 16, 1991, as reported in Federal Broadcast Information Service.

[22] Letter to William O'Neill, Lawyers Committee for Human Rights.

[23] *Haïti en Marche*, January, 1991.

[24] "Lafontant et certains de ses complices comparaissent devant le tribunal civil," *Haïti Progrès*, January 23–29, 1991.

[25] These figures are derived primarily from the monthly bulletin, "Situation des Droits de l'Hamme en Haiti," published by the Haitian Center for Human Rights (CHADEL), the director of which, Jean-Jacques Honorat, has become prime minister of the military-sponsored government. Many of the incidents were also recorded elsewhere.

[26] As of mid-September, no progress had been reported on the case.

[27] Our translation of transcript which appeared in "Retour probable d'Aristide en Haïti," Haïti Observateur, October 2–9, 1991.

[28] A presumed reference to Roger Lafontant, who had begun to serve a life sentence in the penitentiary for attempting to overthrow the government. He was murdered two days later in his cell as the coup was beginning under circumstances that remain obscure.

[29] "Haiti: Titid! President Jean Bertrand Aristide Interviewed by Anne-christine d'Adesky," October 1991.

[30] Ironically, if Lafontant had been charged with torture or murder, which most Haitians believe he committed when he was interior minister under Jean-Claude Duvalier, he would have been eligible for the maximum sentence. Again, the legal system's failure to satisfy popular longings for justice for violent abuses of human rights seems to have fueled Haitians' tendency to take justice into their own hands.

[31] Transcript from "President Aristide Addressed Youth Rally," Radio Metropole, August 5, 1991, as reported in Federal Broadcast Information Service.

[32] "Aristide aux Cayes: rencontre aver les organisations populaires et appel à la 'bourgeosie nationaliste,'" Haïti Progrès, April 24–30, 1991.

[33] "Port-au-Prince: dernier hommage au militant Fritz Dor." Haïti Progrès, March 27–April 2, 1991.

[34] Alouidor was fired on May 17 and ultimately arrested for permitting a justice of the peace, Emmanuel Vital, to escape justice. Vital had been ordered to issue an arrest warrant for one Dieumaitre Lucas and allegedly accepted a bribe to let Lucas go.

[35] "Five soldiers appear before Military commission," Radio Metropole, August 8, 1991, as reported in Federal Broadcast Information Service.

[36] Rodrigue Louis, "Le président Aristide en larmes devant le 'Tribunal populaire,'" Haïti Observateur, September 18–25, 1991.

[37] Telephone interview with Monique Brisson on September 25, 1991.

[38] "Aristide met en garde les organisateurs de tueries pour les conflits terriens dans l'Artibonite," Le Matin, June 22–24, 1991.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Madam President, how much time remains?

The PRESIDING OFFICER. Seven and a half minutes.

Mr. DODD. I yield to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Thank you, Madam President.

Madam President, we may sometimes feel what we do here is not listened to very attentively by the people of America. But I can assure you that what we do here is listened to by people around the world, and they take what we say here seriously.

One of those places which is listening today is Haiti. What we say here is being heard by both sides. I am afraid much of what we have said in the past several days has given heart and encouragement to the worst, the most evil elements within that society.

I would like to respond to just two points in terms of setting the record straight.

One of those points has to do with the current Government of Prime Minister Robert Malval in Haiti. Robert Malval was appointed by President Aristide and confirmed by the Haitian Parliament. He is the official head of government.

I believe that the people of Haiti and the people of the international community, and particularly the United States of America, who are concerned about the future of Haiti, ought to take great heart in having a man of his ability and talent and raw courage serving in the position of Prime Minister at this time.

Under the Haitian Constitution, which is modeled after the French Government, it is the Prime Minister who has principal governmental responsibility. We have the good fortune to have as the head of the Government of Haiti at this time a person who is able to bring, by his personal example, reconciliation to the disparate groups that make up the Haitian society; a man who has spent most of his life in the business communities of Haiti; and now, because of the confidence which has been resided with him by President Aristide and the Parliament, and his ability to speak to both the economic and the political leadership of Haiti traditionally, and the emerging voice of the masses of Haiti, is providing a leadership of reconciliation which is critical to the future of that country. He is risking his life doing so.

I had dinner with Prime Minister Malval 10 days ago in Port-au-Prince. He was called away from the dinner because his wife indicated there was shooting going on in front of their home. That is the condition in which he and other members of the government are living now in order to provide some element of democratic stability to Haiti.

Rather than receiving the disparaging comments that have been made so recently about the Government of Haiti, we ought to be commending people who are standing up for the values that we would like to see shape the future of that beleaguered country.

Second, I believe that the comments that have been made about the foreign policy of President Clinton as it relates to Haiti have been grossly overstated. There has been a tendency to say the President made mistakes in Somalia; Somalia and Haiti are equal; therefore, the President must have been making the same kinds of mistakes in Haiti.

Essentially, the foreign policy that President Clinton has been following is a continuation of the policies of President Bush. Those policies had two basic assumptions. First, the restoration of the democratically elected President to his rightful role in the Haitian Government. Just as President Clinton has met with President Aristide and expressed his public support, President Bush met with President Aristide and expressed his political support for President Aristide's restoration. This is not some new development that had just occurred in a new administration.

Second, both President Bush, by his demonstrated actions from September 1991 until January of 1993, and President Clinton, by his actions since January 1993, have indicated their reticence to use United States combat troops as a means of resolving the situation in Haiti. Both have been very reticent to do so. And a premise of President Clinton's policy has been to emphasize the diplomatic initiatives that might have the potential of restoring stability and democracy to Haiti.

I commend President Clinton and those who have worked with him in order to accomplish the result of the Governors Island accord. That accord, signed in early July of this year, was not perfect. It is not exactly the accord that any one of us might have written if we had sat down at the table alone. But it represented a bringing together of the disparate groups in Haiti with a document that they would both sign and which would then receive the ratification of the international community through U.N. resolution and commitment to implementation.

President Clinton has been very clear that his goal is to see that those Governors Island accords are complied with and fully implemented. I strongly support that position.

The use of force in Haiti provided under the Governors Island accord and U.N. resolution was a benign use of force. It was not in a combat role. It was in a role of trying to deepen democracy by the slow, difficult, but necessary process of transforming the Haitian military from an institution that has been repressing the people throughout most of its history to an institution that can help the people. Therefore, we had Seabees who were going to help in giving them skills on how to build a school, how to repair a bridge; those kinds of things that our military has done for many decades to help the building of America.

We were also going to be providing training in terms of how does a military function in a democratic society. Those are valuable skills and attitudes that the United States military is peculiarly able to provide to a military such as that in Haiti.

We committed those troops under certain assumptions. Those assumptions included that there was going to be a permissive, tranquil environment and that the Haitian military would provide safety and security for our troops.

What was the President to do when he had 200 or 300 Americans and Canadians on a boat in the Port of Port-au-Prince? They could not dock, not so much because of the relative handful of hooligans who were at the port, but because the port authorities, under the control of this military regime and its thugs, would not move the ship which was at the dock occupying the only space that the U.S.S. *Harlan County* could utilize for purposes of disembarking its troops and equipment. That was why the ship did not land, not because of the handful of hooligans, but because the military in control of the port had made it impossible for the ship to land.

I think the President exercised very good judgment in making the decision that we were not going to put our troops in harm's way when the commitment that had been made by the Haitian military of a tranquil environment and security were not being complied with.

So, Madam President, I believe that the charges that have been made against the Government of Haiti—the democratic government, and particularly the leadership of Prime Minister Malval—and those charges that attempt to analogize Somalia to Haiti and therefore cast aspersions on the President's foreign policy and his capacity to implement it are misplaced.

Finally, Madam President, we need to be very careful about what we say here. I fear that some of the comments, particularly the hot rhetoric directed at President Aristide, is creating not only a false picture, but is creating a sense of encouragement to the most evil forces in Haiti.

We have heard a lot about the allegations that President Aristide was involved in various actions. What we have not heard very much of is the absolute, uncontroverted fact that the military regime, within the last several weeks, has gone into a church, the Church of the Sacrecoeur, in Port-au-Prince and pulled from the service one of its opponents and a supporter of President Aristide, dragged him through the center aisle of the church out into the street and then fired a bullet through his ear. That is the kind of government we are giving encouragement to by this misshapened debate that focuses on a few alleged events that may or may not have occurred, may or may not have had the context that is suggested relative to President Aristide.

We are also discouraging our friends in Haiti. There are people who have and are today putting their lives on the line based on the representations the international community has made that we will support a restoration of democracy in that country.

Today's Washington Post carries an article about discouragement, particularly in the rural areas, which are the areas that are largely out of the vision of the international press, the international community, where the civil rights and human rights abuses are at their grossest; that there is discouragement now as to whether they can put faith in the statements and the hope for the future that we have helped create.

So, Madam President, I hope that these remarks have contributed to some balance in our understanding of what the reality is in that country of Haiti, our near neighbor, and will help give some hope to our friends of democracy that their courage and their commitment to their country and what they are saying about democracy throughout the Western Hemisphere of the world has not gone unheard in this Chamber and in this Nation.

Thank you, Madam President.

The PRESIDING OFFICER (Mr. ROBB). Who yields time?

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The time controlled by the majority leader is 17 seconds and counting.

Mr. DODD. How much time is controlled by the Senator from North Carolina?

The PRESIDING OFFICER. The Senator from North Carolina has 15 minutes. The Republican leader has 4 minutes.

The time controlled by the majority leader has now expired.

Mr. DODD. Mr. President, I think the Senator from North Carolina probably ought to take his time.

I will note the absence of a quorum and have the time run against the time of the Senator from North Carolina, since there is no time remaining for this side.

Here he is.

Mr. HELMS. I object.

The PRESIDING OFFICER. If no one yields time, the time remaining is reserved for the Senator from North Carolina and for the Republican leader. Who yields time?

The Chair recognizes the Senator from North Carolina, Senator HELMS.

Mr. HELMS. I thank the Chair and ask the Chair to notify me when I have consumed 6 minutes of my remaining time.

The PRESIDING OFFICER. When the Senator has 6 minutes remaining or has used 6 minutes?

Mr. HELMS. When I have used 6 minutes of my remaining time.

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. HELMS. Very well. I think we had better revisit the meeting that went on on the fourth floor of the Capitol yesterday afternoon. The majority leader and the Republican leader, Mr. MITCHELL and Mr. DOLE respectively, did a commendable thing as I said earlier, when they decided to invite the CIA—and when the two leaders of the Senate invite somebody, that is a command performance—to send knowledgeable experts on Haiti and Mr. Aristide.

Mr. Aristide was down in S. 116 in a love-in with the Senators who support him and say that he represents democracy in Haiti. They want to see democracy restored to Haiti with this man, who is one of the most brutal people to hold office in this hemisphere in my lifetime. He danced all around the truth, I am told, in his meeting with the Senators, who got out in front of newspaper cameras. And they were smiling and he was smiling because he had conned them and he had conned the major news media of this country. He said that he did not have the painting on the wall. Somebody bring me the painting. This is the painting that advocates necklacing. He said, or at least was quoted as saying, that he did not have any such painting on his wall.

I have just talked by telephone with a man in Haiti who has the painting, the man who took it off of Aristide's wall.

Aristide said yesterday that he did not know anything about the painting. I just happen to have here a photograph of Aristide holding a photograph of that painting.

Mr. COATS. Will my friend from North Carolina yield at this time for a question?

Mr. HELMS. Yes, sir.

Mr. COATS. I was one of the Senators who went to that meeting, but no one was there. I was in a defense authorization conference and was handed a note the administration was sending some people up at 5:15. I could not get out of my conference until 5:50, 35 minutes past the time when the administration people were supposed to be there. I went up to the fourth floor. No one was there. They said, "Senator we do not know—no one has shown up yet."

I thought it was just going to be a repeat of what the administration usually does when they are called up here, that is they are usually half an hour to an hour late, if they show up at all and, second, when they do show, you get so much mush and mishmash it is not worth going, so I just left. That is probably why some Senators were not there.

Mr. HELMS. I know the Senator would have been there if he could. But I also know Senators who were not as involved as the Senator was—yesterday afternoon.

Mr. COATS. I think in fairness there probably were Senators who showed up, realized no one was there——

Mr. HELMS. I have been told several times by the leadership, "You ought to have known about that. It was hotlined." But the Senator from Indiana has a good excuse.

The point I am making is that the real issue is passing like a ship in the night. Some say that the issue is not Aristide.

The heck it is not. What is fundamentally being proposed is to use U.S. troops to put this man back in power. Nobody denies that. They have even boasted about it.

So the fundamental question is how many lives of how many soldiers and sailors are Senators willing to put at risk because of the situation in Haiti?

The PRESIDING OFFICER. The 6 minutes the Senator asked to be reminded of have expired.

Mr. HELMS. I thank the Chair. Let me proceed for 2 more minutes, and then hit the gavel again please, Mr. President.

The PRESIDING OFFICER. The Chair will remind the Senator when 2 additional minutes have expired.

Mr. HELMS. Here are the questions I was going to ask the CIA yesterday. I did not have to ask one of them because in the review of the situation they covered all of the material and they verified every scintilla of what I said yesterday—including the charts.

I proposed to ask the CIA if Aristide incited mob violence and encouraged necklacing when he was in power. They said yes and they went into detail.

I was going to ask, do you have knowledge that Aristide ordered the murder of his political rival, Roger LaFontant? They answered that in the affirmative in the course of their report.

I proposed to ask if Aristide returns to power, is it the CIA's belief that violence would increase or decrease? They said increase.

I was going to ask, in your judgment can Aristide be trusted to keep his word on amnesty? They said not in our opinion.

I was going to ask, to your knowledge, has Aristide ever agreed to renounce the use of violence? They said no.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. The Senator's time is reserved. Who yields time?

The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, I yield, with the permission of the Republican leader, the 4 minutes remaining there and 1 minute of my leader time, for a total of 5 minutes, to Senator DODD.

The PRESIDING OFFICER. The Senator from Connecticut, Senator DODD, is recognized for up to 5 minutes, 4 minutes to be charged against the Republican leader, 1 minute charged against the majority leader's time.

Mr. DODD. Mr. President, I thank the majority leader and the minority leader for their time.

I just want to, No. 1, commend the Senator from Kansas for this alternative amendment. It is not exactly everything I would embrace but it certainly is vastly superior to what is being proposed by the Senator from North Carolina. I do commend as well the majority leader for his efforts in putting together a far more responsible approach to these issues.

Let me begin by saying no Senator, no American, desires or is anxious to see any American sent anywhere unnecessarily in this world, and particularly to places that are so trouble-ridden, as is Haiti. I do not believe the President of the United States has any desire whatsoever to send American troops to Haiti or anywhere else, for that matter, and to put them in harm's way unnecessarily.

What we are talking about here is whether or not the options of an American President ought to be so curtailed as to deprive him of options that may become necessary. The Helms amendment, if adopted, would do just that. So on that basis alone, putting aside one's particular favorite candidate in Haiti or elsewhere, it ought to be soundly rejected and the Dole-Mitchell alternative ought to be strongly supported.

Our colleague from Florida, Senator GRAHAM, said something very important here this morning. He said what we say here is being watched and listened to all over the world. I guarantee my colleagues, the vote we are about to take on Haiti will be watched very, very carefully within that country.

There is no doubt in my mind, and I say this with all due respect to the senior Senator from North Carolina, if his amendment is adopted, that amendment sends a clear signal to General Cedras and to the head of the police in Haiti, Mr. Francois, that they can continue what they are doing. They can stay on track. If they were in this Chamber, they would support the Helms amendment. That is what side they would come out on.

I urge my colleagues to reject that approach. This is not a debate about whether or not we particularly like the psychological profile of an individual head of state someplace. In fact, I am somewhat uneasy about the Central Intelligence Agency getting into the business of psychological profiles. I think that is dangerous business, quite candidly. I urge my colleagues to examine the record a bit further than just the last few months, and they may find some revealing information.

I will tell you, I think President Aristide is a good person. He was elected overwhelmingly by the people of his country—70 percent. I am not going to endorse every statement he has made, every action he has taken. This is a different country; it is a different culture; there is a different style here.

All I know is, by every account, he was overwhelmingly elected in the freest election that country has ever held. Whether or not we particularly like him, or we would have voted with him, or we agree with his politics, ought not to be the business of this body. The question is whether or not we believe that having a democratic government in Haiti is in our interest, or is it in our interest to continue to support, inadvertently, if you will, the present holders of power in Haiti?

What do we know about them? We know this much: As long as they have been in power, 40,000 Haitians have left Haitian shores and sought refuge in this country. If they continue in power, we can expect similar waves of humanity to come to our shores. That is a guarantee.

Second, we know that these people have now made Haiti a major transit point for illegal trafficking in narcotics. I guarantee you that if they stay in power, General Cedras and the thugs around him will continue in that business. They are accumulating vast fortunes of wealth. There will be a continuation of the problem.

You can look at the continuation of slaughter that has occurred in that country, including individuals like the ones that the Senator from Florida has identified who were dragged out of churches, and others shot indiscriminately by police and their supporters in the streets of Port-au-Prince.

I urge my colleagues to reject the Helms amendment and to send a strong signal. Our colleague from North Carolina historically has been on the side of those who try to oppose democracy, whether it was in Chile with General Pinochet, Roberto D'Aubuisson in El Salvador, the forces in power in South Africa—if you want to be on that side of history, then fine. I think we ought to be on the side of democracy.

Defeat the Helms amendment; support the Dole-Mitchell alternative.

The PRESIDING OFFICER. All time under the unanimous-consent agreement has expired except the 6 minutes and 49 seconds under the control of the Senator from North Carolina.

Who yields time? The minority leader.

Mr. DOLE. Was leader time reserved?

The PRESIDING OFFICER. All leader time was reserved and all time of the Republican leader is available.

Mr. HELMS. Mr. President, how much time remains?

The PRESIDING OFFICER. Six minutes and 44 seconds.

Mr. HELMS. I yield back the time so we can get to a vote pretty quickly. I hope the leadership will be brief, too.

The PRESIDING OFFICER. The Senator's time is yielded back. All time under the original order is yielded back. Is there further debate?

The Republican leader is recognized.

Mr. DOLE. Mr. President, I thank the Senator from North Carolina.

No doubt about it, this debate is very important. No doubt about it, the President understands its importance, and there have been some changes made. No question about it, there is a strong, strong message from the Congress before the fact, not after the fact. I think that is the point at least this Senator has been trying to make: We ought to speak before the fact and not after the fact and then go back and criticize somebody after it has already happened. They will say, "Well, where was Congress?" We were somewhere.

That is the purpose of this amendment, as I see it. The majority leader may see it a bit differently. It seems to me we need to put out a marker; Congress needs to speak with one voice.

President Clinton properly believes that any infringement on executive authority is wrong. That is the same view expressed by former President Bush in a statement he issued this morning because somebody got it all wrong in a meeting we had with President Bush yesterday. He came by and said the two leaders were doing a good job, and somebody interpreted that to mean he was taking a stand on infringing on Presidential authority. That is not true.

The President and former Presidents all agree, they do not want any infringement on their authority, but the Constitution is different. The Constitution also gives the Congress power to declare war, issue letters of marque and reprisal, the power of the purse, appropriate money as we do for United Nations, NATO, military operations all around the world.

So it seems to me there is a difference, a fundamental difference as to how the executive views it and how the legislative branch views it.

What we have proposed to do, what we hope we have done in the amendment that is now the Dole-Mitchell amendment, is to find a balance so the Congress is on record, as I said, before the fact, before the body bags are counted, before the caskets come home, before we have the bad news about a tragic loss of one American life in Haiti, before there are any troops deployed.

I also believe, as pointed out by both Senators from Florida, that there is a national interest at stake. We do have a national interest in Haiti because if enough is done to stir up the problems in that country and people start fleeing Haiti again, they are going to end up primarily in Florida, and Florida will very properly ask that they be distributed across America.

We have to have empathy for the poor people in Haiti. They do not have any leadership. They have thugs and killers. I do not get too excited about Aristide either. I must say, I was one of those who went up to S-407. I believe if everybody had been there, we might have had a much different debate this morning.

I am not going to characterize what happened. I am just going to say it was very disturbing information. I talked with one Senator on the way out. I said, "I have been coming up here I don't know how many years. I never heard anything I had not read earlier in some newspaper until today."

So I think it ought to be made very clear—and I congratulate the Senator from North Carolina for at least alerting us to some of the facts about Jean-Bertrand Aristide. There is a national interest, and I share the views of my colleagues from Florida in that area.

We have had a lot of conversions around here on Presidential flexibility. They have really been fast. In the last few days, people have been converting all over the place.

We had all kinds of restrictions on El Salvador and Nicaragua. In fact, these are the restrictions we placed on those two countries in just 4 years. I do not think I voted for any of them, but they all passed. I could not lift the 8-year package, but this is 4 years.

So when we talk about restrictions and a lot of those things, it has been there for a long time. This Senator understands that.

I also understand you have to be consistent around here—sometimes it is difficult—and sometimes we are not. But I remember back in November 1990 when the gulf crisis was heating up, I said in an interview that the President ought to come—that was President Bush—to Congress and get our approval. He did it later and it paid off.

We had a very good debate in this Chamber. Some were for it, some were against it. We had a very good debate, but it was very obvious to me once the Congress spoke and once we gave that authority, the American people coalesced behind the effort in a much stronger way than had the President gone it alone.

I hope that President Clinton would go back and take a look at that debate and take a look at what happened after that debate, analyze the American attitudes after that debate, and see how positive they were. Still some people were opposed to it; some people were telling us in this Chamber that sanctions would work in Iraq. We still have sanctions. They have not worked yet.

So President Bush was right. The majority in Congress was right. We did the right thing. We want to do the right thing from now on, whether it is in Haiti, in Bosnia, in Somalia. It seems to me that the President needs the flexibility but we also need to be heard before the fact—before the fact. We do not need more debates after we have a tragic circumstance where 18 Americans are killed in Somalia. We do not need debates where we have to decide, well, now that we have had losses, we are going to bring the troops home today or tomorrow or next week.

I am also reminded of the Boland amendment which passed in 1982. That prohibited funds and tied the President's hands far tighter than anything I have proposed. As I have said, I have had this 4 fiscal years' encyclopedia prepared by the Congressional Research Service of legislative restrictions, all these things we have had in the past.

So, I do not want somebody to suggest they are wrong. In fact, even some of the liberal newspapers that have been fussing about what we are attempting to do never raised a voice when we tried to tie the hands of the President in those days.

But the point is this is a very important amendment. I certainly welcome the support we are going to have, the broad bipartisan support.

Let me repeat, without making any allegation, it is fair to say that what we were told up in S-407 yesterday was very disturbing, very disturbing, to Democrats and to Republicans. They were not fabrications that I read this morning. They were the best judgment of the intelligence community based on some very hard evidence—on evidence. So they should not be dismissed or glossed over in the debate in our policy toward Haiti.

It seems to me that we have an opportunity here now to help the President of the United States. I view it that way. Let the President know in advance that there will be strong opposition from Congress if force is used to put Aristide back in power. I hope that is not what some people are voting for today.

Restoring democracy in Haiti is a great idea. They have never had it. Again, I empathize with the poor people of Haiti, the poorest country in this hemisphere. There is a lot we need to do in the United States. We do need to uphold the Governors Island accord. We are prepared to do that. So it suggests to me we are on the right track.

Let me say that I do not agree with Senator HELMS' amendment. It goes further than even my first amendment did, than my amendment did initially, because of the additional exceptions. But I am going to vote for the Helms amendment just as a protest to some of the things I have heard about Jean-Bertrand Aristide. I think Senator HELMS' amendment goes too far; I think it does tie the President's hands. But I do not know any other way to protest. The amendment will not pass, but I am going to vote for it—nobody else has to—because I really believe we have a problem we are going to have to deal with sooner or later. We have to balance the value of Aristide, if there is any value, with the national interest of a flood of refugees coming to America, primarily south Florida. It seems we do that in our amendment, we do that in the Dole-Mitchell amendment. It is my view that is the amendment which should finally be adopted, and I hope it has broad bipartisan support.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator's time is yielded back.

Mr. NUNN. Mr. President, I applaud the administration's effort to bring some form of democratic governance to Haiti. I also condemn Haitian military authorities for reneging on the Governors Island Agreement. The Haitian people deserve more than a perpetuation of tyranny and terror.

Having said this, Mr. President, I must also say that I am somewhat perplexed by our policy toward Haiti—or more specifically, the apparent assumptions upon which the policy rests. There is, first, the assumption that we and selected other democratic U.N. members can, with the help of deposed President Jean-Bertrand Aristide, create in Haiti a functioning democracy with a professional, politically obedient army, and a constabulary dedicated to protecting the country's citizens. This is a noble goal, to be sure, and one enshrined in the Governors Island Agreement. But it will not be easy to bring democracy to a destitute and largely illiterate population that for two centuries has been terrorized by anarchy, brutal tyrants, and a corrupt police. To a country that lacks established political parties, a real legislature, and an independent judiciary.

Mr. President, perhaps not all of my colleagues know that the United States military occupied and administered Haiti continuously for 19 years—from 1915 to 1934—with little lasting effect on Haiti's political traditions of autocracy, anarchy, and intimidation. During that 19-year period, we established law and order, administered government, built roads, introduced telephones and the telegraph, refurbished hospitals and schools, and tried to upgrade the standard of living. I do not know what the United Nations and the State Department expect to accomplish in Haiti in 6 to 12 months.

There is a second apparent policy assumption—or at least there was, until gunmen showed up on the Port-au-Prince docks last week to deter the United States warship *Harlan County* from disembarking over 200 American and Canadian personnel on behalf of the United Nations national-building mission. The administration apparently assumed that, somehow, those with a vested interest in Haiti's existing political order, like army commander Raoul Cedras and coup leader Michel Francois, would actually cooperate in implementing a U.N.-sponsored plan that would in effect remove them from political power. Yes, there was a Governors Island Agreement earlier this year. But the signatures of men like Cedras and Francois proved to be of little worth. Our policy appeared to rest on assumptions that: First, those who overthrew Aristide 2 years ago would voluntarily permit him to return and reassume his old job as president; second, a venal and untrained Haitian constabulary would meekly submit to reform by outsiders; and third, a highly politicized army would bow to externally imposed professionalization.

Even more questionable, Mr. President, were the apparent rules of engagement that would have governed United States military personnel in Haiti had the U.N. operation actually come off. United States military personnel were to be sent to Haiti under U.N. auspices, not as peacekeepers, but as trainers and infrastructure rebuilders. Since they were going not as peacekeepers but as trainers of the Haitian military and police and as engineers and construction personnel tasked with rebuilding Haiti's decrepit infrastructure, they were to be armed with only their personal weapons—9-millimeter pistols and M-16 rifles—and were directed not to use those weapons except in their immediate self-defense. Indeed, the entire operation was predicated on a completely permissive environment, with public declarations in advance that the operation at whatever stage would be immediately terminated in the event that environment changed for the worse. Was it wise to do this? Is it prudent to send lightly armed United States troops to Haiti for benign purposes and declare in advance that they will leave if shot at?

Mr. President, did these highly publicized rules of engagement doom the operation from the start? Did they not in effect tell all Haitians who opposed U.N. intervention that, all you have to do to torpedo U.N. intervention is simply fire a shot or two at disembarking U.N. personnel—or better yet, fire a shot or two in the air as the *Harlan County* approaches Port-au-Prince?

Finally, Mr. President, there is the issue of United States interests in Haiti and the use of force to protect those interests. What are United States interests in Haiti? Do we have traditional national security interests in that country? Does a general interest in the promotion of democracy abroad justify placing our military forces at risk on behalf of democracy in Haiti? Indeed, what is the evidence that President Aristide will uphold democratic principles of governance once in power? Does the fact that he was democratically elected mean he is a democrat with a little "d"—and will not revert to the undemocratic practices he demonstrated when he was in power? Was not the dreaded "Papa Doc" Duvalier dramatically elected in 1957? Is it true that President Aristide, when in power, publicly incited his followers to violence, including the so-called necklacing of opponents?

As I see it, Mr. President, we do have an important though hardly a vital interest in curbing the flow of Haitian refugees to the United States. The administration hopes—as I do—that the embargo will force Haitian political authorities to return to the Governors Island accord and its implementation. But if it does not, what are we to do? The administration has made it plain that it is prepared to use force to protect American lives in Haiti, should Americans there face imminent danger. I agree that this would have to be done. I believe, however, that we should think through several questions before we use force to restore Aristide to power. First, what effect would such a use of force have on President Aristide's subsequent political legitimacy both at home and abroad? Second, could we use force to topple the present regime in Haiti without inflicting collateral and unwanted civilian casualties of a magnitude that would be politically self-defeating in the long run? Third, would we confine military operations to Port-au-Prince area or seek to occupy the entire country? Fourth, how long would we be prepared to stay in Haiti to ensure the preservation of democracy? Are there other countries under the U.N. mandate that would take our place?

In other words, Mr. President, a use of United States power in Haiti could probably readily accomplish short-term objectives, but the President and his advisers must also think through the long-term consequences.

Mr. President, the Dole-Mitchell amendment sets the framework for the assessments that the administration must make before deploying U.S. forces to Haiti. Many of the questions I have posed here are raised directly by the amendment. I am confident that the President and his senior advisers will answer these and other questions, and will consult closely with the Congress before making final decisions on the use of the United States military in Haiti.

The proper role of the Congress, as I see it, at least in the case of Haiti, is to ensure that the administration consults closely with the Congress before deploying forces to that unfortunate country, except deployments that are required on an emergency basis to protect Americans in imminent danger. It is only through such consultations that a consensus can be built among the President, the Congress, and the American people.

Mr. MURKOWSKI. Mr. President, I intend to vote with Senator HELMS on his amendment because it guarantees that the United States Government can protect and evacuate United States citizens in Haiti if they are in danger, but it stands for the proposition that we should not use United States forces to prop up the government led by Jean-Bertrand Aristide unless and until Congress considers the question and specifically authorizes any such United States military operations. While I have reservations concerning the precedents this amendment sets in relation to the authority of the President as Commander in Chief of the Armed Forces, nevertheless, the harmful effect of using U.S. forces to forcibly establish the questionable Aristide government cannot be ignored.

We should not use U.S. troops, and endanger U.S. servicemen, to help establish the Aristide government until and unless we have a clear mission that has been articulated to the Congress and the American people. That process should take place between the President and Congress naturally. The Helms amendment ensures that it will, and therefore, I support it.

EXPLANATION OF VOTES ON MILITARY INTERVENTION

Mr. DOMENICI. Mr. President, the votes this morning on United States military intervention in Haiti are the fourth and fifth votes we will be taking on related subjects during consideration of this appropriation bill. I want to share with the people of New Mexico some of the considerations that went into my votes on deployments of United States troops abroad.

Like many of my colleagues on this side of the aisle, I have long opposed excessive congressional restrictions on any President's role in carrying out U.S. foreign policy. In the matter of deploying U.S. troops abroad, Congress and the President have a special responsibility to work together. We owe that much to our men and women in uniform whose lives are put at risk when such deployments occur.

SOMALIA POLICY

Last Thursday I voted against the McCain amendment No. 1043 to prohibit the use of funds for United States military operations in Somalia.

In my view, the objectives of the McCain amendment had merit. By the time the Senate voted, it was clear that the President had realized his errors in Somalia, and was going to end the United States combat role there.

When American troops are already deployed and under orders from the President to withdraw by a date certain, as in the case of Somalia, I saw no reason to add to the risks involved by ordering the President to do more quickly what he had already agreed to do.

Last Thursday, I voted in favor of the Byrd amendment No. 1042 to provide funding for the involvement of the United States Armed Forces in Somalia through March 31, 1994.

The Byrd amendment explicitly deleted two of the President's four goals regarding Somalia. It dropped all references to putting pressure on clan leaders in Somalia.

In my view, the Byrd amendment was less ambiguous than the McCain amendment. It allows for an orderly withdrawal of American troops from Somalia, and gives other NATO nations an opportunity to take up the American role if they wish to.

UNITED NATIONS PEACEKEEPING

On October 19, I supported the amendment of Senators NICKLES and COCHRAN that would have prohibited the use of funds to support U.S. Armed Forces in certain international operations.

As ranking Republican on the Budget Committee, and on the Appropriations Subcommittee that provides funding for the State Department, I know first hand the monetary costs of the rapid expansion of United Nations peacekeeping forces.

Recent events in Somalia remind us that American troops can and do suffer deaths and casualties when directed by United Nations peacekeeping officials. It is essential that we take into account both the human and fiscal consequences of American involvement with United Nations peacekeeping before and not after our Ambassador in New York supports additional peacekeeping efforts.

The President would be better served if his administration worked more closely with the appropriate Members of Congress before it agrees to establish or expand U.N. peacekeeping forces. That has not been the case thus far, as I have reminded the Secretary of State in a recent letter.

The Nickles-Cochran amendment did not restrict the President's authority. It had many escape clauses in the event that the President had to act in an emergency.

I voted for the Nickles-Cochran amendment as an interim measure. The massive policy problems related to American involvement in U.N. peacekeeping need to be settled in a regular statute, not in an appropriations bill. Until we can do so, in cooperation with the Foreign Relations and Armed Services Committees, the Nickles amendment would have directed the President to be more alert to the consequences of hasty commitments.

HAITI AND PRESIDENT ARISTIDE

Today I will vote for both the Helms and the Dole-Mitchell amendments regarding American troop deployments in Haiti.

In my view, the Helms amendment is overly restrictive, but makes much more clear than the Dole-Mitchell compromise, that this Congress has little confidence in the efforts to restore President Aristide to office, and opposes using American troops to do so.

President Aristide is no hero of democracy. There are many disturbing reports about his character that were discussed in detail yesterday in a closed briefing by the executive branch. What I heard at that briefing is the main reason why I am supporting the Helms amendment.

Haiti is not a nation with any tradition of democracy. The intractable situation down there was not affected by an 18-year U.S. occupation by marines earlier this century. The intractable situation in Haiti will not be improved by sending United States troops to Haiti on a mission likely to fail.

My vote for the Helms amendment is the best opportunity I have to register my doubts about the wisdom of our policy of unquestioning support of President Aristide, and the possibility of restoring him to absolute power through the use of U.S. armed forces.

President Aristide was the elected choice of Haiti's people, and he deserves, for that reason, as much support as other elected foreign leaders customarily get from the United States, and no more than that.

This country is not, in the late 20th century, in the habit of restoring deposed leaders by force. That used to be called colonialism by some on the other side of this issue.

As the Senate is not likely to support the Helms amendment, I intend to support the next-best approach, which is the amendment I originally cosponsored with my leader, Senator DOLE. The Dole-Mitchell amendment does not tie the President's hands, but it clearly expresses the Senate's reluctance to support United States military intervention in the single instance of Haiti under President Aristide.

INTERVENTION IN HAITI

Mr. BYRD. Mr. President, I oppose the amendment offered by Senators DOLE and MITCHELL because I find it unnecessary and confusing. The fact that the amendment expresses the sense of the Congress does not somehow make unacceptable language suddenly acceptable. This amendment is inconsistent in that it provides the President with such wide-ranging waiver authority as to frustrate any real effect that the limitation on the obligation of funds might otherwise impose. First, it is certainly not necessary for Congress to provide the President with authority to use U.S. military power to evacuate American citizens. This power falls well within the President's inherent powers as Commander in Chief in an emergency situation. No one would want the President to hesitate to evacuate Americans in an emergency in order to seek congressional approval. We would expect him to act expeditiously, with as much force as necessary, to accomplish such an evacuation as safely as possible. Surely, this is the case in Haiti.

Section b(3), giving the President a waiver for vital national security interests, seems to fall within the same category. If there is not time to seek congressional authorization and it is in our national security interest for the President to act immediately, he would have a strong case, depending on the circumstances, to act without first seeking congressional authorization, again within his inherent or implied powers as Commander in Chief.

As to the final exemption from the limitation on funding contained in the amendment, with one exception, it establishes such wide-ranging criteria as to permit the President to report that he has satisfied his own criteria for action. Surely, he could and would do so! The one exception, section c(2), requires that the deployment "will be undertaken only after necessary steps have been taken to ensure the safety and security of U.S. Armed Forces, including steps to ensure that U.S. Armed Forces will not become targets." This standard appears impossible to attain. A close reading of it seems to require an assurance that could not be met. My reaction to the language is that it does not really achieve any specific result. This section sets out a list of standards that either have no effect on the President's ability to act, or are virtually impossible for him to achieve. It does little to clarify either executive branch powers or congressional powers in the exercise of military force.

We do have a problem in that the War Powers Act, which is supposed to govern Presidential-congressional relations in deploying and maintaining U.S. military forces in situations of hostilities abroad, does not work, and never really has been effective. But the amendment does not appear to me to be helpful to either the specific situation in Haiti, or to the overall discussion of Presidential and congressional responsibilities in the use of force in a different but still dangerous kind of world.

Finally, Mr. President, this amendment and the amendment offered by Senator HELMS, both put the cart well ahead of the horse. President Clinton has defined a very narrow, noncombat mission for United States forces in Haiti. The forces he pledged in support of the U.N. mission to Haiti were to conduct engineering, logistics, and training functions, and not to engage in combat. In briefings before the Senate Armed Services Committee, administration officials made it clear that the United States troops would not go into Haiti if the situation was unsafe, and that, if violence ensued, the troops would be withdrawn. Some may argue that this policy made it too easy for antireform forces in Haiti to disrupt the U.N. mission. But we should remember that this was to be a classic peacekeeping operation based on the Governor's Island accords and agreed to by all parties. Neither the President nor the U.N. Security Council had any intention of using force to implement those accords. So, if the proponents of this amendment are concerned that the President intended to involve the United States in a military conflict in Haiti without the support of the Congress, then they clearly misunderstood his policy.

If, however, the President's policy changes, and he decides to use military force to achieve a settlement in Haiti, then I would expect him to fully consult with the Congress, and Congress could take whatever action that appeared to be necessary or advisable under the circumstances. That is how the system should work. The Congress should not get in the habit of trying to guess what the President might do and then launching a preemptive strike. Recent Senate action on Haiti and Somalia represent opposite ends of the spectrum of timely congressional involvement. In the case of Somalia, we neglected for months our responsibility to debate and act on the President's policy. It took the tragic death of 18 American soldiers to prompt us to action. Now with these two amendments—even though one is a sense-of-the-Congress instrument—we are rushing to restrict the President's options while the situation in Haiti is still evolving and before the President has fully decided on how he will respond to the crisis.

In my view, the constitutional Framers designed a careful balance between the respective roles of the executive and congressional branches in the conduct of foreign policy. I believe that it is difficult to improve upon the Constitution, and that, perhaps, we should not try. We can always require the Executive to put these matters before the Congress for a vote, or indeed, Congress is free to debate and vote on its own. We can always use the power of the purse in the way that the Framers intended, as we have just done in the case of Somalia. But to try in advance to prohibit funds, and then to write so many waivers into the prohibition that the President can do virtually anything he pleases, may actually weaken the legislative branch's prerogatives, while providing little in the way of legislative guidance or intent for the President to consider in his role as Commander in Chief.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, the debate has covered the details of policy with respect to Haiti, and I will make no effort to repeat that part of the debate. Rather, I would like to ask Senators to focus, as we rarely do, on the broader legal and constitutional implications of the votes we are about to cast.

We will cast votes on two amendments which present a very clear and dramatically different way of dealing with this problem. The first vote will be on the amendment by the Senator from North Carolina which would prohibit funds from being obligated or expended for the Armed Forces of the United States to conduct operations in Haiti. This is before any such actions have occurred.

The second vote, on the Dole-Mitchell amendment, will not include a legally binding restraint on the President but, rather, will be in the nature of a sense-of-the-Congress resolution expressing the opinion of Congress to the President as to the course of action which should be followed.

Mr. President, I ask all Members of the Senate to be aware of the fact that, according to the Congressional Research Service, there has never been enacted into law a funding prohibition on the deployment of U.S. forces to a particular geographic area overseas.

I repeat, according to the Congressional Research Service, there has never been enacted into law a funding prohibition on the deployment of U.S. forces to a particular geographic area overseas.

So any Senator who votes for the Helms amendment is voting to do something which has never occurred in American history so far as the Congressional Research Service can find. It represents a dramatic alteration of the constitutional division of authority between the President and the Congress.

If any Senator now feels we should take this action, that Senator is going on record in the most tangible possible way that the powers of the President should be restricted in a way that has never before occurred and invites, directly invites, comparable action on a repeated basis in future crises.

This is a precedent-setting vote. No one should be under any illusion about that. It goes far beyond Haiti. It goes far beyond the events of the moment. The alternative, which is in the nature of a sense-of-the-Congress resolution, is precisely consistent with past practice. It has been a regular course of action for this Senate and the House and the two bodies combined to express their views on crises confronting this country—indeed, on crises confronting many other countries. In fact, there is scarcely a country in the world that has not been the recipient of advice from the U.S. Congress, and there is hardly a crisis which has occurred anywhere in the world in recent years that has not been the subject of a resolution in the Congress.

That does not diminish the significance of what we are about to do. Although the resolution is plainly not legally binding on the President, it does and should carry weight with the President because it will represent the considered judgment of the Congress. It is an appropriate, time-tested, and regular method by which the Congress has expressed its view—indeed, through the Congress the view of the American people who elected us—on matters important to this country. Any President in his own self-interest and in the interest of discharging his public responsibilities ought to take such matters seriously and weigh the consequences very carefully of acting in a manner contrary to that recommended by the Congress, because ultimately any policy by any President requires congressional and public support.

But I want to repeat what I said earlier for those who are tempted to cast a vote for the Helms amendment. You will be casting a vote to do something which has never been done before. If you cast that vote, you will be on record, indelibly and forever, as saying you believe there ought to be a dramatic alteration of the constitutional responsibilities of the President and the Congress and you believe that the authority of the President, not just this President, but any President, ought to be capable of being circumscribed and limited by the Congress prior to any event occurring in a particular crisis.

This is a serious matter. This is a serious vote. What we are being asked to do has never been done. It ought not to be done here today. There is no factual, no moral, no legal, no constitutional, no policy basis for taking the dramatic and unprecedented step which this amendment asks the Senate to take.

I urge my colleagues not to endorse such a radical change in the constitutional authorities of the President and the Congress on the basis of the record that exists with respect to this issue and this amendment. If we are ever to take such dramatic step, it must be the result of a much more significant problem, a much more carefully considered course of action than has occurred here.

I urge my colleagues to defeat the Helms amendment and pass the Dole-Mitchell amendment. It is the right, responsible, constitutional course of action for this Senate and for our country.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back or expired, under the previous order the question occurs now on amendment 1072, as modified, offered by the Senator from North Carolina [Mr. HELMS]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 19, nays 81, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—19

Brown
Craig
D'Amato
Dole
Domenici
Faircloth
Grassley
Hatfield
Helms
Kempthorne
Lott
Murkowski
Nickles
Pressler
Roth
Smith
Stevens
Thurmond
Wallop

NAYS—81

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Danforth
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Gregg
Harkin
Hatch
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Warner
Wellstone
Wofford

So the amendment (No. 1072), as modified, was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 1074

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1074

The PRESIDING OFFICER. Under the previous order, the question occurs on the amendment offered by the majority leader and minority leader. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 2, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—98

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—2

Byrd
Hatfield

So the amendment (No. 1074) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will come to order. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, last night an agreement was reached by unanimous consent with respect to the Interior appropriations conference report.

I now ask unanimous consent that the time for debate on that report be under the control of Senators BYRD and NICKLES or their designees, with all other provisions of the agreement remaining in effect.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order the clerk will report the conference report on H.R. 2519, the Commerce, State, Justice Appropriations Act for 1994.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2519) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 14, 1993.)

Mr. HOLLINGS. Mr. President, I am pleased to present the conference report and statement of managers on H.R. 2519, the fiscal year 1994 Commerce, Justice, and State appropriations bill. This conference agreement provides $22.838 billion in budget authority and $23.223 billion in outlays for discretionary programs under the Commerce, Justice, and State, the Judiciary and related agencies bill. This represents a decrease of $1.343 billion in budget authority and $1.209 billion in outlays below the President's budget request. In fact, for both discretionary and mandatory appropriations, this agreement is $219.5 million below last year's level for this bill.

It has been extremely difficult to develop a bill within these constrained budget allocations. This year started off when we received an overall budget from the administration that was over the budget caps. OMB categorized over $6.6 billion in outlays as investment expenditures and requested these programs be funded specifically in excess of the budget agreement. Within this Commerce, Justice, and State appropriations bill, $987 million in budget authority and $536 million in outlays was so categorized. And, in this conference we received no real help from the administration on where we could cut to accommodate these investment programs or on which of the President's budget reductions should be maintained in conference. OMB Director Leon Panetta, who knows better, sent us a letter instead that essentially said: "The administration wants the conferees to fund the higher of the House or Senate levels for every item, and then add some new items too."

Well, that just wasn't an option. We had to bring in an agreement within our section 602(b) allocation and make reductions to do so. No doubt there will be Members who are not happy that we were not able to accommodate some of their issues in conference. To them, I would note that we did our best. But a conference is a compromise, and in this case we have had to meld together two very different bills. On some issues, the House simply would not agree. And at this late date, 3 weeks after the fiscal year has begun, it is time to move on and get a bill to the President for signature.

Highlights by agency are as follows:

FOR THE JUSTICE DEPARTMENT

In total, the conference agreement provides $9.342 billion for the Department of Justice discretionary programs. That's $295 million above last year's level and nearly $150 million more than the House-passed bill.

We have provided $171 million in additional resources to implement the President's immigration initiative. The INS will receive the bulk of these resources—over $129 million above the 1993 levels for, among other things, 200 additional land border inspectors; 600 additional Border Patrol agents; enhanced detention and deportation activities; and expanded airport inspection services.

The conference agreement also provides a total of $42.5 million in other Justice Department accounts to implement additional aspects of the President's immigration initiative including the construction of four INS detention facilities.

The agreement includes $680 million for Justice assistance grants, including $408 million for State and local drug grants; $25 million for community policing; $12 million correctional options grants; $10 million for criminal records upgrades; and $115 million for juvenile justice programs.

We have provided $270 million for prison construction, and $1.95 billion for the salaries and expenses of the prison system. When combined with carryover funds of $30 million, the operating budget for the Bureau of Prisons will have increased some $300 million over last year.

The sum of $814 million is provided for U.S. attorneys; $722 million for the DEA; and, $2.039 billion for the FBI, including a $5 million counterterrorism initiative.

FOR THE COMMERCE DEPARTMENT

The sum of $226 million is provided for National Institute of Standards and Technology [NIST] external research programs—advanced technology program grants and manufacturing technology centers. That's an increase of $146.5 million above the current appropriated level. President Clinton wrote to the conferees urging that the full Senate level and President's budget be provided for these programs which are integral to his technology initiative. I'm very pleased that we were able to prevail on this issue.

The sum of $1.928 billion is provided for NOAA programs. This represents an increase of $298 million above current levels. Included is $43 million for a new, high altitude hurricane research aircraft and $54 million for a new oceanographic research ship. This represents the first new ship appropriated for NOAA since the late 1970's, and a commitment to rebuilding NOAA's research, mapping, and fisheries fleet.

The sum of $249.6 million is included for the International Trade Administration. Included is $136.6 million for the United States and Foreign Commercial Service, an increase of $23.2 million over last year for the people who are out in the field fighting for American business overseas. And $32.3 million is for the import administration, an increase of $3 million to hire accountants and financial analysts to conduct antidumping and countervailing duty investigations.

The sum of $322.6 million is included for the Economic Development Administration, including $80 million specifically to help communities impacted by defense base closures and cutbacks. And, I'm pleased to note that bill language is included which Senator PRYOR and I sponsored, which enables EDA to make grants to defense impacted communities to reuse military bases before the communities gain title to Federal real property.

Finally, the conference agreement includes $17.1 million for the U.S. Travel and Tourism Administration [USTTA]. This is not as high as I would have liked, but I think everyone should remember that the House voted overwhelmingly to eliminate the agency. And this agreement saves it.

FOR THE JUDICIARY

The conference agreement provides $2.743 billion for the Federal judiciary. That's $209 million or 8.2 percent more than last year and more than twice the percentage increase we gave the Department of Justice.

Fees of jurors and defender services are funded at a level that will avoid a repeat of last year's experience when the payments ran out.

While the conference agreement does not earmark funding for the new bankruptcy judgeships, there is sufficient funding within the big courts account to permit the judicial conference to fill the vacancies if that is their desire.

FOR THE STATE DEPARTMENT AND USIA

The State Department is going to have to tighten its belt and will have to look at additional post closures overseas, and other economies. The Department's operating, construction, and repair appropriations total $2.7 billion. That is $278 million below fiscal year 1993, and $88.7 million below the budget request.

For the United Nations, international organizations, and peacekeeping, we have provided $1.268 billion. That is $317 million below the budget request. We are not going to keep funding unlimited peacekeeping operations around the world. This is not an entitlement program, and many Senators—including this one—believe our resources would be better put to use in disarming warlords and promoting peacekeeping here at home. In an effort to bring financial accountability, we also have included a provision that withholds 10 percent of the payment to the United Nations until it has established an inspector general.

The conference agreement provides $21 million for USIA's anti-Castro broadcasting programs—Radio and TV Marti. This is not as high as the $28.4 million provided in the President's request and the Senate-passed bill. It is however $21 million above the House allowance that proposed terminating these programs. The compromise in the conference agreement requires the Director of the U.S. Information Agency to appoint a three-member panel to review and report on both Radio and TV Marti.

FOR THE LEGAL SERVICES CORPORATION

The conference agreement includes $400 million for the Legal Services Corporation. This will permit a 2.5-percent increase for all local programs and apply the remainder of the increase in a manner addressing equalization utilizing the 1990 census count.

FOR THE SMALL BUSINESS ADMINISTRATION

The conference agreement includes $657.2 million. Included is $150 million for SBA section 7(a) loan guarantees. That is $63 million more than the President's request within the budget caps. In total, with carryover, this will provide for an $8.8 billion loan guarantee program. And we have provided $429.7 million for SBA salaries and expenses, including grant programs like small business development centers and mirco-loan technical assistance. We have provided an additional $8 million above the House and Senate for pay and personnel, so Erskine Bowles, the new SBA administrator, can continue his fine record. He is one of the truly outstanding members of the President's team, and our conference report endorses his efforts to streamline the agency and make SBA more effective.

CONCLUDING REMARKS

Mr. President, in conclusion, I would like to thank my ranking minority member, Senator DOMENICI, and his staff director JOHN SHANK for their cooperation and hard work on this bill.

I also would like to thank all the staff who have worked so hard to put together this bill and conference agreement. And in that regard, I would like to note how relieved the members and professional staff of our subcommittee are that Chairman BYRD'S right hand man, our full committee staff director—Jim English—is back on the job and is here helping get, not only this appropriations bill, but all of these appropriations through and to the President for his signature.

Mr. President, this conference agreement provides a good bill and I recommend that the Senate endorse it.

Mr. DOMENICI. Mr. President, this is my first year as the ranking Republican on the Commerce—Justice—State Subcommittee. I want to express my profound appreciation to my chairman, Senator HOLLINGS, and the majority staff, Scott Gudes, Dorothy Seder, Liz Blevins, and Bruce Ciske, for their assistance and courtesy throughout this process. I'd also like to pay tribute to the House subcommittee chairman, NEAL SMITH, and the ranking Republican, HAL ROGERS, for their hard work in achieving this conference agreement.

The conference report represents a total of $22.838 billion in new discretionary budget authority, resulting in new and prior year outlays of $23.223 billion. To put these numbers in context, they are $1.2 billion in outlays below the level of the budget requests pending before the subcommittee. Indeed, the subcommittee allocation is over $500 million in outlays below a current services level.

Overall, I can strongly support this conference report. While I disagree with a few provisions, it represents an honest attempt to reflect the priorities of both the administration and the Congress. As I indicated above, it has been very difficult to respond to the administration's budget, since overall it exceeds the caps established in law by $7.9 billion in budget authority and $6.6 billion in outlays.

I would like to highlight a few aspects of this agreement.

BORDER CONTROL INITIATIVE

The Senate was able to retain most of my initiative to add 600 additional Border Patrol agents for the Immigration and Naturalization Service and to expand detention space for illegal aliens. The prison construction account of the Justice Department includes $40.3 million for the expansion or construction of four INS detention facilities, including $7.5 million of the expansion of the El Paso facility serving New Mexico and west Texas. While the passage of the North American Free-Trade Agreement and the development of a strong economy in Mexico are the most important components of the effort to curb illegal immigration in the Southwest, this increase in INS resources should be of tremendous assistance in stabilizing our borders.

The conference agreement also includes a proposal submitted by the administration to increase the INS airline inspection fee from $5 to $6, and to allocate these resources to increased services, including the expansion of contract detention space at international airports in the New York City area. While I support the program expansion that will be funded through the use of this fee increase, I am troubled that we are raising fees for this purpose rather than using directly appropriated funds. I would prefer we provide additional resources for the INS without adding to the fee burden of consumers.

COUNTERTERRORISM INITIATIVE

We also preserved the Senate initiative to expand counterterrorism activities at the Federal Bureau of Investigation. The agreement includes $5 million, which together with $5 million provided in 1993 supplemental funds will be used to purchase equipment for a second hostage rescue team, to expand and upgrade special weapons and tactics teams, and for other terrorist related programs.

DWI GRANTS TO STATES

The conference report includes my proposal to allow States and local governments to use Bryne antidrug abuse formula grant funds for programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles. One of the biggest substance abuse problems in our society is improper alcohol use, especially in connection with automobiles. It is a serious concern in New Mexico, and my provision will provide State and local authorities with one more tool to combat this problem.

JUDICIARY FUNDING

In regard to funding for the Federal Judiciary, the Office of Management and Budget included a plug cut of $573 million in budget authority and $506 million in outlays from the request which was submitted directly by the Judiciary to the Congress. This reduction was, in effect, crosswalked to the Commerce—Justice—State Subcommittee. However, given the importance of the Judicial process as a core function of government, we worked very hard to provide a significant increase of $208.5 million, or 8.2 percent, above the 1993 enacted level. Working with new projections provided by the Judiciary, sufficient funds have been provided to ensure that we should not run out of funds for fees of jurors or defender services during the coming year.

WEATHER SERVICE AND DEFENSE CONVERSION

Funding for the Commerce Department includes the full level of $75 million requested for staffing associated with the modernization of the National Weather Service. This will allow for the deployment and staffing of all new Doppler weather radars that are due to be delivered in 1994. In particular, the Albuquerque, NM, weather service office will be receiving a new Doppler radar this spring. It will be the first radar in the State totally dedicated to civilian weather monitoring and prediction. These funds will provide the staff necessary to begin regular operations of this radar late in fiscal year 1994.

Also within the Commerce Department, the House accepted the Senate initiative to provide $80 million for Defense conversion activities. I know this is important to the subcommittee chairman, whose State faces perhaps the most dramatic impact of our precipitous decline in Defense spending. The language of the conference agreement makes it clear that these funds should also be available for communities adversely impacted by Department of Defense and Department of Energy contract reductions and installation realignments and closures. Thus the communities of Los Alamos and Albuquerque would be eligible for such grants.

SUPPORT FOR SMALL BUSINESS

Funding for the Small Business Administration includes greatly increased levels for guaranteed loan programs. For the general business section 7(a) loan program, a total of almost $7 billion will be available for the financing of small business operating and other expenses. In addition, $1.8 billion in program authority will carry over from fiscal year 1993. This will allow for a robust program during fiscal year 1994, without any possibility of a program shutdown as occurred last spring.

We have also included the increase of $500,000 I recommended for grants through the Office of Women's Business Ownership of the Small Business Administration. This will allow the Office to provide $2,000,000 in demonstration grants under the terms of Public Law 100–533 to support organizations that provide business consultation, training, and financial assistance to women interested in starting or expanding a small business. In New Mexico, the WESST Corp., or Women's Economic Self-Sufficiency Team, has proposed a unique program that would assist low-income and minority women. The Senate report urged the SBA to give every consideration to an application from this organization, and I reiterate that endorsement.

The conference agreement also includes a contingent appropriation for small business disaster loans. While I fully support this program, and I realize that contingent appropriations have been provided for the disaster loan program for the past 3 years, I do not believe this should continue as a regular practice. We should allocate a portion of discretionary funds each year for disasters and other emergencies rather than count on contingent appropriations for the provision of what I consider a regular program expense. While these funds will probably not be used in 1994 given the large balances in the disaster loan program, I do not believe we should continue this practice in the future and I am not supportive of this portion of the conference agreement.

Finally, Mr. President, I'm very happy to state that this agreement includes $5,000,000 to establish a National Center for Genome Resources in New Mexico. It will be available to aid our nation's small businesses in utilizing the resources of the human genome project and to help maintain U.S. leadership in the biotechnology industry.

INTERNATIONAL ORGANIZATIONS

Funding of assessed contributions for the United Nations includes a modification of my amendment that witholds a portion of the funds until the Secretary of State certifies that the United Nations has established an independent office of audits and inspections substantially similar to our offices of inspectors general. Failure to establish such an office will result in the withholding of 10 percent of $29 million, from regular U.N. operations. I should state that the recent announcement by the Secretary General that he will appoint an individual to review procurement and personnel matters at the United Nations is an important first step, but I do not believe it meets the certification criteria of this amendment. I also expect that the Secretary of State will not issue a pro forma certification without an adequate documentation of the steps taken by the United Nations to comply with this provision. The failure of the United Nations and the State Department to adequately respond to calls for reform could only result in the further erosion of support in this country for the allocation of limited budget responses to international organizations.

With regard to peacekeeping expenses, both Senator HOLLINGS and I agree that this subcommittee cannot absorb larger levels for peacekeeping expenses without a significant increase in our available budget resources. The failure to provide such an increase would seriously impact other subcommittee programs, such as the Justice Department, NOAA, and the operations of the State Department itself.

LACK OF STATE DEPARTMENT CONSULTATION WITH CONGRESS

I am extremely concerned that the State Department has not chosen to inform the subcommittee of any of the steps recently taken in the area of peacekeeping commitments. For instance, no prior consultation or notification was provided of United States agreement to participate in the Rwanda, Haiti, Georgia, and Liberia peacekeeping operations. Even after the House and Senate subcommittees expressed concerns about the costs and rationale for such operations, little information has been provided. This cavalier attitude toward the concerns of the subcommittee and the Congress will have implications for the consideration of future budget requests for peacekeeping expenses.

The State Department also decided, under the terms of the continuing resolution, to obligate large sums of money from the accounts for international organizations and peacekeeping without any notification or explanation to the subcommittee. Again, it is apparent the Department does not take seriously the concerns expressed in the Senate report about the use of such funds. In particular, the Department seems to have ignored the Senate amendment, incorporated into this conference agreement, which requires the Secretary of State to certify that American firms are being given an equal chance to compete with foreign firms for contracts let by the United Nations for peacekeeping operations. In the face of evidence that procurement scandals have occurred in connection with the United Nations peacekeeping operation in Cambodia, the attitude of this administration appears to be indifference to both the scandals and the concerns of the Congress.

The Department has not had the courtesy to explain to the subcommittee or its staff the rationale for these actions. This is particularly disturbing since I have attempted in the past to be responsive to the request of the administration for additional peacekeeping funds.

As a result of these and other concerns, the statement of the managers includes report language directing the Secretary of State to notify the Appropriations Committees 15 days in advance, where practicable, of a vote by the U.N. Security Council to establish any new or expanded peacekeeping operation. This notification is also expected to include the total estimated cost, the United States share of such cost, the mission and objectives, the duration and estimated termination date, and the source of the funding for the United States' share of peacekeeping costs.

U.S. INFORMATION AGENCY

Funding for the U.S. Information Agency includes $993,000 for the establishment of a United States-Mexico Conflict Resolution Center at New Mexico State University. Such a center will provide an expedient and relatively inexpensive alternative to court-mandated settlements in disputes involving the environment, business relations, and commercial activities.

Once again, Mr. President, I want to thank Senator HOLLINGS and the other members of the subcommittee for their cooperation and assistance. I support this conference report and urge that it be adopted.

CLARIFYING THE STATEMENT OF MANAGERS ON H.R. 2519

Mr. HOLLINGS. Mr. President, a number of questions have been raised on the intent of the conferees regarding the appropriation for the U.S. Information Agency Educational and Cultural Exchange Programs account.

The House proposed an appropriation of $217,650,000 for this USIA appropriation account and provided 95 percent of adjusted current services for programs. The House allowance also assumed that Freedom Support Act exchange programs that had been previously funded by the Foreign Operations, Export Financing, and Related Programs Appropriations Act should continue to be funded by that act. The House report did not provide a table detailing recommended funding levels for each program.

The Senate version of H.R. 2519 provided $250,702,000 for the Educational and Cultural Exchange Programs account and Senate Report 103–105 on pages 115 and 116 provided a table that provides recommended funding levels by exchange program. The Senate also concurred with the House and deleted funding requested by the administration for Freedom Support Act exchanges. Finally, and most importantly, the Senate recommended that $19,255,000 in exchange support costs be supported from within funds provided for the Educational and Cultural Exchange Program account.

The conferees agreed to provide $242,000,000 for the Educational and Cultural Exchange Programs account, but did not provide a table detailing recommendations by exchange program. The conferees did, however, note that increases should be provided for the following programs: the International Visitor Program, the Fulbright, and other academic programs—to include Vietnamese student exchanges and CAMPUS—the Claude and Mildred Pepper Scholarship Program, various new exchange programs, to include the Mike Mansfield Fellowship Program and exchanges for Pacific Island nations in the Western and South Pacific, if authorized, the American Studies Program, if authorized, and the Humphrey Fellowship. This approach was taken because the House felt that we should provide flexibility to the Director of USIA in the funding levels for various exchanges, and that the USIA should submit a reprogramming proposal to the House and Senate Appropriations committees.

Mr. President, unfortunately the statement of managers inadvertently omitted to mention that the conferees had also agreed to include exchange support costs within the Educational and Cultural Exchange Programs appropriation account. It is my belief that the reprogramming that USIA sends to us should include at least $13,000,000 for exchange support costs.

I hope that this statement clears up any confusion regarding the conferee's intent.

FUNDING FOR AQUACULTURE

Mr. DOMENICI. Mr. President, I would like to bring to the attention of the chairman the description of the funding levels for aquaculture programs of the National Oceanic and Atmospheric Administration. In the Senate report, the Senate indicated that not less than $350,000 should be made available through the aquaculture program for the Newport, OR, Marine Science Center. In the conference agreement there is the statement that $250,000 should be made available for this purpose. It is my understanding that the funding level identified for Newport in the statement of the managers is a inadvertent mistake, and that the conferees intended to repeat the Senate report language indicating that $350,000 should be made available for this purpose. Is that the chairman's understanding?

Mr. HOLLINGS. Yes, Mr. President, that is my understanding. This colloquy should serve notice to the National Oceanic and Atmospheric Administration that the Newport, OR, Marine Science Center should receive $350,000 through the aquaculture program, the same level as identified in the Senate report.

Mr. DOMENICI. I thank the chairman for his courtesy, and I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise today to support the conference report accompanying H.R. 2519, the Commerce, State, Justice, the Judiciary, and related agencies appropriation bill for fiscal year 1994. I commend Chairman HOLLINGS and Senator DOMENICI for putting together a fine bill that funds many important programs within a very austere allocation.

In particular, I would like to express my support for the funding in the conference agreement for the 35 bankruptcy judgeships which were authorized by the Bankruptcy Act of 1992. I hope the Judicial Conference will begin immediately to examine the pending bankruptcy caseload of each district with newly authorized judgeships so that the 35 judgeships can be fully funded as soon as possible.

Many of these judgeships have been requested and sorely needed for over 3 years. During the rapid increase in bankruptcy filings in the late 1980's and early 1990's, the small growth in bankruptcy judges has not kept pace with the increase in filings.

A primary factor considered in assessing requests for new judgeships in the Bankruptcy Court is the weighted caseload, expressed in "case related hours." A weighted caseload in excess of 1,500 annual case related hours per judge has been established as an indicator of the need for additional judgeships. This size caseload represents a workload approximately 20-percent greater than the national average.

As an example, in 1993 the Biennial Judgeship Survey revealed that the Central District of California had a weighted caseload of 2,144 hours per judge, an increase of 41.5 percent since the last survey. During the same time period, the national average grew 7.9 percent. The central district's judicial workload now ranks third in the Nation and first in the ninth circuit.

The story is the same in other parts of the country as well. Nationwide, bankruptcy filings have grown from approximately 530,000 filings in 1986, to nearly 1 million filings in 1992. Adequate judicial resources on the bankruptcy bench are important to our Nation's economic recovery: with adequate resources, the bankruptcy system allows debtors to get back on their feet and creditors to receive payment more quickly. Swift and equitable handling of bankruptcy cases is important to debtors and creditors, small and large businesses, labor and management, rural and urban Americans and to the economy as a whole.

I again thank Chairman HOLLINGS and Senator DOMENICI for their fine work on this bill, and I yield the floor.

NEED TO FUND THE BANKRUPTCY JUDGESHIPS

Mr. BIDEN. Mr. President, as my colleagues are aware, Congress authorized 35 new bankruptcy judgeships last year. The dramatic increase in bankruptcy filings in the last 12 years—193.4 percent from 1980 to 1992—demanded the creation of these judgeships to meet the significant number of filings and the growing backlog of cases in U.S. bankruptcy courts. Senator HOLLINGS and the conferees on the Commerce, Justice, State, and Judiciary appropriations bill took note of this need and recommended to the Administrative Office of U.S. Courts that these judgeships receive primary consideration for funding. I heartily concur. One temporary judgeship was authorized for the U.S. Bankruptcy Court for the District of Delaware. While many bankruptcy courts are overwhelmed, the problem in Delaware is particularly acute.

In 1992, Delaware led the Nation with a 31.9-percent increase in the number of filings from 1991. In addition and of more significance, Delaware has become the forum of choice for mega-filings, which are cases worth more than $50 million. A mega-filing is the most complex and difficult type of bankruptcy case, and the parties to these cases come from all over the country. As Delaware is the preferred forum for mega-filings, the adverse impact on the national economy due to the backlog of cases in the Delaware Bankruptcy Court cannot be underestimated.

Judge Helen Balick is the sole bankruptcy judge in the U.S. Bankruptcy Court for the District of Delaware. She and the court are facing a serious backlog of cases—currently pending are: 10 cases worth over $1 billion each; 17 cases worth over $100 million each; and more than 200 cases worth over $1 million each.

The workload of the Delaware Bankruptcy Court is unlike any other bankruptcy court in the country. In their recommendation to the Administrative Office, the conferees pointed out "that the increase in the number of bankruptcy cases pending and the total volume of such cases in a district may not be as good an indicator of workload or need as the complexity of the individual cases." In the complex mega-filings, the sheer volume of docket entries, adversary proceedings, and motions for relief can be overwhelming, and, yet, still demand the individual attention of the judge. In one case worth over $1 billion, there are 7,264 docket entries, 105 pending motions and 79 adversaries. Judge Balick must juggle this case with nine other billion dollar cases in addition to more than 200 other million dollar cases.

In an effort to alleviate the strain, the Delaware Bankruptcy Court has enlisted the help of bankruptcy judges from other districts, but those judges are able to help Judge Balick no more than 2 to 4 days a month. Due to the time constraints, these judges can only handle the smaller cases and cannot begin to address the issues in the more complex and time consuming mega-filings.

Without funding, the 35 new judges—many who have already been designated—cannot take the bench. The fact that the nominee for the Delaware judgeship has been chosen and has undergone his FBI background check means that when the funds are appropriated, the new judge will be able to start shortly.

I want to thank Senator HOLLINGS and the other conferees for their work on the Commerce, State, Justice, and Judiciary appropriations conference report and their help in ensuring funding for the Judiciary at a level that enables the new bankruptcy judges to take their places on the bench. I share Senator HOLLINGS' concern about the growth in the Judiciary's budget and I understand the constraints of the overall budget situation. I also note favorably that the Judicial Conference in conjunction with the Administrative Office of the U.S. Courts has instituted a review of the fiscal policies in effect within the judicial branch. At the same time, I know the U.S. Bankruptcy Court for the District of Delaware and bankruptcy courts across the country face serious problems in need of immediate attention.

Mr. President, during this time of fiscal austerity, each branch of Government needs to take stock and assess the needs facing the Nation. I realize the demands on the Judiciary are great. Each branch of Government is working with fewer resources. However, the negative economic impact due to the backlog of cases in bankruptcy courts across the Nation is significant. The need to alleviate this burden on bankruptcy courts and resolve these cases to provide individuals and businesses a fresh start should be a concern shared by all people wanting to move the United States out of the economic doldrums.

STATEMENT ON COMMERCE, JUSTICE, STATE APPROPRIATIONS CONFERENCE REPORT

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2519, the conference report on the Commerce, Justice, State appropriations bill, and has found that the bill is under its 602(b) budget authority allocation by $281 million and under its 602(b) outlay allocation by $8 million.

I compliment the distinguished manager of the bill, Senator HOLLINGS, and the distinguished ranking member of the subcommittee, Senator DOMENICI, for all of their hard work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the conference report on the Commerce, Justice, State appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2519: FISCAL YEAR 1994 COMMERCE, JUSTICE, STATE APPROPRIATIONS—CONFERENCE

[In millions of dollars]

Bill summary	Budget authority	Outlays
Discretionary total:		
New spending in bill	22,818	16,854
Outlays from prior years appropriations		6,350
Permanent/advance appropriations	20	18
Supplementals	0	1
Subtotal, discretionary spending	22,838	23,223
Mandatory total	561	547
Bill total	23,399	23,770
Senate 602(b) allocation	23,680	23,778
Difference	−281	−8
Discretionary total above (+) or below (−):		
President's request	−1,343	−1,209
House—passed bill	2,557	1,547
Senate—reported bill	−133	−53
Senate—passed bill	−144	−54

Mr. LEVIN. Mr. President, I want to thank the conferees for providing funds for the Great Lakes Fishery Commission to reregister the pesticide, TFM, which is used to control sea lamprey population in the Great Lakes.

The approximately $2 million in new funds for fiscal year 1994 for the Commission will help avert ecosystemwide disaster. As my Great Lakes colleagues know, the lamprey population is growing and threatening fisheries all across the region. The only weapon that we have at present to stem the tide is this lampricide, TFM. If the use of this substance were to be discontinued or banned, because of a failure to reregister it per U.S. pesticide law, Great Lakes recreational and commercial fishing would most likely be decimated by the resultant lamprey population explosion.

As I indicated when I offered an amendment to the Senate's version of the Commerce appropriations bill to provide reregistration funds, we have very little choice in how we control the lamprey in the Great Lakes at the present time. But, there are some nonchemical control methods that may show some promise. Unfortunately, neither the United States, nor Canada, is spending enough money to realize these promising control technologies or methods. I would encourage the administration and my colleagues on the Appropriations Committee to consider increasing our research efforts in this area in fiscal year 1995 and beyond.

Mr. President, I appreciate the conferees assistance, particularly the help of subcommittee Chairman HOLLINGS and Senator INOUYE. The funds they have provided should be sufficient to complete the reregistration process. However, I would like to note, this process is somewhat open-ended and depends on the testing and data requirements of the Environmental Protection Agency.

Mr. PRESSLER. Mr. President, I want to take a few moments to comment on the conference report accompanying H.R. 2519, the fiscal year 1994 Commerce-Justice-State appropriations bill. Specifically, I wish to commend the conferees, in particular my friend from New Mexico, Senator DOMENICI, for including language to withhold 10 percent of our assessed payments to the United Nations until an independent office of inspector general is established. The Senate version would have withheld our arrearage payments until an inspector general was appointed.

I believe the conference committee's approach is an improvement over the earlier version. First, the United States should honor its past obligations to the United Nations. Many nations and their representatives in the U.N. leadership are not willing to take a stand for U.N. reform. They dodge the issue by pointing to our Nation's debt to the United Nations. Honoring those debts would put an end to the discussion of this nonissue. Furthermore, last month, in his address before the U.N. General Assembly, President Clinton called on Congress to make good on our past obligations. The conference report takes a positive step in that direction.

Second, this measure is a very modest version of an approach I have advocated—withholding a portion of our current payments to the United Nations until it gets its house in order. I have taken this floor many times to call upon the United Nations to establish a tough, effective inspector general to crack down on waste, fraud, abuse, and outright thievery at the United Nations. I suspect this will not be my last speech on this subject.

Mr. President, I again commend the conferees for recognizing the need for U.N. reform. I am pleased they have joined the growing chorus of Americans demanding a cleanup of the United Nations. That chorus that includes our President, who stood before the U.N. General Assembly and called on Secretary General Boutros Boutros-Ghali to appoint an inspector general.

Let me be clear, the approach contained in the conference report is modest. I believe tougher action would be warranted. During consideration of the foreign operations appropriations bill, I intended to offer an amendment to withhold two-thirds of our voluntary contributions to the United Nations until an independent inspector general has been appointed. I agreed to withdraw the amendment after I received the commitment of the distinguished President pro tempore, Senator BYRD, to work with me in crafting and offering a similar measure on the next appropriate vehicle. I am pleased my distinguished friend from West Virginia has been willing to work with me on this important issue.

ELIMINATION OF DEATH PENALTY PROVISIONS

Mr. FEINGOLD. Mr. President, I want to commend the House and Senate conferees in their decision to strike the Senate amendment to the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1994, which would have applied the death penalty to individuals convicted of terrorist activities and bombing offenses which result in death. The conferees correctly concluded that the amendment constituted legislation on appropriations, and therefore appropriately removed it from the conference report. I share these procedural concerns but also reject the amendment on substantive as well as moral grounds.

The death penalty, and any expansion of it, serves no beneficial purpose and has no place in our society. There is no evidence linking executions to the deterrence of future crimes, and the specter of the death penalty certainly would not deter those heinous enough to plot and carry out the tragic events such as those that transpired in New York. A terrorist's ready-to-die-for-their-cause frame of mind does not operate on a normal cost-benefit analysis—let alone any standard of moral decency.

I voted against this amendment when the Senate debated the bill on July 28. Unfortunately, this amendment passed.

Fortunately, the House-Senate conferees struck the provision as was anticipated. This permits me to support final passage.

However, I am sure we will see similar amendments in the upcoming crime bill debate on top of the current crime bill's expansion in the number of offenses punishable by death. I plan to strongly oppose any such amendment that seeks to expand the death penalty as well as the provisions in the bill which already do so.

Mr. President, I feel that we must concentrate on improving and implementing our proven crime prevention efforts rather than waste our time and resources on symbolic measures such as the death penalty. Further expansion of this barbaric procedure will not only increase the likelihood of executing the innocent, but will also divert our time and precious resources away from our efforts to curb the Nation's violence. Creating new Federal death penalties will do nothing to help reduce the violence in our streets.

The PRESIDING OFFICER. The question occurs on the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 90, nays 10, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—90

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—10

Brown
Conrad
Dorgan
Gregg
Heflin
Helms
Lott
Roth
Smith
Wallop

So the conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate concurs in the House amendments to the remaining Senate amendments en bloc, and the motion to reconsider the votes is laid upon the table.

The Senate concurred en bloc to the amendments of the House to the amendments of the Senate Nos. 3, 5, 10, 21, 22, 23, 27, 30, 31, 34, 37, 44, 52, 63, 64, 67, 71, 73, 75, 78, 81, 84, 93, 97, 101, 110, 111, 113, 114, 115, 122, 129, 130, 132, 133, 135, 138, 139, 140, 141, 142, 147, 148, 149, 150, 159, 161, 162, 166, 169, 170, 174, and 175, as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: "notwithstanding the provisions of section 511 of said Act, $474,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 5 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: "of part E of title I of said Act and $50,000,000 shall be available to carry out the provisions of chapter A of subpart 2".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

"(e) $16,000,000 shall be available to reimburse any appropriation account, as designated by the Attorney General, for selected costs incurred by State and local law enforcement agencies which enter into cooperative agreements to conduct joint law enforcement operations with Federal agencies; (f) $500,000 shall be available to carry out the provisions of subtitle B of title I of the Anti Car Theft Act of 1992 (Public Law 102-519), notwithstanding the provisions of section 131(b)(2) of said Act, for grants to be used in combating motor vehicle theft: *Provided*, That not to exceed $12,500,000 of the funds made available in fiscal year 1994 under chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, shall be available as follows: (a) $2,000,000 shall be available for the activities of the District of Columbia Metropolitan Area Drug Enforcement Task Force; (b) not to exceed $10,000,000 shall be available to the Director of the Federal Bureau of Investigation for startup costs associated with coordinating the national background check system; and (c) $500,000 shall be transferred to the National Commission to Support Law Enforcement for the necessary expenses of the Commission as authorized by section 211(B) of Public Law 101-515".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: "(f) $500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$119,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$30,000,000".

Resolved, That the House recede from its disagreement to the amendment to the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert "$403,968,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$66,817,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$45,997,000".

And on page 9 line 19 of the House engrossed bill, H.R. 2519, strike "$19,000,000," and insert in lieu thereof "$20,820,000".

And on page 10 line 3 of the House engrossed bill, H.R. 2519, strike "$19,000,000," and insert in lieu thereof "$20,820,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 34 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$61,513,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$61,513,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$55,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

for projects on the northern border of the United States only.

In addition, section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356), as amended, is further amended—

(1) in subsection (d), by striking "$5", and inserting "$6"; and

(2) in subsection (h)(2)(A), by deleting subsection (v), and inserting the following:

"(v) providing detention and deportation services for: excludable aliens arriving on commercial aircraft and vessels; and any alien who is excludable under section 212(a) who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry.

"(vi) providing exclusion and asylum proceedings at air or sea ports-of-entry for: excludable aliens arriving on commercial aircraft and vessels including immigration exclusion proceedings resulting from presentation of fraudulent documents and failure to present documentation; and any alien who is excludable under section 212(a) who has attempted illegal entry into the United States through avoidance of immigration inspection at air or sea ports-of-entry.".

IMMIGRATION EMERGENCY FUND

For the Immigration Emergency Fund, as authorized by section 404(b)(1) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1101), $6,000,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 63 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed in said amendment, insert the following:

SEC. 110. TECHNICAL AMENDMENTS TO THE VICTIMS OF CRIME ACT.

(a) Section 1402 of the victims of Crime Act of 1984 (42 U.S.C. 10601), is amended—

(1) In subsection (d)(2)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(C) by adding at the end the following:

"(C) 1 percent shall be available for grants under section 1404(c); and

"(D) 4.5 percent shall be available for grants as provided in section 1404A.".

(2) In subsection (d)(3), by striking "1404(a)" and inserting "1404A".

(3) In subsection (g)(1), by striking "(d)(2)(A)(iv)" and inserting "(d)(2)(D)".

(b) Section 1404A of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)), is amended by striking "1402(d)(2)" and inserting "1402(d)(2)(D) and (d)(3).".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 64 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed in said amendment, insert the following:

SEC. 111. BANKRUPTCY FEES.

(a) Chapters 7 and 13 Filing Fees.—Effective 30 days after enactment of this Act—

(1) Section 1930(a)(1) of title 28 of the United States Code is amended by striking "$120" and inserting "$130".

(2) Section 589a of title 28 of the United States Code is amended in subsection (b)(1), by striking "one-fourth" and inserting "23.08 percentum".

(3) Sec. 406(b) of Public Law 101–162 (103 Stat. 1016) is amended by striking "25 percent", and inserting "30.76 percentum".

(b) Chapter 11 Filing Fee.—Effective 30 days after enactment of this Act.—

(1) Section 1930(a)(3) of title 28 of the United States Code is amended by striking "$600" and inserting in lieu thereof "$800".

(2) Section 589a of title 28 of the United States Code is amended in subsection (b)(2), by striking "50 percentum" and inserting "37.5 percentum".

(3) Section 589a of title 28 of the United States Code is amended in subsection (f)(1), by striking "16.7 percentum" and inserting "12.5 percentum".

(4) Sec. 406. (b) of Public Law 101–162 (103 Stat. 1016) is amended by adding "and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3)" immediately after "28 U.S.C. section 1930(a)(1)".

(c) No funds provided by this Act shall be expended to fill any bankruptcy judgeship unless such appointee was on a merit selection list or report submitted to the court of appeals by either the judicial council or a subcommittee of the members of the council, in accordance with section 120 of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98–353; 98 Stat. 344), section 152 of title 28 of the United States Code, and the Judicial Conference of the United States' Procedures for the Selection and Appointment of Bankruptcy Judges.

(d) Report on Bankruptcy Fees.—

(1) Report required.—Not later than March 31, 1998, the Judicial Conference of the United States shall submit to the Committees on the Judiciary of the House of Representatives and the Senate, a report relating to the bankruptcy fee system and the impact of such system on various participants in bankruptcy cases.

(2) Contents of report.—Such report shall include—

(A)(i) an estimate of the costs and benefits that would result from waiving bankruptcy fees payable by debtors who are individuals, and

(ii) recommendations regarding various revenue sources to offset the net cost of waiving such fees.

(B)(i) an evaluation of the effects that would result in cases under chapters 11 and 13 of title 11, United States Code, from using a graduated bankruptcy fee system based on assets, liabilities, or both of the debtor, and

(ii) recommendations regarding various methods to implement such a graduated bankruptcy fee system.

(3) Waiver of fees in selected districts.—For purposes of carrying out paragraphs (1) and (2), the Judicial Conference of the United States shall carry out in not more than six judicial districts, throughout the 3-year period beginning October 1, 1994, a program under which fees payable under section 1930 of title 28, United States Code, may be waived in cases under chapter 7 of title 11, United States Code, for debtors who are individuals unable to pay such fees in installments.

(4) Study of graduated fee system.—For purposes of carrying out paragraphs (1) and (2), the Judicial Conference of the United States shall carry out, in not fewer than six judicial districts, a study to estimate the results that would occur in cases under chapters 11 and 13 of title 11, United States Code, if filing fees payable under section 1930 of title 28, United States Code, were paid on a graduated scale based on assets, liabilities, or both of the debtor.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 67 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Sec. 112. For fiscal year 1994 only, grants awarded to State and local governments for the purpose of participating in gang task forces and for programs or projects to abate drug activity in residential and commercial buildings through community participation, shall be exempt from the provisions of section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 71 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: :*Provided*, That $60,400,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1994, so as to result in a final fiscal year 1994 appropriation estimated at not more than $99,900,000: *Provided further*, That any offsetting collections received in excess of $60,400,000 in fiscal year 1994 shall remain available until expended, but shall not be available for obligation until October 1, 1994: *Provided further*, That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 69 F.C.C. 2d 607 (Rev. Bd. 1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86–484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further*, That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further*, That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(d) of title 47 of the Code of Federal Regulations, other than to amend policies with respect to waivers of the portion of section 73.3555(d) that concerns cross-ownership of a daily newspaper and an AM or FM radio broadcast station.

In addition, section 9(a) of Title I of the Communications Act of 1934, as amended, is further amended as follows:

(a) by striking "(a) GENERAL AUTHORITY.—" and inserting in lieu thereof the following: "(a) GENERAL AUTHORITY.—

"(1) RECOVERY OF COSTS.—"; and

(b) By adding at the end the following new paragraph:

"(2) FEES CONTINGENT ON APPROPRIATIONS.—The fees described in paragraph (1) of this subsection shall be collected only if, and only in the total amounts, required in Appropriations Acts."

And on page 28 line 14 of the House engrossed bill, H.R. 2519, strike $129,889,000, and insert in lieu thereof "$160,300,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 73 to the foresaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

": *Provided further*, That the funds appropriated in this paragraph are subject to the limitations and provisions of section 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96–252; 94 Stat. 374), except that this proviso shall cease to be effective upon enactment of an Act authorizing appropriations for the Federal Trade Commission for fiscal year 1994".

and on page 29 line 11 of the House engrossed bill, H.R. 2519, strike "$19,000,000", and insert in lieu thereof "$20,820,000".

and on page 29 line 21 of the House engrossed bill, H.R. 2519, strike "$69,740,000", and insert in lieu thereof "$67,920,000".

and on page 29 line 22 of the House engrossed bill, H.R. 2519, strike "$19,000,000", and insert in lieu thereof "$20,820,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

": *Provided*, That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 percentum to one-twenty-ninth of 1 percentum and such increase shall be deposited as an offsetting collection to this appropriation, to remain available until expended, to recover costs of services of the securities registration process: *Provided further*, That such fee increase shall be repealed upon enactment of legislation amending the Securities Exchange Act of 1934 to establish a new fee system in fiscal year 1994 for full cost recovery of Commission expenses.

In addition, and subject to enactment of legislation amending the Securities Exchange Act of 1934 to establish a new fee system in fiscal year 1994 to require the Commission to collect $171,621,000 in fees to be deposited to this appropriation as an offsetting collection; $171,621,000, to remain available until expended: *Provided*, That subject to the fee provisions contained in said legislation, $171,621,000 of fees shall be assessed and deposited as an offsetting collection to this appropriation to recover the costs of services of the securities registration process: *Provided further*, That the $171,621,000 herein appropriated shall be reduced as the aforementioned fees are collected during fiscal year 1994, so as to result in a final fiscal year 1994 appropriation estimated at not more than $0

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment as follows:"

In lieu of the sum named in said amendment, insert: "$1,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

$1,694,753,000, to remain available until expended; of which $576,000 shall be available for operational expenses and cooperative agreements at the Fish Farming Experimental Laboratory at Stuttgart, Arkansas; and in addition, $54,800,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided*, That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $500,000: *Provided further*, That hereafter all receipts received from the sale of aeronautical charts that result from an increase in the price of individual charts above the level in effect for such charts on September 30, 1993, shall be deposited in this account as an offsetting collection and shall be available for obligation

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$43,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 501, 3702 and 3703, including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $15,000 for official representation expenses abroad; $17,120,000, to remain available until expended: *Provided*, That none of the funds appropriated by this paragraph shall be available to carry out the provisions of section 203(a) of the International Travel Act of 1961, as amended: *Provided further*, That in addition to fees currently being assessed and collected, the Administration shall charge users of its services, products, and information, fees sufficient to result in an additional $3,000,000, to be deposited in the General Fund of the Treasury

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 97 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: *Provided further*, That notwithstanding the provisions of sections 391 and 392 of the Communications Act, as amended, not to exceed $700,000 appropriated in this paragraph shall be available for the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT)

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $322,642,000: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when, in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further*, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 110 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$2,160,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 111 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$280,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 113 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named by said amendment, insert: "$19,800,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 114 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$86,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 115 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$44,900,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following:

$1,118,000, of which $500,000 shall be available by transfer from unobligated balances remaining from the appropriation entitled "Commission on Agricultural Workers, Salaries and expenses"

and on page 51 of the House engrossed bill, H.R. 2519, after the heading "Salaries and Expenses" on line 9, insert the following new heading "(including transfer of funds)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 129 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment amended to read as follows:

None of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee, or any new or increased user fee or management assistance fee, except as otherwise provided in this Act: *Provided*, That none of the funds provided in this or any other Act may be used for the cost of direct loans to any borrower under section 7(b) of the Small Business Act to relocate voluntarily outside the business area in which the disaster has occurred.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 130 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "$16,946,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 132 to the aforesaid bill, and concur therein with an amendment as follows:

Delete the matter stricken and delete the matter inserted and strike all on line 14, page 54 of the House engrossed bill, H.R. 2519, and all that follows through "In addition," on line 24, page 54, and on page 53, line 12 of the House engrossed bill, H.R. 2519, strike "this amount" and insert in lieu thereof "the total amount in this paragraph".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 133 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment insert: "$140,000,000", and on page 55, line 6 of the House engrossed bill, H.R. 2519, strike "$12,369,000" and insert in lieu thereof "$7,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 135 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $400,000,000; of which $341,865,000 is for basic field programs; $8,950,000 is for Native American programs; $12,759,000 is for migrant programs; $1,402,000 is for law school clinics; $1,274,000 is for supplemental field programs; $795,000 is for regional training centers; $9,611,000 is for national support; $10,564,000 is for State support; $1,101,000 is for the Clearinghouse; $651,000 is for computer assisted legal research regional centers; $10,928,000 is for Corporation management and administration; and $100,000 is for board initiatives."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$1,704,589,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 139 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment insert:

and for expenses of general administration: *Provided*, That notwithstanding section 502 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, "Diplomatic and Consular Programs" and "Salaries and Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: *Provided further*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 140 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$396,722,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 141 to the aforesaid bill, and concur therein with an amendment as follows:

Delete the matter stricken and delete the matter inserted, and strike all on line 24, page 57 of the House engrossed bill, H.R. 2519, and all that follows through line 3, page 58.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$410,000,000, of which $10,000,000 is for relocation and renovation costs necessary to facilitate the consolidation of overseas financial and administrative activities in the United States".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 147 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $860,885,000: *Provided*, That any payment of arrearages made from these funds shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided further*, That of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations, ten percent of said assessment shall be available for obligation only upon a certification to the Congress by the Secretary of State that the United Nations has established an independent office with responsibilities and powers substantially similar to offices of Inspectors General authorized by the Inspector General Act of 1978, as amended: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 148 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$401,607,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 149 to the aforesaid bill, and concur therein with an amendment as follows:

Delete the matter stricken and delete the matter inserted, and on line 5, page 60 of the House engrossed bill, H.R. 2519, strike ", of" and all that follows through "arrearages" on line 7.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 150 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ": *Provided*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 159 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 503. Funds appropriated or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 161 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: "$53,500,000, of which not less than $9,500,000 is available until expended only for payment of United States contributions to the Preparatory Commission for the Organization on the Prohibition of Chemical Weapons."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 162 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum "$206,000,000" named in said amendment insert: "$210,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 166 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment insert: "to include other educational and cultural exchange programs, $242,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 169 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

BROADCASTING TO CUBA

RADIO BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $14,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a), of which $5,000,000 shall be withheld from obligation until 30 days after the Director of the United States Information Agency submits a report to Congress which certifies receipt of the report of the Advisory Panel on Radio Marti and TV Marti and specifies the measures the United States Information Agency is taking with respect to the recommendations of the panel.

TELEVISION BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Television Broadcasting to Cuba Act (22 U.S.C. 1464aa et seq.), including the purchase, rent, construction, and improvement of facilities for television transmission and reception, and purchase and installation of necessary equipment for television transmission and reception, $7,000,000, to remain available until expended: *Provided*, That not later than July 1, 1994, the Director of the United States Information Agency shall submit to Congress, after consulting with the Board for International Broadcasting and after taking into account any relevant recommendations of the Advisory Panel on Radio Marti and TV Marti, his recommendations as to whether TV Marti broadcasting is technically sound and effective and is consistently being received by a sufficient Cuban audience to warrant its continuation and whether the interests of the United States are better served by maintaining television broadcasting to Cuba, by terminating television broadcasting to Cuba and strengthening radio broadcasting to Cuba, or by funding other activities related to promoting democracy in Cuba authorized by law: *Provided further*, That of the amount appropriated in this paragraph, $2,500,000 shall be withheld from obligation until after July 1, 1994, and, after that date, funds shall be available only for the orderly termination of television broadcasting to Cuba unless the Director of the United States Information Agency determines, in the report to Congress called for in the Administration Provision Establishing the Advisory Panel on Radio Marti and TV Marti, that maintaining television broadcasting to Cuba is technically sound and effective, is consistently being received by a sufficient Cuban audience to warrant its continuation, and is in the best interests of the United States.

ADMINISTRATIVE PROVISION ESTABLISHING THE ADVISORY PANEL ON RADIO MARTI AND TV MARTI

(a) ESTABLISHMENT.—There is established an advisory panel to be known as the Advisory Panel on Radio Marti and TV Marti (in this section referred to as the "Panel").

(b) FUNCTIONS.—The Panel shall study the purposes, policies, and practices of radio and television broadcasting to Cuba (commonly referred to as "Radio Marti" and "TV Marti") by the Cuba Service of the Voice of America.

(c) REPORT.—Not later than 90 days after the date on which the members of the Panel have been appointed pursuant to subsection (d), the Panel shall submit to the Congress and the United States Information Agency (USIA) a report which shall contain—

(1) a statement of the findings and conclusions of the Panel on the matters described in subsection (b); and

(2) specific findings and recommendations with respect to whether—

(A) such broadcasting consistently meets the standards for quality and objectivity established by law or by the United States Information Agency;

(B) such broadcasting is cost-effective;

(C) the extent to which such broadcasting is already being received by the Cuban people on a daily basis from credible sources;

(D) TV Marti broadcasting is technically sound and effective and is consistently being received by a sufficient Cuban audience to warrant its continuation;

(d) COMPOSITION.—(1) The Panel shall be composed of three members, who shall among them have expertise in government information and broadcasting programs, broadcasting journalism, journalistic ethics, and the technical aspects of radio and television broadcasting.

(2) The Director of the United States Information Agency shall appoint the members of the Panel not later than 30 days after the date of the enactment of this Act. Individuals appointed to the Panel shall be noted for their integrity, expertise, and independence of judgment consistent with the purposes of the Panel.

(3) Each member of the Panel shall be appointed for the life of the Panel. A vacancy in the Panel shall be filled in the manner in which the original appointment was made.

(4) Each member of the Panel shall serve without pay, except that such member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with Sections 5702 and 5703 of title 5, United States Code.

(e) TEMPORARY PERSONNEL.—The Panel may procure temporary and intermittent services under Section 3109(b) of title 5, United States Code (relating to employment of experts and consultants), at rates for individuals not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(2) Upon request of the Panel, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of the agency to the Panel to assist it in carrying out its duties under this section.

(3) SUPPORT SERVICES.—The United States Information Agency shall provide facilities, supplies, and support services to the Panel upon request.

(f) TERMINATION.—The Panel shall terminate immediately upon submitting its report pursuant to subsection (c).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 170 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991, (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $8,700,000, to remain available until expended: *Provided*, That funds appropriated by this Act for the United States Information Agency and the Department of State may be obligated and expended at the rate of operations and under the terms and conditions provided by H.R. 2519 as enacted into law, notwithstanding section 701 of the United States Information and Education Exchange Act of 1948 and section 15 of the State Department Basic Authorities Act of 1956 except that this proviso shall cease to be effective after April 30, 1994 or upon enactment into law of H.R. 2333, the State Department, USIA, and Related Agencies Authorization Act, Fiscal Years 1994 and 1995 or similar legislation, whichever first occurs.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 174 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

SEC. 606. (a) PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, to the extent feasible, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Head of the agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 607. (a) None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

(b) None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), conversion, or modernization of aircraft for the National Oceanic and Atmospheric Administration in facilities located outside the United States and Canada.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 175 to the aforesaid bill, and occur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 608. (a) Funds appropriated under this Act to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1994, pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area, shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) of the Legal Services Corporation Act, as amended, shall be maintained in fiscal year 1994 at not less than the annual level at which each grantee and contractor was funded in fiscal year 1993 pursuant to Public Law 102-395; and

(2) each grantee or contractor for basic field funds under section 1006(a)(1) shall receive an increase of not less than 2.5% over its fiscal year 1993 grant level. Any additional increase in funding for grants and contracts to basic field programs under section 1006(a)(1) shall be awarded to grantees and contractors funded at the lowest levels per-poor-person (calculated for each grantee or contractor by dividing each such grantee's or contractor's fiscal year 1993 grant level by the number of poor persons within its geographical area under the 1990 census) so as to fund the largest number of programs possible at an equal per-poor-person amount; and

(3) any increase above the fiscal year 1993 level for grants and contracts to migrant programs under section 1006(a)(1) shall be awarded on a per migrant and dependent basis calculated by dividing each such grantee's or contractor's fiscal year 1993 grant level by the state migrant and dependent population, which shall be derived by applying the state migrant and dependent population percentage as determined by the 1992 Larson-Plascencia study of the Tomas Rivera Center migrant enumeration project. This percentage shall be applied to a population figure of 1,661,875 migrants and dependents. These funds shall be distributed in the following order:

(A) forty percent to migrant grantees and contractors funded at the lowest levels per migrant (including dependents) so as to fund the largest number of programs possible at an equal per migrant and dependent amount; and

(B) forty percent to migrant grantees and contractors such that each grantee or contractor funded at a level of less than $19.74 per migrant and dependent shall be increased by an equal percentage of the amount by which such grantee's or contractor's funding, including the increases under subparagraph (A) above, falls below $19.74 per migrant and dependent, within its State; and

(C) twenty percent on an equal migrant and dependent basis to all migrant grantees and contractors funded below $19.74 per migrant and dependent within its State.

(b) None of the funds appropriated under this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

(1) section 607 of Public Law 101-515, and that, except for the funding formula, all funds appropriated for the Legal Services Corporation shall be subject to the same terms and conditions as set forth in section 607 of Public Law 101-515 and all references to "1991" in section 607 of Public Law 101-515 shall be deemed to be "1994" unless subparagraph (2) or (3) applies;

(2) subparagraph 1, except that, if a Board of eleven Directors is nominated by the President and confirmed by the Senate, provisos 20 and 22 shall not apply to such a confirmed Board;

(3) authorizing legislation for fiscal year 1994 for the Legal Services Corporation that is enacted into law.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate on the conference report on H.R. 2520, the Interior appropriations bill for fiscal year 1994. The time for debate is equally divided and controlled by the Senator from West Virginia [Mr. BYRD] and the Senator from Oklahoma [Mr. NICKLES].

Several Senators addressed the Chair.

Mr. BYRD. Mr. President, if the Senator will yield.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Did the Chair recognize the Senator from Wyoming?

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Mr. President, I yield time under my control to the distinguished Senator from Nevada [Mr. REID].

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

PRIVILEGE OF THE FLOOR

Mr. WALLOP. Mr. President, in the absence of Senator NICKLES, let me propound a unanimous-consent request.

I ask unanimous consent that the privilege of the floor be granted to the following members of the minority Energy Committee staff: Jim Beirne, Jim O'Toole, Kelly Fischer, Carol Craft, Marian Marshall, Gerry Hardy, Camille Heninger, Judy Pensabene, Richard Grundy, and Howard Useem, during the pendency of H.R. 2520.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that Jim Tate and Dave Mills be granted the privilege of the floor during the consideration of H.R. 2520.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Will the Senator yield to me just 30 seconds?

Mr. WALLOP. I yield to the Senator.

A HALT TO NUCLEAR DUMPING

Mr. STEVENS. Mr. President, yesterday I criticized Russia for the dumping of nuclear waste. I am pleased to announce to the Senate that Russia has announced a halt of the second planned nuclear dump.

I ask unanimous consent that the Reuter announcement from Russia and the article from this morning's Washington Post be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RUSSIA ANNOUNCES HALT TO SECOND NUCLEAR DUMP

MOSCOW, October 21.—Russia announced on Thursday it would not ditch a second load of nuclear waste in the Sea of Japan following protests about an earlier dumping mission.

Ecology Minister Viktor Danilov-Danilyan told a news conference after a cabinet meeting: "The prime minister has decided to suspend the second dumping of waste. A second dumping will not take place in the near future."

Danilov-Danilyan said Russia would urgently look into building a factory in the Far east to process radioactive waste and said if this were built quickly it might be possible to avoid dumping any more waste at sea.

"If, however, this takes some time, more than a year and a half, Russia will probably be forced to dump more waste," he said.

When Russia poured 900 cubic meters (32,000 cubic feet) of liquid radioactive waste from scrapped atomic submarines into the sea off Japan last weekend there was an angry response from Tokyo, Seoul, Washington and others.

Despite this, Moscow initially said it would go ahead with a plan to dump a second load of 800 cubic metres (28,000 cubic feet) in the next few days, arguing it was safe and in any case all land sites were full. But it came under intense pressure to back down.

[From the Washington Post, Oct. 21, 1993]

RUSSIA RETHINKS NUCLEAR DUMPING

(By Fred Hiatt)

MOSCOW, October 20.—Facing international protests over their dumping of radioactive waste into the Sea of Japan on Sunday, Russian officials said today that they may postpone or cancel a second dumping scheduled to take place soon.

Ecology Minister Viktor Danilov-Danilyan told Prime Minister Viktor Chernomyrdin that the permit for a second dumping of low-level liquid radioactive waste should be revoked, according to a spokesman who said the question is likely to be resolved at a cabinet session Thursday. The waste, mostly residue from cleaning and deactivating nuclear-powered submarines, is pumped directly into the ocean by hose, with no containers used, according to the environmental group Greenpeace, which has trailed the Russian barges hauling it.

The retreat followed strong protests from Japanese officials, who were especially angry about the action since it followed by less than a week Russian President Boris Yeltsin's state visit to Tokyo. During that visit, the problem of nuclear waste disposal was discussed, but Yeltsin did not mention—and may not have known—that the Russian navy was planning to discharge 1,700 tons of liquid waste into the Sea of Japan.

Secretary of State Warren Christopher, who is about to visit Moscow, also called on the Russians to halt the dumping, and U.S. officials in Tokyo said Christopher is determined to get a firm commitment from the Russians that the dumping will stop. Christopher's intervention followed an appeal by Japanese officials to Walter F. Mondale, the new U.S. ambassador in Tōkyo, after the Russians brushed aside their own protests to Moscow, saying they had no alternative to dumping the waste in the Sea of Japan.

Today, Russian Foreign Minister Andrei Kozyrev told his Japanese counterpart, Tsutomu Hata, that he would relay Japan's concern to Yeltsin. The two ministers also agreed that such a problem, "arousing public anxiety in both countries," once might have triggered a "bitter confrontation," but that "now, when bilateral relations are entering a new phase, both sides should energetically search for ways to resolve it," according to a Russian spokesman.

Earlier today, Ecology Ministry spokesman Yuri Kazakov said the dumping poses no environmental hazard. He said 900 tons had been dumped at sea Sunday, and the remaining 800 tons may be spilled out into a Russian harbor because of protests from both Japan and South Korea.

But later in the day, Kazakov indicated the government had reconsidered. "It is probable that the second dumping will not take place," he told the Reuter news agency. But he said that if Russia does not find a solution to its waste disposal problem, it will recur in a few months.

The dumping of liquid waste at sea appears to violate Russian law and a voluntary international moratorium that Russia has agreed to. But it has been a public relations disaster for Russia, partly because officials appear to have handled the issue in Soviet style.

Last week, in response to inquiries from The Washington Post, a Russian navy spokesman denied that any dumping was planned. A Greenpeace ship shadowing the navy tanker leaving the port of Pavlovsk was the first to report that a dumping operation was underway. Russian officials notified international organizations before authorizing the disposal but neglected to inform Japan directly.

As early as July, however, a senior Russian admiral had said Russia would soon dump radioactive wastes into the ocean because it has no storage space left and no funds to build disposal facilities on land. "Our storage facilities—two in the north and two in the Far East—are practically 100 percent full, and there is nowhere to put the spent fuel," Vice Adm. Viktor Topilin told the Moscow newspaper Izvestia.

Russian's nuclear-powered submarines and icebreakers produce 6,000 tons of solid radioactive waste and 26,000 cubic yards of liquid waste each year, according to a recent Russian government report. But much of the waste remains in floating tankers, and many retired nuclear subs remain afloat because the navy has nowhere to put them.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, I ask unanimous consent that the time under my control be allocated to the Senator from Wyoming for his control.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. WALLOP. Mr. President, let me inquire of the Senator from New Mexico how much time he wishes.

Mr. DOMENICI. I will take 5 minutes.

Mr. WALLOP. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, first I want to thank Senators who have supported us in this cause. We had 59 Senators vote with us. We asked only for fairness, and that was to give the ranching community of America 1 year to consider the effects of proposed rulemaking and Executive order mandates.

We prevailed, and the Senate gave us that year. That would also permit the authorizing committees, including the Energy and Natural Resources Committee, to work its will on some very new concepts that we have never had hearings on that affect the ranchers.

To those Senators who voted with us, I thank each and every one of them. To the 41 who have signed a letter to our leadership saying that they would support us in this extended debate and not vote to close off debate on this bill, I thank them; and I thank the others who are not on the letter who intend to support us. We think we have fairness and justice on our side. We only ask for a year for the committees of jurisdiction, with reference to the new land management proposals, which affect the daily lives of our ranchers in ways we cannot even fathom yet, because there are no hearings, there are no economists, no bankers, no ranchers, no conservationists that have appeared to testify about the ill effects of this.

Having said that, I want to set the record straight on another thing. Yesterday, in the debate on the floor on this issue, Chairman MILLER rose to speak, and I will quote one paragraph. He said to his Speaker:

> Because of the efforts of this committee not choosing to authorize, but the fact that we were provided no other forum, and even in these negotiations, Senator REID invited the Republican Senators, the Western Senators, to participate, some of them did and some of them opted out because they preferred gridlock. That is not fair to the taxpayer.

Now, Mr. President, the Western Senators who have joined in the cause and I have heard on the floor—it is almost all of them—did not propose any gridlock. In fact, we said, dozens of times, let us negotiate grazing fees. There was already a grazing fee proposal on the table that Senators CAMPBELL and WALLOP had offered. No hearings have been held on that, but that is not the issue.

There are 16 management changes that are proposed in the rulemaking process by the Secretary of the Interior, to be followed by Executive orders imposing 16 new major approaches to land management, and on those there have been no hearings. We do not ask for delay. We ask for a reasonable period of time to have hearings on those particular Executive order changes.

There are 16 of them. Indeed, we believe the ranchers of America and of my State will be in very bad financial shape if those 16 are imposed. Therefore, we felt we should only negotiate the grazing fees. Frankly, it was decided by the Secretary of the Interior and others—presumably my friend Senator REID—that the negotiations would occur with the House authorizing committee and the Secretary of the Interior. In fact, I believe Senator REID said he opted for that, and he would bring that back if he got it done and see what we thought about it.

Obviously, we do not think much of it, and that is our prerogative. We think we are right, and we think we are being fair to a large group of Americans who need fairness from the Congress on this issue.

Now, what we are debating today is whether or not we are going to capitulate to an agreement made, now rendered into words and encapsulated in an Interior appropriations bill. It is 19 pages of new authorizing language that will change 270 million acres of Bureau of Land Management land and the thousands of ranching families that relate to it, that have ranches that include it, that have estates that include it, that have houses for themselves and their children that include these large grazing permits.

Now, frankly, I have not heard as much as I thought from the Department of the Interior and those in it who I believe do not want grazing on the public domain.

I wish to insert in the RECORD my remarks on the provisions that are going to change the lifestyle and take away the livelihood of thousands of ranchers.

For those who think this is conservation, that we need conservation on the public domain, that we need 16 new changes, I wish to submit for the RECORD once again the memorandum to Secretary Babbitt, internal to his office, which clearly indicates that grazing lands of the West within the Bureau are in the best condition in 100 years. That is in their own statement, not mine.

So what is this all about? I think partially there are many in Interior who do not want grazing, do not want multiple use, want a whole new idea. We do not know what it is, but we think it bodes poorly for using the public domain to make a livelihood in a reasonable manner.

I ask that this memorandum be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

To: Secretary Babbitt, Tom Collier, Jim Baca.

From: Kevin Sweeney, Lucia Wyman.

Date: June 23, 1993.

Re: Grazing issues—one disagreement, one suggestion.

1. LET'S NOT ISSUE DRAFT REGS WITH A RANGE OF POSSIBLE FEES

A shift in the Administration's approach to mining and grazing revenues was the most visible sign of backsliding on the budget. Part of our rule this summer is to help them get back on track—to give them a clear victory in this area. For that reason, we do not think we should release draft regulations which have a range of possible fees. That might make it seem as if the Administration is unwilling to take the heat and it might drag the issue out over a much longer period. We can help the Administration look decisive.

We realize you want to use price increases as a straw man to draw attention from management issues. But there are other ways this might be done.

There are already people out there who are raising the specter of $8 and $12 AUM's. Others are raising expectations for us; we may not need to do this on our own.

We could also begin to talk about a range of possible fees during the month of July. We can do this through leaks, press releases, op-eds, whatever. But we would keep this period of uncertainty limited—so that the Administration's position gets clear fairly soon.

2. WE NEED TO SELL THESE REGS—IN ADVANCE

We've not yet done enough to sell the public and media on what will be coming out in the regs. We should work to justify what is in the regs before they actually come out.

There are two major changes which will come out in the regs, and we should construct a few events that help us justify those changes.

Riparian Protection. We should have one or two field trips to focus on riparian zone protection. One is tentatively scheduled for Arizona on July 9—depending on DECONCINI's schedule. If he can't make it, we should still do the event, through we needn't do it in Arizona.

Grazing Committees. We may want to have one public meeting in the West where we have a panel of people who sit on grazing committees and multiple use committees talking about how their operations work. The goal would be to have the strengths and weaknesses of the various systems surface.

3. ATTACHMENT

Attached, FYI, is a draft communications plan for the grazing regs. We think it shows we're not relying solely on you to push these regs.

GRAZING POLICY COMMUNICATIONS PLAN, INTERIOR OFFICE OF COMMUNICATIONS, JUNE 23, 1993

I. GENERAL APPROACH

Project Goal

The following are the goals for the communications strategy, which should last through the summer:

Introduce the new regulations into a Western environment that is somewhat receptive; and manage the first public comments so the regs are perceived to be fair and in the long-term interest of the region.

Ultimate Story Lead

We'd like stories and editorials to focus on the following points:

The new regulations show real balance: they call for greater protection of the land, but don't lead to excessive regulation or monitoring problems.

They recognize that many things are best done on the local level: riparian zone regulations are run out of Washington, but herd size will be determined at the local level. Local control has therefore been given when necessary.

The fee increases are not so bad, and are far below what many opponents said they would be.

They bring better participation to the process and help avoid past problems in grazing committees by shifting towards the Forest Service model.

II. STEPS PRIOR TO RELEASE OF REGULATIONS

Specific Goals

Prior to the release, we should consider steps to adjust expectations in the following areas:

Riparian Zones. Our own statistics can be used to show the range is in better shape than at any point in this country. With that in mind, we must make deliberate and public attempts to prove how bad the conditions are in many riparian zones.

Grazing Committee/Multiple Use Committees. We should highlight the difference between the Forest Service model and the BLM model. We may also want to prove to Westerners that the grazing committees have often abused their power and need to be reformed to allow the West to be more productive.

Tactics

Early July: Series of Bob Armstrong and Jim Baca one-on-one interviews with western reporters focusing on grazing committee structural problems and riparian zone issues. Done from Washington or on the road.

Early July: Begin letting reporters know we are shifted away from the incentive-based approach to range management. The positive spin is that we heard during the hearings that this might not work and might require too much management: Secretary Babbitt is listening.

July 9: Western field meeting and tour focusing on the need for riparian zone protection. There can be public participation, but the majority of the activities must underscore riparian protection. This is more of a media event than the four previous hearings—we don't need to accommodate hundreds of people.

Mid-July: Hold a Western field hearing on the difference between different models for supervising committees affiliated with both the USFS and BLM. This would allow committee members to comment on the strengths and weaknesses of each system. It will pave the way for a major change in committees.

Mid-July: Congressional hearing on problems in the grazing committees—abuse of power and funds. We would need to request this very soon.

Mid-July: Secretary Babbitt, Lyons, Armstrong, Robertson and Baca op-eds focus on two main substantive issues: management of riparian zones and herd size.

Mid-July: Conference call press conferences with Secretary Babbitt, focusing on grazing issues.

Late July: Briefing for Members of the House and Senate on the general approach.

Late July: Announce dates and locations for the hearings where the public will be allowed to comment on the draft regulations. By releasing this date before hand, we show that the process is still fluid and that people will still have a chance to weigh in. This may help to soften some opposition.

Late July: External affairs arranges briefing for cowboys and environmental groups on the general direction for changes in grazing policy.

III. STEPS DURING WEEK WHEN REGULATIONS ARE RELEASED

Goals

Recognizing that the first impression often sticks, the primary goals for this period are to:

Make sure our friends (and others) hear about the release prior to reading about it in the paper; make sure our friends know what to say if they are interested in supporting our efforts; and make sure editorial writers and others have the information they need to write favorable stories right away.

Tactics

Prior to: Send FedEx packages to editorial writers so they have full information about the regs on the day of release. Included are press release, fact sheet, and supportive analytical documents.

Day of: Morning briefing for Senators and Members of Congress.

Day of: Mid-morning, pre-press conference briefing for environmental groups.

Day of: Late morning news conference on the day of the announcement.

Day of: Babbitt, Lyons, Armstrong and Baca do telephone interviews with editorial writers in the West.

Day after: Babbitt does one or two day road show to raise the flag for the new regs. Once done, his participation in this process is concluded.

IV. POST RELEASE

Hold public hearings to receive substantive comment on the new regulations. These may need to be held where there have been successful management efforts in riparian zones—we want some locals who will be vocal in their support of these proposals.

External affairs manages receipt of public comment at the outset only; responsibility then transfers entirely to BLM.

Mr. DOMENICI. I thank the Senator for yielding time, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I yield 3 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I feel maybe in a little bit of an awkward position as ranking member on this appropriations subcommittee and as a person who would like to see this appropriations bill passed and become law.

But I tell my colleagues, when this episode happened in the conference committee, we received 19 pages of law dealing with grazing, and I mentioned then I am open to increasing grazing fees, and I believe the Senator from New Mexico and the Senator from Wyoming and others have said they are open to increasing grazing fees. But what I really object to is receiving 19 pages of substantive law changes to be dropped on us. We had not seen it. We did not know what it was. Clearly, it is legislation on an appropriations bill that does manage hundreds of millions of acres.

I think the Senators who are objecting to this, whose States will be directly involved, have every right to do so, and I predicted at the time, if they insisted on this approach—and it passed by one vote in the conference committee on the Senate side—they were going to have a filibuster, and that is what we are engaged in now, I am afraid.

I believe the Senators on this side probably have the votes to sustain that filibuster. So we are going to be involved in the CR for the next week. I do not know what is going to happen at the end of next week, but we will have to find out. I think my colleagues raise legitimate points on details, and we should not be legislating on this appropriations bill.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank the Senator from Oklahoma a great deal. It gives us some confidence there is recognition that really this is genuinely legislation on an appropriations bill. This is not about fees. This is about changing the whole relationship of the West to the Federal Government, its biggest landowner.

I yield 8 minutes to the Senator from Colorado [Mr. CAMPBELL].

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. I thank my friend from Wyoming.

Let me say, Mr. President, that today's discussion is clearly the opening shot of what I believe will be the second sagebrush rebellion. It is a shot aimed at about 26,000 hardworking families in 13 Western States. But just as the shot that was spoken of over two centuries ago was heard around the world, this is going to be one heard by all who live in the West.

As has already been mentioned, it would codify roughly 19 pages of authorizing language in an appropriations bill without any input or hearings. The language has been called a compromise, but it is no compromise when Washington bureaucrats and the Sierra Club get what they want at the expense of families and local communities. These changes will literally destroy many rural western communities. Congress and the people who live in the West certainly deserve better and need an opportunity to discuss the issue more thoroughly.

Mr. President, many Senators will take the floor in the next hour and tomorrow morning and speak, probably more articulately than I can. But let me say the administration has said these grazing reforms are necessary. In my view, however, we are facing the mother of all appropriations smokescreens. While we are being told to focus on the question of how much western ranchers should pay to graze cattle, that is really a very small part of the whole issue. All of these pages, the 19 pages worth, are being quietly swept through this Congress and this Senate without any input whatsoever. These changes are supported by those who clearly do not believe in the concept of multiple use and are determined to drive those who earn a living on the public land into bankruptcy.

I do not find fault with any of my colleagues or any Senator, particularly Senator REID, whom I have worked with and who has toiled so long and hard to try to find some kind of an equitable compromise, and in fact, as I mentioned, I have worked with him.

From my view, this is not the solution. There are winners and losers clearly in this compromise. The winners are going to be those who view the West as one big park to be left untouched by man or beast so that they can have an unsullied experience on their vacation.

The losers are not going to be the super rich who have been alluded to who have some of the permits. The 26,000 hardworking families, who earn now an average of $20,000 a family and who must rely on grazing permits to survive, will lose. They will only be the visible losers.

The agriculture property tax base erodes small towns. School districts, hospital districts, fire districts, to name a few, will also suffer. And yet on another plane, hundreds of small businesses, implement dealers to hardware stores, and small banks to car dealers will also suffer from the loss of sales to those ranch families who spend their discretionary money in local communities.

Make no mistake about it, Mr. President. Those who oppose the conference report will have much more to say, but contrary to what we may be hearing, we are not stonewalling.

Senator DOMENICI of New Mexico already mentioned that we could have a bipartisan bill. We want to deal with it. It was our promise to President Clinton last spring when he, to the chagrin of the environmental community, dropped the grazing fee increase from his budget resolution in return for our willingness to solve the problem legislatively.

To do a sort of end run in the back rooms here in the Senate and slip 19 pages of changes to be codified in an appropriations bill, not only flies in the face of the rules of this body, but in fairness as well. The administration has said its proposal for reform is based on ideas, suggestions, initiatives, and feelings brought to the agencies in recent years. We do not know who brought those ideas, who brought those suggestions or initiatives forth. But I think it is probably the same crowd that passes out the bumper stickers "Cattle Free in '93" in the American West.

The department's statement and its notice of advanced rulemaking stated that the department feels the actions presented in this notice are the measures that must be taken to ensure proper administration of livestock grazing, further suggesting that the proposal is based only on emotion and politics.

Indeed, the proposal does not refer to or rely on any inventory of valid data reflecting changes or conditions in the range lands. There is no environmental or economic analysis cited or explained to demonstrate a need for these sweeping changes. The principles of biological diversity and ecosystem management are only proposed for one of many uses on the public lands.

The reforms strangely omit land users such as mining, oil, gas, recreation, fish and wildlife. All of these things will be impacted. Other user groups would be included in this effort, too, if they knew the precedent that this conference report sets.

I am also concerned with the information received at the town hall meetings that the Secretary of Interior did in the American West. Much of that has not been considered. Thousands of ranchers and those people who would be impacted testified, and yet little of their testimony is being heard in this body or in this so-called compromise.

I certainly support consistency changes of BLM and Forest Service management resources. But this is the wrong way to do it because several of these so-called consistency changes fail to reflect a specific statutory direction found in other existing laws such as the Taylor Grazing Act, Federal Land Management Policy Act, and the Public Rangeland Improvement Act, to name a few. Few if any of the proposals will actually improve the existing range lands, and in fact the BLM itself in an internal memo has said the range is in better condition than it has been in the last 50 years.

Meanwhile, the authorizing committee, on which I serve and on which Senator WALLOP serves, has virtually been locked out of the decisionmaking process.

That is not what I got elected to do—hand over all of the authority to the administration. In fact, when the current grazing fee formula was administratively enacted several years ago, the Reagan administration worked with the congressional leaders to develop a well-thought-out fee formula. Only after those meetings failed, did the administration then move forward to unilaterally pass the fee increase.

Hearings have never been held on grazing this year. And I know that flies in the face of fairness, and certainly the rules too.

I do not want to monopolize all of the time, Mr. President. I would urge my colleagues to defeat this end run of the authority vested in this body by appointees who answer to no one.

I yield the floor.

Mr. WALLOP. Mr. President, I thank the Senator from Colorado especially for that statement.

He correctly states that a completely new relationship between our Federal landowners and the people of the West will exist if these 20 pages that are outside the grazing fee are enacted. This Congress, and the President's budget package, will remember that it saw fit to deny Americans the privilege of deducting their lobbying expenses. Large corporations can do that because they will be called legal expenses. But your ranchers, my ranchers, my propane dealers, and your small businessmen will have to come here on their own. And now, by golly, they are saying even if you come here they cannot be heard. The hearing process, the committee process is to be denied.

Mr. CAMPBELL. Mr. President, if my friend will yield, I might suggest this has far reaching ramifications. In our State of Colorado for instance the ski industry uses public lands and has over 60,000 employees which provides about half of our whole tourism industry.

We do not know what kind of a precedent this will cause. Indeed rules will set forth other industries besides ranchers. It goes much further than just the ranchers.

Mr. WALLOP. Let me just say to the Senator from Colorado, that in these 20 pages are management changes that will affect today the way they do business. Nobody knows how many or to what extent. That is the problem of doing this without using the ordinary committee process.

It is not fair, and it is not the right way to do business when you are toying with peoples lives. This is not just the rancher issue. This is the issue of the West, the small towns in the West, the small banks of the West, the communities of the West and how they exist.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I would want the record to reflect in all of these references to western Senators there is no Senator in this Chamber now, nor ever has been, that is more western than the Senator from Nevada. I was born in a small mining community in the southern part of the State of Nevada that also had grazing for the cattlemen. I live there. I was born there. My brothers were born in Search Light. I had five children graduate from schools and high school in Nevada.

So let us make sure that we understand that this Senator and other Senators who support this measure are also western Senators.

Mr. President, when the moratorium came before this body, I was one of the cosponsors of that moratorium. As I proceeded through these desks that evening asking people to vote with me, there were a number of Senators who said Senator, frankly—they said HARRY, I will vote with you but I need you to tell me that you will work something out. We do not need to keep doing this every year as we have done. I took them at their word and proceeded to try to resolve this issue.

Mr. President, we did resolve this issue. I want everyone within the sound of my voice to understand that the debate should be over because facing this body today are two choices. Either you take the Reid amendment which, in my estimation, is a reasonable compromise—and even if it is not a reasonable compromise, it is the best that we can do—or you take Bruce Babbitt's proposals in their entirety.

Mr. President, I received a call this morning from the chairman of the House Natural Resources Committee, GEORGE MILLER from California. He called me and he said, did you see the vote yesterday? Of course I saw the vote yesterday; 307 to 104, whatever the numbers were, a 3 to 1 vote by the House supporting this amendment.

Chairman MILLER went on to say, as was told me on numerous occasions and as I announced in the conference, that the House will take nothing less. We cannot change a comma, we cannot change any of the numbers. Mr. President, the choices are two, Reid or Babbitt.

The vote was 317 to 106, a 3 to 1 margin. The House is not going to change. I believe, as I have indicated previously, the Reid proposal is fair.

We also must understand how things have changed in the House of Representatives. When I served in the House, and in my early years in the Senate—in fact, until last year—when we would send a conference report they would vote up or down the conference report. And frankly, on many occasions, there were things in the conference report that perhaps a majority of the House Members did not want. No longer do they have that procedure. Rules are passed over there every time a conference report comes up. And they vote up or down matters in it. We know that. As recently as day before yesterday, they killed this year a proposal to fund the superconducting super collider for $640 million—gone, dead, history. The advance rocket motor, gone, dead, history. On grazing fees we sent something over there, a change from this compromise. The same thing—gone, dead, it is all history.

This compromise, I repeat, is the minimum the House and Secretary Babbitt will accept. There is no one in this Chamber that I serve with that I have more respect for than the junior Senator from Colorado. The junior Senator from Colorado has worked this issue very hard. I am sorry that we do not agree on this issue.

Let us talk about the Reid amendment a little bit. We have the Reid amendment that has, after 3 years, a $3.45 grazing fee. Babbitt's, after the same period, would be $4.28. Babbitt has 25 percent a year increase. Mine is limited to 15 percent. My base is 50 cents, approximately, lower than Babbitt's. So at the end of 3 years, Babbitt would be up in the $4.50's. Mine would not be.

I also suggest, Mr. President, that in my amendment, we have codified certain of Babbitt's proposed rules. Why did we do that? We did it because people came to me and said, "Please do not give Babbitt this wide-ranging discretion." I took them at their word, and I fought the House, and I fought the Interior Department, and had these matters placed into law, to take away the discretion that the Secretary would have. Now I am told, after having had armed combat with the House, "You should not have done that. We would rather Babbitt had this wide-ranging discretion that he has."

You cannot please them all, because whatever you try to plug in one hole, they want something else. I want to show you a chart, Mr. President. We are told that we are doing a lot of things differently. Well, I submit that we are not. The Forest Service has had these regulations for years. Look at this, Mr. President. Range improvement ownership, going back to 1906. Conservation use/temporary nonuse, since the 1960's. Full force and effect decisions, since 1907. Prohibited acts, early 1970's. Advisory boards, since 1985. Range improvements funds, since 1976. Water rights on Federal lands, since the early 1900's. Subleasing—there is a lot of criticism about changing that. It is not even allowed on Forest Service property. In my amendment, we continue it.

So we do not change things radically. People have criticized and asked, "Why are you changing water rights?" We did not hear a big complaint from people in the early 1980's when James Watt came in and, without a hearing, just initiated all these changes. All we are doing is saying that we are going to have the Forest Service and BLM the same. It does not sound like that is extraordinary. I even went so far as to give Secretary Watt more than his due, because in my amendment that the conference has accepted, we grandfather in water rights and range improvements. If somebody owns a water right now, they can sell it, give it away, bury it, do anything they want with it. We protect them perfectly. In the future, they will be treated as the Forest Service is treated.

I rejected regulations that Secretary Babbitt was trying to get on. We modified some of the others.

Mr. President, these are things that Babbitt—if this bill is tied up and never allowed to pass, and we knock my amendment out of this legislative process, we will wind up with these things that I have prohibited as a matter of law. In my amendment, these things are prohibited. Do you think Secretary Babbitt would like that? Do you think GEORGE MILLER would like that, or BRUCE VENTO, or MIKE SYNAR?

Of course, they did not, because I could not accept these in good conscience.

Affected interests. It is my assessment that the changes of the definition of "affected interests" would open up the range process to a multitude of appeals which would not be allowed. If somebody was granted 50 new animal units a month, anybody could appeal that. That is not the way it should be.

Grazing preference. I also felt that eliminating this preference would devaluate the permit in the eyes of lending institutions. I knocked that out.

Forage allocation. I think this went too far in consideration of good stewardship of a rancher.

Permit or lease tenure. There was no reason that we stick in what Secretary Babbitt wanted, to limit the tenure to 5 or 10 years.

These are positive changes, Mr. President. And if my amendment is not accepted and Babbitt goes forward with his rulemaking procedures, this will be what the ranchers will wind up with. For heaven's sake, they do not want that. My amendment disallows that. Our fee, as I have indicated, will be lower than Secretary Babbitt's by some 88 cents.

Grassland States. Under my amendment, grassland States will be treated better than under Babbitt's proposal, because he is going to have one grazing fee for everybody. Grassland States benefit significantly from my amendment.

So there are some around here, perhaps not intentionally, who are misleading Members of this body. Let us examine, Mr. President, some of the myths. There are a lot of myths kicking around about my amendment and what has transpired. Let us talk about the back-room deal, or secret negotiations.

I, of course, went in my first meeting with the House, and there were a number of Senators there. We also had a meeting in my office for all western Senators. It would have been easier for me to schedule a meeting and not worry about the schedules of all Republican Senators, but I did—in my office. Anybody that wanted to come could have come to that meeting, and they came. There were interesting things brought out. For example, one of my friends on the other side of the aisle told the Secretary to his face: "If we don't get our moratorium, I am going to agree to nothing."

That is basically what is happening.

Let us also look at this so-called "back-room deal."

Secretary Babbitt held meetings all through the western part of the United States, Mr. President—in Reno; Salt Lake; Albuquerque, NM; Arizona, and all over the West. Thousands of people came to those meetings, and tens of thousands of comments came after those meetings. And, Mr. President, the majority of the comments were that they were not opposed to what he was trying to do. The majority of the comments were in favor of what he was trying to do.

Here is something else that I think says it all. Secretary Bruce Babbitt, had he been a slippery, deceitful con artist, would have simply waited until the appropriations process was finished before he issued his proposed rules. He could have done that, and by the time the next appropriation bill came into being, the rulemaking process would be completed. He did not do that.

Another myth. I have already said that the myth is that we rushed into this. There could not be anything further from the truth. I have talked about meetings all over the West, and these were hearings held. But I wish that I were strong enough to lift these boxes. I probably am not. I have staff here. Maybe we can put them on the chair and give you an idea of the hundreds and hundreds of hearings and studies that have taken place. We have two boxes, and that is all I was able to bring into the building. I have here, Mr. President, a bibliography of 376 studies, reports, and hearings that have been done on this issue.

What would you like to hear about at random? Would you like to hear how they feel about range improvements? Would you like to hear a study done by westerners, or "A Showdown Over Grazing Fees," a long article in the Congressional Quarterly?

How even in New England articles have been written on the subject as have articles been written in the Wall Street Journal. And separate and apart from the news articles on the subject, as I have indicated, I have a box not of news articles but of studies. There have been numerous Government Accounting Office reports.

(Mr. DORGAN assumed the chair.)

Mr. REID. Mr. President, there have been congressional hearings. We have here, for example, "Grazing Lease and Fee Arrangements of Western Governments," and "Agencies for a Study of Local Governments and Other Than Federal Agencies," "Grazing Fees, Leasing Arrangements Done by Colorado State University," prepared by the Forest Service, "Alternatives to the Impact of Federal Grazing Fees," on and on, folder after folder, box after box of hearings and studies.

I think it says a lot, Mr. President, when you recognize—and could I have the next chart, No. 3?

I think if you recognize, Mr. President, one of the reasons that there have not been more hearings is that we have stonewalled it here in the Senate. There have been some hearings. You will see on this chart just hearings in the past year. There have been numerous hearings held on the House side and a significant number of hearings held on the Senate side, for example, a hearing by the Senate Committee on Energy and Natural Resources. They had a hearing on livestock grazing. The House Interior and Insular Affairs Committee had a hearing on a bill to establish grazing fees for domestic livestock.

These are just some of the hearings during the past 5 or 6 years.

The next chart is No. 4. The point is we had numerous studies to stay the lease.

Look at this: "Studies on Grazing Fee Economics," "Study on Grazing on the Ecosystem," "Federal Policy Administration."

There have been study after study, hearing after hearing, report after report, 376 of them in the last 10 years. To say this has not been studied, this has been studied ad nauseam. There have been some criticism—and improperly registered. In this bill, this large bill we have, there is some criticism that there is 18 or 19 pages in this amendment.

One of my friends speaking earlier said this involved 276,000 acres. Maybe the amendment should be longer, because the report is 1 page per 14 million acres. It does not sound too outrageous to me when we have had on the Interior Appropriations Subcommittee bills on previous occasions, one by the ranking member—I believe it was by the ranking member of the Interior Subcommittee and ranking member of the full committee, dealing with forests. It was some almost 40 pages long. It is easy to pick up. A 19-page amendment dealing with 276,000 acres is not very significant.

Authorizers have faced gridlock for well over a decade. In the debate in the House yesterday, they said this issue would come up at the same time every year over there since 1976. One Member got up and said he was feeling some sorrow and melancholy that this is the last time the issue would be brought up in the House. That is a fact.

There is another myth that this is a land grab.

Mr. President, I would like for you or anyone else to try to tell me logically how the Federal Government can grab its own land. It has been established by court decision that a grazing permit is not an ownership right. It is like a lease. It has been established that if you rent a piece of property, real estate, and you put an improvement on it, like a bathroom, when you do not rent that home anymore, you cannot take the bathroom. You can do that if it is personal property.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. REID. Not now.

In fact, Mr. President, there is an opportunity. For personal property, of course you can take that.

I would also say that, as I have indicated in the previous charts, the Forest Service has this water regulation in effect since 1906.

My amendment, I repeat, puts constraints on Secretary Babbitt, as I think it should, constraints as to grandfathering in the water rights. Range improvements are grandfathered in. In the future, they will be treated just like they will be treated with the Forest Service.

Private property rights, therefore, have been protected. Water and range improvements are grandfathered. The Forest Service never allowed anyone to gain rights of the public water.

This compromise, as I said, when it was approved during the House-Senate conference, is one with which the ranchers are not happy, Secretary Babbitt is not happy, the House conferees are not happy, the House authorizers are not happy, and I am not really happy. But, as I have said previously, that is what a compromise is all about.

When I practiced law—and I did trial work—I always knew a good settlement is one where you walked out of the room and everybody was upset. That is what we have right here. But the thing that must be laid across this RECORD is the fact that if you do not like my compromise, you are going to hate Secretary Babbitt's compromise because his, for the ranching community in the West, is significantly more harsh, more detrimental, and my ranchers are better off by far with constraints on Secretary Babbitt, a lower grazing fee. He could not define for me the proposed national standards and guidelines. I did not know what he was talking about, even though the Forest Service has had it in since 1976.

I felt I could not statutorily put that in place. I do not know how. Therefore, we left it open to rulemaking. That one will go forward in the rulemaking process. The others are codified. The others are prohibited, as I have explained before.

This program over the past decade has cost the American taxpayers over $1 billion. We have subsidized the ranchers. I personally have been willing to do that. I think there comes a time when we should at least have the program pay for itself. Even after 3 years, it will not pay for itself. It will take about 5 years before even the administrative cost of the program will pay for it, and $3.45 after 3 years will not pay for the program, the administration cost.

Is this burdensome and outrageous? The answer is "no."

We must end gridlock. That is what this is all about. This is about this word that the American people have heard on numerous occasions—gridlock. This is gridlock at its finest right here. People are saying "We do not care about our parks. We do not care about the millions of acres of BLM land in Nevada, Arizona, Utah, and New Mexico. We do not care if you are going to close up shop. We are willing to do that because we do not believe the majority should work its will."

That is what we are talking about here. Should a majority of the United States be able to decide with the majority of the House of Representatives and let its will be made? The answer is obviously "no." Gridlock—that is what this is all about, more and more gridlock.

We hear a lot about it. The people who are watching this, the taxpayers who are watching this, should recognize this for what it is, an effort to stymie the will of the people to stop progress, to not recognize change has taken place in this country.

In the House this was not a partisan issue. The Republicans voted for this; the Democrats voted for it. The vote was 317. I do not know what the breakdown was yesterday. On the first vote they had where they had 314 a few weeks ago they had more Republicans voted for it than voted against it. It was 86 to 85. It was very similar yesterday, I am sure. This is not a partisan issue in the country as it is in this body.

Could I ask the Chair how many minutes the Senator from Nevada has?

The PRESIDING OFFICER. The Chair advises the Senator from Nevada has 8 minutes remaining.

Mr. REID. Mr. President, in the House it was bipartisan and it should be bipartisan here. It is not. I doubt in the first gridlock vote if we are going to have a single Member from the other side vote to allow the majority's will to prevail.

You see this debate is not about fees or regulations. This is about change. This is about the West changing. As indicated in an editorial yesterday in the Denver Post, the Denver Post said, among other things, the time has come in the West for an end to the tyranny of the minority. It is only a minority that is holding up progress.

I am quite surprised, because I worked to get this compromise. I have been surprised at the reaction across the western part of the United States, in the newspapers across the western part of the United States. There is no clear indication that sunshine is there, that change is taking place. Editorialists in the papers in Salt Lake City; Reno, NV; Las Vegas, NV; Albuquerque, NM—all over the West—are recognizing that times have changed. The West is changing, as indicated in the editorials all over, and as indicated in the article in the Denver Post.

"A filibuster is threatened by Republican Pete DOMENICI of New Mexico"—I am quoting—"who says President Clinton has declared war on the West."

That is absurd. President Clinton is the first Democratic President in many years to carry the West. And this is an indication that he cares about the West, as indicated by the editorial support for this compromise.

And carrying on with this newspaper article:

> A war that will help the Republicans in the next election.

Again, wrong.

> I am ready for your war, Domenici told Interior Secretary Bruce Babbitt.

Well, this is not the kind of war we should be involved in where a minority is holding up the will of the taxpayers and the will of the majority. That is wrong.

I submit, Mr. President, that we must face reality. This is not some Senator from Rhode Island or New Hampshire or Kansas talking. This is a Senator from Searchlight, NV, talking. The West has changed. When I grew up, when I was born near Las Vegas, in Searchlight, right outside of Las Vegas, the whole county had about 7,000 people in it. Now it has almost 1 million. Things have changed. Washoe County is now almost a half million people. Times have changed. We need to face that change.

And, again, I repeat, Mr. President, the people of this country, the people of the West, the ranchers of the West, must understand there are two choices: My amendment, which was a reasonable compromise, the best I could do—as I indicated earlier, I wrung every ounce of compromise out of the House and Babbitt—or you get Babbitt in its entirety.

I think you should go for the Reid compromise, and I think it is fair and reasonable. I think it would show the American people that gridlock cannot control what goes on here; that the majority should prevail.

The PRESIDING OFFICER. The Senator from Nevada has 4 minutes and 30 seconds remaining.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

The Senator from Wyoming controls 13 remaining minutes.

Mr. WALLOP. Mr. President, I yield myself 3 of those minutes.

I will just begin by saying that I am shocked by what I have just heard. This is not about gridlock and this is not about Republicans. This is about westerners trying to survive against an administration and a challenge to the very way in which they live in the West, do business in the West, and try to deal with the Federal Government, which now thinks that all of us are servants and it is king.

Mr. President, gridlock is an offensive word in this instance. America was founded—and I would give this as a lecture to the Senate—on a very simple principle: That the majority does not rule; that the whole basis of having two Senators from Nevada and two from Wyoming and two from California is an indication that the whole idea of American Government was to do one thing, and that was to protect the minority from the tyranny of a majority of one. And, by golly, we are going to hear what this is doing to people.

Let me just say that this is not a compromise. If you take the Reid amendment, you take Bruce Babbitt. We get Bruce Babbitt, but worse. It is in statute now and not an Executive order that can be reversed by reasonable minds.

The House will take nothing else. What in Heaven's name is the House doing lecturing to the Senate? Chairman MILLER wrote this pompous letter saying that, under no set of circumstances, would he ever allow another appropriations bill to come through with authorizing languages on it. The afternoon of that letter, he is there lobbying for the Reid amendment, which is 20 pages of authorization on an appropriations bill. So, apparently, he can change his mind and his word at will, just depending upon how well it suits him.

Talk about wide-ranging discretion.

But the Senator's, the Reid amendment, gives Babbitt rulemaking authority. It does not take it away from him.

Talk about subleasing not being allowed on Forest Service property.

Last night on the House floor, several Members characterized the grazing and range management provisions of the Reid amendment as merely codification of existing Forest Service regulations and pre-1982 BLM regulations.

Mr. President, this is simply not true. And it must be stated that way.

I will go into this in more detail later when we get to the full-blown debate on this.

But, for now, let me give you two examples from the Forest Service.

Under 36 CFR 222.4, a permit may be canceled or suspended for conviction of violation of Federal or State environmental laws.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. Mr. President, I yield myself 2 additional minutes.

Under the Reid amendment, section 406(I), that permit may be canceled upon an administrative finding of violation.

Boy, is there a difference. It is like comparing murder with a parking ticket.

Now, Mr. President, another example.

In the current Forest Service regulations, there is nothing about water rights. That is because water rights are determined by State law. Under the Reid-Babbitt language, let me quote:

> The United States shall assert its claims and exercise its right to water developed on public lands to benefit the public lands and resources thereon.

Talk about a thirsty element. The Reid-Babbitt amendment does not even limit the Government's claim of water to grazings.

I tell you, my friends and colleagues, this is not a grazing issue. This is an issue of a war on the West. This is an issue of the assault of the Secretary of the Interior to try to gain control over the West.

You will hear that in his environmental impact statement. The Secretary asserts that if you control water and control grazing, you control the West.

Mr. President, I yield 2 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 2 minutes.

Mr. CRAIG. Mr. President, I thank my colleague from Wyoming for yielding. He is beginning to spell out so very clearly the basis of why we are here and why we are in gridlock at this moment.

Mr. WALLOP. Will my colleague yield?

Mr. CRAIG. Yes.

Mr. WALLOP. Let me suggest that this is not gridlock. This is a fight for survival.

Mr. CRAIG. Well, Mr. President, allow me to explain it further, as I had planned to.

We are in gridlock, and we are in gridlock to protect and preserve fundamental and basic values that we in public policy for over 100 years have said are good for those States in which large public land acreage exists.

My colleague from Nevada has joined with me day after day, over the course of the last several years, in other issues, including mining law, where we defied the urban influence because of our western understanding of how important it was to have reasonable policy that allowed wise resource management of our public lands.

Now, if that is gridlock by definition, I am suggesting that my colleague from Nevada is spelling it two different ways today: When it fits his political interests, it is gridlock. When it fits another one of his political interests, it is called holding the line, Mr. President; it is called beating the opposition; it is called maintaining public policy in this country that serves the Western States in a way that we believe is fundamentally important.

We have heard a variety of interesting arguments coming forward on this important issue.

Let me call the amendment on grazing fees the Babbitt-Reid amendment because, without question, the Senator from Nevada has taken the ideas of the Secretary of the Interior and has begun to mold them into law. It deserves to be called the Babbitt-Reid amendment because that is exactly what it is—18 pages of substantive policy change that the Secretary of the Interior had proposed through an executive order.

The PRESIDING OFFICER. The Senator has consumed 2 minutes.

Mr. WALLOP. I yield 1 additional minute to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. CRAIG. Mr. President, the Secretary had proposed an Executive order and he began to figure out he could not get quite that far without the assistance of legislators to put it in public law so he could then begin to propose it through rule and regulation.

One other brief comment that is very important here. This is not a partisan issue. The Presiding Officer asked that his name be mentioned. The Senator from North Dakota, Senator DORGAN, plans to vote with us in opposition to this because of how important it is that the appropriate authorizing committees hold the hearings that are so vitally necessary in the wise and clear crafting of good public policy.

Yes, there were back room meetings. Yes, they did appear late into the night. And, yes, we now have before us on the floor a policy that did not have the kind of public dissemination that it must have if we are going to have the kind of public policy that, in the end, will serve this Nation and its taxpayers well, and certainly those who choose to use the resource of the public lands.

The PRESIDING OFFICER. The Senator from Wyoming has 5 minutes remaining. The Senator from Nevada has 4½ minutes.

Mr. WALLOP. I yield 2 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 2 minutes.

Mr. HATCH. Mr. President, I thank my colleague from Wyoming. I have to say I do not feel good about this. Why is it that every time we get a Democrat President there is an assault on the West? We lived through the Carter years, and I have to say the people in the West got so upset that the sagebrush rebellion began, and both of us, the Senator from Wyoming and myself, were leaders in that sagebrush rebellion.

I have to say, earlier this year the Secretary of the Interior, Bruce Babbitt, expressed his confidence in ensuring that "1993 continues to be the year of reform for public lands issues."

In my opinion, this year cannot end soon enough for those of us in the West. There has been one continuous assault on our people. This conference report contains 19 pages of language, brandnew language, to increase grazing fees by 85 percent over the next 3 years and to codify these very onerous and burdensome and lousy management proposals that would dramatically, they claim, reform the way Federal lands have been managed for decades.

While the grazing fee increase is in and of itself questionable, my constituents are telling me the implementation of the ranchland reforms contained in the compromise will dramatically—I underscore "dramatically"—affect the lives of almost every Utah rancher and many ranchers throughout all the West. Hundreds of them have communicated with me that these reforms are more repugnant than anything we could pass to increase their fees to graze on Federal lands. This effort to move citizens off of Federal lands continues rolling on, despite the best efforts of some of us who feel it is unfair, it is not right, and it has to be stopped.

My colleague has been very kind to yield this time to me. I want to save some of it, if I can, for him. But let me just say this. We are not going to take this lightly. A lot of us are very upset. I do not know what is going to happen here, but we are not going to roll over and play dead. They may win on one of these issues before the end of this year, but it is not over. I have to tell you, there is a lot of bitterness starting to be engendered, and I am getting some myself. I can tell you right now things are going to get tough around this place.

I reserve the remainder of my time for the distinguished Senator from Wyoming.

Mr. WALLOP. Mr. President, I shall consume the rest of my time. I shall conclude by making four points.

First, about Secretary Babbitt's meetings in the West. They were for the singular purpose of sticking a pacifier in the mouth of a squalling baby, and that is proven by the western Governors who uniformly have said that Mr. Babbitt, Secretary Babbitt, did not hear a single thing they said. He ignored them. The hearings were not a reflection of the proposals. He paid them no heed.

Second, the Senator from Nevada refers to decades of hearings. Of course, there have been decades of hearings. It is an important part of the society in which we live. But there have been no hearings about Secretary Babbitt's proposals. He rambled about the West and produced his recommendations as an Executive order including wholesale change, not just of grazing fees but of every relationship that the West has with the Federal Government. There have been no hearings on these, and there have been no hearings on the proposals of the Senator from Nevada.

Third, water rights. Why is it, if everybody is comfortable, that every State water engineer, including those from the State of the Senator from Nevada, is upset about the language in this thing, doing a wholesale assault, claiming the water which it does not now possess.

Fourth, the issue of property rights. This is one of the things that galls the Senator from Wyoming and particularly galls the citizens of the West who happen to have to rely on public land for their livelihood. This Federal Government says it is a property right when your old man dies and they assess inheritance taxes against it, but now they say you have not a title to it, but they are going to continue to insist on inheritance taxes. This is a Government gone crazy. This is a proposal that is offensive to people who believe that their Government ought to serve them.

This is going to cost us money. Make no mistake about it. It is going to cost a lot for new personnel in the Bureau of Land Management. It is going to cost a lot when we start losing inheritance taxes because now no claim for property can be laid. It is going to cost a lot, driving people off the land, because the economics no longer exist, which means that no fees at all will be paid.

Mr. President, it's difficult to focus, in such a short time, on the most egregious parts of the Reid-Babbitt compromise contained in amendment No. 123 of the Interior appropriations bill because everything after the enacting clause would fit that category.

But the issue of rangeland management, especially as defined in this legislation, is much more than some civil disagreement about AUM's, or private property. For if Reid-Babbitt is approved, Congress would have accomplished in 19 pages of new law what generations of blizzards, droughts, recessions, and diseases failed to do—drive people off the land. Although these men and women have refused to quit, Congress and the administration would have surrendered for them.

Again, this debate is much more than simply talking about how much a Federal permittee pays for grazing livestock on public lands.

For example, this legislation directs the Secretary to add a leasing surcharge to lessee base property if the lessee subleases. This is a normal method of selling or buying a ranch. It is, in fact, a normal business practice in general. Under Reid-Babbitt, this option is no longer viable for the ranching community.

This language also directs the United States to assert its claims to all water development on public lands for the benefit of public purposes. There seems to be no limit to what the Federal Government could consider a grazing related activity. Are the livestock pens at market grazing related and if so do all their water rights belong to the Federal Government? Does every business which sells range-fed beef have to surrender its water rights? What happens to farmers who grow feed for cattle? Without hearings, there is no way to understand the impact of these and other provisions of Reid-Babbitt.

I ask unanimous consent that three letters—from John W. Hay III, Stan Flitner, and Kathleen P. Jachouski—be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ROCK SPRINGS NATIONAL BANK,
Rock Springs, WY, October 20, 1993.

DEAR MALCOLM: Please find enclosed the updated comparisons on the small and large livestock operations at $3.45 versus $1.86. Also, I spoke to a friend in Baggs, Wyoming yesterday who leases his base property and last year had to sell his cows and lease them back in order to meet his financial obligations, he would therefore be in the 70% surcharge category and his resulting grazing fee goes from $13,000 a year to $40,000 a year. He was just breaking even at $13,000 and this will put him out of business.

I am also concerned about the grazing associations around here that provide winter or summer grazing for many operators. In the two associations I am familiar with, the base property and permits are held by the association and the livestock is owned by the stockholders. It would appear that this is subleasing and, therefore, would have a dramatic effect on the financial condition of the associations.

One grazing association that does business with us is on the checkerboard in Southwest Wyoming and as a result controls 52% deeded acreage and 48% public. The Association consists of 37 operators and in the 1992 grazing season, the association turned out for winter use, 75,000 sheep and 6,000 cattle. The grazing fee in 1992 at a $1.86 per AUM was $83,047.38, at $3.45 and a 20% surcharge, the grazing fee would be $184,847.40. The $101,800.02 increase in expense will have to be shared by the 37 operators.

Along the same line, we have customers that for legitimate business reasons hold land and permits in one entity and livestock and equipment in another entity. Under the subleasing rules, these operators would be subject to the surcharge and thus denied the realistic business choices available to operators on private land.

Finally, the vagueness of changes in livestock management practices scares me to death. I fear these items will be more expensive than the grazing fee but have no way to assess that.

Thank you,

JOHN W. HAY III,
Vice President

LARGE FAMILY LIVESTOCK OPERATION

[Effects on each owner of Increased Grazing Fee]

	Ranch income	Grazing fees paid	Grazing fees at $3.45/AUM	Income or (loss) based on grazing fee $3.45/AUM
Year:				
1992	$30,578	$3,879	$6,969	$27,488
1991	30,215	3,643	6,378	27,480
1990	18,573	3,461	7,379	14,655
1989	46,283	3,234	6,769	42,748
1988	32,981	2,322	6,047	29,256
1987	35,304	2,322	5,934	31,692
1986	15,997	1,826	4,666	13,157
1985	9,032	1,730	4,423	6,339
1984	275	2,080	5,237	(2,882)
1983	11,220	1,653	4,072	8,801
1982	19,959	2,461	4,565	17,855
1981	16,840	2,626	3,922	15,544
Total income for 12-year period	267,257	31,237	66,361	232,133
Average annual income (loss)	22,271			19,344

SMALL LIVESTOCK OPERATION

	Ranch income	Grazing fees paid	Grazing fees at $3.45/AUM	Income or (loss) based on grazing fee $3.45/AUM
Year:				
1992	$14,014	$7,546	$13,559	$8,001
1991	20,710	7,490	13,116	15,084
1990	42,702	6,784	12,930	36,556
1989	43,663	6,971	12,930	37,704
1988	49,913	5,772	12,930	42,755
1987	16,838	5,060	12,930	8,968
1986	(1,059)	5,060	12,930	(8,929)

SMALL LIVESTOCK OPERATION—Continued

	Ranch income	Grazing fees paid	Grazing fees at $3.45/AUM	Income or (loss) based on grazing fee $3.45/AUM
1985	(21)	5,060	12,930	(7,891)
1984	9,859	5,135	12,930	2,064
1983	2,643	5,247	12,930	(5,040)
1982	10,155	6,971	12,930	4,196
1981	25,162	8,658	12,930	20,890
Total income for 12-year period	234,579	75,754	155,975	154,358
Average annual income (loss)	19,548			12,863

DIAMOND TALL RANCH,
Greybull, WY, October 18, 1993.

Senator MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: Thank you for your understanding and support of our western lands, regarding the pending grazing fee increase.

The issue here is far more complicated than can be addressed by a fee increase. If the issue is resource management, a fee increase has no bearing. If the issue is stopping range abuse, the fee increase will not solve that. If the issue is minimizing the national debt, the fee increase is a joke. If the real agenda is to stop all grazing on public lands, perhaps that will be achieved.

Western states issues and lands cannot be directed by a government bureaucracy based on the East Coast, in heavily populated areas. That perspective has no understanding of our lands, our economics or our citizens. We as range users work well and comprehensively with our local BLM and USFS agents, and they share our views. They, too, are confused about how this fee increase and re-organization will help them do their job better. It certainly will not help us be better land users.

In fact, what will happen, is that those of us who have a choice will leave the public lands permits voluntarily. The government will be left with a land base much like the empty inner city tenant house areas, which have fallen into disrepair, high crime districts, and generally, places where no one wants to be. Our public lands will be uncared-for, left to transient use by short term graziers and recreationists.

Malcolm, we are grateful to you and the other Senators who have tried so hard to defend what is really a states' rights issue. The idea that others from other States could understand or care for our lands more than we do, is ludicrous.

Best personal regards,

STAN FLITNER.

October 20, 1993.

Hon. MALCOLM WALLOP,
U.S. Senate,

DEAR SENATOR WALLOP: I write this letter to you from the State of Wyoming; but not as a native of Wyoming, I was born on Independence Ave., S.E., Washington, D.C. in 1945. I have the great good fortune of now earning a modest, but fulfilling livelihood in Wyoming. I love where I was born and raised, and brought *with* me the respect for others, and their ways-of-life with which I was raised. My heart is so saddened by the arrogance and contempt with which the people of the West are being treated.

Over the Nat'l. Archives in D.C. is engraved the sentiment that 'The Past Is Prologue.' I have never forgotten this simply put concept. Please ask your colleagues to stop culturally, economically and legislatively devaluing the people of the West. Ask them to remember that much of what they want for the rest of the country is here—do not destroy all that is good in an attempt to make it their own. Take from the West its example, not its foundations. Restrengthen America by respecting our ways of life, and from its spirit take all that you need. Please—leave us our foundations for the benefit of all the generations to come. Through respect, our Past can be their Prologue.

Thank you,

KATHLEEN P. JACHOUSKI,
Cody, WY

STATEMENT ON THE FISCAL YEAR 1994 INTERIOR APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2520, the Interior appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $14 million and under its 602(b) outlay allocation by $9 million.

I compliment the distinguished manager of the bill, Senator BYRD, and the distinguished ranking member of the Interior Subcommittee, Senator NICKLES, on all their hard work.

Mr. President, I have a table prepared by the Budget committee which shows the official scoring of the Interior appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

SENATE BUDGET COMMITTEE SCORING OF H.R. 2520—FISCAL YEAR 1994 INTERIOR APPROPRIATIONS—CONFERENCE [1]

[In millions of dollars]

Bill summary	Budget authority	Outlays
Discretionary totals:		
New spending in bill	13,322	8,765
Outlays from prior years appropriations		4,927
Permanent/advance appropriations	400	18
Supplementals	0	12
Subtotal, discretionary spending	13,722	13,722
Mandatory totals	96	96
Bill total	13,818	13,818
Senate 602(b) allocation	13,832	13,827
Difference	−14	−9
Discretionary totals above (+) or below (−):		
President's request	−213	−246
House-passed bill	686	542
Senate-reported bill	41	−8
Senate-passed bill	34	11

[1] House conference passed.

Mr. DOLE. Mr. President, like many in this body, I too have heard from the proponents of increasing grazing fees and all of the supposed benefits that would come with such action. These proponents paint the picture of a ravaged West saying the western rancher is raping the land. Yet we all know the land is better off than what the pioneer accounts show.

Keep in mind, the land we are talking about is owned by the Government because no one else wanted it. It was not suitable for grazing and certainly was not suitable for ownership. The forage value of an acre of rangeland in my home State of Kansas is certainly greater than an acre of rangeland in Nevada. Consequently, as livestock numbers increased in this country, so did the need for grazing lands and eventually, the Government leased this land to the public. Critics point out the difference between the current fee of $1.86 per AUM on public land and $8 to $12 per AUM on private land. I would suggest to the critics they should also point out that when leasing from the Government, certain conditions have to be met by the tenant; conditions that are not required of private landowners.

Mr. President, a rancher pays more for private land because they get more. The fee is all encompassing. It includes fencing, water improvement, roads, and in many cases complete care for the livestock. To pay for private land also means that the tenant gets exclusive rights to the property.

Compared to public lands, the difference is significant. A rancher leasing public lands must build the roads and watersheds, and they are required to build and maintain the fences at their own expense. Furthermore, their land is open to the public. An analogy that I recently read said it well.

> The difference between private and Federal land, is much like the difference between dining in a restaurant and fixing your own dinner. Except that, on Federal land, you are expected to share your dinner with anybody who shows up at your table.

I have become increasingly frustrated with critics when they fail to tell the whole story. Time and again, several of my colleagues from the Western States have stood on this floor in an attempt to educate the Members on the difference between leasing public land and private land. To me, the differences are clear and I suggest to my colleagues that they get the facts straight before voting on this measure.

The PRESIDING OFFICER. The Senator from Nevada is recognized. The Senator from Nevada has 4½ minutes remaining.

Mr. REID. Mr. President, we have established one thing; that it is gridlock. Even though my friends on the other side of the aisle cannot agree, at least one Member of the other side agreed that it was gridlock.

My friend, the senior Senator from Idaho, may also recollect that on mining, I also offered a compromise which passed this body last year. I do not believe in gridlock. I believe we should move on and recognize, as my friends on the other side of the aisle refuse to recognize, that there is a new West. This new West is coming on us, and we have to accept that, and we should accept it because the West has changed.

Listen to what the National Taxpayers Union says about my amendment:

> The Interior appropriations agreement on grazing fees is a step the American taxpayers should welcome. While the increased fees are still not enough to even cover the Government's cost of the grazing program, this agreement closes the gap between the true cost and the amount recovered. Those who care about reducing the deficit should welcome this agreement.

The National Taxpayers Union endorses this compromise overwhelmingly.

I have heard that, somehow, President Clinton is doing something wrong. Doing something wrong? Here is a person who is working through his Secretary of the Interior to try to resolve an issue that has been laying on a back burner and should have been resolved years ago. For anyone to threaten the Sagebrush Rebellion is starting again? One of the biggest flops in the history of this country? The Sagebrush Rebellion was meaningless. If somebody thinks it can be meaningful now, they have another think coming.

This is, as I have indicated, this is gridlock. It is time the majority ruled, and they should rule. It is time the ranchers realize if they do not accept the Reid compromise, they are going to get everything that Babbitt has offered, and I think that would be too bad for the ranchers of the western part of this country.

How much time does the Senator have?

The PRESIDING OFFICER. The Senator from Nevada has 2 minutes remaining.

Mr. REID. Mr. President, I think it is important for me to recognize that in the West, on Forest Service land, they have handled water rights as I have indicated. If someone files for water rights, an immediate protest is filed. That is how it worked since 1906. Even though my friend from Wyoming talks about the Code of Federal Regulations, that does not take into consideration how, in reality, the Forest Service handles water on public property.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada yields his time. No time is remaining in this hour of debate.

Who seeks recognition?

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENTIAL ACTION ON HAITI

Mr. BYRD. Mr. President, our new President has demonstrated a refreshingly open, positive, and cooperative attitude in working with the Congress to sort out common positions on the new challenges facing the Nation from abroad. While it is true that the United States, as a result of the disintegration of the Soviet empire, is the preeminent unchallenged military power in the world today, it is also true that much of the world is unruly and chaotic, and the future of democracy is not assured in many regions, and ethnic rivalries had hatreds have boiled to the surface even in the heart of modern Europe. Our own economic problems are forcing us to spend a diminishing portion of our resources on military policy and foreign policy, and unilateral expenditure of our resources in the absence of compelling challenges to our own national security will have to be greatly reduced.

In dealing effectively with these new and uncharted circumstances, it is important that the President and Congress sort out, together, both our priorities and the basic mechanisms which should operate to build a strong national consensus on foreign policy. The President has shown a very welcome willingness to do his part. In a letter that I received last night from the White House at 10 minutes after 10 o'clock on the matter of our developing policy toward Haiti, the President stated that "close cooperation between the President and the Congress is imperative for the effective U.S. foreign policy and especially when the United States commits our Armed Forces abroad." The letter from the President was a detailed exposition of the President's policy underlying the imposition of the embargo he has imposed on Haiti, given the disappointing and tragic behavior of Haiti's military leadership in refusing to support and implement the agreement it reached on Governors Island to restore democracy to Haiti. These regrettable actions taken, so close to our own shores, concern the President and they should concern all of us.

I am pleased the President is not offering up the tired old overdrawn shibboleths about his constitutional powers in making foreign policy. This was the attitude we were constantly presented with during the previous 12 years. Fundamentally, the Framers of our Constitution created a system of powers that are shared in this field between the two branches, and, for the Nation to be successful must be executed on the basis of a national consensus. This is as it should be, and the detailed letter to the Congress delivered to me last night on the matter of our policy in Haiti is but the latest example of a very welcome new attitude on the part of President Clinton in this important area.

Mr. President, I ask unanimous consent that the letter addressed to me as the President pro tempore of the United States Senate, under date of October 20, 1993, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 20, 1993.

HON. ROBERT C. BYRD,
President pro tempore of the Senate, Washington, DC.

DEAR MR. PRESIDENT: I have directed the deployment of U.S. Naval Forces to participate in the implementation of the petroleum and arms embargo of Haiti. At 11:59 p.m. E.S.T., October 18, units under the command of the Commander in Chief, U.S. Atlantic Command, begun enforcement operations in the waters around Haiti, including the territorial sea of that country, pursuant to my direction and consistent with United Nations Security Council Resolutions 841, 873, and 875. I am providing this report, consistent with the War Powers Resolution, to ensure that the Congress is kept fully informed about this important U.S. action to support multilateral efforts to restore democracy in Haiti and thereby promote democracy throughout the hemisphere.

During the past week, the world has witnessed lawless, brutal actions by Haiti's military and police authorities to thwart the Haitian people's manifest desire for democracy to be returned to their country. With our full support, the United Nations Security Council has responded resolutely to these events. On October 16, the Security Council, acting under Chapters VII and VIII of the United Nations Charter, adopted Resolution 875. This resolution calls upon Member States, "acting nationally or through regional agencies or arrangements, cooperating with the legitimate Government of Haiti, to use such measures commensurate with the specific circumstances as may be necessary" to ensure strict implementation of sanctions imposed by Resolutions 841 and 873. The maritime interception operations I have directed are conducted under U.S. command and control. In concert with allied navies, U.S. Naval Forces will ensure that merchant vessels proceeding to Haiti are in compliance with the embargo provisions set forth in the Security Council resolutions.

The initial deployment includes six U.S. Navy ships and supporting elements under the command of the U.S. Atlantic Command. These U.S. forces and others as may be necessary, combined with those forces that other Member States have committed to this operation, will conduct intercept operations to ensure that merchant ships proceeding to Haiti are in compliance with United Nations Security Council sanctions. On the first day of the operation, one of our ships, with U.S. Navy and Coast Guard personnel aboard, carried out an interception of a Belize-flag vessel and allowed it to proceed to its destination after determining that it was in compliance with the embargo. In addition, the forces of the U.S. Atlantic Command will remain prepared to protect U.S. citizens in Haiti and, acting in cooperation with U.S. Coast Guard, to support the Haitian Alien Migrant Interdiction Operations (AMIO) of the United States, as may be necessary.

The United States strongly supports the Governor's Island Agreement and restoration of democracy in Haiti. The measures I have taken to deploy U.S. Armed Forces in "Operation Restore Democracy" are consistent with United States goals and interests and constitute crucial support for the world community's strategy to overcome the persistent refusal of Haitian military and police authorities to fulfill their commitments under the Governor's Island Agreement. I have ordered the deployment of U.S. Armed Forces for these purposes pursuant to my constitutional authority to conduct foreign relations and as Commander in Chief and Chief Executive.

Close cooperation between the President and the Congress is imperative for effective U.S. foreign policy and especially when the United States commits our Armed Forces abroad. I remain committed to consulting closely with Congress on our foreign policy, and I will continue to keep Congress fully informed about significant deployments of our Nation's Armed Forces.

Sincerely,

BILL CLINTON.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEED FOR CONSUMER-ORIENTED APPROACH TO LONG-TERM CARE

Mr. FEINGOLD. Mr. President, I rise to speak briefly, again, about the issue of long-term care as an issue in connection with the President's plan, or whatever approach we take to health care reform. I will be offering some thoughts on the floor this week and the weeks to come on that issue.

As I mentioned last week, long-term care reform is essential if we are going to realize the goals of overall health care reform. The President has done a real service to the cause of health care reform, not only in its general plan but in, first, recognizing the importance of long-term care as being an essential part of real health care reform.

But, just acknowledging the need to address long-term care services for the elderly and people with disabilities is really only half of the battle. It is not enough to just include long-term care benefits in a health care reform package. We need to actually reform our long-term care system in a fundamental way.

Mr. President, I think this means that the plan that we come up with should emphasize community and home-based flexible services that respond to individual consumer choice and preference from the time of the initial assessment right on through to whatever ongoing services the person needs. It should include case managers and others who regularly consult with the consumer and the consumer's family members to be sure that their needs are being met in a satisfying manner.

If we are to succeed in this area, we have to move away from our current regulatory-intensive approach. We need, instead, to emphasize that the consumer of long-term care services is more like a customer than a patient.

In my own State of Wisconsin, we have sort of had a laboratory for long-term care reform. We established about 15 years ago something called the Wisconsin Community Options Program. We call it COP. This program is responsive to consumer needs and preferences, but it does not have to rely on an overarching bureaucracy to work. Under COP, for example, homemaker and chore services do not have to be provided by government licensed professionals. They can and often are provided instead by family members, friends, and neighbors. These are the people from whom long-term care consumers would rather receive the care anyway, if it is at all possible. Indeed, too often now our bureaucracies of long-term care programs are really much more responsive to the desires of providers rather than consumers. Taking a traditional regulatory approach, I think these current systems have driven up costs to consumers and taxpayers and have lacked the flexibility we need to respond to the individual consumer.

So, Mr. President, we have to start in this bill, the health care reform bill, to abandon the unspoken but ever-present belief that underlies most Government long-term care programs, and that is the belief that somehow regulation equals quality. We have to instead understand that quality is meeting the expectations of the consumer and of the customer.

Mr. President, it does not mean we abandon sensible safety requirements, but it does mean we must think in terms of what the long-term care consumer's needs and preferences are. Long-term care programs should be driven by that principle, not just by a book of regulations.

Having the flexibility to tailor services to the needs and preferences of any one individual is fundamental. It is only in this way that a long-term care program can fit the needs of a diverse population, that is, the long-term care population. It is a very diverse population, and it is the only alternative to making the individual needs fit into a system of treatment or service.

It is easy to talk in generalities, so maybe I can make it a little more concrete by mentioning two different women who live in Wisconsin to show the need for this kind of flexibility. Both of these women have received services under the Community Options Program, even though they have very dissimilar disabilities and even though they live in much different family situations and have different needs.

First, let me talk for just a minute about a woman named Pam, a woman who has cerebral palsy and spent 20 of the first 30 years of her life in institutions, first in a center for the developmentally disabled and later in a nursing home. Pam is very intelligent but she needs to use a wheelchair, is unable to walk, stand, or use her arms or hands, and has a very difficult time making her speech understood.

In 1982, Pam became pregnant. Though she and the father chose not to marry, Pam decided it was time to end institutional life. With the help of this program in Wisconsin, the Community Options Program, Pam moved to an apartment. Although her daughter, Sheila, was adopted by a friend, Pam was able to help raise her daughter even though she had spent the first 20 years of her life in an institution.

Pam has been part of the Community Options Program for about 12 years and her life is much richer than it ever could have been in an institution. She married one of her attendants and COP pays her husband to continue providing her care. Pam is actually a child care worker in a preschool and she speaks with the help of a computer operated by a beam of light from a device that is actually attached to her head. She also attends classes in early childhood development at the local community college. It turns out that her daughter, Sheila, is now in competitive figure skating. But that is one example.

The other woman I wish to talk about is a woman named Leita. Leita has been active in many civic and church groups in her hometown in southwest Wisconsin. In 1987, Leita lost a leg because of circulatory problems. She is physically frail with multiple medical problems and yet she still lives alone and greatly values the independence of living alone.

Despite her physical frailty, her mind and her will remain strong. In fact, like all the other COP recipients, she takes an active role in developing her own case plan that is custom fitted to her own special needs—not some other person making this determination but the consumer herself makes the determination. Leita's attendants take care of her physical needs and household chores on a schedule that she has helped to set, and that is as flexible as she needs it to be. In addition, her friends and neighbors also look in on her on a regular basis.

Leita, who actually shares in the cost of COP, has a portable phone that she takes everywhere she goes in case of emergencies, and she has a neighbor whom she calls frequently in the winter to come over to stoke her wood stove.

These are clearly different individuals with different sets of needs. Both of these women value their independence and cherish being able to live at home. In each case, the taxpayers are actually being saved money by keeping these women out of high-cost institutions and society is benefiting from the continued value that these two lives still have to offer.

By any measure, Mr. President, this Community Options Program has been an enormous success. Instead of limiting consumers to a specific set of benefits and requiring that only certain licensed professionals can provide those benefits, the Community Options Program provides case managers with complete flexibility to work with individual long-term care consumers in creating a plan of care that is tailored to the needs and preferences of the individual.

Mr. President, I need to reemphasize that this program is not just good for these individuals. The Community Options Program has saved Wisconsin taxpayers hundreds of millions of dollars in only its 15 years of existence. There was just a report last week that it saved $17.5 million in Wisconsin last year alone.

While Medicaid nursing home bed use rose 24 percent nationally during the 1980's, in Wisconsin, thanks to this Community Options Program, our Medicaid nursing home bed use actually dropped 19 percent, a relative difference of over 40 percent. Instead of an increase of 8,000 people in Medicaid-supported nursing home beds, Wisconsin actually saw a decrease of 7,000. This difference is even more impressive when you consider that every 1,000 Medicaid-supported nursing home residents costs the public about $20 million every year.

Mr. President, without long-term care reform, we cannot effectively control acute health care costs. Beyond that, the Wisconsin Community Options Program has shown that proconsumer reforms are possible and do produce significant savings over the current regulatory intensive system.

So for Pam and Leita and the tens of thousands of others on COP, the program means being able to live in their own home in a manner which assures the maximum level of independence.

Mr. President, I wish to return to mentioning that the long-term care portion of the President's recently released health care plan can be the basis for this kind of comprehensive plan for our country. It appears to establish—although, of course, we do not have the language yet—a framework that may allow a consumer-oriented long-term care program that can produce significant savings over the current system and as such holds out a promise to the millions of elderly and disabled people who want to remain in their homes and live rich independent lives.

We cannot, Mr. President, lose this opportunity to effect genuine reform in our long-term care system. We need to include a significant long-term care provision any health care reform package we pass.

Mr. President, equally important, we must ensure that the long-term care provision we pass is based on flexible consumer oriented and consumer-directed services that will satisfy the needs and preferences of those needing long-term care.

So as we get our plan, which I guess we are going to be seeing very shortly, I think instead of looking at long-term care down the road or something we will get to in several months, one of the very first things we should do is to determine whether, in fact, the plan can provide the framework to make national the success we have had in Wisconsin in this regard. I thank the Chair.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, I note that the managers of the bill are present, and I would like to direct to them a question. I see the Senator from Alaska is here, if I can catch his eye.

I am referring to page 44 of the committee report. I will read from it because it is very important and affects a matter of deep concern to my State. I wish to see if I can understand the committee's intent. It says:

> The fiscal year 1993 committee report directed the Department of Defense to conduct a study regarding consolidation of the military services command and staff, and war colleges. This study was to be presented to the Committees on Appropriations of the House and Senate no later than July 31, 1993.

In other words, a couple of months ago.

> The study was to consider the cost savings that might be achieved through such consolidation, analyze administrative and teaching reductions that might be achieved, identify locations where consolidated colleges might be accommodated * * *

Now, then it says:

> In its response to the committee, the Department indicated its intention to link the question of consolidating these schools to actions concerning reform of the Defense Officer Personnel Management Act [DOPMA]. However, the Department's response fails to indicate any compelling reason why DOPMA reform is a prior condition to consolidation of the command and staff and war colleges.

My question is this: As I understand what the committee says in this report, the study regarding the wisdom of making this consolidation has not yet been received by the Appropriations Committee. Am I correct in that?

Mr. INOUYE. The Senator is correct, Mr. President, if I may respond.

Mr. CHAFEE. The next paragraph is confusing to me because the committee asks for a study, has not received a study, and then proceeds ahead regardless of the absence of the study, if I understand the next paragraph correctly, which says:

> The committee therefore directs the Department to begin consolidation of the services war colleges under the National Defense University to be administered by the Department of Army. The committee further directs consolidation of the command and staff colleges under the Armed Forces Staff College to be administered by the Department of the Navy.

Am I missing something here? The committee asks for a report, did not get a report, and so is saying go ahead and do the consolidation anyway? Am I correct in that?

Mr. INOUYE. Mr. President, if I may respond, for the past 3 fiscal years the committee has attempted to receive a report from the Department of Defense on this matter. And for 3 years for reasons not quite clear to us we have not been favored with such a report. We are always assured that by July 31, or June 1, the report will be forthcoming.

So the members of the committee and staff have looked into this matter for some time and decided that the time has come. Otherwise, the next fiscal year we will still be waiting for a report and the following fiscal year waiting for a report.

If by this action the administration feels that our recommendation is unwise we would expect them to respond to us. This is one way that we can assure ourselves some sort of definitive response.

Second, it may interest you to know that since one of the facilities is in your State, Newport, the report does not in any way suggest the closure of that base. In fact, the Department of the Navy at this moment is consolidating a number of training programs which will be located at Newport.

So in its way, the Navy is carrying out what we have been recommending.

Mr. CHAFEE. Mr. President, first I want to thank the distinguished manager of the bill who has been a loyal supporter of the Navy and of many facets of the Navy which we are deeply concerned with; namely, the *Seawolf* submarine. So when I talk with the senior Senator from Hawaii, the manager of the bill, I am talking with somebody whom I know supports naval activities, and particularly those that have taken place in our State.

But my concern is this: That already consolidated in Newport at the Naval War College are both the command and staff activities, which is generally considered a junior level, and the senior level, plus the foreign officers studies likewise. So there has been a vertical integration, if you would call it that, rather than a horizontal integration which the report seems to be directed at. In other words, as I read this report, the thrust seems to be to take all the intermediate level command and staff studies of the various services, Army, Navy, Marine Corps, Air Force and consolidate them into a joint command and staff college, and then on the senior level do likewise. Whereas the Navy has consolidated, as I say vertically, and put in one college the command and staff, the junior level, plus the senior level.

So consolidation is already taking place. Indeed, my research reveals that the Air Force likewise, at Maxwell Field they have both the junior level, command and staff, and the War College consolidated. The Army does not. The Army has their command and staff at Leavenworth, KS, and their War College in Carlisle, PA.

But here is my concern. How can the Department not follow what the committee directs, because this is pretty specific language? The committee directs the Department to begin consolidation of the services' War Colleges under the National Defense University.

So the Senator has pointed out, has suggested, if they do not like it, they can come back and tell the committee why they do not want to do it.

Mr. INOUYE. Mr. President, if I may respond, the Department quite often does that. We have in the past directed the Department of the Army, or the Navy, or the Air Force to do certain things, and we find that such an activity may not be feasible or advisable. They immediately communicate with us officially and steps are taken.

Mr. CHAFEE. Mr. President, I note this is the report language rather than statutory language. What worries me is that what we are doing here is proceeding without a study. In other words, the committee has directed certain actions. It may have the cart before the horse. Please give us a study and then in the absence of a study, before receiving it, they say go ahead and do it. We tell you what to do. We do not need the study.

Mr. INOUYE. No; we are trying to get some action from them. What this report is asking for is a memorandum of understanding between the services. We do not wish to set the specifics. And if in the memorandum of understanding the three Secretaries get together and say, OK, at Newport we will do such and such, and the Army War College will do such and such. That is all we are asking for.

Mr. CHAFEE. My colleague is on the floor.

Mr. INOUYE. I can assure the Senator that as the Navy is now doing, they have no desire to downgrade the activities at Newport. In fact, they are upgrading it. I would anticipate that will continue.

Mr. CHAFEE. My colleague is waiting. So I want to thank the distinguished chairman.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I want to pay my respects to the manager of the bill, Senator INOUYE from Hawaii, because he is a good friend of the Navy, a good friend of my State, and we respect that.

I, too, wanted to rise today in connection with the report language accompanying the fiscal year 1994 Defense appropriations bill which would direct the Pentagon to begin the consolidation for the command and staff and War Colleges. I was struck by the inclusion of this language which appears to direct such a drastic action without prior review and consideration by the appropriate Pentagon officials and oversight committees in Congress.

I realize we are currently downsizing our military to accommodate our future defense needs. However, Mr. President, a consolidation as far reaching as the one proposed in this report, if it is to occur, should be done with an eye toward improving the national security infrastructure and only after it has been established that it would realize maximum savings. It would seem to me that such considerations have not been taken into account.

I am very familiar with the operations of the Naval War College, located in my hometown of Newport, which would be affected by this action. In fact, I have gone to the War College and observed the courses, and have participated in the correspondence course. There are many ramifications of the possible effects in connection with that community.

The Navy, unlike the other services, has already consolidated its Command and Staff and the War Colleges in Newport. That Naval War College was founded on October 6, 1884, and is the oldest of its kind in the world. Its mission is to enhance and strengthen the capabilities of its senior midcareer officers and junior officers. In essence, its mission ensures that we will have a well-trained naval force which could face any challenge with the same discipline and intellect of our heroic naval forebears.

It would seem to me, therefore, that a consolidation that has not been thoroughly and carefully studied and considered might be unwise.

I am also informed that the Office of the Secretary of Defense [OSD], is also against such a consolidation and will submit a report on this subject to the committee. Here again, I am informed that the OSD staff will seek to get together with committee staff to attempt to address the committee's concerns and previous requests.

I have huge respect for the managers of this bill, Senators INOUYE and STEVENS, and I know they will not recommend a move that has not been previously explored and sensibly considered.

Mr. INOUYE. Mr. President, if I may respond to my distinguished colleague from Rhode Island, it is not the intention of the committee to abolish these War Colleges. It is to the contrary.

Second, for the past 3 years, we have made attempts through various channels to call upon the Department to come forth with this report. For 3 years, we have not received a report. I am not certain it is that complicated, but we have not received a report. Each time, we have been assured that it will be coming. For example, for this year, we were told that by July 31 we will get a report. This is now October, and we have yet to receive one.

So we felt that if we are to get some activity across the Potomac, this is the way to do it. The fact that the two distinguished Senators from Rhode Island have stood to inquire into this should indicate to our friends across the Potomac that they should come up with a report.

What we are seeking is a memorandum of understanding between and among the services to work out some scheme so that the infrastructure can be modernized, and we can cut down the costs. Why should we have three identical courses in three different colleges when one would suffice? The specifics could be worked out in the memorandum of understanding. We understand that.

So, I anticipate that if this provision remains in the report, we will be receiving their response rather soon. I would expect the response to be coming within 24 to 48 hours.

Mr. CHAFEE. Mr. President, I do not want to prolong this, and I thank my colleague, the senior Senator from Rhode Island, and the distinguished manager of the bill. But I will say that I am distressed over the language in this report. Where it does not say, "Give us that study or else," it says, "We direct the Department to begin consolidation of the service's War College," and so forth. It seems to me that is not asking for a report; that is saying to go ahead and take action.

I have trouble and, sure, I have a local State interest. Both of us do, the senior Senator and I. But, also, I refer my colleagues to the Defense authorization bill we just passed here recently, which directs the Secretary of Defense to maintain student levels at the War Colleges at the October 1992 levels. In other words, as the services draw down personnel levels, there is not a suggestion that these institutions become smaller. Indeed, they are not going to reflect, proportionately, the reductions in the size of the military forces.

I believe that is right. I think we ought to have a more educated officers corps, even though we have to go down. So I am in favor of that.

But that certainly does not seem to suggest that there can be consolidations of any major nature, if you are going to keep the student enrollment the same as it was in October 1992. That is my first problem.

My second problem is that, again, this is a horizontal interservice type of consolidation suggested, rather than the vertical intraservice consolidation that I previously mentioned.

Finally, I will note that in preparing for this, I looked to see what the Marine Corps was doing. The Marine Corps has junior officers training, in effect, at Command and Staff School at Quantico. But they have recently started a more senior course there, sort of a War College for the Marine Corps, which does not seem to be going in quite the direction the chairman would be suggesting.

Mr. INOUYE. Mr. President, the Appropriations Committee concurs fully with the action taken by the authorization committee on maintaining the student level at the 1992 numbers, because as the Senator from Rhode Island has pointed out, although we are having a drawdown in forces, we want very much to maintain the quality of officer personnel. And it is through this type of specialized colleges that we are able to maintain that.

And so it is not our intention to downgrade the War Colleges or to cut them out, or to reduce the activities. If anything, it is to improve their activities. What we are just hoping for is a report. It has been 3 years now, and I am certain that, with this provision, we will get a report.

Mr. CHAFEE. Well, Mr. President, could I ask the manager this: What we are doing here is working on the appropriations bill. I presume it has passed in the House previously. So you go to conference on the appropriations bill sometime next week, maybe.

Mr. INOUYE. We hope to begin our conferences tomorrow.

Mr. CHAFEE. Well, that is fast work. My question is this: If the Defense Department should give the Senator the report he has been seeking so conscientiously, would there be any necessity for this language directing them to do something that the Senator is not sure he wants to do because he does not have the report yet?

Mr. INOUYE. May I suggest this, Mr. President: May we call upon our respective staffs, the staff of the Appropriations Committee, together with Senator CHAFEE's staff, to get together before we finalize the bill, to draft some clarifying language which would give him the assurance that he wants, and possibly give the Department the assurance that they want? However, at the same time we want to make it very clear that we will not wait another 3 years for a report, because all they have to do is to ignore us.

I would hope that the Department of Defense realizes that it is the Congress of the United States, according to the Constitution, that provides for and maintains the Army and provides for and maintains the Navy. So, they better keep that in mind.

Mr. CHAFEE. Mr. President, first, I thank the chairman for that generous offer. We accept. Our staff will do that because, as I say, my pain level results from this very specific language that directs the consolidation. I will use whatever influence I have with the Defense Department to get that report over here.

I must say any Secretary of Defense who blithely ignores the Appropriations Committee of the Senate of the United States is doing something at his peril. So, I think they will respond quickly. At least I would hope they would.

Mr. INOUYE. We are not in the business of threatening. We just hope that they read the Constitution. That is all.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Rhode Island.

Mr. PELL. Mr. President, I, too, will follow up along the lines the manager of the bill has suggested. I hope that the appropriate DOD officials will read carefully this colloquy on the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask unanimous consent that the remaining committee amendments be considered and adopted en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The remaining committee amendments were agreed to en bloc.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I move to restore the matter stricken in the committee amendment on page 122, line 22, "Sec. 8099" through page 124, line 2.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Hawaii.

The motion was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent the section beginning on page 124, line 3, "Sec. 8099" be modified to read "Sec. 8099a."

The PRESIDING OFFICER. Without objection, it is so ordered.

PERU AMENDMENT TO DOD APPROPRIATIONS

Mr. HELMS. Mr. President, this amendment requires the Secretary of Defense to submit twice-a-year reports to Congress, on December 1 and June 1, on efforts made by the U.S. Government during the preceding 6-month period to seek the payment of fair and equitable compensation by the Government of Peru to the widow of M. Sgt. Joseph Beard, Jr. The exact same provision has been included already in the House version of this bill.

The facts in the case are simple: On April 24, 1992, Peruvian military aircraft attacked a United States Air Force C–130 after it had completed a counternarcotics mission. M. Sgt. Joseph Beard was killed and other crewmen were injured.

The United States Air Force plane was in international airspace over the Pacific Ocean—60 miles from the Peruvian border. Because visibility was unlimited and the United States plane had clear markings, a Department of Defense investigation concluded that the Peruvians had to know they were attacking a United States military aircraft.

The Senate accepted my amendment to the foreign operations appropriations bill requiring the Government of Peru to pay compensation to the widow of Sergeant Beard. If compensation is not paid, as the amendment stipulated, Peru will not receive United States foreign aid. Unfortunately, the House conferees insisted that the amendment be dropped, and it was. They substituted report language directing a withholding of funds from Peru until fair and equitable compensation was paid.

I would have never offered that amendment if the Department of State had done its duty and sought compensation for the widow of Sergeant Beard. The State Department feared doing so, claiming that it will somehow destabilize the Peruvian Government.

I cannot understand the problem. There is $67 million in the foreign aid pipeline for Peru, and if Peru will face up to its responsibility and pay just a small fraction of that amount to Sergeant Beard's widow, there would be no need for this amendment.

Mr. President, even Saddam Hussein's Iraq paid compensation to the victims of the U.S.S. *Stark*. But, the U.S. State Department is unwilling to require that compensation be paid for an American serviceman killed by one of the largest recipients of U.S. foreign aid.

Mr. President, the Congress and the State Department should protect and defend American citizens. It must be our first priority.

I ask unanimous consent that a letter from the Secretary of the U.S. Air Force to Mrs. Beard, assuring her that her case will indeed receive top priority, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF THE AIR FORCE,
Washington, September 28, 1993.

Mrs. SHERRY L. BEARD,
1710 Serenity Drive,
Pflugerville, TX.

DEAR MRS. BEARD: Please accept my condolences along with the deepest sympathy of all the men and women of the United States Air Force on the tragic loss of your husband. Since assuming responsibilities of Secretary of the Air Force in August of this year, I have become thoroughly familiar with the circumstances surrounding his death. While we can only begin to appreciate your sorrow, I want to assure you of our heartfelt concern.

In your letter of August 16, 1993, you expressed your concerns to the Secretary of State, the Senate Foreign Relations Committee and to me. Secretary Christopher, in his response of September 4, 1993, accurately related those actions taken to date by the United States Government of your behalf. In addition, he suggested you consult with your attorney before responding to any offer of payment from the Government of Peru. I agree with that course of action.

My personal priority in this matter is that your interests as the widow of a deceased Air Force member be kept at the forefront in any United States-Peru negotiations. I will continue to insist that this be the case in any future discussions.

I know that members of the Air Force community have been assisting you in matters relating to your husband's death. I assure you they will continue to do so. You remain an important member of the Air Force family.

Sincerely,

SHEILA E. WIDNALL.

AMENDMENT NO. 1075

(Purpose: To provide for the conveyance of Kaho'olawe Island, HI, to the State of Hawaii, to provide for the environmental restoration and cleanup of the Island, and for other purposes)

Mr. INOUYE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 1075.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 133, beginning of line 13, strike out the text of section 8110 in the committee amendment and insert in lieu thereof:

8110. CONVEYANCE OF KAHO'OLAWE ISLAND, HAWAII, TO THE STATE OF HAWAII.

(a) PURPOSE.—It is timely and in the interest of the United States to recognize and fulfill the commitments made on behalf of the United States to the people of Hawaii and to return to the State of Hawaii the Island of Kaho'olawe. Kaho'olawe Island is among Hawaii's historic lands and has a long, documented history of cultural and natural significance to the people of Hawaii reflected, in part, in the Island's inclusion on the National Register of Historic Places and in the longstanding interest in the return of the Island to State sovereignty, public access and use. Congress finds that control, disposition, use and management of Kaho'olawe is affected with a Federal interest. It also is in the national interest and an obligation undertaken by Congress and the United States under this and other Acts, and in furtherance of the purposes of Executive Order 10436 (1953), to recognize the cultural and humanitarian value of assuring meaningful, safe use of the Island for appropriate cultural, historical, archaeological and educational purposes as determined by the State of Hawaii and to provide for the clearance or removal of unexploded ordnance and for the environmental restoration of the Island for such purposes. Congress also finds it is in the national interest and an essential element in the Federal Government's relationship with the State of Hawaii to ensure that the conveyance, clearance or removal of unexploded ordnance, environmental restoration, control of access to the Island and future use of the Island be undertaken in a manner consistent with the enhancement of that relationship, the Department of Defense's military mission and the Federal interest.

(b) MODEL DEMONSTRATION PROJECT.—It is in the national interest that the clearance or removal of unexploded ordnance and the environmental restoration of Kaho'olawe serve as a model demonstration project that incorporates the use of innovative technologies and remedy selection process that will expedite and economize such clearance or removal and environmental restoration while maintaining meaningful participation by affected parties and assuring the protection of human health and the environment.

(c) CONVEYANCE.—Subject to section 1(d) section 8(b) of this Act, the United States, through the Secretary of the Navy (also, hereinafter, "the Secretary"), shall convey and return, without consideration and without conditions other than those set forth in this Act, to the State of Hawaii all right, title and interest of the United States, except that interest set forth in section 2(a)(4) and section 4 of this Act, in and to that parcel of property consisting of approximately 28,776 acres of land known as Kaho'olawe Island, Hawaii and its surrounding waters. Such conveyance of title shall occur no later than 180 days from the date of enactment of this Act and the appropriation of funds for such purposes described in this Act.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of property to be conveyed under section 1(c) shall be determined by a survey that is deemed satisfactory by the State of Hawaii in consultation with the Secretary. The cost of the survey shall be borne by the Secretary, making use of funds provided pursuant to the Act.

8110(A). ORDNANCE CLEARANCE OR REMOVAL ON KAHO'OLAWE ISLAND, HAWAII.

(a) ORDNANCE CLEARANCE OR REMOVAL.—(1) Subject to section 8(b) of this Act, the Secretary of the Navy shall, in compliance with the two-tiered standard of ordnance clearance, removal, restoration and safety contained in (a)(2) of this section,—

(A) detect and clear or remove from Kaho'olawe Island and its adjacent waters, all unexploded ordnance, the remains of exploded ordnance, and solid waste associated with such ordnance or with the use of Kaho'olawe Island by the United States for bombing training, gunnery training, or other munitions training.

(2) Kaho'olawe Island shall be restored for use in accordance with the following requirements:

(A) Tier One Restoration Area. The entire Island shall, in a manner consistent with the purposes of this Act and with the protection of surface and below surface historical and cultural sites and artifacts, be restored to a condition that is reasonably safe for human access and visitation and in accordance with standard methodologies for such restoration as determined by the Secretary in accordance with the purposes of this Act. Subsequent to the transfer to the State of Hawaii of responsibility for the control of access, as provided in section 6 of this Act, the Navy shall continue to undertake, upon the reasonable request of the State, and at regular intervals, reasonable and prudent clean-up measures using standard methodologies. With such Tier One Restoration Area, and in accordance with sections 5 and 6 of this Act, approximately 22,600 acres of the approximately 28,776 acres on the Island and submerged land in the surrounding waters to a depth of 120 feet shall be subjected to surface clearance only.

(B) Tier Two Restoration Enclaves. Enclaves within the Island, as identified in (i), (ii), (iii) and (iv) below and not exceeding approximately 6,200 acres, shall be restored to a condition that is reasonably safe for the human habitation necessary to accomplish the cultural historical, archaeological and educational purposes of this Act, to assure the uses set forth in (i), (ii), (iii), and (iv) below and in accordance with the best available technology and methodology for such restoration:

(i)(a) not more than approximately 4,700 acres for the purpose of grasslands and related uses; and (b) those locations, including trails, roads and historical, cultural and archaeological enclaves identified by the State under section 2(C), that shall not exceed an additional 1,400 acres;

(ii) no more than three specially designated navigational channels to the Island suitable for visitation, including the adjacent shoreline area;

(iii) (a) not more than approximately 10 acres for reasonably safe, human habitation sites, as defined in (B) of this Section, that shall include but not be limited to the sites designated as Hanakanaia to Lae Paki, Kuheia/Kaulana, Ahupu, Hakioawa, Pu'u Moaulanui, Seagull Station, Kamohio Station, Halona Station, Honokoa, and Kanapou; and (b) approximately 47 acres of reservoirs designated as Lua Kealialalo, Lua Kealialuna and Lua Makika; and

(iv) approximately 5 acres on not more than three locations to be used as heliports.

(C) Description of Tier Two Restoration Enclaves. The precise description for the Tier Two Restoration Enclaves, prepared through standard methodologies, shall be submitted to the Navy by the State of Hawaii within 180 days of the enactment of this Act. Any reasonable enlargement to the size or modification to the location of the Tier Two Restoration Enclaves shall be agreed to by the Secretary of the Navy. Such reasonable enlargement or modification shall be determined and undertaken within the time period identified in section 2(a)(3). The cost of such enlargement or modification shall be borne by the Secretary, making use only of funds provided pursuant to this Act.

(3) The Secretary shall commence the activities described in sections 2(a)(1) and (2) as soon as possible but not later than 180 days after the enactment of this Act and continue such activities in accordance with reasonable expedition until completed. Such activities required in section 2 shall be completed within 10 years of the enactment of this Act and the appropriation of funds for such activities.

(4) Notwithstanding any other provision of section 2, the Secretary shall retain the control of access to the Island, in consultation with the State of Hawaii and prior to and following the entering into force of the Memorandum of Understanding contained in Section 6 of this Act, until clearance and restoration is completed and control of access is transferred to the State of Hawaii.

(5) The Secretary shall carry out the requirements of section 2 following consultation with the State of Hawaii as required by Section 6 of this Act and with the technical and logistical support, as needed, of the United States Army Corps of Engineers and other federal agencies.

(6) No federal permit shall be required by the United States, its departments, agencies or instrumentalities for any portion of the removal, restoration and cleanup work pursuant to the Act and conducted entirely on Kaho'olawe Island or in its adjacent waters.

(7) Except as provided in section 4 regarding liability and in section 3 regarding the completion of activities and in section 2(a)(2)(A) regarding regular interval cleanups and new discoveries of previously undetected ordnance, the Secretary's obligations and responsibilities under this Act shall terminate 10 years after the enactment of this Act.

8110(B). ENVIRONMENTAL REMEDIATION OF KAHO'OLAWE ISLAND, HAWAII AND ADJACENT WATERS.

(a) ASSESSMENT OF ADDITIONAL ENVIRONMENTAL CLEANUP FOR HAZARDOUS AND OTHER SUBSTANCES.—(1)(A) Not later than 365 days after the date of the enactment of this Act, the Secretary of the Navy shall complete, in cooperation with the State of Hawaii, such studies and appraisals as are necessary to identify the type, quantity, and estimated costs of response, remediation and removal of the hazardous substances other than exploded and unexploded ordnance and other substances, refuse and waste, if any, that are located—

(i) on Kaho'olawe Island; and

(ii) in the waters adjacent to Kaho'olawe Island.

(B) The cost of the studies and appraisals referred to in section 3(a)(1)(A) shall be borne by the Secretary, making use of funds provided pursuant to this Act.

(b) REMEDIATION OF HAZARDOUS AND ENVIRONMENTAL SUBSTANCES.—(1)(A) In furtherance of the purposes of this Act and in recognition of the clearance, removal and environmental remediation obligations imposed by this Act, and that the aforementioned activities are considered a model demonstration project, Kaho'olawe Island is exempt from placement on the National Priorities List. Notwithstanding that conveyance of title to Kaho'olawe Island to the State of Hawaii shall precede clearance or removal and environmental remediation, upon the completion of the studies and appraisals referred to in section 3(a)(1)(A), the Navy shall carry out remediation, clean-up and responses to the hazardous substances and other substances, refuse and waste located on Kaho'olawe Island and in the waters adjacent to Kaho'olawe Island (as identified in such studies and appraisals) that are necessary to protect human health and the environment. The remedies for such clean-up, remediation and responses shall be selected by the Secretary in consultation with the State and in accordance with the purposes of this Act and shall be commenced and completed within the time period identified in section 2(a)(3) of this Act for the removal of ordnance. The cost of such clean-up, remediation and responses shall be borne by the Secretary, making use of funds provided pursuant to this Act.

(2) In this Act, the terms "response," "removal," "remediation" and "hazardous substance" have the meanings given such terms in 42 U.S.C. 9601(14), (23), (24) and (25).

(c) RESPONSIBILITY AND LIABILITY TO CONDUCT RESPONSE, CLEANUP AND REMEDIATION ACTIVITIES.—(1) Notwithstanding the duties and obligations set forth in this Act and notwithstanding the conveyance required under section 1, the State of Hawaii shall not be liable and responsible for the conduct of any clean-up and response actions arising from and relating to the use and environmental remediation of Kaho'olawe Island and its adjacent waters by the United States that, through federal court order, may be held applicable to Kaho'olawe Island.

8110(C). INDEMNIFICATION AND THE CONTROL OF ACCESS.

(a) The Navy shall retain control of the access to the Island during the time period set forth in section 2(a)(3) that it is undertaking unexploded ordnance removal and hazardous materials removal activities required in section 2 of this Act.

(b) During the time period the United States retains control of access to the Island, the United States shall hold harmless, defend and indemnify the State of Hawaii or its political subdivisions from and against all claims, demands, losses, damages, liens, liabilities, injuries, deaths, penalties, fines, law suits and other proceedings, judgments, awards and reasonable costs and expenses arising out of, or in any manner predicated upon, the presence, release or theretened release of any munitions, exploded or unexploded ordnance, solid waste associated with such ordnance or hazardous substance, pollutant or contaminant resulting from the activities of the Department of Defense, including the activities of the Department of the Navy and the Department of the Army and any agent, employee, lessee, licensee, independent contractor or other person on the property during such time that the property was and remains under the control of the Department of Defense, Navy, Army or other agencies of the United States Government.

(c) Nothing in this Act is intended to alter or affect the federal or state requirements of law governing liability following the transfer of control of access to the State of Hawaii, except that the United States shall remain liable for the acts or omissions of its contractors in carrying out the activities required under this Act in the same manner as if the United States engaged in the performance of the tasks delegated to its contractors.

8110(D). LONG TERM PLANNING AND ENVIRONMENTAL RESTORATION ACTIVITIES OF THE STATE OF HAWAII.

(a)(1) Subject to section 8(b) of this Act, the Secretary is authorized to provide $45,000,000 to the State of Hawaii for the purpose of implementation by the State of (i) long term planning (ii) environmental restoration activities and (iii) the terms and conditions set forth in the Memorandum of Understanding required by section 6 of this Act, concerning Kaho'olawe Island and its adjacent waters. Such funds as are provided by the Secretary for the purpose of carrying out this section shall be made available to the State by the Secretary from funds made available pursuant to this Act and shall be provided to the State of Hawaii following the submission of a plan containing the elements identified in (a)(2) of this section.

(2) The State of Hawaii shall use the funds made available pursuant to this section for the purposes of carrying out long term planning and environmental restoration activities, consistent with the purposes of this Act, on Kaho'olawe Island, including—

(A) soil conservation and water resource development;

(B) erosion abatement (including reforestation and revegetation);

(C) stabilization, restoration and securing sites of archaeological or historical significance;

(D) removal or destruction of non-native plants and animals; and

(E) precise identification of those areas subject to cleanup and removal of ordnance described in section 2 of this Act.

(3) Funds in addition to those provided pursuant to (a)(1) of this section may be provided to the State of Hawaii upon the submission of an acceptable plan containing the elements identified in (a)(2) of this section and demonstrating, to the satisfaction of the Secretary, that such funds are necessary to the proper fulfillment of such elements and the purposes of this Act. The Secretary shall have sole discretion to award such additional funds, however, the award of such funds shall not be unreasonably withheld.

8110(E). COOPERATION OF FEDERAL DEPARTMENTS AND THE STATE OF HAWAII AND TRANSFER OF CONTROL OF ACCESS.

(a)(1) Upon the request of the Secretary or the State of Hawaii, and in accordance with existing laws and requirements, any department or agency of the Federal Government may provide assistance to the Secretary or the State of Hawaii, as the case may be, in carrying out their respective duties under this Act.

(2) Within 180 days following passage of this Act the Secretary shall consult with and enter into a Memorandum of Understanding with the State of Hawaii governing the terms and conditions of (i) access to the Island for those purposes set forth in section 5 of this Act and any other cultural, archaeological, educational and planning purposes provided for in this Act, giving due regard to the risk of harm to health and safety involved in providing such access and the need to avoid interference with or disruption of the Navy's clearance, removal and remediation activities; (ii) the timing, planning and methodology of ordnance clearance or removal and hazardous substance clearance and other waste removal and the protection of historical, cultural and religious sites and artifacts, provided that all reasonable effort should be made to avoid harm to such sites and artifacts from the detonation of unexploded ordnance, clearance or removal and hazardous substance clearance; (iii) a model cleanup program emphasizing the use of innovative technology, integrative planning and expeditious implementation of remediation; (iv) the means for protecting historical, cultural and religious sites and artifacts from intentional destruction, harm and vandalism; and (v) public participation, as appropriate, including the opportunity for public comment and hearing. Under any such terms and conditions, the Secretary shall be issued full and necessary access to carry out the obligations of the Secretary arising out of the responsibilities and liabilities of this Act. Such terms and conditions shall remain in existence until the completion of the restoration and remediation activities required by section 2 of this Act and be revised periodically by mutual consent and giving due regard to the importance of access to the Island as the level of cleanup, restoration and remediation moves toward attainment. Nothing in this Act is intended to diminish or alter the rights and responsibilities of the Navy to allow access to the Island that existed prior to the enactment of this Act.

(3) The United States, through the Secretary of the Navy, shall transfer the control of access to the State of Hawaii within no more than 10 years from the date of enactment of this Act or when the activities required by this Act, including ordnance clearance or removal activities in section 2 and the environmental remediation activities in section 3 are completed, whichever comes first.

8110(F). KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION TRUST FUND.

(a) There is established on the books of the Treasury of the United States a fund to be known as the "Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund" (hereinafter in this subsection referred to as the "Fund"). The Fund shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to pay the obligations incurred by the Secretary of the Navy or the Department of Defense in carrying out the purposes of this Act and for properly allocable costs of the Federal Government in the administration of the Fund.

(b) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Amounts paid into the Fund from any source.

(2) Any amount appropriated to the Fund.

(3) Any return on investment of the assets of the Fund.

(c) To the extent provided in appropriation Acts, the assets of the Fund shall be available for obligation by the Secretary of the Navy to carry out the purposes of this Act.

(d) There is authorized to be appropriated into the Fund $400,000,000, which may be appropriated as a lump sum or in annual increments. Of the amounts deposited into the Fund, not less than eleven percent shall be made available to the State of Hawaii to carry out the provisions of section 5(a)(1) of this Act.

(e) Amounts appropriated to the Fund shall remain available until obligated or until the Fund is terminated.

(f) Upon payment of all incremental costs associated with the purposes for which the Fund is established, the Fund shall be terminated.

8110(G). APPLICABLE LAW AND JUDICIAL REVIEW.

(A) Federal Courts shall have jurisdiction only to enforce the terms, conditions and provisions of this Act, regarding the activities, duties, and responsibilities in this Act occurring on the Island of Kaho'olawe and in its adjacent waters. Only such terms, conditions and provisions will govern judicial review of the conduct of the United States, its departments, agencies and instrumentalities with regard to any actions arising from or related to the conveyance of Kaho'olawe Island to the State of Hawaii and the clearance or removal and remediation of unexploded and exploded ordnance and the remediation of hazardous substances and other wastes on the Island and its adjacent waters and for the other obligations, duties and purposes set forth in this Act.

(b) The provisions of this Act shall be carried out notwithstanding any other provision of law.

(c) Any person, as defined in 42 U.S.C. 9601(21), may bring an action against the United States, its departments, agencies and instrumentalities to require compliance with the terms of this Act and the obligations of the United States, its departments, agencies and instrumentalities under the Memorandum of Understanding required by section 6 of this Act. Such action shall be commenced no earlier than the 60th day following the date on which the plaintiff gives notice in writing to the Attorney General, the Secretary and other department, agency or instrumentality that the plaintiff will commence such action. Such action shall be brought in the district court for the district in which the alleged violation occurred. In any action under this Section, the United States or the State, or both, if not a party may intervene as a matter of right. The United States, its departments, agencies and instrumentalities shall be subject to only such injunctive relief as may be imposed by the court to enforce compliance with the terms of this Act and the Memorandum of Understanding. Such compliance shall be enforced giving due regard to the need for expeditious clean-up under the terms and conditions of this Act.

8110(H). ANNUAL REPORT TO CONGRESS.

(*1*)(A) The Secretary shall submit annually a Report, in detail, describing compliance with the provisions of this Act. Such Report shall include the comments of the State of Hawaii and be submitted to the Defense Committees of Congress.

Mr. INOUYE. Mr. President, this amendment formalizes the process by which the island of Kaho'olawe is returned to the State of Hawaii. It provides for the conveyance of Kaho'olawe Island, HI, to the State of Hawaii, for the environmental restoration and cleanup of the island, and for other purposes. The amendment follows upon a 2-year study effort by the congressionally established Kaho'olawe Conveyance Commission. Public hearings have been held on the conveyance and a final report has been provided to the Congress by the Commission.

This amendment has been drafted very precisely and with a great deal of thought given to the concerns of environmentalists, as well as those of the Navy, the State of Hawaii, and groups, such as the Protect Kaho'olawe Ohana, which represent the indigenous people of Hawaii. Each has contributed to the drafting of the legislation.

Mr. President, the island of Kaho'olawe has been used by the Navy as a bombing range for over 50 years. By law, bombing has been prohibited for the past 2 years. Therefore, I believe it is timely and in the interest of the United States to recognize and fulfill the commitments made on behalf of the United States to the people of Hawaii and to return to the State of Hawaii the islands of Kaho'olawe.

Kaho'olawe Island is among Hawaii's historic lands and has a long, documented history of cultural and natural significance to the people of Hawaii reflected, in part, in the island's inclusion on the National Register of Historic Places and in the longstanding interest in the return of the island to State sovereignty, public access and use.

Mr. President, it is not only in the national interest, but also an obligation undertaken by Congress and the United States and in furtherance of the purposes of the 1953 Executive Order No. 10436, to recognize the cultural and humanitarian value of assuring meaningful, safe use of the island for appropriate cultural, historical, archaeological and educational purposes as determined by the State of Hawaii and to provide for the clearance or removal of unexploded ordnance and for the environmental restoration of the island for such purposes.

Furthermore, I believe it is in the national interest and an essential element in the Federal Government's relationship with the State of Hawaii to ensure that the conveyance, clearance or removal of unexploded ordnance, environmental restoration, control of access to the island and future use of the island be undertaken in a manner consistent with the enhancement of that relationship, the Department of Defense's military mission and the Federal interest.

To this end, Mr. President, I believe it is in the national interest that the clearance or removal of unexploded ordnance and the environmental restoration of Kaho'olawe serve as a model demonstration project that incorporates the use of innovative technologies and a remedy selection process that will expedite and economize such clearance or removal and environmental restoration while maintaining meaningful participation by affected parties and assuring the protection of human health and the environment.

Mr. President, I hope my colleagues will support this amendment. It restores the island to its proper owners, the people of the State of Hawaii. It addresses the desires of native Hawaiians to return and to worship in their way on an island sacred in their history. It does justice to a people too long denied.

Mr. President, this amendment is acceptable to the managers of the bill. I urge that it be adopted.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I did attend a hearing in Hawaii on this subject with the Senator from Hawaii.

I join him in urging the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

So, the amendment (No. 1075) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 1076

(Purpose: To prohibit the use of Department of Defense funds to pay the cost of excessive compensation for contract seamen)

Mr. GRASSLEY. Mr. President, before sending an amendment to the desk, I want to speak a little bit about some aspects of that amendment, but it is my intention to offer an amendment. The amendment deals with the comparability of Government money to be used in the maritime versus what we pay within the U.S. Navy. I call this approach the defense pay equity amendment.

I think, first of all, I should express my support for the position of the chairman and the position of the ranking Republican that we should not allow costs charged to the Government for individuals at a higher level than the Government is willing to pay its own workers. They have that in their report as a statement of the position of the committee and eventually the Senate, I hope, that we should not be expending any more of our tax moneys than what we are willing to pay our own people.

But it is my view, also, and my amendment is an extension of that basic philosophy, that it should be applied not only to CEO's of defense contractors but also to U.S.-flag seafarers. Hence my amendment.

I think the chairman and the ranking Republican of the appropriations subcommittee share my astonishment, if not anger, when they realize what U.S.-flag billets are costing.

It is inconceivable that a master costs $44,000 per month; it is inconceivable that a U.S.-flag cook costs more than the captain of a U.S. Navy ship.

Mr. President, this is the pay of the personnel of one ship and one company in America. I cannot identify the company because it is proprietary, but I can tell you this: All the information that is on this chart will be published by the Federal Government within a couple weeks in a report coming out of the executive branch and it will show that this is what a master is paid. Base pay is this much, overtime is this much, and benefits is this much. So this $44,000 would be above what a captain of a U.S. Navy ship would get, which is about $8,000, which includes base pay and benefits as well.

I appreciate the dilemma that the chairman and ranking Republican face with regard to the maritime industry. On the one hand, some of these are constituents of a lot of Members of this body, and I can appreciate that. But on the other hand, let me say that all of your constituents are taxpayers. Furthermore, the maritime industry States along our coast, as well as Hawaii and Alaska, which are the States of our two managers of this bill, shoulder the burden of the Jones Act which gives them a monopoly for the cargo shipped to and from these States. This is no small burden. The International Trade Commission reported a couple years ago that the Jones Act costs consumers and businesses several billion dollars and destroys thousands of jobs.

Now, the outrageous billet costs explains why the Jones Act is such a burden for a lot of States and why cargo preference laws and operating differential subsidies are so costly to the taxpayers.

Let me explain here that my amendment deals not with operational differential subsidies, and not with cargo preference, not with the Jones Act. It deals with the transportation of equipment and material for our Defense Department. It does not apply to anything commercial and it does not apply in any way to our U.S. aid programs or aid to Russia, which has been the debate in recent years or recent months where we have had some other subjects dealing with cargo preference come up.

So, I hope that my colleagues will distinguish this amendment from other recent debates and rollcalls that we had involving the maritime industry. These debates have dealt more appropriately with cargo preference, or they have dealt with restrictions, or eliminating some restrictions on aid, to transportation of aid to Russia.

So, Mr. President, I say to my good colleagues from Hawaii and Alaska that I understand the dilemma that this amendment might pose for them and anyone else whose constituents include U.S.-flag seafarers.

On the other hand, although they may not say so, U.S.-flag merchant marine companies probably support my amendment. If labor costs were not so high, there would be far less pressure on American companies to reflag under foreign flags.

But for the rest of us in the Senate who do not have these immediate pressures, this gives us an opportunity—and, hence, my amendment—to sort out our priorities in a clear and open manner.

For today, I think we are going to expose loud and clear the myth of the "Fourth Arm of National Defense," the U.S. maritime. That taxpayers support a master's billet that costs $44,000 per month has nothing to do with national defense. Paying a Navy captain $8,000 to $9,000 per month to defend our Nation year round is a national defense matter. But paying $44,000 per month for a U.S.-flag master's billet cannot be justified in the name of national defense any more than paying $1,800 for a toilet seat.

Furthermore, it cannot be justified on commercial grounds. The competitive marketplace will not justify this kind of pay, and that is why we have American companies reflagging—to shed the costs of these U.S. seafarers.

Mr. President, there are those of us in this body—and sometimes we are barely a majority, but a lot of times we are only a strong minority—who have been trying to change our governmental approach of support for the maritime industry. You have heard me say that there is not anything wrong with a subsidy per se, but with programs like the Jones Act, cargo preference, or even operating differential subsidies, too many of these costs are hidden. And if we are going to subsidize our maritime, we ought to do it up front and open it up.

I am extending to that argument today the fact that the subsidy should have an equity between what we pay our U.S. Navy personnel and the subsidy which would go toward this figure. It should be comparable. The subsidy in this maritime figure is much, much higher.

So I am extending that argument a little bit today.

Mr. President, are we willing to perpetuate a double standard that discriminates against the men and women who serve in our uniformed military? Maybe I should be offering an amendment to pay our Navy captains $44,000 per month. I imagine raising military billet pay and benefits to the level of the so-called "Fourth Arm of National Defense" would cost hundreds of billions of dollars. So, of course, we cannot do that.

But I am not willing to tell our men and women in our uniformed military that they are second class citizens.

But if we defeat this defense pay equity amendment, every military man and woman from every State has a right to stare their Senator in the face and then ask them that tough question.

They should also ask why, when Uncle Sam needs seafarers for defense sealift, seafarers have the right to say, "Thanks, but no thanks," and have no obligation to serve.

Now I know that thousands do serve. But, they have the right not to. Whereas, our people who are in the Reserves, the National Guard or in full time military, when they are called and sent someplace, their lives in danger, they must go. I wish you would think about that a little bit.

After being paid about $44,000 a month, year in and year out, thanks primarily to the American taxpayers—not totally to the American taxpayers but an overwhelming amount of it—all in the name of national defense—when we need them, these people can say to Uncle Sam, "Take a hike." Our military men and women do not have that option.

They may also want to ask why taxpayers must support war bonuses for seafarers at 100 percent base pay, plus an extra $600 per day if their vessel is attacked, while our uniformed military men and women—the people that are there all the time, including the National Guard and the Reserves who have to go if they are called up—dodging real bullets, but are given only $150 per month. Not $600 a day, and not war bonuses of 100 percent of base pay. During the Persian Gulf war, according to the Maritime Administration, one seafarer received $15,700 in war bonuses for a 2-month period.

Is it any wonder that the military and defense publications have expressed an interest in bringing some equity to this inequitable environment? And I think these defense publications are following this debate today.

No longer will these unjustified inequities and wasteful expenditures be kept in the dark.

My amendment allows a subsidy at a reasonable level. That reasonable level is equal to what we are willing to pay our own military men and women, the people that are there full time, who have to be ready to move on a moment's notice.

If we have to subsidize U.S.-flag seafarers at a higher level than that, then we are no longer talking about the fourth arm of national defense. We are talking about a high-priced welfare system, pure and simple. We will need to change the name of the U.S. merchant marine to the U.S. mercenary marine.

The defense pay equity amendment, which I will offer, puts teeth into this Senate Appropriations Committee report that I have already spoken about. This report for this bill reads:

> The committee emphatically states its position that DOD should not allow costs charged to the Government for any individual to exceed what the Government is itself prepared to pay its own senior executives, for example, Cabinet officials.

Now, let us look at that. A major executive in a major defense contracting company in America gets well over what a Cabinet person gets. We are not going to reimburse beyond—or at least the committee is saying that it ought to be the policy of our Government not to reimburse beyond—what a comparable position in the Government would get.

Currently, taxpayers are forced to support U.S.-flag merchant marine seamen billets at a far higher level of pay and benefits than those provided billets for men and women who serve our Nation in the Army, Navy, Air Force, and Marine Corps.

For example, the data sheets that I recently sent to my colleagues—and everybody in this body received a "Dear Colleague" letter, I believe, last Thursday or Friday—reveal that while an O-6 Navy captain billet costs about $8,422 per month, a U.S. master's billet can cost over $44,000 per month.

As I said before, a U.S.-flag cook's billet costs more than that of a Navy captain.

Remember, per capita income for Americans is about roughly $15,000 and median household income about $30,000.

How can we expect these American taxpayers to support U.S.-flag merchant marine billets running as high as $44,000 per month?

If the U.S.-flag merchant marine wants to be called the fourth arm of national defense, then Congress should make them start living like it.

We all have constituents in the full-time military who, because of budget cuts, face unemployment lines.

Just think of 200,000 or 300,000 people who are going to be out.

So there are military people potentially joining unemployment lines. So we have a double standard. We have cut our real military at the same time the administration is about to propose $1.1 billion in more U.S.-flag subsidies of this nature for the maritime industry, subsidies that will benefit a relative handful of companies and a mere 1,000 or 2,000 seafarer billets, all in the name of national defense.

Again, I want to make very clear: We are adding maritime subsidies about the same time we are sending some of our full-time military men and women pink slips. But we send our U.S.-flag seafarers Uncle Sam's Gold Card.

Again, the issue is not, are we going to have a subsidy for the maritime? The issue is should that subsidy be more than we pay our full-time military people? Beyond that, there are other subsidies that are not even involved in my amendment that are very important subsidies. My amendment does not call for the elimination of those subsidies. But I have argued that there should be some limit within which those subsidies operate above world market prices, and, second, that they be appropriated up front.

The defense pay equity amendment goes to the heart of the reason our U.S.-flag merchant marine fleet is sinking—the unreasonably high cost of crews.

I know you are tired of hearing these arguments, but we have had these sorts of subsidies for decades and decades. Figures in the 1950's showed we had 1,100 ships in our merchant fleet, and figures today would show that is in the neighborhood of over 200 but not much over 300—in that range.

Over the last 10 years, Congress has ignored the warnings of a person who was out there as a prophet, trying to bring this deterioration to our attention. He is former military Sealift Comdr. Kent Carroll. He warned that a major reason for the decline of our U.S.-flag merchant marine is because it is burdened by the highest crew costs in the world.

My amendment is a modest step toward restoring pay equity between our real military men and women and the mythical fourth arm of national defense. It is a modest step toward protecting taxpayers from the abuse and waste of unrestrained maritime subsidies.

Many Members of this body would chastise me for making too modest a step. It does not relieve the taxpayers of the costly featherbedding practices of our U.S.-flag carriers, nor does it eliminate the double standard that allowed a U.S.-flag seafarer to collect $15,700 in Persian Gulf war bonuses in 2 months while our men and women in the full-time military, dodging real bullets, were limited to $150 per month. What is worse, had the seafarer's vessel been shot at, the seafarer could have collected an extra $600 per day.

But the defense pay equity amendment will assist toward putting our U.S.-flag merchant marine back on the road to recovery. At the same time, it may save taxpayers hundreds of millions of dollars. Certainly, these billet costs—$44,000 for a master—must make Congress realize the U.S.-flag merchant marine has been incapable of restraining itself when negotiating labor contracts. And why should they show restraint as long as Congress allows them to pass these costs on to the American taxpayer? And the seafarers brag about this largess.

The June 1990 edition of the Seafarers Log reported that the Seafarers International Union was able to secure a new contract guaranteeing them a 15-percent increase over 3 years, plus they would get an additional cost-of-living increase during the second and third year of the contract for anything over 5 percent inflation. Furthermore, they negotiated the retention of high manning levels for vessels, manning vessels above what are actually needed. The U.S.-flag companies had tried to hold the seafarers union to a 6-percent increase over 3 years and to reduce crew sizes, but the companies lost, and so did the American taxpayers.

The seafarers brag in their publication that this new contract was far better than what other unions got around the country. The contracts for the rest of America's labor force averaged 3.3 to 3.8 percent increases, far less than what the seafarers got.

As long as Congress turns its head and keeps an open credit line to Uncle Sam's Gold Card, who cares?

The Office of Management and Budget reported that in fiscal year 1991, the cost of cargo preference subsidies—and let me make this clear, a cargo preference subsidy is the difference between what a Government agency is forced to pay U.S.-flag companies and what they could have paid on a flag-of-convenience vessel, the latter of which could be owned by Americans.

OMB reported that in fiscal year 1991 cargo preference cost the Defense Department $919 million. For all agencies the cost was $1.099 billion. Most of the defense cost was related to the cargo preference premium we gave U.S.-flag companies during the Persian Gulf war.

OMB's most recent report estimates cargo preference will cost $592 million during fiscal year 1994, and Defense will have to pay $395 million of that.

The interesting thing about cargo preference, according to the Maritime Administration, is cargo preference only supports about 2,000 billets. So you can see we are providing a premium cargo preference subsidy averaging well over $250,000 per billet, and possibly as high as $300,000 per billet.

Let me again emphasize, my amendment has nothing to do with cargo preference law, but I think we ought to make it clear the source of the costs to the taxpayers for this subsidy program that is addressed by my amendment.

The defense pay equity amendment will prohibit the Defense Department from subsidizing merchant marine billets at a higher rate than regular military billets. We do not mandate—understand—we do not mandate what companies pay their employees generally. But we do guarantee that crew cost subsidies for the handling of any particular defense cargo will not exceed what the taxpayers paid to support comparable billets for our men and women in the full-time military.

Therefore, sufficient time is allowed in my amendment for U.S.-flag carriers and seafarer unions to renegotiate more reasonable pay and benefits in parity with comparable military billets, as determined by the Secretary of the Navy.

To ensure these changes, my amendment states that after December 31, 1993, no DOD contracts can be offered to any U.S.-flag merchant marine company that provides billet compensation higher than that provided to regular military billets for the carriage of that particular defense cargo.

There are two primary programs that force American taxpayers to support these incredibly high cost U.S.-flag merchant marine billets. One way is through the various cargo preference laws I have already referred to.

Of course, this is a backdoor, hidden subsidy that I have argued on this floor before that ought to be up front and appropriated. These costs are passed through to the American taxpayers through what are called fair and reasonable rate schemes. Individual U.S.-flag carriers submit to the Maritime Administration crew costs and other operating and capital costs. MARAD, in turn, determines how much each carrier can charge Government agencies for any given cargo.

The higher the crew cost, the more MARAD allows a carrier to charge. Consequently, you may find MARAD determining that a bid of $50 per ton by one carrier and a bid of $100 per ton by another carrier—for the same cargo—are both, according to their approach, fair and reasonable.

As a side note, although MARAD has the legal authority to administer a fair and reasonable rate scheme for defense cargoes, they have deferred to a scheme that allows the Department of Defense to take bids using the Federal Maritime Administration's tariff filings.

DOD thinks that it can get better bids by reminding U.S. flags what foreign flags are getting for cargoes. Nevertheless, OMB has reported that the cost of DOD cargo preference still is the largest among all agencies, again $919 million in fiscal year 1991, and $395 million potentially in fiscal year 1994.

This scheme, of course, amounts to an open checkbook to Uncle Sam's Treasury and provides little or no incentive for U.S.-flag companies or unions to restrain their costs. Consequently, the Federal Government is forced to pay an extra $592 million per year in cargo preferential differential subsidies to support these approximately 2,000 U.S.-flag merchant marine billets. Again, that is well over $250,000 per billet.

A second support program is the Operating Differential Subsidy Program. This program requires taxpayers to pay the difference between the cost of U.S.-flag and foreign-flag billets and, in some cases, additional cost differences. Generally, 85 percent or more of the ODS covers crew cost differentials and costs taxpayers between $100,000 and $120,000 per billet annually.

Granted, not every U.S.-flag crew enjoys these lucrative benefits provided by this specific U.S.-flag carrier shown by the example attached to the easel. But this is not my point, Mr. President. Why should taxpayers support any billet at a higher rate than we support our military billets? This point is in 100 percent agreement with the committee's position on executive pay that is in their report.

Nor is it relevant that U.S.-flag billets are shared by two or three individuals. Why should taxpayers be forced to support a master at the rate of $44,000 per month over 6 months who will then either take a shoreside job or go on vacation?

We also have examples of some seafarers drawing unemployment benefits once returning shoreside, even though they are given vacation pay.

Worse yet, after years of lucrative tax subsidies, when Uncle Sam calls, these people can reject the call. Our full-time military people, as well as Reserves, as well as National Guard, cannot refuse. There are instances of this being the case as most recently as the Persian Gulf. We can pay reservists a very small fraction in comparison, and when they are called, they serve.

The answer to our defense sealift needs is not squandering more money on the U.S.-flag merchant marine. The answer is to bring their tax-supported salaries and benefits in line with other military personnel.

I hope you agree that paying a merchant marine cook more than a Navy captain in the name of national defense is as wasteful and absurd as paying $1,800 for toilet seats and $400 for hammers. I think it is time to draw the line.

No one can say we expect seafarers to live on Third-World wages, like they claim, or like their proponents have argued on the floor that we have been trying to do when we have offered other amendments.

If the defense pay equity amendment is adopted, we allow taxpayers to foot the bill of crew billets, but only up to the cost of regular military billets.

I am going to yield the floor just as soon as I send the amendment to the desk and ask that it be read. Then the amendment will be before us.

Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] for himself, Mr. BROWN, and Mr. BURNS proposes an amendment numbered 1076.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, line 20, after "law," insert the following: "the Secretary of the Navy may not obligate funds after December 21, 1993, for entering into any sealift contract or charter under which the Secretary, as determined by the Secretary, is to pay, either directly or indirectly through a contractor or subcontractor, compensation (including regular rate pay, overtime rate pay, and other pay-related benefits) with respect to a seaman billet at a total cost that exceeds the total cost to the Federal Government of the compensation that is provided by the Federal Government with respect to a comparable military billet reserved for, or filled by, a member of the Armed Forces of the United States,".

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. Is there debate?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I will yield to the Senator from Colorado, but before he proceeds, I would like to temporarily set aside the measure for 2 minutes.

AMENDMENT NO. 1077

(Purpose: To provide appropriations for the Department of Defense Pilot Mentor-Protege Program under which developmental assistance is furnished by major Defense contractors as mentors to small business concerns owned and controlled by socially and economically disadvantaged individuals so that such firms may become better qualified subcontractors or suppliers on Defense contracts)

Mr. INOUYE. Mr. President, I ask unanimous consent that the pending matter be set aside temporarily to give me an opportunity to submit an amendment in behalf of Senators NUNN, THURMOND, BINGAMAN, and SMITH.

I send to the desk the amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] for Mr. NUNN, for himself, Mr. THURMOND, Mr. BINGAMAN, and Mr. SMITH, proposes an amendment numbered 1077.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . Of the funds appropriated for title III of this Act, $50,000,000 shall be made available for obligation until September 30, 1996 for the Department of Defense Pilot Mentor-Protege Program, pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note), as amended: *Provided*, That funds made available may be used by a military service or a Defense agency to reimburse costs incurred by a contractor (or subcontractor) under an approved contract line item for the provision of mentoring assistance pursuant to an approved Mentor-Protege Program developmental assistance agreement.

Mr. INOUYE. Mr. President, I am pleased to advise the Senate that this matter has been studied, and the managers have no objection. We seek its immediate adoption.

Mr. NUNN. Mr. President, I rise to offer an amendment and ask for its immediate consideration.

Mr. President, this amendment would make available $50 million for the continued implementation of the Department's Pilot Mentor-Protege Program. This amendment enjoys bipartisan support. I am pleased to have as cosponsors Senators THURMOND, BINGAMAN, and SMITH.

The Senate's version of the National Defense Authorization Act for fiscal year 1994 includes a specific authorization of $50 million for the Pilot Mentor-Protege Program. This program enjoys bipartisan support within the Congress. The conference report for the National Defense Authorization Acts for fiscal year 1992 and for the fiscal year 1993 bill, both included authorizations at the Senate-passed level of $30 million for fiscal year 1992 and $55 million for fiscal year 1993. With the strong support of the chairman of the Senate Defense Appropriations Committee, Mr. INOUYE, and the ranking Republican member, Mr. STEVENS, the DOD Mentor-Protege Program received essentially full funding in both fiscal year 1992, $30 million, and fiscal year 1993, $45 million.

Although enacted in November of 1991, DOD's Pilot Mentor-Protege Program represents the newest congressional initiative to foster minority business enterprise. It provides a congressionally-recognized framework through which major Government contractors can foster the business development of small business concerns owned and controlled by socially and economically disadvantaged individuals, often referred to as small disadvantaged businesses [SDB's].

The Mentor-Protege Program's authorizing legislation stresses the ability of the mentor firm and its proteges to custom design mentoring programs that meets their mutual needs. The authorizing statute recognized virtually every type of developmental assistance. Mentoring regarding general business management skills, such as financial and personnel management or marketing and proposal development. Mentoring with respect to engineering and technical skills, such as production planning and quality assurance. Loan and limited capital investment are also authorized to meet the protege's needs for working capital. To provide opportunities to sharpen performance skills, subcontracts can be awarded on a noncompetitive basis, and accelerated progress payments are authorized.

Mentor firms can obtain partial reimbursement of mentoring costs under an existing DOD contract, if funding is made available by the DOD program manager. During 1992, the first full year of the program's implementation, several program-based Mentor-Protege Programs were initiated by the military services, utilizing program funding. For example, the Navy initiated the first effort under the F/A-18E/F Program, with the McDonnell Douglas Corp. as the mentor firm and River City Metal Finishing Co. as one of the proteges. River City, a startup company, is being assisted to become a state-of-art metal finishing operation in both production and environmental terms.

The Air Force initiated two program-based Mentor-Protege Programs, one on the F-16 Program and the other on the F-22 Advanced Tactical Fighter Program. With the F-16 Program and its Foreign Military Sales Program, Lockheed Fort Worth Co., the successor to General Dynamics Fort Worth Division, is serving as the mentor and Clarkco as the protege. Lockheed Fort Worth will be assisting Clarkco regarding their capabilities in the manufacture of composite airframe structures, based on technology innovations developed by Clarkco. On the F-22 Program, the Air Force program manager has allocated $10 million to support an array of Mentor-Protege relationships by Lockheed Aeronautical Systems Co. and its partners Boeing Miliary Aircraft Co. and United Technologies Pratt & Whitney, relating to the F-22 airframe and its F-117 engine. Several other major programs of the Army, Navy, and Air Force include mentor-protege programs.

The statute also authorizes reimbursement of mentoring costs through separate agreements between DOD and the mentor firm. During the spring of 1993, DOD conducted a competition for the award of cooperative agreements for the provision of mentoring assistance. On August 7, 46 cooperative agreements were awarded providing assistance to 74 proteges.

The Mentor-Protege Program is working. This funding will enable the program to continue to advance the participation of SDB's in DOD contracting as well as contracting opportunities of other Federal agencies and the broader commercial marketplace.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1077) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Colorado.

AMENDMENT NO. 1076

Mr. BROWN. Mr. President, I rise in strong support of the Grassley amendment. We have debated cargo preference a number of times in this Chamber. I will not try to extend that deliberation other than to make some very quick observations.

I want to share with the Members information that I was able to gather from talking to our new U.S. Maritime Administrator, Admiral Herberger. During the nomination process, he was kind enough to respond to a number of questions. I might say, Admiral Herberger, a vice admiral of the U.S. Navy, is an impressive individual. While I respectfully disagree with his position on cargo preference, I think everyone who meets him feels it is an honor to have him continue to serve our country in the capacity of Maritime Administrator.

I will also say, while I do not agree with his position, I have confidence that he is willing to and will try to take an objective look at this area and come up with suggestions for improvement.

Having said that, I want to share briefly with the body some of the facts he was kind enough to supply me. I might emphasize, these are responses from someone who is a strong advocate of cargo preference.

One of the questions I asked was, I think, a fundamental one, and I hope it is one that all of our colleagues are concerned about. That was simply to inquire as to what the original intent of cargo preference was to begin with. He reminded me that it had been prescribed in statute for military cargoes since 1904 and for nonmilitary cargo since 1954.

In that period of time, he laid out two basic intents of cargo preference. One was to stimulate the U.S. economy through shipments on U.S. vessels; and the second cargo preference goal, as he outlined it, was to foster the development of U.S.-flag vessels in commerce in peacetime so that U.S.-flag vessels and crews are available during times of national emergency.

Mr. President, I think it is worth taking a look at those goals and asking ourselves a simple question: Has the program that has been in effect since 1904 for military cargo and since 1954 for nonmilitary cargo met the goals that that legislation was offered for? If it has, you can debate the goals, but at least you can admit it has met the guidelines Congress set forth. I think Members will feel these facts included in the administrator's letter apply.

First of all, with regard to U.S. vessels, I think Members will be interested to know that in order to qualify for cargo preference, you do not have to be a U.S. vessel, a U.S.-made vessel. In other words, many of the vessels that enjoy the very lucrative rewards of coming under cargo preference, the very huge taxpayer subsidies, are not U.S.-made vessels but, in fact, are made overseas.

Moreover, I think many Americans will be shocked to know that U.S.-made vessels do not necessarily qualify for cargo preference. They have to be U.S.-flag vessels. In other words, non-U.S.-made vessels, not made in America, get the subsidy, and some of the vessels made in America do not get the subsidy.

If the goal as outlined is to stimulate the U.S. merchant marine and vessels, I submit that having American-made vessels not qualify for the subsidy if they are not flagged here, and having foreign vessels qualify for this subsidy if they are flagged here defeats the very purpose of the underlying cargo preference subsidy.

Second, Mr. President, I think it is worth noting, as the admiral notes in his response, that 55 foreign military vessels of over 1,000 tons—there are additional foreign vessels that qualify—but 55 of the vessels that qualify for cargo preference and receive the subsidy were built overseas, not in the United States.

Another goal outlined by the admiral is to help build up our merchant marine. I think the implication is our personnel, our crews as well.

It may shock members to know, though, that Americans who serve in the merchant marine that are not on a U.S.-flag vessel—and there are many—do not get the subsidy, and non-Americans who do serve on U.S.-flag vessels do get the subsidies.

Let me repeat that. If you are an American but do not work on a U.S.-flag vessel, you do not get the cargo preference subsidy. If you are not an American, if you are a foreign citizen, if you owe your allegiance to another country and work on a U.S.-flag vessel, you do get the subsidy.

So the second area that is laid out for the purpose of this, I think, is thwarted by the very action itself. If we are really serious about the goals, maybe we ought to restrict it to the U.S.-built vessels and maybe we ought to restrict it to U.S. crews. But that is not what it does. It provides this subsidy to foreign-built vessels and foreign crews.

Mr. President, I asked the admiral, also, what the size of the fleet has been. Let me just give you a quick comparison. There are a number of numbers here, but I think it is a fair question to ask: Look, if we have had this huge, costly $1 billion subsidy for a number of years, what has happened to the number of ships we have?

Here are the admiral's numbers. In 1954, we had 3,439 U.S.-flag vessels. Those are the ones that get subsidies—3,439 U.S.-flag vessels. The year 1954 is of note because that is when we even expanded cargo preference to provide even more subsidies.

The number of U.S.-flag vessels with the cargo preference subsidy went from 3,439—not up but down—to 603 vessels—a fifth to a sixth as many. In other words, we lost almost five-sixths of the fleet while we have had the subsidy in place.

Now, Mr. President, whether you are for cargo preference or you are against cargo preference, if someone tells you, look, we have had a subsidy to encourage this activity to grow and it shrunk by five-sixths, does not somebody ask the question, look, is this working? Is it working? How can anybody look at these numbers and say it is working? It is a disaster. It is a disaster by the very standard that the advocates of cargo preference put forward, that is, expanding the merchant marine, expanding our crews, expanding our vessels that are available. We have gone from 23.9 percent of the world fleet down to 2.5 percent of the world fleet.

Now, Mr. President, some would say, "Wait a minute. Wait a minute. Just the number of vessels does not tell the full story." That would be correct. Perhaps even more important is the gross tonnage, or the deadweight tonnage. Indeed, those numbers are a little different. Let me share those with the body.

In 1954, when we added nonmilitary vessels to the subsidy, we had 37,000 deadweight tons, 37,199, according to the admiral, deadweight tons of cargo preference. The subsidy is expanded, and by 1992 it has dropped from 37,000 down to 22,462 deadweight tons. It has gone from 31 percent, 31.1 percent of the deadweight tons in the world fleet down to only 3.4 percent of the deadweight tons in the world fleet.

The numbers are a little different, but the trend is exactly the same. The existence of the subsidy hurt our share of world shipping tonnage, hurt the number of vessels that we have under the program.

By any standard that you want to apply, this program cannot be called a success unless you are somebody who gets the money in your pocket. It is perhaps a success to them because they get paid more than others who compete with them.

Mr. President, I asked the admiral how many days the average U.S.-flag vessel crew works. Some take shots at Congress. Some are worried about our schools not being open enough days. But the average taxpayer in this country knows. They work every working day, unless there is a holiday or unless they get a vacation. Some of our folks get a couple weeks' vacation, some get none. Some of them get 4 weeks if they are lucky.

The average number of working days by these folks, who, by any standard, are reasonably well paid, and certainly much higher paid than most workers in America, is 144 days a year. That was the comment of the advocate of cargo preference. That is the advocate of cargo preference who gave me that figure, not a detractor—144 days worked.

Is this working? Well, it works if you only have to work 144 days, but for the taxpayers who pay the bill, who have to shell out the money for this subsidy, it does not work so well.

Again, Mr. President, those are not my figures. Those are the ones supplied by the advocates of it.

Mr. President, I also asked the admiral what are the salary ranges on U.S.-flag vessels. I believe the distinguished Senator from Iowa has brought to the Senate some very valuable background in comparing annual salaries, and I think they speak for themselves. But we laid out a number of countries: United States, Denmark, Germany, Greece, Japan, Hong Kong, Singapore, Taiwan. It was meant to be a broad-ranging group that would encompass a wide range of countries that own vessels or foreign registration vessels.

The list we got back was not the figures that the Senator from Iowa has, which are complete figures. The list we got back was of salaries, only base wage cost. The Senator from Iowa has complete cost, a complete breakdown, fringe benefits and so on, bonuses. These are just the base wage costs.

For a master: United States, $9,100; Denmark, $3,100; Germany, $3,750—and that is an interesting figure because while their average worker salary is comparable to ours or even higher than ours in many areas, perhaps because of the drop in the value of the dollar, theirs is something near 30 to 40 percent of our salaries—Greece, $16,100; Japan, $3,500; Liberia, $4,270; Singapore, $2,950; Taiwan, $3,700.

Mr. President, those are the salaries for a master, according to the admiral, on a monthly basis. That is base salary; that is not full salary. In other words, the United States is more than double its nearest competitor on this list, more than double, and these are the base salaries alone per month.

Mr. President, I believe that if we sincerely want to accomplish the goals that cargo preference was laid out for, you have to find a different program. What we accomplish with cargo preference is to line the pockets of some very wealthy people, but we do not accomplish the goal of expanding the number of U.S.-flag vessels. It has dropped. We do not expand the goal of making U.S. ships more competitive.

Let me just simply share some additional figures on staffing levels that we asked for. We asked the admiral to compare U.S. staffing levels on U.S.-flag vessels with staffing levels of other countries. Here are the admiral's words.

> With vessels of other highly developed nations operating the crew of 21 in liner trade and from 19 to 20 in bulk trade.

Obviously, it varies on what kind of cargo they are carrying or how their staffs are set up.

> Comparable foreign flag vessels operate with about 16 crew members when engaged in point-to-point navigation.

Let us see what we have established. We have established by the advocates of cargo preference that others operate with smaller crews. We have established that our pay rate for masters is more than double the highest in the category we study, and there may be more. If other Members have other countries they want to bring in for comparison I certainly welcome that. We are talking about cargo preference vessels not necessarily being American in production, not necessarily being American crews in nationality, having staff levels significantly higher than their competitors, and wages dramatically greater than their competitors.

Productivity per person less, pay astronomically higher, and working an average of 144 days.

Mr. President, this is wrong. This is not a question of who you like, or their lobbyists, or what their PAC does. This is not a question of trying to help America. This has not helped America. This is not a question of whether we have more U.S.-flag vessels or not. It has not done that. It is a question of looting the taxpayer to pay for a program that does not work and that unfairly penalizes the working men and women of this country. Americans will put up with a lot. But they want to believe that their legislators are at least trying to do the best for them. Mr. President, the facts are very, very clear.

This program has not produced more U.S.-built ships. It has not produced more U.S.-flag ships, it has not produced more U.S. crewmen and women. It has not produced greater efficiency. It has not produced competitive pay rates. It has not produced—and I repeat, it has not produced—competitive rates for the shipment of U.S. cargo.

It has served the special interest groups, but surely that should not be our standard. Surely, at some point we owe the taxpayers of this country a better deal than cargo preference.

I relinquish the floor, Mr. President.

Mr. INOUYE. Mr. President, I rise to oppose the amendment offered by the distinguished Senator from Iowa.

Mr. President, before proceeding I ask unanimous consent that a letter addressed to me from the Secretary of Transportation, dated October 19, be made part of the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, DC, October 19, 1993.
Hon. DANIEL INOUYE,
Chairman, Subcommittee on Defense, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to questions posed by your staff concerning the amendment that Senator Grassley intends to offer during Senate debate on H.R. 3116, making appropriations for the Department of Defense for fiscal year 1994. I understand that the amendment would alter existing cargo preference law by requiring that, after December 31, 1993, the Department of Defense not contract with United States-flag carriers that pay their merchant seamen more than United States military personnel for comparable billets.

The Department believes this amendment is inappropriate at this time due to the Administration's review of cargo preference laws as it develops a maritime revitalization proposal. This amendment would foreclose the Administration's options on the cargo preference programs. The Administration does not support any changes to existing statutes in this area at this time.

Therefore, the Department opposes the amendment to be offered by Senator Grassley.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

FEDERICO PEÑA.

Mr. INOUYE. Mr. President, if I may, I would like to read a few portions of this letter:

> The Department believes this amendment is inappropriate at this time due to the administration's review of cargo preference laws as it develops a maritime revitalization proposal. This amendment would foreclose the administration's options on the cargo preference programs. The administration does not support any changes to existing statutes in this area at this time.

Mr. President, this debate so far proves once again that numbers or statistics can be very misleading. Two persons can receive the same numbers and suggest different conclusions.

For example, it has been stated that a Navy captain's billet is $8,442 per month. That is the Navy captain's pay. And compare that to a U.S.-flag master on a commercial ship, and he cited $44,000 per month. That is a horrendous difference. That is much more than many of the presidents and chief executive officers in the United States.

How do we come to these numbers? The base pay of a Navy captain is $8,442. The $44,000 is achieved from the total maritime program divided by the number of personnel. For example, the bill that we are considering this morning, the defense appropriations bill, calls for the spending of $240 billion. Of that amount, approximately $40 billion is for civilian pay. So if you divide $200 billion by the number of troops, 1.6 million, you will come up with approximately $120,000 per man and woman in the military.

The real facts are: a private receives $9,777. And if you include his clothing allowance, his housing allowance, three meals a day, health care, it would come up to $15,621.

For a lieutenant, his pay is $18,727. And if you include all of these allowances, dependency allowances and such, it is $34,000.

The real master's pay is not $44,000. His base pay according to the Maritime Administration is $5,350 per month. We are speaking of a billet. He works approximately 6 months a year. That is his pay, 6 months, about $35,000, $40,000 a year, not $44,000 a month. But he is on call 12 months a year. It is like a Navy captain who is commander of a carrier. A carrier does not stay out on the high seas for 12 months with the same crew. If that ever happened, none of the spouses would be happy.

So our crews stay out on the high seas for a maximum of 6 months. They are rotated. So a billet calls for two people. There are two masters for this ship, two captains for the carrier; two executive officers.

So let us not get confused by numbers and statistics. All of us can use numbers and confuse the debate. But that is not the purpose of the debate, I would hope it is not so.

Since my dear colleague from Colorado spent time looking back into the history of the maritime industry, I would like to do the same.

In January 1946, a few months after the great victory of World War II, America literally controlled the seven seas. The British fleet, the British merchant marine, was almost nonexistent. They were all on the bottom of the sea. The Japanese fleet, the Japanese merchant marine, was nonexistent. There were no Chinese fleets of any category, no Korean fleets. The German fleet? All on the bottom of the seas. Russian fleet? None. We were numero uno. And if you wanted to carry cargo from your shore to another shore, you had to call upon an American merchant fleet. We were that powerful. But then as great humanitarians, we decided to help the less favored of this world—the Marshall plan. So we rebuilt Germany; we helped Russia; we rebuilt Japan, Great Britain, France, all of these countries.

Today, even the bankrupt Russians have more ships than the Americans. We rank No. 14, Mr. President—No. 14. In 1946, we were No. 1. Since then, and rightfully so, we have maintained a high standard. Our ships are the safest. I would not want my son to work on a Chinese vessel, or Korean vessel, or Japanese vessel, or British vessel. I would want my son to work on an American vessel, where I know that all of the safety features are included. That is why they are expensive.

I am glad the Senator from Colorado brought out the comparisons of pay. That is the problem we have. If it were not for the cargo preference laws, if it were not for the subsidies, we would not be No. 14, Mr. President; we would be No. 0.

One may ask the question: Why is it so important that we maintain a fleet? Why can we not just call upon the British or the Greeks, or whatever country it is, and ask them to provide shipping for us?

Mr. President, I remember a little war that occurred in the Middle East—the so-called "Yom Kippur war." In that war, because of the sudden attack by the Egyptians, the Israelis found themselves on the verge of collapse. In a few short days they had to use up all of their armaments, their bombs, their bullets. So, desperately, they called upon us for assistance, supplies, war materiel. We called upon our merchant fleet to carry this cargo and, because our fleet was so small, there were none available. We called upon Americans with ships under foreign flags.

The Senator from Colorado spoke of American ships under foreign flags, Liberian, or Panamanian flags. We asked them, "How about carrying cargo to Israel." They received the word from Saudi Arabia that if you do carry cargo, you are not going to do business with us. So no one—no one—came to the aid of the United States. We had to fly in the cargo with our military cargo planes. Two of them nearly got shot down. If they had been shot down, I suppose we would have been involved in a war at that time.

It is in our national interest to maintain a merchant fleet. Mr. President, it is expensive, but not as expensive as my friends from Iowa and Colorado would suggest. And as I indicated by reading excerpts from the letter, the administration is, at present, looking into new proposals to present to the Congress of the United States. I hope that we will have the patience—just a few months—to wait upon the administration for their report.

Cargo preference has been maligned, and very much so, Mr. President. Every country with a merchant fleet has cargo preference. We are the last to join the cargo preference class, and we are reluctantly doing that.

For example, Mr. President, mail coming from the British Isles to the United States is always carried on British ships—always. Mail coming from Germany is always carried on German ships or German aircraft. Mail from Japan, cargo from Japan, is always on Japanese ships.

On the other hand, we are a free enterprise country. We are an open country, and so we proclaim to the world: Come in and bid. We want to send our mail from the United States to Europe, and the lowest bidder will get the business.

We pay our sailors a comparable wage with those men and women who work on the shore, which admittedly is much higher than those in Europe. If my memory is correct, Mr. President, last year the lowest bidder was a Polish steamship company. They are carrying our mail to NATO. If that is what we want to do, my colleagues should come out and say so. I would prefer to see a merchant fleet with an American flag. If the time comes when we must ship cargo to our men overseas, we may not be able to depend upon our friends, who may change overnight.

Yes, Mr. President, every country with a fleet has a cargo preference law. If you want to buy oil from Saudi Arabia, can we send our ships there? No way. You put it on a Saudi Arabian vessel. If you want to buy oil from Kuwait, it is on Kuwaiti ships. We may use our ships if none of their ships are available. Do we send our ships to pick up the Toyotas and Hondas and Acuras? The Japanese send their ships over. That is their law.

Our law says that if it is for foreign aid, 50 percent must go on U.S. ships. If it is for military cargo, what are we suggesting? That we send military cargo on foreign vessels? To the lowest bidder? Oh, there are many low bidders around here that would be very happy to ship American military cargo.

Mr. President, this is not based upon national pride alone. This is based upon national interest. I would hope that my colleagues will join me in opposing this amendment.

My final word. I began my remarks by looking back into history and recalling those days when we were No. 1, when we carried just about all of the traffic in the world. To be exact, it was about 80 percent of all of the ocean-going traffic. Today, our ships carry less than 5 percent of our foreign cargo. Over 95 percent of our foreign cargo is carried by foreign vessels, in and out of America. We sell goods, and they are shipped on foreign vessels. We buy goods, and they are shipped on foreign vessels. Some day we will find ourselves being hostages by these countries with large shipping companies.

I hope I am not around when that happens.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana, [Mr. BREAUX].

Mr. BREAUX. Mr. President, I rise in opposition to the amendment of the Senator from Iowa and will support the chairman's motion to table at the appropriate time.

Let me start by commending the chairman, the Senator from Hawaii, for his very eloquent, well-reasoned and thoughtful remarks on why this amendment is not a good idea.

Let me suggest to our colleagues on the other side that perhaps we ought to enter into an informal arrangement whereby we only do cargo preference amendments about once a month instead of rehashing the same amendment about every 15 days. That will probably save everybody a great deal of time, because the arguments are indeed the same.

Let me start off by saying this is a bad amendment. It is not needed, not necessary, and is not good public policy. We should not confuse the facts. Cargo preference does not apply to commercial cargo—nothing that we ship in commercial trade, whether it be clothes, shoes, bananas, rice, corn, or soybeans. That is a commercial transaction. It is not subject to the cargo preference laws. It can go on any ship. It can go on the cheapest ship or the most expensive ship.

There is no Federal requirement that commercial cargo, no matter what it is, or where it is going, has to be subject to cargo preference laws. It can go any way that it wants to go on any ship that the shipper or the receiver agrees that it should be shipped on.

Cargo preference laws only apply to U.S. military cargo and anything that is shipped under a Government subsidy program. That is it; nothing else.

The Senator's amendment is interesting because it addresses military cargo. We are talking here about important things of the military—in terms of people being shipped, in terms of guns and ammunition, tanks, and helicopters being shipped. He says by his amendment that if the cost that we pay a commercial captain for that shipment in a U.S. vessel is more than the cost that we pay a Navy captain, then we cannot ship it in a U.S. vessel.

His amendment would do away with the cargo preference program for military cargo. We would be shipping our men and women, our tanks, our helicopters in ships from Liberia, Panama, or China, or any other country that feels they want the cheapest crew they can possibly get, a crew that has no loyalty to the United States, a crew that will not want to go in harm's way in wartime to bring American men and women to a battle zone. But, he says if we pay our captains, American captains, more than we pay our Navy captains who are in the military, we cannot use an American ship.

Mr. President, that is not a good argument. If that argument were logical, we could extend it to the point that would say if the Defense Department pays a Navy or Air Force pilot less than a private airline pays their pilot, then we should never have a defense contract with American Airlines because they pay their pilots more than we pay pilots in the Air Force. Therefore, the airline could not participate in any Government programs, and the Navy or the Air Force or the military could never transport anything on U.S. commercial airlines.

Or if you extend the logic of the amendment of the Senator from Iowa, you could make the argument that if American farmers received more in salaries or income than a person in a comparable position at the Department of Agriculture, American farmers should not participate in a subsidy program or they should never get any benefits under a farm subsidy program because they are making more money than the comparable Government employed person in the Department of Agriculture.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. BREAUX. I am happy to yield.

Mr. SARBANES. Is it not the case that the use of the American-flag ships to carry defense cargo is, in effect, saving the military money, if you assume that you do not want to ship defense cargo in foreign flags and be dependent on foreign flags to carry the military cargo?

I think there is a very strong argument that says you do not want to be dependent, as the Senator from Hawaii outlined with respect to military shipments.

If that is the case, the use of the American-flag ship, the current arrangement, actually saves the Defense Department money because the alternative would be for the Defense Department to establish its own fleet to carry this cargo. That is not a fleet that they would be utilizing all the time because the cargo shipments have peaks to them when the situation demands it.

So if you took that approach, you would have to spend large amounts of money to develop the fleet, the ships. You would have to have a lot of people on standby positions in the military in order to sail the ships on those occasions when it was necessary to do so.

This arrangement which, in effect, has the ships in the private sector privately manned and then callable by the military when they need them, actually ends up economizing on the scenario that I have just outlined to the Senator.

Would that not be the case?

Mr. BREAUX. The Senator from Maryland is making a very good point, and he is absolutely correct.

I will give an example of what is happening. The Navy has just entered into contracts at the cost of $1 billion to convert five ships so they can put them into their sealift program. For $1 billion under a U.S. merchant marine program, we could give them 50 or 60 ships that would be operating every day and would be available for the next 10 years.

It is much more cost effective to maintain an active merchant marine with U.S. merchant sailors who are working every day on that ship so they would be ready to serve the military in times of national emergency. That is real cost savings in the long run and one of the reasons the Senator is absolutely correct in opposing the amendment of the Senator from Iowa.

Mr. SARBANES. Mr. President, will the Senator yield further for a moment?

Mr. BREAUX. I am happy to yield.

Mr. SARBANES. One of the colleagues on the other side made the argument that we have this cargo preference requirement, the number of American-flag ships has diminished, and he somehow tries to make a causal connection.

I would argue, as the Senator from Hawaii said, that if we had not had cargo preference we would be without any American-flag ships.

The fact is, is it not the case that other countries who sustain a significant merchant marine, almost without exception—not entirely, but almost without exception—couple it with very rigorous cargo preference requirements of their own?

One of the reasons our fleet has diminished is because we have not competed effectively against the subsidies and the cargo preference and the underwriters which other countries are providing to their merchant marine and, as a consequence, they have been able to compete with our people, in effect, on an unfair basis. That is the explanation for what has happened.

Now the cargo preference, to some extent, has protected us from that. But many of us think that the United States actually needs to have a fully developed program effectively competitive with other countries to sustain a merchant marine component as part of our national economy.

Mr. BREAUX. The Senator makes a very good point.

Many other countries' cargo preference laws that we have to compete with on a day-to-day basis are more expensive than the United States. Ours only affect military cargo and cargo of Government-subsidized programs. Other countries' cargo preference laws apply to everything shipped from that country. If you want to ship anything out of their country, it can only go on their vessels. Many countries say, if you want to call on our ports, you have to use our ships; otherwise, you cannot sail any of those products into our country.

Our cargo preference program is, in fact, very small in comparison to many of the countries that we compete with.

Let me make a final point, and I will close on this, because I do not think we need to extend the debate any longer: The law already says that the President may authorize a military cargo travel in vessels other than U.S. vessels if the U.S.-flag rates are excessive or otherwise unreasonable. That is the law today.

If the authors of this amendment say we should not be using excessive rates for our U.S.-flag vessels then they are in agreement with what the law requires now. If the President can make a finding that these rates are excessive and unreasonable, then we are not going to use U.S. ships. I think when we look at the total package we find that it is a good thing to have American military cargo and our American sailors being moved to destinations on American ships. I do not think that is too much to ask for a nation that is concerned about having a strong military. A cargo preference program contributes to that strong military.

The amendment should be tabled or should be defeated.

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. BREAUX. I yield.

Mr. SARBANES. Mr. President, I underscore this point that the distinguished Senator from Louisiana made. Really the ultimate issue is whether you are going to have any merchant marine capacity. The people who are arguing on the other side, in effect the logic of where they want to take us would be to eliminate that capacity and make us totally dependent on foreign ships.

I do not think that the United States ought to find itself in that posture. There are strong security reasons, first and foremost, why that ought not to be the case, and there are strong economic reasons why that ought not to be the case.

In fact, it is my own view that we ought to be taking measures to help rebuild the American merchant marine, particularly when we look at other countries who clearly have been doing exactly that with respect to their fleets. They perceive a national interest in being supportive of their merchant marine and have programs in order to do that.

I do not think the United States ought to be closed out of this activity. I think it would have very severe economic consequences, and it may well have, under certain circumstances, disastrous military and security consequences.

Mr. BREAUX. Mr. President, I think the Senator is very clear and totally accurate in what he has just shared with our colleagues.

In addition to all the reasons I think the amendment is a bad idea and bad public policy, the administration has clearly said that they are undertaking a review of the cargo preference laws and that their hands should not be tied at this time. That review will look at all of the cargo preference rules and laws, how it works, and how it can be improved.

The Secretary of Transportation, in a letter that the Senator from Hawaii put in the RECORD, makes the point that they are reviewing the cargo preference laws. Let us not decide that issue and preclude the Secretary from making the right decisions in the future.

Mr. President, I think that at the appropriate time, we should table the amendment of the Senator from Iowa.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa, Senator GRASSLEY.

Mr. GRASSLEY. Mr. President, the first thing that I hope the distinguished chairman of the subcommittee will let me clarify right off the bat about my comparison of the figures of $44,000 to $8,000 is that the military billet information that I received and based my statements on was from the Department of Defense.

What I asked for was the total cost of billets by rank, and that is what I was sent. It also includes base pay; it includes housing; it includes FICA; and it includes retirement. A Navy captain's pay and benefits come out to $8,422 per month based upon DOD data.

If it is higher than that, that is fine. But that will be the cap that we subsidize U.S. seafarers, whatever it is.

Every Member of this body received from me, with my "Dear Colleague" letter last week, a copy of this page from the Department of Defense which says that a Navy captain does receive $8,422 a month, and that compares with this figure, $44,072.

There has been a great deal of discussion on the other side about cargo preference. Cargo preference is not the point here. The point is that U.S. seafarers should not be subsidized more than the men and women in the Navy, the Air Force, the Army, and the Marines.

Again, this whole amendment is based upon equity between our subsidy for these jobs here and what we pay comparable people in the full-time military.

I did not raise this point. In fact, I may not even be here today with a pay equity amendment if the committee report had not said that we should not reimburse executive pay for defense contractors at a higher level than we reimburse comparable work in public service. And they gave as an example what a Cabinet member might get.

I am here to say that "What is good for the goose, is good for the gander."

The issue is equity. The issue is not cargo preference. We do not do away with cargo preference. Anybody who says we are going to do away with cargo preference assumes that there will not be some renegotiation of labor contracts. We are not assuming no subsidy. We are only limiting the subsidy to what the taxpayers pay comparable positions in the full-time military.

There was sent out—and I presume that most every Member may have received this from the industry and from the labor people in the maritime industry—a 2-page rationale for rejecting my amendment. Since so many people are so busy that they may not have an opportunity to listen to all of this debate and may base their vote on some false arguments that are given by the industry and/or the union, I want to react to that.

Of course, the industry is understandably alarmed about this amendment. It is ironic that, after all these years of subsidies in the name of the Fourth Arm of National Defense, the moment someone suggests that they start living like it, they now seem more interested in arguing that they are different from the uniformed military and then, consequently, should be paid more per billet.

I think that this publication put out in opposition to my amendment is full of distortions, and I want to correct them.

The maritime industry says that this is unprecedented and hearings have not been held. Well, we have debated a lot of things on this floor upon which hearings were not held. We will be passing pretty soon—it was debated an hour already—a 19-page rewrite of the rights of Western cattlemen to graze public lands. We did away with mohair and honey programs for farmers without those hearings.

What is truly unprecedented about this debate is that, for the first time, Senators have learned that some masters of U.S.-flag ships cost $44,000 per month in wages, overtime, and benefits, and our own Navy captains only cost $8,422.

This paper also goes on to argue that my amendment is "antilabor, intruding into the collective bargaining process, and directing the Government to dictate what can and cannot be included in such agreements."

This does not intrude, nor dictate to companies and labor unions. It leaves the choice up to them. If they want to carry DOD cargoes, then they will have to do it with a subsidy cap—not without a subsidy—but a subsidy cap that is still equal to what we pay our full-time military men and women. Because this amendment caps what the Government is willing to pay for billet costs at the level of military billets. It does not do away with the subsidy.

They go on to say, "Its logic would have all private-sector wages equated with those of the U.S. military while distorting the true costs to begin with."

The logic of the amendment, as I have said three or four times, is identical to the committee's regarding CEO's, and the cost of those CEO's to defense contracts to the Government.

Up until now, it seems to me—and how ironic it is—that the maritime industry has been wanting to equate themselves as the Fourth Arm of National Defense. They wanted to be equated to the men and women in the uniformed armed services, but now they do not seem to be so keen on the equation with military people when we require pay equity.

They go on to say that my "Dear Colleague" "doesn't note that the average annual wage for an able bodied seaman is $33,000."

Of course, I did not note that because such a statement would be misleading.

First, note they use the word "wage," which means—as I have a separate category here for wage—that they have omitted the costs of overtime and benefits.

Second, note they do not mention that this average annual wage is for 4 to 6 months of work. So what has ever happened to the old saying, "A day's wage for a day's work?" They want 3 day's pay for 1 day's work, plus lucrative overtime, vacation, and other benefits—thanks, primarily, to Uncle Sam's open checkbook.

They can have all that if they want it. All I say is that we cannot subsidize that more than we pay comparable military billets.

They also do not tell us that the average billet cost for a U.S.-flag seafarer runs over $200,000 per year.

If the men and women in the uniformed military can work and live with a day's wage for a day's work, why cannot the seafarers? Why should they be able to make a year's wage for 4 months' work and then take time off? Our military people cannot do that. They have to be available all the time. They have to be working all the time.

They go on to say, "It doesn't note that Navy manning for many equivalent jobs in each vessel is usually four or five times greater for the same vessel function than on a merchant ship."

I am happy to have this document admit that we can compare apples to apples and billet for billet. Some have said there is no comparison. Just yesterday, one of the Members of this body said it is comparing apples and oranges. This document, for the first time, admits you can compare a billet to a billet. We have DOD studies that compare billets.

Therefore, should a merchant marine master in charge of a crew of 20 cost $528,000 per year, while a Navy captain in charge of a crew of several thousand cost a small fraction of this amount?

Again, a day's wage for a day's work. When a Navy captain is on shore duty, she or he is still working for Uncle Sam. When a master is on shore, he is working for himself. But note they get 30 days paid vacation for every 30 days at sea.

The committee has recommended an active Navy force of 480,800. That is a cut of over 50,000 Navy men and women from last year. These 480,000 will be working for Uncle Sam regardless of whether or not they are physically located on a ship.

The fact that a Navy vessel could be handled with fewer crewmembers, even if true, is not relevant to this amendment or this debate.

Merchant marine seafarers should not be subsidized by taxpayers on a per-day or per-month basis one dime more than the pay of a uniformed military person.

Then in this document they take offense at what I say about the $15,700 war bonus for 2 months war zone duty. They make fun of that, but that figure comes from the Maritime Administration. The war bonus for seafarers is 100 percent base pay per month. Seafarers also get $400 per day if their harbor is attacked and $600 per day if their vessel is attacked. Taxpayers foot the bill. Our uniform military people get a measly $150 per month for what is called hostile fire pay.

They go on to say that my documents state, that "some mariners refused gulf war service, when no such refusals took place and when all agree that their service was exemplary."

The answer to this is that the House of Representatives passed legislation because some seafarers would not serve during the Persian Gulf war. The excuse given for not serving was that they did not have rehiring rights, as do military reservists, which this legislation addressed—the legislation that passed the House of Representatives.

Regardless of their excuse, the fact is taxpayers provide lucrative subsidies to support seafarers so they will be available in time of national defense need. But these seafarers—unlike military reservists, full-time military people, and our National Guard—have the right to decline Uncle Sam's request.

If anyone has been misled, then, perhaps it is the House Merchant Marine Committee.

They go on to say that "Senator GRASSLEY's amendment is not about equal compensation: It is designed to torpedo the U.S.-flag merchant marine."

I do not know how many times I have to say, over the course of several years in debating this thing, that I want to have a strong merchant marine. I want my colleagues who support the present policies to look at those policies and see how there has been a deterioration of our merchant marine, under policies decades old. So, if you want to spend a lot of taxpayers' dollars in the way of a subsidy, spend those taxpayers' dollars in a way that is going to work.

By "going to work," I mean not the evolution of our numbers from 1,100 vessels in the middle 1950's down to 200 to 300 now. That is not a strengthening of our maritime industry. That is not the creation of jobs. That is a waste of taxpayers' money.

Using that amount of money or more, somebody in this body ought to devise a policy that will build up our maritime, not continue its deterioration. The only consideration I ask of anybody in the process of doing that is that any subsidy you think is necessary be up front and be appropriated annually so we know exactly what it is, not these hidden subsidies.

So they say I want to torpedo the U.S.-flag merchant marine. The fact is this amendment includes the discipline that might just save our U.S.-flag merchant marine.

We have to come to grips with the incredible wage and benefit costs of our merchant marine crew. Well over 10 years ago, Military Sealift Commander Kent Carroll warned that high crew costs were helping to destroy our U.S.-flag merchant marine. Increasing subsidies such as those President Clinton is being pressured to support will do more harm than good, unless it is directed to a whole revolutionary approach to the subsidy.

Last, this document, which came from the lobby of the maritime industry, says that it is merely another step in a long campaign to turn over to foreign shipping interests all of America's international shipping trades.

My colleagues on this very floor—colleagues on the other side of the aisle—say that our motivation is not to have a maritime industry.

That is wrong. I want a maritime industry that is as strong and powerful as it was in the 1950's. But with present policy, it is going to continue to deteriorate. Those who defend the status quo are standing idly by when we have no merchant ships. Why would they stand idly by and let that happen?

My only interest when we debate maritime subsidies is to strengthen our maritime and to point out the wrongs of the present policy. Again—and then I am going to yield the floor—this amendment is directly related to a sound policy that this committee has laid down in their committee report; that we should not be paying executives of defense contractors who do defense contract work for the Federal Government more than what comparable civil servants get.

I will read this for the benefit of everybody:

> The committee believes reform is needed in executive compensation. It emphatically states its position that the Department of Defense should not allow costs charged to the Government for any individual to exceed what the Government is itself prepared to pay its own senior executives, for example, Cabinet officials. Accordingly, the committee directs DOD to submit legislation to reform Federal acquisition regulations disallowing any higher compensation packages.

So we are to a point where my amendment extends this proposition, as stated in the report of the committee of the distinguished Senator from Hawaii, to the fact that when it comes to high salaries like these seafarers that the Federal subsidy should not be any more than what we pay our own military people of like billet.

I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, as we debate our Department of Defense appropriations, I think all of us share that the funding for the Department of Defense itself and its civilian contractors really must produce in three ways. Anything appropriated for the Department of Defense should be, No. 1, cost effective; No. 2, be reliable; and No. 3, meet the ethic of patriotism. I believe the American merchant marine would meet that test. I also believe that whatever we decide has to meet the strategic needs of the United States of America.

I am troubled in this conversation about this issue that the merchant marine is being singled out in very harsh terms, even punitive terms and, at times, the debate has not been factual.

The question before this Senate is who best transports supplies and other materiel related to backing our troops wherever they are and whatever is the situation, and what compensation should they have.

I believe that when it comes to transporting supplies and other materiel, that that should go under an American flag, staffed by American seamen who are not only cost-effective and reliable but have an ethic of patriotism.

My colleague from Iowa, with whom I agree on so many matters, said something in his remarks which troubled me, in which he said some American merchant marines were reluctant to go forth and sail the high seas during the Persian Gulf.

(Mrs. BOXER assumed the chair.)

Ms. MIKULSKI. Madam President, I would like to correct that. I quote from a Washington Post article written by Jack Anderson of February 7, 1991, who says not the American crew but a foreign merchant crew balked at the gulf.

> In a recent incident, one crew of a German ship refused to sail into the gulf and the shipping company had to send a U.S.-flagged ship to finish the job.
>
> . . . It was a foreign ship that balked about going into the gulf.

That ship, the *Eagle Nova*, reportedly owned by a German company, refused at the last minute to go into the gulf, and its supplies were diverted.

"When the crew refused to go, American President Lines"—a civilian, private sector company of the United States of America—"sent a replacement under U.S. flag."

There is another Washington Post article that documents that.

Later on that month, on February 19, 1991, there is an article from the Journal of Commerce, the traditional trade journal for maritime issues quoting Gen. Hansford Johnson, Chief of the U.S. Transportation Command. He said this:

> The civilian seafarers who man the Government cargo ships, the yard workers who repaired and refitted vessels, and the dockers who load the ammunition ships all have performed well.
>
> General Johnson singled out seagoing labor in particular, saying, "No American ship has been delayed for lack of crew. * * * I have heard of no one who decided not to go aboard ships bound for the war zone or who wanted to get off when times got tough. That's not true of the foreign ships," the military has hired.

That is a quote by Gen. Hansford Johnson, Chief of the U.S. Transportation Command.

So, Madam President, while we debate the financial aspects, I wanted to affirm the ethic of patriotism of the American merchant marine and set the record straight, that no American merchant mariner balked at backing our troops and our President during the gulf war.

That is exactly why we need an American merchant marine, because they are reliable, because they will go to sea, because they will back our troops, whether it is in an officially declared war or whether it is in a peacekeeping operation. They are reliable, they are consistent and they are faithful.

How should they be compensated? They are civilians, they are not military. But as civilians, following an ethic of patriotism, they are willing to put themselves in harm's way. Therefore, as civilians, their compensation can be and should be higher.

I believe that this is absolutely crucial to our strategic needs. We debated earlier this week should American troops serve under a foreign commander? That was a spirited debate. Then the Congress worked its will. But if American people are reluctant to put their troops under a foreign commander, why would they want to put their materiel and supplies under a foreign-flag ship? They then would have command over the supplies and materiel necessary to back our troops.

What good are gallant men and women facing the eyes of an enemy if they do not have the bullets, the spare parts, and the other logistical support they need? Putting them under a foreign flag is the same as putting them under a foreign commander. That is why I affirm the compelling need for the American merchant marine.

But recall, Madam President, that these are civilians, and therefore to compensate them at the same rate as the American military, I believe, is not an accurate framework to use.

Much has been said that they work 4 to 6 months and get this pay. Madam President, the guys I know from the American merchant marine living in Baltimore would love to have a full-time job. It is that the work is so skimpy under an American flag these days where all we have is what goes under the Jones Act—we have to continually duke it out for cargo preference and now for this military cargo—that there is limited work. We need to sustain this infrastructure and we pay the price for sustaining that infrastructure. Maybe if we had more jobs—the way to deal with lowering the cost of the American merchant marine for individual ships at sea is to make sure that there is more work available, and the volume will help even out those costs on a daily basis.

Madam President, I believe we need an American merchant marine. I believe we need it for military and strategic purposes. I think we need to, in its compensation framework, acknowledge that they are civilian contractors who have been willing to place themselves in harm's way and have never balked or blinked in the eyes of an enemy. I hope, recognizing how well-intentioned Senator GRASSLEY's amendment is and the nature of being more cost effective, we would defeat the amendment.

I yield the floor.

Mr. INOUYE. Madam President, if I may, I would like to join my dear colleague from Maryland, the gentlelady, in her words. I think they were right on point. I just wish that all Americans could hear those words.

Madam President, if there are no further requests for time, I move to table the amendment.

Mr. DANFORTH. If the Senator will withhold.

Mr. INOUYE. I am sorry.

Mr. DANFORTH. Madam President, I commend the Senator from Iowa for once again calling the attention of the Senate and the country to the really excessive problem of cargo preference in this country.

All of us understand subsidies and the fact that the Federal Government in one way or another attempts to help various industries, but cargo preference is an example where we have really gone out of the way to provide excessive subsidies through providing essentially a captive audience for the shippers.

Senator GRASSLEY has pointed out the extraordinarily high pay rate that is being paid as a result of the cargo preference program. As I understand Senator GRASSLEY's argument, he states that for 6 or 7 months' work an officer aboard a private U.S.-flag vessel can earn $100,000 to $150,000. That is certainly a high wage to be subsidizing.

My own view is that, as a general principle, the concept of cargo preference deserves very careful review. This is an issue which has been raised repeatedly with respect to Public Law 480 in the transportation of American agricultural products abroad. It has now been raised by the Senator from Iowa in connection with the shipment of various goods for defense operations around the world. It is essentially the same problem. It is obviously a very lucrative subsidy for those who benefit from it. It is also a subsidy which has been totally overdone, and I commend Senator GRASSLEY for making this point.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I likewise join my colleague from Missouri in congratulating our colleague from Iowa for his courage and leadership in saying we want to eliminate an outrageous subsidy that is wasting millions of dollars. There is no question that this is a subsidy that has long outlived its usefulness. It is enormously expensive to taxpayers.

I congratulate my colleague from Iowa because he has courage in taking on this constituency. This is a special interest group. There is no doubt. This is an interest group that contributes a lot in campaigns. It is very active, with political action committees, and so on.

I congratulate my colleague from Iowa because he is pointing out that this subsidy is costing taxpayers millions and millions of dollars and that we really should not be subsidizing this small group and paying them at rates many times what we pay our military personnel, under the so-called guise of cargo preference.

So I congratulate him for his efforts, and I hope that my colleagues will agree with his amendment.

Mr. GRASSLEY. Madam President, I am not going to dispute what the Senator from Maryland said. She is submitting articles and everything. I am just going to say that that should not distract in any way from what I said about some Americans not heeding the call when they were needed.

The House of Representatives has passed, on March 16, 1993, H.R. 1109 entitled "Merchant Seamen Reemployment Rights Act," and the reason for this passage was because there were some seafarers who said they were not going to go because they did not have reemployment rights like people who were in the Reserves or the National Guard.

I yield the floor.

Mr. BURNS. Madam President, I rise to support the amendment to H.R. 3116, the Defense appropriations bill for fiscal year 1994, regarding civilian maritime salaries and cargo preference.

This amendment is long overdue. It equalizes the extra pay to civilians in the merchant marines and those that are given to individuals in the full-time military. Why do civilians get a higher rate of pay than those in active military service?

The Office of Management and Budget estimates that this Department of Defense cargo preference subsidy will cost America's taxpayers $592 million this year. This may seem like a bargain to some since in fiscal year 1991 this DOD subsidy cost $919 million. But, I do not think this is a bargain at all.

Cargo preference dictates that a particular percentage of a shipment of goods under certain Federal programs must be transported on U.S.-flagged vessels. Far too often this lack of competition leads to extremely high transportation costs, which in turn directly undercuts the amount of goods which can be sent.

The subsidy which is being considered today, is a Defense subsidy for cargo preference. While Montanans have concern over cargo preference and how it severely restricts grain exports, this Defense subsidy is another example of a waste of taxpayer money.

This amendment addresses this inequity in a fair manner. It simply reduces cargo preference costs.

Mrs. FEINSTEIN. Madam President, I speak today in strong opposition to Senator GRASSLEY's Defense pay equity amendment which would limit the Federal Government's ability to contract with U.S.-flag merchant marine.

Currently, the administration is working to develop an overall maritime revitalization program and is reviewing our Nation's cargo preference laws, and I look very forward to working with the administration in these endeavors.

The merchant marine, in peacetime, plays an important role in the economies of coastal States such as California, and has far-reaching impacts on States that produce the cargo carried by these fleets.

In times of war, the need for a healthy merchant marine cannot be understated. U.S.-flag merchant marine vessels have played an important role in every war in which this Nation has been engaged. Let me stress the point that a strong merchant marine fleet is critical to this Nation's national security.

Now is not the time to drastically alter the relationship between the U.S. Government and our merchant marine without reviewing all of the issues, asking all of the questions, and examining all of this Nation's needs. This amendment will place artificial values on the service of U.S.-flag vessels, without any discussion in the committees with jurisdiction over maritime policies. I disagree with that approach to this very important issue.

Our ultimate goal must be the revitalization of our maritime industry, a goal to which I am very committed. I look forward to working with my colleagues over the next year to understand what we must do to best achieve that goal. But, I am certain that this amendment is not the way. I urge my colleagues to oppose the Grassley amendment.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. There being no demands for further debate, I move to table.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], and the Senator from North Carolina [Mr. HELMS] are necessarily absent.

I further announce that, if present and voting, the Senator from New York [Mr. D'AMATO] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 67, nays 30, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—67

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Cochran
Cohen
Conrad
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Heflin
Hollings
Hutchison
Inouye
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
Mathews
McCain
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Specter
Stevens
Warner
Wellstone
Wofford

NAYS—30

Bennett
Brown
Burns
Chafee
Coats
Coverdell
Craig
Danforth
Domenici
Durenberger
Faircloth
Gramm
Grassley
Gregg
Hatch
Jeffords
Kassebaum
Kempthorne
Kohl
Lugar
McConnell
Metzenbaum
Nickles
Pressler
Roth
Simon
Simpson
Smith
Thurmond
Wallop

NOT VOTING—3

D'Amato
Dole
Helms

So the motion to table the amendment (No. 1076) was agreed to.

Mr. INOUYE. Madam President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1073

Mr. PELL. Madam President, yesterday, in connection with the ongoing discussions between the administration and the Congress regarding the potential authorization of the use of United States force in Bosnia, President Clinton sent a letter to the majority leader. In that letter, President Clinton said: "I would welcome and encourage congressional authorization of any military involvement in Bosnia." I am very pleased that President Clinton has been so forthcoming.

As I have said on many occasions, I am very leery about using United States ground troops to implement an agreement in Bosnia. And if we did, it should be no more than a fifth or a sixth of such a deployment. I believe that more would be too great a percentage for us to contribute to such an effort.

At this point, there is no peace to keep in Bosnia, and accordingly, at this time, we are not in the position of debating and voting on the issue of United States participation in an implementation force. However, if a settlement is reached and the administration does decide to move ahead with a mission in Bosnia, issues such as the purpose, goals, cost and size of the United States contribution need to be thoroughly debated in the United States Congress. I strongly believe that the Congress should have the opportunity to vote to approve or disapprove the sending of United States forces to Bosnia.

I had been concerned that earlier this month, at a Foreign Relations Committee hearing on Bosnia, administration witnesses were unwilling to commit to seeking congressional approval prior to sending United States forces to Bosnia. The letter that the President sent to the majority leader today goes a long way toward alleviating the discomfort that many of us felt about the administration's plans to involve the Congress in any decision to commit troops to Bosnia.

Last night, the Senate adopted an amendment to the Defense Department appropriations bill which expresses the sense of the Senate that funds should not be appropriated for the deployment of United States forces to participate in the implementation of a peace settlement in Bosnia unless previously authorized by the Congress.

As many others have said during the last few days, the issue of congressional and executive prerogatives with regard to the use of U.S. force abroad needs to be addressed in the broader context, and I am committed to participate in that effort in the coming days and weeks. However, I believe that President Clinton's letter and the amendment adopted on Bosnia help to provide a context and some precedents as we proceed with that larger debate.

I have the utmost confidence that President Clinton will follow through on his pledge to consult with the Congress and encourage congressional authorization of any military involvement in Bosnia. This is welcome news as we tackle the larger issues over the next days and months.

ADVANCED AIRSHIP TECHNOLOGY PROTOTYPE

Mr. LOTT. Madam President, several weeks ago I spoke with Vice Adm. Bill Owens, the senior Navy staff official responsible for matching Navy resources with Navy requirements. During that conversation I discussed with Vice Adm. Owens the continuing threat posed by stealthy cruise missiles to our Navy fleet. In that conversation, Vice Adm. Owens outlined current Navy efforts to address this missile threat and stressed the need for both improved sensors and platforms capable of deploying advanced sensors which will meet this growing missile threat.

Vice Adm. Owens expressed support for a continuing effort within the Navy to develop a platform capable of deploying large aperture radar systems which are currently under development. The admiral said the large airship was among the options for the future which could meet this requirement. The Navy needs both advanced sensors and capable platforms to deploy those advanced sensors.

Mr. COCHRAN. Madam President, over the last 6 years, the Department of Defense has spent $129.3 million to develop an airship platform capable of deploying a large aperture radar of sufficient size to protect our Navy ships from stealthy cruise missiles. That is a lot of money to invest, only to walk away from this effort without completing the development—especially given that the cruise missile threat to our fleet continues to grow.

I also note that this bill does not contain funding necessary to continue this important program. If funding is not provided, I understand that continued development of this platform will not continue. In addition, if this development effort is discontinued this year, large aperture radars—currently under development—will not have any known platform developed to support the radar deployment.

Mr. STEVENS. Madam President, I am aware of Senator COCHRAN and Senator LOTT's concern about continued development of this airship platform, known as the YEZ-2A advanced technology airship vehicle, and I agree that every effort should be made to continue development. The threats against which this platform will operate are identified as the highest priorities for the Navy. It is this very military requirement which has compelled our committee to continue funding for various detection and targeting systems. I join Senator COCHRAN and Senator LOTT in their desire to see this development continue and I look forward to working with the chairman to work this issue out in the joint conference.

Mr. INOUYE. I look forward to working with Senator STEVENS and Senator COCHRAN in conference to work this funding issue out. I understand that the administration did not specifically request funding for continuing this effort, but I also acknowledge that the airship prospective mission is one alternative that may meet the Navy's missile defense requirement. For this reason, I will make every effort to work with Senator STEVENS, Senator COCHRAN, and Senator LOTT to address this problem in the joint conference.

Mr. LOTT. Madam President, I wish to thank the chairman of the committee as well as the ranking member, Senator STEVENS, for their leadership on this bill—and on this issue in particular. I also wish to thank Senator COCHRAN for his invaluable assistance on this issue important to the safety of our Navy fleet.

DEPARTMENT OF DEFENSE INVESTIGATIVE ORGANIZATIONS

Mr. NUNN. I would like to discuss a provision in the report language with my good friend, Senator INOUYE, the distinguished chairman of the Defense Appropriations Subcommittee.

I am concerned about the suggestion on page 43 of the report that the Department of Defense should consolidate the criminal investigative functions of the military services within the Department of Defense Office of the Inspector General. This is an issue with which the Committee on Armed Services is quite familiar.

The Committee on Armed Services has expressed serious concern over problems that have arisen with respect to the conduct and review of investigations within the Department of Defense. Deficiencies in the conduct and review of major investigations, such as those involving the Tailhook symposium and the *Iowa* explosion reflect these problems.

Last year, during consideration of the National Defense Authorization Act for Fiscal Year 1993, the House approved legislation that would have consolidated the criminal investigative organizations of the military departments. The Senate, however, took a different approach, and approved a provision that would have required the Secretary of Defense to establish a statutory Commission on the Management and Review of Department of Defense Investigations.

The conferees on the National Defense Authorization Act agreed that Congress should not mandate consolidation of the criminal investigative organizations, particularly in the absence of a comprehensive review of the full range of issues involving the conduct and review of DOD investigations. The conferees agreed that the Secretary of Defense should establish an advisory board to conduct such a review. The board would be comprised of present and past DOD officials, as well as present and past officials with relevant experience in other Government agencies. The conferees set forth a comprehensive list of 26 issues that needed to be addressed, including the issue of consolidation of criminal investigative responsibilities. I ask unanimous consent that the relevant provisions of the conference report (H. Rept. No. 102-966) be included in the RECORD at the conclusion of this colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. The committee has obtained a commitment from the general counsel of the Department of Defense that the Department will establish such an advisory board with a view toward conducting a major review of these issues. It is my understanding that a charter has been drafted and that appointments will be announced in the near future.

In my judgment, we should give the Department of Defense the opportunity to undertake a comprehensive review of all the issues related to the conduct and review of investigations prior to mandating any major changes, such as a consolidation of investigative functions.

I would be interested in the views of the chairman of the Defense Appropriations Subcommittee on this matter.

Mr. INOUYE. Madam President, I know that the Armed Services Committee shares the concerns of the Appropriations Committee over the effectiveness and efficiency of current organizational relationships among DOD investigative organizations. On the Appropriations Committee, we have been trying for several years to get the Department to undertake a serious examination of these problems, and we have been quite disappointed at their inattention.

I understand the position of the chairman of the Armed Services Committee, and his desire to provide the Department with the opportunity to receive the views of the advisory board before taking final action. Accordingly, I am willing to wait for the findings and recommendations, provided that the Department reaches the following milestones. First, the findings and recommendations of the advisory board must be made available to the Congress prior to June 30, 1994. Second, the Department must substantially complete action on the recommendations of the advisory board within fiscal year 1994. And third, that the recommendations must specifically address, but not be limited to, consolidation of procurement fraud investigation activities. It is my understanding that the Department is capable of meeting these conditions, and I expect the Department to provide full and complete cooperation on this matter in light of its past inactivity.

Mr. NUNN. I agree with my good friend that the Department should take prompt action to ensure that the advisory board is appointed, that it completes its work in a timely fashion, and that the Department promptly implements the recommendations of the advisory board that are adopted by the Department. I look forward to working with him in our common effort to improve the quality of Department of Defense investigations.

EXHIBIT 1

EXCERPT FROM THE CONFERENCE REPORT ON THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993 (H. REPT. 102-933)

CONDUCT AND REVIEW OF INVESTIGATIONS IN THE DEPARTMENT OF DEFENSE

The House bill contained a provision (sec. 902) that would require the Secretary of Defense to consolidate in the Defense Criminal Investigative Service the functions of the Army's Criminal Investigation Command, the Navy Investigative Service Command, and the Air Force Office of Special Investigations. The House bill also contained a provision (sec. 903) that would repeal the statutes (10 U.S.C. 3020 and 8020) that require that the positions of deputies and assistants of the Inspectors General of the Army and Air Force be filled by military officers.

The Senate amendment contained a provision (sec. 911) that would require the Secretary of Defense to establish a Commission on the Management and Review of Department of Defense Investigations.

The House recedes with respect to its provisions and the Senate recedes with respect to its amendment.

The conferees agree that there is a serious problem in the conduct and review of investigations in the Department of Defense. The most recent example is the Navy's flawed inquiries into the incidents related to the 1991 Tailhook Symposium and the ensuing investigations. According to a report issued by the DOD Inspector General on September 21, 1992: "The principals in the Navy investigations erred when they allowed their concern for the Navy as an institution to obscure the need to determine accountability for the misconduct and the failure of leadership that had occurred. In our view, the deficiencies in the investigations were the result of an attempt to limit the exposure of the Navy and senior Navy officials to criticism regarding Tailhook 91."

This is not a novel problem, and it is not confined to investigations into issues involving sexual assault and harassment. Two years ago, the Senate Armed Services Committee took note of the committee's hearings and inquires into a number of DOD investigations, including the Navy's investigation of the USS *Iowa* explosion (S. Rept. 101–384). The committee expressed serious concern about the conduct of investigations, the review process, and standards and procedures relating to assessment of accountability. The House Armed Services Committee has expressed similar concerns with respect to investigations by each of the military departments into matters such as acquisition management and friendly fire incidents, as well as the *Iowa* and Tailhook matters.

The conferees note that as a general matter, the Department's investigative reports reflect the work of dedicated, skilled professionals. There have been significant matters, however, in which the conduct, management, and review of investigations have been deficient. Too often, these have pertained to allegations involving leadership and management failures.

The process of conducting and reviewing investigations within the Department of Defense involves unique challenges. The activities under investigation may be classified. The investigation may involve ongoing or recently completed operations involving highly sensitive national security concerns. The matters under investigation may pertain to the responsibility and accountability of the chain of command. Under the Uniform Code of Military Justice, offenses such as dereliction of duty, conduct unbecoming an officer, and conduct to the prejudice of good order and discipline can result in criminalizing actions, and failures to act, which in civilian society are treated as noncriminal personnel matters. Military officers in the chain of command, as well as the Service Secretaries, the Secretary of Defense, and the President, have unique powers under the Uniform Code of Military Justice to convene and review courtsmartial. Because of these judicial powers, they must be particularly sensitive in the management and oversight of the Department of Defense, including its investigative functions, to avoid actions that could undermine the court-martial process through the taint of unlawful command influence.

The conferees note that both the House and Senate Armed Service Committees intent to give this matter detailed oversight consideration in the coming year, with a view toward determining the scope of legislation required to address the conduct and review of investigations within DOD.

The conferees also agree that the Secretary of Defense should conduct a prompt and vigorous review of the conduct and review of DOD investigations.

The conferees agree that the Secretary of Defense would benefit from receiving a broad range of advice on this matter, and recommend that the Secretary convene an advisory board comprised of present and past DOD officials who have had extensive experience in the conduct and review of investigations, as well as present and past officials with similar experience in other government agencies.

The Secretary should request such an advisory board to assess current sate of affairs within the Department, and to provide him with advice and recommendations, with respect to the following matters: (1) the training and qualifications of investigative personnel; (2) the division of responsibilities among organizations with investigative, audit, and inspection functions within the Department of Defense; (3) the coordination of activities among such organizations; (4) the potential for savings, and for improvements in efficiency and effectiveness, through consolidation of functions or organizations; (5) procedures to ensure that such organizations are capable of, and responsive to, the needs of the unified commands, the defense agencies, and other joint organizations; (6) procedures to ensure prompt and thorough investigation of allegations concerning classified matters, operational matters, and the performance of persons in the chain of command; (7) procedures to ensure that investigative organizations are not subject to improper command influence while also ensuring that such organizations are responsive to the investigative and inspection needs of the chain of command; (8) procedures to ensure that there is timely and thorough coordination between organizations conducting investigations and officials within the chain of command who will be responsible for acting on the results of such investigations; (9) guidance as to the circumstances under which an investigative organization should withhold information about an investigation from the immediate chain of command, and present the information only to superior authorities; (10) procedures for ensuring a timely determination as to whether the investigation should be undertaken by a court of inquiry or other formal administrative board procedure; (11) procedures to ensure that the rights of individuals under the Uniform Code of Military Justice, administrative procedures, and other applicable laws and regulations are protected during the course of an investigation and subsequent review procedures; (12) guidance to ensure that military and civilian officials in the chain of command receive timely instruction and advice on the procedures for undertaking appropriate management actions during the course of an investigation without interfering with the investigation or engaging in unlawful command influence; and (13) procedures to ensure that investigative materials are organized and presented in a manner that facilitates timely action by reviewing authorities.

Among other issues that such an advisory board could address are: (1) the appropriate chain of command for the Service investigative organizations; (2) whether the head of such organizations should be a military officer or civilian official; (3) if a military officer is so assigned, the rank of such officer; (4) the best command structure for these organizations; (5) whether fraud investigation responsibilities should be transferred to the Defense Criminal Investigative Service; (6) whether criminal investigation responsibilities should be consolidated into a DOD-wide criminal investigation bureau; (7) whether criminal investigations, procurement fraud, counterintelligence, technical services, and protective services should all be performed by the Service investigative organizations or should some or all of these missions be reassigned within the Services or consolidated at the DOD-level; (8) whether a DOD-level centralized technical services organization should be created; (9) whether allegations of homosexuality that do not involve homosexual acts should be investigated by criminal investigative organizations; (10) should special agents have a separate career path or should they be soldiers, sailors, or airmen first and special agents second; (11) should special agents be civilians, officers, or enlisted; (12) the appropriate number of special agents that are necessary to conduct general criminal investigations; and (13) the basic level of administrative support needed for the investigative function.

TRANSITION ASSISTANCE PROGRAMS

Mr. SPECTER. I would like to bring to the attention of my colleague from Hawaii, the distinguished chairman of the Appropriations Subcommittee on Defense, an issue relating to the expenditure of funds for transition assistance programs. As we continue to work to help military personnel who have lost their jobs find civilian employment there is a critical need for informational services. In the fiscal year 1993, Labor, Health and Human Service appropriations bill, the U.S. Congress appropriated nearly $1.2 million to the Assistant Secretary of Labor for Veterans Employment and Training for the Transition Assistance Program [TAP]. Congress intended these funds to be used to distribute the Militran Guide subscriptions to 196 TAP locations. I understand that these funds have not been released for their intended purpose.

The Militran Guide cross indexes military occupational skill codes with the respective standard occupational classification codes and helps military personnel better understand how their military skills translate to those in the civilian workplace. I am advised that the Department of Labor tested this program at 80 TAP sites where it was found to be very effective in placing veterans in jobs that correspond with their skills.

Since the services rely upon the TAP Program to help with the transition of military personnel who are being separated as a result of reductions in force and base closings, I believe the Department of Defense ought to work closely with the Department of Labor to make sure services such as the Militran Guide are implemented. Accordingly, I ask my colleague from Hawaii if he would be willing to consider including language in the conference report to urge the Department of Defense to work with the Assistant Secretary of Labor for Veterans Employment and Training to release funds for the Militran Guide.

Mr. INOUYE. I congratulate the senior Senator from Pennsylvania for his work on the transition assistance programs and assure him that we will address this issue when we take this bill to conference.

Mr. STEVENS. I, too, would like to commend the senior Senator from Pennsylvania for his work on defense reemployment programs and look forward to working with him on this issue in conference.

Mr. WARNER. Madam President, is an amendment in order at this time?

The PRESIDING OFFICER. Yes.

AMENDMENT NO. 1078

(Purpose: To provide funds for the design and demonstration of a technology for the processing of offshore flared gas into low-cost methanol)

Mr. WARNER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Virginia [Mr. WARNER], for himself and Mr. KERRY, proposes an amendment numbered 1078.

Mr. WARNER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 45, line 15, before the period, insert ": *Provided further*, That of the funds appropriated under this heading, $4,600,000 shall be made available only for the design and demonstration of the Yankee Methanol Plantship".

Mr. INOUYE. Madam President, if I may suggest, if we could recognize the Senator from Arkansas for 10 minutes, and thereafter the Senator from New Mexico has a measure or amendment to discuss, and thereafter we bring up a Lautenberg amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Reserving the right to object, I presume that the Senator from Virginia had the floor and yielded for this parliamentary clarification.

The PRESIDING OFFICER. The Senator from Virginia did have the floor momentarily. Would the Senator from Hawaii be willing to allow the Senator to continue first?

Mr. INOUYE. Yes.

Mr. WARNER. Following that, I will yield the floor for further comments of the Senator, and I will proceed with the amendment which should take no more than 5 minutes.

Mr. INOUYE. After the Senator from Virginia concludes, next is the Senator from Arkansas and the Senator from New Mexico and the Senator from New Jersey.

Mr. WARNER. Madam President, I rise today to introduce, along with my good friend and colleague, the Senator from Massachusetts [Mr. KERRY], an amendment to the fiscal year 1994 Defense appropriations bill, which would provide an appropriation of $4.6 million for the completion of the design of the Yankee Methanol Plantship, known as MPS. The appropriation of this relatively small amount of taxpayer money will permit the construction, utilizing private financing and Maritime Administration loan guarantees, and the demonstration of an exciting technology, which if successful could provide the Department of Defense, and indeed the Nation, with a ready supply of low-cost, clean-burning methanol.

Madam President, Yankee Energy Corporation, headquartered in Boston, MA, has been pursuing for more than 20 years a method for capturing and utilizing the large quantities of gas which are produced in association with oil production. When oil is produced in remote offshore areas, there is no present market for the associated gas, and so that gas is often flared, resulting in waste of resources and causing environmental degradation. In more and more areas of the world, environmental concerns are resulting in prohibition of flaring gas, which can result in petroleum wells with large quantities of gas not being produced.

The Yankee Methanol Plantship [MPS] is a program consisting of a 3,000 standard tons per day [STPD] methanol production plant integrally mounted in a specifically built barge, which can be towed to offshore sites where there is no existing market for the gas and, hence, marginal value. Under this program, low-cost methanol can be produced from gas which is presently being wasted into the atmosphere.

Madam President, could we have order? I am having some difficulty hearing.

The PRESIDING OFFICER. The Senate will come to order.

Mr. WARNER. Madam President, the concept of MPS has been previously studied in several Federal studies, all of which have confirmed the project feasibility. At present, Yankee Energy has obtained letters of interest from three gas suppliers to supply gas to the MPS, letters of intent from two product users indicating a willingness to purchase and market 100 percent of MPS production, and a letter of intent from a qualified shipbuilder, Newport News Shipbuilding, indicating they are prepared to negotiate a contract for complete detail design and construction of the MPS, with a guaranteed fixed price quotation and production performance. However, before contract negotiations can be completed, additional detail design work necessary to ensure a definitive cost estimate must be completed. That additional work can be completed in approximately 3 months at a cost of $4.6 million.

The possible military utility of MPS has been identified and validated by the Department of the Army. In a letter dated September 17, 1992, the Army's Director of Advanced Concepts and Technology Assessment stated:

> The Army may have application for methanol fuels for administrative dual-use vehicles or fuel cell power systems that may be procured in the future. The proposed ship's ability to shift to JP-8, the Army's single fuel forward, would provide the Army with a reconfigurable, reconstitutionable asset for many possible contingencies. This capability could be of great benefit to the U.S. Army.

Madam President, it is not often that a U.S. Senator has an opportunity to recommend to the Senate as a whole that it appropriate the relatively small amount of $4.6 million for a program that offers as many potential benefits as does the MPS. If this amendment is adopted, and if the MPS technology is successfully demonstrated, as every study has shown and as I fully expect, we—that is the United States of America—have a unique opportunity to accomplish four separate worthy goals in one action, namely, conversion and maintenance of the defense shipbuilding industrial base, wise utilization of natural resources that are presently being wasted, significant contribution to efforts to clean up the environment, and meeting military requirements.

Madam President, I ask unanimous consent to have printed in the RECORD a document entitled "Project Overview."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROJECT OVERVIEW

BACKGROUND

Although methanol is widely recognized as a premium fuel, it has traditionally been too expensive to be viable for widespread use in transportation and power generation. The Methanol Plantship is a low-cost methanol production system developed by Yankee Energy Corporation. This new technology was designed to develop the methanol fuel market.

Typically, large quantities of oil are produced in association with oil production. When an oil well is located offshore a remote area, there is no market for the associated gas, and so it is flared—wasting the resource and causing severe environmental degradation. In areas where gas flaring is prohibited, a petroleum well with large amounts of gas cannot be produced.

In 1972 Yankee began searching for a method of utilizing remote, offshore gas. Yankee commissioned a study to compare the feasibility of converting offshore gas into methanol and liquified natural gas (LNG). Methanol was chosen over LNG because it is a stable liquid at standard atmospheric pressure (as opposed to LNG). This has several benefits: It is safer and less expensive to transport. It is more flexible for transportation and power generation. And, it requires a much smaller capital investment than LNG.

PLANTSHIP CONCEPT

The Methanol Plantship is a 3000 standard tons per day (STPD) methanol production plant integrally mounted on purpose-built barge.

The traditional market for methanol is mature. The only way to enter this market using new construction is to offer product at a lower price or to have a captive market. The plantship concept unites the major components of methanol production at their lowest costs, thus enabling the production of low cost methanol.

The major cost components of methanol production are capital investment in plant and feedstock cost. Capital investment in plant increases as the construction site becomes further removed from industrialized areas. Feedstock (natural gas) price and demand increase as it is delivered closer to industrialized areas. In remote areas feedstock gas is inexpensive and capital investment costs for plant are exorbitant. The Methanol Plantship, to be built in a shipyard where equipment, labor force and quality control are already in place has an economic advantage over local plant construction. The Methanol Plantship will be towed to sites where the feedstock supply has no existing market, and a marginal value.

PROJECT FEASIBILITY DETERMINATION

The two primary cost components of methanol are (1) the capital costs of the methanol production plant, and (2) the cost of methane gas feedstock to the production plant. The Methanol Plantship is designed to be constructed in a shipyard, where significant cost reductions and quality controls are achievable. The target feedstock supplies, i.e., flare or shut-in gas, are marginally priced.

Yankee was commissioned by the U.S. Department of Transportation to advance the Methanol Plantship concept to construction. The first phase of this commission (1983–1984) was a macro study to confirm project feasibility. This study determined that:

1. Enough flare and shut-gas exists worldwide to support 280 Methanol Plantships:

2. The market potential for low-cost methanol is great enough to absorb the output of such a program.

3. The Methanol Plantship design is highly efficient, yielding 1,000,000 gallons per day at a lower cost than land based plants.

4. The best design for the Plantship is a 3,000 STPD methanol plant mounted on a stable, purpose-built barge measuring 200 by 800 feet.

A model of the Methanol Plantship was tested in Escondido, California to determine motion sensitivity and durability. In the worst 100-year storm conditions, the Methanol Plantship demonstrated less than 1 degree roll. The U.S. Coast Guard has reviewed and approved the present Methanol Plantship design. Development of a full insurance program is being conducted by Thomas E. Sears through Price Forbes, Ltd., correspondent of Lloyds of London.

The second phase of this commission (1991–1993) was a micro-study which refined the original project feasibility determination in order to advance the project toward construction in the fourth quarter of 1993. This study:

1. Estimated the impact of new permitting, licensing, and related environmental requirements on the design and operation of the Methanol Plantship.

2. Developed detailed cost estimates for (1) detail design of the Methanol Plantship; and, (2) construction of the methanol plantship structure (to within +/− 15%) compatible with candidate methane collection sites (including assessments of the site gas, sea state, and ownership variables).

Much additional work has been accomplished to enhance the Methanol Plantship project. Yankee has developed significant expertise in the areas of project finance and methanol market potential/trends.

PROJECT FINANCE

Finance requirements were identified during a Yankee/U.S. Department of State micro study (1985–1986), site specific for Trinidad. This study determined:

1. The technical and financial requirements for bringing the specified gas to the Methanol Plantship are reasonable and achievable.

2. Finance requirements are the following. Contracts must be executed between Yankee Energy and: A reliable feedstock supplier; a credit worthy product-taker; and a shipbuilder capable of providing a lump sum, turn key, fixed price.

Toward the goal of arranging project financing, Yankee Energy has obtained:

1. Letters of interest from three suitable gas suppliers to supply gas to the Methanol Plantship.

2. Letters of intent from two product takes indicating their willingness to negotiate an agreement to purchase and market 100% of the plantship methanol production.

3. A letter of intent from a qualified shipbuilder indicating that they are prepared to negotiate a contract to complete detail design and construction of the Methanol Plantship; and guarantee both their fixed price quotation and the Methanol Plantship production performance. This contract will be guaranteed by the shipbuilder's wealthy parent company.

Contact negotiation is scheduled for completion immediately after the remaining detailed design work is completed. That work can be completed in approximately three months after funding is obtained.

In November of 1992 the U.S. Congress appropriated funds for the Maritime Administration (MarAd) Title XI Loan Guaranty Program for the purpose of providing loan guaranties for the construction of the Methanol Plantship. Through MarAd, the federal government will guarantee up to 87.5% of the actual cost of the Methanol Plantship. Yankee has submitted an application to MarAd, and has been informed that the application is in good standing.

In order to commence construction early in FY 1994, as planned, detail design of the Methanol Plantship must be completed in order to prepare a definitive (± 5%) cost estimate. Such a definitive cost estimate will be the point of departure for contract negotiation with a shipyard, and will enable execution of product take and gas supply arrangements which have been made contingent upon the determination of definitive project economics. It should be noted that the contracts identified here must be available for submission to MarAd in order to obtain a loan guaranty for the project. As the availability of the 1992 Title XI appropriation and the shipyard fixed price quotation are not indefinite, it is imperative that Yankee compile a definitive cost estimate before the end of the first quarter of FY 1994.

Yankee has completed a portion of the detailed design work required in order to produce a definitive cost estimate. The amount of work remaining to be completed will cost approximately $4.6 million. In an attempt to raise funding for this purpose, Yankee has submitted an application to the Department of Defense Advanced Research Projects Agency (ARPA) Technology Reinvestment Program. However, at this point, it does not appear that ARPA will complete the proposal evaluation process within the time constraints of the Methanol Plantship project. Yankee is presently seeking alternative funding solutions including a direct appropriation by the Congress of $4.6 million.

FUEL MARKET ASSESSMENT

Yankee Energy financed a study (1988–1989) with the U.S. Environmental Protection Agency which assessed the environmental benefits achievable through the use of methanol fuel in power plants at various percentages of substitution for the conventional fuel. Conversion costs required to make most power plants capable of burning methanol are minimal. Thus, the use of methanol in power generation is a viable pollution control technique. The sudden availability of a dedicated supply of low cost methanol would likely stimulate the widespread use of methanol fuel in power generation.

This study determined that methanol is an optimal fuel for power generation. When co-fired with other fuels, it can reduce nitrous oxide (NO_x) emissions by up to sixty percent. When burned alone, methanol can achieve NO_x emissions of 8 PPM as required by MACT standards without expensive clean-up equipment which is required for use of other fuels. In fact, Clean Air Act requirements are forcing many of the nation's dirtiest power plants to switch to less polluting fuels. Because methanol is not yet available in the quantities required, most of these plants are making plans to switch to natural gas. This trend has raised some serious questions about the availability of gas and pipeline capacity to deliver fuel.

Yankee Energy pursued this study's recommendation that state legislative initiatives be taken to enable alternative fuels in power generation. In Massachusetts, this effort yielded Chapter 400 of the Acts of 1990 which allows the Department of Public Utilities to approve a must-run contract for up to 400 megawatts of power generation capacity that proposes to use an alternative fuel such as methanol. Yankee Energy has identified several candidate power stations which can benefit from the use of methanol; and is presently marketing methanol to their principals. While Yankee Energy continues to promote growth in the fuel methanol market, it should be noted that the first Methanol Plantship, for which funding is being sought herewith, is proceeding with product takers in the existing methanol commodity market.

The alternative fuel industry has long appreciated that the chemical properties of methanol make it the most viable alternative fuel for widespread use. As a non-volatile liquid, it can be transported and distributed to filling stations by conventional means. Refueling and operation requirements are similar to those for gasoline, thus, conversion to methanol requires minimal consumer education. A recent Energy Conservation Coalition survey found that consumers would consider paying up to ten percent more for an alternative fuel vehicle. Flexible and dedicated methanol fuel vehicles are so similar in design to conventional vehicles that present costs are only seven percent more than for equivalent gasoline vehicles.

In light of its significant impact on the success of the Methanol Plantship project, a thorough discussion of present and future methanol market conditions is presented in the following section.

METHANOL MARKET ANALYSIS

METHANOL: SUPPLY AND DEMAND

The following discussion of methanol market trends is provided to demonstrate the willingness of parties to enter into long-term product take agreements and the potential for replication of the first-of-a-kind project described herein. It should be noted that the economic soundness of the present Methanol Plantship project is in no way dependent on the fruition of the forecasted trends discussed below. The project is economic under present market conditions by reason of the provisions of the product take agreement.

Traditionally, ethanol has been utilized in the production of dimethyl terephtalate (DMT), acetic acid, methyl methacrylate, and solvents. More recently, methanol has been used as feedstock for methyl tertiary butyl ether (MTBE) and tertiary amyl methyl ether (TAME), which are oxygenated fuel additives for gasoline blends, and, in its pure form, as fuel. While the traditional chemical markets for methanol are predicted to exhibit steady, moderate growth, these more recent applications, especially MTBE, promise dramatic growth throughout the foreseeable future.

The use of MTBE is the most viable option for compliance with Clean Air Act air quality regulations in non-attainment regions. These regions of the U.S. consume 50 percent of the domestic gasoline, approximately 150-million t/yr. It will require the output of eight world-scale methanol plants to produce enough MTBE to bring these non-attainment regions into compliance by the mid-1990's. (This calculation assumes that no MTBE is distributed to regions that are not designated as non-attainment areas. Practically, this is not probable; for reason of distribution economy, blended stocks of reformulated gasolines are going to be dispensed into attainment as well as non-attainment regions.) It takes 3 to 5 years to build a methanol plant, and there are only two world-scale methanol plants presently under construction. Thus, it is reasonable to anticipate a methanol supply shortage before the end of this decade. Figure 3 reflects the current demand for methanol and projects the demand for methanol during the next 4 years.

These demand projections are constrained by the relatively high cost of traditional, land-based methanol production. If the cost of methanol can be reduced by the development of new technologies such as the MPS, the demand for methanol may well increase faster than presently forecasted. The potential market for clean-burning, fuel-grade methanol is huge, and yet, difficult to predict. Many powerplants in non-attainment areas are facing the alternatives of shutting down or finding an economically acceptable technical solution to emissions control. Inexpensive methanol fuel would be an option preferable to purchasing expensive selective catalytic reduction (SCR) technology or scrubbers.

In addition, there is the perception among many experts that methanol will be the transportation fuel of preference in the 21st century. Flexible fuel vehicles currently are being manufactured by a number of automobile manufacturers. If the cost of methanol production can be reduced, these vehicles should provide the impetus for widespread vehicular use of methanol fuel, causing a dramatic increase in global methanol demand.

METHANOL: PRICE ANALYSIS/FORECAST

Because Yankee intends to sell its methanol product for a price that will fluctuate with the posted (land based) U.S. Gulf contract price, a discussion of historic and forecasted U.S. Gulf contract methanol prices is appropriate.

The U.S. Gulf contract price has not fallen below $.25 per gallon since 1973. Over the last 15 years, methanol selling prices have fluctuated from a high $.80 per gallon in 1979, to a low of $.25 per gallon at the end of 1986.

On average it required 110,000 Btu of gas to make one gallon of methanol. Older plants tend to require more gas per gallon of methanol, while new plants require less. (Note: The Methanol Plantship will require 87,000 Btu to make one gallon of methanol.) Thus, this average will decrease somewhat as market size increases. As we have said, the two major factors that impact methanol prices are capital requirement and feedstock cost. Cash methanol production cost for existing producers are projected to be $131 per MT in 1997. In the first year of Methanol Plantship production (1977) cash operating costs will be approximately $71 per MT. During the first fifteen years of operation the highest cash operating costs incurred by the Methanol Plantship will be $77 per MT. Over the same period, U.S. Gulf cash methanol production costs are projected to escalate to $217 per MT. This difference is largely attributable to the fact that Yankee Energy will have access to an independent gas market from which it can obtain a long term, fixed price gas contract.

The current contract price for methanol in the commodity market is $.44 delivered to the U.S. Gulf port. U.S. Gulf Coast selling prices are forecasted to fluctuate between 25% and 50% of cash costs, which are projected to escalate conservatively, at three percent per year, over the next fifteen years. This projection assumes conservative MTBE market growth.

Clearly, the Methanol Plantship project has tremendous potential to succeed in the present methanol market. That the culmination of two decades of project and design development should come to fruition just as the methanol market begins a period of sustained growth, is the kind of auspiciously good timing that is characteristic of the most lucrative investments.

Mr. WARNER. Madam President, I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Madam President, the managers of this bill have conferred with the authors of the amendment, and we are prepared to accept it.

Mr. WARNER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Madam President, I do not have any dog in this issue.

Mr. WARNER. Madam President, I am not able to hear the Senator.

Mr. PRYOR. Madam President, the Senate is not in order and it is very difficult to hear. There are a lot of conversations.

The PRESIDING OFFICER. I once more ask that the Senate be in order. Senators are having a difficult time following debate.

The Senator from Ohio.

Mr. METZENBAUM. Thank you, Madam President.

I am just sitting here on the floor, and suddenly I hear we are about to spend $4.6 million for a project that sounds on its face as if it has a good deal of merit. But the fact is there are 100 Members of this body, and my guess is not more than 5 know what we are talking about. We talk about it as if it was quite insignificant; it is only $4.6 million. It has not gone through the authorizing committee, which is the appropriate way for it to go.

I just want to stand here, not to debate this at length, because I know nothing at all about this subject. It may be the most wonderful project in the world. But some in this Senate, and I do not particularly direct my comments to the author of this amendment, always are willing to provide dollars out of the Federal Treasury for experimental projects in their own area, special projects in which they have a concern, saying, well, it is only a little bit of money. I am frank to say a little bit of money here and a little bit of money there adds up to a lot of money.

I am not going to stand here and oppose my colleague and friend from Virginia on this issue, but I just could not sit here relaxedly and sit back and say, well, it is OK, it is only $4.6 million, and it is being offered by a prominent, well-respected, fine Member of the U.S. Senate.

I just think that is not the way for us to proceed. I will not object if the manager of the legislation wants to accept the amendment. I will not object to his doing so. But I do object to the procedure. I do not think this is the way the Senate ought to conduct its business. I believe that we fight too hard to find dollars for needed projects throughout the country. I do not know whether this is needed or unneeded, but I am sure this is not the way it ought to be handled.

Under those circumstances, I will leave it up to the manager, who I understand is prepared to accept the amendment, and I will not stand in his way of doing it.

The PRESIDING OFFICER. Is there further debate?

The Senator from Hawaii.

Mr. INOUYE. Madam President, for the record, if I may respond, this is a project under the Advanced Research Projects Agency of the Defense Department. ARPA has been in business for many, many years now, and they have many projects of this nature. This is part of the Defense Conversion Program which has been authorized for the past 2 years.

As I indicated, the managers are willing to accept this amendment, and we will very definitely discuss this with our House counterparts when we go into conference.

The PRESIDING OFFICER. Is there further debate?

Hearing none, the question is on agreeing to the amendment offered by the Senator from Virginia.

The amendment (No. 1078) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, I thank the Chair, and I thank the distinguished managers of the bill for allowing me a period of 10 minutes to discuss an issue that I think is of great importance.

DECEPTIVE SENIOR ORGANIZATIONS

Mr. PRYOR. Madam President, earlier this year I introduced a bill on this floor to combat deceptive mailings that are often aimed at elderly Americans. Today, the same breed of predators are gearing up, once again, to profit by scaring seniors about a new target: the President's health care reform plan.

Their new appeals to seniors are full of falsehoods and scare tactics, all motivated by greed. They seek to prey upon seniors' uncertainty about health care reform. Like sharks, when these groups sense fear, they attack.

Madam President, let me explain with an example. I have heard from older Americans who have received letters from a group calling itself the Seniors Coalition. Seniors are calling our office—the Special Committee on Aging and our personnel office—to ask if this is a respectable organization, and one which has their interests at heart. What they do not know is that according to a National Journal article, its founders are now under investigation for fraud by the Federal Bureau of Investigation, two U.S. attorneys, New York's State attorney general, and the Postal Inspection Service.

Madam President, I must say that the Seniors Coalition has only one major interest: taking money from senior citizens. Its organizers operate at the expense of the very people for whom they claim concern.

The Seniors Coalition recently mailed to thousands of seniors a so-called special report on the President's health plan. It is full of distortions and falsehoods designed to agitate seniors. Before I address these lies—and that is what they are—I would like to read from the report what I think is its real main point: "So we can continue this campaign to reach other Seniors in your area and across the country, please help us financially."

Notice their own words: "Please help us." What the Seniors Coalition will not do is help senior citizens. Seniors should think twice before sending their retirement funds to these modern day snake-oil salesmen.

If seniors have an opinion or concern about health care reform, they can simply put a 29-cent stamp on their own letter and write me or their own Senator or Congressperson.

Before sending a check to the Seniors Coalition or any other group that claims to represent them, seniors need to stop and ask: Who is this group and what are they all about? I think if more people knew the answers to these questions, they would keep their checkbooks in the drawer.

Take the Seniors Coalition, for example. According to a recent article in the National Journal, its founders are being investigated as to whether they used the nonprofit, tax exempt group for personal gain.

Madam President, I will later ask unanimous consent that this article be printed in the RECORD.

One of the investigations target Seniors Coalition cofounder Richard Viguerie, a direct mail fundraising pioneer. He is being looked at by a U.S. attorney in New York City. The other investigation is by the U.S. attorney in eastern Virginia. This investigation targets Dan and Fay Alexander, who founded the Seniors Coalition with Viguerie's help. The FBI and the U.S. Postal Inspection Service are also involved in the Virginia investigation.

Seniors may want to ask themselves about the history of some of the groups that ask them for money. The arch rightwing founders of the Seniors Coalition, for example, took a strange path to becoming supposed advocates for large social programs. It began in 1980 when Mr. Viguerie joined forces with Dan Alexander, a school board president from Mobile, AL, who wanted to raise money through appeals for school prayer and conservative policies in education. Both Viguerie and Alexander created the Taxpayers Education Lobby, which churned out millions in donations through direct-mail appeals in the 1980's. In 1986, however, Federal prosecutors in Alabama indicted Alexander for extorting kickbacks in school construction projects. He was convicted and served over 4 years in prison, leaving his wife Fay in charge of the lobbying group.

In 1988, these operators did a test mailing on a new target: the Medicare Catastrophic Coverage Act. The response was overwhelming, and the Alexanders created a new group, the Seniors Coalition Against the Tax, later renamed the Seniors Coalition—which is in business in a big way today, mailing and preaching fear to seniors all across America—the group tapped into a whole new well of contributors: senior citizens, who were their newfound victims of deceit and fear.

While the coalition claims that last year it cut its ties to the Taxpayers Education Lobby, it continued to pay outrageous sums to Mr. and Mrs. Alexander: $23,000 a month. From 1989 to 1991, the Alexander's teen-age daughter was listed on the group's tax returns as its president. When Mr. Alexander was asked about this by the New York Times, he said he hired his daughter because "it was hard to find outsiders of any stature to serve on the board in view of his criminal record."

Madam President, would seniors send their hard-earned dollars to groups like these if they knew what frauds they are? Of course not.

But with a major health care plan on the table, and the all-too-human tendency to fear change, we can expect an explosion of appeals from just such con artists who make their living selling fear.

Another organization that was founded under questionable circumstances by Richard Viguerie, the United Seniors Association, Inc., recently jumped into the fray with its own fundraising letter attacking—you guessed it—health care reform.

There are a number of organizations that legitimately represent senior citizens that are real players in the politics of health care reform.

On the other hand, groups that pose as fronts for the likes of Richard Viguerie, such as Seniors Coalition or the United Seniors Association, are not even in the game. They are widely known in Washington as facades for direct mail fundraisers, so they are not taken seriously. They do not even attempt to be taken seriously. But what they do is extract precious dollars from senior citizens all across America.

Madam President, I have no problem with those who hold differing views on health care reform. I welcome the free exchange of ideas with those who want to debate these issues seriously. I do object, however, to those who exploit seniors' legitimate concerns about health care to feather their own nest.

Because these groups are not part of the process, they can peddle whatever misstatements they want in their efforts to raise funds. Let me respond to the latest irresponsible mailing peddled by the Seniors Coalition.

The letter makes four main points, all of them false. First, it claims that the Clinton plan will "ration health care to the elderly." Nothing could be further from the truth. The plan does not call for rationing care. Even if one were to accept this falsehood, their argument would not apply to seniors, since under the plan they have the choice of remaining in Medicare.

The second falsehood claims that the Clinton plan limits seniors choice of doctors. Again, since seniors can choose to remain in Medicare, there would be no change in their ability to choose their own doctor. In addition, under the Clinton plan itself, all Americans would be guaranteed their choice of doctors.

Third, they claim the Clinton plan compromises patient confidentiality. This is simply not true. Iron-clad privacy protection is a critical element of the President's plan, spelled out in great detail. In fact, Congress has already begun hearings to examine ways in which this protection can be ensured.

Fourth, the mailing is blatant enough to claim that the President's plan will lead to new personal taxes and a national sales tax. Even a cursory reading of daily newspapers should alert seniors to the falsehood of those claims. As everyone knows, the President has specifically rejected a new broad-based tax. Apparently, the Seniors Coalition believes the bigger the falsehood, the more money they can get from those who can least afford it.

I hope all Americans, and especially older Americans, will be on guard against charlatans such as the Seniors Coalition and the United Seniors Association.

These groups are merely facades for greedy fundraising operations. We can all expect that new groups will spring up with the hope of profiting from fear and uncertainty as we revamp the Nation's health care system.

I strongly advise our citizens to keep their wallets closed unless they know exactly who is behind any request for funds that they receive.

I call upon my colleagues and other, legitimate advocacy groups, to educate their constituencies about groups like the Seniors Coalition. Only by working together can we root out this growing menace to the emotional and financial security of our senior citizens.

I am going to conclude by once again warning seniors all across America to beware of these organizations that are writing them, preaching fear and lies about the President's health care plan.

Further, I ask unanimous consent that a letter from the Seniors Coalition that I quoted from, and also a letter of October 4, a recent air gram asking money from seniors, a letter from United Seniors Association, Inc. seeking money, and also the very splendid article by Peter H. Stone, which appeared in the National Journal article of September 4, 1993, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

United Seniors Association, Inc.,
Fairfax, VA.

Dear USA, Inc. Member: Please fill out your enclosed dues statements, complete the attached survey, and mail both to me today—along with your $5 renewal dues.

That's how you can once again do your part to insure we can continue to inform and activate seniors across the nation, and especially, speak out for you in Washington.

Some big senior groups—with their multi-million-dollar federal subsidies—were awfully quiet during debate over the Budget Bill, with huge tax hikes on Social Security benefits and cuts in Medicare.

They either spoke out very "softly" or waited until it was too late to have any real impact on the final vote.

But thanks to you, USA, Inc. fought "tooth-and-mail" for over 7 months to stop the unfair "Senior Citizen Tax" from being part of the Budget Bill. We spent millions of dollars and thousands of hours trying to kill this outrageous tax on seniors.

We even went into debt because these other senior groups sat-on-their-hands and did virtually nothing, so we had to carry a much bigger burden than we could really afford.

And it was not just some of the big senior groups who sat by and let Clinton and Congress try again to reduce their deficits unfairly on the backs of senior citizens.

Seniors themselves in every part of the nation should have risen up in their outrage—like they did when they forced the Congress to repeal the unfair Catastrophic Health Act.

But many seniors seemed to believe the misleading rhetoric coming out of Washington and the national press.

Thankfully, you and your fellow USA, Inc. Members did not!

Thanks in part to the unselfish support of USA, Inc. Members, we came within a hair's breadth of seeing the Budget Bill go down in defeat—a single vote would have made the difference.

And now we have a 2nd chance to kill the senior citizen tax!

Congressman Jon Kyl and Senator Trent Lott have introduced the senior citizen tax fairness bill (H.R. 2959/S.1408) to repeal the outrageous and unfair tax hikes on Social Security.

USA, Inc. has pledged to do everything we can to help these two courageous leaders get their bill passed.

(Be sure to watch the government-subsidized senior groups to see if they come out in favor of this bill and then really fight to help get it passed.)

And the other big battle in 1994 will be health care reform.

Earlier this year, USA, Inc. co-founded a special coalition called "Citizens Against Rationing Health" (CARH).

Along with other members of the coalition, CARH will hold town meetings, seminars, and other functions across the nation.

CARH's most important goal is to make sure any reforms to America's health care system do not cause any kind of "rationing" of your health care freedoms.

No one in America—least of all seniors—should have some federal bureaucrat telling you which doctor you can use, which hospital you can go to, or what kind of treatment you can have.

And you shouldn't have to wait for months for a critical or lifesaving procedure, just because government bureaucrats have made the system too inefficient and complicated—like they've done in Canada, Sweden, and England.

And that brings me back to my request that you renew your USA, Inc. membership for 1994—and do it today.

You see, unlike some other senior groups, USA, Inc. does not get millions of taxpayer dollars each year in federal subsidies.

We rely completely on voluntary generosity from our Members.

Thanks to the help and support of our Members, USA, Inc. has been able to carry out a series of significant campaigns this year on behalf of seniors all across the country.

USA, Inc. was the first senior group to warn about the dangers of "Means Testing".

Means Testing is based on the outrageous idea that "some" seniors do not "need" their benefits. (Supporters of Means Testing don't seem to care that you've paid Social Security and Medicare taxes almost all your working life.)

We have sent letters explaining "Means Testing" to another 700,000 seniors in 1993 (on top of 1.2 million in 1992), asking them to help us put a stop to the very idea of "Means Testing" before it can gain a foothold in Congress.

We delivered letters to every Member of Congress and the White House—signed by 45,739 seniors nationwide—demanding they oppose any kind of "Means Test" and not cut Social Security or Medicare benefits and not raise taxes.

As soon as the details of Bill Clinton's "economic plan" were revealed—and taxes on Social Security benefits were raised dramatically and Medicare payments to doctors and hospitals were slashed again—USA, Inc. launched a massive media and lobbying campaign to gather support for killing the taxes and cuts.

We mailed over 6,800,000 letters to seniors across the nation (Members of USA, Inc. and non-Members) to mobilize them to turn the heat up on Clinton and Congress over the economic plan that unfairly punished seniors.

Our lobbyists, led my former Congressman Beau Boulter, spent tireless hours in Congress in one-on-one meetings with key Members of Congress to try and gain the votes we needed to defeat these unfair taxes and cuts.

We ran television ads nationwide and radio ads in 15 key cities to alert seniors to Congress' Social Security tax hikes and massive Medicare cuts. Our ads were geared to pressure several key U.S. Senators to vote against the anti-senior, anti-job, tax-and-spend Budget Bill.

We delivered our 1993 Senior Opinion Poll survey results to every Member of Congress showing that Americans overwhelmingly opposed the special taxes on seniors and preferred spending cuts over tax increases by 14 to 1.

We released to the news media the results of our Senior Opinion Poll and held several news conferences.

These grassroots campaigns—carried out on your behalf—cost a lot, in time and money. With the unselfish help of seniors like you, we have made significant headway in reminding the politicians they can't afford to ignore or take seniors for granted.

We won't fully succeed in a month, or a year. The kinds of battles we fought for you in 1993 will continue in 1994, 1995, and beyond. That's why your 1994 membership issues survey is vital.

USA, Inc. is different from most other seniors groups. We support less government, less wasteful spending, and lower taxes. I believe most seniors in America agree with that. And I believe most seniors don't want handouts from the federal government.

But I want your opinions—as expressed through your answers to your enclosed Survey. We will use your answers to guide us in 1994 to the issues we will fight for on your behalf.

Only with your continued support—both moral and financial—can we be strong enough to keep fighting for your rights in the coming year and beyond. Some other senior groups in the country seem to be unwilling to really help keep the federal government off of your back and out of your wallet.

So please complete our 1994 survey and mail it to me today. And don't forget to renew your Membership as well.

Just fill out your Dues Statement and make out your check for your $5 annual dues.

And if you can afford to do so, please include an additional $6, $10, or $20 to help

USA, Inc. serve as your voice in Washington and to your fellow seniors across the country.

You have supported USA, Inc in the past. Won't you please renew your support in 1994 and help us help you and your family.

If together we can help stop just one plan to cut your benefits or raise your taxes, the $6, $10, or $20 you contribute—in addition to your dues—could easily be returned to you hundreds of times over.

Thank you for renewing your membership and support.

Best wishes,

MICHAEL A. BLAKE,
Executive Director.

P.S.—We'll certainly need your additional help to underwrite the battles we already know we'll have to fight in the first new months of 1994—the senior citizen tax fairness bill and to stop Clinton and Congress from destroying the best health care system in the world in the name of so-called "reform".

We can't hope to protect your health care freedoms and your Social Security benefits all alone. We need your opinions in your 1994 issues survey. And we need your financial help in the form of your 1994 Membership renewal and any additional amount you can afford to send. Please renew today!

OCTOBER 4, 1993.

DEAR SENIORS COALITION MEMBER: If you listened to the President on September 22, you heard him tell you how wonderful his mandatory, government-controlled Health Care will be. He made it sound like a great idea for everyone, including Seniors.

The fact is it will be a disaster.

1. You will lose the right to freely choose your own physician, or you'll pay a severe financial penalty.

2. As in Canada, England and elsewhere, Health Care for Seniors will ultimately be rationed. There will be long lines for both simple and life-saving operations.

3. Government bureaucrats will be in charge. Health Care will deteriorate. Seniors will suffer the most.

4. Funding for new medicines and new technologies will be slashed. There will be massive cuts in Medicare.

Believe me, this is nothing less than a complete government takeover. Yes, we need changes. But nothing like this. This plan must be stopped.

I need your help immediately. Because of your recent support of The Seniors Coalition, I am writing you first to help me generate immediate opposition in Congress.

Here's what I'm asking you to do:

First, read the enclosed Emergency Communication.

Then, sign your name at the bottom and return it to me. This authorizes me to send it by Overnight Express to every Member of the U.S. Senate and House of Representatives on your behalf.

Finally, please enclose a check for $10, $15, $20 or more to The Seniors Coalition to pay for our emergency campaign to protect Health Care for Senior Citizens in this country.

The emergency communication I'm asking you to sign today is only the first step in our battle to stop a Federal Government takeover of your medical care.

As you read my telegram today, we are actively preparing the largest lobbying campaign in our history to preserve and protect your health care benefits.

In the next few weeks alone we will write to hundreds of thousands of your fellow Seniors asking them to join in this fight.

Our goal is a simple one: to flood each and every member of Congress—all 535 Senators and Representatives—with letters, telegrams and postcards asking them to vote against the Clinton Health Care Plan.

Our staff is already hard at work meeting with key decision makers in the U.S. Congress on this issue. Plus we plan to arrange TV/radio interviews to explain clearly the dangers of this plan to Americans all across the country.

Finally, we are working with other organizations who are united in the belief that Bill Clinton's government-run Health Care plan is bad for you and bad for America.

All of these important lobbying activities require a major commitment of time, effort and money.

That's why I must rely on you and other members to help me raise the money we need.

So please help us cover our costs of this massive lobbying campaign by enclosing a check for $10, $15, $20 or more to The Seniors Coalition.

Let me emphasize one point. If it represents a real financial hardship I wouldn't want you to send a contribution today. But if you can, please do so now. It is very important you take action to protect the quantity and integrity of your health care and that of your family and friends.

Together we can stop future rationing of your health care and protect your right to freely choose the doctor of your choice. Please, act today!

Sincerely,

JAKE HANSEN,
Director, Government Affairs.

THE SENIORS COALITION,
Fairfax, VA.

AUTHORIZATION FORM

( ) Yes, I authorize The Seniors Coalition to include the attached Emergency Communication along with the many thousands of others being sent to every U.S. Senator and Congressman via overnight express. I am deeply upset at Bill and Hillary Rodham Clinton's plans to slash Billions of Dollars from Medicare, ration Health Care, take away my ability to choose my own doctor, and have government bureaucrats making my medical decisions for me.

( ) Yes, I'm enclosing my contribution in the amount checked below to help launch your emergency lobbying campaign to Stop the Clinton Health Care plan and generate opposition in Congress.

( ) $5 ( ) $8 ( ) $____ Other

Make check payable to: The Seniors Coalition

[EMERGENCY COMMUNICATION]

Via Overnight Expess

To: All Members of the United States Senate
and House of Representatives.

From:

As a senior citizen, I am going on record as strongly opposing President Clinton's mandatory, government-run health care plan.

His plan will lead to health care rationing, limit my freedom to choose my own doctor, and give government bureaucrats more power to make my medical decisions for me.

While changes must be made, the federal government has no right to take over the health care system in this country. I urge you to oppose the Clinton health care plan and any plan that puts government bureaucrats in charge of the most personal decisions in our lives.

Date:

Signed:

Member, The Seniors Coalition.

THE SENIORS COALITION

The Seniors Coalition, Inc. [TSC] was incorporated in the state of Virginia in 1990. The principal place of business is 11166 Main Street, Suite 302, Fairfax, Virginia 22030 and the phone number is (703) 591-0663. We have a 501(c)(4) classification from the Internal Revenue Service. Our purpose is to foster a national public awareness and understanding of the special concerns, interests, and needs of senior citizens and to develop and promote programs accordingly.

Residents of the following states may request financial statements and other information from the offices indicated (the toll free numbers are for use only within the respective states): Arizona: Financial information filed with the Secretary of State is available for public inspection or by calling toll free 1-800-458-4842. Florida: A copy of the official registration and financial information may be obtained from the Division of Consumer Services by calling 1-800-435-7352, toll free, within the State. Registration does not imply endorsement, approval or recommendation by the State. Kansas: The Kansas registration number is 06-91-689SC. The annual financial report for the preceding fiscal year is on file with the Secretary of State. Maryland: Copies of documents and information submitted by TSC are available from the Office of the Secretary of State, Statehouse, Annapolis, MD 21401, 1-800-825-4510. New York: New York residents may obtain a copy of our annual report by writing to the Office of Charities Registration, 162 Washington St., Albany, NY 12231. Pennsylvania: A copy of the official registration and financial information of TSC may be obtained from the Pennsylvania Department of State by calling toll free, within Pennsylvania, 1-800-732-0999. Registration does not imply endorsement. Virginia: Commonwealth of Virginia, State Office of Consumer Affairs, P.O. Box 1163, Richmond, VA 23208 (804) 786-1343. West Virginia: Secretary of State, State Capitol, Charleston, WV 25305. Registration does not imply endorsement. For copies of current financial statements you may send a written request to the address listed above or call TSC directly at the telephone number listed above.

The Senior Coalition, Inc. is a non-profit organization. We are NOT affiliated with, endorse or funded by any government agency, political party or political candidate. TSC represents over 2,000,000 senior Americans. Because we lobby vigorously in support of your rights as a senior citizen, IRS regulations prohibit your contribution from being deductible for income tax purposes. You may ask for a refund at any time, for any reason.

THE SENIORS COALITION,
Washington, DC.

DEAR ———: It's what you don't know about Hillary Rodham Clinton's health care plan that you should be worried about.

You see, cloaked in secrecy, mired in double talk and friendly smiles, Hillary Rodham Clinton and her "Task Force" have produced a mandatory government-managed medical plan for every man, woman and child in America.

She touts it as part of a nationwide public relations campaign that unfortunately is paid for by you, the taxpayer.

Yet she reveals little detail. It's all pretty packaging. But you and the public have no real clue what's inside the package or how her health care plan will actually affect you.

Well, The Seniors Coalition has done its homework, and today we're sending this Special Report to you. Read it so you know what the Clintons see for the future of Senior Health Care in America, and for the impact it will have on you and your family.

Then, if you agree this plan must be defeated, we urge you to act.

This report comes to you in three sections:

What the Clinton plan will do.

Your Health Care Survey.

Your Action Postcards.

But before you begin, let me give you this warning: Your future health care is in the hands of Hillary Rodham Clinton and a Congress that just voted to increase taxes on Senior Citizens. I hope you're prepared to fight against what we are about to reveal. This will be a national fight for Seniors' rights.

Hopefully you and other Seniors from every corner of America will let their Senators, Congressman and the President know that: "America's Senior Citizens do not want Government-controlled health care"!

To make sure Congress and the President hear from you, we've enclosed four pre-addressed Post Cards for you to mail today.

And we have a Survey that registers your opinion about the three most important issues you will likely face as a result of Hillary Rodham Clinton's proposed plan. Do you favor or oppose:

(1) Rationing medical health care and limiting access by Seniors.

(2) Losing your right to choose your personal doctor.

(3) Increasing taxes (again!) to pay for a government run program that offers less care, poorer quality and long lines.

When you finish reading your report, please take a few minutes to give The Seniors Coalition your personal feelings about this alarming proposal. We will quickly deliver the results of this survey to every Senator and Representative in Washington, every Governor, and hundreds of newspapers, television and radio stations so they know how Seniors feel.

You see, unlike the Clinton Administration which seems so hostile to Seniors, we believe the strength of a nation is in its Senior Citizens. Men and women who have served their nation in peace and war, who have paid their taxes and worked to build this nation. These men and women are a cornerstone of America.

A SPECIAL REPORT: SENIORS' MEDICAL CARE AT RISK

This report is a summary of our full report that is available upon request (see reply form).

ISSUE ONE: RATIONING YOUR MEDICAL CARE

The Clinton Administration has been advised by their public relations professionals to avoid using the word "rationing." So they'll deny that this plan will ration health care to the elderly. However, throughout the secret discussions of the Hillary Rodham Clinton Task Force, it's been conceded that rationing will occur and will impact the elderly the most.

In order for the government to insure that "every citizen" gets health care, strict limitations will be set. There will be spending limits. There will be regulators making medical decisions. There will be delays and waiting lines.

In Canada, a nation of only 26 million people, their "managed" health care plan already has 250,000 people on a waiting list for surgery. It takes two and a half months to get a mammogram and five months to get a pap smear.

And the Canadian government is now cutting back further as it runs short on money. That's why so many gravely ill Canadians cross the border to America. In fact, the danger of dying in Canada is greater by being on a waiting list than it is to be on the operating table!

In Great Britain another nation involved in a socialized medicine plan, the government allows only a set number of kidney dialysis machines. If your kidneys falter, pray that it is early in the year while machines are available. Furthermore, it's against British law to acquire treatment once a rationing budget has reached its limit. Richer patients try to buy U.S. machines, but that's also against the law.

Both the Canadian and British systems have been used as models by Hillary Rodham Clinton's Task Force. She believes "global budgeting" is the best way to keep medical costs down. But that's just her way to avoid saying "rationing".

Under "global budgeting" physicians will be prevented from providing government paid services for treatment once the budget has been reached for the year. And in order to stay within their budgets, doctors will be forced to make decisions . . . or have bureaucrats make decisions based on who's likely to benefit more from the treatment. As in Canada and Great Britain, you can bet your life savings that here at home, the decision will almost always be against the elderly and in favor of the young.

Don't you think it's wrong to pit one generation against another?

ISSUE TWO: THE RIGHT TO CHOOSE YOUR OWN DOCTOR

The President and Mrs. Clinton have said over and over again that "the right to choose" your physician is fundamental. They promise it will be in whatever plan they propose.

Don't believe it. Not for a second. As The New York Times said about the President, it's "always wise to read the fine print." Clearly Bill Clinton is clever at phrasing things so they don't mean quite what you think they do.

Yes, you'll have a "choice" in the plan you choose . . . but only from the list of doctors the government approves. If your doctor is not on that list, sorry, you cannot choose him or her.

ISSUE THREE: YOUR MEDICAL PRIVACY

The secret hearings of the Task Force have also dealt with the matter of medical information. Public statements talk about "privacy". But the real position of the Task Force is something else.

Their plan includes a national identification card you must carry. This ID card will likely have more than a name and number on it. It will actually have a small computer chip that can hold more information about you than a full issue of TIME Magazine!

Eventually, you and your doctor will be required to provide the government with a complete personal and medical history that will be entered on this card. Then any time you need medical care, you'll have to present this card with your life history on it.

If this plan becomes law, we will see the end of the centuries-old tradition of the confidential relationship between doctor and patient.

ISSUE FOUR: THE COST TO YOU

Just as Seniors will soon be paying more for gas, thanks to the Clinton tax increase, we believe Seniors will soon pay more for medical care through new personal taxes and perhaps a national sales tax which would add to the cost of everything you buy.

Cost estimates—not including current medicare dollars—run from $73 billion annually to $100 billion annually. With Medicare included those costs rise to $132 billion.

Conservative estimates are that this program will cost at least $1,000 per year per household. Some estimates have this doubling by 1999.

Canada is learning the lesson. So is Great Britain. Government mandated programs do not work and cannot be afforded. They increase medical costs to everyone. The quality of medicine deteriorates.

ISSUE FIVE: THE NATION'S MEDICAL SYSTEM WILL DETERIORATE

Based on our meetings and conversations with knowledgeable health care leaders, if the Clinton plan is passed, you'll see the deterioration of the health care system in America.

Just as long lines are the trademark of government when you go to get a license or mail a letter, so will long lines be part of your government provided medical care.

Paperwork will escalate. Doctors will spend even more time filling out more government forms. Billing mistakes will become endless nightmares of phone calls, letters and more red tape.

Fewer young men and women will enter medical school.

Where will you turn when the system turns you down? If the Clinton's have their way, your final appeal for help will be your Congressman or Congresswoman! This frightens me as much as anything, that a politician can have this much power over our lives.

Doctors and scientists will lose the incentive to develop the miracle drugs of tomorrow.

Medical manufacturers will lose the incentive to pioneer new equipment and new procedures.

WHAT YOU CAN DO: THE BATTLE PLAN

If I've convinced you that what Hillary Rodham Clinton has in store for you is not what you want, join with The Seniors Coalition now! With your help we intend to stop Hillary Rodham Clinton's government-run medical plan BEFORE it has a chance to put a single American's health care at risk.

But to do that, we must build nationwide opposition that will force Congress to say "NO". Here's what I need you to do:

First, answer the enclosed survey. Let me know how you feel on these important questions regarding your health care. We need to hear from you and hundreds of thousands of other Seniors from every city and state in this country.

As we receive these surveys, we will quickly tally them and provide the results to Congress, The White House and the Press.

Next, sign and mail your four post cards. These are already addressed to your Senators, Representative and to the President.

It's so important for them to hear from you. If you prefer to write a letter, that's even better.

Finally, so we can continue this campaign to reach other Seniors in your area and across the country, please help us financially. Send a contribution of at least $10 for your membership, plus whatever else you can give to help.

$10 will allow us to reach 24 other Seniors with this message.

$25 will allow us to reach 60.

$50 will allow us to reach 120.

$100 will allow us to reach 240!

We'll be fighting a powerful opposition that has the White House and much of Congress behind it. In addition, many liberal newspaper and television journalists want to see a mandatory, socialized health plan.

They fail to understand the importance of the free market, free enterprise system that built our nation. So please help us by sending us your check.

Your $10 membership brings with it a subscription to our 32 page newspaper which we publish six times a year. It's The Senior Class, and I promise you it's well worth the $10 alone.

The Seniors Coalition was organized in 1988 to fight the government's effort to impose catastrophic health care on the nation's Seniors. Since then, we have grown to more than 2,000,000 members and supporters in every corner of the country.

Please join with us. I look forward to hearing from you.

Sincerely,

JAKE HANSEN,
Director, Government Affairs.

P.S.—Remember, if the Clinton health plan becomes the law of the land, this nation's medical system will deteriorate badly. So join us today to fight the Clinton plan! Please return your survey, mail your post cards and send a contribution of $10, $15, $20, $25, $50, $100 or more.

P.P.S.—As a special bonus, we'll send you our 128 page book "What Everyone Should Know About Social Security" for a contribution of $20 or more.

[The Seniors Coalition Special Report]

SENIORS HEALTH CARE AT RISK

(Survey on Hillary Rodham Clinton's Health Care Plan)

Please mark each question with a Yes, No or No opinion. Then return it to us in the envelope we've provided. Your answers will be tallied and included in our next report to Congress and the White House. Please be sure to complete and return your survey even if you do not send a contribution.

1. President Clinton is proposing a medical health care plan that will be mandatory for every man, woman and child in the United States. It will limit freedom of choice and impose rationing on Senior Citizens.

Do you oppose a plan that will ration health care to Senior Citizens?

(☐)Yes (☐)No (☐)No opinion

2. In Canada where health care is rationed, government bureaucrats must choose between patients for medical care. Generally, young patients receive preference.

Do you oppose any plan that favors one age group over another?

(☐)Yes (☐)No (☐)No opinion

3. Only doctors approved by the government will be on the list you can choose from. If your doctor is not on the list, you will be prevented from using him or her in the Clinton Health Plan.

Do you oppose any plan that prevents you from choosing your own doctor?

(☐)Yes (☐)No (☐)No opinion

4. President Clinton has proposed a mandatory "health card" with a computer chip in it. You and all Americans will be required to have one. You will have to provide the government with all your medical information so they can put it in the card (which can hold up to 1600 pages of information on you!).

Do you oppose any plan that requires disclosure to the government of your private medical history?

(☐)Yes (☐)No (☐)No opinion

5. Hillary Rodham Clinton says all Americans will have "free" health care. Yet her plan will cost the average household $1,000 per year. She is calling for an additional payroll tax and considering a national sales tax to help pay for her plan.

Do you oppose a national sales tax to pay for her plan?

(☐)Yes (☐)No (☐)No opinion

6. Since Canada put price controls on pharmaceutical companies in 1969, there have been virtually no new drugs developed there. In the United States miracle drugs have dramatically reduced medical costs by reducing operations and hospitalizations.

Do you oppose government controls on companies who develop new drugs, equipment and procedures that save lives and cut costs?

(☐)Yes (☐)No (☐)No opinion

7. The Seniors Coalition opposes any mandatory health care plan that results in rationing and limiting your choice of doctors.

Do you support our position?

(☐)Yes (☐)No (☐)No opinion

8. The Seniors Coalition wants to put this Special Report and Survey in the hands of every Senior Citizen in America.

Will you help by joining The Senior Coalition and sending us a contribution?

(☐)Yes (☐)No (☐)No opinion

(If YES, please return both this survey and the attached Reply Form along with your check. Thanks for your support. We will send you a copy of the results of this survey if you wish.)

Signature:
Date:

(☐) Yes, here is my completed survey. Please include my answers in your next report to Congress and the President.

(☐) Yes, please send me a copy of your full Health Care Report.

(☐) Yes, I am mailing my Post Cards to President Clinton, my two U.S. Senators and my U.S. Representative in Congress.

(☐) Yes, I want to help you reach other Seniors with this Special Report. I agree that the Clinton Health Plan will put my own medical care at risk. I support the work you are doing to defeat the Clinton Health Plan.

Enclosed is my contribution of:
(☐)$10 (☐)$15 (☐)$20* (☐)$25*
(☐)Other $———

Please make check payable to: The Seniors Coalition.

Because The Seniors Coalition is lobbying to protect seniors' rights the IRS prohibits your contribution from being tax-deductible.

If for any reason you are not satisfied with The Senior Coalition, your contribution will be refunded with no questions asked. Please do not send a contribution if it presents a financial hardship.

*We will send you a bonus gift of our 128 page book, "What Everyone Should Know About Social Security" if you send a gift of $20 or more.

DEAR SENATOR: I am a Senior Citizen who is worried about President Clinton's plan for a mandatory health care system for all Americans. As my Senator, I urge you to oppose any plan that:

Leads to rationing of health care services.

Forces me into a government plan that limits my choice of my private physician.

Will increase my costs for medical care.

I believe a mandatory government plan will reduce the quality of health care. I much prefer a health care system that is based on a free market, free enterprise approach. Please don't vote to sacrifice the best health care system in the world.

Sincerely,

——— ———.

DEAR REPRESENTATIVE: I am a Senior Citizen who is worried about President Clinton's plan for a mandatory health care system for all Americans. As my representative, I urge you to oppose any plan that:

Leads to rationing of health care services.

Forces me into a government plan that limits my choice of my private physician.

Will increase my costs for medical care.

I believe a mandatory government plan will reduce the quality of health care. I much prefer a health care system that is based on a free market, free enterprise approach. Please don't vote to sacrifice the best health care system in the world.

Sincerely,

——— ———.

DEAR MR. PRESIDENT: I am a Senior Citizens who is worried about your plan for a mandatory health care system for all Americans. I believe your plan will reduce the quality of health care.

I much prefer a health care system that is based on a free market, free enterprise approach. Please don't sacrifice the best health care system in the world for a system that is failing in both Canada and Great Britain.

Sincerely,

——— ———.

DEAR SENATOR: I am a Senior Citizen who is worried about President Clinton's plan for a mandatory health care system for all Americans. As my Senator, I urge you to oppose any plan that:

Leads to rationing of health care services.

Forces me into a government plan that limits my choice of my private physician.

Will increase my costs for medical care.

I believe a mandatory government plan will reduce the quality of health care. I much prefer a health care system that is based on a free market, free enterprise approach. Please don't vote to sacrifice the best health care system in the world.

Sincerely,

——— ———.

JUST ANOTHER CON JOB ON THE ELDERLY?

(By Peter H. Stone)

Two U.S. Attorneys are conducting fraud investigations of individuals who have worked for the Seniors Coalition, a Fairfax (Va.)-based advocacy group for the elderly, and one of their targets is Richard A. Viguerie, the direct-mail kingpin of the Right.

One of the probes appears to focus on whether Viguerie, who handled the coalition's mailings for three years, used it and other elderly groups for his own financial benefit. The other investigation is looking at whether Dan C. Alexander Jr. and his wife, Fay, a founder of the Seniors Coalition, used the nonprofit, tax-exempt group for their personal gain.

A federal grand jury in New York City has subpoenaed documents pertaining to Viguerie's work for the coalition, according to sources familiar with the inquiry.

The second investigation, still in its early stages, is being conducted by the U.S. Attorney for the Eastern District of Virginia. A grand jury there has subpoenaed documents relating to the Alexanders, who have run the Taxpayers Education Lobby, a Virginia-based group that formerly controlled the Seniors Coalition. The FBI and U.S. Postal Inspection Service are also involved in the Virginia investigation, sources said.

Viguerie and his lawyer did not return calls; Alexander declined to comment.

Jake A. Hansen, the chief lobbyist for the Seniors Coalition, said that the group has been assured by its counsel that it is not a target of the investigations. Viguerie and Alexander no longer have ties to the group, he added.

The coalition, which has styled itself as a conservative alternative to such groups as the American Association of Retired Persons, has attracted controversy almost since its founding in 1989.

Some Members of Congress have complained that Viguerie's mailings for the coalition and some other groups exploited the fears of the elderly about social security and medicare, largely to help his business. In a May statement on the Senate floor, David Pryor, D-Ark., who chairs the Senate Governmental Affairs Subcommittee on Federal Services, Post Office and Civil Service, said that Viguerie "was an opportunist who is operating at the very fringes of the law" and at the "expense of the very people" for whom he says he is concerned.

In an article last November, The New York Times detailed how Viguerie's direct-mail work for the Senior Coalition and other groups had filled the coffers of his business since 1989.

After the article appeared, the New York state attorney general's office began an investigation into what it called "a web of interrelated and interlocking direct-mail organizations"—including the Seniors Coalition—linked to Viguerie.

The Times reported that Viguerie used the mailing list of the Seniors Coalition to build a for-profit group, the Retired Americans Legislative Lobby Inc., which he controlled and which generated lucrative fees for other Viguerie companies. In early 1990, the new group sent a mailing to millions of elderly people—including Senior Coalition members—urging them to help "stop the government from 'stealing' our social security funds." (Viguerie later converted the for-profit group to a nonprofit organization, the United Seniors Association, which continues to operate.)

Viguerie's contract with the Seniors Coalition was terminated at the end of 1991, in large part because the group complained that he had abused their relationship by creating competition for the coalition. Viguerie sued, contending that under his contract, he was still owed about $550,000 and that he should be paid 5 cents for every new letter that the group mailed that used his concepts.

The coalition countered that Viguerie's business had "breached its obligation of good faith, loyalty and fair dealing" by becoming a direct competitor. It also charged Viguerie with "using and abusing" its donors' names. However, the coalition agreed to settle the suit by paying Viguerie $600,000.

Viguerie and Alexander have a relationship dating to 1980, when Alexander started the Taxpayers Education lobby with Viguerie's help. Alexander, who was president of a local school board in Mobile, Ala., was interested in spreading his gospel on school prayer and traditional educational values around the country. With Viguerie as a fund-raising and direct-mail consultant, the Taxpayers Education Lobby over the next five years raised $1 million-$2 million annually from hundreds of thousands of people.

But Viguerie's contract with Alexander had several features that, direct-mail experts say, skirted the industry's ethical rules and generated extra money for Viguerie's business. For instance, Viguerie was given complete control over the group's donor list which had been compiled at the group's expense. He then rented the list out for additional fees.

The taxpayer lobby moved to Northern Virginia in early 1986, shortly before federal prosecutors in Alabama indicted Alexander for extorting kickbacks on school construction projects from 1974-83. He was convicted and served 4 years of a 12-year term. In the meantime, his wife headed the taxpayer lobby, and in 1989, she started the Seniors Coalition with Viguerie's help.

The coalition reported raising more than $23 million from 1990 through the first six months of 1992 and said it had a donor list of 800,000.

The Virginia investigation of Alexander's role in the coalition seems to focus on charges that he and his wife ran the group for their personal benefit without the independent governing structures that nonprofit groups are supposed to have.

For instance, the coalition's board until late last year consisted of Fay Alexander and one or two of her business associates. For its first three years, the coalition's president was Susan Alexander, the couple's teenage daughter. Dan Alexander told The Times that because of his criminal record he couldn't find outsiders to be directors.

At the start of 1992, the coalition became independent of the taxpayers' lobby but maintained a management contract with it that called for paying Mrs. Alexander $20,000 a month—an amount that some coalition employees say privately was excessive. According to The Times, the coalition also purchased services from companies that Mrs. Alexander owned, and Dan Alexander received $3,000 per month for consulting, too.

"They were never hesitant to lavish benefits on themselves, but they grudgingly gave us the tools we needed to do our jobs," said a coalition official who asked not to be identified.

Last fall, all ties with the Taxpayers Education Lobby were ended after the coalition's entire staff threatened to resign. Since then, the coalition has recruited three outside directors and installed a new chief executive, Paul Bramell.

The PRESIDING OFFICER (Mr. CAMPBELL). Who yields time? The Senator from New Mexico [Mr. DOMENICI] is recognized.

Mr. DOMENICI. I yield whatever time the distinguished chairman of the committee desires.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. INOUYE].

Mr. INOUYE. I ask unanimous consent that on the Lautenberg amendment, there be a time limit of 30 minutes equally divided, under the control of Senator LAUTENBERG and the chairman of the subcommittee, and that there be no second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. STEVENS. Mr. President, could I inquire of the impact of the last time agreement on the Lautenberg amendment? What was the agreement?

The PRESIDING OFFICER. The agreement there would be 30 minutes equally divided between Senator LAUTENBERG and the Senator from Hawaii.

Mr. STEVENS. I might respectfully request that be 30 minutes equally divided prior to a motion to table; if the Lautenberg amendment is not tabled, that it remain open for debate and for second-degree amendments. That was the request.

Mr. INOUYE. I have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico [Mr. DOMENICI] is recognized.

AMENDMENT NO. 1068

(Purpose: To extend caps on defense and non-defense discretionary spending levels through fiscal year 1998)

Mr. DOMENICI. Mr. President, shortly I am going to send an amendment to the desk in behalf of myself and Senator NUNN. I have been informed, and I have no reason to think otherwise, if this Nunn-Domenici amendment would have been a sense of the Senate, as we had contemplated it, with reference to reinstating the walls for defense and foreign affairs, that it would have been subject to a point of order under the Budget Act because the Parliamentarian would so rule.

I am not agreeing here today, nor do I wish to give any further credence to that parliamentary situation, which I think is in error.

Nonetheless, instead of doing that, since if I have to have 60 votes on a sense-of-the-Senate resolution, I have decided, in behalf and with the concurrence of my friend, the Senator from Georgia, to submit an amendment that just changes the substantive law of the land with reference to walls. Obviously, it would be subject to 60 votes, but at least I would not be adding to the precedent of letting a sense-of-the-Senate resolution be subject to a point of order.

I am not making any inquiry of the Parliamentarian, who sits there watching. Obviously, from the demeanor, I do not think I have said anything that is inconsistent. But I do not care to spread that on the RECORD, so I cannot spread her reaction on the RECORD.

May I have order, please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. DOMENICI. Mr. President, I would say, though, that this amendment, whether or not it be in the nature of a sense-of-the-Senate resolution, regarding reinstatement of the walls separating the budget numbers of defense from all of the rest of discretionary on the domestic side, would take a long time, because I understand there are Members on both sides who would like to discuss it. In particular, I gather, those who oppose it would take a very long period of time.

I am going to offer it so it will be in the RECORD. We are going to discuss it for a length of time, but then I will not ask for a vote. I will withdraw it. I want to make sure we do not get one more appropriation bill for the defense of our country behind us without my being able—and I assume my able friend from Georgia wants to do the same—to lay down a marker that will remind the U.S. Senate and the public of this country what is happening to the defense of our Nation in terms of available resources under the current situation.

So I will send an amendment to the desk, amendment No. 1068, in behalf of myself and Senator NUNN, and ask for its immediate consideration, with the full understanding I have already shared with my friend, the chairman of the committee, that we will not vote on it. After debate, we will withdraw it.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. NUNN, proposes an amendment numbered 1068.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. .EXTENSION OF SPENDING LIMITS.

(a) CATEGORY.—Subparagraph (A) of section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"(A) For fiscal years 1994 and 1995, any of the following subsets of discretionary appropriations: defense or nondefense. New accounts or activities shall be categorized in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate.".

(b) DISCRETIONARY SPENDING.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (D) and (E), and inserting: "(D) with respect to fiscal year 1994—

"(i) for the defense category: $264,051,000,000 in new budget authority and $277,294,000,000 in outlays;

"(ii) for the nondefense category: $236,913,000,000 in new budget authority and $261,463,000,000 in outlays;

"(E) with respect to fiscal year 1995—

"(i) for the defense category: $262,624,000,000 in new budget authority and $272,744,000,000 in outlays;"

"(ii) for the nondefense category: $243,663,000,000 in new budget authority and $268,528,000,000 in outlays;"

Mr. DOMENICI. Mr. President, stunning events on four continents call into question the basic premises on which this administration bases its defense budget and what passes for its foreign policy:

The storming of Russia's parliament building by Boris Yeltsin's troops earlier this month should end the euphoria in Europe that started building with the fall of the Berlin Wall.

The mauling of our finest troops by a band of irregular forces in Somalia should halt talk of putting other American forces under U.N. command. It may save others from being sent into danger with no mission and inadequate support.

The scuttling of State Department attempts to rush United States military engineers ashore in Haiti, followed by the abrupt flight of U.N. personnel already there, marked the collapse of a flawed administration plan to "restore" democracy to Haiti.

Let us take a hard look at what recent events there and elsewhere signify for our national security:

First, Russia's only elected President is now totally dependent on his military. He has survived in power because of a military that has not allowed us to verify the dismantlement of a single nuclear warhead. And they may have 12,000 more warheads than we realized.

Also this month, we received news that China, defiantly rejecting our appeal for a moratorium on nuclear testing, exploded a nuclear device thought to be five to six times the size of the atomic bombs used in World War II. At the same time, China uses its vigorous economy to expand its conventional forces.

Finally, in Somalia, in Haiti, in China, and among many in Russia, anti-American feelings flare. As the remaining superpower, we are attacked for what we do and what we don't do. There are still groups out there who are capable of inflicting great harm on America and American interests at minimal cost to themselves.

None of this means that the cold war is back, but it means that an enlarged world of democracies with market economies—the assumption behind this administration's foreign policy rhetoric—is remote indeed. The more peaceful and more cooperative world we envisioned as recently as last year is fast receding.

In North Korea, in Serbia, and in Iraq, to mention a few places, well-armed thugs rule and threaten their neighbors.

There may no longer be a cold war, but we seem to be facing an icy peace.

This is a pivotal point in our Nation's history. The decisions we are making now in Washington about foreign commitments and support for our Armed Forces will shape the security of our Nation and the industrial world over the next decades.

Overseas, we face great uncertainty. That is always the case in periods of transition. Others look to us for leadership, for protection, or for signs that we will act with resolve.

The future of NATO, our future relations with a changing Japan, and hemispheric relations are all facing decision points in the near future. Here, as in Europe, skilled and unskilled immigrants from many poorer nations seek security and a better future. How we react to this uncertainty will, indisputably, shape our own future.

If America continues to signal disinterest or lack of resolve, global hotspots will ignite and present this Nation with real problems. That has happened too many times in my lifetime.

In 1950 in Korea, Kim II Sung didn't believe that the United States would defend South Korea against his invasion.

In the late 1970's, Leonid Brezhnev didn't believe that the United States would resist Soviet expansion in Central America, Afghanistan, and Africa.

In 1990, Saddam Hussein didn't believe that Kuwait was important enough to the United States.

In 1992, for example, many so-called foreign policy experts suggested there were no threats left because of the breakup of the Soviet Union. Few predicted that within a year Russian tanks would be engaged in central Moscow, Russian ships and planes in Georgia, and Russian forces in Afghanistan.

None predicted that Russia would threaten to withdraw from the conventional forces agreements in Europe—as it did this month.

But the fact is, recent history is replete with instances where enormous strategic upheaval occurred unexpectedly in the course of a few years or even less. This is not a lesson we should have to keep learning anew.

The United States calls itself the only remaining superpower. But despite dramatic change over the past 5 years, there remain real threats to American interests and American security. We must guard against these threats.

We must update our overseas interests and responsibilities, both military and economic, and design our national security policy to meet those current interests. But I fear that inattention by the President, irresolution among his advisors, and the current defense build-down may together invite trouble from outlaw nations and foreign terrorists.

My disagreement with the Clinton defense budget is not its downward direction, but its velocity and lack of connection with the real world. Clearly, spending restraint is a key ingredient of any deficit reduction package and, certainly, the defense budget can be reduced.

For the record, we have been cutting defense since the mid 1980's. Our challenge today, as it has been for the past few years, is to cut military spending in a manner that does not harm our security. We must maintain the effectiveness of our military force—the quality of our people and our technology. And we must structure our forces to meet the potential threats we face.

But I do not agree with those who look to the defense budget as a cure for all our fiscal woes. The defense budget can't continue to be tapped for Russian aid and domestic transportation projects. That bank is closed, I trust. That is the message I hear from the managers of this bill.

In 1995, the Department of Defense received $350 billion, measured in constant 1994 dollars. In 1994 that figure will fall to $239 billion and plans are for it to continue to fall further.

By 1998 defense spending will have dropped 35 percent—at a time when the administration keeps old commitments while coming up with new ones almost daily.

As a share of Federal outlays, 17.5 percent, or as a share of GDP, 4.1 percent; Department of Defense expenditures are already at the lowest levels since before the Korean war. When that war started, our men were ill-equipped and ill-trained, and were barely able to hold on.

The Clinton administration's budget is our third post-cold-war budget.

During the campaign, candidate Clinton promised to cut $60 billion more than what the Bush administration budgeted for defense over the 1994 to 1998 period.

President Clinton's defense budget cuts twice what was promised during the campaign.

Surely the Clinton administration had a new, constrained foreign policy in mind when it submitted a budget that cut $120 billion more than was planned under the Bush administration.

The Clinton cuts were made with a promise that a Bottom-Up Review of our defense establishment would justify those cuts.

The Bottom-Up Review used by the new administration proposes a military force structure and defense modernization plan that will be able to fight and win in two nearly simultaneous major regional conflicts.

I understand that to mean another Iraq and another Korea.

But what does that mean when potential foes have nuclear or chemical weapons—and are willing to use them?

What does that mean when the United Nations seeks more American forces for Somalia or for intervention in Bosnia?

When faced with a more gradual defense reduction, Secretary Cheney said:

> As we reshape America's military and reduce its size, we must be careful that we do so in accordance with a defense strategy and a plan that will preserve the integrity of the military capability that we have so carefully built.

Under the Clinton Bottom-Up Review force structure, active duty forces are cut from 1.6 to 1.4 million—700,000 fewer than were under arms in 1990. Yet the threats faced by the Clinton forces are identical to, or greater than, those faced by the already down-sized Bush-Cheney force structure.

How may those who want to humiliate and harm America view this defense budget? Consider the following:

The Senate Defense Appropriations Subcommittee has raised readiness concerns in their report.

First, funding for programs with a direct readiness payoff, such as training, has fallen from one-half of the operations and maintenance budget to one-third.

Second, backlogs of maintenance on tanks, planes, and ships are beginning to creep upward.

Third, measures of unit and equipment capability to perform wartime missions have fallen.

Fourth, the services are having a harder time meeting their recruiting goals and the overall quality of recruits has dipped.

To me, these are all indications that we may be cutting defense too much and too fast, with little consideration of our foreign commitments and threats we face.

Second, some defense analysts, such as former Deputy Under Secretary of Defense Dov Zakheim, have raised affordability concerns. His analysis argues that "a growing gap is emerging between the strategies that the new administration is likely to pursue and the dollars it is willing to allocate to defense in the future."

In particular the analysis calls into question the budget requirements for the Clinton military. It concludes that a force structure slightly smaller than that adopted in the Bottom-Up Review would require a defense budget of $287 billion for fiscal year 1994. This is $25 billion more than the amount budgeted by the Clinton administration.

Furthermore, the analysis concludes that for the period 1994–2013, budget requirements for a Clinton-like force structure would cost 30-percent more than projected during the next 20 years.

Third, Air Force responsibilities grow under Aspin's plan yet its force structure and budget grows smaller.

The Bottom-Up Review calls for a force structure capable of fighting in two nearly simultaneous major regional contingencies. During the Persian Gulf war we deployed 11 Air Force wings to the Middle East, 11 Air Force wings that were supported by aircraft from 6 Navy carrier battle groups and many more aircraft from allied nations. Under the Clinton force structure, we simply won't have twice that number—for two such contingencies—available for deployment.

Finally, Secretary Aspin admits that he will have to find another $13 billion in defense savings to stay within the budget constraints he has adopted. What commitments will be dropped? What threats are expected to disappear?

Clearly these examples call into question the basic intellectual and financial assumptions behind the Clinton defense plan. How can this plan enable our armed services to protect our vital interests against the greater uncertainly and new threats now emerging?

Candidate Bill Clinton had it right last year, when he said: "We cannot go 4 more years without a plan to lead the world * * * We must define a new national security strategy * * *." I am just hoping that we will get that strategy soon.

Now, Mr. President, the issue before us in this amendment, the Domenici-Nunn amendment, is plain and simple. It says take the President's budget numbers and put them in as a mandatory requirement from which we cannot annually in the appropriations process, we cannot take money from that and spend it on other programs.

Frankly, the speech I just gave could have an equal counterpart that describes in detail the pressure that is currently on the domestic budget because of underfunding and new programs. I do not choose to speak to that tonight other than to tell the Senate that in my years here and the number of years that I have watched the evolution of budgets in the Congress, there has never been more pressure for more money and more programs on the domestic discretionary accounts of this Government than right now.

As a matter of fact, each year it will grow, and the money available under the budget and the caps therein will get smaller while in fact the demands for domestic program expenditures will grow.

I might add, Mr. President, this Senator is not down here saying that the discretionary domestic accounts of this Government can take huge new cuts.

I do not believe that is the case. In fact, I believe reality will show us that it is probably the only place we are cutting very much, and the only place we have cut very much in the last few years, other than defense, which has taken almost all of the cuts.

So all we are saying is that for the next 2 years—we are not even asking for 5 years—just use the President's budget numbers, even though this Senator thinks they are too low, and do not take any money from that for any other purpose of Government. If you want to underfund those numbers, put it into the deficit reduction package for this country; either use it for defense or lose it, and put it on the deficit. But do not let the pressures that are mounting on the domestic side prevent us from taking from the defense budget to pay for these other needs.

One might ask, is this merely speculative? Is Senator DOMENICI worried about something that is not real?

We are going to appropriate and permit the Secretary of Defense to spend on the defense of our Nation what is going to be substantially less than what the President asked for.

First of all—and we have not gotten anybody to try to make sense out of this—the Congressional Budget Office's estimate of what the President's defense budget appropriation requirement is is $3.3 billion in outlays below the President's request.

Let me put it another way. Everything we have appropriated for defense thus far, when this bill is finished, will be $3.3 billion in outlays below the President's request. About $2 billion of that is because money has been shifted from nondefense programs, from defense to nondefense programs. The remainder of the difference is because of scoring differences and disputes between the Defense Department, OMB, and CBO; a very, very regrettable situation because it is truly very essential money that is being removed under the guise of scorekeeping and scorekeeping differentials.

I join my friend, Senator NUNN, who I am sure will talk more eloquently about this than I, although I have been in my position in the Budget Committee watching this defense issue. I truly believe the downward cuts in defense are already far too fast. I believe they are not the right thing to do in this dangerous world.

Second, I believe from the economic standpoint that we are cutting so fast that we are doing irreparable harm to some States and to thousands of people. While I know we are going to have reasons which cause defense to come downward each year, I believe we are moving far too rapidly both from the economic standpoint and from the standpoint of maintaining an appropriate defense.

President Eisenhower once said—he had a strange way with words—that "We should not make mistakes in a hurry." We surely should not make mistakes in a hurry when it comes to defense, and we clearly should not let the pressure of domestic needs take from a President's budget on defense, or from a defense that is agreed upon by the Congress in a budget resolution. We clearly should not let that happen. We would not let that happen any longer.

Perhaps the defense numbers are not to my liking. Maybe they are not to Senator NUNN's liking. But we are saying when the budget the President sends is adopted with those defense numbers, you have to leave them alone for 2 years. You cannot take money from it for anything else.

Mr. SASSER. Mr. President, I am not seeking recognition. I wonder if my friend will yield for one question.

Mr. DOMENICI. I will in a moment. I want to make sure Senator NUNN gets time.

Mr. President, I want to add as cosponsors Senators THURMOND, ROBB, and WARNER. I am sure there are others. They are aware that what I stated before is that we probably are not going to have a vote on this with a large number.

I want to close before I answer that question by saying Senator NUNN and I are not alone in this concern. The last time we sought a vote on this, we had the same problem. A point of order was raised, which under the Budget Act said you had to have 60 votes. That is my recollection. We did get 53 votes, which is clearly enough to change the law.

What we have not had is an opportunity to vote on this where there is a simple majority requirement, because of the technicalities in the Budget Act. We would have to go before the Budget Committee, have a hearing, and raise the issue there. That is what makes it nice to have our distinguished chairman here, who wants to ask me a question.

I will answer any question the Senator has. And if he does not mind, before he leaves the floor, maybe he can tell the Senator from New Mexico when we might have a hearing on putting the defense walls back. It would be interesting.

Mr. SASSER. Mr. President, for the purpose of asking my friend from New Mexico a question, the Senator from New Mexico mentioned the name of the distinguished American, former past President, Gen. Dwight David Eisenhower, in a speech, and referred to one of the statements, one of many wise statements, that President Eisenhower made during his career.

I wonder if my friend recalls the admonition that President Eisenhower gave at his farewell address to the Nation in which he warned the Nation of building a military-industrial complex, the danger of this military-industrial complex, the difficulty we would have in revising the allocation of resources to a military-industrial complex, and the difficulty we might have in dismantling it, should we get to that point?

Mr. DOMENICI. I am fully aware of it, Mr. President. I am also very confident—others may say to the contrary—but I am very confident that the distinguished and esteemed former general and President, if he were here today, would be far closer to the budgets submitted last year than to the budget submitted this year.

I just believe that you can make what you want out of a speech. But it seems to me, when you are talking about the world we live in and cutting defense as fast as we are, to suggest that former President Eisenhower would be on the side of cutting defense programs even more because he made a speech in which he concerned himself with using too much of our money for defense does not make much sense to me.

Perhaps the chairman will answer my question as to when we might have a hearing on this issue.

Mr. SASSER. Mr. President, frankly, I had not considered having a hearing on this issue. I will be pleased to accommodate my friend from New Mexico. But I viewed this issue as being dead.

In other words, we agreed in the budget negotiations and agreement in 1990 that we would oppose these walls, which had never been in place before, to my knowledge, or perhaps had been in place for 1 or 2 years before or during the Reagan years. But this was something totally new to segregate military funds from other funds for domestic purposes and hold them sacrosanct. And in view of the fact that that agreement has expired, and we agreed in that agreement that they would expire after 3 years and it would not be reinstituted, I saw no reason to hold hearings. And, frankly, I do not at the present time.

I have always tried to accommodate my friend from New Mexico, and will certainly take this under consideration if he feels very strongly about it. But I think this is an issue that probably is going nowhere.

Mr. DOMENICI. Mr. President, before I yield to my friend, Senator NUNN, let me state clearly for the Record that while the distinguished chairman—I appreciate the chairman's thoughts and what I might perceive to be a willingness to consider this. Frankly, I want to state that the Senator is right. When we went to the 1990 summit, we put in 3 years of walls so we would not take any more out of defense because we were cutting defense dramatically way back then.

We said that after 3 years, we will go to where the wall comes down, and we can decide right here in the appropriations process how much goes to defense and how much to take from the President's defense budget. But frankly, things have changed dramatically. I mean, we are now cutting defense $120 billion more than was contemplated then, No. 1. Second, the pressure for more domestic spending and more domestic programs, while everybody speaks of keeping the deficit down, is very different than it was when the "3 years for the walls, 2 years with the walls down" agreement was made. I believe it is time we take a real serious look at whether they should be there or not, in the interest of the future of our military men and women and what we want them to do and what we want them to be equipped with.

I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I thank the Senator from New Mexico for raising this issue and presenting this amendment for discussion and consideration by this body.

Mr. President, this amendment would establish separate caps on defense and nondefense—that is, domestic plus international—discretionary spending, similar to those that existed during fiscal year 1991–93.

These caps are consistent with the Defense funding levels we adopted in the budget resolution earlier this year. This amendment reinstates the so-called firewall between defense and nondefense discretionary spending for fiscal years 1994 and 1995.

Mr. President, I wish we did not need this kind of barrier. I hoped that we would reach a consensus on the need for a smaller and yet still strong Defense Department. The administration proposed deeper cuts than I would have preferred in the Defense budget this spring. I have discussed this at length with both President Clinton and Vice President GORE. They assured me they were committed to holding the line for a strong defense. I still believe they are personally committed to a strong defense.

This spring, I gave a speech on the Defense budget and offered an amendment expressing the sense of the Senate that the Defense budget should not be cut lower than the levels specified in the budget resolution, which was approximately the level President Clinton had submitted. This amendment was adopted by a 56-43 margin, but it did not have the force of law, again, because of the procedural situation in which we find ourselves on the Budget Act. Unfortunately, the fiscal year 1994 Defense budget already has been cut below the level we all agreed to in the budget resolution. The Senator from New Mexico made that plain, and he is 100 percent right.

In fact, the current total for Defense outlays—that is, the actual money expended within 1 year—in all of the Senate appropriations bills is about $3.75 billion in outlays below President Clinton's request, which is a level we agreed to, or thought we had agreed to, on the budget resolution.

The firewalls amendment that the Senator from New Mexico and I offered to the reconciliation bill in June would have prevented this, or at least a substantial part of this. A majority of the Senate—53 Senators—voted for our amendment, but the rules of the budget process required us to get 60 votes.

Mr. President, it is increasingly clear that a combination of forces, both within the Clinton administration and in this Congress, have caused the fiscal squeeze and the strong desire to fund other programs, and the combination of all of that, the fiscal squeeze and the strong desire to fund other programs, continues to erode the Defense budget substantially below President Clinton's proposal.

If we want to protect defense and maintain a strong national security, I believe there is no choice other than to reinstate the firewalls that have protected the defense budget for the past 3 years, while at the same time allowing substantial cuts in defense, provided they go to deficit reduction, rather than being shifted to other programs.

Mr. President, again, as I stated this spring, I believe Defense must contribute its fair share to deficit reduction, consistent with the threat we now face in the world. But for the last several years, Defense has been the only part of the budget where we have achieved any significant deficit reduction.

The budget summit agreement in 1990 was supposed to produce $500 billion in deficit reductions by 1995. We not only failed to reduce the deficit by $500 billion, but the deficit is expected to actually increase by $500 billion during this period, a total shortfall of $1 trillion.

Despite this, the Defense budget was cut just as planned in the 1990 budget summit agreement. All the Defense cuts were made as planned, but the rest of the savings have not materialized.

The discretionary part of the budget—because it includes both Defense and nondefense spending—has delivered its fair share of the savings. None of the other categories of the 1990 budget summit—entitlements, interest payments or revenues—have met their share of the savings required by the budget summit. In part, but only in part, this is because of the recession. It is clear, Mr. President, that the discretionary category is meeting its share only because Defense spending has been cut more than originally planned. Domestic discretionary spending has not been decreasing. Only Defense spending has been decreasing.

Defense continues to do more than its share of the deficit reduction in the Clinton budget. At a minimum—and I stress minimum—in my opinion, it is going to be much larger. The Defense budget is contributing 25 percent to overall deficit reduction, and that includes the tax increases—I think at least 40 percent. I think it is substantially more before we get through, in terms of 40 percent of the spending cuts in the reconciliation bill, even though the Defense spending overall is about 20 percent of our budget.

If Defense is cut even further to get the overall discretionary spending in the President's budget, under the new discretionary caps, the Defense share of the $500 billion in deficit reduction could be as much as twice as large as we are now projecting on paper. These are all cuts from the Bush Defense budget, which was already declining to reflect the end of the cold war.

Now people will say there were a lot more than Defense cuts in the recently enacted reconciliation bill. They will say entitlements are being cut, and taxes are being increased. That is all true, Mr. President. But that was also true of the 1990 budget summit agreement. The problem is in making sure that the other savings actually materialize.

I know there are a number of Senators who opposed the reductions in entitlement spending contained in the reconciliation bill. But I would point out that these largely are not budget cuts at all, but reductions in the increases. Most parts of the budget will not grow as much as their proponents want them to grow, and they call that a cut. But in Defense, the cuts are actually cuts.

Mr. President, over the next 5 years, even if the Congress does not cut Defense below the President's current 5-year plan—in other words, if we hold to the President's plan—we will spend $200 billion less on defense than we did in the last 5 years. This is not a baseline comparison; this is a comparison of the next 5 years with the previous 5 years. It will be $200 billion less on defense than in the previous 5 years. On the nondefense discretionary under the new caps in the reconciliation bill, those funds would be allowed to increase by $300 billion compared to the previous 5 years.

These numbers indicate the importance of the so-called baseline, which is, of course, the bible that we go by in the budget procedures here in the Congress. This baseline allows spending to increase compared to previous spending, while at the same time allowing a claim that a decrease has taken place compared to the baseline, because the baseline has built-in increases. In other words, you can plausibly claim that spending is going down when, in fact, spending is going up, but simply going up less than the baseline, which was already heading up.

All of the deficit reduction in the reconciliation bill was measured against the baseline with built-in increases, except the Defense cuts which were measured from the most recent Bush budget, which was, in effect, the baseline for Defense.

In other words, the Defense baseline was different from other baselines, and the Defense baseline was not going up; so the cuts in Defense were real, while the cuts in the other areas, the increase is simply less than in the baseline.

Mr. President, interest payments on the debt, for instance, even with low interest rates that we are blessed with now, would be $200 billion higher over the next 5 years compared to the previous 5 years. And, of course, this alone, just the increase in the interest on debt, compared to the previous 5 years, will cancel all of the Defense savings. That is the kind of fiscal plight we have today.

Entitlement spending would increase by $1.2 trillion during the next 5 years—not billion but trillion. About $440 billion of this will be in the self-financing Social Security Program. But even after the cuts in the reconciliation bill, Medicare spending in the next 5 years will be $400 billion higher than in the last 5 years. The Medicaid increase, just in the Federal share, will be $300 billion compared to the previous 5 years.

Mr. President, these numbers—the $200 billion increase in the debt over the next 5 years, the $700 billion increase in Medicaid and Medicare—if you see those increases, you begin to see why we cannot cut Defense enough to keep up with the increases in the other categories. The arithmetic just will not work.

Mr. President, I am prepared to accept reductions in the Defense budget. We have to have a defining Defense budget. We all know that. Whatever this Congress decides should be spent on Defense if the budget reconciliation should become the ceiling for Defense. That is the way our process works. But again, that is not what happened. In June, the Armed Services Committee held a hearing with the Deputy Secretary of Defense William Perry. Dr. Perry pointed out that there are a number of technical scoring problems that could cause the Congress to make deep program reductions in the fiscal year 1994 Defense budget.

The place where this problem really becomes visible is the allocation process where the Appropriations Committees take the funding assigned to them by the budget resolution and allocate it to the various subcommittees.

The House decided to cut the defense budget by $2.5 billion—and that is beyond the President's budget—and the Senate Appropriations Committee cut an additional $300 million on to that, for a total cut of $2.8 billion below the President's budget.

These reductions are in outlays, which means that far more has to be cut in budget authority in 1994. That is money that spends out over a long term rather than outlays that spend out in the fiscal year in question. Usually that ratio is you have to cut budget authority, particularly in procurement accounts three to four times as much as the outlays in order to generate the savings in the fiscal year in question.

Mr. President, the Appropriations Committee had reasons for their action. Two factors primarily contributed to the cuts imposed by the Appropriations Committee in the 602(b) process. The first factor is that the Congressional Budget Office reestimate of the defense budget submitted by the President. The second is the administration's overall budget submission which exceeded the spending caps over all discretionary accounts which includes defense but is not limited to defense. Those are the two primary reasons that we have seen erosion in the President's defense numbers.

CBO REESTIMATE OF DEFENSE BUDGET

As required by law, the Congressional Budget Office reestimated the administration's fiscal year 1994 budget proposals. CBO concluded that the defense budget had nearly $2 billion more in outlays than estimated by the administration. The primary source of this difference is that CBO assumed that the defense budget would not generate the $3.1 billion cash balances in the Defense Business Operations Fund—DBOF—anticipated in the fiscal year 1994 budget, and instead estimated DOD would generate only $1.5 billion.

What I cannot understand is that CBO went on to assume that the $1.5 billion that DOD would not raise would still be spent. DOD assumed that the $3.1 billion would still be transferred to the services' operations and maintenance accounts and spent, even though CBO assumed only $1.5 billion would be transferred to the O&M accounts from the DBOF. This does not make any sense.

Mr. President, usually there are some kind of scorekeeping disconnects, one or another contained in every year but not in the magnitude. In previous years, the CBO has called attention to the administration's use of outlay gimmicks. It happened in the Reagan years and Bush years. I am not saying CBO should not provide an honest reevaluation of the budget submitted by the executive branch. They should. The Budget Committees have final authority to resolve these technical disputes. But the Budget Committees have refused to consider these scorekeeping problems this year. And if things do not change, billions of dollars in defense programs will have to be eliminated to satisfy a technical scorekeeping dispute by CBO that relates to the so-called Defense Business Operations Fund, the OBOF.

To give just one concrete example of the effects of this scorekeeping dispute, the appropriations bill before us today cuts $5.2 billion from the administration's request for research and development programs. Members have not felt that yet. If it is a procurement program, immediately they feel it. They feel it in employment. They feel it in people getting in touch saying, what is happening? You do not feel it in R&D as quickly. Believe me, though, before this session is over, and certainly by early next year, the Members of this body are going to feel these research and development cuts that the Appropriations Subcommittee on Defense has been almost compelled to make.

In other words, these $5.2 billion cuts in R&D eliminating roughly 1 dollar in every 7, about one-seventh of the R&D budget that President Clinton asked for to keep our technological edge in an era where almost every major procurement program has been canceled.

On the other side of the coin, this bill adds $3.4 billion for an aircraft carrier that was not in the budget request or in any of the other three defense bills, although this aircraft carrier been made subject to authorization.

I thank the chairman of the Appropriations Committee, the Senator from West Virginia, for that because I think it does keep the overall framework between authorizing and appropriators that we have agreed to, and I commend him. He is on the floor now. I commend the Senator from West Virginia for that.

Mr. President, I want to just show, and I am not sure the people can grasp this, but I know the people who keen up with the numbers can, I think it is important that all of us start focusing on what is really happening with this budget process, why was the Appropriations Committee able to add an aircraft carrier at the cost of $3.4 billion that was not in the President's request when we have a declining defense budget?

Mr. President, to put it simply, when we have a scorekeeping dispute that has dictated the outcome of what should be a policy debate about whether to buy an aircraft carrier and when to buy it—but that policy debate is not what is dictating this. It is being dictated by the scorekeeping element of the budget process. The carrier is in this bill and in no other bill at this stage—although the House has a portion of the funding—because this bill cuts the research and development accounts, which are fast spending money, in order to hit an outlay target. By cutting R&D that basically allows the appropriators to meet the outlay target, but it creates extra budget authority that can be used up. So that extra budget authority is what enables them to buy a new aircraft carrier because the aircraft carrier has very few outlays in the first year. In other words, you start an aircraft carrier, but do not spend much money in the 1st year. It takes 7 years to build it. Most of the money is spent in the 2d, 3d, 4th, 5th, 6th, and 7th year. It has very little outlay impact the 1st year.

Ironically, though, anyone looking at the budget would realize the aircraft carrier will have outlays in future years, we are going to have this outlay problem every year for the foreseeable future.

So in the name of making this year's outlay problems better, next year's outlay problem and the years after are being made worse. We may need the aircraft carrier next year. The administration plans to buy an aircraft carrier next year. And I certainly may support this. But this is a budget-driven decision, and I understand why the appropriators did it. They had their good reasons, but this budget-driven decision I think demonstrates the ultimate absurdity where we are in the defense budget process now.

We buy a $4 billion aircraft carrier in fiscal year 1994, which will increase spending over the next 7 years because we have an outlay squeeze this year. I guess you could deduct from that if the squeeze gets any tighter we may have to buy two aircraft carriers. It just is not a sensible way to deal with the budget.

Mr. President, that is what we are dealing with. We are dealing with a defense budget that is almost totally outlay driven when defense accounts spend out over 2 years 3 years, 4 years, 5 years, 7 years, and if we do not change this process, then we are going to have absurd decisions made by this body and by the House that are almost totally driven by the budget process.

Mr. President, the second factor causing the Appropriations Committee to cut the defense budget outlays originated in the Clinton administration's own budget proposal. As I pointed out this spring, the administration's budget that they submitted to Congress exceeded the allowable spending cap for fiscal year 1994 in the discretionary accounts by $5.7 billion. That is in the discretionary accounts again. For people who do not follow the arcane labels here in the budget process, discretionary spending includes defense and also nondefense domestic discretionary and does not include the entitlement programs. This is not just a fiscal year 1994 problem. This is part of the problem this year, but it is going to get worse and worse.

Discretionary spending in the administration's 1994 budget, if you project it over 5 years, their 5-year budget exceeds the caps by $75 billion—$75 billion. The Budget Committees assumed that most of these savings would come from slowing down the President's investment proposal. I am not sure there is consensus on that with the executive branch, but that is the basic assumption.

I have seen this process long enough to know where I think it is headed. I want to caution my colleagues who are concerned about our defense capabilities that because of this outlay problem to the tune of about $75 billion there is going to be enormous pressure to try to get these extra cuts out of defense, each and every year, and that will be below the Clinton budget that is already coming down below the Bush budget when he left office.

Mr. President, there is a train wreck coming in defense. It is obvious to all who look beyond the rhetoric and get down to the numbers. The train wreck is coming.

I am especially concerned about the prospect of additional cuts because, in my view, the current defense program is already underfunded based on the Bottom-Up Review and based on what the Secretary of Defense assumed we would have to have in the way of capabilities to meet our contingencies around the world.

The Defense Department has just completed a several months' long review called the Bottom-Up Review in order to hit the $120 billion defense spending reductions that were projected and mandated by the Clinton administration. They came up $13 billion short in their own review.

(Mrs. MURRAY assumed the chair.)

Mr. NUNN. This shortfall of $13 billion does not include the cost of funds for pay raises for the military and civilian personnel that are required under current law. The President has proposed sharp reductions in these pay raises, but the Congress rejected that approach this year not just for the military but across the board. The Congressional Budget Office estimates the cost of the military and civilian pay raises for DOD under current law to be about $23 billion over the next 5 years over and above what had been assumed in the President's budget and also assumed in the Bottom-Up Review.

Earlier this year, when I raised this issue with the administration, I was assured that if the proposal to freeze pay was rejected across the board, not just for one agency, money would be added back to reflect that policy change, so that the defense budget would not have to eat this $23 billion, in effect, taking it out of either procurement or R&D or operation and maintenance.

The reconciliation bill did exactly what I had feared and projected, and that is it rejected the pay freeze for military personnel and for civilian personnel. Now there were good reasons for that decision. But the impact on the defense budget, unless adjustments are made, is going to be very significant and very damaging, because the discretionary caps in the reconciliation bill made no allowance for this fact. In effect, the reconciliation bill imposed these additional costs of $23 billion on the Defense Department, which is precisely the opposite of what I had been assured would occur.

Madam President, I am led to the obvious conclusion that there is no other solution—and this is not a complete solution, it is a partial solution—there is no other solution, even partial solution, than to reinstate the separate spending caps—the firewalls—for defense spending and nondefense spending. Reinstating the firewalls does not—and has not and will not—prevent the defense budget from being cut, and it should not. There should be no budget that is sacrosanct, no budget that cannot be cut.

In each of the 3 years we had firewalls, the defense budget was cut below the cap allowed by law, but the money went to deficit reduction. In fiscal 1991, defense outlays were $11 billion below the cap; in 1992, defense outlays were $9 billion below the cap; in 1993, defense outlays were $8 billion below the cap. But that money went to reducing the deficit. It was not taken and put in other spending accounts.

This amendment would not make up the $13 billion Secretary Aspin has identified in his review. It would not make up the $23 billion related to the pay increase over 5 years. What it would do, in my opinion, is help prevent the defense erosion that is already occurring from getting worse and worse and worse. It would remove the incentive—the incentive, which is a strong incentive in this body—to cut the defense budget quietly through arcane legislative and budgetary maneuvering. It would put real discipline on the nondefense elements of the discretionary budget, since, if it comes in over the nondefense cap next year, the excess would not be able to be funded through deeper reductions in the defense budget.

Madam President, this amendment that is being proposed by the Senator from New Mexico and myself supports President Clinton's defense budget. I believe, as I have said, that the President is committed to a strong defense. Unfortunately, however, forces at work in the Congress and in his own administration, as well as the fiscal pressures, have already significantly undercut his budget number in defense, and more changes are on the way; more changes are on the way.

Madam President, in recent years the defense budget has subsidized the Coast Guard's operating budget—and there is some reason for that, because the Coast Guard does play a crucial role in protecting our own shores. It has paid for the National Science Foundation research in Antarctica; funded breast cancer research at the National Institutes of Health; paid for foreign aid to Jordan; built a parliament building for a foreign country; and paid for noncompetitive, earmarked grants to a few well-connected colleges and universities. Too many people in this town have come to regard the defense budget as a piggy bank to draw on whenever they run short of money.

Madam President, we continue to need a strong and ready defense establishment. We have American soldiers, sailors, airmen, and marines in combat conditions flying watch over southern Iraq; we have them in Korea on the DMZ; we have them in Europe; we have them patrolling off the coast of Bosnia and enforcing the no-fly zone; we have them in Somalia; and there is some talk of having them shortly in Haiti, and they are already, of course, around Haiti on these ships.

American forces around the world are operating in combat conditions in order to help promote peace. We must have ready forces. But the readiness of these forces is seriously threatened by these outlay problems that we are talking about today, and by the overall defense cuts.

Madam President, I give great credit to Secretary Aspin and Deputy Secretary Perry for their commitment to avoid a return of a hollow military. But there has to be wake-up call, and that wake-up call, I think, is being sounded again—not the first time —here today. That wake-up call says, in effect, that the readiness of our military forces is being threatened by these cuts that we are being forced to make and by the diversion of funds to the nondefense programs.

Madam President, it is not just readiness. It is also our technology base. We have the world's best technology. We are on the cutting edge. We are beginning to erode that. We are making very severe cuts in research and development in this bill. I understand full well why the Senator from Hawaii and the Senator from Alaska have had to make these cuts. This is in no way a criticism of them, because they have met the outlay totals that I have described and they have had to do that under the budget resolution.

Madam President, our U.S. military forces are not capable of carrying out the tasks assumed in the Bottom-Up Review with this kind of eroding defense budget. We are either going to have to adjust the resources, or we are going to have to adjust our expectations of what our military will be able to do, because the two are going in the opposite direction. Resources are heading down; expectations are heading up.

Madam President, we are developing, slowly but surely, we are developing a mismatch between our strategy and the resources available to the military to carry out that strategy, and we are also developing a mismatch between our commitments and our capabilities.

Madam President, a lot of people do not realize how much the defense budget has come down, especially compared to the rest of the budget. When the budget agreement expires in 1998, defense spending, even if there are no further cuts from the President's plan, will be $253 billion, compared to $291 billion in 1988.

Over the same 10-year period, nondefense discretionary spending would increase from $174 to $294 billion. Entitlement spending would double from $494 billion to $1 trillion. And interest on the debt will go up from $150 to $250 billion. Within that doubling of entitlement spending, the increases in health care costs are particularly alarming. Medicare nearly triples, from $86 to $239 billion, while Medicaid spending quadruples from $31 to $139 billion.

For those who are more familiar with baselines, this year's defense budget is about $230 billion in 1990 dollars, if you want to compare it to the $300 billion budget we had at the end of the cold war before the 1990 budget summit. Over 10 years, the savings from that agreement alone, as embodied in the previous administration's base force, were $600 billion. And by the year 2000, the additional savings from bottom up review force cuts will be another $350 billion. That is a total defense cut of nearly $1 trillion over the course of the 1990's, compared to the level we entered the decade at, which was already far below the level of defense spending at the height of the cold war.

Madam President, I commend my friend from New Mexico for sounding the wake-up call. The Domenici-Nunn amendment would protect the administration's defense spending plans from even deeper cuts by those who would shift these funds to other sources. It certainly would not protect the defense budget from reductions to meet the deficit.

It would also remove the incentive for those who would risk the kind of defense we must have, to use the defense budget for other purposes.

Madam President, I think it is very unfortunate that the rules of the budget process prevent us from being able to pass an amendment of this nature, which I think is crucial, by a 50-vote margin, because I think we would have 50 votes here. I believe we would have 50. I do not have an exact count; have not tried to get one. But I do not think we have 60 votes.

I do think, though, it is important for our colleagues to begin thinking seriously about this, because it does not take any kind of genius or any kind of brilliant analysis to figure out where we are heading. We are heading for that kind of mismatch between strategy and resources and between capabilities and commitments. That is a road we have been down before. Every time we have gone down it, it has cost this country not only dollars in trying to make up for what happened in the past, it has cost this country precious lives.

Madam President, I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Madam President, I have listened carefully to the remarks offered today by the distinguished ranking member of the Budget Committee and also by the distinguished chairman of the Armed Services Committee.

I might say that I share their concerns about the need for adequate resources for the military establishment of this Government. But, I do not believe I can accept the solution that they feel might be necessary at some point in the future, and that is reinstating the walls between the military and nonmilitary discretionary spending.

Military spending and nonmilitary spending are lumped together as discretionary spending. The appropriations committee and the Senate as a whole makes a determination as to the allocation of this discretionary spending between the military and other nonmilitary discretionary items.

The presence and the duration of the walls was the subject of considerable debate at the time of the budget negotiation. And 2 years ago, on the floor of this body, I warned my colleagues that we were entering into a critical phase and that there was going to be a train wreck between these budget caps and budget outlays in the outyears. And I told my friends on the other side who were interested in military spending, and those on this side, that we had to do something about these very costly military projects being put into the budget now which create these bow waves in the outyears. Let us do something about them now so we do not have the train wreck 2 years down the line.

A majority of the Senate did not listen—or disagreed would be the better explanation. A majority of the Senate disagreed with my views and we went ahead and funded programs like the F-22, the C-17, heavy spending for the strategic defense initiative, the B-2 bomber. The list goes on and on and on. Even though we knew that in the outyears, if the budget caps remained in place, we were not going to be able to hit those caps without cutting fast-spending items—and that meant R&D, that meant readiness, that meant personnel.

So now we are at that point and we are hearing complaints now that this is the fault of the budget process. There is something wrong with the way we have done these calculations. If we reinsert these walls, we will not have these problems.

During the negotiations leading up to the budget agreement, there were many of us, including this Senator, who felt there should be no walls at all. We argued that there should be no walls at all. But we were in the minority, and there were many who argued, on the other side of the aisle, that walls should be included through 1995.

A bipartisan compromise was struck. Walls were established through 1993. This is a very unusual process; to arbitrarily and artificially segregate accounts within the overall discretionary spending, segregate military, segregate domestic, segregate foreign operations. To my knowledge, this had not been done in statute before, but it was done for 3 years, and we found that the moneys that had been set aside for the military establishment which they said were absolutely necessary they were returning back to the Treasury. They were not even using all of them.

The compromise, though, was widely supported by Members from both parties. It has withstood numerous challenges over the last several years. Prior to the current fiscal year, the staunchest defenders of the budget agreement have been the proponents of large military budgets because they had walls in place to make those military funds sacrosanct while the domestic discretionary needs of the country were crying.

Now, despite the fact that the cold war ended shortly after this budget agreement of 1990, defense spending continued to receive special treatment and special protection. The walls between military and nonmilitary spending prevented the U.S. Senate from adjusting this Nation's fiscal priorities in light of dramatic changes that occurred since the budget agreement was adopted. At that time when we were trying to take down the walls, those who are trying to reinstate them today were not complaining about the budgetary point of order that required 60 votes to take them down. They seemed to think that was satisfactory in those days and utilized the budget point of order and requirement of 60 votes to keep the walls intact.

But now there is a complaint that it takes a 60-vote point of order to overcome the budget agreement, and to reinsert the walls after they have collapsed.

According to the Congressional Budget Office, President Clinton's budget proposed $278.8 billion in military spending for fiscal year 1994, and $1.314 trillion for the period 1994 to 1998. President Clinton's fiscal year 1994 military spending proposal for $279 billion, in constant 1994 dollars is nearly $30 billion more in constant dollars than we were spending in President Carter's term in office and nearly $50 billion more in constant dollars than we spent during the Presidencies of Richard Nixon and Gerald Ford.

Let me make that point again so my colleagues will understand. The $279 billion in constant 1994 dollars is $30 billion more, in constant dollars, than we were spending during President Carter's term in office and $50 billion more than we were spending, in constant dollars, corrected for inflation, during the Presidencies of Richard Nixon and Gerald Ford.

The only difference beyond the fact we are spending more in constant dollars than they spent is that the Soviet Union has collapsed. The evil empire is no longer there. The Soviet Army, once the largest on the face of the Earth, is no more. No longer are tens of thousands of Soviet tanks threatening our friends in Asia and in Europe. No longer are Soviet ships and submarines cruising every major body of water in the world. In short, there is no military superpower on the face of the globe other than the United States of America. Yet we have complaints that we are only spending $50 billion more on the military establishment today in constant dollars than we did when President Nixon was in office.

Examples of the completeness and permanence of the Soviet collapse are everywhere. It has been well over a year since it was publicly reported that the once vaunted Soviet Navy—some said the world's largest navy—had recalled all of its service combatant ships because of fuel shortages, low morale, and uncertainty about what orders to follow; indeed, in the case of the Black Sea Fleet, uncertainty over who really owns or commands the navy.

The Central Intelligence Agency reported that the countries of the former Soviet Union have sharply cut their military spending and have lost the will and much of the ability to attack the United States and its allies. Funding for new weapons system procurement in the old Soviet Union, or in the Russian federation, now, have been cut by 80 percent—80 percent.

The Iuzhmash factory in the Ukraine, once the flagship of the Soviet military-industrial complex, has turned its attention away from producing SS-18 strategic missiles and is now manufacturing sausage-making machines. At this same factory, unfinished SS-18 booster shells are being transformed into farm granaries and trolley buses.

So, as you see, the Soviet collapse is almost complete. The events of recent weeks in Moscow make it unimaginable that we could see any return to Communist control of Russia and the re-emergence of any entity even remotely resembling the former powerful Soviet Union. Yet we continue to lavish money on the military, as if this were not so.

The proponents of bringing back the budget walls are essentially arguing that we should continue in this fashion indefinitely, without debate or without letting the Senate have the option to align Federal resources with national problems.

The argument we are now hearing so frequently on the military budget is that spending cuts will cost jobs. In many instances, the military budget has become chock full of military pork barrel, and it is often nothing more than highly expensive jobs projects.

Madam President, 3 years of this artificial protection of the so-called walls have produced 3 years of artificially high levels of military spending and 3 years of continuing the neglect of our domestic problems. The proponents of reinserting or rebuilding the budget walls are now arguing that 3 years of these misplaced priorities are not enough.

I know the hour is late, and I do not want to unduly discommode my colleagues here, but to argue that artificial walls between military spending and nonmilitary spending are necessary because the President of the United States and the duly elected representatives of the people who constitute the Congress of the United States cannot be trusted to accurately assess our domestic and security needs and make rational judgments about how our scarce Federal resources can best be allocated is a strange argument, indeed.

The proponents of budget walls assert that without the protection of these walls which, in this Senator's opinion, serve to artificially inflate military spending, Congress will unwisely transfer tens of billions of dollars from defense to nondefense programs. The record simply does not support these fears, Madam President.

As I noted above, the President requested $278.8 billion in military spending for fiscal year 1994—the first year without the budgetary walls. What has Congress done with this request? Did we gut national defense military as the supporters of reinstituting budgetary walls profess to fear? Did we fail to adequately support the military spending recommendations of the President and the Secretary of Defense? This body, largely through this very bill some now seek to amend, would provide the Pentagon with nearly $276 billion or 99 percent of what the administration requested.

To the supporters of bringing back the walls I ask where is the wholesale reallocation of resources from defense to nondefense which they have been warning this body about for several years now? It has not happened this year, Madam President, and I predict it will not happen next year either. This body has been elected to make just these kinds of decisions. The remedy being considered by the distinguished ranking member of the Budget Committee and others is artificial at best and would cure a problem which has yet to manifest itself.

Year in year out this body has heard the protectors of large military expenditures complain that the spending target has been set so low as to be unreachable without massive dislocations of our military personnel and our defense industry and increased threats to our national security. And yet, the defense appropriations committee is able to annually meet these same unreachable levels and does so without precipitating any of the catastrophes that have been predicted. In point of fact, the budget before us continues to fund several cold war relics leading this Senator to conclude that still deeper cuts are possible. Perhaps the most egregious example of this is the fact that the bill before us supports 12 aircraft carrier battle groups—the number deployed by the United States during the heart of the cold war—and contains over $3 billion for the purchase of still another carrier.

I would argue that 3 years of artificial protection is more than enough and that the budget agreement that was protected so vigorously by proponents of military spending over the last 3 years should be just as vigorously observed over the next 2. Moreover, we should learn the lessons of the past. We should preserve our fiscal flexibility to react to changing circumstances for 1996, 1997, and 1998 as well.

I simply want to say that I will stringently oppose my distinguished friend's amendment if it is to go forward—it is my understanding that it may not—this evening.

In that view, I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I find myself in somewhat the same circumstances as have been described by the very distinguished Senator from Tennessee [Mr. SASSER], chairman of the Committee on the Budget. It is my understanding that the amendment will not be pressed to a vote. It has been well aired, in my judgment.

The distinguished Senator from Tennessee has ably defended against the amendment. I would, of course, take time if there was an effort to press the amendment to a vote.

Madam President, I oppose the amendment offered by the distinguished Senator from New Mexico [Mr. DOMENICI] because I think both the President and the Congress need the flexibility to set priorities to respond to rapidly changing circumstances, and the pending amendment would rob us of that flexibility. I am somewhat surprised that the senior Senator from New Mexico continues to pursue a restoration of the inflexible discretionary caps that were in place for fiscal years 1991, 1992, and 1993. I know that Mr. DOMENICI is a very strong advocate for increased infrastructure spending for the State of New Mexico, as well as for the entire Nation. So I am amazed that he would offer an amendment that would further tie the hands of Congress and the President in meeting our domestic infrastructure needs over the coming years.

As part of the negotiations on the 1990 budget agreement, I reluctantly acceded to the establishment of the "walls"—three separate categories of discretionary spending: national defense (function 050); international affairs (function 150); and domestic. Each of the categories had separate caps for budget authority and outlays for fiscal years 1991, 1992, and 1993.

During those budget summit negotiations, the Bush administration held most of the high cards. In the absence of an agreement, the August 1990 "Initial OMB Sequester Report to the President and Congress for Fiscal Year 1991" projected a potential October sequester of $105.7 billion. If we had not been able to get an agreement with the White House, discretionary programs would have borne the brunt of virtually all the cuts mandated under the then current law. That potential sequester would have required a uniform percentage reduction of 43.6 percent in defense discretionary programs and of 40.7 percent in nondefense discretionary programs.

I agreed to the separate caps during those negotiations in which the Bush administration wanted to protect its priorities of defense and foreign aid spending, and I, in an effort to address our infrastructure deficit, wanted to increase and protect that domestic discretionary spending. I agreed to those caps, and then I defended them as if they were my own.

One lesson we should have learned from our experience with the three caps is that we cannot predict the future. In the summer of 1990, the Warsaw Pact posed a significant threat, the Soviet Union had not dissolved, and Iraqi troops had just overrun Kuwait. Those circumstances were vastly different from what we face today. Conversely, the collapse of the Soviet Union has greatly increased the need for domestic infrastructure spending, in part, to compensate for the reductions in the defense sector of our economy.

Although I cannot know the future, I am able to make some reasonable guesses about what would happen if we were to go back and reestablish the caps. My first guess is that the proponents of this amendment would argue that nuclear weapons cleanup is a defense (function 050) issue not an environmental (function 300) issue. Second, they would argue that conversion of facilities and activities from defense to nondefense uses is a function 050 activity. Third, they would argue that certain peacekeeping activities, traditionally funded as nondefense activities, should be reclassified as Department of Defense (function 050) activities.

How can I predict these things? I can, because that is precisely what happened over the past several years.

First, an ever-growing portion of the Department of Energy "atomic energy defense activities" account, previously used to fund nuclear weapons development and production, is now devoted to environmental cleanup and waste management. In fiscal year 1990, total appropriations in this account for environmental cleanup were less than $2 billion. In the pending administration request, that amount has grown to $5.4 billion.

Second, the defense authorization bill last year authorized spending of some $1.5 billion as defense conversion, reinvestment, and transition assistance funding. The authorization covered activities as varied as participation of discharged personnel in Upward Bound to grants to colleges for training in environmental restoration. These may be meritorious activities, but they are, arguably, nondefense activities.

Third, just last month the Senate, in a bipartisan effort, and in conformance with the administration request and House action, appropriated $979 million in supplemental funds to the Department of Defense [DOD] "Operation and Maintenance, Defense Agencies" account in the fiscal year 1994 Foreign Operations appropriations bill. These funds were provided for assistance to the former Soviet Union. But for the Nunn-Lugar initiative established in the fiscal year 1992 DOD authorization bill, this funding might reasonably have been construed as international affairs (function 150) rather than national defense (function 050) funding. As recently as the conference on fiscal year 1993 supplemental, the senior Senator from New Mexico was seeking to have international peacekeeping activities, traditionally funded through appropriations made by the subcommittee on Commerce, Justice, and State, the Judiciary, and related agencies, funded by the defense subcommittee.

We found ourselves in the position of seeking to solve international problems by appropriating dollars for peacekeeping activities, rather than dollars for more military hardware and research. Under the rigid walls in place in fiscal year 1993, we were unable to provide all the requested peacekeeping funds, and yet, there remained more than sufficient funds within the 050 cap for war making. Nitpicking about budget classifications, and whether language meets the terms of certain budget categories kept us from providing international peacekeeping funds. All this is to say that it is just not practical for us to establish our priorities through an inflexible, multiyear budget cap and still maintain our ability to respond to rapidly changing domestic or national security circumstances.

The previous administration, while opposing the removal of the walls, sought to get around them by selectively reclassifying spending as "defense" that otherwise was classified as "domestic" in order to make room for its priorities. To the extent we return to separate categories, Congress will be beholden to the bureaucrats at OMB or the political exigencies of the White House in determining what is a "defense" expenditure.

Continuing to set these arbitrary inflexible caps is really an abdication of our responsibilities as the people's elected representatives. It is an attempt to circumvent the responsibility of passing human judgment on our national spending priorities and instead "game" the process in favor of certain favored agendas.

It was a useful tool in getting to an agreement which allowed this Nation to move ahead and avoid a devastating sequester. But its time has come and gone and we need to let it go.

In sum, Madam President, the experience that we have had under the 3 years of walls between discretionary spending categories should have instructed us not to shortchange our flexibility in the light of the rapidly changing requirements. Do not be misled into thinking that this amendment will lead to a protected pot of funds for critical national defense spending. I have already demonstrated that it will not.

Each dollar of spending should be subjected to the same scrutiny—whether it be for defense or any other category of spending. By setting up separate categories of discretionary spending, you will guarantee that will not happen. Instead, we will be voting to return to arbitrary, inflexible discretionary caps. The adoption of such an amendment will mean that we have gone completely process crazy around here.

I thank my friend from Tennessee [Mr. SASSER] for his very, very careful and able defense against the amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I am going to withdraw the amendment very shortly. I understand Senator LAUTENBERG is on an early time fuse, and so is a Senator on this side.

Let me make two points. First, to my good friend, Senator BYRD, I much appreciate his accommodating the rest of the Senate tonight. I do not think I spoke too long. I hope I did not. But I do think that he understands because he is a man with great convictions. He understands that we have some very serious convictions about this.

I am not proceeding because I do not think we have 60 votes tonight. But clearly the distinguished chairman of the Appropriations Committee knows I am not going to give up on this cause for some time.

Let me just say, I have great respect for the chairman of the Budget Committee, but let me offer for the RECORD one thing to think about. When the chairman says the combined budgets of President Ford and President Nixon were less than the increase of $50 billion—whatever the number—let me remind everyone that it was a lot cheaper to have an American military in those days than it is now because the entire force, absent the officers, were not volunteers, they were conscripts; they were paid very little money.

What we have to pay just to maintain the men and women now approaches 50 percent of the defense budget. I do not have the number of what it was back in those days, but I will put that in the RECORD just so everyone will know it was a fraction of that—my guess is maybe a third, less than half—which means we are surely not comparing apples and apples, but something different.

Madam President, I withdraw the Domenici-Nunn amendment at this point.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 1068) was withdrawn.

Mr. DOMENICI. I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. LAUTENBERG. Madam President, I ask unanimous consent that a legislative fellow in my office, James Marsh, be allowed the privilege of the floor during debate on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1079

(Purpose: To strike out the appropriation for the Army for the National Board for the Promotion of Rifle Practice)

Mr. LAUTENBERG. Madam President, I send an amendment to the desk on behalf of Senator SIMON and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. SIMON, proposes an amendment numbered 1079.

Mr. LAUTENBERG. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, strike out line 19 and all that follows through line 12 on page 17.

Mr. LAUTENBERG. Madam President, I refer a question to the managers of the bill because I do not think it has been clear that we have established a half hour evenly divided; is that reflected in the agreement?

Mr. INOUYE. Madam President, if I can respond, the unanimous consent request calls for 30 minutes; 15 minutes under Senator LAUTENBERG's control and 15 minutes under our control.

Mr. LAUTENBERG. I thank the Senator.

Madam President, this amendment is fairly simple. It would eliminate funding for a program called the Civilian Marksmanship Program. It would save the American taxpayers $2.5 million a year, and it would end one of the most outrageous examples of wasteful expenditure in Government.

The Civilian Marksmanship Program operates through a system of affiliated clubs and other organizations. It also sponsors shooting competitions. As part of these activities, the program donates, loans and sells weapons, ammunition, and other shooting supplies.

I want to be clear, I do not object to training in marksmanship or shooting competition. I do not object to target shooting. It is an accepted sport and I am sure that lots of people enjoy it. But I do object to having the American people pay for it. I do object to subsidizing, through Federal funds, what is a private activity conducted for personal pleasure.

The program is, to put it bluntly, nothing more than a "firearms freebie."

Let us look at how this program got started.

It was begun in 1903, soon after the Spanish-American War. Back then, some Federal officials were concerned that recruits for that war often were unable to—to use the expression—shoot straight. The officials believed that a trained corps of civilians with marksmanship skills would be useful to prepare for future military conflicts.

Madam President, that may have made sense in 1903. But this is 1993. The Spanish-American War ended 90 years ago, and things have changed.

Today, as documented in a report by the General Accounting Office, the Civilian Marksmanship Program has limited military value, at best.

As Pentagon officials told the GAO, there are no Army requirements for civilians trained in marksmanship. Unlike the situation in 1903 and in the Spanish-American War, today we have well-trained Reserves and National Guard forces, and we have advanced high-technology weapons systems. The military does not need a ready supply of ordinary civilians who know how to shoot a rifle.

Even if we did need such a corps, the firearms freebie program does not give us one. No system is in place that tracks the program-trained personnel, and the program is not part of the Army plan for mobilizing forces in an emergency.

Further, the General Accounting Office found that over half of all of the program participants are over the age of 26 years, which is considerably older than most new recruits for the military.

The bottom line for the GAO, Madam President, is that the program just has little military value. It is really welfare for recreational shooters.

At a time of rising budget deficits, that is an unjustifiable and outrageous use of scarce resources. After all, training young people to play baseball is a nice thing to do, but the Government does not subsidize Little League. We do not give children free baseballs. Why should we give them free bullets?

Maybe some believe that guns are more American than baseball. I do not.

Madam President, Americans are deeply cynical about the Congress. They think we are controlled by narrow special interests and that we are wasting taxpayers' money on useless boondoggles. A program like bucks for bullets only reinforces that image.

It also makes people wonder about our priorities. After all, how can we close military bases and lay off thousands of defense workers while subsidizing recreational gun clubs? How can we fail to fully fund Head Start while passing out free bullets to school kids? How can we omit funds for people unable to afford a college education and spend millions teaching kids how to shoot?

Where is our sense of priorities? For that matter, where is our common sense?

Madam President, the freebie firearms program is an absolute outrage. It is time to kill it once and for all. This is not the way to spend taxpayers' hard-earned dollars. If we cannot stop a program that gives free bullets to kids, how can we ever claim to be serious about ending waste in Government?

Madam President, my amendment is endorsed by the National Taxpayers Union and by the Council for Citizens Against Government Waste. I would also direct my colleagues' attention to an editorial in Monday's New York

Times that explains why this is such an unjustified boondoggle. A similar editorial appeared in the Washington Post a few weeks ago.

I ask unanimous consent that copies of these editorials and a letter endorsing my amendment from the Council for Citizens Against Government Waste appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, October 6, 1993.

Hon. FRANK LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG, on behalf of the 550,000 members of the Council for Citizens Against Government Waste (CCAGW), I am writing to endorse your amendment to the Defense Appropriations bill to eliminate the funding for the Civilian Marksmanship Program.

This program is like the Energizer Bunny—it just keeps on going and going. As you know, this program began in 1903 because the Army discovered that its recruits marksmanship skills were deficient. Today, the Army sends each recruit through basic training which includes intensive sessions on the rifle range, ensuring that each recruit has competent marksmanship skills. The Army's skills development, however, does not stop after basic training. All soldiers receive advanced individual training for the job they will have during their enlistment. For front line troops, this involves continual marksmanship training.

If this civilian training was as valuable as its proponents claim, the Army would no doubt keep track of those who have received the training. They do not. CCAGW believes it would be more efficient to either save these funds or provide our front-line troops with more training. Whatever is done, this program is another example of government waste and should be eliminated.

Sincerely,

TOM SCHATZ,
President.

[From the Washington Post, Sept. 23, 1993]

FREEBIE GUNFIRE FOR CIVILIANS? NO

It may have had some merit 90 years ago, but why on Earth are taxpayers still picking up the tab for a federal program that gives away 40 million rounds of ammo and supplies firearms for civilians for marksmanship competitions? Barring some last-minute change of heart and House rulings, yet another Defense Department authorization bill will include $2.5 million for an outmoded, wasteful gun-game operation called the National Board for the Promotion of Rifle Practice. This board underwrites an Army program known as the Division of Civilian Marksmanship, which in turn subsidizes recreational shooting by civilians.

The National Rifle Association's leaders can come up with all sorts of explanations of how valuable this program is, and they do—the program's affiliated clubs also have ties to the NRA. You don't have to join the NRA to participate, they always hasten to note, emphasizing how important the program is as a recruiting and training tool for the military. But a GAO report in 1989 found that 53 percent of the participants were over 26—older than most people who join the Army.

Three years ago, GAO Army Issues Director Richard Davis told the House Armed Services subcommittee on readiness that "if usefulness is defined as a measurement of whether or not this program contributes to the military preparedness of the United States today, then I would say that the Civilian Marksmanship program is of limited value. . . . If the program were justified on some other basis, maybe our assessment of its value would change."

There was an effort in the House this week to add an amendment that would eliminate money for the program, but yesterday word had it that the amendment would be not be allowed a floor vote. Still, if enough members of Congress recognize this program as the boondoggle it is, they could drop any appropriations for it anyway. It's long past time to get on this case and put a stop to the firearms freebies.

[From the New York Times, Oct. 18, 1993]

THE DEMOCRATS' BIG GUNS

The party of Bill Clinton is an aggressive and confident party, willing to confront its foes," said David Wilhelm, the chairman of the Democratic party, in a recent speech, declaring Democrats' willingness to do battle with powerful interest groups like the National Rifle Association.

Good for Mr. Wilhelm. But the party's boldness disappeared late last month when key House Democrats helped defeat an amendment to end the Army's Civilian Marksmanship Program—a pet N.R.A. boondoggle. Indeed, the sponsor of the amendment, Representative Carolyn Maloney, Democrat of New York, had to fight some Democratic leaders just to get her motion to the floor for a vote.

The program was established after the Spanish Civil War, when the Army found that too many recruits didn't know how to shoot. It may have made sense in 1903, but such a program has no military value in the modern world of high-tech weaponry and well-trained reservists. The Army concedes this point.

Today, the program exists to give away 40 million rounds of ammunition for recreational target shooting, and otherwise subsidize marksmanship competitions among gun clubs with ties to the N.R.A.—an unjustifiable agenda on either military or budgetary grounds.

Supporters of the program argue that it helps teach gun safety to children. That may be. But nothing stops the gun clubs or other groups from sponsoring such activities. A program that tried to teach kids to avoid guns altogether would have a better case for Federal funding, given the nation's pressing problem of guns and violence.

In the end, Ms. Maloney's amendment failed by a vote of 242 to 190, with three top House Democratic leaders—Richard Gephardt, the majority leader, Steny Hoyer, the caucus chairman, and Vic Fazio, the caucus vice chairman—voting to perpetuate the giveway.

In the context of the whole Federal budget, the program's $2.5 million price tag is small. But as a test of Democratic resolve to cut wasteful spending and buck the N.R.A., it's a discouraging battle to lose.

Mr. LAUTENBERG. One final comment, Madam President. I happen to support gun control laws. This is not a gun control amendment. That is not under consideration now. This is a waste control amendment, a cut-spending amendment. It is a good-government amendment. It has nothing to do with gun control. It has everything to do with demonstrating that we can control spending.

Madam President, I urge my colleagues to support the amendment, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Madam President, I yield 3 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I understand that some people really do not have need for guns. But there is a considerable portion of our country that still enjoys hunting and really believes in firearms safety. The training that is done under this program includes training at 450 Boy Scout summer camps.

In my State alone, we have 240 young men and women who are participating in this program who are learning gun safety and will use their guns in connection with legitimate lawful hunting activities in our State.

I really think that the Senator from New Jersey misses the point. It is a program that builds confidence in our Army as they deal with our youth in training them in the use of firearms and firearms safety. For those young men and women who are going to use guns lawfully—they primarily, incidentally, are rifles they are using—this gives them positive adult role models in the military people with whom they associate in this program. By teaching firearms safety, we have a younger population coming up that really is conscious of the way in which they should use firearms. This program has been totally accident free.

Let me repeat that. This program has been totally accident free. It teaches firearms safety.

As a result of this program, particularly in connection with the concepts of our volunteer enlistment concepts within the Department of Defense, these young people come in contact with role models that lead them to seek a career in the armed services. I think in terms of the recruiting alone this is cost effective.

Incidentally, for the Boy Scouts who participate, the annual cost of this program is 50 cents—50 cents per person.

The PRESIDING OFFICER. The time of the Senator from Alaska has expired. Who yields time?

Mr. INOUYE. Madam President, I yield 5 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I thank the chairman for yielding and for allowing me to speak against this amendment.

I think it is important for my colleagues to not only listen to the words of the Senator from Alaska and the points he has made, but to look at the broad scope of really an excellent training program for young men and women in this country.

Why is it in a DOD bill? The reason it is there is because, historically, we have looked at this in a preparatory way, providing men and women in America with a talent and a capability that would lend to the national defense of this country. I know that many of us would argue today that times have changed, but certainly the talent of well-trained men and women for purposes of marksmanship as it relates to the defense of this country really has not changed and it will not change, only ebb and flow with our times and with our history.

Over 350,000 young people supported by their parents each year are taught how to use rifles safely and effectively—350,000 young men and women. In a given year, it can swell to as many as 700,000.

The Senator from Alaska is absolutely right. Since 1903, there has been not one accident—not one accident—as these young men and women, Boy Scouts and Girl Scouts and others going through this training program, have learned from their peers and their elders appropriate marksmanship training. This is called gun safety, and in America today we are as consciously concerned about the safe use and the safety of firearms as we are about how they are properly handled on the streets of our country.

The Civilian Marksmanship Program is cost effective. We have a lot of programs for young people in this country. The National Youth Sports Program, one that I openly support, reaches 70,000 young people in America on an annualized basis at a cost of $9.4 million, or $134 per participant. Yet, once again we have heard the Senator from Alaska talk about this cost application can be as little as 50 cents—50 cents—for providing young people in this country with a knowledgeable skill that may save a life or certainly protect a life in the fair and proper application of firearms. The Civilian Marksmanship Program provides a pool of citizens trained in small arms use, safety, and range management.

Is that not an appropriate and responsible thing for us to be involved in? The civilian marksmanship program supports Olympic shooting teams. Many individuals who compete in U.S. international world shooting and pan-American games are graduates of this program, or sponsored by the junior program. This is what is good about this program, along with many other of the attributes. It subsidizes no one. It allows men and women in the military to serve as trainees and supervisors in the offering of a tremendously valuable school. It reaches over 55,000 junior club members whose organizations participated in national matches last year at a cost of about $50 for a participant, who were direct contestants in those matches. And, of course, it included about one-half million Boy and Girl Scouts of America.

You can talk about cost control or you can talk about gun control. And I have a great suspicion that the amendment and the author of the amendment have a little more concern about gun control than cost control. Because if you look at cost control and you look at the application of this Government's budget to other youth programs and the kind of quality response we get in the long term as it relates to the talent built in America today, this program takes second place to no program, and it has been run now since 1903 with millions of men and women serving, providing, getting training from them. It is with this in mind that I think we ought to oppose this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, I find myself usually with the Senator from New Jersey. Once in a while I think he goes astray and once in a while he thinks I go astray, but rarely do I find myself in disagreement. And he is, if I may say, right on target on this one.

I speak for myself and not my colleague from New Jersey when the Senator from Idaho says we are concerned about gun control rather than cost control. I am interested in gun control, you bet. I am also interested in cost control. And this provides both.

This is gun promotion. That is what this is, pure and simple. I was in the Army. I had never fired a rifle until I was in the Army. I learned how to fire a rifle and fire a pistol, and if I may be immodest, I became reasonably good at in terms of accuracy in firing the rifle and firing the pistol. We do not need this kind of civilian training in order to become accurate markspersons in this field. If we want to use the military in connection with guns, let us get the military in some areas where we have major problems in our cities and train people. Maybe we can have people walking the beat, supporting local policepersons and others.

But I think this is a pure waste of money. And it is worse than that; it promotes guns. We do not need gun promotion. And in terms of my colleague from Idaho, for whom I have great respect, with whom I have worked on other legislation just recently, he mentions that we built up competitors for international training. I do not recall any other area where the Federal Government spends money building up competitors for international training. We do not do that with basketball; we do not do it in track and field. I cannot think of any other area.

Mr. CRAIG. Will the Senator yield?

Mr. SIMON. I may not have any time left. So I am afraid I cannot give you the time. I only have 3 minutes. But I do not think we ought to be using the Defense Department appropriations as a vehicle for competition in international sports events. But, primarily, we should not use it as a vehicle for promoting the use of guns. That is what this is all about. Let us not kid ourselves.

So I am pleased to vote for the amendment of the Senator from New Jersey and am pleased to be a cosponsor of that amendment.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Madam President, I yield myself such time as I may require.

Madam President, the subcommittee adopted this provision for two reasons. One was historical and one recruiting. Historically, from the time of our Continental Army of the Revolution, we began the practice of men in the service helping young members of the community on the use of firearms. I believe that that practice had some reason for the adoption of the following: to provide for organizing, arming, and disciplining the militia.

That practice has continued throughout our history. And finally in 1902, it was formalized. Up until then, the various units in the Army used their own funds to support this program. But in 1902, they decided to make this a nationally recognized program. And it has continued to this day.

The second reason requires us to review what is happening. In the last 24 months we have reduced our military from nearly 3 million men and women to 1.7 million, roughly cut in half. We have cut every service. And because of the uncertainty that has been brought about by this drawdown of our military spending, we have had great difficulty in recruiting young men and women to serve in uniform.

For example, it has been the policy of the Department of Defense to recruit no more than 1 percent category 4 personnel. There are five categories in the U.S. military: Category 1, the genius; category 2, the college grad; category 3, the high school grad; category 4, the person who has the reading and writing comprehension of a fifth grader; category 5 is hopeless.

Less than 1 percent of our military recruits have been in the category 4 position. Today because of the difficulty we are having in recruiting young men and women, we have had to raise this and we are now about 6 percent category 4.

In the 1970's, Madam President, 30 percent of our recruits were in category 4. That is the difficulty we are having. We also have a survey going on in high schools to test the propensity of young people to join the military. That has gone down 40 percent. This program is costing the taxpayers of the United States $2,483,000. That is a big amount. But I look upon this as part of our recruiting program.

Keep it in mind, Madam President, that the less than 1 percent of the population of the United States is willing to step forward and stand in harm's way in our behalf. It is not easy to recruit people. How many of our college grads are willing to step forward and say, "I am willing to stand in harm's way"? It is not easy.

This effort on the part of this rifle practice program, in which young men and young women work with young military personnel, I think it is a very positive way of recruiting. So with the limited time—and I would like to speak at greater length—I will yield the floor. I sense that my friend from Montana would like to say a few words.

I yield 2 minutes to the Senator from Montana.

Mr. BURNS. Madam President, I rise today to voice my opposition to the amendment offered by Senator LAUTENBERG. The Civilian Marksmanship Program may be an old government program, but it certainly is not outdated.

My service in the Marine Corps included time as a firearms instructor. During that time, I learned to appreciate what the Civilian Marksmanship Program means to the entire country. The program was designed to provide people proper riflery training. Over the years, this program has done that and much more.

There has been much talk about how much this program costs. Well, like every Montanan, I want to cut wasteful spending. But, this program is not wasteful. it teaches the youth in Montana and others throughout the country proper firearm safety and training. It also provides for the sale of surplus military equipment to groups such as the Boy Scouts of America. In addition, these funds help to keep rifle clubs and other training centers open in my home State. The promotion of proper firearm conduct should not be eliminated by the antigun movement.

Madam President, this is an important program that teaches proper firearm conduct. I do not believe it should be eliminated.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey controls 5 minutes.

Mr. LAUTENBERG. Madam President, I will respond, because the argument is traditional. This program, by the way, has been examined for many years, going back to 1924, when they asked whether this program simply means to promote marksmanship and support gun clubs, because almost all of the trainees or the marksmen in this program come out of gun clubs.

I want to say to my colleague from Idaho what I said in my remarks, that I am for gun control. This is not a gun control measure, and despite the suggestion that what I said was either not accurate or true, that is not the intent here.

Neither was it my intent when I tried to strip $1.2 billion from the defense bill from executive aircraft. We have a responsibility to save money where we can. If I was asked is this a terrible, terrible program, I would say, no, it is not a bad program. But taxpayers should not be forced to pay for it.

Is my amendment anti-Boy Scout? No, it is not anti-Boy Scout any more than the fact that we do not give baseballs to Boy Scouts, or bakery goods to girl scouts to make cookies.

This is designed to simply reduce to zero a program that would cost us about $4.5 million this year—$2.5 million in direct appropriations, and roughly another $2 million that is divested to the program from the sales of certain weapons. So this is a program that no longer fits. When it was designed, we did not have the ability to train and recruit the people that we have now. And, even if you believe the estimates of the program's strongest supporters, only 2,400 people out of some 250,000 participants enlist annually in the military.

Madam President, there is nobody here who does not know that the NRA—traditionally on the other side of me on gun control matters—offers safety training with weapons. So do police departments and the Boy Scouts. So there are places for these people interested in the sport to get training.

The Army says—and I have a statement by them—that "this program was never intended or rationalized as a recruiting tool." That is the U.S. Army.

There are statements by the General Accounting Office. And it says:

> While the intent of the CMP is to contribute to military preparedness, its two mobilization goals appear to have no direct linkage to Army mobilization and training requirements and plans.

There is no system in place to track or identify the people who are training here, and the program's second goal, to provide trained CMP instructors essentially is not being accomplished. This is from the GAO.

> Because of the program members' volunteer status, there is no assurance that the program trained personnel will be available when needed.

Mr. CRAIG. Will the Senator yield?

Mr. LAUTENBERG. There is not enough time. The Senator made his statement, and I will use my time to make mine.

Madam President, what we are looking at is a program that has outlived its usefulness by a significant measure. Again, this is its 90th anniversary. Frankly, I think some of the thinking here is also aging. This is not a necessary program. It is a program that robs us of the opportunity to use these funds for more important purposes, whether it be Head Start or whether it be college tuition programs, things that have lasting value.

This is a program that suits gun clubs, who are particular supporters, but I do not see it as a necessary expenditure for a seriously pinched military defense budget.

Unless there is anyone who agrees with me and wants to say anything, I am willing to yield the remainder of my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Madam President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of Senator LAUTENBERG. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], and the Senator from North Carolina [Mr. HELMS] are necessarily absent.

The PRESIDING OFFICER. (Mr. FEINGOLD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 30, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—67

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Breaux
Brown
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
Danforth
Daschle
DeConcini
Domenici
Durenberger
Exon
Faircloth
Ford
Glenn
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Rockefeller
Roth
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NAYS—30

Boxer
Bradley
Bryan
Bumpers
Byrd
Chafee
Dodd
Dorgan
Feingold
Feinstein
Graham
Harkin
Hatfield
Kennedy
Kerry
Kohl
Lautenberg
Levin
Mathews
Metzenbaum
Moseley-Braun
Murray
Pell
Pryor

Reid
Riegle
Robb
Sarbanes
Simon
Wellstone

NOT VOTING—3

D'Amato
Dole
Helms

So the motion to lay on the table the amendment (No. 1079) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1081

(Purpose: A sense-of-the-Congress Resolution to urge the Department of Justice to investigate possible Federal civil rights violations involving Crown Heights, NY)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I submit this on behalf of the minority leader, Mr. DOLE, and Mr. D'AMATO.

The PRESIDING OFFICER. The clerk will report.

The bill legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. DOLE and Mr. D'AMATO, proposes an amendment numbered 1081.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place:

SEC. . It is the sense of the Congress that the United States Department of Justice should investigate whether any Federal criminal civil rights laws were violated as a result of (1) the murder of Yankel Rosenbaum on August 19, 1991, and (2) the circumstances surrounding the murder and accompanying riots in Crown Heights.

Mr. STEVENS. This is a sense-of-the-Senate, urging the Department of Justice to investigate the Federal civil rights violations in Crown Heights, NY. I ask unanimous consent the Senator from New York [Mr. MOYNIHAN] be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is to ordered.

Mr. DOLE. Mr. President, it is not too often that the Senate speaks in a single, unified voice.

But last month, we did just that, passing, by a unanimous 97 to 0 vote, a resolution urging the Justice Department to initiate a Federal civil rights investigation into the brutal murder of a young Australian Rabbinical student named Yankel Rosenbaum.

Unfortunately, this resolution was subsequently dropped in conference. And even worse, the Justice Department continues to drag its feet on an investigation.

On September 27, I personally wrote to Attorney General Reno urging her to use her good offices to initiate an investigation. Earlier this week, I finally received a reply—not from the Attorney General herself, but from Assistant Attorney General Sheila Anthony.

The letter says that an investigation was commenced in November 1992, and that the "Attorney General is committed to reviewing this matter thoroughly to determine the appropriate response for the Department of Justice."

Now, I can appreciate the Attorney General's commitment, and I can understand her desire to be thorough.

But after months and months, and more months, of Justice Department delay, one cannot help but wonder whether all this thoroughness is really nothing more than a smokescreen for politics.

Why the foot-dragging? Why the delay? Why has not this investigation been completed? Has a grand jury been convened?

Mr. President, as the Senate knows, Yankel Rosenbaum was a victim of the now infamous Crown Heights Riots. Chased down a New York street by a bloodthirsty mob, he was stabbed repeatedly while his assailants shouted "Kill the Jew! Kill the Jew!"

Yankel Rosenbaum died because he happened to be at the wrong place at the wrong time. But he also died because he happened to be a Jew.

One person was charged with the Rosenbaum murder, but was subsequently acquitted. Since the acquittal, no other suspect has been brought to trial for this vicious crime. The killers remain free.

As I said last month, the tragedy of the Yankel Rosenbaum killing extends far beyond Crown Heights and New York City. It affects all Americans of good will who are horrified when they learn that a young man could come to our country, only to be killed because of his ethnicity and religious beliefs.

This is a hate crime, pure and simple.

Mr. President, they say that justice delayed is justice denied. And justice will be denied for Yankel Rosenbaum and the citizens of Crown Heights if the Attorney General doesn't act, and act promptly.

The American people and the Rosenbaum family have been patient. They deserve answers, not the foot-dragging and politics we are unfortunately seeing.

Mr. President, last month, we passed this amendment unanimously, and we should do so again today.

Mr. President, I ask unanimous consent that the letter from Assistant Attorney General Anthony be printed in the RECORD immediately after my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, October 18, 1993.

Hon. BOB DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: Thank you for your recent letter to Attorney General Reno concerning the death of Yankel Rosenbaum. An active investigation has already been conducted into this matter by the Federal Bureau of Investigation, the Civil Rights Division of the Department of Justice, and the United States Attorney's Office for the Eastern District of New York. This investigation was commenced in November, 1992, shortly after the conclusion of the state prosecution. The Attorney General has also received numerous submissions from interested parties regarding the evidence and applicable law. The Attorney General is committed to reviewing this matter thoroughly to determine the appropriate response for the Department of Justice.

We appreciate your interest in this matter, and are pleased to be of assistance to you. We hope that you will not hesitate to contact this office if you have any further questions.

Sincerely,

SHEILA F. ANTHONY,
Assistant Attorney General.

Mr. STEVENS. I urge immediate adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1081) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL MISSILE DEFENSE PROGRAMS

Mr. HEFLIN. Mr. President, I would like to discuss several matters of importance with the distinguished chairman of the Defense Appropriations Subcommittee.

As the chairman knows well, the Secretary of Defense recently completed a Bottom-Up Review of Pentagon programs. One outcome of this review was a change in plans to develop a national missile defense. Though the Secretary has recommended reduced funding, I believe we can and must get substantial results from this investment.

Mr. INOUYE. I appreciate the comments of the senior Senator from Alabama.

I share his concern that the Nation must obtain a meaningful product from the proposed investment of more than $3 billion in national missile defense technology efforts. It is exactly for this reason that the Defense Subcommittee has sought to treat the ballistic missile defense organization programs like every other Department of Defense program and has recommended specific adjustments to ballistic missile defense-related activities.

I believe Congress must exercise its responsibilities to provide greater oversight of missile defense programs. By reviewing these programs, Congress can help ensure that these programs meet valid military requirements and achieve concrete results.

The subcommittee's approach demystifies ballistic missile defense programs.

Mr. HEFLIN. I understand what the subcommittee intended in adopting this approach. I would like to provide a more specific example of my concerns. I am aware of reports that the ballistic missile defense organization [BMDO] already may be planning to reallocate funds within its appropriated budget from certain national missile defense and other programs to fund other projects at levels higher than approved in the subcommittee bill. I am concerned that such reallocations would disadvantage certain important programs—in effect, unwisely robbing Peter to pay Paul. I would ask the chairman if these possible reallocations are consistent with the subcommittee's recommendations.

Mr. INOUYE. I appreciate the distinguished Senator raising these concerns. I, too, am aware of decisions made by the ballistic missile defense organization allocating funds to projects under the continuing resolution at higher levels than those included in the budget request or than contemplated in the bill before us.

I understand these decisions are consistent with the guidelines contained in the continuing resolution. However, these decisions do not reflect this subcommittee's recommendations which are now before the Senate.

The subcommittee this year held a hearing and reviewed hundreds of pages of documents and materials justifying the BMDO budget request. The subcommittee approved funds for specific missile defense projects in accordance with the President's budget request and the supporting budget justification materials. We believe these recommendations are entirely consistent with, and supportive of, the Bottom-Up Review conclusions about missile defenses.

It is the subcommittee's definite intent that the specific amounts recommended for appropriation be used for the projects approved, and in the amounts approved, by the subcommittee in this bill and accompanying report. This is consistent with the way the subcommittee treats every other significant Defense Department program, project, or activity.

Thus, the subcommittee requires that it be consulted with, and notified, prior to any reallocations of funds between ballistic missile defense organization program elements or projects which modify the specific amounts recommended in this bill and accompanying report for these program elements or projects.

Mr. HEFLIN. I thank the Senator from Hawaii for considering my concerns and providing clarification on the missile defense funding recommendations contained in the bill before the Senate.

I am also disappointed with the Defense Department's failure to move forward with development of a ground base interceptor missile, referred to as GBI, the destroy intercontinental ballistic missiles. The Defense Department has let this program drift without direction for almost a year.

I believe the Army's Space and Strategic Defense Command is developing a new plan for this program. It is my understanding that the committee's intent was to keep risk reduction funding for this program level with that spent last year and therefore provided $46.9 million to continue the projects supporting development of GBI. It has come to my attention, however, that the data supplied to the committee by BMDO regarding expenditures on this program may have been inaccurate. Sources at the Space and Strategic Defense Command have informed me that the actual expenditure on this program was $56.7 million. I hope the committee will investigate this discrepancy. Furthermore, I hope that, should the GBI project require additional funds during fiscal year 1994 from within the total amounts available for national missile defense efforts, the subcommittee will consider such a request under the consultation and notification procedures outlined during this colloquy.

Mr. INOUYE. The committee report does recommend an amount of funds for fiscal year 1994 for GBI risk reduction which, it was informed, does equal that spent in fiscal year 1993 for risk reduction efforts under three contracts. I will have my staff determine if there is indeed a discrepancy between the spending data conveyed to the committee and our colleague from Alabama by the Pentagon. Furthermore, I am pleased to assure my colleague that, assuming sufficient advance consultation and notification, the subcommittee will give all due consideration to any request from the Defense Department to allocate funds necessary to maintain the subcommittee's intent or move forward in a measured manner with the GBI Program.

Mr. HEFLIN. I thank the chairman.

Mr. President, I also noted that the Defense subcommittee added $25 million to the Pentagon's budget request to continue national testbed efforts to assist the development of missile defense systems. The subcommittee directed that these funds should be focused on modeling and simulating theater missile defense systems currently in development.

The Advanced Research Center [ARC] operated by the Army's Space and Strategic Defense Command is uniquely qualified to support expanded use of the national testbed for simulating theater missile defense systems. I would ask the subcommittee chairman if he expects the ARC to receive a major share of these additional funds.

Mr. INOUYE. Indeed, I understand that the Army's Advanced Research Center, a node of the national testbed, has previously been used to develop software models of theater missile defense systems and to analyze a missile defense system's effectiveness before moving forward with costly hardware testing.

I agree with my distinguished colleague from Alabama and believe the Advanced Research Center is well qualified to support expanded efforts to assess the performance of theater missile defense systems under development. Should these additional funds be approved in joint conference, I would expect this center to receive a substantial portion of these funds.

Mr. HEFLIN. I thank the Chairman.

NAVY GUN WEAPON SYSTEMS TECHNOLOGY PROGRAM

Mr. McCONNELL. I understand the Senate Defense Appropriations subcommittee took action reducing the House recommendation of $38,247,000 for Navy gun weapon systems technology to $17,247,000.

Mr. STEVENS. That is correct. This action was taken by the committee without prejudice. Navy gun weapon systems technology is an open item, and one that I believe should be thoroughly debated in conference.

Mr. McCONNELL. As you know, the House language provides $10.5 million for the Crane Division of the Naval Surface Warfare Center to develop high-technology gun systems capable of performing the full tactical range naval surface fire support mission. Further, this program is on the cutting edge of developing gun systems that defend against antiship cruise missiles. These missiles are the No. 1 threat to our surface ships. It will be difficult to fund this program at the Senate's allocation level.

Mr. STEVENS. Is it not true that this is the only organic gun weapon system R&D program in the Navy?

Mr. McCONNELL. That is correct. This program is working to double the current range of our 5-inch guns and is essential to the future of Navy readiness.

Mr. STEVENS. I agree with you on this program's importance. To my knowledge, the committee has no objections to revisiting this provision. I feel it should be readdressed in conference. It is clear that this program is important to the Navy. I hope it will not be overlooked.

MAINTAINING THE DEFENSE INDUSTRIAL BASE

Mrs. FEINSTEIN. Mr. President, I would like to commend the chairman of the Defense Appropriations Committee, Senator INOUYE, on the good job he and his subcommittee have done in drafting this bill. This is a very difficult time for our military personnel. In the aftermath of the cold war, it is necessary to reduce overall defense spending and recoup a peace dividend. But we must be careful not to jeopardize U.S. national security and we must not leave those who helped us win the cold war out in the cold. The chairman has done an outstanding job. He has addressed tough national security matters and has paid special attention to many emerging issues.

I want to address one of these issues in particular—the maintenance of the defense industrial base. My State of California, and especially southern California, is viewed as a repository of a substantial portion of the Nation's defense and aerospace industrial base. This includes not only large aircraft prime contractors such as McDonnell Douglas and Northrop, but dozens of major subcontractors such as Rockwell, Hughes, and TRW, and hundreds of medium and small subcontractors, vendors, and suppliers who are the backbone of the Nation's aerospace and defense industry.

I believe that the people who work for these companies are a national security asset. Their special skills and their experience are as important to maintaining a strong U.S. military as any scarce commodity or unique facility.

The concept of ensuring the maintenance of the defense industrial base was firmly established in the Department of Defense's Bottom-Up Review. That review recommended that the Nation's key production capability be preserved, such as the ability to produce nuclear attack submarines, aircraft carriers, and tanks. Through continued low-rate production, even if the additional equipment is not required for our present force structure, or through other measures to preserve key capabilities, the defense industrial base will be protected. In the event of a national emergency sometime in the future, when a quick buildup is needed, the workers, the facilities, the critical suppliers, and the management capability in these vital areas will be preserved.

The Bottom-Up Review has thoroughly addressed the defense industrial base in the eastern half of the country—the *Seawolf* submarine in Connecticut, the CVN-76 aircraft carrier in Virginia, and the M-1A tank in Ohio. However, I believe that the same attention must be given to the defense and aerospace industrial base in the West, particularly in California where much of that base is located.

For example, the B-2 bomber and C-17 cargo aircraft are the last two remaining large modern military aircraft production lines in existence in the United States. And, the Trident II D-5 missile is the only remaining ballistic missile production facility currently in operation in the free world. Most of this production capability occurs in my home State of California.

Literally thousands of medium- and small-sized companies throughout the Nation rely on these programs for their economic existence, and tens of thousands of California jobs are dependent on the continuation of these important programs. We are not just investing in military capability with the B-2, C-17 and D-5, but we are sustaining the bedrock of our aerospace capabilities, that is, preserving the defense industrial base.

In producing the C-17, we are building an extremely important and vitally needed cargo aircraft, as well as preserving the only bomber production facility in the Nation. More than 12,000 highly specialized skilled workers build the C-17 and tens of thousands more people are employed by key suppliers and subcontractors.

The circumstances are similar with the Trident II D-5 missile. As the only missile production facility in the free world, the workers who build the D-5 missile and the facilities that support that production are key components of the defense industrial base. Terminating the D-5 missile now would have long lasting implications beyond just having a fewer number of missiles to provide nuclear deterrence. Termination of the D-5 could cripple the only industrial facility in the Free world capable of D-5 missile production.

With regard to the B-2 stealth bomber, I note with approval the language in the committee report addressing the Nation's bomber production capability. Largescale composite aircraft like the B-2 bomber are unique. No other aircraft in the world, civilian or military, is built like the B-2. The skills and production techniques used for large composite structures are unique to the B-2 industrial team, and the B-2 line is the country's last remaining active bomber production line. It represents—in the people, facilities, and manufacturing technique—the cumulative industrial expertise and competence of America's investment in bomber capability.

I believe this strategic asset has to be protected. The skilled workers cannot be allowed to disappear due to a lack of a coherent defense industrial base policy. In the case of the B-2, almost 30,000 California jobs are dependent on the program. Unless we act to preserve this skilled work force, it will fade over the next 10 years.

I was particularly pleased with the committee's report which instructs the Defense Department to address the issue of bomber production capability and report to the Congress on how this industrial base will be maintained. It further seeks to protect the bomber production capability by endorsing the concept of contractor maintenance of the B-2 bomber at the Palmdale facility—where the high-skilled jobs are currently located. As the committee report states with regard to the B-2, "the government has already invested billions in the private sector to train a highly skilled work force and has constructed facilities to meet the need." I couldn't agree more with the committee and ask unanimous consent that a recent letter I sent to Defense Secretary Aspin on this issue be entered into the RECORD at the conclusion of my remarks.

As the United States continues to downsize its military and reduce defense spending in the aftermath of the cold war, maintaining the defense industrial base is even more important. In just the last 2 years, California has lost 250,000 defense-related jobs. Most of these are good, high-quality, high-paid jobs. These people, many possessing the most advanced assembly skills that exist today, have been forced into entirely new occupations, and their defense and aerospace skills have been lost to the Nation.

Though the Soviet Union is no more, the world is still an unsafe place. There are currently more than 30 conflicts raging throughout the world. In addition, the former Soviet Union has not completed its fragile journey to democracy and as the recent events in Russia showed, that journey will be a turbulent one. The United States must maintain its war-fighting ability in order to protect our national security. While I support certain reductions in defense spending, I strongly believe we must be careful in deciding what cuts are made and believe that the United States must maintain its key industrial capabilities.

As I watch hundreds of small and medium-sized subcontractors and suppliers disappear from the California business environment, I believe it is imperative that the administration and Congress take steps to protect the defense industrial base—a vital national security asset.

U.S. SENATE,
Washington, DC, September 20, 1993.

Hon. LES ASPIN,
Secretary of Defense,
The Pentagon, Washington, DC.

DEAR MR. SECRETARY: I am writing in support of a proposal to convert the Palmdale B-2 bomber final assembly plant into a facility to support the long term depot requirements of the B-2 weapons system.

During my recent visit to the Palmdale facility, I was impressed with the uniqueness of the physical plant and, most especially, with the quality of the resident work force. I understand that if the Air Force defers its decision on a full organic depot capability for the B-2 bomber for several years, the potential near-term savings could amount to as much as $700 million.

This proposal has the added advantage of providing a vehicle to insure continued depot competition which will guarantee the lowest possible support cost for the B-2 aircraft. Use of the Palmdale facility would also help maintain the United States industrial base by insuring that a modern bomber production line is maintained in a viable configuration. In addition, this proposal would preserve up to 2,000 direct jobs at a time when defense downsizing is adding to California's continuing recession.

I urge your consideration of this cost-effective proposal.

Sincerely,

DIANNE FEINSTEIN.

Mr. DOLE. Mr. President, I commend my colleagues on the Appropriations Committee, and particularly the distinguished chairman and the ranking

Republican on the Defense Subcommittee, Senators INOUYE and STEVENS, for their work in crafting and managing this bill. Their task has not been easy this year, given the Nation's budget constraints and the need to address the U.S. involvement in a number of so-called peacekeeping operations around the world.

Over the past several months, the United States has expanded its military commitments around the world while, at the same time, we are slashing our Defense budget at an unprecedented rate. In my view, this does not make sense. How can anyone square the fact that we are undertaking more missions and expanding our presence around the world while the Congress continues its slash-and-burn policy toward the Defense budget? We are not cutting defense. We are gutting it.

I do not fault the members of the Appropriations Committee for this. As I have said, they have done an excellent job in trying to keep vital accounts adequately funded. But this will be harder and harder to do as we progress down the path of defense cuts the President has planned.

Currently, more than 70,000 U.S. troops are actively involved in various peacekeeping operations throughout the world. At the same time, the military is forced to continue its downsizing, and the Defense Department's budget continues to shrink. We have stretched our Armed Forces to their limits. We have asked them to perform more missions, undertake new responsibilities, and face greater risks, and to do all of this with fewer people and less support than in the past. Yet as always, our dedicated men and women have proven themselves to be, without question, the finest fighting force in the world.

There are some that say the United States no longer has any real enemies or faces any real threats. But the men and women in uniform will tell you differently, and we had better pay attention. North Korea, as well as India and Pakistan, continues to develop its nuclear weapons capabilities. China has embarked on a massive arms buildup. The conflict in the Balkans threatens to draw in surrounding nations. And let us not forget about Iraq and Iran or the wars now raging in the Transcaucasus. Finally, Russia is still producing ICBM's and still possesses a larger nuclear stockpile than the United States. Yet, some Members of this body will tell you that now is the time to slash our strategic programs or our intelligence budgets. But the truth remains, the world is still a dangerous place, and the events of the past few weeks simply demonstrate that fact. As I said last year, the world is not safer—just more uncertain. The United States must be prepared to face these undefined threats.

The proponents of massive defense cuts should also keep in mind the impact of these cuts here at home. When a weapons program is canceled or a base is closed, it's not just the top brass at the Pentagon that loses out. It's the small businesses on Main Street, and the families in those communities which lose out as well. Actually, I believe some Senators have taken notice of this. It is interesting to see a number of my colleagues who have suddenly discovered how important a submarine or missile built in their State is when defense cuts threaten to cancel them. Let me be clear, I'm not saying there aren't any areas within the defense budget where cuts can be made or belts tightened, but the Congress simply can't slash away at every line item in the defense budget just because the Berlin Wall fell.

Mr. President, Congress and the administration are cutting the defense budget too far and too fast. The defense appropriations bill for fiscal year 1994 is $13 billion less than last year's bill. The fiscal year 1993 bill was $17 billion below fiscal year 1992 spending levels. In fact, the bill before us today represents a 33-percent reduction in defense spending since 1985. In fact, by the end of the Clinton budget plan, defense spending will have been reduced by 43 percent since 1985. Mr. President, I believe the committee has done the best it possibly can, given the parameters within which it had to work. But, I urge my colleagues to reevaluate this Nation's recent trend in defense spending. We simply cannot continue to cut defense spending in the future as we have over the past few years. If we do, we will not be prepared to face the uncertainties awaiting us and we will threaten this Nation's ability to defend itself and its interests.

Mr. BYRD. Mr. President, I want to congratulate the distinguished chairman of the subcommittee, Mr. INOUYE, and the distinguished ranking minority member, Mr. STEVENS, for their prodigious work on this bill and the long, arduous hours they have put in on the floor to bring it to a successful conclusion. They have been in the unenviable position of being on the receiving end of a cook's tour of American foreign policy hotspots from the Caribbean to the Horn of Africa. However, the Senate has worked its will on this bill and the managers have handled all the far-ranging business that has been thrown at them with unfailing courtesy, and the Senate owes them a debt of gratitude for their work.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, as manager of the bill, I wish to advise the Senate that there is no further request for amendments. If that is the case, may I ask for the third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The bill (H.R. 3116) as amended was passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF CONFEREES—H.R. 3116

Mr. INOUYE. Mr. President, I move the Senate insist on its amendments on the Defense appropriations bill and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. STEVENS, Mr. D'AMATO, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM of Texas, Mr. BOND, and Mr. HATFIELD conferees on the part of the Senate.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

The PRESIDING OFFICER. The report will be stated.

The bill clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2750) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 18, 1993.)

Mr. LAUTENBERG. Mr. President, I am pleased to bring the conference report on the fiscal year 1994 Transportation appropriations bill to the Senate.

There is a tendency to view appropriations bills as the nuts and bolts of the legislative process. Bills are reviewed in terms of programmatic funding levels and the fate of specific projects within States. But I would suggest, Mr. President, that appropriations measures are more than that. They really implement basic policy choices. And in that context, this bill makes wise choices within budget limits.

There's no question that we need to cut out wasteful spending and continue the downward pressure on the deficit. In short, we should "cut spending first." It is a dictum we all understand and it points us in a direction we must continue to follow.

But, like all dictums, it is an attempt to reduce a complex process, with wide ramifications, to simple terms. As chairman of the Transportation Appropriations Subcommittee, it's my responsibility to strike the right balance between cutting out waste and making the kinds of investments in our future that lay the foundation for growth and a better quality of life.

To me, that does not suggest an assault on all spending. It is not a mandate to vote "no" on each and every appropriations bill. It is not a repudiation of investments that lay the foundation for a better future. It does, however, call for elimination of waste, a rejection of pork and the elimination of perks for executive branch officials. It is a protest against the notion that it is open season on taxes. It is a reflection of the pain of many of our citizens who are unemployed, or who have seen their incomes shrink as Federal spending increases without producing real change for the better.

This bill is a response to these dual responsibilities. It certainly is not perfect. Our fiscal problems were not created overnight, and cannot be solved all at once. The legacy of the 1980's, supply side economics, put this Nation on a collision course of ever-growing deficits. So, you cannot turn things around all at once. But this bill makes real progress in making Government more responsive and more responsible.

Let me give you a few examples.

In response to the need for change, we have done as much as we can to eliminate the excess of Government.

We have eliminated highway demonstration projects—projects which respond to the concerns of Members of Congress, but may ignore the objective criteria designed to meet our national transportation needs.

We also made real progress in an effort to extend this principle to other areas of the bill. The Senate avoided earmarking any of the money devoted to bus transportation—we recognized that the Department of Transportation was in a better position than the Congress to analyze the competing claims of various communities. The House adopted a more traditional approach and earmarked roughly two-thirds of the bus money.

In conference, we tried to eliminate the earmarks. We could not, but we did do two other things. First, we included Senate requests without adding to the amount of money being earmarked. And second, as a result, we made a policy statement: We said that, even though we could have taken it all, we knew we shouldn't; we know that the Department should be involved in disbursing these funds; and next year, I hope we will keep even more funds free of congressional mandates.

Beyond reforming congressional practice, we have tried to correct Federal policies. We have instituted reasonable structural reforms in government programs. We took the Essential Air Services Program and implemented key components of Vice President GORE's National Performance Review recommendations to reform the program. As a result, we have a program that costs less, while still meeting our national obligation to give citizens in more remote areas of the country access to essential air services.

And, Mr. President, we have done what we need to do to invest in our future.

We have funded investment in infrastructure to the maximum extent permissible by the budget. The infrastructure needs of our Nation are staggering and go right to the heart of our economic growth and productivity. While our expenditures must be limited by the budget the flexibility contained in the landmark Intermodal Surface Transportation Efficiency Act [ISTEA] will make the dollars we spend go even further in meeting our transportation needs.

We have invested in the kinds of research we need to respond to both chronic and emerging national problems. Unlike spending for programs like the superconducting super collider, which I oppose, the research funding in this bill has real-world benefits. We provide research funds for stealth buses, magnetic levitation, and satellite navigation systems. Development and commercialization of these products will increase fuel efficiency, reduce air pollution, minimize maintenance costs, and promote safety. To the extent that research results in better ways of addressing these problems, it helps revitalize the economy. We create opportunities for new industries, and by expanding the range of operating requirements for new systems, we make existing infrastructure more efficient. Focused research programs also create new job opportunities which would not be developed without federally supported research.

We have continued to support innovative approaches to meeting immediate needs. The Intelligent Vehicle/Highways Systems [IVHS] Program I sponsored as part of ISTEA will make a substantial dent in congestion. It also will create jobs and, hopefully, let us compete for this business worldwide as other countries incorporate IVHS into their transportation network.

So, Mr. President, this bill tries to end business as usual, but also makes the necessary investments for our future. By eliminating waste and expanding productive investment, we produced a balanced bill that makes real progress.

Let me provide the members with just a few of the programmatic highlights:

For the Coast Guard, the bill provides a total of $3.6 billion, which is $40 million more than the House-passed level. This funding will help the Coast Guard fund its most important priorities in carrying out its critical missions.

For the Federal Aviation Administration, the bill provides a total of $8.64 billion which is $217 million below the enacted fiscal year 1993 level, but is $194.4 million more than the House-passed level.

The bill provides a Federal-aid highways obligation ceiling of $17.59 billion, which is $2.26 billion above the fiscal year 1993 level. All funding under this obligation ceiling is distributed under authorizing formulas, rather than by congressional earmarks.

Highway safety grants to the States will be increased $32 million over the fiscal year 1993 level. These funds will enable the States to step up their efforts in combating drunk driving, especially among underage youth.

Transit is a priority in this bill. Funding for transit programs enjoyed a large increase—$783 million over the fiscal year 1993 levels. Operating assistance stayed at the fiscal year 1993 level of $802 million. The section 9 formula grant program increased by $715 million—all of this funding will be distributed by formulas established in ISTEA, without earmarks. Everybody benefits, the elderly and disabled program increased 21 percent, from $48.6 million to $58.7 million. Funding for the section 18 small urban and rural program—cities below 50,000 population—increases by 43 percent, from $90.8 million to $129.6 million. And urbanized areas will receive an 87-percent increase for capital projects.

Funding in the bill for Amtrak operations and its related capital accounts is more than $210 million above than the House-passed level. This increased level is essential, given Amtrak's recent revenue declines and the need to make headway toward modernizing the railroad.

Unfortunately, Mr. President, this bill does not include funding for the Clinton administration's new high-speed rail initiative. This initiative is intended to fund incremental improvements to bring about new high-speed rail corridors in several regions across the country.

The record will show that I have always been a strong advocate for high-speed rail investment, whether it is in improvements in the Northeast corridor, or research in new high-speed rail technologies.

The Senate-passed bill included $107 million for the Clinton high-speed rail initiative. However, when the conferees met on the fiscal year 1994 appropriations bill, no progress had been made in authorizing this new program beyond a mark-up by the House Energy and Commerce Committee. The House conferees were insistent that we not appropriate into a crystal ball, and that we wait until the new high-speed rail bill is enacted before appropriating funds for this initiative.

However, at my suggestion, the statement of managers accompanying this conference report includes a statement in favor of the President's initiative, pointing out the environmental, energy and employment benefits that could result from enhanced investments in high-speed rail. The statement of managers also includes a commitment by the conferees to consider funding for the initiative following enactment of the authorization, perhaps as soon as the fiscal year 1994 supplemental appropriations bill. I hope the appropriate authorizing committees will move forward expeditiously toward enacting this new program, so that the appropriations committees can fund this critical new initiative.

Other industrialized nations have first-class rail systems, which not only improve their productivity, but also provide jobs for their people. It's an outrage that the United States currently buys almost all of its intercity rail cars from abroad. Along with other high technology products, we've virtually abandoned the playing field in transportation technology to our allies. We are just starting to turn the corner, and for the first time, production of rail cars is starting again in our country. This industry can provide high-wage manufacturing jobs for our workers and improve our economy's productivity. Let's get on with it.

Finally, Mr. President, I should mention one item agreed upon by the conferees that was inadvertently omitted from the conference agreement. It concerns the right-of-way revolving fund within the Federal Highway Administration. The statement of the managers should have indicated that the conferees agree upon the distribution of funds contained in the House report. Specifically, it is agreed that $2.5 million is to be used for the Neuse River Bridge in North Carolina and $4 million for the Yuba City Bridge in California.

Overall, Mr. President, I believe this is a balanced bill that spends money prudently and productively. It eliminates waste where possible, and it minimizes political influence where necessary. Beyond that, Mr. President, within budget constraints set by Congress, it invests the funds we do have in programs and projects that will meet our needs now and create a better future for all of us.

Mr. President, I wish to discuss with Senator STEVENS an issue concerning aviation navigation and landing aids under the jurisdiction of the Federal Aviation Administration. Senate Report 103-150, which covers H.R. 2750, contained language directing the FAA to install eight nondirectional beacons [NDB's] to assist small aircraft in cross-country navigation in Alaska. The sites listed were: Annette, Big Delta, Chandalar, Dutch Harbor, Iliamna, McGrath, St. Mary's, and Talkeetna.

Mr. STEVENS. Senator LAUTENBERG will recall that I offered this report language at the full Appropriations Committee markup of this bill, and that it was accepted at that meeting.

I offered this language as a result of a recent conversation I had with the Alaska Aviation Safety Foundation. They were concerned about the operation of Alaska's current inventory of nondirectional beacons.

In Alaska, NDB's are used as en route navigation aids. In addition they provide weather information for pilots in remote locations. In the South 48, NDB's are not required to perform the variety of functions they do in Alaska.

The Aviation Safety Foundation informed me that our current stock of NDB's in Alaska are just not powerful enough to adequately perform these tasks.

Mr. LAUTENBERG. Yes, that is true. The committee's acceptance of the Senator's language recognizes the importance of the issue to the Senator's State.

As the Senator knows, these eight beacons were not included in the administration's fiscal year 1994 budget request for the FAA, nor did the House include a similar amendment in their report. When the conferees resolved the differences between the House and Senate-passed DOT appropriations bills, this item was not agreed to by the House. Instead, language was added to the conference report noting that NDB's have already been installed at each of the eight locations, and directing FAA to study the need to upgrade the existing equipment.

Mr. STEVENS. Air transportation is vital to Alaska. Alaska has very few highways, and over 70 percent of our communities can only be reached by air. With the extreme weather and terrain our pilots must navigate, it is imperative that they have the best possible navigation aids.

The eight navaids I have requested for Alaska would replace those currently in these eight Alaska locations with more powerful one kilowatt, remote maintenance monitoring, dual channel NDB's. These would have a range up to 130 miles—compared to the current NDB range of 15 to 20 miles.

FAA informs me that the cost per copy for the new higher-powered NDB's is about $300,000.

Mr. LAUTENBERG. I agree that the higher-powered NDB's would help increase air safety in Alaska. That is why I expect the FAA, in the course of reprogramming activities during fiscal year 1994, to make its highest priority a request for the approximate $2.4 million required for the Alaska NDB's. Moreover, I expect FAA to include these important safety items in their fiscal year 1995 budget request which is currently being drafted.

Mr. STEVENS. I thank the Chairman. In addition, I would appreciate his assurances that should any of the existing eight NDB's place-named in my amendment experience breakdowns, that FAA act immediately to replace them with the new, high-powered NDB's.

Mr. LAUTENBERG. I agree that the FAA should address repair situations as opportunities to upgrade the NDB's to the required enhanced status. These 8 NDB's are all at least 15 years old while one NDB, located at Chandalar, is 20 years old. Air safety in Alaska must not be diminished while we await FAA's fiscal year 1994 reprogramming request and its fiscal year 1995 budget request.

Mr. STEVENS. I thank the Senator. And I would like to take a moment to thank him for another provision included in this year's bill.

I have been concerned about the status of the NEXRAD radar program in Alaska. As a result, the conferees included bill language in the conference report at my request which requires the FAA to install seven NEXRAD radar in Alaska at locations across the State. The bill language also requires the FAA to conduct a study on the need for two more such radar in Alaska.

The conferees also included language in the statement of managers which further explained the details of the study the FAA will undertake.

These radar are extremely important for Alaska's aviation community, and I want to thank you for making it clear in this legislation that Alaska will be getting at least seven such radar.

Mr. LAUTENBERG. I agree with Senator STEVENS that the new NEXRAD radar are very important to aviation safety in Alaska, and I was pleased to include bill language making it clear that FAA will install seven NEXRAD's in Alaska as provided in the fiscal year 1994 appropriations bill. The bill also requires a study to assess the need for two more NEXRAD. The conferees added extensive language on the scope of this required study.

Mr. STEVENS. I would like your assurance that the report language refers only to NEXRAD's above the seven funded in fiscal year 1994 and does not conflict with the bill language which requires that seven be installed in Alaska.

Mr. LAUTENBERG. My colleague from Alaska is correct.

Mr. STEVENS. Thank you, Mr. Chairman.

SUSPENDED LIGHT RAIL TRANSIT

Mrs. FEINSTEIN. Mr. President, I would like to enter into a brief colloquy regarding the suspended light rail transit [SLRT] pilot project authorized by Public Law 102-240. as you know, the Federal Transit Administration [FTA] is in the final stages of a funded competition. The three finalists submitted their best-and-final proposals on September 30, 1993. It has been communicated to the three competitors that a selection will be recommended to the FTA Administrator no later than November 30, 1993, and an announcement from the Secretary would be forthcoming within 30 days thereafter.

I have reviewed the conference report language on SLRT, and I do not read it as precluding the FTA from selecting a winner from among the three finalists. Indeed, given that the competition is at the final stage, I would expect FTA to announce a winner of the competition early in fiscal year 1994. Would that be the Chairman's understanding?

Mr. LAUTENBERG. Yes, that would be my understanding. There is nothing in our conference report that impedes in any way the FTA from completing the SLRT competition, and I would fully expect them to do so.

AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982

Mrs. FEINSTEIN. In 1981, as mayor of San Francisco, I negotiated a settlement to a major antitrust suit the city brought against 22 airlines on behalf of San Francisco International Airport, and the city of San Francisco. These negotiations resulted in a settlement agreement between the airport and its tenants allowing for a percentage of revenues generated by airport concessions to be utilized by the city of San Francisco for nonairport purposes, prior to the passage of the Airport and Airway Improvement Act of 1982. It is my understanding that the airport owner or operator would remain grant eligible provided the preexisting tenant agreement governing the accounting and disbursing of airport revenues was consistent with the law at the time it was entered into. It is my understanding that there is nothing in the legislation before us that would affect the grant eligibility of an airport owner or operator that had entered into an agreement prior to the passage of the Airport and Airway Improvement Act of 1982.

Mr. LAUTENBERG. The understanding of my colleague from California is correct. The legislation in 1982 was intended only to have a prospective effect, and was not intended to require an airport owner or operator to change a preexisting tenant agreement, which was lawful when entered into, in order to remain eligible to receive airport grants. Similarly, nothing in the present legislation would affect the grant eligibility of an airport owner or operator that had entered into such a preexisting tenant agreement.

HIGH-SPEED GROUND TRANSPORTATION

Mr. GRAHAM. Mr. President, 2 weeks ago, I came to the Senate floor to salute Senator LAUTENBERG for his leadership in including over $107 million for high-speed ground transportation in the Senate transportation appropriations bill for fiscal year 1994. I would like to reiterate that commendation while expressing my deep concern about the final result.

With the chairman's leadership, Congress was preparing to take a landmark step in support of high-speed rail and magnetic levitation transportation. I know that he, and I, and many of our colleagues are firmly committed to making substantial funding available to encourage high-speed train developers to bring their products on line as soon as possible.

Nevertheless, I am disappointed to report that the conferees on this bill eliminated most of the high-speed rail and maglev funding contained in the Senate proposal. What remains is $3.5 million for high-speed rail and $20 million for maglev, restricted to research and development activities.

The Senator from New York [Mr. MOYNIHAN] has a particular interest in maglev transportation, having demonstrated his considerable vision in developing the National Magnetic Levitation Prototype Development Program and being a consistent leader in this area of Federal policy.

Knowing that we share a similar perspective on this issue, we would like to ask the chairman to clarify some of the items contained in the conference report with regard to high-speed ground transportation.

Mr. LAUTENBERG. I would be delighted to do so.

Mr. GRAHAM. I thank the chairman. First, regarding the rail funding, it is my understanding that the conferees chose not to fund the corridor implementation program for high-speed rail because the program itself has yet to be authorized by Congress. Is that understanding correct?

Mr. LAUTENBERG. Yes, as the report language indicates, the conferees recognize the importance of Federal funding for high-speed rail projects but are unwilling to provide that funding without an enacted authorization.

Mr. GRAHAM. That said, is the President's proposal, as embodied in the House committee-reported bill and the legislation introduced in the Senate, consistent with the chairman's vision of a program worthy of substantial Federal funding?

Mr. LAUTENBERG. Certainly. These bills retain the major tenets of the administration's legislation, and it was the testimony regarding that legislation that convinced House and Senate appropriators to consider funding for the bill, once enacted.

Mr. GRAHAM. Many of us are quite hopeful that Congress will take final action on this legislation before the end of 1993. I know the bill has cleared committee in the House and is ready to be marked up in the Senate Commerce Committee.

I am also hopeful that enactment of the high-speed rail measure will be followed by a supplemental appropriations request from the administration to fund the provisions of that bill. The conference report mentions the possibility of approving supplemental appropriations in fiscal year 1994. Given the Senate's proven support for this funding, will the chairman be an active advocate for supplemental fiscal year 1994 appropriations for high-speed rail should the administration plan be enacted?

Mr. LAUTENBERG. Absolutely. I was disappointed that we were not able to preserve the Senate position on this issue in conference. Enactment of high-speed rail legislation will strengthen our argument, with the hope of providing additional funds in the current fiscal year. Importantly, the sooner we move forward with the legislation under consideration in the Senate Commerce Committee, of which I am a cosponsor and strong supporter, the stronger the case we can build for making funding available for high-speed rail on a timely basis.

Mr. GRAHAM. That is a critical point. I am also a cosponsor of S. 839 and am anxiously awaiting action by the Commerce Committee so we can move forward with this important legislation.

Mr. MOYNIHAN. Mr. President, I would like to take a moment to address the maglev provisions of the conference agreement. I share Senator GRAHAM's deep disappointment over the decision not to fund the maglev prototype development program and to eliminate most of the high-speed rail funding.

Once the administration's high-speed rail legislation is enacted, we will have in place a Federal policy governing all aspects of high-speed ground transportation. Maglev is an important component of this plan and can be accurately weighed against the other facets of high-speed ground transportation once the overall policy is enacted.

When the transportation appropriators are reviewing the supplemental appropriations request, I hope they will also include language allowing the Federal Railroad Administration to sue the maglev funds in this bill for the prototype program.

Mr. LAUTENBERG. The Senator from New York is well aware that, for the last 2 years, the Senate transportation appropriations bill has included funding for the Maglev Prototype Development Program. I plan to continue working to fund this important program. If a supplemental appropriations request for 1994 includes funding for the prototype program, I will certainly consider, again, including funding for the program.

Mr. MOYNIHAN. I thank the chairman for clarifying this matter.

Mr. GRAHAM. I also thank the Senator from New Jersey for his leadership on high-speed ground transportation, and for his time in discussing this issue today.

FIVE-PERCENT BONUS OBLIGATION LIMITATION

Mr. BAUCUS. Mr. President, I would like to clarify the Chairman's intent with regard to the deletion of a provision in the conference report. Is it the chairman's intent that deletion of House language regarding the 5-percent bonus obligation limitation program should not be interpreted by the Department of Transportation to mean that the program should not be available to States in fiscal year 1994? That, in fact, the reference to this program in the Intermodal Surface Transportation Efficiency Act [ISTEA] is sufficient reference to continue the program in fiscal year 1994?

Mr. LAUTENBERG. The Senator is correct. It is not my intention to make the 5-percent bonus obligation limitation program unavailable to States that meet the appropriate requirements in fiscal year 1994. The authorizing statute in the ISTEA is sufficient reference to continue the program in fiscal year 1994.

Mr. BAUCUS. I thank the Senator and congratulate him again on his tremendous work and tireless efforts on this bill.

Mr. SASSER. Mr. President, I rise in support of the conference report to H.R. 2750, the fiscal year 1994 Transportation appropriations bill. I especially wish to commend the chairman of the Subcommittee, Mr. LAUTENBERG, for making tough, balanced choices with a limited amount of funding.

I am pleased that the conference report includes funding for a number of Tennessee initiatives. More importantly, H.R. 2750 recognizes the critical transportation needs across the State of Tennessee, among urban and rural communities alike. And, balancing the transportation needs of today and tomorrow is, indeed, what ISTEA is all about.

The inclusion of section 3 funding for the State of Tennessee will have an immediate and beneficial impact in communities large and small throughout Tennessee. Among the very diverse cities that are included in the State bus funds are: Chattanooga, Clarksville, Gatlinburg, Jackson, Johnson City, Knoxville, Memphis, Nashville, and Pigeon Forge.

In addition, small communities, whose transit needs very often play second fiddle to the big cities, will also be well served through the section 3 bus funding. There are many agencies throughout Tennessee whose tireless efforts in support of safe and effective transportation in rural communities cannot be overstated. Among the specific recipients whose work will be advanced through the State bus funding are: the First Tennessee Human Resource Agency, the East Tennessee Human Resource Agency, the Southeast Tennessee Human Resource Agency, the Upper Cumberland Human Resource Agency, the Mid-Cumberland Human Resource Agency, the South Central Human Resource Agency, the Northwest Human Resource Agency, the Southwest Human Resource Agency, the Metropolitan Inter-Faith Association, Hancock County, and Hamilton County.

Tennessee is also an active partner in the development of the highways of tomorrow. Funding for the Johnson City Intelligent Vehicle Highway System is a critical first step in meeting the State's smart transportation demands of the coming decades.

In that same spirit, the city of Memphis has set in motion a transportation agenda that embodies the highest standards of intermodalism. Funding for the Memphis regional rail plan is an important continuation of a transportation renaissance in the city of Memphis.

There are other aspects of the conference report which will directly and positively impact the State of Tennessee. I believe it is all the more important to continue to make real in transportation the vision set forth in ISTEA. I urge my colleagues to approve the conference report to H.R. 2750.

Mr. BURNS. Mr. President, today the Senate will pass the conference report to the Transportation appropriations bill. While there is funding in here for Montana's transportation needs, I am disappointed at other aspects of the package.

First, the essential air service is just that to Montana—essential. It allows seven airports in my State to remain open. Without these funds, parts of Montana would not be serviced. This year, EAS took a hit—many airports around the country were stripped of these funds. Montana was lucky, none of our airports were on this hit list. However, what will happen next year? Will Montana's EAS destinations be on the list? I cannot support this bill because it decreases the EAS funding by $5 million.

Second, I am disappointed that an amendment I offered regarding cargo preference was rejected. Montana's grain growers are suffering under this inequity. These high transportation costs are limiting the amount of grain which could be moving out of the Pacific Northwest ports. Not only do cargo preference laws severely restrict Montana's exporting capabilities, it is a waste of taxpayer dollars.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the conference report be adopted; that upon disposition of the conference report, the motion to reconsider be laid upon the table, and that the Senate then concur, en bloc, with the amendments of the House to the amendments of the Senate; and that the motions to reconsider be laid upon the table, en bloc, with all of the above occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order the Senate agrees to the conference report and agrees to the amendments en bloc.

The Senate concurred en bloc to the amendments of the House to the amendments of the Senate Nos. 8, 9, 10, 11, 15, 16, 17, 29, 33, 35, 36, 45, 46, 47, 53, 54, 60, 70, 73, 74, 88, 92, 93, 106, 124, 125, 127, 128, 133, 134, 140, 142, 143, 150, 158, 159, 163, 175, 176, 177, 180, 182, 185, and 186 as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$2,100,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 9 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $27,066,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$1,355,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amount, insert "$900,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$1,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$9,232,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first sum named in said amendment, insert "$4,700,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

"That of the funds provided under this head, not less than $6,000,000 in work currently scheduled to be conducted at the Coast Guard Yard is to be awarded based upon a competitive solicitation of both public and private shipyards: *Provided further*, That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$44,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 35 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$41,615,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": *Provided*, That funds received from the sale of the VC–11A aircraft shall be credited to this appropriations for the purpose of acquiring new aircraft and increasing aviation capacity".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of "section 9199 of Public Law 91–508" named in said amendment, insert "section 9119 of Public Law 101–508".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$2,120,104,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$1,922,104,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur with an amendment as follows:

Restore the matter stricken by said amendment, amended as follows: In lieu of the sum named, insert "$30,262,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 54 to the aforesaid bill, and concur with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$17,590,000,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, as amended) and the National Traffic and Motor Vehicle Safety Act, $75,909,000, to remain available until September 30, 1996.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$37,613,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 73 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$351,700,000"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert "$195,000,000, not to become available until July 1, 1994,".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment insert "$2,414,867,000" and on page 26, line 13 of the House engrossed bill, H.R. 2750, delete "$1,324,916,000" and insert in lieu thereof "$1,284,960,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$1,195,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$1,129,951,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 106 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

"$1,000,000 for the Northeast Ohio Commuter Rail Project;

$500,000 for the South Jersey alternatives analysis;"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 124 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert "$1,350,000 for alternatives analysis for Cincinnati, Ohio Commuter Rail; and".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 125 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert "$500,000 for Memphis, Tennessee Regional Rail Plan".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 127 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert "$10,000,000 shall be for the South Boston Piers Transitway, $8,500,000 shall be for the Chicago Central Area Circulator Project, $4,000,000 shall be for the Dallas South Oak Cliff LRT Project, $1,000,000 shall be for the Houston Regional Bus Plan Program of Projects, $5,000,000 shall be for the Pittsburgh Busway Projects, $3,000,000 shall be for the Milwaukee, Wisconsin East-West Corridor Project, and $45,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $45,000,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 133 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

LOCK AND DAM NO. 4 BRIDGE

For 80 percent of the expenses necessary for the Lock and Dam No. 4 bridge in Pine Bluff, Arkansas, $4,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

MINEOLA GRADE CROSSING

(HIGHWAY TRUST FUND)

For 80 percent of the expenses necessary for the Mineola, New York grade crossing project, as authorized by Public Law 99–591, $7,800,000, to be derived from the highway trust fund and to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 140 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first sum named in said amendment, insert "$12,600,000," and

In lieu of the second sum named in said amendment, insert "$1,364,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 142 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$842,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 143 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert "$1,766,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 150 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first sum named in said amendment, insert "$39,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 158 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert "and $458,629 for the National Commission on Intermodal Transportation authorized by section 5005 of Public

Law 102-240. Amounts for section 5002 and section 5005 of Public Law 102-240 shall be deemed necessary for administration under section 104(a) of title 23, United States Code; and

"(4) Notwithstanding subsection (a), the Secretary shall withhold from initial distribution the fiscal year 1994 Federal-aid highways obligation limitation set aside for Interstate Construction Discretionary projects: *Provided*, That the Secretary shall distribute only after August 1, 1994, such obligation limitation withheld in accordance with this section to those States receiving interstate Discretionary allocations".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 159 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

(d) During the period October 1 through December 31, 1993, the aggregate amount of obligations under section 157 of title 23, United States Code for projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, sections 131(b), 131(j), and 404 of Public Law 97-424, sections 1061, 1103 through 1109, 4008, and 6023(b)(8) and 6023(b)(10) of Public Law 102-240, and for projects authorized by Public Law 99-500 and Public Law 100-17, shall not exceed $302,551,350.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 163 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "324", insert "326".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 175 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 336. None of the funds provided in this Act shall be used to remote radar coverage from the Roswell, New Mexico, airport unless the Federal Aviation Administration shows a significant cost savings by remote radar coverage based upon a cost study applying (1) actual personnel staffing levels used at comparable facilities, and (2) the actual equipment costs based on integration with existing systems rather than acquisition of wholly redundant systems. The Federal Aviation Administration will report back to the House and Senate Committees on Appropriations with an appropriate study not later than December 31, 1993.ca

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 176 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 337. Monies previously appropriated for the Chattanooga fixed rail project out of the section 3 "New Construction" account shall be made available for the Chattanooga electric vehicle project through the "Bus and Bus Facilities" account.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 177 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 338. Funds previously appropriated for Project Breakeven in Portland, Oregon, may, upon application by Tri-Met to the Federal Transit Administration, be expended on the Westside Light Rail Project in the Portland metropolitan region.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 180 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 339. The Administrator of the Federal Aviation Administration, pursuant to the Federal Aviation Administration's participation in the National Implementation Plan for the Modernization and Associated Restructuring of the National Weather Service, shall install seven standard Federal Aviation Administration redundant configuration NEXRAD radar systems, to provide coverage to each of the following areas in Alaska: Anchorage; Sitka; King Salmon; Middleton Island; Fairbanks, Nome; and Bethel: *Provided*, That the Administrator of the Federal Aviation Administration shall submit a study to the House and Senate Committees on Appropriations on the adequacy and effect on aviation safety of installing fewer than nine NEXRAD systems in Alaska.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 182 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 340. (a) The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

(b) The Secretary of Transportation shall permit the obligation of not to exceed $9,000,000, apportioned under title 23, United States Code, section 104(b)(1) for the State of North Carolina for capital improvements for their Rail Impact project in the Interstate 40/85 corridor from Raleigh to Charlotte during reconstruction of Interstate 40/85.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 185 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "348", insert "341".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 186 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number "349", insert "342".

CORRECTING TECHNICAL ERRORS IN THE ENROLLMENT OF H.R. 2403

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrent Resolution 48, submitted earlier today by Senator DECONCINI, making corrections in the enrollment of the conference report on H.R. 2403, the Treasury, Postal appropriations bill; that the concurrent resolution be agreed to; the motion to reconsider be laid upon the table and any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 48) was considered and agreed to as follows:

S. CON. RES. 48

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 2403), entitled "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes" the Clerk of the House of Representatives is requested to make the following correction:

In the matter under the heading:

"GENERAL SERVICES ADMINISTRATION
FEDERAL BUILDINGS FUND

"LIMITATIONS ON AVAILABILITY OF REVENUE"

under title IV under the heading "INDEPENDENT AGENCIES" strike out the following proviso: "*: Provided further*, That subject to the exceptions contained in the preceding proviso, in no case shall such funds be made available for any lease, line-item construction, repair, or alterations project referred to in the preceding proviso if prior to February 1, 1994, the lease, line-item construction, repair, or alterations project has been disapproved by the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works" and insert in lieu thereof "*: Provided further*, That subject to the exceptions contained in the preceding proviso, in no case shall such funds be made available for any lease, line-item construction, repair, or alterations project referred to in the preceding proviso if prior to February 1, 1994, the lease, line-item construction, repair, or alterations project has been disapproved by the House Committee on Public Works and Transportation or the Senate Committee on Environment and Public Works".

Mr. DECONCINI. Mr. President, the concurrent resolution currently pending instructs the Clerk of the House to make technical changes to H.R. 2403 during the enrollment of the final bill. The correction would delete a proviso which prohibits the expenditure of funds in H.R. 2403 for line-item construction, repair, or alterations projects if a prospectus has been disapproved by the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works. It inserts a new provisio prohibiting the expenditure of funds in the bill for line-item construction, repair, or alterations projects if a prospectus has been disapproved by either the House Public Works and Transportation Committee or the Senate Committee on Environment and Public Works prior to February 1, 1994.

This correction has been requested by the distinguished chairman of the Environment and Public Works Committee and I am told this change is agreeable to the chairman of the House

Public Works and Transportation Committee and the chairman of the House Appropriations Subcommittee on Treasury, Postal Service and General Government. It resolves a dispute over the authorization of Federal building projects funded in the bill reported from the conference committee. I urge its adoption.

Mr. President, I am pleased we were able to reach agreement on the authorization of Federal buildings. I want to commend the distinguished chairman of the Senate Environment and Public Works Committee and the chairman of the House Public Works and Transportation Committee for achieving a solution to a problem which has created obstacles to the funding process. It is my hope that the House will act expeditiously to consider and approve this correcting resolution when it is received.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 2491 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2491) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1994, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 4, 1994.)

Mr. MITCHELL. Mr. President, I ask unanimous consent that the conference report accompanying H.R. 2491, the VA/HUD appropriations bill, be considered under the following limitations; that there be a total time limitation of 35 minutes for debate with the time controlled as follows: 10 minutes equally divided between Senators MIKULSKI and GRAMM or their designees, 10 minutes each for Senators HEFLIN and DOMENICI and 5 minutes for Senator STEVENS; that when the time is used or yielded back, the conference report be adopted; that upon disposition of the conference report, the motion to reconsider be laid upon the table, and that the Senate then concur, en bloc, with the amendments of the House to the amendments of the Senate; and that the motions to reconsider be laid upon the table, en bloc, with all of the above occurring without intervening action or debate, and that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I am pleased to present to the Senate the recommendations of the conference agreement on the fiscal year 1994 VA, HUD, and independent agencies appropriations bill for fiscal year 1994.

This year has been the toughest year I have had as chair of the VA-HUD Subcommittee to craft our annual appropriations bill.

We had a tough conference with the House, given the spending constraints under which we had to live. To the extent that we could, we defended the Senate position and I believe that the conference agreement reflects that effort.

It represents a good, solid, bipartisan product of our labors.

We categorized priorities in three ways: Those we must do; those we should do; and those we would like to do. Because of our limited resources, we could only fund those on the must do and should do lists. Those on the we'd like. to do list have been postponed for fiscal year 1994.

The conference agreement adheres to the rules which the House and Senate VA-HUD Subcommittees set earlier this year—no funds for unauthorized site specific projects. Nor have we included any report language in support of unauthorized projects. As a result, the conference report is a clean bill because it contains only authorized projects.

Now, let me briefly highlight what is in the conference report.

First, for veterans. The conference agreement provides $35.9 billion for veterans. This includes the $15.6 billion for VA medical care. That's close to a $1 billion increase over the 1993 level.

The bill also includes $252 million for VA research—$46 million more than the budget request—to ensure VA can continue to produce outstanding work in areas like prosthetics, heart disease, and kidney failure.

We have also provided a small increase in general operating activities at VA. This will be used to reduce a claims backlog which is projected to grow to 1 million by the end of 1994. This is absolutely unacceptable. No veteran should be put on hold when he wants an answer to his pension or disability claim request.

For housing, the conference report recommends $25 billion for 1994. It includes: $4.4 billion for CDBG; nearly $1.6 billion for elderly and disabled housing; almost $1.3 billion for the HOME Program; over $500 million for troubled FHA multifamily housing projects: $780 million to tackle severely distressed public housing projects; $723 million for homeless programs; and $265 million for public housing drug elimination grants.

The conference agreement also includes funds for HUD's newly authorized innovative homeless funds, and for assistance to community-based nonprofits to assist in the development of affordable housing.

In the area of the environment, we maintain a strong commitment to protection of our country's natural resources.

The conference agreement recommends $6.6 billion for the EPA, an agency I hope we can soon call the Department of the Environment.

In includes $2.6 billion for EPA's operating programs, including almost $1.5 billion for Superfund in order to clean up hundreds of toxic waste sites nationwide. It also provides $2.5 billion for water pollution cleanup infrastructure.

For science, the conferees included $3 billion for the National Science Foundation, an increase of $272 million. That is an increase of 10 percent over 1993.

We have paid special attention to the needs of science education, and our research infrastructure, in allocating these extra funds. Science education receives $570 million, an increase of $82 million—or 17 percent—over last year.

Science facilities and equipment are funded at $110 million, an increase of 100 percent above last year.

As part of the NSF-DOD operations plan requested by the Senate, the conferees request that this also include a review and updated schedule for the replacement of LC-130 aircraft associated with this program.

To implement the President's national service initiative, the conference committee has included $370 million.

We do not want the new Corporation for National and Community Service to be a large bureaucracy. Therefore, we have capped administrative costs at $25 million, almost 40 percent below the authorized level.

For the space program, we are recommending just over $14.5 billion, including nearly $2 billion requested by the administration for space station development.

The conferees have included report language in the statement of the managers that makes clear we do not expect NASA to propose major policy changes to the conference report in the operating plan.

As my colleagues know, the House has now voted on several occasions to terminate the advance solid rocket motor by a more than 200-vote margin. For this reason, the House defeated the rule on the VA-HUD conference report the week before last.

To reflect this most recent vote, the House added a provision to Senate amendment No. 113 to terminate the ASRM Program outright, and I intend to support that action.

It is abundantly clear that the House will not support this program because of its high cost and questionable technical need. In addition, the administration has not proposed offsets that would provide the $150 million in extra funds which would be needed to keep ASRM on schedule in fiscal year 1994.

I do not want to risk losing the entire conference report, and placing the bill in a year-long continuing resolution. That would jeopardize many important items in this bill and wreak havoc with many essential services like those for veterans medical care. Therefore, I believe the Senate should adopt the provision added by the House to terminate ASRM.

For the Executive Office of the President, the bill includes almost $5 million. Of this amount, $4.45 million is for the Office of Science and Technology Policy.

The conferees are aware of the administration's concern with respect to the current reimbursement policy which requires OSTP to pay for one-half of the cost of detailees. While this policy has been carried in appropriations act since the mid-1980's, the conferees are aware that the OSTP prefers greater flexibility in this area. Therefore, the conferees will consider lifting the current requirement in a later appropriations vehicle.

In the meantime, the conferees are happy to allow OSTP to exceed six detailees to provide it with the flexibility it prefers.

Finally, the issue of our Selective Service System. The conference committee reported out the Senate amendment to restore funding for the Selective Service System in true disagreement.

The House initially called for its termination. But when the full House returned to this issue during consideration of the VA-HUD conference report, the House voted to recede to the Senate position.

I continue to believe that this very important issue should not be decided on an appropriations bill. Rather, it should only be made by the Congress after a recommendation by the President's National Security Council and the Secretary of Defense.

The Pentagon has underway a report on the need for peacetime military registration which I expect will be the basis for that critical decision later in this Congress. We should wait until then to make any such choice on the Selective Service's future.

While we await the completion of that report, the committee strongly believes that the Selective Service needs to address the serious management problems they face which were raised in an independent review of their operations by the U.S. Army Force Integration Agency. It cannot be business as usual at Selective Service if they are going to be as fit for duty as our military forces.

I am very appreciative of the hard work of many people that went toward producing this conference agreement.

In particular, I want to thank the chairman of our full committee, Senator BYRD, and his able staff, led by our full committee staff director, Jim English.

I also want to thank the full committee's ranking member, Senator HATFIELD, and the committee's minority staff director, Keith Kennedy.

I also want to express my thanks to the subcommittee's new ranking member, Senator PHIL GRAMM, for his work this year on the subcommittee. I also want to thank the subcommittee's minority clerk, Stephen Kohashi, and Dick Ribbentrop of Senator GRAMM's personal staff.

Finally, I want to thank the subcommittee's majority staff—Kevin Kelly, Carrie Apostolou, Juanita Griffin, and Lashawnda Leftwich.

In closing, I believe the conference agreement is fair and balanced, and makes tough choices that will help us, to the best we can, meet our social obligations, while helping the United States get ready for the future.

I urge my colleagues to join me in supporting this conference report.

LEAVENWORTH VA FIRE PROTECTION

Mr. DOLE. Mr. President, I would like to bring to the attention of the floor managers of the VA-HUD independent agencies appropriations bill a very serious and troubling situation which has arisen in my home State. The Leavenworth VA Medical Center has recently announced its intention to discontinue fire protection responsibility for the complex, thereby saddling the city with the estimated $485,000 annual cost of this critical service.

I have been in touch with Secretary Brown to see if there was any way to negotiate a reasonable resolution to this matter. It came as a shock to me, therefore, to learn that the Department of Veterans Affairs has apparently broken off discussions with the city, and has threatened to sue the city should it fail to assume responsibility of fire protection to this Federal facility.

Ms. MIKULSKI. The Senator certainly has a right to be upset if the Department is refusing to negotiate such a critical matter with the city. I must confess that neither the Senator from Texas [Mr. GRAMM] nor I have had an opportunity to investigate this issue with the Department, however, we both would strongly urge the Department to negotiate in good faith and with an understanding of the significant burden that such shift in responsibility would have on the city.

Mr. GRAMM. The Senator from Maryland is absolutely correct. While I understand that what is being proposed by the VA in Leavenworth is an arrangement similar to that applicable to other VA facilities, we have not had a chance to review this matter on a comprehensive basis, and I certainly am troubled that the Department would simply walk away from this responsibility without fully working out this change with the city and seemingly without any appreciation of the difficultly that a city would have in assuming such an unexpected new burden.

Mr. DOLE. I would like to thank the floor managers for their support on this important matter. Working with them, I am hopeful that we will be able to secure a reasonable resolution of this dispute between the VA and the city of Leavenworth.

TITLE I—DEPARTMENT OF VETERANS AFFAIRS

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to comment on title I of the conference report on H.R. 2491, the fiscal year 1994 Departments of Veterans Affairs and Housing and Urban Development, and independent agencies appropriation bill.

Mr. President, I commend the chairs of the respective House and Senate Appropriations Committees and the other conferees who reached the agreement reflected in this conference report. And once again, I especially commend the efforts of Senator MIKULSKI, chair of the VA-HUD-Independent Agencies Subcommittee, and the other members of her subcommittee for making the tough funding choices that were required of them this year.

I am pleased with the fiscal year 1994 appropriations in the bill for the Department of Veterans Affairs. Despite a difficult budget situation, this conference report addresses many of the highest priority VA funding needs, programs that truly deserve to be funded so that we might continue to seek to meet the needs of our Nation's veterans and their dependents and survivors.

Mr. President, I am particularly pleased to note the compromise that the House and Senate reached concerning the appropriation for homeless veterans' programs. I was extremely concerned when the Senate committee increased the funding for these programs by only $5 million above the administration's request, which was $5 million below the House committee's appropriation. In addition, the Senate committee had removed language in the House bill that earmarked increased funding for use under Public Law 102-590, the Homeless Veterans Comprehensive Services Act of 1992. I am grateful that the conference report includes an appropriation of $8 million above the administration's request and reinserts the language earmarking these funds for homeless programs.

This additional funding is desperately needed for programs to assist homeless veterans. Further, it was crucial that these funds be earmarked for some of the very worthy programs authorized under Public Law 102–590, particularly those under sections 3 and 4 which authorize grants to be made to programs to provide services to homeless veterans and for per diem reimbursements to nonprofit and veterans organizations for providing services to homeless veterans. The needs of homeless veterans for medical care and other services are extraordinary; this appropriation and the earmarking language will go a long way toward ensuring that those needs are met.

Mr. President, I also specifically acknowledge that the conference report provides $252 million for VA medical research. Both the House and Senate committees recognized the significant need for this amount of funding—$46 million above the amount requested by the administration and $20 million above the fiscal year 1993 appropriation. This funding level for fiscal year 1994 will provide a very slight increase over the amount appropriated for fiscal year 1993, adjusted for inflation. It also will compensate for 6.8-percent medical inflation since last year, ensure that no ongoing VA research projects are denied funding in fiscal year 1994, and perhaps provide funds for a very small number of new projects.

Mr. President, I note with enormous gratitude that the conference report includes many of the specific requests made by the Senate Committee on Veterans' Affairs concerning the funding of particular items in the medical care account. I would like to recognize that for a number of medical care programs, the conference report provides additional amounts above the administration's budget request. Specifically, I note that the final agreement provides for increased funding above the amounts requested by the administration for the following purposes: First, to reduce the equipment backlog; second, to enhance medical care for women veterans; third, to continue to furnish marriage and family counseling to Persian Gulf war veterans and their families; fourth, to improve and increase post-traumatic stress disorder treatment activities; fifth, to increase funding for readjustment counseling centers; sixth, to increase the number of bedside telephone systems in VA hospitals; and seventh, to expand VA's geriatric and extended care programs.

Mr. President, the appropriation for VA's general operating expenses [GOE] account is highly commendable as well. I urged Senator MIKULSKI to attempt to at least meet the administration's request for GOE. In the face of such a difficult budget climate this year, our committee feared major spending cuts in this area. I am pleased that the final agreement appropriates $3.5 million above the amount requested by the administration.

Mr. President, I applaud the House and Senate appropriations subcommittees and full committees for their fine work on the extremely arduous task of crafting this measure under such tight fiscal constraints. This has been a particularly difficult year, filled with tough fiscal choices, and I do not envy the decision process they faced. However, I am pleased with the provisions in the final agreement that affect VA. With appropriate management, I am confident that in the most critical program areas—medical care, medical research, and claims adjudication—VA will be able to carry out its many important responsibilities to our Nation's veterans.

I especially express my deepest gratitude to my esteemed colleague, Senator MIKULSKI, the chair of the Senate VA–HUD Subcommittee, for her enormous efforts concerning veterans' programs. I truly appreciate the extraordinary spirit of cooperation between our respective committees, during the appropriations process and throughout this year. In a consistent fashion over the years, Senator MIKULSKI has shown strong, unwavering support for veterans' programs and this year has proven to be no exception, as so clearly exhibited by her efforts toward reaching this final agreement.

VA'S MEDICAL RESEARCH

Mr. MURKOWSKI. Mr. President, I support the conference report on H.R. 2491, the fiscal year 1994 appropriation for the Department of Veterans' Affairs. This bill would provide over $36 billion for benefits and services for America's veterans. It would make tangible our Nation's commitment to the American men and women who once wore our Nation's uniform and who now look to VA for compensation for their disabilities and treatment for their illnesses.

Every budget requires difficult decisions and VA's 1994 budget request was no different. Last spring, I was particularly disappointed when the President apparently viewed VA's medical research budget as piggy bank from which to transfer funding to other programs; rather than as an investment in the future of our country and her veterans.

In an era of increasing costs, the budget we received last spring would have actually reduced VA's already strained research budget by $26 million, over 10 percent. If that request had been accepted without change by the Congress, VA's research effort would have been substantially reduced. I am now particularly pleased that both the House, and the Senate proposed to reverse that decision by increasing VA research funding by $20 million. The conference report now before this body reflects a decision by both bodies of the Congress to respond to the importance of VA research to America, and to veterans, by increasing the funding available to VA researchers.

The increase is good for veterans. It means that VA will continue to attract the high quality medical professionals who are drawn to a research environment and who are essential if veterans are to receive high quality medical care from VA.

The increase is good for America. It means that VA researchers will continue the cutting edge research that has already earned two Nobel prizes for VA researchers. Few Americans know that VA researchers played an integral role in developing the CAT scan or a cure for tuberculosis. Few Americans are aware of VA's current place at the forward edge of the state of the art in disciplines as diverse as geriatrics, spinal cord injury, and AIDS research.

The ability to increase our Nation's store of medical knowledge is an invaluable, but perishable, asset. The budget we received last spring would have led to a deterioration of that asset. The VA appropriation now before this body will help sustain its asset so that VA researchers can continue their mission of service to veterans and America. I urge my colleagues to join me in support of the appropriation.

THE ASRM FACILITY

Mr. HEFLIN. Mr. President, I ask that I be allowed to enter into a brief colloquy with the distinguished Senator from Maryland.

Ms. MIKULSKI. I would be pleased to enter into a colloquy with the senior Senator from Alabama.

Mr. HEFLIN. Mr. President, I have, as the Senator from Maryland knows, always been an outspoken supporter of the Advanced Solid Rocket Motor Program. I still believe it represents a leap forward in safety and reliability compared to the old rocket motor and that its increased lift capability is crucial if we are to go to the higher orbital inclination. I hope that with the termination of the ASRM, the committee will not abandon its efforts to increase the safety of the current system.

Ms. MIKULSKI. I assure the Senator that I remain fully committed to pursuing programs that increase the safety and reliability of the shuttle system.

Mr. HEFLIN. A great deal of our $1.5 billion investment in the ASRM Program has gone into the Yellow Creek site. As you recall, this site was purchased from the Tennessee Valley Authority which had made over $300 million in improvements to the property. The ASRM facility construction is over 90 percent complete and would have been finished this fiscal year. These state-of-the-art facilities represent a valuable asset of NASA and the Nation. Many of the buildings, such as the administrative complex, are general purpose in nature. Other buildings are suitable for any large manufacturing process. I therefore feel it would be fiscally irresponsible to just abandon our investment without first investigating the possibility of alternative uses. I have had various NASA contractors come to me with a number of proposals to use the plant, including—refurbishing old solid rocket motors, to manufacture the new RSRM nozzles, to build the proposed aluminum-lithium tank, and to manufacture new composite cases for the existing solid rocket motor. I hope the Senator from Maryland will support NASA if it comes forward with a realistic and economically feasible plan to use the facility for future projects.

Ms. MIKULSKI. I fully recognize the large investment made by this country in the Yellow Creek facility and I too feel that this investment should, if possible, be utilized. I will therefore encourage NASA to carefully study the possibility of alternative uses for site and will keep an open mind on any reasonable proposals to make use of this facility.

STAFFORD LOAN FORGIVENESS DEMONSTRATION PROGRAM

Mr. DANFORTH. Will the Senator from Maryland, the chair of the Appropriations Subcommittee for VA, HUD, and Independent Agencies, yield for a colloquy?

Ms. MIKULSKI. I will be happy to yield to the Senator from Missouri.

Mr. DANFORTH. I note that the conference agreement on the fiscal year 1994 VA, HUD, and independent agencies appropriations bill does not include funds to implement section 428J of the Higher Education Act of 1965. As the distinguished Senator from Maryland knows, this section of the Higher Education Act was included in last year's reauthorization of the act, and authorized the Department of Education to provide up to $10 million for a Stafford loan debt forgiveness demonstration program. The goal of the program was to provide some incentive for nonprofit volunteer organizations to induce young people to participate in their work because it gives them the chance to provide these volunteers with a post-service benefit.

The original Senate-passed version of the VA-HUD appropriations bill would have provided $9 million through the Corporation for National and Community Service to begin this program in fiscal year 1994. My intent, and that of the other sponsors of the original Senate amendment, was to mitigate any potential negative effects on ongoing volunteer programs as a result of the President's broader National Service Initiative. Could the Senator from Maryland indicate why no funds were retained in conference for this provision?

Ms. MIKULSKI. I would be happy to explain the rationale behind the conference action.

First, we operated under enormous fiscal constraints during the recently completed VA-HUD appropriations conference. As the Senator knows, the Senate voted 55 to 45 to reduce the appropriation for national service by $21 million from what was recommended by the Committee on Appropriations. In fact, the Senator from Missouri supported that cut when it was voted upon by the full Senate. However, I also note that the Senator from Missouri and the Senator from Arkansas reduced the scope of their original amendment to accommodate this lower figure.

The conferees faced extraordinary fiscal limits on what could be made available for the President's National Service Initiative. Neither the full- and part-time service, service learning, or civilian conservation corps programs are funded at their fully authorized level by the conference agreement.

Second, the administration expressed strong objections to the conferees about including funding for the section 428J from within appropriations made available to the Corporation. They believe service organizations who are advocates of the section 428J program are eligible for funds on a competitive basis through full- and part-time service opportunities provided by the Corporation.

Third, as the Senator knows, the program's authorization under the Higher Education Act authorizes appropriations only under the Department of Education, not the newly formed Corporation for National and Community Service. Therefore, explicitly including funds for this purpose in the final VA-HUD bill the conferees believed would have encroached on the jurisdiction of the Appropriations Subcommittee for Labor, Health and Human Services, and Education. The conferees were reluctant to alter the jurisdiction for this program since the National and Community Service Trust Act of 1993 retains jurisdiction for the 428J program with the Department of Education. I am aware of the fact that the recently enacted National and Community Service Trust Act of 1993 was the vehicle which accelerated section 428J's effective date. Nonetheless, the conferees believed the program remains under the jurisdiction of the Department of Education.

Fourth, the House strongly opposed including funds for this program in the VA-HUD bill.

And fifth, and finally, the Department of Education has not even issued regulations to implement this program. They are awaiting departmental clearance at the OMB at this very moment. As a result, it is not clear that any funds could be obligated for section 428J in fiscal year 1994, and how any Department of Education regulations could be legally used by the newly formed Corporation for National and Community Service to implement section 428J.

So it was for these technical and fiscal reasons that we avoided earmarking funds for section 428J, not because of any malice toward the program's intent. In fact, those organizations' programs which would benefit under the section 428J program have a long track record of service for many worthwhile activities, and are part of our Nation's substantial community service network.

Would the subcommittee's ranking member concur in my view on the subcommittee's action?

Mr. GRAHAM. I would completely concur in the views of the subcommittee chair on this matter.

Mr. DANFORTH. I recognize the concerns of the Senator from Maryland, and that there were many factors which led to the conferees' decision on this issue. I would like to explain my rationale for pursuing this amendment.

Small charitable organizations, often religious charities contacted me and told me that their support for the national and community service legislation was predicated on an assurance that they would receive $10 million in Stafford loan forgiveness for their volunteers. These groups are worried about a new, governmentally created corporation which would disadvantage them by giving grants benefiting only certain charitable causes. These groups want some protection. While I still think these organizations are going to be adversely affected by national service, I believe that they should at the very least get the small amount of protection that was included in the national service authorizing legislation. I will have more to say about this at a later date.

In relation to the other concerns indicated by the distinguished Senator from Maryland, had I been a member of the House-Senate conference, I would have strongly objected to the decision which the conferees reached. However, I do not want to delay the expeditious completion of the Senate's consideration of this conference report.

Therefore, I wonder if the Senator from Maryland, as the chair of the subcommittee and one of the key architects of the President's National Service Initiative, would be willing to consider supporting a reprogramming of funds in the Corporation's fiscal year 1994 operating plan to initiate a series of section 428J demonstration initiatives this fiscal year?

Ms. MIKULSKI. I would be willing to consider supporting such a reprogramming, subject to the following conditions.

First, such an initiative would have to be proposed by the Corporation. As I understand it, the Corporation's new Chief Executive Officer, Eli Segal, has agreed to propose a $3 million reprogramming for a series of section 428J demonstrations in fiscal year 1994.

Second, when the appropriate reprogramming is submitted by the Corporation, it would have to have the concurrence of the House VA, HUD, and Independent Agencies Subcommittee. I am not able to make a commitment for them at this time, but would be willing to urge them to concur in the reprogramming at the appropriate time.

Third, the scope of the reprogramming would be for $3 million to provide for approximately 3,000 slots, at the maximum authorized benefit level of 15 percent of a participant's Stafford loan indebtedness for the first year. This would amount to a first-year cost of approximately $1,000 per person under the 428J program for fiscal year 1994. This estimate is based upon the average Stafford loan obligation per person of approximately $6,500–$7,000. This is an extraordinary level of commitment, given that the conference report only provides post-service benefits for 2,000 VISTA participants under the National Service Initiative. Since the 428J program does not yet even have any regulations, it is not clear to me that obligating funds for 3,000 service opportunities is administratively possible. Nevertheless, I would be fully supportive of efforts by the Corporation to try and reach this level in fiscal year 1994.

And fourth, this initial action by the Corporation on the section 428J program would commit the committee to the program for only fiscal year 1994. As my distinguished colleagues from Missouri and Arkansas know, we cannot make commitments about future year appropriations bill until they are before the Committee on Appropriations for consideration.

Mr. DANFORTH. I thank the Senator from Maryland for her willingness to accommodate us on this issue, and agree with her assumptions on the scope and intent of any reprogramming. My willingness to abstain from offering an amendment to the conference report is based upon assurances I have received from Ele Segal, CEO of the Corporation for National and Community Service.

Mr. BUMPERS. I would concur in the views of Senators MIKULSKI, GRAMM, and DANFORTH. I would like to insert into the RECORD at this point two letters from Mr. Segal, the CEO of the Corporation for National and Community Service, outlining the Corporation's commitment on this issue for both fiscal year 1994 and the upcoming fiscal year 1995 budget process. I share Senator DANFORTH's view that my willingness to refrain from offering an amendment on this issue at this time, is conditioned on the assurances made in these letters. I also want to acknowledge the tireless work of the distinguished senior Senator from Rhode Island, Senator PELL, the chairman of the Subcommittee on Education, Arts and Humanities on this matter.

In addition, Mr. President, I am a member of the Labor, Health and Human Services, and Education Appropriations Subcommittee. I have spoken with the chairman of that subcommittee. We both believe it is appropriate for this program to be funded in the VA-HUD bill. I realize that the chair of the VA-HUD Subcommittee does not concur in that analysis.

I ask unanimous consent that the letters referred to be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CORPORATION FOR NATIONAL
AND COMMUNITY SERVICE,
Washington, DC, October 21, 1993.

Hon. JOHN DANFORTH,
U.S. Senate.
Via facsimile.

DEAR SENATOR DANFORTH: Thank you for your call this afternoon, regarding the proposed Stafford loan forgiveness program, and the concerns certain non-profit organizations have advanced with you that funds have not been appropriated for that purpose.

It is a concern we share. We have been working diligently to ensure the broadest possible participation in national service, across all streams of service.

Toward that end, we will submit to the Appropriations Committees a reprogramming request of $3 million for a Stafford loan forgiveness program. I will also work through the regulatory process, and elsewhere, toward ensuring that those who participate in FY '94 will not be cut off arbitrarily due to a lack of appropriations. This should enable a significant number of participants to benefit from the program envisioned by Section 428J of the Higher Education Act of 1965.

In addition, I will recommend and work for a $9 million program for the Section 428J program for FY '95, subject to the normal budgeting and substantive review processes that would apply to any demonstration program.

I look forward to continuing to work with you on this matter in the months ahead.

Sincerely,

ELI J. SEGAL,
Chief Executive Officer.

CORPORATION FOR NATIONAL
AND COMMUNITY SERVICE,
Washington, DC, October 21, 1993.

Hon. DALE BUMPERS,
U.S. Senate.
Via facsimile.

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Sincerely,

ELI J. SEGAL,
Chief Executive Officer.

NASA

Mr. DOMENICI. Mr. President, I would like to take a few minutes to engage in a colloquy with the distinguished chairman and ranking member.

Within the funds for NASA, the conference report directs a reduction from the NASA ground terminal at White Sands, NM.

Ms. MIKULSKI. Mr. President, that is correct. The conference report reflects the sentiment of the conferees that we are not proceeding with the TDRSS replenishment new start at this time. The conference agreement reflects a specific reduction in the operating costs at both headquarters and the ground terminal.

Mr. DOMENICI. Mr. President, owing to my concern with the intent of the conferees, Senators BINGAMAN, GRAMM, and I wrote NASA Administrator Goldin asking for an agency assessment of the technical feasibility of operating cuts such as those which the conferees have reached. His response raises possible concerns and I ask unanimous consent to enter Mr. Goldin's letter into the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
Washington, DC, October 15, 1993.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Thank you for your letter of October 7, signed jointly with Senators Bingaman and Gramm and Congressmen Skeen, McDade and Lewis, regarding direction concerning NASA's Space Communications activities included in the Conference Report (House Report 103–273) accompanying H.R. 2491, the VA-HUD-Independent Agencies appropriations bill. The Report directs that $11 million [be taken] as a general reduction from space communications, including a reduction of $8.6 million from space communications operations activities at headquarters and at the NASA ground terminal."

We are currently assessing the impacts of an $8.6 million reduction directed at Headquarters support activities for Space Communications and Ground Terminal operations. As you may know, NASA is already actively endeavoring to reduce costs of Headquarters support activities in general, and we expect to absorb reductions in Headquarters support for Space Communications, among other areas. Clearly, however, a directed appropriations reduction of $8.6 million would require a decrease in activities at the NASA Ground Terminal in White Sands, New Mexico, as well. We recognize the important role of the White Sands Ground Terminal in the operation and maintenance of the Tracking and Data Relay Satellite (TDRS) system, and hope to avoid undue impacts of reductions in Ground Terminal funding. We are evaluating how NASA might absorb a portion of the reduction specified in the Conference Report in other elements of the Space Communications program, if necessary. If it is determined that an alternative distribution of the reductions is preferable for the most effective conduct of Space Communications activities, NASA will propose such an approach in the FY 1994 operating plan.

With respect to the TDRS Replenishment program, I note that the Conference Report deletes requested FY 1994 funding "without prejudice." We are actively studying the cost, schedule, and capability requirements to ensure continuity of vital U.S. on-orbit space communications availability through the TDRS replenishment program. As the Conference Report suggests, NASA will address the results of our studies in this regard and timing of procurement activities in the forthcoming FY 1994 operating plan.

NASA is committed to maintaining the viability of TDRSS. I appreciate your support of NASA's space communications activities and would be pleased to discuss this matter in greater detail.

Sincerely,

DANIEL S. GOLDIN,
Administrator.

Mr. BINGAMAN. Mr. President, Mr. Goldin's letter states that NASA recognizes the importance of the White Sands Ground Terminal in the operation and maintenance of the tracking data relay satellite system [TDRSS] and stresses the agency hopes to avoid undue impacts of reductions in ground terminal funding.

Mr. DOMENICI. Mr. President, I would like to ask the conferees an important question on this matter. Is it the subcommittee's intent to eliminate any flexibility by the Administrator of NASA with regard to the operating budget at the White Sands location?

Mr. GRAMM. Mr. President, the potential technical problems which the Administrator mentions creates a very limited opportunity for us to assess whether the agency could faithfully implement the clear direction of the conferees. That would come at a later date in the form of a reprogramming or when the agency's operating plan is forwarded to us in the next few months.

Ms. MIKULSKI. Mr. President, that is correct.

Mr. DOMENICI. I thank the distinguished chairwoman and ranking member.

OXYGENATED FUELS

Mr. STEVENS. Mr. President, I want to thank those involved in the 1 year oxygenated fuel time-out for Alaskans. The time-out is contained in the conference report accompanying the fiscal year 1994 VA, HUD and independent agencies appropriations bill.

Chairman MIKULSKI, Senator GRAMM, Congressman STOKES, and Congressman LEWIS had the patience to allow Senator MURKOWSKI and me to include the solution in the context of their bill.

Senator BAUCUS and Senator CHAFEE helped in the Senate to clear this amendment to address the needs of Alaskans. Chairman DINGELL and Congressman WAXMAN accommodated us in the House.

I am grateful to them for a hearing the voices of Alaskans. I know it was difficult to find a balanced solution, but they were fair.

This solution to the oxygenated fuels problems of Alaskans was needed because fuels with high oxygen content are required by the Clean Air Act. They are required to reduce carbon monoxide emissions, something I agree should be done.

A plan to limit carbon monoxide emissions was agreed to in the Clean Air Act and an aspect of the plan involved use of so called oxygenated fuels in carbon monoxide nonattainment areas.

One type of oxygenated fuel, MTBE, was used in Alaska last winter. Incidentally, last winter was the first year these fuels were required under the Act.

Alaskans had trouble with this fuel and hundreds in Anchorage and Fairbanks reported health problems—vomiting, dizziness, lightheadedness, headaches, shortness of breath, inflammation—associated with fueling vehicles or driving.

The Centers for Disease Control, at the request of the State of Alaska, investigated these health complaints. The CDC used very sophisticated equipment to measure MTBE in blood samples and found MTBE in varying levels in the blood.

As reported to the Appropriations Committee, results of CDC's preliminary studies—and I emphasize preliminary—showed a correlation between the amounts of MTBE in the bloodstream and the health complaints. The studies did not conclusively show a cause and effect relationship between MTBE and the health complaints. This is one reason why more studies are necessary.

The agreement we reached for a 1 year exclusion of oxygenated MTBE fuel in Alaska will allow further studies in ultracold temperatures such as we experience in Alaska.

I understand that the EPA has substantially more research from the South 48 on which to base health conclusions. EPA stated it has no existing basis on which to question the continued use of MTBE; the studies requested by this report should address whether there now is a basis as demonstrated by the CDC and Stanford, CT study to rethink MTBE.

I ask my friend, the Senator from Maryland, who has been so helpful in getting this provision through the conference, and to whom I have repeatedly expressed my personal gratitude for her steadfast support, if this interpretation is shared by the conferees.

Ms. MIKULSKI. Mr. President, yes it is. Alaskans had a real problem with MTBE and the Senator from Alaska reached an agreement with House and Senate authorizers and appropriators on an acceptable solution. I am glad I was able to help.

Mr. STEVENS. Mr. President, the EPA and CDC should cooperate on a risk assessment. The risk examined from MTBE and other oxygenates needs to be examined by these agencies to provide the facts so people know the relative impact of various oxygenated fuel options.

Our agreement grants a 1-year exemption for Alaska from Clean Air Act section 211(m) requirements and the resultant possibility that highway funding sanctions might be imposed for not enforcing the oxygenated fuel mandates of the Clean Air Act. Alaskans are creative; we are already looking for alternatives to MTBE.

Again I thank all involved for helping us try to find a long-term solution to the problem. I add a special thanks to Carol Browner and the EPA for their concern, consideration, time, understanding, and help in solving the problem this year.

ALASKA OXYGENATED FUELS PROGRAM EXEMPTION

Mr. MURKOWSKI. I support the language agreed to by the conference committee. No funds may be used during fiscal year 1994 by the Environmental Protection Agency [EPA] to enforce the use of methyl tertiary monoxide butyl ether [MTBE] fuel in Fairbanks or Anchorage. This allows State and local officials to still use MTBE if they choose. The report language directs EPA, in conjunction with Alaska, to conduct further tests on MTBE to resolve the health effect uncertainties.

This has been a long process. There are many reasons for not using MTBE. The Governor canceled the program in Fairbanks on December 11, 1992, after a surge of health complaints including headaches, nausea, vomiting, dizziness, disorientation, and other medical complications.

We asked the EPA if they had studied the possible health risks and the possibility of increased air toxics emissions associated with the use of MTBE in Arctic temperatures. The EPA had not conducted the proper cold weather tests. We insisted then and we insist again that EPA conduct the appropriate studies.

Alaska is most prone to exceed carbon monoxide standards during November through March—temperatures hit 50 degrees below zero. The studies have not been conducted with the proper cold weather control factors. This amendment provides time for the proper tests. The report language is added urging State of Alaska and the EPA to fund the proper tests.

The State epidemiologist and the Centers for Disease Control and Prevention [CDC] link MTBE with health complaints. Alaska's epidemiologist had determined that Alaskans should not be subject to oxygenated fuels until further definitive studies have been conducted. A study conducted by the CDC reinforces the State's concerns—blood samples from Fairbanks residents showed those with highest concentrations of MTBE in their systems had the most serious health complaints.

Health risks aside, MTBE may not reach the desired goal of carbon monoxide emission reductions at subarctic temperatures.

Alaska does not have a serious air quality problem. In 1992, Anchorage and Fairbanks were out of compliance only 2 days each. In 1993, without MTBE, Fairbanks was out of compliance only 2 days. We expect to be in compliance soon without MTBE due to our first-rate inspection and maintenance programs, typical automobile fleet turnover, and the cold start program which puts new vehicle standards for carbon monoxide emissions into effect this model year.

Overall, MTBE use did not result in a net health benefit. The cure was worse than the problem.

EPA REQUIREMENTS FOR MONITORING OF CATHODICALLY PROTECTED STEEL TANKS

Mr. HARKIN. Mr. President, I would like to inquire of the Senator from Maryland, the chairwoman of the VA-HUD and Independent Agencies Appropriations Subcommittee, whether she would agree to join me in a colloquy.

Ms. MIKULSKI. Mr. President, I would be pleased to accommodate my colleague from Iowa.

Mr. HARKIN. Mr. President, I would like to discuss with the Chairwoman the issue of the monitoring of cathodically-protected underground storage tanks.

Cathodically protected underground storage tanks provide three-way corrosion protection: A corrosion resistent coating, electrical isolation, and anodes pre-engineered to prevent external corrosion on any of the tank's exposed metal surfaces. This third element enables these underground storage tanks to be cathodically-protected.

Current EPA requirements state that single-wall cathodically-protected steel tanks must be monitored within 6 months of installation and at least every 3 years thereafter. Such monitoring measures how well anodes attached to the tank are working to prevent external corrosion.

Records show that more than 200,000 of these tanks have been installed since 1969 and only 7 tank incidents possibly due to external corrosion were on record. In addition, the Steel Tank Institute hired a firm to audit a cross-section of tank owners owning 8,000 tanks. Of that cross-section, only three instances of external corrosion were reported. Only one actual pollution incident, caused by improper installation of the underground storage tank system, turned up. That translates into a pollution-incidence rate of 0.04 percent. This contrasts with statistics which forecast a 19.5-percent failure rate from a database of almost 100,000 unprotected bare steel tanks.

No instances of external corrosion failure of these cathodically-protected steel tanks, called sti-P3 tanks in the industry, properly transported and installed has ever occurred. This includes nearly all sti-P3 tanks installed prior to the promulgation of EPA regulations in 1988.

The EPA has exempted other new technology tanks from additional monitoring requirements because of a low failure rate. In fairness, the sti-P3 underground storage tank should receive the same exemption.

Tank purchasers consider cathodic protection monitoring every 3 years and the associated recordkeeping requirements costly and this affects their future tank selection. Because no additional monitoring of other systems' design is necessary, tank owners find it easier to purchase these other designs—even though these other designs do not have the environmental benefits of cathodic protection.

I believe that the EPA should look at the whole picture: the effect of its regulations on what tanks are actually purchased and the environmental strengths of those tanks. By requiring a higher level of testing for cathodically protected steel tanks, they are placed at an economic disadvantage to other tanks which do not have to be tested periodically. This regulatory monitoring requirement for cathodically protected tanks actually hurts the environment by driving tank purchasers to other less proven technologies that do not have cathodic protection. I believe that the EPA should amend the post-installation monitoring mandate to require a test only at the time of installation or if an excavation is disturbed by construction or retrofit activity. This would also place the sti-P3 on a level playing field with other recognized technologies. Otherwise, the use of this technology may die because of an unbalanced regulatory policy.

Ms. MIKULSKI. The committee is concerned about the fairness of Environmental Protection Agency requirements for cathodically protected steel tank monitoring. Current EPA requirements call for monitoring within 6 months of installation and at least every 3 years thereafter.

As the Senator from Iowa has stated, this is the only EPA-approved tank technology subjected to confirmation of the design's performance.

I believe that EPA should move as rapidly as possible towards a final decision on the testing requirements, considering the comments and data presented as well as the comparative regulatory requirements for other types of tanks.

MTBE

Mr. BAUCUS. I would like to make one comment and ask a question regarding the conference agreement on amendment numbered 85. This section would limit the use of funds by the Environmental Protection Agency to enforce the requirements of section 211 (m)(2) of the Clean Air Act that require the use of methyl tertiary butyl ether [MTBE] to meet the oxygen requirements of that section. I agree with Senator STEVENS, the sponsor of this provision, that the Centers for Disease Control has raised questions about the possible adverse health effects of the use of MTBE in motor fuels. In fact, people in my home state of Montana have reported ill effects apparently as a result of the MTBE added to their fuel. There have been complaints of illness associated with the use of MTBE in several other states too, including New York and New Jersey. I commend Senator STEVENS for his work on this amendment, and Senator MIKULSKI for her assistance in retaining it in the bill.

I want to clarify one point contained in the conference report. The report states that the conferees intended for EPA to conduct further MTBE studies and resolve uncertainties regarding the health effects of the use of MTBE in fuels. Although the bill language regarding the restriction on funds applies only to Alaska, it is my understanding that the EPA studies on the health effects of MTBE will focus on the risks regarding MTBE to the extent they exist in other states as well.

Ms. MIKULSKI. The Senator from Montana makes a good point. I believe that there are advantages to a broader study of the health effects of MTBE and I will work with the Senator and EPA to achieve that result.

Mr. STEVENS. Mr. President, we have specific concerns with respect to use of MTBE in Alaska which need further study and the report language allows those to be investigated. I do not object to other states and areas being included in the study by EPA.

If Montanans or others with potentially similar problems want to be included, then I think they can be under the terms of the conference agreement. The study provision was intended to make sure the EPA focuses on getting to the bottom of the MTBE complaints. It is in the best interests of everyone to get to the bottom of this.

I want to add one further note of clarification. The studies done in Fairbanks were preliminary. They did not conclusively link MTBE with health ailments.

Rather the CDC found an interesting correlation between those with the highest blood levels of MTBE and those with the most health complaints. The CDC conclusion, and I talked personally with Dr. Ruth Etzel of the CDC about this, was that the correlation from a scientific standpoint warranted further investigation.

Mr. BAUCUS. I thank Senators MIKULSKI and STEVENS for that clarification. I believe that there is a real need for EPA to conduct the necessary research to ascertain the safety of the use of MTBE in motor fuels.

ADVANCED SOLID ROCKET MOTOR PROGRAM

Mr. COCHRAN. Mr. President, I am saddened to see the amendment from the other body terminating NASA's Advanced Solid Rocket Motor Program. The Senate vote in support of this valuable program was the right vote, but unfortunately the House is firm in its opposition. Recognizing the depth of the opposition in the House, my colleagues and I do not plan to prolong this impasse by seeking to overturn the other body's amendment. I would like to thank the distinguished managers of the bill, Senator MIKULSKI and Senator GRAMM, for their steadfast support of this program. I would also like to thank my colleagues, particularly Senator LOTT and Senator HEFLIN, for their hard work here. Given the amount of work that has gone into the Government-owned Yellow Creek facility, as well as the improvements made in the local community to support it, I hope there will be an opportunity for NASA to reexamine and redefine the role of the Yellow Creek facility.

Mr. LOTT. Mr. President, I too rise to thank the managers of this bill for their leadership in support of the ASRM Program. This program is a good and important program for many reasons, and their recognition of the need for the ASRM is appreciated. There has been a massive commitment of resources to the Yellow Creek facility by the Federal Government, as well as by the State of Mississippi and the local authorities in Mississippi—schools, roads, other infrastructure. This commitment of resources should not go unused. May I inquire of the distinguished manager of the bill, Senator MIKULSKI, if she supports alternative utilization of the Yellow Creek facilities?

Ms. MIKULSKI. Mr. President, the investment that has been made in Yellow Creek—by the Federal Government as well as by the good people of Mississippi, Alabama, and Tennessee—should not be squandered if an economically and technically viable use can be found. NASA now has a facility as modern as any in its inventory, very near completion. Senator COCHRAN was correct in suggesting that NASA reexamine and redefine the role of Yellow Creek, and there is nothing in the bill or conference report which precludes NASA from finding appropriate alternative uses for Yellow Creek. I strongly encourage NASA to study this question, and hope to hear from the agency shortly on its progress.

Mr. COCHRAN. Mr. President, the Senate has done everything it can do in support of this program, thanks to the work of Senator MIKULSKI, Senator GRAMM, and others in this chamber. I thank my colleagues for their support, and hope that a way can be found to utilize Yellow Creek to the benefit of the Government and the people of Mississippi, Alabama, and Tennessee so this investment is not wasted.

ASBESTOS SCHOOL HAZARD ABATEMENT PROGRAM

Mr. SIMON. Mr. President, as my colleagues remember, when this bill was first considered on the Senate floor, funding for the Asbestos School Hazard Abatement Program was restored by a vote of 68 to 31. I am disappointed that, in the conference, the Senate did not get its will on this issue. However, I know that the conferees had difficult decisions to make, and that they did not take this decision lightly.

In the debate on my asbestos amendment, my colleague from Maryland, Ms. MIKULSKI, who has done an admirable job in putting this appropriations bill together, talked about the need for a risk-based approach to hazards. For example, in many schools the hazards of lead exposure, particularly for very young children, is severe—probably more severe than many of the asbestos abatement projects that schools have undertaken. I am interested in how my colleague would respond to a proposal for a more general program at the Environmental Protection Agency that would help States address the greatest environmental hazards in their schools, whether that happens to be lead, or asbestos, or radon, or some other hazard.

Ms. MIKULSKI. I not only would respond positively to that approach, I would be glad to work with my colleague to develop just such a program. As we both noted in the debate on the school asbestos amendment, we are not accustomed to being on opposite sides of any issue, particularly an issue that involves schools. But perhaps we were not on opposite sides; we were just approaching the same issue of school hazards from a different perspective. I welcome the opportunity to work with my colleague, as well as with the chairman of the Education Subcommittee, who I know is interested in this issue as well, to address the environmental hazards that children face in their schools.

Mr. PELL. Mr. President, I wish to thank both my colleagues for their attention to this important matter. I look forward to joining them in developing a program that will give schools both the technical and financial assistance they need to remedy environmental hazards in their buildings. If we are to foster healthy, active young minds, we must safeguard and promote the physical health and well-being of our children. Toward that end, we must ensure a safe, healthy environment in our Nation's schools. Childhood exposure to lead is of particular concern, as such exposure can literally rob a child of his or her intellect.

Again, I thank my colleagues for clarifying this issue and I look forward to continuing to work with them to address environmental hazards in our schools.

Mr. SIMON. I thank both of my colleagues for their leadership.

RESEARCH TRIANGLE PARK, NC

Mr. FAIRCLOTH. Mr. President, I had earlier planned to offer an amendment to the conference report on the VA-HUD appropriations bill. My amendment would have prevented the EPA from continuing to fund design and planning of a proposed building in Research Triangle Park, NC.

However, I was pleased to learn that the Senate has regained authorization authority over public buildings through the Environment and Public Works Committee. The House agreed to a resolution in conjunction with Treasury, Postal appropriations, which specifies that the Public Works Committees of either House can halt a public building with a resolution of disapproval of that project.

In that light, I do not think it is necessary to amend the conference report. Rather, I would like to engage in a colloquy with the managers of the bill, and ask their intentions in regard to EPA budget appropriations for planning of the new facility.

Environment and Public Works may not approve this project. It does not make sense to me that EPA should continue to spend taxpayer money for blueprints, and so forth, of a facility that may never be built. Does the Senator from Maryland agree that the EPA should quit wasting money on this project until the Environment and Public Works Committee has approved the project?

Ms. MIKULSKI. Mr. President, because the authorization and appropriation process for the construction of Federal buildings has undergone significant revision since our conference, I believe it would be prudent for the EPA to wait for the Environment and Public Works Committee to pass a resolution of approval of this project before obligating the $3 million made available in the VA-HUD bill for this project.

Mr. GRAMM. Mr. President, I agree with the Senator from Maryland. The EPA should wait for the Environment and Public Works Committee's disposition of this issue and if the GSA is prohibited from continuing this project, it would certainly be my view that the EPA should consider alternative uses for the $3 million.

Mr. FAIRCLOTH. Mr. President, as majority and minority managers of the bill before us, do the Senators agree that if the Environment and Public Works Committee does not approve or authorize this project, that decision calls into question the viability of the project, and that the EPA should not allocate funds for the EPA/RTP?

Ms. MIKULSKI. Mr. President, I would agree that it makes little sense for EPA to proceed with obligating the $3 million in additional design funds for the RTP consolidation if the $8 million in additional design funds provided for the same purpose in the Treasury-Postal bill is not available in fiscal year 1994.

Should the Environment and Public Works Committee take such an action, which calls into question the future viability of this project, I would expect that future alternative uses of the $3 million would be addressed in the EPA's operating plan that will be submitted to the Committees on Appropriations for review and approval.

Mr. President, I look forward to hearing the comments of my ranking minority member. I would like to thank my staff on the VA-HUD bill for all they have done to move this bill in an expeditious way, and the staff of the ranking minority member, and the ranking minority member himself. It is very much appreciated.

I have one regret, and that is the ASRM had to be deleted. I know the Senator from Alabama wants to speak on it. We will work with the people of Alabama and Mississippi in helping those people who have lost their jobs in that area.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, it is a pleasure to join Senator MIKULSKI, chair of our subcommittee, in recommending to the Senate the conference agreement on the VA-HUD, and Independent Agencies appropriations bill for fiscal year 1994.

Consideration of this measure was very difficult because of the heavy demands and expectations made of programs within the broad jurisdiction of the subcommittee, coupled with the constraints on discretionary spending in our budget allocation.

The bill as recommended totals $68.3 billion. This is $1.3 billion less than the President's budget request, and the same level appropriated for these programs last year.

The conference agreement provides the $1.946 billion requested by the President for the space station. Because of the major redesign and the recently announced intention to broaden Russian participation in the program, funds are fenced to assure that all scientific and cost changes meet current program goals. This is within an overall NASA budget that is $700 million less than the administration's request.

The largest increase, by far, is provided for discretionary activities of the Department of Veterans Affairs. Medical care alone will receive a 7 percent increase and on top of that, the recommendation adds a $500 million contingency appropriation to address requirements of national health care reform which may be enacted in the future.

Investment in basic research activities of the National Science Foundation are proposed for a 10-percent increase. This will continue this critical investment in developing the technologies which will drive our economy into the next century.

The conference agreement reflects the policy of avoiding site-specific earmarks and sharply limits legislative provisions, reversing practices which have been heavily criticized in the recent past. I would note, however, that continued constraint in this regard is dependent on timely enactment of needed legislative measures and effective executive branch administration of programs to meet priority concerns of the Congress.

Mr. President, the hour is late, and we have a lot to do. Let me just say this. I have enjoyed working with our distinguished chairman, BARBARA MIKULSKI. She is one of the smartest, toughest Members of Congress. She does a great job, and I am proud to have been her ranking minority member on this bill.

I yield back the remainder of my time

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

OXYGENATED FUELS

Mr. STEVENS. Mr. President. I want to thank those involved in the one year oxygenated fuel timeout for Alaskans. The timeout is contained in the conference report accompanying the fiscal year 1994 VA, HUD, and Independent Agencies appropriations bill.

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I ask my friend, the Senator from Maryland, who has been so helpful in getting this provision through the conference, and to whom I have repeatedly expressed my personal gratitude for her steadfast support, if this interpretation is shared by the conferees.

Ms. MIKULSKI. Mr. President, yes it is. Alaskans had a real problem with MTBE and the Senator from Alaska reached an agreement with House and Senate authorizers and appropriators on an acceptable solution. I am glad I was able to help.

Mr. STEVENS. Mr. President, the EPA and CDC should cooperate on a risk assessment. The risk examined from MTBE and other oxygenates needs to be examined by these agencies to provide the facts so people know the relative impact of various oxygenated fuel options.

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Again, I thank all involved for helping us try to find a long-term solution to the problem. I add a special thanks to Carol Browner and the EPA for their concern, consideration, time, understanding, and help in solving the problem this year.

Mr. President, I want to thank personally the Senator from Maryland, Senator MIKULSKI, for what she has done to help us in Alaska on a serious issue in this bill, and also the Senator from Texas. I do include Congressman STOKES and Congressman LEWIS for their patience with me, in particular on this bill. They have been very understanding.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

ASRM

Mr. HEFLIN. Mr. President, I rise to address the issue of the advanced solid rocket motor in regard to the conference report. I appreciate the statement that the distinguished chairman of this subcommittee just made and her willingness to work in regard to the future.

Mr. President, I will not repeat the various arguments that have been made in support of the ASRM, other than to briefly summarize some of them. There is no question in my mind that the safety of our astronauts and the safety of the shuttle should dictate the decision that the ASRM be completed and used. The fact that it would cost more to terminate than to complete, regardless of whether it is or is not used in putting the space station in orbit, is still a valid argument. The issue of whether or not the Russians will participate in the space station program is, to a large extent, dependent on the use of the ASRM. These arguments were persuasive in defeating the effort to terminate the ASRM in the Senate a few weeks ago.

The battle this year is not the first one that we have had on the ASRM. It is actually the fourth year in which the House of Representatives failed to provide adequate funding for the ASRM, and the Senate has had to come to its rescue and then provide the funds in conference. Actually, the Senate has kept the ASRM program alive up until now.

It is rather clear that the House of Representatives will not support the ASRM Program this year. It is a fact of life and we must recognize it. Five times this year the House has voted against funding the ASRM. First, an amendment to strike all funds for the ASRM from the appropriations bill received an overwhelming vote of 379 to 43. Then, an effort was made to try to save the facility and use the facility for other space endeavors, thereby saving jobs. It was to be done through an arrangement by which the nozzle work, and the refurbishing of used solid rocket motors that have been retrieved from the ocean, would be undertaken at the Yellow Creek location. This was likewise defeated by the House in the authorization bill by a vote of 303 to 111. However,the Senate approved funding for the ASRM in its appropriations bill and the conference committee approved funding. When the conference report was presented to the House, the House rejected the report on the basis of the funding for the ASRM by a vote of 305 to 123. The fifth vote was just a day or so ago when the House approved a measure, by a vote of 401 to 30, which eliminated funding for the ASRM, and distributed the funds among other programs. Despite heroic efforts by Congressmen JAMIE WHITTEN, BUD CRAMER of Alabama, TOM BEVILL, and others—SONNY MONTGOMERY, of Mississippi—it is clear that the vast majority of the Members of the House are dead set against the ASRM.

The issue comes down to What can the Senate do? Frankly, we must first ask the question, What if the Senate voted to fund ASRM again either by voting down the conference report or making an amendment thereto? If we did that, what would be the outcome? I repeat the question: What if the Senate voted to fund ASRM again, either by voting down the conference report or making an amendment thereto? I think it is perfectly clear that regardless of what the Senate does the House will never go along with funding the ASRM.

Frankly, a win in the Senate at this time on the ASRM would be no win at all. It would face certain death when returned to the House. The fact of life is that the House of Representatives will not vote to fund ASRM. As much as I hate to admit it, ASRM is dead.

Are there some advantages for the Yellow Creek site by adopting the conference report? Yes, I think so. The adoption of the conference report is really the best hope that we have to make use of the facility at the Yellow Creek site in the future.

The Yellow Creek site can be used in connection with many space activities. It could well be used in upgrading the present RSRM to enhance its safety and to enhance its lifting power. The facility could be used in conjunction with other types of activity that are closely related, like nozzle work on the RSRM and other nozzle work. It could be used to refurbish the spent RSRM shells after they are retrieved from the ocean. The facilities could further be used in connection with the possibility of building an aluminum lithium tank. The use of the facility would benefit the space program and be a cost saver. It can be used in many other ways other than what I have mentioned.

The language of the conference report that is before us today does not prohibit the use of the facilities at the Yellow Creek site in connection with these types of activities. It is silent in that regard. If you will recall, in the House authorization bill, they voted to prohibit the completion of the facilities and to prohibit the use of the facilities for such activities. I am fearful that if the Senate voted to go back to conference, the end result would be that the House would insist on a prohibition against such uses of the facility. As it stands now, I do not believe that it is worth that gamble.

I have had discussions with numerous officials about the future of the Yellow Creek site. I believe these officials will endeavor to make use of the facility in a way that will benefit the space program, save money in the long term, and provide jobs. It would require only $32 million to complete the facility. It is scheduled to be completed by December 31, 1993, only a few short months away. From the assurances that I have received from numerous officials, I believe there is a strong probability that the facility can be used in the space program. Estimates regarding jobs to be saved at the Yellow Creek location run as high as 1,000. That would of course, depend on the type of use that is made of the Yellow Creek facilities if such use is made and what is conducted therein. So we will have to wait and see relative to that.

Under the circumstances, I do not believe that we can accomplish anything by trying to put an amendment on to this conference report or to take other procedural actions relative to ASRM. It would be an exercise in futility. It is a fact of life that the House of Representatives will never vote to include it in any final legislation that is passed. Therefore, it appears to me that the proper course of action on this bill is to cut our losses and try to use the Yellow Creek site to benefit the space program, save money, and provide jobs in the future.

So under the circumstances, I do not feel that we in the Senate should endeavor at this time to defeat the conference report and to make any amendment thereto.

Mr. COCHRAN. Mr. President, will the distinguished Senator yield to me for a response to his statement?

Mr. HEFLIN. I certainly will.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Alabama for his statement and his comments and also for his hard work in helping to ensure that this program was carefully considered in the Senate; that the Senate supported it, voted on a record vote to continue the program, but in recognition of the reality of the House action to kill this program as configured and defined in the original legislation makes it impossible for us to continue to hold the Senate up on this issue but, rather, to proceed to examine alternatives.

In that connection, I wish to observe that the Senator from Alabama has been very involved, as have other Senators, in trying to assure that NASA explores every opportunity to use the investment which has already been made in this important facility. About $1.5 billion in Federal funds has already been committed to this site, to the construction of this new and modern rocket motor plant. It would be a disaster of immense proportions not to use it for something. We have been assured that NASA will.

I wish to thank the distinguished Senator for his remarks and for his leadership and let him know we appreciate the cooperation and the effective work he has done in support of this program.

Mr. HEFLIN. I thank the distinguished Senator from Mississippi. He has been heroic in his efforts and has worked tirelessly, as has the other Senator from Mississippi, Mr. LOTT. Their efforts in this regard have for 4 years enabled us to keep this project alive. The House would not provide funding for it.

I particularly wish to thank the distinguished chairman of the subcommittee and his staff for their cooperation, and the distinguished Senator from Texas, who is the vice chairman of the committee, and his staff for their work. They have worked with us in this regard.

The Senate did vote to fund it, and in conference they provided the funding, but the House has turned it down. As I outlined earlier, they have voted now five times, and I think you just have to come to the recognition that in a two-house legislative body you have to have both bodies to support legislation and appropriations. Obviously, they are not going to do it. So regardless of what we do in the Senate, unfortunately, it is dead and I admit it.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I yield back all time.

The PRESIDING OFFICER. Without objection, all time is yielded back.

Under the previous order, the conference report is agreed to. The Senate concurs en bloc in the House amendments to the Senate amendments and the motions to reconsider en bloc are laid upon the table.

The Senate concurred en bloc to the amendments of the House to the amendments of the Senate Nos. 38 and 113, as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following:

For the urban revitalization demonstration program under the third paragraph under the head "Homeownership and Opportunity for People Everywhere grants (HOPE grants)" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Public Law 102–389, 106 Stat. 1571, 1579, $778,240,000, to remain available until expended: *Provided*, That notwithstanding the first proviso in such third paragraph, the Secretary shall have discretion to approve funding for more than fifteen applicants: *Provided further*, That no part of the foregoing amount that is used for the urban revitalization demonstration program shall be made available for an application that was not submitted to the Secretary by May 26, 1993: *Provided further*, That of the foregoing $778,240,000, the Secretary may use up to $2,500,000 for technical assistance under such urban revitalization demonstration, to be made available directly, or indirectly under contracts or grants, as appropriate: *Provided further*, That nothing in this paragraph shall prohibit the Secretary from conforming the program's standards and criteria set forth herein, with subsequent authorization legislation that may be enacted into law: *Provided further*, That of the $778,240,000 made available under this heading,

$20,000,000 shall be made to eligible grantees under the urban revitalization demonstration program, to implement programs authorized under subtitle D of title IV, and of which, $10,000,000 shall be made for youth apprenticeship training activities for joint labor-management organizations pursuant to section 3(c)(2)(B) of the Housing and Urban Development Act of 1968, as amended.

INNOVATIVE HOMELESS INITIATIVES DEMONSTRATION PROGRAM

For the innovative homeless initiatives demonstration program as authorized by section 2 of the HUD Demonstration Act of 1993, $100,000,000, to remain available until expended.

CAPACITY BUILDING FOR COMMUNITY DEVELOPMENT AND AFFORDABLE HOUSING

For the capacity building for community development and affordable housing program as authorized by section 4 of the HUD Demonstration Act of 1993, $20,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 113 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following:

: *Provided further*, That, pursuant to Public Law 102–486, an amount equal to not more than 50 percent of all utility energy efficiency and water conservation cash rebates received by the National Aeronautics and Space Administration may be made available for additional energy efficiency and water conservation measures, including facility surveys: *Provided further*, That none of the funds provided in this Act to the National Aeronautics and Space Administration shall be available for other than termination costs of the advanced solid rocket motor program.

Notwithstanding any other provision of this Act, the amounts appropriated in this Act for fiscal year 1994 shall be: $4,853,500,000 for the National Aeronautics and Space Administration "Space flight, control and data communications", $517,700,000 for the National Aeronautics and Space Administration "Construction of facilities", $7,529,300,000 for the National Aeronautics and Space Administration "Research and development", $1,480,853,000 for the Environmental Protection Agency "Hazardous substance superfund", $1,998,500,000 for the National Science Foundation "Research and related activities", and $110,000,000 for the National Science Foundation "Academic research infrastructure".

MORNING BUSINESS

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HEFLIN. Mr. President, if the distinguished Senator from South Carolina will give me 10 seconds, I will make a unanimous-consent request.

Mr. THURMOND. Mr. President, I have no objection.

Mr. HEFLIN. Mr. President, I ask unanimous consent there be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO COLSTON LEWIS

Mr. DOLE. Mr. President, I rise today to pay tribute to my friend, Colston "Choke" Lewis, who passed away recently at the age of 81.

Choke Lewis not only saw a lot of history during his 81 years, he made some history, as well.

As a pioneering civil rights attorney in Richmond, VA, in the 1950's, Choke served as a consulting attorney to the NAACP, where his assignments included assisting on some of the major civil rights cases of our time, including Brown versus Board of Education.

In 1970, President Nixon would recognize Choke's commitment to equality by appointing him to the Equal Employment Opportunity Commission.

I became acquainted with Choke during my service as Chairman of the Republican Party in the early 1970's. Choke served as Virginia's national committeeman, and he helped to spread the message that the doors of the Republican Party were open to all Americans.

But perhaps Choke's biggest contributions were to the people of his beloved Richmond. Chairman of the Richmond Electoral Board, trustee of the Second Baptist Church, member of the Richmond Chamber of Commerce and the Richmond Industrial Development Authority—Choke never tired of working to build better neighborhoods and a better city.

Choke not only believed in the promise of America, but he was also willing to risk his life for his country, receiving the Purple Heart for wounds he received during World War II.

Mr. President, Choke Lewis was a man who loved his family, his city, and his country. He will be greatly missed, and I know all Members of this body join with me in extending our sympathies to his wife, Glenyce, his son, Colston, Jr., and his entire family.

SALUTE TO JOHN CRUTCHER

Mr. DOLE. Mr. President, it is always a privilege to pay tribute to Kansans who are deserving of special recognition.

Today, I have the special privilege of recognizing John Crutcher, who besides being an outstanding public servant, is also a longtime friend of mine.

I salute John because today is his last day as a member of the United States Postal Rate Commission. First appointed by President Reagan over 11 years ago, John's Kansas common sense has served the Commission and Americans very well.

Just this morning I noticed a headline in a business publication stating, "Postal Watchdog Retires." The article highlighted John's tireless efforts to increase productivity and keep costs down at the Postal Service.

John's service on the Postal Rate Commission completes a long and distinguished career of service to Kansas and America—a career which began in the U.S. Navy, where John served during World War II and the Korean war.

I first got to know John when we entered Kansas politics at about the same time. After first serving in the Kansas State Senate, John was twice elected as our Lieutenant Governor.

John came to Washington in 1970, when President Nixon named him as the Director of the Division of State and Local Government in the Office of Equal Opportunity.

Before his appointment to the Postal Rate Commission, John also served as my administrative assistant for 2 years, as Director of the Bureau of Outdoor Recreation in the Department of the Interior, and as a member of the National Transportation Policy Study Commission.

I know that my colleague Senator KASSEBAUM joins with me in thanking John for his many years of service to his country, and in wishing John and his wife, Edie, best of luck in the days and years ahead.

TRIBUTE TO THE SUNFLOWER SISTERS

Mr. DOLE. Mr. President, I rise today to pay tribute to a remarkable group of women who have helped to meet the spiritual needs of Kansas for the past 100 years.

It was in the fall of 1983 that three sisters from Red Bud, IL, first stepped on Kansas soil to teach at St. Teresa's Parish School in Westphalia, KS.

Since then, more than 400 Kansas women have followed in their firststeps. Officially known as the "Sister Adorers," these women earned the special Kansas nickname of the "Sunflower Sisters" because of their unique fluted habits.

Now headquartered in Wichita, the Sunflower Sisters have ministered in more than 100 communities and parishes in Kansas, and currently serve in 22 dioceses in the United States and Korea.

Whether the mission is health care, serving those in need, educating our youth, or caring for the elderly, Sister Adorers have made a positive difference in so many ways to so many people.

The centennial of the Sister Adorers is being celebrated this fall in 18 Kansas communities with celebratory prayer services.

I know all the Members of the Senate join me in saluting the Sister Adorers on their centennial anniversary, and I know that their tradition of serving others will continue for many years to come.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,405,120,107,183.66 as of the close of business yesterday, October 20. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $17,145.95.

CONGRATULATIONS TO JACK HYNES

Mr. KERRY. Mr. President, it gives me great pleasure to share my thoughts on this evening's tribute to Jack Hynes and his remarkable achievements in the field of broadcast journalism. Jack Hynes has always been a unique man, one of truly extraordinary vision, integrity, dignity, and courage.

Jack is held in the highest regard not only for his straightforward reporting of the news, but also for the lofty standards and unwavering ethical principles on which he invariably has based his conduct. Objectivity coupled with a steadfast commitment to report the truth are the benchmarks of his highly principled approach to disseminating the news.

Boston has been most privileged that Jack chose to remain here throughout his 38 years of broadcasting excellence. His example is one to be followed and aspired to; his fine reputation as both a broadcaster and a man has inspired tonight's celebration, just as his enthusiasm and initiative will continue to serve to motivate current and future broadcasters to make valiant strides in their field. Such a legacy should bring great pride to Jack, his family, and those fortunate enough to be his colleagues.

I regret I cannot attend the celebration for Jack tonight, as it would be both a pleasure and an honor to share directly with him and his family this most richly deserved tribute, but I join in complimenting and congratulating him.

ROBERT B. HENDRIX RETIREMENT

Mr. BOND. Mr. President, my colleague Mr. DANFORTH and I would like to give special recognition today to a man who has personified professionalism in his chosen field. The man of whom we speak, Robert B. "Bob" Hendrix, president of the Cape Girardeau Chamber of Commerce, will be retiring in the very near future, but before that we would be remiss if we did not recognize the significant impact he has had on many Missourians.

No stone has gone unturned in his desire to serve his fellow man. Whether it be his tenure in the U.S. Navy, director of legislation and civil affairs with the Springfield Chamber of Commerce, executive manager of the Hannibal Chamber of Commerce, manager of the Washington Chamber of Commerce, or his final mission as president of the Cape Girardeau Chamber of Commerce, this great man has always set standards for others to follow.

Few men have done more to cultivate economic opportunity than Bob Hendrix has with the Cape Girardeau Chamber of Commerce. Since 1972, his inspiring work has led to economic expansion in Cape Girardeau County that has resulted in thousands of jobs. Today, the Cape Girardeau Chamber of Commerce is a vibrant community-based organization seeking to mobilize the public and commerce in programs and activities designed to improve the quality of life.

Many would be satisfied with this lifetime of monumental accomplishments in commerce, but not Bob Hendrix. To the contrary, this man has sought to reach out and serve humanity through volunteer civic, religious, academic, and other humanitarian acts in benevolent support of the community.

In light of all these accomplishments, if anyone of you were to meet Bob Hendrix on the street today and ask him how things were, you would likely hear the Hendrix cliche, "If I were any better I would have to be twins." This inspirational attitude has brought about decades of achievement reaching far beyond what many hope to achieve in their lifetime.

This great democracy which we all cherish has been preserved and embellished because of great Americans like Bob Hendrix. It is our hope that, with God's blessing, he will continue to champion that special spirit, and will remain forever appreciated for his unselfish commitment to Missourians.

BLUE RIBBON OUTSTANDING SECONDARY SCHOOL—BISHOP DENIS J. O'CONNELL HIGH SCHOOL

Mr. NICKLES. Mr. President, I rise today in recognition of Bishop Denis J. O'Connell High School for their excellence in education. O'Connell High School has been designated by the Department of Education as a "Blue Ribbon Outstanding Secondary School." The Blue Ribbon Award is the Department of Education's school recognition award which signifies excellence in education and calls attention to remarkably successful public and private schools.

O'Connell High School's overall education philosophy is summed up in their motto—"Commitment to Excellence." It is dedicated to providing diversity and consistency in excellence, in developing a caring-sharing educational community, and producing young gentlemen and women who seek to expand their horizons and develop their unique capabilities.

Its particular academic strengths lie in progressive investigations into the worlds of science, math, social studies, foreign languages, and fine arts. Its students are offered ample challenging opportunities through 26 honor courses, 16 advanced placement courses, and a wide selection of electives ranging from principles of debate, and psychology, to Russian. The academic program is energized by O'Connell's Christian Service Program and is enriched by 27 academic extracurricular activities, 15 service organizations, 3 publications, and 44 athletic teams in 17 sports.

Fortunately situated within the geographic locale of the Nation's capital, O'Connell utilizes these as extended classroom and faculty, cognizant of the America 2000 strategy for communities as places where learning happens. At the same time, it attempts to inculcate in the students both a sense of gratitude for the richness in opportunities afforded them in the classroom and community, and a sense of dedication to giving back to others, especially the needy, aged, and homeless, in service.

As a student leader aptly summed it up:

> At O'Connell we have so much offered us; it's hard to single out only one thing. But when it domes down to what makes O'Connell unique, it's that we all care for each other.

O'Connell High School is a testimony to the imagination and dedication that mark education reform efforts around the country. O'Connell's outstanding leadership has demonstrated the key ingredients that create an excellent learning environment for high school students. For their discipline and dedication to educational excellence, O'Connell's faculty and students deserve our highest congratulations.

FRANK RAINES IS CUTTING COSTS FOR MANY HOME BUYERS

Ms. MOSELEY-BRAUN. Mr. President, 2 years ago, a good friend of mine, Frank Raines, became Vice Chairman of the Federal National Mortgage Association. An article in the Friday, September 24, American Banker entitled "Fannie Mae Exec Determined to End the Paper Chase" details the innovative work he is doing to cut costs for many potential home buyers.

The article sets out how he is trying to speed up the mortgage process and cut the cost of originating a mortgage and purchasing a home by perhaps as much as $1,200, or 50 percent, for lenders. The article states that these "lower costs would be passed on to consumer, and would also make it easier for lenders and Fannie to increase lending for affordable housing."

I want to commend Frank Raines for this important work. I'm pleased, but not at all surprised, that he is pursuing innovations that cut costs for potential home buyers and encourage more lending for affordable housing.

Mr. President, I ask unanimous consent that the entire American Banker article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the American Banker, Sept. 24, 1993]

FANNIE MAE EXEC DETERMINED TO END THE PAPER CHASE

(By Snigdha Prakash)

WASHINGTON.—In the hush of his office at Fannie Mae, with its high ceiling and oak floors, Frank Raines is plotting a revolution.

His goal is to overthrow the inefficient, paper-intensive ways of the mortgage industry. Instead, he wants to install an industrywide computer system that electronically links all the market participants, including the Federal National Mortgage Association itself.

Fannie Mae's vice chairman is by no means the first in the mortgage industry to preach the gospel of so-called seamless processing. The industry has fretted for years about the paperwork that weighs it down.

But Mr. Raines, 44, is the most powerful figure in the industry to make technological improvement a top priority.

Since arriving at Fannie two years ago from Lazard Freres & Co., where he was a general partner in municipal finance, Mr. Raines has thrown himself headlong into the initiative.

BIG COST SAVINGS SEEN

If he succeeds, the entire loan origination process will speed up greatly. And, according to estimates by Fannie Mae, lenders could see their average cost of originating a loan fall by more than 50 percent to $1,200.

Lower costs would be passed on to consumers, and also would make it easier for lenders and Fannie to increase lending for affordable housing.

Exactly what does Mr. Raines have in mind?

He wants lenders to bypass pen and paper and enter borrower information directly into computer, then share it electronically with everyone else who participates in the mortgage process.

Currently, such data is keyed and rekeyed more than a dozen times as lenders, insurers, appraisers, servicers, and others put it into their computer systems, which often are incompatible.

"The vision is * * * simply—can you find a way to get information in digital form at the earliest possible date?" Mr. Raines said in a recent interview.

The system would then "keep it in that form and allow [participants] to use it for whatever purpose—origination, prospecting, underwriting, quality control, servicing, delivery, secondary marketing—whatever the purpose that they have."

The theory behind an industrywide system may be simple, but its execution is not, Mr. Raines has found.

"DIFFERENT FOCUSES"

"It requires standards across a lot of people who have different focuses." Mr. Raines said.

As the largest single participant in the mortgage market. Fannie Mae has tremendous leverage as it proceeds with the project.

Chances are good that if the system is well designed, it will be widely used in the industry.

The company is now designing prototypes, and Mr. Raines said substantial pieces of the technology would be out in the next two or three years.

While the arch-rival Federal Home Loan Mortgage Corp. also is looking to eliminate inefficiencies in the primary market, it has no project comparable to Fannie Mae's.

"We want to have technology that is widely accessible to hundreds or thousands of people," said Fannie Mae's chairman, James Johnson.

"We believe the industry is at a point that it can make very substantial strides" in the use of technology.

Better technology will help Fannie's bottom line by improving the crucial link between Fannie and the banks, thrifts, and mortgage bankers who sell their loans to the company, Mr. Raines said.

A number of lenders, however, are concerned about how the technology system will affect the competitive dynamics in the industry.

Some for example, worry that through its technology project. Fannie is actually preparing to compete with them in making loans directly to consumers.

These lenders point out that Fannie, in mapping out its plans, has been studying lenders' origination systems in minute detail.

Does Fannie really want to operate such systems itself?

Mr. Raines, for his part, said Fannie harbors no ambition to get into the primary market.

"I can tell you that since I've been here, we haven't spent five minutes talking about the relative benefits of being in the origination business," he said.

"What we know is the secondary market. We know the wholesale end of the business. We don't see what value-added would bring in the origination end of the business, especially when the business has got all these thousands of competitors out there," he said.

COUNTRYWIDE SEES A THREAT

Meanwhile, giant lenders like Countrywide Credit Industries worry that Fannie Mae's technology will render their own innovations obsolete, or at least dilute their value.

Countrywide, based in Pasadena, Calif., has helped lead the industry in automating the origination and underwriting process.

Angelo Mozilo, Countrywide's vice chairman, is concerned that his company will lose the technological edge that it has fought for if Fannie brings out its own system.

"I thought I had made a solid investment" in technology, but now it doesn't seem that way, he added.

Once Fannie's system is in place, Mr. Mozilo fears, he will have to dismantle his own system to get the same advantages as his competition.

Mr. Raines delicately dismisses Mr. Mozilo's fears.

"I think there's some kind of romancing of technology as a permanent competitive advantage," he said.

IT'S HOW YOU USE IT

What will count in the future is not whether you have technology, but how you use it, he said, as there's nothing to stop lenders from putting their unique stamp on Fannie's system.

Fannie is designing a flexible system that will meet industry standards now being drawn up. (See accompanying article.) Loans generated on the system could be sold to both Fannie Mae and Freddie Mac.

But plenty of logistical problems lie ahead.

For example, mortgage servicers use big mainframe computers that manipulate masses of information about the same loans every month.

Originators use personal computers to plug in new information each time they make a loan.

Says Mr. Raines: "Typically, what happens is people say: I want the data in my way, only my way. And so you get a lot of fragmentation.

"How do you make your seamless approach fit all these systems that people have developed over the years?"

So will Mr. Raines succeed in putting out an industrywide system with Fannie's stamp?

At Freddie Mac, they're not losing any sleep.

"The mortgage industry is very, very old. It didn't originate overnight. It's something that can't be done in a short period of time," said Richard D. Bryan executive vice president of operations at Freddie.

"I don't think you'll see just one or two utilities [industrywide computer systems] in this market. It's too large," he said.

But Washington lawyer Vernon E. Jordan Jr., a Raines fan, has been in the foxhole with Mr. Raines a couple of times in the past few years—first when they worked on the transition effort of Washington Mayor Sharon Pratt Kelly, and recently on Bill Clinton's transition team.

He's sure Frank Raines will come through. "He will master it. He will complete his task," said Mr. Jordan.

"He's a strategic thinker. He thinks long and deep, and he's a solid doer."

DEADBEAT AT THE UNITED NATIONS

Mr. MOYNIHAN. Mr. President, today the Senate adopted the conference report on the Commerce-State-Justice appropriations bill. There are many important initiatives contained in that legislation which have my strong support.

However, the conference committee has taken a number of steps concerning the international legal obligations of the United States toward the United Nations which are deeply troubling. In 1983 Charles Lichenstein, a Reagan administration official, invited the United Nations to leave New York:

> If in the judicious determination of the members of the United Nations, they feel that they are not welcome and that they are not being treated with the hostly consideration that is their due * * * then the United States strongly encourages such member states seriously to consider removing themselves and this organization from the soil of the United States.* * *
>
> We will put no impediment in your way * * * The members of the U.S. mission to the United Nations will be down at dockside waving you a fond farewell as you sail into the sunset.

Such is the sad state of the knowledge of even American geography today that one had to point out to Mr. Lichenstein that this would have been difficult, as the sun in that vicinity sets over Hoboken, NJ, and not the Atlantic Ocean.

Mr. President, the conference committee has taken a number of steps in the Lichenstein mode. It has eliminated the fourth of five payments on our arrearages. This five payment schedule is not something President Clinton dreamed up. It was one of the top foreign policy priorities of the Bush administration which was vigorously urged on the Congress by Secretary Baker. The conference committee also mandated that the United States withhold 10 percent of the U.S. mandatory contribution until the United Nations creates and fills an Office of Inspector General. I strongly support the creation of an Office of Inspector General at the United Nations. Some contributions to U.N. agencies are voluntary. These are not. The United States has already made a binding commitment to pay its annual assessed contribution. It embraced this commitment as "the supreme Law of the Land." It debases our own respect for the sanctity of law—not to mention the credibility of our solemn commitments in the eyes of other nations—when we summarily violate the law. No one forced this obligation upon us. The U.N. Charter and the treaties related to it are our handiwork. Largely. Confirmed by the Senate.

Mr. President, there is much that desperately needs improvement at the United Nations. I am willing to work with any of my colleagues to bring about changes. Through legal means. This is not such. It further exacerbates the status of the United States as the leading deadbeat at the United Nations. Not Syria. Not South Africa. Not a prostrate Russia. But the last remaining superpower on earth. Which will not pay its voluntarily accepted debts.

Mr. President, the United States will have more authority to insist upon the changes needed at the United Nations once it has paid this debt.

USE OF FORCE

Mr. PELL. Mr. President, we are at the end of several days in which it has been crystal clear to us all the perils our young service personnel face in Somalia and the importance that problem has assumed for all of us. Bosnia and Haiti—so different in the issues they pose and so far apart—pose similarly important issues with regard to military involvement and the use of force abroad.

It makes no sense for us to address these issues on a piecemeal or ad hoc basis. They must be decided in the framework of agreed rules and guidelines satisfactory to both the Congress and the President.

If we leave matters as they are, we face the uninviting prospect of an executive too bound up by problems of the moment to propose clear policies and objectives. In the midst of such uncertainty, we would have many Members tempted to flock to the Presidents' support when he is popular, if not wise, and to abandon him if he is wise, but not popular. That is not the way for a great Nation to find its course in the world. When our military people stand ready to go when and where asked and to do what the Congress and the President might require, we must do our absolute best not to fail them.

The lessons of Somalia, Haiti, and Bosnia have underscored the need for a careful review of the relationship between the Congress and the President with respect to the use of force. I support the resolution introduced by the distinguished majority leader. As chairman of the Committee on Foreign Relations, with jurisdiction under Senate rule XXV 1(j)(1) over intervention abroad, declaration of war and relations of the United States with foreign nations generally, I will work with my colleagues on the committee to conduct such a review.

The events of the past few months have served as unfortunate reminders of the controversy, perhaps unnecessary, which erupts over the direction of the foreign policy of our country when meaningful consultation between the executive branch and the Congress—who should be partners in the formulation of important foreign policy objectives—fails to reflect the constitutional responsibilities of the Congress.

I have applauded President Clinton for the degree to which he has reached out to Members of the Congress on recent crises as they have arisen, particularly the extraordinarily candid and forthcoming session held with the President on Somalia recently.

Nevertheless, as important as such consultations are during moments of crises, there is an urgent need to assure that meaningful consultation with Congress occurs at all levels of the executive branch in the formulation of foreign policy initiatives—particularly those initiatives which could result in commitments by the United States that might later result in the use of force. The Framers of the Constitution desired to ensure that the collective judgment of both the Congress and the President should be brought to bear in decisions to engage U.S. forces in hostilities or situations leading to them.

As Commander in Chief, the President has undisputed command of the Armed Forces and may respond to an attack upon the United States. There is also authority for the proposition that he may act to safeguard American lives and property abroad.

The Constitution confers upon the Congress, however, the power of the purse to provide for the common defense of the country, to declare war, to raise and support armies, to provide and maintain a Navy and to make rules for the Government and regulation of the land and naval forces.

Between these powers conferred upon the President and the Congress by the Constitution are many areas of ambiguity. In 1973 Congress passed the War Powers Resolution, Public Law 93-148, over the veto of President Nixon to clarify the constitutional authority for the use of force and the respective roles of the President and the Congress.

Briefly, the War Powers Resolution states that the President's powers as Commander in Chief to introduce U.S. forces into hostilities or imminent hostilities are exercised only pursuant to: First, a declaration of war; second, specific statutory authorization; or third, a national emergency created by an attack on the United States or its forces. It requires the President in every possible instance to consult with Congress before introducing American Armed Forces into hostilities or imminent hostilities unless there has been a declaration of war or other specific congressional authorization. It also requires the President to report to Congress any introduction of forces into hostilities or imminent hostilities, section 4(a)(1); into foreign territory while equipped for combat, section 4(a)(2); or in numbers which substantially enlarge U.S. forces equipped for combat already in a foreign nation, section 4(a)(3). Once a report is submitted "or required to be submitted" under section 4(a)(1), Congress must authorize the use of forces within 60 to 90 days or the forces must be withdrawn.

The U.N. Participation Act of 1945, amended in 1949, was intended to prescribe the mechanics within the United States Government for giving effect to U.S. participation in the United Nations and to establish the procedures for U.S. compliance with the major international commitments the United States assumed upon ratification of the U.N. Charter. The U.N. Participation Act also provided the vehicle through which Congress sought to implement the war powers balance between the Congress and the President with respect to United Nations collective security actions.

The U.N. Participation Act contemplated congressional approval of the President's commitment of Armed Forces to U.N. Security Council enforcement actions pursuant to article 43 of the U.N. Charter. Clearly article 43 has not been invoked to date in the U.N. peacekeeping operations under chapter VI or peacekeeping operations under chapter VII of the U.N. Charter. Consequently as part of our overall review of the many issues related to the use of force abroad, the Congress needs to specifically establish clear guidelines for committing U.S. forces as part of a United Nations peacekeeping operation and, in doing so, to clarify the respective roles of the Congress and the President in authorizing such actions.

There has been much controversy over the operation of the War Powers Resolution, continued controversy over the respective powers of the President and the Congress regarding the use of force outside the United States and a current swirl of controversy over the lack of specific guidelines for participating in U.N. peacekeeping operations. It is important that these matters be reviewed by the Senate in a deliberate manner, and in a timeframe that will allow the collective judgment of the Congress and the executive branch to clarify our respective roles unimpeded by the heat of the current controversies.

MAYOR COLEMAN ALEXANDER YOUNG

Mr. RIEGLE. Mr. President, today I rise to pay tribute to Mayor Coleman A. Young. Mayor Young is retiring from office after 20 years of serving as mayor of the city of Detroit.

Mayor Young was born in Tuscaloosa, AL, in 1918 and moved with his family to Detroit, MI, as a child. It is apparent that Mr. Young's commitment to public service was conceived early in life as evidenced by his involvement and participation in numerous public activities and causes.

He served from 1942-45 in the U.S. Army and later transferred to the Army Air Corps becoming the first black bombardier. Coleman Young was a part of the famous Tuskegee Airmen, the Nation's first black aviation unit. In 1948 he was elected director of an organization for the Wayne County Congress of Industrial Organizations [CIO]. In 1961 he was elected as a delegate to the Michigan Constitutional Convention. He served in the Michigan State senate from 1964 to 1973. In 1966 he was named the Democratic floor leader and in 1968 he became the first black member of the Democratic National Committee. His life is a series of such breakthroughs.

In 1973 Young ran for the mayoral seat in Detroit and became the first black mayor of the city. Throughout his tenure as mayor, Young's vision for the city of Detroit remained clear. This vision and his ability to build bridges and create economic opportunities for Detroit are evident despite damaging national policies that hurt deeply our urban centers.

In 1982, civic and business leaders joined Major Young in organizing a foundation dedicated to nurturing leadership among Detroit's young people, particularly disadvantaged minorities. The creation of the Coleman Young Foundation has already positively impacted the lives of more than 100 Detroit young people through college scholarships, mentorship programs, and summer internship programs with various tri-county businesses.

The tribute dinner to be held on October 28, 1993, in honor of Mayor Young is just one expression of appreciation from those whose lives have been touched and influenced by his many years of dedication to helping others.

I ask my colleagues to join me in honoring one of America's great urban leaders, the Honorable Mayor Coleman A. Young, truly a man of the people, who spent his political life fighting for equity and justice.

THE WESTERN SAHARA

Mr. PELL. Mr. President, today I wish to speak about an issue which has received little attention, but which has important consequences for United States policy, and for stability in Africa and the Middle East. I refer to the ongoing dispute over the Western Sahara, a Colorado-sized territory situated in northwest Africa at the junction of the Moroccan, Mauritanian, and Algerian borders. The Western Sahara has been the source of conflict between Morocco, which asserts sovereignty over the territory, and the Polisario Front, a movement which seeks an independent Saharan state.

Both Morocco and Polisario have agreed to a U.N. sponsored referendum, in which the Sahrawi people will choose to become independent or to accept Moroccan sovereignty. Since September 1991, the U.N. mission for the referendum in Western Sahara [MINURSO] peacekeeping force has monitored a cease-fire and attempted to organize the referendum. Although the cease-fire has remained intact, I am disappointed to note that the referendum, originally anticipated for early 1992, still has not been held. Although numerous hurdles have been overcome in organizing the referendum, it appears now to be stalled because of disagreements over the criteria for voter eligibility.

Mr. President, I have been a strong supporter of the United Nations since its inception. I believe the United Nations has played a crucial role in the Western Sahara conflict, and that MINURSO remains the best hope for facilitating a resolution that is acceptable to both sides. I urge the Senate, as well as the administration, to support the United Nations in this important endeavor.

I also hope, Mr. President, that the recent plethora of international crises will not detract too much attention from important, but lesser-known, issues such as the Western Sahara. In this connection, I wish to draw the attention of the Senate to a recent speech given at Long Island University by my good friend, Angier Biddle Duke, the former United States Ambassador to Morocco. The Ambassador's speech makes a significant contribution to the debate over and understanding of the Western Saharan conflict, and I believe it would be of great use to members in assessing the situation there.

I ask unanimous consent that the full text of the speech, "The United Nations and the Western Sahara," be inserted in the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

[Remarks of the Hon. Angier Biddle Duke at the World Affairs Council, September 4, 1993]

THE UNITED NATIONS AND THE WESTERN SAHARA

Just a little over a month ago I was returning from an eight day fact-finding mission to North Africa which was sponsored by the International Republican Institute, a public policy organization funded in part by the National Endowment for Democracy. Former Ambassador to Nepal Leon Weil and I co-chaired the delegation which consisted of Dr. Jarat Chopra, a professor of political science at Brown University, Cristina Maeza, law professor from the University of Montevideo and two able and professional staff members. We visited Algiers, the Polisario encampments in the Western Sahara around Tindouf, Algeria, the Saharan territories administered by Morocco from El Aiun, and the Moroccan authorities in Casablanca, Rabat and Kenitra. What I have to say today is the result of my own observations and does not necessarily reflect the views of the delegation.

The Saharan territory south of the Moroccan border is a vast virtually empty land of sand roughly the size of California. When the Spaniards started to move in just 100 years ago they found a few tented nomads who wandered in and out of the area trading goods and herding camels and goats between Morocco and sub Saharan Africa and eastward across an immense sand ocean to and from the lands of the Nile.

We met and lived with Saharans in their tents out in the desert and found their dress, their music and other aspects of their culture somewhat different from their Algerian and Moroccan neighbors.

Some of their dances and songs are distinctly Ethiopian in character. Their caftans, their robes and headdress are markedly different—but they are all brothers and sisters in the religion of Islam and in the Arabic language.

In the Moroccan view and tradition the leaders of those wandering bands—the Sheiks, whom they call Chouks—regularly sent ceremonial gifts indicating fealty to the Sultans of Morocco. Historically those Moorish rulers regarded the Chouks and their followers as their subjects. Hence the Moroccans' claim to sovereignty over the whole area. In 1975 the International Court of Justice (ICJ) at the Hague, while recognizing the ties of suzerainty that might have existed between the Chouks and the Sultans, made the point that those ties did not convey title to the land over which they roamed. The ICJ, the World Court, concluded with a judgment that in effect prescribed self-determination as the modus, the route to settlement of the status of the territory. The choice between integration into Morocco or sovereign independence "should be the result of freely expressed knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted by universal adult suffrage."

But let's go back a bit. During my first years as ambassador in Madrid the UN General Assembly in 1965 passed its first resolution on what was then the Spanish Sahara. It was the last large chunk of what was left of the Spanish empire. The UN requested the Spanish government "to take immediately all necessary steps for the liberation of IFNI and the Sahara from colonial domination and to that end, to enter into negotiations on the problem relating to sovereignty presented by the two territories." Not long after that, Spain relinquished the enclave of IFNI to Morocco. I followed these developments in the Sahara from Madrid and ten years later from the embassy in Rabat, Morocco.

During that period there were several important developments. Unrest among the population escalated under Spanish rule and opposition groups were organized such as PUNS and POLISARIO, the latter being an independent movement. In the words of its 1973 Manifesto it was "a unique expression of the masses, opting for armed struggle as the means by which the Saharan people can recover its total liberty and foil the maneuvers of Spanish colonialism."

A year later Spain completed a census for the territorial population in preparation for a UN conducted referendum to be held in 1975. The total population came to 95,000 of which 73,500 were indigenous Saharans. The Spanish estimated that there were up to 9,000 refugees in neighboring countries, the Moroccans put the figure at over 30,000. The referendum was postponed until the pending ICJ decision could be rendered and assessed later that year.

On the 16th of October 1975 the World Court handed down the decision which called for self-determination. The Moroccan government interpreted this as a call to action and within hours of the Court's judgment announced that 350,000 volunteers would march south into the Sahara in a "Green March" of liberation.

A few weeks later on the 5th of November Generalissimo Franco died leaving Spain in a crisis—a transition period in the aftermath of the dictatorship. Apparently taking advantage of that situation, the Green Marchers crossed the border on November 6th, to be shortly followed by the Moroccan military forces entering as a "liberating army." Then on the 14th of that same month, Spain anxious to be rid of the problem, signed the Madrid Accords, a tripartite agreement which provided for complete Spanish withdrawal within three months and partition of the territory between Morocco and Mauritania. During that period turmoil ensued which resulted in a flow of refugees into Southern Algeria, Morocco and Mauritania. The Spanish army, resentful of the intrusion of the Moroccan forces, tended to sympathize with the Polisario, to which it turned over arms, ammunition, armored vehicles, troop transport, and trucks. They were used by the Polisario to evacuate a large portion of the civilian population to refugee camps across the desert around Tindouf in Algeria. The stage was set for two decades of war. Mauritania soon turned over its share of the Saharan territory to Morocco.

During my period of service in Rabat, 1979-1981, the war in the desert dominated the news. The Sahara issue became the predominant theme in Moroccan political and public life. It became and remains a popular cause that energizes and unites virtually all parties, all interests, all elements of the population. The Polisario emerged as an effective fighting force and it inflected serious damage on the Moroccan military. Casualties were inflicted, prisoners taken, the wounded came home, dead were buried and mourned. To the Moroccans it became and remains the peoples' war. Not just "The King's War," and I will return to that theme later.

I was there at the turning point of the military picture. The Moroccans started building a massive wall of sand, called the Berm, which runs from North to South for nearly two thousand miles enclosing and protecting just about three quarters of the entire territory. It has become a decisively effective strategic tool. The Berm is now composed of sand and stone, surrounded by minefields, and guarded by 300 strong points. The Polisario forces can penetrate it easily, but once inside they can be trapped and destroyed. Like the Great Wall of China it has watch tower stations along it, a rapid deployment force behind it, and an Air Force in constant readiness over it. It was not built with a Maginot line mentality; and it goes from its anchor in the Atlas Mountains in the North all way to the sea in the far South. All is quiet along the Berm these days as a UN arranged cease fire has been in effect for the past two years; it has been very successful—no one has been killed since it began.

A word on armed forces levels on each side. The Polisario have at least 15,000 trained soldiers under arms and more than an equal number of support elements. They have no air force but can count on an extensive collection of military hardware at this moment. On July 11th we had an opportunity to visit a display of captured materiel which the Polisario make use of.

It is not my purpose or intention to take sides in this issue—I am trying to present the situation objectively, and to analyze US policy in the matter. Admittedly it is not an earthshaking issue. It hardly ranks with the Arab-Israel situation for example. But it is important for the long-range stability and development of North Africa. Fundamentalism has shaken the Algerian government down to its very foundations, the legitimacy itself of government authority is now in question after losing the last elections. it is said not just in jest that "Every state has an army, but in Algeria the army has a state." Although Morocco claims immunity from the threat of the religious opposition because King Hassan II is a descendant of the Prophet Mohammed's family and is "Commander of the Faithful," it remains a target. The Polisario has resisted Fundamentalist penetration so far.

The ancient hostility and rivalry between Algeria and Morocco has abated considerably of late in the light of their common concerns. They have succeeded in settling all their old border disputes and they are cooperating on an important new enterprise: the construction of a natural gas pipeline to run from the Algerian wells across Northern Morocco and the Straits of Gibraltar to markets in Spain and Portugal. Only the Polisario issue now divides them.

Our group met with Reda Malek, then the Foreign Minister, on July 14th in Algiers. Just this past week he has become the Prime Minister of his country. He emphasized to us the improved relations with Algeria's Western neighbor and stressed the need for a peaceful and quick solution to the Saharan situation. Algeria has consistently pushed for UN participation, he said, and Algeria supports the referendum process. I was interested in his references to the U.S—they were friendly. He noted that the US has been neutral in the Security Council, although it remains very close to Morocco. We have observed, he told us, that the US at the UN is balanced; Algeria is pleased at US interest and the Minister affirmed that he was in constant consultation with the American government.

Later that evening we had dinner with some lower ranking but well-informed Algerian officials and we heard some rather unorthodox views. Some of them expressed the opinion that Algeria welcomed the Moroccan government's references to "autonomy" and "regionalization." Algerians were becoming reconciled they said to the possibility that there may not be an independent Saharan state, (which incidently would be named the "Saharan Arab Democratic Republic").

There was a discussion of a third option, but we were told that it was not for Algeria to decide the terms of an alternative to independence or integration. Whatever it is, it must be acceptable to both parties—perhaps federation, confederation or something else. The officials recognized that these option were unlikely given that in each case short of independence sovereignty would reside with Morocco. So we went around in circles.

Now let's go over the main elements of the UN Settlement Plan. The two parties recognize that sole and exclusive responsibility for the organization and conduct of the Referendum is vested in the United Nations. The Secretary General has appointed as his Special Representative Mr. Yaqub Khan of Pakistan. He is the former Foreign Minister of his country and Ambassador to the United States—a world class statesman. The naming of such an outstanding individual is an indication of the importance that the United Nations attaches to this question. I might add that Ambassador Weil and I have had long talks with him about his role in this transitional period which is to lead to a voting date only when the two sides can come to an agreement on fundamental aspects of the electoral process.

A UN military and civilian presence has been established on both sides of the Berm to monitor the cease fire and to be the administering authority during the voting period.

Where the whole project is stalled at this moment is on the question of who is eligible to vote. Both sides agree that those still surviving and living on either side of the Berm who were registered by the Spanish in the 1974 census are eligible. The Polisario has maintained that the 1974 list should be the sole basis for the electorate. The Moroccan position is that all persons having Saharan status as authenticated by the 1974 list and *other official documentation* should have the right to participate. The Moroccans claim that thousands of Saharan refugees have found sanctuary under their protection and that they have identity cards and other means of identification to prove it. This would greatly swell the number of eligible voters. It is evident that these diametrically opposed positions would have a very significant and direct impact on the number of those able to vote and on the final result of the referendum. This voter registration question is of the utmost importance. If one set of criteria is chosen then one side wins; if another criterion is chosen, then the other side wins. The stakes are so high that neither can enter into a non-guaranteed referendum process.

There was a meeting of representatives of the two parties at El Aiun on July 16 and 17 but the only thing they could agree on was to meet again sometime, possibly in Europe. And so that stalemate goes on.

In the United States government there is little overt interest in this impasse. In the Senate the few who are interested are inclined to the Polisario position. In general American perceptions of the Moroccan position on the stalled referendum may stem from historical skepticism, even hostility, towards a monarchical form of government. Although Morocco's multi-party parliamentary system operates within an established constitutional framework—a state of affairs not prevalent in the Arab world—the role of the King tends to be the determining factor in the assessment of that government by many US observers. Coupled with this there is a reoccurring and persistent recollection of the fall of the Shah, in whom successive US administrations put so much trust and to whom we gave such support. Consequently there is some reluctance to place full confidence in the permanence and stability of King Hassan's regime.

When this perception is applied to the King's relationship to the Western Sahara, the initial reaction tends to be that this whole issue is inextricably tied to the monarchy. This assessment of an American viewpoint is made to explain the nature and tone of so many reports on the ongoing situation in the Saharan conflict. It is not necessarily that of the American government which maintains close and cordial ties with the Moroccan authorities while vigorously supporting the UN peace process.

This dichotomy in American attitude is not unique to this situation. It is generally indicative of the inclination of the Executive Branch and the State Department to emphasize what they conceive to be the US national interest. The legislative branch tends to take what they perceive to be highy moral ethical or idealistic positions. Each branch has usually thought of itself as the interpreter of the true essence of American foreign policy. And how does this apply to the Saharan issue? Fortunately both branches of government find themselves solidly on th side of self-determination (which by the way is a long way from where we were in 1865, where we fought a Civil War against it. But I must not confuse this discussion further).

The report of our fact finding mission is due to be released around September 15th and I anticipate nothing sensational. It will probably touch on the following questions for example:

(1) What is the internal political orientation of the Polisario? In my opinion it is not a Marxist-Leninist front. To that it must be added that the present leadership has evolved from a Cold War position which included much Marxist rhetoric and jargon. It now aspires to a democratic form of government open to a multi-party system, room for a market economy, and a respect for human rights and freedom of expression. I found the Saharans in the Polisario an attractive decent people who for 18 years have lived simply, with dedication and certain egalitarian principles, not unlike those motivating the early settles in Israeli kibbutzim.

(2) Is the fate of the Moroccan monarchy tied to the results of the vote? In my opinion it is not. Morocco is a stable, well-run country that is moving steadily towards economic development, pluralism and a civil society. The loss of the Sahara would mean very little economically, although the deep political wounds would take long to heal. The Moroccans will preserve their institutions, including the throne.

(3) Will each side accept a result in the referendum that does against them? Both sides have told us for the record that unequivocally they will.

(4) What should the US position be? Multilateralism is the hallmark of the Clinton Administration's foreign policy. As an important part of the world community we should continue to participate with our fellow members of the UN in giving active and vigorous support to the Settlement Plan of the United Nations. This will preserve international interest in the area and in multinational approaches to resolution of the conflict. Negotiations between the two parties must continue to be encouraged particularly towards a compromise on the voter qualification issue.

There is a lot more detail I could elaborate on—but I believe that is essentially the Big Picture—or the Big Question Mark. I feel very grateful to have participated in it so far as a bit player in a small corner of the world stage and I am very gratified by your apparent interest in hearing me out. Many thanks.

NOMINATION OF MORTON HALPERIN TO BE THE ASSISTANT SECRETARY OF DEFENSE FOR DEMOCRACY AND PEACEKEEPING

Mr. THURMOND. Mr. President, the President has sent the name of Mr. Morton Halperin to the Senate for our advice and consent on his nomination to be the Assistant Secretary of Defense for Democracy and Peacekeeping. As I have stated on this floor several times already, I oppose this nomination. Several Senators have asked me why. Simply stated, this nominee has extremely poor judgment—so poor that he will endanger the lives of our young men and women in uniform. In fact, he may have already done so by giving his advice to the Department of Defense on Somalia and Haiti.

I have some quotes to read to you and, I think when I am finished, you will all see that this man should not be given a position of responsibility in the Department of Defense. Let me begin by reading from one of his publications entitled "The Lawless State."

> Using Secret intelligence agencies to defend a constitutional republic is akin to the ancient medical practice of employing leeches to take blood from feverish patients.

Mr. Halperin would do well to talk to Mr. James Woolsey, the Director of Central Intelligence. Mr. Woolsey stated in his confirmation hearings in February of this year:

> Yes, we have slain a large dragon * * * but we live now in a jungle filled with a bewildering variety of poisonous snakes. And in many ways, the dragon was easier to keep track of.

I agree with Mr. Woolsey. The existence of capable intelligence gathering organizations is absolutely crucial to the survival of our constitutional republic, even with the demise of our principal enemy the former Soviet Union. There are plenty of poisonous snames out there that would like to see us blind ourselves to their activities.

As Mr. Halperin nears confirmation, however, he seems to have changed his mind. In response to committee questions he states he can now support secret intelligence agencies because:

> I believe that the intelligence services of the United States have undergone a fundamental transformation over the past two decades. * * * I believe that the agencies now operate within the rule of law based on Executive orders and agency regulations.

Mr. Halperin's original statement condemned any use of intelligence agencies. He did not say he condemned it because it didn't follow rules and regulations. He condemned the use of intelligence agencies no matter how they operated. His second statement is merely an attempt to excuse the complete contradiction between what he said before nomination and what he is saying to get confirmed.

Let me read another quote on the subject of unilateral intervention. This one is from the June 1979 edition of The Nation:

> All of the genuine security needs of the United States can be met by a simple rule which permits us to intervene when invited to do so by a foreign government.

He restated this philosophy in the summer of 1993 publication entitled Foreign Policy when he wrote:

> The United States should explicitly surrender the right to intervene unilaterally in the internal affairs of other countries by overt military means or by covert operations. Such self restraint would bar interventions like those in Grenada and Panama, unless the United States first gained the explicit consent of the international community acting through the Security Council or a regional organization.

By these statements, it appears Mr. Halperin would give up our right as a Nation to act unilaterally even when it is in our own best interests. These remarks indicate to me that he does not trust our own country to decide when intervention is necessary. It appears that he prefers to leave it to some foreign government or international organization to determine when and where we should use our resources. How does that kind of thinking relate to such actions as the air strikes against Libya? I submit that Mr. Halperin would have stopped that beneficial raid and would have left Americans more susceptible to terrorist attacks.

However, Mr. President, Mr. Halperin may have changed his mind on unilateral intervention as well. In response to questions put to him by the Armed Services committee in August of this year, he replied:

> . . . we must ensure that other nations clearly understand that the United States is prepared to use force unilaterally when it determines that its interests are threatened.

Mr. President, I have trouble understanding how the same man could make these two statements within months of each other—but Mr. Halperin did just that.

Now that he has been nominated to be an Assistant Secretary of Defense, Mr. Halperin appears to be changing his mind on a number of very significant United States policy issues. I have already supplied you with two examples. Let me point out one additional example that might be of interest to the Senate. Mr. Halperin testified before the Church committee on December 5, 1975 as follows:

> I believe that the United States should no longer maintain a career service for the purpose of conducting covert operations and covert intelligence collection by human means. I believe also that the United States should eschew, as a matter of national policy, the conduct of covert operations.

In April 1987, Halperin appeared before the House Select Committee on Intelligence. Congressman HENRY HYDE confronted Mr. Halperin with this statement, and Halperin admitted it was his position at the time but that it no longer was. When pressed further, he said:

> I am against covert operations. I think the statements there on clandestine collection are ones that I would no longer subscribe to.

In other words, he told Congressman HYDE he would favor covert intelligence gathering but not covert operations.

What does he say now that he is nearing confirmation hearings? In September 1993, in response to questions from the Senate Armed Services Committee, he wrote:

> * * * I can support the conduct of secret operations conducted pursuant to the requirements of the law.

So he now appears to favor all forms of covert activities.

If you are confused, Mr. President, as to what this man stands for, you are not alone. The more you read, the more times you see he has appeared to revise his thinking. He is now recanting statements on a whole variety of issues causing some to believe he is having a confirmation conversion.

Mr. President, before I end this statement about Mr. Halperin, let me tell you about a former CIA agent named Philip Agee, a person whose works Mr. Halperin has endorsed in the past. Philip Agee very possibly caused an American, Mr. Richard Welch, to be assassinated in Athens, Greece in 1977. Agee identified Mr. Welch as an American CIA agent in one of his publications and Welch was killed shortly thereafter.

This all came about because of a plan Mr. Agee had. Agee told the Intercontinental Press that he wanted to:

> Contribute to the growing campaign in the United States to call into question activities, and to work for the eventual abolition of the CIA as part of the overall process of weakening and finally defeating the ruling Capitalist minority in the United States.

In all, Philip Agee wrote many articles and at least 3 books which exposed nearly 2,000 CIA agents all over the world. It caused their lives to be threatened and the United States to spend excessive amounts of time and money to protect and relocate them.

In June 1975, Mr. Agee was quoted in Esquire Magazine as saying:

> I have answered affirmatively that I aspire to be a communist and a revolutionary.

In September 1975, just 3 months later, Mr. Halperin wrote an extremely favorable review of one of Mr. Agee's books. That book disclosed over 400 names that Mr. Agee claimed were agents and yet Mr. Halperin extolled the virtues of Mr. Agee's book. Later, Mr. Halperin went to Great Britain in an attempt to stop efforts to deport Mr. Agee who had exposed a number of British agents as well. Mr. Halperin is not a lawyer. He went as a witness to argue against the British Government's desire to deport Mr. Agee as persona non grata. I believe, Mr. President, that this displays deplorable judgment by Mr. Halperin.

Mr. Halperin has testified for Daniel Ellsberg and Anthony Russo who released classified information to the Press. He has testified for Mr. David Truong who was sentenced to 15 years imprisonment for espionage. His testimony during those cases again demonstrated the same lack of judgment.

Mr. President, I have read only a few quotes from a man who has written at least a dozen books, hundreds of articles and testified nearly 100 times before Congress. Mr. Halperin has amassed a long history of remarks that are very similar to what I have briefly cited to you here. I will bring you more in the days to come from hundreds I have on file.

Mr. President, the position to which Mr. Halperin has been nominated will place him in possession of volumes of classified information. More importantly, the individual who becomes the Assistant Secretary of Defense for Democracy and Peacekeeping will be called on to make far-reaching decisions in cases concerning the placement of our American men and women in harms way. I submit to you, Mr. President that he has not shown the good judgment needed for that position.

I call on the Senate to clearly examine this man and judge for itself. He is simply not the proper candidate for this important position. In fact, in my judgment, he will seriously damage the defense of this country if he is placed in that position. He has been in a consulting role at the Department of Defense for nearly 9 months and we have had two of the worst military setbacks in the past 20 years. They both came in the area of peacekeeping—Mr. Halperin's area. I have seen many Defense nominations from this administration and not spoken against any of them. I have helped confirm most of them. I believe that, if the person is not dangerous to our national defense and the President wants the person, he or she should be confirmed. Mr. President, after reviewing Morton Halperin's record and his work, I am convinced this man is dangerous to our national defense.

Mr. President, on October 5, 1993, Mr. DUNCAN HUNTER, a Member of Congress, from California, wrote the Honorable SAM NUNN a letter, and sent me a copy.

His letter reads this way:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 15, 1993.
Hon. SAM NUNN,
Chairman,
Senate Armed Services Committee, Washington, DC.

DEAR MR. CHAIRMAN: Your committee is now considering the nomination of Morton Halperin to serve as Assistant Secretary of Defense for Democracy and Human Rights. I am very concerned about Mr. Halperin's past activities regarding classified information, the "Pentagon Papers," and the role of the intelligence community.

I am enclosing a statement regarding my concerns, as well as a joint letter to you that has been signed by many prominent individuals from the national security community. I would be grateful if my statement and the open letter could be included in your committee's report on the nomination. If there is still an opportunity to testify, I would appreciate it if your staff would contact Vicki Middleton of my office.

Many thanks.

Sincerely,
DUNCAN HUNTER,
Member of Congress.

Mr. President, a letter to Senator NUNN of October 15, 1993 says:

OCTOBER 15, 1993.
Hon. SAM NUNN,
Chairman, Committee on Armed Services, Washington, DC.

DEAR MR. CHAIRMAN: We strongly urge you and your colleagues to reject the nomination of Morton Halperin to serve as Assistant Secretary of Defense for Democracy and Peacekeeping. We are in agreement with the many Senators of the Armed Services Committee who have said that Halperin's activities have been detrimental to the national security interests of the United States. His record over the past 25 years has demonstrated a complete disregard for the sensitive nature of classified information, and it would not be prudent to have him serve in a senior position at the Department of Defense.

Sincerely,

Adm. Thomas H. Moorer, USN (Ret.), former Chairman, Joint Chiefs of Staff.
Adm. Thomas B. Hayward, USN (Ret.), former Chief of Naval Operations.
Adm. Carlisle A. Trost, USN (Ret.) former Chief of Naval Operations.
Adm. James L. Holloway, USN (Ret.) former Chief of Naval Operations.
Frederick B. Dent, former Secretary of Commerce.
William E. Simon, former Secretary of the Treasury.
David Packard, former Deputy Secretary of Defense.
Keith L. Brown, former U.S. Ambassador to Denmark.
Michael Burch, former Assistant Secretary of Defense.
Dr. Ray S. Cline, former Deputy Director, Central Intelligence Agency.
LG Daniel O. Graham, USA (Ret.), former Director, Defense Intelligence Agency.
BG Theordore Mataxis, USA (Ret.), former Commander, American Division, Vietnam.
MG Hugh Overholt, USA (Ret.), former Judge Advocate General, U.S. Army.
LG James B. Vaught, USA (Ret.), former Commander-in-Chief, U.S. Army, Korea.
Gen. Donald R. Keith, USA (Ret.), former Commander, Army Materiel Command.
RAdm. John Dalrymple, USN (Ret.), Executive Director, Navy League of the United States.
MG James Pennington, USA (Ret.), President, National Association for Uniformed Services.
John Adams, Executive Director, The Retired Enlisted Association.
Larry Rivers, Executive Director, Veterans of Foreign Wars.
John R. Brinkerhoff, former Deputy Assistant Secretary of Defense, Carter Administration.
RAdm. Robert H. Spiro, Jr. USNR (Ret.), former Under Secretary of the Army, Carter Administration.
James D. Staton, Executive Director, Air Force Sergeants Association.
Michael Cline, Executive Director, Enlisted Associated of the National Guard.
John M. Fisher, Chairman and CEO, American Security Council.

All of these famous, prominent people who served their nation well and in important positions, these former chairmen of the Joint Chiefs of Staff, these admirals and generals, and all of them who signed this statement said Halperin is not the man to serve in the Defense Department.

I ask unanimous consent to have printed in the RECORD at this point a statement by Congressman DUNCAN HUNTER on the nomination of Morton Halperin to serve as Assistant Secretary of Defense.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY CONGRESSMAN DUNCAN HUNTER

Mr. Chairman, I want to thank you and the members of the Armed Services Committee for providing me with the opportunity to outline my views concerning the nomination of Morton Halperin to serve as Assistant Secretary of Defense for Democracy and Peacekeeping.

After careful consideration, I am in complete agreement with Senator Strom Thurmond (SC), the ranking Republican on this Committee, and I urge you to reject this nomination. Morton Halperin's persistent activities show a complete disregard for the procurement, use and protection of classified intelligence. I believe he would be a clear security risk, and his past activities have been very detrimental to the national security interests of the United States. Senator Thurmond has said Morton Halperin "is dangerously out of step with the mainstream national security community * * * I am concerned that we may be letting the fox into the hen house should Mr. Halperin be confirmed."

The Wall Street Journal has described Mr. Halperin, who headed the Washington office of the American Civil Liberties Union for eight years, as a "left-liberal spearthrower." They went on to describe him as "wildly naive on most issues of the Cold War, especially in perceiving a 'defensive' Soviet Union."

Morton Halperin has consistently advocated his strange belief that the use of intelligence for purposes of national security is somehow antithetical to our Constitution. In his book, "The Lawless State: The Crimes of U.S. Intelligence Agencies," Halperin states, "Using secret intelligence agencies to defend a constitutional republic is akin to the ancient medical practice of employing leeches to take blood from feverish patients." He says, "Secrecy * * * does not serve national security. * * * Covert operations are incompatible with constitutional government and should be abolished."

The nominee told a Congressional committee in 1975 that intelligence activities should cease to exist. "I believe the United States should no longer maintain a career service for the purpose of conducting covert operations or covert intelligence collection by human beings. I also believe the United States should outlaw as a matter of national policy the conduct of covert operations." He reaffirmed this view in 1987 before the House Intelligence Committee.

Not only is Mr. Halperin against the use of intelligence in general, but he is also opposed to the classification of sensitive information. Mr. Halperin stated in 1980 that "Under the First Amendment, Americans have every right to seek to 'impede or impair' the functions of any federal agency, whether it is the FTC or the CIA, by publishing information acquired from unclassified sources."

In 1985 he supported the editors of the Progressive magazine when they published information about the design and manufacturing of nuclear weapons. When the government was prosecuting Samuel Morrison for disclosure of classified satellite photos, Mr. Halperin said the case posed "an extraordinary threat to the First Amendment."

While dedication to the protection of Constitutional rights is certainly commendable, the nominee clearly takes this protection well beyond prudent limits when the national security interests of the United States are concerned. There is also no reason why his past statements will not reflect future action he takes as Assistant Secretary. Furthermore, at the Pentagon he will of course have full access to classified information.

The nominee has specifically stated he would like to see the following information declassified:

All activities regarding U.S. covert operations;

Detailed nuclear weapons design information;

All commitments to employ American forces;

Research on a new weapon systems;

Diplomatic negotiations; and

Many activities regarding all of our intelligence organizations.

The entire national security community was very disturbed when Morton Halperin assisted Philip Agee in his campaign to expose the identities of CIA agents. At the American Civil Liberties Union he served as Agee's legal counsel and argued that Agee's travel should not be restricted.

Agee described the CIA as "the secret police of American capitalism." His single minded aim, so he avowed, was to destroy that agency in order to "purify the American role in the world." Agee's treachery included naming 170 CIA colleagues and friendly agents, all previously under essential and presumably inviolable cover, whom he had worked with. Halperin defended him despite the fact that Agee revealed a number of intelligence operations which he was sworn, by the oath of his employment, never to divulge.

Morton Halperin was Agee's legal counsel and his major defender after the former intelligence operative wrote "Inside the Company: CIA Diary." In the words of the bipartisan American Security Council, "few books by an unknown writer have caused so much damage to a national institution."

According to ASC, "The careers of CIA officers, many of them in the prime of usefulness, were summarily interrupted and diverted by Agee's work and Halperin's defense. The anguish visited upon their families, not to mention the physical danger to them, that went with exposure, must be included in the final cost. For example, Agee's publication CounterSpy, named Richard Welch as the CIA Station Chief in Athens, Greece. Welch was assassinated after Agee's publication put him in the bull's eye by naming him as a CIA officer."

Former Senator Barry Goldwater, who previously served as Chairman of this Committee, said that Agee should be stripped of his citizenship. Secretary of the Treasury Lloyd Bentsen, while he was a U.S. Senator, said Agee should be imprisoned. Nevertheless, Morton Halperin rushed to his defense after the British House of Commons upheld Agee's expulsion order by a vote of 138 to 4.

Philip Agee orchestrated a betrayal verging on treason, and Morton Halperin was one of his principal defenders. Both Agee and Halperin were both ring leaders in a campaign to harass, intimidate and deform our national intelligence services.

Morton Halperin's activities were instrumental to the disgraceful and dangerous decline of the prestige and vigilance of our intelligence community in the 1970s. In responding to the Agee/Halperin onslaught, Admiral Stanfield Turner, who served as Jimmy Carter's CIA Director, said in 1978, "I almost hold by breath every morning until I know if today's disclosures include some of our sensitive sources of intelligence * * *. Allied intelligence services are losing confidence that we can keep a secret. We suspect that some are holding back information." I would remind the Committee that Halperin's activities were occurring at a time the CIA was reporting 1,900 "spies" from the Soviet bloc were operating inside our borders.

Halperin's views on constitutional rights came into direct conflict with the Supreme Court which stated that "Restricting Agee's foreign travel * * * is the only avenue open to the Government to limit these activities * * * Agee's disclosures, among other things, have the declared purpose of obstructing intelligence operations and the recruiting of intelligence personnel. They are clearly not protected by the Constitution."

Halperin also favorably reviewed Agee's book "Inside the Company: CIA Diary," saying that in it "we learn in devastating detail what is done in the name of the United States." He did not criticize the book for releasing over 30 pages of names of U.S. covert operatives overseas, or the fact that Agee acknowledges in the preface the help he received from the Cuban Communist Party.

Halperin concluded the review by saying, "The only way to stop all of this is to dissolve the CIA covert career service and to bar the CIA from at least developing and allied nations."

Then there is the matter of Mr. Halperin's involvement in the unauthorized publication of the so-called "Pentagon Papers." The nominee's role was crucial to giving Daniel Ellsberg access to this classified material. In fact, Mr. Halperin had the central responsibility for deciding who would have access to the "Pentagon Papers." Mr. Halperin invited Ellsberg to participate in a classified study of U.S. policy in Vietnam even though Ellsberg had previously said he felt these top-secret papers should be made public.

Unfortunately, Morton Halperin's involvement did not end there. Ellsberg lived in Halperin's home while the "Pentagon Papers" were being illegally copied and stored, and while Ellsberg gave the "Pentagon Papers" to the radical Institute for Policy Studies. Henry Kissinger was so concerned about the nominee's activities in leaking sensitive information to the news media that he ordered a tap placed on Mr. Halperin's telephone. Whether the nominee directly participated or not, it is certainly clear Halperin knew Ellsberg was releasing classified information about the Papers. Halperin's involvement was brought to a conclusion when he later went on to help with Ellsberg's legal defense.

All of the members of the Armed Services Committee have received an indepth policy paper prepared by Frank Gaffney, the former Acting Assistant Secretary of Defense for International Security Affairs, and his Center for Security Policy. This outstanding research document, entitled "The Case Against the Halperin Nomination," contains numerous examples of statements the nominee has made over the past two and a half decades which clearly raise serious concerns about his commitment to our national security interests. I have also reviewed an analysis of Morton Halperin's positions prepared by the bipartisan American Security Council. According to ASC, the nominee's entire record can be described as "blaming America first" for many adverse activities throughout the world.

From the early 1970s, Morton Halperin consistently forgave and defended the former Soviet Union. In the Nation magazine, he wrote, "Every action which the Soviet Union and Cuba have taken in Africa has been consistent with the principles of international law. The Cubans have come in only when invited by a government, and have remained only at their request . . . Soviet conduct reflects simply a different Soviet estimate of what should happen in the African continent and a genuine conflict between the United States and the Soviet Union."

In his 1971 book, "Defense Strategies for the Seventies," he states: "The Soviet Union apparently never even contemplated the overt use of military force against Western Europe. * * * The Soviet posture toward Western Europe has been, and continues to be, a defensive and deterrent one. The positioning of Soviet ground forces in Eastern Europe and the limited logistical capability of these forces suggests an orientation primarily toward defense against a Western attack."

The nominee always diminished the military threat the Soviet Union posed to the world. He consistently focused on portraying a "defensive" Soviet Union. Such ideas run counter to what was widely believed at the time, and to what we now know to be the truth.

It is clear the nomination of Morton Halperin to be Assistant Secretary of Defense for Democracy and Peacekeeping is a security risk we cannot afford to take. Mr. Halperin is completely opposed to the use of intelligence agencies, and he strongly believes that much of the top-secret information concerning national security should be declassified.

The nominee has demonstrated this not only in his extensive writings, but also in the actions he has taken to achieve these goals. It would be a mistake to allow a person with this background to be confirmed in a senior program in the Department of Defense.

Mr. THURMOND. Mr. President, in view of Mr. Halperin's record, I just do not see why he was ever appointed to serve in the Department of Defense. If the President wants him to serve in some other department, that might be another thing. But Mr. Halperin has no business serving in the Department of Defense.

We are very disappointed his name was sent down here, and he should not be confirmed. I hope the Senate will give careful consideration to this letter and all of this information I furnished here on this man Halperin.

I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Minnesota is recognized.

THE COUPS IN BURUNDI

Mr. DURENBERGER. Madam President, I rise to reflect briefly on some very saddening news that reached this country today on Belgian radio. There was apparently a military coup in the country of Burundi that resulted in the death of the President, Melchior Ndadaye, and other members of his cabinet. What is sad about it is that the country of Burundi was just on its way to being a shining example of a country that peacefully transitioned from military rule to a democracy.

The people of the country of Burundi adopted a constitution on March 9 of 1992. They adopted it by a margin of 9 to 1. On June 1 of this year, a little more than a year later, nearly 3 million voters went to the polls to elect Ndadaye President in the country's first-ever multiparty election.

But there is a little more to the story. The man who overthrew the previous dictator of that country and made himself President in 1987 is President Buyoya. He is a young man, and I met him here about 6 or 7 weeks ago. He is a very well educated, bright young man who wanted nothing for the people of Burundi other than democracy. He used the time from 1987 until 1992 to begin to build the support in that country for reconciliation between the two rival ethnic troops, the Hutu's and the Tutsi's.

As I say, he presided over the drafting of the constitution for that country and decided he would be a candidate in the election for President. In order to stand for election under the new constitution, President Buyoya had to resign from the military, which he did, and ran in this election and ended up getting less than 30 percent of the vote. President Ndadaye was elected. President Buyoya very graciously accepted his defeat and began a process of continuing the reconciliation of his country by establishing a freedom foundation, which was designed to raise money and bring economic development to his country.

About 2 weeks ago—in fact, I recall it as the day after the Congress met in this building with the Secretary of State and Secretary of Defense over the crisis, or almost the catastrophe in Somalia. On the very next morning, President Ndadaye with President Issaias of Eritrea, met with a group of us here in the Capitol.

I must say, Madam President, how impressed I was with the president's vision for the future of his country. He talked about the long conflict in the country. He talked about the peaceful transition. He talked about the man whom he had defeated in the election and the strengthening of their relationship because of that election. President Ndadaye was confident he would be able to further strengthen the foundation for democracy that had been established by his election.

So the tragedy of today's coup in Burundi is not only a major setback for democratic reform in this African nation, but it is a personal loss for those of us who in this relatively brief period of time, just 2 weeks ago, began to know President Ndadaye as a friend.

I understand from the Department of State that those attached to the U.S. Embassy in Burundi are safe, for which we should all be very grateful.

I join with the Department of State in condemning this action and would underscore the Department's statement:

> This represents a serious setback to the cause of democracy in a country whose previous democratic success had served as an inspiration to the region and the world.

This is not only a setback for Burundi, but it is a grave setback for all of Africa. There are too few outstanding national leaders in that part of the world, leaders who are not only national leaders but are willing to be regional leaders as well, willing to bring peace to other countries, including Somalia, one of its neighbors.

In my view, the United States should vigorously support an African solution to the crisis in Somalia. I feel even more strongly today that we must support a solution to the crisis in Burundi, one that will lead to a reversal of this new journey backwards in time, into military rule in that country, and return the people of that country and the nation itself to democracy and a new freely elected government.

Madam President, I close by extending, on my own behalf and those of us who had the honor to know President Ndadaye, although only briefly, our deepest sympathies and our prayers to his family and those of the families of his cabinet, others who lost their lives and who suffered other losses through today's tragedy. We send our sympathies and commitment to strengthening all of the people of Burundi. Thank you, Madam President.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1994

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate now proceed to the continuing appropriations resolution, (H.J. Res. 281); that it be immediately considered, deemed read a third time, and passed; that the motion to reconsider be laid upon the table; and that the preceding all occur without any intervening action or debate.

Mr. DOMENICI. Madam President, we have no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 281) was deemed read a third time and passed.

EXTENSION OF EMERGENCY UNEMPLOYMENT BENEFITS

Mr. MITCHELL. Madam President, I now ask unanimous consent that the Senate proceed immediately to consideration of H.R. 3167, a bill to extend emergency unemployment benefits.

Mr. DOMENICI. Madam President, reserving the right to object, and I will object. But let me first say I have been instructed on our side that there is objection. So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Madam President, I ask unanimous consent that H.R. 3167, a bill to extend emergency unemployment benefits, now be advanced through its proper stages and that it now be in order to move to proceed to it; and that the cloture motion, which I now send to the desk, mature on Monday, October 25, notwithstanding the fact that the Senate will not be in session tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I have no objection, Madam President.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. MITCHELL. Madam President, I now send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to H.R. 3167, a bill to extend the emergency unemployment compensation program:

Jeff Bingaman, Tom Harkin, Pat Moynihan, Pat Leahy, Byron L. Dorgan, Max Baucus, J. Lieberman, D. Pryor, Harry Reid, Jay Rockefeller, Howell Heflin, Wendell Ford, Russell D. Feingold, Daniel Inouye, Frank R. Lautenberg, Tom Daschle.

Mr. MITCHELL. Madam President, I regret very much that we have been unable to obtain consent to proceed to the bill to extend emergency unemployment benefits.

As my distinguished colleague has indicated, not he, but at least one or more Republican Senators have indicated an objection, which the distinguished Senator made in their behalf. That means that the Senate cannot now proceed to this bill.

I had been advised by my colleagues on the other side that there will be a filibuster of our effort to proceed to the unemployment insurance bill.

Therefore, being notified of an intention to filibuster, I have no choice but to file a motion to attempt to end that filibuster.

I think it is especially regrettable that a filibuster occur on an unemployment insurance program. The extended unemployment program expired on October 2. It has now been 3 weeks since the program lapsed.

While those persons receiving extended unemployment compensation prior to October 2 continue to receive the compensation for which they are eligible, all those who have lost their jobs and have exhausted State compensation since October 2 have been unable to file for and receive Federal extended compensation.

According to the Department of Labor, 62,000 people each week exhaust their State benefits. This means that about 186,000 people and their families have been without unemployment compensation since October 2.

This legislation would extend the program through February 5, 1994. It is expected that approximately 1 million Americans would receive additional compensation during that time and, of course, those 1 million Americans will not be able to receive it if this filibuster succeeds.

Madam President, over 8½ million Americans are now unemployed. Nearly 6½ million Americans are working part time because they cannot find full-time work, even though they want to work full time. Unemployment today is slightly less than it was in

1991, when the first extension of the unemployment insurance program was enacted. However, the number of long-term unemployed persons is significantly higher now than it was then.

In November 1991, when the program was first extended, the unemployment insurance rate was 6.9 percent. Last month, the rate was 6.7 percent. However, the number of persons jobless for 6 months or longer in November 1991 was 1.370 million. The number has risen to 1.745 million. So the fact of the matter is that the circumstances intended to be met by the extended program are no better today and, by one very important indicator, they are worse than they were when the program was extended.

It is my belief that we should proceed to and pass this legislation. I regret very much that our colleagues have made a decision to filibuster it to prevent it from coming before the Senate.

Under the rules of the Senate, the vote to end the filibuster cannot occur until the second calendar day after the day on which the motion was filed. That means that this motion will mature on Monday. Therefore, on Monday, the Senate will vote on whether to continue this filibuster or whether the Senate should proceed to consider debate and hopefully pass the unemployment insurance bill.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I do not wish to speak, but I had a request that one Senator have a couple of minutes to respond. Could we work on the unanimous consent to what we do after that, so I will be on notice and then save some time for that Senator?

Mr. MITCHELL. Yes.

UNANIMOUS-CONSENT AGREEMENT—INTERIOR APPROPRIATIONS CONFERENCE REPORT

Mr. MITCHELL. Madam President, I ask unanimous consent that, at a time to be determined by the majority leader, after consultation with the acting Republican leader this evening, the Senate proceed to consideration of the Interior appropriations conference report; that there be 2 hours of debate, equally divided in the usual form; and that, upon the conclusion of that debate or the yielding back of time, the Senate vote on the cloture motion, that vote originally having been scheduled to occur on tomorrow.

Madam President, I want to make clear that we are talking about 2 hours for debate prior to the cloture vote, as opposed to 2 hours for debate on the conference report itself and, pursuant to the previous agreement, that time will be equally divided and controlled between Senator BYRD and Senator WALLOP.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, I wonder, I say to the majority leader, if we could just go ahead and make it 8:30 when we start, rather than he and I having to determine that time. We will have our Senator here and the discussion will have taken place, or we will proceed, in any event. Is 8:30 all right?

Mr. MITCHELL. I have no objection to that.

Mr. DOMENICI. Could we modify the request to include that?

Mr. MITCHELL. Madam President, I am advised that a change has been made.

Madam President, I ask unanimous consent that the request be modified in two respects: first, that the Senate proceed to the consideration of the matter at 8:30 p.m.; and, that the time be equally divided and controlled between Senator BYRD and Senator NICKLES.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I thank my colleagues for their cooperation.

I now yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I yield myself such time as I may require.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

H.R. 2520—FISCAL YEAR 1994 INTERIOR APPROPRIATIONS BILL—CONFERENCE REPORT

Mr. BYRD. Madam President, I urge adoption of the conference report on H.R. 2520, the fiscal year 1994 Department of the Interior and related agencies appropriation bill. This conference report and accompanying statement of the managers appeared in the CONGRESSIONAL RECORD on October 15, 1993, on pages 24833 through 24854.

The agreements before the Senate today total $13,621,625,000 in budget authority, and $13,622,074,000 in outlays, as scored by the Congressional Budget Office. As such, the bill is below the 602(b) allocations in both budget authority and outlays, by $14,375,000 and $8,926,000, respectively. No across-the-board reduction has been taken in order to comply with the allocation. All programs have been funded at a level that fits within the constraints of the budget targets. In addition, the recommendations of this conference agreement represent a total decrease below the amounts requested in the budget of $213 million in budget authority and $242 million in outlays.

Madam President, reaching agreement between the House and Senate is never easy on the appropriations bill, and this bill is no exception. Each Senator would probably recommend a different compromise than that before the Senate today. I would remind all Senators, however, that this package attempts to address the many different priorities of all Senators, and House Members. No one is 100 percent satisfied, nor does any Member get everything exactly the way he or she might prefer.

The conference had to resolve nearly 1,100 items of discrete difference between the House and the Senate. The bill had a total of 125 Senate amendments. The formal conference met on four different occasions, preceded by many hours of preliminary negotiations. This bill has been the subject of a great deal of scrutiny. Most Members have a direct interest in projects in the bill that affect their States, as well as the numerous policy issues.

There has been a great deal of talk about a filibuster against this conference report. Some Senators are not happy about the compromise position reached relative to the Western rangeland issues and grazing fees, and would propose to delay action on this entire package. I would remind Senators that last night, the House voted by a margin of nearly 3 to 1 in favor of the compromise contained in this conference agreement. In addition, the House voted previously by a similar margin against the moratoria on grazing reforms included in the Senate bill. So I would suggest to Senators that the chances of a better compromise are very, very slim indeed.

I urge my colleagues to reject this filibuster strategy and instead let us proceed with our consideration of this measure and getting it to the President's desk.

Madam President, I would like to thank Senator NICKLES for his assistance on the Interior bill throughout our consideration of these matters this year. The subcommittee received over 1,800 amendment requests from Members this year, totaling some $2.7 billion in add-on funding requests. The Senate bill and the conference agreements were fashioned in a bipartisan manner. Obviously, not every request can be fulfilled. But we have done our best to maintain program continuity while also addressing items of interest.

I will highlight some of the items of interest in the conference agreement.

The conference agreement includes proposed reforms to Federal grazing and rangeland management policies. These include a fee increase to $3.45 per animal unit month over the next 3 years, and certain management reforms proposed by Interior Secretary Babbitt in August. Neither the fee nor the land management reforms are all that Secretary Babbitt wanted, nor are they all that Senators representing large public land grazing States would want. As such, they behold the mark of a true compromise.

The subcommittee has attempted to protect the operational base of the agencies funded in the bill. The National Park Service operating account is increased by 9 percent over last year, which will mean more campgrounds stay open, more interpretive programs will be offered, and deferrals of maintenance will be kept to a minimum.

Total funding in the bill for Federal land acquisition and State outdoor recreation grants is $254.3 million. This amount is $30.4 million below the fiscal year 1993 level and $40.9 million above the President's request for fiscal year 1994.

Total funding for construction in the land management agencies amounts to nearly $534.8 million. This total is about $74.1 million, or 12 percent, below the fiscal year 1993 appropriation for these same construction accounts and $10.7 million below the President's request for the same.

Funding for energy conservation programs grows by $111.5 million, or 19 percent, over the fiscal year 1993 enacted level. Funding for the energy weatherization grants program is recommended at $206.8 million, an increase of about 11.5 percent over last year.

Funding for fossil energy research and development is $430.7 million, or 3 percent, above the fiscal year 1993 appropriation. The recommendation includes increases above fiscal year 1993 of 19 percent for natural gas research, 32 percent for petroleum programs, and a reduction of 11 percent for coal research and development.

Indian programs are funded at a total of $3.8 billion, which includes significant increases for Indian education, health care, contract support, and funding for negotiated land and water claim settlements.

The bill includes $163.5 million for the National Biological Survey, the new science research agency proposed at the Interior Department.

The bill contains none of the mining-claim patent moratoria language which was in the House bill.

The bill provides a total of $69.5 million in various accounts for costs associated with the effects of the new forest management policies in the Pacific Northwest.

Mr. President, at this time, I would also like to clarify several items with respect to the conference agreements. In the statement of the managers accompanying the conference report, under amendment No. 49, on page 34, there is discussion about the Northern Mariana Islands. The actual dollar amount is $27,720,000, which is reflected in the dollar totals for the affected account.

With regard to the $500,000 for Blackstone River Valley National Heritage Corridor listed on page 19 of the statement of the managers, these funds are for technical assistance.

Within the total funds provided for operations, the Park Service may allocate funds for the Keweenaw National Historical Park, not to exceed $150,000. In addition, the budget included funding in the general management plan category for activities at Keweenaw NHP, and the managers have taken no action in conference to change this proposal.

Of the funds provided for land acquisition at the E.B. Forsythe National Wildlife Refuge, NJ, up to $1,000,000 may be used by the Fish and Wildlife Service in areas other than those specifically discussed on page 15 of the statement of the managers.

Also in the statement of the managers, on page 15, the Emiquon National Wildlife Refuge is in Illinois, not New Jersey; and on page 57, the White Earth Clinic is in Minnesota, not Montana. Also, on page 18, the $350,000 for Big South Fork NRA, TN, are for trails and other maintenance backlogs.

Mr. President, I urge the Senate to adopt this conference report and the amendments thereto.

Mr. LEVIN. Mr. President, I appreciate the assistance of the distinguished chairman of the Appropriations Committee relative to the level of fiscal year 1994 funding for the Keweenaw National Historical Park included in the Interior appropriations conference agreement.

Is it the bill manager's understanding that the Keweenaw NHP is eligible to receive operating funds in fiscal year 1994, notwithstanding any inferences that some could otherwise draw from the conference report?

Mr. BYRD. The Senator is correct. The managers of the conference have agreed Keweenaw NHP is eligible to receive operating funds under the conference report and that the National Park Service [NPS] may provide up to $150,000 for operations at Keweenaw NHP in fiscal year 1994.

Mr. LEVIN. Is it also true that the park may receive funds in fiscal year 1994 in addition to those that come from the NPS operations account?

Mr. BYRD. The Senator is correct. For instance, the budget included funding of approximately $110,000 in the general management plan category for activities at Keweenaw NHP, and the managers have taken no action in conference to change this proposal.

Mr. LEVIN. I thank the chairman for his help on this important matter. The funds made available by this conference report will help keep the doors open and at least some staff on site at this new park. I also hope sufficient funds will be provided to allow the park's advisory commission to begin operating. Congress authorized this park in 1992 after many years of hard work in the legislative process, and I will continue to seek adequate funding for it as long as I am here.

Mr. BYRD. Madam President, I yield the remainder of the time under my control to the distinguished Senator from Nevada [Mr. REID].

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I yield 10 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 10 minutes.

Mrs. MURRAY. Madam President, this year alone, the grazing issue has been subject to lengthy discussion, debate, and negotiation.

First, there was the President's budget plan. Then we had the Interior Department's regulatory package. After the Senate said no to that, negotiations—intense negotiations—followed. What we have now is a compromise; the very word means everyone had to give something.

This is no longer about grazing fees and regulations: This is about partisan gridlock. This is about holding hostage the budgets of every Federal agency under the jurisdiction of this bill in order to frustrate a well-reasoned compromise.

There is too much at stake in this bill to let gridlock rule the day. This bill means too much to too many people throughout this Nation and in my region to let it fall prey to the tactics of gridlock and delay. I would like to talk for a few minutes about some of the important things in this bill that—on their merits—argue for avoiding the frustration of filibuster.

I have come to the Senate floor several times to talk about natural resource issues that people in the Northwest have been struggling with for years. The most prominent of these issues has been management of national forests in the range of the northern spotted owl.

During the 1980's, timber harvests on national forests increased dramatically over historical levels. As the decade came to a close, Forest Service biologists determined that the spotted owl was threatened with extinction because its habitat was being consumed. Further, they declared the owl an "indicator" species whose decline was showing problems with forest health.

This began years and years of painful debate in the Pacific Northwest about the fate of these forests. Caught in the middle of this debate are people with historical and cultural ties to the forest products industry. For these people, it has been years of uncertainty. It has been the anxiety of not knowing what the future holds. It has been endless lawsuits, and the gnawing frustration of dealing with an indecisive bureaucracy.

This year, things changed. The country elected new leadership.

The President himself convened a scientific team to examine the best available science on forest health. This team was charged with figuring out how much timber the forest can provide, and still be home to salmon, birds and other wildlife that give our region its special identity.

The team came up with a plan. The plan proposes major changes in the way Federal forests have been used. They want to conserve salmon habitat; they want to provide enough habitat for the owl and the marbled murrelet. They want to turn young tree stands into forests with old growth characteristics sooner.

These changes bring major economic shifts, and no lack of hardship, for people in my State who live in timber dependent communities. I am not here today to debate the merits of these changes, but I must say to my colleagues they have not been received warmly in many quarters.

But when it unveiled the plan, the Government said something else: It said, "We are going to design a new economy in the region. We are going to invest in people, encourage creativity, and turn conservation into economic development." This proposal was received enthusiastically by people in rural Washington. It showed that after years of Government hang-ups, the Government was doing something positive.

Specifically, the administration of Bill Clinton and Bruce Babbitt—that has been so villified on the Senate floor today—proposed $1.2 billion in economic investment over 5 years, including grants for counties and towns, loans and technical assistance for small business, support for educational opportunities, social services, and new job creation in forest management. This year's package is about $280 million.

Thanks to bipartisan work between Senator HATFIELD, Senator BYRD, Senator NICKLES and myself, the Interior bill is the centerpiece of that package:

It contains $27 million for watershed restoration—which is basically heavy construction that improves salmon stocks;

It contains $10 million for community assistance administered by the Forest Service;

It contains $6.5 million for old growth diversification—a proven successful program—in Washington, Oregon, and California;

It contains $2.5 million to fulfill prior Federal commitments to the residents of Skamania County, which has experienced 20–30 percent unemployment for several years.

This is more than just numbers for my State. It represents the Government keeping promises, reaching out, and trying to be a partner. It is delivering on a promise by providing incentives for people to be involved in making change work.

There are skeptics and there are critics. They said to me: "Are you sure the Senate is going to do this?" There are a lot of people who want to see this conflict end, but tonight these provisions are being held hostage by the same tactics that have prevented our tough regional issues from being resolved in the last 5 years.

I suggest these tactics are not constructive. They raise false hopes. More often than not, gridlock—as we are seeing tonight—sets progress back. When a vocal few can succeed in derailing a well-reasoned plan, nothing is accomplished and no one is served.

Are we not above that? Do not the American people want to see a government that can make decisions and compromise and move forward? I think the answer is yes, and I urge my colleagues to let debate on this amendment end in compromise. I urge them to recognize the countless hours spent and the excellent job done by Senator REID considering grazing reform, just as countless hours have been devoted to forest management issues. It is time to support the Reid amendment and the conference report. This bill is far too important to many very real people to be stalled in this U.S. Senate.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, I yield myself 1 minute, and then I will yield to the Senator from New Mexico, Mr. BINGAMAN.

This is not gridlock. This is not partisan. It is disingenuous to claim that it is.

There are people on both sides of this issue whose constituents' livelihood is directly affected and directly threatened by it. This compromise was conducted in the back room. Neither House of Congress has held a hearing on any of the provisions of it. Neither House of Congress voted specifically on any of the provisions of it. They voted generically on it. This was done without hearings.

This Congress, passing the President's budget bill, managed to say that ordinary citizens cannot deduct the cost of lobbying. Now this Congress is about to say that ordinary citizens are not even allowed on their own hook to be heard before we pass bills that affect their lives specifically and directly.

Madam President, I yield 6 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 6 minutes.

Mr. BINGAMAN. Madam President, I thank the Senator from Wyoming for the time.

I rise to speak against the grazing provisions that are contained in the 1994 Interior appropriations bill. I am opposed not to reform but to the process that we have followed. Just as I did not support the administration moving ahead without the opportunity to scrutinize the proposal that they had presented, I do not support this so-called compromise which has been made on the Interior appropriations conference. This is not good government or good policy, Madam President. We should not, in one fell swoop, make major changes to the Federal Lands Policy Management Act on an appropriations bill.

The issue before us is not whether we should have a change in the grazing fee formula. I think that issue has been debated now for several Congresses. It is clear that some change in that formula is appropriate and is going to occur.

It is important that it occur and that we get stability in this issue so that those who make their living from grazing on the public lands will know what their situation is and will be able to assess their economic future; so that the people involved in ranching on public lands States will be able to borrow money; so that people will be able to get on with their lives in a reasonable way.

The issue is not whether some reform will occur. The issue is whether we should allow dramatic change to occur and whether we should move forward at the breakneck speed that has been proposed in this bill.

What I am hoping for is not to stop rangeland reform, but to give us the time to work on properly tailoring this proposal so that it addresses the diversity of the ranching industry. Ranching in the Southwest is very different from ranching in other parts of the West. It is very different to engage in ranching in Montana as distinct from New Mexico, and we need to look at the arid parts of the West and be sure that ranching can continue in those areas as well.

We need to look at the small ranchers who are most affected. Madam President, I am very concerned that the financial ramifications of raising the fees to the level proposed in the conference report, as well as some of the other provisions in this proposal, have not been fully considered.

From what I have heard from many of my constituents, this proposal could do severe damage to New Mexico ranchers. I received hundreds of letters and phone calls from New Mexicans, most articulating fear and anger with what is in this conference report. Many are writing to share their thoughts that this proposal will have unintended effects that have not been properly thought through. Let me share some of the correspondence with my colleagues.

On the issue of range improvement ownership, Jim Jackson, a rancher in Quemado, NM, writes that by claiming ownership of future improvements on Federal land, the Government is giving a clear message to the livestock industry to build improvements that are only beneficial and absolutely necessary to the permittee's livestock interests. This proposal creates a major disincentive to investing time, money and labor in conservation improvements which may take years before they show benefits. As Mr. Jackson notes, quoting from his letter:

> Ownership is a return for taking a risk, just like risky investments in the financial market require higher rates.

On the need to tailor this proposal to the diversity of the West, another rancher in my State, R. W. Johnson of Cuba, NM writes:

> Western grazing lands are not all created equal; the harvest is not equal nor is the overhead. Surviving the standardized grazing increase will depend on climate, economics and the local environment, along with the human factors of self will and preservation.

Mr. Johnson goes on to say:

> I have been ranching here since 1971 and have suffered through numerous droughts and several blizzards. There have been years I had to borrow money to feed my children and my cattle, but I persevered. In that time, I built 28 lakes and treated 5,700 acres of sage to increase grazing capacity, I have drilled four wells and seen the wildlife double. I feel I do the public a service by doing these things.

Madam President, the testimony of the people who ranch for a living should, I hope, cause us to reflect on one of the truly awesome responsibilities we have here in the Senate: That is, to make decisions that will dramatically affect people who are thousands of miles from Washington. In this case, we are talking about people whose lives are totally outside the realm of experience of the vast majority of Americans.

To quote from the Death of a Salesman: "Attention must be paid."

I conclude that there is no one reality in the West. There have been and continue to be ranchers who are excellent stewards of the land, and there have been and continue to be significant ecological abuses of the land by others. But we have a responsibility to fix this problem in a manner that respects the West, its people and the impact of our decisions.

It is important to me, Madam President, that we preserve the uniqueness of the West. Driving people off the land will only bring despair, turmoil and poverty. It will not do much for the environment either for these ranches to be broken up into 40-acre developments.

What ranchers and bankers all over New Mexico have told me is, simply, this bottom line: This proposal will bring about major devaluation of ranching operations. We are talking about people who have borrowed heavily under one set of rules. We are changing those rules in midstream; with no transition, no exceptions, no recognition of the diversity of the range. We can do better than to do something this drastic, with absolutely no mechanism for public input, and no opportunity for this program to be adjusted in some way.

One of the most difficult jobs an elected official has is to vote for no change when you want to support change, because the change that's proposed is the wrong change. I have never believed in change for change's sake. I do want the right change. Unfortunately, that is not what is being offered here today.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. WALLOP. Madam President, I yield to the Senator from Idaho 4 minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 4 minutes.

Mr. CRAIG. Madam President, 27,000 families in our public lands Western States need to have an answer to this question: What does the phrase "valid existing rights" contained in the grazing amendment mean? How is it defined? Is it leaving a door wide open for Secretary Babbitt to define administratively just how an existing water right or prior existing right on range improvements on public lands will be grandfathered?

My time will not allow, but what I am putting in the RECORD is an explanation of current law that this language came from.

"Valid existing rights," as it relates to mining claims, based on a variety of factors, a very stringent discovery standard, a very stringent marketability of mining products, a standard of proof that a prudent man would invest in further production and/or sale at a profit of a valuable mineral.

What I am telling you tonight and what the record is now revealing for the first time, is that thousands of men and women across Western States are going to have to go to their attorneys and find out what in those 18 pages of law that we are debating tonight is meant in phrasing "valid existing rights." Because the fuzziness of the explanation demonstrates, Madam President, that "valid existing rights" can be in the eye of the beholder, especially when the door is left wide open as it is in this proposal for the definition of the Secretary of the Interior. This amendment would also establish new standards and guidelines for the restoration, the protection of riparian values such as healthy wildlife and fish habitats and diversified vegetation. These requirements affect all permits and leases on public lands. They are not just related to grazing permits.

None of us can argue that these are not worthwhile and laudable goals. They are. But the problem is no one has asked the question, no one has built the public record. Therefore, it is under wide interpretation by Secretary Babbitt and his green generals down at the Department of the Interior.

Mining companies today know that they have spent millions of dollars defining in the courts what "valid existing rights" means.

Is the Senator from Nevada suggesting that cowboys, ranchers, cowgirls are going to have to spend their valuable money to determine what this Senator means by "valid existing rights?" I would suggest that because the record is silent, because there is no record, that is exactly what the Senator from Nevada is forcing ranchers across Western States to do. Whether it is through their grazing associations or through their own attorneys, they will now have to determine through court case after court case what the congressional intent was in this gigantic silent loophole built within the law.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 minutes.

Mr. MATHEWS. Madam President, I have listened to debate over the grazing fee compromise put forth by my friend the distinguished Senator from Nevada.

I have been distressed to hear this issue couched as a conflict between Western and non-Western States.

Mr. President, this issue is not a regional conflict—it is a question about the prudent use of public lands.

That issue affects every Member of this Chamber.

Virtually no geography book calls Tennessee a Western State. Yet Tennessee—like every State in the Union—boasts national parks and public preserves, just as it holds farmers and ranchers who could make use of those lands.

This issue affects the people of Tennessee. And the people of Tennessee would say it is reasonable and proper that those who make use of public lands should pay a fair fee for their use.

By most accounts, the current Federal grazing fee is woefully below standard—about one-fifth the amount ranchers pay to graze animals on private lands.

The amendment by Senator REID is a reasonable and prudent, phased-in approach that brings Federal fees closer to private sector parity. So long as we maintain deeply below-market fees, we are not taking prudent stewardship of resources that belong to all Americans.

We are talking about increasing monthly fees from $1.86 to $3.45—over 3 years, mind you. That is not outlandish.

There is nothing outrageous in asking ranchers to pay 12 cents a day to graze a cow and a calf or a horse or five sheep.

I bet kids in Casper or Santa Fe or Nashville pay more than 12 cents a day to feed a gerbil or a pet rabbit.

Arguments against the Reid amendment have descended to precisely that beastly a degree of comparison. Let us see them for what they are and pass the Reid amendment for the slight improvement it makes.

Madam President, I think the record will show that I was one of the Senators who joined with the western group here when this bill was initially passed in order to keep the proposal that was before the Senate from becoming a part of that bill. I raised the ire of a number of our press in Tennessee wanting to know what business I had voting to keep these below-the-market rates. I have had a hard time explaining that. But it is not difficult when you look at the proposition because I was convinced by those people I have been associated with that the structure was put together, the proposal was put together without the benefit of having input from the people involved.

I have said on that basis I think it deserves more consideration. But that consideration has now taken place. The conference committee looked at the equities across the board. The conference committee came back with a proposal that Senator REID and others feel adequately addresses the proposition. The conference committee came back with a proposed schedule of fees that amounts to, I believe, if you divide it out, 12 cents a day per animal unit. As I said, I do not know anyone in this Chamber who has a kitten, a rabbit, or gerbil, or anything else that we spend less than 12 cents a day on.

Madam President, I feel that the proposal before us is a good one. I do not think it is a western proposal.

The PRESIDING OFFICER. The Senator's 2 minutes are up.

Who yields time?

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, I will make an observation and yield to the Senator from Colorado.

The observation is that the conference committee heard from no one but whom it wanted to hear. My ranchers whose livelihood is desperately affected by this were not heard. My bankers whose ranchers' fortunes are directly tied to their own were not heard. My small town businessmen were not heard. The State engineer of Wyoming was not heard when the water of the State is going to be taken away.

The Governor of Wyoming was not heard. Let me just quote what he said of this proposal. Because he was not allowed to be heard, he had to write a letter, and he said:

> I cannot in good conscience support a so-called compromise that has the potential to drive good people and good stewards from the range in the West. I hotly dispute the Secretary's implication that western Governors were supporting the compromise. And when I see Representative Mike Synar praising the compromise in the next paragraph of the Secretary's news release, then I know we were right.

Western Governors were not heard. They were ignored. Westerners were not heard. They were ignored. It is time that the Senate understood that this is not the process of legislation but dictation.

I yield 8 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 8 minutes.

Mr. CAMPBELL. Mr. President, I thank my colleague, the Senator from Wyoming.

I spoke once about this today already. I would like to add a few more things because in less than 2 hours we will be voting on a motion to cut off debate on this issue that is vitally important to over 26,000 hardworking western families.

Contrary to some of the previous statements, I do not see this as a partisan issue. There are Democrats and Republicans alike opposed to this conference report, and I do not see it as intentional gridlock. We are talking about people's future, and if you call that gridlock, you may do so. I call it fighting for the lives of my neighbors and my friends and people I have grown up with and believe in.

The grazing legislation embodied in this bill would codify 19 pages of so-called "reforms" but those reforms will literally destroy many rural western communities. Congress and the people who live in the West need an opportunity to discuss this issue more thoroughly.

First of all, these rangeland reform proposals contradict statutory law including the Taylor Grazing Act, the Federal Land Policy and Management Act, the Public Rangeland Improvement Act and several others. And I might say that some of those have had 60 years of interpretation and the implementation of those statutes.

Second, the need for proposed regulatory changes is not substantiated. Some of the studies cited as examples of the need for reform are misinterpreted and none recommend the sweeping changes that are in this conference report.

Third, the specific proposal to increase the grazing fee is not supported by adequate data, fails to consider relevant material data, and omits required economic analysis.

There is also no showing that the administration of the grazing program will be improved as a result of the proposed regulations in this legislation.

And last, the national mandatory standards and guidelines are not supported by data or scientific study, are contradicted by other well-regarded research, and should be withdrawn. Rather than accepting this legislation or implementing the proposed reform, the BLM should appoint a committee of scientists to develop appropriate standards and guidelines, with appropriate public comment and review.

Earlier today on the subject, I focused on the policy changes. I would like to just talk a little bit about the dollars and cents of it this evening.

Ranchers are family farmers of the West. The establishment of a fair and equitable grazing fee is necessary to ensure their survival. It may sound redundant, but it is no lie that ranching remains a key component in the western rural economy. For every dollar the rancher makes, there is the equivalent of a yield of $5 of additional money in the economic activity in the American West. Not only does that add billions for the Nation's economy in much of the West but it is the single largest source of economic activity in tax revenue.

Every western ranching job creates as many as four jobs on Main Street. If ranchers go under, so will the tractor, truck and automobile dealers, the gas, grocery and feed store owners, the veterinarians, doctors, and dentists, and many others who make up the commercial and social fabric of rural western towns.

A fee that is not based on sound science and careful study will destabilize the entire livestock industry and the rural western economic infrastructure it supports. If Congress and the administration want livestock grazing on Federal lands, and the billions of dollars in economic activity it represents, it must consider the Federal Forage Fee Formula Act that has been introduced.

The failure to consider studies is a serious flaw. There is an extensive body of technical analysis regarding the grazing fee issue. The fact that the current administration does not agree with the outcome does not make them irrelevant. If actual data and criticism is considered, the agencies must conclude that the data do not support a grazing fee in the amount now being proposed. Thus, the agencies are setting the fee on an entirely arbitrary basis—a fact that should be acknowledged.

A recent study released by Pepperdine University entitled "Montana Ranches Using Federal and Nonfederal Grazing Forage" provides solid, empirical data and is the most exhaustive analysis of western ranching yet. It evaluated confidential bank records, loan files, operating records, and actual sales records. It provides a powerful answer to this question: Who has the advantage, the western Federal land rancher or his private land neighbor? The results were astounding.

For every dollar that his neighbor, the private land rancher, pockets at the end of the year, the Federal land rancher gets only 66 cents. The Pepperdine study shows that for the public lands rancher, expenses are inherently higher and productivity is less.

The study shows more. In the past 20 years, a generation of time, the Federal land rancher has suffered a loss of ranch value equal to $350 for every unit of production he owns.

In the meantime, the rancher on private land has increased the value of the herd and his property.

The study shows more. In the past 20 years, a generation of time, the Federal land rancher has suffered a loss of ranch value equal to $350 for every unit of production he owns. This means, if a rancher can graze 100 cows on his Federal lands ranch, his loss in ranch value has been $35,000 over the last two decades. Contrast this with his neighbor who has 100 cows on private land. In the same 20-year time frame, his 100-cow ranch has increased in value by $80,000. Make no mistake. Private lands are more productive and are not subject to the uncertainty of doing business with the Federal Government.

I might mention the obvious. There is no appreciation of land value if you do not have clear title to it. Livestock raising continues to be one of the most important tools available to rangeland managers to protect and enhance the environment on our public lands and has contributed to an increase in the overall health of western rangelands. Indeed, 55 years after the passage of the Taylor Grazing Act, it can be said that much of the public rangeland is more healthy and supports a greater diversity of plant and animal life. And that was reflected in an internal memo just recently released by BLM.

The administration's proposed action seems to be aimed at a very small fraction of ranchers that are often called the western empire of people that buy grazing permits with money made in other endeavors and use ranching as a tax writeoff. That does not apply to the majority of the people I know. The vast majority of them are simple hardworking people, trying to live on an average of about $20,000 a year.

Raising grazing fees and thereby driving people off the land does not raise revenue. That has been seen before in the ill-fated luxury tax. Very often, what you do by raising fees is simply dry up the business and kill any revenue that might come into the Federal Treasury.

I do not know which of us on either side of the aisle can win this debate. But I can tell you that I am sure about who is going to lose the eventual debate. That is going to be the administration in the 1996 election. You cannot jeopardize families, make ghost towns out of ranching communities, kill jobs, and then go back and ask the dead and dying for their votes.

I urge my colleagues to vote against the conference report.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. DECONCINI). Who yields time?

Mr. WALLOP. I reserve the remainder of my time.

Mr. REID. Mr. President, parliamentary inquiry. Can the Chair tell the Senator from Wyoming and the Senator from Nevada how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Nevada has 46 minutes and 41 seconds.

Mr. REID. And the Senator from Wyoming?

The PRESIDING OFFICER. Forty minutes and fifty-six seconds.

Mr. REID. I yield 10 minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, first, I want to congratulate Senator REID and Senator DECONCINI for what is a very courageous position for them. There is not a person in this body that does not know that I have been trying to reform the mining laws of this country for years. I really do not have a dog in this fight. I have not been extensively involved in the grazing fee fight. I know the distinguished Senator from Wyoming has said on the floor of the Senate that there is an anti-Western bias in the Congress and in the Senate.

I really can understand the hostility of western ranchers and, indeed, western Senators toward anything that has a tendency to tear up their playhouse. Ranchers in the West have a very legitimate interest in raising cattle on Federal lands. And we have an interest in allowing them to do it. And it ought to be a mutual friendship. It ought to be mutually beneficial to both.

Unfortunately, it has not been mutually beneficial. And the reason the issue of grazing fees has been with us as long as poor people have been with us is because some people refuse to accept any modification, any change.

Mr. President, why are we here? Why are we here year after year after year trying to raise grazing fees to a level that the ranchers can live with but that is fair to the American taxpayer? Is that not what we are here for? Does anybody here think for a moment that Senator REID and Senator DECONCINI who come from Western States are not jeopardizing their political futures considerably by very courageously saying we will attempt to compromise the issue.

I do not know whether Secretary Babbitt's figure of $4.28 per AUM by 1996 is the right figure or not. But I do know one thing. Today, at this moment, if you lease private lands on the same basis you will pay $10.03 per animal unit month.

And I can hear the argument already, sailing back across the aisle, "Yes, but, Senator, while you are proposing to charge us $2.76 next year, $3.52 the following year, and $4.28 the third year, 1996, you do not understand. We have to build our own fences. We have to put in our own pumps. We have to dig our own ponds. We have to provide water, improvements, and buildings."

And that is true.

But, look. In 1992, the rate was $1.86. You compare that to $10.03 in the private sector. Are the taxpayers of this country being treated fairly? You tell me about all these improvements that the Federal Government requires you to put on this land. Do you know what a Forest Service and BLM study shows? That the average expenditure by a rancher per AUM on Federal land is $1.17.

So go ahead and add $1.17 to $1.86. You still have a $7 disparity per AUM between what you have to pay in the private sector and what you have to pay as a rancher with a grazing fee permit from the Bureau of Land Management. That is not fair for the taxpayers of America.

One of the things that I do not understand—and maybe I do partially—and that is the number of western Senators here who are opposing this Reid-DeConcini compromise.

Instead of charging ranchers $4.28 per animal unit month in 1996, the compromise says we will only charge $3.45. That is a big savings to the ranchers.

So let us assume that when we vote tonight on cloture to break a filibuster, we fail. Let us assume that the Senator from New Mexico who is leading the charge against this compromise prevails in the U.S. Senate, and we are unable to break the filibuster. Where does that leave western ranchers? I tell you where it leaves them? It leaves them right at the mercy of the Secretary of Interior, Bruce Babbitt, who has legislative authority to raise rates by almost $1 more than the compromise.

Senators can go home and say "I fought that compromise to a standstill." And the ranchers will stand and cheer and say, "You are so wonderful to save us from the bad old Senate." And then the next day they pick up the paper and see where Secretary Babbitt just issued a new rule, which he has the authority to do, a dollar higher than the one you just defeated on the floor of the U.S. Senate. Maybe that is one of those bridges you want to cross when you come to it. I see that as a real distinct possibility.

I must say that it seems to me that you can always say, "I fought like a saber-toothed tiger to keep them from raising grazing fees," but, by the same token, it seems to me you are also stepping on your own foot.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. BUMPERS. Yes, I will.

Mr. DOMENICI. Which would the Senator prefer, to die by hanging or to die by firing squad?

Mr. BUMPERS. Senator, I have been here 19 years, and I found out a long time ago that discretion is the better part of valor. If I have a chance to tell my people back home: This is not nearly what you would like, but it is so much better than what you are about to get; and if I had to wage a valiant fight on the floor of the Senate, it would have been much worse.

I am saying to all of my friends from the West that I have no western bias. I have a bias in favor of the taxpayers of America being treated fairly. I have a bias in favor of the Federal lands of this country being grazed in a sensible, good manner; not overgrazed.

Mr. WALLOP. Will the Senator yield for another question?

Mr. BUMPERS. Yes, I yield for a question.

Mr. WALLOP. Is the Senator aware that there are 18 other pages of new requirements, affecting energy and water and property development and everything else, that have nothing to do with grazing?

Mr. BUMPERS. Yes, I am very familiar with that.

Mr. WALLOP. In fact, the westerners are more worried about the legislative requirements with no hearings than they are the grazing fees. This is not just a grazing issue.

Mr. BUMPERS. Maybe you and I can work this out right on the floor tonight. Let me ask the Senator, what would it take to please him?

Mr. WALLOP. It would please us to take the recommendation that has been offered to the Senator, which is to extend the raise of the Senator from Nevada to 5 years instead of over 3, and to drop the legislative requirements, which we believe the Secretary does not have authority to do.

The Senator from Colorado will tell you that the city of Boulder will, potentially, lose its water under this. I will tell you that there are over 100 hydroelectric dams that are potentially threatened.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. Will the Senator yield me 5 additional minutes, or 2 minutes?

Mr. REID. He asked the question. Maybe he will yield the time.

I yield 2 minutes to the Senator from Arkansas.

Mr. BUMPERS. Here is a chart where the proof is in the pudding. It is true that the States do not require as much as the Federal Government in the way of improvements. But I want all of the Senators here to look. The rate in 1993 is $1.86. That is lower than it was last year, in 1992. We are going backwards. Look.

Arizona and California are the only two States in America that allow their lands to be leased for less than the Federal Government. Look at North Dakota. Even New Mexico, Nebraska, Montana, Idaho, Colorado, Oregon, South Dakota, Utah, Washington, Wyoming—they all charge ranchers a lot more money to graze on their State lands than we charge ranchers to graze on Federal lands. It is the same way with royalties on minerals. I have made this same speech.

I thank the Senator for yielding, and I will close my remarks by saying that I have helped western Senators on occasion on water rights. I have accepted wilderness bills in my subcommittee I did not want to accept to accommodate western Senators, because I knew how politically volatile it was back home. I have accepted limits on parklands to accommodate Senators who live in States where so many national parks are situated.

But I cannot in good conscience do anything but stand here tonight and say it will be disgraceful for the U.S. Senate to once again fail to reform our grazing policy. In addition, we have another body on the other end of the hall, and the body on the other end of the hall will never accept any of these things except this compromise. Therefore, I urge my colleagues to vote cloture tonight.

Mr. WALLOP. Mr. President, I yield 3 minutes to the Senator from Utah.

Mr. BENNETT. I thank the Senator.

Mr. President, I enjoyed hearing from my friend from Arkansas, as I always do. I would like to respond briefly.

I called the people back in Utah who are all concerned with this issue and laid before them the proposition the Senator has laid before the Senate here tonight. I said, "I have been told by the Senator from Nevada that if we do not accept his compromise, Bruce Babbitt will do worse things than his compromise." And I have asked, "Should I swallow my anger about what has happened and do the best thing by accepting the compromise, in order to sidestep the threat that Bruce Babbitt will come down hard on us?"

The answer I got back very firmly was: "We would much prefer to deal with Bruce Babbitt and his threats than to compromise, because we think we have a basis in the courts to deal with Bruce Babbitt, and we can protect ourselves. But if the Reid compromise is written into law, then Congress has acted, and we have no standing before the courts. Senator, stand firm."

As further support of that, I have a letter that I ask unanimous consent to be printed in the RECORD at this point, written by the Governor of the State of Utah, making it very clear what his position is.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF UTAH,
Salt Lake City, October 21, 1993.

Senator ROBERT BENNETT,
U.S. Senate,
Washington DC.

DEAR SENATOR BENNETT:

I cannot support the Reid amendment to the Interior Appropriations Bill, H.R. 2520. This proposed law, composed of a fee adjustment and changes to grazing management practices, may have serious repercussions for ranchers in Utah, and the rural communities in which they live. There has not been any serious analysis or debate of the substance of the proposal. The citizens of Utah most seriously affected have not been given the opportunity to be heard. I cannot support the process nor substance of a bill which exhibits such callous disregard for the needs of the hard working citizens of Utah.

I am aware of the needs of the ranching industry because my family runs a ranching operation in southern Utah. I am also aware of the great spirit of cooperation and community found among the residents of this area. The quality of life of the rural communities in Utah is some of the finest anywhere. However, this lifestyle does not come without a struggle to earn a living, and a struggle to find work for the children of the residents.

Utah also has some of the finest scenery in the world within its borders, scenery that must be protected. The rural lifestyle is complementary to and protective of the outstanding scenery, not a detriment. Many rural Utah families use a small herd of livestock as one of the incomes in a two income family. The second income may come from a job in the tourism industry. Loss of the agricultural income may cause the family to move elsewhere. Loss of community members threatens the community's ability to survive through other industries. I cannot support a proposal which so seriously threatens the stability of rural communities.

I have received letters indicating that the proposed fee would take about 10–15% of a rancher's net annual income. This money will therefore not be available for use in the local economy. This provision is a simple transfer of wealth out of the state, without any value received in return. If the BLM's cost of managing the program are so high, the BLM should seek to reduce costs, perhaps through management agreements with the state, rather than balance the federal deficit on the backs of Utah ranchers.

The grazing fee must be tied to the costs of doing business. The proposed amendment ties the fee to the forage Value Index, a measure of the cost of private pasturage. The correlation between the FVI and the total costs of doing business is too remote to be considered a measure of cost, therefore I cannot support the proposed fee structure. Further, there needs to be a longer phase-in period.

I cannot support the provisions related to water because the amendment does not make it clear that all water rights must be allocated through state water laws and processes. I am concerned that the proposals concerning ownership of water and range improvements will become disincentives to development. This will also affect the wildlife of the state, which benefit from the improvements.

I am concerned that the proposal to eliminate suspended non-use allocations will affect a rancher's ability to borrow money. I have received a letter indicating that one rancher will lose $48,360 in asset value because of the proposed provision. The forage in question could be placed into use with the investment in some range improvements. Therefore, the rancher's ability to borrow will be severely affected, with no real gain to the agency, or on the land.

I hope that you and the other Senators opposed to the Reid amendments will be able to bring some sense into this process.

Sincerely,

MICHAEL O. LEAVITT,
Governor.

Mr. BENNETT. The last comment I will make, Mr. President, has to do with this question that we hear constantly about disparity. I have put in the RECORD before studies that demonstrate that the cost of grazing on private lands is higher than the cost of grazing on public lands, even with the $1.86 figure the Senator from Arkansas cited.

In an effort to understand this and perhaps help the other Senators understand this, I did a little study about another use of public lands—camping. I found out what it costs to go camping on public lands. It is about $6 a night. The fee varies, depending on where you go. But that is about the average. The average for camping on private campgrounds is anywhere from a low of $12 up to a high of $18 or $19 a night.

I ask this question of the Senate: If we are going to accept the logic that we have to take public costs and raise them to private costs, regardless of the services provided, but just to achieve some kind of artificial dollar parity, would we indeed support raising the price of camping permits three times from its present level.

Mr. WALLOP. Mr. President, I yield 6 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 6 minutes.

Mr. BAUCUS. Mr. President, I rise today to discuss an issue of critical importance to Montana, the West, and the entire Nation—the reform of Federal land management practice and the fees assessed for grazing livestock on those lands.

As with many important issues, this debate over grazing fees has continued for too many years. Like the Energizer Bunny we have all seen on television it keeps on going, going, and going.

Perhaps this is because the grazing debate has become so polarized. All sides hear what they want to hear and find it hard to listen to those with a different point of view.

I reminds me of what a Russian observer once said in describing Congress as being "So strange. A man gets up to speak and says nothing. Nobody listens—and then everyone disagrees." While I do not believe this is a fair characterization of what we do here in Congress, it might aptly describe the grazing debate.

The livestock industry, the conservation community, and the Department of the Interior all need to talk less and listen more. Otherwise, we will never move beyond this divisive debate.

To the credit of many within the livestock industry, much of the West is in its best condition this century than before but some problems remain. The industry and their representatives continue to champion the status quo. This is unrealistic. There is need for reform and I must say I agree with the Senator from Arkansas. The present rates are much too low. They must be reformed, and it is high time that proper reform be allowed to occur. In the end stonewalling will serve no one.

On the other side, I do not question the motives of those within the conservation community who argue for more sweeping reforms. They want what is best for the land. We all want what is best for the land. But the so-called Reid compromise falls short of a true compromise.

It will codify the bulk of Secretary Babbitt's proposal, without the benefit of the meaningful public comment upon which sound public policy must be based. That is not acceptable to this Senator and, I would hope, not to my colleagues in this body.

Representative GEORGE MILLER has stated that this package represents "the minimum the House will be willing to accept." Senator DOMENICI has stated that the proposal's "drastic changes in management" is not acceptable. And Senator REID has said "there is no in-between." With the respect due to each of my colleagues, I must disagree. We must find the in-between if we are to ever bring this debate to a close.

The prices charged for the use of our natural resources must be fair. The reform of policies governing rangeland management must be driven by what the land can sustain. And reform must consider the needs of the people and the communities dependent on public lands grazing.

For this reason, I believe a gradual, 5- or 6-year phase-in of a fee of $3.45 per AUM is reasonable. It will provide ranchers and their lenders the ability to plan for the increase.

Beyond the issue of the fee, the codification of the management provisions of this proposal is fraught with danger. Since the introduction of the budget, I have stressed the need for the public to be involved in reforming grazing policy. I stand by that demand. By returning to the process set in motion by Secretary Babbitt, we will assure that public involvement is maintained.

Some have tired of this debate. I would counter by stating that the debate is incomplete. We have discussed grazing fees many times—and we are ready to put that issue to rest. But we have yet to deliberate the issues involved with comprehensive policy reform.

Our constituents have expressed a variety of concerns which must be heard. Ranchers and bankers have stated that provisions could dramatically devalue ranches purchased based on the attachment of the base property and the grazing allotments. Local utilities have expressed fears that increased regulations would cost jobs, decrease population bases, and harm their businesses. Government officials have expressed concerns that their tax base could be reduced. These concerns must be addressed before reforms are enacted.

Furthermore, we must be aware of changes which affect the value of property owned by the residents of Montana or other western States. We must be careful, as we change the rules by which established businesses operate. But the process allows for continuing input—if we allow it to progress.

The arrival of an opportunity often goes unnoticed because it arrives dressed in overalls and representing work. Mr. President, I believe we are witnessing the arrival of an opportunity to work together to fix this nagging problem. I urge my colleagues to join me. Let's roll up our sleeves and work to craft a reasonable resolution to this important issue.

I, for one, am strongly interested in reform. I cannot support cloture until that point is reached. The Reid proposal is not that proposal. If we do reach that point in a reasonable form, I will work to achieve it.

I urge my colleagues, therefore, to not support the effort to vote cloture at this time.

I thank the Chair, and I thank the Senator from Wyoming.

The PRESIDING OFFICER (Mr. FORD). Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, I yield 1 minute to the Senator from California.

The PRESIDING OFFICER. The Senator from California has 1 minute.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, I rise as someone who voted against the original Babbitt proposal and from a State that has 14 million acres of Federal ranch land affected and some 1,500 grazers.

I have had an opportunity to talk with both sides on this question. I know the chairman of the House Interior Committee, Mr. MILLER, and I know Senator HARRY REID.

I can say from the depths of my conviction that the best deal that is going to be made for the ranchers of America is this compromise tonight. I very greatly fear that if the compromise does not take place tonight the results may be litigious, but they are going to end up far worse than if this proposal carries those results.

Let me say one other thing.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. FEINSTEIN. My minute has expired, and I thank you very much.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield 8 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado has 8 minutes.

Mr. BROWN. I thank the distinguished Senator from Wyoming.

Mr. President, we often hear the claim and the concern that these bills have not had a proper hearing. Perhaps that is something that people who object to legislating on appropriations say now and then, but I cannot help but think that this is the ultimate example of what that involves.

Many people, who I think are of good spirit and honest intention, who have worked on this bill, have not been advised of the enormous impact it has on water rights throughout the Nation. Mr. President, let me emphasize, throughout the Nation.

We talk here about grazing fees and public land, but let me emphasize that this has aspects far beyond simply a few mountain States that have an enormous portion of their ground in public land.

This is perhaps one of the most revolutionary changes in water law that this Nation has ever seen, and it has the potential of damage to drinking water aspects that I think go far beyond anything that has been debated on this floor. It is literally a revolution with regard to water and water treatment and water plants and water storage of enormous proportions.

It has not had hearings. It has not been subject to scrutiny.

Mr. President, I must tell you I honestly believe that of the good people on the conference committee who worked on this, many of them were not aware of the enormous impact it has.

Let me go beyond that. Let me say I sincerely believe that the vast majority of people in that conference committee would not have voted for this provision had they had a full chance to review it.

Those are strong words and strong implications. Let me suggest I do not doubt the veracity or good intentions of any of them.

Let me just briefly spell out one of the things that has happened with regard to that. First of all, the question I think someone has raised is this does not have anything to do with water law? Let me suggest that is not the case.

I have here a letter from Mr. John Sayre, the Assistant Secretary of Interior in the past administration. He was Assistant Secretary for Water and Science. If there is one person in this Nation who is an expert on water law, John Sayre would certainly be thought of in those regards. Whether he is the most expert, I do not know. But I think anyone who is familiar with water law would recognize his name and recognize his expertise.

John Sayre says:

> Subsection 406(d) and subsection 406(i)(2) are certainly not appropriate in a bill affecting grazing rights and can logically be interpreted to affect all United States' rights to water and may even resurrect the Krulitz opinion on Federal non-reserved water rights.

Mr. President, there is no question but that this bill has major implications with regard to water rights throughout the entire Nation.

Let me very briefly alert the body to something Colorado has gone through and I suspect most other States will face.

This took place before the legislation was added. And I believe the circumstances surrounding Colorado's experience are what the rest of the Nation faces.

Here is what happened: Colorado has a number of water storage projects. We have floods in the spring and we have dry rivers through 3 months of the year. Literally, in November, December, and January, our studies show, without water storage, we have less than 1 percent of the annual flow in the rivers, and in many years, without water storage, they are completely dry.

Anyone concerned about the environment has to be concerned about that impact. Water storage is absolutely vital for human existence in many parts of Colorado.

Here is what the Forest Service has. We have to, of necessity, involve the Forest Service when we talk about water storage in Colorado, because the mountain areas are owned by the Federal Government, and that is where the water is stored. Many projects have been built on private land, but ultimately you have to have some connection or a Federal permit. If one is to flood an area, one simply has to have a pipeline traverse Federal land.

Let me alert every Member, whether you are from New York or California, my guess is your States have a substantial number of drinking water provisions for delivery of water to cross Federal land that fall under the purview of this bill. Whether you are from West Virginia or whether you are from New Mexico or whether you are from California or whether you are from New York, you are impacted by the water provisions. You have to have a permit.

This bill indicates a whole new set of standards that have to be met every time you get your permit renewed.

Here is what Colorado has run into. This is without this statute, and this is why I think we will beat this in Colorado.

This is a small reservoir surrounded by the city of Greeley. It was built in 1922 and is called the Barns Meadows Reservoir. It is not on public land, but on private land. It abuts public land, roughly about 10 acres, in the yellow here.

They have to have a permit to cross the public land to deliver the water and they have to have a permit, because they abut the public land. The permits issued for that range up to 30 years, sometimes, at the discretion of the Forest Service; 5 years, 10 years, 20 years, 30 years, it is up for renewal.

The Forest Service has said to the city that owns this drinking water, they have said to the people who own this, the city—these are not developers; the city that provides clean drinking water for the city—that in renewing the permit they want a third of the city's water.

Now this has been owned and built and operated and maintained with no Federal Government money at all. This is not a case of any subsidy of any kind in any way. This is totally city and local contributions.

But they have to have a permit to cross this public land. The Forest Service came in and said we want you to forfeit one-third of your water. Now that is a third of the drinking water, it is not a third of the surplus water. It is a third of the drinking water. This is for a reservoir that was built in 1922.

Some of the reservoirs where they demanded this were built and maintained prior to the existence of the U.S. Forest Service.

Every piece of legislation that we consider here always recognizes existing property rights. You would be hard pressed to find any that do not come out and at least grandfather in the already existing rights. This measure does not exclude existing rights. This is a whole new set of standards that preempt existing rights, that take away existing rights.

We are not asking for Federal land. There is no way to get the water downhill without crossing Federal land. They simply want a forfeiture of the public water.

Mr. REID. Will the Senator yield?

I just have a question. I missed where you were referring to, what section of the bill.

Mr. BROWN. I have listed two other sections, but this relates specifically to page 18 of the additional statutes legislated on the appropriations bill and the new standards that are created under the bill.

They kick into effect when you ask for a renewal of an existing permit, not a new project.

If you are talking only about new projects, this would be an entirely different debate with different concerns. This is already existing drinking water in an existing project. These new standards apply when you renew the permit.

Here is what the Forest Service has been saying: We want you to forfeit a third of your water if you simply had your permit renewed; just to cross the public land.

But the position of the Forest Service has changed. The position of the Forest Service now is that they want you to forfeit everything. They want the city to go without the drinking water.

Mr. President, that is not right. What am I to tell my constituents? That we are not going to have drinking water for them?

Please do not think this is an isolated incident.

The PRESIDING OFFICER. The Senator's 8 minutes have expired.

Mr. WALLOP. I yield the Senator one more minute.

Mr. BROWN. Mr. President, in Boulder, one of most environmentally sensitive communities in the Nation, they are facing the cutoff of all drinking water; Fort Collins, Loveland, Greeley, the Overland Ditch in Hotchkiss.

These provisions on page 18 and 19 of the new standards would eliminate our ability to use projects already developed, already built. It will extinguish existing rights.

Mr. President, this eliminates drinking water from citizens who have built the reservoirs, nourished them, made sure they are safe and followed every regulation.

This is wrong. This is unfair. It is wrong and it is bad public policy. It is disastrous for the environment and it affects every State. Whether it is the Hoover Dam, or the Grand Coulee Dam, or it is water storage projects throughout this Nation, or it is simply a pipeline that crosses and delivers drinking water to New York City, they are all impacted by these provisions. These new guidelines give them the ability to extinguish existing permits. It will be a disaster for this country if this measure is enacted intact.

The PRESIDING OFFICER. The Senator's additional minute has expired.

Who yields time?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, if my friend from Colorado had listened to the debate earlier today, which I am sure he did not have time to, he would have found the provision he is talking about will go through a hearing process. This is the part we are talking about, that Secretary Babbitt cannot proceed unless he goes through the hearing process. "Will be established only after the rulemaking process is completed." That is what it says. They will go through a complete hearing process.

So my friend from Colorado, as well intentioned as he might be, simply was going from a set of facts that were wrong.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. I reserve the remainder of our time.

The Senator from Nevada may wish to use some of his time.

Mr. REID. I think that is fair.

How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Nevada has 31 minutes and 40 seconds remaining. The Senator from Wyoming has 22 minutes remaining.

Mr. REID. I yield 12 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 12 minutes.

Mr. DECONCINI. Mr. President, I wish to thank the Senator from Nevada and compliment him on taking a courageous position. It is difficult when you find yourself split with western Senators. One thing that western Senators do, and have done over the years, the western coalition and other efforts, is stick together.

I am sorry to see us not in that situation tonight, because I always prefer to be with my colleagues, particularly the Senator from New Mexico, who is a dear friend and one who I have great respect for. I have worked with him many, many years here on so many, many vital issues.

The Senator from Nevada did not just wake up one morning and decide: Well, I am going to take this on and fix it.

He is like this Senator from Arizona, who has been around here long enough—and the Senator from Nevada was in the House also—and knows just how troublesome this issue had been.

How many times have I stood up on the floor, how many times have I fought to keep the ranching fees down? That is right. That is what this Senator did for a living, and I am doing the same thing today, to keep those fees down and to realize that this is a compromise that is going to be good for us in Western States.

Now the Senator from Colorado points out, as I understood his argument, that this legislation applies to the Forest Service. It does not. It does not and it is clearly stated there. It applies to the Bureau of Land Management only.

So the lands that are involved in his State or my State that are forest lands are not affected by this, except in one area, one area, and that is the fee which is applicable to both the Forest Service and the Bureau of Land Management.

It is very important to note here that this particular legislation affects and amends the Federal Land Management Policy Act as it relates to the Bureau of Land Management. It is vital to remember that because people can distort the facts unintentionally, I know, and leave an impression here that this is going to affect your water rights and other policies on all types of Federal land.

Under the Forest Service today, you do not own those water rights. They are owned by the Federal Government. In the Bureau of Land Management, 8 years ago, thanks to the Secretary of Interior Watt, all those water rights were deeded to the ranchers. I thought it was nice. It was great for us. My ranchers got all these water rights and all these benefits and improvements on the land and they did not have to pay for them. It was great. As a matter of fact, they even got the improvements that were existing before they got the lease on the land. Who would not take a nice gift like that? I thought it was a wonderful thing.

I did not hear anybody from the West, certainly, up here objecting to that. We did not ask for hearings: "Mr. Watt, how about some hearings on this?" We said, "Gosh, that's great. That's great."

Now we have an opportunity to settle this so we do not have a Mr. Watt or Mr. Babbitt, Mr. Lujan or anybody else, the next year or the year after coming in here and arbitrarily saying we are going to change fees, we are going to propose new policies, we are going to reduce or change the ownership of the improvements on the public land. That uncertainty is not good for ranching or any business. It is important that we realize that.

Mr. President, the State of Arizona is 83 percent public lands. How many in this body are from States with any greater amount? Maybe the State of Nevada. Maybe the State of Alaska. Not very many. When you think of our grand State of Arizona with only 17 percent privately owned land, you realize it is important that we have policies that we can live with and we can work with, and that is what this compromise represents.

In my State of Arizona, two-thirds of the grazing on public lands occurs on National Forest land and not Bureau of Land Management. The reason for that is because the BLM manages the more arid parts of our State that are not feasible for grazing.

What are the costs to the ranchers to graze on public lands? Believe me, I am interested in that, because I am interested in the ranchers being able to continue to prosper. Let me just point out, this chart represents the average cost as estimated by the BLM and the Forest Service to ranch on public lands—I know it will vary from State to State.

The chart lists what the cash cost for public land ranching. This is what it is. You can see: Hay, 39 percent; labor, 17 percent; pasture leases, private and State, 16 percent. Go on down to the bottom: BLM/Forest Service leases, 3 percent under the present rate.

Let us put ourselves 3 years forward, as the Senator's compromise would put us, 3 years from today, 1997, and the fee is $3.45. That is less than doubling the cost of the Federal fees for leases to run that ranch in 3 years. So it will be less than 6 percent of the total cost. A 2-cent raise in the price of beef more than covers that increase.

I know the price of beef fluctuates, but there is a formula built in the compromises that will allow this fee to fluctuate. As the Senator from Arkansas pointed out, it went down last year. The formula in this compromise is still going to continue to allow for market increases and decreases of 15 percent.—It can go up or down, but it is going to be determined by the formula.

That is fair. Everybody in this body loves to get a good deal. That is human nature, that is what life is about. This is till a good deal. It is not the deal I would like. Sure, I would like a moratorium, and I would like everybody to leave my State alone. I do not need you or anybody else to tell us how to conduct our business in Arizona. But it just so happens these are public lands. I wish they were not. I wish our State was 17 percent Federal lands and not 17 percent private lands, but that is not the way it is in the place I was born in.

I do not think there is anybody around here who would realistically suggest, "Well, why don't you change that?" We saw that with the Sagebrush Rebellion some years ago. Under the Carter administration, we saw how far that went: Zero, no place. We had 15, 20 Senators who thought, "Gee, let's deed that land over." I supported that. We can manage our land. We do darn well managing the State land in the State of Arizona, but that is not realistic.

Mr. President, not only that, but the Senator from West Virginia, the chairman of this committee, I must say, is extremely sensitive for being from so far east of the State of Arizona. I do not know how many times he has been there, but he has been there for me at least several times. He has been there for Arizona time and time again.

I just want to point out, to filibuster this bill and prevent it from becoming the law of the land, Arizona suffers. The Grand Canyon? That is more significant than just Arizona. The Senator from West Virginia was kind enough and good enough to fight for $6.4 million for housing for Grand Canyon employees. If you have been to the Grand Canyon, you probably have not seen the conditions of how the employees work and live with no suitable permanent housing there. It just demonstrates that there is an interest in the West; that everybody is not out to get us. In fact, they are interested in finding a solution.

The Senator from West Virginia in this bill has also put in $6 million for expansion of the Saguaro National Monument, taxpayers dollars that are going to be used to preserve one of the most beautiful Saguaro stands in the world; $880,000 for the Lake Havasu fishery on the border of Arizona and California. This would not have happened if it were not for the beneficial interest of House projects to the whole country and the recognition of that by the leadership of this committee, this Subcommittee on Appropriations. These are investments.

So to come out here and threaten to just filibuster and send this whole bill down, forget it all because we do not like some of it—we did not get exactly what we wanted, we want a moratorium, we only want the fee to go up to $2.30 cents or $2.35 cents—is unrealistic and wrong.

This Senator will stand next to anybody in this body from the West as to preserving the rights of the West, the rights of the individual landowner, and the right to use public lands for their economic benefit.

We have a lot of native Americans in Arizona, and some of them live in the worst poverty in the whole United States. It is tragic what has happened to native Americans. This bill provides millions of dollars for the upkeep of their schools, their hospitals, their highways, their clinics, and for new housing and new sewer systems. So if this bill does not pass and it all goes back to conference, and it is all opened up again and we have to go through the whole process, these valuable projects are jeopardized.

We know what the House has done on this issue. Year after year, they have consistently gone after the grazing fees. We have had some here in this body on the same track also, but we have been able to roll them back. We have been able to stop them. For 9 years I have spoken out on this floor in opposition. We have been able to just eke it out a few years by 1 or 2 votes. This year I think it was a larger margin than we have had in a long time, 19 votes. Last year, I believe it was 8 votes.

The House has voted overwhelming 313 to 109 on a motion to instruct their conferees to oppose the Senate's moratorium and stick with their position for reform. Just yesterday, they voted 317 to 106 to approve the conference report which is before us today containing this compromise. If that does not tell you where we are going, at least in the other body, I'm not sure what will.

As has been pointed out by the Senator from Nevada and the Senator from Arkansas, what are the consequences if we do not adopt this? Yeah, you want to go to court? Well, lots of luck. Talk to my ranchers. They are not interested in spending thousands and hundreds of thousands of dollars in court. They have been there when they have had a Secretary of Interior who decided to usurp their rights and it is very expensive.

So what is the answer? The answer is find a compromise, and that is what we have here. It is a compromise that is reasonable; it is one that our ranchers can live with, and it ought to be adopted by this body.

I regret to see a filibuster over an issue that is so significant to my State, I would not be standing here tonight advocating for a raise in those fees and for some changes; but we need to have certainty, so that we do not have the constant change from one administration to another, tomorrow night or next year, and that the Secretary, be it Bruce Babbitt or anybody else, cannot just in January, the first of next year, change the regulations. Because that is what has happened and will continue to happen. The ranchers will suffer and this country will suffer.

Again, I want to thank the Senator from Nevada. He has taken a position that is difficult. Those of us who have done that—all of us at one time or another have taken a position that is not the most popular at the moment—understand that. It is easy to listen to a couple of phone calls, know a couple of ranchers, or be a rancher or have an interest in a ranch, and say, "Oh, my gosh. You're going to raise my fees and you are going to affect my ability to have the economic gain that I have had before." But, this compromise is beneficial and will be of little economic detriment to ranchers in the West.

I thank my colleague from Nevada for his leadership.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Wyoming.

Mr. WALLOP. Mr. President, let me say this is, in the opinion of the Senator from Wyoming, not a compromise——

The PRESIDING OFFICER. The Senator is yielding himself time?

Mr. WALLOP. The Senator is yielding himself such time as he consumes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. WALLOP. Mr. President, this is the League of Conservation Voters and Secretary Babitt's absolute daydream.

I yield 30 seconds to the Senator from Colorado to explain that this does in fact affect the water in the forest.

The PRESIDING OFFICER. The Senator from Colorado has 30 seconds.

Mr. BROWN. Mr. President, I know our good friend from Arizona is sincere in his comments. Let me simply assure him that section 401(i) does apply broadly. It clearly affects any Federal agency. It is not simply the BLM, not simply Interior. The guidelines are issued by the Secretary of Interior but they apply to any Federal agency and the law clearly states that.

Let me simply say I believe it does apply to the central Arizona project.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WALLOP. I yield an extra 30 seconds to the Senator.

Mr. BROWN. I hope he would make sure—it clearly does shut down the central Arizona project. To that point I hope he would check what "restoring riparian values" means and how it affects that project. I hope Californians would check the Hetch Hetchy project. I believe that would shut that project down. Section 406(i) does apply broadly to all Federal agencies clearly by the statute.

Mr. WALLOP. I yield 3 minutes to the Senator from Utah [Mr. HATCH].

The PRESIDING OFFICER. The Senator from Utah, 3 minutes.

Mr. HATCH. Mr. President, it is clear that the Clinton administration is waging a war on the West. By including the Reid-Babbitt language in the Interior appropriations conference report, the administration is using scorched-earth tactics against the economy and the way of life of the entire region. This proposal—the 19 pages of authorizing language that makes it impossible for many families in Utah to earn a living—is not a compromise, as it is being touted here today. It is a capitulation, a surrender to the Federal Government of rights that are fundamental to the livelihood of westerners.

This westerner is willing to work to develop equitable lands policy. I have said so publicly and to Secretary Babbitt. But, I cannot stand aside as Washington bureaucrats dictate policy, without hearings, without a sense of fairness, and without basic common sense.

My opposition has nothing to do with gridlock, which I would note has fast become the new buzzword around this body. All one has to say to push legislation through Congress—no matter how onerous or shortsighted—is to mention this word, and we are supposed to fall over and play dead and let whatever travesty that is being considered pass. I, for one, am unprepared to do that when the interests of Utahns are at risk.

The gridlock mantra is worn out. It is a red herring. It is, for the defenders of this land grab, a substitute for real data. They, of course, have no choice. They are trying to defend a Department of Interior policy on which there have been no hearings, no studies, no evidence submitted, and no open public discussion. There has been little analysis of the specific reforms contained in these 19 pages, and yet we are being asked to swallow them whole.

But, my opposition to this language is not to be obstructive, but to maintain and preserve justice for the West. No other region faces the threat of being regulated into an economic depression. No other Senator would sit still as legislation threatened to wreak havoc on his State. That is what is happening here; that is why we are up in arms.

I am joined in this effort by a bipartisan group of Senate colleagues. Both Democrats and Republicans in Utah and throughout the West agree that we have different needs and different challenges than our eastern neighbors.

I have received a letter from the Governor of the State of Utah which I ask unanimous consent to be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF UTAH,
Salt Lake City, UT, October 21, 1993.
Senator ORRIN HATCH,
U.S. Senate,
Washington, DC

DEAR SENATOR HATCH: I cannot support the Reid amendments to the Interior Appropriations Bill, H.R. 2520. This proposed law, composed of a fee adjustment and changes to grazing management practices, may have serious repercussions for ranchers in Utah, and the rural communities in which they live. There has not been any serious analysis or debate of the substance of the proposal. The citizens of Utah most seriously affected have not been given the opportunity to be heard. I cannot support the process nor substance of a bill which exhibits such callous disregard for the needs of the hard working citizens of Utah.

I am aware of the needs of the ranching industry because my family runs a ranching operation in southern Utah. I am also aware of the great spirit of cooperation and community found among the residents of this area. The quality of life of the rural communities in Utah is some of the finest anywhere. However, this lifestyle does not come without a struggle to earn a living, and a struggle to find work for the children of the residents.

Utah also has some of the finest scenery in the world within its borders, scenery that must be protected. The rural lifestyle is complementary to and protective of the outstanding scenery, not a detriment. Many rural Utah families use a small herd of livestock as one of the incomes in a two income family. The second income may come from a job in the tourism industry. Loss of the agricultural income may cause the family to move elsewhere. Loss of community members threatens the community's ability to survive through other industries. I cannot support a proposal which so seriously threatens the stability of rural communities.

I have received letters indicating that the proposed fee would take about 10–15% of a rancher's net annual income. This money will therefore not be available for use in the local economy. This provision is a simple transfer of wealth out of the state, without any value received in return. If the BLM's cost of managing the program are so high, the BLM should seek to reduce costs, perhaps through management agreements with the state, rather than balance the federal deficit on the backs of Utah ranchers.

The grazing fee must be tied to the costs of doing business. The proposed amendment ties the fee to the Forage Value Index, a measure of the cost of private pasturage. The correlation between the FVI and the total costs of doing business is too remote to be considered a measure of cost, therefore I cannot support the proposed fee structure. Further, there needs to be a longer phase-in period.

I cannot support the provisions related to water because the amendment does not make it clear that all water rights must be allocated through state water laws and processes. I am concerned that the proposals concerning ownership of water and range improvements will become disincentives to development. This will also affect the wildlife of the state, which benefit from the improvements.

I am concerned that the proposal to eliminate suspended non-use allocations will affect a rancher's ability to borrow money. I have received a letter indicating that one rancher will lose $48,360 in asset value because of the proposed provision. The forage in quesiton could be placed into use with the investment in some range improvements. Therefore, the rancher's ability to borrow will be severely affected, with no real gain to the agency, or on the land.

I hope that you and the other Senators opposed to the Reid amendments will be able to bring some sense into this process.

Sincerely,

MICHAEL O. LEAVITT,
Governor.

Mr. HATCH. It is in opposition to this. I received another copy of a letter to the Honorable Bruce Babbitt from the Utah Democratic Caucus, Land and Water Reform Act resolution, condemning this approach. It is signed by four leading Democrats in Utah. I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UTAH HOUSE OF REPRESENTATIVES,
Salt Lake City, October 4, 1993.
Hon. BRUCE BABBITT,
Secretary of the Interior, Department of the Interior, Washington, DC.

DEAR MR. SECRETARY: The following resolution has the full support of the Utah State House of Representatives Democratic Caucus, which includes both urban and rural legislators. We would appreciate your consideration of this resolution.

UTAH DEMOCRATIC CAUCUS LAND AND WATER REFORM ACT RESOLUTION

The elected Democrats of the Utah State House of Representatives wish to go on record in support of President Bill Clinton and Vice President Al Gore in their efforts to reform and "re-invent" the United States Government.

In addition, we feel it is imperative that we go on record, as members of the Legislature in a western state, in opposition to the 1994 Rangeland and Water Act reform package, as it currently is written.

It is important that Washington officials recognize that the western states have different needs and different challenges from their eastern neighbors. We feel that before the die is cast on reform of these issues, dialogue between western state leaders and Washington officials must take place to properly scrutinize and validate the kind of reform that is to take place.

Of course, times have changed, populations have shifted and usage of the land has been questioned and challenged. We recognize the need to re-evaluate western land use and fees. We entreat you, however, not to neglect or overlook the urgency of carefully making necessary changes.

As you are aware, part of the economic future of many Western areas depends on land use and water availability. It is important that the Federal Government not place undue burdens on western states. It is our opinion that it is critical that the western states who are clearly affected by the reforms must have input in the decision making and consensus building process.

We favor innovative solutions and feel that these can be best reached by open and active dialogue.

FRANK R. PIGNANELLI,
Minority Leader.
GRANT D. PROTZMAN,
Assistant Minority Whip.
KELLY C. ATKINSON,
Minority Whip.

DAVID M. JONES,
Legislative Management.

Mr. HATCH. I also ask an editorial from the Deseret News against this compromise be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GRAZING FEE COMPROMISE STILL WOULD HURT THE WEST

A compromise between House and Senate negotiators has been worked out in Congress for higher grazing fees on public lands. But if it passes as expected in a conference committee vote this week, the bill still represents a major defeat for Utah ranchers.

Under the compromise, grazing fees will be raised over a three-year period from the current $1.86 for the current animal unit per month to $3.45 per AUM. An AUM is grazing for a cow and calf or five sheep for one month.

While that is less than the $4.28 originally proposed by Interior Secretary Bruce Babbitt, it still represents a substantial boost for many small Utah ranchers, whose profit margins are always thin. A raise to $3.45 AUM inevitably will drive some of them out of business.

But worse than the grazing fee hikes would be a long list of sweeping changes in land management practices. Most would result in more power in the hands of federal agencies and less for the ranchers.

Among the most troubling are provisions that would give the federal government title to all future improvements, such as fences and wells, made by ranchers at their own expense on public lands. Future water rights associated with range improvement also would fall under federal ownership.

Another concern is the proposed abolishing of Grazing Advisory Boards made up of people holding leases on public lands. Such boards would be replaced by Resource Advisory Councils that would have a diverse membership, including wildlife managers and environmentalists. At least 10 such reforms are in the bill.

One of the problems with such sweeping management "reforms" is that they are being made in an appropriations bill and without the usual hearings and authorizing process. As Sen. Orrin Hatch, R-Utah, says, it is the "wrong vehicle and the wrong process."

Grazing fees have been an emotional issue for years, but attempts to substantially hike the fees have always been beaten back, particularly in the Senate, where the West has more influence.

Last August, Babbitt proposed doing by regulation what had not been possible by legislation. The Senate voted to delay matters for a year, but the House passed a measure essentially the same as Babbitt's proposals. The compromise seeks to put the stamp of Congress on the issue instead of leaving it up to Babbitt's regulators.

The result, while minimally better than what had been sought by regulatory fiat, still threatens to be a body blow to Utah ranchers. And it is another administration and Eastern assault on Western states that are heavily dependent on public land use—simply because such lands make up most of what is available.

Mr. HATCH. Mr. President, this is a travesty. This is an onslaught against our West and against our people who have developed the West. The original pioneers who have really sacrificed all their lives to maintain the lands, maintain the water, do all the things that basically we find necessary.

I could easily provide hundreds of letters from my constituents, that are literally rolling off my fax machine, testifying to what the Reid-Babbitt language will do to them.

These 19 pages were drafted behind closed doors by only a few, without the involvement of those of us who represent those who would be most affected by it.

I do not understand why certain individuals in Congress are rushing into these reforms with a full head of steam without following the established congressional hearing procedure. When I, or the Senator from New Mexico, or the Senator from Wyoming, or the Senator from Idaho say that these reforms will devastate the economic vitality of our rural communities, we are not kidding.

Do my colleagues think we are making these statements for some other reason than simply trying to educate this body on what the impacts of these reforms might be? We are not making these statements for any other reason than to illustrate the disastrous impact these reforms will have on our constituents.

I can remember similar uproar from Senators representing other States and regions when it was their constituents affected by legislation or regulation. The debates on the spotted owl, the maritime salary differentials, the *Seawolf* project, acid rain, and the interstate transportation of trash spring immediately to mind. I'm sure a little research would produce a long, long list.

I hope all Senators will appreciate the severity of the Interior Department's proposals on the West and will support our bipartisan effort to remove these provisions from this bill. There is no doubt in my mind that a better, more fair solution can be found given requisite consideration and cooperation.

Let me briefly make several points for my colleagues to let them know how important this issue is to my constituents and why I believe the language in the conference report must be deleted.

We should not support statutory language that sends the following message to our ranchers: "From here on out, you are guilty until proven innocent—of everything related to land management."

I recognize the expertise of Dr. Darwin Nielsen of Utah State University, an agricultural economist, who has provided this information to me.

First, most Utah ranches are family-owned cattle and sheep operations that depend on both public and private land for a seasonally balanced feed program. Family ranchers are not wealthy units trying to take advantage of the Federal Government. In fact, the average gross income per livestock operator was $33,600 in 1988, or a net income average of $7,538 per operator. In addition, over 50 percent of these ranchers have off farm jobs, or second jobs, to support their families. Of course, there is a benefit to local, rural communities, including its work force and its tax base, from this source of additional labor, although it certainly would be preferable if ranching could produce a substantial enough income so second jobs would not be necessary.

Second, public lands are essential for grazing in Utah. Thirty-one percent of Utah's beef cow herds graze on Forest Service lands, while 48 percent of these herds use BLM land. Fifty-eight percent of Utah's sheep herds graze on Forest Service and 37 percent graze on land managed by the BLM. Federal lands provide 23 percent of the yearly feed requirement for Utah's beef cow herds and 46 percent of the feed for range sheep production.

These public lands are extremely important to the survivability of a ranching operation. For example, a given ranch may get 20 to 30 percent of its yearly feed from public lands, but it comes during that crucial 3- or 4-month period of the season when the rancher uses his private land to produce winter feed. In sum, a rancher is 100 percent dependent on public land to have a year-round livestock producing unit.

Third, in a State where total private land is approximately 20 percent, the use of public land is essential to continuing livestock production. In Utah, 79 percent of the land area is grazing land, and 15 of Utah's 29 counties have 25 percent or less of their land area in private ownership. Most of these counties are located in areas of the State where annual precipitation amounts dictate expensive types of agricultural enterprises. There are few opportunities for ranchers to shift livestock production to private lands to accommodate changes in public land grazing policies.

Fourth, I would mention several items related to the economic importance of the range livestock industry to Utah.

The Utah State Department of Agriculture estimates that livestock production results in over $1 billion of economic activity every year in Utah.

Over $500 million in wages can be directly and indirectly attributed to beef cattle production, primarily range livestock operations.

Livestock accounted for 75.6 percent of farm cash receipts in 1991, with cattle being the single largest contributing commodity producing 38.7 percent of cash receipts.

There are over 40,000 Utah jobs that are tied to range cattle production, and at least $175 million of assets, related to breeding cattle, that correspond to range livestock operations.

Utah has a total of over $2 billion worth of private land that is used in conjunction with public land as the base of Utah's range livestock industry.

In many of Utah's rural counties, range livestock is virtually the sole agricultural enterprise, and agriculture may constitute approximately 35 to 40 percent of the local economic activity in Utah's rural counties.

For every dollar of gross output involved, in the livestock industry, 6 cents of personal income is earned, 9 cents of total income is earned, and 11 cents of value is added to a Utah product.

There are 9 jobs for every million dollars worth of farm gate sales in Utah, and the total number of workers for every million dollars worth of sales is approximately 20.

Based on these facts, my colleagues can understand why my constituents are adamantly opposed to the adoption of the so-called Reid/Babbitt compromise and why it should be deleted from the conference report.

As has been stated during the debate, the Reid/Babbitt compromise contains approximately 16 different component parts that are being shoved down the throat of the West, and I use that phrase intentionally. I would offer the following comments related to these individual items as has been related to me by several of Utah ranchers.

Water rights: I am very concerned about the preemption of State law in the area of water rights and water developed on Federal lands. The language in this bill will reverse a century of deference by the Federal Government to State water laws. The Utah State Water Engineer informs me that he is concerned that water rights to be obtained in the name of the United States will not be properly appropriated through the established State process, according to language contained in the Reid/Babbitt compromise. We need to discuss this issue carefully without literally tossing the proper and legal role for State determination on water rights out the window.

Subleasing: The Reid/Babbitt language on this section does not provide justification for adding surcharges in the instance of subleasing. It is also unclear as to whether the surcharge will add to the quality of stewardship on the land by penalizing the permittee for grazing someone else's livestock. Also, the language is a disincentive to the practice of subleasing that will discourage young operators from starting up in the business, which usually necessitates a leasing arrangement in the first instance.

Moreover, by allowing subleasing, there is an ability to more fully utilize a good year's forage by adding to the base herd. Flexibility is greatly enhanced by the subleasing provision, both for the agency and the permittee. It is a win-win situation, and there should not be a penalty for subleasing by adding a surcharge.

Resource Advisory Councils: I am concerned about the elimination of Grazing Advisory Boards, and I will have further comments to make on this item at a later time.

Range improvement funds: The Reid/Babbitt language would authorize the diversion of range improvement funds from their intended use-range improvement. There is considerable latitude given to the Secretary to use these funds in the name of "ecosystem rehabilitation, protection, and improvement." I am worried that these funds could be used for projects that do not relate to rangeland improvement and, therefore, penalize the very group from which these funds are obtained. If the funds are to be collected from one group, that is, livestock permittees, then livestock permittees should see the benefits of these funds, and range improvements should have first priority of the funds. We cannot be misled by the use of the phrase, on the ground as contained in the compromise to address the problem I just mentioned. Funds may be used on the ground, but in a manner that is not consistent with the reasons for which they are collected. In other words, we want to make sure that these funds stay on the same ground from which they came.

Range improvement ownership: The Reid/Babbitt language provides that for all future range improvements, the sole owner of permanent range improvements will be the Federal Government. I cannot think of anything that is more of a disincentive to private investment than the knowledge that such investment will become the property of the Federal Government. That is exactly what the Reid language is stating. As one constituent told me, the word "improvement" describes some activity or structure that increases the value of a property. It is not in the best interests of the permittee or the public to reduce the incentive for permittees to construct or provide for such improvements.

These provisions have enormous legal implications as well as ramifications for ranching. It is essential that these provisions and the question of governmental takings be thoroughly examined. This is too important an issue to be done hastily, without the benefit of hearings, as a rider on an appropriations bill.

I am also concerned about the language in section (m) of the amendment that gives title to all permanent improvements on public lands, subject to valid existing rights, to the United States. In rural Utah, access to Federal, private, and State lands is vital to the economic well-being of our communities. Access requires the construction of roads or thoroughfares which, by definition, are permanent. In Utah, access to these improvements over public lands is essential. Does this mean that the construction of a road, whether it is related to grazing activities or not on public lands and whether it has been done recently or prior to 1976, falls under the broad impact of this language? I express my deep reservations of this language and its possible impact eliminating traditional R.S. 2477 rights-of-way that local governments need to maintain and stabilize the infrastructure of rural communities.

Mandatory qualifications: The Reid/Babbitt language would automatically disqualify an applicant that has had any Federal or State grazing permit or lease canceled for violation within a 36-month prior period. This language does not allow for extenuating circumstances that may have occurred. For example, a State grazing lease may be canceled for a violation due to reasons beyond the control of the permittee. Automatic disqualification of a Federal application for such a potentially trivial violation could constitute double jeopardy.

Also, refusal of an application for a Federal permit should be based on violations of Federal rules. I am not aware that the Federal Government or its agents have any authority, either expressed or implied, regarding State grazing permits, including the determination of the terms or conditions of these permits.

Suspended nonuse: The Reid/Babbitt language would direct the Secretary of the Interior to move to remove reference to suspended nonuse. Suspended nonuse is available to the BLM, the permittee, and the agricultural lending industry because it shows the history of grazing reductions on an allotment from the time the allotment was adjudicated. It has been an important protection for the future reuse of AUM's by a permittee whose AUM's are under suspended nonuse. That permittee has the priority for new forage allocation when it becomes available, primarily through range resource improvements, and thus the allotment has proven it can support more AUM's.

Prohibited acts: Under the Reid/Babbitt language, a person may be punished under grazing regulations for violations which have no connection to livestock grazing on BLM lands. This provision seems to be overly broad and unnecessary. In addition, it should include language specifying an appeals process by a third party that allows the alleged violator an uninvolved and dispassionate judge. For the BLM to set itself up as policeman, judge, and jury, is unacceptable and beyond the normal role of this Agency.

Conservation nonuse: The expert land managers in my State indicate this provision, allowing base property to be conserved from grazing activities for up to 10 years, is not a good management policy of the resource. Nonuse of forage often leads to fire hazards and the spread of undesirable plant communities. If an allotment is open for grazing purposes, then it should be used for actual grazing purposes.

I would also agree with those who believe an economic analysis of conservation nonuse should be made to determine the impact on local areas. A payment-in-lieu-of-taxes [PILT] payment may be required to recover lost tax base caused by putting areas into conservation nonuse. There would be an adverse socioeconomic impacts on jobs both in livestock production and related industries in rural communities.

Mr. President, these are real people whose futures we are discussing, or even toying with, on this debate. This is a time for leadership, not behind-the-doors partisanship, and I urge all of my colleagues to support our efforts to derail the Reid/Babbitt locomotive that is jeopardizing so many people in the West. If they are successful, there will not be a West tomorrow like we know it today.

Mr. WALLOP. Mr. President, I yield the Senator from Montana 3 minutes.

The PRESIDING OFFICER. The Senator from Montana is recognized for 3 minutes.

Mr. BURNS. I thank my friend from Wyoming. It never ceases to amaze me what arguments some people will use to usurp the rights of people. That is what we are doing here. The Babbitt proposal would place in law, if this passes and does become law—takes away all rights of people.

I would have to agree with the Senator from Arizona, I have seen the Senator from West Virginia stand on this floor and fight for his people, and we are fighting for ours tonight. We are fighting for right.

There is a little bit of difference here because there are real lives involved here. It is not just going out here and saying there are a bunch of faceless people. They are the people who go to the draft. They are the people who fought our wars. And you want to take that away from them. Just like they do not have rights.

I happen to think that they do, and they are as much a part of this country as anywhere else. Because of where they live, somebody who wants to take it all away from them. Because these rules and regulations and laws, should they become law, will take cattle off of our ranges. Then we have a big problem. We lost the wool program. We are going to see more cattle on our ranges. And I will tell you the fat cattle market next spring will be closer to $60 than it is to $75. They have a lot of money borrowed. You take them off of their land and say, you go sell them for a loss? And good luck to you.

We will appropriate a little money for job re-creation, or displacement. These people pay taxes, and go to their schools, and support their churches and their communities. And because they have built a way of life and the values of life that other people envy, you want to take it away from them. And this Secretary of Interior wants to do it. It is his raid on the West. It is his raid on the West. And you are going to allow him to do it?

So, I will stand here as long as it takes to fight for my people. Because I am not real sure that the ox and the cart are not in the ditch.

What is wrong with this body? Have we lost our senses? These are living people.

The grazing fee is not the issue we are debating here. Without a doubt nearly doubling grazing fees on public rangelands is going to have a negative economic impact on Western States like Montana. The 5,000 ranchers who care for public rangeland in Montana and the businesses on Main Street they support are going to be injured by the increased fees in this legislation.

What this measure does is add insult to injury. The result at issue here is the 19 pages of rules and regulations changing the relationship between ranchers and the Federal Government on 260 million acres of rangeland in the Western United States.

Any time a decision on how public lands or resources are going to be managed is made here inside this beltway, you have got big problems because they are being made by people who have never made a ranch produce, have never run a cow, have never showed a profit, and have very little to do with the feeding and producing the fiber that feeds and clothes this country.

Agriculture is put under a strain, and if you don't think there is not a war on the West, this is a slap in the face. First you up their fees, and then you put a lot of laws on them, and we do not even know what the impact of those laws and regulations will be because there hasn't been one hearing.

Congress has not heard from one person who makes a living on those ranchers. We have only heard from people who think it might be a good idea—being recommended by people who have never produced any thing for this country.

I will tell you it is a slap in the face to the people who actually produce and add to the value of this country. I will tell you that we will fight it until there is no more blood left. Because that is how important it is.

They say only effects 3 percent of the cattle. In some counties in Montana that 3 percent turns into 100 percent. So let us think about people. How does it affect people and communities. And the Clinton administration and Interior Secretary Babbitt have not even given a thought to that.

I urge my fellow Senators to vote against cloture to give Congress a chance consider this issue through a fair and proper process. I yield the floor.

ENERGY IMPLICATIONS OF CONFERENCE REPORT

Mr. WALLOP. Mr. President, I rise to discuss the energy production implications of the pending conference report.

Although I am reasonably confident that the authors of the grazing provisions did not intend to adversely affect domestic energy production, that is precisely what will occur if the conference report is adopted.

I find it sadly ironic that this will occur at the very same time the administration is in the process of formulating its domestic energy strategy, the intent of which is presumably to increase domestic energy production and reduce our dependence on insecure supplies of foreign energy.

Before I discuss how domestic energy production will be adversely affected by the conference report, let me first review our energy situation.

Each and every day the United States spends more than $150 million on imported foreign energy.

Since 1973, the year of the Arab oil embargo, this Nation's dependence on foreign oil has grown from 36 percent to 50 percent.

Over the past year U.S. reserves of crude oil and natural gas have both declined significantly.

Since 1973, lower 48 crude oil production has declined by 41 percent, and Alaskan oil production has begun to decline.

Over the past decade, the United States has grown increasingly dependent on Canada for new natural gas supplies. Imports of Canadian gas have nearly tippled, and three-fourths of the increase in United States natural gas consumption has been supplied by imports from Canada—not new United States production. And there now is even talk in Canada by the Liberal Party about restricting gas exports to the United States.

No new nuclear powerplant has been announced since 1977.

The U.S. Department of the Interior and the Federal Energy Regulatory Commission are now actively talking about tearing down perfectly good operating hydroelectric dams.

And don't forget that just a short time ago the United States and its allies fought a war in the Persian Gulf to protect the world's supplies of oil.

Let me turn now to how the pending conference report will adversely affect domestic energy production.

First, we have identified more than 100 existing, operating hydroelectric dams located on the quote "public lands" that would be affected—possibly even required to reduce operations or shut down entirely—by the conference report. This would occur as the result of several provisions in the conference report.

Conference report new section 406(i)(2) states that:

> The United States shall assert its claims and exercise its rights to water developed on public lands to benefit the public lands and resources thereon.

This means that water currently used for hydroelectric power generation is to be subordinated for use for "the public lands and resources thereon"—even if the water has been used for the past 50 years for a hydroelectric project.

New section 406(l) authorizes the Secretary of the Interior to cancel or suspend permits and leases if there is any violation of Federal or State law concerning conservation, protection of natural or cultural resources, and the protection of environmental quality.

This gives the Secretary unbridled authority and ability to rescind the license and shut down an existing hydroelectric powerplant for even the slightest violation of Federal or State law.

New section 496(m) states that:

> Subject to valid rights existing on the date of enactment of this section, all rights to permanent improvements contained on or in public lands are vested in the United States.

This will obviously end new hydroelectric development, including the upgrading of existing hydroelectric powerplants, because what developer in his right mind will put improvements on public lands—a dam, for example—and simply turn ownership over to the Federal Government.

And what about new electric power lines and new natural gas pipelines? They too are so-called improvements on public lands. Just how many new gas pipelines do you think will be built if they simply end up as the property of the Federal Government?

Mr. President, we have identified 100 existing, longstanding, hydroelectric dams located directly on public lands which would be immediately subject to these draconian provisions. These 100 powerplants have an installed capacity of nearly 3,000 megawatts.

Moreover, there are hundreds of additional long-existing hydroelectric dams with tens of thousands of megawatts of installed electricity capacity which likewise could be adversely affected depending on how the administration interprets this new law—and I have little doubt that this administration will interpret it expansively.

Mr. President, these provisions do not only adversely affect the production of electricity from hydroelectric powerplants, they also affect the thousands of electric transmission lines which cross public lands. These provisions likewise could adversely affect oil and gas production on public lands, the hundreds of natural gas pipelines which cross public lands, as well as petroleum pipelines which also cross public lands.

Mr. President, while I am relatively confident that the intent of the conference report was not to adversely affect domestic energy production and thereby to increase our dependence on insecure supplies of foreign energy, that will be the affect of the conference report. These are just more sound public policy reasons why the conference report should be defeated.

Mr. President, I ask unanimous consent that a Washington Times article dated September 12, 1993, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 12, 1993]

GRAZING FEES, ENVIROS, AND THE HOGS

(By Dave Juday)

Washington Redskins' owner Jack Kent Cooke wants to build—and own—a new stadium on federal land in D.C., where the celebrated Redskins' "Hogs" and company would wallow starting in 1995. Proponents of the new stadium have argued that since the District doesn't have a large percentage of available private land, the land owned by the federal government should be open to Mr. Cooke's development plans.

Indeed, virtually all concerned—including the area's Democratic and Republican lawmakers—agree that with more than one-fifth of D.C.'s available land off-limits to private developments, like the proposed Jack Kent Cooke Stadium, potential economic growth for the city suffers. Mr. Cooke, therefore, is likely to get his way. By contrast, ranchers in the West aren't as lucky. They could soon be forced off of federal lands if President Clinton has his way.

According to Bureau of Land Management statistics, 12 Western states outrank D.C. in terms of the percentage of publicly owned land, ranging from a low of 27 percent in Montana (tied with D.C.) to a whopping 82 percent in Nevada. With the exception of Alaska, ranching is an important part of the economy in each of these states. Moreover, unlike operating a downtown law firm—D.C.'s leading private sector industry—running a ranch requires a great deal of real estate.

Given the limited supply of land, ranchers must "rent" public land to run their cattle and sheep. This "rental" arrangement is conducted by permit through a schedule of payments known as grazing fees. The Clinton administration now wants to more than double grazing fees to $4.28 from the current $1.86 per-month charged for every cow-calf pair and/or every five sheep.

According to livestock industry, this dramatic increase, if enacted, could force as many as two-thirds of the public land cattle ranchers out of business. Considering that every $1 spent on a ranch means about $5 to the local economy, losing two-thirds of these ranchers would no doubt mean a proportionate loss of local merchants in rural Western economies. It would also mean a loss for public institutions such as schools, libraries, police stations, fire stations and hospitals that are supported by the tax dollars that these ranches generate.

Unlike the rural West, where the government presence squeezes out most private economic activity, at least the federal presence in D.C. generates income by drawing hordes—or herds—of high-priced lawyers and lobbyists to the District. Imagine the havoc wreaked upon the District's economy and already insolvent budget should two-thirds of D.C.'s lawyers and lobbyists be wiped out.

Unfortunately for the West, those D.C. lobbyists who represent extreme environmental interests have been successful in convincing Mr. Clinton, and his Interior Secretary Bruce Babbit, to "soak" the ranchers with higher grazing fees. The reason, they argue, is that animal agriculture harms the environment and thus, the federal government has a responsibility to discourage it on public lands.

As part of his overall tax plan, Mr. Clinton's original grazing fee proposal had to be dropped in order to get the full measure through the Senate. But now Mr. Babbit has reintroduced it as part of a comprehensive environmental agenda.

Quite to the contrary of the proposal's premise, livestock production helps the environment. Ironically, the grasslands that environmentalists seek to protect from "overgrazing" are in fact the product of grazing. Prehistoric plant-eating animals, and more modern grazing animals such as buffalo and elk, were part of the natural selection process that promoted the evolution of today's plant life on Western grasslands.

Today's cattle graze on old growth plants in the spring, opening up the landscape for more nutritious grasses that other foraging animals in the wild, such as elk, can use in the coming winter. Furthermore, the water and the salt that ranchers provide for their livestock has proved a tremendous windfall for the wildlife on public lands.

Furthermore, livestock are the original recyclers. Native grasses on public lands are inedible to humans, but are recycled through cattle and sheep into food for humans—and other products for human use such as pharmaceuticals, medicines and wool.

The issues of grazing fees on public lands is another classic example of the false choice between the economy and the environment. Not only is ranching in and of itself helpful to the environment, it generates the income for Western states that is necessary to enforce and upgrade our environmental laws. Increasing the grazing fees would only harm the ranching industry and thus reduce revenues to the government.

If the use of public lands for the new Jack Kent Cooke Stadium is approved, Mr. Cooke, unlike the ranchers, will not have to worry about an increase in rent. Moreover, throughout this process, Mr. Cooke has the option of seeking a better deal in the suburbs of Virginia. In contrast, the alternatives for Western ranchers, like the amount of available land, are extremely limited.

Perhaps if Mr. Cooke decided that he wanted to use his new stadium to graze cattle and sheep in the off-season after the "Hogs" have used it, the Clinton grazing fee plan could be defeated, as special interests, fearful that Mr. Cooke would take his stadium elsewhere, would see the true economic harm of higher grazing.

Dave Juday, formerly an agricultural analyst with Vice President Dan Quayle, is director of the Focus on Agricultural Regulation and Markets Project of the Alexis de Tocqueville Institution in Arlington.

Mr. MCCAIN. Mr. President, I rise in opposition to the Interior appropriations conference report. While I understand that this bill would fund many worthwhile and necessary projects, I must object to provisions in the bill which would drastically alter our Nation's policies toward public lands.

The provisions which I am referring to supposedly represent a compromise regarding Federal policies on grazing. The measure would increase grazing fees to $3.45 per animal unit month over the next 3 years and enact several provisions of the Clinton administration's rangeland reform proposal. Some of the reforms that would become law include: eliminating the Bureau of Land Management's [BLM] grazing advisory boards, preventing future permit holders from claiming water rights based on grazing related developments, and no longer allowing ranchers to claim title to range improvements constructed on BLM lands.

I agree with the Secretary that the Federal Government should promote wise stewardship policies that are fair to the rancher and the general public. However, I am greatly concerned that the reforms adopted by the conference committee have not been carefully examined, and might adversely impact rural communities and the natural resources themselves.

Contrary to the assertions of those who support this measure, I do not oppose it because I oppose reform of Federal grazing policies. Nor do I oppose it because of the increase in grazing fees. These claims are false and distort the true argument before us today.

I oppose the conference report for one clear and simple reason: These are wide-ranging reforms and they should not be enacted without public hearing and a full and complete examination of the issues involved.

It is amazing to me that my colleagues stand ready to implement legislation without any idea of what effect it will have. It reminds of what was done when we adopted the so-called "luxury tax". It was also enacted without much thought or consideration. The result was the dislocation of thousands of workers. I hope that we would not make that same mistake again.

In my opinion, these measures represent sweeping changes of our policies toward public lands. We can not abdicate our responsibility as U.S. Senators by enacting legislation which we have not carefully reviewed.

Unfortunately, the conferees are attempting an end run around the normal legislative process. No congressional hearings have been held to examine the possible effects of this legislation. No amendments can be made to this proposal. Additionally, with the exception of the few Members who were privy to this "deal", no Member of Congress will have the opportunity to shape the policy. Obviously, this is not how important public policy should be developed.

Please allow me to explain why I am so concerned about the legislation contained in this conference report. Serious questions have been raised about this legislation which have not been addressed. If we codify these rules today without going through the proper legislative process, we will be taking a step which will not be easy to reverse if we are wrong. I would like to point out two concerns about the proposal which were brought to my attention regarding the effects Federal ownership of rangeland improvements and the impact of utilities and water projects on Federal lands.

The ownership of Federal rangeland improvements is a central part of the Reid compromise contained in this legislation. In my opinion, and in the opinion of many others, this will be a critical factor in both the short- and long-term ability of the ranching enterprises to maintain economic viability and contribute to land improvement and the economy.

The legislation before us today makes the Federal Government the sole possessor of future permanent range improvements. Concerns have been raised by the banking industry in the West that this policy could significantly devalue the capital stock of ranches that depend upon public lands.

There is a complex relationship between the capital value of ranches and the value of permits. If the capital value of ranches declines, then the ability of ranchers to access funds for annual operations and improvements will also be affected. This could result in the devastation of thousands of small ranches across the Western States.

Gary Buntrock, senior vice president of Farm Credit Service, one of the major lending organizations to ranchers in my State, expressed this concern to the Bureau of Land Management in September of this year. I don't know if this was considered by those Members of the conference committee who were privy to this deal when it was put together, but it greatly concerns me.

Maybe, Mr. Buntrock and other Western bankers I have heard from are wrong, but without going through the normal legislative process, Members have no way of knowing if their concerns are legitimate.

Utility companies in the West have also expressed their concerns about this measure. They are concerned that language in the bill may affect their title to future transmission facilities placed on Federal lands.

I have received a letter from Bob Lynch, president of the Central Arizona Project Association, expressing his concern that this measure may grant the Federal Government title to future transmission facilities and other facilities related to electric power, natural gas, or water on Federal lands.

Again, I am not certain if he is right, but at the least these concerns merit investigation. They should not be swept under the rug because of Congress' desire for expediency in deciding policy that will affect the livelihoods of rural westerners.

Contrary to the opinion of its proponents, this is a back room deal. It has not been subject to the scrutiny of the full legislative process, and this is not how policy should be decided.

The contention that this compromise is the lesser of two evils and, therefore, Members should support it, is foolish. I was not elected by my constituents to do what some Members consider the lesser evil. I was sent here to do what is right.

Mr. President, let me say again that I am not opposed to reform. I would seriously consider a reform proposal which went through the proper authorization process and which promotes proper stewardship of public lands. I am very disturbed, however, that some conferees have taken it upon themselves to decide what these policies should be without a detailed understanding of how such reforms will affect families in the West.

Congress and the administration must learn to appreciate that policies affecting public lands have a dramatic affect on Western States, and the welfare of our rural communities, and should not be the subject of "dead of night deals" worked out in conferences by a few appropriators.

Mr. President, I ask unanimous consent that letters from Gov. Fife Symington of Arizona, Bob Lynch of the Central Arizona Project, and Gary Buntrock of Farm Credit Services be entered in the RECORD at this time.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF ARIZONA,
Phoenix, AZ, October 21, 1993.

Hon. JOHN MCCAIN,
U.S. Senator,
Washington, DC.

DEAR JOHN: The U.S. Senate will shortly be taking up the conference report on the FY 1994 Interior Appropriations bill. This legislation has become the subject of controversy because of the issue of grazing management reform. I have been working closely with my colleagues in the West to comment on the Rangeland Reform proposal put forth by the Department of Interior. My sense of the deal before you, based on our common notions of public participation in a democratic society, is that it represents the worst of all possible solutions with regard to public land management and grazing fees.

Reforming public land management is a complex undertaking with the potential result of healthier land and sustainable rural communities. It should not be done hastily, opening the door to unintended results. The governors and western communities have expertise and experience that should be tapped through an inclusive process to shape the policies that will protect the range and sustain rural communities into the future.

Since the introduction of Rangeland Reform '94, the Department of Interior has been attempting to short circuit the public review and comment process. Review periods have been extended only to hold off legal challenges under the National Environmental Policy Act (NEPA). Now, with the package being presented to the Congress for possible codification, all such public comment and review will be cut off. This is unacceptable by itself. It is even more unacceptable given the direct impact that federal grazing fees have on state grazing programs. For example, grazing on Arizona state land is tied to the federal grazing fee, minus 21 percent.

An inclusive process would offer the possibility of a compromise which satisfies our mutual desire for improved management of our public lands. The process before us cannot achieve that same end. It is a back room deal that violates our principles of participatory government. Congress should not take a short cut on developing a rational and workable rangeland reform agreement. A full public hearing process, in Washington, D.C. and across the western states should take place on the issues before us. That will help to ensure that Congress will not be enacting, yet again, a law with unintended and undesirable consequences.

I support the comments that my colleagues, Governor Sullivan and Governor Leavitt have proposed. Those comments were originally drafted to improve the Interior Department proposal. Governors have been constructive players in the process to improve range management. My colleagues and I are greatly concerned about the economic impact of Rangeland Reform, as well as its impact on sensible and professional stewardship.

A moratorium on consideration of reform was not the right answer. Codification of the proposal is also not the right answer. The right answer is for the proposal to endure scrutiny and amendment by the people with a stake in the economic and ecological future of the lands in which they live. On that basis, I support the efforts of Western Senators to prevent this proposal from becoming law at this time.

Sincerly,

FIFE SYMINGTON,
Governor.

FARM CREDIT SERVICES,
Tempe, AZ, September 10, 1993.

Mr. MICHAEL J. PENFOLD,
Assistant Director, Land and Renewable Resources, Bureau of Land Management, Washington, DC.

DEAR SIR: This letter is to provide comments for the U.S. Department of the Interior-Bureau of Land Management (BLM) and the Department of Agriculture-Forest Service (FS) Note of Intent to prepare an Environmental Impact Statement (EIS) and advanced notice of proposed rule making as published in the Federal Register, Vol. 58, No. 155, Friday, August 13, 1993, pp. 43202–43206, 43208–43213, and 43234–43237. Due to the simultaneous, similar, and concurrent nature of the rule making of the two agencies, and the inadequate time allowed, these comments will serve as my preliminary comments for the entire proposed rule making.

The publication of the Advance Notice of Proposed Rule Making ("rules") encompasses a number of issues of direct interest and impact to the Arizona Agricultural Credit Association (Association). As a member of the Farm Credit System our financial institution provides credit to the agricultural industry, and in particular, services the credit needs of cattle operations highly dependent on the use of public lands for grazing. This Association services both the long and short term credit needs of the Arizona cattle industry.

The Association is interested in the economic effects and impacts of the proposed rules on (a) the Association's ongoing ability to meet the credit needs of livestock operators, and (b) the Association's financial condition. Specifically, the Association is concerned with the rules effect on collateral values that secure the extension of credit, and the short and long term ability to meet debt service requirements.

The Association requests the BLM and FS to respond to all of the following comments and questions on the proposed rules in the EIS.

1. What is the site specific economic impact on the Arizona Agricultural Credit Association and each of its public lands ranchers?

2. What is the site specific and cumulative economic impact on each Farm Credit System local lending institution in the Western states?

3. What is the economic impact on the Farm Credit System as a rural agricultural lender?

4. What are the economic and financial impacts upon the Farm Credit System Insurance Corporation?

5. What are the site specific and cumulative impacts to each state Farmers Home Administration in the Western United States?

6. What is the site specific and cumulative economic impact to each state or nationally chartered rural lending institution?

7. What are the site specific and cumulative economic impacts to each Federal Reserve District in the Western United States?

8. What are the economic, regulatory, and insurance fund impacts to the Federal Deposit Insurance Corporation?

9. What are the site specific and cumulative economic impacts upon the repayment capacity of public lands ranchers on a county by county basis in each Western state?

10. What are the economic impacts to the collateral values of livestock, public land leasehold interests, and deeded lands contiguous to public lands?

11. What is the impact of the proposed rules on the lien position of secured creditors?

12. What are the impacts to lenders holding perfected security interests in public land grazing leases in light of the proposed title reversion to BLM and FS of range and water improvements?

13. What are the specific economic impacts on ranch operating costs on a per animal unit basis, county by county in the Western states, in view of the proposed national rangeland standards, compliance with Federal and state environmental laws, and grazing fee increases?

14. What are the economic impacts to ranchers on a county by county basis and cumulatively by state as a result of the proposed surcharges on the subleasing of public lands?

15. What are the county by county economic impacts on the collateral value of deeded lands contiguous to public lands as a consequence of canceling grazing preferences?

16. In what manner and frequency will a public lands rancher be evaluated to determine "stewardship" and compliance with all of the applicable environmental, conservation, and preservation laws proposed under the rules?

17. Who will be responsible for making determinations of "stewardship" and regulatory compliance, what professional and educational qualifications will be required to make such determinations, and what authority will accompany such determinations? Who and how will determinations be monitored? What is the cost of such a monitoring system?

18. How will lenders be notified of such determinations, and what assurances can be expected to accompany the determination?

19. What is the economic rationale for discontinuing the Grazing Advisory Boards, and what economic efficiencies are gained by their replacement with Resource Advisory Councils?

20. What is the economic rationale for linking permit violations and prohibited acts with permit and lease tenure?

21. Would a permittee's lending institution meet the proposed definition of Affected Interest Status? If not, then why?

22. Would title to existing range improvements on leased public lands pass to the permittee's estate upon termination of current leases? If not, what is the economic impact to lenders, on a county by county basis, holding a perfected security interest on the improvements as collateral that secures an extension of credit?

23. What is the economic basis, rationale, and source of data for the proposed grazing fee increases?

24. Do the proposed rules discriminate against small, young, or beginning ranchers who may require five years to pay for the cost of cattle in view of the maximum five-year permit for new leases? If not, why?

25. Do the proposed rules enhance the public rangelands as a renewable resource, and promote the Congressional policy expounded in the National Environmental Policy Act of 1969, as amended, Sec. 101.2(a)(b)? If so, how?

26. Provide a list of the EIS's and Environmental Assessments utilized in preparing the Advance Notice of Proposed Rule Making, as required by 40 CFR 1501.2(b).

27. Provide all of the documentation, transcripts, and summaries of all scoping and discussion activities performed under 40 CFR 1501.7(1).

28. What are the economic consequences of not implementing the proposed rules?

29. Provide a list of documents, analyses, and alternative proposals used in developing the Advance Notice of Proposed Rule Making, as required by 40 CFR 1501.2(b).

30. What compensation will be given to ranchers for the taking of grazing rights that existed prior to the development of the permit system? If no compensation is contemplated, why not?

31. Should compensation to permittee's for reductions in grazing preferences be consistent with Internal Revenue Service tax values? If not, why?

The Association objects to the inadequate amount of time allotted for comments on the proposed rule making and the EIS given the magnitude and importance of the issues raised herein. At a minimum I request a 90 day extension of this comment period.

Please keep me informed of future development regarding these proposed rules.

Respectfully submitted,

GARY L. BUNTROCK,
Senior Vice President.

CENTRAL ARIZONA
PROJECT ASSOCIATION,
Phoenix, AZ, October 20, 1993.

Re: H.R. 2520, the Interior Appropriations Bill.

Hon. DENNIS DECONCINI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DECONCINI: We are asking you to reconsider your support for Senator Reid's compromise language on FLMPA, which you supported in the conference committee. We are attaching three specific provisions from the conference report, specifically subsections (d), (i)(2) and (m) of Section 406. Subsections (d) and (m) and the last sentence of subsection (i)(2) need to be stricken or narrowed to relate to the subject matter of the legislation. Whoever authorized these provisions was either careless and sloppy or intended that this language, nominally aimed at grazing practices on public lands, be in fact applied to all federally related resources.

Not only could the water related language present problems for the Central Arizona Project if broadly applied and interpreted but subsection (m) could be interpreted as a direct command to the United States to require that future transmission facilities and other facilities related to electric power, natural gas or water would have to belong to the United States once placed on federal land. That is obviously not what should have been put in this legislation nor is it acceptable. Since the concept of "valid rights" contained in these provisions is not clear, existing and future facilities of the Central Arizona Project as well as utility services connected to it by others and necessary for its operation could be adversely affected.

Frankly, Senator, CAP doesn't need any more problems right at the moment. We don't need any new laws complicating our already complex situation. We don't need any new laws that federal bureaucracies will need time to interpret, thus placing roadblocks in the critical path to problem solving for CAP that we must follow.

We believe these legislative drafting mistakes can be resolved without disturbing the essence of what Senator Reid negotiated with Secretary Babbitt. We hope you will agree and will find a way to have the offending provisions either stricken or substantially narrowed. Absent that action, we hope you will withdraw your support for this compromise in this bill and ask that the grazing compromise package be reconsidered.

Thank you for your consideration of this urgent and important matter.

Sincerely,

ROBERT S. LYNCH,
President.

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 317. GRAZING.

Title IV of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751 et seq.) is amended by adding the following new sections:

"SEC. 406. RANGELAND REFORM.

"(d) WATER RIGHTS.—Subject to valid water rights existing on the date of enactment, no water rights shall be obtained for grazing-related actions on public lands except in the name of the United States.

"(i) RANGE IMPROVEMENT OWNERSHIP.—

"(2) The permittee or leasee may hold the title to all temporary range improvements authorized as livestock handling facilities such as corrals and dipping vats and temporary, readily removable improvements such as troughs for hauled water. The authorization for permanent water developments, such as spring developments, wells, reservoirs, stock tanks, and pipelines, shall be through cooperative range improvement agreements to protect the public interest for multiple use of rangeland ecosystems. The United States shall assert its claims and exercise its rights to water developed on public lands to benefit the public lands and resources thereon.

"(m) RANGE IMPROVEMENTS.—Subject to valid rights existing on the date of enactment of this section, all rights to permanent improvements contained on or in public lands are vested in the United States.

Mr. DORGAN. Mr. President, Members of the Senate have suggested Senator REID has colluded with those who would impose upon our western ranchers ill-founded policies for the management of our western ranges where many ranching families earn their living.

Some have even accused Senator REID of participating with House Members and the administration in some grand plot to place unbearable burdens on our western ranchers, and to cut our ranchers out of their right to participate in the debate over policies on our public rangeland.

That's absurd. I don't support Senator REID's compromise, but his proposal was negotiated with Members of both parties in the House of Representatives, with administration participation. Senator REID, who stands up for our family ranchers as strongly as anyone in this body, simply tried to sit down with the principals of the grazing issue in the House and reason with them on behalf of our ranchers.

I applaud Senator REID for a sincere effort to negotiate a compromise, and he did manage to extract some concessions on the side of reasonableness.

But as I said, I cannot support the compromise. I don't think it is fair. Unfortunately, Senator REID faced some very entrenched interests in the other Chamber. And the House insisted upon provisions that, in my judgment, will likely put thousands of ranch families out of business should we adopt them, and would unwisely and arbitrarily alter range management policies that have worked well.

Despite Senator REID's efforts, I stand with those who insist that the U.S. House position on this issue is arbitrary and harmful. Further, it is not justifiable policy and it would unnecessarily harm family ranchers.

For example, the conference report includes an increase in the Federal grazing fees to $3.45 per animal unit month [AUM] in just 3 years. That may not necessarily be an unreasonable level in itself. However, the House also insisted upon an index that would sharply accelerate the rate beginning in 1997, making the rent unreasonable and excessive within a few years.

Also, too many proposals for so-called range reform would be codified in this conference report without the debate and public comment needed to evaluate the specifics of those proposals.

For example, this legislation would require the Bureau of Land Management to formally object to all and any of a State's award of water rights to ranchers on all Federal land. This would change a century of restraint by the Federal Government. Up to now, the Federal Government has recognized State authority in granting water rights, and has reserved the right to object in certain cases affecting water usage on Federal land.

Such a change in the role of States and the Federal Government on water rights certainly deserves public comment, and should not be summarily approved in this legislation.

The fact is, we do need to discuss and debate many of the specifics of proposals in the so-called Range Reform '94 proposal. We are not ready to codify all of those proposals without public involvement.

So, I am here to oppose this motion to cut off debate. The Senate must insist that we reach some reasonable resolve—one which allows family ranchers to survive—before we move forward to legislate these questions.

Many Members of this body, from both parties, do have ideas and alternatives to offer to resolve our differences with the other Chamber. We should not try to pass this conference report until we have had full opportunity to arrive at a reasonable policy on grazing issues.

Mr. GORTON. Mr. President, this evening I will vote against the motion to invoke cloture on the Interior appropriations bill. I am doing so because the Babbitt-Reid rangeland reform compromise contained in the bill raises a number of fundamental questions about U.S. policies governing public lands, and because neither I nor most other Members of this body have had an opportunity to get answers to these questions.

The Babbitt-Reid provision is the result of last-minute negotiations among a select group of Members and administration officials. Since the language was made public just days ago, I have heard from several of my colleagues and a number of individuals in Washington State that are affected by Federal rangeland policy. All are raising concerns that go well beyond whether grazing fees should be $2 or $3 or $10 per animal unit month. If this were the only issue at stake, I think we might be able to come to some sort of a compromise on this bill. But the Babbitt-Reid proposal does much, much more.

The Babbitt-Reid proposal would give the Federal Government sweeping new power to impose surcharges and penalties on permittees, to take ownership of range improvements, and to assume water rights for all grazing-related actions on public lands.

Mr. President, none of us have any idea what actions are grazing-related, but given the breadth of this proposal I think we ought to take the time to define the term. The same goes for the question of valid water rights. Depending upon how this term is defined, this Babbitt-Reid proposal could obviate years of ongoing settlement litigation without so much as a congressional hearing.

I also note the irony in the fact that proponents of this measure have repeatedly stated that there is no choice but to adopt this conference report, as the House will accept nothing less than the Babbitt-Reid proposal. This is the same House of Representatives that this year has repeatedly rejected even the most innocuous legislative provisions when they have been attached to appropriations bills by the Senate. Now the House is saying it will take nothing less than the 10-odd pages of authorizing language contained in this conference report.

Mr. President, there may be parts of this proposal that I could support, but not as part of this appropriations bill. It would be irresponsible to pass with no hearing, no committee report, and no legislative history such a sweeping measure that will impact the lives of so many individuals and families. I will vote against the motion to invoke cloture, and would urge my colleagues to do the same so that we can let the authorizing committees do their job.

The PRESIDING OFFICER (Mr. HARKIN). Who yields time?

Mr. WALLOP. I yield 2 minutes to the Senator from Idaho [Mr. KEMPTHORNE].

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, 19 pages of law and not 1 minute of public hearing. The very people that are being impacted have not been heard from.

Let me on behalf of those people read to you what Doran Butler of Bliss, ID, says:

> I have run livestock on the BLM adjacent to our deeded land, near Bliss, Idaho, ever since the original Taylor Act of 1934. I am now retired, but I have two sons running the cattle. Our small permit, I believe is unique, since we have never bought or sold any BLM right. It is all the original rights proven during the original adjudication in the early years of the grazing service. When you try to figure the value of our BLM AUM's, you are not giving us credit for our capital investment on the range. You say we don't own it, but through stewardship and cooperation with the BLM, I have seen, our range come from a run down eroded piece of land, with sand dunes and weeds to an allotment anyone could be proud of. We have paid a portion of all the improvements, seeding and fencing in our case. We try to manage it like we own it. When you figure in, all the capital costs we are now paying, we are now paying a price comparable to private pasture rates.
>
> As a result of good management by my family and the BLM on our allotment and other allotments in the area: the sand no longer blows, big game in the form of deer, elk and antelope have returned, and the sandhill crane, curlew, and many raptors have also returned and multiplied. I don't believe that extreme preservationists can deny, that the environment, here on our range, is in much better condition now, than it was 40, 50, or 60 years ago.

I ask my colleagues, does this sound like the caricature rancher that environmentalists have used to argue for fee increases and for this massive shift in Federal land management policies? I ask my colleagues, how much will it cost the Federal Government to replace these onsite "land managers" who nurture and care for the land because it means a future for their children? Does anyone here believe that the Federal Government can do a better job?

The PRESIDING OFFICER. Who yields time?

Mr. REID. I yield 6 minutes to the President pro tempore of the Senate, Mr. BYRD.

The PRESIDING OFFICER. The Senator is recognized for 6 minutes.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Nevada.

Mr. President, as Senators know, this issue of grazing fees and rangeland management reform does not affect my State of West Virginia. But as chairman of the Interior Subcommittee, I do have a responsibility to try to bring back reasonable compromises from the conferences for presentation to the Senate so that the bills may pass and be signed into law.

The conference report agreement that is presented here this evening attempts to address an issue that has confounded this appropriations bill for at least, I think, a half-dozen years. Every year, every year, this issue is brought up on the Interior appropriations bill.

Mr. President, the Senate cannot act as though the House does not exist—it is over there at the other end of the corridor. It has been there. The House got a quorum a few days before the Senate did in 1789, so do not forget that that House exists—nor can the House ignore the Senate on the issues that we must resolve in these conferences.

I remind the Senate that the House has sent two very strong messages on this topic by votes with margins of 3 to 1. The House has resoundingly sent the message that the status quo in grazing is not acceptable. I would like to get this thing off this bill and be done with it.

The time has come to move the issue forward. We have talked about this year after year, both on the Senate floor and in the Interior bill conference.

The conference report contains amendments in disagreement. If the Senate is not happy with the resolutions contained in the conference report or in the amendments in disagreement, let the Senate speak on the issue. If a change is desired, offer an amendment to one of the amendments in disagreement.

Mr. President, as I say, West Virginia is not affected by the grazing issue, but my State and every other State that is represented in this body is affected by the content of the conference agreement. There is something in this bill that is of interest to every Senator other than this particular issue.

I wonder whether all of the Senators who have written to me and spoken to me about the imperative need for various projects in their State, many of which are funded by this conference report, believe that the grazing issue is more important than the various projects recommended herein. Now, some may be. There are maybe some Senators who believe that, but certainly the overwhelming supermajority of Senators in this body cannot really believe that, I do not believe.

The Interior Subcommittee received over 1,800 requests for projects. The distinguished Senator from Arizona a few minutes ago spoke about some of the various projects that affect his State that are funded in this bill. And he is not the only Senator. There are other Senators, I am sure, who may need to be reminded of the projects that are in their States that are funded by this bill which will not be funded unless this legislation is passed.

The Interior Subcommittee, as I say, received over 1,800 requests, many from the same Senators who are now saying that the conference report should be filibustered. Well, has the need for these projects gone away? Obviously, the strategy of those who oppose the compromise is to achieve further concessions, and that is fair game.

I remind all Senators, however, that the proposal before the Senate is already a compromise. It reflects a compromise between a proposal of doing nothing and allowing Secretary Babbitt a free hand to implement administratively all of his rangeland reforms. The House has spoken loudly. It has rejected the grazing moratorium adopted by the Senate by a margin of 3 to 1. The House has approved, as I say, just last night this compromise by a similarly large margin.

So for those who suggest further compromise is necessary, come forward, adopt the conference report, offer your amendments to an amendment in disagreement. That is the way it is done. Let the Senate work its will.

Mr. President, let us move forward. The continuing resolution will expire next Thursday. The choices are clear for all Senators. Allow the filibuster to continue or invoke cloture. Let each Senator make the choice.

The conference report agreement provides funding for the continued operation of Indian schools and health clinics, national parks, timber sales in the national parks, the continued operation of the Smithsonian Museums, and much more. Failure to enact this conference agreement will result in all of these activities coming to a halt when the continuing resolution expires next week. I do not believe that that is a responsible action on the part of the Senate. I urge Senators to vote for cloture.

I thank the Senator for yielding time.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I yield 2 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, we are debating in a principle here. I think we are all aware; it has been said time and time again, that the amendment has not had a hearing. As ranking member of the Senate Energy Subcommittee on Public Lands, National Parks and Forests, I object to the amendment for that specific reason. It belongs under the jurisdiction of the Energy Committee.

No one can really tell us the full impact of this amendment, either good or bad, because there have been no studies, no testimony, no public comment, and no environmental analysis. It is clearly authorization on appropriations. It is dangerous for the Senate and dangerous for the hard-working people of the West. It is specifically a threat to the Western States.

Let me add one more point because my time is limited. This could have a very serious impact on the financial institutions and the ranchers of the West. I was a banker previously. Financial institutions of the West have historically lent money to ranchers based on their long-term tenure on public lands. The bank loans have been secured by grazing permits. This amendment will remove the certainty, the certainty that responsible ranchers have in retaining their grazing permits.

The amendment simply gives the Secretary of the Interior discretion to pull grazing permits. What banker in his right mind would lend into a situation where the ranchers have such uncertain status associated with those grazing permits?

The amendment states that upon an administrative finding of a violation of any Federal and State law concerning conservation, protection of natural and cultural resources, and protection of environmental quality, the BLM may consider cancellation or suspension of permits and leases.

A rancher with a hole in his pickup muffler would be at risk of having the BLM jerk his grazing permits.

The banks will call in their loans to ranchers. They will not issue new loans to ranchers to provide capital for continuing or new ranch operations.

It will destroy the ranching industry and also jeopardize the banking industry. The banks' seemingly secure investments will vanish overnight.

Does this sound familiar? Shall we vote for a new savings and loan crisis?

Ranch property values will fall. Banks will lose even more money, property taxes will decrease, local governments will loose their bonding capacities.

Important community health and safety facilities will not be built.

The Federal Government loses money, too. The IRS taxes the value of grazing permits. There is no tax on a permit with no value.

Studies indicate that State and Federal Governments in the West will lose millions of dollars if this amendment is passed.

Mr. President, Alaska has very little grazing. In fact, the grazing permits issued in Alaska are for reindeer grazing.

Nevertheless, this amendment may have a far-reaching, negative impact in my State.

The amendment states that subject to valid rights existing on the date of enactment, all rights to permanent improvements on or in the public lands are vested in the United States.

What are valid rights and who determines if one exists?

Alaska Natives and other rural residents may have built cabins, camps, structures, and other improvements on lands and have used and occupied them for years, even before there was a State of Alaska.

The amendment would allow the Secretary to take these improvements based on a finding of valid right.

It is a shameless attack on Alaska Natives and rural residents to take their property.

Let me assure my colleagues that this is exactly what will happen.

Public Lands has just scheduled a hearing on this very issue.

I oppose the Reid amendment.

Mr. NICKLES. Mr. President, I am pleased to support the chairman's remarks and his introduction of the conference committee report for the fiscal year 1994 Interior Appropriations bill. I want to think the chairman for his efforts in bringing the conference report to the Senate floor. I compliment the Senator from West Virginia for the excellent work and leadership he has provided.

The Interior Appropriations bill is a difficult and complicated bill. There were approximately 1,050 items of difference between the House and Senate Interior Appropriations bills. As in the past, the Interior allocation levels do not match the agency needs and the Member concerns. The committee of conference is providing for the many competing needs and is under allocation levels for budget authority and outlays. During the past 9 months, we have faced challenging questions on construction projects, land acquisition, the National Biological Survey, mining patent moratorium, grazing fee increases and reforms, and others.

The Conference Report is within the 602(b) allocations of $13.736 billion for budget authority and $13.731 billion for outlays. In addition, it is under the President's budget request level of $13.935 billion. The conference material before you presents the meshing of the priorities from both Houses, attention to agency needs, and consideration for Member requests.

Overall, the fiscal year 1994 Interior Appropriations bill is a 4-percent increase from the fiscal year 1993 enacted level of $13.148 billion. Additional funds are provided for a number of agencies' operations and maintenance needs. The bill generates approximately $8.4 billion in receipts to the Treasury. The total of the construction accounts for the Bureau of Land Management, the Fish and Wildlife Service, the National Park Service, and the Forest Service is $47 million below the fiscal year 1993 enacted level. In addition, the total for the land acquisition accounts for those same agencies is $29 million below the fiscal year 1993 enacted level.

The decisions that are being made in this bill carry over to future years. Our recommendations, while under the allocation limits, carefully balance appropriations and revenue generation impacts in fiscal year 1994 and in future years. The conference committee's recommendations will contribute to a balanced Federal budget while continuing to provide the expected Government services.

During our conference deliberations, deep concerns have been expressed over the changing uses of public lands and its resources. Such shifts have drastic effects on local rural communities and economies and on the funding of local governments. While keeping within our limitations, the conferences have recognized the importance of programs to employment, the economies, the infrastructure, and the social fabric of many rural communities. We have been alert to the needs of Native Americans, as well as the other programs funded in this bill.

Mr. President, again I wish to thank the chairman with whom I have worked closely. I wish to express my appreciation to Senator BYRD's staff—Sue Masica, Rusty Mathews, Kathleen Wheeler, Larry Benna, and Ellen Donaldson. Also, I would like to thank Cherie Cooper and Ginny James of my staff. The Senator from West Virginia and his staff have made this a bipartisan effort which makes the task certainly much easier and achievable.

Mr. WALLOP. I thank the Senator from Alaska.

I yield 3 minutes to the minority whip.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. SIMPSON. Mr. President, I thank my good friend from Wyoming. He and I have legislated together for nearly 30 years in the Wyoming Legislature and here.

I do not believe the two of us have ever witnessed a more egregious bit of arrogance than we see here. We are not talking about grazing fees. They will go up. And there is a bipartisan movement to do that, with Senator BEN NIGHTHORSE CAMPBELL and Senator MALCOLM WALLOP. They are proposing that. This is about being obsessive and being obsessed.

I happen to know the cast of characters who are in the House of Representatives: RALPH REGULA, a Republican; MIKE SYNAR, a Democrat; and GEORGE MILLER, a Democrat. They are absolutely obsessed. They go to bed at night and they think about grazing fees. It is on their brain, seared through there. It is very difficult for them to rest. They prattle on about it day and night.

I cannot believe I did a Lincoln Day dinner for RALPH REGULA, as I said today at a press conference—shabby rascal to do a thing like that.

But they just keep coming. I think it is important in the days to come that we review carefully how many big dippers they have in their particular firmament of pork in their communities. I will be watching that. How much corn money is there in that district? How much wheat money? How much? Because what we are talking about here is $30 million. If you doubled it, you would make 60 million bucks for your country.

What is this about? Certainly it is not about money. It is about an agenda. They watched Ronald Reagan and George Bush for 12 years. And they said, "Boy, some day we will get our chance, and when we do, we will do those old cowboys in."

Now the time is here. At least many of you on both sides of the aisle are just saying, "Look, before you do anything as dramatic as this, let us have some hearings." I hope we will do that.

This is not about money. This is about obsession and arrogance. And they have had a lot of fun. But all of us who have legislated through the years know how this works. No one knows better than the Senator from West Virginia. He has taught me much. When you have the hook and the hammer in your hand and use it, remember, it will come to pass that you will be the one pleading one day and you will hope that someone has the compassion that you would have shown in that situation.

That is what is ultimately going to happen. That is not a threat. It is the reality of legislative life. This is a jackboot on the neck, and they are having a lot of fun with it. And I am going to have a lot of fun with them.

Mr. President, I stridently oppose the Reid/Babbitt compromise.

There will be a great deal of contentious debate in the days to come on this legislation.

Westerners are not engaging in this battle because we picked a fight. We are not here to protect some pork project that was slipped into an appropriations bill in the dead of night. we are defending our heritage in a battle that was forced upon us.

Indeed, my colleague, the distinguished senior Senator from Wyoming, MALCOLM WALLOP, is absolutely accurate—we are defending a Western lifestyle in this administration's "War on the West".

We should recognize the facts.

This is not solely about grazing fees. We have agreed that a reasonable increase in the fee is inevitable and we have offered a bipartisan plan to do that.

What the administration chooses to ignore, yet what it knows as a fact, is that the private lands in the West are not in large chunks, but are, instead, scattered intermittently among public rangelands. The administration wants to control all the land—public and private.

The close proximity and access to the public parcels of land was the enticement that the Federal Government used to encourage people to settle the West: To allow individuals to obtain title to parcels of land surrounded by public land that they could use—for a reasonable fee—in conjunction with their smaller parcels of private land.

The majority of land in Wyoming is public land. The State is 48.7 percent federally owned, 6 percent State owned, and 12 percent in tribal trust lands. The Bureau of Land Management is the largest landowner—managing well in excess of 18.4 million acres: 17.4 million acres of that 18.4 million acres of public land are rangeland; the vast majority of the total 2,961 producers in Wyoming are small family ranching operations; some of those family operations pool their resources and operate under allotment management plans [AMP's]—there are 177 AMP's which, combined, operate on 5.4 million acres; the BLM classifies over three-fourths of the 17.4 million acres of range as being in "stable or improving" condition—52 percent of that is classified as in "excellent" condition.

A family cannot make a living on the small parcels of private land without access to the public range lands. And we are only talking about subsistence standards of living—these are not rich, fat-cat, ranchers. These are real families with real children, real bills, real mortgages, real needs, and who are all facing a callous and arrogant assault on their lifestyles simply because the administration believes this to be politically correct.

It is politically correct to pretend there is a massive subsidy of Western ranching and that people are getting rich and that the Clinton White House is going to change all that.

Well, Mr. President, if the Reid/Babbitt proposal for rangeland reform becomes law, there will most certainly be change. It will be a change for the worse for a good many hard-working and honest people. It will be a change from subsistence living to bankruptcy.

But let us look at some more facts.

Regarding water rights, constitutions of States like Wyoming, prior to being admitted into the Union, were approved by Congress. Those constitutions specifically reserved the right to control and regulate water. This proposal clearly states that the Federal Government will assert its right to Western water.

Mr. President. The fact is that the Federal Government has no right to Western water.

Here is another fact. Sometimes, it rains more in one week in Washington, DC, than it does for an entire year in my State of Wyoming. Wyoming sometimes receives 13 inches of rain per year. That is a wet year. We average closer to 10 or 11 inches.

Here is another fact for the Senate to consider: Our citizens—our ranchers and timbermen and land managers and constituents—have always practiced superb stewardship over the lands. The real fact is that the carrying capacity of the land is increasing.

Carrying capacity, Mr. President, is the amount of life—animals and plants and people, too—that the land can support and continue to regenerate and remain healthy and productive.

Wyoming ranchers, and Western ranchers alike, have been excellent stewards—they are the true ecosystem managers on the public lands. Through the cooperative stewardship and management efforts between Wyoming stockmen and the BLM, the rangeland is improving. That is a fact.

Our public land—our rangelands—have not deteriorated, but have improved. The fact is that there are more cattle and sheep on the range. But there are also more wild horses, antelope, deer, elk, coyotes—to the chagrin of sheepmen—on the land than ever before. There are more fish in the streams, and the streams are cleaner. There are more birds and waterfowl.

Those are facts.

I have a hunch there is a reason why the administration and Secretary Babbitt and BLM Director Baca are so fearful and reluctant to have public hearings on these so-called reforms.

The administration is afraid of the real facts. These facts would come out in hearings and it would soon become known that the people who ranch these lands, who live there and who depend on the land—all these people have been doing a very good job of protecting and improving the resource.

The so-called environmental groups, those obsessed with this issue in Congress, keep coming up with initiatives. So far, we have prevailed against the onslaught because the facts are on our side. We will continue to fight and scrap and scratch in order to protect the very legitimate interests of our constituents and our Western neighbors.

When it comes to grazing fees—one of the toughest things to deal with is the emotion and hype and hyperbole that is spewed by those who think Western ranchers are ripping off the Government.

I often say that every one is entitled to their own opinions, but no one is entitled to their own facts. We constantly have to respond to wild-eyed opinions and biased data by setting the facts straight.

The radical environmental groups don't give one whit about grazing fees. Their hidden agenda is the elimination of the multiple use policy on our public lands. Many of them say they want to be constructive but I can't help but wonder when I see that Earth First has come out in favor of a new sport—cattle hunting. They aren't interested in an equitable fee structure, they want public lands "cattle free by '93."

The congressional proponents of a grazing fee increase have tried various creative schemes to try and get that done over the years.

We cannot afford to let the radical environmental groups and misguided politicians remake the West in their own fanciful image of what ought to be.

I strongly believe that we must continue to try and bring common sense and real life experience into the fray in order to offset the emotional rhetoric which paints Western ranchers as thoughtless cattle barons intent on ravaging the land. Nothing could be further from the truth.

Mr. WALLOP. Mr. President, may I inquire as to how much time is left on both sides?

The PRESIDING OFFICER. The Senator has 6 minutes 54 seconds on his side, and Senator REID has 12 minutes 28 seconds.

Mr. REID. Mr. President, I will respond to my friend from Wyoming. One speaker is on his way, and has been for the last 45 minutes. If the Senator from Wyoming will wish us to close, I will use the remainder of the time. I will close after the Senator from Wyoming completes his statement.

Mr. WALLOP. I say I hope he is coming from the West, Mr. President, 45 minutes away.

Mr. REID. I think he may be coming by horseback.

Mr. WALLOP. Mr. President, I yield myself 1 minute.

I say to the Senator from West Virginia that we have already offered an alternative, and we are yet ready to offer an alternative. We, Senator CAMPBELL and I, at least have the decency to offer legislation, not a backroom deal.

This is not about fees. It is about control. Control the water of the West and control the resources of the West and you control the West.

Mr. President, Americans are entitled to be heard on matters affecting their lives. And we in the West hope that we are yet considered Americans. We have not been heard. Make no mistake, this is not about grazing fees. I will introduce a statement to say that it is about no more new electric power lines, no more new natural gas lines. They are so-called improvements on public lands to which all rights pertaining to permanent improvements on or in public lands are vested in the United States. Mr. President, we do not know what is in this bill.

Mr. President, I yield the remainder of my time to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes 15 seconds.

Mr. DOMENICI. I thank the Senator.

Mr. WALLOP. I ask unanimous consent there be an additional 4 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WALLOP. I yield the remainder of the time to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, does that mean the Senator from New Mexico has 7 minutes?

The PRESIDING OFFICER. The Senator now has 7 minutes.

Mr. DOMENICI. Mr. President, I thank very much Senator WALLOP for yielding time to me.

I say to Senator REID, Mr. President, let me suggest that whatever has been said between the two of us, frankly, I just think we have the right case and Senator REID does not have the right case tonight. Beyond that, we will fight many causes, hopefully, for the West in the future. On this one, clearly we cannot agree.

Mr. President, fellow Senators, when I became a U.S. Senator I was from the city of Albuquerque, the big metropolis in New Mexico. In fact, as I was nominated once for a statewide race as a Republican, I was nominated by my city, and the rest of the State could have voted against me and I still would have been nominated. I did not know but one rancher. That was a rancher about 2 miles out of town that happened to be my grandparent, living on a little ranch that I was born on.

But I tell you, since I have been a Senator, I have met the ranchers of my State, and I am sure every Senator from the West has met theirs. And I tell you, if anybody thinks they are loaded with money, that they are rich people, that they are people who are just kind of using this land as a hobby, then they have not met my 4,000 ranchers who have permits on our lands. The overwhelming number are middle-income people, with a pickup truck and a car, and a couple of kids. I tell you, we have even done a survey on what they do with their spare time. Most of them do not see a movie but twice a year.

I tell you. For those in this administration, including Secretary Babbitt and his minions, if they think that this is just a disagreement that ought to be resolved in favor of what chairman GEORGE MILLER dictates as an ultimatum to the West, then I regret to tell you, Mr. Chairman of the Appropriations Committee and former majority leader, we are going to wait a long time for the hundreds of projects that are in that bill that are from my State because they can wait.

The ranchers will not be able to wait again because, if you pass these mandates on the ranchers of my State and the ranchers of Colorado, they cannot come back to the Appropriations Committee for anything because many marginal ranchers will be wiped out. And as somebody said, when you wipe out the marginal ranchers, what you have done under this new premise, which we think is really "Cattle Free in '93," we think this administration is loaded with "Cattle Free in '93" people. And if it is "Cattle Free in '93," I can tell you, as somebody wrote to me, Senator STEVENS, it will be "Condos Galore in 2004." Because what is going to happen is the fee land in New Mexico that is now serving with many Federal acres as a ranch will no longer be a ranch. Those sections of fee land will be bought up by developers, cut into 40 acre tracts and for those who want to preserve the West. The West will have a wide open range with nobody to protect it, and subdivisions of 30 or 40 acres springing up and the developers will say, "Well, that is what GEORGE MILLER, the chairman of the Interior Committee of the House, said was fair." And for those who look at that chart that say we ought to be paying more rent, let me just tell you, the difference between renting Bureau of Land Management ranch land and private land in my State, if there is any, it is sort of like this: Do you want a totally unfurnished apartment with none of the accouterments—no furniture, no icebox, no running water, just a plain old piece of house that is an unfurnished apartment—or do you want one totally furnished with a new heating system and a new cooling system, whatever? What our ranchers are getting is an unfurnished apartment. That is why they have to spend all the money to make it furnished. There should be a difference between the fees. There is no doubt about that.

Having said that, let me also suggest that there is not a Senator on that side of the aisle or on this side of the aisle that chooses to vote against the West who would sit by and watch the property values in their State get changed by an appropriations committee; an appropriations committee that did not hold a hearing because it was not their business, did not have a recommendation from a Senate committee because they never had a hearing. Would they sit by and say, "Well, that is what the House insists, so that is what we have got to take"? Because somebody over there has decided in the name of being the new West and the Interior regulators are the best that it will be their way or no way. I regret that my friend from Nevada now says he went and "got the best deal I can from them, and if you don't want it, you will get worse."

Well, that is why I ask my friend, Senator BUMPERS, which would you prefer? Do you prefer to be hung by the neck or shot by a firing squad? I will tell you. I will tell you. Neither of them are what we want. We want something very simple. And I say to my friend, Senator BYRD, listen to what we want. We want 1 year, not 10, not 20—1 year, with none of the land management reforms implemented against the West. Is that asking the Appropriations Committee too much? They have never held a hearing on our rights. No committee of the Senate has had a hearing on our rights. Is 1 year too much when the ranchers tell us they are going to be thrown out of their leaseholds, and one might say, "Who is to believe them? After all, the environmentalists and conservationists say that is not true. Should we believe without any economic evidence, without any hearings, those who say do not worry?"

What is 1 year for hearings on range management reform? That is why I put a moratorium on this. That sounds like a big word. It is just saying do not do that for 1 year. It sounds like gridlock, but that is not gridlock. That is fair play.

I close by saying this, and it is kind of directed to our President: This is Secretary Babbitt's war on the West. But, Mr. President—and that is not the occupant of the chair, but President Bill Clinton—unless you stop it, it is going to be your war.

I yield the floor.

Mr. BYRD. Will the Senator from Nevada yield me 1 minute?

Mr. REID. Yes, I will yield 1 minute to the Senator from West Virginia.

Mr. BYRD. I say to my friend from New Mexico, he is willing to let the bill go down for the sake of this; I do not doubt that. I said a moment ago that you feel that strongly about it. There are a lot of other Senators around here who have many things in this bill. I am appealing to them to let the bill pass. The Senator has many things in this bill, too. He always does have. He is a good Senator.

Let me say this to the Senator: I have had my throat cut in this body on the coal miners amendment, and I did not cry about it. I did not filibuster about it. I took my whipping like a man and got up and dusted myself off and said let us get on with the next issue.

Mr. DOMENICI. I will not cry either.

Mr. BYRD. Very well.

Mr. REID. Today, we have heard a lot about "the war on the West." Mr. President, what is the West? In addition to the rangelands, the West consists of many large cities now: Las Vegas, Reno, Phoenix, Salt Lake, Albuquerque, Denver, Seattle, Portland, Billings, Boise, and Cheyenne.

Mr. President, I am a westerner. I was born and raised in the West. You cannot be any more western than I was. I was born in a place called Searchlight, NV. How west is that? My brothers and I were raised there. I was raised in a home that did not have a place inside to go to the toilet. We did not have hot water. I know what the West is all about. So anyone that thinks that I do not care about the West does not know what they are talking about. I care a lot about the West. The West is my home. I graduated from elementary school in Searchlight, NV. I would have gone to high school there, but they do not have one. I had to hitchhike part of the time just to go to high school. My five children have gone to school in Nevada.

We have heard a lot about whether you would rather be hung or shot. That, Mr. President, is meaningless, because a rancher does not have to be shot or hung. This is a compromise. We raise the grazing fee in 3 years, and that does not even pay the administrative expenses of the program. That is not too difficult. Yet, my friends say "spread it out longer."

I say, Mr. President, that they should talk to their ranchers like I have talked to mine. I mean talk to the ranchers privately. I have not talked to a single Nevada rancher that says to me privately, "Harry, we cannot live with this." They say, "I wish that this were changed a little bit, and I wish it were spread out a little bit, but I can handle it. Can you do a little better for us."

Of course, I would like to do a little better. I did the best I could do. I negotiated with the authorizers. There were criticisms about negotiating with authorizers. That is all I had. As a result of that, we were able to get something out of conference. The amendment was offered by a Republican. It went to the House and, yesterday, it was confirmed 317 to 106—by 3 to 1.

Mr. President, the choices are very simple. You take the Reid compromise, which ranchers can live with. They may not like it totally, but they can live with this. It is not being shot or hung. It is what is fair.

Mr. President, I do not think it is appropriate for me to get off this Senate floor tonight without defending Secretary Bruce Babbitt. You would think he was born in New Hampshire or Maine, as far away from the West as you can get.

Bruce Babbitt came from an Arizona ranching family. In order for him to be allowed to sit as a Cabinet officer in this administration, he had to sell his ranching interests, because of the conflict-of-interest rules. He was still a rancher 6 months or 8 months ago, whenever he became a Cabinet officer. Bruce Babbitt is a rancher, not some guy walking around with a devil's tail and a pitchfork. He knows the West. He represented rural Nevada water interests when Las Vegas tried to do a water grab in rural Nevada, when he was in the private sector. I must defend our Secretary of the Interior.

As I said this morning, and I remind everyone here, had Bruce Babbitt been some kind of a devious, sinister man, he would have waited until the appropriations process was over and then charged forth with his rulemaking process. He did not because he is a fair man.

Mr. President, today's West is far different than the West I knew. In the 10 Western States there now live 46.3 million people. I like my cowboys. I think the world of them. But there are 20,000 of them in the entire West, compared to 46.3 million people. Let us realize what we are talking about here. We are talking about the western part of the United States. Our resources are strained, our urban centers are becoming crowded. Our lands are being used by many.

Our lands, Mr. President, are used more than by the cowboys. They may not like it. I wish the West were the way it used to be, but it is different. The ranchers do not have a free hand to all that land anymore. There are competing interests. It is what we have heard about—multiple use. Lots of people like to use the land, not just the cattlemen. That is what this is all about. The West is changing.

The compromise still allows room for ranching families that are part of this history, and I am proud of that. It includes a modest increase of fees paid for use of the public lands. The vast majority of the ranching families will not be affected at all by these changes. They will retain ownership of range improvements, they will retain their own water rights, and in the future it will be like the Forest Service. They will not be penalized if they are caring for the land. These are for the railroad, recreation, grazing, mining and conservation of natural resources.

This debate is about the new West. This is about a balancing of all these competing interests.

I would like to read to you some of these things. There have been actual threats on this Senate floor that if President Clinton does not do something about grazing, he is going to be beaten in the West. Let me tell you, here is what happened since this Reid compromise came to be.

I have editorials, and I am only going to pick a few of them, from all over the West.

The Sacramento Bee, Thursday October 14, the headline is "Raising Grazing Fees." They favor. Among other things, they say:

> The conference committee has an opportunity today to loosen the gridlock * * *.

The gridlock, Mr. President. If you want to know what gridlock is, this is gridlock in spades. This is it. It is a flush, a royal flush. It is gridlock as good as you can get.

And what The Sacramento Bee says:

> * * * loosen the gridlock that has prevented fee hikes and range reform for 12 years. It's important for the country as titleholder, and especially for California, where 14 million acres of Federal land are affected.

Casper, Wyoming Star Tribune:

> Politically, the subsidy threatens the future of western ranching. Worse, it cripples the western spirit..
>
> Paying a fair fee, ranchers can command America's respect. Better ranch management and greater accountability will further secure the future for public lands ranching.

Salt Lake Tribune:

> Ranchers Should Accept Compromise As Best Grazing Deal They Can Get.

When I hear my friend from Utah say this is horrible, the largest newspaper in the State of Utah loves this compromise. They say, among other things:

> And ranchers would be better off taking the compromise deal's 85-percent fee increase than risking the imposition of Mr. Babbitt's original 130-percent increase. More than that, by accepting the compromise, they will finally put this nasty Federal range war behind them.

There were editorials in Las Vegas, editorials in Reno, and editorials in the Denver Post.

> Congress should approve the reforms and put an end to this long-simmering debate.

I think my friends are listening to some other debate. The people of the West want this reform. We are not hurting and killing the ranching business. It is part of progression. Do not you think after 15 years there should be a modification of the program? In the debate that has ensued, this has come up since 1976 every year, every year since 1976 with no change. It is time to change.

The National Wildlife Federation:

> The "Reid compromise" proposal will put end to the years of debate and gridlock.

Mr. President, I ask unanimous consent that these editorials and letters from the National Wildlife Federation, the League of Conservation Voters, the Southern Utah Wilderness Alliance, and the U.S. Public Interest Research Group be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Sacramento Bee, Oct. 14, 1993]

RAISING GRAZING FEES

The Clinton administration's effort to raise the rent on ranchers who graze their livestock on federal land, which Western Democrats in the Senate had successfully hogtied last month, now looks like it may be revived. A House-Senate conference committee will vote today on a compromise that while not everything the administration had sought, represents a step toward more reasonable prices for the use of the public domain and, more important, toward more responsible management of federal lands in the West.

The administration tried to include the fee hikes in its budget package last spring, but backed off when it met stiff resistance from Western lawmakers. Then in August, Interior Secretary Bruce Babbitt announced his intent to raise the fees by administrative order from $1.86 per month for a cow and calf (or five sheep) to $4.28 per month. By comparison, most private forage land in the West is leased for about $10 per month.

Again, the Senate resisted, declaring a one-year moratorium on fee hikes. The moratorium was eventually overturned by the House and now, under a fragile compromise forged by Sen. Harry Reid of Nevada and Rep. George Miller, a lesser fee increase—to $3.45 per month—has a chance to pass.

It deserves to be enacted. Clinton wanted more of a financial contribution from the ranchers—and perhaps there will be future opportunities to negotiate that. But Babbitt stands to get the tougher stewardship requirements and environmental reforms he originally sought.

Ranchers who abuse federal land or violate federal or state environmental laws would risk losing their leases. Water rights on leased land would remain in the hands of the public. And the existing grazing advisory boards; which oversee stewardship issues and are now dominated by leaseholders, would be replaced by resource advisory councils that, in addition to ranchers, would be composed of wildlife and fisheries experts, environmentalists and local business owners.

The conference committee has an opportunity today to loosen the gridlock that has prevented fee hikes and range reform for 12 years. It's important for the country as titleholder, and especially for California, where 14 million acres of federal land are affected. Given the ease with which that gridlock could return, the committee should seize the chance and vote yes on the Reid-Miller compromise.

[From the Casper (WY) Star Tribune, Oct. 19, 1993]

CAN THE WEST AFFORD FAIR GRAZING FEE?

(By Robin Groose)

Forage on most federal grazing allotments is worth more than the $1.86 per animal unit month (AUM) fee that ranchers pay now. Thus, the $1.86 fee is widely regarded as a government subsidy.

However, because livestock producers encounter much higher non-fee grazing costs (for herding, water, salt, fencing, etc.) on the public range than on private lands, it would be unfair to charge $10.03 per AUM, the average private rate.

Interior Secretary Bruce Babbitt and Bureau of Land Management Director Jim Baca proposed to raise the federal fee to $4.28 per AUM over three years based on a formula that they believe accounts for the differences between public and private lands.

Economic studies support a higher fee. The Grazing Fee Task Force included natural resource economists from the University of Wyoming and other western universities. They recommended a fee between $3 and $5 per AUM. An independent analysis by two UW professors of finance suggested a $3.75 fee. Congress is currently considering an increase to $3.45.

The Grazing Fee Dilemma: Although the Grazing Fee Task Force recommended a higher fee, they recognized that some ranchers find themselves in this predicament:

"The government is not collecting full market value for public grazing, but ranchers are paying full value through the current fee, non-fee grazing costs, and the grazing permit."

Because grazing permits are transferred along with ranches when they are bought and sold, the permit adds value to the whole ranch unit. And, up to a point, that is as it should be. Long ago ranchers structured federal allotments into their operations and today strive to keep those allotments productive. But an artificially low grazing fee has undervalued federal rangeland forage and overinflated ranch values.

In the language of economists, the public lost equity as the government grazing subsidy was capitalized into ranch real estate values.

Thus, much of what the public is due—but the government is not collecting—ranchers are paying to each other or to banks and land speculators as ranches are purchased or mortgaged. (Ironically, a part of fair market value eventually finds its way back to the public when inheritors pay estate taxes on inflated ranch values.)

Does the "grazing fee dilemma" justify maintaining the subsidy? No. But it does suggest a slower approach to grazing fee reform.

Rangeland Reform '94: Besides revising the fee formula, the reform package proposed by Babbitt and Baca would discourage subleasing and unauthorized use of resources, replace ranchers-only grazing boards with broader citizen input, encourage conservative use of allotments and more progressive use of Range Improvement Funds, get tougher with grazing abusers, provide public title to range improvements and water rights, and above all, emphasize ecosystem management.

These are mostly welcome reforms, but Babbitt and Baca must acknowledge that they will increase costs to livestock producers just as the grazing fee is set to rise. Congress is wise to correspondingly readjust the target down from $4.28.

And again, a slower approach to grazing fee reform is indicated. The ranching economy needs sufficient time to adapt to all these changes.

Can ranchers afford a fair grading fee? Yes. Given adequate time, most ranchers and ranching communities will accommodate a fair fee. In fact, in the long run, they must.

Politically, the subsidy threatens the future of Western ranching. Worse, it cripples the Western spirit.

Paying a fair fee, ranchers can command America's respect. Better range management and greater accountability will further secure the future for public lands ranching.

Because they understand this, Bruce Babbit and Jim Baca are among the best friends ranchers have in Washington.

And indeed, anti-grazing groups are enraged. "Rangeland Reform '94" is not the "Cattle Free in '93" they wanted. Instead, they got Cow Galore in '94." One activist complained the plan "aims to preserve the small rancher at the expense of Federal rangelands." He was half right. The plan can benefit both ranching and the range.

But please, Messrs, Babbit and Baca, Western livestock economies need more time to adapt to all your reforms. Three years to fully implement a fair market fee is to fast. We need twice that.

And to please, reconsider Sen. Alan Simpson's suggestion to more gradually raise the fee over the rest of the decade. After all the current formula, source of $1.86 and our present dilemma has been in place for 15 years. (originally passed by Congress in 1978, it was an experiment scheduled to end in 1985 but grazing reform fell victim to Washington gridlock.)

And in the end, does it all come down to money? The federal fee issue has festered too long. It has no quick or perfect solution, but let's get it settled least we lose sight of what matters most—people and the land.

Ranchers are good stewards of the public range and getting even better. At its best, Western ranching produces food and fiber from a mostly native and natural ecosystem while, at the same time, conserving myriad other economic, ecological, and esthetic values of the range.

Most important, the soul of the West is the soul of America. And the real West is both honest-to-God working cowboys and * * * saving wilderness. The West cannot afford to lose neither of these—no matter what the grazing fee.

[From the Salt Lake Tribune, Oct. 20, 1993]

RANCHERS SHOULD ACCEPT COMPROMISE AS BEST GRAZING DEAL THEY CAN GET

As compromises go, last week's House-Senate conference deal on grazing fees was hardly the most appealing for Western ranchers. But their representatives in the Senate would be wise to accept it as the best they can do, rather than expose their constituents to more stringent measures.

The compromise, approved in conference committee Thursday, basically splits the difference in grazing fees between Interior Secretary Bruce Babbitt's proposed $4.28 per animal unit month and Western senators' proposed $2.32. The deal calls for gazing fees to rise over a three-year period to $3.45 per AUM on the federal range, an 85 percent increase over the current $1.86 per AUM.

The grazing-fee compromise takes the form of an amendment to the Interior Department appropriations bill, which must pass both the Senate and the House. The Senate, where the greater strength of Westerners has been applied to block grazing-fee increases the last four years, could scuttle the compromise if Western Republicans are successful in their promised filibuster.

Western ranchers, many of whom claim they will be driven off the federal range by the higher grazing fees, surely find it heroic that their senators would resort to such a tactic to save them. But they ought to heed the compromise's broker, Sen. Harry Reid of Nevada, who claims that the killing of this deal would on impel Secretary Babbit to initiate his grazing reforms by fiat, as he originally intended to do.

Granted, Sen. Reid should have bargained for a lower fee than $3.45 per AUM within three years. It was obvious that the fee structure was the most negotiable item in Mr. Babbitt's proposal. As long as the administration was going to get its land-management reforms, which it did, the compromisers should have insisted on pushing the fees down to the more palatable neighborhood of $3 per AUM.

On the other hand, stockmen knew that grazing-fee increases were coming. They had already signed off on the 25 percent increase proposed by Western Sens. Malcolm Wallop of Wyoming and Ben Nighthorse Campbell of Colorado. And Sen. Pete Domenici, the New Mexico Republican making the loudest filibuster noises, was even willing to swallow the $3.45 fee—if it were phased in over six years instead of three. So the argument is really over how long to delay the inevitable.

It already has been delayed long enough. The grazing-fee debate has been a contentious one for the last four years, with the House firmly favoring a fee increase and the Senate blocking it. For the first time, some kind of middle ground between has been reached in conference committee. Now is the time to accept some resolution to this issue, rather than let it fester indefinitely.

While the grazing-fee increase is still higher than it needed to be, the land-management measures retained in conference are necessary to improve the stewardship of the federal rangeland. It has been Mr. Babbitt's considered contention that stewardship is a more critical issue than fees anyway.

In Washington, these issues are not settled by the Old West form of high noon confrontation; they are settled by compromise. And ranchers would be better off taking the compromise deal's 85 percent fee increase than risking the imposition of Mr. Babbitt's original 130 percent increase. More than that, by accepting the compromise, they will finally have put this nasty federal range war behind them.

[From the Reno Gazette-Journal, Oct. 20, 1993]

REID GRAZING COMPROMISE SHOULD BE PASSED

Sen. Harry Reid's grazing-reform compromise should be adopted by Congress.

While not perfect, it succeeds in updating the sadly outdated existing policy. Furthermore, it should put an end to the continual attack on public-lands ranching—an attack which could result in something far worse in a few years.

Reid anticipates a filibuster by some Western senators, but the Reid Amendment is probably as good as ranchers can get. If Congress passes no bill, then Bruce Babbitt's Interior Department will administratively raise the fees to $4.28 per animal unit per month, instead of the $3.45 in the Reid Amendment. And the rule changes will be even greater.

The leaders of a potential filibuster hope they can add amendments that will create a better deal for the ranchers, but this is not likely. The House appears adamant against any fees lower than those in the Reid plan. So it appears that ranchers have two choices, and the Reid Amendment is by far the better one.

The grazing fee should indeed be raised, and the other proposed changes should benefit a range that belongs to everyone.

The fees will still be far less than those on private land, which average $10. But the real clue as to how realistic these fees are is the rate charged by two Western states for grazing on their own public land. Reid notes that Wyoming just raised its fees to $3.50, while Idaho recently reduced its rates to $4, still well above Reid's $3.45.

A good portion of Nevada's range is grazed by very large operations, and these should certainly survive placed in financial jeopardy. Supporters of the compromise do not think so. But Congress and Interior should watch closely, and if the fees prove prohibitive, some alterations should be made.

As for the changes in operating procedures, most make sense. These include:

The BLM would consider a permittee's stewardship of the land when deciding how to allocate extra forage.

The Secretary of the Interior will develop standards for minimum conditions to protect riparian values and ensure healthy wildlife and fish habitat (i.e., the multiple uses of the range.)

Resource advisory councils will replace grazing advisory boards which are composed of grazing permittees. The new councils quite correctly will include a diverse group of interests, including wildlife managers, fishery experts, environmentalists and local business owners.

The BLM will collect a surcharge from ranchers when they sublease their permitted land.

The federal government will own water rights now yet given to anyone. This is as it should be. This is the public's water, and title should remain with the public.

Still questionable is the proposal to give the public sole ownership of improvements to the range, such as fences and wells. One would think these should be the property of the ranchers. But if this proposal is adopted, at the least the government should give ranchers full credit for the cost, in lower grazing fees or tax deductions.

All things considered, this is a good deal for ranchers.

[From the Denver Post, Oct. 14, 1993]

PACKAGE OF RANGE REFORMS IS A GOOD COMPROMISE

It wouldn't raise grazing fees nearly as much as Interior Secretary Bruce Babbitt initially proposed, but the package of range management reforms worked out by House and Senate negotiators last week would achieve most of the administration's on-the-ground goals.

Among other things, the compromise plan—due to come up to a conference committee vote Thursday—would oblige ranchers to meet certain minimum standards to protect the ecological health of lands they lease from the federal government, especially in riparian areas along streams.

In addition, while the measure wouldn't affect the lengths of leases, it would allow the U.S. Forest Service and Bureau of Land Management to cancel permits for violations of federal or state environmental laws.

The proposal also would transfer much of the power at the local level from the existing advisory boards, which are controlled largely by lessees themselves, to more diverse resource advisory councils, which would include wildlife managers, local business owners and environmentalists as well.

These and the other proposed changes should help enhance the condition of thousands of acres of public rangelands, mostly in the West, that have been routinely overgrazed for years.

The 85 percent hike in grazing fees—from the current $1.86 per cow and calf per month to $3.45 per month, to be phased in over three years—wouldn't bring in as much revenue as Babbitt's original proposal of $4.28. But it would give the taxpayers a better return than the 25 percent boost kicked around by the livestock industry, and would help close the gap between the price of public forage and the average of $10 per animal unit month now charged for grazing on private lands.

In sum, while the compromise wouldn't do everything the Clinton administration hoped, it would go a long way toward reining in the abuses these lands have suffered under for years. Congress should approve the reforms and put an end to this long-simmering debate.

NATIONAL WILDLIFE FEDERATION,
Washington, DC, October 21, 1993.

Members,
U.S. Senate,
Washington, DC.

DEAR SENATOR: When the Senate takes up the conference report on the Fiscal Year 1994 Interior and Related Agencies appropriations bill, I expect several actions will be taken in an attempt to terminate the compromise grazing reform proposal recently developed by the House-Senate conference committee, known as the Reid compromise grazing amendment. The "Reid compromise" proposal will put an end to the years of debate and gridlock on how our public grazing lands will be managed.

The time has come to reform grazing management practices on public lands. The Reid compromise deserves your support.

The Reid compromise will enact new legislation to direct the Department of the Interior in the development of several important grazing reforms, including:

Creating new guidelines for rangeland management that recognize the many public uses of the rangelands;

Allowing permit holders to rest grazing lands to achieve conservation objectives, or due to short-term economic hardships;

Eliminating the single-user grazing advisory boards, and authorizing the creation of councils with representation from several user groups; and

Authorizing the use of grazing fee receipts for several rangeland restoration activities, including the restoration of critical riparian habitats on public lands.

The grazing fees that would be established by the Reid compromise would still be less than one-half of the prevailing private market rate. In addition, the Reid compromise puts a one year moratorium on any other changes to the Interior Department's livestock grazing program, despite the need to address inadequate public participation standards and correct outdated management practices on our public lands.

The National Wildlife Federation supports this compromise. There is a clear tradeoff between establishing a fair return to the public from the federal grazing fee, and ensuring stability in the grazing program through the adoption of new legislation to address important grazing reforms.

The compromise proposal is under attack by western Senators who are trying to preserve the status quo for a handful of ranchers that benefit from livestock grazing on the public lands. The status quo means that 2 percent of the Nation's livestock producers pay less than one-fifth of the prevailing market rate to graze on public lands, and millions of acres of public rangelands remain in degraded ecological condition, due to grazing mismanagement.

As the attached article from the Washington Post makes clear, the choice facing the Senate is a choice between the Reid compromise, and allowing Secretary Babbitt to move forward with range reform. A filibuster of the Interior and Related Agencies appropriations bill will not resolve the debate on the grazing issue. Instead, it will force the Congress to adopt another continuing resolution for the Interior Department and related agencies. The continuing resolution is likely to allow the Interior Department to continue in the development of the administrative reform proposal.

I urge you to support the Reid compromise. The public deserves a reasonable and timely resolution of this long-standing public lands issue.

Thank you for your attention to this very important matter.

Sincerely,

JAY D. HAIR.

[From the Washington Post, Oct. 16, 1993]

HIGHER BABBITT GRAZING FEES POSSIBLE, NEGOTIATORS SAY

The Clinton administration will impose a planned major increase in grazing fees for federal lands unless Congress accepts the smaller hike in a House-Senate compromise, negotiators said yesterday.

"There is no in-between," said Sen. Harry M. Reid (D-Nev.), the main author of the compromise who warned that one of two plans would become law.

The warning had little effect on western-led Senate opposition to the compromise and the administration plan. Sen. Pete V. Domenici (R-N.M.) wrote a letter signed by himself and 40 other senators that threatened a filibuster.

"We understand that a reasonable increase in the fee may be necessary, but we cannot accept the drastic changes in management requirements embodied" in the compromise, said the letter to Senate Majority Leader George J. Mitchell (D-Maine) and Appropriations Committee Chairman Robert C. Byrd (D-W.Va.).

A House-Senate conference committee voted 8 to 7 Thursday to accept the new language, which is part of the Interior Department spending bill for the fiscal year that began Oct. 1.

The compromise would increase monthly grazing fees from the current $1.86 per animal unit to $3.45 over three years, less than the $4.28 Interior Secretary Bruce Babbitt had sought in the administration's plan. An animal unit is equivalent to a cow and a calf or to five sheep.

Reid told a news conference, "If they want to filibuster, they have to understand they are filibustering to have the Babbitt plan in its entirety."

Babbitt's plan for higher fees and range reforms can become effective without congressional approval. Babbitt said he was "not eager" to accept the compromise, which he called "a significant step back."

He said the formal approval process for his plan is underway and would be completed in the spring. "I fully intend to move full speed ahead to implement the proposal we put out in August" unless the compromise passes, he said.

Rep. George Miller (D-Calif.), chairman of the House Committee on Natural Resources, said, "We know this compromise is the minimum the House will be willing to accept. This about as good as it gets."

The compromise retains most of the administration's proposed reforms, including giving the federal government all future water rights and rights to range improvements on public land, suspending for three years the permits of ranchers who do not meet environmental standards and levying a hefty surcharge on range permit holders who sublease the land for grazing.

LEAGUE OF CONSERVATION VOTERS,
October 21, 1993.

Re Interior Appropriations Conference Committee Grazing Reform Package.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: Since 1970, the League of Conservation Voters (LCV) has served as the nonpartisan, political arm of the national environmental community. Each year LCV publishes the National Environmental Scorecard, which details the voting records and other actions of Members of Congress on legislation which affects the quality and integrity of the natural environment. The Scorecard is distributed to LCV members and concerned voters nationwide.

Today, the Senate will consider the Conference Report to the Fiscal 1994 Interior Appropriations Bill (H.R. 2520). The Conference Report contains a bipartisan grazing compromise that includes a small fee increase and a number of long-overdue management reform measures. We strongly urge you to support the conference Committee's grazing compromise. Please vote for cloture to end the gridlock on gazing; and please oppose any amendments to weaken the Conference Committee's agreement.

The grazing compromise is not as strong or comprehensive as the Administration's range reform proposal released this past summer, but it does contain environmentally important provisions that will begin the restoration of our Nation's degraded public lands. The compromise also includes a very small fee increase. The new fee will still be far less than currently charged on private lands and less than the fee charged for grazing on State lands in almost every western state. Livestock operators, whether large or small, have nothing to fear from this bipartisan compromise. In fact, it will finally bring some certainty to the grazing reform issue. Several Senators have announced plans to filibuster the bill. This will stall reform.

LCV considers a vote for the reform of the federal grazing program to be an important vote for the environment and urges you to vote in support of the Interior Appropriation Conference Committee's Grazing Reform compromise. In 1992, LCV included grazing reform on its Scorecard.

Thank you for your careful consideration of this issue. If you need more information, please call Betsy Loyless of my office (785-8683) for the names of experts within the environmental community who can best address your questions.

Sincerely,

JIM MADDY,
President.

SOUTHERN UTAH WILDERNESS ALLIANCE,
Salt Lake City, UT, October 21, 1993.

END THE GRAZING GRIDLOCK—VOTE FOR CLOTURE

DEAR SENATOR: When the Senate considers the Conference Report for the Fiscal Year 1994 Interior Appropriations Bill (H.R. 2520), Senators Domenici, Campbell and others are threatening "not to close off debate on the bill" because of their objection to the bipartisan grazing compromise included in the Report.

The Southern Utah Wilderness Alliance urges you to vote for cloture to end the "anti-grazing reform" filibuster effort and vote against any other "anti-grazing reform" amendments.

The issue isn't grazing fees—it is gridlock. It isn't about the grazing reform language agreed to by the Conference Committee—it is whether Senators hostile to the proposed increase in grazing fees should be permitted to stymie efforts towards reform.

The Senate should support the efforts of their colleagues who serve on the Interior Appropriations Conference and vote for cloture.

Sincerely,

MIKE MATZ,
Executive Director.

CINDY SHOGAN,
Washington Representative.

U.S. PUBLIC INTEREST RESEARCH GROUP, NATIONAL ASSOCIATION OF STATE PIRGS,
Washington, DC, October 21, 1993.

END CONGRESSIONAL GRIDLOCK ON RANGELAND REFORM, VOTE FOR CLOTURE ON THE INTERIOR APPROPRIATIONS BILL

DEAR SENATOR: On behalf of our one million members around the country who want a sound economy and a clean environment, we urge you to vote for cloture on the Interior Appropriations bill when it goes to the Senate floor.

Apparently, Senator Domenici wishes to perpetuate the Congressional gridlock on grazing on public lands, and has threatened to filibuster the Interior Appropriations bill. Currently, over two-thirds of our federally-owned rangelands are seriously over-grazed and eroded, a monument to Congressional gridlock.

U.S. PIRG is deeply disappointed in the "compromise" reform provisions proposed by Senator Reid (D-NV). The fee increase of $3.45 over three years does not cover the costs of administering the programs, and the provisions do not include fair public participation in rangeland decisions. Nonetheless, even this weak compromise is better than continued gridlock. We urge you to vote for cloture on the Interior Appropriations bill. End the gridlock on federal rangeland reform.

Sincerely,
ANNA AURILIO,
Staff Scientist.

Mr. REID. Mr. President, my friends say that gridlock in the Senate is OK for them. I say it is not. It is not good for the American people. We should put it aside.

They say, well, we do not want gridlock in the Senate; they want it in the courts. Now we hear people saying, if we cannot get enough gridlock here in the Senate, we want to go to court.

I say everyone here should recognize if the Reid compromise does not pass, the ranching families of the State of Nevada and all over the West will get a $4.28 grazing fee, plus a 25-percent increase, plus a higher base. The fees will go up dramatically under that proposal and not under my proposal.

Who will suffer the most? The small family ranchers, who those in this Chamber purport to protect. All they are protecting are the rich ranchers, those with money who can afford to go to court. The small ranchers cannot go to court. They will stand around and wait and see what happens while the rich guys take care of it all.

This filibuster is a disservice to taxpayers and the country, but more importantly to the West and ranching families.

My friend from Montana said there must be an in between. This is the in between. There is no other. We take this proposal or take what Babbitt has to offer.

If this compromise is rejected, only the wealthiest will benefit; Secretary Babbitt's proposal will go forward.

I want to remind this Chamber one last time that the House of Representatives, an equal body to this, spoke on a bipartisan basis. The House will accept no less. We may not like it. I do not particularly like it. That is a fact of life. We must listen and listen to the people of the West, the people of this country, the taxpayers, and be concerned about them.

The National Taxpayers Union supports this Reid compromise. This is not a Reid-Babbitt proposal. It was a proposal that was negotiated in good faith. We did the best we could.

I think that it is important that we reject gridlock, and we do it now. I ask them to reject the demagogery that comes from those who represent a West that no longer exists.

I yield back the remainder of my time.

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired or been yielded back, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 2520, the Interior Appropriations bill:

Robert C. Byrd, Wendell Ford, Harry Reid, Claiborne Pell, Russell D. Feingold, J. Lieberman, Paul Simon, Patty Murray, Pat Leahy, D. Pryor, Ernest Hollings, Harris Wofford, Barbara Boxer, Edward Kennedy, Paul Sarbanes, Joe Biden, D. Inouye.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the debate on the conference report accompanying H.R. 2520, the Interior appropriations bill, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Mississippi [Mr. LOTT] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 41, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—53

Akaka
Biden
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Daschle
DeConcini
Dodd
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wofford

NAYS—41

Baucus
Bennett
Bingaman
Bond
Brown
Burns
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
Danforth
Domenici
Dorgan
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Hutchison
Kassebaum
Kempthorne
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NOT VOTING—6

D'Amato
Dole
Durenberger
Helms
Jeffords
Lott

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 53, the nays are 41. Three-fifths of the Senate duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from West Virginia.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the unresigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 2520, the Interior appropriations bill.

Robert C. Byrd, Wendell Ford, Harry Reid, Claiborne Pell, Russell D. Feingold, J. Lieberman, Paul Simon, Patty Murray, Pat Leahy, D. Pryor, Fritz Hollings, Harris Wofford, Barbara Boxer, Edward M. Kennedy, Paul Sarbanes, Joe Biden, Dan Inouye.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESOLUTION TO ENFORCE COMPLIANCE

Mr. BRYAN. Mr. President, I want to report to the Senate, on behalf of Senator MCCONNELL and myself, as the chairman and the vice chairman respectively of the Senate Ethics Committee, that today by unanimous vote, the Senate Ethics Committee adopted a resolution to enforce compliance with the issuance of a subpoena in the Packwood matter that is pending before the Ethics Committee.

I yield the floor.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Item Nos. 423, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 471, 473, 474 and 478.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table en bloc; and that the President be immediately notified of the Senate's action.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Nora Slatkin, of Maryland, to be an Assistant Secretary of the Navy.

LEGAL SERVICES CORPORATION

Hulett Hall Askew, of Georgia, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1995.

Laveeda Morgan Battle, of Alabama, to be a member of the Board of Director of the Legal Services Corporation for a term expiring July 13, 1995.

John G. Brooks, of Massachusetts, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1995.

Nancy Hardin Rogers, of Ohio, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1995.

Douglas S. Eakeley, of New Jersey, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1996.

F. William McCalpin, of Missouri, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1996.

Maria Luisa Mercado, of Texas, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1996.

Thomas F. Smegal, Jr., of California, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1996.

John T. Broderick, Jr., of New Hampshire, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1996.

Edna Fairbanks-Williams, of Vermont, to be a Member of the Board of Directors of the Legal Services Corporation for the term expiring July 13, 1995.

Ernestine P. Watlington, of Pennsylvania, to be a Member of the Board of Directors of the Legal Services Corporation for the term expiring July 13, 1996.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

William J. Gilmartin, of Pennsylvania, to be an Assistant Secretary of Housing and Urban Development.

DEPARTMENT OF COMMERCE

John Despres, of the District of Columbia, to be an Assistant Secretary of Commerce.

SMALL BUSINESS ADMINISTRATION

Cassandra M. Pulley, of the District of Columbia, to be Deputy Administrator of the Small Business Administration.

FEDERAL MEDIATION AND CONCILIATION SERVICE

John Calhoun Wells, of Texas, to be Federal Mediation and Conciliation Director.

TREATY WITH THE REPUBLIC OF KAZAKHSTAN CONCERNING THE RECIPROCAL ENCOURAGEMENT AND PROTECTION OF INVESTMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Executive Calendar No. 6, a Treaty with the Republic of Kazakhstan Concerning the Reciprocal Encouragement and Protection of Investment; that the treaty be considered as having been advanced through the various parliamentary stages, up to and including the presentation of the resolution of ratification; that no amendments, understandings, conditions, declarations, provisos, or reservations be in order; that any statements appear in the RECORD as if read; that the Senate vote on the ratification of resolution without any intervening action or debate; that after the vote, the motion to consider the vote be tabled; that the President be immediately informed of the Senate's action; and that the Senate return to legislative session.

Mr. President, I ask for a division vote.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

A division has been requested.

Senators in favor of the resolution of ratification will rise and stand until counted. [After a pause.] Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

So it was resolved, (two-thirds of the Senators present concurring therein), that the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Republic of Kazakhstan Concerning the Reciprocal Encouragement and Protection of Investment, signed at Washington on May 19, 1992.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Edwin R. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting two treaties and sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE AGREEMENT WITH THE POLISH PEOPLE'S REPUBLIC RELATIVE TO FISHERIES—MESSAGE FROM THE PRESIDENT—PM 58

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to title 16, United States Code, section 1823(b), to the Committee on Commerce, Science, and Transportation, and to the Committee on Foreign Relations.

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 904–265; 16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement between the Government of the United States of America and the Government of the Republic of Poland Extending the Agreement of August 1, 1985, Concerning Fisheries off the Coasts of the United States. The agreement which was effected by an exchange of notes at Washington June 8 and July 29, 1993, extends the 1985 agreement for an additional 2 years, from December 31, 1993, to December 31, 1995. The exchange of notes together with the 1985 agreement constitute a governing international fishery agreement within the requirements of section 201(c) of the Act.

I urge that the Congress give favorable consideration to this agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 21, 1993.*

MESSAGES FROM THE HOUSE

At 12:41 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2520) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1994, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 27, 41, 42, 43, 49, 50, 51, 54, 67, 76, 82, 95, 101, and 111 to the bill and agrees thereto; and the House recedes from its disagreement to the amendments of the Senate numbered 1, 2, 4, 10, 12, 18, 23, 24, 38, 39, 62, 69, 71, 72, 73, 74, 75, 77, 81, 84, 90, 100, 102, 118, 210, 120, 121, 123, and 125 to the bill, and has agreed thereto, each with an amendment, in which it requests the concurrence of the Senate; that the House insists upon its disagreement to the amendment of the Senate numbered 124 to the bill.

At 1:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 281. Joint Resolution making further continuing appropriations for the fiscal year 1994, and for other purposes.

At 4:16 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2750) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for purposes; it recedes from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 12, 13, 14, 21, 23, 26, 56, 122, 149, 154, 155, and 172 to the bill and agrees thereto; and the House recedes from its disagreement to the amendments of the Senate numbered 8, 9, 10, 11, 15, 16, 17, 29, 33, 35, 36, 45, 46, 47, 53, 54, 60, 70, 73, 74, 88, 92, 93, 106, 124, 125, 127, 128, 133, 134, 140, 142, 143, 150, 158, 159, 163, 175, 176, 177, 180, 182, 185, and 186 to the bill, and has agreed thereto, each with an amendment, in which it requests the concurrence of the Senate.

ENROLLED JOINT RESOLUTION SIGNED

At 10:18 p.m, a message from the House of Representatives, delivered by Mr. Dendy, an assistant to the Clerk, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 281. Joint resolution making further continuing appropriations for the fiscal year 1994, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and ordered placed on the calendar:

H.R. 3167. An act to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on October 20, 1993, he had presented to the President of the United States, the following enrolled bills and joint resolutions:

S. 1487. An act entitled the "Middle East Peace Facilitation Act of 1993."

S. 1548. An act to amend the National Wool Act of 1954 to reduce the subsidies that wool and mohair producers receive for the 1994 and 1995 marketing years and to eliminate the wool and mohair programs for the 1996 and subsequent marketing years, and for other purposes.

S.J. Res. 78. Joint resolution designating the beach at 53 degrees 53′51″N, 166 degrees 34′15″W to 53′48″N, 166 degrees 34′21″W on Hog Island, which lies in the Northeast Bay Unalaska, Alaska, as "Arkansas Beach" in commemoration of the 206th regiment of the National Guard, who served during the Japanese attack on Dutch Harbor, Unalaska, on June 3, and 4, 1942.

S.J. Res. 21. Joint resolution designating the week beginning September 19, 1994 as "National Historically Black Colleges and Universities Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1661. A communication from the President of the United States, transmitting a report, consistent with the War Powers Act, relative to the implementation of the petroleum and arms embargo of Haiti; to the Committee on Foreign Relations.

EC–1662. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to authorize a retroactive waiver of the survivability and lethality testing procedures that apply to the F–22 program; to the Committee on Armed Services.

EC–1663. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a notice relative to the Ballistic Missile Defense Program; to the Committee on Armed Services.

EC–1664. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, notice relative to a transaction involving United States exports to Mexico; to the Committee on Banking, Housing and Urban Affairs.

EC–1665. A communication from the Acting Assistant Secretary (Civil Works), Department of the Army, transmitting, pursuant to law, the report of the Priority Project List; to the Committee on Environment and Public Works.

EC–1666. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, notice of a Presidential Determination relative to Ireland; to the Committee on Foreign Relations.

EC–1667. A communication from the Chief Financial Officer of the Export-Import Bank, transmitting, pursuant to law, a report of the Bank's financial records for fiscal year 1992; to the Committee on Governmental Affairs.

EC–1668. A communication from the Executive Officer of the National Science Board, transmitting, pursuant to law, the annual report under the Government in the Sunshine Act for calendar year 1992; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 656. A bill to provide for indoor air pollution abatement, including indoor radon abatement, and for other purposes (Rept. No. 103–161).

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 1345. A bill to designate the Federal building located at 280 South First Street in San Jose, California, as the "Robert F. Peckham United States Courthouse and Federal Building" (Rept. No. 103–162).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S.J. Res. 41. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget (Rept. No. 103–163).

By Mr. BRYAN, from the Select Committee on Ethics, without amendment and with a preamble:

S. Res. 153. An original resolution to comply with the issuance of a subpoena (Rept. No. 103–164).

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 2824. A bill to modify the project for flood control, James River Basin, Richmond, Virginia.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

John J. Hamre, of South Dakota, to be Comptroller of the Department of Defense

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE AIR FORCE

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John B. Conaway, [redacted] U.S. Air Force.

The following named officers for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of title 10, United States Code, section 624:

To be brigadier general

Col. Andrew M. Egeland, Jr., [redacted] Regular Air Force.

Col. William M. Guth, [redacted] Regular Air Force.

The following named officer for appointment in the U.S. Air Force to the position and grade indicated, under the provisions of title 10, United States Code, section 8037:

To be Deputy Judge Advocate General of the U.S. Air Force

Col. (B.G. sel) Andrew M. Egeland, Jr., 231-56-1475, U.S. Air Force.

The following named officer for promotion in the U.S. Air Force, under the appropriate provisions of section 624, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force:

JUDGE ADVOCATE

To be colonel

Charles J. Dunlap. Jr. [redacted]

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of February 18, September 22, and October 4, 1993, at the end of the Senate proceedings.)

*In the Navy there are three promotions to the grade of rear admiral (list begins with Richard Ira Ridenour) (Reference No. 218)

*In the Navy there are 17 promotions to the grade of rear admiral (list begins with Lloyd Edward Allen, Jr.) (Reference No. 258)

*In the Army Reserve there are 28 appointments to the grade of major general and below (list begins with Fred H. Casey) (Reference No. 470)

*Lieutenant General Gordon E. Fornell, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 497)

*Rear Admiral Robert J. Spane, USN to be vice admiral (Reference No. 528)

*Major General Charles E. Franklin, USAF to be lieutenant general (Reference No. 611)

*Colonel William C. Bilo, ARNG to be brigadier general (Reference No. 616)

*Lieutenant General Richard E. Hawley, USAF for reappointment to the grade of lieutenant general (Reference No. 644)

*Major General Richard B. Myers, USAF to be lieutenant general (Reference No. 645)

*Lieutenant General Horace G. Taylor, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 646)

*Major General Paul E. Funk, USA to be lieutenant general (Reference No. 647)

**In the Air Force Reserve there are 808 promotions to the grade of lieutenant colonel (list begins with Joan M. Abelman) (Reference No. 666)

**In the Air Force there are 140 appointments to the grade of second lieutenant (list begins with Linden C. Adams) (Reference No. 667)

**In the Army Reserve there are 849 promotions to the grade of lieutenant colonel (list begins with Mary E. Abt) (Reference No. 668)

**In the Navy there are 329 promotions to the grade of captain (list begins with Steven James Ahlberg) (Reference No. 669)

**In the Navy there are 203 promotions to the grade of captain (list begins with Gregory Hugh Adkisson) (Reference No. 670)

**In the Navy there are 542 promotions to the grade of commander (list begins with Dave Ray Adamson) (Reference No. 671)

**In the Navy there are 504 promotions to the grade of commander (list begins with Michael Hunte Anderson) (Reference No. 672)

**In the Navy there are 1,202 promotions to the grade of lieutenant commander (list begins with Wayne Thomas Aaberg) (Reference No. 673)

**In the Navy there are 867 promotions to the grade of lieutenant commander (list begins with Robert A. Alonso) (Reference No. 674)

**In the Air Force Reserve there are 21 promotions to the grade of lieutenant colonel (list begins with Eleanor W. Bailey) (Reference No. 701)

**In the Army there are four promotions to the grade of lieutenant colonel and below (list begins with Richard S. Park) (Reference No. 702)

**In the Army there are 181 promotions to the grade of lieutenant colonel (list begins with George L. Adams) (Reference No. 704)

*Brigadier General Donald W. Shepperd, ANG to be major general (Reference No. 722)

*In the Air Force Reserve there are 16 appointments to the grade of major general and below (list begins with Alan T. Reid) (Reference No. 723)

*Lieutenant General William G. Pagonis, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 738)

Total: 5,724.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COATS (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. CRAIG, Mr. MACK, Mr. NICKLES, Mr. BURNS, Mr. GRAMM, Mr. BENNETT, and Mr. MCCAIN):

S. 1576. A bill to provide a tax credit for families, to provide certain tax incentives to encourage investment and increase savings, and to place limitations on the growth of spending; to the Committee on Finance.

By Mr. HELMS:

S. 1577. A bill to amend title II of the Social Security Act to prohibit the payment of benefits to any individual confined to a public institution pursuant to court order based on a verdict that the individual is guilty of a criminal offense, but insane, or not guilty of such an offense by reason of insanity, and for other purposes; to the Committee on Finance.

By Mr. WARNER:

S. 1578. To make technical corrections to Section 504 of the National Security Act of 1947 and to conform law and practice with respect to use of certain funds for intelligence activities; to the Select Committee on Intelligence.

By Mr. BREAUX (for himself, Mr. DURENBERGER, Mr. LIEBERMAN, and Mr. NUNN):

S. 1579. A bill to contain health care costs and improve access to health care through accountable health plans and managed competition, and for other purposes; to the Committee on Finance.

By Mr. SPECTER (for himself and Mr. D'AMATO):

S. 1580. A bill to provide that the Employee Retirement Income Security Act of 1974 does not preempt certain State laws, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BRYAN:

S. Res. 153. An original resolution to comply with the issuance of a subpoena; from the Select Committee on Ethics; placed on the calendar.

By Mr. PELL (for himself, Mr. HELMS, Mr. MOYNIHAN, and Mr. BROWN):

S. Res. 154. A resolution to welcome the holding of democratic elections in Pakistan, to congratulate Prime Minister Benazir Bhutto on the occasion of her swearing-in, and for other purposes; to the Committee on Foreign Relations.

By Mr. DECONCINI:

S. Con. Res. 48. A concurrent resolution to correct technical errors in the enrollment of the bill (H.R. 2403), and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS:

S. 1577. A bill to amend title II of the Social Security Act to prohibit the payment of benefits to any individual confined to a public institution pursuant to court order based on a verdict that the individual is guilty of a criminal offense, but insane, or not guilty of such an offense by reason of insanity, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY DISABILITY BENEFITS LEGISLATION

Mr. HELMS. Mr. President, today I introduce legislation to stop murderers and other criminals who have been declared insane from collecting millions of dollars in Social Security disability benefits.

Mr. President, I offered this legislation as an amendment to the Labor, HHS appropriations bill; the Senate approved it, 94 to 4. But when the bill was sent to conference, this commonsense amendment was dropped by the House conferees—and the Senate conferees did little or nothing to defend an obviously sensible amendment. Among

other things, this illustrates the difficulty in cutting Federal spending and reducing the Federal deficit. Congress talks a good game—but it does little or nothing to cut Federal spending.

Mr. President, I received a letter from a constituent of mine, John Sisson, that says it all:

> DEAR SENATOR HELMS: The old saying "crime doesn't pay" is no longer true and I hope you will do all you can to reverse this trend. On September 21, 1993, the News and Observer in Raleigh carried a headline on page 3A which read "Insane Killer's Federal Checks Challenged." The article reports on Michael Charles Hayes who is incarcerated for killing 4 people in North Carolina. Mr. Hayes receives $536 a month from Social Security while he is incarcerated because he is "Disabled" by reason of insanity.
>
> While incarcerated in Dorthea Dix Hospital he has purchased a motorcycle, two leather jackets worth $300 a piece, a wardrobe of 40 knit shirts and television sets and VCR's. The irony is that he became disabled when a jury found him insane.
>
> Here is a loophole that should be immediately stopped. If nothing else, the deficit would be reduced by $536 a month. The Social Security is quoted as saying they don't know how much is spent in disability to those incarcerated and under State care. They estimate $48 million every 5 years could be saved on such payments. What makes it worse is that there is no compensation for the victim's families, although the paper says a civil suit was filed against Mr. Hayes and that is what brought his spending habits to the attention of the press.
>
> Please do what you can to: (1) Stop Mr. Hayes' payments. (2) Close the deficit spending by removing disability pay for all who are criminally insane and incarcerated.
>
> Thank you for listening. Above all, we must reduce this deficit spending.
>
> Sincerely,
>
> JOHN W. SISSON, Jr.

Mr. President, this is outrageous. The killer is found to be insane and he goes on a shopping spree at the taxpayers' expense. Families of the victims mourn the loss of their loved ones and see the killer use their tax dollars to buy VCR's and TV sets and other luxuries that the citizens paying the taxes can't afford.

In this specific case, here's what happened: Five years ago, in Winston-Salem, Michael Hayes walked up to several cars as they were passing by and shot nine people. Four of the nine died—killed in cold blood. Mr. Hayes was found to be insane by the court and sentenced to a mental institution where he promptly filed for Social Security disability benefits.

Mr. President, Hayes now collects $536 a month from the Federal Government. According to Mr. Nicholson, the father of one of the victims, Hayes is living in hog heaven. I think Mr. Nicholson gave the best description of this injustice when he appeared before a House subcommittee. He said:

> The inventory of Hayes' personal property filled nine pages, with twenty items on each sheet. The hospital had been forced to provide him with additional storage area.
>
> He had four jackets, two full-length leather coats, all purchased with his Social Security disability benefits * * *. He had two television sets, two VCR's, an elaborate stereo system, * * * a microwave oven and walkie-talkies, with which he and his girlfriend, a fellow patient, communicated during the day.

Press accounts say that the killer, Charles Hayes, bought a motorcycle.

Mr. President, this is happening all across the Nation. For example, in New Jersey, Herbert Olsen tried to kill his parents. He was found to be insane and he collected $8,646 in retroactive disability payments and began receiving $678 a month thereafter. Then Olsen escaped and went to New York to buy drugs—subsidized by you know whom, the American taxpayers.

Taxpayer-subsidized shopping sprees by insane criminals, using the taxpayers' money should not be permitted. My legislation will put an end to this abuse and will save the taxpayers $10 million a year.

Mr. President, Congressman JACOBS introduced a bill on the House side to stop disability payments to an individual where a court finds the person to be innocent of an offense by reason of insanity.

As Congressman JACOBS stated, Social Security disability is intended "to provide food and shelter" for the disabled. Persons in mental institutions already are receiving food and shelter—they shouldn't be allowed to double-dip into the taxpayer's pocket.

Mr. President, this is not a novel concept. The law already prohibits such payments to convicted criminals who are in jail. This legislation merely expands the current law to apply it to the criminally insane, and will save the taxpayers $10 million a year.

By Mr. WARNER:

S. 1578. To make technical corrections to section 504 of the National Security Act of 1947 and to conform law and practice with respect to use of certain funds for intelligence activities; to the Select Committee on Intelligence.

INTELLIGENCE AUTHORIZATION PROCESS ADJUSTMENT ACT

Mr. WARNER. Mr. President, I am today introducing the Intelligence Authorization Process Adjustment Act (S. 1578). Enactment of the bill will help ensure compliance with law in the conduct of intelligence activities, ensure appropriate executive branch flexibility, and protect Congress' power of the purse.

The Select Committee on Intelligence had considered seeking to attach this legislation to the Intelligence Authorization Act for fiscal year 1994 (S. 1301) during consideration of that bill on the Senate floor. However, there was insufficient time to work out the legislation with all interested parties. Expeditious enactment of the Intelligence Authorization Process Adjustment Act is important, because of the need to provide adequate flexibility to the executive branch in funding intelligence activities, while preserving Congress' power of the purse and ensuring compliance with the law in the conduct of intelligence activities.

The bill provides a proper legal basis for longstanding past practices of the executive and legislative branches with respect to the use of funds appropriated for intelligence and intelligence-related activities for which there is no matching statutory authorization. The bill amends section 504 of the National Security Act of 1947 to accomplish this goal.

BACKGROUND ON SECTION 504 OF THE NATIONAL SECURITY ACT

As part of the Intelligence Authorization Act for fiscal year 1986, Congress enacted section 504 (then numbered section 502) of the National Security Act of 1947 to govern the funding of intelligence activities. Section 504 allows obligation and expenditure of appropriated funds for intelligence activities only in three situations, as follows:

First, the appropriated funds may be used for an intelligence or intelligence-related activity when such use of the funds for the activity has been specifically authorized by the Congress, a phrase defined in the statute. To qualify for obligation and expenditure for an intelligence or intelligence-related activity under this provision of section 504, the funds must have been appropriated by law for the intelligence or intelligence-related activity and must have been specifically authorized by law to be appropriated for that activity.

Second, the appropriated funds may be used for an intelligence or intelligence-related activity when the funds involved are funds appropriated for the CIA reserve for contingencies and the congressional Intelligence and Appropriations Committees have been notified. The longstanding customs and procedures observed by the Director of Central Intelligence and the Intelligence Committees with respect to notifications of releases from the reserve for contingencies generally do not contemplate action by the committees in response to the notification.

Third, the appropriated funds may be used for an intelligence or intelligence-related activity if they were specifically authorized by Congress for a different activity and the activity for which they are instead proposed to be used is of higher priority, is based on unforeseen requirements, and the congressional Intelligence and Appropriations Committees are notified. The longstanding customs and procedures observed by the executive branch and the intelligence committees with respect to such notifications contemplates action by the committees in response to the notification in many circumstances. Thus, although the relevant provision of section 504 speaks in terms of notification, it is understood as a matter of comity between the executive and legislative branches that the concurrence of the intelligence committees of Congress will be obtained before certain proposed transactions go forward.

This description of the understandings and practices in implementing section 504 is intended to be just that—a description of understandings and practices that already exist. This description is in no way intended to try to modify them or to displace the years of legislative history, exchanged correspondence, and customs observed that have yielded these practices and understandings.

THE PROBLEM: DIFFERENCE BETWEEN LAW AND PRACTICE

While the understandings and practices with respect to funding of intelligence activities are important, they are, of course, subordinate to the law. When there is any conflict between the understandings and practices on the one hand and the law of the land on the other, the law governs and must be followed.

Section 504(a)(1) of the National Security Act allows use of funds for an intelligence or intelligence-related activity when the funds have been both appropriated by law for the activity and authorized by law to be appropriated for the activity. Situations have arisen since enactment of section 504 (then numbered Section 502) in 1985 in which laws passed by Congress have appropriated funds for an intelligence activity in excess of or in the absence of amounts authorized by law to be appropriated for that activity. In some such situations, the Director of Central Intelligence has asked for the intelligence committees' concurrence in a proposal to spend the appropriations in excess of or in the absence of authorization. When the intelligence committees have concurred, the Director has treated the two-committee concurrence as satisfying the requirement of Section 504(a)(1) that the funds have been specifically authorized by the Congress, as defined in section 504(e), for the activity.

A similar situation arises in the case of reprogrammings and transfers of funds under section 504(a)(3) when the funds proposed to be reprogrammed or transferred are funds that were appropriated for an intelligence or intelligence-related activity, but the funds were never "specifically authorized by the Congress," as defined in section 504(e), for the activity. When proposals to take funds appropriated but not authorized for one activity and use them for a different activity occurred, the Director of Central Intelligence treated the concurrence of the two intelligence committees as satisfying the requirement in section 504(a)(3) of the National Security Act that funds taken for a reprogramming or transfer under Section 504(a)(3) have been initially "specifically authorized by the Congress," as defined in section 504(e), for some activity.

Thus, Directors of Central Intelligence followed a longstanding practice in implementing section 504 that treated concurrence by the two intelligence committees in a funding action as the functional equivalent of an authorization statute. However, the references in section 504 (a)(1) and (a)(3) to "specifically authorized by the Congress" require the enactment of a statute authorizing appropriations—not mere committee concurrence. There is no basis for concluding that anyone had anything other than good intentions in the past practice, and the bill will conform the law to the past practice, with the intention, among others, of ensuring that officials, including those who have certified vouchers and disbursed funds in reliance on that past practice, are protected.

WHAT "SPECIFICALLY AUTHORIZED BY CONGRESS" MEANS IN SECTION 504

In the early 1980's, Congress grappled with the question of how to ensure effective congressional control of the public purse for intelligence activities, while ensuring sufficient flexibility for the executive branch in funding such activities.

In the Intelligence Authorization Act for fiscal year 1981 (Public Law 96–450), Congress included a provision stating that:

> During fiscal year 1981, funds may not be obligated or expended for any program for which funds are authorized to be appropriated in section 101 in an amount in excess of the amount specified for that program in the classified Schedule of Authorizations described in section 102 unless the Director of Central Intelligence or the Secretary of Defense notifies the appropriate committees of Congress of the intent to make such obligation or expenditure not less than fifteen days before such obligation or expenditure is made.

Under this statutory language, funds could be used in fiscal year 1981 for an intelligence or intelligence-related activity in excess of the amounts authorized by the Intelligence Authorization Act for fiscal year 1981 for that activity after notice to the appropriate committees of Congress. It was the understanding of both the executive and legislative branches that the executive branch would not proceed in the face of an objection by the intelligence committees after they received the statutory notice.

The annual intelligence authorization acts then included a series of progressively more complex provisions that ended with enactment of section 502 of the National Security Act, since modified and renumbered Section 504. In the Intelligence Authorization Act for fiscal year 1982 (Public Law 97–89), Congress included a modified version of the previous fiscal year's provision that now addressed switching funds from one activity to another and referred generally to "specifically authorized" funds rather than tying it to the classified Schedule of Authorization incorporated in the act:

> During fiscal year 1982, funds may not be made available for any activity for which funds are authorized to be appropriated by this Act unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committee of Congress of the intent to make such funds available for such activity.

The Intelligence Authorization Act for fiscal year 1983 (Public Law 97–269) repeated the provision from the fiscal year 1982 act, but the following new version of the provision, adding reprogramming and transfer standards and addressing previous denials of funding, was incorporated in the Intelligence Authorization Act for fiscal year 1984 (Public Law 98–215):

> During fiscal year 1984, funds may not be made available for any intelligence or intelligence-related activity unless such funds have been specifically authorized for such activity, or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity, except that, in no case may reprogramming or transfer authority be used by the Director of Central Intelligence or the Secretary of Defense unless for higher priority intelligence or intelligence-related activities, based on unforeseen requirements, than those for which funds were originally authorized, and in no case where the intelligence or intelligence-related activity for which funds were requested has been denied by Congress.

The Intelligence Authorization Act for fiscal year 1985 (Public Law 98–618) repeated the previous year's provision. The Intelligence Authorization Act for fiscal year 1986 (Public Law 99–169) enacted section 502 of the National Security Act, which has since been modified and renumbered section 504.

Section 504(a)(1) allows use appropriations for an intelligence or intelligence-related activity when those funds were "specifically authorized by the Congress" for use for such activities. Section 504(a)(3) allows use for an intelligence or intelligence-related activity of appropriations "specifically authorized by the Congress" for a different activity after notification to the intelligence and appropriations committees of Congress.

Section 504(e)(3) defines "specifically authorized by the Congress" as meaning:

> (A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or
>
> (B) although funds were not formally requested, the Congress both specifically authorized that appropriation of the funds for the activity and appropriated the funds for that activity.

Paragraph 504(e)(3)(A) requires among other things that "Congress

* * * authorized the funds to be appropriated for that activity.* * *" Paragraph 504(e)(3)(B) requires among other things that "Congress * * * specifically authorized the appropriation of the funds for the activity. * * *" Thus, to fall within the scope of the phrase "specifically authorized by the Congress" used in Sections 504(a) (1) and (3), Congress must have authorized the appropriation of funds for an activity.

It was apparently the custom under the annual provisions enacted for fiscal years 1981 through 1985 to treat the concurrence of the two intelligence committees as satisfying whatever authorization requirements those annual statutes imposed. The Supreme Court's opinion in *Immigration and Naturalization Service* v. *Chadha*, 462 U.S. 919 (1983), the legislative veto case, was issued in the middle of this series of changes in the annual intelligence authorization acts.

As Chadha makes clear, aside from several special cases—Senate consent to nominations, Senate consent to treaties, impeachment and trial of impeachment, resolutions proposing constitutional amendments, and the internal functioning of the two Houses of Congress—the Congress takes actions of binding legal force only in one way: by both Houses passing bills or resolutions in identical form that are presented to the President and become law in the prescribed constitutional mode. Actions by the two intelligence committees of the Congress, however important they surely are as a matter of comity, practice, and politics between the executive and legislative branches, can have no legal effect in and of themselves. No law can invest in the two intelligence committees the power as a matter of law to allow by their concurrence or disallow by their nonconcurrence the obligation or expenditure of appropriated funds by the executive branch. A law that did so would be unconstitutional under the principles enunciated by the Supreme Court in Chadha.

Statutes are construed whenever possible to avoid constitutional infirmity; thus section 504 may not be construed as enacting a regime by which as a matter of law the two intelligence committees of the Congress can authorize the appropriation of funds, such as the authorization required by law for the obligation and expenditure of funds for intelligence and intelligence-related activities under section 504(a) (1) and (3) of the National Security Act. Accordingly, the requirements established by sections 504(e)(3) (A) and (B), (a)(1) and (a)(3) that Congress have authorized the appropriation of funds can be satisfied only by enactment of a law that authorizes the appropriation of the funds.

In construing statutes, the texts of those statutes are the strongest and clearest expression of what Congress understood and intended with those statutes. The provisions now numbered section 504(a)(1) and 504(a)(3) of the National Security Act were originally enacted as Section 502(a)(1) and 502(a)(3) of that Act by section 401(a) of the Intelligence Authorization Act for Fiscal Year 1986 (Public Law 99-169, December 4, 1985). Section 401(c) of that Intelligence Authorization Act stated:

> The amendment made by section 401(a) of this Act shall not apply with respect to funds appropriated to the Director of Central Intelligence under the heading "ENHANCED SECURITY COUNTERMEASURES CAPABILITIES" in the Supplemental Appropriations Act, 1985 (Public Law 99-88).

In enacting section 502 prohibiting the use of appropriated funds unless such use is "specifically authorized by the Congress," Congress found it necessary to include a statutory provision that rendered section 502 inapplicable with respect to the funds appropriated by the Supplemental Appropriations Act for an intelligence activity for which there was no statute authorizing the appropriation of funds for that activity. Thus, in the very statute enacting section 502, Congress recognized that appropriations made for an intelligence activity for which there was not a statutory authorization could not be used unless the statutory authorization requirement of section 502 was overridden by statute.

The subsequent practice of the Congress as a whole in enacting statutes—as distinct from the subsequent practices, of necessity in secret, of the two intelligence committees of Congress reflected in letters to the Director of Central Intelligence—also reflected recognition by the Congress that appropriations could not be used for intelligence activities unless either a statute authorizing appropriation of the funds for the activities was enacted or a statute overriding section 504 (previously section 502) was enacted. Thus, when Congress passed resolutions continuing appropriations in the absence of regular appropriations bills when a new fiscal year arrived prior to enactment of the annual intelligence authorization act—as occurred in fiscal years 1988 (see Public Laws 100-120 and 100-178), 1990 (see Public Laws 101-100 and 101-193), 1991 (see Public Laws 101-403 and 102-88), 1992 (see Public Laws 102-109 and 102-183), and 1993 (see Public Laws 102-376 and 102-496)—it included in the continuing resolution a provision waiving the applicability of section 504(a)(1), or its predecessor section 502(a)(1). Indeed, the continuing resolution for fiscal year 1994 (H.J. Res. 267, 103d Cong.), passed just days ago in the absence of annual intelligence authorization act for fiscal year 1994, contains such a waiver of section 504(a)(1). This consistent action of the Congress reflects recognition that funds made available by the continuing appropriations resolutions could not have been used for intelligence activities absent the waiver of the statutory authorization requirement in section 504.

Although the texts of the relevant statute and applicable principles of constitutional law and statutory interpretation dispose of the question of the meaning of the phrase "specifically authorized by the Congress" as used in section 504 (a)(1) and (a)(3), a review of the legislative history of section 504 is of interest, recognizing the limits to the value of legislative history in interpreting statutes (see Blum versus Stenson, 465 U.S. 886, 896-97(1984) on use of legislative history and Blanchard versus Bergeron, 489 U.S. 87, 97-100 (Scalia, J. concurring in the judgment) on misuse of legislative history). While the House report accompanying the initial version of the provision states that the provision "codifies a section which has long appeared in the annual intelligence authorization acts" (H. Rept. 99-106, pt. I, p.7)—which begs the question of statutory interpretation of the meaning of "specifically authorized" in those earlier statutes—the same passage in the report refers repeatedly to funding being "specifically authorized" without discussing how Congress would be required to manifest that specific authorization. The relevant discussion in the conference report statement of managers also is of little help in determining the meaning of "specifically authorized by Congress," because it, too, fails to discuss how such authorization would be required to be manifested. However, when the conference report—that is, the final version of the legislation in the form in which it was presented to the President—was considered on the House floor the then-chairman of the House Intelligence Committee, Mr. Hamilton of Indiana, specifically stated that section 502 (now modified and renumbered section 504) "requires that all funds spent for intelligence activities have been specifically authorized by law." (131 Cong. Rec. 32346, November 19, 1985) (emphasis added). Thus, to whatever extent the legislative history may be of significance on the specific issue of interpreting the phrase "specifically authorized by the Congress" in section 504, it supports the proposition that it means specifically authorized by the Congress through enactment of a statute authorizing appropriations.

For the foregoing reasons meeting the requirement of section 504 (a)(1), (a)(3), and (e)(3) that appropriated funds have been "specifically authorized by the Congress" requires that Congress have specifically authorized the appropriation of the funds by enactment of a law.

Section 504 of the National Security Act is, of course, simply one statute—it is not an immutable super-statute. Congress may, and normally does, choose to enact an annual intelligence authorization bill to meet the authorization requirements of section 504, but Congress may instead by another statute simply override the statutory authorization requirements of section 504. When two statutes address the same subject, every effort is made to interpret the two statutes harmoniously so that each may be given effect. If they cannot be read harmoniously, however—that is, if they are in direct conflict—the later-enacted statute prevails. Thus, for example, if an appropriations act were enacted providing that funds are appropriated for an intelligence activity and "shall be obligated notwithstanding any other law" or "shall be obligated notwithstanding section 504 of the National Security Act," the requirements in section 504(a) of the National Security Act would be inapplicable, because there would be a clear conflict between the provisions of section 504(a) and the appropriations act's mandated obligation of appropriations without regard to section 504, in which case the later-enacted appropriations act would prevail. Such a conflict between a provision in an appropriations act and section 504 does not often arise and thus the requirements of section 504(a) (1) and (3) have only rarely been displaced by another law, such as by a waiver of section 504 in a continuing appropriations resolution enacted in the absence of enactment of an annual authorization act covering intelligence and intelligence-related activities.

CORRECTION OF THE PROBLEM: ADJUSTING THE LAW TO REFLECT PRACTICE

Section 504 requires in most circumstances that, if appropriations are to be used for an intelligence or intelligence-related activity, a statute must have specifically authorized use of the funds for such an activity. Normally, that is accomplished through enactment of the annual intelligence authorization act. However, situations arise in which the Director of Central Intelligence seeks to obligate appropriated funds for an intelligence or intelligence-related activity in excess of or in the absence of a statute authorization appropriation of the funds. In such cases, to meet the requirements of section 504 that the funds have been "specifically authorized by the Congress," enactment of a supplemental authorization statute) would be necessary.

Prior to enactment of section 504 of the National Security Act, Congress enacted supplemental authorization statutes in several instances, as part of the annual intelligence authorization acts for fiscal years 1980 (Public Law 96-100), 1982 (Public Law 97-89), and 1983 (Public Law 97-269). Supplemental authorization provisions enacted as part of the annual intelligence authorization act can satisfy section 504 to allow the executive branch to use appropriations in excess of prior authorization statutes if the annual intelligence authorization act incorporating the supplemental authorization is enacted during the period of availability of the appropriations set by the applicable appropriations statute. As a practical matter, given the timing of the Congressional funding process, an intelligence authorization act for a fiscal year often is not enacted until the fiscal year has commenced and the appropriations made for the preceding fiscal year for the most part have lapsed. Thus, merely making it the routine practice of Congress to include a supplemental authorization title for the preceding fiscal year in the annual intelligence authorization act generally will not be an effective means of satisfying in a timely fashion the "specifically authorized by the Congress" requirements of section 504 in situations in which it is desired that appropriations be obligated in excess of prior authorizations for intelligence or intelligence-related activities.

Another alternative for satisfying section 504 in seeking to obligate appropriations for an intelligence or intelligence-related activity in excess of or in the absence of an amount authorized for it by an annual authorization act would be the enactment of a separate supplemental intelligence authorization statute for that year. Executive branch requests to obligate appropriations in excess of or in the absence of authorization, including in reprogramming and transfer situations, may occur several times in a fiscal year and without much advance warning. It might prove to be an unreasonable burden on the Congress and might hamper the conduct of intelligence and intelligence-related activities if Congress were required to enact a supplemental statute authorizing appropriations each time the executive branch proposes to use appropriations in excess of or in the absence of authorization for an intelligence or intelligence-related activity, or to reprogram or transfer funds appropriated but not authorized for one intelligence or intelligence-related activity and use them for a different intelligence or intelligence-related activity.

The approach that best serves the executive branch need for flexibility, the legislative branch need to conduct intelligence oversight, and the overriding imperative of compliance with the laws governing intelligence activities is to remove the requirement for a statutory authorization in situations involving appropriations in excess of or in the absence of authorization, or transfers or reprogrammings to use funds appropriated in the absence of authorization, and to substitute instead a statutory requirement for congressional notification to use such funds, but with the continued non-statutory understanding that the executive branch will not proceed to use such funds until it obtains intelligence committee concurrence. The willingness of the Congress to go forward on this basis is, of course, directly dependent upon faithful executive branch observance of the longstanding practice of obtaining the concurrence of the appropriate committees of Congress prior to proceeding with the use of appropriated funds for an intelligence or intelligence-related activity for which the funds were not authorized. Advance notification under section 504 as required by the bill would provide the appropriate committees of Congress the opportunity to express, according to their respective committee rules and practices, to the executive branch their respective views of concurrence, objection, or advice relating to proposed funding transactions and the associated intelligence or intelligence-related activities. This approach is taken by the Intelligence Authorization Process Adjustment Act I have introduced.

In pursuing the Intelligence Authorization Process Adjustment Act, any theory that a statutory requirement for notification of the congressional intelligence committees in advance of the use of funds for intelligence or intelligence-related activities could in any way be construed as an unconstitutional condition has been considered as is rejected. Such a theory was propounded in the erroneous July 31, 1989 advisory opinion, addressing never-enacted legislation, by the Assistant Attorney General of the Office of Legal Counsel concerning notification of the intelligence committees of use of funding for certain CIA activities. The statutory requirement for advance notification is consistent with the Constitution—see Sibbach versus Wilson, 312 U.S. 1, 24).

EFFECT OF THE BILL

The Intelligence Authorization Process Adjustment Act amends section 504 of the National Security Act to provide that the executive branch may obligate funds appropriated for an intelligence or intelligence-related activity in excess of amounts authorized by law, or in the absence of such authorization, after notification to the appropriate committees of Congress. It would continue to be understood that as a matter of comity and custom—but not as a matter of law, to ensure consistency with the constitutional principles enunciated in Chadha—the executive branch will not proceed with such obligations unless the intelligence committees concur. That understanding is reflected in the language of the bill directed to the intelligence committees of the Congress relating to Committee action on executive branch notifications of intended funding actions.

The bill also makes technical amendments to the National Security Act to correct non-substantive drafting errors in section 504. The effective date of the amendments made by the bill is the first day of fiscal year 1994, October 1, 1993.

The bill is carefully crafted to achieve three goals: First, ensure compliance with the Constitution and laws of the United States in the funding and conduct of intelligence activities; second, preserve the Congress' power of the purse with respect to these sensitive activities; and third, ensure sufficient flexibility for the executive branch in the conduct of intelligence activities.

I ask unanimous consent that the text of the Intelligence Authorization Process Adjustment Act that I have introduced, and a document showing the changes in existing law that would be made by the bill, be printed in the RECORD:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intelligence Authorization Process Adjustment Act".

SEC. 2. AMENDMENTS TO SECTION 504 OF THE NATIONAL SECURITY ACT OF 1947.

(a) AMENDMENTS RELATING TO INTELLIGENCE FUNDING.—The National Security Act of 1947 is amended as follows—

(1) in subsection 504(a)—

(A) redesignate paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) insert "(1)" after "(a)";

(C) in subparagraph (1)(C) as so redesignated, redesignate sub-subparagraphs (A), (B), and (C) as sub-subparagraphs (i), (ii), and (iii), respectively;

(D) at the end of subparagraph (1)(A) as so redesignated, strike "or";

(E) at the end of subparagraph (1)(B) as so redesignated, strike "or";

(F) in subparagraph (1)(C) as so redesignated, after "different activity' insert ", or in the case of funds appropriated for such different activity in the absence of such authorization";

(G) in subsection (a)(1)(C)(ii) as so redesignated, strike "unforeseen" and insert in lieu thereof "unforeseen";

(H) at the end of subsection (a)(1)(C) as so redesignated, insert after the semicolon "or"; and

(I) strike paragraph (4) and insert in lieu thereof the following—

"(D) in the case of funds appropriated for an intelligence or intelligence-related activity either in excess of the amount specifically authorized by the Congress for that activity, or in the absence of an amount specifically authorized by the Congress for that activity, the Director of Central Intelligence, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity.

"(2) Notifications received by the appropriate congressional committees under subsections (a)(1)(C)(iii) and (a)(1)(D) shall be acted upon in accordance with the respective applicable committee procedures."; and

(2) at the end of Section 504, insert—

"(f) Nothing in subsection (a) prohibits obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of October 1, 1993.

CHANGES MADE TO SECTION 504 OF THE NATIONAL SECURITY ACT OF 1947 BY THE INTELLIGENCE AUTHORIZATION PROCESS ADJUSTMENT ACT

[Material stricken is bracketed; material added is in italics.]

* * * * *

FUNDING OF INTELLIGENCE ACTIVITIES

SEC. 504. (a)*(1)* Appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

[(1)] *(A)* those funds were specifically authorized by the Congress for use for such activities; [or]

[(2)] *(B)* in the case of funds from the Reserve for Contingencies of the Central Intelligence Agency and consistent with the provisions of section 503 of this Act concerning any significant anticipated intelligence activity, the Director of Central Intelligence has notified the appropriate congressional committees of the intent to make such funds available for such activity; [or]

[(3)] *(C)* in the case of funds specifically authorized by the Congress for a different activity, *or in the case of funds appropriated for such different activity in the absence of such authorization*—

[(A)] *(i)* the activity to be funded is a higher priority intelligence or intelligence-related activity;

[(B)] *(ii)* the need for funds for such activity is based on [unforseen] *unforeseen* requirements; and

[(C)] *(iii)* the Director of Central Intelligence, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

[(4) nothing in this subsection prohibits obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.]

(D) in the case of funds appropriated for an intelligence or intelligence-related activity either in excess of the amount specifically authorized by the Congress for that activity, or in the absence of an amount specifically authorized by the Congress for that activity, the Director of Central Intelligence, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity.

(2) Notifications received by the appropriate congressional committees under subsections (a)(1)(C)(iii) and (a)(1)(D) shall be acted upon in accordance with the respective applicable committee procedures.

(b) Funds available to an intelligence agency may not be made available for any intelligence or intelligence-related activity for which funds were denied by the Congress.

(c) No funds appropriated for, or otherwise available to, any department, agency, or entitiy of the United States Government may be expended, or may be directed to be expended, for any covert action, as defined in section 503(e), unless and until a Presidential finding required by subsection (a) of section 503 has been signed or otherwise issued in accordance with that subsection.

(d)(1) Except as otherwise specifically provided by law, funds available to an intelligence agency that are not appropriated funds may be obligated or expended for an intelligence or intelligence-related activity only if those funds are used for activities reported to the appropriate congressional committees pursuant to procedures which identify—

(A) the types of activities for which nonappropriated funds may be expended; and

(B) the circumstances under which an activity must be reported as a significant anticipated intelligence activity before such funds can be expended.

(2) Procedures for purposes of paragraph (1) shall be jointly agreed upon by the intelligence committees and, as appropriate, the Director of Central Intelligence or the Secretary of Defense.

(e) As used in this section—

(1) the term "intelligence agency" means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

(2) the term "appropriate congressional committees" means the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives and the Select Committee on Intelligence and the Committee on Appropriations of the Senate; and

(3) the term "specifically authorized by the Congress" means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

(f) Nothing in subsection (a) prohibits obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.

By Mr. BREAUX (for himself, Mr. DURENBERGER, Mr. LIEBERMAN, and Mr. NUNN):

S. 1579. A bill to contain health care costs and improve access to health care through accountable health plans and managed competition, and for other purposes; to the Committee on Finance.

MANAGED COMPETITION ACT OF 1993

Mr. DURENBERGER. Mr. President, I rise today to join my distinguished colleague, Senator BREAUX, in introducing the Managed Competition Act. This is the companion measure to a bill introduced in the House of Representatives by our colleagues JIM COOPER and FRED GRANDY. It is the first bipartisan health reform legislation to be introduced in this session of Congress.

The introduction of this bill sends a clear signal that a reform of the health care system based on market incentives—not Government regulation—will attract widespread support in the Senate.

BIPARTISANSHIP

This bill is bipartisan. When Mrs. Clinton first met with Members of the Senate, back in the early spring, I told her that health reform must be bipartisan in order to succeed.

And bipartisan does not mean just a handful of Republican votes to put a Democratic bill over the top. Bipartisan means that there is widespread support in both parties for reform of this vast enterprise that we call health in America.

It is worth noting that all health legislation during the time I have been a Member of Congress has been bipartisan. Those of us on the Senate Finance Committee have worked closely together on PPS, DRG's, RBRVS's, the Bentsen-Durenberger insurance reform and other measures. I worked with Democratic Representative DICK GEPHARDT back in the late 1970's to oppose what we both considered ill-advised attempts by the Carter administration to regulate health prices.

Over the last 3 years, I have worked closely with my Republican colleagues in the Senate Task Force on Health, led by JOHN CHAFEE—who has served as an important link among Republicans on this issue.

WHAT IS MANAGED COMPETITION?

This bill is called the Managed Competition Act. Let's be clear on what we mean by managed competition. Sometimes I think we are using the same vocabulary, but speaking different languages.

Managed competition is a simple concept. It is based on the fact that competition among providers of services for the business of informed consumers drives prices down, and drives quality and innovation up. That's the definition of a market. Under managed competition, Government is used to facilitate the market through incentives, not replace the market with regulation.

Managed competition is not a new idea. The approach reflects both my intellectual perspective and my life experience in Minnesota. For over a decade, I have been a participant in the Jackson Hole Group—a collection of health policy leaders who met regularly at Dr. Paul Ellwood's home in Wyoming to figure out how to make the health care market work better.

In fact, I introduced a market-based health reform bill as far back as 1979. The Health Incentives Reform Act, which I introduced that year, was designed to encourage the kind of competition and consumer choice that were already taking root in the Twin Cities.

And make no mistake: They were and are taking root. And that ought to lay to rest one major misconception about managed competition. Managed competition is not just a theory. It is up and working in communities all over America. Minnesota happens to be one of the leaders in competitive health care delivery systems on the managed competition model.

Minnesota's physicians, business leaders, and citizens have been active in the creation of markets ever since the Mayo brothers founded their clinic in the 1860's. The Mayo practice was the very first integrated group practice in American history—and its integrated system and team practice is a clear precursor of today's concept of an accountable health plan or an integrated service network.

Minnesota's farming roots also gave it a strong tradition of buying and selling through consumer cooperatives. The Group Health organization was founded by a consumer cooperative in 1939.

Group practices have flourished in Minnesota. And their success demonstrates that markets can work to reduce costs and improve quality. Minnesota's market is providing health care at a cost 15 percent below the national average. I recommend the record of that success to the attention of my colleagues—and to that end, I ask unanimous consent that a monograph on the subject entitled "The Minnesota Health Care Market: Competition Works" be included in the RECORD at the conclusion of my remarks.

WORKING OUT THE DETAILS OF MANAGED COMPETITION: FIRST STEPS

The health reform draft that came out of the Clinton administration, the Senate Republican task force outline, and the Breaux-Durenberger bill all grew from the same roots. They are all variants of managed competition.

However, in the process of development, they have moved in different directions. The Clinton plan contains vestiges of a competitive system—it refers, for example, to health plans and alliances—its form of consumer cooperatives. But the Clinton proposal has taken an unnecessary and dangerous turn toward overregulation, entangling the market-based institutions in layer upon layer of Government regulation and oversight.

The Clinton draft proposes what would amount to a bureaucratic nightmare—with the prospect of 51 different health care financing and delivery systems run by the States. But there is much in common between the Clinton plan and this bill today which can form the basis of bipartisan reform.

The Senate Republican task force bill is much closer to the managed competition model, but some important differences remain. I am very optimistic about the potential for cooperative efforts among supporters of the Republican task force and supporters of the Managed Competition Act. I have signed on to the Republican outline, and I am an original cosponsor of the Managed Competition Act. I hope to serve as a bridge between these two approaches, which share a common philosophical basis.

A lot of the important work on health reform is going to be done in the Senate Finance Committee. As committee members, Senator BREAUX and I hope we can be very helpful at that stage of the process.

MANAGED COMPETITION: THE PURE APPROACH

With the introduction of this bill today, we now have on the table a pure managed competition model.

It's important that we keep in mind that health reform really has two components: The first, system reform, will get us to cost containment. And the second, coverage reform, will get us to universal access.

SYSTEM REFORM

This bill does precisely what is required in terms of system reform. It will help the market change the way medicine is bought and sold.

It will establish national rules for local markets. It favors competition over regulation, recognizing that fixing the health system is an American problem that requires an American solution.

It provides for the creation of accountable health plans that will promote risk assumption—not risk avoidance—by insurers.

It contains real tax reform—no more subsidies for excessive spending on health care.

It promotes increased consumer choice—through purchasing cooperatives and insurance reform that will strengthen the small group market. Greater information on price and quality will create a sound market for buyers and sellers—and costs will be controlled through markets. When it comes to cost containment, markets work—and Government price controls don't.

MOVING TOWARD UNIVERSAL ACCESS

This bill takes responsible and important steps in the direction of universal access. It contains real reform the Medicaid—under which the Federal Government takes responsibility for the financing and design. It integrates low-income people—those at 200 percent of poverty and below—into the AHP's so they will be able to buy health care services like everyone else in America. These reforms would solve a major problem for a large segment of the market.

Under the Managed Competition Act, small businesses have the opportunity to buy into a functioning marketplace with real choices for the workers. Insurance reform—along the lines of that already passed by the Senate in the Bentsen-Durenberger bill of 1992—would also improve access to the market by eliminating rating and ensuring portability of AHP's.

Once prices have been cut—and market power increased—through insurance reform, we may have actually come far enough toward solving the problem without the need for mandatory subsidies. But we must not enact mandates until we get costs under control.

STILL TO COME

What is missing in this bill? Medicare reform. I hope to introduce a bill in the next few weeks to restructure Medicare so that senior citizens can buy AHP's instead of having to buy a different health plan at age 65 than at age 64. The whole system of part A, part B, and supplementals needs to be replaced with a more rational approach. My bill, which I am drafting with Senator DOMENICI, will do just that.

CONCLUSION

The truly historic aspect of this legislation is that it embodies a real bipartisan consensus. Most Members of the U.S. Senate are opposed to turning health care over to the Government as part of a socialized medicine scheme. And more Members are opposed to a laissez-faire market approach that doesn't really reform the dysfunctions of the current system.

The historian Arthur Schlesinger, Jr., wrote an important book called "The Vital Center." I think that only a vital center—a bipartisan approach based on the rejection of both extremes—will give the American people the health reform they demand and deserve.

Along with the cosponsors of the Managed Competition Act, I am convinced that this bill is the key vehicle for the ideals of the broad center in today's crucially important health care debate. And I think it is a harbinger of great progress toward health reform in this session of Congress.

By Mr. SPECTER (for himself and Mr. D'AMATO):

S. 1580. A bill to provide that the Employee Retirement Income Security Act of 1974 does not preempt certain State laws, and for other purposes; to the Committee on Labor and Human Resources.

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 AMENDMENT ACT OF 1993

• Mr. SPECTER. Mr. President, today I am introducing legislation to amend the Employee Retirement Income Security Act of 1974 to provide that ERISA does not preempt certain State laws. By enacting this bill, ERISA section 514(b), commonly known as the ERISA preemption, will no longer preempt three types of State and local laws: First, those providing for the payment of prevailing wages on public works projects; second, those State laws concerning apprenticeship, training and employment and third, those State laws providing for a mechanics' lien, other lien, bonding, or other security for the collection of contributions to multiemployer pension, health and welfare plans. This traditional role of State protection has been eroded by a series of court decisions holding that these laws are invalid because they conflict with, and therefore, are preempted by ERISA.

This legislation is nearly identical to a bill that passed the House in August 1992. Since that time the bill has been reintroduced as H.R. 1036 by Representative HOWARD BERMAN of California, and is currently awaiting a vote by the House within a few days. That bill is expected to pass with overwhelming bipartisan support.

Currently 31 States, including Pennsylvania, have enacted laws requiring contractors on public works projects to pay the prevailing rates of wages and benefits for the locality of the projects. However, since 1969 these laws have been struck in nine States, including New York, California, and Illinois. Workers in my home State of Pennsylvania are especially aggrieved by a recent federal court decision Keystone Chapter, Associated Builders and Contractors, Inc., versus Foley, invalidating Pennsylvania's entire prevailing rate law, rather than just the portion concerning payment of prevailing fringe benefits.

The effect of these court decisions is to leave the status of benefits for thousands of workers, particularly those in the building trades industry, in limbo due to the ERISA preemption, while contractors paying higher benefits to their employees are faced with the situation of being consistently underbid on public works projects by contractors paying substandard wages or benefits. It is necessary for Congress to take action clarifying that ERISA does not preempt these State prevailing wage laws.

The purpose of the legislation I am introducing is not to change any existing State prevailing wage law, but merely to restore to the States their traditional right to establish and oversee programs ensuring protection of those working within their respective borders. Only those State laws allowing an employer the choice of providing benefits or paying cash wages equal to the cost of the benefits to meet the prevailing rate requirement are covered.

All 50 States also have enacted laws creating apprenticeship certification and training programs. Every State has a profound interest in developing a skilled workforce, a goal achieved by the oversight of apprenticeship programs. The Clinton administration, as well as many others have recognized the need for improved worker training programs, like State-regulated apprenticeship programs. Yet, recent court decisions have declared these State laws null and void, leaving the apprenticeship programs in many States effectively destroyed.

All 50 States have mechanics' lien laws through which workers can secure payment for labor they perform on a building or other property. Mechanics' lien laws allow those in the construction and building trades a means of collecting delinquent contributions to multiemployer plans. Without this means of collection the fiscal integrity of these plans faces a serious threat. But, as with prevailing rate and apprenticeship program laws, these laws have been struck down merely because they relate to employee benefit plans covered by ERISA.

The ERISA preemption should apply only to those State laws which conflict with ERISA, specifically ERISA's goal of a uniform national approach to employee benefit regulations. The preemption should not apply to those areas where States traditionally have regulated the terms and conditions of employment for its citizens, namely, prevailing wage, apprenticeship programs and mechanics' liens. These are areas Congress never intended to address through ERISA. This legislation merely clarifies that certain areas of worker protection remain the States' domain.

In addition to the broad, bipartisan support this bill has enjoyed in the House, it is supported by the AFL-CIO, the National Association of Government Labor Officials, the National Association of Attorneys General, the National Association of State Apprenticeship Councils, and the Interstate Labor Standards Association. As this bill is the Senate companion to H.R. 1036, I expect these same groups will endorse the bill I am introducing today.

Mr. President, I therefore urge my colleagues to recognize the importance of preserving prevailing rates of wages and benefits and request the Senate's prompt consideration and enactment of this important legislation.•

ADDITIONAL COSPONSORS

S. 195

At the request of Mr. HELMS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 195, a bill to repeal the mandatory 20 percent income tax withholding on eligible rollover distributions which are not rolled over.

S. 235

At the request of Mr. REID, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 235, a bill to limit State taxation of certain pension income, and for other purposes.

S. 452

At the request of Mr. CONRAD, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 452, a bill to amend chapter 17 of title 38, United States Code, to establish a program of rural health-care clinics, and for other purposes.

S. 570

At the request of Mr. GRASSLEY, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 570, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 834

At the request of Mr. GRASSLEY, the name of the Senator from Washington

[Mr. GORTON] was added as a cosponsor of S. 834, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage area, and for other purposes.

S. 993

At the request of Mr. KEMPTHORNE, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 1037

At the request of Mrs. MURRAY, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1037, a bill to amend the Civil Rights Act of 1991 with respect to the application of such Act.

S. 1118

At the request of Mr. HATFIELD, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1118, a bill to establish an additional National Education Goal relating to parental participation in both the formal and informal education of their children, and for other purposes.

S. 1437

At the request of Mr. LAUTENBERG, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1437, a bill to amend section 1562 of title 38, United States Code, to increase the rate of pension for persons on the Medal of Honor roll.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month".

SENATE JOINT RESOLUTION 130

At the request of Mr. KEMPTHORNE, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of Senate Joint Resolution 130, a joint resolution designating October 27, 1993, as "National Unfunded Federal Mandates Day".

SENATE JOINT RESOLUTION 140

At the request of Mr. LAUTENBERG, the names of the Senator from Washington [Mrs. MURRAY], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Joint Resolution 140, a joint resolution to designate December 7, 1993, as "National Pearl Harbor Remembrance Day".

SENATE JOINT RESOLUTION 141

At the request of Mr. SARBANES, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 141, a joint resolution designating October 29, 1993, as "National Firefighters Day".

AMENDMENT NO. 1068

At the request of Mr. DOMENICI, the names of the Senator from Idaho [Mr. CRAIG], the Senator from Missouri [Mr. BOND], the Senator from Indiana [Mr. COATS], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of Amendment No. 1068 proposed to H.R. 3116, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

SENATE CONCURRENT RESOLUTION 48—RELATIVE TO THE ENROLLMENT OF THE BILL (H.R. 2403)

Mr. DECONCINI submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 48

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 2403), entitled "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes" the Clerk of the House of Representatives is requested to make the following correction:

In the matter under the heading:

"GENERAL SERVICES ADMINISTRATION
FEDERAL BUILDINGS FUND

"LIMITATIONS ON AVAILABILITY OF REVENUE"

under title IV under the heading "INDEPENDENT AGENCIES" strike out the following proviso: ": *Provided further*, That subject to the exceptions contained in the preceding proviso, in no case shall such funds be made available for any lease, line-item construction, repair, or alterations project referred to in the preceding proviso if prior to February 1, 1994, the lease, line-item construction, repair, or alterations project has been disapproved by the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works" and insert in lieu thereof ": *Provided further*, That subject to the exceptions contained in the preceding proviso, in no case shall such funds be made available for any lease, line-item construction, repair, or alterations project referred to in the preceding proviso if prior to February 1, 1994, the lease, line-item construction, repair, or alterations project has been disapproved by the House Committee on Public Works and Transportation or the Senate Committee on Environment and Public Works".

SENATE RESOLUTION 153—ORIGINAL RESOLUTION REPORTED RELATIVE TO THE ISSUANCE OF A SUBPOENA

Mr. BRYAN, from the Select Committee on Ethics, reported the following original resolution:

S. RES. 153

Whereas the Select Committee on Ethics is currently conducting a preliminary inquiry pursuant to Senate Resolution 338;

Whereas on October 20, 1993, the Select Committee on Ethics authorized the issuance of a subpoena duces tecum to Senator Bob Packwood directing him to produce forthwith certain documents to the Committee;

Whereas on October 21, 1993, Senator Bob Packwood was duly served by the Select Committee on Ethics with a subpoena duces tecum directing him to produce forthwith certain documents to the Committee;

Whereas Senator Bob Packwood has refused to comply as directed by the subpoena;

Whereas under sections 703(b) and 705 of the Ethics in Government Act of 1978, Title 2, United States Code, Sections 288b(b) and 288d (1988), the Senate Legal Counsel shall bring a civil action under Title 28, United States Code, Section 1365 (1988) to enforce a subpoena of a Senate committee when directed to do so by the adoption of a resolution by the Senate;

Whereas the Senate will have a continuing interest in the documents required to be produced by the subpoena until its final disposition of allegations of misconduct by Senator Bob Packwood before the Select Committee on Ethics: Now, therefore, be it

Resolved, That the Senate Legal Counsel shall bring a civil action in the name of the Select Committee on Ethics to enforce the Committee's subpoena to Senator Bob Packwood, and the Senate Legal Counsel shall conduct all related civil contempt proceedings.

SEC. 2. Until the final disposition by the Senate of the allegations of and information respecting misconduct by Senator Bob Packwood before the Select Committee on Ethics, the Committee is authorized to continue this action to enforce the Committee's subpoena to Senator Bob Packwood, and to report to the Senate any further resolution for the civil or criminal enforcement of the Committee's subpoena to him.

SENATE RESOLUTION 154—RELATIVE TO THE PAKISTANI ELECTIONS

Mr. PELL (for himself, Mr. HELMS, Mr. MOYNIHAN, and Mr. BROWN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 154

Whereas the United States and Pakistan have maintained close and cooperative relations over many years;

Whereas the United States has a strong interest in strengthening democracy and human rights in Pakistan;

Whereas Pakistan held elections for the National and Provincial Assemblies on October 6 and 9, 1993, respectively;

Whereas the elections were observed by independent domestic monitors and by an international delegation organized by the National Democratic Institute for International Affairs (NDI);

Whereas the NDI delegation reported that "the balloting was generally open, orderly and well-administered," that "election officials generally carried out their tasks impartially and with diligence," and that the announcement of results "generally proceeded in accordance with the law;"

Whereas the people of the United States enjoy an abiding friendship with the people of Pakistan;

Whereas the United States and Pakistan share a common interest in the promotion of stability in Pakistan and the easing of tensions in the South Asia region: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes the holding of elections on October 6 and 9, 1993, in Pakistan as an important step toward reaffirming Pakistan's democratic course;

(2) congratulates Prime Minister Benazir Bhutto on the occasion of her swearing-in on October 19, 1993;

(3) reaffirms the existing ties of friendship between the peoples of Pakistan and the United States;

(4) underscores the continuing interest of the United States in working with the government of Pakistan on issues of bilateral and regional concern.

Mr. PELL. Mr. President, today, along with Senator HELMS, Senator MOYNIHAN, and Senator BROWN, I am submitting a resolution concerning Pakistan. The resolution commends Pakistan for its recent successful exercise in democracy, and welcomes newly elected Prime Minister Benazir Bhutto to office.

On October 6 and 9, 1993, Pakistan held elections for its National and Provincial Assemblies. The elections resulted in a victory for prime Minister Bhutto—who served as Prime Minister from 1988 to 1990—and her Pakistan People's Party [PPP]. The Prime Minister was sworn in earlier this week and already is in the process of forming a new government.

Pakistan's elections, which arose out of a constitutional crisis involving Pakistan's erstwhile Prime Minister and President, should help to break the political stalemate that has gripped the country in recent years. Pakistan has spent an inordinate amount of time seeking to clarify the rights and prerogatives of its leaders, all at the expense of dealing with such difficult issues as nuclear proliferation, conflict and tensions with India, and human rights. My hope is that the new government will come to office assured of its mandate and ready to tackle these and other issues.

The elections were observed by an international team organized by the National Democratic Institute for International Affairs [NDI] and by independent domestic monitors. The NDI team consisted of observers from a broad spectrum of countries, including Western democracies and democratizing nations alike. The team reported "significant improvement" in the elections process since Pakistan's last round in 1990, and concluded that "this election provides an important opportunity to broaden popular support for and confidence in democratic governance" in Pakistan. I concur with that judgment, Mr. President, and would add that much credit is due the Pakistani military, which played a crucial role by supervising the elections and, perhaps more importantly, by remaining impartial throughout Pakistan's constitutional crisis.

This resolution underscores the Senate's support for Pakistan's reaffirmation of the democratic process. It also congratulates Prime Minister Bhutto, and expresses hope that the new government will work closely with the United States to resolve issues of bilateral concern. I believe the resolution expresses an important, positive message, and I urge my colleagues to support it.

Mr. President, I wish to thank the ranking member of the Foreign Relations Committee, Senator HELMS, and the chairman and ranking member of the Near East and South Asia Subcommittee, Senators MOYNIHAN and BROWN, for joining me in this effort. I ask unanimous consent that a copy of the preliminary statement of the NDI observer delegation appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL DEMOCRATIC INSTITUTE
FOR INTERNATIONAL AFFAIRS,
Washington, DC, October 8, 1993.

PRELIMINARY STATEMENT—NDI INTERNATIONAL OBSERVER DELEGATION TO THE PAKISTAN NATIONAL ELECTIONS

This is the preliminary statement of a 35-member international delegation that observed the October 6 National Assembly elections in Pakistan. The delegation, organized by the National Democratic Institute for International Affairs (NDI), includes parliamentarians, political party leaders, election experts and regional specialists from 17 countries in Europe, Africa, Asia, the Pacific, the Middle East, Latin America and North America.

Given the significance of these elections for the democratic future of Pakistan, it is not surprising that the elections have attracted international attention. This and other observer delegations have been welcomed by the Central Election Commission and the caretaker government, as well as by major political parties and civic organizations. Our delegation came as observers. We did not seek to supervise the elections or certify the integrity of the process. Ultimately, it is the Pakistani people who must judge the elections.

The purpose of the delegation is to demonstrate the international community's continued support for the democratic process in Pakistan. We also are here to learn from the people of Pakistan about the nature of the electoral process and its implications for the further development of Pakistan's democratic institutions.

This is NDI's third international observer delegation to Pakistan. NDI delegations also observed the 1988 and 1990 polling. Since early September, NDI has maintained a continuous presence in the country. A 10-member international team visited Pakistan September 11–17 to assess the pre-election environment and preparations for the elections. Six members of this team remained in Pakistan to continue pre-election monitoring throughout the country and prepare the visit of this delegation. The delegation was briefed extensively by these pre-election missions.

NDI carefully reviewed media coverage of the campaign leading up to the elections. It also maintained close communications with other international observer delegations as well as Pakistani nongovernmental organizations monitoring the electoral process. Members of the delegation will remain in Pakistan to observe the provincial elections and to monitor post-election developments.

The delegation's mandate included the examination of three distinct aspects of the election process: the campaign; election-day proceedings; and the tabulation of results to date. This statement is a preliminary assessment of these issues. We note that the tabulation of results and the resolution of any electoral complaints have yet to be completed. NDI will continue to closely monitor developments and will issue a more detailed report at a later date.

The delegation arrived in Pakistan on Saturday, October 2. During our stay we met with government and election officials, leaders of the major political parties, nongovernmental organizations, journalists, and others involved in the electoral process in all four provinces and in the federal capital. On election day, members of the delegation visited polling stations in rural and urban areas throughout the nation.

The delegation noted significant improvement of the pre-election environment over that of the 1990 elections. The caretaker government sought to establish an environment in which the elections would be administered impartially. Opposing parties agreed that the government successfully promoted an open, competitive process.

The electronic media provided generally balanced coverage of the campaign and access for 22 parties to present their messages directly to the public. Contesting political parties were able to communicate with the electorate through the printed press, rallies and other avenues. The printed press also enjoyed freedom in political reporting. Additional steps taken to ensure impartial election administration included the policy of transferring government officials.

The Central Election Commission (CEC) adopted new procedures that promoted the transparency of the election. These actions included providing party polling agents with signed copies of the official tally sheets, announcing results at the polling stations, promoting greater awareness of the Code of Conduct for Political Parties and accrediting independent Pakistani election monitors. The CEC also considered carefully recommendations by political parties and nongovernmental organizations and sought consensus on a number of electoral reforms.

Notwithstanding these positive developments, a number of recurring features remained only partially addressed. These include the quality of the electoral rolls, which had not been fully updated since 1991. After the elections were called, there was not enough time to remove all of the names of those who were deceased, had relocated, or were deemed "bogus" upon investigation. Concern was also expressed that some prospective new voters could not be registered because of cumbersome procedures to acquire the national identification cards. Also, the delegation noted reliable reports from numerous sources that parties and candidates often ignored legal requirements regarding campaign spending limitations as well as aspects of the Code of Conduct for Political Parties.

The delegation notes with deep regret serious incidents of violence that resulted in a number of deaths during the campaign.

The MQM(A)'s allegation of interference with its ability to contest the elections is a serious charge. However, the delegation is not in a position to judge how valid these charges were, or whether they justified the decision of the party to boycott the National

Assembly elections. The delegation regrets that the party's withdrawal apparently deprived voters of the full range of political choices. We hope that the proper authorities will investigate and act upon these and similar allegations by other parties.

An election day, the balloting was generally open, orderly and well-administered. The atmosphere in and around the polling stations was peaceful. In the polling stations observed by delegation members, election officials generally carried out their tasks impartially and with diligence. Polling agents from major contesting parties were present at voting booths, appeared to work cooperatively, and expressed confidence in the election officials' resolution of disputes. The delegation was also encouraged by the presence of independent domestic monitors organized by the Human Rights Commission of Pakistan in polling sites around the country. The counting was conducted in an expeditious and transparent manner, and the consolidation and announcement of results has generally proceeded in accordance with the law.

The delegation nonetheless noted some problems and irregularities. The most frequently observed problem was in identifying and verifying voters which, because of either inaccurate electoral rolls or possibly false ID cards, resulted in some persons not being able to vote. Other irregularities included delays in opening the polling stations and occasional ineffectiveness of the indelible ink. However, the delegation did not receive evidence that these problems were systematic or that they affected the outcome of the elections in the constituencies observed.

The delegation wishes to emphasize that we have maintained contact with the political parties throughout the pre-election and election day period. Although parties identified electoral issues that were cause for concern, at no point did they accuse the CEC, the military or the caretaker government of partisanship. Parties or candidates that alleged pre-election fraud often did not appear to be prepared to document their complaints. In addition, the delegation noted that on election day, party agents were in some instances not investigating or recording potential irregularities or challenges. The absence of such documentation hinders the parties' ability to substantiate claims of electoral abuse.

The delegation expresses serious concerns regarding the participation of women in the electoral process. As NDI noted in its report on the 1990 elections, cultural and social realities, as well as identification procedures in the polling station, make it difficult for women to vote. For example, in certain areas designated to have a polling station for women, presiding officers did not even bother to set up the facilities because of expectations that women would not come to vote. The delegation also observed significantly more confusion and disorder in women's polling places.

The active involvement of the armed forces in these elections deserves special attention. It was generally viewed by party leaders and the electorate that beyond maintaining law and order, the military's role in support of the Central Election Commission was aimed at guaranteeing the integrity of the entire process. The large-scale military presence on election day provided a calming influence. Except for isolated instances, members of the armed forces did not interfere in the process or act in an intimidating manner.

While the armed forces played a positive role in this election, it is essential that other institutions be strengthened. This would obviate the need for the military to assume extraordinary roles in the election process. These institutions include democratic political parties, active civic organizations, vigilant and independent media, a strong independent electoral commission, and a government and parliament responsive and accountable to the citizenry.

Democracy in Pakistan will only advance through tolerance, dialogue and cooperation among ruling and opposition parties alike. In this immediate post-election period and beyond, Pakistan's political leaders must reach out not only to their own supporters, but to the millions of Pakistanis who did not vote. This election provides an important opportunity to broaden popular support for and confidence in democratic governance.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT OF 1994

INOUYE AMENDMENT NO. 1075

Mr. INOUYE proposed an amendment to the bill (H.R. 3116) making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes; as follows:

On page 133, beginning of line 13, strike out the text of section 8110 in the committee amendment and insert in lieu thereof:

8110. CONVEYANCE OF KAHO'OLAWE ISLAND, HAWAII, TO THE STATE OF HAWAII.

(a) PURPOSE.—It is timely and in the interest of the United States to recognize and fulfill the commitments made on behalf of the United States to the people of Hawaii and to return to the State of Hawaii the Island of Kaho'olawe. Kaho'olawe Island is among Hawaii's historic lands and has a long, documented history of cultural and natural significance to the people of Hawaii reflected, in part, in the Island's inclusion on the National Register of Historic Places and in the longstanding interest in the return of the Island to State sovereignty, public access and use. Congress finds that control, disposition, use and management of Kaho'olawe is affected with a federal interest. It also is in the national interest and an obligation undertaken by Congress and the United States under this and other Acts, and in furtherance of the purposes of Executive Order 10436 (1953), to recognize the cultural and humanitarian value of assuring meaningful, safe use of the Island for appropriate cultural, historical, archaeological and educational purposes as determined by the State of Hawaii and to provide for the clearance or removal of unexploded ordnance and for the environmental restoration of the Island for such purposes. Congress also finds it is in the national interest and an essential element in the federal government's relationship with the State of Hawaii to ensure that the conveyance, clearance or removal of unexploded ordnance, environmental restoration, control of access to the Island and future use of the Island be undertaken in a manner consistent with the enhancement of that relationship, the Department of Defense's military mission and the Federal interest.

(b) MODEL DEMONSTRATION PROJECT.—It is in the national interest that the clearance or removal of unexploded ordnance and the environmental restoration of Kaho'olawe serve as a model demonstration project that incorporates the use of innovative technologies and remedy selection process that will expedite and economize such clearance or removal and environmental restoration while maintaining meaningful participation by affected parties and assuring the protection of human health and the environment.

(c) CONVEYANCE.—Subject to section 1(d) section 8(b) of this Act, the United States, through the Secretary of the Navy (also, hereinafter, "the Secretary"), shall convey and return, without consideration and without conditions other than those set forth in this Act, to the State of Hawaii all right, title and interest of the United States, except that interest set forth in section 2(a)(4) and section 4 of this Act, in and to that parcel of property consisting of approximately 28,776 acres of land known as Kaho'olawe Island, Hawaii and its surrounding waters. Such conveyance of title shall occur no later than 180 days from the date of enactment of this Act and the appropriation of funds for such purposes described in this Act.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of property to be conveyed under section 1(c) shall be determined by a survey that is deemed satisfactory by the State of Hawaii in consultation with the Secretary. The cost of the survey shall be borne by the Secretary, making use of funds provided pursuant to the Act.

8110(A). ORDNANCE CLEARANCE OR REMOVAL ON KAHO'OLAWE ISLAND, HAWAII.

(a) ORDNANCE CLEARANCE OR REMOVAL.—(1) Subject to section 8(b) of this Act, the Secretary of the Navy shall, in compliance with the two-tiered standard of ordnance clearance, removal, restoration and safety contained in (a)(2) of this Section,—

(A) detect and clear or remove from Kaho'olawe Island and its adjacent waters, all unexploded ordnance, the remains of exploded ordnance, and solid waste associated with such ordnance or with the use of Kaho'olawe Island by the United States for bombing training, gunnery training, or other munitions training.

(2) Kaho'olawe Island shall be restored for use in accordance with the following requirements:

(A) Tier One Restoration Area. The entire Island shall, in a manner consistent with the purposes of this Act and with the protection of surface and below surface historical and cultural sites and artifacts, be restored to a condition that is reasonably safe for human access and visitation and in accordance with standard methodologies for such restoration as determined by the Secretary in accordance with the purposes of this Act. Subsequent to the transfer to the State of Hawaii of responsibility for the control of access, as provided in section 6 of this Act, the Navy shall continue to undertake, upon the reasonable request of the State, and at regular intervals, reasonable and prudent clean-up measures using standard methodologies. With such Tier One Restoration Area, and in accordance with sections 5 and 6 of this Act, approximately 22,600 acres of the approximately 28,776 acres on the Island and submerged land in the surrounding waters to a depth of 120 feet shall be subjected to surface clearance only.

(B) Tier Two Restoration Enclaves. Enclaves within the Island, as identified in (i), (ii), (iii) and (iv) below and not exceeding approximately 6,200 acres, shall be restored to a condition that is reasonably safe for the human habitation necessary to accomplish the cultural historical, archaeological and educational purposes of this Act, to assure the uses set forth in (i), (ii), (iii), and (iv) below and in accordance with the best available technology and methodology for such restoration:

(i)(a) not more than approximately 4,700 acres for the purpose of grasslands and related uses; and (b) those locations, including trails, roads and historical, cultural and archaeological enclaves identified by the State under section 2(C), that shall not exceed an additional 1,400 acres;

(ii) no more than three specially designated navigational channels to the Island suitable for visitation, including the adjacent shoreline area;

(iii) (a) not more than approximately 10 acres for reasonably safe, human habitation sites, as defined in (B) of this Section, that shall include but not be limited to the sites designated as Hanakanaia to Lae Paki, Kuheia/Kaulana, Ahupu, Hakioawa, Pu'u Moaulanui, Seagull Station, Kamohio Station, Halona Station, Honokoa, and Kanapou; and (b) approximately 47 acres of reservoirs designated as Lua Kealialalo, Lua Kealialuna and Lua Makika; and

(iv) approximately 5 acres on not more than three locations to be used as heliports.

(C) Description of Tier Two Restoration Enclaves. The precise description for the Tier Two Restoration Enclaves, prepared through standard methodologies, shall be submitted to the Navy by the State of Hawaii within 180 days of the enactment of this Act. Any reasonable enlargement to the size or modification to the location of the Tier Two Restoration Enclaves shall be agreed to by the Secretary of the Navy. Such reasonable enlargement or modification shall be determined and undertaken within the time period identified in section 2(a)(3). The cost of such enlargement or modification shall be borne by the Secretary, making use only of funds provided pursuant to this Act.

(3) The Secretary shall commence the activities described in sections 2(a)(1) and (2) as soon as possible but not later than 180 days after the enactment of this Act and continue such activities in accordance with reasonable expedition until completed. Such activities required in section 2 shall be completed within 10 years of the enactment of this Act and the appropriation of funds for such activities.

(4) Notwithstanding any other provision of section 2, the Secretary shall retain the control of access to the Island, in consultation with the State of Hawaii and prior to and following the entering into force of the Memorandum of Understanding contained in Section 6 of this Act, until clearance and restoration is completed and control of access is transferred to the State of Hawaii.

(5) The Secretary shall carry out the requirements of section 2 following consultation with the State of Hawaii as required by Section 6 of this Act and with the technical and logistical support, as needed, of the United States Army Corps of Engineers and other federal agencies.

(6) No federal permit shall be required by the United States, its departments, agencies or instrumentalities for any portion of the removal, restoration and cleanup work pursuant to the Act and conducted entirely on Kaho'olawe Island or in its adjacent waters.

(7) Except as provided in section 4 regarding liability and in section 3 regarding the completion of activities and in section 2(a)(2)(A) regarding regular interval cleanups and new discoveries of previously undetected ordnance, the Secretary's obligations and responsibilities under this Act shall terminate 10 years after the enactment of this Act.

8110(B). ENVIRONMENTAL REMEDIATION OF KAHO'OLAWE ISLAND, HAWAII AND ADJACENT WATERS.

(a) Assessment of Additional Environmental Cleanup for Hazardous and Other Substances.—(1)(A) Not later than 365 days after the date of the enactment of this Act, the Secretary of the Navy shall complete, in cooperation with the State of Hawaii, such studies and appraisals as are necessary to identify the type, quantity, and estimated costs of response, remediation and removal of the hazardous substances other than exploded and unexploded ordnance and other substances, refuse and waste, if any, that are located—

(i) on Kaho'olawe Island; and

(ii) in the waters adjacent to Kaho'olawe Island.

(B) The cost of the studies and appraisals referred to in section 3(a)(1)(A) shall be borne by the Secretary, making use of funds provided pursuant to this Act.

(b) Remediation of Hazardous and Environmental Substances.—(1)(A) In furtherance of the purposes of this Act and in recognition of the clearance, removal and environmental remediation obligations imposed by this Act, and that the aforementioned activities are considered a model demonstration project, Kaho'olawe Island is exempt from placement on the National Priorities List. Notwithstanding that conveyance of title to Kaho'olawe Island to the State of Hawaii shall precede clearance or removal and environmental remediation, upon the completion of the studies and appraisals referred to in section 3(a)(1)(A), the Navy shall carry out remediation, clean-up and responses to the hazardous substances and other substances, refuse and waste located on Kaho'olawe Island and in the waters adjacent to Kaho'olawe Island (as identified in such studies and appraisals) that are necessary to protect human health and the environment. The remedies for such clean-up, remediation and responses shall be selected by the Secretary in consultation with the State and in accordance with the purposes of this Act and shall be commenced and completed within the time period identified in section 2(a)(3) of this Act for the removal of ordnance. The cost of such clean-up, remediation and responses shall be borne by the Secretary, making use of funds provided pursuant to this Act.

(2) In this Act, the terms "response," "removal," "remediation" and "hazardous substance" have the meanings given such terms in 42 U.S.C. 9601(14), (23), (24) and (25).

(c) Responsibility and Liability to Conduct Response, Cleanup and Remediation Activities.—(1) Notwithstanding the duties and obligations set forth in this Act and notwithstanding the conveyance required under section 1, the State of Hawaii shall not be liable and responsible for the conduct of any clean-up and response actions arising from and relating to the use and environmental remediation of Kaho'olawe Island and its adjacent waters by the United States that, through federal court order, may be held applicable to Kaho'olawe Island.

8110(C). INDEMNIFICATION AND THE CONTROL OF ACCESS.

(a) The Navy shall retain control of the access to the Island during the time period set forth in section 2(a)(3) that it is undertaking unexploded ordnance removal and hazardous materials removal activities required in section 2 of this Act.

(b) During the time period the United States retains control of access to the Island, the United States shall hold harmless, defend and indemnify the State of Hawaii or its political subdivisions from and against all claims, demands, losses, damages, liens, liabilities, injuries, deaths, penalties, fines, law suits and other proceedings, judgments, awards and reasonable costs and expenses arising out of, or in any manner predicated upon, the presence, release or theretened release of any munitions, exploded or unexploded ordnance, solid waste associated with such ordnance or hazardous substance, pollutant or contaminant resulting from the activities of the Department of Defense, including the activities of the Department of the Navy and the Department of the Army and any agent, employee, lessee, licensee, independent contractor or other person on the property during such time that the property was and remains under the control of the Department of Defense, Navy, Army or other agencies of the United States Government.

(c) Nothing in this Act is intended to alter or affect the federal or state requirements of law governing liability following the transfer of control of access to the State of Hawaii, except that the United States shall activities required under this Act in the same manner as if the United States engaged in the performance of the tasks delegated to its contractors.

8110(D). LONG TERM PLANNING AND ENVIRONMENTAL RESTORATION ACTIVITIES OF THE STATE OF HAWAII.

(a)(1) Subject to section 8(b) of this Act, the Secretary is authorized to provide $45,000,000 to the State of Hawaii for the purpose of implementation by the State of (i) long term planning (ii) environmental restoration activities and (iii) the terms and conditions set forth in the Memorandum of Understanding required by section 6 of this Act, concerning Kaho'olawe Island and its adjacent waters. Such funds as are provided by the Secretary for the purpose of carrying out this section shall be made available to the State by the Secretary from funds made available pursuant to this Act and shall be provided to the State of Hawaii following the submission of a plan containing the elements identified in (a)(2) of this section.

(2) The State of Hawaii shall use the funds made available pursuant to this section for the purposes of carrying out long term planning and environmental restoration activities, consistent with the purposes of this Act, on Kaho'olawe Island, including—

(A) soil conservation and water resource development;

(B) erosion abatement (including reforestation and revegetation);

(C) stabilization, restoration and securing sites of archaeological or historical significance;

(D) removal or destruction of non-native plants and animals; and

(E) precise identification of those areas subject to cleanup and removal of ordnance described in section 2 of this Act.

(3) Funds in addition to those provided pursuant to (a)(1) of this section may be provided to the State of Hawaii upon the submission of an acceptable plan containing the elements identified in (a)(2) of this section and demonstrating, to the satisfaction of the Secretary, that such funds are necessary to the proper fulfillment of such elements and the purposes of this Act. The Secretary shall have sole discretion to award such additional funds, however, the award of such funds shall not be unreasonably withheld.

8110(E). COOPERATION OF FEDERAL DEPARTMENTS AND THE STATE OF HAWAII AND TRANSFER OF CONTROL OF ACCESS.

(a)(1) Upon the request of the Secretary or the State of Hawaii, and in accordance with existing laws and requirements, any department or agency of the Federal Government may provide assistance to the Secretary or the State of Hawaii, as the case may be, in carrying out their respective duties under this Act.

(2) Within 180 days following passage of this Act the Secretary shall consult with and enter into a Memorandum of Understanding with the State of Hawaii governing the terms and conditions of (i) access to the Island for those purposes set forth in section 5 of this Act and any other cultural, archaeological, educational and planning purposes provided for in this Act, giving due regard to the risk of harm to health and safety involved in providing such access and the need to avoid interference with or disruption of the Navy's clearance, removal and remediation activities; (ii) the timing, planning and methodology of ordnance clearance or removal and hazardous substance clearance and other waste removal and the protection of historical, cultural and religious sites and artifacts, provided that all reasonable effort should be made to avoid harm to such sites and artifacts from the detonation of unexploded ordnance, clearance or removal and hazardous substance clearance; (iii) a model cleanup program emphasizing the use of innovative technology, integrative planning and expeditious implementation of remediation; (iv) the means for protecting historical, cultural and religious sites and artifacts from intentional destruction, harm and vandalism; and (v) public participation, as appropriate, including the opportunity for public comment and hearing. Under any such terms and conditions, the Secretary shall be issued full and necessary access to carry out the obligations of the Secretary arising out of the responsibilities and liabilities of this Act. Such terms and conditions shall remain in existence until the completion of the restoration and remediation activities required by section 2 of this Act and be revised periodically by mutual consent and giving due regard to the importance of access to the Island as the level of cleanup, restoration and remediation moves toward attainment. Nothing in this Act is intended to diminish or alter the rights and responsibilities of the Navy to allow access to the Island that existed prior to the enactment of this Act.

(3) The United States, through the Secretary of the Navy, shall transfer the control of access to the State of Hawaii within no more than 10 years from the date of enactment of this Act or when the activities required by this Act, including ordnance clearance or removal activities in section 2 and the environmental remediation activities in section 3 are completed, whichever comes first.

8110(F). KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION TRUST FUND.

(a) There is established on the books of the Treasury of the United States a fund to be known as the "Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund" (hereinafter in this subsection referred to as the "Fund"). The Fund shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to pay the obligations incurred by the Secretary of the Navy or the Department of Defense in carrying out the purposes of this Act and for properly allocable costs of the Federal Government in the administration of the Fund.

(b) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Amounts paid into the Fund from any source.

(2) Any amount appropriated to the Fund.

(3) Any return on investment of the assets of the Fund.

(c) To the extent provided in appropriation Acts, the assets of the Fund shall be available for obligation by the Secretary of the Navy to carry out the purposes of this Act.

(d) There is authorized to be appropriated into the Fund $400,000,000, which may be appropriated as a lump sum or in annual increments. Of the amounts deposited into the Fund, not less than eleven percent shall be made available to the State of Hawaii to carry out the provisions of section 5(a)(1) of this Act.

(e) Amounts appropriated to the Fund shall remain available until obligated or until the Fund is terminated.

(f) Upon payment of all incremental costs associated with the purposes for which the Fund is established, the Fund shall be terminated.

8110(G). APPLICABLE LAW AND JUDICIAL REVIEW.

(a) Federal Courts shall have jurisdiction only to enforce the terms, conditions and provisions of this Act, regarding the activities, duties, and responsibilities in this Act occurring on the Island of Kaho'olawe and in its adjacent waters. Only such terms, conditions and provisions will govern judicial review of the conduct of the United States, its departments, agencies and instrumentalities with regard to any actions arising from or related to the conveyance of Kaho'olawe Island to the State of Hawaii and the clearance or removal and remediation of unexploded and exploded ordnance and the remediation of hazardous substances and other wastes on the Island and its adjacent waters and for the other obligations, duties and purposes set forth in this Act.

(b) The provisions of this Act shall be carried out notwithstanding any other provision of law.

(c) Any person, as defined in 42 U.S.C. 9601(21), may bring an action against the United States, its departments, agencies and instrumentalities to require compliance with the terms of this Act and the obligations of the United States, its departments, agencies and instrumentalities under the Memorandum of Understanding required by section 6 of this Act. Such action shall be commenced no earlier than the 60th day following the date on which the plaintiff gives notice in writing to the Attorney General, the Secretary and other department, agency or instrumentality that the plaintiff will commence such action. Such action shall be brought in the district court for the district in which the alleged violation occurred. In any action under this Section, the United States or the State, or both, if not a party may intervene as a matter of right. The United States, its departments, agencies and instrumentalities shall be subject to only such injunctive relief as may be imposed by the court to enforce compliance with the terms of this Act and the Memorandum of Understanding. Such compliance shall be enforced giving due regard to the need for expeditious clean-up under the terms and conditions of this Act.

8110(H). ANNUAL REPORT TO CONGRESS.

(*1*)(a) The Secretary shall submit annually a Report, in detail, describing compliance with the provisions of this Act. Such Report shall include the comments of the State of Hawaii and be submitted to the Defense Committees of Congress.

GRASSLEY (AND OTHERS) AMENDMENT NO. 1076

Mr. GRASSLEY (for himself, Mr. BROWN, and Mr. BURNS) proposed an amendment to the bill H.R. 3116, supra; as follows:

On page 68, line 20, after "law," insert the following: "the Secretary of the Navy may not obligate funds after December 31, 1993, for entering into any sealift contract or charter under which the Secretary, as determined by the Secretary, is to pay, either directly or indirectly through a contractor or subcontractor, compensation (including regular rate pay, overtime rate pay, and other pay-related benefits) with respect to a seaman billet at a total cost that exceeds the total cost to the Federal Government of the compensation that is provided by the Federal Government with respect to a comparable military billet reserved for, or filled by, a member of the Armed Forces of the United States,".

NUNN (AND OTHERS) AMENDMENT NO. 1077

Mr. INOUYE (for Mr. NUNN, for himself, Mr. THURMOND, Mr. BINGAMAN, and Mr. SMITH) proposed an amendment to the bill H.R. 3116, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . Of the funds appropriated for title III of this Act, $50,000,000 shall be made available for obligation until September 30, 1996 for the Department of Defense Pilot Mentor-Protege Program, pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note), as amended: *Provided*, That funds made available may be used by a military service or a Defense agency to reimburse costs incurred by a contractor (or subcontractor) under an approved contract line item for the provision of mentoring assistance pursuant to an approved Mentor-Protege Program developmental assistance agreement.

WARNER (AND KERRY) AMENDMENT NO. 1078

Mr. WARNER (for himself and Mr. KERRY) proposed an amendment to the bill H.R. 3116, supra; as follows:

On page 45, line 15, before the period, insert ": *Provided further*, That of the funds appropriated under this heading, $4,600,000 shall be made available only for the design and demonstration of the Yankee Methanol Plantship".

LAUTENBERG (AND SIMON) AMENDMENT NO. 1079

Mr. LAUTENBERG (for himself and Mr. SIMON) proposed an amendment to the bill H.R. 3116, supra; as follows:

On page 16, strike out line 19 and all that follows through line 12 on page 17.

D'AMATO (AND OTHERS) AMENDMENT NO. 1080

Mr. STEVENS (for Mr. D'AMATO, for himself, Mr. DOLE, and Mr. MOYNIHAN) proposed an amendment to the bill H.R. 3116, supra; as follows:

Insert at the appropriate place:

"SEC. . It is the sense of the Congress that the United States Department of Justice should investigate whether any Federal criminal civil rights laws were violated as a result of (1) the murder of Yankel Rosenbaum on August 19, 1991, and (2) the circumstances surrounding the murder and accompanying riots in Crown Heights."

NOTICES OF HEARINGS

NOTICE OF ADDITION TO HEARING SCHEDULE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that an additional measure has been added to the hearing previously announced for October 27, 1993, before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources. The additional measure to be considered is S. 1574, a bill to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes.

The hearing will take place on Wednesday, October 27, 1993, beginning at 2 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

For further information regarding this hearing, please contact Dionne Thompson of the subcommittee staff at (202) 224–5925.

NOTICE OF HEARING TIME CHANGE

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. AKAKA. Mr. President, I would like to announce for my colleagues and the public that the oversight hearing scheduled before the Subcommittee on Mineral Resources Development and Production will now take place at 9:30 a.m. The hearing previously had been scheduled for 2 p.m.

The purpose of the hearing is to receive testimony on ocean mining technology.

The hearing will take place on Thursday, November 4, 1993, 9:30 a.m. at in room SD–366 of the Dirksen Senate Office Building, First and C Streets NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Heather Hart.

For further information, please contact Lisa Vehmas of the subcommittee staff at (202) 224–7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on October 21, 1993, at 10 a.m. on NAFTA implementing legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., October 21, 1993, to receive testimony on S. 447, the Insular Areas Policy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to continue consideration of legislation authorizing the fiscal year 1994 and 1995 budget for the U.S. Customs Service and of recommendations for legislation to implement the North American Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, October 21, 1993, at 9:30 a.m. to hold a nomination hearing on Victor Tomseth, to be Ambassador to Laos.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on legislative issues related to the regulation of dietary supplements, during the session of the Senate on October 21, 1993, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR REGULATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air and Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, October 21, beginning at 9:30 a.m., to conduct a hearing on the implementation of the acid rain provisions of the Clean Air Act Amendments of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS AND THE HUMANITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources, Subcommittee on Education, Arts and the Humanities be authorized to meet on October 21, 1993, at 9 a.m., for an executive session to consider S. 285, Office of Educational Research and Improvement Reauthorization Act, and S. 1125, Safe School Act of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON JUVENILE JUSTICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Juvenile Justice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, October 21, 1993, at 9:30 a.m., to hold a markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Thursday, October 21, 1993, at 10 a.m. to conduct a hearing on the accounting treatment of employee stock options.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CHINA TRIP REPORT

• Mr. BAUCUS. Mr. President, last August I visited the People's Republic of China and Hong Kong, accompanied by a group of Montana business executives. During this trip, I met with an array of senior Chinese officials, including President Jiang Zemin. In these meetings I discussed environmental protection, human rights, trade issues, and prospects for China's most-favored-nation tariff status.

One week ago I completed a formal report on the trip, which I have submitted to Members of Congress, administration officials and others concerned with American policy toward China. It reviews the meetings I held in Beijing, Chengdu, Lhasa, Hong Kong, Guangzhou, and Shenzhen, and makes some recommendations on our policies regarding MFN status, human rights, the environment, weapons proliferation, and trade.

I would like to share this report with all Members of Congress who have an interest in these issues, and thus ask that the report be printed in the RECORD.

The report follows:

CHINA TRIP REPORT OF SENATOR MAX BAUCUS

(Covering Visits to Beijing, Chengdu, Lhasa, Hong Kong, Guangzhou, and Shenzhen, August 15-28, 1993)

EXECUTIVE SUMMARY

Last August I visited China, stopping in Beijing, Chengdu, Lhasa, Guangzhou and Shenzhen to meet senior Chinese national, provincial and municipal officials. I also spoke with elected and appointed officials in Japan, Hong Kong, exiled dissidents and leaders of the Japanese, Chinese, Hong Kong and US business communities.

My goals on the trip were as follows:

To stress to Chinese officials the importance of meeting the President's MFN conditions;

To seek opportunities for cooperation in environmental protection;

To push for a more balanced trade relationship; and

To discuss human rights issues, including both broad questions and individual priority cases.

My conversations led me to four major conclusions:

1. *MFN Conditions*—First, my stay reinforced my view that US-China promotes human rights and environmental protection as well as prosperity. Trade and economic reform have made Chinese citizens freer today than at any time since communist rule in China began, and I believe economic growth is making political change inevitable. Revoking MFN would retard this process and damage the American and Chinese economies. If China meets the MFN conditions President Clinton imposed last May, I would urge that we avoid renewed or additional conditions next year.

2. *Environment*—Second, the environment should become as central to our China policy as trade, security and human rights. China is entering an environmental crisis that will affect the whole world, and if we are to help avert a catastrophe we must make scientific cooperation, environmental aid and sales of environmental technology a top priority.

3. *Human Rights*—Pressure for human rights is effective. If my experience is a guide, Chinese leaders have become willing to discuss broad issues and accept appeals for individual prisoners without protesting it as "interference in internal affairs." And there is no doubt that individual prisoners of conscience benefit from appeals by the U.S. government, non-governmental organizations and private citizens.

4. *Trade*—Trade with China will grow more quickly if we press on market access, intellectual property rights and barriers to agricultural products. However, most American business leaders I met said that US government actions like threats to MFN and bans on trade development aid—not Chinese protectionism—are the most significant barriers to the Chinese market.

Engagement With China—

Transcending these individual issues, however, is the imperative that we remain engaged with China. Twenty-five years ago, Mike Mansfield gave the first Mansfield Lecture on International Affairs at the University of Montana. He spoke about American policy toward China, calling it "the great void in the foreign relations of this nation." In that era, we tried to isolate China by refusing to recognize the Chinese government, banning American private travel to China, and imposing a unilateral embargo on trade with China.

Senator Mansfield concluded that the policy was a failure; it did not make the Chinese government more democratic, more respectful of human rights, or more responsible in foreign policy. It would not improve China's record on human rights, it would not open the Chinese market, it would not end the sale of advanced weapons to unstable countries, and it would not protect the environment. And today, unlike 1968, it would have serious consequences for our economy.

During my visit I told Chinese officials, as an opponent of legislative conditions on Most Favored Nation status, that the conditions President Clinton placed on MFN status this May were achievable and were not designed to provoke a crisis; but that they are also serious conditions. My hosts received me hospitably and discussed this and other sensitive issues without rancor. I believe they understand this message and are prepared to take some steps to meet the conditions.

But four months have gone by, and I would say that at this point, China has not made the "overall significant progress" required by the Executive Order. If this is still the case next May, we will face a difficult and painful decision.

In the coming months, all concerned with China policy—whether in government, human rights and environmental groups, academia or business—must stress the need for further steps on the conditions. And next year, we should resist the temptation to impose conditions beyond those of the Jackson-Vanik Amendment. Instead, as Ambassador Burton Levin told me in Hong Kong, we should recognize that trade is already contributing to freedom and reform in China. And we should let it continue to do so.

TRIP REPORT

I. Introduction

This August I visited Japan, China, Hong Kong and Singapore, accompanied by a delegation of Montana business executives and two staff members. The trip centered on an eleven-day visit to China, beginning August 18th and ending on the 28th. This visit included stops in Beijing, Chengdu, Lhasa, Hong Kong, Guangzhou and Shenzhen.

A. *Trip Goals:*

My goals were as follows:

(1) to stress to Chinese officials the importance of meeting the President's MFN conditions;

(2) to seek opportunities for cooperation in trade and environmental protection;

(3) to push for a more balanced trade relationship; and

(4) to discuss human rights issues, including both broad questions and individual priority cases.

B. *Conclusions*—

The central conclusion I drew from this trip is that, for reasons of national interest and sound policy, the United States must remain engaged in Asia in general and China in particular. Failure to remain engaged would harm our interests in terms of economic and commercial goals, environmental protection, national security and human rights.

More specifically, I make four recommendations:

1. *MFN Conditions*—First, MFN status is good for both America and China. The commercial benefits of trade with China for the United States are obvious; and open trade promotes human rights as well as prosperity in China. President Clinton imposed achievable conditions on China's MFN status last June, and should hold China to those conditions. But if China meets them this year, I do not believe it would be in our interest, or serve the cause of human rights in China, to renew the Executive Order or impose new conditions.

2. *Environment*—Second, environmental protection must become as important a part of our China policy as human rights, security and trade. China is undergoing an environmental crisis as spectacular as its economic growth. We must make scientific cooperation and sale of environmental technology a top priority. To this end, we should immediately end restrictions on environmental aid to China.

3. *Human Rights*—Pressure for human rights is important and appropriate. U.S. advocacy of human rights has helped win freedom for individual dissidents and put human rights permanently on the international agenda. If my experience is a guide, Chinese leaders have become willing to discuss the issue, accept appeals for individual prisoners, and discuss the Tibetan question without protesting on the grounds of "interference in internal affairs." The problems are real, we can win improvements, and we should continue to push for them.

4. *Trade*—The economic benefits of US-China trade are already important, and will grow it we continue to press on market access, intellectual property rights and barriers to farm products. But U.S. business considers US government actions like the MFN conditions and bans on trade development aid—not Chinese protectionism—the most significant barrier to the Chinese market. Progress on exports will remain slow if we continue these policies indefinitely.

A more detailed discussion of these issues and several other questions follows.

II. MFN Status for China

One of my main goals was to stress to China's leaders the importance of meeting President Clinton's MFN conditions. I raised this with virtually every official I met. I attempted to make clear that, as an opponent of legislation to condition MFN status, I view the conditions as achievable and not designed to provoke confrontation; but also as serious conditions which may lead to revoking MFN next year. I urged the American business community to Beijing and Hong Kong to do the same.

A. *Current MFN Situation*—

I left China feeling that the people I met understood, and would take steps to meet the conditions. Time will tell whether I am correct. But as of today, I do not think China has made "overall significant progress" on the conditions in the Executive Order's second section, and may also not be in full compliance with the Memorandum of Understanding on prison labor exports.

Should this be the case next May, the President will have to decide whether to revoke MFN. Renewing MFN might damage U.S. foreign policy credibility. On the other hand, revoking it would harm both commercial interests and our long-term prospect of good relations with China. The latter may not be of overriding importance in itself, but would gravely damage prospects for cooperation on the environment, regional security issues, weapons proliferation, the UN Security Council, immigration, protecting intellectual property and other areas.

Furthermore, as trade with China grows, the cost of revoking MFN will grow with it. Year by year, it will cost more jobs and do more harm to the U.S. and Chinese economies. This would also be a blow to freedom in China. Economic growth and reform are making the lives of China's people better. Chinese people are freer to travel, meet foreigners, and in general to make decisions that affect their lives than at any time since the foundation of the People's Republic. Trade with the U.S.—thus retention of

MFN—promotes this growth of freedom; and conversely, crippling our trade would hurt it. Thus, I very strongly believe that after this year we should move beyond the MFN issue.

B. *Recommendation—*

The President's Executive Order has broad support in the United States. While it has not brought overall significant progress thus far, we should continue to hold China to its conditions. But after this year, we should not renew it or impose new conditions on Most Favored Nation status.

III. Make Environment a Top Priority

A. *The Chinese Environmental Crisis—*

China's economic growth is a well-known phenomenon. Its environmental consequences are less widely recognized. Yet the Chinese environmental crisis is as important to U.S. interests as trade, security and human rights, and it should be an equally central focus of our China policy debate. The following are only some examples of the problem:

When I visited Tokyo, MITI's Vice Minister for International Affairs told me that the sulfuric acid created by coal-fired Chinese power plants threatens not only China but Korea and Japan. Qu Geping, Chairman of the Environment Committee of the National People's Congress, agreed and said it already hurts Chinese agriculture.

By 2010, if coal power capacity grows at its projected annual rate of nearly 10%, China will become the world's largest contributor to global warming.

The Yellow Sea is seriously threatened. A foreign Service officer I met told me that the water in Dalian harbor is dyed an unnaturally brilliant blue by cobalt discharges from a local factory.

Water pollution is at crisis levels throughout China. Guangdong Governor Zhu Senlin said, for example, that only six of the twenty largest cities in his province have wastewater treatment plants.

Affluence is also causing rapid loss of biodiversity. Our current dispute over Chins's "medicinal" use of rhino horn and tiger bones is an example. Guangdong Province's legislature outlawed hunting last month to stop local restaurants from buying wild animals for expensive dinners.

Other problems are equally serious. Deng Nan and Qu Geping cited river siltation; deforestation; sewage treatment; urban smog as auto ownership grows by 12% a year; consequent high incidence of respiratory disease; noise pollution; and other areas as well.

China needs and will accept help on these problems. Mr. Qu told me China has quadrupled the proportion of GNP devoted to environmental protection since the early 1980s from 0.2% to 0.8%. But while I think the central government appreciates the gravity of the crisis—the State Science and Technology Commission has even translated Vice President Gore's book "Earth in the Balance" into Chinese—as economic reform proceeds the growing power of provinces and localities will make it harder to enforce environmental laws. An example is the recent riot in Gansu province, caused by a local factory's refusal to stop emissions of hazardous waste and the local government's inability to enforce the law. As the economy grows—even if at a lower rate than the 13.9% so far this year—the crisis will worsen.

Environmental experts like Qu Geping and Deng Nan, along with political leaders like President Jiang Zemin, Sichuan Governor Xiao Yang and Guangdong Governor Zhu Senlin agreed with this analysis. They were also eager for more scientific cooperation and purchases of mid-level environmental technologies from American firms. Deng Nan cited clean coal technology and R&D assistance as top priorities. Qu Geping suggested legal exchanges with American environmental legislators and lawyers. We should do all we can to meet these requests.

B. *Environmental Technology Sales—*

This offers American business and science an important opportunity. By promoting sales of clean power plants, waste water treatment, sewage treatment, environmental monitoring equipment and hazardous waste cleanup, we can both help protect the Asian environment and promote economic growth in America.

Some immediate opportunities include:

Power—China plans to nearly double its power capacity, from 165 gigawatts to 300 gigawatts, by the year 2000. This will mean $90 billion in capital spending. Today China's coal-powered plants produce sixteen million tons of sulfur dioxide a year. American technology can make sure this contributes as little as possible to acid rain and global warming.

Mass Transit—Fourteen Chinese cities plan to build light rail systems within the same period.

Agriculture—Sichuan Province agricultural officials told me their province suffers from runoff of pesticide residues and contamination of groundwater. To solve these problems, they expressed great interest in both low impact chemicals and non-chemical pest control technology developed by American agricultural science.

American business should take all of these very seriously. There are many more. Conversely, of course, breaking trade relations by revoking MFN would make environmental technology sales very difficult.

C. *End Restrictions on Environmental Aid to China—*

The U.S. government must make environmental cooperation and technical assistance a top priority. We already have several successful, albeit underfunded, joint US-China environmental projects. For example, EPA is working with a Chinese company in Beijing to produce an energy-efficient mass-market refrigerator that does not use chlorofluorocarbons. EPA also has joint projects with China to find ways to capture methane from coal beds for fuel, and to develop energy-efficient lighting systems for Chinese buildings.

These are important and worthwhile programs. But we also ban some forms of environmental aid, because the Agency for International Development is now forbidden from spending money in China. This means, among other things, that the Asian Environmental Partnership cannot operate in China. Hong Kong consular staff told me that Guangdong Province officials have come to the consulate for environmental advice from AEP and had to be turned away.

This ban has no good effects. It hurts US business, which loses a chance to market environmental products; ordinary Chinese people, who suffer from pollution; and Hong Kong and neighboring countries. And it does nothing to promote human rights or political reform.

As a general principle, I believe we should consider environmental assistance as a nonpolitical issue, much as we view disaster relief or medical aid. And at a time when US-China relations are dominated by rancorous conflicts over number of issues, the Administration has a chance to show a positive side to the relationship by lifting the ban on AID money for environmental purposes. I am informed that this can be done by executive action—in fact could be done before President Clinton meets President Jiang at the Seattle APEC Conference. I strongly urge the Administration to take this opportunity.

IV. Human Rights

A. *Discussions with Chinese Officials—*

I raised human rights with most of the officials I met. I gave lists of specific prisoners of conscience to President Jiang Zemin, Justice Minister Xiao Yang, and Deng Nan, all of whom accepted the appeal; and I gave a separate list of Tibetan prisoners to Tibet's Deputy Party Secretary Raidi, asking him to pass it to Party Secretary Chen Kuiyuan. I also raised broader issues, including the possibility of giving Red Cross access to prisons and abolishing "counter-revolutionary" crimes.

With few exceptions, they discussed these issues in depth and without rancor. While I won no promises of improvement, I also got no angry lectures on sovereignty or internal affairs. I also encountered some signs that changes might be possible.

Justice Minister Xiao Yang, for example, conceded that "hundreds of cases" of abuse of civil rights occur each year, although he argued that his Ministry is trying to eliminate them and has established a special investigative team on the issue. He also expressed interest in exchanging views on legal issues with American experts—in particular meeting Attorney General Reno—and said the National People's Congress has the authority to change China's prison laws to allow Red Cross visits.

B. *Discussions with Dissidents—*

I also spoke with exiled dissident leaders in Hong Kong. My talks with them indicated that while there has been no dramatic deterioration in China's treatment of dissent or in prison conditions, neither has there been any dramatic improvement since the Executive Order last May.

Many dissidents argued strongly and persuasively that American pressure on human rights has had an effect on Chinese leaders, and led to release or better treatment of many prisoners of conscience. It is very hard to believe, for example, that the release of Wei Jingsheng just before the Olympics decision would have occurred without years of action on his behalf by Chinese, American and other human rights activities.

But no dissident said revoking MFN would promote human rights or political reform. Rather, those who spoke of the issue said economic contact is good for human rights. Labor leader Han Dongfang, for example, said American companies in China can help promote worker rights and more reasonable labor-management relations. He also said that while he viewed MFN as an internal American policy issue, as a Chinese citizen he hoped China would keep its MFN status.

C. *Trade and Human Rights—*

Pressure by US government officials and private human rights groups promotes human rights in China. I strongly support President Clinton's effort to make it a more prominent part of our foreign policy, and our China policy in particular. However, we will make a tragic mistake if we fail to recognize that trade and economic engagement are not neutral—that in fact, they promote human rights and political freedom.

Former Ambassador to Burma and Hong Kong Consul General Burton Levin noted that economic reform has already given Chinese an unprecedented degree of personal freedom in daily life. He argued persuasively that in time—as in Taiwan and South Korea—trade and economic growth will help create a strong middle-class constituency for human rights and democracy.

Using MFN status as a tool may resolve some individual priority cases. That is no small accomplishment. But a genuine transformation in Chinese government can only come through internal processes. Using MFN to create these processes is unlikely to succeed. At the same time, it risks cutting off trade, hurting the economy and costing jobs in both countries, and retarding rather than promoting changes.

D. *Political Reform in China and Hong Kong*—

1. *Prospects for Political Change in China*— To this date, China's economic reform has not been matched by political reform. And China's economic performance over the past few years has made it fashionable in Asia to argue that economic reform must precede political change, and that the "Chinese model" of transition from communism is superior to the Russian model.

I do not agree. Rather, I believe failure to make political reforms ensures a fundamentally unstable political situation. This May's riot in Renshou County, just south of Chengdu, shows a possible consequence of leaving people no peaceful way to make changes in government. Should China's economic growth slow, failure to make political reforms may have serious consequences.

2. *US Options in China and Hong Kong*— There is relatively little the United States can to promote change in China proper. Our attempts to "change China" over the past century have been futile and often dangerous. But we could take at least two modest and appropriate steps.

One is proceeding with plans to expand broadcasts of accurate and unbiased news to China, through expanded VOA service or the proposed Asian Democracy Radio. The other is showing public support for democracy in Hong Kong.

As I said to the U.S. Chamber of Commerce in Hong Kong, Governor Patten's reforms are morally right and—in that they will guarantee the rule of law after 1997—make good business sense. Public support for this process from the United States, through the Hong Kong Policy Act and when appropriate elsewhere, will help.

V. Tibet

A. *Description of Tibet Visit*—

My visit to Lhasa contrasted with the other stops in almost every way. First, local authorities were plainly not eager to meet with me. I made repeated requests to meet the top official, Tibetan Communist Party Secretary Chen Kuiyuan, but was told on my first day in Lhasa that he was busy, and on the second that he was not in town. I was given only two meetings, and those were scheduled late in the afternoon on the second day of my stay.

Second, my hosts tried hard (and generally successfully) to control my movements and limit my freedom to speak informally with ordinary people. Whenever I left the hotel, in fact, police and minor local officials separated me not only from Tibetans but from my staff aides and the Chengdu consular officer who accompanied me to Lhasa.

Obviously these efforts limited the value of my stay in Lhasa. Despite this, I noted many troubling signs. There is a large military presence in and around Lhasa. At least two plainly obvious video cameras are mounted on buildings in the Barkhor area. When I was taken to visit the Jokhang Temple in central Lhasa, the market square in front of the temple was filled with plainclothes police. Tibetan Deputy Party Secretary Raidi gave me a much more hard-line view of Tibetan policy than did President Jiang Zemin, appearing to rule out not only independence for Tibet, but any modest move toward greater autonomy. All in all, it was an unsettling visit.

B. *Tibet and MFN*—

The President's Executive Order calls for "preserving the distinctive religious and cultural heritage of Tibet." On balance, I would say China is meeting this condition. There are clear efforts to renovate historic buildings like the Jokhang Temple and the Potala Palace. These employ Tibetan craftsmen and unskilled workers. Religious shrines openly display pictures of His Holiness the Dalai Lama, and merchants sell such pictures on the street. Last July China opened a dialogue with the Dalai Lama's elder brother. I am told that new monasteries are opening and accepting monks, and there were obviously fairly large numbers of monks at the Potala, the Jokhang and on the street.

It is harder for me to judge the degree of ethnic Chinese presence in Tibet. There is clearly a large Chinese presence in Lhasa. The city has many new buildings—although many of them appeared unused. There is an empty industrial park outside Lhasa. And there are many newly opened shops and restaurants. I cannot comment on the reasons for this influx or whether the Chinese government actively promotes it. But I do believe it causes great resentment among Tibetans; and if Lhasa is an example of Tibet as a whole, it is quite likely the principal threat to Tibetan culture.

C. *US Policy*—

Present U.S. policy calls for genuine autonomy for Tibet with the PRC and talks without preconditions between China and the Dalai Lama. It would be highly irresponsible, and likely damaging to the Tibetan people, if we went beyond this to give China the impression that we hope to break up the PRC. President Clinton's policy stresses concern for human and minority rights, but does not make promises we cannot fulfill. This strikes the right balance and I support it.

VI. Weapons Proliferation

I did not discuss proliferation in detail in any of my meetings, although the issue did come up in my talk with Foreign Minister Qian. However, the M-11 missile question and the *Yin He* case both came to a head while I was in China.

There was obviously a mistaken intelligence report at some point in the evolution of the *Yin He* dispute. But given this mistaken information, the Administration took appropriate action. I also endorse the sanctions imposed in retaliation for the alleged M-11 sale. It is healthy that we treated both specific cases outside the MFN framework, and I do not propose any change in our policy on the general issue of proliferation.

However, the strategic goal of nonproliferation policy is to reduce the chance of war and its bloodiness should it come, not ensure compliance with international conventions for their own sake. While it is essential to hold China to its word on these conventions, I am somewhat concerned about concentrating only on weapons of mass destruction. Chinese arms sales to Burma, Iran or other outlaw governments may be more like to cause war and suffering than, for example, the alleged M-11 missile sale to Pakistan. We should not allow the tactical goal of adherence to MTCR or other international treaties to obscure the main goal of reducing the risk of war.

VII. Trade Issues

A. *What is Right in US-China Trade*—

Our debates over US-China trade policy focus heavily on problems. That is not inappropriate, because there are many problems to solve. But we should remember the larger fact—China is the world's fastest growing major market and supports a huge number of jobs in the United States. No other country will give up this market for any reason. Neither should we.

Some statistics show how important this market is:

China's economy grew at 12.8% last year and 13.9% for the first six months of this year.

157,000 American jobs depend on exports to China. That will grow as China imports capital equipment, farm products, medical technology, aerospace and environmental products.

China now supports 5,272 U.S. investment projects.

U.S. companies pledged $8.1 billion in investment in China last year.

In the first six months of 1993, the United States exported $4 billion worth of good to China.

In 1992, American firms signed Chinese contracts worth $3.1 billion—a figure five times that of 1991.

These figures show that many things are right in US-China trade. And some of the problems that do exist are caused by the U.S. government. That said, it is clear that unfair practices on the part of China and Chinese firms contribute to a growing trade deficit, and reduce opportunities for American exports.

Based on discussions with Chinese trade officials, American commercial staff and American business leaders, I draw the following conclusions on our trade policy:

B. *MFN*—Again, the U.S. business community believes the MFN dispute is the largest single barrier to the Chinese market. Threatening MFN status makes life uncertain for U.S. business and weakens our exporters in comparison with those of other countries. If China meets the President's MFN conditions this year, the best way we can assist American exporters is to move beyond the MFN question.

C. *COCOM*—Chinese officials consistently raised our COCOM restrictions on high technology exports as a reason for the trade deficit. In actuality, however, these restrictions cover only very small percentage of potential exports. We have legitimate security concerns about Chinese sales of dangerous technology, and until we are confident that they will cease these sales, COCOM per se will not be outmoded. However, a small fraction of an annual export total of $8 billion is a significant amount of money. That fraction of our export also represents a toehold in the most rapidly expanding high-tech markets. COCOM should not be abolished, but needs thorough review and overhaul.

D. *Export Assistance*—Lack of US government export assistance also creates problems for US firms. This is the case, for example, in the bidding for the Guangzhou Metro contract. In this competition, the U.S. China Transit Group, and American consortium, is bidding for $350 million worth of business, virtually all of which would be export of U.S. manufactured goods. USCTG is at a disdvanatge because the German government can provide soft loans and training for Chinese Metro employees while the US government cannot make a comparable offer.

Export and investment assistance through the Trade Development Agency and OPIC were banned after Tiananmen Square, along with money provided under AID. That was an understandable and appropriate action at the time. However, in practice this ban has had no appreciable effect on human rights. We should seriously consider lifting it.

E. *Bolster Foreign Commercial Service*—Regardless of our decisions on OPIC and TDA, we need greater US diplomatic involvement in promoting trade. Asia as a whole, and China in particular, are the world's fastest-growing markets, and we are not paying enough attention to the commercial implications of the fact for the United States.

The Foreign Commercial Service in particular is understaffed, given China's importance as a trade partner and business opportunity. China has only eleven FCS officers—on average, one for every 100 million people. They are doing very good and important work; but they badly need reinforcement.

Six of these are in Beijing; only two in Guangzhou, the center of South China's economic boom. Hong Kong, one of the economic centers of the world, has only three FCS officers. The Chengdu consulate's commercial officer (no FCS officer is present) must also cover economic and political developments in Sichuan, Guizhou, Yunnan and Tibet. Sichua alone is as big as the combined populations of Britain and France.

F. *Market Access*—Market access remains a problem, but it seems at least highly possible that China will meet most of its October 10th deadlines for tariff cuts and publication of import regulations. I believe USTR and the Administration as a whole have made the importance of these deadlines clear to China, and I tried to reinforce that message personally in meetings with a number of Trade Ministry officials. We should continue to make clear to the Chinese that we are ready to retaliate if they do not respect these deadlines.

G. *GATT Accession*—GATT accession remains an important goal, and a valuable lever to ensure market opening. We should continue working with China to promote GATT-oriented reforms; and as I have said in the past, we should view GATT membership as a purely economic issue which should not be held hostage to political sensitivities. Just as Hong Kong is a GATT party but not a sovereign state, we should push for Taiwan's entry into GATT as soon as possible.

H. *Agricultural Trade*—Eliminating barriers to farm exports would yield immediate export benefits to the U.S., and should be a top priority. Much of this issue, in particular unscientific "inspection" regulations, is covered in the market access MOU. However, there are at least two issues in which additional pressure could help.

First, on wheat exports, the China claim that TCK smut would affect China's wheat crop is a long-standing barrier to wheat exports with no scientific justification. We should take the opportunity offered by this November's APEC conference in Seattle to ask China to eliminate it, and offer to provide scientific experts from USDA or an independent source if that would help. We should also push for the Chinese to let individual mills buy wheat rather than making all purchases through the government.

Second, we should ask for a sharp reduction in the tariff on beef. Neighboring countries maintain a tariff of about 20%. By contrast, China's effective tariff is now 70%, blocking American beef from an important and rapidly expanding market.

I. *US Policy on Textiles Appropriate*—The U.S. has rightly taken a tough approach on textile transshipment. Chinese firms take unilateral action to exceed China's quota. If they will not stop, we have no choice but to respond unilaterally.

J. *Renew Effort on Intellectual Property.*—Finally, I urge a very strong effort this year to win better enforcement of intellectual property rights, in particular copyright.

China has passed laws, as the Memorandum of Understanding requires; but has made no effort to enforce them. There is still no decision on what penalties to impose for copyright piracy. The National Copyright Administration, its enforcement arm, has only 27 people and is shrinking rather than growing. And evidence of top-level involvement in piracy is mounting. I am told, for example, that the governor of a southern province has a personal financial stake in three pirate CD factories; and that the son of a top military official and the niece of a political leader own a pirate software factory in a southern city.

Our response to China's failure to enforce these laws is a test case for other recent Special 301 "success stories" like Taiwan and Thailand. If China can evade the intent of the listing by passing a law and then failing to enforce it, these countries will be less inclined to enforce their own laws. If enforcement does not improve this year, we should consider a second Priority Foreign Country listing for China.

VIII. Conclusion

The US-China relationship involves many issues. We have common interests with China's government on economic growth, regional security and environmental protection. We have disputes on human rights, Tibetan policy, weapons proliferation and barriers to trade. And we require China's cooperation on still others, like immigration, narcotics and endangered species.

After this trip, I believe more strongly than ever that threatening trade by linking all—or indeed any—of these issues permanently to MFN status is the wrong approach. We will serve ourselves, and the Chinese people, far better if we remain engaged with China, solve our problems one by one, and work together in areas where we can do so.

Mike Mansfield made this point twenty years ago, when he gave the first Mansfield Lecture on International Affairs at the University of Montana. In that era, we tried to isolate China. We refused to recognize the Chinese government, banned private travel to China, and imposed a unilateral trade embargo on China.

Mansfield described this policy as "the great void in the foreign relations of this nation." It made the Chinese government no more democratic, no more respectful of human rights and no more responsible in foreign policy. In my opinion, reinstating a similar policy today by revoking MFN status would also fail—on environmental protection and trade as well as human rights, democracy and foreign relations. And today, unlike 1968, it would have serious consequences for our economy.

During my visit I told Chinese officials, as an opponent of legislative conditions on Most Favored Nation status, that the conditions President Clinton placed on MFN status this May were achievable and were not designed to provoke a crisis; but that they are also serious conditions. My hosts received me hospitably and discussed this and other sensitive issues without rancor. I believe they understand this message and are prepared to take some steps to meet the conditions.

But four months have gone by since the Executive Order was imposed. And I must say that in my judgment, to this point China has not made the "overall significant progress" required by the Executive Order. If this is still the case next May, we will face a difficult and painful decision.

In the coming months, all concerned with China policy—whether in government, human rights and environmental groups, academia or business—must stress the need for further steps on the conditions. Next year, we should resist the temptation to impose any conditions beyond those of the Jackson-Vanik Amendment. Instead, as Ambassador Burton Levin told me in Hong Kong, we should recognize that trade already contributes to freedom and reform in China, as well as to jobs and economic growth in America. We should let it continue to do both.

IX. Appendices

A. *List of Meetings*—

The *Chinese* officials I met included:

President Jiang Zemin;

Foreign Minister Qian Qichen, Vice Foreign Minister for US Affairs Liu Huaqiu, and Ma Zhengang, the Foreign Ministry's Director of American and Oceanian Affairs;

Madame Wu Yi, Minister of Foreign Trade and Economic Cooperation, MOFTEC Vice Minister Tong Zhiguang, and Sun Zhenyu, MOFTEC Director of American and Oceanian Affairs;

Justice Minister Xiao Yang;

National People's Congress Environment Committee Chairman Qu Geping and Vice Chair of the State Science and Technology Commission Deng Nan;

Sichuan Governor Xiao Yang, and officials of Sichuan Province's Department of Agriculture and Animal Husbandry;

Tibetan Autonomous Region Deputy Party Secretary Raidi and Lhasa Mayor Lobsang Thondrup;

Guangdong Governor Zhu Senlin, Vice Mayor of Guangzhou Chen Kaizhi and Vice Mayor of Shenzhen Zhang Hongyi.

My *Hong Kong* meetings included:

Acting Governor Sir David Ford;

Acting Constitutional Secretary Peter Lai;

Acting Secretary for Trade and Industry Regina Ip;

Legislative Council members Martin Lee, Li Wah-ming, Man Sai-cheong, Henry Tang, James Tien, Elsie Tu, Szeto Wah and Wong Yu-hong;

The Hong Kong Alliance in Support of the Patriotic Democratic Movement in China;

Exiled Chinese dissidents living in Hong Kong; and

Leaders of the U.S., Chinese and Hong Kong business communities in Beijing, Guangzhou and Hong Kong.

In *Japan*, I met with:

Minister of Agriculture Eijiro Hata;

Minister of the Environment Wakako Hironaka;

MITI Vice Minister for International Affairs Sazaburo Okamatsu;

Vice Minister of Foreign Affairs Kunihiro Saito;

Officials of the Keidanren; and

Members of the American business community.

Finally, in *Singapore* I met with:

Deputy Foreign Minister Kishore Mahbubani.

B. *Acknowledgements*—

At all times I appreciated the help of our Foreign Service. I give particular thanks to Charge d'Affairs William Breer and Howard Krawitz in Tokyo; Ambassador J. Stapleton Roy and Robert Winship in Beijing; Consul General Don Camp and John Brennan in Chengdu; Consul General Richard Mueller and William Brekke in Hong Kong; and Consul General Eugene Martin and Mike Spangler in Guangzhou. All were crucial to the trip's success.

I am grateful to the officials I met in Japan, China, Hong Kong and Singapore. All received me with courtesy and discussed highly sensitive issues in an open manner. I extend the same thanks to the dissidents and members of the private sector with whom I met. And I thank the Embassies of Japan, the People's Republic of China and Singapore, the Hong Kong Economic and Trade Office and the Chinese People's Institute of Foreign Affairs, my host organization in China, for their assistance before and during the trip.

Finally, I thank those in the United States who helped me prepare for the trip, in particular Peter Tomsen and Russ LaMantia of the State Department's East Asia Bureau; Lee Sands and Deborah Lehr of the USTR's China and Mongolian Affairs Desk, who came in to brief me before my departure; Terry Patin and the staff of the State Department's Office of Congressional Travel; and my staff members Liz Ching, Ed Gresser and Sharon Peterson.●

BLUE RIBBON SCHOOL OF EXCELLENCE

● Mr. DURENBERGER. Mr. President, this afternoon in the White House Rose Garden President Clinton recognized Hutchinson High School as a "Blue Ribbon School of Excellence." I hope my colleagues will join me in extending my sincere congratulations.

Since 1982, the Department of Education's Blue Ribbon Schools Program has honored those public and private schools throughout the Nation which have exhibited a high level of dedication in their drive toward educational excellence. The criteria for such an honor are multifaceted and take into account student performance on measures of achievement, parental and community support, teaching environment, and student's postgraduation pursuits.

Mr. President, an honor such as this does not happen without hard work and dedication. The faculty, students, and staff of the Hutchinson Public School system have worked long and hard in preparing for the challenges of the 21st century. Their success did not happen overnight, but was the result of years of innovative programs and policies which have led to the creation of a successful educational environment.

The citizens of Hutchinson have every right to be proud of the support which they have provided to the schools of their city. Each and every one of them can now see a return on the investments and sacrifices that have been made when educating the young people of their community.

Again, I congratulate Hutchinson High School on this outstanding achievement and I thank them for allowing us to share in their accomplishment.●

CAREER ACHIEVEMENTS OF ATTORNEY MARILYN PAULA SEICHTER

● Mr. DODD. Mr. President, I rise today to extend my best wishes and congratulations to an outstanding Connecticut citizen and jurist, Ms. Marilyn Paula Seichter, who is being honored by her friends and colleagues today for her many achievements and distinguished career.

After being admitted to the Connecticut Bar in 1970, Marilyn Seichter rose rapidly in the legal profession, trailblazing a path for women attorneys in the powerful corridors of a profession traditionally dominated by men. Through her unstinting devotion to her profession and community, she has carried forth the spirit of social consciousness and activism that thrived during her college and law school years in the late 1960's. Marilyn did not become a lawyer for self-serving reasons; as her record spanning two decades clearly demonstrates, Marilyn became a lawyer so that she could make a contribution.

Marilyn's academic interest in the law has not waned since her student days. Indeed, she has taught courses in family law and related subjects at St. Joseph's College, Manchester Community College, and Hartford College, and has lectured at seminars and conferences sponsored by the American Bar Association, the Connecticut Trial Lawyers Association, and the University of Connecticut School of Law Alumni Association. During her years as a Hartford lawyer, Marilyn has developed an expertise in family law—an expertise that she has used to help countless task forces and panels study the legal system and make recommendations for change. She has brought her prodigious legal skills and enlightened leadership to bear in many important forums, including: the State Ethnics Commission, Chair, 1977 to 1978; the Connecticut Women's Education and Legal Fund, 1982 to 1983; and, the Glastonbury Human Relations Commission, Secretary, 1975 to 1978.

Marilyn Seichter's long list of professional affiliations underscores her commitment to maintaining the integrity and responsibility of the legal profession. She served as president of the New England Bar Association from 1991 to 1992; as president of the Connecticut Bar Association from 1989 to 1990, after years of service to that professional organization; and in a variety of positions within the American Bar Association [ABA]. She has been an ABA delegate to the house of delegates since 1988 and has actively participated in several ABA committees and councils. To name but a few, Marilyn chaired the marriage and family counseling and conciliation committee from 1984 to 1986; was a judge for the Schwab Memorial Award essay contest from 1983 to 1988; was a representative from Connecticut and New Hampshire on the young lawyers executive council from 1976 to 1980; and sat on the individual rights and responsibilities executive council from 1978 to 1980, and the mediation and arbitration executive council from 1984 to 1985.

Attorney Marilyn Paula Seichter's unparalleled record of professional achievement in two short decades has earned her the lasting respect of her colleagues. To them and to many young attorneys just beginning their careers, she exemplifies integrity, perservance, and idealism. I am honored to count Marilyn Paula Seichter among my most distinguished constituents and wish her continued success.●

NATIONAL BIBLE WEEK

● Mr. ROTH. Mr. President, November 21–28, 1993 marks the 53d anniversary of the nonsectarian observance of National Bible Week, sponsored by the Laymen's National Bible Association. I am proud to serve as congressional cochairman of National Bible Week this year, along with Representative EARL HUTTO of Florida. I am pleased to follow in a long tradition of congressional support for National Bible Week.

In 1940, the founders of the Laymen's National Bible Association were spurred into action by the rise of godless ideologies of the far right and the far left in Europe and Asia. They felt that if these notions were accepted in the United States of America, they would threaten to undermine the very fabric of our national life. The founders of the Laymen's National Bible Association reasoned that an awareness of America's heritage and a renewed commitment to the religious qualities that are at the core of the American way of life were needed in the fight to counter such ungodly values. They organized a committee which later became the Laymen's National Bible Association, the group responsible for the first National Bible Week in 1941. That year, and each year since, the observance of National Bible Week has served to remind Americans of the importance of Bible reading and study. National Bible Week also heightens awareness of the Bible's role in the building of our great country.

This year, as every year, it is important to remind all Americans of the Bible's significance to individuals and to the history, life, and cultural or our Nation. We too soon forget the influence of the Bible on the development of our Nation's values and institutions. Millions of Americans have sought and continue to seek comfort, hope, and guidance from the Bible.

The sponsors of National Bible Week ask that all Senators alert their constituents to observe National Bible Week and to encourage the reading of the Bible. I ask all my Senate colleagues and the American people for a renewed commitment to helping the Nation regain a sense of moral awareness and spiritual identity through personal daily reading of the Bible.●

GUN VIOLENCE CONTINUES

• Mrs. MURRAY. Mr. President, gun violence continues to spread throughout our country. President Clinton observed in a recent speech that in some cities the kids are better armed than the police. In Washington State, the problem is not confined to urban areas. As the following editorial from the Spokesman Review says, two teenagers in Spokane, WA, died recently and one remains unconscious because of accidents involving guns. With the crime bill on the horizon, I urge my colleagues to read this thoughtful editorial, and ask to have my statement and the editorial printed in the RECORD.

The editorial follows:

[From the Spokesman-Review, Oct. 9, 1993]

WE ALL MUST AIM FOR A FRESH SLANT ON GUNS

"Guns don't kill people; people kill people."

What a crock.

Americans need a new ethic toward firearms—an ethic more thoughtful and more connected to reality than the inane bumper-sticker slogans of the National Rifle Association.

During the past two months, accidents involving firearms snuffed three Spokane area teenagers. Two are dead. The third lies unconscious in a hospital room, kept alive by tubes and machines.

All three young people—and a vast legion of others—would today be bursting with life and hope, but for the presence of a firearm.

Merely by their presence, guns change things. Relatively minor crimes turn into major ones. Arguments turn into life-of-death confrontations. Fights turn into murders. Childish larks dissolve into sudden scenes of blood and indelible horror. Simple carelessness turns into a death sentence.

Guns are entirely too present in America today.

We know what the Second amendment says. The Second Amendment was intended to preserve a citizen militia—not to feed societal self-destruction.

We are not necessarily proposing a change in laws, though further changes are in order. We are proposing a change in attitudes.

The country is caught in a dilemma. Heavily armed young criminals, coupled with an ineffective criminal justice system, coupled with stubborn social problems, all combine to make law-abiding people fear for their safety. Frightened people buy guns.

But do those guns make us safer? They might make us feel safer. Certainly they make us feel more powerful.

Yet in moments of conflict and tension, guns aren't a solution, they're a problem. People who draw them are diverted from more mature solutions involving intelligence, thoughtfulness, compromise and relational skill.

Can reason and intelligence, alone, protect people from crime? Not always. But they can save lives more often than firearms will.

The New England Journal of Medicine published a study this week which found that a gun kept at home is far more likely to endanger the inhabitants than it is to protect them.

Researchers analyzed 388 homicides that occurred in urban homes in three states. Three out of four victims were killed by relatives or people they knew. Half died in quarrel or romantic triangles.

The researchers also determined that those who kept guns at home were three times more likely to be murdered than those whose homes were gun-free.

It is a murderous lie to claim as gun fanatics do that the easy availability of firearms has no bearing on the amount of violent crime and horrible accidents.

For long enough, our culture has treated firearms as if they were a neutral commodity, a symbol of freedom, a security blanket, an object of political worship.

For example, Spokane Police Chief Terry Mangan insisted the other day that this community must recycle the guns criminals use—auctioning them to raise a few extra bucks for the local treasury. Heck, they're only guns.

That's crazy. It's sick. It springs from a common national attitude which has got to change.

Guns do kill people. Too many people.•

1993 INTERIM NATIONAL DRUG CONTROL STRATEGY

• Mr. D'AMATO. Mr. President, I rise today to again discuss the war on drugs. I would like to comment on the submission of the 1993 Interim National Drug Control Strategy, which was released yesterday.

The report that National Drug Control Policy Director Lee Brown released is, just as its title suggest, interim. This report is full of what should be done, and what can be done, with few suggestions of what will be done. It is more a promotion for the administration's health care proposal and its recently passed National Service bill, than any real plan to carry on the drug fight. While stating that it is the administration's goal to fight drugs through crime control, the strategy offers the ill-conceived strategy of gun control, not real crime control.

While reading the interim report, I have to ask, where are the plans to cut demand, aid prevention, cut supply, and protect citizens?

Mr. President, these questions must be answered, and programs must be implemented, if we are to win the battle against drugs. Many of my colleagues and I are very concerned as to the direction of the drug war, and this interest was expressed at yesterday's Judiciary Committee hearing with Dr. Brown.

Reaction to the interim report was detailed in both the Washington Post and the New York Times. In light of this, I ask that both articles, "Senators Say Drug Plan Needs Quick Fix or Else," from the Washington Post; and "Clinton Sets Out To Combat Drugs By Rehabilitation," from the New York Times, be included in the RECORD at the conclusion of my remarks.

As I have stated in the past, the administration must not only talk a good game in regard to the drug fight, but it must act and act decisively to not only reduce the demand, but also to reduce the supply of illegal narcotics.

If we fail in this war, we fail completely. For our children and the Nation, the administration must not give up on the fight, as it appears to be doing in its present report.

The articles follow:

[From the Washington Post, Oct. 21, 1993]

SENATORS SAY DRUG PLAN NEEDS QUICK FIX OR ELSE

(By Michael Isikoff)

The Clinton administration's anti-drug policies came under sharp attack from the Senate Judiciary Committee yesterday, with key members warning White House drug policy director Lee P. Brown that his office may be scrapped if it is not quickly given more staff and authority.

The bipartisan criticism came as Brown presented the panel with an "interim anti-drug strategy that he said marked a "new way of looking at America's substance abuse problem" by giving more emphasis to treatment and prevention programs.

But before he began his remarks, Sen. Orrin G. Hatch (R-Utah), ranking minority member of the panel, dismissed the interim strategy as a "major disappointment" and charged the administration was "turning the clock back on drug control, slipping inexorably into the old permissiveness of the Carter era."

Citing staff cutbacks by the White House that have reduced Brown's office to 25 employees, Hatch told him: "I think it's ridiculous they've done that to you . . . You're being hamstrung by an administration that doesn't give a damn."

Committee chairman Sen. Joseph R. Biden Jr. (D-Del.) initially praised the plan for focusing on the problems of hard-core drug addiction. But after Brown departed, Biden said: "At a minimum, this administration has not paid enough attention to this problem. At a maximum, it is evidence of a continuance of a Bush strategy, which is, 'If I don't talk about it, it might go away.'"

Those comments yesterday reflected what Senate aides say has been a growing perception on Capitol Hill that President Clinton may soon become politically vulnerable on the drug issue. The new strategy was designed in part to address that, warning that the country was "still in the midst of a drug epidemic" and promised stepped up efforts for both law enforcement and treatment programs for addicts.

But Brown aides were rebuffed in recent weeks when they sought to persuade the White House to make time on Clinton's calendar for a major public announcement of the strategy, according to administration sources. In recent days, critics have charged that the new policy lacks teeth because it neither pledges additional funding for anti-drug programs nor recommends shifting resources among existing programs.

Brown said such recommendations were impossible before work is completed on next year's budget. When the committee asked him to prepare an interim strategy, "it was understood that we would not have the details," Brown said.

Brown also defended the effectiveness of his office, noting he had successfully worked to restore cuts in treatment programs approved earlier by the House.

Although Clinton has designated Brown a member of his Cabinet, committee members expressed doubts he has sufficient clout. Biden, legislative author of the drug office, noted its five-year statutory authority is about to run out. If the administration doesn't provide more staff and powers, "I predict to you you'll have rough sledding up here in terms of reauthorization. Let the word go forth, they better give you some teeth and some money. . ."

Sen. Dennis DeConcini (D-Ariz.) said he was also "very dubious" about reauthorization. "You're in a very difficult position, with not much authority and I consider not much support from the administration," he told Brown.

Adding to the criticism yesterday was former drug policy director William J. Bennett, who accused the administration of "doing a no-show on this issue . . . If we had come up here with a drug strategy" that didn't seek more funding, "I think you would have killed us."

[From the New York Times, Oct. 20, 1993]

CLINTON SETS OUT TO COMBAT DRUGS BY REHABILITATION

(By Joseph B. Treaster)

WASHINGTON, Oct. 20.—President Clinton issued a national drug strategy today that echoed his campaign promises to increase drug rehabilitation but provided no details about how the plan would be paid for or carried out.

While acknowledging that the plan was short on specifics, the President's senior drug policy aide, Lee P. Brown, defended it as a blueprint of the Administration's intentions that would be refined in a new drug budget next February.

In a 31-page report that Mr. Brown released today, the Administration promised to focus on providing treatment for hard-core drug users and on dampening drug-inspired violence. The proposal suggested that rather than dealing with drugs in isolation, it would try to address them through such underlying social issues as housing, education, jobs and health care. He said the Administration also hoped to increase treatment in the nation's prisons, where 70 percent of the 1.4 million inmates have drug problems.

SHIFTING OF MONEY

Mr. Brown, the former police commissioner of New York City, said the Administration intended to shift money away from heavily criticized efforts to intercept smugglers at the borders and on the seas and to increase financing for training of police and criminal justice officials in foreign countries.

But he gave no specifics. In an exchange with an increasingly testy panel of senators this morning, he refused to say whether the Administration planned to change the long-standing practice of directing 70 percent of Federal antidrug spending to law enforcement and 30 percent to treatment.

And while Mr. Brown described the strategy as a "new direction" and a departure from the heavy reliance of Republican administrations on law enforcement, he said in an interview: "We want to make clear we are not going to downplay law enforcement."

WIDESPREAD CRITICISM

Mr. Brown said that, as Mr. Clinton pledged in the Presidential campaign, the Administration intended to help cities put more police officers on foot patrols in what is known as community policing. In addition, he said, in an effort to restore credibility to the criminal justice system the Administration would seek ways to end the practice of punishing only the worst drug offenders, while those arrested for the first or second time on minor charges receive little or no penalty.

The Administration's plan was met with criticism today from Democrats, Republicans and drug experts who condemned the strategy as inadequate and symbolic of a general neglect of the problem by the President. They pointed out that the strategy had been delivered nine months after a deadline set by Congress and said that while hardcore drug use has been increasing and young teenagers are once again being attracted to marijuana and LSD, Mr. Clinton has rarely spoken out on the drug issue since taking office in January.

Criticism of President Clinton for failing to engage the drug issue has been growing among drug experts across the country. But the outburst today on Capitol Hill was the first from lawmakers and seemed particularly significant since it came from not only opponents of the President but also members of his own party.

"We desperately need Presidential leadership," Representative Charles E. Schumer, a Brooklyn Democrat, said at a hearing by the Senate Judiciary Committee on the drug strategy this morning.

Some drug experts interviewed today noted that despite Mr. Clinton's campaign promises, he presented a $13.1 billion anti-drug budget in March that was nearly a carbon copy of the last one by the Bush Administration, which devoted roughly 70 percent of the money to law enforcement and the balance for rehabilitation and anti-drug education. Later, he agreed to Congressional proposals to cut $243 million in treatment and anti-drug education funds from the budget.

Mr. Clinton did not appoint Mr. Brown as director of the White House's Office of National Drug Control Policy until late April, and Mr. Brown did not begin work until mid-June. The President elevated the drug job to Cabinet level, but as part of a plan to trim the White House he cut the drug office staff to 25 members from 146.

President Bush made a practice of presenting his annual drug strategy at a White House ceremony and many drug experts said those events, as well as Mr. Bush's frequent condemnations of drugs, contributed significantly to the decline in casual drug use. In contrast, Mr. Clinton posed for a photograph with Mr. Brown at the White House yesterday but left the job of presenting the strategy to Mr. Brown.

Today, after members of the Senate Judiciary Committee repeatedly tried without success to get Mr. Brown to elaborate on the Administration's plan, the panel's chairman, Senator Joseph R. Biden Jr., Democrat of Delaware, said he did not think "the Administration has taken this seriously enough."

"I hope," he added, "that they are just getting to it. But I can't look the American people in the eye and say that with certainty."

Returning to another theme struck in the Clinton campaign, Mr. Brown said the Administration was firmly against legalization of drugs, a step that some advocates have said would result in regulated distribution and would eliminate gang-warfare over illicit profits.

In a debate during the campaign last year, Mr. Clinton referred to his brother, a recovering drug addict. "If drugs were legal," he said, "I don't think he would be alive today. I am adamantly opposed to legalizing drugs. He is alive today because of the criminal justice system."

During the Presidential campaign, Mr. Clinton often said, "We ought to have treatment on demand." Experts say that doing so would cost millions if not billions for the estimated four million to six million people who could benefit from treatment. Currently drug treatment centers can accommodate about 1.4 million men and women.

After unsuccessfully pressing Mr. Brown to explain whether the new strategy meant that financing for treatment would "go up or down next year and by how much," a frustrated Senator Orrin G. Hatch, Republican of Utah, said it was apparent that the new drug strategy was nothing more than a facade.

Mr. Hatch said Mr. Brown was not to blame for the new drug policy, but he said "You are being hamstrung by an Administration that doesn't give a damm.

Mr. Brown asserted that the Administration was relying on its health care proposals to provide treatment for many drug users.•

A TRIBUTE TO WEST ANCHORAGE HIGH SCHOOL BLUE RIBBON EXCELLENCE IN EDUCATION AWARD WINNER

• Mr. MURKOWSKI. Mr. President, today I am pleased to recognize an award that has been extended to my home State by the Department of Education. West Anchorage High School in Anchorage, AK is one of 260 schools being presented with the Blue Ribbon Excellence in Education Award for its commitment to providing an educational environment that meets the challenges of our ever-changing society. The faculty at West High is noted for its continual pursuit of innovative means to ensure academic and social growth for its students.

The Blue Ribbon Award being presented today to American junior and senior high schools rewards the successful efforts in our schools that often go unnoticed. It recognizes those teachers and administrators who strive to impress upon our children the importance of education and who go the extra step to provide a stimulating environment in which they may learn.

Since its opening in 1953, West High School has grown in step with its surrounding environment. It has continually met the challenge of cultural diversity by improving upon traditional approaches to education, and generating new ideas out of old ones. It is this approach to any new challenge that will help us prepare our children for what lies before them.

The educators at West High strive to recognize the many social pressures that impact our young people today. Actively addressing these pressures in a positive manner results in students who are better prepared to succeed on their own after high school. The West High faculty is committed to providing its teachers and students with the tools to work together to achieve this. I commend this innovative approach to education and view it as a model from which every institution in America can learn.

As a country, we have recognized the need to establish national education goals in order to raise the overall quality of education that our children receive. I applaud the efforts exemplified by the winners of the Blue Ribbon Award to overcome the various obstacles standing in their way of reaching these goals. This pledge of dedication merits the recognition they are receiving today. Let this demonstration be a reminder to us all that the future of our children depends upon the resources we invest in their education today.●

IOWA NORTHLAND REGIONAL COUNCIL OF GOVERNMENTS

● Mr. GRASSLEY. Mr. President, on the occasion of its 20th anniversary, I would like to congratulate the Iowa Northland Regional Council of Governments [INRCOG]. Organized in January 1973, INRCOG was the first council of governments formed in the State of Iowa.

As a voluntary association of local governments serving the member jurisdictions in Black Hawk, Bremer, Buchanan, Butler, Chickasaw, and Grundy counties, INRCOG has long been recognized as a leader among service and planning organizations. Responsible for coordinating, assisting, and facilitating programs in community and economic development, INRCOG's services have benefited all governmental bodies in the INRCOG region and the State of Iowa.

Through INRCOG, intergovernmental communication and cooperation have flourished and the ability of Iowa communities to plan for their own future has been enhanced. I wish them many more years of successful planning for the future of Iowa's communities, for their efforts will continue to strengthen the backbone of America's governmental system, thus enriching the lives of our citizens.●

FACES OF THE HEALTH CARE CRISIS

● Mr. RIEGLE. Mr. President, I rise today in my continuing effort to put a face on the health care crisis in this country. Today I want to share the story of Mike Paprocki, from Ravenna, MI. Mike and his children have been uninsured since last May when Mike lost his job during a strike at his company.

Mike is 30 years old and the single father of two girls: 8-year-old Jamie and 5-year-old Jorie.

For 12 years, Mike worked at Sealed Power Technologies, a foundry in Ravenna. On May 15, his union, local 421 of the Glass Molders and Potters Union, decided to strike to protect retiree health insurance benefits. During the strike, Sealed Power hired replacement workers who crossed the picket lines. Mike did not have a job to return to when the foundry and the union finally reached agreement in September, 21 weeks after the strike began.

Mike and his children have been uninsured since the strike began in May. Mike cannot afford to pay the $350 monthly premium for COBRA benefits through his former employer because he has not been able to find another job.

Without a job and without health insurance, Mike is struggling to support himself and his daughters. He is now faced with raising his daughters on unemployment payments until he can find another job. He does not want to rely on public assistance but has nowhere else to turn.

Mike is doing all he can to find another job. He worked at another plant for 9 weeks without benefits but was eventually laid off. Odd jobs have not provided him enough security to support his family.

It is important that working parents like Mike Paprocki have a guarantee of health insurance coverage regardless of their job situation. All Americans deserve the peace of mind that guaranteed coverage can bring. I will continue to do everything I can to work with my colleagues, President Clinton and First Lady Hillary Rodham Clinton to reform our health care system and provide access to affordable health care for all Americans.●

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate receives a message from the House that the House has agreed to Senate Concurrent Resolution 48, as passed the Senate, that the conference report accompanying H.R. 2403, the Treasury, Postal Service appropriations bills shall be deemed to have been adopted, and the motion to reconsider shall be deemed to have been laid on the table, with the above occurring without any intervening action or debate; and that any statements relating to that conference report be placed in the RECORD at the appropriate place.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

So the conference report was deemed to have been agreed to, as follows:

H.R. 2403

That the Senate recede from certain of its amendments.

That the house recede from its disagreement to certain amendments of the Senate and agree to the same.

That the House recede from its disagreement to certain amendments of the Senate and agree to the same with an amendment; and the Senate agree to the same.

Signed by a majority of the conferees on the part of both Houses.

CLOTURE VOTE VITIATED

Mr. MITCHELL. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to H.R. 3167 now scheduled to occur on Monday be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR MONDAY, OCTOBER 25, 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3167, Calendar No. 246, at 2 p.m. on Monday, October 25.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, I would like to inform all Senators of the schedule for the next 2 days' Senate session in light of the agreements just obtained.

The Senate has just completed one of the most productive days of the year, having acted on several major legislative items. That required the cooperation of all Senators, especially those who were directly involved there.

We approved the continuing resolution. We passed the conference report on the Treasury/Postal appropriations bill. We passed the conference report on the Transportation appropriations bill. We passed the conference report on the State, Justice, Commerce appropriations bill. With respect to that, we took all steps necessary to enact it, and the formal act will occur early next week. We passed the conference report on the VA-HUD appropriations bill. And we passed, after more than a week of extensive debate and deliberation, the Department of Defense appropriations bill.

Those were six major legislative actions which the Senate took today. To be sure, the culmination of a great deal of prior work, but nonetheless a very long and productive day.

Accordingly, the Senate will not be in session tomorrow. As previously stated with respect to the agreements on H.R. 3167, the emergency unemployment insurance program extension, the cloture vote on the motion to proceed to that bill will no longer be necessary as we have been able to obtain consent to proceed to the bill at 2 p.m. on Monday.

Mr. President, I am prepared to and do now announce that there will be no rollcall votes on Monday. That is based on the assurance provided me by the acting Republican leader in behalf of our Republican colleagues that at least two Republican Senators with either an amendment or a point of order, both of which are major items, will be present on Monday afternoon to offer those, to be prepared to debate them fully and completely, with the votes on those two matters, one an amendment and one a point of order, to be scheduled for Tuesday.

There may be other amendments offered and debated on Monday but at the minimum there will be these two matters which are major matters, and therefore Senators who wish to participate in that debate should be present.

I appreciate the cooperation that we have had during the day today, and the cooperation of the distinguished acting Republican leader. And I have made this decision based upon those assurances which I know from past experience I can rely on.

Therefore, Mr. President, I repeat the Senate will not be in session tomorrow. The Senate will be in session considering the emergency unemployment insurance program extension on Monday with two major matters to come—at least two—to come before the Senate that day; the debate on those to be completed on Monday; the votes to be scheduled for Tuesday at a time which I will decide and announce on Monday after further consultation with the Republican leader at that time.

Mr. SIMPSON addressed the chair.

The ACTING PRESIDENT pro tempore. The acting Republican leader.

Mr. SIMPSON. Mr. President, I want to thank the majority leader and say that indeed, and the record does disclose that the Senate has accomplished a great deal of business during this week.

Some significant business has been done this week. A significant amount of work. And therefore we do appreciate on this side of the aisle the accommodation of the majority leader. And we have much to do before the adjournment of the Senate. If we continue this schedule as we have, I think we can achieve that.

We on this side of the aisle, on behalf of Senator DOLE, I think we have shown that the best way you show things in this place, with our votes, is to assist this leader and our President.

So we will continue to be in that role. And there will be times when we will not.

We know we will always be treated with basic fairness. That is the essence of our legislative experience and endeavors. So we will have two of our Members here on Monday, and perhaps a third amendment might be able to be used by the majority leader. But, assuredly, there will be two significant, serious amendments presented by two Members of our party, and we appreciate the accommodation of stacking the votes until Tuesday at a time to be announced on Monday, so that the Members will know.

We thank the majority leader, and we will certainly keep our part of the arrangement.

Mr. MITCHELL. Mr. President, I add further that, earlier this evening, the Senate voted on a motion to invoke cloture on the Interior Department appropriations conference report and failed to invoke cloture. A second cloture motion was filed this evening, which will now ripen for a vote on Tuesday. So there will be a vote on Tuesday on that second cloture motion on the Interior Department appropriations conference report, and that will either be, under the rules, 1 hour after the Senate convenes on Tuesday or, more likely, we will reach agreement on another time, which I will announce on Monday at the same time I make a decision on the two votes to which we just referred.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 103-17 AND TREATY DOCUMENT NO. 103-18

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from two treaties transmitted to the Senate today by the President:

Tax Convention With the Czech Republic (Treaty Document No. 103-17); and

Tax Convention With the Slovak Republic (Treaty Document No. 103-18).

I also ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The messages are as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Czech Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Prague on September 16, 1993. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Convention.

The Convention will be the first income tax convention between the two countries. It is intended to reduce the distortions (double taxation or excessive taxation) that can arise when two countries tax the same income. It will modernize tax relations between the two countries and will facilitate greater private sector U.S. investment in the Czech Republic.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent of ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 21, 1993.*

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Slovak Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, signed at Bratislava on October 8, 1993. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Convention.

The Convention will be the first income tax convention between the two countries. It is intended to reduce the distortions (double taxation or excessive taxation) that can arise when two countries tax the same income. It will modernize tax relations between the two countries and will facilitate greater private sector U.S. investment in the Slovak Republic.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 21, 1993.*

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MOST-FAVORED-NATION STATUS FOR ROMANIA

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of House Joint Resolution 228, the joint resolution providing for most-favored-nation status for Romania; that the Senate proceed to its consideration; the resolution be deemed read a third time and passed, the motion to reconsider laid on the table, and any statements thereon appear at the appropriate be placed in the RECORD as though read.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 228) was deemed read three times, and passed.

EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF ROMANIA

Mr. LAUTENBERG. Mr. President, I would like to engage the chairman of the Finance Committee in a colloquy on this issue of human rights as the Senate considers most-favored-nation [MFN] status for Romania.

Mr. MOYNIHAN. It is quite appropriate that the Senator from New Jersey raises this issue at this time, and I appreciate his concern. He has been a forceful advocate for human rights in Romania and elsewhere.

Mr. LAUTENBERG. Romania's record on human rights—particularly its treatment of ethnic Hungarians and Gypsies—has in the past generated tremendous concern on the part of Congress, the administration, and the human rights community. Reports from a number of human rights organizations suggest that there is still cause for concern and a tremendous need for improvement.

Mr. President, I ask unanimous consent, that copies of portions of these reports be printed in the RECORD at the conclusion of our remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LAUTENBERG. I hope we will see significant progress in the areas outlined in the reports in the very near future.

Mr. MOYNIHAN. I appreciate the Senator's efforts to make those reports available to the Senate as we consider the question of approving nondiscriminatory treatment for Romanian goods. Mr. President, let me make clear that President Clinton has certified to the Congress, as required under the Jackson-Vanik amendment of the 1974 Trade Act, that granting nondiscriminatory treatment to Romania will substantially promote freedom of emigration there. Human rights conditions in Romania have improved. But that does not mean that ethnic strife has disappeared. Fourteen years ago, in a statement before the Finance Committee, I noted that the most destabilizing phenomenon in the world was ethnic conflict. For decades to come we will be living with the consequences of the Ceausescu regime's brutal suppression of ethnic distinctions.

But this is a new era. The President has stated that granting nondiscriminatory treatment will further benefit those living in Romania. Therefore, the Finance Committee has approved nondiscriminatory treatment, and the Senate shall do so forthwith. Let me be clear, however. The approval of this resolution does not constitute an endorsement of Romania's human rights record. To the contrary, we fully hope and expect that there will be further improvements. I am certain that my colleague from New Jersey agrees.

Mr. LAUTENBERG. I certainly do agree that we need to see improvements. That is clear from the reports I have submitted for the Record. Under no circumstances should the Senate's approval of MFN be construed as a blanket endorsement of Romania's record on human rights. Although the Senate is approving MFN now, it is not an irreversible process. In the upcoming months, the Congress will be carefully examining developments in Romania. We will be looking to ensure that Romania complies with its commitments and continues to make progress.

Mr. MOYNIHAN. Again, I thank the esteemed Senator from New Jersey for raising this issue.

EXHIBIT 1

STRUGGLING FOR ETHNIC IDENTITY: ETHNIC HUNGARIANS IN POST-CEASUSESCU ROMANIA

(Helsinki Watch)

INTRODUCTION

On December 17, 1989, ethnic Romanians and ethnic Hungarians[1] in the Transylvanian town of Timisoara (Temesvár) united to oppose the expulsion of the Hungarian Reformed Bishop Lászió Tökés from his parish. This was the beginning of the Romanian revolution that ultimately resulted in the downfall and execution of the communist dictator, Nicolae Ceausescu. Immediately following the revolution, Romanians of all ethnic backgrounds hoped for and expected the speedy establishment of a democratic government that would respect human rights for all its citizens.

Although tensions between Romanians and Hungarians had grown during the two decades preceding the revolution due to Ceausescu's manipulation of ethnic hostilities, all these tensions were temporarily forgotten during the revolution itself. Tensions between Hungary and Romania also decreased as both countries celebrated the fall of communist rule. Hungary responded to the blood revolution by immediately sending medical aid and food supplies. Mistrust and fear between the two nations seemed to evaporate overnight.[2]

The Hungarian minority expected the fruit of the revolution to be not only an end to the terrible violations of fundamental rights that all Romanian citizens had suffered, but also an end to the specific violations that minorities had suffered under Ceausescu. What is more, Hunagarians were anxious to begin rebuilding their cultural and political structures that had been devastated during the previous decades.

Hungarians were quick to organize politically and to call on the newly formed government to take steps to reinstate Hungarian-language schools and address other minority concerns. However, the government's initial openness to the concerns of minorities quickly gave way to resistance and hostility from some segments of the public. Tensions between Hungarians and Romanians in Transylvania over minority rights began to escalate during the weeks following the revolution, and culminated in the violent confrontation in Thgu Mures (Marosvásárhely) in March of 1990.[3]

After the ethnic violence in Tirgu Mure, (Marosvásárhely) and the Romanian government's backtracking on promises made to minorities, it became abundantly clear that the hopes and expectations of the Hungarian minority had been premature. Few Hungarians or Romanians had realized the extent to which Ceausescu's nationalist propaganda had permeated Romanian society, as evidenced by the resurgence of chauvinistic ideologies and rehetoric. Many had also underestimated the level of fear and mistrust among both Romanians and Hungarians, emotions which were to be easily manipulated by nationalist leaders.

The three years since the revolution have witnessed a dramatic increase in xenophobia and racist propaganda in Romania, including an increasingly vocal nationalist and anti-minority press, as well as the emergence of popular right-wing political parties. Demands by minorities that had seemed quite justified in the hours after the revolution were soon viewed with suspicion and resentment. Some Romanians voiced the opinion that Hungarians should wait until the achievements of the revolution had been secured for all Romanians before demanding the rights of minorities.

Throughout eastern Europe, demands for greater minority rights are inevitably viewed through the prism of historical experience. In the case of Transylvania, where most ethnic Hungarians live, centuries of Hungarian influence and control ended in 1918 with the Treaty of Trianon.[4] During the twentieth century, ethnic Romanians and ethnic Hungarians suffered assimilationist policies and severe abuses as the region shifted back and forth between the control of the Hungarian and the Romanian states. This history affects all inter-ethnic relations in Romania.

Many Romanians continue to believe that a large minority population presents a security risk for the Romanian state, and that greater rights for minorities will result in demands for territorial autonomy and, ultimately, a secessionist movement. These fears have been easily manipulated by nationalist elements in Romania in whose interest it may be to foment ethnic tensions and conflict. Many ethnic Hungarians and Romanians have been especially troubled by what appear to be close ties between Ceausescu's former secret police, the Securitate, and extreme right-wing elements, who share a common nationalist and anti-minority philosophy. In fact, during the violent clashes in Tirgu Mures (Marosvásárhely) in March 1990, there were reports that former Securitate agents were involved in inciting ethnic tensions.[5]

Given this historical context, trust and good-faith dealings are very difficult. Furthermore, inter-ethnic relations in Romania are influenced, not only by the historical experiences of the different parties, but also by Romania's current geopolitical position. Since the revolution, two armed conflicts between or among ethnic groups—in Moldova and in the former Yugoslavia—have flared up on Romania's borders. Regional ethnic conflicts have done little to alleviate fears and suspicions between Romanians and ethnic Hungarians.

Although there have been significant improvements in many areas of concern to the Hungarian minority in Romania, tensions have remained high, resulting in an increasing sense of insecurity among the population.

Helsinki Watch found that the Hungarian minority continues to face obstacles in equal access to education in the mother language, that there are an insufficient number of trained Hungarian-language teachers, and an insufficient number of classes in the Hungarian language compared to the demand for such classes. What is more, Hungarian schools are subjected to harassment by local school inspectors and local government officials who have created a sense of insecurity as to the status of minority-language schools.

The most serious abuses documented by Helsinki Watch were at the local level. These abuses include restrictions on freedom of assembly, association and speech by local officials, especially in Cluj (Kolozsvar) and Baia Mare (Nagybánya), where right-wing nationalists won the mayoralty in the February 1992 local elections.

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[1] Footnotes at end of article.

In addition to the many abuses to which Hungarians are subjected at the local level, the Romanian government has failed to take measures that adequately remedy these abuses. Government officials are rarely disciplined, much less prosecuted, for committing clear violations of Romanian law. Minorities are left to seek a remedy from the justice system, which operates in a highly abusive and discriminatory manner.

Thus, although concentrated at the local level, these abuses cannot be viewed only as isolated incidents. They are not merely evidence of the case with which local officials can harass and intimidate a minority population. They also demonstrate that the legal mechanisms for holding abusive officials accountable remain weak, and that there are inadequate safeguards to ensure that minorities can obtain a sufficient legal remedy when violations occur.

The treatment of Hungarians in Romania and their quest for greater rights must be viewed in the context of the mistreatment that minorities experienced under Ceausescu. Helinski Watch recognizes that all Romanians were victims of the extremely repressive and abusive Ceausescu regime. However, minorities, and especially the Hungarian minority because of its size and Romania's shared border with Hungary, were victims of a particular plan of assimilation under communist rule. Thus, minorities in Romania have special needs and concerns that are a direct consequence of their mistreatment because of their national or ethnic origin. Any efforts to adequately address their minority concerns will have to take into consideration the unique experiences of the Hungarian minority under Ceausescu.

This report documents the treatment of the ethnic Hungarian minority in Romania since the revolution. It is based on a series of missions to Romania beginning in January 1990. Helsinki Watch representatives traveled throughout Romania conducting interviews with ethnic Hungarians and Romanians about the treatment of the Hungarian minority. Helsinki Watch representatives met with county and city government officials, including the prefects of several counties, local prosecutors, leaders in education, culture, and the media. In addition, Helsinki Watch met with many national government officials in Bucharest, including representatives from the Ministries of Culture, Education, and Foreign Affairs and the parliament. Helsinki Watch also met with the Hungarian Ambassador to Romania to discuss the Hungarian government's position on the treatment of the Hungarian minority.

RECOMMENDATIONS

Helsinki Watch recommends that the Romanian government:

Abide by its obligations under international and national law to protect the Hungarian minority's human rights; specifically, to:

Distance itself from extremist views, whether they be nationalistic, xenophobic, anti-Hungarian or anti-Semitic;

Respect the Hungarian minority's constitutionally guaranteed right to "the conservation, development and expression" of its linguistic identity. The government should be particularly sensitive to the need for education in the mother-tongue, an adequate number of classes and properly-trained teachers, and the need for an appropriate curriculum and textbooks to ensure this fulfillment of this constitutional right;

Establish a commission to revise the curricula and educational materials used in classrooms to include minority culture and history;

Accord the Hungarian minority freedom of expression, including access to radio, television and publications without discrimination on the basis of ethnic origin;

Prosecute abuses by government officials who have committed abuses against minorities, including victims of ethnic discrimination;

Take additional steps to guarantee that an independent judiciary is established;

Establish an independent commission to review the investigations and trials of all those currently in prison for crimes they allegedly committed during the Tirgu Mures (Marosvásárhely) events, as well as those tried for crimes committed during the revolution in the county of Harghita (Hargita). If there is evidence that the defendants were denied due process, that decisions related to the prosecution, trial and sentencing were motivated by bias, the individuals should be exonerated or new trials should be held;

Work with parliamentary representatives, including those representing minorities, to adopt legislation on education and religion;

Adopt an affirmative plan to recruit more minorities into government positions—especially the ministries of Education and Culture;

Establish a special program to enlist police from among the ethnic minorities in Romania, including the Hungarian minority;

Strengthen legal mechanisms for protecting rights, including making amendments to existing laws, where necessary, to give individuals greater access to courts to challenge the legality of government, including local government, decisions;

Guarantee that the newly-establish Council for National Minorities address the problems of national minorities in good faith;

Return all property confiscated from religious groups in an expedited manner;

Take affirmative action to improve interethnic relations and reduce tensions between minorities and the Romanian majority. Efforts should be made to introduce educational programs on minority rights, minority history and culture, as well as human rights, in all Romanian schools. Human rights training programs should also be provided for police, government officials and teachers;

Introduce amendments to laws regulating public demonstrations and meetings to limit the authority of mayors and local officials to restrict meetings. Restrictions should be allowed only if the local authorities have clear evidence that a meeting is likely to disrupt public order. Any limitations which are placed on meetings should be narrowly tailored and proportionate to the need to maintain public order. In general, they should restrict only the time, place, or manner of the meeting, and not the ability to hold meetings;

Helsinki Watch is concerned by increasing demands that punitive action be taken against Hungarians, both individually and as a collective, because they may have demanded autonomy, which is interpreted as a territorial claim against Romania. Regardless of the validity of this interpretation, Helsinki Watch urges that the Romanian government:

Guarantee the right of all citizens to freedom of expression, including the right to advocate any type of autonomy for ethnic or national minorities (whether it is territorial cultural or administrative), as long as violence is not used to achieve their purposes.

FOOTNOTES

[1] For simplicity, the terms ethnic Hungarians, the Hungarian minority, and Hungarians are used interchangeably to refer to Romanian citizens of Hungarian origin. Certain quoted materials also refer to ethnic Hungarians as ethnic "Magyars," which is the name by which Hungarians refer to themselves. Where the term "Hungarians" refers to Hungarian citizens living in Hungary this will be made clear in the text.

[2] See, "Free Hungarians in a Free Romania: Dream or Reality?" RFE/RL Report on Eastern Europe; February 28, 1990, p. 19.

[3] See, "The Events in Tirgu Mures—March 1990," in this report.

[4] for additional information see, Barbara Jelavich, History of the Balkans, Volume 2, Cambridge University Press, (1968); Romania's Ethnic Hungarians, A Minority Rights Group Report, April 1980, pp. 8-9.

[5] See, "The Events in Tirgu Mures in March 1990," in this report.

[A Helsinki Watch Report]

DESTROYING ETHNIC IDENTITY: THE PERSECUTION OF GYPSIES IN ROMANIA

(September 1991)

RECOMMENDATIONS

Helsinki Watch urges the Romanian government to:

Abide by its obligations under international law to respect and promote human rights and specifically to:

Guarantee the security of all persons from violence or bodily harm, whether inflicted by Government officials or by any individual or group.

Conduct a criminal investigation into each incidence of violence against the Gypsy community and prosecute cases where there is evidence of guilt.

Investigate the failure of the Romanian authorities to intervene to protect Gypsies under attack.

Investigate the role of Romanian authorities in the attacks on Gypsy communities.

Conduct an immediate investigation into all allegations of abuse and mistreatment while in custody, and prosecute all those responsible for violations of the law.

In areas where there have been violent attacks on Gypsy quarters, take steps to guarantee the safety of those Gypsies who want to return to their homes, and ensure their ability to rebuild the homes that have been destroyed.

Prohibit all forms of discrimination against Gypsies, including harassment and intimidation by government officials. Provide all citizens with effective remedies against discrimination.

Assure Gypsies the right to equal participation in local administration and local government.

Guarantee Gypsies equal rights, in policy and practice, to education.

Guarantee Gypsies equal rights, in policy and practice, to obtain land, and equal access to housing.

Guarantee Gypsies equality in the workplace.

Ensure that the Gypsy minority has adequate opportunities to learn the Romani language. Optional Romani language classes should be offered in elementary and secondary schools.

Include teaching about the history and culture of Gypsies in secondary and elementary schools, including the centuries of slavery.

Direct the state-controlled television and radio to provide objective and balanced reporting when airing stories about Gypsies.

Establishing equality in the law and in practice, while critically importaht, does not wipe out the injustice that has existed for centuries, nor the wide-ranging effects of that injustice. It is therefore necessary for Romanian society to accept its share of the responsibility for the plight of its largest minority and to act as a nation to ensure an effective remedy for past discrimination which Gypsies have undeniably suffered.

[Amnesty International, September 1993]

ROMANIA: UPDATE TO AMNESTY INTERNATIONAL'S CONCERNS

BACKGROUND

Presidential and parliamentary elections in September and October 1992 resulted in the re-election of President Ion Iliescu and the return to power of the Democratic National Salvation Front (DNSF), with 28% of the vote for the Senate and over 27% for the Chamber of Deputies giving it a mandate to form a government. Prime Minister Nicolae Văcăroiu's government is maintained in power by the parliamentary support of smaller left-wing and right-wing nationalist parties. The main feature of the new government's economic policy appears to be a more guarded approach in the transformation to a market economy of state-managed industry and services. However, the difficulties in controlling rising inflation and unemployment are contributing, throughout the country, to a growing popular discontent.

Although the vast majority of the population are ethnic Romanian (89.4% according to the 1992 census) inter-ethnic relations are becoming an increasingly important issue. Romania has an ethnic Hungarian population of 1,620,000, mostly living in Transylvania, in the northwest of the country. In December 1989, the persecution of a Hungarian Reformed Church priest in Timişoara, Bishop Laszlo Tokes, was denounced by Romanians of all ethnic origins. The ensuing demonstrations led to the overthrow of President Ceauşescu and major political changes in Romania. However, the lifting of restrictions on political rights and freedoms allowed the creation of organizations which promote nationalistic and xenophobic policies. As a result, inter-communal tension has been rising in Transylvania, particularly after the violent attacks by ethnic Romanian villagers against ethnic Hungarians in Tirgu Mureş in March 1990.

The smaller parties supporting the Government of Prime Minister Nicolae Văcăroiu openly incite national intolerance. Some of these parties, such as the Party of Romanian National Unity (PUNR), supported by DNSF sympathizers, also made significant gains in the local elections, held in February 1992, particularly in some parts of the ethnically heterogeneous region of Transylvania. They have encouraged ethnic hatred, accusing the ethnic-Hungarian community of irredentism and opposition leaders of being Hungarian "agents".

Soon after he was elected mayor of Cluj-Napoca, Gheorghe Funar introduced restrictions on "public demonstrations within the confines of the city", including the organization of international meetings. He also decreed that street signs and all publicly posted signs and announcements should be in the Romanian language only, dismissed the headmaster of the Brassai Samuel High school, Kelemen Attila Balint, and ordered the eviction of the Hungarian student association from state-owned premises.

As PUNR presidential candidate, Funar based his campaign on attacking the ethnic-Hungarian community with statements such as: "We have to be on our guard all the time. These barbarians from Asia have been here for 1,000 years but are still not civilized and are capable of any form of treachery." In the September 1992 presidential elections he came third, receiving 1.6 million votes, almost 10% of the electorate.

The Government's apparent lack of will to reduce inter-ethnic tension is demonstrated by the appointments in March 1993 of ethnic-Romanian prefects for Harghita and Covasna counties, with a majority ethnic-Hungarian population. This measure was described by the Hungarian Democratic Union of Romania (UDMR) as an example of continuing discrimination against the minority.

The atmosphere of national intolerance has also affected other ethnic minorities, particularly the Roma community. Although the latest census sets the Roma community in Romania at around 450,000 it is widely believed that the actual number is closer to 2,000,000, making it the largest Roma community in Europe. A recent survey carried out by a team from Bucharest University supports the general impression of the Roma community's desperate social and economic conditions, which reflect a long history of racial prejudice and neglect for the needs of this community not only in Romania but throughout the region. This independent study indicates that 80% of Roma have no vocational training and that only 23% of the community are employed. Only 50% of the Roma children attend schools regularly. Racial prejudice and a higher incidence of crime committed by members of the Roma community have also contributed to a rising number of violent attacks against Roma. Around 40 such assaults in various parts of the country were recorded recently and reported in March 1993 by the Aven Amentza Foundation, a non-government Roma organization. There is no available data on how many of the perpetrators of such attacks have been identified by the authorities and prosecuted. Most such assaults on Roma are carried out by other ordinary Romanian citizens, who are in some cases even joined by Roma from a different social group. However, Amnesty International has also received reports of incidents where members of the Roma community, apparently because of their ethnic background, were subjected to torture and ill-treatment by police officers and has called on the Romanian Government to fully investigate these cases.

Legislative reforms in Romania are still high on the Parliament's agenda. This task is particularly important in view of Romania's aspirations to join the Council of Europe and to become a Party to the European Convention for the Protection of Fundamental Freedoms and Human Rights. A new Law on Reorganization of the Judiciary (Law Number 92/1992) will come into force in July 1993. Although it will bring the Procuratura, the office of the public prosecutor, under the supervision of the Ministry of Justice, certain legal provisions will render the Minister's orders ineffective. Orders will not be issued directly to subordinate prosecutors but through the Prosecutor General, who is not legally obliged to enforce them. In addition, there are still no provisions for inquests to be conducted by an examining magistrate. The retention in the new law of military courts in the judicial system, competent to try all members of the armed forces for all crimes, is widely viewed as a legal anachronism and might even be incompatible with the Romanian Constitution which prohibits the establishment of extraordinary courts. There are also concerns about this Law's criteria for the appointment and grading of judges which might influence their competence and independence.

The Penal Code and Code of Penal Procedure, as in most other Central and East European countries, have not yet been radically reformed. Although some articles have been abolished since December 1989, the Romanian Penal Code under Article 200 paragraph 1 still punishes anyone "who has sexual relations with a person of the same sex" with one to five years' imprisonment. In July 1992 representatives of Amnesty International were told by Romanian authorities that no one had been prosecuted for this offense since the fall of Ceausescu in December 1989 and that the proposed reform of the Penal Code will abolish this crime. Amnesty International urged the Romanian Minister of Justice, Petre Ninosu, to ensure that the proposed reform of the Romanian Penal Code will not permit the imprisonment of people solely because of their homosexuality.

The process of reform in the judiciary and the police force, according to independent assessments, has been inadequate. Most of the judges in Romania worked in the same post before the changes effected in December 1989. Their training and experience are insufficient for an independent judiciary. Court rulings, even at the highest instance, often reflect practices incompatible with international standards for fair trials. Amnesty International has received reports of cases where the courts in Romania have used as evidence confessions of the accused, although they were later retracted as having been induced by torture. The organization has recently addressed the Romanian authorities in one such case where a person has been condemned to a long prison sentence on the basis of a confession reportedly obtained under torture.

Amnesty International also continues to receive reports alleging that police officers resort to torture and ill-treatment of detainees, often in order to force them to confess. In other instances their use of firearms is frequently not in accordance with appropriate international standards, but relatively few cases are fully investigated or brought to trail.

The Romanian Government has still not clarified some of cases brought to its attention by Amnesty International. The organization is still concerned with the fate of Viorel Horia, a 15-year-old schoolboy whose whereabouts remain unknown following his reported arrest on 13 June 1990 in Bucharest. Amnesty International also continues to appeal to the Romanian authorities to fully investigate the shooting of Andrei Frumusanu and Aurica Crăiniceanu during the demonstrations in Bucharest in September 1991.

INTERNATIONAL HUMAN RIGHTS LAW GROUP,
Washington, DC, August 1993.

MOST-FAVORED-NATION (MFN) TRADE STATUS FOR ROMANIA: THE CURRENT HUMAN RIGHTS SITUATION

I. INTRODUCTION

The International Human Rights Law Group is a Washington-based non-governmental organization affiliated with the International Commission of Jurists in Geneva holding consultative status with the United Nations. Since 1991, under its Rule of Law Program, the Law Group has had a continuous presence in Romania through project attorneys who have provided technical assistance, consultation and training to Romanian human rights organizations and lawyers groups. Through its work in Romania, the Law Group has had the opportunity to examine the human rights situation closely and has formulated the following recommendations regarding the granting of Most-Favored-Nation (MFN) trade status to Romania.

II. GENERAL POSITION ON MFN STATUS

The Law Group supports the granting of MFN status to Romania subject to annual Congressional review to monitor the continued implementation of human rights reforms. The Law Group is pleased to note that the human rights situation in Romania has improved during the past year in several respects.[1] One year ago, the Law Group encouraged the US to delay granting MFN status to Romania in light of continuing human rights abuses; after national elections last Fall, the Law Group urged Congress to reconsider. The Law Group now recommends restoring MFN status subject to annual review.

Evidence of improvement in the human rights situation in Romania includes the successful holding of largely free and fair national elections in September and October of 1992 and the increasing role of non-governmental organizations in the monitoring of human rights abuses and legislative reform.

Granting MFN status at this time would acknowledge Romania's achievements in the protection of human rights and encourage further improvements. Annual review is crucial, however, due to lingering defects in the transition to democracy, including the failure to reform the judiciary in a meaningful way, continued difficulties in ensuring civilian control over the Romanian Intelligence Service (SRI) and flaws in the treatment of minorities, particularly the Roma (Gypsies).

III. ISSUES OF CONCERN

Free and Fair Elections

A primary concern of the United States in restoring MFN status to Romania has been that free and fair elections take place. Despite a number of irregularities, many of which occurred on the local level, the international community generally agreed that the nationwide elections held in September and October 1992 were indeed "free and fair."[2] An essentially free and open campaign period with media access for all major parties preceded the vote, although substantial questions were raised about the impartiality of the coverage by Romania's single national television station. In comparison to the 1990 national elections, there was a marked decrease in election-related violence.

Though domestic observers were forbidden in 1990, more than 7,000 Romanian citizens participated in monitoring the 1992 elections after an effort to ban domestic observers was defeated. Resolution of this dispute illustrates the significant improvement in relations between government officials and NGOs. Specifically, a healthy and productive dialogue developed between the Central Election Bureau and other government agencies, on the one hand, and human rights groups and civic organizations monitoring the elections, on the other.[3]

Although there were a number of allegations of localized fraud in vote-counting, especially with respect to an unusually high percentage of annulled ballots, a systematic pattern of fraud did not emerge. The relatively small irregularities appeared to stem from local officials or others acting on their own initiative and did not appear to affect significantly the final tally. Monitors observed no centralized effort to tamper with the outcome of the vote.[4]

Openness of the Legislative Process

Free and fair elections are meaningful to the extent that the representatives who are voted into office remain accountable to their electorate. The Romanian Parliament has made some *de facto* progress in the area of public access to information about legislative activity. But when Romanian parliamentarians went out of session at the end of July, more than nine months after taking office, they had yet to enact new procedural rules governing their activities, even though it was one of the first items placed on the parliamentary agenda.

As a result, the Parliament continues to act under its old set of rules. This means, for instance, that voting records for individual parliamentarians or their parties do not exist. A controversial electronic voting system exists in both houses of the Parliament, but it is not always used. Moreover, the system does not provide an individualized record of the voting patterns.

For the Romanian Parliament to be truly accountable to the electorate, its legislative agenda and voting patterns must be transparent. The lack of transparency in the Romanian Parliament has been criticized in Romania and elsewhere as an obstacle to full participation in the legislative process by citizens and citizens' groups.[5]

Independence of the Judiciary

On July 1, 1993, the Romanian Law on the Reorganization of the Judiciary (Law No. 92/1992) took full effect. The law, which governs reform of the Romanian courts and the procuracy (prosecutors' offices),[6] was passed in 1992. Provisions on the composition and conduct of the courts and prosecutors' offices, admission into the magistrature and accountability of the magistrates, however, did not take effect until July of this year.[7] The law employs the term "magistrates" to refer both to judges and prosecutors.

Although instituting much needed reforms, the Judicial Reorganization Law is not without its shortcomings. In particular, it does not appear to go far enough in restricting the influence of the traditionally powerful procuracy. For example, the appointment and promotion of magistrates is supervised by the Superior Council of the Magistrature. The Council is composed of 10 judges and 5 prosecutors.[8] As a result, the professional careers of judges are dependent upon review not only by peers on the bench, but by representatives of the procuracy as well. Disciplinary proceedings against judges are also undertaken by the mixed Superior Council of the Magistrature. In contrast, disciplinary proceedings against prosecutors are conducted by a specially designated "disciplinary commission" composed entirely of prosecutors.[9] The intent behind the distinction is clear: the procuracy plays a role in supervising judges; yet the procuracy itself remains free of any outside supervision.[10]

Moreover, the Judicial Reorganization Law maintains the powerful role of the prosecutor in many other respects. Prosecutors, for example, have the sole authority to initiate a *habeas corpus* type procedure ("extraordinary recourse") and are charged with "verifying on-site compliance with the law at preventive detention and prison facilities, as well as upholding educational and safety standards."[11] Relying on the prosecutor's discretion to carry out these important safeguard functions is not necessarily the most effective way to accomplish them.[12] The Council of Europe has also criticized, in particular, the Prosecutor's ability to issue a warrant of preventive detention for 30 days without appearing before an independent judicial authority.[13]

In addition, independence of the judiciary is compromised by the firm hierarchy of control over judges.[14] Article 19 of the Judicial Reorganization Law provides that the Justice Ministry inspectorate reviews the substantive work of judges, including final decisions. Article 19 also provides identical authority to court presidents over their subordinates. At the same time, there is a very uncertain relationship between the procuracy and the Justice Ministry.[15]

The defects in the Judicial Reorganization Law are exacerbated by the seemingly nonchalant attitude of the current authorities towards the law's requirements. On July 14, 1993, two weeks after the final provisions regarding accountability of magistrates went into effect,[16] the Romanian Minister of Justice relieved Corneliu Turianu of his duties as the president of the Bucharest Municipal Court. The action was taken by the Justice Minister without instituting formal disciplinary proceedings or convening the Superior Council of the Magistrature.[17]

The public justification for the dismissal was that Turianu politicized the judiciary, obstructed reform, demonstrated excessive transparency with the press and failed to seek adequate headquarters for the Bucharest Appellate Court.[18] On the day of his dismissal, a Romanian newspaper published in interview with Turianu in which he elaborated on a "war" between the Bucharest Court and the Ministry of Justice regarding judges who had been designated for the Court of Appeals.[19] According to Turianu, the Ministry had sent the judges back to the Bucharest Court because the Court of Appeals had not yet been established as required by the Judicial Reorganization Law. In addition, some observers linked the dismissal to the decision of the Bucharest Court to strike President Iliescu from the slate of candidates for Senate just prior to national elections last September.[20]

Finally, the Judicial Reorganization Law retains the military courts and prosecutors as a parallel system of justice. Indeed, up until May 1993, the General Prosecutor was a member of the military.[21] The Interior Ministry and the Justice Ministry's General Direction of Prisons continue to be considered military formations, headed by army generals, and there personnel (including ordinary police) are subject to the competence of the military courts. As a result, cases of police abuse or mistreatment in police lock-ups or prisons can be rectified only by petitioning the military prosecutor or the respective ministries to take action.[22] Without true civilian control over abuses committed by the police and penitentiary personnel, there is little hope of achieving full protection of human rights.[23]

Civilian Control of the Romanian Intelligence Service (SRI)

Civilian control of the Romanian intelligence apparatus has been a long-standing concern. The SRI was established in March 1990 with a broad mandate to conduct domestic intelligence-gathering operations.[24] Many SRI officers, including the SRI's director, were members of the notorious Ceausescu-era secret police (Securitate).[25] Unauthorized monitoring of telephone communications persists as a remnant of the former Communist regime.[26]

SRI has taken possession of Securitate files, and the Parliament voted to seal them for a 40-year period; the government has taken little action to investigate pre-1989 abuses.

A new law governing the SRI went into effect on February 24, 1992, giving a Parliamentary joint committee the power to approve as well as dismiss any future SRI director. Nevertheless, the law contains significant loopholes.[27] Parliament is not given budgetary control, and the SRI retains the privilege of justifying otherwise prohibited actions on broadly defined national security grounds.[28] The long-awaited report to the Parliament was finally submitted by the SRI in June 1993 and was subsequently leaked to one of the Romanian newspapers.[29] The report has been widely criticized for discussing the activities of SRI only in general terms, except for a section devoted to threats to Romania's economic interests.

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[1] Footnotes at end of article.

Independent Media and Free Speech

Romanian State Television (TVR) is presently the only domestic television broadcaster with nationwide facilities. This station is directed by Paul Everac, an Iliescu appointee who has met with widespread disapproval for his anti-Semitic and anti-Gypsy statements and nationalist programming decisions.[30] As of February 1, 1993, the three programs dedicated to ethnic minorities on TVR were stripped of any political or economic informational content. They were officially turned into cultural, ethnographic, and folklore magazines and broadcast instead of Channel Two and local TV stations.[31] Channel Two reaches only 30% of the population and excludes some areas of high minority population.[32]

In 1992, the government created a National Audiovisual Council (NAC) which began issuing licenses to private television and radio broadcasters at the end of the year; many established, independent television stations that has projected opposition views did not receive licenses from the NAC, causing great controversy. NAC compromised, suggesting frequency sharing in its future decisions, thus taking care of some of the concerns.[33]

On a positive note, allegations of unprovided assaults on journalists have been far fewer than in previous years.

Respect for Rights of Minorities

In April 1993, the Romanian government established the National Minority Council as a forum for government officials and representatives of each minority group in Romania. Although some minority representatives have threatened to walk out if progress is not made soon, a true dialogue appears to be taking place.[34]

The most politically contentious minority issue in Romania has been the situation of ethnic Hungarians. Hungarians have consistently demanded language rights, control over schools and other aspects of cultural automomy and local administrative autonomy.

During the last year, the Transylvanian city of Cluj has been the most turbulent political battleground on the nationality issue. In 1992, Mayor Gheorghe Funar issued Executive Decisions prohibiting a conference, a rally and a public assembly sponsored by the Hungarian Democratic Union of Romania (UDMR), a major opposition political party.[35] Funar also banned by Executive Decision the public display of foreign language signs. In February 1993, he initiated a Cluj Town Council measure to ban foreign national flags and the playing of foreign national anthems in public, except on official occasions.[36] Despite some condemnation from the central government, the municipality continues to use local statutes and regulations to harass or provoke local Hungarians.

The Roma (Gypsy) minority still suffers discrimination far more pervasive and insidious than any other minority.[37] Romanian society, as a whole, tends to associate all Roma with the criminal Roma elements who are perhaps the most visible. Sometimes violence erupts in "vigilante-style" episodes,[38] the most recent of which took place near Timisoara in May.[39] Reactions by the authorities to these events have been limited and slow. In response to one 1991 attack by enraged townspeople in Valeni Lapusului (Maramures District) in which approximately 20 Roma homes were burned, the Romanian government offered to rebuild the houses but has not yet made good on its promise.[40] A July 1992 attack against Roma at Piata Rahova in Bucharest by 40 heavily armed military police wearing camouflage uniforms and black head masks has not progressed beyond the military prosecutor's investigation stage.[41]

Some elements of the Romanian press continue to publish incendiary anti-minority articles, especially the newspapers *Romania Mare* and *Europa*. [42] For example, on July 23, 1993, *Romania Mare* printed an article contesting the "demented" statistics provided by the Washington, D.C.—based Holocaust Museum concerning Jewish victims of atrocities committed in Romania during World War II.[43] In addition, Romanian television and newspapers continue to designate criminals as "tzigane" (Gypsy) when they are of Roma origin, although non-Roma are not generally identified by ethnic of national origin. One Roma leader has announced that he is suing several newspapers for libel.[44]

In September 1992, the German and Romanian governments signed a repatriation agreement providing for the return of Romanians illegally residing in Germany (and, technically, vice versa). It has been widely characterized as a "Gypsy agreement" even though official statistics indicate that only 40 percent of those returned from Germany are ethnic Roma[45], and unofficial surveys indicate an even smaller percentage.[46] Ironically, the German Minister of Interior, when announcing the agreement, misleadingly referred to a German humanitarian program to help build three job retraining centers in Romania, leaving the press with the mistaken impression that the aid was some kind of exchange for Romania taking back Roma migrants. In reality, the aid program was planned long before the repatriation agreement was negotiated, and the Roma community that most needs the assistance will probably not qualify to participate.[47]

Romania especially deserves criticism for its treatment of homosexuals.[48] Same sex consensual sexual relations between adults are criminalized by article 200 of the Romanian Penal Code, and there have been recent prosecutions.[49] For instance, a homosexual couple in Timisoara received suspended sentences in May 1993.[50] One member of the couple is over 18, the other member is a minor. The elder defendant received a suspended sentence of two years.[51] The minor, who was charged only under paragraph 1 of article 200, criminalizing homosexual relations regardless of age, received a one year suspended sentence. Another recent case invoking article 200, in Sibiu, was suspended on July 21, 1993. The case was referred to the Romanian Constitutional Court for a determination as to whether article 200 violates the Romanian Constitution and international human rights treaties.

IV. CONCLUSION

The Romanian government has made significant progress in improving human rights as evidenced by largely free and fair elections last Fall, a gradually more open approach in the legislative process, the increasingly important role being played by non-governmental human rights organizations and a number of seemingly good faith efforts to tackle minority issues. Nevertheless, many of the reforms that appear on paper, particularly regarding the judiciary and civilian control of the SRI, have not been fully implemented or disguise deeper structural obstacles to the full protection of human rights. Furthermore, the Romanian government still has a long way to go in guaranteeing a secure environment for the least popular minorities.

The Law Group supports restoration of MFN status to Romania but urges that Congress undertake a serious annual review in the future in light of the concerns discussed above.

FOOTNOTES

[1] The improvements have been noted, for example, by a March 11, 1993 resolution of the UN Commission on Human Rights. "Situation of Human Rights in Romania," U.N. Human Rights Commission Res. 1993/72, (U.N. Doc E/CN. 4/1993/L.11/Add.7), 66th mtg., 10 March 1993.

[2] U.S. State Department Country Report on Human Rights Practices for 1992, p.1 (hereinafter "DOS Report"). *See also* Council of Europe, *Elections Roumaines "Libres et Correctes" selon les Parlementaires du Conseil de L'Europe* (Press Release, September 28, 1993); International Human Rights Law Group, *Preliminary Statement on the September 1992 Romanian Parliamentary and Presidential Elections* (Washington, 1992), p.1; National Democratic Institute for International Affairs and International Republican Institute, *Preliminary Statement by the International Observer Delegation to the Romanian Presidential and Parliamentary Elections* (September 29, 1992); and Lawyer's Committee for Human Rights, *Critique: Review of the Department of State's Country Reports on Human Rights Practices* for 1992 (New York, 1993) (hereinafter "Lawyer's Committee Report").

[3] Edwin Rekosh and Peter Rosenblum, "Romanian NGOs Look Beyond National Elections," *The Law Group Docket*, Volume 7, No. 2, December 1992, p. 9–10.

[4] Such a conclusion would have been more definitive had one of the human rights organizations, League for the Defense of Human Rights (LADO), been permitted to conduct a computerized doublecheck of the tabulation process. After agreeing in principle, the Central Election Bureau made a last-minute ruling rejecting the presence of non-governmental computer operators (with their own computers) in the District vote-counting centers.

[5] *See* Romanian Helsinki Committee (APADOR-CH), *Declaration in Support of Transparency in the Legislative Process* (signed by numerous human rights organizations, newspapers, trade unions and others), November 1992; *see also* "Gag Rule in Romania," *The New York Times*, March 9, 1993, p. A18. The Council of Europe has highlighted its concern about access to information in Romania, particularly regarding the Parliament. *See* Frederich Konig, rapporteur for the Political Affairs Committee of the Council of Europe, "Preliminary Draft Report on the Application by the Republic of Romania for membership of the Council of Europe," (Doc. AS/pol(44) 62), Strasbourg, 7 May 1993, p. 13 (hereinafter "Konig Report").

[6] The Romanian legal system follows the continental civil law tradition, with its inquisitorial approach, rather than the British common law system, with its adversarial approach. Under the continental system, there is generally a Public Ministry, independent of the Ministry of Justice, which supervises the activities of trial prosecutors and also "sitting prosecutors." The latter perform judicial-like functions during the investigation stage, such as authorizing arrests and searches, as well as marshalling evidence.

The "magistrature" is generally comprised of trial judges as well as "sitting prosecutors." In Romania, there is no distinction between the different roles of the prosecutor. All prosecutors are considered members of the magistrature, even though part of their function is to act as lawyers for the state at criminal trials. For purposes of clarity, that part of the magistrature which is composed of prosecutors is referred to here as the "procuracy."

In addition, in the civil law system, cases are usually heard by a three-judge panel. It is usually one of the judges, the "court president," who conducts most of the questioning and oversees the procedural aspects of the trial.

[7] Law No. 92/1992, art. 124.

[8] Law No. 92/1992, arts. 71–72.

[9] Law No. 92/1992, arts. 98–99.

[10] *See* Renate Weber, "Ministerul Public sau Procuratura?" in Centrul pentru Drepturile Omului (APADOR-CH), *Revista Romana de Drepturil Omului*, April—June 1993, no. 1, p. 22 (hereinafter "Weber Article"); Association of Lawyers for the Defense of Human Rights (APADO), *Report on Romanian Judicial*

Organization Law, March 1993, p. 11 (hereinafter "APADO Report").

[11] Law No. 92/1992, art. 31(e) and (g).

[12] *See* Weber Article, pp. 23–24.

[13] Konig Report, pp. 8–9. The prosecutor's office can also prolong preventive detention by an additional 30 days. (Romanian Code of Penal Procedure, arts. 155–57) Even more problematic is the unfettered discretion of the police to arrest a suspect for 24 hours, without warrant, during which time the suspect has no access to legal counsel (Romanian Code of Penal Procedure, arts. 143–44). Most police abuse tends to take place during the initial interrogation. *See* Helsinki Watch, "Lockups in Romania," January 1993, pp. 11–12 (hereinafter "Helsinki Watch Report").

[14] A Council of Europe rapporteur has strongly condemned Article 19 of the Judicial Reorganization Law on these grounds. Gunnar Jansson, rapporteur for the Committee on Legal Affairs and Human Rights of the Council of Europe, "Memorandum on the Application for Membership to the Council of Europe submitted by Romania," (Doc. AS/Jur (44) 66), Strasbourg, 10 May 1993, p. 2 (hereinafter "Jansson Report"). *See also* APADO Report, pp. 2–7, for a discussion of Article 19 and other practical impediments to independence of the judiciary in Romania. An amendment to Article 19 was introduced in the Romanian Chamber of Deputies in June, but had not yet been acted on when the Parliament adjourned for the summer recess. In addition, as the APADO Report points out, a major impediment to an effective, impartial and independent judiciary is the lack of well-trained jurists to occupy the newly created positions. (The majority of some 1400 positions that were created to fulfill the requirements of the Judicial Reorganization Law still remain vacant.) APADO suggests that training at the existing Magistrates School be required for jurists without prior experience as magistrates or for those below a certain seniority. APADO Report, p. 12–13.

[15] The Justice Minister has nominal authority over the procuracy, now referred to as the Public Ministry (art. 30), but only by acting through the presidentially-appointed General Prosecutor who traditionally has been unfettered by any governmental control (art. 37).

[16] Article 124 of Law No. 92/1992 stipulates, "The dispositions concerning the make-up and conduct of the law courts and prosecutors' offices, admission into the magistrature and accountability of magistrates shall apply beginning with July 1, 1993."

[17] Article 130 states that between the time of the law's publication and "the granting' of irremovability" under its provisions, "assignment, transfer, promotion, suspension and dismissal of judges shall lie with the Justice Minister's authority." Article 129 provides, "Judges shall become irremovable upon their appointment by Romania's President." The Justice Minister may be interpreting the "granting of irremovability" to apply only to those judges who are newly appointed. If so, the law would create two parallel systems of accountability: newly appointed judges would benefit from peer review and other guarantees while existing judges will forever serve at the sole discretion of the Justice Minister.

[18] *Libertatea*, July 15, 1993; *Adevarul*, July 16, 1993.

[19] *Cronica Romana*, July 14, 1993.

[20] In addition to running for President, Iliescu placed his name on the FDSN (National Democratic Salvation Front) slate of candidates for Senate, in case he lost the Presidential race. The election law, however, stipulated that candidates for President must be independent. In three separate decisions, the Bucharest Court stuck Ilirescu's Senate candidacy on those grounds, but was over-turned on appeal each time. Petre Ninosu, the current Justice Minister, was Iliescu's lawyer at the time.

[21] General Mihai Popa Cherecheanu has been replaced by a former Supreme Court judge, Vasile Manea Dragulin. The change was welcomed by the Council of Europe, although the Council of Europe has noted that Cherecheanu has stayed on in the General Prosecutor's office as chief military prosecutor. Jansson Report, p. 3; Konig Report, p. 8.

[22] There is no other legal recourse for a victim of police abuse if the military prosecutor makes a decision of nonindictment. Moreover, there is no question that many police abuse cases go unpunished: "Physical brutality, the hallmark of the Ceausescu criminal justice system, has substantially declined in the lockups but continues virtually unabated during police interrogations. Nearly every arrestee reported having been beaten by police investigators before arriving at the lockups." Helsinki Watch Report, p. 2. Although there are a number of ongoing prosecutions of police abuse, they are not nearly commensurate with the number of violations taking place. In addition, the Law Group is not aware of any criminal sentence having been handed down against a police officer.

[23] The Council of Europe largely concurs: "Although many assurances were given that the police were under civilian control, the problem remains that complaints against police officers can be brought only before military prosecutors who alone can decide to bring charges. Given the apparent reluctance to bring charges in a number of cases, as stated above, this situation, too, gives rise to legitimate concern." Konig Report, p. 9. In addition, a recent report by the Bucharest-based human rights group, the Romanian Independent Society of Human Rights (SIRDO), focused on two cases in the Suceava District of Romania where allegations exist of serious abuse committed by the police and the prosecutor's office. SIRDO's investigation of these two cases demonstrated the inadequacy of the current system, which shields prosecutors and policemen from scrutiny, by documenting the manner in which the Ministry of the Interior and the Office of the Military Prosecutor—the only organs currently available to investigate police abuse—had failed to respond to credible claims. Romanian Independent Society for Human Rights (SIRDO), "Abuses, Corruption or Incompetence of the Justice, Prosecutor's Office, and Police of Suceava District: The Cases of Baciu and Rogojina," February 16, 1993. *See also* Amnesty International, "Romania: Continuing Violations of Human Rights," (Doc. EUR 39/07/93), May 1993, pp. 9–11 (hereinafter "Amnesty Report").

[24] The foreign operations of the former Securitate were separated into the newly formed Foreign Intelligence Service (SIE).

[25] *See Reuters*, April 16, 1992. *See also* David Binder, "Romania Terror Arm Smaller than it Seemed," *New York Times*, June 13, 1993, p. 8. Binder quotes Ion Talpes, head of Romanian Foreign Intelligence, for the proposition that there were 16,000 full-time Securitate officers on the payroll under Ceausescu. He also quotes President Iliescu for the proposition that 4,000 of the officers remained on staff with the Securitate successor agencies.

[26] It is difficult to document the extent to which unauthorized wire-tapping continues. It was recently reported, though, that the Romanian General Prosecutor is currently investigating the Hunedora branch of the SRI for illegal wire-tapping. *Cronica Romana*, July 24, 1993.

[27] *See* DOS Report, p. 1. A rapporteur for the Council of Europe was especially critical of the lack of controls over the SRI: "The Law of 24 February 1992 provides some parliamentary control on the SRI through a joint committee of the two houses of parliament, which must approve the appointment of any new SRI Director and has the right to dismiss him. Apart from this, there is no parliamentary control. In addition, there is no budgetary control either, no Minister who is politically responsible and no clear delimitation of its powers and assignments. This is even more serious as the SRI is allowed to justify otherwise prohibited actions on national security grounds. In fact, President Iliescu himself confirmed to us that it was the Supreme Council of National Defense [sic], which he presided, that was in charge of the intelligence services. * * *"—Jansson Report, p. 2.

[28] There are also serious questions about whether the letter of the law, regardless of its deficiencies, is being adequately enforced. For instance, the current SRI director, Virgil Magureanu, was not submitted to a parliamentary approval process, even though he was appointed after the law was passed. In addition, the Romanian Official Monitor published a decision on June 7, 1993 concerning the establishing of a "Special Telecommunications Service," with duties including "radio-electronic surveillance" and "introducing the necessary secrecy equipment." The new governmental entity, which was created under the authority of the Supreme Council of National Defense, has been criticized by the Romanian Helsinki Committee as a vehicle for allowing the telecommunications activities of the SRI to escape Parliamentary control. *See* Romanian Helsinki Committee (APADORCH), "Press Release Concerning the Establishment of the Special Telecommunications Service," June 1993.

[29] *Adevarul*, June 30, 1993.

[30] In 1992, Everac published a book called *The Reactionary* containing xenophobic and anti-semitic sentiments, for instance: "The Jews are no longer a small minority, but a great world power in the author's strong opinion. This power is diffuse and obscure. As compared to the national state, Israel, which is still vulnerable, the international Jewish network is, today, indestructible. It dominates world politics, decisively influences the distribution of power, is able to destroy economies and to ensure the economic recovery of certain countries. * * * How can 30,000 people [Jews] influence us, even dominating us politically, culturally and economically. How can they tear us apart from each other and play with our feelings. How can they dictate or deny our values. The answer is: because they have won. Not only in Romania, but almost everywhere. * * * [The Jewish People] has an unequalled practical and business sense, coupled with rapacious and merciless qualities."

[31] *Romania Libera*, February 12, 1993.

[32] Everac has also come under fire by a wide range of critics for increasingly politicizing RTV. The centrist Democratic Party (former National Salvation Front) recently complained about biased coverage concerning the dismissal of Corneliu Turianu, the President of the Bucharest Court, and a cultural program which lauded the monumental architecture of Ceausescu. *Romania Libera*, July 30, 1993.

[33] DOS report, p. 5.

[34] Progress appears to have been made, in particular, at an unofficial conference at a Black Sea resort in July. *Adevarul*, July 24, 1993.

[35] DOS report, p. 7. *See also* International Human Rights Law Group, "Election Irregularities Continue to Plague Romania," Press Release, May 6, 1992.

[36] *Romania Libera*, February 22, 1993.

[37] *See* Mark Braham, *The Untouchables: A survey of the Roma People of Central and Eastern Europe*, Report to the Office of the United Nations High Commission for Refugees, March 1993 (especially Chapter Two: Notes from Romania; hereinafter "UNHCR Report"). In addition to the general public antipathy to the Roma, there is: "Discrimination at work: the Roma are either refused work, obtain the most demeaning, and are the first to be dismissed; "Discrimination in education: a lack of educational support; "discrimination by the police: result in harassment, direct attacks and inaction in the face of attacks by others.* * * "—UNHCR Report, p. 27.

[38] DOS Report, p. 10; Federation Internatonale des Droits de L'Homme, *Roumanie: Situation de la communaute Rom (Tzigane) 1990–1991*, February 1992; Helsinki Watch, *Destroying Ethnic Identity: The Persecution of Gypsies in Romania*, September 1991. *See also* UNHCR Report, p. 27: "It is not a one-sided problem. The Roma have triggered off a number of the incidents against them by petty theft and violence, including rape and murder. Yet in contrast to the attacks against them, Roma criminality has usually been that of an action by an individual and not a group."

[39] Eleven Gypsy homes were burned in the municipality of Carpinis (a few kilometers from Timisoara) in retaliation for an attempted murder.

[40] A previous project to rebuild houses in Mihail Kogalniceanu (near Constanta) which were destroyed in a similar attack has been nearly completed, with financial support from the local budget and the German Evangelical Church. In both towns, legal proceedings against members of the vigilante mobs have been commenced, but not yet resolved. In addition, local communities have contributed to rebuilding destroyed houses in two other villages, Turu Lung (Covasna District) and Plaiesil de Sus (Satu Mare District). To date, however, no non-Roma has been convicted in any of the dozens of vigilante attacks.

[41] *See* Amnesty Report, p. 4–5. The attack appeared to be a retaliation for a fight that broke out between a member of the military police unit and a local Roma resident who had been drinking together two days earlier. Romania authorities claim that the soldiers participated in the attack without the knowledge of their superiors and after drill hours. 13 people were reportedly injured.

[42] On July 10, 1993, President Iliescu wrote to the General Prosecutor requesting investigation and prosecution of anti-semitic, fascist and "nationalist-chauvinistic" publications and political formations. Articles 166 and 317 of the Romanian Penal Code provided criminal penalties for "fascist propaganda" and "nationalist-chauvinistic propaganda." Specifically, Iliescu urged the General Prosecutor to re-examine the dropping of a criminal investigation into the publishing last Spring of a Romanian language version of Mein Kampf. Iliescu also identified several extremist organizations for investigation, including Marian Munteanu's Movement for Romania, the Party of National Right and the newly-formed

Party for the Motherland and asked that measures be taken against publications which advocate fascist and nationalist-chauvinistic ideas. Iliescu has been roundly criticized, however, for identifying only the most marginal proponents of hate speech, without naming more popular outlets for anti-semitism and ultra-nationalism, such as *Romania Mare* and *Europa*.

[43] "The Historical Archives are Stolen from Us and a New Holocaust is Fabricated!" *Romania Mare*, July 23, 1993. The article was signed by Corneliu Vadim Tudor, a Senator and the newspaper's director.

[44] Nicolae Gheorghe of the Ethnic Federation of Roma in Romania is suing the newspapers *Romania Mare, Evenimentul Zilei* and *Ora*. *See Romania Libera*, July 28, 1993.

[45] German government statistics indicate that approximately 40% of the 179,676 Romanian citizens who sought political asylum in Germany from 1990 to 1992 were of Roma origin. UNHCR Report, p. 24.

[46] A study conducted by Roma groups in Romania estimated the percentage of those returned via the international airport in Bucharest at about 15 percent. Nora Costache and Nicolae Gheorghe, "Displaced Romanies (Gypsies) within the New Europe: A NGO Draft Report on the German-Romanian Agreement on taking over of Romanian and German Citizens," International Romani Union, Romani CRISS and Aven Amentsa Foundation, April 1993, p. 1.

[47] "The training centres based on now out-of-date statistics may, over the long term, benefit ethnic Romanians. They will probably be of little or no benefit to the Roma for they lack the educational and technical qualifications for entry, and in any case are likely to be precluded because of ethnic prejudice." UNHCR Report, p. 27.

[48] The Council of Europe has strongly criticized the criminal prohibition of homosexual acts between consenting adults conducted in private. Konig Report, p. 12; Jansson Report, pp. 3–4.

[49] Amnesty International has also documented torture and ill-treatment of homosexuals in Romanian prisons and police stations. *See* Amnesty Report, pp. 7–9. Similar documentation has been collected by the Bucharest-based Gay and Lesbian Human Rights Commission of SIRDO (Romanian Independent Society for Human Rights).

[50] The defendants, Milorad Mutascu and Mirel Ciprian Cucu, were deemed prisoners of conscience by Amnesty International. *See* Amnesty Report, pp. 5–6.

[51] Under Romanian law, heterosexual relations between a man and a female minor over the age of 14 is legal, unless the man is her guardian, tutor, professor, doctor or has some other supervisory role. Romanian Penal Code, art. 198.

[From the Hungarian Human Rights Foundation, Oct. 18, 1993]

HUMAN RIGHTS IN RUMANIA UNDER 3½ YEARS OF ILLESCU: AN UNBROKEN RECORD OF BROKEN PROMISES

The 3½-years history of Rumania following the December 1989 dramatic overthrow of the dictator Nicolae Ceausescu can be characterized as a long and bitter succession of broken promises. It is instructive, for example, to review the lofty ideals and concrete promises offered in the newly-created National Salvation Front's Declaration on the Rights of National Minorities issued on January 6, 1990:

"The National Salvation Front holds the following to be necessary:

1. that the new constitution of the country acknowledge and guarantee the individual and collective rights and freedoms of national minorities;

2. that a Law on National Minorities which puts into concrete form the principles of the constitution be formulated and adopted. The parliament should adopt this law within six months of adoption of the new constitution;

3. the necessary institutional framework for the minorities to be able to practice their basic rights, including the free use of the native language and the preservation of ethnic identity, must be guaranteed. For this purpose, a Ministry of Nationalities will be created.

4. We wish to guarantee the right of national minorities to resolve the problems of their own political, social and intellectual life through individuals appointed or elected from within their ranks to their own democratic organizations and the organs of state, public administration and civil society."

It Rumanian government promises to respect minority rights were sufficient grounds to act, the U.S. Congress could have granted Rumania Most-Favored-Nation status on the basis of this Declaration long ago. However, it decided to wait. Today, the sad fact is that not one pledge or promise quoted above has actually been implemented:

1. The very first sentence of the new Rumanian constitution states that "Rumania is a National State, sovereign, unitary and indivisible" This exclusivist terminology was chosen despite the protests of ethnic minority members of Parliament. Leading government officials, including, former Foreign Ministry Spokesman Traian Chebeleu, went so far as to insist that Rumania is not a multi-national state. In fact, until May 1991, Rumania's draft constitution banned outright all political parties "founded exclusively on ethnical, religious or language criteria." This provision would have outlawed the representative party of the Hungarian minority, the Democratic Alliance of Hungarians in Rumania.

2. The new constitution was adopted by Parliament in December 1991. More than 1½ years have passed without even a draft law on National Minorities being prepared.

3. No Ministry for Nationalities has been created, nor any adequate "institutional framework for the minorities to be able to practice their basic rights, including the free use of the native language and the preservation of ethnic identity."

On the contrary, (a) the new constitution restricts native-language education more explicitly than the Ceausescu-era constitution; (b) the current draft education laws include such restrictions as prohibition on the teaching in any minority language of all subjects in the medical, legal and business professions as well as in vocational, technical and agricultural schools; (c) the independent, Hungarian-language university in Cluj (Kolozsvar) has not been reestablished; and (d) use of minority languages in public administration is severely curtailed: Rumanian is the sole language used in the justice system, and any written submission to local authorities must be accompanied by a certified Rumanian-language translation.

4. Ethnic Hungarians continue to be grossly underrepresented in the major governmental bodies: there are no Hungarians in the higher echelons of power including any of the ministries. Moreover, in July 1992, the Prime Minister summarily dismissed the only two ethnic Hungarian Prefects—the most powerful local officials—in the country. Hungarians are similarly underrepresented in the police force, leadership of the armed forces, the diplomatic corps and the judicial system.

Indeed, a useful and fair yardstick of the Iliescu leadership's minority policies might be the degree to which it is now willing to implement the principles and promises quoted above, which it freely undertook three and a half years ago.

HHRF has conducted, since January 1990, intensive monitoring, including 14 fact-finding missions totalling 27 weeks in duration; extensive gathering, compilation and analysis of a computerized database of news clippings and reports in the Rumanian and Hungarian languages; and human contacts through regular oral and written consultation with hundreds of citizens. The focus of HHRF's efforts has been less on the official, government level and more on determining grass-roots, popular sentiment vis-a-vis government actions. It is these sources and contacts which form the basis for HHRF's recommendations and the summary analysis which follows.

HHRF is aware that the transition to democracy is difficult, particularly in the case of a country with the recent repressive legacy of Rumania; it would be unrealistic to expect a miraculous, overnight transformation. Instead, in its research and fact-finding work HHRF deliberately narrows its focus to those specific issues where, not society at large, but a particular government institution or official is able to choose between relatively more democratic or relatively more repressive options. Our evaluation is then based on the accumulated experience of the specific choices made in concrete situations by the responsible parties, rather than generalized or simplistic judgments.

I. ELEVEN POLITICAL PRISONERS STILL INCARCERATED

It is little known outside Rumania that since 1990, as a consequence of selective prosecution and political show trials seeking to place the label of "collective guilt" on national minorities, Rumanian courts have sentenced 54 ethnic Hungarian and Gypsy defendants to various prison terms. Of these, the following 11 ethnic Hungarian and Gypsy political prisoners are still incarcerated, serving a combined total of 146 years; the rest have served out their prison sentences:

Prisoner	From	Prison sentence	Place of Incarceration
1. Pal Ambrus	Dealu (Oroszhegy), Harghita County	15 years	Gherla (Szamosujvar) Penitentiary, str. Andrei Muresianu Nr. 4, 3475 Gherla, Jud. Cluj.
2. Imre Nagy	Dealu (Oroszhegy), Harghita County	18 years	Gherla (Szamosujvar) Penitentiary (address: as above).
3. Istvan Nagy	Dealu (Oroszhegy), Harghita County	15 years	Gherla (Szamosujvar) Penitentiary (address: as above).
4. Elod Vass-Kis	Dealu (Oroszhegy), Harghita County	18 years	Gherla (Szamosujvar) Penitentiary (address: as above).
5. Ferenc Boldizsar	Zetea (Zetelaka), Harghita County	19 years	Aiud (Nagyenyed) Penitentiary Str. Morii 77–9, 3325 Aiud, Jud. Alba.

Prisoner	From	Prison sentence	Place of Incarceration
6. Istvan Ilyes	Zetea (Zetelaka), Harghita County	20 years	Porta Alba Penitentiary 8654 Porta Alba, Jud. Constanta.
7. Laszlo Karsai	Zetea (Zetelaka), Harghita County	19 years	Porta Alba Penitentiary (address: as above).
8. Pal Cseresznyes	Tirgu Mures (Marosvasarhely)	10 years	Tirgu Mures prison.
9. Albert Fuzesi	Padureni (Erdocsinad), Mures County	4 years	Tirgu Mures prison.
10. Arpad Fuzesi	Padureni (Erdocsinad), Mures County	4 years	Tirgu Mures prison.
11. Arpad Papp	Padureni (Erdocsinad), Mures County	4 years	Tirgu Mures prison.

Seven ethnic Hungarians remain in prison for 1989 revolutionary acts

Cases Nos. 1-7 listed about are clear-cut examples of the discriminatory application of justice on ethnic grounds: seven Hungarian men (from the predominantly Hungarian villages of Dealu and Zetea) were tried and convicted as common criminals for allegedly participating in the December 1989 uprising against the Ceausescu dictatorship. In each case, the object of their alleged uprising—the local symbol of authority of the hated dictatorship—was an ethnic Rumanian. But where the selective and discriminatory character of these cases becomes evident is in light of the fact (never disputed in official Rumanian commentary) that no ethnic Rumanian anywhere in the country was ever charged or as rigorously prosecuted, let along convicted, for the crime of "revolutionary."

Contrary to Rumanian government assertions when probed on this issue, these cases do, in fact, meet the requirements for political offenses under Decree-Law No. 3/1990, Article 1, dated January 4, 1990, which grants amnesty for revolutionary acts: In Case Nos. 1-4, the alleged lynching of the local militia man occurred as an expression of outrage against the Ceausescu dictatorship on December 22, 1989, the very day which is commemorated throughout Rumania as the anniversary of the revolution. In Case Nos. 5-7, the alleged victim—also an official of the Ceausescu regime—actually committed suicide during the uprising.

Despite ample evidence to the contrary, all seven men were convicted of "aggravated murder," with the severity of the charges increasing at each step of the appeal process. The Rumanian authorities perpetuate the mischaracterization of these men, as well as the actual sequence and details of the events themselves, in an attempt to portray the defendants as cold-blooded murderers. No mention is made of the actual conduct of the legal proceedings and trials themselves, which involved severe human rights and due process violations, including the use of brutality during interrogations to force confessions; disregard of primary source evidence and testimony favorable to the defendants; alteration and concealment of evidence supporting the defendants; failure to allow the defendants sufficient access to legal counsel; and failure to provide an interpreter.

Some of the more serious doubts and unresolved questions of judicial irregularity surrounding Case Nos. 1-4 include the facts that: (1) the official coroner's report lists "freezing" as the victim's cause of death; (2) no irrefutable evidence was presented to prove that the four accused men had actually inflicted the fatal blow(s) to the victim; (3) instead, the police exercised physical force during the initial interrogations, which resulted in these first four "confessions;" (4) the victim's wife testified that she "had seen Istvan Nagy in the group, but he had not hurt her husband;" (5) the same convicted man, Istvan Nagy, does not understand Rumanian, but was not provided with an interpreter during the Supreme Court hearing. Likewise, in Case Nos. 5-7, the prosecution and judges disregarded the December 25, 1989 post-mortem examination conducted on the victim, which concluded that he had committed suicide—a finding later corroborated by the Institute of Forensic Medicine in Tirgu Mures (Marosvasarhely). The Hungarian Human Rights Foundation is in possession of more than 500 pages of primary source documents raising these and other highly troublesome matters regarding these seven cases, which it can make available to the U.S. Congress for further examination.

Five ethnic Hungarians remain in prison for acts of self-defense related to the March 19-20, 1990 anti-Hungarian violence in Tirgu Mures

Case Nos. 8-11 listed above consist of the five ethnic Hungarian and Gypsy defendants still in prison resulting from a systematic pattern of judicial abuse designed to label the victims—the Hungarian and Roma communities—as perpetrators of violence directed against them. After extensive investigation involving several fact-finding missions, HHRF prepared a detailed report, dated April 4, 1991 and updated October 27, 1992, regarding the legal aftermath of the March 1990 anti-Hungarian violence in Tirgu Mures (Marosvasarhely); the full reports, along with the annexed 73 exhibits consisteing of legal papers from these proceedings, are available for inspection.

More than three years after the fact, the Rumanian Prosecutor's Office has yet to identify and prosecute those responsible for organizing the massive, armed, anti-Hungarian violence in Tirgu Mures on March 19, 1990. Not a single perpetrator has been brought to justice for the brutal beating and blinding in one eye of the prominent ethnic Hungarian playwright Andras Suto. Instead, with two exceptions, the local courts—whose judges include members of the overtly anti-Semitic and anti-Hungarian organization Vatra Romaneasca—sentenced a total of 27 victims; ethnic Hungarians and Gypsies who had acted in self-defense.

This lopsided ration is astonishing in light of the irrefutable evidence, much of it captured on videotape and corroborated by witnesses, showing that on March 19, it was Rumanian peasants, armed with pitchforks, clubs and axes, who were trucked into the city for the express purpose of committing aggression against the local Hungarian population. But the facts are worse than admitted; the legal papers in HHRF's possession plainly demonstrate that 47 Hungarians and Gypsies were convicted, and not 24 as claimed by the Rumanian authorities, and proceedings were dropped against three ethnic Rumanians who were positively identified as having killed four people on March 20.

Finally, Rumanian authorities have sought to downplay the convictions of fourteen Hungarian Gypsies, who were sentenced on "minor charges," but who were supposedly able to "exercise their legal defense rights fully," and whose infractions would now fall under the provisions of a new, more lenient law, providing "mainly for fines," the penalty "being mainly an administrative, and not a criminal one." First, it is simply untrue that these defendants were able to "exercise their legal defense rights fully:" in seven of the 14 cases, the men had no legal counsel; in the other seven cases, the defendants reported that they had been forced to admit their guilt by signing statements they could not read. Moreover, it is of little consolation to the 14 men sentenced under Ceausescu-era Decree No. 153/1970 that their "crimes" have since been de-criminalized. The fact remains that all fourteen served their full sentences, with no clemency or remedy of any kind.

Case No. 8. The most egregious and highly visible political show trial among the cases related to Tirgu Mures is the one against Pal Cseresznyes. Despite a proceeding marred by severe violations of due process, on July 7, 1992, Mr. Cseresznyes was sentenced to ten years' imprisonment for allegedly kicking ethnic Rumanian Mihaila Cofariu, even though the Medical Examiner's report and the physician who treated Cofariu stated that the victim's life-threatening wounds were not caused by kicks. On June 7, 1993, the Supreme Court rejected Cseresznyes' final appeal and upheld the original verdict. Cseresznyes has been in custody since December 1990 in various Bucharest and Tirgu Mures (Marosvasarhely) prisons, during which time he has been frequently beaten and occasionally denied food.

Case Nos. 9-11. On April 15, 1992, ethnic Hungarians Andras Fuzesi, Albert Fuzesi and Arpad Papp from the village of Padureni (Erdocsinad) lost their final appeal and were sentenced to four years imprisonment for seeking to protect their village from outside intruders on March 20, 1990. Even thought the case had already been settled among the parties, with the defendants paying monetary damages, the prosecutor nevertheless filed suit. The judges in the case included Ioan Sabau and Otilia Stefanescu, both of whom are prominent members of the neo-fascist organization Vatra Romaneasca. The prosecutor was Gheorghe Andreicut, who had served as Ceausescu's Chief Prosecutor and also belongs to Vatra Romaneasca.

The cases of Balint Hanzi and Jozsef Galaczi, Gypsies from the village of Singeorgiu de Mures (Marosszentgyorgy), Mures County, no longer appear on the above list of eleven political prisoners, because they recently finished serving their sentences of three years imprisonment for no greater crime than "insulting an official." Similarly, Ferenc Szabadi, an ethnic Hungarian stretcher bearer at the Tirgu Mures hospital was released from prison in September 1993 after having served three years and three months of his five year sentence for allegedly "beating the incoming wounded."

II. RULE OF LAW QUESTIONABLE

Failure to prosecute shootings of 1989 demonstrators and perpetrators of anti-Hungarian violence in March 1990

When needed, the Rumanian criminal justice system can apparently function swiftly and thoroughly, as evident from the eleven cases above. In cases involving high-level officials, however, it seems curiously inept. In contrast to Case Nos. 1–7 above, ex-Securitate officers positively identified as having carried out the massacre of citizens during the Rumanian uprising of December 1989 (when over 1,000 citizens were shot by army and police forces loyal to Ceausescu) have received only light sentences or been set free, on the pretext that "they were only following orders."

Iulian Vlad, Ceausescu's onetime Securitate commander-in-chief, was sentenced to only nine years in prison on the charge of "favoring genocide."

David Stefan, a former Securitate chief and onetime interrogator and torturer of dissidents in Caras-Severin (Krasso-Szoreny) County, is presently a Senator in the Rumanian Parliament.

Ex-Securitate General Radu Tinu, responsible for carrying out the dictator's 1989 campaign of terror against Rev. Laszlo Tokes, was released from prison on the first anniversary of the revolution. A few months later, Tinu wrote an abusive letter directed against Bishop Tokes, who had sparked the 1989 anti-Communist uprising. National Salvation Front Senator Vasile Vacaru read this letter aloud as part of a four-day, televised anti-Hungarian slander campaign in Parliament, and then defended Radu Tinu as a "true hero."

The Military Prosecutor has closed the criminal case against six former members of the Rumanian Communist Party and Cluj (Kolozs) County leadership implicated in the shooting deaths of 26 citizens and injuries to 63 citizens of Cluj (Kolozsvar) on December 21, 1989. The reason: the charges against them "do not constitute genocide," or do not exist in the criminal code.

Similarly, in contrast to the stiff sentences meted out to Hungarians and Gypsies in connection with the March 1990 events in Tirgu Mures, the only two Rumanians charged, Ioan Gorea and Alexandru Berchi, received sentences of only one year correctional work to be served at the place of employment for "offending public morals" and "forceful and armed entry into a political party's headquarters," respectively. Trial witnesses had identified both men as beating ethnic Hungarians fleeing from the March 19 attack on the Democratic Alliance of Hungarians in Rumania (DAHR) office in Tirgu Mures. Furthermore, top army and police officials identified as complicit in the attacks were not prosecuted, but actually promoted to higher rank.

The judiciary and state prosecutor

The investigations, trials and extra-legal proceedings in the above-mentioned 11 cases present clear evidence of systemic abuses and due process violations in the Rumanian legal system, which continue uncorrected to this day. The lack of judicial impartiality is a critical aspect, evident not only in the disproportionate ratio of ethnic Hungarians to Rumanians sentenced in these cases, but in the fact that the judges involved in the Tirgu Mures March 1990 trials were overtly affiliated with the extremist-nationalist organization Vatra Romaneasca.

Another serious issue is the unwillingness of the Office of the State Prosecutor to bring charges in a number of cases where obvious criminal acts had been committed. These acts include attacks on members of the Gypsy community, the attacks on the house of certain opposition leaders, and the slandering of the Jewish community by the weekly Europa.

Unfortunately, the instances of failure to investigate or file charges in cases where clear evidence of criminal conduct exists are legion. On October 31, 1991, for example, Bishop Laszlo Tokes sought criminal proceedings for libel against the extremist-nationalistic weekly Phoenix. Fourteen months later, on January 13, 1993, the Bihor County Prosecutor's Office replied that it would not investigate on the (rather novel) grounds that Rev. Tokes himself was responsible for the negative portrayal, that he had allegedly not contested it, and that "Tokes' behavior is also characterized negatively in other newspapers (Romanul, Adevanul, Democratia) as well as by certain Rumanian parliamentarians in speeches they gave on May 6, 1991." In his appeal—comparatively hastily rejected by the Prosecutor General on May 7, 1993—Bishop Tokes argued, to no avail, that instead of issuing a legal decision, the County Prosecutor had made a political one.

Although the Rumanian authorities have stated that "nationalistic and chauvinistic propaganda, and incitement to racial or national hatred is punishable, under Article 317 of the Criminal Code" and "under Article 166, the spreading of fascist propaganda by any means in public carries a penalty of five to fifteen years' imprisonment and the withdrawal of certain rights," it seems clear that the will to apply these laws is lacking.

The lack of consistent application of laws in the Rumanian legal system is evident not only in the failure to bring charges when warranted (as in the cases related to the March 1990 Tirgu Mures attacks), but in the fact that the prosecutor's office has also

Dropped charges, despite sufficient evidence (also in cases related to the Tirgu Mures violence); and

Pressed charges when plaintiffs had already withdrawn their complaints (as in Case Nos. 10–12 above).

Conversely, state prosecutors have initiated investigations and carried out house searches based on flimsy evidence, anonymous reports and dubious grounds, themselves committing serious human rights abuses of the following kinds:

The desecration by police of the Hungarian Reformed Church of Savadisla (Tordaszentlaszlo) on March 19, 1992, and concurrent searches of the homes of the minister, Rev. Zoltan Szoke, and the local DAHR (Hungarian Democratic Alliance) leader, Imre Boldizsar Zeyk, followed by police interrogations;

Searches of the Hungarian Reformed Church of Liteni (Magyarleta) and the residence of its minister, Rev. Lajos Bartha, the same day;

Illegal house searches in Heveder (Hargita County) on March 24, and intimidation of the same victims by police on April 3, 1992.

Continuing police harassment, commencing March 26, 1993, and assessment of fines against Catrina Feer, an ethnic Hungarian from Girleni, Bacau (Bako) County for teaching Hungarian gratis to children in her own home. Not only has the Interior Ministry not reprimanded the local police chief for abuse of power, but in a May 20, 1993 letter he accused Feer of "inappropriate behavior" and sent her complaint letter back to the same judge.

In sum, it is the actual functioning, or breakdown, of the various components of the legal system—and not so much the lofty text of various legal provisions which have been adopted—which casts serious doubt on respect for the rule of law. In its present condition, the legal system seriously jeopardizes the right of citizens to be free from state-sponsored intimidation and does not contain adequate safeguards, either in law or in practice, to insure the full and fair application of justice.

III. INDEPENDENT PRESS AND MEDIA CURTAILED

Ceausescu-era propagandist takes over national television

The independence and impartiality of Rumanian State Television (RTV)—centrally owned and under tight government control—is highly questionable.

Instead of applying Articles 317 and 166 of the Criminal Code on nationalistic and chauvinistic propaganda quoted above, on January 27, 1993 the government appointed Paul Everac as the new director of RTV. This move was by no account a negligible measure but a clear reinforcement of the government's alliance with extremist forces and a marker of its inability to excise itself from the grip of extreme nationalists within its own ranks.

Notorious as one of Ceausescu's "court poets," a playwright whose propaganda pieces sang the praises of every decision of the Rumanian Communist Party, and an avowed anti-Semite whose manifestos are comparable in vehemence and extremism to those of Joseph Goebbels, Everac has written for the extremist nationalist press and published a "political program" which Romania Libera, Bucharest's main opposition newspaper, characterizes as "the Rumanian Mein Kampf." The "program" recommends dividing the country's population into hierarchical castes based on intelligence, with a view toward ethnic and "moral" purity, and headed by a single leader. Population growth among non-Rumanian ethnics would be "discouraged," their emigration "encouraged."

In a 1992 writing published in Bucharest entitled The Reactionary: A Moral-Political Essay, Everac has this to say about 'the Jewish Question" and Rumania: "A practical and mercantile feeling without an equal and perfected by rapacity and mercilessness . . . The Jews became nowadays the most intolerant people . . . They were always the agents of certain revolutions [and] have unseen aerials everywhere and direct the culture of the whole civilized world, from the Russians to the Americans." Everac ends this diatribe on an ominous note: "Finally, we have something to settle. Not by means of action, but by reaction." (see Appendix)

It should be emphasized that the individual responsible for this and similar tirades is not some marginal figure working at the lunatic fringe of society (as occurs in all too many other countries as well), but that he was conspicuously chosen by the Illiescu leadership to head the most influential media outlet in the country.

Not surprisingly, since his appointment Everac has instituted draconian "regulations" reminiscent of Ceausescu-era methods: RTV employees must submit detailed written reports of every contact with other members of the press. They are also forbidden, under threat of being fired, from "spreading gossip" or "unconfirmed reports" about their superiors.

Minority-language television broadcasting sharply reduced

It should be remembered that on February 3, 1991—just two days after Rumania gained

Special Guest status at the Council of Europe—a government order effectively reduced minority-language television programming by 60 percent. Not only was the number of broadcast hours cut, but half of the remaining minority-language programs are now broadcast on a channel whose signal cannot be received in Transylvania—the region which is home to most of Rumania's national minorities. To this day Hungarian- and German-language television broadcasts have not been reinstated.

Since the Hungarian-language program is broadcast with Rumanian subtitles and is popular for its objective reporting among Rumanian viewers as well, it is repeatedly subject to harassment. For example, in early February 1993, Department Head Radu Gheorghe Sefarim issued a written directive forbidding minority-language programs from broadcasting programs with any political content, that is, anything other than "cultural programs aimed at the preservation of heritage." Despite an appeal to Everac from the heads of the Hungarian-and German-language programs, the ban has not been officially rescinded.

Government revokes independent TV licenses

In November 1992, the government-appointed National Audio-Visual Council rescinded the broadcasting licenses of the independent TV stations in Oradea (Nagyvarad), Brasov (Brasso), Timisoara (Temesvar) and Constanta. These well-established, popular TV stations were among only 30 applicants for 73 available wavelengths, yet their applications were refused. ("Statement" by Untelpro, Union of Independent Television Stations in Rumania, December 3, 1992.)

At the same time, Europa nova, the handpicked new proprietor of the Temesvar station, is owned by Iosif Constantin Dragan, a Rumanian emigre businessman long notorious in the West for his Iron Guard sympathies, his secret police connections and for having promoted the Ceausescu dictatorship. Under government license, Dragan's Europa Nova now also owns radio and TV stations in Iasi, in addition to Timisoara (Temesvar).

Dragan and Everac are not the only cases where the Rumanian government has expressed its preference for the far right. With the proliferation of anti-Semitic, anti-Hungarian and anti-Gypsy publications, the Iliescu leadership has yet to clearly distance itself from xenophobic hysteria and to appeal for moderation. Given the violent and destabilizing impact which the constant drumbeat of government-supported anti-minority sentiments can have, President Iliescu's glib statement at the UN World Conference on Human Rights in June 1993—that "this is probably the price we have to pay until our whole society will become more mature in its democratic exercise"—appears altogether inadequate.

At the same time, however, lawsuits against Corneliu Vadim Tudor, the notorious editor-in-chief of the extremist nationalist newspaper Romania Mare have dragged on for years. In one trial, in Ploesti, Tudor was acquitted on the specious grounds that he cannot be guilty because he is a writer and everything a writer writes is literature. At the same time, it was Tudor's neo-fascist newspaper that Interior Minister Doru Viorel Ursu awarded with a citation for Most Objective Reporting in 1991.

In addition to the government's control over the distribution of newspapers, it should also be noted that the state continues to hold a monopoly on the paper supply and is therefore able to influence the scale of independent and opposition papers, hindering the free flow of information.

IV. PARLIAMENTARY DEMOCRACY BLEMISHED

Serious doubts are cast upon the unhindered functioning of parliamentary democracy and respect for the rights of the opposition by the following two recent incidents:

Persistent evidence exists, corroborated by national Salvation Front Vice President Adrian Severin, of wiretaps used against the political opposition in 1992–'93, including the Democratic Convention's assembly room; the homes of Democratic Convention leaders Dinu Patriciu and Emil Constantinescu; the National Privatization Agency offices; the press room of the Parliament; and the Bucharest headquarters of the Democratic Alliance of Hungarians in Rumania. Pressed for an explanation in January 1993, SRI spokesman Nicolae Ulieru could muster only a contradictory pronouncement: "The SRI has no connection to these microphones . . . and anyway, the task of discovering the microphones should have been undertaken by the appropriate authorities." (Romania Libera, January 22, 1993) Presidential spokesman Traian Chebeleu refused to comment. (Romania Libera, January 23/24, 1992)

On May 27, 1993, Corneliu Vadim Tudor, leader of the neo-fascist Romania Mare ("Greater Rumania") Party had his bodyguards beat up Aristide Dragomir, a National Salvation Front parliamentarian, in the halls of the House of Deputies.

Free and fair elections? Firing independent judge, elections marred by show trials against pro-toleration candidates

Under the guise of the "reorganization of the judiciary" (according to Law 92/1992 in effect as of July 1, 1993), during which period the Minister of Justice assumes extraordinary powers, recently-appointed Minister Petre Ninosu summarily fired Corneliu Turianu, President of the Bucharest Municipal Court. Turianu had been the judge who during the September 1992 national elections brought a ruling nullifing Iliescu's senatorial candidacy since it was unconstitutional for him to run for the offices of both president and senator. After the Supreme Court overrode Turianu's decision, the case was sent back to the lower court which upheld its original verdict, thus barring Iliescu from running for senator. Turianu had been long-regarded as an active proponent of instituting an independent judiciary, yet cynically, the excuse of "de-politicizing the administration of justice" was given by Ninosu—coincidentally Iliescu's lawyer during the aforementioned Supreme Court trial—for dismissing Turianu (Evenimental Zilei, July 16, 1993).

The local elections of February 9, 1992 were marred by serious extralegal abuses which remain uncorrected to this day. On January 23, the Mures (Maros) County court barred candidate Istvan Kiraly from running for mayor of Tirgu Mures (Marosvasarhely), citing "abuses" with which Kiraly, an ethnic Hungarian, had never even been charged. Moreover, the Rumanian Supreme Court ruled that the Mures County court ruling against Kiraly had been illegal, yet declared that for "procedural reasons" it could not overturn the ruling. The Vienna-based International Helsinki Federation for Human Rights (1992 Annual Report of Activities, p. 56) describes the ruling as seen from an international perspective: "In February, [New York-based] Helsinki Watch sent a letter to President Ion Iliescu protesting the decision of the local court in Tirgu Mures to prohibit Istvan Kiraly from running for mayor in the local elections. Helsinki Watch concluded from a review of the court's decision that 'there can be little doubt that Mr. Kiraly was not allowed to run as a candidate because of his political views and ethnic origin,' which are in clear violation of international standards. The Committee also protested the court's ruling that Mr. Kiraly is not a worthy candidate for public office, finding this an improper role for the judiciary. Helsinki Watch pointed out that it is the essence of the democratic process to let the electorate determine the worth of candidates."

Two years ago the same County Court resorted to a secret trial to bar two human rights advocates, Mr. Elod Kincses and Ms. Smaranda Enache, from running for office in the May 1990 parliamentary elections, based on charges from the same "group of citizens" who filed a complaint against Kiraly. Despite repeated appeals, Kincses, Enache and Kiraly have been denied all forms of remedy or redress.

In connection with the generally accepted notion that despite some concerns surrounding the regularity of national and local elections, most international observers agree that they were free and fair, it seems important to bear in mind that the holding of elections is a multi-faceted process which begins long before the actual day of the election. HHRF that the pre-election day abuses cited above are highly relevant to an assessment of the fairness of elections, especially when committed by the president of a country.

Central Government retains local control; ethnic Hungarian prefects summarily dismissed

The Rumanian government retains the right, as under Communism, to appoint the most powerful locals in Rumania—the County Prefects. These Prefects wield veto power over popularly elected local councils, but are not themselves answerable to the electorate.

Last summer, the central government wielded its power over County Prefects in a highly arbitrary move: on July 20, 1992, the Rumanian government summarily dismissed Rumania's only two ethnic Hungarian Prefects, Imre Pataki and Ferenc Fodor (from Harghita) and Covasna (Kovaszna) Counties, respectively, where Hungarians comprise 70-80 percent of the population), replacing them with ethnic Rumanians. The Prime Minister's removal order stated no explanation for the sudden measure.

Despite repeated protests from the counties' populations and negotiations lasting well over a half a year with the Democratic Alliance of Hungarians in Rumania (DAHR) leadership, the government totally disregarded the legitimate request for this most important post to be occupied by ethnic Hungarians in at least these two counties. (None of Rumania's 40 countries has an ethnic Hungarian Prefect.)

In response, Prime Minister Stolojan temporarily resorted to the mechanism of "Co-Prefecture," appointed two Co-Prefects to each of the mentioned counties; one Rumanian and one Hungarian—again, a measure not applied anywhere else in the country.

Ultimately, in March 1993, prime Minister Vacariou dispensed with even this nominal gesture and appointed ethnic Rumanians Vlad Adrian Casuneanu and Doru Vosloban as Prefects in Covasna and Harghita Counties, respectively.

V. MINORITY RIGHTS RESTRICTED

Relegated to second-class citizen status for over two decades, Hungarians and other national minorities in Rumania were subjected to a wide ranging, systematic campaign of forced assimilation at the hands of the Ceausescu dictatorship. Scapegoated and persecuted, their leading dissidents exiled, imprisoned or killed—it seemed little wonder that the 1989 Rumanian revolution was sparked by the resistance of Hungarian Reformed Church Minister Laszlo Tokes.

It is precisely the reversal of Ceausescu-era policies and practices that the Hungarians of Rumania seek; restoration of their human and minority rights, full and equal participation in all aspects of society—in short, freedom from stigmatization and discrimination. But, for ethnic Hungarians, the 3½ years since the revolution have been characterized by a long and bitter succession of broken promises, hallmarked by the lack of implementation of the previously quoted January 1990 National Salvation Front Declaration on the Rights of National Minorities.

It should be emphasized that in their efforts to seek Rumanian government compliance with internationally accepted norms regarding human and minority rights, the Democratic Alliance of Hungarians in Rumania have neither in writing or orally voiced extremist sentiments or excessive demands. At every possible forum, it consistently rejects secessionist solutions and actively seeks dialogue and reconciliation. In contrast, it is the government which has set an example of intolerance by openly colluding with extremist elements, issuing superfluously restrictive decrees and perpetuating anti-democratic practices.

Government promotes anti-minority agenda; overt collusion with neo-fascist forces

During local elections held in February 1992, the ruling National Salvation Front campaigned together and shared candidates with the Rumanian National Unity Party, the political arm of Vatra Romaneasca, and the new Romania Mare Party, another neo-fascist organization. This is the same party whose president, Gorneliu Vadim Tudor declared at a June 12, 1992, press conference that "Bullets suit Gypsies best. A bullet costs only 7 lei."

During October 1991, the Rumanian Parliament devoted four full days to public, televised excoriations of the Hungarian minority and its "collective guilt."

In a February 1992 speech in Parliament, Senator Romulus Vulpescu went so far as to call for the creation of "concentration camps for Rumania's Hungarian citizens."

Rumanian Government Endorses Notorious Anti-Hungarian Mayor

The gross abuse of power and pernicious attempts at provoking hostilities between ethnic Hungarians and Rumanians on the part of Gheorghe Funar, mayor of the multi-ethnic city of Cluj (Kolozsvar) are well-known internationally. It is important to bear in mind, again, that Funar is not an isolated phenomenon at the fringe of society; He is president of the right-wing nationalist Rumanian National Unity Party and ran for the presidency of the country last year, garning 11 percent of the vote nationwide. His flagrant violation of Rumanian laws and international norms reflects a systemic problem—tactily condoned, and sometimes overtly supported, by the Iliescu government. It should be noted that in the following examples, the central government could have chosen to positively apply the power vested in the County Prefect, whose role is "to watch over the lawfulness of the local council activity." Cluj County Prefect Grigore Zanc, however, has been inconsistent and lukewarm in bringing Mayor Funar to court for violating the law, among others in the following ways:

Decreed that all public gatherings in the city must be approved by him personally at least three days in advance, and must specify the purpose of the gathering and a list of participants.

Ordered two Hungarian high schools, the Unitarian Church parish and a store operated by St. Michael's Roman Catholic Church, to remove their bilingual (Hungarian-Rumanian) signs and then assessed heavy fines, claiming that such bilingual signs are "illegal" (they are not);

Arranged the summary dismissal of a Hungarian-language high school principal Attila Balint-Kelemen of the Samuel Gymnasium, ignoring written protests from all 68 (Hungarian and Rumanian) teachers at the high school;

Attempted to evict the Hungarian Students' Association (MADISZ) from its offices in Cluj despite the existence of a legally binding tenancy agreement;

Prohibited the Hungarian Theater of Cluj (a 200 year-old Hungarian cultural institution) from advertising its (Hungarian-language) plays in tri-lingual posters;

Ordered workers to remove the Latin inscription on the historic King Mathias statute in Cluj and replace it with a Rumanian quotation—an illegal act, according to Rumanian laws on historic preservation (Decree 27/1992, Law 50/1991, and Law 69/1991, Paragraph 21(g) on Local Self-Government) and an open anti-Hungarian provocation. Local Hungarians protested peacefully and en masse—as yet, to no avail.

Yet it is this mayor with whom President Iliescu chose to make a pre-election appearance, and whose Rumanian National Unity Party the National Democratic Salvation Front chose to support. On June 4, 1992, in a public appearance with President Iliescu, Funar delivered an anti-Hungarian tirade, reiterating his decisions to prohibit bilingual signs ("we're going to impose fines every 48 hours"), cut back Hungarian-language education ("There are no Hungarian schools in Kolozsvar!"), and evict the Democratic Alliance of Hungarians in Rumania from its Cluj (Kolozsvar) office ("which they had the audacity to occupy"). President Iliescu's only response to Funar's plainly illegal machinations was to blame Hungary for ethnic tensions. ("Elnok es polgarmester" ("President and Mayor"), Szabadsag (Kolozsvar), June 10, 1992)

Discriminatory education policies and practices prevail

Restoring Hungarian-language education in Rumania—once a wide-ranging network of schools methodically dismantled by the Ceausescu dictatorship—has been at the center of the Hungarian minority's aspirations since 1989. But today, the Rumanian Parliament has rejected the key proposals by Democratic alliance of Hungarians in Rumania deputies which would allow native-language instruction in all subjects at all levels. Moreover, Rumania officials at the highest level have also categorically rejected even the idea of reestablishing the Hungarian Bolyai University in Cluj (Kolozsvar) which looks back on a 400-year old history and was forcibly dissolved by Ceausescu in 1959.

In fact, the current draft laws on education expressly curtail native-language education, thus dealing a severe blow to he long-term survival of minority communities. The draft laws on education.

Effectively ban the teaching of history and geography in the Hungarian language in any school in the country;

Prescribe that these subjects may be taught only by ethnic Rumanians; and

Prohibit the teaching in any minority language of all subjects in the medical, legal and business professions as well as in vocational, technical and agricultural schools.

The latter provision would outlaw existing university-level courses taught in minority languages, including Hungarian-language medical training at the Tirgu Mures (Marosvasarhely) School of Medicine and Pharmacology.

Underrepresentation of ethnic Hungarians

Ethnic Hungarians continue to be grossly underrepresented at all levels of government and the public sector including state-owned companies, the police force, leadership of the armed forces, the diplomatic corps and the judicial system. It follows naturally that there are no ethnic Hungarians in the higher echelons of power, including any of the ministries. A few striking examples follow:

There is no ethnic Hungarian minister, deputy minister or state secretary in the government;

There is not one ethnic Hungarian ambassador;

There are no Hungarians in leading parliamentary bodies, nor in the Audio-Visual Council, nor in the Chief Comptroller's Office, nor in the Council of Magistrates, nor on the Supreme Court;

The combined ethnic Hungarian population of Bihor (Bihar), Satu Mare (Szatmar) and Salaj (Szilagy) Counties is 384,000. Yet, there is not a single ethnic Hungarian notary public in either county;

As previously mentioned, in July 1992, the Prime Minister summarily dismissed the only two ethnic Hungarian Prefects—the most powerful local officials in the country—from Harghita (Hargita) and Covasna (Kovaszna) Counties where Hungarians comprise 70–80 percent of the population. But, whereas the numbers would warrant it, neither are there Hungarian Prefects in the Counties of Mures (Maros), Bihor (Bihar), Cluj (Kolozs), or Satu Mare (Szatmar), each inhabitated by over 100,000 Hungarians, nor in the Counties of Times (Temes), Brasov (Brasso), Salaj (Szilagy), Arad, or Maramures (Maramaros) which each have Hungarian populations between 50–100,000;

Hungarians are underrepresented in the economic sector as well: For example, while Mures County has an ethnic Hungarian population of 41.3 percent, only 11 percent of its state-owned enterprises have Hungarian directors. The ratios are similarly discouraging in other heavily Hungarian-populated Counties: Satu Mare 9.6 percent versus 35 percent, Salaj 6.2 percent versus 23.7 percent, Covasna 56.8 percent versus 75.2 percent, Bihor 12.1 percent versus 28.5 percent and, City of Oradea 5.2 percent versus 33.2 percent [Figures based on the 1992 census];

Another highly revealing phenomena is the virtual absence of Hungarian-related street names in key Transylvanian cities. For example, in Arad, only 1.6 percent, in Oradea 1.2 percent, in Cluj 2.8 percent, in Tirgu Mures 2.4 percent and in Satumare 2.6 percent of all streets bear Hungarian-related names. In contrast, however, the Hungarian populations of these cities are 15.7 percent, 33.2 percent, 51.1 percent and 40.8 percent, respectively;

VI. HUMAN CONTACTS LIMITED

Ceausescu-era government decrees restrict contacts with foreigners

Attempts at hindering contacts between citizens of Rumania and the outside world have an especially hard impact on ethnic Hungarians who have many co-nationals living in the surrounding countries.

On May 4, 1993, Rumanian State Secretary for Education Romulus Pop issued Directive No. 29633, which prohibits all citizens of Rumania employed in the educational system from traveling abroad without prior official permission. The directive explicitly cites a 1969 Ceausescu-era law to punish transgressors.

In response to an inquiry in Parliament on May 17, 1993, Education Minister Liviu Major first denied, then confirmed that the decree is in effect. ["A tanugyminiszter fullent, es magyar tanfelugyeloket vadol" ("The Education Minister Fibs, Then Accuses Hungarian Superintendents"), Haromszek, May 27, 1993] In fact, on June, 1993, Sandor Wilhelm, the ethnic Hungarian principal of the Theoretical Lyceum in Sacueni (Szekelyhid), Bihor (Bihar) County, was summarily fired for having traveled to Eccausinesse, Belgium at the invitation of that town's mayor. Mr. Wilhelm does not have the right to appeal.

In Document No. 28/3096, issued October 9, 1992, then-Foreign Minister Adrian Nastase decreed that government employees—whether at the central, county or local level—may not maintain contact "with officials of the Republic of Hungary, or of other countries" without the express permission of the Rumanian Foreign Ministry.

The two decrees violate not only international norms protecting the right to maintain human contacts, but Rumania's own laws as well, including Law No. 69/1991 on Local Automony. Nevertheless, both decrees remain in effect.

VII. OTHER ISSUES

Rumanian Intelligence Service (SRI)

There is serious reason for concern as regards the absorption of former Securitate officials into the Rumanian Intelligence Service (SRI) and the establishment of effective civilian control over its activities. It would appear vital to closely scrutinize developments in the following issues:

1. Does the Supreme Council of National Defense continue to be in charge of intelligence services as defined in Articles 92 and 118 of the Rumanian Constitution? And does the possibility for the SRI to justify otherwise prohibited activities on national security grounds still exist?

2. Has the bill proposing a joint committee of the two chambers to control the SRI actually been passed? What specifically are the control mechanisms?

3. Has the bill put before Parliament on May 21, 1993, making the Director of the SRI responsible to the Minister of Justice, and not a minister in his own right, not answerable to parliament, actually been passed?

Similarly, it would seem important to monitor developments in the following other issues:

4. Has the bill on the organization of and exercise of the profession of the advocate adopted by the Senate and pending before the Houses been adopted?

5. Has an amendment to the Criminal Code decriminalizing private homosexual acts between consenting adults been adopted by the Parliament?

Torture and ill-treatment

Both Helsinki Watch and Amnesty International issued reports in 1993 documenting the systematic and brutal mistreatment of arrestees at police stations which would have warranted the immediate attention of the Rumanian authorities. Rather, in responding to questions on the topic posed by Gunnar Jansson, Rapporteur on Rumania on the part of the Council of Europe, the Rumanian authorities chose a disingenious method to sidestep the issue of basic human rights violations by responding first that they "have no knowledge of the content of this report, which has not been sent to them," and then avoiding responsibility because "no names were given in the Helsinki Watch report" (Committee on Legal Affairs and Human Rights. Memorandum Submitted by Mr. Gunnar Jansson, Rapporteur, dated August 17, 1993, Section 8. Torture and Ill-Treatment, Paragraph 2 and Response to Question No. 4).

CONCLUSION AND RECOMMENDATIONS

Despite the Rumanian government's record of backtracking on commitments, HHRF is also mindful of recent statements, such as President Iliescu's confirmed intent to "go ahead on the path of democratic reforms, and to undertake in the shortest possible time measures recommended by the rapporteurs of the Council of Europe that would bring the democratization of the Rumanian society and its institutions in line with the standards set up by the Council" (June 22, 1993 Letter by Foreign Minister Teodor Melescanu to Frederic Konig, Rapporteur on Rumania for the Council of Europe, Paragraph 4).

President Iliescu's pronouncement, however, stands in stark contrast to the recent rejection by a key member of his own government, the Minister of Education Liviu Major: "The proposals of the Nationalities Council regarding signs in the minority languages are nothing more than simple proposals. We do not want to sign them. We do not have to honor these proposals. I do not think they will be implemented. I do not think this is only a private opinion. I say this as a member of the government, in fact, not just any member of the government. Maybe this provision [regarding bilingual signs] should be implemented if a minority formed eighty percent of the local population. We have no right to violate the provisions of the constitution." (Quoted in: Szabadsag, Cluj, August 24, 1993)

Such retrograde sentiments were echoed last month by other Rumanian leaders (as quoted in Szabadsag, Cluj, August 26, 1993):

"Those citizens who do not want to speak Rumanian, or read and write in the official language of our state, have the right to settle in other countries, including their mother country."—Gheorghe Funar, President of the Rumanian National Unity Party (August 19, 1993).

"The first and foremost responsibility of national minorities in Rumania is to pledge allegiance to the state and to learn the Rumanian language. Let it be clear to everyone: this is Rumania!"—Corneliu Vadim Tudor, President of the Greater Romania Party (August 20, 1993)

"Approval of bilingual signs is destabilizing and against the Nation . . . Minorities in Rumania enjoy too many rights as it is."—Valentin Borda, President of the Bucharest Chapter of Vatra Romaneasca ("Rumanian Hearth Union") (August 24, 1993)

Congress should withhold MFN pending genuine liberalization by the Rumanian Government

Based on the foregoing uncertainties, HHRF believes that prior to receiving Most-Favored-Nation status, it would be vital that as a good faith measure the Rumanian government:

1. Release from prison all 11 political prisoners mentioned in this report;

2. Adopt a Law on National Minorities guaranteeing national minorities the right to preserve and foster their linguistic, cultural and religious identities;

3. Adopt a Law on Education allowing minority-language instruction of all subjects at all levels, in line with Recommendation 1201 of the Parliamentary Assembly of the Council of Europe (June 22, 1993 Letter by Teodor Melescanu, Minister of Foreign Affairs, to Mr. Friedrich Konig. Point 3, Paragraph 4 and Konig Report, dated July 19, 1993, Minority Issues, Point 41);

4. Declare in principle a willingness, and take initial steps to reinstate the Bolyai University in Kolozsvar, with a 400-year past, as an independent Hungarian-language institution of higher education; and

5. Reinstate adequate minority-language television programming on Rumanian National Television.

During the past three years, Members of the United States Congress, Helsinki Watch, PEN American Center, and other concerned individuals and organizations have addressed letters to the Rumanian leadership on numerous occasions, seeking information on, and redress of specific and verified human rights abuses. Nevertheless, the Rumanian government has failed to respond to a single such letter—even in words, much less action—and the problems remain unresolved.

The concerns addressed in this letter are shared by nearly 2 million Hungarians in the United States, along with countless other Americans hoping for the victory of democracy in Eastern Europe. International human rights groups such as Amnesty International and Helsinki Watch, as well as two Bucharest-based ethnic Rumanian organizations (LADO and APADO), have also documented and publicly condemned many of the gross violations outlined above. HHRF and these groups are not arbitrarily "singling out Rumania for discriminatory treatment," as claimed by some business interests and other promoters of the neo-socialist Iliescu government. Rather, we are evaluating Rumania's performance in terms of its own freely assumed commitment to uphold the Helsinki Final Act, and according to the standards of decency and human rights set by the other countries in the same region.

For the past 17 years, the Hungarian Human Rights Foundation, formed in 1976 and existing through 1987 as the "Committee for Human Rights in Rumania," has consistently monitored human rights conditions in Rumania with special, though not exclusive attention to the plight of the 2.5 million strong ethnic Hungarian population. Every word of more than 1,000 pages of printed Congressional testimony—including ten occasions before the International Trade Subcommittee—was dedicated to the proposition that U.S. trade benefits should be granted selectively, to promote the people's aspirations for human rights and decency, and not cynically bestowed, to support repressive governments.

The same motive drives our appeal to you today: We ask the U.S. Senate to review the evidence of regressive, anti-democratic behavior by the Iliescu government over the past 3½ years, and to condition the granting of MFN status on specific, real and verifiable positive measures in the areas of respect for human rights and the rights of national minorities. Historically and at the present time, MFN provides a singular opportunity to exercise influence in favor of positive change, using a device to which the Rumanian regime is highly responsive. Temporarily withholding that status until Rumania takes at least some corrective measures is the realistic and laudable approach which we urge the Senate to adopt.

Our organization does not seek any permanent denial of MFN to Rumania, which would benefit all the peoples of that country, including the Hungarian minority. We argue only, as we have for 17 years and as Congress agreed in 1987, that this measure should be granted in a way which truly benefits the people, not their oppressors. By delaying the restoration of MFN status to Rumania until the latter's government takes concrete steps to redress human rights abuses and institutes specific and verifiable measures to improve its record, the United States can encourage true and lasting democratic reform in Rumania.

Very truly yours,

Hungarian Human Rights Foundation,

LASZLO HAMOS,

President.

Mr. LIEBERMAN. Mr. President, the issue before us today is whether or not to approve the administration's granting of most-favored-nation status for Romania. I have watched developments in Eastern Europe with great interest since 1989 when the people of these countries which had been under Communist shackles for too long propelled themselves on the road to democracy and free market economies. The road they have traveled has been neither easy nor free of obstacles and I applaud the efforts of the countries of Eastern Europe to change their economies and systems of government.

I have taken particular interest in events in Romania and am heartened by the progress which I have seen in Romania's slow and painful movement to democracy. Throughout the transition which has been taking place, I have worked with the State Department and my colleagues in the Congress to ensure that we did all we could to encourage the people of Romania, but that we not lose sight of a basic tenet of all democratic societies and every society that aspires to be democratic—that all peoples regardless of whether they are part of a minority or majority in a country have a right to live in peace and security, free from capricious and arbitrary violations of their human rights.

I have worked for and spoken out on human rights issues, particularly as they pertain to Romania, throughout my time in the Senate. In May 1990, when I cochaired an international delegation which observed national elections in Romania, I met in Bucharest with leading members of the Hungarian community there to discuss their problems and prospects for improvements. Since then, I have been in frequent contact with the United States Department of State and have continually urged it to keep human rights issues at the fore as Romania, or any other country, sought improved relations and most-favored-nation status.

Today, as we stand on the verge of approving the administration's request to grant most-favored-nation status to Romania, I want to bring to the attention of my colleagues, the administration, and the Government of Romania my continued concerns for minorities, such as the Hungarian community, living in Romania. The Department of State has indicated to the Congress that it believes the human rights situation in Romania continues to improve. The recently created Council for National Minorities in Romania is making progress in developing legislation and regulations protecting the use of minority languages and dealing with other pertinent issues. The Romanian press is cited as being free and vigorous and new private radio and television stations have been licensed. All of these are good signs that Romania is on the right path. But even those with the best of intentions sometimes stray from the right path. I urge my colleagues and the administration to remind the Government of Romania that this favored trade status is being granted, in part, because of the administration's assessment that sufficient progress has been made in a number of areas including human rights. If the Government of Romania were to falter in its protection of the rights of its minorities, or worse, if it were to return to the repressive practices and policies of the prerevolution regime, most-favored-nation status could be jeopardized.

I do not want to stand in the way of the aspirations and movement to democracy and free markets by any nation. There is great concern that without most-favored-nation status, the Romanian Government might falter in its progress toward democracy. The transition to a market economy is a particularly painful, slow, and costly process. The people of Romania look to the United States for an indication that the pain they are enduring, and will endure for some time, is, in fact, worth the benefits they ultimately will reap by living in a democratic society with free markets. It is important to note that today all Romanian political parties, including the ethnic Hungarian UDMR, support most-favored-nation status for Romania.

I believe we must do all that we can to continue Romania's march to democracy. Approving most-favored-nation status is an important part of what we can do. As we act on this important measure, I call on the Government of Romania to continue its efforts to protect the rights of all its people and to pursue with renewed vigor and genuine concern the questions of human rights violations which have arisen, particularly concerning the Hungarian minorities in Romania. The people of Romania and the world community deserve nothing less.

ORDERS FOR MONDAY, OCTOBER 25, 1993

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in recess until 2 p.m. on Monday, October 25; that following the prayer, the Journal of the proceedings be deemed approved to date, and that the time for two leaders be reserved for their use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL MONDAY, OCTOBER 25, 1993, AT 2 P.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 11:34 p.m., recessed until Monday, October 25, 1993, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate October 21, 1993:

DEPARTMENT OF ENERGY

MARTHA ANNE KREBS, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE OF ENERGY RESEARCH, DEPARTMENT OF ENERGY, VICE WILLIAM HAPPER, RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

MARY RITA COOKE GREENWOOD, OF CALIFORNIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE KARL A. ERB, RESIGNED.

DEPARTMENT OF JUSTICE

ALAN D. BERSIN, OF CALIFORNIA, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF 4 YEARS, VICE WILLIAM BRANIFF, RESIGNED.

JAMES BURTON BURNS, OF ILLINOIS, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF ILLINOIS FOR THE TERM OF 4 YEARS, VICE FRED L. FOREMAN, RESIGNED.

JOSEPH LESLIE FAMULARO, OF KENTUCKY, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF KENTUCKY FOR THE TERM OF 4 YEARS, VICE KAREN K. CALDWELL.

WALTER CHARLES GRACE, OF ILLINOIS, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF ILLINOIS FOR THE TERM OF 4 YEARS, VICE FREDERICK J. HESS, RESIGNED.

MICHAEL DAVID SKINNER, OF LOUISIANA, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF LOUISIANA FOR THE TERM OF 4 YEARS, VICE JOSEPH S. CAGE, JR., RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 1, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

BRUNO J. CORNELIO, OF CALIFORNIA
DAVID P. EVANS, OF MARYLAND
GRAHAM BURRELL KERR, OF NEW YORK
JAMES MUDGE, OF COLORADO
MARY L. LEWELLEN, OF NEVADA
GARY E. LEWIS, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 2, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CHARLES RICHARD AANENSON, OF WASHINGTON
HENRY LEE BARRETT, OF CALIFORNIA
DEBASHIS DAVID BOSE, OF THE DISTRICT OF COLUMBIA
MELLBERTH BOWLING, OF VIRGINIA
WILLIAM MICHAEL FREJ, OF CALIFORNIA
MICHAEL TILESTON FRITZ, OF OREGON
MICHAEL STAYTON KEPLER, OF TEXAS
JAY KNOTT, OF THE DISTRICT OF COLUMBIA
KIFLE NEGASH, OF MICHIGAN
THOMAS M. OLSON, OF VIRGINIA
WILLIAM R. PARISH, II, OF CALIFORNIA
SUSAN RILEY, OF CALIFORNIA
MARIO ROCHA, OF CALIFORNIA
JAMES B. SANFORD, OF TEXAS
JANE E. STANLEY, OF VIRGINIA
PETER W. SULLIVAN, OF PENNSYLVANIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 3, CONSULAR OFFICERS AND SECRETARIES IN THE

DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

THOMAS E. MOORE, OF TEXAS
RUSSELL Y. SMITH, OF OHIO

AGENCY FOR INTERNATIONAL DEVELOPMENT

ROBBIN E. BURKHART, OF TEXAS
ALLEN P. FLEMING, OF MARYLAND
NANCY J. LAWTON, OF VIRGINIA
KAREN L. OTTO, OF FLORIDA
MITRO DARREN ROMAN, OF ARIZONA
MARY ELIZABETH VALENZUELA, OF WASHINGTON

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS 4, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

GRENVILLE E. DAY, OF IDAHO

DEPARTMENT OF AGRICULTURE

DAVID L. NEUBERT, OF ALASKA

DEPARTMENT OF COMMERCE

HENRY S. RICHMOND, OF HAWAII

U.S. INFORMATION AGENCY

GREGGORY CROUCH, OF THE DISTRICT OF COLUMBIA
ELIZABETH W. DAVIS, OF CALIFORNIA
ANNE E. GRIMES, OF VIRGINIA
CAROL S. HARLOW, OF WASHINGTON
LISA L. HELLING, OF COLORADO
JEFFREY JAMISON, OF PENNSYLVANIA
DALE A. LARGENT, OF WASHINGTON
MATTHEW C. MASON, OF CALIFORNIA
JOHN C. SULLIVAN, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE AND THE U.S. INFORMATION AGENCY TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

STEWART J. BALLARD, OF VIRGINIA
DANIEL BAZAN, OF TEXAS
HEIDE L. BENNER, OF VIRGINIA
DAVID C. BROOKS, OF CONNECTICUT
PAUL VINCENT BRUNING, OF VIRGINIA
CHRISTOPHER LOWELL BUCK, OF COLORADO
KEVIN A. BUCK, OF VIRGINIA
JOHN R. CARLINO, OF TEXAS
THOMAS P. CARROLL, OF ILLINOIS
TANIA BOHACHEVSKY CHOMIAK, OF VIRGINIA
GEOFFREY HUNTER COLL, OF NEW YORK
CHERRIE SARAH DANIELS, OF TEXAS
JUDY R. EBNE, OF THE DISTRICT OF COLUMBIA
CHERYL EIA, OF MISSOURI
MARTHA J. HAAS, OF ARIZONA
RUDOLF P. HAHN, OF VIRGINIA
SUSAN M. HALEY, OF VIRGINIA
JOHN WESLEY HARRISON, OF MARYLAND
LINDA J. HARTLEY, OF CALIFORNIA
JOHN STEPHEN HORNING, OF VIRGINIA
PAUL HOROWITZ, OF OREGON
SHARON E. HUDSON, OF PENNSYLVANIA
CONSTANCE COLDING JONES, OF INDIANA
CAROL R. KALIN, OF THE DISTRICT OF COLUMBIA
SARAH E. KERPER, OF VIRGINIA
SCOTT JACOB KESSLER, OF MARYLAND
JOHN CHRIS KIRIAKOU, OF MARYLAND
NICHOLAS H. KOUMJIAN, OF CALIFORNIA
RICHARD GUSTAVO MILES, OF FLORIDA
MANISH KUMAR MISHRA, OF PENNSYLVANIA
WILLIAM E. MOELLER, III, OF VIRGINIA
MICHAEL W. O'HARE, OF VIRGINIA
STEVEN LOUIS PIKE, OF NEW YORK
TED D. PLOSSER, OF THE DISTRICT OF COLUMBIA
THOMAS J. QUINN, JR., OF CALIFORNIA
DAVID M. REINERT, OF NEW MEXICO
JAMES H. RIAL, OF VIRGINIA
DEBORAH A. RUTLEDGE, OF KENTUCKY
PAMELA KAY SCHEFFLER, OF VIRGINIA
MARCO AURELIO RIBEIRO SIMS, OF THE DISTRICT OF COLUMBIA
ANTHONY KENNETH STEPLETON, OF FLORIDA
MARK L. STREGE, OF FLORIDA
MATTHEW J. SWEENEY, OF VIRGINIA
STEPHEN ANDREW TANSKI, OF VIRGINIA
ANN TULL, OF VIRGINIA
DAVID H. L. VAN CLEVE, OF CALIFORNIA
SUSAN M. WALSH, OF ALABAMA
OLIVER EUGENE WICKLUND, OF MARYLAND
LORRAINE VALERIE WILLIAMS, OF VIRGINIA
CHARLES T. WINBURN, OF INDIANA
PAMELA E. WOODARD, OF ILLINOIS
RICARDO F. ZUNIGA, OF VIRGINIA

CONSULAR OFFICER OF THE UNITED STATES OF AMERICA:

TERRY SORGI, OF WISCONSIN

SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

RICHARD R. RIES, OF VIRGINIA

CONFIRMATIONS

Executive nominations confirmed by the Senate October 21, 1993:

DEPARTMENT OF DEFENSE

NORA SLATKIN, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

DEPARTMENT OF COMMERCE

JOHN DESPRES, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WILLIAM J. GILMARTIN, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

LEGAL SERVICES CORPORATION

HULETT HALL ASKEW, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1995.

LAVEEDA MORGAN BATTLE, OF ALABAMA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1995.

JOHN G. BROOKS, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1995.

NANCY HARDIN ROGERS, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1995.

DOUGLAS S. EAKELEY, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1996.

F. WILLIAM MCCALPIN, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1996.

MARIA LUISA MERCADO, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1996.

THOMAS F. SMEGAL, JR., OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1996.

JOHN T. BRODERICK, JR., OF NEW HAMPSHIRE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1996.

EDNA FAIRBANKS-WILLIAMS, OF VERMONT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR THE TERM EXPIRING JULY 13, 1995.

ERNESTINE P. WATLINGTON, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR THE TERM EXPIRING JULY 13, 1996.

FEDERAL MEDIATION AND CONCILIATION SERVICE

JOHN CALHOUN WELLS, OF TEXAS, TO BE FEDERAL MEDIATION AND CONCILIATION DIRECTOR.

SMALL BUSINESS ADMINISTRATION

CASSANDRA M. PULLEY, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

JAPAN IN A NEW WORLD ORDER

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. ABERCROMBIE. Mr. Speaker, Professor Yasumasa Kuroda, as an authority on United States-Japan relations and West Asia, is uniquely qualified to address Japan's role in the long, complex, and difficult task of making peace between Israelis and Palestinians. He has authored, coauthored or edited more than 100 scholarly articles, seven monographs and five books. His work has appeared in Arabic, English, Hebrew, Italian, and Japanese. He has served as a member of the editorial board of the Journal of Arab Affairs since its inception in 1982. In addition to his faculty position at the University of Hawaii, he has served as a research fellow of the Hebrew University, where he conducted the research for "Japan in a New World Order: Contributing to the Arab-Israeli Peace Process."

JAPAN IN A NEW WORLD ORDER: CONTRIBUTING TO THE ARAB-ISRAELI PEACE PROCESS

(By Yasumasa Kuroda)

Our problem is people. If a land is peopled by another nation, there is no sense to talk about the land as though it were empty. Yet, that is what we did, and that is what we will no longer do. . . . They, of course, denied our right to exist, and that was futile. Shimon Peres

Our hearts sing with hope today . . . We have finally come to recognize that neither side will have peace and tranquility if it denies this to the other, that neither of us will establish our legitimacy by killing the other, that security comes from mutual acceptance. Sami Kilani

(The Honolulu Advertiser, Sept. 10, 1993, A11)

THE OBJECTIVE: ITS SCOPE AND CONSTRAINTS

Since the historic Madrid Peace Conference of 1991 to end hostility between Arabs and Israelis based on UN Security Council Resolutions 242 and 338, the world has anxiously waited for peace to break out at last in the Holy Land. It now appears that the moment has arrived as Peres and Kilani characterized a critical moment in history and as Chairman Yasser Arafat and Prime Minister Yitzhak Rabin shook hands at the White House and an agreement of mutual recognition and principles signed. The signing of the agreement is difficult enough but the implementation stage of the agreement will be even more challenging.

The present study is aimed at providing alternative policy options for Japan to make the peace process viable in cooperation with the United States and Europe. The objective is to define what would be the preferred role Japan should play in the Arab-Israeli peace process so that not only the fiasco of the Gulf War policy is not repeated but also so that in the end Japan will be respected and appreciated by Arabs and Israelis alike. The report is designed to enhance the national interests of all parties concerned including Americans, Israelis, Japanese and Palestinians without harming of any one.

There are a number of constraints in attempting to achieve the objectives outlined here. Perhaps the one that deserves attention here is that the peace Israelis and Palestinians are attempting to achieve is impossible if you wish to satisfy every ideological and religious group. However, we need to recognize that both Hamas and other ideologues on the Palestinian side and Kahane followers, Gush Emunim and others on the Israeli side are making contributions to peace, just as moderates on both sides are trying to achieve when viewed from a wider perspective in the long run. In America, a large majority of us came to accept Martin Luther King as a mainstream civil right activist at least in part as a result of the sacrifice Malcolm X and others made. However, peace is possible only between moderates, the Labor-Meretz coalition and the mainstream PLO supporters.

Japan's participation is necessary for the successful implementation of the peace process for several reasons.

First, the outcome must be a win-win or a "shared-victory" for the two parties in conflict, as Gorbachev puts it. The two adversaries are in the peace process to gain—be it security for Israel or the right of self-determination for Palestinians. For them to achieve their objectives requires not only ideas but massive financial resources which the United States is no longer in a position to offer alone. Hence, Japan's participation is needed. This was made clear by Secretary of State Warren Christopher when he said that the major contributors should be in Gulf states and Japan, not the United States. He added on Sept. 2, 1993 that Japan has already agreed to assist.

Second, as Japan desires to play a greater role in the world politics arena as manifested in its explicit desire to become a permanent member of the United Nations Security Council, Japan must fulfill obligation as an economic superpower in the post Cold War era. One such obligation is to assist parties in conflict to divert their energies and resources from fighting each other to building a communitarian would—bringing peace. Moreover, Japan's obligations are not solely based on its economic status. As a nation defeated and devastated in war against the United States and its allies, Japan managed to recover not only from its war-stricken economy but also successfully developed friendly relations with its former enemy, the United States. Americans and Japanese hated and distrusted each other as much as humanly imaginable during World War II, just as Arabs and Israelis have since May 1948. Contrary to some who assume that the Arab—Israeli conflict is centuries old, it is a struggle between two competing nationalist forces that led to armed conflicts in this century, especially after May 15, 1948 when Israel declared itself an independent state in Tel Aviv, Palestine. In fact, Arabs and Jews lived in peace under the Ottoman Empire for four centuries prior to the outbreak of World War I.

How did Americans and Japanese turn their mutual hate to friendship? The United States and Japan can perhaps share some of their experience with Arabs and Israelis who no longer wish to be prisoners of the past memories filled with violence. They can together start a new chapter in history as represented in the words of Foreign Minister Shimon Peres as he revealed his earlier secret negotiations with the PLO Economic Development Department Director and Japan-Palestinian Friendship Committee Chair Abu Alla and others on August 19, 1993 in Norway.

Third, Japan's constitution calls for its people to contribute to world peace when its preamble proclaims:

"We desire to occupy an honored place in an international society striving for the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize that all people of the world have the right to live in peace, free from fear and want . . .

"We, the Japanese people, pledge our national honor to accomplish these high ideals and purposes with all our resources."

Japan has learned in the Gulf War that its participation in world affairs requires more than just contributing financial resources but the way one provides such assistance is crucial to its successful contribution to the world peace. I am certain that Japan wishes to participate in the peace process but wishes to do so effectively so that its participation is appreciated by all parties concerned, including the United States. By so doing, Japan can achieve its objective of becoming a leader in the development of a new world order in the Post Cold War era.

What are some of the arguments against Japan's involvement in the building of peace in the region?

First, Japan was not responsible for either the Palestinian problem or anti-Semitism which led to the rise of Zionism. Although Japan was an ally of Nazi Germany, it did not engage in any systematic anti-Semitic activities. In fact, Japan refused to hand over Jewish refugees in China to German authorities. Japan's only possible responsibility was that it is a signatory to the San Remo Conference, resulting in the establishment of the British Mandate over Palestine. Japan was not a member of the UN on November 29, 1947, when the General Assembly passed its partition plan for Palestine that deprived Palestinians of their land. The United States pushed for the plan as did Europe. The Palestinian problem arose as a direct consequence of a UN policy about land that it did not own. The United States and the EC should make compensation for the land the Palestinians lost. Japan had no hand in that matter.

Second, if Japan has any money, it should first recompense East Asians, such as Korean "comfort women," who suffered so much at the hands of Japanese soldiers during World War II. Japan also has not paid its past dues for UN peacekeeping.

Third, Japan perhaps ought to have paid for the Gulf War, since it gets 70 percent of the oil it needs from the Gulf. But that is not the case with the Arab-Israeli peace process, since Japan's trade relations with Israel and its immediate neighbors are limited.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Secretary of State Warren Christopher in Washington, D.C. on a Sept. 2 radio interview revealed that if interim self-rule is realized in the occupied territories, the Gulf nations and Japan will provide necessary funds for the development of the area. The United States will assist but it will not be the main player in financial aid to the area. (The Hawaii Hochi, Sept. 3, 1993, 1) Israeli sources reported in Tel Aviv on September 3 that the United States, the EC and Japan are conferring to offer $560 million to start the establishment of self-rule in Jericho and Gaza. (The Hawaii Hochi, Sept. 4, 1993, 2)

It appears that irrespective of the merits or demerits of Japan's participation in the peace process Japan will take part in the Arab-Israeli peace process as indicated by Foreign Minister Tsutomu Hata when he attended the Middle East peace signing ceremony on the South Lawn of the White House on Sept. 13. If so, the question is: "How best Japan can achieve its objectives?"

THE APPROACH

First of all, I decided to find out what Arabs and Israelis expect of Japan and what they would like to see Japan do for the peace process. I interviewed PLO officials, in Tunis as well as Americans, Israelis, Japanese, Jordanians and Palestinians in Israel, the occupied territories (the West Bank and Gaza), and, in Jordan. Some of them were officials who are directly involved in the peace process, while others were advisors or otherwise concerned with the process (including such leading figures in Peres' secret channel deal with the PLO as Abu Ala, Yossi Beilin and Yair Hirschfeld).

Second, I presented historical patterns of Japanese foreign policy making in the Middle East to demonstrate how Japan might best fit in the peace process given characteristics that are not repeated here. However references will be made to them.

Third, since Japan's participation in the peace process represents an uncharted map in the post cold war era, I have generated a model for the peace process, weaving my findings from the interviews into the model.

Fourth, I summarize findings by a series of propositions describing the preferred role for Japan as it participates in the Arab-Israeli peace process.

A modified version of Michael Haas' communitarian paradigm (Polity and Society, New York: Praeger, 1992, 236-239) is used to organize my findings.

THE COMMUNITARIAN MODEL

The Japanese in the last half of the 20th century successfully developed a communitarian society described by Karl W. Deutsch et al (Political Community and the North Atlantic Area, Princeton Univ. Press, 1957, 5) as a "security community" in which an intense sense of belonging prevails and violence is minimized while they went through rapid industrialization and urbanization. Israeli Jews do have a strong sense of community, but it does not extend to include Gentiles in the Holy Land. In the words of Deutsch, Israeli society is not "integrated." His definition of a security community requires the development of a conviction that common problems must and can be resolved peacefully. Haas' communitarian paradigm focuses on ideological and material parameters for building peace. Palestinians, obsessed by their desire to establish their own state, were willing to sacrifice material gain in the intifada by such measures as closing their shops at noon. While Israelis are equally obsessed with their concern for security, they relied on US aid to maintain military dominance and to ensure economic prosperity.

A model of the bilateral relationship between Arabs and Israelis most viable to develop and sustain a positive peace is found in the fostering of a healthy symbiotic relationship socially, economically and environmentally. Several forms of symbiotic relations already exist such as Israeli use of a Palestinian labor force, the latter perform subordinate jobs. In reality, if the Japan-U.S. bilateral relationship is any indication, it may not be necessary to be symmetric in all areas of the relationship. Observe how lop-sided Japan-U.S. relations are in two key areas, security and the economy. They need each other in different areas. Japan depends totally on the United States for its external security. Likewise, Palestinians must depend on Israel for their security threats from outside while Palestinians will develop enough forces to maintain domestic order at least for the immediate future.

A proposed model of communitarian society is outlined by using small letters for metaphysical idealist and large letters for materialist concepts:

COMMUNITARIAN MODEL

Psychological needs: security/self-determination.
External inputs and economic incentives.
Peace treaty/land and government.
Economic needs: tourism, water, technology transfer, labor, refugee/settler settlements, foreign aid, investment, etc.
Technical collaboration.
Functional organizations: tourism, water, pool, work management, trade agreement, domestic security and external defense, etc.
Increased social transaction under symmetric structure.
Increased foreign trade, investment and tourism.
Symbiotic prosperity.
Mass support.
Political conflict resolution: peace.

Basically what the model proposes is to move towards the development of a communitarian society by satisfying both peoples' psychological and material needs through a peace treaty and the development of their economies based on a more symmetric structure, external input in the form of loans, aid, investment, technology transfer and trade, resulting in symbiotic prosperity. Heavy Israeli dependence on the United States for economic and military aid will cease, and its economy will be gradually integrated into the regional economy in the East Mediterranean, while expanding its trade with the rest of the world. The result is the breaking out of *Salaam and Shalom* simultaneously in both Israel and Palestine for neither one can exist alone in isolation. The proposed model is probably close to Shimon Peres' model for the peace process. He spoke of building a "civic community" and a "new common wealth" in the Holy Land at his White House speech on Sept. 13, 1993.

Now, how can Japan best fit into the building of a communitarian society?

THE PREFERRED ROLE OF JAPAN IN THE PEACE PROCESS

Preferred alternative futures of the Japanese policy towards the peace process are broken into three categories of when, how and how much Japanese involvement.

1. WHEN?

Arabs in general and Palestinians in particular are urging Japan to get involved directly and as soon as possible, whereas the Israelis are anxious to have Japan play a larger role in the region but are uncertain about what Japan might do. The United States and Israel would like to see Japan closely coordinate its involvement in the peace process with the Untied States. Many Israelis tend to perceive the EC, which already provides direct assistance to Palestinians, with some apprehension.

In terms of timing, Japan can offer immediate incentives in order to facilitate Israeli withdraw of military forces and the re-settlement of Israelis from Gaza and the West Bank and the establishment of self-rule for Palestinians and the resettlement of Palestinian refugees. The rest of the peace process will be carried out over a longer period—say 10 years.

In short, the answer is the sooner the better, but in close consultation with the United States, since Japan has not established itself as a visible independent actor in the region.

2. HOW?

Japan's key foreign policymaking has been noted for its close cooperation with the United States. Some have even characterized Japan as in this regard a rich American poodle. This policy is an integral part of the Yoshida doctrine established in 1951. Also, noted is Japan's uncanny ability to establish good relationships with two conflicting parties, such as with Iraq and Iran during their war,—an omnidirectional policy, as some call it. These traits constitute strengths for Japan in taking part in the peace process.

However, Japan must modify its style of diplomacy in order to be effective in achieving its objectives and more appreciated by Arabs and Israelis. First, Japan should be more decisive and explicit in its intents. Second, it should pay more attention to the public relations aspects of what it decides to do. It should get involved both with substance and with a colorful flair. Third, Japan should be more pro-active and less reactive if Japan is to earn respect from the Semitic peoples.

Israelis are justifiably apprehensive about Japan's long record of adhering to the Arab boycott, although the Bush-Kaifu meeting in Los Angeles in 1991 made it clear that Toyota Motor Co. among other companies abandoned the Arab boycott. Israelis do not know how to deal with a Japan that continues to maintain a relatively low profile in Israel.

There are several suggestions to be made here in order to move toward the establishment of a communitarian society in the region.

(1) A comprehensive review of the literature available must be carried out. For example, reports prepared by the Israeli Ministry of Tourism, the UN agencies (e.g., UNCTAD/RDP/SU/7, Dec. 31, 1991), and the Arab Tourist Industry Coordinating Committee should be consulted before any official policy is formulated. Furthermore, there are five multilateral committees composed of arms control, economic development, environment, refugees and water committees. Any effort to extend assistance must consult with these committees and their reports to be effective. In addition, both official (Israel and the PLO) and academic and private economic development plans and other research publications abound on both sides. The Truman Research Institute for the Advancement of Peace has a series of joint Israeli-Palestinian reports on various topics of importance to the peace process. Private research institutes in Israel, the occupied territories and elsewhere such as the United States are involved in these research activities as well.

(2) Because of the proximity of several countries in the region, any planning needs

to take the whole region into consideration. This is especially true of the problem of water shortage. The differences among geographically close nationalities and groups are often striking, which must be taken into consideration. For example, Israelis per capita income is about 10 times that of the West Bank Palestinians. Gaza Palestinians (600,000) are even worse off than their West Bank counterparts (900,000) and, not surprisingly, they are more radicalized in their orientation. The total Palestinian population is estimated to be about 6 million, most of whom live in Jordan (2 million) and the occupied territories. Furthermore, about a million Gentiles, most of whom are Christians and Muslims who often identify themselves as Palestinians, live amid 5 million Israelis. Asian and African Jews (Sephardim) constitute a majority in Israel, whereas European Jews (Ashkanazim) are a minority.

(3) Unlike other areas including the Gulf region with which Japan has dealt for a considerable time, Israel and its immediate neighbors are relatively alien to Japan. Although Japanese interest in the Middle East has increased significantly since the First Energy Crisis in 1973, neither Japanese nor Arabs and Israelis know much about each other. Japan cannot be effective in helping the region if Japan does not have enough people who know the region. Japanese expertise in the region is lacking in comparison with the Americans and Europeans. In order for Japan's participation in the Arab-Israeli peace process to be effective, I would propose for Japan to establish a research/training center in Jerusalem to promote mutual understanding between West Asians and the Japanese and to make Japan's contribution to the Arab-Israeli peace process both viable and successful. The center should offer language training for Arabs, Israelis and Japanese, orientation programs for businesses, especially in the tourist industry and for investors, and engage in policy-oriented research activities in the region to enhance the chance for peace. The Center should establish close cooperative working relationships with the Hebrew University of Jerusalem and Bir Zeit University to advance its objectives.

For what areas of involvement might Japan be suited? Japan indeed has more than just financial assistance to offer to the region. It has technology, ideas, trade, tourism, training, education and personnel. In fact, if Japan limits itself to financial assistance only, it will repeat the same mistake it made in the Gulf War. Obviously, sending Japan's self-defense forces for peace-keeping operation under the United Nations is one option. However, there are many other nonmilitary areas in which Japan can assist. Palestinians without any doubt need to build everything from an infrastructure on up, while Israel may benefit from increased cultural exchange, scholarship, trade, investment and technology transfer.

(1) Tourism is one area Japan and the international community as a whole can get involved in as peace is restored in the Holy Land. Japan has already officially expressed interest in this area. Reasons for focusing on tourism first are many. The cost of developing tourism through changes in diplomatic and government regulations, so that foreign tourists may freely move from Arab countries to Israel and vice-versa is minimal and will follow the signing of peace treaties between Israel and its neighbors. Outside capital is needed to upgrade hotels in East Jerusalem and other occupied territories where tourists may wish to visit. More Palestinians need to be trained as tour guides, interpreters and in other positions to promote quality tourism so that they can compete with Israelis on an equal footing. Tour companies also need to upgrade their busses and other vehicles. With few exceptions, much of this area of assistance can be in the form of low-interest loans. The Palestinian hotel industry will need loans and grants for better roads and other infrastructure. Outside assistance should also include environmental engineers as both Israelis and Palestinians make more extensive use of the land than ever before for housing, tourism and industrialization.

Japanese tourists in relation to others are likely to spend much money during their stay because of their custom of buying souvenirs for their friends, colleagues, and relatives. There are already some licensed Japanese-speaking tour guides in Israel, including some from Japan operating in Israel. There is a urgent need to increase Japanese-speaking tour guides, particularly for Palestinian tour companies. However, extreme caution must be exercised in describing historical sites, since Israeli guides have been educated and trained to view everything from Zionist perspectives in history that are not always shared by Palestinians. The PLO and Israeli governments must cooperate in developing revised tourist guide books and videotapes that can be accepted by both parties. If not, the least they can do is to follow the editorial policy pursued by the editor of Israeli Yearbook and Almanac to make explicit the limited nature of what is offered. Its editor-in-chief Naftali Greenwood makes it clear at the outset the Rashomonesque nature of reality when she wrote "What I see depends on where I stand." (Israel Yearbook & Almanac, 1991/1992, Vol. 46, 1) The point here is that Japanese tour companies must be careful in dealing with the politically and religiously sensitive nature of the region.

Japanese tour companies should be encouraged to form joint ventures with Israelis or Palestinians to serve the needs of Japanese tourists, many of whom do not speak any foreign language. The Japanese government should formulate policies for Japanese tour companies in such a manner that there will be no criticism from local business that Japanese tourists visit the Holy Land only through Japanese tour companies.

(2) Self-Rule in Jericho and Gaza requires the construction of governing bodies from the ground up. Buildings in both areas are dilapidated and lack many paved roads. Even if the Palestine Liberation Army is to be transferred to Jericho and Gaza to maintain law and order, the PLO will need financial and material assistance in a variety of areas from communication and transportation to building new housing units and schools. Ground transportation between Gaza and Jericho through Jerusalem must be improved immediately by reducing taxis and increasing buses.

(3) The Israeli government must convince 112,000 Israeli settlers to resettle within the green line. The United States gave $5 billion for Israel to withdraw from Sinai after the Camp David accords. Israel in turn provided $50,000 per settler family to move out of the Sinai. The government of Israel must use financial incentives for resettlement. Some Israelis may remain in the occupied territories depending on the outcome of negotiations. If some Israeli settlers are to remain in what is to become Palestinian territories, Palestinians are likely to demand the same treatment that some of them be allowed to return to their homes from which they were expelled after 1948. In short, everyone must compromise and learn to tolerate. Arafat and Rabin have agreed to recognize each other's right to exist and to start a new page in history by agreeing to resole differences through negotiations and not violence.

Another related problem is to resolve the Arab-Israeli problem of Jewish refugees from the Arab countries. This must be resoled as an integral part of the comprehensive peace agreement between Israel and Arab governments, such as Morocco, Yemen and Iraq.

(4) Palestinian refugees in the West Bank, Gaza, Jordan, Lebanon, Syria and elsewhere need to resettle also, probably outside of the green line. An Israeli economist's estimate of the cost of housing for Palestinian refugees is $50,000 per housing unit for at least 250,000 refugees. If Israel receives outside financing, more of those units can be built. Palestinian refugees who choose not to return to the West Bank or Gaza need to be compensated for the loss of their property in Palestine. The UN is historically responsible in part for the loss of property since in 1947 it recommended the partition of Palestine. Financial compensation must be provided.

The elimination of all Arab and Jewish refugees and the prevention of future refugees are a sine qua non to the resolution of the Arab-Israeli conflict. Refugee camps must disappear from the landscape in the occupied territories and their neighboring countries, UNRWA must cease operations.

(5) There is shortage of water, so the limited supply needs to be fairly and equitably distributed. The immediate problem is how to distribute underground water in the West Bank and Gaza between Israelis and Palestinians as the Israeli withdrawal proceeds. Gaza's water shortage is critical. Although this must be resolved bilaterally between Israelis and Palestinians, the problem may be eased if new sources of water are promised from the outside. Otherwise, the two parties must somehow learn to share the currently available water. Israel has total control over water at the present. Palestinians claim over the 80 percent of water in the West Bank is used by Israel.

Desalinization requires large capital and poses environmental challenges as well. Alternatives are diverting water from Turkey, Egypt, Syria or Lebanon to the Holy Land. These alternatives, too, require much capital as well as difficult negotiations with neighboring countries. The continuous supply of water from foreign countries no doubt threatens the security of the Holy Land. Recycling of water for agricultural and industrial use must be increased.

There is no question that new factories, highways, farms and housing will be built as soon as the peace process begins. However, all these development plans hinge on how much water will be made available where, and for what use. The government of Israel and the PLO must ensure that a sufficient supply of water will be available for the developments. How will they discharge their responsibility? Outside assistance is needed to develop more efficient water recycling facilities, for example.

(6) Investment activities involving Arabs, including non-Palestinian Arabs, and Israelis are already taking place and are expected to increase rapidly as the peace process proceeds as planned. Israeli businesses are well aware of the high priority that Palestinians place on their pride and dignity and the need to limit investments. Bennie Gaon, CEO of the largest company in Israel, Koor Industries, is planning to invest $60 million a joint venture with Palestinian partners in the

West Bank, but he is limiting its share to 25 percent as a recent issue of Business Week reported. (9/13/93, 53)

Increased foreign investments from Europe, Japan, the United States and other countries are anticipated. Unlike their Western counterparts, Japanese companies are less familiar with Israel and its immediate neighbors. The more they become familiar with the region, the greater their success will be. The purposed Center for Japan-Middle East Studies in Jerusalem in cooperation with several existing research institutes in Japan such as the Japanese Institute of Middle Eastern Economies (which has a branch office in Cairo) and the Middle East Institute of Japan could assist Japanese corporations as well as ODA programs in the region. Private investments and official assistance programs in the region will be greatly enhanced by having such a center. Israel/Palestine is likely to become a hub of the regional business activities in years to come as Shimon Peres and others have dreamed. The Arab Middle East market in large-200 million-strong. Some countries are rich while many are poor to be sure, but there is a large potential market for Israel if Tel Aviv is accepted as a good neighbor. Foreign investments need to be carried out in an orderly fashion to protect fragile environments and to benefit the local population.

(7) Japan-Israel trade has been on the increase but remains minuscule. As the Arab-led boycott of Israel ceases, Japan's exports to Israel will rise sharply. Israeli exports abroad have been dominated by the export of weapons abroad. This is likely to change. Japan is also likely to start importing more Israeli products, including diamond, which has been the single largest import item in Japan.

Unlike the EC, Japan has no direct trade relationship with Palestinians. Following the mutual recognition of Israel and the PLO, Japan could and perhaps should start its direct relationship with Palestinians in the occupied territories.

To contribute effectively towards the building of peace—a communitarian society of the highest quality possible requires an early establishment of the proposed Center for Japan-Middle East Studies in East Jerusalem to coordinate input into the East Mediterranean region or at least a coordinating body in the location. Government officials, business leaders and specialist scholars must cooperate to make Japan's participation in the region a success for not just Japan but all parties concerned. In so doing, I strongly urge Japan to bring non-Japanese into the development of such a center or coordinating body. Unlike American and other Middle East study institutes, the existing research institutes on the Middle East in Japan have no non-Japanese as regular staff members or researchers. Japan should open its doors to non-Japanese nationals to demonstrate its resolve to treat every woman and man equally.

How Much Involvement?: The extent to which Japan and other countries should get involved in economic aid, trade and investments depends largely upon what Israel and the PLO decide to do about their bilateral economic relationship. To what extent should economic borders between the two be open or closed? Palestinians need to protect their existing industries while they revitalize them. Although the World Bank says $3.5 billion is needed for the next ten years in the occupied territories, I am certain that the figure will change as the results of bilateral negotiation between Israel and the PLO become available.

Japan's contribution would be different from those of other superpowers in several perspectives. First, Japan has not been a weapon supplier to the escalating armed conflicts in the Middle East. Unlike the rest of Asia, Japan has never been in the Middle East as a colonial power in its history. Japan's contribution will be limited in that it will not involve any military aid. Second, Japan's contribution will be limited to cultural, diplomatic, technical, economic, and financial areas of aid that are expected to flow into the region in the post Arab-Israeli Conflict era.

THE DISTINGUISHED SERVICE OF PHILIP PECORARO

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize Philip Pecoraro's distinguished career of service to the United States—especially to the people and children of Alameda County and the bay area.

For more than 33 distinguished years, Philip Pecoraro has served in public office as a teacher at the Alameda County Juvenile Court and Community Schools.

While working for the Alameda County Office of Education, Philip Pecoraro was a teacher of drafting and art and industrial arts. Previously, he was a ceramics instructor with the Piedmont recreation department and an elementary art teacher in Berkeley, CA.

The people of Alameda County will miss this dedicated man who spent his life teaching and helping the disadvantaged of our community. I want to join those who have recognized Philip Pecoraro for his monumental achievement.

TRIBUTE TO ED STEGNER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. SKELTON. Mr. Speaker, I take this opportunity to recognize Missourian for his lifelong dedication to wildlife and nature conservation, Ed Stegner.

Ed Stegner retired in July after 40 years of service as the executive director of the Conservation Federation of Missouri. He began his work with the Conservation Federation in 1953 at the age of 27, although he had long been active in local conservation clubs. During his tenure, Missouri set the standard for the Nation in the conservation of forestry, fish, and wildlife. He also played a significant role in the passage of two State sales taxes to finance Missouri conservation efforts. The Katy Trail, which turned an abandoned stretch of railway into a nature trail was one of his most difficult victories. During his career, Ed fought for what he believed, and made Missouri a better State.

I urge my colleagues to join me in congratulating Ed Stegner for a fine career of conservation and best wishes for a happy retirement.

BISHOP DENIS J. O'CONNELL HIGH SCHOOL—ONE OF THE BEST IN AMERICA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. SMITH of New Jersey. Mr. Speaker, in a White House ceremony today, Bishop Denis J. O'Connell High School was honored for its selection as a Blue Ribbon School of Excellence—one of the most prestigious and praiseworthy achievements in the world of education.

This remarkable accomplishment is the direct result of an uncompromising commitment to academic excellence, by both faculty and students, and an indomitable dedication to high moral principle. Of high significance to me, Mr. Speaker, is the fact that God is reverenced and respected at O'Connell and students are faithfully instructed in the precepts of the Catholic faith.

I have considerable first hand knowledge of O'Connell—my eldest daughter, Melissa is a student there—and I would tell my colleagues that Mr. Alward V. Burch, principal of the school runs a tight ship. And a good ship. As a parent, I know that the parents of O'Connell students have a tremendous amount of gratitude for Mr. Burch's, and the faculty's, commitment to our kids.

Noted for an academic curriculum with particular strengths in math, science, social studies and languages, O'Connell High takes pride in challenging its students and fostering a hunger for knowledge and learning. In fact, an impressive, awe-inspiring 98 percent of O'Connell's graduates go on to college studies.

Mr. Speaker, in conferring this honor on O'Connell, a Department of Education's review panel cited the school's many exemplary features including exceptional math and science program; its expectations of students and staff; it's Christian/family atmosphere; the leadership style of the administration and the school's high percentage of family involvements and support. The panel also noted that O'Connell's academic achievements are complimented by a diverse supplemental program which includes a Christian Service Program, 27 academic extracurricular activities, 15 service organizations, 3 publications, and 44 athletic teams in 17 different sports.

Mr. Speaker, it should be noted that Bishop O'Connell High School participated in a highly competitive, extensive selection process which included rigorous evaluation and onsite visitation by professional evaluators. O'Connell made each cut and ultimately was recognized as one of the best in America.

According to Secretary of Education Richard Riley:

> Each of the Blue Ribbon Schools has demonstrated the key ingredients for excellence. These include: leadership; an environment that promotes teacher growth and recognition; up-to-date and rigorous core curriculum and instruction; a safe orderly and drug free climate; strong parent and community support; and documented success.

Mr. Speaker, let me again congratulate O'Connell on achieving this extraordinary recognition and say to the nearly 1,200 students who attend the school that you are both very special and fortunate.

ROADMASTER'S MILLIONTH BICYCLE ROLLS OUT

HON. PETER W. BARCA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. BARCA of Wisconsin. Mr. Speaker, I rise today to pay tribute to the workers and owners of Roadmaster Industries and the citizens of the town of Delavan, WI.

On Saturday, I will have the great honor of riding the 1 millionth bicycle made by Roadmaster in Delavan. Roadmaster has proved that Americans can compete against foreign competition if just given the opportunity. Just 10 years ago, two-thirds of the bicycles sold in our country were foreign-made. Today, two-thirds of the bicycles sold in our country are made in America, and Roadmaster has contributed to this turnaround.

In the process, Roadmaster in Delavan has created more than 400 new jobs just this year, by far the single largest increase in the work force in any single plant in the State of Wisconsin. In addition, the work force at Roadmaster represents the diversity that has helped to build our country.

Mr. Prescott Wurlitzer of Delavan has researched the reasons behind Roadmaster's success, and tells me that product innovations such as the development of mountain bikes, along with quality improvements and cost controls have contributed greatly.

Mr. Speaker, I want to commend the workers at Roadmaster and the citizens of Delavan on this enormous accomplishment. They have helped in their own community to provide a significant boost for the economy and for the pride that we should have in American workers and business.

HUNTERDON COUNTY'S REMARKABLE FAMILY TRADITION

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. ZIMMER. Mr. Speaker, last week marked both the end of an era and the continuation of a family tradition in Hunterdon County, N.J. In an era in which independent newspapers are being absorbed by media conglomerates or shutting their doors, I am pleased to tell my colleagues about the continued vitality of a newspaper that is both locally owned and has a strong commitment to community news.

Last week, H. Seely Thomas, the publisher of the Hunterdon County Democrat, retired after an impressive career of more than 40 years. The mantle of publisher has been passed on to his daughter, Catherine Thomas Langley, who becomes the third generation of the family to run the newspaper.

Seely began his career at the Democrat in 1952 after graduating from Middlebury College. His father-in-law, D. Howard Moreau, who owned the enterprise, made sure young Seely knew every aspect of the newspaper he would someday inherit. Seely started in the production shop and worked his way into the advertising department. He became business manager in 1958, general manager in 1963 and took over as publisher in 1964 upon the death of Howard Moreau.

Under Seely's leadership, the Democrat converted from its hot type mechanical printing presses to modern offset printing presses. The newspaper also computerized its operations and in 1974, moved from its Flemington offices to the plant it now occupies in neighboring Raritan Township.

During his tenure, the Democrat grew to its current status as the largest paid-circulation weekly newspaper in New Jersey.

Seely has a deep personal commitment to his community. He served on the Flemington-Raritan School Board and was a member of the board of directors of the Hunterdon County Chamber of Commerce and the Hunterdon County YMCA. He has also been active in the Flemington Lions Club and was a founding member of the United Way of Hunterdon County.

Seely's commitment to journalism is evident from his long-standing role in the New Jersey Press Association, of which he is a past president. This commitment is also evident to anyone who reads the Democrat on a regular basis.

The Democrat has a tradition of outstanding community journalism. Its reporting staff has always included a blend of senior reporters who intimately understand the county and cub reporters fresh out of college. Former Democrat reporters include novelists and reporters at some of the largest publications in the Nation.

It is said that a daily newspaper provides a snapshot of what is going on in a community on a given day. The Democrat is like a family album of Hunterdon County, offering readers coverage of local meetings the daily newspapers won't cover, high school sports and perceptive features on the people and places that make the county what it is.

The quality of the Democrat is unparalleled. Every year, the newspaper brings home a raft of journalism awards for writing, photography and design.

But perhaps the biggest compliment anyone can pay a newspaper-person comes every Wednesday evening, when lines form outside local newsstands in anticipation of the Democrat's arrival. As the saying goes in Hunterdon County, it's not news until it's in the Democrat.

While I regret his retirement, I know Seely will keep an eye on the paper in his position as chairman of the Democrat's board of directors.

Seely is leaving the paper in good hands. Catherine Thomas Langley has the Democrat in her blood. She began working at the paper after high school in the marketing, layout and design departments. She has also worked in the advertising department, in circulation, as a reporter and as an editor.

Catherine's mother, Anne Moreau Thomas, an outstanding journalist in her own right, is the home and food section editor of the Democrat. Her husband, Jay Langley, is the paper's editor and her brothers, John and Howard Thomas, are responsible for circulation and marketing, respectively.

Like her parents, Catherine is active in civic affairs. She is on the board of directors of the Hunterdon County Chamber of Commerce and the United Way of Hunterdon County. She is a member of the advisory board of the Hunterdon County affiliate of the Literacy Volunteers of America.

I am confident that Catherine Thomas Langley will continue her family's outstanding commitment to journalism and the community.

DOMESTIC VIOLENCE

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Ms. FURSE. Mr. Speaker, I rise today to bring to your attention the problem of domestic violence in this country. Domestic violence is a growing problem that affects every sector of our society.

I was shocked to learn that in my district, in Portland, OR, the greatest number of homicides committed since January this year weren't gang-related murders or turf wars over drug territory—they involved domestic violence disputes.

Recent studies indicate that more women are seriously injured by beatings than by car accidents, muggings, and rape combined. Nearly one-third of all women admitted to emergency rooms are treated for injuries inflicted by their husbands or boyfriends.

There are thousands of victim advocates organizations around the country addressing this problem. They're on the frontline, at the local and community level. They have made the commitment to fight this problem every day and seek solutions with the people it so deeply affects.

However, many of these organizations lack the resources needed to adequately address the problem within all sectors of their communities. We should encourage their work.

Mr. Speaker, I am introducing legislation today called the Family Violence Community Initiative Act that will assist communities in bringing together the shelters, law enforcement, religious organizations, health care providers, teachers and principals to develop a coordinated community response to the problem. Because the problem of domestic violence is pervasive, involving so many different aspects of our society, only a coordinated approach can produce truly effective solutions. As with the concept of community policing, coordinated initiatives will maximize the assets currently in place in communities by uniting their efforts with those of other groups to ensure that we fully address this problem.

We can no longer ignore the startling facts. Prevention efforts are needed now. I invite my colleagues to cosponsor this bill and join me in curbing the violence in the home.

IN SUPPORT OF CONFERENCE REPORT ON H.R. 2519 COMMERCE-JUSTICE-STATE AND RELATED AGENCIES APPROPRIATIONS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. MARKEY. Mr. Speaker, I rise in strong support of H.R. 2519, the conference report on Commerce-Justice-State Appropriations for fiscal year 1994.

Mr. Speaker, the funds appropriated in this measure will help move our Nation forward in many important areas. Specifically, and perhaps most notably, this measure will help move our Nation into the 21st century in the area of telecommunications. The agreement provides $100 million for the Federal Communications Commission for fiscal year 1994, putting this important body on solid financial footing for the first time in many years. These funds will allow the FCC to upgrade its computer systems and other technical equipment, and will provide for additional personnel, training, and other essentials to ease the Commission's transition into the future.

H.R. 2519 also appropriates funds for the FCC in light of the new fee structure put in place by a provision of the Budget Reconciliation Act of 1993 that will allow the FCC to collect an additional $60 million. This new fee structure will permit the FCC to better fulfill its important regulatory obligations, including the implementation of the 1992 Cable Act and spectrum auctions. As communications technology increases in sophistication and complexity it is essential that the FCC has the funding it needs to best serve the American people. The funds provided in the conference report on Commerce-Justice-State Appropriations will benefit the American people by helping the FCC to successfully and effectively fulfill its mission.

H.R. 2519 also provides $71 million in fiscal year 1994 for the National Telecommunications and Information Administration. I urge my colleagues to support this significant first step towards building our Nation's information infrastructure. In addition to providing funds for the operation and administration of NTIA, this measure appropriates $26 million for new information infrastructure grants, and $24 million for the Public Telecommunication Facilities Program [PTFP]. These funds will be used by NTIA to help put the Nation, and minorities and women in particular, at the on-ramp of the emerging information superhighway. H.R. 2519 will provide funds for demonstrations of new applications of telecommunication technology, as well as planning and construction grants for public television, radio, and nonbroadcast facilities. As the wave of advancing communications technology carries the American people into the future, it is our duty to make certain that minorities, women, and other underserved populations do not miss the boat. Funding for the NTIA is a significant down payment on the future of the American people, and a measure which I strongly support.

This measure will help make certain that our Nation is prepared for the next century so that we can compete effectively in the fast-paced global marketplace. As we prepare to build and upgrade our country's communications infrastructure, and with the blinding pace of change and growing complexity of the telecommunications market, vision and foresight are essential. Let us use our collective vision to pass H.R. 2519, because the future is coming and we must be sure our Nation is prepared for it.

Mr. Speaker, this legislation also includes language that would fund the Securities and Exchange Commission [SEC] for fiscal year 1994.

The SEC is charged with overseeing the Nation's securities markets. For the past 60 years, the SEC has fulfilled this responsibility effectively, preserving the integrity, safety, and fairness of the U.S. securities markets. Although the Commission's activities involve a broad spectrum of securities matters, its ultimate responsibility lies in securing the protection of inventors and in maintaining fair and orderly securities markets, markets which have grown tremendously in complexity and scope in recent years.

But while the securities markets have grown dramatically, and the need for regulatory oversight and sophistication has increased commensurately, SEC resources have not kept pace with those developments. The fiscal year 1994 appropriation will go some distance to meet the SEC's regulatory goals. However, what is needed for the future to ensure the SEC's continued ability to provide effective oversight and enforcement of the Nation's securities markets is a new funding mechanism. Senate passage of H.R. 2239, which the House passed this past July, is critical. This bill contains a full-cost recovery mechanism for funding the SEC's activities. The provision will allow the SEC to match fees to appropriations, and to afford the agency much needed flexibility in meeting the challenges ahead. It provides that the SEC will continue to collect general revenue during fiscal years 1994 through 1998 for the purpose of deficit reduction, in an aggregate amount of $880 million. After that point, all fees would go to SEC activities and would be adjusted accordingly. The SEC should no longer generate huge surpluses that masquerade as user fees but behave like taxes on capital formation. Restoring the proper balance to such user fees, and allowing the SEC to use those fees to recover the costs of its operations, is imperative.

Despite its relative lack of resources, the SEC has excelled at its job. While having to exercise regulatory triage in such areas as its investment adviser inspection program, it nevertheless has continued to serve the public interest efficiently and effectively. In closing, I would like to insert for the benefit of my colleagues the following article from Financial World magazine, in which the performance of several Government agencies was graded. The SEC received the highest grade of the group, an A minus.

SECURITIES AND EXCHANGE COMMISSION

High esprit de corps, top-notch staff, clear-cut goals and a strong historical tradition mixed with a spirit of innovation made the Securities and Exchange Commission one of government's better agencies. A $70 million computer system to automate company filings is progressing after a long period of growing pains. Slow appeals and administrative procedure process are on the mend. The mushrooming field of investment advisers is sorely under-monitored, though legislation is pending that would give the agency more resources.

In a packed basement meeting room in midsummer, Arthur Levitt Jr., the former chairman of the American Stock Exchange and incoming chairman of the SEC, addressed his new staff. "I feel," he told them, "like a parish priest who has been asked to become the Pope."

Elisse Walter, a deputy director in the SEC's corporation finance division, recalls that Levitt's comments left "an electric, emotional feeling in the room. There were people of all levels there, and a sense that we shared what he was feeling and felt a part of it, too. People love this place. It's very special."

Hold on a minute. Are we talking about government here?

Yep.

The Securities and Exchange Commission defies all stereotypes. Members of the securities industry, academics, even attorneys who are suing the SEC speak about it in glowing terms.

There are critics, of course. They say the SEC is self-righteous and self-satisfied, that it was slow to pick up on the stock market scandals of the 1980s, historically neglectful of bond markets and sluggish in response to changes in market conditions and products.

But critics are clearly in the minority. "If we could bottle the culture of the SEC and sell it to other organizations, we'd all be very rich," says Mary Schapiro, senior member of the agency's five-person appointed commission and acting chair for three months prior to Levitt's confirmation.

The SEC has a leg up on other government agencies in several respects.

First of all, it makes a profit, and a substantial one at that. The agency's fee revenues are about 228% of its budget.

The SEC doesn't get to keep the money; it goes to the U.S. Treasury. But the fact that every dollar of funding results in more than a dollar in return has helped to ward off the slashing that has affected other agencies.

Although few other government entities have the opportunity to be self-supporting, government redesigners could still pick up a number of pointers from the SEC's success.

Perhaps the biggest lessen they could come away with is this: The SEC's mission is simple, unambiguous and even popular. Its task is to protect investors' rights by fighting fraud, insuring that investment information is accurately disclosed and making sure the markets run smoothly.

"The focus here is pretty narrow and apolitical," says Thomas Newkirk, associate director of the enforcement division. "It's not like one group is for fraud and another group is against fraud." As another employee puts it, "We're on the side of the angels."

Contrast this with many of the agencies that have been given low grades by FW this year and last. The Department of Energy, the Department of Housing and Urban Development and the Environmental Protection Agency are all made up of a hodgepodge of programs. And while the objectives of other agencies are batted back and forth between political parties and changing Administrations like Ping-Pong balls, the SEC has maintained its reputation "through strong chairmen, weak chairmen, Republicans and Democrats," says Richard Phillips, a partner in the Washington, D.C., office of law firm

Kirkpatrick & Lockhart and an SEC alumnus from the 1960s.

"There's a consistency here," adds Levitt, "that I don't see elsewhere. I didn't see it at Shearson (which Levitt once ran in an earlier form) or the American Stock Exchange."

A high-caliber staff is key. While turnover was perceived as a problem in the 1980s, the recession has cut down on the number of SEC employees ditching the commission for high-paying jobs elsewhere. The annual turnover rate for attorneys and accountants has dropped from a high of 20% in 1984 to 8% today. Still, the SEC's reputation as a training ground for high six-figure Wall Street jobs continues to make the commission a magnet for the best and brightest. For lawyers, there were 20 applications for each vacancy last year.

And while many other federal agencies pay lip service to using quality management, the SEC is a showplace for its techniques—without the benefit of expensive seminars and mushy jargon. Current and former employees paint a picture of an informal environment where meetings include lower-level staff, task forces are employed to solve problems, and a "knock on the wall" sends a signal to a division director that an associate needs him.

"In other agencies you'd try to send out a simple letter and at the bottom line of the routing slip you would see 25 different signatures," says SEC Executive Director James McConnell. "We don't do that. The staff creates a document and it gets to the top real fast."

Adds Deputy Director Walter: "This is a place that rewards creative excellence. It's never afraid to reexamine itself."

That's good, because a little reexamination is needed. The enormous growth and change in equity markets has left the SEC short on oversight in some critical areas.

For example, the number of registered investment advisers grew from 5,000 to 19,000 in the past five years. Despite the need to monitor them, they are relatively immune from scrutiny. At the rate of current schedules, each will be inspected just over three times a century. Legislation is pending that would give the commission more resources to keep tabs on the advisers.

Meanwhile, even though mutual funds have grown into a $2.1 trillion market, "many medium and smaller fund complexes have not been inspected at all during the past four to five years," admits Levitt, who is working hard to divert more resources to this critical area. He is also fervent about the idea of self-funding. If approved by Congress, it would eventually allow the commission to keep and run itself on the fees it generates.

The SEC is moving to confront other significant problems as well. The development of a mammoth computer system enabling companies to file electronically was one rocky area. Dubbed Edgar (Electronic Data Gathering, Analysis and Retrieval), the computer system's development was criticized by the General Accounting Office last year for being two years behind schedule and $19 million over budget. Since then it has gotten on track. By the end of this year, 3,315 companies will be filing electronically, with 15,000 expected to do so by mid-1996.

The commission has sped up considerably its administrative proceedings. Take, for example, the appeals that grow out of decisions of self-regulatory groups such as the National Association of Securities Dealers and the exchanges. The SEC heard only 18 such appeals in 1990. That number more than doubled by last year and is continuing to grow.

Meanwhile, the agency has been fighting to keep its own substantial growth from resulting in a bureaucratic mire. Total staff years—the agency's measure of work load—have increased 30% since 1989.

"In the enforcement division there are twice as many people as there were in the mid-1980s," says Anne Flannery, a partner in the New York City office of Philadelphia-based Morgan, Lewis & Bockius and a former SEC employee. "It takes longer to get things done now. There's a chain of command you have to go through to discuss a case."

Levitt is aware of the challenges he faces. He was on the job barely a month when he began to make significant organizational changes at the commission, reducing regional offices from nine to five and placing responsibility for the regions under one person's command. He has also reorganized international affairs, putting it under one leader instead of two.

Says Levitt: "We need to direct the superb resources of the SEC toward the markets of next month and next year, rather than yesterday."

TRAVELER PROTECTION ACT OF 1993

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. ABERCROMBIE. Mr. Speaker, I rise today with my friends from Minnesota [Mr. OBERSTAR] and Florida [Mr. BACCHUS] to introduce legislation designed to protect the traveling public. Over the past few months we have seen an increasing number of crimes of violence directed at travelers, both domestic and foreign, in the United States. Unfortunately some of the incidents have been so notorious that they have received international attention.

Our Nation is dependent on the travel and tourism industry. Travel and tourism is the 1, 2, and 3 industry in 40 States. Tourism is the Nation's second-largest employer, providing 5.9 million jobs. In the State of Hawaii, for example, the travel and tourism industry accounts for over 30 percent of the State's GDP. We cannot afford to stand by and let these crimes of violence affect the travel patterns of individuals.

As a student of history, I want to point out that when King Kamehameha I united the Hawaiian Islands he decreed the Law of the Splintered Paddle, which affirmed the rights of innocent travelers from wanton attacks by men-at-arms and government officials. The Traveler Protection Act of 1993 is an extension of the Law of the Splintered Paddle. We need to protect the right of innocent people to travel in this country.

This legislation is not meant to be a Federal mandate on States to provide greater protection for travelers than for their own citizens. Instead, as written, the Traveler Protection Act of 1993 would make a person who engages in a crime of violence directed at an individual not domiciled in the State in which the act occurs subject to Federal prosecution. In some instances the resources of the Federal Government must be called upon to facilitate in the trial and prosecution. If an individual is found guilty in a Federal court he or she would be subject to the same criminal penalties as if the act were a State offense. This is how Federal law deals with crimes committed in national parks.

I want to address concerns that this measure may violate the constitutional protection against double jeopardy, or that it would put an undue burden on the Department of Justice. According to the American Law Division of the Congressional Research Service, the Federal Government and various States have numerous laws which punish similar criminal behaviors. There is no legal impediment to States and the Federal Government both bringing criminal charges against an individual for engaging in a particular activity, and in general, the Department of Justice will not duplicate a State prosecution brought and carried out in good faith. I want to assure my colleagues that this bill does not violate the double jeopardy clause.

It is my intention to work with the House Committee on the Judiciary and Federal agencies, namely, the Justice Department, the U.S. Travel and Tourism Agency, and the State Department, to seek their support for this bill. These entities will play a vital role in the success of this legislation. Through the auspices of the Federal agencies we can see to it that witnesses are able to appear and participate in successful prosecutions.

I ask my colleagues to join us and support passage of this worthwhile legislation.

CONGRATULATIONS TO JERREL COOPER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize Jerrel Cooper's distinguished career of service to the United States—especially to the people and children of Alameda County and the bay area.

For more than 34 distinguished years, Jerrel Cooper has served in public office as a teacher of arts and crafts at the Alameda County Juvenile Court and Community Schools.

He has also served as negotiations chair and chair of the southern Alameda County Teachers Association.

In addition, he is a talented artist. He is a master at jewelry making, sculpture, and painting, and has received numerous awards and recognition for his artwork.

On October 28, Jerrel Cooper's colleagues will hold a retirement celebration to acknowledge him as an outstanding teacher and I wanted to join those who have recognized him for his monumental achievement.

The people of Alameda County will miss this dedicated man who spent his life teaching and helping the disadvantaged of our community.

TRIBUTE TO COACH GIL RECTOR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. SKELTON. Mr. Speaker, I take this opportunity to recognize a football coach from my hometown of Lexington, MO. Coach Gil Rector is in his 26th season as head coach of the Lexington Minutemen, having led the team to 10 playoff appearances, 8 Missouri Valley Conference titles, and 4 State championships. For this outstanding record and his admirable leadership, he was inducted into the Missouri Football Coaches Association Hall of Fame.

I ask my colleagues to join me in congratulating this exceptional member of the community for his leadership and dedication to the youth of Lexington, MO, and to wish him many more winning seasons with the Minutemen.

GUARANTEEING ACCESS TO DIETARY SUPPLEMENTS

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. COOPER. Mr. Speaker, millions of Americans and thousands of Tennesseans rely on dietary supplements to improve and maintain their health naturally and without medication.

We must preserve their rights to use the health supplements of their choice. Vitamins, minerals, amino acids, and herbs have been shown to provide significant nutritional and health benefits, especially for older Americans. Compared with prescription drugs or surgery, supplements offer a cost-effective, natural alternative based on prevention.

Unfortunately, the U.S. Food and Drug Administration [FDA] has been slow to recognize these benefits. In addition, ambiguity in application of the new Nutrition Labeling and Education Act to dietary supplements threatens to deny access to those benefits.

Today I am cosponsoring H.R. 1709, introduced by my colleague, Bill Richardson, to guarantee all Americans access to the dietary supplements of their choice.

The FDA should not be allowed to remove safe supplements from the market, characterize them as drugs, or require a prescription for them. The Department of Health and Human Services should be vigilant in identifying substances which are a threat to public health, but that does not justify wholesale regulation of all supplements.

While I am cosponsoring H.R. 1709, I must note my concern over a provision which would weaken consumer protections on the health claims made by supplement manufacturers. No manufacturer should be allowed to make unsubstantiated claims to consumers about their products. Consumers should have access to the latest scientific information on the health benefits of supplements and should decide for themselves whether they offer value.

I look forward to working with Mr. Richardson, Chairman John Dingell, and Chairman Henry Waxman to pass legislation this year which will protect full access to dietary supplements for all Americans.

ST. PAUL'S LUTHERAN CHURCH CELEBRATES 150 YEARS OF HISTORY AND SERVICE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. WOLF. Mr. Speaker, I want to bring to our colleagues attention the 150th anniversary of St. Paul's Lutheran Church, one of the District of Columbia's oldest congregations, and offer congratulations to St. Paul's on this historical occasion.

Anniversary celebrations began this past January and are continuing throughout 1993. A festive service will be held on November 7, the anniversary of the cornerstone laying, and the preceding evening, an anniversary banquet will take place at which our Chaplain of the House of Representatives, the Rev. Dr. James Ford, will speak.

St. Paul's was founded in 1843 out of the conviction that there existed a need for an English-speaking Lutheran church in the Nation's capital. An Episcopalian, Gen. John P. Van Ness, who at one time served as mayor of Washington, donated the site of the original location at 11th and H Streets, NW. Former President John Quincy Adams joined General Van Ness to lay the cornerstone. When the completed church was dedicated in 1848, President and Mrs. Polk and Secretary of State James Buchanan participated.

In 1926, St. Paul's moved to its current location at 4900 Connecticut Avenue, NW., and plans for a monumental Gothic structure were drawn by the architects of the Washington Cathedral. In 1928, St. Paul's gave a triangle of its land to the Federal Government for a park to be maintained by the National Park Service in memory of Peter Muhlenberg, both a Lutheran and an Episcopal pastor, a Revolutionary War hero, and a member of the U.S. Senate and House of Representatives. Mr. Speaker, I call attention to my colleagues that a statue of Peter Muhlenberg represents Pennsylvania in our Capitol's Statuary Hall.

During the past decade St. Paul's has enlarged its mission to the community and city, opening Shalom House, a residence for potentially homeless, mentally ill women; housing the Iona Day Health Care Center for the frail elderly; providing a shelter for homeless men; as well as housing a neighborhood nursery school. St. Paul's also sponsors missionaries world-wide. Worship of God through music has been a vibrant aspect of St. Paul's ministry, drawing hundreds of people to its annual concert series, featuring renowned musicians.

Mr. Speaker, I salute St. Paul's Lutheran Church in Washington, DC, for its distinguished history and its continuing commitment to its ministry and mission.

A PROMOTION OF EXCELLENCE: LA PAZ INTERMEDIATE SCHOOL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. PACKARD. Mr. Speaker, one way to promote excellence is to recognize it and then applaud it.

The U.S. Department of Education has announced that La Paz Intermediate School of Mission Viejo, CA has been selected by its Secondary School Recognition Program to receive national recognition for excellence to education.

Initially, 488 schools were nominated for national consideration, a great honor in and of itself. Out of this number 260 were selected for site visits by officials from the Department of Education. To have been recommended for a site visit puts a school in very select company. It is a very important comment on the high quality of achievement of the La Paz students, faculty, and the surrounding supportive community.

Based on high student achievement in state reading, writing, mathematics, science, and history scores, the school was invited by the California State Department of Education to compile an extensive report describing the many facets of the La Paz instructional program.

These factors included academic student performance, clear academic and behavioral goals, positive school climate and learning environment, high expectations for students, rewards, and incentives for students and teachers, administrative leadership, opportunities for meaningful student responsibility, and parent/community support.

In the end, 14 other California middle level schools survived this critical assessment and were selected for national recognition. La Paz was one of this honored group.

Needless to say, all concerned are delighted with this national tribute. To strive for excellence and then achieve it is reward enough. To receive special recognition in addition is certainly a very satisfying situation.

Mr. Speaker, I am proud of La Paz intermediate school, its administration, its faculty, its parents, and the surrounding community. Few things are more important to the health, vitality, and ultimate good of a society than strong, ethical educational institutions. It is our youth, after all, who will determine our future as a nation and people.

La Paz intermediate school is playing its role admirably and for this we are grateful.

HONORING REGINALD M. BALLENTYNE III

HON. SAM COPPERSMITH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. COPPERSMITH. Mr. Speaker, someone once said that successful managers do what is right, while leaders do the right thing. For more than 20 years, Reginald M. Ballentyne III has done both through his leadership of PMH Health Resources, Inc., the parent of Phoenix Memorial Hospital.

From its founding in the 1930's through today, Phoenix Memorial Hospital has kept a steady commitment to serve the local community. When founded, Phoenix Memorial was the only location in Phoenix south of the Salt River that provided health care. To get men to bring their wives and daughters, the hospital showed movies. While the men watched the latest western, the women could receive care.

PMH also graduated the first racially integrated nursing class west of the Mississippi. Eleanor Roosevelt handed diplomas to the seven women—five blacks and two whites—in that year's graduating class.

Twenty years ago, Reg became the third administrator of Phoenix Memorial in its history. He was the youngest hospital administrator in America. Under Reg's leadership, the hospital and its new parent organization has remained an active force in the community. Reg led PMH Health Resources, Inc. in founding the Phoenix Revitalization Corp., intended to improve the supply of affordable housing in the area; in sponsoring the Phoenix birthing project, helping to decrease infant mortality; initiating Arizona's first comprehensive teen pregnancy/well-baby program; establishing Young Company, a national model for intergenerational child development; and developing the Jesse Owens Memorial Medical Center, serving the greater South Phoenix/South Mountain community.

Outside of PMH, Reg also provides leadership to numerous community groups. The highlights include his service as State chairman of the American Academy of Medical Administrators; president of Florence Crittendon Services of Arizona; chairman of the Arizona Affordable Health Care Foundation, and as a member of the American College of Health Care Executives. Most recently, Modern Healthcare named Reg Ballentyne as 1 of 50 Americans who have been and will continue to be instrumental in the development and shaping of an improved health care system for our country for the next century.

Reg's success cannot—and should not—be measured in years or titles. It is measured in lives. Lives saved, lives helped, and lives improved. The lives of children, the lives of young mothers, and the life of a community.

TRIBUTE TO MICHAEL BERRY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. BONIOR. Mr. Speaker, today, October 21, 1993, the Consul General of Lebanon will present Michael Berry the medal known as "The National Order of the Cedar of Lebanon Knight." This medal represents one of the highest honors the country of Lebanon bestows upon civilians.

My friend Mike has distinguished himself in a career that has spanned five decades. Because of his tireless advocacy for the Lebanese and Arab communities in Michigan, and throughout the world, Michael is more than deserving of recognition.

Since graduating from Wayne State University and the Detroit College of Law, Michael Berry has served in numerous public and private capacities. Professionally, he is affiliated with several legal associations and has been admitted to practice in the U.S. Supreme Court. For over 35 years, he has been the senior partner in his firm in Dearborn, MI.

His business accomplishments are many; they are only overshadowed by his commitment to the community through governmental and public service. Mike has lent his expertise to such organizations as the March of Dimes and Children's and St. Jude's Hospitals. In the mosaic that is America, he has helped build bridges in the National Conference of Christians, Jews and Muslims and the American Arabic and Jewish Friends.

Politically, Mike has championed the rights of Arab and Lebanese immigrants. Back in the fifties, before what we have come to know as the civil rights movement, Michael Berry was fighting prejudice and discrimination. A lifetime member of the NAACP, Michael was appointed by former Michigan Gov. Jim Blanchard to serve on the State Committee for Racial and Ethnic Minority Equality. Currently, he is serving on the task force for ethnic and racial discrimination in the courts.

From the Board of the Wayne County Road Commissioners to President Carter's White House Conference on Small Businesses, Michael Berry has served the people of America, all the while remembering the home of his parents. I know that Mike was instrumental in raising millions of dollars for medical supplies which helped the hospitals in Lebanon treat patients. Privately, he has donated personally to assist indigent and orphaned children. He is also extremely active as the current executive board member of the Washington, DC based American Task Force for Lebanon.

Throughout Michael's honored public and private career, he has been truly dedicated to making the world a better place. Tonight's recognition is well deserved and I applaud the Hellenic Cultural Center for hosting the reception. I ask my colleagues to join me in saluting Michael Berry. He is a true friend and serves our community with distinction.

IN RECOGNITION OF NATIONAL BREAST CANCER AWARENESS MONTH

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. MORAN. Mr. Speaker, 2.8 million women in this country have breast cancer; 1 million have yet to be diagnosed. In 1993 alone, 186,000 women will develop breast cancer and 46,000 women—one every 12 minutes—will die of this deadly disease.

Yet, for all of the women tragically lost to this epidemic, we still do not know much about it. Eighty percent of all women diagnosed with breast cancer have no known risk factors. Without more money for breast cancer education, research, diagnosis, and early treatment, we will continue to lose the battle against breast cancer in this country—and it's not one that our country, our communities, or our families can afford to lose.

The epidemic of breast cancer costs our Nation $6 billion in medical costs and an additional $6 billion in lost productivity. The lives of talented women, active contributors to businesses and communities, are needlessly and prematurely ended. The saddest part of all is to see the families that many of these women leave behind forever changed by the loss of a mother, a wife, a daughter, or a sister.

Last year Congress made the first significant increase for breast cancer research and the President's budget continued that increase for the next 5 years, but there is still more to be done.

A comprehensive national strategy to combat breast cancer is needed. A few days ago, the National Breast Cancer Coalition submitted several crates full of petitions to President Clinton—these petitions were signed by over 2.8 million Americans asking that we begin a national strategy to combat breast cancer. We must respond to this call by bringing together the executive branch, this Congress, the scientific community, private industry, and women with breast cancer to design and implement a national plan to eradicate breast cancer.

As we have seen in the past, once our country and our Government is committed to a cause, we can make a difference. If we can put a man on the Moon, we can find a cure for breast cancer.

NAFTA WILL EXPORT AMERICAN JOBS

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Ms. VELÁZQUEZ. Mr. Speaker, I rise before you on a day when NAFTA proponents, are once again attempting to create false images of overwhelming benefit to the United States through an agreement that is nothing more than an incentive for American firms to move their operations to Mexico—leaving thousands jobless here in the United States.

NAFTA-philes claim that the agreement will increase exports to Mexico, I must confess that I agree—the North American Free-Trade Agreement will dramatically increase exports—but it is American jobs that will be exported to Mexico. Those companies that do remain are likely to hold the agreement over the heads of American workers in an effort to drive down hard-earned wages in this country. "Not the case," say NAFTA proponents. However, the Wall Street Journal said that 55 percent of executives of large corporations stated that they would move to Mexico if NAFTA is approved. Where are NAFTA advocates when their greed and deceitfulness is exposed?

But there is a much more important question. How will these same NAFTA advocates justify—to thousands upon thousands of workers throughout this Nation—the loss, of close to a million, of their jobs? What new lies will these individuals come up with, to disguise the fact that NAFTA is merely an agreement crafted for the sake of big business; one that will reap higher profits for massively wealthy firms, by robbing American workers of their jobs.

Yesterday afternoon majority whip, DAVID BONIOR, organized a press conference at which Members and reporters had the opportunity to view various products that were once manufactured here in the United States—products that are now made in Mexico and represent unemployed American workers. They are a sign of the times to come. If NAFTA is approved, their stories will be duplicated throughout this Nation. The pain and the struggle of their families will become commonplace. I ask NAFTA proponents to justify that. Some have answered with the promise of worker retraining programs, but these have proven inadequate, at best. The General Accounting Office [GAO] recently stated that the Trade Adjustment Assistance Program [TAA] "is inaccessible, and suffers from a lack of oversight and liberal use of waivers." I ask you, if this program has not been able to deal with the jobs that have been lost so far, how can we possibly believe that it will be enough to handle the tremendous dislocation of American workers that NAFTA would certainly bring about? How can NAFTA proponents make a case for an upward shift in jobs in the United States, when the Labor Department has found that "only 1 of 10 recipients of the Trade Adjustment Assistance Program actually found new employment in their chosen field, at a salary of 80 percent of what they used to earn?" How can advocates of this agreement continue to make promises of progress, while they continue to ignore the interests of such a large part of this Nation's population?

And what of our Mexican brothers and sisters? Those hard-working North Americans south of our Nation's border, whose basic employment rights are so conveniently swept under the corporate rug on a daily basis. United States-owned maquiladoras have created a world of subhuman standards for the Mexican worker—one where men and women toil for measly wages of an average $7 a day, while their families live in the environmental nightmare that American firms like Du Pont and Zenith have created. How can we allow this to continue, and how can we possibly support an agreement that would perpetuate this?

Let me conclude by saying that the North American Free-Trade Agreement, as currently proposed will only mean pain—not benefit. We must oppose this NAFTA or both Mexican and American workers will pay dearly.

BELL ATLANTIC-TCI: THE INFORMATION AGE IS COMING ON STRONG

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mr. OXLEY. Mr. Speaker, I am pleased to enter into the RECORD the following op-ed piece written by our colleague, RICK BOUCHER of Virginia, who has been a true leader and visionary in the field of modern telecommunications. His insightful remarks are evidence that his vision of the multimedia future is consistent with market principles and competition, and I recommend it to all of my colleagues.

[From the Washington Times, Oct. 21, 1993]

BELL ATLANTIC-TCI: THE INFORMATION AGE IS COMING ON STRONG

(By Rick Boucher)

The announcement that Bell Atlantic Corp. will purchase Tele-Communications Inc. is the largest example to date of the convergence that for several years has been occurring in the communications marketplace. The lines that traditionally have separated companies providing telephone, cable television and entertainment services have blurred and within the next few years will vanish altogether. As a result of this convergence, competition will arise in industries that are monopolies today, with consequent benefits for consumers of communications services.

The Bell Atlantic-TCI acquisition is a good case in point. Some argue that the acquisition is too big and, therefore, runs counter to consumer interests. In fact, the arrangement is very pro-consumer.

The acquisition occurs within two industries in which there is no competition today. With very rare exceptions, the cable industry operates as a monopoly nationwide. The same is true for the provision of local telephone service. In neither industry does the consumer currently have a choice of providers. Therefore, the acquisition cannot be said to restrict competition and consumer choices.

Moreover, the merger occurs between two companies that are in very different businesses and that will operate in different parts of the nation. Bell Atlantic offers telephone service, and TCI owns cable systems and cable television programming interests. To the extent that TCI owns cable systems in the area in which Bell Atlantic offers telephone service, the cable systems will be divested prior to the finalization of the acquisition. In view of the fact that there is neither business overlap nor geographic overlap, the argument is even stronger that there will be no hindrance to competition.

Some will say that simply because Bell Atlantic will now have access to approximately 40 percent of all American homes through its telephone network or the TCI cable network, it has the potential to monopolize the delivery of information. That argument is also without merit. In virtually all of those 40 percent of American homes, a second wire owned and controlled by another company provides an avenue for competing services. In the TCI cable region, that second wire is owned and controlled by the incumbent telephone company, and in the Bell Atlantic service territory, the second wire is owned and controlled by the incumbent cable system. Accordingly, the enhanced access that Bell Atlantic will enjoy to American homes will not stifle or monopolize the flow of information.

On the contrary, Bell Atlantic's enhanced access will increase consumer information choices. The company has indicated that as soon as it receives legal permission to do so, it will offer local telephone service over the TCI cable network. Therefore, the merger will provide choices to telephone consumers in TCI's cable territory who have no alternatives to a single telephone provider today.

The acquisition is prologue to the day when all forms of communication are made competitive. The convergence that is now taking place in the communications industry will eventually eradicate all lines separating the various components of that industry, with the result that by the end of this decade there will be a significant number—perhaps as many as 10—communications companies offering multi-media services. They will compete with each other nationwide using the local telephone and cable networks to deliver their services. Those local networks will operate as common-carrier platforms, which by law will assure rights of access on equal terms to all information providers. Other providers of information will employ the wireless spectrum and technologies ranging from cellular systems and personal communications devices to direct broadcast satellites to offer voice, video and data services.

And we can be assured that a significant number of providers will be in the market. While some argue that the ongoing convergence will result in a small number of information providers, the likelihood is that a large number will arise. Under current law, the seven regional Bell operating companies are prohibited from merging. That law should continue to enforce separation among these large telephone companies. To those seven will be added other national, regional and local information providers, resulting in a thriving, highly competitive communications business.

The acquisition by Bell Atlantic of TCI clearly positions the combined company to be a leader in the American information marketplace; however, it will by no means be the only multi-media company. It will be one of many offering services on a competitive basis to consumers who today have only one choice.

There are those who would seek to maintain the status quo and ensure that consumers over time have no greater choices than they currently have. The more enlightened view is to take down the barriers to competition and encourage the creation of a large number of national companies whose entry into the arena will ensure far greater consumer choice.

REAL HEROES HONORED IN NATION'S CAPITAL

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 21, 1993

Mrs. LOWEY. Mr. Speaker, this past weekend was a very special time for 50 Americans and their families who were honored in Washington, DC, as Maxwell House Real Heroes.

I would like to share with my colleagues something about the 1993 Maxwell House Real Heroes. They range in age from 11 to 91. They come from 27 States. And all of them are remarkable for the work they do in their communities. At a time when America needs them, these "heroes" are there. They work among the homeless, the poor, and the physically challenged; they are involved in AIDS, health care, the fight against child abuse, and other important social causes.

The Maxwell House Coffee Co. initiated the Real Heroes Awards during its centennial celebration in 1992. The idea was to recognize people whose good works on behalf of their communities would otherwise go unrecognized. One of those "Real Heroes" is Valerie Homan, from my own congressional district in White Plains, NY. She has been an effective and tireless worker against the abuse of children, and has made an important difference in our community.

Our Nation's Capital was chosen as the site of this year's "Heroes" celebratory weekend, October 16–18, 1993. Washington is filled with monuments to great American heroes—heroes such as George Washington, Thomas Jefferson, Abraham Lincoln, and Martin Luther King, Jr. Heroes who inspire us all. But there's one thing we all know about heroes. They don't have to come out of the history books. Ordinary people do extraordinary things every day. They do them quietly, without fuss, seeking no reward except the pleasure of helping other people. Their example makes all of us strive to be better.

Because of the enormous contribution that all of the Nation's silent heroes make to our society, it is important that we take time to acknowledge their deeds. Following are the stories of the 1993 Maxwell House Real Heroes:

Richard Albero of Ramsey, NJ has raised more than $1 million for charity through softball and basketball games. In Stuart, FL, Keith Begley recently formed a new organization, the Community AIDS Advocate Project, to provide people with AIDS and their families a place to meet and socialize. Despite a disabling bone disease, Virginia Beilstein of Sewickley, PA, tends to the needs of the terminally ill by volunteering at the local Forbes hospice.

Paralyzed by a football injury, Marc Buoniconti, of Coral Gables FL, is national ambassador for the Miami Project To Cure Paralysis, the world's largest scientific center devoted to spinal cord research. Through North Pole Enterprises, Debra Camputaro of Hamden, CN, fulfills Christmas wishes for women and their children in battered women's shelters. Eve Carter of Phoenix, AZ, founded Silver Bullets Equestrian, which provides horseback riding lessons as therapy for the mentally and physically challenged.

In Port Orchard, WA, Dr. N.J. Collins is a chiropractor who annually hosts TASKFISH—Taking a Special Kid Fishing Is Special Happiness—for disabled children and adults. Nick Comande of Racine, WA, climbs mountains for charity, raising money for the Muscular Dystrophy Association and the American Diabetes Association. A one-woman crusade against poverty, Mary Jo Copeland of Minneapolis, MN, formed Sharing and Caring Hands to offer meals and clothing to the city's needy.

Eighty-three-year-old Zorader Currence, of Canton, OH, delivers Meals-On-Wheels to those in need and serve as a member of troubled teens. Gary and Debbie DeShields of Bentonville, AR, bring holiday cheer to hundreds of children in their community through the Sharing and Caring Community Christmas Tree Program. In Hagerstown, MD, Judith Dominguez works to promote self-esteem and pride in families who live in low-income housing. Through Cheer for Children, Pam Edwards of Redondo Beach, CA, brings senior citizens and troubled teenagers together to brighten the lives of seriously ill children. An Oakland, CA, teenager, Keleigh Ento founded the Junior Southern Heirs' Club to teach children African-American history and culture.

Julie Gordon of Green Bay, WI, founded M.U.M.S.—Mothers United for Moral Support—a parent-to-parent network for families of children with special needs. In Phoenix, AZ, teenager Tiffany Griego has motivated her schoolmates to participate in a variety of community activities, including tutoring inner-city elementary schoolchildren, volunteering at a soup kitchen and providing Christmas gifts to the needy. David Haken, 85, of Marshing, ID, handles banking shopping for the community's housebound and organized annual actions to benefit local disaster victims.

Through Parents Against Crack, Delores Hawking of Houston, TX, provides clothing, housing, and work for Houston's drug addicted, homeless population. Denise Hockenberry of Sheffield, OH, established Volunteer Services for Diabetes, which offers financial support for low-income individuals with diabetes. In White Plains, NY, Valerie Homan volunteers hundreds of hours annually to educate law enforcement organizations, civic groups, and religious congregations about child sexual abuse. Challenged by cerebral palsy, Gwen Hubbard is an advocate for civil rights and improved accessibility for persons with disabilities.

Billie Jackson, of Gadsden, AL, has established Caregivers in the Middle to provide support and education for family members who care for the elderly and disabled at home. Pastor Laura Joyner of Rockford, IL, manages Samaritan House, which provides food, clothing, counseling, and emergency financial assistance to the community's needy. Georgia Kopel, of Carmichael, CA, developed "Grams, Gramps, and Me" to bring together senior citizens and elementary schoolchildren. Dalton Langley of Moore, OK, raised funds to build a 35-unit senior citizens' apartment building, and he delivers meals to shut-ins.

Concerned about pregnant substance abusers, Celeste McConnell of Lompoc, CA, founded Holly House Project, a residential treatment facility for these women and their children. Dr. Jack B. McConnell of Hilton Head Island, SC, founded Volunteers in Medicine, a free healthcare clinic for the indigent and medically underserved who live or work on the island. Gary Meistad, of Houston, TX, travels across the country to host cookouts to benefit the needy, including Louisiana victims of Hurricane Andrew.

In Hampton, VA, Charles E. Norman III has been coaching baseball for underprivileged children for more than 13 years, serving as a friend, tutor, and father-figure to his players. Michael Novak of Silverthorne, CO, bicycled more than 2,800 miles to raise funds for his town's not-for-profit recycling center. Devoting her life to working with mentally retarded young adults, Elisabeth Pietzner of Glenmore, PA, founded Camphill Soltane, a working community for young adults with disabilities. Debra Scott, of the Bronx, NY, opened a community center that provides jobs for inner-city youths who teach and entertain the children who attend.

Paralyzed since birth, Bryan J. Slye of Reno, NV, is a wheelchair-bound volunteer emergency medical technician, providing services to people in towns as far as 100 miles from the nearest hospital. At 11 years of age, Lenti Smith of Lebanon, TN, founded Y.O.U.T.H.—Youth Organization Unites To Help—to motivate young people in community service. At 91, Mathilda K. Spak, of Long Beach, CA, devotes each weekday to a different charity—her Fur Luv Program distributes thousands of teddy bears to hospitalized children and adults.

In Kenmore, NY, high school teacher Jerry Starr founded Educators Totally Committed, to raise money for the homeless. With the help of his eighth grade students, Gary Swalley, of Caseyville, IL, formed Project 2001, a program to raise money for environmental issues, and he created a drug education program that has motivated more than 5,000 students to say "no" to drugs. Thirteen-year-old Traci Nicole Taylor of Cape Girardeau, MO, distributes toys, books, and crafts to hospitalized children in her "Toy Train." Janice Throgmorton of West Fork, AR, helped develop Care and Share, a program that assists low-income families by providing food, medicine, eyeglasses, clothing, and household items.

Dick Trayner, of Dayville, CT, founded People Helping People in the U.S.A. to transport donations to victims of disasters, including the San Francisco earthquake, Hurricanes Hugo and Andrew, and the recent Mississippi River flooding. In Pueblo, CO, Fred Tripp developed the city's only private, not-for-profit, community service program, Concerned Parents' Youth Initiative, to give youngsters an alternative to joining gangs. Ronald J. Trompeter of El Cajon, CA, formed a nonprofit organization, Neighborhood Graffiti Removal, to keep El Cajon graffiti-free.

Carol and George VanKuren have opened their hearts and their home to 186 foster children, accepting any child who needs a home, at any time. In Corpus Christi, TX, Donna Watkins helped establish a local chapter of the nationwide organization, Parents of Murdered Children, to support families who have lost a child to violent crime. Marlin "Moon" Weston, a native American from Porcupine, SD, started the Quad Squad to support the physically challenged on the Pine Ridge Reservation, and he also conducts antidrug programs for reservation youth.

In Emerald Isle, NC, Nancy Williamson created the State's Mile of Hope Program, which enables cancer patients and their families to enjoy a weekend at the beach, free of charge. Jay Michael Wilson of Baltimore, MD, feeds Thanksgiving dinner to more than 30,000 needy people in his community each year through the Bea Gaddy Thanks for Giving campaign. Through his retail store and construction business, John H. Wilson of San Bernardino, CA, provides jobs for the homeless. Ruth Wynne of Oklahoma City, OK, opened her home to young people with drug-related or emotional problems and distributes food baskets, clothing, and other necessities to more than 30,000 people a year. Rae Zuckerman of Brockton, MA, founded L.I.F.E.—Living Independently for Equality—a center for the community's disabled adults to socialize and garner emotional support.

Indeed, Mr. Speaker, these Americans are real heroes and contribute much to our country. They deserve to be applauded and supported in all of their efforts by our Government.

HOUSE OF REPRESENTATIVES—*Friday, October 22, 1993*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. SKELTON].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 21, 1993.

I hereby designate the Honorable IKE SKELTON to act as Speaker pro tempore on Friday, October 22, 1993.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May the beauty of the day, the majesty of Your mighty acts, and the esteem of people united in mutual respect, remind us, O gracious God, of Your bountiful creation and the opportunities of this new day. May our lives and deeds rise above the ordinary level of give and take and through faithfulness and trust in You, may we be the people You would have us be. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. HINCHEY] please come forward and lead the House in the Pledge of Allegiance?

Mr. HINCHEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 228. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of Romania.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3116. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 48. Concurrent resolution to correct technical errors in the enrollment of the bill (H.R. 2403), and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3116) "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. STEVENS, Mr. D'AMATO, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM, Mr. BOND, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2750) "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 8, 9, 10, 11, 15, 16, 17, 29, 33, 35, 36, 45, 46, 47, 53, 54, 60, 70, 73, 74, 88, 92, 93, 106, 124, 125, 127, 128, 133, 134, 140, 142, 143, 150, 158, 159, 163, 175, 176, 177, 180, 182, 185, and 186, to the above-entitled bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2491) "An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1994, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 38 and 113, to the above-entitled bill.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
October 22, 1993.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Thursday October 21, 1993 at 9:09 p.m.: that the Senate passed without amendment: H.J. Res. 281.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution on Thursday, October 21, 1993: House Joint Resolution 281, making further continuing appropriations for the fiscal year 1994, and for other purposes.

CONFERENCE REPORT ON H.R. 2445, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1994

Mr. BEVILL submitted the following conference report and statement on the bill (H.R. 2445) making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes:

CONFERENCE REPORT (H. REPT. 103–305)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2445) "making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes," having met, after full and free further conference, have agreed to recommend and do recommend to their respective Houses as follows:

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

That the Senate recede from its amendments numbered 1, 7, 8, 9, 10, 11, 13, 16, 24, 27, 35, and 47.

That the House recede from its amendments of the Senate numbered 5, 18, 19, 21, 25, 26, 34, 40, 41, 42, 43, 44, and 46 and agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,688,990,000*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$13,819,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted, insert the following: *which 18 are for replacement only), $3,223,910,000 to remain available until expended*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$3,595,198,000*; and the Senate agree to the same.

Amendment numbered 38:

That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,181,855,000*; and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$16,560,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 2, 3, 4, 12, 14, 15, 17, 20, 22, 29, 30, 31, 32, 33, 36, and 39.

Tom Bevill,
Vic Fazio,
Jim Chapman,
Douglas "Pete" Peterson,
Ed Pastor,
Carrie Meek,
William H. Natcher,
John T. Myers,
Dean A. Gallo,
Harold Rogers,
Joseph M. McDade,
Managers on the Part of the House.

J. Bennett Johnston,
Robert C. Byrd,
Fritz Hollings,
Jim Sasser,
Dennis DeConcini,
Harry Reid,
Bob Kerrey,
Mark O. Hatfield,
Thad Cochran,
Pete V. Domenici,
Don Nickles,
Slade Gorton,
Mitch McConnell,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the further conference on the disagreeing votes of the two houses on the amendments of the Senate to the bill (H.R. 2445) making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

The language and allocations set forth in House Report 103–135 and Senate Report 103–147 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases in which the House or Senate have directed the submission of a report, such report is to be submitted to both House and Senate Committees on Appropriations.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs and activities of the Corps of Engineers. Additional items of conference agreement are discussed below.

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

Amendment No. 1: Appropriates $207,540,000 for General Investigations as proposed by the House instead of $208,544,000 as proposed by the Senate.

The conferees note that the San Joaquin River Basin, South Sacramento County Streams, California, study will include an examination of the water resources problems that were to be addressed by the Northern California Streams, Morrison Stream Group, California, study proposed by the House.

The conference agreement includes $150,000 for the Newport Bay Harbor, California, project as proposed by the Senate instead of $250,000 as proposed by the House. The conferees direct the Corps of Engineers to utilize those funds to initiate feasibility phase studies for the project as authorized by section 841 of Public Law 99–662. Environmental preservation benefits associated with the authorization to modify the existing Federal project at Newport Bay Harbor by extending channels into the upper Newport Bay shall be consolidated with other benefits to be derived from the project and be fully evaluated.

The conferees note that the limitation on the San Joaquin River, Pine Flat Dam, Fish and Wildlife Restoration, California, study described in House Report 102–555 relative to involuntary acquisition of water rights, storage rights and land is not intended to apply to investigations of the enlargement of Pine Flat Reservoir or the construction of offstream reservoirs, which are to be included in the study.

The conferees have provided $500,000 for a reconnaissance study to investigate the feasibility of flood control and other water resource improvements for the City of Winters, California, near Dry Creek, Chickahominy Slough and Moody Slough.

The conferees have provided $600,000 for the Secretary of the Army, acting through the Chief of Engineers, to prepare a reconnaissance study and transmit to Congress a report addressing solutions for facilitating fish migration on the Sacramento River, California. The investigation shall emphasize the potential for modifying the existing Sacramento River Deep Water Ship Channel and ship lock for use as a supplemental route for anadromous fish migration. The Delta channel could potentially provide a migration route for anadromous fish which would bypass Delta channels and agricultural diversions east of Rio Vista.

The conference agreement includes $800,000 for the Corps of Engineers to conduct flood control studies for St. Louis City and County, Jefferson and Ste. Genevieve Counties, Missouri. The conferees expect the Corps, in conducting this regional flood control study, to work closely with local communities. At the request of the communities, the Corps should consider both structural solutions and nonstructural alternatives (such as the relocation of individuals and businesses).

The conference agreement includes $2,000,000 for the Corps of Engineers to conduct studies of the reaches of the upper Mississippi and lower Missouri Rivers and their tributaries that were flooded in 1993. From within those funds, the conferees direct the Secretary of the Army to initiate preliminary activities on a study to assess the adequacy of current flood control measures on the upper Mississippi River and its tributaries. The study should focus on identifying public facilities, industrial, petrochemical, hazardous waste and other facilities which require additional flood protection, assess the adequacy of current flood control measures, examine the differences in Federal cost-sharing for construction and maintenance of flood control projects on the upper and lower Mississippi River system, evaluate the cost-effectiveness of alternative flood control projects, and recommend improvements to the current flood control system.

The conferees recognize the need to undergo a feasibility study of erosion control in order to protect the historic Montauk Point Lighthouse located on Long Island, New York. Therefore, the conferees encourage the Army Corps of Engineers to implement a feasibility study in fiscal year 1994 should the Corps identify the necessary funds from its accounts that are both available and unexpended during fiscal year 1994.

Within the amount provided for Research and Development, the conference agreement includes $2,000,000, $800,000 above the budget request, for activities related to zebra mussel control.

The conferees have provided $600,000 for the Corps of Engineers to conduct a watershed management study of the Cypress Valley Watershed, Texas, in close coordination with the Texas Parks and Wildlife Department. This study is to be conducted under the authority of the resolution of the House Committee on Public Works and Transportation for the Cypress Bayou Basin.

The conference agreement includes $1,000,000 for Corps of Engineers flood data collection activities instead of $500,000 as proposed by the Senate.

The conference agreement includes $300,000 for the initiation of a construction technology transfer project between the Corps of

Engineers construction-related research activities and Indiana State University as proposed by the House.

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Central Basin Groundwater Project, California, $750,000;

Los Angeles County Water Conservation, California, $100,000;

Los Angeles River Watercourse Improvement, California, $300,000;

Norco Bluffs, California, $150,000;

Rancho Palos Verdes, California, $80,000;

Biscayne Bay, Florida, $700,000;

Lake George, Hobart, Indiana, $200,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $310,000;

Ohio River Shoreline Flood Protection, Indiana, $400,000;

Hazard, Kentucky, $250,000;

Brockton, Massachusetts, $350,000;

Passaic River Mainstem, New Jersey, $17,000,000;

Broad Top Region, Pennsylvania, $400,000;

Juniata River Basin, Pennsylvania, $450,000;

Lackawanna River Basin Greenway Corridor, Pennsylvania, $300,000;

Jennings Randolph Lake, West Virginia, $400,000;

Monongahela River Comprehensive, West Virginia, $600,000; and

West Virginia Comprehensive, West Virginia $500,000:

Provided, That notwithstanding ongoing studies using previously appropriated funds, and using $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct hydraulic modeling, foundations analysis and related design, and mapping efforts in continuing preconstruction engineering and design for the additional lock at the Kentucky Dam, Kentucky, project, in accordance with the Kentucky Lock Addition Feasibility Report approved by Report of the Chief of Engineers dated June 1, 1992: Provided further, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of the Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $250,000 of available funds to complete a detailed project report, and plans and specifications for a permanent shore erosion protection project at Geneva State Park, Ashtabula County, Ohio: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $400,000 of the funds appropriated herein to continue preconstruction engineering and design, including preparation of the special design report, initiation of National Environmental Policy Act document preparation, and initiation of hydraulic model studies for the Kaumalapau Harbor navigation study, Lanai, Hawaii: Provided further, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with detailed designs and plans and specifications, including detailed cost estimates, for the master plan of the Indianapolis, White River, Central Waterfront, Indiana, project; Provided further, That the Secretary of the Army is directed to limit the Columbia River Navigation Channel, Oregon and Washington, feasibility study to the investigation of the feasibility of constructing a navigation channel not to exceed 43 feet in depth from the Columbia River entrance to the Port of Portland/Port of Vancouver and to modify the initial Project Management Plan accordingly: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $400,000 of the funds appropriated herein to initiate a reconnaissance study, including economic and environmental studies, for the Pocataligo River and Swamp, South Carolina, project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $90,000 of the funds appropriated herein to complete the reconnaissance study of the Black Fox and Oakland Spring wetland area in Murfreesboro, Tennessee: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $200,000 of available funds to initiate the planning and design of remedial measures to restore the environmental integrity and recreational boating facilities at Old Hickory, Tennessee, in the vicinity of Drakes Creek Park, in accordance with the reconnaissance study findings dated September 1993: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $4,460,000 available funds to complete preconstruction engineering and design for the Ste. Genevieve, Missouri, flood control project authorized by section 401(a) of the Water Resources Development Act of 1986 (100 stat. 4118) so that the project will be ready for construction by October 1, 1994: Provided further, That all plans, specifications and design documents shall be concurrently reviewed in order to expedite the project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $2,000,000 of the funds appropriated herein to undertake preconstruction engineering and design of the Virginia Beach Erosion Control and Hurricane Protection, Virginia, project, including storm water collection and discharge, as authorized by section 102(cc) of Public Law 102–580

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes provisions contained in both the House- and Senate-passed bills for the following projects: Central Basin Groundwater, California; Little Calumet River Basin (Cady Marsh Ditch), Indiana, Ohio River Shoreline Flood Protection, Indiana; Hazard, Kentucky; Brockton, Massachusetts; Jennings Randolph Lake, West Virginia; Monongahela River Comprehensive, West Virginia; and West Virginia Comprehensive, West Virginia.

The conference agreement restores provisions included by the House and stricken by the Senate for the following projects: Los Angeles County Water Conservation, California; Los Angeles river Watercourse Improvement, California; Norco Bluffs, California; Rancho Palos Verdes, California; Biscayne Bay, Florida; Lake George, Hobart, Indiana; Broad Top Region, Pennsylvania, Juniata River Basin, Pennsylvania; and Lackawanna River Basin Greenway Corridor, Pennsylvania.

The conference agreement restores funding levels proposed by the House and amended by the Senate for the following projects: Tampa Harbor, Alafia River and Big Bend, Florida; Indianapolis, White River, Central Waterfront, Indiana; and Passaic River Mainstem, New Jersey. The conference agreement also includes additional directive language for the Tampa Harbor, Alafia River and Big Bend, Florida, and the Indianapolis, White River, Central Waterfront, Indiana, projects.

The conference agreement deletes a provision proposed by the Senate for the McCook and Thornton Reservoirs, Illinois, project.

The conference agreement includes provisions proposed by the Senate for the following projects: Kentucky Lock and Dam, Kentucky; Geneva State Park, Ohio; Kaumalapau Harbor, Hawaii; Columbia River Navigation Channel, Oregon; Pocataligo River and Swamp, South Carolina; Black Fox and Oakland Spring Wetland, Tennessee; Old Hickory Lake, Tennessee; Ste. Genevieve, Missouri; and Virginia Beach, Virginia. The conference agreement provides $2,000,000 for the Kentucky Lock and Dam, Kentucky, project instead of $2,500,000 as proposed by the Senate.

CONSTRUCTION, GENERAL

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$1,255,875,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $1,255,875,000 for Construction, General, excluding the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, instead of $1,296,167,000 as proposed by the Senate. The House had proposed a total of $1,389,138,000 for Construction, General, including the Red River Waterway project. Including the Red River Waterway project, the conference agreement appropriates a total of $1,400,875,000 for Construction, General.

While not including construction funding for the Montgomery Point Lock and Dam, Arkansas, project, the conferees express support for the project and urge the Corps of Engineers to continue to expedite the engineering and design so that construction can begin as soon as a favorable recommendation is reached by the executive branch, preferably for the fiscal year 1995 budget cycle. At that time, the Committee stands ready to consider a budget proposal.

Within available funds, the conferees direct the Corps of Engineers to implement the hillside erosion component included in the Swan Lake Habitat Restoration and Enhancement, Illinois, project, which is an important feature of the Upper Mississippi River System Environmental Management Program.

The conference agreement includes an additional $100,000 for the Winfield Locks and Dam, West Virginia, project for technical assistance to communities around the project site to help those communities understand and analyze the remedial options for the toxic and hazardous materials on the site as authorized by section 347 of Public Law 102–580 as proposed by the House and the Senate. The conferees require that any consultant contracted with to provide analysis of the remedial options be totally independent of the Army Corps of Engineers.

Within the Corps of Engineers, Continuing Authorities Programs, the conferees direct the Corps to undertake the projects described in the House and Senate reports. For the Northport, Alabama, project, the conference agreement includes $1,050,000 for design and construction of the project as proposed by the House. In addition, under the Section 205 program, the conference agreement includes $100,000 for the Corps of Engineers to initiate and complete plans and specifications for the Feather Creek flood control project in Clinton, Indiana.

The conference agreement includes $11,000,000 for the Corps of Engineers Aquatic Plant Control Program as proposed by the

House. The conferees direct that the additional funds provided above the budget request be utilized as described in the House report.

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Rillito River, Arizona, $4,200,000;

Coyote and Berryessa Creeks, California, $4,000,000;

Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $400,000;

San Timoteo Creek (Santa Ana River Mainstem), California, $12,000,000;

Sonoma Baylands Wetland Demonstration Project, California, $4,000,000;

Central and Southern Florida, Florida, $17,850,,000;

Kissimmee River, Florida, $5,000,000;

Melaleuca Quarantine Facility, Florida, $1,000,000;

Casino Beach, Illinois, $820,000;

McCook and Thornton Reservoirs, Illinois, $13,000,000;

O'Hare Reservoir, Illinois, $5,000,000;

Des Moines Recreational River and Greenbelt, Iowa, $2,700,000;

Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana, $200,000;

Anacostia River, Maryland and District of Columbia, $7,000,000;

Clinton River Spillway, Michigan, $2,000,000;

Silver Bay Harbor, Minnesota, $2,600,000;

Stillwater, Minnesota, $2,400,000;

Sowashee Creek, Mississippi, $3,240,000;

Molly Ann's Brook, New Jersey, $1,000,000;

New York Harbor Collection and Removal of Drift, New York and New Jersey, $3,900,000;

Rochester Harbor, New York, $4,000,000;

Wilmington Harbor Ocean Bar, North Carolina, $5,266,000;

West Columbus, Ohio, $9,000,000;

Lackawanna River Greenway Corridor, Pennsylvania, $2,000,000;

South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, Pennsylvania, $10,000,000;

Quonset Point-Davisville, Rhode Island (for 2 elevated water storage towers and the relocation of sewer lines), $1,875,000;

Lake O' The Pines-Big Cypress Bayou, Texas, $300,000;

Red River Basin Chloride Control, Texas and Oklahoma, $4,000,000;

Wallisville Lake, Texas, $1,000,000;

Richmond Filtration Plant, Virginia, $1,000,000;

Southern West Virginia Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, West Virginia, $3,500,000; and

State Road and Ebner Coulees, LaCrosse and Shelby, Wisconsin, $1,467,000; Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,500,000 of available funds to initiate and complete construction of the Finn Revetment portion of the Red River Emergency Bank Protection, Arkansas and Louisiana, project: Provided further, That the Chief of Engineers is directed to use a fully funded contract for the construction of the Finn Revetment: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,500,000 of the funds appropriated herein to continue the Red River Levees and Bank Stabilization below Denison Dam, Arkansas, project, including the completion of studies to improve the stability of the levee system from Index, Arkansas, to the Louisiana state line and the continuation of rehabilitation work underway: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to expend $500,000 in fiscal year 1994 to initiate reconstruction of the Sacramento River floodwall between miles 58 and 60 of the Sacramento River, California, as an essential portion of the Sacramento Urban Levee Reconstruction project pursuant to the Sacramento River Flood Control Act of 1917, as amended, and the Local Cooperation Agreement signed on June 4, 1990: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, shall (1) use $2,000,000 of the funds appropriated herein to carry out engineering and design for the relocation of the comfort and lifeguard stations on the Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York, project as authorized by section 1076 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2015), and (2) not later than one year after the date of enactment of this Act, report to Congress on the results of the expenditure of funds required under paragraph (1): Provided further, That with $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Bethel, Alaska, project authorized by Public Law 99–662, including but not limited to initiating lands and damages, erosion control construction, and continued related engineering and construction management: Provided further, That no fully allocated funding policy shall apply to the construction of the Bethel, Alaska, project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $24,119,000 of the funds appropriated herein to continue the Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection project, including continued construction of parallel protection along the Orleans and London Avenue Outfall Canals and the award of continuing contracts for construction of this parallel protection under the same terms and conditions specified for such work under this heading in Public Law 102–377: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $450,000 of the funds appropriated herein to complete the repair and restoration to a safe condition of the existing Tulsa and West Tulsa local protection project, Oklahoma, authorized by the Flood Control Act of 1941, Public Law 73–228: Provided further, That with $5,000,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the Pike County, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367, with initial efforts concentrated in the communities of Buskirk and McCarr, in accordance with the Huntington District Commander's preliminary draft detailed project report for Pike County, Kentucky, dated March 1993, using continuing contracts: Provided further, That with $700,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction, using continuing contracts, of the Williamsburg, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367, in accordance with Plan B of the approved draft specific project report for Williamsburg, Kentucky, dated April 1993: Provided further, That with $19,300,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367, and is further directed to design and construct a system to collect and transport sewage from the unincorporated community of Rio Vista to the Harlan, Kentucky, treatment plant, as part of the Harlan, Kentucky, element: Provided further, That with $5,365,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: Provided further, That with $3,500,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Hatfield Bottom, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367 using continuing contracts: Provided further, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Hatfield Bottom, West Virginia, Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland river project: Provided further, That with $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction, using continuing contracts, of the Salyersville, Kentucky, cut-through channels project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction of offshore breakwaters at Grand Isle, Louisiana, as an integral part of the repair of features of the Grand Isle and Vicinity, Louisiana, project damaged by Hurricane Andrew using funds previously appropriated for that purpose in the fiscal year 1992 Dire Emergency Supplemental Appropriations Act, Public Law 102–368, which are available for this work: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the section 14 bank stabilization program at McGregor Park in Clarksville, Tennessee, utilizing heretofore appropriated funds until the Federal funds limit of $500,000 is reached or bank protection for the entire park is completed: Provided further, That using $6,300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with the authorized Ouachita River Levees, Louisiana, project in an orderly but expeditious manner and within this amount, $3,800,000 shall be used to continue rehabilitation or replacement of all deteriorated drainage structures which threaten the security of this critical protection, and $2,500,000 shall be used to repair the river bank at Columbia, Louisiana, which is eroding and placing the project levee protecting the city in imminent danger of failure: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $3,000,000 of the funds appropriated herein to provide design and construction assistance for a water transmission line from the northern part of Beaver Lake, Arkansas, into Benton and Washington Counties, Arkansas, as authorized by section 220 of Public Law 102–580; and in addition, $145,000,000, to remain available until expended, is hereby appropriated for construction *of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, as authorized by laws, and the Secretary of the Army is directed to continue the second phase of construction of Locks and Dams 4 and 5; complete construction of Howard Capout, McDade, Elm Grove, Cecile, Curtis, Sunny Point, and Eagle Bend Phase I and Phase II revetments in Pools 4 and 5, and levee modifications in Pool 5, all of which were previously directed to be initiated; and award continuing contracts in fiscal year 1994 for construction of the following features of the Red River Waterway which are not to be considered fully funded: recreation facilities in Pools 4 and 5, Piermont/Nicholas and Sunny Point Capouts, Lock and Dam 4 Upstream Dikes, Lock and Dam 5 Downstream Additional Control Structure, Wells Island Road Revetment, and construction dredging in Pool 4; all as authorized by laws, and the Secretary is further directed to provide annual reimbursement to the project's local sponsor for the Federal share of management costs for the Bayou Bodcau Mitigation Area as authorized by Public Law 101–640, the Water Resources Development Act of 1990*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes provisions contained in both the House- and Senate-passed bills for the following projects: Rillito River, Arizona; Coyote and Berryessa Creeks, California; Sacramento River Flood Control (Glenn-Colusa Irrigation District), California; San Timoteo Creek (Santa Ana River Mainstem), California: Sonoma Baylands Wetland Demonstration, California; Kissimmee River, Florida; O'Hare Reservoir, Illinois; Pike County, Kentucky; Salyersville, Kentucky; Williamsburg, Kentucky; Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana; Anacostia River, Maryland and District of Columbia; Stillwater, Minnesota; Sowashee Creek, Mississippi; Molly Ann's Brook, New Jersey; Lake O' The Pines-Big Cypress Bayou, Texas; Red River Basin Chloride Control, Texas and Oklahoma; Wallisville Lake, Texas; and Southern West Virginia Environmental Restoration and Resource Protection Development Pilot Program, West Virginia. The provisions for the Pike County, Kentucky, Salyersville, Kentucky, and Williamsburg, Kentucky, projects have been amended to provide additional directive language to the Secretary of the Army.

The conference agreement restores provisions included by the House and stricken by the Senate for the following projects: Melaleuca Quarantine Facility, Florida; McCook and Thornton Reservoirs, Illinois; Clinton River Spillway, Michigan; Silver Bay Harbor, Minnesota; Rochester Harbor, New York; Wilmington Harbor Ocean Bar, North Carolina; Lackawanna River Greenway Corridor, Pennsylvania; South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, Pennsylvania; Richmond Filtration Plant, Virginia; and State Road and Ebner Coulees, LaCross and Shelby, Wisconsin.

The conference agreement provides $17,850,000 for the Central and Southern Florida, Florida, project as proposed by the House instead of $9,500,000 as proposed by the Senate; provides $820,000 for the Casino Beach, Illinois, project as proposed by the House instead of $300,000 as proposed by the Senate; provides $2,700,000 for the Des Moines Recreational River and Greenbelt, Iowa, project as proposed by the House instead of $1,700,000 as proposed by the Senate; and provides $3,900,000 for the New York Harbor Collection and Removal of Drift, New York and New Jersey, project as proposed by the House instead of $2,900,000 as proposed by the Senate.

The conference agreement amends House language for the Red River Emergency Bank Protection, Arkansas, project; the Barbourville, Kentucky, project; the Harlan, Kentucky, project; and the Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, project as proposed by the Senate. The conference agreement also provides additional directive language for the Harlan, Kentucky, project.

The conference agreement restores House language stricken by the Senate for the West Columbus, Ohio, project amended to provide $9,000,000 for the project instead of $5,000,000 as proposed by the House.

The conference agreement deletes a House provision regarding the Fort Point, Galveston, Texas, project as proposed by the Senate.

The conference agreement includes provisions proposed by the Senate for the following projects: Quonset Point-Davisville, Rhode Island; Red River Levees and Bank Stabilization below Denison Dam, Arkansas; Atlantic Coast of New York, New York; Bethel, Alaska; Tulsa and West Tulsa, Oklahoma; Matewan, West Virginia; Hatfield Bottom, West Virginia; Grand Isle, Louisiana, McGregor Park, Clarksville, Tennessee; Ouachita River Levees, Louisiana; and Beaver Lake, Arkansas. The provisions regarding the McGregor Park project has been amended to make a technical correction.

The conference agreement appropriates $145,000,000 for the Red River Waterway, Mississippi River to Shreveport, Louisiana, project as proposed by the Senate. The House had included $65,000,000 for the project within the amount appropriated in Amendment No. 3.

The conferees adopt the House report language on the Kissimmee River, Florida, project and add the following. The Corps of Engineers is directed to sign a single Project Cooperation Agreement with the South Florida Water Management District as authorized by section 46 of Public Law 100–676 and section 101(8) of Public Law 102–580 no later than February 1, 1994, in accordance with the Memorandum to the South Atlantic Division Commander dated February 17, 1993, and signed by the Jacksonville Deputy District Engineer for Project Management.

The conferees agree with the language in the Senate report regarding the Beaver Lake, Arkansas, water transmission line project authorized by section 220 of the Water Resources Development Act of 1992.

The conferees agree with the language in the Senate report regarding the West Des Moines, Des Moines, Iowa, project.

The conferees agree with the language in the House report regarding the Red River Chloride Control, Texas and Oklahoma, project and note that the features to be developed include Areas VI, VII, IX, XIII, XIV, and Crowell Brine Lake.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

Amendment No. 5: Appropriates $348,875,000 for Flood Control, Mississippi River and Tributaries, as proposed by the Senate instead of $352,475,000 as proposed by the House.

The conferees agree with the language contained in the House report regarding the Yazoo Basin, Mississippi, Demonstration Erosion Control Program and the Wickliffe Bluff, Kentucky, project.

OPERATION AND MAINTENANCE, GENERAL

Amendment No. 6: Appropriates $1,688,990,000 for Operation and Maintenance, General instead of $1,691,350,000 as proposed by the House and $1,673,704,000 as proposed by the Senate.

The conference agreement includes a total of $1,869,000 for the Chena River Lakes, Alaska, project. The amount provided includes $200,000 for the Corps of Engineers to investigate possible solutions to groundwater flooding that is occurring downstream of Moose Creek Dam and $250,000 for the Corps of Engineers to develop a plan to mitigate fishery impacts. The Senate had proposed that the study of flooding problems be performed under the General Investigations account.

The conferees note that the rock rubble mound entrance jetties at Newport Bay Harbor, California, may require structural rehabilitation work and ask that the Corps of Engineers survey the need and report back to the Committees on Appropriations of the House and Senate for consideration in fiscal year 1995.

Within available funds, the conferees direct the Corps of Engineers to continue studying alternatives for whitewater releases at the John W. Flannagan Dam, Virginia.

The conferees agree with the language contained in the Senate report for the St. Georges Bridge, Delaware, project.

Amendment No. 7: Restores House language stricken by the Senate that provides $400,000 for the Los Angeles River (Sepulveda Basin to Arroyo Seco), California, project.

Amendment No. 8: Deletes the word "and" proposed by the Senate.

Amendment No. 9: Restores House language stricken by the Senate that provides $2,500,000 for the Flint River Flood Control, Michigan, project.

Amendment No. 10: Restores "; and" proposed by the House and stricken by the Senate.

Amendment No. 11: Restores House language stricken by the Senate that provides $250,000 for the New Madrid County Harbor, Missouri, project.

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides $5,000,000 for the Corps of Engineers to undertake critical maintenance work on the Kentucky River, Kentucky, Locks and Dams 5–14 and directs the Corps to transfer those facilities to the Commonwealth of Kentucky; directs the Secretary of the Army to maintain a minimum conservation pool level of 475.5 feet at Wister Lake, Oklahoma; and directs the Secretary of the Army to complete long-term dredged material disposal plans for the existing Columbia River navigation project, including associated fish and wildlife studies.

GENERAL EXPENSES

Amendment No. 13: Restores House language stricken by the Senate which provides that not to exceed $54,855,000 of the funds provided in the Act shall be available for general administration and related functions in the Office of the Chief of Engineers and deletes language proposed by the Senate which provided that not to exceed $58,255,000 shall be available for the Office of the Chief of Engineers unless the Secretary of the Army determines that additional funds are required and notified the Committee on Appropriations of the House and Senate of the reasons therefore.

The conferees agree with the language in the House report regarding billbacks and project management.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

Amendment No. 14: Reported in technical disagreement. The managers of the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that in fiscal year 1994, the Secretary of the Army shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with Government-owned dredges in fiscal year 1992 and which, notwithstanding the provisions of the section, authorizes the Secretary of the Army to use the Corps of Engineers dredge fleet to undertake projects under certain conditions. The conferees view the 7,500,000 cubic yards as a target, not a floor, and expect contract awards to reflect this.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which will permit the Corps of Engineers to reprogram funds to continue the construction of projects in order to prevent the termination of contracts or the delay of scheduled work.

Amendment No. 16: Deletes language proposed by the Senate regarding the removal or demolition of residential structures in the Muskingum River Basin, Ohio.

The conferees have agreed not to include bill language proposed by the Senate regarding the removal or demolition of residential structures in the Muskingum River Basin, Ohio. However, the conferees urge the Corps of Engineers not to remove or demolish any residential structure that is subject to an easement or right-of-way in favor of the United States for the containment or impoundment of waters in the Muskingum River Basin, Ohio, until such time as the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives have had the opportunity to review and address the policy in the next Water Resources Development authorization legislation.

Amendment No. 17: Reported in technical disagreement. The managers of the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 108. (a) IN GENERAL.—The Secretary of the Army is authorized to convey to the City of Galveston, Texas, fee simple absolute title to a parcel of land containing approximately 605 acres known as the San Jacinto Disposal Area located on the east end of Galveston Island, Texas, in the W.A.A. Wallace Survey, A-647 and A-648, City of Galveston, Galveston County, Texas, being part of the old Fort San Jacinto site, at the fair market value of such parcel to be determined in accordance with the provisions of subsection (d). Such conveyance shall only be made by the Secretary of the Army upon the agreement of the Secretary and the City as to all compensation due herein.

(b) COMPENSATION FOR CONVEYANCE.—Upon receipt of compensation from the City of Galveston, The Secretary shall convey the parcel as described in subsection (a). Such compensation shall include—

(1) conveyance to the Department of the Army of fee simple absolute title to a parcel of land containing approximately 564 acres on pelican Island, Texas, in the Eneas Smith Survey, A-190, Pelican Island, City of Galveston, Galveston County, Texas, adjacent to property currently owned by the United States. The fair market value of such parcel will bė determined in accordance with the provision of subsection (d); and

(2) payment to the United States of an amount equal to the difference of the fair market value of the parcel to be conveyed pursuant to subsection (a) and the fair market value of the parcel to be conveyed pursuant to paragraph (1) of this subsection.

(c) DISPOSITION OF SPOIL.—Costs of maintaining the Galveston Harbor and Channel will continue to be governed by the Local Cooperation Agreement (LCA) between the United States of America and the City of Galveston dated October 18, 1973, as amended. Upon conveyance of the parcel described in subsection (a), the Department of the Army shall be compensated directly for the present value of the total costs to the Department for disposal of dredge material and site preparation pursuant to the LCA, in excess of the present value of the total costs that would have been incurred if this conveyance had not been made.

(d) DETERMINATION OF FAIR MARKET VALUE.—The fair market value of the land to be conveyed pursuant to subsections (a) and (b) shall be determined by independent appraisers using the market value method.

(e) NAVIGATIONAL SERVITUDE.—

(1) DECLARATION OF NONNAVIGABILITY; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed subject to be undertaken within the parcel described in subsection (a) are not in the public interest then, subject to paragraphs (2) and (3), such parcel is declared to be nonnavigable waters of the United States.

(2) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under paragraph (a) shall apply only to those parts of the parcel described in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations including, but not limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(3) EXPIRATION DATE.—If, 20 years after the date of the enactment of this Act, any area or part thereof described in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in paragraph (2), or if work in connection with any activity permitted in paragraph (2) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

(f) SURVEY AND STUDY.—The 605-acre parcel and the 564-acre parcel shall be surveyed and further legally described prior to conveyance. Not later than 60 days following enactment of this Act, if he deems it necessary, the Secretary of the Army shall complete a review of the applicability of section 404 of the Federal Water Pollution Control Act to the said parcels.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included a provision proposed by the Senate authorizing the Secretary of the Army to convey to the City of Galveston, Texas, a 605-acre parcel of land known as the San Jacinto Disposal Area in exchange for a 564-acre parcel of land on Pelican Island, Texas, known as the Pelican Island Alternative Disposal site together with payment to the United States of an amount equal to the difference in the agreed upon fair market values of the two parcels of land plus the present value of certain increased costs directly attributable to this transaction. The Senate provision has been amended to make technical corrections. The conveyances shall occur upon agreement by the Secretary and the City with respect to all compensation due under the provisions of this amendment.

The San Jacinto Disposal Area is currently used by the Army Corps of Engineers for the disposal of spoils dredged from the channels leading into Galveston Bay. The Pelican Island site, however, offers the Corps an alternate site for future spoils deposit that will serve as a viable spoils site substantially longer than would the San Jacinto site.

The fair market value of the parcels to be conveyed shall be determined by three independent appraisers, each a member in good standing of the American Institute of Real Estate Appraisers, using the market value method. One appraiser each shall be selected by the Corps and the City of Galveston, and one appraiser shall be selected by mutual agreement of the two parties.

If the fair market values as determined by the three appraisers are not the same and the difference between the high and low values is ten percent or less, the three values shall be averaged to determine fair market value. If the high and low values differ by more than ten percent, the appraisers shall attempt to agree upon a fair market value. If the three fail to agree, the three appraisers shall jointly select a fourth appraiser who shall independently appraise each tract. The highest and lowest of the four appraisals shall be discarded and the two remaining appraisals averaged to determine fair market value.

Costs of maintaining the Galveston Harbor and Channel will continue to be governed by the Local Cooperation Agreement between the United States of America and the City of Galveston dated October 18, 1973, as amended. This provision also provides that the Department of the Army shall be compensated for the present value of costs to the Department that will be incurred under the Local Cooperation Agreement which exceed the present value of costs that would have been incurred had this transaction not occurred. The provisions of the amendment extinguish any rights of the United States of navigational servitude over the San Jacinto Disposal Area.

Wetlands created in a disposal area by the Department of the Army through active spoil operations are "non-jurisdictional". Accordingly, any wetlands on the San Jacinto Disposal Area require no mitigation.

The conferees understand that wetlands on the 564-acre Pelican Island parcel were also created by the Department of the Army during spoilage operations. This parcel was spoiled upon and navigational servitude rights claimed until removed by the Coast Guard Authorization Act of 1991. The conferees understand that the Army Corps of Engineers' internal Feasibility Study (1991) included a wetlands mitigation plan characterized as "Plan 2" which was acceptable to the Corps and other participating agencies. If the Secretary determined that wetlands mitigation of the Pelican Island parcel is necessary, it shall be accomplished in accordance with Plan 2.

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	ALABAMA				
(N)	CHICKASAW CREEK, AL.	253,000	---	253,000	---
(FDP)	METROPOLITAN HUNTSVILLE - MADISON COUNTY, AL.	350,000	---	350,000	---
	MUSCLE SHOALS, AL.	---	---	300,000	---
	ALASKA				
(N)	ANCHOR POINT HARBOR, AK.	180,000	---	180,000	---
(FDP)	CHENA RIVER COMPREHENSIVE STUDY, AK.	122,000	---	122,000	---
(N)	CHIGNIK HARBOR, AK	---	50,000	---	50,000
(N)	COOK INLET, AK.	300,000	---	300,000	---
(RDP)	KAKE HARBOR, AK.	300,000	---	300,000	---
(N)	KETCHIKAN HARBOR, AK.	150,000	---	150,000	---
(N)	NORTHERN SEA COMMERCIAL ROUTE STUDY, AR.	---	---	300,000	---
(N)	SAND POINT HARBOR, AK.	300,000	---	300,000	---
(FDP)	SEWARD AREA RIVERS, AK.	188,000	---	188,000	---
(N)	SEWARD HARBOR, AK.	200,000	---	200,000	---
(FDP)	SEWARD, LOWELL CREEK, AK.	142,000	---	142,000	---
(N)	ST. PAUL HARBOR, AK.	---	---	125,000	---
(N)	WRANGELL NARROWS AND DRY STRAITS, AK.	170,000	---	170,000	---
	ARIZONA				
	COMBINED ARIZONA RECONNAISSANCE STUDY, AZ.	---	---	280,000	---
	GILA RIVER, GILLESPIE DAM TO YUMA, AZ.	---	---	1,000,000	---
	GILA RIVER AND TRIBS, LOWER SANTA CRUZ RIVER, AZ.	---	---	300,000	---
(FDP)	HASSAYAMPA RIVER AT WICKENBURG, AZ.	150,000	---	150,000	---
	RIO SALADO AREA, TEMPE AZ.	---	---	750,000	---
(FDP)	TUCSON DRAINAGE AREA, AZ.	450,000	---	450,000	---
	ARKANSAS				
	ARKANSAS RIVER, TUCKER CREEK, AR.	---	---	475,000	---
(FDP)	ARKANSAS RIVER WETLANDS AND FLOOD CONTROL, AR.	250,000	---	250,000	---
(FDP)	OUACHITA RIVER BASIN, HOT SPRINGS, AR.	650,000	---	650,000	---
(SPE)	WHITE RIVER WETLANDS, AR & MO.	300,000	---	300,000	---
	CALIFORNIA				
(FC)	AMERICAN RIVER WATERSHED, CA.	---	2,000,000	---	4,000,000
	CALLEGUAS CREEK, CA.	---	---	130,000	---
(FC)	CARNEROS CREEK, CA.	---	600,000	---	600,000
	CENTRAL BASIN GROUNDWATER PROJ, WHITTIER NARROWS, CA.	---	---	750,000	---
	CITY OF HUNTINGTON BEACH, ORANGE COUNTY, CA.	---	---	275,000	---
	CITY OF WINTERS, CA.	---	---	500,000	---
(SPE)	COAST OF CA, SOUTH COAST REGION (ORANGE COUNTY)	250,000	---	250,000	---
(N)	CRESCENT CITY HARBOR, CA.	150,000	---	150,000	---
(N)	HUMBOLDT HARBOR AND BAY (DEEPENING), CA.	162,000	---	162,000	---
(FC)	KAWEAH RIVER, CA.	---	500,000	---	500,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	LACDA WATER CONSERVATION, CA	---	---	100,000	---
	LEONARD RANCH, CA	---	---	300,000	---
(N)	LOS ANGELES - LONG BEACH HARBORS, CA	---	2,000,000	---	2,000,000
(FC)	LOS ANGELES COUNTY DRAINAGE AREA, CA	---	3,633,000	---	3,633,000
	LOS ANGELES RIVER WATERCOURSE IMPROVEMENT, CA	---	---	300,000	---
(FC)	LOWER MISSION CREEK, CA	---	79,000	---	79,000
(SP)	MALIBU COASTAL AREA, CA	250,000	---	250,000	---
(FDP)	MARIN COUNTY SHORELINE, SAN CLEMENTE CREEK, CA	280,000	---	280,000	---
	MARINA DEL RAY, CA	---	---	175,000	---
(SP)	MISSION BAY, SAN DIEGO COUNTY, CA	100,000	---	100,000	---
(FDP)	MISSION ZANJA CREEK, CA	341,000	---	341,000	---
(N)	MORRO BAY HARBOR, CA	---	122,000	---	122,000
	NORCO BLUFFS, SANTA ANA RIVER, CA	---	---	150,000	---
(FDP)	N CA STREAMS, CACHE CREEK BASIN (LAKE CO), CA	400,000	---	400,000	---
(FDP)	N CA STREAMS, UPR SACRAMENTO R, F&WL HABITAT RESTORATI	250,000	---	550,000	---
(FDP)	N CA STREAMS, WESTSIDE TRIBUTARIES TO YOLO BYPASS, CA.	350,000	---	450,000	---
(FDP)	N CA STREAMS, YUBA RIVER BASIN, CA	300,000	---	300,000	---
(FC)	NAPA RIVER, CA	---	700,000	---	900,000
(N)	NEWPORT BAY HARBOR, CA	150,000	---	150,000	---
(FDP)	NORTHERN LOS ANGELES COUNTY, CA	325,000	---	325,000	---
(N)	NOYO RIVER AND HARBOR (BREAKWATER), CA	---	550,000	---	550,000
(SP)	OCEANSIDE SHORELINE, CA	300,000	---	300,000	---
(SP)	PACIFIC COAST SHORELINE, CARLSBAD, CA	260,000	---	260,000	---
(FDP)	PAJARO RIVER AT WATSONVILLE, CA	197,000	---	197,000	---
(N)	POINT ARENA (BREAKWATER), CA	245,000	---	245,000	---
(N)	PORT HUENEME, CA	350,000	---	350,000	---
	RANCHO PALOS VERDES, CA	---	---	80,000	---
	SACRAMENTO RIVER FISH MIGRATION	---	---	600,000	---
(SPE)	SACRAMENTO-SAN JOAQUIN DELTA, CA	900,000	---	900,000	---
(SP)	SAN FRANCISCO COUNTY, OCEAN BEACH, CA	200,000	---	200,000	---
(N)	SAN FRANCISCO HARBOR, CA	215,000	---	215,000	---
(FDP)	SAN JOAQUIN R BASIN, PINE FLAT DAM, F&WL HABITAT RESTO	240,000	---	240,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, ARROYO PASAJERO (FRESNO CO),	400,000	---	400,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, CALIENTE CREEK STREAM GROUP,	300,000	---	300,000	---
	SAN JOAQUIN RIVER BASIN, FIREBAUGH AND MENDOTA, CA	---	---	150,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, SAN JOAQUIN R MAIN STEM & TRI	325,000	---	325,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, SOUTH SACRAMENTO COUNTY STRMS	350,000	---	350,000	---
(FC)	SAN LORENZO RIVER, CA	---	100,000	---	300,000
(FC)	SAN RAFAEL CANAL, CA	---	1,210,000	---	1,210,000
(N)	SANTA BARBARA HARBOR, CA	---	360,000	---	360,000
(N)	SANTA MONICA BREAKWATER, CA	95,000	---	95,000	---
(N)	SANTA MONICA BREAKWATER, CA	---	100,000	---	100,000
(FDP)	SEVEN OAKS AND PRADO DAMS WATER CONSERVATION, CA	150,000	---	150,000	---
	SILVER STRAND SHORELINE, CORONADO, CA	---	---	275,000	---
	SONOMA COUNTY VERNAL POOLS, CA	---	---	250,000	---
(FDP)	UPPER GUADALUPE RIVER, CA	150,000	---	150,000	---
(FDP)	UPPER PENITENCIA CREEK, CA	250,000	---	250,000	---
(FC)	WEST SACRAMENTO, CA	---	1,000,000	---	1,000,000
(FDP)	WHITEWATER RIVER BASIN, CA	150,000	---	150,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	COLORADO				
(FDP)	BOXELDER, SPRING, AND DRY CREEKS, FT COLLINS, CO......	100,000	---	100,000	---
(FDP)	MANITOU SPRINGS, CO..................................	360,000	---	360,000	---
(FC)	RALSTON AND LEYDEN CREEKS, CO........................	---	150,000	---	150,000
	CONNECTICUT				
(FDP)	CENTRAL CONNECTICUT COASTAL FLOODING, CT.............	350,000	---	350,000	---
(COM)	CONNECTICUT R BSN - NATURAL VALLEY STORAGE, CT, MA, NH	100,000	---	100,000	---
	DELAWARE				
(N)	C&D CANAL - BALTIMORE HBR CONN CHANNELS, DE & MD (DEEP	250,000	---	250,000	---
(SP)	DELAWARE BAY COASTLINE, DE & NJ......................	600,000	---	600,000	---
(SP)	DELAWARE COAST FROM CAPE HENLOPEN TO FENWICK ISLAND, D	210,000	---	210,000	---
(N)	DELAWARE RIVER MAIN CHANNEL DEEPENING, DE, NJ, & PA...	---	4,000,000	---	4,000,000
	FLORIDA				
	BISCAYNE BAY, FL.....................................	---	---	700,000	---
(SP)	BREVARD COUNTY, FL...................................	130,000	---	130,000	---
(FDP)	COAST OF FLORIDA STUDY, FL...........................	780,000	---	780,000	---
(SP)	COLLIER COUNTY, FL...................................	100,000	---	100,000	---
(SP)	DAYTONA BEACH SHORES, FL.............................	65,000	---	65,000	---
	FORT PIERCE BEACH, FL................................	---	---	150,000	---
(FDP)	HILLSBORO CANAL, FL..................................	37,000	---	37,000	---
	HILLSBORO INLET, FL..................................	---	---	150,000	---
(N)	JACKSONVILLE HARBOR, FL..............................	150,000	---	150,000	---
(BE)	MARTIN COUNTY, FL....................................	---	282,000	---	282,000
	MIAMI RIVER SEDIMENTS................................	---	---	---	300,000
(BE)	NASSAU COUNTY, FL....................................	---	229,000	---	229,000
(N)	PALM VALLEY BRIDGE, FL...............................	---	980,000	---	980,000
(BE)	PANAMA CITY BEACHES, FL..............................	---	1,280,000	---	1,280,000
(N)	PANAMA CITY HARBOR, FL...............................	---	850,000	---	850,000
(FDP)	PERDIDO KEY, FL......................................	300,000	---	300,000	---
(N)	PONCE DE LEON INLET, FL..............................	266,000	---	266,000	---
	PORT EVERGLADES, FL..................................	---	---	150,000	---
	ST JOHNS RIVER WATER QUALITY, FL.....................	---	---	400,000	---
	ST PETERSBURG (SEC. 216), FL.........................	---	---	100,000	---
(N)	TAMPA HARBOR, ALAFIA RIVER AND BIG BEND, FL..........	130,000	---	250,000	---
	TAMPA HARBOR, SEDDON CHANNEL, FL.....................	---	---	600,000	---
	GEORGIA				
	ATLANTA COMBINED SEWER OVERFLOW TREATMENT, GA.........	---	---	---	200,000
(BE)	GLYNN COUNTY BEACHES, GA.............................	---	200,000	---	200,000
(N)	LOWER SAVANNAH RIVER BASIN, GA & SC..................	100,000	---	100,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	HAWAII				
(N)	BARBERS POINT HARBOR MODIFICATION, OAHU, HI...........	325,000	---	325,000	---
(N)	KIKIAOLA SMALL BOAT HARBOR, KAUAI, HI................	---	180,000	---	180,000
(N)	KAUMALAPAU HARBOR, HI...............................	---	---	400,000	---
(FDP)	WAILUPE STREAM FLOOD CONTROL STUDY, OAHU, HI..........	330,000	---	330,000	---
	IDAHO				
(FDP)	LOWER BOISE RIVER AND TRIBUTARIES STUDY, ID..........	227,000	---	227,000	---
	ILLINOIS				
(FDP)	ALEXANDER AND PULASKI COUNTIES, IL...................	210,000	---	210,000	---
(RDP)	CHICAGO RIVER, NORTH BRANCH (1946 MOD), IL...........	147,000	---	147,000	---
(BE)	CHICAGO SHORELINE, IL...............................	---	1,000,000	---	1,000,000
(FDP)	DES PLAINES RIVER, IL...............................	381,000	---	381,000	---
(RDP)	FREEPORT, IL..	140,000	---	140,000	---
	ILLINOIS AND MICHIGAN CANAL, IL.....................	---	---	---	500,000
	ILLINOIS SHORELINE EROSION, IL......................	---	---	150,000	---
(FDP)	SOUTHEAST CHICAGO, IL...............................	377,000	---	377,000	---
(RCP)	UPPER MISSISSIPPI & ILLINOIS NAV STUDY, IL, IA, MN, MO	8,500,000	---	8,500,000	---
(RDP)	WAUKEGAN HARBOR, IL.................................	35,000	---	35,000	---
	INDIANA				
(FDP)	INDIANAPOLIS, MARION COUNTY (SOUTH), IN..............	250,000	---	250,000	---
(FDP)	INDIANAPOLIS, WHITE RIVER (NORTH), IN................	400,000	---	400,000	---
(FDP)	INDIANAPOLIS, WHITE RIVER, CENTRAL WATERFRONT, IN.....	300,000	---	300,000	3,700,000
	LAKE GEORGE, HOBART, IN.............................	---	---	---	200,000
	LITTLE CALUMET RIVER BASIN (CADY MARSH DITCH), IN.....	---	---	---	310,000
	LITTLE CALUMET RIVER BASIN, DYER, IN................	---	---	150,000	---
	KOONTZ LAKE, IN.....................................	---	---	200,000	---
	OHIO RIVER SHORELINE FLOOD PROTECTION, IN............	---	---	400,000	---
(FDP)	ORANGE COUNTY (LOST RIVER), IN......................	243,000	---	243,000	---
(FDP)	ST JOSEPH RIVER, SOUTH BEND, IN.....................	100,000	---	200,000	---
(FDP)	UPPER TIPPECANOE RIVER BASIN, IN....................	200,000	---	200,000	---
(FDP)	WABASH RIVER BASIN COMPREHENSIVE, IN & IL (MIDDLE REAC	155,000	---	300,000	---
	WABASH RIVER, BREVOORT LEVEE, IN....................	---	---	200,000	---
	IOWA				
(FC)	GREEN BAY LEVEE AND DRAINAGE DIST....................	---	---	330,000	---
	MISSISSIPPI RIVER LEVEES, IA, IL, & MO...............	---	---	250,000	---
(FC)	MUSCATINE ISLAND LEVEE AND DRAINAGE DISTRICT, IA......	---	213,000	---	213,000
(FC)	THURMAN TO HAMBURG, PUMPING FACILITIES, IA...........	---	100,000	---	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	KANSAS				
(FC)	ARKANSAS CITY, KS	---	115,000	---	115,000
(FDP)	MARYSVILLE, KS	77,000	---	77,000	---
(RCP)	SALINA, KS	200,000	---	200,000	---
(FC)	TOPEKA, KS	---	---	---	225,000
(FDP)	TURKEY CREEK BASIN, KS & MO	100,000	---	100,000	---
(FC)	WINFIELD, KS	---	284,000	---	284,000
	KENTUCKY				
(FDP)	EAST FORK OF THE LITTLE SANDY RIVER, KY	143,000	---	143,000	---
	GRAYSON LAKE REALLOCATION STUDY	---	---	85,000	---
	HAZARD, KY	---	---	---	250,000
	KENTUCKY LOCK AND DAM, LOCK ADDITION, KY	---	---	---	2,000,000
(N)	MCALPINE LOCKS AND DAM, IN & KY	---	2,180,000	---	2,180,000
	METROPOLITAN CINCINNATI, NORTHERN KENTUCKY, KY	---	---	100,000	---
(FDP)	METROPOLITAN LOUISVILLE, BEARGRASS CREEK, KY	300,000	---	300,000	---
(FC)	METROPOLITAN LOUISVILLE, POND CREEK, KY	---	1,250,000	---	1,250,000
(FDP)	SALT RIVER BASIN, KY	225,000	---	300,000	---
(N)	UNIONTOWN/OHIO RIVER MAINSTEM STUDY, KY, IL & IN	1,500,000	---	1,500,000	---
	LOUISIANA				
(FDP)	AMITE RIVER AND TRIBUTARIES, LA	160,000	---	160,000	---
	BAYOU LAFOURCHE AND LAFOURCHE-JUMP WATERWAY, LA	---	---	---	200,000
(FDP)	BOSSIER PARISH, LA	830,000	---	830,000	---
(FC)	COMITE RIVER, LA	---	1,200,000	---	1,200,000
(FC)	EAST BATON ROUGE PARISH, LA	---	500,000	---	500,000
(N)	INTRACOASTAL WATERWAY LOCKS, LA	1,300,000	---	1,300,000	---
(FDP)	JEFFERSON - ORLEANS PARISHES, LA	1,000,000	---	1,000,000	---
(N)	LAKE CHARLES SHIP CHAN, BY-PASS AND GEN ANCHORAGE AREA	300,000	---	300,000	---
	MERMENTAU, VERMILLION, & CALCASIEU RIVERS & BAYOU TECHE	---	---	400,000	---
(N)	MISSISSIPPI RIVER - GULF OUTLET BANK EROSION, LA	400,000	---	400,000	---
(FDP)	OUACHITA PARISH, LA	600,000	---	600,000	---
(FC)	WEST BANK - EAST OF HARVEY CANAL, LA	---	500,000	---	500,000
	MARYLAND				
(FDP)	ANACOSTIA RIVER AND TRIBUTARIES, MD & DC	225,000	---	225,000	---
(N)	BALTIMORE HARBOR ANCHORAGES AND CHANNELS, MD	585,000	---	585,000	---
	BALTIMORE METROPOLITAN WATER RESOURCES, MD	---	---	292,000	---
	MASSACHUSETTS				
(N)	BOSTON HARBOR, MA	---	330,000	---	330,000
	BROCTON, MA	---	---	350,000	---
(FC)	SAUGUS RIVER AND TRIBUTARIES, MA	---	1,640,000	---	1,640,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	MINNESOTA				
(FDP)	CROOKSTON, MN..	110,000	---	110,000	---
	RED RIVER AT GRAND MARAIS OUTLET, MN..........................	---	---	200,000	---
	MISSISSIPPI				
(FDP)	EAST FORK BASIN FISH AND WILDLIFE RESTORATION, MS.....	165,000	---	165,000	---
(FDP)	HANCOCK, HARRISON AND JACKSON COUNTIES, MS............	550,000	---	550,000	---
	JACKSON COUNTY INDUSTRIAL WATER SUPPLY, MS............	---	---	40,000	---
(FDP)	JACKSON METROPOLITAN AREA, MS..........................	400,000	---	400,000	---
	LOWNDES COUNTY PORT BARGE FLEETING AREA...............	---	---	50,000	---
(FDP)	PASCAGOULA RIVER BASIN, MS..............................	260,000	---	260,000	---
	MISSOURI				
(FC)	BLUE RIVER BASIN, KANSAS CITY, MO.......................	---	350,000	---	350,000
(FC)	COLDWATER CREEK, MO.......................................	---	48,000	---	48,000
(N)	MISSISSIPPI RIVER, VICINITY OF ST LOUIS, MO...........	50,000	---	50,000	---
(RCP)	MISSOURI RIVER LEVEE SYSTEM, UNIT L-246, CUTOFF LAKE,.	125,000	---	125,000	---
(FC)	RIVER DES PERES, MO.......................................	---	300,000	---	300,000
	ST LOUIS REGION, MO.......................................	---	---	800,000	---
	STE GENEVIEVE, MO...	---	---	---	3,200,000
(FDP)	SWOPE PARK INDUSTRIAL AREA, KANSAS CITY, MO...........	59,000	---	59,000	---
	NEBRASKA				
(FDP)	ANTELOPE CREEK, LINCOLN, NE.............................	15,000	---	15,000	---
(FDP)	BURT-WASHINGTON COUNTIES, NE............................	125,000	---	125,000	---
(FC)	WOOD RIVER, GRAND ISLAND, NE............................	---	109,000	---	109,000
	NEVADA				
(FDP)	BATTLE MOUNTAIN, NV..	350,000	---	350,000	---
(FDP)	LAS VEGAS WASH AND TRIBUTARIES, PITTMAN WASH, NV......	350,000	---	350,000	---
	LOWER TRUCKEE RIVER, NV...................................	---	---	400,000	---
(FC)	TROPICANA AND FLAMINGO WASHES, NV.......................	---	3,685,000	---	3,685,000
	NEW JERSEY				
(N)	ARTHUR KILL CHNL EXTENSION-CARTERET, NJ TO HOWLAND HOO	200,000	---	200,000	---
(SP)	BARNEGAT INLET TO LITTLE EGG INLET, NJ................	350,000	---	350,000	---
(SP)	BRIGANTINE INLET TO GREAT EGG HARBOR INLET, NJ........	380,000	---	380,000	---
(SP)	CAPE MAY POINT, NJ...	250,000	---	---	---
(N)	DELAWARE RIVER COMPREHENSIVE NAVIGATION STUDY, NJ, PA.	158,000	---	158,000	---
	HACKENSACK RIVER BASIN, NJ & NY.........................	---	---	400,000	---
(SP)	LOWER CAPE MAY MEADOWS, NJ...............................	490,000	---	740,000	---
(FC)	LOWER SADDLE RIVER, BERGEN COUNTY, NJ.................	---	1,300,000	---	1,300,000
(FDP)	MANASQUAN RIVER BASIN, NJ................................	140,000	---	140,000	---
(N)	NEW YORK HBR AND ADJACENT CHANNELS, CLAREMONT TERMINAL	---	500,000	---	500,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	PASSAIC RIVER MAINSTEM, NJ..................................	---	---	---	17,000,000
(SP)	RARITAN BAY AND SANDY HOOK BAY, NJ.........................	320,000	---	320,000	---
	RARITAN RIVER BASIN, GREEN BROOK SUB-BASIN, NJ........	---	---	---	2,800,000
	SOUTH RIVER AT OLD BRIDGE AND SAYREVILLE, NJ..........	---	---	500,000	---
(SP)	TOWNSENDS INLET TO CAPE MAY INLET, NJ..................	490,000	---	490,000	---
	NEW MEXICO				
(FDP)	ALBUQUERQUE ARROYOS, RIO GRANDE AND TRIBUTARIES, NM...	100,000	---	100,000	---
(FDP)	ESPANOLA VALLEY, RIO GRANDE AND TRIBUTARIES, NM.......	130,000	---	130,000	---
(FDP)	LAS CRUCES, EL PASO AND VICINITY, NM....................	70,000	---	70,000	---
(FDP)	RIO RANCHO, RIO GRANDE AND TRIBUTARIES, NM............	300,000	---	300,000	---
(FDP)	ROCKY ARROYO/DARK CANYON, PECOS RIVER AND TRIBUTARIES,	390,000	---	390,000	---
(FDP)	SAN JUAN RIVER AND TRIBUTARIES, NM......................	450,000	---	450,000	---
	NEW YORK				
(RCP)	ADDISON, NY..	160,000	---	160,000	---
	ARTHUR KILL CHANL-HOWLAND HOOK MARINE TRMNL, NY & NJ..	---	---	---	500,000
	EAST RIVER, NY...	---	---	500,000	---
	HUDSON RIVER HABITAT RESTORATION, NY....................	---	---	300,000	---
(SP)	JAMAICA BAY, MARINE PARK AND PLUMB BEACH, NY..........	200,000	---	200,000	---
(N)	LAKE MONTAUK HARBOR, NY..................................	325,000	---	325,000	---
(SP)	LONG BEACH ISLAND, NY....................................	90,000	---	90,000	---
(N)	NEW YORK HARBOR ANCHORAGE AREAS, NY....................	200,000	---	200,000	---
	NORTH SHORE OF LONG ISLAND, NY..........................	---	---	500,000	---
(SPE)	ONONDAGA LAKE, NY (SEC 401, P L 101-596)..............	100,000	---	100,000	---
(N)	RARITAN BAY ANCHORAGES, NY AND NJ CHANNELS, NY & NJ...	200,000	---	200,000	---
(SPE)	REYNOLD'S CHANNEL AND NEW YORK STATE BOAT CHANNEL, NY.	350,000	---	350,000	---
	SOUTH SHORE OF STATEN ISLAND, NY........................	---	---	475,000	---
	YONKERS SHORELINE, NY....................................	---	---	400,000	---
	NORTH CAROLINA				
(FC)	BRUNSWICK COUNTY BEACHES, OCEAN ISLE BEACH PORTION, NC	---	216,000	---	216,000
(N)	CAPE FEAR-NORTHEAST (CAPE FEAR) RIVER, NC..............	1,100,000	---	1,100,000	---
(SP)	DARE COUNTY BEACHES, NC..................................	210,000	---	210,000	---
(BE)	FORT FISHER AND VICINITY, NC............................	---	338,000	---	338,000
	LOCKWOODS FOLLY RIVER, NC................................	---	---	50,000	---
	MANTEO (SHALLOWBAG) BAY, NC.............................	---	---	---	158,000
(FC)	SUGAR CREEK BASIN, NC & SC..............................	---	656,000	---	656,000
(N)	WILMINGTON HARBOR OCEAN BAR, NC.........................	---	734,000	---	734,000
(N)	WILMINGTON HARBOR, CHANNEL WIDENING, NC................	---	660,000	---	660,000
	NORTH DAKOTA				
(FDP)	GRAND FORKS, ND...	325,000	---	325,000	---
(FDP)	LEWIS AND CLARK LAKE, NE & SD AND LAKE SAKAKAWEA, ND..	50,000	---	50,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	OHIO				
(FDP)	DAYTON, OH (MIAMI RIVER BASIN)........................	300,000	---	300,000	---
	LAKE ERIE TO OHIO RIVER, OH & PA......................	---	---	500,000	---
(FC)	METROPOLITAN REGION OF CINCINNATI, DUCK CREEK, OH, KY.	---	490,000	---	490,000
	OKLAHOMA				
(FDP)	BIRD CREEK BASIN, OK..................................	400,000	---	400,000	---
(FDP)	NORTH CANADIAN RIVER, OK..............................	125,000	---	125,000	---
	OREGON				
(FDP)	AMAZON CREEK WETLANDS, OR.............................	150,000	---	150,000	---
(N)	COLUMBIA RIVER NAVIGATION CHANNEL DEEPENING, OR & WA..	1,000,000	---	1,000,000	---
(MP)	COLUMBIA RIVER TREATY FISHING ACCESS SITES, OR & WA...	---	641,000	---	641,000
(N)	COOS BAY, OR (DEEP DRAFT NAVIGATION)..................	---	830,000	---	830,000
(FDP)	JOHNSON CREEK, OR.....................................	285,000	---	285,000	---
(FDP)	MIDDLE FORK WILLAMETTE FISHERY RESORATION, OR.........	400,000	---	400,000	---
(FDP)	SOUTH SANTIAM FISHERY RESTORATION, OR.................	300,000	---	300,000	---
	TRESTLE BAY RESTORATION, OR...........................	---	---	100,000	---
(FDP)	WILLAMETTE RIVER TEMPERATURE CONTROL, OR..............	700,000	---	700,000	---
(FC)	WILLAMETTE RIVER BASIN REVIEW.........................	---	---	130,000	---
	PENNSYLVANIA				
	BROAD TOP REGION, PA..................................	---	---	---	400,000
(FC)	CHARTIERS CREEK, PA...................................	---	250,000	---	250,000
(FC)	CURWENSVILLE LAKE, PA (REALLOCATION)..................	---	283,000	---	283,000
	JUNIATA RIVER BASIN, PA...............................	---	---	450,000	---
	LACKAWANNA RIVER CORRIDOR, PA.........................	---	---	300,000	---
(FC)	LACKAWANNA RIVER, OLYPHANT, PA........................	---	275,000	---	275,000
(FC)	LACKAWANNA RIVER, SCRANTON, PA........................	---	553,000	---	553,000
(FDP)	LEHIGH RIVER BASIN, PA................................	290,000	---	290,000	---
(N)	LOCKS AND DAMS 2, 3 AND 4, MONONGAHELA RIVER, PA......	---	4,400,000	---	4,400,000
(FDP)	MILTON, PA..	250,000	---	250,000	---
(FC)	SAW MILL RUN, PA......................................	---	460,000	---	460,000
(FDP)	SCHYULKILL RIVER BASIN, SCHUYLKILL HAVEN AREA, PA.....	170,000	---	170,000	---
(FDP)	SUSQUEHANNA RIVER BASIN FISH RESTORATION, PA, NY & MD.	300,000	---	300,000	---
(FC)	WYOMING VALLEY (LEVEE RAISING), PA....................	---	818,000	---	818,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	PUERTO RICO				
(FC)	ARECIBO RIVER, PR	---	400,000	---	400,000
(FC)	RIO DE LA PLATA, PR	---	231,000	---	575,000
(FC)	RIO GRANDE DE LOIZA, PR	---	800,000	---	800,000
(FDP)	RIO GUANAJIBO, PR	256,000	---	306,000	---
(FDP)	RIO NIGUA AT SALINAS, PR	100,000	---	100,000	---
(N)	SAN JUAN HARBOR, PR	---	1,208,000	---	1,208,000
	SOUTH CAROLINA				
(N)	CHARLESTON HARBOR, SC (DEEPENING/WIDENING)	725,000	---	725,000	---
(FDP)	CHARLESTON STORM DAMAGE REDUCTION, SC	370,000	---	370,000	---
	POCOTALIGO RIVER AND SWAMP, SC	---	---	400,000	---
(SP)	SOUTH CAROLINA SHORES, NORTH PORTION, SC	188,000	---	188,000	---
	SOUTH DAKOTA				
(FC)	ABERDEEN AND VICINITY, SD	---	150,000	---	150,000
(FC)	BIG SIOUX RIVER, SIOUX FALLS, SD	---	300,000	---	300,000
(SPE)	JAMES RIVER ENVIRONMENTAL, SD	30,000	---	30,000	---
(RCP)	OAHE DAM TO LAKE SHARPE, SD	250,000	---	250,000	---
(FC)	WATERTOWN AND VICINITY, SD	---	370,000	---	370,000
	TENNESSEE				
	BLACK FOX, OAKLAND SPRINGS WETLAND AREA	---	---	90,000	---
	KNOXVILLE, TN	---	---	250,000	---
	TEXAS				
(FDP)	BOWIE COUNTY LEVEE, TX	75,000	---	75,000	---
(FC)	BRAYS BAYOU, HOUSTON, TX	---	1,000,000	---	1,000,000
(RCP)	BUFFALO BAYOU & TRIBUTARIES - ADDICKS & BARKER RESERVO	400,000	---	400,000	---
	COLONIAS ALONG U.S.-MEXICO BORDER, TX	---	---	300,000	---
(N)	CORPUS CHRISTI SHIP CHANNEL, TX	464,000	---	464,000	---
(FC)	CYPRESS CREEK, HOUSTON, TX	---	500,000	---	500,000
	CYPRESS VALLEY WATERSHED, TX	---	---	600,000	---
(FC)	DALLAS FLOODWAY EXTENSION, TRINITY RIVER PROJECT, TX	---	700,000	---	700,000
(RCP)	FERRELLS BRIDGE DAM - LAKE O' THE PINES, TX	325,000	---	325,000	---
(RCP)	GIWW - ARANSAS NATIONAL WILDLIFE REFUGE, TX	939,000	---	939,000	---
(RCP)	GIWW - CORPUS CHRISTI BAY TO PORT ISABEL, TX	225,000	---	225,000	---
	GIWW - HIGH ISLAND TO BRAZOS RIVER, TX	---	---	300,000	---
(FDP)	GRAHAM, TX (BRAZOS RIVER BASIN)	100,000	---	100,000	---
(FC)	GREENS BAYOU, HOUSTON, TX	---	800,000	---	800,000
(N)	HOUSTON - GALVESTON NAVIGATION CHANNELS, TX	---	692,000	---	692,000
	JEFFERSON COUNTY, TX	---	---	300,000	---
(FDP)	LOWER TRINITY RIVER BASIN, TX	500,000	---	500,000	---
	NECHES RIVER AND TRIBS, SALT WATER BARRIER, TX	---	---	200,000	---
(FDP)	NORTH BOSQUE RIVER WATERSHED, TX	450,000	---	450,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
(FDP)	PECAN BAYOU LAKE, TX	265,000	---	265,000	---
(FDP)	PLAINVIEW, BRAZOS RIVER BASIN, TX	400,000	---	400,000	---
(N)	SABINE - NECHES WATERWAY, CHANNEL TO ORANGE, TX	265,000	---	265,000	---
(FC)	SHOAL CREEK, AUSTIN, TX	---	213,000	---	213,000
(FC)	SOUTH MAIN CHANNEL, TX	---	1,500,000	---	1,500,000
(FDP)	UPPER TRINITY RIVER BASIN, TX	830,000	---	830,000	---
	UTAH				
(FDP)	SEVIER RIVER AND TRIBUTARIES, UT	200,000	---	200,000	---
	VERMONT				
(FDP)	WINOOSKI RIVER AND TRIBUTAIRES, ICE FLOW, VT	169,000	---	169,000	---
	VIRGINIA				
(SPE)	CHESAPEAKE BAY SHORELINE, HAMPTON, VA	250,000	---	250,000	---
(SPE)	JAMES RIVER BASIN FISH AND WILDLIFE RESTORATION STUDY,	250,000	---	250,000	---
	SANDBRIDGE BEACH, VA	---	---	---	780,000
(BE)	VIRGINIA BEACH, VA (HURRICANE PROTECTION)	---	2,000,000	---	2,000,000
	WASHINGTON				
(SPE)	CHIEF JOSEPH POOL RAISING, WA	535,000	---	535,000	---
(RCP)	HOWARD HANSON DAM (ADDITIONAL STORAGE), WA	350,000	---	350,000	---
(FDP)	NOOKSACK RIVER, WA	250,000	---	250,000	---
(FDP)	SKAGIT RIVER, WA	382,000	---	382,000	---
	WEST VIRGINIA				
(FC)	ISLAND CREEK AT LOGAN, WV	---	225,000	---	225,000
	JENNINGS RANDOLPH LAKE, WV	---	---	400,000	---
(COM)	KANAWHA RIVER BASIN COMPREHENSIVE, WV (MARLINTON/GREEN	324,000	---	324,000	---
(N)	KANAWHA RIVER NAVIGATION, WV	309,000	---	309,000	---
(N)	MARMET LOCKS AND DAM, WV	---	1,878,000	---	1,878,000
	MONONGAHELA RIVER COMPREHENSIVE, WV	---	---	600,000	---
(RDP)	OCEANA, WV	400,000	---	400,000	---
	WEST VIRGINIA COMPREHENSIVE, WV	---	---	500,000	---
	WISCONSIN				
	LOWER KINNICKINNIC RIVER, MILWAUKEE, WI	---	---	200,000	---
	MILWAUKEE HARBOR, WI	---	---	200,000	---
(FC)	PORTAGE, WI	---	100,000	---	100,000
	WYOMING				
(FDP)	JACKSON HOLE RESTORATION, WY	438,000	---	438,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	REVIEW OF AUTHORIZED PROJECTS				
	COORDINATION STUDIES WITH OTHER AGENCIES..............	9,340,000	---	9,340,000	---
	COLLECTION AND STUDY OF BASIC DATA				
	MISCELLANEOUS				
	COASTAL FIELD DATA COLLECTION..........................	3,600,000	---	4,000,000	---
	ENVIRONMENTAL DATA STUDIES..............................	150,000	---	150,000	---
	ENVIRONMENTAL SERVICE PARTNERSHIPS......................	1,500,000	---	1,500,000	---
	FLOOD PLAIN MANAGEMENT SERVICES.........................	7,600,000	---	7,600,000	---
	FLOOD PLAIN STUDIES, MISSISSIPPI AND MISSOURI..........	---	---	2,000,000	---
	GREAT LAKES REMEDIAL ACTION PLANS (SEC. 401)...........	---	---	250,000	---
	HARBORS - DREDGED MATERIAL DISPOSAL AREA STUDY.........	1,000,000	---	1,000,000	---
	HYDROLOGIC STUDIES.....................................	490,000	---	490,000	---
	INTERNATIONAL WATER STUDIES............................	500,000	---	500,000	---
	PRECIPITATION STUDIES (NATIONAL WEATEHER SERVICE).....	500,000	---	500,000	---
	REMOTE SENSING/GEOGRAPHIC INFORMATION SYSTEM SUPPORT..	250,000	---	250,000	---
	SEC. 219 ENVIRONMENTAL INFRASTRUCTURE PROJECTS.........	---	---	1,500,000	---
	SEC. 307 WATER QUALITY PROJECTS........................	---	---	2,000,000	---
	SCIENTIFIC AND TECHNICAL INFORMATION CENTERS..........	250,000	---	250,000	---
	STREAM GAGING (U.S. GEOLOGICAL SURVEY).................	690,000	---	690,000	---
	TRANSPORTATION SYSTEMS.................................	900,000	---	900,000	---
	TOTAL..	17,430,000	---	23,580,000	---
	RESEARCH AND DEVELOPMENT...............................	32,700,000	---	33,000,000	---
	SUBTOTAL, GENERAL INVESTIGATIONS.......................	122,374,000	61,430,000	153,271,000	96,797,000
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE........	-26,204,000	---	-42,528,000	---
	TOTAL, GENERAL INVESTIGATIONS..........................	96,170,000	61,430,000	110,743,000	96,797,000

TYPE OF PROJECT:

(N)	NAVIGATION
(BE)	BEACH EROSION CONTROL
(FC)	FLOOD CONTROL
(MP)	MULTIPURPOSE, INCLUDING POWER
(SP)	SHORELINE PROTECTION
(FDP)	FLOOD DAMAGE PREVENTION
(RCP)	REVIEW OF COMPLETED PROJECT
(RDP)	REVIEW OF DEFERRED PROJECT
(COMP)	COMPREHENSIVE
(SPEC)	SPECIAL

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	ALABAMA		
(N)	BAYOU LA BATRE, AL	2,200,000	2,200,000
(N)	BLACK WARRIOR AND TOMBIGBEE RIVERS, VICINITY OF JACKSO	2,000,000	2,000,000
(N)	TENNESSEE - TOMBIGBEE WATERWAY WILDLIFE MITIGATION, AL	15,000,000	15,000,000
(FC)	VILLAGE CREEK, JEFFERSON COUNTY, AL	1,500,000	1,500,000
	WILLIAM BACON OLIVER LOCK AND DAM, AL	---	4,000,000
	ALASKA		
	BETHEL, AK	---	2,000,000
(N)	KODIAK HARBOR, AK	400,000	400,000
(N)	SITKA HARBOR, AK	6,000,000	6,000,000
	ARIZONA		
(FC)	CLIFTON, AZ	3,700,000	3,700,000
(FC)	HOLBROOK, AZ	1,600,000	1,600,000
	NOGALES WASH, AZ	---	200,000
	RILLITO RIVER, AZ	---	4,200,000
	ARKANSAS		
(MP)	BEAVER LAKE, AR (DAM SAFETY)	10,000,000	10,000,000
	BEAVER LAKE, AR, ENVIRONMEMTAL INFRASTRUCTURE	---	3,000,000
(MP)	BEAVER LAKE, AR (WATER QUALITY ENHANCEMENT)	525,000	525,000
(MP)	DARDANELLE LOCK AND DAM (POWERHOUSE), AR (MAJOR REHAB)	2,500,000	2,500,000
(N)	MCCLELLAN - KERR ARK RVR NAV SYSTEM, LOCKS AND DAMS, A	11,100,000	11,100,000
	RED RIVER EMERGENCY BANK PROTECTION, AR	---	3,500,000
	RED RIVER BELOW DENISON DAM LEVEE & BANK STABIL, AR	---	3,500,000
	CALIFORNIA		
	COYOTE AND BERRYESSA CREEKS, CA	---	4,000,000
(FC)	GUADALUPE RIVER, CA	14,400,000	14,400,000
(FC)	MARYSVILLE/YUBA CITY LEVEE RECONSTRUCTION, CA	800,000	800,000
(FC)	MERCED COUNTY STREAMS, CA	1,100,000	1,100,000
	MORRO BAY HARBOR, CA	---	450,000
(N)	OAKLAND HARBOR, CA	1,200,000	1,200,000
(FC)	REDBANK AND FANCHER CREEKS, CA	500,000	500,000
(N)	RICHMOND HARBOR, CA	550,000	550,000
(FC)	SACRAMENTO RIVER BANK PROTECTION PROJECT, CA	2,500,000	2,500,000
	SACRAMENTO RIVER DEEPWATER SHIP CHANNEL, CA	---	100,000
	SACRAMENTO RIVER FLOOD CONTROL PROJECT (GCID), CA	---	400,000
	SACRAMENTO URBAN AREA LEVEE RECONSTRUCTION, CA	---	500,000
(FC)	SACRAMENTO RIVER FLOOD CONTROL PROJECT, CA (DEF CORR)	2,350,000	2,350,000
(N)	SAN FRANCISCO BAY TO STOCKTON, CA	750,000	750,000
(FC)	SAN LUIS REY RIVER, CA	6,792,000	6,792,000
(FC)	SANTA ANA RIVER MAINSTEM, CA	120,000,000	118,750,000
(FC)	SANTA PAULA CREEK, CA	645,000	645,000
	SONOMA BAYLANDS WETLANDS RESTORATION, CA	---	4,000,000
(N)	VENTURA HARBOR, CA	4,838,000	4,838,000
(FC)	WILDCAT AND SAN PABLO CREEKS, CA	2,739,000	2,739,000
(E)	YOLO BASIN WETLANDS, SACRAMENTO RIVER, CA	2,063,000	2,063,000
	COLORADO		
(FC)	ALAMOSA, CO	800,000	800,000
	DELAWARE		
(FC)	DELAWARE COAST PROTECTION, DE	185,000	185,000
	FLORIDA		
(N)	CANAVERAL HARBOR DEEPENING, FL	4,996,000	4,996,000
	CANAVERAL HARBOR SAND BYPASS, FL	---	4,800,000
(FC)	CENTRAL AND SOUTHERN FLORIDA, FL	7,600,000	17,850,000
(FC)	DADE COUNTY, FL	2,800,000	2,800,000
(BE)	DUVAL COUNTY, FL	8,590,000	8,590,000
(N)	FORT PIERCE HARBOR, FL	1,600,000	400,000
(FC)	FOUR RIVER BASINS, FL	2,000,000	2,000,000
	KISSIMMEE RIVER, FL	---	5,000,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
(BE)	LEE COUNTY, FL (REIMBURSEMENT)	1,760,000	1,760,000
	MANATEE HARBOR, FL	---	3,000,000
	MELALEUCA QUARANTINE FACILITY, FL	---	1,000,000
(N)	MIAMI HARBOR CHANNEL, FL	1,500,000	1,500,000
	PALM BEACH COUNTY BEACHES (OCEAN RIDGE), FL	---	200,000
(BE)	PINELLAS COUNTY, FL	400,000	1,900,000
	GEORGIA		
(MP)	RICHARD B RUSSELL DAM AND LAKE, GA & SC	10,000,000	10,000,000
	HAWAII		
(FC)	ALENAIO STREAM, HAWAII, HI	3,578,000	3,578,000
(N)	KAWAIHAE SMALL BOAT HARBOR, HAWAII, HI	4,210,000	4,210,000
(N)	MAALAEA HARBOR, MAUI, HI	4,640,000	4,640,000
	ILLINOIS		
(FC)	ALTON TO GALE ORGANIZED LEVEE DISTRICT, IL & MO (DEF C	500,000	500,000
	CASINO BEACH, IL	---	820,000
(FC)	EAST ST LOUIS, IL	7,000,000	7,000,000
(N)	FOUR LOCKS, ILLINOIS WATERWAY, IL (MAJOR REHAB)	5,200,000	5,200,000
(N)	LOCK AND DAM 13, MISSISSIPPI RIVER, IL (MAJOR REHAB)	5,060,000	5,060,000
(N)	LOCK AND DAM 15, MISSISSIPPI RIVER, IL (MAJOR REHAB)	11,330,000	11,330,000
(N)	LOCK AND DAM 25, MISSISSIPPI RIVER, IL & MO (MAJOR REH	1,600,000	1,600,000
(FC)	LOVES PARK, IL	4,200,000	4,200,000
	MCCOOK AND THORNTON RESERVOIRS, IL	---	13,000,000
(N)	MELVIN PRICE LOCK AND DAM, IL & MO	20,350,000	7,850,000
	O'HARE RESERVOIR, IL	---	5,000,000
(N)	OLMSTED LOCKS AND DAM, IL & KY	110,314,000	110,314,000
(N)	UPPER MISS RIVER SYSTEM ENV MGMT PROG, IL, IA, MO, MN.	19,455,000	19,455,000
	INDIANA		
(FC)	EVANSVILLE, IN	500,000	500,000
	FORT WAYNE METROPOLITAN AREA, IN	---	500,000
(FC)	LITTLE CALUMET RIVER, IN	16,000,000	16,000,000
	IOWA		
	DES MOINES RECREATIONAL RIVER AND GREENBELT, IA	---	2,700,000
(N)	MISSOURI RIVER FISH AND WILDLIFE MITIGATION, IA, NE, K	11,800,000	11,800,000
(FC)	MISSOURI RIVER LEVEE SYSTEM, IA, NE, KS & MO	1,000,000	1,000,000
(FC)	PERRY CREEK, IA	3,000,000	3,000,000
	THURMAN TO HAMBURG, PUMPING FACILITIES, IA	---	825,000
(FC)	WEST DES MOINES, DES MOINES, IA	2,070,000	2,070,000
	KENTUCKY		
(FC)	FRANKFORT, SOUTH FRANKFORT, KY	1,750,000	1,750,000
	SALYERSVILLE, KY	---	1,000,000
(FC)	YATESVILLE LAKE, KY	1,400,000	1,400,000
	LOUISIANA		
(FC)	ALOHA - RIGOLETTE, LA	2,967,000	2,967,000
	LAKE PONTCHARTRAIN STORM WATER DISCHARGE	---	2,000,000
(FC)	LAKE PONTCHARTRAIN AND VICINITY, LA (HURRICANE PROTECT	9,619,000	24,119,000
	LAKE PONTCHARTRAIN AND VICINITY, LA (JEFFERSON PARISH)	---	200,000
(FC)	LAROSE TO GOLDEN MEADOW, LA (HURRICANE PROTECTION)	2,977,000	2,977,000
	OUACHITA RIVER LEVEES, LA	---	6,300,000
(N)	MISSISSIPPI RIVER - GULF OUTLET, LA	1,500,000	1,500,000
(N)	MISSISSIPPI RIVER SHIP CHANNEL, GULF TO BATON ROUGE, L	6,161,000	6,161,000
(FC)	NEW ORLEANS TO VENICE, LA (HURRICANE PROTECTION)	1,233,000	1,233,000
(N)	RED RIVER WATERWAY, MISSISSIPPI RIVER TO SHREVEPORT, L	32,847,000	145,000,000
(FC)	WESTWEGO TO HARVEY CANAL, LA (HURRICANE PROTECTION)	5,770,000	5,770,000
	MAINE		
	ST. JOHN RIVER (IRRIG/CONSERV)	---	252,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	MARYLAND		
	ANACOSTIA RIVER, MD & DC..		700,000
	MASSACHUSETTS		
(FC)	TOWN BROOK, QUINCY AND BRAINTREE, MA..................	11,400,000	11,400,000
	MICHIGAN		
	CLINTON RIVER SPILLWAY, MI....................................	---	2,000,000
	MINNESOTA		
(FC)	BASSETT CREEK, MN..	1,050,000	1,050,000
(FC)	CHASKA, MN..	5,600,000	5,600,000
(N)	DULUTH - SUPERIOR CHANNEL EXTENSION, MN & WI...........	886,000	886,000
(FC)	ROCHESTER, MN..	22,130,000	22,130,000
	SILVER BAY HARBOR, MN...	---	2,600,000
(FC)	ST PAUL, MN..	3,651,000	3,651,000
	STILLWATER, MN..	---	2,400,000
	MISSISSIPPI		
(N)	GULFPORT HARBOR, MS...	7,000,000	7,000,000
	PASCAGOULA HABOR, MS...	---	800,000
	SOWASHEE CREEK, MS..	---	3,240,000
(FC)	TOMBIGBEE RIVER AND TRIBUTARIES, MS & AL..................	5,000,000	5,000,000
	MISSOURI		
(FC)	BLUE RIVER CHANNEL, KANSAS CITY, MO.......................	16,900,000	16,900,000
(FC)	BRUSH CREEK, KANSAS CITY, MO..................................	5,200,000	5,200,000
(FC)	CAPE GIRARDEAU - JACKSON, MO.................................	7,800,000	7,800,000
(FC)	MERAMEC RIVER BASIN, VALLEY PARK LEVEE, MO...............	3,489,000	3,489,000
(N)	MISS RIVER BTWN THE OHIO AND MO RIVERS (REG WORKS), MO	4,535,000	4,535,000
	NEBRASKA		
(FC)	MISSOURI NATIONAL RECREATIONAL RIVER, NE & SD.........	74,000	74,000
(FC)	PAPILLION CREEK AND TRIBUTARIES LAKES, NE..................	2,881,000	2,881,000
	NEVADA		
	TROPICANA AND FLAMINGO WASHES, NV.........................	---	3,000,000
	NEW JERSEY		
	MOLLY ANN'S BROOK, NJ...	---	1,000,000
	NEW YORK HARBOR & ADJACENT CHANNELS, PORT JERSEY, NJ..	---	1,500,000
	SALEM RIVER, NJ..	---	1,500,000
(BE)	SANDY HOOK TO BARNEGAT INLET, NJ............................	34,800,000	34,800,000
	NEW MEXICO		
(FC)	ACEQUIAS IRRIGATION SYSTEM, NM...............................	2,000,000	2,000,000
(FC)	ALAMOGORDO, NM...	400,000	400,000
(FC)	COCHITI WETFIELDS, NM..	10,552,000	10,552,000
(FC)	MIDDLE RIO GRANDE FLOOD PROTECTION, BERNALILLO TO BELE	2,125,000	2,125,000
(FC)	RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE.	9,000,000	9,000,000
	NEW YORK		
(BE)	ATLANTIC COAST OF NYC, ROCKAWAY INLET TO NORTON POINT,	8,756,000	10,756,000
	EAST ROCKAWAY INLET-ROCKAWAY INLET & JAMAICA BAY, NY..		3,280,000
(N)	KILL VAN KULL AND NEWARK BAY CHANNEL, NY & NJ.........	28,500,000	28,500,000
(N)	NEW YORK HARBOR COLLECTION AND REMOVAL OF DRIFT, NY &	2,900,000	3,900,000
(FC)	NORTH ELLENVILLE, NY (DEF CORR).................................	1,900,000	1,900,000
	ONONDAGA LAKE STORM WATER DISCHARGE........................	---	2,000,000
	ROCHESTER HARBOR, NY...	---	4,000,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	NORTH CAROLINA		
(N)	AIWW - REPLACEMENT OF FEDERAL HIGHWAY BRIDGES, NC.....	4,550,000	4,550,000
(FC)	CAROLINA BEACH AND VICINITY, NC....	350,000	350,000
(FC)	FALLS LAKE, NC....	4,000,000	4,000,000
	LAKE GASTON, AQUATIC VEGETATION, NC & VA....	---	200,000
(N)	MOREHEAD CITY HARBOR, NC....	7,020,000	7,020,000
(BE)	WEST ONSLOW BEACH AND NEW RIVER INLET, NC....	110,000	110,000
	WILMINGTON HARBOR OCEAN BAR, NC....	---	5,266,000
(FC)	WRIGHTSVILLE BEACH, NC....	1,000,000	1,000,000
	NORTH DAKOTA		
(FC)	LAKE ASHTABULA AND BALDHILL DAM, ND (DAM SAFETY)......	1,300,000	1,300,000
(FC)	LAKE ASHTABULA AND BALDHILL DAM, ND (MAJOR REHAB)......	800,000	800,000
(FC)	SHEYENNE RIVER, ND....	400,000	400,000
(FC)	SOURIS RIVER BASIN, ND....	9,200,000	9,200,000
	OHIO		
(FC)	MILL CREEK, OH....	1,900,000	1,900,000
	WEST COLOMBUS, OH....	---	9,000,000
	OKLAHOMA		
(FC)	FRY CREEKS, BIXBY, OK....	500,000	500,000
(FC)	MINGO CREEK, TULSA, OK....	14,500,000	14,500,000
	OREGON		
(N)	BONNEVILLE NAVIGATION LOCK, OR & WA....	7,422,000	7,422,000
(MP)	BONNEVILLE POWERHOUSE PHASE I, OR & WA (MAJOR REHAB)..	7,600,000	7,600,000
(MP)	BONNEVILLE POWERHOUSE PHASE II, OR & WA (MAJOR REHAB).	1,000,000	1,000,000
(MP)	BONNEVILLE SECOND POWERHOUSE, OR & WA....	6,500,000	6,500,000
	COLUMBIA RIVER INDIAN TRIBE IN LIEU FISHING SITES.....	---	3,900,000
(FC)	ELK CREEK LAKE, OR....	450,000	450,000
	UMPQUA RIVER, WINCHESTER BAY, OR....	---	100,000
	PENNSYLVANIA		
(N)	GRAYS LANDING, LOCK AND DAM 7, MONONGAHELA RIVER, PA..	22,000,000	22,000,000
	LACKAWANNA RIVER, PA....	---	2,000,000
(FC)	LOCK HAVEN, PA....	17,917,000	17,917,000
(N)	POINT MARION, LOCK AND DAM 8, MONONGAHELA RIVER, PA &.	4,700,000	4,700,000
(BE)	PRESQUE ISLE PENINSULA, PA (PERMANENT)....	410,000	410,000
	SOUTH CENTRAL PA ENVIRONMENTAL RESTORATION, PA........	---	10,000,000
(FC)	TURTLE CREEK, PA....	1,074,000	1,074,000
	PUERTO RICO		
(FC)	PORTUGUES AND BUCANA RIVERS, PR....	15,600,000	15,600,000
(FC)	RIO PUERTO NUEVO, PR....	1,500,000	1,500,000
	RHODE ISLAND		
	NARRAGANSETT TOWN BEACH, NARRAGANSETT, RI....	---	150,000
	SOUTH CAROLINA		
(N)	CHARLESTON HARBOR, SC....	5,820,000	5,820,000
(N)	COOPER RIVER, CHARLESTON HARBOR, SC....	10,500,000	---
(MP)	RICHARD B RUSSELL DAM AND LAKE, WILDLIFE MITIGATION, S	4,839,000	4,839,000
	TENNESSEE		
(MP)	CENTER HILL DAM, TN (DAM SAFETY)....	6,800,000	6,800,000
	TEXAS		
(FC)	BEALS CREEK, BIG SPRING, TX....	600,000	600,000
(N)	BRAZOS ISLAND HARBOR, TX....	9,300,000	9,300,000
(N)	CHANNEL TO VICTORIA, TX....	4,000,000	4,000,000
(FC)	CLEAR CREEK, TX....	5,000,000	5,000,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
(FC)	COOPER LAKE AND CHANNELS, TX	10,700,000	10,725,000
(FC)	EL PASO, TX	10,500,000	10,500,000
(N)	FREEPORT HARBOR, TX	2,800,000	2,800,000
(N)	GIWW - BRAZOS RIVER FLOODGATES, TX (MAJOR REHAB)	4,600,000	4,600,000
(N)	GIWW - SARGENT BEACH, TX	3,875,000	3,875,000
(FC)	LAKE WICHITA, HOLLIDAY CREEK AT WICHITA FALLS, TX	4,000,000	4,000,000
(FC)	MCGRATH CREEK, WICHITA FALLS, TX	100,000	100,000
(N)	MOUTH OF COLORADO RIVER, TX	3,000,000	3,000,000
(FC)	RAY ROBERTS LAKE, TX	5,600,000	5,600,000
(FC)	RED RIVER CHLORIDE, TX & OK	2,000,000	4,000,000
(MP)	SAM RAYBURN DAM AND RESERVOIR, TX (DAM SAFETY)	12,500,000	12,500,000
(FC)	SAN ANTONIO CHANNEL IMPROVEMENT, TX	4,600,000	4,600,000
(FC)	SIMS BAYOU, HOUSTON, TX	10,000,000	10,000,000
(FC)	TAYLORS BAYOU, TX	3,300,000	3,300,000
	WALLISVILLE LAKE, TX	---	1,000,000
	VIRGINIA		
(FC)	JAMES R OLIN FLOOD CONTROL PROJECT, VA	4,100,000	4,100,000
(N)	NORFOLK HARBOR AND CHANNELS (DEEPENING), VA	1,700,000	1,700,000
	RICHMOND FILTRATION PLANT, VA	---	1,000,000
(FC)	ROANOKE RIVER UPPER BASIN, HEADWATERS AREA, VA	900,000	900,000
(BE)	VIRGINIA BEACH, VA (REIMBURSEMENT)	850,000	850,000
	WASHINGTON		
(FC)	CHEHALIS RIVER, SOUTH ABERDEEN AND COSMOPOLIS, WA	1,500,000	1,500,000
(MP)	CHIEF JOSEPH ADDITIONAL UNITS, WA	2,268,000	2,268,000
(MP)	COLUMBIA RIVER JUVENILE FISH MITIGATION, WA, OR & ID	48,300,000	49,500,000
(N)	GRAYS HARBOR, WA	7,200,000	7,200,000
(MP)	LOWER SNAKE RIVER FISH & WILDLIFE COMPENSATION, WA, OR	5,000,000	5,000,000
(FC)	MUD MOUNTAIN DAM, WA (DAM SAFETY ASSURANCE)	16,900,000	16,900,000
	WEST VIRGINIA		
(FC)	LEVISA AND TUG FORKS AND UPPER CUMBERLAND RIVER, WV, V	17,100,000	45,600,000
(FC)	MOOREFIELD, WV	500,000	500,000
(FC)	PETERSBURG, WV	1,000,000	1,000,000
(N)	ROBERT C BYRD LOCKS AND DAM, WV & OH	22,000,000	22,000,000
	SOUTHERN WEST VIRGINIA ENVIRONMENTAL RESTORATION, WV	---	3,500,000
(N)	WINFIELD LOCKS AND DAM, WV	56,500,000	56,600,000
	WISCONSIN		
	STATE ROAD AND EBNER COULEES, WI	---	1,467,000
	MISCELLANEOUS		
	AQUATIC PLANT CONTROL (1965 ACT)	8,500,000	11,000,000
	BEACH EROSION CONTROL PROJECTS (SECTION 103)	1,500,000	2,000,000
	CLEARING AND SNAGGING (SECTION 208)	500,000	500,000
	EMERGENCY STREAMBANK & SHORELINE PROTECTION (SEC. 14).	7,500,000	7,500,000
	EMPLOYEES' COMPENSATION	18,920,000	18,920,000
	FLOOD CONTROL PROJECTS (SECTION 205)	22,000,000	22,000,000
	INLAND WATERWAYS USERS BOARD - BOARD EXPENSES	35,000	35,000
	INLAND WATERWAYS USERS BOARD - CORPS EXPENSES	170,000	170,000
	NAVIGATION MITIGATION (SECTION 111)	500,000	500,000
	NAVIGATION PROJECTS (SECTION 107)	3,000,000	4,100,000
	PROJECT MODIFICATIONS FOR IMPROVEMENT OF THE ENVIRONME	7,500,000	8,130,000
	WETLAND AND AQUATIC HABITAT CREATION	3,000,000	3,000,000
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-65,486,000	-165,406,000
	TOTAL, CONSTRUCTION GENERAL	1,206,237,000	1,400,875,000

TYPE OF PROJECT:
(N) NAVIGATION
(BE) BEACH EROSION CONTROL
(FC) FLOOD CONTROL
(MP) MULTIPURPOSE, INCLUDING POWER

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
	GENERAL INVESTIGATIONS		
	SURVEYS:		
	GENERAL STUDIES:		
(FDP)	MORGANZA, LA TO THE GULF OF MEXICO................	300,000	300,000
(FDP)	MISSISSIPPI DELTA, MS..............................	2,020,000	2,020,000
(FDP)	JACKSON AND TRENTON, TN............................	610,000	610,000
(FDP)	REELFOOT LAKE, TN..................................	400,000	400,000
	COLLECTION AND STUDY OF BASIC DATA.................	315,000	315,000
	PRECONSTRUCTION ENGINEERING AND DESIGN:		
	EASTERN ARKANSAS REGION (COMPREHENSIVE REGION), AR	---	2,400,000
	LOWER WHITE RIVER, BIG CREEK & TRIBUTARIES, AR....	---	175,000
	SUBTOTAL, GENERAL INVESTIGATIONS...................	3,645,000	6,220,000
	CONSTRUCTION		
(FC)	CHANNEL IMPROVEMENT, AR, IL, KY, LA, MS, MO & TN......	91,300,000	91,300,000
(N)	HELENA HARBOR, PHILLIPS COUNTY, AR....................	512,000	512,000
(FC)	MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO & TN.	23,400,000	23,400,000
(FC)	ST FRANCIS BASIN, AR & MO, CONSOLIDATED...............	10,100,000	10,100,000
(FC)	WHITEMAN'S CREEK, AR..................................	260,000	260,000
(FC)	ATCHAFALAYA BASIN, FLOODWAY SYSTEM, LA................	6,700,000	6,700,000
(FC)	ATCHAFALAYA BASIN, LA.................................	28,000,000	28,000,000
(FC)	MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MS & LA....	2,100,000	2,100,000
(FC)	MISSISSIPPI DELTA REGION, LA..........................	4,600,000	4,600,000
(FC)	TENSAS BASIN, RED RIVER BACKWATER, LA.................	6,700,000	6,700,000
(FC)	HORN LAKE CREEK & TRIBUTARIES (INCL COW PEN CREEK), MS	331,000	331,000
(FC)	SARDIS DAM, MS (DAM SAFETY)...........................	11,528,000	11,528,000
	YAZOO BASIN, MS:	(37,743,000)	(37,743,000)
(FC)	BIG SUNFLOWER RIVER, MS............................	8,322,000	8,322,000
(FC)	DEMONSTRATION EROSION CONTROL, MS..................	20,000,000	20,000,000
(FC)	MAIN STEM, MS......................................	25,000	25,000
(FC)	REFORMULATION UNIT, MS.............................	350,000	350,000
(FC)	TRIBUTARIES, MS....................................	3,900,000	3,900,000
(FC)	UPPER YAZOO PROJECTS, MS...........................	4,100,000	4,100,000
(FC)	YAZOO BACKWATER F&WL MITIGATION LANDS, MS..........	350,000	350,000
(FC)	YAZOO BACKWATER, MS................................	696,000	696,000
(FC)	NONCONNAH CREEK, TN & MS..............................	200,000	200,000
(FC)	WEST TENNESSEE TRIBUTARIES, TN........................	2,400,000	2,400,000
	SUBTOTAL, CONSTRUCTION.............................	225,874,000	225,874,000
	MAINTENANCE		
(FC)	CHANNEL IMPROVEMENT, AR, IL, KY, LA, MS, MO & TN......	66,579,000	66,579,000
(FC)	LOWER ARKANSAS RIVER - NORTH BANK, AR.................	583,000	583,000
(FC)	LOWER ARKANSAS RIVER - SOUTH BANK, AR.................	25,000	25,000
(FC)	MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO & TN.	4,916,000	4,916,000
(FC)	ST FRANCIS RIVER BASIN, AR & MO.......................	9,129,000	9,129,000
(FC)	TENSAS BASIN, BOEUF AND TENSAS RIVERS, AR & LA........	2,217,000	2,217,000
(FC)	WHITE RIVER BACKWATER, AR.............................	1,652,000	1,652,000
(FC)	ATCHAFALAYA BASIN, LA.................................	13,694,000	13,694,000
(FC)	BATON ROUGE HARBOR DEVILS SWAMP, LA...................	230,000	230,000
(FC)	BAYOU COCODRIE AND TRIBUTARIES, LA....................	120,000	120,000
(FC)	BONNET CARRE, LA......................................	710,000	710,000
(FC)	LOWER RED RIVER - SOUTH BANK LEVEES, LA...............	8,000	8,000
(FC)	MISSISSIPPI DELTA REGION, CAERNARVON, LA..............	39,000	39,000
(FC)	OLD RIVER, LA...	4,736,000	4,736,000
(FC)	TENSAS BASIN, RED RIVER BACKWATER, LA.................	2,620,000	2,620,000
(N)	GREENVILLE HARBOR, MS.................................	269,000	269,000
(N)	VICKSBURG HARBOR, MS..................................	217,000	217,000
	YAZOO BASIN, MS:	(18,443,000)	(26,243,000)
(FC)	ARKABUTLA LAKE, MS.................................	2,244,000	3,444,000
(FC)	BIG SUNFLOWER RIVER, MS............................	1,672,000	1,672,000
(FC)	ENID LAKE, MS......................................	2,333,000	3,833,000
(FC)	GREENWOOD, MS......................................	1,421,000	1,421,000
(FC)	GRENADA LAKE, MS...................................	2,677,000	4,177,000
(FC)	MAIN STEM, MS......................................	2,784,000	2,784,000
(FC)	SARDIS LAKE, MS....................................	2,465,000	4,665,000
(FC)	TRIBUTARIES, MS....................................	1,330,000	2,730,000
(FC)	WILL M WHITTINGTON AUX CHAN, MS....................	410,000	410,000

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	YAZOO BACKWATER, MS	447,000	447,000
(FC)	YAZOO CITY, MS	660,000	660,000
(FC)	WAPPAPELLO LAKE, MO	3,782,000	4,282,000
(N)	MEMPHIS HARBOR (MCKELLAR LAKE), TN	1,595,000	1,595,000
(FC)	INSPECTION OF COMPLETED WORKS	1,348,000	1,348,000
(FC)	MAPPING	948,000	948,000
	SUBTOTAL, MAINTENANCE	133,860,000	142,160,000
	REDUCTION FOR SAVINGS AND SLIPPAGE	-20,379,000	-25,379,000
	TOTAL, FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES	343,000,000	348,875,000

TYPE OF PROJECT:
(N) NAVIGATION
(FC) FLOOD CONTROL

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
	ALABAMA		
(FC)	ALABAMA - COOSA COMPREHENSIVE WATER STUDY, AL	3,000,000	3,000,000
(N)	ALABAMA - COOSA RIVER, AL	4,681,000	6,800,000
(N)	BLACK WARRIOR AND TOMBIGBEE RIVERS, AL	15,496,000	20,000,000
	DOG AND FOWL RIVERS, AL	---	529,000
(N)	GULF INTRACOASTAL WATERWAY, AL	3,014,000	4,000,000
(MP)	MILLERS FERRY LOCK & DAM - WILLIAM "BILL" DANNELLY LAK	3,169,000	3,169,000
(N)	MOBILE HARBOR, AL	23,024,000	25,000,000
(MP)	ROBERT F HENRY LOCK AND DAM, AL	5,878,000	5,878,000
(N)	TENNESSEE - TOMBIGBEE WATERWAY, AL & MS	18,049,000	20,000,000
(MP)	WALTER F GEORGE LOCK AND DAM, AL & GA	6,842,000	6,842,000
	ALASKA		
(N)	ANCHORAGE HARBOR, AK	1,750,000	1,750,000
(FC)	CHENA RIVER LAKES, AK	1,419,000	1,869,000
(N)	DILLINGHAM HARBOR, AK	603,000	603,000
(N)	HOMER HARBOR, AK	292,000	292,000
(N)	KETCHIKAN, THOMAS BASIN, AK	270,000	270,000
(N)	NINILCHIK HARBOR, AK	191,000	191,000
(N)	NOME HARBOR, AK	349,000	349,000
(N)	WRANGELL NARROWS, AK	70,000	70,000
	AMERICAN SAMOA		
(N)	OFU HARBOR, AS	255,000	255,000
	ARIZONA		
(FC)	ALAMO LAKE, AZ	982,000	982,000
(FC)	PAINTED ROCK DAM, AZ	876,000	876,000
	TUCSON DIVERSION CHANNEL, AZ	---	550,000
(FC)	WHITLOW RANCH DAM, AZ	102,000	102,000
	ARKANSAS		
(MP)	BEAVER LAKE, AR	4,295,000	4,295,000
(MP)	BLAKELY MT DAM - LAKE OUACHITA, AR	4,147,000	4,147,000
(FC)	BLUE MOUNTAIN LAKE, AR	1,123,000	1,123,000
(MP)	BULL SHOALS LAKE, AR	5,185,000	5,185,000
(MP)	DARDANELLE LOCK AND DAM, AR	6,691,000	6,691,000
(MP)	DEGRAY LAKE, AR	7,209,000	7,209,000
(FC)	DEQUEEN LAKE, AR	1,014,000	1,014,000
(FC)	DIERKS LAKE, AR	1,026,000	1,026,000
(FC)	GILLHAM LAKE, AR	1,007,000	1,007,000
(MP)	GREERS FERRY LAKE, AR	4,737,000	4,737,000
(N)	HELENA HARBOR, AR	480,000	480,000
(N)	MCCLELLAN - KERR ARKANSAS RIVER NAVIGATION SYSTEM, AR.	26,247,000	26,247,000
(FC)	MILLWOOD LAKE, AR	2,254,000	2,254,000
(MP)	NARROWS DAM - LAKE GREESON, AR	4,072,000	4,072,000
(FC)	NIMROD LAKE, AR	1,313,000	1,313,000
(MP)	NORFORK LAKE, AR	3,702,000	3,702,000
(N)	OSCEOLA HARBOR, AR	602,000	602,000
(N)	OUACHITA AND BLACK RIVERS, AR & LA	5,625,000	5,625,000
(MP)	OZARK - JETA TAYLOR LOCK AND DAM, AR	5,797,000	5,797,000
(N)	WHITE RIVER, AR	2,110,000	2,110,000
(N)	YELLOW BEND PORT, AR	139,000	139,000
	CALIFORNIA		
(FC)	BLACK BUTTE LAKE, CA	1,505,000	1,505,000
(FC)	BUCHANAN DAM - H V EASTMAN LAKE, CA	1,507,000	1,507,000
(FC)	COYOTE VALLEY DAM (LAKE MENDOCINO), CA	2,363,000	2,363,000
(FC)	DRY CREEK (WARM SPRINGS) LAKE AND CHANNEL, CA	2,968,000	2,968,000
(FC)	FARMINGTON DAM, CA	146,000	146,000
(FC)	HIDDEN DAM - HENSLEY LAKE, CA	1,948,000	1,948,000
(N)	HUMBOLDT HARBOR AND BAY, CA	3,322,000	3,322,000
(FC)	ISABELLA LAKE, CA	918,000	918,000
(N)	LOS ANGELES - LONG BEACH HARBOR MODEL, CA	155,000	155,000
(N)	LOS ANGELES - LONG BEACH HARBORS, CA	95,000	495,000
(FC)	LOS ANGELES COUNTY DRAINAGE AREA, CA	3,390,000	3,590,000
	LOS ANGELES COUNTY DRAINAGE AREA (HANSEN DAM), CA	---	2,790,000
	LOS ANGELES RIVER (SEPULVEDA BASIN TO ARROYO SECO), CA	---	400,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	MARINA DEL REY, CA	2,105,000	2,105,000
(FC)	MERCED COUNTY STREAM GROUP, CA	176,000	176,000
(FC)	MOJAVE RIVER DAM, CA	190,000	190,000
(N)	MORRO BAY HARBOR, CA	2,250,000	2,250,000
(N)	NAPA RIVER, CA	2,397,000	2,197,000
(FC)	NEW HOGAN LAKE, CA	1,734,000	1,734,000
(MP)	NEW MELONES LAKE (DOWNSTREAM CHANNEL), CA	849,000	849,000
(N)	OAKLAND HARBOR, CA	2,593,000	2,593,000
	OCEANSIDE EXPERIMENTAL SAND BYPASS, CA	---	4,000,000
(N)	OCEANSIDE HARBOR, CA	845,000	845,000
(N)	PETALUMA RIVER, CA	1,850,000	1,850,000
(FC)	PINE FLAT LAKE, CA	2,064,000	2,064,000
(N)	RICHMOND HARBOR, CA	2,342,000	2,342,000
(N)	SACRAMENTO RIVER (30 FOOT PROJECT), CA	404,000	404,000
(N)	SACRAMENTO RIVER AND TRIBUTARIES (DEBRIS CONTROL), CA	882,000	882,000
(N)	SACRAMENTO RIVER SHALLOW DRAFT CHANNEL, CA	151,000	151,000
(N)	SAN DIEGO HARBOR, CA	150,000	150,000
(N)	SAN FRANCISCO BAY - DELTA MODEL STRUCTURE, CA	2,221,000	2,221,000
(N)	SAN FRANCISCO BAY LONG TERM MANAGEMENT STRATEGY, CA	896,000	896,000
(N)	SAN FRANCISCO HARBOR AND BAY (DRIFT REMOVAL), CA	2,208,000	2,208,000
(N)	SAN FRANCISCO HARBOR, CA	1,952,000	1,952,000
(N)	SAN JOAQUIN RIVER, CA	1,427,000	1,427,000
(N)	SAN PABLO BAY AND MARE ISLAND STRAIT, CA	1,100,000	1,100,000
(FC)	SANTA ANA RIVER BASIN, CA	2,824,000	2,824,000
(N)	SANTA BARBARA HARBOR, CA	1,625,000	1,625,000
	SANTA CRUZ HARBOR, CA	---	100,000
(FC)	SUCCESS LAKE, CA	1,459,000	2,259,000
(N)	SUISUN BAY CHANNEL, CA	2,020,000	2,020,000
(FC)	TERMINUS DAM (LAKE KAWEAH), CA	1,307,000	1,307,000
(N)	VENTURA HARBOR, CA	1,200,000	1,200,000
(N)	YUBA RIVER, CA	19,000	19,000
	COLORADO		
(FC)	BEAR CREEK LAKE, CO	362,000	362,000
(FC)	CHATFIELD LAKE, CO	663,000	663,000
(FC)	CHERRY CREEK LAKE, CO	534,000	534,000
(FC)	JOHN MARTIN RESERVOIR, CO	2,336,000	2,336,000
(FC)	TRINIDAD LAKE, CO	655,000	655,000
	CONNECTICUT		
(FC)	BLACK ROCK LAKE, CT	434,000	434,000
(FC)	COLEBROOK RIVER LAKE, CT	509,000	509,000
(FC)	HANCOCK BROOK LAKE, CT	237,000	237,000
(FC)	HOP BROOK LAKE, CT	787,000	787,000
(FC)	MANSFIELD HOLLOW LAKE, CT	524,000	524,000
(FC)	NORTHFIELD BROOK LAKE, CT	334,000	334,000
(FC)	STAMFORD HURRICANE BARRIER, CT	205,000	205,000
(FC)	THOMASTON DAM, CT	514,000	514,000
(FC)	WEST THOMPSON LAKE, CT	519,000	519,000
	DELAWARE		
(N)	CEDAR CREEK, DE	40,000	40,000
(N)	CHESAPEAKE AND DELAWARE CANAL - ST GEORGES BRIDGE REPL	14,000,000	14,000,000
(N)	INDIAN RIVER INLET AND BAY, DE	200,000	200,000
(N)	INTRACOASTAL WATERWAY, DELAWARE R TO CHESAPEAKE BAY, D	11,200,000	11,200,000
(N)	INTRACOASTAL WATERWAY, REHOBOTH BAY TO DELAWARE BAY, D	37,000	37,000
(N)	MISPILLION RIVER, DE	1,040,000	1,040,000
(N)	MURDERKILL RIVER, DE	40,000	40,000
(N)	WILMINGTON HARBOR, DE	3,447,000	3,447,000
	DISTRICT OF COLUMBIA		
(N)	POTOMAC AND ANACOSTIA RIVERS (DRIFT REMOVAL), DC	689,000	689,000
(N)	POTOMAC BELOW WASHINGTON, DC	575,000	575,000
(N)	WASHINGTON HARBOR, DC	30,000	30,000
	FLORIDA		
(N)	AIWW, NORFOLK TO ST JOHNS RIVER, FL, GA, SC, NC & VA.	1,115,000	1,115,000
(N)	ANCLOTE RIVER, FL	630,000	630,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	CANAVERAL HARBOR, FL....................................	2,195,000	2,195,000
(FC)	CENTRAL AND SOUTHERN, FL................................	8,189,000	8,189,000
(N)	CHARLOTTE HARBOR, FL....................................	30,000	30,000
(N)	CLEARWATER PASS, FL.....................................	290,000	290,000
(N)	ESCAMBIA - CONECUH RIVERS, FL...........................	431,000	431,000
(N)	FERNANDINA HARBOR, FL...................................	1,610,000	1,610,000
(N)	FORT MYERS BEACH FL.....................................	430,000	430,000
(N)	FORT PIERCE HARBOR, FL..................................	906,000	906,000
	HORSESHOE COVE, FL......................................	---	500,000
(N)	INTRACOASTAL WATERWAY, CALOOSAHATCHEE R TO ANCLOTE R,.	134,000	375,000
(N)	INTRACOASTAL WATERWAY, JACKSONVILLE TO MIAMI, FL......	2,940,000	2,940,000
(N)	JACKSONVILLE HARBOR, FL.................................	5,840,000	5,840,000
(MP)	JIM WOODRUFF LOCK AND DAM, LAKE SEMINOLE, FL, AL & GA.	5,642,000	5,642,000
(N)	LONG BOAT PASS, FL......................................	875,000	875,000
(N)	MIAMI HARBOR, FL..	200,000	200,000
(N)	OKEECHOBEE WATERWAY, FL.................................	4,284,000	4,284,000
(N)	OKLAWAHA RIVER, FL......................................	67,000	67,000
(N)	PALM BEACH HARBOR, FL...................................	1,225,000	1,225,000
(N)	PANAMA CITY HARBOR, FL..................................	391,000	391,000
(N)	PONCE DE LEON INLET, FL.................................	65,000	65,000
	REMOVAL OF AQUATIC GROWTH, FL...........................	3,044,000	3,044,000
(N)	ST AUGUSTINE HARBOR, FL.................................	467,000	467,000
(N)	ST LUCIE INLET, FL......................................	50,000	50,000
(N)	TAMPA HARBOR, FL..	3,636,000	3,636,000
(N)	WITHLACOOCHIE RIVER, FL.................................	50,000	50,000
	GEORGIA		
(MP)	ALLATOONA LAKE, GA......................................	5,016,000	5,016,000
(N)	APALACHICOLA CHATTAHOOCHEE AND FLINT RIVERS, GA, AL &.	3,959,000	3,959,000
(N)	ATLANTIC INTRACOASTAL WATERWAY, GA.......................	1,877,000	1,877,000
(N)	BRUNSWICK HARBOR, GA....................................	3,474,000	3,474,000
(MP)	BUFORD DAM AND LAKE SIDNEY LANIER, GA...................	6,426,000	6,426,000
(MP)	CARTERS DAM AND LAKE, GA................................	3,793,000	3,793,000
(MP)	HARTWELL LAKE, GA & SC..................................	7,350,000	7,350,000
(MP)	J STROM THURMOND LAKE, GA & SC..........................	7,021,000	7,021,000
(MP)	RICHARD B RUSSELL, GA...................................	4,915,000	4,915,000
(N)	SAVANNAH HARBOR LONG TERM MANAGEMENT STRATEGY, GA.....	481,000	481,000
(N)	SAVANNAH HARBOR, GA.....................................	9,634,000	9,634,000
(N)	SAVANNAH RIVER BELOW AUGUSTA, GA........................	156,000	156,000
(MP)	WEST POINT DAM AND LAKE, GA & AL........................	4,690,000	4,690,000
	HAWAII		
(N)	BARBERS POINT HARBOR, HI................................	94,000	94,000
(N)	HONOLULU HARBOR, HI.....................................	100,000	100,000
(N)	PORT ALLEN HARBOR, KAUAI, HI............................	2,489,000	2,489,000
(MP)	ALBENI FALLS DAM, ID....................................	5,725,000	5,725,000
(MP)	DWORSHAK DAM AND RESERVOIR, ID..........................	7,108,000	7,108,000
(FC)	LUCKY PEAK LAKE, ID.....................................	899,000	899,000
	ILLINOIS		
(N)	CALUMET HARBOR AND RIVER, IL............................	1,693,000	1,693,000
(FC)	CARLYLE LAKE, IL..	3,332,000	3,332,000
(N)	CHICAGO HARBOR, IL......................................	1,901,000	1,901,000
(N)	CHICAGO RIVER, IL.......................................	476,000	476,000
(FC)	FARM CREEK RESERVOIRS, IL...............................	410,000	410,000
(N)	ILLINOIS AND MISSISSIPPI CANAL, IL......................	110,000	110,000
(N)	ILLINOIS WATERWAY (LMVD PORTION), IL....................	1,001,000	1,001,000
(N)	ILLINOIS WATERWAY (NCD PORTION), IL & IN................	19,332,000	19,332,000
(N)	KASKASKIA RIVER NAVIGATION, IL..........................	1,723,000	1,723,000
(N)	LAKE MICHIGAN DIVERSION, IL.............................	434,000	434,000
(FC)	LAKE SHELBYVILLE, IL....................................	3,937,000	3,937,000
(N)	MISS R BETWEEN MO R AND MINNEAPOLIS (LMVD PORTION), IL	13,071,000	13,071,000
(N)	MISS R BETWEEN MO R AND MINNEAPOLIS, IL, IA, MN, MO &.	85,590,000	85,590,000
	NORTH BRANCH CHICAGO RIVER, IL..........................	---	150,000
(FC)	REND LAKE, IL...	3,704,000	3,704,000
(N)	WAUKEGAN HARBOR, IL.....................................	505,000	505,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
	INDIANA		
(FC)	BEVERLY SHORES, IN.	48,000	48,000
(FC)	BROOKVILLE LAKE, IN.	520,000	520,000
(N)	BURNS WATERWAY HARBOR, IN.	1,302,000	1,302,000
(N)	BURNS WATERWAY SMALL BOAT HARBOR, IN.	150,000	150,000
(FC)	CAGLES MILL LAKE, IN.	530,000	530,000
(FC)	CECIL M HARDEN LAKE, IN.	784,000	784,000
(FC)	HUNTINGTON LAKE, IN.	534,000	534,000
(N)	INDIANA HARBOR, IN.	369,000	369,000
(N)	MICHIGAN CITY HARBOR, IN.	71,000	449,000
(FC)	MISSISSINEWA LAKE, IN.	704,000	704,000
(FC)	MONROE LAKE, IN.	1,027,000	1,027,000
(FC)	PATOKA LAKE, IN.	530,000	530,000
(FC)	SALAMONIE LAKE, IN.	772,000	772,000
	IOWA		
(FC)	CORALVILLE LAKE, IA.	2,837,000	2,837,000
(FC)	MISSOURI RIVER - KENSLERS BEND, NE TO SIOUX CITY, IA.	65,000	65,000
(N)	MISSOURI RIVER - SIOUX CITY TO MOUTH, IA, NE, KS & MO.	5,473,000	5,473,000
(FC)	RATHBUN LAKE, IA.	2,832,000	2,832,000
(FC)	RED ROCK DAM - LAKE RED ROCK, IA.	2,976,000	2,976,000
(FC)	SAYLORVILLE LAKE, IA.	3,258,000	3,258,000
	KANSAS		
(FC)	CLINTON LAKE, KS.	1,410,000	1,410,000
(FC)	COUNCIL GROVE LAKE, KS.	734,000	734,000
(FC)	EL DORADO LAKE, KS.	480,000	480,000
(FC)	ELK CITY LAKE, KS.	809,000	809,000
(FC)	FALL RIVER LAKE, KS.	845,000	845,000
(FC)	HILLSDALE LAKE, KS.	675,000	675,000
(FC)	JOHN REDMOND DAM AND RESERVOIR, KS.	2,182,000	2,182,000
(FC)	KANOPOLIS LAKE, KS.	1,194,000	1,194,000
(FC)	MARION LAKE, KS.	894,000	894,000
(FC)	MELVERN LAKE, KS.	1,482,000	1,482,000
(FC)	MILFORD LAKE, KS.	1,737,000	1,737,000
(FC)	PEARSON - SKUBITZ BIG HILL LAKE, KS.	871,000	871,000
(FC)	PERRY LAKE, KS.	1,795,000	1,795,000
(FC)	POMONA LAKE, KS.	1,921,000	1,921,000
(FC)	TORONTO LAKE, KS.	377,000	377,000
(FC)	TUTTLE CREEK LAKE, KS.	1,726,000	1,726,000
(FC)	WILSON LAKE, KS.	1,256,000	1,256,000
	KENTUCKY		
(MP)	BARKLEY DAM AND LAKE BARKLEY, KY.	6,574,000	6,574,000
(FC)	BARREN RIVER LAKE, KY.	1,416,000	1,416,000
(N)	BIG SANDY HARBOR, KY.	1,035,000	1,035,000
(FC)	BUCKHORN LAKE, KY.	907,000	1,407,000
(FC)	CARR FORK LAKE, KY.	1,061,000	1,061,000
(FC)	CAVE RUN LAKE, KY.	810,000	810,000
(FC)	DEWEY LAKE, KY.	965,000	965,000
(N)	ELVIS STAHR (HICKMAN) HARBOR, KY.	525,000	525,000
(FC)	FISHTRAP LAKE, KY.	1,121,000	1,121,000
(FC)	GRAYSON LAKE, KY.	815,000	815,000
(N)	GREEN AND BARREN RIVERS, KY.	1,574,000	1,574,000
(FC)	GREEN RIVER LAKE, KY.	1,312,000	1,312,000
(N)	KENTUCKY RIVER, KY.	1,009,000	1,009,000
(MP)	LAUREL RIVER LAKE, KY.	1,850,000	1,850,000
(N)	LICKING RIVER OPEN CHANNEL WORK, KY.	19,000	19,000
(FC)	MARTINS FORK LAKE, KY.	613,000	613,000
(FC)	MIDDLESBORO CUMBERLAND RIVER BASIN, KY.	42,000	42,000
(FC)	NOLIN LAKE, KY.	1,756,000	1,756,000
(N)	OHIO RIVER LOCKS AND DAMS, KY, IL, IN, OH, PA & WV.	58,502,000	59,002,000
(N)	OHIO RIVER OPEN CHANNEL WORK, KY, IL, IN, OH, PA & WV.	6,243,000	6,243,000
(FC)	PAINTSVILLE LAKE, KY.	742,000	742,000
(FC)	ROUGH RIVER LAKE, KY.	1,271,000	1,271,000
(FC)	TAYLORSVILLE LAKE, KY.	851,000	1,271,000
(MP)	WOLF CREEK DAM - LAKE CUMBERLAND, KY.	4,200,000	4,200,000
(FC)	YATESVILLE LAKE, KY.	842,000	842,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
	LOUISIANA		
(N)	ATCHAFALAYA RIVER AND BAYOUS CHENE, BOEUF AND BLACK, L	6,150,000	9,150,000
(N)	BARATARIA BAY WATERWAY, LA	815,000	815,000
(FC)	BAYOU BODCAU RESERVOIR, LA	431,000	431,000
(FC)	BAYOU PIERRE, LA	25,000	25,000
(N)	BAYOU TECHE, LA	940,000	940,000
(FC)	CADDO LAKE, LA	115,000	115,000
(N)	CALCASIEU RIVER AND PASS, LA	9,176,000	9,176,000
(N)	FRESHWATER BAYOU, LA	1,860,000	1,860,000
(N)	GULF INTRACOASTAL WATERWAY, LA & TX SECTION	13,795,000	13,795,000
(N)	HOUMA NAVIGATION CANAL, LA	2,250,000	2,250,000
(N)	LAKE PROVIDENCE HARBOR, LA	301,000	301,000
(N)	MADISON PARISH PORT, LA	49,000	49,000
(N)	MERMENTAU RIVER, LA	1,525,000	1,525,000
(N)	MISSISSIPPI RIVER - BATON ROUGE TO GULF OF MEXICO, LA.	40,470,000	42,970,000
(N)	MISSISSIPPI RIVER - GULF OUTLET, LA	12,810,000	12,810,000
(N)	MISSISSIPPI RIVER OUTLETS AT VENICE, LA	2,470,000	2,470,000
(N)	RED RIVER WATERWAY - MISSISSIPPI RIVER TO SHREVEPORT,.	5,908,000	5,908,000
	REMOVAL OF AQUATIC GROWTH, LA	1,698,000	1,698,000
(FC)	WALLACE LAKE, LA	184,000	184,000
	MARYLAND		
(N)	BALTIMORE HARBOR (DRIFT REMOVAL), MD	371,000	371,000
(N)	BALTIMORE HARBOR (PREVENTION OF OBSTRUCTIVE DEPOSITS),	431,000	431,000
(N)	BALTIMORE HARBOR AND CHANNELS, MD & VA	10,470,000	10,470,000
(N)	BROAD CREEK, MD	45,000	45,000
(N)	CHESTER RIVER, MD	350,000	350,000
(FC)	CUMBERLAND, MD AND RIDGELEY, WV	94,000	94,000
(N)	HERRING BAY AND ROCKHOLD CREEK, MD	66,000	66,000
(N)	HONGA RIVER AND TAR BAY, MD	820,000	820,000
(N)	ISLAND CREEK ST GEORGE ISLAND, MD	45,000	45,000
(FC)	JENNINGS RANDOLPH LAKE, MD & WV	1,318,000	1,318,000
(N)	NANTICOKE RIVER NORTHWEST FORK, MD	40,000	40,000
(N)	NORTHEAST RIVER, MD	55,000	55,000
(N)	OCEAN CITY HARBOR AND INLET AND SINEPUXENT BAY, MD	67,000	67,000
(N)	RHODES POINT TO TYLERTON, MD	403,000	403,000
(N)	SLAUGHTER CREEK, MD	380,000	380,000
(N)	TRED AVON RIVER, MD	69,000	69,000
(N)	WICOMICO RIVER, MD	633,000	633,000
	MASSACHUSETTS		
(FC)	BARRE FALLS DAM, MA	362,000	362,000
(FC)	BIRCH HILL DAM, MA	302,000	302,000
(FC)	BUFFUMVILLE LAKE, MA	441,000	441,000
(N)	CAPE COD CANAL, MA	9,731,000	9,731,000
(FC)	CHARLES RIVER NATURAL VALLEY STORAGE AREA, MA	177,000	177,000
(FC)	CONANT BROOK LAKE, MA	153,000	153,000
(FC)	EAST BRIMFIELD LAKE, MA	333,000	333,000
(FC)	HODGES VILLAGE DAM, MA	348,000	348,000
(FC)	KNIGHTVILLE DAM, MA	439,000	439,000
(FC)	LITTLEVILLE LAKE, MA	414,000	414,000
(FC)	NEW BEDFORD FAIRHAVEN ACUSHNET HURRICANE BARRIER, MA	198,000	198,000
(FC)	TULLY LAKE, MA	428,000	428,000
(FC)	WEST HILL DAM, MA	435,000	435,000
(FC)	WESTVILLE LAKE, MA	453,000	453,000
	MICHIGAN		
(N)	ARCADIA HARBOR, MI	49,000	49,000
(N)	BOLLES HARBOR, MI	50,000	50,000
(N)	CHANNELS IN LAKE ST CLAIR, MI	218,000	218,000
(N)	CHARLEVOIX HARBOR, MI	556,000	556,000
(N)	DETROIT RIVER, MI	3,577,000	3,577,000
	FLINT RIVER FLOOD CONTROL, MI	---	2,500,000
(N)	FRANKFORT HARBOR, MI	798,000	798,000
(N)	GRAND HAVEN HARBOR, MI	930,000	930,000
(N)	GRELICKVILLE, MI	119,000	119,000
(N)	HARBOR BEACH HARBOR, MI	80,000	80,000
(N)	HOLLAND HARBOR, MI	488,000	488,000
(N)	INLAND ROUTE, MI	44,000	44,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	KEWEENAW WATERWAY, MI	752,000	752,000
(N)	LAC LA BELLE, MI	126,000	126,000
(N)	LELAND HARBOR, MI	123,000	123,000
(N)	LITTLE LAKE HARBOR, MI	165,000	165,000
(N)	LUDINGTON HARBOR, MI	2,563,000	2,563,000
(N)	MANISTEE HARBOR, MI	252,000	252,000
(N)	MENOMINEE HARBOR, MI & WI	192,000	192,000
(N)	MONROE HARBOR, MI	1,451,000	1,451,000
(N)	MUSKEGON HARBOR, MI	164,000	164,000
(N)	NEW BUFFALO HARBOR, MI	99,000	99,000
(N)	ONTONAGON HARBOR, MI	3,544,000	3,544,000
(N)	PENTWATER HARBOR, MI	144,000	144,000
(N)	PRESQUE ISLE HARBOR, MI	942,000	942,000
(N)	ROUGE RIVER, MI	135,000	135,000
(N)	SAGINAW RIVER, MI	2,675,000	2,675,000
(N)	SAGINAW RIVER, MI (DIKE DISPOSAL)	300,000	300,000
(FC)	SEBEWAING RIVER (ICE JAM REMOVAL), MI	13,000	13,000
(N)	SOUTH HAVEN HARBOR, MI	1,142,000	1,142,000
(N)	ST CLAIR RIVER, MI	1,003,000	1,003,000
(N)	ST JAMES HARBOR, MI	90,000	90,000
(N)	ST JOSEPH HARBOR, MI	1,210,000	1,210,000
(MP)	ST MARYS RIVER, MI	15,115,000	15,115,000
	MINNESOTA		
(FC)	BIGSTONE LAKE WHETSTONE RIVER, MN & SD	497,000	497,000
(N)	DULUTH - SUPERIOR HARBOR, MN & WI	4,290,000	4,290,000
(N)	GRAND MARAIS HARBOR, MN	171,000	171,000
(FC)	LAC QUI PARLE LAKES, MINNESOTA RIVER, MN	796,000	796,000
(N)	MINNESOTA RIVER, MN	145,000	145,000
(FC)	ORWELL LAKE, MN	1,362,000	1,362,000
(FC)	RED LAKE RIVER, MN	177,000	177,000
(N)	RESERVOIRS AT HEADWATERS OF MISSISSIPPI RIVER, MN	2,996,000	2,996,000
	SAUK LAKE, MN	---	40,000
	MISSISSIPPI		
(N)	BILOXI HARBOR, MS	838,000	838,000
(N)	CLAIBORNE COUNTY PORT, MS	3,000	3,000
(FC)	EAST FORK, TOMBIGBEE RIVER, MS	592,000	592,000
(N)	GULFPORT HARBOR, MS	2,146,000	2,146,000
(N)	MOUTH OF YAZOO RIVER, MS	165,000	165,000
(FC)	OKATIBBEE LAKE, MS	1,431,000	1,431,000
(N)	PASCAGOULA HARBOR, MS	3,606,000	3,606,000
	PASS CHRISTIAN HARBOR, MS	---	693,000
(N)	PEARL RIVER, MS & LA	270,000	270,000
(N)	ROSEDALE HARBOR, MS	403,000	403,000
(N)	YAZOO RIVER, MS	79,000	79,000
	MISSOURI		
(N)	CARUTHERSVILLE HARBOR, MO	392,000	392,000
(MP)	CLARENCE CANNON DAM AND MARK TWAIN LAKE, MO	4,993,000	4,993,000
(FC)	CLEARWATER LAKE, MO	2,550,000	2,550,000
(MP)	HARRY S TRUMAN DAM AND RESERVOIR, MO	8,815,000	8,815,000
(FC)	LITTLE BLUE RIVER LAKES, MO	841,000	841,000
(FC)	LONG BRANCH LAKE, MO	663,000	663,000
(N)	MISS RIVER BETWEEN OHIO AND MO RIVERS, MO & IL (REG WO	14,565,000	14,565,000
	NEW MADRID COUNTY HARBOR, MO	---	250,000
(FC)	POMME DE TERRE LAKE, MO	1,695,000	1,695,000
(FC)	SMITHVILLE LAKE, MO	1,076,000	1,076,000
(N)	SOUTHEAST MISSOURI PORT, MISSISSIPPI RIVER, MO	202,000	202,000
(MP)	STOCKTON LAKE, MO	3,093,000	3,093,000
(MP)	TABLE ROCK LAKE, MO	4,660,000	4,660,000
(FC)	UNION LAKE, MO	17,000	17,000
(FC)	WAPPAPELLO LAKE, MO	10,000	10,000
	MONTANA		
(MP)	FT PECK DAM AND LAKE, MT	3,657,000	3,786,000
(MP)	LIBBY DAM, LAKE KOOCANUSA, MT	7,409,000	7,409,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
	NEBRASKA		
(MP)	GAVINS POINT DAM, LEWIS AND CLARK LAKE, NE & SD	5,778,000	5,778,000
(FC)	HARLAN COUNTY LAKE, NE	1,632,000	1,632,000
	MISSOURI NATIONAL RECREATIONAL RIVER, NE & SD	---	200,000
(MP)	MISSOURI R MASTER WTR CONTROL MANUAL, NE, IA, KS, MO,	1,000,000	1,000,000
(FC)	PAPILLION CREEK & TRIBUTARIES LAKES, NE	594,000	594,000
(FC)	SALT CREEK AND TRIBUTARIES, NE	688,000	688,000
	NEVADA		
(FC)	MARTIS CREEK LAKE, NV & CA	405,000	405,000
(FC)	PINE AND MATHEWS CANYONS LAKES, NV	276,000	276,000
	NEW HAMPSHIRE		
(FC)	BLACKWATER DAM, NH	400,000	400,000
(FC)	EDWARD MACDOWELL LAKE, NH	377,000	377,000
(FC)	FRANKLIN FALLS DAM, NH	689,000	689,000
(FC)	HOPKINTON - EVERETT LAKES, NH	1,023,000	1,023,000
(FC)	OTTER BROOK LAKE, NH	445,000	445,000
(FC)	SURRY MOUNTAIN LAKE, NH	442,000	442,000
	NEW JERSEY		
(N)	BARNEGAT INLET, NJ	1,050,000	1,050,000
(N)	COLD SPRING INLET, NJ	826,000	826,000
(N)	DELAWARE RIVER, PHILADELPHIA TO THE SEA, NJ, PA & DE	12,669,000	12,669,000
(N)	DELAWARE RIVER, PHILADELPHIA, PA TO TRENTON, NJ	260,000	260,000
	MAURICE RIVER, NJ	---	1,500,000
(N)	NEW JERSEY INTRACOASTAL WATERWAY, NJ	3,007,000	3,007,000
(N)	NEWARK BAY, HACKENSACK AND PASSAIC RIVER, NJ	1,420,000	1,420,000
(N)	RARITAN RIVER TO ARTHUR KILL CUT-OFF, NJ	60,000	60,000
(N)	RARITAN RIVER, NJ	700,000	700,000
	NEW MEXICO		
(FC)	ABIQUIU DAM, NM	1,245,000	1,245,000
(FC)	COCHITI LAKE, NM	1,739,000	1,739,000
(FC)	CONCHAS LAKE, NM	866,000	866,000
(FC)	GALISTEO DAM, NM	271,000	271,000
(FC)	JEMEZ CANYON DAM, NM	849,000	849,000
(FC)	SANTA ROSA DAM AND LAKE, NM	799,000	799,000
(FC)	TWO RIVERS DAM, NM	327,000	327,000
	NEW YORK		
(FC)	ALMOND LAKE, NY	356,000	356,000
(FC)	ARKPORT DAM, NY	188,000	188,000
(N)	BAY RIDGE AND RED HOOK CHANNELS, NY	495,000	495,000
(N)	BLACK ROCK CHANNEL AND TONAWANDA HARBOR, NY	1,435,000	1,435,000
(N)	BUFFALO HARBOR, NY	585,000	585,000
(N)	BUTTERMILK CHANNEL, NY	50,000	50,000
(N)	EAST RIVER, NY	195,000	195,000
(N)	EAST ROCKAWAY INLET, NY	1,258,000	1,258,000
(FC)	EAST SIDNEY LAKE, NY	351,000	351,000
(N)	EASTCHESTER CREEK, NY	70,000	70,000
(N)	FIRE ISLAND TO JONES INLET, NY	1,870,000	1,870,000
(N)	HUDSON RIVER CHANNEL, NY	940,000	940,000
(N)	HUDSON RIVER, NY	2,127,000	2,127,000
(N)	JAMAICA BAY, NY	500,000	500,000
(N)	JONES INLET, NY	1,000,000	1,000,000
(N)	LAKE MONTAUK HARBOR, NY	60,000	60,000
(FC)	MT MORRIS LAKE, NY	1,366,000	1,366,000
(N)	NEW YORK AND NEW JERSEY CHANNELS, NY	2,050,000	2,050,000
(N)	NEW YORK HARBOR (DRIFT REMOVAL), NY & NJ	4,470,000	4,470,000
(N)	NEW YORK HARBOR (PREVENTION OF OBSTRUCTIVE DEPOSITS),	740,000	740,000
(N)	NEW YORK HARBOR, NY	5,734,000	5,734,000
(N)	PORTCHESTER HARBOR, NY	295,000	295,000
(N)	ROCHESTER HARBOR, NY	92,000	92,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	SHINNECOCK INLET, NY..	100,000	100,000
(FC)	SOUTHERN NEW YORK FLOOD CONTROL PROJECTS, NY..........................	692,000	692,000
(FC)	WHITNEY POINT LAKE, NY..	489,000	489,000
	NORTH CAROLINA		
(N)	ATLANTIC INTRACOASTAL WATERWAY, NC............................	6,117,000	6,117,000
(FC)	B EVERETT JORDAN DAM AND LAKE, NC.............................	1,133,000	1,133,000
(N)	BEAUFORT HARBOR, NC...	378,000	378,000
(N)	BOGUE INLET AND CHANNEL, NC...................................	1,000,000	1,000,000
(N)	CAPE FEAR RIVER ABOVE WILMINGTON, NC..........................	598,000	700,000
(N)	CAROLINA BEACH INLET, NC......................................	571,000	571,000
(FC)	FALLS LAKE, NC..	987,000	987,000
(N)	LOCKWOODS FOLLY RIVER, NC.....................................	924,000	924,000
(N)	MANTEO (SHALLOWBAG) BAY, NC....................................	6,103,000	6,103,000
(N)	MASONBORO INLET AND CONNECTING CHANNELS, NC....................	1,500,000	2,500,000
(N)	MOREHEAD CITY HARBOR, NC......................................	2,595,000	2,595,000
(N)	NEW RIVER INLET, NC...	950,000	950,000
(N)	OCRACOKE INLET, NC..	278,000	278,000
(FC)	W KERR SCOTT DAM AND RESERVOIR, NC............................	1,670,000	1,670,000
(N)	WILMINGTON HARBOR, NC...	6,203,000	6,203,000
	NORTH DAKOTA		
(FC)	BOWMAN HALEY LAKE, ND...	251,000	251,000
(MP)	GARRISON DAM, LAKE SAKAKAWEA, ND..............................	9,098,000	9,148,000
(FC)	HOMME LAKE, ND..	243,000	243,000
(FC)	LAKE ASHTABULA AND BALDHILL DAM, ND...........................	955,000	955,000
(FC)	PIPESTEM LAKE, ND...	361,000	361,000
(FC)	SOURIS RIVER, ND..	96,000	96,000
	OHIO		
(FC)	ALUM CREEK LAKE, OH...	1,826,000	1,826,000
(N)	ASHTABULA HARBOR, OH..	2,155,000	2,155,000
(FC)	BERLIN LAKE, OH...	1,575,000	1,575,000
(FC)	CAESAR CREEK LAKE, OH...	713,000	713,000
(FC)	CLARENCE J BROWN DAM, OH......................................	490,000	490,000
(N)	CLEVELAND HARBOR, OH..	4,868,000	4,868,000
(N)	CONNEAUT HARBOR, OH...	677,000	677,000
(FC)	DEER CREEK LAKE, OH...	1,766,000	1,766,000
(FC)	DELAWARE LAKE, OH...	1,677,000	1,677,000
(FC)	DILLON LAKE, OH...	1,694,000	1,694,000
(N)	FAIRPORT HARBOR, OH...	1,185,000	1,185,000
(N)	HURON HARBOR, OH..	867,000	867,000
(N)	LORAIN HARBOR, OH...	437,000	437,000
(FC)	MASSILLON LOCAL PROTECTION PROJECT, OH.........................	25,000	25,000
(FC)	MICHAEL J KIRWAN DAM AND RESERVOIR, OH.........................	926,000	926,000
(FC)	MOSQUITO CREEK LAKE, OH.......................................	612,000	612,000
(FC)	MUSKINGUM RIVER LAKES, OH.....................................	6,170,000	6,170,000
(FC)	NORTH BRANCH KOKOSING RIVER LAKE, OH...........................	244,000	244,000
(FC)	PAINT CREEK LAKE, OH..	1,795,000	1,795,000
(FC)	ROSEVILLE LOCAL PROTECTION PROJECT, OH.........................	30,000	30,000
(N)	SANDUSKY HARBOR, OH...	963,000	963,000
(N)	TOLEDO HARBOR, OH...	6,896,000	7,896,000
(FC)	TOM JENKINS DAM, OH...	269,000	269,000
(FC)	WEST FORK OF MILL CREEK LAKE, OH...............................	387,000	387,000
(FC)	WILLIAM H HARSHA LAKE, OH.....................................	640,000	640,000
	OKLAHOMA		
(FC)	ARCADIA LAKE, OK..	343,000	343,000
(FC)	BIRCH LAKE, OK..	653,000	653,000
(MP)	BROKEN BOW LAKE, OK...	1,413,000	1,413,000
(FC)	CANDY LAKE, OK..	25,000	25,000
(FC)	CANTON LAKE, OK...	1,343,000	1,343,000
(FC)	COPAN LAKE, OK..	638,000	638,000
(MP)	EUFAULA LAKE, OK..	4,262,000	4,262,000
(MP)	FORT GIBSON LAKE, OK..	2,868,000	2,868,000
(FC)	FORT SUPPLY LAKE, OK..	678,000	678,000
(FC)	GREAT SALT PLAINS LAKE, OK....................................	335,000	335,000
(FC)	HEYBURN LAKE, OK..	657,000	657,000
(FC)	HUGO LAKE, OK...	1,293,000	1,293,000
(FC)	HULAH LAKE, OK..	400,000	400,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	KAW LAKE, OK	2,149,000	2,149,000
(MP)	KEYSTONE LAKE, OK	2,827,000	2,827,000
(FC)	OOLOGAH LAKE, OK	1,287,000	1,287,000
(FC)	OPTIMA LAKE, OK	487,000	487,000
(FC)	PENSACOLA RESERVOIR - LAKE OF THE CHEROKEES, OK	4,000	4,000
(FC)	PINE CREEK LAKE, OK	1,121,000	1,121,000
(MP)	ROBERT S KERR LOCK AND DAM AND RESERVOIRS, OK	2,861,000	2,861,000
(FC)	SARDIS LAKE, OK	876,000	876,000
(FC)	SKIATOOK LAKE, OK	1,089,000	1,089,000
(MP)	TENKILLER FERRY LAKE, OK	2,818,000	2,818,000
(FC)	WAURIKA LAKE, OK	1.202.000	1,202,000
(MP)	WEBBERS FALLS LOCK AND DAM, OK	2,499,000	2,499,000
(FC)	WISTER LAKE, OK	747,000	747,000
	OREGON		
(FC)	APPLEGATE LAKE, OR	567,000	567,000
(FC)	BLUE RIVER LAKE, OR	259,000	259,000
(MP)	BONNEVILLE LOCK AND DAM, OR & WA	16,200,000	16,200,000
(N)	CHETCO RIVER, OR	677,000	677,000
(N)	COLUMBIA & LWR WILLAMETTE R BLW VANCOUVER, WA & PORTLA	8,817,000	8,817,000
(N)	COLUMBIA RIVER AT THE MOUTH, OR & WA	9,006,000	9,006,000
(N)	COLUMBIA RIVER BETWEEN VANCOUVER, WA AND THE DALLES, O	374,000	374,000
(N)	COOS BAY, OR	5,470,000	5,470,000
(N)	COQUILLE RIVER, OR	405,000	405,000
(FC)	COTTAGE GROVE LAKE, OR	589,000	589,000
(MP)	COUGAR LAKE, OR	1,101,000	1,101,000
(N)	DEPOE BAY, OR	---	585,000
(MP)	DETROIT LAKE, OR	2,160,000	2,160,000
(FC)	DORENA LAKE, OR	639,000	639,000
(FC)	FALL CREEK LAKE, OR	508,000	508,000
(FC)	FERN RIDGE LAKE, OR	749,000	749,000
(MP)	GREEN PETER - FOSTER LAKES, OR	2,610,000	2,610,000
(MP)	HILLS CREEK LAKE, OR	856,000	856,000
(MP)	JOHN DAY LOCK AND DAM, OR & WA	20,610,000	20,610,000
(MP)	LOOKOUT POINT LAKE, OR	4,857,000	4,857,000
(MP)	LOST CREEK LAKE, OR	3,663,000	3,663,000
(MP)	MCNARY LOCK AND DAM, OR & WA	9,434,000	9,434,000
(N)	PORT ORFORD, OR	226,000	226,000
(N)	ROGUE RIVER, OR	718,000	718,000
(N)	SIUSLAW RIVER, OR	733,000	733,000
(N)	SKIPANON CHANNEL, OR	13,000	13,000
(N)	UMPQUA RIVER, OR	1,301,000	1,301,000
(N)	WILLAMETTE RIVER AT WILLAMETTE FALLS, OR	885,000	885,000
(FC)	WILLOW CREEK LAKE, OR	460,000	460,000
(N)	YAQUINA BAY AND HARBOR, OR	1,520,000	1,520,000
	PENNSYLVANIA		
(N)	ALLEGHENY RIVER, PA	10,892,000	10,892,000
(FC)	ALVIN R BUSH DAM, PA	490,000	490,000
(FC)	AYLESWORTH CREEK LAKE, PA	172,000	172,000
(FC)	BELTZVILLE LAKE, PA	932,000	932,000
(FC)	BLUE MARSH LAKE, PA	1,498,000	1,498,000
(FC)	CONEMAUGH RIVER LAKE, PA	1,311,000	1,311,000
(FC)	COWANESQUE LAKE, PA	1,398,000	1,398,000
(FC)	CROOKED CREEK LAKE, PA	1,059,000	1,059,000
(FC)	CURWENSVILLE LAKE, PA	497,000	497,000
(FC)	EAST BRANCH CLARION RIVER LAKE, PA	994,000	994,000
(N)	ERIE HARBOR, PA	40,000	40,000
(FC)	FOSTER JOSEPH SAYERS DAM, PA	569,000	569,000
(FC)	FRANCIS E WALTER DAM, PA	855,000	855,000
(FC)	GENERAL EDGAR JADWIN DAM AND RESERVOIR, PA	537,000	537,000
(FC)	JOHNSTOWN, PA	1,909,000	1,909,000
(FC)	KINZUA DAM AND ALLEGHENY RESERVOIR, PA	1,493,000	1,493,000
(FC)	LOYALHANNA LAKE, PA	1,138,000	1,138,000
(FC)	MAHONING CREEK LAKE, PA	1,064,000	1,064,000
(N)	MONONGAHELA RIVER, PA	16,070,000	16,070,000
(FC)	PROMPTON LAKE, PA	524,000	524,000
(FC)	PUNXSUTAWNEY, PA	47,000	47,000
(FC)	RAYSTOWN LAKE, PA	2,583,000	2,583,000
(N)	SCHUYLKILL RIVER, PA	395,000	395,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	SHENANGO RIVER LAKE, PA.	1,745,000	1,745,000
(FC)	STILLWATER LAKE, PA.	295,000	295,000
(FC)	TIOGA-HAMMOND LAKES, PA.	1,439,000	1,439,000
(FC)	TIONESTA LAKE, PA.	1,425,000	1,425,000
(FC)	UNION CITY LAKE, PA.	543,000	543,000
(FC)	WOODCOCK CREEK LAKE, PA.	753,000	753,000
(FC)	YORK INDIAN ROCK DAM, PA.	494,000	494,000
(FC)	YOUGHIOGHENY RIVER LAKE, PA.	1,800,000	1,800,000
	PUERTO RICO		
(N)	SAN JUAN HARBOR, PR.	1,355,000	1,355,000
	SOUTH CAROLINA		
(N)	ATLANTIC INTRACOASTAL WATERWAY, SC.	2,092,000	2,092,000
(N)	BROOKGREEN GARDEN CANAL, SC.	5,000	5,000
(N)	CHARLESTON HARBOR, SC.	3,615,000	3,615,000
(N)	COOPER RIVER, CHARLESTON HARBOR, SC.	3,574,000	3,574,000
(N)	FOLLY RIVER, SC.	320,000	320,000
(N)	GEORGETOWN HARBOR, SC.	3,070,000	3,070,000
(N)	JEREMY CREEK, SC.	3,000	3,000
(N)	LITTLE RIVER INLET, SC & NC.	111,000	111,000
(N)	MURRELLS INLET, SC.	93,000	93,000
(N)	PORT ROYAL HARBOR, SC.	1,714,000	1,714,000
(N)	SHIPYARD RIVER, SC.	35,000	35,000
(N)	TOWN CREEK, SC.	540,000	540,000
	SOUTH DAKOTA		
(MP)	BIG BEND DAM - LAKE SHARPE, SD.	5,980,000	5,980,000
(FC)	COLD BROOK LAKE, SD.	182,000	182,000
(FC)	COTTONWOOD SPRINGS LAKE, SD.	165,000	165,000
(MP)	FT RANDALL DAM - LAKE FRANCIS CASE, SD.	9,986,000	9,986,000
(FC)	LAKE TRAVERSE, SD & MN.	581,000	581,000
(MP)	OAHE DAM - LAKE OAHE, SD & ND.	9,689,000	9,689,000
	TENNESSEE		
(MP)	CENTER HILL LAKE, TN.	7,533,000	7,618,000
(MP)	CHEATHAM LOCK AND DAM, TN.	4,905,000	4,905,000
(MP)	CORDELL HULL DAM AND RESERVOIR, TN.	4,454,000	4,454,000
(MP)	DALE HOLLOW LAKE, TN.	3,487,000	3,487,000
(MP)	J PERCY PRIEST DAM AND RESERVOIR, TN.	2,640,000	2,695,000
(MP)	OLD HICKORY LOCK AND DAM, TN.	4,920,000	4,920,000
(N)	TENNESSEE RIVER, TN.	13,472,000	13,472,000
(N)	WOLF RIVER HARBOR, TN.	698,000	698,000
	TEXAS		
(FC)	AQUILLA LAKE, TX.	973,000	973,000
(FC)	ARKANSAS - RED RIVER CHLORIDE CONTROL - AREA VIII, TX.	956,000	956,000
(FC)	BARDWELL LAKE, TX.	2,080,000	2,080,000
(FC)	BELTON LAKE, TX.	3,267,000	3,267,000
(FC)	BENBROOK LAKE, TX.	2,459,000	2,459,000
(N)	BRAZOS ISLAND HARBOR, TX.	1,187,000	1,187,000
(FC)	BUFFALO BAYOU AND TRIBUTARIES, TX.	2,182,000	2,182,000
(FC)	CANYON LAKE, TX.	1,378,000	1,378,000
(N)	CHANNEL TO HARLINGEN, TX.	340,000	340,000
(FC)	COOPER LAKE AND CHANNELS, TX.	1,034,000	1,034,000
(N)	CORPUS CHRISTI SHIP CHANNEL, TX.	10,315,000	10,315,000
(MP)	DENISON DAM - LAKE TEXOMA, TX.	6,045,000	6,045,000
(FC)	ESTELLINE SPRINGS EXPERIMENTAL PROJECT, TX.	3,000	3,000
(FC)	FERRELLS BRIDGE DAM - LAKE O'THE PINES, TX.	1,833,000	1,833,000
(N)	FREEPORT HARBOR, TX.	5,458,000	5,458,000
(N)	GALVESTON HARBOR AND CHANNEL, TX.	3,614,000	3,614,000
(N)	GIWW - CHANNEL TO VICTORIA, TX.	1,607,000	1,607,000
(N)	GIWW - CHOCOLATE BAYOU, TX.	1,570,000	1,570,000
(FC)	GRANGER DAM AND LAKE, TX.	1,287,000	1,287,000
(FC)	GRAPEVINE LAKE, TX.	1,947,000	1,947,000
(N)	GREENS BAYOU CHANNEL, TX.	400,000	400,000
(N)	GULF INTRACOASTAL WATERWAY, TX.	13,476,000	13,476,000
(FC)	HORDS CREEK LAKE, TX.	983,000	983,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	HOUSTON SHIP CHANNEL, TX	11,034,000	11,034,000
(FC)	JOE POOL LAKE, TX	1,029,000	1,029,000
(FC)	LAKE KEMP, TX	230,000	230,000
(FC)	LAVON LAKE, TX	2,500,000	2,500,000
(FC)	LEWISVILLE DAM, TX	2,371,000	2,371,000
(N)	MATAGORDA SHIP CHANNEL, TX	3,445,000	3,445,000
(N)	MOUTH OF THE COLORADO RIVER, TX	1,470,000	1,470,000
(FC)	NAVARRO MILLS LAKE, TX	1,219,000	1,219,000
(FC)	NORTH SAN GABRIEL DAM AND LAKE GEORGETOWN, TX	1,187,000	1,187,000
(FC)	O C FISHER DAM AND LAKE, TX	1,473,000	1,473,000
(FC)	PAT MAYSE LAKE, TX	860,000	860,000
(FC)	PROCTOR LAKE, TX	2,287,000	2,287,000
(FC)	RAY ROBERTS LAKE, TX	3,342,000	3,342,000
(N)	SABINE - NECHES WATERWAY, TX	10,045,000	10,045,000
(MP)	SAM RAYBURN DAM AND RESERVOIR, TX	4,326,000	5,326,000
(FC)	SOMERVILLE LAKE, TX	2,692,000	2,692,000
(FC)	STILLHOUSE HOLLOW DAM, TX	1,585,000	1,585,000
(MP)	TOWN BLUFF DAM - B A STEINHAGEN LAKE, TX	1,788,000	1,788,000
(N)	TRINITY RIVER & TRIBUTARIES, TX	1,500,000	1,500,000
(FC)	WACO LAKE, TX	2,599,000	2,599,000
(FC)	WALLISVILLE LAKE, TX	501,000	501,000
(MP)	WHITNEY LAKE, TX	4,278,000	4,278,000
(FC)	WRIGHT PATMAN DAM AND LAKE, TX	2,214,000	2,814,000
	VERMONT		
(FC)	BALL MOUNTAIN LAKE, VT	745,000	745,000
(N)	NARROWS OF LAKE CHAMPLAIN, VT & NY	42,000	42,000
(FC)	NORTH HARTLAND LAKE, VT	509,000	509,000
(FC)	NORTH SPRINGFIELD LAKE, VT	584,000	584,000
(FC)	TOWNSHEND LAKE, VT	753,000	753,000
(FC)	UNION VILLAGE DAM, VT	463,000	463,000
	VIRGINIA		
(N)	APPOMATTOX RIVER, VA	281,000	281,000
(N)	ATLANTIC INTRACOASTAL WATERWAY, VA	3,366,000	3,366,000
(N)	BROAD CREEK, VA	189,000	189,000
(N)	CHANNEL TO NEWPORT NEWS, VA	847,000	847,000
(N)	CHINCOTEAGUE INLET, VA	1,065,000	1,065,000
(FC)	GATHRIGHT DAM AND LAKE MOOMAW, VA	1,725,000	1,725,000
(N)	HAMPTON RDS, NORFOLK & NEWPORT NEWS HBR, VA (DRIFT REM	525,000	525,000
(N)	HOSKINS CREEK, VA	511,000	511,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	JAMES RIVER CHANNEL, VA..........................	1,299,000	1,299,000
(MP)	JOHN H KERR DAM AND RESERVOIR, VA & NC..........................	7,401,000	7,401,000
(FC)	JOHN W FLANNAGAN DAM AND RESERVOIR, VA..........................	1,293,000	1,293,000
(N)	LITTLE WICOMICO RIVER, VA..........................	200,000	200,000
(N)	LYNNHAVEN INLET, VA..........................	778,000	778,000
(N)	MONROE BAY AND CREEK, VA..........................	400,000	400,000
(N)	NANSEMOND RIVER, VA..........................	429,000	429,000
(N)	NORFOLK HARBOR (PREVENTION OF OBSTRUCTIVE DEPOSITS), V	100,000	100,000
(N)	NORFOLK HARBOR AND CHANNELS, VA..........................	7,103,000	7,103,000
(FC)	NORTH FORK OF POUND RIVER LAKE, VA..........................	339,000	339,000
(N)	PAGAN RIVER, VA..........................	400,000	400,000
(MP)	PHILPOTT LAKE, VA..........................	2,233,000	2,233,000
(N)	POTOMAC RIVER AT ALEXANDRIA, VA..........................	75,000	75,000
(N)	POTOMAC RIVER AT MT VERNON, VA..........................	309,000	309,000
(N)	RUDEE INLET, VA..........................	452,000	452,000
(N)	TANGIER CHANNEL, VA..........................	30,000	30,000
(N)	THIMBLE SHOAL CHANNEL, VA..........................	174,000	174,000
(N)	WATERWAY ON THE COAST OF VIRGINIA, VA..........................	1,118,000	1,118,000
(N)	WHITINGS CREEK, MIDDLESEX CO, VA..........................	195,000	195,000
(N)	WILLOUGHBY CHANNEL, VA..........................	155,000	155,000
	WASHINGTON		
(N)	ANACORTES HARBOR, WA..........................	20,000	20,000
(N)	BELLINGHAM HARBOR, WA..........................	28,000	28,000
(MP)	CHIEF JOSEPH DAM, WA..........................	15,437,000	15,437,000
(N)	COLUMBIA RIVER AT BAKER BAY, WA & OR..........................	18,000	18,000
(MP)	COLUMBIA RIVER SYSTEM OPERATION REVIEW, WA, ID, MT & O	640,000	640,000
(N)	EVERETT HARBOR AND SNOHOMISH RIVER, WA..........................	890,000	890,000
(N)	GRAYS HARBOR AND CHEHALIS RIVER, WA..........................	7,529,000	7,529,000
(FC)	HOWARD A HANSON DAM, WA..........................	945,000	945,000
(MP)	ICE HARBOR LOCK AND DAM, WA..........................	7,661,000	7,661,000
(N)	LAKE WASHINGTON SHIP CANAL, WA..........................	5,165,000	5,165,000
(MP)	LITTLE GOOSE LOCK AND DAM, WA..........................	4,617,000	4,617,000
(MP)	LOWER GRANITE LOCK AND DAM, WA..........................	5,668,000	5,668,000
(MP)	LOWER MONUMENTAL LOCK AND DAM, WA..........................	7,181,000	7,181,000
(FC)	MILL CREEK LAKE, VIRGIL B BENNINGTON LAKE, WA..........	563,000	563,000
(FC)	MT ST HELENS, WA..........................	451,000	451,000
(FC)	MUD MOUNTAIN DAM, WA..........................	1,629,000	1,629,000
(N)	PUGET SOUND AND TRIBUTARY WATERS, WA..........................	1,139,000	1,139,000
(N)	SEATTLE HARBOR, WA..........................	584,000	584,000
(FC)	STILLAGUAMISH RIVER, WA..........................	165,000	165,000
(N)	SWINOMISH CHANNEL, WA..........................	392,000	392,000
(FC)	TACOMA, PUYALLUP RIVER, WA..........................	47,000	47,000
(MP)	THE DALLES LOCK AND DAM, WA & OR..........................	11,169,000	11,169,000
(N)	WATERWAY CONNECTING PORT TOWNSEND AND OAK BAY, WA.....	43,000	43,000
(N)	WILLAPA RIVER AND HARBOR, WA..........................	125,000	125,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
	WEST VIRGINIA		
(FC)	BEECH FORK LAKE, WV	935,000	935,000
(FC)	BLUESTONE LAKE, WV	2,643,000	3,643,000
(FC)	BURNSVILLE LAKE, WV	1,421,000	1,421,000
(FC)	EAST LYNN LAKE, WV	946,000	946,000
(N)	ELK RIVER HARBOR, WV	18,000	18,000
(FC)	ELKINS, WV	31,000	31,000
(N)	KANAWHA RIVER LOCKS AND DAMS, WV	11,509,000	11,509,000
(FC)	R D BAILEY LAKE, WV	1,234,000	1,234,000
(FC)	STONEWALL JACKSON LAKE, WV	938,000	938,000
(FC)	SUMMERSVILLE LAKE, WV	1,243,000	1,243,000
(FC)	SUTTON LAKE, WV	2,832,000	2,832,000
(N)	TYGART LAKE, WV	1,370,000	1,370,000
	WISCONSIN		
(N)	ASHLAND HARBOR, WI	265,000	265,000
(N)	BIG SUAMICO HARBOR, WI	184,000	184,000
(N)	CORNUCOPIA HARBOR, WI	207,000	207,000
(FC)	EAU GALLE RIVER LAKE WISCONSIN, WI	477,000	477,000
(N)	FOX RIVER, WI	2,781,000	2,781,000
(N)	GREEN BAY HARBOR, WI	1,833,000	1,833,000
(N)	GREEN BAY HARBOR, WI (DIKE DISPOSAL)	30,000	30,000
(N)	KEWAUNEE HARBOR, WI	290,000	290,000
(FC)	LA FARGE LAKE, WI	70,000	70,000
(N)	MANITOWOC HARBOR, WI	775,000	775,000
(N)	MILWAUKEE HARBOR, WI	2,874,000	2,874,000
(N)	PORT WASHINGTON HARBOR, WI	259,000	259,000
(N)	SAXON HARBOR, WI	132,000	132,000
(N)	SHEBOYGAN HARBOR, WI	793,000	793,000
(N)	STURGEON BAY, WI	326,000	326,000
(N)	TWO RIVERS HARBOR, WI	86,000	86,000
	WYOMING		
(FC)	JACKSON HOLE LEVEES, WY	1,015,000	1,015,000
	MISCELLANEOUS		
	COASTAL INLET RESEARCH PROGRAM	3,500,000	3,500,000
	COST SHARE BEACH DISPOSAL (SECTION 933)	600,000	600,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
	DREDGING RESEARCH PROGRAM	3,487,000	3,487,000
	ENVIRONMENTAL DREDGING (SECTION 312)	---	750,000
	ENVIRONMENTAL REVIEW GUIDE FOR OPERATIONS (ERGO)	4,000,000	4,000,000
	INSPECTION OF COMPLETED WORKS	6,889,000	6,889,000
	MONITORING OF COMPLETED COASTAL PROJECTS	2,100,000	2,100,000
	NATIONAL DAM SAFETY PROGRAM	20,000	20,000
	NATIONAL EMERGENCY PREPAREDNESS PROGRAM (NEPP)	7,000,000	7,000,000
	NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION	3,931,000	3,931,000
	PROJECT CONDITION SURVEYS	10,709,000	10,709,000
	PROTECTION, CLEARING, AND STRAIGHTENING OF CHANNELS	50,000	50,000
	REAL TIME WATER CONTROL RESEARCH PROGRAM	675,000	675,000
	RECREATION PARTNERSHIP INITIATIVES (RPI)	400,000	400,000
	REMOVAL OF SUNKEN VESSELS	1,000,000	1,000,000
	REPAIR, EVALUATION, MAINTENANCE & REHAB RESEARCH	6,000,000	6,000,000
	RIVER CONFLUENCE ICE RESEARCH	650,000	650,000
	SCHEDULING RESERVOIR OPERATIONS	3,200,000	3,200,000
	SURVEILLANCE OF NORTHERN BOUNDARY WATERS	3,764,000	3,764,000
	WATERBORNE COMMERCE STATISTICS	4,310,000	4,310,000
	WETLANDS MITIGATION BANKING DEMONSTRATION STUDY	335,000	335,000
	WETLANDS RESEARCH PROGRAM	5,283,000	5,283,000
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-25,487,000	-35,480,000
	TOTAL, OPERATION AND MAINTENANCE	1,657,700,000	1,688,990,000

TYPE OF PROJECT:
(N) NAVIGATION
(BE) BEACH EROSION CONTROL
(FC) FLOOD CONTROL
(MP) MULTIPURPOSE, INCLUDING POWER

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

Amendment No. 18: Appropriates $24,770,000 to carry out the provisions of the Central Utah Project Completion Act as proposed by the Senate instead of $25,770,000 as proposed by the House.

Amendment No. 19: Provides that $14,920,000 of the funds appropriated to carry out the provisions of the Central Utah Project Completion Act shall be available to carry out the activities authorized under title II of the Act as proposed by the Senate instead of $15,920,000 as provided by the House.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds appropriated to carry out the provisions of the Central Utah Project Completion Act shall be available for feasibility studies of alternatives to the Uintah and Upalco Units.

Amendment No. 21: Deletes House language stricken by the Senate which provides that $500,000 of the funds available for activities authorized under title II of the Central Utah Project Completion Act shall be available for expenses incurred by the Secretary of the Interior in carrying out his responsibilities under the Act.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that appropriates $1,000,000 for expenses incurred by the Secretary of the Interior in carrying out his responsibilities under the Central Utah Project Completion Act.

BUREAU OF RECLAMATION

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs and activities of the Bureau of Reclamation. Additional items of conference agreement are discussed below.

GENERAL INVESTIGATIONS

Amendment No. 23: Appropriates $13,819,000 for General Investigations instead of $13,109,000 as proposed by the House and $14,409,000 as proposed by the Senate.

The conference agreement includes $1,000,000 for the Bureau of Reclamation to undertake studies and other activities to identify opportunities for water reclamation and reuse instead of $2,000,000 as proposed by the Senate. Such activities include the San Francisco, California, Area Water Reclamation study authorized by section 1611 of Public Law 102-575 and final engineering and site preparation for the project proposed by Escondido for the Rincon Del Diablo and Olivenhain Municipal Water Districts in the San Diego, California, area.

CONSTRUCTION PROGRAM

Amendment No. 24: Appropriates $464,423,000 for Construction Program as proposed by the House instead of $460,898,000 as proposed by the Senate.

The conferees have provided $125,000 to establish a Sacramento River Information Center pursuant to section 3406(b)(16) and section 3407(e) of Public Law 102-575. Such center shall operate through a non-profit organization, under terms and conditions identified by the Bureau of Reclamation. The conferees encourage the center to support educational activities, including those targeted toward the school systems and the public at large, to promote a better understanding of the Central Valley aquatic systems and resources.

The conferees have provided $2,750,000 to help resolve the fishery problems associated with the Glenn-Colusa Irrigation District's Hamilton City Pumping Plant, $750,000 of which is intended to reimburse the District for extraordinary expenditures undertaken in fiscal year 1993, with the approval of all concerned Federal and State agencies, to make emergency, interim retrofits to the District's existing fish screen.

The conference agreement includes $5,000,000 for the San Gabriel Basin Demonstration, California, project authorized by section 1614 of Public Law 102-575 as proposed by the House instead of $1,000,000 as proposed by the Senate. This project and its peripheral components will assist Southern California in meeting its long-term water needs using local water resources which are presently contaminated but can be reclaimed through conjunctive use and treatment. This cost-shared project will produce 30,000,000 gallons per day of potable water. The conferees recognize the importance of such projects in meeting the goals of Public Law 102-575 regarding water quality and utilization of the basin as a water storage facility.

In lieu of the language contained in the House and Senate reports regarding the Garrison Diversion Unit, North Dakota, project, the conferees agree that the funds appropriated are to carry out activities authorized by the Garrison Diversion Reformation Act of 1986, Public Law 99-294.

The conferees agree not to take a position on the acquisition of the Lincoln Ranch in Arizona at this time. If, in the future, acquisition of the Ranch proves feasible, due consideration will be given to the project.

OPERATION AND MAINTENANCE

The conferees direct that none of the funds appropriated for Operation and Maintenance may be used for the Western Water Policy Review. Funds to carry out the Western Water Policy Review have been provided under General Administrative Expenses.

The conference agreement includes up to $2,000,000 for the Bureau of Reclamation to undertake repairs to the Corning Canal, Thomes Creek Siphon in California. The conferees are concerned, however, that state and local interests have not taken sufficient precautions to prevent streambed degradation impacting the siphon crossings. Therefore, to prevent future damages, the Bureau is directed to work with state and local interests to develop a plan to prevent a recurrence of the erosion problem jeopardizing the siphon operation and to inform the Committees on Appropriations of the House and Senate, within six months of the date of enactment of this Act, of the progress on developing such a plan. Any further repairs caused by streambed degradation attributable to gravel mining operations on Thomes Creek shall be a non-Federal responsibility. This is not intended to preclude Bureau participation in a long-term solution to the problem.

BUREAU OF RECLAMATION LOANS PROGRAM ACCOUNT

Amendment No. 25: Appropriates $12,900,000 for the Bureau of Reclamation Loans Program, excluding administrative expenses, as proposed by the Senate instead of $11,563,000 as proposed by the House. The conference agreement also provides $600,000 for administrative expenses of Loan Program as proposed by the House and the Senate.

Amendment No. 26: Provides a loan obligation ceiling of $21,000,000 as proposed by the Senate instead of $18,726,000 as proposed by the House.

GENERAL ADMINISTRATIVE EXPENSES

The amount provided for General Administrative Expenses includes $2,000,000 for the Bureau of Reclamation to initiate the Western Water Policy Review authorized in title 30 of Public Law 102-575.

GENERAL PROVISIONS

Amendment No. 27: Deletes language proposed by the Senate which amends the Northern Cheyenne Indian Reserve Water Rights Settlement Act of 1992.

BUREAU OF RECLAMATION

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
GENERAL INVESTIGATIONS		
ARIZONA		
UPPER SAN PEDRO RIVER OPTIMIZATION STUDY..........	80,000	80,000
TUCSON/PHOENIX WATER CONSERVATION AND EXCHANGE STUDY..	300,000	300,000
CALIFORNIA		
AMERICAN RIVER FOLSOM SOUTH OPTIMIZATION STUDY........	65,000	65,000
DELTA WATER MANAGEMENT..............................	---	50,000
OFFSTREAM STORAGE INVESTIGATION......................	---	20,000
SACRAMENTO VALLEY RICELANDS/WETLANDS CONJUNC. USE STUD	500,000	500,000
SALTON SEA RESEARCH PROJECT..........................	---	100,000
SAN JOAQUIN VALLEY CONVEYANCE........................	---	10,000
SOUTHERN CALIFORNIA COMPREHENSIVE WATER..............	200,000	200,000
PUTAH CREEK FLOW OPTIMIZATION INVESTIGATION..........	50,000	50,000
COLORADO		
GRAND VALLEY PROJECT WATER CONSERVATION STUDY	50,000	50,000
UPPER ARKANSAS RIVER BASIN WATER QUALITY INVEST.......	125,000	125,000
YAMPA RIVER WATER SUPPLY STUDY	100,000	100,000
IDAHO		
IDAHO RIVER SYSTEMS MANAGEMENT.......................	175,000	175,000
MONTANA		
FORT PECK INDIAN RESERVATION.........................	---	200,000
MUSSELSHELL RIVER WATER MANAGEMENT PLAN..............	80,000	80,000
WESTERN MONTANA WATER CONSERVATION STUDY..............	150,000	150,000
NEW MEXICO		
MIDDLE RIO GRANDE ASSESSMENT/MGMT STUDY..............	150,000	150,000
PECOS RIVER BASIN FISH AND WILDLIFE..................	100,000	100,000
RIO PUERCO WATERSHED SEDIMENTATION & WATER QUALITY STU	50,000	50,000
SAN JUAN RIVER - GALLUP WATER SUPPLY STUDY............	---	500,000
NEBRASKA		
PICK SLOAN MISSOURI BASIN PROGRAM, PRAIRIE BEND UNIT...	---	75,000
OREGON		
CARLTON LAKE RESTORATION............................	100,000	100,000
GRANDE RONDE WATER OPTIMIZATION STUDY................	55,000	55,000
JOSEPHINE COUNTY WATER MGMT IMPROVEMENT STUDY.........	90,000	90,000
NORTHWEST OREGON REGIONAL WATER SUPPLY STUDY	100,000	100,000
OREGON STREAM RESTORATION PLANNING STUDY..............	200,000	200,000
OREGON SUBBASIN CONSERVATION PLANNING.................	200,000	200,000
OWYHEE PROJECT STORAGE OPTIMIZATION STUDY.............	200,000	200,000
UPPER DESCHUTES RIV BASIN WATER CONSERVATION PROJ.....	120,000	320,000
SOUTH DAKOTA		
BLACK HILLS REGIONAL WATER MANAGEMENT STUDY............	100,000	100,000
LEWIS AND CLARK RURAL WATER SYSTEM....................	---	50,000
TEXAS		
EDWARDS ACQUIFER REG. WATER RESOURCES & MGMT STUDY....	175,000	175,000
LOWER RIO GRANDE BASIN STUDY.........................	190,000	190,000
RINCON BAYOU-NUECES MARSH WETLANDS....................	175,000	175,000
UTAH		
UTAH LAKE WATER MANAGEMENT STUDY......................	150,000	150,000
WEBER BASIN WATER QUALITY/WATERSHED...................	150,000	150,000

BUREAU OF RECLAMATION

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
WYOMING		
WIND RIVER BASIN STUDY	88,000	88,000
VARIOUS		
BEAR RIVER INTRESTATE WATER SUPPLY STUDY	75,000	75,000
BEAR RIVER BASIN WATER QUALITY/WATERSHED	150,000	150,000
COLORADO RIVER WATER QUALITY IMPROVEMENT PROGRAM	1,200,000	1,200,000
ENVIRONMENTAL & INTERAGENCY COORDINATION ACTIVITIES	3,234,000	3,234,000
FISH & WILDLIFE HABITAT PRESERVATION & ENHANCEMENT	50,000	50,000
GENERAL PLANNING STUDIES	900,000	900,000
INVESTIGATION OF EXISTING PROJECTS	455,000	455,000
LOWER COLORADO RIVER REGULATORY STORAGE STUDY	150,000	150,000
MINOR WORK ON COMPLETED INVESTIGATIONS	236,000	236,000
MISSOURI RIVER BASIN WATER RESOURCE MGMT PLANS	150,000	150,000
TECHNICAL ASSISTANCE TO STATES	1,346,000	1,346,000
UPPER SNAKE RIVER BASIN SALMON MIGRATION WATER STUDY	200,000	200,000
UPPER SNAKE RIVER BASIN STORAGE OPTIMIZATION	200,000	200,000
WEST TEXAS/SOUTHERN NEW MEXICO WATER RESOURCE INVEST	100,000	100,000
RECLAMATION WASTE WATER STUDIES	---	1,000,000
REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGES	---	-1,100,000
TOTAL, GENERAL INVESTIGATIONS	12,714,000	13,819,000

CONSTRUCTION PROGRAM

CONSTRUCTION AND REHABILITATION AND COLORADO RIVER BASIN SALINITY CONTROL PROJECTS

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
ARIZONA		
INDIAN WATER RIGHTS SETTLEMENT PROJECTS	3,023,000	3,023,000
TRES RIOS WETLANDS DEMONSTRATION	---	500,000
CALIFORNIA		
CENTRAL VALLEY PROJECT:		
AUBURN-FOLSOM SOUTH UNIT	1,825,000	1,825,000
MISCELLANEOUS PROJECT PROGRAMS	16,015,000	20,190,000
SACRAMENTO RIVER DIVISION	4,814,000	4,814,000
SAN LUIS UINT	50,000	50,000
TRINITY RIVER RESTORATION PROGRAM	3,535,000	3,535,000
LOS ANGELES AREA WATER RECLAMATION & REUSE PROJECTS	---	5,250,000
SAN GABRIEL BASIN DEMONSTRATION	---	5,000,000
COLORADO		
GRAND VALLEY UNIT, TITLE II, CRBSCP	15,444,000	15,444,000
LOWER GUNNISON BASIN UNIT, TITLE II, CRBSCP	4,193,000	4,193,000
PARADOX VALLEY UNIT, TITLE II, CRBSCP	3,958,000	3,958,000
MONTANA		
HUNGRY HORSE DAM	---	3,500,000
NEBRASKA		
NORTH LOUP DIVISION, P-SMBP	5,928,000	5,928,000
NEVADA		
NEWLANDS PROJECT	---	100,000
NORTH DAKOTA		
GARRISON DIVERSION UNIT, P-SMBP	30,000,000	32,000,000
OREGON		
UMATILLA BASIN PROJECT	6,300,000	9,900,000

BUREAU OF RECLAMATION

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
SOUTH DAKOTA		
BELLE FOURCHE UNIT, P-SMBP	7,310,000	7,310,000
MNI WICONI PROJECT	3,000,000	10,000,000
MID DAKOTA PROJECT	---	2,000,000
TEXAS		
LAKE MEREDITH SALINITY CONTROL PROJECT, TX & OK	---	1,400,000
WASHINGTON		
COLUMBIA BASIN PROJECT:		
IRRIGATION FACILITIES	4,000,000	4,800,000
VARIOUS		
BOULDER CANYON PROJECT, AZ-NV	4,754,000	4,754,000
COLORADO RIVER BASIN SALINITY CONTROL PROJ., TITLE I	8,257,000	8,257,000
SUBTOTAL, REGULAR CONSTRUCTION	122,406,000	157,731,000
DRAINAGE AND MINOR CONSTRUCTION:		
BOISE PROJECT, PAYETTE DIVISION, IDAHO	2,395,000	2,395,000
BRANTLEY PROJECT, NEW MEXICO	2,092,000	2,092,000
COLORADO RIVER FRONT WORK & LEVEE SYSTEM, AR, CO	1,250,000	1,250,000
COLUMBIA & SNAKE RIVER SALMON RECOVERY PROJECT	2,000,000	2,000,000
CULTURAL RESOURCES ACT., ID,ND,MT,OR,SE,WA,WY	62,000	62,000
FRYINGAN-ARKANSAS PROJECT, COLORADO	400,000	400,000
HEADGATE ROCK HYDROELECTRIC PROJECT, AZ, CA	51,000	51,000
KLAMATH PROJECT, OREGON-CALIFORNIA	2,442,000	2,442,000
MC GEE CREEK PROJECT, OKLAHOMA	100,000	100,000
MINIDOKA PROJECT, IDAHO	315,000	315,000
MOUNTAIN PARK PROJECT, OKLAHOMA	500,000	500,000
NEWLANDS PROJECT, NEVADA	2,379,000	2,379,000
NUECES RIVER PROJECT, TEXAS	700,000	700,000
PALMETTO BEND PROJECT, TEXAS	100,000	100,000
PICK-SLOAN MISSOURI BASIN PROGRAM:		
BOSTWICK DIVISION, NEBRASKA	230,000	1,230,000
EAST BENCH UNIT, MONTANA	50,000	50,000
FARWELL UNIT, NEBRASKA	560,000	560,000
OAHE UNIT, SOUTH DAKOTA	96,000	96,000
OWL CREEK UNIT, WYOMING	15,000	15,000
RECLAMATION RECREATION MANAGMENT ACT - TITLE 28	2,000,000	2,000,000
RECREATION FACILITIES AT EXISTING RESV, VARIOUS	151,000	151,000
SAN LUIS VALLEY PROJECT, CLOSED BASIN DIVISION	390,000	390,000
TUALATIN PROJECT, OREGON	---	450,000
WETLANDS DEVELOPMENT, VARIOUS	1,800,000	1,800,000
YAKIMA FISH PASSAGE/PROTECTIVE FACILITIES, WA	725,000	725,000
SUBTOTAL, DRAINAGE ADN MINOR CONSTRUCTION	20,803,000	22,253,000
SAFETY OF DAMS PROGRAMS:		
BITTER ROOT PROJECT, COMO DAM, MONTANA	500,000	500,000
BOISE PROJECT, DEER FLAT DAM, IDAHO	4,000,000	4,000,000
CENTRAL UTAH PROJECT, VERNAL UNIT, STEINAKER DAM, UT	1,099,000	1,099,000
DEPARTMENT OF INTERIOR DAM SAFETY PROGRAM	650,000	650,000
HYRUM PROJECT, UTAH	341,000	341,000
ITITIATE SOD CORRECTION ACTION, VARIOUS	18,136,000	18,136,000
MODIFICATION REPORTS & PRECONSTRUCTION ACTIVITY	2,500,000	2,500,000
SALT RIVER PROJECT, BARTLETT DAM, ARIZONA	12,897,000	12,897,000
SALT RIVER PROJECT, HORSESHOE DAM, ARIZONA	14,234,000	14,234,000
SALT RIVER PROJECT, STEWART MTN. DAM, ARIZONA	227,000	227,000
SAN CARLOS IRRIGATION - COOLIDGE DAM, ARIZONA	7,903,000	7,903,000
SUBTOTAL, SAFETY OF DAMS	62,487,000	62,487,000
REHABILITATION AND BETTERMENT:		
MILK RIVER, GLASGOW DIVISION, MT	410,000	410,000
OGDEN RIVER PROJECT, UTAH	1,935,000	1,935,000
SHOSHONE PROJECT	1,100,000	1,300,000
WEBER BASIN PROJECT, UTAH	3,613,000	3,613,000
SUBTOTAL, REHABILITATION AND BETTERMENT	7,058,000	7,258,000

BUREAU OF RECLAMATION

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
SCIENCE AND TECHNOLOGY:		
DESALTING TECHNOLOGY	1,000,000	1,000,000
GLOBAL CLIMATE CHANGE	1,012,000	1,012,000
GROUNDWATER RECHARGE DEMONSTRATION PROGRAM	4,470,000	4,470,000
WATER TECHNOLOGY/ENVIRONMENTAL RESEARCH	4,335,000	4,335,000
SUBTOTAL, SCIENCE AND TECHNOLOGY	10,817,000	10,817,000
TOTAL, CONSTRUCTION AND REHABILITATION AND COLORADO RIVER BASIN SALINITY CONTROL PROJECTS	223,571,000	260,546,000
COLORADO RIVER STORAGE PROJECT		
UPPER COLORADO RIVER BASIN FUND AND PARTICIPATING PROJECTS		
COLORADO		
ANIMAS-LA PLATA PROJECT	7,000,000	7,000,000
DOLORES PROJECT	20,335,000	20,335,000
UTAH		
CENTRAL UTAH PROJECT, BONNEVILLE UNIT	18,857,000	18,857,000
CENTRAL UTAH PROJECT, UINTAH UNIT	25,000	25,000
DRAINAGE & MINOR CONSTRUCTION:		
PARTICIPATING PROJECTS:		
DALLAS CREEK PROJECT	290,000	290,000
RECREATIONAL AND FISH AND WILDLIFE FACILITIES:		
RECREATIONAL FACILITIES	12,490,000	12,490,000
FISH AND WILDLIFE FACILITIES	3,751,000	3,751,000
TOTAL, COLORADO RIVER STORAGE PROJECT	62,748,000	62,748,000
COLORADO RIVER BASIN PROJECT		
CENTRAL ARIZONA PROJECT		
ARIZONA		
CENTRAL ARIZONA PROJECT, WATER DEVELOPMENT (LCRBDF)	160,470,000	160,470,000
CENTRAL ARIZONA PROJECT, NON-INDIAN DIST. SYSTEMS	120,000	120,000
CENTRAL ARIZONA PROJECT, SAFETY OF DAMS	18,178,000	18,178,000
TOTAL, COLORADO RIVER BASIN PROJECT	178,768,000	178,768,000
ASSOCIATED ITEMS		
UNDISTRIBUTED REDUCTION BASED ON ANTICIPATED DELAYS	-33,239,000	-37,639,000
TOTAL, CONSTRUCTION PROGRAM	431,848,000	464,423,000
LOAN PROGRAM		
EASTERN MUNICIPAL CALIFORNIA WATER DISTRICT NO. 3	3,800,000	3,800,000
FORT MCDOWELL INDIAN TRIBE	1,400,000	9,100,000
LOAN ADMINISTRATION	600,000	600,000
TOTAL, LOAN PROGRAM	5,800,000	13,500,000

TITLE III

DEPARTMENT OF ENERGY

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs and activities of the Department of Energy. Additional items of conference agreement are discussed below.

APPLICATION OF GENERAL REDUCTIONS

With regard to any general reductions contained in the Fiscal Year 1994 Energy and Water Development Appropriations Act, with the exception of activities specifically addressed by the Committees, the conferees recommend that the Department of Energy apply those reductions in the most prudent and practical manner. Any such reduction should be taken in a manner that is cost effective and generally least disruptive to the Department's missions and programs. The Department continues to maintain significant amounts of prior year uncosted balances, particularly in capital equipment and construction project accounts. In applying any general reductions, the Department should seek to reduce these balances as much as possible. Furthermore, the Department shall consult with and make their plans for these reductions available to the House and Senate Energy and Water Development Appropriations Subcommittees prior to implementing the reductions.

GENERAL PLANT PROJECTS

In recent years, general plant projects authorized under Department of Defense authorization acts have been subject to statutory funding limits on the cost of individual projects, while similar projects for civilian programs of the Department have not. The Secretary should develop guidelines using the flexibility provided to the civilian programs and the direction provided in enacted authorization acts. The Secretary should establish coordinated management guidelines and funding limits for Departmentwide application which achieves maximum programmatic efficiency and effectiveness. These revised guidelines should be submitted to the House and Senate Energy and Water Development Appropriations Subcommittees prior to the submission of the fiscal year 1995 budget.

MINORITY EDUCATION OPPORTUNITIES

There are currently over 440,000 Hispanic students attending 125 Hispanic-serving institutions in 15 states and Puerto Rico. These colleges and universities include some of the premier research and development facilities in the world, as well as many other excellent two- and four-year institutions. These colleges and universities are poised to make an increasingly important contribution to Department of Energy research projects and programs, particularly as the DOE plans to increase its predesignated research, development, and education funds for many minority institutions, including historically black colleges and universities.

The conferees applaud the Department of Energy's efforts to enhance the education opportunities for minority students in the areas of science and technology. The conferees strongly encourage the Department to include Hispanic-serving institutions to participate in any current or future plans to increase its predesignated or targeted research, development, and education funds.

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

Amendment No. 28: Appropriates $3,223,910,000 for Energy Supply, Research and Development Activities instead of $3,167,634,000 as proposed by the House and $3,249,286,000 as proposed by the Senate, deletes language proposed by the Senate restricting the funding for the gas turbine-modular helium reactor, and deletes language proposed by the House funding hydrogen research and development.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that makes funds available by transfer from the Geothermal Resources Development Fund.

SOLAR AND RENEWABLE ENERGY PROGRAMS

The conferees agree that the solar program is funded at $252,349,000 as indicated in the tables and the programs are to be funded at the highest level described in either the House or Senate reports, except for the reductions described in the Senate report.

Biofuels Energy Systems.—The Department is urged to pursue the planning of a biomass plant using switchgrass and rice straw and to submit a plan on the feasibility of such plant to the Committees on Appropriations of the House and Senate prior to the submission of the fiscal year 1995 budget.

The conference agreement includes funds to continue ongoing research and development activities and also provides that a portion of the increase in this program for fiscal year 1994 be directed toward cost-shared validation of direct-combustion biomass technologies, including gasification technologies, injected turbines, whole tree energy, and other advanced combustion biomass technologies with a more industry-driven focus.

Indian Energy Resources.—The conferees recommend an appropriation of $5,000,000 to fund and implement Indian energy resource programs in accordance with the provisions of sections 2603 and 2606 of the Energy Policy Act of 1992 to be administered by the Office of Technical and Financial Assistance in the energy efficiency and renewable energy organization. The conferees intend that, in allocating the funds appropriated, the Department should give priority to a mature project in which an Indian tribe has already made a substantial investment and with which the Department is already working cooperatively. In this regard, the conference is aware of the proposed Navajo transmission project in conjunction with the Western Area Power Administration and directs the Department to give every consideration to this project in allocating the funds appropriated. The conferees expect the Department to move expeditiously in allocating these funds.

HYDROGEN RESEARCH

The conference recommendation establishes a new line for hydrogen research. Hydrogen, as a transportation fuel available from domestic sources, has the potential to play an important role in the energy security of the United States, as well as having important environmental benefits. The laboratories of the Department of Energy have extensive experience in the production, storage, transport, and safe utilization of hydrogen. Funding at the level of $10,000,000 is provided for the Department to accelerate its hydrogen research program through a strategy of adopting available technologies and fossil sources in the short term to build experience and infrastructure for the longer term. Development of more advanced techniques, such as fuel cells and hydrogen generation using renewable energy, should be continued, and these techniques should be phased in as they become technically and economically competitive.

Development of the transportation or power end-use technologies such as fuel cells or engines, which are applications funded in other accounts (fossil energy research and development and energy conservation), should not be funded as part of hydrogen research.

SUPERCONDUCTING MAGNETIC ENERGY STORAGE

The conferees recommend $10,000,000 for a research program directed at the development of a superconducting magnetic energy storage (SMES) system. SMES, a state-of-the-art method of storing electrical energy in superconducting coils, offers the ability to discharge electricity as needed with 95 percent efficiency. Utilities using SMES could store excess nighttime production in the system and then withdraw that energy during the peak period of the day. It can also be used for spinning reserve, emergency power, transmission stability, and grid regulation. The conferees believe that the SMES system is an important energy storage technology that also is environmentally beneficial.

The conferees recognize that the superconducting magnetic energy storage program has been under development by the Department of Defense, and in order to minimize costs and to expedite progress in the development of civilian applications, the Department should, to the extent practicable, utilize developed technology.

NUCLEAR ENERGY PROGRAMS

The conferees recommend $12,000,000 to continue the development of the passively safe Gas Turbine-Modular Helium Reactor as proposed by the House and $30,400,000 for the Advanced Liquid Metal Reactor/Integral Fast Reactor (ALMR/IFR) program as proposed by the Senate.

The conferees provide the full budget request of $109,300,000 for facilities/termination. In lieu of the original budget proposal, the funds recommended are for an alternative program where the EBR–II reactor is operated through fiscal year 1996, with shutdown activities for the facility conducted in parallel with reactor operation. The funds for the termination of the MHTGR and the ALMR design are to be used to continue the program in fiscal year 1994.

ENVIRONMENT, SAFETY AND HEALTH

The conference provides the fiscal year 1993 level of $158,070,000. The reduction from the budget request should be applied to the significant increase in studies performed under this budget category.

BIOLOGICAL AND ENVIRONMENTAL RESEARCH

The conference provides $1,000,000 to conduct research and develop the technology for commercial exploitation in the disposal of infectious hospital waste through electron beam sterilization at a medical research center with proven experience with this technology as proposed by the House.

The conference agreement provides $5,800,000 for the Medical University of South Carolina's Cancer/Oncology Center. This appropriation will enhance the Center's research in the areas of human molecular genetics, biological risk assessment and innovative treatments in conjunction with the Department of Energy sponsored Environmental Hazards Assessment Program and the MUSC Molecular and Structural Biology Program. These funds will support the establishment of a tumor bank to store and archive various cancers as well as further the development of radiosurgical approaches to tumors with environmental causation.

The conferees direct the Department of Energy to maintain the current location of the national office and the co-located western regional office of the National Institute for Global Environmental Change. The conferees are concerned that the position of national director for the NIGEC Program has been vacant for over one year, and that the University of California has not completed the process of recruiting a scientist of international stature to head the program. The Secretary of Energy is requested to work with the president of the University of California to expedite the selection of a highly qualified national director.

The conferees have provided $4,000,000 for the Environmental Biotechnology program at Florida A&M University to support research including support for principal investigators and research assistants at the graduate and undergraduate levels. This program, in addition to performing vitally needed research, will serve to increase the participation of minorities in this area of scientific endeavor.

The conferees are very supportive of the Department's Boron Neutron Capture Therapy (BNCT) Program and fully support the budget request of $8,744,000. The conferees believe considerable progress has been made through support and funding for BNCT. The conferees are encouraged with the interest of a number of academic health centers and universities which have formed a BNCT-university consortium to advance treatment of brain tumors to patients in the United States. The conferees are aware and encourage the BNCT-university consortium interest, in conjunction with the National Cancer Institute, to involve national and international experts in the assessment of BNCT and the development of a strategic plan to further advance the treatment of brain tumors. To the extent available, the Department should use unobligated balances of up to $2,000,000 to support this university consortium.

The conference agreement provides $4,600,000 for the Biomedical Information Communication Center (BICC) at Oregon Health Sciences University to conduct research and develop a model for a statewide, high-speed information, education and data gathering network which will allow health care information, services and education to be delivered electronically. BICC is building a database for electronically encoding and storing elements of the medical record for the lifetime of a patient, the "lifetime clinical record". This database will be used to evaluate outcomes, and represents a way to track the efficacy and effect of medical treatments. Such databases, collected on large populations over long periods of time, hold the promise of answering questions that have never been answered about the long-term effects of low-level exposure to potential environmental hazards such as radiation or electromagnetic fields (EMF).

The conferees do not include funds for an international study of greenhouse gases to be conducted by the State of Illinois.

MAGNETIC FUSION

The conferees provide $347,595,000 for the magnetic fusion energy program.

The conferees note with approval that the international thermonuclear experimental reactor (ITER) engineering design activity phase of the program has commenced. The conferees direct the Department of Energy to focus the Department's magnetic fusion energy program on national program elements that further the design, construction, and operation of the international thermonuclear experimental reactor and a future fusion demonstration reactor.

The Department is directed to set priorities for the domestic fusion program identifying those elements that contribute directly to the development of ITER or to the development of a fusion demonstration reactor. The Department will provide a plan that describes the selection process for the proposed site within the United States for ITER, the necessary steps that will lead to the final selection of a host site for ITER by the countries involved in the ITER program, and the schedule and critical path including milestones and budget that will be necessary to allow for the design, construction, and operation of ITER by 2005. Of the available funds, $64,000,000 is included for ITER design and R&D. Within available funds, $2,000,000 is provided to begin the evaluation and selection of a U.S. host site for ITER.

The deuterium-tritium experiments that will be conducted on the Tokamak Fusion Test Reactor (TFTR), located at the Princeton Plasma Physics Laboratory (PPPL), are to have the highest priority within the U.S. fusion energy program during fiscal year 1994.

In support of ITER design and R&D tasks, and further development of a fusion demonstration reactor, $20,000,000 is included for design work on the Tokamak Physics Experiment (TPX). The successful operation of both TPX and ITER is necessary for the development of an attractive fusion demonstration reactor. The TPX facility will be a national facility that takes advantage of the site credits at PPPL. The Department is directed to ensure that U.S. industry is fully involved in the design of TPX. Thus, it is the intent of the conferees for the TPX project to proceed with design activity including industrial participation in the engineering design and R&D. The Department should utilize standard, phased, industrial contracts for these design activities with options for construction that would permit continuity and would allow the project, if it should be approved in the future, to be completed in the most efficient and cost-effective manner.

The Department is directed to proceed with the upgrade of the DIII-D Tokamak facility including increasing operating time to expedite the formulation of design solutions for TPX and ITER.

The conferees direct the Department to begin an aggressive low activation fusion materials program with the goal of developing and characterizing low activation materials that could be tested in ITER and utilized in a future demonstration power reactor.

The conferees agree with the House report language providing a $500,000 increase, within available funds, for inertial fusion energy, and strongly urge the Department to maintain a viable inertial fusion energy program and move forward with a timely decision on the Inertial Linac Systems Experiment that would allow, if a favorable decision is rendered, construction to begin in fiscal year 1995.

SUPPORTING RESEARCH AND TECHNICAL ANALYSIS

The conferees support the continuation of the Advanced Neutron Source and the conference agreement provides $17,000,000 for the project. This is the amount needed for the continuation of essential research and development, reactor safety and regulatory compliance tasks. This will include work on the draft Environmental Impact Statement, completion of advanced conceptual design studies and updates to the appropriate baseline documentation, and applicable activities to position the project to proceed. The conferees expect a construction start next year upon accomplishment of this required work.

The conferees recommend $3,000,000 for the Midwest Superconductivity Consortium as proposed by the House and the $700,000 for a feasibility study to determine options for projects or programs to facilitate the adoption and long-term development of energy efficiency and renewable energy on Indian Reservations as proposed by the House.

The conferees are aware of the University of Nebraska's superconductivity research and urge the members of the Midwest Superconductivity Consortium to consider the inclusion of the institute.

The conferees recommend $7,000,000 for the DOE Experimental Program to Stimulate Competitive Research (DOE-EPSCoR) as recommended by the Senate.

The conferees are supportive of the work done at Florida State University's Super Computations Research Institute. The Department of Energy is urged to fully utilize the facility and give consideration toward providing assistance in updating and expanding the Institute's capabilities. Accordingly, from within available funds, the conferees' recommendation includes $8,300,000 to continue the Super Computations Research Institute.

The conferees do not include funds for the House provisions relating to the Dade County public schools, and the provision relating to the Queens Hall of Science Discovery Laboratory.

ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

(NON-DEFENSE)

The conferees have included funds to continue the Maywood site and Wayne site cleanup contained in the DOE Formerly Utilized Sites Remedial Action Program (FUSRAP). This will continue the removal of contaminated materials in interim storage at Maywood and Wayne, New Jersey.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that appropriates $177,092,000 instead of $160,000,000 as proposed by the House and specifies specific funding and revenue sources for the Uranium Supply and Enrichment Activities.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the anticipated unobligated balances should be estimated rather than prescribed.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that specifies the amount of funds to be expended for uranium and thorium decontamination required by the Energy Policy Act of 1982.

In lieu of the Senate report language concerning the appropriation of funds for the initial reimbursements of claims made by active uranium and thorium mill site licensees for remediation expenses under title X, subtitle A of the Energy Policy Act of 1992 (Public Law 102-486), the conferees are in agreement that the Department is to carry out the program and use the funds in a fair and equitable manner consistent with Public Law 102-486.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$975,114,000, to remain available until expended, and, in addition, $640,000,000, to remain available until expended, to be used only to orderly terminate the Superconducting Super Collider (SSC) project under terms and conditions as follows:*

(1) to the extent provided by guidelines of the Secretary of Energy, full-time employees of contractors and designated subcontractors whose employment is terminated by reason of the termination of the SSC may receive (A) up to 90 days termination pay dating from the date of termination notice, and (B) reasonable relocation expenses and assistance;

(2) the Secretary of Energy shall prepare and submit a report with recommendations to the President and the Congress containing:

(a) a plan to maximize the value of the investment that has been made in the project and minimizing the loss to the United States and involved states and persons, including recommendations as to the feasibility of utilizing SSC assets in whole or in part in pursuit of an international high energy physics endeavor;

(b) the Secretary is authorized to consult with and use Universities Research Association and/or other contractors and/or recognized experts in preparing this report and recommendations and is authorized to contract with such parties as may be appropriate in carrying out such duties; and

(c) the Secretary shall release any recommendations from time to time as available, but the final report shall be submitted by July 1, 1994; and

(3) nothing herein or any action taken under this authority shall be construed to change the Memorandum of Understanding between the Secretary of Energy and the State of Texas dated November 9, 1990, regarding the project

, and on page 21, line 17, of the House engrossed bill (H.R. 2445) strike all after "$1,194,114,000" down to and including "expended" on line 18.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Appropriates $975,114,000 for General Science and Research Activities and, in addition, $640,000,000 for the Superconducting Super Collider termination instead of $1,194,114,000 as proposed by the House and $1,615,114,000 as proposed by the Senate.

The Secretary shall also submit to the President and the Congress a report and recommendations concerning plans for other large science projects within the jurisdiction of the Department of Energy.

This report shall include recommendations as to whether high energy physics and other large research projects and programs should continue to be pursued by the United States and, if so, for what purposes should they be pursued and how should they be funded and financed.

Amendment No. 34: Deletes language proposed by the House limiting the availability of funds to construct a B-Factory.

The conferees agree to provide $36,000,000 for the construction of the asymmetric B-meson production facility (B-Factory) as proposed by the House. Since the review and selection of the site for the project have been completed, the restrictions contained in the House bill are no longer required.

Amendment No. 35: Deletes language proposed by the Senate restricting the availability of funds for the Superconducting Super Collider.

The Los Alamos Meson Physics Facility (LAMPF), the Relativistic Heavy Ion Collider (RHIC), the Continuous Electron Beam Accelerator Facility (CEBAF) are funded as proposed by the Senate.

Because of budget limitations, the conferees recommend a general reduction of $15,000,000.

Language in the Act would prohibit the expenditure of funds for "food, beverage, receptions, parties, country club fees, plants or flowers pursuant to any cost-reimbursable contract". The managers do not intend to preclude legitimate activities such as cafeteria services. If is intended to prohibit the waste of the taxpayers' money on payment of contractors' country club fees or fancy parties and receptions.

NUCLEAR WASTE DISPOSAL FUND

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

For the nuclear waste disposal activities to carry out the purposes of Public law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $260,000,000 to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise her authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: Provided, That of the amount herein appropriated, within available funds, not to exceed $5,500,000 may be provided to the State of Nevada, for the sole purpose of conduct of its scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended: Provided further, That of the amount herein appropriated, not more than $7,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: Provided further, That within ninety days of the completion of each Federal fiscal year, each State or local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities as defined in Public Law 97–425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: Provided further, That none of the funds herein appropriated may be used for litigation expenses: Provided further, That none of the funds herein appropriated may be used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That none of the funds provided under this Act shall be made available for Phase II–B grants to study the feasibility of siting a Monitored Retrievable Storage Facility.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to the distribution of the Nuclear Waste Disposal Fund as proposed by the Senate which makes specific allocations and restrictions as to the use of the funds. The provision proposed by the Senate considering the siting of a Monitored Retrievable Storage facility has been revised to prohibit Phase II–B grants.

The conferees agree with the House provisions concerning the development of a multipurpose canister (MPC).

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

Amendment No. 37: Appropriates $3,595,198,000 instead of $3,572,198,000 as proposed by the House and $3,597,482,000 as proposed by the Senate.

The conferees agree to provide $17,000,000 to continue funding the dual-axis radiographic hydrotest facility at the Los Alamos National Laboratory (LANL). However, no funds are provided for the high-explosives material test facility at LANL.

For the technology transfer program in fiscal year 1994, an amount of $223,000,000 is recommended. Within this funding, the conferees support making available not to exceed $3,000,000 for evaluating and assisting in the transfer of technologies developed at the Nevada Test Site.

The conference agreement includes $10,000,000 for the high-performance computing and communications program.

The conferees are aware that the authorizing committees may include in the National Defense Authorization Act for Fiscal Year 1994 a change to the testing program budget structure. There is no objection to the Department implementing this new structure in fiscal year 1994.

The conferees have not included $4,000,000 proposed by the Senate to establish, in conjunction with the Department of Defense, a program for destruction of highly energetic explosives. There is no objection to the Department of Energy's participation in this program if funded on a reimbursable basis by another agency.

The conference agreement provides $30,000,000 for the research and evaluation activities related to the production of tritium and to initiate a systematic review of all available options for disposal of plutonium from dismantled warheads. These funds have been provided as part of the weapons complex reconfiguration program which is currently managing this activity.

During deliberations on the National Defense Authorization Act for Fiscal Year 1994, both the House and Senate Armed Services Committees are addressing the issues of tritium production and plutonium disposal.

The conferees recognize the need to provide for new tritium production capacity to meet future anticipated demands for tritium in the downsized nuclear weapons stockpile as well as the need to provide a practical solution to the safeguarding and disposal of plutonium from dismantled nuclear weapons. Thus, the conference agreement supports the continuation of activities begun last year by the Department of Energy to evaluate the feasibility of tritium production along with disposition of plutonium and generation of electricity. In addition, the Department should consider developing a cooperative program with Russia to explore methods of plutonium disposal and power production.

The conferees believe that the Nation must immediately begin development of a plan for ultimate disposal of plutonium from dismantled warheads. The technical, institutional and economic issues of each alternative must be evaluated. The Department is directed to begin an analysis of the costs and benefits of each option for plutonium disposal including, but not limited to, indefinite storage, direct disposal in a repository, immobilization in a waste form, reactor or accelerator conversion of plutonium, and subsequent spent fuel handling and waste management costs for each option. The development times for each technology as well as health, safety, and environmental problems are to be addressed also.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

Amendment No. 38: Appropriates $5,181,855,000 for Defense Environmental Restoration and Waste Management instead of $5,185,877,000 as proposed by the House and $5,106,855,000 as proposed by the Senate.

The conferees wish to reiterate concerns raised by both the House and Senate with respect to the overall cost of environmental cleanup actions that the Department has committed to perform under existing compliance agreements. While committed to providing adequate funding for necessary cleanup activities around the country, the conferees emphasize that there will not be an endless source of funding for this program with significant increases in the outyears.

The Department should begin to develop a program related to the management of hazardous materials and of hazardous materials emergency response, and up to $10,000,000 from within available funds is provided for program planning and predesign activities in fiscal year 1994. The Department is expected to include funding for this activity in the fiscal year 1995 budget submission.

The conferees agree that the Department needs to develop a mechanism for establishing priorities among competing cleanup requirements. Toward this end, the Department is directed to review compliance agreements and to submit by June 30, 1995, a report to the Committees on Appropriations evaluating the risks to the public health and safety posed by the conditions at weapons complex facilities that are addressed by compliance agreement requirements.

The report should estimate, with as much specificity as practicable, the risk to the health and safety of individual members of the public intended to be addressed by cleanup activities required by the compliance agreements, the health and safety effect of implementing the requirements, and the cost associated with implementing the requirement. The Department should work with State and Federal regulators and affected parties to develop programs which reduce risk to public and worker health and safety.

The conferees emphasize that they do not intend the Department to perform an exhaustive, formal risk assessment, as that term is frequently used, of the thousands of cleanup activities required by the compliance agreement. Instead, the Department is directed to estimate the risk addressed by cleanup requirements on the basis of the best scientific evidence available.

The conference agreement includes $2,114,000 for the liquid waste treatment system at the Nevada Test Site consistent with the Department's amended budget request.

The conferees have provided $40,000,000 for closeout activities for the Hanford Waste Vitrification Plant construction project at Richland, Washington, in accordance with the revised Hanford site cleanup agreement. An additional $35,000,000 has been provided in waste management operating expenses to support the closeout activities and to begin implementation of new activities required by the revised Hanford site cleanup agreement. Also, in support of the revised agreement, $45,660,000 has been provided for the multifunction waste remediation facility at the Hanford site to accelerate construction of new tanks and development of waste pretreatment capability.

The conferees have restored the $10,000,000 reduction proposed by the Senate to the technology development program. However, the conferees support the Senate position that these funds should not be used for educational activities. These funds are to be used for development of innovative technologies related to the remediation of high-level waste tanks and the characterization, treatment, and disposal of mixed waste. The technology development program has increasingly included funds for educational activities, community agreements, and other activities not related to technology development. The Department should ensure that the technology development program is clearly defined and justified.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides for the transfer of $8,000,000 to the Environmental Protection Agency for implementation of the Waste Isolation Pilot Plant Land Withdrawal Act of 1992 and development of cleanup standards to guide the Department of Energy's environmental restoration efforts.

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

Amendment No. 40: Appropriates $1,963,755,000 as proposed by the Senate instead of $2,046,592,000 as proposed by the House.

The conferees understand the Secretary of Energy has developed a plan to revise significantly the Department's classification procedures. This plan will include a comprehensive review of the classification rules and procedures, research and development of new technology to expedite declassification of documents, expanded training of employees to declassify documents, and public participation. The conferees support the objectives of this plan and expect them to be accomplished within the funds provided including issuance of revised classification guidelines by September 30, 1994. The Department is directed to report to the House and Senate Committees on Appropriations by June 15, 1994, on the progress to date.

The conferees support the Department's ongoing program in Verification and Control Technology to establish a data base and tracking system for weapons grade plutonium, uranium, and tritium in the states of the former Soviet Union, and urge the department to accelerate the program as much as possible within available funds.

The conference agreement does not include establishment of a new program for tritium production and plutonium disposition. Tritium production activities which were initiated last year and development of plutonium disposition alternatives are included in the weapons complex reconfiguration program.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 41: Appropriates $30,362,000 for the Office of the Inspector General as proposed by the Senate instead of $31,757,000 as proposed by the House.

POWER MARKETING ADMINISTRATIONS

WESTERN AREA POWER ADMINISTRATION

Amendment No. 42: Appropriates $272,956,000 for the Western Area Power Administration as proposed by the Senate instead of $287,956,000 as proposed by the House.

Amendment No. 43: Appropriates $260,400,000 to be derived from the Department of the Interior Reclamation fund as proposed by the Senate instead of $275,400,000 as proposed by the House.

Department of Energy

	Budget Estimate	Conference
ENERGY SUPPLY RESEARCH AND DEVELOPMENT		
I. Solar applications		
A. Solar building technology research		
Operating expenses	4,807,000	4,807,000
Capital equipment	200,000	200,000
Total, Solar building technology research	5,007,000	5,007,000
B. Photovoltaic energy systems		
Operating expenses	71,345,000	74,345,000
Capital equipment	6,700,000	3,700,000
Total, Photovoltaic energy systems	78,045,000	78,045,000
C. Solar thermal energy systems		
Operating expenses	32,191,000	32,191,000
Capital equipment	509,000	509,000
Total, Solar thermal energy systems	32,700.000	32,700,000
D. Biofuels energy systems		
Operating expenses	55,057,000	55,057,000
Capital equipment	3,100,000	3,100,000
Total, Biofuels energy systems	58,157,000	58,157,000
E. Wind energy systems		
Operating expenses	26,453,000	26,453,000
Capital equipment	3,900,000	3,900,000
Total, Wind energy systems	30,353,000	30,353,000
F. Ocean energy systems - OE	---	1,000,000
Total, Solar applications	204,262,000	205,262,000
II. Other solar energy		
A. International solar energy program - OE	5,754,000	5,250,000
B. Solar technology transfer - OE	16,404,000	21,404,000
C. National Renewable Energy Laboratory		
Capital equipment	1,025,000	1,025,000
Construction:		
General plant projects	1,728,000	1,728,000
94-E-102 National wind technology center expansion, Golden, CO	3,180,000	3,180,000
Total, Construction	4,908.000	4,908,000
Total, National Renewable Energy Laboratory	5,933,000	5,933,000
D. Resource assessment		
Operating expenses	2,203,000	2,100,000
Capital equipment	200,000	200,000
Total, Resource assessment	2,403,000	2,300,000
E. Solar program support - OE	5,400,000	5,000,000
F. Program direction - OE	8,200,000	7,200,000
Total, Other solar energy	44,094,000	47,087,000
TOTAL, SOLAR ENERGY	248,356,000	252,349,000
(Operating expenses)	(227,814,000)	(234,807,000)
(Capital equipment)	(15,634,000)	(12,634,000)
(Construction....)	(4,908,000)	(4,908,000)

Department of Energy

	Budget Estimate	Conference
GEOTHERMAL		
II. Geothermal technology development - OE...........	22,072,000	22,072,000
III. Program direction - OE..........................	1,000,000	1,000,000
IV. Capital equipment................................	900,000	900,000
TOTAL, GEOTHERMAL....................................	23,972,000	23,972,000
(Operating expenses).................................	(23,072,000)	(23,072,000)
(Capital equipment).................................	(900,000)	(900,000)
HYDROGEN RESEARCH		
I. Operating expenses................................	4,900,000	10,000,000
HYDROPOWER		
I. Small scale hydropower development - OE..........	946,000	946,000
II. Program direction - OE...........................	135,000	135,000
TOTAL, HYDROPOWER....................................	1,081,000	1,081,000
ELECTRIC ENERGY SYSTEMS AND STORAGE		
I. Electric energy systems		
A. Electric field effects research - OE..........	10,000,000	10,000,000
B. Reliability research - OE.....................	6,100,000	6,100,000
C. System and materials research - OE............	20,730,000	20,730,000
D. Program direction - OE........................	850,000	850,000
E. Capital equipment.............................	900,000	900,000
Total, Electric energy systems.......................	38,580,000	38,580,000
II. Energy storage systems		
A. Battery storage - OE..........................	5,774,000	5,774,000
B. Thermal storage - OE..........................	---	1,100,000
C. Superconducting magnetic energy storage........	---	10,000,000
D. Program direction - OE........................	350,000	350,000
E. Capital equipment.............................	300,000	300,000
Total, Energy storage systems........................	6,424,000	17,524,000
TOTAL, ELECTRIC ENERGY SYSTEMS AND STORAGE...........	45,004,000	56,104,000
(Operating expenses).................................	(43,804,000)	(44,904,000)
(Capital equipment).................................	(1,200,000)	(11,200,000)
POLICY AND MANAGEMENT		
Policy and management - CE...........................	3,878,000	3,878,000
NUCLEAR ENERGY		
I. Nuclear energy R & D		
A. Light water reactor - OE......................	57,789,000	57,789,000
B. Advanced reactor R & D		
Operating expenses............................	16,000,000	42,400,000
C. Space reactor power systems		
Operating expenses............................	27,500,000	27,500,000
D. Advanced radioisotope power system		
Operating expenses............................	46,100,000	46,100,000
Capital equipment.............................	2,000,000	2,000,000
Total, Advanced radioisotope power system..........	48,100,000	48,100,000
F. Facilities		
Operating expenses............................	6,900,000	6,900,000
G. Program direction.............................	10,463,000	10,463,000
H. Policy and management		
Operating expenses............................	12,612,000	12,612,000
I. Test reactor area hot cells...................	1,400,000	1,400,000

Department of Energy

	Budget Estimate	Conference
J. Oak Ridge landlord		
Operating expenses	16,080,000	16,080,000
Capital equipment	670,000	670,000
Construction:		
GPN-103 General plant projects	1,450,000	1,450,000
94-E-201 Communications network, OR	6,700,000	6,700,000
Total, construction	8,150,000	8,150.000
Total, Oak Ridge landlord	24,900,000	24,900,000
Total, Nuclear energy R & D	205,664,000	232,064,000
(Operating expenses)	(194,844,000)	(221,244,000)
(Capital equipment)	(2,670,000)	(2,670,000)
(Construction.....)	(8,150,000)	(8,150,000)
II. Termination costs		
Operating expenses	102,300,000	102,300,000
Capital equipment	5,000,000	5,000,000
Construction:		
GPN-102 General plant projects	2,000,000	2,000,000
Total, Termination costs	109,300,000	109,300,000
TOTAL, NUCLEAR ENERGY	314,964,000	341,364,000
(Operating expenses)	(297,144,000)	(323,544,000)
(Capital equipment)	(7,670,000)	(7,670,000)
(Construction.....)	(10,150,000)	(10,150,000)
CIVILIAN WASTE RESEARCH AND DEVELOPMENT		
I. Spent fuel storage R&D - OE	577,000	577,000
II. Program direction - OE	110,000	110,000
TOTAL, CIVILIAN WASTE RESEARCH AND DEVELOPMENT	687,000	687,000
ENVIRONMENT, SAFETY AND HEALTH		
Operating expenses	173,246,000	158,070,000
Capital equipment	1,600,000	1,600,000
TOTAL, ENVIRONMENT, SAFETY AND HEALTH	174,846,000	159,670,000
NUCLEAR SAFETY POLICY - OE	15,000,000	15,000,000
LIQUIFIED GASEOUS.SPILL TEST FACILITY - ESRD	979,000	1,300,000
ENERGY RESEARCH		
I. Biological and environmental research		
A. Biological and environmental research R&D		
Operating expenses	338,060,000	338,060,000
Capital equipment	21,600,000	21,600,000
Construction:		
GP-E-120.General plant projects	3,500,000	3,500,000
94-E-335 Brookhaven linac isotope producer.facility upgrade,.BNL	6,000,000	6,000,000
94-E-337 Advanced light source structural biology support facility, LBL	600,000	600,000
94-E-338.Structural biology center, ANL	4,000,000	4,000,000
94-E-339.Human genome lab,.LBL	2,200,000	2,200,000

Department of Energy

	Budget Estimate	Conference
91-EM-100 Environmental & molecular sciences laboratory, PNL, Richland, WA	33,000,000	33,000,000
Total, Construction	49,300,000	49,300,000
Total, Biological and environmental research R&D	408,960,000	408,960,000
B. BER program direction - OE	7,100,000	7,100,000
Total, Biological.and environmental.research	416,060,000	416,060,000
(Operating expenses)	(345,160,000)	(345,160,000)
(Capital equipment)	(21,600,000)	(21,600,000)
(Construction.....)	(49,300,000)	(49,300,000)
II. Fusion energy		
A. Confinement systems	157,400,000	170,400,000
B. Development and technology	81,300,000	81,300,000
C. Applied plasma physics	59,805,000	59,805,000
D. Planning and projects	4,895,000	4,895,000
E. Inertial fusion energy	4,000,000	4,000,000
F. Program direction - OE	9,200,000	9,200,000
G. Capital equipment	15,995,000	15,995,000
H. Construction:		
GPE-900 General plant projects, var. locations.	2,000,000	2,000,000
94-E-200 Tokamak physics experiment, Princeton plasma physics laboratory	13,000,000	---
Total, Construction	15,000,000	2,000,000
Total, Fusion energy	347,595,000	347,595,000
(Operating expenses)	(316,600,000)	(329,600,000)
(Capital equipment)	(15,995,000)	(15,995,000)
(Construction.....)	(15,000,000)	(2,000,000)
III. Supporting research and technical analysis		
A. Basic energy sciences		
1. Materials sciences	276,985,000	276,985,000
2. Chemical sciences	169,000,000	169,000,000
3. Applied.mathematical sciences	106,200,000	106,200,000
4. Engineering and geosciences	37,900,000	37,900,000
5. Advanced energy projects	11,400,000	11,400,000
6. Energy biosciences	26,700,000	26,700,000
7. Program.direction - OE	9,400,000	9,400,000
8. Capital.equipment	44,880,000	44,880,000
9. Construction:		
GPE-400.General plant projects	5,000,000	5,000,000
94-E-305 Accelerator & reactor improvements.	7,500,000	7,500,000
89-R-402 6-7 GeV syn. radiation source, ANL.	107,000,000	107,000,000
Total, Construction	119,500,000	119,500,000
Total, Basic energy sciences	801,965,000	801,965,000
(Operating expenses)	(637,585,000)	(637,585,000)
(Capital equipment)	(44,880,000)	(44,880,000)
(Construction.)	(119,500,000)	(119,500,000)
B. Advanced neutron source		
Operating expenses	12,000,000	17,000,000
Capital equipment	1,000,000	---
Construction:		
94-E-308 Advanced neutron source	26,000,000	---
Total, Advanced neutron source	39,000,000	17,000,000
C. Energy oversight, res. analysis & univ. support		
1. Energy research analyses - OE	4,020,000	4,020,000

Department of Energy

	Budget Estimate	Conference
2. University & science education programs		
a. Laboratory cooperative science centers..........	35,823,000	35,823,000
b. University programs............................	12,800,000	12,800,000
c. University reactor fuel assistance.......	3,730,000	3,730,000
d. University research instrumentation......	5,647,000	5,647,000
Total, University & science education programs.	58,000,000	58,000,000
3. ER laboratory technology transfer..........	39,353,000	39,353,000
4. Advisory and oversight - OE................	13,800,000	13,800,000
Total, Energy oversight, res. anal. & univ. supt..	115,173,000	115,173,000
D. Multiprogram energy labs - facility support		
1. Multiprogram general purpose facilities		
Operating expenses..............................	700,000	700,000
Capital equipment...............................	6,000,000	6,000,000
Construction:		
GPE-801 General plant projects............	9,000,000	9,000,000
94-E-351 Fuel storage and transfer facility (BNL).............................	1,000,000	1,000,000
94-E-363 Replace roofing, (ORNL)..........	3,300,000	3,300,000
93-E-313 Electrical system upgrade, phase II (ANL)............................	2,150,000	2,150,000
93-E-325 Potable water system upgrade, phase I (BNL)............................	2,017,000	2,017,000
92-E-322 East canyon electrical safety project (LBL)....................	1,568,000	1,568,000
92-E-323 Upgrade steam distribution system, West End (ORNL)..............	2,693,000	2,693,000
92-E-324 Safety compliance modifications, 326 building (PNL)....................	2,000,000	2,000,000
92-E-329 Electrical substation upgrade (ANL)............................	2,070,000	2,070,000
88-R-806 Environmental health & safety project (LBL)..........................	1,691,000	1,691,000
Total, Construction..........................	27,489,000	27,489,000
Total, Multiprogram general purpose facilities.	34,189,000	34,189,000
2. Multiprogram energy labs - tiger team report		
Operating expenses..............................	623,000	623,000
Capital equipment...............................	500,000	500,000
Construction:		
93-E-315 Roof replacement, phase I (BNL)..	1,926,000	1,926,000
93-E-317 Life safety code compliance (PNL)	1,000,000	1,000,000
93-E-320 Fire and safety improvements, phase II (ANL)............................	850,000	850,000
93-E-323 Fire and safety systems upgrade, phase I (LBL).............................	1,000,000	1,000,000

Department of Energy

	Budget Estimate	Conference
93-E-324 Hazardous materials safeguards, phase.I (LBL)	1,000,000	1,000,000
Total, Construction	5,776,000	5,776,000
Total, Tiger team report	6,899,000	6,899,000
Inactive and surplus facilities - OE	500,000	500,000
Total, Multiprogram energy laboratories - fac sup.	41,588,000	41,588,000
(Operating expenses)	(1,823,000)	(1,823,000)
(Capital equipment)	(6,500,000)	(6,500,000)
(Construction.)	(33,265,000)	(33,265,000)
Total, Supporting.research and technical analysis	997,726,000	975,726,000
(Operating expenses)	(766,581,000)	(771,581,000)
(Capital equipment)	(52,380,000)	(51,380,000)
(Construction.....)	(178,765,000)	(152,765,000)
IV. Policy and management	3,233,000	3,233,000
TOTAL, ENERGY RESEARCH	1,764,614,000	1,742,614,000
ENERGY APPLICATIONS		
I. Technical information management program		
Operating expenses	14,338,000	14,338,000
Capital equipment	600,000	600,000
Total, Technical information management program	14,938,000	14,938,000
II. In-house energy management		
Operating expenses	6,590,000	6,590,000
Construction:		
IHE - 500 Modifications for energy mgmt	19,555,000	19,555,000
Total, In-house energy management	26,145,000	26,145,000
TOTAL, ENERGY APPLICATIONS	41,083,000	41,083,000
ENVIRONMENTAL RESTORATION AND WASTE MGMT (NON-DEFENSE)		
I. Corrective activities		
Operating expenses		
Undistributed	1,120,000	1,120,000
Construction:		
92-E-601 Melton Valley LLLW collection and transfer system upgrade (ORNL)	11,500,000	11,500,000
90-R-119 Laboratory wastewater treatment plant improvements (ANL)	680,000	680,000
88-R-830 Liquid low level waste collection and transfer sys upgrade (ORNL)	6,500,000	6,500,000
Total, Construction	18,680,000	18,680,000
Total, Corrective.activities	19,800,000	19,800,000
(Operating expenses)	(1,120,000)	(1,120,000)
(Construction....)	(18,680,000)	(18,680,000)
II. Environmental restoration		
Operating expenses:		
1. Facilities and sites	230,858,000	230,858,000
2. Formerly utilized sites, remedial action projects	42,745,000	42,745,000

Department of Energy

	Budget Estimate	Conference
3. Uranium progrem mill tailings, remedial action projects	97,103,000	97,103,000
4. Uranium mill tailings, groundwater restoration project	7,000,000	7,000,000
Total, Environmental restoration	377,706,000	377,706,000
(Operating expenses)	(377,706,000)	(377,706,000)
III. Waste management		
Operating expenses:		
1. Waste operations	73,336,000	73,336,000
2. West valley	124,000,000	124,000,000
3. Low level waste	11,400,000	11,400,000
Total, Operating expenses	208,736,000	208,736,000
Capital equipment	2,706,000	2,706,000
Construction:		
GP-E-600 General plant projects	1,992,000	1,992,000
94-E-601 Waste handling building, Fermilab	1,000,000	1,000,000
94-E-602 Bethel Valley federal facility agreement upgrades, ORNL	3,600,000	3,600,000
93-E-632 Laboratory floor drain collection system upgrades, BNL	1,083,000	1,083,000
93-E-633 Upgrade sanitary sewer system (ORNL)	7,000,000	7,000,000
93-E-900 Long-term storage of TMI-2 fuel, INEL	7,320,000	7,320,000
91-E-305 Waste management fac. project (BNL)	6,150,000	6,150,000
91-E-322 329 Building compliance (PNL)	1,800,000	1,800,000
91-E-600 Rehab of waste management bld 306, ANL	200,000	200,000
91-E-602 Hazardous, radioactive and mixed waste storage facility.(ANL)	1,295,000	1,295,000
88-R-112 Hazardous waste handling, fac. (LBL)	5,787,000	5,787,000
Total, Construction	37,227,000	37,227,000
Total, Waste management	248,669,000	248,669,000
(Operating expenses)	(208,736,000)	(208,736,000)
(Capital equipment)	(2,706,000)	(2,706,000)
(Construction.....)	(37,227,000)	(37,227,000)
IV. Facility transition and managment		
Operating expenses	71,103,000	71,103,000
Capital equipment	200,000	200,000
Total, Facility transition and managment	71,303,000	71,303,000
TOTAL, ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT	717,478,000	717,478,000
(Operating expenses)	(658,665,000)	(658,665,000)
(Capital equipment)	(2,906,000)	(2,906,000)
(Construction.....)	(55,907,000)	(55,907,000)
Subtotal, Energy supply research and development	3,356,842,000	3,366,580,000
Use of prior year balances	-113,300,000	-113,300,000
Education programs (ESR&D)	-58,000,000	---
Salary reduction	-29,370,000	-29,370,000
TOTAL, ENERGY SUPPLY RESEARCH AND DEVELOPMENT	3,156,172,000	3,223,910,000
(Operating expenses)	(2,702,102,000)	(2,802,840,000)
(Capital equipment)	(120,485,000)	(126,485,000)
(Construction.....)	(333,585,000)	(294,585,000)

Department of Energy

	Budget Estimate	Conference
URANIUM SUPPLY AND ENRICHMENT ACTIVITIES		
I. Uranium enrichment residual activities		
Operating expenses	246,992,000	246,992,000
Capital equipment	100,000	100,000
Subtotal, Uranium.supply and enrichment activities	247,092,000	247,092,000
(Operating expenses)	(246,992,000)	(246,992,000)
(Capital equipment)	(100,000)	(100,000)
Revenues	-70,000,000	-70,000,000
TOTAL, URANIUM SUPPLY AND ENRICHMENT ACTIVITIES	177,092,000	177,092,000
(Operating expenses)	(176,992,000)	(176,992,000)
(Capital equipment)	(100,000)	(100,000)
URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND		
UE Decontamination and Decommissioning Fund	286,320,000	286,320,000
GENERAL SCIENCE AND RESEARCH		
I. High energy physics		
A. Physics research - OE	148,560,000	148,560,000
B. Facility operations		
Operating expenses	268,455,000	268,455,000
Capital equipment	61,160,000	61,160,000
Construction:		
GP-E-103 General plant projects, various locations	12,149,000	12,149,000
94-G-301 Accelerator improvements & modifications, VL	13,105,000	13,105,000
94-G-304.B-Factory	36,000,000	36,000,000
92-G-302.Fermilab main injector, Fermilab	25,000,000	25,000,000
Total, Construction	86,254,000	86,254,000
Total, Facility operations	415,869,000	415,869,000
C. High energy technology - OE	59,415,000	59,415,000
E. Other capital equipment	3,925,000	3,925,000
Total, High energy physics	627,769,000	627,769,000
(Operating expenses)	(476,430,000)	(476,430,000)
(Capital equipment)	(65,085,000)	(65,085,000)
(Construction.....)	(86,254,000)	(86,254,000)
II. Nuclear physics		
A. Medium energy physics - OE	91,555,000	111,555,000
B. Heavy ion physics - OE	67,400,000	67,400,000
C. Low energy.physics - OE	25,600,000	25,600,000
D. Nuclear theory - OE	14,800,000	14,800,000
E. Capital equipment	27,130,000	30,130,000
F. Construction:		
GP-E-300 General plant projects, various locations	3,600,000	3,600,000
94-G-302 Accelerator improvements & mods., VL	3,800,000	3,800,000
91-G-300 Relativistic heavy ion collider, BNL	70,000,000	78,000,000

Department of Energy

	Budget Estimate	Conference
87-R-203 Continuous electron beam accelerator facility, Newport News, VA	16,590,000	16,590,000
Total, Construction	93,990,000	101,990,000
G. Other capital equipment	1,870,000	1,870,000
Total, Nuclear physics	322,345,000	353,345,000
(Operating expenses)	(199,355,000)	(219,355,000)
(Capital equipment)	(29,000,000)	(32,000,000)
(Construction)	(93,990,000)	(101,990,000)
III.General science program direction - OE	9,000,000	9,000,000
IV. Superconducting super collider		
A. SSC project		
Operating expenses	104,402,000	---
Capital equipment	50,000,000	---
Construction:		
90-R-106.Superconducting super collider	480,598,000	---
Total, SSC project	635,000,000	---
B. SSC laboratory research and operations		
Operating expenses	5,000,000	---
C. Termination costs	---	640,000,000
Total, Superconducting super collider	640,000,000	640,000,000
General reduction	-12,923,000	-15,000,000
TOTAL, GENERAL SCIENCE AND RESEARCH	1,586,191,000	1,615,114,000
(Operating expenses)	(781,264,000)	(1,329,785,000)
(Capital equipment)	(144,085,000)	(97,085,000)
(Construction)	(660,842,000)	(188,244,000)
ISOTOPE PRODUCTION AND DISTRIBUTION FUND		
I. Isotope production	3,910,000	3,910,000
General reduction	-44,000	---
TOTAL, ISOTOPE PRODUCTION AND DISTRIBUTION FUND	3,866,000	3,910,000
ATOMIC ENERGY DEFENSE ACTIVITIES:		
WEAPONS ACTIVITIES		
I. Research and development		
A. Research and development - core		
Operating expenses	986,772,000	956,772,000
Capital equipment	67,019,000	67,019,000
Construction:		
GPD-101 General plant projects, various locations	11,500,000	11,500,000
94-D-102, Nuclear weapons research, development and testing facilities revitalization, Phase V, various locations	11,110,000	4,000,000
92-D-102 Nuclear weapons research, development and testing facilities revitalization, phase IV, various locations	27,479,000	27,479,000
90-D-102 Nuclear weapons research, development, and testing facilities revitalization, phase III, various locations	30,805,000	30,805,000

Department of Energy

	Budget Estimate	Conference
88-D-106 Nuclear weapons research, development, and testing facilities revitalization, phase II,.various locations	39,624,000	39,624,000
Total, Construction	120,518,000	113,408,000
Total, Research and development - core	1,174,309,000	1,137,199,000
B. Inertial fusion		
Operating expenses	172,553,000	172,553,000
Capital equipment	15,860,000	15,860,000
Total, Inertial fusion	188,413,000	188,413,000
Total, Research and development	1,362,722,000	1,325,612,000
II. Testing		
A. Weapons program		
Operating expenses	375,000,000	374,726,000
Capital equipment	24,400,000	19,400,000
Construction:		
GPD-101 General plant projects, various locations	5,000,000	5,000,000
93-D-102 Nevada support facility, North Las Vegas, NV	4,000,000	4,000,000
Total, Construction	9,000,000	9,000,000
Total, Testing	408,400,000	403,126,000
Total, Research, development and testing	1,771,122,000	1,728,738,000
(Operating expenses)	(1,534,325,000)	(1,504,051,000)
(Capital equipment)	(107,279,000)	(102,279,000)
(Construction.....)	(129,518,000)	(122,408,000)
III. Stockpile support		
Operating expenses	1,802,280,000	1,792,280,000
Capital equipment	12,136,000	12,136,000
Construction:		
Production base:		
Facilities capability assurance program:		
88-D-122 Facilities capabilities assurance program (FCAP), various.locations	27,100,000	27,100,000
Production support facilities:		
GPD-121 General plant projects, various locations	7,700,000	7,700,000
Total, Production base	34,800,000	34,800,000
Environment, safety and health:		
94-D-124 Hydrogen fluoride supply system, Y-12 Plant, Oak Ridge, TN	5,000,000	5,000,000
94-D-125 Upgrade life safety, Kansas City Plant, Kansas City, MO	1,000,000	1,000,000
94-D-127 Emergency notification system, Pantex Plant, Amarillo, TX	1,000,000	1,000,000
94-D-128 Environmental, Safety and Health analytical lab, Pantex Plant, Amarillo, TX	800,000	800,000
93-D-122 Life safety upgrades, Y-12 Plant, Oak Ridge, TN	5,000,000	5,000,000
92-D-126 Replace emergency notification systems,.various locations	10,500,000	10,500,000

Department of Energy

	Budget Estimate	Conference
85-D-121 Air and water pollution control Y-12 plant	3,000,000	3,000,000
Total, Environment, safety and health	26,300,000	26,300,000
Safeguards and security:		
88-D-123 Security enhancement, Pantex Plant, Amarillo, TX	20,000,000	20,000,000
Total, Construction	81,100,000	81,100,000
Use of prior year balances - OE (WA/SS)	---	-3,000,000
Total, Stockpile support	1,895,516,000	1,882,516,000
IV. Program direction		
Weapons program direction	280,466,000	177,466,000
Contractor employment transition	---	100,000,000
Capital equipment	3,619,000	3,619,000
Total, Program direction	284,085,000	281,085,000
V. Complex reconfiguration		
Operating expenses	138,500,000	168,500,000
Construction:		
93-D-123 Complex - 21, various locations	25,000,000	25,000,000
Total, Complex reconfiguration	163,500,000	193,500,000
Subtotal, Weapons activities	4,114,223,000	4,085,839,000
Use of prior year balances	-356,641,000	-440,641,000
Salary reduction	-48,282,000	-50,000,000
TOTAL, WEAPONS ACTIVITIES	3,709,300,000	3,595,198,000
(Operating expenses)	(3,350,648,000)	(3,248,656,000)
(Capital equipment)	(123,034,000)	(118,034,000)
(Construction.....)	(235,618,000)	(228,508,000)
DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MGMT		
I. Corrective activities		
Operating expenses		
Undesignated	2,170,000	2,170,000
Capital equipment		
Undesignated	600,000	600,000
Construction:		
92-D-403 Tank upgrades project, LLNL	3,888,000	3,888,000
Total, Corrective activities	6,658,000	6,658,000
(Operating expenses)	(2,170,000)	(2,170,000)
(Capital equipment)	(600,000)	(600,000)
(Construction.....)	(3,888,000)	(3,888,000)
II. Environmental restoration Operating expenses	1,536,027,000	1,536,027,000
III. Waste management		
Operating expenses	2,327,106,000	2,362,106,000
Capital equipment	132,113,000	138,781,000
Construction:		
GP-D-171 General plant projects	28,959,000	28,959,000
94-D-400 High explosive wastewater treatment system, LANL	1,000,000	1,000,000
94-D-402 Liquid waste treatment system, NTS	2,114,000	2,114,000
94-D-404 Melton Valley storage tank capacity increase, ORNL	9,400,000	9,400,000
94-D-405 Central neutralization facility pipeline extension project, K-25	1,714,000	1,714,000

Department of Energy

	Budget Estimate	Conference
94-D-406 Low-level waste disposal facilities, K-25..	6,000,000	6,000,000
94-D-407 Initial tank retrieval systems, RL.....	7,000,000	7,000,000
94-D-408 Office facilities - 200 East, RL.......	1,200,000	1,200,000
94-D-411 Solid waste operation complex, RL......	7,100,000	7,100,000
94-D-414 Site 300 explosive waste storage facility, LLNL................................	370,000	370,000
94-D-416 Solvent storage tanks installation, SR.	1,500,000	1,500,000
93-D-174 Plant drain waste water treatment upgrades, Y-12.........................	3,500,000	3,500,000
93-D-175 Industrial waste compact fac., Y-12....	1,800,000	1,800,000
93-D-176 Oak Ridge reservation storage facility, Oak Ridge, TN..........................	6,039,000	6,039,000
93-D-177 Disposal of K-1515 sanitary water treatment plant waste, K-25...............	7,100,000	7,100,000
93-D-178 Building 374 liquid waste treatment facility, RF..........................	1,000,000	1,000,000
93-D-181 Radioactive liquid waste line repl, RL.	6,700,000	6,000,000
93-D-182 Replace of cross-site trans system, RL.	6,500,000	6,500,000
93-D-183 Multi-function waste remediation, RL...	35,660,000	45,660,000
93-D-187 High level waste removal from filled waste tanks, SR...........................	3,000,000	3,000,000
93-D-188 New sanitary landfill, SR..............	1,020,000	1,020,000
92-D-172 Hazardous waste treatment and processing facility, Pantex Plant..............	300,000	300,000
92-D-173 NOx abatement facility, ID.............	10,000,000	10,000,000
92-D-177 Tank 101-AZ waste retrieval system, RL.	7,000,000	7,000,000
92-D-188 Waste management ES&H, and compliance activities,.various locations..................	8,568,000	8,568,000
91-D-171 Waste receiving and processing facility, module 1, Richland,.WA...............	17,700,000	17,700,000
90-D-172 Aging waste transfer line, Richland, WA....................................	5,600,000	5,000,000
90-D-177 RWMC transuranic (TRU) waste characterization and storage facility, ID.......	21,700,000	21,700,000
89-D-172 Hanford environmental compliance, Richland, WA....................................	11,700,000	11,700,000
89-D-173 Tank farm ventilation upgrade, Richland, WA....................................	1,800,000	1,000,000
89-D-174 Replacement high level waste evaporator,.Savannah River, SC................	12,974,000	12,974,000
88-D-173 Hanford waste vitrification plant (HWVP), Richland, WA...........................	85,000,000	40,000,000
87-D-181 Diversion box and pump pit containment.buildings, Savannah River, SC.......	2,137,000	2,137,000
86-D-103 Decontamination and waste treatment facility, LLNL, Livermore, CA..................	10,260,000	10,260,000

Department of Energy

	Budget Estimate	Conference
83-D-148 Non-radioactive hazardous waste management,.Savannah River, SC.	2,169,000	2,169,000
81-T-105 Defense waste processing fac., SR, SC.	43,873,000	43,873,000
Total, Construction	379,457,000	342,357,000
Total, Waste management	2,838,676,000	2,843,244,000
(Operating expenses)	(2,327,106,000)	(2,362,106,000)
(Capital equipment)	(132,113,000)	(138,781,000)
(Construction....)	(379,457,000)	(342,357,000)
IV. Technology development		
Operating expenses	371,150,000	371,150,000
Capital equipment	29,850,000	29,850,000
Total, Technology.development	401,000,000	401,000,000
V. Transportation Management		
Operating expenses	19,730,000	19,730,000
Capital equipment	400,000	400,000
Total, Transportation Management	20,130,000	20,130,000
VI. Program direction		
Operating expenses	82,427,000	82,427,000
Capital equipment	9,469,000	9,469,000
Total, Program direction	91,896,000	91,896,000
VII. Facility transition & management		
Operating expenses	545,268,000	545,268,000
Capital equipment	24,726,000	24,726,000
Construction:		
GP-D-171 General plant projects, var. locations	19,221,000	19,221,000
94-D-122 Underground storage.tanks, RF	700,000	700,000
94-D-401 Emergency response facility, Idaho National Engineering Laboratory, Idaho.	1,190,000	600,000
94-D-412 300 area process sewer piping system upgrade, Richland, Washington.	1,100,000	1,100,000
94-D-415 Idaho National Engineering Laboratory medical facilities, Idaho National Engineering Laboratory, Idaho	1,110,000	1,110,000
94-D-451 Infrastructure replacement, Rocky Flats Plant, Golden, Colorado.	6,600,000	6,600,000
93-D-172 Idaho National Engineering Laboratory electrical upgrade, Idaho National Engineering Laboratory, Idaho.	9,600,000	9,600,000
93-D-184 325 facility compliance/renovation, Pacific Northwest Laboratory, Richland, Washington	3,500,000	3,500,000
93-D-185 Landlord program safety compliance, phase II, Richland, Washington.	1,351,000	1,351,000
92-D-125 Master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, Golden, Colorado	3,900,000	3,900,000
92-D-181 Idaho National Engineering Laboratory fire and life safety improvements, Idaho National Engineering Laboratory, Idaho	5,000,000	5,000,000

Department of Energy

	Budget Estimate	Conference
92-D-182 Idaho National Engineering Laboratory sewer systems upgrade, Idaho National Engineering Laboratory, Idaho	1,450,000	1,450,000
92-D-183 Idaho National Engineering Laboratory transportation complex, Idaho National Engineering Laboratory, Idaho	7,198,000	7,198,000
92-D-184 Hanford infrastructure underground storage tanks, Richland, Washington	300,000	300,000
92-D-186 Steam system rehabilitation, phase II, Richland, Washington	4,300,000	4,300,000
92-D-187 300 area electrical distribution conversion and safety improvements, phase II, Richland, Washington	10,276,000	10,276,000
91-D-175 300 area electrical distribution conversion and safety improvements, phase I, Richland, Washington	1,500,000	1,500,000
90-D-175 Landlord program safety compliance, phase I, Richland, Washington	1,800,000	1,800,000
Total, Construction	80,096,000	79,506,000
Total, Facility transition & management	650,090,000	649,500,000
(Operating expenses)	(545,268,000)	(545,268,000)
(Capital expenses)	(24,726,000)	(24,726,000)
(Construction)	(80,096,000)	(79,506,000)
Subtotal, Defense.environment restoration & waste mgmt	5,544,477,000	5,548,455,000
Use of prior year balances	-86,600,000	-86,600,000
General reduction and other adjustments	-37,765,000	-280,000,000
Transfer to EPA	8,000,000	---
TOTAL, DEFENSE ENVIRONMENTAL RESTORATION & WASTE MGMT.	5,428,112,000	5,181,855,000
(Operating expenses)	(4,767,513,000)	(4,552,278,000)
(Capital equipment)	(197,158,000)	(203,826,000)
(Construction.....)	(463,441,000)	(425,751,000)
MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS		
MATERIALS SUPPORT		
I. Reactor operations	168,495,000	168,495,000
II. Processing of nuclear materials	387,628,000	387,628,000
III. Supporting services	282,073,000	260,000,000
IV. Capital equipment	75,209,000	65,000,000
V. Construction:		
A. Environment, safety and health:		
93-D-147 Domestic water system upgrade Phase I &.II, Savannah River, SC	7,720,000	7,720,000
93-D-148 Replace high-level drain lines, Savannah River, SC	1,800,000	1,800,000
93-D-152 Environmental modification for production facilities, Savannah River, SC	20,000,000	20,000,000
92-D-140 F&H canyon exhaust upgrades, Savannah River, SC	15,000,000	15,000,000
92-D-142 Nuclear material processing training center, Savannah River, SC	8,900,000	8,900,000
92-D-143 Health protection instrument calibration facility, Savannah River, SC	9,600,000	9,600,000

Department of Energy

	Budget Estimate	Conference
90-D-149 Plantwide fire protection, Phases I and II,.Savannah River, SC	25,950,000	25,950,000
Total, Environment, safety and.health	88,970,000	88,970,000
B. Programmatic projects:		
GPD-146 General plant projects, various locations	31,760,000	23,000,000
92-D-150 Operations support facilities, Savannah.River, SC	26,900,000	26,900,000
92-D-153 Engineering support facility, Savannah.River Site, SC	9,500,000	9,500,000
86-D-149 Productivity retention program, Phases I, II, III, IV, V, and VI, various locations	3,700,000	3,700,000
Total, Programmatic projects	71,860,000	63,100,000
Total, Construction	160,830,000	152,070,000
VI. Program direction	62,970,000	57,000,000
Subtotal, Materials Support	1,137,205,000	1,090,193,000
TOTAL, MATERIALS SUPPORT	1,137,205,000	1,090,193,000
(Operating expenses)	(901,166,000)	(873,123,000)
(Capital equipment)	(75,209,000)	(65,000,000)
(Construction.....)	(160,830,000)	(152,070,000)
OTHER NATIONAL SECURITY PROGRAMS		
I. Verification and control technology		
Operating expenses	344,741,000	341,941,000
Capital equipment	15,573,000	15,573,000
Construction:		
90-D-186 Center for national security and arms control, Sandia National Laboratories Albuquerque, NM	8,515,000	8,515,000
Total, Verification and control technology	368,829,000	366,029,000
II. Nuclear safeguards and security		
Operating expenses	86,246,000	82,700,000
Capital equipment	4,101,000	4,101,000
Total, Nuclear safeguards and security	90,347,000	86,801,000
III. Security investigations - OE	53,335,000	49,000,000
IV. Security evaluations		
Operating expenses	14,961,000	14,961,000
V. Office of nuclear safety		
Operating expenses	24,859,000	24,859,000
Capital equipment	50,000	50,000
Total, Office of nuclear safety	24,909,000	24,909,000
VI. Worker training and adjustment	100,000,000	100,000,000
TOTAL, OTHER NATIONAL SECURITY PROGRAMS	652,381,000	641,700,000
(Operating expenses)	(624,142,000)	(613,461,000)
(Capital equipment)	(19,724,000)	(19,724,000)
(Construction.....)	(8,515,000)	(8,515,000)

Department of Energy

	Budget Estimate	Conference
NAVAL REACTORS		
I. Naval reactors development		
A. Plant development - OE	124,900,000	124,900,000
B. Reactor development - OE	316,531,000	316,531,000
C. Reactor operation and evaluation - OE	166,000,000	166,000,000
D. Capital equipment	46,900,000	46,900,000
E. Construction:		
GPN-101 General plant projects, various locations	7,500,000	7,500,000
93-D-200 Engineering services facilities Knolls Atomic Power Laboratory, Niskayuna, NY	7,000,000	7,000,000
92-D-200 Laboratories facilities upgrades, various locations	2,800,000	2,800,000
90-N-102 Expended core facility dry cell project, Naval Reactors Facility, ID	7,800,000	---
Total, Construction	25,100,000	17,300,000
F. Program direction	18,300,000	18,300,000
Total, Naval reactors development	697,731,000	689,931,000
II. Enrichment materials - OE	70,000,000	70,000,000
TOTAL, NAVAL REACTORS	767,731,000	759,931,000
(Operating expenses)	(695,731,000)	(695,731,000)
(Capital equipment)	(46,900,000)	(46,900,000)
(Construction.....)	(25,100,000)	(17,300,000)
SUBTOTAL, MATERIALS SUPPORT AND OTHER DEF. PROGRAMS	2,557,317,000	2,491,824,000
Savannah river pension refund	-100,000,000	-100,000,000
Use of prior year balances	-351,132,000	-409,132,000
Salary reduction	-18,937,000	-18,937,000
Education programs (MS)	58,000,000	---
TOTAL, MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS	2,145,248,000	1,963,755,000
(Operating expenses)	(1,808,970,000)	(1,654,246,000)
(Capital equipment)	(141,833,000)	(131,624,000)
(Construction.....)	(194,445,000)	(177,885,000)
DEFENSE NUCLEAR WASTE DISPOSAL		
Defense nuclear waste disposal	120,000,000	120,000,000
General reduction	-258,000	---
TOTAL, DEFENSE NUCLEAR WASTE DISPOSAL	119,742,000	120,000,000
TOTAL, ATOMIC ENERGY DEFENSE ACTIVITIES	11,402,402,000	10,860,808,000
(Operating expenses)	(10,046,873,000)	(9,575,180,000)
(Capital equipment)	(462,025,000)	(453,484,000)
(Construction.....)	(893,504,000)	(832,144,000)
DEPARTMENTAL ADMINISTRATION		
I. Administrative operations		
A. Office of the Secretary - salaries and expenses	2,856,000	2,856,000
B. General management - personnel compensation and benefits	191,269,000	191,269,000
C. General management - other expenses		
1. Travel	5,317,000	5,317,000
2. Services	183,678,000	177,000,000
3. Capital equipment	8,561,000	7,780,000
Total, Other expenses	197,556,000	190,097,000

Department of Energy

	Budget Estimate	Conference
D. Program support		
1. Office of minority economic impact	3,626,000	3,626,000
2. Policy analysis and system studies	4,334,000	4,334,000
3. Consumer affairs	47,000	47,000
4. Public affairs	55,000	55,000
5. International policy studies	1,255,000	1,255,000
Total, Program support	9,317,000	9,317,000
Total, Administrative operations	400,998,000	393,539,000
II. Cost of work for others	61,626,000	61,626,000
Subtotal, Departmental administration (gross)	462,624,000	455,165,000
Use of unobligated balances and other adjustments	-47,927,000	-53,927,000
General reduction	-214,000	---
Total, Departmental administration (gross)	414,483,000	401,238,000
Miscellaneous revenues	-239,209,000	-239,209,000
TOTAL, DEPARTMENTAL ADMINISTRATION (net)	175,274,000	162,029,000
(Operating expenses)	(166,713,000)	(154,249,000)
(Capital equipment)	(8,561,000)	(7,780,000)
OFFICE OF INSPECTOR GENERAL		
Office of Inspector General	31,757,000	30,362,000
POWER MARKETING ADMINISTRATIONS:		
ALASKA POWER ADMINISTRATION		
I. Operation and maintenance		
Operating expenses	4,010,000	4,010,000
SOUTHEASTERN POWER ADMINISTRATION		
I. Operation and maintenance		
A. Operating expenses	3,217,000	3,217,000
B. Purchase power and wheeling	31,488,000	31,488,000
Subtotal, Operation and maintenance	34,705,000	34,705,000
Use of prior year balances	-4,963,000	-4,963,000
TOTAL, SOUTHEASTERN POWER ADMINISTRATION	29,742,000	29,742,000
SOUTHWESTERN POWER ADMINISTRATION		
I. Operation and maintenance		
A. Operating expenses	21,563,000	21,563,000
B. Purchase power and wheeling	1,650,000	1,650,000
C. Construction	11,138,000	11,138,000
Subtotal, Operation and maintenance	34,351,000	34,351,000
Use of prior year balances	-764,000	-764,000
TOTAL, SOUTHWESTERN POWER ADMINISTRATION	33,587,000	33,587,000
WESTERN AREA POWER ADMINISTRATION		
I. Operation and maintenance		
A. Construction and rehabilitation	121,695,000	121,695,000
B. System operation and maintenance	125,554,000	125,554,000
C. Purchase power and wheeling	100,707,000	100,707,000
D. Utah mitigation and conservation	5,000,000	5,000,000
Subtotal, Operation and maintenance	352,956,000	352,956,000

Department of Energy

	Budget Estimate	Conference
Use of prior year balances	---	-75,000,000
Transfer of permanent authority from DOI	(7,168,000)	(7,168,000)
TOTAL, WESTERN AREA POWER ADMINISTRATION	352,956,000	277,956,000
FEDERAL ENERGY REGULATORY COMMISSION		
Federal energy regulatory commission	165,375,000	165,375,000
FERC revenues	-165,375,000	-165,375,000
TOTAL, FEDERAL ENERGY REGULATORY COMMISSION	---	---
NUCLEAR WASTE DISPOSAL FUND		
Nuclear waste disposal fund	260,000,000	260,000,000
General reduction	-1,972,000	---
TOTAL, NUCLEAR WASTE DISPOSAL FUND	258,028,000	260,000,000

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

Amendment No. 44: Appropriates $249,000,000 as proposed by the Senate instead of $189,000,000 as proposed by the House.

The conferees agree that a total of $50,000,000 is provided for Corridor L in West Virginia; a total of $4,600,000 is provided for corridor construction in Mississippi; a total of $13,500,000 is provided for Corridors G, B, Q, and F in Kentucky; and a total of $38,700,000 is provided for corridor construction in Alabama.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Amendment No. 45: Appropriates $16,560,000 for the Defense Nuclear Facilities Safety Board instead of $15,060,000 as proposed by the House and $18,060,000 as proposed by the Senate.

TENNESSEE VALLEY AUTHORITY

Amendment No. 46: Appropriates $140,473,000 as proposed by the Senate instead of $138,973,000 as proposed by the House.

TITLE V

GENERAL PROVISIONS

Amendment No 47: Deletes language proposed by the Senate urging the Secretary of Energy to prepare a proposal to satisfy the Bonneville Power Administration's entire repayment obligation to the United States Treasury.

The conferees agree that, utilizing funds made available in this Act, the Secretary of Energy is requested to submit to the Congress by February 1, 1994, a legislative proposal to satisfy the Bonneville Power Administration's entire repayment obligation to the United States Treasury for appropriated investment in the Federal Columbia River Power System. The proposal should result in maximum deficit reduction for the Federal Government in fiscal year 1995 through fiscal year 1999, and should not increase Bonneville Power Administration rates beyond those rates which would result under existing debt repayment policy and practices.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1994 recommended by the committee of conference, with comparisons to the fiscal year 1993 amount, the 1994 budget estimates, and the House and Senate bills for 1994 follow:

New budget (obligational) authority, fiscal year 1993	$22,240,643,000
Budget estimates of new (obligational) authority, fiscal year 1994	22,346,046,000
House bill, fiscal year 1994	21,730,444,000
Senate bill, fiscal year 1994	22,192,617,000
Conference agreement, fiscal year 1994	22,215,382,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1993	−25,261,000
Budget estimates of new (obligational) authority, fiscal year 1994	−130,664,000
House bill, fiscal year 1994	+484,938,000
Senate bill, fiscal year 1994	+22,765,000

TOM BEVILL,
VIC FAZIO,
JIM CHAPMAN,
DOUGLAS "PETE" PETERSON,
ED PASTOR,
CARRIE MEEK,
WILLIAM H. NATCHER,
JOHN T. MYERS,
DEAN A. GALLO,
HAROLD ROGERS,
JOSEPH M. MCDADE,
Managers on the Part of the House.

J. BENNETT JOHNSTON,
ROBERT C. BYRD,
FRITZ HOLLINGS,
JIM SASSER,
DENNIS DECONCINI,
HARRY REID,
BOB KERREY,
MARK O. HATFIELD,
THAD COCHRAN,
PETE V. DOMENICI,
DON NICKLES,
SLADE GORTON,
MITCH MCCONNELL,
Manager on the Part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC, October 22, 1993.

HON. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Thursday, October 21, 1993 at 5:10 p.m. and said to contain a message from the President wherein he transmits the extension of the agreement between the U.S.A. and Poland which constitute a governing international fishery agreement (GIFA) under the Magnuson Fishery Conservation and Management Act of 1976.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

EXTENSION OF AGREEMENT BETWEEN THE UNITED STATES AND POLAND CONCERNING FISHERIES OFF THE UNITED STATES COASTS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–154)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94–265; 16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement between the Government of the United States of America and the Government of the Republic of Poland Extending the Agreement of August 1, 1985, Concerning Fisheries off the Coasts of the United States. The agreement, which was effected by an exchange of notes at Washington June 8 and July 29, 1993, extends the 1985 agreement for an additional 2 years, from December 31, 1993, to December 31, 1995. The exchange of notes together with the 1985 agreement constitute a governing international fishery agreement within the requirements of section 201(c) of the Act.

I urge that the Congress give favorable consideration to this agreement at an early date.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *October 21, 1993.*

REFORM WEEK "NEXT WEEK"

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the majority leadership's promise that reform week will be "next week" reminds me of a roadside restaurant years ago in Sanibel, FL. After a long and dusty drive, my interest picked up when I saw a sign out front that said "free beer, tomorrow." So I went back the next day for a free beer—only to discover the sign was still there—in fact, it stayed there for many years, always promising free beer tomorrow, but never delivering today. It is a great marketing device, but it was limited value. Eventually visitors catch on and stop coming back. So the Democrat leadership should be careful about stringing along the American people, who are thirsty for real reform in the way Congress works. As long as reform week is slated for next week, we will never get there—but then again, maybe that is exactly what the majority leadership has in mind.

Now I understand the leadership has declared next month will be reform month. I wonder, when we come back, if reform year is going to be next year.

U.S. CAPITOL ANNIVERSARY

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, I rise today to ask that each of us in Congress and all Americans take a moment to remember the historical significance of this weekend. It was 200 years ago on September 18, 1793, that our first President, George Washington, came to what was then called Jenkins Hill. He came to lay the cornerstone to this magnificent structure—our U.S. Capitol.

Since that simple ceremony and most likely through the ages, no other building on Earth has more greatly symbolized mankind's quest for freedom and democracy. No other structure in the world is more easily recognized. And no other building in America better reflects the great history of our Nation.

As we debate the important issues of our day we should not fail to recognize the most significant deeds of our past. While our Capitol Building was originally constructed with stone, brick, and mortar, it has been reinforced by the hopes, dreams, and wisdom of each generation that has served within its confines.

So, Mr. Speaker, as we replace the Thomas Crawford Statue of Freedom tomorrow to crown the beauty of her magnificent dome, join with me to remember the labor and vision of those who over the centuries created this incredible structure: the Capitol of the United States of America.

□ 1010

CALLING FOR A PROHIBITION ON INTERNATIONAL KIDNAPING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise today to introduce legislation to prohibit the United States from apprehending foreign criminal suspects outside of U.S. property without consent of the foreign government that is involved. My concern stems from the kidnaping several years ago of a Mexican citizen, in Mexico, who was wanted by U.S. authorities for allegedly murdering a United States Drug Enforcement Administration agent. The United States kidnaped Mexican doctor Humberto Alvarez Machain and brought him to the United States. He was held more than 2 years in Federal prison while legal protests of the kidnaping were pursued in U.S. courts. Unfortunately, the United States Supreme Court ruled in 1992 that the abduction had not violated a United States-Mexico extradition treaty because the practice was not expressly prohibited by the treaty. Dr. Alvarez was subsequently acquitted and he has now filed a lawsuit against the United States for more than $20 million in damages.

My concerns about the United States actions in this case are many, but not least among them is my concern over the United States breach of the sovereignty of another country. We did this in Panama, when we invaded and kidnaped their official leader, Gen. Manuel Noriega, bringing him to trial, conviction, and incarceration in the United States, and of course we did this in Dr. Alvarez' case.

Especially when our country is looking toward greater and closer ties with Mexico, and indeed with nations all around the world, we must reaffirm our commitment to obeying the letter as well as the spirit of the law. Clearly, when the United States signed a treaty with Mexico on extradition, that treaty was contemplated to address procedures for seizing and moving suspects across the United States-Mexico border. Can you imagine the outrage in the United States if the Mexican Government captured a United States citizen living in, say, Washington, DC, and transported that person back to Mexico, held him in prison for several years, and eventually tried him—all against the will of the United States Government? Why, we would scream loud and long, and I have no doubt that we would retaliate. Mexico did not retaliate against us, but you had better believe that the citizens of Mexico, not to mention Mexican Government officials, will never forget what we did. Now, as NAFTA is being contemplated, what assurance does the Mexican Government have that the United States will keep its trade and finance promises?

We had better realize, as well, that other nations carefully watched the unfolding of events both in Panama and in Dr. Alvarez' case. They must know that if we treat our neighbor so cavalierly, we will likely treat others equally, or worse.

In his dissent from the Supreme Court case that upheld the Government's kidnaping of Dr. Alvarez, Justice Stevens pointed out the logical extension of the Court's opinion: "If the United States * * * thought it more expedient to torture or simply to execute a person rather than to attempt extradition, these options would be equally available because they, too, were not explicitly prohibited by the Treaty." Thus, there is a clear need for corrective legislation since the executive branch acted in this unlawful manner and the judicial branch sanctioned it. Congress must now recommit our Nation to being the Nation of laws for which it has always stood. Mr. Speaker, I urge my colleagues to join me in this effort.

CONGRESSIONALLY UNFUNDED FEDERAL MANDATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. GILLMOR] is recognized for 60 minutes.

Mr. GILLMOR. Mr. Speaker, I recently introduced a constitutional amendment to prevent the Congress from enacting unfunded Federal mandates. There are three justifications for it that I will outline: First, the Federal Government has encroached beyond the role the Constitution sets for it; second, State governments have no realistic way to combat this unwarranted Federal encroachment; and third, costs of unfunded mandates have interfered with the delivery of essential services by State and local governments. Let me talk briefly about the first two points and then give you some examples that show how this problem is seriously impairing our ability to represent the best interests of American taxpayers and citizens.

It has somehow been all but forgotten that originally the States voluntarily ceded power to form the Federal Government. In the interest of invigorated growth of prosperity, of unified and cooperative defense of borders, and of a common association, the diverse colonies formed a strong nation.

What has grown up out of our Constitution is the most brilliant success in the world's history—a Nation of unequalled prosperity, an unflinching sense of justice, uncompromising compassion, and unparalleled strength. It is diversity.

In ceding powers, the States bargained to maintain their diversity from one another, and preserve a substantial degree of autonomy over affairs not within the scope of the national government. In article I, section 8, they gave Congress the power to "lay and collect taxes," to "provide for the common Defence and general Welfare of the United States," to borrow and coin money, to regulate international and interstate commerce, to establish post offices, to declare war and provide an army and a navy, and to do a small assortment of other things.

These are broad powers, but at the same they are both limited and enumerated. They were never intended to encompass a grant nearly all power. Let me emphasize a degree of diversity and autonomy were to be preserved. As Chief Justice Marshall said:

> No political dreamer was ever wild enough to think of breaking down the lines which separate the states, and of compounding the American people into one common mass.

In fact, given the widespread suspicion of accumulated centralized power, State powers were viewed as the broader, because State retained all powers not expressly granted to the Federal Government. States were to have whatever the Federal Government could not have. Among other things, this included the direct power to promote the general welfare, the police power—so to speak—and power over intrastate commerce. The will of the States was to remain to a substantial degree unencumbered by the national will. Yet it has become encumbered today to an alarming extent through enactment of Federal mandates.

The Supreme Court afforded ample room for the enumerated Federal powers to expand and adapt to the Nation's progress. Today the Federal Government can use the Federal commerce power to regulate for health and safety, to control the waters, to protect civil rights, and to fight street crime. All well and good, one might say, but as the realm of the Federal Government has been aggrandized, the States have been left without a clear expression of the limits to Federal power.

Until modern times, there have been limits on the role of the National Government in our federalist system. Congress long sought to avoid areas of traditional State regulation, not daring to run afoul of perceived constitutional limitations. But in the post-New Deal era, most particularly in the post-Great Society era, this self-restraint has failed.

GROWTH OF FEDERAL MANDATES

A recent Insight magazine article calculates 17 mandates from 1960 to 1985. Then from 1988 to 1992—just 4 years—the Federal Government added 88 mandates relating to toxics alone. Already this year, no less than 130 mandates have been proposed by a Congress full of avowed reformers and would-be reinventors of government.

With this backdrop, the Supreme Court sought some relief for the States in 1976. Combining through the goals and purposes of the Constitution and its expression of the vision of its Framers, the Supreme Court in National League of Cities versus Usery found grounds for a defined sanctuary of State powers where Federal power could not intrude. Justice Rehnquist wrote that insofar as Congress's enactments "directly displace the States' freedom to structure integral operations in areas of traditional [state] governmental functions, they are not within the authority granted Congress by article 1, section 8, clause 3." The Court found Congress could not impose Federal minimum wage standards on State employees because to do so "would impair the States' 'ability to function effectively within a federal system'" and destroy the states' "separate and independent existence." Importantly, the court also cited the potential threat to State funding for essential services as one reason why there should be a substantive limit to the Federal commerce power. I will talk more about funding in a few minutes.

The Court junked this ruling in 1985, overruling it in Garcia versus San Antonia Metropolitan Transit Authority. The Court cited considerable difficulties in determining what were "integral" and "traditional" State functions. The Court said that

> * * * the principle means chosen by the Framers to ensure the role of the States in the federal system lies in the structure of the Federal Government itself.

That is, the Supreme Court has decided that the States have not defined inviolate sovereign area. Apparently not even setting State budgets would be safe from Congress were it to find a commerce clause reason for overtaking it.

The Court has expressed an unworkable vision of the relationship between Congress and the States. It has left the Federal Government with a virtually unobstructed path to destroy the States' role in a federalist system. The courts will not guard the States from intrusion by Congress, and the States have few defenses of their own to prevent it.

In fact, nothing else exists in the structure of Government to create political pressure against encroachment by the Federal Government. Election of Senators by the State legislators may have been intended as a mechanism for States to check Federal power, but the 17th amendment removed the senatorial elections from State legislatures and gave it to the people. There are checks and balances between the Congress, the executive branch and the judiciary, but no realistic checks upon the Federal Government by the State governments.

It is essential to limit the Federal Government by prohibiting unfunded mandates. Mandates are pushing some governments to the brink of collapse. Mandates allow Federal legislators to avoid the consequences of tough political choices, because in great measure they shift the tough political choices to the States. Congress can enact programs that sound nice, but force State or local politicians to raise taxes or cut services to pay for them. Under our federalist system as envisioned by the Supreme Court and by the Congress itself, there is often little incentive for the Congress to ensure that the programs are cost effective, that they are sensible, or even that they work. Our Constitution certainly never intended this lack of accountability.

Let me expand upon this point about costs to State and local governments, because it is really the catalyst of my legislation, and probably the most persuasive argument for Congress changing the way it does business. When Congress imposes an unfunded mandate on a State government, the State must spend money to implement it. Unfunded mandates force State legislatures to cut services or raise taxes. Often, the services being cut are essential ones, like fire, police, education or medical. Furthermore, should conditions change in the State, legislators have a more difficult time making the case for more cuts or more taxes, even in the name of preserving essential services, when taxpayers have already been forced to sacrifice.

COSTS TO STATE OF OHIO

The State of Ohio recently became the first State to conduct a comprehensive review of unfunded mandates and the cost of compliance. The findings are beyond startling—they are staggering. This fiscal year, the State expects to spend over $300 million for unfunded Federal mandates, an increase of more than 18 percent over the previous year. By 1995, the costs will increase another 26 percent to over $389 million, just for existing mandates. Add to this the cost of mandates already enacted this year, and you have a mandate avalanche piling up on State governments.

What Congress in effect says is "we know how to spend your money better than you do," and "our priorities have precedence over yours." Both of these statements are routinely proven false. For example, Federal regulations could require cities to keep atrazine levels in drinking water below 3 parts per billion. Yet a human would have to drink 38 bathtubs of water per day with 3 parts per billion atrazine to equal the dose found to be cancerous in rats. It could cost the city of Columbus $80 million to build a water purification plant to comply with this rule. For the same amount of money required to protect our children from this phantom, the city could hire an extra 2300 teachers at the average State salary.

Another interesting fact the city of Columbus found: Federal environmental mandates are costing every resident of the city $856 per year. Think about a family of four getting by on $35,000 or $40,000 per year. $856 is an awful lot of money to ask for on top of taxes, but Congress just keeps asking for more.

While the Federal Government was mandating that Medicaid coverage be extended for a full year to families with too much employment income to continue qualifying for Medicaid, States like Ohio were forced to come up with deep budget cuts to meet balanced budget requirements. Medicaid changes enacted by Congress several years ago cost the State over $50 million in 1992. This is more than the State spent out of general revenue funds on the entire Department of Health. Since 1992 the State has had to adopt general revenue fund cuts in its line item for uninsured health care, cystic fibrosis, nursing home training, sickle cell disease control, encephalitis control, screenings for infant hearing, and the list continues. In a way, those cuts were mandated by Congress.

I was contacted last month by Chief Ronald Rank of the Van Wert, Ohio Fire Department. He was upset by a Department of Transportation rule requiring them to replace fiberglass air tanks that firemen use when entering smoke-filled areas. Not one of these tanks is worn out, and to their knowledge, there has never been a problem with one of these tanks anywhere in the country. Yet this local fire department will be forced to spend $9500 to replace them. For this same amount of money, the fire department could train an extra 15 volunteers to help fight fires. That would quadruple the number of volunteers the department can afford now, after budget cuts in each of the last 3 years.

The Perkins Vocational and Applied Technology Education Act requires schools to design programs to assess "student progress," a requirement that merely adds to the estimated 170 Federal reports already required every year of local school districts. A good school would already be assessing progress anyway. With the estimated $15 million Ohio will spend on this paperwork over the next 4 years, the State could reinstate most of its career development program, which had to be zeroed out this year because of budget shortfalls. The State could also increase funding for adult literacy by more than 50 percent. Or the State could hire another 110 vocational education teachers at the average State teacher salary. Even most Members of Congress are not so mixed up to think more paperwork is more beneficial to our children than a good teacher.

Examples like this are what gave me the idea earlier this year for a Mandate-O-Meter, a device by which to judge how onerous a piece of legislation would be to State and local governments.

MANDATE-O-METER

I hope to bring this out from time to time to help my colleagues assess the impact of mandate legislation being considered here in the House. This is the mandate-o-meter, and what it does is test each bill for its impact on State and local governments. It looks at the cost to the States, then compares that with what else could have been done with the money, just like I've done with some of the examples I just gave.

The first item I have chosen as a test piece for the mandate-o-meter is the motor voter legislation we passed earlier this year. This is just the kind of benign-sounding, but expensive and unnecessary legislation that makes State budget officers wince in disgust. While Members of Congress passed congratulatory handshakes back and forth, the State of Ohio has started scrambling to figure out how to come up with the estimated $20 million per year it will cost to implement this bill. That's a lot of money for some new mandated government forms and an expanded role for the omnipresent Federal bureaucracy. Let's see what the mandate-o-meter says.

The $20 million could have been used in Ohio for an extra 574 teachers. With that money you could increase by nearly 65 percent the number of tutors and small group instructors. You could double the number of preschool special education teachers. Or you could pay 40 percent of the budget for elementary school counselors. The State could have hired more than 400 extra highway patrolmen. That means the State could have increased its number of patrolmen by nearly 25 percent. It could increase tenfold its drug traffic interdiction team. Think about how much difference that could make in the war on drugs. The State could also have offered full 1-year scholarships to nearly 2000 students to attend Ohio State University.

Keep in mind that a State's administrative cost for mandates is often only the tip of the iceberg of the overall cost. Often the State's role is to oversee what local governments are implementing, and the cost of actually implementing mandates can be far more astronomical. For example, while Ohio estimates its costs in 1993 at $308 million for all unfunded mandates, nine Ohio cities will spend an average of $280 million per year for the next decade implementing just the environmental mandates.

Note that so far I have avoided mention of Federal requirements that are merely conditions to the receipt of Federal funding. There is a difference, as far as constitutional law is concerned, and as far as my amendment is concerned, between forcing the States to act inefficiently, and merely inducing them to act inefficiently by providing Federal funding. To illustrate the point, let me briefly mention one of these. The 1991 Intermodal Surface Transportation Efficiency Act included a provision requiring States to use recycled rubber from used tires in pavements. Processing used tires for use in rubber pavements costs up to $4 per tire, while using tires for fuel would cost $1 or less. The recycled rubber often costs three times as much as conventional asphalt, increasing the cost of construction and thereby limiting the amount of work which can be done. This may be an inefficient requirement for resources use, but nonetheless, States are free not to participate in the Federal highway program. I do not condone requirements that result in tax dollars being spent inefficiently, yet the Congress must be able to condition the use of Federal funds on the achievement of its legislative purposes.

CONSTITUTIONAL AMENDMENT

The constitutional amendment I am introducing would prohibit the Federal Government from enacting requirements forcing the expenditure of State or local funds. It reads:

> The Congress shall not enact any provision of law that has the effect of requiring any State or local government to expend non-Federal funds to comply with any Federal law unless the Congress reimburses the State or local government for the non-Federal funds expended to comply with that Federal law.
>
> [This] shall not prohibit the Congress from enacting a provision of law that permits a State or local government to choose to expend non-Federal funds in order to receive Federal funds.

A constitutional amendment is necessary to resolve the problem of unfunded Federal mandates because without a constitutional requirement, Congress can simply continue to pile up expensive programs on the backs of State and local governments. If Congress were to enact a statutory provision, it could be waived any time Congress felt the urge to spend someone else's money instead of the mountains of cash it already squeezes out of Federal taxpayers.

I have cosponsored bills that would make a statutory restriction on congressional authority to pass unfunded mandates. But the Constitution is a more appropriate place for this type of legislation, because what we are talking about here is an alteration to the structure of Government. We are talking about reestablishing the balance our Founding Fathers envisioned when they ratified the Constitution. As I mentioned earlier, the Supreme Court's federalism formula leaves the power of the National Government unchecked.

We want a nation of prosperity, with good medical services for everyone, clean water to drink, healthy food to eat, streets that are safe to walk at night, a roof over everyone's head, schools that teach our children to be productive members of society, and a strong military to protect us from foreign aggressors. We want a nation without anguish, without injury and disease, without poisons, weapons, drugs and criminals.

We should have these things, but some in Congress have never learned enough about the history of our great country to know that this National Legislature is not the forum for resolving all of these issues. We have the power, and we have the compassion, yet too often we are unwilling to admit that we do not have the focus to provide for the diverse problems arising across this vast Nation.

The Federal Government has long had its foot on the necks of the States, and its hands rummaging through their wallets. For lack of breath the States were long unconscious. But I tell my colleagues that the awakening has come. On October 27, I will join my colleagues in the Congressional Mandates Caucus for another special order here on National Unfunded Mandates Day. Governors, State legislators, mayors and other officials across the country will raise the call. Congress should be listening.

As a final note, I would like to thank the Ohio Governor's office, the National Conference of State Legislatures, the U.S. Conference of Mayors, the Heritage Foundation, and the Congressional Mandates Caucus for their leadership and assistance on this issue.

I yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GILLMOR) to revise and extend their remarks and include extraneous material:)

Mr. BATEMAN, for 60 minutes each day, on October 26, 27, 28, and 29.

(The following Members (at the request of Mr. SKELTON) to revise and extend their remarks and include extraneous material:)

Mr. SANDERS, for 60 minutes, on November 3.

Mr. GONZALEZ, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GILLMOR) and to include extraneous matter:)

Mr. BILIRAKIS.

(The following Members (at the request of Mr. SKELTON) and to include extraneous matter:)

Mr. RICHARDSON.

Mr. STOKES.

Ms. LAMBERT.

Mr. POSHARD.

Mr. FRANK of Massachusetts.

Mr. PAYNE of New Jersey in two instances.

Mr. OLVER.

Mr. DELAURO.

Mr. CONYERS.

(The following Members (at the request of Mr. GILLMOR) and to include extraneous matter:)

Mr. MENENDEZ.

Mr. NATCHER.

Mr. CLEMENT.

ADJOURNMENT

Mr. GILLMOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 40 minutes a.m.) under its previous order, the House adjourned until Tuesday, October 26, 1993, at 12 noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 2811. A bill to authorize certain atmospheric, weather, and satellite programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes; with amendments (Rept. 103–248, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEVILL: Committee of conference. Conference report on H.R. 2445. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103–305). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 796. A bill to assure freedom of access to clinic entrances; with amendments (Rept. 103–306). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CLAY (for himself, Mrs. SCHROEDER, Mr. MCCLOSKEY, Mr. ACKERMAN, Mr. SAWYER, Mr. KANJORSKI, Ms. NORTON, Miss COLLINS of Michigan, Ms. BYRNE, Mr. WATT, Mr. WYNN, Mr. LAUGHLIN, Mr. BISHOP, Mr. BROWN of Ohio, Mr. HASTINGS, Mr. YOUNG of Alaska, Mrs. MORELLA, and Mr. BOEHLERT):

H.R. 3345. A bill to amend title 5, United States Code, to eliminate certain restrictions on employee training; to provide temporary authority to agencies relating to voluntary separation incentive payments; and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ:

H.R. 3346. A bill to give effect to the norms of international law forbidding the abduction of persons from foreign places in order to try them for criminal offenses; to the Committee on the Judiciary.

By Mr. CONYERS:

H.R. 3347. A bill to reform the laws relating to forfeitures; jointly, to the Committees on Ways and Means, the Judiciary, and Energy and Commerce.

By Mr. MACHTLEY (for himself, Mr. FRANK of Massachusetts, Mr. REED, Mr. POMBO, Mrs. MALONEY, Mr. SCHUMER, Mr. KING, Mr. BLUTE, Mr. DELLUMS, and Mr. LIPINSKI):

H.R. 3348. A bill authorizing the designation of Portugal, Ireland, and Greece under the visa waiver program under certain conditions; to the Committee on the Judiciary.

By Mr. OXLEY:

H.R. 3349. A bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the 25th anniversary of the first lunar landing; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GILMAN (for himself and Mr. SPENCE):

H. Con. Res. 170. Concurrent resolution directing the President pursuant to section 5(c) of the war powers resolution to remove United States Armed Forces from Somalia by January 31, 1994; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 116: Mr. THOMAS of Wyoming.

H.R. 306: Mr. LEVY.

H.R. 467: Ms. NORTON and Mrs. UNSOELD.

H.R. 509: Mr. POMBO.

H.R. 926: Mr. BALLENGER and Mr. BATEMAN.

H.R. 1191: Mr. LANCASTER.

H.R. 1408: Mrs. CLAYTON, Mr. FILNER, Mr. BECERRA, and Mr. SERRANO.

H.R. 2088: Mr. ALLARD, Mr. CANADY, Mr. DEAL, and Mrs. FOWLER.

H.R. 2394: Mr. RICHARDSON, Mr. FAZIO, Mrs. JOHNSON of Connecticut, Mr. ACKERMAN, Mrs. CLAYTON, Mr. BOEHLERT, Mr. GILCHREST, Mrs. BENTLEY, Mr. DELLUMS, Mr. PASTOR, Mr. TORRES, Mr. TORRICELLI, Mr. CARDIN, Mr. MFUME, Mr. WYNN, Mr. NADLER, Mr. SHAYS, Mr. MACHTLEY, Ms. BROWN of Florida, Mr. LEWIS of Georgia, and Mr. RAVENEL.

H.R. 2395: Mr. RICHARDSON, Mr. FAZIO, Mrs. JOHNSON of Connecticut, Mr. ACKERMAN, Mrs. CLAYTON, Mr. BOEHLERT, Mr. GILCHREST, Mrs. BENTLEY, Mr. DELLUMS, Mr. PASTOR, Mr. TORRES, Mr. TORRICELLI, Mr. CARDIN, Mr. MFUME, Mr. WYNN, Mr. NADLER, Mr. SHAYS, Mr. MACHTLEY, Ms. BROWN of Florida, Mr. LEWIS of Georgia, and Mr. RAVENEL.

H.R. 2663: Mr. BILIRAKIS and Mr. DEUTSCH.

H.R. 2831: Mr. PORTER.

H.R. 2933: Ms. WOOLSEY, Mr. WASHINGTON, Mr. BISHOP, Ms. SLAUGHTER, Mr. PAYNE of New Jersey, and Mr. NADLER.

H.R. 3030: Mr. MCHUGH.

H.R. 3080: Mr. FIELDS of Texas and Ms. DUNN.

H.R. 3183: Mr. FAWELL, Mr. MCHUGH, and Mr. ROHRABACHER.

H.R. 3321: Mr. TORKILDSEN.

H.J. Res. 129: Mr. LANCASTER.

H.J. Res. 131: Mr. RUSH, Ms. NORTON, Mr. APPLEGATE, and Mr. SWETT.

H.J. Res. 197: Mr. BATEMAN, Mr. BOUCHER, Mr. BREWSTER, Mr. CALLAHAN, Mr. CONYERS, Mr. CRAMER, Mr. DARDEN, Mr. DELLUMS, Mr. FALEOMAVAEGA, Mr. FIELDS, of Texas, Mr. PETE GEREN of Texas, Mr. HILLIARD, Mr. LANCASTER, Mr. NATCHER, Mr. NEAL of Massachusetts, Mr. PAYNE of Virginia, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. SISISKY, Mr. SPRATT, Mrs. THURMAN, Mr. TUCKER, Mrs. UNSOELD, Ms. VELÁZQUEZ, Mr. WOLF, and Ms. MARGOLIES-MEZVINSKY.

H.J. Res. 268: Mr. PETE GEREN of Texas, Mr. KENNEDY, Mr. EDWARDS of California, Mr. ABERCROMBIE, Mr. FORD of Tennessee, Mr. FIELDS of Louisiana, Mr. JOHNSTON of Florida, Mr. PAYNE of Virginia, Mrs. LOWEY, Mr. QUILLEN, Mr. HOAGLAND, Mr. KLUG, Mr. NADLER, Ms. DELÁURO, Mr. RAVENEL, Ms. MCKINNEY, Mr. SHARP, Mr. WATT, Mr. INSLEE, Ms. SNOWE, and Mr. BRYANT.

H.J. Res. 272: Ms. NORTON, Mr. FISH, Mr. FROST, Mr. ACKERMAN, Mr. MONTGOMERY, Mrs. UNSOELD, Mr. GALLEGLY, Mr. SKEEN, Mr. FAZIO, Mr. SCHAEFER, Mr. PALLONE, Mr. BATEMAN, Mr. MOORHEAD, Ms. KAPTUR, Mr. JOHNSON of South Dakota, Mr. NEAL of Massachusetts, Mr. TAUZIN, Mr. DELLUMS, Mr. MINETA, Mr. MCHUGH, Mr. BERMAN, Mr. TUCKER, Mr. CASTLE, Mrs. THURMAN, Mr. DEUTSCH, Mr. HASTINGS, Mr. ROWLAND, Mr. LEACH, Mr. LIGHTFOOT, Mr. COSTELLO, Mr. MCCRERY, Mr. SOLOMON, Mr. BLUTE, Mr. FRANK of Massachusetts, Mr. MOAKLEY, Mr. WYNN, Mr. LEVY, Mr. BALLENGER, Mr. FRANKS of New Jersey, Mr. COPPERSMITH, Mr. SARPALIUS, Mr. CRAMER, Mr. ROTH, Mr. KING, Mrs. MALONEY, Mr. GRAMS, Mr. BACHUS of Alabama, Mr. FOGLIETTA, and Mr. MCNULTY.

H.J. Res. 278: Mr. BLILEY, and Mr. KILDEE.

H. Con. Res. 91: Mr. GONZALEZ, Mr. GLICKMAN, Mr. TORRICELLI, and Mr. DEAL.

H. Con. Res. 166: Ms. ROS-LEHTINEN, and Mr. GILMAN.

H. Res. 39: Ms. PELOSI, and Mrs. MINK.

DISCHARGE PETITIONS

Under clause 3 of rule XXVII, the following discharge petition was filed:

Petition 9, October 19, 1993, by Mr. WELDON on House Resolution 227 has been signed by the following Members: Curt Weldon, Dan Burton, Jim Saxton, Dean A. Gallo, J. Dennis Hastert, Joel Hefley, Craig Thomas, Dana Rohrabacher, Thomas J. Bliley, Jr., John L. Mica, Howard Coble, Thomas J. Ridge, Bob Stump, Helen Deilich Bentley, Barbara F. Vucanovich, Cliff Stearns, Bill Emerson, Jim Ramstad, Stephen E. Buyer, Roscoe G. Bartlett, Tillie K. Fowler, Michael Bilirakis, Jim Bunning, Peter G. Torkildsen, James M. Inhofe, Philip M. Crane, Christopher Shays, F. James Sensenbrenner, Jr., and Robert K. Dornan.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. SOLOMON on H.R. 493: Joe Kollenberg and Howard Coble.

Petition 4 by Mr. HOEKSTRA on House Joint Resolution 9: Howard Coble and Philip M. Crane.

Petition 5 by Mr. STEARNS on House Resolution 156: Christopher Shays, Jim Saxton, Dean A. Gallo, and Philip M. Crane.

Petition 6 by Mr. SENSENBRENNER on H.R. 1025: George J. Hochbrueckner, Constance A. Morella, Peter G. Torkildsen, and Stephen Horn.

EXTENSIONS OF REMARKS

JOBS WELL DONE—NEW COMMUNITY CORPORATION AND BABYLAND NURSERY, INC., CELEBRATE 25 YEARS OF SERVICE TO THE INNER CITY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, Congresswoman MARCY KAPTUR and I would like to bring to the attention of our colleagues an important event that is taking place in my district this weekend. It is the celebration of 25 years of faith and service to a community. In 1967 the central ward of Newark, NJ, devastated by civil unrest, resembled a war-torn battlefield. Much of the area lay in ruins, leaving the residents, mostly poor minorities, desperately in need of housing, employment, and social services. Msgr. William J. Linder, a local pastor, founded New Community Corporation [NCC], a minority-based and nonprofit community development corporation, to replace what the civil disorders had destroyed during the long hot summer. He asked for a 20-year commitment from a coalition of local residents and suburbanites who worked for years in the face of tremendous odds against success.

Nevertheless, New Community has largely achieved its goal to improve the quality of life of the people of Newark to reflect individual dignity and personal achievement. Beginning with a single development of family housing, it has flourished into a major real estate presence and employer in the central ward, owning and managing dozens of buildings and several businesses.

A major contributor to the revitalization of Newark's neighborhoods, New Community is unique because it is totally a grassroots venture. It houses over 6,000 individuals in decent, affordable apartments and homes in 15 housing developments containing 2,498 units in senior high rises, family town houses, and mid-rise mixed tenancy buildings. Stretching for blocks, NCC forms a city within a city.

In addition to housing, NCC provides employment, day care, education, social services, job training, and health care to urban residents under the umbrella of the State's largest community development and nonprofit housing corporation—and one of the largest in the Nation. The ninth largest nongovernment employer of Newark residents in the city, NCC provides jobs for 1,200 people; 96 percent minority and 66 percent Newark residents.

NCC succeeded in changing and improving the lives of thousands of inner-city residents while transforming much of the central ward into an attractive urban neighborhood. Built on the ashes of civil disorders, it is a major factor in maintaining the stability of the area through its housing and business ventures. Its neighborhood shopping center's Pathmark supermarket/pharmacy serves over 50,000 shoppers a week, providing the local populace with a focus that extends beyond procuring food to a social dimension unparalleled in the area. NCC's 25-year history stands as a proud testimony to its service to the urban poor.

In 1969, Babyland Nursery opened in the basement of Scudder Homes, a Newark housing project with the efforts of Operation Housewives, a suburban-urban women's coalition, the Telephone Pioneers of America, a $1,000 loan, thrift shop volunteers, Girl Scouts, and a suburban pediatrician. It was the first nonprofit, interracial, nonsectarian day care center in New Jersey serving children from ages 2½ months to 5 years.

Six centers now serve 640 children, including HIV-positive toddlers and homeless children. Three programs for teenage mothers currently operate in two Babylands and several local high schools. It also maintains a protective service for abused and neglected children; a Family Day Care Program, a residential shelter for battered women and their children; and the Children Together Home, a residence where neglected or abused siblings under age 12 receive foster care as a family group.

Babyland Nursery, Inc. is the third largest day care operator in the Nation and the largest in New Jersey. It has grown from seven rooms in a housing project to opening its seventh center this fall.

Mr. Speaker, I am sure my colleagues will want to join us in congratulating the New Community Corporation and Babyland Nursery for their successes. Let me add my thanks, on behalf of my constituents, for the vision, commitment, and perservance exhibited.

IN CELEBRATION OF THE 23D ANNIVERSARY OF PROCEED, INC. OF NEW JERSEY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. MENENDEZ. Mr. Speaker, I rise today to join Proceed in celebration of its 23d anniversary. The mission of Proceed, a non-profit organization in my home State of New Jersey, is to provide families and individuals with a comprehensive network of appropriate supportive and preventive health and human services that are culturally and linguistically designed to reaffirm self-actualization and improve living standards in our communities.

Proceed provides a full range of programs and services to the Hispanic communities of New Jersey. The Rafael Cordero Day Care Center provides a safe environment for the early education of children between the ages of 2½ and 5, enabling parents to work or continue their education. The bilingual staff helps children to understand and appreciate both Latino and American cultures while strengthening their educational foundation. The parents association invites parents to participate in the development of the center and provides opportunities to acquire new skills in supporting their children emotionally, physically, and intellectually.

The Roberto Clemente Youth Center provides young people a home away from home after school and during the summer months. The center offers adolescents the opportunity to socialize and learn in a healthy environment as an alternative to the street culture of potential violence and substance abuse. Workshops are offered on a variety of youth-related issues ranging from dealing with peer pressure to maintaining good relations with parents. Arts and crafts, computer literacy, tutoring, music, and theater activities as well as organized athletics and recreation are also offered. Youngsters in the program's Young Life Theatre Group performed an original play on AIDS awareness in 1992.

Families who seek support with child rearing and marital issues are provided with training to sharpen their parenting, conflict resolution and household management skills. Counseling services are offered in the family center as well as at the client's home when possible. It includes both individual and family counseling concerning issues of child abuse and neglect, family violence, behavior management, and overcoming the impact of alcohol and substance abuse.

A special Proceed multi-services and home energy improvement program provides a variety of services to more than 2,000 families and individuals each year who are in need of rental and food assistance, interpretation and translation, home energy and security improvements and other entitlement-related services. This advocacy and referral program was recently honored by the State of New Jersey for its efforts in home energy improvements.

Proceed offers a range of services related to HIV and AIDS which affirm for clients a meaningful life after diagnosis. In addition, the program offers education and prevention programs to the community along with counseling and case management and referral services. All clients are treated with respect and confidentiality.

The substance abuse prevention and counseling unit provides services to persons affected directly or indirectly with the use of alcohol and other drugs. This outpatient, nonmedical program is family-oriented and tailored to individual needs and situations.

The new health unit promotes the good health and well-being of Latinos and other underserved individuals in Union County through education and advocacy with particular emphasis on prevention of diseases such as tuberculosis, AIDS, heart disease, and alcoholism.

I want to join with the Latino community in thanking Chairman Carlos J. Alma, Heriberto

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Sanchez-Soto, executive director, and the entire staff of Proceed for their dedication to families and individuals in need. I commend them to my colleagues in the U.S. House of Representatives, and look forward to many more years of their service and success.

A SPECIAL SALUTE TO DR. MURRAY GOLDSTEIN, DIRECTOR OF THE NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. STOKES. Mr. Speaker, I rise in recognition of the retirement of a very distinguished public servant, Dr. Murray Goldstein, the Director of the National Institute of Neurological Disorders and Stroke, an institute of the National Institutes of Health. As director of the institute, Dr. Goldstein has testified for more than two decades before the House Appropriations Subcommittee on Labor, Health and Human Services, and Education, of which I am a member. Always well prepared, Dr. Goldstein embarked upon his intriguing testimony with zeal and responsiveness to the subcommittee's concerns, outlining the Institute's advances, opportunities, challenges, and needs.

Dr. Goldstein, is indeed to be commended for a job well done. In fact, under Dr. Goldstein's leadership, the budget for the Institute has more than doubled, growing from $265 million in 1982 to a fiscal year 1994 appropriation of approximately $631 million. More importantly, advances stemming from research supported and conducted by the Institute have improved the quality of life for the American people. Advances have ranged from treatments for spinal cord injury, to prevent measures for stroke, to the identification of the genes responsible for several neurological disorders. Indeed, Dr. Goldstein's influence, insight, and creativity, complimented by his drive for innovation continue to extend beyond the institute.

Mr. Speaker, Dr. Goldstein's leadership has exemplified steadfast commitment to furthering advances in the quality of health care, and to improving the diagnosis, treatment, and prevention of neurological disorders and stroke. The Nation and the biomedical research communities have benefited well from his outstanding achievements and those he has fostered to improve the quality of life for all Americans.

Again, Mr. Speaker, I congratulate Dr. Murray Goldstein on his distinguished career and applaud his overwhelming commitment and continued dedication. I have enjoyed and am proud of my close working relationship with him, and wish him much success as he begins to chart his next course.

TRIBUTE TO CARL PERKINS

HON. BOB CLEMENT

OF TENNESSEE

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. CLEMENT. Mr. Speaker, we stand today to recognize an outstanding Tennessean, and a national cultural treasure, the man in "Blue Suede Shoes," Mr. Carl Perkins, who is to be honored on October 26, 1993, as the first performer recognized by the Jackson, TN, symphony orchestra in their "Legends" concert series.

Many consider Carl Perkins a legend in the entertainment industry because he helped create a uniquely American art form that has had a worldwide impact. However, to those who know him best, he is an enormously talented, yet humble man, who through good times and bad, has always played his music with honesty, feeling, and integrity. Carl credits his success to the support and love from his beautiful wife, Val, and to his children, Debbie, Stan, Greg, and Steve.

Carl Perkins was born into a sharecropping family in Lake County, TN, in the darkest days of the Great Depression. The two certainties of his early life were grinding poverty, and a rich exposure to the music of the South. Black gospel in the rural churches of Lake County, country from the Grand Ole Opry broadcasts every Saturday night, and blues tunes he heard from fellow sharecroppers were his musical influences.

As Perkins and his brothers Jay and Clayton picked up instruments and began to play west Tennessee barn dances and juke joints on Saturday nights, he learned he could fuse the styles of music he had heard into a distinctive new sound. Some called it raunchy and sinful, others simply called it rockabilly or rock 'n' roll.

Perkins was soon drawn to Sun Records in Memphis in 1955 where he and other musical rebels such as Elvis Presley, Johnny Cash, Jerry Lee Lewis, and Roy Orbison were allowed to give full vent to their restless, creative energy; and as a result, they developed and refined the ground rules for the new rock 'n' roll sound.

One of his most distinguished contributions to the early days of rock 'n' roll was to compose one of its most memorable anthems, "Blue Suede Shoes," a song which he wrote down in the early hours of the morning on a torn piece of a potato sack while living in a Jackson, TN, housing project. This song was to sell over 2 million records for Perkins, and become the first recording to ever top both the country and rhythm and blues charts at the same time.

Carl Perkins' influence on the history of rock 'n' roll is immeasurable. He is credited, along with Chuck Berry, as being one of the most influential guitar players of the 1950's rockers. Eric Clapton, the Beatles, Bob Dylan, and many others have all testified to the powerful impact Perkins' vocal and instrumental style has had on their careers.

Today, four decades after its beginning, Carl Perkins' career is still blossoming. His songs have been performed by the likes of Billy Ray Cyrus, the Judds, and the Kentucky Headhunters just to name a few, and he has recently recorded with Bruce Springsteen, Joan Jett, and Huey Lewis.

Mr. Speaker, we invite you and the rest of our colleagues to rise and honor Mr. Carl Perkins, a musical pioneer and a true gentleman in every sense of the word.

THE ASSET FORFEITURE JUSTICE ACT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. CONYERS. Mr. Speaker, 2 years ago, an investigative series in the Pittsburgh Press caught my attention. It's one thing to read about an occasional incident where a citizen's rights were violated, but this extraordinary series "Presumed Guilty," documented hundreds of cases of innocent victims caught up in a judicial nightmare—people who lost their homes, their businesses, and their livelihoods, but were never found guilty of any criminal conduct.

Similar stories then appeared elsewhere across the country, in the Houston Chronicle, and the Orlando Sentinel.

As a result, the Committee on Government Operations initiated an investigation of the Department of Justice's Asset Forfeiture Program, and held several hearings to examine the complaints of individuals whose property had been seized. We learned that in fact, 80 percent of the people whose property is seized under the Asset Forfeiture Program were never even charged with a crime.

We found a pattern and practice of abuse by State and local law enforcement that is fostered by a Federal program with a built-in financial incentive that cannot help but impact law enforcement priorities. We learned about successful efforts to remove cash from the streets, instead of drugs, when Florida State troopers only stop cars traveling north on Interstate 95.

We found that "drug courier profiles" are not imaginary: this past June the NAACP filed a civil rights suit against the Sheriff's department in Volusia County, FL, alleging that it uses a racially oriented drug courier profile to target African-American and Hispanic motorists traveling along Interstate 95. The lawsuit contends that over 90 percent of the hundreds of motorists who have had their property seized since 1989 are African-American or Hispanic.

While communities like Little Compton, RI, and Lakewood, CO, net millions of dollars as a result of huge drug busts, the money cannot be spent for drug treatment and education programs. Instead, these small towns strain credulity as they strain the definition of law enforcement and pick up the tab for fireworks, video cameras, and body heat detection devices for a police force of six.

In 1984, Congress expanded the asset forfeiture laws to allow the government to take property without charging the owner of any crime. The intent was to strike at the heart of major drug dealers for whom prison time was the cost of doing business. Every crime bill since has expanded the use of forfeiture.

A law designed to give cops the right to confiscate and keep the luxury possessions of major drug dealers mostly ensnares the modest homes, cars and hard-earned cash of ordinary, law-abiding people. This was not the way it was supposed to work.

The cornerstone of our system of justice is supposed to be a presumption of innocence until one is proven guilty. As far as I know, this is the only part of our criminal justice system that ignores the presumption of innocence. The time has come to change the law.

I introduced H.R. 2774 in the last Congress which would redirect 50 percent of the proceeds in the Asset Forfeiture Program to community-based crime control efforts, drug education and treatment programs. Today, in response to my committee's investigation, I am introducing legislation to provide comprehensive due process and oversight protections for those individuals subject to civil asset forfeiture, and to redistribute the assets that are seized.

BASEBALL IN TAMPA BAY

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. BILIRAKIS. Mr. Speaker, I rise today, as the World Series continues, to say that no matter which team emerges as champion—the Philadelphia Phillies or Toronto Blue Jays—the ninth district of Florida will step into that winner's circle, as well.

You see, Mr. Speaker, the ninth district of Florida is the springtime home of both of these teams. The Phillies winter in Clearwater, FL, the largest city in my district, and the Blue Jays play citrus league ball just up the road in Dunedin.

The people of Florida's ninth district—or maybe I should say the cradle of champions—are happy to cheer on both of our teams. We delight in sharing them with Philadelphia and Toronto, and we are intensely proud of their minor league affiliates—teams that have produced the great talent currently commanding the Nation's attention in the October classic.

Maybe now, Mr. Speaker, major league baseball will see fit to give the Tampa Bay area the major league baseball time that it has denied us for so long.

Then watch us go.

TRIBUTE TO NATIONAL MAGIC WEEK

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. OLVER. Mr. Speaker, I rise today to pay tribute to National Magic Week.

Before there was a National Magic Week there was a National Magic Day.

It all started with a "Houdini Day" in the summer of 1927, less than 1 year from his death. A trophy in honor of Houdini was presented by Mrs. Harry Houdini, to the winner of the underwater contest at the Miramar Pool in New York City.

There were many other Houdini Days following, but it was not until 1938 that Les Sholty, a member of the Society of American Magicians, in Chicago sought official sanction for a Houdini Day.

A friend of the Houdinis requested and obtained permission from Mrs. Houdini to proclaim October 31 as National Magic Day in honor of Harry Houdini. The plan was formulated at that time to have free performances for shut-ins and handicapped people.

Harry Houdini served as the president of the Society of American Magicians for 9 years until his death on October 31, 1936.

Many newspapers carried the story about National Magic Day and various magical societies kept the idea alive.

The first radio broadcast about National Magic Day occurred over radio station KQW on July 20, 1938. Mrs. Harry Houdini participated in that broadcast.

It was not long before National Magic Day became National Magic Week. The Society of American Magicians adopted the idea as a way of promoting the art of magic and at the same time performing shows at orphanages, hospitals and nursing homes for those who would have difficulty getting to a theatre to see a live performance.

The members of the Society of American Magicians that participate in these shows find it a rewarding and worthwhile activity.

Each year Governors, mayors and other governing bodies throughout the country are requested to issue proclamations declaring the last week in October, National Magic Week and encouraging magicians throughout the country to participant in the activities.

Many people enjoy magic shows during this week that otherwise would not be able to do so.

For many years the Society of American Magicians has been encouraging the U.S. Postal Service to issue a stamp honoring the memory of Houdini. He is a person with an international reputation and his name is almost synonymous with magic.

Magic displays can be found at libraries, stores and malls throughout the country during National Magic Week.

When magic week is over each local assembly of the Society of American Magicians is encouraged to compile their magic week activities in a book and submit them to the National Council of the Society of American Magicians where they are judged and awards are given at the National Convention held each year, usually the following July.

National Magic Week is the magical fraternity's way of sharing with others a great art form that is deeply loved by those that participate in it.

Mr. Speaker, my fellow colleagues, I ask that you rise today to pay tribute to The Society of American Magicians in recognition of National Magic Week October 25–31.

NATIONAL 4-H WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. NATCHER. Mr. Speaker, earlier this month during National 4–H Week I recognized several individuals from the Second Congressional District of Kentucky for their achievements in the 4–H program. At this time, I would like to mention a few more people from the district I represent for their outstanding accomplishments through 4–H.

Kathleen Barako of Jefferson County was an adult area champion in the Conrad Feltner Leadership Program and Lauren Fassler was a teen champion.

Extension agents who received radon grants for their areas are: William Spicer of Adair County, Woodford Baumgardner of Jefferson County and Dennis Ruhl of Jefferson County.

State champions for demonstrations are: Seth Sklare of Jefferson County for junior animal science, Ashley Harker of Jefferson County for junior health and Rachel Heaney of Lincoln County for senior computers. Nine-year-old Kristen Edwards of Jefferson County is the State talk meet winner in her division. State champions for project records are: Rachel Deal of Jefferson County for forestry and Thor Steffen of Jefferson County for wood science.

The following young people were named either first in their class, reserve champion or grand champion at Kentucky's State fair this year: Lincoln County—Debbie Playforth, Brooke Todd, Street Spoonamoore, Chase Gander, Stacy Allen, Eric Woolridge, Alan Hubble, Josh Brown, Bret Curlis, Greg Camensch, Larry Chafee, Stacy Allen, Caty Curtis, Joey Reynolds and Doty McQuerry; Jefferson County—Elizabeth Steffen, Karen Barako, Kristen Edwards, Christy Deutsch, Brianna Heitcman, Melissa Likens, Anna Boeckman, Megan Morris, Sarra Motamedi, Stacy Carter, Meaghan Dull, Rebecca Ballou, Leighann Wilson, Creighton Klapheke, Jason Warren, Becky Carey, Allen Weber, Kim Childress, Christina Patterson, Katie Otto and Tiffany Patterson.

All of these people have done well and I am proud to represent them in Congress. I wish them continued success in 4–H and in all their future endeavors.

THANKS TO MARY TAYLOR

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. POSHARD. Mr. Speaker, I rise to extend my thanks to Mary Taylor, a resident of Benton, IL, who is retiring after more than 32 years as a caseworker in the General Assistance Office for Benton Township.

During her long and distinguished career, Mary has offered a helping hand to thousands of people who've come to her when times are tough or when the breaks just seem to be going against them. I've heard any number of people remark as to her compassion and concern for the people she helps and the determination she brings to finding a solution to their problems. My colleagues in the House, we all hear and read about how government doesn't do this or that, but Mary Taylor's story defines for all of us the true meaning of the phrase "public service."

Mary Taylor is still working to improve her community, devoting her time to volunteer work for the Township, helping students with learning disabilities and pitching in on a whole host of other civic minded projects. Mary loves to work—because she loves the people who realize the benefit of her good deeds.

I am honored to call Mary a friend. I thank her for all her good work in the past, and feel confident that we will see her hard at work making her community a better place to live for many years to come.

ARCHER COLE—AN UNSUNG HERO

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, this weekend one of New Jersey's wisest men is being honored for his 50 years of service to the labor movement. This saga is Archer Cole.

Since 1940, Archer has served in many capacities from shop steward to international director of organization for the IUE–AFL–CIO, a position he now holds. He is also the president of the New Jersey Industrial Union Council, AFL–CIO. He has served as an international representative, as secretary and also president of District 3, IUE, covering New Jersey and New York.

Archer has taught labor studies, lectured extensively, and authored the Anti-Recession Act which was introduced in the House in 1976. New Jersey's former Gov. Brendan Byrne appointed him to the New Jersey Economic Recovery Commission in 1977. He was chairman of the NJ Employment Security Council. In 1984, former Governor Kean named him to the blue ribbon Commission on Unemployment Compensation which resulted in important reforms of the system.

Believing in the development of human resources, Archer has been one of those consistent teachers. No matter what the topic or issue you can always count on Archer to provide sound advice and guidance. He never hesitates when it's time to roll up the old sleeves to get down to business.

Mr. Speaker, I am sure my colleagues will want to join me in congratulating Archer Cole on his 50th anniversary in the labor movement. I want to personally thank Archer for his commitment to mankind and a better world, and to convey the appreciation of all of those he's influenced, especially me and my brother, William.

TRIBUTE TO DANIEL HUMBERTO JARA, VICE CHAIRMAN OF THE BOARD OF THE U.S. HISPANIC CHAMBER OF COMMERCE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Daniel Humberto Jara. Mr. Jara has excelled as both a community and business leader in New Jersey and in the Hispanic community of the United States. Recently Mr. Jara was elected vice chairman of the board of the U.S. Hispanic Chamber of Commerce.

I congratulate Mr. Jara on this significant achievement, Mr. Jara's record for community service and his achievements in business community and with the Hispanic Chamber of Commerce merit this great honor.

The Hispanic Chamber of Commerce represents the economic interest of 650,000 Hispanic firms in the United States and Puerto Rico. Mr. Jara's leadership in the chamber has been reflected in increased economic growth and development in New Jersey.

Mr. Jara was born in Lima, Peru, and moved to New Jersey at the age of 14. He graduated from Eastside High School and received his bachelor's and master's degrees from Rutgers University where he is an honorary member of the Rutgers Leadership Recognition Society. Mr. Jara is the founding president of the Statewide Hispanic Chamber of Commerce of New Jersey, owner of the Rimac Agency, a travel and insurance consulting firm and president of Paterson Motor & Export Co.

Mr. Jara has an excellent record for community service. He has served on many committees and boards, including the Passaic County Cultural Heritage Council, New Jersey Easter Seal Society, and United Way of Passaic County. He is listed in "Who is Who in the Hispanic Community" at the national level and has received commendations for his efforts to assist victims of Hurricane Hugo in Puerto Rico.

Mr. Speaker, I am honored to recognize the achievements of Daniel Humberto Jara. I am sure my colleagues join me in paying tribute to Mr. Jara. We hope that his dedication to the Hispanic community will serve as an example for others to follow and wish him continued success as he undertakes his new position as the vice chair of the U.S. Hispanic Chamber of Commerce.

HEALTH CARE DELIVERY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Ms. DELAURO. Mr. Speaker, as the Nation focuses on health care reform, it is important to recognize programs, organizations, and people who are working to obtain our national goals: lowering costs of health care and broadening coverage so that all Americans can take advantage of the highest quality health care in the world. Through the leadership and initiative of residents of the Third Congressional District of Connecticut, south central Connecticut has many models of health care delivery worthy of recognition. Today, I want to honor one such program—a partnership that has been established between the West Haven Emergency Assistance Task Force [WHEAT] and Silver's Drug Shop of West Haven.

Eighteen years ago, West Haven clergy founded WHEAT to provide emergency food, clothing, rental assistance and referral services to residents. Over the years the need for these services increased due to the severe downturn of Connecticut's economy. In 1992, 1,200 families requested assistance from WHEAT. Last year, out of concern for the health of WHEAT clients and their families, Director Therese Eke conducted a health care survey. The result: Thirty percent of the West Haven residents assisted by WHEAT do not have any health care coverage.

We are discovering startling statistics like this across the country, statistics that continue to rise. But we are also discovering people like Therese Eke and Scott Silver who refuse to allow lack of health care coverage to prevent West Haven families from receiving the health care services that they need. Last winter Therese reached an agreement with St. Raphael's Hospital of New Haven to use their mobile health clinic. On the first day of service in mid-February 32 families stood waiting in line at WHEAT for their first treatment.

It didn't take long for word of the clinic to spread throughout West Haven. But as the clinic began to distribute prescription's a new problem arose: Families could not afford the price of the medicine being prescribed. Once again, their access to health care was cut off.

Just a couple of blocks away from the WHEAT office is Silver's Drug Shop, a small family-run business. As soon as pharmacist Scott Silver heard of the mobile health clinic and the problem of prescription costs, he contacted Therese to volunteer his services. Within an afternoon the problem was solved. A comprehensive list of 150 antibiotics was created for use by the clinic physician, and anyone with a prescription from the clinic could walk to Silver's Drug Shop and have it filled for $3 or less.

The residents of West Haven are solving the modern problem of spiraling health care costs with old fashioned community support. One afternoon a week in West Haven, anywhere from 14 to 20 families are at the WHEAT office for physicals, blood pressure tests, shots, prenatal care. and a variety of other primary care services. West Haven school nurses know they can refer families with sick children to the clinic for the care they need. While 75 percent of the families utilizing the clinic do not have health insurance, many who do have health insurance also come to the Friday WHEAT clinic because they simply can not afford their current deductible.

The partnership between the WHEAT Friday afternoon clinic and Silver's Drug Shop is taking south central Connecticut one step closer to our national health care objective by providing affordable, accessible, and confidential health care. Providing preventive care while maintaining low overhead, the WHEAT clinic is working hard to provide quality care to all our citizens. I applaud WHEAT and Silver's Drug Shop for presenting the families of West Haven with an alternative to the high cost of health care and the opportunity to lead longer, healthier lives.

FREEING THE U.S. COMPUTER INDUSTRY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. FRANK of Massachusetts. Mr. Speaker, no challenge or opportunity facing the American Government is more important than adjusting to the post-cold war era. For more than 40 years, a very significant part of our resources went to meeting the threat that the Soviet Union posed, and dealing with this threat distorted our economy in other ways. With the collapse of the Soviet Union, we have the ability to redirect our resources in ways that will greatly benefit us and others. One area where such redirection holds great promise is in the controls we have placed over exports that might have been used in ways deleterious to our security.

I believe that we were imposing these in an excessive fashion for many years, but the argument for this sort of restriction has substantially lessened by any measure recently, and it is now clear that we stand only to benefit by unshackling American businesses and allowing them to compete far more freely in the sale of that high technology where American leadership continues to be impressive.

Robert Palmer, chief executive officer of the Digital Equipment Corp., recently presented this argument in a forceful and thoughtful manner. Mr. Palmer correctly notes that it was the "extraordinary, direct personal involvement of President Clinton" that led to this breakthrough, and I share Mr. Palmer's view that it is important that we follow through in this direction.

Because there are some who still object to the efforts to free American business to compete on equal terms in the world, and because more needs to be done to implement these policies I ask that Robert Palmer's thoughtful article on "Freeing the U.S. Computer Industry" be printed here.

The article follows:

FREEING THE U.S. COMPUTER INDUSTRY

(By Robert B. Palmer)

For as long as our nation has had commerce and regulation, the actions and inactions of the U.S. government have roused the attention, and often the frustration, of the business community.

For America's computer industry, no public policy issue has been as tedious in its complexity, as frustrating in its persistent unfairness and illogic or as daunting in its bureaucratic strictures as the arcane science of export controls.

During the Cold War, exports of computers to certain countries—principally the Soviet bloc and China—were restricted in the interest of national security under the assumption that technology with both commercial and military applications might be used to neutralize America's defense advantages. Through the 17-nation Coordinating Committee for Multilateral Export Controls, the countries that controlled the world's computer technology were able to enforce common rules.

Events in recent years have greatly altered the picture. The collapse of the Soviet bloc turned old enemies into economic partners. Computer Technology spread around the globe to the point where customers in restricted countries could simply shop elsewhere rather than relying on suppliers from the United States and its allies. And the importance of exports to the U.S. economy became more pronounced.

In Washington, export restrictions failed to keep up with these new realities. Presidents and their cabinets shied away from the issue, Congress neglected it, and the press became involved only when it perceived outright conflict. All the while, outdated export controls helped ship away the international competitiveness of our nation's most accomplished technology companies.

That has all changed. President Clinton, in the most remarkable instance I can recall of the White House working with industry, recently announced dramatic relaxations of the export controls on computers.

With his announcement, the president affirmed something Digital Equipment Corp. and others in the computer industry have been saying for a long time: Increased exports by U.S. companies means jobs and economic security for the nation. Our national security in the future will be guaranteed only by striking the proper balance between the economic success of U.S. business and a well-prepared and well-armed military.

This remarkable change could not have occurred without the extraordinary, direct personal involvement of President Clinton. We have not seen this kind of leadership on issues of great importance to our industry from previous administrations.

In the past, export controls were shrouded in the mystique of national security, which consisted only of military concerns. Even minor progress was greeted by warnings that the export of commonly available general-purpose desktop PCs and work stations to certain countries—countries that can typically buy those machines from numerous sources other than U.S. companies—would somehow destabilize our advantage as a military superpower.

For Digital, the problem posed by outdated export controls was nearing a crisis stage. We conduct business in more than 100 countries and rely on the international market for more than 60 percent of our revenues. Our newest and most advanced products are based on Alpha AXP, Digital's 64-bit microprocessor, which happens to be the world's fastest.

Digital's dilemma: Computers based on Alpha AXP platforms run so fast that today's export regulations would classify even our desktop PCs and low-end work stations as supercomputers and subject them to stringent restrictions even for sale to friendly countries like Switzerland and Ireland. We were being penalized for too much innovation.

The proposed new rules will dramatically cut red tape, delays and uncertainty resulting from unnecessary export license applications for more than $400 million worth of Digital exports. Of greater importance, the change will free us to compete on even terms with foreign competitors in some of the world's fastest-growing markets with our Alpha AXP desktop computers.

These markets are measured in the billion of dollars, and their importance to U.S. computer companies cannot be overestimated.

Strict controls on the export of computers do not protect national security, they only prevent economic growth. The government's Office of Technology Assessment, following an 18-month study, recently concluded that high-performance computers are not required to design nuclear weapons, and placing strict limits on their exports would be of minimal importance from a military perspective.

Computers are the necessary building blocks for all commercial activity around the world. Sales lost by U.S. companies because of export controls rarely prevent the customer in question from obtaining the desired products. Foreign competitors not subject to such controls gladly step in and make the sale.

If U.S. companies lose the global battle for these markets, then we will have suffered permanent damage to our national security.

Simply reforming export controls will not guarantee that U.S. companies will win those battles. But if the changes proposed by Clinton are successfully implemented through multinational negotiations, our own government will no longer be preventing its most advanced industries from competing on an equal footing and on the merits of our innovations. Those of us in the business community cannot ask for more than that from our government.

NATIONAL BIOMEDICAL RESEARCH DAY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 22, 1993

Mr. RICHARDSON. Mr. Speaker, I rise today to take a moment to recognize the achievements of biomedical research. Yesterday was National Biomedical Research Day. This is a fitting tribute to the thousands of medical researchers, like those at the University of New Mexico, who are working to understand why human disease and illness begin—and how it can be cured. Investment in biomedical research has spawned the biotechnology industry, creating tens of thousands of jobs and offering hope for millions of Americans suffering from cystic fibrosis, AIDS, Alzheimer's disease, heart disease, cancer, and a host of other illnesses and disease.

As Congress and the administration begin to debate in earnest health care reform, National Biomedical Research Day calls attention to one of the most vital, but often overlooked components of our health care equation: investment in biomedical research. Increased support for basic biomedical research will lead to a more profound understanding of the diseases that afflict humans. This in turn will lead to new and improved diagnostic techniques and preventive care.

Biomedical research deserves undiminished Federal support from Congress. I am pleased that from Congress has adequately funded the two agencies responsible for funding much of the biomedical research conducted at leading

U.S. universities and laboratories, the National Institutes of Health and the National Science Foundation. The current advances and promise of biomedical research is so great that increases in Federal funding must not only be maintained, but increased.

SENATE—*Monday, October 25, 1993*

(Legislative day of Wednesday, October 13, 1993)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., ordered the following prayer:

Let us pray:

And it shall be, if thou do at all forget the Lord thy God, and walk after other gods, and serve them, and worship them, I testify against you this day that ye shall surely perish. As the nations which the Lord destroyeth before your face, so shall ye perish; because he would not be obedient unto the voice of the Lord your God.—Deuteronomy 8:19,20.

Eternal God, these words from the Torah are universal and timeless. Our forefathers were not saints; they were sinners as we are. But they reverenced God. They took Him seriously. They depended on Him and, out of that faith and dependence, came a great nation.

You have warned, Mighty God, that if a nation forgets You, it will perish because reverence for God is the root of all virtue, without which everything is relative, and freedom is reduced to doing as one pleases.

In the (1774) words of John Hancock, President of the Provincial Congress in Massachusetts: "We think it is incumbent upon this people to humble themselves before God on account of their sins, for He hath been pleased in His righteous judgment to suffer a great calamity to befall us, as the present controversy between Great Britain and the Colonies. (And) also to implore the Divine Blessing upon us, that by the assistance of His grace, we may be enabled to reform whatever is amiss among us."

In the name of the Lord of Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 25, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DORGAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 3167, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

The Senate proceeded to consider the bill.

Mr. KERREY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent to be allowed to speak as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Nebraska [Mr. KERREY] is recognized.

EPA DRINKING WATER RULE

Mr. KERREY. Mr. President, I ask unanimous consent to print in the RECORD an article that appeared in a publication called Inside EPA, September 17, 1993.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EPA STAFF CALL SENATE BLOCK ON DRINKING WATER RULE BAD PRECEDENT

EPA staff are charging that a move by Congress to prevent the agency from writing a controversial drinking water rule sets a bad precedent for congressional interference in environmental policy-making.

At issue is a decision by the Senate Appropriations Committee to prohibit EPA from spending any funds to promulgate or enforce a standard on radon in drinking water. Sen. Robert Kerrey (D-NE) offered the amendment during the committee's Sept. 8 markup of the agency's fiscal year 1994 budget and the full Senate is expected to take up the matter next week. Congressional sources say the amendment was added with the concurrence of the Environment & Public Works Committee.

Under the amendment, the agency will be unable to promulgate a standard before October 1994, although a court-ordered deadline had been set for Oct. 1, 1993. The amendment states that the committee's action was taken in response to concerns about the costs of implementing the standard. The agency's original proposed standard of 300 picocuries per liter has been criticized as too strict by water systems, as well as EPA regional offices (Inside EPA, Aug. 6, pl) and the agency's Science Advisory Board has criticized the uncertainties in the cost and risk analyses (Inside EPA, July 30, p16).

EPA is not taking a position on the amendment, according to an agency source, who says "We do not support it, but we do not oppose it either." But agency staff contend that the move establishes a precedent for congressional involvement in policymaking by the agency. These sources are particularly concerned that the Appropriations Committee became involved in this matter, which is a legislative matter usually preserved for authorizing committees to oversee.

Agency sources note that Congress originally asked EPA to develop a standard for radon in drinking water. "Congress giveth and Congress taketh away. They tell us to do something, then they tell us not to," one EPA source says. This source charges that Congress is "superimposing its judgement" on how the agency is supposed to develop standards to protect public health. The decision will set a precedent for future congressional actions on agency regulations, this source says. The decision also places EPA in a "difficult position," according to this source, because the agency does not want to jeopardize reauthorization of the Safe Drinking Water Act by making noise about the radon standard. EPA has received a message from some in Congress that "if we want to see reauthorization, we ought to cool it on radon," this source says.

Agency staff say they believe the amendment was added because Congress is unwilling to back the agency in promulgating a strict standard that water systems have lobbied heavily against. "This is not a new chapter in profiles in courage," one agency source says, adding that the committee's decision was "politically expedient." This source says intense lobbying by opponents of the standard is causing Congress to back down and adds that EPA would rather see Congress deal with the scientific questions instead of simply forbidding the agency from releasing a final standard.

Congressional sources expressed some surprise at the committee's decision, saying that the appropriations committee usually avoids legislative issues. One source suggests the move "reflects a sense that the agency has gone too far in this particular regulation. Perhaps it's indicative more of the agency's performance then a failing on the part of Congress." But this source adds that "I'm not particularly comfortable that [the committee] would take a position on a legislative issue." Dealing with individual issues

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

rather than approaching drinking water in a comprehensive manner is "not a prudent course to take," according to this source.

Water system sources praise the committee's action, saying the decision allows the agency to reevaluate the radon issue and avoid a "piecemeal" approach to developing radon mitigation standards. These sources say the agency should spend the next year developing a comprehensive approach that deals with all methods of exposure to radon, including indoor air and drinking water. One source says "it will do no good" to mitigate radon in drinking water without at the same time addressing other radon sources.

Mr. KERREY. Mr. President, this article references an amendment that was approved earlier by the Appropriations Committee, an amendment that I offered, and the language in this article illustrates in many ways why many people in Nebraska feel their Government is out of touch with their needs. It illustrates, further, why unchecked and unneeded regulation is suffocating businesses, taxpayers, and local governments across the country.

This article deals, as I said, with a reaction of EPA, in this case more specifically some EPA staffers, to an amendment I offered to the VA-HUD appropriations bill which delayed the implementation of a strict, expensive standard for radon in drinking water which scientists say may be unnecessary. The Senate recently passed the bill and the amendment and thereby saved water ratepayers across the country billions of dollars that would have gone to pay for a regulation they do not need.

I understand there are people who disagree with the amendment, and I welcome their criticism. We had a very active debate on the committee itself, and I know that some of the critics work with the Environmental Protection Agency, and I welcome their criticism and comments as well. I, in fact, sought out suggestions and criticisms from the EPA before I offered the amendment.

But, Mr. President, there are some rather extraordinary statements in this article which should concern this body. In the article, unnamed EPA staffers question the authority of Congress to make environmental policy. There is no question that the clear majority of staffers at the EPA are interested in working with Congress to find an appropriate radon standard, and I am sure that the views in this article do not reflect either the views of the agency or of the Clinton administration.

The article says that:

> "Agency staff contend that the move establishes a precedent for congressional involvement in policymaking by the agency.

One source was quoted as accusing Congress of "superimposing its judgment" on public health standards.

Mr. President, I do not want to digress into a basic civics lesson for this source, but this is what Congress is supposed to do. My reading of the Constitution tells me that the EPA is supposed to execute the decisions made by Congress, not the other way around.

So this source is certainly correct to say that Congress is "superimposing its judgment," and I hope that we will continue to superimpose our judgment on anyone when doing so is necessary to protect the public interest.

Mr. President, the regulation that would have been imposed had we not passed this amendment would have required public water suppliers to maintain a radon level of no more than 300 picoCuries per liter of water.

The EPA proposed this regulation with the best of intentions. Their action was in fact prompted by a congressional mandate calling for goals to limit water contaminants. But the fact is that scientists agree that establishing—and paying for—300 piC/l standard is not an efficient use of our scarce public health resources.

The Government says complying with the 300 piC/l level would cost water suppliers—and their rate-paying customers—$2 billion. Private estimates say it would cost 10 times that much.

No one doubts the health risks associated with radon. And I will be the first to support any standard for drinking water needed to protect public health.

But scientists agree that only 5 percent—5 percent—of the public's exposure to radon comes from drinking water. The remaining 95 percent comes from the air. Because removing radon from drinking water is so expensive, it would cost the same amount to remove the radon in air—95 percent of the problem—as it would to handle the 5 percent of the problem represented by drinking water, but the public health benefits would be 30 times greater.

So, Mr. President, this regulation would have forced small towns to spend billions of dollars to deal with 5 percent of the problem with little or no payoff when they can spend the same amount to solve 90 percent of the problem with 30 times the benefit.

This is hardly rational policymaking, and if ever a Federal regulation called for superimposition of Congress' judgment over that of the regulators, this is it.

There is no need to debate today whether this regulation was needed. What I came to the floor to discuss is the fact that the comments in the "Inside EPA" article reflect an unhealthy and indeed dangerous attitude on the part of Government employees who wield substantial power but are not responsible to the people.

The fact is that behind all the Washington debates about regulations are everyday Americans who have to pay for them.

Let me tell you about some of those Americans; 23,000 of them live and work in the central Nebraska town of Hastings. They work hard every day, and I suspect they do not care about the Washington turf wars over who is superimposing whose judgment upon whom.

What they do care about is that a private study says it would have cost the city of Hastings $65 million to comply with the radon rule, nearly $3,000 for every man, woman, and child in the city, $65 million, Mr. President, for a rule which scientists say they may not even need, $65 million that could be spent on much more pressing needs, $65 million that could be used to finance the will of the people in Hastings, rather than the will of a handful of regulators in Washington, DC.

No one, to my knowledge, believes that radon in the city water supply is a serious threat to the people of Hastings. If it was, I doubt there would be a single person who would not gladly pay whatever it would take to make the water safe.

Mr. President, nearly every small town in Nebraska and across the Nation would have been in the same boat as Hastings had we allowed this regulation to be implemented. The costs would have varied town to town, but I suspect the questions would have been the same: How do regulators who live in a city hundreds, sometimes thousands, of miles away know better than we—and better than scientists—how to protect our water?

Fortunately, the Constitution provides a safeguard against such problems. That safeguard is called the Congress, the elected representatives of the people.

The only alternative to what some staffers quoted in the "Inside EPA" article characterized as "congressional interference" is an autonomous EPA. An autonomous EPA means a powerful Federal regulatory agency that deals with the American people as it pleases while Congress pays the tab and looks the other way. Each of us, I suspect, respects the work of the EPA and the individuals there, but I believe an unchecked EPA would be just as dangerous as an unchecked Congress.

Another source quoted in the article says we passed this amendment because of "political expediency." "This is not a new chapter in profiles in courage," one said.

Mr. President, if the radon amendment is a new chapter in any book I hope it is a chapter about the day Congress put a stop to unneeded Federal regulations. I hope it is a chapter about the day Congress decided the Government should not force regulations on the American people unless their need and cost can be justified by scientific evidence.

We passed this amendment because, with the best of intentions, the Federal Government was poised to burden the American people with a regulation that would cost them billions but which scientists say they do not need.

We stopped that regulation because we believed it contradicted the needs of our constituents and our country and that, Mr. President, is our job.

I am confident that we will now have a constructive discussion on radon and drinking water based on a more thorough evaluation of scientific evidence. I am confident that debate, with the participation of the clear majority of EPA staffers who want to work with the Congress and not around it, will produce an appropriate and affordable standard for radon in drinking water.

And I am also confident that each of us agree that Federal regulations, especially when it comes to the environment, are often necessary. But we should remind Government agencies that we will be back here to interfere anytime the American people face a costly regulation they do not need. We owe that to the people of Hastings, NE, and to the rest of the taxpayers across the country.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 103–19

Mr. KERREY. Mr. President, on behalf of the majority as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Protocol Amending the Tax Convention with the Kingdom of the Netherlands (Treaty Document No. 103–19), transmitted to the Senate by the President on October 22, 1993; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Protocol Amending the Convention Between the United States of America and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on October 13, 1993. A related exchange of notes is enclosed for the information of the Senate. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Protocol.

The Protocol will prohibit a treaty abuse otherwise permitted by the Convention, which was previously transmitted to the Senate. The Protocol will prevent a Dutch investor in the United States from evading virtually all income taxes in both the United States and the Netherlands through a permanent establishment in a third, low-income jurisdiction. The Protocol and the Convention are intended to reduce the distortions of both double taxation and tax evasion. The two agreements will modernize tax relations between the United States and the Netherlands and will facilitate greater bilateral private sector investment.

I recommend that the Senate give early and favorable consideration to the Protocol, together with the Convention, and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 22, 1993.*

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Senator HELMS is recognized.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,410,675,644,206.33 as of the close of business on Friday, October 22. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,171.58.

I thank the Chair and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE DEFICIT

Mr. BUMPERS. Mr. President, I just listened with interest to the comments of the distinguished Senator from North Carolina. Normally, I would not join the debate, but there is nothing else going on around here, so we might as well take up a little time and talk about it.

I wanted to say to the Senator, first of all, he is absolutely right about the size of the deficit. He certainly is right about being concerned about it. We only have a slightly different perspective as to how it happened.

My recollection is that in 1980, when Ronald Reagan was running for President, the deficit was about $900 billion. Ronald Reagan was elected in 1980 on a single campaign promise, and that was to balance the budget. I recall during that campaign he never said, "I will balance the budget if the Democrats cooperate. I will balance the budget by using my veto power," which is an awesome power in the hands of the Executive. He did not say, "I'm going to do my best to balance the budget." He said, "I'm going to balance the budget."

I can remember, I say to the Senator from North Carolina, and the Senator can, too, the Democrats were hoping that the Republicans would nominate Ronald Reagan because we thought we surely would be able to beat him, but we did not really realize the antipathy of the country toward President Carter. The feeling of the country about the deficit was much, much greater than it is now. That is all anybody in my State wanted to talk about.

In 1980, when I was running for reelection—and Ronald Reagan was carrying my State—I did not really have much opposition but I was plenty apprehensive about it. The Democrats were just getting mauled over the deficit. I have no doubt—others may quarrel with it—I have no doubt the principal reason the American people voted for Ronald Reagan is because he talked about the deficit. He talked about other things that struck a chord, like Government regulation—which is still absolutely out of control—the banks of the country would probably be paying $1 billion, $2 billion more in taxes if they did not have to spend so much money on needless regulation, but that is another story.

So then when the President came to town, he said, "I want this budget balanced and here is the way to do it. The way to do it is to cut people's taxes."

He also talked about cutting spending, but, as I recall again, the Congress gave him precisely what he asked for. I will never forget that September afternoon in Rancho Mirage—or wherever his home was in California—when he signed that legislation and looked into the camera and said: "Congress, now you have given me the tools, and I'll do the job."

Does the Senator wish to comment?

Mr. HELMS. I certainly do, if the distinguished Senator will yield. The Senator's comments are the answer that has always been given since time immemorial when you disregard the responsibility that Congress has failed to exercise for 50 or more years. The Senator is largely accurate in the scenario he laid out. Ronald Reagan believed that he was going to get bipartisan cooperation from the other party when he was elected. He was certain of it. And he figured that everybody would be willing to work together to cut Federal spending. But Federal spending was not cut. Federal spending increased, which is precisely the point I just made a while ago.

Even if that were not so, I say to my friend from Arkansas, regardless of the faults any President may have, it is still the constitutional responsibility of the Congress of the United States to decide how much of the taxpayers' money should be spent, and on what, and to appropriate the funds after having authorized that money.

But, no, for more than 50 years Congress has gone right along, increasing Federal spending every year. I stress that this has been a bipartisan folly. I do not lay it at the doorstep of the Democratic Party or the Republican Party. Both parties are mutually guilty, except those of us—the Senator from Arkansas is often included in this group—those of us who dare to vote against the pet projects and excessive spending.

I reiterate: It is the responsibility of Congress, and Congress cannot escape it, to bring the fiscal situation in this country under control. But Congress has gone the other way. It is the constitutional responsibility of Congress, no matter what any President requests, no matter what any President does, it is the responsibility of Congress, under the Constitution, to spend the taxpayers' money wisely. I thank the Senator for yielding to me.

Mr. BUMPERS. I thank the Senator. Let me just continue, if I may, by saying certainly Congress cannot escape its responsibility because it has some blame—plenty of blame in Congress—but if I might just skip over a couple of minutes to where I really want to be now in this response. As the Senator knows, I used to be Governor.

Mr. HELMS. Excuse me, Mr. President. If the Senator will again yield, Arkansas has a balanced budget requirement in its Constitution, does it not? North Carolina does.

Mr. BUMPERS. It most certainly did.

Mr. HELMS. And Ronald Reagan tried his best to get the U.S. Constitution amended to require a balanced budget, and he was defeated.

Mr. BUMPERS. I am coming to that. Does the Senator know what I used to tell those legislators who walked into my office? It did not necessarily have to be a spending bill, it could have been anything that was objectionable to me. I can remember those legislators walking in and saying, "Governor, you can't veto this bill," and I would say, "I can't? You just sit down there and watch me. I'm getting ready to put a great big old stamp on it"—in Arkansas, you put "Disapproved" when you want to veto a bill. It said "Disapproved, DALE BUMPERS," and that sucker was dead, except for one thing. In Arkansas, it only took a 51 percent vote in the House and the Senate to override a veto. I am happy to tell the Senator that of all the bills I vetoed—and there were dozens of them—I never had one overridden, and it only required a simple majority, which sort of led me to believe they knew the difference between right and wrong; they just needed somebody to point it out to them.

But the Senator will remember that scene when the President said: "You've given me the tools; now I'll do the job." The next thing you know, we have this big reconciliation bill on the floor of the Senate. At that time I had been here for 4 or 5 years—6 years, as a matter of fact—but I did not know much about the reconciliation process. All of a sudden, I find out that we have cut billions and billions of dollars, even made Hamburger Helper an entree in school lunches, made ketchup a vegetable, virtually eliminated the childhood immunization program, and on and on it went. And the people of the country said, "Now, just a minute. This thing has gone too far."

First of all, we took that first $56 billion in reconciliation that we saved by making Hamburger Helper an entree in the school lunchroom, and we took that $56 billion, put it in the wheelbarrow, and carried it across the Potomac River and dumped it right on the doorsteps of the Pentagon and said, "Here, you take it. We have saved this money now and the Russians are going to come and get us any minute, so spend this money."

Incidentally, now, I know the Senator is a fair-minded person. He will remember one time when the Pentagon had so much unobligated money that they could not tell you just how much it was. They had so much stacked up over there unobligated and did not know what they were going to spend it on.

So the first thing you know, instead of having a balanced budget by 1983, no later than 1984—and I say precisely what the President said—we see a deficit continuing to run out of control. And the reason is because we had only cut spending on the civilian discretionary side and put it over on the defense side.

Mr. HELMS. And, if the Senator will yield, not daring to lay a finger on entitlement programs which Congress declared to entitle millions of people a guaranteed amount of the tax money paid by the Federal taxpayer.

Mr. BUMPERS. The Senator is absolutely correct about that. We are all agreed the entitlements are the things that have run completely out of control in the past 12 years.

Mr. HELMS. And adding the enormous pyramiding interest on the Federal debt.

Mr. BUMPERS. The Senator from North Carolina just fell into what I was ready to say. I have a chart here.

Mr. HELMS. That is what prompted me to say it. I have been reading the Senator's chart.

Mr. BUMPERS. I have a chart here, and you will see those savings not only involve the savings for 1994, they involve, for example, the space station, which is only $2 billion in 1994, but you are looking at $83 billion to build that sucker, and we do not even have a plan. I said during the debate on the space station, I believe I could walk on the floor of the U.S. Senate and say, "Senators, I've got bad news for you. We've spent $8 billion so far and are getting ready to spend another $2 billion and there is no such thing. We don't have a plan, don't have a clue. There is no such thing." If that had been true, I do not believe I would have gotten an additional vote, not one.

This body was just hell-bent on spending the money for the space station and nobody could stop it—me, nobody else. But now I am getting ahead of myself again.

So in 1983, in all fairness to President Reagan, he said I will balance the budget in 1983, no later than 1994.

Now, while the Senator has correctly said that money cannot be spent unless Congress authorizes it and appropriates it, there is one sentence he neglected to add. That is, you cannot spend a penny in this country until the President signs off on it—"R. Reagan," "R.R. Reagan," "Ronald R. Reagan," whatever it takes to sign the bill. All he had to do was use that awesome constitutional power to veto any spending bill that he thought was going to add to the deficit.

I can tell you at that time, considering his popularity and the hostility of the voters of this country, nobody would have overridden the veto. But he did not do that. He did not veto a single spending bill, not one.

Then he began to say what we need is a line-item veto. Well, a line-item veto may not be the worst idea in the world, but it certainly shifts a tremendous amount of power from the legislative branch to the executive branch. I do not mind saying here, I have strongly encouraged the President to send a very big rescission bill over here and to say to you people, I do not want to spend this money, and if you want me to spend it, you are going to have to vote again on it.

I think it would be a healthy thing for him to do. And, incidentally, there are a lot of rumblings now that he is going to do that.

Mr. CRAIG. Will the Senator yield?

Mr. BUMPERS. I yield for a question.

Mr. CRAIG. The question is, late this month or early next month the Senate will have an opportunity to work with the House and the American people to change the environment in which this process that the Senator and I are both concerned about operates. It is known as a constitutional amendment to balance the Federal budget. We will have that vote in this Chamber. How does the Senator plan to vote?

Mr. BUMPERS. Mr. President, I say to the Senator, you Republicans keep anticipating me. I am getting to that.

Mr. CRAIG. All right. The question will be how will the Senator from Arkansas plan to vote on that important issue?

Mr. BUMPERS. I am going to tell the Senator something. I am a little ambivalent. I have been strongly opposed to a constitutional amendment to balance the budget, and I wish we had a couple of hours for a colloquy on that subject.

While I certainly favor anything that will bring some constraints on the Congress, I have never been able to figure out how a constitutional amendment will work at the Federal level. It was easy in the State of Arkansas.

Incidentally, I will give you a little lesson in 103–A Arkansas economics. We had biennial budgeting. We budgeted 2 years at a time. I do not think biennial budgeting would be a bad idea for Congress. The President, who succeeded Senator PRYOR and me as Governor of Arkansas, also believes that biennial budgeting may have some merit.

But the other thing we did, we put funding for every program in classes A, B and C. We got a projection as to how much income we were going to have next year and the following year. We would take 80 percent of those figures and put it in category A. Now, we might put 90 percent in as far as education was concerned. Then we said, if projections are more than that, the additional amount of money goes in category B. If you get more than that, the additional amount goes in category C. Very seldom was much if anything funded under category C.

It was a magnificent system, to not spend more than you took in, and we never had to worry about the Constitution providing for a balanced budget amendment.

Now, if I could get all the Members of the Senate to vote for something like that, I might vote for a balanced budget amendment. But just to raise the question—and then I wish to get on with this show—just to raise the question about a balanced budget amendment, let us assume we go home. We have made a projection. We have appropriated money based on how much money we think we are going to have this year. All of a sudden, after we have patted ourselves on the back, given ourselves the good-Government award and gone home, we find ourselves with an economy that is collapsing.

Then you have to come back and, under the proposals that are being offered around here, vote by a three-fifths or two-thirds vote to spend money you do not have—deficit spending.

Now, what does that mean? That means a very small minority of people in the Senate can block it, no matter how critical the needs are, no matter if people are hungry and in the streets, as a lot of them are.

You are looking at somebody who can remember the Depression. I was just a youngster. But I can tell you it had a traumatic influence on me, and it certainly had a traumatic influence on my parents who were trying to put food on the table.

But I do not want to debate that. We are going to bring that bill up and we are going to debate it here.

Anyway, in 1984, the President said we need a line-item veto. In 1985, he said we need a constitutional amendment to balance the budget. In 1986, he said, you know, I cannot spend a nickel that Congress does not appropriate.

We have been through all that. I am not putting the onus on Ronald Reagan, but for the life of me, I have never understood why on Earth he did not use the veto power which he had to discipline Congress, just as I and DAVID PRYOR did when we were Governors of our State. Oftentimes, I did not have to veto a bill because I told them, you put that sucker on my desk and I am going to veto it; or, if you do not take this provision out, I am going to veto it; or, if you do not put this provision in, I am going to veto it. That is all I usually had to do, and that is all the President of the United States would have to do.

So, Mr. President, you are talking about the east coast distributor and the southwest coast distributor for balanced budgets, and for 4 consecutive years I have come to the floor of the Senate and offered a series of spending cuts.

The result is on that chart. That is this year. But the preceding 3 years are not much different. In 1993, in August, when we were debating the bill to cut the deficit, yes, it included taxes. Do you think I voted for that bill because I love to raise people's taxes and go home and say, you lucky dogs, I just voted to raise your taxes?

Do you know the one thing every politician wants more than anything else? Of course you do. It is to be reelected. Do you know the best way to not get reelected? Vote to raise somebody's taxes.

So, no, I did not enjoy going home and making that presentation. Do you think I enjoy telling the elderly we are going to tax more of your Social Security?

I can tell you what I enjoy a great deal less, and that is saying the deficit is out of control and we are not doing a thing about it. I hope things turn out OK for you.

I know the Chamber of Commerce speeches. I made my share of them. You tell them everything they want to hear. Do not talk about things you do not want to talk about. They are not privy to what is going on here; most of them are busy making a living. They do not know you voted to torpedo the space station or did not vote to torpedo the space station. They do not know how you voted on SDI. They do not know how you voted on the Advanced Solid Rocket Motor; they never heard of it.

They do not know how you voted on the intelligence budget. They think intelligence is a pretty good idea even though the budget is almost as big as it was at the height of the cold war and they want more money. They say there are terrorists in this world; we have to have more money. If you cannot deal with terrorism with the kind of money we are spending on intelligence, you are not going to do it with any more than you are already spending.

National Endowment for Democracy, that was almost laughable when I offered it. I have always opposed it. Only $35 million. But you project that one out 35 years, at interest of 4½ percent, and that is what you have to do because we are borrowing every penny of it, $2.2 billion. As Senator Everett Dirksen said, it soon runs into money, does it not?

But just go through the chart, and then I invite you to recall all of those speeches you heard back in August, and I was naive enough even after I have been here 19 years to believe that the people making those speeches were serious. I cannot vote for the President's deficit reduction package because it does not cut enough spending. They wore badges saying, "Cut Spending First." I remember when Gerald Ford was President. The WIN buttons; everybody wore a WIN button, "Whip Inflation Now". You do not whip inflation with a button. And you do not cut spending by wearing a button either. You cut spending by having the courage to walk on the floor of the U.S. Senate and voting to cut spending.

The Senator from North Carolina correctly pointed out that entitlements have been running out of control. They have indeed. But entitlements means a lot of things. When you talk about entitlements to the Chamber of Commerce they think of some worthless no good so and so on welfare. Well, I am for cutting him off. But it includes Social Security; it includes Medicare, it includes Medicaid; it includes food stamps; it includes cost-of-living increases for Social Security recipients; it includes a whole host of things.

So instead of people talking about entitlements, let us get specific. I said, let us torpedo the super collider. We did not have the courage to do it. The House did it. We debated that thing all day long here. And I got 42 votes, which I must say is 10 more than I got last year. So there is some change going on here.

That will save $39 billion over the next 35 years. I heard people on the floor of the Senate say, well, anybody who thinks that $640 million for 1994 is going to balance the budget is just crazy. We are not talking about $640 million in 1994. We are talking about a project which has gone from $4 billion to $13 billion in the past few years. And Lord knows where it will wind up.

We are talking about $39 billion. And the space station, you may get a chance to vote on that again before the Sun goes down today, Senator. I understand the Senator from Texas has an amendment to the bill to cut administrative expenses. I think the space station would be nice and neat, and clearly everybody would know what they were voting on. The Senator from Texas proposes to offset the cost of the retroactivity provisions of the tax bill by cutting administrative expenses.

That is kind of like entitlements. You cannot see it; cannot feel it; nobody knows who is hurt or helped by it.

I say if you really want to undo the retroactivity part of the tax bill, why not just offer up the space station? It is more than enough to do the job. And you get rid of a project that is already dead as a doornail. We have not signed it and sealed it and held the funeral.

But you think about the 6, 7 years we have funded the super collider. And everybody knew that all through the super collider was going to be killed. But not until we spent over $2 billion on it.

Everybody knows that the space station is dead. It is a question of when we are going to bury it. Who here will stand up and say what they are voting on when they vote with the space station?

I was reading Buck Rogers when I was a kid. It is wonderful. Incidentally, NASA's record is not all that hot. We lost 2.3 billion dollars' worth of rockets and satellites in the past 70 days. And $2.3 billion has blown up. Happily the shuttle was not one of them.

I can tell you, people come in here and vote for $2.1 billion next year for the space station and do not have a clue about what they are voting on. I do not mean to denigrate my colleagues, but it is a fact. The President does not even know what the space station is going to be. There is no design. There is nothing. You could save right now if you were to cut it right now and leave $500 million to terminate it.

We are leaving $640 million to terminate the collider. That is the second big hole in the ground that I had some part in stopping since I have been in the Senate. I can remember the Clinch River Breeder Reactor; 1983, the fourth year I finally killed that one; big hole in the ground; super collider, big hole in the ground. But you cannot ever stop it until they start digging.

The space station, if we keep going—we left $500 million in the space station this year to terminate it—we would still have cut $1.6 billion, but you take $83 billion that it would cost to build it, borrow the money, pay compounded interest on it, you save $216 billion.

Everything looks so easy now. It is just $1 billion. It is just a few hundred million dollars. But when you are borrowing the money for every dime you spend and paying interest on it, the figures become staggering.

SDI, we gave up on SDI because it had such a stench in its title. People did not like the smell of it. So they changed it to ballistic missile defense. And you remember how successful our Patriots were in Desert Storm. We are going to change this to theater missile defense. I do not mind that. But I mind the amount of money we are spending on it.

I tried and successfully—Senator SASSER and I cut $400 million off the authorization. So far that is about the only success, that is the only cut the Senate has made, $400 million on the ballistic missile defense program.

The intelligence budget which the Los Angeles Times says is $28 billion a year, more than 10 countries of NATO spend on their entire defense budget. More than Iran, Iraq, China, and North Korea. Can you believe we spend almost as much on intelligence as France and Britain each spend on its entire defense budget? China? Iraq?

The intelligence community says, well, we have a lot of terrorists in the world. So what is new?

And then the D-5 missile, I want you to think about the D-5 missile. We already have more missiles than are permitted under the START II treaty and still buying them. That is really smart, is it not?

Well, I might not go through all of these, except I want to point out on the super collider the House killed that 280 to 150, but the Senate resurrected it on a vote of 42 to 57. On the space station, the House approved it by one, 215 to 216. Do not worry anybody, the Senate will take care of it. We resurrected the space station by a vote of 40 to 59.

The ballistic missile program, that is one we won that I just mentioned a moment ago. The intelligence budget, the House disapproved cutting the intelligence budget by better than 2 to 1. And in this body I lost that one 35 to 64.

The advanced solid rocket motor. The House killed that thing 379-43. Do not worry, House, we resurrected it. We came a little closer, but we lost that one 53-47. That one is dead, too, now because the House happened to refuse to even take it up.

The National Endowment for Democracy. A small amount of money, the House killed it 243-181, but do not worry, House of Representatives, the good old Senate saved it. We saved you from all of those spending cuts you are trying to get through the House. We voted against cutting that program 23-74.

If it were not too embarrassing, I have a chart I asked my staff to put together on the 17 votes—we have had 17 votes on appropriations that were pure spending cuts—17. Senator DORGAN will be happy to know he is one of four Senators that has a better record than I have on voting for spending cuts.

I am not going to embarrass people who have stood on the floor and talked about what great budget balancers we were. We had one Senator with a zero record. We had a lot of Senators who made those long, patronizing, paternalistic statements about how they love spending cuts more than anything else and voted for about 25 to 30 percent of those cuts.

While I am willing to admit that nobody around here is perfect, everybody votes for a pork project now and then. Pork is still what somebody else gets in his State, not yours.

But when people tell me we need this and we need that, we need the line-item veto and rescissions and a balanced budget amendment to the Constitution, what we need are men and women who are committed to the future of this country and our children and who know as well as they know their names where we are headed if we do not come to our senses.

The American people are still upset. They have been upset since 1980. They are still upset. And they have the number of this place.

Mr. DORGAN. If the Senator will yield for a question, I have listened for some while to the Senator, not only today but also on amendments he has offered. One of the interesting things about politics and about our legislative procedure is that no one is likely to have a reception someplace and invite us to come and honor Senator DALE BUMPERS for his work on behalf of cutting Federal spending. If someone is in favor of spending—this spending or that spending, or this group or that group or the other group—it is not unusual to be invited to a reception or banquet honoring that Senator or Congressman, because that person has championed this way or that way to spend money. Nobody is going to hold a banquet for Senator BUMPERS because he took on the interest groups. He tried to cut money from the super collider, the space station, intelligence functions, SDI, D-5, and the advanced solid rocket motor. That is unfortunately the way this system works. It is designed like a giant boulder rolling downhill to spend and spend and spend.

One of the things that is always interesting to me, that I hear everywhere I go, is that the President does not spend money. Anybody who reads history books about the way this country was founded, or who has read the Constitution, understands that Congress spends money. Therefore, Congress is responsible for the deficits.

Well, there is no question about the fact that we are responsible. No question about that. It is our responsibility. But there are joint responsibilities here.

There are three steps to spending a dollar. First, by law, the President requests a Federal budget. He proposes a certain level of spending. Second, the Congress then disposes of those recommendations by determining what to spend. Third, and very important, equal to about two-thirds of the votes of the House and the Senate, the President decides to accept or to veto the budget Congress has passed.

The President has an enormous responsibility in how much gets spent. The Senator from Arkansas has again pointed out to the Members of the Senate that we are going to tackle this issue and begin to cut unnecessary spending when we quit wearing buttons and start casting votes on the floor of the Senate on specific issues.

Do you think or do you not think that the space station is a waste of money? If you do not think so, fine, vote to keep spending, but do not wear your button anymore. Do not wear a button saying "Cut Spending First" and vote for every conceivable area of public spending when it is in your State.

I think the Senator from Arkansas does an enormous service to the Senate. He has demonstrated with his report card that it is one thing to talk in slogans about spending cuts; it is quite another thing to confront a choice about real spending cuts on real projects.

Obviously, the super collider has now been killed. That was not because of the Senate, but because the House of Representatives flat out killed it. In effect, the House said "Do not send it back because we are not going to pass it."

Does the Senator see progress on some of the other items he has been offering amendments on?

Mr. BUMPERS. I do, indeed. I just do not believe the House is going to accept a bill with the National Endowment for Democracy in there. I do not have anything against democracy, but we spend $14 billion in foreign aid, and I thought that was to try to promote democracy abroad. Here is a $35 million boondoggle.

When I debated that on the floor—and I have told this before—I walked off the floor after making a barn-burning speech trying to kill that thing, and somebody said, "Senator, do you know your wife is going to Kazakhstan with a delegation funded with a grant from the National Endowment?"

I said, "Mrs. Bumpers can just stay home. She does not need to go to Kazakhstan anyway, and if we can save $35 million, I am willing to tell her she cannot go." But I do not think the House is going to approve that. Look at the vote, 243-181. And on the ASRM, I think that is dead. It is already dead.

I will tell you where the biggies are. The space station is the biggest of all. When you look at what that will cost over 35 years, $216 billion, that is by far the biggest item that we need to get rid of. I am not going to debate the space station. You and I have been on the same side of that issue, and we have talked about it and given it our best shot, and we have simply not prevailed.

Ballistic missile defense. I am not sure that that is a bad idea, but I know that we are spending too much money on research right now. You know, we spent over $30 billion on SDI before we decided we did not need SDI.

So they changed the name of it to BMD, ballistic missile defense, and conjured up all of those rockets being destroyed by Patriot missiles. Who wants to vote against the Patriot when they watched on the evening television as that thing supposedly—you and I know that was terribly embellished about the success rate of that. But everybody saw it, and they were patriotic about it.

The intelligence budget is still out of control. I do not want to give him a figure as to what I think the intelligence budget ought to be, but it is terribly bloated at this moment.

As to the D-5 missile, the Senator heard me say a moment ago we already have bought and paid for more missiles and more warheads for our Trident submarines than we are going to be permitted to use under the START II Treaty, which we must come into compliance with around the year 2000. The Senator knows what will happen—the same thing that happened on the super conductor supercollider. I lost that battle this year. Next year I may lose it again. The next year I may win it. And we would have spent all that money needlessly in the meantime.

I am glad they are not digging a hole for the D-5 because they love to dig holes. Everything has a hole—the Clinch River breeder, the super collider. If they were digging a hole they would be down I do not know how deep right now. We all know we have to go back and fill the hole in.

I already mentioned the other two. These figures are slightly embellished. The figure is more than $450 billion that we could save with those few amendments over the next 35 years.

We never get a chance to vote on the 35-year cost. We vote on that $500 million for next year or that $1.5 billion or $2 billion for next year as though that is just petty cash. We know where it is headed. We know what the ultimate cost is going to be.

Madam President, I am prepared to yield the floor. As I say, I was sitting here waiting for the Senator from Texas to offer her amendment on the retroactivity part of the tax bill and maybe might offer a second-degree amendment or first-degree amendment. But in any event, since the Senator from North Carolina came in and mentioned deficit, he really rang my bell, and I just thought I would get up and make a few points.

Mr. DORGAN. Madam President, will the Senator yield for one additional quick question?

Mr. BUMPERS. I am happy to yield.

Mr. DORGAN. I know others wish to speak. I will be brief.

The Senator's amendment on the National Endowment for Democracy was not a case of others trying just to save this program, which is without worth. The Senator from Arkansas was also saying that this program should be killed. But the folks who are recommending more money are saying we should cut everything else—cut programs for kids, cut programs for people who are vulnerable. And we are cutting a whole range of those programs. But they also said the National Endowment for Democracy should be given a very healthy increase in money.

What is the National Endowment for Democracy? The NED takes $35 million from the American taxpayer, divvies it up, and gives a little bit to the AFL-CIO!

Mr. BUMPERS. Not a little bit.

Mr. DORGAN. Give a big amount.

Mr. BUMPERS. It is a big percentage.

Mr. DORGAN. It also gives a lot to the chamber of commerce, to the Democratic National Party, and to the Republican National Party.

So now we have four groups that benefit by NED: Labor, business, and the two national parties. NED gives them money, millions and millions of dollars, and says to them, "Your mission is to go out into the world and promote democracy."

Talk about a weak case of spending the taxpayers' money. I tell you that the case does not exist. And not only were others telling us to spend that money, but they were also saying in virtually every area of the Federal Government that we must tighten our belt and exercise control. They insist on waiting until it comes to giving money to the chamber of commerce, the AFL-CIO, and the two national political parties. We are then told to give them a lot more money than they used to have.

That is the craziest scheme in the entire Western World.

How many votes did the Senator from Arkansas get from folks wearing "Cut Spending First" buttons? How many votes did the Senator get in the U.S. Senate to cut the National Endowment for Democracy?

Mr. BUMPERS. Twenty-three votes out of one hundred.

Mr. DORGAN. Seventy-four Senators voted not to cut.

Mr. BUMPERS. Incidentally, I will tell the Senator from North Dakota offered his comments on salient, cogent points, that is, nobody around here gets any awards. You do not get a plaque—Lord knows I get plenty of them. I do not go to a chamber of commerce banquet where we do not get a plaque. We get plenty of plaques and little statuettes, and all that sort of thing, honoring us for spending, but there are no groups in this town honoring anybody for cutting spending.

The politics of every issue is with spending. I was going to tell the Senator when you look at all those big-ticket items, the National Endowment for Democracy does not amount to a tin whistle, and yet that was probably the heaviest lobby opposition I ran into of all my amendments. It was the strangest, bizarre thing I ever ran into.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CHIEF OF THE FOREST SERVICE

Mr. CRAIG. Madam President, I am going to change the subject away from the deficit this afternoon, but I would tell the Senator from Arkansas one of the reasons he does not recognize there are groups out there who award you for cutting spending is because he has probably not received a lot of those cut awards because the big money is in a lot of these everyday appropriations bills that grow at the rate of 8 and 10 and 12 percent. About 85 to 90 percent of the big dollar money is there, and if you do not cut the overall size of the Government, then, you bet, $2 billion sounds like a lot but in the size of a trillion dollar-plus budget, sadly enough, it is a bit of pocket change.

What I would like to talk about for a few moments this afternoon is something that is well under way in the Clinton administration that I think gives great frustration to many of us who have watched over the years an old-line Federal agency be managed by a corps of professional people to assure that it be professional in addressing its responsibilities for the American people.

What I am talking about is the U.S. Forest Service.

Headlines in the Washington Times this morning say "Foresters Balk at Clinton Candidate for Agency Leader."

To my knowledge this is the first time in the history of the United States Forest Service that 69 forest supervisors from 28 States and Puerto Rico wrote the President of the United States to ask him to do something different for the sake and the integrity of the agency that those people are responsible in managing.

On last Friday I became aware of the fact that by all appearances under the new organizational structure of the USDA under the direction of Secretary Mike Espy it appeared that this President was attempting to politicize the appointment of the Chief of the U.S. Forest Service. That would be the first time in the 88-year history of the Forest Service that the Chief was not a professional from inside the ranks of the U.S. Forest Service.

Not only did I in the letter signed along with MARK HATFIELD, the Senator from Oregon, Senator MALCOLM WALLOP from Wyoming, Senator CONRAD BURNS of Montana, asked the Secretary to change his mind, but then came the letter of 70 foresters from across the country asking that that happen.

Probably one of the most disturbing letters came to Assistant Secretary Jim Lyons on the 15th of this month from the former Chief of the Forest Service, R. Max Peterson, who in a 2-page, single spaced letter gave a very critical critique of what appears to be a way to scheme, if you will—let me use the word "scheme" to rearrange the method by which Chiefs of the Forest Service are appointed so that a person who is not in the senior executive service could qualify in that.

I just mention senior executive service. Historically and for all reasons of professionalism and expertise, people who have arrived at the status to be considered for Chief of the U.S. Forest Service have come from the ranks of the senior executive service.

That is something that we as a Congress have promoted, recognizing that these men and women are those who aspired through the ranks of leadership and experience which then provided them with a type of expertise and talent that would offer to this country the quality of leadership that our Government would want.

Not only did a letter come from Max Peterson but a letter from the National Association of State Foresters and probably the most critical and interesting letter came from a fellow who only identifies himself as an employee of the Forest Service, a Louis Romero, who says in his letter to the President on the 15th of October—and he also sent a copy to Dale Robertson, Chief of the Forest Service, and Larry Henson, Regional Forester, Southwestern Region, and Lou Volk, Deputy Regional Forster—he writes this in his closing paragraph:

> In my 31 years I have never seen so many proud, competent employees of the Forest Service so demoralized. If our Chief is replaced, I am confident that we will rise to support his successor despite the mood spreading among USDA Forest Service employees from current signals. I am writing you as one of those proud USDA Forest Service employees with an outstanding performance record of serving the agency and our public. I consider myself a student of leadership, who like you, is interested in "doing the right things for the greater good" of our country. I am not some disgruntled employee with a particular "ax" to grind.

It is an extremely well written letter.

I think this is because of a series of actions that occurred since President Clinton took office, an across the board freeze of employees that demoralized any upward movement and now an attempt to politicize the Chief of the Forest Service.

Madam President, I ask unanimous consent that all of these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
STATE FORESTERS,
Washington, DC, October 1, 1993.

Hon. JAMES R. LYONS,
Assistant Secretary for Natural Resources and Environment, U.S. Department of Agriculture, Washington, DC.

DEAR JIM: It has come to our attention that the Department is considering replacing Dale Robertson as Chief of the Forest Service. It is our hope that whomever is named to the post should be a qualified professional who has gone through the appropriate civil service qualifications and processes. It should not under any circumstances be a political appointment.

Maintaining a high level of professionalism will be critical in maintaining and restoring the credibility of the Forest Service. Unnecessarily politicizing the Chief's position would undermine the Service and the profession of forestry over the long term.

Please feel free to contact me directly at (804) 977-6555 to discuss this matter.

Sincerely,

JAMES W. GARNER,
President.

OCTOBER 15, 1993.

Secretary of Agriculture MIKE ESPY,
USDA Administration Building, Washington, DC.

DEAR SECRETARY ESPY: Since entering office you have encouraged employees to communicate their ideas and concerns to you. I am a loyal 31 year field employee of the USDA Forest Service writing to the Secretary of Agriculture for the first time in my career. I want to surface some leadership questions that seem to bring discredit to the important principles of team work, empowerment, participation and trust woven throughout the excellent National Performance Review led by Vice President Gore.

You are aware of the controversial nature of the Forest Service Mission due to the many, intensely diversified interests it serves. That controversy is often played out in the media by focusing on our leader, Chief Dale Robertson. The latest, most damaging examples were in two issues of the Washington Post last week. One article quotes you as intending to replace Chief Dale Robertson for "* * *a problem not just of structure, but of leadership." Much to my dismay, I learned yesterday that you had never actually spoken with our Chief about this.

Because I wonder if anyone advises you of perceptions in the field, the purpose of my letter is to surface examples of signals from your administration that seem counter to the goals and principles of Reinventing Government. One example is the uncharacteristic isolation of our top Forest Service leaders from vital, USDA information the last ten months. Another example is the micro-management of a ten month employment freeze that continues to demoralize our employees service-wide. Current initiatives to centralize Administrative functions into the Department without serious consultation of our top leadership seem opposite from the kind of professionalism, teamwork and participation called for in the National Performance Review. You have articulated noble goals for TEAM USDA, but the actions that follow from some of your Assistants are not congruent. Their actions seem more motivated by a desire to dis-empower, control, micro-manage and centralize. I realize it is still the dawn of your administration. Many details are yet to be worked out. But like in the dawn of morning, the first signs tend to forecast the nature of the day ahead. I would like to see your administration be successful but early signs are creating anxiety about "storminess" ahead.

Secretary Espy, I ask you to please consider the following questions:

1. Does the top leadership of the Department support and seriously intend to follow the goals and principles in the NPR in its own reinvention effort? Are you aware of the counter signals we receive and the perceptions in the field?

2. Why has the top leadership of the Forest Service been isolated from a continuing flow of vital information and participation especially on matters that directly affect the Forest Service, an important component of "TEAM USDA"? Do you realize how that void is multiplied many times for employees in the field?

3. Why haven't you discussed your intentions to replace our Chief Dale Robertson face to face with him? Why do we have to learn about it in the Washington Post first? Can you imagine the suspicion, speculation and mistrust that can breed among employees?

In my 31 years I have never seen so many proud, competent employees of the Forest Service so demoralized. If our Chief is replaced, I am confident that we will rise to support his successor despite the mood spreading among USDA Forest Service employees from current signals. I am writing you as one of those proud USDA Forest Service employees with an outstanding performance record of serving the agency and our public. I consider myself a student of leadership, who like you, is interested in "doing the right things for the greater good" of our country. I am not some disgruntled employee with a particular "ax to grind". I hope you will accept my input in the constructive spirit I offer it. Please help me believe that we can expect to see better signals soon.

Respectfully yours,

LOUIS D. ROMERO.

FAIRFAX, VA,
October 15, 1993.

Assistant Secretary JAMES LYONS,
U.S. Department of Agriculture, Washington, DC.

DEAR JIM: The purpose of this letter is to document the discussions I have had with you and others concerning plans for replacing the Chief of the Forest Service. For reasons that are not clear to me, my position has been either distorted or stated incorrectly. I feel sure you understand my position which I stated to you by phone and in person at Grey Towers.

First let me make it abundantly clear that I have not sought a role in determining whether there should be a change in Chiefs and if so who the replacement should be. I also understand that the 1978 Civil Service Reform Act gives authority to the Secretary of a Department the authority to reassign any member of the Senior Executive Service after due notice and that such authority includes the Chief of the Forest Service. That same Act established competitive requirements for entry of people as career members of the Senior Executive Service. During my career as Chief of the Forest Service I considered it a solemn duty to insure that such competitive requirements were met and that every person who desired to do so should have an ample and fair opportunity to be considered. Any idea of manipulating the process is repugnant to me and against everything I stand for.

I first learned of apparent plans to make a change in the Chief of the Forest Service on September 5 when I called home after a week hunting in an isolated area in Alaska. A retired Forest Service employee in Oregon had called about articles in Oregon papers which quoted various sources as saying the Chief would be replaced by Jack Ward Thomas. I took no action as the result of that call.

My concern was triggered when I learned from several sources more than week later of an apparent plan to change the Chief's job to a noncareer (political) appointment in order to circumvent the competitive requirements and reach Jack Ward Thomas who had never previously applied for or qualified as a career Senior Executive. To say I was shocked and disappointed that you would support such a process is an understatement. I immediately called you to state my concern but in what has been a familiar pattern recently you were not available and did not return my call. I then called Mark Gaede and outlined my concern and asked him to relay my concern to you. When you called me later I outlined my concern and suggested there were a number of options available to you for filling the position which would not lead to politicizing the job with the long run adverse consequences that will certainly occur. I repeated those concerns and went over options with you in person at Grey Towers, Pennsylvania on Saturday September 25 so there would be no misunderstanding between us. I also said I would appreciate your letting me know what you decided to do because I would much rather work with you than against you. I did reiterate my opposition to making the job a political appointment because of my concern that you were unwisely trying to meet what you consider an immediate problem by a course of action that in my judgment would have long term adverse consequences. If I have learned anything in more than 45 years of work in natural resources it is to vigorously oppose such unwise tradeoffs.

For reasons that are unclear to me you have not bothered to advise me of your decision but instead you have complained to a number of people including officers of the Association abut my opposition to your efforts. I am deeply disappointed that you would adopt such tactics which do not enhance your standing in anyone's eyes.

For the record let me reiterate that you have at least these options for filling the job without the long term adverse consequences of making it a political position:

1. Advertise the job competitively and equitably consider ALL applicants including Jack Ward Thomas as well as numerous other people including women and minorities who are qualified and entitled to equitable consideration. I understand that the preferred advertising time is 90 days so it could take 120 days to fill the job. If it is considered urgent to do so you have at least 80 career people to choose from in designating an acting Chief.

2. Advertise the position under expedited procedures which I understand can be as short as 21 days which means the position could be filled in 5 to 8 weeks. All interested and qualified applicants can and should be considered. Again an acting can be designated if considered necessary.

Let me close by assuring you that I do not relish the idea of opposing the action you apparently are still pursuing. I have been a long time supporter of yours and in fact personally advocated that our Association support you for the Assistant Secretary position you now occupy. I fervently hope your legacy is not a political Chief of the Forest Service which causes long term politization as has happened to agencies such as BLM. Both of us have seen what that can do to the fine people in BLM who want to practice long term professional stewardship of resources.

Whatever happens I assure you that I will be as vigorous in supporting you when I think you are right as I have been in opposing you when I think you are wrong!

Sincerely,

R. MAX PETERSON.

U.S. SENATE,
Washington, DC, October 21, 1993.

Hon. MIKE ESPY,
Secretary, U.S. Department of Agriculture, Washington, DC.

DEAR MIKE: We have become extremely alarmed at the vicious and unwarranted attacks targeted at Forest Service Chief Dale Robertson, and by inference, all Forest Service employees. Obviously we are witnessing an orchestrated effort to discredit Forest Service leadership with the intent of wholesale replacement of the Chief and experienced, upper-level management.

Neither Dale nor the employees deserve this treatment. They are doing their best to manage National Forest lands under a complex of conflicting laws which leave them open to challenge. And those organizations and individuals who have not gotten what they want from the Service do not hesitate to challenge, delay and cloud the issues in the hope they can force their position on the American public.

Now, these blatant actions by the preservation lobby have gone too far. They ask us to believe that timber worth hundreds of millions of dollars has been stolen while Forest Supervisors and District Rangers stood passively by, or facilitated such theft. That charge is an outrage. But it is an example of the tabloid-style message by which preservationists are attempting to dupe Congress and public opinion.

Rather then simply influencing American opinion, these tactics place the Forest Service in real danger of a complete breakdown. The freeze on filling vacant positions which has been in effect since last winter is rendering the agency incapable of responding adequately under these very difficult circumstances. Micromanagement of the Agency by Assistant Secretary Lyons, while keeping Dale and all the top leadership in the dark, violates all rules of professional management. At every turn, Forest Service employees tell us they are demoralized and dispirited beyond any previous experience.

Though we have enjoyed a very cooperative working relationship with Dale, we realize it is within your discretion to replace him. If the process used to do so conforms to the normal procedures used in the past, and are consistent with rules for selection and placements within the Senior Executive Service, then we will not oppose your decision. It seems obvious that the candidates must be proven professionals who have demonstrated considerable skill in managing, supervising, and directing a complex organization. Though political savvy is desirable, the new Chief must not be selected merely for political reasons.

Mike, we are asking that you step in and take the lead. During the USDA Reorganization Hearing before the Agriculture Committee on October 6, 1993, you stated that the primary criteria for selecting a new Chief must be those based on professionalism and demonstrated management and organizational talents. We thoroughly agree. You must establish a clear process to identify and evaluate candidates which does not deviate from established practice for placing top executives within government.

Right now we are on a contrary track. Some candidates under consideration are not qualified as Senior Executives. They do not have the demonstrated administrative and management skills to succeed in what has become a very difficult job. If this track runs its course without your involvement, there is great danger that the politicized selection process, and a faulty selection, will guarantee failure for the individual and the agency.

If this Administration breaks with established SES procedures and selects a political Chief, we will live with that precedent for many years. We will take an aggressive stance, through legislation if necessary, to assure that the candidate will come before the Senate Agriculture Committee for confirmation.

The Forest Service mission remains "Caring For The Land And Serving People." The mission statement is still a valid and worthy goal which can only be met if the organization itself is brought back to health. Your personal involvement in this matter is crucial to assuring that end.

Sincerely,

LARRY E. CRAIG.
MALCOLM WALLOP.
MARK O. HATFIELD.
CONRAD BURNS.

OCTOBER 22, 1993.

President BILL CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT CLINTON: For 102 years, the USDA Forest Service has, under the leadership of career professionals, proudly managed America's National Forests and Grasslands. By all accounts, the Forest Service is the world leader in natural resource conservation and management.

We are aware of the effort to replace the Chief of the Forest Service with a political appointee. With all due respect, we oppose this course of action. It would set a precedent for all future administrations, making it possible for the then currently correct special interest groups to control the National Forests. Doing so would create a serious threat to the future of the National Forests.

The Forest Service has had a career professional Chief for nearly a century and this is a highly significant symbol to the career employees of the Forest Service. It is not our intention to lend support for or against any candidates for the Chief's position. Rather, we believe the Chief should be selected from the Senior Executive Service (SES) since members of SES are career employees of the Department selected by competitive process. We believe this competitive process to be extremely fair and that it provides a pool of candidates who are diverse and highly qualified career employees. We also believe the proper management of natural resources requires a long-term view—not the shorter view often engendered by the political process. "Caring for the land and serving people" for the long haul requires delicate and professional leadership.

The Forest Service is responsive to the changing values of the American people, and to changing public policy. Clearly, managing the nation's natural resources has not been without controversy. However, we believe that such controversy is part of the process of public involvement, since millions of people "love their National Forests," and judge our management against their own personal value system. Even with this inevitable controversy, the majority of the American people hold the USDA Forest Service in high regard.

We are Forest Supervisors, collectively responsible for the management of over 100 million acres of National Forest lands throughout this country. We represent over 1000 years of experience and we are very proud of our accomplishments and heritage. We are keenly aware of the changes that are going on in our Agency and feel that strong leadership is critical at this time.

We appreciate your consideration of our viewpoint and look forward to serving whomever is selected as our new Chief. Whatever your decision, we are committed to our proud tradition of excellence in "caring for the land and serving people."

The names of the Forest Supervisors listed below are committed to the content of this letter. Due to urgency, signatures were not possible to obtain, and many Forest Supervisors were unavailable.

Larry D. Keown, Forest Supervisor, Bighorn National Forest, Sheridan, WY.

Barry Davis, Forest Supervisor, Shoeshone National Forest, Cody, WY.

R.M. (Jim) Nelson, Forest Supervisor, Toiyabe National Forest, Sparks, NV.

James L. Caswell, Forest Supervisor, Clearwater National Forest, Orofino, ID.

Ronald C. Prichard, Forest Supervisor, Beaverhead National Forest, Dillon, MT.

Stephen K. Kelly, Forest Supervisor, Bitterroot National Forest, Hamilton, MT.

Van Elsbernd, Forest Supervisor, Deerlodge National Forest, Butte, MT.

Art Carroll, Scenic Area Manager, Columbia Gorge National Scenic Area, Hood River, OR.

Daniel K. Chisholm, Forest Supervisor, Mendocino National Forest, Willows, CA.

J. Dale Gorman, Forest Supervisor, Lewis & Clark National Forest, Great Falls, MT.

Abigail Kimbell, Forest Supervisor, Stikine Area, Tongass NF, Petersburg, AL.

Bruce Van Zee, Forest Supervisor, Chugach National Forest, Anchorage, AL.

Gary Morrison, Forest Supervisor, Chatham Area, Tongass NF, Sitka, AL.

Dave Rittenhouse Forest Supervisor, Ketchikan Area, Tongass NF, Ketchikan, AL.

Francis J. Voytas, Forest Supervisor, Wayne National Forest, Bedford, ID.

William F. Spinner, Forest Supervisor, Hiawatha National Forest, Escanaba, MI.

David H. Morton, Forest Supervisor, Ottawa National Forest, Ironwood, MI.

Steven T. Eubanks, Forest Supervisor, Chippewa National Forest, Cass Lake, MI.

Sandra Key, Forest Supervisor, Sequoia National Forest, Porterville, CA.

Stephen Fitch, Forest Supervisor, Shasta-Trinity National Forest, Redding, CA.

Ted C. Stubblefield, Forest Supervisor, Gifford Pinchot National Forest, Vancouver, WA.

Walter Weaver, Acting Forest Supervisor, Mt. Baker-Snoqualmie National Forest, Mountlake Terrace, WA.

Samuel Gehr, Forest Supervisor, Okanogan National Forest, Okanogan, WA.

Ronald R. Humphrey, Forest Supervisor, Olympic National Forest, Olympic, WA.

Sonny O'Neal, Forest Supervisor, Wenatchee National Forest, Wenatchee, WA.

Leonard Lucero, Forest Supervisor, Carson National Forest, Taos, NM.

Lynn C. Neff, Forest Supervisor, Ozark-St. Francis National Forest, Russellville, AR.

Brad Powel, Acting Forest Supervisor, Daniel Boone National Forest, Winchester, KY.

Kenneth R. Johnson, Forest Supervisor, National Forests in Mississippi, Jackson, MS.

Bob Castaneda, Forest Supervisor, Winema National Forest, Klamath Falls, OR.

Ed Schultz, Forest Supervisor, Colville National Forest, Colville, WA.

M.M. Underwood, Jr., Forest Supervisor, Arapaho and Roosevelt NF, Fort Collins, CO.

Jack A. Weissling, Forest Supervisor, Pike and San Isabel National Forest, Pueblo, CO.

Veto J. LaSalle, Forest Supervisor, White River National Forest, Glenwood Springs, CO.

Jerry Schmidt, Forest Supervisor, Medicine Bow & Routt NF, Steamboat Springs, CO.

Mary H. Peterson, Forest Supervisor, Nebraska National Forest, Chadron, NE.

John H. Yancy, Forest Supervisor, National Forests in Alabama, Montgomery, AL.

Donna Hepp, Acting Forest Supervisor, National Forests in Florida, Tallahassee, FL.

Danny W. Britt, Forest Supervisor, Kisatchie National Forest, Pineville, LA.

Pablo Cruz, Forest Supervisor, Caribbean National Forest, Rio Riedras, PR.

Maynard Rost, Forest Supervisor, Gila National Forest, Silver City, NM.

Orville L. Daniels, Forest Supervisor, Lolo National Forest, Missoula, MT.

Rick D. Cables, Forest Supervisor, White Mountain National Forest, Laconia, NH.

John E. Palmer, Forest Supervisor, Allegheny National Forest, Warren, PA.

Terry W. Hoffman, Forest Supervisor, Green Mountain National Forest, Rutland, VT.

Jim Page, Forest Supervisor, Monongahela National Forest, Eklins, WV.

Jack G. Troyer, Forest Supervisor, Chequamegon National Forest, Park Falls, WI.

Michael J. Rogers, Forest Supervisor, Angeles National Forest, Arcadia, CA.

Anne S. Fege, Forest Supervisor, Cleveland National Forest, San Diego, CA.

John Phipps, Forest Supervisor, Eldorado National Forest, Placerville, CA.

Wayne Thornton, Forest Supervisor, Plumas National Forest, Quincy, CA.

Kathleen McAllister, Acting Forest Supervisor, Superior National Forest, Duluth, MN.

B. Eric Morse, Forest Supervisor, Mark Twain National Forest, Rolla, MO.

Jose Cruz, Forest Supervisor, Deschutes National Forest, Bend, OR.

Mike Edrington, Forest Supervisor, Mt. Hood National Forest, Gresham, OR.

Thomas A. Schmidt, Forest Supervisor, Ochoco National Forest, Prineville, OR.

James T. Gladen, Forest Supervisor, Rogue River National Forest, Medford, OR.

J. Michael Lunn, Forest Supervisor, Siskiyou National Forest, Grants Pass, OR.

Jim Furnish, Acting Forest Supervisor, Siuslaw National Forest, Corvallis, OR.

Able Camarena, Acting Forest Supervisor, Umpqua National Forest, Roseburg, OR.

Robert Richmond, Forest Supervisor, Wallowa-Whitman National Forest, Baker City, OR.

Darrel L. Kenops, Forest Supervisor, Williamette National Forest, Eugene, OR.

David W. Wilson, Forest Supervisor, Francis Marion and Sumter National Forest, Columbia, SC.

George Wayne Kelley, Forest Supervisor, George Washington National Forest, Harrisonburg, VA.

John G. Irwin, Forest Supervisor, Savannah River Forest Station (DOE) New Ellenton, SC.

Debbie Austin, Acting Forest Supervisor, Inyo National Forest, Bishop, CA.

John F. Ramey, Forest Supervisor, Cherokee National Forest, Cleveland, TN.

Joy E. Berg, Forest Supervisor, Jefferson National Forest, Roanoke, VA.

David P. Garber, Forest Supervisor, Gallatin National Forest, Bozeman, MT.

Respectfully submitted,

GENE ZIMMERMAN,
Forest Supervisor.

SAN BERNARDINO NATIONAL FOREST, SAN BERNARDINO, CA.

NOTE. The names attached to this letter represent 70 forest supervisors in 30 states and Puerto Rico. This is a majority of the nation's 121 national forests.

Mr. CRAIG. Madam President, I ask unanimous consent that an article from the Washington Times also be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Oct. 24, 1993]

FORESTERS BALK AT CLINTON'S CANDIDATE FOR AGENCY LEADER

HELENA, MT.—The nation's foresters are aghast at the chance that someone they consider a presidential crony could be named head of the U.S. Forest Service.

Sixty-nine forest supervisors from Montana, 28 other states and Puerto Rico wrote to President Clinton Friday.

They said replacing Forest Service chief Dale Robertson for political reasons "would set a precedent for all future administrations, making it possible for the then currently correct special interest groups to control the national forests."

Agriculture Secretary Mike Espy has said he wants to replace Mr. Robertson. Sources have told the Associated Press the leading candidate is Jack Ward Thomas, who headed Mr. Clinton's Northwest forest advisory team and drafted the congressional report that called for drastic logging cutbacks in the Northwest to save the endangered spotted owl.

If Mr. Thomas is appointed, it would be the first time ever that a wildlife biologist, not a professional forester, would be the chief. Mr. Thomas also is not a member of the senior executive service within the government and ordinarily would not be considered qualified for the career post of chief.

Like all previous appointees, Mr. Robertson is a professional forester. He also served in a variety of Forest Service jobs, including deputy chief.

Idaho Gov. Cecil Andrus, who was interior secretary under President Carter, said he told a White House aide that the Clinton administration is courting political problems in the West by fiddling with the post.

"I told him they didn't have that many friends in the West to keep doing these kinds of things," Mr. Andrus said.

Mr. Espy earlier this month told the Senate Agriculture Committee that he plans to replace Mr. Robertson, saying there was a need for "new leadership." He has not said who the new chief might be.

Mr. Robertson, appointed in 1987 by the Reagan administration, said Mr. Espy showed disrespect for him and broke tradition and protocol by announcing the decision without first consulting him. Mr. Robertson cannot be fired but can be reassigned.

Mr. Robertson's hold on the job has been considered precarious since Mr. Clinton took office. Assistant Agriculture Secretary Jim Lyons told a House committee this summer that Mr. Clinton inherited a terrible mismanaged national forest system, damaged by years of excessive logging. Environmental groups have openly lobbied for Mr. Robertson's replacement.

Gray F. Reynolds, a regional forester in Ogden, Utah, said if the Clinton administration appoints a new chief lacking forestry experience, the nation's forests could suffer.

"Decisions and policies may no longer be based on good science," he said.

Sen. Max Baucus, Montana Democrat and chairman of the Senate Environment Committee, and Rep. Bruce Vento, Minnesota Democrat and chairman of the House Natural Resources public lands subcommittee, also have urged that the forest chief's job not be made a political appointment.

The Forest Service, an agency within the Agriculture Department, manages 156 national forests and 19 national grasslands covering 191 million acres in 44 states.

Mr. CRAIG. Madam President, about 2 weeks ago, when the Secretary of Agriculture was here on the Hill talking about agriculture reorganization before our Agriculture subcommittee, serving as the ranking Republican on the Forestry Subcommittee I asked him about the reorganization of the Forest Service. At that time, he had no particular plans except to say, and I agree, that probably some reorganization was in hand. But at that time, he said it also needed new leadership and he planned to get a new Chief.

Now that is the first time, I am told, that the current Chief of the Forest Service knew that he was going to be replaced. There had been lots of rumors and I think we all expected that. And I, in my letter this week, clearly recognized the right of this President to appoint a new Chief and certainly the right of the Secretary to make those necessary recommendations.

But before a Senate hearing, for this Chief to find out for the first time—not the courtesy of a letter or a call to the office, a sit-down, a look-in-the-eye and to say, "Dale Robertson, Chief, you have served us well, but we are going to move you on in the senior executive service and put someone in your place." That was not done.

So, Secretary Espy, please take heed. Take heed of the myriad of records that both you and the Assistant Secretary, Jim Lyons, have received. Please read the fine print in the letter that was sent to you last week by myself and three other Senators.

The Forest Service is a very big and important agency to our country, managing over 100 million acres of extremely valuable public resource. We want the very best; we want professionalism; and we want that kind of talent to be able to lead the talented men and women who currently serve in the U.S. Forest Service.

If you politicize it, Madam President, you not only risk the demoralizing that will occur, you risk administration after administration following you breaking with the tradition of the past, going with the precedent that I feel you may be establishing in continuing to politicize this very important agency. You destroy the rank, you destroy the esprit de corps and, most assuredly, you destroy the importance of a nonpolitical administrative approach toward handling key and necessary environmental laws that this Congress has passed over the years in the execution and the management of this important country of ours.

Mr. Secretary, I hope you are listening today. If you are not, I hope you read the letters that are pouring in to you and your Assistant Secretary's desks. I hope you do not make the decision to make a political appointment to the Chief of the U.S. Forest Service. You will destroy an agency that does not deserve to be destroyed.

I yield back the remainder of my time.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Madam President, parliamentary inquiry, is the unemployment insurance extension bill now the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. MITCHELL. Madam President, I now ask unanimous consent that the Senator from North Dakota, Senator DORGAN, be recognized to address the Senate for 5 minutes, as if in morning business; that upon the completion of his remarks, the Senator from Oregon, Senator PACKWOOD be recognized to address the Senate for 5 minutes, as if in morning business; and that, upon the completion of Senator PACKWOOD's remarks, the Senator from Texas, Senator HUTCHISON, be recognized to offer an amendment to the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

The Senator from North Dakota.

THE CRIME BILL

Mr. DORGAN. Madam President, a week and a half ago, I spoke on the floor of the Senate about crime legislation that will soon be debated. The crime bill is coming from the Senate Judiciary Committee. Let me pay tribute to the chairman of the that committee, Senator JOE BIDEN, and the committee staff. I think they have done an extraordinary job in putting together this crime bill. I have been working with them on a number of amendments. They have been cooperative, and I look forward to this bill being debated on the floor.

When I spoke to the Senate a week and a half ago, I displayed a copy of the front page of the Washington Post where there was a picture of a 4-year-old child named Launice Smith. Launice Smith had been playing on a playground here in Washington, DC, and while playing had been shot in the head. Sadly, Launice Smith died the next day.

I also mentioned a woman in North Dakota named Donna Martz, a 59-year-old grandmother, from Rock Lake, ND, had been abducted on a quiet Sunday morning in Bismarck, ND, while she was preparing to take the 3-hour car drive back to Rock Lake. Tragically, Donna Martz' body was found far from Bismarck, ND. She was found in the desert in Arizona, murdered—as was 4-year-old Launice Smith—by people known to the criminal justice system.

These are real people, Donna Martz, a wonderful grandmother, and Launice Smith, a 4-year-old playing on a playground here in Washington, DC.

These murders are not an urban problem. It is a problem across this country, both urban and rural. It is not a problem that respects age limits. Young and old are victimized by this epidemic of violent crime.

Every day in this country there are 67 murders, 292 rapes, and 8,650 burglaries. Per capita, we have 10 times the number of murders of Japan or France. Not double, triple, or quadruple—we have 10 times more murders in this country than in Japan or France, 13 times the number of homicides than England; 5 times the number of homicides than our neighbor to the north, Canada.

And yet, the average sentence in prison for a murderer who is convicted and goes to prison is—guess what—7 years. The average murderer's sentence is 7 years behind bars.

My point is, we know who is committing these violent crimes. They are not strangers to the system. For example, Michael Jordan's father was allegedly killed by two men who had been in the criminal justice system and had been let out.

Or take the latest German tourist killed in Florida. We knew who the alleged killer was; she had been in the criminal justice system less than a week before, only to be let out through the greased revolving doors of that system.

Or take Patricia Lexie. She and her husband driving home one evening on the interstate here in Washington, DC, had the misfortune of driving next to a man who "felt like killing someone." He had been charged just a week previous to that with shooting someone else. But he was on bail, and was able to shoot Patricia Lexie in the head.

The point I am making is this: We know who is perpetrating these crimes. The crime bill should put the people that are committing these violent crimes in jail and keep them there.

I propose four steps to do that. First of all, we do not have enough jail space. We have a million people in prison in this country but 51 percent are nonviolent. What we ought to do is take some of the 100 abandoned military installations and incarcerate nonviolent prisoners in them. This would be much less expensive, and would open up prison cells for tens of thousands of violent criminals.

Next we ought to eliminate good-time credit. When we put violent people in jail, let us keep them in jail for their entire sentence. We ought not have good-time credit to turn people out of jail before the end of their term.

Third, we ought to, in every sentencing hearing and parole hearing, allow the victim or the victim's family to testify. The accused is going to have a minister, or a priest, or a Boy Scout leader, or his family, all tearfully talking about what a wonderful person the accused is. I want the victim to have rights to testify in every sentencing hearing and every parole hearing in the country.

Finally, I want sentencing reports across this country for all judges in criminal trials. Americans deserve to know the sentencing practice of American judges.

All I am asking is this: Let us protect innocent people by putting people who commit violent crimes in jail and keep them there. There is no excuse to continue the system the way it is today. Eight percent of the criminals in this country are committing two-thirds of all the violent acts. What we ought to do is put them in jail and keep them in jail.

Those are the amendments I intend to offer to the crime bill.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired. The Senator from Oregon is recognized.

THE ETHICS COMMITTEE

Mr. PACKWOOD. Madam President, I wish to speak not only on the unemployment bill or in response to Senator BUMPERS, but on a matter involving the Ethics Committee and the issue that is before them involving my conduct. I want to refer very specifically to a small portion of it.

I keep a diary, a personal diary that is now about 8,200 single-spaced pages long. I dictate it normally every morning between 6:15 and 6:30 or a quarter of 7. It is the happenings of the day before. In it are the hopes and the dreams and the despairs of all of us: Family problems; in it are negotiations with Chairman ROSTENKOWSKI over the tax reform bill; in it are meetings with President Nixon involving Watergate; in it meetings with President Nixon and myself involving Clement Haynsworth; and Jimmy Carter's briefing on Desert One. It is all there. Except for family matters and privileged matters, the Ethics Committee wants to subpoena the entire diary and look at it all.

Three days ago my lawyer put out a statement indicating some of the things that were in the diary, including an extended affair that one Senator had with a member of his staff; including an affair that a staffer had with a member of the current congressional Democratic leadership.

But I want to emphasize something, Madam President. These were not threats by my lawyer. This was not so-called gray mail—that if my diary is subpoenaed, I will tell these things. These were things that the Ethics Committee has seen in the diary and demanded that we produce.

In the case of the Democratic congressional leadership, we had covered over his name with a piece of paper and the Ethics Committee was told it was a Democratic House leader, and has nevertheless demanded that we produce that page in the diary. Every single thing that my attorney said would be produced has already been demanded by the Ethics Committee to be produced.

This diary I have kept for 25 years. As I say, it is in excess of 8,000 pages long now, and the secrets in that diary are safe with me. It is willed to the Oregon Historical Society. It is not to be revealed until years after my death. I have no intention of ever using this for blackmail, gray mail, or anything else. But I want the Senate to clearly understand that it is the Ethics Committee that has demanded the production of the pages of the diary upon which is contained the information to which my lawyer made reference.

This was not a threat by us. This was not some statement that if we must produce, these are the things it will show. It was designed to show what the Ethics Committee has already demanded we produce that we think is totally unrelated to any of the charges against me.

We are perfectly willing to reveal everything in the diary that has any material reference at all to the charges. We do not think it fair, and we think it is probably unconstitutional, that I be required to reveal, from a personal diary, incidents of any kind that are totally unrelated in any way, shape, or form to any charge that is currently against me.

I thank the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Under the previous order the Senator from Texas was to be recognized to offer her amendment to the pending bill. I believe she is on her way to the floor now.

I yield the floor.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 1081

(Purpose: To repeal the retroactive application of the income, estate, and gift tax rates made by the Budget Reconciliation Act and reduce administrative expenses for agencies by $3,000,000,000 for each of the fiscal years 1994, 1995, and 1996)

Mrs. HUTCHISON. Madam President, as you may recall, last summer Senator MCCAIN raised a constitutional point of order against the retroactive tax rate increases in the budget reconciliation bill. A majority of Senators voted against that point of order, and now some of those Senators oppose this amendment to repeal those retroactive taxes. Apparently, they believe that it is constitutional for Congress to impose retroactive taxes but that it is unconstitutional for Congress to repeal them.

Ralph Waldo Emerson once said, "A foolish consistency is the hobgoblin of little minds."

Well, it is hobgoblin season, and it is time for a little consistency. I cannot explain a vote for retroactive taxes on a point of order back home without the question coming back, "But, do we still have to pay the taxes?" Each of my constituents knows that what matters here in Washington is not voting on this motion or that motion, but what does the vote mean? Does it mean we have to pay taxes from before the bill was passed?

When we vote on this motion, I want every Senator to consider that we are not voting on a point of order. We are voting on jobs. The Joint Committee on Taxation estimates that out of the 1.1 million taxpayers who are affected by retroactive taxes, 675,000 run small businesses. To these 675,000 small businesses and their millions of employees, a vote against our amendment simply says that you believe protecting Federal agencies' printing and travel budgets from a 2 percent or 3 percent cut is more important than sparing small business from the unfair burden of a huge retroactive tax bite.

I want every Senator to consider, too, that by not allowing an up-or-down vote on repealing retroactive taxes on small businesses, the Senate will guarantee that more Americans could be laid off and forced onto unemployment compensation; that fewer unemployed Americans will be able to secure jobs with the sector of our economy that accounts for two-thirds of all new jobs—small businesses. We will not save any money by making that happen. But we will guarantee one thing. We will guarantee that we will be back here soon trying to use a Band-Aid sized handout to help the unemployed.

If we want a real solution to our unemployment problem, we have to look for a long-term solution. That long-term solution is in our power. All we have to do is get out of the way, and allow our businesses to do what they do best without Government interference. American workers are the most productive, the hardest working, the best educated and the most resourceful in the world. If we can keep the ability to invest in the hands of our business men and women, we can harness this productivity and create jobs, exports, and economic growth. That is why Senator SHELBY and I are offering an amendment today to repeal the retroactive individual income tax rate increases of the Budget Reconciliation Act.

The act raised the taxes on the income of the 675,000 small businesses that employ American workers. These businesses are the sole proprietorships, partnerships, and subchapter S corporations, that all file their taxes as individuals. These are the businesses that are unemployed workers' best hope for new jobs. These businesses may be the first to have to lay off workers because they must pay retroactive taxes for the income they earned earlier this year but for which they did not set aside funds.

We have heard today of the urgency of the emergency unemployment insurance benefits extension bill. We have also heard from the Department of Labor, which informs us that 62,000 individuals will exhaust their regular State unemployment insurance benefits. In making my remarks today, those people are foremost in my mind. This is because I do not believe that we can change the plight of those unemployed if we just hand out Government benefits. We have State unemployment benefits. We have Federal unemployment benefits. We have Federal unemployment benefit funding, and 2 years ago we added the emergency unemployment compensation program. But, Madam President, we still have unemployed workers.

Unemployed workers need a helping hand, not just a handout. We can help them find work by helping employers hire them. But 2 months ago, Congress hurt American small business—the creators of most new jobs—by enacting a retroactive tax increase that will force small business to send their profits to Washington rather than investing the profits in business expansions that will create new jobs.

Our amendment also repeals the retroactive estate and gift tax, surely the greatest example of taxation without representation in the history of our Republic. This is a matter of equity. In many cases, the estates have already been closed. Now we are changing the rules on people who have lost their loved ones this year. The Supreme Court has recognized that at some point, a retroactive imposition of taxes may be so harsh and oppressive as to be unconstitutional and will shortly hear a case on retroactive estate taxes.

There is another category of people who really got hit this year with this retroactive tax increase. Someone came up to me at an event in Texas. It was a person who retired this year and got his retirement benefits in a lump sum from his corporation. Can you imagine the tax hit on a person who has retired this year and a lump-sum payment that he has worked years and years and years to have, and then have the new higher tax rate increase the tax on that lump sum?

Many Senators may think that this issue is over; that we debated the budget reconciliation bill last summer. But this issue is far from over outside the beltway. In little towns across America, from now until next April 15, businessmen and women on farms and feed lots, in restaurants and grocery stores, in hardware stores and car dealerships are trying to figure out how they are going to pay their back taxes to keep their businesses going. Some may say that is far-fetched, that we can raise taxes retroactively without hurting small business, but we know better and we have proof.

In 1990, Congress imposed a luxury tax on new boats and, sure enough, rich people stopped buying new boats and boatbuilders laid off workers from Maine to San Diego. The tax did not hurt the wealthy. They just bought used boats or they kept their old ones. It hurt the workers. So this year with one hand, we repealed the boat tax, but with the other hand, we raised taxes on many of the small businesses all over America. Let us learn a lesson from the boat tax. Let us repeal the retroactive taxes now so that we do not have to pay more unemployment compensation in the future to more displaced workers.

We also heard last summer from some Senators that the people affected by this retroactive tax knew it was coming. Why would they know? People were told as late as June by Senators on the conference committee that the taxes on individuals would not be retroactive. And do not forget, that with only a one-vote margin in each House, it was possible that the bill would not pass. Congress' intention at any one moment is not law. Until that moment when President Clinton found the very last vote he needed, it was still the taxpayers' money, not Congress' money, not the Internal Revenue Service's, but the taxpayers'.

In order to pay for the revenue loss from repealing the retroactive taxes, our amendment includes cuts in Federal administrative spending. The amendment cuts Federal administrative spending by $3 billion for each of the next 3 years, not by cutting muscle and fiber, but by trimming away some of the fat in the Federal Government. When a business or a corporation or a household encounters financial trouble, the first thing they do is cut overhead. That is all our legislation would do: cut Federal Government overhead in order to repeal the unfair new taxes and to reduce the deficit.

We do not cut programs, just administrative costs: printing costs, stenographic costs, travel expenses, moving expenses, consultant fees and rental payments. The agency head will have the discretion on where to make the 2 to 5 percent cut in overhead for his or her agency. Most of the households and small businesses in America have cut their budgets a lot more than 5 percent in recent years, and I think Government can do the same.

Our spending cuts will not harm national security, nor will they subtract one penny from Social Security payments or cut Medicaid payments to people who need them. They will not cut needed research. The spending cuts will not reduce Federal support for agriculture or for small business creation or for the export of American goods. They will not slow the delivery of the mail.

In short, the spending cuts we propose will not harm the American people, but they will force Government to live within its means with very modest cuts. Most important is that our amendment reduces the budget resolution spending caps. This will lock in savings from cutting administrative expenses over the next 5 years. With a multitrillion dollar national debt, I think we must prioritize spending now.

Before closing, Madam President, I would like to note for the record that it was incorrect to characterize the objection to proceeding to the emergency unemployment benefits extension bill by unanimous consent last Thursday as a filibuster. After weeks of consideration by the House Ways and Means Committee and on the House floor, the bill was brought to the floor of the Senate for expedited passage without floor debate or hearings by the Finance Committee. I was ready to proceed with no more than 5 minutes' notice to offer my amendment last Thursday. I made every attempt to make my intentions known, but I was not given an opportunity to offer my amendment. Instead, a cloture motion was filed.

At that time, the House had delayed the bill for weeks, but the Senate had not delayed the bill for even a few minutes. At that time, the Senate had not even considered the bill, and as soon as the Senate was given the opportunity to consider it, a cloture motion was filed when Senator DOMENICI objected in order to preserve my right to offer this amendment.

That was not a filibuster, Madam President, it was not a strike; it was a lockout. The Senate is not a rubberstamp house of lords that merely approves House bills. It is an independent legislative body that has the duty to consider the merits of legislation and amend legislation if it sees fit.

Following the contentious debate in the House over this bill where the rule for its first consideration was, in fact, defeated, it was reasonable to expect that the Senate would also need time to consider the bill. That was the purpose of the objection, to preserve the opportunity for floor consideration of my amendment, which I believe will benefit the unemployed by enabling employers to hire them into long-term jobs. The objection was not made to prevent the bill from passing. It was made to prevent the House bill from passing by unanimous consent without consideration by the Senate.

We can repeal unfair retroactive taxes. We can help the unemployed, and we can cut wasteful spending. I urge you and all of my colleagues to have faith in American business and American workers and vote to repeal retroactive taxes today.

Madam President, I ask unanimous consent that editorials from the San Antonio Express-News and the Houston Chronicle, in support of my amendment, be printed in the RECORD.

I further ask unanimous consent that letters from Citizens Government Waste, Citizens for a Sound Economy, the National Association of Wholesaler-Distributors, the National Federation of Independent Business, the National Retail Federation, the National Taxpayers Union and the National Tax Limitation Committee in support of repealing the retroactive tax rate increases be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT WASTE,
Washington, DC, October 18, 1993.

DEAR SENATOR: On behalf of the 550,000 members of the Council for Citizens Against Government Waste (CCAGW), I am writing in support of the Hutchison/Shelby amendment to the Emergency Unemployment Insurance Extension bill which repeals the retroactive individual income, estate, and gift tax rate increases enacted by the 1993 Omnibus Budget Reconciliation Act.

As you know, the tax increases were advertised as an assault on the rich, but the burden of the tax increase falls disproportionately on sole proprietors, partnerships, and subchapter S corporations. Some of these tax increases are retroactive to January 1, 1993. Congress also voted to enact some spending cuts, but left the task of implementing most of these cuts to future Congresses.

The Hutchison/Shelby amendment eliminates the retroactive income tax increase by using a blended tax rate for all of 1993 and eliminates the retroactivity of the estate and gift tax rate increases by changing their effective date to August 10, 1993. To assure that the deficit does not increase as a result of this proposal, it cuts administrative expenses by $3 billion annually over the next three years, for a total five-year savings to $36 billion.

We strongly urge you to support this amendment. There is no time to waste. It will be hard to repeal retroactivity on April 15, 1994. The Hutchison/Shelby amendment will eliminate much of the undue and unfair burden placed on taxpayers by the reconciliation bill. CCAGW will consider this vote in calculating its 1994 Congressional ratings.

Sincerely,

TOM SCHATZ.

CITIZENS FOR A SOUND ECONOMY,
Washington, DC, October 19, 1993.

DEAR SENATOR: On behalf of Citizens for a Sound Economy's (CSE) 250,000 members, I urge you to support efforts by Sens. Shelby, Hutchison, and Nickles to repeal the retroactive tax rate increases enacted in the 1993 Omnibus Budget Reconciliation Act and to prohibit future retroactive tax rate increases. Votes on both of these issues could occur this week.

It has been CSE's view that excessive government spending, not a shortfall of revenue, is responsible for the federal budget deficit. The imposition of retroactive taxes slows economic growth by increasing the tax burden and avoiding the fundamental need to curb federal spending. At the same time, retroactive rate increases impose significant costs on the individuals and businesses that are finding it increasingly difficult to plan for the future with any certainty.

Putting an end to retroactive tax increases would benefit taxpayers and would redirect the fiscal debate towards the central problem: inordinate government spending. Please vote for the Hutchison-Shelby amendment to repeal the recently passed retroactive taxes and the Nickles-Shelby amendment to prevent future retroactive rate increases.

Sincerely,

MICHELE ISELE,
Vice President for Government Affairs.

NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS,
Washington, DC, October 13, 1993.

Hon. RICHARD C. SHELBY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SHELBY: On behalf of the 45,000 companies represented by the National Association of Wholesaler-Distributors (NAW), their employees and families, we congratulate you on the introduction of S. 1524, your bipartisan legislation repealing the retroactive application of certain tax rate increases contained in the Omnibus Budget Reconciliation Act of 1993.

Many NAW members are Subchapter S corporations which pay taxes as individuals and will bear the brunt of the recently passed retroactive tax increases. Indeed, NAW has maintained from the outset that retroactive tax increases perpetrate an egregious wrong upon those struggling to build businesses, support their families and create new jobs. Your approach to this issue, especially with its reasonable and incremental offset provisions, is the right one; and we look forward to it becoming law.

To that end, NAW stands ready to assist you in every way possible to advance S. 1524 in the legislative process.

Congratulations again, Senator, for offering the right remedy for this fiscal wrong. We look forward to working with you.

Again, our thanks and very best regards.

Cordially,

DIRK VAN DONGEN,
President.
ALAN M. KRANOWITZ,
Senior Vice President-Government Relations.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, October 13, 1993.

Hon. RICHARD SHELBY,
U.S. Senate,
Washington, DC.

DEAR SENATOR SHELBY: On behalf of the over 600,000 members of the National Federation of Independent Business (NFIB), I commend you for your efforts to change Senate rules to create a point of order against retroactive tax increases. This change in the rules would ensure that the Senate has an opportunity to think twice before increasing taxpayers' obligations retroactively.

Small business owners feel particularly threatened by retroactive tax increases. Since many of them pay their taxes on a quarterly basis, they have to come up with the additional tax dollars long before most other taxpayers.

In addition, retroactive tax increases violate a fundamental rule of fairness. Americans should not have to pay additional taxes on money that has already been earned, money that has already been taxed. Taxpayers should not be surprised by federal taxes. They should feel some sense of confidence that once the federal government has taken a bite out of their paycheck it will not take another.

Again, I thank you for trying to protect taxpayers from paying retroactive taxes. I urge all your colleagues to support your effort.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

NATIONAL RETAIL FEDERATION,
Washington, DC, October 13, 1993.

Hon. ROBERT F. BENNETT,
U.S. Senate, Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR BENNETT: On behalf of the National Retail Federation, I am writing to express the Federation's support for efforts that may soon be considered by the Senate to address unfair retroactive tax increases.

Retroactive tax rate increases, like those included in the Omnibus Budget Reconciliation of 1993, unfairly penalize taxpayers for lawful actions taken in the past. In addition to unfairly increasing the tax payments of corporations and certain individuals, the recently enacted retroactive individual rate increases adversely impact businesses that operate as sole proprietors, partnerships or S corporations.

Since the enactment of the omnibus Reconciliation Act of 1993, numerous legislative measures in both the Senate and House have been introduced which address retroactive tax increases. The Federation supports these efforts and encourages you to acknowledge the inherent inequity of retroactive tax increases by cosponsoring and voting for such measures.

By way of background, the National Retail Federation is the nation's largest trade group which speaks for the retail industry. The organization represents the entire spectrum of retailing, including the nation's leading department, chain, discount, specialty and independent stores, several dozen national retail associations and all 50 state retail associations. The Federation's membership represents an industry that encompasses over 1.3 million U.S. retail establishments, employs nearly 20 million people and registered sales in excess of $1.9 trillion in 1992.

Sincerely,

TRACY MULLIN.

NATIONAL TAXPAYERS UNION,
Washington, DC, October 5, 1993.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HUTCHISON: The National Taxpayers Union (NTU), America's largest taxpayer organization, is pleased to endorse your proposed legislation to repeal the retroactive income, estate, and gift tax increases which were enacted as part of the 1993 Budget Reconciliation Act.

We commend you and Senator Richard Shelby, your lead cosponsor, for taking the initiative to repeal the unfair and, in some cases, unconstitutional tax rate increases that have been applied retroactively. To enact an effective date retroactive to January 1, 1993, before President Clinton and the 103rd Congress took office, is obviously wrong. Taxpayers are outraged and your proposed repeal will certainly be well received across America.

We also appreciate your thorough effort to offset the estimated revenue loss which would result from repeal by reducing federal administrative expenses by $10.5 billion. As you know, increased taxes have never provided deficit reduction. That will only be achieved by additional restraint in the growth of federal spending.

Again, the National Taxpayers Union is pleased to endorse your proposed legislation and to urge your Senate colleagues to join with you in working for its passage.

Sincerely,

AL CORS, JR.,
Director, Government Relations.

THE NATIONAL TAX-LIMITATION COMMITTEE,
Roseville, CA, October 14, 1993.

Hon. DON NICKLES,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR DON: You and Senators Hutchison and Shelby are to be congratulated for your tireless leadership on behalf of America's beleaguered taxpayers.

We join in endorsing S. 1524 to repeal the retroactive income, estate and gift tax rate increases included in the 1993 Budget Reconciliation Act. We enthusiastically support your strategy of offering this measure as an amendment to the unemployment compensation extension bill. We simply must not allow retroactivity to remain as an instrument of tax policy.

Kindest regards,

LEWIS K. UHLER.

[From the Houston Chronicle, Oct. 12, 1993]

TAX FAIRNESS

When the Clinton tax/budget plan was approved by Congress last summer, there were numerous vows to seek an early repeal of one of its worst features: making income tax increases retroactive to the first of the year.

Kay Bailey Hutchison, Texas' junior U.S. senator, has made good on her own pledge to do so. Hutchison has introduced a bill that would repeal the retroactive feature of President Clinton's plan without increasing the federal budget deficit. This is a well-reasoned effort worthy of the strong bipartisan support it is receiving in the Senate.

The administration's scheme to make taxes retroactive for some Americans is an affront to simple fairness. The president's argument that it is somehow all right to do so because it would only affect "rich people"—individuals with taxable incomes over $115,000 and couples with taxable incomes of at least $140,000—is an appeal to the politics of envy. It is a deliberate strategy to divide Americans along class and economic lines. It is also wrong in its implication that only the rich would be affected. This strategy would play havoc with owners of small businesses, those responsible for the lion's share of the growth and job creation in the nation's economy.

Hutchison's approach seems a sensible way to return to tax fairness.

[From the San Antonio Express News, Oct. 12, 1993]

RETROACTIVE TAXES SHOULD BE KILLED

Two Texans are heading up a coalition in Congress to repeal the Clinton administration's retroactive taxes on the rich and the dead.

Sen. Kay Bailey Hutchison and Rep. Lamar Smith are working with Republicans and conservative Democrats. Hutchison and Smith have introduced companion bills in both houses.

One of the most onerous provisions of the deficit-reduction plan approved by Congress in August levies taxes retroactive to Jan. 1 on people making hundreds of thousands of dollars and on the estates of people who have died since then.

Such retroactivity and erratic tax incentive policy contribute to economic uncertainty, with investors wary of programs.

The budget blueprint signed by President Clinton on Aug. 10 would raise about $240 billion in new taxes over five years.

The Hutchison-Smith bills would make the tax increases take effect Aug. 10 instead of Jan. 1. Hutchison has 21 other Senators backing the measure, and Smith has co-sponsors in the House.

Over five years, the legislation would cost the government about $10.5 billion in lost revenues. The losses would be offset by cuts in government overhead spending by $3 billion a year for three years.

"This is the perfect lever to force the Clinton administration to pursue the savings they have identified in Vice President Al Gore's National Performance Review," Smith said.

The Constitution appears to bar retroactive legislation. In Section I, Article 9, it says no "ex post facto law shall be passed."

While people making big bucks will find a way to lower their taxable incomes to soften the retroactive blow, the dead and their inheritors have no such options.

If this retroactivity stands, there appears to be nothing to keep the next tax hike being made retroactive for two or three years and applying to everyone.

Write your member of Congress and urge repeal of these unfair taxes.

Mrs. HUTCHISON. Madam President, I submit an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report. The bill clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], for herself, Mr. SHELBY, Mr. NICKLES, Mr. BENNETT, Mr. BURNS, Mr. COATS, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DOLE, Mr. FAIRCLOTH, Mr. GRAMM, Mr. HATCH, Mr. HELMS, Mr. KEMPTHORNE, Mr. KOHL, Mr. LIEBERMAN, Mr. LOTT, Mr. MCCAIN, Mr. MURKOWSKI, Mr. PRESSLER, Mr. ROTH, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, and Mr. BROWN, proposes an amendment numbered 1081.

Mr. MITCHELL. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . REPEAL OF RETROACTIVE APPLICATION OF INCOME, ESTATE, AND GIFT TAX RATE INCREASE.

(a) INCOME TAX RATES.—

(1) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(1) SPECIAL RULES FOR TAXABLE YEARS BEGINNING IN 1993.—In the case of taxable years beginning in calendar year 1993, each of the tables contained in subsections (a), (b), (c), (d), and (e) shall be applied—

"(i) by substituting '32.97 percent' for '36 percent',

"(2) by substituting '34.39 percent' for '39.6 percent', and

"(3) by substituting for the dollar amount of tax in the last rate bracket the dollar amount determined under such table by making the substitution described in paragraph (1).".

(2) CONFORMING AMENDMENTS.—

(A) Sections 531 and 541 of the Internal Revenue Code of 1986 are each amended by inserting "(34.39 percent in the case of taxable years beginning in calendar year 1993)" after "39.6 percent".

(B) Paragraph (1) of section 55(b) of such Code is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULES FOR 1993.—In the case of any taxable year beginning in the calendar year 1993, subparagraph (A)(i) shall be applied by substituting—

"(i) '24.79 percent' for '26 percent' in subclause (I), and

"(ii) '25.58 percent' for '28 percent' in subclause (II)."

(C) Section 13201 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking subsection (d).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(b) ESTATE AND GIFT TAX RATES.—

(1) IN GENERAL.—Subsection (c) of section 13208 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "December 31, 1992" and inserting "August 10, 1993".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1993.

SEC. . REDUCTION IN ADMINISTRATIVE EXPENSES.

(a) BUDGET OBLIGATIONS.—

(1) IN GENERAL—The amount obligated by all departments and agencies for expenses during fiscal years 1994, 1995, and 1996, shall be reduced by an amount sufficient to result in a reduction of $3,000,000,000 in outlays for expenses during each of the fiscal years 1994, 1995, and 1996. The Director of the Office of Management and Budget shall establish obligation limits for each agency and department in order to carry out the provisions of this section.

(2) DISCRETIONARY SPENDING LIMITS.—The discretionary spending limits for fiscal years 1994 through 1998 set forth in section 601(a)(2) of the Congressional Budget Act of 1974 shall each be reduced by $3,000,000,000 in fiscal year 1994, $6,000,000,000 in fiscal year 1995, and $9,000,000,000 in each of the fiscal years 1996, 1997, and 1998.

(3) NO NEGATION OF GENERAL AUTHORITY OF DEPARTMENT HEAD WITHOUT SPECIFIC REFERENCE.—Notwithstanding any other provision of this Act or any other Act (regardless of its date of enactment) that purports to direct the head of a department or agency to obligate an amount for salaries and expenses for the purpose of obtaining a particular service or good or to prohibit the head of a department or agency from obligating such an amount for any particular service or good, that law shall not be construed to impair or otherwise affect the duty and the discretion of the head of a department or agency to make determinations concerning which particular services of persons and which particular goods will be obligated for in the best interest of performing all of the duties assigned to the department or agency, unless that provision—

(A) makes specific reference to this paragraph; and

(B) states that it is the intent of Congress in that provision to negate the duty and discretion of the head of that department or agency so to make such determinations.

(c) DEFINITION.—For purposes of this section the term "expenses" means the object classes identified by the Office of Management and Budget in Object Classes 21-26 as follows:

(1) 21.0: Travel and Transportation of Persons.

(2) 22.0: Transportation of Things.

(3) 23.2: Rental Payments to Others.

(4) 23.3: Communications, Utilities, and Misc.

(5) 24.0: Printing and Reproduction.

(6) 25.1: Consulting Services.

(7) 25.2: Other Services.

(8) 26.0: Supplies and Materials.

Such term shall not include the expenses of the Department of Defense.

Mr. MITCHELL. Madam President, the adoption and enactment into law of the pending amendment from the Senator from Texas would reduce revenues by $10.5 billion over the 5-year period of fiscal years 1994 through 1998. The amendment would thus increase by $10.5 billion the amount by which revenues will be below the appropriate level of total revenues set forth for those fiscal years in the budget resolution. Consequently, the amendment violates section 311(a)(2) of the Congressional Budget Act of 1974. As Senators know, it takes 60 Senators to waive section 311(a). Madam President, I raise a point of order that the pending Hutchison amendment violates section 311(a)(2) of the Congressional Budget Act of 1974.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I move to waive the provisions of the Congressional Budget Act for the consideration of this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senate majority leader.

Mr. MITCHELL. Madam President, I encourage all Senators not to vote to waive the Budget Act and to cause this amendment not to be enacted.

This is a spoiler amendment. This amendment offered to this bill cannot become law even if 100 Senators voted for it but can kill the unemployment extension bill which is plainly what is going on here. This is an effort to kill the unemployment bill by the device of offering to it an amendment which, if adopted, cannot become law and kills the bill.

Let me explain why. The Constitution provides that only the House of Representatives can initiate tax legislation. The Senate has no legal authority to initiate a tax bill, none whatsoever. If this Senate passes a tax bill or a bill including a tax amendment, that legislation will not be taken up by the House of Representatives. Two hundred years of precedence and action makes it absolutely clear, beyond any doubt, that an attempt by the Senate to circumvent the constitutionally provided right of only the House to initiate tax legislation means the death of the legislation.

The underlying unemployment insurance bill now pending before the Senate is not a tax bill. The addition of this amendment to that bill would transform it into a tax bill because this is a tax amendment, and therefore two things will occur. This amendment will not become law, because the bill to which it is attached will be killed, and the extension of unemployment insurance benefits will be dead.

So every Senator should understand that all they are being asked to do here is to make a statement about the tax provision and in the process of making that statement kill the unemployment insurance bill. That means an estimated 1 million Americans whose unemployment insurance benefits will expire between October 2 and the time when this bill expires early next year will be denied unemployment insurance benefits, and for what? To make a statement for the wealthiest 1 million Americans in this country, because the only people who would benefit from this amendment, if it were to become law, are the wealthiest 1 million Americans.

What an incredible irony, what a bitter irony, to kill a bill to provide unemployment insurance to a million Americans in order to make a statement in behalf of the 1 million wealthiest Americans. I think a worse choice could hardly be made.

Let us be clear. The so-called retroactive tax provisions to which my colleague has referred apply only to those persons who have family income, filing jointly, of $200,000 a year and above. That is about 1 percent of all American taxpayers—$200,000 a year and above. Those are the only people who are going to be benefited.

Do not, Senators, be misled by the language used here: Small businesses, people on farms and feedlots and restaurants and grocery stores. This amendment is intended to benefit only the 1 percent of Americans whose incomes exceed $200,000 a year.

I do not know about farms and feedlots and restaurants and grocery stores elsewhere, but I can say to you up in Maine there are not too many of them.

The amendment will have the effect of killing unemployment insurance benefits for a million Americans who have lost their jobs through no fault of their own, who have to have a work history to be eligible for unemployment insurance, and who are seeking now to find other employment.

To use this vehicle to do it, I submit, is a truly incredible and a bitter irony.

Let me address some of the specific points made. Small business. Boy, have we heard that a lot in this tax debate. But the tax increases passed do not relate to the size of business; they relate to the size of income. If a family has gross income in excess of $200,000 a year, they pay a higher tax, and it does not make any difference what size their business is. In fact, according to the Treasury Department, only 4 percent of small businessmen in America have incomes in excess of $200,000 a year, gross incomes per family—only 4 percent—and yet the word "small business" is bandied about here as though it applies to everybody subject to this tax.

If the President of General Motors had an income of less than $200,000 a year, gross income, family filing return, he would not have to pay any additional tax. On the other hand, if the President of the smallest company in America had an income of $300,000 a year, he would have to pay a higher tax.

Despite the rhetoric, the fact of the matter is the increases in taxes are based not on the size of a business but on the size of income. In fact, the tax bill that passed benefited most small businesses, benefited many more small businesses than those which are subject to the higher tax because it increased the so-called expensing provision, the amount that could be deducted by a business for the purchase of plant and equipment and other materials.

So the fact is more small businesses benefited from the tax bill than paid a higher tax, and yet this amendment seeks only to benefit the 1 percent of Americans whose incomes exceed that high level. In fact, the average income of persons who will benefit from this amendment is $300,000 a year. All of these tears in the Chamber of the Senate for people whose incomes are an average of $300,000 a year and trying to kill an unemployment insurance bill for a million Americans whose extension of benefits will otherwise not be paid, how can anybody ask to do that? How could anybody do that? And yet that is what the Senate is being asked to do.

Let me comment on the so-called retroactivity.

Most Americans understand retroactivity to mean taxing income that was earned before the law went into effect. The amendment of the Senator from Texas would still tax that income.

The title of the amendment says repeal retroactivity, but the amendment does not repeal retroactivity. It simply applies a lower rate to the income for the same year. So if a person earned $1 million on January 1, 1993, and earned no money thereafter, that income would be subject to tax at the rate provided in the bill, if the amendment is not adopted, and would be subject to tax at the rate provided in the amendment if the amendment is adopted. All it has done is to apply a different, lower, so-called blended rate to try to achieve the desired effect.

No one should be under any illusion that retroactivity is abolished by this amendment. It is not.

Finally, I want to comment on the remarks of the Senator from Texas about the so-called filibuster last week.

I was told directly by the acting Republican leader at the time that the Republican Senators would not permit the Senate to proceed to this bill and would filibuster the bill if necessary. I relied upon that.

I do not know what was the state of mind of the Senator from Texas. I am not privy to her discussions with other Republican Senators. But my filing of the cloture petition was based upon a direct, unequivocal statement by those in the Republican leadership and their staffs that if I attempted to proceed to the bill I would be prevented from doing so under the rules of the Senate by unlimited debate by Senators.

The definition of a filibuster is preventing a measure from coming to a vote by use of the right of unlimited debate. Therefore, I had no choice but to file the motion to end the filibuster. I could, of course, and perhaps I will next time, have kept the Senate in all night Friday, all Saturday, and all Sunday to prove—to see if our Republican colleagues would actually do what I was told they were going to do. But I chose not to impose that inconvenience on the Senate.

So I say that a filibuster is when you try to prevent a vote from occurring. I was told that there would be just that if I attempted to bring this bill up. I relied upon that.

(Mr. MATHEWS assumed the chair.)

Mr. MITCHELL. Mr. President, I want to conclude by repeating, so that every Senator understands what is at issue here. First, this amendment offered to this bill means that even if approved by the Senate, the amendment cannot become law. That is under the Constitution and the practices of the Senate and the House. The Senate has no authority to initiate a tax bill.

The House Ways and Means Committee has already stated by virtue of the provisions in this bill that affect tax receipts, this is not a tax bill, as opposed to other bills which did affect tax receipts in a way that caused it to be a tax bill. Therefore, if any tax amendment is added to this bill, it kills the bill and the amendment goes with it.

So all this is, is a statement. The effect of making that statement in behalf of the 1 million Americans whose gross incomes exceed $200,000 a year—and they are the only beneficiaries of this amendment, they are the only ones that are going to be better off with this amendment—the effect of that is to kill the unemployment insurance bill.

I ask my colleagues, we have a lot of colleagues here who want to make statements in behalf of those who make more than $200,000 a year. They make them all the time. But I wonder if they are prepared to accept as a price of making that statement in this case the fact that they are killing the unemployment insurance bill, because that is going to be the effect. That is going to be the consequence if this amendment is adopted.

Neither the amendment nor the underlying bill will go anywhere. They will both be dead, and what will the Senate have accomplished? Especially since in the name of repealing retroactivity, they will be adopting an amendment which applies to tax retroactively in a different manner at a different rate.

Mr. President, we face a lot of difficult votes. We face a lot of subjects in which there is a high level of merit on both sides. Senators agonize and think carefully and hard about their course of action. But, for the life of me I cannot see why a single Senator would vote for this amendment in these circumstances.

To say that you, a Member of the Senate, think it is so important to make a statement in behalf of the wealthiest 1 percent of Americans, not provide them with any tangible benefit, because the amendment is not going to become law, but just to make a statement, stand up and show how much compassion and concern you have for those whose incomes exceed $200,000 a year, and at the same time by the very act be killing an unemployment insurance bill for a different 1 million Americans who have lost their jobs and are now about to lose the right to unemployment insurance extension, does any Senator really want to say that?

Does any Senator feel so strongly, so powerful about the need to tell those Americans whose incomes exceed $200,000 a year, that they care about them so much that they are willing to kill unemployment insurance for another 1 million Americans who desperately need it under these circumstances. That is the choice that every Senator will be making.

It is up to each Senator to decide for himself or herself. I hope that each Senator will choose to let this bill proceed and become law.

I hope that each Senator will vote to sustain the point of order and not waive the Budget Act for the purposes of considering and approving this amendment.

It is the right thing to do. It is the decent thing to do. It is the compassionate thing to do. This Senate already spends so much time trying to demonstrate to those whose incomes exceed $200,000 or $300,000 a year how concerned they are for them. Surely there are other ways of doing that. There are other bills on which that can be done. There are other means by which that can be shown. We do not have to pick the one bill that will provide unemployment insurance extension to 1 million people who have lost their jobs through no fault of their own, who have a work history. That is the only way they can qualify for unemployment insurance, who are looking for jobs now. We do not have to pick that program as the vehicle to make this kind of demonstration of concern for those whose incomes exceed $200,000 a year.

Mr. President, I urge my colleagues, I implore my colleagues, let us complete action on this bill. It is already overdue. And then let us make our statements known elsewhere.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, if the Senator will yield for a question. Is it the understanding of the Senator that this money would only be taken out of discretionary spending? It does not touch entitlements, and I note that the Defense Department is specifically exempt. So I assume it is all coming out of discretionary spending; is that correct?

Mr. MITCHELL. I believe that is the case.

Mr. BUMPERS. Does the Senator know offhand how much of that amount is still in the Federal budget, discretionary spending?

Mr. MITCHELL. The total amount to be reduced, discretionary spending limits under this amendment, as I read it, is $36 billion; $3 billion in fiscal 1994, $6 billion in 1995, and $9 billion in each of the fiscal years 1996, 1997, and 1998.

Mr. BUMPERS. Did the Senator note that the Defense Department was exempt from any of these cuts?

Mr. MITCHELL. I am advised that the Defense Department, under the amendment offered by the Senator from Texas, is exempt, and I am not certain whether it is for the entire 5-year period or just for 3 years. Perhaps the Senator from Texas can answer that.

Mr. BUMPERS. I wonder if the Senator from Texas could enlighten us on that.

Mrs. HUTCHISON. Yes, Mr. President. The cuts do exempt the Defense Department. But the categories from which these cuts can come is approximately $150 billion.

Mr. BUMPERS. I did not understand that.

Mrs. HUTCHISON. The question is: Is the Defense Department exempt from these cuts? The answer is yes.

Mr. BUMPERS. Why did the Senator exempt the Defense Department?

Mrs. HUTCHISON. I believe the Defense Department is taking its fair share of cuts right now. They are downsizing, and I think they are doing a very good job of it.

I think what we are looking at here is the discretionary spending. We are talking about maybe 2 to 5 percent of the administrative budget. It is just overhead—travel and travel expenses, movement of things, rental payments, and it is communications and printing, outside contracts.

Mr. BUMPERS. How efficiently does the Senator think NASA is spending its money?

Mrs. HUTCHISON. I think everybody can tighten up 2 to 5 percent. I have done it myself, and I am sure the Senator from Arkansas has. I am sure people all over America think a 2 to 5 percent cut in overhead cost is quite reasonable to create fair tax standards.

Mr. BUMPERS. Well, two things about this amendment trouble me, other than the points the majority leader has made regarding who is going to benefit from this. I do not like retroactive taxes either.

The reason I ask the Senator about NASA is because NASA has a very big presence in her State, and I admire her courage for including that agency. I just wonder if the Senator knew that of the $15.9 billion NASA budget, over $13 billion of it is subject to her amendment. About 90 percent of NASA's budget is going to be subject to being cut by the Senator's amendment. Was the Senator aware of that?

Mrs. HUTCHISON. Absolutely; I think this should be fair. I think it should be across the board. I agree with the Senator from Arkansas on this matter; everybody should step up to the line and be more efficient in order to have fairness in our taxes.

Mr. BUMPERS. Mr. President, the Senator said she thinks the cuts ought to be across the board. That is not what the amendment says. It says the Director of OMB shall have discretion as to where these cuts should be made.

Mrs. HUTCHISON. That is correct.

Mr. BUMPERS. What do you mean by "across the board"?

Mrs. HUTCHISON. It is across the board. I hope the Director of OMB would be fair in his treatment. I think it gives the Director of OMB the right to have a look at the agencies and allocate their fair share, and then the agencies have the total ability, within these categories of the expenditures, to decide what their priorities are. I think that is a very reasonable approach.

Mr. BUMPERS. The Senator from Texas has made two statements here. One, she thought it ought to be across the board and, two, everybody ought to share in it. Yet, she takes away everyone's responsibility except for the Director of OMB. The Director of OMB may happen to like NASA, and he may say, "I am only going to take a little out of NASA, and I am going to take quite a bit out of the budget for education." He may say, "I am going to take quite a bit out of the childhood immunization program." His priorities may be totally different from mine. And I say this: I am certainly not going to vote for an amendment that abdicates all responsibility for the spending cuts to the Director of OMB. He happens to be a good friend of mine; I like him; I just do not want to turn that over to him. I cannot believe the Senator intended, as she talked about across-the-board cuts, to do that.

Mrs. HUTCHISON. Excuse me——

Mr. DORGAN. Will the Senator from Maine yield for a question?

Mr. MITCHELL. I will.

Mr. DORGAN. Before I ask my question, let me point out I spent a year and a half producing a book on Government waste with a task force over in the House of Representatives. A significant part of that report talked about reducing overhead expenditures across the Government. There are $270 billion worth of indirect or overhead expenditures in the Federal Government.

Conceivably, if you reduce that by 10 percent, you can save $27 billion a year. That is pretty difficult to do, but you would have to do it across the board. You would have to do it for the Department of Defense, a big spender, and all of the agencies. But that is not my question.

I think many of us in this body share a concern about retroactive taxes. I served 10 years on the House Ways and Means Committee where all tax legislation originates. I prefer that we never have a tax bill that is retroactive. I prefer that they be prospective. Most of us agree on that.

But the Senate and the House reached a compromise in which some of the deficit reduction bill's taxes were retroactive. The question I ask about the amendment by the Senator from Texas is: I sense that the amendment offered does not repeal retroactive taxability. The amendment reaches back to January 1, with a lower blended rate, and I think I understand why the Senator from Texas does that. I think the blended rate is designed so that at the end of the year you have paid no more than you would have if we had kept the old tax rate for the first part of the year and had imposed the higher tax rate only for the rest of the year.

So the Senator from Texas reaches back to January 1 with a blended rate that is higher than the rate that existed on December 31, 1992. But the first title on this amendment says the "repeal of retroactivity." My question—which is probably better directed to the Senator from Texas, but I ask the Senator from Maine who has the floor—does he have the same understanding as I do, that in fact this says repealing retroactivity, but it does not repeal this year's retroactive application of taxes?

Mr. MITCHELL. Mr. President, that is my understanding. The title begins: "Repeal of retroactive application" of the various taxes. But section (a)(1)(i), at the top of page 2, simply substitutes a lower and different, blended rate than that which is in the bill, a rate which is higher than otherwise would have been the case had the law not been changed this summer, but which has, in effect, a lower blended rate than is in the bill but higher than otherwise implied.

Mr. DORGAN. This amendment reaches back with a composite rate which is higher than that which would have existed in law at that point. Let us say, that someone came into a $2 million sum on January 1; under this amendment, that person would pay a higher tax rate than the pre-existing law would have called for. This amendment, if passed, would not repeal retroactive application. I understand what it would do, but I am saying what it would not do. It would not repeal retroactive application of taxes.

That is the point I was making. I think it is important for everybody to understand what amendments do and what they do not do.

So I appreciate the response of the Senator from Maine. I think the author of the amendment is probably best able to respond to that.

Mr. MITCHELL. Mr. President, I will yield the floor now so the Senator from Texas and other Senators who wish to can address the Senator on the subject.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, it is a retroactive repeal because the effect of the amendment is to make the tax increase take effect August 10 rather than January 1. If you earned something on January 3, it would, of course, be included.

The blended rate was only done to make it easier for people to prepare their tax returns. Rather than have one tax rate before August 10 and one tax rate after August 10, and force taxpayers to close their books for a partial year and apportion their tax deductions, income, and credits, it was suggested by the lawyers at legislative counsel, who are the experts that drafted the bill, that this would be the cleanest way to do it. So for this 1-year period it proposes a blended rate, the effect of which is to have an August 10 effective date, which was the date that the bill was signed.

Mr. DORGAN. Mr. President, if the Senator will yield on that, I spent 10 years on the House Ways and Means Committee writing tax law. The point I am trying to make—and I think the Senator will agree with me—is that the amendment of the Senator from Texas does not truly repeal the retroactivity. If you look back, the Senator's approach will produce the same amount of revenue as if you had the old rate in law up until the date the new rate was passed and the new rate for the rest of the year. For simplicity purposes, the Senator chose to create a blended rate.

My point is that when one does that, one does not repeal the retroactive application of taxes. If someone in January came into some money that person would be taxed at a higher rate under this amendment. The tax on that money that person came into in January is at a higher rate if this amendment passes. This amendment does not repeal retroactivity.

Mrs. HUTCHISON. I would just say in Texas they have a saying that if it walks like a duck and quacks like a duck, we think it is a duck.

I believe that the effect of this bill is to repeal the retroactivity of the tax bill, and I think that is pretty clear. If the Senator differs, then he has to differ.

Mr. DORGAN. Mr. President, if the Senator will further yield, I understand about sayings and I understand about tax law.

The Senator from Texas gets where she wants to get at the end of the year. I give the Senator that. I understand that. My point is you do not do it by completely repealing the higher tax that was imposed retroactively. The Senator's amendment will impose a higher tax retroactively as well.

I understand all about ducks and quacks, and so on. The fact is I want people to understand what we are doing. Either we are going to repeal retroactivity—incidentally, I sympathize. We should never levy taxes retroactively. When we pass a tax law, it ought to be prospective in application. But we also should not pass an amendment that says we are going to repeal retroactivity when it does not.

Mrs. HUTCHISON. I hope that means the Senator is going to vote for the amendment which does have the effect of repealing the retroactivity of the tax bill. I do want to say there were some points that the Senator from Maine made that I do want to answer.

The first point is on the alleged filibuster. I just want to say that what we were objecting to is the Senate taking up this bill without the ability to offer amendments. That was the only purpose of the objection. It was not to filibuster. It was never to filibuster.

In fact, I want this bill to pass. That is one of the reasons why I have chosen this bill, because this is the only vehicle that I have seen that will pass before the end of the year that will correct what I think is an egregious wrong, that is, a retroactive tax increase, and that deals with employment of American workers.

In fact, the Senator from Maine says that the bill that we are passing will be unconstitutional. I just do not think the effect will be unconstitutional because I believe that the House, if we do pass this amendment, will come forward and pass the amendment, as original legislation introduced by Congressmen LAMAR SMITH, RALPH HALL, and BOB INGLIS, and we will be able to work out our differences as our two bodies always do. I think what is unconstitutional is passing an ex post facto law, which is exactly what we did in August of this year. I want this amendment to pass.

Let me say, also, that the Senator from Maine said that it would affect people who make $200,000 a year. It will affect people who are married who make $140,000 a year. So it could be people who make $70,000 a year if they are married, and $115,00 if they are single.

Eighty percent of the businesses in America pay taxes as individuals. They do not pay corporate taxes. The Tax Code taxes a business' profits, not what the owner takes home. So business owners are often taxed on the money they reinvest back into their businesses.

Let me give you an example. A retailer has, for instance, possibly $150,000 in income which would put her in the top 5 percent bracket. But let me tell you what she has to do with that $150,000 in income if she is going to continue to make her business grow. She invests in new plant, and new equipment, such as store displays, computers, security systems, and signs. She also pays down the principal of her business loans; that is very important. I myself have had that experience in a small business. I take my after-tax profits, and I pay down principal on the loan with after-tax profits. That is very important for the stability of a business because it reduces interest expense. But that payment does not come before taxes; that is after taxes. She would hire new workers and train them with that $150,000. Finally, she must purchase new inventory for future sales.

So, my point is, most people who have had the experience of being in a business know that what you are taxed on at the end of the year, which may sound like a lot, such as $115,000 or $140,000, you have to make all of the investments for the business' future out of that amount. Instead of being able to make those investments, however, that small business retailer is going to have to send the money to Washington rather than making the investment in a new employee or a new piece of equipment or purchasing new inventory.

So we are trying to repeal the retroactive tax increases so that our small businesses will be able to grow and expand, because the owners know, as I know, that the economy of this country is not driven by Government spending. The economy of this country is driven by the small business people who invest and create 80 percent of the new jobs. And if Government will get out of the way, they will continue to do that, and our economy will come back.

My amendment will help the unemployed in two ways. We will pass this bill with my amendment and we will help the people who are now unemployed receive assistance. But with my amendment we are also going to help the unemployed who will be able to get new jobs if the businesses that are now looking at as much as a 70 percent increase in their tax rate will be able to keep that money in their businesses, and thus keep more people from going on the unemployment rolls. That is the purpose of our bill.

Mr. President, at this time I would like to yield to the Senator from Georgia, who wants to make remarks on this amendment.

Mr. BUMPERS. Mr. President, a point of order. I have no objection, but she cannot yield to the Senator. The Senator must be recognized in his own right.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise to speak on behalf of the amendment—and I might just say that this whole dilemma that has been described by the Senator from Maine, and others who have spoken, could have been averted very handily if the administration had not brought itself to do that which its own leadership thought it should not do.

The Senate majority leader said, and I quote: "I have long urged that the tax increase not be retroactive and take effect either July 1 or some date around there."

Or, as the chairman of the Finance Committee asked on June 6, on This Week With David Brinkley, "Will the taxes on individuals be retroactive?" He replied, "No."

The whole matter could have been avoided if prudence had been in effect when we were struggling with the tax plan that was ultimately adopted.

I might say, also, that all of the wrangling that we are talking about here with regard to technicalities of the amendment, whether it is a new blended tax or not, or whether it is a title that accurately refers to the Senator from Texas' effort, is frivolous discussion. The point is the Senator from Texas has offered a process by which we can correct a very serious wrong that has been imposed on the people of this country by a retroactive tax.

My heavens, if we start striking down amendments or laws because of the name that is put on them, I do not know that we could have but maybe one in 10 that I have seen this year in the 103d Congress that would survive. The question is whether the retroactive application of taxes that reach even back beyond this administration into a former administration is appropriate or not.

In my pursuit of trying to understand this issue, I have gone back to one of our forefathers, Thomas Jefferson. He has a lot to say about the subject of taxation. I would like to share several of his comments here this afternoon.

On one occasion, he said:

> And this is the tendency of all human governments. A departure from principle in one instance becomes a precedent for a second; that second for a third; and so on, till the bulk of society is reduced to be mere automatons of misery, to have no sensibilities left but for sinning and suffering.

Then begins, indeed,

> * * * which some philosophers observing to be so general in this world, have mistaken it for the natural instead of the abusive state of man. And the fore horse of this frightful team is public debt. Taxation follows that, and in its train wretchedness and oppression.

People in this country, whether they are rich or poor, no matter their circumstance or standing, no matter their status, whether they are dealing with a family or a small or large business, it matters not, they have an inherent right to expect from their Government equal treatment, and they certainly have a right to expect that what is the condition or rule of the land in a given year which they have been instructed they must follow ought to be the case at the end of the year.

Jefferson speaks on this point too on the constitutionality. We are all arguing whether the term ex post facto means criminal law or civil law. He wrote a letter to Issac M'Pherson on August 13, 1813. He had been President for 8 years by that time, and retired and was in Monticello.

He said:

> The sentiment that ex post facto laws are against natural rights, is so strong in the United States, that few, if any, of the State constitutions have failed to proscribe them. The Federal Constitution indeed interdicts them in criminal cases only, but they are equally unjust in civil as in criminal cases, and the omission of a caution which would have been right, does not justify the doing of what is wrong.

For the last 30 minutes or so, we have heard to a great extent that this error, this egregious burden, only applies to some Americans, so it is OK then. In other words, we have come to the point that if you are in a certain category, we can violate the Constitution because it does not affect that many. It only affected 2 percent. We are OK.

That is what Jefferson was talking about.

You see, once we become accustomed to a violation of the first principle, that leads to a second violation, and then so on, and so on. Once we get to the point as a Nation, as keepers of the law, where it is OK to violate the Constitution if only the rights of a few are involved, we endanger everything for all. And now we sit and listen that it is OK that this happened—we have heard $100,000, $150,000, $115,000, all these machinations about the type of people it affects—because it only affects certain kinds of Americans. It is not OK. If it be but one person it is not OK.

I think Jefferson was absolutely correct when he very carefully stated that ex post facto in concept is wrong, no matter how many it applied to.

I believe in my heart this is unconstitutional. I commend the Senator from Texas for rising to try to correct it. Even those arguing with her say ex post facto retroactive taxation is wrong. Well, if they have a better idea for the way to fix it, stand up and rise. Let us hear it. We have been here since

August when this burden was imposed on Americans.

I commend the Senator for rising to the occasion, for trying to perfect a procedure by which we can correct what everybody seems to think is wrong. Well, let us certify that it is wrong and support the amendment and end the wrong.

Now I have authored an amendment to the Constitution that would prohibit the U.S. Government from ever enacting a retroactive tax. That is a loud statement.

The Senator from Texas and others rightfully acknowledge that the process by which we would amend the Constitution cannot address the specifics of this egregious error. I commend her for trying to do so. I think, rather than trying to tangle her amendment up in knots and legalese and protests of that nature, we ought to all come forward and enact what everybody seems to be in unison about; that this is a wrong concept; that this is retroactive; that this separates our people; that this sends a signal to every family, every business, every community that they cannot depend on what the rules of the road are with regard to tax law.

Now, just in closing, I would say this: Some people have questioned whether or not there ought to be a constitutional amendment on the matter. Taxation in this country represents well over 50 percent of the engagement between our people and their Government. And there is nothing that could justify placing this unreasonable burden on every family and business and community.

We ought to make certain that this debate never occurs again by amending our Constitution, and we should all stand up and try to correct something that has been egregiously done to the people of this country. I rise in support of the amendment. I support the Senator from Texas, and I applaud her effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to point out to my colleagues, first of all, our budget for 1994 is $1.4 trillion. Of that amount, when you exclude entitlements, for example, and get down to pure discretionary spending, domestic discretionary spending, the budget is about $540 billion. That includes defense. I see the ranking member of the Budget Committee nodding in agreement, so I am sure my figures are absolutely right.

Mr. DOMENICI. To the best of my ability to remember, they are correct.

Mr. BUMPERS. The $540 billion in discretionary spending out of $1.4 trillion next year; about $265 billion of that is defense.

Mrs. HUTCHISON. Will the Senator yield?

Mr. BUMPERS. I yield for a question or observation.

Mrs. HUTCHISON. I believe the $500 billion the Senator is talking about is discretionary, not including defense.

Mr. BUMPERS. Would the Senator say that again, please?

Mrs. HUTCHISON. Yes. The $500 billion is discretionary. I believe that does not include defense. I wanted to make sure the Senator and I were saying the same thing.

Mr. DOMENICI. I do not remember.

Mr. BUMPERS. I say to the Senator from Texas, I believe that she is mistaken. If she turns out to be right, I will humbly apologize, but I believe the $545 billion figure does include defense. If the Senator has figures there to prove me wrong, as I say, I will happily apologize.

Mrs. HUTCHISON. Let us check because I was told by my staff aide that he also does not think it includes defense. We will verify that.

Mr. BUMPERS. Let me say to the Senator from Texas I feel comfortably sure, and I think the Senator from New Mexico will agree, the $545 billion figure is correct.

If you subtract the $265 billion in defense spending from that amount, that leaves $275 billion.

When we talk about domestic discretionary spending, we often really do mean excluding defense. But the $275 billion to which I refer is what we spend for education, some of our farm programs, health programs—in short, I have made the point many, many times that the thing I took strongest exception to, during the 1980's, is that defense spending soared and entitlements spending soared even higher. The only thing that got held steady was discretionary spending. It went up about three-quarters of a percent over a 10-year period. And that is the spending we spend on ourselves to try to improve the quality of life for our people. That includes law enforcement, that includes childhood immunizations, that includes school lunches, it includes certain agricultural subsidies, it includes all the things we do to try to give people a fighting chance at a piece of the rock, the promise of the good old USA.

Mr. DOMENICI. Will the Senator yield?

Mr. BUMPERS. I will be delighted to yield to the Senator.

Mr. DOMENICI. Mr. President, it appears to me that, while the Senator from New Mexico is right on the numbers he cited with reference to discretionary, in his last discussion he included a number of items that are not discretionary. Agricultural subsidies are in another category; they are not in that $270 billion.

Mr. BUMPERS. I stand corrected, and I appreciate the Senator's correction.

Mr. DOMENICI. Neither are food stamps. The Senator mentions three or four which are mandatory. Health care, he said. But the only one I think is different—domestic health care, that is mandatory; not an entitlement, not discretionary, unless you talk about NIH and that kind of thing.

Mr. BUMPERS. That is almost $15 billion a year at NIH.

Mr. DOMENICI. That is between $12 billion and $14 billion. NIH is discretionary.

Mr. BUMPERS. It is discretionary.

Mr. DOMENICI. We just do not want to overstate the case. The Senator is correct, but discretionary, if we are talking about the same thing, has clearly not grown as much as mandatory spending in the past decade.

Mr. BUMPERS. The Senator will agree with me that everything went out of sight except discretionary spending in the 1980's.

I stand corrected on the farm programs. But I still stand by the statement that it is discretionary spending that gives our children an education, it gives kids a chance to go to college. When it comes to health care, I know the Senator will agree with me that the $500-plus million we are putting in, in 1994, in the childhood immunization program, is discretionary spending. The $15 billion we give the National Institutes of Health, who turn around and parcel that money out to the colleges and universities of America to do medical research, that is discretionary spending.

Yet, the Senator has picked on that part of the budget that has seen little increase in the last 12 years despite the fact that so many people in this body, especially on the Senator's side of the aisle, talk endlessly about how you will never get the deficit under control until you get entitlements under control.

Which brings me to the question. Entitlements have gone up about 150 percent since 1981. Defense spending has gone up over 100 percent, well over 100 percent. And discretionary funding has stayed relatively constant—little increase in the programs that we use to build this Nation.

So I am asking the Senator, would the Senator consider amending her amendment to take this money out of entitlements: Medicaid, Medicare, Social Security, food stamps, and AFDC. Would the Senator consider taking it out of all those programs instead of out of discretionary spending? It might cost some kid a college education.

Mrs. HUTCHISON. I would not consider it at all. That is exactly why we put the cuts in administrative costs, so it would not take away from a child being able to go to college or a child being able to be fed or immunized. That is exactly why we put the cuts exactly where they are. Out of $101 billion that is available, we are talking about a $3 billion cut over all of the agencies in Government. I really think if you pick the priority of whether you want to cut back 2 or 3 percent in printing costs, travel costs, moving costs, rental payments, communications, printing and reproduction, consulting services, supplies—that people have a choice——

Mr. BUMPERS. Let me ask the Senator what in the world is all this conversation on this side about how we have to cut entitlements? What do you mean by that?

Mrs. HUTCHISON. I am saying I would like to cut those administrative items 2 or 3 percent in an agency, not touching entitlements, and to have fairness with American small business. That is where——

Mr. BUMPERS. Mr. President, I have the floor. I yielded for an observation.

Mrs. HUTCHISON. The Senator asked me a question and I answered his question.

Mr. BUMPERS. Let me make this point to the Senator from Texas. The amendment says nothing about a 2-percent across-the-board cut in discretionary spending. On the contrary, it says the Director of OMB can pick and choose where he wants to cut. If the Senator wants to make the amendment a lot more palatable, change it to say, "2 percent straight across the board."

Mrs. HUTCHISON. If the Senator would vote for the amendment if it is 2 percent across the board, I will change it. One of the reasons we gave the OMB Director discretion is because that is what the President did when he first proposed administrative cuts in his Executive order this year, because the President thought that the discretion would be better in the OMB Director. And I have faith that any OMB Director is going to allocate fairly.

But if I could get your vote with a 2-percent across-the-board cut——

Mr. BUMPERS. Try it, Senator. You just never know when lightning might strike.

Mrs. HUTCHISON. I would love to see the lightning, Senator BUMPERS, because I think we could do well if we are on the same side of an issue.

Mr. BUMPERS. Let me proceed, because I know you are not going to change your amendment.

Mrs. HUTCHISON. Senator, I offered. I offered. Just take me up on the offer.

Mr. BUMPERS. Let me ask the Senator an additional question. If that were the only problem with the amendment, I would give you a guarantee right now. This amendment has so many problems with it, I hardly know where to begin.

Mrs. HUTCHISON. That is not a problem. That is the good part of the amendment.

Mr. BUMPERS. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Arkansas has the floor. The Senator yielded for a question. But we cannot have a running debate.

Mr. BUMPERS. Mr. President, this amendment is designed to find about $10.5 billion to finance the Unemployment Insurance Program.

Mrs. HUTCHISON. No; that is not the case.

Mrs. HUTCHISON. That is not correct. The $10.5 billion is not to pay for the unemployment——

Mr. BUMPERS. I am sorry, I meant the retroactive tax provision. I misstated myself; $10.5 billion to provide for taking the retroactive part of the deficit reduction program out; is that correct?

Mr. MITCHELL. Yes.

Mr. BUMPERS. Let me ask the Senator this question: On page 4, paragraph 2, you also reduce the discretionary spending caps, and I assume that reduction was to correspond with the $10.5 billion that the Senator is looking for. But that is not what the Senator's amendment says. The Senator's amendment reduces the discretionary spending caps over the next 5 years, not by $10.5 billion but by $36 billion.

Mrs. HUTCHISON. No, no.

Mr. BUMPERS. What was intended by that?

Mrs. HUTCHISON. We reduce the spending caps by $3 billion over each of the next 3 years. We reduce the spending cap by $3 billion in 1994. We reduce the cap $6 billion in 1995 because there is an additional $3 billion in spending cuts in 1995. Then in 1996 we reduce the cap $9 billion because of the additional $3 billion spending cuts.

Mr. BUMPERS. Mr. President, the mother tongue is English. That is what I was taught when I was a youngster. I am going to read some English to the Senator from Texas.

> The discretionary spending limits for fiscal years 1994 through 1998 set forth in section 601(a)(2) of the Congressional Budget Act of 1974 shall each be reduced by $3 billion in 1994, $6 billion in 1995, and $9 billion in each of the fiscal years 1996, 1997, 1998.

I made a nice calculation. That comes to $36 billion.

Mrs. HUTCHISON. The cuts are $3 billion over each of the next 3 years. The spending caps come down $3 billion; $3 billion plus $3 billion is $6 billion; $6 billion plus $3 billion is $9 billion, and then it goes on, staying at the $9 billion cap reduction. But it is a spending cut of $3 billion for each year for the next 3 years.

Mr. BUMPERS. Mr. President, let me say to the Senator from Texas, this is not designed to try to intimidate or to awe her. I do not find this in her amendment. Does the Senator know who gave me this figure? The Senate Budget Committee. If the Senate Budget Committee thinks this cuts $36 billion in discretionary caps, would the Senator agree that maybe she needs to change the language so it will be a little clearer?

Mrs. HUTCHISON. No, Mr. President, the bill was written by the legislative counsel and it cuts spending $3 billion for each of the next 3 years. But when you talk about the spending caps, we lower the spending caps each year; that has the effect of $36 billion at the end of 5 years in spending cap cuts, but that is only because we have cut $3 billion each year and the cumulative effect of that $3 billion each year reduces the spending caps.

Mr. BUMPERS. Mr. President, what does the Senator mean when she says $9 billion in each of the fiscal years 1996, 1997, and 1998?

Mrs. HUTCHISON. That is the spending cap reduction. It is not actual spending cuts for fiscal years 1997 and 1998. The spending cuts are $3 billion for each year for the next 3 years.

Mr. BUMPERS. For the next 3 years?

Mrs. HUTCHISON. Yes.

Mr. BUMPERS. Does the amendment of the Senator from Texas only cover 3 years?

Mrs. HUTCHISON. The cuts are 3 years; that is correct. The spending cuts cover 3 years; that is correct.

Mr. BUMPERS. So this is not a 5-year program?

Mrs. HUTCHISON. It is a 3-year cut. The spending caps come down each year $3 billion, and then at the end of 3 years, they remain in place for 1997 and 1998.

Mr. BUMPERS. I am sorry I brought this up. I am really confused now. The Senator is saying that it cuts $3 billion in each of the last 3 years——

Mr. DOMENICI. Next 3.

Mrs. HUTCHISON. No, each of the next 3 years. It is a $3 billion cut for 1994, 1995, and 1996.

Mr. BUMPERS. Mr. President, let me say to the Senator from Texas, I am not a guru on the Budget Act. The Senator from New Mexico is. He has been chairman of that committee. He is now ranking member of that committee. I am just reading this the way I was taught in law school to read language. I can tell the Senator from Texas that her amendment reduces the discretionary budget caps by $36 billion over the next 5 years.

Mrs. HUTCHISON. Yes, Mr. President, I understand Senator BUMPERS——

Mr. BUMPERS. I have Budget Committee staff telling me that is indeed the case. The Senator should address the staff over here.

Mrs. HUTCHISON. I have been to law school as well, and I understand the confusion because when my guru explained this to me, it was difficult for this pitiful lawyer to understand.

However, there is a difference in the spending cuts and the reductions in the caps. The spending cuts are $3 billion for 1994, 1995, and 1996. It does have the effect of $36 billion in caps by the time we go out to 1998, but that is just because we have decreased spending $3 billion for each of the next 3 years. I realize they did not teach us that in law school.

Mr. DOMENICI. Will the Senator yield for an observation?

Mr. BUMPERS. I will be delighted to yield.

Mr. DOMENICI. Maybe I can help the Senator. Mr. President, if we reduced it $3 billion in 1 year and we had a 5-year budget, we would reduce the caps $3 billion in each year, so in 5 years it would be $15 billion. It would only be a reduction in spending of $3 billion. We bring it down once and leave it there. Her amendment says we bring it down $3 billion for each of 3 years. Now if it stayed there, there would be no additional cap change so we would not get the nine she is speaking of.

Mr. BUMPERS. That is an assumption, is it not?

Mr. DOMENICI. No; that is a fact.

It is five times three because we have to put the three in each year.

Mr. BUMPERS. It reduces the discretionary cap by $3 billion for the first year.

Mr. DOMENICI. Yes. The first year you bring it down $3 billion and leave it there. The next year, we bring it down $3 billion more and that is $6 billion, but you have to leave it there. And then the next year, we bring it down $3 billion. We leave it there and then we have it down $9 billion. So if one wants to do the arithmetic, we just put one together and say let us start with $100 billion as the cap. How do we reduce spending over 3 years by $9 billion? The cap has to be down to $18 billion, by the third year, right? So you have $3 billion in the first year, $6 billion in the second year, $9 billion in the third year, and we would then be at $82 billion.

Mr. BUMPERS. The Senator has 5 years on the amendment here.

Mrs. HUTCHISON. That is because we hold the spending caps at the 1996 level for 1997 and 1998. We never go back up.

Mr. BUMPERS. Reduce the spending caps by $3 billion in each of the first 3 years and nothing after that?

Mrs. HUTCHISON. That is correct.

Mr. DOMENICI. Correct.

Mr. BUMPERS. Mr. President, I think I understand precisely what the Senator intended to do, and I know she is not trying to cut the discretionary caps by some amount far in excess of the $10.5 billion required to fund the last revenue in her amendment. If she reduces the cap by $3 billion in 1994 and then reduces it an additional $3 billion in 1995, that is effectively a $6 billion reduction from 1993; is it not?

Mrs. HUTCHISON. It is a $3 billion cut each year.

Mr. BUMPERS. I understand that.

Mrs. HUTCHISON. The cut is permanent—it has the effect of not coming back. That is a good effect of any cut that we make in Government spending; that is, once we make the cut, it has a progressively increased application because that spending never comes back. So each year, we get additional savings benefit because, we are not borrowing the money to spend for that item. But it is only a $3 billion cut each year.

Mr. BUMPERS. I am not sure the Senator and I are ever going to resolve our differences on this. Let me try one more time.

Mr. President, if she cuts the discretionary budget cap in 1994 by $3 billion—and I hope the Senator from New Mexico will listen to this because maybe he can enlighten me—if you reduce the budget cap in 1994 by $3 billion, everything is fine at that point. In 1995, you reduce it an additional $6 billion. At that point you have reduced the budget cap by $9 billion from what it is in 1993. If you cut it another $9 billion in 1996, that is $18 billion below the present budget cap. And you do that an additional 2 years, the Senator says in her amendment, an additional $9 billion in 1997, an additional $9 billion in 1998, and that is $36 billion below the 1993 discretionary spending cap.

Mrs. HUTCHISON. There is a difference between cutting spending and lowering the caps.

Mr. BUMPERS. I understand that, Mr. President. I am talking about where the budget cap that has been set in the budget resolution ought to be. I understand, we are not talking about spending. We are talking about budget. But there is this to be said. If my interpretation of the Senator's amendment, the way I read it, is correct, she is not only cutting out $9 billion in the first 3 years in spending cuts, discretionary spending, she is cutting a total of $36 billion in discretionary spending during that period of time. Five years from now, the budget caps for discretionary spending will be $36 billion lower than they are right now.

Mrs. HUTCHISON. That is correct.

Mr. DOMENICI. No. No. Will the Senator yield?

Mr. BUMPERS. Now the Senator from New Mexico says "No. No."

Mr. DOMENICI. They will be——

Mrs. HUTCHISON. The caps will be——

Mr. DOMENICI. The caps will be $9 billion less than they would otherwise be.

Mrs. HUTCHISON. The 5-year effect on total spending would be a reduction of $36 billion. The cap remains the same as it is 1996 for 1997 and 1998. But we have only cut spending by $3 billion a year over 3 years.

Mr. BUMPERS. But that is $9 billion each of the last 3 years, is it not?

Mrs. HUTCHISON. That is the cap, but we are not cutting spending any more after 1996.

Mr. BUMPERS. Mr. President, let us abandon this for the time being. We are getting nowhere with it. I hope the Senator would change that section in her amendment. I do not intend to vote for the amendment for a lot of reasons, but certainly I would not vote for it in 100 years unless that language were clarified.

Now, let me go ahead. Since the Senator is not cutting these kinds of expenditures, administrative expenses—traveling, printing, all of the things the Senator listed—across the board by a particular percentage so that everybody shares the pain, and is instead allowing Leon Panetta, Director of OMB, to make these cuts however he chooses, number one, does the Senator realize that Leon Panetta has been one of the most vigorous opponents of the space station?

Now, it may be the President may be able to straighten him out on that since at this point the President favors the space station.

Does the Senator realize that if you look at all the things she has in her amendment here on page 5 where she lists all the things she wants cut, does the Senator realize that 84 percent of NASA's budget falls in that category? And that Director of OMB Panetta, since NASA's budget is $15.9 billion, could just take the whole thing out of NASA's budget, the whole $10.5 billion, since 84 percent of their budget comes within these items that the Senator has in her amendment?

Now, the Senator would not like it if he did that, would she?

Mrs. HUTCHISON. Is the Senator asking a question?

Mr. BUMPERS. I am asking the Senator a question. Would the Senator like it if the Director of OMB decided to take this whole $10.5 billion out of the NASA budget which he would have authority to do under the Senator's amendment?

Mrs. HUTCHISON. I would not like it. But I do this trusting that the OMB Director, whether he or she is a Democrat or a Republican, is going to administer this fairly, just like President Clinton assumed Leon Panetta would do when he proposed administrative cuts in an Executive order earlier this year.

The reason I went this route instead of rigid across-the-board cuts is because I could not get good numbers from any source—not the Congressional Budget Office, not the OMB, not the Joint Committee on Taxation—for exactly how we could get to the $10.5 billion with percentage cuts. So I opted to do what I thought was the next most reasonable thing, which was cut a dollar amount, and give the OMB Director the discretion to determine how it would best be allocated. I have all the confidence in the world that Mr. Panetta will not take it out of one agency in some sort of retribution.

Mr. BUMPERS. May I ask the Senator, Mr. President, an additional question. If the Budget Act is waived, I am probably going to offer an amendment to pay for the repeal of the retroactive taxes by terminating the space station.

Will the Senator support that, if she does not win on this one?

(Mrs. FEINSTEIN assumed the chair.)

Mrs. HUTCHISON. Madam President, I would be shocked if the Senator from Arkansas would do something that vindictive, in retribution.

Mr. BUMPERS. Oh, please, Madam President, give me a break. I have been trying to kill that space station for 5 years and the Senator says she would be shocked. I am shameless when it comes to terminating the space station to reduce spending.

Mrs. HUTCHISON. Madam President, I have eternal faith that the Senator from Arkansas is going to see the light someday and that he would not do such a terrible thing.

Mr. BUMPERS. Madam President, I am beyond redemption but the question is, would the Senator vote for that amendment?

Mrs. HUTCHISON. Of course not, Madam President.

Mr. BUMPERS. So as long as nobody can really pinpoint the actual spending cuts and you go back home and say, I tried to cut administrative expenses; it is like entitlements, when you come to the specifics of cutting, nobody around here can find it in their heart to do it. As long as you are talking about things that nobody understands, like entitlements, or administrative expenses, you can hide behind that. But if you talk about the super collider or the space station or the ballistic missile defense system or the intelligence budget nobody wants to touch them. There have been 17 amendments offered and voted on during the Senate's consideration of the fiscal year 1994 appropriations bills which would have specifically cut spending. That is not nearly enough. I offered several of those myself. So I do not yield to anybody in trying to get the deficit under control.

But I had a very tough time getting the Senator from Texas to support any of them. I think maybe out of the 17, she voted for 4 of the amendments.

So I would think that everybody in the Senate would like to redeem themselves for their recent shameless vote on the space station and just take it all out of the space station and not have to worry about the arbitrariness of the Director of the Office of Management and Budget.

In addition, Madam President, this thing is hopelessly unconstitutional. It would not stand up for 2 seconds in court. The House has to originate all tax bills. The House did not originate this. It is going nowhere. Some Members are out here hoping the press will pick this up about how the Senate voted not to repeal retroactive taxes and not to cut administrative expenses.

The interesting question about this is, what is this exercise in cutting the discretionary spending caps? President Clinton thought of this a long time before the Senator from Texas did. He is trying to cut $108 billion as part of the reinventing government initiative.

But here we are out here talking about something that is, as I say, hopelessly unconstitutional, very, very arcane, about how much it cuts discretionary spending caps, and what is it for? The richest 1 percent of the people in the United States. I have nothing against the rich. I have been trying to join them all my life. I wish I were in that top bracket.

I never will forget one time Griffin Bell, who was Attorney General under Jimmy Carter—a wonderful man, one on one—came to see me after he left office a couple years, just walked in, and I said, "Judge, what are you doing?" He said, "Trying to get in the highest tax bracket I can."

I would like to be in a higher tax bracket, too. If I were in that 1 percent category, I promise you I would not really squawk too much about this. After all, we are trying to cut the deficit by, depending on whose figures you use, $440 to $500 billion over the next 5 years. People ought to be standing on their feet and cheering.

I do not much like the retroactive taxes. But the Senator from Georgia made a point a while ago that it is unconstitutional. The Supreme Court has previously ruled on that issue. Of course, it is constitutional. Senator DOLE led the fight in 1982 for a tax increase. Everybody in this body, with the exception of the Senator from Texas and some of the other Senators who came here this year, has previously voted for retroactive provisions in tax bills. There is nothing new about that. It is constitutional.

What is hopelessly unconstitutional is a tax bill originating on the floor of the U.S. Senate. The Constitution—if you speak the mother tongue, English—says all revenue bills must be originated in the House. So why are we here? Everybody knows why we are here.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, are there any time constraints on this?

The PRESIDING OFFICER. There are no time constraints.

Mr. DOMENICI. I will not use much time of the Senate. It is getting late.

Let me say to my friend, Senator BUMPERS, with reference to discretionary spending in its purest sense—incidentally, the other one I was thinking of that he mentioned is college loans. College loans are mandatory. They do not fit in discretionary either. But the numbers on discretionary are not quite as bad as I might have implied a while ago in concurring that they were not the big culprit in the accumulation of deficit. They definitely are not. But just to put the right numbers in, in fiscal year 1980, it was $129 billion. In 1993, it is $239 billion. That is not a gigantic increase over 13 years for the programs that really make up the heart of what we appropriate for. So I want to correct that.

Let me also make the point about this amendment.

Mr. BUMPERS. Madam President, will the Senator yield for a question?

Mr. DOMENICI. Yes.

Mr. BUMPERS. What kind of increase is that over baseline? Most people do not know what baseline means. It means inflation. What kind of percentage is that over inflation?

Mr. DOMENICI. I do not know. The person that helps me with this got it from the computer. I do not have the baseline numbers.

My guess is—it is probably about cumulatively 35 percent, 40 percent over baseline. The baseline would be inflation only. I think for many years we had inflation plus two or three. Then we came down to inflation. I am just guessing. But I think that is pretty close.

Madam President, fellow Senators, frankly, I do not like to cut discretionary programs to pay for either entitlements or reductions in the tax take of the country. But I want to compliment the Senator from Texas for the way she has done this. First of all, she has taken what I understand—she can correct me if I am wrong—the distinguished Senator from Colorado, Senator Hank BROWN, has on a number of occasions asked the Senate to reduce discretionary spending and he has been very precise. He has actually taken named accounts within the OMB's processes of managing the bureaucracy, such as travel and transportation of persons. That is an account. It is account No. 21; such things as printing and reproduction, that is an account, account No. 24. She has taken a number of those and said, cut those by an amount equivalent to the $3 billion plus that she needs each year. So it is very precise. If it were to become law, that is the only thing the OMB Director could cut. She has not found a way, nor did she desire, I assume, to say that for each and every Department it would be exactly that amount because maybe they would find that even transportation of persons was more needed in one Department than it is in another. So she did not choose to save each one exactly the same amount. So I compliment her for that.

The other interesting thing that she did, and we are having trouble with it here today, is to reduce the caps. I do not intend to bring back all of the different amendments that have been offered to cut the budget. I think my friend from Arkansas knows my position. In fact, he asked me on the floor when he had the space program up. And he said, "Senator, if this was to actually reduce the caps so that we are really saving money, would you vote for it?" Then he said, "I'll put that in my amendment." It is in there. I said, of course, I will not because I am not choosing that as a priority to cut.

But the point is many cuts are offered on the floor. Some prevail and some do not. Interestingly enough, the super collider prevailed. Senator BUMPERS tried for a long time. He is deserving of some of the credit, if he wants it, and I assume he does. But essentially if you do not lower the cap by the amount that you cut, you have not reduced the deficit by one penny.

Let me make sure that everybody has that. The caps sit out here as the obligation limitation. You cannot exceed that. But never do we come in under it. So whenever you have a cap, you fill the whole cup, and you spend right up to the cap. And I am not critical of that. I am just saying that it is the discipline.

If you come along and say, well, I want to take $12 billion out for the space program, and you succeed, have you cut the deficit? Zero, unless you can say to your constituents they will not spend it somewhere else. Right? Because they will. Is anybody telling this Senate when the superconducting super collider was dismantled that after the first year we have to spend $600 million to undo it, and get everything set up, pay the people, all the things you have to do to terminate. But the very next year when you are through with that, all that money you projected to come out of that program, the superconducting super collider, will it reduce the caps one penny? The answer is no, unless we do. So what will it go for? The reason I do not vote to terminate it is because the money is going to be spent for something else, and I choose the super collider over a myriad of programs that I am not so sure inure to our long-range investments for our people and do not inure to our gaining jobs of high quality in the future because of technology advances.

This Senator has not done that. She said cut this out and lower the caps by an amount that equals what you ordered to be cut.

Frankly, we can talk all we want about whether she is lowering the caps by $3 billion a year cumulatively—perhaps that is the word we ought to add every time we speak of it—$3 billion a year cumulatively until you get to $9 billion. That is what the amount says. So you take it down three, you lever the three and add to it, that is accumulating the two and in the third year you do the same, and it is nine. That means you have said we are taking out $3 billion a year each. Each year it is $3 billion in new cuts in travel, rental payment, printing, consulting, supplies, and material.

Have I expressed what the Senator intended correctly?

Mrs. HUTCHISON. You bet. Thank you.

Mr. DOMENICI. Having said that, I want to talk a little bit about retroactivity.

The last time statements were made on the floor that every one knows that retroactive taxes are legal and constitutional, I had the occasion to hear that from that chair, from the lips of the majority leader. Frankly, I made a mistake. I was not part of that debate. I could have stood up and said: Mr. Majority Leader, are you aware that—and I could have named a case—there was a case on appeal before the Supreme Court right then, and there is today, challenging the constitutionality of retroactive taxes?

As a matter of fact, the Supreme Court has agreed to hear a case from a circuit court that indeed ruled that a retroactive tax under the right set of circumstances was unconstitutional. One could say that court is a renegade court, although it is not one to be taken lightly, and no one calls that circuit a renegade court. The Ninth Circuit ruled under certain circumstances a retroactive estate tax is unconstitutional, and the U.S. Supreme Court has that case before it.

In fact, the reason I know it is because I am filing an amicus brief. I am the lead Senator on it, and many are going to sign it, urging that the Supreme Court find a very precise retroactive estate tax unconstitutional. I am not going to get into how you make it precise, but the point of it all is that if you do not put the taxpaying American public on notice in a timely manner that Congress is going to make a tax effective retroactively and the case is very, very close as to whether or not the Court is going to rule that it is unconstitutional for any period of time longer than the time when Congress was put on notice and actually told the American public this might occur.

For those of us who have been around here a bit, you might remember that the chairman of the Ways and Means Committee, in the past 10 or 12 years, has occasionally, in the middle of a prolonged debate on taxes, sent a letter to certain people setting forth the expected effective dates in order to make it public and spread it on the record, saying we are contemplating such and such.

So the point of it is, the Supreme Court has agreed to hear the Carlton versus the United States of America case, challenging the 1986 retroactive estate tax changes as unconstitutional. The Ninth Circuit is the one that ruled in favor of the taxpayers and struck down a retroactive estate tax change. This case is important not only with respect to the 1986 tax provision involved in the Carlton case, but it will likely be determinative of the constitutionality of President Clinton's retroactive tax increase for individuals, trusts and estates.

The importance of the Carlton case has prompted me, as I indicated a while ago, to read the briefs and to go on an amicus curiae brief in that case. I urge that my fellow Senators look at it and join me. Clearly, it is a case in 1986 where the estate taxes appear to this Senator to be not only unfair but grossly unfair and clearly unconstitutional as violating the due process clause. And I think the Supreme Court will interpret the due process clause in a way that tells Congress they have gone too far.

It is always unwise to predict the reasoning of the Supreme Court. Nonetheless, I am going to suggest several reasons why the Court wants to revisit retroactivity.

I am going to stop for a moment. I alluded a while ago to the majority leader speaking from the same position on the floor that my good friend Senator BUMPERS spoke from when he said that everybody knows that retroactive taxes are not unconstitutional, and everybody except brand new Senators have voted for it. When the majority leader made that statement, I walked up here and I did not state it on the floor of the Senate openly, but I said, Mr. Majority Leader, there is a case pending before the Supreme Court. I knew about it. I had this very same brief in front of me, and I said the case is Carlton versus The United States and the Ninth Circuit has ruled a retroactive tax increase unconstitutional.

Some have said that it is so clear cut that any retroactive tax increase is constitutional, you should not be arguing about it. I submit it is a very close question as to whether this Supreme Court is going to rule that the 1986 estate tax, retroactive in nature, is constitutional. I think they will say it is not. It is an equally close call with reference to some of these taxes, not all of them, depending upon when the public had notice. That was certainly not from the original time you put it into effect, namely January 1 of this year.

So for those who say—I will not quote further but the majority leader said it is settled in that regard and that every Senator, without exception, knows that it is a violation of the Constitution. Every single one knows that it is not a violation of the Constitution. I submit that every one does not know it. Every one could not know it, because it is not true. So every one could not possibly know it.

I do not want to overstate the case. It is a very close question. I think the Carlton case is a better case than this one, but clearly both have very strong qualities of no notice whatsoever to cause anybody to change their behavior. And then in the imposition of the tax, they have found due process is not quite measured up to in that manner.

There is another case, Licari versus Commissioner, which supports constitutional retroactivity. It is also a

Ninth Circuit case. And they are going to be up there as twin tigers fighting for the mind of the Supreme Court, and we will see in the not-too-distant future who wins.

There are some other issues I wanted to raise with reference to the due process clause. I might mention there is another part of the Constitution that they use also in these cases, the ex post facto law, which works its way into this due process clause, being the one that is a little easier to understand in a generic way.

There are other cases involved, and I am going to put them in the RECORD as part of this statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RETROACTIVE TAX INCREASES AND THE CONSTITUTION

First, quite obviously, the Supreme Court feels compelled to speak again on the issue. Agreeing to hear the *Carlton* case means that the Court has something it wants to say on the subject.

Agreeing to hear the case is a development which contradicts statements made on the Senate floor recently about the iron-clad constitutionality of retroactive tax increases.

On August 6, 1993, when Congress debated the constitutionality of retroactive tax increases contained in the 1993 tax bill conference report, Leader Mitchell said:

"It has been settled law in America for more than three-quarters of a century that retroactive changes in tax law are constitutional. There is not a single legal basis, there is not a single constitutional basis that supports the contention of this point [of unconstitutionality of the Clinton tax increases] * * *"

"Every single Senator, everyone, without exception knows that it is not a violation of the Constitution—every single one."

Chairman Moynihan said:

"The Supreme Court has disposed of the matter in the most explicit terms and within the time in which I have served on the Finance Committee."

"There is nothing more to be said on the constitutional matter * * *"

If the "crystal clear constitutionality crowd" were correct, there would be little reason—no reason—for the Supreme Court to hear yet another retroactivity case.

Of course, the Supreme Court could merely want to overrule one renegade Circuit. But one aberrant decision isn't usually the stuff that gets a case before the Supreme Court.

The 9th Circuit isn't even a consistent renegade. It has applied the same "tax deference" doctrine and come to opposite results in two recent cases:

Carlton holding for the taxpayer and holding retroactive tax changes unconstitutional; and

Licari v. *Commissioner* supporting constitutional retroactivity.

Perhaps the Supreme Court has something entirely different on its mind.

Certainly the Court's decision to hear the case suggests that it is not happy about something.

Perhaps it is unhappy with its past pronouncements.

In deciding to hear the *Carlton* case, the Court could be signaling that it wants to update the law in view of recent Congressional abuse.

THE FACTS SURROUNDING THE 1993 TAX INCREASE

During the campaign, Bill Clinton promised middle class tax cuts and raising taxes on the wealthy.

There was never any mention of increasing the tax rates on trusts set up for persons who are disabled or mentally ill.

The facts are these. The Administration first proposed the retroactive tax increase on February 25, 1993.

There was a great deal of confusion about the upper income tax increases. During the early summer, when the Senate was considering the bill, news reports stated that the rate increase would be effective July 1, 1993.

Notice of a rate increase for estate and gift taxes was only first proposed on February 25, 1993.

No one who died between January 1, 1993 and February 25, 1993 had constructive notice of the proposed change.

The Act did not become law until August 10, 1993.

President Clinton campaigned that he wouldn't raise taxes on anyone earning less than $200,000, yet in the bill the President signed this summer, tax bracket increases begin for trusts above income of $1,500.

This isn't really a tax on trusts. It is a tax on people who are mentally ill and people with disabilities. It is a tax on their living allowances. It is also a tax on education.

Under the old law, taxable trusts for college or for the care and maintenance of a person who is disabled or suffers from a mental illness paid a top rate of 31 percent on taxable income of more than $11,250. That was quite steep.

But under the Administration bill that passed it became much, much worse. They would pay 39.6 percent on income of more than $7,500.

This means that a very small trust under prior law with income of $3,750 would have paid $562 in federal income taxes. Under the new law, the trust would pay $862—a 53 percent increase.

Under the new tax law, trusts would pay 31 percent on income between $3,500 and $5,500; 36 percent on income over $5,500, and 10 surcharge on income over $7,500 leading to a marginal rate of 39.6 percent.

Mr. DOMENICI. I will conclude by merely saying that the issue is one of fairness. Certainly, one can come to the floor and obfuscate the facts by talking about the rich, by talking about holding something up that is not for the rich, and because you are trying to push something for the rich. But let me tell you, the American people may be concerned about the rich versus the poor, and the rich get too much and the poor do not get enough. But they are almost in one harmonious voice in disagreement with a country and a Government that taxes anybody.

You can go look at the polls. Nobody during that retroactivity debate, which was one of the most serious mistakes in that tax package—it garnered more national opposition to that tax package and reconciliation than any other single provision. In fact, it was so vital at one point that even on that side, they wanted to find a way to get rid of it. Guess what they did? Those in the back room writing it thought they got rid of it by making it easier. They said it will not have to be paid all at once. You can have 3 years to pay the retroactive amount that you owe. To me, that is an admission that the retroactive tax increase is harsh and oppressive and violates due process. The installment payments do not remedy the constitutional challenge that I have just described. And, essentially, I do not believe it escapes the ire of the American people in being opposed to retroactive taxation.

I yield the floor.

Mrs. HUTCHISON. Madam President, I will close at this time. I understand that we are going to come back tomorrow to finish this amendment, plus several others. I would like to reserve an hour tomorrow for other people to be able to finish speaking who were not here today and to be able to closing argument.

To close today, let me just say that I think that this amendment is about a fundamental issue of fairness. 675,000 people—mostly small business people—were hit right between the eyes with a tax that they did not expect. These are the people that create the new jobs in our country. Madam President, if we will play fair, do not change the rules in the middle of the game, and let the small business people prepare next year for the higher taxes, the small business people will be able to end this year in a reasonable manner. They will be able to then put the money that they saved, which is $10 billion, back into their businesses, creating new jobs, training new people, investing in new equipment, and buying new inventory. That is what they will do with this money. The money will flow back into the economy. The $10 billion will create new jobs, and it will keep more people from going into unemployment lines.

So I hope we will adopt my amendment. If we do, I know the bill will pass. I know we will work out our differences with the House. We will do what is right for the unemployed and for the small business people, who are the people that can keep more workers from being unemployed, and who, hopefully, will not have to lay off people because they were not able to plan for a retroactive tax increase.

I look forward to continuing this debate tomorrow. I hope that when we vote, the Senate will do the right thing and the best thing for our unemployed people, for our workers, and for the businesses of America who are the engines that drive this economy. It is they alone who will create the real jobs that are the permanent jobs that will get this country going again.

Thank you, Madam President, and I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Madam President, I will be relatively brief. I suppose we have had about all the debate we are going to have this evening on this. I want to touch on several items, but I would like to touch on the point the Senator from Texas made last.

Let me say I think this debate is a very healthy thing, a give and take. It is a tragedy that we do not really debate as a parliamentary body, but, hopefully, people watching on the television set are deriving some benefit from the debate.

I have the utmost respect, admiration, and affection for the Senator from Texas. So this is a debate in what I think is the very best tradition of the Senate. When I question the Senator from Texas, I want her to know it is a genuine question about the amendment. Having said that, I think the amendment is poorly crafted.

But to go on, the last point the Senator from Texas made dealt with small business. The Senator from Texas would not be aware of this, perhaps, because she was not here at the time. But for many, many years the U.S. Government used to lease its Federal lands for oil and gas drilling by lottery. You would send $10 in with your name. If they drew your name out of the squirrel cage, you got so many acres. All you had to do is pay $1 an acre and ask for it. It could be a bonanza. It could be worth billions. You got it for $1 an acre if you pulled it out of the squirrel cage lottery. Actually, the lottery is a violation of the criminal laws of the United States. Nobody ever paid attention to that.

When I found out we were leasing land worth billions of dollars a year to retirees in Florida, whoever wanted to send the $10 in and get their name put in the squirrel cage, I found that bizarre.

It took me 8 years, I say to the Senator, to stop it. Does the Senator know why? Every time I came to the floor to raise that amendment, opponents rallied in the name of the mom and pop operators. Others were not even bidding on the land. Exxon was not bidding on it. Nobody was bidding on it. It was people who like to gamble. If they happen to win in the lottery, they turn around and sublease it to some mom and pop operation.

The reason they fought it tooth and toenail is that they did not have to bid on the lands on a competitive basis. I said many times on the floor of the Senate that when I was Governor of my State, I assumed if we did not do everything by competitive bidding, I would wind up in the slammer. I get up here and find out they do not do anything by competitive bidding.

It took 8 years because the little mom and pop operators used that specter. As the Senator knows, I am chairman of the Small Business Committee. I am a former small businessperson who put in 16 hours a day 7 days a week for years trying to keep from going under and keep bread on the table for my wife and three children.

But I can tell the Senator this bill is not relevant at all to small businesses. I am talking about the tax bill. At least I do not think it is. You have to have a gross income of $180,000 before that tax bill affects you.

That may be small by some standards, but $180,000—I forget what our salary is here, but it is a handsome salary. It is more than I was ever paid. I tell you something: If I wind up in that 36-percent category, I am going to be just like Judge Bell was. I will be tickled to death. I am trying to get in the highest tax bracket I could get into.

Mrs. HUTCHISON. Madam President, will the Senator yield for one observation?

Mr. BUMPERS. I am happy to yield to the Senator.

Mrs. HUTCHISON. Let me just on that one point say that what the Senator and I make here, that $133,000, or whatever it is, is a very different thing, as the Senator knows as a former small businessperson, because even after the small business person takes all of her deductions, that $133,000 is not just ready cash. When she pays back the loans that she probably had to take out to finance her small business, the principal comes from after-tax dollars. You do not get to deduct that principal. So if you have $30,000 or $50,000 that you are paying interest on, it comes out of that profit.

Mr. BUMPERS. How do you differentiate, if I may ask, between that and my paying on my house? I do not get to deduct the principal on my House, but the value of my house has gone up.

Mrs. HUTCHISON. The Senator and I both have been small business people. We both have struggled to reduce costs and make ends meet, and we both have succeeded in small business. The reason we have succeeded is that we take the after-tax dollars and put them back into the business.

What the Senator and I are making now is different. They are walk-away dollars. The Senator does have to pay the mortgage on his home and he probably has to have two because he lives in Washington as well as in Arkansas. But that is not money that he is plowing back into a business that is going to create new jobs.

That is the differentiation that I want to make because I do think we are talking about small business here. I am sincere about that. I do think that the retroactive tax increase hurts small business people more than the rest of us right now in America.

Mr. BUMPERS. Madam President, I say to the Senator from Texas, she is absolutely right about one thing. Small is a relative term. Small is like beauty. It is in eye of the beholder. The Small Business Administration has all kinds of criteria as to what is small and what is not. What they consider small in one industry is quite different from what they consider small in another. Some people can have as many as 500 employees and still be considered small by SBA standards.

But I am talking about a hardware or furniture dealer with five employees who has a very tough time meeting payroll. I tell you no true small business out there is going to be affected by this bill. The truth of the matter is the retroactive part of this is really principally for the benefit of the richest 1 percent of the people in the country. As I say, I do not have anything against them. I do not like the retroactive tax increase either, and I would like to figure out a way to change it.

The Senator knows I would divinely wish I could take it out of the space station, kill the space station and do something meritorious at the same time. I may offer that. I do not have much hopes of winning. I do not think the Senator has much hopes of winning on her amendment either.

I talked about the unconstitutionality of the amendment. I was sorry the Senator from New Mexico left because—is the Senator a lawyer?

Mrs. HUTCHISON. Yes.

Mr. BUMPERS. The Senator has read the Constitution many times. And the Constitution says that all revenue raisers, all tax bills have to originate in the House.

Is the Senator familiar with that?

Mrs. HUTCHISON. Absolutely. And the Senator and I know, if he would let me respond, that if this amendment is passed, we will work it out between the Houses, and we will do our best to help the unemployed and help the small businesses keep more people from being unemployed.

Mr. BUMPERS. Does the Senator think she can say to the chairman of the Ways and Means Committee, whoops, we slipped; we passed a tax bill over in the Senate, but it is OK with you, Mr. Chairman? He will levitate through the top of this building.

Mrs. HUTCHISON. With all respect, I think we passed an unconstitutional bill on August 6, but we just went right ahead and did it. Now I am trying to correct that. I think we will certainly be able to get the House, if we pass this amendment, to pass this as original legislation, and I think we will do the best of both worlds. I really do. I have seen it happen many times in many stranger ways, and I have only been here 5 months.

Mr. BUMPERS. Madam President, if I might just direct a couple of other points to the Senator from Texas about her amendment.

First of all, she agrees with me that her amendment provides that the Director of the Office of Management and Budget shall establish obligation limits for each agency and department in order to carry out provisions of this section.

In answer to a question previously, the Senator from Texas said to me, yes, these cuts will be made by the Director of the Office of Management and Budget.

Now, as I say, I consider that a rather dangerous precedent to just turn this over to a bureaucrat downtown to say who is going to get cut.

For example, the Senator's amendment lists eight categories of something called object classes.

Madam President, I daresay the present Presiding Officer never heard that term in her life. I have been here 19 years. I have never heard that term in my life, but that is what it says—object classes.

And then, under a vague category of other services, object class 25.2, hospital care and premiums on insurance. Now, hospital care for whom? Whose hospital care are we going to cut, Senator?

Mrs. HUTCHISON. Senator, I do not know what that particular hospital care item is. But that is the great part of this amendment. There are many options that an agency head has to choose from, and that is why I put all of the object classes in so that you could choose between travel, movement of things, utilities, maybe office rent, maybe he can cut down on the office space, maybe he could cut down on the supplies, maybe he could use fewer pencils so that the workers of America would be able to have their jobs become more steady.

I do not know what every category of other services is, but I know that it includes stenographic contracts; it includes outside contracts of any kind. I think what is so good about this amendment is that it allows an agency head to choose.

I want to say that the Senator mentioned that we do not want to set a dangerous precedent here of giving the OMB Director this discretion. I have from the Federal Register the Executive order of the President of the United States on February 10, 1993. He says: "The OMB director shall review agency requests for administrative expenses and shall ensure that all agency requests for such expenses are reduced to the level that he has asked that they be reduced."

He gives the OMB Director the discretion. So it is not a dangerous precedent I am setting. I am trying to give the benefit of the doubt to the OMB Director so that he can have a little bit of leeway.

But I do not think he is going to abuse that power. And I think you are friends with him and you would not think so either.

Mr. BUMPERS. You talk about the good things about this amendment. One of the bad things is the Senator cannot explain to me about hospital care and insurance premiums. Whose insurance premiums are going to be cut, and what does that mean to their hospital health care?

How would you like to wake up down there and you got a nice policy and all of a sudden OMB says we are going to cut the amount of insurance premiums we can pay an organization, and end up realizing they have very little.

You have a lot more confidence in the OMB Director than I do, and he is a very good friend of mine.

Mrs. HUTCHISON. Here are some of the categories: other services, repairs and alterations, storage and maintenance, auditing, typing and stenographic service contracts.

Mr. BUMPERS. Senator, let me interrupt you. I am familiar with that list you have in your amendment. I am talking about object classes, which is what you say in your amendment.

If the Senator would just bear with me for a moment, here is what it says. This is on page 5, section (c).

> Definition. For purposes of this section expenses means the object classes identified by OMB in object classes 21–26 as follows.

And you list all of those things. But listed in there is also other services. That is what I am talking about to some extent here, because under that, you find hospital care, you find insurance premiums, you find one-third of the Veterans' Administration health care spending is in that category.

Does the Senator intend to cut VA hospital care?

Mrs. HUTCHISON. Absolutely not.

Mr. BUMPERS. What if the Director of OMB decides to cut that?

Mrs. HUTCHISON. There will be no program cuts. And I am giving the head of every agency the right to not only cut the other services category, that is, one out of seven or eight categories—but to cut within the other services category, where there are a myriad of options from which the agency head can choose.

Maybe some agencies also will be able to cut back on health care premiums because they have fewer employees. But that is probably not going to be their priority, and it is not required by this amendment.

Mr. BUMPERS. You only give the agency heads that right after the Director of OMB has set the limit. Within that limit, yes, they can decide where they want to cut.

Mrs. HUTCHISON. That is right, and it should be about 2 percent of all of these categories put together.

Mr. BUMPERS. The Senator keeps coming back to 2 percent. Your amendment does not mention 2 percent anywhere.

Mrs. HUTCHISON. No, but that is what it would come out to be in an evenhanded approach, and I think the OMB Director would have an evenhanded approach.

Mr. BUMPERS. But you do not say that. You say the OMB shall have the exclusive authority to set the limits; he can dictate it, all of the classes, take a good bit or a big chunk out of the Veterans' Administration, and he can dictate wherever he chooses.

I do not think that is a good idea.

Mrs. HUTCHISON. Sometimes you just have to have faith in the appointees at that high a level, that he knows where the discretion is and he is going to be evenhanded. And if he is not, he is going to pay a price. So I have total confidence that Mr. Panetta will be able to do that.

This amendment is about creating efficiency in government. It is doing exactly what a business would do, and that is to review the overhead categories, and to decide what the priorities are. Maybe we can wait to fix that piece of equipment or maybe we cannot; or maybe we are not going to send as many employees to seminars this year. Maybe we are going to send one instead of five, and that one is going to come back and train the others.

Those are the kinds of cuts that will be allowed. But the agency head has the choices.

Mr. BUMPERS. OMB has gutted them. They have the discretion to decide where they wanted to be gutted least.

But under the other services of the Senator's amendment, you have other services, and that includes repairs and alterations, and these are listed as obligations for repairs and alterations to buildings, bridges or viaducts, vessels, equipment, and, "like items when done by contracts."

Now, that is what it says. Now what if the Director of OMB says, you know, I do not care too much for Senator HUTCHISON and Senator GRAMM. I think we will get into some of these projects, you know, the Highway Transportation Department. That is discretionary, I think, and they could get hit. He could decide to take it all out of that if he wanted to, if there was enough there. What if he decides to pick all those projects you have in Texas? You would not like that.

Mrs. HUTCHISON. He would not be able to do that. We are talking administrative costs here. We are not talking about any grants or programs.

And I know that the OMB Director would not do that anyway.

Mr. BUMPERS. You refer to programs. OMB cannot cut programs, but under programs there are contracts.

Now what if there is a big $250 million bridge down in Texas and he decides to cut that contract?

Mrs. HUTCHISON. That is what is excluded; programs are excluded. We only have the cuts in the administrative costs of Government, not the program costs. And that is one of the good parts of the amendment.

Mr. BUMPERS. Well, programs include contracts. And the OMB Director, under the Senator's amendment, can pick out any contract he chooses to eliminate. Or he can eliminate a program which has within it certain contracts that might well be near and dear to you. He might just take a new VA hospital, and say——

Mrs. HUTCHISON. No, sir.

Mr. BUMPERS. "I am sorry you have a contract for this new VA hospital."

I am just talking about what my colleague's amendment says in clear, concise language. She talks about reducing administrative expenses, in the debate. But she has such a vague term called object class, and it makes the whole thing sound painless and technical. But if we look at the definitions, the Senator is talking about real people.

This is no way to legislate. I think the Senator, even as strongly inclined as she is to keep the space station going—and I understand that, if I were from Texas I probably would be a defender of the space station, too. Happily I am not from Texas.

Mrs. HUTCHISON. I am sorry.

Mr. BUMPERS. So I do not have to do that.

Mrs. HUTCHISON. Senator BUMPERS, I am so sorry you are not able to say you are from Texas.

Mr. BUMPERS. Well, we have two thoughts on that.

Mrs. HUTCHISON. We can agree to disagree on that.

Mr. BUMPERS. I do not have anything against Texas either. I want Texas to be treated as fairly as anybody else. And I do not want the Director of the Office of Management and Budget discriminating against Texas. I do not want him discriminating against Arkansas; I do not want him discriminating against veterans; and I do not want him taking away highway projects that are near and dear to my State.

Mrs. HUTCHISON. He would not.

Mr. BUMPERS. I do not want people losing their health care premiums, I do not want them losing their hospital care. All of those things are very possible in the Senator's amendment because it is not well defined.

Mrs. HUTCHISON. If the Senator will yield just on one point? Programs are not a part of the amendment. It is administrative costs of Government within the object classes. I did not dream up the name "object classes," I assure my colleague. But it is within the object classes that our amendment takes effect—that is the language that is used. Those object classes are all of the things that normally you would assume are overhead. They are not program costs.

Mr. BUMPERS. Madam President, 74 percent of the Superfund Program comes under the Senator's amendment; 74 percent of the Superfund.

Mrs. HUTCHISON. Thanks to you, Senator, we may not have to worry about that anymore.

Mr. BUMPERS. The reference was to the Superfund Program, not the super collider. I came up here to make the tough choices, not hide behind something called administrative expenses, not hide behind something called entitlements, but vote up or down on specific items.

The Senator saw my chart this afternoon. She saw all the amendments we voted on this month, 17 specific cutting amendments, several of which were mine. I do not think the Senator voted with me a single time on any of them. But that is beside the point. We are supposed to be here to show the kind of courage that people have every reason to expect from us, not to hide behind jingoism and arcane terms like entitlements and administrative expense—vote up or down on cutting spending.

I am saying what the Senator is doing is—the Senator is not using a scalpel. She is using a broad axe and giving a faceless bureaucrat downtown the right to wield that axe. I am not prepared to do that and that is the reason I am almost certain to give my colleagues another chance to vote for something a lot cleaner that everybody will understand; that is not going to cut veterans health care, that is not going to take away somebody's highway project, that is not going to give some faceless bureaucrat downtown the right to run this country.

It will be just a nice clean cut to take away the retroactive part of the deficit reduction package and do it in the neatest, cleanest way we can do it. I yield the floor, Madam President.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I will just respond by saying if the Senator wants to vote for an amendment that will not cut highway projects, and will not cut veterans benefits, he can vote for my amendment. And I hope that the Senator will, because what I like most about this amendment is it does give the discretion to the agency heads to be able to choose, from within many categories of administrative costs, what their priorities are. We are not talking about a meat axe. We are talking about a scalpel. We are talking about $3 billion out of $101 billion in this category, across the board. So we are talking about a minuscule adjustment that could be made by an agency head.

I think it is quite reasonable for us to be right with the American people and take away the retroactivity in the tax bill by making these minor cuts and by giving so much discretion to the agency heads to do that.

Madam President, I yield the floor.

Mr. BYRD. Madam President, the amendment of the distinguished junior Senator from Texas is ill-conceived. It attempts to eliminate the retroactivity of certain taxes which were enacted as part of the reconciliation bill, and would pay for this loss of revenue by a reduction of $36 billion in administrative expenses of each Federal department or agency. In addition the amendment would reduce the discretionary outlay spending limits by $3 billion in fiscal year 1994; $6 billion in fiscal year 1995; and by $9 billion in each of fiscal years 1996, 1997, and 1998. Cuts of this magnitude would do further massive harm to that portion of the budget which funds not only our national defense, but our investments in infrastructure as well—our education programs, highways, transit, law enforcement, research and development, space exploration, environmental cleanup, and health programs at NIH. All of these programs will suffer further reductions if this amendment is agreed to.

Let me put this proposed cut into perspective. The conference report on the budget resolution set the discretionary spending allocation to the Appropriations Committees for fiscal year 1994 at $500,964,000,000 in budget authority and $538,757,000,000 in outlays. For fiscal year 1993, the comparable figures were $517,005,000,000 in budget authority and $547,489,000,000. The discretionary spending levels for 1994, therefore, are $16,041,000,000 in budget authority and $8,732,000,000 in outlays below the 1993 levels. These are not inflation-adjusted numbers. The 1994 levels were very difficult to achieve.

The 13 regular appropriation bills have now passed the Senate; eight have been signed by the President, and the balance are either in conference or are awaiting congressional action on conference reports. We do not need to alter the caps to accomplish this deficit reduction. The total budget authority and outlays in these 13 appropriations have set the limits, the Appropriations Committees have complied, and the conference reports on appropriations bills that we are sending to the President for fiscal year 1994 are meeting these deficit reduction goals. Discretionary spending has done its part for 1994 and will do so for the remaining years. Fiscal years 1995–98 have similarly difficult budget authority and outlay caps placed upon discretionary spending. Basically there is a hard freeze on all discretionary spending for these years.

The Senator, in introducing her legislation on October 7, 1993, likened the retroactive taxes to changing the rules in the middle of a football game. Yet, her amendment would have exactly that effect on discretionary appropriations after the fiscal year has begun. We made our allocations to the subcommittees based on the budget resolution conference report adopted on April 1, 1993. Now, nearly 8 months later, after 12 of the 13 appropriations bills have completed conference, the distinguished junior Senator from Texas wants to change the rules. It is the equivalent, to use her analogy, of changing the rules of last year's Super Bowl now, months after the game was played.

The Senator's amendment would make it impossible to consider supplementals. If the committee is not permitted to retain funds allocated to it under the budget resolution conference report, an allocation which, as I have said, already contains extensive deficit reduction, the committee would have no resources for unforseen emergencies and natural disasters such as hurricanes, floods, tornadoes, and other urgent requirements that can occur during the fiscal year and which almost invariably do occur.

I hope my colleagues will resist this amendment as unsound.

Mr. PRESSLER. Madam President, I rise in strong support of this amendment to repeal the retroactive increase in income, estate, and gift tax rates made by the Budget Reconciliation Act, also known as the President's tax package. I commend the Senator from Texas, the Senator from Alabama, and the Senator from Oklahoma for providing this opportunity to set right a glaring fault in the tax package.

Under the guise of deficit reduction, the bill put into place the largest tax increase in history. The increase in taxes and user fees total more than $250 billion over 5 years. Included are increased rates on the income of individuals, higher taxes on gasoline and motor fuels, repeal of the cap on earnings subject to the Medicare payroll tax, and an increase in the percentage of Social Security benefits subject to income tax.

Spending cuts included in the tax measure total only $120 billion. The Congressional Budget Office confirms that while the deficit is expected to decline in the near term, it will go up again in 1997, reaching $360 billion in 2003. In fact, the President's tax package will add about $1 trillion to the national debt during the next 5 years.

I agree 100 percent with my colleague, the distinguished Senator from Texas, that we ought to repeal all of the $250 billion in new taxes included in this tax package. In any event, we should act today to repeal its retroactive tax provisions.

As ranking member of the Senate Small Business Committee, I am most concerned with the effect these tax hikes have on small businesses and the self-employed, including farmers and ranchers. Tax increases are bad enough. To make them retroactive is unconscionable. It is grossly unfair, particularly when there was no public awareness that the tax increase would be rolled back 7 months prior to enactment of the legislation. Small businesses and self-employed people struggle every day to meet payrolls, build a future, and, hopefully, earn a profit. A steep retroactive tax really is hazardous for many of them.

This amendment prevents the repeal of the retroactive taxes from adding to the deficit, by cutting Federal Government overhead expenses by $3 billion each year for fiscal years 1994, 1995, and 1996, and reduces the discretionary spending caps in each of the next 5 years. It is a fiscally sound proposal that cuts excessive Government spending to reduce the deficit, rather than impose an unfair extra tax burden on American taxpayers. In the cause of fairness, Madam President, I urge my colleagues to vote for repeal of the retroactive tax increase.

Mr. WARNER. Madam President, it used to be that the only things certain were death and taxes—well, now even that has changed. Do not get me wrong—people still die, but now the tax status of their estates are in jeopardy. Despite all their careful planning and extensive deliberating about how much to leave and to whom, even after they pass on the deceased cannot rest in peace with the knowledge that their worldly possessions will be distributed exactly as they had anticipated.

Further, our country is slowly working its way out of a recession. Forcing small businesses, the engines which are expected to fuel the economic recovery, to come up with extra funds to pay retroactive income taxes represents foolhardy economic policy. Three-fourths of all new jobs will be created by small businesses, and it is extremely short-sighted to tie their hands and expect them to come up with all this unanticipated money while simultaneously relying on them to jump-start the economy.

The reason for these retroactive taxes is an extremely unfair, and possibly unconstitutional, provision in the recently passed Budget Reconciliation Act which makes estate, gift, and income taxes retroactive to January 1, 1993.

I am not here to debate the potential challenges to the constitutionality of this provision, as I will leave that to the attention of the numerous scholars studying that issue. I am simply here to say that I am pleased to be a cosponsor of the legislation Senator HUTCHINSON has introduced which would repeal the retroactive increases in income, estate, and gift tax rates, and I urge the Senate to adopt this amendment to the unemployment compensation bill which is before the Senate. Thank you Madam President.

Mr. RIEGLE. Madam President, I rise today to speak on the pending bill, H.R. 3167, extending the Emergency Unemployment Compensation Program.

When the Emergency Unemployment Compensation Program expired over 3 weeks ago, 2,500 Michigan workers were filing for EUC benefits every week. Every month, about 250,000 Americans are forced to turn to EUC benefits to support their families—which means that right now an estimated 187,000 Americans are without emergency benefits. This Senator is deeply frustrated that irrelevant tax amendments are being offered on this bill, seriously jeopardizing its passage, while thousands of families are suffering without emergency benefits.

Every day that goes by without EUC extension brings fear and frustration to those workers who have been unable to claim benefits since October 2. When H.R. 3167 was passed out of the other body 2 weeks ago, after a lengthy delay, many of us hoped that the bill would come straight to the floor for our vote. Instead, we have had to face a filibuster, to file a cloture motion postponing consideration until this week, and to waste time debating amendments irrelevant to the unemployment compensation issue.

Last March, we passed an extension that we hoped would be the last; unfortunately, poor economic circumstances have forced us to extend unemployment compensation once again. Today, a full 2 years since the Emergency Unemployment Compensation Program began, Americans are not that much better off and unemployment is still a terrible problem for too many in this country. In fact, the number of long-term unemployed persons has significantly increased—from an estimated 1,370,000 in 1991 to over 1,700,000 today. And as for arguments that unemployment is falling and EUC is no longer necessary, we need only to look at my State of Michigan where unemployment rates rose last month. These families must not be denied emergency benefits.

We need to pass comprehensive legislation to ensure that we have an unemployment compensation system in place that will not only help American workers financially, but also direct them into retraining programs and set them on the path to reemployment. I look forward to seeing the Clinton administration's final proposal for such a system early next year. In the meantime, extension of the Emergency Unemployment Compensation Program is critical to assisting those millions of American workers who are currently suffering from prolonged joblessness.

Madam President, the bill before us is not an ideal package by any means, but it accomplishes our No. 1 priority: assisting American workers and their families who are going through extreme hardship and desperate times.

Last Thursday night, just as the majority leader was forced to file a cloture motion, a phone call came in to my Washington office—the kind of call that has become all too common lately. A Michigan worker, who was laid-off last March, was deeply disturbed at watching his family suffer now that his benefits have run out. He spoke movingly of the guilt and depression, his unpaid mortgage and outstanding bills, desperate thoughts and shame. He wanted to know why we in Congress hadn't extended EUC—why it had been allowed to expire in the first place? I can tell you that floor procedure, political maneuvering, and partisan amendments sound like pretty hollow excuses for letting this man's family, and thousands like them across the country, suffer such indignity and pain.

Extension of the Emergency Unemployment Compensation Program is long overdue. I urge my colleagues on both sides of the aisle: Put aside unrelated issues and differences, and focus on helping our unemployed workers. We need to pass this bill without further delay.

Mr. BUMPERS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. What is the pending business?

The PRESIDING OFFICER (Mr. BREAUX). The pending business is H.R. 3167, the unemployment extension bill. The Hutchison amendment is the pending amendment to the legislation.

Mr. DOLE. I wish to take just a moment to rise in support of the Hutchison-Shelby amendment repealing the retroactive tax increases that became law in August but are effective back to January 1, 1993, 20 days before the present administration was sworn into office.

I said the same thing back in August, and I will say it again. These retroactive tax rate increases are unfair and cause an undue burden to businesses across the Nation. It is a disincentive for expansion of private business and job creation.

That is what this is all about, trying to create jobs, trying to create opportunities. It is an unfair tax. The retroactive tax rate increase included in the Budget Reconciliation Act of 1993 stifles small business in particular. Because the Federal Government has taxed them on income earned back to January 1, 1993, small businesses are hit with the additional burden of paying taxes on income that was already earned when the bill became law, income that may have been earmarked for expansion, for purchasing new equipment, or for hiring new employees.

Instead, these small businesses are now going to have to cut back on their plans, maybe even lay off some workers. And remember the old saying that the only sure things in life are death and taxes. Well, these retroactive tax rate increases go beyond that. They even apply to Americans who passed away since January by forcing their surviving family members to pay higher taxes. In other words, the estate tax rates are retroactive, too.

My distinguished colleagues, Senators HUTCHISON and SHELBY, should be commended for introducing this bipartisan amendment to repeal the retroactive income, estate, and gift tax rate increases included in this year's Budget Reconciliation Act.

Let us face it. It is bad policy, and it is fundamentally a step backwards if we are seriously committed to improving our economy and providing jobs for America.

I also want to respond just because the distinguished Senator from Arkansas, Mr. BUMPERS, my friend from Arkansas, indicated that BOB DOLE had these retroactive tax rate increases back in 1982. I wanted to set the record straight because it is important that we do keep the record straight from time to time.

I wish to remind the Senator from Arkansas that the Tax Equity and Fiscal Responsibility Act of 1982 did not raise tax rates retroactively. Back in August, while we were debating the President's tax plan, I asked the Joint Committee on Taxation to look at the top marginal tax rates back in 1981 to see if rates had ever gone up and gone up retroactively in that period of time.

Keep in mind, the 1981 act lowered the rates from 70 to 50 percent for unearned income. For earned income, the rates stayed at 50 percent.

In 1982, the top marginal rate again stayed at 50 percent. So there was not any retroactive tax rate increase. It is not accurate. We have already debated that. We debated it many times in August. It did not happen. It is not happening now. Therefore, I urge my colleagues to support this amendment.

I have also listened to all the horror stories about where all these spending cuts are coming from. The point is we are paying for this retroactive tax increase out of administrative costs. We have given the Office of Management and Budget the right to select where they are from, but it is not going to mean, as was indicated in the Chamber, there is going to be a loss of benefits to veterans and things of that kind. It will be cuts in administrative costs.

So I thank my colleagues, the distinguished Senators from Texas and Alabama, for their leadership on this very important issue. It has not been forgotten.

Many of my colleagues may think, well, only the rich pay retroactive taxes. That is not the case. It is business men and women who are out there creating jobs and opportunities for others and they pay retroactive taxes. To my understanding, it is about $10 billion that is just dragged out of the economy—that big sucking sound that Ross Perot refers to from time to time —$10 billion out of the pockets of business men and women across America which might be used to create jobs and opportunities and maybe pay increases, better retirement benefits, better health care. Now it is going to go to the Government, and the Government is going to decide how to spend it.

Mr. President, I hope that the amendment of Senators HUTCHISON and SHELBY will be adopted. I know it takes 60 votes because it is subject to a point of order, but I hope, with all the speeches I have heard about what a bad thing retroactive tax policy is, we all vote for the amendment.

Keep in mind, even though the Russians have not adopted their constitution yet, I think it is article 57 of the proposed Russian constitution which limits—in fact, it says very explicitly you cannot have retroactive taxes. So maybe we could borrow a bit from the Russian proposed constitution that may be ratified sometime after the December elections.

NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. DOLE. Mr. President, during the coming weeks, the course of this country's future as a leader in world trade and as a leader in opening new global markets may well be decided.

Before we leave for Thanksgiving, I expect Congress will have voted on the North American Free-Trade Agreement. Also, before December 15, the President must complete negotiations in the Uruguay round of what we call the GATT, General Agreement on Tariffs and Trade. These two monumental efforts to open markets, increase trade, and create jobs at home and around the world are threatened. They are threatened because small but vocal groups are still going full blast with a scare campaign. They want people to be scared of the future. These groups think preserving the status quo is worth forsaking growth and prosperity in the future.

For weeks, working with the President, I have been responding to this scare squad's outlandish claims, but our message, unfortunately, has not reached everyone. Some people still worry that NAFTA—and that is North American Free-Trade Agreement, not an auto parts chain—will somehow bring down our truck safety standards, or that NAFTA will somehow allow imports of substandard food products, or that NAFTA will send thousands of jobs to Mexico. These are all the things being alleged out there by those who oppose NAFTA.

I do not quarrel with anybody's views on NAFTA; they are entitled to their opinions, but they are not entitled to their facts. The facts are the facts. These are not facts.

There is nothing further from the truth. NAFTA does not compromise U.S. standards. The only way standards will be changed in the future is if we decide to do it. NAFTA does not affect our control over these decisions and NAFTA will create jobs, not destroy them.

What amazes me about the NAFTA is that every reputable economist agrees this is true. Maybe there are some out there, maybe you can find a few detractors, but again not based on politics, just as a fact, five former Presidents, starting with President Carter and President Ford and President Reagan and President Nixon and President Bush, plus President Clinton, support the agreement. The five former Presidents have no ax to grind. They have no profit if this passes. They have no political agenda, any agenda.

In fact, I asked one former President, "Why should we support it?" He said, "You ought to support it because it is the right thing to do." It creates jobs for Americans. It creates jobs for people in Mexico. It creates jobs for people in Canada. And as their economies get stronger and stronger, they will buy more and more and more from the United States of America.

Keep in mind that the three countries involved in the North American Free-Trade Agreement have a combined population of 370 million people, a combined economy of about $7 trillion. It will be the biggest trading bloc in the world. It will give us a lot of leverage.

Finally, we have other countries just waiting in line to become part of this agreement—Chile, Argentina, Venezuela, maybe other Central and South American countries—and in my view it is a win-win for us. I hope it is a win-win for Mexico.

We know that the Canadians, who know there is an election today, do not think it is a very good deal for them. They think it is a good deal for us. It is not just some people in America who think we have a bad deal.

There are people in each country who probably think it is a pretty fair agreement. There are areas that I do not like; areas that we are trying to change. In fact, I am working with the distinguished Senator from Montana in one area. And I hope he is successful.

So we do have some concerns about the free-trade agreement. Some of those matters cannot be changed, I do not believe, before the vote takes place.

So, if we will just take a look, I say to all these different economic thinkers and what has brought them together, that we are going to create jobs. And the only question in my view is how many. Most estimates start at 100,000, 200,000; some would say more. I do not know if that will be the case in the next 2 years. I hope so. I hope it creates more than that.

And I will not knowingly stand here, nor would anybody else in the Senate on the other side of the aisle, and vote to put somebody out of work. There may be some dislocation. There will be job retraining programs.

So it seems to me that, if we look over the past four decades of how we brought down the global barriers to trade, we have had an explosion in world trade, a rising standard of living, and we have been the beneficiary time after time.

We now face another opportunity, in my view, to recreate those results with the successful Uruguay round agreement. And again every reputable economist will tell you that a new GATT agreement will increase trade and create millions of new jobs worldwide. It will provide new opportunities to our services industry and bring their global activities under international rules for the first time. It will give added protection to the intellectual property rights, and will give our farmers new market access.

Mr. President, I am concerned that the people do not appreciate the real price of allowing NAFTA or GATT to fail. In my view, the price is very high. Allowing NAFTA to fail will cost all the new jobs that have been created with more open markets and more training opportunities. But that is not all. It includes the effect on our trading partners and their perception of the kind of leadership to expect in the future from the United States of America. Allowing NAFTA to fail amounts to a statement that we have lost our faith in the future, so must we cling to what we have today, build a fence around America and say everything is going to be OK, we do not want to trade with anybody, we want them to trade with us but we do not want to trade with them? We will be telling the world that even with respect to competing with our first and third largest trading partners—Canada is first, Mexico third, Japan is No. 2—that we have lost our nerve somehow.

Furthermore, allowing NAFTA to fail may well convince our trading partners that their best course is to abandon the GATT and head for the safety of closed trading blocs. I think that would be a big, big mistake, and we would be, I think, the most vulnerable of any industrial country in the world.

The price of losing GATT is equally high. Not for a long time will our trading partners be willing to negotiate with us again in good faith on such a broad range of new trade rules.

So, Mr. President, I think we could be throwing away a very historic opportunity. This is not a partisan issue. It was negotiated in the Republican administration. It is going to be implemented in a Democratic administration. I hope that my Republican House colleagues will take a hard look at this agreement and support it for the very reason that one former President told me: "It is the right thing to do." That is why we do it; it is the right thing to do.

We have been asked, why do you want to vote for this? If it fails, it might hurt President Clinton. That is not what we are here for, to hurt President Clinton. If this succeeds and President Clinton succeeds and America succeeds, that is what it is all about.

So I think I speak for most of my colleagues on the Republican side. We are in the homestretch of this debate. I hope that we will just take a look at the gains we are going to make and the losses we are going to incur if we turn our backs on these trade agreements.

It seems to me that all of us—some cannot support the agreement, some for good reasons. I do not question anyone's motives. I do not question the motives of those out there who say they cannot support it. But it seems to me that if they continue to look at it, continue to look at the facts, and continue to talk with the President and with Ambassador Cantor and others in this administration, with Democrat and Republican Members of the Congress, the people all across America—I had three meetings in my State, farmers and small business people. Each group indicated their public support following the meetings with the press conference in three areas of our State. I do not suggest everybody is for it in the State of Kansas. But I can suggest a great majority of the people are for it, once they understand it. And that is what is happening now.

I think it is fair to say that those who oppose NAFTA sort of had the upper hand. They started earlier, they were united, and they were against it. But having been for and against certain things over the years, it is always easier to be against something and say how bad it is, what it is going to do to America, cost us jobs, all the things that I have outlined in this case. I do not believe these are accurate statements.

So we hope to make a number of statements on the North American Free-Trade Agreement and what it means to the United States and what it means to the other countries.

I am reminded by some who are experts now that this means 700,000 jobs in America, for Americans, and these 700,000 are making products exported to Mexico. And every time $1 is spent in Mexico for imports, about 70 cents of that comes to the United States; not bad. So it seems to me that as we help improve the economy of Mexico, they are going to buy more from us and we will be the ultimate beneficiary.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. DOLE. I am happy to yield to my colleague.

Mr. BAUCUS. I would like to compliment the Senator from Kansas for his excellent statement.

Might I ask the Senator, as of now, how many Americans are concerned that perhaps some jobs might leave America and go to Mexico? Would the Senator tell us? Does Mexico have more barriers to trade on our products, or do we have more barriers to Mexican products coming into the United States?

Mr. DOLE. I think that is a fundamental question. I say to the Senator from Montana—who is expert in the trade area and very helpful to all of us on the Finance Committee, and has been over the years—the barriers are going to be lower for Mexico than in past years. Ours are already lower.

I am told—and maybe the Senator from Montana can help me on this—that if this agreement is passed, we have an opportunity to sell about $1 billion worth of automobiles in the first year because they are going to cut their tariffs from 20 percent to 10 percent and phase out the 10 percent over 10 years, which would create I do not know how many jobs. It will have to create some jobs. But it certainly creates some opportunities.

Mr. BAUCUS. I compliment the Senator. He is exactly right. In fact, the Department of Commerce said the figure is about $2 billion of additional auto sales that the United States would send to Mexico per year in the first year of passage of NAFTA; $1 billion in truck sales and $1 billion in auto sales.

Mr. DOLE. Well, if it is $1 billion, it is 15,000 jobs. I fail to understand—and I understand the union certainly has the right to oppose—but I do not understand how the UAW with all these new opportunities—I hope they will take a look at it. There is still time for people to change their minds. I think we share the same view.

Mr. BAUCUS. If I can ask the Senator one more question. Are the problems that the United States now has with respect to the potential plants and jobs moving to Mexico, are these problems that NAFTA has created, or are these problems that NAFTA will address to us all?

Mr. DOLE. These are problems that are going to be eliminated if NAFTA is agreed to. People can go to Mexico now. I think people should take a look at what happened just in the past few weeks with countries locating in America. They could have gone to Mexico. They could have gone to Mexico if they were looking for cheap labor that the opponents talk about. They chose to come to America. They know we have greater productivity. They know that there are a lot of things in addition to the wages that do not add up when we talk about Mexico's wages.

So I think, for the reasons that I have stated and the reasons I have heard the Senator from Montana state on the Senate floor, this is an opportunity for us that we should not let pass.

Again, I urge my House colleagues on the Republican side of the aisle, this is a time to take a look at this agreement and vote for it because it is the right thing to do. Hopefully, there will be broad bipartisan support there, as I believe we will have if it reaches the Senate sometime in November.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I am authorized to state this has been cleared by the Republican leader.

Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 480. John J. Hamre, to be comptroller of the Department of Defense;

Calendar 481. Those officers named to be brigadier general of the Air Force;

Calendar 482. Lt. Gen. Gordon E. Fornell, to be lieutenant general;

Calendar 483. Maj. Gen. Charles E. Franklin, to be lieutenant general;

Calendar 484. Lt. Gen. John B. Conaway, to be lieutenant general;

Calendar 485. Lt. Gen. Richard Hawley, to be lieutenant general;

Calendar 486. Maj. Gen. Richard B. Myers, to be lieutenant general;

Calendar 487. Col. (B.G. sel) Andrew M. Egeland, Jr., to be Deputy Judge Advocate General, U.S. Air Force;

Calendar 488. Brig. Gen. Donald W. Shepperd, to be major general;

Calendar 489. Those officers named to be major general and brigadier general of the U.S. Air Force;

Calendar 490. Those officers named to be major general and brigadier general of the U.S. Army;

Calendar 491. Col. William C. Bilo, to be brigadier general;

Calendar 492. Lt. Gen. Horace G. Taylor; to be lieutenant general;

Calendar 493. Maj. Gen. Paul E. Funk, to be lieutenant general;

Calendar 494. Lt. Gen. William G. Pagonis, to be lieutenant general;

Calendar 495. Those officers named to be rear admiral in the U.S. Navy;

Calendar 496. Those officers named to be rear admiral in the U.S. Navy; and

Calendar 497. Rear Adm. Robert J. Spane, to be vice admiral.

All nominations placed on the Secretary's desk in the Air Force, Army, and Navy.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that upon confirmation, the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en block are as follows:

DEPARTMENT OF DEFENSE

John J. Hamre, of South Dakota, to be comptroller of the Department of Defense.

IN THE AIR FORCE

The following-named officers for appointment in the U.S. Air Force to the grade of brigadier general under the provisions of title 10, United States Code, section 624:

To be brigadier general

Col. Andrew M. Egeland, Jr., [redacted], Regular Air Force. Col. William M. Guth, [redacted] Regular Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Gordon E. Fornell, [redacted], U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Charles E. Franklin, [redacted], U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John B. Conaway, [redacted], U.S. Air Force.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Richard E. Hawley, [redacted], U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Richard B. Myers, [redacted], U.S. Air Force.

The following-named officer for appointment in the U.S. Air Force to the position and grade indicated, under the provisions of title 10, United States Code, section 8037:

To be deputy judge advocate general of the United States Air Force

Col. (B.G. sel) Andrew M. Egeland, Jr. [redacted] U.S. Air Force.

The following-named officer for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of sections 593, 8351, and 8374, title 10, United States Code:

To be major general

Brig. Gen. Donald W. Shepperd, [redacted], Air National Guard of the United States.

The following-named officers for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of sections 593, 8218, 8351, and 8374, title 10, United States Code:

To be major general

Brig. Gen. Alan T. Reid, [redacted] Air National Guard of the United States.

Brig. Gen. Glen W. Van Dyke [redacted] Air National Guard of the United States.

Brig. Gen. John M. Wallace, [redacted] Air National Guard of the United States.

To be brigadier general

Col. Timothy J. Griffith [redacted] Air National Guard of the United States.

Col. Irene Trowell-Harris, [redacted] Air National Guard of the United States.

Col. William A. Henderson, [redacted] Air National Guard of the United States.

Col. Kenneth U. Jordan, [redacted] Air National Guard of the United States.

Col. David L. Ladd, [redacted] Air National Guard of the United States.

Col. Daniel F. Lopez, [redacted] Air National Guard of the United States.

Col. Theodore F. Mallory, [redacted] Air National Guard of the United States.

Col. Ronald E. McGlothlin, [redacted] Air National Guard of the United States.

Col. Ronald J. Riach, [redacted] Air National Guard of the United States.

Col. David M. Rodrigues, [redacted] Air National Guard of the United States.

Col. Guy S. Tallent, [redacted] Air National Guard of the United States.

Col. Larry R. Warren, [redacted] Air National Guard of the United States.

Col. Gale O. Westburg, [redacted] Air National Guard of the United States.

IN THE ARMY

The U.S. Army National Guard officers named herein for appointment in the Reserve of the Army for the United States in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3385 and 3392;

To be major general

Brig. Gen. Fred H. Casey, [redacted]

Brig. Gen. Michael W. Davidson [redacted]

Brig. Gen. Gerald A. Miller [redacted]

Brig. Gen. Gary J. Whipple [redacted]

To be brigadier general

Col. Alexander H. Burgin [redacted]

Col. Joseph W. Camp, Jr. [redacted]

Col. Donald M. Ewing [redacted]

Col. Wayne C. Majors, [redacted]

Col. Gary D. Maynard, [redacted]

Col. Walter F. Pudlowski, Jr. [redacted]

Col. Allen J. Strawbridge, Jr. [redacted]

Col. Morris L. Pippin [redacted]

Col. Philip H. Pushkin [redacted]

Col. Harold E. Bowman [redacted]

Col. Thomas E. Buck, [redacted]

Col. Bernard J. Cahill [redacted]

Col. Carroll D. Childers [redacted]

Col. Jose A. Diaz, [redacted]

Col. John A. Hays, [redacted]

To be brigadier general

Col. John L. Jones [redacted]

Col. Gary E. LeBlanc [redacted]

Col. Thomas L. McCullough [redacted]

Col. Roger E. Rowe, [redacted]

Col. Errol H. Van Eaton [redacted]

Col. Edison O. Hayes, [redacted]

Col. Eugene L. Richardson [redacted]

Col. Robert V. Taylor, [redacted]

Col. Alfred E. Tobin, [redacted]

The following-named U.S. Army National Guard officer for promotion to the grade of brigadier general in the Reserve of the Army of the United States under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be brigadier general

Col. William C. Bilo, [redacted] Army National Guard.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Horace G. Taylor, [redacted], United States Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Paul E. Funk, [redacted] United States Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. William G. Pagonis, [redacted], United States Army.

IN THE NAVY

The following-named rear admirals (lower half) in the staff corps of the U.S. Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

MEDICAL CORPS

To be rear admiral

Rear Adm. (lh) Richard Ira Ridenour, 261-72-2419, U.S. Navy.

Rear Adm. (lh) Frederic Goodman Sanford, [redacted] U.S. Navy.

SUPPLY CORPS

To be rear admiral

Rear Adm. (lh) John Thomas Kavanaugh, [redacted] U.S. Navy.

The following-named rear admirals (lower half) in the line of the Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral

Rear Adm. (lh) Lloyd Edward Allen, Jr., [redacted] U.S. Navy.

Rear Adm. (lh) Dennis Cutler Blair, [redacted] U.S. Navy.

Rear Adm. (lh) Steven Russell Briggs [redacted] U.S. Navy.

Rear Adm. (lh) Archie Ray Clemins, [redacted] U.S. Navy.

Rear Adm. (lh) Dennis Ronald Conley [redacted] U.S. Navy.

Rear Adm. (lh) Harold Webster Gehman, Jr., [redacted] U.S. Navy.

Rear Adm. (lh) William John Hancock [redacted] U.S. Navy.

Rear Adm. (lh) George Arthur Huchting, [redacted] U.S. Navy.

Rear Adm. (lh) Dennis Alan Jones, [redacted] U.S. Navy.

Rear Adm. (lh) Michael Allen McDevitt, [redacted] U.S. Navy.

Rear Adm. (lh) Daniel Trantham Oliver, [redacted] U.S. Navy.

Rear Adm. (lh) James Blenn Perkins, III, [redacted] U.S. Navy.

Rear Adm. (lh) Donald Lee Pilling [redacted] U.S. Navy.

Rear Adm. (lh) Norman Wilson Ray [redacted] U.S. Navy.

Rear Adm. (lh) Richard Anderson, Riddell, [redacted] U.S. Navy.

ENGINEERING DUTY OFFICER

To be rear admiral

Rear Adm. (lh) Arthur Clark, [redacted], U.S. Navy.

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral

Rear Adm. (lh) William John Tinston, Jr., [redacted] U.S. Navy.

The following-named officer for appointment to the grade of vice admiral while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Robert J. Spane, [redacted], U.S. Navy.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, AND NAVY

Air Force nomination of Charles J. Dunlap, Jr., which was received by the Senate and appeared in the CONGRESSIONAL RECORD of February 16, 1993.

Air Force nominations beginning Joan M. Abelman, and ending Gary J. Woods, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 22, 1993.

Air Force nominations beginning Linden C. Adams, and ending Michael A. Zrostlik, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 22, 1993.

Air Force nominations beginning Maj. Eleanor W. Bailey, [redacted] and ending Maj. Norman C. Hendrickson, [redacted] which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 4, 1993.

Army nominations beginning Mary E. Abt, and ending Richard D. Whitten, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 22, 1993.

Army nominations beginning Richard S. Park, and ending Robert F. Tyree, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 4, 1993.

Army nominations beginning George L.* Adams, and ending Harry M.* Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 4, 1993.

Navy nominations beginning Steven James Ahlberg, and ending Robert Michael Stolarz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 22, 1993.

Navy nominations beginning Gregory Hugh Adkisson, and ending Dennis Samuel Curry, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 22, 1993.

Navy nominations beginning Dave Ray Adamson, and ending William John Zuchero, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 22, 1993.

Navy nominations beginning Michael Hunte Anderson, and ending Nicholas Francis Zeoli, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 22, 1993.

Navy nominations beginning Wayne Thomas Aaberg, and ending Daniel Paul Zelesnikar, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 22, 1993.

Navy nominations beginning Robert A. Alonso, and ending Dick Dean Turnwall, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 22, 1993.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

JOINT REFERRAL OF A NOMINATION

Mr. MITCHELL. As if in executive session, I ask unanimous consent that the nomination of Preston M. Taylor, Jr., to be Assistant Secretary of Labor for Veterans' Employment and Training, be jointly referred to the Committees on Labor and Human Resources and Veterans' Affairs. This has been cleared by the Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on October 22, 1993, during the recess of the Senate, received a treaty from the President of the United States; which was referred to the Committee on Foreign Relations.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 5 p.m., a message from the House of Representatives, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 328. An act to direct the Secretary of Agriculture to convey certain lands to the town of Taos, New Mexico;

H.R. 2491. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1994, and for other purposes;

H.R. 2519. An act making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal years ending September 30, 1994, and for other purposes;

H.R. 2750. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes; and

H.J. Res. 228. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of Romania.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LIEBERMAN:

S. 1581. A bill to establish a Federal Rapid Deployment Force made up of Federal law enforcement personnel that States and localities could call upon for temporary assistance in battling violent crime caused by or exacerbated by the interstate flow of drugs, guns and criminals; to provide increased support for Federal-State anti-drug and anti-violence task forces; to authorize the President to declare violent crime and drug emergency areas; to provide a program to assist discharged members of the Armed Forces obtain training and employment as law enforcement personnel and as managers and employees with public housing authorities and management companies; to establish a Police Corps program; to study antiloitering statutes and design a model statute; to establish a national commission on violent crime; and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 1582. A bill to designate the Federal building located at 600 Camp Street in New Orleans, Louisiana, as the "John Minor Wisdom United States Court of Appeals Building", and for other purposes; to the Committee on Environment and Public Works.

By Mr. D'AMATO:

S. 1583. A bill to impose comprehensive economic sanctions against Iran; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 1584. A bill to designate the United States courthouse located in Houma, Louisiana, as the "George Arceneaux, Jr., United States Courthouse", and for other purposes; to the Committee on Environment and Public Works.

By Mr. SIMON (for himself and Mr. COATS):

S. 1585. A bill to provide for the establishment of the Ohio River Corridor Study Commission, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATCH (for himself, Mrs. MURRAY, Mrs. FEINSTEIN, and Mr. KERRY):

S. Res. 155. A resolution commending the Government of Italy for its commitment to halting software piracy; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN:

S. 1581. A bill to establish a Federal Rapid Deployment Force made up of Federal law enforcement personnel that States and localities could call upon for temporary assistance in battling violent crime caused by or exacerbated by the interstate flow of drugs, guns, and criminals; to provide increased support for Federal-State antidrug and antiviolence task forces; to authorize the President to declare violent crime and drug emergency areas; to provide a program to assist discharged members of the Armed Forces obtain training and employment as law enforcement personnel and as managers and employees with public housing authorities and management companies; to establish a Police Corps program; to study antiloitering statutes and design a model statute; to establish a national commission on violent crime; and for other purposes; to the Committee on the Judiciary.

VIOLENT CRIME REDUCTION ACT OF 1993

• Mr. LIEBERMAN. Mr. President, I believe that the first duty of government is to secure the safety of its citizens. We are sorely failing in that duty.

In August, I spent 2 weeks visiting with police, prosecutors, citizens groups, State and local leaders, prison officials, judges, social service organizations, and school officials in Connecticut to talk about crime and violence. I met with residents of communities who, like residents of so many cities and towns across the Nation, are simply afraid to come out of their homes and go about the business of their daily lives. The cruel and often random violence of gangs and thugs now dictate the patterns of how they live in ways we couldn't have imagined 20 years ago.

To one degree or another, that has become true for every citizen of this country. Violence and fear of violence is forcing every one of us to compromise our freedoms on a daily basis. This is not surprising when you consider that, according to the FBI's latest statistics, one violent crime happens every 22 seconds, one murder happens every 22 minutes, one rape every 5 minutes, one aggravated assault every 28 seconds, one motor vehicle theft every 20 seconds, one robbery every 47 seconds.

Our State and local police are simply overwhelmed. They are battling heavily armed, brutal gangs who barely blink before murdering and maiming their enemies, and who seem to care less if they spray bullets into crowds of innocent people. The young ages of these gang members and the raw cruelty of their crimes is chilling and unprecedented.

It is time to recognize that the Federal Government must play a more active role in crime fighting. While State and local governments have for historical reasons been principally responsible for crime control, the situation is simply out of hand. More and more crime involves drugs and weapons that are transported over State lines and gangs are increasingly national in scope.

Mr. President, I am introducing today the Violent Crime Reduction Act of 1993. It is founded on the principle that a firm national response is warranted. It builds on what I learned while surveying police, prosecutors, citizens groups, and others this summer, and it grows out of my own experiences as a State attorney general, and as a citizen who lives in a community that is hard-hit by violent crime. The people of America are asking for our help, and the time has come to send more than money.

My bill would give the President the power to declare violent crime or drug emergencies in States and local communities that are facing a sudden upsurge or a particularly overwhelming problem with violent crime or drugs. Once an area is designated, the President could then direct Federal agencies to provide emergency Federal assistance to supplement, on a temporary basis, State and local efforts to save lives and to protect property, public health, and safety. That assistance could come in the form of equipment, supplies, facilities, and managerial, technical and advisory services, including communications support and law enforcement-related intelligence information or, as outlined in two other provisions of the bill, small or large units of Federal law enforcement personnel. Requests for declaration of an emergency in an area would have to be made in writing by the Governor and chief executive officer of any affected State and local government, and the President would have to act on that request within 30 days.

Under my bill, a new unit of 2,500 Federal law enforcement officers, the Federal Law Enforcement Rapid Deployment Force, would be at the President and the Attorney General's disposal. The unit, or part of the unit, could be deployed rapidly wherever a show of force is necessary to bring order to and stabilize a community. The unit members, many of whom could be drawn from the ranks of the FBI, DEA, BATF, and the Marshals Service, would not only assist local police with investigations and arrests, but would patrol the streets with local law enforcement. The unit could be structured on principles borrowed from our military, so that members who are on duty away from home could work intensely for fixed periods and be replaced by other members of the unit.

Following the Los Angeles riots, residents of the hardest hit neighborhoods reportedly commented that they never felt as safe and secure as they did when the National Guard was patrolling their streets. People sat on their porches and front steps in the evenings, enjoying their neighborhoods as they hadn't been able to do in many years. Recently, the Governor of Puerto Rico has deployed the National Guard in San Juan and the Mayor of the District of Columbia is pleading for their help here.

I recognize that calling out the National Guard or using military personnel to fight crime is controversial and that the latter would require fundamental changes in our laws. But we should take a close look at what has happened in Puerto Rico and see if there is reason to replicate it elsewhere and on a larger scale.

In Connecticut, the State police where called in last month to bolster local police when a gang war erupted in Hartford. The extra manpower was welcomed by the residents of the affected neighborhoods, some of whom had even kept their children home from school to avoid the violence. Not only did the State police help local police with investigations and arrests, but their sheer physical presence on the streets helped restore order and the confidence of law-abiding citizens. I would hope my proposal to create a Federal Law Enforcement Rapid Deployment Force would be similarly successful nationally.

During my informal survey this summer of the criminal justice system and crime and violence in Connecticut, I found nearly unanimous praise for the Federal-State-local task forces that have made real inroads against some of the worst gangs and criminals. My bill provides additional support for those task forces by authorizing additional funds for the FBI, DEA, BATF, and U.S. attorneys offices. The task forces allow strapped local police departments to devote the long-term resources necessary to conduct the kind of investigations that can target leaders of the gangs and other violent criminals. Many of the task forces have been established administratively and been funded in part with dwindling receipts from asset forfeitures. We need to provide them with the solid funding they need to expand their good work.

It is important that U.S. attorneys offices be included in the task forces because there is evidence that criminals do know that when Federal laws are broken, stiff penalties will result. In New Haven, where a Federal task force was particularly successful, gang members were overheard on a wiretap planning their activities to avoid bringing in the Feds. Not only are Federal sentences tougher, but because there is more space at Federal prisons more criminals serve their full sentences.

My bill includes two provisions that acknowledge that we simply have to build more prisons to relieve State prison overcrowding and to figure out how to do so more efficiently. My bill incorporates last year's conference report provisions on regional prisons. It would create 10 new regional prisons to which violent Federal and State prisoners could be sent for intensive drug rehabilitation. Eighty percent of the beds would be reserved for State prisoners. Another provision would direct the Bureau of Prisons to evaluate standardized construction plans, technologies, materials, and techniques for prisons in order to reduce prison costs.

I also believe strongly that we need to take advantage of a great, newly available national resource—the servicemen and women who won the cold war for us and who are leaving the military earlier than expected because of downsizing. In September, I introduced legislation, S. 1500, to make permanent a pilot program funded by Health and Human Services to train and place ex-GI's in public housing projects as public housing managers and role models. Senators DECONCINI, KASSEBAUM, BOXER, and WOFFORD have joined me as cosponsors. The program, called LEAP, has been a great success and I have included it in this legislation. I have also included an expanded version of LEAP that would direct the FBI and the National Institute of Justice to train and place at least 1,000 recently retired or discharged military personnel in law enforcement careers. Any States applying for Federal grants will be required to hire additional police should give priority to hiring ex-GI's trained under this program.

In addition, my bill would strengthen another little-known, but successful program known as the Serious Habitual Offender Comprehensive Action Program [SHOCAP] which helps local law enforcement identify serious, repetitive, violent juvenile offenders and focus their resources on getting them off the streets. Juvenile justice systems are breaking under the weight of the rise in violent juvenile crime. SHOCAP provides local police, prosecutors, schools, probation, corrections, and social service organizations with the procedural tools and information necessary to go after chronic juvenile offenders. Currently SHOCAP offers technical training and assistance to interested local governments. My bill expands the SHOCAP program by reviving the demonstration project component of the program and so allowing 10 more cities or towns to receive grants to apply the SHOCAP principles.

My bill also provides financial incentives to States to enact 20 year mandatory minimum sentences without the possibility of parole for violent repeat offenders who commit an offense using a gun. We can and should strengthen Federal penalties, but the bulk of criminal arrests and prosecutions will continue to be made under State law. We need to encourage States to go after the violent career criminals who are responsible for an extraordinary proportion of the crimes that are committed.

I also think it is about time we examine the use of antiloitering laws as a tool to eradicate open-air drug markets and other blatant criminal activity. Antiloitering laws properly fell into disfavor during the civil rights era when they were used discriminatorily. My bill directs the Department of Justice's National Institute of Justice to determine how antiloitering laws can be used, without violating the constitutional rights of any citizens, and to develop a model antiloitering statute that communities could consider for adoption. It is absurd that police can do nothing to disperse a crowd of teenagers hanging around a street corner at 2 in the morning in subfreezing weather when they know drug deals are taking place.

My bill also contains some familiar and important proposals that I have supported since joining the Senate, like the Police Corps—a ROTC-style scholarship program that encourages college students to choose law enforcement careers and helps police officers continue their educations. The bill also creates a grants program that specifically supports victim notification programs. We have in place victim assistance programs, but none that is focused exclusively on helping States and localities set up systems to keep victims informed when alleged offenders are released before trial or when convicted criminals are released on parole or at the end of their sentences.

Reducing the hold that crime and fear of crime has on the daily lives of virtually all Americans should be one of our highest priorities as a nation. Crime has diminished all of our lives. We need to retrieve our freedom.

I invite my colleagues to support the Violent Crime Reduction Act of 1993, and ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Reduction Act of 1993".

TITLE I—INCREASE IN THE NUMBER OF TRAINED LAW ENFORCEMENT PERSONNEL

Subtitle A—Rapid Deployment Strike Force

SEC. 101. ESTABLISHMENT.

(a) IN GENERAL.—The Attorney General shall establish in the Federal Bureau of Investigation a unit, to be known as the Rapid Deployment Force, which shall be made available to assist units of local government in combatting crime in accordance with this subtitle.

(b) ASSISTANT DIRECTOR.—The Rapid Deployment Force shall be headed by a Deputy Assistant Director of the Federal Bureau of Investigation (referred to as "Deputy Assistant Director").

(c) PERSONNEL.—

(1) IN GENERAL.—The Rapid Deployment Force shall be comprised of approximately 2,500 Federal law enforcement officers with training and experience in—

(A) investigation of violent crime, drug-related crime, criminal gangs, and juvenile delinquency; and

(B) community action to prevent crime.

(2) REPLACEMENT.—To the extent that the Rapid Deployment Force is staffed through the transfer of personnel from other entities in the Department of Justice or any other Federal agency, such personnel of that entity or agency shall be replaced through the hiring of additional law enforcement officers.

SEC. 102. DEPLOYMENT.

(a) IN GENERAL.—On application of the Governor of a State and the chief executive officer of the affected local government or governments (or, in the case of the District of Columbia, the mayor) and upon finding that the occurrence of criminal activity in a particular jurisdiction is being exacerbated by the interstate flow of drugs, guns, and criminals, the Deputy Assistant Director may deploy on a temporary basis a unit of the Rapid Deployment Force of an appropriate number of law enforcement officers to the jurisdiction to assist State and local law enforcement agencies in the investigation of criminal activity.

(b) APPLICATION.—An application for assistance under this section shall—

(1) describe the nature of the crime problem that a local jurisdiction is experiencing;

(2) describe, in quantitative and qualitative terms, the State and local law enforcement forces that are available and will be made available to combat the crime problem;

(3) demonstrate that such State and local law enforcement forces have been organized and coordinated so as to make the most effective use of the resources that are available to them, and of the assistance of the Rapid Deployment Force, to combat crime;

(4) demonstrate a willingness to assist in providing temporary housing facilities for members of the Rapid Deployment Force;

(5) delineate opportunities for training and education of local law enforcement and community representatives in anticrime strategies by the Rapid Deployment Force;

(6) include a plan by which the local jurisdiction will prevent a rebound in the crime level following departure of the Rapid Deployment Force from the jurisdiction; and

(7) such other information as the Deputy Assistant Director may reasonably require.

(c) CONDITIONS OF DEPLOYMENT.—The Deputy Assistant Director, upon consultation with the Attorney General, may agree to deploy a unit of the Rapid Deployment Force to a State or local jurisdiction on such conditions as the Deputy Assistant Director considers to be appropriate, including a condition that more State or local law enforcement officers or other resources be committed to dealing with the crime problem.

(d) DEPUTIZATION.—Members of the Rapid Deployment Force who are deployed to a jurisdiction shall be deputized in accordance with State law so as to empower such officers to make arrests and participate in the prosecution of criminal offenses under State law.

SEC. 103. LEAVE SYSTEM.

Notwithstanding the provisions of subchapter I of chapter 63 of title 5, United States Code, the Attorney General of the United States shall, after consultation with the Director of the Office of Personnel Management, establish, and administer an annual leave system applicable to the Federal law enforcement officers serving in the Rapid Deployment Force.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $25,000,000 for fiscal year 1995;

(2) $100,000,000 for fiscal year 1996; and

(3) $150,000,000 for fiscal year 1997.

Subtitle B—Federal-State Anti-Drug and Anti-Violence Task Forces

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1995, in addition to any other funds that may otherwise be made available for the purpose, $150,000,000 for the support and expansion of Federal-State anti-drug and anti-violence task forces participated in by the Federal Bureau of Investigation, the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, and Firearms and United States Attorneys Offices with State and local law enforcement agencies and prosecutors for the purposes of—

(1) enhancing interagency coordination of activities in the provision of intelligence information;

(2) facilitating multijurisdictional investigations; and

(3) aiding in the investigation, arrest, and prosecution of drug traffickers and violent criminals.

Subtitle C—Police Corps Program

SEC. 121. PURPOSES.

The purposes of this subtitle are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol; and

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement.

SEC. 122. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under this subtitle shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this subtitle;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program; and

(4) meet the requirements of section 129.

SEC. 123. DEFINITIONS.

In this subtitle—

"academic year" means a traditional academic year beginning in August or September and ending in the following May or June.

"dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director.

"Director" means the Director of the Office of the Police Corps appointed under section 124.

"educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree in legal- or criminal justice-related studies; or

(B) a course of graduate study in legal- or criminal justice-related studies following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses.

"institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"participant" means a participant in the Police Corps program selected pursuant to section 125.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

"State Police Corps program" means a State police corps program that meets the requirements of section 129.

SEC. 124. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps shall be headed by a Director, who shall be appointed by the President by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in this subtitle and shall have authority to promulgate regulations to implement this subtitle.

SEC. 125. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—

(1) IN GENERAL.—The Director may award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2) AMOUNT.—(A) Except as provided in subparagraph (B), each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(3) SATISFACTORY PROGRESS.—Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4) DIRECT PAYMENT.—(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Director may make payments to a participant to reimburse the participant for the costs of educational expenses if the participant agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2) AMOUNT.—(A) A payment made pursuant to paragraph (1) for an academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during the year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any 1 student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study; and

(2) if a participant has enrolled in the program upon or after transfer to a 4-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) AGREEMENT.—

(1) IN GENERAL.—Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director that contains assurances that the participant will—

(A) after successful completion of a baccalaureate program and training as prescribed in section 127, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed 1 or more graduate courses (in the case of graduate study); and

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 127; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent per annum or 4 percent above the prime rate, whichever is higher, if the conditions of subparagraphs (A) and (B) are not complied with.

(2) DEATH OR DISABILITY.—(A) A recipient of a scholarship or payment under this section shall not be considered to be in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) If a scholarship recipient is unable to comply with the repayment provision set forth in paragraph (1)(C) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—

(1) SCHOLARSHIP ASSISTANCE.—A dependent child of a law enforcement officer—

(A) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(B) who is not a participant in the Police Corps program, but

(C) who serves in a State for which the Director has approved a Police Corps plan, and

(D) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any institution of higher education.

(2) NO REPAYMENT.—A dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided under this subsection.

(f) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

SEC. 126. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—

(1) IN GENERAL.—In order to participate in a State Police Corps program, a participant shall—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 129(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract with the consent of the participant's parent or guardian if the participant is a minor to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2) TEMPORARY AVAILABILITY FOR EXPERIENCED APPLICANTS.—(A) Until the date that is 5 years after the date of enactment of this Act, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 128, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants (including those stated in subsection (b)(1) (E) and (F)).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 128, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) NUMBER OF PARTICIPANTS.—(A) It is the intent of Congress in this subtitle that there shall be no more than 20,000 participants in each graduating class.

(B) The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall ensure, as nearly as possible, that there are annual graduating classes of 20,000.

(C) In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—

(1) CONDITION.—An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, an institution of higher education—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) REVOCATION OF ACCEPTANCE.—If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—

(1) FROM STUDY, TRAINING, OR SERVICE.—(A) A participant in a State Police Corps program who requests a leave of absence from educational study, training, or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(B) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(2) FROM STUDY OR TRAINING.—A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official religious mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 127. POLICE CORPS TRAINING.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—(A) The Director shall establish programs of training for Police Corps participants.

(B) Such programs may be carried out at up to 3 training centers established and administered by the Director or at State training facilities under contract.

(C) The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) CONTRACTS FOR SERVICES.—The Director may enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces) to obtain the services of persons qualified to participate in and contribute to the training process.

(3) AGREEMENTS WITH FEDERAL AGENCIES.—The Director may enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) EXPENDITURES.—The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—

(1) IN GENERAL.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year.

(2) PARTICIPANTS ENTERING AFTER SOPHOMORE YEAR.—If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 128 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 128. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program under section 127 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service and result in denial of educational assistance under section 125—

(1) the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service; and

(2) if such service is satisfactorily completed, section 125(d)(1)(C) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 125—

(1) the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service; and

(2) if such service is satisfactorily completed, section 125(d)(1)(C) shall not apply.

SEC. 129. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 126;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a State or local police force—

(A) the average size of which has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) ensure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 129A. ASSISTANCE TO STATES AND LOCALITIES EMPLOYING POLICE CORPS OFFICERS.

Each jurisdiction directly employing Police Corps participants during the 4-year term of service prescribed by section 128 shall receive $10,000 on account of each such participant at the completion of each such year of service, but—

(1) no such payment shall be made on account of service in any State or local police force—

(A) the average size of which, in the year for which payment is to be made, not counting Police Corps participants assigned under section 129, has declined more than 2 percent since January 1, 1993; or

(B) which has members who have been laid off but not retired; and

(2) no such payment shall be made on account of any Police Corps participant for years of service after the completion of the term of service prescribed in section 128.

SEC. 129B. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than April 1 of each year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of current and past participants in the Police Corps program, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic, racial, and gender dispersion of participants in the Police Corps program; and

(3) describe the progress of the Police Corps program and make recommendations for changes in the program.

SEC. 129C. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1995 and 1996 and such sums as are necessary for fiscal years 1997, 1998, and 1999.

Subtitle D—Law Enforcement Scholarship and Employment Program

SEC. 131. PURPOSE.

The purpose of this subtitle is to assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 132. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Law Enforcement Scholarship and Employment program under this subtitle shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this subtitle;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program; and

(4) meet the requirements of section 138.

SEC. 133. DEFINITIONS.

In this subtitle—

"Director" means the Director of the Bureau of Justice Assistance in the Department of Justice.

"educational expenses" means—

(A) expenses that are directly attributable to—

(i) a course of education leading to the award of an associate degree;

(ii) a course of education leading to the award of a baccalaureate degree; or

(iii) a course of graduate study following award of a baccalaureate degree; and

(B) includes the cost of tuition, fees, books, supplies, and related expenses.

"institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"law enforcement position" means employment as an officer in a State or local police force, or correctional institution.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 134. ALLOTMENT.

Of amounts appropriated under section 139C, the Director shall allot—

(1) 80 percent to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all of the States; and

(2) 20 percent to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 135. SCHOLARSHIP AND EMPLOYMENT PROGRAM.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—A State that receives an allotment under section 134 shall use the allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment for a period not to exceed 1 year.

(2) EMPLOYMENT.—The employment described in paragraph (1)(B)—

(A) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an institution of higher education and who demonstrate an interest in undertaking a career in law enforcement;

(B) shall not be in a law enforcement position; and

(C) shall consist of performing meaningful tasks that inform students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State that receives an allotment under section 134 the Federal share of the cost of the activities described in the application submitted pursuant to section 138.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue regulations implementing this subtitle.

(d) ADMINISTRATIVE EXPENSES.—A State that receives an allotment under section 134 may use not more than 8 percent of the amount of the allotment for administrative expenses.

(e) SPECIAL RULE.—A State that receives an allotment under section 134 shall ensure that each scholarship recipient under this subtitle is compensated at the same rate of pay and benefits and enjoys the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(f) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall be used only to supplement, and not to supplant, Federal, State, and local efforts for recruitment and education of law enforcement personnel.

SEC. 136. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—A scholarship awarded under this subtitle shall be for a period of 1 academic year.

(b) USE OF SCHOLARSHIPS.—A scholarship recipient under this subtitle may use the scholarship for educational expenses at an institution of higher education.

SEC. 137. ELIGIBILITY.

(a) SCHOLARSHIPS.—A person shall be eligible to receive a scholarship under this subtitle if the person has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—A person who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 138. STATE APPLICATIONS FOR ALLOTMENT.

(a) IN GENERAL.—A State that desires an allotment under section 134 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under the student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under the scholarship program the State will make scholarship payments to institutions of higher education on behalf of scholarship recipients under this subtitle;

(7) with respect to the student employment program, identify—

(A) the employment tasks that students will be assigned to perform;

(B) the compensation that students will be paid to perform such tasks; and

(C) the training that students will receive as part of their participation in the program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 139. INDIVIDUAL APPLICATIONS FOR SCHOLARSHIP OR EMPLOYMENT.

(a) IN GENERAL.—A person who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall describe—

(1) the academic courses for which a scholarship is sought; or

(2) the location and duration of employment that is sought.

(c) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, a State shall give priority to applications from persons who—

(1) are members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) are pursuing an undergraduate degree; and

(3) are not receiving financial assistance under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 139A. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—A person who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—An agreement under subsection (a) shall—

(1) provide assurances that the scholarship recipient will work in a law enforcement position in the State that awards the scholarship in accordance with the service obligation described in subsection (c) after completion of the recipient's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the scholarship recipient will repay the entire scholarship in accordance with such terms and conditions as the Director shall prescribe if the requirements of the agreement are not complied with, unless the recipient—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which a scholarship recipient may seek employment in the field of law enforcement in a State other than the State that awards the scholarship.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.—Subject to paragraph (2), a scholarship recipient under this subtitle shall work in a law enforcement position in the State that awards the scholarship for a period of 1 month for each credit hour for which funds are received under the scholarship.

(2) MINIMUM AND MAXIMUM REQUIRED PERIODS OF SERVICE.—For purposes of satisfying the requirement of paragraph (1), a scholarship recipient shall work in a law enforcement position in the State that awards scholarship for a period of not less than 6 months but shall not be required to work in such a position for more than 2 years.

SEC. 139B. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than April 1 of each year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of present and past scholarship recipients under this subtitle, categorized according to the levels of educational study in which the recipients are engaged and the number of years that the recipients have served in law enforcement;

(2) state, with respect to student employees under this subtitle—

(A) the number of present and past student employees;

(B) the number of such employees who complete a course of study at an accredited institution of higher education; and

(C) the number of such employees who subsequently accept a law enforcement position;

(3) describe the geographic, racial, and gender dispersion of scholarship recipients and employees; and

(4) describe the progress of the scholarship program and the student employment program and make recommendations for changes in the programs.

SEC. 139C. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $30,000,000 for each of fiscal years 1995, 1996, 1997, 1998, and 1999.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for a fiscal year—

(1) 80 percent shall be available to provide scholarships described in section 135(a)(1)(A); and

(2) 20 percent shall be available to provide employment described in section 135(a) (1)(B) and (2).

Subtitle E—Job Training and Placement for Separated Members of the Armed Forces

SEC. 141. LAW ENFORCEMENT.

(a) TRAINING AND PLACEMENT PROGRAM.—

(1) AMENDMENT OF THE JOB TRAINING PARTNERSHIP ACT.—Part C of title IV of the Job Training Partnership Act (29 U.S.C. 1721 et seq.) is amended by adding at the end the following new section:

"SEC. 442. TRAINING PROGRAM IN LAW ENFORCEMENT.

"(a) DEFINITION.—As used in this section, the term 'eligible separated member of the Armed Forces' means a member of the Armed Forces who—

"(1) is discharged or released from active duty (or full-time National Guard duty) after 3 or more years of continuous active duty (or full-time National Guard duty) immediately before the discharge or release (not including a discharge under other than honorable conditions or a punitive discharge or, in the case of a commissioned officer, a dismissal); and

"(2) applies to participate in the training program involved within the 1-year period beginning on the date of the discharge or release.

"(b) INTERAGENCY AGREEMENT.—The Secretary shall enter into an interagency agreement with the Director of the Federal Bureau of Investigation, and with the Director of the National Institute of Justice, under which the Federal Bureau of Investigation and the National Institute of Justice will develop and operate, on a reimbursable basis, a training program to assist eligible separated members of the Armed Forces in obtaining the training necessary to become law enforcement personnel, as described in this section.

"(c) SELECTION.—The Federal Bureau of Investigation and the National Institute of Justice shall select participants in the training program.

"(d) CONTENT.—The training program shall provide extensive training to participants in subjects related to law enforcement.

"(e) NUMBER OF PARTICIPANTS.—Subject to the availability of appropriations for the training program, the Federal Bureau of Investigation and the National Institute of Justice shall conduct at least 10 training sessions a year to achieve a graduation rate of at least 1,000 participants per year.

"(f) JOB PLACEMENT ASSISTANCE.—Upon graduation of a participant from the training program, the Federal Bureau of Investigation and the National Institute of Justice shall provide appropriate job placement assistance to the graduate.".

(2) TECHNICAL AMENDMENT.—The table of contents relating to the Job Training Partnership Act, as amended by section 702(c) of the Job Training Reform Amendments of 1992 (Public Law 102–367; 106 Stat. 1113), is amended by inserting after the item relating to section 441 the following new item:

"Sec. 442. Training program in law enforcement.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(c) of the Job Training Partnership Act (29 U.S.C. 1502(c)) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) In addition to the amounts authorized by paragraph (1), there are authorized to be appropriated to carry out section 442—

"(A) $8,000,000 for fiscal year 1995; and

"(B) $8,000,000 for each fiscal year thereafter.".

(c) TECHNICAL AMENDMENT.—Section 441(b)(2)(A) of the Job Training Partnership Act (29 U.S.C. 1721(b)(2)(A)) is amended by striking "part" each place it appears and inserting "section".

SEC. 142. PUBLIC HOUSING MANAGEMENT.

(a) TRAINING AND PLACEMENT PROGRAM.—

(1) AMENDMENT OF THE JOB TRAINING PARTNERSHIP ACT.—Part C of title IV of the Job Training Partnership Act (29 U.S.C. 1721 et seq.), as amended by section 141(a), is amended by adding at the end the following new section:

"SEC. 443. TRAINING PROGRAM IN PUBLIC HOUSING MANAGEMENT.

"(a) DEFINITIONS.—As used in this section:

"(1) CENTER.—The term 'Center' means the National Center for Housing Management established pursuant to Executive Order No. 11668 (42 U.S.C. 3531 note).

"(2) ELIGIBLE SEPARATED MEMBER OF THE ARMED FORCES.—The term 'eligible separated member of the Armed Forces' has the meaning given the term in section 442(a).

"(3) HOUSING PROJECT.—The term 'housing project' means a low-income housing project, as defined in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C 1437a(b)(1)).

"(4) PUBLIC HOUSING AGENCY.—The term 'public housing agency' has the meaning given the term in section 3(b)(6) of the United States Housing Act of 1937.

"(b) COOPERATIVE AGREEMENT.—The Secretary shall offer to enter into a cooperative agreement with the Center under which the Center will develop and operate a training program to assist eligible separated members of the Armed Forces in obtaining the training necessary to become managers and employees in public housing agencies and organizations that manage housing projects for public housing agencies, as described in this section.

"(c) SELECTION.—

"(1) RESPONSIBILITY.—The Center shall select participants in the training program.

"(2) SPECIAL EMPHASIS.—In selecting participants in the training program, the Center shall place special emphasis on selecting members of the Armed Forces who have lived in housing projects.

"(d) CONTENT.—The training program shall provide extensive training to participants in such subjects as—

"(1) housing management;

"(2) maintenance management;

"(3) occupancy management;

"(4) security and drug reduction management;

"(5) community change management;

"(6) resident empowerment;

"(7) tenant integrity; and

"(8) fair housing and civil rights.

"(e) USE OF EXPERTS.—The Center shall provide training under this section through the use of recognized experts in the subjects described in subsection (d).

"(f) EVALUATIONS.—The Center shall evaluate the performance of participants through the use of standardized tests.

"(g) NUMBER OF PARTICIPANTS.—Subject to the availability of appropriations for the training program, the Center shall conduct at least 5 training sessions a year to achieve a graduation rate of at least 250 participants per year.

"(h) JOB PLACEMENT ASSISTANCE.—Upon graduation of a participant from the training program, the Center shall provide appropriate job placement assistance to the graduate through the Center's network of public housing agencies and organizations that manage housing projects for public housing agencies.".

(2) TECHNICAL AMENDMENT.—The table of contents relating to the Job Training Partnership Act, as amended by section 702(c) of the Job Training Reform Amendments of 1992 (Public Law 102-367; 106 Stat. 1113) and by section 143(a)(2), is further amended by inserting after the item relating to section 442 the following new item:

"Sec. 443. Training program in public housing management.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(c) of the Job Training Partnership Act (29 U.S.C. 1502(c)), as amended by section 141(b), is further amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) In addition to the amounts authorized by paragraph (1), there are authorized to be appropriated to carry out section 443—

"(A) $2,000,000 for fiscal year 1995; and

"(B) $2,000,000 for each fiscal year thereafter.".

TITLE II—STUDIES

Subtitle A—Commission on Crime and Violence

SEC. 201. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Crime and Violence in America" (referred to in this subtitle as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 14 members, of whom—

(A) 6 shall be appointed by the President;

(B) 4 shall be appointed by the Speaker of the House of Representatives, of whom 2 shall be appointed on the recommendation of the minority leader; and

(C) 4 shall be appointed by the President pro tempore of the Senate, of whom 2 shall be appointed on the recommendation of the majority leader and 4 shall be appointed on the recommendation of the minority leader.

(2) DEADLINE.—Members of the Commission shall be appointed within 60 days after the date of enactment of this Act.

(3) TERM.—Members shall serve on the Commission through the date of its termination under section 206.

(4) MEETINGS.—The Commission—

(A) shall have its headquarters in the District of Columbia; and

(B) shall meet at least once each month for a business session.

(5) QUORUM.—Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(6) CHAIRPERSON AND VICE CHAIRPERSON.—Not later than 15 days after the members of the Commission are appointed, the members shall designate a Chairperson and Vice Chairperson of the Commission.

(7) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(8) COMPENSATION.—

(A) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no pay, allowances, or benefits by reason of their service on the Commission.

(B) TRAVEL EXPENSES.—A member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 202. DUTIES.

The Commission shall—

(1) review all segments of the criminal justice system, including law enforcement, prosecution, defense, judicial, and corrections components;

(2) review the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence;

(3) examine the impact that changes to Federal and State law during the past 25 years have had in controlling crime and violence;

(4) convene hearings in various parts of the country to receive testimony from a cross-section of criminal justice professionals, victims of crime, business leaders, elected officials, academics, medical doctors, and other citizens who wish to participate;

(5) bring to public attention successful models and programs in crime prevention, crime control, and antiviolence; and

(6) develop a comprehensive and effective crime control and antiviolence strategy and recommend how to implement such a strategy in a coordinated fashion by Federal, State, and local authorities.

SEC. 203. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—

(1) APPOINTMENT.—After consultation with the members of the Commission, the Chairperson shall appoint a director of the Commission (referred to in this subtitle as the "Director").

(2) COMPENSATION.—The Director shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the Director may appoint such personnel as the Director considers to be appropriate.

(c) CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, personnel of that agency to the Commission to assist in carrying out its duties.

(f) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall provide suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 204. POWERS.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses, for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure from any Federal agency or entity in the executive or legislative branch such materials, resources, statistical data, and other information as is necessary to enable it to carry out this Act. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency or entity shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 205. REPORTS.

(a) MONTHLY REPORTS.—The Commission shall submit monthly activity reports to the President and the Congress.

(b) INTERIM REPORT.—Not later than 1 year before the date of its termination, the Commission shall submit an interim report to the President and the Congress containing—

(1) a detailed statement of the findings and conclusions of the Commission;

(2) recommendations for legislative and administrative action based on the Commission's activities to date;

(3) an estimation of the costs of implementing the recommendations made by the Commission; and

(4) a strategy for disseminating the report to Federal, State, and local authorities.

(c) FINAL REPORT.—Not later than the date of its termination, the Commission shall submit to the Congress and the President a final report with a detailed statement of final findings, conclusions, recommendations, and estimation of costs and an assessment of the extent to which recommendations included in the interim report under subsection (b) have been implemented.

(d) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public.

SEC. 206. TERMINATION.

The Commission shall terminate on the date that is 2 years after the date on which members of the Commission have met and designated a Chairperson and Vice Chairperson.

Subtitle B—Use of Antiloitering Laws To Fight Crime

SEC. 211. STUDY AND REPORT.

The Attorney General, acting through the National Institute of Justice, shall—

(1) study the ways in which antiloitering laws can be used, without violating the constitutional rights of citizens as enunciated by the Supreme Court, to eradicate open-air drug markets and other blatant criminal activity;

(2) prepare a model antiloitering statute and guidelines for enforcing the statute in such a manner as to prevent, deter, and punish illegal drug activity and other criminal activity; and

(3) make the results of the study and the model statute and guidelines available to Federal, State, and local law enforcement authorities.

TITLE III—VIOLENT AND HABITUAL OFFENDERS

Subtitle A—Serious Habitual Offender Comprehensive Action Program

SEC. 301. RESTORATION OF DEMONSTRATION PROGRAM.

The Attorney General, acting through the Administrator of the Office of Juvenile Justice and Juvenile Prevention and using funds appropriated under section 261(a)(5) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665(a)(5)), shall continue the funding of new demonstration projects in the Serious Habitual Offenders Comprehensive Action Program during fiscal years 1995, 1996, and 1997.

Subtitle B—Federal Law Enforcement Assistance Grants

SEC. 311. REQUIREMENT OF MANDATORY IMPRISONMENT FOR ARMED OFFENDERS.

(a) IN GENERAL.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by subsection (c), is amended by adding at the end the following new paragraph:

"(2)(A) If, on the first day of a fiscal year, a State does not meet the requirements of subparagraph (B), the Director shall reduce the amount of funds that would otherwise be allocated to the State under subsection (a) by 50 percent.

"(B)(i) The requirements of this subparagraph are met if the law of a State requires the imposition of a mandatory sentence of 20 years' imprisonment without possibility of probation, parole, or any other form of early release for a firearm offense committed by a career criminal.

"(ii) In this subparagraph—

"career criminal" means a person with 3 or more convictions under Federal or State law for crimes of violence (as defined in section 924(c)(3) of title 18, United States Code) or serious drug offenses (as defined in section 924(e)(2)(A) of title 18, United States Code).

"firearm offense" means an offense committed while the offender is in possession of a firearm or while an accomplice of the offender, to the knowledge of the offender, is in possession of a firearm.

"(3) The amount by which the allocation to a State is reduced by reason of a failure to comply with subparagraph (A) or (B) of paragraph (1) shall be reallocated equally among the States that are in compliance with that subparagraph.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to the fiscal year that first begins after the date that is 2 years after the date of enactment of this Act and each fiscal year thereafter.

(c) TECHNICAL AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 TO ACCOMMODATE AMENDMENT MADE IN SUBSECTION (a)—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756(f)) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (e) by striking "or (e)"; and

(3) in subsection (f)—

(A) by striking "(f)(1) For" and all that follows through "in such fiscal year," and inserting the following:

"(f)(1)(A) If, on the first day of a fiscal year, a State does not meet the requirements of subparagraph (B), the Director shall reduce the amount of funds that would otherwise be allocated to the State under subsection (a) by 10 percent.

"(B)(i) The requirements of this subparagraph are met if a State has in effect, and enforces, a law";

(B) by striking "(A) to administer" and inserting "(I) to administer";

(C) by striking "(B) to disclose" and inserting "(II) to disclose";

(D) by striking "(C) to provide" and inserting "(III) to provide";

(E) by striking "(3) For purposes of this subsection" and inserting "(ii) For purposes of this paragraph";

(F) by striking "(A) the term" and inserting "(I) the term"; and

(G) by striking "(B) the term" and inserting "(II) the term".

SEC. 321. GRANTS FOR THE ESTABLISHMENT OF VICTIM NOTIFICATION PROCEDURES.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) by striking "and" at the end of paragraph (20);

(2) by striking the period at the end of paragraph (21) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(22) programs designed to keep victims informed concerning the status of cases against offenders and to provide victims advance notification of the release of alleged offenders prior to conviction and of convicted offenders at the conclusion of their terms of imprisonment or on probation, parole, or any other form of release.".

TITLE IV—PRISONS

Subtitle A—Prison for Violent Drug Offenders

SEC. 401. REGIONAL PRISONS.

(a) FINDINGS.—The Congress finds that—

(1) the population of Federal, State, and local prisons and jails has increased dramatically since 1980 and currently numbers more than 1,000,000 people;

(2) more than 60 percent of all prisoners have a history of drug abuse or are regularly using drugs while in prison, but only 11 percent of State prison inmates and 7 percent of Federal prisoners are enrolled in drug treatment programs; hundreds of thousands of prisoners are not receiving needed drug treatment while incarcerated, and the number of such persons is increasing rapidly; and

(3) drug-abusing prisoners are highly likely to return to crime upon release, but the recidivism rate is much lower for those who successfully complete treatment programs; accordingly, it appears that providing drug treatment to prisoners during incarceration provides an opportunity to break the cycle of recidivism, reducing the crime rate and future prison overcrowding.

(b) DEFINITION.—In this section—

"eligible prisoner" means a Federal or State prisoner who—

(A) has a drug abuse problem requiring long-term treatment; and

(B) is serving a term of imprisonment under which the earliest date of release is not more than 2 years after the date of transfer to a regional prison.

"regional prison" means a regional prison operated by the Director of the Bureau of Prisons under this section.

(c) Construction and Operation of Regional Prisons With Drug Treatment Programs.—The Attorney General, acting through the Director of the Bureau of Prisons, shall construct and operate 10 regional prisons in which eligible prisoners shall participate in a drug treatment program under conditions established by the Director of National Drug Control Policy in consultation with the Director of the Bureau of Prisons.

(d) Location.—

(1) In general.—The regional prisons shall be located in places chosen by the Director of National Drug Control Policy, in consultation with the Director of the Bureau of Prisons, not more than 180 days after the date of enactment of this Act.

(2) Military facilities.—To the extent that it is practicable to do so, the Director of National Drug Control Policy shall choose former military facilities as locations for regional prisons.

(e) Prison Populations.—Each regional prison shall be used to accommodate a population consisting of approximately 20 percent Federal prisoners and 80 percent State prisoners.

(f) Goal in Selection of Eligible Prisoners.—In selecting from among eligible prisoners those who will be transferred to a regional prison, the Director of the Bureau of Prisons and a State shall endeavor to select those whose continued confinement, with the opportunity to participate in a drug treatment program, will have the greatest impact on the crime rate and future prison overcrowding.

(g) Agreement of Prisoner.—A prisoner shall not be transferred to a regional prison unless the prisoner agrees to participate in the drug treatment program and comply with the conditions established for such participation.

(h) Postrelease Treatment.—A State that desires to transfer a prisoner to a regional prison shall submit to the Director of the Bureau of Prisons a postrelease treatment plan describing the provisions that the State will make for—

(1) the continued treatment of the prisoner in a therapeutic community following release; and

(2) vocational job training in appropriate cases.

(i) Payment of Costs.—

(1) Reimbursement of the director.—A State that transfers a prisoner to a regional prison shall reimburse the Director of the Bureau of Prisons for the full cost of the incarceration and treatment of the prisoner.

(2) Return of monies.—(A) If, in the opinion of the Director of the Bureau of Prisons, a State prisoner successfully completes a drug treatment program, the Director shall return to the transferring State 25 percent of the amount paid under paragraph (1) with respect to the prisoner for use in accordance with subparagraph (B).

(B) Monies returned to a State under subparagraph (A) shall be used by the State to provide postrelease treatment as required by subsection (h).

(j) Determinations by the Director.—

(1) Prisoner eligibility.—The Director of the Bureau of Prisons shall have the exclusive right to determine, after the staff of a regional prison has had an opportunity to interview a Federal or State prisoner in person—

(A) whether the prisoner qualifies as an eligible prisoner; and

(B) whether, in view of any other relevant circumstances, a transfer of the prisoner should be accepted.

(2) Prisoner compliance with conditions.—The Director of the Bureau of Prisons shall have the exclusive right to determine whether a prisoner in a regional prison is complying with the conditions for participation in a drug treatment program.

(k) Return of Noncompliant Prisoner.—Upon determining that a prisoner in a regional prison is not in compliance with a condition for participation in a drug treatment program, the Director may, upon notification to the transferring State of that determination, return the prisoner to the transferring State.

(l) Authorization of Appropriations.—There are authorized to be appropriated, in addition to any other amounts authorized to be appropriated to the Bureau of Prisons—

(1) $600,000,000 for fiscal year 1995 for the construction of 10 regional prisons, to remain available until expended; and

(2) $100,000,000 for each of fiscal years 1995 and 1996 for the operation of the regional prisons.

Subtitle B—Task Force on Prison Construction Standardization and Techniques

SEC. 411. PRISON CONSTRUCTION STANDARDIZATION AND TECHNIQUES.

(a) Task Force.—The Director of the Bureau of Prisons shall establish a task force composed of Bureau, State, and local officials expert in prison construction, and of at least an equal number of engineers, architects, and construction experts from the private sector with expertise in prison design and construction, including the use of cost-cutting construction standardization techniques and cost-cutting new building materials and technologies.

(b) Cooperation.—The task force shall work in close cooperation and communication with other State and local officials responsible for prison construction in their localities.

(c) Performance Requirements.—The task force shall work to—

(1) establish and recommend standardized construction plans and techniques for prison and prison component construction; and

(2) evaluate and recommend new construction technologies, techniques, and materials, to reduce prison construction costs at the Federal, State, and local levels and make such construction more efficient.

(d) Dissemination.—The task force shall disseminate information described in subsection (c) to State and local officials involved in prison construction, through written reports and meetings.

(e) Promotion and Evaluation.—The task force shall—

(1) work to promote the implementation of cost-saving efforts at the Federal, State, and local levels;

(2) evaluate and advise on the results and effectiveness of such cost-saving efforts as adopted, broadly disseminating information on the results; and

(3) to the extent feasible, certify the effectiveness of the cost-savings efforts.

TITLE V—VIOLENT CRIME AND DRUG EMERGENCY AREAS

SEC. 501. VIOLENT CRIME AND DRUG EMERGENCY AREAS.

(a) Definition.—In this section, "major violent crime or drug-related emergency" means an occasion or instance in which violent crime, drug smuggling, drug trafficking, or drug abuse violence reaches such levels, as determined by the President, in consultation with the Attorney General, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

(b) Declaration of Violent Crime and Drug Emergency Areas.—If a major violent crime or drug-related emergency exists throughout a State or a part of a State, the President, in consultation with the Attorney General and other appropriate officials, may declare the State or part of a State to be a violent crime or drug emergency area and may take any and all necessary actions authorized by this section and other law.

(c) Procedure.—

(1) In general.—A request for a declaration designating an area to be a violent crime or drug emergency area shall be made, in writing, by the chief executive officer of a State or local government, respectively (or in the case of the District of Columbia, the mayor), and shall be forwarded to the Attorney General in such form as the Attorney General may by regulation require. One or more cities, counties, States, or the District of Columbia may submit a joint request for designation as a major violent crime or drug emergency area under this subsection.

(2) Finding.—A request made under paragraph (1) shall be based on a written finding that the major violent crime or drug-related emergency is of such severity and magnitude that Federal assistance is necessary to ensure an effective response to save lives and to protect property and public health and safety.

(d) Irrelevancy of Population Density.—The President shall not limit declarations made under this section to highly populated centers of violent crime or drug trafficking, drug smuggling, or drug use, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

(e) Requirements.—As part of a request for a declaration under this section, and as a prerequisite to Federal violent crime or drug emergency assistance under this section, the chief executive officer of a State or local government shall—

(1) take appropriate action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major drug-related emergency;

(2) submit a detailed plan outlining that government's short- and long-term plans to respond to the violent crime or drug emergency, specifying the types and levels of Federal assistance requested and including explicit goals (including quantitative goals) and timetables; and

(3) specify how Federal assistance provided under this section is intended to achieve those goals.

(f) Review Period.—The Attorney General shall review a request submitted pursuant to this section, and the President shall decide whether to declare a violent crime or drug emergency area, within 30 days after receiving the request.

(g) Federal Assistance.—The President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information; and

(h) DURATION OF FEDERAL ASSISTANCE.—

(1) IN GENERAL.—Federal assistance under this section shall not be provided to a drug disaster area for more than 1 year.

(2) EXTENSION.—The chief executive officer of a jurisdiction may apply to the Attorney General for an extension of assistance beyond 1 year. The President, in consultation with the Attorney General, may extend the provision of Federal assistance for not more than an additional 180 days.

(i) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall issue regulations to implement this section.

LIEBERMAN VIOLENT CRIME REDUCTION ACT OF 1993

SUMMARY

Federal Law Enforcement Rapid Deployment Force

Establishes a unit of 2,500 federal law enforcement officers who could be deployed rapidly on a temporary basis to assist state and local law enforcement agencies in combatting crime. The Attorney General could deploy the unit or part of the unit upon a showing by a governor and local officials that crime in an area is being exacerbated by the interstate flow of drugs, guns and criminals and that emergency federal assistance is necessary. The unit is intended not only to assist in investigations, arrests and prosecutions, but to participate in the patrolling of particularly hardhit areas. Members of the Rapid Deployment Force would be deputized by state officials so that they could make arrests and otherwise proceed under state, as well as Federal, law. Authorizations: $25 million for FY 1995; $100 million for FY 1996; $150 million for FY 1997.

Presidential Declaration of Violent Crime and Drug Emergency Areas

Authorizes the President to declare that a violent crime or drug emergency exists in a state or part of a state and to provide emergency federal assistance to protect property, public health and safety. That assistance can come in the form of personnel (either through the Rapid Deployment Force or more conventional lending of Federal law enforcement officers or advisors), equipment, supplies, facilities, and managerial, technical and advisory services, including communications support and law enforcement-related intelligence information. Requests for declaration of an emergency must be made in writing by the Governor and chief executive officer of any affected state and local government, and the President must act on the request within 30 days.

Increased support for Federal/State/local task forces

Authorizes $150 million to bolster federal/state/local task forces in the investigation, arrest and prosecution of violent criminals and drug traffickers. Provides additional funding for the Federal law enforcement components of such task forces, specifically the FBI, DEA, BATF, and US Attorney's offices, to help pay for operational expenses, hiring and training of additional agents, prosecutors, and support personnel.

Retraining and placement of Gis in law enforcement and public housing management careers

Mandates that a portion of funds set aside for defense conversion be used to retrain and place recently retired or discharged Gis in law enforcement and public housing management careers. The FBI and the National Institute for Justice (NIJ) shall be responsible for selecting and training at least 1000 recent veterans annually and providing job placement assistance in state, local or Federal law enforcement. States receiving grants to hire additional law enforcement personnel should give priority to the military personnel trained under this program. The National Center for Housing Management, a non-profit group established by Executive Order in 1972, shall continue a training and placement program to train at least 250 veterans a year to serve as managers and role models in public housing.

Regional Prisons for Violent Drug Offenders

Authorizes the construction and operation of 10 new regional prisons in which eligible Federal and state prisoners must participate in drug rehabilitation programs. In selecting prisoners, state and local officials shall select those whose continued confinement, need for drug treatment and likelihood of success of such treatment, will have the greatest impact on the crime rate and future prison overcrowding. To the extent possible, those prisons shall be located on former military bases. Eighty percent of the prisoners in each facility shall be state prisoners. A state that transfers a prisoner to the regional prison must pay for the cost of incarceration and treatment of the prisoner, but shall receive 25% of those payments back if the state prisoner successfully completes the drug treatment program. $600 million is authorized for FY 1995 for the construction of the ten prisons; $100 million is authorized for each of FYs 1995 and 1996 for operation of the prisons.

Efficiency and Standardization in Prison Construction

Directs the Bureau of Prisons to establish a task force composed of Bureau, state and local experts in prison construction and an equal number of engineer, architects and construction experts from the private sector to evaluate standardized construction plans, technologies, materials and techniques for prison and prison components in order to reduce prison construction costs. The task force shall disseminate their recommendations to federal, state, local prison officials. To the extent feasible, the task force shall certify the effectiveness of specific cost-savings efforts.

National Commission on Crime and Violence

Establishes a twelve-member National Commission on Crime and Violence in America to examine the state of crime and violence throughout the nation, review the effectiveness of state and Federal approaches to controlling crime and violence during the past 25 years, and develop a comprehensive and effective crime control and antiviolence strategy to be implemented by Federal, state and local officials. Commissioners shall include criminal justice professionals, victims of crime, elected officials, business leaders, medical doctors and other citizens. Commissioners shall serve without pay during the two-year tenure of the commission.

Use of Anti-Loitering Laws to Fight Crime

Directs the Justice Department's National Institute of Justice to determine how anti-loitering laws can be used, without violating the constitutional rights of citizens as enunciated by the Supreme Court, to eradicate open-air drug markets and other blatant criminal activity and to prepare a model anti-loitering statute for distribution to Federal, state and local law enforcement authorities.

Extension of Serious Habitual Offender Comprehensive Action (SHOCAP) Program

Authorizes new state and local demonstration projects under the Serious Habitual Offender Comprehensive Action Program, which focuses law enforcement and prosecutorial resources on arresting and prosecuting repeat juvenile offenders. SHOCAP currently provides only training and educational assistance to local law enforcement.

Incentives to States to enact tough sentences for repeat violent offenders

Provides that states that do not enact state laws providing for mandatory 20 year sentences without the possibility of parole for violent career criminals who commit a crime using a firearm, will lose 50% of the funds that would otherwise be eligible to them under the Omnibus Crime Control and Safe Streets Act of 1968 "Byrne" grants program. States have two years to enact such laws. Violent career criminals are offenders who have previously been convicted 3 or more times under Federal or state law for crimes of violence or serious drug offenses.

Grants to States For the Establishment of Victim Notification Procedures

Encourages states and local governments to design programs to keep victims informed concerning the status of cases against offenders and to provide victims advance notification of the release of alleged offenders prior to conviction or of the release of offenders on probation, parole, or at the ends of their sentences by making such programs eligible for "Byrne Program" grants under the Omnibus Crime Control and Safe Streets Act of 1968.

Police Corps and Law Enforcement Education Program

Establishes a R.O.T.C-style scholarship program that encourages students to pursue law enforcement careers by providing up to $30,000 in grants to attend college. Upon graduation, the students must work in state or local law enforcement for at least four years. Up to 20,000 students may receive assistance under the Police Corps program. Also, provides scholarship assistance to police officers who wish to supplement their education while on the job and provides college scholarship assistance to the children of law enforcement personnel who are killed in the course of their work.●

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 1582. A bill to designate the Federal building located at 600 Camp Street in New Orleans, LA, as the "John Minor Wisdom United States Court of Appeals Building," and for other purposes; to the Committee on Environment and Public Works.

DESIGNATION OF THE JOHN MINOR WISDOM BUILDING

Mr. JOHNSTON. Mr. President, I rise today to introduce legislation to designate the Federal building located at 600 Camp Street in New Orleans, LA, as the "John Minor Wisdom United States Court of Appeals Building."

John Minor Wisdom was appointed to the fifth circuit for life by President Eisenhower in 1957. The "Judge," as he is often referred to, has been appropriately characterized as "the highest embodiment of the judicial being," displaying a rare combination of wit, intellectual acuity, geniality, and judicial temperament. He is described as kind, compassionate, and respectful of all human beings, utterly honest and

simple of spirit, uncompromising in his intellectual integrity, a preeminent scholar in diverse disciplines while a consummate attorney with a passion for the law.

Judge Wisdom was the judge most responsible for the major doctrinal shift in school desegregation law in the mid-1960's that stepped up judicial supervision over the public schools. He was responsible for writing some of the most influential school desegregation opinions between 1955 and 1968, the period when the U.S. Supreme Court was relatively inactive in prescribing how desegregation was to be accomplished.

Judge Wisdom's opinions, as well as his lectures and numerous articles, shared common qualities. They were models of clarity, construction, and reasoning. They displayed industrious and comprehensive research, and reflected a rich and well-developed background of cultural, historical, and literary frames of reference. Moreover, they were evidence of a deep and perceptive insight into the larger function of the law during periods of turbulence such as our society experienced virtually throughout his tenure.

The Wisdom doctrine was a model that Federal judges would apply throughout the fifth circuit in Louisiana, Florida, Alabama, Georgia, Mississippi, and Texas. Through his desegregation opinions, his opinions in cases involving civil rights demonstrations, his opinions in cases involving the integration of Southern State universities, and his opinions relative to the defiance of Federal law by State officials, Judge Wisdom played a pivotal role in transforming the South and thereby the Nation. He made the law a catalyst for social change rather than a mere reflection of events. He has been an inspiration and a model to many in the legal profession, and he has shown us what a lawyer and a judge can do to change the world.

Therefore, Mr. President, it is fitting, and it is with a sense of great pride and a true sense of obligation, that I recommend to this body that it honor Judge Wisdom by designating the Federal building located at 600 Camp Street in New Orleans, LA, be named in honor of Judge John Minor Wisdom.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF JOHN MINOR WISDOM UNITED STATES COURT OF APPEALS BUILDING.

The Federal building located at 600 Camp Street in New Orleans, Louisiana, is designated as the "John Minor Wisdom United States Court of Appeals Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "John Minor Wisdom United States Court of Appeals Building".

By Mr. D'AMATO:

S. 1583. A bill to impose comprehensive economic sanctions against Iran; to the Committee on Banking, Housing, and Urban Affairs.

COMPREHENSIVE IRAN SANCTIONS ACT OF 1993

Mr. D'AMATO. Mr. President, I rise today to introduce the Comprehensive Iran Sanctions Act of 1993. This act will institute a total trade embargo between the United States and the Islamic Republic of Iran. This embargo will also include a prohibition on all trade engaged in by a U.S. national abroad, but exempt all humanitarian supplies.

I must share with you an article by Kenneth R. Timmerman, of the House Foreign Affairs Subcommittee on International Security, that appeared in today's New York Times. I ask unanimous consent, that the article be reprinted in its entirety, at the conclusion of my remarks.

Mr. President, this article recites, in great detail, the extent of United States exports that continue to flow to Iran, despite passage of the Iran-Iraq Nonproliferation Act, of which I was a cosponsor, as part of the 1992 National Defense Authorization Act.

In 1992, United States companies supplied $750 million in exports to Iran, and United States companies have maintained similar sales levels in 1993. In the first 6 months since the imposition of the sanctions in October 1992, $461 million in exports to Iran required G-DEST or general destination licenses. Companies using G-DEST licenses do not submit individual license applications, thereby removing the State and Defense Departments from the review process. This makes it easier to slip dual-use material through the oversight process and for Iran to continue receiving exports that it can convert for use in its military and nuclear program. This is exactly what Iraq did during the 1980's and we allowed it to happen. We cannot allow the same mistake to be repeated.

Iran is arming itself to the teeth, and we are simply ignoring it. Iran conducted a $12 billion shopping spree for arms in 1990, and is stockpiling Chinese and North Korean Scud missiles. In 1991, Iran purchased Chinese nuclear technology and a nuclear reactor. This, in addition to its ongoing receipt of U.S. dual-use exports, portends a very dangerous situation.

Iran has an arms budget estimated at over $50 billion over the next 5 years, and it should be clear to all that Iran aims to build itself into a regional nuclear power intent on spreading its will by force. We cannot sit back and allow this bloodthirsty band of terrorists to grow into a monster too big for anyone to handle.

Moreover, Iran's territorial expansion into North Africa and Central Asia is seemingly being ignored. Iranian-supported terrorists are active in Algeria, Tunisia, Morocco, Egypt, Yemen, and in Israel. Iran is also making serious efforts at spreading its influence into Afghanistan and Tajikistan. While this may seem tangential, Iran's spreading influence is indicative of a wider, more dangerous effort, designed to build an anti-American bloc. This much has even been alleged, regarding suggestions of some Sudanese role in the bombing of the World Trade Center.

Iran's actions, speak louder than words and its continued effort at obtaining weapons of mass destruction, as well as its pursuit of an Islamic fundamentalist, anti-American bloc, speak volumes about its intent in the world today.

With Iran's goals in mind, the United States should not be providing it with the capabilities to build such weapons to fulfill its aims. As the Timmerman article states, the Commerce Department has found no illegal exports, but is investigating some potentially suspect cases. I would suggest that if the administration is sincere about true export controls, it should reexamine its policy vis-a-vis Iran. Several months ago, Secretary of State Christopher announced an American intention to isolate Iran, yet the continued export of dual-use material to this country, seems to run counter to this pronouncement.

If the world community wishes to avoid another Middle Eastern war, we must join together to take any and all steps necessary to prevent Iran from its goal of nuclear domination of the Middle East. In 1981, Israel foresaw the danger in Iraq. In 1993, let us not ignore the danger again with Iran.

We must sever any remaining trade between the United States and Iran, to ensure that we do not provide them with anything that will come back to haunt us. We must take the lead and begin a worldwide effort at halting all exports to Iran until it sheds its violence and antagonism toward the West. When Iran agrees to join the rest of the civilized world, then we can consider lifting sanctions.

I urge my colleagues to join me in cosponsoring this legislation. Mr. President, I ask unanimous consent that the text of my remarks, as well as the text of the article appear in the RECORD following the text of my bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Iran Sanctions Act of 1993".

SEC. 2. CONGRESSIONAL FINDINGS.

(a) IRAN'S VIOLATIONS OF HUMAN RIGHTS.—The Congress makes the following findings with respect to Iran's violations of human rights:

(1) As cited by the 1991 United Nations Special Representative on Human Rights, Amnesty International, and the United States Department of State, the Government of Iran has conducted assassinations outside of Iran, such as that of former Prime Minister Shahpour Bakhtiar for which the Government of France issued arrest warrants for several Iranian governmental officials.

(2) As cited by the 1991 United Nations Special Representative on Human Rights and by Amnesty International, the Government of Iran has conducted revolutionary trials which do not meet internationally recognized standards of fairness or justice. These trials have included such violations as a lack of procedural safeguards, trial times of 5 minutes or less, limited access to defense counsel, forced confessions, and summary executions.

(3) As cited by the 1991 United Nations Special Representative on Human Rights, the Government of Iran systematically represses its Baha'i population. Persecutions of this small religious community include assassinations, arbitrary arrests, electoral prohibitions, and denial of applications for documents such as passports.

(4) As cited by the 1991 United Nations Special Representative on Human Rights, the Government of Iran suppresses opposition to its government. Political organizations such as the Freedom Movement are banned from parliamentary elections, have their telephones tapped and their mail opened, and are systematically harassed and intimidated.

(5) As cited by the 1991 United Nations Special Representative on Human Rights and Amnesty International, the Government of Iran has failed to recognize the importance of international human rights. This includes suppression of Iranian human rights movements such as the Freedom Movement, lack of cooperation with international human rights organizations such as the International Red Cross, and an overall apathy toward human rights in general. This lack of concern prompted the Special Representative to state in his report that Iran had made "no appreciable progress towards improved compliance with human rights in accordance with the current international instruments".

(6) As cited by Amnesty International, the Government of Iran continues to torture its political prisoners. Torture methods include burns, arbitrary blows, severe beatings, and positions inducing pain.

(b) IRAN'S ACTS OF INTERNATIONAL TERRORISM.—The Congress makes the following findings, based on the records of the Department of State, with respect to Iran's acts of international terrorism:

(1) As cited by the Department of State, the Government of Iran was the greatest supporter of state terrorism in 1992, supporting over 20 terrorist acts, including the bombing of the Israeli Embassy in Buenos Aires that killed 29 people.

(2) As cited by the Department of State, the Government of Iran is a sponsor of radical religious groups that have used terrorism as a tool. These include such groups as Hizballah, HAMAS, the Turkish Islamic Jihad, and the Popular Front for the Liberation of Palestine-General Command (PFLP-GC).

(3) As cited by the Department of State, the Government of Iran has resorted to international terrorism as a means of obtaining political gain. These actions have included not only the assassination of former Prime Minister Bakhitiar, but the death sentence imposed on Salman Rushdie, and the assassination of the leader of the Kurdish Democratic Party of Iran.

(4) As cited by the Department of State and the Vice President's Task Force on Combatting Terrorism, the Government of Iran has long been a proponent of terrorist actions against the United States, beginning with the takeover of the United States Embassy in Tehran in 1979. Iranian support of extremist groups have led to the following attacks upon the United States as well:

(A) The car bomb attack on the United States Embassy in Beirut killing 49 in 1983 by the Hizballah.

(B) The car bomb attack on the United States Marine Barracks in Beirut killing 241 in 1983 by the Hizballah.

(C) The assassination of American University President 1984 by the Hizballah.

(D) The kidnapping of all American hostages in Lebanon from 1984–1986 by the Hizballah.

SEC. 3. TRADE EMBARGO.

(a) IN GENERAL.—Except as provided in subsection (c), effective on the date of enactment of this Act, a total trade embargo shall be in force between the United States and Iran.

(b) COVERED TRANSACTIONS.—As part of such embargo the following transactions are prohibited:

(1) Any transaction in the currency exchange of Iran.

(2) The transfer of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of Iran or a national thereof.

(3) The importing from, or exporting to, Iran of currency or securities.

(4) Any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or any transaction involving, any property in which Iran or any national thereof has any interest; by any person, or with respect to any property, subject to the jurisdiction of the United States.

(5) The licensing for export to Iran, or for export to any other country for reexport to Iran, by any person subject to the jurisdiction of the United States of any item or technology controlled under the Export Administration Act of 1979, the Arms Export Control Act, or the Atomic Energy Act of 1954.

(6) The importation into the United States of any good or service which is, in whole or in part, grown, produced, manufactured, extracted, or processed in Iran.

(c) EXTRATERRITORIAL APPLICATION.—In addition to the transactions described in subsection (b), the trade embargo imposed by this Act prohibits any transaction described in paragraphs (1) through (4) of that subsection when engaged in by a United States national abroad.

(d) EXCEPTIONS.—This section shall not apply to any transaction involving the furnishing, for humanitarian purposes, of food, clothing, medicine, or medical supplies, instruments, or equipment to Iran or to any national thereof.

(e) PENALTIES.—Any person who violates this section or any license, order, or regulation issued under this section shall be subject to the same penalties as are applicable under section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to violations of licenses, orders, or regulations under that Act.

(f) APPLICATION TO EXISTING LAW.—This section shall apply notwithstanding any other provision of law or international agreement.

SEC. 4. OPPOSITION TO MULTILATERAL ASSISTANCE.

(a) INTERNATIONAL FINANCIAL INSTITUTIONS.—(1) The Secretary of the Treasury shall instruct the United States executive director of each international financial institution described in paragraph (2) to oppose and vote against any extension of credit or other financial assistance by that institution to Iran.

(2) The international financial institutions referred to in paragraph (1) are the International Bank for Reconstruction and Development, the International Development Association, the Asian Development Bank, and the International Monetary Fund.

(b) UNITED NATIONS.—It is the sense of the Congress that the United States Permanent Representative to the United Nations should oppose and vote against the provision of any assistance by the United Nations or any of its specialized agencies to Iran.

SEC. 5. WAIVER AUTHORITY.

The provisions of sections 3 and 4 shall not apply if the President determines and certifies to the appropriate congressional committees that Iran—

(1) has substantially improved its adherence to internationally recognized standards of human rights;

(2) has ceased its efforts to acquire a nuclear explosive device; and

(3) has ceased support for acts of international terrorism.

SEC. 6. REPORT REQUIRED.

Beginning 60 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit to the appropriate congressional committees a report describing—

(1) the nuclear and other military capabilities of Iran; and

(2) the support, if any, provided by Iran for acts of international terrorism.

SEC. 7. DEFINITIONS.

For purposes of this Act—

(1) the term "act of international terrorism" means an act—

(A) which is violent or dangerous to human life and that is a violation of the criminal laws of the United States or of any State or that would be a criminal violation if committed within the jurisdiction of the United States or any State; and

(B) which appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(2) the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives;

(3) the term "Iran" includes any agency or instrumentality of Iran;

(4) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States; and

(5) the term "United States national" means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States;

(B) a corporation or other legal entity which is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons who are nationals of the United States own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity; and

(C) any foreign subsidiary of a corporation or other legal entity described in subparagraph (B).

[From the New York Times, Oct. 25, 1993]

CAVEAT VENDITOR

(By Kenneth R. Timmerman)

WASHINGTON.—Once again, companies in the United States, Europe and Japan are helping a third world dictatorship acquire technology that can be used to develop weapons of mass destruction. The equipment and materials they are selling are not leaking out inadvertently, but going out with the approval of the export-control authorities of their governments.

This time, the dictatorship is not Iraq. It is Iran, whose leaders continue to vow "Death to America" and which tops the State Department list of terrorist countries.

An investigation completed in September by the House Foreign Affairs Subcommittee on International Security, International Organizations and Human Rights has documented the extent of the hemorrhage of Western technology to Iran and to other "rogue regimes"—nations identified as sponsors of international terrorism.

The subcommittee found that more than 230 companies had supplied Iran with technology and equipment that can be used for the manufacture of chemical, nuclear and biological weapons and the means to deliver them. Over 50 of the companies are American.

In October 1992, Congress passed, as part of the National Defense Authorization Act, additional trade restrictions prohibiting U.S. high-technology sales to Iran. Yet since then such exports have actually increased.

The subcommittee investigation has uncovered dozens of cases where U.S. technology with potential military applications was shipped to Iran. This appears to have occurred with the full approval of the Commerce Department, which is responsible for restricting U.S. trade with countries on the State Department's list.

In 1992, fully 60 percent of the $750 million worth of U.S. goods and equipment shipped to Iran were subject to Commerce Department licensing because of the sophistication of the technology involved. Since the National Defense Authorization Act was signed into law, the percentage of licensed goods has dropped to 2.5 percent of total exports. But there was no apparent decline in the sophistication of the equipment exported.

Among the products shipped since the law was passed were toxins and microorganisms, centrifuges, machine tools, gas-separation devices, gas chromatographs and mass spectrometers. Also sold were high-powered computers, worth close to $1 million each. All of this equipment has significant military as well as civilian uses. Despite this, the Commerce Department has continued to allow these products to be sold to Iran.

Commerce Department officials insist that they are enforcing existing export regulations in full. They say that there is an internal investigation of 74 "potentially suspect" shipments, but that so far they have found no illegal exports.

Yet one of the high-technology exports in question was shipped directly to the Atomic Energy Organization of Iran; two went to a suspected chemical-weapons plant. Toxins, which can be used in medical research or for biological weapons, were shipped to a Teheran bank. All of these shipments occurred between January and June of this year.

The United States is not the only nation selling high-technology goods to Iran. Last year, Germany racked up a record $5 billion in sales to Iran. Japanese sales to Iran reached nearly $3 billion. Italy and Britain both topped $1 billion, with France not far behind. The United States ranked sixth at $746.6 million.

Chinese state-owned companies are also selling to Iran. They have supplied ballistic-missile manufacturing equipment and uranium-enrichment devices, and they recently contracted to build a nuclear power plant that will produce plutonium as a by-product.

Greed and willful blindness are once again at work. As with Iraq, our companies and our governments are united in a silent pact to shovel out the door as much advanced technology as possible. In Iraq, the United States was lucky that Saddam Hussein blundered into Kuwait before he acquired nuclear weapons. With Iran, we may not be so lucky.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 1584. A bill to designate the United States courthouse located in Houma, LA, as the "George Arceneaux, Jr., United States Courthouse," and for other purposes; to the Committee on Environment and Public Works.

DESIGNATION OF THE GEORGE ARCENEAUX, JR., COURTHOUSE

Mr. JOHNSTON. Mr. President, today I am introducing along with Senator BREAUX, legislation to designate the U.S. courthouse located in Houma, LA, as the "George Arceneaux, Jr., U.S. Courthouse."

George Arceneaux, Jr., was appointed to the Federal judiciary by President Jimmy Carter in 1979. During his 14 years of active service he was, in the words of a fellow judge, "a force for good and truth and justice by reason of his powerful and abiding faith."

His entire adult life was an exercise in the pursuit of civic and professional activities directed to the service of his community and his fellow man. His personal family history and expression of the esteem of his fellow attorneys are best described by Judge Peter Beer in the memorial presented to the Fifth Circuit Judicial Conference in May 1993.

Judge Arceneaux had a vision of a Federal court situated in his hometown of Houma, LA, which is the economic and geographical center of the tri-parish area in southeast Louisiana. His efforts toward that end began in 1957 when he was an administrative assistant to Senator Allen Ellender and continued through his close personal association with Senator Russell Long, who recommended him to President Carter in 1979. Since that time he has organized various committees to provide the surveys, research and data necessary to justify the construction of the new Federal courthouse in Houma. His untiring efforts through innumerable meeting with committees of the U.S. District Court for the Eastern District of Louisiana as well as followup contacts with the General Services Administration and the Administration Office of the U.S. Courts undoubtedly added to the strain of his physical condition which contributed to his early and untimely demise.

For these reasons, it is with great pride, and, indeed, a true sense of obligation, that I recommend to this body that the U.S. Federal Court Building in Houma, LA, be named in honor of the late Judge George Arceneaux, Jr.

Mr. President, I ask unanimous consent that a copy of the resolution in memory of the Honorable George Arceneaux, Jr., be printed in the RECORD. I further ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF GEORGE ARCENEAUX, JR., UNITED STATES COURTHOUSE.

Any reference in a law, regulation, document, record, map, or other paper of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "George Arceneaux, Jr., United States Courthouse".

RESOLUTION IN MEMORY OF HON. GEORGE ARCENEAUX, JR.

United States District Judge George Arceneaux died April 6, 1993, from complications due to lung disease. He was 64.

Appointed in 1979 by President Jimmy Carter, George was an embodiment of all of the attributes of a splendid judge.

Born in New Orleans, reared and educated in Terrebonne Parish, where his father headed the government's sugar cane research program, he was the valedictorian of the Terrebonne High School class of 1945 and went on to earn a B.A. in Journalism from Louisiana State University in 1949 and a Juris Doctor degree from the Washington College of Law of The American University in Washington, D.C. in 1957. While at LSU, he worked summers and holidays as a news reporter and newscaster at radio station KCIL in Houma.

Upon graduation from college, George was employed as state editor of the Lafayette Daily Advertiser and worked briefly as a general assignment reporter for the New Orleans Times Picayune before entering the U.S. Army. He served as an intelligence analyst, 338th Military Intelligence Service Company, Fort Meade, Maryland.

In 1952, he was employed as a legislative assistant to U.S. Senator Allen J. Ellender in Washington, D.C. and with the encouragement of Senator Ellender and his then Administrative Assistance Frank Wurzlow, Jr., George entered night law school, graduated in 1957 and later that year became Senator Ellender's trusted and efficient Administrative Assistant.

In 1960 George returned to Houma to practice law with the late Claude B. Duval. They founded Duval and Arceneaux and remained partners until 1979 when George began his not soon to be forgotten service on the federal bench.

George's efforts to further the service work of Rotary International brought him international attention, affection, and respect. He was president of the Rotary Club in Houma and an Honorary Member of the Rotary Club of New Orleans. He served as district governor of the Rotary district covering the south half of Louisiana in 1971, was elected a director of Rotary International in 1981, and vice-president in 1982. He subsequently served as chairman of many Rotary committees, and, in 1992, chaired the international organization's Council on Legislation, commonly known as "Rotary's International Parliament," comprised of some 500 delegates representing 187 countries and regions.

This year he was named to serve a three-year term on the governing board of the Rotary Foundation where, as one of 15 trustees, he would oversee the Foundation's varied scholarship, research, and related programs, including the massive $250 million rotary Polio Plus program, designed to eliminate poliomyelitis world-wide by the year 2005, the 100th anniversary of Rotary's founding.

George met, fell in love with, and married the delightful and courageous Mary Martin of Stillwater, Oklahoma, while they were working in Washington. Mary was secretary to Senator Robert S. Kerr of Oklahoma. Their fine children, Mary Beth Arceneaux of Baton Rouge, George Arceneaux, III of Lafayette, and Robert Martin Arceneaux of Houma, as well as five grandchildren, George IV, Hugh Andrew and Emma Katherine, all of Lafayette, and Allison Claire and Joshua of Houma are the greatest of George and Mary's many contributions that make this a better world for all of us.

George's mother, the former Louise Austin, a native of Alamo, Tennessee, who now resides in Houma, and one brother and sister-in-law, Tommie Eugene Arceneaux and Kathleen Brian Arceneaux, of Baton Rouge survive him. He was preceded in death by his father, Dr. George Arceneaux, Sr.

There you have the vital statistics about this vital and upstanding man. And they tell us a lot. They make us proud to have known and loved him, grateful for the time we had with him and thankful for the exceptional and wonderful influences that he has had upon us.

Few if any of us could come close, much less surpass the eloquent pulling together of these statistics by George's former law partner Stanwood R. Duval, Jr.:

"George is one of the few people who achieved the Greek ideal of Arete—that is, living up to one's full potential in every aspects of one's life. George was a Renaissance man. He passionately loved his family and somehow managed to always put them first despite the tremendous demands of the practice of law and the numerous projects in which he was involved. He had a deep and absolute devotion to the principles of truth, honor and duty. He had an intense commitment to do always what was right and fair and his commitment . . . his sincere commitment to making his community, this state, and even, through his efforts in Rotary, the world, a better place . . . When George became a federal judge, we were all extremely proud. However, what made us really proud was to hear the comments from lawyers from other cities talk about George, who didn't even know he was our former law partner. It was like hearing praise for a member of your family to hear the accolades that George received from lawyers who had practiced before his court."

Yet, there is a bit more ground to cover here, a bit more road to travel. It is as though a tiny beacon has signaled us to move on past the readily apparent goodness and steadfastness of this man to a vantage point where the perspective is slightly different and the view is, perhaps, not as susceptible to easy description.

From this vantage point, we can just begin to really see and begin to understand this remarkable man who can properly be described as one, the likes of whom will not soon pass this way again.

For George, with all his discernible attributes, was a sort of closet deep thinker whose agile and active mind raced over the hills and dales of subjects that most of us don't even address in basic configurations.

He was more than a judge's judge, more than a Rotarian's Rotarian, more than a man's man. Indeed, without even intending it to be the case, he was a force for good and truth and justice by reason of his powerful and abiding faith. A faith which aged and mellowed and grew and spun off giving faith to others. It would be an oversimplification to say that George Arceneaux was a deeply religious man. He was that, but there was-and is-so much more to it than that. For harnessed to his abiding faith was a marvelous intellect that was operating at full throttle. The combination and coming together of these two powerful forces was only just beginning to open new vistas of comprehension and ability to translate these comprehensions. His friend and confidant, Father Gerard Hayes, comes closest to a discernible description when he tells us of the clarity of George's understanding of the 23rd Psalm and the peace it brought to him and, in turn, to others far and near. Perhaps it is enough to say that before he left our small planet his eyes had seen the glory of the coming of the Lord. He will surely rest in peace.—Peter Beer, United States District Judge.

By Mr. SIMON (for himself and Mr. COATS):

S. 1585. A bill to provide for the establishment of the Ohio River Corridor Study Commission, and for other purposes; to the Committee on Energy and Natural Resources.

OHIO RIVER NATIONAL HERITAGE CORRIDOR

• Mr. SIMON. Mr. President, today I am introducing a bill to provide for the establishment of the Ohio River Corridor Study Commission. The purpose of this legislation is to focus attention on the distinctive and nationally important resources of the Ohio River corridor. My intention is to provide a means and catalyst for coordinating continuity in the preservation, betterment, enjoyment, and utilization of the opportunities in the Ohio River corridor.

The Ohio River is a unique riverine system and is recognized as one of the great rivers of the world. In our Nation's early years, the Ohio was the way west; later the transportation opportunities provided by the river brought resources and people together to help build our country into a great industrial power.

The Ohio River starts in Pittsburgh, PA, and flows to the west and to the south toward its confluence in my home State of Illinois at the Mississippi River at Cairo, IL. The Ohio River covers 981 miles and flows through or borders on the States of Pennsylvania, Ohio, West Virginia, Kentucky, Indiana, and Illinois.

Our great American rivers, in addition to the many stories they have to tell, even after years of neglect and abuse remain among the most scenic areas of the country. After a preliminary investigation, the ad hoc Ohio River Group believes that an indepth study of the waterway would result in a favorable recommendation for a joint local, State, and national endeavor resulting in the designation of the river valley as a national heritage corridor.

Mr. President, as with other national heritage corridors there is a high degree of coordination and cooperation required by the various governmental entities along the river if the project is to be successful. I believe that establishing the Ohio River Corridor Study Commission—whose membership would include the Director, or designee, of the National Park Service—supported by a congressional act, would be the most appropriate mechanism to begin implementation of the conceptual study.•

• Mr. COATS. Mr. President, I rise today to express my support for the Ohio River Corridor Study Commission Act of 1993. The Ohio River traverses 981 miles and borders the States of Indiana, Illinois, Kentucky, Ohio, Pennsylvania, and West Virginia. The unique waterway holds a prominent place in both America's history and our future.

Historically known as the way west, the Ohio River corridor has served as a valuable economic and cultural resource for our entire Nation. The river made a significant contribution to America's rise as an industrial power by providing transportation for people and goods. As activity increased, towns and cities grew along the transportation routes, and canals and railroads were constructed to reinforce the river towns. Today the Ohio River corridor continues to serve as a vital source of commerce and recreation.

The goal of the Ohio River Corridor Study Commission Act is to establish a Commission to provide a higher degree of continuity and recognition of the unique historical, industrial, scenic, and natural resources of the Ohio River. It is imperative that we recognize the significance of this river and preserve the amenities and economic benefits it has to offer. Although there are many dedicated individuals and organizations already working toward this goal, a coordinated, national effort is needed to gather and disseminate information among these entities. Therefore, I strongly support the Ohio River Corridor Study Commission Act and ask my colleagues to join in supporting the preservation and improvement of this national treasure.●

ADDITIONAL COSPONSORS

S. 235

At the request of Mr. REID, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 235, a bill to limit State taxation of certain pension income, and for other purposes.

S. 261

At the request of Mr. LAUTENBERG, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 261, a bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes.

S. 262

At the request of Mr. LAUTENBERG, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 262, a bill to require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a nonsmoking policy in buildings owned or leased by Federal agencies, and for other purposes.

S. 401

At the request of Mr. CAMPBELL, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 401, a bill to amend title 23, United States Code, to delay the effective date for penalties for States that do not have in effect safety belt and motorcycle helmet safety programs, and for other purposes.

S. 466

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 466, a bill to amend title XIX of the Social Security Act to provide for medicaid coverage of all certified nurse practitioners and clinical nurse specialists services.

S. 542

At the request of Mr. PRYOR, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to provide additional safeguards to protect taxpayer rights.

S. 815

At the request of Mr. LIEBERMAN, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 815, a bill to amend the Federal Water Pollution Control Act to provide special funding to states for implementation of national estuary conservation and management plans, and for other purposes.

S. 867

At the request of Mr. COHEN, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 867, a bill to amend title XI of the Social Security Act to extend the penalties for fraud and abuse assessed against providers under the medicare program and State health care programs to providers under all health care plans, and for other purposes.

S. 870

At the request of Mr. WELLSTONE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 870, a bill to protect children from the trauma of witnessing or experiencing violence, sexual abuse, neglect, abduction, rape or death during parent/child visitations or visitation exchanges, and for other purposes.

S. 923

At the request of Mr. DASCHLE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 923, a bill to amend the Public Health Service Act to provide a comprehensive program for the prevention of Fetal Alcohol Syndrome, and for other purposes.

S. 993

At the request of Mr. KEMPTHORNE, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. THURMOND], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 1125

At the request of Mr. DODD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1125, a bill to help local school systems achieve Goal Six of the National Education Goals, which provides that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by ensuring that all schools are safe and free of violence.

S. 1180

At the request of Mr. REID, his name was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to encourage the production and use of wind energy.

S. 1346

At the request of Mr. DECONCINI, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1346, a bill to amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royal Tribunal, and for other purposes.

S. 1350

At the request of Mr. REID, his name was added as a cosponsor of S. 1350, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1522

At the request of Mrs. FEINSTEIN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1522, a bill to direct the United States Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for hate crimes.

S. 1524

At the request of Mrs. HUTCHISON, the names of the Senator from Missouri [Mr. BOND], the Senator from Utah [Mr. BENNETT], the Senator from New York [Mr. D'AMATO], the Senator from Idaho [Mr. CRAIG], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Delaware [Mr. ROTH], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 1524, a bill to repeal the retroactive application of the income, estate, and gift tax rates made by the Budget Reconciliation Act and reduce administrative expenses for agencies by $3,000,000,000 for each of the fiscal years 1994, 1995, and 1996.

S. 1556

At the request of Mr. LEVIN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1556, a bill to require commercial television stations to maintain, and provide copies of, commercials and program promotions, and for other purposes.

S. 1571

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1571, a bill to improve immigration law enforcement.

SENATE JOINT RESOLUTION 41

At the request of Mr. SIMON, the names of the Senator from Missouri [Mr. BOND], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of Senate Joint Resolution 41, a joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month."

SENATE JOINT RESOLUTION 55

At the request of Mr. HATCH, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of Senate Joint Resolution 55, a joint resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

SENATE JOINT RESOLUTION 90

At the request of Mr. ROBB, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 90, a joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

SENATE JOINT RESOLUTION 130

At the request of Mr. KEMPTHORNE, the names of the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. THURMOND], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 130, a joint resolution designating October 27, 1993, as "National Unfunded Federal Mandates Day."

SENATE JOINT RESOLUTION 134

At the request of Mr. BIDEN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of Senate Joint Resolution 134, a joint resolution to designate October 19, 1993, as "National Mammography Day."

SENATE JOINT RESOLUTION 135

At the request of Mr. SIMON, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of Senate Joint Resolution 135, a joint resolution designating the week beginning October 25, 1993, as "World Population Awareness Day."

SENATE JOINT RESOLUTION 139

At the request of Mr. GRAHAM, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of Senate Joint Resolution 139, a joint resolution to designate the third Sunday in November of 1993 as "National Children's Day."

SENATE CONCURRENT RESOLUTION 31

At the request of Mr. DODD, the names of the Senator from New Jersey [Mr. BRADLEY], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Concurrent Resolution 31, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 155—RELATING TO ITALY'S COMMITMENT TO HALTING SOFTWARE PIRACY

Mr. HATCH (for himself, Mrs. MURRAY, Mrs. FEINSTEIN, and Mr. KERRY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 155

Whereas the software industry estimates that United States and European software firms lost more than $4,600,000,000 in sales in Europe in 1992 due to illegal piracy of their products;

Whereas the illegal piracy of software threatens the continued development of the software industry throughout the world and the availability of new and better products for computer users;

Whereas the illegal piracy of software causes significant tax revenue losses from lost sales and gives criminal organizations a new area of activity through the supply of counterfeit product;

Whereas the Government of Italy enacted new legislation in December 1992, to strengthen the protection of software under Italy's copyright law;

Whereas the Guardia di Finanza, the Carabinieri, and the Italian national police have recently undertaken a number of significant and highly successful antipiracy actions against illegal software use throughout Italy;

Whereas much of the software uncovered during these actions has been pirated copies of products of leading American software companies; and

Whereas the recent antipiracy actions by Italian authorities have resulted in a significant reduction in software piracy in Italy: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Government of Italy on its commitment to halting software piracy;

(2) congratulates the Guardia di Finanza, the Carabinieri, and the Italian national police for their continuing antipiracy actions; and

(3) expresses its hope that the Italian authorities will continue to prosecute software laws vigorously and that copyright agencies around the world will follow the example set by the people and Government of Italy.

Mr. HATCH. Mr. President, I am pleased to submit this resolution on behalf of myself and Senators PATTY MURRAY, DIANNE FEINSTEIN, and JOHN KERRY. I hope that we can act to agree to this resolution before we adjourn for the year.

This resolution commends the Government of Italy for actions taken over the past several months to combat the piracy of computer software. In December 1992, the Italian Government enacted new legislation to implement the European Community Software Directive and to strengthen the legal protection of computer software and other intellectual property rights. A new Italian copyright law provides statutory protection for computer software for the first time in Italy, and makes it a criminal act for users, including businesses, to copy software.

In March of this year the Italian tax authorities, the Guardia di Finanza, began to enforce the new copyright statute quite aggressively. As a result, computer software sales in Italy increased dramatically. Sales in Italy for the second quarter of this year were 161 percent higher than for the same quarter last year, after five straight quarters of flat sales in Italy. To United States software publishers doing business in Italy, this represents a revenue growth of some $40 million. If this increased sales level can be sustained, it will add approximately $150 million annually to U.S. export revenues.

The U.S. software industry is our Nation's fastest growing major industry and is one of our most competitive industries internationally. Some of the industry's leaders, Novell and Wordperfect, are headquartered in my home State of Utah. Overall, the U.S. software industry holds about 75 percent of the global market for prepackaged software, with $19.7 billion in foreign sales. One of the biggest threats to the continued success and growth of this industry is piracy. Worldwide losses due to software piracy are estimated to be $12 billion annually.

The Government of Italy deserves our praise and appreciation for their efforts. I hope that other countries will follow the strong leadership the people and the Government of Italy have demonstrated and take similar actions to stop the illegal piracy of computer software.

Mr. President, I hope that the Senate will have the opportunity to consider this resolution in the near future. Software piracy represents a worldwide problem and handicaps the ability of innovative U.S. firms to compete in the international marketplace. The recent actions of the Government of Italy is the kind of positive action that we want to commend and encourage other governments to follow.

AMENDMENTS SUBMITTED

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

HUTCHISON (AND OTHERS) AMENDMENT NO. 1081

Mrs. HUTCHISON (for herself, Mr. SHELBY, Mr. NICKLES, Mr. BENNETT, Mr. BURNS, Mr. COATS, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DOLE, Mr. FAIRCLOTH, Mr. GRAMM, Mr. HATCH, Mr. HELMS, Mr. KEMPTHORNE, Mr. KOHL, Mr. LIEBERMAN, Mr. LOTT, Mr. MCCAIN, Mr. MURKOWSKI, Mr. PRESSLER, Mr. ROTH, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, and Mr. BROWN) proposed an amendment to the bill (H.R. 3167) to extend emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . REPEAL OF RETROACTIVE APPLICATION OF INCOME, ESTATE, AND GIFT TAX RATE INCREASES.

(a) INCOME TAX RATES.—

(1) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR TAXABLE YEARS BEGINNING IN 1993.—In the case of taxable years beginning in calendar year 1993, each of the tables contained in subsections (a), (b), (c), (d), and (e) shall be applied—

"(1) by substituting '32.97 percent' for '39.6 percent', and

"(3) by substituting for the dollar amount of tax in the last rate bracket the dollar amount determined under such table by making the substitution described in paragraph (1).".

(2) CONFORMING AMENDMENTS.

(A) Sections 531 and 541 of the Internal Revenue Code of 1986 are each amended by inserting "(34.39 percent in the case of taxable years beginning in calendar year 1993)" after "39.6 percent".

(B) Paragraph (1) of section 55(b) of such Code is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULES FOR 1993.—In the case of any taxable year beginning in the calendar year 1993, subparagraph (A)(i) shall be applied by substituting—

"(i) '24.79 percent' for '26 percent' in subclause (I), and

"(ii) '25.58 percent' for '28 percent' in subclause (II)."

(C) Section 13201 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking subsection (d).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(b) ESTATE AND GIFT TAX RATES.—

(1) IN GENERAL.—Subsection (c) of section 13208 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "December 31, 1992" and inserting "August 10, 1993".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1993.

SEC. . REDUCTION IN ADMINISTRATIVE EXPENSES.

(a) BUDGET OBLIGATIONS.—

(1) IN GENERAL.—The amount obligated by all departments and agencies for expenses during fiscal years 1994, 1995, and 1996, shall be reduced by an amount sufficient to result in a reduction of $3,000,000,000 in outlays for expenses during each of the fiscal years f1994, 1995, and 1996. The Director of the Office of Management and Budget shall establish obligation limits for each agency and department in order to carry out the provisions of this section.

(2) DISCRETIONARY SPENDING LIMITS.—The discretionary spending limits for fiscal years 1994 through 1998 set forth in section 601(a)(2) of the Congressional Budget Act of 1974 shall each be reduced by $3,000,000,000 in fiscal year 1994, $6,000,000,000 in fiscal year 1995, and $9,000,000,000 in each of the fiscal years 1996, 1997, and 1998.

(3) NO NEGATION OF GENERAL AUTHORITY OF DEPARTMENT HEAD WITHOUT SPECIFIC REFERENCE.—Notwithstanding any other provision of this Act or any other Act (regardless of its date of enactment) that purports to direct the head of a department or agency to obligate an amount for salaries and expenses for the purpose of obtaining a particular service or good or to prohibit the head of a department or agency from obligating such an amount for any particular service or good, that law shall not be construed to impair or otherwise effect the duty and the discretion of the head of a department or agency to make determinations concerning which particular services of persons and which particular goods will be obligated for in the best interest of performing all of the duties assigned to the department or agency, unless that provision—

(A) makes specific reference to this paragraph; and

(B) states that it is the intent of Congress in that provision to negate the duty and discretion of the head of that department or agency so to make such determinations.

(c) DEFINITION.—For purposes of this section the term "expenses" means the object classes identified by the Office of Management and Budget in Object Classes 21–26 as follows:

(1) 21.0: Travel and Transportation of Persons.

(2) 22.0: Transportation of Things.

(3) 23.2: Rental Payments to Others.

(4) 23.3: Communications, Utilities, and Misc.

(5) 24.0: Printing and Reproduction.

(6) 25.1: Consulting Services.

(7) 25.2: Other Services.

(8) 26.0: Supplies and Materials.

Such term shall not include the expenses of the Department of Defense.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the use of risk analysis and cost-benefit analysis in setting environmental priorities.

The hearing will take place on Tuesday, November 9, 1993, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Heather Hart.

For further information, please contact Craig Gannett, 202–224–4820, or Mary Louise Wagner, 202–224–7570, of the committee staff.

ADDITIONAL STATEMENTS

SUPPORT FOR NAFTA

• Mr. SIMON. Mr. President, last Wednesday I met with President Clinton to inform him of my decision to support the North American Free-Trade Agreement. I offered the President my support for the administration's efforts to win congressional approval of NAFTA. After meeting with the President, I announced my decision on the South Lawn of the White House.

After the announcement, I explained my decision at a luncheon briefing at the Brookings Institution. I would like to thank both Brookings and the Inter-American Dialogue for cosponsoring the luncheon.

Before reaching my decision, I assessed the agreement's impacts on the State of Illinois, a State I believe is a microcosm of the Nation. After this study, I came to believe that NAFTA will strengthen the Nation's economy. I have concluded that NAFTA's overall benefits to this generation and to future generations make this a fight worth spending political capital to win.

I also believe that, in association with NAFTA, we need to make new investments in education and job training to equip U.S. workers to take maximum advantage of new trading opportunities under NAFTA and around the world. Much of the American middle class is in agony over the economic changes and dislocations of recent years. We need to demonstrate to middle-class Americans that Government is on their side.

Mr. President, at this point, I ask to insert my NAFTA speech into the RECORD.

The article follows:

REMARKS OF SENATOR PAUL SIMON ON HIS SUPPORT FOR THE NORTH AMERICAN FREE TRADE AGREEMENT, OCTOBER 20, 1993

The proposal for a North American Free Trade Agreement has evoked a greater barrage of surveys and analyses than any issue I can recall in my eighteen years in Congress, though I am sure the health care proposal will eventually surpass it.

People whose judgment I trust draw directly contradictory conclusions. The issue inspires fear on the part of many and hope for others. My study of the NAFTA agreement began skeptically. I voted against the fast track authority passed two years ago, fearful that the administration then in power would not adequately protect the interests of our nation's working men and women.

Three members of my staff who have primarily worked on this knew that I would spend the past weekend pounding on my old manual typewriter, formulating a position. I asked them where they felt the merits of this issue rest, and all three said it would be good for the nation. But all three advised me that politically the advantage is on the side of opposition.

That seems to me an accurate summary of where we are. And if that is correct, those of us in the Senate who believe NAFTA will be good for the United States need to provide leadership so that our colleagues in the House who are wavering know that they are not alone. Political prudence for Senators requires silence. Political leadership requires a stand. Illinois is an economic microcosm of the nation. By studying its impact in Illinois, I have come to believe that NAFTA will strengthen the nation's economy. I have concluded that NAFTA's overall benefits to this generation and to future generations make this a fight worth spending political capital to win.

Here is how I arrived at my position.

First, the unspoken premise of some opponents is clearly that there are only so many riches to spread around this region of the world, and if we permit our neighbors to the south to have more, we will have less. It is the same false assumption that those who wrote about population two centuries ago had: There are only so many goods to be divided, and if you increase the population, gradually everyone will become poorer. The average person in the world today has a much higher standard of living than in those days, and our population has grown tenfold. After World War II, the United States was by far the wealthiest nation, and Western Europe and Japan were miserably poor. I can remember staying at a small hotel in Spain where, for one American dollar, I received my room and three meals, including steak for dinner. Today the average American income is two and one-half times greater than it was then, after adjusting for inflation, and many of our friends in Western Europe now have average wages higher than ours. We have moved ahead economically and so have they. Clearly the economic prosperity of Western Europe did not come at the expense of the United States.

I start, then, from a different premise than some who oppose the agreement. I recognize that both Mexico and the United States can benefit, but reciprocal gains are not automatic. If they were, we would not between us have the greatest disparity in the standard of living of any two neighboring nations.

There are several questions that need to be answered:

What will be the job impact of such an agreement on the United States?

The short-term impact is clear. It will create jobs in the United States and raise the standard of living of most people in both nations slightly. With an average Mexican tariff on U.S. goods of between ten and twelve percent, and an average U.S. tariff on Mexican goods of four percent, when the tariffs on both sides are removed, the United States is the larger immediate job beneficiary. On auto parts, for example, the U.S. has a tariff of less than one-half of one percent, but Mexico has a tariff that averages thirteen percent. When you drop both tariffs, Mexico gains with cheaper auto parts, and the United States benefits in jobs. Even though Mexican tariffs are highr than ours, in 1992, we had a trade surplus with Mexico of $5.4 billion, the largest trade surplus we have with any nation other than the Netherlands. Our primary trade deficits are not with low-wage countries but with high-wage trading partners, Japan being the number one example. As Secretary of Labor Robert Reich has written, "If low wages were the key to where manufacturers locate, Bangladesh and Haiti would become the manufacturing capitals of the world." George Fisher of Motorola speaks for many of today's and tomorrow's industries when he says, "The days of chasing low-cost labor are over." Of the ten nations with whom we have the largest trade deficits, our highest deficit with Japan is more than the next seven nations combined, and when the three oil-exporting countries are eliminated from the ten big deficit nations, of the remaining seven, five are high-wage nations, and two are low-wage countries."

The myth that NAFTA will result in a huge transfer of plants to Mexico is exactly that: a myth. There are economic advantages for that transfer now that will not be there after NAFTA is approved. There will be U.S. investments in infrastructure there—in telephones, for example—that will create jobs in Mexico, but should not result in job loss here. And generally, U.S. companies—like all companies—invest primarily where there are skilled workers, not where there are low wages. Three-fourths of our foreign investment is in developed countries, primarily Canada and Europe, where wages are often higher than ours.

The NAFTA agreement may temporarily stem the flow of some plants to Mexico. Gatorade, made by an Illinois corporation, Quaker Oats, has major sales in Mexico, but Mexico has an eighteen percent tariff on Gatorade made in the United States. If the NAFTA agreement is approved, the Gatorade plant will remain in the United States. If it is not approved, they will build a plant in Mexico.

General Motors faces a similar decision. Our tariff on Mexican-made cars is 2.2 percent. Their tariff on our cars is twenty percent. The American Automobile Manufacturers Association says that if Congress approves NAFTA, that will boost exports to Mexico of U.S.-built cars and parts by $1 billion the first year, increasing U.S. jobs by 15,000. Only one of sixteen Mexicans owns a car. As their standard of living rises in coming years, this will be a huge market for us. There are those who argue that Mexican citizens are too poor to afford any significant amount of U.S. goods, that NAFTA will open a market that does not exist. The facts are that of Mexico's 90 million people, many are poor, but with its growing middle class, Mexico is buying seventy percent of their imports from the United States. As a nation, Mexico purchases more U.S. goods than any of our trading partners in Europe or Japan.

Caterpillar says signing the agreement will mean 1,200 more jobs in Illinois. If NAFTA is approved, the ten to twenty percent Mexican tariffs on Caterpillar products will be dropped but not on Caterpillar's principal competitor in Japan, with clear benefits to our country. A sample of my mail from other Illinois companies illustrates the potential: L.R. Gross of Nalco Chemical in Naperville writes: "NAFTA will help Nalco create high-skill jobs in the area of production, distribution, sales, marketing and research. Every additional $1,000,000 in sales creates four to five new Nalco jobs. The majority of these jobs will be in the United States." Lauren S. Williams of the NutraSweet Company of Deerfield says: "NAFTA will have significant positive benefits for the NutraSweet Company. . . . We have no plans to manufacture our products in Mexico when NAFTA is implemented. Our ingredients are imported into Mexico and incorporated into products by local food manufacturers. And we see great potential for growth in this market. For example, while Mexico has per capita soft drink consumption second only to the United States, the diet portion of the market is only about two percent, compared to almost thirty percent in the U.S." John Kennedy of James Electronics in Chicago: "NAFTA will have no effect on a manufacturer's decision on opening plants in Mexico. We can do it today with or without the treaty. . . . I established a sister plant in Mexico in 1989 . . . 125 miles south of the border. It has not taken jobs from Chicago, but has added over 100 jobs here." John Bryan of Sara Lee, based in Chicago: NAFTA will "create additional higher-paying jobs in U.S.-based yarn and textile operations." Richard White of Flexible Steel Lacing in Downers Grove: "The elimination of Mexican tariff barriers will greatly improve our access to the fastest growing market in North America. Our sales in Mexico have grown 60 percent since 1992, and with NAFTA could triple between 1991 and 1995. 95 percent of Flexco products sold in Mexico are made in the U.S. . . . Additional unit sales volume to Mexico will help to lower our overall operating costs and enable further employment growth in Downers Grove, as well as providing us a stronger competitive position in other world markets." Charles T. Wegner IV of Jel Sert in West Chicago says that they "have achieved only a modest presence in Mexico. . . . The economic and regulatory unpredictability make it imprudent to commit to any significant or long-term activity." But he writes that if NAFTA is approved, they expect a major effort in Mexico and additional jobs in our country. Sundstrand of Rockford has 2,900 Illinois employees and a total of 11,000 employees. James F. Ricketts writes: "NAFTA will have a positive impact upon employment levels both in the Sundstrand United States' facilities and in the joint venture operation in Mexico." John Thompson of IBM's Chicago office: "In 1992, IBM did approximately $1 billion worth of business in Mexico. This was a 53 percent growth rate over 1991. . . . which is occurring in an environment of 10 percent to 20 percent tariffs on those exports. With the elimination of Tariffs under NAFTA, IBM will have an even greater opportunity for exports, which translates into stronger demand for IBM's U.S. manufacturing facilities." Stuart Scheyer of the Decorel Company in Mundelein, the world's largest manufacturer of picture frames, writes: "We recently made a significant investment in Mexico, a 60,000-foot factory in Durango, Mexico with 200 employees. . . . The 200 jobs that we have in Mexico are in addition to an increase in workers that we have in the Chicago area. We have not transferred a single job from the United States to Mexico." He notes that he is moving jobs from Asia in Mexico and the United States and adds: "A Mexican worker purchases U.S. products. A Far East worker does not." Illinois is the nation's leading candy manufacturing state. The National Confectioners Association estimates that the elimination of the twenty percent candy tariff by Mexico will create 750 additional jobs in Illinois. Kent Kleinschmidt of the Illinois Corngrowers expects an increase of twenty cents per bushel in the price of corn because of NAFTA and a savings to taxpayers of $1.2 billion in farm subsidies. All agriculture, with the exception of fruit and vegetable farming, is expected to benefit. Other industries that will benefit from NAFTA include machine tools and auto parts, major factors in our nation and in my state.

Illinois exports to Mexico increased 384 percent between 1987 and 1992. In terms of short-term job creation, NAFTA is a plus, but some industries and people will be hurt, and we must not ignore that reality. Much of the American middle class is in agony over the economic changes and dislocations of recent years. Families have seen their economic security slip, and many have become bitter and cynical toward a government that has seemed to do nothing to come to their aid.

NAFTA will not address the economic pain of the middle class in a meaningful way. This is not a reason to oppose NAFTA; but it places a moral obligation on NAFTA's supporters to develop a coherent plan and policy to restore economic opportunity and security.

In the medium-term, Mexico will experience more job growth than the United States as a result of the NAFTA agreement. As it becomes clear under NAFTA that there is an increasingly stable political and economic situation in Mexico, there will be more Mexican money invested in Mexico, and more money will be invested by Asian, Western European and U.S. interests. There will be some shifting of plants, particularly from Asia, to Mexico. Zenith has already announced that it will shift some television production from Taiwan to Mexico. As NAFTA increases the standard of living for people in the large U.S.-Canada-Mexico market, corporations around the world will want to sell in this market. The U.S. and Canada now have an edge over Mexico in skilled workers, but that advantage is likely to diminish over the coming years as Mexico stresses education. The United States has significant transportation advantages that will bring many of these new businesses to us, but Mexico is likely to be experiencing greater growth a decade from now, both in numbers of jobs and in its standard of living. As the General Accounting Office report accurately summarizes: "Economic researchers in general agree that NAFTA would bring a small overall economic benefit to the U.S. and Canadian economies, and a larger benefit to the Mexican economy." Under NAFTA, what helps Mexico in the medium-term ultimately helps the U.S.

Long term—thirty years from now—all three nations are likely to experience significant growth if all three stress developing a more skilled workforce and put their fiscal houses in order. The standard of living in Mexico is not likely to be as high as we have in the United States, but the gap in the quality of life will have diminished markedly. That will make Mexico a significantly larger purchaser of U.S. products. That means jobs.

The closest comparison to the NAFTA agreement that might provide insights is the affiliation of Spain, Portugal, Ireland and Greece with the European Community—four poorer nations joining a wealthier central body. The average growth rate of the four exceeded the growth rate of the other nations of the European Community by 3.7 percent to 2.8 percent. The affiliation of the four nations did not harm the central body.

However, it is easy to exaggerate—on both sides—the impact on NAFTA. It will have an impact that is generally positive, but it is not a patent-medicine cure-all for what ails us. The International Trade Commission estimates that by the end of the first year of NAFTA, there will be a net increase of 171,000 jobs in the United States, not a huge number in a nation of 240 million people. That would reduce our unemployment rates less than two-tenths of one percent. One important fact should be remembered: Whether NAFTA is approved or not, if we don't improve the skills of our work force and pay attention to the nation's fiscal problems, we will suffer a continued gradual decline in our standard of living. If we do a better job of preparing our work force and have the courage to face our fiscal deficit, we will experience an increase in our quality of life. No elixir of NAFTA or anything else is a substitute for addressing our education and fiscal problems.

What about illegal immigration?

Mexico today has a population of approximately ninety million people. Despite a declining birth rate, eventually, Mexico will achieve a total population of more than 200 million. Nothing speeds a decline in a national birth rate as much as an increase in the standard of living. Lifting the quality of life through NAFTA, therefore, will relieve population pressures and lessen the expected growth of illegal immigration. And the growth in job opportunities and wages reduces the attraction of employment in the north. The commission to look at illegal immigration, established by Congress in 1986, urged a free trade agreement between the United States and Mexico, calling it "the single most important long-term remedy to the problem." Few Mexicans come into the United States illegally because they like our cultural life; they come because they have little opportunity to earn a decent living in the country of their birth. NAFTA will not solve the illegal immigration problem, but it will assist in its solution.

Are there U.S. foreign policy considerations in this vote?

The United States has been fortunate to be bordered by two oceans, by a nation to the north we generally do not regard as a foreign nation, and a nation to the south that we have largely ignored. To continue down that path of indifference increasingly will be as difficult as it is wrong. A rebuff to NAFTA would hurt us in Mexico and in all of Latin America. Our historic cold shoulder to Mexico has been a burden to Mexico but will be a burden to us if it is continued. Former Speaker Jim Wright of Texas has written: "Not in the past 75 years has Mexico's elected leadership been so staunchly and outspokenly pro-U.S." However if NAFTA is turned down, Mexico is not likely to simply smile and docilely accept our position. If we muff this opportunity, Mexico is likely to enter into a free trade agreement with Japan or some other major economic entity. That would not be good for the United States and not as good for Mexico as a trade agreement with us, but we should be aware that you can wound the pride of a nation only so many times before it looks for other friends. If Henry Kissinger is correct that this nation "has never had a neighbor of the importance Mexico will acquire in the next century," we should weigh NAFTA carefully, recognizing that approving it will help Mexico achieve greater stability in both politics and economics. That is in our self-interest.

What about the environment factors?

Environmental groups are split on this. Improvement would come in the border area; right now that is a mess. NAFTA would cause a significant increase in the use of natural gas in Mexico, reducing the emission of carbon monoxide, nitrogen oxides, sulfur dioxide and carbon dioxide. How effectively and strictly Mexico would enforce the environmental side agreement is not clear, though it is a good gamble that the National Wildlife Federation, the World Wildlife Fund, the Nature Conservancy, the Audubon Society, the Environmental Defense Fund, the Natural Resources Defense Council and Defenders of Wildlife have all endorsed NAFTA. What is indisputable historically is that as democracies have increased their living standards, they have become more sensitive to environmental factors, and NAFTA will increase the standard of living in Mexico.

What about those working men and women and businesses who will be hurt by NAFTA?

It is both morally right and smart policy to provide assistance to those harmed by NAFTA.

Assistance to businesses should be planned through loans that are not available through conventional credit sources. The Small Business Administration can help, though most businesses should find assistance from the traditional thrift institutions.

The problem of working men and women is more complex. It is a problem with or without NAFTA. Economic dislocations—and the absence of any serious policy response from the federal government—have created an enormous need for a program of economic relief and revitalization. This is complicated by an increasing bitterness and cynicism toward government that has seemed to sit idly by while our living standard has declined.

Such a program must include a serious retraining program for dislocated workers. Our economy is too dynamic, too globally linked for us to afford not to provide life-long training and retraining for our workers. That will only work if there are jobs waiting for those trained. We need to invest more in technologies; expand and accelerate improvements in our highways, water and sewer systems; promote high-speed rail and the information superhighway, and insist that our trading partners expand access to their markets for our products. We also must get our fiscal house in order: stop running huge deficits, and reduce the growth in our national debt, lowering the cost of capital and lifting our overall economy.

We need to demonstrate to middle-class Americans that government is on their side.

But this problem goes beyond just the middle class. More than one-fifth of the children of this nation now live in poverty, and the number is growing. No other Western industrialized country has such a miserable record. This is not the result of an act of God but the result of flawed policy. We have increasingly segregated the nation economically, and as fewer and fewer of the poor are our neighbors, it is easier and easier to ignore them. And our system of financing election to public office makes political leaders more and more responsive to the economically powerful and less and less responsive to our poorer citizens. NAFTA gives us an opportunity to reexamine our policies.

President Clinton says he wants welfare reform. So should we all. But there is no short-term, inexpensive way of achieving genuine reform. What we need is a federal jobs program similar to the old WPA. Anyone out of work five weeks or longer should have an opportunity to work on local projects four days a week at the minimum wage, and the fifth day, he or she should be trying to find a job in the private sector. At the current minimum wage, four days a week would mean $535 a month—not a great deal of money—but the average family on welfare in Illinois receives $367 a month; in Mississippi, $122 a month. Then, screen people as they come into the program, and if they cannot read and write, get them help; if they have no high school equivalency, enroll them where they can receive assistance; if they have no marketable skills, get them into a community college or a training program that gives them a marketable skill. We have a choice of paying people for doing nothing or for doing something, and we have made the wrong choice, both for them and for our society. We need to invest in our people. In every community of unemployed, we have large unmet needs. Why not convert the liability of unemployment into a great national asset as the nation did almost six decades ago? Such a program would have one additional, huge advantage over the present welfare programs. Our colleague Senator Daniel Patrick Moynihan has written eloquently about the breakdown of the family among the poor. Our present welfare programs reward parents of children for not living together. A modified WPA program would do the opposite. Not only would one member of the household be eligible for the $535-a-month job, two members would be eligible, bringing the family income to a more livable $1,070 a month.

Business leaders who are promoting NAFTA would find a more receptive congressional audience if they combine their NAFTA support with support for those who are hurting in our society. A Band-Aid training program is not enough. President Clinton would find it easier to sell a combined program of NAFTA and jobs to selling NAFTA alone.

* * * * *

Columnist Carl Rowan, four weeks ago, wrote: "When fear is at war with promises and hopes, fear almost always triumphs. And NAFTA is being assailed by some very potent peddlers of fear. . . . Twelve Nobel Prize-winning economists have endorsed this free trade agreement. . . . I don't believe anyone will suffer in the long run from a trade pack that makes Mexico a more prosperous country and offers reasons for its citizens to stay home." (Chicago Sun-Times, September 19, 1993.)

We cannot reinvent yesterday. The world's economy is moving on. We can hunker down and let it pass over us as we see our standard of living decline, or we can welcome the challenge of tomorrow and the opportunity to work with other nations as we rebuild our own. NAFTA offers us an opportunity to follow the wiser course. Let us work with Mexico—and also with the underdeveloped nation within our borders.●

RECOGNITION OF CAMPAIGN FOR HEALTHY BABIES

● Mr. COATS. Mr. President, Indianapolis, the capital of my home State of Indiana, is one of the Nation's most livable communities. Indianapolis is located in the heart of Marion County, a historic, growing region with a vibrant economy and a deep commitment to building strong families.

It is this commitment that motivated Marion County residents to initiate their Campaign for Healthy Babies in 1991. The campaign began as a result of a disturbing study of infant mortality among Marion County's African-American population. The study showed that in 1987, the county's black infant mortality rate was the highest among the Nation's big cities, at 24.2 deaths per 1,000 births.

Needless to say, the tragedy reflected in this statistic could not stand. So the campaign decided to take several important steps to safeguard the lives of pregnant black women and their unborn children. Among them were:

A commitment to educate the city's populace of the need for sound prenatal care and healthful habits during pregnancy;

A program to recruit volunteers who could link with at-risk mothers, advocate for them, and transport them to care;

And an effort to draw at-risk mothers to prenatal care and help them gain access to the medical and health services they need.

Mr. President, in a word, the program is succeeding. Hoosiers throughout Marion County rallied to the cause and went to work. In the first 7 months of this year, the infant mortality rate among Indianapolis' African-American community has fallen to 11.2 percent—still too high, but a dramatic improvement from just a few years ago and only about half the rate from 1992.

And there is more good news: The number of black babies with very low birth weights has dropped to 1.9 percent this year, compared with 3.1 percent for 1992.

The Campaign for Healthy Babies performs the finest service any governmental agency can offer: It saves lives. The staff of the campaign and its many volunteers deserve our thanks, our esteem, and our recognition.●

HEALTH CARE COSTS CAN AND MUST BE CONTAINED

● Mr. DASCHLE. Mr. President, I commend to my colleagues' attention an excellent article featured in the Wall Street Journal last week as part of its "Health Care Second Opinions" series. In this article titled "A Billion Here, A Billion There," Prof. Uwe Reinhardt, a professor of political economy at Princeton, challenges President Clinton's critics to explain why the Clinton cost containment provisions are too ambitious. Indeed, as Professor Reinhardt states, the "burden of proof ought not to rest with the President."

I could not agree more. It amazes me that some believe we cannot keep health costs within 17 percent of gross domestic product. In fact, I would like to think that we can do better than this, but I realize that cutting the rate of growth in spending cannot and will not happen overnight.

But we must act now, for we face a genuine health care crisis. This is not the time to chastise the President for making a serious attempt to contain skyrocketing health costs—something others have refused to do. If we do not act soon to pass comprehensive reform that includes real cost containment, millions of individuals, businesses, and the economy as a whole will continue to suffer.

Professor Reinhardt makes a strong case for the President's approach on, and goals for, cost containment, and he rightly challenges the critics to explain why we cannot—or should not try to—hold down and health care cost inflation. I ask that the article be printed in the RECORD and I urge my colleagues to listen to Professor Reinhardt's advice and challenge the naysayers and the critics of genuine reform who believe we cannot achieve the worthy cost containment goal the President has set before us.

The article follows:

[From the New York Times, Oct. 18, 1993]

A BILLION HERE, A BILLION THERE

(By Uwe E. Reinhardt)

PRINCETON, NJ.—The Congressional Budget Office forecast last spring that, at current trends, the United States will spend 19 percent of its gross national product on health care in the year 2000, up from 14 percent today. "Impossible!" shouted America's pundits. That level of health spending, they said, would bankrupt the country.

This fall, President Clinton proposed to bring that projected growth down to year 2000. "Impossible!" shouted America's pundits. Such a steep decline in spending would lead to rationing of care, they argued.

While Americans are thus meandering from despair over the prospect of deprivation at 17 percent to angst over financial collapse at 19 percent, no other industrialized nation would even contemplate spending as much as 17 percent of its G.N.P. on health care, and none of them spends even 10 percent today.

Why, then, should President Clinton be made to show 17 percent is an implausible goal? It is the President's critics who should demonstrate that it is unattainable.

Let us examine the projected cuts in spending on Medicare, the health insurance program for America's elderly. For that program, the President would allow annual spending to increase from $128.8 billion in 1993 to as much as $207.8 billion in the year 2000. That represent an average annual compound growth rate of 7.1 percent. Can America's physicians really look the taxpayer in the eye and argue that, even accounting for inflation, $207.8 billion they could not treat the elderly properly in the year 2000?

To put that question in perspective, consider some fascinating data published in The New England Journal of Medicine on March 4, 1993. The authors of an article on Medicare spending in cities found that, in 1989, after adjusting for differences in age and gender, Medicare payments for doctor's care, per beneficiary, varied from lows of $822 in Minneapolis, $872 in San Francisco and $954 in New York City to highs of $1,493 in Detroit, $1,637 in Fort Lauderdale and $1,874 in Miami.

Should not America's physicians, and the legislators from the high-cost states, be made to defend these differentials to the taxpaying public? Suppose Congress arbitrarily slashed Medicare reimbursements for Miami physicians by a global 20 percent. Even after this budget cut, Miami physicians would still be absorbing 57 percent more Medicare dollars per beneficiary than would their colleagues in New York, and over 80 percent more than their colleagues in Minneapolis.

Consider another point. Many critics argue that the 37 million currently uninsured Americans could not possibly be accommodated at spending levels of "only" 17 percent of the G.N.P. Oddly enough, some of the same critics also assert that these Americans merely lack health insurance, not health care, for they allegedly receive adequate treatment at the expense of paying patients to whom the cost of that charity care is shifted.

But if the uninsured already get the care they need, why should insuring them all of a sudden break the national bank? On this point, too, opponents of the President's health care plan should try harder to get their stories straight.

The Clinton Administration's proposal is complex enough to offer any would-be critic many targets of opportunity. It is puzzling that the spending forecast is chief among them. Sure, the President could explain his forecast better than he has so far; the secrecy surrounding the basis of his numbers is puzzling. But the burden of proof on this issue ought not to rest with the President. It rests on the shoulders of his critics, for it is they who have much explaining to do.●

THE NUISANCE ABATEMENT PROGRAM IN COOK COUNTY, IL

● Mr. SIMON. Mr. President, the nuisance abatement program in Cook County is fighting drug crime in Chicago in an innovative way. The program, carried out by the Cook County State's attorney's office, uses civil eviction laws to remove drug dealers entrenched in housing projects and illegitimate businesses. Through the combined effort of the State's attorneys office and the Illinois delegation, I am pleased to report that this outstanding program, which was no longer eligible for Federal assistance, will continue to be eligible for Federal funding for another year. I am optimistic that this additional year of eligibility will be of great help to the program.

I thank Chairmen HOLLINGS and SMITH, as well as Chairman BROOKS in helping in this effort and ask that the following article, which describes the effectiveness of the nuisance abatement program, be included in the RECORD: "Pushing Out Pushers, the Chicago Way," the Christian Science Monitor, October 13, 1993.

The article follows:

Pushing Out Pushers, The Chicago Way

(By James L. Tyson)

CHICAGO.—The steady hum of lawn movers mixes with children's laughter in west Chicago, suggesting idyllic pride and security in workaday America. Carefully swept walks in the Northwest Austin neighborhood lead through beds of marigolds, zinnias, and tight-clipped hedges to the welcome of broad front porches.

But the trim stucco or red-brick homes conceal the incursion of narcotics into another seemingly solid Chicago neighborhood. Over the past several years, drug dealers have moved into many homes in the area, bringing theft, stabbings, and gunfights with them.

Neighborhood leaders in a grass-roots movement have fought back using building codes and narcotics laws with the aid of lawyers at the narcotics nuisance abatement unit in the Cook County State's Attorney's Office.

By warning or suing landlords who are connected with the drug dealing, knowingly or otherwise, the residents of Northwest Austin and county lawyers have shut down 15 drug dens.

In 35 other sites out of the 130 households in the small enclave, they have pressured landlords into voluntarily evicting pushers and addicts. They have flushed the dealers into the streets, where some of the dealers still remain active but are more conspicuous.

"We call it going from dope to hope," says Leola Spann, president of the Northwest Austin Council and a leader of the council's first legal assault on a drug den in 1990. Countywide, the narcotics unit has driven dealers from several hundred drug dens.

Now, however, Mrs. Spann and other residents may have to face the pushers alone. Under a restriction in the Anti-Drug Abuse Act, Congress next year is scheduled to cut $564,000 of the $754,000 annual budget for the county's drug-abatement unit.

Northwest Austin would try to make do by seeking pro bono help from law schools in Chicago, says Elce Redmond, executive director of the Northwest Austin Council. But a budget reduction for the abatement unit would hamper the neighborhood battle against drugs.

"We definitely need it [the abatement unit]," Spann says.

"Community groups are not the best tool we have to go against drugs, we don't have the resources to do the legal work or the research," she says.

The state's attorney's office is urging Congress to exempt the abatement unit from a sunset provision that limits funding to the four years ending July 31, 1994. With the help of Sen. Paul Simon (D) of Illinois it is asking that Congress allow the unit to reapply for funding in future years from the Illinois Criminal Justice Information Authority.

"It will be a long shot," says Jeff Travis, spokesman for the Illinois authority. He says Congress will probably deny the exemption in order to forestall a flurry of copycat requests from similar efforts across the country.

The unit will also probably encounter a skeptical ear from the White House, adds Mr. Travis. The Clinton administration has indicated that it will strengthen drug treatment rather than emphasize heavy law enforcement in its efforts against narcotics.

But Jack O'Malley, the Cook County State's attorney, says that Attorney General Janet Reno has voiced support for the unit and says her office will consider ways to sustain its funding.

Mr. O'Malley depicts the abatement unit as a novel hybrid of hard and soft tactics against drugs. Instead of treating narcotics users, it treats neighborhoods by encouraging self-confidence and empowering citizens to drive out pushers, he says.

"I'm absolutely convinced that we can have all the hard-line enforcement we want, but we will not turn the tide," O'Malley says.

"What we must do to ensure that the segment of the population that is intolerant toward drugs is the segment in control. This [the abatement unit] is an incredible useful tool for them," he says.

After years of watching violence spiral and property values decline, the Northwest Austin Council took the offensive against drug dealers in September 1990. Upholding a little-known law called the Controlled Substance and Cannibis Nuisance Act, it sued a woman who ran a neighborhood narcotics den from her jail cell.

Under the law, the owner of a property must halt narcotics activity of face a possible court order requiring that the property be vacated and boarded up for a year.

The successful suit cleared the way for several more. Today, landlords can be compelled to evict narcotics dealers just with a letter or a warning.

By working with the unit, many people in Northwest Austin have revitalized their civic spirit and confidence. "People know they have tools to fight back and it gives them a sense of hope that things are not going to fall by the wayside and their neighborhood won't be totally besieged," Mr. Redmond says.•

HONORING JOHN GAGLIARDI

• Mr. DURENBERGER. Mr. President, I rise today to honor one of the most distinguished coaches in the history of college football—John Gagliardi of St. John's College in Collegeville, MN.

If I do not say that he is the best coach in the history of St. John's, it is because my dad, George Durenberger, coached there before him—and there is a lot to be said for family loyalty.

But it remains a cause for the Durenberger family pride that my father hired Coach Gagliardi—who has coached more college football victories than all but four other individuals. As the fifth-winningest coach ever, he won his 300th game last Saturday at Bethel College.

It was wonderful to be there last Saturday with so many friends and supporters of Coach Gagliardi. The hearts of Minnesota were with Gagliardi and the Johnnies as they beat Bethel by a convincing score of 77 to 12.

I know that my colleagues will join me in applauding what has been a terrific 41-year record of excellence—and in wishing Coach Gagliardi all the best as he and the Johnnies face St. Thomas for win number 301 this Saturday.

One thing for sure: The story of the Gagliardi years has many wonderful chapters that remain to be written.

I ask that a profile of John Gagliardi from the Pioneer Press Daily of October 15 be included at the conclusion of my remarks.

The article follows:

[From the Pioneer Press Daily, Oct. 15, 1993]

Gentle Giant of Collegeville

(By Mike Augustin)

COLLEGE HONOR ROLL—FOOTBALL'S MOST WINNING COACHES

1. x-Eddie Robinson, Grambling State, 383–138–16.
2. Paul 'Bear' Bryant, Alabama, 323–85–17.
3. Amos Alonzo Stagg, Pacific, 314–199–35.
4. Glenn 'Pop' Warner, Temple, 313–106–32.
5. x-John Gagliardi, St. John's, 299–95–10.
6. x-Ron Schipper, Central of Iowa, 257–61–3.
7. x-Joe Paterno, Penn State, 252–67–3.
8. Woody Hayes, Ohio State, 238–72–10.
9. Bo Schembechler, Michigan, 235–65–8.
10. Arnett Mumford, Southern, 283–85–23.

X—active.

John Gagliardi coaches football on a picturesque campus in remote Collegeville, Minn. It has been years since he left his office to recruit.

Yet Gagliardi has a larger profile than many coaches in Division I. He is a bigger-than-life figure in small-college circles.

Now in his 41st season at St. John's and 45th as a college coach, Gagliardi has attained this rare position by winning games at an astonishing rate while adhering to a unique system that other coaches say cannot work.

He has endeared himself to hundreds of players because he has convinced them they can be more than they dreamed. He has won many in the media by treating life as a minefield ready to explode in his face. Gagliardi's gallows humor while exorcising his demons is legendary.

Now Gagliardi stands one victory away from a numerical achievement that will forever place him among the giants of college football. At 299–95–10, he needs one more victory—maybe Saturday at Bethel—to become the fifth college coach ever to win 300 games.

The four men who have already reached that milestone constitute a Who's Who of the game—Eddie Robinson (383), Bear Bryant (323), Amos Alonzo Stagg (314) and Pop Warner (131).

"If I had known 300 was such a big deal, I would have scheduled more games in those years we only played eight or nine," said Gagliardi, whose team is 5–0 this season. "Three hundred means longevity and winning consistently—that's all."

A YOUNG START

Gagliardi began coaching as a high school senior in Trinidad, Colo. The regular coach was drafted into service during World War II and Trinidad Catholic considered dropping football. Gagliardi persuaded authorities to let him be player-coach. He won his first conference championship at age 16 while playing halfback.

He coached three more years at Trinidad Catholic, then two at St. Mary's High School in Colorado Springs while attending Colorado College. His prep teams were 32–17 and won four conference championships. "I went past 300 a long time ago, counting high school," Gag says.

He joined the college ranks in 1949, coaching three sports at Carroll College in Helena, Mont., for $2,400. Minnesota's coach was Bernie Bierman. Bud Grant was still a player. So was Jim Malosky. Gagliardi's first college team was 6-1 and won the first of three conference championships in four years.

During that time, Gagliardi met Bill Osborne, a high school coach in Billings who had been a three-sport star at St. John's. Osborne recommended Gagliardi for the St. John's job in 1953.

Gag's predecessor was Johnny "Blood" McNally, a former St. John's player who had become known as Green Bay's "Vagabond Halfback" and earned a spot in the Pro Football Hall of Fame.

Gagliardi remembers McNally pulling him aside when he arrived in Collegeville for his interview. "He whispered, 'It is impossible to win here. The monks don't want to give you a damn thing.'" Gagliardi says.

St. John's had played football since 1900 and its record was a modest 121-105-14. McNally was 13-9 in three seasons. The Johnnies had not won a MIAC title since 1938 when George Durenberger, father of Sen. Dave Durenberger, was the coach. Gagliardi's 1953 squad tied for the championship with Gustavus.

"There was something about him, we just knew we would win. He was a natural leader," says Jim Lehman, star running back on Gagliardi's early SJU teams and father of PGA Tour golfer Tom Lehman.

A WINNING FAMILY MAN

Gagliardi was a 26-year-old bachelor with dark, wavy hair when he took the St. John's job. He cut a dashing figure in the singles haunts around St. Cloud.

On May 17, 1955, he dated Peggy Dougherty, a nurse for the first time. He went home to Colorado that summer, and when he came back in August he brought along a diamond.

"We scheduled the marriage three times and John kept calling it off," Peggy says. "First he needed surgery, then he claimed the date conflicted with Christmas vacation. I finally said we will do it or we won't do it, but no more delays. We were married on Valentine's Day in 1956."

Family and football are the two things into which Gagliardi pours his energy.

"The only time I thought seriously about leaving coaching was when my family was young," he said. "I was selling life insurance on the side and made more money in three months than I did all year in coaching."

After their four children had grown, Peggy became John's secretary in the athletic office. They have seven grandchildren.

Through the years Peggy has been an ideal sounding board for John's busy mind. John calls her his best friend. Antoinetta Gagliardi, 91, John's mother, sits by her phone in Colorado each Saturday, clutching her rosary and waiting for a call from her son with the afternoon's score. She has never seen a St. John's game. Brother Mark Kelly, a Benedictine monk who has been the coach's right-hand man, is a fixture in the extended family.

A DIFFERENT PHILOSOPHY

The Johnnies have the fewest assistant coaches in the MIAC—four, including Gagliardi's youngest son, Jim, the only aide who helps John with the offense. Gagliardi doesn't cut players, and usually has 130 or more on the roster. He entrusts the upperclassmen with teaching the system to the newcomers.

Jerry Haugen played four years at St. John's establishing records for kick returns and interceptions. He has coached at SJU in various capacities, including head baseball and football assistant for 18 years.

Haugen runs the defense, though Gag retains veto power.

"Legend has it I was the last player John visited at home, other than Rick Bell," Haugen said. "Coming out of Armstrong High School in 1971, I had a baseball offer from Dick Siebert at Minnesota. In the back of my mind I wanted to play football. My dad was a Johnnies grad, but never pushed it. John came to the house just before graduation. In his moments when he isn't thinking X's and O's or in the heat of battle, he is very soft-spoken. He won me over.

"Now Johnnies football has transcended my family. My boys—Casey, 9, and Lincoln, 7—can't think of missing a game. They say, 'The Johnnies are playing, Dad. We have to go.'"

Gagliardi probably won't be coaching long enough for Casey and Lincoln, but he has coached several father-and-son combinations.

"The first was Jim and Terry Sexton," says Lyle Mathiasen, an All-American tackle in 1973. "I played with Terry. He and his dad were honored one day at halftime. I thought, 'Wow, that was long ago.' Now my son, Jason, plays for John. Another son, Matt, plays for Gary Fasching at (St. Cloud) Cathedral. Gary played for John, and uses John's system. At dinner, I'll say, '93 didn't work today.' My kids think I read their playbook, but, really, it's the same old stuff. John's system is simplistic. He still runs a little inside trap, and calls it 52. No 'blue' this or 'red' that."

A WINNING TRADITION

Yet Gagliardi's teams have evolved over time.

The Johnnies won national championships in 1963 and '65 with teams that set defensive records. In '63, they gave up 12.8 yards a game on the ground, a NAIA record that still stands. In '65, the Jays had seven shutouts in 11 games, allowing a total of 27 points. They won their second NAIA title in a 33-0 rout of Linfield (Ore.) at Augusta, Ga.

A decade later in 1976, St. John's won a NCAA Division III championship with an emphasis on what Gagliardi calls the quadruple option. Quarterback Jeff Norman and running back Tim Schmitz set individual records and the Jays established team marks for yardage and points.

In the 1980s, the Johnnies began doing it with passing. Each of their past seven quarterbacks—Dennis Schleper, Rick Dougherty, John Lahti, Steve Varley, Pat Mayew, Wade Labatte and Willie Seiler—has been ranked among the top 10 nationally in Division III passing efficiency.

"Sure we have adjusted," Gagliardi says, "but it is like the holes on your belt. You add one every few years and don't notice the change.

"But we use many of the same basics. Cars have improved, but they still have four wheels. Maybe the adjustments have been easy for me because I don't have assistant coaches to check with."

Gagliardi tells his players St. John's succeeds because it dares to be different.

THE LIST

The most publicized aspect of being different is his list of no's—no scrimmaging, no headsets, no running laps, no grading films, no insisting on being called "Coach," no whistles, no clipboards, no slogans, no practice apparatus, and many more.

"In some ways we are at the forefront of change," Gagliardi said. "I was one of the first to use videotape. Young coaches stayed with film. Now everyone uses tape. We practiced in shorts when no one else did. We wore soccer shoes in practice in 1960, and made them optional for games. Coaches told me that would never work."

Gag has been wrong occasionally.

"I fought like hell when the MIAC took away spring football," he recalls, "but it hasn't made any difference. I also thought not having a phy ed major would hurt us, but it hasn't."

The 66-year-old coach has drawn criticism for running up the score, especially in recent years, but he always uses 100 or more players in one-sided home games. He catches flak because he allows his quarterbacks to call their own game and subs often use wide-open plays during their tiny window of opportunity. He could stop this practice, but Gagliardi feels the subs, like the starters, pay a lot of money for their education and deserve the chance to express themselves on the athletic field.

EARNING RECOGNITION

A Camellia Bowl victory in Sacramento, Calif., over Prairie View A&M for the NAIA championship in 1963 was St. John's breakthrough to national exposure. Prairie View, an all-black team that dominated Grambling during that era, had 44 scholarship players, including future NFL Hall of Famer Otis Taylor and his longtime Kansas City Chiefs teammate Jimmy Kearney.

"That has to be the best team we have ever played," Gagliardi maintains. "We didn't know how good we were until we beat them (33-27)."

Bernie Beckman was a star halfback, one of seven two-way players on the '63 team. Gagliardi likes to say he covered Taylor with "5-8, 165-pound Bernie Beckman, and three years later Vince Lombardi double-teamed him in the Super Bowl with Willie Wood and Herb Adderley."

Beckman, a Twin Cities business executive, chuckles at the memory.

"That's a little of John's embellishment," Beckman said. "I did cover Taylor when he came to my side, but didn't flip-flop when he went to the other side. The thing about John is he can make you feel so good about yourself. He doesn't treat everybody the same, but he treats everybody fairly. I don't remember him ever getting in my face. I think he knew that wasn't the sort of thing that would motivate me. I do remember him getting in the faces of other players."

Gagliardi shows old game films to each new class of recruits. He brings out the 1963 film and runs footage of Beckman getting low and blocking Concordia's Gary Larsen, who went on to be a defensive tackle for the Minnesota Vikings' vaunted Purple People Eaters.

"My wife, Nancy, asked a few years ago what I wanted for Father's Day," Beckman said. "I told her I would really like a video of the Prairie View game. She called John. He not only sent that game, he put together a highlight package of the '63 season. He led it off with me blocking Larsen and made a comment about how I have demonstrated the proper technique for future Johnnies. That is very special to me."

Tim Fristrom was a defensive end on the 1976 national-championship team. He is among many Johnnies who have been exposed to highlights of Beckman, Craig

Muyres, Ken Roering, John McDowell, Bob Spinner, Dave Honer and other great players from the '63 team. "Beckman is an immortal," Fristrom said. Just as Norman, Schmitz, Ernie England, Joe Wentzell and Jim Roeder from 1976 have become hallowed names to a later generation of SJU players.

The '76 team won the national title over Towson State (Md.) in the Stagg Bowl at Phenix City, Ala. The Jays blew a 28–0 lead, then won 31–28 on Norman's field goal on the final play.

WINNING BEFORE THE GAME

The two playoff games before Towson ended in 46–7 victory over Augustana (Ill.) and a 61–0 blitzing of Buena Vista (Iowa). The 107–7 differential underscores Gagliardi's effectiveness against unfamiliar opponents. His preparation has often mismatched the opposing coach.

"I had been a backup at three positions—end, tackle and linebacker—but my first chance to start came in the Augustana game," Fristrom said. "Terry Sexton hurt his knee and I started at end. It was the first time I practiced at one position all week. It was a team we never played before. John sauntered over to the defense early in the week and told us what to look for. Then it was just a matter of repetition."

On Augustana's first offensive series, two plays were run to Fristrom's side of the line, one the other way. It was fourth-and-nine. Augustana sent in the punter.

"As I came off the field, I had an amazing feeling," Fristrom said. "I was struck with how each of those plays had gone exactly as John had prepared us. One series into my first start, I felt we could counter anything they tried."

Mathiasen remembers a game against Gustavus that was played in a driving rainstorm.

"John hates cold, snow and rain, so we always practiced indoors when the weather was bad," Mathiasen said. "It was 0–0 at the half against the Gusties and it was raining so hard we almost had a drowning. Ron Binsfield was facedown in a puddle under a pile of players. He was turning blue when we unpiled.

"Anyway, John came in at halftime and started talking about how we love to play in the rain, how we play better in the rain than any other team. We looked at one another and couldn't believe what we were hearing. But he convinced us. We went out and won the game.

"John doesn't oversell. There is not much Rockne in his talks. But you look at him and tell yourself, 'I believe you.'"•

WHITE HOUSE EXECUTIVE ORDER ON RECYCLING

• Mr. GORTON. Mr. President, last week, the long-awaited White House Executive order on recycling was announced by Vice President GORE in New York City. The order would mandate the Government purchase only recycled paper. It also requires an increase in the recycled paper content included in printing and writing paper.

Over the past several months, the Executive order has become the subject of much debate between the pulp and paper industry and environmentalists. My office has received a fair amount of mail on the subject, many supporting the proposed Executive order, and many adamantly opposed to it. Undoubtedly the White House has received its fair share of mail, phone calls and visits from interested groups on this issue.

My interest in this announcement stems in large part from a bill which Senator BRYAN and I introduced during the 102d Congress on this same subject. When Senator BRYAN and I introduced the Recycled Paper National Market Enhancement Act of 1991, we were trying to encourage the development of markets for recycled paper and increase the purchase of recycled products by the Federal Government.

Our legislation required that the Federal Government gradually increase its purchase of paper with a 20-percent post consumer content. The bill would have gradually increased the purchase of recycled paper products by the Federal Government from 33 percent to 50 percent of total purchases over a 4-year timeframe. At that time the post consumer content numbers were viewed as too high by industry and not high enough by environmental groups.

In contrast, the White House Executive order prescribes a 20-percent post consumer content for 1994 and that number will be bumped up to 30 percent by 1998. Only paper which meets this content standard would be eligible for purchase by the Federal Government.

The reaction from environmentalists and industry representatives was largely positive. A representative from the American Forest Products Association stated that "we share [the White House] goal." And environmentalists praised it as "a real step forward."

The goal of our legislation was to help encourage the development of markets for recycled paper and stem the flow of waste paper into our landfills. Clearly the White House order addresses these goals. The significance of these goals should not be underestimated because the economic principles of supply and demand continue to present a difficult hurdle for this nation to overcome with regard to recycled products.

Although I strongly agree with the principles of the order, I must object to one aspect of it pertaining to the use of chlorine. Initial discussions on the Executive order included a goal for the purchase of totally chlorine free products. The totally chlorine free goal did not make it into the order, but the order does include a provision on the "Removal of Unnecessary Brightness Specifications." Specifically the order states:

> GSA will revise all paper specifications in order to allow agencies to acquire paper made with processes that minimize emissions of harmful byproducts, including chlorinated compounds.

The White House press release on the order further states that,

> According to some studies, harmful byproducts from paper production include chlorinated substances that can cause environmental damage including an increased risk of cancer. This order allows agencies to purchase paper that does not pose these problems.

Although the White House does not mention totally chlorine free within its order, it is clear that the order's intent is to require the purchase of chlorine free paper products.

The pulp and paper industry has made great strides over the past several years in reducing its use of chlorine and the related dioxin discharge associated with its use. I believe that to penalize the industry with the wording included within the order reflects an ignorance of what the industry has done to reduce the use of chlorine.

Although I disagree with the administration on this component of the order it does not diminish my overall support for what the order will accomplish.

Mr. President, over the past year, there have been many articles on the subject of recycling and the lack of markets for these products. And as many community leaders will tell you, the public is recycling at a rate that the market simply cannot absorb. The American people have embraced the idea of recycling and are doing it because it makes both environmental and economic sense. Whether it is dropping off newspapers at the local church, crushing pop cans from the week or composting grass clippings, Americans are doing their part to help protect our environment. The next step is to develop markets for recycled products.

The White House Executive order on recycling will do much to encourage the development of markets for recycled paper and stem the flow of paper into landfills. This administration deserves praise for undertaking such a difficult issue.•

GILBERT NEWTON LEWIS—GREAT SCIENTIST AND GREAT TEACHER

Mr. KENNEDY. Mr. President, last Saturday, October 23, would have been the 118th birthday of Dr. Gilbert Newton Lewis, a distinguished scientist from Weymouth, MA, whose pioneering work in physical chemistry and chemical thermodynamics laid the foundation for much of our knowledge of chemistry today. Those who knew and studied under Dr. Lewis were deeply impressed by his extraordinary analytic powers and his ability to get to the essence of complex problems and discern their far-reaching implications.

Nowhere are these intellectual qualities more apparent than in what many consider to be his greatest contribution to chemistry, the famous Lewis Dot Models used to portray the sharing of electrons among atoms in molecules. In addition, Dr. Lewis made renowned discoveries in acid-base chemistry, color and light emissions, isotopes, and the photon, which he in fact named.

Dr. Lewis is fondly and well remembered by generations of students and colleagues he inspired, first at Harvard and MIT and later as dean of chemistry at the University of California in Berkeley.

During his years at Berkeley, Dr. Lewis built one of the world's strongest departments of chemistry, bringing together accomplished research scientists and dedicated students intent on advancing their science. Dr. Lewis guided almost 300 talented students to their Ph.D. degrees, and many of them became well-known scientists in their own right in universities throughout the Nation. These students especially remember his weekly seminars—where complex ideas were examined, hypotheses tested, and experiments conducted—as one of the most influential and stimulating experiences in their education.

There is a story about the famous British scientist, Lord Rutherford, who was asked how he always happened to be riding the wave of modern physics. Rutherford replied, "Well, I made the wave, didn't I." Those who knew Dr. Lewis felt the same way about his leadership in chemistry. He was a great research scientist and a great teacher.

It is privilege to honor Dr. Lewis on this anniversary of his birth, and I know I am joined by his family, friends, and former students in remembering one of Massachusetts finest sons and a true pioneer of modern science.

Last month, Governor Weld of Massachusetts issued a proclamation designating October 23 as Gilbert Newton Lewis Day. I ask unanimous consent that Governor Weld's proclamation may be inserted in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

THE COMMONWEALTH OF MASSACHUSETTS—A PROCLAMATION

Whereas on October 23, 1875, Gilbert Newton Lewis was born in Weymouth, Massachusetts to attorney Frank W. Lewis and his wife Mary; and

Whereas Gilbert Newton Lewis, a true son of the Commonwealth of Massachusetts, went on to study at Harvard University where he received his A.B., A.M., and Ph.D. by 1899; and

Whereas Dr. Gilbert Newton Lewis became a renowned and respected member of the scientific community, teaching at both Harvard University and the Massachusetts Institute of Technology, and went on to become head of the Department of Chemistry and its dean at the University of California at Berkeley; and

Whereas Dr. Gilbert Newton Lewis published 165 documents in his own field of science, as well as publications on economics and the beginning of history; and

Whereas Dr. Gilbert Newton Lewis established the University of California at Berkeley as a leader in the field of chemistry, producing scientists of immeasurable stature as well as historic scientific discoveries; and

Whereas Dr. Gilbert Newton Lewis was recognized for his outstanding accomplishments through medals, awards, and prizes from countless organizations, and he left a legacy which serves his memory well; and

Whereas it is fitting for the citizens of the Commonwealth of Massachusetts to recognize Dr. Gilbert Newton Lewis as a son of the Commonwealth who established himself as a true pioneer in the study of Chemistry as well as a true contributor to society: Now, therefore

I, William F. Weld, Governor of the Commonwealth of Massachusetts, do hereby proclaim October 23rd, 1993 as "Gilbert Newton Lewis Day" and urge all the citizens of the Commonwealth to take cognizance of this event and participate fittingly in its observance.

DISASTER IN INDIA

Mr. WOFFORD. Mr. President, at a time when we are examining the use of all our foreign assistance, I would like to remind my distinguished colleagues of the series of earthquakes that shook India on September 30 and which, by all estimates, took the lives of 10,000 people. The Indian Government's reaction to this disaster was immediate and determined. The armed forces, Government, and nongovernmental bodies, and the Indian Red Cross Society moved quickly to bring relief.

However, the cost in lives and property was staggering and despite international aid, including our own, the Indian Government now faces the daunting task of rehabilitating the area. I believe that we should bear in mind that the funds we have appropriated for India are truly needed. I also believe that the Indian Government will make good use of these funds, which will be more important than ever, given the scope of the disaster there and the work that must be done.

MEASURE INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 110

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Calendar No. 236, Senate Joint Resolution 110, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, OCTOBER 26, 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Tuesday, October 26; that following the prayer the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that the Senate then resume consideration of the motion to invoke cloture on the conference report accompanying H.R. 2520, the Interior appropriations bill, with the time from 9 to 10:30 a.m. for debate on the motion to invoke cloture, with the time equally divided and controlled between Senators REID and NICKLES or their designees; that at 10:30 a.m., the Senate then resume consideration of H.R. 3167, the unemployment bill, with 1 hour for debate beginning on the Hutchison motion to waive, with the time divided as follows: 20 minutes under the control of Senator MITCHELL or his designee, 40 minutes under the control of Senator HUTCHISON or her designee; that at 11:30 a.m., without intervening action or debate, the Senate vote on the Hutchison motion to waive the Budget Act; that upon completion of that vote, Senator NICKLES or his designee be recognized to make a Budget Act point of order against the bill; that once the point of order is made and a motion to waive the Budget Act has been made, there then be 1 hour for debate on the motion to waive with respect to the bill, with the time equally divided and controlled in the usual form; that once that time is used or yielded back, the Senate then stand in recess until 2:30 p.m., in order to accommodate the respective party conferences; that at 2:30 p.m., without intervening action or debate, the Senate vote on the motion to waive the Budget Act with respect to the bill; that upon the conclusion of that vote, the Senate resume consideration of H.R. 2520, the Interior conference report, with an additional 30 minutes remaining for debate on the motion to invoke cloture on the Interior appropriations conference report; that when the time is used or yielded back, the Senate vote on the motion to invoke cloture on the conference report with the mandatory live quorum waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. MITCHELL. Mr. President, I wish to place all Senators on notice that if we are to meet the proposed deadline of adjournment by Thanksgiving, it will be necessary for the Senate to have lengthy sessions each and every day between now and then, with cooperation by Senators.

I have had a lot of encouragement from Senators, a lot of applause from Senators, a lot of thanks from Senators about the effort to obtain adjournment by Thanksgiving. What I have had is virtually no cooperation in trying to make it possible to achieve that objective. The very same Senators—and there are a large number of them on both sides of the aisle—who say we ought to adjourn by Thanksgiving are among the least cooperative in attempting to make it possible to reach that objective.

We have to accomplish a certain amount of business before we adjourn, and although every Member of this Senate knows that I have been the principal advocate of adjournment by Thanksgiving, I hereby wish to state so there can be no confusion or misunderstanding in any Senator's mind, if we do not finish the business we are required to finish by then, we will be in session beyond Thanksgiving, and I will become the principal advocate of our doing so.

I ask every Senate office to place Senators on notice of this fact, and I intend to communicate this to each Senator at every opportunity between now and then. Senators cannot have it both ways. We cannot adjourn by Thanksgiving if we fail to use the time necessary to complete the public's business that we have a responsibility to complete before then.

Therefore, I am repeating, and everyone is now on notice, votes, including procedural votes, may occur at any time that the Senate is in session without prior notice between now and the time the Senate adjourns, if that is necessary. All Senators are on notice that they must be at a location that enables them to get to the Senate floor and vote within 20 minutes unless some announcement to the contrary is made.

And I repeat, I have been the principal advocate for adjournment by Thanksgiving. But my advocacy has been based upon the expectation that we will complete our business before then. And if we are continuously delayed and obstructed in doing so, then we will not adjourn on Thanksgiving, and I will be the one to see to it that the Senate remains in session thereafter with votes possible. We are either going to get our work done and leave by Thanksgiving, or we are not going to get our work done and stay after Thanksgiving. The decision is up to Senators. But Senators cannot have it both ways.

So I thank my colleagues. I do want to say that this requires cooperation, and it requires keeping of agreements made with leadership about what we are going to do or not do. When a Senator makes a commitment to be here at a time to offer an amendment or to take some other action, I expect that Senator to keep that agreement, to honor his or her word, and to be present as stated. It is simply not possible to conduct the business of the Senate under a circumstance in which I rely upon agreements of Senators and I rely upon assurances and commitments by Senators and then, if they do not keep those commitments and do not honor those assurances, the entire schedule of the Senate is cast into doubt and confusion.

So I encourage my colleagues to review the matter and to assist me in making the determination as to what is or is not important with respect to our actions in the next several weeks.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:27 p.m., recessed until tomorrow, Tuesday, October 26, 1993, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 25, 1993:

THE JUDICIARY

GARY L. LANCASTER, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA VICE TIMOTHY K. LEWIS, ELEVATED.

DONETTA W. AMBROSE, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA VICE GERALD J. WEBER, RETIRED.

WILKIE D. FERGUSON, JR., OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE WILLIAM M. HOEVELER, RETIRED.

CHARLES A. SHAW, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

DEPARTMENT OF STATE

SANDRA LOUIS VOGELGESANG, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF NEPAL.

M. LARRY LAWRENCE, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SWITZERLAND.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

JOHN F. HICKS, SR., OF NORTH CAROLINA, TO BE ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE ALLISON PODELL ROSENBERG, RESIGNED.

GEORGE J. KOURPIAS, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1994, VICE JAMES GRADY, TERM EXPIRED.

DEPARTMENT OF AGRICULTURE

ANTHONY A. WILLIAM, OF CONNECTICUT, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF AGRICULTURE, VICE CHARLES R. HILTY, RESIGNED.

NATIONAL LABOR RELATIONS BOARD

MARGARET A. BROWNING, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF 5 YEARS EXPIRING AUGUST 27, 1996, VICE MARY CRACRAFT, TERM EXPIRED.

NATIONAL MEDIATION BOARD

MAGDALENA G. JACOBSEN, OF OREGON, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1996, VICE KIMBERLY A. MADIGAN, TERM EXPIRED.

DEPARTMENT OF LABOR

PRESTON M. TAYLOR, JR., OF NEW JERSEY, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING, VICE THOMAS E. COLLINS III.

ASSASSINATION RECORDS REVIEW BOARD

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE ASSASSINATION RECORDS REVIEW BOARD:

WILLIAM L. JOYCE, OF NEW JERSEY (NEW POSITION)
ANNA K. NELSON, OF THE DISTRICT OF COLUMBIA (NEW POSITION)

NATIONAL CREDIT UNION ADMINISTRATION

NORMAN E. D'AMOURS, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR THE TERM OF 6 YEARS EXPIRING AUGUST 2, 1999, VICE ROGER WILLIAM JEPSEN, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. EUGENE H. FISCHER, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. MARCUS A. ANDERSON, [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. TEDDY G. ALLEN [redacted] U.S. ARMY.

THE FOLLOWING U.S. ARMY NATIONAL GUARD OFFICERS FOR PROMOTION TO THE GRADES INDICATED IN THE RESERVE OF THE ARMY OF THE UNITED SATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

To be major general

BRIG. GEN. ROBERT J. BYRNE [redacted]
BRIG. GEN. MICHAEL W. RYAN [redacted].
BRIG. GEN. WILLIAM F. STEWART [redacted].
BRIG. GEN. GEORGE K. HASTINGS [redacted]

To be brigadier general

COL. FRANK A. CATALANO, JR [redacted].
COL. LAWRENCE E. GILLESPIE, SR [redacted].
COL. JOEL W. NORMAN [redacted].
COL. SALVADOR R. RECIO-SANCHEZ [redacted]
COL. EUGENE W. SCHMIDT [redacted]
COL. JOHN E. STEVENS [redacted]
COL. FRANCIS L. BRIGANT [redacted]
COL. EMILIO DIAZ-COLON [redacted]
COL. JOHN E. PRENDERGAST [redacted].
COL. JUAN F. ROSADO-ORTIZ [redacted]
COL. MURREL J. BOWEN, JR. [redacted]
COL. FLETCHER C. COKER, JR [redacted].
COL. RODNEY C. JOHNSON [redacted]
COL. THOMAS C. JOHNSON [redacted]
COL. GUIDO J. PORTANTE, JR [redacted]
COL. JOHN C. ROWLAND [redacted]
COL. THOMAS E. WHITECOTTON, II [redacted]
COL. EDMUND C. ZYSK [redacted]
COL. FRANCIS A. LADEN [redacted]
COL. SIGURD E. MURPHY, JR [redacted].
COL. MURRAY G. SAGSVEEN [redacted]

CONFIRMATIONS

Executive Nominations Confirmed by the Senate October 25, 1993:

DEPARTMENT OF DEFENSE

JOHN J. HAMRE, OF SOUTH DAKOTA, TO BE COMPTROLLER OF THE DEPARTMENT OF DEFENSE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. ANDREW M. EGELAND, JR. [redacted] REGULAR AIR FORCE.
COL. WILLIAM M. GUTH, [redacted] REGULAR AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. GORDON E. FORNELL, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. CHARLES E. FRANKLIN [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS TO TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JOHN B. CONAWAY, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANT AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. RICHARD E. HAWLEY [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD B. MYERS, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE POSITION AND GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8037:

To be deputy judge advocate general of the U.S. Air Force

COL. (B.G. SEL) ANDREW M. EGELAND, JR [redacted], U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8351, AND 8347, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. DONALD W. SHEPPERD [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED UNDER THE PROVISIONS OF SECTION 593, 8218, 8351, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. ALAN T. REID, [redacted], AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. GLEN W. VAN DYKE [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. JOHN M. WALLACE [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. TIMOTHY J. GRIFFITH [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. IRENE TROWELL-HARRIS [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. WILLIAM A. HENDERSON [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. KENNETH U. JORDAN [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DAVID L. LADD, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DANIEL F. LOPEZ [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. THEODORE F. MALLORY [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. RONALD E. MCGLOTHLIN [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. RONALD J. RIACH [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DAVID M. RODRIGUES, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. GUY S. TALLENT [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. LARRY R. WARREN [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.
COL. GALE O. WESTBURG [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

IN THE ARMY

THE U.S. ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

To be major general

BRIG. GEN. FRED H. CASEY [redacted].
BRIG. GEN. MICHAEL W. DAVIDSON [redacted]
BRIG. GEN. GERALD A. MILLER [redacted].
BRIG. GEN. GARY J. WHIPPLE [redacted].

To be brigadier general

COL. ALEXANDER H. BURGIN [redacted].
COL. JOSEPH W. CAMP, JR [redacted].
COL. DONALD M. EWING [redacted].
COL. WAYNE C. MAJORS [redacted].
COL. GARY D. MAYNARD [redacted]
COL. WALTER F. PUDLOWSKI, JR. [redacted].
COL. ALLEN J. STRAWBRIDGE, JR [redacted].
COL. MORRIS L. PIPPIN [redacted]
COL. PHILIP H. PUSHKIN [redacted].
COL. HAROLD E. BOWMAN [redacted]
COL. THOMAS E. BUCK [redacted]
COL. BERNARD J. CAHILL [redacted]
COL. CARROLL D. CHILDERS [redacted].
COL. JOSE A. DIAZ [redacted]
COL. JOHN A. HAYS [redacted]
COL. JOHN L. JONES [redacted]
COL. GARY E. LEBLANC [redacted]
COL. THOMAS L. MCCULLOUGH [redacted]
COL. ROGER E. ROWE [redacted]
COL. ERROL H. VAN EATON [redacted]
COL. EDISON O. HAYES [redacted].
COL. EUGENE L. RICHARDSON [redacted]
COL. ROBERT V. TAYLOR [redacted].
COL. ALFRED E. TOBIN [redacted].

THE FOLLOWING NAMED UNITED STATES ARMY NATIONAL GUARD OFFICER FOR PROMOTION TO THE GRADE OF BRIGADIER GENERAL IN THE RESERVE OF THE ARMY OF THE UNITED STATES UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A) AND 3385:

To be brigadier general

COL. WILLIAM C. BILO, [redacted] ARMY NATIONAL GUARD

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HORACE G. TAYLOR [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. PAUL E. FUNK [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. WILLIAM G. PAGONIS [redacted] U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE STAFF CORPS OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

IN THE MEDICAL CORPS

To be rear admiral

REAR ADM. (LH) RICHARD IRA RIDENOUR [redacted] U.S. NAVY.
REAR ADM. (LH) FREDERIC GOODMAN SANFORD, 184–34–8720, U.S. NAVY.

FOR THE SUPPLY CORPS

To be rear admiral

REAR ADM. (LH) JOHN THOMAS KAVANAUGH [redacted], U.S. NAVY.

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be rear admiral

REAR ADM. (LH) LLOYD EDWARD ALLEN, JR [redacted] U.S. NAVY.
REAR ADM. (LH) DENNIS CUTLER BLAIR [redacted] U.S. NAVY.
REAR ADM. (LH) STEVEN RUSSELL BRIGGS [redacted], U.S. NAVY.
REAR ADM. (LH) ARCHIE RAY CLEMINS [redacted] U.S. NAVY.
REAR ADM. (LH) DENNIS RONALD CONLEY [redacted] U.S. NAVY.
REAR ADM. (LH) HAROLD WEBSTER GEHMAN, JR. [redacted] U.S. NAVY.
REAR ADM. (LH) WILLIAM JOHN HANCOCK [redacted] U.S. NAVY.
REAR ADM. (LH) GEORGE ARTHUR HUCHTING [redacted] U.S. NAVY.
REAR ADM. (LH) DENNIS ALAN JONES [redacted] U.S. NAVY.
REAR ADM. (LH) MICHAEL ALLEN MCDEVITT [redacted] U.S. NAVY.
REAR ADM. (LH) DANIEL TRANTHAM OLIVER [redacted] U.S. NAVY.
REAR ADM. (LH) JAMES BLENN PERKINS, III [redacted] U.S. NAVY.
REAR ADM. (LH) DONALD LEE PILLING [redacted] U.S. NAVY.
REAR ADM. (LH) NORMAN WILSON RAY [redacted] U.S. NAVY.
REAR ADM. (LH) RICHARD ANDERSON RIDDELL [redacted] U.S. NAVY.

ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (LH) ARTHUR CLARK [redacted] U.S. NAVY.

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (LH) WILLIAM JOHN TINSTON, JR [redacted] U.S. NAVY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE TO VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. ROBERT J. SPANE [redacted] U.S. NAVY.

IN THE AIR FORCE

AIR FORCE NOMINATION OF CHARLES J. DUNLAP, JR., WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 16, 1993.

AIR FORCE NOMINATIONS BEGINNING JOAN M. ABELMAN, AND ENDING GARY J. WOODS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 22, 1993.

AIR FORCE NOMINATIONS BEGINNING LINDEN C. ADAMS, AND ENDING MICHAEL A. ZROSTLIK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 22, 1993.

AIR FORCE NOMINATIONS BEGINNING MAJOR ELEANOR W. BAILEY, [redacted] AND ENDING MAJOR NORMAN C. HENDRICKSON, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 4, 1993.

IN THE ARMY

ARMY NOMINATIONS BEGINNING MARY E. ABT, AND ENDING RICHARD D. WHITTEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 22, 1993.

ARMY NOMINATIONS BEGINNING RICHARD S. PARK, AND ENDING ROBERT F. TYREE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 4, 1993.

ARMY NOMINATIONS BEGINNING GEORGE L*ADAMS, AND ENDING HARRY M*YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF OCTOBER 4, 1993.

IN THE NAVY

NAVY NOMINATIONS BEGINNING STEVEN JAMES AHLBERG, AND ENDING ROBERT MICHAEL STOLARZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 22, 1993.

NAVY NOMINATIONS BEGINNING GREGORY HUGH ADKISSON, AND ENDING DENNIS SAMUEL CURRY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 22, 1993.

NAVY NOMINATIONS BEGINNING DAVE RAY ADAMSON, AND ENDING WILLIAM JOHN ZUCHERO, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 22, 1993.

NAVY NOMINATIONS BEGINNING MICHAEL HUNTE ANDERSON, AND ENDING NICHOLAS FRANCIS ZEOLI, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 22, 1993.

NAVY NOMINATIONS BEGINNING WAYNE THOMAS AABERG, AND ENDING DANIEL PAUL ZELESNIKAR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 22, 1993.

NAVY NOMINATIONS BEGINNING ROBERT A. ALONSO, AND ENDING DICK DEAN TURNWALL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 22, 1993.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 26, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 27

9:00 a.m.

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to examine abuses in Federal student grant programs.
SD-342

9:30 a.m.

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
To hold hearings on S. 1547, authorizing funds for fiscal years 1994-2000 for programs of the Safe Drinking Water Act.
SD-406

Judiciary
Technology and the Law Subcommittee
To hold hearings to examine high technology privacy issues in health care.
Room to be announced

10:00 a.m.

Foreign Relations
To hold hearings on bilateral tax treaties with: The Russian Federation (Treaty Doc. 102-39), Barbados (Treaty Doc. 102-41), The Kingdom of the Netherlands (Treaty Doc. 103-6), United Mexican States (Treaty Doc. 103-7), State of Israel (Treaty Doc. 103-16), The Czech Republic (Treaty Doc. 103-17), The Slovak Republic (Treaty Doc. 103-18), and the Netherlands Protocol (Treaty Doc. 103-19).
SD-419

Foreign Relations
To hold hearings to examine foreign policy implications of the North American Free Trade Agreement (NAFTA) and legislative requirements for the side agreements.
SD-106

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings to examine the effects of telecommunication mega-mergers on competition and inflation.
SD-226

2:00 p.m.

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 589 and H.R. 1348, bills to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor, S. 1332, to designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System, S. 1380 and H.R. 2650, to designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System, and S. 1574, to authorize funds for the Coastal Heritage Trail Route in the State of New Jersey.
SD-366

OCTOBER 28

9:00 a.m.

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to examine abuses in Federal student grant programs.
SD-342

9:30 a.m.

Energy and Natural Resources
To hold oversight hearings on the Administration's National Action Plan to reduce greenhouse gases.
SD-366

Rules and Administration
To hold hearings on the nomination of Michael F. DiMario, of Maryland, to be Public Printer, Government Printing Office, S.J. Res. 143, providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution, and S.J. Res. 144, providing for the appointment of Manuel Luis Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution.
SR-301

Indian Affairs
To hold oversight hearings on issues relating to Indian child abuse.
SR-485

10:00 a.m.

Banking, Housing, and Urban Affairs
Business meeting, to mark up S. 783, to strengthen the accuracy and the privacy protection provisions of the Fair Credit Reporting Act with regard to credit reporting agencies' file information systems, and to consider other pending calendar business.
SD-538

Commerce, Science, and Transportation
To hold hearings on the nominations of Jane M. Wales, of New York, Robert T. Watson, of Virginia, and Mary Rita Cooke Greenwood, of California, each to be an Associate Director of the Office of Science and Technology Policy.
SR-253

Environment and Public Works
Clean Air and Nuclear Regulation Subcommittee
Business meeting, to mark up S. 1162, to authorize funds for fiscal years 1994 and 1995 for the Nuclear Regulatory Commission, S. 1165, to provide judicial review of petitions submitted to the Nuclear Regulatory Commission requesting that the NRC take enforcement action against NRC licensees regarding safety problems or regulatory violations, and S. 1166, to enhance the safety and security of nuclear power facilities.
SD-406

Finance
To resume hearings on the Administration's proposed Health Security Act, to establish comprehensive health care for every American.
SD-215

Foreign Relations
To hold hearings on the nomination of John D. Holum, of South Dakota, to be Director of the U.S. Arms Control and Disarmament Agency.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Labor and Human Resources
Children, Family, Drugs and Alcoholism Subcommittee
To hold hearings to examine methods for protecting children from domestic violence.
SD-430

10:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to examine the National Aeronautics and Space Administration's (NASA) relevance to the economy.
SR-253

2:00 p.m.

Energy and Natural Resources
To hold oversight hearings to examine U.S. efforts to help nations operating Soviet-built nuclear power plants to reduce the risk of a serious nuclear accident.
SD-366

Veterans' Affairs
Business meeting, to consider pending calendar business.
SR-418

2:30 p.m.

Labor and Human Resources
To hold hearings on S. 1115, to ensure that minimum wage requirements do not apply to inmates with respect to work done for the incarcerating entity.
SD-430

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Veterans' Affairs

To hold hearings on the nominations of Eugene A. Brickhouse, of Virginia, to be an Assistant Secretary of Veterans Affairs (Human Resources and Administration), and Kathy Elena Jurado, of Florida, to be an Assistant Secretary of Veterans' Affairs (Public and Intergovernmental Affairs).

SR-418

OCTOBER 29

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board (NTSP).

SR-253

Judiciary

Courts and Administrative Practice Subcommittee

To hold hearings on H.R. 1102, to make permanent chapter 44 of title 28, United States Code, relating to arbitration.

SD-226

NOVEMBER 2

10:00 a.m.

Finance

To resume hearings on the Administration's proposed Health Security Act, to establish comprehensive health care for every American.

SD-215

Veterans' Affairs

To hold hearings to review research on the health effects of agent orange and other herbicides used in Vietnam.

SR-418

NOVEMBER 3

9:30 a.m.

Indian Affairs

To hold hearings on S. 720, to clean up open dumps on Indian lands.

SR-485

10:00 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on the effects of potential restructuring in the National Aeronautics and Space Administration (NASA).

SR-253

Labor and Human Resources

To hold hearings on the nomination of Harold Varmus, of California, to be Director of the National Institutes of Health, Department of Health and Human Services.

SD-430

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 297, to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs, S. 455, to increase Federal payments to units of general local government for entitlement lands, S. 761, to revise the "unit of general local government" definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska, S. 1047, to convey certain real property in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and H.R. 1134, to provide for the transfer of certain public lands located in Clear Creek County, Colorado, to the United States Forest Service, the State of Colorado, and certain local governments in the State of Colorado.

SD-366

NOVEMBER 4

9:00 a.m.

Office of Technology Assessment Board meeting, to consider pending business.

EF-100, Capitol

9:30 a.m.

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold oversight hearings on ocean mining policy.

SD-366

Rules and Administration

Business meeting, to consider the nomination of Michael F. DiMario, of Maryland, to be Public Printer, Government Printing Office, S.J. Res. 143, providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution, S.J. Res. 144, providing for the appointment of Manuel Luis Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution, S. 716, to require that all Federal lithographic printing be performed using ink made from vegetable oil, H.R. 877, to authorize the establishment of the National African-American Museum within the Smithsonian Institution, and to consider other pending committee business.

SR-301

Indian Affairs

To hold hearings on S. 1526, to improve the management of Indian fish and wildlife and gathering resources.

SR-485

10:00 a.m.

Foreign Relations

To hold hearings to review foreign policy issues.

SD-419

NOVEMBER 10

10:00 a.m.

Finance

To hold hearings to review the Uruguay Round of multilateral trade negotiations.

SD-215

NOVEMBER 16

9:30 a.m.

Indian Affairs

To hold hearings on S. 1146, to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona.

SR-485

Special on Aging

To hold hearings to examine health care reform issues, focusing on prescription drug price competition.

SD-G50

NOVEMBER 18

9:30 a.m.

Indian Affairs

To hold hearings on S. 1345, to provide land-grant status for tribally controlled community colleges, tribally controlled postsecondary vocational institutions, the Institute of American Indian and Alaska Native Culture and Arts Development, Southwest Indian Polytechnic Institute, and Haskell Indian Junior College.

SR-485

POSTPONEMENTS

OCTOBER 27

3:00 p.m.

Conferees

On H.R. 1268, to assist the development of tribal judicial systems.

EF-100, Capitol

HOUSE OF REPRESENTATIVES—*Tuesday, October 26, 1993*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we walk through the events of daily living and immerse ourselves in the human experiences, may we be aware, gracious God, of Your guiding hand that points to a purpose and a meaning to all existence. May we not be so troubled by the pressures of job or relationships that we forget Your promises of hope and a better way, Your assurances of a renewed spirit, and Your peace that passes all human understanding. No matter how great the trouble, we are grateful for faith; no matter how steep the climb, we are thankful for Your strength. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair recognizes the gentleman from New Jersey [Mr. SMITH] to lead the House in the Pledge of Allegiance.

Mr. SMITH of New Jersey led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MAKING IN ORDER ON TODAY OR ANY DAY THEREAFTER CONSIDERATION OF FURTHER CONFERENCE REPORT AND AMENDMENTS IN DISAGREEMENT ON H.R. 2445, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1994

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that it be in order on today or any day hereafter, clause 2 of rule XXVIII notwithstanding, to consider a further conference report and amendments reported from conference in disagreement on the bill (H.R. 2445) making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes;

That the conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement be considered as read; and

That points of order under clause 7 of rule XVI against the motion printed in the joint explanatory statement of the committee of conference to dispose of the amendment of the Senate numbered 33 be waived, that such motion be debatable for 1 hour equally divided and controlled by the proponent and an opponent, and that the previous question be considered as ordered on such motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I would just like to say to my colleagues on the other side of the aisle that we continue to get closed and restrictive rules that violate minority rights in this House. The only way to send a signal is to object to these kinds of motions.

Mr. Speaker, I am not going to object, but I hope the majority will start thinking more favorably about open rules.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills and joint resolution on Monday, October 25, 1993:

H.R. 328, to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM;

H.R. 2491, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1994;

H.R. 2519, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes;

H.R. 2750, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes; and

H.J. Res. 228, to approve the extension of nondiscriminatory treatment with respect to the products of Romania.

BREAST CANCER AWARENESS MONTH

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise today during Breast Cancer Awareness Month to urge my colleagues to recognize the importance of funding for breast cancer research and education programs.

Women develop breast cancer more than any other type of cancer. It is tragic that every 3 minutes, a woman is diagnosed with breast cancer, and every 12 minutes a woman dies from the disease.

This year, about 20,000 women in my home State of California will discover they have breast cancer, and approximately 4,800 California women will die from breast cancer.

While risk factors such as family history help indicate a predisposition to breast cancer, over 70 percent of breast cancer occurs in women who have no identifiable risk factors.

Mr. Speaker, women can do something to protect themselves. Although there is no cure for breast cancer, and we do not know how to prevent it, early detection of the disease is a vital key for successful treatment.

Adult women, especially women over age 50, should get mammograms; do a monthly breast self-examination; and have an annual clinical breast exam—done by a trained health care professional.

I urge this body to help in fighting the disease by devoting funds to research on better detection methods and cures. Our lives depend on it.

IT'S TIME FOR REFORM: WHERE ARE THE DEMOCRATS?

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, it's time for reform: Where are the Democrats? Republicans are eager to begin.

In September, Democrats promised October would be reform month.

Then as most of October disappeared, they decided that the last week in October this week would be reform week.

Now, they announce reform is moving to November.

The only consistency here is that reform gets scaled back as it gets moved back on the calendar.

The Democrat calendar seems to have all its days labeled "tomorrow."

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Apparently Democrats are dressing up for Halloween as reformers this year; and they've decided to pull a large trick on America instead of giving out the promised reform treat.

If the Democrats postpone their ever-receding, ever-shrinking reform agenda once again, I think turkey day would be appropriate for its consideration.

NAFTA IS IMPORTANT FOR ECONOMIC FUTURE OF AMERICA

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, the defeat of the Conservatives in Canada's election presents the Clinton administration with a problem and an opportunity. A problem, because the new Canadian Government is certain to seek renegotiations and changes in the NAFTA agreement, leaving this Congress with the legislative equivalent of hopping onto a moving train. It presents an opportunity, because for a series of environmental and labor rights reasons, the NAFTA agreement already required some changes.

Mr. Speaker, I am urging therefore today that the Clinton administration seize this opportunity, return to the negotiating table, and deal with the substantive problems that already exist, working with our new Canadian partners. The NAFTA agreement is important for the economic future of this country, important enough that it is worth doing right.

□ 1210

THE PRESIDENT'S HEALTH CARE PLAN

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, tomorrow, apparently, after 5 weeks of having testimony without a bill, the President will actually introduce his health bill. I hope this introduction will indicate that they have learned some lessons for the last 5 weeks. I hope they will have taken out the provision that would allow a single State to eliminate Medicare.

I hope they will be candid about the tax they seek to impose on every American in the form of a several hundred billion dollar tax for health services. I hope they will have taken out the provision that would allow the Secretary of the Treasury, by himself or herself, to unilaterally impose an employee payroll tax on one State.

There is area after area where the President's original plan, as he explained it here, was different from the plan released by the White House. I hope tomorrow's legislative introduction will have a clear and a candid outline that all of us can agree on in terms of facts, even if we disagree on policy. I think, then, the real hearings and the real testimony can begin, because only then will we have a real bill to look at.

A SECRET THAT EVERYBODY KNOWS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the big story in Washington today is not about taxes. It is not about trade. It is not about murder.

The big story in the District of Columbia today is about a diary. A diary of a politician is being hushed up because other Washington, DC, politicians may be implicated.

Mr. Speaker, what is so secretive? Stainless steel panty hose? Chain link lingerie?

There is no big secret here. The American people, the American worker will not be surprised at all because of a very simple fact: Washington politicians have been screwing them for years.

KICKING OFF REFORM WEEK

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, today was to have marked the beginning of a high-profile Reform Week. But the Democrat leadership has backtracked on its promise, and now Reform Week has been sloughed off to next month. I am not holding my breath and I am not waiting for the leadership. Today I am introducing legislation to ban lobbyist-paid travel for Members and their staff. The House ethics manual has seven pages devoted to the can and cannots of accepting travel from private sources. Most Members do not even know the rules and most Americans believe that lobbyists are buying special access along with the plane ticket, the hotel room, and the golf fees. The American people want change that will restore their confidence in this institution. Letting people know that when we travel we are working for all America, not for one particular interest, is one change that we should make—now.

JOBS, JOBS, JOBS

(Miss COLLINS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Miss COLLINS of Michigan. Mr. Speaker, in Detroit last week, 20,000 people stood in line for hours at the Detroit Post Office hoping to get a job when the U.S. Postal Service made available applications for the civil service exam. Let me be clear: They were not advertising jobs. They were merely making available the applications that determine eligibility for employment; and 20,000 showed up. Sadly, for last week's job seekers, the Postal Service is only hiring from a pool of eligible applicants from 1989.

Mr. Speaker, this line of 20,000 job seekers, 1 in every 50 Detroiters, speaks volumes. The unemployed people in my district want jobs. They are ready to work.

In a few weeks, we will vote on the NAFTA trade agreement and then reinvent Government. But what about jobs? I submit to my colleagues that nothing on our agenda is more important than Americans having jobs now. Some are saying that the economy has turned the corner, that it is on the path to recovery. Twenty thousand people in line in Detroit tells me that we still have a long way to go. America needs a comprehensive jobs program that will put our people back to work.

CONGRESSIONAL REFORM

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, somebody once said that reform, congressional or otherwise, consists of taking a bone from a hound. Ironically, many freshman Members of the majority who campaigned on campaign and term limitations had a chance to take that bone away the first day, when we organized. Unfortunately, they wimped out on that. For the past several years, we have been wrestling with just such a hound, the hound of the House Post Office, the House Bank, or the House Restaurant.

And it roams the moors of this institution freely because simple ideals—such as a free and open process in committee and on the floor, proxy voting, appropriate ratios in committee membership and staffing, and open committee hearings and meetings—have been set aside.

Mr. Speaker, it is time for us to reclaim those ideas. It is time for the Joint Committee on the Organization of Congress to unleash its report. And it is time for us to debate that report and all that it encompasses under an open rule.

NAFTA

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, as a NAFTA backer, I am keenly sympathetic to the concerns people have about the treaty. For this reason, I supported the side agreements on labor and the environment. And I am supporting comprehensive job retraining measures and the establishment of a development bank, such as the one proposed by Representative ESTEBAN TORRES of California.

As for companies pulling up stakes and moving to Mexico, the problem is that they can do that today, without NAFTA. NAFTA will not only not spark a further exodus, it will give companies an added incentive to stay in the United States because it dramatically cuts Mexican tariffs. U.S. tariffs are not as affected because they are already low. The result is that the Mexican market will open up to American-made goods much more than the already accessible United States market will expand for Mexican goods.

Opening up Mexico's market to American-made goods is especially beneficial to Colorado. Our trade with Mexico more than doubled between 1987 and 1992, as did our exports to Canada, our other NAFTA participant. Canada is now our second largest trading partner, and Mexico is our sixth. Colorado exports to Canada and Mexico totaled $673 million in 1992, representing almost 18,000 jobs. That is a huge number of jobs. In effect, exports to our northern and southern neighbors employ more people than the State's largest private-sector company, US West, which has 16,000 employees.

NAFTA is a major plus for Colorado and I am proud to support it.

REFORM WEEK

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, this was supposed to be Reform Week in the Congress. What happened?

As I look at my floor schedule, I just have to shake my head. Not one bit of reform legislation on this entire week's calendar. No spending reform, no lobbying reform, no campaign reform and, most disappointing to me, no congressional reform.

Now the Speaker says November will be Reform Month. I am beginning to believe he has the right month but the wrong year.

Mr. Speaker, the only way real reform, bold reform will be achieved in this institution is with the November election of 1994. Only then will the American people be able to clean house, and thereby clean up this House.

Only then can the Democrat majority become the Democrat minority. We will not get the spending cuts the President promised us. We will not get the gift ban. The Democrat version of campaign reform is making the taxpayers pay for elections, and real congressional reform is being derailed, as we speak, by senior Democrats.

Mr. Speaker, the Democrat majority has put off reform one too many times. There have been 40 years of scandal, spending, special interests and shadow, not sunshine, on our efforts. I just hope the American people have had enough.

JUSTICE DEPARTMENT ABOUT TO SEND THE WRONG SIGNAL ON CHILD PORNOGRAPHY

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the Justice Department is about to send a very wrong signal on child pornography cases. Child pornography, as we know, is one of the most despicable, depraved, and disgraceful crimes against humankind.

In the case of Knox versus the United States, which came out of the Federal District Court for the Middle District of Pennsylvania, and then affirmed on appeal to the third circuit, a conviction against a child pornographer was rendered. The case is now on appeal to the Supreme Court and, in a brief filed by the Justice Department, the Justice Department ask a reinterpretation of the existing law on child pornography to make it harder, not easier, to make it harder to reach a conviction on that most despicable of crimes, child pornography.

Mr. Speaker, I hope that the Justice Department has some opportunity to withdraw its brief and recast its argument to support the conviction in the district court and to support the affirmation on appeal to the third circuit. A terrible message otherwise will have been sent by the Justice Department that child pornography is not the horrible criminal act that we know that it is.

□ 1220

THE MIRAGE

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, reform in the House is like a mirage. The closer we get to it, the further it goes away.

This last week in October was supposed to be "Reform Week," but we are not even talking about reform of this institution, but the smoke screen of campaign, lobbying, and spending reform. Even the smoke screen has been pushed back to sometime in November.

The Joint Committee on the Organization of the Congress was supposed to make its final recommendations for far-reaching reform by October, so we could vote on those recommendations by the end of the session. Now, we may vote on those reforms sometime next year, if at all.

Mr. Speaker, this House is beset by corruption, marred by institutional gridlock, handicapped by inefficiency, and tainted by scandal. It needs reform.

Let us hope that the mirage of reform becomes reality.

A SALUTE TO PRESIDENT REAGAN AND SUPPORTERS ON THE 10TH ANNIVERSARY OF GRENADA INVASION

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, yesterday was the 10th anniversary of one of the most significant cold war victories for the forces of freedom. It was on October 25, 1983, that United States airborne troops and marines landed on the island of Grenada to liberate American medical students, and the people of Grenada, from brutal, revolutionary Communist thugs. It was the very first time that United States troops had been used to actually liberate a country from Communist control, and it marked the turning point in America's battle against Soviet expansionism.

At Grenada, the United States moved from the old doctrine of containment of communism to a new strategy of rolling back the Communist menace. President Reagan's rollback strategy was so successful that in just 6 short years the Berlin Wall fell, and 2 years later the Soviet Union itself disintegrated.

So on the 10-year anniversary of the liberation of Grenada, I salute President Reagan and all the good people who used Grenada as a springboard from which to launch the most successful freedom offensive the world has ever known.

CONGRESS SHOULD BE AS FAIR AND OBJECTIVE WITH REGARD TO WASHINGTON, DC, AS "PLACES RATED ALMANAC"

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, we should all thank the 1993 edition of the widely respected publication, "Places Rated Almanac," for helping us gain perspective through the publication of the best 343 metropolitan areas in North America. Washington, DC, and its metropolitan area ranked seventh.

The survey is based on transportation, health care, the arts, cost of living, job outlook, housing market, recreation, climate, and yes, crime.

Today's high rating for Washington reveals how important it is to evaluate a city in light of all the ingredients that account for the quality of life. At the moment, in the District, crime in a few areas heavily burdened with poverty has skewed the reputation and the morale of one of America's most beautiful cities, containing many of the Nation's most livable and comfortable neighborhoods. Places Rated Almanac helps eliminate stereotypes of trouble spots in America as well. Small cities and regions were disproportionately at the bottom of the ratings.

These ratings show how much Americans have in common, and how much we need to pull our domestic economy together nationally without exception. Meanwhile, it's awfully nice to be rated so high. All Washingtonians ask is that Congress judge us with the fairness and objectivity of Places Rated Almanac.

CLINTON WORKS TO WEAKEN CHILD PORN LAW IN UNITED STATES

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, last month, with noticeably little fanfare, the Justice Department postured for a significantly weakened interpretation of child pornography law, giving further protection to kiddie porn peddlers and pedophiles at the expense of vulnerable children.

Outraged, shocked, and dismayed by this action, last Wednesday, nearly one-third of the Members of this House signed a bipartisan letter to Attorney General Janet Reno expressing this body's strong support for existing Federal child pornography law and urging her to abandon the Department's dangerous new position. On that very day, ironically, Ms. Reno testified before a Senate committee in favor of confining TV violence to hours where children are least likely to be in the audience. This, she says, comes from her dedication to protecting children.

Mr. Speaker, it would appear to me while Ms. Reno speaks as a child advocate, her actions, at least in this case, prove otherwise. The Clinton Justice Department's abandonment of aggressive child porn prosecution amounts to a policy of appeasement toward child pornographers and pedophiles, and is no less than an engraved invitation to the child porn industry to exploit our children.

For the children of America, reverse course, Mr. Clinton, before another child is exploited.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would announce that the gentleman from New Jersey [Mr. SMITH] cannot address the President directly; the Chair would prefer him to address the Chair, and he will relay the message.

INTRODUCTION OF LEGISLATION TO GUARANTEE CERTAIN HAITIAN CHILDREN UNITED STATES RESIDENT STATUS

(Mrs. MEEK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK. Mr. Speaker, today I am introducing legislation which would allow the Haitian children of legal United States residents and citizens to adjust their status here in the United States.

As a result of a backlog of cases, antiquated facilities, a shortage of officers and the closure of the United States consulate office in Haiti for a year after the coup that deposed President Jean-Bertrand Aristide, numerous children of legal United States residents and United States citizens are being stranded in Haiti. Most of the children have lived in the United States for years and were summoned to the consulate for routine interviews, the final step in becoming a legal resident. In all of the cases the petitions for these children have been approved by the Immigration and Naturalization Service. Usually approval is automatic, as long as parents can prove they can support the children without public assistance.

But consular officers are denying these children the necessary visas to return to the only home they know, requiring more documentation. Even when the necessary proof has been received, children are forced to remain in Haiti for months separated from their families, friends, and schools—for a new appointment at an already overburdened consular office. As a result, many of the children are having to miss school and oftentimes live with strangers, costing their parents thousands of dollars to support them in Haiti. Too many of them are having to stay in poor neighborhoods which are subjected to constant gunfire by the military-backed thugs.

Mr. Speaker, it is negligent of us to send these children back to Haiti for what is usually a 1-day interview in other countries to determine if these children actually were the offspring of people who were granted amnesty by the 1986 Immigration and Nationality Act. There is something terribly wrong with immigration policies and procedures that disrupt lives and break up the families of legal Haitian residents. If Haiti is not safe enough for armed soldiers to land there, it certainly is not safe for children to be there.

ARE JURY VERDICTS DESIGNED TO SATISFY THUGS AND MOBS?

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, several days prior to the return of the jury's verdict regarding the attack upon Reginald Denny, a constituent said to me, "I hope that jury's decision does not upset the thugs and mobs in Los Angeles. Otherwise, they will try to burn down the city again." Have we reached this low point, that we are dictated to dispense jury verdicts designed to satisfy thugs and mobs? If so, we should abandon our judicial system, because it cannot function as intended.

The silver lining, Mr. Speaker, that surfaced from this brutal attack, however, involves two class acts, a truck driver who was savagely and unmercifully beaten by thugs, and his four fellow citizens, who rushed to his rescue.

As for the thugs individually, and the mobs collectively, they serve no good purpose for themselves nor for society.

TRIBUTE TO OBERT C. TANNER

(Ms. SHEPHERD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SHEPHERD. Mr. Speaker, it is with both sorrow and pride that I rise to honor Obert C. Tanner, a man of intellect, peace, and enormous generosity. His passing at 89 left Utah richer for his generous philanthropy but much poorer for the loss of his fierce love of beauty, the arts, and philosophy.

His gifts to Utah, the Nation, and indeed the world include 42 fountains in location spread from Oxford University to Salt Lake City. He and his wife of 62 years, Grace, gave generously of their time and resources as they enriched the Utah community in every way.

The Tanner lectures on human values, given annually at nine universities from Cambridge to Stanford and funded by a $10 million endowment will remain O.C. Tanner's lasting gift to all of us. The lectures will continue to speak of the values he held and those he taught by example as a teacher of philosophy.

I was one of the lucky ones. O.C. Tanner was my teacher. As a freshman in his philosophy of religion course, I learned from him how ideas can electrify the intellect and how the great philosophers can illuminate the moral dilemmas of humanity.

Mr. Speaker, as Justice Warren Burger said upon hearing of O.C.'s passing, "His life is the story of America. He was lavish with his worldly goods to the arts, music, education, and public affairs but he also gave of himself." I agree. O.C. Tanner's legacy will live beyond him.

□ 1230

THE PROMISED LAND

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, this week, we were to enter the promised land of congressional reform. The Speaker had assured the press and the House that this week we would finally consider campaign, lobbying, and spending reform legislation.

The promised land has now been pushed back another week.

Mr. Speaker, as long as the majority in this Congress continues to rule imperiously, we will never reach that promised land.

As I look up at the gallery, and see the representations of great law-givers on the wall in this Chamber, I see the eyes of Moses staring down in judgment on our actions.

Moses struggled to find the promised land after 40 years in the desert.

Much like Moses, it seems we will only reach our promised land of reform when we break the Democrats 40-year control of this institution.

FEDERAL TROOPS IN WASHINGTON, DC

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the United States sent the Marines to Beirut, we sent troops to Grenada, we sent our military troops to Panama, we sent them to Kuwait, we sent them to Somalia. And if we can do that for the rest of the world, why do we not do it for Washington, DC?

I say we ought to give Mayor Sharon Pratt Kelly the authority to be able to call out the National Guard if she so desires to stop the killing and to restore peace in Washington, DC. It is time the carping council started to work with the mayor.

It is a shame that Washington, DC, has become the murder capital of the world. There has been over 370 murders this year, with 2 months to go.

If we believe in world peace, I think we should start in our Nation's Capital. Do not forget: Washington too is a part of the world.

PROTECTION OF CHILDREN IS IMPORTANT FEATURE OF THE REPUBLICAN CRIME PROPOSAL

(Mr. FISH asked and was given permission to address the House for 1 minute.)

Mr. FISH. Mr. Speaker, the Republican crime proposal (H.R. 2872) has many worthy goals—but none more important than the protection of our children. I have previously spoken of provisions in the bill to make our schools safe—community policing and tougher penalties for violations of the Gun-Free School Zones Act. Today, I bring to the attention of the House other elements to protect our children from those who would abuse, exploit, and victimize.

We send a message to would-be offenders. We double penalties for those who use minors in the commission of a crime. We create new crimes to combat child pornography and drugs, and to catch dead-beat dads. In addition, a national register will be kept on all child abusers. These are overdue steps to protect our vulnerable children and young adults.

PRESIDENT ARISTIDE THE PEOPLE'S CHOICE IN HAITI

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, we need a more clearly enunciated U.S. foreign policy for the Western Hemisphere. Support for democracy, human rights, and free market economic development must be among the foundation components of this updated foreign policy.

In Haiti, the elected leader most capable of promoting democracy, human rights, and free market economic development is President Jean-Bertrand Aristide. To implement a more meaningful and more moral foreign policy in Haiti, we must firmly support the speedy return of President Aristide. Congress must reject the obsolete, misguided Aristide character assassination campaign of the big-spending, incompetent CIA which failed to predict the fall of the Soviet economy.

By 70 percent of the vote, Aristide is the people's choice. This leader speaks eight languages, and has studied in universities and seminaries all over the world. Haiti is fortunate to have President Jean-Bertrand Aristide.

It is in the vital interest of the United States to support the return of President Aristide.

DRUG STRATEGY LACKS SUBSTANCE

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, the White House is once again sending the message that it is not serious about drugs. Last week, the Office of National Drug Control Policy released its long-awaited interim national drug control strategy. Disappointment in the plan was universal. The document is utterly devoid of substance, particularly regarding specifics on program funding. There is a lot of rhetoric about shifting resources from law enforcement to treatment and education, but no discussion whatsoever of budget recommendations.

Frankly, Mr. Speaker, I find it difficult to fault Drug Czar Lee Brown for this strategy, because this is exactly what you would expect from an office that had its staffing slashed from 112 to 25 people, as the administration did. It is obvious that the President has assigned this issue the lowest possible priority.

When Lee Brown was appointed, there was a lot of ballyhoo about President Clinton giving the drug czar full Cabinet-level status. Well I'm sorry, Mr. Speaker, but this is not a Cabinet-level effort. Not by a long shot.

CANADIAN ELECTION PRESENTS OPPORTUNITY TO RENEGOTIATE NAFTA

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, the Liberal Party's victory in Canada and its desire to renegotiate certain parts of the North American Free-Trade Agreement should be considered more of an opportunity than a threat.

The United States should use this opportunity to address the basic economic flaws in NAFTA.

During the last decade the Mexican Government has followed a deliberate policy of suppressing wages and salaries to attract basic investment, especially in industry but also in agriculture. This rigidly enforced policy has worked—as seen in the creation of 600,000 white- and blue-collar jobs in 2,000 maquiladora plants, financed primarily by U.S. investment.

NAFTA as presently constructed fails to address this basic dynamic. Indeed, rather than altering this Mexican strategy, NAFTA legitimizes it and will lead to its expansion.

It is time to face rather than ignore or dodge the basic economic issue embodied in the present NAFTA. The failure to confront it is the major reason why NAFTA is in such deep trouble in the United States and Congress.

The United States should not react to the Canadian election in a way that forecloses further efforts that could lead to a NAFTA that is truly in the best interests of the United States.

WHY THE DELAY ON REFORM?

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, when it comes to matters of reform, the Democrat leadership in this body has adopted a strategy of delay, delay, delay.

Congressional reform? It's been delayed.

PAC reform? Delayed.

Lobbying reform? Delayed.

What is the holdup. I ask my friends. Could it be that reform might very well alter the status quo that has enabled one-party rule in this Chamber for the last 40 years?

Could it be that if reform is postponed and postponed and postponed again, we might just forget about it and go home?

Mr. Speaker, we were told recently that "Reform Week" will probably come sometime in November. Let's hope so. In poll after poll, the American people are saying that they have little faith in Congress' ability to police itself. Let's give them a little surprise for Thanksgiving. Let us show them that the "People's Body" sometimes listens to the people it represents. Let us adopt a comprehensive congressional reform package now.

MORE ENTITLEMENTS

(Mr. BAKER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, Sunday's Washington Post had an interesting page story: "Health Care Costs a Long-Term Headache: Economist Fear New Entitlements Would Become a Budget Buster."

This headline refers to the President's health care plan.

According to the Story: "Behind President Clinton's promise of 'health security' lies what many economists view as a darker reality; the administration is proposing to establish a sweeping new category of entitlements, despite broad agreement among experts that such programs are at the root of America's budget problems."

Real health care reform is occurring in the private sector: more patient decisionmaking, medical IRA's, rebates for health habits and reduced usage, and new medicines and procedures make American health care the best in the world. But the Clinton health care plan calls for more bureaucracy Government control while patients would be denied their current health care plan.

Mr. Speaker, creating new entitlements is the worst way to cure our deficit, as this story rightly concludes.

□ 1240

STARS IN MY CROWN

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I saw a great movie this weekend. It starred Joel McCrea. It was called "Stars In My Crown" after an old spiritual song. It was a movie about a minister, about right and wrong, about morals, and it was very inspiring.

Contrast that with today. Movies are either immoral or amoral. They are violent, pornographic, and if they make any reference to God or religion at all, it is usually negative.

Our country is in trouble. Crime is up. Violence is up. Pornography is up. We have lost our moral underpinnings.

Throughout history when a country became immoral and ignored God, they suffered greatly and we shall be no exception.

Let us try to lead back to this model behind me, "In God We Trust."

NAFTA AND THE U.S. AUTO INDUSTRY

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, I rise today to give you an example of how the North American Free-Trade Agreement will help keep high paying manufacturing jobs in the United States.

The Chrysler Corp. will soon introduce its Neon subcompact car in North America. The company plans on selling 300,000 Neons in America next year and 75,000 in Mexico. While the main Neon plant is located in Illinois, Mexico's rules have forced Chrysler to build an additional plant in Mexico to produce those 75,000 cars destined for the Mexican market.

As Chrysler president Bob Lutz stated recently, "If we had NAFTA, we would not have had the expense of putting in the Mexican facility."

Let us allow Chrysler to keep U.S. auto production jobs here at home. Let us provide jobs for the most productive work force in the world—the American worker. Let us pass NAFTA. Let us do what is best for America.

REJECT GRIDLOCK AND GET ON WITH CONGRESSIONAL REFORM

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, before I was elected, the Congress created the Joint Committee on the Organization of Congress by an overwhelming vote. I know that a majority of this House hopes the joint committee will bring forward meaningful congressional reform.

When the committee was formed, it was understood that the House alone would address matters related to our body and that the other body would do the same.

Yet, at this late date, a few Members on the other side of the aisle in this House have decided to link changes in the way the other body conducts its business to any attempt to resolve the longstanding problems of this House. And it is ironic that their target is the Chamber which provides for nearly unlimited debate while the Members of this House are told when they can debate, for how long, and even whether they can offer amendments.

It is clear to me what is going on. A handful of people opposed to reform are attempting to throw up any roadblock they can out of fear that the joint committee might actually do something. We should reject their attempt at gridlock and get on with reform.

CONGRESSIONAL REFORM OR CONGRESSIONAL INERTIA

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, there is a huge expectation for Congress to adopt strong reform measures. If you page through the countless surveys, articles, editorials, and constituent letters concerning congressional reform, they all echo a theme. That theme is "now is the best opportunity we have to make Congress more effective and responsive."

As a member of the Joint Committee on the Organization of Congress, I am particularly aware of the pressure from constituents and Members of Congress to promote really meaningful reforms. We have the most reform minded Congress in history, thanks to the strong interest fed by both the freshman and sophomore classes. They aren't the only Members of Congress who are asking for reform.

Ninety percent of the Members who answered a Joint Committee on the Organization of Congress survey, agreed that Congress needs major procedural and organizational improvements. As Members who have all been frustrated from time to time with our work, we are all well aware of areas that need change. Congress has a unique opportunity to do this important work if it adopts strong, true, and meaningful reforms.

However, I am worried that even with good conditions and interest in congressional reform, congressional inertia will result in only minor or cosmetic changes. Most Members are sincere when they say they want to adopt serious reforms. I hope this sincerity prevails over the politics which have strangled meaningful reform efforts in the past.

LESSONS OF POP JORDAN'S DEATH

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, speaking of reform, the country is now debating a crime bill. In this regard, I am reminded of the death of Pop Jordan, along that roadside spot in Robeson County, NC.

Both of the young thugs who were responsible, most likely, for his death had long criminal records. These two thugs are illustrative of the fact that in many jurisdictions 75 percent of all crimes are committed by those who have previously committed crime.

It is very obvious that by one very simple mechanism, just by not letting unrehabilitated criminals back out on the streets, we could reduce crime by 75 percent.

All the initiatives in the President's crime package will come nowhere close to reducing crime by 75 percent.

Why can we not do this one simple, obvious thing? Do not let unrehabilitated criminals back on the streets, and we will reduce crime by 75 percent.

Mr. Speaker, I hope the President is listening.

POTENTIAL ENVIRONMENTAL DEVASTATION BY DECADES OF SOVIET NUCLEAR DUMPING

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, we are only now beginning to realize the potential environmental devastation caused by decades of Soviet nuclear dumping. If something is not done soon, the Arctic Circle and our oceans could become radioactive wastelands by the turn of the century.

Let me set things in perspective. The Three Mile Island nuclear accident in my home State entered a total of 15 curies of radioactivity. The Soviet Union has now admitted formally that they have dumped 2.5 million curies of radioactive waste in our oceans, and currently have over 10 million curies of radioactive waste stored in the Murmansk Harbor.

As the ranking member of the Subcommittee on Oceanography of the Committee on Merchant Marine and Fisheries, I requested a hearing on this issue last month, and there is even more disturbing news, Mr. Speaker.

Radiation from the Chelyabinsk and Mayak military installations in the southern Urals totalling twice the radiation released at Chernobyl has accumulated into Lake Karachai, and radiation from plants along the Ob River threaten to run off into the Arctic.

We must address this issue with President Yeltsin, and address it now. Whatever the outcome, we must start now. This problem can wait no longer.

□ 1250

THE ELECTION OF JEAN CHRETIEN: A POSITIVE OUTCOME FOR THOSE WHO SUPPORT NAFTA

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, contrary to reports that we have received this morning, the election of Jean Chretien and his Liberal Party, in Canada actually is a positive outcome for those of us who support the North American Free-Trade Agreement. Yes, Mr. Chretien has some concerns about the NAFTA, but they are not unlike those that were voiced by President Clinton during his campaign. Yes, he wants to make some modifications, but Jean Chretien does not oppose the North American Free-Trade Agreement. The NDP Party, which has opposed NAFTA, took a sound beating in the polls. They went from 43 seats down to 8 seats in the election. That should be a message for those in the Congress who oppose NAFTA.

I believe that we can work this out in a way which will be positive for Canada, United States, and Mexico.

BEFORE WE TRY TO ELIMINATE THE FILIBUSTER, LET'S END CLOSED RULES

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, there is an effort in this House to change the procedures of the other body the Senate as the first priority of congressional reform. Advocates of this position state that the majority should always rule.

Well, if those who are leading the effort to eliminate the filibuster in the other body are serious about majority rule, I call on them today to go to their own leadership and call for an end to closed rules—the greatest barrier to majority rule in this House. One cannot have the majority rule if they cannot even vote.

Closed rules prevent honest debate, and, while they are at it, maybe they could also ask the leadership for fair representation for the minority on the Rules Committee and proportional representation and funding for the minority on all committees.

There is an old saying, "physician heal thyself." Well, in this House, I hope that these senior, influential members of the majority can refocus their efforts on bringing fairness and majority rule to their own House of Representatives.

REINVENTING GOVERNMENT

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I rise today with guarded optimism that Republicans and Democrats can work together in the reinventing Government effort that was announced by the White House.

As a cochair of the bipartisan freshman task force on procurement, I am disappointed that the President has backed away from his proposal to allow Davis-Bacon waivers and similar modifications in the Service Contracting Act. I am disappointed that cost savings from personnel reductions and other changes are not real, and the lobbyists who have gotten some of the costly special interest garbage into our Federal laws are still being successful in protecting their special interests.

There are 142,000 Government employees who work in the area of Government procurement purchasing $200 billion of goods and services every year. Incorporated in 4,500 pages of Government regulations are many special interest provisions that have resulted in billions of dollars of increased costs.

Mr. Speaker, I ask my colleagues, the President, and the Vice President to work to reinvent Government in such a way so that the taxpayer is the most important special interest.

NAFTA IS GOOD FOR AMERICA

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, I want to salute those of my colleagues, especially my Democrat colleagues, and that will be rarely heard from me, on the courage that they have been showing in opposing the hysteria that has been spread by the opponents of NAFTA, and it takes a lot of courage for those people on the Democrat side of the aisle to stand up for truth against the lies that have been told about NAFTA.

What do we know about NAFTA? The North American Free-Trade Agreement does two things: It lowers the tariffs; this is all it does. It lowers the tariffs, hopefully ending the tariffs, eliminating them, over a period of time. Our goods are taxed by the Mexicans at 10 percent. Their goods are taxed by us as they come in by 4 percent. We get a 2½ times benefit for that. And the other thing NAFTA does is cut the regulations so that our businessmen that do business down there cannot face any more regulations than they placed on their own businessmen, and their Mexican businessmen cannot have more regulations placed on them than we place on our own businessmen.

Mr. Speaker, it is a plus for us because we do not regulate their businessmen more than we regulate our own. It is a plus for us because we get 2½ times the benefit in terms of lowering the tariffs.

NAFTA is good for America. It is going to create jobs here.

REQUEST FOR CONSIDERATION OF SENATE CONCURRENT RESOLUTION 48, CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF H.R. 2403, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1994

Mr. HOYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 48) to correct technical errors in the enrollment of the bill (H.R. 2403), and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore (Mr. Fields of Louisiana). Is there objection to the request of the gentleman from Maryland?

Mr. SMITH of New Jersey. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

FURTHER CONFERENCE REPORT ON H.R. 2445, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1994

Mr. BEVILL. Mr. Speaker, pursuant to the unanimous consent agreement of today, October 26, 1993, I call up the further conference report on the bill (H.R. 2445) making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, October 26, 1993, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House Friday, October 22, 1993, at page H8364.)

The SPEAKER pro tempore. The gentleman from Alabama [Mr. Bevill] will be recognized for 30 minutes and the gentleman from Indiana [Mr. Myers] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. Bevill].

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 2445, as well as the Senate amendments in disagreement thereto, and that I may include extraneous material and tables.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to once again present the conference report on the fiscal year 1994 energy and water development appropriations bill for your favorable consideration.

Mr. Speaker, our colleagues may recall that the House considered the conference report on this bill on Tuesday, October 19, at which time it was recommitted with instructions to conference. The conference committee met again on Thursday, October 21, to consider the instructions of the House. The conference agreement we bring to the House floor today reflects the concerns expressed by the House. The conference report was filed in the House on October 22.

Mr. Speaker, the House action was a clear signal of the strong desire for termination of the superconducting super collider. The conference agreement before the House includes $640 million for termination costs for the superconducting super collider. The conferees have agreed to an orderly termination of the project and have asked the Secretary of Energy to prepare a plan to maximize the value of the investment to date and the current assets. The total costs for termination are not fully known at this time, and it is possible that some funding will be necessary in future years to complete termination of the project.

Mr. Speaker, with the exception of the termination of the superconducting super collider, there are no changes in the conference agreement we bring to the House floor today from the conference agreement which was presented earlier. The conference agreement is $26,064,000 below the subcommittee's 602(b) allocation for budgetauthority, and $130,664,000 below the President's budget request.

Mr. Speaker, amendment No. 33 and the statement of the managers have been revised to reflect the change in the superconducting super collider. In addition, language was included directing the Department of Energy to submit to the Congress a report concerning plans for other large science projects within the jurisdiction of the Department of Energy, including recommendations as to whether these projects should continue to be pursued, and how they should be funded and financed.

Mr. Speaker, as I indicated in my opening remarks, the conference is at our 602(b) allocation for outlays and $26 million below our allocation for budget authority. Our bill has been scored by the Congressional Budget Office and these are their numbers.

The conference report on page 132 shows a total of $22,215,382,000 for budget authority. However, in order to be consistent with the budget resolution, which is the basis for the 602(b) allocations, a number of adjustments to the bill are required. These adjustments, which are determined by CBO, are minus $224,446,000. Therefore, for comparison with our 602(b) allocation, CBO scores our bill at $21,990,936,000 which is $26,064,000 below our 602(b) allocation.

Mr. Speaker, I strongly urge the Members to support the hard work of my subcommittee and pass the conference report and amendments which will be presented to the House.

I would like to call the Members' attention to several minor printing errors in the conference report printed in the October 22, 1993, Congressional Record:

On page H8364, column two, first line, insert "disagreement to the" after "its".

On page H8365, column three, insert "Lake" after "Old Hickory".

On page H8366, column two, the amount provided for the Anacostia River, Maryland and District of Columbia, should be $700,000" instead of "$7,000,000".

On page H8402, column two, insert "Unit" after "Garrison Diversion".

Mr. Speaker, at this point I would like to insert a table in the Record which summarizes the financial aspects of the conference agreement.

Mr. Speaker, I reserve the balance of my time.

FY 1994 ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL (H.R. 2445)

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF DEFENSE - CIVIL						
DEPARTMENT OF THE ARMY						
Corps of Engineers - Civil						
General investigations	175,780,000	157,600,000	207,540,000	208,544,000	207,540,000	+31,760,000
Construction, general	1,360,503,000	1,206,237,000	1,389,138,000	1,441,167,000	1,400,875,000	+40,372,000
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	351,182,000	343,000,000	352,475,000	348,875,000	348,875,000	-2,307,000
Operation and maintenance, general	1,596,668,000	1,657,700,000	1,691,350,000	1,673,704,000	1,688,990,000	+92,322,000
Regulatory program	86,000,000	92,000,000	92,000,000	92,000,000	92,000,000	+6,000,000
Flood control and coastal emergencies	190,000,000	20,000,000	20,000,000	20,000,000	20,000,000	-170,000,000
General expenses	142,000,000	148,500,000	148,500,000	148,500,000	148,500,000	+6,500,000
Oil spill research	....	350,000	350,000	350,000	350,000	+350,000
Total, title I, Department of Defense - Civil	3,902,133,000	3,625,387,000	3,901,353,000	3,933,140,000	3,907,130,000	+4,997,000
TITLE II - DEPARTMENT OF THE INTERIOR						
Bureau of Reclamation						
General investigations	12,540,000	12,714,000	13,109,000	14,409,000	13,819,000	+1,279,000
Construction program	470,568,000	431,848,000	464,423,000	460,898,000	464,423,000	-6,145,000
Operation and maintenance	274,760,000	282,898,000	282,898,000	282,898,000	282,898,000	+8,138,000
Loan program	4,102,000	5,800,000	12,163,000	13,500,000	13,500,000	+9,398,000
(Limitation on direct loans)	(8,000,000)	(11,636,000)	(18,726,000)	(21,000,000)	(21,000,000)	(+13,000,000)
General administrative expenses	53,745,000	54,034,000	54,034,000	54,034,000	54,034,000	+289,000
Emergency fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	....
Colorado River Dam fund (by transfer, permanent authority)	(-6,563,000)	(-7,168,000)	(-7,168,000)	(-7,168,000)	(-7,168,000)	(-605,000)
Central Utah project completion account	....	21,000,000	25,770,000	25,770,000	25,770,000	+25,770,000
Utah reclamation mitigation and conservation account	....	9,850,000	9,850,000	9,850,000	9,850,000	+9,850,000
Central Valley project restoration fund	....	34,000,000	45,000,000	45,000,000	45,000,000	+45,000,000
Total, title II, Department of the Interior	816,715,000	853,144,000	908,247,000	907,359,000	910,294,000	+93,579,000
(By transfer)	(-6,563,000)	(-7,168,000)	(-7,168,000)	(-7,168,000)	(-7,168,000)	(-605,000)
TITLE III - DEPARTMENT OF ENERGY						
Energy Supply, Research and Development Activities:						
Operating expenses	2,527,287,000	2,702,102,000	2,731,464,000	2,818,216,000	2,802,840,000	+275,553,000
Plant and capital equipment	488,506,000	454,070,000	436,170,000	431,070,000	421,070,000	-67,436,000
Total	3,015,793,000	3,156,172,000	3,167,634,000	3,249,286,000	3,223,910,000	+208,117,000
Uranium Supply and Enrichment Activities:						
Operating expenses	1,202,457,000	246,992,000	160,000,000	246,992,000	246,992,000	-955,465,000
Plant and capital equipment	83,863,000	100,000	....	100,000	100,000	-83,763,000
Subtotal	1,286,320,000	247,092,000	160,000,000	247,092,000	247,092,000	-1,039,228,000
Gross revenues	-1,462,000,000	-70,000,000	....	-70,000,000	-70,000,000	+1,392,000,000
Net appropriation	-175,680,000	177,092,000	160,000,000	177,092,000	177,092,000	+352,772,000
Uranium enrichment decontamination and decommissioning fund	....	286,320,000	286,320,000	286,320,000	286,320,000	+286,320,000
General Science and Research Activities:						
Operating expenses	726,162,000	781,264,000	719,785,000	835,187,000	1,329,785,000	+603,623,000
Plant and capital equipment	691,622,000	804,927,000	474,329,000	779,927,000	285,329,000	-406,293,000
Total	1,417,784,000	1,586,191,000	1,194,114,000	1,615,114,000	1,615,114,000	+197,330,000
Nuclear Waste Disposal Fund	275,071,000	258,028,000	260,000,000	260,000,000	260,000,000	-15,071,000
Isotope production and distribution fund	5,000,000	3,866,000	3,910,000	3,910,000	3,910,000	-1,090,000
Environmental Restoration and Waste Management:						
Defense function	(4,831,547,000)	(5,428,112,000)	(5,185,877,000)	(5,106,855,000)	(5,181,855,000)	(+350,308,000)
Non-defense function	(709,694,000)	(1,003,798,000)	(1,003,798,000)	(1,003,798,000)	(1,003,798,000)	(+294,104,000)
Total	(5,541,241,000)	(6,431,910,000)	(6,189,675,000)	(6,110,653,000)	(6,185,653,000)	(+644,412,000)
Atomic Energy Defense Activities						
Weapons Activities:						
Operating expenses	4,010,209,000	3,350,648,000	3,244,656,000	3,248,930,000	3,248,656,000	-761,553,000
Plant and capital equipment	558,540,000	358,652,000	327,542,000	348,552,000	346,542,000	-211,998,000
Total	4,568,749,000	3,709,300,000	3,572,198,000	3,597,482,000	3,595,198,000	-973,551,000
Defense Environmental Restoration & Waste Management:						
Operating expenses	4,074,490,000	4,767,513,000	4,465,613,000	4,537,278,000	4,552,278,000	+477,788,000
Plant and capital equipment	757,057,000	660,599,000	720,264,000	569,577,000	629,577,000	-127,480,000
Total	4,831,547,000	5,428,112,000	5,185,877,000	5,106,855,000	5,181,855,000	+350,308,000

FY 1994 ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL (H.R. 2445), continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
Materials Support and Other Defense Programs:						
Operating expenses	2,227,602,000	1,808,970,000	1,729,283,000	1,654,246,000	1,654,246,000	-573,356,000
Plant and capital equipment	390,727,000	336,278,000	317,309,000	309,509,000	309,509,000	-81,218,000
Total	2,618,329,000	2,145,248,000	2,046,592,000	1,963,755,000	1,963,755,000	-654,574,000
Defense Nuclear Waste Disposal	100,000,000	119,742,000	120,000,000	120,000,000	120,000,000	+20,000,000
Total, Atomic Energy Defense Activities	12,118,825,000	11,402,402,000	10,924,867,000	10,788,092,000	10,860,808,000	-1,257,817,000
Departmental Administration:						
Operating expenses	397,876,000	405,922,000	393,458,000	393,458,000	393,458,000	-4,418,000
Plant and capital equipment	7,780,000	8,561,000	7,780,000	7,780,000	7,780,000	....
Subtotal	405,656,000	414,483,000	401,238,000	401,238,000	401,238,000	-4,418,000
Miscellaneous revenues	-318,381,000	-239,209,000	-239,209,000	-239,209,000	-239,209,000	+79,172,000
Net appropriation	87,275,000	175,274,000	162,029,000	162,029,000	162,029,000	+74,754,000
Office of the Inspector General	30,362,000	31,757,000	31,757,000	30,362,000	30,362,000	....
Power Marketing Administrations						
Operation and maintenance, Alaska Power Administration	3,577,000	4,010,000	4,010,000	4,010,000	4,010,000	+433,000
Operation and maintenance, Southeastern Power Administration	32,411,000	29,742,000	29,742,000	29,742,000	29,742,000	-2,669,000
Operation and maintenance, Southwestern Power Administration	21,907,000	33,587,000	33,587,000	33,587,000	33,587,000	+11,680,000
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	326,634,000	352,956,000	292,956,000	277,956,000	277,956,000	-48,678,000
(By transfer, permanent authority)	(6,563,000)	(7,168,000)	(7,168,000)	(7,168,000)	(7,168,000)	(+605,000)
Total, Power Marketing Administrations	384,529,000	420,295,000	360,295,000	345,295,000	345,295,000	-39,234,000
Federal Energy Regulatory Commission						
Salaries and expenses	158,639,000	165,375,000	165,375,000	165,375,000	165,375,000	+6,736,000
Revenues Applied	-158,639,000	-165,375,000	-165,375,000	-165,375,000	-165,375,000	-6,736,000
Total, title III, Department of Energy	17,158,759,000	17,497,397,000	16,550,726,000	16,917,500,000	16,964,840,000	-193,919,000
(By transfer)	(6,563,000)	(7,168,000)	(7,168,000)	(7,168,000)	(7,168,000)	(+605,000)
TITLE IV - INDEPENDENT AGENCIES						
Appalachian Regional Commission	190,000,000	189,000,000	189,000,000	249,000,000	249,000,000	+59,000,000
Defense Nuclear Facilities Safety Board	13,000,000	15,060,000	15,060,000	18,060,000	16,560,000	+3,560,000
Delaware River Basin Commission:						
Salaries and expenses	325,000	333,000	333,000	333,000	333,000	+8,000
Contribution to Delaware River Basin Commission	475,000	488,000	488,000	488,000	488,000	+13,000
Total	800,000	821,000	821,000	821,000	821,000	+21,000
Interstate Commission on the Potomac River Basin:						
Contribution to Interstate Commission on the Potomac River Basin	485,000	498,000	498,000	498,000	498,000	+13,000
Nuclear Regulatory Commission:						
Salaries and expenses	535,415,000	542,900,000	542,900,000	542,900,000	542,900,000	+7,485,000
Revenues	-514,315,000	-520,900,000	-520,900,000	-520,900,000	-520,900,000	-6,585,000
Subtotal	21,100,000	22,000,000	22,000,000	22,000,000	22,000,000	+900,000
Office of Inspector General	4,585,000	4,800,000	4,800,000	4,800,000	4,800,000	+215,000
Revenues	-4,585,000	-4,800,000	-4,800,000	-4,800,000	-4,800,000	-215,000
Subtotal	....	....	....	....	....	....
Total	21,100,000	22,000,000	22,000,000	22,000,000	22,000,000	+900,000
Susquehanna River Basin Commission:						
Salaries and expenses	301,000	308,000	308,000	308,000	308,000	+7,000
Contribution to Susquehanna River Basin Commission	290,000	298,000	298,000	298,000	298,000	+8,000
Total	591,000	606,000	606,000	606,000	606,000	+15,000

FY 1994 ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL (H.R. 2445), continued

	FY 1993 Enacted	FY 1994 Estimate	House	Senate	Conference	Conference compared with enacted
Tennessee Valley Authority: Tennessee Valley Authority Fund	135,000,000	138,973,000	138,973,000	140,473,000	140,473,000	+5,473,000
Nuclear Waste Technical Review Board	2,060,000	2,160,000	2,160,000	2,160,000	2,160,000	+100,000
Office of the Nuclear Waste Negotiator		1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000
Total, title IV, independent agencies	363,036,000	370,118,000	370,118,000	434,618,000	433,118,000	+70,082,000
Scorekeeping adjustments	-161,096,000	-222,446,000	-224.446,000	-224,446,000	-224,446,000	-63,350,000
Grand total:						
New budget (obligational) authority	22,079,547,000	22,123,600,000	21,505,998,000	21,968,171,000	21,990,936,000	-88,611,000
(By transfer)						

□ 1300

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, your conferees bring back a conference report which is the best that could be made of a bad situation. Our chairman has presented what is in the conference, little changed from the House position, except for some authorizing language which was necessary to terminate the superconducting super collider. The chairman has already adequately explained this.

Mr. Speaker, I think the big difference here is that no one can tell just exactly how much the termination is finally going to cost, because it is impossible today for anyone to make that prediction. We know because of action last year and two votes this year that the House is overwhelmingly opposed to the superconducting super collider. Your conference recognized this, and we agreed with the Senate that we would terminate it. We do provide for some things that will be discussed later in Senate amendment 33.

Mr. Speaker, first, we authorize the Secretary to move forward toward termination. But pending that, the Secretary shall report back to the committee of any progress made and what some of the estimates are in cost. We recognize not only do we have to close down the present operation in Texas, and we do not know for sure what that will cost, but we have contracts that must be liquidated and contractors that must be paid off. We know the State of Texas has some claim on this. We are going to have to repay the State of Texas some figure. We know we have site restoration. We have 20 percent of the tunnel already dug. We have to take some action on this.

Mr. Speaker, we do have the $640 million provided in the House bill and it provides that the Secretary shall use that for termination, whatever the termination costs are.

The Secretary also by July 1 of next year is to report back to the Congress on any possibility there might be for someone else to operate this or to try to recapture as much of the taxpayer investment as we possibly can.

Mr. Speaker, this conference report, as I mentioned earlier, is the best we could come up with. No one can tell just exactly what the termination costs will be. We do know from all indications, and the Secretary will be reporting back as soon as possible what the estimates are for termination, but it may be years before we know what the cost is of termination. In any event, we know the taxpayers are losing an awful lot of money. It was a bad investment. They are going to probably make a prediction that it will cost pretty much half as much to terminate this program as it would to complete it, and we would have had something to show for it.

Mr. Speaker, nevertheless, it has been the wish of the House that we do this, and your conferees have done it. It has made the best of a bad situation.

Mr. Speaker, I reserve the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, today the House is making what I believe is a serious mistake in terminating the superconducting super collider. By our action we are striking a critical blow to high energy physics, to investment in science, and to our Nation's future as a leader in science.

For years, we have moved forward aggressively in exploring the unknown and pushing against the outer limits of knowledge. Our efforts have been rewarded as we have made tremendous gains in medicine, computers, communications, and advanced materials that have benefited all mankind.

Unfortunately, we have lost our nerve, and we will all be poorer because of this unwise decision by the House. It is, indeed, a sad day for science, a sad day for the United States.

But the decision, as wrong is it is, has been made, and we must move on.

Mr. Speaker, approximately $2 billion has been invested in the SSC to date. State-of-the-art laboratories and related facilities have been built. An extraordinary team of talented scientists and engineers have been brought together.

This conference report directs the Secretary of Energy to submit a report to Congress with a plan to maximize the value of this investment. It also directs the Secretary to make recommendations on ways to best utilize SSC assets and todetermine the feasibility of pursuing an international high energy physics endeavor.

I pledge to work with the Secretary and the State of Texas on protecting the investment that's been made and on finding alternative uses for the people, buildings, and equipment now in place.

Hopefully, we can find a way to minimize the damage to science and to the future of our Nation's competitiveness that will result from the House decision today.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, first of all I would like to say to the chairman and ranking Republican that they have done a good job in bringing this in below fiscal year 1993. I believe it is about $25.2 million below last year. It is $131 million below the request of the President. It is, however, above the House-passed bill, and slightly above the Senate-passed bill. Therefore, there are some places in this bill where we could make some economies.

For instance, the conference agreement contains $3.9 billion for the Army Corps of Engineers. This is approximately $5.7 million above the House bill. But it is $240 million, or almost 7 percent, above last year's appropriation for the Corps of Engineers.

Mr. Speaker, $240 million is a lot of money. I proposed an amendment when the bill was before the House that would cut the rate of growth for the Army Corps of Engineers to no more than the rate of inflation, which was then about 3.2 percent. That would have saved $17 million.

So I believe there can be some economies, and that we should cut where we can, especially in view of the huge budget deficits we have been having and will be having in the foreseeable future.

In addition to that, I have a couple of questions which I will address to my colleagues when we get into the amendments in technical disagreement.

Mr. Speaker, overall I think the committee did an outstanding job. However, there are some ways to save some additional moneys, and I will be getting a vote on that to point out to my colleagues where we could save another couple hundred million dollars if we choose to do so.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, the distinguished chairman of the subcommittee and his fellow members have an incredible task each year to try to keep us within fiscal restraint and to meet the enormous priorities that we have in this country on energy and water issues, and I applaud them in that effort.

Mr. Speaker, I have a dispute, obviously, with one of the proposals that is in the legislation before us, and that is the advanced liquid metal reactor. We in the House of Representatives voted in June 272 to 146 to terminate this program based on the fact that a number of studies have shown that it is highly improbable to ever be economically viable as a source of generating electricity, and, second, it raises dangers of nuclear proliferation, that is, the plutonium which is at the core of this reactor, unlike other reactors that we use in our society today. Indeed, I believeit falls afoul of the basic American antinuclear proliferation efforts around the world which are now being intensified because of a variety of countries trying to go forward.

□ 1310

Mr. Speaker, I think it is imperative that we continue the battle to try to bring this program to an end, to save money, and to eliminate those risks on proliferation.

The fact is, the administration urged that we cut it back in Congress. The

House of Representatives voted to eliminate it all together. The Senate, unfortunately, added not only all the money back but it will spend more, not only than what the administration requested but more than was spent last year.

We are going forward in this legislation, as we should, with advanced nuclear technologies, and there are five other reactors besides the one I am focusing on to go forward.

I realize that for this year and for this piece of legislation, which has been through an enormous turmoil, that we are not going to succeed at this time. But I do want to indicate that many of us are fighting to get this a part of the rescission bill, and we will continue the pressures at the various points in the budgetary process.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. SKEEN], a valued member of the Committee on Appropriations.

Mr. SKEEN. Mr. Speaker, I thank the gentleman for yielding time to me. Mr. Speaker, I would like to express my gratitude to Chairman BEVILL, Mr. MYERS, and staff for working with me and the rest of the New Mexico congressional delegation on some issues very important to our State.

Incorporated in this conference report is bill language dealing with the monitored retrievable storage [MRS] program which I have sought for the last couple of years. As the chairman and ranking member are aware, I have been following closely the developments regarding the Mescalero Apache Tribe's application for Federal funding toward siting a MRS facility on its reservation.

I have tried to refrain from interfering with the Mescalero's right to study the issue. However, since the Mescaleros received over $300,000 2 years ago, they have not received any support from the congressional delegation, the Governor, and city, and county officials for this contentious program.

This lack of consensus and the enormous public opposition to this plan makes it important that Congress prohibit phase II–B grants to study the feasibility of siting a monitored retrievable storage [MRS]. This bill language is similar to the report language included in this year's House passed report to accompany the fiscal year 1994 Energy and Water appropriations bill. This language is important to prevent the further waste of taxpayer money.

Mr. Speaker, on another issue, I would like to have a colloquy with the gentleman from Alabama [Mr. BEVILL], if he would.

DOE has just announced that it is no longer going to pursue conducting radioactive tests at WIPP, in Carlsbad, NM. This is a 180-degree turn by the DOE which could have great ramifications for our country's nuclear waste situation.

I hope that this decision was not made in order to satisfy those interest groups which have opposed the opening of WIPP since its inception. It took over 6 years to finally pass a legislative land withdrawal through Congress, and now the heart of that hard fought agreement has been taken out. In fact, most of the debate centered around how to implement WIPP's test phase. Therefore, we deserve some detailed answers about why DOE now believes we can do these tests above ground at our national labs, and about where we go from here. This DOE decision was made recently without a congressional hearing.

Will his committee be reviewing the situation during the hearings on the fiscal year 1995 budget and will your committee work with me on evaluating this new policy and its impact on New Mexico?

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Speaker, the answer is "Yes." We will be glad to work with the gentleman on this matter.

Mr. SKEEN. Mr. Speaker, I certainly do appreciate that from the chairman.

Mr. BEVILL. I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise to express my concern about the termination costs for the superconducting super collider contained in the conference report.

As has been previously explained, the $640 million appropriated for construction of the SSC has now been changed to pay for termination costs.

I certainly support canceling the SSC and recognize that termination costs are in order when a project of this magnitude is canceled by the Government. However, the $640 million seems to be somewhat at variance to the figures that have been submitted by the Energy Department.

On January 14, 1993, then Secretary of Energy James Watkins submitted an estimate of the cost of the SSC shutdown at $278,100,000. On October 20, 1993, the termination costs for the SSC had grown by an estimate of the Department of Energy Legislative Affairs shop to $1,171,000,000. Of this latter figure, $625 million was for what was labeled as claims in litigation potential for employees, contractors, the State of Texas, and county and local governments.

I would remind my colleagues, Mr. Speaker, that in 1990, when the House debated an SSC authorization bill, by a 93-vote margin the House struck an indemnification provision for the State of Texas which would have indemnified that State should Congress cancel the SSC.

I would hope that the $640 million that are labeled for termination costs is a high estimate in the conference committee report, that it can be done closer to the January 1993 figure of $278,100,000 and that the will of the House that no money be spent for indemnification of the State of Texas and county and local governments, who shared the risks of the SSC when they made the bid, be paid.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO], the ranking majority member of this subcommittee.

Mr. FAZIO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of the conference report on H.R. 2445.

Mr. Speaker, this conference report represents the balanced approach we need to meet the energy, water, and scientific challenges of the next century.

The report provides for the orderly and efficient termination of the SSC. The bill emphasizes fairness by recognizing the valuable contributions of the SSC work force and by providing for a transition period for these workers and their families. The bill also insures long-term savings by giving the Secretary of Energy the flexibility she needs to maximize the Federal Government's investment in the project.

Mr. Speaker, while most of the debate in this Chamber has focused on the SSC, I want to emphasize that there is much more to this bill than the SSC termination. This bill is about our future.

The conference report puts our country firmly on a path to resume our position of world leadership in renewable energy technologies. The bill also includes over $4 billion in water resource projects in every State and every region of the country. Finally, the conference report makes environmental restoration and improvement a national priority.

We have provided funding for the key energy, science, and water projects, and we have done so within our subcommittee's allocation. We are under the President's budget request, under the 602(b) allocation, and under the amount appropriated last year.

This bill is a balanced approach. It is about looking ahead and making our economy stronger and our communities safer. I strongly urge a "yes" vote on the conference report.

□ 1320

Mr. FAZIO. Mr. Speaker, will the gentleman engage in a colloquy with me?

Mr. BEVILL. If the gentleman will yield, I will be pleased to join the gentleman in a colloquy.

Mr. FAZIO. Mr. Speaker, as the gentleman knows, the bill includes initial funding for the Renewable Energy Production Incentive Program.

Mr. Speaker, the intent of this provision is for Department of Energy to provide incentive payments to as many types of eligible resources as possible, including methane gas recovery projects. Is this correct?

Mr. BEVILL. Yes, the gentleman is correct.

Mr. FAZIO. I thank the Chairman for this clarification.

Mr. MYERS of Indiana. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, let me begin by thanking Chairman BEVILL and Mr. MYERS and all the House conferees for their excellent work in last week's conference. The conferees represented the House position fairly, forcefully, and judiciously, and I greatly appreciate their work. I know what a fine job they did because Chairman BEVILL took the unusual step of allowing me and the gentleman from Kansas [Mr. SLATTERY] to participate in those proceedings, and I thank him for that courtesy.

The outcome of that conference is the amendment we have before us today, which carries out the will of this House—which is to say the will of the people—to shut down the superconducting super collider [SSC]. The question before us now is: Where do we go from here?

Part of that concerns the shutdown process itself. All I want to say is that we will be watching closely to ensure that this project is closed out as cheaply and swiftly as possible.

But there is a larger question I must address today, and that is the question of what happens next to American science in general and to high-energy physics in particular.

I do not want the House vote on the SSC to be misinterpreted. This is not a vote that portends the end of Federal support for science, and this is not a signal that young people should be turning their attention to other fields. Indeed, many of us voted to kill the SSC precisely because we believed that science was being harmed by the SSC, and many scientists have applauded us for our work.

People who are painting the SSC vote in the darkest hues are doing this body a disservice, and they are needlessly frightening the scientific community. And if the doomsayers are believed, their words will become self-fulfilling prophecy. People should not despair about the Federal commitment to science—funding in many areas of science continues to rise, and with the demise of the SSC should be able to rise further.

High-energy physicists, of course, do have cause for concern. But this vote does not mean the end of high-energy physics any more than aborting the Isabelle project—the SSC's predecessor—meant the doom of high-energy physics.

I stand ready to work with the high-energy physics community to come up with a program that can have long-term Federal support. It is not our goal to see this field of physics flounder. The Science Committee will be holding hearings on this subject, and we have already begun informal discussions with the White House Science Office.

The message of this vote was put well by an editorial in Sunday's New York Times. The Times wrote:

> On costly projects like this, it will be critical to enlist other nations as partners. And it will be imperative to project costs accurately from the start, to head off the kind of anger that developed as the SSC's costs kept rising.

That is the message the House tried to send in our 1990 authorization bill for the SSC, and if that bill had become law, we would never have gotten to the point we are at today. Each side would have understood its commitments and stuck to them.

So let the planning for the future of high-energy physics begin today. The key must be to make the politics and logistics of high-energy physics as international as the science is. I look forward to working with my colleagues and with scientists to achieve that goal.

Mr. Speaker, I would like to engage the gentleman from Alabama [Mr. BEVILL], the chairman of the Subcommittee on Energy and Water Development of the Committee on Appropriations, in a colloquy.

Mr. Speaker, the amendment you have just proposed states that the $640 million can be used solely for the orderly termination of the SSC. It is my understanding that this money cannot be transferred to any other account. If termination costs did not reach $640 million, the money would remain unexpended. Is that correct?

Mr. BEVILL. Will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Alabama.

Mr. BEVILL. Yes, Mr. Speaker, that is correct.

Mr. BOEHLERT. The amendment also calls on the Secretary to recommend ways of making use of the assets of the SSC. I just want to make clear what we are talking about here. As I understand it, the recommendations would concern making the most out of the Federal investment while still entirely closing down the SSC site. Under this amendment, the site could not be mothballed or kept warm. It must be entirely closed down and the Federal presence entirely withdrawn. Is that correct?

Mr. BEVILL. Yes, that is correct.

Mr. BOEHLERT. I thank the chairman. Making it clear that this project is absolutely shut down is important not just for financial reasons but for plotting the future of high-energy physics. We cannot have scientists assuming that this project still has life in it. My understanding is that the only work that can still be done on the site would be work required to enable the Federal Government to end its presence there as inexpensively and as speedily as possible. Is that correct?

Mr. BEVILL. Yes, that is correct.

Mr. BOEHLERT. One final question. The amendment gives the Secretary authority regarding severance pay, relocation costs, and contracting for advice on the future of this project. It is my understanding that this language is entirely permissive. It does not require the Secretary to do anything. Is that correct?

Mr. BEVILL. Yes, that is correct.

Mr. BOEHLERT. That is important, because planning in high-energy physics has generally been done by voluntary advisory groups, not by contractors. I want to thank the chairman for his work with us and for representing the position of the House forcefully and forthrightly in last week's conference.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

Mr. Speaker, I rise in regretful but continued opposition to the conference report on H.R. 2445. While I take pride that the conference committee finally agreed to uphold this body's strong position that we cannot afford to continue funding for the superconducting super collider, I am dismayed by the fact that after the conference report was recommitted, the committee did not address the more fundamental institutional problem.

From a budgetary standpoint, this bill illustrates a disturbing tendency of conferees to agree to the higher level of spending rather than agree to one body's lower funding, or even to compromise in the middle.

I particularly object to the funding in this bill for the unnecessary, expensive, and dangerous advanced liquid metal reactor [ALMR], which this body voted overwhelmingly to terminate during original consideration of this legislation. Despite that 272-to-146 vote, and significant support in the other body for terminating this program completely, the conference committee has provided $147 million for the ALMR program, far more than the administration requested, and $14 million more than the program received last year.

The conference committee first agreed to the higher spending number, usually the number of the other body, in 11 out of 14 items in disagreement on Department of Energy civilian programs. This conferencing up resulted in the final bill having more spending than the original versions passed by either body. Now, excluding the SSC, the conference agreement still contains the higher number for 10 of those 14 items in disagreement.

This conferencing up undermines serious deficit reduction efforts, and I want to add further that the vote to terminate the SSC will make sense only if we insist on similar efforts on other projects that no longer measure up.

Mr. Speaker, I do not propose to battle today on this issue. I understand that only one upheaval per bill is customary, and the SSC took that opportunity here. Also, the distinguished chairman, as well as the ranking member, of the subcommittee certainly have suffered enough for this year.

However, we will have other opportunities to insist on the position of this house, and to apply the same sort of budget discipline that we brought to the SSC, to other programs—as we must do if we are serious about bringing the deficit under control.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise in support of the conference report on H.R. 2445. I would like to speak in support of one of the projects funded by this bill, the Department of Energy's Advanced Liquid Metal Reactor and Actinide Recycle R&D Program.

I firmly believe that the United States is in desperate need of technology which is capable of burning or reducing nuclear waste and disposing of plutonium from our weapons stockpile.

□ 1330

The Department of Energy has studied actinide recycle and advanced liquid metal rector technology as technology which might meet both of these goals in addition to having the capability of producing both tritium and electricity.

I know that there is some controversy over this particular program. But without this funding, the Department of Energy, in its search for technology to produce tritium, dispose of plutonium, and address the nuclear waste issue, would be unable to even think about advanced liquid metal reactor technology, no matter how promising it might be. I believe that this is wrong.

Without some sort of prospective program to address the nuclear waste problem, I believe we will close out the nuclear option, which, incidentally, supplies about 15 percent to 17 percent of all of our electricity in this country.

Mr. Speaker, I firmly believe that we should pass this bill, this conference report, in its present form.

Mr. MYERS of Indiana. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I thank our distinguished ranking member of the Subcommittee on Energy and Water Development for yielding me this time. I rise in strong support of this conference report.

Mr. Speaker, I rise to address provisions in the conference report on H.R. 2445, the Energy and Water Development Appropriations Act for fiscal year 1994. I particularly want to express strong support for various water resources projects and programs of the Army Corps of Engineers funded throughout the bill.

First, let me commend the conferees for their efforts. From the beginning, they have cooperated with the Public Works and Transportation Committee, the House's authorizing committee for corps' water resources programs. I especially want to thank members of the House Appropriations Committee. They have worked closely with me and others on the Public Works Committee to include funding to address not only the Nation's water infrastructure needs but those in Pennsylvania, as well.

The conference report includes $10 million for a critically needed environmental infrastructure and resource development program for south central Pennsylvania. The project, authorized in section 313 of the Water Resources Development Act of 1992, would help the corps meet various environmental and economic needs of rural communities. As one of the provision's primary drafters, I can assure Members that our intent was for the corps to accelerate normal procedures to get to actual construction as soon as possible.

The conference agreement is consistent with our intent regarding the Section 313 Program. It is also consistent with language from the House Appropriations Committee report on H.R. 2445 describing how funds should be spent.

While it provides only $10 million of the $17 million authorized, it will help to get the corps moving in the right direction—beyond preliminary study and planning and swiftly into project construction and implementation. This is not merely study money; it is money to get various projects up and running. While $10 million is less than I had hoped for, $5 million for each of the Chesapeake Bay and Ohio River watersheds will be helpful in meeting the region's enormous needs.

It is important to note, Mr. Speaker, that the conferees specifically rejected the Senate's approach to funding and implementation of the south central Pennsylvania program. The Senate bill had provided only $700,000—barely enough to get the program moving beyond the conceptual stage and certainly not enough to get it moving quickly towards construction. The conferees, however, adopted the House's approach of providing a significant amount of funds from the construction general account to move the program into construction in fiscal year 1994. Therefore, the intent is clear: This program is not to be constrained by drawn-outstudies or lengthy preconstruction delays.

Mr. Speaker, I would be remiss if I did not thank Congressman JOHN MURTHA for the invaluable role he has played in both authorizing and appropriating funds for the south central Pennsylvania program. We worked together on the provision in the 1992 act and again the drafting of funding provisions in this legislation. I appreciate his leadership and help.

I also appreciate the Appropriations Committee's willingness to address other water resources issues in south central Pennsylvania. For example, the conference report provides $400,000 for a watershed reclamation and wetlands pilot project for the broad top region. Also, it appropriates $450,000 for the corps to initiate a comprehensive study of the Juniata River corridor, including a reevaluation of the flood control needs of Tyrone, PA.

To avoid any possible confusion, I should also clarify our intent regarding the Juniata River basin study. The Senate bill included only $250,000—rather than $450,000 as in the House bill—and limited the scope of the study to just the Tyrone component. The conference agreement, adopting the House's approach, provides $450,000 for the Juniata River basin, including the Tyrone component.

Thank you, Mr. Speaker, for the opportunity to clarify some of the provisions in the conference report. I appreciate the work of the conferees, not only as it pertains to Pennsylvania but also to the entire Nation's water resources and environmental infrastructure.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I compliment the conferees in general for their work, but this Member strongly objects to the $640 million appropriated in this conference report to shut down thesuperconducting super collider [SSC]. That is largely a waste of taxpayer funds since it is clearly excessive for legitimate shutdown costs. The inclusion of these funds in the conference report is just one more effort to keep the SSC alive.

According to Secretary of Energy O'Leary, the cost of shutting down the SSC project was estimated at over $1 billion. The administration would work with the State of Texas to find jobs for the 2,000 people who work on the project near Dallas, she also said. The Secretary further commented that additional Federal funds may be necessary to help Texas cope with the SSC loss.

This Member takes very strong exception to the Department of Energy's estimate that it could take as much as $1 billion to terminate the SSC over 2 years. For that matter $640 million is too much. Both amounts are outrageously excessive. Just as the estimated construction cost continued to escalate, now it appears that costs associated with stopping this project are heading in the same direction. No matter what Secretary O'Leary said, the $640 million should be the only funds made available to shut down the SSC project, and again even that amount is grossly excessive.

Mr. Speaker, it appears to be easier to drive a wooden stake through the heart of a vampire than to kill the SSC. This Member fears that SSC supporters in the Congress and the Department of Energy seek these excessive funding levels in the hopes of reversing the clear congressional mandate to end the SSC project once and for all.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Speaker, I also rise in support of this conference committee report.

I wanted to respond to some of the arguments that have been made about the advanced liquid metal reactor, or the IFR technology, because it is important that it is included in this bill. Its opponents have pointed out, or have argued that it is not economically viable, and that it is not needed technology, that it is wasteful. But the opposite is true.

Several years ago the U.S. Congress asked the National Academy of Sciences to study all of the nuclear technology that is available to us today and to tell this Congress which of those options were the ones that it should pursue. And for long-term research needs that report said that the committee believes that the LMR should have the highest priority for long-term nuclear technology development.

Mr. Speaker, in Congress we have faced many times the need to focus America's efforts on maintaining its leading edge in research and development in many areas of science throughout the world. Nuclear research is one of those key areas that we must not forget. And if we do not support and continue to support the integral fast reactor and liquid metal reactor research, America will slip that much further behind in this needed area of technology.

For all of the reasons that have been stated in past debates, and as the gentleman from California [Mr. MOORHEAD] stated today, we must keep our competitive edge in the nuclear arena, and we must recognize that the integral fast reactor is the best source for our long-term nuclear options.

Mr. MYERS of Indiana. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in respectful opposition to the conference report. I am opposed not because of the work of the chairman, the subcommittee chairman or the members of the committee, but because of the fundamental decision embedded in the conference report that the United States is going to turn its back on basic research at the highest level, specifically with regard to the termination of the SSC.

President Lincoln at the end of the War Between the States, or right before the end of the War Between the States, gave a famous speech which he concluded by saying, "With charity toward all, with malice toward none." He said that in victory. I would like to paraphrase President Lincoln in defeat. I think it is much more difficult to be magnanimous in defeat than it is victory, and I certainly have no disrespect or malice toward any of the opponents of the SSC. I believe they have acted in what they think is in the best interests of their constituency and the national good.

But I think they are mistaken, because the super collider's termination marks the first time in our Nation's history that as a nation we have turned our back on the ability to expand the 'frontiers of basic knowledge. The consequences of that are yet to be determined, but there is no doubt in my mind that those consequences will be negative and not positive.

Unfortunately, the Federal Government is the only institution in this Nation that can finance basic science at the highest levels. The cost is significant. The latest official cost estimate for the SSC was $8.2 billion. That is a lot of money. But we needed that to go, as they say on "Star Trek," where no man has gone before. Simply put, it is more expensive to do cutting edge, world-class science than it is to do backyard science, so to speak.

The SSC is 20 percent complete, and in spite of all of the hyperbole, the SSC is approximately 6 percent under budget of money expended as opposed to money that should have been expended for work completed.

It is very important to remember that the size and the cost of the SSC were not pulled out of a hat. It was a conscientious decision by the scientific community to expand the energy level of particle accelerators by an order of magnitude 20 times more powerful than the most powerful accelerator now in use, which is the Tevetron Fermi Lab, which has an energy level of 1 trillion electron volts. The SSC, if completed, would have been 20 trillion electron volts, 20 times more powerful. It was designed to be that large and that powerfulbecause the scientists calculated that was what was needed to finally get to the basic question of how the universe was created and what the ultimate building blocks of matter are. They estimated that the energy level necessary for experimental purposes was somewhere between 15 trillion and 20 trillion electron volts.

I respectfully disagree with the gentleman from New York [Mr. BOEHLERT] when he said that termination of the SSC does not mean that the United States is backing away from basic science. Ladies and gentlemen, there has been a science brain drain in this country for the last 15 years as high-energy physicists have gone to Europe. We had reversed that with the building of the SSC. We are not going to see that brain drain started again, and the best high-energy physicists are going to go to Europe, because that is where the best science is being done. The Japanese will almost certainly help the Europeans at the CERN facility in Switzerland. They are not going to come here. If Albert Einstein was alive and looking for a place to do science today, he would not come to the United States, like he did in the 1930's. He would go to Europe, to Switzerland.

So termination of the SSC does represent a fundamental decision on behalf of the House of Representatives to turn our back on maintaining the United States as the world leader is basic research.

The latest cost numbers that are actually coming in, in the last few months show clearly that the project is moving ahead. Tunneling done to date is somewhere between 30 and 40 percent under budget, and we would have recognized significant savings in this area in the next year had we continued the project.

With all due respect, I would hope that we would defeat this conference report. If we cannot do that, I would hopethat the President would veto the bill and send it back with instructions to include funding:

I include for the RECORD my letter to President Clinton asking him to do just that:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 22, 1993.

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to ask you to veto H.R. 2445, the FY94 Energy and Water Appropriations bill, when it comes to you for your signature.

As you know, this bill appropriates $640 million for termination of the Superconducting Super Collider (SSC). I do not believe that stopping the SSC at this time is wise. We have already invested over $2 billion in this project to bring it to 20 percent completion. Thousands of people have invested their careers in this project and moved themselves and their families from across the Nation and around the world.

In addition to the buildings, land, and people, the long-term scientific benefits of the SSC provide a compelling argument for saving the SSC. At a time when the world looks to the United States for leadership, we cannot afford to "cut-and-run" on our truly pioneering endeavors in science.

The fate of the SSC, the thousands of dedicated employees, and indeed the future of high energy physics research rests in your hands. I strongly urge you to veto the FY94 Energy and Water Appropriations bill, and send it back with instructions to restore funding for building the SCC, not terminating it.

Sincerely,

JOE BARTON,
Member of Congress.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself 1 minute.

The discussion has been made here today that the $640 million provided in this bill for termination is too much. I do not think anyone can say it is too much or too little.

Secretary O'Leary sent our chairman a letter this morning saying that she was examining this. Under the conditions of the next amendment that we are going to be considering, the Secretary does have to make an estimate back to us. She has to report back to us on what those costs are. We do not know. There are a lot of contracts that have been let, but as of this date no one can say just how much those contracts are going to cost to terminate.

□ 1340

So whether it is $640 million, too little or too much, is all conjecture. We do not know at this point. The committee did feel it was going to cost a lot of money and the taxpayers are going to lose a lot of money on this project because of the termination. We know it is going to cost a considerable amount of money.

The committee did say that the $640 million, said very carefully, it cannot be spent for anything except for termination costs and costs associated with the restoration of the site in Texas.

Mr. Speaker, that is a little bit like taking a swipe when we say that that is too much money; no one knows.

Mr. Speaker, with that I yield back the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

I rise urging each Member to please support this conference and the amendments in disagreement. This has been a most difficult conference and one that is most unusual. Each of the two Houses were voting in opposite directions and with the final vote being so different. It has made it very difficult. But the Senate has receded to the House's position, and we would appreciate now the House voting for this conference report and the amendments thereto.

Mr. MINETA. Mr. Speaker, I rise in strong support of the conference report on energy and water development appropriations, and in particular support of the Advanced Liquid Metal Reactor Program.

The ALMR system is an advanced reactor power plant and fuel cycle concept being jointly developed by U.S. industry and the national laboratories under DOE sponsorship. We in Congress have supported this ALMR development for the past several years. This important cost-shared R&D program is also supported by utilities, industry, and foreign countries with great potential for commercialization after 2010.

Mr. Speaker, countries around the world recognize the important role nuclear power must play in the production of clean, safe, economical, and abundant electricity. Global markets for United States industry are rapidly increasing in countries such as Japan, Taiwan, Korea, and Indonesia. These countries continue to look to the United States for leadership in nuclear power technology. The nuclear power plant market potential in the Pacific rim nations during the next 15 years is estimated to be over $175 billion. This represents well over 100,000 U.S. jobs.

Abandonment of advanced nuclear research by the United States would send a frightening message to the rest of the world—that this Nation does not have the foresight to prepare for the energy problems of the future, and that we are content to rely on increasingly scarce resources and will continue to ignore the potential benefits of nuclear energy.

Mr. Speaker, the Advanced Liquid Metal Reactor Program has the potential to meet our Nation's long-term energy needs. In addition, the ALMR will address the spent fuel challenges of the lightwater reactor industry, provide a path for conversion of weapons plutonium to useful energy, and strengthen the U.S. technical and economic world leadership. A strong U.S. nuclear industry can and must be a major contributor to the world's need for clean, safe, and low-cost electricity.

I urge my colleagues to support funding for the Advanced Liquid Metal Reactor Program and to pass the conference report on energy and water development.

Mr. SLATTERY. Mr. Speaker, I would first of all like to thank Chairman BEVILL, and also the ranking member, Mr. MYERS, for their hard work on this important bill, and for their fairness in dealing with us on the issue of the superconducting super collider [SSC].

The passage of H.R. 2445, the fiscal year 1994 energy and water appropriations bill conference report, is a very significant event for Congress, this House, and the American taxpayers. This bill contains very clear instructions regarding the termination of the superconducting super collider. Termination of this project will save taxpayers as much as $10 billion over the next decade.

I would also like to recognize and thank all of the Members, present and past, who worked on the effort to terminate the SSC. I would especially like to thank Dennis Eckart, who was a champion of this effort before he left Congress last year. Also, Howard Wolpe is another Member who worked hard to expose the problems of the SSC. And finally I would like to thank SHERRY BOEHLERT, who has been my tireless partner in working to kill the super collider.

I would like to state that the termination of the SSC is not an action against science. I strongly support scientific and technological research, and have been concerned that going forward with the super collider would have squeezed out smaller, but vital, research projects. I did not argue that the SSC was a pork-barrel project. I have argued, however, that while the SSC may be interesting science, it is not priority science, and the project has had too many problems and has grown too expensive to be justified at this time of large budget deficits and a crippling national debt.

The SSC is not being canceled due to a whim of the House, due to antiscience sentiments, or due to anti-Texas sentiments. This was a well-reasoned decision. The Members of the House weighed carefully the pro's and con's of the SSC and concluded that the SSC no longer met the terms that had been outlined when we first agreed to build it.

Unfortunately, nothing about the super collider turned out as advertised. The cost rose from an original estimate of only $4.4 billion to recent projections of $13 billion, or triple the cost. Numerous studies by the General Accounting Office [GAO] and the Department of Energy's own inspector general found that the SSC was overbudget, behind schedule, and that many expenditures were unreasonable because they were unnecessary, excessive, or represented uncontrolled cost growth.

Government investigators also reported that employees at the SSC laboratory obstructed audits, tried to disguise expenditures by shifting them to different accounts, arbitrarily marked documents as classified, and wasted taxpayer funds on unauthorized expenditures such as large quantities of liquor, expensive receptions and hospitality meetings, and extravagant holiday parties.

And even in its most recent testimony, GAO noted that the SSC's contractor, Universities Research Association [URA], still had not implemented the cost and schedule control system required by their contract, making it impossible to accurately track the expenditure of funds. In fact, the Secretary of Energy announced her intention earlier this year to fire URA as the contractor for the construction of the super collider.

Other agencies and experts came out against the SSC. Many scientists argued that the project focused too much funding on a small subfield of physics, and that it would have drained funds from other important fields. The Congressional Budget Office [CBO] reported that the SSC would not provide the research and training opportunities necessary to justify a project of its size. CBO also concluded that the super collider was consuming a disproportionate share of U.S. science resources, and that it was an investment that would not provide society with a good rate of return.

Early backers of the SSC, including Presidents Reagan and Bush, Energy Secretary Watkins, and key scientists such as project director Roy Schwitters were unable to persuade foreign governments to make the contributions that had been promised to offset U.S. expenditures. Legislators were told originally that the Federal Government would only have to fund two-thirds of the construction costs. The Secretary of Energy later promised to obtain $1.7 billion from foreign governments. However, earlier this year the Secretary of Energy downgraded that commitment to only $400 million.

Last year during House debate, the chairman of the House Science, Space, and Technology Committee, a strong supporter of the SSC, argued that we could not afford to build a project of this magnitude on our own. He sponsored an amendment stating that no further Federal dollars should be spent on the SSC if we did not obtain $650 million in foreign contributions by April 1993. We have received only 10 percent of that amount. Even President Bush, a Texan, was unsuccessful in convincing the Japanese of the merits of the project, further undermining congressional confidence.

As the evidence of serious problems with the project continued to increase, political support for the SSC shrank. Two years ago funding for the SSC was approved in the House by a margin of 86 votes. Last year the House voted by a margin of 51 votes to reject further funding of the super collider. And finally last week the House voted 282 to 143—an overwhelming margin of 139 votes—to terminate the project.

Again, two-thirds of the House of Representatives decided to terminate the super collider, not because they are opposed to science, but because of the tremendous problems that plagued this project in particular. It became too difficult to go home to constituents demanding spending cuts and explain why the Government was continuing to fund the costly super collider. We simply cannot justify spending $13 billion on a project with such narrow benefits, such a dismal management record, and without international cooperation. It was poor implementation and management, not a poor scientific idea, that lead to this outcome.

I understand the sorrow of those who worked on this project, and who may now lose their jobs. Many residents of my State have lost their jobs in recent years due to causes ranging from defense cutbacks at the Kansas Army ammunition plant in Parsons, downsizing of the aviation and aeronautics industries in Wichita, and a faltering economy in general. I certainly hope we can turn this situation around. I hope the Federal Government will help create cost-effective, high-technology manufacturing jobs for the future. But the SSC cost us approximately $80,000 per job created, with no product generated. I have argued that to get our debt under control, we need to make tough choices and cut spending. This was a tough choice, but we simply cannot afford to continue to fund every big-ticket project that comes along.

I think the American people understand this, and respect Congress for the tough decision it has made. The House stood behind its vote and changed a process in need of reform. I hope that in the future, spending cuts can be accomplished more readily, because I realize that killing the SSC is only a small drop in the bucket. But I will end my statement as I began it by stating that this bill signifies an important landmark in the effort to control Federal spending. Passage of this conference report sends a critical signal to taxpayers that Congress hears their message and has the backbone to stand up and make the tough choices.

Mr. BEVILL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 332, nays 81, not voting 20, as follows:

[Roll No. 526]

YEAS—332

Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Byrne
Callahan
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox
Coyne
Cramer
Crapo
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Durbin
Edwards (CA)
Edwards (TX)
Emerson
English (AZ)
English (OK)
Eshoo
Evans
Everett
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (NJ)
Furse
Gallegly
Gallo
Gejdenson
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Grams
Grandy
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hansen
Harman
Hastert
Hastings
Hayes
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McHale
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (NJ)
Smith (OR)
Snowe
Spence
Spratt
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zimmer

NAYS—81

Allard
Archer
Armey
Baker (LA)
Bartlett
Barton
Boehner
Bonilla
Burton
Buyer
Camp
Coble
Collins (GA)
Combest
Condit
Coppersmith
Crane
Cunningham
Dreier
Duncan
Dunn
Ewing
Fields (TX)
Franks (CT)
Frost
Gekas
Goss
Green
Hall (TX)
Hancock
Hefley
Hoke
Holden
Hunter
Inglis
Inhofe
Jacobs
Johnson, E. B.
Johnson, Sam
Klink
Klug
Lewis (FL)
Maloney
Manzullo
Margolies-Mezvinsk
McCollum
McHugh
McMillan
Mica
Miller (FL)
Minge
Nadler
Nussle
Orton
Oxley
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pombo
Ramstad
Roberts
Roth
Royce
Sensenbrenner
Sharp
Shays
Smith (MI)
Smith (TX)
Solomon
Stark
Stearns
Stenholm
Stump
Sundquist
Taylor (NC)
Upton
Valentine
Walker
Zeliff

NOT VOTING—20

Abercrombie
Berman
Blackwell
Brooks
Brown (CA)
DeLay
Dornan
Engel
Gephardt
Greenwood
Horn
Kennedy
Lowey
Porter
Price (NC)
Ridge
Rose
Rostenkowski
Smith (IA)
Wilson

□ 1403

Mrs. MALONEY, Ms. EDDIE BERNICE JOHNSON of Texas, and Messrs. NADLER, HALL of Texas, and STENHOLM changed their vote from "yea" to "nay."

Mr. GRAMS changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. LOWEY. Mr. Speaker, I inadvertently missed rollcall vote 526. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. NADLER. Mr. Speaker, on rollcall No. 526 I was recorded as voting "nay." I would like the RECORD to reflect my intention was to vote "aye."

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Pursuant to the order of the House of today, October 26, 1993, the amendments in disagreement and the motions printed in the joint statement of the committee of conference to dispose of the amendments in disagreement are considered as read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 2: page 2, strike out all after line 20 over to and including "$500,000" in line 6 on page 4 and insert:

Central Basin Groundwater Project, California, $750,000;

McCook and Thornton Reservoirs, Illinois, $5,500,000;

Indianapolis, White River, Central Waterfront, Indiana, $900,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $310,000;

Ohio River Shoreline Flood Protection, Indiana, $400,000;

Hazard, Kentucky, $250,000;

Brockton, Massachusetts, $350,000;

Passaic River Mainstem, New Jersey, $10,000,000;

Pocotaligo River and Swamp, South Carolina, $400,000;

Jennings Randolph Lake, West Virginia, $400,000;

Monongahela River Comprehensive, West Virginia, $600,000; and

West Virginia Comprehensive, West Virginia, $500,000:

Provided, That notwithstanding ongoing studies using previously appropriated funds, and using $2,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct hydraulic modeling, foundations analysis and related design, and mapping efforts in continuing preconstruction engineering and design for the additional lock at Kentucky Dam, Kentucky project, in accordance with the Kentucky Lock Addition Feasibility Report approved by Report of the Chief of Engineers, dated June 1, 1992: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $250,000 of available funds to complete a detailed project report, and plans and specifications for a permanent shore erosion protection project at Geneva State Park, Ashtabula County, Ohio: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $400,000 appropriated herein to continue preconstruction engineering and design, including preparation of the special design report, initiation of National Environmental Policy Act document preparation, and initiation of hydraulic model studies for the Kaumalapau Harbor navigation study, Lanai, Hawaii: *Provided further*, That the Secretary of the Army is directed to limit the Columbia River Navigation Channel, Oregon and Washington feasibility study to investigation of the feasibility of constructing a navigation channel not to exceed 43-feet in depth from the Columbia River entrance to Port of Portland/Port of Vancouver and to modify the Initial Project Management Plan accordingly: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $400,000 of funds appropriated herein to initiate a reconnaissance study, including economic and environmental studies, for the Pocotaligo River and Swamp, South Carolina: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $90,000 of funds appropriated herein to complete the reconnaissance study of the Black Fox and Oakland Spring wetland area in Murfreesboro, Tennessee: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $200,000 of available funds to initiate the planning and design of remedial measures to restore the environmental integrity and recreational boating facilities at Old Hickory Lake, in the vicinity of Drakes Creek Park, in accordance with the reconnaissance study findings dated September, 1993: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $4,460,000 of available funds to complete preconstruction, engineering and design for the Ste. Genevieve, Missouri flood control project authorized by section 401(a) of the Water Resources Development Act of 1986 (100 stat. 4118) so that the project will be ready for construction by October 1, 1994: *Provided further*, That all plans, specifications and design documents shall be concurrently previewed in order to expedite the project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $2,000,000 of funds appropriated herein to engineer and design the Virginia Beach Erosion Control and Hurricane Protection, Virginia project, including storm water collection and discharge, as authorized by section 102(cc) of Public Law 102-580

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

Central Basin Groundwater Project, California, $750,000;

Los Angeles County Water Conservation, California, $100,000;

Los Angeles River Watercourse Improvement, California, $300,000;

Norco Bluffs, California, $150,000;

Rancho Palos Verdes, California, $80,000;

Biscayne Bay, Florida, $700,000;

Lake George, Hobart, Indiana, $200,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $310,000;

Ohio River Shoreline Flood Protection, Indiana, $400,000;

Hazard, Kentucky, $250,000;

Brockton, Massachusetts, $350,000;

Passaic River Mainstem, New Jersey, $17,000,000;

Broad Top Region, Pennsylvania, $400,000;

Juniata River Basin, Pennsylvania, $450,000;

Lackawanna River Basin, Greenway Corridor, Pennsylvania, $300,000;

Jennings Randolph Lake, West Virginia, $400,000;

Monongahela River Comprehensive, West Virginia, $600,000; and

West Virginia Comprehensive, West Virginia, $500,000:

Provided, That notwithstanding ongoing studies using previously appropriated funds, and using $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct hydraulic modeling, foundations analysis and related design, and mapping efforts in continuing preconstruction engineering and design for the additional lock at the Kentucky Dam, Kentucky, project, in accordance with the Kentucky Lock Addition Feasibility Report approved by Report of the Chief of Engineers dated June 1, 1992: *Provided further*, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of the Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: *Provide further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $250,000 of available funds to complete a detailed project report, and plans and specifications for a permanent shore erosion protection project at Geneva State Park, Ashtabula County, Ohio: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $400,000 of the funds appropriated herein to continue preconstruction engineering and design, including preparation of the special design report, initiation of National Environmental Policy Act document preparation, and initiation of hydraulic model studies for the Kaumalapau Harbor navigation study, Lanai, Hawaii: *Provided further*, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with detailed designs and plans and specifications, including detailed cost estimates, for the master plan of the Indianapolis, White River, Central Waterfront, Indiana, project: *Provided further*, That the Secretary of the Army is directed to limit the Columbia River Navigation Channel, Oregon and Washington, feasibility study to the investigation of the feasibility of constructing a navigation channel not to exceed 43 feet in depth from the Columbia River entrance to the Port of Portland/Port of Vancouver and to modify the Initital Project Management Plan accordingly: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $400,000 of the funds appropriated herein to initiate a reconnaissance study, including economic and environmental studies, for the Pocotaligo River and Swamp, South Carolina, project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $90,000 of the funds appropriated herein to complete the reconnaissance study of the Black Fox and Oakland Spring wetland area in Murfreesboro, Tennessee: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $200,000 of available funds to initiate the planning and design of remedial measures to restore the environmental integrity and recreational boating facilities at Old Hickory Lake, Tennessee, in the vicinity of Drakes Creek Park, in accordance with the reconnaissance study findings dated September 1993: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $4,460,000 of available funds to complete preconstruction engineering and design for the Ste. Genevieve, Missouri, flood control project authorized by section 401(a) of the Water Resources Development Act of 1986 (100 stat. 4118) so that the project will be ready for construction by October 1, 1994: *Provided further*, That all plans, specifications and design documents shall be concurrently reviewed in order to expedite the project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $2,000,000 of the funds appropriated herein to undertake preconstruction engineering and design of the Virginia Beach Erosion Control and Hurricane Protection, Virginia, project, including storm water collection and discharge, as authorized by section 102(cc) of Public Law 102-580

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 3: page 4, line 16, strike out "$1,389,138,000" and insert "$1,296,167,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert "$1,255,875,000".

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Mr. Speaker, I object.

Mr. BEVILL. Mr. Speaker, I will yield to the gentleman from Indiana [Mr. BURTON] if he wishes to debate the motion.

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Alabama [Mr. BEVILL] a question.

Mr. Speaker, this amendment is about $12 million above what left the House in the House-passed bill. Can the gentleman tell me what that extra $12 million is for? Is that for somebody's special project, or what did that go for?

Mr. BEVILL. Mr. Speaker, this if for a group of projects. It is all the projects that are in the construction account.

Mr. BURTON of Indiana. Are these projects new projects, or are they ongoing projects that are being refunded?

Mr. BEVILL. Most of them are ongoing projects.

Mr. BURTON of Indiana. Are they pretty much the same as last year as far as cost is concerned, or are they above last year?

Mr. BEVILL. Most are about the same.

Mr. BURTON of Indiana. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 4, strike out all after line 24 over to and including "$1,467,000" in line 24 on page 7, and insert:

Rillito River, Arizona, $4,200,000;

Coyote and Berryessa Creeks, California, $4,000,000;

Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $400,000;

San Timoteo Creek (Sante Ana River Mainstem), California, $12,000,000;

Sonoma Baylands Wetland Demonstration Project, California, $4,000,000;

Central and Southern Florida, Florida, $9,500,000;

Kissimmee River, Florida, $5,000,000;

Casino Beach, Illinois, $300,000;

O'Hare Reservoir, Illinois, $5,000,000;

Des Moines Recreational River and Greenbelt, Iowa, $1,700,000;

Pike County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $5,000,000;

Salyersville, Kentucky, $1,000,000;

Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $700,000;

Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana, $200,000;

Anacostia River, Maryland and District of Columbia, $700,000;

Stillwater, Minnesota, $2,400,000;

Sowashee Creek, Mississippi, $3,240,000;

Molly Ann's Brook, New Jersey, $1,000,000;

New York Harbor Collection and Removal of Drift, New York and New Jersey, $2,900,000;

Lake O' The Pines-Big Cypress Bayou, Texas, $300,000;

Red River Basin Chloride Control, Texas and Oklahoma, $4,000,000;

Wallisville Lake, Texas, $1,000,000;

Quonset Point-Davisville, Rhode Island (for 2 elevated water storage towers and the relocation of sewer lines), $1,875,000; and

Southern West Virginia Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, West Virginia, $3,500,000;

Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,500,000 of available funds to initiate and complete construction of the Finn Revetment portion of the Red River Fmergency Bank Protection, Arkansas and Louisiana project: *Provide further*, That the Chief of Engineers is directed to use a fully funded contract for the construction of the Finn Revetment: *Provided further*, That the Secretary of the Army is directed to use $3,500,000 of funds appropriated herein to continue the Red River Levees and Bank Stabilization below Denison Dam, Arkansas project, including completion of studies to improve the stability of the levee system from Index, Arkansas to the Louisiana State line and continuation of rehabilitation work underway: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers of the Army Corps of Engineers, shall (1) use $2,000,000 of funds appropriated herein to carry out engineering design for the relocation of the comfort and lifeguard stations on the Atlantic coast of New York City, from Rockaway Inlet to Norton Point, as authorized by section 1076 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2015), and (2) not later than 1 year after the date of enactment of this Act, report to Congress on the results of the expenditure of funds required under paragraph (1): *Provided further*, That with $2,000,000 appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Bethel, Alaska project authorized by Public Law 99-662, including but not limited to initiating lands and damages, erosion control construction, and continued related engineering and construction management: *Provided further*, That no fully funded allocation policy shall apply to the construction of the Bethel, Alaska project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $24,119,000 of the funds appropriated herein to continue the Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection project, including continued construction of parallel protection along Orleans and London Avenue Outfall Canals and the award of continuing contracts for construction of this parallel protection under the same terms and conditions specified for such work under this heading in Public Law 102-377: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $450,000 of funds appropriated herein to complete the repair and restoration to a safe condition of the existing Tulsa and West Tulsa local protection project, Oklahoma, authorized by the Flood Control Act of 1941, Public Law 73-228: *Provided further*, That with $19,300,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the BigSandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further*, That with $5,365,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further*, That with $3,500,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Hatfield Bottom, West Virginia, element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Public Law 96-367 using continuing contracts: *Provided further*, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Hatfield Bottom, West Virginia, Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland river project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction of offshore breakwaters at Grand Isle, Louisiana, as an integral part of the repair of features of the Grand Isle and Vicinity, Louisiana, project damaged by Hurricane Andrew using funds previously appropriated for the purpose in the fiscal year 1992 Dire Emergency Supplemental Appropriations Act, Public Law 102-368, which are available for this work: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the section 14 bank stabilization program at McGregor Park in Clarksville, Tennessee utilizing heretofore appropriated funds until the Federal funds limit of $550,000 is reached or bank protection for the entire park is completed: *Provided further*, That using $6,300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with the authorized Ouachita River Levees, Louisiana project in an orderly but expeditious manner and within this amount, $3,800,000 shall be used to continue rehabilitation or replacement of all deteriorated drainage structures which threaten the security of this critical protection, and $2,500,000 shall be used to repair the river bank at Columbia, Louisiana, which is eroding and placing the project levee protecting the city in imminent danger of failure: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $3,000,000 appropriated herein to provide design and construction assistance for a water transmission line from the northern part of Beaver Lake, Arkansas, into Benton and Washington Counties, Arkansas as authorized by section 220 of Public Law 102–580; and in addition, $145,000,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, as authorized by laws, and the Secretary is directed to continue the second phase of construction of Locks and Dams 4 and 5; complete construction of Howard Capout, McDade, Elm Grove, Cecile, Curtis, Sunny Point, and Eagle Bend Phase I and Phase II revetments in Pools 4 and 5, and levee modifications in Pool 5, all of which were previously directed to be initiated; and award continuing contracts in fiscal year 1994 for construction of the following features of the Red River Waterway which are not to be considered fully funded: recreation facilities in Pools 4 and 5, Piermont/Nicholas and Sunny Point Capouts, Lock and Dam 4 Upstream Dikes, Lock and Dam 5 Downstream Additional Control Structure, Wells Island Road Revetment, and construction dredging in Pool 4; all as authorized by laws, and the Secretary is further directed to provide annual reimbursement to the projects local sponsor for the Federal share of management costs for the Bayou Bodcau Mitigation Area as authorized by Public Law 101–640, the Water Resources Development Act of 1990

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

Rillito River, Arizona, $4,200,000;

Coyote and Berryessa Creeks, California $4,000,000;

Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $400,000;

San Timoteo Creek (Santa Ana River Mainstem), California, $12,000,000;

Sonoma Baylands Wetland Demonstration Project, California, $4,000,000;

Central and Southern Florida, Florida, $17,850,000;

Kissimmee River, Florida, $5,000,000;

Melaleuca Quarantine Facility, Florida, $1,000,000;

Casino Beach, Illinois, $820,000;

McCook and Thornton Reservoirs, Illinois, $13,000,000;

O'Hare Reservoir, Illinois, $5,000,000;

Des Moines Recreational River and Greenbelt, Iowa, $2,700,000;

Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana, $200,000;

Anacostia River, Maryland and District of Columbia, $700,000;

Clinton River Spillway, Michigan, $2,000,000;

Silver Bay Harbor, Minnesota, $2,600,000;

Stillwater, Minnesota, $2,400,000;

Sowashee Creek, Mississippi, $3,240,000;

Molly Ann's Brook, New Jersey, $1,000,000;

New York Harbor Collection and Removal of Drift, New York and New Jersey, $3,900,000;

Rochester Harbor, New York, $4,000,000;

Wilmington Harbor Ocean Bar, North Carolina, $5,266,000;

West Columbus, Ohio, $9,000,000;

Lackawanna River Greenway Corridor, Pennsylvania, $2,000,000;

South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, Pennsylvania, $10,000,000;

Quonset Point-Davisville, Rhode Island (for 2 elevated water storage towers and the relocation of sewer lines), $1,875,000;

Lake O' The Pines—Big Cypress Bayou, Texas, $300,000;

Red River Basin Chloride Control, Texas and Oklahoma, $4,000,000;

Wallisville Lake, Texas, $1,000,000;

Richmond Filtration Plant, Virginia, $1,000,000;

Southern West Virginia Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, West Virginia, $3,500,000; and

State Road and Ebner Coulees, LaCrosse and Shelby, Wisconsin, $1,467,000:

Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,500,000 of available funds to initiate and complete construction of the Finn Revetment portion of the Red River Emergency Bank Protection, Arkansas and Louisiana, project: *Provided further*, That the Chief of Engineers is directed to use a fully funded contract for the construction of the Finn Revetment: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,500,000 of the funds appropriated herein to continue the Red River Levees and Bank Stabilization below Denison Dam, Arkansas, project, including the completion of studies to improve the stability of the levee system from Index, Arkansas, to the Louisiana stateline and the continuation of rehabilitation work underway: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to expend $500,000 in fiscal year 1994 to initiate reconstruction of the Sacramento River floodwall between miles 58 and 60 of the Sacramento River, California, as an essential portion of the Sacramento Urban Levee Reconstruction project pursuant to the Sacramento River Flood Control Act of 1917, as amended, and the Local Cooperation Agreement signed on June 4, 1990: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall (1) use $2,000,000 of the funds appropriated herein to carry out engineering and design for the location of the comfort and lifeguard stations on the Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York, project as authorized by section 1076 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2015), and (2) not later than one year after the date of enactment of this Act, report to Congress on the results of the expenditure of funds required under paragraph (1): *Provided further*, That with $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Bethel, Alaska, project authorized by Public Law 99–662, including but not limited to initiating lands and damages, erosion control construction, and continued related engineering and construction management: *Provided further*, That no fully allocated funding policy shall apply to the construction of the Bethel, Alaska, project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $214,119,000 of the funds appropriated herein to continue the Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection project, including continued construction of parallel protection along the Orleans and London Avenue Outfall Canals and the award of continuing contracts for construction of this parallel protection under the same terms and conditions specified for such work under this heading in Public Law 102–377: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $450,000 of the funds appropriated herein to complete the repair and restoration to a safe condition of the existing Tulsa and West Tulsa local protection project, Oklahoma, authorized by the Flood Control Act of 1941, Public Law 73–228: *Provided further*, That with $5,000,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the Pike County, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of the Public Law 96–367, with initial efforts concentrated in the communities of Buskirk and McCarr, in accordance with the Huntington District Commander's preliminary draft detailed project report for Pike County, Kentucky, dated March 1933, using continuing contracts: *Provided further*, That with $700,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction, using continuing contracts, of the Williamsburg, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367, in accordance with Plan B of the approved draft specific project report for Williamsburg, Kentucky, dated April 1993: *Provided further*, That with $19,300,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of the Public Law 96–367, and is further directed to design and constructa system to collect and transport sewage from the unincorporated community of Rio Vista to the Harlan, Kentucky, treatment plant, as part of the Harlan, Kentucky, element: *Provided further*, That with $5,365,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: *Provided further*, That with $3,500,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Hatfield Bottom, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367 using continuing contracts: *Provided further*, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Hatfield Bottom, West Virginia, Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland river project: *Provided further*, That with $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction, using continuing contracts, of the Salyersville, Kentucky, cut-through channels project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction of offshore breakwaters at Grand Isle, Louisiana, as an integral part of the repair of features of the Grand Isle and Vicinity, Louisiana, project damaged by Hurricane Andrew using funds previously appropriated for that purpose in the fiscal year 1992 Dire Emergency Supplemental Appropriations Act, Public Law 102-368, which are available for this work: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the section 14 bank stabilization program at McGregor Park in Clarksville, Tennessee, utilizing heretofore appropriated funds until the Federal funds limit of $500,000 is reached or bank protection for the entire park is completed: *Provided further*, That using $6,300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with the authorized Ouachita River Levees, Louisiana, project in an orderly but expeditious manner and within this amount, $3,800,000 shall be used to continue rehabilitation or replacement of all deteriorated drainage structures which threaten the security of this critical protection, and $2,500,000 shall be used to repair the river bank at Columbia, Louisiana, which is eroding and placing the project levee protecting the city in imminent danger of failure: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $3,000,000 of the funds appropriated herein to provide design and construction assistance for a water transmission line from the northern part of Beaver Lake, Arkansas, into Benton and Washington Counties, Arkansas, as authorized by section 220 of Public Law 102-580; and in addition, $145,000,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, as authorized by laws, and the Secretary of the Army is directed to continue the second phase of construction of Locks and Dams 4 and 5; complete construction of Howard Capout, McDade, Elm Grove, Cecile, Curtis, Sunny Point, and Eagle Bend Phase I and Phase II revetments in Pools 4 and 5, and levee modifications in Pool 5, all of which previously directed to be initiated; and award continuing contracts in fiscal year 1994 for construction of the following features of the Red River Waterway which are not to be considered fully funded: recreation facilities in Pools 4 and 5,Piermont/Nicholas and Sunny Point Capouts, Lock and Dam 4 Upstream Dikes, Lock and Dam 5 Downstream Additional Control Structure, Wells Island Road Revetment, and construction dredging in Pool 4; all as authorized by laws, and the Secretary is further directed to provide annual reimbursement to the project's local sponsor for the Federal share of management costs for the Bayou Bodcau Mitigation Area as authorized by Public Law 101-640, the Water Resources Development Act of 1990

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Mr. Speaker, I object.

Mr. BEVILL. Mr. Speaker, I yield to the gentleman from Indiana [Mr. BURTON] if he wishes to debate the motion.

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, there are 32 specific projects that were either in the House or Senate bills. Are any of these new projects?

Mr. BEVILL. Mr. Speaker, they are all authorized.

Mr. BURTON of Indiana. I understand that, Mr. Speaker, but are any of them new projects?

Mr. BEVILL. They were either in the House or the Senate bill.

Mr. BURTON of Indiana. I understand that, Mr. Speaker, but I would just like to know if there are new projects, new from last year, and, if there are, I would just like to know what they are real quickly.

Mr. BEVILL. Some are continuations from last year, and some are new projects.

Mr. BURTON of Indiana. Can the gentleman from Alabama tell me how many new projects there are?

Mr. BEVILL. How many new projects are there?

Mr. BURTON of Indiana. I would just like to know.

Mr. BEVILL. Mr. Speaker, I would be happy to get that information for the gentleman. It is a mixture of both, and, if the gentleman will just wait, we can get that information for him.

Mr. Speaker, there are about eight new ones.

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Mr. BURTON of Indiana. They were authorized last year as well?

Mr. BEVILL. They have been authorized, every one of them.

Mr. BURTON of Indiana. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Without objection, the motion is agreed to.

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 12: Page 9, line 20, after "programs" insert ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $5,000,000 of available funds to undertake and complete critical maintenance items for water supply of the Kentucky River Locks and Dams 5-14 and to transfer such facilities to the Commonwealth of Kentucky: *Provided further*, That the Secretary of the Army is directed during fiscal year 1994 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use Operation and Maintenance funds and complete, in coordination with the schedule for feasibility phase, studies to deepen the Columbia River navigation channel, long-term dredge disposal plans for the existing authorized Columbia River Navigation Channel project, including associated fish and wildlife studies.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 12, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 14: Page 12, after line 5, insert:

SEC. 106. In fiscal year 1994, the Secretary shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with Government-owned dredges in fiscal year 1992.

Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 14, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 12, after line 5, insert:

SEC. 107. Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, is authorized to reprogram, obligate and expend such additional sums as necessary to continue construction and cover anticipated contract earnings of any water resources project which received an appropriation or allowance for construction in or through an appropriations Act or resolution of a current or last preceding fiscal year, in order to prevent the termination of a contract or the delay of scheduled work.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 15, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 17: Page 12, after line 5, insert:

SEC. 109. (1) IN GENERAL.—The Secretary of the Army is authorized to convey to the City of Galveston, Texas, fee simple absolute title to a parcel of land containing approximately 605 acres known as the San Jacinto Disposal Area located on the east end of Galveston Island, Texas, in the W.A.A. Wallace Survey, A-647 and A-648, City of Galveston, Galveston County, Texas, being part of the old Fort Jacinto site, at the fair market value of such parcel to be determined in accordance with the provisions of paragraph (4). Such conveyance shall be made at the discretion of the Secretary of the Army upon the agreement of all interested parties.

(2) COMPENSATION FOR CONVEYANCE.—Upon receipt of compensation from the City of Galveston, the Secretary shall convey the parcel as described in paragraph (1). Such compensation shall include—

(A) conveyance to the Department of the Army of fee simple absolute title to a parcel of land containing approximately 564 acres on Pelican Island, Texas, in the Eneas Smith Survey, A-190, Pelican Island, City of Galveston, Galveston County, Texas, adjacent to property currently owned by the United States. The fair market value of such parcel will be determined in accordance with the provisions of paragraph (4); and

(B) payment to the United States of an amount equal to the difference in the fair market value of the parcel to be conveyed pursuant to paragraph (1) and the fair market value of the parcel to be conveyed pursuant to paragraph (2)(A).

(3) DISPOSITION OF SPOIL.—Costs of maintaining the Galveston Harbor and Channel will continue to be governed by the Local Cooperation Agreement between the United States of America and the City of Galveston dated October 18, 1973. Upon conveyance of the parcel described in paragraph (1), the Department of the Army shall be compensated directly for any anticipated costs which may be incurred in site preparation and in the disposition of spoil in excess of the present value of current costs of spoil disposition.

(4) DETERMINATION OF FAIR MARKET VALUE.—The fair market value of the land to be conveyed pursuant to paragraphs (1) and (2) shall be determined by independent appraisers using the market value method.

(5) NAVIGATIONAL SERVITUDE.—Those portions of a 605-acre parcel of land known as the San Jacinto Disposal Area and more fully described in paragraph 1, supra, are declared to be nonnavigable waters of the United States.

(6) SURVEYS AND STUDIES.—The 605-acre parcel and the 564-acre parcel shall be surveyed and further legally described prior to conveyance. Not later than 60 days following enactment of this Act, if it deems it necessary, the Secretary of the Army shall complete a review of the applicability of section 404 of the Clean Water Act to the said parcels.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 108. (a) IN GENERAL.—The Secretary of the Army is authorized to convey to the City of Galveston, Texas, fee simple absolute title to a parcel of land containing approximately 605 acres known as the San Jacinto Disposal Area located on the east end of Galveston Island, Texas, in the W.A.A. Wallace Survey, A-647 and A-648, City of Galveston, Galveston County, Texas, being part of the old Fort San Jacinto site, at the fair market value of such parcel to be determined in accordance with the provisions of subsection (d). Such conveyance shall only be made by the Secretary of the Army upon the agreement of the Secretary and the City as to all compensation due herein.

(b) COMPENSATION FOR CONVEYANCE.—Upon receipt of compensation from the City of Galveston, the Secretary shall convey the parcel as described in subsection (a). Such compensation shall include—

(1) conveyance to the Department of the Army of fee simple absolute title to a parcel of land containing approximately 564 acres on Pelican Island, Texas, in the Eneas Smith Survey, A-190, Pelican Island, City of Galveston, Galveston County, Texas, adjacent to property currently owned by the United States. The fair market value of such parcel will be determined in accordance with the provision of subsection (d); and

(2) payment to the United States of an amount equal to the difference of the fair market value of the parcel to be conveyed pursuant to subsection (a) and the fair market value of the parcel to be conveyed pursuant to paragraph (1) of this subsection.

(c) DISPOSITION OF SPOIL.—Costs of maintaining the Galveston Harbor and Channel will continue to be governed by the Local Cooperation Agreement (LCA) between the United States of America and the City of Galveston dated October 18, 1973, as amended. Upon conveyance of the parcel described in subsection (a), the Department of the Army shall be compensated directly for the present value of the total costs to the Department for disposal of dredge material and site preparation pursuant to the LCA, in excess of the present value of the total costs that would have been incurred if this conveyance had not been made.

(d) DETERMINATION OF FAIR MARKET VALUE.—The fair market value of the land to be conveyed pursuant to subsections (a) and (b) shall be determined by independent appraisers using the market value method.

(e) NAVIGATIONAL SERVITUDE.—

(1) DECLARATION OF NONNAVIGABILITY; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the parcel described in subsection (a) are not in the public interest then, subject to paragraphs (2) and (3), such parcel is declared to be nonnavigable waters of the United States.

(2) LIMITS ON THE APPLICABILITY: REGULATORY REQUIREMENTS.—The declaration under paragraph (1) shall apply only to those parts of the parcel described in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations including, but not limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(3) EXPIRATION DATE.—If, 20 years after the date of the enactment of this Act, any area or part thereof described in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in paragraph (2), or if work in connection with any activity permitted in paragraph (2) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

(f) SURVEY AND STUDY.—The 605-acre parcel and the 564-acre parcel shall be surveyed and further legally described prior to conveyance. Not later than 60 days following enactment of this Act, if he deems it necessary, the Secretary of the Army shall complete a review of the applicability of section 404 of the Federal Water Pollution Control Act to the said parcels.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 20: Page 12, line 13, after "Act" insert "and for feasibility studies of alternatives to the Unitah and Upalco Units".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 20, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 22: Page 13, after line 2, insert:

In addition, for necessary expanse incurred in carrying out responsibilities of the Secretary of the Interior under the Act, $1,000,000, to remain available until expended.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 29: Page 20, line 11, after "development" insert ", of which $4,500,000 shall be derived by transfer from the Geothermal Resources Development Fund.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 29, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 30: Page 20, strike out lines 13 to 17 and insert:

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for residual uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.) and the Energy Policy Act (Public Law 102-486, section 901), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity as necessary and payment to the Tennessee Valley Authority under the settlement agreement filed with the United States Claims Court on December 18, 1987; purchase of passenger motor vehicles (not to exceed 5, of which 5 are for replacement only), $247,092,000, to remain available until expended: *Provided*, That revenues received by the Department for residual uranium enrichment activities authorized by section 201 of Public Law 95-238, and estimated to total $70,000,000 in fiscal year 1994, shall be retained and used for the specific purpose of offsetting costs incurred by the Department for such activities, notwithstanding section 3302(b) of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1994 so as to result in a final fiscal year 1994 appropriation estimated at not more than $177,092,000.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 30, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 31: Page 21, strike out all after line 1 down to and including "obligated" in line 4 and insert "and in addition, an estimated $49,679,000 in unexpended balances, consisting of an estimated $6,267,000 of unobligated balances and an estimated $43,412,000 of obligated".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the amendment is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 31, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 32: Page 21, line 6, after "expenses" insert "*Provided*, That at least $40,600,000 of amounts derived from the fund for such expenses shall be expended in accordance with title X, Subtitle A of the Energy Policy Act of 1992".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the amendment is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 32, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 33: Page 21, line 17, strike out "$1,194,114,000 and insert "$1,615,114,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

$975,114,000, to remain available until expended, and, in addition, $640,000,000, to remain available until expended, to be used only to orderly terminate the Superconducting Super Collider (SSC) project under terms and conditions as follows:

(1) to the extent provided by guidelines of the Secretary of Energy, full-time employees of contractors and designated subcontractors whose employment is terminated by reason of the termination of the SSC may receive (A) up to 90 days termination pay dating from the date of termination notice, and (B) reasonable relocation expenses and assistance;

(2) the Secretary of Energy shall prepare and submit a report with recommendations to the President and the Congress containing:

(a) a plan to maximize the value of the investment that has been made in the project and minimizing the loss to the United States and involved states and persons, including recommendations as to the feasibility of utilizing SSC assets in whole or in part in pursuit of an international high energy physics endeavor;

(b) the Secretary is authorized to consult with and use Universities Research Association and/or other contractors and/or recognized experts in preparing this report and recommendations and is authorized to contract with such parties as may be appropriate in carrying out such duties; and

(c) the Secretary shall release any recommendations from time to time as available, but the final report shall be submitted by July 1, 1994; and

(3) nothing herein or any action taken under this authority shall be construed to change the Memorandum of Understanding between the Secretary of Energy and the State of Texas dated November 9, 1990, regarding the project.

, and on page 21, line 17, of the House engrossed bill (H.R. 2445) strike all after "$1,194,114,000" down to and including "expended" on line 18.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Alabama [Mr. BEVILL] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Speaker, I reserve my time.

The SPEAKER pro tempore. Is the gentleman from Indiana [Mr. BURTON] opposed to the motion?

Mr. BURTON of Indiana. Mr. Speaker, I am opposed.

The SPEAKER pro tempore. The gentleman from Indiana is recognized for 30 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last year we spent approximately $900 million for functions in the general science and research activities in the Department of Energy for things other than the superconducting super collider.

I understand that there is $640 million that has been allocated to terminate the SSC by the conference committee. I think most Members of the body support that. But I have a question I would like to ask the chairman, the gentleman from Alabama [Mr. BEVILL], if I might engage him in a brief colloquy.

Mr. Speaker, I would ask the chairman, this is about 35 percent above the House-passed bill for this section, and it is 13 percent above last year. If you take out the amount of money for closing down the superconducting super collider, $640 million, that leaves about $975 million for the other functions of this department. That is about $75 million above last year.

Mr. Speaker, I would ask the gentleman from Alabama [Mr. BEVILL], can he tell me what that extra $75 million is being spent for?

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Speaker, it is mostly for the termination of the superconducting super collider, as well as the B-factory.

Mr. BURTON of Indiana. I am sorry, I just said that the $640 million I am taking out of this. We know the $640 million is for the SSC closure. We understand that. There is $975 million for other functions. That is about $75 million above last year.

Mr. BEVILL. Mr. Speaker, we had $517 million last year, $640 million this year, for the SSC.

Mr. BURTON of Indiana. I understand that.

Mr. BEVILL. Maybe I do not understand the gentleman's question.

Mr. BURTON of Indiana. Mr. Speaker, let me rephrase my question a little differently. If you take out the SSC last year and this year, total, there was $90 million last year for other functions in the general science and research area in the Department of Energy. This year it is $975 million. So it is $75 million more this year than last year.

What I am asking is what was that $75 million for?

Mr. BEVILL. Mr. Speaker, if the gentleman will yield further, the increase is for high energy physics operation, and $36 million for the new facility called the B-factory.

Mr. BURTON of Indiana. B-factory?

Mr. BEVILL. B-factory.

Mr. BURTON of Indiana. Where is that located?

Mr. BEVILL. California.

Mr. BURTON of Indiana. What is the purpose of that facility?

Mr. BEVILL. Mr. Speaker, it is high energy physics research.

Mr. BURTON of Indiana. Is it a new project?

Mr. BEVILL. Yes, it is.

Mr. BURTON of Indiana. Was this authorized?

Mr. BEVILL. Yes, it is authorized.

Mr. BURTON of Indiana. It is $36 million for a new project?

Mr. BEVILL. $36 million, yes.

Mr. BURTON of Indiana. In California. Who requested that?

Mr. BEVILL. If the gentleman will continue to yield, it was requested by the Department of Energy.

Mr. BURTON of Indiana. Mr. Speaker, it just seems surprising to me if we are closing down the SSC, why we would be starting a new facility of this type down there. What is the function of that facility?

Mr. BEVILL. Mr. Speaker, if the gentleman will yield further, the total cost of this project is approximately $300 million. This is for high energy research and was recommended by the U.S. Department of Energy and by the administration.

Mr. BURTON of Indiana. This is the first part, some $30 million? How much did the gentleman say it would cost this year?

Mr. BEVILL. Mr. Speaker, $36 million for construction, and another $10 million or $15 million will be used for research.

Mr. BURTON of Indiana. Where is it located in California?

Mr. BEVILL. Stanford University.

Mr. BURTON of Indiana. Mr. Speaker, reclaiming my time, I thank the gentleman for answering those questions.

Mr. Speaker, I guess the concern that I have is that at a time when we are having these fiscal problems, we need to be very, very careful about where we are spending taxpayer dollars. I doubt that anybody in the Chamber really knows where this $75 million is going to be spent. I understand now that some $30 million of it is the first part of a $300 million expenditure for an energy facility there.

Mr. Speaker, I think before I could vote for that, I would have to know a little bit more about it. I will have to oppose this because of that.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, the gentleman from Indiana [Mr. BURTON] has asked a very legitimate question that all Members should have, and the chairman has answered it. Of course, $133 million is the increase in costs for termination of the SSC. The B-factory, which is to be built in California, is $36 million. We have high energy physics here, including the Fermi Lab outside of Chicago, where we are increasing the capacity of the injector.

Mr. Speaker, if we are not going to do the project in Texas, there are some high energy physics programs that will have to be done somewhere else. We will not be able to do the same work in the Fermi Lab outside of Chicago that the Texas project would have done.

Nevertheless, we have had to increase some of these projects to keep up with world competition in research.

Mr. BURTON of Indiana. If the gentleman would yield, we took out the $640 million this year and the $517 million last year for the superconducting super collider.

□ 1420

That left an increase of $75 million. I checked with the staff so we have a $75 million increase. He said that $30 million was going to go for the facility in California.

Mr. MYERS of Indiana. Thirty-six million.

Mr. BURTON of Indiana. Mr. Speaker, that still leaves about $39 million. I do not think many Members of the body are really familiar with these. And with us trying to economize by cutting out the super collider, which was the latest technology in scientific research, I am sure a lot of Members would want to question why we are going to spend $36 million for another facility of a similar nature but smaller in California and for other research like this, when we are cutting out the super collider.

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will look in the committee report on pages 104, 105, and on down, it tells specifically, if the gentleman wants to get the specifics, of what programs have been increased. Some were cut back. Some were already completed. But much of it is high energy physics in this general category.

Mr. BURTON of Indiana. Mr. Speaker, the one in California is a new project, a new project for $36 million.

Mr. MYERS of Indiana. Mr. Speaker, that is a new project. But the Fermilab in Chicago is not a new project. We have been working on it for quite some time. Plus we have been working on the B-factory. This is the first time that we have put construction money in for it, yes.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). All time has expired.

Pursuant to the order of the House today, the previous question is ordered on the motion.

The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 227, nays 190, not voting 16, as follows:

[Roll No. 527]

YEAS—227

Ackerman
Andrews (NJ)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (LA)
Ballenger
Barlow
Barton
Bateman
Becerra
Beilenson
Bentley
Bevill
Bilbray
Bishop
Bliley
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bunning
Byrne
Callahan
Calvert
Cantwell
Cardin
Carr
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Cooper
Coyne
Cramer
Darden
DeLauro
DeLay
Dellums
Derrick
Deutsch
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
English (AZ)
English (OK)
Eshoo
Everett
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gallo
Gejdenson
Gibbons
Gilman
Gingrich
Gonzalez
Gordon
Grams
Greenwood
Gunderson
Hamburg
Hamilton
Hansen
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoekstra
Houghton
Hoyer
Huffington
Hughes
Hunter
Hyde
Inslee
Istook
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kennelly
Kildee
Klein
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Laughlin
Lazio
Lehman
Levin
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McDade
McDermott
McNulty
Meehan
Meek
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Pelosi
Peterson (FL)
Quinn
Rahall
Reed
Richardson
Rogers
Rowland
Roybal-Allard
Rush
Sabo
Sarpalius
Sawyer
Schenk
Schiff
Schumer
Scott
Serrano
Shays
Shepherd
Shuster
Skaggs
Skeen
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Spratt
Stark
Stokes
Studds
Swift
Synar
Tanner
Tauzin
Thornton
Torres
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Watt
Waxman
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NAYS—190

Allard
Andrews (ME)
Andrews (TX)
Baker (CA)
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Bereuter
Bilirakis
Blute
Boehner
Bryant
Burton
Buyer
Camp
Canady
Castle
Chapman
Clay
Coble
Collins (GA)
Combest
Condit
Conyers
Coppersmith
Costello
Cox
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeFazio
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Evans
Ewing
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Glickman
Goodlatte
Goodling
Goss
Grandy
Green
Gutierrez
Hall (OH)
Hall (TX)
Hancock
Hastert
Hefley
Herger
Hobson
Hoke
Holden
Hutchinson
Hutto
Inglis
Inhofe
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnston
Kaptur
Kasich
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kyl
LaRocco
Leach
Levy
Lewis (CA)
Lewis (FL)
Linder
Lipinski
Machtley
Manzullo
McCollum
McCurdy
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
Menendez
Meyers
Mfume
Mica
Miller (FL)
Minge
Moorhead
Nussle
Orton
Oxley
Packard
Paxon
Payne (NJ)
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Ramstad
Rangel
Ravenel
Regula
Reynolds
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanders
Sangmeister
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Sharp
Shaw
Sisisky
Skelton
Smith (MI)
Smith (OR)
Solomon
Spence
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Talent
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thurman
Torkildsen
Torricelli
Towns
Traficant
Tucker
Upton
Valentine
Walker
Washington
Waters
Weldon
Wheat
Wyden
Young (AK)
Zeliff

NOT VOTING—16

Abercrombie
Berman
Blackwell
Brown (CA)
Clement
Dingell
Dornan
Engel
Gephardt
Horn
Kennedy
Porter
Price (NC)
Ridge
Rose
Rostenkowski

□ 1445

Messrs. HOBSON, CHAPMAN, KNOLLENBERG, PORTMAN, SWETT, PACKARD, and BRYANT, Mrs. SCHROEDER, Messrs. McCURDY, PAXON, WHEAT, THOMAS of Wyoming, and KIM, Ms. KAPTUR, and Messrs. ROHRABACHER, GOODLATTE, FOGLIETTA, and GUTIERREZ changed their vote from "yea" to "nay."

Mr. LIVINGSTON, Ms. MARGOLIES-MEZVINSKY, Mrs. CLAYTON, and Messrs. MURTHA, ROWLAND, SMITH of Texas, and STOKES changed their vote from "nay" to "yea."

So the motion was agreed to

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 36: Page 22, strike out lines 4 to 22, and insert:

For the nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $260,000,000 to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise her authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed $5,500,000 may be provided to the State of Nevada, for the sole purpose of conduct of its scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: *Provided further*, That of the amount herein appropriated, not more than $7,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That within ninety days of the completion of each Federal fiscal year, each State or local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That none of the funds herein appropriated may be used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That none of the funds provided under this Act shall be made available for Phase II-B grants to study the feasibility of siting a Monitored Retrievable Storage Facility unless the Nuclear Waste Negotiator has first certified to the Secretary of Energy that there is a reasonable likelihood that agreement can be reached among all of the relevant governmental officials in the vicinity of any proposed site.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

For the nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $260,000,000 to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise her authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed $5,500,000 may be provided to the State of Nevada, for the sole purpose of conduct of its scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: *Provided further*, That of the amount herein appropriated, not more than $7,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That within ninety days of the completion of each Federal fiscal year, each State or local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That none of the funds herein appropriated may be used to support multistate effects or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That none of the funds provided under this Act shall be made available for Phase II-B grants to study the feasibility of siting a Monitored Retrievable Storage Facility.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the final amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 39: Page 24, line 7, after "expended" insert ": *Provided*, That a total of $8,000,000 shall be transferred from this account to the Environmental Protection Agency for the implementation of the Waste Isolation Pilot Plan Land Withdrawal Act of 1992 and the development of cleanup standards to guide the Department of Energy's environmental restoration efforts".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recedes from its disagreement to the amendment of the Senate numbered 39, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF H.R. 2403, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1994

Mr. HOYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 48) to correct technical errors in the enrollment of the bill (H.R. 2403), and for other purposes, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 48

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 2403), entitled "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes" the Clerk of the House of Representatives is requested to make the following correction:

In the matter under the heading:

"GENERAL SERVICES ADMINISTRATION
FEDERAL BUILDINGS FUND

"LIMITATIONS ON AVAILABILITY OF REVENUE"

under title IV under the heading "INDEPENDENT AGENCIES" strike out the following proviso: ": *Provided further*, That subject to the exceptions contained in the preceding proviso, in no case shall such funds be made available for any lease, line-item construction, repair, or alterations project referred to in the preceding proviso if prior to February 1, 1994, the lease, line-item construction, repair, or alterations project has been disapproved by the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works" and insert in lieu thereof ": *Provided further*, That subject to the exceptions contained in the preceding proviso, in no case shall such funds be made available for any lease, line-item construction, repair, or alterations project referred to in the preceding proviso if prior to February 1, 1994, the lease, line-item construction, repair, or alterations project has been disapproved by the House Committee on Public Works and Transportation or the Senate Committee on Environment and Public Works".

Mr. LIGHTFOOT (during the reading). Mr. Speaker, I ask unanimous consent that the Senate concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Maryland?

Mr. LIGHTFOOT. Mr. Speaker, reserving the right to object, I yield to the gentleman from Maryland [Mr. HOYER], chairman of the subcommittee, for an explanation of the resolution.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this simply changes an "and" to "or," so that either the House Committee on Public Works and Transportation or the Senate Committee on the Environment and Public Works prohibit the use of funds for the public works projects included in the Treasury-Postal Service and General Government appropriations bill for 1994.

Mr. LIGHTFOOT. Mr. Speaker, I thank the chairman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

NATIONAL BIOLOGICAL SURVEY ACT OF 1993

The SPEAKER pro tempore. Pursuant to House Resolution 262, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1845.

□ 1449

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1845) to establish the Biological Survey in the Department of the Interior, with Mrs. MINK in the chair.

The Clerk read the title of the bill.

□ 1450

The Clerk will read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 6, 1993, the amendment offered by the gentleman from North Carolina [Mr. TAYLOR] had been disposed of and section 6 was open to certain amendments.

Are there further amendments to section 6?

Mr. STUDDS. Madam Chairman, I move to strike the last word.

Madam Chairman, I take this time solely to inform Members that with a little bit of luck we should be able to move to the completion of this bill fairly expeditiously. We are aware of some 8 or 10 amendments, some of which we believe to be subject to a point of order, many of which, in fact most of which, we intend to support.

It is my hope, and I suspect this is shared by the other members of the committee on both sides of the aisle, that with just a modicum of self-restraint here we can move and surprise ourselves by how quickly we dispose of the bill.

Madam Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: In section 6, insert after subsection (b) the following (and redesignate the subsequent subsection accordingly):

(c) LIMITATION ON USE OF INFORMATION.—Information that is collected by the Survey from non-Federal real property may not be used by the Survey, and may not be provided by the Survey to any other person, unless—

(1) The Secretary has provided to the owner of the property—

(A) access to the information;

(B) a detailed description of the manner in which the information was collected; and

(C) an opportunity to dispute the accuracy of the information; and

(2) if the owner of the property disputes the information pursuant to subparagraph (C), the Secretary determines that the information is accurate.

Mr. TAUZIN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Madam Chairman, this amendment is important in protecting the rights of the affected landowners who do allow the surveyors to enter their land and then later find that the information gathered by the survey may be either outdated or inaccurate. The amendment simply creates a safeguard to prevent inaccurate or outdated information from later being used by the agency, other than the Survey, in a manner that would cause them harm. It does no harm to the work of the Survey. It simply gives the right of appeal to the information and an opportunity to dispute that information with the Secretary and then to insure that the Secretary later actually is required to determine that the information is either correct or incorrect before any actions may flow from that Survey.

I would urge adoption of the amendment.

Mr. STUDDS. Madam Chairman, would the gentleman yield?

Mr. TAUZIN. I yield to the chairman.

Mr. STUDDS. I thank the gentleman for yielding.

Mr. Chairman, I would like to thank the gentleman for his revision of the amendment, which makes it acceptable to us.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. I thank the gentleman for yielding.

Madam Chairman, on the minority side we think the amendment is well reasoned and needed, and we are happy to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERTS: At the end of section 6, as amended by the Taylor Amendment, insert the following new subsection:

"(f) The Director shall notify in writing the relevant State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b), or the successors to such committees, in a timely manner and prior to the Survey entering onto non-federal real property for which the State and county committee maintain records or have responsibility as provided in programs administered by the Secretary of Agriculture.

Mr. ROBERTS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. ROBERTS. Madam Chairman, this amendment is relatively simple, it merely directs that the Director of the National Biological Survey shall notify the State Agricultural Stabilization and Conservation Service [ASCS] Committee and the county committee in a timely manner and prior to the survey [NBS] employees entry on non-Federal real property over which such State and county committees maintain records or have been delegated responsibilities under agricultural programs administered by the Secretary of Agriculture.

There are 15 Federal Agriculture Department plans that may be currently requested or carried out by farmers and ranchers on their lands under programs administered by the Secretary of Agriculture. Thus, farmers and ranchers and their lands are being planned, examined and studied extensively under several existing laws. The result is that these committees are extensively involved at the present time with conservation, environmental, and biological activities on farms and ranches operated by tenants and/or owners and held and maintained as non-Federal real property.

The purpose of this legislation is stated to be "to provide a national focus for research and monitoring of America's biological and natural resources on an ecosystem bases" and as noted the Secretary of Agriculture administers several programs that are directly or indirectly related to the bill's purpose through these State and county committees. Notice of survey activities in the States and counties will be beneficial to the Department of Agriculture as well as the individual farm owners and/or operators who obtain much of the data about their soil, conservation practices et cetera from these State and county committees.

The Secretary of Agriculture or his representative will serve on the National Biological Survey Science Advisory Council created by this bill and no doubt U.S. Department of Agriculture agencies will be among those who may be requested to cooperate with the Director of the National Biological Survey.

This amendment will merely give the State ASCS committees and the county ASCS committees an opportunity to be aware and informed when non-Federal real property—millions of acres—for which they administer programs, is about to be subjected to a biological survey. The National Biological Survey should also provide information to the State and county committees as to what data it seeks and how the data will be used.

I urge the Members to support my amendment.

Madam Chairman, I submit the following material for inclusion in the RECORD.

COMMON USDA CONSERVATION/
ENVIRONMENTAL PLANS

The following are the primary USDA conservation or environmental plans:

1. Voluntary Conservation Plan—Resource Management System. SCS provides resource planning assistance upon request by a land owner or user. The plan is a set of landowner decisions that meet Field Office Technical Guide quality criteria for the safe use and management of soil, water, air, plant, and animal resources. The decisions reached as a result of the planning process are recorded in a conservation plan, which describes treatment needs and a schedule for implementation. A copy of this plan is provided to the customer.

2. Conservation Compliance Plan. This is a plan developed by a producer with the technical assistance of the Soil Conservation Service to meet the requirements of the Food Security Act. The plan is a record of decisions that describes treatment needs and a schedule for implementation. It is based on the Field Office technical Guide but addresses only soil erosion on highly erodible lands.

3. Conservation Reserve program plan (CRP). SCS helps CRP applicants develop specific conservation plans for acreage accepted into the program. The plan contains, as a minimum, the conservation practices required for establishment and maintenance of permanent vegetative cover over the 10–15 year contract period. Other specifics include, but are not limited to: (a) application schedule for practices, (b) cost-shared amounts, (c) a conservation plan map, (d) job sheets, (e) standards and specifications, and (f) maintenance of the vegetation. Before acceptance,

the plan must be signed by the participant, SCS technical representative, the soil conservation district, and the county ASCS committee representative.

4. Agricultural Conservation Program (ACP). Long-Term Agreement (LTA) plans are multi-year conservation plans developed by the land owner or user with technical and cost-share assistance authorized under the Agricultural Conservation Program (ACP). The participant requests planning assistance and describes the conservation and/or environmental problem occurring on the farm. SCS helps the participant determine the resource management system and practices required to bring soil loss and water quality to acceptable standards for all, or a portion, of the farm.

5. Water Quality Incentives Project (WQIP) Plan. With SCS assistance, land owners must develop Water Quality Resource Management Plans (WQRMP) to meet ASCS program requirements for achieving source reductions of agricultural pollutants for water quality purposes. This resource management plan includes an assessment of the resources and management and structural measures needed to achieve those reductions on an entire tract or tracts owned or operated by the applicant within a specified (watershed) project area. The plan typically includes management practices such as nutrient, pest, and animal waste management, conservation tillage, irrigation water management, and stripcropping. The plan is reviewed and approved by SCS and the local Conservation District, is consistent with conservation compliance goals, and becomes the basis for 3- to 5-year contracts with operators.

6. Watershed Protection and Flood Prevention Act (P.L. 566) Land Treatment Watersheds. Long-term contracts (LTCs) for P.L. 566 use the same policy and procedures as do those prepared for the Great Plans Conservation Program (see below), except that the P.L. 566 LTCs cover only the land operated by the participant and the specific problems identified in the watershed work plan. The work plan contains a list of conservation practices that address, typically, cropland problems. Treatment may or may not achieve the resource base protection level, depending on the workplan objections.

7. Great Plains Conservation Program (GPCC) Planning Principles. The GPCP Conservation Plan of Operations includes all the land in the participant's operating unit. The plan contains all the required practices, existing practices (if any) to be maintained, and new practices—some of which will be cost shared some will not. These new practices are scheduled for completion over a 3- to 10-year period. The plan, when signed by the contracting officer, becomes part of a legal and binding contract between the Federal Government and an individual farmer or rancher.

8. Wetland Reserve Program (WRP). The Wetlands Reserve Program Plan of Operations is developed by the landowner (WRP applicant) with assistance from the Soil Conservation Service, Fish and Wildlife Service, and possibly others. The plan calls for protection, restoration, and management of wetlands that are entered in the WRP. This plan of operation must be signed by the participant, FWS representative, SCS district conservationist, local conservation district, and ASCS.

9. Water Bank Program. The Water Bank Program is designed to preserve and improve the major wetlands as habitat for migratory waterfowl and other wildlife in designated areas. The Soil Conservation Service assists the land user in developing a plan that reduces and conserves surface runoff, protects the soil from wind and water erosion, improves water quality, reduces flooding, promotes water management, and enhances the natural beauty of the landscape. Land owners sign 10-year, renewable agreements.

10. Integrated Farm Management Program. The Integrated Farm Management Program Option Plan is administered by ASCS with technical assistance provided primarily by SCS. The objective of the program is to improve and conserve soil and water on farms. Plans prescribe Resource Conservation Crops (RCC) rotations, tillage systems, soil conservation practices, nutrient management strategies, integrated pest management strategies, animal waste systems, and health and safety considerations. The 3- to 5-year, renewable contracts contain elements that address (a) the specific acreage and crop bases enrolled; (b) acreage and location of the RCC per year, and (c) scheduling of practices for implementation, improvement, and maintenance of the RCC.

11. Colorado River Salinity Control Program Plans. SCS helps applications for the Colorado River Basin Salinity Control Program develop salinity control plans for eligible land. The plan specifies the salinity reduction practices that are the most cost-effective for: (1) Reducing salt loading from a unit of land; (2) reducing erosion or seepage to a degree which significantly benefits salinity control; and (3) voluntarily replacing incidental fish and wildlife values foregone. The salinity control plan also includes a schedule of completion dates for installation of the salinity reduction practices and the specifications of such practices.

12. Wetlands Restoration/Mitigation Plans. These plans are developed, generally with the assistance of the Soil Conservation Service, to restore all of a converted wetland's functions and values or to mitigate the losses of wetland's functions and values caused by a conversion activity. These plans must be approved by the SCS and the Fish and Wildlife Service and be fully implemented within 12 months for a farmer to regain eligibility for USDA benefits.

13. Rural Clean Water Program (RCWP) Plans. This ten year experimental program, initiated in 1980, was designed to address agricultural nonpoint source pollutants for the improvement of water quality. There are 21 projects nationwide where site specific RCWP plans were developed to reduce agricultural pollutant loads to surface and ground waters using both structural and non-structural practices. No new plans are being developed and an evaluation of this program is underway.

14. Rural Abandoned Mine Program (RAMP) Plans. The RAMP Plan of Operation is developed by the landowner with assistance from SCS. The plan contains all the required practices necessary to stabilize the abandoned coal mined land to agricultural uses. These practices are scheduled for completion according to a specific, 5- to 10-year period. The plan, when signed by the contracting office, becomes a part of a legal and binding contract between the Federal Government and the landowner.

15. Stewardship Incentive Program. The Stewardship program encourages and assists owners of private forest land. The stewardship plan is an action-oriented, multidisciplinary document that includes landowners objectives, records the resource management decisions, and recommends resource practices. The plan considers fish and wildlife habitat, enhancement of threatened and endangered species, soil and water resources, wetlands, recreation and esthetics, and timber management and harvesting. The stewardship plan is developed by the Division of Forestry, however, existing Voluntary Conservation Plan (SCS) and Tree Farm Plans (American Forest Foundation) are acceptable stewardship plans.

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the chairman of the committee.

Mr. STUDDS. I thank the gentleman for yielding.

Madam Chairman, we are perfectly happy to accept the amendment.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. I thank the gentleman for yielding.

Madam Chairman, we on the minority side have had the opportunity to review the amendment. We think it is a good amendment, and I am happy to accept the amendment offered by my good friend.

Mr. ROBERTS. I thank the gentlemen for their support, and I ask for adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. ROBERTS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HAYES

Mr. HAYES. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAYES: In section 6 insert after subsection (b) the following (and redesignate the subsequent subsection accordingly):

(c) IMMUNITY FROM CIVIL LIABILITY.—The owner of privately-owned property is not liable for any costs, fees, or damages under any State or Federal law for any injury incurred by a person in performing any activity on the property as an officer, employee, or agent of the Survey (including the performance of an activity pursuant to a contract or cooperative agreement with the Survey), other than an injury caused by the gross negligence or willful misconduct of the owner.

Mr. HAYES (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. HAYES. Madam Chairman, the language of this particular amendment involving civil liability for private landowners has been shown to the chairman of the committee as well as the ranking member of the minority, and it simply says that the private landowner is not responsible for the actual missions of the persons on their property in conjunction with the taking of the biological survey with the sole exception of gross negligence or willful misconduct. That is language which we have agreed to and which I believe the chairman is accommodating and willing to accept.

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. HAYES. I yield to the chairman of the committee.

Mr. STUDDS. I thank the gentleman for yielding.

Madam Chairman, the gentleman is correct, and we are delighted to accept his amendment.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. I thank the gentleman for yielding.

Madam Chairman, as with the other amendments, we have had the opportunity on the minority side to review the amendment. We think the amendment has merit, and we are happy to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. HAYES].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. DEFINITIONS.

As used in this Act—

(1) the term "Assistant Secretary" means the Assistant Secretary for Fish and Wildlife of the Department of the Interior established under section 3 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742b);

(2) the term "biological resources" means plants, fish, invertebrates, and wildlife, and the terrestrial, aquatic, and marine ecosystems in which they occur;

(3) the term "Director" means the Director of the National Biological Survey appointed under section 3(b);

(4) the term "Secretary" means the Secretary of the Interior;

(5) the term "Survey" means the National Biological Survey established under this Act; and

(6) the term "Tribal government" means the government of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

The CHAIRMAN. Are there amendments to section 7?

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: Delete Section 7(2) and insert the following:

"(2) the term 'biological resources' means plants, fish, invertebrates, and wildlife inhabiting terrestrial, aquatic, and marine ecosystems."

Mr. TAUZIN. Madam Chairman, I would hope that the Members pay close attention to the definition of the term "biological resources." The term is used throughout the act. The National Biological Survey will be collecting and analyzing data about biological resources. The definition in the substitute bill is different from the definition adopted in the Merchant Marine and Fisheries Committee and the Natural Resources Committee. In the Merchant Marine and Fisheries draft, there was no definition of that term in the draft bill presented to the committee. In the Natural Resources Committee report, the term is defined as "plants, fish, invertebrates, and wildlife inhabiting terrestrial, aquatic, and marine ecosystems." The ecosystems themselves are not part of the definition of biological resources.

In the substitute that is before the House, the word "and" has been strategically placed so that biological resources now include not only the plants, fish, invertebrates, and wildlife, but also the terrestrial, aquatic, and marine ecosystems in which they occur. This means that land, water, and air are now biological resources.

I would amend the definition so that the definition adopted by the committees of jurisdiction is the controlling definition. This means that only the animals, plants, fish, and wildlife are considered to be the biological resources, and not the ecosystems in which they occur.

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the chairman.

Mr. STUDDS. I thank the gentleman for yielding.

Let me say to the gentleman I am aware that the concern caused the gentleman by the original definition in the bill, and although it was not the intention, as I understand it, of the drafters of the bill to suggest anything that might legitimately raise a concern, the gentleman's concern nonetheless was real and the way he has redrafted it so far as I know is consistent with the original intent, and I am happy to support the amendment.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. I thank the gentleman for yielding.

Madam Chairman, as I understand this amendment, what it does is clarify what the real definition is and explains more fully what the real scope is of this legislation. Is that correct?

Mr. TAUZIN. The gentleman from Texas is abundantly correct. It clarifies and defines this bill as being true biological resources to be surveyed.

Mr. FIELDS of Texas. Well, if the gentleman will yield further, on the minority side we have no objection to this amendment and urge its passage.

Mr. TAUZIN. I thank the gentleman from Massachusetts and the gentleman from Texas.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was agreed to.

□ 1500

The CHAIRMAN. Are there further amendments to section 7?

If not, the Clerk will designate section 8.

The text of section 8 is as follows:

SEC. 8. CONFORMING AMENDMENTS.

(a) TITLE 5.—Section 5316 of title 5, United States Code, is amended by inserting after the item relating to the Director, United States Fish and Wildlife Service, Department of the Interior, the following:

"Director of the National Biological Survey, Department of the Interior.".

(b) NATIONAL WETLANDS INVENTORY.—Section 401(a) of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3931(a)) is amended—

(1) by striking "the United States Fish and Wildlife Service" and inserting "the National Biological Survey"; and

(2) in paragraph (1) by striking "the Service" and inserting "the National Biological Survey".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on the date that is 90 days after the date of the enactment of this Act, or such earlier date as is specified by the Secretary for purposes of section 3(b)(2)(H).

The CHAIRMAN. Are there any amendments to section 8?

If not, the Clerk will designate section 9.

The text of section 9 is as follows:

SEC. 9. AUTHORIZATION AND REPORTS.

(a) CURRENT AUTHORIZATION.—

(1) FISCAL YEAR 1994.—For the fiscal year 1994, there are hereby authorized to be appropriated not to exceed $180,000,000 in order to carry out the purposes and provisions of this Act.

(2) FISCAL YEARS 1995, 1996, 1997.—For fiscal years 1995, 1996, and 1997, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of this Act.

(b) FUTURE AUTHORIZATIONS.—After January 1, 1998, no amounts shall be appropriated to carry out any program, function, or activity of the Survey under this or any other Act unless such amounts have been authorized to be appropriated by one or more Acts of Congress enacted after the date of enactment of this Act.

(c) PERIODIC REPORTS AND PROPOSALS.—

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Strike subsections (a) and (b) of section 9 of the amendment and insert the following:

(a) CURRENT AUTHORIZATIONS.—There are authorized to be appropriated—

(1) for Fiscal Year 1994, an amount not to exceed $170,319,000; and

(2) for Fiscal Year 1995, such sums as may be necessary to carry out the purposes of this Act.

(b) FUTURE AUTHORIZATIONS.—After September 30, 1995, no amounts shall be appropriated to carry out any program, function, or activity of the Survey unless those amounts have been authorized to be appropriated by an Act of Congress.

Mr. WALKER (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Madam Chairman, I offer this amendment on behalf of myself and the gentleman from Texas [Mr. FIELDS].

The $170,319,000 authorization is based on the fiscal year 1994 appropriation for the National Biological Survey and the national wetlands inventory.

This figure represents a 20-percent increase over existing funding for these programs. There are other pressing needs in the Department of the Interior for management and stewardship of public lands which are not addressed in this legislation.

For example, the National Academy of Sciences issued a study last year expressing grave concern about the ability of the National Park Service to manage its resources effectively. Instead of addressing these needs, resources are being put into the National Biological Survey.

I am concerned that other research and management responsibilities within the Department will suffer.

Limiting the authorization to 2 years gives Congress the opportunity to assess the National Biological Survey and exercise its oversight responsibilities.

Essentially what we are doing here is cutting back a little bit of money, placing a limit on the funding, assuring that the authorization is sure enough that we can do it the right way.

I think we have agreement on this amendment. I am hopeful that we can move it quickly.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Texas.

Mr. FIELDS of Texas. Madam Chairman, I appreciate the gentleman yielding to me.

Madam Chairman, this amendment is very simple, yet very important. It would limit authorization for the survey to 2 fiscal years, 1994 and 1995.

I believe that we ought to take a very cautious attitude toward this survey until we have had the opportunity to review how it works, what impact it has on other agencies, and whether it really is a good idea. As we all too well know, sometimes an idea that seems to be good on paper turns out otherwise.

This amendment would allow the Survey 2 years to get organized. After that time Congress would have the opportunity to reexamine the Survey during the authorization process to determine whether the funding levels are adequate and whether the Survey deserves to be reauthorized at all. In the interim the committee will have the opportunity to conduct oversight hearings to determine the progress of the Survey.

For those who support this bill wholeheartedly my amendment does no harm. For those who are sceptical about it, my amendment will allow us the opportunity to revisit it next year.

I urge my colleagues to support the amendment.

Mr. WALKER. Madam Chairman, I want to thank the gentleman and his staff for working closely with us and helping us to craft this amendment and helping us come to the point where maybe we can be in agreement.

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Massachusetts.

Mr. STUDDS. Madam Chairman, I thank the gentleman for yielding to me.

Madam Chairman, I think this amendment is a reasonable one. I think it asks for us to take a look again in 2 years and it obviously reflects, as I suspect the gentleman just indicated, the amounts in the current appropriations process.

I would make one observation to my very good friend, the gentleman from Texas. In accepting this amendment of his jointly with the gentleman from Pennsylvania to reduce the sums in the bill, I must be in error here. My staff has just been given an amendment that the gentleman intends to offer later to increase the authorization again? That could not be, could it?

In any event, Madam Chairman, I support this amendment.

Mr. WALKER. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 9?

If not, the Clerk will designate section 10.

The text of section 10 is as follows:

SEC. 10. RELATIONSHIP TO OTHER LAWS.

Except as provided in sections 3(b)(2)(I), 5(a), and 8, this Act shall not be construed to amend, repeal, supersede, or otherwise affect any other law.

The CHAIRMAN. Are there any amendments to section 10?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new sections:

SEC. . COMPLIANCE WITH BUY AMERICAN ACT

No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known at the "Buy American Act").

SEC. . SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Director of the National Biological Survey shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. . PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a fraudulent label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that was not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

Mr. TRAFICANT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objections.

Mr. TRAFICANT. Madam Chairman, this is a Buy American amendment. It requires notice to those individuals who receive any assistance under the act.

It also has a section that deals with prohibition of contracts whenever a product sold or shipped in the United States, but not made in the United States, was in fact given a label that would lead one to believe that it was made in America.

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Madam Chairman, surprised as we are by this amendment, we are delighted to accept it.

Mr. FIELDS of Texas. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the ranking member, the gentleman from Texas.

Mr. FIELDS of Texas. Madam Chairman, I appreciate the gentleman yielding to me.

As always, the gentleman comes to the floor and makes a very good argument, a very strong argument.

On the minority side, we are happy to support the gentleman's amendment.

Mr. YOUNG of Alaska. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Madam Chairman, I thank the gentleman for yielding to me, and thank him for his amendment.

I would also like to suggest, these amendments are well and good, but until this country starts utilizing its manufacturing base and getting our workers back to work in our factories, until we start utilizing our resources, our minerals, our timber, and our lands and our agricultural capability like it says up above here, above the Speaker's chair, there will not be any jobs in America.

Madam Chairman, it is time for this Congress to wake up. There is only one real dollar, one new real dollar, and that comes from this Earth.

Every day I sit in the committee that I sit on, not this committee, not the Committee on Merchant Marine and Fisheries, every day I sit in the committee we take and buy more land and put it off the productive level. We take it off the tax rolls. We create parks and refuges and wilderness areas, but they create no dollars for the American worker. The man in the factory does not use those areas. He does not have a job.

I want to compliment the gentleman for the amendment, but this Congress has a responsibility to start understanding one thing. Talk does not create jobs. Mining does.

Mining creates jobs, trees create jobs, farming creates jobs, and American factories create jobs. That is what we should be addressing in this Congress.

Mr. TRAFICANT. Reclaiming my time, Madam Chairman, I would like to say. I agree with the gentleman, but there is one other thing that will create some jobs, and that is some reasonable policies and laws to give the American worker and the manufacturing infrastructure a chance.

So I agree with what the gentleman is saying and commend the gentleman for his leadership.

Madam Chairman, I yield back the balance of my time.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will remind all persons in the Gallery that they are here as guests of the House and that any manifestations of approval or disapproval of the proceedings is in violation of the rules of the House.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 10?

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: At the end of the bill add the following:

SEC. . PRIVATE PROPERTY OWNER PROTECTION.

(a) PROHIBITION ON TAKINGS.—An action under this Act is not authorized if it constitutes a taking of private property under Article V of the Constitution.

(b) COMPENSATION FOR REDUCTION IN FAIR MARKET VALUE OF PROPERTY.—

(1) COMPENSATION REQUIRED.—The Secretary of the Interior shall, subject to subsection (c), compensate the owner of any privately-owned real property or interest in real property (including any proprietary water right, servitude, or easement) the fair market value of which is reduced 50 percent or more as a result of any limitation on use of the property resulting from any final qualified agency action, if requested by the owner of the property of interest.

(2) FORM OF COMPENSATION.—Compensation under paragraph (1) may be in the form of—

(A) payment of an amount equal to the reduction in value; or

(B) conveyance of property or an interest in property having a value equal to the reduction in value; as that form is agreed to by the Secretary and the owner.

(c) ACQUISTION OF PROPERTY BY UNITED STATES.—

(1) IN GENERAL.—In lieu of compensation required under subsection (b), the owner of any property or interest described in that subsection may request the Secretary to acquire the property or interest.

(2) CONSIDERATION.—If requested under paragraph (1) by the owner, the Secretary shall acquire the property or interest by providing to the owner consideration in the form of—

(A) payment of an amount equal to the fair market value of the property or interest on the day before the date of the final qualified agency action with respect to which the property or interest is acquired; or

(B) conveyance of real property or an interest in real property having a fair market value equal to that amount; as that form is agreed to by the Secretary and the owner.

(d) FUNDING.—

(1) REQUIREMENTS SUBJECT TO APPROPRIATIONS.—The requirements to pay compensation under subsection (b) and acquire property under subsection (c) are subject to the availability of appropriations.

(2) USE OF FUND.—Notwithstanding any other law, amounts in the Land and Water Conservation Fund may be used by the Secretary for—

(A) compensation required under subsection (b); and

(B) acquisitions of property and interests required under subsection (c).

(e) OTHER RIGHTS PRESERVED.—This section shall not be construed to preempt, alter, or limit the availability of any remedy for the taking of private property or an interest in private property that is available under the Constitution or any other law.

(f) DEFINITIONS.—In this subsection—

(1) the term "Land and Water Conservation Fund" means the fund established in section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5); and

(2) the term "qualified agency action" means an agency action (as that term is defined in section 551(13) of title 5, United States Code) that is—

(A)(i) under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); or

(ii) under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(B) based on data, information, or research developed by the Survey.

Mr. TAUZIN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. STUDDS. Madam Chairman, I reserve a point of order against the amendment.

Mr. TAUZIN. Madam Chairman, this amendment does not specifically address the issue of takings, as it has been described by some in their communications with Members. It simply provides a new remedy where property has in fact been substantially devalued as a result of a decision under the Endangered Species Act, section 404 of the Clean Waters Act, the Wetlands Regulatory Program.

It allows in fact the use of the Land and Water Conservation Fund to compensate property owners for the loss of their property under the limited circumstances where in fact the property has been devalued by as much as 50 percent or more before this remedy could be made available.

All of the remedies would be retained, including the traditional Claims Court suits for the takings.

Under the fifth amendment the types of actions that would trigger this remedy include final agency actions to deny a section 404 wetlands permit property placed within a critical habitat designation that could not be used, and orders which restrict the use of private lands under the Endangered Species Act.

The remedy could be used for land acquisition or for the acquisition of habitat easements by the Department of the Interior.

Madam Chairman, the horrible truth is that the Land and Water Conservation Fund which is used to purchase private lands for public uses is being currently used today in a manner which gives no priority to lands which have been devalued by regulatory actions of the Federal Government.

In fact, the land and water acquisition fund in fact places no priority on those lands, in fact will buy other lands before these lands on the theory that the Government does not really need to acquire land that has been regulated to death, it already owns it in effect. That is a horrible, pernicious way to reward private property in America.

The Secretary of the Interior testifying before our committee on the issue of regulations which devalue personal private property testified that perhaps the best way to deal with this issue was to use the land and water conservation fund to actually purchase lands that are heavily burdened with Federal regulations, such as wetland laws or endangered species laws.

□ 1510

Madam Chairman, that is all this amendment does. It simply says that those lands should be given priority in Federal acquisition. It seems to me that, when the Federal Government comes along with a regulation designed for the public good that takes away the majority of the use of a person's private property, that property ought to be a high priority for Federal acquisition. That is, in fact, the property we ought to be acquiring for the public good.

Instead, under the current criteria established by the agency, that land is the last priority because the Government knows something that my colleagues and I know, and the Government's regulations take away most of the use of the property; the public really has taken it, has actually taken it for public purposes, and, in fact, the private landowner has been denied the use of his land and, therefore, the true ownership of his land.

All we do with this amendment is say that when that occurs, that property ought to be a high priority for acquisition, not a low priority under the pernicious interpretation of the current agency decisions. All we say in this amendment is, when the Government actively takes someone's property by restricting it to death, that that property ought to be high on the list of Federal acquisition so that the landowner can get compensation as provided in the fifth amendment of our Constitution.

I will quote it for my colleagues, for the RECORD, for those who may not remember it. The fifth amendment in its last line says that private property shall not be taken for public purposes without just compensation. That is an exact quote, that is an exact quote. It does not say, "unless that property is a wetland." It does not say, "unless that property has a substantially threatened or endangered species on it." It says that when the Government comes along and takes someone's private property and converts it into public use for any good public purpose, that they are entitled to compensation in America.

Madam Chairman, all we do in this amendment is establish that the land and water conservation fund ought to be used to carry out that very important constitutional protection. All we say is that that property ought not be last on the list for acquisition; it ought to be on top of the list for acquisition.

Madam Chairman, I would urge that this amendment be adopted. I realize a point of order has been reserved against it, and the point of order will probably be made. But let me say something:

If when we survey the biological resources of America, if we cannot provide some balance here to make sure that private property rights under the fifth amendment are respected and that public funds in the land and water conservation fund are used to compensate landowners who are deprived of the use and value of their property as a result of all the public good we do in protecting wetlands and endangered species, then, my fellow Americans, we are not respecting the constitutional basis upon which that fifth amendment gives us all protection in the private protections of our private property.

Madam Chairman, I suggest that this amendment is critical to this survey, and, regardless of what the Parliamentarian may rule, it ought to be part of this survey, as it ought to be part of every Federal act that regulates private property.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

Does the gentleman from Massachusetts [Mr. STUDDS] wish to pursue his point of order?

Mr. STUDDS. I do, Madam Chairman.

POINT OF ORDER

The CHAIRMAN. The gentleman from Massachusetts is recognized on his point of order.

Mr. STUDDS. Madam Chairman, I make a point of order that under clause 7 of rule XVI the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] is not germane to the bill.

Madam Chairman, the important, but very narrow, mission of the National Biological Survey has been explained repeatedly during the course of this floor debate. The amendment is clearly not germane to this bill. The National Biological Survey is not a regulatory agency and has no control whatsoever on how or even whether any agency uses the science or the data generated by the National Biological Survey. The bill does not address at all how or even whether data collected by the survey will be used.

Madam Chairman, this amendment attempts to tie the use of the biological survey science in a regulatory context to a hypothetical reduction of property value. If information generated by the survey is used for wetlands or endangered species, regulatory purposes, and if that regulatory decision causes a greater than 50 percent reduction in the fair market value of the private property, then the Secretary, according to the amendment, shall compensate the landowner.

I would simply note that the amendment establishes a standard for determining when the loss of property rights is compensable and lays out the method and process for providing such compensation, and, however fascinating and interesting those matters may be, and I agree that they are substantively important policy issues, they have nothing whatever to do with the subject matter of the fundamental purpose of H.R. 1845.

For that reason, Madam Chairman, I press the point of order.

The CHAIRMAN. Does the gentleman from Louisiana wish to be heard on the point of order?

Mr. TAUZIN. I would like to be heard on the point of order, Madam Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana.

Mr. TAUZIN. Madam Chairman, if this survey has any value at all, if we are to spend the many millions of dollars that we propose to spend on survey plants and animals across America, it is for the purpose of all of our regulatory statutes, it is for the purpose of affecting the Endangered Species Act, and it is for the purpose of affecting the wetlands regulatory programs and others that we have outlined earlier in this debate on the previous day, and it is for that reason we are going to do this survey and, if this survey does, in fact, result in taking and diminutions of property value, this bill ought to provide a mechanism by which those landowners can seek compensation from the Federal water and land conservation fund.

Now I do not think there is anything more germane than this amendment to a National Biological Survey, than the question of how that survey is going to be used and what effects are going to flow to private land property ownership in America. I would suggest that it not only is germane, but it is probably the most important language that ought to be added on to a National Biological Survey bill.

I say to my colleagues, "You would not believe, from the arguments that are being made against this amendment and against the amendment we are going to propose after this one, that the human species is not a carbon-based entity any longer, that we are not related to the biological species that occupy this planet, but the effects upon human beings are not even going to be considered when we are doing national biological surveys."

Well, let me inform this House and this Nation that, as far as I know, we have not reversed the Scopes trial. As far as I know, we are carbon-based, not silicon-based entities, we are related to the plants and animals on this planet, and the position of human beings occupying private property in this country is very important when we survey biological entities and when that survey results in important management decisions affecting that private property and the private lives of these biological species that we call human beings.

It seems to be that to rule this nongermane is to say we have no part on this planet in this country as biological entities and that our right to exist on the private property guaranteed under the Constitution to every single member of our Nation is going to be denied to us if a biological survey considers us nongermane, nonrelated, not-in-existence, if my colleagues will, in regard to the counting of biological life as it exists in our country.

The CHAIRMAN. Does the gentleman from Texas [Mr. FIELDS] wish to address the House on the point of order?

Mr. FIELDS of Texas. Yes; I do, Madam Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Texas.

Mr. FIELDS of Texas. Madam Chairman, I think the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] is germane for many reasons.

First of all, Madam Chairman, this amendment would prohibit any action under the act if it would result in a taking of private property, directly relative to the piece of legislation we are debating. This amendment would also provide for compensation to the property owner if the fair market value of the property is diminished by 50 percent or more as a result of a limitation on property use because of action taken under section 404 of the Clean Water Act, the Endangered Species Act due to information from the Survey, which is the subject matter of the debate before the House.

The Secretary and the landowner have a variety of options to use when it comes to compensation. Also, such compensation would be funded by the land and water conservation fund.

I think the House made great strides earlier toward restoring the faith of the American people in the Government when we approved private property rights protections earlier during consideration of this legislation. This amendment builds upon the amendment already accepted by the House by assuring Americans that they will be compensated if Government regulations cause them to lose the value of their property, and, if we are to succeed in protecting and preserving the environment, we are going to need the faith and good efforts of the private property owners, and the best way to get their cooperation is to provide them with incentives and protection from loss. Again, that relates directly back to the basic and fundamental subject matter of this particular piece of legislation.

Madam Chairman, for those reasons I would urge that the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] is germane, that it should be considered, that we should take a vote and let the House work its will.

□ 1520

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. EDWARDS of California. Madam Chairman, I rise to support the gentleman from Massachusetts [Mr. STUDDS] in his point of order and to speak against the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The gentleman from Louisiana eloquently expresses concern about the human species on this Earth and how we must protect it. But I think we all know that the human species is in trouble, and we had darn well better protect this Earth and this planet or we will not have an indefinite period of time in which to enjoy the wonderful things that we do.

The gentleman speaks of the fifth amendment to the Constitution. I respect the fifth amendment, and I assure the gentleman that the fifth amendment is in good shape and has been in good shape for more than 200 years.

However, I think that we should remember that in addition to the fifth amendment, it says the Government cannot take your property without due compensation, that there are also provisions in the law and in the Constitution that make us responsible for the health and welfare of the United States.

Madam Chairman, if there is a polluter, some factory, by the San Francisco Bay, spewing out poison gas and ruining thousands of acres around it, I am sure the gentleman from Louisiana [Mr. TAUZIN] would have no objection to the local government saying you cannot continue this nuisance. And that is exactly right.

What the gentleman from Louisiana fails to point out is that there is not only the property right of a landowner, but there are also property rights of other people connected with the land. We certainly learned that in the recent floods of the Mississippi River that have been so tragic. The wetlands were destroyed, thousands of acres of wetlands, perhaps thousands of miles from the mouth of the Mississippi. People in the flood plains of the Mississippi, when the levees broke, they were the ones that suffered.

So I think the gentleman is incorrect. And when he relies solely on the fifth amendment, yes, we all respect the fifth amendment of the Constitution, but we also must respect our duty, the duty of the U.S. Government, to also protect the health and welfare of the American people.

We have two conflicting principles here. We must find a balance. it is being handled very well, this taking problem, issue by issue. The courts are examining these taking claims as they come up, one after another. They go right to the Supreme Court, they go to the district courts, and to the appeals courts. Each situation is different. And that is the way to handle it, not with a formula such as the gentleman from Louisiana suggests.

Mr. TAUZIN. Madam Chairman, will the gentleman yield?

The CHAIRMAN. The gentleman from Louisiana is recognized on the point of order.

Mr. TAUZIN. Madam Chairman, let me first point out the example used by my good friend, the gentleman from California [Mr. EDWARDS], would not apply to my amendment, as it is a clean air regulation.

The CHAIRMAN. The Chair would announce that Members will address the Chair on their own time. Members may not yield when debating a point of order.

The gentleman from Louisiana [Mr. TAUZIN] may be heard again on his own time for further debate on this matter.

Are there further Members seeking recognition on the point of order?

Mr. YOUNG of Alaska. Madam Chairman, I would suggest one thing: There have been some comments made about this amendment not being germane. I believe the gentleman from Texas [Mr. FIELDS] and the gentleman from Louisiana [Mr. TAUZIN] have put it very well.

As far as the comment just made by the gentleman from California [Mr. EDWARDS], the basis of our Constitution and our democracy is privately held land, not Government-held land. If you want the Government to hold land, look what happened to the Soviet Empire and how they had their environmental degradation.

All we are saying in this amendment or any other amendments which will come before this committee at a later time on other legislation, such as wetlands legislation and endangered species legislation, it is time that this body recognizes the right of the private individual. If the Government or some agency decides that those lands or those species have a greater national value, all this amendment says is that if that is decided by an agency, then that person that loses the value of that land shall in fact be compensated first before we spend any other moneys buying other lands through action of this Congress or any other agency. That is all it says.

With all due respect to the gentleman from California [Mr. EDWARDS], you can talk about the fly down in San Bernardino that is stopping us from building a hospital. That is taking away the jobs needed in that area. Saying that that fly is all God so important, the same fly that I would swat on the corner of my arm if it was there, yet an agency says it is endangered. Or you might say to someone that their land has some type of bird or a bug or whatever it may be, or it is wetlands, the Government says it, and the value of that land decreases, that is a taking.

The agency says oh, no, we did not take your land. You do not need any compensation. While they define it as such, the value decreases and your rights are taken away from you.

Madam Chairman, you are going to rule that the amendment is not germane. I am saying to my colleagues we will have an opportunity down the line this next year to vote on other pieces of legislation that do protect the rights of the private landholder. If we lose that, and I say this to my friend, the gentleman from California [Mr. EDWARDS], if we lose the private-land concept in this country, let us all become Communists. That is what communism is all about, that in the national interest we shall do what is right. But the basis of our democracy has been based upon the individual rights of that one person, not in the national goodness, unless he is protected and she is protected. That is the basis of our Constitution.

So I say to my colleagues, we will have an opportunity later on let us speak our mind as we should to uphold the Constitution. I compliment the gentleman for his amendment. It will be ruled ungermane, but we will go forward at a later time. We have laid the groundwork for this Congress again to speak for the people of America.

The CHAIRMAN. Are there other Members seeking recognition on the point of order?

Mr. TAUZIN. Mr. Chairman, in the debate in the committee one member pointed out that the definition of private property has changed in America. I challenge that notion. The definition of private property has never changed in America. I suggest to my friend, the gentleman from California [Mr. EDWARDS], that the definition of private property in my State, as in every State, I believe, has always been that you have the right to use and enjoy your private property, free of interference, so long as you use it in a way so as to not offend or endanger or create a nuisance for your neighbor or his property. That has always been the principle of private property ownership in America.

What is at interest here is how big the neighborhood has become. It used to be in America that your neighbor, under the law, was the guy next door. Today, under interpretations by Federal agencies, your neighbor can be someone living in Bangladesh. In order to protect some world interest in a species or wetlands, all of a sudden your rights of private ownership are subject to the needs and wishes of people who live in some sort of global community.

Madam Chairman, let me suggest to my friend that we are not suggesting that anyone ought to be able to pollute their neighbor. We are not suggesting those laws are not good. We are not suggesting that wetlands laws should not be implemented in America or that species protection should not be implemented.

To the contrary, we suggest they are good laws. Wetlands ought to be protected. That species that is threatened with extinction ought to be protected. We ought to do a lot more to keep them from becoming extinct or threatened in the first place.

All we are saying is when those good intentions deprive a person of his private property rights, the Government has to step up to the bar, as the fifth amendment compels them to, and has to compensate that private property owner. The Government cannot keep hiding under the notion that because it has not taken title to the land that it has not taken the property.

If the Government comes along and takes 5 of my 10 acres to build a hospital or a road, it has taken my property and I get compensated. But when the Government comes along and takes 50 percent of the use of my 10 acres, then the Government says, "A ha, but that is not compensable. You have to wait down the list for compensation, if in fact we ever buy your property."

All this amendment does is to say that when that occurs, when Government comes along, for all the good reasons stated by my friend, the gentleman from California [Mr. EDWARDS], that we enact species protection and clean air and wetlands protection, for all those good reasons, but when the Government comes along and takes more than 50 percent of the use of my 10 acres, or my 1 acre, or my 100 acres, that I ought to have the right to say to the American public, you have taken a real substantial part of my private property, and under the fifth amendment you ought to compensate me.

☐ 1530

That is a principle, Madam Chairman, whether this amendment is ruled germane or nongermane, this floor will continue to debate. And before this session of Congress is over, we will have a chance to vote on it, I promise my colleagues. We will vote sometime in this session whether or not this Nation respects the right of private property owners in America or whether we are—as my friend, the gentleman from Alaska said—something different, something strange, something that has characterized countries in Eastern Europe, that has failed them miserably as those walls have tumbled, or are we a country that respects private enterprise and private property, or are we a country that simply tramples over those rights for whatever good cause we come upon.

That issue will be debated, Madam Chairman, whether today we identify and recognize that humans are part of this biological family or whether the Chair is obliged to rule that we are nongermane, not related, not involved in this biological process in this country.

The CHAIRMAN. Does the gentleman from California [Mr. EDWARDS] wish to be heard further on this point of order?

Mr. EDWARDS of California. Madam Chairman, I wish to respond briefly to the gentleman from Louisiana and assure him that the fifth amendment has been protected for a long time. These issues are not new that he describes. They come up in our society day after day. They are in every court of the land, and the courts are handling them pretty darn well. Maybe the gentleman disagrees with some of the decisions that are made, but each situation is different.

The courts are not stupid. They must act according to precedent, according to the precedent set by higher courts earlier in the age.

There is no problem here. The worst thing we can do is what the gentleman has in mind, is that for us, us poor mortals, to try to establish these rules by law. It will not work, I assure the gentleman. Every situation is different.

The CHAIRMAN (Mrs. MINK). The Chair is prepared to rule.

The gentleman from Massachusetts [Mr. STUDDS] makes the point of order that the amendment offered by the gentleman from Louisiana is not germane. The amendment proposes to add a new section at the end of the bill and must be germane to the bill as a whole.

The bill establishes as an office within the Department of the Interior a National Biological Survey. The mission of the Survey is to gather, analyze, and disseminate biological information. This information may relate to efforts at resource conservation, biological awareness, and ecosystem management. It may include tracking of plant and animal populations. It is confined, however, to matters biological.

The amendment ranges far beyond the ambit of the bill to address requirements of adequate and prompt compensation for takings, within the meaning of the Constitution, by reason of any final qualified agency action.

The amendment does not confine itself to actions of the Survey under this bill but extends also to actions of other regulatory agencies under other acts of Congress.

Under these circumstances, the amendment cannot be considered as involving the same subject as the pending bill. Accordingly, the point of order is sustained.

AMENDMENT OFFERED BY MR. FIELDS OF TEXAS

Mr. FIELDS of Texas. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FIELDS of Texas: At the end of the bill, add the following new section:

SEC. . FOUNTAIN DARTER AGREEMENT.

(a) ESTABLISHMENT.—In carrying out the functions under section 3(b)(2) of this Act, the Director of the National Biological Survey shall enter into a cooperative research agreement with the Texas A&M University to assist in collecting and maintaining data concerning the distribution, abundance, health, and status of the fountain darter.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each of fiscal years 1994 and 1995, $1 million to carry out the agreement required under subsection (a) of this section.

Mr. FIELDS of Texas (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FIELDS of Texas. Madam Chairman, this amendment would require the Director of the National Biological Survey to help save the fountain darter.

The amendment requires research, aimed at recovery of this species, to be undertaken cooperatively with Texas A&M University.

Madam Chairman, I do not want to take a lot of time debating the merits of saving a 1-inch fish. Nevertheless, we have discussed at great length the tremendous pressure, chaos, and economic uncertainty that the foundation darter has brought to millions of Texans in the San Antonio region.

My proposal is quite simple and noncontroversial. It requires the Biological Survey, through an agreement with Texas A&M University, to conduct research on the distribution, abundance, health, and status of fountain darters. In 1985, when the Fish and Wildlife Service published its recovery plan for the San Marcos River, it specifically called for the establishment of a captive group of fountain darters which could be reintroduced into either the San Marcos or Comal Springs should this habitat dry up in the future.

Captive propagation is an innovative technique that has been successfully used in the recovery of other endangered species such as whooping cranes, Kemp's ridley sea turtles, California condors, and, most recently, the black-footed ferret.

Texas A&M University's fishery program is ideally suited to assist the Biological Survey in its efforts to make the fountain darter one of the most prolific species on Earth.

Madam Chairman, this amendment does not require the expenditure of any new money. In fact, the $1 million authorized by this language could easily be obtained by reprogramming funds already appropriated to the Biological Survey by H.R. 2520, the Interior appropriations bill for fiscal year 1994.

Madam Chairman, my amendment simply directs the Biological Survey through its research efforts to assist in the recovery of the fountain darter.

I urge the adoption of this important and noncontroversial amendment.

Mr. STUDDS. Madam Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Madam Chairman, I regret that this is necessary, that it is necessary for me to rise in opposition. I really regret that my very dear friend from Texas has chosen to offer this amendment.

So that Members are aware of what this does, this directs the National Biological Survey to enter into a cooperative research agreement with Texas A&M University concerning the distribution, abundance, health, and status of a particular critter, in this case the fountain darter. And it authorizes $1 million in each of the next two fiscal years to carry that out.

This is essentially an earmark under a determination by the Members of this Congress, if this amendment were adopted, that that is the way $2 million of the money authorized in this bill ought to be spent.

Let me point out a couple of things. First of all, this is unnecessary. Second, it is not wise. It is not necessary because the bill currently authorizes the Secretary to enter into contracts and cooperative agreements with any appropriate Federal, State, or local agency or private organization so that if in the judgment of the Secretary of the National Biological Survey such a program is appropriate, he or she has the authority to do so under the bill as it is currently written.

Second, this amendment has never been considered by our committee, nor has it even, to my knowledge, been introduced as legislation. It is very similar, as I am sure the gentleman knows, to another bill which is pending before our committee offered by the gentlewoman from California [Ms. PELOSI], to develop a salmon broodstock program.

The administration expressed concerns about that bill, and I am sure had they known about it, they would have the same concerns about this one.

I do not think that it is wise for the Congress to legislate the priorities for a recovery plan for a particular endangered species. That kind of a judgment should be made according to the dictates of science, not of Members of Congress.

I do not know about my friend from Texas, but I certainly would not presume to have the knowledge or the scientific ability to make a determination such as this.

I must point out, in all fairness, that the minority did, in fact, express reservations about the bill of the gentlewoman from California. And I think, in expressing those reservations, the minority may well have been wise. We are working with the administration and all other interested Members to address the concerns about the legislation currently pending before the committee. We would be happy to add the concerns of the gentleman from Texas to that.

But I really profoundly believe that it would be an error for us to take into our layman's hands the essentially scientific judgment of how $2 million of these dollars ought to be spent and to earmark them for a particular State for a particular university and for a particular critter. That, I think, is not legitimately the job or the role of the Congress.

As I say, because of the closeness of the working relationship I have enjoyed over many years with the gentleman from Texas, I do this reluctantly, but I do strongly oppose the amendment.

□ 1540

The CHAIRMAN (Mrs. MINK). The question is on the amendment offered by the gentleman from Texas [Mr. FIELDS].

The amendment was rejected.

Mr. LAROCCO. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman on October 6, I spoke on the House floor in support of language contained in H.R. 1845, the National Biological Survey Act, which would have assured that States' rights were preserved with regard to private property.

I supported that language after it was reviewed by Idaho's office of the attorney general. While time did not permit the preparation of a formal opinion by the Attorney General, the A.G.'s office indicated the language contained in the bill, as it was amended by the committees and brought to the House floor, would have given the States more discretion in the enforcement of property rights than would the Taylor amendment, which establishes a uniform Federal law.

As Members know, the Taylor amendment was adopted, so today I would like to enter into a colloquy with the chairman of the committee about States' rights.

Madam Chairman, is it your understanding that the language now included in the bill would protect States' current authority on private property rights and not override the complex property laws of all 50 States with a uniform Federal requirement?

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. LAROCCO. I yield to the gentleman from Massachusetts.

Mr. STUDDS. While I support the protection of private property rights, I, too, am concerned that the Taylor amendment establishes an exception to the private property law in Idaho, North Carolina, and in all of the other 48 States. We attempted in the language contained in the bill to walk the narrow line between private property law that is within the jurisdiction of the State and regulating the conduct of those gathering data for NBS. I am concerned that the so-called Taylor amendment does not keep to this narrow line.

Mr. LAROCCO. Mr. Chairman, among other things, I am concerned about the affect of the National Biological Survey Act on the rights of tenants as well as those of property owners. Under the bill, written permission is required from the owner. What permission, if any, is required from the tenant to allow entry on private property?

Mr. STUDDS. If the gentleman will continue to yield, I believe the gentleman's concern may be well-founded. The general rule of State landlord-tenant law as stated in American Jurisprudence 2d is that where premises are leased, the right to use them during the term is transferred from the landlord to the tenant. The general rule goes on to state that the tenant is the absolute owner of the premises for the term of the lease, and the owner of the property has no more than a reversionary interest.

Under the bill as amended, no permission of any kind is required from the tenant. Since the general rule of all State landlord-tenant law is that the landlord has, and I quote, "no authority during the term to enter or otherwise disturb the tenant in his occupancy or in any manner interfere with his rights to the control of the property," the Taylor amendment will subject the owner and the NBS employee to an action by the tenant.

In fact, the general rule of State landlord-tenant law is that "an unauthorized entry or intrusion by the landlord during the existence of the lease is as much a trespass as an entry or intrusion by a stranger."

Mr. LAROCCO. Mr. Chairman, is it the gentleman's understanding that the States would retain their ability to enact private property laws which could be more stringent than those in this bill?

Mr. STUDDS. It is my understanding that States would retain their ability to enact private property laws which could be more stringent than those in this bill. The real problem, as the gentleman from Idaho has indicated, and as we have been discussing, is that State law is inconsistent with this bill. I am very concerned that property owners who lease their property will, relying in good faith on the so-called Taylor amendment, consent to an entry and find themselves in difficulty with their tenant who under State law is the only party able to give legal consent. I hope, obviously, that we can deal with this inconsistency in conference in a way that protects property owner rights without subjecting them to State trespass charges.

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANSEN: Add a new section as follows:

"SEC. . FISH AND WILDLIFE MANAGEMENT

(a) The establishment and operations of the National Biological Survey shall not be construed to enlarge or diminish the authorities or responsibilities of the States, territories, or possessions of the United States, for the management of fish and wildlife and their habitats; (b) the establishment and operations of the National Biological Survey shall maintain the scientific research programs on fish and wildlife and their habitats conducted by States, colleges, and universities with appropriate funds or personnel provided, in whole or in part, by the Department of the Interior; (c) the National Biological Survey shall provide adequate support for research and related efforts necessary for the proper management of wildlife, fish, and their habitats, including the provision of data and information from the Migratory Bird Banding Laboratory that is necessary for the United States Fish and Wildlife Service to fulfill its responsibilities for the management of migratory birds, including hunting programs.

Mr. HANSEN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. HANSEN. Madam Chairman, I, along with my colleagues, Mr. DINGELL, Ms. LAMBERT, and Mr. JEFFERSON, offer an amendment that will preserve the traditional roles of the States in the management and research of State fish and wildlife resources and will preserve the continuation of the Migratory Bird Program.

Congress has a long tradition of preserving the role of the States to manage fish and wildlife populations within their borders. Because the States are interested in preserving and enhancing these resources, they have done excellent jobs of managing and building up populations of fish and wildlife. For example, in my home State of Utah, elk populations are currently higher than they have been for decades. We have seen these types of increases almost across the board with populations of both game and nongame species. Our amendment will ensure that the States retain the jurisdiction to manage these resources. Although the National Biological Survey could serve as a data bank on which the State management agencies could draw, it should not lead to mandates upon State management agencies.

Colleges, universities and States in cooperation with Federal agencies conduct research that is both unique to their needs and vital to proper management. Federal dollars and personnel help support this research and it is important that these cooperative programs continue. Without these programs, colleges and universities across the country will suffer greatly and the research will not be completed. Our amendment will ensure that these cooperative programs continue and are supported by the National Biological Survey.

The final section of the amendment will preserve the Migratory Bird Program conducted by the Fish and Wildlife Service. Migratory bird seasons are established each year by the Fish and Wildlife Service. Extensive annual research is required in order to support the hunting seasons and proper management. I am concerned that the National Biological Survey may strip these basic research functions from the Fish and Wildlife Service and threaten the continuation of these management and hunting programs. Hunting and other waterfowl groups in cooperation with the Fish and Wildlife Service play a critical role in preserving healthy populations of migratory birds and our amendment ensures that these successful programs continue.

This straight forward amendment will protect cooperative wildlife research programs in our States and will preserve the heritage of migratory bird hunting. I urge your support of the Hansen-Dingell-Lambert amendment. I thank my colleagues, the gentleman from Michigan, Mr. DINGELL and the gentlewoman from Arkansas Ms. LAMBERT for their cosponsorship, and I thank the chairman, the gentleman from Massachusetts [Mr. STUDDS] for his willingness to work with us on this amendment.

Mr. FIELDS of Texas. Madam Chairman, if the gentleman will yield the language that the gentleman from Utah has offered concerning the relationship that the National Biological Survey has with State fish and wildlife agencies in the management of State fish and wildlife is indeed needed.

His amendment also identifies the need to maintain a strong level of cooperation between Federal agencies, State agencies and academia in conducting research on our natural resources.

Finally, his language provides assurances that the Fish and Wildlife Service will be able to meet its full responsibilities for the management of migratory birds as required under the Migratory Bird Treaty Act with data supplied by the Biological Survey.

Mr. Chairman, the amendment offered by my good friend Congressman HANSEN is indeed needed and I support its adoption.

Mr. HANSEN. Madam Chairman, I thank the gentleman from Texas for his remarks.

Ms. LAMBERT. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would like to start first by congratulating the chairman and his staff for doing such a wonderful job in working on this bill.

"If it ain't broke, don't fix it." How many times have we heard this ditty, especially with Vice President GORE's mission to reinvent Government? With the reinvent Government argument, the Vice President has found more things broke than not. However, what we are talking about today is maintaining a program that is healthy and working properly.

Today, my colleagues, Mr. DINGELL and Mr. HANSEN, and I have introduced an amendment to the National Biological Survey Act to preserve the integrity of a program with a well-established track record. Our amendment ensures that the U.S. Fish and Wildlife Service preserves its ability to work with the States and educational institutions to monitor and manage the wildlife resources within each State border.

While I support the purpose and goals behind the National Biological Survey to employ scientifically sound methods to map and identify the ecological landscape in this country to avoid future train wrecks between development and the environment, I also believe that passage of this amendment assures the Fish and Wildlife Service and 50 State fish and game commissions that the NBS will not infringe on traditional State oversight over the management and hunting of wildlife.

Under the Migratory Bird Program, the Fish and Wildlife Service researches the health of the bird population and other statistics to determine the hunting seasons and the daily quota for each hunter. The Fish and Wildlife Service must justify its hunting guidelines through extensive research before implementing them. We are concerned that the research arm of the Fish and Wildlife Service will be transferred to the NBS, leaving the Service without the resources to conduct its research. Without this research capacity, the Fish and Wildlife Service will have insufficient information to justify the annual hunting criteria.

While I know that many of the Members of this body do not hunt, it is a basic fact that hunting, that is strictly regulated and monitored, stabilizes the population of migratory birds such as ducks, and promotes a healthy breed. We want to guarantee that the Fish and Wildlife Service will continue to work closely with the States and universities in its research and that the Service will foster new research alliances with the NBS. We seek to protect migratory bird hunting and cooperative wildlife research.

I urge you to support this noncontroversial measure and vote yes on the Hansen-Dingell-Lambert amendment.

Mr. WELDON. Mr. Chairman, I rise in support of both H.R. 1845, the National Biological Survey Act of 1993 and the Hansen-Dingell-Lambert amendment. As a member of the Migratory Bird Conservation Commission, I am a strong supporter of the Fish and Wildlife Service's migratory bird management programs. While I support the concept of coordinating the Department of the Interior's sciences resources through the National Biological Survey [NBS], I want to ensure that the crucial work of the Migratory Bird Banding Laboratory, as well as the other critical responsibilities of the Fish and Wildlife Service, continues.

Mr. Chairman, without the biological research conducted by the Fish and Wildlife Service, annual waterfowl harvest levels could not be established. This eventually would devastate critical wildlife habitat protection efforts funded by the U.S. Duck Stamp Program. The Duck Stamp Program has brought roughly $400 million to migratory bird conservation initiatives since its inception in 1934. The program has contributed to the acquisition of over 4 million acres of wetlands for addition to our National Wildlife Refuge System.

Mr. Chairman, we can ill afford to lose this vital program. The Hansen-Dingell-Lambert amendment will ensure that migratory bird research does not suffer when the National Biological Survey is established. The Hansen-Dingell-Lambert amendment strengthens H.R. 1845, and I compliment my colleagues from Utah, Michigan, and Arkansas on their initiative.

Mr. STUDDS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I commend the gentleman from Utah [Mr. HANSEN] and the gentlewoman from Arkansas [Ms. LAMBERT]. We are delighted to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. HANSEN].

The amendment was agreed to.

Mr. VALENTINE. Madam Chairman, I move to strike the last word.

Madam Chairman, I would like to engage the chairman of the Committee on Merchant Marine and Fisheries in a brief colloquy.

First, let me say that I agree with my distinguished colleague that the legislation before us authorizing the creation of a National Biological Survey is a scientific endeavor. I believe the Survey is intended to ensure that we have scientifically credible information on which to make management decisions. I agree that this bill is not an appropriate forum for debating private property concerns.

Having said that, however, the issue of takings is important to every Member of this body and I believe that when we begin to make management decisions under the Endangered Species Act or section 404 of the Clean Water Act dealing with wetlands, that appropriate attention must be paid to the impact of those regulatory and management decisions on private property rights, specifically those related to takings and compensation.

Chairman STUDDS, you have stated publicly on numerous occasions, including your recent testimony before the Committee on Rules on H.R. 1845, that "legitimate and serious questions, [have been raised on] the takings of private property." You also said "Those are important questions, they are real questions. There is a forum in which they are appropriately debated."

Can the gentleman assure the House that he will do what he can to ensure that issues regarding takings and compensation will be debated and considered when the appropriate management legislation is considered on the floor of the House?

Mr. STUDDS. Madam Chairman, will the gentleman yield?

Mr. VALENTINE. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Madam Chairman, I would say to the gentleman, he has quoted me correctly. I assure the gentleman that as my committee considers environmental protection and natural resources management issues, as it will during the remainder of this Congress, I will support serious and legitimate debate and consideration of whether and how to compensate people whose property interests may be adversely affected by regulation. We may, at that time, disagree on where the balance appropriately lies, but we will not disagree that the issue is a proper one for debate.

However, as the gentleman has stated correctly, H.R. 1845 is not the proper context for this debate. This bill is designed to provide us with the best information available on our Nation's biological resources. It does not in any way restrict personal liberties, including any person's ability to use and enjoy their property.

I share the gentleman's desire to find the appropriate balance between private rights and public interests. I will work to bring this issue to the House floor prior to the end of the 103d Congress. I appreciate the steps he has taken to assure that whatever course we take is consistent with that science tells us about the difficult task of managing the Nation's biological resources.

Mr. VALENTINE. Madam Chairman, I thank the gentleman, and urge my colleagues to vote "aye" on final passage of this legislation.

☐ 1550

Mr. DINGELL. Madam Chairman, I move to strike the last word.

Madam Chairman, years ago, in a happier time, I was a member of the Committee on Merchant Marine and Fisheries. I had the privilege of working with the distinguished gentleman, Mr. Studds who is now the chairman of that committee. And I want to express great affection and respect for him. He is a fine man, a fine Member, a dear friend of mine, and served with great distinction on that committee during those days.

I had the privilege of being the chairman of the Subcommittee on Fish and Wildlife Conservation during the years I was there, and we wrote a lot of great legislation. We wrote the Fish and Wildlife Coordination Act, the Endangered Species Act, Marine Mammal Protection Act, the ocean dumping legislation, National Environmental Policy Act, and a lot of other legislation. One of the things which we did was to create a national wildlife refuge system and the fish and wildlife and the precious resources that America treasures and cherishes.

I want my colleagues to know that I approach this legislation with a genuine sympathy for the Interior Department and for what is stands for, because it guards some of the greatest treasures that are owned and held by and for the American people. But this legislation, in spite of the great affection that I hold for my good friend from Massachusetts, is bad legislation. I ought not pass.

Why? Because it takes all of the technical and scientific expertise and skill in the Interior Department,particularly the Fish and Wildlife Service, and it moves it into one place. And where is that one place? Entirely under the thumb of the Secretary of the Interior.

Now, one of the things that we have struggled with during the years that I served in this Congress has been to see to it that the Congress gets adequate information from Federal agencies, information which is true, which is factual, and which is sound. This became a matter of special concern to me in the days when there was a fellow by the name of Douglas McKay as the Secretary of the Interior. He was an evil man. He plundered the refuges. He defiled the public lands. He gave away treasures that belonged to all of the people to every special interest in sight.

But one way which we were able to find out what policy was being made at the Department of the Interior was the fact that there were a few scientists, biologists, and experts who were able to come up and inform the Congress about what was going on. As a result, we were able to stop McKay's raids on the refugees, we were able to protect them, and we were able to protect the public lands. The committee of this Congress, in a bipartisan fashion, unanimously denounced the misbehavior of this evil man.

The treasures that are held by the Interior Department are protected in good part by the scientific knowledge and the scientists that are there to see to it that fish and wildlife and natural resources are protected and cherished as they indeed should be. The real sadness, however, is that not only is this legislation going to serve to blind the Congress by putting the entire handling of the Survey information and science in the hands of one man, the Secretary, it is also going to do something else. It is going to isolate refuge managers and reduce their available resources. It will dilute the ability of resource managers to know what is going on in these areas, because all of these Survey people are going to be concentrated directly within the handhold and the arm-reach of one man, the Secretary of Interior.

Now it may be that Mr. Babbitt is going to be, in the passage of time, the greatest Secretary of Interior we are ever going to see. I personally have some doubts. But the hard fact of the matter is that whether he is good or bad, trusting one man with this kind of control over information on science, on management of wildlife, on protection of wildlife resources is unwise, because it may well be that some evil man will come by and want to despoil these resources, was we have seen happen in the past, because Interior is an agency which has a rich history of scandal. The legacies of Teapot Dome, the McKay machinations and others are information that we should bear with us as we address this legislation right here.

If Members want to deny the administrators in the Department of Interior the information they need to properly address the management of the greatest natural treasures and resources this country has, support this bill. If they want to see to it that they are not able to get the information they need to make the necessary, wise and proper judgment with regard to natural resources, then by all means support this bill.

If they want to see to it that they have full access, and that the administrators, and that the refuge managers and the others who are in charge in the field of protecting the resources that we are talking about here have full access to that information, then by all means vote against this legislation. There is no benefit to be achieved by this legislation.

I urge my colleagues to defeat this legislation. It is in the public interest to do so. It is bad legislation. It serves no wholesome purpose.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: At the end of the bill add the following:

SEC. . ENSURING ECONOMIC COMPETITIVENESS AND THE FULFILLMENT OF HUMAN NEEDS.

(a) REQUIREMENTS FOR RESEARCH AND ECOSYSTEM MANAGEMENT MONITORING.—Notwithstanding any other provision of this Act, the Director shall—

(1) conduct research on biological resources otherwise authorized by this Act in a manner that permits the United States to remain economically competitive while protecting natural resources; and

(2) conduct monitoring of methods by which ecosystems are managed that is otherwise authorized by this Act in order to improve the capability of the Nation to conserve biological resources and diversity with minimum adverse economic impacts on the fulfillment of human needs.

(b) ENSURING CONSIDERATION OF HUMAN NEEDS.—The Director shall—

(1) In any research conducted with respect to a particular management action, include research (including by collecting and analyzing data and information) regarding—

(A) the impacts of the action on the fulfillment of human needs, including impacts on the use and enjoyment of private property, employment opportunities, and State and local government revenues; and

(B) alternative ways in which the management action may be carried out so as to reconcile the goal of minimizing those impacts with the goal of protecting biological resources;

(2) in evaluating and monitoring any ecosystem management method, evaluate and monitor—

(A) impacts referred to in paragraph (2)(A) resulting from the method; and

(B) alternative methods that can better reconcile the goals referred to in paragraph (1)(B); and

(3) in disseminating information to any person with respect to a particular management action, ecosystem management method, or resources management decision, include all information in the possession of the Survey regarding research under paragraph (1) and evaluation and monitoring under paragraph (2) that relates to the action, method, or decision.

Mr. TAUZIN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. STUDDS. Madam Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. A point of order has been reserved by the gentleman from Massachusetts [Mr. STUDDS].

Mr. TAUZIN. Madam Chairman, this amendment would add a new section that authorizes the Director of the National Biological Survey, when gathering information in conjunction with a particular management action, to consider human impacts and human needs when conducting that research and monitoring activity. It says in effect that it should examine the impacts on the use and enjoyment of private property, employment opportunities, and State and local government revenues, and that it ought to examine alternative ways in which the management action in question might be carried out so as to reconcile the goal of minimizing those impacts with the goal of protecting the biological resources inventoried or analyzed in that activity.

In effect, it says that in conducting this biological survey, when it is conducted in relation to a proposed management action, that human needs, effects on people, their private property and their jobs ought to be considered at the front end of the business rather than at the very tail end when we end up having to convene God squads to handle a horrible conflict that develops in these so-called train wrecks, as we have seen in the Pacific Northwest, and in the Gulf of Mexico, when endangered species laws run headlong into the rights of people to be employed, and to carry out their livelihood, very often on their own private property.

Madam Chairman, we often hear that people want balance in these laws, that they want us to make sure that when environmental laws are carried out in America that they are carried out and accomplished in a way that respects human needs, human requirements for jobs, for income, human rights in the private property that people hold and enjoy in America. And yet, when we pass a law creating a biological survey, we are told well, that is not germane. When, in fact, the endangered species law was passed years ago, and I hope we get a chance to look at this again this year, the American public was told that is not germane.

□ 1600

In fact, the law cannot consider human impacts and economic damage when recovery plans are affected by the Endangered Species Act under current law unless and until a God squad is convened. It is the position of this Member, and I hope many Members of this House and this Congress, that at some point in this debate, whether it is in biological surveys laws, endangered species reenactments, wetlands laws examined when we do the Clean Water Act, that this body ought to speak to that balance, that we ought to compel the agencies of our Government who do biological surveys, who do management actions in consequence of the information that is derived from these surveys, that human impacts, human jobs, private property be considered in the alternative methods by which we choose to accomplish the good goals of wetlands protection, endangered species protection.

There are many ways to recover an endangered species; some put a lot of people out of work, some may not. Under current law you cannot consider those alternatives. There are many ways to protect wetlands, many ways to define wetlands, many ways in which to insure that wetlands are preserved and created in America, and yet under current law human impacts, damage done to human lives, to jobs, to private properties, that cannot even be considered when those alternatives are discussed.

It seems to me that if we are going to do a biological national survey of all the plants and animals that inhabit this country, that not to consider the impact upon the management decisions that will flow from the survey on the lives of people is, again, to say we are irrelevant, that we are not germane, that we are not related to this issue.

Ladies and gentleman of the House, I submit that is an improper, improper conclusion. If we are to protect plants and animals properly in America, we ought to do it with the support of landowners, we ought to do it with the encouragement of people who want to have a good job in America, we ought to do it with every citizen of this country as partners in that protection. And if you want the partnership of America in good environmental protection, you ought to respect the lives of the people in this country, you ought to respect their private property, you ought to respect their right to have a good job when you go about protecting plants and animals and wetlands in our society.

Is it so horrible to ask that those economic considerations be started at the front end when we do the biological survey? It is so nongermane for us to ask that they be considered at the front end of this process rather than at the back end when these other train wrecks occur, people are thrown out of work, economies are lost, State and local governments lose money, and people's private property, their lives and their jobs are destroyed in the process?

It seems to me if we really believe in balance, this is where it starts. We ought to have this amendment, it ought to be part of this bill; it ought to be germane, Madam Chairman, even though you may be required to rule that it is not. It ought to be germane. Before this debate is settled in this House, we will have a chance to vote on this.

One final word on this, Madam Chairman: To those who would say, "Let the courts handle this business," have you ever been to court lately? Have you listed the laws under which our citizens are required to go to court to protect against adverse economic impacts and loss of private property? Have you hired any lawyer lately? Do you know what they cost? About a half of a million dollars to take these cases to the Supreme Court.

Do you want to tell every citizen in America that we are not willing to make a law they can live with, that we are going to let them go to court instead to satisfy their rights to jobs and private property?

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. I thank the chairman.

Madam Chairman, I suggest we ought not to tell our citizens that we are so incapable of settling those issues here in the Congress, that they all have to go to court whether they own one-half acre or 100 acres, they all have to hire attorneys and spend a half of a million dollars and we have to subject the Treasury of the United States of America to defend every one of those cases.

It seems to me we ought to have the good common sense to put some balance in our laws now and to give people the right to settle those economic impact decisions early in the process. And when it goes wrong, we ought to establish a clear and easy way for them to seek and receive compensation from the American public for the harm we do to people and the good we do to protect plants and animals and wetland systems in America.

POINT OF ORDER

Mr. STUDDS. Madam Chairman, I make a point of order that under clause 7, rule XVI, the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] is not germane.

The gentleman has armed himself with his usual eloquence and vigor and passion, but unfortunately he has charged once again onto the wrong battlefield.

This amendment introduces an entirely new and unrelated concept to the bill; in fact, two of them at least: human impact analysis, and economic competitiveness.

H.R. 1845 is a bill that establishes the National Biological Survey by pulling together in the Department of Interior the biological research and inventory functions from a number of the Department's bureaus. It involves only those biological research and inventory functions that are not related to the day-to-day management responsibilities of the departmental agencies.

In essence, this bill is not about management or supporting regulatory decisions in any way at all; nor is it about assessing human impacts. Rather it is about, and it is only about, gathering the best scientific information available on biological resources.

As I argued in an earlier point of order, there is nothing whatsoever in this bill about how or even whether any agency will use the data gathered by the National Biological Survey.

The gentleman's amendment attempts to alter the mission of the survey by including within its functions a new, additional mandate, collecting and analyzing data on the human impacts of decisions made by Federal agencies, presumably all Federal agencies, not just the Department of the Interior. This bill, Madam Chairman, is about science, not about economics.

Furthermore, the amendment would insert the requirement that an analysis of management decisions include an assessment of impacts on private property, on employment opportunities, and on State and local government revenues. This clearly goes beyond the mission of the survey as contemplated in this bill and, in fact, well beyond the mission of the Department of Interior.

Therefore, Madam Chairman, with all respect to the passion and eloquence of the gentleman, which I know we will hear again in future fora, I would urge sustaining the point or order.

The CHAIRMAN. The gentleman from Louisiana [Mr. TAUZIN] is recognized on the point of order.

Mr. TAUZIN. Madam Chairman, why are we collecting these data? Is it to put it away in the canceled superconducting super collider tunnel? Are we going to hide it from the American public?

I suggest to you we are gathering this data under this bill for one purpose, and that is to participate that data into the management actions and decisions of Government agencies who are going to regulate private property in America. That is what it is all about. If you do not believe that is what this data collection is all about, then I suggest you should not have appropriated the tax dollars we have appropriated behind this survey.

Let me concede a point to my friend, the eloquent chairman of our committee. That is what we ought to have good scientific data. I am going to vote for this bill, even though, Madam Chairman, I think you are going to rule this amendment is not germane, as I have been told you would.

□ 1610

The reason I am going to vote for it is that I think we ought to have good data. I think it serves us all to have better data in the management of these very important regulatory laws that we pass in America.

In fact, so bad is our data base, believe it or not, the endangered species laws now are based upon a standard of data known as best available data, the acronym for which is BAD; so bad is the base upon which regulatory decisions are made today that we get some awful consequences as a result across America.

But to say that this data is somehow going to be collected and then forgotten is entirely wrong. This data will be used, you and I know it. It will be used to affect management decisions. It will be used to regulate people's private property. It will used in some cases in ways that will deprive people of their jobs and deprive people of the value of their property. You and I know that. Regardless of what our friend, the chairman says, you know that is what the data will be used for, and if it is going to be used for that, why not have the agencies examine in the beginning of the process that impact, and examine the alternatives in which we can avoid those impacts.

Why not make this a germane part of this bill?

I understand what is about to happen, and I understand that most Members know this amendment is going to be ruled nongermane; but Madam Chairman, this debate will continue.

I hope we have put the gauntlet down. I hope we have laid it down squarely in front of those in America who talk about but never want to have human impacts considered, never want to have property rights debated, never want to consider the fact that in doing the public good, we sometimes very seriously damage individuals in our society who are entitled to the protection of our Constitution and certainly are entitled to the protection of our votes in this Chamber.

We will have this debate again, Madam Chairman. We will have it over and over again until this House recognizes that every citizen of this country is entitled to the same protection we give to plants and animals and wet environments.

The CHAIRMAN (Mrs. MINK). The Chair is prepared to rule on the point of order.

The gentleman from Massachusetts [Mr. STUDDS] makes the point of order that the amendment offered by the gentleman from Louisiana is not germane. The amendment proposed to add a new section at the end of the bill and must be germane to the bill as a whole.

The bill establishes as an office within the Department of the Interior a National Biological Survey. The mission of the Survey is to gather, analyze, and disseminate biological information. This information may relate to efforts at resource conservation, biological awareness, and ecosystems management. It may include tracking of plant and animal populations. It is confined, however, to matters biological.

The amendment offered by the gentleman from Louisiana, however, addresses not only biological information, but also such socioeconomic matters as employment opportunities and governmental revenues.

The argument that regulatory or policymaking actions of the Federal Government should not pursue the protection of biological resources in derogation of broader cost-benefit considerations does not make such broader concerns germane to a bill that only addresses biological concerns. Similarly, the argument that human beings are animals who dwell in habitats within our ecosystems does not make matters socioeconomic germane to a bill confined to matters biologic.

As ably pointed out by the gentleman from Massachusetts, the amendment cannot be considered as involving the same subject as the pending bill.

Accordingly, the point of order is sustained.

Mr. TAYLOR of North Carolina. Madam Chairman, I move to strike the last word.

Madam Chairman, I am going to vote for this legislation.

I am not at all happy with the legislation and the intent and what I think will come from it.

I think the gentleman from Louisiana [Mr. TAUZIN] is exactly right. This will be used in ways or may be used in ways that will deteriorate private property rights. I think what he was saying, even though his amendments have been ruled not germane, he certainly is aiming in the direction that we must go in this country to protect private property rights, to restore respect for trying to take care of legitimate environmental needs.

When I go home, people talk to me about endangered species. They say, Are you crazy as a loon for what you folks are doing out there.

They cannot understand what we are doing with many of the acts we pass in the name of the environment.

We are getting ready to spend $163 million for the National Biological Survey and some constituents who live next to the Great Smokey Mountain Park which is in my district brought me photographs of the conditions of a number of the picnic tables. I know we cannot see these, but here is a picnic table that is falling apart. It is one of three on the north shore of the park that is totally deteriorating.

There are two portojohns to take care of all the people who are over in that section. In fact, at the top of the Great Smokey Mountain Park at Queens Dome, sewage is running from the facility that has been put there because it is totally inadequate to take care of the number of people who come there.

What I am saying to you is that all across our Nation we have needs in our National Park System that would be better served with this $163 million than would be the $163 million we are spending on the National Biological Survey.

But we are not voting today to create the National Biological Survey. We did that the other day in the Appropriations bill. I voted against it at that time.

Secretary Babbitt has said that when the money passed the appropriations process in this House, and if it passes the Senate, he plans to install the National Biological Survey no matter what happens to the authorization bill. No matter what Congress says about the authorization power, he is going ahead and will conduct the National Biological Survey.

So that bill, having passed this House, what we are doing today with an authorization bill and the amendments that have passed, we are trying to put some standards and some controls behind it. I believe that is worth doing.

I hope we will have an opportunity in the future to address private property rights and to make a fight in that area.

Now, we are going to vote again on the Taylor-Pombo-Condit amendment, I believe, here today. I know there was some talk that tenant rights had been abused by that legislation, that in some States where the tenant has a right to the property, by going to the property owner for permission to come on to that land, as our amendment does, we bypass the tenant. That is entirely false. That is a smokescreen. That is trying to defeat the bill as it is.

What happens in most of those States is that the property owner will be asked for his permission to come on the land, and then if there are tenants, according to most State laws, his permission will also have to be had.

Now, we have no objection if anywhere along the process people want to amend our amendment to say that tenants are also protected, if that is a real concern; but we should not try to defeat the right of private property owners to protect their land under the guise of a tenant law.

So you can see my position. We have passed the creation of the National Biological Survey with the appropriations that we passed last week. What we are doing today is to try to put some control in an authorization bill that will protect private property owners and make this legislation more in the public interest, and I intend to support it for that reason and that reason only.

Mr. VENTO. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise to take this time briefly to again enunciate my support for the National Biological Survey which has been so misunderstood, and to some extent, I think, misrepresented on the floor these past weeks over which this debate has stretched.

Clearly, the issues that many Members are raising with regard to private property are rights that are important issues. Nobody on this floor is denying or repealing or modifying or amending the fifth amendment to the Constitution which protects such rights.

The fact is that various regulatory structures at the State level, at the national level, have addressed and do limit the use of private lands and define what constitutes a property right.

In fact, on the question of property rights, as one of the Justices pointed out, regards individual rights, "Your rights to swing your arms around end where the other person's nose begins." Property rights are not much different and as we get in more information on wetlands, on various types of species, we find that the impacts that they have are far and wide. The varied utilization of land and property may well have a profound impact on other people's rights. Fill in a wetland and you destroy a habitat or excess pumping of water from an aquifer may have the same result. Property rights don't exist in a vacuum; they exist in a dynamic context and are interrelated to others property rights.

□ 1620

To represent that by having better information, that that somehow affects an individual's property rights, I think is inappropriate. We may decide that we want to change a policy, change what a regulator does, but to imply that we should do so with a poorer quality of information I think is a real step backwards.

There has been an effort, I think, a misunderstanding, throughout this debate to visit upon the National Biological Survey [NBS] other responsibilities. First of all, there is the expression that many Members are uneasy because of the role that the NBS will have to do surveys of various fauna and flora, but then all of a sudden, out of the blue, come amendments that somehow they are going to measure the economic impact, the human impact. Some are proposing to give the NBS responsibilities which would involve the great uncertainty and endless heated debate of almost any decisions that would be made.

In fact, of course, such task would be a grave mistake. It is not something for the physical scientist, the natural scientist. I think it is a task that is very difficult for economists and political sciences at the national or State level.

Madam Chairman, one point I wanted to make is that we have heard much in the past, and again today, about the Endangered Species Act and the associated problems of this act and wetland delineation, and the classification and conservation of various land management techniques. Recently I picked up a briefing paper of the Office of Technology Assessment which report elaborated upon nonindigenous species. Nonindigenous species, of course, are exotic species which do not occur naturally in certain types of environments, and the OTA did a survey of just 79 nonindigenous species from 1906 to 1991, and they learned from this particular survey and work that the Office of Technology Assessment did that within the United States the cost of these 79 nonindigenous species over this period of 85 years in this century cost an estimated $97 billion of damage. Cost and damage by vectors, by insects like Med flies, nonindigenous species, 79 life forms that became problems in environments where they didn't occur naturally.

Types of plants and animals that have caused serious difficulties, and of course the reason that this becomes important is, if we can plot and find out what is happening with various types of plants, various types of animals, the vectors that carry various diseases, it would be very, very useful to all of us to have proper information.

Again, Madam Chairman, this points out a purpose and a use of the National Biological Survey, not just on those particular laws that are controversial here today in terms of the Endangered Species Act, and I understand that that is controversial, and the wetlands delineation or Clean Water Act, but on many subjects and law that would be noncontroversial such as issues that deal with the medical health and wellbeing of the people that we represent that may be a subject of disease-carrying types of pests or various types of challenges in terms of nonindigenous species that are growing across the lands and destroying virtually native environments competing with crops.

So, Madam Chairman, what I am trying to point out here is that here we got a 100 billion dollars' worth of cost, just in this century, on 79 species that are not where they are supposed to be. They do not belong there. As my colleagues know, Hawaii has an example, as the gentlewoman in the chair knows. It has only about half of its native species remaining. They have lost the rest because they have been invaded by these nonindigenous species, and the same is true today on the tip of Florida where the Melaleuca and the Brazilian pepper are causing so much damage to the natural environments there.

I wanted to point out, for the benefit of the Members, why we need the National Biological Survey, not just the concerns that relate to other controversial or nonrelated subjects. We do not want the NBS to regulate; we just want the information—better data. After that, I am perfectly willing to stand in the well of this House, or to serve, and make decisions that affect people. But we should have sufficient and accurate data on which to base such decisions.

Madam Chairman, that happens to be the job that we are expected to do. We write the laws that affect people, but we have got to have it based on good information, and we should find no differences on that point.

OFFICE OF TECHNOLOGY ASSESSMENT REPORT BRIEF

Harmful "non-indigenous species" (NIS)—those plants, animals, and microbes that are found beyond their natural geographical range—annually cost the Nation millions to billions of dollars and cause significant and growing environmental problems, says a new report from the Office of Technology Assessment, Harmful Non-Indigenous Species in the United States. At the same time, beneficial NIS form the backbone of American agriculture and are important in horticulture, fish and wildlife management, biological control, and the pet industry. OTA's work takes a comprehensive look at the damaging species.

WHAT'S WHERE

The movement of plants, animals, and microbes is much like biological roulette. Once in a new environment, an organism may die. Or it may take hold and reproduce with little noticeable effect. But sometimes a new species spreads, with devastating results.

Almost every part of the country faces at least one highly damaging NIS—like the zebra mussel, gypsy moth, or leafy spurge (a weed). They affect many national interests: agriculture, industry, the protection of natural areas, and human health. The melaleuca tree, for example, is rapidly degrading the Florida Everglades system by replacing sawgrass marshes, forests, and other natural habitats with single species stands. In Hawaii, NIS are responsible for extinctions and replacements of indigenous species; they now make up at least 50 percent of the State's wild plants and animals.

Naturally occurring movements of species into the United States are rare. Most organisms arrive with human help. Numerous NIS entered the country as unintended contaminants of commodities, packing materials, shipping containers, or ships' ballast. Others were intentionally imported as crops, ornamental plants, livestock, pets, or aquaculture species—and later escaped. For example, at least "36 of the West's 300 weeds" escaped from horticulture or agriculture. A number of NIS were imported to improve soil conservation, fishing and hunting, or biological control but caused unexpected harm.

THE GOOD, THE BAD, THE "WHO KNOWS?"

Some NIS (like soybeans and most pets) are clearly beneficial; some (like gypsy moths, Russian wheat aphids, and crabgrass) are clearly harmful. Some are both, depending on location. And value is in the eye of the beholder. Purple loosestrife, for example, is an attractive garden plant and a major wetland weed.

At least 4,500 NIS of foreign origin have established free-living populations in the United States, a much larger number than were present 100 years ago. Approximately 15% of the total species trigger severe harm. Most species' economic impact is not recorded. However, from 1906–1991, just 79 NIS caused documented losses of $97 billion, mostly in control costs and losses of marketable goods. A worst case scenario for 15 potentially high-impact NIS adds another $134 billion in future economic losses. This figure likely represents only a fraction of the total costs because many species and kinds of effects are uncounted. Harmful NIS also have exacted a significant toll on U.S. natural areas, ranging from wholesale changes in ecosystems to more subtle ecological alterations.

The rate of harmful introductions fluctuates in response to social, political, and technological factors. This rate does not appear to be increasing, although it is far higher than the natural rate of introductions. The cumulative number of foreign NIS in the United States, however, is climbing steadily and swiftly—creating an ever greater economic and environmental burden. Just since 1980, over 200 foreign species were first introduced or detected and at least 59 of these are expected to be harmful.

Uncertainty in predicting types and levels of risk remains a problem. Past intentional and accidental fish and wildlife introductions, for instance, have had about equal chances of turning out badly. Uncertainty can be reduced, or at least be made explicit, using methods such as risk analysis, benefit/cost analysis, environmental impact assessment, and decisionmaking protocols. The central issues for NIS and genetically engineered organisms, a special subset of this group, are the same: how to match an organism's potential for harm to pre-release scrutiny, how to treat high-risk species, and how to anticipate effects in new environments.

AN OUNCE OF PREVENTION?

For some species, prevention is the best strategy. However, port inspection and quarantine are fallible, with diminishing returns above a certain point. Also, some organisms are more easily controlled than intercepted. So aiming for a standard of "zero entry" is unrealistic, especially if prevention comes at the expense of control. When prevention fails, rapid response is essential. So far, such quick action has prevented establishment of the Asian gypsy moth, a major threat to Pacific Northwest forests. Managing non-indigenous pests presents hard choices because funds, technology, and other resources are often limited. Sometimes this means not controlling already widespread organisms, or those for which control is very expensive, or those having lower impacts.

Chemical pesticides play the largest role now in containing, suppressing, or eradicating NIS and they will remain important. An increased number of biologically based technologies can be predicted. Genetic engineering will increase the efficacy of some. Those who develop biological and chemical pesticides face the same difficulties—ensuring species specificity, slowing the development of pest resistance, preventing harm to nontarget organisms, clearing regulatory hurdles, and providing profits for manufacturers.

A PATCHWORK OF POLICY

The Federal Government has responded to harmful NIS with a largely uncoordinated patchwork of laws, regulations, policies and programs. Many only peripherally address NIS, while others address the more narrowly drawn problems of the past. At least 20 Federal agencies are involved, with the U.S. Departments of Agriculture and Interior playing the largest roles. Federal laws leave both obvious and subtle gaps that most States do not fill adequately. Significant gaps exist for fish, wildlife, animal diseases, weeds, species in non-agricultural areas, and vectors of human diseases. Many of these gaps also apply to genetically engineered organisms because they are commonly regulated under the same laws.

Federal agencies manage about 30% of the Nation's lands, many with grim NIS problems. Yet management policies are often inconsistent or inadequate. Even the National Park Service, with fairly strict rules, finds invasions threatening the very characteristics for which some parks were founded.

Federal and State agencies cooperate on many programs related to agricultural pests, but their policies can also conflict, e.g., when agencies manage adjacent lands. Sometimes Federal law preempts State law, more often regarding agriculture than fish and wildlife. Conflicts between States also occur, often without forums for resolving disputes.

State laws are relatively complete for agricultural pests but spotty for invertebrate and plant pests of nonagricultural areas. The State role is most critical for the import and release of fish and wildlife. These laws use a variety of approaches and vary from lax to exacting. While many fish and wildlife laws are weak and inadequately implemented, others present exemplary approaches. Harmful NIS have hit Hawaii and Florida particularly hard because of their distinctive geography, climate, history, and economy. Cooperative efforts have sprung up in both places. Increasingly, State and Federal agencies nongovernmental organizations, agricultural interests, and universities see harmful NIS as a unifying threat and public education as an important tool to alleviate it.

CONGRESSIONAL CHOICES

Congress can select many ways to better protect U.S. resources. Specific actions might include amendments to the Lacey Act and the Federal Noxious Weed Act. Congress might require stricter screening for invasiveness for federally funded efforts using NIS. Congress could direct more funds to weed management on public lands and to resource management in the national parks. Congress could expand environmental education and provide Federal agencies with adequate authority for emergencies.

Imposing new responsibilities without providing money for them does not work. Entrance or user fees could fund more rigorous and scientific decisionmaking and additional control. Fines, levied on those who bring harmful NIS into the country or spread them to new States, could more closely match the real costs of publicly funded management. Federal policy cannot succeed without State help. Model State laws or national minimum standards could ensure that all States have authority to regulate harmful NIS adequately.

NIS are here to stay and many of them are welcome. Problems due to harmful ones are likely to worsen, however. Human migration and population growth, increasing trade and travel, and, possibly, climate change propel species' movements. Countervailing trends—toward stricter screening and more sophisticated control—are weaker. We can envision a future in which harmful NIS are so widespread that economic costs snowball and one place looks much like another. Or we can imagine a future in which beneficial NIS contribute much to human well-being, harmful ones are effectively limited, and indigenous species are preserved. Choosing this vision, rather than another, is ultimately a cultural and political choice—a choice about the kind of world we value and in which we want to live.

Mr. FIELDS of Texas. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I move to strike the last word.

We have had a lively debate on this legislation. The House has adopted a number of changes, most notably the Taylor amendment, which improve H.R. 1845. Nevertheless, I cannot support this legislation because no matter how you rewrite it, dress it up, or refine it, a National Biological Survey is still a terrible idea.

This bill creates a monster that once unleashed will never be brought under control again. And if you don't believe me, then let two other people make my case.

First, listen to my good friend from Michigan, Chairman JOHN DINGELL, the original sponsor of the Endangered Species Act. The other day on the floor of this House the chairman explained quite clearly how he felt about the Biological Survey. He said:

> It is not in the interest of the environment, it is not in the interest of conservation, and it is a bad proposal. It is not going to save money and it is not going to make for better science. Information that might flow up to this body from Fish and Wildlife or from those other agencies will no longer be coming this way because Mr. Babbitt will have his hands right around the neck and windpipe of those agencies.

Proponents of the Survey say we are using scare tactics to whip up opposition to this bill, but I can't think of anything scarier than listening to proponents express their views on the Survey. Not too long ago, Dr. Thomas Lovejoy, science adviser to the Secretary of the Interior, explained the goal of the Survey clearly and unambiguously when he said:

> The National Biological Survey will map the whole nation for all biology and determine development for the whole country and regulate it all. * * *

And, if that doesn't scare you, this should: If you vote for the National Biological Survey, you as a congressional representative will become an endangered species. Your constituents will not forget that you voted to allow the Federal Government and its horde of faceless bureaurcrats to show up uninvited at their doorsteps to inventory their private property. They will not forgive you if, because of this information, they are denied the use of their property as they see fit. This onerous piece of legislation will make millions of Americans lock their doors. You can be sure—if you vote for this bill—that your constituents will remember who authorized Big Brother to come looking over their shoulders and peering over their fences.

Think very carefully about this bill. If you vote for it, you will create thousands of new victims like Mrs. Katherine Espy of Texas. I told you about her the other day. She let the Federal Government visit her property back in 1988. To thank her for her hospitality, the Fish and Wildlife Service, based on badly flawed data, listed the little Aguja pondweed as an endangered species. Now, she can't use her property anymore. Mrs. Espy had her worst nightmare come true that day when she opened her door to a nameless stranger who said, "Hi, I'm from the Federal Government, and I'm here to help you." Unfortunately, many other Americans have had that same nightmare. If this bill passes, scores of others will join their ranks.

Madam Chairman, H.R. 1845 is seriously, fatally defective because it does not include important fundamental protections. Our colleague, the gentleman from Louisiana [Mr. TAUZIN], had two amendments that should have been incorporated in this legislation. Under his amendments, human impacts would have been considered, and taxpayers, like Mrs. Espy, would have received financial compensation for the taking of their property. If the proponents of this bill wanted a National Biological Survey that would work for all species—including humans—then they would have accepted the Tauzin amendments. Regrettably, they have chosen not to and this bill is, therefore, irreparably flawed.

Madam Chairman, this new monstrosity with 1,734 Federal agents and a budget of over $170 million will collect data that will be used to decide what lands are wet, which species are endangered, and what development, if any, will be allowed on millions of acres of private property.

If you support private property rights and do not want to become an endangerd species yourself, I urge you to join with me in voting "no" on final passage.

Mr. TAUZIN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, we have had a good debate today. I think it is rather more than just a debate, it is the open skirmish in what will be a real war in this chamber over what kind of balance we want to strike between environmental protection and the protection of human beings on their property, in their jobs, and in the value of our society. But in that regard, let me join my friend, the gentleman from North Carolina [Mr. TAYLOR], in suggesting that you vote for this legislation.

First of all, the Biological Survey has already been authorized by this House last week when we adopted the Interior appropriations bill. That bill provided the money and the authorization for the Secretary to conduct the survey. In fact, if you dial right now the office in the Secretary's Office, you will find they are answering the phone "National Biological Survey." It has already started.

Madam Chairman, in the appropriations bill we were able to obtain only one protection, and that is the point of the Taylor amendment that required consent before entering private property, consent in writing. And that is good. But without this bill, all the other important protections we have built into this survey will, unfortunately, be lost.

Madam Chairman, let me cite some of them for you. In this bill we have prohibited the use of volunteers. That vote will come up again when we rise from the Committee of the Whole, and I hope this House will sustain that very important vote.

Second, we have in this bill passed the entire Taylor amendment, the full range of protections for private landowners against the entry by individuals without the consent of that landowner.

We have passed the Hayes amendment providing that the survey should first be conducted on public lands before private lands are surveyed.

We have passed an important amendment today to make sure that this bill was addressed to true biological resources, not to the land and ecosystem itself.

We have passed the provisions of the bill that give the landowner the right of appeal and insurance that the information gathered on his property is in fact good and reliable information before management actions are taken.

I wish we could have addressed the two issues I raised that the Chairman has ruled nongermane. But those issues are going to come up again. We will have a chance to debate whether human impacts and private property compensation are going to be part of our environmental laws. Both the Clean Water Act and the Endangered Species Act are up for reauthorization this Congress. We will get a chance to debate those. This is just the first battle.

Madam Chairman, let me tell you why a good data base is essential in America if we are going to have sound and effective environmental policy for our country and why it is important in the end that we debate the issues before us of private property rights and human impacts.

In my own State of Louisiana we got some good news this week. Up until this week we were losing about 50 square miles of our precious lands along the coast of Louisiana to the natural forces of erosion and land sinking and geodetic syncline as the Delta of the great Mississippi River continues to sink. Fifty square miles.

This year they reported to us the news is a littlebetter; we are down to 35 square miles a year. And, guess what? Most of it is private property. Most of it is owned by individuals who cannot even get permits to protect their own private property against erosion under the restrictive environmental laws that are currently on the books.

Data is so bad, the laws are so miswritten, that property owners and American citizens are fighting the good goals of environmental protection, are not doing the things they ought to be doing to protect plants, animals, and land, because they cannot get permits to do it and because they feel that to cooperate with Federal authorities means further losses of their individual rights in America.

Madam Chairman, these laws need badly to be revisited. When we revisit them, hopefully we will do it on a good scientific basis, with peer review and the right of appeal. Hopefully before we are through, this Congress will recognize the right of compensation without going to the Supreme Court, and hopefully this Congress will recognize that environmental laws ought to be enacted and ought to be implemented with respect for human beings, rather than simply running over them, irrespective of their rights to jobs and property.

Madam Chairman, I will vote for this legislation, because without it the good restrictions we have adopted on this floor are lost, and we ought to have them. I will work with the chairman of our committee to see to it that hopefully in conference we perfect some of the language we enacted today.

Madam Chairman, this fight has just begun. The battle for balance has just started today. Stay in close touch with this debate. It is one that I think is going to affect dramatically the fabric of our society, our real commitment to environmental concerns, and balances, as we consider human impacts, human jobs, and private property rights in America.

Mr. VENTO. Madam Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Minnesota is recognized.

There was no objection.

Mr. VENTO. Madam Chairman, I rise in favor of the proposition before us.

Madam Chairman, I rise to put in the RECORD a correction to the statement of the gentleman from Texas [Mr. FIELDS] and in past statements made by other Members that attributed statements to Dr. Thomas Lovejoy, a science adviser to the Secretary of the Interior. On September 14, 1993, at a hearing before the Subcommittee on Technology, Environment, and Aviation of the House Committee on Science, Space, and Technology, the gentleman from California [Mr. CALVERT] introduced a quote attributed to Dr. Thomas Lovejoy, science adviser to the Secretary of the Interior and member of the National Biological Survey steering committee, pages 54 and 55 of the hearing transcript.

At that same hearing, Secretary of the Interior Babbitt repudiated the quote attributed to Dr. Lovejoy in Dr. Lovejoy's absence.

On October 6, 1993, the gentleman from Texas [Mr. FIELDS] and others on this floor and again in debate today introduced the same quote on the floor of the House during debate on this measure, the National Biological Survey.

On October 20, Dr. Lovejoy submitted a transcribed copy of his remarks from which the quote was reportedly taken, with a letter indicating that attributing this quote to him was not simply a gross misstatement of what he said, but rather it turns out to be a fabrication.

Additional material in the form of a notarized letter from the transcriber of this material at the event indicates that the transcript sent to us by Dr. Lovejoy represents an accurate and complete account of his statement at this conference. And, further, that the transcript represents only the deletion of informal greetings and closings and punctuation as interpreted by the transcriber.

Based on this record, it would appear that Dr. Lovejoy has had attributed to him a gross misstatement of his remarks and views.

It is my opinion that our RECORD should reflect in Dr. Lovejoy's interest a proper correction for attributing false statements to him. I submit the appropriate pages from the Science Committee transcript, the letter from Dr. Lovejoy, and the notarized letter from the transcriber as a correction to the RECORD.

Madam Chairman, I also have a letter that he has sent to me concerning this matter. I think that it would be appropriate for Members to correct the RECORD and to qualify their prior comments and mistaken quotes and views of Dr. Lovejoy in this matter.

OCTOBER 20, 1993.

Hon. BRUCE F. VENTO,
Chairman, Committee on Natural Resources, O'Neill House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I would like to respond directly to comments made during recent debate on legislation to authorize the National Biological Survey. I can say without hesitation that I never made the statement attributed to me during debate on Wednesday, October 6, 1993. I have reviewed a transcript of my remarks at the "From Rio To The Capitols" Conference on May 26, 1993, in Louisville, Kentucky. Enclosed is a copy of the transcript.

What I did discuss is the need for better biological information, both as a basis for new economic growth and to help avoid some of the wrenching economic and ecological dislocations that occur when we find out about conservation problems too late. Better information, which the National Biological Survey can provide, enables government and private decisionmakers to respond before conditions deteriorate, and flexibility is lessened. Such early solutions can help reduce the need for regulatory controls. This is quite different from both the spirit and the letter of the statements attributed to me.

Thank you for helping me set the record straight. Please feel free to contact me if you have any additional questions.

Sincerely,

THOMAS E. LOVEJOY.

Enclosure.

OCTOBER 22, 1993.

TO WHOM IT MAY CONCERN: The attached document represents the remarks of Dr. Thomas Lovejoy of the Smithsonian Institution as transcribed from tapes which were recorded during the "From Rio to the Capitols: State Strategies for Sustainable Development" Conference which was held in Louisville, Kentucky, May 25–28, 1993. Dr. Lovejoy spoke on the second day of the conference, May 26, 1993.

Note that we have only deleted informal greetings and closing, as well as a portion of an extemporaneous story that did not add to the substance of the presentation. Dr. Lovejoy did not provide written material, therefore the transcript style (i.e. punctuation) was interpreted by the listener.

This presentation is available on video and audio tape from Rebecca Stutsman in the Office of Governor Brereton C. Jones. She can be reached at (502) 564–2042.

Sincerely,

ANN JAMES,
Conference Coordinator.

Enclosure.

FROM RIO TO THE CAPITOLS: STATE STRATEGIES FOR SUSTAINABLE DEVELOPMENT

The point I want to dwell on this morning is the role of biology and living resources in our quest for sustainability. On the one hand, most environmental problems simply are not environmental problems unless they affect living systems such as human health and biological diversity in ecosystems. On the other hand, biological resources have an innate capacity to renew themselves so that if managed wisely they can be resources in support of human society for indefinite lengths of time.

About two years ago, just before Memorial Day weekend, I was contemplating a leisurely trip from Washington, D.C. to Seattle for a hike in the Olympic National Forest when my weekend plans had to be severely modified. Instead on a Thursday night I flew to London; Friday I went to Cambridge, delivered a eulogy and Saturday I found myself flying from London to Seattle arriving like a limp rag. In the late afternoon I made my way to the ferry and took it across Puget Sound and arrived on Bainbridge Island. I then had to be driven to my original destination for the weekend. I was able to shower and change in time for guests and dinner. When we sat down at the dinner table, you can imagine I was looking forward to not doing too much, listening and relaxing until such time as I could steal away and go to bed.

Three minutes into dinner, in this sort of mood, a noted educator at the table asks me, "And what about the owl?"

Being tired enough at this point, I simply shot back, "Well, how do you feel about libraries?"

At that point my hostess thought I was losing my mind. But, I went on to explain that each species represents a package of solutions to a unique set of biological problems. And, that in fact, biological diversity represents the fundamental library on which the life sciences—arguably the branch of sciences most important in support of ourselves as living organisms—can be built.

If you think about it, we have learned some extraordinary things in the last 20 years about living systems and what they are capable of because of biological diversity that nobody had looked at before.

Consider, for example the discovery of the biological communities clustered around the rifts in the bottom of the ocean out of which heat and mineral nutrients pour. We have discovered that it is possible for living organisms to live not only at those pressures at the bottom of the sea, notonly at temperatures in excess of the boiling point of water, but they are able to do so depending not on sunlight as the fundamental source of energy driving those biological systems, but on the primal energy of the earth.

One can go on and point out rather simple minded examples, but powerful ones, such as how a moldy cantaloupe led to the whole notion of antibiotics; how a cow-pox virus led to the whole notion of vaccinations—concepts that are extremely powerful in support of human society.

The point I want to make goes beyond the library concept.

The point I want to make is that although we already depend a great degree in our society on biological resources, whether it be in the form of food or medicines or timber, we are in fact just at the moment of entering an age of biotechnology where we will be able to extract benefit from biological diversity—from nature—at the level of the molecule. It will be possible to create wealth from biological diversity at the level of the molecule.

The best example I have encountered so far involves a biochemical reaction with a name you will soon find surprising numbers of people are familiar: the polymeric chain reaction. Why will people know this name? Because the reaction is at the heart of the movie, "Jurassic Park," about creating dinosaurs from the DNA in the blood sucked by mosquitoes tens of millions of years ago. A lot about the movie is fanciful, but the actual reaction of being able to multiply the genetic material through this reaction is very real and it is a fundamental part of the world economy already.

This reaction involves the application of heat which unravels the two strands of the chromosome and then an enzyme which causes the two strands to replicate at the end of which you have two chromosomes. The chain reaction allows you to do this over and over again. In fact, if you go to the doctor today with a suspected strep throat, you no longer have to wait around for two or three days for the offending organism to be grown in culture until there was enough that you could identify it properly for the diagnosis and prescription. Today, you can get this information in the space of a few hours.

For years, people working in molecular biology knew about the possibility of this reaction but they couldn't find an enzyme that was resistant to heat. Finally, somebody had the bright idea that somewhere in nature there must exist enzymes which would do the trick to convert this into a chain reaction. This is precisely what happened. Somebody went out to Yellowstone National Park and there they found a bacteria which has just such an enzyme. So, today, a major portion of diagnostic medicine is possible because of that enzyme. A major portion of forensic medicine is possible because of that enzyme. A major portion of the biotechnology depends on that enzyme. We are literally talking about billions and billions of dollars of economic activity driven by this single molecule.

That is why I can make the statement that we are on the verge of being able to create new wealth based on biological systems at the level of the molecule.

That, of course, is happening at just the time when significant amounts of biological diversity are being lost. Some of it is being lost in very obvious ways. But, a lot of it is being lost simply because we don't even know about it. It is likely that science has only described one out of ten species of plants and animals and microorganisms with which we share this planet. Yes, the majority of that ignorance lies in the tropical forests along the equatorial regions of the globe—the "Fort Knox of biology" as Mike Robinson would call it. Some of it lies in the sea, but some of that ignorance is right here at home. Sometimes it is because nobody has studied the microorganisms enough so they do not have names. Other times it's because we have not been systematic about doing the basic chore of inventorying our biological resources.

Agenda 21 addresses this issue and urges all nations to set up national biological surveys. As you heard from the introduction, it is an exciting opportunity for me to serve as science advisor to the Secretary of Interior at a time when the national biological survey is being created.

I should point out that the department is being re-created. There was a United States Biological Survey founded in 1895. It was in the Department of Agriculture. It was brought over to the Fish and Wildlife Service in 1939 and as priorities shifted and funding dwindled away.

Today, if you study the Department of Interior as an evolutionary biologist would, you can find the surviving scientists in the national fish and wildlife laboratories housed in the Smithsonian's National Museum of Natural History.

Today's survey is an extraordinary challenge. If you stop to think about it, there is a spectrum of kinds of surveys. On one end of things there is a survey of non-changing resources. At the other end of that spectrum is a survey of instantaneously changing phenomenon—that's the weather service. Somewhere in between those two lies the biological survey. The point I want to make here is that biological systems are dynamic. Basically, when you set up a biological survey you are setting up a permanent agency. There is no way a job can be done once and for all.

The other major complication about setting up a national biological survey is that there already is survey activity in bits and pieces across this nation. There are states which have formal biological surveys like the state of Illinois. Forty-four of the 50 states have a state heritage program, perhaps overly weighted from this point of view towards endangered species, which have been set up through The Nature Conservancy. And, there are repositories of data through museums and botanical gardens, and various agencies throughout the federal government. There is no way that you can create a biological survey without it being a collaborative mosaic which invites everybody to the table. There is quite a challenge here.

What I am delighted to tell you is that in my lifetime as a biological scientist, I have never seen so much excitement in the scientific community. In fact, our biggest problem is that there will not be tremendous amounts of resources to devote to this initially. It would be wonderful to be able to harness all that enthusiasm to the fullest extent.

The notion is to have a national biological survey in place by October 1. This will be done primarily through a budget amendment through the Department of Interior. We are talking about a $180 million package within Interior. It would basically cobble together in a single biological research agency all the existing research in biology in eight different bureaus within the Department of Interior.

I fully anticipate that on October 1st, Bruce Babbitt will go down one of those long halls in the Interior Department and come to a door that will say "National Biological Survey" and there will actually be somebody inside who is starting to take charge of building this organization.

There is a lot to be done. In particular we have to be careful that the customers who have been dependent on research being carried out by those field scientists who will be transferred into this unit will not be shortchanged. A very important part of this exercise is not to spoil those relationships. In my view, if we do it right it will turn out not only to be undamaging to those customers—within them I include the state fish and game agencies—but it will also provide a wonderful opportunities for better information about our biological resources and management.

In the end, the goal here as Bruce Babbitt has set it forth, is to find ways in which we can live within our ecosystems without destroying them. Let's face it—we are already there. You cannot protect biological diversity just by putting fences around it. Our relationship to the land is far more complex than that. And, if we can provide the kind of information that a survey is all about, map the nation biologically and then get proactive about how development proceeds at the local level. By tight collaboration among the federal, state and local governments we should be able to get way ahead of those "national train wrecks" as the Secretary of Interior likes to call them.

It is my own personal opinion that had all of this been in place 30 years ago, that is, wilderness areas were created in the Northwest, more of them would have had old-growth forests in them and we might never have come to the point of having a spotted owl problem. The owl is merely a symptom of the old-growth forests under stress.

We have a very interesting case we are trying to work on right now in southern California involving the California Gnat-catcher which is one many species that occurs in the coastal scrub which has been under a great deal of pressure. As I understand it, there is very good collaboration between the three counties—Los Angeles County, Orange County and San Diego County—and the State of California and scientists from the Interior Department to develop a plan for economic development proceed in that part of California in a way that doesn't destroy the basic ecosystem.

What I really want to leave you with is that if we are really going to take advantage of the tremendous power of biology in our quest for sustainability, we need to do it in a very practical, on-the-ground kind of way nurtured by the right kind of science.

Thank you very much.

TESTIMONY FROM HEARING

Mr. VALENTINE. Thank you, sir.

The gentleman from California, Mr. Calvert.

Mr. CALVERT. Thank you, Mr. Chairman.

Let me apologize in advance, Mr. Secretary. We probably need to leave in a few minutes to vote. But I also have some very large concerns about the National Biological Survey.

I am from Riverside County, California, the home of—of course, our Chairman of our committee is also from that area. We have several species of fly, of course the famous Stephens kangaroo rat, the blacktailed gnatcatcher and others. And it has caused great consternation under the Endangered Species Act. In fact, we have a person, when you mentioned small landowners, who has a home on a quarter-acre lot, whose home burned down in my district and cannot now get a permit to rebuild their home, unfortunately. We found that small landowners are in fact very much impacted by the Endangered Species Act.

I have a quote here apparently from a member of the National Biological Survey's steering committee and one of your advisors, and that quote is what he believes his obligation is under the National Biological Survey. And that is: "To map the whole Nation for all biology and determine development for the whole country and regulate it all, because that is our obligation as set forth in the Endangered Species." Dr. Thomas Lovejoy.

From my perspective, and I am sure from many others, that creates—causes great concern as far as local land use issues in California and certainly throughout the West. And we are concerned about maintaining habitat areas and building ecosystems, which we have done a lot of in Riverside County, which I know you are aware of, but this type of comment certainly causes some concern. Would you like to comment on that?

Secretary BABBITT. Certainly. I have the greatest respect and admiration for Tom Lovejoy. I proceed then to disavow those remarks as not reflecting the policy of the Interior Department. I think those remarks kind of skip, you know, an enormous amount of territory. And if I could relate it to your experience in California, land use planning is not a national function, it is not an Interior Department function, it is not a Federal function. In my judgment, it should not be.

Mrs. MORELLA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, once again I speak in support of the National Biological Survey Act. Consolidating biological research, which is now handled by eight different agencies, makes good management and economic sense. By monitoring the Nation's natural resources, it is hoped that we will be altered to potential threatened and endangered species and take early action to avoid the spotted owl crisis of the Pacific Northwest.

Resource managers, both public and private, will have access to sound biological information over a period of time, which will enable them to identify important trends. For example, a long-term study of species living in rivers can provide valuable information about water quality trends to State and local water quality agencies and private industries. It can also lead to a better understanding of the relationships between species' survival and habitat preservation.

Madam Chairman, I support private property rights. I believe that property owners must be compensated when their property is taken for public use under the fifth amendment. Under the National Biological Survey, property rights are already protected through existing State and local trespass laws. The NBS will have no regulatory authority and it cannot be used to take private property.

The NBS is preventive medicine. By giving us a picture of our biological diversity, it will alert us to potential problems before they develop. I urge a "yes" vote for the National Biological Survey Act.

Ms. SCHENK. Madam Chairman, I rise today in strong support of H.R. 1845, the Biological Survey Act. The establishment of a Biological Survey in the Department of the Interior will provide the good science necessary to make good policy decisions. It is not a mechanism for imposing Federal land management planning, but rather, a tool which will be available to aid everyone involved in land use decisions from the individual property owner to the multinational corporation—from the Federal Government to the local zoning board. Its aim is to collect and disseminate scientific data more effectively—to provide a base of information on which all decisionmakers can rely.

Madam Chairman, I was quite disturbed at the tone taken by opponents of this legislation when it was last discussed on this floor. This legislation does not threaten anyone's property rights, and to characterize it as such misses the basic point and does this debate a disservice. Good information is essential to good policy. the Biological Survey will provide our Nation with reliable, peer-reviewed, scientific data necessary for sound public and private policy.

Another untenable argument raised against H.R. 1845 is that more information will inevitably lead to more regulation. There is no reason to assume that a better understanding of our biological resources will result in increased regulation.

Data from the Survey will generate information that will help us sitedevelopment projects intelligently and allow them to proceed without the environmental pitfalls they now face.

Far from working against economic interests, the Survey can help us work for them. The National Biological Survey is a critical scientific tool, one that we cannot afford to be without. I urge my colleagues to support his bill.

Recently, John Sawhill, president of the Nature Conservancy and a former official in the Nixon and Ford administrations, wrote an oped piece for the Washington Post. Mr. Sawhill dispels some of the misleading arguments offered by opponents to this legislation. For instance, he notes that all current laws protecting property will remain in force and the bill includes safeguards against unauthorized trespass—safeguards that have been strengthened by amendments in the House.

Mr. Sawhill also points out that H.R. 1845 will save money because we will be able to take appropriate and less expensive action in regard to ecosystem protection. Species will be identified before they become threatened or endangered and protection efforts require radical and expensive intervention. By helping to determine what areas need to be included in a nature preserve—as well as what doesn't need to be included—we can avoid costly errors.

In addition, Mr. Sawhill's article shows how the Survey can help us achieve both economic and environmental goals. He cites the example of Duke Power which sought to build a power line across the ecologically sensitive Panthertown Valley. The company was able to draw on a detailed biological survey of the valley, and by doing so, Duke located its power line in a way that did not disturb the area's rare species. The project was completed promptly and without the potential expensive litigation. Duke Power's experience should illustrate to all of us how good environmental information can lead to both development and the protection of ecosystems.

I submit the full text of Mr. Sawhill's article:

[From the Washington Post, Oct. 7, 1993]

ECOLOGICAL SCARE TALK

(By John C. Sawhill)

Sobered by the decade-long spotted owl controversy in the Pacific Northwest and determined to avoid such costly conflicts in the future—what Interior Secretary Bruce Babbitt calls "national train wrecks"—the Clinton administration wants to switch endangered species conservation onto a different, less controversial track.

Unfortunately, that has not stopped anti-environmental activists from gearing up to derail this new effort. Employing classic scare tactics, these opponents are trying to paint the administration's plans as an assault on private property rights.

In fact, this new direction in conservation—called the ecosystem approach—threatens no one's property rights. To the contrary, it makes eminent sense for business, individuals and the country. Ecosystems are the support systems for species. Instead of waiting for a plant or animal species to reach the brink of extinction and then involving the Endangered Species Act, the new philosophy would encourage preventive measures across entire ecosystems to keep species from becoming endangered in the first place.

Right now, though, our knowledge of the distribution, location and health of our country's native plants, animals and ecosystems is incomplete at best. To implement the ecosystem approach without a systematic national scientific inventory of those resources would be like setting off on a cross-country journey without a road map.

There is a proposal in the works to create just such a map. The National Biological Survey, an ecological equivalent of the U.S. Geological Survey, would develop a comprehensive catalogue of the nation's biological resources. This is a proposal that deserves the support of Americans interested not only in preserving our natural heritage but also in saving money. In conservation, as in all things, good information drives good management decisions and generates cost-effective results.

Not coincidentally, it's the information that the National Biological Survey will generate that has the anti-environmental crowd so exercised. Surely, they argue, the survey will locate all kinds of new endangered species, and thereby prohibit property owners from using their land in any way—and, to add insult to injury, doubtless some zealous government biologist will trespass on private land to collect the information in the first place.

The hyperbolic tone of congressional testimony by the National Inholders Association typifies anti-environmental opposition to the survey. The purpose of this legislation is to curtail or eliminate human uses of natural resources and transfer privately-owned resources into public hands without compensation," the association blustered. "The [survey] will be no more than fuel for the existing engine that is precipitating the train wrecks."

Nothing could be farther from the truth. Read the legislation establishing the National Biological Survey and you'll find that all current laws protecting property owners will remain in force. It also includes safeguards against unauthorized trespass. Moreover, the better data provided by the survey will be just as likely to provide grounds for reducing regulations as for imposing new ones.

In fact, far from halting development, biological survey data survey should generate information that will help us site development projects intelligently so that they can proceed more efficiently. In focusing on the property rights issues, the naysayers have tried to deflect attention from the many other position uses of information from the National Biological Survey.

On the scientific level, for instance, the survey will be an archive for information on the locations and populations of the plants, animals and types of natural communities found in the United States. This information will in turn enable scientists to monitor the status of various at-risk species allowing them to identify any rapid declines and take appropriate, lower-cost action before a particular species becomes endangered.

(To a significant degree, the platform for this inventory already exists—in the network of 50 state Natural Heritage Programs. The scientists working in these programs have done extraordinary work in locating biodiversity "hot spots" and helping set protection priorities.)

Information from the National Biological Survey will also improve the design and management of parks and natural areas. The sad case of the Dusky Seaside Sparrow—a small bird once native to Florida but now extinct—shows us that we can set aside land for an endangered species and still see it continue to decline and even go extinct. By helping determine what needs to be included in a nature preserve—as well as what doesn't—the survey can help avoid these tragic and expensive errors.

Perhaps most important, though, the survey could help close the growing schism between economic and environmental goals. Indeed, information from the survey has enormous potential applications for the private sector.

Four years ago, for example, Duke Power, the North Carolina utility, wanted to build a power line across the ecologically sensitive Panthertown Valley. This plan faced numerous obstacles, not the least being the presence of several endangered species. But by drawing on a detailed biological inventory of the valley, Duke was able to locate its power line without disturbing the area's rare species. The company completed its project promptly, without expensive litigation or regulator penalties.

Despite what the alarmists would have you believe, the National Biological Survey poses no threat to private property rights or landowners. It is one opportunity we can't afford to pass up.

Mr. SAXTON. Madam Chairman, I rise in support of H.R. 1845, the National Biological

Survey Act. As amended, this bill takes most people's concerns into consideration.

It provides for the full protection of private property rights and privacy. It ensures quality control of data and competitive peer review.

And, more importantly, it provides a mechanism to collect biological information while avoiding the prohibitive costs and bureaucratic quagmire currently plaguing landowners and the managers of our Nation's natural resources.

According to the Nature Conservancy, over 60 percent of all requests for biological data from the Natural Heritage Program emanate from private entities and commercial businesses seeking to avoid economic disaster before investing finances in jobs.

The current process for obtaining biological information saddles business people with prohibitive costs, bureaucratic burden, and blind mandates.

The National Biological Survey will provide the means to collect the necessary biological data, avoid most bureaucratic inconsistencies and duplication, and facilitate the cooperation and information that are essential for economic decisionmaking.

As our Nation reexamines the laws designed to protect and sustain the health of our ecosystems and natural resources, it is imperative that decisions be based on scientific information rather than political rhetoric. More importantly, the private sector must be included and rewarded for the development of cooperative partnerships. H.R. 1845 is an essential step toward achieving these goals.

I urge my colleagues to support its passage.

Mr. REED. Madam Chairman, I rise in support of H.R. 1845, the National Biological Survey Act of 1993.

A National Biological Survey will enhance our ability to make sound conservation decisions and improve our ability to handle the important challenge of conserving our Nation's biological heritage.

In Rhode Island, many organizations and State agencies rely upon the State's Natural Heritage Program for identification of the most critical sights in need of protection. Heritage data has been the key to the protection of approximately 15 acres of globally significant coastal plain pondshore in South Kingstown; nearly 10 acres of piping plover and least tern nesting habitat in Little Compton, and 150 acres of rich woodlands in Lincoln, which supports over 20 species of rare plants.

Unfortunately, this legislation is being attacked by opponents who are misrepresenting the purpose and effects of the bill. Contrary to what opponents assert, H.R. 1845 does not allow the Government to take private property. The new bureau established under the NBS will have no regulatory authority and will not make resource management decisions. The House has already passed an amendment to the bill protecting private property rights by requiring that propertyowners give written permission before a surveyor can enter their land. Property rights are further protected through existing State and local trespass laws.

Madam Chairman, scientists consider one of the most serious environmental threats to the planet and human welfare to be the loss of biological diversity. Our understanding of these resources has enormous bearing on national security, human health, food protection, biotechnology, and development of pharmaceuticals. I urge my colleagues to support the passage of H.R. 1845.

Mr. EDWARDS of California. Madam Chairman, I rise in strong support of H.R. 1845, a bill to establish a National Biological Survey within the Department of the Interior.

For most of our Nation's history, we have enjoyed an abundance of natural resources in this country, and we have been able to make use of them, even exploit them, without regard to the consequences. However, as the demand on the world's resources has grown, we are struggling to accommodate the increasingly complex needs of society at a time when our resources are dwindling.

The competing demands of resource conservation and development have led to the controversies and potential economic disruptions that surround endangered species decisions. Secretary of the Interior Bruce Babbitt developed the National Biological Survey to help put an end to the conflicts between environmental and economic interests in this country. Although no one is against protecting our natural resources, our approach toward conservation in the past has been flawed. Without proper scientific data and a full understanding of the interconnection between all the elements of an ecosystem, we have been forced to take a piecemeal approach toward habitat and species protection. This has led to the numerous environmental train wrecks that we face today, which will continue to multiply if we do not develop the proper tools to manage our ecosystems better.

The NBS will create a coordinated effort to inventory and monitor the Nation's biological resources. The scientific information gathered can be used to develop effective ecosystem management strategies. Instead of a system that allows plant and animal species to reach the brink of extinction before any action is taken to remedy the situation, the NBS will allow preventative measures to be developed on an ecosystem basis to keep species from ever becoming endangered at all.

It distresses me that this good faith attempt to seek a solution to end these bitter conflicts has been attacked so brutally by antienvironmental groups. They have resorted to scare tactics, predicting the discovery of countless new endangered species, leading to vast new areas of private property that will be subject to government control.

This thinking is narrow minded and misguided. We will accomplish nothing by burying our heads in the sand and deliberately remaining unaware of the condition of our natural resources. There is nothing to be gained from ignorance. The information provided by the NBS can be used to identify areas at risk so they can be treated before extreme tactics, such as those that may require land-use restrictions, are necessary.

I believe that we have a responsibility to be proper stewards of our planet, to ensure that the biological diversity and natural beauty of our resources are preserved for generations to come. I do not understand the reluctance of some Members of this body to adopt a program that will enable us to better understand our biological systems and the benefits they provide to society.

Not long ago, it was the Government's policy to encourage the filling and destruction of our wetlands. This was done out of ignorance over the tremendous benefits that wetlands provide. Now, however, we understand how valuable wetlands are, but already over 50 percent of the Nation's wetlands have been lost. Today, we are struggling to preserve the few wetlands that remain, in some cases at tremendous cost and effort.

The National Biological Survey will help us avoid costly mistakes like this one in the future. If nothing else, we should be seeking to learn from our mistakes, not perpetuate them.

I am also concerned that some individuals feel the NBS will be a tool with which to attack the private property rights of individuals, and I would like to address this issue.

As many of you know, I have become particularly interested in the debate over how best to protect the Nation's wetlands. I know that some individuals have begun to view the environmental regulations concerning the proper use of wetlands as an infringement on private property rights, and are seeking legislative guidelines to establish when compensation should be granted.

Yet, wetlands, like any other natural resources, must be protected because of the vast public benefits they provide. It is the undisputed duty of the government to look out for the public welfare, and thus private property rights must be balanced by public health and safety concerns. In the case of wetlands, regulations aimed at their protection exist because they serve important natural functions vital to the health and safety of the public.

Thus, the issue is not really the rights of the private property owner versus big Government. The issue is really the conflict between one individual's property rights versus the property rights of other individuals. In the case of wetlands, when they are destroyed, downstream flooding can occur, or nearby water supplies can become contaminated. That is why the courts have held that nuisancelike property uses cannot be grounds for a taking. But defenders of private property rights often ignore the damage done to these downstream propertyowners.

Proposals to legislate a definitive threshold where a taking occurs disregard the standards carefully worked out by the courts. Determining the legitimacy of a claim must not be based on rigid statutory requirements, but on the unique facts of each case, and therefore takings claims must be reviewed on a case-by-case basis.

We have nothing to fear from the National Biological Survey. It will act as an independent science bureau, and will not advocate positions on resource management issues. The data gathered from the NBS is just as likely to be used to identify the presence of endangered species as it is to demonstrate the health of a species population, and provide grounds for reducing regulation.

I urge my colleagues to resist the scare tactics being used to derail this worthy program, and vote in favor of H.R. 1845, and against any amendments which seek to weaken it.

Mr. McDERMOTT. Madam Chairman, I regret that I was unable to make a statement during the consideration of the National Biological Survey Act, H.R. 1845, when it came to the floor yesterday, but I was suffering from the flu. Today I submit for the record my strong support for the National Biological Survey Act.

The National Biological Survey [NBS] provides an opportunity to gather comprehensive information about the Nation's biological resources, giving biologists and policymakers the tools to make better decisions about how to manage economics and biodiversity in harmony with each other. The President and Vice President understand that economics and the environment must work together; this bill provides the necessary groundwork to make that synergistic relationship a reality.

Our Nation's wealth and heritage is built on healthy ecosystems. Agriculture, manufacturing, fishing, forestry, and many other important components of our national economy are directly tied to the health of ecosystems and the species that compose them. The NBS will provide information about the well-being of sensitive species before they become listed as threatened or endangered, enabling these critical industries to proceed uninterrupted while ensuring the viability of the ecosystems upon which they depend. Businesses and environmentalists agree that sensitive species should be attended to before they are listed under the Endangered Species Act; the NBS provides a vehicle to do just that.

Under the current nonsystem, scientists do not know where sensitive species are until businesses apply for permits. With such scant knowledge about the status and location of most species, economic development is subject to last-minute changes due to uncertainty about species viability. The NBS would provide permitting agencies with enough information to make thought-out, rational decisions about economic development instead of being forced into derailing good projects because of an information deficit. The Survey will provide cost-effective results that will benefit businesses as well as our environment.

Finally, the NBS is not a threat to private property rights. On the contrary, it enhances the ability of private property owners to make long-term, reliable decisions about land use. The program adheres to all laws protecting private property owners, including those prohibiting trespass.

The NBS will provide information critical for rational economic development and protection of species upon which our ecosystems depend. I add my strong support of the program to that of the majority of the House. If this program becomes public law, it will illustrate the cooperative relationship between biodiversity and economics in our Nation.

□ 1640

The CHAIRMAN. Are there any further amendments to the bill?

The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MCNULTY] having assumed the chair, Mrs. MINK, Chairman of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1845) to establish the Biological Survey in the Department of the Interior, pursuant to House Resolution 252, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. DREIER. Mr. Speaker, I demand a vote on the amendment offered by the gentleman from North Carolina [Mr. TAYLOR], regarding written permission of landowners.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

Mr. VENTO. Mr. Speaker, I demand a vote on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN], dealing with volunteers.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

If not, the Clerk will report the Tauzin amendment on which a separate vote is demanded.

The Clerk read as follows:

Amendment: In section 3(c)—

(1) strike paragraph (2); and

(2) in paragraph (1)—

(A) strike "(1) IN GENERAL.—";

(B) in subparagraph (B) insert "and" after the semicolon at the end;

(C) in subparagraph (C) strike "; and" and insert a period;

(D) strike subparagraph (D); and

(E) redesignate subparagraphs (A), (B), and (C) in order as paragraphs (1), (2), and (3).

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, the Chair announces that he may reduce to a minimum of 5 minutes the time for any subsequent votes on amendments adopted in the Committee of the Whole. This is a 15-minute vote, which may be followed by a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 227, noes 194, not voting 12, as follows:

[Roll No. 528]

AYES—227

Abercrombie
Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Brooks
Browder
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chapman
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Fawell
Fazio
Fields (LA)
Fields (TX)
Fish
Flake
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hastings
Hayes
Hefley
Herger
Hoke
Holden
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jefferson
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kyl
Lambert
Laughlin
Lazio
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Manzullo
Martinez
Mazzoli
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Michel
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Regula
Reynolds
Ridge
Roberts
Rogers
Rohrabacher
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—194

Ackerman
Andrews (ME)
Bacchus (FL)
Barca
Barrett (WI)
Becerra
Beilenson
Bilbray
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (FL)
Brown (OH)
Byrne
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Darden
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dixon
Durbin
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Farr
Filner
Fingerhut
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoyer
Hughes
Inslee
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)

Johnson, E.B.
Johnston
Kanjorski
Kennelly
Kildee
Klein
Klug
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Leach
Levin
Lewis (GA)
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Matsui
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)

Mineta
Mink
Moakley
Moran
Morella
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Price (NC)
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Roemer
Ros-Lehtinen
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schumer
Scott
Serrano

Sharp
Shays
Shepherd
Skaggs
Slattery
Slaughter
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Synar
Thompson
Thurman
Torres
Torricelli
Towns
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—12

Berman
Blackwell
Brewster
Brown (CA)

Gephardt
Hoekstra
Horn
Kennedy

McDade
Porter
Rose
Rostenkowski

☐ 1705

Mrs. MEYERS of Kansas, Mr. SANGMEISTER, Ms. CANTWELL, and Mr. SPRATT changed their vote from "aye" to "no."

Mr. SMITH of Michigan, Mr. VOLKMER, and Mrs. SCHROEDER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. (Mr. FIELDS of Louisiana). The Clerk will report the other amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Strike section 6, and insert:

SEC. 6. SURVEY ACTIVITIES ON PRIVATE AND OTHER NON-FEDERAL LANDS.

(a) COMPLIANCE WITH STATE LAWS.—The Survey shall comply with applicable State and Tribal government laws, including laws relating to private property rights and privacy.

(b) CONSENT AND NOTICE REQUIREMENTS.—

(1) IN GENERAL.—The Survey shall not enter non-federal real property for the purpose of collecting information regarding the property, unless the owner of the property has—

(A) consented in writing to that entry;

(B) after providing that consent, been provided notice of that entry; and

(C) been notified that any raw data collected from the property must be made available at no cost, if requested by the land owner.

(2) LIMITATION.—Paragraph (1) does not prohibit entry of property for the purpose of obtaining consent or providing notice as required by that paragraph.

(c) REPORT TO CONGRESS.—On January 1, 1995, and January 1, 1996, and biennially thereafter, the secretary shall provide a report to the Committee on Merchant Marine and Fisheries in the House of Representatives and the Committee on Environment and Public Works in the Senate. The report shall identify all activities of the Survey on non-federal lands and shall certify compliance with subsection (b)(1).

(d) SURVEY POLICY ON ACCESS TO PRIVATE AND NON-FEDERAL LANDS.—Within six months of enactment, the Director shall develop a policy for Survey employees and agents to follow in order to help ensure compliance with subsection (b)(1). The Director shall provide this policy to the Committee on Merchant Marine and Fisheries in the House of Representatives and the Committee on Environment and Public Works in the Senate.

(e) SURVEY DEFINED.—In this section, the term "Survey" includes any person that is an officer, employee, or agent of the Survey, including any such person acting pursuant to a contract or cooperative agreement with or any grant from the Survey.

Mr. DREIER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DREIER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule XV, and the Chair's prior announcement, this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 325, noes 94, not voting 14, as follows:

[Roll No. 529]

AYES—325

Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher

Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Castle
Chapman
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo

Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Diaz-Balart
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
English (AZ)
English (OK)
Everett
Ewing
Fawell
Fazio
Fields (TX)
Fingerhut
Fish
Flake
Ford (TN)

Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Hefner
Herger
Hilliard
Hobson
Hochbrueckner
Hoke
Holden
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio

Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Menendez
Meyers
Mica
Michel
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Reynolds
Ridge
Roberts

Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Scott
Sensenbrenner
Sharp
Shaw
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—94

Abercrombie
Ackerman
Andrews (ME)
Bacchus (FL)
Becerra
Beilenson
Bonior
Cardin
Clay
Clayton
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Dellums

Deutsch
Dixon
Edwards (CA)
Engel
Eshoo
Evans
Farr
Fields (LA)
Filner
Foglietta
Ford (MI)
Frank (MA)
Furse
Gibbons
Gilchrest
Gonzalez

Gutierrez
Hamburg
Harman
Hastings
Hinchey
Hoagland
Jefferson
Johnston
Klein
LaFalce
Levin
Lewis (GA)
Lowey
Maloney
Mann
Markey

Matsui
McDermott
Meehan
Meek
Mfume
Miller (CA)
Mineta
Mink
Moran
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Rahall
Reed
Richardson
Roybal-Allard
Rush
Sabo
Sanders
Schumer
Serrano
Shays
Skaggs
Stark
Stokes
Studds
Synar
Torres
Torricelli
Towns
Unsoeld
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Woolsey
Yates

NOT VOTING—14

Berman
Blackwell
Brown (CA)
Dickey
Gephardt
Hoekstra
Horn
Kennedy
McDade
Porter
Rangel
Rose
Rostenkowski
Tucker

☐ 1714

Mr. ACKERMAN changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the amendment in the nature of a substitute, as amended.

The amendment, in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. STUDDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 255, nays 165, not voting 13, as follows:

[Roll No. 530]

YEAS—255

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barrett (WI)
Becerra
Beilenson
Bereuter
Bilbray
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Brooks
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Coyne
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallo
Gejdenson
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Klein
Klug
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Levin
Lewis (GA)
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
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Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pickle
Price (NC)
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—165

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bevill
Bilirakis
Bliley
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Clinger
Coble
Collins (GA)
Combest
Condit
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Deal
DeLay
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Geren
Gingrich
Goodlatte
Goodling
Goss
Grams
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klink
Knollenberg
Kolbe
Kyl
Lambert
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Lloyd
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Murphy
Myers
Nussle
Oxley
Packard
Parker
Paxon
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ridge
Roberts
Rogers
Rohrabacher
Roth
Rowland
Royce
Schaefer
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Slattery
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Talent
Taylor (MS)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—13

Berman
Blackwell
Brown (CA)
Ford (TN)
Gephardt
Hoekstra
Horn
Kennedy
Lehman
McDade
Porter
Rose
Rostenkowski

☐ 1732

Mr. POMBO changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I was absent from the House due to severe illness. I missed five votes during the day. Had I been present, I would have voted yea on adoption of the conference report on H.R. 2445, the fiscal year 1994 Energy and Water appropriations bill; yea on the Bevill motion to recede and concur in the Senate amendment No. 33 to H.R. 2445 with an amendment; yea on passage of H.R. 1845, the National Biological Survey Act; aye on the Taylor amendment to H.R. 1845, regarding written permission of landowners; and no on the Tauzin amendment to H.R. 1845 regarding volunteers.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Haller, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2403) "An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes."

HOUR OF MEETING ON TOMORROW

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon tomorrow.

The SPEAKER pro tempore (Mr. GUTIERREZ). Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2492, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–308) on the resolution (H. Res. 283) waiving points of order against the conference report to accompany the bill (H.R. 2492) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes which was referred to the House Calendar and ordered to be printed.

NATIONAL HEALTH INFORMATION MANAGEMENT WEEK

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 205) designating the week beginning October 31, 1993, as "National Health Information Management Week" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I yield to the gentleman from Tennessee [Mr. DUNCAN] who is the chief sponsor of this bill.

Mr. DUNCAN. Mr. Speaker, as the sponsor of House Joint Resolution 205, I rise in support of this resolution which designates the week beginning October 31, 1993, as "National health Information Management Week."

The purpose of this resolution is to help bring recognition to the critical importance of the health information management professions across the Nation.

America's 35,000 health information management leaders have a tradition of commitment to and expertise in high quality information management which has become an increasingly important component of our Nation's health care delivery system.

At the heart of the profession's information responsibilities are medical records, both computer-based and paper, of individuals' health care.

The professional orchestrates the collection of many kinds of documentation from a variety of source, monitors the integrity of the information, and ensures appropriate access to the individual record.

The health information management professional also collects health care data by abstracting and encoding information, by using computer programs to interpret data, and by putting in place quality controls to ensure the data's validity.

The professional designs and improves systems, both computerized and manual, to manage large amounts of health care data. And, as with the individual patient record, the professional balances patients' privacy rights with legitimate uses of data.

Throughout the ongoing health care reform discussions, there has been a significant amount of consensus on the need to lessen the bureaucracy of our Nation's current health care delivery system and to streamline administrative operations.

During this important time in our Nation's history, health information management professionals are key players in reforming health care.

These professionals are working hard to foster advancements toward a computerized patient record—and away from a paper medical record—to reduce health care costs by decreasing the amount of paperwork confronting hospitals and other health facilities.

I encourage all Members to join me in support of House Joint Resolution 205, declaring the week beginning October 31, 1993, as "National Health Information Management Week," so that we can demonstrate our support for these dedicated Americans.

Mr. BURTON of Indiana. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is the objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.R. RES. 205

Whereas accurate, timely, and complete medical records and related health information are vital in planning and providing for quality health care for the people of the United States;

Whereas such records and information are vital to providing health care to an individual beginning at the birth of the individual and continuing throughout the life of the individual;

Whereas public concern about the quality, appropriateness, and effectiveness of health care is escalating;

Whereas specific skills in evaluating and reporting the results of health care are required to provide public accountability;

Whereas equitable third-party reimbursement for health care is dependent on health information that is collected, analyzed, classified, verified, and disseminated;

Whereas public awareness of patient rights, including the right of a patient to access the patient's own medical information, is increasing;

Whereas the needs and requirements for health information of the health care industry and the use of the information by the industry are changing rapidly;

Whereas the rate of such changes will continue to increase as new health care technology is used and new health care reform policies are promulgated;

Whereas the 35,000 members of the American Health Information Management Association are the health information leaders of the United States; and

Whereas such members have demonstrated commitment to, and expertise in, health information management: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 31, 1993, is designated as "National Health Information Management Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 178) designating October 1993 and October 1994 as "National Domestic Violence Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from New York [Ms. SLAUGHTER], who is the chief sponsor of House Joint Resolution 178.

Ms. SLAUGHTER. Mr. Speaker, according to the FBI, in the next minute, four women will be battered by their husbands or boyfriends. In fact, domestic violence seriously injures more women in this country each year than car crashes, rapes, and muggings, put together.

In my own district of Rochester, NY, an organization called Alternatives for Battered Women served 2,361 new callers last year through its hotline number. In addition, the program continued working on more than 6,000 other ongoing cases.

These statistics are staggering. But, there is hopeful news on the horizon. After more than a decade of efforts to publicize this national crisis, people's attitudes are beginning to change. Now, these tragic numbers are met with angry calls to action instead of stubborn disbelief. Now, according to a study by the Family Violence PreventionFund, nearly 9 in 10 Americans believe that domestic violence is a serious problem facing many families. And more than 8 in 10 think something can be done to reduce the amount of violence women face in their homes.

This increased awareness of domestic abuse is an encouraging sign. But much more needs to be done. Many professionals who work in our emergency rooms, our police departments, and our legal system still are not taking this epidemic as seriously as we need them to. For instance, a study of California hospitals this summer found that as few as one in five hospitals are in compliance with professional standards on dealing with domestic violence. Fewer than one-quarter have trained their emergency room doctors to spot and treat spouse or partner abuse.

Because of the continued need for increased awareness, I introduced House Joint Resolution 178, which is before us this evening. The resolution declares October 1993 and October 1994 National Domestic Violence Awareness Month. We here in Congress must stand up and acknowledge the magnitude of this national tragedy. We must voice our support for the dedicated people who devote their lives to stopping domestic violence. And we must help to educate all Americans about domestic violence.

I hope all of you will take this opportunity to help your constituents understand this problem, through events back in your districts or mailings sent back home. Only with widespread awareness of domestic violence can we move forward, toward a lasting solution. Professional intervention and tougher laws are certainly necessary tools to stop family violence. But, only with changed attitudes about appropriate behavior can we work to eradicate domestic violence for good.

I would like to thank my colleagues for their support.

□ 1740

Mr. BURTON of Indiana. Mr. Speaker, continuing my reservation, I would like to thank the gentlewoman for bringing this up. When I was about 5 years old I had a brother and sister who were both very small like myself, and I can remember my father attacking my mother and beating on her in the middle of the night. It is a terrible thing for a child to wake up at 1 o'clock in the morning hearing that kind of screaming and that violence, and your mother throwing a lamp through the window trying to get the attention of the neighbors so the police will come. If there is anything we ought to be concerned with, it is child abuse and this kind of domestic violence, because it has a tremendous impact on young people for the rest of their lives. Sometimes it causes them to, like a record player, replay that in their life and cause the same kind of thing to happen. So I congratulate the gentlewoman for bringing this to the floor. I really personally appreciate it.

Mr. Speaker, continuing my reservation, I yield to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in support of this domestic violence awareness resolution. For many American women, real terror is not being out alone at night on a dark street; real terror is being home alone, home alone with loved ones.

Mr. Speaker, the statistics are startling. Every 15 seconds a woman is battered by her spouse or by her special friend. Every year 4 to 6 million women, it is estimated, are battered by their spouses or by their boyfriends. Every year 4,000 women are battered to death. Every year 3.3 million children are watching this.

We worry about violence in our society. Well, for many the home is not the safe haven. Many people feel like they are hostages in their own home.

Mr. Speaker, I am pleased that the Congress, as the Nation, as law enforcement, as our judicial system, as neighbors and friends, are finally recognizing that this is a crisis of tremendous proportion and that we all can do something about it. Not look the other way, not have people be victimized in the courts that are there to help to protect them. And we in Congress have a responsibility.

Mr. Speaker, yes, I am pleased that we have been able to pass the bill to consider spousal abuse and child custody cases. I am pleased that there was a TV movie on that particular resolution which did a lot to make people aware of domestic violence's affect on children in our society. We have a domestic violence hotline bill coming up which will really help to give help and relief to people who have no relief in sight, who need the confidentiality, who need the resources to learn about the kind of help that they can get or the kind of escape that they can get.

Mr. Speaker, we have a Violence Against Women Act which I hope will be coming up soon. We have a Battered Women's Acknowledgement Act, and also the Fair Trial Act. So we do have legislation before us that we in Congress can pass. The medical profession has a responsibility in this, and all of us have a responsibility to not turn the other way.

So I hope that this resolution designating October as Domestic Violence Awareness Month will really make people aware that they have a responsibility. As Mr. Rabin said at that very historic time, "Enough violence and bloodshed." And we say enough violence and bloodshed in one's own home.

Mr. BURTON of Indiana. Mr. Speaker, continuing my reservation of objection, I wish to commend the gentlewoman from Maryland [Mrs. MORELLA] for her contributions with the hotline and other things. For anyone who has experienced this kind of trauma in their formative years and seen their mothers experience it, we all have a special place in our hearts for people like the gentlewoman for taking the time to do that.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GUTIERREZ). Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 178

Whereas it is estimated that a woman is battered every 15 seconds in America;

Whereas domestic violence is the single largest cause of injury to women in the United States, affecting 6,000,000 women;

Whereas rural and urban women of all racial, social, religious, ethnic, and economic groups of all ages, physical abilities and lifestyles are affected by domestic violence;

Whereas increasing evidence indicates that there are large numbers of immigrant women trapped in violent homes, isolated by abusive spouses who use the threat of deportation to maintain power and control over them;

Whereas violence escalates in both frequency and severity over time, becoming greatest at and after separation, when women are 75 percent more likely to be killed;

Whereas 40 percent of female homicide victims in 1991 were killed by their husbands or boyfriends;

Whereas in 1991, at least 21,000 domestic crimes against women were reported to the police each week;

Whereas one-fifth of all reported aggravated assaults—assaults where the victim suffered serious bodily injury—occur in domestic violence situations;

Whereas 74 percent of employed battered women are harassed by their abusive partners at work, causing 54 percent to miss at least 3 full days of work a month and 20 percent to lose their jobs;

Whereas 35 percent of medical emergency visits by women are the result of domestic violence, and 25-45 percent of all battered women are battered during pregnancy;

Whereas one-third of the domestic violence incidents involve felonies such as rape, robbery, and aggravated assault;

Whereas in 50 percent of families where the wife is being abused, the children of that family are also being abused;

Whereas some individuals in our law enforcement, medical, religious, mental health, and judicial systems continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;

Whereas in 1991 over 450,000 women, plus their children, were provided emergency shelter in domestic violence shelters and safehomes;

Whereas 40 percent of women in need of shelter may be turned away due to lack of shelter space;

Whereas the nationwide efforts to help the victims of domestic violence need to be expanded and coordinated;

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and

Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the months October 1993 and October 1994 is designated as "National Domestic Violence Awareness Month". The President is authorized and requested to issue a proclamation calling on national radio and television that he controls. That would be fair and that would give the Russian public a chance to assess the various parties and their leaders. But, if numerous pro-democratic political parties take to the field and spend much of their time criticizing each other and Yeltsin as well as the hard-liners, and if the hard-liners are represented by a few moderate sounding parties, this could also work in their favor and against the reformers.

There are feasible, open and relatively inexpensive actions that the Clinton Administration can and should take immediately to encourage and assist the pro-democracy movements within Russia. First, it is important to identify the five or so leading pro-democratic parties and come to understand their programs and leadership. Second, pro-democratic political parties which request it should be given practical assistance so that they can become more effective in conducting a political campaign throughout Russia. Such assistance might include training, communications equipment, funding, assistance with modern campaign and fund raising techniques, and help in preparing themselves to play a significant role in monitoring the election process and vote counting.

Every election can be unfairly rigged at any one of three stages—during the campaign, during the actual voting process, or during the vote counting and tallying. The Clinton Administration should respond to the invitation of the Russian government and immediately establish a credible monitoring group from the United States and other democracies that would have enough people, expertise, resources and mobility to support and monitor all three phases of the coming election for a new Russian legislature. The U.S. has a great deal of experience in conducting activities of this kind and this is the time for President Clinton to match his support for democracy with a rapid and competent response to the need and opportunity presented by the next phase of the dramatic competition for the future of Russia.

In December 1992 there were elections for the national legislature in Serbia. The communist dictator, Milosevic, fully intended to use the entrenched powers of his party and regime to control the outcome, but he did permit pro-democratic parties to compete. The West should have given those pro-democratic parties encouragement and practical assistance in sufficient quantity and time to have helped them campaign effectively. If that had been done, the democratic parties might well have won the election and brought about an end to the tragedy of the conflict in the former Yugoslavia. There is still time for a rapid response between now and the December 1993 Russian election is very short but with leadership by President Clinton, there could be a program of practical political assistance that could help the democratic parties in Russia turn the tide.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1993.

Hon. BILL CLINTON,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to request your immediate attention to the issue of the parliamentary elections scheduled for December in Russia.

We believe that the election of a truly representative parliament through free, fair and competitive elections is absolutely critical to the future of Russian democracy. Further, we believe that such a vote would produce a Russian parliament that is far more democratic and friendly to the West than the just-disbanded Supreme Soviet. Hence, these elections have a direct bearing on our national security.

The problem, however, is that the democratic forces in Russia are poorly organized and have extremely limited means. The anti-democratic forces, on the other hand, retain much of the organizational ability of the former Communist Party and are in control of most of the local and regional legislatures in the country. There is a very real danger that they will be able to stifle competition and even rig the vote to produce another reactionary parliament. The democrats are in desperate need of outside assistance. We believe it is imperative for the West to provide as much assistance as possible to democratic candidates in Russia and to facilitate a smooth, fair electoral process through monitoring, etc.

There are of course, many organizations, such as NED, IRI, NDI and the newly-created Committee to Support Russian Democracy, that are already involved in these types of activities in Russia and which have fielded monitoring teams in the past. Also, there are several indigenous groups in Russia which are working along the same lines. We believe that immediate, direct assistance to these various groups would greatly enhance the chances of the December elections being free and fair.

We strongly urge you to make the December elections a top foreign policy priority and to divert from existing programs whatever resources necessary to achieve the objective of ensuring a free, fair and competitive process. Other foreign aid programs, both for other countries and within Russia, may indeed have merit. But ensuring democracy in Russia through truly democratic parliamentary elections is surely of the utmost urgency and should be treated as such.

We stand ready to lend our support to this process and thank you for your time and attention.

Sincerely,

GERALD B. SOLOMON,
Member of Congress.
TOM DELAY,
Member of Congress.
JAN MEYERS,
Member of Congress.

OPPOSITION TO NAFTA

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. QUINN. Mr. Speaker, I rise today to state my serious concerns and opposition to the North American Free-Trade Agreement [NAFTA].

President Clinton has reaffirmed his administration's support for ratifying the treaty which was signed last December. Along with many of my colleagues in the House I am concerned that provisions in the agreement would encourage the migration of American manufacturing jobs to Mexico.

The Mexican labor system is vastly different from the United States system. Government control of organized labor forces wage controls and exerts pressure on the market to keep wages low, while state-of-the-art infrastructure fosters first-rate productivity.

The arguments made by NAFTA proponents are predicated upon an open market economy where Adam Smith's invisible hand guides wages. There is no invisible hand in Mexico, rather a very visible hand of governmental control over the economy, a hand that represses wages, independent labor unions, and standards of living.

Our country exports large amounts of capital goods—materials to build infrastructure to export goods back to the United States. In addition, the United States exports materials which are assembled into final products in Mexico and exported back to the United States. Large portions of these United States exports are actually materials sent to Mexico to complete finished products using cheap labor—and shipped back into our country for our consumption.

The economy of Mexico is 4 percent of the size of the United States economy—but labor costs represent only one-seventh of labor costs in the United States. How can NAFTA expect to expand United States exports to Mexico when there is such a low-paid work force, in a small economy, that is pressured by the hand of governmental control to attract international investment?

Examine the investment criteria developed by AmeriMex investors. You will find that 5.9 million U.S. manufacturing jobs are vulnerable under NAFTA. New York would be the fifth hardest hit State in the Nation in terms of job losses.

In my district in western New York you only need look at the TRICO plant in Buffalo, or IBM in Rochester or Smith-Corona in Cortland, NY. NAFTA will open the floodgates for American businesses with labor intensive aspects to expand or move to Mexico.

Furthermore, the labor side agreements do not address these concerns. These agreements exclude industrial relations issues such as the right to strike or organize independent labor unions from the possibility of fines or sanctions. The side agreements simply ensure the enforcement of domestic labor laws.

Mr. Speaker, I support free trade—but only when it's fair and on a level playing field—I call that smart trade. The United States-Canadian Free-Trade Agreement is an excellent example of how free trade can and should work on a fair and level playing field.

I support the idea that expanded trade offers considerable investment and economic opportunities for the United States—however, a trade agreement that ignores, jobs, income levels, and the environment is not the answer. To achieve true economic expansion and integration among the NAFTA countries, we need effective, independent mechanisms that address inadequate labor and environmental standards and force upward harmonization—to U.S. standards.

INTRODUCING THE FEDERAL COGENERATION ACT OF 1993

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SWETT. Mr. Speaker, today I am introducing the Federal Cogeneration Act of 1993, would lead to a shift in investment, trade, and jobs from Asia to North America.

The report's bottom line, that NAFTA will stimulate economic growth and create jobs in America at the expense of Japan and other countries in Asia.

Closer to home, Jean Chretien, Canada's newly elected Liberal Party leader has inferred that NAFTA should be renegotiated.

I reject this suggestion. Furthermore, I believe the Canadian Government should withhold comment on this issue until the United States Congress has had the opportunity to vote up or down on NAFTA.

NAFTA, after all, was an agreement negotiated on a government-to-government basis and in good faith.

It is a good agreement, one that will benefit the economies of the United States, and Canada. It this were not the case, why is Japan so worried?

Accordingly, this Congress should not permit outside forces to dictate what is the best interest of the American people. Ultimately, we must do what is right for America and secure passage of NAFTA.

WHAT HAPPENED TO REINVENTING GOVERNMENT?

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SENSENBRENNER. Mr. Speaker, in Vice President GORE's Reinventing Government Report, one recommendation to save tax dollars was to merge the DEA into the FBI. At least that's what we thought the report said.

Last week, I asked Deputy Attorney General Philip Heymann why Justice had backed away from this important recommendation. I was told it was a "printer's mistake" to use the term "merger" in the executive summary, and that neither Vice President GORE nor Justice intended to propose a merger.

Mr. Speaker, the word "merge,", used four times in one paragraph of the summary, is now dismissed as a printers mistake. If that's the case, why didn't someone let us know before? We were told Attorney General Reno had reservations about the proposal—but the proposal itself was never repudiated, until now.

The Justice Department does stand by the words "to transfer law enforcement functions of the DEA and the BATF to the FBI", but these apparently don't mean the same thing as a merger. Neither do the terms "integrate", "consolidate", and "combine" used elsewhere in the report.

Next time the administration sends a bunch of budget cutting proposals to Congress, I suggest they also send a copy of Justice's New Congressional Dictionary. Or Justice Department witnesses appearing before Congress could use the good old fashioned word "flip-flop."

Mr. Speaker, I include the relevant parts of the report of the National Performance Review executive summary, and the transcript of the testimony of Deputy Attorney General Philip Heymann, as follows:

Unofficial transcript of questions and answers between Representative Jim Sensenbrenner and Deputy Attorney General Philip Heymann from C-SPAN coverage

HEARING OF THE HOUSE JUDICIARY SUBCOMMITTEE ON CRIME AND CRIMINAL JUSTICE REGARDING THE 1993 CRIME BILL

FJS: Mr. Heymann, let me say that I am deeply disappointed that the Justice Department has turned its back on the Gore Commission's recommendations to merge the FBI, the DEA, and the ATF. And, in my opinion, your explanation, and while you don't add someone else at the top to umpire these interagency disputes, you set up a bureaucracy of taking people away from direct law enforcement as you've just explained to do precisely that. And I think that the lack of training between the agencies, the lack of coordination between the agencies, the fact that they don't share each other's intelligence as well as the result that one agency conducts sting operations on the other agency's informants was proof positive that the Vice President was right the first time. And I'm afraid that this is the beginning of an eroding of the recommendations the Vice President has made to make government more efficient, save some money, and give the taxpayers more for their dollar. That's not why I was here to ask a question.

P.H.: Could I say just a word about that, Mr. Sensenbrenner?

FJS: You certainly can.

P.H.: It's almost impossible for me to convince people of what the truth is here about the Vice President and the Attorney General. The truth is that there is a type. . .

FJS: Mr. Heymann, I'm having a little bit of difficulty figuring out what this administration wants. The Vice President says one thing, the Attorney General says the other thing—do we need a road map to find out where this administration is going?

P.H.: Please let me explain. As unusual as it is for anything to foul up in government, there was a printing foul-up after the Vice President and the Attorney General had discussed what they wanted to say about an FBI/DEA merger in, towards the first day of September. They agreed that they would say that there would be, that they both thought there should be major structural changes to deal with the problem that you've said, just described. Having agreed on that, an earlier version of the Vice President's recommendations was printed as the executive summary and as the heading. It said "merger" it, the Vice President, as I understand it was angry, put out, it was a mistake, a printer's mistake. The Attorney General the next day said, "No, no, I haven't made up my mind on merger." As a matter of fact, she had already talked with the Vice President, and they had agreed that anything in what I called the three and four area would be fine with them. They have never. . .

FJS: In other words, what the Congress, the press, and the public receives from the administration is not to be considered as being written on stone tablets, that, you know, it's subject to modification and reconsideration, and all of that.

P.H.: No, no, it's simply that, all I'm really trying to say is I honestly know of no occasion on which the, since late August or when I started knowing about it, where the Attorney General and Vice President have been in policy disagreement on this issue.

FJS: Perhaps that's why the Vice President has decided using a little bit more recycled paper for recycled ideas. But, the reason that I wanted to ask you some questions was not this particular issue, Mr. Schumer brought it up.

[From: Report of National Performance Review Executive Summary]

ACTION: TRANSFER LAW ENFORCEMENT FUNCTIONS OF THE DRUG ENFORCEMENT ADMINISTRATION AND THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS TO THE FEDERAL BUREAU OF INVESTIGATION

The first step will be to merge DEA into the FBI. When this merger has been successfully accomplished, we will move toward merging the enforcement functions of the BATF into the FBI and merging BATF's regulatory and revenue functions into the IRS.

[From: Report of National Performance Review]

ACTION: TRANSFER LAW ENFORCEMENT FUNCTIONS OF THE DRUG ENFORCEMENT ADMINISTRATION AND THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS TO THE FEDERAL BUREAU OF INVESTIGATION

More than 140 federal agencies are responsible for enforcing 4,100 federal criminal laws. Most federal crimes involve violations of several laws and fall under the jurisdiction of several agencies; a drug case may involve violations of financial, firearms, immigration and customs laws, as well as drug statutes. Unfortunately, too many cooks spoil the broth. Agencies squabble over turf, fail to cooperate, or delay matters while attempting to agree on common policies.

The first step in consolidating law enforcement efforts will be major structural changes to integrate drug enforcement efforts of the DEA and FBI. This will create savings in administrative and support functions such as laboratories, legal services, training facilities, and administration. Most important, the federal government will get a much more powerful weapon in its fight against crime.

When this has been successfully accomplished, we will move toward combining the enforcement functions of the Bureau of Alcohol, Tobacco and Firearms (BATF) into the FBI and merge BATF's regulatory and revenue functions into the IRS. BATF was originally created as a revenue collection agency but, as the war on drugs escalated, it was drafted into the law enforcement business. We believe that war would be waged most successfully under the auspices of a single federal agency.

IN SUPPORT OF CALLING OUT THE NATIONAL GUARD

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MICA. Mr. Speaker, this morning the Statue of Freedom that we replaced Saturday atop the dome of the U.S. Capitol must have wept when she learned that President Clinton turned his back on our Nation's Capital.

As Commander in Chief, he turned his back on permitting Mayor Kelly's request to use the National Guard to stem the murder, violence, and genocide taking place in our streets.

He turned his back on the scores of District mothers and fathers who have buried their slain sons and daughters.

He turned his back on the thousands of hard-working and law-abiding citizens who struggle each day to survive in this crime-infested jungle.

How can the President spend billions to send our military to separate warring factions in Somalia and Macedonia and not act now to save the dying youth in the streets of our Nation's Capital?

Today I am placing in the Congressional Record the 1,286 names of those tragically murdered in the District in just 3 years. Not included in this list is Debra McManus, 39, Kalvin Adams, 23, and George Hill, 16, listed in this morning's news as the latest District murder victims.

President Clinton has turned his back on Mayor Kelly and the people—this Congress cannot do the same.

Mr. Speaker, I include the following list of victims killed in Washington in 3 years, 1988 through 1990, as follows:

[From the Washington Post, Oct. 24, 1993]

Of 1,286 Slaying Cases, 1 in 4 Ends in Conviction

THE VICTIMS

1,286 people were killed in Washington in three years: Jan. 1, 1988, to Dec. 30, 1990. Their names are below, in chronological order.

Michael Saunders Jr., Tommy Brown, Osahon S. Emovon, Gwendolyn Scott, Duane S. Barnes, Jerome C. Barnes, Thomas E. Arnold, Curtis Brisco, Levee Cannady, Ricardo Washington, John Clem, Judson Boyd, Clifford E. Jackson, Tell Rudolph Maninat, Unknown (male), Bernard E. Smith, Joseph Williams, Reginald A. Adams, Steven Davis, Benton Johnson, Beverly Thompson, Richard C. Cole, Horrace L. Pinnock, George Pringle, Harold E. Alvaranga, Larry D. Elliott, Elijah Carter, William F. Caffee, Jarrett Jones, Ralph W. Bailey, William L. Goins Rafael Mena-Alfra, Kermit Hutchins, Trever Stephenson, unknown (female), John Parris, Reginald Smalls, unknown (male) Leroy Simms Jr., Antonio K. Askew, Antonio J. Campos, Ivan Evans, Arturo Clair Garvin Ian Smith, Bobby L. Parker, Charles E. Russell, Walter Thompson.

William L. Miller, Charles Perry, Janice D. Spain, Shardeen Britt, Urcella O'Connor, James Singleton, Alton E. Wilkinson, Leon Ray Wright, Leon Hanston, Maude Brooks, David James Dickerson, Herbert R. Purdie, Lonnie Watkins, Marco A. Guerreio, Silas E. Davis, Harold G. Williams, Gao Bao Zhou, William J. Graham, Lionel R. Harris, Calvin B. Heath, Darlene Jenkins, Clayton Gray Jr., Warren Burns, Norman Gross, Robert Ellis Ronald Jackson Lionell K. Jackson, unknow (male), Shavon Mayo, Joel Mays, Kenneth R. Taylor, Gary A. Frank, Michael L. King, Donald Hill, Rufus McDowney, Keith Bennett, Griffin D. Smith, Jeffery Truesdale, Cornell R. Twilley, Wayne K. Harris, Larry Mathis, Kristina Caine, Daniel E. Dent, Eric R. Hill, Thomas A. Williams, Charles Mansfield, Larry Hicks, Ronald C. Proctor.

Joyce A. Haywood, Milton L. Ball, Jose D. Chicas, Ernest Workman, Beverly J. Harris Jacqueline Dyson, Darrell A. Carson, Kevin Spriggs, Frank Tyler, James A. Hall Michael W. McMillian, Robert E. Bishop, Alrfreda E. Miller, Charles Whittington, Norman V. James Vernon Greene, Kridikorn Satamarn, Preston Bankhead, Douglas L. Vaughn, Robert Lee Rogers, Osborn W. Williams, Dawn D. Fest, Milton Mills Jr., Janelle Hughes, Anthony Mozee Curtis Wilson, Allan Lufsey, Keith A. Price, Cherly A. Dykes, Jerry Pickens, James Hewlin, unknown (male), Anthony L. Roney, Anthony Warner, James Crawford, Ian Harris, Leonard Scoggins Jr., Ralph Aiken, Anthony D. Thomas, Leslie Wheeler, Robert N. Thompson, Rickey Railey, Gui Chao Zhang, Sean D. Shorts, Dryck Whitney, Hilton Gordon, Carrie Williams, Keith Anderson.

Neil A. Bess, Vernon Montgomery, Terry Moore, Brandon Jerrell, Hee Young Yoo, Marion Bethel, Sandy P. Carey, Reginald Childs, Ella Starks, Patrick Cook, Von McKinnley, James Clements, Annie Mai Frierson, Ricky Melson, Michael Young, Avadis Jones, Roy Lee Moore, Gwendolyn Sumpter, James Fludd Jr., Cyrus Gray, Woo C. Song, Devon Darden, William Hines, Kenneth E. Washington, Andrew K. Atkinson, Marguerite Edmonds, Leroy A. Ferrell, Louis H. Knight, Timothy A. Bright, Gregory Gibson, Roosevelt Roberts, Maurice Matthews, Anthony T. McRae, Tony Evans, John Wayne, Leroy W. Bolden, Christopher Southerlin, Joyce Gale Brame, Johnnie F. Person, Robert Miller, Jr., Willie R. Wilson, Derrick Clark, Susan S. Evans, Edward L. Hancock, Gregory Queen, Deborah A. Parson, Gary S. Stanley.

Elmer H. Thompson, Gerald K. Curry, Kathryn DeParman, Patricia A. Jones, Marvin J. Alston, Gary C. Brown, Brian Grant, Casper Grant, Alvin Jetter, Thomas Edward Kaufman, Lawanda Scott, Herbert Stevens, Darren Taylor, Debra White, Wallace Monroe, Wendell Simmons, Reginald Bennett, unknown (male), Samuel Zackery, Gary Harrison, Jerry Lee Thomas, George Broadnax Jr., Douglas Baker, Eric Lee Carter, Anthony Nash, Walter M. Mabry, Darrell B. Young, Morris Brown, Robert Dent, Robert Shingler, Tawanda Wicker, Richard A. Garcia, Sinyieu Wondong, Charlton Smith, Larry Roberts, Ronald E. Boulware, unknown (female), Victor Garcia, Anthony S. Thompson, Raymond Cobb, Samuel Brisbon, Clarence E. Guy, Desmond E. Ray, Thomas Stevenson, Calvin Bradley, Leon E. Broadus, Lonnie Colter.

Said Ashab, Stanley W. Carter, Calvin G. Resper, Charles P. Forde, Griffin Murphy Jr., Reginald L. Simpson, Kenneth Wilson, Charles Younger, Odarryl Mace, Myron S. Riley, Jose Benitez-Rios, unknown (male), Robert M. Melton, Brian K. Workeman, Gloria J. Carter, Benjamin H. Williams, Gregory W. Cain, Ronald Curry, George W. Harris, Floyd Perkins, Rashid K. Hembah, Rocky Peters, James A. Bell, Tahnee M. Clark, Michael E. Johnson, Gene Autry Leak, Michael A. McGirt, Dianne Arthur, Jacqueline Gaut, Loretta P. Finch, Patrick A. Richards, Charles Jackson, Alan D. Williams, Kenneth Duvall, Vincent E. Bell, Clarence Brooks, Stewart A. Brown, Garlon J. Baucom, Argray W. Newsome, Donald R. Birdine, David E. Golden, Nathaniel Smith, Moses M. Tate, Antonio Williams, Riveryone Marbley, Eugene A. Ware.

Barbara G. Johnson, Joesph B. Queen, Barbara Byars, Richard E. Davis, Aaron Settles, Vondalia R. Robinson, Oscar D. Romero, Kevin O. Curtis, Anthony Smith, Basil C. Dorsey, Andre R. Stewart, Terence D. Banks, John Stokes Jr., Luis Francis Jimenez, Brian K. Bell, Donnell Birdine, Damon Blango, Ernestine Pannell, Langston S. Wright, Carl Louis Cooper, William Johnson, Rex W. Brown, Antonio Jacobs, Devon Morris, Gregory Sligh, Steven M. Bazemore, Lawrence Marshall, Keith C. Wasmus, Deanna B. Pannell, Adrian Fleming, Andre Anderson, John Tate, Curtis Coates, Fred Sellers, Ary Jasmin, Daniel Perez, Fleming Anderson, Avery B. Bourn, Rosemary Stevens, Sean Herbert, David McBride, Ricardo Clifford, Harold L. Carter, John Haggins, Vincent Shaw, Marvin Dove Jr., unknown (female), Chitrenda Eades.

Samson Hunter, Xavier Johnson, Linda Ray, Johnathan Allen, Andre Johnson, Patrick Marshall, Melvin Anderson Jr., Louis McDonald, unknown (female), Michele T. Niem, Mark D. Smoots, Theodore Taylor, Herman R. Washington, Raymond Bridges, Farrell R. Gardner, Gilbert T. Brown, Antonne Luna, Ricky Earl Richardson, Sadie E. Murphy, Shirley A. Hazel, Leroy A. Jackson, Robert A. West, unknown (male), Audry V. Lawrence, Eric Price, Yero Dorsey, Tyrone G. Greenwell, Tony King, Henry Hunter, Clarence Mitchell, unknown (male), Kevin Bennett, Lawrence Woodland, Robert Steptoe, Kevin D. Neal, Willard E. Jones, Louis W. Geiman, Donnie Michaels, John Arnosti, Christopher Jones, Errnest P. McQueen, Mattie Dorsey, Paul M. Berg, Jimmy Blade, Anthony E. Wright, Wesley S. Gorham, James A. Mingo, Darryl Johnson, Mary Arseneault, Thomas W. Moore, Larry A. Rawles, Anthony L. Slappy, Tanya D. Barnes.

Paul A. Frazier, Robert Lee Hill, Anne Bueford, Norman Oakcrum, Julio Perryman, Reginald K. Peters, Michael R. Robinson, Joseph Tyron Sams, Norman Brown, Robin L. Coleman, William Craig Haley, Floyd Payne, Linden S. Ault, Thomas Brown Jr., Terrance Sealey, Jamie Banker, Eric N. Butler, Bob Gerald Trever, Kenneth Jones, Raymond Campbell, Raymond C. Davidson, Corinne W. Sweet, Demitrus Coleman, David Williams, Maurice W. Crutchfield, Eugene M. Artis, Cassius C. Keys, Michael A. Olds, Mawu Robinson, Mona Shiferaw, Tesfay Shiferaw, Anthony T. Tate, Vernon A. Mitchell, Steven West, unknown (male), Robert E. Lewis, Keith Mayo, Thomas Winniefred, Kevin A. Clements, Christopher Conley.

Lawrence Monroe, Franklin Smith, Lonnie O. Hutchinson, Warren Harris, Carmen Del Cotten, Ronald K. Thompson, Sheila Lynn Green, William C. Johnson, William A. Best, Frederick Glenn, Rene C. Sanchez, Julian Timberlake, Anthony F. Bailey, Derrick W. Bell, Habib Mathis, Darnell Wells, Richard Lewis Clark, Julius Robinson, Derrick Chase, Cecil R. Curry, Carlton Earl Dickens, Lee Oliver Williams, Gary Hickman, Donald Bolton, Leonard Allen Morrison, Zachery J. Ray, Dwight George, Judith Crunkilin, Eddie Neil Martin, Tauchious J. Owens, Reginald Duckett, Reginald Lewis, James Harris Brooks, Lonnie Hart Jr., Warren Morgan, Stanley Whatley, Steven L. Parker, Corry Hines, Albert Thomas, Emory Lewis Trawick, Reginald Walker, Larry McCaspling, Earline Thompson, Alvin Winstock, Steven Maxwell, Melvin Douglas Brown, Anthony Paul Heslop, Darryl W. Murchison, David Lewis Hodge, Samuel A. Mack.

Michael McCurdy, Kevin Eans, William Arthur Wilson, Johnnie Lee Green, Wade Malone, Victor Osborn Tatum, Albert E. Webb, Bobby Workman, Charles Brandon Jr., Kevin Antonio Henson, Hughie Dyer, James C. Davis, Marcus Herring, Kenneth Earl Harden, Reginald Elliott, Socorro Torres, Leon Burke, Daniel Ely Jordan, Jose Miguel Lanza, Mary Ellen Sullenberger, Charles Johnson, Gerald Bailey, Derek Lee Wilson, Lesser Eugene McCoy, George Collins, Joseph Easton, Charles Hammond, Edward

Dujua Pelham, Anthony Settlers, Yusuf Belton, William Edward Howard, unknown (male), Warren Jackson, Aldolph Martino, Hector Colon, Bruce Lee Parks, Shonie Clatterbuck, Al Johnson, David Kevin Lee, Sean Raymon Martin, Denise Tyler, Gregory Jones, Francis Scrivner, Walter Alan Clinkscales, Elbert R. Crawley, John Bryson, Ralph Milton Stockhausen, Virginus Williams, Ola Shehu Ahmad, Herbert J. Dorsey, Bobby Nest.

Raymond A. Subhan, Willie Bulluck, Nathaniel Greene, Austin Neal Hiett, Tyrone Queen, Baby Girl Howard, Alvin N. Henson, Larry Eugene Hill, Reginald Durham, David Julien, Marx V. Brown, Donald Johnson, Alonzo D. Allen, Debra Bullock, David A. Stamper Jr., Stephan P. Smith, Ernest E. Young, Helen Cleo Chappelle, Johnetta McLean, Martin Freeman, Faith Selina Mobley, Neil Abble Thompson, Michael Graham, Darren A. Alston, Wayne Huff, Gary Wayne Peleger, Terry Eugene Squirrell, Donnell P. Winley, Curtis Daniels, Nisa Abdul-Samad, Edward W. Hairston, Donnell Perry, Carlos M. Cuff, Willie Dixon, Larhonda Wages, James Thomas Bryant, unknown (male), James W. Mosley, Charles J. Thomas, Ronald Cook, Percy Lee Davis, Randall N. Sloane, Nathanel Thomas Jr., Fitzalbert Thompson.

Holly Janet Kincaide, Kristian Kincaide, Russell Goins, James E. Smith, Lawrence L. Nunn, Jessie David Miser, Karen Booker, Milford Best, Kermit E. Ferguson, Carlton B. Allen, Jose Landaverde, Jerry Mack, Angela B. Jones, James McKinnon, Thomas A. Wooden, Larry Wright, Daryl Dixon, Eugene Larry Anderson, Calvin Moore, Charles Tilghman, Dilante T. Cuette, Aaron Newman, Jimmy Parker, Darrell, Artis, Lewis Ford, Clifton Wooden, Devon Lykes, Tyrone White, Oscar Graham, Alvin Lee Howard, Won Bin Lee, Anthony J. Reed, Rhonda Lynn Anthony, Shirley Gaskin Agustus Logan Jr., Brenda Y. Taylor, Paul Wills, Manuel Flores-Romer, Oscar Holmes Jr., Daniel Hotz, Charles D. Carr, Derrick L. Conner, Aaron Johnson Jr., Lawrence Harris, Anthony Robinson, Henry Robert Huggans, Ronnie Johnson, Gipson F. Woolfolk, Rafeal Parra, Kenneth Ray Lee, Anthony T. Eason, Leonard R. Obrey, Todd Craig Johnson.

Leon A. Lipford, Theodore Williams, Cooper Gibson III, Kelvin F. Moore, William A. Smith, Jim Coy, Melvin L. Henderson, Eddie L. Sunders, Cheryl R. Fantroy, Eric Demond King, Winston L. Staton, Robert Gamlden, Johnny Small, Benston W. Wright, Ronald R. Nivens, Charles A. Brooks, Woodrow Cureton Jr., Cori Louise Jones, Antonio M. Watson, Franklin A. Ball, Charlos E. Yates, Jerry Butler, Donald M. Lee, Gerald P. Barnes, David A. Muschetta, Wallace Gunther, Gregory Jackson, William E. Brown, Michael A. Coach, Darnell Sears, Chester Blevins, Anthony D. Thompson, Waveland Starkes, Cranston L. Colbert, Turner Monk, Michael Nelson, Tawana Sams, John Wayne Tucker, Anthony Stewart, David Lee Simmons, David Lewis, Knowle Watkins, John Woodland, Chung Su Im, Ronald Johnson, Tyrone McKay.

Loveron M. Harris, Harvey Brewton, Tyrone R. Carrington, Lee Jackson Jordan, Clifford Smith, Lisa Candace Carter, Lamar A. Jenkins, Keith Mason, Linwood Booker, Kenneth A. Charles, Earl S. Manning, Kenneth W. Robinson, Eugene Banks, Kenneth McSwain, Jesse Wade, James R. Fielding Jr., Craig Allen Williams, James Shunk, Theodore Washington, Basil A. French, Larry Mercer, Darryl A. Banner, Anthony Funderburk, Kevin Butler, Marlon J. Robinson, Xavier R. McGill, William A. Fletcher, Paul Jones, David Pettaway, Edgar Fleming, Eddie Archie, unknown (male), Roxanne L. Johnson, Benjamin Saxton, Alfred Fields, George Myrant, Ray Clay Coppock, Calvin Lee Logan, Errel I. Roberts, Carol Whitfield, Derrick Julian, Desi F. Avery, Michael Durant, Michael Lee Dejarnett, Wanda R. Hampton, William Moore Jr.

Odell Thomas, Taza Taylor, Timothy Finklea, Benjamin T. Corbett, Nathaniel Davis, Leroy Johnson, Jose Trejo Pineda, Neal Digiovanni, Sheldon Grayson, Billy Faison, Alfred C. Jordan, Victor J. Walker, Larry Dale Dunston, Michael A. Brown, Jose Ortiz, Wiliam L. Broome, Brenda Sams, Keaena S. Sams, Timothy S. Divers, "Oliver, first name unknown", Aaron E. Walker, Alton D. Wynne, Antonio D. Dinkins, Timothy Johnson, Keith J. Swepton, Nicole L. Wilkerson, Marvin Lee Harper, Stanley Lewis, Kimberly Hunter, William E. Smith, Harrison Thompson, Troy Weaks, Juan N. Chavarria, Herman Coleman Jr., Christopher Johnson, Leroy A. Williams, Sherry E. Wheeler, Roger Abrams, Tyrone W. Sutton, Lloyd W. Thomas III.

Morris E. Dixon, Ernest C. Roach, Stephen A. Briscoe, unknown (male), Gregory Matthews, Darrell Banks, Milton McCoy Squire, Darrick E. Vincent, Luther Garvin, Henderson D. Holiday, Terry A. Johnson, Barrett S. Paige, Rene Rosales, Cynthia Fitts, Eddie Scarborough, Dorothy A. Blanton, Matthew N. Blake, Robert Harris, Vernon L. Smith, Ridgley C. Ballard, Dionne Taylor, Taushar Allen, Ricardo Hayes, Frank Lewis Payne, James McCallum, Fred Birikorahg, Gary Diggins, Maurice Hallman, Leonard Hyson, Milton C. Lewis, Tucson Gray, Ephraim O. Nelson, Martin B. Wolfe, Richard Lee Becton, "Chase, first name unknown", Nelson L. Hernadez, Nathan D. Jackson, Malcom L. Stewart, Rojs Pelay, John Nelson Coleman, John Coppedge, Leon Dawes, Deneatress Seaburry, David Rowel, Lashaun Davis.

Ronald Seabrook, Charles Brunson, unknown (female), Jeffrey J. Anderson, Reginald A. Fenwick, James C. Jordon, Jr., Albert N. Norman, Richard Rhoden, Charles Carey, Melvin Gonzales, Keith B. Jacobs, Tony Moseby, Gerald Thompson, Michael Broome, Melvin Knight, Anne Synder, James Lee Coates, Mustofa Fereshevadi, George Lindsay, Maurice Glenmore, Chet Harrison, Melvin D. Newkirk, Samuel H. Unger, Wendell Wilkerson, Archie Adams, William B. Brigmon, Ricky Magnus, Michael Warren, Charles Wheeler, Michael D. Bryant, William Gavins, Sammuel C. Glen, William T. Holmes, William R. Nelson, Robert J. Taylor, Deborah A. Jones, Joyce Marie Jones, Frank Green, Coretta C. Logan, Michael K. Branch, Derrick L. Steele, William A. Kemp, Luis A. Alvarado, Rafael Martinez, Evelyn Spanos, Paula Adams, Henry L. Finch, Magaret Brown, James Clay Davis, Herbert Potter, Darnell E. Christian, Leroy Johnson, Gary Mosely, Kim Javon Wilson, Sadiqa Bay, unknown (male), Lawrence Burnell, Linda Rodgers.

Robert Williams, Marshalleck Ellis, Jamie Ferguson, Michael Harris, Richard Jackson, Nathaniel Wright, Stanley E. Hamlet, Paul L. Hogue, III, George Leon Adams, Reginald J. Francis, Treavor Thomas, Anthony Coates, Gregory Johnson, Morris I. Shelton, Arlton D. Clark, Bernard Ferrell, Linda Milliner, John Alexander Jr., Victor Burton, Damoni White, Russell Baits, James D. Etheredge, Michael T. Lee, Carlita L. Lewis, Robert Lee Posey, Ricky V. Jett, Michael Jones, George Miller, Robert Lee Walker, George A. Young, Daniel Byam, Ivory Brevard, Darreyl D. Hubbard, Christopher Taylor, Waverly S. Washington, Kenneth Adams, Walter Jones, Paul McFadden, Raul Velazques, Ethel Mae Boyd, Antreau D. Bryant.

Vernice A. Douglas, Neda Hill, Donnell Smith, Howard Choate, Gene McFarland, Renaldo Padre Platter, Steven James Crawford, Terry Gray, Angel Santos, Fedor Diaz Sotolongo, Lamont Simms, Marvin A. Kearney, Clarence L. Bailey, Nelson G. Shackleford, Fredrick Smith, Ricardo Tejada, Joseph Thompson, Pamela Washington, Reginald Watson, Robert Flowers, James Carter Lane, Ernest Sheppard, Grace Daniel, Daryle Kevin Edwards, Homer Bryant, Avis Tyrone Jones, Charles C. Haupt, Norman L. Rich, Antonio B. Griffin, Darren Ford, Vance McIlwain, Kenneth E. Murray, Alan Simon Gray, Marvin D. Holton, Augusta Galbreath, Kenneth A. Hull, Lakeysha Small, James Ali, David Ellis Burkett, Mohamed Ahed Rage, Annis Williams, Willie Hunter, Kevin Beynum, Herby C. Warfield, Stella D. Covington, Rhosu Griner, William A. Hall, Danny Steppe Perdo, Stanley Washington, Seth B. Wilder, Ulysses Orr Jr., Ellis R. Smith, Leondos Wilkins, Bobby Blumfield, Ernest G. Stover, Agustas Thomas, Michael A. Agnew.

Charles B. Coates, James O. Spruill, Vincent E. Dash, Kevin G. Hunt, Tyrone D. Bush, William L. Ware, Horace Gary, Joseph D. Gwynn, Michael Wilson, Wendell A. Brooks, James Hinson, Gary Endicot Gaylor, Jacqueline James, Keith Otis, James Thomas Brawner, Michael English, Ghirmai R. Tessema, Albert O. Thompson, Antonio D. Brady, Ronald E. Elus, Thomas Jackson, Onas A. Orestes, Leonard Blytner, Pyzon Wade, Quintin D. Williams, Willie Buckmon Jr., Anthony J. Lowery, Curtis I. Marshall, Timothy Brandon, Alvin Breland, James Thomas Fields, Tito Pullen, Ricky Murphy, Lloyd Nathan Copeland, Franklin D. Monroe, unknown (male), William Harris, Anthony M. Anderson, Clarence Washington, Eric Ashely, Darnell J. Monroe, Lester L. Presson, Keith Barnes, Ron Coleman, Bernard E. Johnson, Timothy E. Lewis.

William Tyson, Mark Murphy Jr., Nathaniel Williams, Cedric Francis, Sinclair Green, Eric B. Jones, Derrick Ben McKnight, Nguyen Tran, Michael Campbell, Billy Everett, Mahandeo Persaud, Leroy Scott, Jose A. Cruz, Larry Fuller, Anthony Butler, Cornelius Hill, Cornell L. Thomas, George Hemphill, Troy Bush, Richard A. Taylor, Michelle Logan, Sean Maurice Kornegay, Russell Savoy, Michael Tuck, Michael T. Harvey, Kevin Percel McNair, Doulgas Jay Linder, Erika L. Riggins, Philip Barocas, Patricia Drew, Tamonthy Johnson, Norman G. Price, Ethel Simmons, Albert King, John Smith, Larry Glenn, Terry Eugene Owens, Ronald A. Robinson, Roberto Lopez, Lisa Marie Ward, Katherine P. Russell, Alvin Cummings.

Marcus Lee, Paul Anthony Moore, Anthony E. Morrisey, John Edwards, Cary Jackson, Ronald Jones, Orlando Stinson, Sylvia Howard, Antoine Ruffin, James Frazier, Michael McQueen, Clayton Montgomery, James Dukes, Arnaz Rubio Mitchell, John W. Shields, Nathan Canada, Jose Jenero, Abarham Holmes, Cory Nelson, unknown (male), Dexter Fields, Curtis Pugh, Chamel Williams, Warren Kingsbury, Bamitale Williams, Robert Earl Johnson, Charles Williams Jr., Varron K. Carter, Deborah Ann Davis, Kevin Koonce, Leon Anthony Porter, Lina Sanchez, Bernard Anderson, Tony Maurice Dublin, Curtis C. Harmon.

Maxie Lamont Wright, Kiran Pandy, Norman Shields, David Henderson, Kerry Lann McLeod, Norman R. Mizzell, Donnell Luckett, George Rawlings, Ralph W. Asante, Darvis A. Dozier, William Jones, Booker T. Daniels, Calvert Davis, Donald C. Gamblin, Bernard E. Queen, Richard Smith Jr., Unknown (Female), Rinnie Stewart, Stephen E. Leight, James C. Quattrochi, Cheeri D. Rhymer, Keith A. Wiggins, Cary Cain, Lionel Harris, Robert A. Austin, Donnell Burroughs, Michael T. Crowder, Milton M. Jones, Jason Rufus, Jonah Denson, Marvin James Murphy, Coley Young, Lawrence Brown, Jeffrey D. Rowland, unknown (male), Anthony Roland, Wayne Anderson, Robert Dawson, Cedric L. Boyd, Marcus Cleo Thompkins, Jean C. Gassaway, Willie Young Jr., James Allen Long, Tommis D. Mackall, Abdul B. D. Raheem, Joseph Green.

Vernon Dale Page, George Adams White, Gregory C. Rogers, Norman K. Jackson, Kevin M. Jackson, Andre L. Lee, Jowell David Brookenberry, George Reid, Sharon Benson, Francisco Manzand, Jaqueline Garnett, Willie Spann Jr. Juan Jose Alvarez, Michael Mayo, Stanley Lee Mack, Dean Hicks, Charles West, Terrence S. Harris, Dante Kennedy, Emmett Pugh Jr., Anthony G. Robinson, Paul Washington, Sibley E. Hammonds, Dale Hegwood, Reginald Lott, Jeffery L. Wilkins, Chester T. Davis, Mildred Johns, Joan William, Ricky Eric Lewis, Augustus Frazier, Fay Sureena Murray, Stanley B. Morgan, Walter H. Thompson, Eric L. Mason, Lemuel Adam Conic, Michael J. Hall, Anthony Lee Dent, unknown (female), Tyrone Wells, Antonio R. Pigatt, Gerald Bazel, Onyribe Kingsley, Patrick E. Manning, Jose Sanchez Sr.

Vernon V. Blake, Leon L. Coachman, Billy Hopkins, Luis Roberto King, Ruel St. M. McPherson, Franklin M. Mendez, Marco White, Maurice Curtis, Charles L. Phillips, Charles L. Sanders, Beyound J.X. Edwards, Eric Michael Hunter, Ronald A. Overby, John Patrick Winston, Wanda Young, Michael T. Dozier, Carl Anthony Green, Demetrius Lake, Eric Williams, Cheryl J. Robinson, Soloman Roziner, Cleveland G. Boddie, Edward Eric Burke, John Leonard Fenwick, James Jacob Richardson, Lenard M. Payton, Norman L. Mason, James C. Murray, Henrietta Washington, Reginald B. Riley, Ronald Lee Gilliam, Billy Ray Tolbert, James Robert Wood, Michael Todd Branch, Anasdazia Neumann, Daniel B. Williams, Michael Jennifer, James Kimball, Robert W. Parks, John Parker, Sophia Jones, Billy Auvis Shelton, Darwin C. Pratt, Tyrone Mills Hamilton, Carl Dupree Sr., Douglas E. Spencer, Murphy Wright Jr., Todd Louis Allan, Terry Andre Goodwin, Keith E. Jenkins, Nikita F. Morris, Maurice A. Robinson.

Thomas Leory Gross, Eric Stanley Robinson, Ronald Jay Shelby, David N. Vick, Ricardo C. Minnis, Leonard A. Phelps, Dwayne C. Taylor, Angela White, Sameer P. Bhatt, Andre Hinkle, Mary M. Smith, Darryl D. Waldrop, Michael Barnwell, Frederick Beavers, Phillip A. Parks, Reginald J. Cobb, unknown (male), Tanya McKnight, Walter C. Veney, Derrick B. Crestwell, Clarine M. Collier, Nevel James, Felman M. Hampton, Frank Seth Gibson, Andre Reese Jr., Michael J. Porter, Robert S. Webb, Catherine Kirksey, Gwendolyn Allen, John Eugene Dunkin, Keith Winters, unknown (male), Herman Allen Guy, Verlee Jackson, Derrick N. Willams, Margrett M. Smith, George Wright, Okeyia S. Kelly, Lawrence W. Anderson, unknown (male), Arthur Tate, Vincent S. Parker, Khan Anthony Daley, Vincent Green.

Muhammad A. Rabbani, Leyvonne Hickman, Eric Wendell Noland, Andrea Alston, unknown (male) Donna Bigesby, Timothy Borum, Keith Willie Brandon, Corey Lamont Johnson, Jamil Milton Thrash, Rahsaan Folks, Michael J. Gathers, Janet Lynn Dixon, Timothy L. Paire Jr., Steven Ray Sturgis, Andre James Jennings, Sun Sop Sung, Edgar Edward Barnes, Edwin Merino, Michael A. Charles, Darryl T. Morgan.

□ 1750

TRANSPOSITION OF SPECIAL ORDER TIME

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent that the special order on October 26, 1993, for the gentleman from Michigan [Mr. BONIOR] be transposed with the special order for the gentlewoman from Hawaii [Mrs. MINK].

The SPEAKER pro tempore (Mr. GUTIERREZ). Is there objection to the request of the gentlewoman from California?

There was no objection.

ILLINOIS REMEMBERS ZEKE GIORGI, DEAN OF THE GENERAL ASSEMBLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MANZULLO] is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, Illinois is mourning the loss of Edolo "Zeke" Giorgi, the dean of the Illinois General Assembly, who served Rockford and his State for nearly 30 years, and who died on Sunday morning, October 24, 1993.

This was truly a public servant.

Zeke's main objective in life—personally and legislatively—was to help people. Party labels mattered not to Zeke: Whenever a person had a problem, it was not a party issue; it was a person issue.

A young lady called upon Zeke one day and told him she could not afford to buy her kidney medicine without quitting her job and going on public aid. Zeke called the pharmaceutical company and arranged to have her placed on its indigent program. She never had to go on public aid. Zeke helped her keep her self-esteem.

On another occasion, Zeke paid the motel room for a homeless, legless man. Zeke raised money for an airline ticket to fly a constituent to Seattle for the funeral of the man's brother. He also arranged other flights for constituents and somehow raised the money.

Zeke walked the extra mile that serves as the example of how a legislator should act. Zeke helped several seniors—in fact, at one time a total of eight—kept their checkbooks and served as their designated payees so that their Social Security money would stretch.

A family had its furniture in storage and had no place to live. Zeke found them housing, personally paid for the storage rent and truck, and then personally helped move their furniture.

Mr. Speaker, there are very few Zeke Giorgis in this world. If there were, it would be a better place. I am sure Zeke's name will be inscribed on some public building, and that is most appropriate, but his legend has already been inscribed on the hearts of the people he loved and served. Very few people can leave that legacy—Zeke did.

Well done, good and faithful servant. We will all miss you.

ESCALATING VIOLENCE BY THE IRA AND PROTESTANT EXTREMIST GROUPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCCLOSKEY] is recognized for 5 minutes.

Mr. MCCLOSKEY. Mr. Speaker, it is a dire day again when escalating violence by the IRA and Protestant extremist groups threatens to extinguish the strand of hope radiating from the Hume/Adams peace initiative.

As chairman of the Friends of Ireland, I rise to absolutely condemn the Irish Republican Army bombing in Belfast which killed 10 and wounded over 50.

In response, Protestant extremist groups have struck against the Catholic community in Northern Ireland, killing four thus far.

Innocent victims range from a 7-year-old Protestant girl, killed by the IRA bomb, to an elderly Catholic man who was killed after being brutally beaten.

Protestant extremist groups like the Ulster Freedom Fighters and the Ulster Volunteer Force have vowed more retaliatory killings. This unfortunately threatens to encourage yet another cycle in the spiral of sectarian violence in Northern Ireland which has claimed close to 3,100 lives in almost a quarter century.

Catholic and Protestant extremists are clearly attempting to scuttle the Hume/Adams initiative. The true tragedy is that they may have succeeded. It is crucial, however, threat efforts to find a lasting peace continue.

John Hume and Gerry Adams both have demonstrated personal courage in developing their initiative. I am not saying it was perfect or even that ultimately it would have necessarily succeeded.

However, it did represent a possible peaceful resolution to the troubles. Now terrorists who profit from the violence and instability are indiscriminately killing innocent Protestants and Catholics.

Yet again, a flickering flame of hope in Northern Ireland may be extinguished by bombs and a hail of bullets.

The Friends of Ireland includes almost a quarterof the Members of Congress, representing Irish-American constituencies of both Catholic and Protestant heritage.

In the last decade, great strides have been made in bringing together political leaders in Northern Ireland, England, and Ireland. From the Anglo-Irish Accord, to the Three Strand Talks, to the latest Hume/Adams initiative, imaginative and daring proposals have come forth in the name of peace in that troubled region.

Now, in this time of renewed violence, I urge that the small tentative steps toward a lasting peace not be obliterated by senseless violence by thugs. As chairman of the Friends, I believe the United States stands willing to facilitate genuine reconciliation.

But outside concern will not end the violence. True reconciliation and peace must come from the communities in Northern Ireland.

I urge the political leaders in Northern Ireland, the British Government, and the Irish Government not to give in to the brutal killers of 7-year-old girls and old men. I urge them to continue their dialogs and not abandon the hope of peace.

RESOLUTION REGARDING POLLY KLAAS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, today I am introducing a resolution of great importance that could mean the difference in the search for a missing child.

As many people throughout the Nation already know, Polly Klaas was kidnaped at knifepoint from her home In Petaluma, CA, the night of October 1, 1993, while her mother slept in a nearby room. Since the night of Polly's disappearance, her family, the Petaluma Police Department, the FBI, and hundreds of volunteers have been working nonstop to find Polly. Despite their tireless efforts, Polly Klaas has not yet been found.

The resolution that I am introducing today, will provide much needed, additional support to the search for Polly. It will urge the Attorney General and the Director of the FBI to cooperate with the U.S. Postal Service and the Polly Klaas Search Center to disseminate information nationwide about the abduction of Polly Klaas. And, it will emphasize doing so as quickly as possible.

The widespread distribution of Polly's picture and the sketch of her suspected abductor could mean the difference, Mr. Speaker, in the search for Polly, because kidnaped children oftentimes are recovered as a direct result of the circulation of photographs. With additional information distributed nationwide, someone may recognize Polly, from her picture, and be able to provide the information that leads to her safe return.

This resolution also commends the numerous volunteers for all of their hard work to help locate Polly. Practically overnight, the people of Petaluma transformed an empty storefront into a sophisticated search operation. The Polly Klaas Search Center has been run by hundreds of generous volunteers who have donated their time, energy, and funds. As a result of their kind donations, over 7 million flyers with Polly's picture, and the picture of her suspected abductor, have been distributed around the country.

The major problem, however, for the Polly Klaas Search Center and the Klaas family, as they work to find Polly, has been the high cost of postage. The U.S. Postal Service is prohibited by law from offering free postage, except to military personnel in times of war. Well, Mr. Speaker, I believe that this is a war—a war against our children, and one that we cannot afford to lose.

Polly's parents, Eve Nichol and Mark Klaas, told me that they believe this resolution is important to their battle to bring Polly home. Mark and Eve have sent a letter to all the Members of Congress asking them support this resolution for the sake of their daughter. I would like to read part of this letter. And, I quote:

> From the moment the town heard about this unspeakable horror, they mounted an unprecedented volunteer effort. A Polly Klaas Center was set up, and thousands of people from all over have joined the effort to search for her and distribute fliers throughout the country. Local companies have donated $1 million dollars worth of paper, printing, and supplies. But to date, we have spent in excess of $200,000 for stamps, and we continue to spend thousands more each day, just for postage * * * Our ultimate goal is that families in this situation in thefuture won't have to lose precious time raising funds for postage * * * Today, we ask you to help in our effort to find Polly now. Please help us.

Mr. Speaker, this tragedy has grabbed the attention of the national media. Stories about Polly have appeared on "America's Most Wanted," "CBS This Morning," and "CNN," as well as, in the Washington Post, the New York Times, and People Magazine. It is clear that this real life nightmare has sent shock waves throughout America. Parents in every community are wondering how such a thing could have happened, and if it could happen to them.

Mr. Speaker, we cannot sit idly by and watch our Nation's families be consumed by fear. We must act, and we must act now.

I urge my colleagues to show American families that they won't let their concerns go unnoticed. By cosponsoring this important resolution we show that the Federal Government can, and will, mobilize and do its part to help a family, and an entire community, fight back against one of the most hurtful and tragic crimes imaginable—the kidnapping of a young child.

Mr. Speaker, I would like to once again call on my colleagues to include information about Polly, as I have done, in the newsletters that they send to their districts. This could also make a crucial difference in the battle to find Polly. We all must do our part to aid in the search. My office has the necessary information available, and will assist any Member of Congress who wishes to participate in this effort.

Mr. Speaker, I ask my colleagues to please join me to help bring Polly Klaas home.

Thank you, Mr. Speaker, I yield back the remainder of my time.

□ 1800

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. DORNAN. Mr. Speaker, I ask unanimous consent to vacate my 60-minute special order and to be granted a 5-minute special order.

The SPEAKER pro tempore (Mr. GUTIERREZ). Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 166

Mr. DORNAN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 166.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A VISIT WITH RANGERS AND SPECIAL OPERATIONS FORCES AT WALTER REED ARMY MEDICAL CENTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I spent a couple of hours this afternoon up at Walter Reed visiting with some of the Rangers and Special Ops men who were wounded on the night of October 3 and October 4 in Mogadishu, or the afternoon of the 3d. What they told me was not a 7-hour fire fight or a 9-hour fire fight, or now it is up in some journals to an 11-hour fire fight. They said it was 15 hours.

What they described to me in their own words I have no argument with. They said it was the hottest, the most ferocious fire fight since World War II. That is saying something, from experienced senior sergeants and one officer.

The impression that our men were sniped off during the night is not exactly correct. Most of the fire was AK-47's on automatic, constantly, and hundreds of them, a staccato, they said, that went on for the first 3 or 4 hours that was deafening. One young Ranger with bad leg wounds said his humvee, which is a light wheeled vehicle, the same one that Nieman Marcus has, a red color, for sale, the one Arnold Schwarzenegger drives around, they said it was like cardboard, even though it was described as an armored humvee. His was hit with three RPG's and a hand mine at the same time.

I turned to the colonel who was with me from liaison and I said, "Did you know that, Colonel?" He said, "No, I didn't. I am learning something here."

The President went to see these people on Sunday. The Secretary of Defense went to see them on Monday. We are all going over to see them, but what are we going to learn from this? I told them I would like to come back. They said, "Absolutely." They want to talk about Haiti, about Bosnia, about using our military as an instrument of foreign policy under the United Nations, or sending Rangers in August after we had already lost a dozen men, to use as the sheriff's posse to go after Aideed.

Now we do not know if Aideed, Mohamed Farah Aideed, is part of a negotiating process. There is the smell in the air that a deal was cut: "Get the Rangers out of town, and we will give you back Warrant Officer Michael Durant." No proof of that, it is just a strange juxtaposition of events.

We are going to put 3,600 Marines in there, some of them on the ground in tents, 10 years younger than the average age of the Rangers, and some other special ops guys from Fort Bragg, to do a job that they almost came close to doing in six or seven raids, and then were jerked out.

The whole thing makes me focus on Haiti. I will do a special order, ask for one later in the week, on Haiti, Bosnia, and bring in some color blown-up photographs, 3 by 2 feet, that I took from the skies, over the skies of Mogadishu.

Then I will do another special order later in the week or the first of next week on why I believe Morton Halperin, as a created position under Secretary of State for Peacekeeping and Democratic Affairs, why he should not be approved by the Senate as a civilian overseer of our excellent military forces.

All the general forces, officers, all the field grade officers, company grade, and all the enlisted men I have seen in the Air Force, Marines, and particularly in the Army and our Rangers and others specially trained men that have been fighting in Somalia, I just cannot conceive of better people ever being in uniform at any time in the history of our Nation.

Ronald Reagan confused a great fiction film from James Michener's book, "The Bridges of Toko-Ri" with a real story that he had heard somewhere. The fictitious ending, with Frederick March playing Admiral Tarrant in that great story, "The Bridges of Toko-Ri," came out a long time ago, in 1954.

At the end of that film, the admiral is on the bridge. He says:

> Where do we get such men? Where do we get such men? They go out, they do their job, they come back and they find this pitching deck on these rough seas. How is America lucky enough to have such men?

Even though it is fiction, it certainly applies to these tough, handsome young guys with their bodies being put back together up there at Walter Reed, and at the hospital at Fort Benning and Fort Campbell and Fort Bragg and all of the Marines that came back with wounds. This is a tough story, Somalia. I do not think yet in this Congress or in the executive mansion we have the answers to their sons, daughters, wives, fathers, and mothers, many of the fathers veterans of Korea and Vietnam, and in one case a survivor of both wars, we today do not have stories for their brothers or sisters, uncles, aunts, all the people who love them as close family, to explain to them precisely what our foreign policy is, what our use of the military is, how we are going to put 25,000 people into Bosnia or why we are defending a crazed, defrocked, drugged-up priest to be inserted back into Haiti.

□ 1810

RUSSIAN OCEAN DUMPING OF NUCLEAR WASTE

The SPEAKER pro tempore (Mr. GUTIERREZ). Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON. Mr. Speaker, I rise today to extend some further information on a 1-minute speech I did this morning on the floor regarding the terrible condition in our oceans relative to the Soviet Union dumping radioactive waste from its nuclear-powered submarines and ships, as well as from its nuclear installations.

It was just several weeks ago that I asked the Subcommittee on Oceanography, on which I am the ranking member, to convene a hearing on the practices that the Soviet Union has undertaken for the last 20 years in illegally dumping nuclear waste in our oceans, and especially in the Arctic Ocean. I want to put things into perspective, Mr. Speaker, and relate the amount of dumping to the one major incident we see in this country involving nuclear contamination. Three Mile Island was a nuclear accident that occurred at a powerplant in my home State several years ago, which received international notoriety. During the entire duration of the Three Mile Island there was a total of 15 curies of radioactivity released into the atmosphere, 15 curies. In a study that was released this past spring called the Avlakov report, by a commission under Boris Yeltsin, the Russians now admitted that over 2½ million curies of radioactive contamination have been discharged into the oceans of the world.

Following up on that in hearings we held September 30 we have now found out there is currently 10 million curies of radioactive waste sitting in ships in Murmansk harbor because the Russians do not know what to do with this waste. They do not know how to dispose of it, they do not know whether to sink these ships, as they have done in the past, or whether to make some other efforts.

Mr. Speaker, this is becoming a scary situation nationwide. I was very cautious during the hearings that I not sound like an alarmist, and I said that during the hearings to which Dr. Ned Ostenso, Assistant Administrator for NOAA responded to me:

> Congressman, I am not sure what the difference is between an alarmist and a realist, because what you are saying is in fact reality.

In fact, we have this terrible problem worldwide of totally uncontrolled dumping of nuclear waste, primarily by the former Soviet Union, by Russia.

The most recent incident was the sinking 4 years ago of the Russian submarine, the Komsomolets, which sank in the Arctic Ocean. Dr. Tengig Borisov, chairman of the Russian commission that was recently established to deal with radioactive pollution in the seas, was asked what would happen if this submarine somehow broke apart and the contamination then impacted the waterways, and here is what he said: "If there is a leak, fishing will be impossible in the Norwegian Sea for between 600 and 700 years."

Now this is from one ship. The Russians, as we now are finding out through the efforts of Boris Yeltsin, have literally hundreds of ships that have both been deliberately and accidentally sunk in the oceans of the world.

Mr. Speaker, we have a real global tragedy on our hands, and unfortunately we are not doing enough about it.

I recently wrote to President Clinton and asked him in upcoming discussions that are going to take place at the International Maritime Organization meetings in London, that we support the effort of the Danish Government to put into place a complete ban on the illegal dumping of both low-level and other nuclear waste in the oceans of the world. I would urge my colleagues to join in this effort, and to also use whatever resources we have available to use to assist the Russian Government in attempting to deal with this problem of the 10 million curies currently sitting in ships in Murmansk harbors, as well as the nuclear-powered installations they have throughout the former Soviet Union. As a matter of fact, Mr. Speaker, the same problem exists whether with their nuclear reactor plants, and there is a terrible problem waiting in the wings for us in terms of Russia doing away with these plants.

As a matter of fact, the Navy disclosed to us that entire nuclear reactor plants have been disposed of in both the Kara and the Barents Seas. In fact, they list 18 nuclear reactor plants, 7 of them fueled, dumped in those seas, 13 submarine reactor plants, 4 of them fueled, 3 reactor plants from the icebreaker Lenin, one of them fueled, and one entire submarine with 2 reactor plants, both of them fueled. All of these were dumped in the Kara and Barents Seas.

Mr. Speaker, we must as a nation ignite the interest of the world community in coming to grips with this problem. It is severe, it is real, and it requires the attention of this country and all nations because of the potential damage this will do environmentally to the waters and seas, especially the Arctic seas that have been impacted by the illegal dumping by the former Soviet regime.

Fortunately, President Boris Yeltsin has been very cooperative in attempting to establish a relationship with us and the other nations of the world to deal with this problem. We must follow through and assist him in these efforts.

COMMERCE SECRETARY BROWN'S INVOLVEMENT IN NORMALIZATION OF RELATIONS WITH VIETNAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, some time ago my colleagues were informed about possibility that our Secretary of Commerce, Mr. Brown, received a $700,000 bribe from the Vietnamese Government in order to assist them in having relations with our Government normalized. There had been a longstanding commitment to the families of the POW–MIA's in this country that until there was a full accounting of those who were missing in Vietnam, the 2,200, until that was completed, there would be no normalization of relationships with that country.

Well, Mr. Brown allegedly, before he became Secretary of Commerce, met with a gentleman named Mr. Hao, who was a representative of the Vietnamese Government, and he met with Mr. Hao not once but three times, the third time being after he was confirmed as Commerce Secretary, and in his office at the Commerce Department. And Mr. Hao was the conduit between the Vietnamese Government and Mr. Brown, and allegedly arranged a $700,000 downpayment to Mr. Brown to try to get relations between our two countries normalized.

The Clinton administration in July and in September took two giant steps toward normalizing relations with Vietnam, and that has caused a lot of consternation and concern among a number of Members of the Congress of the United States, especially in view of the fact that the man who has made these accusations, a man named Mr. Binh Ly, successfully passed a lie-detector test that was 6 hours long, given to him by the FBI. Since Mr. Binh Ly took this lie-detector test, there has been a grand jury paneled in Miami, FL, and the grand jury is currently conducting an investigation to find out whether or not Mr. Brown should be indicted.

I just found out that the FBI has intensified their investigation at the request of the grand jury in Miami over the last 2 weeks to try to expedite this as quickly as possible. I also found out today that although Mr. Brown said he had never met Mr. Hao, and he said this I understand to the chief political correspondent, Mr. Howard Fineman, of Newsweek, personally he told him he never met Mr. Hao, he then later recanted, and his press secretary and his attorney said that he not only met with Mr. Hao once, but three times, the third time being after he was confirmed, as I said before, as Secretary of Commerce, at the Commerce Department.

We also found out today that Mr. Hao met with Mr. Brown in Miami the first time, and there was an associate from the DNC, the Democrat National Committee, with Mr. Brown at that first meeting. The man's name is Mr. Bill Morton, and he is now an official of some type at the Commerce Department.

All of this needs to be investigated very thoroughly, and that is the reason why on September 30 I wrote a letter to the President of the United States, Mr. Clinton asking him to give us any information he could about the problems involving Mr. Brown, and he try to freeze the normalization process with Vietnam until the whole issue had been resolved. Specifically I requested that because the POW–MIA families are very concerned about not having a full accounting about their loved ones who were left behind.

Second, on October 13 I wrote a letter to the President also asking that there not be any steps taken to lift this embargo. And we have not yet heard from the President on either one of these two letters.

On October 19 we wrote a letter to Janet Reno. She had said publicly that she was concerned, and I quote: "If I appoint a person or select a person to be special prosecutor you, meaning the press, are still going to question the conflict of interest as long as I'm involved in that process."

Again she went on to say, "For me to appoint somebody who will be asking me, well, that person has a conflict too because you appointed them."

□ 1820

Both quotes are taken from the Washington Post of October 1.

The Republican leadership of the House, the gentleman from Illinois [Mr. MICHEL], the gentleman from Georgia [Mr. GINGRICH], the gentleman from Texas [Mr. ARMEY], and the gentleman from Illinois [Mr. HYDE], and myself wrote a letter to the Attorney General, Janet Reno, giving her a list of eight former attorneys general and prosecutors, special prosecutors, from which to pick a special prosecutor to investigate this case. All of these people have impeccable credentials and are above reproach.

We have not yet heard from her. We are hoping to hear in the not too near future that she has decided to select one of these to be a special prosecutor to investigate this case.

Finally, today we have written a letter to the President once again, signed by about 25 Members of the House, asking that Secretary Brown recuse himself from any involvement or any negotiations with the administration involving possible normalization of relations with Vietnam. We do not believe while he is under investigation by a grand jury in Miami or while he is under investigation by Members of the Congress of the United States he should be involved in any way in any possible activities involving the normalization of relations with Vietnam. We have not yet heard back from the administration or Ms. Reno on any of these issues or any of these letters that have been written.

I understand also today that the ranking Republican on the Committee on Government Operations, the gentleman from Pennsylvania [Mr. CLINGER] sent a letter to the White House asking for logs, telephone logs, travel documents, and other things that would give us a better handle on this, so that we could as a Congress find out what happened and possibly avoid a full-fledged investigation.

Today or yesterday he got a letter, which was totally inadequate, from the Secretary of Commerce. They called down to the Commerce Department to ask a spokesman for Mr. Brown if Mr. Brown had in fact recused himself from any involvement in Vietnam, and the answer was "no."

So Mr. Brown is still involved as Secretary of Commerce in possible negotiations with them. I think that is wholly inappropriate, since that investigation is taking place not only in Miami with the grand jury down there but also by the Committee on Government Operations in this House.

If we do not hear from the President, Mr. Brown, or Ms. Reno in the relatively near future, we will have no choice but to have a motion of inquiry, a resolution of inquiry filed here in the House to try to force the issue.

I think it is extremely important because there are clouds hanging over the Clinton administration right now that these questions be answered very, very quickly; it is extremely important. We do not have a complete count of the POW-MIA's, in fact we do not even have a cursory accounting of the POW-MIA's. Two thousand two hundred of their families are still concerned about that, No. 1; No. 2, the Clinton administration took two giant steps toward normalizing relations with them by asking the World Bank and the IMF to go ahead with loan agreements with the Government of Vietnam. The second step was taken in September to allow American industry and businesses to go over there and, where World Bank or IMF loans have been approved, to allow them to bid on that business.

This created all kinds of questions. I would just like to say, Mr. Speaker, that the President ought to answer these questions as quickly as possible, give us a complete accounting; Ms. Reno should appoint a special prosecutor as quickly as possible; and Mr. Brown should recuse himself from any involvement in the negotiations on Vietnam until this issue is resolved.

With that, Mr. Speaker, I will conclude my remarks on this issue.

SITUATION RE: ILLEGAL ALIENS IN CALIFORNIA IN PARTICULAR AND IN THE UNITED STATES IN GENERAL

Mr. Speaker, I would like to talk about one other issue along with my colleague, the gentleman from California [Mr. GALLEGLY], who has been working for some time on the immigration problem, the illegal immigration problem that we face with Mexico and other countries.

Right now we have before this body and the other body what is called NAFTA. The NAFTA agreement will have a tremendous impact on the people of this country and the economy of this country one way or the other, depending on your point of view.

One of the big problems or stumbling blocks with NAFTA is the problem of illegal aliens or illegal immigrants. I would like to tell my colleagues that the estimated cost to the taxpayers of this country from illegal aliens coming into the United States is at least $11.9 billion a year. To give you some breakdown of that, we have a gentleman named Huddle of Rice University, who did an analysis of the overall costs. My colleague from California who compiled this information will want to participate in a moment or two. He said it costs, Mr. Huddle said it costs $11.9 billion to the taxpayers, net, in 1992. In California the estimates of net direct costs, including job displacement, range from $3 billion to $5 billion. Over the next decade, if nothing is done, Mr. Huddle estimates that the total net cost will be an incredible $186.4 billion a year.

Now here are some specific areas: He estimates that last year for welfare we spent $819.9 million in AFDC payments; $290 million in housing assistance; $2 billion in uncompensated medical care and other county health/welfare programs nationwide.

Next year MediCal—that is, California's version of Medicaid—expects to pay $1 billion for illegal aliens' health care. Four years ago it was only $187 million. So it has gone up over four times in just the last 4 years.

California counties spend millions of dollars in addition to this every year.

L.A. County reports 25 percent of the patients in its public hospital beds, 25 percent of the patients are illegal aliens. Illegal aliens in California alone receive $278 million per year in AFDC payments. The gentleman from California told me that last year there were 37,000 or 39,000 illegal alien babies born in that county alone. Is that correct? I yield to the gentleman.

Mr. GALLEGLY. In Los Angeles County last year, according to the chief administrative officer for the county of Los Angeles, over two-thirds of all the births in L.A. County-operated hospitals, the mother did not have a legal right to be in the United States. That number was right around 37,300. In fact, the Los Angeles County-operated hospitals could not handle the total demand, and we are subcontracting out to private hospitals at, of course, a much higher cost to the taxpayer.

Mr. BURTON of Indiana. I think the gentleman also told me that the AFDC payments alone, not including health care costs or education costs or anything else, AFDC payments alone were running around $25 million alone per month just for that county.

Mr. GALLEGLY. Just for Los Angeles County alone.

Mr. BURTON of Indiana. These costs nationwide are unbelievable. Just to give you a few more facts that the gentleman supplied to me—and I appreciate this: The Immigration and Naturalization Service reports its verification system detected 10,837 illegals who applied for food stamps during 1991 and 1992, which I guess will cost the taxpayers $14.5 million just for that.

Mr. GALLEGLY. If the gentleman will yield, the interesting part about that is that just the few that they caught who had actually applied in that almost 11,000, and we have very little or no policing in that area. That is one of the problems that we have with the fraud in welfare and public assistance, public housing, so on and so forth; almost no policing at all.

Mr. BURTON of Indiana. Then you get into education, and you find Mr. Huddle estimates the total nationwide cost for kindergarten through 12, college and special-education programs for illegal aliens was $5.32 billion last year, and in California there are as many as 300,000 illegal aliens in the public schools, costing $2 billion a year to that educational system.

With respect to crime, nationwide he estimates the cost is $1 billion a year for illegals. In our Federal prisons, 25 percent of the total Federal prison population are illegal aliens.

By next year—this is not the Federal prisons, as I understand it—but by next year in California the State prisons, in addition to the 25 percent that are in the Federal prisons, there is going to be 16,392 in your State prisons over and above the costs we just talked about.

Mr. GALLEGLY. The gentleman is correct. At issue, the number is closer to 27 percent, which was provided to us by Janet Reno, the Attorney General of the United States. At a time when we are faced with tremendous overcrowding in our prisons, at a time we are letting people out on the street who are absolutely a threat to society, this is an issue that is absolutely beyond belief when we take a look at those numbers.

Mr. BURTON of Indiana. Did the gentleman not tell me that there were 741,000 Americans who have lost their jobs or have been displaced because of the illegal aliens coming in and taking their jobs?

Mr. GALLEGLY. According to Professor Huddle at Rice University, who did a very comprehensive study which took a couple of years to put together, in his survey he has determined in a most conservative estimate 741,000 Americans have been displaced in jobs taken by those who have no legal right to be in the country.

I think it is very important to point out the fact that we all too often hear an argument that illegal immigrants in this country take only the jobs of those that American citizens or legal residents would not otherwise take.

□ 1830

That is absolutely untrue. In fact, in my own district in Oxnard, CA, recently we had an INS raid at a local manufacturer that made plumbing fixtures, a company that was employing people at $10 or $12 an hour. They arrested 52 individuals and deported them.

The interesting thing about it, within 2 days when the story hit the paper, there were over 250 citizens or legal residents of the city of Oxnard who were in line waiting to apply for those jobs that they had read about in the paper.

Mr. BURTON of Indiana. I was reading here that it said some of the people where they found illegal aliens had the job were getting $15 an hour, or about $31,200 a year. I think a lot of Americans would like to have that kind of a wage.

Mr. GALLEGLY. That was an incident I believe in the State of Nevada where they found working in casinos or some related business in the State of Nevada.

I think it is important to point out, the issue we are talking about here is not immigration. The issue we are talking about here is illegal immigration. I know my good friend, the gentleman from Indiana, is a strong supporter of immigration. We all recognize that immigration is the thing that has made this country the great country that it is. In fact, there are probably not many folks in this Chamber who cannot track their immigration roots back more than three or four generations, some even less than that; but the issue we are talking about is illegal immigration.

We every year allow more people to legally immigrate to this country than all the rest of the countries in the world combined, about 800,000 who legally immigrate to this country.

This is not only something that we have the right to do, we have a responsibility to control our borders.

In southern California, we have over 1,200,000 people illegally entering our country at the international border at San Diego, a 12-mile stretch from Otay Mesa to the Pacific Ocean. That is about 4,000 who illegally cross that border every night of the week, 365 days out of the year.

Mr. BURTON of Indiana. The gentleman might tell our colleagues what it looks like down on the border. It is kind of a big party, is it not, every night?

Mr. GALLEGLY. Well, you know, it is interesting because they have staging areas where they have vendors who come and sell food and other products during the day.

Mr. BURTON of Indiana. T-shirts and other products.

Mr. GALLEGLY. It looks kind of like a tailgate party, and they prepare for the sunset for their crossings.

Some of the interesting ways they will do it, they will send a group across that will draw the attention of the Border Patrol, and then two other groups in other positions will strategically run across.

On a best case basis, the Border Patrol—and I certainly have nothing but praise for the young men and women who are serving in our U.S. Border Patrol; they are doing an incredible job—but with the odds that they have against them by sheer numbers, solving illegal immigration with the number of people that we have on the border would be like trying to catch a B-1 bomber with a butterfly net. You just are not going to do it.

On a best case basis, they are interdicting maybe 25 percent. They stop them and interdict them. They take them across the border and before they get the papers out, they are back in the United States.

Mr. BURTON of Indiana. Before we get into this issue of how we think this ought to be handled and what kind of a bearing it has on NAFTA, I would like to give my colleagues just a few more of the gentleman's statistics that he compiled.

The total criminal justice cost in California is almost $500 million a year. That is State funds; is that correct?

Mr. GALLEGLY. That is State prisons, right.

Mr. BURTON of Indiana. And many illegals who serve time and are deported, returned quickly, as the gentleman just alluded to.

There was a study that said 40 percent of those who were rearrested in the United States within 12 months—in other words, they are arrested and deported and they are back here in 12 months and rearrested.

Mr. GALLEGLY. Mr. Speaker, if the gentleman will yield further, actually that was from the Los Angeles County Sheriff's Department. The L.A. County sheriff runs the county jail in Los Angeles.

In 1992, of all those who had been convicted of a crime—I am talking about a crime against personal property, not an immigration violation—but who have been convicted of a crime, served their time, that were in the country illegally and after they had served their time, they were deported, of all those who were deported 44 percent of them were back in jail after a conviction of another crime in less than 12 months. That shows you that deportation in and of itself is not working at all.

Mr. BURTON of Indiana. Something else that is very interesting along that line is that I understand there were 1,000 illegals who were arrested during the L.A. riots. I mean, my gosh, that was a tremendous part of the problem. I mean, billions of dollars were destroyed in that city that taxpayers around the country are going to be paying for, and 1,000 of those rioters were illegal aliens.

Mr. GALLEGLY. You know, this is an issue that really hits close to home for me as a kid who grew up in south central Los Angeles, who lived in the middle of the curfew zone in the 1965 Watts riots and what a tragic event that was. My job was inside the curfew zone. My home was there.

What happened in 1965 and what happened last year was not the same situation. During these riots, over 1,100 of those arrested for looting, rioting, burning, and so on and so forth, were illegal aliens.

I submit to you, and I have yet to hear anyone who really challenges this, these people who were arrested, very few of them were out defending the honor of Rodney King. In fact, I doubt seriously if they even knew who Rodney King was.

Mr. BURTON of Indiana. I hope our colleagues at least have some flavor for this and I hope that the gentleman and I can go into this in more detail at some point in the future, but what I would like to dwell on for the remainder of the time we have here is solutions to these problems.

The gentleman and I have written a letter to the President, along with about 22 other Members, talking to him about some things that ought to be added to the NAFTA agreement to help solve these problems.

One of those things was to send illegal aliens who are in our Federal penitentiaries and State penitentiaries back for executive of sentence.

The gentleman has some information on that.

Mr. GALLEGLY. There are a couple things that we were doing. One of the issues—it is not limited to Mexico and the NAFTA agreement, for instance. We are dealing with our friends to the north as well as our friends to the south, but it would be that anyone convicted of a crime in our country—that would be a part of this agreement—this is obviously something we cannot do unilaterally from a legislative standpoint, legislating the laws of other countries, but from a collective-bargaining standpoint during the course of the NAFTA negotiations, it is something that we could do and probably one of the few opportunities that we would have to have an agreement with Mexico and with Canada that anyone incarcerated in our country for a crime against another person or property, the other Government would agree to incarcerate them in their jails in their country and, of course, that is something we are working very aggressively on, and I still have not received a response back on that or the other elements from the President.

Mr. BURTON of Indiana. When you think that it is going to cost anywhere from $25,000 to $30,000 a year for each inmate, and you have over 16,000 in your California State institutions, not to mention the 25 percent in our Federal penitentiaries.

Mr. GALLEGLY. And that does not include those incarcerated in county jails.

Mr. BURTON of Indiana. Which is another few thousand probably, you are talking about hundreds of millions of dollars nationwide, or I think it was billions that we are paying for that.

It seems to me—and I know the gentleman concurs with this—that there are a number of steps that need to be taken. We need to do something in this body to try to help beef up our Border

Patrol people and the people in DEA who are dealing with these problems on a regular basis down there on the border.

I also have felt, I do not know how the gentleman feels about this, that with the closure of our military bases it might be a good idea to try to figure out some way as an adjunct to our Border Patrol guards to use our military to assist them in patroling those borders, because we are having such a tremendous amount.

The gentleman said that in that 12-mile stretch, you are getting what, over a million a year?

Mr. GALLEGLY. Over 4,000 per day.

Mr. BURTON of Indiana. If you look at the whole border, the 1,980-mile border between us and Mexico, the Embassy down there told me and the gentleman from Tennessee [Mr. DUNCAN] that there are 2.3 million coming across the border and about 1.3 million stay here. So this is something we have to address. We need the assistance not only of our Government in giving more support to our border guards down there—that is, the military—but also the military side.

Mr. GALLEGLY. I think beefing up our Border Patrol is absolutely essential.

In fact, I have a bill that would provide for increasing the Border Patrol by an additional 2,500 members, giving first priority to the young men and women who are being mustered out of the military. You know, we are having tremendous cutbacks in our military today and we have a lot of young men and women who have served their country well, and for those who would meet the profile of a Border Patrol agent, No. 1 to reward them for having served their country with a job and a job that is much needed in this country and, of course, much of that training has already been borne by the taxpayers, but I think that we really have to look at this issue beyond the Border Patrol, because you could have the greatest increase in the Border Patrol humanly possible, and as far as I am concerned that in itself is not going to stop the flow of illegal immigration.

□ 1840

I think it is also important to point out that I do not blame those that are coming into this country. They are not the ones to blame that are, for the most part, economically depressed, trying to either survive or provide a better lifestyle for their families. But I blame the United States of America, this body, the Congress, for providing the incentives, the carrots, the magnets, if my colleagues will, to encourage them to come here illegally by the welfare that we are providing, public housing, and more important than that are the jobs.

Mr. BURTON of Indiana. I wish that our colleagues were all down here to see that that is a forged ID card that they are able to get, that illegal aliens are getting to show that they are——

Mr. GALLEGLY. For about $35 to $40, on almost any street corner in many of the cities, certainly Los Angeles and many other cities in southern California, San Diego, they can purchase a card with their picture that is so perfect from detection that 90 percent of immigration experts cannot detect it. This complies the employer sanctions, IRCA, the 1986 Immigration Reform Act, and I have a bill that would eliminate this, along with the 28 other types of cards more commonly referred to as green cards, with 1 card that would be virtually counterfeit-proof. If we can protect a K-Mart from a $3.20 charge with a Master Card, or Visa or whatever, we certainly ought to be able to do the same as it relates to millions of jobs in this country, along with the other benefits. But until we stop the access to jobs and other public services there is no way we are going to be able to stop this increasingly large number of people from illegally entering this country.

Mr. BURTON of Indiana. One thing that will bring this to a conclusion here pretty quickly, but one thing that was very interesting to me, was when the gentleman gave me the pamphlet from the MediCal system in California which says that, "If you're an illegal alien, and you come in to get a child, have a child or have hospital care, you will not be reported to immigration officials," and it says that about three times in there, and they not only print that in English, they print it in Spanish and are passing them out down along the border, I understand, which is almost like an invitation saying, "Come on across the border, and you can have your baby here in the United States which will immediately become a citizen, and there will be no repercussions."

Mr. GALLEGLY. And of course the minute that takes place, then the child is, or I should say the parent, the legal guardian, is eligible for AFDC, health care, housing, and all the other benefits, and that amounts to well over a thousand dollars a month. And that incentive, we could be using that money, I think, a lot more wisely in trying to help discourage by finding areas to improve the economy, the countries that are particularly Mexico, but, as the gentleman knows, I know we are kind of short on time here, but there is one point I really want to make before we wrap up:

If we are going to really be intellectually honest on this issue, I think we have got to take a look at really who is being hurt by illegal immigration. Through the grace of God the gentleman and I, and most of the Members of this Congress and others that are probably listening that have a job, can provide for their families, and a couple of square meals a day, and buy a pair of shoes when the kids need them, but those that are dependent upon public health care, those that are dependent on public housing, those that are dependent on that entry-level job, the minorities in the ghettos that are trying to get that first job, that labored job, that unskilled job, so they can pick themselves up by the bootstraps and work their way out of the ghetto, try to strive for the American dream and the middle class, they are the ones that are being shoved to the back of the line. They are the ones that are competing for the jobs against those that do not have a legal right to.

So, if we are going to be intellectually honest, the people that are being hurt the most by illegal immigration are those that afford to be hurt the least.

Mr. BURTON of Indiana. Americans.

Mr. GALLEGLY. Right.

Mr. BURTON of Indiana. Let me ask one more question of the gentleman:

As I understand it, in California you have some hospitals where Americans have to wait to be taken care of because of the overcrowdedness created by these illegal aliens that are there.

Mr. GALLEGLY. Well, Los Angeles, L.A. County hospitals, are certainly a classic example of that, and I would welcome any and all of our colleagues that have any interest to take a visit there with me, look at it firsthand and see who is hurting, see who is hurting.

Mr. BURTON of Indiana. Well, I want to thank the gentleman from California [Mr. GALLEGLY] very much for all his work. I am a cosponsor of his bills, and I will continue to work with the gentleman to try to solve these problems.

I say to the gentleman, You are to be congratulated. If everybody in this body would take the time to research this like ELTON GALLEGLY of California, we would get this problem solved.

Mr. GALLEGLY. I say to the gentleman, DANNY, I appreciate your doing this special order tonight. I think you know we have worked together for many years. This is my fourth term, and in the four terms I have served here, this is the first special order I have done. I don't come here on a regular basis. In fact, this is the first special order I've done. I feel very firmly, strongly, that this is a very important issue affecting all Americans, not just those that live in the border States because all American taxpayers are paying the bill even though you may not have the presence in your neighborhood.

Mr. BURTON of Indiana. I hope our colleagues will take what the gentleman has said to heart, and I really appreciate his hard work.

TRIBUTE TO LEON SHULL

The SPEAKER pro tempore (Mr. GUTIERREZ). Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 60 minutes.

Mrs. MINK. Mr. Speaker, I take this time this evening in a special order in order to pay special tribute to a very dear friend and colleague with whom I have worked for a number of years, and this individual is a person of quite rare abilities, and his talents and experiences are very extensive, and we here tonight would like to pay special tribute to him, not only because he is celebrating his 80th birthday soon, but because it often does not get recognized when an individual has contributed so much.

Mr. Speaker, I came to the Congress in 1965 during my first tenure here, and this remarkable individual was director of the Americans for Democratic Action at that time. So, I have known him for a long time, and he has made a tremendous contribution toward the debate that engages this House, and I think it is quite appropriate, therefore, since he spent most of his time here in Washington engaging the Congress, and raising our level of perception and serving as the conscience of America, that we take time tonight to recognize. his service and to wish him a very hearty happy birthday on his 80th year.

I would like to at this time yield to my colleague, the gentleman from California [Mr. EDWARDS], who has some words to say about Leon particularly because he served as national president of ADA when Leon was here.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentlewoman from Hawaii [Mrs. MINK] for arranging for this special order tonight. It is really a wonderful event because Leon Shull and his wife are great people and were great people when I was so intimate with them many years ago. I was the national president of ADA from 1965 to 1967, and I was lucky because Leon had come aboard as director in 1965, although he had become the director in 1964, and these were very exciting days because they were the first part of the Great Society of Lyndon Johnson, and we made great progress in those exciting years.

For example, Mr. Speaker, the poverty rate in the United States in 3 years went from 19 percent of the population to 12 percent. We enacted programs like Medicare, Medicaid, aid to elementary and lower education, food stamps and, of course, the Voting Rights Act of 1965 where Leon and I had the partnership of that great, great civil rights lawyer and dear friend who is not with us anymore, Joe Rauh. It was a terribly exciting and creative period of time, and unfortunately it sort of ran out of gas when the Vietnam war sort of took the country by storm. It was an interesting era in other ways because Joe Rauh and Leon Shull were not the least bit shy about getting into some real exciting and controversial issues.

Mr. Speaker, in those days we were being bullied nationwide by the House Un-American Activities Committee. It would go up and down the country holding kangaroo courts that ruined the lives of a lot of people in Hollywood and elsewhere, and so Leon kind of pushed ADA, and me and others into trying to get rid of HUAC, the House Un-American Activities Committee, and I remember that the first big effort we made was in 1965, and we got 24 votes.

□ 1850

The year before that I think we had six votes. It did not bother them a bit, those of us who voted against their HUAC's appropriation, who had to go home and face another election. But we found out that we could survive, and survived to this day.

To the former chairman, Father Bob Drinan, a great Jesuit priest and national chairman of ADA, he and I were the ones in 1973 who put the nail in the coffin of HUAC by making a motion to send its jurisdiction to the Committee on the Judiciary, where it has rested ever since, I am sure very uneasily, in my subcommittee.

As I said, the Vietnam war as it escalated cast a shadow on the Great Society programs that meant so much to our country. We had a new era of red baiting and fear of communism. J. Edgar Hoover went on the air and said that any protester, college protester, should not be allowed to stay in college and was a dupe of the Communists.

We had the old ploy of people wanting to make it a felony to burn their draft card, so it became quite a thing, of course, for American young people to burn their draft cards.

They wanted to pass a bill to kick protesters out of college. Of course, that failed. Then there was a strong movement to make it a felony to burn the American flag, which, of course, failed because it was a violation of the first amendment of the U.S. Constitution.

But the war kept getting bigger and bigger. In 1965 it went from 20,000 to 40,000. Then the chairman of the Committee on Armed Services at that time, a gentleman from a very deep Southern State, called for bombing China. That created quite a sensation, because he said China and Vietnam were both Communist; therefore, they were friends; therefore, they should be bombed. That was the kind of mania we had in those days. ADA was fighting very hard against that sort of thing.

Finally, in 1967 the troops in Vietnam got up to 625,000 and Gene McCarthy came along and rode his horse into the arena to run for President. ADA backed him 100 percent. Leon Shull steered us in the right direction, and ADA endorsed Gene McCarthy, and we had a great time.

These were turbulent times. ADA was right in the midst of all of them, and Leon Shull was our executive director and one of our leaders. Joe Rauh and Leon were really a pair, and I feel very lucky to have known them both. I feel lucky to have known to this day as a dear friend Leon Shull. So I just think it is very suitable that we are here tonight to honor him on his 80th birthday. I cannot believe he is 80. He will always seem 35 to me.

Mr. Speaker, I now yield back to the gentlewoman from Hawaii [Mrs. MINK], and thank her very much for allowing me this time.

Mrs. MINK. Mr. Speaker, I thank the gentleman for reminding us about those turbulent years. I recall coming to the House in 1965 and you put us to the task very early, I believe it was my first day coming to the floor here, having to vote on a resolution on the House Un-American Activities Committee. So I fully recall those days. Certainly without the advice and direction and wisdom and philosophy and expression of principle that we got from Leon Shull, many of us would have floundered in those very, very difficult days. So I credit my survival in this institution, and really my return, to the lessons I learned from this great individual. So I am very proud to call on a very dear friend and someone who should be remembered by all the generations that he has affected.

It is my pleasure now to yield to the distinguished deputy majority whip, the Honorable JOHN LEWIS, who has served this body with great distinction. One of the ways in which he has helped us, not merely here on the floor and in the complicated business of legislating, is by serving as president of the Americans for Democratic Action. So I am really honored to have the gentleman here joining us tonight.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to pay tribute to a great American, Leon Shull. I want to take a moment to honor this man—a man to whom I and countless numbers of others are greatly indebted. For more than 50 years, Leon Shull has been in the forefront of the struggle for civil and human rights in America. Leon Shull personifies the very best in the American tradition. He has dedicated his life to fighting for social justice and equal rights.

Shull's efforts as an activist has helped to empower hundreds of thousands of people. The accomplishments of Leon Shull are many. His leadership is unequaled. His devotion to human and civil rights is complete.

I have known of this man for more than 30 years. He is a good and decent man. He is a leader in the truest sense of the word. He is a crusader for social justice.

For 20 years, he was the national director of Americans for Democratic Action. As national director of ADA, Shull presided over the organization's greatest periods of growth and influence. Under Shull's leadership, ADA spearheaded numerous initiatives, including full employment legislation, opposition to the Vietnam war, campaign finance reform, and numerous other issues.

In the 1940's and 1950's, Shull led efforts in Philadelphia and southeastern Pennsylvania to ensure fair treatment of minority and women workers. He fought and helped defeat political corruption in the State of Pennsylvania during those years.

Leon Shull was able to organize the unorganized. He gave many hope in a time of hopelessness. His work and his cause enhanced the dignity of humanity everywhere.

Leon Shull is persistent and consistent. He has had a vision of a new America, a better America. He had had a dream of what America could become. He has kept his eyes on the prize.

Men and women such as Leon Shull, Dr. Martin Luther King, Jr., A. Phillip Randolph, Hubert Humphrey, Thurgood Marshall, Fannie Lou Hamer, Robert Kennedy, and Walter Reuther have inspired me and thousands of others with their leadership and dedication. These men and women brought us through one of the most difficult times in modern American history, the civil rights movement of the 1950's and 1960's.

I came of age during the civil rights movement. It was a period in which I found my own courage to try and make a difference in this society. I was inspired by individuals such as Shull. I drew strength from his examples of leadership, commitment, and dedication.

Tonight, Mr. Speaker, we salute and pay tribute to a great American—Leon Shull.

Mrs. MINK. I thank you very much, our leader, for those inspiring words. I know that Leon deserves every bit of your comments, and I know that he will appreciate it very, very much. I am grateful that you were here tonight to share those words.

□ 1900

I think the fact that you are the head of the organization and are leading the troops at this critical time is also a tribute to the kind of path and channels that Leon Shull created for us. To make it possible for such leading Members in the Congress of the United States to serve in the capacity as president of ADA is largely a tribute to Leon Shull. There are many others who served as national president in addition to our colleague here, the gentleman from Georgia [Mr. LEWIS]. The gentleman from California, DON EDWARDS, as I said earlier; Don Fraser, who was before my time, currently, I believe, still mayor of the Twin Cities in Minneapolis. We have our deceased member, our late colleague Ted Weiss, who also served as president of ADA, and many, many others.

I was just speaking to my colleague here from Massachusetts, and he reminded me of the service of Father Drinan in this body, who preceded him here, and Father Drinan also served as president of ADA.

Mr. Speaker, at this time I yield to my colleague, the gentleman from Massachusetts, BARNEY FRANK. To have him participate in this special order is a point of high privilege.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentlewoman from Hawaii for organizing this and giving us the chance to do this. I want to use a phrase that we often use in a negative context in what seems to me an appropriate, positive context. For many of us this is payback time. It is payback time to a man, Leon Shull, who has been as selfless and as dedicated and as committed to a logical and consistent conception of the public good as anyone I know.

The great role that Leon Shull has played during the time that I have been here and before, throughout a very active and productive life, but he continues to be, at the age of 80, a dedicated activist, the important contribution he makes is to show people how to be a very levelheaded fanatic.

We, too often in our society, oppose two different versions of political activity, one a kind of cool, almost manipulative approach, misnamed pragmatic, in which you are known for your skills at accomplishing things, your ability to read a situation and propose strategies and tactics that will carry out a goal. On the other hand, we talk about people who burn with a zeal to change things, to accomplish things. And they are the ones we call idealistic. And strangely, we often juxtapose idealism and pragmatism as if they were somehow logically contradictory.

In fact, they are, sadly, often in fact contradictory. People who care very deeply, very passionately about a set of issues often do not take the time and the trouble and show the discipline to think about how best to get those issues accomplished.

Leon Shull, in his career, demonstrates that this is a false juxtaposition, and he makes it clear, in fact, that those who are the most pragmatic, those who have the levelest head, those who are willing to do the hard work of studying political situations, understanding the forces at work and devising strategies to try and change those forces are, in fact, the supreme idealists. They are the ones who carry the ideals into action.

Leon Shull's career simply belies the argument that being knowledgeable about and skillful at political realities somehow makes you less than pure in your idealism. He has been both. He has had a career. Given Leon Shull's talents, his ability, he could have made a lot more money than he ever made, by orders of magnitude, probably, more than he has made. But because he had a commitment to a world in which social justice and fairness and compassion reigned true, because he was revolted by racial discrimination and sex discrimination, discrimination based on sexual orientation, discrimination against people on any irrelevant grounds, because he did not think children ought to be born poor and stay poor and not be given opportunities, because he cared about peace in the world, for all of those reasons he eschewed careers that could have been for him much more profitable and, instead, has been a dedicated and skillful and determined activist.

And he has done it with skill and with success. And precisely because of his willingness to become as skillful a political strategist as I have had the pleasure of working with, he, therefore, can claim more achievements on behalf of poor people, people discriminated against, peace in the world, than many, many, many others.

Personally for me, he was, when I first came to Congress, one of the people who helped me understand what the reality was and how best to take the issues that I cared about, because I shared the values that he has so well exemplified, and how to translate them through an effective assault on the reality that we felt needed changing.

If is not surprising that so many of us who have served here in the House have joined Leon Shull in ADA, because we found in him a perfect ally in our fights.

I said before that at the age of 80, he continues to be an activist. Last week I had a meeting. It was a meeting in which we were trying to embody the principle of majority rule. The principle of majority rule, we believe, is present everywhere in American Government. But in fact, it is not. There is one place in American Government where majority rule is not followed. But I cannot mention it, because of the rules of the House.

However, we had a meeting to talk about implementing majority rule in that unmentionable place. And Leon Shull was one of the first we asked to come and join us, as we strategized about how to call to the attention of the public the absence of democracy somewhere in this city where people think it ought to be there.

Leon Shull understands how that absence of democracy somewhere in this city retards our ability to carry out the basic progressive principles. And as Leon Shull has helped others destroy stereotypes from which they have suffered, stereotypes about people based on their race or their sex or their physical conditions, now at the age of 80 he is helping to destroy another very disabling sterotype, one that says that as you reach a certain age you are no longer able to be useful.

He continues to be a vibrant contributor to the coalition of people who are determined to bring social justice to

America and who understand that bringing social justice to America in no way contradicts our goal of increasing the prosperity of the country as a whole but, in fact, complements it.

I am delighted to be able to pay tribute to Leon Shull, and I am grateful to our colleague from Hawaii for giving us a chance to do so.

Mrs. MINK. Mr. Speaker, I thank our colleague for pointing out the fact that while we pay tribute to Leon tonight, on the occasion of his 80th birthday, this individual is still very vigorous and very much involved in many of the issues that we confront every day on the Hill. And as we discuss important subjects like filibuster and how to organize the Congress and how to prioritize our issues and what strategies to engage in, we always find that Leon Shull has been called upon to give us advice.

I am very pleased now to yield to my colleague, the gentleman from Hawaii [Mr. ABERCROMBIE], who is here. He and I came together in my second round to Congress. I appreciate very much his taking time to join us in this special order.

Mr. Speaker, I yield to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, next month will see the 80th birthday of one of the most distinguished Americans of our time. Leon Shull, who served for two decades as national director of the Americans for Democratic Action, has earned a place among the great men and women who have shaped this Nation.

Leon Shull sought—and still seeks—nothing less than honoring the promise of the American dream. A steadfast liberal when liberalism was in fashion and out of fashion, he has never wavered in his principles. One of the undying themes of American history is the struggle to extend the rights of full citizenship envisioned by the authors of Declaration of Independence and the Constitution.

Leon Shull has been at the forefront of that fight for close to half a century. He was an early—some would say "premature"—advocate for racial equality and human rights. He understood that change requires engagement in public life. That understanding led Leon Shull to become deeply involved in the campaigns of candidates for every level of public office: municipal, State and Federal. In 1952 he was director of volunteers for Adlai Stevenson. In 1960 he was director of John F. Kennedy's campaign in southeastern Pennsylvania.

But, more than his work for any particular candidate, we honor Leon Shull for his work as national director of Americans for Democratic Action from 1964 to 1984. These decades encompassed some of the momentous years of American history. They saw the emergence of the civil rights movement and the first concerted Federal programs designed to fight poverty. They also saw the tragedy of Vietnam. Through all of these developments, Leon Shull continued to articulate the commitment of millions of Americans who have remained steadfast in their commitment to equality and justice.

Today, Leon Shull is retired. But one uses that word advisedly when speaking of this remarkable man. He continues to speak out, to organize, to advise, to help guide the course of American liberalism. Happy birthday, Leon, and may we have the benefit of your counsel and encouragement for many years to come.

□ 1910

Mrs. MINK. Mr. Speaker, I thank my colleague, the gentleman from Hawaii, very much. I appreciate those words very, very much.

To wind up our tribute tonight to Leon, I would like to call on a colleague who has more than his own individual experiences to relate to us, but he advised me that his father was very much involved in ADA and has very, very intimate stories to tell about Leon Shull. It is my privilege now to yield to our distinguished colleague, the gentleman from California, BOB FILNER.

Mr. FILNER. Mr. Speaker, I thank the gentlewoman from Hawaii. We are so appreciative of her efforts to allow us to pay tribute to Leon Shull on his 80th birthday.

Most of us have been influenced by Leon, Mr. Speaker, because of his 20 years as national director of ADA, the Americans for Democratic Action, which he presided over for those years, which saw unprecedented growth and unmatched influence for the Nation's oldest and largest political action and lobbying organization devoted to progressive ideals. He was a pivotal figure, as the Members have heard from our previous speakers, in all the major issues of the last 30 years.

Just reading off those events and causes that he so influenced can tire one out: nuclear arms control, the fights against Carswell and Hainsworth in the Supreme Court, the creation of ADA PAC's to support the campaigns of Progressives running for Congress, campaign finance reform, the reform of political parties, civil rights, human rights, at home and abroad, the Impeach Nixon campaign, post-Watergate reform efforts, youth empowerment, realigning the Federal budget priorities, tax reform, full employment, opposition to the war in Vietnam, passage of the Humphrey-Hawkins Full Employment Act, on and on. These are the issues on which Leon gave guidance, support, and victory, many times.

As the gentlewoman from Hawaii [Mrs. MINK] mentioned, my father was involved over a long period of time with the ADA National Board. I knew long before I met Leon that he was and is the font of all knowledge when it comes to progressive issues, past, present, and future.

I first met him when I cam to Washington nearly 20 years ago, when I was a legislative assistant to Senator Hubert Humphrey and Congressman Don Fraser, both long-time members and leaders of ADA. Leon educated me, as he had so many others, in the art of a practical politics, but as the gentleman from Massachusetts [Mr. FRANK] said, a practical politics defined by a true commitment to progressive ideals.

He schooled me and others in this vision in meetings and conferences, and in enormously stimulating dinner parties hosted by he and his partner in life, Anne Shull. I went back to San Diego, and as elected members of the San Diego Board of Education and the city council, I could always call on Leon to help put a national perspective on the issues we were dealing with locally, whether they were education reform, defense spending, economic conversion, you name it.

When I returned to Congress as a freshman Member, he was still there, as he is for all those who might call, to help prepare us for the battles in this arena, to show us a road map of Capitol Hill and the pitfalls and opportunities that a Member of Congress may face.

Like everyone, I sometimes disagree with Leon, but I know I can always get an honest and incisive assessment of the issue involved. Leon and Anne, we love you, we thank you for your years of activism, your years of mentorship, your years of commitment to a world of peace and economic and social justice.

I thank the gentlewoman from Hawaii [Mrs. MINK] for allowing all of us to share our debt and our country's debt to Leon Shull.

Mrs. MINK. Mr. Speaker, I thank the gentleman for his contribution. There were many other Members who would have wished to be able to join us tonight. One of them is our colleague, the gentleman from New York [Mr. RANGEL], who was here earlier but had to leave. He also served as president of the Americans for Democratic Action.

Mr. Speaker, to sum up our feelings about Leon, I think it would be accurate to say that this individual was a remarkable person who was able to combine not only a wit and sense of humor but an enormous, incredible ability of trying to synthesize some very complicated issues and being able to, in a few words, command the attention of the people to whom the words were being directed; namely, Members of Congress, people who were in the policy arena.

□ 1920

And he had this marvelous talent of being able to provoke your intellect and your conscience to do the right thing. And I think that his contributions have to be acclaimed, and his skill and his ability as a person who could come to the Hill, describe the content of legislation and the enormous need for this legislation in order to help the people of this country.

No matter what the issue, whether it was the environment, or consumers, or people who were ill, or in need of housing, or food, or the hungry, or whether it was a civil rights issue, or war and peace, or whatever the matter at hand, a defense appropriation for moneys he felt were being wasted on unneeded projects where the funds could be used in other areas, he was a champion of the social and economic needs of this country. And he spent his lifetime arguing and debating and formulating these issues so that we, in arenas like this in the Congress, could better focus our energies and accomplish these things in the name of what is good for our country.

Not very often do you find a national organization that almost is parallel to our political parties like the Democratic Party or the Republican Party. The ADA had its own platform. It had people coming to the Hill to lobby on legislation. It had its own convention in which it endorsed nominees that ran for office both at the national level and sometimes at the local level for governor. It set about mobilizing a grassroots organization because that is where the strength of ADA lay, and as national director for 20 years, Leon Shull presided over all of these very, very extensive and important activities. He was out there mobilizing the grassroots at the country level and the State level, moving across the country, talking about issues of importance and why people ought to care.

That is not to say that there were not other important organizations, ones committed to the environment, some to social issues, civil rights, the housing alliance or women's groups, the labor unions, each one targeting a narrow portion of our national agenda and working vigorously in that area. But for Leon Shull, he took the whole panorama of issues that faced our country, and like the political parties, like the Democrats and the Republicans, fashioned a platform and a form of action to try to accomplish these things in a global and total sense. And he was a master. He devoted his total energies and expertise in organizing and in confronting people who were going to make decisions to make the right decisions.

He served at a critical time. I happened to be here in the Congress during the Vietnam war and during the matters in which we debated the poverty program, and the housing agenda, and the concepts of nondiscrimination in jobs, and the need for full employment, and all of these things that were debated at that time. It is not to say that they are not central issues today, but the character of the debate has changed somewhat, largely due to the pioneer work of Leon Shull and those who followed in his footsteps who placed the proper agenda and emphasis of this country, and for all of the people who believe in what can be done about these issues. And Leon was a master at doing that.

So I am very proud to have had the opportunity to serve not only in the Congress with him, giving us direction and leadership, but also after I left the Congress to serve as national president of ADA for three terms while he was the national director.

Since he retired in 1984 he has gone on to assume numerous other responsibilities. He has not been in retirement. He simply left the presidency of ADA. He went on to serve as executive director of Citizens for a Just Minimum Wage. Minimum wage is very much an issue that this Congress has to deal with if we are really going to move our country forward and provide people with quality employment. I mean how can we talk about people working a full 40-hour week and still being in poverty based on our national standard? So there he is working mightily as a member of that committee.

He also went on to serve as executive director of Citizens for Workplace fairness. This has to do with the striker replacement bill. So he is very much in the forefront as an activist and a strategist in order to get that legislation through the Congress.

He served as legislative director of the Full Employment Action Council, because again, as in the early part of his career, he is back to concentrate on the importance of full employment in America. Whether we talk about NAFTA or any of the other issues that provoke this Congress, and which require our action, fundamentally it all comes down to jobs. Whether we are debating an item in a defense budget or social program, we are talking about what impacts it will have on the employment opportunities in this country.

He has returned to the ADA, and that is probably the most remarkable thing. He is our No. 1 volunteer. He is serving in our legislative department. He is giving guidance again to people who come and flock around him for inspiration. He has been a model individual in my life, and he has certainly affected the lives of many people here in Washington.

We pay tribute to Leon for his remarkable career. But alongside him, inseparably and almost joined together in this crusade to make America better has been his wife, Anne, who has worked side by side along with Leon on all of his adventures and all of his projects. And so we cannot really pay tribute to Leon without also recognizing his wife, Anne. His two daughters, Jane and Susan, and son-in-law, Ed, and his granddaughter, Ruth, I know will be coming together shortly in the Capital City to join with Anne and Leon in celebrating his 80th birthday. And so along with my colleagues who were here tonight, and those who were not, I want to extend to Leon the happiest of 80th, and many many more to come. And we will continue to look to you, Leon, for your leadership, and for your challenge for a better America.

Mr. MINETA. Mr. Speaker, I would like to thank our good friend, the gentlewoman from Hawaii [Mrs. MINK], for requesting this time to pay tribute to Leon Shull, on this the occasion of his 80th birthday.

Known to many as Mr. Liberal, Leon Shull has been a driving force in American politics for over 50 years. Without his commitment to the principles of fairness and equality, some of the most important civil rights and employment laws in this Nation would never have been enacted.

The amazing thing about Leon's many achievements is that they came about as a result of grassroots political action that seemed to have little or no chance of winning from the outset.

From his work in reforming Pennsylvania politics in the 1940's, to his opposition to the Vietnam war, to his passionate commitment to progressive political action, Leon's activism springs, not from any quest for power or influence, but from his unshakable dedication to equality and justice.

It is this very integrity that has kept Leon as active in the political process at age 80, as when he first started in politics. While most of us would have long since stopped to smell the roses, Leon continues on as a full-time volunteer at ADA where he serves as the legislative and grass-roots coordinator for ADA's efforts to enact a single-payer health plan, bring about full employment, and realign our national budget priorities.

On top of all this, Leon continues to reach out to younger ADA staff and volunteers, teaching them about the power of grassroots political action and instilling in them a drive to continue the tradition of activism he started at ADA.

Leon's principled dedication and commitment are respected across the political spectrum, even among those who disagree with his positions on the issues. His activism represents the embodiment of the basic ideals of American Government: that a free people are capable of governing themselves and that, despite the cynicism of our times, one person can make a difference.

I'm proud to join my colleagues in wishing him a well-deserved Happy Birthday.

NORTH AMERICAN FREE-TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER. Mr. Speaker, I have taken out this time this evening to talk about the North American Free-Trade Agreement. We know that it is a package that is being strongly supported by President Clinton. It is being supported by all of the living former Presidents. This morning a letter was circulated from all 10 living former Secretaries of Commerce supporting the North American Free-Trade Agreement for a very simple and basic reasons. They have all come to the conclusion that the North American Free-Trade Agreement is in the best interest of the United States of America.

One of the things that has happened over the past several weeks and months is that the people have been led to believe that implementing the North American Free-Trade Agreement is somehow a sellout of U.S. interests. Mr. Speaker, actually nothing could be further from the truth. In fact, the opposite is the case when one looks at NAFTA.

I happen to believe that as we look at the challenge of the future, NAFTA is in our best interest. In fact, as we listen to people who regularly stand here on the floor of the Congress, we listen to people out there in the country debating on television and radio programs the North American Free-Trade Agreement, we regularly hear horror stories about Mexico, about the flow of United States jobs from the United States to Mexico.

□ 1930

We hear about problems that exist on the border, we hear about the problem of illegal immigration which certainly affects my State of California. Our taxpayers in my State have to shoulder a $3 billion annual cost for illegal immigration. We hear about the wage situation that exists in Mexico, we hear about human rights violations in Mexico, we hear about a lack of political pluralism in Mexico. We hear all these things and one would conclude that every one of these problems is taking place. Why? Because of NAFTA? Well, Mr. Speaker, NAFTA does not exist. NAFTA is an agreement which will be struck among the three countries, Canada, the United States, and Mexico, and is proposed to go into effect January 1, 1994, and be phased in over a 15-year period. So as we listen to the horror stories of United States jobs going to Mexico, as we listen to the horror stories of environmental problems on the border, as we listen to the horror stories of human rights violations which have taken place in Mexico, as we listen to all these problems, illegal immigration and all, we have to realize that all these things have happened not because of NAFTA, because there is no NAFTA. I happen to believe that while every single one of these problems does exist, the best way for us to counter these is by implementing NAFTA.

So basically the conclusion that I have drawn is that the North American Free-Trade Agreement is about the future and not the past.

What we need to do is realize that we have some very serious economic problems right here in the United States. I am privileged to be able to represent part of Los Angeles County here. The unemployment rate in Los Angeles County is between 9 and 10 percent; the unemployment rate statewide in California is right around 9 percent. I happen to believe that the North American Free-Trade Agreement is not just in the best interests of the State which I am privileged torepresent here in the Congress, it is in the best interests of this country. Why? Because we desperately want to create job opportunities here in the United States all over the country. The best way for us to do that is to realize that finding new markets for U.S.-manufactured goods and services is the best way to do that.

How do we do that? By breaking down tariff barriers, and that is what NAFTA is all about.

You know, those who oppose the North American Free-Trade Agreement do not offer a job-creation strategy. Oh, yes, they say things with which I agree that we should reduce the capital gains tax rate here in the United States, to create a business friendly Government outlook here; but we have this great opportunity 3 weeks from tomorrow when on November 17 we cast our vote on the North American Free-Trade Agreement.

Frankly, if we pass this opportunity—and there are many who have predicted defeat of the North American Free-Trade Agreement—I think we have a great chance to narrowly win it. I have said many times that if this were a secret ballot it would probably win by 75 votes. Why? Because as I have talked to colleagues on both sides of the aisle, Democrats and Republicans, they say they know it is in the best interest of the United States of America to pass NAFTA. But they feel political pressure at home and for other reasons they do not think they can vote for it. In fact more than a few, Mr. Speaker, have said to me they hope it passes but they feel they do not want to vote in support of it.

So clearly we have to look at the consequences of a potential defeat of NAFTA.

Let me tell you basically what happens: There is no doubt whatsoever that someone will export products like cars, computers, medical equipment, telecommunications to Mexico. With NAFTA if we put it into place it will be the United States of America. We will be the ones manufacturing automobiles, telecommunications, medical equipment, computers, other things to send into Mexico. Without NAFTA it will just as likely be Japan and the European Community.

I have said many times, Mr. Speaker, that I am not one who likes to engage in bashing Japan or the European Community, but I am the first to acknowledge that Japan and the European Community have benefited greatly since we played a role in rebuilding their economies, their societies in the postwar world. And what has happened is they would very much like to have the chance to get into the Mexican economy.

There are 88 million consumers in Mexico and if we defeat NAFTA they will have in Mexico little choice other than to look toward Japan, the Pacific rim, and the European Community for opportunities to trade. Why? Because the United States will have said to the neighbor, their neighbor with which they share a 2,000-mile border to the north, the United States will have said, "Forget it. We don't want to do this."

Now I have always said that as my friends talk about, "Not this NAFTA, we want to create another North American Free-Trade Agreement," I believe that is slightly disingenuous. Why? Because while this is a 2,000-page agreement and I do not like every aspect of it and I am supporting NAFTA in spite of, not because of the side agreements, I am convinced they do not jeopardize U.S. sovereignty as some have said; but as we look at this package, that is phased in over a 15-year period—and the reason it is so long is that the tariff structure is so great today that we need to work to bring it down—but as we look at those who say, "Not this NAFTA, we need to negotiate another NAFTA," I say: "Strike an agreement that will have the support of Ross Perot and Pat Buchanan, Jesse Jackson, Jerry Brown, Lyndon LaRouche, Ralph Nader. These people who came out and opposed NAFTA said there should be another NAFTA. The AFL-CIO, I am hard-pressed to believe that an agreement could be struck that would have all of the support of the AFL-CIO and Pat Buchanan and at the same time Jesse Jackson.

So the fact of the matter is while it is not perfect, and I realize, I am the first to admit there is going to be some job displacement—that is what happens with free markets, the free flow of goods and services. That is the way it works. I am convinced while this one is not perfect it clearly is far superior to the status quo and it does create an opportunity for the United States of America to have a tremendous, tremendous advantage over the Japanese and the European Community.

Let me explain why: First of all we look at the tariff structure that exists today. I would like to ask you, Mr. Speaker, to focus on these charts right here so that our colleagues, most of whom are not here but I realize they may be seeing this in some other spot, the tariff structure that exists today as a tariff that ranges between 10 and 20 percent for chemicals, United States-manufactured chemicals going into

Mexico. Where the United States tariff on chemicals from Mexico is between zero and 4 percent.

Under NAFTA for the United States and Canada that tariff will be completely eliminated. What we will see is we will see this tariff barrier of 10 to 20 percent maintained, not for the United States, Mr. Speaker, but for the Japanese and the European Community.

Look at pharmaceuticals: On an average a 15-percent Mexican tariff is charged on United States-manufactured goods going into Mexico. The average tariff that we impose on Mexican pharmaceuticals coming into the United States is only 3.5 percent. Under NAFTA that is totally eliminated, brought down to zero. But for the Japanese and the European Communities it is still a 15-percent average tariff barrier that wall will still be up giving the United States a greater advantage over our friends in Japan and the European Community.

In the textiles and apparels area, 14 to 20 percent on average, the Mexican tariff that is charged—a tax basically on United States textiles and apparel going into Mexico—6 percent is the average tariff that we have on Mexican textiles and apparel coming into the United States. This 14- to 20-percent average tariff remains for Japan and the European Community. But it comes down for the United States creating an opportunity for us to gain access to those 88 million consumers creating a chance for us to create jobs here in the United States and expand export opportunities for us.

So it seems to me we need to realize that NAFTA is clearly in the best interests of the United States.

Let us go further: Industrial machinery. On average a 10- to 17-percent Mexican tariff on United States-produced industrial machinery going into Mexico, zero to 2 percent is the United States tariff on Mexican-manufactured industrial machinery coming into the United States. What happens under NAFTA if NAFTA is implemented? both sides are brought down to zero. But remember Japanese and European Community manufacturers of industrial machinery will still face this 10- to 17-percent Mexican tariff.

Household appliances on average 17.1 percent is the Mexican tariff on United States-manufactured household appliances going into Mexico. Less than 1 percent, 0.8 percent is the average tariff charged on household appliances manufactured in Mexico coming into the United States. Under NAFTA a total elimination of these barriers but 17.1 percent average tariff will be maintained for the Japanese and the European Community.

Steelmill products: On average 10- to 15-percent Mexican tariff on steelmill products coming from the United States into Mexico; 4 percent is our average tariff charged for Mexican-manufactured steelmill products coming into the United States. Under NAFTA totally eliminated. But the 10- to 15-percent Mexican tariff will be maintained for the Japanese producers and the European Community.

□ 1940

Flat glass: The average tariff is 20 percent on flat glass coming from the United States into Mexico. The tariff that the United States charges on Mexican-manufactured flat glass coming in is three-tenths of 1 percent, this tariff brought down to zero, totally eliminated except for the Japanese and the European community, that 20 percent tariff is maintained. So the United States creates a tremendous advantage over the Japanese and the European communities.

Bearings, 12 percent Mexican tariff, 7 percent the average United States tariff, goes down to zero under NAFTA. And what happens, maintained at 12 percent for the Japanese and the European community.

Machine tools: Thirteen percent average Mexican tariff that is charged on United States-manufactured machine tools going into Mexico, 2 percent is the average United States tariff on Mexican machine tools coming into the United States. Under NAFTA, it comes down to zero. Free trade, yet the 13 percent average is maintained for Japan and the European community.

Look at automobiles, which is the item that is often discussed here, and for the life of me, as my friend, the gentleman from Florida [Mr. SAM GIBBONS], chairman of the Trade Subcommittee says regularly, he cannot understand why auto manufacturers and the workers would not support NAFTA.

Why? The tariff that Mexico charges for United States-manufactured automobiles, a tax imposed on us to get our cars into Mexico is 20 percent.

The United States tariff charged for manufacture of automobiles in Mexico coming into the United States is only 2.2 percent. Under NAFTA, it comes down to zero.

Projections from the big three automakers are that we will see a 60 fold increase in the first year. Right now we export 1,000 automobiles from the United States into Mexico. Under NAFTA, the projections are that in the first year we will see an increase of 60,000 automobiles manufactured.

Why? Because of the dramatic production that takes place, and ultimately that tariff will be down to zero.

But Mr. Speaker, the 20 percent tariff right here that Mexico charges for automobiles coming in will be maintained for automobiles manufactured in Japan, for automobiles manufactured in Germany, for automobiles manufactured in Italy, or France, or other countries, but for the United States of America and Canada, under the North American Free-Trade Agreement it will be zero, so we will have a tremendous opportunity, which is much greater than Japan or Germany to sell United States-manufactured automobiles to the 88 million consumers in Mexico.

Light trucks, again 20 percent tariff that Mexico charges. Right now for the United States to send light trucks into Mexico, our average again, our tariff is 2.2 percent that we impose on Mexican light trucks coming into the United States. Under NAFTA, it comes down to zero. Free trade, dramatic increase in our opportunity to export from the United States into Mexico, but the 20 percent tariff is maintained for Japan and the European Community.

Auto parts, 13.1 percent tariff is what the Mexicans charge for United States-manufactured auto parts going into Mexico; four-tenths of 1 percent, you can see here, is what is charged for Mexican-manufactured auto parts coming into the United States.

Under NAFTA, it comes down to zero, but for Japan and the European community, it remains at 13.1 percent for auto parts.

So with these figures, you can see very clearly, Mr. Speaker, that there is a tremendous benefit that is accrued to the United States worker which will enhance opportunities for us to have this grand strategy of creating jobs.

Let us look at computers. I have often pointed to this and said, as I will say again this evening, that computers is something that is of great concern in my State of California. We have a 10-percent figure here, but actually the tariff on computers manufactured in the United States going into Mexico goes up to 20 percent. It is 10 to 20 percent, and the United States tariff on Mexican-made computers coming into this country is between 3.7 and 3.9 percent, as you can see on this chart, Mr. Speaker.

Well, what happens is under NAFTA we bring that tariff down to zero, a great big zero, nada; but the tariff of 10 to 20 percent remains for Japan and the European community.

Now, the specific example that I have cited in the area of computers, Mr. Speaker, I would like to share again. As we talk to the people in the computer industry, the chief executive officer of IBM, the International Business Machines, has said that if NAFTA is defeated, IBM will have no choice other than to move operations to Mexico.

Why? Because it is the only way that they can gain access to those 88 million consumers in America; but if we put the North American Free-Trade Agreement in place, we can keep the jobs right here in the United States.

Why? Because under NAFTA the tariff will come down to zero, so that United States workers can continue to manufacture computer systems products, software, and export into Mexico tariff free under NAFTA.

So I would like to see IBM keep its jobs here in the United States, and with a zero tariff export into Mexico.

Now, if we pass NAFTA, remember that 10 to 20 percent tariff on computers which will be eliminated under NAFTA if we pass it will be maintained for computers coming from Japan and the Far East, other countries in the world, the European Community.

So what happens? The North American Free-Trade Agreement is a great boost for the United States of America, the U.S. worker, and it will clearly create more job opportunities for us here.

Computer chips, 10 percent, right now we have zero tariff, no tariff on computer chips from Mexico coming into the United States. They charge us 10 percent, that tariff, that 10 percent tax on the U.S. worker going in.

Under NAFTA, both will be eliminated. You can see there is obviously a humongous difference that exists today. We have no tariff and they have a 10 percent tariff. It goes down to zero.

Computer chips from the United States will go in. IBM, Tandy, other operations will not have to shift from the United States, and open up their manufacturing operations in Mexico.

But, and once again this 10 percent tariff that is there for computer chips is maintained for Japan, the European Community and other countries throughout the world.

In the area of electronics, 2.6 percent average tariff on electronics that they charge on our goods coming in, 2.4 percent on Mexican-manufactured electronics equipment coming into the United States. It will go down to zero. That 2.6 percent average will be maintained for Taiwan, Singapore, Hong Kong, Korea and Japan and other countries, which would desperately like to have access to the Mexican market. They would love to get to Mexico so that they could use it for a staging ground, an export platform, if you will, to send goods into the United States; but Mr. Speaker, I believe that we in this hemisphere should unite together, recognizing that the wave of the future is to reduce barriers.

Now, let us look at the export industry here in the United States. We found that on average workers here in the United States who manufacture items for export earn 17 percent more than workers here in the United States. The workers here in the United States are compensated for items that are simply for domestic consumption here in the United States.

So it is a 17-percent wage improvement for those people who are in the export industries.

We also know that contrary to the argument that we regularly hear that the poor Mexican people cannot afford to buy United States goods, the middle income wage earner in Mexico, there are 20 million of them, almost the entire population of Canada, and these are the people who are desperately seeking the opportunity to purchase United States-manufactured goods and services.

So it seems to me, Mr. Speaker, that we need to do everything we possibly can to expand these opportunities for us to create jobs right here in the United States.

Now, as we look, I mentioned a few minutes ago the people who oppose the North American Free-Trade Agreement. It consists of, I mentioned all the defeated Presidential candidates, Ross Perot, Pat Buchanan, Jesse Jackson, Jerry Brown, Ralph Nader, Lyndon LaRouche, all these people have run for President of the United States and they strongly oppose the North American trade agreement.

Let us look for a moment at the people who support the North American Free-Trade Agreement. Last month, actually on September 1, all 12 of the living American Nobel Laureate economists joined with 264 other economists in sending a letter to President Clinton. In that letter, the likes of Paul Samuelson, Milton Friedman and others, Robert Solow and James Tobin, who have received the Nobel Laureate in Economics, strongly supported the North American Free-Trade Agreement.

☐ 1950

In their letter, and I have got it here, it says, and I quote, "Specifically the assertions that the North American Free-Trade Agreement will spur an exodus of United States jobs to Mexico are without basis," and I think that the points that I have made with these charts, Mr. Speaker, point to that.

Now I should explain that. Let me say that, as we look at other support, I remember when we went to the White House and President Clinton had former President Ford, former President Bush, and former President Carter join in a ceremony with him. He stood up and he talked about his experiences as a Governor. He had told me on other occasions that, as a Governor, he knew of people that, under the present situation, had seen their jobs go to Mexico, and he said that as a former Governor he knows that every single person who lives in a Governor's mansion, of the 50 in this country, wakes up in the morning, and the first thing he or she thinks of is, how am I going to create jobs for the people in my State?

Mr. Speaker, people expect their Governors to create jobs for them in their States, and that is really their top priority, and, Mr. Speaker, 41 of the 50 Governors in this country, Democrats and Republicans, support the North American Free-Trade Agreement, and I think that as those who are out there here in Washington, Members of Congress, talking about how jobs are going to be lost, one cannot help but ask the question, Why is it that 41 of 50 Governors, all of whom have as their top priority every morning when they wake up, creating jobs for their States, why is it that 41 of the 50 strongly support the North American Free-Trade Agreement?

The reason is very simply that they know that NAFTA is going to create jobs in their States, and I say to my colleagues, if you look at the past several years, exports for all but two States in the Union have increased from between 100 and 300 percent already, even with the tariff structure that exists, and that is how we have been able to go from what was a nearly $6 billion trade deficit in 1986, to what we had last year, a $5.4 billion trade surplus. The Mexican consumers were buying $5.4 billion more in goods from us than we from them.

Now, Mr. Speaker, I know that opponents say that so many of these goods simply go down to Mexico, and then are manufactured, and then turn around and come back to the United States, but 83 percent of the items which go from the United States to Mexico stay in Mexico, and they are there for the Mexican consumer.

I mentioned the fact that all 10 of the living Commerce Secretaries who, here at the Federal level, have as their responsibility economic growth, creating jobs, spurring on the economy; all 10 living former Commerce Secretaries have today signed this letter which strongly supports NAFTA, Democrats and Republicans. So, as we look at this issue, it is clear that we need to do everything that we possibly can to expand these opportunities.

Mr. Speaker, Mexico is our third largest export market, and it is the 13th largest economy on the face of the Earth, and it is one of the fastest growing, and we need to realize that, while we have had slow economic growth in many parts of the United States, Mexico's economy is growing, and so are the economies of other countries in Latin America.

Mr. Speaker, the other countries in Latin America desperately want to see us pass the North American Free-Trade Agreement, and I believe that, if we try to stick our heads in the sand and simply say that the United States of America can stand alone, that we will actually be hurting ourselves more than anyone can imagine. There are some very dire predictions as to what might happen if we do not pass the North American Free-Trade Agreement, and the best one, I believe, is that which I was referring to with these charts.

We extend an invitation to Japan and the European Community to come to Mexico and utilize Mexico as an export platform to embark on free-trade agreements with other countries in South America. They ultimately want to join with us, and I think that, as we look at the cause of freedom and the fact that during the past 15 years we have seen incredible advances in technology, we have seen incredible advances in our ability to communicate worldwide, the natural step is to work to reduce barriers to the free flow of goods and services.

Mr. Speaker, I say regularly that I do not believe that I, as a Member of the U.S. Congress, have a right to say to the people whom I represent in California, "You can't buy the best quality product at the lowest possible price." I think that we should be able to do that. I believe that we should do everything that we can to increase U.S. productivity. I am convinced that the American worker is by far the most productive.

Mr. Speaker, it was United States productivity that led General Motors and the United Auto Workers to make a decision to move a plant from Mexico back to Lansing, MI, creating a thousand jobs right here in the United States. Why? Because the United States auto worker is actually nine times more productive than the Mexican auto worker.

So, as we look at these issues which are of concern, I hope very much that our colleagues will do everything that they possibly can to look at the details and the facts on this.

I recognize that it is a tough political issue. Out in southern California, Mr. Speaker, I suppose I enhance their efforts by saying this, but there are more than a couple of people, many of whom are not actually constituents of mine, but know that I have been in strong support of reducing trade barriers, trying to increase export opportunities for the United States, but these people have gone out and picketed and protested almost daily in front of my office in Los Angeles, and I certainly welcome them. I mean, I know that some of the people in my office may not welcome them, but I support their first amendment rights, their right to free speech. They have a right to stand there and voice their opinions on this.

But I believe that, as we look at the facts on this, Mr. Speaker, that it is in the best interests of the United States to look toward the future and not the past, and that is what I am trying to do, and I hope that 3 weeks from tomorrow, on November 17, that a majority of our colleagues in the U.S. House of Representatives will join with a majority of our colleagues in the U.S. Senate and pass the North American Free-Trade Agreement.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. McCANDLESS, for 60 minutes, on October 27.

Mr. MANZULLO, for 5 minutes, today.

Mr. GILLMOR, for 5 minutes, on October 27.

Mr. GOSS, for 5 minutes, on October 27.

Mr. WELDON, for 5 minutes, today.

Mr. DORNAN, for 60 minutes, today.

Mr. BILIRAKIS, for 5 minutes each day, on November 3 and 4.

Mr. BARTLETT of Maryland, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. McCLOSKEY, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Miss COLLINS of Michigan, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. UNDERWOOD, for 30 minutes, today.

Mr. FALEOMAVAEGA, for 60 minutes, today.

Mrs. MINK, for 60 minutes, on October 27.

Mr. STUPAK, for 10 minutes, on November 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. FISH.
Mr. GILMAN.
Mr. BAKER of California.
Mr. ALLARD.
Mr. LAZIO.
Mr. GRAMS.
Mr. SMITH of New Jersey.
Mr. SAXTON.
Mr. HOKE.
Mr. DORNAN in two instances.
Mr. GALLEGLY in three instances.
Mr. BURTON of Indiana.
Mr. CLINGER.
Mr. SOLOMON in three instances.
Mr. WALKER.
Mr. QUINN.

(The following Members (at the request of Ms. WOOLSEY) and to include extraneous matter:)

Ms. MEEK.
Mr. PETERSON of Florida.
Mr. BLACKWELL in three instances.
Mr. DIXON in three instances.
Mr. ACKERMAN.
Mr. LEHMAN in three instances.
Mr. CLAY.
Mr. STARK in five instances.
Mr. FOGLIETTA.
Mr. MONTGOMERY.
Mrs. MALONEY in two instances.
Mr. MINETA.
Mr. SWETT.
Mr. NEAL of Massachusetts.
Mr. BROOKS.
Ms. DELAURO.
Mrs. THURMAN.
Mr. MANN in two instances.
Mr. SLATTERY.
Mr. RANGEL.
Miss COLLINS of Michigan.
Mr. KREIDLER.
Mr. STENHOLM.
Mr. RICHARDSON.
Mr. MARTINEZ.

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. LEWIS of Georgia.
Mr. SCHUMER.
Mr. PORTER.
Mr. TOWNS.
Mr. MAZZOLI.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 328. An act to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM.

H.R. 2491. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 2519. An act making appropriations for the Department of Commerce, Justice, and State, and judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 2750. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

H.J. Res. 228. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of Romania.

H.J. Res. 281. Joint resolution making further continuing appropriations for the fiscal year 1994, and for other purposes.

A BILL PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 2685. An act to amend title V, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes.

ADJOURNMENT

Mr. DREIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, October 27, 1993, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2054. A letter from the Administrator, Energy Information Administration, transmitting the Energy Information Administration report "Emissions of Greenhouse Gases in the United States, 1985–1990," pursuant to section 1605(a) of the Energy Policy Act of 1992; to the Committee on Energy and Commerce.

2055. A letter from the Chairman, Federal Trade Commission, transmitting a report on the need for, and the desirability of, having a uniform national label on devices used to dispense automotive fuel to consumers, pursuant to Public Law 102–486, section 1503(c) (106 Stat. 2999); to the Committee on Energy and Commerce.

2056. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2057. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing "Best Efforts" to obtain and report contribution information, pursuant to 2 U.S.C. 438(d)(1); to the Committee on House Administration.

2058. A letter from the Comptroller of the Department of Defense, transmitting a report pursuant to sections 8007, 8006, and 9006 of the Department of Defense Appropriations Acts for fiscal year 1991, fiscal year 1992, and fiscal year 1993, respectively, and sections 1401, 1001, and 1001 of the Department of Defense Authorization Act for those same years; jointly, to the Committees on Appropriations and Armed Services.

2059. A letter from the Chairman, Competitiveness Policy Council, transmitting a report to the President and Congress entitled "Enhancing American Competitiveness: A Progress Report to the President and Congress," pursuant to Public Law 100–418, section 5204(b) (102 Stat. 1456; jointly, to the Committees on Education and Labor, Banking, Finance and Urban Affairs, Science, Space, and Technology, Energy and Commerce, and Ways and Means.

2060. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to designate defense acquisition pilot programs in accordance with the National Defense Authorization Act for fiscal year 1991, and for other purposes; jointly, to the Committees on Armed Services, Government Operations, Small Business, Ways and Means, Foreign Affairs, the Judiciary, Merchant Marine and Fisheries, Public Works and Transportation, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 1250. A bill to amend the coastwise trade laws to clarify their application to certain passenger vessels; with an amendment (Rept. 103–307). Referred to the Committee of Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 283. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2492) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103–308). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS (for himself and Mr. SCHUMER):

H.R. 3350. A bill to establish a program of residential substance abuse treatment within Federal prisons; to the Committee on the Judiciary.

H.R. 3351. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation; to the Committee on the Judiciary.

By Mr. GIBBONS (for himself, Mr. MATSUI, Mr. ANDREWS of Texas, Mr. KOPETSKI, Mr. JEFFERSON, Mr. RICHARDSON, Mr. COLEMAN Mr. CHAPMAN, and Mr. BAESLER):

H.R. 3352. A bill to establish a transitional program of adjustment assistance to workers adversely affected by the implementation of the North American Free-Trade Agreement, and for other purposes; to the Committee on Ways and Means.

By Mr. BROOKS (for himself and Mr. SCHUMER):

H.R. 3353. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to develop more effective programs to reduce juvenile gang participation and juvenile drug trafficking; to the Committee on the Judiciary.

H.R. 3354. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing and implementing residential substance abuse treatment programs within State's correctional facilities, as well as within local correctional facilities in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment; to the Committee on the Judiciary.

H.R. 3355. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety; to the Committee on the Judiciary.

By Mr. HAYES:

H.R. 3356. A bill to designate the U.S. courthouse under construction at 611 Broad Street, in Lake Charles, LA, as the "Edwin Ford Hunter, Jr., United States Courthouse"; to the Committee on Public Works and Transportation.

By Mr. GOSS:

H.R. 3357. A bill to prohibit travel by Members, officers, and employees of the House of Representatives at lobbyist expense; to the Committee on House Administration.

By Mr. HOBSON:

H.R. 3358. A bill to suspend until January 1, 1999, the duty on straining cloth of nonwoven, needletacked web composed of fibers made from polypropylene electret charged, fibrillated film, with or without scrim, such scrim being composed of spun bond fibers of polypropylene; to the Committee on Ways and Means.

By Mr. HOKE (for himself and Mr. DERRICK):

H.R. 3359. A bill to amend the Federal Deposit Insurance Act to establish a lifetime limit of $100,000 on the amount of deposit insurance any person may obtain; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LIPINSKI (for himself, Mr. TAUZIN, Mr. MANTON, Mr. STUPAK, and Mr. LAFALCE):

H.R. 3360. A bill to direct the Secretary of Transportation to demonstrate on vessels ballast water management technologies and practices, including vessel modification and design, that will prevent aquatic nonindigenous species from being introduced and spread in U.S. waters; to the Committee on Merchant Marine and Fisheries.

By Mr. MACHTLEY:

H.R. 3361. A bill to provide revenues for the revitalization of the U.S. merchant marine by increasing the excise tax on the transportation of passengers by water for vessels having a capacity of at least 150 passengers, and for other purposes; to the Committee on Ways and Means.

By Mr. MAZZOLI:

H.R. 3362. A bill to amend the Immigration and Nationality Act to strengthen sanctions relating to employment of unauthorized aliens; to the Committee on the Judiciary.

By Mr. MAZZOLI (for himself, Mr. SCHUMER, and Mr. MCCOLLUM):

H.R. 3363. A bill to amend the Immigration and Nationality Act to improve immigration enforcement and antismuggling activities, to reform the asylum law, and to authorize appropriations for the Immigration and Naturalization Service; to the Committee on the Judiciary.

By Mrs. MEEK:

H.R. 3364. A bill to provide for adjustment of immigration status for certain Haitian children; to the Committee on the Judiciary.

By Mr. MORAN (for himself, Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. TOWNS, Mr. SCOTT, Ms. BYRNE, and Mrs. MORELLA):

H.R. 3365. A bill to amend title 18, United States Code, to protect the personal privacy and safety of licensed drivers, taking into account the legitimate needs of government and business; to the Committee on the Judiciary.

By Mr. ORTON (for himself, and Mrs. SCHROEDER):

H.R. 3366. A bill to amend title 18, United States Code, to provide penalties for child endangerment and abuse in the special maritime and territorial jurisdiction of the United States; to the Committee on the Judiciary.

By Mr. OXLEY (for himself and Mr. MICHEL):

H.R. 3367. A bill to provide restitution to crime victims; to the Committee on the Judiciary.

By Mr. PETERSON of Florida:

H.R. 3368. A bill to provide that each State may furnish one additional Statute for placement in National Statuary Hall in the Capitol, and for other purposes, to the Committee on House Administration.

By Mr. RANGEL:

H.R. 3369. A bill to amend the Internal Revenue Code of 1986 to exempt certain Small Business Administration financing from the provisions of section 514 of such code; to the Committee on Ways and Means.

By Mr. SANDERS:

H.R. 3370. A bill to amend the Agricultural Act of 1949 to provide for the establishment of a multiple-tier price support program for milk to achieve a closer correlation between annual milk production and consumption while assuring sufficient low-cost dairy products for nutrition assistance programs; to the Committee on Agriculture.

By Mr. SWETT:

H.R. 3371. A bill to authorize Federal departments and agencies to sell energy from cogeneration facilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. UNDERWOOD (for himself, Mr. Abercrombie, Mr. de Lugo, Mr. Edwards of California, Mr. Faleomavaega, Mr. Frost, Mr. Gallegly, Ms. Norton, Mr. King, Mr. Lipinski, Mrs. Meek, Mrs. Mink, Mr. Murphy, and Mr. Serrano):

H.R. 3372. A bill to provide for the minting of coins in commemoration of the 50th anniversary of the liberation of Guam and the Northern Mariana Islands, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ZIMMER (for himself, Mr. Saxton, and Mrs. Johnson of Connecticut):

H.R. 3373. A bill to amend the Internal Revenue Code of 1986 to allow a credit against the estate tax for certain transfers of real property for conservation purposes; to the Committee on Ways and Means.

H.R. 3374. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain bargain sales; to the Committee on Ways and Means.

By Mr. GILLMOR:

H.J. Res. 282. Joint resolution proposing an amendment to the Constitution of the United States regarding federally mandated expenditures; to the Committee on the Judiciary.

By Mr. BLACKWELL:

H. Res. 284. Resolution expressing the sense of the House of Representatives that the Third College at the University of California at San Diego should be renamed the "Thurgood Marshall College" in honor of Justice Thurgood Marshall; to the Committee on Education and Labor.

By Ms. WOOLSEY:

H. Res. 285. Resolution expressing the sense of the House of Representatives that the Attorney General and the Director of the Federal Bureau of Investigation should cooperate with the U.S. Postal Service and the Polly Klaas Search Center to disseminate information regarding the kidnapping of Polly Klaas; jointly, to the Committee on the Judiciary and Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

263. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to having Congress take appropriate measures to have the National Railroad Passenger Corporation rescind the recently announced service reduction within the Keystone Corridor; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS.

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. Gilchrest.

H.R. 140: Mr. Gunderson and Mr. Roth.

H.R. 323: Mr. Inglis of South Carolina, Mr. Greenwood, Mr. McKeon, and Mr. Talent.

H.R. 417: Mr. Manzullo, Mr. Fawell, Mr. Goodlatte, and Mr. Cox.

H.R. 419: Ms. Byrne.

H.R. 455: Ms. Furse and Ms. Brown of Florida.

H.R. 467: Ms. Slaughter, Mrs. Lloyd, and Mr. Engel.

H.R. 656: Mr. Gibbons.

H.R. 688: Mr. Grams and Mr. Jefferson.

H.R. 760: Mr. Fish and Mr. Sensenbrenner.

H.R. 769: Mr. Skeen.

H.R. 830: Mr. Price of North Carolina, Mr. Inslee, Ms. Slaughter, and Mr. Taylor of Mississippi.

H.R. 886: Mr. Ewing, Mr. Castle, Mr. Deal, and Mr. McDade.

H.R. 894: Mr. Solomon.

H.R. 911: Mr. Visclosky.

H.R. 935: Mr. Dellums.

H.R. 972: Mr. Kopetski and Mr. Engel.

H.R. 1082: Mr. Mineta.

H.R. 1295: Mr. Franks of New Jersey, Mr. Tejeda, Ms. Furse, Mr. Lazio, and Mr. Williams.

H.R. 1332: Ms. Slaughter.

H.R. 1355: Mr. Bateman.

H.R. 1438: Mr. McInnis.

H.R. 1593: Mr. Zimmer.

H.R. 1608: Mr. Brooks, Mr. Durbin, Mr. Gibbons, Mr. Stokes, and Mr. Washington.

H.R. 1627: Mr. Wolf, Mr. Slattery, and Mr. Barlow.

H.R. 1671: Mr. Wynn and Mr. Diaz-Balart.

H.R. 1709: Mr. McKeon, Mr. Fields of Texas, Mrs. Maloney, Ms. English of Arizona, Mr. Santorum, Mr. Cooper, Ms. Harman, Mr. Stenholm, Mr. Gallegly, and Mr. Hunter.

H.R. 1718: Ms. McKinney.

H.R. 1738: Mr. Miller of Florida.

H.R. 1787: Mr. Gordon.

H.R. 1796: Mr. Evans, Mr. Andrews of Maine, Mr. Gene Green of Texas, Mr. English of Oklahoma, Mr. Regula, Mr. Tejeda, Mr. Gutierrez, Mr. Santorum, Mr. Moakley, Mr. Wyden, and Mr. Ridge.

H.R. 1801: Mr. Gene Green of Texas.

H.R. 1814: Mr. Bishop and Mr. Machtley.

H.R. 1933: Mr. Manton.

H.R. 1985: Mr. Yates, Mr. Pickett, and Mr. Johnson of South Dakota.

H.R. 2033: Mr. McHale.

H.R. 2042: Mr. Upton, Mr. Hoekstra, Mr. Wolf, Mr. Stump, and Mr. Lewis of Florida.

H.R. 2092: Mr. Sisisky, Mr. Kopetski, Mr. Fish, Mr. Gutierrez, and Mr. Dellums.

H.R. 2171: Mr. Ramstad and Mr. Kopetski.

H.R. 2292: Mr. Brown of Ohio, Mr. Machtley, and Mrs. Fowler.

H.R. 2307: Mr. McCrery.

H.R. 2375: Mr. Bacchus of Florida, Mr. Hochbrueckner, Mrs. Maloney, Mr. Boucher, Ms. Pelosi, Ms. Snowe, and Mr. Lipinski.

H.R. 2414: Ms. Woolsey.

H.R. 2438: Mr. Visclosky.

H.R. 2462: Mr. Jacobs.

H.R. 2602: Mr. Johnson of South Dakota and Mr. Grams.

H.R. 2612: Mr. Mineta.

H.R. 2706: Mr. Barca of Wisconsin, Mr. Hughes, Mr. Rangel, Mrs. Meek, Mr. Boucher, Mrs. Maloney, Mr. Fingerhut, and Mr. Kennedy.

H.R. 2712: Mr. Blackwell and Mr. Brewster.

H.R. 2720: Mr. Wynn, Mr. Kingston, Mr. Bishop, Mr. Buyer, Mr. Bereuter, and Mrs. Roukema.

H.R. 2722: Mr. Reynolds, Mr. Kildee, Mr. McDermott, Mr. Gillmor, Mr. Engel, Mr. Cunningham, Mr. Pallone, Mr. Torkildsen, Mrs. Roukema, Ms. Slaughter, Mr. Frank of Massachusetts, Mr. Hoekstra, Mr. Andrews of New Jersey, and Mr. Ramstad.

H.R. 2787: Mr. Hinchey.

H.R. 2834: Ms. Byrne, Mr. Johnson of South Dakota, Mr. Barca of Wisconsin, and Mr. Meehan.

H.R. 2864: Mr. Romero-Barcelo, Mr. Reed, Mr. Myers of Indiana, and Mr. Meehan.

H.R. 2867: Mrs. Schroeder, Mr. Jefferson, Mr. Thompson, Mrs. Meek, Mr. Berman, Mr. Hilliard, Mr. Deutsch, Mr. Frank of Massachusetts, Mr. Johnston of Florida, Mr. Evans, and Mr. Watt.

H.R. 2872: Mr. Paxon, Mr. Houghton, Mr. Boucher, Mr. Thomas of Wyoming, and Mr. Bachus of Alabama.

H.R. 2884: Mr. Evans.

H.R. 2916: Mr. Frost, Mr. Smith of New Jersey, and Mr. Machtley.

H.R. 2975: Mr. McHugh.

H.R. 2995: Mr. Condit and Mr. Price of North Carolina.

H.R. 2997: Mr. Reed.

H.R. 3012: Mr. Leach.

H.R. 3017: Mr. Gibbons.

H.R. 3021: Mr. Thomas of Wyoming and Mr. Hughes.

H.R. 3030: Mr. Talent.

H.R. 3031: Mr. Moorhead.

H.R. 3039: Mr. Gunderson, Mr. Talent, and Mr. Rohrabacher.

H.R. 3041: Mr. Wilson and Mr. Lipinski.

H.R. 3078: Mr. Parker.

H.R. 3096: Mr. Abercrombie.

H.R. 3098: Ms. English of Arizona, Mr. Shays, Mr. Klug, Mr. Visclosky, Mr. Manton, Mr. Houghton and Mr. Markey.

H.R. 3100: Mr. Beilenson, Mr. Berman, Mr. Filner, Mr. Foglietta, Mr. Frank of Massachusetts, Mr. Hughes, Mr. Jefferson, Mrs. Mink, and Mrs. Unsoeld.

H.R. 3109: Mr. Hansen, Mr. Klug, and Mr. Kleczka.

H.R. 3122: Mr. Everett.

H.R. 3129: Mr. Frank of Massachusets.

H.R. 3146: Mr. Zeliff.

H.R. 3182: Mr. Blackwell and Mr. Deutsch.

H.R. 3203: Mr. Machtley, Mr. McHugh, Mr. Neal of North Carolina, Mr. Edwards of California, and Mr. Jefferson.

H.R. 3205: Mr. Pete Geren of Texas, Mr. Klein, Mr. Andrews of Texas, Mr. English of Oklahoma, Mr. Lancaster, Mr. Wilson, Mr. Minge, and Mr. Zeliff.

H.R. 3212: Mr. Baker of Louisiana and Mr. Petri.

H.R. 3228: Mr. Hughes and Mr. Shaw.

H.R. 3235: Mr. Flake, Mr. Kanjorski, Mr. Pickle, Ms. Velázquez, and Mr. Hinchey.

H.R. 3250: Mr. Rohrabacher and Mr. Baker of Louisiana.

H.R. 3256: Mr. Cramer, Mr. Frost, Mr. Emerson, Mr. Walsh, Mr. Klug, Mr. Murphy, and Mr. Lipinski.

H.R. 3269: Mrs. Unsoeld, Mr. Filner, Mr. Boucher, Mr. McHugh, Mr. Lipinski, Mr. Jefferson, Mr. Gutierrez, and Mr. Neal of North Carolina.

H.R. 3272: Mr. McCollum.

H.R. 3278: Ms. Velázquez, Ms. Pelosi, Mr. Blackwell, and Mr. Lewis of Georgia.

H.R. 3301: Mrs. Maloney, Mr. Frank of Massachusetts, Mr. Neal of North Carolina, Mrs. Roukema, Mr. Hochbrueckner, Mr. Lewis of Georgia, Ms. Byrne, and Mr. Romero-Barcelo.

H.R. 3341: Mr. Thornton.

H.J. Res. 79: Mr. Bacchus of Florida, Mr. Barlow, Mr. Clinger, Mr. Deutsch, Mr. Everett, Mr. Hansen, Mr. Inhofe, Mr. Kildee, Mr. Klink, Mr. Lantos, Mr. Moran, Mr.

OXLEY, Mr. PACKARD, Mr. PAYNE of New Jersey, Mr. PASTOR, Ms. PELOSI, Mr. PETRI, Mr. ROBERTS, Mr. ROTH, Mr. RIDGE, Mr. SCHUMER, Mr. SOLOMON, and Mr. SMITH of Iowa.

H.J. Res. 159: Mr. GILMAN, Mr. JOHNSON of South Dakota, Mr. SAXTON, Mr. HUNTER, Mr. WYDEN, Mr. WHEAT, Mr. BONIOR, Mr. PRICE of North Carolina, Mr. MANTON, Mr. ORTON, Mr. KANJORSKI, Mr. PAYNE of New Jersey, Mr. GRAMS, Ms. PELOSI, and Mr. HILLIARD.

H.J. Res. 163: Mr. PETE GEREN of Texas.

H.J. Res. 175: Mr. BARCA of Wisconsin, Mr. CLEMENT, Mr. CONYERS, Mr. VALENTINE, Mr. WHITTEN, Mr. SWETT, Mr. WYNN, Mr. REGULA, Mr. BERMAN, Mr. PARKER, Mr. SKEEN, Mr. SHAYS, Mr. MOAKLEY, Mr. KENNEDY, Mr. PETE GEREN of Texas, and Mr. FRANKS of New Jersey.

H.J. Res. 212: Mr. BOEHLERT and Mr. PAYNE of Virginia.

H.J. Res. 216: Mr. BARLOW, Mr. GENE GREEN of Texas, Ms. NORTON, Mr. MANTON, Mr. BACCHUS of Florida, Mr. BARCA of Wisconsin, Mr. PETE GEREN of Texas, and Mr. MCCANDLESS.

H.J. Res. 242: Mr. LEWIS of Georgia, Ms. VELÁZQUEZ, Mr. OWENS, Mr. PETE GEREN of Texas, Mr. LEWIS of California, Mr. BOEHLERT, Mr. DIXON, Mr. HOLDEN, Ms. NORTON, Mr. UNDERWOOD, Mr. QUILLEN, Mr. REYNOLDS, Mr. STOKES, Mr. BILIRAKIS, Mr. HINCHEY, Mr. GALLO, Mr. POMEROY, Mr. KLINK, Mr. QUINN, Mr. HANSEN, Mr. THOMAS of Wyoming, Mr. SISISKY, Mr. SYNAR, Mr. RICHARDSON, Mr. EMERSON, and Mr. CLINGER.

H.J. Res. 246: Mr. BERMAN, Mr. BLILEY, Mr. CLEMENT, Mr. CONYERS, Mr. DREIER, Mr. GONZALEZ, Mr. KLEIN, Mrs. MALONEY, Mrs. MORELLA, Ms. NORTON, Mr. PASTOR, Mr. PRICE of North Carolina, Mr. ROEMER, and Mr. ROHRABACHER.

H.J. Res. 247: Mr. SCHUMER, Mr. CARDIN, Ms. PELOSI, Mr. HOLDEN, Mrs. LLOYD, Mr. BARCA of Wisconsin, Mr. SCHIFF, Mr. WYNN, Mr. FAWELL, Mr. SCHAEFER, Mr. BISHOP, Mr. JOHNSTON of Florida, Ms. WATERS, Mr. JOHNSON of Georgia, Mr. ROWLAND, Mr. BONIOR, Mr. FROST, Ms. KAPTUR, Mr. FINGERHUT, Mr. MORAN, Mr. EDWARDS of California, Mr. BROWN of Ohio, Mr. EVANS, Mr. HOEKSTRA, Mr. TALENT, Mr. BARRETT of Wisconsin, Mr. KILDEE, Mr. BLILEY,MR. OLVER, Mr. WASHINGTON, Mr. MANN, Mr. TORKILDSEN, Mrs. BENTLEY, Mr. DELLUMS, Mr. ROMERO-BARCELO, Mr. RICHARDSON, Mr. GINGRICH, Mr. GALLEGLY, Mr. GUNDERSON, and Mrs. JOHNSON of Connecticut.

H.J. Res. 264: Mr. MOAKLEY, Mr. HUGHES, Mr. BONIOR, Mr. PORTER, Ms. PELOSI, and Mr. HEFNER.

H.J. Res. 266: Mr. BATEMAN and Mr. MARTINEZ.

H.J. Res. 274: Mr. FROST and Mr. MCDERMOTT.

H.J. Res. 278: Ms. BYRNE and Mr. SARPALIUS.

H. Con. Res. 20: Mr. KREIDLER.

H. Con. Res. 103: Mrs. MEEK.

H. Con. Res. 122: Mr. FARR, Ms. SCHENK, Ms. ESHOO, Mr. LANTOS, Mr. GALLO, Mr. KING, and Mr. MATSUI.

H. Con. Res. 124: Mr. FOGLIETTA, Mr. ROHRABACHER, Mr. FRANK of Massachusetts, Ms. PELOSI, Ms. BYRNE, Mr. BOUCHER, and Mr. PRICE of North Carolina.

H. Con. Res. 126: Mr. EVANS, Mr. MCINNIS, Ms. NORTON, and Ms. SHEPHERD.

H. Con. Res. 148: Mr. BURTON of Indiana, Mr. BARTON of Texas, Mr. ARMEY, Ms. ROS-LEHTINEN, Mr. DORNAN, Mr. SMITH of Oregon, Mr. KING, Mr. PENNY, Mr. APPLEGATE, Mr. GEJDENSON, and Mr. HILLIARD.

H. Con. Res. 159: Mr. FINGERHUT and Mr. WALSH.

H. Res. 122: Mr. SCHIFF, Mr. SANDERS, Mr. TORKILDSEN, and Mrs. MEYERS of Kansas.

H. Res. 234: Mr. PAYNE of Virginia, Mr. MONTGOMERY, Mr. HOUGHTON, Mr. HOEKSTRA, Mr. MCCLOSKEY, Mr. HAMILTON, Mr. NEAL of North Carolina, Mr. OXLEY, Mr. ENGEL, Mr. EVANS, Mr. WHITTEN, and Mr. BILBRAY.

H. Res. 277: Mr. BARLOW, Mr. CASTLE, Mr. BAESLER, Mr. POMEROY, Mr. TEJEDA, Mr. BROWDER, Ms. PRYCE of Ohio, Mr. SWETT, Mr. GILLMOR, Mr. GUNDERSON, and Mrs. LLOYD.

H. Res. 281: Mr. STEARNS, Mr. GOSS, Mr. COLLINS of Georgia, Mr. SMITH of Texas, Mrs. VUCANOVICH, Mr. RAMSTAD, Mr. COMBEST, Mr. CRANE, Mr. GILLMOR, Mr. BLILEY, Mr. PAXON, Mr. KNOLLENBERG, Mr. UPTON, Mr. EWING, Mr. ARMEY, Mr. POMBO, and Mr. BUNNING.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 166: Mr. DORNAN.

SENATE—*Tuesday, October 26, 1993*

(Legislative day of Wednesday, October 13, 1993)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Love worketh no ill to his neighbour: therefore love is the fulfilling of the law.—Romans 13:10.

God of perfect love, these words of the Apostle Paul remind us of the place of love in the economy of God. The foundation of Old Testament truth and worship is the word of Moses in the Torah. "Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might." (Deuteronomy 6:4,5)

Jesus said that all the law and the prophets are summed up in two commandments: "* * * love the Lord thy God * * *," and "* * * love thy neighbour as thyself."

We have reduced love to a feeling, an emotion, a fantasy. In the Bible, love is a command of the Ruler of the universe which comprehends all law and is to be obeyed. Give us grace to hear this truth and respond as we ought.

In the name of Him who is Love Incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 26, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, immediately following my remarks on the schedule, the Senate will begin 90 minutes of debate on the pending motion to invoke cloture on the Interior appropriations conference report. The time will be equally divided and under the control of Senators REID and NICKLES, or their designees.

From 10:30 until 11:30 this morning, there will be 1 hour for debate on the motion by Senator HUTCHISON to waive the Budget Act with respect to her amendment to the unemployment insurance bill, with a vote on that motion to waive to occur at 11:30 a.m. That time will be divided 40 minutes under Senator HUTCHISON's control and 20 minutes under my control.

Following the vote on the motion to waive—and that means at approximately 11:50 a.m.—the Senate will begin 1 hour of debate on a point of order to be made against the bill by Senator NICKLES, with a motion to waive the Budget Act to be made by me or my designee. And at the conclusion of that hour, or at approximately 12:50 p.m., the Senate will stand in recess to accommodate the respective conferences.

At 2:30 p.m., the Senate will vote on the motion to waive the Budget Act with respect to the bill. Following that vote, or at approximately 2:50 p.m., there will be 30 minutes additional for debate on the motion to invoke cloture on the Interior appropriations conference report. That time will be equally divided under the control of Senators REID and NICKLES, and approximately 3:20 p.m. the Senate will vote on that motion to invoke cloture.

Following that vote, the Senate will return to the unemployment insurance bill.

Mr. President, we have fallen substantially behind schedule due to the length of consideration of a number of measures that was more than anticipated—primarily the defense appropriations bill. Therefore, I wish to repeat what I said last evening so that all Senators will be aware of it and on notice.

I have been the principal advocate of the Senate adjourning by Thanksgiving. My advocacy has been based upon my expectation that the Senate would complete all of the business required prior to that time. I wish to make very clear to all Senators that if we do not complete that work, then the Senate will continue in session after Thanksgiving. I will be a principal advocate of that position.

What has happened is that Senators increasingly want it both ways. They want to adjourn by Thanksgiving, but they also do not want to be here during the time between now and Thanksgiving, which is necessary if we are going to complete action on the agenda that remains. I wish to repeat this so there can be no misunderstanding:

Adjournment at Thanksgiving is directly contingent upon completing those measures on which action must be taken prior to then. If we do not do so, then we will be in session after Thanksgiving for as long as it takes to complete action on those measures.

Senators can make a choice. I now make it clear that that choice exists. They can either be present during the week and in the evenings and cooperate in helping us get through this agenda, or they cannot do so, in which event it is assured—it is a certainty, in that event, that we will remain in session after Thanksgiving and for as long as it takes in December to complete action on those required measures.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

CLOTURE MOTION—CONFERENCE REPORT ON H.R. 2520

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to invoke cloture on the conference report accompanying H.R. 2520, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 2520, the Interior appropriations bill:

Robert C. Byrd, Wendell Ford, Harry Reid, Claiborne Pell, Russell D. Feingold, J. Lieberman, Paul Simon, Patty Murray, Pat Leahy, D. Pryor, Fritz Hollings, Harris Wofford, Barbara Boxer, Edward M. Kennedy, Paul Sarbanes, Joe Biden, Dan Inouye.

The Senate resumed consideration of the motion.

The ACTING PRESIDENT pro tempore. The time until 10:30 a.m. shall be

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

equally divided and controlled between the Senator from Nevada [Mr. REID] and the Senator from Oklahoma [Mr. NICKLES].

Mr. REID. Mr. President, it is my understanding that the proponents and opponents of this matter have approximately 80 minutes, equally divided.

The ACTING PRESIDENT pro tempore. There are 83 minutes equally divided.

Mr. NICKLES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I will just make a few comments before turning this over to my colleagues. We are confronted with a very difficult situation on the Interior appropriations bill. I, for one, would like to see us pass this bill. But I also share the frustration and opposition by many of the colleagues that will be speaking this morning, and have spoken last week, in opposition to the provision that was inserted in the bill during the conference report, and that provision was inserted by our colleague and my friend, Senator REID, from Nevada.

This provision was not in the House bill, and it was not in the Senate bill. It was extraneous to the conference. I might mention, in the House bill there was a provision to increase grazing fees. In the Senate bill, we had a provision that had a moratorium on regulations dealing with land management. We did not have the grazing fee increase in the Senate bill. In the conference, one would think that the two items to be decided would be how much would we raise grazing fees, or whether or not they would be raised, and whether or not there would be a moratorium on the regulations proposed by the Secretary of the Interior Bruce Babbitt.

But instead of debating those two items, we had an extraneous provision brought in out of the conference that significantly legislated the land-use policies in detail, 19 pages of detail.

I have been a Senator now for 13 years, but I do not remember or recall legislating in conference. We legislate on appropriations bills all the time. The House does it. The Senate does it. One side prevails. That happens. That is not unfamiliar. It is sometimes against the rules but not uncommon.

But it is uncommon to legislate in conference, to take a significant piece of legislation and to pull it in extraneous to the House bill, extraneous to the Senate bill, and put it in conference. That is very unusual. I cannot recall it happening.

I mentioned that to my colleague, Senator BYRD from West Virginia, who has had experience for far more years than I and a great deal of knowledge about the Senate as an institution. But I could not recall a very significant piece of legislation being put in in conference extraneous to either the House or Senate bill and to be inserted. I say that in reference so our colleagues will know what we are talking about.

I know that my colleague and friend, Senator WALLOP from Wyoming, as ranking Republican on the Energy Committee, which has jurisdiction over public lands, is offended by the fact that this committee and actually this conference would legislate policy that affects such a significant percentage of the United States and particularly the Western United States.

I happen to share some of his frustrations. I happen to be vigorously opposed to the procedure that happened in the conference committee. I told that and mentioned that to my friend and colleague, the chairman of the subcommittee and full committee, Senator BYRD.

I do think Senators have a very legitimate procedural complaint about the way this process has happened. That is why we are in this real dilemma now. I believe my friends and colleagues, the opponents of this procedure, probably have 41 votes. We will find that out this afternoon.

I know the House is insisting on its position. It is interesting that the House is insisting that this happen. But it was not in the House bill. I have heard, well, Congressman MILLER and others are going to insist that we keep this provision in. But this provision was not in the House bill.

Some say, well, where do we go from here? I really think we should have debate and discussions on grazing fee increases, and I will support some increases in grazing fees. I think we should have a discussion on whether there should be a moratorium or not, and that should be the parameters of the discussion. That is what was in the Senate bill and what was in the House bill. That is, frankly, where we should end up to break this logjam. I hope we can break this logjam.

It is important that we pass this bill. It is important that we pass this bill as soon as possible. I hate to see us continually postponing or not finishing this bill and continuing with the continuing resolutions. That is not a good way to plan or to govern.

Mr. President, I will yield the remaining control of this bill to Senator WALLOP from Wyoming.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, I yield to myself such time as I may consume.

I say to my friend from Oklahoma, whom I have had the pleasure of working with in the legislative appropriations bill, he the ranking member for 2 years, and I have the greatest respect and admiration for him.

But I remind him that in the Interior appropriations bill, during the last several years we have legislated in the Interior appropriations bill on the spotted owl, on timber on more than one occasion, reauthorization of the arts and humanities in conference and a number of other issues. So this is not anything new or unique. This has happened time and time again on this bill in addition to many other bills.

I also say to my friend from Oklahoma, this is a situation where it is never the right time. It is never the right time to do an increase in the grazing fee and to do some land management reforms. Tomorrow is always better, next week, next month, or next year.

We are faced with a situation in this U.S. Senate this week that today is the right time, that we must do something about this, or the Interior Department could be closed. It is as simple as that. The House by a 3-to-1 vote approved this amendment.

Mr. NICKLES. Mr. President, will my colleague yield for an inquiry or question?

Mr. REID. Sure.

Mr. NICKLES. Mr. President, I appreciate the Senator's yielding.

I want to make sure that the Senator understood that I mentioned, yes, I know that we legislate on appropriations bills. I know that we have legislated in the past on the Interior appropriations bill in other committees which I have served on. So I am not saying we should never ever do that.

I cannot recall an instance where we brought in very significant legislation that was totally extraneous to either the House or the Senate bill. Usually, when we have legislated, one House or the other has passed legislation specifically in their bills, and then we would adopt either the House position or the Senate position.

But this is the first time that I can recall that we have had very significant legislation totally extraneous to either the House or the Senate bill.

Mr. REID. Mr. President, I respond to my friend again that we had a moratorium in the Senate version of this bill which, in effect, stopped all the rulemaking procedure from going forward with Secretary Babbitt. All the rulemaking procedure was something we talked about here on the Senate floor when the Interior appropriations bill came up. It was not something new and unique. We talked about various aspects of what Secretary Babbitt wanted to do.

I would also say, on the House side they had a significant grazing fee in this bill, as they have had every year in the past number of years. In addition to this, of course, we have brought in the Interior appropriations conference a lot of, as referred to my friend, unique, unusual—I am not finding the right word that he had—but extraneous in their reauthorization of arts and humanities in conference just a couple years ago. We completely rewrote that. And there was nothing in the House or Senate bill. That is not what we have in this instance.

I also state that it is unique. I have listened to every one of the speeches that Senator BYRD has made regarding the Roman empire and how it relates to the loss of legislative power here in the United States. He compared Rome to the United States, and he can see, as I see, a troubling pattern developing here in this country that the U.S. Congress, the legislative branch of this Government, is giving up its power to the executive branch of Government.

There could be no better illustration than right here with this bill. We are saying, and the people who are trying to invoke filibuster in this instance are saying, we do not want to do anything; we will let the Secretary of the Interior go ahead and make all the rules. I think that is wrong.

Let us not forget that what this amendment does is restrain the Secretary of the Interior from increasing grazing fees up to $4.28 a year at the end of 2 years and also allows him 25 percent a year increase in addition to that. We have restricted, as a matter of law, his going forward in five different rulemaking procedures that he wanted to do. This is pursuant to requests from people who are now opposing this amendment, who said the Secretary has too much leeway, let us restrict him. And that is what we have done in this instance.

What is happening is that the small guy is going to lose if this amendment is not adopted. The big people can go ahead and file their lawsuits, as we showed last time in this debate. The opponents of this legislation not only threatened gridlock on the floor, they threatened gridlock in the courts. They said: Let Babbitt go forward. Then we can tie it up in the courts.

We need to move forward with this legislation. It is fair. It is appropriate. We should have an up-or-down vote on the amendment and go forward with this legislation. If we did that, in a year, next year at this time, grazing would not even be on the lips of a Member of the U.S. Senate or the House of Representatives. It would be gone and over with.

But, in fact, what we are having is a small minority holding up progress on this legislation, preventing us from going to health care reform, the crime bill, unemployment insurance, NAFTA, all these things that have great significance to the American public.

I believe that this amendment protects Nevada ranchers from Secretary Babbitt. I believe that we should go forward with this. We have 250 million people whose legislation is being held up in this body as a result of 20,000 permittees. It is time we moved forward. It is time we moved forward and got on to the business at hand.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WALLOP addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield myself 1 minute.

Mr. President, it is not often that I find myself in a position of hoping that perhaps in this instance the executive branch might win.

I am a strong believer in a strong Congress. But when Congress is off track, off the rail, so to speak, then perhaps those of us whose constituency—and I suggest that that constituency is significantly larger than the Senator from Nevada portrays—I suggest that that constituency touches virtually every State. But in our instance, the livelihood of a major portion of our people is about to be seriously affected.

This is, as I have said and have said and have said, not just an issue of ranchers. Apparently, in the State of Nevada, school boards do not derive any income from ad valorem taxes on livestock; apparently, the counties have no particular need for the revenues from those; apparently, the banks in the small towns have no investments in the ranching business; apparently, the purveyors of propane, ranching equipment, shoes, groceries, and other things have no dependency on the livestock industry.

I suspect that is wrong and I suspect that the people whose income is from ranching in the State of Nevada will be as drastically hurt as will those from our other States.

In fact, I have a press release from the Nevada Cattlemen's Association and a letter signed by Demar Dahl.

I will read the letter:

NEVADA CATTLEMEN'S ASSOCIATION,
Elko, NV, October 25, 1993.

Hon. MALCOLM WALLOP,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR WALLOP: It has come to our attention that our position concerning Senator Reid's amendment has not been made clear, therefore we feel it is important that you understand our feelings regarding Senator Reid's actions. Senator Reid has never asked for our input and has steadfastly ignored our recommendations. He has turned his back on the livestock industry and in our view the entire State of Nevada by his blatant misrepresentation of our best interests.

We view Senator Reid's actions on water rights as a states' rights issue and very therefore damaging to Nevada and the livestock industry. The subleasing paragraph in his amendment will put a number of our ranchers out of business. It also makes it nearly impossible for young families to get started in the livestock business, since Nevada's ranching industry is so dependent upon federal lands with 87% of Nevada federally owned. We are very concerned about the infringement upon our private property rights, i.e., range improvements and water, by Senator Reid's amendment. We view Senator Reid's amendment as a political maneuver to deny the public, including ranchers, the right to comment on all of the proposed changes. By codifying this into law we are denied our rights that the NEPA process guarantees.

The livestock people of Nevada appreciate your efforts on our behalf and on behalf of all the ranchers in the west. If we can assist you in any way, please don't hesitate to contact us.

Thank you again for your efforts.

Sincerely,

DEMAR DAHL,
President.

I ask unanimous consent that the text of the press release that accompanied that letter be printed in the RECORD.

There being no objection, the text of the press release was ordered to be printed in the RECORD, as follows:

ELKO, NV.—October 21, 1993—Demar Dahl, President of the Nevada Cattlemen's Association issued the following:

The Nevada Cattlemen's Association today appealed to Senator Bryan asking him to stand up for Nevada and join the filibuster pending in the United States Senate.

"Senator Reid has turned his back on Nevada, the livestock industry, and the communities that depend on that industry," said Demar Dahl, President of NvCA.

"Senator Reid says we have the choice of accepting his amendment or Secretary Babbitt's proposal. That's like choosing between the electric chair and the firing squad," Dahl said.

He also pointed out that Senator Domenici of New Mexico and other western senators are leading the filibuster effort. "They obviously believe there are alternatives other than the Reid amendment or the Babbitt plan," he said.

Senator Reid said in a press release yesterday, "Frankly, it would be easier for me to throw my hands in the air, support a filibuster, and watch Secretary Babbitt go all the way with his reforms, and a $4.28 fee. In good conscience I cannot do that. I did not walk away from the negotiating table when the going got tough, and I will not walk away from cattlemen now."

"The going got tough at the negotiating table for Reid because he was working against the very people he is supposed to represent," said Dahl. "and yes, he did walk away from the cattlemen."

Mr. REID. Mr. President, might I just ask a brief question? Who was that letter from?

Mr. WALLOP. From Demar Dahl, president of the Nevada Cattlemen's Association. The date of letter is October 25, 1993.

Mr. President, one of the problems that we have is that people do not understand the consequences of this amendment. The Senator from Colorado quite correctly last week spoke to the issue of water. And while the Senator from Arizona denied that it affected any water except on BLM, it is simply not true.

The Forest Service and the BLM are equally affected by the language that exists in the underlying law. We will find that there are areas in the East, perhaps in the State of the occupant of the chair, where municipal water supplies, Mr. President, will be affected by the provisions in this bill. I know that they will be affected in the State of Alabama, because we have already had contact.

There is another thing which is completely unknown, apparently, to the sponsors of this amendment and to the Secretary of the Interior, neither of whom seems to have any knowledge of the agriculture business that exists in their States, and that is about this issue of subleasing.

Mr. President, subleasing, in most instances, is illegal today, but what they have succeeded in doing is making it impossible for a number of ranch operators to compensate employees in a way which has been normal since the beginning of the ranching business—and, as a matter of fact, most of the ranchers in the West, at one time or another, have been employees of other ranchers—and that is to allow the employee to run some livestock as an additional means of compensation. Now, all of the sudden, because of this bill, that means of compensation will be outlawed.

Mr. President, the land values in the West have declined by a couple of billion dollars since the Secretary of the Interior has come along, and particularly since this language was around.

Let me read a letter from James Webb from Phoenix, AZ, dated October 19, 1993.

PHOENIX, AZ,
October 19, 1993.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: The compromise entered into by Secretary Babbitt and Senator Reid is devastating to my community and to my personal operation. My neighbors have sons that work for the county and help on the ranch are faced with the fact that what they have put their life into is now a liability for the family instead of an asset. The tenure of their ranching operation is in jeopardy.

One neighbor who has only about 20% BLM land was in the process of obtaining a loan from the Travelers Life Insurance Co. to pay off an existing debt and pay down his bank debt while rates are low. He was just informed by a Travelers representative that they will not consider any loans on ranches with more than 10% federal land that can not be isolated because of the announced compromise.

In my case, the Arizona State grazing land follows the federal pattern. However we can not obtain a refund if our grazing is unused. When the fee goes up, my state fee will follow and I will be penalized severely, since much of my grazing is seasonal and I must pay in advance. My view of this increase is that my cows don't know the fee has unilaterally increased since they didn't breed up as well due to the hot summer, and the mountain lions are not going to pass up a calf or two so I can pay the increase. There is nothing in my operation that will compensate for the fee increase, except what I have to live on. Since all my money is tied up in the ranch, which is now unsalable, I am in a pretty tight jam if my banker calls my note.

Everyone around here is pretty frustrated because nobody seems to give a damn that the government is taking our equity, is taking our private property values in the process of this settlement.

Sincerely yours,
JIM WEBB.

Now, this is a letter a legitimate complaint from a rancher. But what it does not tell and what the Senate will not hear is what it does to the country and what it does to the revenues of the United States of America. Those revenues that trickle into the BLM are trickling out at a greater rate from the Internal Revenue Service.

Mr. President, let me read another letter. I would like to display it. It is a handwritten, little letter from a guy in Wyoming.

FARSON, WY,
October 20, 1993.

DEAR SENATOR WALLOP: I'm writing this letter regarding the Reid Amendment.

I hold no federal grazing permits or even own any land, but the Reid amendment would certainly have a large negative effect on my families quality of life. I am employed by a public lands rancher. Instead of a retirement plan or a benefit package I own cattle that I'm allowed to run right along with my employers cattle. This practice of being able to run some cattle has allowed me to one purchase a new car (the first in 8 yrs) and two to help my two children ages 12 & 13 to build savings accounts for their college education. This practice would certainly be cost prohibitive under Reids amendment. In our small community I know of many other operations that have similar agreements.

I have to ask Congress if America's forefathers, and fighting men made the sacrifices they did just to have the liberties of their descendants stripped from them by a simple yet devastating amendment to an appropriations bill.

Respectfully,
M.A. MOODY.

Mr. President, again, here is a legitimate way of compensating people suddenly just wiped out; water rights wiped out. To support this claim somehow under this legislation, under which there has never been a hearing, the Senator from Nevada will show boxes and boxes of hearings, but none about these proposals.

Mr. President, the most interesting part of all of this is that, absent a hearing, none of us can claim to know precisely all the consequences. Absent the normal process of the authorizing committee, this back room deal has denied Americans the chance to comment on it.

Mr. President, I do not know what it takes to persuade the Senate that the provisions on improvements on public lands will deny this country ever the opportunity to have a private industry build a new gas pipeline or a new transmission line.

Mr. President, I yield myself 1 more minute.

This will cost America revenue.

Last, I would just say that there was a claim by the Senator from Nevada on C–SPAN this morning that they have to have this because I would not let it come up in my committee.

Nothing could be farther from the truth. It has never been offered in our committee and the Senator from Arkansas is the chairman of the subcommittee—we have not had a chance to have this thing. The Senator from Colorado and I have a bill in our committee for which we have yet to have a hearing offered to us. It is not we who have stood in the way of this.

Last, let me just remind the Senate that of the 28 Senators in the 14 Western States, only 7 have supported this; not one Governor of the Western States.

This is not the new West. This is a West that is struggling to survive.

Mr. President, I reserve the remainder of our time.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Nevada.

Mr. REID. Mr. President, there are a couple of things I want to bring to the attention of the Members of the Senate. The person who wrote the letter from the State of Nevada was my opponent in last year's general election. He was the Republican nominee for the U.S. Senate, Demar Dahl. So I think we have to understand he may be a little biased in his approach.

I have spoken to many cattlemen in the State of Nevada. I got a letter yesterday from the former President of the Nevada Cattlemen's Association who said he thought the amendment was fine. So I think we have to understand who the opposition is from the State of Nevada.

I would also like to refer to a chart to put to rest once and for all this nonsense about what this amendment does regarding the definition of "range improvement."

Under the Code of Federal Regulations which is now in effect it says:

> "Range improvement" means a structure, development or treatment used to rehabilitate, protect, or improve the public lands to advance range betterment.

It applies to running cattle and sheep. We go on to more detail, but keep in mind these definitions include the improvements that are associated with ranching, with grazing. Grazing permittees have had the privilege to claim ownership of improvements for 11 years in the entire history of this country, and only on land managed by the Bureau of Land Management. This is the famous "Watt change."

For all this century the Forest Service was treated just like the Bureau of Land Management. Secretary Watt came along and changed it in the Department of the Interior. And we have even recognized that. We have said water rights will be grandfathered in. Those people who proved up on water rights during the 11 years, or range improvements, they can have those. This is certainly fair.

Mr. President, this is a phantom, a straw man someone is trying to chase that simply does not exist. This amendment that has been approved by the conference and approved by the House by a more than 3-to-1 margin does not change the grazing world at all. It is not going to stop a rancher from buying a vehicle. It is not going to stop some kid from saving money.

It is going to raise grazing fees. If you run 400 head of cattle 12 months a year it would raise the grazing fee, for all 400, total—not 1, all 400 for a year—between $1,500 and $2,000 for 400 cattle.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CAMPBELL addressed the Chair.

Mr. WALLOP. Mr. President, how much time does the Senator from Colorado require?

Mr. CAMPBELL. Six minutes will be fine.

Mr. WALLOP. I yield 6 minutes to the Senator from Colorado.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, I would like to also discuss a letter that was not written by an enemy of my friend from Nevada, Senator REID, but in fact a friend of his, and a huge friend of mine, too, that is the Governor of the State of Colorado, Gov. Roy Romer. I ask unanimous consent to have his complete letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF COLORADO,
Denver, CO, October 25, 1993.

Hon. BOB DOLE,
Senate Minority Leader, Hart Senate Office Building, Washington, DC.
Hon. GEORGE J. MITCHELL,
Senate Majority Leader, Russell Senate Office Building, Washington, DC.

DEAR SENATORS MITCHELL AND DOLE: I am writing to express serious concerns about the Reid Amendment to the fiscal year 1994 Interior Appropriations bill. This Amendment addresses grazing fee and rangeland management reform issues. I urge members of the Senate to oppose this legislation in its current form.

While I agree that the grazing system should be reformed, the potential long-term consequences of these reforms on Colorado ranchers and the public land resources demand a far more deliberative and constructive process for the formation of rangeland management law than has been used in developing the Reid Amendment.

We need an open and deliberative process to solve this complicated set of issues. The Reid Amendment is not the product of the informed viewpoints of all the constitutents whose lives they would affect, including ranchers, water users, environmentalists, western governors, and many others.

I am particularly concerned with the provisions of the Reid Amendment pertaining to water. As written, the Reid Amendment would inject such ambiguity and confusion into the process or allocating water in the West that litigation and uncertainty would prevail for years to come.

For over a century, the allocation and administration of water rights have been the province of the States. In Colorado, as in other Western states, we have worked hard for decades to remove the cloud of uncertainty created by unknown and unquantified federal reserve rights over state water rights. In that regard, laws have been passed that require the United States to proceed in accordance with State law to obtain rights to water for uses on federal lands. We in Colorado have spent considerable time and money over the past two decades in efforts to quantify the federal water rights on our public lands.

If passed in its present broad and ambiguously worded form, the Reid Amendment could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well. Such an outcome unnecessarily exceeds the scope of rangeland management reform, and could undermine State water allocation laws and the rights created under those laws.

The Reid Amendment would also direct the Secretary of the Interior to incorporate standards and guidelines into permits and leases that, among other objectives, would provide for the "protection and restoration of riparian values, such as healthy wildlife and fish habitat and diverse vegetation." While it is necessary to take steps to improve riparian habitats throughout the West, the Reid Amendment would appear to place undue reliance on the regulatory process of permit issuance to achieve this important goal. Collaborative, voluntary efforts that involve all affected parties are far preferable means to achieve riparian restoration than is unilateral reliance on regulation. In contrast, the Reid Amendment clearly exceeds the appropriate scope of rangeland management reform and seriously erodes the prerogative of the States to protect riparian values within the prior appropriation system.

The Western governors, through the Western Governors' Association, have asserted among other things that if rangeland reform is to succeed, it must result in healthy land and sustainable and economically diverse communities. Most westerners would agree that fees need to be raised in a way that protects the range and the resource; however, a fee increase that drives family ranchers off the land is not practical or acceptable.

We need to develop such important and far reaching laws and policies in the full light of public participation and scrutiny.

Beyond the need for a sound policy making process, rangeland management reform and other efforts to reform federal land policies should be approached in full recognition of the need to protect both rural economic vitality and diversity and the productive ecological systems necessary to sustain rural economies. This fundamental point must be understood and embraced if we are to successfully reform federal land policies.

The grazing fee issue is but one of a number of concerns that affect public lands. We need to do more to examine these impacts and support a comprehensive effort to diversify the economies of the rural west.

Sincerely,

ROY ROMER,
Governor.

Mr. CAMPBELL. The letter I received was from Governor Romer yesterday morning. He and I both oppose this legislation in its current form.

Governor Romer is particularly concerned about the bill's provisions pertaining to water. He feels that as written:

> The Reid Amendment would inject such ambiguity and confusion into the process for allocating water in the West that litigation and uncertainty would prevail for years to come.

Governor Romer is further concerned that:

> For over a century, the allocation and administration of water rights have been the province of the states. In Colorado, as in other Western States, we have worked hard for decades to remove the cloud of uncertainty created by unknown and un-quantified federal reserve rights over state rights. In that regard, laws have been passed that require the United States to proceed in accordance with State law to obtain rights to water for uses on federal lands. We in Colorado have spent considerable time and money over the past two decades in efforts to quantify the federal water on our public lands.

The Governor has written that if the language is passed:

> *** in its
>
> * * * in its present and ambiguously worded form, the Reid Amendment could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well. Such an outcome unnecessarily exceeds the scope of rangeland management reform, and could undermine state water allocation laws and the rights created under those laws.

In and of itself, the water language in this bill is bad enough, but read together with the language about national standards and guidelines, the language is certainly an impermissible intrusion into State water matters. As my colleague, Senator BROWN, has already said, the Forest Service has similar authority and is trying to force small communities to transfer their rights to the Federal Government even though these water rights and water projects were specifically recognized in Federal legislation passed in 1866.

In addition, Governor Romer is justifiably concerned that the Reid amendment would place undue reliance on the regulatory process to issue permits to achieve the goal of riparian restoration. This is tragic, as the goal of restoring riparian habitat has been accomplished, so far, through cooperation, rather than regulation.

Collaborative, voluntary efforts that involve all parties are far preferable to unilateral, command and control regulation. Governor Romer feels that the Reid amendment "clearly exceeds the appropriate scope of rangeland management reform and seriously erodes the prerogative of the States to protect riparian values with in the prior appropriations system."

The entire Western Governor's Association has also expressed similar concerns and have asserted among other things, that if rangeland reform is to succeed:

> It must result in healthier land and economically diverse communities. Most Westerners would agree that fees need to be raised in a way that protects the range and the resource, however, a fee increase that drives family ranchers off the land is not practical or acceptable.

It is my feeling that the so-called reforms in this legislation are neither reasonable, practical or acceptable and must be rejected.

I believe the unstated objective of these so-called reforms is to remove livestock grazing from Federal land. Few, if any of the proposals, will actually improve range conditions or agency efficiency. In fact, if these proposals are adopted, it is far more likely that range conditions and wildlife habitat will deteriorate, not improve. Range conditions have improved and continue to improve. Wildlife numbers have increased significantly and continue to do so. The case cannot be made that there is a significant need to change the way grazing is managed in the United States.

This proposal will end the era of economically diverse communities. I should not have to remind my colleagues that the average rate of return in the livestock industry is 2½ percent. After factoring in a number of conditions related to grazing and calving on public and private lands, the administration's proposed fee increases equals a reduction in gross receipts of 4 percent. This result will end grazing on public lands.

I think that there are several key objectives in establishing a fair grazing fee formula. First, the fee needs to be based on the value of forage. Second, the value of the grass, or forage, needs to be identified as a percentage of the private land lease rate. Third, an adjustment needs to be made which reflects the lower returns derived from Federal lands compared to private lands, as well as the additional costs of doing business on Federal lands compared to private lands.

In short, the bill I have already introduced, the Federal Forage Fee Formula Act, is based on the private forage market while reflecting the higher operational costs and lower returns derived from ranching on Federal lands. As a result, this formula would promote similar economic opportunity between Federal land and private land livestock producers.

Ranchers are the family farmers of the West. The establishment of a fair and equitable grazing fee formula is necessary to ensure their survival. It may sound redundant, but it is no lie that ranching remains a key component in the rural western economy. Every dollar a rancher spends yields $5 in economic activity throughout the West. Not only does this add billions to the Nation's economy, in much of the West, it is the single largest source of economic activity and tax revenue.

Every Western ranching job creates as many as four jobs on Main Street. If ranchers go under, so will the tractor, truck, and automobile dealers, the gas, grocery, and feed store owners, the veterinarians, doctors, and dentists, and many others who make up the commercial and social fabric of rural Western towns.

A fee that is not based on sound science and careful study will destabilize the entire livestock industry and the rural Western economic infrastructure it supports. If Congress and the administration want livestock grazing on Federal lands, and the billions of dollars in economic activity it represents, it must consider the Federal Forage Fee Formula Act that has been introduced rather than passing this legislation.

I yield the floor.

Mr. REID. Mr. President, I yield 5 minutes to the Senator from Washington [Mrs. MURRAY].

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Mr. President, the people of Washington State and this Nation quite rightly take a great interest in what is happening on the Senate floor day in and day out. They want to know what we are doing to cut spending and create jobs. They are asking tough questions about NAFTA and health care. They are concerned that our troops abroad are deployed judiciously. In short, they want to know we are down here doing our jobs.

This month, people have seen the fiscal year end. They have seen us pass one, then another continuing resolution. For the past several days, they have seen an extremely important appropriations bill held up because a small group has been unwilling—after literally years of debate—to accept a reasonable compromise on grazing. I will remind all of us the language in this bill is a compromise.

There has been pressure for years to increase the grazing fees. I remind my colleagues that before this language came before the Senate, our friend and colleague from Nevada, HARRY REID, was an outspoken critic of efforts within the administration to increase fees. He was first in line to deny funds for the administration to implement its proposals. But given the pressure in the other body, and the position of the administration, Senator REID took up the challenge and negotiated a compromise. This compromise would cut in half the fee increase proposed by Secretary Babbitt, and would include regulatory reforms that largely bring BLM grazing rules into line with the Forest Service.

Senator REID has endured tremendous pressure, and I think he should be commended for doing a terrific job under very difficult circumstances. It may not be a perfect deal for public land grazers, but it is certainly not going to bring the livestock industry to an end and it does reflect an understanding of multiple use of public lands.

Mr. President, the grazing fees today are lower than they were about 10 years ago. Can we simply deny the existence of inflation, or are we going to step up and say the Treasury should get a fair return on the use of our public lands? This is a perfect example of what the American people do not like to see in Congress: Filibuster means gridlock. In gridlock, everybody loses.

I said it the other day and I will say it again. There are too many things in this bill that are important to my constituents and other Members' States to keep holding it up on this floor. Caught in the middle of this debate are people with historical and cultural ties to the forest products industry in my State. These people have faced years of uncertainty, one lawsuit after another and the frustration of dealing with an indecisive bureaucracy.

Earlier this year, the Government challenged people in the rural Northwest—local leaders, business people, workers—to come up with new ideas and a new vision for the forest products industry. Let me tell you, they have responded with creativity and enthusiasm. People in Port Angeles, Aberdeen, Darrington have flooded my office with all kinds of ideas.

This bill that we are considering today fulfills the commitment to people in my State to help bring these ideas to fruition. They have been waiting for years for someone in the Government to take responsibility for solving a difficult problem. Like the grazing compromise, the forest plan is by no means perfect, but it has given people hope that new opportunities exist. They cannot afford to wait anymore and we should not deny them that hope today.

There is another big issue at stake. There are two runs of Snake River salmon that have been listed under the Endangered Species Act. A petition to add runs on the mid-Columbia is pending. Just last week, another petition was filed to list coho salmon throughout its range from California to the Canadian border. This bill today contains resources to fund a salmon conservation strategy that is vital to the commercial and recreational fisheries and to the forest products industry in my region. If we cannot get this bill passed and stem the decline in salmon stocks in the Northwest, we, the Congress, will be faced with immeasurable costs in the future, costs that place even more pressure on the timber industry, costs that undermine fisheries on the entire west coast, costs that threaten energy production and agriculture. In short, costs to the West will dwarf the grazing issue by comparison.

These issues and many others are at stake because of this filibuster. More often than not, gridlock, as we are seeing now, sets progress back. When a vocal few can succeed in derailing a well-reasoned plan, nothing is accomplished and no one is served. We must move on. We must pass this bill and show the public that we can tend to its business responsibly and that we do care about the people we serve.

Thank you, Mr. President.

Mr. WALLOP addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. WALLOP. I yield myself 1 minute. I say to the Senator from Washington that the Governor of Washington does not seem to be of the same view. As part of the Western Governor's Conference, they have come down heavily against this proposal, and for reasons that are quite simple. It is broader than just the grazing issue, I will say to the Senator from Washington. It is not about gridlock. It is about livelihood.

Let me say to the Senator from Nevada, I direct a question to him if he will give me his attention. I wonder if the Senator is aware that the plain language of his section on range improvements is not limited to range improvements only but applies to any improvements on public lands which includes dams, transmission lines, pipelines, mining structures, et cetera. Let me just read it.

> Subject to valid existing rights on the date of enactment of this section, all rights to permanent improvements contained on or in public lands are vested in the United States.

Mr. President, I will say there is absolutely no limit to that.

Mrs. MURRAY addressed the Chair.

Mr. REID. The Senator from Washington is yielded whatever time she needs.

Mrs. MURRAY. If I can just comment on the comment of the Senator from Wyoming on the Governor from Washington, the Governors Association did take a stand on Secretary Babbitt's original proposal. It is my understanding they have not taken a stand on this current proposal in this bill.

Mr. WALLOP. I yield myself 30 seconds. I will say that is incorrect. In fact, a letter has gone to the Senator from Nevada which says:

> While we expected the conference committee might very well legislate a fee, we feel strongly that this is not an appropriate process for dealing with broader rangeland reform. Rangeland reform is complex with the potential result of healthier land and sustainable rural communities. It should not be done hastily, opening the door to unintended or undebated results. We believe that governors and those in western grazing communities have expertise and experience that should be tapped through an inclusive process. * * * Therefore, western Governors are not supportive of the process that led to this proposal.

Mr. REID. Mr. President, if I can respond to my friend from Wyoming, I think you will find that letter was not signed by the Governor of Nevada. I talked with him yesterday. He indicated he had not signed the letter. I believe the Senator from Wyoming has the floor.

Mr. WALLOP. I yield 5 minutes to the Senator from Montana.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my friend from Wyoming. I just want to remind this body, we have stood here and talked about this issue many times. I am interested in what the Senator from Washington had to say because we stand here on principle today. A year ago, this Congress passed a water bill that affected California. It took 25 percent of the water away from the farmers in the central valley of California.

I had an opportunity to drive through that part of the country. I observed land going back to waste, starting to grow tumbleweeds now, with 40 and 50 percent unemployment in Mendota, Firebaugh—all of these areas where we thought we were doing a very grand thing and doing something about reallocating that water. Farmers there are finding it hard to understand when you have 150 percent snow pack and yet your water gets cut 25 to 30 percent and your fields burn up.

That is when we said that this is just the first step in an assault on the West. I am interested in the Senator from Washington saying that she does not have any problems with this, but that is what it is. We do not stand here today discussing fees. We are discussing policy, and it has to do with mining, it has to do with timber, it has to do with recreation, it has to do with gas and oil and energy development, it has to do with hunting and fishing, it has to do with everybody that has a use on a public land.

It is new policy that says we do not want things to happen out there. I will tell you right now—and everybody heard this old story about big operators have all these leases—in Montana, we have 3,039 BLM permittees and 1,399 Forest Service. The average AUM's are from 200 to 350 AUM's that run from 6 to 7 months. That does not sound like big operators to me. It sounds like hardworking people who will, by policy, be driven from the land; by policy will be driven from the land because of these new rules and regulations that have never had a hearing in this Congress and with this process.

So I ask my colleagues, if they want to fight for their people, I am going to fight for mine, and I am going to stand on principle. But it is much broader than that. The war has already been declared out there because of the emotional issue of public lands.

Who made it that way? Who improved them? We have more elk, more antelope, more mule deer, more turkey and white tail. We did it because we improved the land through an organization called the Society for Range Management and Range Days that I sponsored since 1980. We could carry more AUM's. Give us a little more rain, and we can carry a lot more. But it is better now than any time in recent history, and I mean since the Great Depression and the drought years of the thirties, the "dirty thirties." And yet those people who improve those ranges, who make it livable, in a harsh land, now see it taken away from them with an inability to pay for schools, taxes, and to provide all the services that local government is supposed to provide.

But we chase the straw man, range or grazing fees. That is the straw man. The devil is in the fine print and that is the rules and regulations in this bill, that should have been in the authorizing committee.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BURNS. I urge my colleague to stand on this because there is a lot at stake for the West.

I yield the floor. I thank the Chair.

Mr. WALLOP. Mr. President, I yield 5 minutes to the Senator from Idaho.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator from Wyoming for yielding on what has become a very important and closely watched debate in the Senate. I say that, Mr. President, because this debate may be about principle; it may be about philosophy; it may be about one Senator's approach toward an issue versus another Senator's. But let me tell you what I believe it is really about. It is really about power.

Our Founding Fathers recognized that an all-central government was a too powerful government, and most of that power ought to reside out in the States. But ever since that day 200-plus years ago through to today, that power, through one effort or another, one legislative vehicle or another, one change in our Constitution or another, has emanated back toward Washington.

In those 17 elusive pages of legislative effort on the part of the Senator from Nevada and the Secretary of Interior, it is all about power. It is about a phenomenal shift of power away from public land States and their representatives toward a central government. That shift of power gets masked in the argument of fees or a battle over this or that or something else. But who controls the water has the power. Who controls access to the public lands has the power. Who controls the policy that designs the human effort and activity on those public lands holds and has the power.

Government is all about power. We know that as Senators. Some have it and some do not, and some are in and some are out. But that is what this debate fundamentally is all about. And power does affect the lives of people.

For a moment let me reflect on the lives of the citizens of my State and how they perceive the power that the Senator from Nevada is jerking out of his State and turning over to Bruce Babbitt as the Secretary of Interior and the Department of Interior and how it will impact the people of my State.

Here is the vice president of a major regional bank who says, "The profitability and the creditworthiness of a permittee will drastically decrease if the Federal Government insists on maintaining water rights and permittee-financed range improvements." In other words, a shift in power is going to affect the financial credibility of a permittee on our grazing lands. That is First Security Bank in the West, Vice President Curtis H. Eaton.

A CPA talks about the historical relationship of farming and ranching to small agricultural communities. This CPA is in Burley, ID. Burley is not a big place, but a lot of marvelous small businesses reside there, and beautiful families of people. He says it is going to cost that community hundreds of thousands of dollars as small ranchers—not big ranchers, small ranchers, 150- and 200-cow operations, mother, father, son, and daughter operating these—will go out of business because the Senator from Nevada by the policy in this law would assist in putting out of business.

I wish to enter all of these in the RECORD, but the story goes on and on. Power resides in other ways.

Here is a letter from a variety of professors and range management specialists from Colorado State University, and their line in conclusion is, "But our concern is about the fairness in the reallocation of wealth." Not big wealth, little wealth, little wealth having an impact on small people.

Wealth is power. If you control the wealth of Burley, ID, by controlling the access to the public lands, that generates the resource base, that generates the wealth that flows back down main street, you have created a phenomenal power shift.

That is what this legislation does. Instead of those advisory committees where a majority of those who are affected by the policy of this administration would have some say, there is a shift once again in power. So there are a variety of ways of debating this issue.

I ask unanimous consent, Mr. President, that a cross-section of these letters be printed in the RECORD because it is very important Senators understand that Bruce Babbitt and the Senator from Nevada are talking about power at this moment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FIRST SECURITY BANK,
October 1, 1993.

DIRECTOR (200),
Bureau of Land Management,
Washington, DC.

DEAR SIR/MADAM: Thank you for the opportunity to comment on the proposed rulemaking by the U.S. Forest Service and Bureau of Land Management. We believe that the proposed increase in grazing fees to the $4.28 level and accompanying measures will cause significant disruption to our borrowers.

Livestock ranchers, their families and employees now make up a sizeable percentage of our commercial lending portfolio.

A rancher's ability to acquire financing is base on assets, liabilities and net worth. The proposed grazing fee increases will decrease permit value, thus decreasing the rancher's assets and net worth. In addition, the shortening of the permit term will result in a higher amortization cost and limit marketability and value of said permits.

The profitability and credit worthiness of a permittee will drastically decrease if the federal government insists on maintaining water rights and permittee-financed range improvements. As a lender, it would not be a sound decision to finance improvements that can be amortized. As a result, improvements will most likely not be made and the forage resources of the land will suffer making it less profitable.

The combination of the above effects will result in devastating short-term impacts. The financial viability of the livestock industry will be severely threatened due to increased operating costs, decreased asset marketability and decreased profit margins. This will ultimately result in herd liquidation, lower livestock prices and discontinuance of many family operations. An already fragile western range sheep industry will collapse and the cattle industry will slowly follow!

I strongly urge that fee increases and regulatory measures be carefully thought out and that the many studies that have been submitted dealing with private/public grazing cost comparisons be carefully considered.

Sincerely,

CURTIS H. EATON,
Vice President, Area Manager.

RAMSEY HEATING & ELECTRIC, INC.,
Burley, ID, October 11, 1993.

DEAR SIRS: Your proposal to increase the grazing fees to a $4.28 level could have serious effects on cattlemen's financial support of our business. We are in an agricultural, cattle area depending on no other source for income. We believe the range is in good condition, not overgrazed and the ranchers do a good job cooperating and keeping it in control as requested.

We need financial support from owners of the cattle business if our business is to continue successfully.

Please take another look at the increase possible at the rate of inflation.

Thanks,

ROBERT A. RAMSEY,
Owner.

WM. F. STEVENSON D.V.M. INC.,
Buellton, CA, September 20, 1993.

Re range reform '94.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

This letter is to provide comments for the United States Department of the Interior—Bureau of Land Management and Department of Agriculture-Forest Service Notice of intent to prepare an Environmental Impact Statement and Proposed Rulemaking as published in the Federal Register, Vol. 58, No. 155, Friday, August 13, 1993, pps. 43202–43206, 43208–43213 and 43234–43237.

Please do NOT support the current administration proposal for a 130% increase in grazing fees and severe land-use restrictions. This increase and the changes in land-use policies established under the Public Rangelands Improvement Act (PRIA) will severely hurt many of the family-owned ranch operations. These people are obviously a minority and their lifestyles and values as conservationists of the land should be protected. Please study the cases of privately managed lands vs. publicly managed lands and I think you will see the folly behind this socialized new proposed policy.

Thank you for your time and support.

Sincerely,

BILL STEVENSON, D.V.M.

OSTERHOUT POPE PHILLIPS & CO.,
Burley, ID, October 11, 1993.

DEAR GENTLEMEN: I would like to comment on the proposed changes in the rules and regulations pertaining to federal land users. I believe that the proposed increases in grazing fees, and the resulting decrease in value in the associated permits will cause a significant decrease in the profitability of our local ranchers and a significant decrease in my business.

I practice as a certified public accountant in Burley, Idaho. Agriculture represents a major portion of my business, both directly and indirectly. A majority of my business is in the preparation of income tax returns with its related write-up work. The proposed increase in grazing fees would adversely affect a material portion of my clients and result in an estimated contraction of my business of approximately 10–20%.

Historically farming and ranching has operated on a very small operating profit. Any profit produced has been reinvested in the business, except for that needed for living expenses. Because of low net profit amounts, any additional cost of the rancher will make a large difference in the net profit of the ranchers. For example, an increase in grazing fees of $5,000.00 may not seem like much in an operating budget of $100,000.00. However, when it is considered that there is only a $10,000.00 profit, an additional $5,000.00 expense does make a big difference.

I also believe that the ranching industry has been taking good care of our ranges. They have been managing the ranges for sixty years. If they had been exploiting these ranges, the ranges would not have lasted this long. One reason why ranchers have taken care of the ranges is because their range leases are proprietary in nature. It is my understanding that some of the new regulations reduce or limit the proprietary nature of the leases. If this is the case, then I do believe that the incentive for the rancher to maintain the range will be less and the government costs to maintain the range will increase substantially. If the ranchers are not there, who will manage the range. Will it be the bureaucrats from Washington, D.C.? I suppose they will do as good a job as they have previously done. A good example of the government's management skill is found in Yellowstone Park. In Yellowstone Park the range has been destroyed with an over population of diseased animals. However the government is not able to make the decisions necessary to properly manage the animals. It is a mess. I predict that all the federal range land will look like Yellowstone if the government assumes management duties.

You bureaucrats claim that the rancher is not paying the cost of maintaining the range. Well, what happens if the ranchers leave the range? Then there will be no revenues. However, the naturalists, conservationists, and recreationalists, will require more and more from the government. It appears to me that the government will have increased expenditures and decreased revenues. Where is the benefit in this? If you don't believe this is true, then who is presently demanding the government spend more money on the public lands. It is not the ranchers.

In Idaho the government owns 64% of the land. Over 80% of the cattle in Idaho will spend some time on government land. Changes in government policy regarding public lands have a big impact on Idaho's economy. A 132% increase in lease rates will have an enormous impact on Idaho's economy and future. The average age of farmers and ranchers is over 50 years. If this is such a profitable industry why aren't more young people involved? It is not because there is no interest, it is because it is not economically possible. Increased fees and decreased proprietary interest in the leases will further reduce the number of young people who can begin to farm.

One final comment, all the government programs are instituted for one reason and one reason only. That being to provide inexpensive food to our citizen's. Generally that has been accomplished. The American citizen's percent of revenue that is spent for food is the lowest in the world. We have been able to accomplish this by maintaining a large number of small farmers who have been unable as a group to limit supply and drive prices up. If the government is successful in driving the western cattlemen from the ranges, the supply of beef will decrease substantially and the cost to the consumer will increase proportionately.

You people should consider the sayings which are found on grain storage facilities in Cassia County:

"Don't complain about agriculture with your mouth full."

"If you eat, you are involved in agriculture."

Sincerely,

CURTIS B. POPE,
Certified Public Accountant.

COLORADO STATE UNIVERSITY,
Fort Collins, CO, August 27, 1993.

MICHAEL J. PENFOLD,
Assistant Director, Land & Renewable Resources, U.S. Department of the Interior, Bureau of Land Management, Washington, DC.

DEAR MIKE: As the outside (University) authors of the Grazing Fee Task Group Report (GFTG) we read with interest Rangleland Reform '94. We were especially interested in the reference to the GFTG Report and the support our analysis lends to the fee proposal. We agree with the interpretation of our study findings but feel the brief synopsis provided in Rangeland Reform '94 does not explain or even mention one of the major concerns highlighted in our report. As we summarized in the Executive Summary of our report (Incentive-Based Grazing Fee System, Part I, pp. i-ii):

"The government is not collecting the full market value for grazing public lands, but ranchers are paying full value through the current fee, non-fee grazing costs, and investments in grazing permits. Past grazing fee policy has contributed to the value of grazing permits and current ranchers have paid this cost. Some of the value of public land grazing has been capitalized into the value of public land ranches and is bought and sold in the ranch real estate market. Legal precedent says permit value need not be considered in setting grazing fee policy, but the allocation of permit value remains a central issue in the grazing fee debate.

There is a strong theoretical linkage between grazing fees and permit value. As fees go up, permit values should erode and wealth will be transferred from ranchers to the government. This is the dilemma that policy makers face. The GFTG does not imply that this transfer is right or wrong, but the concern about the fairness of reallocating wealth is obvious."

Our assessment that the value of public land grazing was worth between $3 and $5 per AUM relied heavily on what ranchers have paid to purchase grazing permits. In most instances, a total cost comparison between private and public leases did not support the $3 to $5/AUM recommendation. In fact, the cost comparison for Forest Service and all sheep allotments resulted in negative forage values. In many cases, ranchers are paying more to graze public lands because of the lack of alternatives and/or the complementary between their deeded lands and associated federal permits. Utilizing the permit value approach allowed us to quantify some of these intrinsic values associated with the use of public lands.

The allocation of permit value is a key issue to be addressed in setting grazing fee policy. By proposing a base value of $3.96/AUM the implication is that the value of public land grazing permits belongs to the government and will be reallocated from ranchers to the government. We feel it is important that those setting grazing fee policy, and the general public, realize that a reallocation of value will result from higher grazing fees.

We hope that as federal grazing fees are debated, recognition will be given to the permit value issue. We do not take a position as to who is entitled to permit value. Ranchers took a risk that policies might change when buying the grazing permit. We point out, however, that public land ranchers are paying full market value for grazing public lands when higher non-fee grazing costs and investments in grazing permits are considered. The issue is whether recognition should be given to the investment cost current holder of grazing permits have. To exclude this point from the proposed policy statement and from the synopsis of what we found is misleading.

Sincerely,

E.T. BARTLETT,
Professor, Department of Rangeland Ecosystem Science, Colorado State University.

NELI RIMBEY,
Extension Professor, Range Economist, University of Idaho.

L. ALLEN TORELL,
Professor, Dept. of Agric Economics, New Mexico State University.

LARRY VAN TASSELL,
Assoc. Professor, Agric Economics, Univ. of Wyoming.

JOINT SCHOOL DISTRICT NO. 365,
Grand View, ID, October 4, 1993.

DIRECTOR (200),
Bureau of Land Management,
Washington, DC.

DEAR SIR/MADAM: As a public school district with a tax base reliant on agriculture, we are extremely worried about your recent proposals. We believe the proposed increase in grazing fees to the $4.28 level and the expected loss or elimination of permit value which would accompany this increase will cause significant hardship to our school district.

Ranching families and employees now make up 25% of our total school district enrollment. Our school district would suffer without the presence and diversity of ranching students.

In addition, livestock ranchers, their families and employees now pay approximately 33% of our total school district tax assessments. Without this financing, we cannot pay teacher salaries, repair facilities, purchase text books and supplies, and might possibly have to close schools all together.

Approximately 4100 of the 5200 square miles which make up our school district are federally owned. These federal grazing permits must continue to remain, along with the deeded land to which they have been historically attached, with Idaho ranchers so that we can rely on a consistent tax base to allow us to provide for the education needs of our community.

The cattle business is not only the largest agricultural commodity in Idaho, it is an important part of our school district. The ranching lifestyle produces students that we want in our schools, they are responsible and hard-working!

This proposal along with the proposed endangered species listing of the Bruneau Hot Springs Snail, would be disastrous to our school district.

Sincerely,

RALPH HATCH,
Superintendent.

EMMETT, ID,
October 14, 1993.

DIRECTOR (200),
Bureau of Land Management,
Washington, DC.

DEAR SIRS: Please accept the following remarks on the proposed Rangeland Reform.

First, let me give you a little background on my agriculture experience. My family has been in the livestock business for over a hundred years. My grandfather started out in the sheep business and my father expanded into cattle. We are primarily in the cattle business now, although I still have an interest in the family sheep business.

There are several issues in the proposal that need to be addressed. We have had for at least 20 years, a rest rotation system for our grazing lands. We have done this with the full cooperation of the BLM and Forest Service. With the program, even in the severe drought years that we have experienced in the last few years, our cattle have not had to be held off of the land for any reason, much less for any deterioration. We are good stewards of our land, both private and public. A raise in the grazing fees will greatly hurt our ability to stay in business. I feel we would be punished for our taking care of the land.

Something that does not seem to be addressed in the proposal is the fact that we, in agriculture business, are feeding not only the United States but several other nations with the beef and other products that we, as an industry produce. We in the United States have probably the cheapest food prices in the world, and with the increase in the fees, along with so many restrictions and regulations on us, cattle producers will go out of business. When these producers, like myself, go out of business, the price is going to do nothing but go up, the supply is going to go down and the consumer is going to yell.

As for the disbanding of the grazing advisory boards and re-appointing of the new board, this is a very strange proposal. Would you appreciate paying rent on property, for the use of the property for your business, then have someone with no expertise or experience in your business, be put in charge of telling you how to run your business? We pay rent for the privilege of using this land and the preservationists and recreationists do not and yet they will be able to tell us how to run our business? If this is allowed to happen, it would be very unfair to the livestock producer and the citizens of the U.S.

63.8 percent of the State of Idaho is federally owned. We, the tax payers of Idaho, survive on this type of tax base. By raising the grazing fees, the economy of the state will be greatly impacted. The impact on the local counties and communities will be even more impacted. The most current figures that I have seen say that for each person that is employed on a ranch or farm, 5 people in the surrounding communities are kept employed. The sale of cattle in Idaho generated $721.4 million in 1992. Eighty percent of these cattle graze on public land. Our industry accounted for 25.6 percent of the total Idaho agricultural receipts last year. Don't strife this important part of our economy.

The main reason most of the Federal lands are Federal lands in the Western United States is because this land is not usable for any other purpose. The rancher has developed water for livestock, which wildlife, the hunters, and the recreationists, among others, use and benefit from year round. I feel that taking away the ownership of the these improvements will cause the incentive to maintain these to deteriorate. The right to have the water rights is a very important part of this process. Without these rights, all users of the land will be affected.

To make such general restrictive regulations for the totally different kinds of terrain there are in the West, not just here in Idaho, is ludicrous. Any regulatory changes need to be regionalized, not nationalized.

Thank you for considering these remarks.

Sincerely,

JUDY AND RON WOODIE,
Haw Creek Ranch.

HOUSE OF REPRESENTATIVES,
STATE OF IDAHO,
October 14, 1993.

DIRECTOR,
Bureau of Land Management,
Washington, DC.

DEAR SIR: As a state legislator knowledgeable in the day to day hardships of family ranch operations in southern Idaho, I can state with full confidence that the proposed grazing fee increase from $1.86 to $4.28 over a three year period is too much-too fast. Even the current Senate/House compromise proposal of $3.45 exceeds realistic economic considerations. Especially in light of the fact that rangeland reform regulations and standards are apparently included in the compromise language. The two in combination constitute a double-whammy economic impact that is poorly conceived and ill advised. The cause célèbre is that this package is for the taxpayer, the forgotten in grazing debates. I disagree. Like the emperor who wore no clothes, the federal government has surrounded itself with its own gown of logic; logic developed in the ethereal atmosphere of absolute right that so often prevails within the Washington D.C. beltway.

It is not really logical when a landgrant university such as the University of Idaho prepares a detailed research paper on comparative grazing costs on federal, state and private land only to have deferral bureaucrats reject that study on the basis of other studies which purport to show something else. My experience in Washington D.C. was that in research and development I could always find studies to support any thesis. Sort of the antithesis of the scientific thought process.

In all probability, the University Idaho study has a good handle on grazing conditions and cost as they relate to Idaho. As such, the grazing fee increases and rangeland reform package currently under consideration will adversely impact the economic stability of Idaho's family ranches. When these families cut back operations or fold operations, the state's economic base is disrupted. taxes from income and sales will decrease and additional taxes will have to be collected to maintain existing levels of state funding. Since this will also adversely impact most Idaho taxpayers, how much has the "forgotten taxpayer" really been helped?

On a more national scale, larger corporations who engage in livestock operations often use cattle as a profit/loss control to advantage the corporation in reducing taxes. With the increased grazing fees proposed, it is very likely that the national treasury will actually see five year average losses resulting from just such corporate manipulations. Therefore, large corporations which also include cattle operations will probably not be too heavily impacted. However, the "forgotten taxpayer" will still be wondering when his ship is going to come in.

Large livestock operations will have a cut in their economic base which will again impact state income and sales taxes. They will survive either because of their economic base, or because they are able to acquire additional range grazing rights from those who yield their rights back to the federal government. This forced cannibalism on the part of the federal government will reduce jobs. Will the federal treasury see the benefit? Perhaps—but only perhaps. States are matched by the federal government on an approximately 70/30 basis for health and education costs of the unemployed or dysfunctional. The costs of these programs, to the extent that ranch families are displaced, could significantly reduce the net return to the federal government.

Finally, even the Idaho Land Board has taken note of economic pressure on livestock operators as evidenced by the recent reduction of the Idaho grazing fee from $4.99 to $4.53. It is the reduction that establishes the precedent. The point often made that the Idaho grazing fee is as high as rates considered for federal lands is largely negated by the fact that environmental regulations and operational mandates on federal lands are generally more extensive than on Idaho lands.

Are there winners in this package. Yes. But the taxpayer rallying call is a smokescreen. As recently pointed out by Senator Larry E. Craig, the issue is environmental and the purpose is to reduce livestock on federal land. The recent elimination of BLM grazing advisory boards is clear evidence of a planned shift in grazing representation on federal boards. That being the case, every "forgotten taxpayer" in the United States had better remember that when the livestock go, the costs for federal land maintenance will transition to the user—that's the general public now calling for the reduction. And in this area, the rate of increase in abuse of federal lands but the general public far transcends anything in the livestock industry over the past one hundred years.

Sincerely,

JIM D. KEMPTON.

NEVADA CATTLEMEN'S ASSOCIATION,
Elko, NV.

Contact: Betsy Macfarlan
Phone: 702–738–9214

FOR IMMEDIATE RELEASE

Elko, Nevada—October 21, 1993—Demar Dahl, President of the Nevada Cattlemen's Association issued the following:

The Nevada Cattlemen's Association today appealed to Senator Bryan asking him to stand up for Nevada and join the filibuster pending in the United States Senate.

"Senator Reid has turned his back on Nevada, the livestock industry, and the communities that depend on that industry," said Demar Dahl, President of NvCA.

"Senator Reid says we have the choice of accepting his amendment or Secretary Babbitt's proposal. That's like choosing between the electric chair and the firing squad," Dahl said.

He also pointed out that Senator Dominici of New Mexico and other western senators are leading the filibuster effort. "They obviously believe there are alternatives other than the Reid amendment or the Babbitt plan," he said.

Senator Reid said in a press release yesterday, "Frankly, it would be easier for me to throw my hands in the air, support a filibuster, and watch Secretary Babbitt go all the way with his reforms, and a $4.28 fee. In good conscience I cannot do that. I did not walk away from the negotiating table when the going got tough, and I will not walk away from cattlemen now."

"The going got tough at the negotiating table for Reid because he was working against the very people he is supposed to represent," said Dahl, "and yes, he did walk away from the cattlemen."

NEVADA CATTLEMEN'S ASSOCIATION,
Elko, NV, October 25, 1993.

Hon. LARRY CRAIG,
Hart Senate Office Building,
Washington D.C.

DEAR SENATOR CRAIG: It has come to our attention that our position concerning Senator Reid's amendment has not been made clear, therefore we feel it is important that you understand our feelings regarding Senator Reid's actions. Senator Reid has never asked for our input and has steadfastly ignored our recommendations. He has turned his back on the livestock industry and in our view the entire state of Nevada by his blatant misrepresentation of our best interests.

We view Senator Reid's actions on water rights as a states' rights issue and very therefore damaging to Nevada and the livestock industry. The subleasing paragraph in his amendment will put a number of our ranchers out of business. It also makes it nearly impossible for young families to get started in the livestock business, since Nevada's ranching industry is so dependent upon federal lands with 87% of Nevada federally owned. We are very concerned about the infringement upon our private property rights, i.e. range improvements and water, by Senator Reid's amendment. We view Senator Reid's amendment as a political maneuver to deny the public, including ranchers, the right to comment on all of the proposed changes. By codifying this into law we are denied our rights that the NEPA process guarantees.

The livestock people of Nevada appreciate your efforts on our behalf and on behalf of all the ranchers in the west. If we can assist you in any way, please don't hesitate to contact us.

Thank you again for your efforts.

Sincerely,

DEMAR DAHL,
President.

NEVADA CATTLEMEN'S ASSOCIATION,
October 25, 1993.

BILL MYERS,
Public Lands Council,
Washington, DC.

DEAR MR. MEYERS: I have read many quotes from Senator Reid in several papers, saying he is representing the livestock industry and that he consulted with ranchers who are semi-agreeing with him.

I am here to tell you that is not the truth. I myself talked to him at length on the phone, and then faxed him the enclosed letter. Senator Reid is absolutely not working for the Nevada Cattlemen. He has not spoken with the Nevada Çattlemen's Association or any person authorized to speak for us, and he does not echo the true beliefs of the State of Nevada, the State with the most public land. He has sold us out in favor of lining up with Democrats and the Administration.

It is imperative at this time that we either stick with the moratorium for a year or let the Administration move administratively. We cannot allow any of the Reform 94 package to be codified into law. Issues such as this should not be codified into law in a committee without a public hearing, and should be done pursuant to the Administrative Procedure Act and the Taylor Grazing Act.

As Chairman of the Federal Lands Committee for the Nevada Cattlemen's Association, I believe I am in much better communication with the federal lands ranchers in this State and can speak for them more accurately then can Senator Reid. The ranchers in Nevada do not support the Reid Compromise or Rangeland Reform 94.

Sincerely,

JOHN L. FALEN,
Chairman, Public Lands.

OROVADA, NV,
October 5, 1993.

Senator REID,
U.S. Senate.

DEAR SENATOR: Please excuse the hand written note. I talked to you on the phone earlier today—

I know you've been convinced that we must reach a compromise—Sir—we just can't compromise any more. We have been compromising ourselves out of business for the last several years—don't give away the store!

To further prove my point about the endangered species and other similar laws, taking our country over do me and yourself a favor.

Please get the September 1993 issue of the Readers Digest and read "When a Law Goes Haywire." It starts on page 49 and is only four pages long—surely you have enough time to read that, it's really important. Take it to the committee meeting with you.

Tell them this is where we're heading—stand up and be tough. If you take a hard line, Nevada will be proud of you.

The compromise you are talking about is going to do us in anyway. If it has to be, let them do it and don't be a party to our own devise.

Thank you,

JOHN L. FALEN,
Chairman,
Nevada Federal Lands Committee.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. CRAIG. That is one of the bottom lines of the debate in this issue.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. I yield myself 10 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, in the West there are stories of important heritage, good guys in white hats, bad guys in black hats. We have had shootouts at all kinds of corrals, but the most famous is the one at OK Corral; Federal marshals like Matt Dillon, who singlehandedly stopped train robberies and found murderers in the most interesting places.

Let us understand, as I have explained before, I am from the Western part of the United States, was born there. I understand western heritage and stories about the train robbers and marshals and all kinds of things like that. These stories are good when they are not falsehoods or they are not built upon myths.

But we have heard some myths in this debate from those who propose locking up Government, stopping Government from moving forward. I believe they do a disservice to the West and westerners.

We have heard about this so-called war on the West. But let us look, Mr. President, at the facts. Take, for example, the State of Montana. In the State of Montana, like all Federal lands, the grazing fee is $1.86. That is what it is now. If you want to graze on State lands in the State of Montana, it is $4.03. If you want to graze on private land, it is almost $12.

Is $1.86 increased by a few cents over the next 3 years outrageous? Of course not. Secretary Babbitt's proposal is much higher than what I have recommended in my amendment. But one of the myths being propounded around here is that the $1.86 is fair and should not be increased at all.

Look at private lands all over this country—Oregon, $9.28; Washington, $10.69; Wyoming, $9.93, and in Wyoming the legislature just passed a law and State lands will be $3.50. So that is what we are talking about in the way of myths.

It is not often, Mr. President, that you get the National Taxpayers Union, environmental groups, and editorial support from all over the country. When I was here last week, I could only talk about editorial support from Reno, Las Vegas, Sacramento, Casper, Denver. Now we even today have an editorial supporting what should happen on this bill in the Washington Post. The support is growing, not weakening.

Since I was born and grew up in Searchlight, NV, Mr. President, the population of Nevada has increased 650 percent. In Alaska, 350 percent; Colorado, 150 percent; State of Washington, over 100 percent; Utah, 150 percent; Oregon, about 100 percent; Idaho, 700 percent; Montana, Wyoming 65 percent.

Mr. President, overall, western populations have grown nearly 200 percent in my lifetime. The population growth has brought pressure on public lands. These lands that are public are owned by the public, are intended for multiple use. And our growing population is using these lands.

Look at our national parks. During the last 10 years visitors to the Grand Canyon have increased 50 percent—4 million people a year visit Grand Canyon. Zion National Park in Utah, really kind of a small park, has increased the same period of time 50 percent—2 million visitors. I told you about Grand Canyon having 4 million visitors. Lake Mead had 9 million—9 million people. There is tremendous growth in the wanting of people to visit our parks. Yosemite, 4 million. The population has strained our resources, our urban centers are becoming crowded, our lands are used by many. We must recognize new reality. This reality is about progress and it is about change.

My friends on the other side do not want change. There is not a thing that we can do to make them happy. "Change this, we do not like that." "Stop Babbitt from going forward, restricting by statute, that is not good enough." We did that. The grazing fee is still too high, $3.45, still too high. They want gridlock. That is what has stopped this country from going forward is gridlock. We cannot do anything to make them happy.

Today's West is different. This debate is about a new West. We talked about gridlock last week, gridlock not only in the Senate, but in the courts, we have been threatened with in the courts. I believe that we must again understand that what we are talking about here, Mr. President, is giving the ranchers of the Western part of the United States a break from what Secretary Babbitt wanted to do, lower grazing fees, less increase after 3 years and restricting what he can do and what he can move forward on.

The compromise allows room for the ranching families that are part of our history. The vast majority of ranching families will not be affected by these changes. They will retain ownership of range improvements during this 10-year period, they will retain the water rights that they have proven up, they will not be penalized if they care for the land.

This compromise, I again suggest to the President, has been endorsed by the National Taxpayers Union.' Conservation groups, the environmental groups, say this proposal is watered down. It is a compromise but it is a step forward and they support it. The House does not like it. Secretary Babbitt does not like it. But it is the best we could do. Again, what the opponents have offered is gridlock and more gridlock. I believe we should allow this to come to a vote, vote it up or down, and move forward with something else.

Mr. President, we are now in the world of gridlock No. 2. We have moved from last week to gridlock No. 1; we are now at gridlock No. 2. I think we should move on to something more constructive.

The PRESIDING OFFICER (Mr. DORGAN). The Chair advises the Senator from Wyoming has 8 minutes 30 seconds remaining; the Senator from Nevada controls 18 minutes and 30 seconds.

Mr. REID. I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, we find ourselves back again with the same arguments, the same talking. Everybody wants to project themselves out here as representing the West, those of us who are at least speaking. I will say this to my friends from Wyoming, Idaho, and New Mexico. You all represent the West. I understand that. I represent the West. I hope you understand that.

I have been here long enough and I know the issues well enough in my State to realize what is important to the ranching industry there. My family, though not ranchers, were farmers and we know the land, we know what water is all about, and the importance of it. What we are faced with today is a decision, in my judgment, of whether or not we are going to put an end to this constant yearly battle as to what ranchers are going to pay. We know they are going to pay for it, what rights they are going to have, as it relates to the Bureau of Land Management land, and when doing that, you have to be realistic.

Sure, we like it our way. We have had it our way. And this particular Reid compromise that is before us is still our way. It is still beneficial to the ranchers. The costs, for instance, do not cover the exact cost of administering the program. That is a benefit to our ranchers. And in Arizona, two-thirds of the ranchers' lands are leased from the Forest Service. The standards that are imposed here in this legislation are those same standards that are already adopted by the Forest Service. I do not know how it is in other States.

Amazingly enough, we seem to reach an agreement here on this floor when, in fact, we have reached agreement with the House of Representatives. The fee no longer appears to be the primary bone of contention based on the arguments that are here. Even the opponents of the Reid compromise seem to propose that their own fee increase of $3.45 focuses now on the policy questions involving this compromise.

I would like to address a subject that has been raised by those in opposition to the Reid compromise before us; that is, private property rights. It is being presented that this proposal will in some way have an effect on present private property rights.

This Senator has always been a strong defender of the property rights of individuals. On many occasions, I have risen and voted to defend attacks on private property rights when the issue has come before the Senate.

A fundamental question before us today is what rights do the grazing permittee's have now and how, if at all, will these rights change after this proposal is adopted.

The Federal Land Policy and Management Act—section 402—directs the Secretaries of the Interior and Agriculture to issue permits and leases for a period of 10 years subject to terms and conditions deemed appropriate and consistent with the law. Recognition of the value of the permittee's contribution to the permanent improvements is noted.

The State governments have established water laws which grant rights to water. The Federal Government has long recognized the States' right to regulate water. In the past century, tens of thousands of water filings have been processed and granted by the States in the West. Clearly water rights exist on the public land.

What would this proposal do to change these existing water rights? Nothing. This proposal recognizes and maintains existing water rights. Future water rights only will be vested in the United States so that the Federal Government can ensure that protection of public water supplies are maintained.

To fully understand the importance of the water issue, I would like to provide an example of what happens when a water right on the public lands is granted to an individual and then removed from multiple-use management.

I would like to describe Dripping Spring in northwest Arizona. This spring, on public land within the Mount Nutt Wilderness Area, is managed by the BLM and is the only water source for miles. It was the water source for desert bighorn sheep, birds, deer, wild burros, small mammals, and livestock.

The water rights granted by the State included the entire flow of the spring. The State granted Water Right No. 713 in 1930 for 15,000 gallons per day. This 15,000 gallons per day permit was issued on a spring that flows 3 gallons per minute. The actual flow amounts to less than one-third of the permitted amount.

An adjoining private landowner has piped the water to use on his private land several miles away. It is reported that over 15 families currently use the water for domestic use even though the State permit is for livestock use only. Additionally, State law does not require that sufficient water be left at the source to serve the ecosystem that is dependent upon the water. This is not an isolated example. I have several other examples of these types of actions.

I ask my colleagues, how can you manage the public lands, especially in desert ecosystem, if you do not have water? Entire ecosystems can be changed and species displaced and the land can be damaged immeasurably for future grazing. Water is the most critical resource in the desert ecosystem. While past policies have allowed this to occur, it is time to make the correction. We should not penalize those who abide by the law but we need to maintain the entire ecosystem, not pieces for the benefit of maintaining the ecosystem for livestock. Several of my colleagues have tried to redirect the argument and scare people by saying that these changes will affect water rights all over the West. It will not affect the allocation on the Colorado River. It will not affect the city of Boulder's water supply. The changes are clearly directed at the BLM range, and it is so clear in the law that it irks this Senator to see that continuously argued, that the central Arizona project is going to be affected. It is not.

Range improvement ownership is another issue where past policies need correction. While it is suggested that you must have title to range improvements before money is invested, this view is flawed. The Forest Service has, since its very formation in 1906, not allowed ownership of range improvements.

Livestock grazing on the national forest has occurred for over 80 years under this policy. Investments have been made, transfer of permits undertaken, and bank loans have been granted. I do not remember a single piece of legislation introduced to change the Forest Service policy. It must be working.

I ask my colleagues, if you were a business person and you leased land to someone else and they made improvements in order to conduct their business, would you give them title to the improvements? I venture to say no. The lessee made those improvements with full plans to amortize them during the period of the lease. This is why permit tenure for 10-year leases is so important to the industry. Adequate time needs to be allowed to make investments and amortize their value. The Reid compromise protects permit tenure.

Many of the range improvements have multiple use values and need to be the responsibility of the BLM to ensure they are used in that manner. The springs I described before are used in that manner. The springs I described before are examples of that. In addition, in other locations livestock corrals and fences are also used in wild horse and burro roundups or management.

While past BLM policy allowed the ownership of range improvements, it is time for change. Again, what is the impact of the change on existing ownership of range improvements? Nothing!

The proposal recognizes existing ownership. Future permanent range improvements will have title vested in the United States.

Mr. President, let me also remind my colleagues that there are other things at stake in this bill. If this bill does not pass, funding for timber harvest, which is vital to my State and to the States of many who are opposing this measure, will be unavailable; funding for important national park projects—which are already experiencing a tremendous backlog—will be unavailable; critical funding for native American schools, hospitals and water projects will be unavailable; and so on.

The State of Arizona has the largest on reservation Native American population in the United States. Everyone here has heard me speak of the destitution and poverty in the Bennett Freeze Area on the Navajo Reservation. Well, Mr. President, there is money—no where near what is necessary—but there is funding to start to provide sewer lines and home repairs for U.S. citizens who are living in third world conditions.

I am not prepared, and I hope my colleagues would not be either, to jeopardize programs critical to the health and well-being of a number of Americans.

Mr. President, I have long supported the livestock industry. I feel this proposal is the best compromise that can be achieved. I think this bill should be passed and I ask my colleagues to support the Reid compromise. I yield the floor.

I wish we had more time because this is an important issue that needs to be resolved, and we need to do it now. This is going to bring certainty to the capability of ranchers to finance their ranching enterprises. And it is time that we put it to rest and stop all of the misinformation that is being put out here. Nobody here who is proposing this that I know of says it is a wonderful, wonderful thing. How many times have my friends on the other side had to propose legislation that was not absolutely perfect?

So, Mr. President, in closing, I hope that the Senate will impose cloture and get on with it. Failure to do that this afternoon, means that the Interior Department could close down, in effect, really all of Arizona. We must not let something like this keep us from doing what is right for the entire west and what is right for the ranchers.

Mr. WALLOP. Mr. President, I yield 30 seconds to myself.

I say to the Senator from Arizona that the western State water engineers feel that he is flat wrong. Maybe he is right and they are wrong, but one thing is certain: Nobody had a chance to find out, because a back-room deal denied them the ability to have a hearing.

I yield to the Senator from Idaho.

Mr. CRAIG. I thank the Senator. The Senator from Arizona is right. There may be myths in this, but we do know there is a great deal of uncertainty. Why?

First, new section 406 (i)(2) of the conference report states:

> The United States shall assert its claims and exercise its rights to water development on public lands to benefit the public lands and resources thereon.

I take it to mean that the water currently used for hydroelectric power generation is to be subordinated for use for "the public lands and resources thereon" —even if that water has been used for the past 50 years to produce electricity at a hydroelectric dam.

Hydroelectric projects on BLM lands in Arkansas, 8; Alabama, 5; California, 32; Idaho, 30; Colorado 3; Minnesota, 7; New Mexico, 1; Missouri, 2; Montana, 2; Utah, 9; Washington, 2; Wyoming, 10; Nevada, 0. Is that a coincidence? I do not know, but I do know what it appears that the conference report says, and the Senator from Arizona will not really know, unless we have full public hearings and bring in the experts to apply that language.

Second, new section 406(l) authorizes the Secretary of the Interior to cancel or suspend permits and leases if there is any violation of Federal or state law concerning conservation, protection of natural or cultural resources, and the protection of environmental quality. There are a half-dozen or so Federal and State authorizations necessary to build a hydroelectric powerplant. Plus there are untold State laws on these issues. Thus, the conference report gives the Secretary of the Interior nearly unbridled power to rescind a hydroelectric license.

The PRESIDING OFFICER. There are 7 minutes remaining for the Senator from Wyoming. The Senator from Nevada has 9 minutes.

Mr. WALLOP. Mr. President, I yield myself the remainder of our time.

If this debate contains any other information for a public confused by having one side say one thing and another side counter it, and the other side deny it, it is that nobody can say for a certainty what is contained in the language of these back-room deals. I will say this—and it is the belief of the Senator from Wyoming—that the thoughts propounded by the Senator from Arizona are absolutely wrong. Water is affected. Range improvements are affected. The language of the bill on range improvements does not confine range improvements to just those for livestock usage. There is no definition and language which says "all improvements."

Mr. President, all improvements is a lot more than just the ranching issue. Let me just say once again that the livestock industry has accepted the fact that there will be a rise in grazing fees, and they have authorized the Senator from Colorado and the Senator from Wyoming—a bipartisan, nongridlock twosome—to introduce legislation to raise those fees. And we have not been able to have a hearing, because the back-room deals with the Secretary of the Interior were on the way down.

The issue of costs was raised by the Senator from Arizona and is absolutely fraudulent. The BLM figures produced by the Secretary of Interior, Mr. Babbitt, assume that all costs of rangelands are attributable solely to grazing, as though if you eliminated all of the livestock, there would be no more need for BLM employees, range experts, forest experts, hydrologists or anything else. Mr. President, that is not fair to the people whose honest living comes from this.

There is also a very disturbing thing that the Senator from Arizona brings up: Subject to valid existing rights. My friends from the west know, and most other people who have ever been in private business know, the determiner of valid existing rights is the U.S. Government and the Secretary of the Interior, who seeks to take them. That is who the determiner is. There is nothing in the back-room deal that says this is subject or pursuant to State law. Secretary Babbitt, over the weekend, managed to make it clear that he does not believe that State law or compensation for the loss of property is an obligation of the United States.

Mr. President, let me talk just a minute about one other thing. The Senator from Nevada said the Forest Service has had these regulations for many years. Let me just make clear that the Forest Service with regard to these has had some, not all, similar regulations—and the key word, Mr. President is "regulations"—over the years. They have not had the Forest Service law, and many of those regulations have been and are being tested in jurisprudence. That distinction is critical. Forest Service regulations are not laws, and the Senator from Nevada and the back-room dealers are putting them into law. Why? It is our belief that the Secretary of the Interior does not have the statutory authority for most of the Executive order. And so how better to get it than to put it in a back-room deal, and then authorize the Secretary to issue regulations pursuant to what is now law and has not been before—only Executive order.

Mr. President, there is something really very unsettling about that.

I say again this Congress managed to say that ordinary people in America are not entitled to their expenses for raising issues of direct concern to this Congress. Lobbying is no longer deductible even though it is a perfectly legitimate pastime for a rancher from Rawlings, WY, to come and see the Senator from Wyoming. He cannot do that. The big corporations, the favorites on the left, are able to write that off as legal fees.

Ranchers were not even allowed to come here at their own expense for a hearing, and why not? Because a hearing would have disclosed the very troubling events that are here.

Mr. President, I have a series of statements on the economic effects of this. But let me just say it is ironic that the Republican staff of the Joint Economic Committee just last week released a study finding that State budgets will experience a $33.8 billion shortfall over the next 5 years because of the tax bill just passed.

This is a big-time shortfall for those of us whose lands lie in Federal hands. It is very easy from somebody from Iowa, or Oklahoma, or some other place, to not worry about that because they do not have the same circumstance. Their land is all deeded in the hands of citizens and of the State. It is not true in Wyoming, Nevada, Arizona, or Idaho, or the rest of the 14 States that are covered by it.

This Congress, without having so much as a whim of conscience, can impose on the 28 of us from the western land States its will because they do not have any constituents affected by it. They do not have any State government affected by it. They do not have any county government affected by it. The loss of revenues are of some consequence to them except when the revenue from income tax begins to flow next year and the outflow will be complete.

Mr. President, I see no reason to mince any words with respect to the consideration of the conference report on the Interior appropriations measure. I still do not understand how the Senate conferees managed to go from an overwhelming vote in the Senate to place a moratorium on the Secretary of the Interior's proposed rulemaking on range management to enactment of the very regulations which the Senate decided should not go forward.

The situation is simply unbelievable. Not only did the Appropriations Committee disregard the vote of the Senate, it also ignored the authorizing committee. Even more unbelievable, once they had decided that the authorizing committee was irrelevant, they ignored the only legislation pending in the Senate, which had been introduced by Senator CAMPBELL and myself.

I do not understand how we got to where we are. I do not understand how an overwhelming vote in the Senate not to engage in rulemaking turns into the enactment of something which is so terrible that no Senator would even introduce it. Just so my colleagues understand the situation, the Senate voted 59 to 40 to place a moratorium on the proposed rulemaking by the Secretary of the Interior. There was legislation pending before the Senate Committee on Energy and Natural Resources, which was bipartisan, and the Senate acted to protect its rights as an institution against the executive branch which had chosen to end run the Congress. That was the mandate of the Senate which the Appropriations Committee took into conference.

The House, on the other hand, had no provisions in their bill, although they later manufactured a vote to instruct their conferees. The issue before the conference was whether to have a moratorium. It would have been understandable, although regrettable, if the Senate conferees had simply caved to the House and deleted the moratorium. What the Senate conferees did was to adopt virtually all of the Secretary's proposals and enact them into law. How in the name of reason did the conferees decide to do that?

Mr. President, doing nothing would have been far more preferable to what the conferees brought back. There are portions of the Secretary's proposed regulations which simply have no basis in law and would fall under court challenge. The conferees would have us enact those provisions. As I stated earlier, there is legislation pending before the authorizing committee which would raise grazing fees and make other changes. Apparently the Appropriations Committee considers endrunning the authorizing committees to be a problem only when a point of order might be raised on initial consideration. It does not seem to be a problem when the authorizing committee can be ignored in the dark of a conference room.

I will go through this travesty line by line to demonstrate why it should not be enacted. But I resent having to engage in that debate. If any Member of the Senate thought this proposal was a good idea, they could have introduced it and had it referred to the Committee on Energy and Natural Resources. If the administration had wanted to involve the legislature branch in its assault on the West, the Secretary could have submitted a bill and had it introduced by request. Both Senator CAMPBELL and I would be happy to put our legislation as well as this outrage to the test of public hearings and committee consideration.

That is not the route which the administration and its minions on the Hill chose. No public hearings, no public scrutiny, no consultation with the sponsors of the only legislation pending in committee, no concern, no thought. I am bitterly disappointed in my colleagues who voted to accept this proposal in the conference. This proposal would have fallen under a point of order had it been offered honestly in the Senate when we originally considered the interior appropriations bill. There is no excuse or justification for what the conference did.

I hope that my colleagues will stand up for the legislative process and the rights of the authorizing committee. I hope that my colleagues will stand up for the rights of the Senate of the United States to have major measures debated fully in accordance with the rules and procedures of the Senate.

The conferees took a simple moratorium into conference and came back with 19 pages of substantive law. The conferees took a moratorium into conference and came back with legislation to reverse over a century of deference to State water law. The conferees took a moratorium into conference and came back with legislation which seizes all improvements on public lands, from highways to mines to canals to homes, in the name of the United States. The conferees took a moratorium into conference and came back with a provision which makes every water right and every permanent improvement on public lands subject to an undefined Federal validity determination. The conferees took a moratorium into conference and came back with a blanket assertion of Federal ownership of all water developed on public lands, not just for grazing, but also for hospitals, schools, rural communities, mining, and all other uses.

Most outrageous of all, the conferees made major life decisions for thousands of family ranchers, and hundreds of western communities without their knowledge or counsel.

Mr. President, I have been flooded with letters which clearly and painfully detail the real life drama created by fear of what this Congress proposes to do to our Western Federal lands and to the communities they support. There is something terribly wrong with the process that has brought us to this point.

Mr. President, I ask unanimous consent that the several statements, several letters, and others relating to these topics be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUBLEASING

Under the Reid amendment, most all ranches would be negatively impacted by his new subleasing language.

The Reid language will make what is now a customary business practice for all types of businesses,—wholesale beverage dealers, oil field service equipment businesses, grocery stores, big game outfitters—to name just a few—and will add not only an intolerable financial burden, but will make a legal and widely accepted business practice illegal.

SUBLEASING SITUATIONS UNDER REID'S PROPOSAL

Scenario #1=20% subleasing surcharge: Base property leased, permit held.

Scenario #2=20% subleasing surcharge: Permit leased, base property owned.

Scenario #3=50% subleasing surcharge: Livestock not owned by permittee.

Scenario #4=70% subleasing surcharge: Base property leased, permit held (or leased??) and livestock not owned by permittee nebulous language as to whether permit is held or leased.

SUBLEASING EXAMPLES FOR SCENARIOS

Scenario #1: A young couple entering into the ranching business with only enough assets to purchase livestock but wish to lease base property and acquire permits.

Scenario #2: Existing operator faced with a temporary reduction in forage on private or public lands due to drought, fire, etc. that needs additional forage to avoid overgrazing.

Scenario #3: (a) A rancher is willing to allow a son, daughter or employee to run individually owned livestock on the ranch permit as compensation for work performed.

(b) Permits held by various Grassland associations are grazed by livestock owned by individual association members.

Scenario #4: A rancher forced to retire by age or health wishes to lease the ranch and livestock until a child is prepared to take on operation.

ECONOMIC ARGUMENTS

Environmental groups and the media have portrayed the grazing fee issue as a deficit reduction measure. But we can't look at the revenue issue in a vacuum. Didn't we learn anything from the luxury tax debacle? Increasing grazing fees isn't going to increase federal revenue—it's going to lead to lost jobs, lost cash and lost net worth—all of which translate into lost federal and state tax dollars.

Loss of Net Cash Income

An increase in grazing fees will significantly reduce the net cash flow of a ranch.

One study, prepared by Texas A&M and associated groups including the Department of Agriculture, looked at the economic impact of the proposed higher grazing fees on five representative ranches in Montana, Wyoming, Colorado and New Mexico.

The study found that net cash income could decline by as much as $6,000/year for low debt ranches that depend on federal grazing for 50% of its needs, and by as much as $6,400 for similar high debt ranches.

In Wyoming, a comparison of small and large livestock operations reveals a reduction in average annual income of $3000 for large ranches and $6600 for small ranches.

Let's put these figures into prospective.

In Wyoming, the average annual income for large family livestock operations is only $22,271. For small family livestock operations it is only $19,548. A $3,000-$6,600 reduction in income to these farms represents a decline of 14 to 34 percent of their total net income.

For many, it means the difference between continuing to operate or having to shut down their ranching business.

What does this mean to the federal government? The proposed fee increases will directly reduce economic activity in public land states by over $1 billion. Using the oft-quoted multiplier that $1 of ranch income generates between $5 and $10 times that income to the economy, a reduction of $1 billion could lead to more than $5 billion in lost economic activity.

This lost revenue will trigger an irreversible decline in the economies of rural communities who rely on this economic activity to generate sales tax revenues.

For example, Ken Kerns, Chairman of the Board of County Commissioners, Sheridan County, Wyoming wrote that "rural communities, such as ours, must have economic diversity. The soundness of that profit-driven agriculture base is a valued piece of that diversity. The next downturn in our sales tax revenues could be inflicted by a squeezing of local business profits. If the grazing fee on public lands, along with other factors of production costs, are increased beyond the point of profitability, then that portion of profit now being spent on our main streets, which generates sales tax dollars, will be absorbed in the federal treasury which is a long way from our community."

Isn't it ironic that the Republican staff of the Joint Economic Committee just last week released a study finding that state budgets will experience a $33.8 billion shortfall over the next five years because of the tax bill just passed?

Why? Because citizens forced to send additional monies to Washington are not spending that money on taxable items on which states collect sales tax.

Now the government wants to take away even more state revenues through increased grazing fees.

In rural communities, the sales tax revenues may be the only source of funding, along with property taxes, available to sustain the economy of these small towns. Ranching towns could soon go the way of the boarded up mining towns of the old West.

Equally as important, the economic activity that will be lost to the community will also result in a decline in federal tax revenues—in the form of income and other taxes—that could exceed the $12 million gain from the increased fees.

But for those of you in the East who think we're wrong, I remind you of the luxury tax and the impact that it had on your industries—we were forced to repeal that law this year because of the number of jobs that were lost. Grazing fees will be no different.

Loss of Net Worth

Besides decreasing federal income taxes, higher grazing fees and rangeland reform will result in a devaluation in land values that could result in a total loss of equity in the West of almost $1 billion.

Today, lending institutions, local governments and the IRS all treat permits as capital assets. Banks include the value of the permits in the total value of the ranch when issuing loans and credit. Local governments assess property taxes based on the total value of the ranch, including the permit values. The IRS considers, and the tax court has ruled, that permits are property interests subject to inheritance taxes.

If the changes proposed by Reid are enacted, permits will have a greatly diminished value. The loss of net income and the lack of security and loss of stability in the traditional relationship between western landowners and the government results in a zero permit value.

Because appraisers are no longer willing to value these permits, banks find themselves "over-loaned" on properties. The result is no different from the savings and loans crisis which occurred because of decline in real estate values—except for one critical factor—the federal government is now solely responsible for the devaluation of property in the West.

Banks will no longer issue credit to ranchers. And what happened in the 1980's will happen again in the West—foreclosure and bankruptcy will become a way of life.

Eliminating the equity value of a permit and thus a rancher's equity, also decreases federal inheritance and estate taxes. If the government is so concerned about the amount of revenue that will be generated by this fee increase, why have they not considered the amount of revenue that will be lost because of a decline in property value? A $1 billion dollar loss in equity could mean a lot of estate tax income to the federal fisc.

And at a time when state and local governments struggle to find necessary revenue, a decrease in property values will also severely reduce the property tax income available to localities. How will counties who depend heavily upon their property tax base fund schools, law enforcement, and fire protection?

Balance of Trade

An increase in the grazing fees could also affect the balance of trade for American beef exports by reducing the supply of feedlot cattle. For example:

A reduction in the supply of feedlot cattle could result in an increase in price, making U.S. beef exports less competitive overseas;

A reduction in supply means that we may become an unreliable supplier unable to meet contracts and commitments.

A reduction in domestic supply could also lead to an increase in imports to meet this demand, cutting into a $4 billion trade surplus. With all of the bellyaching over the U.S. trade deficit, why would we erode one of the few industry surpluses we have?

LANDER, WY,
October 19, 1993.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: During the Senate filibuster, please ask your opponents to consider the following:

1. Rep. Synar says he wants to give ranchers a dose of free enterprise. Where else can we go? Do we tell ski areas to get a hill on private land?

2. Improvements—Will Federal Land permittees, other than ranchers have their future improvements become Gov't property? What about a ski lift, warming hut, or an outfitters lodge?

3. Fees—The proposed fee of $3.45 is 9% of gross on a $450.00 calf. Ski areas are 2.4% of gross; outfitters 3% of gross.

The proposed fees and regulations will increase our operating expenses beyond what we can make raising livestock and grass. We are due for our annual meeting with the bank loan officer to plan our operating loan for 1994. This constant threat of ever higher fees and expensive regulations has all our loans in jeopardy.

With these fees and regulations in the Reid amendment as law, our ranch will change from a viable economic cattle ranch to a real estate development. We plan to sell out before and if we cannot pay the mortgages and notes raising livestock.

Thank you for everything.

Sincerely,

ROB and MARTHA HELLYER.

OCTOBER 20, 1993.

DEAR SIRS: It is rare for most small ranch and farm operations to pay income tax and if they do it is only in the three figure region, this should tell you that we can't afford a raise in anything. Many of us would have to go out of business if this fee is increased, then all these lands would be taken over by industry, residential or large corporations running our ranches. Right now we have a serious problem with unemployment numbers, if you consider the fee increase you will have many more numbers to add to your unemployment figures. It seems to us as if we need to work together to improve our economic situation for all of us not just a few bureaucrats.

You want to take over the management of this land and water, right now we take care of all this, and do well as this is our livelihood. So why change something that is working well. We know that we have to work

24 hours a day, 7 days a week at times to keep things running for the benefit of our livestock, is the government going to be able to do this?

Ranching is an economic necessity in Wyoming and the United States, lets do our best to keep this viable resource instead of destroying our economic backbone.

Sincerely yours,

RALPH & SHIRLEY DELAMBERT,
Eden, WY.

OCTOBER 20, 1993.

Senator MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR MALCOLM: In reference to the Rangeland Reform Proposal. It would completely eliminate me from the use of public lands. The effect of the increased fee, non-fee costs, governmental intervention and control of both public and private property rights together with the uncertain livestock prices, it would be too costly to operate.

Our ranch is one of the oldest ranches in this area, with territorial rights and has been operating all that time successfully. With the rangeland reform which is being proposed, the margin between profit and loss would narrow and it would result in a complete loss for me in this area and one more blow to the economy of our nation.

Sincerely,

DON KORTES,
Rancher.

J. DOUGLAS AND GLYNDA S. SHEEHAN,
Dixon, WY, October 20, 1993.

Re: Grazing Fee Bill

Senator MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: Thank you for the support that you are giving to the Western states and the people in them who are fighting the grazing fee bill. No matter the outcome, we feel that you have done your best to represent us.

My wife and I are members of a small community in Southern Wyoming, and we live on the ranch that was homestead by my grandparents. My wife works in the accounting office that is supported by the ranching and mineral industry, and local businesses. If the grazing fee bill passes as it stands, this could mean that the economic community will have a difficult time surviving. This will not only rock the stability of the community, but also the state and ultimately the nation.

We strongly support the filibuster and hope to see some local hearings on the issue. It is our opinion that the survival of this nation depends on the livestock, mineral, and lumber industries of the West.

Thank you for your support,

J. DOUGLAS and GLYNDA S. SHEEHAN.

RIVERTON, WY, *October 19, 1993.*

Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: We elect our congressmen to go to Washington to keep our State on an economic flow to support our livelihood and our future for our children and grandchildren. What are we getting? A movement to completely destroy our future in all our western states.

1. Our congressmen have let the environmental pressures almost completely cut off our timber industry that gave employment for many workers to support our economy.

2. Raising of the grazing fees will no doubt put many of our ranchers out of business. Many now are just getting by on poverty level profits. The ranchers using public land have to spend more money for maintaining livestock due to predator loss. Livestock losses are far greater than on private lands.

3. Grizzly bears are now becoming a problem for the livestock permittees and fast becoming a problem for the hunters. Congress should push for delisting of the grizzly so they can be controlled by the Game & Fish.

This is another environment push to lock up public land from logging and gas, oil & mineral use.

4. Wolves—a movement that will only help decrease our economy by future depletion of our big game population and depletion of our livestock on forest range.

A lock-out of use of public land is inevitable if the current trend continues.

I only hope Congress will review the 70,000 signatures that were obtained at the Yellowstone Park booth asking tourists if they would like to see wolves in Yellowstone. You will find a big percentage of these are out of state and foreign signatures. Please let these issued by decided by the people it will affect the most, i.e., Wyoming, Montana and Idaho citizens.

5. Now is the time to stop all of the idiotic decisions and work to help the western states survive all this political nonsense to please the environmentalists.

It is rapidly becoming impossible for our young people to stay in Wyoming and survive.

Sincerely,

VAN PARKHURST,
Riverton Businessman.

J-B CATTLE CO.,
Roosevelt, AR, October 21, 1993.

Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: I am writing to beg for your help in maintaining the West as we know it here in Arizona. Our entire way of life and that of our community is at stake.

We have worked all our lives with the dream in mind of buying a ranch. All else has been sacrificed to that end. Our children have given up the normal things teenagers do so that we all might buy our ranch. We have owned it since 1989 and have added many waters to the area to spread out the cattle and to help maintain wildlife. The land is better for our having been here.

I feel that people who do not know this terrain or anything about cattle grazing are trying to determine the future of my family, our town and our Western country. As the cattle that go into feel lots for Eastern buyers come off federal lands this action will affect the food supply for the whole country. Even those who are not directly hurt by this action will find the result from these uninformed senators and will remember who to hold responsible.

Sincerely,

LINDA BRAKE.

RALPH S. DUBOIS III,
Kearny, AZ.

DEAR HONORABLE JOHN MCCAIN: I am writing you in reguard to the proposed changes in the federal grazing leases. These proposals have no merit and must be stopped. While others pay lip service to Environmental problems, the rancher is the only one who must work full-time to preserve the environment or he will parish.

I have been in the cattle industry all my life, 31 years. My family has held government grazing leases for 46 years, and I have held government leases for 12 years. If these proposals are adopted it will be the end of my way of life, as well as thousands of other cattlemen.

I am able to stay in the cattle business, by only a small profit margin. With grazing fees at $1.86 per AUM, the cost of improvements, feed, everyday living etc., etc, it costs me around $14.00 per AUM to raise my cattle. A rate increase of 2 or 3 dollars per AUM would make it impossible to stay in business. I would soon join the ranks of the unemployed.

The adverse effects of these proposals will cost the American people a huge amount of money, unemployment, and the loss of concerned caretakers of the land.

Thank you,

RALPH S. DUBOIS III.

Members of the Congressional Research Service:

On behalf of Elected County Commissioners Garey Ketcham, Eunice McEwan, and myself, we welcome you to our Sheridan Rural Community.

Sheridan County, with a base of 27% federally-owned land, is a typical rural western community of 23,562 residents with a tradition of cultural spirit and a possession of heritage pride.

This heritage is steeped in the traditional spirit of the pioneer who believed in the "American Dream" and moved west with their families to develop a culture of family-owned and operated ranches entwined within federal and private land.

Those family ranches and ranchers, though dwindling in number, are no less spirited today than those who settled the west in the late 1800's. They value their life qualify with reverence and are an integrated part of the area's socio-economic base.

My name is Ken Kerns, a third-generation family rancher who is permitted to graze 1136 animal units per month upon public lands located in the Bighorn National Forest.

I tell you this so as the economic data I am prepared to present to you will not appear biased by self-interest but will be objective from the platform of local government.

Sheridan County is one of four counties who commissioned the University of Wyoming to do an in-depth economic analysis of the economic impact of federal lands in relation to our counties' tax revenues (Economic Contributions of Federal Lands Within the Big Horn Mountain Area prepared by Fletcher, Taylor, Moline, and Borden). This objective data allows local governments to better interpret and plan for the tax-supported local governmental services provided to our residents. A copy of the area-wide data is provided for your reference.

I will attempt to briefly explain to you how an increase in grazing fees may affect every resident within Sheridan County.

Family-owned and operated ranches who use federal lands as a supplement to other grazing resources are profit-driven. This profit motive is no different in grassland ranching than it is in any other enterprise—gross income minus operating expenses equals profit.

These profits are spent in local stores which collect sales taxes from those profits spent. These sales taxes are the highest single-revenue source for the operation of Sheridan County government.

Big Horn Mountain Country's current economy is driven by a diversity of an export base which is related to federal lands. That diversity is mining, renewable resource harvesting, and tourism. These sectors contribute 40.5% of our local base economy. Profits from these sectors are essential for the local retail sector, a direct relation to Sheridan County's and the State of Wyoming's sales tax collections.

I have prepared a graph (Exhibit A) showing a relationship of one sector of that diversity—grazing—as it relates to the collection of sales taxes within Sheridan County. This graph is not intended to credit all sales tax collections to the price of feeder calves which reflects profitability, but to show how that sector may influence those collections.

Grazing fees are an integrated part of the operational expenses which affect profits of our grassland ranches.

As operating costs for our grassland ranchers increase, unless there is an off-setting increase of revenues, the profit margin of our family ranches may diminish until there is no choice but a liquidation of assets.

The mid-eighties saw a dramatic liquidation of those assets. That liquidation was not because of increased grazing fees but a combination of factors eliminating the profit picture. However, the graphic picture of livestock values, which reflects profits of our grassland livestock producers, parallels our local government sales tax revenues.

I am not so naive as to believe that the dramatic shift in our sales tax revenues is a direct result of a profitable grassland agriculture community, but the graph certainly makes that suggestion.

Rural communities, such as ours, must have economic diversity. The soundness of that profit-driven agriculture base is a valued piece of that diversity. The next downturn in our sales tax revenues could be inflicted by a squeezing of local business profits.

If the grazing fee on public lands, along with other factors of production costs, are increased beyond the point of profitability, then that portion of profit now being spent on our main streets, which generates sales tax dollars, will be absorbed in the federal treasury which is a long way from our community.

According to the referenced Economic Contributions of Federal Lands, for every animal-unit-month loss, for whatever reason, the four counties of Big Horn Mountain Country will have a total economic loss of $63.67. Of that loss, local governments within Big Horn Mountain Country will lose $2.23 in sales and property taxes.

As you mull this issue, I urge you to review the referenced study. It is based upon economic data, not emotional rhetoric.

It appears that a grazing fee increase by the present administration is forthcoming. Hopefully, the data gathered by you in your fact-finding tour will guide the parameters of that increase.

KENNETH D. KERNS,
Chairman,
Board of County Commissioners.

SHERIDAN COUNTY, WY, *June 23, 1993.*

Mrs. MURRAY. Mr. President, there have been numerous references in this debate to the Western Governors' Association and its position on grazing reform. I would just like to clarify that the Governor of Washington, who is a member of the association, was asked to sign the WGA letter mentioned by the Senator from Wyoming. Not only did the Governor of Washington decline to sign the letter, but neither he nor his staff took part in drafting the letter. I have been in contact with him about this; I can assure all my colleagues that he shares my very strong view that it's inappropriate to continue delaying passage of the Interior appropriations conference report.

To underscore the Senator from Nevada's point regarding the disposition of the other body on this question, I also note that Members from Washington voted 7 to 1 in favor of the motion by the ranking member of the House committee to instruct conferees. This motion passed September 29 by vote of 314 to 109.

Mr. President, with those clarifications in mind, I want to restate my concern about the constructiveness of this filibuster and urge my colleagues to vote to invoke cloture.

The PRESIDING OFFICER. The time has expired.

The Chair recognizes the Senator from Nevada who has 9 minutes remaining.

Mr. REID. Mr. President, my five children are now away. Two are married and three of them are in college.

One of the things I miss with my children being out of the house is Halloween. I look back with great almost melancholy of how much fun it was to go with my kids trick or treating.

Now Halloween is being brought to us today in the Senate Chamber. I am being reminded of my escapades with my children here on the Senate floor today because Halloween, which is just a few days hence, is being brought to us in the form of ghosts and goblins, about things that do not exist. This is Halloween. This is an attempt to stop the bill from going forward, the Interior appropriations bill, by magic, by bringing up ghosts here and goblins there and hidden doors and hidden windows. It simply does not exist.

As an example, they talk about sweeping changes. Mr. President, there is not a sweeping change in this. There is not a thing that is in this amendment that the Forest Service has not done for decades. In fact, we have stopped Secretary Babbitt from having the BLM do some of the things the Forest Service has done. We have done that by law. Sweeping changes are part of the ghosts and goblins here before this body.

This letter the western Governors signed was signed by two Governors. There was no meeting held. It was not signed by the Governor of the State of Washington, Senator MURRAY's State. It was not signed by the Governor of the State of Nevada. It was signed by two Governors.

Also, as to water engineers—Secretary Babbitt held hearings all over the West; he got thousands of comments, most of them in favor of his changes—but not a single comment from a water engineer anyplace in the West. So let us get real. Let us not have this Halloween a few days early.

Mr. President, this compromise is fair. Ranch families do not need the threat of looming fee hikes. This stabilizes and gives certainty. This compromise will end gridlock.

In fact, this proposal still subsidizes the use of public lands, and I am willing to do that because I think the increases have come for many, many years. I think they should be moderate. I am willing to do that because I think ranchers contribute to the western part of this country.

I have scaled back Secretary Babbitt's fee by about 40 percent. Under this proposal ranchers can now obtain loans, buy and sell property. I know because they told me that is the reason they wanted property rights and water rights protected. The BLM regulations, I repeat, are inconsistent with the Forest Service regulations. It is simple as that.

There are some in this Chamber there is no way we can please no matter what we did. There is not anything we could do to please them. It is a partisan issue, an effort to embarrass the President of the United States.

Mr. President, let us talk specifics about some of the things that have been talked about here today. As to no hearings on the grazing fees, I have here two of many boxes that I have where we have studies, reports, from the General Accounting Office, from all kinds of Government agencies, from private institutions, from universities all over the country. We also have had congressional hearings averaging about 2 a year for the last 15 years. These studies have been on every aspect of grazing, economics, ranch land ecosystems, policies and program administration. I think it is time to recognize that is not a good argument.

As far as there being a back-room deal, I guess this is to divert attention from the fact that we have had all these hearings, all these studies, and western Senators met with Secretary Babbitt. Secretary Babbitt held hearings all over the western part of the United States. Thousands of comments were received. The negotiations that started with the House involved a number of Senators.

The amendment was offered by a Republican in the conference. RALPH REGULA from Ohio offered the amendment.

As to water rights, the change undoes the change made unilaterally by James Watt a decade ago.

All we are doing is making the Bureau of Land Management like the Forest Service like it always had been until the Watt years in an effort to protect those ranchers who in good faith relied on the Watt changes. We grandfather water rights and range improvements saying they are yours to use. You can sell them, give them away, transfer them at inheritance, do what you want with the water rights and ranch improvements.

In the future they will be treated exactly like the Forest Service. That does not sound too unreasonable.

Also you must understand what Secretary Watt did had a tremendous impact on the nonranchers, on other people who had some use for that water. We have accepted his changes.

I would also suggest that the argument about ranch improvements is not valid. It is part of the ghosts and goblins we are faced with.

In the Code of Federal Regulations I put up here today what ranch improvements need. The proposed change that Babbitt issued also applies to ranch improvements.

So I submit that property values will not be adversely affected. In fact, they will be able to be stabilized and go up. People will be able to borrow money. They will be able to sell ranches because there will be some certainty. Remember we are talking about public land, land that belongs to all Americans.

There is going to come a time in the next few days when a decision will have to be made by those who favor gridlock as to whether they are going to allow gridlock to continue and close the Interior Department. Those who are saying all we want are some modifications are again celebrating Halloween early. The House is going to accept no changes. They by a 3-to-1 margin approved this amendment. So are we going to close Interior?

We did a great job for Native Americans this year especially with Indian health services. If we close the Interior, they get nothing. If we have to go for a CR, they will go back to last year's levels.

What we have done with the park system I think is a good improvement over last year, and on and on.

We should not have gridlock either in the Senate or in the courts. We should move forward, have a vote up or down on the merits and, as the President pro tempore of the Senate said last Thursday, take it like a man; walk away; go to something else.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada yields back the remainder of his time. All time has expired under the 1-hour time limit for debate

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UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3167, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

(1) Hutchison amendment No. 1081, to repeal the retroactive application of the income, estate, and gift tax rates made by the Budget Reconciliation Act and reduce administrative expenses for agencies by $3,000,000,000 for each of the fiscal years 1994, 1995, and 1996.

MOTION TO WAIVE CONGRESSIONAL BUDGET ACT

The PRESIDING OFFICER. There will now be 1 hour of debate remaining on the Hutchison motion to waive the Budget Act with respect to her amendment, the time to be divided, with 40 minutes under the control of the Senator from Texas [Mrs. HUTCHISON] and 20 minutes under the control of the Senator from Maine [Mr. MITCHELL].

Who yields time?

Mr. WALLOP. Mr. President, I suggest the absence of a quorum with no time to be charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. The Chair advises the Senator from New Hampshire, the Senator does not control time. The time is controlled by Senator MOYNIHAN, on behalf of the Senator from Maine, and Senator HUTCHISON. The Senator from New Hampshire would have to seek time from Senator HUTCHISON or ask consent of the Senate.

Mr. MOYNIHAN. Will the Senator yield for a question? May I ask how much time he requires?

Mr. GREGG. I would like to get 15 minutes; 7½ from each side?

Mr. MOYNIHAN. That might be difficult at this point.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. There has been a unanimous-consent request. Is there objection?

Mr. MOYNIHAN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New York reserves the right to object.

Will the Senator restate his unanimous consent request?

Mr. GREGG. I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

Mr. GREGG. I thank the Senators for their courtesy.

HEALTH CARE REFORM

Mr. GREGG. Mr. President, I want to talk a little bit about the health care program which has been proposed by the President.

Whatever else you can say, good or bad, about programs recommended by the Clinton administration, one characteristic shines through. The Clinton administration has made a commitment to move social authority from the marketplace and the States into the firm control of the Federal Government.

George Will said it well when he called Clintonism an "ideology demanding a vast expansion of government power."

President Clinton has said that the role of Government was too cramped during the recent Republican administrations of George Bush and Ronald Reagan. He has worked hard to remedy that. Just look at the list of proposals that have been proposed or passed under this administration:

The Motor Voter Act;

Liberalization of the Hatch Act;

Campaign reform, which would expand the role of the Federal Government in financing elections;

Federalization of the student loan program;

Federalization of immunizations; and

The family leave bill.

Nowhere else does the Clinton centralization plan become more obvious than in his proposal to systematize health care in this country. The administration has understandably been reluctant to come right out and say that they want to nationalize our health care system. Their pollsters have told them, accurately, that Americans are deeply suspicious of the Federal Government.

In her testimony before the Senate Labor Committee on September 29, Mrs. Clinton said some very nice things about State flexibility. She said that the States would have the power to make their own choices, and to do what they think is right for their State. Then she said that it would take a bizarre combination of reasons for a State not to want to do this.

I have tremendous respect for Mrs. Clinton's abilities, but her description of the powers retained by the States under the Clinton plan were just not accurate. Under the Clinton plan, the States do not have the authority to do what they think is right. While that sounds good, it does not comport with the terms of the written plan. And it is not what the administration has in mind for the States.

Instead, under the Clinton plan, the States have the authority to do one thing—implement the Clinton plan, as approved by the National Health Board. It appears that Mrs. Clinton would view any State's decision to go its own way, rather than do what the Federal Government wishes, as bizarre.

I am sure that my Democratic colleagues in this Chamber will want to argue that the Clinton plan is not centralized at all. They will argue that the States are given great flexibility to execute the plan, to choose the structure of the regional alliances, to choose to enact a single-payor plan. But I would say to my colleagues: Read the plan. There is no mistaking that this is, indeed, a plan of nationalization, and nothing less.

What do I mean by nationalization? I mean that the Clinton health care plan would give to the Federal Government supreme authority in all matters of health care. The Federal Government does not now have supreme authority to dictate to the States in regard to health care. Under the Clinton plan, the Federal Government would obtain that power explicitly.

Turn to page 46 of the September 9 summary of the Clinton plan, and look at the powers of the new seven-member National Health Board. The Board has virtually absolute power over the States in regard to the design of health care systems within the States. The only power the States are left with is the power to implement the plan.

The National Board would have the power to require the States to submit health care implementation plans for approval. The Board would then have the power to reject the State plan. If a State did not meet the requirements of the Board, the Federal Government could order the withholding from the State of all Federal health appropriations—Medicare, Medicaid, block grants, categorical grants, everything.

I have some experience in this as former Governor. As a practical matter, I can tell you that no State would be able to withstand the withdrawal of all these appropriations. The States have become dependent on them for their very financial existence. The withdrawal of all HHS appropriations from a State would bankrupt the State in a matter of weeks.

And, as if the withdrawal of HHS appropriations from a State were not enough, the Clintons saw to it that no State could escape from the desires of the National Health Board. If a State remained uncooperative, the Federal Government could take over the recalcitrant State's health care system. And it could unilaterally impose a payroll tax in the State.

Thus, because the National Health Board could do these things to a State—to reject its reform plan, to bankrupt it, and to actually take over its health care system—then there can be no question that, under the Clinton plan, Federal power would be supreme in all matters of health care.

Yes, the States would have the power to implement the plan. But the operative question is, Where is the actual authority? Under the Clinton plan, the National Board would have total veto power over the State plans, and the power to set the rules by which the game is played. That is nationalization.

In case you still have any doubt that the Clinton plan is one of nationalization, I say again: Read the plan. Who would enforce the Clinton employer mandate? The U.S. Department of Labor, based right here in Washington, a few blocks from this Capitol. No doubt the new responsibilities of the Labor Department would require a sizeable expansion of personnel and budget.

Who would decide on changes to the basic benefits package, and whether new treatments should be included? The National Board.

Who would determine the amount to be paid to the regional alliances every year? The National Board. And who would the alliances deal with directly? The National Board.

Who would determine the way in which risks were adjusted for the health plans, to determine risk-adjusted payments? The National Board.

And who would determine the number of training spots for doctors in each region of the country? A branch of the National Board.

Who would determine how national health data was stored and kept private? A branch of the National Board.

The list goes on and on and on; 59 new Federal programs or bureaucracies and the expansion of 20 others.

We in the United States have had a tradition of pride in federalism. The drafters of the Constitution were very suspicious of centralized Federal power, and they took pains to constrain it. The Constitution was supposed to grant limited and enumerated powers to the Federal Government, with the balance of the power retained by the States.

Even James Madison, the defender of the Federal Government, wrote in Federalist Paper No. 45 that, in the balance between the new Federal Government and the State governments, the "State governments will have the advantage * * *." No longer.

He pointed out that the powers delegated by the Constitution to the Federal Government would be "few and defined," while those remaining in the States would be numerous and infinite. He said, "The powers reserved to several States will extend to all the objects, which, in the ordinary course of their affairs, concern the lives, liberties, and properties of the people."

The idea of federalism is that there is a great advantage to having governmental authority split between the State and Federal Governments. In a federalist system, the State governments can do what they know how to do best, being closest to the problems affecting the daily lives of people. The Federal Government can do what it knows how to do best—things the State cannot do, like national defense and protection of individual rights.

Some health care functions need to be centralized. I would never suggest that we have a separate National Institute of Health in each State. I would never suggest we do not need national health data. I could agree perhaps that we need some national rules for delivery of health care, to improve access and control costs.

But I am a firm believer in federalism. We should never house something within the Federal Government that can be efficiently housed outside, in the marketplace or in the States.

The advocates of the Clinton plan have not thought enough about what we are giving up by placing all authority in the Federal Government. The States are laboratories—they really are—for addressing complex social problems. Nowhere is that more true than in health care. Many States have already undertaken reforms that are superior to what is being proposed here in Washington.

To nationalize health care would be to snuff out the possibility of State experimentation. Under the Clinton plan, the Federal bureaucracy, not the State itself, would decide whether a State plan is adequate.

The important thing is that each State now has the ability to take the kind of action that the people of the State feel is needed. Under the Clinton plan, it would be the Federal Government that decides that.

For example, what if a certain State decides that it does not want to step up to a regional health alliance, that it does not wish to institute a single-payer plan? Maybe the State has a better way of getting cost containment and health care access than President Clinton does. Under the Clinton plan, that poor State would be subject to seizure of its whole health care system and a federally imposed payroll tax.

Whenever you talk about centralization, you have to mention one of the great observers of American life, Alexis De Tocqueville, a great commentator. De Tocqueville said, "However enlightened and skilled a central power may be, it cannot of itself embrace all the details of life of a great nation. Such an achievement exceeds the power of man. And when it attempts unaided to create and set in motion so many complicated springs, it must submit to a very imperfect result and exhaust itself in futile efforts." No, the Clinton plan under the present proposal will not work. The periphery cannot be just an implementer.

Perhaps my viewpoint on this is related to my heritage. In New Hampshire, we have 300 years of tradition of wanting to have local control. In our State, crucial decisions are still made by the villages and towns. That is the way we like it. I think to centralize all authority for health care decisions in the Federal Government would be a great mistake.

How do we know that the seven members of the National Health Board will be wise and caring and fair people? Will their loyalty be to the common good or to politics? We should remember that these seven people will be appointed bureaucrats, beholden to a political system and to the Presidency for their jobs. They will be a political entity above all else, appointed by the President, whether he be a Democrat or Republican, to carry out his own vision of what health care should be for all of America.

Congress, in its usual paralytic mode, would have a hard time dealing with the complexities of the National Health Board, just as it now really cannot deal even with the FDA.

Under the Clinton plan, benefits and budgets will be determined from Washington. But we have evidence from this country and from foreign countries that centralized economic control does not work.

Staring us in the face is the fall of the classic centralized system, the Soviet system. It produced quotas, it controlled prices, and it did not work. As De Tocqueville said and others have pointed out, a beast like national health care, a concept like national health care, is beyond the capacity of the Government to manage. No national health care board could ever know all that it needs to know in order to run the system from the top.

Under the Clinton plan, many prices would, in effect, be set by a bureaucracy in Washington, but we already know that it will not work. History tells us that it will not work. The bureaucracy needed to administer price controls would be immense. Ira Magaziner said the staff of the National Health Board would be under 100 people. Either he is speaking in technicalities, or ignoring the staff of all the associated boards, commissions, and study groups, or he has not read his own plan. With the tremendous authority of the Board, doing everything from setting prices, to setting quality, to negotiating with the alliances, to setting risk adjustment mechanisms, to distributing medical residencies, the National Board and its subsidiaries will employ thousands. The SEC employs 2,600 people, and if the National Health Board is as described by the Clinton health plan, it could easily employ that number or more.

We know providers have many ways to evade price controls—by increasing volume, by gaming procedure codes, by decreasing quality, and many others. Under the Clinton plan, as under Medicare, each time the Government discovers a new evasion, it would publish a new regulation. The result would be more and more bureaucracy.

When President Nixon instituted price controls in 1971, the regulation started with 4 pages and ended up with 1,534 pages. And we all remember how unsuccessful President Carter's price controls were in 1978.

The Clinton plan is a giant risk for all Americans. The point is we do not need to take a giant risk now as a nation. Nearly 90 percent of Americans are satisfied with their health care. The system is self-correcting, and I think the self-correction we have seen in just the last 12 to 18 months will accelerate. We are in the midst of a sea change. The market is beginning to do the job.

What we must do is take aim at those parts of the health care system that cannot self-correct.

First, start with Federal programs. No market can correct them because they do not exist in the market. Reform the Medicare and Medicaid systems. That is where the primary problems are in health care today.

Second, take steps to provide access to the system for those who lack it. Yes, there should be universal access and we can do much to accomplish that. We also need to address the issue of small market insurance reform, ban medical underwriting, redlining, and preexisting condition clauses. Go to a modified community rating system. Encourage private purchasing pools so that small business can get volume discounts.

Reform the way the Federal tax system treats employer-provided insurance premiums. The way we do that now is a crazy system that causes lack of insurance because high-income workers benefit much more than low-income workers. Reform the tort law and the antitrust law. Yes, experiment with new ways of constructing markets for health insurance and allow the States to go their own way by reforming the ERISA.

But let us not hurt more than we help. We have an excellent health care system in this country. It needs to be fixed in a number of places, but it still delivers high-quality care to a large number of people. If you look around the world, it remains the best system. The worst thing we could do in the process of trying to fix what is wrong with our system is to destroy that which is right. By creating a giant new centralized bureaucracy, as envisioned in the Clinton health care plan, we put at risk not only our health but the health of our children and grandchildren.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, I believe the distinguished Senator from Texas has 40 minutes and on our side we have 20. I see my able friend is on the floor. Perhaps she would wish to yield time to whichever of her Senators wish to speak on behalf of her amendment.

The PRESIDING OFFICER. The Chair advises the Senator from New York that the total time has been reduced by the previous unanimous consent request.

Mr. MOYNIHAN. Are we then down to 45 minutes?

The PRESIDING OFFICER. The Chair advises the Senator that the vote was previously scheduled to occur at 11:30. So we have 30 minutes for debate remaining prior to the vote.

UNANIMOUS CONSENT AGREEMENT

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the vote be held at a quarter of 12 and that there be 30 minutes on behalf of the Senator from Texas and 15 minutes on behalf of the Senator from Maine.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas, who controls 30 minutes.

Mrs. HUTCHISON. Mr. President, I want to thank the Senator from New York for working with us on this. I appreciate it very much. I do yield now to the Senator from Alabama, who is a cosponsor of my amendment.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, there was a lot of discussion yesterday on the Senate floor about how the Hutchison-Shelby amendment was intended to kill or to delay this bill.

Mr. President, this amendment is not—and I wish to repeat, this amendment is not—about killing or delaying the extension of unemployment benefits for out-of-work Americans, as was stated in this Chamber yesterday. In fact, this amendment is about preventing more Americans from losing their jobs. This amendment is about providing some stability to taxpayers, particularly small businesses, who need some guarantee that they will not be taxed on money they have already budgeted for investment, employee salaries or new equipment.

Mr. President, I supported every one of the unemployment extensions in the past, and I support this one today. That is one reason I believe this amendment is so appropriate. The Hutchison-Shelby amendment is about employment. It is about keeping Americans employed. It is about keeping Americans employed and off of unemployment by putting some security back in the way we run our businesses and budget for our future.

Mr. President, if there is one thing sure to kill jobs, to impede job growth, and to inhibit job creation, it is the economic insecurity caused by the need to hire a fortune teller as a tax adviser.

Our amendment should not be controversial. It is basically a win-win scenario. It provides a tax break for Americans by extending the effective date on the income, estate, and gift tax increases to August 10, 1993. Everybody will remember that was the day the tax bill was enacted. And it covers the loss of revenues from the repeal by making a direct cut in Government spending.

So: first, the amendment helps taxpayers, particularly small businesses, which are the largest employer and producer of jobs in this country; second, it is budget neutral. It makes direct spending cuts in Government expenses to offset the revenue losses; and third, it removes the singularly most offensive part of the budget passed in August—retroactivity of the taxes.

Mr. President, while we all did not agree on the budget as a whole, we all did agree, I thought, that retroactivity was a mistake. It is offensive to taxpayers. It is wrong. This amendment allows us to responsibly fix that mistake. We still get deficit reduction and we actually make cuts in Government spending. We also preserve jobs and restore stability to business and personal financial planning.

Mr. President, this is a good amendment. It is a timely amendment. Do not let anybody say otherwise. I hope my colleagues will support it.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I yield 8 minutes to Senator ROTH.

Mr. ROTH. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. I rise in support of the Hutchison amendment to eliminate the retroactive tax increase that was passed as part of the President's budget package in August. These tax increases have already impacted upon our economy.

I would like to focus the camera's attention on the chart that I reproduced from the Commerce Department's record and the Wall Street Journal. This chart makes the dramatic point of just how the Nation's economy is responding to the retroactive tax increases—for that matter, all of the Clinton tax increases.

Clearly, economic activity in late 1992 was clipping along at a brisk 5.7 percent. In mid-February, the President released his proposal to increase tax rates on small businesses and others by as much as one-third or more—retroactively, I might add. In fact, these retroactive tax increases reached all the way back to 20 days, 20 days before the time Bill Clinton was even President.

Now, let us look at what happened. The brakes went on our Nation's economy. We went from a growth rate of 5.7 percent to a rate of only 0.8 percent—a very sizable drop.

That is not all. In September, in my State of Delaware, the unemployment rate reached its highest point this year; 20,800 residents had no jobs. Even with a big increase in Government jobs taking place at that time because of the start of the school year, our State continued to lose more jobs than it gained. In fact, the unemployment rate has increased from about 4 percent before the Clinton retroactive taxes passed, to almost 5.5 percent now, an increase of over one-third.

In Delaware, some 341,000 jobs are provided by about 20,000 small businesses. Because the new Clinton economic policy raised tax rates by over 30 percent on small businesses, and because of my State's reliance on small business jobs, we are feeling the pain with higher unemployment.

Clearly, America cannot afford this retroactive tax increase. Our economy has already taken a bullet because of it, and with this as our foundation, it is clear that the Hutchison amendment will help speed the growth of our economy, and reverse the bad effects of the Clinton economic policy.

Personally, I would prefer to repeal the rates for the full 1993 tax year. However, this amendment does effectively move the enactment date to August 10, 1993, making the tax increase prospective only.

Moving that effective date brings me to my next point. If you were to ask the average American on the street whether it is fair for the President and the Congress to pass taxes on a retroactive basis, you would get an overwhelming response that it is not fair.

I believe that out of fairness, Congress must refrain from any attempt to use retroactivity when it comes to taxation. Unfortunately, many of my colleagues will go on record today supporting retroactive taxes with their vote. I want all Americans to know that if you allow this Congress to get away with retroactive taxes this time, you can expect the Congress to come back year after year expanding its powers to pass taxes months, even years, back into history. If Congress fails to end this unfair tax practice, then I can only hope the Supreme Court will strike down retroactive taxes when it decides the Carlton case later this year. This amendment should be passed because we need to relieve the burden of retroactive tax increases on small business.

The National Association of Manufacturers [NAM] has calculated that, at a minimum, at least one-third of the President's tax increases on individuals fall on small businesses, like subchapter S corporations. The National Federation of Independent Businesses [NFIB] has estimated that when you combine the 1990 and 1993 tax increases, the tax rates on our job creating small businesses will have increased 60 percent in only 3 years—60 percent in only 3 years. These small businesses created 171,000 jobs in the first 9 months of 1992, an astounding 4 million net new jobs from 1988 to 1990.

During debate on the tax bill, I offered an amendment to remove these businesses from the tax rate increases. That amendment got a strong vote of 56 Senators. Here is the Senate's chance to act again for the benefit of small businesses, and I hope that we will get the four additional votes necessary this time to pass an amendment for small business.

Let me make one short point about the unemployment bill and arguments that have been made that somehow supporters of this amendment are holding up benefits for Americans in need. Nothing could be farther from the truth. If this amendment should pass in the Senate, it would take no time at all for the House to agree to our amendment and pass this unemployment bill. In fact, if there is a problem of delay here, then it lies in the fact it has taken so long for the Senate to take up this measure.

Benefits for these Americans expired some 3 weeks ago. Yet it has taken the majority this long to bring the bill up.

When George Bush was President, cries rang out for even a single day's delay in passing an extension of these benefits. Now we hear from the opponents of this amendment that we cannot afford the delay in getting benefits to the people because of the Hutchison amendment. This is clearly nothing more than a politically convenient argument.

So let us do what is fair. Let us repeal retroactive tax increases. Let us cut spending. This is what the American taxpayer has asked us to do. And I urge my colleagues to support the Hutchison amendment.

I ask unanimous consent that newspaper articles be printed in the RECORD at the appropriate place.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the News Journal, Oct. 26, 1993]

DELAWARE JOBLESS RATE UP 3D MONTH IN ROW

(By Eve Tahmincioolu)

The number of unemployed Delawareans increased in September for the third consecutive month.

It signifies a weakness in the job market because business owners would rather increase overtime than increase payrolls.

The state Department of Labor said Monday 5.4 percent of Delaware's work force was jobless last month, up from 5 percent in August and 4.8 percent in July. Since June when the unemployment rate fell to a three-year low of 4.0 percent, the number of unemployed Delawareans has jumped by more than 5,000 to 20,800 in September.

"We are going through a period since June where we have virtually no job growth," said Ed Simon, analyst with the Labor Department. "To my knowledge, there haven't been any massive layoffs or plant closings, other than in the chemical industry, but on the other hand, we're not having the kind of job growth needed to lower the unemployment rate."

"Usually, you can discount month-to-month changes except where you see a trend," said Simon.

Simon said the latest round of cutbacks at the DuPont Co.—1,000 Delaware jobs will be eliminated—did not make a major mark on September figures.

"Basically the underlying cause is concern by employers who are reluctant to expand their work force because of uncertainty over the economy and future of taxes, and health-care reform. In general, there's a fear of what's going to happen," Simon said.

Meanwhile, companies appear more than willing to pay overtime as an alternative to hiring more workers. Among manufacturers, average weekly hours per worker climbed to 42.5 in September, up from 39.4 during the same month last year.

The wholesale and retail trade category was particularly hard hit last month because of seasonal changes such as the winding down of the summer resort season, Simon said.

Construction, which usually sheds jobs in September because of seasonal alterations, lost many more jobs than expected, Simon said.

"Construction employment went down 800 from August, where it usually goes down 200 to 300," he said. "That's something to keep an eye on because it could be an indication of a possible slowdown in that sector," which is a critical gauge of economic activity.

Though some industries reported overall gains in employment last month, Simon said almost every business sector had some trouble.

Simon said he expects Delaware's jobless rate to remain below the nation's.

"There's a possibility the rate could go slightly higher, but I don't think it's going to soar," he said.

As of August, Delaware's jobless rate was the 11th lowest in the nation.

"A lot of states are much worse off than here," Simon said.

[From the Dover (DE) State News, Oct. 26, 1993]

STATE JOBLESS RATE HITS NEW HIGH FOR '93

(By Karen Murtha)

DOVER.—Delaware's unemployment rate for September was the state's highest this year—20,800 residents had no jobs.

That represents a 5.4 percent unemployment rate, a 4 percent increase from August when 19,000 Delawareans were jobless.

"Most companies are trying to do more with less," said Edward L. Simon, labor market analyst for the Delaware Department of Labor.

"The rate of job growth for the first half of 1993 has basically slowed to a halt," he said. "Service industries are even being cautious about hiring."

In specific job sectors, manufacturing jobs decreased by 2,200 for September, while government jobs increased by 2,000, according to a report released Monday by the Delaware Department of Labor.

"There's been a corporate downsizing in manufacturing, which is also occurring nationally," Mr. Simon said.

October figures for manufacturing may not fare much better. The recent layoffs at the Du Pont Co. were not included in September's unemployment rate, Mr. Simon said.

The increase by 2,000 employees in government jobs is primarily due to the opening of the school year, he said.

"College student-workers are counted in the rate," Mr. Simon said. "Teachers who may not be counted during the summer months are also included in September's figures."

Education may have boosted the government rate overall, but September also marked the end of summer tourism, which meant a decrease for some local governments.

"Businesses in Rehoboth, Lewes and Dewey are down because tourists are basically gone," Mr. Simon said. The decline of "parks and recreation employees and summer youth programs also contributed" to the government's rank, he said.

Although September's unemployment rate for Delaware is at its lowest mark, the First State still ranks above most others in the nation for the same month.

"Delaware is still relatively low compared to the U.S. unemployment rate of 6.7 percent," Mr. Simon said.

September's unemployment rate has not yet been nationally compared, but for the month of August, Delaware had the 11th lowest unemployment rate in the U.S., Mr. Simon said.

"We're doing better than other states, but not as good as we'd like," he said.

Mr. ROTH. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MATHEWS). Who yields time?

Mrs. HUTCHISON. Mr. President, if the Senator from New York does not want time right now, I will be happy to yield to the Senator from Utah.

I yield to the Senator from Utah 10 minutes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my dear colleague, Mrs. HUTCHISON.

Mr. President, I think we really ought to honor this great Senator from Texas for being willing to do this today.

Mr. President, I rise today to express my support for the amendment of the Senator from Texas [Mrs. HUTCHISON]. This is an important amendment on an issue that I believe did not have the benefit of a full debate under the strict limitations on debate on the conference report for the Omnibus Budget Reconciliation Act of 1993. It is an issue that deserves more public examination given its adverse consequences for all American families.

Because this body faces many other important issues before we adjourn for the year, there may be some on the other side of the aisle who believe we should just let sleeping dogs lie and not again bring up the issue of retroactive tax increases. But, Mr. President, the Senate should realize just how much harm we have done to the potential growth of the economy by passing huge income tax rate increases earlier this year. We should recognize that instead of just passing bills to extend unemployment benefits, we should be dealing with the underlying cause of unemployment—lack of job creation.

Many Americans were led to believe by the proponents of the 1993 tax increases that only the very wealthiest Americans were hurt by the changes in this year's bill. In fact, I have heard some say that only 1.2 percent of taxpayers were affected by these tax increases. Statements like these are completely misleading for two reasons.

First, although these income tax rate increases were ostensibly aimed at only the wealthy, they will miss their mark and have the hardest impact on middle and lower income individuals—those very individuals who we are trying to help with this unemployment bill today. People who depend on jobs created by those who have the capital to risk in starting businesses will suffer far more than the wealthy, who will simply shift their investments to ones that avoid or defer tax. This is exactly the result we saw after we enacted the ill-conceived luxury taxes in 1990—the same luxury taxes that almost all of my colleagues wanted to repeal once they saw the job loss impact from them.

High marginal tax rates discourage hard work, risk taking, investment, savings, and job creation. Consequently, there will be less capital available to invest in new business formation. The biggest losers will be those who need jobs. This is not a difficult concept, Mr. President. We need employers in order to have employees. It is time we realized that new taxes do not discriminate—they hurt everyone.

Second, most proponents of the 1993 income tax rate increases totally ignored the huge and unfair impact these tax hikes have on this Nation's small businesses. Because more than three-fourths of U.S. businesses are organized as proprietorships, partnerships, or S corporations, and pay their taxes as individuals, there is far more to consider here than just the inaccurate idea that the rich have unfairly benefited from too low taxes and should now pay more. Many of these small business owners pay taxes on income that they never receive. Most small businesses are undercapitalized, and owners find themselves plowing their earnings back into the business to finance growth and expansion. Higher tax rates will simply cut back the ability of many of these businesses to grow and create jobs.

Mr. President, let me share with the Senate part of a letter from a Utah entrepreneur who is already feeling the impact of the new higher tax rates on his ability to grow his business and create jobs. The letter reads in part:

> For years, my wife and I dreamed of starting a business we could build together. With her training in health, nutrition and fitness, and my experience in business management, healthy frozen desserts seemed like the perfect venture. Since building retail stores is capital intensive, our first challenge was raising money. In time, we found a small group of investors that believed in our plan and agreed to fund a handful of stores in Utah. Since we only had a few shareholders and we wanted to invest our earnings back

into the company, we incorporated as a subchapter S organization. As you know, shareholders in sub S corporations are required to declare business income as individual income, and pay taxes on it (whether received or not) the year it is earned.

It is important you understand that our objective from the beginning has been to create and operate a model company. We have committed every dollar of profit to growing our business. We have hired one of the top product development specialists in the country. We spend heavily on research, training and concept development. We are committed to build 15 to 20 new units each year, all funded with earnings from our stores. In other words, we are serious about becoming a leader in our industry. Ongoing investment and growth are critical to achieving this objective. Businesses that do not invest in the future cannot develop state-of-the-art products, remain competitive, nor create attractive career opportunities.

It took five years before our cash flow was able to support our growth. Up to then, we raised funds by selling additional shares in the company. Our small group of shareholders, who have been tremendous partners, agreed to forgo distributions so we could grow the business. Their only request was that sufficient funds be distributed each year to cover the personal tax liability created by their ownership in the company. Since they all have significant incomes (that's why they were able to invest in our business in the first place), each dollar earned from their investment in our company has always been taxed at the highest level (31%). The average state tax in the various states we do business in is 8%. Thus, 39% of our income was required to cover shareholder taxes. For every dollar we earned, 39 cents went to taxes and 61 cents went to business development. No one has become rich taking wheelbarrows of money to the bank.

Now that the bill as passed, we are faced with a challenging situation. Since our investors' individual income taxes have increased significantly, it will now require 47.6% of our earnings to cover shareholder taxes—39.6% for federal and an average of 8% for various states. In other words, we have just lost nearly 10% of our income we had planned to use for business development. For every dollar we now earn, 48 cents will go to taxes and 52 cents can go to business growth. This year alone, the amount of income we must distribute to cover these new taxes will cost the company 3 new stores and 36 new jobs.

Mr. President, no one has ever explained it better than this. And, it is disturbing to think that this is just one example of many thousands of lost opportunities throughout our Nation. If we multiply the effect of these new taxes by each of these situations, you can see the impact these new taxes are having on job creation.

Now I realize that the amendment before us will not entirely solve the problem. But it will take the first step in showing the Nation that the Senate recognizes the negative effect these retroactive taxes are having and that we are serious about creating jobs.

So let us take the first step, Mr. President, by passing this amendment. Let us demonstrate to the American people that we want a permanent solution to unemployment—job creation.

Finally, Mr. President, let me just read one other paragraph of this very interesting letter from this small businessperson and his wife.

It is very discouraging when our greatest threat to survival is not the competition, the Japanese, etc., but our own government. Why are we as entrepreneurs targets of a financially irresponsible government? Shouldn't we be encouraged to create healthy, desirable products? Shouldn't we be applauded when we create new jobs and train the youth of America? Shouldn't we be heros when we grow our businesses and create net increases in taxes paid to the federal and state governments?

Here is a couple that sacrificed everything they had; kept their other jobs going so they could live while they put everything back in the business to create 1,000 jobs. Now they are finding the survival of their business is threatened, faced with minimum wage increases and all kinds of other mandates from the proposed health care program of this administration, and even more taxes as they go down the pike.

Mr. President, I ask unanimous consent that the letter from which I read be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 29, 1993.

U.S. Congressperson.

MY DEAR REPRESENTATIVE: I was born and raised in the state of Utah. I received Bachelor's and Master's Degrees from the University of Utah and a Ph.D. in Organizational Studies from Purdue University. I have taught MBA students at the University of North Carolina at Greensboro and the University of Petroleum & Minerals in Dhahran, Saudi Arabia.

I have also consulted with numerous organizations, both large and small, in the areas of strategic planning, business restructuring, market research, and management training and development. In 1985, my wife and I returned to Utah and created our company. We now have 70 retail locations and wholesale product distribution throughout the western United States.

I have reviewed my background so you will understand that I know business organizations intimately. I have studied them, taught about them, consulted with them, and created them. Our company has hired well over 1,000 individuals during the past few years alone.

My purpose in writing to you is to inform you of the negative impact the new tax bill has had on our company's ability to grow and create jobs. Since you cast what proved to be a decisive vote, my hope is to persuade you to vote with our business in the future rather than against us. Here is the story of our company.

For years, my wife and I dreamed of starting a business we could build together. With her training in health, nutrition and fitness, and my experience in business management, healthy frozen desserts seemed like the perfect venture. Since building retail stores is capital intensive, our first challenge was raising money. In time, we found a small group of investors that believed in our plan and agreed to fund a handful of stores in Utah. Since we only had a few shareholders and we wanted to invest our earnings back into the company, we incorporated as a subchapter S organization. As you know, shareholders in sub S corporations are required to declare business income as individual income, and pay taxes on it (whether received or not) the year it is earned. The early years were challenging. Being conservative and desiring to avoid debt, we did not take salaries from the business for nearly three years. This meant I had to maintain a full-time consulting practice to support our family. We often wondered if we had done the right thing—we had created an entity that required all our time and effort, but wasn't able to support us. I admit, there were times when secure government jobs and teaching positions looked awfully attractive. Nonetheless, we were building a dream—we were working together as a couple, we were creating healthy products, we were hiring and training young people in their first jobs, and we were contributing to the state we love.

It is important you understand that our objective from the beginning has been to create and operate a model company. We have committed every dollar of profit to growing our business. We have hired one of the top product development specialists in the country. We spend heavily on research, training and concept development. We are committed to build 15 to 20 new units each year, all funded with earnings from our stores. In other words, we are serious about becoming a leader in our industry. Ongoing investment and growth are critical to achieving this objective. Businesses that do not invest in the future cannot develop state-of-the-art products, remain competitive, nor create attractive career opportunities.

It took five years before our cash flow was able to support our growth. Up to then, we raised funds by selling additional shares in the company. Our small group of shareholders, who have been tremendous partners, agreed to forgo distributions so we could grow the business. Their only request was that sufficient funds be distributed each year to cover the personal tax liability created by their ownership in the company. Since they all have significant incomes (that's why they were able to invest in our business in the first place), each dollar earned from their investment in our company has always been taxed at the highest level (31%). The average state tax in the various states we do business is 8%. Thus, 39% of our income was required to cover shareholder taxes. For every dollar we earned, $.39 went to taxes and $.61 went to business development. No one has become rich taking wheelbarrows of money to the bank.

Now that the bill has passed, due in part to your vote, we are faced with a challenging situation. Since our investors' individual income taxes have increased significantly, it will now require 47.6% of our earnings to cover shareholder taxes—39.6% for federal and an average of 8% for various states. In other words, we have just lost nearly 10% of our income we had planned to use for business development. For every dollar we now earn, $.48 will go to taxes and $.52 can go to business growth. This year alone, the amount of income we must distribute to cover these new taxes will cost the company 3 new stores and 36 new jobs.

Though I was discouraged when the bill passed, I hung on to one hope—President Clinton's promise of tax credits for companies willing to invest in themselves. My hope was that credits for buying equipment, developing products and creating jobs would offset the increased taxes our shareholders have incurred. If any small business qualifies for tax credits, certainly ours does. This year we will spend $800,000 on new equipment, $200,000 on product research and development, and thousands of dollars on employee training and development. In addition, we will create approximately 100 new jobs.

After the bill passed, I asked both our controller and our accounting firm to study the summary and advise us on the impact of the new taxes as well as the credits that might be available. Both parties agreed, the new bill essentially asks us to "bend over, grab our ankles, and receive the federal paddle." In other words, this is a tax bill, masquerading as a recovery act. There are no new or significant tax credits for growing companies like ours. Here is their summary:

Targeted Jobs Tax Credit—Existed before, was simply extended. Has no new effect on our company.

Investment in New Equipment—Amount eligible increased from $10,000 to $17,500, but is phased out for companies investing $200,000 in equipment for any one year. Effect is insignificant in our company since we spend approximately $800,000 on new equipment each year.

Research & Development Credit—Extended retroactively but applies primarily to research of a technological nature. Does not apply to the development of products like ours in a non-technical field.

Reduction in Capital Gains Tax—Reduces capital gains by 50% for original owners who sell their original stock. Does not reduce our annual tax burden nor help with our annual growth and development. Applies only to investments made after August 10, 1993.

We are waiting for your "talk, talk, talk" about how we will all be better off because you voted for the bill. However, I am afraid it will be like telling a child you just paddled that the spanking didn't feel that bad. Our company has definitely been hurt by your vote. The analysis of our financial advisors shows the new taxes will cost us 28 new stores and approximately 336 new jobs over the next five years. In addition, all the businesses that support us—contractors, subcontractors, manufacturers, distributors, brokers, etc.—will now have less work. Perhaps most significant, even though tax rates have increased, our company will pay $500,000 less in state and federal taxes over the next five years because our growth capital has been slashed. This is an important point! We will actually pay less income tax, sales tax, payroll tax, and FICA tax (because our growth has been inhibited by the new taxes) than we would have paid if the bill had failed to pass. Does this sound like economic recovery to you?

Not only will the new taxes affect our company, I believe they will have an impact on business in America in general. As you know, 80% of the jobs in this country are created by small business. Most small businesses are sole proprietorships, partnerships or sub S corporations. All of these forms of business require owners, partners and shareholders to declare business income as individual income. When you raise the taxes of owners and partners who are able to fund and develop businesses, businesses have less capital to grow, develop products and create jobs. In the case of the new bill, the credits offered are not broad enough or significant enough to offset the impact of the new taxes for most small companies that are serious about growth and development.

I believe the greatest tragedy of this tax bill passing is that it shifted the focus from the most serious problem we have in America—the national debt. While promises have been made to reduce the annual deficit, which may reduce the amount by which the debt grows each year, the bill has no impact on the staggering amount of debt currently existing. Had the bill failed, the message would have been clear—Americans are not willing to pay more taxes until the national debt is seriously addressed. Taxes are not the answer for solving this problem. Congress could raise taxes every year for the next 10 years and it wouldn't make a dent in the national debt. The solution lies in sound financial management (reducing costs, cutting wasteful spending, eliminating programs, etc.) even though it will be painful.

How the government developed this pattern of spending more than it takes in year after year is beyond me. Businesses that follow this pattern go bankrupt. They do not have the luxury of raising prices at will because they choose to spend more money than they make. Of all the companies I have consulted with, the least healthy are those that need most of their earnings to service debt. Even though their concepts and management may be sound, because they lack cash flow they are unable to develop new products and technology, create jobs, and stay competitive. Governments that require a large amount of their revenue to service debt have the same problem; they cannot adequately educate their people, develop their nation, or invest in their future. Shouldn't our government be a model of excellence, efficiency and sound management? Imagine how strong our country could be if the annual budget now required to service debt was spent strengthening education, improving health care, developing technology and cultivating natural resources.

Before concluding there are two issues on which we need your help—health care and the minimum wage. If businesses are asked to bear the burden of these two costs, the health and survival of our company may be threatened. Our business, like most fast-food establishments, is a low-ticket industry. The average purchase in our stores is approximately $1.50. This means we need a lot of employees to serve a lot of customers who don't spend much money. The vast majority of our employees are 16 to 20 years old, they live at home, they attend high school or college, they work 15 to 25 hours a week for spending money, they are covered by their parents' health plan, and they earn between $4.25 and $5.00 per hour.

I realize some people may not value these jobs because they are not "high paying" career positions. However, we take great pride in teaching a young work force, many in their first job, effective work habits and career skills. We view our business as a company school; we provide extensive training in business management, customer service, store cleanliness, inventory control, cash management, and marketing. Once trained, we let our employees run their stores as their own businesses. We share the profits with them and provide cash bonuses for excellent performance. Being a former university professor, it is very rewarding to teach young people important career skills, influence their attitude toward work, and improve their lifetime employability while they are with us. While most stay with our company one to two years (until they graduate, get married, move away, etc.), some do rise to higher paying career positions as team leaders, regional managers, marketing director, etc.

We are in favor of allowing all Americans access to needed health care. Our company provides an attractive health plan for our permanent career employees. The new government plan, however, must make allowances for young, part-time employees who already have coverage through a family plan. If we are forced to pay a percentage of our payroll into a national health plan for employees who already have access to health care, it will essentially add a new tax to our business. This will contribute one more cost to our financial statement that is beyond our control—a cost that will continue to increase each year, particularly if funding for the plan is based on faulty assumptions about the growth of the economy. I have already outlined how the new recovery package has affected the future growth of our business.

In addition to new health care costs, if the minimum wage is increased for our young workforce (and indexed as some have suggested), we will have yet another item on our financials we cannot control. We are all for paying people a fair wage for skill level and contributions made. Our employees, like most minimum wage earners in America, are teenagers with no dependents learning initial career skills. If this significant cost of doing business is increased, we will have two alternatives available to us, neither of which is attractive for our business: (1) lay off 20% of our workforce and figure out how to provide superb service with smaller crews, or (2) pass the cost on to our consumers by significantly raising prices. Since our product is not a basic staple of life, there is a price point where people stop buying it. We work very hard to keep our costs down so we can keep prices low. In fact, we have not raised our prices for nearly four years because our customers are so value conscious. If we incur additional costs, we may need to raise prices to stay in business. If we do raise prices, we may struggle to stay in business anyway because our sales will be affected. Would you pay $3.00 for a small cup of yogurt?

In a recent executive planning meeting we all agreed the directions taken by the current administration will require us to pursue two new business strategies: (1) look for ways to increase sales without the need for capital investment, and (2) look for ways to grow the business without the need for employees and human resource costs. Clearly, our business, and I believe many other small businesses in America, will not fare well from the new tax burden nor the incentives offered (perhaps I should say not offered) in the President's plan.

It is very discouraging when our greatest threat to survival is not the competition, the Japanese, etc., but our own government. Why are we as entrepreneurs targets of a financially irresponsible government? Shouldn't we be encouraged to create healthy, desirable products? Shouldn't we be applauded when we create new jobs and train the youth of America? Shouldn't we be heros when we grow our businesses and create net increases in taxes paid to the federal and state governments?

In conclusion, I have tried to be factual and objective in this letter. My hope is to provide insights that may influence your thinking on future votes in Congress. We need you to vote for us and other small businesses on these critical issues. You represent one of the most conservative districts in the country where citizens are concerned about living and governing responsibly. In addition, small business is the prototype of our state. It will be difficult for you to maintain your office if you vote against small business and the constituency you were elected to represent. Please, vote for programs and bills that allow us to grow, create jobs, and generate long-term revenue for state and federal governments. Vote against programs that burden us with new costs and threaten the survival of our business—a business we feel has become a Utah tradition!

Mr. HATCH. Mr. President, this amendment may be a small one, but it is an important amendment. It is a strike for freedom. It is striking out to try to get our country under control from the tax standpoint, and it certainly says this retroactive tax increase has not been fair.

So I commend the distinguished Senator from Texas. It takes a lot of guts to stand up here on this floor and try to reverse something that is clearly incredibly bad for the country. So I commend her. I thank her for doing this. I am happy to support her, and I hope all our other fellow Senators will do so as well.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, let there be no mistake, this is an amendment that can have only one effect, and that is to deny unemployment benefits to 1 million American workers. It can never become law itself. The House will not consider it. But it can kill extended unemployment benefits.

Mr. President, I yield 5 minutes to the distinguished Senator from California who understands this issue and who would like to speak to it from the vantage point of the Nation's largest State. I believe about a third of a million Californians will receive unemployment benefits under this measure.

That issue is at risk and will be decided in 25 minutes on the floor of the Senate.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the chairman of the Finance Committee, the Senator from New York.

Mr. President, this legislation is the first Hobson's choice I have had to vote on, being a Member of the U.S. Senate.

I begin by paying my compliments to the Senator from Texas; originally I had wanted to be a participant in this because no more than anyone else do I like the retroactivity. Mr. President, you and I discussed this matter, and I know you do not like the retroactivity. Nonetheless, I am faced with a Hobson's choice because it is my information that if this amendment passes it kills the unemployment compensation extension bill.

Let me ask this of the chairman of the Finance Committee, perhaps the most knowledgeable person in this body:

If this point of order passes, if it gets 60 votes and if this amendment passes, does it, in fact, kill the extension of unemployment insurance?

Mr. MOYNIHAN. I would say to the distinguished and experienced Senator from California, that if this measure passes it kills the Extended Unemployment Compensation Program and kills the prospects of a third of a million Californians who are entitled to it and will get it instantly. The President will sign this bill tomorrow if it is passed. If not, it is over.

Mrs. FEINSTEIN. I thank the chairman.

Let me explain my Hobson's choice. When the tax package was before this body, I called the Franchise Tax Board of the State of California. I said how many people would be affected both by higher taxes and lower taxes?

What I was told is that in California there are 13 million personal income taxpayers; 300,000 were affected by the higher taxes—in other words, 250,000 were heads of households and families with adjusted gross income of $140,000 or more, and 50,000 were single taxpayers with adjusted gross incomes of $115,000 or more.

I was also told that as a product of the budget reconciliation bill, because of the earned income tax credit, taxes for about 2 million people in the State of California would be reduced.

Now, I am looking at an unemployment extension and I want to know how does it affect the State of California? California's unemployment rate is 9.4 percent. The national unemployment rate is 6.7 percent. You clearly see the difference.

Additionally, in the first 7 months of this year, 327,000, nearly 1 out of every 4 unemployed Californians—we have 1.4 million unemployed—327,000 have been out of work more than 6 months. These workers depend on this benefits program.

Let me read a letter that came in from a man in Riverside, and this is the dilemma.

> DEAR SENATOR FEINSTEIN: Please extend the Federal jobless benefits program which is due to expire shortly.
>
> Although the Federal Government is pleased that unemployment in the Nation as a whole is under 7 percent, we in California, especially in Riverside County, are not seeing any relief in sight. Our unemployment rate is around 11 percent, and there are very few jobs to be had.
>
> I am a casualty of the cold war victory. I am an aerospace engineer who has been diligently looking for a job for many months with no success. In fact, after responding to approximately 20 want ads relating to my specialty and sending out approximately 100 resumes to Los Angeles area companies, I have done one interview where I was rejected, and no other positive responses; lots of rejections. I am concerned about the people in my situation who need more than the usual 6 months of unemployment benefits to get situated. Please help us by extending the Federal jobless benefit program.

I might say, Mr. President, in California's defense industries we have a one-third payroll diminution to date, way beyond any expectation. The defense cutbacks in California have had a much deeper impact than anyone has estimated. That is part of the need for the extension of this unemployment insurance; 327,000 people depend on it going ahead.

So, Mr. President, that is my Hobson's choice: Do I vote to eliminate retroactivity for 300,000 of the wealthiest Californians or do I vote to continue unemployment insurance for 327,000 people out of work? It is a terrible choice, but it becomes a clear choice.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN. Mr. President, may I say to the distinguished and experienced Senator from California, there is, in fact, no choice from her perspective and from that of the people of California.

In no way will this amendment ever become law. Not one person's taxes will be changed in any way. The only thing the success of this amendment could do is to kill extended unemployment benefits for a third of a million Californians, a third of a million like that aerospace engineer from Riverside, who are experienced, capable workers. He is a victim of victory in the cold war. Are we to say to him, "sorry," on a meaningless quest to make a symbolic statement? Are we to say, "we are going to take away what you have left in the way of a livelihood until the economy picks up more?"

Certainly, we are not going to do that, Mr. President. This amendment will fail. It must be defeated.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 11 minutes, 30 seconds; the Senator from New York has 6 minutes, 51 seconds.

Mrs. HUTCHISON. Mr. President, I yield 2 minutes to the Senator from Mississippi, Senator LOTT.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Texas for showing the leadership she has shown in this particular instance. It sounds to me, from what I have heard this morning and from the debate I heard yesterday, that the whole approach is to distract attention from what is really involved here.

We need to talk about the real issue: What this particular amendment does. It would repeal the unfair job-killing retroactive income, estate and gift taxes from the tax bill we passed earlier this year, the so-called reconciliation package. These retroactive taxes will affect 1.1 million taxpayers in this country this year. Of the total taxpayers affected, 675,000 are small businesses. What do you think this does to a small businessperson who has budgeted a year in advance? The business has no choice but to pay the tax. So, then what do they cut? Jobs. We should be encouraging job creation through our policy—not layoffs.

I know my colleagues here in the Senate go home and talk to their constituents as I do. I do not believe any part of that tax bill made the people, the taxpayers, madder than the retroactivity of the tax increases in that bill. We have all heard it.

We have retroactively raised taxes back before this Congress was sworn in, back before the President was sworn in, to get more revenue in an unfair way. It is destructive to business planning.

I went home after that tax bill and people were saying: What does this mean? I made plans and business decisions based on what my taxes would be under current law. Now, I have to go out and come up with more money.

The Senator from Texas is trying to repeal this unfair tax. Her amendment is not a killer amendment. The important thing is to focus on what we are trying to accomplish, and that is to get rid of this unfair tax.

Most of the debate has focused on how is it going to be paid for, how we would make up for the lost revenue here. It is done in a responsible way by reducing Government overhead expenses by a small percentage.

I urge my Senate colleagues to listen to our constituents and vote for this Hutchison amendment.

The PRESIDING OFFICER. Who yields time?

Mrs. HUTCHISON. Mr. President, I yield 2 minutes to the senior Senator from Texas, Senator GRAMM.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, when we debated this retroactive tax, at least a dozen of our Democratic colleagues got up and said, "We wish it weren't retroactive. If we could get rid of this retroactive tax, we would do it."

The Senator from Texas has given us the opportunity to do it and, in the process, put our words to the test to see if our deeds live up to it.

At least a dozen of our Democratic colleagues said, "We should have cut more. The President didn't cut enough." Well, the Senator from Texas has given us an opportunity to cut another $9 billion of Government spending so that we do not have to impose a retroactive tax on the people who do the work, pay the taxes, and pull the wagon in America.

Now, some of our colleagues are saying, "How could we cut $9 billion out of Government spending?" Well, the President proposed $108 billion of savings from reinventing government. What we are doing here is simply taking $3 billion a year of those savings to eliminate a totally outrageous and unfair tax increase.

So if you are against retroactive taxes, put your vote where your mouth is. If you are in favor of cutting more, vote that way, do not just talk that way.

This amendment gives us a choice to do what the American people want to do.

I thank my dear colleague for her leadership on this issue. I believe that the American people are for this amendment. If they could vote, it would win.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Time will be charged equally against both sides.

Mrs. HUTCHISON. Mr. President, I want to reserve to myself 5 minutes to close, but I would like to have that at the end.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

Mr. MITCHELL. I ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to thank the Senator from New York for working with me on this amendment, although not on the same side, obviously, but by being very helpful in working through the time requirements. I appreciate that very much.

Mr. President, in closing, I want to say first and foremost, we want this bill to pass. We are not putting an amendment on a bill that we want to kill. We are putting an amendment on a bill we want to pass, because we want our unemployed workers to get the help they need. But we want the added benefit of righting a wrong done to 675,000 small business people, and that wrong is the retroactive tax increase that could add to this country's unemployment.

This is the time that we can correct that wrong—that retroactive tax increase that no taxpayer set aside for because they did not know it was coming.

I want to correct the RECORD from yesterday from the debate that we had. We have heard many numbers discussed, but the important ones are these: By repealing the retroactive income and estate taxes, our amendment would lose $10.5 billion in new revenue over 5 years. In order to prevent this from increasing the deficit and in order to reduce the deficit further, our amendment cuts Federal administrative spending by $3 billion each year for the next 3 years and it reduces the spending caps by such amount to make sure that we do not spend the money for something else. We want the amendment to be a permanent cut.

So $3 billion comes off the spending caps in 1994, $3 billion in 1995, and $3 billion in 1996. There are no additional spending cuts in 1997 and 1998, but the spending caps are reduced in those years so that we will not spend money in 1997 and 1998 that will add to the deficit. So by keeping the spending caps in place at the new lower level, we will keep the deficit down by $25.5 billion, which is a goal I know every Senator supports.

We have also heard much discussion about where these cuts come from. The cuts are made from agency spending in administrative expense categories called "object classes." I did not make up that term, I assure you—the Office of Management and Budget did—but I used it in order to cut administrative expenses.

But because we appropriate by account, not by object class, and there are no administrative expense categories for appropriations accounts, our amendment requires the head of the Office of Management and Budget to establish obligation limits for each agency. Although some have argued that this puts too much discretion in the Director of OMB, the President of the United States, in fact, did the exact same thing earlier this year in his Executive order proposing administrative expense spending cuts, because, I assume, he could not find a good alternative either.

Frankly, one thing surprises me about yesterday's debate. In 3 hours of discussion about this amendment, not one Senator protested that we were not cutting enough of our administrative expenses. Some protested that we were cutting program spending, but that is not true. They protested that we are not making the cuts in the right way, but they did not propose an alternative. And they protested that we were cutting so much that it might hurt services. But if that is the case, how can the National Performance Review propose cutting 252,000 Government workers without hurting services?

Surely the administrative expenses of employing these workers can be cut. Do we think the Government is so efficient now that we cannot tighten our belt and be more efficient in a minuscule amount—$3 billion, out of a total $250 billion budget? If the Government is so well managed, why are we running a $260 billion deficit for 1994? We have that deficit because Government is not run as efficiently as we know it could be. Let us address this problem now before we go on borrowing more money.

Let us start by cutting administrative spending.

One more thing to correct the RECORD from yesterday. We heard at great length that our amendment so offends the Constitution as to be an illegal act. As many of you are aware, Congressmen LAMAR SMITH and RALPH HALL from Texas and Congressman BOB INGLIS from South Carolina have introduced this amendment as original legislation in the House. The House has not taken action on their bipartisan legislation yet. But if we pass this amendment and show the House how important we believe repealing retroactive taxes is, the House will do so.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. HUTCHISON. Mr. President, how much time do I have left on my side?

The PRESIDING OFFICER. The Senator's entire time has expired.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent for 2 more minutes on my side.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, I have no objection, provided that this side gets an additional 2 minutes, as well.

Mrs. HUTCHISON. Absolutely.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 2 additional minutes.

Mrs. HUTCHISON. Mr. President, if we agree to this amendment, the House, which has the original legislation before it, will certainly follow our cue because they have about 100 cosponsors for a retroactive tax repeal bill there as well.

To close, let me say that I do not think this is a constitutional issue. We can work it out with the House. The issue is one of fairness. America's small business owners—675,000 of them—were hit right between the eyes with an unfair, unexpected retroactive tax.

Eighty percent of the businesses in America pay taxes as individuals. These are the people who invest their own money for our future and create 80 percent of the new jobs in America. Yes, we may help a few people who are rich in doing so, but let us not hurt those small businesses that are creating the new jobs in our country to prevent that.

As my friend from Arkansas said yesterday, a former Attorney General may be working to get into the top income bracket now that he is out of Government service. But I think the other side of the aisle wants to put him there by raising the rates. We want to put him there by raising everyone's income: rich, poor, and middle class.

If we play fair, if we do not change the rules of the game in the middle of the year, we will put people back to work and we will not need any more extended emergency Band-Aid unemployment compensation bills.

I urge my colleagues to do the right thing for the unemployed workers, for the employed workers, and for the small businesses that are the engines that drive our economy in America. It is they alone who will create the real jobs that are the hope for our future. I urge my colleagues to vote for this amendment by voting to waive the provisions of the Budget Act.

Mr. BAUCUS. Mr. President, I rise today in opposition to the amendment offered by Senators HUTCHISON, NICKLES, and SHELBY. If enacted, the amendment has the potential to unravel a budget plan that has helped stabilize our economy during its fragile recovery from recession. The revenue shortfall caused by this amendment would be offset by a host of unspecific, unrealistic ghost cuts.

1993 RECONCILIATION BILL

The revenue reconciliation bill signed into law by President Clinton on August 10, 1993 has bolstered the confidence of the financial markets, serving to keep long-term interest rates at historic low levels. As we all recall, the budget package reduces the deficit by $496 billion in 5 years. It provides investment incentives to small business, relief to lower income taxpayers, and support for cities suffering from urban blight.

The income tax increases included in the budget plan affect only the top 1.2 percent of all taxpayers—those couples with over $180,000 in adjusted gross income. Many of the taxpayers that fall into this category are small businessowners, 90 percent of whom benefit from retroactive tax cuts such as: an increase in annual expensing from $10,000 to $17,000, extension of the 20 percent research and development tax credit, extension of the 125 percent self-employed health deduction, extension of the targeted jobs tax credit, and on and on.

Any wealthy taxpayers who find themselves with a tax increase for 1993 after taking into account the retroactive tax breaks, are allowed to pay the excess tax liability over 3 years. No interest or penalties would be charged during the installment period.

The proponents of this amendment state that if enacted, the amendment would "repeal the retroactive increase in estate taxes." Let us set the record straight; there is no increase in the estate tax rate. An estate established in 1993 will be taxed at the same rate as one established in 1992. The bill merely extended the top rate on estates of over $2.5 million, the same rate that was retained and extended in 1984 and 1987 in bipartisan legislation.

Mr. President, at the risk of repeating points made during the debate on the budget bill, I want to emphasize that the 1993 reconciliation bill is fair. It asks all Americans to sacrifice to get our economy back on the right track.

It is fair to working families. It combines an expanded earned income tax credit with an increase in income tax rates on corporations and the wealthiest Americans. It is fair to middle class Americans and senior citizens. For example, a Montana middle class family will pay $31 a year extra. That is about 12 cents every working day—a fourth of the price for the Billings Gazette—and not a penny on weekends and holidays.

DEFICIT REDUCTION/UNEMPLOYMENT BENEFITS

A vote for this amendment is a vote to attack a reconciliation bill that is the most progressive proposal in recent history. It is a vote against the receipt of emergency unemployment benefits by the neediest Americans. It is at the same time a vote against President Clinton's deficit reduction plan, and a vote against unemployment insurance for 1 million Americans.

For the past 12 years, Republican administrations have taken a walk on the deficit. Their policy of borrow and spend blew up the Federal debt. Our debt grew from under $1 trillion in 1980 to about $4.5 trillion today. And because of those 12 Republican years, it is still growing at a rate of almost $1 billion per day. Today the proponents of this amendment ask us to impair a budget plan that reverses this trend, and to take a walk on 1 million needy Americans.

CONCLUSION

Let us have the courage to stick by the hard choice we made in August, and the courage to do the right thing for a small group of unemployed Americans. The 1993 revenue reconciliation bill is real. It contains real deficit reduction. It has real cuts. It is fair to all Americans. We did the right thing in August. Let us do the right thing today—and defeat this amendment.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. MITCHELL. Mr. President, I believe all time on the side of Senator HUTCHISON has expired. I have been advised the Republican leader wants to speak on the amendment. Of course, he could use his leader time. I am advised he is on the way. I will suggest the absence a quorum. Following his remarks I will make the closing remarks.

I suggest the absence of a quorum and ask the time be charged equally against the time of the two leaders until such time as the Republican leader arrives.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I will just take about 2 minutes. I know we should have been voting on this at 11:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I did speak on the issue last night, but I wanted to speak just very briefly. I want to congratulate Senators HUTCHISON and SHELBY for raising this issue. It is a bipartisan effort to repeal the retroactive income asset and gift tax rate increases included in the budget reconciliation bill. We had a lot of debate on it at that time. There was a lot of discussion on it. I think most people generally do not think retroactive tax policy is a good idea. It has not been done in the past. There have not been retroactive rate increases in the past several years. The Senator from Arkansas indicated we had done this in 1982. That is not an accurate statement. We did not change the rates between the eighties and nineties, did not make them retroactive.

I think this effort is not about delaying the unemployment bill or trying to avoid dealing with the issue. It is about trying to create an environment where small business and others can create jobs and opportunities for Americans across the country.

As I have said many times, in the Russian constitution which has been proposed—it has not been adopted yet; they have had some other problems there as we all know—but one article in the Russian constitution would prohibit retroactive taxation. This is a new, emerging democracy, the Russian Republic. They ought to recognize it is bad policy. I hope we will recognize it is bad policy.

It is also about $10 billion, as I recall, being sort of sucked out of the economy. In a lot of places, in a lot of cases, people did not know it was going to happen. They are going to find it out next year at tax time.

It is also on gift taxes, also on estate taxes. It applies, as we said before, to the living and the dead, and we believe it is unfair. It is unfair policy. It is bad policy. The taxes are bad enough in the bill we passed on a 51-to-50 vote in this Chamber, but this provision is particularly bad.

As this Senator indicated yesterday, Senators HUTCHISON and SHELBY are to be congratulated for proposing this bipartisan amendment to repeal the retroactive income, estate and gift tax rate increases included in the budget reconciliation bill.

This amendment is not about delaying the unemployment bill or trying to avoid dealing with that issue—it is about trying to create an environment where small business and others can create jobs and opportunities for Americans across this country.

There is no doubt in my mind that the retroactive tax increase will stifle small business.

Instead of investing in their companies and expanding their work force many small businesses are now going to have to cut back on their plans and may even reduce their work force as they face the additional burden of paying taxes on income that was already earned when the budget bill became law.

The retroactive tax provisions are bad policy and bad law, and clearly a step back from our common goal of economic growth.

And finally let me address once again the claim of the senior Senator from Arkansas that this Senator has supported retroactive tax increases in the past.

In 1982 the top marginal rate stayed at 50 percent. You will recall that the 1982 bill followed the 1981 bill which actually lowered rates from 70 percent to 50 percent. The 1982 bill did not touch individual income tax rates either prospectively or retroactively.

Do not be fooled, the retroactive tax increase contained in the 1993 bill hits everyone, not just the rich. It is the small businessman and woman who will suffer most from our action if we fail to pass the Hutchison-Shelby amendment.

We want to pass this bill to assure unemployed workers will get the help they need. We want the added benefit of righting a wrong done to 675,000 people—mostly small businesses—that is a retroactive tax increase.

Mr. President, in closing, I would first like to correct the record. We have heard many numbers discussed here today, but the important ones are these: by repealing the retroactive income and estate taxes, our amendment would lose $10.5 billion in new revenue over 5 years. In order to prevent this from increasing the deficit, and in order to reduce the deficit further, our amendment cuts Federal administrative spending by $3 billion each year for the next 3 years, and reduces the spending caps by such amounts: $3 billion, 1994, $3 billion more 1995, and 3 billion more in 1996. The amendment does not cut additional spending in 1997 and 1998, but it reduces the spending caps in those years in order to keep the amounts saved in the first 3 years from being spent again. By keeping the spending caps in place—we will keep the deficit down by $36 billion. A goal I hope everyone will agree is worthy.

We have also had much discussion over where these cuts come from. The cuts are made from agency spending in administrative expense categories called object classes. I did not make up that term—OMB did—but I had to use it in order to cut administrative expenses. But because we appropriate by account, not by object class, and there are no administrative expense categories for appropriations accounts, our amendment requires the head of OMB to establish obligation limits for each agency. Although some have argued that this is putting too much discretion in the hands of the OMB Director, the President has done the same in his Executive order proposing administrative expense spending cuts; perhaps he could not find an alternative either.

Frankly, one thing surprises me about yesterday's debate. In 3 hours of discussion about this amendment, not one Senator protested that we were not cutting program spending—we are not; they protested that we are not doing it right—without proposing their own alternative; and they protested that we were cutting so much as to hurt services. But if that is the case, how can the National Performance Review propose cutting 252,000 Government workers without hurting services? Surely, the administrative expenses of employing these workers can be cut.

Do we think that the Government is so efficient now that we can not tighten our belts and be more efficient? If the Government is that well managed, why are we running a $260 billion deficit for 1994? We have that deficit, Mr. President, because the Government is not well run. Let's address this problem now, before we can not borrow any more. Let's start by cutting administrative spending.

One more thing bothers me from yesterday. We heard at great length that our amendment so offends the Constitution as to be an illegal, imprudent act.

As many of you are aware, Congressmen LAMAR SMITH and RALPH HALL of Texas, and Congressman BOB INGLIS of South Carolina, have introduced this amendment as original legislation in the House. The House has not taken action on their bipartisan legislation yet, but if we pass this amendment, and show the House how important we believe repealing retroactive taxes is, it will put the burden on the House to do so. Let's not fail to show them the way.

To close, let me say that I do think this is a constitutional issue, an issue of fairness. American small business owners, 675,000 of them, were hit right between the eyes with an unfair, unexpected retroactive tax. Some 80 percent of business in America pays as individuals. These are the people who invest their own money for our future and create 75 percent of the new jobs in America. Yes, we may help a few people who are rich in doing so—but let's not hurt small businesses to prevent this. As my friend from Arkansas stated yesterday, a former Attorney General may be working to get into the top income bracket, but the Democrats want to put him there by raising the rates—we want to do it by raising everyone's income, rich, poor, or in the middle. If we play fair, if we do not change the rules of the game in the middle of the year, we will be able to put people back to work and we will not need any more extended, emergency Band-Aid unemployment compensation bills. I urge my colleagues to do the right thing for the unemployed, for our workers, and for the small businesses that are the engines that drive our economy. It is they alone who will create the real jobs that are the hope for our future. I urge my colleagues to vote for my amendment by voting to waive the provisions of the Budget Act.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator controls 7 minutes 22 seconds.

Mr. MITCHELL. Does that include the additional 2 minutes we received?

The PRESIDING OFFICER. Yes, it does. The Senator is correct.

Mr. MITCHELL. Mr. President, I encourage all of my colleagues to join in voting against this amendment for several reasons. First and foremost, this amendment is a hoax. It is a hoax from beginning to end.

The title of the amendment says, "repeal of retroactive application of tax." But nowhere in the amendment does the word "repeal" appear. It does not repeal retroactive taxes. It applies taxes retroactively, back to the beginning of the year just as the bill passed earlier this year does. It simply does it at a different rate. So no one should be under the illusion that, if you vote for this amendment, you vote to repeal retroactivity. You are voting for retroactivity, just at a different rate.

Not only is this amendment a hoax, it is a cruel hoax, because this amendment cannot become law. Even if 100 Members of the Senate vote for this amendment, it cannot become law. That is because it is a tax amendment and the Senate has no constitutional authority to initiate tax measures. The underlying bill is not a tax bill. So, if this amendment is put on the underlying bill, the only effect is to kill the underlying bill. This amendment, if adopted, will join the underlying bill in being killed. That is really the motivation here. It is a circuitous attempt to kill the unemployment insurance bill.

That is what makes this a particularly cruel hoax: To present a tax amendment that, if adopted, would benefit only the 1 million American families whose gross incomes exceed $200,000 a year and to use that as the stake driven through the heart of the unemployment insurance bill which provides unemployment insurance to 1 million American families who, through no fault of their own, have lost their jobs.

What a bitter irony, to say that just to make a gesture for the 1 million Americans who, filing jointly, have gross incomes in excess of $200,000 a year—we cannot even really help them because it is not going to become law—but just to make a gesture in their behalf, and the price of doing that is to kill the unemployment insurance bill that is for a different 1 million American families, those who, through no fault of their own, have lost their jobs and are going to be denied extended unemployment insurance benefits.

Mr. President, I think any Senator ought to be ashamed to vote for this amendment under those circumstances. Let us be clear about this. Over and over again we have heard, like a mantra: Small business, small business, small business. There is nothing in the tax bill that says the higher rate applies to small business. The tax applies to income. If a family filing jointly has a gross income of more than $200,000 a year, they pay a higher tax rate whether they have 1 employee or 1 million employees. As the Treasury Department has made clear, of all the small businesses, only 4 percent of them have income of over $200,000 a year. The other 96 percent will benefit from the tax bill because they get a greater deduction when they purchase plants and equipment.

So, once again this is an effort to benefit a very tiny minority and, at that, those persons best off in our society. The average annual income of those who will benefit from this amendment, if it were adopted, exceeds $300,000 a year.

I ask the Members of the Senate, are those whose annual incomes are over $300,000 a year so desperate in need of help that the Senate has to rush in here and help them out and in the process kill the unemployment program for 1 million unfortunate families who have a work history, who have lost their jobs through no fault of their own, and are seeking but cannot get another job?

That is the choice being made here today, and our colleagues are making clear their choice. Their choice is with those families whose incomes exceed $300,000 a year who, according to them, so desperately need this help. Even though it cannot become law, it is a statement. So any Senator who votes for this can go back to his or her State and say to that handful of very wealthy people in their State: "Well, now, I sure tried for you. I tried to help you. I know your income is only $300,000 this year, and I tried to help you out and, oh, what about that other million American families who have unemployment insurance that is lost as a result of this? Well, tough luck for them."

Mr. President, there could not be a clearer choice. There could not be a clearer choice before this Senate. This amendment does not repeal retroactive taxes. It applies the tax increase retroactively just at a different rate. This amendment cannot become law. If adopted here, it will kill the underlying bill and go down with that bill. So it is nothing more than a political and economic statement. This amendment, even if it could become law, will only benefit those whose incomes exceed $200,000 a year and who, on average, have incomes in excess of $300,000 a year and in the process kill a bill that provides unemployment insurance extension for up to a million families who will desperately need it in the coming winter.

Finally, let me say, this talk about where these cuts are going to be, there has not been any discussion of that. I think we ought to make additional cuts, and we are going to make them. The President is going to make the proposal, announced today and next week, and all these Senators who say they are for cuts will have a chance to vote for them. I think what happens on cuts, Mr. President, is——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MITCHELL. Mr. President, I use my leader time.

What happens on cuts is something we all know here in the Senate. It is a law that is as certain as the law of gravity. And that law is the law of deficit reduction speeches; that those who make deficit reduction speeches most often and longest and loudest are the ones who will not vote to cut spending. They will talk about spending cuts, they will wear buttons that urge spending cuts, but when the roll is called for spending cuts, their vote is no.

Oh, there is always a reason: This is an important project; this has to do with something special; this provides unique benefits. It is always something else that ought to be cut. It is always somewhere else that ought to be cut.

So, Mr. President, I say, that we ought to reject this amendment because it is unfair, it is wrong, it will not do what the sponsors say it will do. What we ought to do is when we get the spending cut bill up here next week, let us have those who give the speeches on spending cuts actually vote to cut spending. That would be a revolution here in the Senate. That would be a surprise. That would be an eye-opener: Deeds to match words.

Mr. President, I yield the floor. Have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the motion to waive the Congressional Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

Mr. President, I would like to announce as a separate statement that Senator LAUTENBERG is absent due to the religious ceremonies associated with the birth of his first grandson.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 44, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—50

Bennett
Bingaman
Bond
Boren
Brown
Bryan
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Kerrey
Kohl
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Sasser
Shelby
Smith
Thurmond
Wallop
Warner

NAYS—44

Akaka
Baucus
Biden
Boxer
Bradley
Breaux
Bumpers
Byrd
Campbell
Conrad
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Hollings
Inouye
Johnston
Kennedy
Kerry
Levin
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wofford

ANSWERED "PRESENT"—2

Simpson
Specter

NOT VOTING—4

Lautenberg
Leahy
Riegle
Stevens

The PRESIDING OFFICER. On this vote, the yeas are 50, and the nays are 44, two Senators having voted present. Three-fifths of the Senators present and voting, not having voted in the affirmative, the motion to waive the Budget Act is rejected.

The point of order is therefore sustained, and the Hutchison amendment falls.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I rise to explain, my vote of "present" on Senator HUTCHISON'S motion to waive the Budget Act as it related to her amendment to retroactively repeal tax increases included in the Budget Reconciliation Act.

On June 11, 1993, my dear father, Milward L. Simpson, died. The conference report to the Budget Reconciliation Act was signed into law by the President on August 10, 1993. Certain taxes, including an extension of certain estate tax rates—originally set to expire on December 31, 1992—were retroactively imposed by this legislation to January 1, 1993.

The estate tax for my father's estate has not yet been filed. I am an heir of that estate. Accordingly, the amount of the tax—if any—on his estate would be directly affected if the Hutchison amendment became law.

Because of my direct financial interest in the outcome of this amendment, I voted "present" on this budget waiver.

AMENDMENT NO. 1081

Mr. KOHL. Mr. President, today I voted to allow consideration of an amendment to repeal the retroactive tax increases in the Omnibus Budget Reconciliation Act of 1993. I strongly believe that retroactive tax increases are bad policy and bad precedent. To make clear that considerations of public policy are the sole basis for my decision on this afternoon's vote, I ask that a copy of a letter I sent to my accountant today be placed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 26, 1993.

Mr. MIKE BURR,
825 N. Jefferson,
Milwaukee, WI.

DEAR MIKE: Today the Senate is debating and will vote on a measure to repeal the retroactive individual and estate taxes enacted in the Omnibus Budget Reconciliation Act of 1993. If this repeal becomes law, I would ask that you figure my personal tax liability under the *unamended* reconciliation legislation and under that legislation as amended by the repeal. I would ask further that you prepare a check to the U.S. Treasury for the amount by which my liability under the unamended bill exceeds my liability under the amended bill. My intention is to return to the U.S. Treasury any reduction in my personal tax bill due to the repeal of the retroactive tax increases.

Thank you for your help in this matter.

Sincerely,

HERB KOHL,
U.S. Senator.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Under the previous order, the Senator from Oklahoma [Mr. NICKLES] is recognized to raise a point of order against the bill.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, according to the Congressional Budget Office score, H.R. 3167 increases the deficit by $1.04 billion in fiscal year 1994.

Therefore, pursuant to section 12(c) of House Concurrent Resolution 64, the first concurrent budget resolution for fiscal year 1994, I raise a point of order that H.R. 3167 would increase the deficit in fiscal year 1994 beyond the level provided for in that resolution.

The PRESIDING OFFICER. The Senator from New York.

MOTION TO WAIVE THE CONGRESSIONAL BUDGET ACT

Mr. MOYNIHAN. Mr. President, I move to waive the Congressional Budget Act of 1974 and section 12 of the budget resolution, House Concurrent Resolution 64, for the pending bill, H.R. 3167, in the form received by the Senate, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, debate on this motion to waive the Budget Act is limited to 1 hour, which will be equally divided and controlled in the usual form.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I hope my colleagues will pay attention to this debate and realize that we are debating not just a point of order, but we are debating several important budget issues.

The point of order I just made was created by the concurrent resolution on the budget that passed earlier this year. Maybe a lot of our colleagues are not aware of this point of order, but this is part of the Senate budget resolution that passed earlier this year enforcing pay-as-you-go budgeting. I will read from the resolution. It says:

> Any time after the enactment of the reconciliation bill, pursuant to section 7 of this resolution, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would increase the deficit in this resolution for any fiscal year through fiscal year 1998.

And it goes on.

Mr. President, I just looked at the cost estimate prepared by Mr. Robert Reischauer, who is Director of the Congressional Budget Office.

Mr. President, I ask unanimous consent to print in the RECORD a table entitled "Unemployment Compensation" and a table entitled "H.R. 3167, 'Emergency' Unemployment Benefits CBO Cost Estimate."

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

UNEMPLOYMENT COMPENSATION

[Dollar amounts in billions]

Year	Outlays	Growth	Percent growth
1970	$3		
1971	6	$3	87

UNEMPLOYMENT COMPENSATION—Continued

[Dollar amounts in billions]

Year	Outlays	Growth	Percent growth
1972	7	1	16
1973	5	(2)	−27
1974	6	1	14
1975	13	7	129
1976	19	6	45
1977	14	(4)	−23
1978	11	(4)	−24
1979	10	(1)	−9
1980	17	7	72
1981	18	1	8
1982	22	4	21
1983	30	8	34
1984	17	(13)	−43
1985	16	(1)	−7
1986	16	0	2
1987	16	(1)	−4
1988	14	(2)	−12
1989	14	0	2
1990	18	4	26
1991	25	8	43
1992	37	12	47
1993 [1]	36	(1)	−2
1994 [1]	28	(8)	−22
1995 [1]	25	(3)	−11
1996 [1]	25	0	0
1997 [1]	25	0	0
1998 [1]	25	0	0

[1] Estimated.

H.R. 3167, "EMERGENCY" UNEMPLOYMENT BENEFITS, CBO COST ESTIMATE

	1994	1995	1996	1997	1998	Total
Emergency unemployment compensation	1,070					1,070
Worker profiling and job search assistance	0	(17)	(105)	(270)	(372)	(764)
SSI & Medicaid alien sponsors	(30)	(120)	(180)	0	0	(330)
Total direct spending	1,040	(137)	(285)	(270)	(372)	(24)
Unemployment administrative expenses	30					30
Worker profiling and job search assistance	0	34	169	344	350	897
Advisory council	1	0	0	0	0	1
Total appropriations	31	34	169	344	350	928
Total all spending	1,071	(103)	(116)	74	(22)	904

Mr. NICKLES. Mr. President, this table clearly shows, in 1994, next year, we are increasing outlays $1.70 billion. There is also a reduction from Social Security income and Medicaid alien sponsors, a savings of $30 million, for a net increase in outlays of $1.04 billion. Thus, the deficit is going up next year $1.04 billion.

That is in violation of the budget resolution that we agreed to earlier this year. I know I heard a lot of my colleagues saying at that time: "Boy, this is fiscal integrity. This has real teeth. These rules are going to get the deficit down. These rules mean you cannot spend any more money unless you pay for it."

Mr. President, H.R. 3167 is not paid for. The financing mechanism in this proposal to pay for these emergency unemployment benefits is a gimmick. It is a sham. And I hope that everyone is aware of it.

We have had a lot of people in the past say, "I want to support the unemployment program, but I think we should pay for it." This bill does not pay for it. All the money in this bill will be spent in 4 months. It will be spent by January and February next year, but to pay for it we have savings that are projected all the way out to 1998. That is ridiculous.

Concerning the so-called savings—Mr. President, this is really where it is a sham—this bill mandates worker profiling and job search assistance to save $764 million over 5 years.

It is interesting to note, though, that the Congressional Budget Office says it is going to cost $897 million in appropriations to come up with $764 million in savings. Think about that. Only the Federal Government would come up with a scheme to spend $897 million so we can save $764 million. Taxpayers will lose $133 million in the process.

If you calculate the fact that we are going to spend $897 million, it is clear this bill is flagrantly in violation of the budget rules—not just the budget rule I quoted, but also other budget rules, as well—clearly a violation of the budget; clearly a point of order is needed.

My friend and colleague moved to waive the budget. He has to have 60 votes. I do not know if he can get 60 votes or not. I know unemployment compensation benefits are important. I know they are popular. But for crying out loud, we ought to at least be honest and say we are going to increase the deficit by $1 billion. We should tell the American people what we are doing. This bill is not paid for.

What this bill also contains is a massive unfunded liability on the States. And it is interesting to note—maybe it is just a coincidence, but I understand that the Governors have declared tomorrow to be unfunded mandates day. They do not want the Federal Government to mandate unfunded programs on the States.

I just urge my colleagues to look at the bill.

I look at H.R. 3167 and places mandates on the States. If my colleagues would look at page 4, it talks about worker profiling. And if you look down at the very bottom of the page at (j)(1), it states:

> The State agency charged with the administration of the State law shall establish and utilize a system of profiling all new claimants for regular compensation.

It goes through how the States shall do that, and it mandates that it be done. If you go all the way down to the bottom of the next page, all of page 5 is a mandate; the top part of page 6 is a mandate.

Look at the bottom of page 5:

> Until the Secretary of Labor is so satisfied, he shall make no further certification of the Secretary of Treasury with respect to such State.

In other words, if the Department of Labor is not satisfied, they can cut off all funds, period. This is a heavy unfunded mandate; a mandate that is estimated by the Congressional Budget Office to cost $897 million, not an insignificant sum.

Now the purpose of this mandate is supposedly to save $764 million. That is not very good math and it proves this bill is grossly underfunded; a very heavy mandate, a very unfair mandate.

What should we do? I have been bothered by the fact that now it seems as if we are addicted to the so-called emergency unemployment compensation program.

Let me just explain the facts, Mr. President. All States have unemployment compensation programs. Those are paid for through payroll taxes by employers within the State. Those programs are designed and managed by the State. They determine eligibility. They determine the length of time available. They determine the amount of money available. Those programs are all run by the State, and usually provide services up to 26 weeks.

In 1970, we passed a new program called the Extended Benefits Program that allows the States, if they have high unemployment, to receive an additional 13 weeks of unemployment compensation. That program is paid for by a 50–50 match.

Now, mind you, the first 26 weeks, that is paid for by the States. That is paid for by the employers. The next 13 weeks, the Extended Benefits Program, if they have high unemployment, is paid for by the States and matched by the Federal Government, a 50–50 share.

Since 1991, we have had this Emergency Unemployment Compensation Program, and basically that is paid for 100 percent by the Federal Government. Well, sure the States do not want to use the Extended Benefits Program if they can get a free lunch, if Uncle Sam is going to pay for all of it, and that is what we have done.

So you have seen the cost of unemployment compensation benefits explode in the last 3 years. And the reason is primarily because the States realize that Uncle Sam is going to pay for all of it.

I wonder if my colleagues are aware of the fact that the Federal Government Unemployment Compensation Program in 1991 grew by 43 percent. I wonder if they are aware in 1992 it grew by 47 percent. That is because in the last couple of years we created the Emergency Unemployment Compensation Program where the Federal Government is going to pay for it all.

Now, I seriously object to and question the wisdom of that action. That is the reason you see the cost of these programs rising, and rising dramatically.

I might mention to my colleagues at least President Bush vetoed one or two extensions because they were not paid for. I remember many on this side of the aisle would not support the program unless it was paid for.

Earlier this year, we passed a program, Emergency Unemployment Compensation benefits. We called it an emergency, so we did not pay for it. We just added it to the deficit. At least, that was honest budgeting. No one contested that bill was clearly adding to the deficit.

This program is not honest budgeting. This is misleading, and I am being kind using that term. This is more than misleading. This program is going to spend $1.070 billion in the next few months. It provides for savings over the next 5 years, and those are hypothetical, at best.

This program does not fund the mandates that are called for on the States. This program mandates to the States that they have to set up the so-called worker profiling programs, but it does not provide any money. If you read the bill—and I encourage my colleagues to read the bill—it has no money in here to pay for this, no money whatsoever.

So we mandate to the States. And the Congressional Budget Office estimates that mandate is going to cost $897 million.

Now some people are assuming the Federal Government is going to pay for that. But if the Federal Government pays for that $897 million, wait a minute, how are we going to save money so we can pay for this program? You cannot have it both ways. The numbers do not add up. This bill does not add up.

This bill is going to add $1 billion to the deficit in 1994. That is exactly what the Congressional Budget Office says.

If you look at the committee report they submitted accompanying the House bill on page 14, the Congressional Budget Office says that it will add $1.040 billion to the deficit in 1994. That is the reason why the budget point of order stands. That is the reason why there will not be any contesting the budget point of order. The budget point of order is correct.

The Budget Act which was passed this year very clearly states that it is out of order to pass a bill that will increase spending without paying for it. This bill does not pay for it. I think the point of order is well taken, and I urge my colleagues to vote against the motion by my friend and colleague from New York to waive the Budget Act.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. It is with some difficulty that I rise to state that my friend from Oklahoma is simply not correct in his assertions as to the fiscal impact of this extension, this routine extension of unemployment benefits during a prolonged period of above average unemployment.

I have here a letter, dated today, from Leon Panetta, the Director of the Office of Management and Budget.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

October 26, 1993.

Hon. PATRICK MOYNIHAN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The administration urges swift passage of H.R. 3167. This legislation would assist the unemployed and their families in two significant ways.

First, it would extend the Emergency Unemployment Compensation (EUC) program, which provides benefits to unemployed workers who have exhausted their regular unemployment benefits. These claimants would receive 13 weeks of EUC benefits in high unemployment States and 7 weeks in all other States.

H.R. 3167 also would establish a system of worker profiling in each State to accelerate the reemployment of permanently dislocated workers by linking them with reemployment services early in their period of unemployment. As Secretary Reich discussed in his October 5th letter to you, carefully evaluated demonstrations have shown that this kind of system gets claimants back to work sooner, reducing the stress and financial hardships of being unemployed and creating real savings for the Unemployment Insurance system.

OMB estimates that the costs of extending the EUC program would be offset by the five-year savings in mandatory spending that would result from H.R. 3167. Furthermore, under the rules contained in the Budget Enforcement Act, enactment of H.R. 3167 would not cause a sequester.

The administration opposes the amendment that has been offered by Senator Hutchison to H.R. 3167. The amendment would change the effective date of the individual income and estate tax rate changes in the Omnibus Budget Reconciliation Act (OBRA) of 1993. In addition, the amendment would reduce the discretionary spending caps, mandate reductions of "administration expenses" of the departments and agencies (excluding the Department of Defense), and empower the Director of the Office of Management and Budget to establish obligation limits for each agency and department.

H.R. 3167 is an inappropriate vehicle for the consideration of the complex issues raised by the amendment. First, the administration is pursuing significant savings for departments and agencies through Executive Orders released earlier this year to trim administrative and personnel expenses and through the implementation of the Vice President's National Performance Review, and looks forward to working with the Senate on the implementation of the NPR proposals.

Second, the approach used by the amendment to reduce spending could subject substantial portions of many important programs with high contractual, supply or travel expenses to significant reductions. Programs with high levels of contractual expenses include NASA, Atomic Energy Defense Environmental Restoration, Superfund and the Atomic Energy Defense Weapons program. For example, under the definitions used in the amendment, 85 percent of total NASA spending, over 50 percent of the Superconducting Super Collider termination funds, and 74 percent of the Superfund program could be subject to reduction.

In addition, under the amendment, 30 percent of the Veterans Affairs Medical Care budget and 27 percent of the Drug Enforcement Agency budget could be subject to reductions, as these agencies have high levels of supply and travel expenses.

We would ask that the Senate reject this amendment to H.R. 3167 so these issues may be carefully considered in a more deliberate fashion.

H.R. 3167 would help achieve the dual goals of providing essential job search assistance services and critical income security to unemployed workers and their families. The administration respectfully requests that the Senate pass the bill as soon as possible.

Sincerely,

LEON E. PANETTA,
Director.

Mr. MOYNIHAN. Mr. President, I will read to the Senate the key paragraph.

> OMB estimates that the costs of extending the Emergency Unemployment Compensation program would be offset by the five-year savings in mandatory spending that would result from H.R. 3167. Furthermore, under the rules contained in the Budget Enforcement Act, enactment of H.R. 3167 would not cause a sequester.

That completes the paragraph.

It is entirely true, as my friend from Oklahoma says, that we will pay for this program over a 5-year period in specific savings in unemployment compensation. The profile measures that the Secretary of Labor, Secretary Reich, has come forward with are genuine. One must wonder how it has taken us a generation to get around to this idea.

I speak as having served as an Assistant Secretary of Labor in the administrations of President Kennedy and President Johnson. We were, at that time, ready to establish the Manpower Development Training Act of 1962, in which the Federal Government would take on the issue of retraining workers who have lost jobs that are not going to come back, who need skills they do not have.

Yet, in our unemployment program, we have continued to have people come into the employment office to apply for unemployment, and establish that they are covered as they need to have been under the Federal Unemployment Training Act [FUTA]. This is a provision of the Social Security Act of 1935. We were thinking in 1935 of cyclical employment, and cyclical unemployment as well: As the business cycle went up, employment went up; as it went down, employment went down. Conversely, unemployment went up and unemployment compensation was meant to tide workers over until the cycle began moving upward again.

In the present world economy plants can close and they are not ever going to open again because that work has moved to another part of the country, or to another part of the world. In the meantime, new plants requiring new skills elsewhere are opening. The idea behind profiling is to look at the worker seeking unemployment compensation and what their job was, and say, "What is the likelihood we are seeing a cyclical movement?" There are a lot of seasonal industries in the country where people get laid off in the winter or laid off in the summer, whatever the case is. And they are going to go back to work. Their job has not disappeared. Rather, it is just the cycle of the seasons that puts them out of work for the moment.

Alternately, there is the person who arrives whose plant has closed, whose economic sector is shrinking, where sectoral changes and shifts are taking place such that the job is never going to be back. The job he or she held will not be held again. That industry has left the region or it is downsizing, which results in the need for 300 workers where 1,000 were necessary. The other 700 are not going to be needed back in that work.

So right the first day we say, "Training is what you need. This is the kind of training that makes sense. This is where you ought to go. These are the programs we have." Profile that worker straightaway and do not wait until 13 weeks have gone by. The plant, having closed, has obviously not reopened. It is never going to open again. There has been a change in the economy, a dynamic change. You want to keep up with it and keep your work force up with it. That is what the Department of Labor is going to be doing.

As I say, I would have thought this would have occurred to us 30 years ago, but better late than never. Secretary Reich is a hugely inventive, creative Cabinet member. We have this idea before us. This profiling will be a permanent aspect of our manpower policy and it will be part of our training programs. We will integrate unemployment compensation with retraining in a mode that makes a great deal of sense.

It has taken us 30 years to get to this moment of integration—fine. Not a moment too soon. If it should pay for a limited extension of the unemployment compensation, so much the better. The savings in other programs are a matter of record. They were very extensively debated in the House. We know very well that these are in order and the savings would be, in fact, realized. They are a reduction in certain activities. What you do not do you do not have to pay for.

So we feel this is good legislation. There is an urgent need. There are 1 million American workers, many of whom will be watching us because they are not working today. I hope they will watch how we vote. This is a program put in place by Franklin D. Roosevelt's Secretary of Labor Frances Perkins. We do not have to apologize to the American people for doing this. This is keeping faith with the American people.

This bill will help the workers like the aeronautical engineer from Riverside, CA, who Senator FEINSTEIN talked about today. This is a skilled worker out of work in his defense-related firm, a man who answered 21 ads and had only 1 interview and was turned down for that. This is a man capable of productive high-level technical work, a man caught in a political cycle as well as an unemployment cycle. The end of the cold war has been a great event, the end of its consequences—this bill will help ease them.

The worker writes Senator FEINSTEIN saying, "Can we just keep the benefits going? I will get a job but I have not found one yet." I hope he is listening. I hope the Senators are listening. We are talking about the lives of 1 million workers and their families. I hope they are watching, for we are trying to do what we have done consistently from the administration of President Eisenhower, which is that when unemployment rises above the accepted levels and stays there for an extended period we extend the original 13-week grant.

Mr. President, I do not know what else needs to be said. I see my friend has risen. I certainly want to listen to him.

Mr. NICKLES. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield for a question.

Mr. NICKLES. Under the current program, the Federal Government pays for all benefits. Current law provides for an extended benefit program, that my colleague I am sure is aware of, that dates back to 1970 that allows the 13 weeks to be funded 50 percent by the States, 50 percent Federal Government. But since 1991, since the Federal Government has extended the emergency unemployment compensation, where the Federal Government pays for all of it, a lot of the States have been reluctant to join the extended benefit program. They would much prefer to have the Federal Government pay for all of it.

Is it the Senator's intention at the end of these 4 months —if the Senator from New York is successful, will he be coming back and requesting another emergency, where the Federal Government has to pay 100 percent of the extension again?

Mr. MOYNIHAN. I say to my friend from Oklahoma, with the candor that this occasion requires, that we will do so if we can find the money. It has been difficult to find this money.

One part of it we wanted to do anyway, the profiling of persons in their initial application for unemployment compensation. That is a good idea. We would be doing that regardless. It will save money. But it will save money once. You cannot do it twice.

Mr. NICKLES. Will the Senator yield? Would the Senator not agree with me it would make more sense in the future for high unemployment States to use the extended benefit program which requires a 50-50 match than having the emergency program, which is 100 percent Federal Government?

Mr. MOYNIHAN. I do not know whether I can speak to the merits but I can speak to the realities, which is the Federal Government does not have the money, under our present budget constraints, to extend this program beyond the 4 months we are proposing. It is not that we only need it for 4 months. We need it for longer than that. I would expect we do. Unemployment is down but long-term unemployment is not down.

I wish I could say to him with confidence we will be able to pay for another extension in February. I cannot. I do not know that we will be able to. That is the reality. But that is one reality. The other reality is that there are 1 million workers who will get this benefit.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Oklahoma.

Mr. NICKLES. I appreciate my colleague's answer. I would like to have his attention just to make a couple of comments.

No. 1, the Federal Government is broke right now and States are not using the extended benefit program because that requires a 50-50 match. They are eligible. If they have unemployment above 6.5 percent, they are eligible. We amended that program in 1992 to make more States eligible for extended benefit programs. So we lowered the percentage to improve a program where individuals can receive up to 13 weeks of additional compensation. But it requires the States to put in a 50-50 match.

The problem we have here—and my colleague from New York mentioned this—he said this is a routine extension of unemployment compensation.

It is unfortunate, but this has actually happened from 1970 until 1990. We only did it three times in 20 years. We did it in 1971, we did it in 1974, and we did it in 1982. But we have done it almost continuously since 1991. In 1991, 1992, 1993, we have done it several times.

In 1991, the Congress passed the bill; the President did not sign it, so it did not take effect. That was August 17, 1991. On October 11, 1991, President Bush vetoed it because it was not paid for. On November 15, 1991, the President signed unemployment compensation extension because it was paid for. This was all 100 percent Federal Government cost. February 7, 1992, the President signed an extension. The bill was paid for. July 3, 1992, the President signed an extension. The bill was paid for, but it was 100 percent Federal Government. March 4, 1993, President Clinton signed a bill, and it was not paid for. It was declared an emergency, and we had a very partisan battle over that. Many thought we should not be adding to the deficit.

My point is, we really should be encouraging a program that has worked, and that is the extended benefit program that is shared equally between the Federal Government and the State. This bill does not allow that to happen. This bill is the reason why it is becoming routine: The Federal Government is going to pay for it all. The States do not want to cooperate in an extended benefit program where they have to pay for half of it if the Federal Government routinely now—several times in 1991, 1992, and 1993—will extend it. They say, "We'll pay for all of it; we'll pay for all of it." That is the problem. It is becoming routine.

As a result of that, unemployment compensation costs have exploded by 47 percent in 1992 and 43 percent in 1991. This program is expensive, and we do not have the money to pay for it.

So I make a couple of points to my colleagues. This bill is clearly in violation of the budget. It will add $1 billion to the deficit. It is not paid for. It is not paid for in the first year; it is not paid for in any year. These so-called savings are ridiculous because they are predicated on the fact that the Federal Government is going to have to spend $897 million to save $764 million. That is a loss of $133 million over the next 5 years.

So this program is not paid for. It is nothing but increasing the deficit by $1 billion in the next few months. I hope everyone understands that. I would have thought that the Congress would be a lot more honest if they would have just said we are going to declare this an emergency, but to use—I am going to say figures—we are going to pay for this 4-month extension over 5 years with theoretical savings. That is, on the assumption Congress appropriates $897 million to make management savings, is hypothetical and may be hypocritical. It should not be done. It will add that much to the deficit.

Mr. MOYNIHAN. Can I ask my friend to yield for a second?

Mr. NICKLES. I will be happy to.

Mr. MOYNIHAN. Surely, the Senator from Oklahoma knows that the moneys we will spend on unemployment compensation, extended unemployment compensation in this proposal, those moneys are already in the Extended Unemployment Compensation Act trust fund. They have already been paid by employers in the mode of Social Security, and the trust funds that go to them. It is just because we so mismanaged our affairs in the 1980's and have this huge deficit that we have to find under the Budget Act compensating offsets in the way of savings and other programs altogether—well, profiling a relating program. But, Mr. President, I ask my friend, he does know that these moneys that will be paid out have already been collected and are in the trust fund.

Mr. NICKLES. I will be happy to respond to my colleague. I see two or three problems. In the Federal budget, as my colleague knows, all money goes into one pot and all money comes out of one pot. So the net effect is you are adding $1 billion to the deficit and you are paying for it out of a program that requires 100 percent Federal Government payment instead of 50-50, State-Federal Government which I think is important. This is a State program. States define the benefits, States define the number of weeks, they define the amount of money, they define eligibility. Why in the world have the Federal Government pick up 100 percent of the responsibility? And, as my colleague, I am sure, will agree and I will be happy to insert this into the RECORD, the cost of this program has exploded by 43 percent in 1991 and 47 percent in 1992 as a direct result of Congress passing these so-called emergencies several times since 1991, and we only did it three times in the 20 years before it.

Mr. MOYNIHAN. I repeat my question. Somebody told the Senator this is 100 percent Federal expenditure. It is not. Most trust funds set up in the 1930's were meant to be that; this is, contributory insurance. The work force has insured itself against unemployment. And if the technicalities of the Budget Act require us to offset outlays for the trust fund, so be it, but the money has been paid in in the manner that was anticipated and has been in place for more than half a century.

I think that is simply the record, Mr. President. I do not know how to say it differently. Those are the facts.

Mr. President, I was simply addressing a question to the Senator. I will stand down now if I am not going to have an answer.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NICKLES. Mr. President, I apologize to my colleague. I know my colleague from Idaho wishes to speak.

Mr. KEMPTHORNE. Mr. President, I have a question that I would like to ask the Senator from Oklahoma.

Mr. NICKLES. I will be happy to yield to my colleague 4 minutes.

Mr. KEMPTHORNE. To clarify, did the Senator from New York complete his question?

Mr. MOYNIHAN. I made a statement in the form of a question and answered it.

Mr. KEMPTHORNE. Mr. President, as I understand the unemployment benefits program and look at it, it is my understanding that in order to make it work, someone needs to appropriate $897 million. And the question is, No. 1, is that correct? Am I accurate in that assessment?

Mr. NICKLES. To respond to my colleague from Idaho, the $897 million is the estimate that the Congressional Budget Office has made in order to comply with the worker profiling. In other words, the House-passed language assumes that we are going to have $764 million of savings under worker profiling over the next 5 years. They are saying to make that happen, the Federal Government will have to appropriate $897 million. If the Federal Government does not do that, the States still have to because we are passing a mandate on the States. It says the "States shall" several times in here on pages 4 and 5. This is a heavy mandate on the States.

So if the Federal Government does not appropriate the money, then the States are going to have to do it anyway, so it is an unfunded mandate.

Mr. KEMPTHORNE. In other words, if we vote for this measure, then we are agreeing to a mandate which perhaps implies the Federal Government should provide the $897 million, but there is no provision for that, and so right now it is a question of where that money will be appropriated from, and if it is not done by the Federal Government, then it must be provided by the States; is that correct?

Mr. NICKLES. The Senator is exactly right, there is no money authorized or appropriated under this bill. There is a mandate on the States. It is an unfunded mandate. The State is going to have to do it. If the Federal Government pays for it, then the States might be removed from that liability. This bill does not pay for it. This bill does not authorize paying for it. It is a mandate on the States and estimated by the Congressional Budget Office to cost $897 million in the next few years.

Mr. KEMPTHORNE. I appreciate so much the Senator from Oklahoma bringing this to the attention of the U.S. Senate. Here we have another mandate that is going to be placed and imposed upon all States in the Union with perhaps a suggestion that the Federal Government may or may not pay for it. But the fact of the matter is, if the Federal Government chooses not to pay for it, and we have made no provision to do so, then the States in the Union will have another $900 million Federal mandate.

Tomorrow, over 1,000 mayors in this country, hundreds of county commissioners, Governors will hold press conferences in front of their city halls or county courthouses and their State houses pointing out that we need to stop this approach of unfunded Federal mandates.

This is another excellent example of the dilemma of these unfunded Federal mandates. I think the Senator from Oklahoma should be commended for pointing it out to us, and I think we need to support him in his efforts.

I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. NICKLES. Mr. President, I have other obligations. I do not know if my colleague from New York does as well.

How much time do we have remaining?

The PRESIDING OFFICER. The Chair informs the Senator from Oklahoma he has 8 minutes, 20 seconds remaining; the Senator from New York has 16 minutes, 48 seconds remaining.

Mr. NICKLES. Mr. President, I would be happy to yield back the remainder of my time, but I know Senator DOLE wishes to speak on this as well. So I will reserve the remainder of my time.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Just to keep the debate going, I wish to say, first of all, that what is at issue is providing 4 additional months of unemployment benefits for persons who have been out of work for almost a year. There are a million such persons.

The moneys for these payments have already been collected from employers and paid into a trust fund, that kind of trust fund that pays for disability insurance, old age insurance, survivors insurance. This is insurance, unemployment insurance. It has been paid for. It is a risk of the market, of the economy that some people will lose their jobs in the ups and downs, some people will be disabled, happily most of us will reach retirement age and retire. You contribute to this system.

Now, I have to say, Mr. President, that the Social Security system has not received the attention it has needed in recent years. A majority of nonretired adults in this country do not think they will get Social Security benefits when they reach age 65. That is the responsibility of the Social Security Administration which has not reminded them.

For a negligible cost, the Social Security Administration could mail out, once a year to everybody paying into the system, a statement of their payments over the years and the benefits they would receive if disabled, if they should die, their family survivors, and what they probably more or less could expect at age 62, 63, 64, 65, when they retire. The largest cost would be that of the stamp.

The Social Security Administration has not done so. It has been negligent. We have had 11 commissioners, or acting commissioners, in 17 years. We just finally, after 1 full year, emptied the Social Security Administration and got a new Administrator.

The unemployment compensation system is greatly in need of restructuring. We have a regular 26-week benefit, then a 13-week extended benefit when State benefits trigger on when levels of unemployment are too high.

I repeat, the monies that will be expended come from a trust fund that has been paid by employers for this purpose. It is insurance. It was clearly understood in the 1930's. We are getting away from it.

Secretaries of Labor have not paid enough attention to this three-part system which is hard to explain, hard to understand, and which could easily be revised into a simpler system. We have a three-tier system, surely two would be enough. I do not know but that one would be ample.

This is paid insurance. We are losing touch with that.

It is just like the Social Security trust funds. As the Republican leader will attest, we put in place a Social Security surplus back in 1977 of some $6 trillion, enough to purchase the New York Stock Exchange. Every penny of surplus to this day—it keeps growing—is being used as general revenue, not something to increase confidence in the system. And that is a task for this President and the President after him and the President after that President.

But for the moment, I would ask that we do the decent thing, which is give 4 months more extended unemployment benefits for people who have been out of work longer than anyone ever should be.

Mr. President, I see the distinguished Republican leader is in the Chamber. I look forward to listening to him, so I yield the floor.

Mr. DOLE. Will the Senator from Oklahoma yield just a minute or 2?

Mr. NICKLES. Mr. President, I yield the minority leader such time as he desires.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, here we go again. For the second time this year, we are debating an extension of unemployment benefits that is not paid for.

The proponents of this measure claim that this bill is paid for over 5 years, but what they are really doing is reinventing smoke and mirrors.

Since November 1991, Congress has acted to extend unemployment benefits four times, with the most recent extension coming in March 1993. Add it all up, and these extensions have cost a total of $25 billion.

The first three extensions, under President Bush, were paid for each year on a pay-as-you-go basis. But, with a Democrat in the White House, we were told in March, do not worry, just dial 1-800-DEFICIT and place a free call that will add $5.7 billion to the deficit.

According to the Congressional Budget Office—President Clinton's handpicked budget scorekeeper, all of the new spending in this bill—an estimated $1.07 billion—would occur this fiscal year. CBO says that the bill is not paid for until 1998. In fact, CBO projects that this year, this bill would increase the deficit by more than $1 billion.

Even then, the major offset in this bill is a gimmick. It converts an entitlement program into a discretionary program that appropriators must make room for under the discretionary spending cap by cutting somewhere else.

ACTIONS SPEAK LOUDER THAN WORDS

We have heard a lot of tough talk from the White House and those on the other side of the aisle about deficit reduction and spending controls, but in Kansas, people know that actions speak louder than words. Despite all the tough talk, this bill fails to meet the budget rules that were established when the Clinton budget plan was enacted this summer.

It is important to remember two things about this year's budget debate: first, despite all the provisions that Republicans opposed in the Clinton budget plan, Republicans helped the distinguished majority leader and the chairman of the Budget Committee impose these budget rules on the Senate.

We could have objected to these rules and defeated the conference report on the budget by subjecting the Clinton budget plan to a 60-vote point of order, but we did not. As a group, Senate Republicans decided that a bad budget bill with some enforcement provisions to limit new spending was a lot better than a bad budget bill with no enforcement mechanisms. Again, actions speak louder than words.

Second, do not forget who drafted these rules and cast the votes to put them in place—President Clinton and the Democrats in Congress.

Mr. President, in September, OMB Director Panetta said, "We're not going to submit [a proposal to extend unemployment benefits] * * * unless it's paid for."

Director Panetta was one of the authors of the original pay-as-you-go requirements. He knows what they mean. Perhaps that is why the administration never submitted a formal proposal to extend unemployment benefits.

The administration can do better. The administration should do better. I urge my colleagues to vote no on the motion to waive the Budget Act on this issue. At the very least, we should be able to do is prevent this $1 billion spending increase from adding to the deficit.

I will just summarize, because we have a policy luncheon in progress. I think we may have some policy to discuss. The chairman of the luncheon is in the Chamber.

Mr. President, this is a difficult area because we want people who deserve the benefits to have the benefits. We do not want to delay the process. But I think the question that Senator NICKLES has raised is whether or not we are really paying for it and if it is real. I think that is what the debate is all about.

We do not think it is. In fact, we do not think it is paid for, maybe, until 1998 as I understand it. It is way out there. We think there is a lot of gimmickry involved, in any event.

We have had a lot of debate in the past several years about extension of unemployment benefits, not that they should not be extended; I share the views expressed by the distinguished chairman of the Finance Committee, but whether or not they should be paid for. The proponents say they are going to pay for this over 5 years, but it seems to me that we have been that track before. We have had four extensions of the unemployment benefit package since 1991. The most recent extension came in March 1993. You add up all these extensions and it is a total cost of $25 billion. It is a lot of money, $25 billion.

Now, we did pay for the first three, and we had generally bipartisan support for paying for the first three. Then we added about $5.7 billion as an emergency, as part of the President's stimulus package.

This is not a lot of money; it is over $1 billion, slightly over $1 billion, and we ought to find a way to pay for it, really pay for it.

I would hope we could do that and do it quickly so that those who should have their benefits receive the benefits. We have had a number of calls from people in my State, and I am certain other Senators have, whose benefits have expired. They have asked us to vote for the package. We have explained to them that the big question is paying for it.

I must say, based on my conversation with my staff that has talked to these people, in most every case when they realize it is not paid for, they are in agreement we ought to pay for it, even though they are going to be the beneficiaries, they are going to receive the payments.

Mr. President, I thank the Chair.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Before the Republican leader has to leave, may I just say that there is no dispute about the fact that we are paying for a 4-month extension over a 5-year period. I have moved to waive the Budget Act to make that possible. We agree. We are broke. But the trust funds are not. Those obligations are in place.

Mr. NICKLES. Will the Senator yield?

Mr. MOYNIHAN. I will be happy to yield.

Mr. NICKLES. Does the Senator have the latest amount of what is available in the trust fund? Does the Senator have that figure available?

Mr. MOYNIHAN. If the Senator would give me 3 minutes, I will have it for him.

Mr. NICKLES. I just mention that because I looked under the President's budget in the beginning of this year and it showed the trust fund had less than $500 million, for my friend's edification.

Mr. President, I want to thank the Republican leader for his comments, and he is exactly right. The biggest objection I have to this legislation is that it is unfunded, that it is not paid for, that it pays 4 months of benefits. And to take 5 years to do so is not responsible. I mention that the 5-year savings are not real. I do not like budget gimmickry. I do not like trying to say something is paid for when it is not. It bothers me.

I want to acknowledge to my friend from New York that, if worker profiling is a good deal, I am all for it. But I am bothered by the fact that we say we are going to save $764 by worker profiling, getting people off welfare and to work. That sounds very good. But when the Congressional Budget Office comes back and says, yes, that is going to cost the Federal Government $897 million and the Federal Government does not pay for it, the States are going to have to pay for it, that is unfunded mandate. That is an expensive mandate on a lot of States. We need to look at that.

I personally do not want to be passing unfunded mandates on to the States. That is exactly what we are doing. This bill is full of mandates on the States. It provides no funds whatsoever to pay for it. Maybe the intention is, or the goodwill is, that it will be paid for over the next 5 years. I am not sure who will be here in 1998. If they will remember the commitments made on this 4-month extension we mandated to the States, going way back to 1993, I seriously doubt.

Mr. President, I just mention this program is not paid for. It is not responsible. Clearly, it is in violation of the budget agreement which was agreed to earlier this year. The enforcement of that budget agreement, section 12, says it shall not be in order in the Senate to consider any bill that would increase the deficit in this resolution for any fiscal year. And, clearly, according to the Congressional Budget Office, this increases the deficit in 1994 by over $1 billion. Therefore, in my opinion, Mr. President, the point of order should be upheld. I hope my colleagues will vote against the motion to waive the Budget Act.

I yield the floor and the remainder of my time.

Mr. MOYNIHAN. Mr. President, I have undertaken to establish the current level of the unemployment trust fund. It will take us another 2 or 3 minutes. The Senate should have this information. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, our latest information—and we will have to get the Secretary of Labor to confirm this—is that the trust funds have a balance of approximately $1.4 billion. This is a monthly computation. We will get it. And I ask unanimous consent that I may place a statement in the RECORD from the Secretary of Labor at this point in this debate when it is received.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF LABOR,
Washington, October 26, 1993.

Hon. DANIEL P. MOYNIHAN,
Chairman, Senate Finance Committee,
Washington, DC.

DEAR SENATOR MOYNIHAN: We estimate that, as of October 1, 1993, the Extended Unemployment Compensation Account has a balance of approximately $1.9 billion, which is available to pay Emergency Unemployment Compensation benefits under H.R. 3167. Please let me know if you have any questions in this regard.

Sincerely,

ROBERT B. REICH.

Mr. McCAIN. Mr. President, I strongly support the point of order against the Unemployment Insurance Benefits Extension Act offered by my friend and colleague, Senator NICKLES.

Mr. President, we cannot continue to spend money we do not have. We are mortgaging our children's futures, and it is wrong. Simply, if we are going to spend money, we should pay for it—not used borrowed funds.

The public has correctly demanded that we show the courage to prioritize where we spend their money. This unemployment benefits extension is important, and it should be passed. But, Mr. President, it should be paid for with existing money, not by increasing the debt.

To be specific, the bill as it is now drafted would raise the 1994 deficit by $1 billion.

I want the Senate to know that should the Nickles point of order be sustained by the Senate—and in the name for fiscal sanity, I hope it is—my colleagues and I are prepared to offer the appropriate offsets to pay for this extension of benefits.

We must stop the insanity of increasing the debt to pay for programs. Mr. President, it is time we show fiscal discipline and pay for these programs.

I yield the floor.

Mr. PRESSLER. Mr. President, I rise in strong support of this amendment to repeal the retroactive increase in income estate, and gift tax rates made by the Budget Reconciliation Act, also known as the President's tax package. I commend the Senator from Texas, the Senator from Alabama, and the Senator from Oklahoma for providing this opportunity to set right a glaring fault in the tax package.

Under the guise of deficit reduction, the bill put into place the largest tax increase in history. The increase in taxes and user fees totals more than $250 billion over 5 years. Included are increased rates on the income of individuals, higher taxes on gasoline and motor fuels, repeal of the cap on earnings subject to the Medicare payroll tax, and an increase in the percentage of Social Security benefits subject to income tax.

Spending cuts included in the tax measure total only $120 billion. The Congressional Budget Office confirms that while the deficit is expected to decline in the near term, it will go up again in 1997, reaching $360 billion in 2003. In fact, the President's tax package will add about $1 trillion to the national debt during the next 5 years.

I agree 100 percent with my colleague, the distinguished Senator from Texas, that we ought to repeal all of the $250 billion in new taxes included in this tax package. In any event, we should act today to repeal its retroactive tax provisions.

As ranking member of the Senate Small Business Committee, I am most concerned with the effect these tax hikes have on small businesses and the self-employed, including farmers and ranchers. Tax increases are bad enough. To make them retroactive is unconscionable. It is grossly unfair, particularly when there was no public awareness that the tax increase would be rolled back 7 months prior to enactment of the legislation. Small businesses and self-employed people struggle every day to meet payrolls, build a future, and, hopefully, earn a profit. A steep retroactive tax really is hazardous for many of them.

This amendment prevents the repeal of the retroactive taxes from adding to the deficit, by cutting Federal Government overhead expenses by $3 billion each year for fiscal years 1994, 1995, and 1996, and reduces the discretionary spending caps in each of the next 5 years. It is a fiscally sound proposal that cuts excessive Government spending to reduce the deficit, rather than impose an unfair extra tax burden on American taxpayers. In the cause of fairness, Mr. President, I urge my colleagues to vote for repeal of the retroactive tax increase.

REPEAL OF RETROACTIVE TAXATION

Mr. PELL. Mr. President, I was torn as I prepared to vote on the motion to waive the Budget Act with respect to Senator HUTCHISON's amendment to repeal the retroactive tax provisions of the Budget Reconciliation Act.

In my mind, the overriding consideration was the need to enact the Emergency Unemployment Compensation Act. My home State of Rhode Island has suffered from high unemployment for far too long. In fact, under the provisions of the bill, Rhode Island is one of a handful of States to receive 13 weeks of additional benefits. So I was not inclined to support an amendment that would have jeopardized the underlying bill.

At the same time, however, I am very concerned about the unfairness of levying taxes retroactively. To do so, as I see it, is to deny our citizens their rightful opportunity to plan their economic affairs in an orderly way. And the result is an unanticipated confiscation of assets that is not only blatantly unfair but in many cases unreasonably burdensome.

It is my hope that in the near future we will have the opportunity to reconsider this provision of the Reconciliation Act in a responsible way, without jeopardizing our basic commitment to deficit reduction. Hopefully, we can find some more savings and spending cuts to offset the revenues anticipated by the retroactivity provisions.

Mr. President, the margin of the vote on the motion to waive the Budget Act with respect to the Hutchison amendment demonstrates, I believe, that a great many of our constituents share my misgivings about retroactive taxation. We should heed them and act to correct this unfair legislation.

Mr. ROTH. I support the emergency unemployment compensation bill that we are currently debating. In September in my State of Delaware, the unemployment rate reached its highest point this year—20,800 residents had no jobs. In fact, the unemployment rate has increased from 4 percent last summer to almost 5.5 percent now. This is a major concern for me and I intend to vote for extending unemployment benefits.

As we all know, the 1990 Budget Act distinguishes between discretionary and mandatory moneys. What this bill does is to spend $897 million in discretionary moneys to save $764 million in mandatory moneys. While this complies with the text of the Budget Act, it clearly is not consistent with the spirit of the act.

To pay for unemployment benefits this bill would include a new means of profiling workers for unemployment benefits. Unfortunately, $133 million more will be spent to administer the program than its expected savings. There must be a better way to proceed.

Despite these misgivings about the funding, I feel it is important to move forward with this proposal and to insure that benefits get to those in need without further delay.

Mr. MOYNIHAN. Mr. President, I yield back the remainder of my time. I believe that means we have a vote scheduled for 2:30. I ask that we stand in recess until the vote is called at 2:30.

RECESS UNTIL 2:30 P.M.

The PRESIDING OFFICER. All time having been yielded back, under the previous order, the Senate now stands in recess until 2:30 p.m.

Thereupon, the Senate, at 1:14 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DORGAN].

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

VOTE ON MOTION TO WAIVE BUDGET ACT

The PRESIDING OFFICER. The business before the Senate is the question on the motion to waive the Budget Act made by the Senator from New York. The yeas and nays have been previously ordered. A three-fifths vote is required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Vermont [Mr. LEAHY] and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. RIEGLE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER (Mrs. BOXER). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 59, nays 38, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—59

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Conrad
D'Amato
Daschle
DeConcini
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Specter
Warner
Wellstone
Wofford

NAYS—38

Bennett
Bond
Boren
Brown
Burns
Coats
Cochran
Cohen
Coverdell
Craig
Danforth
Dole
Domenici
Durenberger
Exon
Faircloth
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Kassebaum
Kempthorne
Kerrey
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Simpson
Smith
Thurmond
Wallop

NOT VOTING—3

Leahy
Riegle
Stevens

The PRESIDING OFFICER. On this question, the yeas are 59, the nays are 38. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. NICKLES. Madam President, I move to reconsider the vote.

Mr. FORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I will just mention out loud the statements that I have made with the chairman of the Finance Committee, Chairman MOYNIHAN, as well as with Senator MITCHELL and Senator DOLE.

It is my willingness to cooperate with them. My biggest objection to the proposal that we are voting on right now is the fact that it would add $1 billion to the deficit in 1994. I stated then my willingness to work with them to try and find a real method of paying for this proposal.

I will be happy to cooperate with them over the next day or two—whatever is necessary—to try and come up with significant spending cuts to pay for the provisions under this bill so it would be legitimate under the rules of the Senate.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I just would like to join with my friend and colleague in this matter to say we obviously have a different view as to the legitimacy of measures before us to pay for the bill. The Office of Management and Budget says they are sufficient. The Senator from Oklahoma does not think so, and is sending the Senate on to perhaps find a better solution. We may be able to do that; we may not.

We are in a difficult situation, obviously, but I certainly am prepared to try, and I have every confidence—the good faith of the Senator from Oklahoma is a given, and I hope I will be thought in equal relation to him. We will do our best, I say to the majority leader.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as Senator MOYNIHAN said, there are disagreements. We do not accept the characterizations that the bill would add $1 billion to the debt. That is the kind of thing we now have to try to resolve in a way both sides can agree on, if that is possible.

Both the Senator from Oklahoma and the Senator from New York have represented to myself and the minority leader that they are prepared to make a good faith effort to do that; that they need about a day to go over it to run some numbers with the help of the committee staff, and others.

Accordingly, I now ask unanimous consent that the pending matter be set aside until 3 p.m. tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object, and I will not object, Mr. President. I would like to ask the majority leader, what is the status of the bill right now if it is not set aside?

Mr. MITCHELL. The status of the bill is that a motion to reconsider the vote has been made.

I will make a parliamentary inquiry of the Chair as to whether or not that is, in fact, a nondebatable motion which, upon returning to the bill, the Senate would immediately vote on?

The PRESIDING OFFICER. The Senator is correct. It is a nondebatable motion.

Mr. BUMPERS. And if the motion to reconsider failed, the bill is dead?

Mr. MITCHELL. Since 59 Senators voted to waive the Budget Act, and it takes only 51 to gain reconsideration, the likely outcome is that the motion to reconsider would prevail and we would then have another vote on the motion to waive the Budget Act with respect to the point of order.

I ask the Chair whether that is a correct interpretation?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Therefore, we would be right back in an hour or so where we were on this vote.

Now, it is possible that we might get 60 or 61. It is also possible we might get 56 or 57. A very clear majority of the Senate favors proceeding with the bill, but under the rules 60 votes are necessary to obtain a point of order, as was the case on the previous point of order. The vote on the previous point of order I think was 50 to 44. But that did not prevail because the 60 votes were needed.

Mr. BUMPERS. Further inquiry, Mr. President, of the majority leader. Assuming we do get 51 votes to reconsider, at that point is the only permissible business of the Senate then a renewal of the motion of the Senator from New York to waive the Budget Act?

Mr. MITCHELL. I direct that question to the Chair. I believe that would be the pending business—in the absence of unanimous consent to set that aside, that would be the case, but I inquire of the Chair.

I will restate the question. The Senator has asked, if the motion to reconsider is approved by a majority of the Senate, at that point is the pending matter the motion to waive the Budget Act, or could other business such as another amendment be offered at that point?

The PRESIDING OFFICER. The pending question at that point would be the motion to waive the Budget Act.

Mr. MITCHELL. And so it would then take consent for the Senator, or any other Senator, to offer an amendment.

I think, if I might say to my friend and colleague, this is probably the best result. My hope is that given the nature of this bill and the scope of the amounts—and it is possible that there is not disagreement on every aspect of the funding but perhaps on some part of it—our colleagues can reach some agreement.

What we have to bear in mind, of course, is that it then has to go back to the House, and we have to get some indication of what their view is in this. But I would like, if we could, to permit our colleagues to go ahead. I think both are acting in good faith, and it is possible we may be able to resolve it.

Might I point out to the Senator, if that is the case, when the bill comes back up, assuming this is resolved to the satisfaction of the Senator from Oklahoma—and in this regard I inquire of the Chair, am I not correct in my understanding that the bill then would be open to further amendment and the Senator from Arkansas could offer an amendment at that point?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. One further inquiry, Mr. President. The motion to waive, is that an amendable motion?

Mr. MITCHELL. I believe it is not, but I direct my inquiry to the Chair.

The PRESIDING OFFICER. Motions to waive are amendable.

I believe the Senator asked about debatable.

Mr. BUMPERS. Did I say debatable?

Mr. MOYNIHAN. No, amendable.

The PRESIDING OFFICER. Motions to waive are amendable.

Mr. BUMPERS. I thank the majority leader.

Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader? If not, that will be the order of the Senate. The pending motion is set aside until 3 p.m. tomorrow.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

Mr. MITCHELL. Mr. President, am I not correct that under the previous order the pending business will become the resumption of debate on the Interior appropriations conference report, and that there will be 30 minutes of additional debate on that subject and then a vote on a motion to invoke cloture on that conference report?

The PRESIDING OFFICER. The Senator is correct. The 30 minutes set aside for debate is to be divided equally.

The clerk will report the bill.

The assistant legislative clerk read as follows.

Conference report to accompany H.R. 2520, an act making appropriations for the Department of Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES. Mr. President, I ask unanimous consent that Senator DOMENICI be recognized to control the time on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. I yield 4 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for up to 4 minutes chargeable to the Senator from New Mexico.

Mr. CAMPBELL. I thank my colleague from New Mexico.

Mr. President, everyone in the West knows that ranching remains a key component to the rural western economy. For every dollar a rancher yields, $5 is multiplied in economic activity throughout the West.

A recent study done in Colorado estimated that about 43,000 jobs are dependent on ranching in just the western part of the State alone, and in fact one-third of the total economic output of the western side of that State is determined by ranching. With this conference report, 26,000 families in the American West are at risk.

There is a family by the name of Dufurrena I would like to talk about just for a moment that is in the district of my friend from Nevada, Senator REID. Mr. Dufurrena started 30 years ago as a youngster following the sheep camps, taking out some of his pay in land, and over the years he supported himself, was married, and raised some youngsters who also want to go into ranching. They are also at risk because these grazing permits under the Babbitt proposal as codified in this Interior Appropriations Conference Report will result in a 50-percent surcharge on the subleases of a man who wants to lease land to his own sons. According to Mr. Dufurrena and his wife, their life work in that ranch is done if that passes.

I might mention, according to another study done at the University of Reno that was just finished this month, the proposals contained in this bill would mean tougher times for all ranchers in that State. According to that study, even if a ranch has low or moderate debt, if this proposal is adopted, about 50 percent of the ranches in southern Nevada would have a limited chance of surviving and 22 percent of the ranches in northern Nevada would also have a very limited chance of surviving. I know that is not Senator REID's intention but unfortunately that is going to happen.

I know there are a number of other people who wish to speak, Mr. President, so I will not belabor this. I have been in the Chamber two times to speak on this issue already. But I ask unanimous consent to have the analysis of Fort Lewis College printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANALYSIS OF THE ECONOMIC IMPACT OF THE LIVESTOCK SECTOR ON THE WESTERN SLOPE OF COLORADO FOR CALENDAR YEAR 1990

Economic impact category	Western slope livestock industry impact		Western slope total private sector	Livestock percent of west slope totals
	Direct	Induced		
Total direct personal income	$141,973,000	$142,000,000	$3,127,659,000	5
Total direct employment	11,695	12,000	180,948	6
Total induced personal income	533,818,000	534,000,000	3,127,659,000	17
Total induced employment	42,698	43,000	180,948	24
Total industry output	1,510,351,000	1,500,000,000	[1]	
Total induced output	3,957,119,600	4,000,000,000	[1]	

[1] Not available.

Sources: Direct income and employment from Bureau of Economic Analysis [BEA] using livestock/farm ratios from BEA farm data reports.
Induced income, employment and industry output based on BEA generated regional input/output modeling [RIMS] for the southwest Colorado recreational region produced for the Colorado Department of Local Affairs.

INTERPRETIVE COMMENTS

1. The Western Slope Livestock Industry directly provides 12,000 jobs and $142 million dollars in personal income (i.e. 5 percent of personal income and 6 percent of total private sector employment on the Western Slope.)

2. The number of Western Slope jobs that depend on livestock is 43,000 jobs (24 percent of total private sector West Slope employment).

3. The amount of Western Slope personal income that depends on the livestock industry is $534 million dollars (17 percent of total private sector West Slope income.)

4. The direct output of the Western Slope livestock industry in 1990 is estimated at $1.5 billion dollars. The total economic output generated by the livestock sector was $4.5 billion dollars.

5. All primary data and Regional Input/output multipliers are from the U.S. Bureau of Economic Analysis. Compiled by Michael Preston, Office of Community Services, Fort Lewis College. (303) 565-8317

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator controls 12 minutes 20 seconds.

Mr. DOMENICI. I yield 5 minutes to the distinguished Senator from Colorado, Mr. BROWN.

The PRESIDING OFFICER. The Senator from Colorado [Mr. BROWN] is recognized for up to 5 minutes.

Mr. BROWN. I thank the Chair.

I thank the distinguished Senator from New Mexico, whose leadership on this I think has been very helpful in this debate.

Mr. President, I ask unanimous consent to enter into the RECORD at this point a letter from the Governor of the State of Colorado and a letter from the attorney general of the State of Colorado.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE STATE OF COLORADO, DEPARTMENT OF LAW, OFFICE OF THE ATTORNEY GENERAL,
Denver, CO, October 25, 1993.

Re grazing reform and H.R. 2520.

Hon. HANK BROWN,
Hart Senate Office Bldg.,
Washington, DC.

DEAR SENATOR BROWN: I am writing to express my grave concern about certain provisions in grazing reform legislation currently before the Senate. On its face, H.R. 2520 purports to address grazing management on Bureau of Land Management lands. However, it contains several broad and vaguely worded provisions on water which are unnecessary to accomplish the stated goals. Further, the provisions may have unintended and devasting effects on western states, including Colorado.

A few facts will show you the reason for my concern. In the 11 western states, almost half of the land is owned by the federal government, and more than 60% of the average annual water yield is from federal lands. This means that the reservoirs, canals and pipelines needed to supply water to our cities, farms and industries often must be located in whole or part upon federal lands. Nevertheless, the federal government has recognized that decisions on water allocation and administration are best made at the state level. Once waste rights are developed under state law, they become vested property rights, entitled to protection. Such certainty in water use is the foundation of both public health and economic welfare in the western states. Language proposed by Senator Reid in H.R. 2520 threatens to undermine state primacy over water allocation and administration in the arid West, and subjects private property rights to the use of water to unwarranted uncertainty.

First, section 406(d) categorically states, "Subject to valid water rights existing on the date of enactment, no water rights shall be obtained for grazing-related actions on public lands except in the name of the United States." This provision was not included in the regulatory reforms proposed by Secretary of the Interior Babbitt, and thus has not been subject to public review and comment. Second, section 406(i)(2) states, "The United States shall assert its claims and exercise its rights to water developed on public lands to benefit the public lands and resources thereon." Both sections sweep far too broadly. My understanding of the policy proposed by Secretary Babbitt was that, for stock tanks and spring developments used for livestock watering in connection with grazing permits, the Bureau of Land Management and not the permittee would file for any necessary water rights. The above sections expand that concept dangerously. As I explained, many water supply facilities cross or occupy federal lands. Sometimes these involve only a few acres or a narrow right-of-way. Owners of those facilities should not be forced to cede water or water rights to the federal government because they supply water to ranches, farms or feedlots. Yet it might be argued that the sections support such an interpretation.

Finally, section 406(o) requires new standards and guidelines for permits, including restoration of riparian areas and fish habitat. Recently, the United States Forest Service has threatened to deprive several cities in the Colorado Front Range of up to one-third of their existing water supplies as a condition of renewing permits for water facilities that have been in existence for decades. In light of these recent threats, I oppose anything which could be interpreted as authorizing or encouraging similar actions on the part of the Bureau of Land Management.

The above provisions should be eliminated from the proposed legislation. If necessary, narrower provisions to accomplish stated goals could be crafted. In addition, a provision expressly recognizing and protecting existing state water laws and state-created water rights should be included. Long-standing federal water policy vital to the well-being of the arid western states should not be summarily discarded under the guise of grazing reform.

Thank you for your attention. I believe this matter deserves the highest priority, and hope to discuss it with you further.

Respectfully,

GALE A. NORTON,
Attorney General.

STATE OF COLORADO,
STATE CAPITOL,
Denver, CO, October 25, 1993.

Hon. BOB DOLE,
Senate Minority Leader, Hart Senate Office Building, Washington, DC.

Hon. GEORGE J. MITCHELL,
Senate Majority Leader, Russell Senate Office Building, Washington, DC.

DEAR SENATORS MITCHELL AND DOLE: I am writing to express serious concerns about the Reid Amendment to the fiscal year 1994 Interior Appropriations bill. This Amendment addresses grazing fee and rangeland management reform issues. I urge members of the Senate to oppose this legislation in its current form.

While I agree that the grazing system should be reformed, the potential long-term consequences of these reforms on Colorado ranchers and the public land resources demand a far more deliberative and constructive process for the formation of rangeland management law than has been used in developing the Reid Amendment.

We need an open and deliberative process to solve this complicated set of issues. The Reid Amendment is not the product of those informed viewpoints of all the constituents whose lives they would affect, including ranchers, water users, environmentalists, western governors, and many others.

I am particularly concerned with the provisions of the Reid Amendment pertaining to water. As written, the Reid Amendment would inject such ambiguity and confusion into the process for allocating water in the West that litigation and uncertainty would prevail for years to come.

For over a century, the allocation and administration of water rights have been the province of the States. In Colorado, as in other Western states, we have worked hard for decades to remove the cloud of uncertainty created by unknown and unquantified federal reserve rights over state water rights. In that regard, laws have been passed that require the United States to proceed in accordance with State law to obtain rights to water for uses on federal lands. We in Colorado have spent considerable time and money over the past two decades in efforts to quantify the federal water rights on our public lands.

If passed in its present broad and ambiguously worded form, the Reid Amendment could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well. Such an outcome unnecessarily exceeds the scope of rangeland management reform, and could undermine State water allocation laws and the rights created under those laws.

The Reid Amendment would also direct the Secretary of the Interior to incorporate standards and guidelines into permits and leases that, among other objectives, would provide for the "protection and restoration of riparian values, such as healthy wildlife and fish habitat and diverse vegetation." While it is necessary to take steps to improve riparian habitats throughout the West, the Reid Amendment would appear to place undue reliance on the regulatory process of permit issuance to achieve this important goal. Collaborative, voluntary efforts that involve all affected parties are far preferable means to achieve riparian restoration than is unilateral reliance on regulation. In contrast, the Reid Amendment clearly exceeds the appropriate scope of rangeland management reform and seriously erodes the prerogative of the States to protect riparian values within the prior appropriation system.

The Western governors, through the Western Governor's Association, have asserted among other things that if rangeland reform is to succeed, it must result in healthy land and sustainable and economically diverse communities. Most westerners would agree that fees need to be raised in a way that protects the range and the resource; however, a fee increase that drives family ranchers off the land is not practical or acceptable.

We need to develop such important and far reaching laws and policies in the full light of public participation and scrutiny.

Beyond the need for a sound policy making process, rangeland management reform and other efforts to reform federal land policies should be approached in full recognition of the need to protect both rural economic vitality and diversity to sustain rural economies. This fundamantal point must be understood and embraced if we are to successfully reform federal land policies.

The grazing fee issue is but one of a number of concerns that affect public lands. We need to do more to examine these impacts and support a comprehensive effort to diversify the economies of the rural west.

Sincerely,

ROY ROMER,
Governor.

Mr. BROWN. Mr. President, Gov. Roy Romer is a very prominent Democrat in terms of national politics, very active supporter of the President, and favors the increase of grazing fees. His concern about the proposal that has come out of Congress has nothing to do with the lack of enthusiasm for increasing grazing fees or lack of enthusiasm for the Secretary of the Interior. He is a strong supporter of both. But he is concerned, as is our Attorney General, about the language.

Mr. President, earlier today the distinguished Senator from Arizona noted that there was an exemption for existing water rights in the particular language that has been suggested to this body. Indeed, Mr. President, it is accurate. In subsection 406(d) there exists this language: "Subject to valid water rights existing on the date of enactment."

Mr. President, that parallels language that is in other bills. It is a common trait, whenever you are passing new legislation like this, to grandfather in or to exempt out water rights that are already established. The problem in this measure is that while that language is in section 406(d), it is not in section 406(i), and it is very clear that existing water rights are subject to this new standard. And most importantly of all, that protecting language, which is normal in these circumstances, is not in section 406(o).

Mr. President, section 406(o) is very basic. Whenever you renew a permit or a lease, you have to meet the new standards that will shut down many of the activities that now transit public land. Some think that this measure only affects the mountain west. It is not true. It has enormous impact in West Virginia. It has a huge impact in the State of Virginia. It has a big impact in the State of Indiana. It affects both Vermont and New Hampshire. It has a big impact in Georgia, Alabama, and Mississippi. It has a huge impact with regard to Tennessee.

Everywhere there is a Federal permit that has to be renewed these new standards apply. And they do not grandfather in existing standards or existing rights. This is an enormous change in terms of the impact by the Federal Government on permit holders. This measure was not included in the House bill. It was not included in the Senate bill. It has not been the subject of hearings. It is one of the most significant changes in public land policy in the history of the Nation.

Mr. President, literally, what this does is shut down existing permits and leases to meet the new standards. The new standards are such that many of those activities will simply be eliminated. We are talking about drinking water in already established reservoirs. We are talking about roads where there has been a permit. We are talking about leases. We are talking about gas lines. We are talking about water lines. We are talking about oil lines. We are talking about a major disruption.

I have here on my left a breakout of the public property in the United States. One can see the barrier that runs along the western portion of Virginia and the eastern portion of West Virginia. Without the ability to transit across public property, rangeland, to use improvements that run over grazing operations under this measure, without the ability to get special use permits or renew them, since this standard applies to both existing and renewable permits, you literally shut down many of the vital activities that are so essential. When I say vital activities I mean water and sewer, I mean roads and highways, I mean gas and oil lines, and a variety of things that are absolutely devastating if they are shut off.

Mr. President, I have just a short memo. It lists some of the water projects that will be impacted in Nevada. One project under discussion is a $2 to $3 billion pumping proposal. That project would be eliminated if this measure is put into place. Another proposal being discussed in Nevada involves underground storage of surplus mainstream water out of the Lower Basin's share. That proposal would be endangered if this measure is passed. The Virgin River Project in Nevada would be endangered. The Roan Creek proposal would be in danger. The language in sections 406(i)(2) and 406(o) are devastating in their impact.

Let me simply reiterate, I favor higher grazing fees; I do not favor the new standards that will devastate the use of public lands.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, we reserve the remainder of our time.

Mr. BYRD. Mr. President, I yield 1 minute to Mr. REID.

Mr. REID. Mr. President, I have here a letter dated this date to Governor Romer from Secretary Babbitt, which, among other things, states that my good friend from Colorado is basically wrong. For example, nothing in section 406(d) changes the traditional practice of acquiring water rights for livestock grazing on public land under State law. This has long been the practice on national forest as well as State land in Western States including my home State, one of the most arid in the country.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE INTERIOR,
Washington, DC, October 26, 1993.

Hon. ROY ROMER,
Governor, State of Colorado,
Denver, CO.

DEAR GOVERNOR ROMER: In your letter dated yesterday to Senators Mitchell and Dole you express particular concerns about certain provisions of Senator Reid's compromise public lands grazing reform (the Reid compromise) being debated as part of the FY 1994 Interior Appropriations bill. I must respectfully disagree with your characterization that these provisions would "inject such ambiguity and confusion into the process for allocating water in the West that litigation and uncertainty would prevail for years to come."

My staff and I have carefully examined the provisions in question. In my judgment as a former Western State Attorney General, Governor, and private practitioner in water law, these charges simply cannot be sustained. Those parts of the Reid compromise that relate to water are in fact in the mainstream of water law as applied in the western states.

For example, nothing in new section 406(d) changes the traditional practice of acquiring water rights for livestock grazing on public lands under state law. It only ensures that, subject to valid existing rights, such water rights be obtained in the name of the United States. This has long been the practice on the national forests, as well as state law in many western states, including my home state, one of the most arid in the country.

Your letter expresses specific concern that the Reid compromise "could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well." Apparently you are referring to language in the last sentence of section 406(i)(2). But this sentence does not address federal/state relations in water law. It simply confirms the common sense principle that federal claims and rights to water "developed on public lands [shall be exercised] to benefit the public lands and resources thereon." Moreover, the sentence is part of a subsection addressing grazing-related water rights; more specifically, cooperative range improvement agreements. (It is captioned "Range Improvement Ownership.") There is simply no way a court could read this innocuous language to create broad new categories of federal water rights, whether for grazing or non-grazing purposes, in denigration of state water law.

You have also raised concerns about section 406(o), which directs the development of standards and guidelines that "establish minimum conditions for the protection of rangeland ecological health," and which shall include, among other things, "restoration and protection of riparian values, such as healthy wildlife and fish habitat and diverse vegetation." Nothing in this section addresses water rights or state-federal relationships in the area of water; rather, it merely furnishes direction for the Department in the implementation of existing law. That law (the Federal Land Policy and Management Act, or FLPMA) has for nearly two decades required BLM lands to be managed for "multiple use" and "sustained yield," and defines these terms to require accounting for, among other things, "the long-term needs of future generations for renewable and nonrenewable resources, including recreation . . . watershed, wildlife and fish, and natural scenic [and] scientific . . . values." 43 U.S.C. 1702(c).

Each of the provisions in the Reid compromise about which you have concerns is an amendment of FLPMA. That Act's general disclaimer on water rights (Section 701(g), 43 U.S.C. 1701 Note) remains intact. No court has ever interpreted FLPMA as changing state-federal relations in water law. The experience under it has been exactly the contrary.

You have my assurance that the Department of the Interior will, if these provisions are enacted into law, interpret and apply them in conformance with their intent—not to make drastic changes in state-federal relations in water law, but rather to ensure that water rights obtained under state law for grazing-related purposes on public lands serve federal grazing-related needs, and that the ecological health of federal rangelands is secured.

As a native Westerner I know the sensitivity of water rights issues and the legitimacy of states' concerns that their water law systems be protected. I also know a red herring when I see one. The attempt to portray the water provisions of the Reid compromise as a massive federal water grab is just that. I hope this clarifies the matter.

Sincerely,

BRUCE BABBITT.

Mr. BROWN. Mr. President, will the Senator yield on that point?

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 30 seconds to the Senator from Colorado.

Mr. BROWN. Mr. President, I attempted to gain the attention of the Senator from Nevada on the Babbitt letter.

Let me simply quickly add my remarks and summarize. That section 406(d) does, indeed, have a grandfather clause. That is common in these circumstances. The problem with sections 406(o) and 406(i) is that they do not have that grandfather language. That is the offending language. That is the area of concern. I think discussing 406(d) simply does not address the problem.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Would the Senator from West Virginia yield 15 seconds?

Mr. BYRD. I yield the Senator 1 minute.

Mr. REID. The letter, Mr. President, covers those sections also. As I indicated in this morning's debate, this is like Halloween. There are ghosts and goblins everywhere. I suggest to my colleagues that they read the letter from Secretary Babbitt that adequately explains the ghosts and goblins raised by my friend from Colorado.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 1 minute to Senator PRESSLER.

Mr. PRESSLER. Mr. President, I am very concerned about the endangered species portion of this legislation. I am very concerned about the water rights my friend from Colorado has raised, the new standards. I am very concerned about the property rights issues wrapped up in this bill.

I understand this bill has been reported in the press as a grazing fee issue. This is a broad bill with many aspects. I hope my friend from New Mexico will address the issue that this is not just a grazing fee issue, but that it includes at least three fundamental issues in addition to that.

I have cosponsored legislation to raise grazing fees. The Reid compromise contains two pages that deal with the establishment of grazing fees that are higher than what I support. It is the 17 pages of rangeland reform that are the controversy. Those reforms are "the devil within the detail."

What's the rush on rangeland reform? These proposals just surfaced in the last few weeks. There have been no hearings or public input on these reforms. I do not support changing current law without first hearing from those Americans impacted by these changes.

What is involved? leasing and subleasing practices, private property rights, endangered species, water rights and States' rights.

Under the Reid proposal, range improvement funds would be established. These funds would be used for things such as fish and wildlife improvements. Under section 406(o), the Interior Secretary would develop standards and guidelines establishing minimum conditions for the protection of rangeland ecological health and restoration of riparian values. This section could open up a Pandora's box of frivolous litigation from environmental extremists and preempt State law at the same time.

Under section 406(i) of the compromise, "the United States shall assert its claims and exercise its rights water develop on public lands to benefit the public lands and resources thereon." Water rights are States' rights. Not under section 406(i). It appears this section would apply to all Federal agencies. Does this mean the Federal Government would lay claim to the water from Bureau of Reclamation projects such as Mid-Dakota, Mni Wiconi and the proposed Lewis and Clark Rural Water System for Sioux Falls? These questions deserve answers.

There are more questions. Private investment by the rancher could be acquired by the Government without compensation. Does this apply to all users of Federal lands, such as utilities, pipelines distributions, miners, energy companies, timber companies, recreationalists, hunters, sportsmen? We need the answers. We do not need to rush blindly into enacting these doubts into law.

Permanent water developments such as wells, reservoirs, and stock tanks would become property of the U.S. Government. Section 406(m) regarding future permanent range improvements states: "all rights to permanent improvements contained on or in public lands are vested in the United States."

Do not be deceived. Section 406(d) contains a grandfather clause protecting existing water rights. Such protection is not afforded under those sections that I have described and which are the most contentious. Without such protection, the questions that I have stated need to be answered will receive the answers we cannot live with. This has happened before. The Clean Air Act contains a volatility waiver for ethanol, but the reformulated gasoline section of the Clean Air Act does not. We all know that without the waiver regulations are being written that will preclude the use of ethanol in reformulated gasoline. The same thing can happen here.

This is the bottom line: Today's controversy has little, if anything to do with grazing fees. The proposal upsets a century's worth of Federal-State relations with respect to water use on public lands. The legislative process is being tossed aside along with the interests of ranchers and landowners. As a result, all decisions are to rest with Secretary Babbitt. I am not sure this Government needs a new cattle czar.

Mr. HATCH. Mr. President, there has been considerable discussion in recent days regarding the impact the Reid/Babbitt compromise contained in the interior appropriations conference report will have on the water rights of our Western States. Earlier today, the Senator from Nevada indicated that the State engineers from the various Western States were silent on those sections of his compromise that deal with water rights, that is sections 406(d) and 406(i)(2).

It is not fair to characterize the silence of our Western States as an indication that there is no interest or concern with these sections. On the contrary, this silence represents an uneasiness on the part of many of Utah's leading water experts who are reviewing the Reid/Babbitt language to determine the specific ramifications it will have on State water rights and State law. If these experts are unsure about these effects, then how can we proceed to formally adopt this language? It does not make sense to me.

However, this silence has now been broken by at least one State water engineer from the West.

I would bring to the attention of my colleagues a letter I received today from Mr. Robert L. Morgan, the Utah State engineer and the director of the division of water rights for the Utah Department of Natural Resources. Mr. Morgan indicates his reservations with section 406(d) and 406(i)(2) and directly states that he "opposes the existing language in these two sections."

In addition, Mr. Morgan recommends these sections be revised to protect the State appropriations process of water rights and has verbally told me that short of adopting these revisions, the language regarding water rights in section 406 should be eliminated. I ask unanimous consent that this letter from Mr. Morgan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF UTAH, DEPARTMENT OF
NATURAL RESOURCES, DIVISION OF
WATER RIGHTS,
Salt Lake City, UT, October 26, 1993.

Hon. ORRIN HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I have had discussions this morning with Ted Stewart, Executive Director, Department of Natural Resources, and John Harja of the Governor's Office. Concern is raised as to the grazing reform legislation (HR 2520). Two specific areas in the legislation trouble me. They are Sec. 406(d) and Sec. 406(i) (2). As State Engineer in Utah I would oppose the existing language in these two sections.

State Engineer Eluid Martinez of New Mexico has proposed to Senator Jeff Bingaman suggested language. I have examined his language carefully and endorse his revisions. The language follows. Deletions are indicated by strikeout and new material is underlined.

Sec. 406(d). Water Rights—Subject to valid water rights established pursuant to state law existing on the date of enactment, water rights shall be obtained pursuant to state law for grazing-related actions on public lands in the name of the United States.

Sec. 406(i) (2). The permittee or lessee may hold the title to all temporary range improvements authorized as livestock-handling facilities such as corrals and dipping vats and temporary, readily removable improvements such as troughs for hauled water. The authorization for permanent water developments, such as spring developments, wells, reservoirs, stock tanks, and pipelines, shall be through cooperative range improvement agreements to protect the public interest for multiple use of rangeland ecosystems. For water rights developed pursuant to Section 406(d) the United States will assert its claims and exercise its rights to water on public lands pursuant to state law to benefit the public lands and resources thereon.

I think with the above-suggested revisions that state water rights administration is preserved and that the concerns raised by many of the western state engineers will be appeased.

Should you have any questions, feel free to call me at (808) 538-7371, or materials may be FAX'd to me at (801) 538-7467.

Sincerely,
ROBERT L. MORGAN, P.E.,
State Engineer.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I ask my distinguished friend—I yield whatever time I am using—the distinguished chairman of the Appropriations Committee, does he want to speak with all of his time at one time?

Mr. BYRD. Mr. President, yes.

Mr. DOMENICI. Would he like that we finish ours and then he go to his?

Mr. BYRD. Yes, if you please.

Mr. DOMENICI. I will do that, although I would very much like, if it is not too unaccommodating, to reserve 1 minute just in the event I might have to respond.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 4 minutes 44 seconds.

Mr. DOMENICI. Mr. President, there is a letter to Senator WALLOP from Sheridan County School District indicating their grave concern that they will be short of money because there is more discretion in the Secretary to take money from them than in the past and a letter from Farm Credit Services to Senator MCCAIN, which Senator WALLOP received a copy of, that indicates the Farm Credit Services' serious concern about the valuation of the ranches in the future. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SHERIDAN COUNTY SCHOOL
DISTRICT NO. 2,
Sheridan, WY, October 26, 1993.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC

DEAR SENATOR WALLOP: The purpose of this letter is to express concern regarding the passage of the '94 Rangeland Reform Act. Western states, and Wyoming in particular, could be adversely affected by the passage of such legislation.

Since we have ranching interests represented both on our Board of Trustees and as patrons of the school district, we want you to be aware of the potential impact of such legislation on them and ultimately on the school district as well.

Wyoming is facing a time of declining revenues with a projected funding shortfall for education. Because agriculture is one of the major industries in Wyoming, and negative impact on that industry will eventually impact school funding and Wyoming's economy in general.

Some of the concerns with the '94 Rangeland Reform Proposal go beyond the actual increase in grazing fees and include the underlying issues of seizing water rights, limiting rancher input as to the management of the land, and seizing improvements. As you know, water is particularly critical to this state, and the loss of any type of control over the water rights on these lands could have a major impact on the future of this state.

Please use your influence with your colleagues to help them understand the ramifications of this legislation on the state of Wyoming.

Sincerely,

MARILYN KOESTER,
Business Manager.

FARM CREDIT SERVICE,
Tempe, AZ, October 21, 1993.

Re: Public lands grazing fees and proposed rule changes.

Hon. JOHN MCCAIN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: As a member of the Farm Credit System, Farm Credit Services (AFCS) has been intimately involved with the public lands ranching community since the 1920's. We are now following the public debate on the Interior's range use, rule making proposals with keen interest.

I wish to convey in a meaningful yet simple manner how grazing fee increases and the proposed rule changes will impact our continued ability to provide constructive and profitable credit to the Arizona ranching community which depends so much on public lands to earn a livelihood. Our concerns are focused primarily on the proposals' impact to our lending environment and existing collateral values.

The effect of a fee increase will most likely cause high cost and marginal livestock operators to exit the market. Typically, these will be the smaller family operations to whom we have extended credit for many years. Additionally, higher fees that contain the built-in potential for increases by up to 15 percent in the future will pose greater financial burdens to even the most efficient livestock operations. These financial burdens will in turn affect an operator's short and long term ability to repay debt. While we cannot presently predict which of our borrower's will survive or fail, we can plainly foresee an adverse impact to our business in terms of borrower viability and performance.

We have studied the effect of the grazing fee increase and concluded that permit values and borrower net worth could decline by as much as 35 percent by the time the full amount of the fee increase is implemented. This is based on a normal per head net income approach and capitalized at a conservative 5 percent.

The proposal also entails a great deal of uncertainty with respect to permittee tenure, permit renewal, and compliance with a myriad of environmental, conservation, preservation, and other laws and regulations. We are greatly concerned how this uncertainty will affect the value of grazing permits that we hold as collateral. The linkage of "stewardship" with the permit process, renewal, and sanctions is tenuous with respect to our ability to meet the long term credit needs of the industry.

Imagine a scenario in which an operator obtains a ten year lease permit which is, in part, financed by AFCS. According to our interpretation of the proposal a single transgression by the operator can lead to a complete and immediate revocation or suspension of the permit for an indeterminate amount of time. Such an event would render our collateral virtually worthless. This "full force and effect" provision will likely become the chief deterrent to the availability of long term credit and a major contributor to a decline in permit values.

We believe that the proposal as written is detrimental to our ability to carry out the responsibility of providing sound and constructive credit to our borrowers. The rigor of the land-use proposals raises the greatest questions and uncertainties by virtue of their breadth and complexity.

We urge you to take the appropriate legislative actions which will preclude the proposals heavy burden on the Arizona livestock industry; that protects our continued ability to deliver credit without undue fear of collateral deterioration; and that provides assurance of the continued viability of this industry.

Sincerely,

CARL E. WEILER,
Chairman, Board of Directors.

Mr. DOMENICI. Mr. President, I would like to put in the RECORD a letter from our Governor, one of the very early supporters of Governor Clinton for President. Rather than read it, let me suggest that our Governor, contrary to inferences and implications a few days ago, clearly is against the Reid proposal and thinks it will do irreparable harm to our State of New Mexico. I ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

I would like to take this opportunity to express my concern and opposition to Senator Reid's amendment to the interior appropriations bill concerning the federal lands grazing fee and other issues of rangeland reform. The amendment in its current form will have far reaching and possible detrimental affects on the livestock industry, state and local communities and economies, and the condition of the public rangelands as well as the state and private rangelands in New Mexico.

The proposed amendment does not ameliorate nor consider the concerns that I have previously expressed and submitted to the BLM. It is disturbing to think that the federal lands grazing fee and rangeland reform proposals will be codified without first being heard in the proper authorizing committees of congress. Additionally, as I have previously stated, the reform proposals will be far reaching in their influence and require the oversight and input of those entities which will be directly and indirectly affected.

Mr. DOMENICI. Mr. President, we have one from the New Mexico Bankers Association, which clearly spells out how difficult it is going to be for many ranchers to get financing if, indeed, these amendments are passed as a part of this appropriations bill. I ask unanimous consent it be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW MEXICO BANKERS ASSOCIATION,
Albuquerque, NM, October 25, 1993.

Hon. PETE V. DOMENICI,
Dirksen Senate Building,
Washington, DC.

DEAR SENATOR DOMENICI: Rangeland Reform 94 is of considerable concern to the bankers of New Mexico. The economic impact to our State could be devastating.

In some areas of New Mexico up to 75% of the total animal units are on federal grazing land. Current leaseholders have given value and made capital investments by purchasing grazing lease rights based upon the current lease cost of $1.86. Under the proposal this lease amount will almost double and capital investment becomes less or almost non-existent because of the instability or uncertainty of grazing permits. This is compounded by the fact that capital investments made by the rancher to improve public lease lands will be forfeited.

The existing deeded property used in conjunction with the public lease lands will also decline in value, because in many situations both the deeded and public lands are needed in remote locations to economically justify these operations. The decline of public lands would adversely impact private land values as well.

Lending is based upon many factors of which repayment ability and collateral value are two very important ones. With the increased grazing fee costs and loss of improvements and the declining value of lease and private land, both the repayment ability and collateral value would be severely jeopardized and lending to the cattle industry would be almost non-existent.

Water rights are an issue which although addressed in the legislation have not been a major part of the debate. In our view, the language concerning water rights is at best ambiguous and could result in turning western water rights law on its head. As we do not understand the implications of the proposed water law amendments, we would only plead that hearings be held concerning the matter.

Along with the Wool Act passed earlier, the economic impact could be devastating.

The following could occur in rural America:

(1) businesses who depend upon ranchers may close

(2) merchants in small town USA could close due to lack of business and economy

(3) schools could drop in enrollment

(4) medical facilities in rural America could be closed or federally subsidized

(5) less tax dollars to support small towns

(6) more dependency upon welfare, food stamps, etc. to survive.

Frankly it seems to us imprudent to attach nineteen pages of new law governing grazing fees, capital improvements and water rights to an appropriation bill. Surely matters of such importance to our industry should stand or fall based on their own merit.

Sincerely,

BARBARA K. DAUGHERTY,
Executive Vice President.

Mr. DOMENICI. Mr. President, let me share with the Senate and with my very good friend, Senator BYRD, a few thoughts.

Let me first say to Senator BYRD, to the distinguished Senator from West Virginia, I do not want to kill the Interior appropriations bill. I do not want to see the Department closed down for lack of funding because we cannot get a continuing resolution and cannot pass this bill. My goal is very simple: to see if I can get fair play for the ranchers in my State and across the West.

I plead with the distinguished Senator from West Virginia to listen to one part of my constituents' calls. It is said that there is gridlock and that we from the West are just interested in delaying things. It is almost strange that some kind of simultaneity existed when the Senator from the Dakotas said, "Will DOMENICI please say that this is not just grazing fees."

And about that time, I put up this sign, this little simple sign, "It's Not Just Grazing Fees."

Mr. President, I say to my good friend from West Virginia, I do not think the distinguished Senator from West Virginia would like the appropriations bill that he is chairman of to be used to put 19 pages of new authorizing language that changes the relationship of ranchers on BLM land in terms of the value of their property, the improvements in the water law as discussed here by the Senator from Colorado, Senator BROWN. I do not think the Senator would sit still while the House said it is going to be that way or nothing. I just cannot believe, knowing his sense of fair play for all these years, that he would do that.

We want something very simple, and maybe the Senator can help us. We want 1 year, not 10 years, not gridlock—we want 1 year before these new regulations proposed by the bureaucracy, executed by the executive branch of Government, go into effect. Is that asking too much?

I ask if I might have two additional minutes and I will be pleased to yield.

The PRESIDING OFFICER. The Senator has 45 seconds on the original time remaining.

Mr. DOMENICI. I ask unanimous consent for two additional minutes beyond the time heretofore agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I say the other side should have the same and I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Two additional minutes are added to each side.

Mr. DOMENICI. Mr. President, let me repeat and say it a little differently. I have talked to the Secretary of the Interior just 8 minutes ago. I said:

> We need some time before you put into effect these changes that are not part of gridlock because we have never had a hearing on them. They have never been before the authorizing committee.

His answer was very simple and very profound. He said, "It is out of my hands."

I ask my friend, the chairman, in whose hands is it then? I assume it is in the hands of the U.S. House or maybe in the hands of the U.S. Senate. But I do not think so. I do not think the Senate that gave us 59 votes for a 1-year moratorium on those other portions would deny the West that.

I do not know how we are going to get this across that it is not grazing fees. But it does us no good to negotiate grazing fees if we are going to have all these other rules and regulations imposed without a hearing, without an opportunity by Congress to do something about it.

I have done my best, with the help of many Senators, to lay before this body the egregious nature of these new rules to be executed and entered by Executive order on a Western way of life, on many thousands of families, who use this grazing land as part of their unit of ranching. All I can do now, in a very real sense, is say: Thank you, Senators, for giving us some leverage, and thank you, Senator BYRD, if you will give us some consideration regarding imposing this in an appropriations bill just because certain Members of the U.S. House insist it be that way or they will not let us do anything else.

I hope I have a few seconds remaining as was my previous reservation. But, if not, I yield the floor in any event.

The PRESIDING OFFICER. The Senator retains control of 34 seconds.

Who yields time?

Mr. BYRD. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, the distinguished Senator says in whose hands is it? It is in the hands of those who are preventing action on this conference report, may I say to my dear friend.

Let us adopt the conference report and then we can get to the amendments in disagreement. Then those Senators who feel they want to offer an amendment can do so. They can offer an amendment to an amendment in disagreement. Let them debate it, and let the Senate work its will.

So I say, most respectfully to the Senator, it is not in my hands; it is in the hands of those preventing action on the conference report. I urge them to let us vote. It is just that simple.

Obviously, we cannot do anything about it if the Senate has the will to change it. We cannot do anything about it as long as we are in a filibuster on the conference report. We cannot get to amendments in disagreement.

For those who may not understand the procedure around here, we cannot get to amendments in disagreement until we move on the conference report and until we adopt it. We can reject it, in which case the amendments in disagreement will not even come up. If we agreed to the conference report, then we go to the amendments in disagreement. Then let those in whose hands it rests offer the amendment.

I offered my amendment—I have mentioned a number of times, and I may have mentioned again—I offered my amendment, which was referred to as the coal miners amendment. I did not filibuster that bill. I went to see practically every Senator and urged them to vote for my amendment. But I did not say, "Well, let us filibuster." I did not say, "Will you join me in a filibuster? Will you join me in joining against cloture if I filibuster?" I never said that.

We went to a vote. Do you know who lost? The coal miners lost. I lost my amendment.

But I lifted myself up off the canvas, put a few Band-Aids on, rubbed ointment on the cuts, put a little rosewood salve on some of the lesions, and I said, "Let us go, let us go to the next item." That is the way to settle things here in the Senate.

I have engaged in filibusters myself. I spoke 14 hours and 13 minutes on one occasion. And I suppose I can speak that long again, probably at the drop of a hat if we begin early enough in the day.

So I do not say we should take away the rights of Senators to filibuster. But this is not the way to use the filibuster. This will hurt Senators who hope to retain the right to filibuster. It is the same thing that brought on the cloture rule in 1917—misuse and abuse of the filibuster.

I would hope that Senators would let us vote on the conference report and adopt it, and then let them offer their amendments.

So I respect those who feel that the amendment will be injurious to their constituents. I respect them for that. But let us vote. Let us vote.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I have 30 seconds.

Mr. BYRD. Mr. President, how much time does the Senator need?

Mr. DOMENICI. I could use 1½ minutes.

Mr. BYRD. I yield 1½ minutes to my friend.

The PRESIDING OFFICER. The Senator from New Mexico, [Mr. DOMENICI], is recognized for up to 1 minute 30 seconds on time chargeable to the Senator from West Virginia.

Mr. DOMENICI. I thank the Senator.

Mr. President, let me just suggest that from the time the Interior bill came out of committee with this authorization language in it, it kind of shocked this Senator because I really did not believe we would write that into law.

I have tried my very best, and perhaps I have been mistaken, but I have tried to see how we might get some changes that would make this reasonable for the ranchers of the West.

It had been my conclusion thus far that there is no willingness on the part of the House and there was no willingness on the part of the Secretary of the Interior to give, to negotiate; it was that or nothing.

I thought, as did many on our side, that perhaps by delaying this bill we might at least send a signal that we did not intend to get ourselves in the position where it was solely the decision of the House Members as to the fate of our ranchers. I thought this approach to filibuster was appropriate.

I am very hopeful that in due course we could reach some agreement. I do not know how we can when we hear from the Secretary of the Interior, whom the distinguished Senator knows we will work with—I work with him—who said it is out of his hands; that he cannot do this because the House will not give an inch.

So with that, I do not think it has been an abuse of the filibuster. I hope it has worked to bring some sense to this debate, and maybe it will have moved us in the direction of getting something done.

The PRESIDING OFFICER. The time allotted to the Senator from New Mexico by the Senator from West Virginia has expired.

Who yields time?

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia controls 9 minutes and 44 seconds.

Mr. BYRD. Mr. President, I remind all Senators that any resolution of this issue must be approved by both the Senate and the House. Neither body can act as though the other body does not exist.

The Senate should take a position on the proposal. The way to do that is to invoke cloture and get on with the business of voting for the conference report. We cannot make decisions on amendments in disagreement until we act on the conference report. Senators are not giving away anything by voting for the conference report.

May I say to my friend from New Mexico, Mr. DOMENICI, Senators who are engaging in what I shall call a filibuster—and I do not say that in a pejorative sense because, as I say, I have engaged in some myself—are not giving away anything by voting for cloture and voting on the conference report.

If I were in the position of Senators on that side of the question, I would vote for the conference report. Surely, they do not want to kill the conference report. Surely, we do not want to kill this bill and carry that responsibility.

I would vote for the conference report. Then when the amendments come up in disagreement, which will be the next action, I would offer whatever amendment I wanted to offer, and I would debate that until I felt that I had made my case, and let the Senate work its will and get on with something else.

But this thing of just filibustering a conference report without making any effort to amend an amendment in disagreement is getting us nowhere.

Frankly, it casts a cloud over the right to unlimited debate, because there are people who perceive this as becoming, after awhile, certainly, an abuse of the Senate rules.

I know that the Senators on that side, I believe they feel, I think they would understand that this Senator from West Virginia is one of the foremost, if not the foremost, Senators who believes in minority rights. I have been a leader of my party in the minority, and so I respect the need for rules that protect minorities in the Senate. I do not think that during the 6 years that I was minority leader I ever abused that right of unlimited debate.

So I hope that reason will prevail and that Senators will vote for cloture. If they do not vote for cloture today, of course, I will offer another cloture motion. But the continuing resolution expires this coming Thursday night at midnight; 12 o'clock midnight. What will happen then?

I do not know whether the House will send over another continuing resolution or not. I had hoped that all other appropriations bills would be finally disposed of at that hour, we would not have anything left, even if this were left, other than the Interior appropriations bill. And if that time finally arrives that the Interior appropriations bill is the only bill that is left, then the House may not enjoy for the third, or fourth, or fifth time the sending over of another continuing resolution.

And I tell you, Mr. President, at some point in time, if this goes on, I hope that the House, at some point, we have not reached that point yet—"The quality of mercy is not strain'd, It droppeth as the gentle rain from heaven, Upon the place beneath."

But there comes a time when the patience for mercy expires, along with mercy. And at some point, the House could send over a continuing resolution that carries us to the end of the fiscal year, September 30. And the President may, at some point, take the position that he will not sign any more short-term CR's; that he has about had his fill of this, and that he will not sign, he will veto any short-time CR. So we will have to send him down one that extends until the beginning of the next fiscal year. In that case, every Senator in here, practically, would lose—I would say all Senators would lose—and the Senate would lose, the House would lose, the people would lose. The people who are affected by this bill would lose.

Now, I can be a mighty filibusterer. I can wage my sword until the blood drips from it, like the water drips from the mountains in West Virginia. But what would I save by using that sword in that manner?

We are going to hurt a lot of people, and a lot of these are Indians. The Bureau of Indian Affairs, Indian services, health services, schools, et cetera.

We cannot blame the House and say the House started all of this. It was the Senate that amended the bill, put on a moratorium and sent it over to the House. So the Senate opened the door itself. The Senate amended the House bill. It was the Senate that opened the door to further amendments.

And when the Senate sent over to the House the moratorium as an amendment to the House bill, the House saw the door was opened, and it plunged through it and offered an amendment.

And they say, "Well, this is something new in a conference." I will say to my friends, it is not subject to a point of order because it is not a Senate amendment. Rule XVI applies to Senate amendments, not to House amendments.

And I have seen many, many things that the House did not act on and the Senate did not act on sent to a conference and come back looking altogether different.

So I hope that Members will vote to invoke cloture and cut out this filibustering and get on with an amendment to the amendments in disagreement. Let us finish our work on this bill. This is an appropriation bill. We cannot let an appropriation bill die, and every Senator here knows that.

So, I appeal to my colleagues, on the basis of reason, to get on with this matter. At the same time, I understand their feelings. I sympathize with them.

But we have all been in this kind of a fix before at one or another time and there comes a time when we just have to do the best we can, do all we can, and let the Senate work its will and go home and say, "I did the best I could." That is all one can do. An angel could do no more, and there are not many of them around here.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from West Virginia controls 55 seconds, and the Senator from New Mexico controls 34 seconds.

Mr. BYRD. I yield my 55 seconds to my friend from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for up to 1 minute and 29 seconds.

Mr. DOMENICI. Mr. President, fellow Senators, I have been a Senator not as long as my good friend from West Virginia, but this is my 21st year. And I might say, I have never found myself in this position before with reference to going to a conference and finding that, by law, the lifestyle, the rights and privileges of a very large portion of the people in my State and the West are just changed overnight.

So if I left that conference concerned, if I left that conference dedicated to do anything I could to see that we try to change that, not permanently but just to give us some time to have hearings, then I confess that I am guilty of that.

But the truth of the matter is that this Senator does not intend to deny funding for all of the rest of the Interior appropriations, those that are general and those that are specific.

But I saw no way to get the attention, not necessarily of this body, but of the U.S. House and those who said, "It will be this way or no way. You'll take it this way or you won't get anything."

In a very real sense, they, too, were saying there will be no Interior appropriations bill unless you put this on, keep it on, regardless of the damage.

So I say to my friend, I believe we should, one more time here today, send that message. And, clearly, your words have not gone over this Senator's head. They are right in my mind. I have listened and I am pondering them. I am hopeful that some good results will come from it. But I do hope that, in the meantime, there will be some results and, hopefully, soon, and the Senator from West Virginia can see his way clear to help us with the problem we have of putting all this authorization on an appropriations bill without any hearings when we know it has a big effect on our people.

Mr. SIMPSON. Mr. President, I rise in opposition to the motion to invoke cloture on the conference report to the Interior appropriations bill. We are indeed in gridlock with this issue for the sole purpose of protecting and preserving the fundamental public policy that has governed Federal lands for over 100 years.

The Senator from Nevada wants many to believe that this is a vote for change, a vote for a new West. He has gone to such an extreme to suggest that this is Republican gridlock. The fact is that there is strong bipartisan opposition to this rangeland reform initiative which has been included in the Interior appropriations conference report.

This is about real, honest working people trying to survive an all out assault on the way in which they live and do business with the Federal Government. This is about working to maintain a fair and equitable Federal land policy that benefits all of its users.

The Senator from Nevada stood before the Senate today and stated that he now has broad editorial support across the country for the compromise he successfully negotiated. This is not a compromise. It never was a compromise. He seems to believe that if the major newspapers of this country believe that his proposal won't affect water rights and property rights, then he is speaking the truth. Water rights is not only a western issue. This proposal could even shut down water projects in Alabama. I ask, have the newspapers reported that?

The simple truth is that if we take the Reid proposal, we take Secretary Babbitt's proposal. Yet even worse, we get Babbitt's plan and it is now in statute. It is not an Executive order that can be reversed by sensible folks and rational thinkers.

Don't let the administration fool any of you into believing that these changes must be made in order to reduce the deficit. The Reid proposal, after complete implementation with the grazing fee at $3.45 per animal unit month, will only result in $9.6 million in budgetary savings.

Let's get on to addressing the real waste in Government—entitlement programs, corn and wheat subsidies, the Rural Electrification Administration, the General Service Administration, and many others. Will Senator REID be there to help on these really big ticket items? That's where the real budget savings will come from.

We are only asking that a 1-year moratorium be placed on the rangeland reform provisions. That is fair play. It is not gridlock. It will allow us the necessary time to hold hearings and thoroughly examine and investigate the impact of Secretary Babbitt's plan.

I urge my colleagues to oppose cloture and support us in our fight against destruction of our western livelihoods without even the benefit of hearings. It's plain wrong—and sad to witness, too.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired.

Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 2520, the Interior appropriations bill:

Robert C. Byrd, Wendell Ford, Harry Reid, Claiborne Pell, Russell D. Feingold, J. Lieberman, Paul Simon, Patty Murray, Pat Leahy, D. Pryor, Fritz Hollings, Harris Wofford, Barbara Boxer, Edward M. Kennedy, Paul Sarbanes, Joe Biden, Dan Inouye.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the conference report accompanying H.R. 2520, the Interior appropriations bill, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Vermont [Mr. LEAHY], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Michigan [Mr. RIEGLE] are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. RIEGLE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 45, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—51

Akaka
Biden
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Daschle
DeConcini
Dodd
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Mathews
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wofford

NAYS—45

Baucus
Bennett
Bingaman
Bond
Brown
Burns
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Dorgan
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne

Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Simpson
Smith
Specter
Thurmond
Wallop
Warner

NOT VOTING—4

Leahy
Metzenbaum
Riegle
Stevens

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The distinguished President pro tempore is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

The supporters of the conference report cast 51 votes today. Three of the supporters who voted last week were absent. So this in essence means there was a gain of three votes today over last week—it was a gain of one, I understand.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 2520, the Interior appropriations bill, 1993:

Patty Murray, Dianne Feinstein, Harry Reid, Harris Wofford, D. Inouye, Wendell Ford, Carol Moseley-Braun, Russell D. Feingold, Dale Bumpers, Robert C. Byrd, Claiborne Pell, Edward M. Kennedy, Paul Simon, Barbara Boxer, Howard Metzenbaum, Harlan Mathews.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The conference report on H.R. 2520 is the pending business.

Mr. BYRD. On the Interior appropriations bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I thank the Chair.

The second continuing resolution expires this Thursday at midnight. It is my hope that all the other appropriations bills and conference reports will have been considered in their final form by that time. If that were to be the case, this would leave just the Interior bill in the event that the Defense appropriations bill and the other appropriations bills are finally acted upon.

Then what would happen? There would not necessarily have to be another continuing resolution. The House may take the position that it is rather futile to send over a continuing resolution, so they might just let things take their course, after this Thursday midnight. Senators ought to think about this.

Once the CR expires, there is the possibility that the agencies which receive funding under the Interior bill will be forced to shut down on Friday. How would Senators like that? Those Senators who are voting against cloture, how would they like to have that responsibility on their shoulders? I do not know at this time whether the President would approve another short-term continuing resolution, or whether the House would even send us one.

Do we want to close our national parks? Do we want to close our Indian clinics, the Smithsonian Museums, and other activities funded in this bill over the issue of grazing and its 40,000 permittees in 14 States? Even the people in those 14 States have many other things to lose if this bill is not enacted.

Congress could enact another continuing resolution for the Department of the Interior that maintains current levels for the 40 different agencies funded in the bill. "Current levels," that means fiscal year 1993 levels. And it could extend until next October 1. That would sober some of us up, I am sure.

A continuing resolution that provides the current level for the Interior bill agencies for an extended period of time—6 months, 8 months, or until next October, as I said—would mean curtailments in many areas.

About this time last year, many Senators reacted strongly to announced reductions in national park operations due to anticipated shortfalls in fiscal year 1993. The 1994 appropriation attempts to address these operating requirements by providing increased funding for our national parks. These funds would not be available in the event of a continuing resolution that maintains current levels.

Staying at the current levels would result in continued closure of facilities and areas, reduced hours of operations, fewer services and interpretive tours, less law enforcement, and other such aspects of day-to-day park operations.

Would the parks close? There are parks in almost every State in the Union. Would the parks close? Probably not. Would some areas of the parks be closed? Probably so. Time sensitive projects such as the visitor facilities at the new Martin Luther King, Jr., National Historic Site in Atlanta, GA, could not be initiated in time to ensure completion prior to the 1996 Olympics. I wonder what the Senators from Georgia think about this prospect?

Work would not be started to rehabilitate the structural, mechanical, and utility systems at Constitution Hall and other facilities at the Independence National Historical Park in Philadelphia. How about that, may I ask my friends from Pennsylvania, the Senators from Pennsylvania? How about that?

The conference report proposes an increase over last year of $121 million for the Indian Health Service operating budget. Failure to provide this increase for medical inflation and the cost of a growing service population will mean clinics and hospitals will have to make do with less. How about that, Senators, who have large Indian populations in your States? How do you feel about that prospect? Will they completely close? Probably not. Will they leave vacancies unfilled, reduce clinic hours, provide fewer vaccinations, close some days of the week when they are now open, not see some patients? Probably so.

I appeal to Senators who have large Indian populations in their States to give some thought to this matter. Oh, you say you have already been thinking about it? Well, give it some more thought. Talk to your Indian populations about this.

Under this scenario, a full year CR would reduce funding for Indian Health Services as recommended by the conference report by the following amounts: Alaska, $18 million; Arizona, $23 million; Minnesota, $3 million; Montana, $7 million; New Mexico, $16 million; North Dakota, $3 million; Oklahoma, $15 million; South Dakota, $8 million, just to name a few.

Under a continuing resolution to maintain programs at the fiscal year 1993 level, energy conservation programs would not benefit from the increases recommended in the conference agreement. This means that weatherization grants will be held even and will not increase by the 11.5 percent proposed by the conference agreement.

How does that strike Senators who are from the cold-weather States of the Northeast, Midwest, and Northern Plains? Are the States in those areas more concerned about grazing than about low-income weatherization for the elderly and the handicapped?

Let this Department have to be funded by a CR that extends until next April, and Senators will hear from their constituents back home. Senators are banking on another short-term CR. That is what they are banking on. And there may be one, especially if the Defense Department appropriations bill is not finally acted upon. I am sure Congress would enact another short-term CR to take care of the Department of Defense and it would include Interior with it.

But suppose Defense is wrapped up, as it will be sooner or later, and the poor little old Interior Department appropriations bill is left outside the door in the shivering cold. Cold weather is coming on. We are already seeing frost. "Frost is on the punkin and the fodder's in the shock."

A full-year continuing resolution that would maintain the fiscal year 1993 level would have significant impacts on the funding available for tribal programs funded by the Bureau of Indian Affairs. The $20 million increase provided in the conference report for tribal priority programs would be eliminated, as would the increases provided for contract support, $120 million; education, $55 million; and legislated land and water settlements, $63 million.

Under specific conditions in current law, the Bureau of Indian Affairs must, if requested, begin funding schools where they presently do not provide such service. Without an increase in funding, the only way for the Bureau to deal with this possibility would be to prorate a reduction against all schools currently in the system.

Again, these are individual decisions which Senators representing constituents interested in these programs must weigh. I am sure they have been weighing these matters, but they have been thinking, ah, come Thursday midnight, there will be another continuing resolution. Well, maybe. But at some point there may not be another CR. At some point, the continuing resolutions are not going to be for the short term if this impasse continues.

Another factor to consider if a lengthy CR is approved is that specific projects and programs funded in the conference report would be held in abeyance. I ask Senator X, do you have specific projects and programs funded in this conference report? I ask Senator Y, do you have programs and projects funded in this conference report? What about it, Senator A, Senator B?

The land acquisition and construction projects recommended by the House and Senate would not be funded. Absent specific guidance from the Congress, the agencies would likely not proceed or, if they did, it would be to consider those items preferred by the agencies.

That may be preferable to some Senators, but is it preferable to all? If so, then why does the subcommittee receive so many requests for particular projects from Senators every year? If Senators would prefer that the agencies make the decisions, why do I receive so many letters from Senators asking for moneys for this or that project or this or that program?

Among the items receiving increased funding in the conference report that would not be funded under a lengthy continuing resolution are the following: community assistance and other implementation costs for the forest plan in the Pacific Northwest, $69.5 million; Indian land and water settlements not funded in prior years; new construction initiatives, such as the Columbia Gorge Intrepretative Center in Oregon; and the Skamania Lodge in Washington; the Eros Data Center expansion in South Dakota; new land acquisition on the Gallatin National Forest in Montana; and other important projects.

What are the grazing issues which are at the heart of the current filibuster? A lengthy CR would leave the Secretary of the Interior free to implement his proposed fee increase and rangeland reforms in the intervening period.

Is that what Senators want?

Some may think that this scenario can be avoided by including a moratorium in such a continuing resolution. All Senators will remember that the House will have to approve such a moratorium, which they previously rejected by a vote of 3 to 1.

As I see it—I may be wrong—the only CR likely to be approved by the House, as well as the President—certainly with the House—is a clean CR.

So, Mr. President, these are some of the options, not all of them as I see them. Each Senator must decide how to cast his or her vote based on those factors which are most important.

I think several Senators have done that today, those who are conducting the—it really is not much of a filibuster. There has not been much talk. The Senate has been carrying on other business. Really, you cannot call it a long-winded filibuster. It really has not been much of a filibuster. But it is chewing up time.

So, some of the Senators, of course, have decided that grazing fees are all important; grazing fees and rangeland reform. They do not happen to affect my State of West Virginia. My interest is in letting the Senate work its will. But there are a good many Senators here who are not as affected by the grazing fees and rangeland reform as are Senator WALLOP and Senator DOMENICI, and others.

What about those other Senators? They are going to be affected if we finally end up with a long-term CR.

Nothing has been done in this conference report to prevent the grazing issue from being considered to the fullest extent by the Senate. We can still consider the grazing fee matter to the fullest extent. There have been complaints, "well, we have not considered it, we have not had time to consider it." We do have time. We do have time. Vote the conference report up. Then offer an amendment to an amendment in disagreement.

No attempt was made to fold the grazing provisions within the scope of the conference report so that it would not be amendable. That could have been done. The grazing provisions could have been folded within the scope of the conference report and there would not be any amendments in disagreement. There would then be no way to get at this matter. That was not the case.

If the Senate does not like the proposed compromise, let the Senate vote for the conference report, and then vote on an amendment in disagreement.

Any further action that changes what the House has approved must go back to the House for further consideration. The House has voted twice by margins of 3 to 1 on both occasions—in one instance to reject the moratorium; in the second instance, to approve the compromise pending before the Senate.

If further compromise is desired, Senators should vote to adopt the conference report and then offer an amendment to the amendment in disagreement. Let the Senate vote.

If the filibuster is continued, and another continuing resolution enacted, the Secretary will proceed with his fee and reforms while freezing construction and land acquisition projects and other programs of interest. The choice is up to each Senator.

I remind all Senators that any resolution of this issue has to be approved by both the House and the Senate. Neither body can act as though the other body does not exist.

The Senate ought to take a position, and the way to do that is to invoke cloture, get on with the business of voting for this conference report, and make decisions on amendments in disagreement.

Perpetuating this filibuster does not help resolve the issue. You cannot amend the conference report. How many Senators know that? Conference reports cannot be amended. So all of this talk and, as I say, there has not been a lot of it yet——

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. BYRD. Let me finish the question and then I will be glad to yield.

So we cannot amend a conference report. Let us vote the conference report up and then offer the amendment. We can have a debate, and if the Senate elects to vote for a Senator's amendment, let it go back to the House and put it back up to them.

Yes, I will be glad to yield.

Mr. WALLOP. Mr. President, just a point of clarification. You cannot amend the conference report, but the amendment items in disagreement with the House are amendable, are they not?

Mr. BYRD. Yes, they are. Yes, the amendments in disagreement are amendable. That is why I am saying let us vote the conference report up.

Senators do not lose anything by doing that. Senators who are opposed to the grazing fee amendment do not lose a thing by voting the conference report up. We can then get to the amendments in disagreement between the two Houses, and Senators can offer one amendment, two amendments, half a dozen amendments if they like, or more.

I will finish shortly and then I will yield the floor.

So perpetuating the filibuster does not resolve the issue. Getting to a vote on the conference report and the proposed compromise or any alternative proposal by way of amendment to an amendment in disagreement is the way to resolve that issue.

Senators are entitled to their day in court. If these matters had been wrapped into the conference report, Senators would not have a chance to amend it then. But there are amendments in disagreement. Senators can have their day in court and offer their amendments.

For Senators who say they are not interested in obstructing the will of the Senate or are interested in a compromise, this is the way to proceed.

Mr. President, I ask unanimous consent that an editorial from today's Washington Post on this issue be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 26, 1993]

COWING THE MAJORITY

A few weeks ago, the House Democrats were shamed by the Republicans into accepting a rule change aimed at making it easier for majorities to force legislation out of resisting House committees. The Republicans said in the course of the fight that they were the party of open government and majority rule; the Democrats were the thugs.

Today in the Senate, a second vote is scheduled on a motion to invoke cloture and end a filibuster against western rangeland reform provisions in an Interior Department appropriations bill. Here again a minority in Congress is using the rules to thwart the will of the majority—but this time the minority is mainly Republican. The party that in September was an advocate of majority rights turns out in October to believe in minority rule as well—when it suits. That's how it almost always is with principled procedural positions on the part of either party. Procedural principles tend to follow self-interest.

Thus a lot of Republicans who were complaining last month about the periodic bottling-up of majority sentiment in the House are also supporters of the so-called balanced budget amendment to the Constitution, which would require three-fifths votes of both houses to adopt an unbalanced budget or raise from year to year the statutory ceiling on the national debt. Minority rule in that case would constitute good government, they say. The Democrats having won back the White House last year, the parties are also both busily reassessing their views of the powers of the presidency. The debate extends all the way from the right to conduct foreign policy to the revival of the independent prosecutor statute.

Some House Democrats are also suggesting that a general restructuring of Congress expected next year in the name of reform should include an end to the filibuster. Republicans say the reforms should include a bolstering of minority rights in the House; the Democrats say fine, but only after there is also a bolstering of majority rights in the Senate. The Interior appropriations bill is their latest text. The rangeland reforms include an increase in grazing fees on federal land, meant in part to discourage overgrazing, and some changes in rangeland management and improvement rules. Some of the latter would reverse decisions in behalf of private use of public land by Reagan administration Interior Secretary James Watt. Clinton administration Secretary Bruce Babbitt has threatened to put them into effect by regulation if Congress won't do it statutorily.

He's right on the merits, but this has become a procedural battle as well. The House voted 317 to 106 for the rangeland provisions; the Senate in its first vote on ending the filibuster last week split 53 to 41 in favor of cloture, which under the Senate rules was seven votes short. Only two Republicans joined the Democratic majority in support of the cloture petition, and only five Democrats, all westerners, joined the Republican minority in voting against it. If Republicans were so in favor of majority rule in the House in September, why aren't they also in favor of it in the Senate in October?

Mr. BYRD. Mr. President, I am going to yield the floor. I will yield the floor shortly.

I respect the views of all Senators, but this is an appropriations bill. We cannot let this bill die. Congress cannot go home. If this matter is still around here when Congress is ready to adjourn sine die, Members cannot go home and leave their stations of duty without acting to keep these departments and agencies running. I know that all Senators are well aware of that.

I urge Senators to bring this matter to a conclusion. We can even do it before Thursday, on which day the cloture motion will ripen. We do not have to wait until Thursday. We can do it in much less time. Let us do it and get this appropriations bill down to the President.

I thank all Senators for their patience, and I respect all of their viewpoints, whether or not they concur with my own.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, there is in this Senate no more earnest fighter on behalf of his constituents than has been the able chairman of the Appropriations Committee, the former majority leader, the Senator from West Virginia.

He would surely understand, as he did last year when fighting for the health benefits of retired miners in his State, the necessity for standing up for your own people. I helped him in that fight.

The Senator from West Virginia says he does not know whether the President will sign or even if the House will send us another short-term continuing resolution. Mr. President, that is not our concern at this moment in time.

The Senator from West Virginia referred to 40,000 permittees as though 40,000 Americans are holding up the interests of all other Americans. That simply is not a fair statement. Forty thousand Americans are important, especially if they live in our State. But if it were only a matter of 40,000 permittees, will the Senator from West Virginia suppose that the Governors of the Western States would be in opposition to this amendment just because of 40,000 permittees; or does he really suppose, with me, that the issue is far broader and their concerns much greater; correctly stated, that in each of those States there are things of personal and specific interest?

Why, then, are the Governors opposed to it? Why, then, are the Governor of my State, Governor Sullivan, and the Governor of Colorado and the Governor of New Mexico, who were early and passionate supporters of the President, and since, so vehemently opposed to this? Were it only grazers, their passion would not be quite as intense as it has been.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. WALLOP. I yield for a question.

Mr. BYRD. Mr. President, I do not question the vehemence or the passion which the Senators who are voting for this matter have in their hearts.

I do not question that. And the Senator, in referring to my mention of 40,000 permittees, 40,000 in this matter is of great importance. But there were even less coal miners, may I say to my friend. We do not have 40,000 coal miners in West Virginia anymore. We used to have 130,000, 135,000. We are probably down to less than 30,000, maybe less than 25,000. So even though it is a small number, it did not abate my passion, and the number of 40,000 does not abate the passions of those Senators who are on the other side.

I am not complaining because they argue with vehemence or because they feel strongly about this. I can appreciate that and understand it. What I am saying, though, to those Governors who are very passionate, is: Urge your Senators to at least let us come to a place where we can vote on a correcting amendment that might or might not carry, but at least the effort can be made.

Mr. WALLOP. I would say to my friend, that is exactly their worry.

Mr. BYRD. Exactly; and they will not get any closer to that point by filibustering the conference report, because it cannot be amended.

I thank the distinguished Senator.

Mr. WALLOP. Mr. President, the point the Senator from Wyoming was making is that this is not just a grazing issue. This is not just a grazing issue. I will say it a third time: This is not just a grazing issue.

It is not a question of 40,000 permittees holding up the interests of the

Liberty Bell and a town park and all the other kinds of things the Senator from West Virginia mentioned.

This is a question of a complete and total 100 percent change in the relationship with the Federal Government to the public land States. It is about water. It is about pipelines. It is about reservoirs. It is about transmission lines. It is about property rights. It is about costs to the Federal Government that are unimagined.

This will not return money to the Federal Government. It will cost it, Mr. President.

That is why 14 Western Governors are opposed to this, not solely because 40,000 permittees are putting their interests in front of hundreds of millions of Americans.

Mr. President, it apparently does not register on those folks who do not have public lands in their States what it is like to live with the Federal Government as a neighbor. It is bullying. It is unpredictable. It is demanding.

It is the one who determines the validity of valid existing rules. It is the one who has the right to grant or withhold a special use permit, not the livestock grazers—leave those poor, benighted fellows out of this—but to a city who wants merely to cross public land from private land to private land to deliver water.

Mr. President, surely people who live in other States can understand that the Federal Government ought not to be put into the position of being able, without recourse, to blackmail the behavior of every State in the country. Were there more public lands in other States, they might realize what it means to have a Federal Government that does that.

Mr. President, if this were only 40,000 permittees and all of the rest of the provisions of this bill were harmless, do you think that we would be able to stand in the way of it?

The Senator from Nevada has abandoned his 700 permittees. They will not benefit from this thing. The interest is very specific here, Mr. President. The study quoted by the Senator from Colorado, a University of Nevada study, shows that probably 28 percent of the ranchers in southern Nevada will go out of business. This is not a study that was concocted by some grazing association or some vast group of ranchers. This is a university of the Senator's own State.

Make no mistake about it. The consequences of this are very specific. But 700 is not so important in all of the light of things as are the other grazers in other States whose numbers are slightly greater.

But it is not just a question of grazing. It is not just a question of those permittees.

Now the argument of the Senator from West Virginia works both ways. He has said that our intransigence is maybe going to be the reason by which certain things in Pennsylvania, and certain things in Oklahoma, and certain things in Nebraska, and certain things in North Dakota, and certain things in other States are not going to be funded—Indian health is going to fall apart; parks are going to fall down.

Mr. President, I have been trying to get just a little bit of funding for park rangers. I could not get that done last year or this year; could not even get it authorized. So there are lots of reasons.

But the fact of it is the intransigence is that of the House and the Secretary. Can it not be said equally well that their basis in pride and machoism is just as responsible for holding up the progress of this bill as those of western Senators on a bipartisan basis, Senators on a bipartisan basis even in nonwestern States?

Mr. DOMENICI. Will the Senator yield?

Mr. WALLOP. I am happy to yield for a question.

Mr. DOMENICI. Mr. President, the distinguished chairman from West Virginia has indicated his great concern about the contents of this Interior bill, and many things he has spoken of affect my State. He was very generous and indeed considerate in not mentioning that my State has a lot of Indian people. In fact, I will admit right here on the floor that in our population, percentagewise, we have more native American Indians in the State of New Mexico; that does not mean more Indian people, but percentagewise.

But let me ask you if you would not agree, Senator WALLOP, with the Secretary of the Interior telling a number of Senators on this side and telling me personally that his hands are tied, he can do nothing, who is it that has tied his hands, might I ask first? Perhaps Senator WALLOP would put that on the RECORD.

Mr. WALLOP. I think it is perhaps the Acting Secretary of the Interior, the chairman of the House Interior Committee, Congressman MILLER.

Mr. DOMENICI. I do not think there is any question.

And I again want to ask my friend and, in fairness, ask the distinguished chairman of the Appropriations Committee, is it not just as appropriate for those of us in the West to say: Chairman MILLER and the three or four who are with you—because I am not at all sure that the Appropriations Committee on the House side really understood what was in this, nor did it matter. They were just told it is this, in lieu of a moratorium, a 1-year delay, which is in the Senate bill; it is this or nothing.

Now, if, in fact, people in this country are going to be hurt because we do not pass this Interior bill, why does not a hue and cry go up today to them that very few Members of the U.S. House who, as of right now, have indicated to the Secretary of the Interior, if I am reading it right: No use changing anything because we will not buy it.

Who is more to blame if in fact we close down the funding for the Department of the Interior? Is it Senators on this side or is it just as apt to be those who are intransigent, who have indicated for a number of years that they are going to take this out on grazing permittees in the West?

I assume my friend would say that he believes they are more responsible than those of us who are defending the ranchers here on the floor. Is that correct?

Mr. WALLOP. The Senator makes my point. Intransigence is a two-way street. Except that in this instance I was in the Appropriations Committee when the Senator from New Mexico made the offer to negotiate this. I was on the floor when the Senator from New Mexico made the offer to negotiate this. I have been on the floor when the Senator from Colorado made the offer to negotiate this.

Who will not negotiate but the acting Secretary of the Interior, the chairman of the House Interior Committee?

Mr. DOMENICI. I thank the Senator for that. I want to make just one more point and ask him a question. Does anyone believe that asking for 1 year before the new rules and regulations and Executive order changing the rights and privileges of western grazing permittees and thousands of other people who have permits with the Federal Government regarding water and public land and grazing land——

Mr. WALLOP. And gas pipelines and highways and county roads and other things.

Mr. DOMENICI. Exactly. Does anyone that the Senator has talked to think that is unfair, to ask for 1 year for hearings on that to see where it really is, who it affects? What the economic impacts are? Has the Senator heard anyone around here with us or against us say that is not fair?

Mr. WALLOP. I would say to my friend, sadly, fairness has not been part of this debate. Pride and sensibility have been, from the beginning. That is the reason it was possible to create the back room deal. That was the reason it has been impossible to break the back room deal.

It is so darned frustrating for those of us who have been sitting here offering to try to find a way out of this impasse. There had been offers made and I am assuming other offers could be made. But the fact of it is our western Governors and our water engineers and others have recognized the provisions of this 19 pages of brand new law over which not a single hearing about its specific provisions has ever been held in either House, nor has a vote about its specific provisions ever been held in either House—that is the problem that we face. That is the problem that brings us to the floor to defend our States; not our ranchers, our States.

In the debate before I put in letters from school boards and from county commissioners and local bankers and others who claim their view of this thing as being destructive. They were not allowed to be heard. What kind of a country have we become? What has happened to us, that in the interests of pride and rigidity we cannot even allow 1 year for these people's voices to be heard?

If everybody thinks they know what is in here in its detail and in its entirety, they either do not care or will not read. Because the fact of it is, there have been very specific disagreements between the Senator from Arizona and the Senator from Colorado, the Senator from Nevada and the Senator from New Mexico, and the staffs on all sides.

Guess why. Because a hearing has never been held to determine which side is valid, or if both sides have a little measure of validity, and if there is not something that can come together in between them.

Our problem is very real. We have heard how business is conducted. We have heard the threat to each of us. Americans have heard it this afternoon, how business is done in the Senate. We have a list of the expenditures in our State. We have the list of the politically sensitive things that are funded by this bill. The supposition is that, somehow or another, those of us who are standing in the way of this are going to block State *x*, tribe *y*—somebody from something that is going to be funded and be damned the livelihood of counties and schools, of banks and purveyors of small business items in the rural West; be damned, you are not to be heard.

Let me just say one more time, because it is offensive to me—it was when we passed the bill—when we have said that Americans could not deduct as legitimate business expenses the costs of lobbying. We have not denied it to big corporate America who can run these fees down as legal bills. We have denied it to my ranchers who are sitting out there in the hall waiting to see whether they are going to be in business next year. We have denied it to our little propane sellers, our small bankers, our State-run insurance companies. They cannot come back here, first, because there was not a hearing; and, second, for some of them it is almost too expensive.

How do they get around it? They have their neighbors pitch in so they can be here to be heard. But not be heard in every office; not be heard in a hearing room; not be heard with a possible television camera or the press present—but be heard by going and knocking on the doors and begging to see staff because Senators will not see them. That is what is happening. That is what my people from Wyoming, and those of the Senator from New Mexico and of Arizona and Idaho and Washington State and others are doing. They are crawling these Halls trying to get to see staff in the hope somebody will hear what these things are doing. They are not ranchers all of them. They are the backbone of the rural economies of a West that was settled by a Government that decided on its own that there would be public lands.

And guess why there were to be public lands? So not one single interest would dominate the economies of them. So we could have ranching and timbering and mining and recreation and hunting. All of those things. We did not ask to be settled in a way different from the rest of America. We were part of a Louisiana Purchase people thought at one time was going to ruin this country. Or we were part of the conquest of Spain. Or we were part of what came in trades with Canada. But we were public lands and the Government of the United States saw fit to reserve big portions of those lands. It is not like it is in Missouri, or may I say in West Virginia, or some other places where all land is in the tax base.

Mr. BYRD. Not in West Virginia.

Mr. WALLOP. A good deal more than there is than the State of the Senator from Wyoming.

What has happened is that all of those interests, forced by circumstances and other kinds of things to be citizens of a public land State dependent upon the whim and judgment of the President of the United States, the Secretary of the Interior, the Congress of the United States—we are dependent on whim. A changeable whim it is.

I have heard the Senator from Nevada and Senator from Arizona say one of the things that will come from this is certainty. Yes, there is a certainty they will not be able to make it.

Mr. DOMENICI. Will the Senator indicate that was Senator DECONCINI from Arizona?

Mr. WALLOP. I would. I meant Senator DECONCINI from Arizona.

What I am trying to say is somehow or another, when the list of expenditures that are not going to be passed if we go into a continuing resolution is read to all of us, we are supposed to feel guilty or we are supposed to be slightly seduced; come a little bit more toward the honey pot that is the Federal dollar. And we are being asked to tell those people who are trying to be heard that you are not as important as my park; you are not as important as my river project; you are not as important as my Indian schools; you are not as important.

Those of us who live in the West find Indian schools important, Indian health services important, grazing important, water projects important, timbering important, national parks important. We are dependent because we do not have the tax base to create the kind of response that is available in other States.

So, yes, we feel it is important and, yes, we feel badly if the Liberty Bell is not funded or some other kind of thing. But, Mr. President, you are talking about the way States relate to the Federal Government, not the way ranchers relate to the Federal Government—States.

Why is it that not a single water engineer from the West agrees with the Senator from Nevada that this does not affect water? They have read it and they know the law. Every State engineer in the West feels threatened by it, and they are our water authorities. Are we to walk away from them and say, "Oh, you don't know. We've been assured it's OK and we can trust Secretary Babbitt"?

The Senator from West Virginia says that we are banking on a short-term CR. I would say to my friend, we are not. We are praying for a reason. We are praying that our Governors will be heard. If they cannot listen to the small people knocking on the doors trying to see them, maybe they at least can hear the Governors. Maybe the President might be able to hear the first Governor of the United States who endorsed him in his campaign, Governor Sullivan, the second one, Governor King or Governor Romer or Governor Andrus. For heaven's sake, Mr. President, these are not irrational, wild-eyed, red-neck Republicans. These are members of the President's own party asking to be heard and being ignored. They are praying to be heard.

They are praying perhaps that we will let the Secretary back into being Secretary of the Interior. It is a pretty embarrassing statement for him to say that his hands are tied and that he can do no negotiating. Is Secretary Babbitt trying honestly to say that if he has the mandate and imprimatur of the President and his own ideas that he is to be denied even a hearing by the Acting Secretary of the Interior, the House Interior Committee chairman? Mr. President, that is ridiculous.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. WALLOP. I will be happy to yield for a question.

Mr. BYRD. I hope the Senator will take this as a statement that applies to all of us—all of us—in this Senate, me, as well. The Senate rules provide against referring to the Members of the other body by name or by an inference that is pejorative. Senate rules provide that.

I hope that we all will abide by that rule. I know the Speaker has on more than one occasion cautioned Members of the House not to call names of Senators. We have to maintain a comity between the two bodies, and there are times when I feel my patience has kind of run its course with some of the Members of the other body, but the rule exists, and I have always tried to live up to it. I think it is a good rule.

Let me ask the Senator one question while he is yielding. Why will the Senators not offer their amendments? They cannot offer them to the conference report, but we could vote the conference report up and then Senators could offer their amendments. Why does the Senator not vote for the conference report and then offer his amendment? He has that right. Is he concerned that he would not have the votes to carry the amendment?

Mr. WALLOP. Mr. President, reclaiming the floor, and in response to the Senator from West Virginia, first, let me say I did not think it was pejorative to call the chairman of the House Interior Committee Acting Secretary of the Interior when the Senator from West Virginia is the one who says he will not yield under any such circumstances. That is all I meant by it.

Mr. BYRD. What did the Senator from West Virginia say?

Mr. WALLOP. You have said, as I understand it——

Mr. BYRD. Mr. President, I think we should address each other through the Chair.

Mr. WALLOP. Mr. President, the Senator from West Virginia has said, as I understand it, that there is no yielding in the House; that Chairman MILLER has made it clear that there is not going to be a change.

Mr. BYRD. The Senator is wrong. I have never mentioned the Member's name whose name has just now been mentioned. Not the Senator from West Virginia.

The Senator from West Virginia said the House, in the opinion of the Senator from West Virginia, will not yield on this matter because the House has already voted 3 to 1 twice. That is what I have said. I have not alluded to any particular Member in the other body.

Mr. WALLOP. Well, Mr. President, it became, I think, obvious to those of us listening to the debate, that is precisely what was intended. I believe the Senator from Nevada has used the name and has been that specific. If it was not the Senator from West Virginia, I apologize. There was no doubt in my mind that is to what he was referring.

Mr. BYRD. Mr. President——

Mr. WALLOP. Mr. President——

Mr. BYRD. If the Senator will yield.

Mr. WALLOP. Is the Senator requesting me to yield?

Mr. BYRD. Without losing his right to the floor. The wicked fleeth where no man pursueth. This man has never pursued by naming any Member of the other body.

Mr. WALLOP. Mr. President, I have just said I yielded on that point to the Senator from West Virginia. I conceded it, but others on your side have, including the Senator from Nevada—I only said it was absolutely clear to the Senator from Wyoming of whom the Senator from West Virginia was speaking when he said the House would not yield.

(Ms. MIKULSKI assumed the chair.)

Mr. WALLOP. Madam President, let me conclude. We have good, honest, hardworking Americans here that are not just ranchers. They are westerners. They are our constituents. They make the economies of small towns function. They educate the children of ranchers and merchants alike and, yes, Madam President, they educate, without much compensation, the children of the personnel of the Bureau of Land Management, and the Forest Service, and other Federal employees. And, yes, Madam President, they provide the police powers, and the fire prevention, and the other kinds of things that are necessary for civilized society. They are good Americans. They are westerners. They are not greedy ranchers. They are not corporate interests. They are not dripping with Federal largess. They are our people, and if the message has not been delivered clearly, our people deserve a defense and, by thunder, they are going to have it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I mentioned this morning that in a few days, Halloween would be here. Well, in the U.S. Senate, it has arrived early because we are not talking fast. For example, we keep throwing around here 40,000 permittees. To be exact, Madam President, there are 18,822, more than twice under what the Senator from Wyoming suggests.

I also think it is time we start talking fast. When our Constitution was established, they set up three separate but equal branches of government: the judicial branch, the executive branch, and the legislative branch.

Those of us in the Senate may not like it, but we have a bicameral legislature. We have the House of Representatives, who has the same ability to pass legislation to us that we have to them. We cannot pass legislation unless they agree to it, and they cannot pass legislation unless we agree to it.

I do not think Secretary Babbitt is some heretic when he tells people that it is up to the House of Representatives; the negotiating is out of his hands. That is not something that is bizarre. The fact of the matter is, the House of Representatives, on two separate occasions, overwhelmingly stated its position on this issue, on a vote the first time of 314. The second time, they picked up steam and got up to 317. By a 3-to-1 margin they approved this issue.

My friend from the State of New Mexico stated that there should be a hue and cry supporting their position. The hue and cry is just the opposite all over this country—all over this country.

Madam President, we need to look, and we have on this floor on other occasions, at the editorial support for this amendment from Western States. I always include first, of course, the State of Nevada with editorial support from a Reno newspaper, a Las Vegas newspaper, but we also had editorial support from a newspaper in Wyoming, newspapers in Denver, and Salt Lake City. And today, there is a new one from a newspaper in Great Falls, MT, which says among other things:

> Frankly, the Senate compromise doesn't seem unfair.
>
> It would increase grazing fees to $3.45 per "animal unit month" from the current $1.86. An animal unit month is the forage needed to feed a cow and calf or five sheep for a month.
>
> Babbitt had proposed a grazing fee of $4.28 per AUM, phased in over 3 years. Baucus is comfortable with the $3.45 figure but wants it to be phased in over 6 years.

This is a Montana newspaper.

> But the Government can't go on losing money on this program. The Senate should go ahead with a compromise that seems a reasonable way to allow the program to break even.

I have stated many times, Madam President, on this floor that even the $3.45 after 3 years will not allow the program to break even. In fact, in 1981, the grazing fee was $2.31. We have been going downhill. Now it is $1.86. So from 1981 to 1993, 12 years, the grazing fee has gone down, not up. There are costs of administration to the taxpayers of this country. We may not like them, but it is a fact. It is a Federal program and there are people who work for the Federal Government who administer the program. We have been losing significant money as taxpayers every year on this program, every year. We are going further and further in the hole.

I would also suggest, in addition to the editorial support from all over this country, there is editorial support coming from nonwestern States now—for example, in today's Washington Post. This is something that the President pro tempore of the Senate, the chairman of the Appropriations Committee, has alluded to on several occasions. There is a time for a filibuster.

But, Madam President, what the newspaper is saying, and what Members of the other body are saying, is it not about enough? Is it not enough that everything which comes over here that an individual or two does not like, he pats his friends on the shoulder and says, "Can we get 40 votes on this? We will hold this up." And they have done a good job. They have held up this, they have held up that. They continue to hold up things. It is time, as indicated in this newspaper column, we get down to legislating, get down to fairness. Let the majority rule at least part of the time.

We have 18,000 permittees holding up an Interior bill of some $14 billion. That is wrong. There are programs that need to go forward in this country.

We keep hearing talk about 14 western Governors. This is part of the Halloween facade that we are working on in this Chamber. There are a number of examples, but let me refer to the State of Washington. This morning, one of the Senators referred to the junior Senator from the State of Washington, saying your Governor signed this letter. The fact is only two Governors signed the letter, and in fact in the RECORD today the Senator from Washington, the junior Senator from Washington entered a statement that says:

> There have been numerous references in this debate to the western Governors' Association and its position on grazing reform. I would like to clear that up. The Governor of Washington, who is a member of the association, was asked to sign the letter mentioned by the Senator from Wyoming. Not only did the Governor of Washington decline to sign the letter, but neither he nor his staff took part in drafting the letter. I have been in contact with him about this. I can assure all my colleagues that he shares my very strong view that it is inappropriate to continue delaying passage of the Interior appropriations conference report.
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> To underscore the Senator from Nevada's point regarding the disposition of the other body on this question, I also note that Members from the State of Washington voted 7 to 1 in favor of the motion by the ranking member of the House committee to instruct the conferees. The motion passed by a vote of 314 to 109.

As I indicated, it later even got three more votes.

Mr. President, we must deal with facts. We are dealing with a lot of delaying tactics, trying to change the issue, trying to frighten people. I am totally confident that the people of the State of Nevada who are involved in grazing are protected with my amendment.

Why do I say that? Because it is very clear, Madam President, that the alternative that has been proposed by Secretary Babbitt is more severe. It calls for a grazing fee of $4.28 with an increase at the end of the 3-year period of 25 percent. Mine is at $3.45 with only a 15-percent increase up or down at the end of the 3-year period. We have prevented, by law, some of Secretary Babbitt's rules from going forward. We have also modified some of his other rules.

So this is fair. The people of the State of Nevada involved in ranching have a better deal with the Reid amendment than with the Babbitt proposal. I would also suggest that in conferring with ranchers from the State of Nevada, they acknowledge that. I received a letter yesterday from the former president of the Nevada State Cattlemen's Association. He said he understood this.

I think it is time we recognize where we are. My friend from the State of Wyoming said that he prays for a resolution, a compromise. As I have said on this Senate floor, without mentioning House Members' names, to my knowledge, the House has said on numerous occasions what they think should be done on grazing. We may not agree with what they have concluded by a 3-to-1 margin, but they are part of the Congress set up by the Founding Fathers of this country, and they have equal right to an opinion. They have opined that the amendment which has been adopted and is now a part of this conference report is what they feel should be the law of this land.

Madam President, we have the best deal we are going to get. I hope that we do not filibuster, delay, stall this matter until we wind up getting all of what Secretary Babbitt recommended in August this year. I think that would really be unfortunate.

There have been a lot of questions raised on this floor this afternoon, but let me repeat, the compromise is fair. It ends gridlock.

This matter has been going on, Madam President, since 1976. If we approve this conference report and this amendment, next year, there will not be a sound on this Senate floor or in the House about this issue. It will be gone, resolved.

Under this proposal, fee hikes are held to a minimum. In fact, this proposal, as I have mentioned earlier, still subsidizes the use of public land. I am willing to do that. We have scaled back Secretary Babbitt's fee hike by some 40 percent. And under this proposal ranchers can obtain loans. There will be certainty. They can buy and sell property. The rights to water and range improvements are protected.

I want everyone within the sound of my voice to understand there is nothing radical, there is nothing unusual, about the amendment. I say that because there is not a thing in my amendment that is not already included in the Forest Service regulations. Some of them have been in effect since 1906.

I also suggest to the Members who are interested in this issue that we prevented Secretary Babbitt from going forward with some of the things that would make the BLM track with the Forest Service. There is nothing unusual about what we have done. We, in effect, have done what the Forest Service has been doing for a long, long time. They are under the Department of Agriculture. This is under the Department of the Interior.

I would also remind the Members of this Senate that there has been a lot of talk about range improvements and a lot of talk about water rights. BLM was treated just like the Forest Service up until 1983—I have forgotten the exact date—when Secretary Watt came along and said we are going to change things. We are not going to have the Bureau of Land Management like the Forest Service. We are going to allow ranchers to prove up on their water rights and they will own it. They will have ownership of the range improvements.

Secretary Watt did that. We did not have any hearings then. They did it administratively. No one complained at that time about that. But the fact of the matter is that this amendment takes into consideration that fact, and we have grandfathered in, and we have told everyone they have a water right, that it has been proven, they can keep it, give it away, whatever they want. And the same with range improvements.

We simply are bringing the BLM regulations into consistency with the Forest Service. We have been working on this issue for ages. Is anyone to suggest that, "There have not been hearings, we want another year; is that asking too much?"

In 1976, Madam President, maybe that would not have been asking too much. But we are no longer in 1976.

It is never a good time to do this issue. I have been here now for 7 years. Each year in the appropriations bill it is never the right time. The authorizers refuse to do it. They have refused to do anything for over a decade now. So now what we are presented with is the fact that the Appropriations Committee took care of this issue, because every year it is forced on them anyway. We have done it in a reasonable, responsible manner.

But the fact is, Madam President, the other body, even if we do not like what they did, they did it by a 3-to-1 margin. And they, as I have mentioned previously, have as much legislative clout and power as the famous U.S. Senate. The famous House of Representatives can do anything we can do, and they have done it in this instance.

Grazing has been studied to death. This morning, I could not walk down this aisle because we had all the reports stacked here; 376 General Accounting Office reports, university reports, reports from all kinds of think tanks, and congressional hearings—376 of them—average 2 committee hearings per year on grazing, hundreds of studies.

Despite all these studies and the hearings, the bottom line is that nothing has been accomplished. No change in the law, no change in regulation, no change in policy. Why? Because there are certain institutions and certain individuals who want no change, period. Underscore it, underline it, no changes. That is what they want. That is what they have gotten.

Now the time has come that we must make a decision, make a decision whether you are going with Bruce Babbitt and all his regulations or whether you are going with REID, which is a reasonable compromise for the ranchers.

This is unusual that you would have, Madam President, the National Taxpayers Union supporting an amendment along with all the conservation groups in the country. Not a bad reason to support cloture in this instance.

Cloture is going to be voted on again Thursday. After that cloture vote, I do not know. I doubt seriously if we will get another CR from the House of Representatives. Remember, the President can want a CR, we can want a CR, but if our friends in the other body do not want one, we do not get one because that is how the Founding Fathers set up our country.

I think that would be a shame that 18,800 permittees who are going to get a better deal under my amendment than they would under Babbitt, are going to be the fodder for closing up this Government, to try to embarrass the President of the United States. It will not happen. I think those who are pushing that issue are making a mistake.

Already, Madam President, as I have indicated in my remarks here this afternoon, we had wide-ranging editorial support for this amendment. Why? Because it is fair. It is the right thing to do. It is time the American taxpayer should not be asked to put up money, money, money, tax dollars to fund another year of studies and hearings and administering this program. The changes are simple. They are straightforward. They have been tested by the Forest Service. It is time to break gridlock and to act on this issue.

I think it is also important to recognize that the Secretary of the Interior, who has taken a real battering in this Chamber—and I am sorry to say here is a man who was Governor of a Western State, attorney general of a Western State, who is an expert on water rights; he came to the State of Nevada as a private attorney representing rural Nevada when Las Vegas was trying to grab water rights from rural Nevada—it is an unfair characterization of Secretary of the Interior Bruce Babbitt; that his hands are tied.

He fully supports this compromise and thinks it is fair and reasonable. What is, I think, a valid observation is that he cannot go to tell the House of Representatives what to do any more than he can tell us what to do. He lives downtown with the rest of the executive branch of Government, and it is there that the executive branch of Government determines what the policy of this country should be and then submits it to us. That is the bicameral legislative nature of the Senate and the House.

Water rights, the changes that we have in this amendment simply undo, for lack of a better word, the changes made unilaterally by James Watt a decade ago. There is twice as much Forest Service land as there is BLM land and, for example, in the State of Montana, I do not see anyone fighting the Forest Service for what they have done. Grazing permittees have only the privilege, have had only the privilege, to file for water rights for 11 years in the entire history of the Federal grazing, and only on land managed by the BLM and we are protecting them. They are being grandfathered in.

Property values will not be adversely affected. In fact, it will put some certainty into the law. It will allow grazing fees to go forward on an incremental basis. They will know what is coming next year. They have not known for a decade what is coming next year.

The provisions in the Babbitt proposal threaten permit value, changing tenure, and changing provisions not in this amendment. Remember we are talking about public land, land that belonged to us all. Those ranching lands are lands that must be shared with the ranching community and others. It is truly multiple use. That is the way it should be.

So I would suggest to my friends on the other side of the aisle, the time has come that this matter should be accepted. The conference report should be accepted. The amendment should be accepted and we should start working with the executive branch of Government at that time to make sure that those concerns that people have are fully aired with the Secretary of the Interior.

We will be happy to work with the Secretary. We will be happy to work with my friends on the other side of the aisle if they have some concerns that the Secretary can alleviate. We can do that, but we cannot demand from the House of Representatives what they do. We can work with the Secretary.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, let me again this evening, as we wind up, thank the Senators who once again supported the Senator from New Mexico and others in an effort to make our point by not voting cloture and cutting off debate on the bill.

I want to make a few comments about the next few days and even the foreseeable future as it pertains to the Interior Department. First, I understand that every time we get down to the wire on a situation like this, some people, quite properly, call to our attention what might happen under the worst-case scenario.

I gather it is being said that the entire Department of Interior may be closed down. I do not want to talk cavalierly about it because that is serious business. I would be surprised, indeed shocked, if the Senate or House sat by and watched the Department close down. I have been here when we did not have a continuing resolution for any of Government. We were on a CR for all of it. We would threaten that the whole Government is going to be closed down. I think one time or two, we did that for a half day or so, only to find a way to get out of that situation, which was well beyond the contentiousness that caused the situation to arise.

So I know the word is going out that this might cause the Department of Interior to close down, and perhaps in the next 36 or 48 hours, we will be hearing from constituents within the Department saying we ought to close this debate down because their Departments are going to be closed. I think it is extremely early to pass such judgment on this debate and, in particular, when you consider the significance of it for the future of the West.

I believe we were bound this year when the Secretary of the Interior started out with a whole new set of regulations, which were going to be followed by an Executive order, without any public hearings, to change the relationship of the public lands to the ranchers and small communities of the West. I think we were bound to get into this situation, and I continue to be optimistic that we are going to find a more logical and reasonable way out of this than to close down the Department, No. 1; or No. 2, to accept the relationship changes that are in the Reid bill that have apparently been accepted by certain Members of the U.S. House of Representatives.

I think we can do better. I remind Senators how this all started, and I will go into a bit of detail. First of all, a continual carping that this is gridlock puts the Senator from New Mexico in a position where I cannot even understand what the word means anymore. The Secretary of the Interior proposed scores of new regulations, new rules, to be followed by an Executive order, none of which have had a hearing in the Senate. There is no bill here proposing it. Yet, when we come to the floor and beg the Senate to stand for fairness and give us 1 year for hearings, we are confronted with gridlock as the argument against us.

When it comes to grazing fees, we are all ready to acknowledge that we have been at loggerheads, except even during this year, before the Secretary proposed as part of his administrative powers to change the grazing fees, we had two distinguished Senators offer a grazing fee bill that changed those; and indeed we ought to move ahead with some hearings on those. They do not fit everybody exactly right, but to show that there was not even necessarily gridlock there, I cite that for the edification of the Senate, because it is absolutely true.

What happened after the Secretary of Interior proposed a very grandiose plan to raise the fees—in fact, to raise them a dollar more than the distinguished

Senator from Nevada, [Mr. REID] has proposed. And when he proposed all the regulatory changes that he was going to put in effect, in due course, the U.S. Senate—in fact, I must admit here that I had great help from the Senator from Nevada. This body said: That is not fair. That is all we said. It is encapsulated in a very fancy word, a "moratorium" for 1 year. All we said was—59 Senators agreeing—we ought to have a year to look into these major changes.

Madam President, to go from that point to where we are being told you are going to accept changes now written into law that do many of the things that we were demanding and asking and begging for 1 year to have hearings on, seems to me to be rather unusual, especially when those of us who want that year are to be blamed for delaying things.

I know the distinguished chairman of the Appropriations Committee indicated we should not speak of Members of the House in any personal-type terms. But I submit once again that to go from where we were in the U.S. Senate to entering into an agreement of the type that was entered into with members of the U.S. House Interior Committee, and to say then to the Senate that you have to adopt that, and then to say on the floor of the Senate that this has now gone through the legislative process, I mean, if you are looking for Halloween and goblins, that is one; to say this has been through the legislative process because one or two or three House Members and one distinguished Senator have gotten together with the aid and assistance of the Secretary of the Interior on an appropriations bill—drafted, redrafted, and redrafted, because we got three versions of these 19 pages of new regulatory authorizing language statutes, to get together and do that, and then to have appropriators—in all deference to the occupant of the chair, the appropriators are not authorizers. None of them even know what this amounts to. There may be one or two.

But they adopted it because it was proposed by the U.S. Senate, under the leadership of Senator REID, that we do this instead of the 1-year fairness—fairness—holding up of the implementation of the Secretary's proposal. And so the House said: We will take it.

Far be it from this Senator to speculate what anybody knows or understands. But it does seem to me that the appropriators clearly accepted this proposal on the House side, because House Members of the authorizing committee told them they should. Is it not interesting that the very day this happened, the House is otherwise feeling its oats about nonauthorization on appropriations? The very same day, in writing, come letters from the very same people saying: Do not authorize on appropriations. Very interesting. But when it comes to the ranchers of the West, who wanted nothing more than 1 year to have hearings on what these laws would mean, it is all right to authorize, and then to excuse ourselves because we do not want any more gridlock.

I repeat: The grazing fees can be worked out. It does not mean anybody can get exactly what they want, but they can be worked out. The part that cannot be worked out is to unilaterally, without any hearings, in an appropriations bill, change all of the rules, all of the interests, all of the proprietary rights, and to come to the floor and say it does not mean anything, it is not important, because we are grandfathering.

Well, today we had a new Governor added to the list, because the Governor of Colorado saw what the water language is. What did he say? That Governor of Colorado said:

> These are farfetched water rules; they go everywhere. They are going to close down recreation water in our State, and even some water that is being used for drinking water.

Our Senator from Colorado, Senator HANK BROWN, has been saying that. Some in this place roll their eyes up when he talks about it.

They cannot imagine that in the guise of grazing fee changes and language changing the rules and the rights, they cannot believe that we have expanded the water rights issues in our State such that reservoirs can be closed down around our State. And, indeed, they do not even have to be in the West. But the Governor from Colorado believes it now.

The Governor from New Mexico, one of the very early supporters of our President, came out—and we read it; we put it in the RECORD today—saying this series of changes will hurt the West; it is not necessary and it is not fair. I am just summarizing and in my own way putting my words to his. His were far more descriptive, but I believe that is a matter of record.

I believe tomorrow, Madam President—and I say to my friend from Nevada—tomorrow there will be water engineers from across America. They found out about this language on pages 18 and 19 of this huge new authorization text. They found out about it, and they are going to send up their expectations, their conclusions, as to what these water rights changes might mean.

It is not going to be: Do not worry about it; it does not mean anything. It is going to be far more than that. It is going to be: Did you understand and do you know how farfetched and what a big impact these water regulations might have on the West and, indeed, beyond the West?

Why do we have to do this? Why do we have to do this, when the U.S. Senate started out the year and the bill with a very simple proposition? I am sorry that it has such a big name, such a powerful sounding name—moratorium. All it meant was for 1 year, do not take any action to change the rights, the privileges, the proprietary interests of the grazing permittees—their rights, their right to appeal, their right to have advisory groups, and all of those things. Just give them the year. That is what the Senate voted.

Think what we got in exchange for that. In exchange for that, we got many of those regulatory schemes written into law where they are not even going to be done by the executive branch after hearings. They are now law. We have now written into law the future of all of the improvements on BLM land heretofore built by, paid for, and owned pursuant to regulation by the permittees. That is all going to change.

But do not worry about it, some people say, because it is only changing in the future. Well, what happens in the future, Madam President, when the grazing property improvements are not going to belong to nor be paid for by the grazing permittees? Are they going to volunteer to pay anyway, even though they have no proprietary interest? I doubt it.

Who is going to have to pay for it? My guess is, if this becomes law, the U.S. Government is going to have to pay for it. They are going to have to come along and have a brandnew program to share in the expenditures.

Then who is going to police it? I think we are going to come back and have a whole new regulatory scheme to police it.

I can go on and on. But the truth of the matter is that if, indeed, the Interior Department closes down and does not have money to operate come Friday, and that goes on for a day or half a day or a week—and, again, I do not believe it is going to, but if it does—I know my good friend, the chairman of the Appropriations Committee, talked some time ago on the floor about the blood coming off the sword that he was referring to in some historical terms that only he is such an expert at. I do not even want to touch it, other than to say I do not believe the blood will be on the hands of those of us who want 1 year of fairness to have hearings. If it closes down, it will be on those who insist that no changes can be made from this agreement that was reached to take the place of a simple little 1-year moratorium—a 1-year moratorium.

Frankly, I believe there are those in good faith, and I think my friend from Nevada is one of those, who thought you have to do this now or you will never get anything done that has even a semblance of being fair to the ranchers.

Madam President, I do not have that lack of confidence in the authorizing process. I will risk Senator BENNETT JOHNSTON's and Senator MALCOLM WALLOP's authorizing committee here having 6 months or 8 months to bring in real experts. And instead of us having to believe those within the Interior Department who say it will not harm anything, and maybe not even believing the rancher who says it is going to harm them immensely, let us get the facts.

Frankly, I do not think we yet have made the case that in the Western States of the United States, on Bureau of Land Management land, western American families for decades have built on grazing permits with their own land, with some small portion of State land, with their own water rights, have built improvements on them and, yes, even had enough security out of that to build a nice house which became their home, and the asset value of that family was the sum total of all of it.

There are some, and I say this without any fear of being wrong, who for years have been saying there should be no value in those lands. Those citizens who occupy that, even if it is for decades and even if it is for two or three generations, should have no real value in their families for that grazing land which belongs to the public, even though when put into a permit has carried sufficient vested rights to create an estate upon which they can borrow money to grow and prosper and even build decent homes and improvements.

There are some, and I am not saying they are in this body, who say that it should not be that way. That estate that we speak of, that even the Internal Revenue Service has taxed in the past—and I know that from constituent work—has had a value that is significant to keeping the western way of life alive.

I want to close with a couple of comments, because there are many beyond the floor of the Senate and the staff here who listen and wonder what is the budget of this all about, especially since the Taxpayers Union has entered this fray. To the best of my ability, I have tried to determine how much additional revenue will go to the U.S. Department of the Treasury when the fee, which is $1.86, goes to $3.45. It turns out it is about $19 million.

So for those who think this is a truly monstrous add-on to the Treasury that we ought to be getting, let us put it in perspective. It is $19 million.

Madam President, in addition to that, the truth of the matter is that there is nothing about current American budget policy that says we are going to spend 1 cent less. We are going to take $19 million and put it into the budget and spend every bit of it. And anybody who wants to say to the Taxpayers Union, which I think is mistaken on this one, to say it any different, then I would like to see budget information that says this is going to do anything other than give us $19 million to spend somewhere else in Government. In fact, it will. It is going to be spent. There will be no tradeoff saying now that you have this, can you reduce taxes somewhere, or something like that? That will not even be considered.

Madam President, let me close by saying I do not know where this goes day by day. That is what we are working on. I know I should not be telling anybody beyond myself what they ought to do. But I believe it is time for the Secretary of the Interior to sit down and work to see if we cannot get a grazing fee solution, and then I think everybody from the President on down ought to just say now, look, the ranchers are really not asking for too much when they say just take 1 year before we put in all these new rules. Do not take away anybody's power; just say do not do anything for 1 year.

If you cannot work out something by law up here, it is back to ground zero a year from now. And you have not taken away any authority and you have not sent a signal, a real, live signal, to rural western America that they do not count enough to even have a chance to appear in a formal committee hearing in the U.S. Senate and U.S. House, with perhaps a family member along to make the case to state their facts, to tell us what it is going to mean; and yes, Madam President, maybe, if they can afford it, to bring along an economist who understands, from one of the ag schools, to tell us what it is going to do to the West when we squeeze every bit of value that grazing permits add to the estate of a rancher.

When you have it down to that blood zero, what is it going to mean?

I think we might be shocked at what we are going to hear. I can tell you this. It is not going to mean that people with a lot of money and big corporations are not going to still be in business. It is going to mean that all those small ranchers, those middle-sized ranchers are out, and it also is going to mean—and let me try to use some practical terms.

Here is a 200,000-acre unit ranch and the title is absolutely owned by a ranching couple, and yet the rest is grazing permits from the Federal Government and the State. Do you know what is going to happen? That land that they own absolute is going to be on the market, except it is not going to be on the market to be a ranch, because it will not be worth it.

We will have squeezed any value that the grazing permits bring to it, and it will be there to cut up in parcels, to be doled out, to be bought by others, and the West will be different. But it will not be different like those who now want these changes think. It will be different as I have just described it; it will be less public use, it will be less rural, rather than more.

And then there is no doubt in my mind, as I look at this, to where we are going to go; that there is just one basic, fundamental proposition, and it is that you cannot be unfair to even 27,000 permittees, their families, and the small towns that they support and aid and help and are members of and citizens of. You cannot deal them out on the basis that that is just the way it has to be, because some group has decided here in the Congress that we are going to change all this.

Now, if I really thought the rangeland of this country was in deplorable shape and we needed more intervention by bureaucrats, I do not know if I would be on my feet.

But I close tonight by saying: What is this all about? When the Department of the Interior's own internal memo says Bureau of Land Management only—not talking about the Forest Service. People keep bringing the Forest Service into this debate. The Forest Service is completely different. They have better lands. Most of their lands are not grazed year around and, indeed, most of their lands are not interspersed with private lands and State lands; completely different.

But, when the Department of the Interior's own internal memos say the quality of the range on Bureau of Land Management land is as good as it has been in 100 years; they have even said it better than that: It is in the best condition it has been in 100 years, what is all this about, these requirements that we move next week to change the relationship between the rancher and the land? To what end? Because we have just decided that we do not want them to have any property rights interest, any estate interest, any value, any ability to bring their family up there and raise and own something, part of which is the permits that permits them to live and make a living.

I, frankly, believe we have to ask that question—to what end?

I think there are some who have a different motive. Multiple use has been the way we have governed our public domain. You can use it for recreation, for grazing, for mining, for timbering, all in a reasonable way, but all in some way meshed together in an appropriate quilt that makes it valuable to everyone.

There are some who do not want that anymore. And I do not say the Secretary of the Interior, but I say, without any equivocation, there are many in his department that truly do not believe multiple use, as we know it, as it has been practiced for decades, as epitomized in the language of the Taylor Grazing Act of decades ago, there are many who do not want that and want to find a way by regulation to do away with it.

I must do my share to at least ask that we consider, through the Secretary, through the chairman of our Appropriations Committee, even through the White House, to get that one bit of fairness, to wit: 1 year before you implement these nonfee issues so we can have some hearings and get to the facts of equity or nonequity as they may exist.

I yield the floor.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Will the Senator withhold? The Chair needs to make one quick announcement.

TREASURY-POSTAL SERVICE APPROPRIATIONS BILL—CONFERENCE REPORT

The PRESIDING OFFICER. Under the order of October 21, 1993, the Senate, having received a message from the House that the House has agreed to Senate Concurrent Resolution 48, as adopted by the Senate, the conference report accompanying H.R. 2403, the Treasury-Postal Service appropriations bill, is considered to have been adopted, and the motion to reconsider is laid upon the table.

Mr. DECONCINI. Mr. President, I am pleased to bring before the full Senate the conference report accompanying H.R. 2403, the Treasury, Postal Service, and General Government Appropriations Act for fiscal year 1994. The bill as reported from conference committee totals $22.5 billion. This amount is $382 million above the Senate-passed bill; $170 million less than the House-passed bill; and $7 million above the fiscal year 1993 enacted level. The reason for the increase above the Senate-passed level is that in conference we agreed to provide an additional $347 million in mandatory funding for the Government's payment for employee and annuitant health insurance benefits. This change was made to ensure that employees and retired employees do not pay unintended increased costs for their premiums for health insurance under the so-called Phantom Six formula.

For domestic discretionary spending, the bill as reported from conference is $34 million above the Senate-passed bill. Mr. President, the Senate-passed bill included an across-the-board cut in all domestic discretionary accounts totaling $173 million. This conference report restores only 20 percent of the amount cut in the amendment sponsored by Senator LOTT. It is a very lean bill—I want my colleagues to listen again, this bill is only $7 million above the 1993 enacted level. It is the closest thing to an actual freeze spending bill that this body has ever voted on and I hope my colleagues on both sides of the aisle give due recognition to the fact that this was not an easy task to accomplish.

In the interest of time, I will not go into great detail on each account in the bill. Suffice it to say, that for virtually every account, the conference report reduces funding below the Senate recommended levels. There are no amendments in disagreement. We worked very closely with the House to reach consensus on all of the amendments without disagreement. Obviously, we had to make sacrifices and weren't able to work the Senate's will on every item. However, the bill as reported from conference, is a good bill. It recognizes the importance of law enforcement and tax collection programs while meeting the Government's deficit reduction goals.

NATIONAL PARTNERSHIP COUNCIL

The conference report includes a provision permitting the administration to establish the National Partnership Council. The conferees recognize that the council may be established under current law with single agency funding.

REVENUE FORGONE

Mr. President, I am happy to report that this conference report contains reforms that will eliminate revenue forgone appropriations for all but free-for-the-blind and overseas voting rights. These reforms will save the taxpayer approximately $500 million a year.

I would like to take this opportunity to commend Chairman CLAY of the House Committee on Post Office and Civil Service for his ability to bring all parties to the table, overcome the many obstacles, and broker a compromise to eliminate the bulk of the revenue forgone appropriations. This compromise is a good solution and I believe opens the door for future discussion on other issues, such as further eligibility restrictions.

This conference report includes the House-brokered compromise with some minor changes made on the Senate side and agreed upon in conference. These changes include a "no rate decrease" for "flats" when revenue forgone is withdrawn. This change will create an additional savings of $45 million per year to the Postal Service.

This language also preserves the access of publishers and book distributors to the library rate of postage when filling orders from schools, libraries and colleges. This will ensure that these educational institutions, which ordinarily must absorb the postage of shipping costs on their book orders, will continue to receive the benefit of the reduced library rate.

The last change delays the implementation of eligibility requirements until December 31, 1993. Many nonprofit groups already have their Christmas material printed and this would allow them to use these materials before the new eligibility requirements are implemented.

As I stated earlier, this is a good and fair solution that finally brings this annual problem to a satisfactory conclusion.

TONER CARTRIDGES

Mr. President, the conference report language regarding the procurement of toner cartridges, inadvertently left out an introductory proviso which would have made a permanent statutory law change. The language included in the conference report is intended to replace the current statutory language in section 6962(j) of title 42 United States Code.

RESIDENTIAL WOMEN/CHILDREN TREATMENT PROGRAM

Mr. President, the conference report contains an earmark of $5 million in the Office of National Drug Control Policy's Special Forfeiture Fund for the residential women/children treatment program in fiscal year 1994. A typographical error in the conference report inadvertently would have the funds for this program transferred to the Center for Substance Abuse Prevention. These funds should be transferred to the Center for Substance Abuse Treatment, which is the agency which currently implements the women/children program.

I urge adoption of the conference report.

Mr. BOND. Mr. President, the Senator from Arizona is to be congratulated for picking up where the House left off, and assuring that the revenue forgone appropriation is eliminated, and that nonprofit organizations are still protected from having their rates increased dramatically.

As in any legislation as far reaching and complicated as this, there are bound to be some areas that are unclear as to the real intent of Congress. One such area is the scope of the new eligibility restrictions for materials mailed third class.

Clearly, we intended that commercial activities by nonprofits, such as in the sale of unrelated retail products by catalogue, should no longer enjoy the preferred rate. But what about situations where third parties offer products or services, such as in a space ad in a nonprofit organizations' third class publication? I am especially concerned about newsletters put out by a church, or a local charity, for example, that might contain an ad for a local business. Does this legislation make such a newsletter ineligible for preferred rate?

Mr. DECONCINI. The Senator poses a very troubling question. The new substantially related test we have created in this legislation could be construed, I fear, to make the church newsletter in your example ineligible for preferred rates—a result we surely have not intended. In fact, we had thought that section 705(b) of the act—new section 3626(m)(2) of title 391—would adequately address the problem. In any case, I believe that our intentions can be confirmed, and a clear answer given to your question, through reference to other sections of this legislation and to mechanisms the legislation establishes.

The legislation and that section in particular exempt periodical publications which are sent by third class mail from the substantially related test. This legislation does not restrict periodical publications, such as church newsletters, from carrying paid advertisements from other businesses. A church newsletter containing an ad for local business would still be eligible for the preferred nonprofit third class rate.

Mr. STEVENS. Mr. President, it saddens me today to inform my colleagues that I will vote against the conference report on H.R. 2403, the Treasury, Postal Service, and General Government appropriations bill. As a member of the Appropriations Committee, this is not a position I like to take. However, as a representative of the State of Alaska, I have no choice.

Let me first state that I support the bulk of the work done by my colleagues. In particular, I compliment Senator DECONCINI for seeing to it that the Clay compromise to reform the revenue forgone subsidy was included in the Senate bill. As I stated on this floor during our initial consideration of this bill, I support the Clay language—I just don't think it goes far enough. The conferees apparently did not want to make any changes but there will be additional opportunities to address these problems.

But, the conference report before us today includes a provision which I cannot support and which will result in irreparable harm to my State and the Federal employees who carry out Federal programs in my State. I am referring to the decision to begin the phase-in of locality pay but eliminate the 2.2 percent general pay comparability adjustment.

Mr. President, the annual comparability adjustment benefits all Federal employees, regardless of where they live. Locality pay is designed to provide additional compensation to some employees to bring them closer to the salaries earned by their private-sector counterparts.

The conferees apparently decided that Federal agencies should be required to fund only one of these programs. That is an appropriate decision—implementation of both programs would cost Federal agencies $3.1 billion. Unfortunately, the conferees decided to eliminate the general pay adjustment and start the phase-in of locality pay. That seems lop-sided to me. This decision will mean that Federal employees in my State, which was excluded from the locality pay provisions, will not receive a general pay adjustment in 1994.

Without an exemption from the elimination of the comparability adjustment for employees in Alaska and other areas excluded from locality pay, I cannot support this conference report.

Mr. DOMENICI. I rise to make a statement regarding the conference report on H.R. 2403, the Treasury, Postal Service, and General Government appropriations bill for fiscal year 1994, because I have several reservations about the final outcome.

This bill provides new budget authority of $22.5 billion and new outlays of $20 billion to finance operations of the Department of the Treasury, including the Internal Revenue Service, U.S. Customs Service, Bureau of Alcohol, Tobacco and Firearms, and the Financial Management Service, as well as the Executive Office of the President, the Office of Personnel Management, and other agencies that perform central Government functions.

I congratulate the chairman and ranking member for producing a bill that is within the subcommittee's 602(b) allocation. When outlays from prior-year budget authority and adjustments for IRS compliance and mandatory programs are taken into account, the bill totals $22.9 billion in budget authority and $23.1 in outlays. The total bill is significantly under the Senate subcommittee's 602(b) allocation for budget authority and outlays.

I would like to thank the subcommittee for its continuing strong support for law enforcement agencies that are so important to border States such as New Mexico.

I am also encouraged that the subcommittee continued its efforts of the past several years to reform the Postal Service revenue forgone.

However, I would also like to express my concern about the inclusion of language pertaining to Federal pay raises next year. This bill would freeze the annual General Schedule pay adjustment for fiscal year 1994, which would have gone into effect on January 1 of next year. On the other hand, the conferees did nothing to affect locality pay adjustments, also scheduled to be implemented in January under current law.

The locality pay adjustment, expected to average 2.5 percent nationwide, will be more expensive than the now eliminated 2.2-percent comparability adjustment. In fact, in some cities, such as New York City, this increase could be as high as 6 percent.

There is no language limiting the amount of money available for locality pay, as was originally included in the House reconciliation bill. Fully funding locality pay at current law requirements could cost somewhere in the range of $4 billion in fiscal year 1994.

Because the President had requested freezing both adjustments, the request did not include any allowance for pay raises. Even if all the cost-saving provisions recommended by the Vice President's National Performance Review were implemented, the fiscal year 1994 savings would be less than $1 billion.

Speaking as the ranking member of the Commerce-State-Justice Subcommittee, I do not know how personnel-intensive agencies like the Departments of the Treasury and Justice are going to find funding for locality pay adjustments.

I am also concerned that the conferees included implementing language for several of the National Performance Review recommendations. I am very supportive, in general, of the Vice President's efforts. However, I do think the Congress needs to examine the options in more detail before taking any action.

Several Members of Congress, including myself, have requested that the Congressional Budget Office analyze both the individual proposals and any interactive or secondary effects. I am specifically concerned about the out-year outlay impact of allowing agencies to carry over half of their expiring unobligated balances. This action could potentially make it harder for the Appropriations Committee to stay within the discretionary cap in future years.

Mr. BOND. Mr. President, let me first thank the distinguished senior Senator from Arizona, the chairman of the subcommittee, for his effort, hard work, and leadership in bringing this conference report back to the Senate.

Mr. President, as Senator DECONCINI indicated, we are bringing back the conference report for H.R. 2403, the Fiscal Year 1994 Treasury, Postal Service, the Executive Office of the President, and Certain Independent Agencies Appropriations Act.

I do not want to dwell on the fact that this has been a very difficult year for appropriations. We have made efforts in every way to tighten our belts on this subcommittee. All of the other Appropriations subcommittees have been faced with the same problem—not enough money to fund programs to desired levels. This, of course, is one of the reasons the conference report appears as it does today. It is a compromise with the other body and represents our best effort to meet the needs of agencies which fall under the jurisdiction of the subcommittee.

The chairman has outlined the details of this conference report. I want to pay special attention to some key points in this agreement. This agreement is $191.4 million above the fiscal year 1993 discretionary enacted level and $184.6 million below the mandatory level for fiscal year 1993. That is an increase of $6.76 million or .0000003 percent.

Mr. President, I would repeat that number, but I think my colleagues see the point. Some will argue that we did not go far enough, but if one takes into account that we increased the Internal Revenue Service by almost $233 million over the fiscal year 1993 level, all of this funding will go toward further modernization of the tax system and enhanced enforcement efforts.

The conferees also agreed that it was important to continue law enforcement and trade facilitation. As a result, slight increases have been provided for the Bureau of Alcohol, Tobacco and Firearms, the Secret Service, and the Customs Service.

Some of our colleagues will note that the conference report is significantly higher than the bill that passed the Senate. I want to point out that this can be attributed to the increase of $347 million in mandatory increases which are required to fund the Government's contribution to the Government payment for annuitants, employees' health benefits. This is not the sole increase, as I indicated earlier, but surely the lion's share.

I would like to clarify one point which has arisen since the House adopted the conference report. We have found that a sentence in amendment No. 43 was inadvertently left out of the final language. The conferees agreed to the language in the conference report, but the introductory clause which includes a "strike and insert" clause that would completely strip current sections (a) through (c) was omitted. Unfortunately, because the strike language is not in this legislation, sections (a) through (e) will also appear in the law.

It is clearly the intent of the conferees that sections (a) through (e) be replaced by the new (a) through (c). This oversight might cause some to wonder, but I want to make it clear that the intention of the conferees on this issue is clear. Sections (a) through (e) of 6962(j) are stricken and replaced with the language contained in this conference report.

Mr. President, not all of our colleagues will agree with the provisions of this conference report. In fact, there are items and accounts I would have preferred to be different, but compromise is the heart of conference agreements. This agreement is a compromise. I urge adoption of the conference report.

DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Colorado may proceed.

(Mrs. MURRAY assumed the chair.)

Mr. CAMPBELL. Madam President, this debate has been going on for some time now. Unfortunately, I think some of us have seen it shift from the collection of revenue in the Western States to the water policy to virtually States rights.

But in watching the last couple of hours—the last hour in particular—in my office, it seems to me that we have entered into a new dynamic in this discussion, and I am sorry to say that it has taken a turn for the worse. Because from my perspective, a number of speakers have come to the floor who repeatedly refer to the devastating effect of not passing this conference report and how it will affect American Indian tribes.

I have gotten three calls this afternoon—in fact, one from the National Congress of American Indians and two from Indian tribes—and there is no question in my mind that there is a clearly defined and orchestrated effort to have Indian tribes call me in particular.

One group, in fact, said that a number of Democratic Senators who were opposed to it were only doing it because I had suggested it, which is absolutely not true. Everyone makes up their mind around here based on what is best for the people that sent them to this office, as I do, too. But to call me with a doomsday prediction of the effects of not passing the conference report, I think is wrong and unfair.

And I must say, Madam President, that this effort to turn Indians against their non-Indian neighbors is the most reprehensible movement I have seen since I have been in the U.S. Senate. Clearly, it is coming from one source, and that is the Secretary's office.

The history of this Nation, Madam President, has been written with the blood of dead Indians. To this date, they are still at the bottom of every statistic, whether it is employment or high school completion, or virtually everything else.

I tell my Indian and non-Indian friends both: Do not let the Secretary scare you. And, furthermore, if this continuing resolution does not pass, if the cloture vote does not succeed this Thursday, there is one person they can blame it on and that is the Secretary.

To try to say that western Senators are trying to produce more gridlock and trying to avoid any kind of a solution to the problem is simply not fair. The burden and the responsibility falls on the Secretary's shoulders. He is playing, in my opinion, the old divide-and-conquer ploy that has so effectively kept Indian people at the bottom of the social scales in years past. It is nothing new to Indian people in this Nation, because it is in keeping with past performance for this whole Congress.

Let there be no mistake, Madam President: No one is more protective of their rights than I am on the floor, and I will continue to fight for them, as many of my colleagues have done, too.

But the doomsday rhetoric used by both the Secretary and some of the proponents of the conference report is unfair, uncalled for, and calloused and mean-spirited, I might add. I resent it. And I want the RECORD to reflect that.

To the President of this country, I suggest that he call off the dogs. It does not help President Clinton to let his Secretary hurt people in the West, whether they are American Indians or white rancher neighbors. They have suffered enough. Indian people are being used as unsuspecting pawns in this battle. Over the years, since the Indian wars have been over, they have worked in harmony with their non-Indian neighbors and want to continue to do so. They do not want any more wars, whether they are water wars or policy wars. So I suggest this President call off the dogs and remind the Secretary that, when he was first confirmed, he made a very pious and enlightened and, to us, a very happy statement about his commitment to helping Indian people. But these unfair tactics are simply going to, in my opinion, make some brandnew Republicans in this body if they do not back off.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I am sorry the Senator from Colorado has left. There is not anyone in this Chamber I have any more respect for than the Senator from Colorado. We all know the mark he has made on the U.S. Senate and will continue to make.

As he has said about me and I say about him, this issue is one that we disagree with each other on, but we disagree on the merits. It is nothing dealing with personalities. Because of my high regard for him, I have studied this issue probably harder than I would have a lot of issues, and I am hopeful the matter will be resolved.

I want to say a couple of things based on statements made by my friend from the State of New Mexico, the senior Senator from the State of New Mexico. He talks about this matter not amounting to much money. But we need not only talk about the money that is collected on the grazing fees, but how much it costs taxpayers to keep appropriating money to take care of problems relating to range management.

On just one simple issue here, the funding history and the Interior appropriation regarding riparian matters, in 1988 we were spending less than $2 million on that. Now, in 1994, $8 million. This is taxpayers' money just on riparian areas alone. We have appropriated, last year, $42.5 million to take care of riparian areas and range management. We are talking about a lot of money. That is why it is important that we collect a little bit more money. That is why the National Taxpayers Union and other groups think this is an amendment that is long overdue.

My friend from New Mexico also said that he does not know what gridlock is. I respectfully say maybe that is the problem, because this is gridlock. We are holding up, by the unending debate on this matter, a very important piece of legislation. The eyes of the world are upon this body. Is it right that while we are talking about grazing fees that affect 18,000 permittees, we are holding up an Interior appropriations bill that affects everybody in this country? It affects people in the Great Basin National Park in Nevada, Yellowstone National Park. It affects people who want to go to some of the recreation areas that are on BLM lands. It affects, as the Senator from Colorado mentioned, problems on Indian lands—the Indian Health Service, which got a tremendous boost in this appropriation bill.

This body is looked upon, frankly, Madam President, not with good eyes. In this morning's Washington Post they are concerned about what is taking place on this bill. They say, among other things:

> The rangeland reforms include an increase in grazing fees on federal lands, meant in part to discourage overgrazing, and some changes in rangeland management and improvement rules. Some of the latter would reverse decisions in behalf of private use of public land by Reagan administration Interior Secretary James Watt. Clinton Interior Secretary Bruce Babbitt has threatened to put them into effect by regulation if Congress won't do it statutorily. He's right on the merits,

Talking about Babbitt—

> but this has become a procedural battle as well.

It is the procedural battle that we are looking at today. It is not right. Let the majority rule. We all agree there is a time and place for protecting minority rights, but grazing fees is not the issue. Grazing fees is not the time to hold up the Senate. It only focuses on how little we get done over here. I think the time has come to end this filibuster.

I, with great hope and anticipation, believe the Members of the Senate on the other side of the aisle will come forward and support cloture on this. We have carried this forward enough. As the chairman of the Appropriations Committee has so eloquently stated, it is time this matter be done away with, that you wipe yourself off, get up, and fight again.

The chairman of the Appropriations Committee has talked on the Senate floor over the past several months about the danger of the legislative arm of Government losing its power and ceding everything to the executive branch of the Government. That is, in effect, what we are doing here by filibustering and allowing Secretary Babbitt to go forward with all these regulations.

If there is a Member of the other body who is concerned about anything Secretary Babbitt would do with this amendment as part of their conference report, let us talk to Secretary Babbitt. He will be happy, if someone has a concern about, for example, subleasing, he will be happy to tell them subleasing to family members will still be allowed if they live in the State. If they have a specific concern about water he will talk to them about that.

Bruce Babbitt is a reasonable man. He has been Governor of a Western State, attorney general of a Western State. He is willing to work with western Senators or eastern Senators. He understands the West.

Scores of new rules have been talked about here. There are no new rules. The Forest Service has been doing this for decades. It is only in the past 11 years that Secretary Watt interceded and changed the rules. All we want to do is have the Forest Service and Bureau of Land Management with the same set of rules. That does not seem out of line.

I am amazed that my friend from New Mexico, he is talking about—OK, we will now agree on the grazing fee but we want a year's postponement of anything else.

I will repeat, we live in a bicameral legislature. The House has spoken. I repeat, we may not like what they have said but they have said it with a voice that we can hear clear at this end of the Capitol. They are way down the hall, but we can hear them here. How do we hear them? Because they have twice voted by a 3-to-1 margin how they feel. We are going to have to deal with the House. I cannot imagine anyone suggesting that now is the time to start hearings. The hearings should have come a long time ago, 15 years ago, 8 years ago, 7 years ago, 6 years ago. But now we are being told let us have hearings. The 376 reports, hearings, studies—forget about those. Let us start over again.

Madam President, ranchers in the Western part of the United States are going to rue the day that the Reid amendment is not adopted. If the Reid amendment is not adopted, they are going to say, "Why did we not go with the Reid amendment?" I promised the ranchers that is what they are going to say because they are going to wind up with Secretary Bruce Babbitt's proposals and more. They should all contact their Representatives in the U.S. Senate, as the former president of the Nevada State Cattlemen's Association contacted me and said, "We are willing to live with your proposal. It is so much better than Babbitt's that it is difficult to put into words."

We need to move forward. The eyes of the American public are upon us. We can do this, save the taxpayers money, have reasonable land reform, and by next year there will not be a whimper heard out of anyone. There will be quiet. This will no longer be an issue.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Madam President, we have had a lot of discussion here on the issue of grazing fees and filibusters. We have heard a lot of people raise their voices that this issue is not about grazing fees, it is about the question of the regulations on land use that many people think would be devastating to the West.

I do not want to multiply the arguments and repeat the words that have been offered by my colleagues from the West. I think I have made it clear from my voting record that I agree with most of that. But I do want to make a few observations from some of the debate that has gone on which I think will help focus exactly why we are where we are.

The Senator from Nevada [Mr. REID], mounted a spirited and, I think, appropriate, particularly from his point of view, defense of Bruce Babbitt on the floor. He pointed out to us that Bruce Babbitt was a westerner, former Governor of a Western State, former rancher; that is, coming from a ranching family.

That might be making a little bit too much of the case. When I talked to Secretary Babbitt prior to his confirmation, and he told me of his requirement, or his decision rather, to sell his interest in a ranching business, he said, I have been out of that myself for quite a long period of time. So that is not really an important thing for me.

But I think it is an appropriate point for the Senator from Nevada to make. Bruce Babbitt is a westerner and can be expected to concern himself with western issues.

If we accept that point, however, Madam President, a second question arises in my mind. Why then is Bruce Babbitt being held out to us as the ogre who will take over and who will punish those of us who are standing as we are on this issue if we do not give in and accept the Reid compromise.

It seems to me we are being asked to have things both ways; either believe that Bruce Babbitt is a benign friend of the West, or believe that Bruce Babbitt is an ogre who will savage the West. We cannot believe both.

I tend, frankly, to believe neither in its final form. I think Bruce Babbitt has given up much of the western orientation that he had when he was Governor of Arizona and has become far more of a creature of the groups that would like to see the West turned to single use rather than multiple use. I think he has moved far down that road.

At the same time, I do not believe that he is the ogre who will then, if we stand firm in our resolve on this issue, savage and punish the West for its temerity in standing up to his demands that we accept the Reid compromise.

Accordingly then, Madam President, it seems to me the logical thing for us to do to break this deadlock and to move forward in a proper fashion is to do that which some of my colleagues have suggested; that is, adopt an increase in grazing fees. I think there is virtually unanimous agreement in this body, and certainly in the other body, that grazing fees are going to have to go up. The day when we can stand on the floor of the Senate and keep grazing fees at their present level has long since gone.

If we accept that concept, then I think we can rather quickly get to a number that just about everybody can be comfortable with; maybe not everybody but just about everybody. We can certainly break the deadlock that exists over the issue of cloture, if we concern ourselves solely with the question of how much the grazing fee should be.

That means the 19 pages of regulations that we have heard so much about on the floor then became the subject of hearings before an appropriate authorizing committee.

I would ask those who insist that these 19 pages of regulations remain in this appropriations bill, why are you afraid of the authorizing committees? Why are you not willing to put those proposals through the congressional process, let them be the subject of hearings and let them stand or fall on their own merits rather than having them slide through on the emergency circumstances in an appropriations bill?

I suspect that there is a realization here that if those 19 pages were put into appropriate authorizing language and put before the appropriate committees, they would not survive the scrutiny of the hearing process.

If those who have been addressing us are correct, if those 19 pages of regulations were the subject of hearings, we would see a parade of western Governors, Democrats as well as Republicans, come before the authorizing committees to tell us what was wrong with those regulations.

That may be one reason why Senators do not want to see those 19 pages exposed to the light of day of the hearing process.

We would see a parade of economic information demonstrating just how serious the result of those 19 pages would be in terms of economic devastation of parts of this Nation. Maybe that is why Senators do not want to expose those 19 pages of regulations to the process of hearings and examination by the authorizing committee.

I think it is eminently fair and reasonable, and I do not consider it an expression of gridlock for those of us who are opposed to those 19 pages, to ask that they go through the authorizing process. The chairman of the Appropriations Committee—I think very appropriately—stood on the floor earlier this afternoon and said we should not hold up the Senate process on a filibuster, we should take our losses, have our votes, stand up and take whatever happens. I would be perfectly willing, as I believe all of the other Senators from the West would be, to pledge that we will not filibuster the authorization bill if those 19 pages of regulations are given the scrutiny of a full hearing process.

Let them come before the Senate Energy and Natural Resources Committee. Let them be examined in full and open hearings with the full testimony by all of the western Governors. Let them be made the subject of economic analysis. Let them stand or fall on the basis of their merits. And then let us look on them. If we have that process, I would not support a filibuster to stop a vote. If we have that opportunity for full hearing, I would not oppose the Senate moving ahead in proper fashion. And if we were defeated after we had that kind of hearing, I would not try to overturn that defeat with a filibuster.

But now we are being told we must accept an all-or-nothing package—not only the increase in grazing fees which, as I have said, I am willing to negotiate and accept an increase, we must also have the regulations tied to them and have it slip through in this fashion.

I have no problem standing with a filibuster against that kind of procedure, which I think is a procedure of trying to cloak the issue rather than expose the issue.

So, Madam President, I conclude with the same observation I gave in the beginning. If Bruce Babbitt is indeed interested in resolving this problem, is indeed interested in preserving the concept of multiple use in its time-honored fashion, why is he being used as the bludgeon—at least rhetorically—with which to beat us into submission? I believe that there are solutions that are available which could be acceptable to reasonable men and women in both parties, on both sides, and I would hope that the Senate would now move toward consideration of those solutions.

Mr. GORTON. Mr. President, I would like to take a few minutes to explain again why I am voting against the motion to invoke cloture on the Interior appropriations bill.

It is not, as some of my colleagues have implied, because I am flatly opposed to an increase in grazing fees. If this were the only issue at stake, I could reluctantly agree to the fee increases included in the Babbitt-Reid proposal. While the increases are high and will have a significant impact on ranchers in my State, they are more reasonable than those originally proposed by Secretary Babbitt.

But the grazing fee increase is only a minor part of the 19 or so pages of rangeland reform language included in the Interior bill. It is with this other language that I take issue.

I object to this language being included in the Interior bill because it is obvious from listening to today's debate that very few members of this body have any idea what effect the Babbitt-Reid provision will have on the public land states. To be perfectly candid, neither do I. That is precisely the point.

The Babbitt-Reid proposal represents a sweeping change in Federal policy governing public lands, and yet there has not been a single hearing on the issue in this body. There is no committee report, no testimony, and no legislative history. Members of this body have had no opportunity to offer amendments or clarify particular provisions. This proposal was instead negotiated by the administration with a small, exclusive group of Members and presented to the Senate as a fait accompli. I would remind my colleagues that this provision appeared in neither the House nor the Senate bill.

There are a number of reasons why this Senator wants a more thorough hearing of this measure. First, I am very concerned about the potential impacts of the water rights language in the Babbitt-Reid proposal. Particularly worrisome is the provision in the bill that directs the United States to "assert its claims and exercise its rights to water developed on public lands to benefit the public lands and resources thereon." Rarely have I seen such a deceptively expansive sentence in a piece of legislation.

This and other provisions in the bill could impact all manner of development, and even prevent use of water derived from public lands. The Energy Committee has provided a partial list of just the hydroelectric projects that could be affected, and I note that the list includes two projects in Washington State. One of these projects, the Rock Island Dam on the Columbia River, is a massive 600-plus-megawatt facility that contributes a great deal of nonpolluting, renewable energy for the Northwest region. I would like to think I could trust the Interior Department not to use provisions of the Babbitt-Reid proposal to impose operating conditions on the Rock Island project, but I can not. I have the greatest respect for Bruce Babbitt, but it is clear that we view public land use issues differently. It is also clear that there will be many other Interior Secretaries after Mr. Babbitt, and that neither the proponents nor opponents of this legislation know how future administrations may interpret this language.

Mr. President, if we are given the chance to consider this issue in the proper legislative process, we will have the opportunity to seek answers to these questions. We will have an opportunity to clearly establish congressional intent, and can avoid the endless stream of lawsuits that will result from the Babbitt-Reid proposal if it is adopted.

This is not gridlock, Mr. President. This is a bipartisan group of concerned Senators that is insisting that Congress do its job properly. I do not generally have an objection to including authorizing language in appropriations bills when necessary, but it is absurd to include some 19 pages of such language without any compelling reason.

Proponents of the Babbitt-Reid language have argued that we do not have any choice but to accept the conference report, and that to refuse to invoke cloture is to endanger funding for any number of important items included elsewhere in the bill. Mr. President, this is nonsense. Particularly offensive is the notion that we are somehow compelled to accept the position of the House authorizing committee, despite the fact that the House itself has been roundly chastising this body all year long for including any authorizing language in appropriations bills.

If we fail to pass this bill, it will be the fault of those who are so doggedly insisting upon including all 19 pages of the Babbitt-Reid compromise. We have already had two cloture votes on this bill, and it is clear that it is going nowhere unless the Babbitt-Reid language is dropped. In this case, the "guardians of gridlock" are those who insist that the language be maintained.

I have every confidence that if concerned parties begin earnest negotiations aimed at giving the authorizing committees an opportunity to consider the administration's rangeland reform proposal, we can pass the conference report by Thursday evening. If we fail to do so, the blame will lie not with those Senators opposing cloture, but with those who insist upon ramrodding this provision through Congress on this appropriations bill.

ORDER OF PROCEDURE

Mr. KENNEDY. Madam President, I understand that the majority leader will be here momentarily to place before the Senate the Religious Freedom Restoration Act. When he does, as I understand it, the only amendments in order will be the Kennedy-Hatch clarifying technical amendments on which there will be a time limitation of 10 minutes; a Reid amendment on exempting prisons from the bill's provisions, 2½ hours. There will be 30 minutes for debate on the bill, with all time to be equally divided and controlled in the usual form; and that at the disposition of the aforementioned amendments and the use or yielding back of the time, the bill, as amended, if amended, be advanced to third reading.

That, as I understand it, is the current situation. We look forward to the opportunity to begin this extremely important and significant debate on one of the most basic and fundamental rights and liberties of our country. I see the majority leader on the floor.

I yield the floor.

RELIGIOUS FREEDOM RESTORATION ACT OF 1993

Mr. MITCHELL. Madam President, pursuant to the authority vested in me under order No. 163, regarding S. 578, I now ask the chair to lay before the Senate S. 578, the Religious Freedom Restoration Act, subject to the terms as set forth in that order.

The PRESIDING OFFICER. Under the previous order, the clerk will state the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 578) a bill to protect the free exercise of religion.

The Senate proceeded to consider the bill.

Mr. MITCHELL. Madam President, I understand that there are likely to be two votes as a result of the consideration of this measure, pursuant to this order.

I now state that there will be no further rollcall votes this evening, and that the two votes on this measure will occur no earlier than 10 a.m. tomorrow. And I expect they will be at 10 a.m., but I will consult with the staffs, both Democratic and Republican, with respect to setting that precise time, and I will have an announcement on that shortly, either directly or through the managers.

So there will be no further votes this evening. I am advised that a request has been made by our colleagues that the vote tomorrow morning occur at 10. I want to check that with the staffs, and I will announce that shortly.

Mr. KENNEDY. Madam President, I yield myself 10 minutes.

Madam President, many of the first settlers in America fled persecution abroad in search of religious freedom. The Nation founded by those courageous pioneers holds as one of its most basic rights the guarantee of that freedom.

Freedom of religion is the first right protected by the first amendment. Even before freedom of speech or freedom of the press, the first amendment prohibits government itself from establishing any form of state religion, or from interfering with any citizen's free exercise of religion.

The Supreme Court's 1990 decision in Oregon Employment Division versus Smith dealt a serious setback to this first amendment freedom. Before that decision, under long-established doctrines of constitutional law, actions by Federal, State, or local governments that interfered with a citizen's ability to practice religion were prohibited, unless the restriction met a strict two-part test—first, that it was necessary to achieve a compelling governmental interest; and second, that there was no less burdensome way to accomplish the goal.

The compelling interest test has been the prevailing legal standard protecting the free exercise of religion for nearly 30 years, and the standard had worked well. Yet, the Court in the Smith case saw fit to overrule that test. Instead, it declared that there is no special constitutional protection for religious liberty, as long as the law in question is neutral on its face as to religion and is a law of general application.

It is clear, however, that some general laws can burden the exercise of religion every bit as much as laws that are directed specifically at religious activity. As Justice Sandra Day O'Connor stated in her separate opinion in the Smith case, which sharply criticized the Court's ruling:

> [F]ew States would be so naive as to enact a law directly prohibiting or burdening a religious practice as such. Our free exercise cases have all concerned generally applicable laws that had the effect of significantly burdening a religious practice. If the First Amendment is to have any vitality, it ought not to be construed to cover only the extreme and hypothetical situation in which a State directly targets a religious practice.

The reasoning of the Smith decision was also sharply criticized by Justice Souter in his concurring opinion last June in Church of Lukumi Babalu Aye versus Hialeah. Justice Souter urged the Court to reconsider the Smith rule, stating:

> "Neutral, generally applicable" laws, drafted as they are from the perspective of the non-adherent, have the unavoidable potential of putting the believer to a choice between God and government.

In other words, a church denied the right to use wine in a communion service is just as adversely affected if the restriction is brought about by a general prohibition on alcohol consumption as by a specific law banning alcohol in religious services.

The Smith decision has created a climate in which the free exercise of religion is jeopardized. At the Judiciary Committee hearings on this legislation, the Reverend Oliver S. Thomas, appearing on behalf of the Baptist Joint Committee on Public Affairs and the American Jewish Committee, testified as follows:

> Since Smith was decided, governments throughout the U.S. have run roughshod over religious conviction. Churches have been zoned even out of commercial areas. Jews have been subjected to autopsies in violation of their families' faith. * * * In time, every religion in America will suffer.

The Religious Freedom Restoration Act is designed to restore the compelling interest test for deciding free exercise claims. It does so by establishing a statutory right that adopts the standard previously used by the Supreme Court. In essence, the act codifies the requirement for the Government to demonstrate that any law burdening the free exercise of religion furthers a compelling governmental interest, and is the least restrictive means of achieving that goal.

The act creates no new rights for any religious practice or for any potential litigant. Not every free exercise claim will prevail, just as not every claim prevailed prior to the Smith decision.

The bill simply restores the long-established standard of review that had worked well for many years, and that requires courts to weight free exercise claims against the compelling-state-interest test.

The act is supported by a broad coalition of organizations with differing views on many issues of our day, including the National Association of Evangelicals, the Baptist Joint Committee on Public Affairs, the American Civil Liberties Union, Concerned Women for America, People for the American Way, the American Jewish Committee, and the U.S. Catholic Conference. These organizations don't agree on much—but they do agree on the need to pass the Religious Freedom Restoration Act.

I commend my colleague Senator HATCH for his leadership and his commitment to this legislation. We are pleased to be joined by 59 of our colleagues in sponsoring this bill.

President Clinton has endorsed the legislation, and Attorney General Reno has written to express her strong support. The House of Representatives passed the bill by voice vote on the Suspension Calendar in May. I urge my colleagues to support this important and needed legislation.

Madam President, just before we begin the debate of our friend and colleague, Senator REID, on an important provision relating to prisons, I would like to make just some comments on that matter which we will have further opportunity to discuss this evening and perhaps for a brief time tomorrow before the vote.

The guarantee of freedom of religion protected by the first amendment contains no exemptions, and this legislation should contain no exemptions. We would encourage prisoners to be religious. There is every reason to believe that doing so will increase the likelihood that a prisoner will be rehabilitation.

The U.S. Department of Justice through the Bureau of Prisons operates 73 correctional facilities which house more than 84,000 inmates.

Attorney General Reno wrote to the Judiciary Committee to state that an amendment would be unwarranted and that the Senate should approve the bill without an amendment to exempt prisons from the legislation. I would like to read from that letter from the Attorney General:

> Concerns have been expressed that the standard of review of S. 578 will unduly burden the operation of prisons and that the bill should be amended to adopt a standard more favorable to prison administrators when confronted with the religious claims of prisoners. These concerns have been presented by knowledgeable and sincere individuals for whom I have great respect, but I respectfully disagree with their position and urge the committee to approve the bill without amendment.
>
> Prior to 1987, the Supreme Court had not distinguished explicitly between the standard of review applicable to the religious claims of prisoners and those of others. In that year, for the first time, it held that a prison regulation that impinges on an inmate's right of free exercise "is valid if it is reasonably related to legitimate penological interests." *O'Lone* v. *Estate of Shabazz*, 482 U.S. 342, 349 (1987), quoting *Turner* v. *Safley*, 482 U.S. 78, 89 (1987). Thus, the Court had abandoned the compelling interest standard regarding inmate claims only a few years prior to doing so for the general population in *Smith*
>
> Prisons had operated under Sherbert for a number of years before O'Lone and Turner adopted a standard that is plainly less accommodating to the prisoners' exercise of religious rights. During that period, prisoners attempted to gain privileges based on fabricated free exercise claims. Not surprisingly, those types of claims have continued even under the standard of O'Lone and Turner. They will doubtless continue whether S. 578 becomes law or not.
>
> In my view, the four dissenters in O'Lone had the better of the argument. They would have required prison administrators to demonstrate that the restrictions imposed in that case—preventing certain Muslims from attending a religious service central to their faith—furthered a compelling government interest and were no greater than necessary to achieve legitimate penological objectives. This standard parallels that incorporated in S. 578.
>
> Certainly, the strong interest that prison administrators and society in general have in preserving security, order, and discipline in prison will receive great weight in the determination whether the government meets the compelling interest test when there is a claim that exercise of religious rights is burdened and whether it has pursued the least restrictive means of doing so. Activities that are presumptively dangerous or carry a demonstrable likelihood of jeopardizing discipline within a prison will continue to be subject to regulation after enactment of S. 578.
>
> Likewise, prison administrators will retain authority, in many instances, to regulate the time, place, and manner of an inmate's exercise of religion. Restrictions that do not deny inmates the opportunity to engage in otherwise permissible religious practice, but merely require them to pursue such activities within the context of prison life, likely will not substantially burden inmates' free exercise rights and will be permissible.

This is the essential part of the Attorney General's letter—

> I, therefore, strongly urge the Committee to approve S. 578 without amendment.

Similarly a total of 13 State attorneys general have signed a letter expressing their opposition to the Reid amendment.

I ask unanimous consent that that letter be printed at the appropriate place in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF NEW YORK,
DEPARTMENT OF LAW,
New York, NY, October 19, 1993.

DEAR SENATOR: The undersigned Attorneys General support the passage of the Religious Freedom Restoration Act ("RFRA"), S. 578, without amendment.

We oppose Senator Reid's amendment exempting prisons from RFRA and believe that the Senate Judiciary Committee's report language regarding RFRA's effect on prisoner claims strikes a proper balance between the right of free religious expression and the critical need for cost effective security and order in our nation's penal institutions.

Based on past experience with RFRA's legal standard, the bill will neither jeopardize prison security nor produce significant increases in costs. Although prisoner litigation is indeed an enormous and growing problem, free exercise of religion claims are made in only a tiny fraction of these cases. In New York, for example, only 1% of all cases involve free exercise claims, and the percentage of such cases has remained essentially constant in recent years even as Supreme Court decisions were substantially changing the applicable legal standard.

We concur with U.S. Attorney General Janet Reno in advocating adoption of RFRA without amendment.

Sincerely,

Robert Abrams, Attorney General of New York; Hubert H. Humphrey III, Attorney General of Minnesota; James E. Doyle, Attorney General of Wisconsin; Scott Harshbarger, Attorney General of Massachusetts; Larry EchoHawk, Attorney General of Idaho; Roland W. Burris, Attorney General of Illinois; John Payton, Corporation Counsel, District of Columbia; Michael E. Carpenter, Attorney General of Maine; Winston Bryant, Attorney General of Arkansas; Richard Blumenthal, Attorney General of Connecticut; J. Joseph Curran, Jr., Attorney General of Maryland; Dan Morales, Attorney General of Texas; Jeffrey B. Pine, Attorney General of Rhode Island.

STATE OF NEW YORK,
DEPARTMENT OF LAW,
New York, NY, September 13, 1993.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Hon. ORRIN G. HATCH,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATORS KENNEDY AND HATCH: I write to express my support for passage of the Religious Freedom Restoration Act ["RFRA"] without amendment. I applaud your efforts for passage of this important legislation.

The bill you drafted promises to restore religious freedom to its proper place as a cornerstone of our country's best traditions of liberty, equality and faith. In addition, the Senate Judiciary Committee report language regarding RFRA's effect on prisoner claims strikes a proper balance between interests of religious liberty and religious rehabilitation of prisoners, on the one hand, and prison administration, on the other.

The principal assertion advanced by proponents of a prison amendment is that RFRA will lead to a significant expansion of prisoner litigation. This is a serious charge. As Attorney General of New York, the second largest state, I defend prisoner claims against one of the largest and most diverse prison systems in our nation. Prisoner litigation as a whole is a drain on the resources of attorney general's offices, and prisoners bring a significant number of frivolous claims. We would certainly be concerned about a large-scale expansion of such claims.

However, the significant increase in the number of prisoner cases in recent years has not been due to the standard that RFRA seeks to restore. While I believe that something must be done to address the serious problems caused by the explosion of prisoner litigation, this bill will, in fact, have little impact on the number of prisoner claims. Claims dealing with religious exercise constitute only about one percent of all prisoner claims in New York State.

I cannot speak directly for other State Attorneys General, but I am aware that a number of those who signed a May 5 letter endorsing a prison amendment have subsequently indicated, either privately or publicly, that the letter no longer represents their point of view on the issue. I would also point out that, at its Summer Meeting in July, the National Association of Attorneys General considered, but declined to adopt, a resolution endorsing a prison amendment to RFRA. Also, as you know, U.S. Attorney General Janet Reno, whose department administers the Federal prison system and handles all related litigation, has advocated adoption of RFRA without amendment.

I have the greatest respect for the men and women who face the unique difficulties and pressures associated with managing a prison. I also share your conviction in the central importance of religious liberty in our constitutional system. Because I believe that RFRA strikes the right balance between both interests, I applaud your efforts and hope that the Senate acts promptly to pass RFRA without a prison amendment.

Sincerely,

ROBERT ABRAMS.

Mr. KENNEDY. Madam President, I point out there are a number of State attorneys general who feel the other way.

Madam President, if I could yield myself just 3 minutes on the clarifying amendment.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. KENNEDY. I think there is a designated 10 minutes on that, and I would like to yield myself from that time.

The PRESIDING OFFICER. The Senator has 10 minutes on the amendment. If there is no objection, the Senator can use his time.

Mr. KENNEDY. I will proceed for 3 minutes. I thank the Chair.

Madam President, this amendment I will offer on behalf of Senator HATCH and myself is intended to make it clear that the compelling interest standards set forth in the act provides only to Government actions to place a substantial burden on the exercise of substantial liberty. Pre-Smith case law which makes it clear governmental action places a substantial burden on the exercise of religion and must meet the compelling interest test set out in the act.

The act would not require such a justification for every governmental actions that have an incidental effect on religious institutions. The amendment we will offer today is intended to make it clear that the pre-Smith law is applied under the RFRA in determining whether Government action burden under the freedom of religion must meet the test.

Mr. President, I ask unanimous consent that it be in order to consider that clarifying amendment at the present time.

The PRESIDING OFFICER (Mr. CAMPBELL). Without objection, it is so ordered.

AMENDMENT NO. 1082

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. HATCH, proposes an amendment numbered 1082.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 14, insert "substantially" before "burden".

On page 3, line 5, insert "substantially" before "burdened".

On page 3, line 7, insert "substantially" before "burdened".

On page 3, line 9, insert "substantially" before "burden".

On page 3, line 13, insert "substantially" before "burden".

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, let me say a few words about the technical amendment, and if I could talk about the bill itself I would appreciate it.

The distinguished Senator from Massachusetts has said the technical amendment is intended to clarify the compelling interest required by the Religious Freedom Act applies only where there is a substantial burden placed on the individual free exercise of religion.

This is consistent with the case law developed by the Court prior to the Smith decision, as thus stated in the committee report.

It does not require the Government to justify every action that has some effect on religious exercise. Only action that places a substantial burden on the exercise of religion must meet the compelling State interest set forth in the Religious Freedom Restoration Act.

With the permission of the distinguished Senator from Massachusetts, I urge adoption of the amendment.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. HATCH. I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1082) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Utah is recognized for 15 minutes under his control.

Mr. HATCH. Mr. President, I am pleased to join Senator KENNEDY as principal sponsor of the Religious Freedom Restoration Act of 1993. I urge its adoption without amendment.

The Religious Freedom Restoration Act restores to all Americans a fundamental right guaranteed by the first amendment: the free exercise of religion. This act is one of the most significant pieces of legislation in support of religious freedom to every come before Congress. It has the backing of one of the broadest coalitions ever assembled to support a bill before Congress. This coalition encompasses a wide range of religious faiths and an ideological spectrum ranging from the American Civil Liberties Union to the Coalitions for America.

Our Nation was founded, in large part, by individuals fleeing religious persecution and seeking tolerance, safety, and protection in the exercise of their religion. Through the wisdom and foresight of the Founding Fathers, the Bill of Rights was drafted and ratified in the first Congress to protect the rights of individuals in our newly formed Republic.

Our forefathers fully understood the need to protect religious minorities. In the very first amendment to the Constitution, they choose to limit the power of Government and the will of the majority from unnecessarily burdening an individual. The first amendment provides:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;

Recently, in Employment Division versus Smith, the Court departed from well established principles embodied in the first amendment when the Court ruled that any valid State interest would supersede an individual's right of free exercise of religion. In a practical sense, the decision eliminated any real protection for religious exercise whenever a law of general applicability burdens such exercise. In my view, the Smith decision does not adequately protect the religious privileges envisioned by our founding fathers and embodied in the first amendment.

The elimination of the compelling interest standard has led to a string of lower court decisions eroding freedom of religion in a wide variety of areas. To date, the lower courts, relying on Smith, have overridden religious liberty interests in over 60 cases.

For example, in a Minnesota case, *Matter of Welfare of T.K.*, 475 N.W.2d 88 (Minn. App. 1991), county government officials were comfortable in seeking the removal of two minor children from their homes and parents when the minors' parents refused to allow their children to take a standardized test in violation of their religious beliefs. The childrens' mother had been home teaching her children in several subjects including reading, writing, literature, fine arts, mathematics, science, history, geography, health, and physical education. The county government, however, sought and won court approval to remove the children relying on neutral State laws permitting the removal of children determined to be in need of the Government's protection.

In another case, *Greater New York Health Care Facilities* v. *Axelrod*, 770 F.Supp. 183 (S.D.N.Y. 1991), the court summarily rejected challenges to health regulations limiting the service of volunteers in nursing homes despite the fact the services represented a fulfillment of Biblical commandments to honor one's father and mother. Thus, an individual who, because of his strong religious beliefs, desires to volunteer his service to his convalescent parents can be prohibited from doing so. More important, if this legislation is not enacted, an individual would have no basis to challenge Government regulations which infringe on the rights to the free exercise of religion.

This is really an important bill.

In still another case, *Cornerstone Bible Church* v. *City of Hastings*, 948 F.2d 464 (8th Cir. 1991), a court upheld zoning laws excluding all religious organizations from engaging in church-related activities in a city's central business district. The churches' claims which relied on the free exercise clause were summarily dismissed, reaffirming that this clause in the first amendment has been seriously eroded after the Smith decision.

In yet another example of the devastation Smith continues to spread on those dependent on the free exercise of religion, Mr. You Vang Yang suffered a terrible experience when State government officials performed an autopsy on his son despite his deeply held religious beliefs prohibiting the mutilation of the body through an autopsy. Government officials, acting primarily out of medical curiosity, callously ignored the decedent's and his family's firmly held religious beliefs. Once again, after the Smith decision, the victims were left without recourse to challenge effectively the presumptively valid governmental regulations.

Originally, senior district court Judge Pettine ruled in favor of Mr. Yang. In his subsequent opinion, senior district court Judge Pettine explained how the Smith decision left him powerless to protect those asserting their religious liberty. He expressed his deep regret that the Employment Division case mandated the recall of his prior opinion. He stated:

> My regret stems from the fact that I have the deepest sympathy for the Yangs. I was moved by their tearful outburst in the courtroom during the hearing on damages. I have seldom in twenty-four years on the bench, seen such a sincere instance of emotion displayed. I could not help but also notice the reaction of a large number of Hmongs who had gathered to witness the hearing. The silent tears shed in the still courtroom as they heard the Yangs testimony provided stark support for the depth of the Yangs' grief.

That is a judge speaking, who had no choice, because of the Smith decision, other than to rule the way he did in his opinion.

This bill is important to our country because it restores to every American the precious balance conceived by our Founding Fathers between the interests of our government and the religious liberties of our citizens. It is important because it restores protection to individuals like the Yangs and others who have suffered needlessly. This bill will restore religious freedom to every American whose free exercise of religion has been infringed upon unnecessarily by our Government.

Mr. President, this is an important bill. This bill involves the rights of every American citizen.

The Smith case was wrongly decided and the only way to change it is with this legislation.

Mr. President, I hope this legislation is not amended in any way, because religious freedom ought to be encouraged in this country. It is the first freedom mentioned in the Bill of Rights. And, frankly, that is what Senator KENNEDY and I are arguing for here today with a wide, vast coalition across the country that believes in restoring religious freedom to the point where it was before the Supreme Court decision in Smith.

Mr. President, I reserve the remainder of our time. We are prepared to move to the amendment of the distinguished Senator from Nevada.

Mr. REID. Mr. President, how much time do the proponents of the bill have?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes 56 seconds, and the Senator from Utah has 7 minutes and 12 seconds.

There are 2½ hours on the Reid amendment.

AMENDMENT NO. 1083

(Purpose: To prohibit the application of this Act, or any amendment made by this Act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Nevada [Mr. REID], for himself, Mr. SIMPSON, Mr. BRYAN, Mr. SASSER, Mr. MATHEWS, Mr. BURNS, and Mr. HELMS, proposes an amendment numbered 1083.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of the bill, add the following:
>
> **SEC. . CONSTRUCTION.**
>
> Notwithstanding any other provision of this Act, nothing in this Act or any amendment made by this Act shall be construed to affect, interpret, or in any way address that portion of the First Amendment regarding laws prohibiting the free exercise of religion, with respect to any individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility (including any correctional, detention, or penal facility that is operated by a private entity under a contract with a government).

Mr. REID. Mr. President, this amendment is being offered on my behalf, that of Senator SIMPSON, Senator BRYAN, Senator SASSER, Senator MATHEWS, Senator BURNS, and Senator HELMS.

First, let me say I am proud to be a cosponsor of this important legislation. I congratulate the authors and the committee for creating a fine bill. This bill will reestablish the judicial test regarding any Federal or State law impacting the freedom of religion. That test is that the Government must put forth a compelling interest, narrowly tailored, regarding any rule, regulation of law impacting the free exercise of religion.

The Government must also show that this rule is the least restrictive alternative. In society at large, this is as it should be.

I am concerned, however, because I have come to realize last year in our Federal system we had 48,538 criminal cases filed. I also learned that in that same Federal system we had 49,939 civil cases brought by prisoners. We had more cases filed by prisoners than the Government filed cases against criminals. I am concerned the criminals are ahead in our Federal court system by 1,401 cases.

What my amendment would do is recognize that the situation in prisons is different. Prisoners should be treated differently.

I have become concerned with what this bill will mean in a prison setting. Putting prisons under the compelling State interest test would permit the courts to second guess prison officials on virtually every decision of prison administration—virtually every decision. The prisoners brag about how many lawsuits they file. There are some jailhouse lawyers who have filed hundreds and hundreds of these cases.

Inmates are litigious by nature, especially with the new rules. They have to be supplied with law libraries with the ability to perform legal services. So applying the compelling State interest test would only exacerbate an already, I believe, deplorable situation. Prisoners would challenge every aspect of their incarceration by merely stating their desires are part of their religious expression, and the lawsuits will be more easily won than in the past.

Courts will no longer be able to dismiss cases by summary procedures, for example, a motion for summary judgment. Rather, there will have to be full-blown evidentiary hearings to determine whether the prisons have any other means available to accommodate the inmate.

This is going to cause significant financial hardship to a State like Nevada, a State like Colorado, a State like New Hampshire—any State. Already prisoner litigation is the most rapidly increasing type of litigation in our whole country and makes up as much as 40 percent of the docket of some Federal district courts.

Let me give a few examples to the Senate to illustrate some of the problems faced by prison administrators when religion is used as a means of obtaining special privileges or exemptions from the requirement of neutral prison facilities and regulations.

Mr. President, I ask I be advised when I have used 30 minutes.

The PRESIDING OFFICER. The Chair will so advise the Senator.

Mr. REID. In the case of Lawson versus Dugger, the Temple of Love, founded by Yahweh Ben Yahweh—he was recently convicted of conspiracy to commit murder and racketeering. He attempted to send this Temple of Love's racially inflammatory literature into the State prison system by asserting it was religious material, protected by the first amendment. There were gruesome cartoon illustrations of African-Americans being mutilated, tortured, and generally oppressed by whites. And what accompanied this was a text preaching racial hatred and the need for separation, which formed the basis of the religious tracts contained in this material.

The U.S. District Court for the Southern District of Florida, applying the compelling State interest test and the strict scrutiny analysis, ordered Florida to provide this literature to the inmate population.

Hard to comprehend, but true. The final outcome of this case is still pending because it is on appeal. Obviously the passage of this bill, without my amendment and that of Senator SIMPSON and others, will affect the final outcome.

In Indiana a religious group, at Westville Correctional Center, has demanded to meet in groups combining inmates who have been separated for security reasons. Though in an ideal world we would say the congregations should be able to worship together, there are certain very bad people in prisons that should not be in the same room together.

I had a case once—I can still remember the name of it—involving a murder-by-hire case. In that case we brought inmates from the Nevada State prison, from Carson City, to Las Vegas to testify. There were two of them, so bad that they had to testify on the witness stand shackled, arms and legs.

There are certain people in our prison system that for lack of a better word are just bad people. This religious group wanted to meet in groups saying they had no right to separate inmates for security reasons. It is just a fact of prison life; RFRA will create this dangerous situation unless we amend this bill.

In Tennessee, four white inmates convinced prison officials that they were converted Moslems, thereby gaining assignment to a special scheduled labor line the prison had created just to accommodate Moslems. This allowed outside accomplices to place guns at the work site, which allowed the inmates to escape, where they killed a nearby resident.

I am going to talk about a couple of cases here involving the Moslem religion. Having done this, I am only doing this because these are some of the reported cases. I want the record to be spread—I have the highest regard for those who follow that faith. My manager of my Las Vegas office until just a short time ago was a Moslem, a man who is devoutly religious, a tremendous family man, a person whom we could all learn a lot from as to morality. He left my office and went to the State to be its drug czar and now has a very important job with the State in a labor program.

So, even though I mention a number of reported cases dealing with people who practice the Moslem religion, it has nothing to do with my thinking that the religion is not a good one. I believe it is a wonderful religion.

Recently we watched the life threatening situation in Lucasville, OH, where some Moslem inmates demanded, as a condition to the release of their hostages, an exemption from the requirement they be tested for tuberculosis, asserting religious reasons. We cannot allow that to happen. Prison is a closed society with prisoners living very close. They must be tested for contagious disease. Testing is absolutely, unequivocally necessary. Such a group might win a case like this if this bill is adopted without my amendment.

All I am saying is we have to treat prisoners differently than the general populous. I do not think that is really out of line.

Under the least restrictive means clause of RFRA, such a group might be able to win other costly arrangements to separate them from the rest of the prison population. Not only would that be costly to the State, but creates a dangerous situation with jealous prisoners seeing others get special privileges. It is the prisoner who can think up the religion of the week or the day that gets treated the best.

I could go on and on with all kinds of other cases. The cases only get more bizarre, and under RFRA they would become even more bizarre and more winnable by the inmates. We have had all kinds of cases in Nevada.

The one I think I should report to the Senate is, some man said he was in prison for child abuse but he should not be because it was his religion. He believed in abusing children. That was his religion and they should leave him alone.

Suits brought by prisoners in my State have already cost our State over $1 million a year and the price is going up. These are only the cases dealing with religion.

Passage of this bill without my amendment would increase the cost across this country. Prisons already do a good job of accommodating Jewish and Moslem prisoners by providing pork-free meals, and other accommodations similar to this have been made. For example, several prisons have built sweat lodges for native American inmates. The reason for that is they can do it; it is felt it is the right thing to do. So we have, especially in the western part of the United States, a number of prisons that have sweat lodges which is part of the exercise of religion of some native Americans.

A case in 1989, when an orthodox Jewish leader was put in jail in Rochester, MN, demonstrates how far prison systems will go to accommodate religious practice. Talmudic law, according to this Jewish leader who was in prison, forbids carrying anything outside the home on the Sabbath, including toiletries and food. So prison officials sold part of the prison to this Jewish inmate for $1, making it technically his home and allowing him to carry his toiletries to his restroom.

This is how far prison officials have gone to accommodate people's religion. But where do we draw the line? Is every prisoner thereafter entitled to his own room that he purchases? Where do we draw the line? I do not believe that the test should be whether the request is reasonable or not. I do not believe the authors of this bill intend the consequences that I have outlined briefly.

The courts, for the most part, have long given great deference to prison officials when it comes to constitutional rights of prisoners. My amendment is supported by every warden, every prison director in every State in the Union. I ask unanimous consent that a letter signed by all 50, including those from the Virgin Islands, all 50 State prison directors be printed in the RECORD in support of this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ILLINOIS DEPARTMENT
OF CORRECTIONS,
Chicago, IL, September 17, 1993.

Hon. HARRY REID,
U.S. Senate,
Washington, DC.

DEAR SENATOR REID: As directors and commissioners of every state prison in the United States, the District of Columbia, the United States Virgin Islands, and various jail systems throughout the country, as well as Norman Carlson, former Director of the

Federal Bureau of Prisons for seventeen years and J. Michael Quinlan, Director from 1987–1992, we are writing to thank you for proposing the amendment of Senate Bill 578 (the Religious Freedom Restoration Act, RFRA). The undersigned prison and jail officials represent systems which employ over 305,000 people and have custody of nearly 834,000 incarcerated persons.

This bill will have a devastating affect on prison safety and security at an enormous fiscal price, unless the Reid amendment is adopted. Rather than a "restoration," RFRA would dramatically change the law with respect to free exercise claims brought to challenge prison regulations. A dramatic change in the legal standard applied in prison litigation will necessarily result in a dramatic increase in the amount and cost of litigation and will have a deleterious impact on security and limited prison resources.

During consideration of this bill in committee, not one single prison administrator was given an opportunity to testify as to the substantial negative impacts of imposing a "compelling state interest" standard and "least restrictive means" test on local, state and federal correctional and detention facilities. Some proponents of the bill argue that the "compelling state interest" standard will not be a difficult standard for prison officials to meet. In the absence of any testimony from individuals with experience in this area, it is difficult to imagine how these proponents can reach this conclusion.

More importantly, this argument ignores the fact that imposition of the "least restrictive means" test will subject the day-to-day judgment of prison officials to an inflexible strict scrutiny analysis by federal courts which are ill-equipped to administer the security of our prisons and jails. This test does not allow for a balancing of individual rights and institutional needs. Rather, it elevates asserted individual inmate rights over the operational needs of prisons and the rights of the inmate population as a whole. In addition, litigation under this test will impose unnecessary costs on the taxpayers of our states and ignores the realities of prison management.

While we applaud your efforts to extend protection to legitimate religious groups in society at large, we ask that you recognize the unique nature of the closed society of prisons, as the United States Supreme Court has long done. The legal standards promulgated by the Supreme Court in the prison context should be preserved. The existing standard requires prison administrators to accommodate the religious practices of inmates in our care and custody. However, it permits individual rights to be balanced against the needs of the prison community as a whole and the overriding need for security and order.

Leaders of illicit prison organizations are sophisticated individuals who will readily manipulate the new standards RFRA would create to perpetuate illegal and dangerous activities under the guise of "religion."

Because of our responsibilities and experience as prison administrators, we are aware that there are thousands of gangs and racial supremacist groups housed in this country's prisons, who claim to be members of religious organizations. Often, we have faced attempts to spread racial hatred and incite racial violence through "religious" materials. Further, religious claims have been used to attempt to gain special privileges. Inmates even have devised their own new religions with tenets tailored to obtain special favors and circumvent security regulations. However, courts are extremely loathe to find that a group claiming to be a religion is, in fact, not a religion. Courts have found that the Church of the New Song (CONS for short), the El Rukns, Satanic cults, and other groups are "religious." Thus, each restriction on their activities will need to be the "least restrictive" and supported by compelling reasons.

If prisons are not exempted from RFRA and the existing legal standard preserved, such groups will be able to conduct congregate services, distribute hate literature, organize, and conduct and promote activities which are now banned. Activities including drug trafficking, racial violence, and gang organizing would be made easier under RFRA. These activities negatively impact on prison order as well as the free community.

Correctional facilities are operating with diminished economic resources and the inmate population is exploding. Prison litigation is already placing a tremendous drain on those limited resources. While inmates litigate at no or little cost to themselves, taxpayers are required to subsidize the filing fees of inmates, pay for paper, law books, legal assistance, postage, Xeroxing, and witness production for prisoners' suits. Out of already strained prison budgets, we must pay for transportation of witnesses, additional security and transportation of inmates to court appearances, legal assistance for correctional officers, and significant amounts of lost staff time spent responding to inmate claims, most of which are spurious. Prison officials cannot afford to divert limited resources to litigate the staggering number of inmate cases which would be spawned by creating a new cause of action, under a more stringent standard, as RFRA proposes to do. In addition, we may be forced to re-litigate all of the cases in which we have already prevailed under the existing constitutional standard.

RFRA would provide inmates with rights even greater than the Constitution guarantees. RFRA would be used by inmates to cripple correctional authorities' efforts to contain illegitimate organizations and to restrict their nefarious activities. Because of the tremendous impact on security and state and local governments' finances, we urge you to support the Reid amendment and preserve the existing legal standards enunciated by the Supreme Court in the prison area.

Sincerely,

Norm Carlson, Director, Federal Bureau of Prisons (Ret.), 1970–1987.

J. Michael Quinlan, Director, Federal Bureau of Prisons (Ret.), 1987–1992.

Howard A. Peters III, Director, Illinois Dept. of Corrections Inmate population: 33,500.

James H. Gomez, Director, California Department of Corrections. Inmate population: 116,200.

Larry Norris, Acting Director, Arkansas Dept. of Corrections. Inmate population: 7,900.

Thomas A. Coughlin, Commissioner, New York Department of Corr. Services. Inmate population: 64,500.

Kenneth L. McGinnis, Director, Michigan Dept. of Corrections. Inmate population: 39,300.

Harry Singletary, Secretary, Florida Dept. of Corrections. Inmate population: 51,500.

Andy Collins, Director, Texas Institutional Division—TDCJ. Inmate population: 60,400.

Allen L. Ault, Commissioner, Georgia Dept. of Corrections. Inmate population: 28,000.

Reginald Wilkinson, Director, Ohio Dept. of Rehabilitation and Corrections. Inmate population: 39,400.

Joseph D. Lehman, Commissioner, Pennsylvania Dept. of Corrections. Inmate population: 25,800.

Franklin Freeman, Secretary, North Carolina Dept. of Corrections. Inmate population: 21,100.

Richard A. Lanham, Sr., Commissioner, Maryland Division of Corrections. Inmate population: 19,900.

Edward W. Murray, Director, Virginia Dept. of Corrections. Inmate population: 17,000.

William H. Fauvar, Commissioner, New Jersey Dept. of Corrections. Inmate population: 23,700.

Thomas Herring, Commissioner, Alabama Dept. of Corrections. Inmate population: 18,238.

Samuel A. Lewis, Director, Arizona Dept. of Corrections. Inmate population: 17,200.

Parker Evatt, Commissioner, South Carolina Dept. of Corrections. Inmate population: 17,100.

Richard Stalder, Secretary, Louisiana Dept. of Public Safety & Corrections. Inmate population: 16,500.

H. Christian DeBruyn, Commissioner, Indiana Dept. of Corrections. Inmate population: 14,800.

Christine Bradley, Commissioner, Tennessee Dept. of Corrections. Inmate population: 11,350.

Chase Riveland, Secretary, Washington Dept. of Corrections. Inmate population: 10,000.

Dora Schriro, Director, Missouri Dept. of Corrections. Inmate population: 16,337.

Walter B. Ridley, Director, Washington, D.C., Dept. of Corrections. Inmate population: 12,000.

Larry DuBois, Commissioner, Massachusetts Dept. of Corrections. Inmate population: 10,000.

Jack Lewis, Commissioner, Kentucky Dept. of Corrections. Inmate population: 10,000.

Eddie Lucas, Commissioner, Mississippi Dept. of Corrections. Inmate population: 9,670.

Frank Hall, Director, Oregon Dept. of Corrections. Inmate population: 6,500.

Ron Angelone, Director, Nevada Dept. of Prisons. Inmate population: 6,400.

Sally Chandler Halford, Director, Iowa Dept. of Corrections. Inmate population: 4,700.

Patrick Fiedler, Secretary, Wisconsin Dept. of Corrections. Inmate population: 8,500.

Gary Stotts, Secretary, Kansas Dept. of Corrections. Inmate population: 6,200.

J. Patrick Gallagher, Commissioner, Philadelphia Prison System. Inmate population: 4,900.

Robert J. Watson, Commissioner, Delaware Dept. of Corrections. Inmate population: 4,300.

J.W. Fairman, Executive Director, Cook County Dept. of Corrections. Inmate population: 9,141.

Eloy Mondragon, Secretary, New Mexico Corrections Department. Inmate population: 3,500.

George ———, Director, Hawaii Department of Public Safety. Inmate population: 2,674.

Ari Zavaras, Executive Director, Colorado Dept. of Corrections. Inmate population: 7,535.

James Gamble, Administrator, Montana Corrections Division. Inmate population: 1,521.

O.L. McCottar, Director, Utah Dept. of Corrections. Inmate population: 2,110.

Larry Fields, Director, Oklahoma Dept. of Corrections. Inmate population.

Orville B. Pung, Commissioner, Minnesota Dept. of Corrections. Inmate population: 4,000.

George A. Vose, Jr., Director, Rhode Island Dept. of Corrections. Inmate population: 3,000.

Harold Clarke, Director, Nebraska Dept. of Corrections. Inmate population: 2,700.

N.E. Pishon, Acting Commissioner, New Hampshire Dept. of Corrections. Inmate population: 1,700.

Richard A. Vernon, Director, Idaho Dept. of Corrections. Inmate population: 2,400.

J. Frank Prewitt, Jr., Commissioner, Alaska Department of Corrections. Inmate population: 2,878.

Nicholas Thin, Commissioner, West Virginia Department of Corrections. Inmate population: 2,000.

Elaine Little, Director, North Dakota Dept. of Corrections. Inmate population: 1,500.

Lynne DeLano, Secretary, South Dakota Dept. of Corrections. Inmate population: 1,550.

Judith Uphoff, Director, Wyoming Dept. of Corrections. Inmate population: 900.

John Gorczyk, Commissioner, Vermont Dept. of Corrections. Inmate population: 900.

Larry R. Meachum, Commissioner, Connecticut Dept. of Corrections. Inmate population: 12,200.

Donald L. Allen, Commissioner, Maine Dept. of Corrections. Inmate population: 1,519.

James E. Aiken, Director, U.S. Virgin Islands. Inmate population: 502 local, 144 mainland; Total 646

Mr. REID. Mr. President, as I said, the courts have long given great deference to prison officials when it comes to constitutional rights of prisoners. There are three cases that provide the test currently applied to the prison situation: The Turner case, the O'Lone case, and the Thornburgh case. All this amendment does is make these cases the law of the land. Prisoners still have rights. They still can exercise their religion, but the standard set is now one already in law. What the bill would do is have that evaporate, start all over, and that is wrong. We should go with what we already have.

These cases establish a four-part test for evaluation of prison regulations which allegedly infringe upon inmates' constitutional rights. They are:

First, a logical connection between the correctional institution's regulation and the legitimate Government interest asserted as justification for the regulation.

Second, if alternative means of exercising the right are available, more deference is owed to prison officials when gauging the validity of the regulation than to the prisoners.

Third, consideration must be given to the impact that accommodation will have on prison personnel, other inmates, and on allocation of prison resources.

And fourth, the absence of ready alternative means to fully accommodate inmates' asserted constitutional rights is evidence of the reasonableness of the regulation.

Four simple standards, and that is all this amendment does is maintain these four standards. I am at a loss as to why the authors of this bill will not accept this amendment. Senator SIMPSON filed a minority report which I think was very lucid and pointed, and I think the committee should have followed him. I think this amendment will be adopted by the Senate because it is the right thing to do.

This standard that I have established in my statement to the Senate tonight and also the amendment I offered gives prison officials clear guidelines on which to base regulations. Under these guidelines, prison regulations which impact on the exercise of first amendment rights will pass constitutional muster if they are—and this is a key phrase—"reasonably related to legitimate penological interests." Very simple.

If these Supreme Court decisions are overturned by this legislation—and this is the stated purpose in the committee report—these clearly stated guidelines will no longer exist. My amendment contains these clearly articulated guidelines in the prison situation by stating that it is not the intent of this legislation to overturn the three Supreme Court cases I have mentioned.

The "reasonably related to penological interests standard," which my amendment maintains, is appropriate in the prison context, due to the closed nature of a society where prisoners live. In prison, the balance between the State's interest and the individual's rights must consider factors far different than those considered in society at large. For instance, drugs, violent behavior, gangs, racism, and bigotry are much more pernicious in prison. Inmates are unable to walk away or avoid offensive conduct. Jews, Catholics, Muslims, white supremacists, Protestants, cultists of all kinds are packed together in close quarters, very close quarters.

An incident that happened in a prison in Tallahassee, FL, demonstrates how heated religious issues can get in close quarters of a prison. Mr. President, a group of inmates formed a pagan religious group which worshipped the Sun and Moon and held elaborate rituals at the vernal and autumnal equinox. They requested a round wooden altar, a sword, and a naked woman to dance in the moonlight.

You will have to admit this religion is interesting, to say the least. Prison officials refused the sword and the woman, but they agreed to the altar and had the prisoners in the woodshop build it. But it turned out that the inmates building the altars were fundamentalist Christians, who decided to hide a Bible in the altar's base. After several rituals, the pagans discovered the Bible and a riot ensued.

This shows that inmates' individual rights must be balanced against those of the prison community as a whole and must yield where security and order reasonably demand.

In Turner, one of the cases my amendment maintains, the Supreme Court summarized the impact of holding corrections to the "compelling State interest" test and the "least restrictive means" standard:

> Subjecting the day-to-day judgments of prison officials to an inflexible, strict security analysis would seriously hamper their ability to anticipate security problems and to adopt innovative solutions to the intractable problems of prison administration. The rule would also distort the decisionmaking process, for every administrative judgment would be subject to the possibility that some court somewhere would conclude that it had a less restrictive way of solving the problem at hand. Courts inevitably would become the primary arbitrators of what constitutes the best solution to every administrative problem, thereby unnecessarily perpetuating the involvement of the Federal courts in the affairs of prison administration.

RFRA establishes the same standard for everyone, including prisoners. That is what I object to, and that is what my amendment would resolve. Though incarceration does not terminate the free exercise of religion, it is necessarily restricted. That is not asking too much. According to O'Lone, another of the cases my amendment maintains, these restrictions arise from incarceration itself and from valid penal objectives, including deterrence of crime, rehabilitation of prisoners, and institutional security. The committee report clearly states that it intends to overturn the O'Lone case. I object to that. My amendment would correct that. Remember, we are talking about last year the prisoners being ahead. They are ahead by 1,401 cases. We have 48,538 cases filed against prisoners, against criminals, but the prisoners beat us. They filed 49,939 civil cases in the Federal court system. We have to put a limit to this and give the court some direction and guidelines.

According to the standards of O'Lone, we know what they are, we can follow what they are, and it should be maintained in law.

In 1940, the Supreme Court held in Cantwell that although the first amendment guarantee of free religious belief is absolute, the free exercise of religion is necessarily subject to regulation for the protection of society. There can be no better illustration of this than the prison situation.

Again, in O'Lone, the Supreme Court stated that the right to free exercise of religion does not terminate at the prison gates but is necessarily restricted due to one's incarceration.

As stated by Mary Schnabel in an article in the Willamette Law Review, subjecting prison regulations to the same high standard of review as the laws generally applicable outside correctional institutions is impractical and contrary to two decades of case law.

I could not agree more with this Law Review article.

So I am asking the Senate tonight to not do that. We must recognize incarceration is a special situation. We must keep in mind that my amendment does not take away from prisoners the right to free exercise of religion. It merely maintains the status quo which has been long established by case law.

The intent of the amendment is to head off the rapid increase in religion-related litigation that prisoners will bring if the bill passes without amendment. Whether the suits are frivolous or not, they still take up the court's time and cost the taxpayers money. This amendment is supported by all 50 State prison directors. It is supported by a majority of the State attorneys general. It is supported by the American Federation of State, County, and Municipal Employees, and it is supported by many, many Governors.

Mr. President, why send an invitation to prisoners for more suits? Passing RFRA without my amendment would just be another unfunded mandate for the States.

I reserve the remainder of my time. Prior to doing so, though, I would like to commend and congratulate and applaud the Senator from Wyoming, who is a member of the Judiciary Committee.

As I indicated before he came to the floor, the minority report which was filed out of the Judiciary Committee was a very fine piece of work, an I am proud to join with the Senator from Wyoming in sponsoring this amendment.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. SIMPSON] is recognized.

Mr. SIMPSON. Mr. President, now the item of business before the floor is the amendment of the Senator from Nevada.

The PRESIDING OFFICER. That is correct.

Mr. SIMPSON. I am a cosponsor of that amendment with the Senator from Nevada and I will now speak on that amendment.

Mr. President, this is very interesting business, this issue of the restoration of the religious freedom. The Religious Freedom Restoration Act—with a name like that, how can you possibly turn your back on it?

I had serious concerns on it when it came before the Judiciary Committee. I continue to have the most grave concerns about both the bill's scope and its potential breadth, and its impact, if it is enacted into law. I commend my friend from Nevada on his amendment. This is a fascinating place, we are adversaries one day, and allies the next. That is what makes it such a unique and remarkable institution. I do not think laymen understand that. But certainly anyone who has legislated understands that. That is why it is a pleasure to work with my colleague, Senator REID, and to join him on this amendment.

I hear clearly the arguments about this bill. But I am still not convinced in any way that Congress should properly be inserting itself into the process of judicial review of constitutional challenges to State criminal laws even in an area as vital to our way of life as the freedom to exercise our religion.

There are a couple of important points to discuss. I hope someone out there will hear me. I think my colleagues are perhaps not attentively listening to the remarks on the floor at the present time.

Let us remember that the underlying issue of the Smith decision which created the Supreme Court decision was Oregon's criminal law, which prohibited the possession and use of peyote, with no exception for legitimate religious use—even possession by members of the Native American church.

I would add that I have notified my fine native American constituents, the Shoshone Tribe, and the Arapaho Tribes of Wyoming, that I would indeed support a statute properly constructed creating an exemption for the religious use of peyote.

I am sensitive to their concerns on that issue, always have been. I am ready to support such an appropriate bill. I have relatives who worked on the Shoshone reservation, my grandmother's brother married a full-blooded Shoshone. In my family, Richard Brunett, a native American, and I share a common great grandfather. These are very sensitive things to me. But we are not talking about that here.

The strangest part of our work here is that we do things, you either kill or pass a bill based on a death blend—I have said this about 150 times—a death blend of emotion, fear, guilt, or racism. What a poor way to do the Nation's business.

I support religious freedom. Who does not? I always have. Any thoughtful person does. Yet, I have serious doubts about this bill.

So now not only do we have a death blend of guilt, fear, emotion, and racism, now we can add the misuse of religion to the list.

The Religious Freedom Restoration Act, RFRA—despite its lofty title—has much less to do with the historical and constitutional concepts of religious freedom than with the creation of new rights—ones that could prove particularly helpful and useful to hardened criminals and prisoners. It would, therefore, deeply frustrate prison officials, prison discipline, and the courts.

Rather than protecting religious freedom, RFRA would create another series of rights, private rights that would ignore generally applicable criminal law and otherwise reasonable restrictions on behavior in the prison environment.

For example: Under the proposed legislation prisoners may be able to conduct animal sacrifices in the name of religious freedom. We are beginning now to hear from the animal rights people. They have finally entered the realm of recognition in what we are doing here. We certainly have heard from the prison administrators who have been fully aware of what is happening here.

If I am totally over the wall on this one, then six Justices of the U.S. Supreme Court must be just as wrongheaded and misguided as I am. For that was the vote in the Smith decision, 6 to 3.

Key law enforcement personnel, whose duty it is to be sensitive to prisons, share my concerns about this law. Half of the attorneys general of the United States, including Wyoming's own fine attorney general, Joe Meyer, a Democrat, not of my particular political faith, but a man for whom I have great respect and regard, sent me a letter outlining their fears.

I heeded their views in my vote. So it is a great pleasure to join with Senators REID, BRYAN, SASSER, MATHEWS, and BURNS, to exempt State and Federal prisons from the bill's application. That will remove a very significant budget and prison security impact on our Federal, State, and local criminal justice systems imposed by the bill. Pursuant to the amendment, I expect that other uses of rituals disruptive to prison management will not be allowed in prisons, and the courts will not overrule the prison administrator's prohibition on such behavior.

I think we want to remember that what we are talking about here is a very narrow issue. We are talking about legislation which will make it possible for litigants of many different religious beliefs to challenge these State and Federal laws that somehow burden some of the acts that are engaged in as part of their unique and individual religious beliefs. We must always be mindful that we are not concerned in any way here with the Supreme Court ruling addressing restrictions or regulation of beliefs. We are talking about acts. That is a crucial distinction that was missed in Judiciary, and it was obviously missed on this floor in many other issues raised by the legislation.

I have many, many questions. In committee, I did not delay action, but I am certainly opposed to it. I was the only one that voted against it in Judiciary, and since then, people around the country have awakened from their slumbers with regard to at least this amendment.

We have an extraordinary array of State attorneys general and prison administrators, who were never consulted nor present at the single hearing—that is all there was, a single hearing. While I am not aware of whether any of these prison officials had the opportunity to give testimony. I do not believe the prison officials really were allowed to be involved in the issue. I do not think people had the benefit of their thoughtful views. I said at the time in the Judiciary Committee that I thought another hearing was in order. But remember the distraction here—the Smith case involved a law which prohibited an act not a belief, and that prohibition burdened the exercise of a religion.

If the intent of this legislation was to require strict scrutiny—an almost insurmountable burden of proof—of laws which prohibit acts in furtherance of a religious belief, why does the legislation not say that? It occurs to me that this language—the burdening of the exercise of religion—would serve to elevate an act, even a repugnant act, to that of a protected belief or a thought. That is certainly a far, far ranging and weird interpretation. But there are other religious followers who have acts as part of their rituals which are considered equally important.

Consider, if you will, a group of people who happen to practice Satanism and believe they can only communicate with their deity through animal sacrifice. It occurs to me that a law of general applicability prohibiting cruelty to animals would be easily challenged under this legislation. I think it would, without question. Either that, or there would have to be an exception written into those laws for satanic practice.

It is easy to envision a great many situations where regulations that our society has always accepted could be called into question under this legislation. Prisoners could demand such things as specially prepared food; the right to pray three times a day; certain types of clothing—indeed the list is endless. Likewise, the military could be challenged to adopt special practices for preparation of food, opportunities to pray on various different sabbaths, clothing, not to mention the extreme situation of an individual, for whatever reason, who wanted to engage in a practice involving a ritual—an act—that would be repugnant, offensive, or disruptive to a majority of observers.

So I shared those views, and I thought—and still think—we should proceed very carefully and, of course, the arguments for the passage of the bill are sometimes often so shrill—that indeed we must correct this hideous and extraordinary thing "in the interest of justice" and so on.

But let us just take a quick review of the history. Fifty years ago, the U.S. Supreme Court ruled that the Government could restrict a prison inmate's acts in furtherance of a religious belief if the Government regulation served a legitimate prison interest. The RFRA would overrule this clear directive and elevate this inmate's claim to the much higher standard of review of "compelling State interest and least restrictive means." This sounds to the laymen like head-of-the-pin stuff, and it should because it is bizarre.

This means that prison administrators would be required to adjust current practices in order to accommodate disruptive and even totally bizarre activities by inmates if these "acts" were couched in terms of a religious exercise.

There are so many examples of what happened in prisoner litigation, when the RFRA type standard review has been applied. Here are a couple. In Florida —do not miss this one—an inmate convicted of racketeering and conspiracy to commit murder sued the prison to permit him to distribute racially inflammatory literature within the State prison system. I think my good colleague from Nevada touched on this. He presented this as a religious expression by the Temple of Love, which he had founded. His literature included gruesome cartoons of African-Americans being mutilated, tortured and oppressed by whites. Using the standard of review that this remarkable piece of legislation would now require, the Florida District Court ruled that this material was protected as religious speech.

In other States, prisoners have sued prison officials under the cloak of religious freedom in order to promote activities such as racial and ethnic genocide, witchcraft, Satanism. I understand that followers of both witchcraft and Satanism engage in animal sacrifice. I am not totally aware of some of the aspects of that religion, but I have gathered that.

In Wyoming, an inmate of Asian ancestry—do not miss this one—in the Wyoming penitentiary, who is considered by prison officials to be one of the highest escape risk prisoners at Rawlins, WY, claimed to be a member of an American Indian religion and demands a religious right to participate in a sweat lodge ceremony outside of his maximum security confines. There is a reason for that. The sweat lodge is located at the fringes of the penitentiary. That is just where this person would like to be—near the fringes—because he has already had eight violent escape attempts to his credit. Some escapes were from the Federal facilities at Marion and Levenworth.

There are others in Rawlins, WY, who are claimed to be Odinists. I am not familiar with the Odinists' religion, but that is a right to firepits, sheepskins, and lances.

These are not fanciful or imagined worst case scenarios, but rather are factual cases that have been filed by inmates and considered by the courts and by prison administrators. I became very concerned that RFRA will add even greater credibility and likely constitutional sanction to these types of claims.

So all may understand, so that you do not miss how we got here and what the Supreme Court did by a 6–3 decision, remember that this bill, this misguided bill, was drafted solely to overrule the U.S. Supreme Court decision in a case which held—do not miss these facts, because it was narrow—that unemployment benefits could be denied to two individuals in Oregon named Smith and Black. The two were dismissed from their jobs with a nonprofit drug rehabilitation organization because they took part in a peyote ceremony with a native American church of which they are a member. This was a violation of the written terms of their employment—that they would abstain from the use of drugs or alcohol. There was no Oregon State criminal law exemption for religious use and possession of peyote. If you do it, you are guilty. So they were fired and then they applied for unemployment compensation benefits.

Their claim was denied by the State. They appealed that decision to the Oregon Court of Appeals, which ruled in their favor. The State of Oregon then appealed that decision to the state Supreme Court where Smith and Black won again, and that State appealed the decision to the U.S. Supreme Court in which a 6-to-3 decision in 1990 ruled in the State's favor and against Smith and Black. And in the wake of that action RFRA was born.

I will stick with the U.S. Supreme Court.

So these are some of the things I wanted to share with you with regard to this measure.

I join with my colleague from Nevada. I think the amendment, which exempts prisoners from the bill's application, removes the significant budget and prison security impacts on the Federal, State, and local criminal justice systems imposed by the bill.

Who would not agree that prisoners do and must have first amendment rights, including the right to exercise their religion. But there are limits to those rights. Numerous State attorneys general, including Wyoming's own, the correctional directors of all 50 States, Norman Carlson, the former Director of the Federal Bureau of Prisons; J. Michael Quinlan, the former Director of the Federal Bureau of Prisons; the American Federation of State, County, and Municipal Employees, which represents correctional officers and other prison personnel, and the National Sheriffs' Association support totally this amendment to exempt prisoners. Prison interests should be given considerable deference. My friend from Nevada touched on that. Prison authority should not be required to accommodate practices which significantly interfere with the security and operation of the prisons.

At a time when each State and Federal jurisdiction in the country is faced with overcrowded prison facilities and an unrelenting barrage of inmate lawsuits, this bill would allow prison inmates to sue prison administrators with greater frequency and, obviously, greater success. Corrections administrators state that prisoners who hear that the standard now will be lowered will use the opportunity to bring lawsuits to manipulate the system to get special benefits.

Mr. President, I ask unanimous consent that a letter from the Utah Department of Corrections, dated August 5—and that is in there for the benefit of my colleague, the Senator from Utah—and a letter from Frederick Hess, former U.S. attorney for the Southern District of Illinois—for my other colleague on the Judiciary Committee—be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

LEWIS, RICE & FINGERSH,
Belleville, IL, September 7, 1993.
Hon. ROBERT MICHEL,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN MICHEL: Under current law, a unit of local, state, or federal government can infringe upon a person's exercise of religion if such infringement bears a rational relationship to furthering a governmental interest. S. 578 would allow a unit of government to infringe upon a person's exercise of religion only if such infringement furthers a "compelling government interest" and is the "least restrictive means" of furthering that interest.

Attorney General Reno supports S. 578 to overturn *Employment* v. *Smith*, 110 S.Ct. 1595 (1990) which held that application of a neutral law of general applicability—even if it has the effect of burdening religious practice—does not run afoul of the Free Exercise Clause of the First Amendment.

We seem to have come full circle in the Justice Department back to the seventies as we prepare to expand the judiciary and relax norms accompanied by social engineering. It took more than a decade to protect the strong interest which society and prison administrators have in preserving security, order and discipline in prison. While I hope the government/prison administrator will prove "compelling interest", I am sure the additional "least restrictive means" test is joined to undermine the clear meaning for the former.

S. 578 will subject prisons to the precise result the Supreme Court sought to avoid in its earlier rulings in prison cases, by providing inmates far greater latitude to attack and undermine legitimate prison authority, necessary to maintain security and order. The risk and expense of litigation under this Act will leave governments vulnerable to manipulaton by inmates. Pro se prisoner litigation is already the most rapidly increasing type of litigation in our country and makes up more than a third of the docket of some federal district courts. The increase in cases resulting from the creation of this new cause of action under RFRA would only add to the crippling impact of prisoner litigation on our criminal justice system and further erode our courts' ability to deal with more urgent issues of crime.

Last year, 48,538 criminal cases were brought in federal court. During the same period, inmates in federal, state and local detention facilities filed 49,939 civil suits against the government in the same court system. While civil filings dropped by 5 percent overall, there was a 16.2 percent increase in inmate petitions.

Perspective into this explosion of inmate litigation can be found by looking at the historic rise in this type of litigation over the past 27 years. In 1966, 218 civil rights petitions were filed by prisoners in federal courts. In 1984, there were 18,034 such suits filed. In 1992, there were 31,580 filed. Surely, no one could reasonably argue that conditions in our prisons and jails were better in 1966 than today. Rather, as federal courts across this nation have repeatedly observed, this rise in filing is attributable to inmates abusing the rights afforded them by the Constitution. Litigation has provided them a vehicle to manipulate those charged with their lawful incarceration, at taxpayer expense.

The current legal standards mandate that prison administrators reasonably accommodate the fee exercise rights of individual inmates, but permits a balance to be struck between such individual rights and institutional needs. S. 578 would not permit these interests to be balanced; rather, it would elevate asserted individual inmate rights over the operational needs of prisons. This is not the time to impose additional and unnecessary costs for incarcerating felons on a crime weary public by imposing additional, heavy burdens on the professionals on whom we depend to operate our prisons. Nor is it time to increase the burden on our courts.

The Congressional Budget Officer should acknowledge that the enhanced test and standard for religious cases would increase the time and process necessary to defend against cases in which a religious claim is raised. Specifically, the ability to obtain a judgment by summary judgment motion would be reduced and the need for jury trials will be substantially increased. This would have a significant impact on the percent of judicial time consumed by review of inmate cases and would create a need for more law clerks, magistrate judges, district judges, and circuit judges to address the increased number of these more complex and time-consuming cases. U.S. Attorneys would have to hire additional assistants to deal with the increase of religious suits brought by the rapidly increasing federal inmate population. The Bureau of Prisons would have many additional costs associated with accommodation of idiosyncratic religious tenets. At the state and local level, taxpayers would have to bear the burden of additional litigation costs. Attorneys would be required to expend additional time litigating each case currently pending under the new heightened standard and to respond to the new barrage of litigation under this new cause of action.

While one must applaud efforts to extend protection to legitimate religious groups in society at large, please recognize the unique nature of the closed society of prisons, as the United States Supreme Court has long done. The legal standards promulgated by the Supreme Court in the prison context should be preserved. The existing standard requires prison administrators to accommodate the religious practices of inmates in their care and custody; however, it permits individual rights to be balanced against the needs of the prison community as a whole and the overriding need for security and order. The Supreme Court has not also required that it be done by "the least restrictive means" and Congress should not permit this social engineering sought by the executive.

Inmates who lead illicit prison gangs and organizations are sophisticated and will manipulate S. 578 with its new standard to facilitate this illegal activity under the guise of "religion". Racial hatred in the prison setting is often spread and violence incited through "religious" materials.

Further, religious claims have been used to attempt to gain special privileges. Inmates even have devised their own new religions with tenets tailored to obtain special favors and circumvent security regulations. However, courts are extremely loathe to find that a group claiming to be a religion is, in fact, not a religion. Courts have found that the Church of the New Song (CONS for short), the El Rukns, Satanic cults, and other groups are "religions". Thus, each restriction on their activities will now need to be the "least restrictive" and supported by compelling reasons.

If prisons are not exempted from S. 578 and the existing legal standard preserved, such groups will be able to conduct congregate services, distribute hate literature, organize, and conduct and promote activities which are now banned. Activities including drug trafficking, racial violence, and gang organizing would be made easier under RFRA. These activities negatively impact on prison order as well as the free community while these disputes consume court time and costs of administration of our prisons rise.

Correctional facilities are operating with diminished economic resources and the inmate population is exploding. Prison litigation is already placing a tremendous drain on those limited resources. While inmates litigate at no or little cost to themselves, taxpayers are required to subsidize the filing fees of inmates, pay for paper, law books, legal assistance postage, Xeroxing, and witness production for prisoners' suits. Out of already strained prison budgets, we must pay for transportation of witnesses, additional security and transportation of inmates to court appearances, legal assistance for correctional officers, and significant amounts of lost staff time spent responding to inmate claims, most of which are spurious. Prison officials cannot afford to divert limited resources to litigate the staggering number of inmate cases which would be spawned by creating a new cause of action, under a more stringent standard, as RFRA purposes to do; and to re-litigate all of the cases in which we have already prevailed under the existing constitutional standard.

At a time when Congress is grappling with habeas corpus reform and ways to reduce frivolous inmate litigation, with its toll on our state and federal justice systems, it seems inconceivable that anyone would endorse the creation of a new cause of action for inmates which provides rights even greater than the constitutional protections they already enjoy.

Sincerely,

FREDERICK J. HESS.

STATE OF UTAH,
DEPARTMENT OF CORRECTIONS,
Murray, UT, August 5, 1993.
Hon. ALAN K. SIMPSON,
U.S. Senator, Senate Office Building,
Washington, DC.

DEAR SENATOR SIMPSON: As Director of the Utah Department of Corrections, I am writing to express concern regarding S. 578. Although I support the general principles of the Bill, the broad language raises some substantial concerns for correctional facilities. If passed, a plethora of litigation will follow, substantial management problems will arise, and safety and security will be jeopardized. I encourage amending the legislation to exclude correctional facilities from S. 578.

Case law currently allows a correctional institution to restrict an inmate's constitutional rights if the restriction is reasonably related to a legitimate penological interest. The proposed legislation will heighten the standard of review from a "reasonable relation" to a "compelling interest" standard. As Director of Corrections, I am responsible for managing efficiently operated state institutions. A significant portion of Corrections' budget goes toward litigation initiated by inmates. If this legislation passes, without change, the Department will likely have to relitigate cases that have already been decided. Litigious inmates will challenge the previously established case law pursuant to S. 578. Consequently, the overall budget of Corrections will suffer.

Religion plays an important role in managing a correctional institution. The positive effect that religion can have on an inmate is immeasurable. However, some inmates will use any opportunity to manipulate the system, thereby, creating management problems. Take for example an inmate whose religious beliefs require a variance from recognized grooming standards. Other inmates have proffered religious beliefs that require a special attire that deviate from recognized dress standards. In the case of the Church of the New Song ("CONS") their religion required a special diet of Porterhouse steak and Bristol Cream Sherry. These are the types of management problems that arise frequently in a prison setting. If the legislation passes as drafted, inmates will take the religious freedom argument to a new pinnacle, causing substantial management problems.

In addition, safety and security will be jeopardized. If inmate dress standards are altered due to religious claims, creative inmates will use the variance to smuggle contraband into correctional institutions. A variance in grooming standards will facilitate an inmate to alter his appearance, making escape easier. Furthermore, if litigation ensues and inmates are transported to and from court the possibility of escape is enhanced. Communities across the country depend on the safety and security of correctional institutions. I strongly oppose any legislation that would jeopardize the safety and security of a correctional institution or the community at large.

As Director of the Department of Corrections I would be remiss in my responsibilities if I did not express my concerns. I recognize that amending legislation can be a tremendous task. However, it has come to my attention that Senator Simpson of Wyoming has agreed to offer an amendment that will exempt prisoners from the act. Congressman Hansen's office has faxed a copy of the proposed amendment for my review. I respectfully request that you support the Simpson amendment on the Senate floor.

Sincerely,

O. LANE MCCOTTER,
Executive Director,
Utah Department of Corrections.

P.S.—I have just returned from the annual congress of the American Correctional Association and the Association of State Correctional Administrators. This issue is a major concern for all 50 states. A report has been compiled for the Congress and the US Attorney General which points out all our major problems and concerns if corrections is not exempted by amendment to the act. It will, no doubt, cost us millions in litigation if not amended. Thanks for your support.

Mr. SIMPSON. Mr. President, not only will the raw number of lawsuits increase, the Religious Freedom Restoration Act, a marvelous phrase, will make it extremely difficult to quickly dismiss frivolous or undeserving inmate challenges. Frivolous challenges will no longer be resolved by summary judgment motions but will require full-blown evidentiary hearings, a much more expensive and time-consuming process.

The Congressional Budget Office issued a letter on May 7—which was not delivered until over a month later—which stated that the bill "would result in no significant cost to the Federal or to State or local governments." In response to the CBO conclusion, several States communicated with the CBO stating that there was a very significant impact on their budgets, both in litigation costs and in facilitating religious activities. The CBO, at last check, was reevaluating their letter to include costs to the States caused by this bill.

In a July 30 letter Attorneys General Lungren of California and Del Papa of Nevada state: "* * * CBO would be hard-pressed to find a single corrections professional who would agree with this position," being that no significant cost would result to State governments.

On September 7, Frederick Hess, a former U.S. attorney for 11 years, wrote that inmate litigation will increase, unmerited litigation will be more difficult to resolve quickly, and costs to the taxpayers will escalate. He wrote:

> S. 578 will subject prisons to the precise result the Supreme Court sought to avoid in its earlier rulings in prison cases, by providing inmates far greater latitude to attack and undermine legitimate prison authority, necessary to maintain security and order. The risk and expense of litigation under this act will leave governments vulnerable to manipulation by inmates. Pro se prisoner litigation is already the most rapidly increasing type of litigation in our country and makes up more than a third of the docket of some Federal district courts. The increase in cases resulting from the creation of this new cause of action under RFRA would only add to the crippling impact of prisoner litigation on our criminal justice system and further erode our courts' ability to deal with more urgent issues of crime.

We are going to be working on a crime bill soon, and one of the greatest dangers in the criminal justice system is in prisoners cranking out lawsuits by the metric ton—habeas corpus, delays of all types, lockerroom lawyers, litigious luggerheads—and that is what taxpayers are paying for. A third of the docket—imagine what this bill will do for the other two-thirds of the docket.

> The increase in cases resulting from the creation of this new cause of action under RFRA would only add to the crippling impact of prisoner litigation on our criminal justice system and further erode our courts' ability to deal with more urgent issues of crime.

That is the part of the commentary of the gentleman that I quote.

This bill effectively overturns two Supreme Court cases on the subject of free exercise-of-religion claims, the Smith case and the case of O'Lone versus Estate of Shabazz.

In overturning those two cases, the bill's sponsors tell us, they intend to reinstate the standard by which freedom-of-religion claims are evaluated prior to these decisions.

Oh, were that the case. I have been here 14 years, and I have seen so many pieces of legislation that just said all we are doing is taking this case back to where it was before the Supreme Court changed something. We did that on civil rights. We do it on everything. And then we get into the grinder of emotion, fear, guilt, and racism. I know the groups that are out cranking it up on this one. Some have less than charitable things to say, even though they represent religious concerns.

However, unfortunately, the standard prior to the O'Lone case—which addressed prison free-exercise claims—depends on the court in which the claim is brought. At least seven different standards existed before the Supreme Court decided the O'Lone case in 1986.

For anyone who wants to go back to the seven previous standards, that is how it came about.

So, specifically, the bill that is presented to us with such highly laudatory spirit requires that the government shall not burden a person's exercise of religion. The only way that a Federal, State, or local government, including prison administrators—will be permitted to burden an individual's exercise of religion is: First, if it has a compelling governmental interest; and second, if its actions are the "least restrictive means of furthering that compelling governmental interest."

Practically speaking, and getting all the legal jumbo out of there, what does this mean? First, for prisons, if a prison institutes a measure which affects religion, an individual may sue the government for burdening his or her ability to freely exercise his or her religion. The measure does not have to expressly or indirectly prohibit religious activity, it merely has to affect the activity. The more significant the burden on religious activities, the stronger an individual's claim will be.

Second, the court must determine whether the prison has a compelling governmental interest in taking its measure. This is the most difficult test that the courts use to evaluate the government's laws or actions. In general, it is very difficult for a government to meet this test. .

Prof. Laurence Tribe is a man whom I regard highly—even though I have challenged him severely in some of his activities in nominations before the

Judiciary Committee. He is a fine legal mind, just as Robert Bork was a fine legal mind. Professor Tribe recognizes that regulations burdening constitutional liberties rarely survive strict scrutiny analysis—the standard which the bill will place on prison administrators. Professor Tribe noted, "The Supreme Court rarely finds such compelling necessity, so the choice of which test to apply usually resolves the case." (Tribe, "Abortion: The Clash of Absolutes," page 11, 1990.)

Third, pursuant to this bill, a court must look at all free exercise claims and determine whether or not the prison used the least restrictive means to achieve its goal. In other words, was there another way to achieve the goal that does not burden religious activity? When applying the least restrictive means standard, the courts are not required to look at the cost of the alternatives.

For prison administrators, in many cases alternatives are available but at great cost to the State government. In other cases, the least restrictive means can disrupt the security and order of the prisons and do it in a grotesque way. Under the bill, if the prison could accommodate a prisoner's activities—even if it required 100 more prison guards or building new facilities—the prison could be required to do so.

I agree with the Supreme Court when it expressly rejected the idea that "prison officials * * * have to set up and then shoot down every conceivable alternative method of accommodating the claimant's constitutional complaint," (*Turner* v. *Safley*, 482 U.S. 76 (1987)). That is the very standard, the "least restrictive means," which the bill applies. "Running a prison is an inordinately difficult undertaking that requires expertise, planning, and the commitment of resources, all of which are peculiarly within the province of the legislative and executive branches of government." (Turner, at 84–85.)

This amendment specifically exempts prisons from this change in the standard for evaluating governmental actions. The courts, especially the Supreme Court, have recognized the need to give great deference to prison administrators, due to need of prisons to maintain order, security, and discipline. By exempting the prisons, the amendment would allow the courts to use the current Supreme Court standard, as stated in O'Lone—which evaluates prison practices with a reasonableness standard. Under a reasonableness test, incidental burdens on the free exercise of religion of prisoners are legitimate, so long as the regulations are reasonably related to legitimate prison interests.

The reasonableness standard has been applied by the Supreme Court in the prison context for all other first amendment challenges. In each case, the Court has refused to apply the very standard which this bill seeks to apply, and has instead adopted a reasonableness standard. Without this amendment, this bill would require a higher standard for prisons than the Supreme Court has said is required by the Constitution.

Prisons today are not like prisons 30 years ago or 40 years ago. Today, prisons have chapels, special meals, recreation areas—some of the prisons in the West have built sweat lodges for native American religious services. At least one prison has two sweat lodges—one that faces east and one that faces west—to accommodate differing religious views.

Those are very valid views. I have talked about those views with my Native American constituents.

But prisons today are also overcrowded. They are unruly. There are people in prison who are vicious and uncaring of their fellow man and woman, making order and safety more difficult to maintain.

The challenges of prison administrators are extreme. If one group of inmates is perceived by others as getting special benefits, even if they are religious in nature, then others want special benefits.

I remember when I practiced law, several of my clients went to the penitentiary. That is quite a testimonial, I realize. When I went to the pen to visit with the warden and some others, they said, "Don't go in there, because if the people you represented at one time who got short sentences see you and say hello, the other prisoners will really take it out on them."

So I had to creep through the complex—which is difficult when you are 6 foot 7—and they would say, "Hey, Al, how are you?" And I would ignore them because then the other prisoners would say, "Aha, you're getting special favors."

Do not think that anyone who is given an extraordinary benefit of some special favor does not keep a list.

Prisoners manufacture religions, just to see what they can get. I would too. I could be wholly creative in manufacturing a religion.

Many have heard of the case of the prisoners beginning a religion called Church of the New Song. Its followers requested chateaubriand and wine, among other things, as part of their ceremonial activity. While the prisoners did not prevail in this case, the State spent thousands of dollars defending the denial of these items to the prisoners. If the prisons are not exempted from this bill, it will be even more difficult to quickly dismiss such frivolous cases.

I ask my colleagues to recognize the unique and precarious situation that prisons are in and support an exemption for prisons from this bill.

That is what the Reid amendment does. I am very proud to be a cosponsor of it. I urge our colleagues to support the amendment.

I thank the Chair.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Utah.

Mr. HATCH. Mr. President, I have enjoyed listening to my two colleagues, both from Nevada and Wyoming. They are very thoughtful, reflective people. I have a great deal of respect for both of them and I understand their arguments.

I appreciate the concern about how this act will impact the administration of prisons. Let me initially point out, as Senator SIMPSON mentioned in his additional views to the committee report, a long series of cases has recognized that prisoners are entitled to first amendment protection, including the right to the free exercise of their religion. While we agree that prisoner's are entitled to first amendment rights, we differ on the applicable standard of review where a prisoner's limited rights collides with the responsibility of a prison administrator to maintain order and security in the prison.

In my view, this act carefully balances these religious free exercise rights against the compelling interests of prison administrators. The first amendment should protect the rights of every citizen, including prisoners, to practice their faith. Let us all be mindful of exactly what we are seeking to protect in this act. We are seeking to protect the right to exercise one's faith as a Baptist, Catholic, Episcopalian, Jew, Lutheran, Methodist, Mormon, Moslem, Presbyterian, Protestant, and other of the diverse religions practiced in our society.

It is clearly not our intention, as some might suggest, to protect the desires of those prisoners seeking everything and anything imaginable, like prostitutes, nunchucks, or Harveys Bristol Cream, under the guise of the free exercise clause, and this bill does not create the right to any such things. We seek only a well-reasoned balance of this fundamental right to practice one's religion against the significant responsibility of our prison administrators in the supervision of our prisons. Because of the special circumstances of incarceration, and the unique interest the Government has in maintaining order and control in the prison environment, the Government will necessarily be able to show its interest is compelling far more readily than in the civilian arena, and I do not know how anybody could argue against that.

Supporters of an amendment insist this bill, without amendment, will raise havoc in our prisons. However, Attorney General Janet Reno, in a letter dated May 5, 1993, addressed to chairman of the committee confirmed her enactment without amendment. Attorney General Reno, who administers one of the largest prison systems in the country, wrote:

Concerns have been expressed that the standard of review of S. 578 will unduly burden the operation of prisons and that the bill should be amended to adopt a standard more favorable to prison administrators when confronted with the religious claims of prisoners. These concerns have been presented by knowledgeable and sincere individuals for whom I have great respect, but I respectfully disagree with their position and urge the Committee to approve the bill without amendment.

The PRESIDING OFFICER. Will the Senator please yield?

Will the Senator indicate if his time is being charged against the amendment or against the bill?

Mr. HATCH. This will be charged against the bill—actually, no, this will be charged against the amendment—let us split it equally.

The PRESIDING OFFICER. On the time of Senator KENNEDY?

Mr. HATCH. Senator KENNEDY and I are one on this issue.

The PRESIDING OFFICER. On Senator KENNEDY's time.

Mr. HATCH. It is on both of our time.

Mr. SIMPSON. On the amendment.

Mr. HATCH. The bottom line is that prison administrators' interests in order, safety, security, and discipline are compelling, and the courts have certainly treated them as such, and have always done so. More important, the courts have a well-established history of evaluating these competing interests fairly under the compelling State interest standard.

This amendment, in essence, asks us to deny prisoners the ability to adhere to their faiths, a liberty we otherwise deem fundamental, and one that furthers the goal of prisoner rehabilitation. Recently, Charles Colson, the chairman of Prison Fellowship, a ministry involved with prisoners, wrote to me and reported that the Institute for Religious Research at Loyola College studied and compared two groups of ex-offenders. The study found that, overall, offenders who attended Prison Fellowship programs were less likely to be re-arrested than those who had not attended the ministry. Even more impressive, women who attended were 60 percent less likely to be re-arrested.

The importance of religion, especially in prisons, cannot be overstated. Rather than an across-the-board denial of religion, many courts prior to Smith proposed that prison administrators should outline their security concerns and demonstrate the connection between this concern and the regulations. I do not think this is too much to ask in protecting against unnecessary Government infringement on the free exercise of religion.

Indeed, I would rather have prisoners trying to practice their faith than learning how to become better criminals once released. Obviously, when the practice of religion conflicts with the need to maintain order, the prison administrator will prevail under this act.

I should also mention, recently I received letters from the Church of Jesus Christ of Latter-day Saints, American Baptist Churches, American Jewish Committee, Church of Brethren, Mennonite Central Committee, Presbyterian Church, Church of Scientology, American Jewish Congress, Christian Life Commission, Unitarian Universalist Association, Evangelical Lutheran Church, Friends Committee on National Legislation, Baptist Joint Committee, National Council of Jewish Women, Center for Law and Religious Freedom, American Civil Liberties Union, People for the American Way, expressing their strong opposition to any amendment to the Religious Freedom Restoration Act.

Finally, the Coalition for the Free Exercise of Religion, a diverse group of interested civil rights and religious organizations have also loudly voiced their opposition to the Reid Amendment. The coalition, which includes Agudath Israel of America, American Association of Christian Schools, American Civil Liberties Union, American Conference of Religious Movements, American Humanist Association, American Jewish Committee, American Jewish Congress, American Muslim Council, Americans for Democratic Action, Americans for Religious Liberty, Americans United for Separation of Church & State, Anti-Defamation League, Association of Christian Schools International, Association of American Indian Affairs, Concerned Women For America, Episcopal Church, Church of Scientology, Evangelical Lutheran Church, Conference of Seventh-day Adventists, Jesuit Social Ministries, Mennonite Central Committee, National Association of Evangelicals, Presbyterian Church, Traditional Values Coalition, Union of American Hebrew Congregations, Union of Orthodox Jewish Congregations, United Methodist Church, and 40 other member organizations have written to oppose an amendment to exempt prisons. It suffices to say, numerous religious institutions in America have reviewed and studied this issue and have overwhelmingly rejected this amendment.

I, too, urge my colleagues to reject this amendment because I believe it is the right thing to do, and I do not have the same fear as my two colleagues from Nevada and Wyoming have about the abuse of these privileges in prison.

By the way, do not tell me that they will not file just as many lawsuits even if the Reid amendment is enacted. They are going to do that anyway. People will know there is a distinction between lawsuits filed by people who have observed the laws and are not living in prison and lawsuits filed by those living in prison. Frankly, over the long run, I think we will save money by adopting the bill without the amendment.

SPECIAL PRIVILEGES AND BONA FIDE RELIGIOUS PRACTICES

Much has been said and written about the opportunities this act creates for abusive and litigious prisoners to extract special benefits from prison administrators. Some have suggested this act may even protect prisoners who form new religions to gain special treatment or privileges. While it is certainly possible some prisoners will attempt to abuse this act, nothing contained in the act will protect these deceptive efforts. To be perfectly clear, our courts are well suited to detect the abusive tendencies of our litigious prisoners.

I would add, the courts have traditionally denied first amendment protection for purported religious activity conceived by prisoners simply to gain special benefits. I trust the courts will continue to reject these abusive claims. The fifth circuit observed in a prison case:

> While it is difficult for the courts to establish precise standards by which the bona fides of a religion may be judged, such difficulties have proved to be no hinderance to denials of first amendment protections to so-called religions which tend to mock established institutions and are obviously shams and absurdities and whose members are patently devoid of religious sincerity. [*Theriault* v. *Carlson*, 495 F.2d 390, 395 (5th Cir.), *cert. denied*, 419 U.S. 1003 (1974) (footnote omitted).].

The courts' existing analytical tools are adequate to detect these unfounded religious demands and distinguished them from legitimate religious interests. The courts have, for example, rejected religious status, under the first amendment, for a number of prisoner-devised belief systems. (See. e.g., *Johnson* v. *PA. Bureau of Corrections*, 661 F. Supp. 425, 436–37 (M.D. Pa. 1987) (rejecting "The Spiritual Order of Universal Beings"); See also *Jacques* v. *Hilton*, 569 F. Supp. 730, 736 (D.N.J. 1983), aff'd, 738 F.2d 422 (3d Cir. 1984) (rejecting "United Church of Saint Dennis").) Moreover, when a prisoner attempted to object to participation in an anti-alcoholism program as compelling a belief because it referred to "the care of God as we understand him," a court had little difficulty in finding that the Chemical Dependency Recovery Program was not a religion. (*Stafford* v. *Harrison*, 766 F. Supp. 1014, 1017 (D. Kan. 1991).)

These tools are also adequate to uncover false religious claims that are actually attempts to gain special privileges or to disrupt prison life. For example, in *Green* v. *White*, (525 F. Supp. 81, 83 (E.D. Mo. 1981), aff'd 693 F.2d 45 (8th Cir. 1982), cert. denied, 462 U.S. 1111 (1983),) the courts rejected the claim that the Human Awareness Life Church was a religion and focused on the prisoner's demands, under a religious guise, for conjugal visits, banquets, and payment as a chaplain. (See also, *United States ex rel. Goings* v. *Aaron*, 350 F. Supp. 1 (D. Minn. 1972) (rejecting claim for religious rights that prisoners has never practiced before).) Indeed, courts have been blunt enough in their examinations to find that a claimed religion, such as the Church of the New Song, is, in reality, "a masquerade designed to obtain first amendment protection." (*Theriault* v. *Silber*, 453 F. Supp. 254, 260 (W.D. Tex. 1978), appeal dismissed, 579 F.2d 302 (5th Cir. 1978), cert. denied, 440 U.S. 917 (1979).)

The act has no effect on our settled jurisprudence with respect to prisoner-created efforts to seek special privileges, thus permitting the courts to make these assessments as they have in the past. Those cases most often cited as abusive requests by prisoners, including those listed in the additional views to the committee report have been routinely dismissed by the courts. I would expect the courts will continue to deny protection to prisoners involved in this deceitful activity.

I can say that I know that the prisoners will continue to make the claims regardless of whether this amendment is adopted or not. I think we have made clear that there is a different way of applying the compelling interest test in prison than there is in the lives of those who abide by the law.

The Religious Freedom Restoration Act does not disturb established jurisprudence as it relates to abusive prisoners. I have every confidence that Federal judges will continue to exercise their good judgment in discerning those abusive claims for special privileges from our legitimate religious practices.

INCREASE IN PRISONER LITIGATION

Let me address the concerns raised by those who argue an amendment is necessary to curb the endless prisoner litigation inundating our State and Federal courts. Those who favor this Reid-Simpson amendment suggest prisoner litigation will somehow miraculously decline or be curbed should we deprive prisoners of the right to challenge government action denying them their religious liberty. This amendment will hardly stop prisoner litigation. This amendment will not reduce the cost of defending our prison administrators. This amendment will probably not even curb prisoner litigation and we should not fool ourselves into believing it will. This amendment will deprive many prisoners of their religion in a misguided attempt to address the prisoner litigation crisis.

Proponents of this amendment have suggested this bill will greatly expand the number of prisoner lawsuits. They cite statistics showing the number of prisoner lawsuits is increasing at an alarming rate. What they fail to mention is that the increase in lawsuits is not a result of religious claims. Recently, New York attorney general pointed out that only 1 percent of all prisoner claims deal with religious exercise claims. Ironically, this reported increase in the raw numbers of prisoner lawsuits filed followed the 1990 Smith decision, where prisoners' rights to free exercise of religion were virtually eliminated. [Annual Report of the Director of the Administrative Office of the U.S. Courts.]

Based on information gathered from State attorneys generals offices from throughout this country, I concluded that prison officials were not really concerned with the ultimate result under the compelling State interest standard or its impact on prison administration and order, but with the prisoner litigation that they believe will result with a return to a compelling State interest standard. Thus, I am convinced, the real concern those offering this amendment are attempting to address is the exploding growth of prisoner litigation. Most officials my staff and I have consulted with agree, the genuine concern of prison officials is this act's impact on prisoner litigation, and not the compelling State interest standard itself.

I agree that prisoner litigation is a significant problem for prison administrators. I am not convinced, however, that this amendment adequately addresses this issue. I am surely not convinced that passing this amendment will reduce the number of cases brought by prisoners. In short, prisoners are going to institute a large number of lawsuits regardless of the standard of review applicable to prison lawsuits. Why? Because prisoners do not have many other things to do—they will always seek a way out of prison or a means to challenge authority. Thus, I have concluded, the prisoner litigation issue is one that we must address legislatively. I am currently undertaking efforts to review this serious problem and I welcome the recommendations of those attorneys general and prison administrators seeking to address their concerns. I believe, however, that we should not deprive those individuals most in need of religion their right to practice it because of the litigious practices of some prisoners.

ABSURD RESULTS OF THE PRISON EXEMPTION AMENDMENT

Let me also point out some of the absolutely absurd results which will follow this piecemeal approach to prisoner litigation reform, an approach embraced in this prisoner exemption amendment. Currently, prisoners can and do sue prison administrators for any reason. They sue because they received only one dinner roll, or because they disliked the shape of their cake, or because they are denied illegal drugs.

Nothing contained in this amendment will stop these lawsuits. The effect of this amendment is simply to preclude those prisoners with lawsuits asserting first amendment free exercise rights from advancing those rights. Thus, for example, the prisoner who sued prison administrators in Nevada for serving him creamy peanut butter rather than the chunky peanut butter he requested may still bring his case against prison administrators before a judge. That horror story is not precluded by the Reid amendment.

However, if this amendment is passed, the Catholic prisoner who may want to challenge the denial of communion would be given short shrift in contesting such an arbitrary prison policy in the courts. At best, the Catholic prisoner asserting the right to exercise a fundamental aspect of his or her faith is given no more consideration under the Reid amendment than the prisoners complaining about what kind of peanut butter is being served.

It is absurd to treat the religious claim so cavalierly. Likewise, the prisoner in Illinois who sued prison authorities for depriving him of the use of his jail cell for drug trafficking will still have standing to sue prison officials.

However, if this amendment is adopted, a Protestant or an Episcopalian who might want to challenge prison officials who are denying them the right to pray in their prison cell may well have their case quickly thrown out of court.

The inmate who files a frivolous lawsuit against his jailer because he does not like the color of his prison uniform can fully litigate his claim in the courts. In contrast, the Jewish inmate who may want to challenge the denial of his right to kosher meals, again, would be afforded no better a chance to prevail than the claimant making such a frivolous claim about the color of his clothing. Indeed, if the Reid amendment passes, the religious claimant may have less rights.

These cases clearly demonstrate the absurd results we would see as a consequence of this amendment.

Let me make my position on prisoner litigation very clear. Like all of you, I do not condone the stream of frivolous lawsuits currently being brought by many prisoners. To the contrary, I find most prisoner lawsuits to be petty, frivolous, and offensive. However, I am extremely concerned that this amendment allows our frustration in dealing with a prisoner litigation crisis dictate how we respond to prisoners whose legitimate religious beliefs may be seriously offended.

I have previously suggested that we need to overhaul thoroughly, prisoner access to the courts.

Our approach must be comprehensive and well conceived. Simply depriving prisoners of a real right to advance their religious free exercise claims is not the way to go. More importantly, our approach must be equitable.

This amendment should fail because it is not fair to those prisoners who are deprived of their legitimate religious exercise and have no real recourse to challenge an arbitrary prison administrator who has abused his authority.

Once again, I ask you to oppose this exemption to first amendment free exercise rights we are restoring in this act. Those prisoners with legitimate religious claims are the only real losers if this amendment succeeds. The abusive and litigious prisoner will still bring his frivolous lawsuits.

COST OF RELIGIOUS ACCOMMODATION

Mr. President, we have heard some horror stories about what will happen if the Reid amendment is defeated. Some have argued that it would be too expensive for prison administrators to accommodate every religious practice. Others have suggested that the cost and expense associated with religious exercise is not a consideration under RFRA. I appreciate the concerns which have been expressed. I believe many of them will not remotely be realized and others are exaggerated.

I certainly do not claim that no prison in the country will incur an added cost under RFRA. I believe that such added cost, it occurs, will be far, far less than some supporters of the amendment are suggesting. Indeed, I do believe courts will continue to consider the costs of religious accommodation in evaluating lawsuits. That is the intention of the principal sponsors of the bill.

While prison officials must reasonably accommodate a prisoner's exercise of religion, the cost associated with the accommodation is an important consideration. The courts have long recognized the budgetary limitations of prison administrators and have extended to them reasonable discretion. See for example, *Kahane* v. *Carlson*, 527 F.2d 492 (2d Cir. 1975), reaffirmed in *Boss* v. *Coughlin*, 800 F.Supp. 1066 (N.D. N.Y. 1991), affirmed, 976 F.2d 98 (2d Cir. 1992); *Walker* v. *Blackwell*, 411 F.2d 23, 26 (5th Cir. 1969).

Moreover, the committee report addresses the issue of costs directly at page 10, where the report states:

> Accordingly, the committee expects that the courts will continue the tradition of giving due deference to the experience and expertise of prison and jail administrators in establishing necessary regulations and procedures to maintain good order, security and discipline, consistent with consideration of costs and limited resources.

But even assuming some added cost is imposed on prison administrators, I urge my colleagues to balance that cost against the interest being asserted. That interest, religious liberty, is the most fundamental liberty any human being can claim. Religious liberty is a cornerstone of the foundation of our country and its evolution into the greatest country on earth. Even the most scorned in our society, prison inmates, have a legitimate interest in religious liberty.

Is the Senate of the United States really prepared to say that a Jewish prisoner should always be denied kosher food solely because of its cost? Is the Senate of the United States really prepared to say that a Jewish prisoner or a Moslem prisoner must eat pork in violation of his or her faith or go hungry because the State government will not prepare pork-free food for such a prisoner? If so, vote for the Reid amendment.

Is the Senate of the United States really prepared to say that cost and administrative inconvenience should preclude a Catholic prisoner from the opportunity to see a priest other than at those times when the State, at its whim, decides to make a priest available? If that is the standard we wish to have, vote for the Reid amendment.

I believe that in striking the balance in such matters, the religious liberty interest of prisoners should count for more than the Reid amendment will permit.

COMPELLING STATE INTEREST STANDARD IS APPROPRIATE FOR PRISONERS' FREE EXERCISE CLAIMS

I appreciate the desire to restrict prisoners' religious exercise rights to a reasonableness standard. I do not agree, however, that this is the appropriate standard of review. As I understand prisoner's free exercise jurisprudence, the Supreme Court did not outline a definitive standard of review in this area before the late 1980's. In 1987, the Supreme Court addressed prisoners' free exercise claims in *O'Lone* v. *Estate of Shabazz*, 482 U.S. 340 (1987).

In O'Lone, the Court ruled that so long as a prison regulation "reasonably relates to legitimate penalogical interests" it will not offend the free exercise clause of the first amendment. Prior to O'Lone, some circuit courts basically applied the well recognized compelling State interest standard to test the constitutionality of prison regulations infringing on prisoners' free exercise rights. The compelling State interest standard is well understood and used by the courts in a variety of circumstances where fundamental rights are tested.

Some have expressed concern that prison administrators will find it difficult, if not impossible, to satisfy the compelling State interest standard of this act. I do not believe this to be the case. To the contrary, circuit courts have successfully applied the compelling State interest/least restrictive means test in appropriate cases to uphold prison regulations. For example, in *Walker* v. *Blackwell*, 411 F.2d 23 (5th Cir. 1969), the court denied requests for specified food items. In so ruling, the court wrote:

> [C]onsiderations of security and administrative expense outweigh whatever constitutional deprivation petitioners may claim. In this regard, the courts holds that the government has demonstrated a substantial and compelling interest, that of security, which compels the deprivation of these after-sunset meals. * * *

Further, just 8 days before the O'Lone decision, the eleven circuit, using a similar standard, the substantial government interest/least restrictive means test, ruled that a prisoner was not entitled to an exemption from the prison shaving and hair length regulations. (*Martinelli* v. *Dugger*, 817 F.2d 1499 (11th Cir., 1987).) It can fairly be said that the standard contained in this act does not impose an insurmountable burden on prison authorities. The test has proven to be a workable balance between compelling interests of prison administrators and the limited religious rights of prisoners.

A government operating a prison clearly has a compelling interest in maintaining order, safety, and discipline. *Walker* v. *Blackwell*, 411 F.2d 23, 24–25 (5th Cir., 1969); See also, e.g., *Barnett* v. *Rodgers*, 410 F.2d 995, 1000 (D.C. Cir., 1969), *Fortune Society* v. *McGinnis*, 319 F. Supp. 901, 904 (S.D.N.Y. 1970). The sponsors of this bill emphasized this point repeatedly during this bill's consideration. Moreover, as the committee report states:

> The committee expects that the courts will continue the tradition of giving due deference to the experience and expertise of prison and jail administrators in establishing necessary regulations and procedures to maintain good order, security and discipline consistent with consideration of costs and limited resources. (p. 10)

In my view, the compelling State interest standard is the traditionally applicable standard of review for first amendment claims. We feel the Supreme Court ruling in O'Lone departed from the generally acceptable standards of review where important constitutional rights were violated, even where the more limited constitutional rights of prisoners were infringed upon.

This act will reinstate a standard the Supreme Court has traditionally utilized in cases implicating fundamental constitutional rights. The act will return us to a sensible balance struck by a number of lower courts prior to O'Lone between one of our most cherished freedoms secured by the first amendment and the Government's compelling interests in security, order, safety, and discipline in the operation of our prisons. The imposition of the act's compelling State interest standard in prisoner free exercise cases strikes a sound and reasonable balance between these competing interests.

LEAST RESTRICTIVE MEANS TEST

Let me respond to the criticisms of the least restrictive means test. Some have argued that imposing the least restrictive means standard on prisons will force judges to second guess our prison administrators on every prison security issue and to establish their own vision of how prisons should be run. I do not believe the standard will lead us to this aberration.

The courts in many circuits have used this well recognized standard, the compelling interest standard. In applying the least restrictive alternative prong, the courts have uniformly given "wide-ranging deference to the expert judgment of prison administrators." (See, e.g., *Martinelli* v. *Dugger*, 817 F.2d 1499, 1506 (11th Cir. 1987).) Moreover, the courts have consistently recognized prison authorities' wide latitude to restrict religious liberties on the basis of probable, rather than actual or certain dangers. (*O'Malley* v. *Brierly*, 477 F.2d 785, 796 n. 10 (3rd Cir. 1973).) There is, in my view, absolutely no reason to believe the courts will become indifferent to the thoughtful expert opinion of those individuals ultimately responsible for the safety and security of our prisons.

The additional views to the committee report cites only one case, a case out of the California State Appeals Court, as reflective of how the least restrictive means test will be abused by the courts. The California trial court ruling is not reflective of the established deference our Federal courts have given to prison administrators. Moreover, the ruling was apparently also an aberration to the California Court of Appeals which reversed it on appeal.

ADEQUATE TIME TO STUDY ISSUES

Over 3 years have elapsed since we first introduced the Religious Freedom Restoration Act, in form and substance almost identical to the bill we are debating today. I strongly disagree with any suggestion we have not satisfactorily studied this bill.

We have thoroughly studied the Act's impact on prisons, and discussed these concerns of some attorneys general and prison administrators. Ultimately, based on the input of many concerned officials, many directly responsible for the administration of our prisons, others responsible for defending prison administrators being sued by prisoners, we formulated committee report language addressing their concerns.

Earlier this year, at the Judiciary Committee markup, some critics of the bill argued that the State attorneys general were not given adequate notice and opportunity to officially comment on the act's impact on prisons. At that time it was suggested we delay action on the bill until the National Association of Attorneys General, an organization concerned and impacted by the act, had the opportunity to study the act and make a recommendation at their annual meeting.

In July, in Chicago, at their annual meeting, the National Association of Attorneys General reviewed an amendment very similar to Senator REID'S. They also had the opportunity to review the proposed committee report language we drafted and circulated, in consultation with many experts, to alleviate their concerns regarding the act's application to prisons. While I cannot be certain of their reasoning in failing to request that our body enact a prison exemption amendment such as the one before us, the association did, in fact, decide to endorse such an amendment. This official action, I might add, was made subsequent to their letter of May 5, 1993, wherein some attorneys general had expressed concern about the act.

I also want to emphasize these same concerns raised about the need for a prisoner exemption amendment were presented to the National Association of Attorneys General Civil Rights Committee earlier this year. They too, declined to support an amendment strikingly similar to Senator REID'S amendment.

I have thoroughly studied the issues, consulted with numerous religious leaders and prison officials and am convinced a prison administration exemption is unnecessary. I ask my distinguished colleagues to reject this amendment.

PRISON FELLOWSHIP

Last week, at a Senate staff briefing I cosponsored along with Senator KENNEDY, Rick Templeton of Prison Fellowship offered some valuable insight into the Reid amendment. In his introduction Mr. Templeton noted that he served in a position very similar to many of staff members present. He observed that he invariably wrote the "tough on crime" speeches for his boss and considered himself a staunch law and order advocate. He still believes he serves the cause of law and order.

Mr. Templeton then went on to explain how he went to prison, and how his life was changed forever. It was in prison where he experienced firsthand the hopelessness shared by most prisoners. Most frustrating for him, pacifying an inmate with television was the most favored approach to rehabilitation.

Fortunately, prison also taught Rick Templeton a valuable lesson he had never fully known before and never expected to learn in prison. It was in prison that he truly found religion. He prayed frequently while incarcerated. As a result of his prison experience, he came to appropriate the role religion could play in his life. Equally important, he came to understand the role religion could play in the lives of fellow prisoners.

Once released, Mr. Templeton joined Prison Fellowship and has been reaching out to prisoners ever since. He continues to work with prisoners because religion is the only hope for salvation he sees for them. While many prisoners will never be saved, he has assisted many more who have turned their life around. He points out that 98 percent of the prisoner population will eventually be released into society. Like it or not, they will be returning to our communities. A point that is well taken. In my opinion, there is much comfort in knowing that a prisoner has been afforded the opportunity to receive Mr. Templeton's counsel, to share ideas about interpersonal relations and family, and hopefully, to learn more about religion while in prison. We should accommodate efforts to bring religion to prisoners in the hopes of turning some lives around, not stifle those efforts.

By supporting the Reid amendment we embark on a journey down the most dangerous path, the path that subjects the protection of our religious liberty to a double standard. Religion deserves a single standard. I ask you not to set a double standard for the protection of religion. I ask you to restore religious liberty. I ask you to defeat the Reid amendment.

VIOLENCE/CRIMINAL ACTS

RFRA neither permits nor invites the violation of our criminal laws. The State's interest in regulating criminal activity is a compelling interest and the courts have offered great deference to our criminal statutes.

It is inconceivable to me that RFRA will protect acts of violence, purportedly motivated by religion, under any circumstances. Our clear societal interest in protecting our public safety, even if the violence is purportedly religiously motivated, is by its very nature a compelling interest. Nothing contained in RFRA is intended to offer or extend any protection for this type of criminal activity and our governmental interest in combating this violence is undoubtedly superior.

INCIDENTAL IMPACT CASES LYNG CASE

RFRA does not affect *Lyng* v. *Northwest Indian Cemetery Protective Assn.*, 485 U.S. 439 (1987), a case concerning the use and management of Government resources, because the incidental impact on a religious practice does not constitute a cognizable burden on anyone's free exercise of religion. In Lyng, the court ruled that the way in which Government manages its affairs and uses its own property does not constitute a burden on religious exercise. Thus, the construction of mining or timber roads over Government land, land sacred to native American religion, did not burden their free exercise rights. Unless a burden is demonstrated, there can be no free exercise violation. The statutory language in RFRA was drafted to include protection against laws which impose a burden on religious exercise.

INCIDENTAL IMPACT CASES BOWEN CASE

RFRA would have no effect on cases like *Bowen* v. *Roy*, 476 U.S. 673 (1986), involving the use of social security numbers, because the incidental impact on a religious practice does not constitute a cognizable burden on anyone's free exercise of religion. Unless such a burden is demonstrated, there can be no free exercise violation. Thus, a claimant never gets to the compelling interest test where there is no burden. RFRA language intentionally includes terminology requiring a burden on one's exercise of religion.

Both Lyng and Roy are burden cases and were not decided under either the compelling State interest test set forth in RFRA or even the reasonableness test announced in Smith. Under the act only governmental actions that place a substantial burden on the exercise of religion must meet the compelling interest test.

Mr. President, I do not want to keep my colleagues any longer this evening, but I think it is really important that we not buy off on this argument that it is going to be a lot rougher on the prisons if we do not adopt this amendment. The fact is the prison administrators' interest in order, security, and discipline will be found compelling in almost all of these cases. I do not think anybody really doubts that who knows about the State of the law prior to Smith or the State of the law if this bill passes without amendment. I hope our colleagues realize that.

One of the things we ought to be encouraging more than anything else is religious activity in the prisons. We ought to be encouraging these men and women and these young boys and girls to get involved in religious activity in the prisons. We ought to be encouraging religious influence in the prisons. After all, if we are going to rehabilitate these people, there is nothing better that would help them to be rehabilitated than religious beliefs.

So, Mr. President, I hope that our colleagues will defeat this amendment. This bill is very, very important. It involves our first amendment rights and privileges; it involves the first freedom mentioned in our first amendment rights and privileges. I do not think there is any call to be that concerned or that worried that this is really going to place an even greater burden on the prisons and prison administrators than is already placed there.

Mr. President, if the other side is willing to yield back the time, I am, too, otherwise I have a lot more I would like to say on this subject.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I will take less than 1 minute to say what I want to say. And that is basically no one, including sponsors of this amendment, intends or does the amendment cause anyone from practicing their religion in prison any reasonable way. We never claimed that this amendment would reduce lawsuits. We simply said that this legislation, unless it is amended, will increase claims and further burden the courts because they will find them more winnable, and that is what we do not want, is prisoners who file these specious lawsuits and win them.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, Senator HATCH tells us that the interests of security and discipline and safety are compelling interests and that we have nothing to fear here. Courts do not always find that prison interests are compelling interests. It depends upon the Court. That is how we got to the O'Lone decision: the Supreme Court decided to clarify the standard—at least seven decisions, were then available—confusing the interests of society.

Courts do not always find that the prison interests are compelling interests. It depends, as I say, on the Court. But the second part of the test, the least restrictive means test, would allow courts to look for alternatives to accommodate prisoners' requests. There are always alternatives: More guards can be hired; new facilities can be constructed. But at what cost? Does anybody answer that question? Certainly, the CBO did not.

Prison officials can allow satanists to draw pentagrams on the floor of their cells, but at what cost? Neo-Nazis can circulate racially inflammatory materials in the name of their religion, but at what cost to the prison system?

Those are very real questions. This is not some hobgoblin activity that we are involved in here.

Then the Senator has argued that no matter what the standard is, prisoners will always make claims. The standard does matter, and Justice O'Connor said that in Turner versus Safely. Here is what she said—I think this is a very apt description:

> Subjecting the day-to-day judgments of prison officials to an inflexible, strict scrutiny analysis would seriously hamper their ability to anticipate security problems and to adopt innovative solutions to the intractable problems of the prison administration. The compelling State interest rule would distort the decisionmaking process, for every administrative judgment would be subject to the possibility that some court somewhere would conclude that it had a less restrictive way of solving the problem at hand. Courts inevitably would become the primary arbiter of what constitutes the best solution to every administrative problem, thereby "unnecessarily perpetuating the involvement of the Federal courts in affairs of prison administration."

I certainly concur with Justice O'Connor in her comments there.

Then finally, Mr. President, this bill without the amendment will force the courts to determine which religions are good and noble and which religions are shams, certainly something which I do not wish the courts to do. And that is exactly what will have to happen under this. Senator REID and I have presented some absurd and bizarre "religions." Well, now, who is going to make that decision?

Think how many well-established religions would never have survived that type of scrutiny 40 years ago. There were religions 40 years ago that were made fun of in America, which now have huge memberships, headquarters, tracts that they distribute. Who is to decide whether they were sham or whether they were real at the time?

My colleague from Utah says that courts will see through sham religions. Do not believe it. How long will it take prison administrators to defend their position against these sham religions? Only you can guess.

The bill's change in standard will force prison administrators into long and costly evidentiary hearings and numerous appeals, instead of swift disposition by summary judgment motions, as is usually the case today.

As I heard the long list of those who support this bill, I thought to myself, I wonder how many members of the various organizations ever read the bill—I always say when everything else fails, why not read the bill.

When everything else fails, why not read the amendment that is being presented by my colleague, and of which I am the cosponsor.

Here is what it says. One paragraph:

> Notwithstanding any other provision of this Act, nothing in this Act or any amendment made by this Act, shall be construed to affect, interpret, or in any way address that portion of the First Amendment regarding laws prohibiting the free exercise of religion, with respect to any individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility—including any correctional, detention, or penal facility that is operated by a private entity under a contract with a government.

The amendment is not really too sinister, not one bit.

No wonder the religious groups write in, send mail by the metric ton—they are saying "you would not want to prevent the practice of religion in prison." That is not what this amendment does—it does not prohibit religion in the prisons. So do not listen to that one.

We are talking about people who have to go out and administer the prisons of the United States—which must be about the most thankless job in society—with a bunch of creative prisoners who, in many cases, become spoiled, who look upon the prison systems as their way of life now, who think of it as their society and really do not want to be released. They have nowhere to go—the temptations of society are too great for them.

If you put those types of people, the wasted of society, those who have given up society, and mix them up with a few creative prisoners who are deciding what kind of religion they can concoct to drive prison administrators goofy, Governors goofy, and the legislatures goofy, and the sky is the limit.

By challenging a bill that sounds so magnificent, you are noted as an evil, uncaring rascal of indescribable dimension.

The Supreme Court upheld by a 6-to-3 decision a totally isolated case of a couple of guys who were fired from their job because they broke their employment contract for doing peyote.

That is all. And this bill is the result of it—a great big bill which is all out of context as to what we really should be doing if we wanted to put it back to where it was before.

I will stand here for 5 days without leaving the floor if you want to put it back to where it was before. But this bill is bizarre, absolutely bizarre—compelling interests and least restrictive means test. Someone made a mockery of putting the law back to where it was—this bill has overdone it and all in the name of religious freedom. No wonder the mail pours in.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I do not want to prolong this, but I do have to say, let us just be honest about this. Had the compelling interest test been in effect when the Smith case was decided, the compelling interest test would have upheld the final result in that case anyway. Justice O'Connor came out that way.

I remember a few years back when the military was not permitting members of the Jewish faith, sincere orthodox members to wear a yarmulke. I was one of the Senators who came to the floor and forced the military to let them be able to do that. We had to enact a statute. We had to enact a statute in order to provide for this simple expression of religious freedom.

Now, if there are sham religions that arise, that has to be determined with or without this bill. If this bill is not enacted, you would still have to determine that the religious action was a sham, or that the claimed religious belief was a sham, or that the religion they claimed to be following was a sham. That is before you even get into the question of a compelling interest test.

So in many, many cases these cases would be automatically thrown out as shams. So do not come and tell me that prisoners are somehow or other going to be able to gain privileges based on the sham nature of some prisoners' claims in Federal and State prisons.

The fact of the matter is courts are going to have to make that determination anyway. But to the extent that we deny anybody, including prisoners, their first amendment rights to worship freely, it would be a shame. That is what we are fighting for here; to establish once and for all that this is the first mentioned freedom in the Bill of Rights, and that it has been given short shrift by the Supreme Court and by one of my dear friends in the majority opinion, Justice Scalia. Short shrift.

We want to correct that. I have no doubt in my mind that almost all prison regulations will be held to be fulfilling the compelling interest test. But where they are not, as the distinguished colleague from Wyoming and very dear friend of mine says, where they uphold the compelling interest test and find the religious activity protected under the Constitution, by gosh, that is a good thing.

We want religion in the prisons. It is one of the best rehabilitative influences we can have. Just because they are prisoners does not mean all of their rights should go down the drain, their fundamental religious rights. And they are fundamental rights.

This amendment protects fundamental rights, fundamental constitutional rights. It says once and for all that the Supreme Court should not misconstrue the intent of Congress. It should not misconstrue the Constitution. This is a red herring amendment as far as I am concerned. I am not meaning to be critical of my colleagues because they are both thoughtful, both very sincere, and they are both very dear friends.

But in all honesty, these are important rights. And all of these groups supporting the bill and opposing this amendment have come together because they want these rights protected. And we as Senators ought to keep that in mind. We are talking about fundamental rights that should not be infringed. And, yes, even prisoners in institutions should have those fundamental rights.

But even in prisons, there has to be a different application of the compelling interest test and prison administrators will be upheld in most instances because of the nature of incarceration, the nature of the penal institution, and the nature of our governmental laws in trying to uphold the penal institutions, and their rules and regulations.

But if prison administrators are found to not meet the compelling interest test, then, by gosh, religious exercise should be upheld. And the fundamental rights of these prisoners should not be taken away. They are not animals. Nobody is any tougher on crime than I am around here, and I want toughness in prisons. But these are not animals. These are human beings, and we ought to consider their rights to religious exercise.

We could debate this for hours and hours. I think excellent remarks have been made by my colleagues. I just happen to disagree with them. I hope that tomorrow when we vote on this that the Senate will vote down this amendment and uphold these fundamental rights. There are a lot of Senators here who would uphold various fundamental rights. I think most would want to uphold all fundamental rights. But there is nothing more fundamental in my eyes than the religious freedoms mentioned in the first amendment of the Constitution.

I am prepared to yield back the remainder of my time if my colleagues are prepared to do so. I understand that there will be 20 minutes equally divided tomorrow morning. I would like to make that a half hour if we can because if Senator KENNEDY is here, I want to make sure there is enough time.

Mr. BRYAN. Mr. President, as an original cosponsor, I today join Senators REID, SIMPSON, BURNS, and SASSER in supporting the amendment to the Religious Freedom Restoration Act to exempt prisons from the act's application through establishment of a different legal standard for review of religious freedom cases brought by prison inmates.

I support the Religious Freedom Restoration Act, and its purpose to establish the compelling interest test as a statutory legal standard for evaluating free exercise of religion claims; the same legal standard that prevailed prior to the 1990 U.S. Supreme Court decision in Employment Division versus Smith.

One can sincerely only be amazed by the diversity of the religious and civil rights groups who have joined together as a coalition to strongly support this important legislation. However, I am very concerned about the possible impact of the Religious Freedom Act if an exception is not included for free exercise challenges to prison regulations.

As proposed, the Religious Freedom Restoration Act would require prison officials to justify any actions involving prisoner's exercise of their religious belief by showing there was a compelling governmental interest for the action, and that any action taken was the least restrictive alternative in burdening the prisoner's exercise of religion.

As a former Attorney General, I am well aware of the amount of prisoner generated litigation, oftentimes amounting to purely frivolous claims, that tie up our State and Federal legal resources. As a former Governor, I am also well aware of the difficult decisions facing our prison administrators day in and day out as they strive to maintain the security of their facilities, for both staff and inmates.

Also as a member of the Nevada State Prisons Board during my tenures as Governor and attorney general, I experienced first hand the burdens placed on State governments as a result of Federal court actions. These burdens impacted State governments' monetarily and administratively through increased costs, time, and effort to comply with required legal holdings.

This prison amendment will retain the current U.S. Supreme Court standard for the evaluation of prison actions affecting religious activities. That standard looks to whether prison officials, in light of security, discipline and safety concerns, have acted reasonably in the measures they have taken which may impact religious activities. In the past, the U.S. Supreme Court has required courts to give great deference to decisions made by prison officials regarding how their prisons are administered. Without this prison amendment, it is not clear such deference would be continued.

Many attorneys general supporting this prison amendment, including Nevada Attorney General Frankie Sue Del Papa, are concerned that without the amendment, the Religious Freedom Restoration Act will overturn standards that have existed for approximately 45 years for prison settings. The result not only increasing the number of prisoner generated lawsuits, but permitting courts to second guess prison administrators' decisionmaking by looking beyond concerns for security and conditions of confinement in the prisons. For example, the recent Santeria religion case upholding religious ritual animal sacrifices could create immense problems if such sacrifices were upheld in a prison setting.

I ask my colleagues to join with the cosponsors of this amendment to ensure our prisons and their administrators are allowed to exercise their judgment to maintain the security and of their facilities, and to have that judgment given due deference by our court system.

Mr. REID. Mr. President, if I could just make a very brief statement, I want the record to be spread of the facts that the amendment offered by Senators REID and SIMPSON does not change fundamental religious rights. It very simply maintains the present standard that the courts have used. And the courts have always given great deference to prison officials when it comes to constitutional rights of prisoners. We simply maintain those standards.

I will be happy if my friend from Wyoming would agree to yield back the reminder of our time tonight. It is my understanding that in the morning there is some morning business that starts at 8:30. They have already agreed to give those people an hour and 10 minutes. So we would only have 20 minutes in the morning evenly divided.

Mr. HATCH. Mr. President, that is fine with me. As I understand it, we will have debate between 9:45 and 10 o'clock. There will be a vote at 10 o'clock.

Mr. REID. It is my understanding it would be on this amendment.

Mr. HATCH. On this amendment. Then we will have some additional time before. We will vote on them back to back.

Mr. REID. Yes.

Mr. HATCH. I understand that is OK with Senator KENNEDY.

Mr. REID. With the permission of the Senator from Wyoming, I yield back the remainder of our time.

Mr. SIMPSON. Mr. President, what is the situation with regard to time?

The PRESIDING OFFICER. The Senator from Utah controls 52 minutes, 18 seconds; the Senator from Nevada 7 minutes and 2 seconds.

Mr. SIMPSON. Mr. President, I will not use the entire 7 minutes. But I would like to respond to my friend from Utah. We do serve together on the Judiciary Committee and he has been a great help to me in my time in the Senate.

I regard him highly. Everything he said in his moving remarks I agree with, with the exception of how the courts should treat prisoner claims. Not one of us is challenging the precious right of religious freedom in a prison population, as long as you do not do it in a way which forces the State and Federal Governments to accommodate frivolous claims and sham religions. That is what we are talking about.

I do not want to force courts to decide for me what kind of religion is sham and what kind of religion is good. That is exactly what you are doing if you leave this bill as it is, without this amendment.

The Church of Scientology, where was that 30 years ago? Was that church real or a sham? We all know what has occurred in the last 30 years with regard to making these decisions.

There is no possible way to compare the free exercise of religion in the military and in the prisons. That comparison is a terribly inappropriate argument.

The difference between the military and the prison population is poles apart, night and day.

So I can hear the argument. Who does not agree that religion in prison is a good thing? It is a stabilizing influence. It is a rehabilitating influence. It is a social goal.

But that is not what we are talking about. That was not what the Supreme Court was talking about. If it had not been for a peculiar set of facts which led us to a peculiar situation right now, we may not have been here. But you cannot burden the prison systems of the United States with this kind of bill and then hide behind the first amendment—that it is just the exercise of religious freedom. That is how we pass a lot of stuff in this place, by using a deft blend of emotion, fear, guilt, or racism. I have been here 14 years. I know them all.

Thank you.

Mr. HATCH. Mr. President, the reason I brought up the Army is because the compelling interest test was not applicable in the military, that test was not considered applicable. Members of the Army, sincere Orthodox Jews, could not wear yarmulkes. There has been a recent case where although prisoners could wear baseball caps, sincere Orthodox Jews could not wear yarmulkes, precisely because of the standards that would be set by this amendment.

Look, there are going to be sham religious beliefs and sham religions no matter what we do here. And they are going to have to be reviewed by a court. A decision on those will have to be reached before you even get to the question of compelling interest, which of course is important.

Let me also point out some of the absolutely absurd results which follow this piecemeal approach to prisoner litigation reform; an approach embraced by this prisoner exemption amendment.

Currently, prisoners can and do sue prison administrations for any reason at all. They sue because they received only one dinner roll, or because they disliked the shape of their cake, or because they are denied illegal drugs. Nothing contained in this amendment is going to stop these frivolous lawsuits.

The effect of this amendment is simply to preclude those prisoners with lawsuits asserting first amendment free exercise of rights from advancing those rights. Thus, for example, the prisoner who sued the prison administrator in Nevada for serving him creamy peanut butter rather than the chunky peanut butter may still bring his case before a judge. That horror story is not precluded by the Reid amendment.

If this amendment is agreed to, the Catholic prisoner who may want to challenge the denial of communion would be given short shrift in contesting such an arbitrary prison policy in the courts. At best, the Catholic prisoner asserting the right to exercise a fundamental aspect of his faith is given no more consideration than the prisoner complaining about the peanut butter. It is absurd. Likewise, the prisoner in Illinois—depriving him the use of his jail cell for drug trafficking—will still have standing to sue prison officials.

However, if this amendment is passed, a Protestant or Episcopalian or Mormon who might want to challenge prison officials who are denying them the right to pray in their prison cell may have their case thrown out of court. The inmate who files a frivolous lawsuit against his jailer because he does not like the color of prison uniform can fully litigate his case in courts—and they will; a Jewish inmate who may want to challenge denial of his right to kosher meals again would be afforded no better a chance to prevail than the claimant making such a frivolous claim about the color of his clothing.

Indeed, if the Reid amendment passes, the religious claimant may have less rights. These claims clearly demonstrate the absurd results we see as a consequence of this amendment.

Let me make my position on prisoner litigation clear. Like all of you, I do not condone this stream of frivolous lawsuits currently being brought by many prisoners. To the contrary, I find most prisoner's lawsuits to be petty, frivolous, and offensive. However, I am extremely concerned that this amendment continues our frustration in dealing with the prisoner litigation crisis and dictates how we respond to prisoners whose legitimate religious beliefs may be seriously offended.

I previously suggested that we need to overhaul thoroughly prisoners' access to the courts. Our approach must be comprehensive and well conceived. Simply depriving prisoners of a real right to advance their religious free exercise claims is not the way to go.

More important, our approach must be equitable. This amendment should fail because it is not fair to those prisoners who are deprived of their legitimate exercise and have no real resource to challenge an arbitrary prison administrator who has abused his authority.

Once again, I have to ask our colleagues to oppose this exemption to first amendment free exercise rights, because in this act, we are restoring those first amendment rights. Those prisoners with legitimate religious claims are the only real losers if this amendment succeeds. The abusive and contentious prisoners will still bring frivolous lawsuits, and we are going to have them no matter what we do. If there are shams, that has to be decided in every instance before you can determine whether or not it applies.

It seems to me we ought to be very considerate of these first amendment rights and fundamental rights that we are talking about, even in the case of prisoners in prison—maybe in many instances, especially in the case of prisoners, who we are trying to rehabilitate with the best tools available, and there is nothing better than religious belief.

Well, Mr. President, I am prepared to yield the remainder of my time.

We both yield the remainder of our time.

The PRESIDING OFFICER (Mr. FEINGOLD). All time is yielded back.

Mr. HATCH. We are prepared to do the wrap-up.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY SECRETARY O'LEARY

Mr. DOLE. Mr. President, it has been reported that the Secretary of Energy, Hazel O'Leary, has nearly signed a death sentence for the domestic independent oil and gas industry.

What is more, her remarks, if accurately reported, suggest the Secretary believes it might be no problem were the United States to become totally reliant on imported oil to run our economy.

Finally, the remarks suggest her thinking and actions are driven by multinational oil conglomerates—that is right the major oil companies are now running energy policy in this country.

INDEPENDENTS

Mr. President, independent oil and gas operators in the United States produce more than 60 percent of the natural gas and over 30 percent of the crude oil in this country. And, energy is the lifeblood of our economy. At an overseas conference of financial leaders in the worldwide energy business, Secretary O'Leary tried to sign a death warrant on our producers saying the domestic industry was "a dying breed too feeble to salvage." This from the Cabinet member entrusted with the health of this very industry. She could have at least first told the U.S. business men and women to their faces that she was doing them in she should not have done it on foreign soil.

ECONOMIC SECURITY

Most alarming about Secretary O'Leary's comments were the comments questioning whether there was a national interest in maintaining any kind of domestic oil production. According to a report, Secretary O'Leary questioned "whether or not the industry is, for the long term, important for the economic security of the United States." Mr. President, we might have moved the Secretary's nomination too fast—evidently no one asked her what percentage of our foreign trade deficit comes directly—directly from imported oil. Mr. President, it is 60 percent, that is right, 60 percent of our entire foreign trade deficit is imported oil—not Toyotas, not Sonys—oil. I cannot understand how the Secretary of Energy can wonder whether we have an economic interest in 60 percent of our entire foreign trade deficit.

MAJOR OIL

What many might find interesting that, according to the Secretary of Energy, major international oil companies are setting U.S. energy policy. She is quoted as saying she questions the future need of a domestic oil and gas industry because "big oil is setting its sights overseas." Big oil wants to produce in the United States, but cannot because of government constraints, so small businesses should not be told to just shut their doors and go away into the night. But, evidently that is the case because she also said.

> I've got an obligation to help this industry, but I don't have an obligation to help this industry beyond reason.

Is the decision of major oil to move overseas, largely due to roadblocks the Congress put in place, the reason Secretary O'Leary has abandoned this vital segment of the American economy?

Finally, in what may be the most upsetting comment, Secretary O'Leary said "I haven't gotten the answers for the mom and pop businesses." I would say that is evident, and so is the appearance that she is not looking for the answers either.

Mr. President, I ask unanimous consent that a copy of an article from the Tuesday, October 26, Houston Post be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Houston Post, Oct. 26, 1993]

SMALL PRODUCERS MAY BE A DYING BREED, ENERGY SECRETARY ADMITS

LONDON.—After a decade of decline in America's oil patch and a plunge in crude prices over the summer, the troubles may not be over for small producers, U.S. Energy Secretary Hazel R. O'Leary said Monday.

In an interview, O'Leary said she has no firm ideas on helping independent oil operators stay is business and suggested the industry's smaller, domestic players may be a dying breed too feeble to salvage in an era when Big Oil is setting its sights overseas.

"The guy who counted on the wireless got left behind," O'Leary said in an interview with The Associated Press.

In an earlier address to oil executives, O'Leary said: "I haven't gotten the answers for the mom and pop businesses."

Over the past decade, 450,000 jobs have been lost in the U.S. oil industry as the number of working drillings rigs has plunged from about 4,000 to between 600 and 700, according to the Independent Petroleum Association of America. Many small oil companies—which do most of the exploration—have gone bust.

O'Leary said she would like to help, for example by finding ways to make oil exploration more of an exact science and ensuring that the government sets down a consistent set of rules to help businesses plan for the future.

"I've got an obligation to help this industry, but I don't have an obligation to help this industry beyond reason," she said.

Saying that equating domestic oil production to national security could be an outdated idea, O'Leary called for "a careful analysis to set up the proposition of whether or not the industry is, for the long term, important for the economic security of the United States."

Fow now, O'Leary believes the United States should seek out "diversified" sources of energy, so as not to be overly reliant on imported oil from the volatile Middle East. She acknowledged many U.S. producers cannot diversify, despite suggestions that some could embark on experimental shrimp farming in the West Texas desert, where many oil jobs have vanished.

"The entrepreneurs who survive are those who read the marketplace ahead of the marketplace finally settling itself down and react accordingly, and my job is to mend that strong signal—at the same time, looking at every way possible to ensure that there is an industry, if prices will support an industry." O'Leary told The AP.

"It's been a tough year at home because the price signals have been perhaps too low," O'Leary told reporters, after addressing the annual Oil and Money conference sponsored by the International Herald Tribune and the Oil Daily Group.

Asked what price level she considered to be too low, O'Leary said, "certainly 14, 12 dollars," before immediately adding that she should not have spouted out an opinion on an acceptable level for prices.

"I'm not sure what the number is, but remember us—we're talking free market these days—we just have to say sometimes the free market is very unkind to an industry at home that is very mature," O'Leary said.

O'Leary declined to specify which type of oil she would consider to be too cheap at $13 to $14. Prices can vary by several dollars a barrel, depending on the sulfur content and gravity of the oil.

FEDERAL ACQUISITION STREAMLINING ACT OF 1993

Mr. THURMOND. Mr. President, earlier today my good friend, Senator GLENN, and other Senators introduced the Federal Acquisition Streamlining Act of 1993. This legislation is intended as a major step in a process begun 3 years ago with the creation, in section 800 of the Department of Defense Authorization Act for fiscal year 1991, of the Department of Defense Advisory Panel on Streamlining and Codifying Acquisition Law.

Over the last 10 years, the Congress has engaged in a number of efforts to reform the Federal acquisition process. The most notable of these efforts was the establishment of the Packard Commission in 1985, and the legislation of the Commission's recommendations the following year. There have also been a number of separate legislative proposals enacted which deal with perceived flaws in the details of the procurement process. Despite these efforts, the consensus remains that we have fallen far short of achieving the savings and efficiencies that are possible in this area.

The Advisory Panel on Streamlining and Codifying Acquisition Law that was created by Congress with strong bipartisan support in 1990 was intended to overcome the barriers to comprehensive reform of defense procurement. The advisory panel assembled 12 of the leading experts in contract law and acquisition management to review all of the laws governing purchasing by the Federal Government. These individuals gave generously of their valuable time over a year and a half to prepare an excellent report containing a comprehensive review of major procurement laws and specific recommendations for changes.

This report, known generally as the section 800 report, was transmitted to the Senate in January. Democratic and Republican members of the Senate Governmental Affairs, Armed Services, and Small Business Committees instructed their staffs to review the recommendations and prepare a bipartisan package of legislation as soon as possible. This bipartisan staff work was largely completed in September. It is draft legislation intended to serve as a basis for congressional action and not as the final word on the subject.

The administration claims that acquisition reform is one of its highest priorities, and it has been clear to all of us that support from the President and the Vice President will be essential if our efforts are to succeed. Therefore, it was proper for us to coordinate our approach with such initiatives as the Vice President's National Performance Review. Unfortunately, participation in the discussions with the White House was limited to Democratic Members and staff in contrast to the bipartisan process we had followed up to this point. Over the weekend, the administration dictated that provisions raising the thresholds for the Davis-Bacon and Service Contract Acts to $100,000 be dropped in the draft legislation. It appears that this decision was driven by the intervention of outside labor interests. The administration took this position in spite of the fact that the recommendation regarding the Davis-Bacon Act was included in the Vice President's National Performance Review.

Under these circumstances, I cannot cosponsor the legislation despite my support of the majority of the provisions in the bill. If we want reform, we have to put even the more controversial recommendations in the section 800 report on the table. Special interests have dictated many of the features of the current, inefficient process and we cannot signal retreat at the first sign of a problem. Furthermore, any process for reform has to be a bipartisan process, and bipartisan means that both the Republicans and the Democrats are part of decisions on the content of any legislation. I am willing to work with my colleagues on the other side of the aisle and with the President toward the goals we all share. I am hopeful that the bipartisan nature of acquisition reform process will be restored.

LOSS OF MARINES IN BEIRUT, LEBANON

Mr. THURMOND. Mr. President, I come to the floor today to remind my colleagues that 10 years ago, on the 23d of October, 1983, our Nation suffered the tragic loss of 241 fine marines in a single attack in Beirut, Lebanon.

No one may, with any justification, speak of these young men with anything less than complete reverence, humility, and the deepest appreciation. They were truly exceptional citizens who had volunteered to serve their Nation, and they deserve to be remembered for their selfless dedication to duty and their sacrifice.

These marines did not perish while engaged in armed combat with an enemy. They did not fall on a field of battle. They were not killed or wounded while assaulting a beach, or defending a position. They died, instead, while they were deployed to a place where our direct national security interests were not at stake, where they were asked to perform a mission which was only vaguely defined, in an effort to achieve a policy objective which even today remains unclear. They were killed while they were attempting to achieve peace in a troubled foreign land.

We should remember that our initial involvement in Beirut was a political and military success, just as our initial involvement in relieving the famine in Somalia was a political and military success. However, upon completion of the original mission in Beirut and the redeployment of the marines to vessels off the coast, the marines were sent back ashore in response to the senseless massacre of refugees.

The political objective of this second deployment ashore was not clear. The military objective, therefore, was not clear. So it comes as no surprise, in retrospect, that the role of the marines was not clear to anyone involved. President Reagan appeared before the Nation and accepted full and unconditional responsibility for the decision. International confidence in America was preserved, and the mistake was not repeated.

We in the Congress have recently spent many hours debating the involvement of our Armed Forces in Somalia, the former Yugoslavia, and Haiti. We have spoken of the tragic loss of dedicated young Americans in Mogadishu. We mourn their passing, and our thoughts are with their families and loved ones. I wish we could find the words to relieve their sorrow.

Mr. President, I cannot help but notice both the similarities and differences between that involvement in Beirut and the situation today. It is not my intention to politicize the differences. However, there are deep and disturbing aspects of our involvement in current events which put at risk the lives of American soldiers as well as innocent civilian noncombatants, and jeopardize the ability of the United States to act effectively throughout the world.

Many of us are emotional about these issues, but I encourage my colleagues to grasp the reality of the situations which now confront us. First, after we accomplished our initial mission in Somalia, the current administration gave its tacit consent to a change in purpose when United States Army soldiers were given a mission to capture a Somalia individual. There was no apparent emergency or crisis which warranted this. It was, of course, naive to give a law enforcement mission to a combatant force, but more importantly, it was foolish to commit our soldiers to this mission without having redefined the policy and without consulting Congress.

We have heard numerous officials from the administration speak in recent weeks about Somalia, but not once have we been able to glean any semblance of a clear, well-reasoned, achievable policy objective. To compound this failure, the administration acted imprudently in attempting to pass the blame for the casualties in Mogadishu to the United Nations. Neither we in the Congress nor the American people should tolerate such an attempt to avoid responsibility.

Second, the administration deployed a military force to Haiti and then recalled it within sight of the port of debarkation. Once again, we did not know the clear policy objective of this intervention, but it was evidently very poorly conceived. From what we do know, the objective appears to have something to do with a naive attempt to change ingrained political and social trends in that sad country by means of having our military perform infrastructure projects. The concepts we have heard discussed more resemble academic theory than sound, realistic, practical logic, and they are devoid of insightful diplomacy.

Third, the administration continues to sound warnings of intervention in the former Yugoslavia. If the factions involved in the fighting there try to draw any lessons from our involvement in Somalia and Haiti, they may find little reason to believe this administration is capable of mounting a serious military intervention which will be harmful to anyone but Americans. Unless the administration articulates a clear policy, it would be unwise to commit our fine men and women in uniform to this conflict.

I suggest to my colleagues that the source of our frustration over Somalia, Haiti, and the former Yugoslavia, is not the significant degree of difficulty of the problems, or the fact that we place our service men and women in harm's way. This body and our Nation have faced far more difficult situations, and Americans have always risen to their responsibilities in the defense of freedom.

The source of our frustration is, rather, the manner in which this administration forms and executes policy. There appears to be an absence of understanding about the relationship between policy and strategy, and an ignorance about the purpose and capabilities of the military. How else may we explain the administration's precipitous withdrawal of the Rangers from Mogadishu? Although many of us may have had serious reservations about the employment of combat troops under the circumstances, few people have found reason to be pleased about the manner in which these troops were withdrawn.

I do not know whether there are lessons for the Rangers and the Army to learn from this expedition. However, I do know that the next time we call upon the Rangers and the Army to go in harm's way, they will remember Mogadishu.

Mr. President, I ask my colleagues to remember the marines who died in Beirut 10 years ago. I ask them to remember the servicemen who have died and those who suffered wounds and injuries in Somalia. I ask them to remember always the fine men and women who serve in uniform today, and I ask my colleagues to reflect on the expensive lessons we have learned.

AIRCRAFT CARRIER FUNDING

Mr. INOUYE. Mr. President, during the debate on the fiscal year 1994 Defense appropriations bill certain statements were made which gave an unfavorable characterization to the committee's decision to provide funding for a new aircraft carrier. I believe it would be useful to examine these comments in their proper context.

The committee-reported bill recommended $3.4 billion to complete—and, here, I would underscore the word complete—the financing of the CVN-76, the next nuclear aircraft carrier. The House Appropriations Committee had recommended an appropriation of $1 billion to partially finance the remaining balance of the carrier. Specific authorization for this action was denied on the House floor. Nonetheless, the House-passed bill still provides $1 billion in undesignated shipbuilding funds, presumably, for this purpose.

Unfortunately, Mr. President, some have argued that the carrier is a new start which is both unauthorized and unrequested. Mr. President, I want the Record to be clear. This is not a new start. The administration requested, and the Congress authorized and appropriated, $832 million in fiscal year 1993 to begin work on this aircraft carrier. These funds paid for the purchase of nuclear components for the ship. The Navy began spending these funds last fall. Work has already begun on the carrier. All of these funds have been obligated. So, regardless of what others may argue, through these actions, the Congress has already made the decision to buy the carrier; now the question is when should the remaining funds be provided.

My colleagues should understand that DOD planned to request funds to complete payment for the aircraft carrier in 1995. While this would allow for the carrier to be built with few perturbations in the shipyard work force, it is not the most cost effective method to purchase the carrier.

President Clinton's budget for fiscal year 1994 took no decisive action on the aircraft carrier. Instead, the decision to continue to purchase the carrier was to be reassessed in the Bottom-Up Review—in conjunction with an analysis and formulation of overall carrier force structure levels. The Bottom-Up Review process carried out this in-depth analysis of the requirement for aircraft carriers. The review determined that the Navy must have 12 aircraft carriers to meet force structure requirements. With that decision, the DOD validated the need to build the next carrier.

So, the question recurs: When should the carrier be funded? The Appropriations Committee reviewed this matter and determined it would be appropriate to finance the balance of the ship's costs in 1994. There are several budgetary reasons for this. First and foremost, by funding the carrier in 1994 instead of 1995, the Congress can save $200 million—6 percent of the remaining requirement. This is not a trivial sum.

Second, in conducting its review of the budget requirements for DOD the committee was able to identify sufficient funds to pay for the remaining balance in 1994.

With the conclusion of the Bottom-Up Review in August, many changes were made in the financial requirements for DOD programs. In most cases this information was not available to the authorizing committees until their review of program requirements had already been virtually completed. Because we came later in the process, the Senate Appropriations Committee was able to tailor its recommendations to these results.

The Bottom-Up Review also established several basic tenets for future defense requirements. The committee adopted many of the underlying premises of the Bottom-Up Review in making its adjustments. As a result, the committee's recommendations freed up $3.4 billion in budget authority and $170 million in outlays, sufficient funding to cover the costs of the aircraft carrier in 1994. For good and sufficient reasons, the committee chose to allocate these funds to complete—again, underscore complete—the purchase of the CVN-76.

Mr. President, reaching the budget targets in 1994 has not been easy. It should be made clear to all Senators that 1995 will be a more difficult budget year than 1994. The Appropriations Committee will be required to cut $24.7 billion below the CBO baseline in 1995. In addition, DOD has identified a shortfall of $13 billion in achieving its budgetary goals over the next 4 years. Providing $3.4 billion for the carrier in 1994, instead of 1995, helps alleviate these problems. And, as I noted, we also save $200 million in total costs for construction of the carrier.

Mr. President, it has been falsely suggested that the committee cut research and development funds in order to pay for the carrier. That is not correct and those who have made this unfounded charge should know better. The subcommittee reviewed research and development funding requested by the President and reduced the request based on the merit of individual programs. The savings identified helped the committee reach its overall outlay target. Coincidentally, it also freed up budget authority which could be allocated for the carrier.

In debate on the Senate floor it was said that the outlay impact from this decision to fund the carrier in fiscal year 1994 will exacerbate an assumed outlay shortfall in 1995. This is also incorrect. The outlay impact from financing the carrier in 1994 is $442 million in 1995. Had the committee spent the $3.4 billion on research programs, the outlay impact in 1995 from those programs would have been in excess of $1.15 billion—and the Congress would be faced with the unhappy prospect of providing $3.4 billion in budget authority in 1995 for the carrier. The committee's recommendation will actually lower outlays in 1995 by more than $870 million.

Mr. President, the decision to complete the financing of the CVN-76 in 1994 instead of 1995 makes good business sense. I would not want to be in the position of trying to explain to the American taxpayer that, when the Congress provided $832 million in fiscal year 1993 for advance procurement of items which can only be used in a nuclear carrier, it really had not authorized the new carrier. That does not make any sense to me and would not make any sense to the taxpayers.

I am prepared to explain the decision to complete financing of the carrier in fiscal year 1994. We will find it easier to stay on the path to a declining defense budget, if we finance the $3.4 billion in remaining costs this year. This decision reduces outlays in 1995 compared to spending the funds on research. And, best of all, it saves $200 million in the total cost of the ship. I hope all members now understand the committee's recommendations and support this approach and I urge the conferees on the Defense authorization bill to adopt it as well.

TRIBUTE TO EDWARD O. BUCKBEE, SPACE AND ROCKET CENTER DIRECTOR

Mr. HEFLIN. Mr. President, Edward O. Buckbee, director of the U.S. Space and Rocket Center and Space Camp in Huntsville, AL, will be retiring next March after more than 25 years of service. During his long tenure as its director, Ed has guided the Space and Rocket Center to its present status as Alabama's most popular tourist attraction and as an internationally known center of space education.

Fortunately, Ed will remain as executive director of the U.S. Space Camp Foundation, which oversees spinoffs in Florida, Japan, and Belgium. Agreements have also been signed for Space Camp operations in Canada, scheduled to open in Italy. President Clinton's daughter Chelsea participated in Space Camp at the Huntsville location last summer. Ed will also continue to work on special projects at the center.

Ed has been the center's only director, having been chosen by the late Dr. Wernher von Braun in 1968 to direct the planning and development of the Space Museum. The Space and Rocket Center opened to the public in 1970. Prior to becoming director, Ed was a NASA public relations specialist at Marshall Space Flight Center from 1961 to 1968, serving under von Braun during the Mercury, Gemini, and Apollo programs.

Today, the center houses the world's largest rocket and spacecraft collection and features a full-scale space shuttle exhibit; guided bus tours to the Marshall Center; a $4 million spacedome theater; a $1.5 million motion-based simulator that gives visitors a "journey to Jupiter"; and a $3.6 million space habitat complex for trainees in Space Camp and the more advanced Space Academy.

What is understandably Ed's most proud achievement is the development of Space Camp. He coordinated the program's formation in 1982, and has since seen it graduate over 170,000 trainees. International Space Camp began in 1990 to promote international cooperation in space. This year, people from 22 nations took part in the program. I know firsthand how important the Space Camp is to our overall space program, because, like Ed, I have seen young people come away from the progam truly excited about their futures and all the possibilities space exploration and research holds for them and their country.

It is a pleasure to congratulate and commend Ed Buckbee for all his years of hard work on behalf of the Space and Rocket Center and our space program as a whole. He has played a major role in the growth of Huntsville, AL, into one of NASA's premier national sites for research and training. He has provided long-range vision, limitless energy, and determined leadership that will be hard, if not impossible, to duplicate. I hope that the Space and Rocket Center and Space Camp will continue to enjoy his strong support and wise counsel for many years to come.

TRIBUTE TO MAYOR MAC GRAY

Mr. HEFLIN. Mr. President, former Prattville, AL, Mayor Mac Gray passed away at the age of 87 on September 27. He is widely credited with having skillfully guided this small city just north of Montgomery through an unprecedented period of growth during his 20-year tenure as mayor.

Mac Gray served as Prattville's mayor from 1960 until 1980. During his administration, its population more than doubled. In addition to his service as the city's chief executive officer, Mac served for 11 years on the Prattville Industrial Development Board and also on the Autauga County Board of Education.

A graduate of Marbury School, where he lettered in three sports, Mac was employed in the grocery business before turning to agriculture. In recent years, he was known for his front-yard rose garden bordering Main Street. Every year, he delivered 300 to 400 dozen roses to local nursing homes, churches, and businesses. He never kept any for himself, however, saying that his own bouquet was right in his front yard.

Mac was an avid sports enthusiast. His love for all kinds of sports was with him until the end, as he attended nearly every sporting event in the city. A local park is named in his honor.

I am pleased to commend former Prattville Mayor Mac Gray for all his years of service to his community. He was a true public servant in the very best sense of the term, and will be sorely missed by all those who knew him over the years.

PETER V. GREGERSON'S SPEECH ON AMERICA AND VOLUNTARISM

Mr. HEFLIN. Mr. President, Peter V. Gregerson, Sr., chairman of the board of Gregerson's Foods in Gadsden, AL, spoke to the National Grocers Association Conference last June on the importance of voluntarism to the American spirit. The text of his remarks—some of the most inspirational and patriotic I have read in years—appeared in a recent edition of Vital Speeches of the Day.

Mr. Gregerson's speech is especially timely since it reflects the current administration's emphasis on national service and the renewed commitment to voluntarism taking root all across the America of the 1990's.

I ask unanimous consent that a copy of Mr. Gregerson's excellent speech "We the People: Voluntarism" be printed in the RECORD immediately following my brief statement. I commend its reading to each of my colleagues.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

WE THE PEOPLE: VOLUNTARISM

(By Peter V. Gregerson, Sr., Chairman of the Board, Gregerson's Foods, Inc.)

I've been looking forward to being with you. It is always a pleasure to be at an NGA meeting and it's a real honor to address the leaders of NGA—you who make this organization so effective in Congress. And today is extra special because so many of my friends are here. Today I want to talk with you about our country, where it's going and what you and I as independent grocers can do about it.

Awhile back on TV I saw a group of young men set fire to the American flag and spit on it. The reporter said they urinated on it. That's one feeling about our country. About the same time, we had a parade in Gadsden. I stood on the curbing beside an old man—weatherbeaten face—worn bib overalls. He stood very straight as the flag passed and I noticed his gnarled hand shook as he put his hand over his heart. I stepped back a half-step and watched him out of the corner of my eye—as tears silently came down his cheeks. Tears of pride—devotion—love for our country. A different feeling for America.

How do you feel about America?—really feel? About her future? Have we lost something? Have we lost the dream that America can get better and better? Have our young people host hope—lost their enthusiasm? Attitude—enthusiasm—is important. The great Emerson looked back over all human history and said, "Every great movement in the history of the world is the triumph of encouragement. Nothing great was ever accomplished without enthusiasm."

Our founding fathers had enthusiasm! Tom Jefferson, John Adams, and Ben Franklin formed a committee that produced our great seal—on the back of our dollar bill. One Latin phrase is "novus ordo seclorum"—"a new order for the ages!"—that was true enthusiasm from that small group along the coast of a wilderness continent! The other saying (remember the eye in the pyramid?) "ennuit coeptis"—"God looks with favor on our undertaking!" Enthusiasm! God looks with favor on us! America! A new order for ages yet to come!

Well, was their enthusiasm justified? A quick look back might be encouraging. Janet and I flew into Washington—and the world flies—thanks to Boeing and McDonald Douglas and thank you Wilbur and Orville Wright of Iowa and Ohio. Washington was ablaze with lights and energy—the world is electrified. Thank you America—thank you Ben Franklin, from Philadelphia, for your experiments, and from Milam, Ohio, Thomas Edison for your inventions that changed the world. We rode in a car—so does the world—thank you America—thanks to the mass production genius of Henry Ford from Detroit. It had a phone and a TV!—Thank you Alexander Graham Bell of Boston and David Sarnoff of New York. And—the car was air-conditioned!—Thank you America—Thank you Willis Havilland Carrier of New York.

I may need my hip replaced soon. Dan Coburn already has. Tonight he will dance. When our republic was formed—the human life expectancy was 33—90 years ago it was 45—today it's 78! When Social Security started, the life span was 65, now one half of all the people who ever lived to be 65—are alive now! Next month, I'll be in that group. America is the undisputed leader of the world in health technology. Thank you America—from Dan Coburn and all the rest of us.

One last example—from our field—food. A little known fact. Throughout history more people have died of famine and hunger than all the hundreds of millions of people who have ever died of plagues and epidemics and they include all the people who have ever died in wars! If the world owes anything to America—it should say thank you to our farmers, scientists, and distributors. The fact is, we live in a golden age. During Chicago's World Fair of 1893, no one ever even dreamed that humans could live the way you and I are living today! It's a wonderful, exciting time to be alive.

Well, am I saying—let's just sit and smile at our air conditioner and ignore our problems? No, but just don't forget that Americans are achievers and winners! We overcame great problems in the past and we will overcome great problems in the future and we will do it now—today. Just wait and see!

It's important to remember that America's greatness is no accident. Every event—including every event in our history—had a cause. We all know that there are no exceptions to the law of cause and effect.

So what are the causes for America's greatness? Let me tell you of one. One hundred sixty years ago, while America was still being formed and her roots were plain, in contrast to other nations, we were lucky to be visited by an unusually perceptive outsider who analyzed our nation. Today he is widely regarded as the wisest social and political analyst since Aristotle—Alexis de Toqueville. One of his judgments is well known. "America" he said "is great" (not England or France!)—No, America is great—"Because her people are good. When her people are no longer good, America will no longer be great!"

I remembered that when Billy Graham made a TV report after his first visit to the Soviet Union. "How many rubles" he asked—"How many hours—do the Russian people give for the benefit of others who cannot cope?—0—That's how many!"

Now, aside from all our welfare programs, do you know how many dollars individuals—not corporations—but individual Americans—gave last year? 100 billion! The last report also showed 89 million of us spent 4.7 hours a week to benefit others. No other nation even comes close to the "goodness" of America! I think of de Toqueville every time I come to a "grocer's care" banquet and see Bill Reitz and the rest of you honored for your caring—your sharing—your goodness. Do not underestimate yourself. You help make America great!

De Toqueville also identified another important difference. He said that other nations have two sectors—public and private. He said America has a third—"Volunteerism." Something new! But think of associations like NGA and Rotary, the Lions—on and on and the local volunteer committees you serve on—here in your home communities. No other nation of citizens compares.

And now maybe we're even closer to the root cause of America's greatness. Personal goodness—yes—but combined with personal initiative—personal participation—yes, taking personal responsibility for our lives! That's—taking personal responsibility of our own lives.

When these qualities are applied to making a living and business, we use words like entrepreneur—free enterprise—capitalism. The truth is—you independent grocers are quintessential examples of Americans with personal freedom—in vigorous and ethical pursuit of your happiness.

Now, keep personal freedom in mind—and let's look again at the saying—"ennuit coeptis"—"God looks with favor on our undertaking."—God bless America—do you think he does? I was raised in a religion where some privately ridiculed that saying. When I finally extricated myself from that religion, I asked myself if I believed that. The fact is—God's mind is unfathomable but you can learn something about the creator by examining his creation. I'm sure we've all heard about DNA—genes and chromosomes producing variations in humans. Do you happen to know how many different potentialities there are inherent in humans? The number is 23 to the 46th power. Millions of millions of millions. You are unique! It's obvious that God loves variety—differences in humans.

Now suppose you and I were rose breeders and we too loved variety. We wanted all sizes—all shapes—all colors—all fragrances—all different types of rose bushes. Finally, we looked out upon our acres and acres of varied roses. Only one here and there in bloom. What we saw were disappointing, half-developed, shriveled, truncated, poorly formed roses. The environment had prevented their growth to full bloom. That was what had been happening to God's human roses for thousands of years in the political environment of emperors, kings and their various self-serving caste systems.

Only God would know how many mothers and dads have told their ambitious, talented sons and daughters "Don't try—don't go for it. Don't buck the system. Keep your place." Stifled spirit, stagnant progress.

And then!—In 1776—like the bright sun breaking through the black overcast environment came the exciting words "we hold these truths to be self-evident"—that all are created equal—first white men—then women and blacks, a nation of people equal before the law—equal in opportunity! A system that for the first time in the history of the world allowed the child of a poor farmer to stand equally with the son of the rich—as equals before the bar of opportunity. What now counted was an individual's dreams—brains and energy.

America! Freedom! Progress. God's human roses could, at last, fully bloom. Finally, humans could work to develop into whatever they could become. So yes, I believe, as He looks down, He does look with favor on America.

But am I saying that America's problems can be solved with simplistic panaceas? No, I mean to say—only this: The essential principles that caused America's success and greatness are simple and pure and they work. Of course, they must be thoughtfully adapted to an evolving world—through education. Two things I would stress—volunteerism and a new look at the role of education.

It is clear that misguided goodness—compassionately throwing money at government bureaucrats has created a permanent underclass. Instead of encouraging the soaring human spirit, there are feelings of helplessness, envy and hate. Widespread crime and drug abuse spreads. And all of this produces a massive debt that strangles our progress. Goodness must be guided by responsible, participative volunteers—by grocers and others like you who care, and that includes the United Way as well as government programs. The key is volunteerism. Volunteers who are in-touch with the real world. Volunteerism is the special American way and it must be encouraged to shine out in a 1,000 different ways.

Yes and like goodness—even personal freedom can be misguided with tragic consequences. Personal freedom without civility—without education—is savagery. The use and control of personal freedom must be taught by educators and by educated citizen leaders who are moral, ethical, and especially, practical.

All human history proves that civility and civilization must be learned. So surely our system and its responsibilities as well as its opportunities too must be learned and therefore—these things must be taught! Education is part of our problem. A serious problem—but it too is solvable. Personal freedom is not enough alone—goodness and knowledge are not enough—taking personal responsibility and initiative is also needed and that too must be taught.

This truth remains. You and I—every one of us in this room—was created with many different potentialities—with a view to each of us—as individuals—to work, to develop and become whatever we can become.

That is the purpose of life on this planet.
That is the purpose of muscles and brains.
That is the purpose of freedom.
That is the purpose of education.
That is the purpose of the United States of America—to bring it all together—for human development and human happiness.

Is this too great a challenge for America? Are the problems too great? Of course not—look again at how far we have come. Only 200 short years ago (three life-spans of 70 years) real, personal freedom so that every person could pursue individual happiness was only a dream in the hearts of a few men over here in Philadelphia. Today over 2.5 billion people, half of the world's population—are free! Thank you America!

And soon, when China's government falls or changes—3 out of every 4 humans alive will be free! And never forget—no democracy has ever made war against another democracy! Think of what that means for the use of our assets and for the future of our children and our grandchildren.

So let us not be discouraged. It helps me to remind myself of two things. Number 1, I remember that in our war for independence, one third of our population were active tories—supporting the other side! One third were not involved, they couldn't seem to figure out what it was all about, only one third were patriots who cared—and yet—we won! We don't need everyone—there will be the flag burners but we will make it as long as we have people with tears of pride when the flag passes.

And #2 is the key—this government is ours. "We the people"—we own it lock, stock and barrel. This is our government and we can make it better! Do not be intimidated by our huge marble buildings. We do not exist to be servants of this government. This government exists to be our servant—in the pursuit of happiness.

So let each of us renew our love and enthusiasm for America and her future. We must not let the dream die. We must not let the dream die in the hearts of our children. In a word—NGA grocers who care—let you and I be ashamed to die until we have worked to make America a little better than we found her.

So let's go forward together—as volunteer leaders in NGA and in our home communities—confident in the rightness of our cause—with enthusiasm and with goodness—in the sure knowledge that He has looked down with favor on our undertaking.

RECOGNITION OF JAMES H. WHITE, DEVELOPER OF VOTING MACHINE FOR THE BLIND

Mr. HEFLIN. Mr. President, I am proud to recognize and commend Mr. James H. White, a long-time resident of Talladega, AL, and an employee of the Alabama Institute for the Deaf and Blind, located in Talladega. James has long been involved in projects that seek to help and assist our visually impaired citizens, and about 20 years ago, he developed a voting machine for the blind.

As the home of the Alabama Institute for the Deaf and Blind, Talladega has probably the largest number of visually and hearing impaired as well as multihandicapped individuals per capita of any city in the United States. James White, a vital part of this special community, has been involved in many civic activities and local organizations, including the Lions Club.

In 1974, James developed a voting machine that would permit a totally blind person to cast a vote without the assistance of a sighted person. This was the first time in history that a totally blind person was able to exercise his or her right to vote without assitance, thus preserving what the rest of us take for granted: the cherished tradition of secret ballot voting.

According to Talladega Mayor Larry Barton, his city is the only one where Braille voting machines are available. Mayor Barton also tells me that James has never sought or accepted any compensation or reimbursement for expenses he has incurred for all of this work and time over the years. His only motive appears to be genuine concern for others, an almost unheard of commodity today.

Unfortunately, the machines were not in operation during last year's elections, since James was unable for the first time since 1974 to get the necessary supplies for the machines. I ask unanimous consent that a newspaper article describing the problems in 1992 and summarizing James' life and career be printed in the RECORD immediately following my remarks.

Again, I congratulate and commend James White for all the time and energy he has devoted over the years to making life a little easier for those who are visually impaired or handicapped in some other way. I look forward to working with him under the auspices of the Americans With Disabilities Act to adopt his procedure nationwide.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BLIND IN TALLADEGA VOTE UNASSISTED—BUT NOT THIS TIME

(By Juanita McDonald)

The 1992 elections are the first elections in 18 years in which blind voters in Talladega were unable to cast their ballots without assistance from a sighted person, according to James H. White.

"And that's only because I couldn't get the supplies I need to set up voting machines with Braille," White said.

In 1974, White devised a system for labeling automated voting machines in Braille so that the blind could read the offices up for election and candidates' names. He also printed in Braille special instructions for using the voting machine.

This enabled the blind to enter a voting booth alone and vote.

"Until then, no one had ever made any attempt to make it possible for a totally blind person to cast his ballot unassisted," White said.

White understands the problems of the blind because he is legally blind himself. And, he is employed in the library at the Alabama School for the Blind.

He developed a means of labeling voting machines in Braille because he feels strong that "everybody should have the opportunity to vote, and vote their way."

"A blind person can take a sighted person into the voting booth and tell them who they want to vote for, but can you always trust that person to vote the way you tell them to?" he asked.

When the time came to test the system in an election, White said he was told by local election officials that it was illegal to tamper with a voting machine.

White wouldn't give up on the idea. He felt it was especially important to have Braille machines in Talladega.

With the Alabama School for the Deaf and Blind and Alabama Industries for the Blind located here, the city has the second largest population of blind in the nation.

"I had to go all the way to the governor's office to get permission," he said.

It was such a innovative idea that it received nationwide news coverage, White said. News teams from all three major national television networks came to Talladega to film totally blind people voting unassisted for the first time in history.

"Talladega is the only place in the world where this is possible," White said.

Until this year, he has prepared at least one machine at each polling place in Talladega for blind voters. Use of these machines is not restricted to the blind. Voting instructions and ballot information for sighted voters is not obscured, so anyone can use the machines.

White buys supplies needed to prepare the machines out of his own pocket. He said city and county officials say they cannot pay for the materials "because they are not a required part of the election process."

Sometimes the supplies are hard to get. They also are expensive, he said.

"This year I couldn't get the supplies for the machines, but I did put out a sample ballot printed in Braille," White said.

Over the years, White has invested a lot of his own money as well as a lot of his time in helping the blind to vote independently.

"It's very time consuming. It all has to be done by hand," he said.

The amount of time involved depends upon the number of offices, names and amendments on the ballot. White said it would have taken two to three hours to prepare one machine for the Nov. 3 election.

Now that Congress has implemented the Americans With Disabilities Act, White is hoping to interest lawmakers in adopting his procedure nationally.

White expends his own time and energy in other ways to help the blind. He is a member and past president of the Talladega Lions Club, which help support the Alabama Eye Foundation and provides a number of local services to the blind.

His wife, Lila, is a teacher at the Helen Keller School for the multihandicapped. The couple have one child, a 15-year-old son, Joey.

TRIBUTE TO THE 2D BATTALION, NASHVILLE, AR

Mr. PRYOR. Mr. President, I rise today to recognize the 2d Battalion of the 95th Training Support Brigade, located in Nashville, AR. The 2d Battalion recently received the U.S. Army Reserve Outstanding Large Unit Award for 1992–93.

Mr. President, while the Army certainly has its own terminology for these types of honors, this award essentially identifies the 2d Battalion as the best trained, most professional large reserve unit in the U.S. Army. In addition, it recognizes the personnel of this battalion for their exemplary record of community involvement, including local parades and school events.

Competition for this award, Mr. President, is very intense. Nominated battalions are required to pass muster at several levels, culminating with a final review by the Commanding General, U.S. Forces Command, at Fort McPherson, GA.

Mr. President, we are entering a period in our Nation's history when we will increasingly rely on the professionalism and readiness of our reserve forces. It is certainly a pleasure for me to note that some of our finest reserves are stationed in Nashville, Arkansas. The goal of the 95th Division, of which the 2d Battalion is a part, is to train to standard. During the past year, the 153 soldiers of the 2d Battalion met and surpassed this goal.

Mr. President, I know my colleagues join me in thanking the 2d Battalion for its service to this Nation, and congratulating it at a time of such distinctive achievement.

STATEMENT ON TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL CONFERENCE REPORT

Mr. SASSER. Mr. President, the Senate Budget Committee has examined the conference report on H.R. 2750, the Transportation and related agencies appropriations bill, and has found that the bill is under its 602(b) budget authority allocation by $151 million and under its 602(b) outlay allocation by $150 million.

I compliment the distinguished manager of the bill, Senator LAUTENBERG, and the distinguished ranking member of the subcommittee, Senator D'AMATO, for their time and effort.

Mr. President, I have a table from the Budget Committee showing the official scoring of the conference report and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2750—TRANSPORTATION APPROPRIATIONS—CONFERENCE

(In millions of dollars)

Bill summary	Budget Authority	Outlays
Discretionary totals:		
New spending in bill	13,283	12,105
Outlays from prior years appropriations		22,773
Permanent/advance appropriations		
Supplementals		11
Subtotal, discretionary spending	13,283	34,889
Mandatory totals	589	592
Bill total	13,872	35,481
Senate 602(b) allocation	14,023	35,631
Difference	−151	−150
Discretionary totals above (+) or below (-):		
President's request	−371	−267
House-passed bill	519	249
Senate-reported bill	−151	−146
Senate-passed bill	−151	−128

NOMINATION OF JANET NAPOLITANO

Mr. LOTT. Mr. President, pending on the Executive Calendar is the nomination of Janet Napolitano to be the U.S. attorney for Arizona. This nomination is particularly controversial because of her refusal to answer the questions put to her by the Judiciary Committee. She has exerted a claim of attorney-client privilege regarding her representation of Anita Hill during Justice Clarence Thomas' confirmation hearings.

The questions raised both by her claim to attorney-client privilege and by the Senate's constitutional duty to advise and consent on nominations are examined in a series of papers by Tom Jipping, Legal Affairs Analyst, of Coalitions for America.

I ask unanimous consent that the first of these reviewing the factual background of her involvement and her claim to attorney-client privilege be placed in the RECORD at this point.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

JANET NAPOLITANO

At the insistence of Senator Dennis DeConcini (D-AZ), President Clinton nominated Janet Napolitano, Antia Hill's counsel during her 1991 attack against Clarence Thomas, to be U.S. Attorney for Arizona. Yesterday, the Senate Judiciary Committee voted 12-6 to approve her nomination but last night the full Senate delayed taking any action.[1]

Napolitano is asserting a version of the attorney-client privilege to avoid answering any questions about her involvement with Susan Hoerchner, the principle witness supposedly corroborating Hill's charge of sexual harassment against Thomas. Her claim of privilege is legally insupportable and she should be required to answer any and all questions about her activity in the Hill-Thomas matter. If she insists on maintaining her assertion of privilege, President Clinton should withdraw her nomination as Presidents Reagan and Bush regularly did when this kind of cloud hung over a nominee to serve in an important Department of Justice post.

I. FACTUAL BACKGROUND

Janet Napolitano was Anita Hill's counsel. For reasons that remain unclear, she was permitted to accompany Susan Hoerchner to an interview on October 10, 1991, with Senate Judiciary Committee staff. This proceeding was not a formal deposition and Hoerchner was not sworn. Her statements, however, were covered by the False Statements Act, which prohibits any false statement "in any matter within the jurisdiction of any department or agency of the United States."[2] Congress has been held to be such a department or agency.[3]

During that interview, Judiciary Committee staffers asked Hoerchner about when Hill supposedly told her that she was being harassed. The exchange went as follows:

Q. And, in an attempt to try to pin down the date a little bit more specifically as to your first phone conversation about the sexual harassment issue in 1981, the year you mentioned, you said the first time you moved out of Washington was September of 1981; is that correct?

A. Right.

Q. Okay. Were you living in Washington at the time you two had this phone conversation?

A. Yes.

Q. When she told you?

A. Yes.

Q. So it was prior to September of 1981?

A. Oh, I see what you're saying.

Napolitano Requests Break, Confers With Hoerchner

Q. When you had the initial phone conversation with Anita Hill and she spoke for the first time about sexual harassment, do you recall where you were living—what city?

A. I don't know for sure.

Since Anita Hill first went to work for Clarence Thomas at the Department of Education in September of 1981 and testified that the alleged harassment did not occur until December 1981, the problem raised by Hoerchner's testimony is obvious. If Hoerchner told the truth in this staff interview, Hill told her of harassment that occurred before Hill worked for Thomas. Even if Hoerchner fudged the date a little, Hill's supposed confession to Hoerchner about harassment occurred before the harassment itself allegedly took place. It is no wonder that Napolitano called for a break when she did.

The question on everyone's mind is what Napolitano told Hoerchner during this break. Since a false statement by Hoerchner during this interview would violate the False Statements Act and constitute a felony, any suggestion by Napolitano that Hoerchner change her testimony would constitute subornation of perjury, a felony as well, and would certainly disqualify her from holding a position such as U.S. Attorney. It might also subject her to criminal indictment. Columnist William Cheshire wrote in the *Arizona Republic* that "if * * * she coached Judge Hoerchner to change her testimony so that it would mesh with Anita Hill's, then she is guilty of serious ethical infractions and is demonstrably unfit for the job to which she has been nominated."[4]

Napolitano responded to Cheshire's column to say "[w]ithout revealing the contents of my conversation with Hoerchner, which is protected by the attorney-client privilege," that Hoerchner "could not remember the actual date of the phone call."[5] Columnist Keven Willey came to Napolitano's defense but gave the same excuse, that Hoerchner "was unsure of the precise date of the" phone call.[6] The only problem is that Hoerchner was never asked to remember the "actual" or "precise" date of the phone call. Rather, she was asked to place that call before or after September 1981—the month that Hoerchner moved from Washington, D.C., to California.

Napolitano attempted to dispute Cheshire's suggestion by stating that "the actual transcript of the interview demonstrates that I could not have done what * * * Cheshire say[s]." Going to that transcript, however, shows just the opposite. Napolitano claims, for example, that "when we came back on the record, Hoerchner was not even talking about the date of the phone call." The portion of the transcript above shows that Napolitano's statement is patently false.

Keven Willey's column makes clear that the writer received substantial coaching and assistance from Napolitano herself, including access to the actual transcript of the Judiciary Committee staff interview. The question this obviously begs is why Napolitano can schmooze with the press about such things, but asserts a privilege against discussing the matter with the United States Senate.

II. THE ATTORNEY-CLIENT PRIVILEGE

Senators Strom Thurmond (R-SC) and Alan Simpson (R-WY) asked Napolitano

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Footnotes at end of article.

about all of this in written questions. Napolitano responded that "I am precluded by the attorney-client privilege from relating the conversation with Judge Hoerchner about which the questions inquire." She admitted that those present at the interview in question were "Judge Hoerchner, the witness; Ron Allen, her attorney; and I as Prof. Hill's attorney." Thus, she is not claiming—nor can she claim—that she was Susan Hoerchner's attorney or was acting in that capacity during the Judiciary Committee staff interview on October 10, 1991.

Rather, Napolitano is asserting a version of the attorney-client privilege known as the pooled information privilege. She cites the American Law Institute's *Restatement of the Law Governing Lawyers* §126, which states that if "two or more clients represented by separate lawyers share a common interest in a matter, the communications of each separately represented client" are privileged. She also cites Uniform Rule of Evidence 502(b)(3) which protects confidential communications by a client "or his representative or his lawyer or a representative of the lawyer to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein."

A. When does the privilege apply?

The Hill-Thomas matter was not litigation. Indeed, Senate Judiciary Committee Chairman Joseph Biden (D-DE) emphasized throughout the special hearing convened to review Hill's charges against Thomas that it was not a court of law, that the normal rules of evidence did not apply, that counsel would not be involved in the exchange between the witnesses and the committee, etc.

The Judiciary Committee staff interviews were not formal depositions and witnesses were not sworn. The fact that the False Statements Act applied did not turn that interview into any kind of legal proceeding. Quite the contrary, the False Statements Act is an important safeguard precisely because that interview was not a legal proceeding and Congress retains an interest in nevertheless ensuring that statements would be truthful.

The obvious fact that the Hill-Thomas matter did not occur in the context of litigation is extremely important because it calls into question whether the attorney-client privilege asserted by Napolitano is well-founded. One of her own cited authorities, the Uniform Rules of Evidence, limits application of the pooled information privilege to "a pending action," an obvious reference to litigation. Napolitano also cited an evidence treatise for support, but that very authority admits that "'[n]o American case had allowed a [pooled information] privilege . . . in a situation totally unrelated to litigation.'"[7] The Hill-Thomas matter was manifestly "totally unrelated to litigation" and Napolitano has not even attempted to argue why the privilege should nonetheless apply to her.

B. What does the privilege protect?

1. Attorney-to-Client Communication

Napolitano asserts this pooled information privilege to avoid revealing what she said to Hoerchner. the Uniform Rules of Evidence, which Napolitano cited as authority, makes clear that the privilege protects communications to a lawyer, not communications from a lawyer. Even if Napolitano represented Hoerchner, the privilege would protect Napolitano's communication to Hoerchner only to the extent that revealing that communication would reveal the substance of Hoerchner's communication to Napolitano. Napolitano's unsolicited communication to Hoerchner does not fit in this category. If, then, Napolitano could not hide behind the attorney-client privilege had she directly represented Hoerchner, she certainly cannot assert the indirect pooled information privilege, as she is now trying to do.

2. Communication for Legitimate Purposes

The pooled information privilege does not apply outside the litigation context; therefore, it does not apply to the Judiciary Committee staff interview with Hoerchner on October 10, 1991. Even if it does, it does not apply to communications from Napolitano to Hoerchner that would not reveal the substance of Hoerchner's communication to Napolitano. Even if it does, as Napolitano's own authorities states, it "protects pooling arrangements only for legitimate purposes."[8] The Restatement states further:

> If the purpose of the participating members of the pool is to further future crimes or frauds, for example to present perjured testimony or other false evidence, the illegal-act exception to the privilege removes its protection entirely.[9]

If Napolitano advised Hoerchner to change or alter her statements in the Judiciary Committee staff interview or to the Committee itself, it would remove entirely any protection the privilege might otherwise be argued to offer. Whether this kind of communication occurred is the whole point of questioning Napolitano about this matter. She cannot claim protection from revealing whether she encouraged Hoerchner to violate the False Statements Act by asserting a privilege that does not apply if she did just that.

III. CONCLUSION

Janet Napolitano does not have a legal basis for refusing to answer questions about her involvement in the Hill-Thomas matter. The attorney-client privilege she asserts does not apply outside of litigation and, for two separate reasons, it does not protect the relevant communications from Napolitano to Susan Hoerchner. If she refuses to answer those questions, the Senate should vote against her nomination.

Even if this privilege did apply, President Clinton should follow the example of his predecessors and withdraw the nomination. The American people, and their representatives in the Senate, need nominees whose qualifications and record can be thoroughly and openly evaluated, not those who intentionally try to hide significant and highly relevant portions of that record from public scrutiny.

FOOTNOTES

[1] Associated Press, "Senate Stalls on Anita Hill's Lawyer," Washington Times, October 1, 1993, at A10.

[2] 18 U.S.C. §1001.

[3] United States v. Poindexter, 951 F.2d 369, 386–88 (D.C. Cir. 1991).

[4] Cheshire, "Napolitano Gap' Raises Questions About U.S. Attorney Nominee," The Arizona Republic, September 16, 1993, at A16.

[5] "Napolitano: Transcript Shows Cheshire, Author Wrong," The Arizona Republic, September 17, 1993.

[6] Willey, "Book Miscasts Napolitano Role in Anita Hill Hearings," The Arizona Republic, September 19, 1993, at B2.

[7] 2 J. Weinstein, Evidence, §503(b)[06], at 503–99, quoting Comment, "The Attorney-Client Privilege in Multi-Party Situations," 8 Columbia Journal of Law & Social Problems 179, 187 (1972).

[8] Restatement of the Law Governing Lawyers §126, comment b.

[9] Id. (emphasis added).

TREASURY, POSTAL SERVICE APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

Mr. METZENBAUM. Mr. President, I am pleased that, with respect to the Treasury appropriations conference report, we have been able to reach an accommodation on the issue of funding General Services Administration projects which have not been properly authorized.

We have preserved the authority and jurisdiction of the Senate Environment and Public Works Committee to scrutinize, review, and act upon Federal office and courthouse projects before funds for such projects are obligated.

My friend and colleague, Senator BAUCUS, who chairs the Environment Committee, deserves much credit for helping to bring about this agreement between the authorizing and appropriating committees in both the House and Senate.

This is an important matter.

We have now taken steps to ensure that multimillion-dollar Federal real estate projects receive the full and thorough review they deserve. Under the agreement, either the House or Senate Public Works Committees with jurisdiction over public buildings will be able to stop unworthy or wasteful projects from moving forward.

This is how it should be. Taxpayers will be well-served by this effort.

The Treasury appropriations conference report funds 31 new construction projects, many of them courthouses, to the tune of close to $1 billion.

That is a tremendous amount of money. Yet many of the projects in the appropriations measure have not been fully examined or authorized by the Senate Environment and Public Works Committee as required under the Public Buildings Act of 1959.

The appropriations measure, as originally crafted, could have obligated funds for projects without the authorizing committee's OK. In fact, as originally crafted, the appropriations measure would have ensured that many projects contained in the bill moved forward even if the authorizing committee expressly voted to stop them.

Mr. President, that was completely unacceptable to this Senator and many of my colleagues.

Many of these GSA projects may have merit. They may be cost effective. And those that are deserve prompt Senate authorization. But some of the projects funded in the appropriations measure may be less than wonderful. Some may include gold-plating and wasteful add-ons. Whatever the case, every single project deserves careful scrutiny to ensure that tax dollars are being well spent.

The Treasury conference report would have effectively precluded the Senate Public Works Committee from examining these projects in any meaningful way.

No matter how bad or wasteful a Federal real estate project was determined to be by the Senate Public Works Committee, funding would have gone forward after February 1 unless the House Public Works Committee also agreed to kill it.

That was extremely ill-advised. It contradicted the administration's efforts to reinvent Government and the General Services Administration's current suspension and review of all new Federal construction and lease projects to cut costs.

The House Public Works Committee, having already authorized many of the projects contained in the Treasury bill, has worked its will. That is their prerogative.

But the Senate Authorizing Committee ought to be able to work its will with respect to these projects. No more. No less.

Thankfully, we have now been able to reach an agreement to ensure that Senate authorizing decisions on these projects have the same weight as those decisions reached by the House Authorizing Committee. We have now ensured that the Senate Authorizing Committee will have the opportunity to utilize GSA's own review of these projects. And we have now been able to ensure that public building projects receive proper authorization before funds are obligated.

I'm delighted that we could work this out. I thank my colleagues for their cooperation.

NATIONAL PARK SERVICE LOSES DEDICATED RANGER

Mr. PELL. Mr. President, I rise to share with my colleagues the sad news that Lawrence A. Nash, the superintendent of Roger Williams National Memorial in Providence, RI is retiring after a 24-year career.

I had the honor of sponsoring the legislation in 1965, earlier introduced by my predecessor, Theodore Francis Green, that authorized the creation of this national memorial to honor Roger Williams, the founder of Rhode Island, for his life's work to develop the principles of freedom.

For more than 12½ years, Larry has worked to fulfill the direction of Congress to create this memorial on 4½ acres in downtown Providence. He has succeeded, but only by refusing to take no for an answer.

In December 1974, 9 years after the memorial was authorized, the Parks Service purchased the land for the memorial—including the site of the fresh water spring that brought Williams to establish his settlement in Providence.

With shrinking budgets and increasing apathy on the part of the Park Service toward the development of the Memorial, the land lay fallow. It took a special appropriation, which I sponsored, to assure that construction would take place.

The first superintendent, Roy Weaver, waited 5 years for the development before he left in 1980. He did an excellent job and that tradition of excellence was carried on by Larry Nash.

Larry accepted the position of superintendent in January 1981 and moved to Rhode Island in March to take on the task for turning the vacant lot into the national memorial that was envisioned by Congress almost 20 years before.

With funding that covered only half of the total estimated cost of construction, Larry set about the task at hand. He planned carefully and arranged for construction to be done in phases, as additional funds became available.

I had the honor of turning the first shovel full of earth in July 1981, as the project finally got underway. Phase 1 was completed in November 1981, and included the landscaping, walks and part of the planned plantings.

At that point, it looked like the project would continue on indefinite hiatus, although only half completed. We had to make sure that funds, held back by the Park Service, were release and used for construction of Phase 2.

That second half of the construction began in April 1983 and, when completed late in the spring, the national memorial that we had envisioned finally was a reality.

Larry was invaluable, throughout these critical stages, in providing careful planning, reliable guidance and sound leadership He used those same qualities to make the most of the scant resources provided for maintenance and operation.

Today the Roger Williams National Memorial stands as an appropriate tribute to the man whose life was devoted to the principles of freedom that now govern our own lives.

Larry Nash is one of the individuals who made that tribute possible and we all owe him a debt of gratitude for a job well done.

FEDERAL ACQUISITION STREAMLINING ACT 1993—S. 1587

Mr. ROTH. Mr. President, today the chairman of the Governmental Affairs Committee and other Senators are introducing a Federal procurement reform bill that, until this past weekend, I had intended to consponsor. After having worked on this bill for 8 months, I thought we had the bipartisan support needed to achieve significant savings. But, the savings were whittled down over the past couple weeks, and I can no longer support this bill. While today's White House ceremony indicated that the President and others may be satisfied, I am very disappointed in the current version of the Federal Acquisition Streamlining Act of 1993.

Mr. President, today's Federal buying system is not in good condition. Multi-billion-dollar cost overruns; programs that are years or even a decade behind schedule; incentives that encourage spending rather than savings; and top-heavy bureaucratic agencies that rely on detailed regulations rather than good judgment; these are the features that come to mind when one thinks of the Federal Government's buying system. And rightly so, since the network news magazines reveal a new horror story at least once a week. The GAO's 1993 High Risk Series Reports noted that the Federal buying system itself perpetuates fraud, waste, and abuse.

According to the Congressional Budget Office, in fiscal year 1994, the Federal Government will buy about $450 billion of goods and services. At this level of spending, even small improvements can yield significant savings. The National Performance Review identified potential savings of $22.5 billion, 5 percent of the annual expenditure. The recent Defense Science Board Task Force on Acquisition Reform identified $20 billion in potential annual savings for just the Defense Department. But, the bill being introduced today takes only a baby step forward toward solving the problems needed to achieve such savings.

Mr. President, the Federal Acquisition Streamlining Act of 1993 follows 8 months of bipartisan work by the staffs of the Governmental Affairs, Armed Services, and Small Business Committees. I was glad to join with my colleagues in this effort. I want to highlight to the Senate that this was a very impressive bipartisan effort, and until several days ago, I was extremely pleased at the environment for reform. But, I cannot support a bill that may not even save one-tenth of 1 percent in annual procurement spending.

Mr. President, Congress must be courageous if it is to reform the Federal buying system. As we have come closer to Halloween the trick-or-treaters have come out in full force—special interests are getting their treats, but the taxpayers are getting tricked. Over the past month, partisan activities have been forcing us backward. For example, the bill was supposed to raise the small purchase threshold to $100,000 from the current $25,000. This would enable Government purchasers to use streamlined procedures to make small purchases. The Vice President and others forecasted that this would result in significant savings in time, staff, and money.

Yesterday, it became clear that partisan interests were putting this bill on the path away from reform. I was informed that the administration would no longer support the Senate bill's provision to raise the threshold for the Davis-Bacon Act to $100,000, even though the National Performance Review called on Congress to do so. This is one of several changes that partisan interests have made in the bill. Mr.

President, now is not the time to back away from the recommendations of the National Performance Review.

I have worked for more than a decade to reform the Government's buying system, and over the years my conclusion has not changed: Without major cultural and structural reform, Americans won't get the results they deserve. Cost and schedule overruns will continue, and the Government will pay more than it should for goods and services.

We need to get back on the pathway to reform. As a minimum, reforms should achieve the NPR savings goal of $22.5 billion, but I think reforms can go much farther. For a procurement reform bill to have an such an impact it must incorporate several key features: First, top level program goals against which performance can be measured; second, streamlined acquisition procedures, where program managers are given the authority and accountability for achieving results; third, a mission-oriented management structure, where staff jobs are eliminated if they do not add value and the users of the equipment determine whether an item should be bought; fourth, an incentive structure based on results, where pay and other incentives for program staff depend on documented achievement of program goals; fifth, an efficient contracting process that increases competition and speeds the time it takes to issue a contract; and sixth, paying contractors on the basis of performance, which I call performance-based contract management.

Later this week, I will introduce a bill to accomplish this for the Defense Department's buying system. And, quite frankly, I think such comprehensive reforms need to be applied across the Federal buying system if we are to fix its chronic problems.

While the bill being introduced by my colleagues contains some of my proposals, I intend to push during the legislative process to incorporate more comprehensive reforms before it comes before the full Senate. I look forward to working with Senators COHEN, THURMOND, SMITH, and GLENN, who have expressed an interest in comprehensive reforms, as well as our other colleagues on the Governmental Affairs Committee and the Armed Services Committee. I am hopeful that we can regain the bipartisan approach that is needed to make major savings in the Federal buying system.

A TRIBUTE TO ALBERT M. PINA

Mr. DECONCINI. Mr. President, today I rise to recognize an Arizona lawman who recently passed away. Albert M. Pina was born in Phoenix and served as a lawman for 62 years.

In all those years, Albert worked as a deputy sheriff and investigator for the Maricopa County Sheriff's Department from 1933 to 1953; deputy sheriff, chief deputy, and constable for Pinal County from 1953 to 1957; deputy sheriff for Pima County from 1957 to 1966; deputy sheriff and detention officer for Arizona State Prison from 1966 to 1969; jailer and deputy sheriff for Pima County until he retired; and reserve deputy for Pima County from 1981 to 1992.

In addition to his longtime involvement with law enforcement, Albert was also an actor and songwriter who had roles in the movie "The Three Amigos" and TV's "The High Chaparral." Albert also appeared in 163 movies under the stage name of Johnny Ray Anthony. He wrote more than 150 songs, which were sold in Mexico.

I express my sincerest condolences to his 33 children, 265 grandchildren and 96 great-grandchildren. The community has lost an outstanding law enforcement officer and a valued citizen with the death of Albert M. Pina.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,411,590,498,137.31 as of the close of business yesterday, October 25. Averaged out, every man, woman and child in America owes a part of this massive debt, and that per capita share is $17,175.14.

CAPT. JOHN B. MONTGOMERY, U.S. NAVY

Mr. COHEN. Mr. President, one of the pleasures of serving in this great body is the opportunity to publicly acknowledge some of the outstanding citizens of our Nation.

Mr. President, I rise today to recognize Capt. John B. Montgomery for his distinguished service. Capt. Montgomery is leaving the Navy, Office of Legislative Affairs, where he has serves as the director of legislation. As director of legislation he has been the primary liaison point between the Navy and the Congress on legislative initiatives. In this regard he has provided exemplary service not only to the Navy but also to the Congress. I am proud to say that prior to assuming the position of director of legislation, Captain Montgomery did exemplary work in my office as a congressional fellow. I am also pleased to state that, although his service as the director of legislation will be lost, he is assuming duties as the executive assistant to the general counsel of the Navy, where his contribution to the Navy and the Nation will continue.

Captain Montgomery is a graduate of the U.S. Naval Academy and the University of Missouri school of law. Following his graduation from law school, Captain Montgomery briefly served as an instructor of leadership and military law at the University of Missouri. Upon completion of naval justice school, he reported for duty in March, 1974 at the naval legal service office, Norfolk VA. There he served in successive billets as a trial counsel, defense counsel, and senior claims attorney. From December 1976 to July 1979, Captain Montgomery served as a court-martial trial judge in the tidewater circuit. Captain Montgomery next served as the international law attorney, NLSO, Subic Bay, and as a station judge advocate, naval air station, Cubi Point, both in the Philippines.

Following his overseas duty assignments, Captain Montgomery attended Georgetown University law center where he earned a master of laws (labor law) degree in 1982. After graduation he served as the head, labor and employment law branch, civil affairs division, of the office of the judge advocate general. Next he was assigned as assistant counsel to the assistant deputy chief of naval operations (civilian personnel/equal employment opportunity), and from 1986 to 1987 as deputy counsel to the director, Navy office of civilian personnel management.

In August 1987 Captain Montgomery was assigned as staff judge advocate to commander tactical wings Atlantic, naval air station, Oceana, VA. It was following this assignment that Captain Montgomery reported to the office of legislative affairs.

The Navy and Congress have greatly benefited by Captain Montgomery's dedication and leadership during his assignment as director of legislation. It is a true pleasure to take a moment to recognize an individual who has served the United States well, and who will continue to serve his country. I wish him the very best in all his future endeavors.

INTRODUCTION OF PROCUREMENT REFORM

Mr. COHEN. Mr. President, I was hoping to join several of my colleagues from both sides of the aisle today to introduce legislation that would propose needed meaningful reform to the way the Federal Government buys goods and services. However, because of last minute changes to the legislation that will, in my opinion, significantly reduce the cost savings and overall effectiveness of this reform, I am withholding my support with the intent of working with other Senators to fashion an alternative proposal.

Over the past several decades, Congress has witnessed the growing level of frustration as businesses and procurement officials attempt to navigate through the maze of excessive red tape and Government procurement regulations. Excessive red tape and cumbersome paperwork requirements have had a chilling effect on the participation of vendors in the Federal procurement process. Clearly, this chilling effect has reduced competition and resulted in higher cost to the taxpayers.

In addition, the inability of Federal procurement officials to buy commercially available products has resulted in frustration as they are required to buy essentially the same goods from approved Government surplus they see available to the general public for significantly less.

The changes included in any procurement reform legislation must streamline and reform existing law in such a way as to make it easier for businesses to compete for Government business and make it easier for Government contracting officers to award contracts based on best value to the Government. Serious procurement reform must also ensure that the Government no longer mandates foolish requirements for commercially available items. Several years ago procurement reform which I proposed succeeded in eliminating such money-wasting regulations as the 8-page specifications for Army cookies. The legislation must also eliminate excessive civilian agency specifications such as those for common ash trays.

To accomplish these goals, I joined a bipartisan group of Senators from the Armed Services and Governmental Affairs Committees some 8 months ago to develop a reform package that was acceptable to Members from both sides of the aisle. A few weeks ago, the group finished its work on a consensus bill which, while not perfect, was agreeable to all of the members of the working group and was to be introduced sometime this month. However, during the last few weeks, the legislation was changed during closed door meetings between the administration and the Democratic members of the working group. These changes were made despite assurances to the Republicans that the meetings with the administration were not for purposes of negotiation.

Although I am troubled by the exclusion of Republicans from the process, I found the results of the meetings even more disturbing. Because the working group saw a need to eliminate unnecessary paperwork from the procurement process, the draft legislation would have significantly reduced the paperwork burden by exempting small dollar purchases from virtually all reporting requirements. It is important to note that these substantive changes were not only included in the working group's draft legislation, but were also key recommendations of the Vice President's National Performance Review. The move to eliminate these exemptions effectively eliminates the paper reduction benefits that were contained in the working group's draft.

Another example of a meaningful provision recommended by the working group and by the National Performance Review yet excluded from the administration's procurement legislation is a proposal to increase the Davis-Bacon threshold for Federal construction projects. When the working group was developing its draft legislation, I agreed, as a compromise to some members, to limit the increase in the threshold to $100,000 with the understanding that I would propose a larger increase or an outright repeal in committee. Yesterday, I discovered that as a result of the closed door meetings, the administration's so-called procurement reform legislation would not include any increase in the Davis-Bacon threshold.

There are other weaknesses with the administration's bill. For example, there is little offered in the way of improvements to contract administration. I believe significant savings could be realized if we reward contractors and managers for good performance and punish them for poor performance. For this reason I joined with Senator ROTH when he offered an amendment to the 1994 Department of Defense authorization bill which provided that progress payments to contractors be based on program cost, schedule and performance. This change, which was accepted by the Senate, represents a fundamental rethinking of contract administration and creates the incentives for ensuring significant changes. I believe that meaningful changes to Government-wide procurement must contain these cost-saving performance-based reforms.

In sum, it is my belief, and one which I am sure is shared by many of those who were a part of this working group, that much of the meaningful reform, paperwork reduction and taxpayer savings that was originally included in our bill has been stripped away by the administration, and the bipartisan effort has been cast aside.

The one-party, closed-door negotiating sessions has resulted in a bill which I and other members of the working group cannot support. Consequently, I intend to work with other Senators from the bipartisan procurement reform effort and introduce an alternative package that unlike the administration's bill will accomplish the cost saving, paperwork reduction procurement reform that is so urgently needed.

PROCUREMENT REFORM

Mr. LAUTENBERG. Mr. President, Senator GLENN and his colleagues have made a real contribution today in introducing legislation to reform the Federal procurement system. As chairman of the Superfund Subcommittee, I have introduced legislation affecting EPA's practices. Reform of procurement systems can stop the waste of billions of taxpayer dollars lost in the Government contracting process. Under Presidents Reagan and Bush, the taxpayers footed the bill for rampant waste at the Environmental Protection Agency. While Administrator Browner has pledged to reform EPA's practices, legislative corrections are in order to give her the tools she needs to get the job done.

In successive years since 1989, as Superfund Subcommittee chairman, and a member of EPA's Appropriations Subcommittee, I have conducted oversight hearings and issued subcommittee recommendations to reform the manner in which EPA manages outside contractors. I urged the Bush administration to attack a deep-seated, cultural problem at the Agency that has given short shrift to the responsible management of taxpayer dollars and has created an atmosphere ripe for waste, fraud and abuse.

The management of Superfund cleanup contractors has been a central concern. In 1989, I issued a report and held hearings criticizing EPA's management of these contractors. In 1991, I requested that GAO investigate Superfund alternative remedial contracting [ARC's] cleanup contractors. GAO presented the results of that investigation in a hearing before my Superfund Subcommittee this past June. The report revealed recurring, deep-seated problems with the management of EPA's outside contractors—contractors who perform billions of dollars worth of superfund cleanups. I testified about this and related problems before the Governmental Affairs Committee this past summer.

At my urging, the Appropriations Committee has for each of the past 2 years directed EPA to address the contract and fiscal mismanagement of these Superfund contractors, through mechanisms such as placing an 11 percent ceiling on program management costs and requiring an intensive internal investigation of contracting practices in superfund.

This past summer, I asked EPA's inspector general to review the contract and fiscal management weaknesses in the Superfund Program and develop recommendations, which I am expecting shortly, on both administrative and legislative reforms. And in confirmation hearings and other occasions, I have continued to press President Clinton's Administrator, Deputy Administrator, and two separate Assistant Administrators with jurisdiction over this issue to bring home the reforms that are desperately needed to fix 12 years of contract and fiscal mismanagement.

But the problems at EPA extend well beyond the Superfund Program. As both GAO and the EPA Inspector General have testified before my Superfund Subcommittee, mismanagement of EPA contracts is evident in many programs. These audits have involved a wide range of procurement issues, including the performance of inherently governmental functions by contractors, the existence of organizational conflicts of interest, and the payment of unallowable costs to contractors.

In the wake of these findings, this past June I introduced S. 1120, the Responsible Environmental Management Act of 1993, to enhance contract management reform at the Environmental Protection Agency and help rid the Government of fraud, waste, and abuse. I am seeking through that legislation to restore accountability to EPA's management of contracts not only in the Superfund area, but throughout the agency's programs.

My bill establishes administrative and judicial civil penalties that can be assessed against contractors who charge the Government for unallowable, illegal costs, like parties, liquor, and extravagant employee gifts. It also requires better documentation to justify expenditures for certain types of items, such as contractor travel, where there has been a demonstrated potential for inflated bills. My bill further requires EPA to cut back on its use of the huge, umbrella contracts which authorize hundreds of millions of dollars of work under vague terms. It is these kinds of contracts that have been most subject to abuse and mismanagement at the agency.

I am very pleased that Senator GLENN and his colleagues have now introduced a bill that picks up two of the major aspects included in my bill, regarding certification of allowable costs and constraints on umbrella contracts. I look forward to working closely with Senator GLENN to resolving a few minor differences in approach between the two bills, and I congratulate my distinguished colleagues on developing reforms that will extend these principles to all Federal agencies.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 426, Frank Eugene Kruesi, to be an Assistant Secretary of Transportation;

Calendar No. 427, Steven O. Palmer, to be an Assistant Secretary of Transportation.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

DEPARTMENT OF TRANSPORTATION

Frank Eugene Kruesi, of Illinois, to be an Assistant Secretary of Transportation.

Steven O. Palmer, of Michigan, to be an Assistant Secretary of Transportation.

STATEMENT ON THE NOMINATION OF STEVEN O. PALMER TO BE ASSISTANT SECRETARY OF TRANSPORTATION FOR GOVERNMENTAL AFFAIRS

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is now considering the nomination of Steven O. Palmer to be Assistant Secretary of Transportation for Governmental Affairs. I have known Steven for over 10 years, and I can assure my colleagues that he will bring significant experience and enthusiasm to this important position.

Steve has an impressive background. Since August 1993, Steve has served as a special advisor to the Secretary of Transportation. From 1983 through August 1993, he was a senior professional staff member for the Commerce Committee, assigned first to the staff of the Aviation Subcommittee and then the Science, Technology, and Space Subcommittee. Prior to his service with the Commerce Committee, I knew Steve when he was a budget analyst with the U.S. Senate Budget Committee from 1982 to 1983. In addition, from 1980 to 1982, he was a presidential management intern at the Department of Transportation. Steve is a graduate of Kalamazoo College and the Lyndon B. Johnson School of Public Affairs at the University of Texas at Austin.

I believe that the President has made a very wise choice in nominating Steve Palmer for this position. Steve is capable, intelligent, easy to work with, and a person of integrity. He knows the Senate, transportation issues, and the budget process well. Steve has rendered invaluable service to me and the Commerce Committee, and I know he will do the same for the administration. He is well-qualified and well-suited for his new position. He will do an outstanding job as Assistant Secretary.

DOT's gain is our loss. However, I take comfort in the fact that I, and the rest of my colleagues, will continue our relationship with Steve, although in a different capacity.

I urge my colleagues to join me in their wholehearted support for Steve Palmer to be Assistant Secretary of Transportation for Governmental Affairs.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

REPORT ON THE DEPARTMENT OF TRANSPORTATION FOR FISCAL YEAR 1990—MESSAGE FROM THE PRESIDENT—PM 59

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with section 308 of Public Law 97–449 (49 U.S.C. 308(a)), I transmit herewith the Twenty-fourth Annual Report of the Department of Transportation, which covers fiscal year 1990.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 26, 1993.*

REPORT ON THE DEPARTMENT OF TRANSPORTATION FOR FISCAL YEAR 1991—MESSAGE FROM THE PRESIDENT—PM 60

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with section 308 of Public Law 97–449 (49 U.S.C. 308(a)), I transmit herewith the Twenty-fifth Annual Report of the Department of Transportation, which covers fiscal year 1991.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 26, 1993.*

REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR FISCAL YEAR 1992—MESSAGE FROM THE PRESIDENT—PM 61

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95–454; 5 U.S.C. 7104(e)), I have the pleasure of transmitting to you the Fourteenth Annual Report of the Federal Labor Relations Authority for fiscal year 1992.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 26, 1993.*

REPORT OF PROPOSED LEGISLATION ENTITLED "GOVERNMENT REFORM AND SAVINGS ACT OF 1993"—MESSAGE FROM THE PRESIDENT—PM 62

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Government Reform and

Savings Act of 1993". This legislation is based on the recommendation of the National Performance Review (NPR). Also transmitted is a section-by-section analysis.

The goal of the NPR is to provide the American people with a more effective, efficient, and responsive government—a government that works better and costs less. The NPR began on March 3, 1993, when I asked Vice President Gore to conduct an intensive 6-month review of how the Federal Government works. The Vice President organized a team of experienced Federal employees from all corners of government to examine both agencies and cross-cutting systems, such as budgeting, financial management, procurement, and personnel. He spoke with employees at every major agency and sought the views of hundreds of organizations, business leaders, and State and local officials.

The NPR report presents numerous proposals, some of which require legislation, some of which can be achieved through administrative action. The legislation I am presenting today is a major step in implementing those NPR recommendations that require action by the Congress. I plan to include additional NPR proposals in the Fiscal Year 1995 Budget.

This legislation includes proposals that seek to: consolidate and streamline agency operations; eliminate unnecessary programs; end unneeded subsidies; improve financial management and debt collection; reduce the burdens resulting from statutory reporting requirements; and improve the dissemination of government information. They were selected from the NPR report with the expectation that they can be considered expeditiously by the Congress. It is my hope that these recommendations will be passed by the Congress prior to adjournment this year.

The savings total for the legislation I am submitting today is $9 billion.

To accompany these NPR recommendations, a package of rescissions will be sent to the Congress shortly. The Administration is also working with the appropriate committees of jurisdiction on a major procurement reform measure.

By implementing these recommendations, I believe we can make fundamental changes for the better in the performance of the Federal Government. I pledge to work with the Congress to ensure the prompt enactment of this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 26, 1993*.

MESSAGES FROM THE HOUSE

At 3:54 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 48. Concurrent Resolution to correct technical errors in the enrollment of the bill (H.R. 2403), and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2445) making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 12, 14, 15, 20, 22, 29, 30, 31, 32, and 39 to the bill and agrees thereto; and that the House recedes from its disagreement to the amendments of the Senate numbered 2, 3, 4, 17, 33, and 36 to the bill, and has agreed thereto, each with an amendment, in which it requests the concurrence of the Senate.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1669. A communication from the Secretary of Education, transmitting, pursuant to law, notice of relief of regulatory provisions under the Student Assistance General Provisions, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and Federal Pell Grant Programs; to the Committee on Labor and Human Resources.

EC–1670. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priority—Rehabilitation Research and Training Center on Rehabilitation in the Pacific Basin; to the Committee on Labor and Human Resources.

EC–1671. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report on NASA Regional Technology Transfer Center Small Business Activities; to the Committee on Small Business.

EC–1672. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, notice of a transaction relative to U.S. exports to the Republic of Korea; to the Committee on Banking, Housing and Urban Affairs.

EC–1673. A communication from the Principal Deputy Comptroller, Department of Defense, transmitting, pursuant to law, notice of an intention relative to the Republic of Kazakhstan; to the Committee on Armed Services.

EC–1674. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to authorize the transfer of twenty-five naval vessels to certain foreign countries; to the Committee on Armed Services.

EC–1675. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to designate defense acquisition pilot programs in accordance with the National Defense Autorization Act for fiscal year 1991; to the Committee on Armed Services.

EC–1676. A communication from the Assistant Secretary (Policy, Planning, and Program Evaluation), Department of Energy, transmitting, pursuant to executive order, the first interim report of the Federal Fleet Conversion Task Force; to the Committee on Commerce, Science and Transportation.

EC–1677. A communication from the Administrator (Energy Information Administration), Department of Energy, transmitting, pursuant to law, a report entitled "Emissions of Greenhouse Gases in the United States, 1985-1990"; to the Committee on Energy and Natural Resources.

EC–1678. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation entitled "U.S.-Mexico Border Water Pollution Control Act"; to the Committee on Environment and Public Works.

EC–1679. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation entitled "U.S. Colonias Water Pollution Control Act"; to the Committee on Environment and Public Works.

EC–1680. A communication from the Assistant Legal Adviser (Treaty Affairs), Department of State, transmitting, pursuant to law, a report of the texts of international agreements and background statements; to the Committee on Foreign Relations.

EC–1681. A communication from the Director of the Woodrow Wilson International Center for Scholars, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC–1682. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation to amend title 38, United States Code, to delete a requirement that the Under Secretary of Health in the Department of Veterans' Affairs be a doctor of medicine; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–308. A resolution adopted by the Iron County Board of Commissioners, Crystal Falls, Michigan relative to Federal mandates; to the Committee on Governmental Affairs.

POM–309. A joint resolution adopted by the Legislature of the State of Oregon; to the Committee on Appropriations.

"HOUSE JOINT MEMORIAL 7

"To the Senate and House of Representatives of the United States of America, in Congress assembled:

"We, your memorialists, the Sixty-seventh Legislative Assembly of the State of Oregon, in legislative session assembled, respectfully represent as follows:

"Whereas the Congress has enacted the Cancer Registries Act to establish a national program to collect invaluable scientific data on in situ and invasive cancer; and

"Whereas an essential element of the program is to provide grants to participating states or their designees for the operation of statewide registries; and

"Whereas the comparative data to be collected from such registries will provide the scientific community with yet another weapon for its battle against the ravages of cancer; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon:

"(1) The Congress is urged to appropriate the funds necessary to implement the Cancer Registries Act.

"(2) Copies of this memorial shall be sent to the President of the Senate, to the Speaker of the House of Representatives and to each member of the Oregon Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 21. A bill to designate certain lands in the California Desert as wilderness to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes (Rept. No. 103–165).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 479. A bill to amend the Securities Act of 1933 and the Investment Company Act of 1940 to promote capital formation for small businesses and others through exempted offerings under the Securities Act and through investment pools that are excepted or exempted from regulation under the Investment Company Act of 1940 and through business development companies (Rept. No. 103–166).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 1586. A bill to establish the New Orleans Jazz National Historical Park in the State of Louisiana; and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GLENN (for himself, Mr. BINGAMAN, Mr. LEVIN, Mr. NUNN, Mr. BUMPERS, and Mr. LIEBERMAN):

S. 1587. A bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FORD:

S. 1588. A bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, Mr. WARNER, Mr. DECONCINI, Mrs. FEINSTEIN, Mr. WOFFORD, Ms. MOSELEY-BRAUN, Mr. METZENBAUM, Mrs. MURRAY, Mr. HARKIN, Ms. MIKULSKI, and Mr. FEINGOLD):

S. 1589. A bill to amend title 18, United States Code, to prohibit any State motor vehicle department from disclosing certain personal information about a person doing business with such department; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. 1586. A bill to establish the New Orleans Jazz National Historical Park in the State of Louisiana; and for other purposes; to the Committee on Energy and Natural Resources.

NEW ORLEANS JAZZ NATIONAL HISTORICAL PARK ACT OF 1993

• Mr. JOHNSTON. Mr. President, I am very pleased to introduce legislation today to implement recommendations made by the Preservation of Jazz Advisory Commission to establish a unit of the National Park System for the commemoration, interpretation, and preservation of jazz in New Orleans. This legislation, which establishes the New Orleans Jazz National Historical Park in New Orleans, LA, is the culmination of years of work by the National Park Service, the Preservation of Jazz Advisory Commission, and many interested parties in Louisiana and throughout the Nation.

The Preservation of Jazz Advisory Commission was established pursuant to legislation I authored in 1990, signed into law as Public Law 101–499 on November 2, 1990. With support from the Department of the Interior, the Commission was given the daunting task of developing recommendations for the Secretary of the Interior, who in consultation with the Secretary of the Smithsonian Institution, was charged with the duty of assessing the suitability and feasibility of preserving the origins of jazz in New Orleans, the widely recognized birthplace of our Nation's most popular and indigenous music and art form.

The Commission was composed of well respected, eminently well-qualified experts who brought tremendous experiences and professionalism to their task. Cochaired by former Louisiana congressional delegation member Lindy Boggs and Mr. Ellis Marsalis, an outstanding musician and educator who is also the founder of the famous New Orleans Marsalis music dynasty, members of the Commission also included representatives knowledgeable about tourism, festival productions, historic preservation, archival collections, jazz history, and folklife preservation, as well as musicians, a representative of New Orleans' well known social and pleasure clubs, the mayor of New Orleans, local neighborhood groups and the Louisiana State Music Commission.

As part of the Commission's effort to assure broad public participation in developing recommendations for the Secretary, the Commission held five public meetings in New Orleans which were broadly publicized in the local media, by newsletters, fliers, and in the Federal Register during 1991 and 1992. Moreover, with the National Park Service the Commission also sponsored a jazz history workshop, assisted in the publication of three newsletters outlining the progress made in the study at each stage of the process, and held eight business meetings, all of which were open to the public and were announced in newsletters, fliers, the local media, and the Federal Register.

All of these activities engaged the interest of many citizens in New Orleans and elsewhere, and led to tremendous participation in the process and excitement about the project. I am confident that the Commission's recommendations reflect and draw on this broad participation and have resulted in a deliberative, well thought out consensus document.

I would be remiss if I did not mention the fine work undertaken in this challenge by the National Park Service under the guidance of Dennis Galvin in the planning division here in Washington, the leadership of Nat Kuykendall in the Denver Service Center and the day to day management of the Superintendent of the Jean Lafitte National Historical Park and Preserve in New Orleans, Bob Belous. All these individuals, and many more, contributed ably and well to this project and represent the best the National Park Service has to offer.

Jazz has captured the hearts and imagination of many in this Nation and has been a catalyst for bringing those from all walks of life together, musicians and nonmusicians alike. Names like Buddy Bolden, Jelly Roll Morton, Freddie Keppard, Nick LaRocca, King Oliver, Sidney Bechet, Kid Ory and of course the great Louis Armstrong all continue to create excitement today. People are drawn to New Orleans from all over the Nation and many parts of the world seeking to discover the roots of these and other jazz greats. Sadly, however, they too often fail to find the concrete expression of these roots. Many of the areas associated with the origin and early history of jazz are gone: the infamous Storyville District was largely dismantled in the 1940's; many buildings in the Tango Belt have been removed or significantly altered; Back o' Town has been the site of redevelopment for government offices, parking areas, highrise office buildings and the superdome; important lakefront areas like Milneburg, Little Woods, and West End were altered in the 1920's when Lake Pontchartrain's shoreline was extended about 2,000 feet.

We are fortunate, however, in that important structures remain in all of these and other areas, although many are in need of immediate attention if they are to be preserved. One of the key recommendations of the Commission is for the National Park Service, in consultation with the Louisiana State historic preservation officer, to undertake a national historic landmarks theme study and to prepare nomination forms for designating sites and structures in New Orleans that are of national significance to the origins, development and progression of jazz in the United States. We have in short a limited opportunity to preserve what remains and provide those seeking the roots of jazz an opportunity to see some of the key spots where jazz developed.

Jazz is one of the Nation's great treasures, one worthy of preservation and celebration. In fact, music is one of this country's few commodities for which we enjoy a large trade surplus with the rest of the world. This legislation will help ensure that we maintain this resource for years to come.

The Commission's recommendations contain many important steps in assuring that generations of Americans to come will be able to learn about and enjoy jazz, just as we have. Central to these recommendations is the support of local institutions for jazz education like the Heritage School of Jazz sponsored by the New Orleans Jazz and Heritage Foundation, the New Orleans Center for the Creative Arts, the jazz studies program at the University of New Orleans and other music programs at area colleges and universities, the work of the Louis Armstrong Foundation and through the jazz outreach program carried out by the Orleans Parish School Board. New Orleans continues to produce brilliant young musicians like Wynton, Branford and Delfaeyo Marsalis, Harry Connick, Jr., Terrence Blanchard, Donald Harrison, Michael White, and Kent and Marlon Jordan. Interpretive and education programs supported by the National Park Service involving our Nation's youth will ensure that this vital resource is renewed and preserved.

Other important Commission recommendations would help preserve and promote important contributions to jazz of the many social and pleasure clubs and mutual aid and benevolent societies as well as Mardi Gras Indians, walking clubs and other associations. These organizations continue the 100-year-old street parade tradition which has been critical to the evolution and preservation of New Orleans jazz.

In sum, this legislation recognizes one of the true native resources of this country and pays appropriate tribute to this resource by creating a national park for its benefit. By officially recognizing jazz as a precious resource deserving of national park support and protection, we will guarantee that this valuable art form is preserved and protected for future generations, all to our Nation's further economic security.

I hope to schedule a hearing on this legislation very soon, and I look forward to receiving the testimony and suggestions from the Commission members and others who have been instrumental in shaping these initiatives. I believe we can develop a good bill which will meet the challenge of Public Law 101-499, building on the fine work which has been completed by the National Park Service and the Commission.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1586

Be it enacted in the Senate and the House of Representatives in the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Orleans Jazz National Historical Park Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) jazz is the United States' most widely recognized indigenous music and art form. Congress previously recognized jazz in 1987 through Senate Concurrent Resolution 57 as a rare and valuable national treasure of international importance.

(2) the city of New Orleans is widely recognized as the birthplace of jazz. In and around this city, cultural and musical elements blended to form the unique American music that is known as New Orleans jazz, which is an expression of the cultural diversity of the lower Mississippi Delta Region.

(3) Jean Lafitte National Historical Park and Preserve was established to commemorate the cultural diversity of the lower Mississippi Delta Region including a range of cultural expressions like jazz.

(b) PURPOSE.—In furtherance of the need to recognize the value and importance of jazz, it is the purpose of this Act to establish a New Orleans Jazz National Historical Park, together with associated educational programs, as a unit of the Jean Lafitte National Historical Park and Preserve which is headquartered in New Orleans, Louisiana. The historical park shall preserve the origins and early history of jazz; provide visitors with opportunities to experience the sights, sounds, and places where jazz evolved; and implement innovative ways of establishing jazz educational partnerships that will help to ensure that jazz continues as a vital element of the culture of New Orleans and our Nation.

SEC. 3. ESTABLISHMENT.

(a) IN GENERAL.—In order to assist in the preservation, education, and interpretation of jazz as it has evolved in New Orleans, and to provide technical assistance to a broad range of organizations involved with jazz music and its history, there is hereby established the New Orleans Jazz National Historical Park (hereinafter referred to as the "historical park"). The historical park shall be administered and managed as a unit of the Jean Lafitte National Historical Park and Preserve, which was established to preserve and interpret the cultural and natural resources of the lower Mississippi Delta Region.

(b) AREA INCLUDED.—The historical park shall consist of lands and interests therein as follows:

(1) lands which the Secretary of the Interior (hereinafter referred to as "the Secretary") may designate for an interpretive visitor center complex;

(2) sites that are the subject of cooperative agreements with the National Park Service for the purposes of interpretive demonstrations and programs associated with the purposes of this Act; and

(3)(A) sites designated by the Secretary as provided in subparagraph (B).

(B)(i) The Secretary is directed to undertake a national historic landmark evaluation of sites associated with jazz in and around New Orleans as identified in the document entitled "New Orleans Jazz Special Resource Study", prepared by the National Park Service pursuant to Public Law 101-499. In undertaking the evaluation, the Secretary shall, to the extent practicable, utilize existing information relating to such sites.

(ii) If any of the sites evaluated are found to meet the standards of the National Historic Landmark program and National Park Service tests of suitability and feasibility, and offer outstanding opportunities to further the purposes of this Act, the Secretary may designate such sites as part of the historical park, following consultation with the city of New Orleans, the Smithsonian Institution, and the Delta Region Preservation Commission, and notification to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the historical park in accordance with this Act and with provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4); the Act of August 21, 1935 (49 Stat. 666., 16 U.S.C. 461-467); and Title IX of Public Law 95-625, the enabling Act for Jean Lafitte National Historical Park and Preserve, as amended, (16 U.S.C. 230). The Secretary shall manage the historical park in such a manner as will preserve and perpetuate knowledge and understanding of the history of jazz and its continued evolution as a true American art form.

(b) DONATIONS.—The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, corporations, or other public entities for the purposes of providing services, programs, and facilities that further the purposes of this Act.

(c) INTERPRETIVE CENTER.—The Secretary is authorized to lease, construct, operate, or maintain an interpretive center in New Orleans. Programs at the center may include live jazz interpretive and educational programs, and shall provide visitors with information about jazz-related programs, performances, and opportunities.

(d) JAZZ HERITAGE DISTRICTS.—The Secretary may provide technical assistance to the city of New Orleans and other appropriate entities for the designation of certain areas in and around New Orleans as jazz heritage districts. Such districts shall include those areas with an exceptional concentration of jazz historical sites and established community traditions of jazz street parades.

(e) COOPERATIVE AGREEMENTS, GRANTS, AND TECHNICAL ASSISTANCE.—In furtherance of the purposes of this Act—

(1) the Secretary, after consultation with the New Orleans Jazz Commission established pursuant to section 7, is authorized to enter into cooperative agreements with owners of properties that are designated pursuant to section 3(b)(3) which provide outstanding educational and interpretive opportunities relating to the evolution of jazz in New Orleans. The Secretary may assist in the rehabilitation and restoration of, mark, interpret, and provide technical assistance for the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the National Park Service will have reasonable rights of access for operational and visitor

use needs, that rehabilitation and restoration will meet the Secretary's standards for rehabilitation of historic buildings, and that specify the roles and responsibilities of the Secretary for each site or structure;

(2) the Secretary is authorized to enter into cooperative agreements with the city of New Orleans, the State of Louisiana, and other appropriate public and private organizations under which the other parties to the agreement may contribute to the acquisition, construction, operation, and maintenance of the interpretive center and to the operation of educational and interpretive programs to further the purposes of this Act; and

(3) the Secretary, in consultation with the Commission, is authorized to provide grants or technical assistance to public and private organizations.

(f) JAZZ EDUCATIONAL PROGRAMS.—The Secretary shall, in the administration of the historical park, promote a broad range of educational activities relating to jazz and its history. The Secretary shall cooperate with schools, universities, and organizations supporting jazz education to develop educational programs that provide expanded public understanding of jazz and enhanced opportunities for public appreciation. The Secretary may assist appropriate entities in the development of an information base including archival material, audiovisual records, and objects that relate to the history of jazz.

SEC. 5. ACQUISITION OF PROPERTY.

(a) GENERAL AUTHORITY.—The Secretary may acquire lands and interests therein within the sites designated pursuant to section 3(b) (1) and (3) by donation or purchase with donated or appropriated funds: *Provided*, That sites designated pursuant to section 3(b)(3) shall only be acquired with the consent of the owner thereof.

(b) STATE AND LOCAL PROPERTIES.—Lands and interests in lands which are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation.

SEC. 6. GENERAL MANAGEMENT PLAN.

Within 3 years after the date funds are made available therefor and concurrent with the national landmark study referenced in section 3(b)(3), the Secretary, in consultation with the New Orleans Jazz Commission, shall prepare a general management plan for the historical park. The plan shall include, but need not be limited to—

(1) a visitor use plan indicating programs and facilities associated with park programs that will be made available to the public;

(2) preservation and use plans for any structures and sites that are identified through the historic landmark study for inclusion within the historical park;

(3) the location and associated cost of public facilities that are proposed for inclusion within the historical park, including a visitor center;

(4) identification of programs that the Secretary will implement or be associated with through cooperative agreements with other groups and organizations;

(5) a transportation plan that addresses visitor use access needs to sites, facilities, and programs central to the purpose of the historical park;

(6) plans for the implementation of an archival system for materials, objects, and items of importance relating to the history of jazz; and

(7) guidelines for the application of cooperative agreements that will be used to assist in the management of historical park facilities and programs.

SEC. 7. ESTABLISHMENT OF THE NEW ORLEANS JAZZ COMMISSION.

(1) ESTABLISHMENT.—To assist in implementing the purposes of this Act and the document entitled "New Orleans Jazz Special Resource Study," there is established the New Orleans Jazz Commission (hereinafter referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of 15 members to be appointed no later than 6 months after the date of enactment of this Act. The Commission shall be appointed by the Secretary as follows:

(1) one member recommended by the Mayor of New Orleans;

(2) two members who have recognized experience in music education programs that emphasize jazz;

(3) one member, with experience and knowledge of tourism in the greater New Orleans area, from recommendations submitted by local businesses;

(4) one member recommended by the Board of the New Orleans Jazz and Heritage Foundation;

(5) one member, with experience and knowledge of historic preservation within the New Orleans area;

(6) two members who are recognized musicians with knowledge and experience in the development of jazz in New Orleans;

(7) one member with recognized expertise in jazz and folklore preservation and interpretation, recommended by the Director of the Louisiana State Museum;

(8) two members who represent local neighborhood groups or other local associations, recommended by the Mayor of New Orleans;

(9) one member representing local social and pleasure clubs, recommended by the Mayor of New Orleans;

(10) one member recommended by the Governor of the State of Louisiana, who shall be a member of the Louisiana State Music Commission;

(11) the Chairman of the Delta Regional Preservation Commission, ex officio; and

(12) the Director of the National Park Service, or the Director's designee, ex officio.

(c) DUTIES OF THE COMMISSION—The Commission shall—

(1) advise the Secretary in the preparation of the general management plan for the historical park; assist in public discussions of planning proposals; and assist the National Park Service in working with individuals, groups, and organizations including economic and business interests in determining programs in which the Secretary should participate through cooperative agreements;

(2) in consultation and cooperation with the Secretary, develop partnerships with educational groups, schools, universities, and other groups to furtherance of the purposes of this Act;

(3) in consultation and cooperation with the Secretary, develop partnerships with city-wide organizations, and raise and disperse funds for programs that assist mutual aid and benevolent societies in encouraging the continuation of and enhancement of jazz cultural traditions;

(4) acquire or lease property for jazz education, and advising on hiring brass bands and musical groups to participate in education programs and help train young musicians;

(5) in consultation and cooperation with the Secretary, provide recommendations for the location of the visitor center and other interpretive sites;

(6) assist the Secretary in providing funds to support research on the origins and early history of jazz in New Orleans; and

(7) notwithstanding any other provision of law, seek and accept donations of funds, property, or services from individuals, foundations, corporations, or other public or private entities and expend and use the same for the purposes of providing services, programs, and facilities for jazz education, or assisting in the rehabilitation and restoration of structures identified in the national historic landmark study referenced in section 3(b)(3) as having outstanding significance to the history of jazz in New Orleans.

(c) APPOINTMENT.—Members of the Commission shall be appointed for staggered terms of 3 years, as designated by the Secretary at the time of the initial appointment.

(d) CHAIRMAN.—The Commission shall elect a chairman from among its members. The term of the chairman shall be for 3 years. The Chairman of the Commission shall serve as an ex-officio member of the Delta Regional Preservation Commission.

(e) TERMS.—Any member of the Commission appointed by the Secretary for a 3-year term may serve after the expiration of his or her term until a successor is appointed. Any vacancy shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed.

(f) PER DIEM EXPENSES.—Members of the Commission shall serve without compensation. Members shall be entitled to travel expenses under section 5703, title 5, United States Code, when engaged in Commission business, including per diem in lieu of subsistence in the same manner as persons employed intermittently.

(g) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Commission with assistance in obtaining such personnel, equipment, and facilities as may be needed by the Commission to carry out its duties.

(h) ANNUAL REPORT.—The Commission shall submit an annual report to the Secretary identifying its expenses and income and the entities to which any grants or technical assistance were made during the year for which the report is made.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.●

By Mr. GLENN (for himself, Mr. BINGAMAN, Mr. LEVIN, Mr. NUNN, Mr. BUMPERS, and Mr. LIEBERMAN)

S. 1587. A bill to revise and streamline the acquisition laws of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

THE FEDERAL ACQUISITION STREAMLINING ACT OF 1993

Mr. GLENN. Mr. President, I rise to introduce the Federal Acquisition Streamlining Act of 1993, a comprehensive procurement reform bill aimed at streamlining the acquisition process and fulfilling the recommendations of the Vice President's National Performance Review [NPR] for the procurement system. This effort represents the collaboration of the Committee on Governmental Affairs, which I chair, the Armed Services Committee, and the Small Business Committee, and used as a starting point, reform legislation which I introduced earlier this year, S. 554, 555, and 556, and the report of the Acquisition Law Advisory Panel assembled pursuant to section 800 of the National Defense Authorization Act for Fiscal Year 1991.

Mr. President, you will recall that at the end of 1992, the section 800 panel's work was about to go to press. At that time, I sent a letter to then-Secretary of Defense Cheney raising concerns about some rumored conclusions embodied in the report. In addition, I asked GAO to study certain aspects of the report.

I had discussions with Senator BINGAMAN, and the staffs of our respective committees met. From this enterprise arose two main themes: First, the Armed Services and Governmental Affairs Committees would work together toward a joint piece of procurement reform legislation based on the recommendations for DOD in the section 800 report. Second, the legislation resulting from the joint effort would have governmentwide effect, and would include then-pending procurement reform efforts I had initiated. Since January our staffs have met, and the bill before us represents the fruition of that effort. At this time, I wish to thank Senators LEVIN, BINGAMAN, NUNN, and BUMPERS for their significant contributions to this effort.

I also wish to point out that, while this process was ongoing, other forces for reform were hard at work; namely, the Vice President's NPR troops, who have come up with a host of timely recommendations for rebuilding the procurement system. I am pleased to report that we have been able to join our efforts with the NPR and present to you this reform package which will take us a long way down the road to reinventing Federal procurement.

The bill seeks to implement a host of reforms across the spectrum of Federal procurement. The titles of the bill parallel those of the section 800 report, and the most significant issues it addresses relate to the improved acquisition of commercial items, the increased use of streamlined acquisition procedures under an elevated small purchase threshold, refinements in and strengthening of the competition process, improved oversight via clarification of the protest process, reform of procurement ethics laws to achieve simple and uniform application, and the streamlining of the procurement code through repeal of some laws that affect governmentwide procurement where net efficiencies and equities dictate.

In the area of commercial acquisition, the bill makes a host of changes affecting not only the outright purchase of commercial products, but also the system for expeditious review of award decisions. The bill encourages the use of commercial and other nondevelopmental items [NDI] and makes it substantially easier for Federal agencies to buy these items. In so doing, agencies can look forward to the elimination of the need for research and development, reduction in acquisition leadtime, and a shift in focus away from detailed design specifications or expensive product testing.

The bill establishes preferences for commercial products and NDI's and mandates the issuance of regulations to make it easier to buy commercial products. This approach, I believe, fulfills a major NPR recommendation, PROC13, and it conforms substantially to the recommendations of the section 800 panel.

As I stated earlier, the bill attempts to strike a balance between the equities of certain laws and the need for efficiency in acquisition. For this reason, it exempts commercial product and NDI buys from several statutes unique to Government purchases, and which have little application in the commercial sector.

The Truth in Negotiations Act is also amended Governmentwide, providing for a commercial items exception to the submission of cost and pricing data. In so doing, the bill conforms to what the NPR anticipated in recommendation PROC19 and substantially addresses the recommendation in this area set forth by the section 800 panel. By this amendment, commercial vendors would no longer be burdened with the expense and delays associated with compiling and submitting cost data for the Government.

Mr. President, virtually every study of the procurement system has identified the need for reform of the way Government makes certain small purchases. As the section 800 panel noted, these purchases account for the bulk of procurement actions taken, though they do not reflect the bulk of acquisition dollars spent by the Government. It is for this reason that the NPR correctly points out that reform in this area will have significant impact. And this reform is desperately needed. I recall, Mr. President, testimony before the Armed Services hearings I attended last spring which indicated that without change, the system may cave in on itself by the sheer volume of administrative activity.

Thus, the bill raises the small purchase threshold from $25,000 to $100,000 and renames it the "simplified acquisition threshold," as recommended by both the NPR, in recommendation PROC04, and the section 800 panel. This new simplified threshold substantially expands the streamlined process of making small purchases and reduces the associated administrative burden.

Again, Mr. President, in the spirit of balancing equities, the bill maintains the requirement that agencies provide notice of any procurement over $25,000 via publication in the Commerce Business Daily 15 days prior to the issuance of a solicitation. But, once this notice is made, any simplified acquisition procedures identified in the notice would kick in.

In addition, all contracts under the simplified acquisition threshold are reserved for small business, and agencies are authorized to continue set-asides of such contracts for minority small business. This change, I believe, echoes the spirit of NPR recommendation PROC07.

The bill also conforms other procurement thresholds to this new $100,000 level. It requires a review of procurement regulations with an eye toward identifying and amending regulations that apply below the new $100,000 threshold.

Finally, Mr. President, the bill exempts procurements below the new threshold from several statutory restrictions including contingent fees certifications, contract audit requirements, the procedural requirements of the Anti-Kickback Act, the Miller Act, the Contract Work Hours and Safety Standards Act, and the Drug-Free Workplace Act of 1988. This change conforms with NPR recommendations PROC04 and PROC07.

The President's Executive order on electronic purchasing systems has made it unnecessary to address, in this bill, the question of formally establishing an electronic data interchange [EDI] system for use in a streamlined, simplified acquisition, as was anticipated by NPR recommendation PROC04. On balance, I think that such a system could be implemented in several different ways. Consistent with the NPR goal of providing an environment for the collegial evolution of systems by those responsible for providing services to user/customers, I believe that the executive branch should have the flexibility to create such a system in the manner that best suits its way of doing business. We expect agencies to collaborate on the best formulation of such a system and implement it as soon as practicable in accordance with the President's Executive order.

Mr. President, for those who fear change, let me state clearly now that this bill affirms our system of full and open competition in the procurement process. The bill would add a section to CICA to address task order and delivery order contracts. These contracts serve a useful purpose, but have been abused to avoid competition and funnel money to favored contractors. The new provisions added by the bill would authorize the use of such contracts, as recommended by the section 800 panel; but those contracts would be subject to time and dollar limitations and a specific competition requirement.

Next, Mr. President, this bill seeks to clarify the responsibilities of the GSA Board of Contract Appeals [GSBCA]. I point out that this clarification is necessary to restore the Board's ability to fulfill the role established for it by

Congress in CICA. It has been of particular concern to me for several years now because I believe that the GSBCA's activity has been jeopardized by the effect of several recent decisions of the U.S. Court of Appeals for the Federal Circuit. The bill also amends, to some extent, the protest process at the General Accounting Office [GAO].

Specifically, the bill provides, among other things: Clarification that the Board may dismiss frivolous protests, protests brought in bad faith, or protests that do not state a valid basis; publication of settlements before the Board that involve the direct or indirect use of appropriated funds; and sanctions—including the payment of costs—for frivolous protests.

It is important to point out, Mr. President, that GSBCA protests may result in the suspension of procurement activity. So, to permit the potential bad faith of a party to operate without restraint, I believe, would cause a unnecessary delay of the questioned procurement, and thus, would undermine procurement efficiency. For this reason, I believe that enactment of corrective legislation in this regard is critical.

Mr. President, I point you to an important issue in this area, one addressed by GAO for Congress in 1990. GAO identified the GSBCA settlement process as one ripe for legislative action. This finding was in response to reports that losing offerors were filing protests of contract awards as a form of blackmail, and agencies, to avoid procurement delays, were paying protesters to drop their claims. It also followed GAO's study of the Census Bureau's handling of a protest of a multimillion dollar procurement of ADP for the then-upcoming census in which $1.1 million was paid by the agency to settle the claims without a review of the merits. GAO recommended that Congress require that settlement terms be disclosed to the Board, and we have implemented that recommendation.

Finally, Mr. President, we have often heard that offerors for solicitations do not obtain meaningful debriefings after contract award. Generally, post-award debriefings are intended to provide losing offerors with pertinent information concerning the basis for the award decision, as well as an indication of how those offerors can improve their chances for success in future procurements. It has become apparent, however, that debriefings are inconsistently given, and oftentimes fail to achieve their purpose.

By requiring, as this bill does, that meaningful debriefings be given to vendors after the contract is awarded, I believe we can reduce the potential for filing protests as a means to discover the propriety of an award decision. This reduction in protests could, in turn, help to speed up the acquisition process.

Mr. President, the bill would also establish a new, accelerated schedule for notice of contract award, to work in tandem with the debriefing procedure. Under this process, agencies would notify unsuccessful offerors of award decisions within 3 days of contract award, and provide debriefings if requested within 7 days after contract award.

The bill also would authorize the payment of consultant and expert witness fees—in addition to attorneys' fees—in protests to the GAO and the GSBCA. But, the bill limits all such fees to the levels established in the Equal Access to Justice Act for fees against the United States generally. At present, there is no statutory limit on attorneys' fees in bid protest actions, and Federal agencies may be required to reimburse any reasonable fees incurred by a successful protestor. At a minimum, this provision should add uniformity and cost savings to the process.

The legislation also amends the provisions applicable to bid protests to the GAO to provide that the Comptroller General may recommend the payment of attorney's fees in bid protest cases, rather than directing agencies to pay such fees. Thus, the bill would clarify existing law and end the debate about the constitutionality of GAO's activity in this area.

You may recall, Mr. President, after over 6 years of executive branch compliance with this provision, the Department of Justice notified the President of the Senate of its intent to challenge this provision on constitutional grounds. Justice claimed that because the law currently permits the Comptroller General to declare a successful protestor entitled to recover costs after a determination that the underlying contract award does not comply with law or regulation, the Comptroller General, as an officer of the legislative branch, has the ability to interpret a law and thereby alter the legal rights of nonexecutive branch personnel. In sum, this authority is said to violate the constitutional doctrine of separation of powers.

The court disposed of the case; but the issue remains. The provisions in question digress from the rest of the law in this area in that they go beyond the recommendatory function. In order to assure the stability of GAO's protest resolution system and avoid the uncertainty that would be created by protracted litigation of this issue, the bill makes this activity recommendatory.

In addition, Mr. President, this bill would consolidate judicial jurisdiction over bid protests in the Court of Claims.

The changes in the procurement protest arena, Mr. President, are far reaching, and they reflect, in an overwhelming way, measures which I introduced last Congress in S. 1958 and this Congress in S. 555 and S. 556. They are necessary changes, and they address the concerns raised by the section 800 panel, and by the NPR in recommendation PROC06.

Mr. President, the contracting community will breathe a sigh of relief when it sees that this bill streamlines the procurement ethics laws. Over the last decade, Congress enacted a series of new procurement ethics provisions. Some of the most recent were motivated by the Ill Wind scandal. We can debate for hours—indeed, we've debated for years—the utility of these provisions in the abstract. But, one thing is clear: We have overlapping laws that are generating confusion in the Government and private sectors.

In 1991, the Senate passed ethics reform legislation. The bill reflects the provisions adopted by the Senate as an amendment to the Department of Defense authorization bill in 1991. The bill amends the procurement integrity section of the OFPP Act to streamline the recusal provision; consolidate the revolving door ban with similar provisions applicable only to the Department of Defense [DOD]; harmonize the gratuities provision with governmentwide ethics provisions; revise certification provisions to eliminate unnecessary administrative burdens; and clarify several other provisions.

I again point out that these are changes similar to those sought by the section 800 panel and the NPR in recommendation PROC11.

The bill also sets forth several parameters for contracting functions performed by Federal personnel. It prohibits the use of non-Federal employees to perform proposal evaluations except where Federal personnel are not readily available within the contracting agency or any other Federal agency. The bill also directs the Federal Acquisition Regulatory Council to clarify regulations governing the use of such non-Federal employees.

With respect to these provisions governing the use of non-Federal employees to perform proposal evaluations, this bill addresses concerns raised during the Committee on Governmental Affairs' review of the Treasury multiuser acquisition contract [TMAC]. After that $1.4 billion contract award was successfully protested at the GSBCA, Treasury, pursuant to a GSBCA order, had to prepare a suitable price/technical tradeoff analysis and either confirm the contract award or make a new award. The agency contracted with three outside consultants to assist in this effort at a cost of almost half a million dollars.

Although GAO concluded that the use of consultants in the TMAC acquisition was not inconsistent with regulation, it noted that guidance directing when consultants are to be used is not specific. This bill addresses that problem, as well as potential problems associated with the performance of what may be perceived as inherently governmental functions by non-Federal employees, and it is hoped that agencies will train and share personnel with expertise rather than searching under time-critical circumstances for outside personnel at potentially higher costs than in-house.

The bill amends the Federal Property Act to codify the definitions and requirements of the Truth in Negotiations Act [TINA] for civilian agencies. It further amends the Federal Property Act to establish contract cost principles for civilian agencies. Contract cost principles provide that certain types of costs—such as entertainment costs, lobbying expenses, and advertising costs—should not be paid by the taxpayers and are not allowable under Federal contracts. Cost certification procedures and penalties identical to those that have long been applicable in DOD procurements are also established. Further, the bill repeals 10 United States Code 2410, which establishes DOD-unique requirements for the certification of contract claims.

Mr. President, this bill calls for the clear establishment of factors and significant subfactors in competitive solicitations, and it requires that the procuring agencies clearly set forth in solicitation the relative importance of factors and significant subfactors, including the quality of the products or services to be provided. This provision will assist agencies in their quest for the best value procurement by requiring them to identify the actual value of subfactors. It is consistent with NPR recommendation PROC15.

In accord with the overall recommendations of the section 800 panel and the NPR, this bill streamlines a host of statutes, which again, considering the balancing of equities, will assure improvement in the procurement system for all. The bill would also adopt several dozen other recommendations of the section 800 panel, several of which correspond with NPR recommendations, to streamline and improve the acquisition laws. For example it:

Raises the threshold for cost or pricing data to $500,000 on a permanent basis for DOD and civilian agencies;

Raises the threshold for the contract cost principles to $500,000;

Provides consolidated audit provisions for both DOD and civilian agencies;

Repeals and consolidates obsolete and redundant DOD-unique laws;

Repeals the Walsh-Healey Act, which no longer has any impact on prevailing minimum wage rates;

Authorizes agencies to contract directly with an 8(a) contractor, rather than indirectly through the Small Business Administration, unless the contractor objects.

This is a far-reaching piece of legislation, Mr. President, and I think we should all acknowledge that it symbolizes the new force for change in Washington. The American people have the right to expect efficiency and economy from those paid with tax dollars.

This bill, Mr. President, represents a compromise among a number of persons and interests that addresses needed reforms. I will move expeditiously to conduct hearings on this legislation to assure that it moves to the floor as quickly as possible. We have no time to waste.

Mr. President, for the convenience of my colleagues and the public, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Streamlining Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CONTRACT FORMATION
Subtitle A—Competition Statutes
PART I—ARMED SERVICES ACQUISITIONS
SUBPART A—COMPETITION REQUIREMENTS
Sec. 1001. References to Federal Acquisition Regulation.
Sec. 1002. Exclusion of particular sources.
Sec. 1003. Approval for use of noncompetitive procedures.
Sec. 1004. Reference to head of a contracting activity.
Sec. 1005. Task and delivery order contracts.
SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD
Sec. 1011. Source selection factors.
Sec. 1012. Solicitation provision regarding evaluation of purchase options.
Sec. 1013. Prompt notice of award.
Sec. 1014. Post-award debriefings.
Sec. 1015. Protest file.
Sec. 1016. Award of costs and fees in agency settlement of protests.
SUBPART C—KINDS OF CONTRACTS
Sec. 1021. Secretarial determination regarding use of cost type or incentive contract.
Sec. 1022. Technical and conforming amendments.
SUBPART D—MISCELLANEOUS PROVISIONS FOR THE ENCOURAGEMENT OF COMPETITION
Sec. 1031. Encouragement of competition and cost savings.
Sec. 1032. Repeal of requirement for annual report by advocates for competition.
PART II—CIVILIAN AGENCY ACQUISITIONS
SUBPART A—COMPETITION REQUIREMENTS
Sec. 1051. References to Federal Acquisition Regulation.
Sec. 1052. Exclusion of particular sources.
Sec. 1053. Approval for use of noncompetitive procedures.
Sec. 1054. Reference to head of a contracting activity.
Sec. 1055. Task and delivery order contracts.
SUBPART B—PLANNING, SOLICITATION, EVALUATION, AND AWARD
Sec. 1061. Solicitation, evaluation, and award.
Sec. 1062. Solicitation provision regarding evaluation of purchase options.
Sec. 1063. Prompt notice of award.
Sec. 1064. Post-award debriefings.
Sec. 1065. Protest file.
Sec. 1066. Award of costs and fees in agency settlement of protests.
SUBPART C—KINDS OF CONTRACTS
Sec. 1071. Agency head determination regarding use of cost type or incentive contract.
PART III—ACQUISITIONS GENERALLY
Sec. 1091. Repeal of requirement for annual report on competition.
Subtitle B—Truth in Negotiations
PART I—ARMED SERVICES ACQUISITIONS
Sec. 1201. Stabilization of dollar threshold of applicability.
Sec. 1202. Exceptions to cost or pricing data requirements.
Sec. 1203. Limitation on authority to require a submission not otherwise required.
Sec. 1204. Additional special rules for commercial items.
Sec. 1205. Right of United States to examine contractor records.
Sec. 1206. Required regulations.
Sec. 1207. Consistency of time references.
Sec. 1208. Repeal of superseded provision.
PART II—CIVILIAN AGENCY ACQUISITIONS
Sec. 1251. Revision of civilian agency provisions to ensure uniform treatment of cost or pricing data.
Sec. 1252. Repeal of obsolete provision.
Subtitle C—Research and Development
Sec. 1301. Delegation of contracting authority.
Sec. 1302. Research projects.
Sec. 1303. Elimination of inflexible terminology regarding coordination and communication of defense research activities.
Subtitle D—Procurement Protests
PART I—PROTESTS TO THE COMPTROLLER GENERAL
Sec. 1401. Protest defined.
Sec. 1402. Review of protests and effect on contracts pending decision.
Sec. 1403. Decisions on protests.
Sec. 1404. Regulations.
PART II—PROTESTS IN THE FEDERAL COURTS
Sec. 1421. Nonexclusivity of remedies.
Sec. 1422. Jurisdiction of the United States Court of Federal Claims.
PART III—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING
Sec. 1431. Revocation of delegations of procurement authority.
Sec. 1432. Authority of the General Services Administration Board of Contract Appeals.
Sec. 1433. Periods for certain actions.
Sec. 1434. Dismissals of protests.
Sec. 1435. Award of costs.
Sec. 1436. Dismissal agreements.
Sec. 1437. Jurisdiction of district courts.
Sec. 1438. Matters to be covered in regulations.
Sec. 1439. Definitions.
Sec. 1440. Oversight of acquisition of automatic data processing equipment by Federal agencies.
Subtitle E—Definitions and Other Matters
PART I—ARMED SERVICES ACQUISITIONS
Sec. 1501. Definitions.

Sec. 1502. Delegation of procurement functions.
Sec. 1503. Determinations and decisions.
Sec. 1504. Undefinitized contractual actions: restrictions.
Sec. 1505. Production special tooling and production special test equipment: contract terms and conditions.
Sec. 1506. Regulations for bids.
Sec. 1507. Repeal of executed requirement relating to certificate of independent price determination in certain Department of Defense contract solicitations.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 1551. Definitions.
Sec. 1552. Delegation of procurement functions.
Sec. 1553. Determinations and decisions.
Sec. 1554. Undefinitized contractual actions: restrictions.
Sec. 1555. Repeal of amendments to uncodified title.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2001. Contract financing.
Sec. 2002. Contracts: vouchering procedures.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2051. Contract financing.

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2101. Allowable contract costs.
Sec. 2102. Contract profit controls during emergency periods.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2151. Allowable contract costs.

PART III—ACQUISITIONS GENERALLY

Sec. 2191. Travel expenses of government contractors.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2201. Consolidation and revision of authority to examine records of contractors.

PART II—CIVILIAN AGENCY ACQUISITIONS

Sec. 2251. Authority to examine records of contractors.

Subtitle D—Cost Accounting Standards

Sec. 2301. Repeal of obsolete deadline regarding procedural regulations for the Cost Accounting Standards Board.

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2401. Procurement of critical aircraft and ship spare parts; quality control.
Sec. 2402. Contractor guarantees regarding weapon systems.
Sec. 2403. Repeal of requirement for complete delivery of subsistence supplies at specific place upon inspection.

PART II—ACQUISITIONS GENERALLY

Sec. 2451. Section 3737 of the Revised Statutes: expansion of authority to prohibit setoffs against assignees; reorganization of section; revision of obsolete provisions.
Sec. 2452. Repeal of requirement for deposit of contracts with GAO.

Subtitle F—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

Sec. 2501. Certification of contract claims.

PART II—ACQUISITIONS GENERALLY

Sec. 2551. Concurrent jurisdiction of United States district courts under the Little Tucker Act.
Sec. 2552. Contract Disputes Act improvements.

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES

Subtitle A—Major Systems Statutes

Sec. 3001. Requirement for independent cost estimates and manpower estimates before development or production.
Sec. 3002. Enhanced program stability.
Sec. 3003. Repeal of requirement for Defense Enterprise Programs.
Sec. 3004. Repeal of requirement for competitive prototyping in major programs.
Sec. 3005. Repeal of requirement for competitive alternative sources in major programs.

Subtitle B—Testing Statutes

Sec. 3011. Repeal of testing requirement for wheeled or tracked vehicles.
Sec. 3012. Major systems and munitions programs: survivability and lethality testing.
Sec. 3013. Operational test and evaluation of defense acquisition programs.
Sec. 3014. Low-rate initial production of new systems.

Subtitle C—Service Specific Laws

Sec. 3021. Industrial mobilization.
Sec. 3022. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness.
Sec. 3023. Procurement for experimental purposes.
Sec. 3024. Repeal of authority for procurement of production equipment.
Sec. 3025. Availability of Department of Defense samples, drawings, information, equipment, materials, and certain services.
Sec. 3026. Repeal of duplicative general procurement authority.
Sec. 3027. Repeal of authority to delegate the procurement of Army rations.
Sec. 3028. Repeal of authority to purchase exceptional subsistence supplies without advertising.
Sec. 3029. Repeal of authority to obtain assistance of United States mapping agencies.
Sec. 3030. Repeal of authority to reclaim unserviceable ammunition.
Sec. 3031. Gratuitous services of officers of certain reserve components.
Sec. 3032. Civil Reserve Air Fleet.
Sec. 3033. Repeal of Navy authority regarding research and development, procurement, and construction of guided missiles.
Sec. 3034. Exchange of scientific personnel.
Sec. 3035. Repeal of authority for Secretary of the Navy to provide temporary relief for contractors and contractor employees from losses caused by enemy action.
Sec. 3036. Repeal of authority for Secretary of the Navy to sell degaussing equipment.
Sec. 3037. Repeal of authority for alternative use of appropriations for construction or conversion of vessels.
Sec. 3038. Repeal of authority for conversion of combatant and auxiliary naval vessels.
Sec. 3039. Construction of combatant and escort vessels and assignment of vessel projects.
Sec. 3040. Repeal of requirement for estimates in connection with bids on construction of naval vessels.
Sec. 3041. Repeal of requirement for construction of vessels on Pacific coast.
Sec. 3042. Fitness of naval vessels: examination; striking unfit vessels; disposal.
Sec. 3043. Repeal of policy on constructing combatant vessels.
Sec. 3044. Naval salvage facilities.

Subtitle D—Department of Defense Commercial and Industrial Activities

Sec. 3051. Factories and arsenals: manufacture at.
Sec. 3052. Accounting requirement for contracted advisory and assistance services.

Subtitle E—Fuel- and Energy-Related Laws

Sec. 3061. Liquid fuels and natural gas: contracts for storage, handling, or distribution.
Sec. 3062. Acquisition of petroleum and natural gas: authority to waive procedures.

Subtitle F—Fiscal Statutes

Sec. 3071. Disbursement of funds of military department to cover obligations of another agency of Department of Defense.

Subtitle G—Miscellaneous

Sec. 3081. Obligation of funds: limitation.
Sec. 3082. Repeal of provisions for the encouragement of aviation.
Sec. 3083. Repeal of requirements regarding product evaluation activities.
Sec. 3084. Repeal of price adjustment authority and purchase authority relating to the procurement of milk.
Sec. 3085. Codification and revision of limitation on lease of vessels, aircraft, and vehicles.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

Sec. 4001. Simplified acquisition threshold.

PART II—SIMPLIFICATION OF PROCEDURES

Sec. 4011. Simplified acquisition procedures.
Sec. 4012. Small business reservation.
Sec. 4013. Procurement notice.

PART III—INAPPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

SUBPART A—GENERALLY

Sec. 4021. Inapplicability of future enacted procurement laws to contracts not exceeding the simplified acquisition threshold.

SUBPART B—ARMED SERVICES ACQUISITIONS

Sec. 4031. Inapplicability of requirement for contract clause regarding contingent fees.
Sec. 4032. Inapplicability of prohibition on limiting subcontractor direct sales to the United States.
Sec. 4033. Inapplicability of authority to examine books and records of contractors.
Sec. 4034. Inapplicability of requirement to identify suppliers and sources of supplies.

Sec. 4035. Inapplicability of prohibition against doing business with certain offerors or contractors.
Sec. 4036. Inapplicability of preference for use of United States vessels for transporting supplies of the Armed Forces.

SUBPART C—CIVILIAN AGENCY ACQUISITIONS

Sec. 4041. Inapplicability of requirement for contract clause regarding contingent fees.
Sec. 4042. Inapplicability of prohibition on limiting subcontractor direct sales to the United States.
Sec. 4043. Inapplicability of authority to examine books and records of contractors.

SUBPART D—ACQUISITIONS GENERALLY

Sec. 4051. Inapplicability of limitation on use of funds to influence certain Federal actions.
Sec. 4052. Inapplicability of requirement for contract clause relating to kickbacks.
Sec. 4053. Inapplicability of the Miller Act to contracts below the simplified acquisition threshold.
Sec. 4054. Inapplicability of Contract Work Hours and Safety Standards Act.
Sec. 4055. Inapplicability of the Drug-Free Workplace Act of 1988.
Sec. 4056. Inapplicability of a requirement in the Merchant Marine Act, 1936, to ship on American-flag commercial vessels.
Sec. 4057. Inapplicability of certain procurement integrity requirements.

PART IV—CONFORMING AMENDMENTS

Sec. 4071. Armed services acquisitions.
Sec. 4072. Civilian agency acquisitions.
Sec. 4073. Office of Federal Procurement Policy Act.
Sec. 4074. Small Business Act.

PART V—REVISION OF REGULATIONS

Sec. 4081. Revision required.

Subtitle B—Socioeconomic and Small Business Laws

Sec. 4101. Armed services acquisitions.
Sec. 4102. Acquisitions generally.
Sec. 4103. Direct contracting with small businesses.

Subtitle C—Miscellaneous Acquisition Laws

Sec. 4151. Repeal of obsolete laws relating to procurement of naval aircraft and components.
Sec. 4152. Revision and codification of prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.
Sec. 4153. Restriction on use of noncompetitive procedures for procurement from a particular source.

TITLE V—INTELLECTUAL PROPERTY

Subtitle A—Technology Transfer

Sec. 5001. Copyright protection for computer programs of the Federal Government.
Sec. 5002. Use of copyrighted works of the Federal Government.
Sec. 5003. Distribution of royalties received by Federal agencies.
Sec. 5004. Exception to prohibition on copyright protection for works of the Federal Government.

Subtitle B—Government Use of Private Patents, Copyrights, and Trade Secrets

Sec. 5011. Government use or manufacture of a patented invention.
Sec. 5012. Department of Defense acquisition of intellectual property rights.

TITLE VI—STANDARDS OF CONDUCT

Subtitle A—Ethics Provisions

Sec. 6001. Amendments to Office of Federal Procurement Policy Act.
Sec. 6002. Amendments to title 18, United States Code.
Sec. 6003. Repeal of superseded and obsolete laws.
Sec. 6004. Implementation.

Subtitle B—Additional Amendments

Sec. 6051. Contracting functions performed by Federal personnel.
Sec. 6052. Repeal of executed requirement for study and report.
Sec. 6053. Waiting period for significant changes proposed for acquisition regulations.

TITLE VII—DEFENSE TRADE AND COOPERATION

Sec. 7001. Purchases of foreign goods.
Sec. 7002. International cooperative agreements.
Sec. 7003. Acquisition, cross-servicing agreements, and standardization.

TITLE VIII—COMMERCIAL ITEMS

Sec. 8001. Definitions.
Sec. 8002. Preference for acquisition of commercial items and nondevelopmental items.
Sec. 8003. Acquisition of commercial items.
Sec. 8004. Class waiver of applicability of certain laws.
Sec. 8005. Inapplicability of certain provisions of law.
Sec. 8006. Flexible deadlines for submission of offers of commercial items.
Sec. 8007. Advocate for Acquisition of Commercial and Nondevelopmental Items.
Sec. 8008. Provisions not affected.
Sec. 8009. Comptroller General review of Federal Government use of market research.

TITLE IX—EFFECTIVE DATE

Sec. 9001. Effective date.

TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1002. EXCLUSION OF PARTICULAR SOURCES.

Section 2304(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the head of an agency in paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 1003. APPROVAL FOR USE OF NONCOMPETITIVE PROCEDURES.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1004. REFERENCE TO HEAD OF A CONTRACTING ACTIVITY.

Section 2304(f) of title 10, United States Code, is amended—

(1) in paragraph (1)(B)(ii)—

(A) by striking out "head of the procuring activity" and inserting in lieu thereof "head of the contracting activity"; and

(B) by striking out "head of the procuring activity's" and inserting in lieu thereof "head of the contracting activity's"; and

(2) in paragraph (6)(A), by striking out "head of a procuring activity" and inserting in lieu thereof "head of a contracting activity".

SEC. 1005. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new section:

"§ 2304a. Task and delivery order contracts

"(a) AUTHORITY TO AWARD.—Subject to the requirements of this section, the head of an agency may enter into a contract that does not procure or specify a firm quantity of supplies or services (other than a minimum or maximum quantity) and that provides for the issuance of delivery orders or task orders during the specified period of the contract. The head of an agency may enter into such a contract only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 3 years, except that, when multiple contracts are awarded under subsection (c)(4) pursuant to the same solicitation, the period of each such contract may exceed 3 years but may not exceed 5 years.

"(c) AWARD PROCEDURES.—(1) The head of an agency may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of supplies or services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the supplies or services to be procured under the contract.

"(4)(A) The head of an agency may, on the basis of one solicitation, award separate contracts under this section for the same or similar supplies or services to two or more sources if the solicitation states that the head of the agency has the option to do so.

"(B) In any solicitation for an advisory and assistance services contract for a period in excess of 1 year, or for an amount (including all options) in excess of $10,000,000, the head of an agency shall include a statement that the head of the agency reserves the option—

"(i) to award separate contracts under subparagraph (A); or

"(ii) to award only one contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) ORDERS.—(1) The following actions are not required for a delivery order or task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded under subsection (c)(4), each delivery order or task order issued under such contracts shall be competed among all of the contractors awarded such contracts unless the contracting officer determines in writing that—

"(i) the agency's need for the supplies or services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) the supplies or services ordered are so unique or highly specialized that only one such contractor is capable of providing the supplies or services required at the level of quality required; or

"(iii) the delivery order or task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a delivery order or task order already issued on a competitive basis.

"(B) When a delivery order or task order is competed pursuant to subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance, proposed issuance, or competing of a delivery order or task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) INCREASES IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT.—(1) A delivery order or task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304 of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(f) TASK ORDER OMBUDSMAN.—Each head of an agency who awards multiple contracts under subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that task orders are issued on a competitive basis when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2304 the following new item:

"2304a. Task and delivery order contracts.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2304 of title 10, United States Code, is amended by striking out subsection (j).

(c) CONFORMING AMENDMENT FOR PROFESSIONAL AND TECHNICAL SERVICES.—Section 2331 of title 10, United States Code, is amended by striking out subsection (c).

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1011. SOURCE SELECTION FACTORS.

Section 2305(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(i), by striking out "nonprice-related factors)" and inserting in lieu thereof "nonprice-related factors and subfactors)"; and

(B) in subparagraph (B)(ii), by striking out subclause (I) and inserting in lieu thereof the following:

"(I) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, and prior experience of the offeror);

"(ii) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than price or cost, when combined, are—

"(I) significantly more important than price or cost;

"(II) approximately equal in importance to price or cost; or

"(III) significantly less important than price or cost.

"(B) Nothing in this paragraph prohibits an agency from—

"(i) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(ii) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest price or cost.".

SEC. 1012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

(a) OPTIONS FOR ADDITIONAL PURCHASES.—Subsection (a) of section 2305 of title 10, United States Code, as amended by section 1011, is further amended by adding at the end the following new paragraph:

"(4) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2301(a) of such title is amended—

(1) by striking out paragraph (7);

(2) by inserting "and" at the end of paragraph (5); and

(3) by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period.

SEC. 1013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Section 2305(b)(3) of title 10, United States Code, is amended by adding at the end the following: "Within 3 days after the date of contract award, the head of the agency shall notify all offerors not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Section 2305(b)(4)(B) of title 10, United States Code, is amended in the second sentence by striking out "shall promptly notify" and inserting in lieu thereof ", within 3 days after the date of contract award, shall notify".

SEC. 1014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 7 days after the date of contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the agency shall debrief the offeror within 7 days after receipt of the request by the agency.

"(B) The debriefing shall provide the offeror with—

"(i) the agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(ii) the overall evaluated cost of the offer of the contractor awarded the contract and the overall evaluated cost of the offer of the debriefed offeror;

"(iii) the overall ranking of all offers and the total technical and cost scores of all offers;

"(iv) a summary of the rationale for the award;

"(v) in the case of a proposal that incorporates equipment that is a commercial item, the make and model of the item incorporated in the offer of the contractor awarded the contract; and

"(vi) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, including information relating to—

"(i) trade secrets;

"(ii) privileged or confidential manufacturing processes and techniques; and

"(iii) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of the best and final offers considered in the awarding of that contract, the agency shall provide each such offeror with—

"(i) all information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

"(ii) all comparable information with respect to the original offerors.

"(F) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following:

"(e)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be established by the contracting activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under the section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).".

SEC. 1016. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 1015, is further amended by adding at the end the following new subsection:

"(f) If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not satisfy the requirements of law or regulation, the head of the agency may take any action set out in subparagraphs (A) through (F) of section 3554(b)(1) of title 31.".

Subpart C—Kinds of Contracts

SEC. 1021. SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

SEC. 1022. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF UNNECESSARY CROSS REFERENCE.—Subsection (f) of section 2306 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—Such section is amended by redesignating subsections (d), (e), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(c) NEUTERIZATION OF REFERENCE.—Subsection (e)(1) of such section, as redesignated by subsection (b), is amended in the matter above clause (i) by striking out "whenever he finds" and inserting in lieu thereof "whenever the head of the agency finds".

Subpart D—Miscellaneous Provisions for the Encouragement of Competition

SEC. 1031. ENCOURAGEMENT OF COMPETITION AND COST SAVINGS.

(a) TRANSFER.—The text of section 2317 of title 10, United States Code—

(1) is amended—

(A) by striking out "The Secretary of Defense" and inserting in lieu thereof "(c) ENCOURAGEMENT OF COMPETITION AND COST SAVINGS.—The Secretary"; and

(B) by striking out "contracts covered by this chapter" and inserting in lieu thereof "contracts of the Department of Defense"; and

(2) is transferred to section 1701 of title 10, United States Code, and inserted at the end of such section.

(b) CLERICAL AMENDMENTS.—Chapter 137 of title 10, United States Code, is amended—

(1) by striking out the section heading of section 2317; and

(2) in the table of sections at the beginning of such chapter, by striking out the item relating to section 2317.

SEC. 1032. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1052. EXCLUSION OF PARTICULAR SOURCES.

Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The determination required of the agency head in paragraph (1) may not be made for a class of purchases or contracts."; and

(3) in paragraph (4), as redesignated by paragraph (1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (3)".

SEC. 1053. APPROVAL FOR USE OF NONCOMPETITIVE PROCEDURES.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1054. REFERENCE TO HEAD OF A CONTRACTING ACTIVITY.

Section 303(f)(1)(B)(ii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(ii)) is amended by striking out "head of the procuring activity" and inserting in lieu thereof "head of the contracting activity".

SEC. 1055. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"TASK AND DELIVERY ORDER CONTRACTS

"SEC. 303H. (a) AUTHORITY TO AWARD.—Subject to the requirements of this section, an agency head may enter into a contract that does not procure or specify a firm quantity of supplies or services (other than a minimum or maximum quantity) and that provides for the issuance of delivery orders or task orders during the specified period of the contract. The agency head may enter into such a contract only under the authority of this section.

"(b) CONTRACT PERIOD NOT TO EXCEED 3 YEARS.—The period of a contract referred to in subsection (a), including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed 3 years, except that, when multiple contracts are awarded under subsection (c)(4) pursuant to the same solicitation, the period of each such contract may exceed 3 years but may not exceed 5 years.

"(c) AWARD PROCEDURES.—(1) An agency head may use procedures other than competitive procedures to enter into a contract referred to in subsection (a) only if an exception in subsection (c) of section 303 applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(2) The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(3) The solicitation shall include the following:

"(A) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(B) The maximum quantity or dollar value of supplies or services to be procured under the contract.

"(C) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the supplies or services to be procured under the contract.

"(4)(A) An agency head may, on the basis of one solicitation, award separate contracts under this section for the same or similar supplies or services to two or more sources if the solicitation states that the agency head has the option to do so.

"(B) In any solicitation for an advisory and assistance services contract for a period in excess of 1 year, or for an amount (including all options) in excess of $10,000,000, an agency head shall—

"(i) provide for a multiple award under subparagraph (A); and

"(ii) include a statement that the agency head may also elect to award only one contract if the agency head determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(5) A contract referred to in subsection (a) shall contain the same information that is required by paragraph (3) to be included in the solicitation of offers for that contract.

"(d) ORDERS.—(1) The following actions are not required for a delivery order or task order issued under a contract entered into in accordance with this section:

"(A) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(B) Except as provided in paragraph (2), a competition (or a waiver of competition approved in accordance with section 303(f)) that is separate from that used for entering into the contract.

"(2)(A) When multiple contracts are awarded under subsection (c)(4), each delivery order or task order issued under such contracts shall be competed among all of the contractors awarded such contracts unless the contracting officer determines in writing that—

"(i) the agency's need for the supplies or services ordered is of such unusual urgency that competition would result in unacceptable delays in fulfilling the agency's needs;

"(ii) the supplies or services ordered are so unique or highly specialized that only one such contractor is capable of providing the supplies or services required at the level of quality required; or

"(iii) the delivery order or task order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a delivery order or task order already issued on a competitive basis.

"(B) When a delivery order or task order is competed pursuant to subparagraph (A), the order shall include a statement of work that clearly specifies all tasks to be performed under the order.

"(3) A protest is not authorized in connection with the issuance, proposed issuance, or competing of a delivery order or task order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) INCREASES IN SCOPE, PERIOD, OR MAXIMUM VALUE OF CONTRACT.—(1) A delivery order or task order may not increase the scope, period, or maximum value of the contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 303 and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(f) TASK ORDER OMBUDSMAN.—Each agency head who awards multiple contracts under subsection (c)(4) shall appoint or designate a task order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that task orders are issued on a competitive basis when required under subsection (d)(2). The task order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by inserting after the item relating to section 303G the following new item:

"Sec. 303H. Task and delivery order contracts.".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1061. SOLICITATION, EVALUATION, AND AWARD.

(a) CONTENT OF SOLICITATION.—Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in subsection (b)(1)(A)—

(A) by inserting "and significant subfactors" after "all significant factors"; and

(B) by striking out "(including price)" and inserting "(including cost or price, cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors)";

(2) in subsection (b)(1)(B), by inserting "and subfactors" after "factors";

(3) in subsection (b)(2)(B), by striking out clause (i) and inserting in lieu thereof the following:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and"; and

(4) by adding at the end the following new subsection:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an agency head—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, and prior experience of the offeror);

"(B) shall include cost or price to the Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than price or cost, when combined, are—

"(i) significantly more important than price or cost;

"(ii) approximately equal in importance to price or cost; or

"(iii) significantly less important than price or cost.

"(2) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest price or cost.".

(b) EVALUATION AND AWARD.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An agency head shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), provided that, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary."; and

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2).

(c) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to—

(A) solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act; and

(B) contracts awarded pursuant to those solicitations.

(2) AUTHORITY TO APPLY AMENDMENTS EARLY.—The head of an executive agency may apply the amendments made by this section to solicitations issued before the end of the period referred to in paragraph (1). The head of the executive agency shall publish in the Federal Register notice of any such earlier date of application at least 10 days before that date.

SEC. 1062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 1061(a)(4), is further amended by adding at the end the following new subsection:

"(d) An agency head, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the agency head has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1063. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by adding at the end the following: "Within 3 days after the date of contract award, the agency head shall notify offerors not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (2) of section 303B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(d)), as redesignated by section 1061(b)(3)(B), is amended in the second sentence by striking out "shall promptly notify" and inserting in lieu thereof ", within 3 days after the date of contract award, shall notify".

SEC. 1064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the executive agency within 7 days after the date of contract award, shall be debriefed and furnished the basis for the selection decision and contract award. An employee of the executive agency shall debrief the offeror within 7 days after receipt of the request by the executive agency.

"(2) The debriefing shall provide the offeror with—

"(A) the executive agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(B) the overall evaluated cost of the offer of the contractor awarded the contract and the overall evaluated cost of the offer of the debriefed offeror;

"(C) the overall ranking of all offers and the total technical and cost scores of all offers;

"(D) a summary of the rationale for the award;

"(E) in the case of a proposal that incorporates equipment that is a commercial item, the make and model of the item incorporated in the offer of the contractor awarded the contract; and

"(F) reasonable responses to questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552 of title 5, United States Code, including information relating to—

"(A) trade secrets;

"(B) privileged or confidential manufacturing processes and techniques; and

"(C) commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) If, within one year after the date of the contract award and as a result of a successful procurement protest or otherwise, the executive agency seeks to fulfill the requirement under the contract either on the basis of a new solicitation of offers or on the basis of the best and final offers considered in the awarding of that contract, the agency head shall provide each such offeror with—

"(A) all information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

"(B) all comparable information with respect to the original offerors.

"(6) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1064(1), is further amended by adding at the end the following:

"(h)(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, an agency head, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the contracting activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under the section 552 of title 5, United States Code, may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).".

SEC. 1066. AWARD OF COSTS AND FEES IN AGENCY SETTLEMENT OF PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1066, is further amended by adding at the end the following new subsection:

"(i) If, in connection with a protest, an agency head determines that a solicitation, proposed award, or award does not satisfy the requirements of law or regulation, the agency head may take any action set out in subparagraphs (A) through (F) of section 3554(b)(1) of title 31, United States Code.".

Subpart C—Kinds of Contracts

SEC. 1071. AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

PART III—ACQUISITIONS GENERALLY

SEC. 1091. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1201. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

Section 2306a(a)(1)(A) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

SEC. 1202. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

Section 2306a(b) of title 10, United States Code, is amended to read as follows:

"(b) EXCEPTIONS.—(1) This section need not be applied to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the agency determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) This section need not be applied to a modification of a contract or subcontract if—

"(A) the contract or subcontract being modified is one to which this section need not be applied by reason of clause (i) or (ii) of paragraph (1)(A); and

"(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.".

SEC. 1203. LIMITATION ON AUTHORITY TO REQUIRE A SUBMISSION NOT OTHERWISE REQUIRED.

Section 2306a(c) of title 10, United States Code, is amended by striking out "by subsection (a), such data may nevertheless be required to be submitted by the head of the agency if" and inserting in lieu thereof "by reason of subsection (b), submission of such data may not be required unless".

SEC. 1204. ADDITIONAL SPECIAL RULES FOR COMMERCIAL ITEMS.

Section 2306a of title 10, United States Code, is amended—

(1) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (i), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—(1) To the maximum extent practicable, the head of an agency shall—

"(A) conduct procurements of commercial items on a competitive basis; and

"(B) exercise the authority provided in subsection (b)(1)(A) to exempt the contracts and subcontracts under such procurements from the requirements of subsection (a).

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer may nonetheless exempt a contract or subcontract under the procurement from the requirements of subsection (a) if—

"(A) in accordance with regulations implementing this paragraph, the offeror, contractor, or subcontractor, as the case may be, provides the contracting officer with information on the price charged by such offeror, contractor, or subcontractor for the same or similar products in the commercial marketplace; and

"(B) the contracting officer determines in writing that the information provided is adequate for evaluating the reasonableness of the price of the contract or subcontract.

"(3)(A) The Government shall be entitled to a reduction in price and the return of any overpayment, with interest, if an offeror, contractor, or subcontractor provides materially inaccurate or misleading information to the contracting officer pursuant to paragraph (2).

"(B) Nothing in subparagraph (A) is intended to preclude the head of an agency from negotiating any contract clause that provides additional price adjustment authority for the protection of the Government's interest in specific types of contracts, including multiple ordering agreements.

"(4)(A) The head of an agency shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether such information is materially inaccurate or misleading.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.".

SEC. 1205. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Section 2306a of title 10, United States Code, is amended by striking out subsection (g), as redesignated by section 1204(1), and inserting in lieu thereof the following:

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 2313 of this title.".

SEC. 1206. REQUIRED REGULATIONS.

Section 2306a of title 10, United States Code, as amended by sections 1204 and 1205, is further amended by inserting after subsection (g) the following new subsection:

"(h) REQUIRED REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations identifying the type of procurements for which contracting officers should consider requiring the submission of certified cost or pricing data under this section.

"(2) The Secretary also shall prescribe regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed $500,000. Such information, at a minimum, shall include appropriate information on the prices at which such offeror has previously sold the same or similar products.".

SEC. 1207. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, as amended by section 1204, is further amended—

(1) in subparagraphs (A)(ii) and (B)(ii) of subsection (e)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties" after "(or price of the modification)"; and

(2) in subsection (i), by inserting "or, if applicable consistent with subsection (d)(1)(B), another date agreed upon between the parties" after "(or the price of a contract modification)".

SEC. 1208. REPEAL OF SUPERSEDED PROVISION.

Subsection (c) of section 803 of Public Law 101–510 (10 U.S.C. 2306a note) is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1251. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

(a) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) in section 304, by striking out subsection (d); and

(2) by inserting after section 304 the following new section:

"COST OR PRICING DATA: TRUTH IN NEGOTIATIONS

"SEC. 304A. (a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) An agency head shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Streamlining Act of 1993, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1993, the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a prime contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1993, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1993, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the agency head concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by an agency head on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(2) shall be considered as having been required to make available cost or pricing data under this section.

"(6)(A) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1993, the agency head that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(B) An agency head is not required to modify a contract under subparagraph (A) if that agency head determines that the submission of cost or pricing data with respect to that contract should be required under subsection (c).

"(b) EXCEPTIONS.—(1) This section need not be applied to a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items or of services regularly used for other than Government purposes, as the case may be, that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the agency head determines that the requirements of this section may be waived and states in writing the reasons for such determination.

"(2) This section need not be applied to a modification of a contract or subcontract if—

"(A) the contract or subcontract being modified is one to which this section need not be applied by reason of clause (i) or (ii) of paragraph (1)(A); and

"(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of a noncommercial item.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted by reason of subsection (b), submission of such data may not be required unless the agency head determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract. In any case in which the agency head requires such data to be submitted under this subsection, the agency head shall document in writing the reasons for such requirement.

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—(1) To the maximum extent practicable, an agency head shall—

"(A) conduct procurements of commercial items on a competitive basis; and

"(B) exercise the authority provided in subsection (b)(1)(A) to exempt the contracts and subcontracts under such procurements from the requirements of subsection (a).

"(2) In any case in which it is not practicable to conduct a procurement of a commercial item on a competitive basis and the procurement is not covered by an exception in subsection (b), the contracting officer may nonetheless exempt a contract or subcontract under the procurement from the requirements of subsection (a) if—

"(A) in accordance with regulations implementing this paragraph, the offeror, contractor, or subcontractor, as the case may be, provides the contracting officer with information on the price charged by such offeror, contractor, or subcontractor for the same or similar products in the commercial marketplace; and

"(B) the contracting officer determines in writing that the information provided is adequate for evaluating the reasonableness of the price of the contract or subcontract.

"(3)(A) The Government shall be entitled to a reduction in price and the return of any overpayment, with interest, if an offeror, contractor, or subcontractor provides materially inaccurate or misleading information to the contracting officer pursuant to paragraph (2).

"(B) Nothing in subparagraph (A) is intended to preclude an agency head from negotiating any contract clause that provides additional price adjustment authority for the protection of the Government's interest in specific types of contracts, including multiple ordering agreements.

"(4)(A) An agency head shall have the right to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether such information is materially inaccurate or misleading.

"(B) The right under subparagraph (A) shall expire 3 years after the date of award of the contract, or 3 years after the date of the modification of the contract, with respect to which the information was provided.

"(e) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the agency head that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(f) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the rights provided by section 304B(a)(2).

"(h) REQUIRED REGULATIONS.—(1) The head of each executive agency shall prescribe regulations identifying the type of procurements for which contracting officers of that executive agency should consider requiring the submission of certified cost or pricing data under this section.

"(2) The agency head also shall prescribe regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed $500,000. Such information, at a minimum, shall include appropriate information on the prices at which such offeror has previously sold the same or similar products.

"(i) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (e)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such terms does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

(b) TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 2304 the following:

"Sec. 304A. Cost or pricing data: truth in negotiations.".

SEC. 1252. REPEAL OF OBSOLETE PROVISION.

(a) REPEAL.—Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the item relating to section 303E.

Subtitle C—Research and Development

SEC. 1301. DELEGATION OF CONTRACTING AUTHORITY.

Section 2356 of title 10, United States Code, is amended to read as follows:

"§ 2356. Contracts: delegations

"(a) AUTHORITY.—The Secretary of a military department may delegate any authority under section 1584, 2353, or 2354 of this title to—

"(1) the Under Secretary of his department;

"(2) an Assistant Secretary of his department;

"(3) a Deputy Assistant Secretary of his department; or

"(4) except as provided in subsection (b), the chief, and one assistant to the chief, of any technical service, bureau, or office.

"(b) LIMITATION.—The authority of the Secretary of a military department under section 2353(b)(3) of this title may not be delegated to a person described in subsection (a)(4).".

SEC. 1302. RESEARCH PROJECTS.

(a) AUTHORITY TO CONDUCT BASIC, ADVANCED, AND APPLIED RESEARCH.—Section 2358 of title 10, United States Code, is amended to read as follows:

"§ 2358. Research projects

"(a) AUTHORITY.—The Secretary of Defense or the Secretary of a military department may engage in basic, advanced, and applied research and development projects that—

"(1) are necessary to the responsibilities of such Secretary's department in the field of basic, advanced, and applied research and development; and

"(2) either—

"(A) relate to weapons systems and other military needs; or

"(B) are of potential interest to such department.

"(b) AUTHORIZED MEANS.—The Secretary of Defense or the Secretary of a military department may perform research and development projects—

"(1) by contract, cooperative agreement, or other transaction with, or by grant to, educational or research institutions, private businesses, or other agencies of the United States;

"(2) by using employees and consultants of the Department of Defense; or

"(3) through one or more of the military departments.

"(c) REQUIREMENT OF POTENTIAL MILITARY INTEREST.—Funds appropriated to the Department of Defense or to a military department may not be used to finance any research project or study unless the project or study is, in the opinion of the Secretary of Defense or the Secretary of that military department, respectively, of potential interest to the Department of Defense or to such military department, respectively.".

(b) AUTHORITY RELATED TO ADVANCED RESEARCH PROJECTS.—

(1) REPEAL OF REDUNDANT AUTHORITY.—Section 2371 of such title is amended—

(A) by striking out subsection (a);

(B) by redesignating subsections (b), (c), (d), (e), (f), and (g) as subsections (a), (b), (c), (d), (e), and (f), respectively;

(C) in subsection (a), as so redesignated—

(i) in paragraph (1), by striking out "subsection (a)" and inserting in lieu thereof "section 2358 of this title"; and

(ii) in paragraph (2), by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)"; and

(D) in subsection (e), as redesignated by subparagraph (B)—

(i) in paragraph (4), by striking out "subsection (b)" and inserting in lieu thereof "subsection (a)"; and

(ii) in paragraph (5), by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(2) CONSISTENCY OF TERMINOLOGY.—Such section, as amended by paragraph (1), is further amended—

(A) in subsection (c)(1), by inserting "and development" after "research" both places it appears;

(B) in subsections (d) and (e)(3), by striking out "advanced research" and inserting in lieu thereof "research and development"; and

(C) in subsection (e)(1), by striking out "advanced research is" and inserting in lieu thereof "research and development are".

(c) REDUNDANT AND OBSOLETE AUTHORITY FOR THE ARMY.—

(1) REPEAL.—Section 4503 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 431 of such title is amended by striking out the item relating to section 4503.

(d) REDUNDANT AND OBSOLETE AUTHORITY FOR THE AIR FORCE.—

(1) REPEAL.—Section 9503 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 931 of such title is amended by striking out the item relating to section 9503.

SEC. 1303. ELIMINATION OF INFLEXIBLE TERMINOLOGY REGARDING COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES.

Section 2364 of title 10, United States Code, is amended—

(1) in subsection (b)(5), by striking out "milestone 0, milestone 1, and milestone 2 decisions" and inserting in lieu thereof "acquisition program decisions"; and

(2) in subsection (c), by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) The term 'acquisition program decisions' has the meaning given such term in regulations prescribed by the Secretary of Defense for the purposes of this section.".

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 1401. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "25 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "25 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) REFERENCE TO HEAD OF CONTRACTING ACTIVITY.—Subsections (c)(2) and (e) of such section are amended by striking out "head of the procuring activity" and inserting in lieu thereof "head of the contracting activity".

(c) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (5), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract upon receipt from the contracting officer responsible for the award of the contract of an authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (5) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3) Unless the contracting officer makes the determinations described in paragraph (2), performance of the contract may be authorized in the written notice of award transmitted to the contractor pursuant to paragraph (3) or (4)(B) of section 2305(b) of title 10 or subsection (c) or (d)(2) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as the case may be.

"(4)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (5)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if contract performance was authorized in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the contracting activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(5) The period referred to in paragraphs (2) and (4)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 7 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.".

SEC. 1402. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "125 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "65 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph (3):

"(3) An amendment that adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—

(1) IMPLEMENTATION OF RECOMMENDATIONS.—Section 3554 of title 31, United States Code, is amended—

(A) in subsection (b), by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the contracting activity responsible for that contract shall report such failure to the Comptroller General not later than 5 working days after the end of such 60-day period.";

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorney's fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) No party may be paid, pursuant to a recommendation made under the authority of paragraph (1)—

"(A) costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5 for expert witnesses; or

"(B) costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly out of funds appropriated by section 1304 of this title for the payment of judgments and reimburse that appropriation account out of available funds or out of additional funds appropriated for such Federal agency to make such reimbursement; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(4) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay."; and

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) The Comptroller General shall report promptly to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by the Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 125 days after the date the protest is submitted to the Comptroller General.".

(2) REQUIREMENT FOR PAYMENT IN ACCORDANCE WITH PRIOR GAO DETERMINATIONS.—Amounts to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly from the appropriation made by section 1304 of such title for the payment of judgments. The Federal agency shall reimburse that appropriation account out of available funds or out of additional funds appropriated for such Federal agency to make such reimbursement. If the Federal agency is unable to make the reimbursement out of available funds, the head of such agency shall immediately take such action as may be necessary to transmit to Congress a request for an appropriation of additional funds to make such reimbursement.

(c) REFERENCE TO HEAD OF CONTRACTING ACTIVITY.—Subsections (b)(2) and (d) of section 3554 of title 31, United States Code, are amended by striking out "head of the procuring activity" and inserting in lieu thereof "head of the contracting activity".

SEC. 1403. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions make the General Accounting Office or Federal agency inaccessible, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) REPEAL OF OBSOLETE DEADLINE.—Subsection (a) of such section is amended by striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN THE FEDERAL COURTS

SEC. 1421. NONEXCLUSIVITY OF REMEDIES.

Section 3556 of title 31, United States Code, is amended by striking out "a district court of the United States or the United States Claims Court" in the first sentence and inserting in lieu thereof "the United States Court of Federal Claims".

SEC. 1422. JURISDICTION OF THE UNITED STATES COURT OF FEDERAL CLAIMS.

(a) CLAIMS AGAINST THE UNITED STATES AND BID PROTESTS.—Section 1491 of title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d);

(2) in subsection (a)—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a) CLAIMS AGAINST THE UNITED STATES.—";

(B) in paragraph (2), by striking out "(2) To" and inserting in lieu thereof "(b) REMEDY AND RELIEF.—To"; and

(C) by striking out paragraph (3); and

(3) by inserting after subsection (b), as designated by paragraph (2)(B), the following new subsection (c):

"(c) BID PROTESTS.—(1) The United States Court of Federal Claims has exclusive jurisdiction to render judgment on an action by an interested party objecting to a solicitation by a Federal agency for bids or proposals for a proposed contract or to a proposed award or the award of a contract. The court has jurisdiction to entertain such an action without regard to whether suit is instituted before or after the contract is awarded.

"(2) To afford relief in such an action, the court may award any relief that the court considers proper, including declaratory and injunctive relief.

"(3) In exercising jurisdiction under this subsection, the court shall give due regard to the interests of national defense and national security and the need for expeditious resolution of the action.

"(4) The district courts of the United States do not have jurisdiction of any action referred to in paragraph (1).".

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended by inserting "**BID PROTESTS;**" after "**GENERALLY;**".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 91 of title 28, United States Code, is amended by striking out the item relating to section 1491 and inserting in lieu thereof the following:

"1491. Claims against United States generally; bid protests; actions involving Tennessee Valley Authority.".

PART III—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 1431. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting after the third sentence the following: "The Administrator may revoke a delegation of authority with respect to a particular contract before or after award of the contract, except that the Administrator may revoke a delegation after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 1432. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a Federal agency that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 1433. PERIODS FOR CERTAIN ACTIONS.

(a) SUSPENSION OF PROCUREMENT AUTHORITY.—Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended in paragraph (3) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending at the end of the later of—

"(I) the tenth day after the date of contract award; or

"(II) the seventh day after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

"(iii) The board shall hold the requested hearing within 7 days after the date of the filing of the protest or, in the case of a request for debriefing under the provisions of section 2305(b)(5) of title 10, United States Code, or section 303B(e) of this Act, within 7 days after the later of the date of the filing of the protest or the date of the debriefing.".

(b) FINAL DECISION.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 1434. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought in bad faith; or

"(iii) does not state on its face a valid basis for protest.".

SEC. 1435. AWARD OF COSTS.

Section 111(f)(5) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorney's fees and consultant and expert witness fees), and bid and proposal preparation. However, no party may be declared entitled to costs for consultant and expert witness fees that exceed the rates provided under section 504(b)(1)(A) of title 5, United States Code, for expert witnesses or to costs for attorney's fees that exceed the rates provided for attorneys under section 504(b)(1)(A) of title 5, United States Code.".

SEC. 1436. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement submitted to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 1437. JURISDICTION OF DISTRICT COURTS.

Section 111(f)(6)(C) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(6)(C)) is amended by striking out "a district court of the United States or the United States Claims Court" in the third sentence and inserting in lieu thereof "the United States Court of Federal Claims".

SEC. 1438. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended by striking out paragraph (8) and inserting in lieu thereof the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions make the board or Federal agency inaccessible, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records.

"(D) The procedures shall provide that if the board expressly finds that a protest or a portion of a protest is frivolous or has not been brought or pursued in good faith, or that any person has willfully abused the board's process during the course of a protest, the board may impose appropriate sanctions. Such sanctions may include the dismissal of the protest and an award to any other party of costs (including reasonable attorneys' fees not to exceed the rates provided for pursuant to paragraph (5)(C)) incurred as a result of such protest or conduct.".

SEC. 1439. DEFINITIONS.

(a) PROTEST.—Section 111(f)(9)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)(A)) is amended to read as follows:

"(A) the term 'protest' means a written objection by an interested party—

"(i) to a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services;

"(ii) to the cancellation of such a solicitation or other request;

"(iii) to an award or proposed award of such a contract; or

"(iv) to a termination or cancellation of an award of such a contract, if that termination or cancellation is alleged to be based in whole or in part on improprieties concerning the award of the contract;".

(b) PREVAILING PARTY.—Section 111(f)(9) of such Act is amended by adding at the end the following new subparagraph:

"(C) the term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

SEC. 1440. OVERSIGHT OF ACQUISITION OF AUTOMATIC DATA PROCESSING EQUIPMENT BY FEDERAL AGENCIES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection:

"(h)(1) The Administrator shall collect and compile data regarding the procurement of automatic data processing equipment under this section. The data collected and compiled shall include, at a minimum, with regard to each procurement the following:

"(A) The procuring agency.

"(B) The contractor.

"(C) The automatic data processing equipment and services procured.

"(D) The manufacturer of the equipment procured.

"(E) The amount of the contract, to the extent that the amount is not proprietary information.

"(F) The type of contract used.

"(G) The extent of competition for award.

"(H) Compatibility restrictions.

"(I) Significant modifications of the contract.

"(J) Contract price, to the extent that the price is not proprietary information.

"(2) The head of each Federal agency shall report to the Administrator in accordance with regulations issued by the Administrator all information that the Administrator determines necessary in order to satisfy the requirements in paragraph (1).

"(3) The Administrator shall—

"(A) carry out a systematic, periodic review of information received under this subsection;

"(B) use such information, as appropriate, to determine the compliance of Federal agencies with the requirements of this section; and

"(C) have the authority to suspend the delegation to a Federal agency of authority to lease or purchase automatic data processing equipment upon any failure by the head of the Federal agency to report to the Administrator in accordance with paragraph (2).".

Subtitle E—Definitions and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1501. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraphs (3), (4), (5), and (7);

(2) by redesignating paragraph (6) as paragraph (5); and

(3) by inserting after paragraph (2) the following:

"(3) The terms 'commercial item', 'full and open competition', 'major system', 'nondevelopmental item', 'procurement', 'procurement system', 'responsible source', 'standards', and 'technical data', have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

"(4) The term 'simplified acquisition threshold' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation, the term means an amount equal to two times the amount specified for that term in section 4 of such Act.".

SEC. 1502. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) Consolidation of Delegation Authority.—Section 2311 of title 10, United States Code, is amended to read as follows:

"§ 2311. Delegation

"(a) In General.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) Procurements For or With Other Agencies.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may, within his agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) Approval of Terminations and Reductions of Joint Acquisition Programs.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition to require a military department approved for termination or substantial reduction in participation in a joint acquisition program to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(b) Conforming Repeal.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 1503. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§ 2310. Determinations and decisions

"(a) Individual or Class Determinations and Decisions Authorized.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) Written Findings Required.—(1) Each determination or decision under section 2306(g)(1), 2307(c), or 2313(c) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The head of the agency making such finding shall maintain a copy of the finding for not less 6 years after the date of the determination or decision.".

SEC. 1504. UNDEFINITIZED CONTRACTUAL ACTIONS: RESTRICTIONS.

(a) Clarification of Limitation.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection caption, by striking out "And Expenditure";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) Waiver Authority.—Such subsection is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) Inapplicability of Restrictions to Contracts Within the Simplified Acquisition Threshold.—Section 2326(g)(1)(B) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 1505. PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT: CONTRACT TERMS AND CONDITIONS.

(a) Repeal.—Section 2329 of title 10, United States Code, is repealed.

(b) Technical Amendment.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 1506. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense or the Secretary of a military department may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

SEC. 1507. REPEAL OF EXECUTED REQUIREMENT RELATING TO CERTIFICATE OF INDEPENDENT PRICE DETERMINATION IN CERTAIN DEPARTMENT OF DEFENSE CONTRACT SOLICITATIONS.

Section 821 of Public Law 101-189 (103 Stat. 1503) is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1551. DEFINITIONS.

Section 309(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(c)) is amended by striking out "and 'supplies'" and inserting in lieu thereof "'supplies', 'commercial item', 'nondevelopmental item', and 'simplified acquisition threshold'".

SEC. 1552. DELEGATION OF PROCUREMENT FUNCTIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended—

(1) by redesignating sections 309 and 310 as sections 312 and 313, respectively; and

(2) by inserting after section 308 the following new section 309:

"DELEGATION

"Sec. 309. (a) In General.—Except to the extent expressly prohibited by another provision of law, an agency head may delegate, subject to his direction, to any other officer or official of that agency, any power under this title.

"(b) Procurements For or With Other Agencies.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) an agency head may, within his executive agency, delegate functions and assign responsibilities relating to procurement;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may create joint or combined offices to exercise procurement functions and responsibilities.".

SEC. 1553. DETERMINATIONS AND DECISIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1552, is further amended by inserting after section 309 the following new section 310:

"DETERMINATIONS AND DECISIONS

"Sec. 310. (a) Individual or Class Determinations and Decisions Authorized.—Determinations and decisions required to be made under this title by an agency head may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) Written Findings Required.—(1) Each determination under section 305(c) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) shall be final. The agency head making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 1554. UNDEFINITIZED CONTRACTUAL ACTIONS: RESTRICTIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1553, is further amended by inserting after section 310 the following new section:

"UNDEFINITIZED CONTRACTUAL ACTIONS: RESTRICTIONS

"SEC. 311. (a) IN GENERAL.—An agency head may not enter into an undefinitized contractual action unless the request to the agency head for authorization of the contractual action includes a description of the anticipated effect on requirements of the executive agency concerned if a delay is incurred for purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

"(b) LIMITATIONS ON OBLIGATIONS OF FUNDS.—(1) A contracting officer of an executive agency may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price by the earlier of—

"(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal (as defined in subsection (f)) to definitize the contractual terms, specifications, and price; or

"(B) the date on which the amount of funds obligated under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

"(2) Except as provided in paragraph (3), the contracting officer for an undefinitized contractual action may not obligate with respect to such contractual action an amount that is equal to more than 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(3) If a contractor submits a qualifying proposal (as defined in subsection (f)) to definitize an undefinitized contractual action before an amount equal to more than 50 percent of the negotiated overall ceiling price is obligated on such action, the contracting officer for such action may not obligate with respect to such contractual action an amount that is equal to more than 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(4) This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

"(c) INCLUSION OF NON-URGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action for spare parts and support equipment that are needed on an urgent basis unless the agency head approves such inclusion as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(d) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the agency head approves such modification as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(e) ALLOWABLE PROFIT.—An agency head shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

"(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

"(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

"(f) DEFINITIONS.—In this section:

"(1) The term 'undefinitized contractual action' means a new procurement action entered into by an agency head for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action. Such term does not include contractual actions with respect to the following:

"(A) Purchases in an amount not in excess of the amount of the simplified acquisition threshold.

"(B) Congressionally mandated long-lead procurement contracts.

"(2) The term 'qualifying proposal' means a proposal that contains sufficient information to enable the agency head concerned to conduct complete and meaningful audits of the information contained in the proposal and of any other information that the agency head is entitled to review in connection with the contract, as determined by the contracting officer.".

SEC. 1555. REPEAL OF AMENDMENTS TO UNCODIFIED TITLE.

The following provisions of law are repealed:

(1) Section 532 of Public Law 101–509 (104 Stat. 1470) and the matter set out in quotes in that section.

(2) Section 529 of Public Law 102–393 (106 Stat. 1761) and the matter inserted and added by that section.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2001. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 2307. Contract financing";

(2) by striking out "(a) The head of an agency" and inserting in lieu thereof "(b) PAYMENT AUTHORITY.—The head of an agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(c) PAYMENT AMOUNT.—Payments";

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(d) SECURITY FOR ADVANCE PAYMENTS.—Advance payments";

(5) by striking out "(d)(1) The Secretary of Defense" and inserting in lieu thereof "(e) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The Secretary of Defense"; and

(6) by striking out "(e)(1) In any case" and inserting in lieu thereof "(g) ACTION IN CASE OF FRAUD.—(1) In any case".

(b) FINANCING POLICY.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) POLICY.—Payments authorized under this section and made for financing purposes should be made periodically and in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) TERMINOLOGY CORRECTION.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(d) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(4), is further amended in subsection (d) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(e) CONDITIONS FOR PROGRESS PAYMENTS.—Such section, as amended by subsection (a)(5), is further amended in subsection (e)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.".

(f) NAVY CONTRACTS.—Such section, as amended by subsection (a)(5), is further amended by inserting after subsection (e) the following new subsection (f):

"(f) CERTAIN NAVY CONTRACTS.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of firms considered to be small businesses; and

"(B) 90 percent, in the case of all other firms.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall ensure that, when partial, progress, or other payments are made under a contract for construction or conversion of a naval vessel, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(g) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CROSS REFERENCE.—Such section, as amended by subsection (a), is further amended in subsections (c) and (d) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) TABLE OF CONTENTS.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(h) REPEAL OF SUPERSEDED PROVISIONS.—

(1) PROGRESS PAYMENTS UNDER CERTAIN NAVY CONTRACTS.—

(A) REPEAL.—Section 7312 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7312.

(2) ADVANCEMENT OF PAYMENTS FOR NAVY SALVAGE OPERATIONS.—

(A) REPEAL.—Section 7364 of such title is repealed.

(B) Clerical Amendment.—The table of sections at the beginning of chapter 637 of such title is amended by striking out the item relating to section 7364.

(3) Partial Payments Under Navy Contracts—

(A) Repeal.—Section 7521 of such title is repealed.

(B) Clerical Amendment.—The table of sections at the beginning of chapter 645 of such title is amended by striking out the item relating to section 7521.

(4) Navy Research Contracts.—Section 7522 of title 10, United States Code, is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

SEC. 2002. CONTRACTS: VOUCHERING PROCEDURES.

(a) Repeal.—Section 2355 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2051. CONTRACT FINANCING.

(a) Reorganization of Principal Authority Provision.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"CONTRACT FINANCING";

(2) by striking out "(a) Any executive agency" and inserting in lieu thereof "(b) Payment Authority.—Any executive agency";

(3) by striking out "(b) Payments" and inserting in lieu thereof "(c) Payment Amount.—Payments"; and

(4) by striking out "(c) Advance payments" and inserting in lieu thereof "(d) Security for Advance Payments.—Advance payments".

(b) Financing Policy.—Such section, as amended by subsection (a), is further amended by inserting after the section heading the following new subsection (a):

"(a) Policy.—Payments authorized under this section and made for financing purposes should be made periodically and in a timely manner to facilitate contract performance while protecting the security interests of the Government. Government financing shall be provided only to the extent necessary to ensure prompt and efficient performance and only after the availability of private financing is considered. A contractor's use of funds received as contract financing and the contractor's financial condition shall be monitored. If the contractor is a small business concern, special attention shall be given to meeting the contractor's financial need.".

(c) Terminology Correction.—Such section, as amended by subsection (a)(2), is further amended in subsection (b)(2) by striking out "bid".

(d) Effective Date of Lien Related to Advance Payments.—Such section, as amended by subsection (a)(4), is further amended in subsection (d) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(e) Revision of Civilian Agency Provision To Ensure Uniform Requirements for Progress Payments.—

(1) In general.—Such section, as amended by subsection (a), is further amended by adding at the end the following:

"(e) Conditions for Progress Payments.—(1) The agency head shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the agency head determines necessary to permit the agency head to carry out the preceding sentence.

"(2) The agency head shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the agency head has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to a contract for an amount equal to or greater than the simplified acquisition threshold.

"(f) Action in Case of Fraud.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the agency head reduce or suspend further payments to such contractor.

"(2) An agency head receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an agency head under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the agency head whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the agency head in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) Each agency head shall prescribe procedures to ensure that, before the agency head decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which an agency head reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the agency head whether the suspension or reduction should continue.

"(7) Each agency head who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any such report shall be available to any Member of Congress upon request.

"(8) An agency head may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(2) Relationship to Prompt Payment Requirements.—The amendments made by paragraph (1) are not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law, that relate to progress payment requests, as such procedures are in effect on the date of the enactment of this Act.

(f) Conforming and Clerical Amendments.—

(1) Reference.—Section 305 of the Federal Property and Administrative Services Act of 1949, as amended by subsection (a), is further amended in subsections (c) and (d) by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(2) Table of Contents.—The table of contents in the first section of such Act is amended by striking out the item relating to section 305 and inserting in lieu thereof the following:

"Sec. 305. Contract financing.".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2101. ALLOWABLE CONTRACT COSTS.

(a) Comptroller General Evaluation.—Subsection (l) of section 2324 of title 10, United States Code, is amended to read as follows:

"(l)(1) The Comptroller General shall periodically evaluate the implementation of this section by the Secretary of Defense. Such evaluation shall consider the extent to which—

"(A) the implementation is consistent with congressional intent;

"(B) the implementation achieves the objective of eliminating unallowable costs charged to covered contracts; and

"(C) the implementation (as well as the provisions of this section and the regulations prescribed under this section) could be improved or strengthened.

"(2) The Comptroller General shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on such evaluation within 90 days after publication by the Secretary of Defense in the Federal Register of regulations that make substantive changes in regulations pertaining to allowable costs under covered contracts.".

(b) Covered Contract Defined.—Subsection (m) of such section is amended to read as follows:

"(m) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the Department of Defense, except that such term does not include a fixed-price contract without cost incentives.".

SEC. 2102. CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) Repeal.—Section 2382 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2151. ALLOWABLE CONTRACT COSTS.

(a) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM TREATMENT OF CONTRACT COSTS.—Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"ALLOWABLE COSTS

"SEC. 306. (a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—The head of an executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation or an executive agency's supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—(1) If the agency head determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the agency head shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on regulations issued by the agency head) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the agency head determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the agency head shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) WAIVER OF PENALTY.—The agency head shall prescribe regulations providing for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—An action of an agency head under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act.

"(e) SPECIFIC COSTS NOT ALLOWABLE.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable regulations of the agency head concerned.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under regulations prescribed by the agency head concerned.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Pursuant to regulations prescribed by the head of the executive agency concerned and subject to the availability of appropriations, the agency head, in awarding a covered contract, may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the agency head determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) The head of the executive agency concerned shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the agency head will consider granting such a waiver, and, if the agency head will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) The agency head shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The head of each executive agency concerned shall prescribe regulations to implement this section with respect to contracts of that executive agency. Such regulations may establish appropriate definitions, exclusions, limitations, and qualifications.

"(f) REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the executive agency's contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, an executive agency's contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of an executive agency's contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) APPLICABILITY OF REQUIRED REGULATIONS.—The regulations required to be prescribed under subsections (e) and (f)(1) shall require, to the maximum extent practicable, that such regulations apply to all subcontractors of a covered contract.

"(h) CONTRACTOR CERTIFICATION REQUIRED.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed by the agency head concerned.

"(2) The agency head concerned may, in an exceptional case, waive the requirement for certification under paragraph (1) in the case of any contract if the agency head—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) CONTRACTOR TO HAVE BURDEN OF PROOF.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) PROCEEDING COSTS NOT ALLOWABLE.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default, by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the agency head that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulation.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) PERIODIC EVALUATION OF IMPLEMENTATION.—(1) The Comptroller General shall periodically evaluate the implementation of this section by the heads of executive agencies. Such evaluation shall consider the extent to which—

"(A) the implementation is consistent with congressional intent;

"(B) the implementation achieves the objective of eliminating unallowable costs charged to covered contracts; and

"(C) the implementation (as well as the provisions of this section and the regulations prescribed under this section) could be improved or strengthened.

"(2) The Comptroller General shall submit to the Committees on Governmental Affairs and on Appropriations of the Senate and the Committees on Government Operation and on Appropriations of the House of Representatives a report on such evaluation within 90 days after the head of any executive agency publishes in the Federal Register regulations that make substantive changes in regulations pertaining to allowable costs under covered contracts.

"(m) COVERED CONTRACT DEFINED.—In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by striking out the item relating to section 306 and inserting in lieu thereof the following:

"Sec. 306. Allowable costs.".

PART III—ACQUISITIONS GENERALLY

SEC. 2191. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is repealed.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Section 2313 of title 10, United States Code, is amended to read as follows:

"§ 2313. Examination of records of contractor

"(a) AGENCY AUTHORITY.—The head of an agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any subcontract under such a contract or combination of contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) SUBPOENA POWER.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of records of a contractor, access to which is provided to the Secretary of Defense by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(d) LIMITATION.—The right of the head of an agency under subsection (a), and the right of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(e) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(f) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) REPEAL.—Section 2406 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—

(1) IN GENERAL.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1251(a), is further amended by inserting after section 304A the following new section:

"EXAMINATION OF RECORDS OF CONTRACTOR

"SEC. 304B. (a) AGENCY AUTHORITY.—The head of an executive agency, acting through an authorized representative—

"(1) is entitled to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any subcontract under such a contract or combination of contracts; and

"(2) shall, for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted pursuant to section 304A with respect to a contract or subcontract, have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) SUBPOENA POWER.—(1) The agency head may require by subpoena the production of records of a contractor, access to which is provided by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be delegated.

"(4) In the year following a year in which the head of an executive agency exercises the authority provided in paragraph (1), the agency head shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report on the exercise of such authority during such preceding year and the reasons why such authority was exercised in any instance.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are entitled to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the agency head concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the agency head determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(d) LIMITATION.—The right of an agency head under subsection (a), and the right of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(e) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section is inapplicable with respect to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(f) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act, as amended by section 1251(b), is further amended by inserting after the item relating to section 304A the following:

"Sec. 304B. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Cost Accounting Standards

SEC. 2301. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of the enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

Subtitle E—Administration of Contract Provisions Relating to Price, Delivery, and Product Quality

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2401. PROCUREMENT OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS; QUALITY CONTROL.

(a) REPEAL.—Section 2383 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2383.

SEC. 2402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

Section 2403(h) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

SEC. 2403. REPEAL OF REQUIREMENT FOR COMPLETE DELIVERY OF SUBSISTENCE SUPPLIES AT SPECIFIC PLACE UPON INSPECTION.

(a) Army Contracts.—

(1) Repeal.—Section 4534 of title 10, United States Code, is repealed.

(2) Clerical Amendment.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4534.

(b) Air Force Contracts.—

(1) Repeal.—Section 9534 of title 10, United States Code, is repealed.

(2) Clerical Amendment.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9534.

PART II—ACQUISITIONS GENERALLY

SEC. 2451. SECTION 3737 OF THE REVISED STATUTES: EXPANSION OF AUTHORITY TO PROHIBIT SETOFFS AGAINST ASSIGNEES; REORGANIZATION OF SECTION; REVISION OF OBSOLETE PROVISIONS.

Section 3737 of the Revised Statutes (41 U.S.C. 15) is amended to read as follows:

"Sec. 3737. (a) No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States is concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

"(b) The provisions of subsection (a) shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating $1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency, provided:

"(1) That, in the case of any contract entered into after October 9, 1940, no claim shall be assigned if it arises under a contract which forbids such assignment;

"(2) That, unless otherwise expressly permitted by such contract, any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing;

"(3) That, in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of the assignment with—

"(A) the contracting officer or the head of his department or agency;

"(B) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and

"(C) the disbursing officer, if any, designated in such contract to make payment.

"(c) Notwithstanding any law to the contrary governing the validity of assignments, any assignment pursuant to this section shall constitute a valid assignment for all purposes.

"(d) In any case in which moneys due or to become due under any contract are or have been assigned pursuant to this section, no liability of any nature of the assignor to the United States or any department or agency thereof, whether arising from or independently of such contract, shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment.

"(e) Any contract of the Department of Defense, the General Services Administration, the Department of Energy, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, upon a determination of need by the President, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff.

"(f) If a provision described in subsection (e) or a provision to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of—

"(1) renegotiation under any renegotiation statute or under any statutory renegotiation article in the contract;

"(2) fines;

"(3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract); or

"(4) taxes, social security contributions, or the withholding or non withholding of taxes or social security contributions, whether arising from or independently of such contract.

"(g) Except as herein otherwise provided, nothing in this section shall be deemed to affect or impair rights of obligations heretofore accrued.".

SEC. 2452. REPEAL OF REQUIREMENT FOR DEPOSIT OF CONTRACTS WITH GAO.

Section 3743 of the Revised Statutes (41 U.S.C. 20) is repealed.

Subtitle F—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2501. CERTIFICATION OF CONTRACT CLAIMS.

(a) DoD Certification Requirement in Conflict With Government-Wide Requirement.—

(1) Repeal.—Section 2410 of title 10, United States Code, is repealed.

(2) Clerical Amendment.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2410.

(b) Repeal of Superseded Provision.—Section 813(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2453), is repealed.

(c) Restriction on Legislative Payment of Claims.—Section 2310e of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) Restriction on Legislative Payment of Claims.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after September 30, 1993, that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.".

PART II—ACQUISITIONS GENERALLY

SEC. 2551. CONCURRENT JURISDICTION OF UNITED STATES DISTRICT COURTS UNDER THE LITTLE TUCKER ACT.

Subsection (a) of section 1346 of title 28, United States Code, is amended to read as follows:

"(a)(1) The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws.

"(2)(A) Except as provided in subparagraph (B), the district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

"(B) The district courts shall not have jurisdiction over any civil action or claim against the United States which relates in any manner to a contract to which the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) applies, including a claim that seeks to establish the existence or nonexistence of such a contract, seeks to establish that such a contract is void, or seeks to determine and construe the terms of such a contract. The district courts do not have jurisdiction over any civil action or claim described in the preceding sentence pursuant to section 1331 or 1334 of this title or any other provision of law.".

SEC. 2552. CONTRACT DISPUTES ACT IMPROVEMENTS.

(a) Period for Filing Claims.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended in subsection (a) by inserting after the second sentence the following: "Each claim by a contractor against the government relating to a contract and each claim by the government against a contractor relating to a contract shall be submitted within 6 years after the occurrence of the event or events giving rise to the claim.".

(b) Increased Threshold for Certification, Decision, and Notification Requirements.—Subsection (c) of such section is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) Increased Maximum for Applicability of Small Claims Procedure.—Section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)) is amended by striking out "$10,000" in the first sentence and inserting in lieu thereof "$25,000".

(d) Reduced Period for Filing Action in Court of Federal Claims.—Section 10(a)(3) of such Act (41 U.S.C. 609(a)(3)) is amended by striking out "twelve months" and inserting in lieu thereof "90 days".

(e) Claim Defined.—Section 2 of such Act (41 U.S.C. 601) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(8) the term 'claim' includes a request for equitable adjustment to contact terms and a request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.).".

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES

Subtitle A—Major Systems Statutes

SEC. 3001. REQUIREMENT FOR INDEPENDENT COST ESTIMATES AND MANPOWER ESTIMATES BEFORE DEVELOPMENT OR PRODUCTION.

(a) Content and Submission of Estimates.—Section 2434 of title 10, United States Code, is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Regulations.—The Secretary of Defense shall promulgate regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the cost of a program—

"(A) be prepared by an office or other entity that is not under the supervision, direction, or control of the military department, Defense Agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include the total personnel required to operate, maintain, and support the program upon full operational deployment.".

(b) Terminology Correction.—Subsection (a) of such section is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3002. ENHANCED PROGRAM STABILITY.

(a) Baseline Descriptions and Deviation Reporting.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out paragraph (2); and

(B) in paragraph (1)—

(i) by striking out "(1)"; and

(ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Regulations.—The Secretary of Defense shall promulgate regulations governing—

"(1) the content of baseline descriptions;

"(2) the submission of reports on deviations of a program from the baseline description by the program manager to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition;

"(3) procedures for review of deviation reports within the Department of Defense; and

"(4) procedures for submission and approval of revised baseline descriptions.".

(b) Terminology Correction.—Subsection (a)(1) of such section, as redesignated by subsection (a)(1)(B)(ii), is amended by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3003. REPEAL OF REQUIREMENT FOR DEFENSE ENTERPRISE PROGRAMS.

(a) Authority.—

(1) Repeal.—Sections 2436 and 2437 of title 10, United States Code, are repealed.

(2) Clerical Amendment.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the items relating to sections 2436 and 2437.

(b) Conforming Amendment.—Section 809 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2430 note) is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

SEC. 3004. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING IN MAJOR PROGRAMS.

(a) Repeal.—Section 2438 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 3005. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES IN MAJOR PROGRAMS.

(a) Repeal.—Section 2439 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 3011. REPEAL OF TESTING REQUIREMENT FOR WHEELED OR TRACKED VEHICLES.

(a) Repeal.—Section 2362 of title 10, United States Code, is repealed.

(b) Technical Amendment.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2362.

SEC. 3012. MAJOR SYSTEMS AND MUNITIONS PROGRAMS: SURVIVABILITY AND LETHALITY TESTING.

(a) Substitution of Vulnerability Testing for Survivability Testing.—Section 2366 of title 10, United States Code, is amended—

(1) by striking out "survivability" each place it appears in subsections (a)(1)(A), (a)(2)(A), (c)(1), (d), (e)(3), and (e)(6)(A) and inserting in lieu thereof "vulnerability"; and

(2) in subsection (b)(1), by striking out "Survivability" and inserting in lieu thereof "Vulnerability".

(b) Less Than Full-Up Testing Authorized.—Section 2366(e)(3) of such title is amended by inserting after "configured for combat," the following: "or, if the covered system is a high value system, by firing such munitions at components, subsystems, and subassemblies (or realistic replicas or surrogates) together with performing design analyses, modeling and simulation, and analysis of combat data,".

(c) Waiver Authority After Full-Scale Development Begins.—Section 2366(c)(1) of such title is amended in the first sentence by striking out ", before the system enters full-scale development,".

(d) Reference to Congressional Committees.—Section 2366(d) of such title is amended in the first sentence by striking out "defense committees of Congress (as defined in section 2362(e)(3) of this title)" and inserting in lieu thereof "Committees on Armed Services and on Appropriations of the Senate and House of Representatives".

SEC. 3013. OPERATIONAL TEST AND EVALUATION OF DEFENSE ACQUISITION PROGRAMS.

Section 2399(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) The Secretary of Defense may, for a particular major defense acquisition program, prescribe and apply different operational test and evaluation procedures than those provided under subsection (a) and paragraphs (1) through (3) of this subsection if the Secretary first transmits to Congress—

"(i) a certification that such testing would be unreasonably expensive and impracticable, cause unwarranted delay, or be unnecessary because of the acquisition strategy for that system; and

"(ii) a description of the actions taken to ensure that the system will be operationally effective and suitable when the system is introduced into the field.

"(B) Alternative operational test and evaluation procedures prescribed pursuant to subparagraph (A) may not be used to proceed with a major defense acquisition program beyond low-rate initial production.".

SEC. 3014. LOW-RATE INITIAL PRODUCTION OF NEW SYSTEMS.

(a) Exception for Strategic Defense Missile Systems.—Subsection (c) of section 2400 of title 10, United States Code, is amended to read as follows—

(1) in paragraph (1), by striking out "and military satellite programs" and inserting in lieu thereof ", military satellite programs, and strategic defense missile programs";

(2) in paragraph (2), by striking out "and military satellite program" and inserting in lieu thereof ", military satellite program, and strategic defense missile program"; and

(3) by striking out the caption of such subsection and inserting in lieu thereof "Low-Rate Initial Production of Naval Vessel, Satellite, and Strategic Defense Missile Programs.—".

(b) Submission of Test and Evaluation Master Plan.—Paragraph (2) of such section is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) any test and evaluation master plan prepared for that program;".

Subtitle C—Service Specific Laws

SEC. 3021. INDUSTRIAL MOBILIZATION.

(a) Consolidation and Revision of Authority.—

(1) Authority.—Subtitle V of chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2538. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations

"(a) Ordering Authority.—In time of war or when war is imminent, the President, through the Secretary of Defense or the Secretary of a military department, may order from any person or organized manufacturing industry necessary products or materials of the type usually produced or capable of being produced by that person or industry.

"(b) COMPLIANCE WITH ORDER REQUIRED.—A person or industry with whom an order is placed under subsection (a), or the responsible head thereof, shall comply with that order and give it precedence over all orders not placed under that subsection.

"(c) SEIZURE OF FACILITIES UPON NONCOMPLIANCE.—In time of war or when war is imminent, the President, through the Secretary of Defense or the Secretary of a military department, may take immediate possession of any plant that is equipped to manufacture, or that in the opinion of the Secretary of Defense or the Secretary of the military department concerned, is capable of being readily transformed into a plant for manufacturing, arms or ammunition, parts thereof, or necessary supplies for the armed forces if the person or industry owning or operating the plant, or the responsible head thereof, refuses—

"(1) to give precedence to the order as prescribed in subsection (b);

"(2) to manufacture the kind, quantity, or quality of arms or ammunition, parts thereof, or necessary supplies, as ordered by the Secretary; or

"(3) to furnish them at a reasonable price as determined by the Secretary.

"(d) USE OF SEIZED FACILITY.—The President, through the Secretary of Defense or the Secretary of a military department, may manufacture products that are needed in time of war or when war is imminent, in any plant that is seized under subsection (c).

"(e) COMPENSATION REQUIRED.—Each person or industry from whom products or materials are ordered under subsection (a) is entitled to fair and just compensation. Each person or industry whose plant is seized under subsection (c) is entitled to a fair and just rental.

"(f) CRIMINAL PENALTY.—Whoever fails to comply with this section shall be imprisoned for not more than three years and fined not more than $50,000.".

(2) TECHNICAL AMENDMENT.—The table of sections at the beginning of subchapter V of such chapter is amended by adding at the end the following new item:

"2538. Industrial mobilization: orders; priorities; possession of manufacturing plants; violations.".

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) ARMY AUTHORITY.—

(A) REPEAL.—Section 4501 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 431 of such title is amended by striking out the item relating to section 4501.

(2) AIR FORCE AUTHORITY.—

(A) REPEAL.—Section 9501 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 931 of such title is amended by striking out the item relating to section 9501.

SEC. 3022. INDUSTRIAL MOBILIZATION: PLANTS; LISTS; BOARD ON MOBILIZATION OF INDUSTRIES ESSENTIAL FOR MILITARY PREPAREDNESS.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Subchapter V of chapter 148 of title 10, United States Code, as amended by section 3021(a)(1), is further amended by adding at the end the following:

"§ 2539. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness

"(a) LISTS OF ARMS AND AMMUNITION PLANTS.—The Secretary of Defense and the secretaries of the military departments may each maintain a list of privately owned plants in the United States, and the Territories, Commonwealths, and possessions of the United States, that are equipped to manufacture for the armed forces arms or ammunition, or parts thereof, and may, when the Secretary of Defense or the Secretary concerned determines it necessary, obtain complete information of the kinds of those products manufactured or capable of being manufactured by each of those plants, and of the equipment and capacity of each of those plants.

"(b) LISTS OF PLANTS CONVERTIBLE TO ARMS AND AMMUNITION FACTORIES.—The Secretary of Defense and the secretaries of the military departments may each maintain a list of privately owned plants in the United States, and the Territories, Commonwealths, and possessions of the United States, that are capable of being readily transformed into factories for the manufacture of ammunition for the armed forces and that have a capacity sufficient to warrant conversion into ammunition plants in time of war or when war is imminent, and may, when the Secretary of Defense or the Secretary concerned determines it necessary, obtain complete information as to the equipment of each of those plants.

"(c) CONVERSION PLANS.—The Secretary of Defense or the Secretary concerned may prepare comprehensive plans for converting each plant listed pursuant to subsection (b) into a factory for the manufacture of ammunition or parts thereof.

"(d) BOARD ON MOBILIZATION OF INDUSTRIES ESSENTIAL FOR MILITARY PREPAREDNESS.—The President may appoint a nonpartisan Board on Mobilization of Industries Essential for Military Preparedness and may provide necessary clerical assistance to organize and coordinate operations under this section and section 2538 of this title.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter V of such chapter, as amended by section 3021(a)(2), is further amended by adding at the end the following new item:

"2539. Industrial mobilization: plants; lists; Board on Mobilization of Industries Essential for Military Preparedness.".

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) ARMY AUTHORITY.—

(A) REPEAL.—Section 4502 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 431 of such title is amended by striking out the item relating to section 4502.

(2) AIR FORCE AUTHORITY.—

(A) REPEAL.—Section 9502 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 931 of such title is amended by striking out the item relating to section 9502.

SEC. 3023. PROCUREMENT FOR EXPERIMENTAL PURPOSES.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2373. Procurement for experimental purposes

"The Secretary of Defense and the secretaries of the military departments may each buy ordnance, signal, and chemical warfare supplies, including parts and accessories, and designs thereof, that the Secretary of Defense or the Secretary concerned considers necessary for experimental or test purposes in the development of the best supplies that are needed for the national defense. Purchases under this section may be made inside or outside the United States by contract or otherwise. Chapter 137 of this title applies when such purchases are made in quantity.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2373. Procurement for experimental purposes.".

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) ARMY AUTHORITY.—

(A) REPEAL.—Section 4504 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 431 of such title is amended by striking out the item relating to

(2) AIR FORCE AUTHORITY.—

(A) REPEAL.—Section 9504 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 931 of such title is amended by striking out the item relating to section 9504.

SEC. 3024. REPEAL OF AUTHORITY FOR PROCUREMENT OF PRODUCTION EQUIPMENT.

(a) ARMY AUTHORITY.—

(1) REPEAL.—Section 4505 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 431 of such title is amended by striking out the item relating to section 4505.

(b) AIR FORCE AUTHORITY.—

(1) REPEAL.—Section 9505 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of chapter 931 of such title is amended by striking out the item relating to section 9505.

SEC. 3025. AVAILABILITY OF DEPARTMENT OF DEFENSE SAMPLES, DRAWINGS, INFORMATION, EQUIPMENT, MATERIALS, AND CERTAIN SERVICES.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Subchapter V of chapter 148 of title 10, United States Code, as amended by section 3022(a)(1), is further amended by adding at the end the following:

"§ 2540. Availability of samples, drawings, information, equipment, materials, and certain services

"(a) AUTHORITY.—The Secretary of Defense and the secretaries of the military departments, under regulations prescribed by the Secretary of Defense and when determined by the Secretary of Defense or the Secretary concerned to be in the interest of national defense, may each—

"(1) sell, lend, or give samples, drawings, and manufacturing or other information (subject to the rights of third parties) to any person or entity;

"(2) sell or lend government equipment or materials to any person or entity—

"(A) for use in independent research and development programs, subject to the condition that the equipment or material be used exclusively for such research and development; or

"(B) for use in demonstrations to a friendly foreign government; and

"(3) make available to any person or entity, at an appropriate fee, the services of any government laboratory, center, range, or other testing facility for the testing of materials, equipment, models, computer software, and other items.

"(b) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available pursuant to subsection (a)(3) are confidential and may not be disclosed outside the Federal Government without the consent of the persons for whom the tests are performed.

"(c) FEES.—Fees for services made available for testing under subsection (a)(3) shall be established in the regulations prescribed pursuant to subsection (a). Such fees may not be less than the direct costs involved, including the direct costs of utilities, contractor support, and salaries of personnel that are incurred by the United States to provide for the testing.

"(d) USE OF COLLECTED FEES.—Fees received for services made available pursuant to subsection (a)(3) may be credited to the appropriations or other funds of the activity providing such services.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter V of such chapter, as amended by section 3022(a)(2), is further amended by adding at the end the following new item:

"2540. Availability of samples, drawings, information, equipment, materials, and certain services.".

(b) CONFORMING AMENDMENTS.—

(1) EXEMPTION FROM ADVERTISING REQUIREMENT.—Section 2314 of title 10, United States Code, is amended by inserting "or sale" after "procurement".

(2) REPEAL OF SUPERSEDED ARMY AUTHORITY.—Chapter 431 of title 10, United States Code, is amended—

(A) by striking out sections 4506, 4507, and 4508; and

(B) in the table of sections at the beginning of such chapter, by striking out the items relating to such sections.

(3) REPEAL OF SUPERSEDED AIR FORCE AUTHORITY.—Subchapter I of chapter 931 of title 10, United States Code, is amended—

(A) by striking out sections 9506 and 9507; and

(B) in the table of sections at the beginning of such subchapter, by striking out the items relating to such sections.

SEC. 3026. REPEAL OF DUPLICATIVE GENERAL PROCUREMENT AUTHORITY.

(a) ARMY AUTHORITY.—

(1) REPEAL.—Section 4531 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4531.

(b) AIR FORCE AUTHORITY.—

(1) REPEAL.—Section 9531 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9531.

SEC. 3027. REPEAL OF AUTHORITY TO DELEGATE THE PROCUREMENT OF ARMY RATIONS.

(a) REPEAL.—Section 4533 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4533.

SEC. 3028. REPEAL OF AUTHORITY TO PURCHASE EXCEPTIONAL SUBSISTENCE SUPPLIES WITHOUT ADVERTISING.

(a) ARMY AUTHORITY.—

(1) REPEAL.—Section 4535 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4535.

(b) AIR FORCE AUTHORITY.—

(1) REPEAL.—Section 9535 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9535.

SEC. 3029. REPEAL OF AUTHORITY TO OBTAIN ASSISTANCE OF UNITED STATES MAPPING AGENCIES.

(a) ARMY AUTHORITY.—

(1) REPEAL.—Section 4537 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4537.

(b) AIR FORCE AUTHORITY.—

(1) REPEAL.—Section 9537 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9537.

SEC. 3030. REPEAL OF AUTHORITY TO RECLAIM UNSERVICEABLE AMMUNITION.

(a) ARMY AUTHORITY.—

(1) REPEAL.—Section 4538 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4538.

(b) AIR FORCE AUTHORITY.—

(1) REPEAL.—Section 9538 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9538.

SEC. 3031. GRATUITOUS SERVICES OF OFFICERS OF CERTAIN RESERVE COMPONENTS.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Chapter 11 of title 10, United States Code, is amended by inserting after section 278 the following new section:

"§ 279. Gratuitous services of officers of certain reserve components

"The Secretary of Defense and the secretaries of the military departments may each accept the gratuitous services of officers of the Army Reserve, Naval Reserve, Air Force Reserve, and Marine Corps Reserve in the enrolling, organizing, and training of members of such reserve components or the Reserve Officers' Training Corps, or in consulting on matters relating to the armed forces.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of such title is amended by inserting after the item relating to section 278 the following new item:

"Sec. 279. Gratuitous services of officers of certain reserve components.".

(b) REPEAL OF SUPERSEDED PROVISIONS.—

(1) ARMY AUTHORITY.—

(A) REPEAL.—Section 4541 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4541.

(2) AIR FORCE AUTHORITY.—

(A) REPEAL.—Section 9541 of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9541.

SEC. 3032. CIVIL RESERVE AIR FLEET.

(a) DEFINITION OF CONTRACTOR.—Section 9511(8) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (A); and

(2) by inserting before the period at the end the following: ", or (C) who owns or controls, or will own or control, new or existing aircraft and who, by contract, commits some or all of such aircraft to the Civil Reserve Air Fleet".

(b) CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.—Subchapter II of chapter 931 of such title is amended—

(1) by redesignating subsections (b) and (c) of section 9512 as subsections (c) and (d), respectively;

(2) by redesignating subsection (a) of section 9513 as subsection (b) and transferring such subsection (as so redesignated) to section 9512, and inserting such subsection after subsection (a);

(3) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(4) in subsection (c) of section 9512, as redesignated by paragraph (1), by striking out "the terms required by section 9513 of this title and";

(5) in subsection (e) of section 9512, as redesignated and transferred to such section by paragraph (3), by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section"; and

(6) by striking out the heading of section 9513.

(c) USE OF MILITARY INSTALLATIONS BY CONTRACTORS.—

(1) AUTHORITY.—Subchapter II of such chapter, as amended by subsection (b), is further amended by adding at the end the following new section 9513:

"§ 9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, a technical stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) DISPOSITION OF PAYMENTS FOR USE.—Notwithstanding the provisions of section

1107(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1507(b)), and any other provision of law, amounts collected in a fiscal year from a contractor for services or supplies or as landing fees or other charges authorized to be collected for use of an installation under a contract entered into under subsection (a) shall be credited to an appropriation for such fiscal year for the military department that has jurisdiction over such installation.

"(d) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the Air Force (and any other armed force having jurisdiction over any installation covered by the contract) from all actions, suits, or claims of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(e) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary concerned may, without providing prior notice, deny access to an installation designated under the contract when the Secretary determines that it is necessary to do so in order to meet military exigencies.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

SEC. 3033. REPEAL OF NAVY AUTHORITY REGARDING RESEARCH AND DEVELOPMENT, PROCUREMENT, AND CONSTRUCTION OF GUIDED MISSILES.

(a) REPEAL OF OBSOLETE AUTHORITY.—Section 7201 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7201.

SEC. 3034. EXCHANGE OF SCIENTIFIC PERSONNEL.

(a) EXCHANGE AUTHORITY.—Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2350j. Exchange of scientific personnel

"(a) INTERNATIONAL EXCHANGE AGREEMENTS AUTHORIZED.—The Secretary of Defense is authorized to enter into agreements with the governments of allies of the United States and other friendly foreign countries for the exchange of military and civilian scientific personnel of the Department of Defense and military and civilian scientific personnel of the defense ministries of such foreign governments.

"(b) ASSIGNMENT OF PERSONNEL.—Pursuant to an agreement entered into under subsection (a), personnel of the defense ministry of a foreign government may be assigned to positions in the Department of Defense, and personnel of the Department of Defense may be assigned to positions in the defense ministry of that foreign government. An agreement for the exchange of personnel engaged in research and development activities may provide for assignment of such personnel to positions in private industry that support the defense ministry of such foreign government. A specific position and the individual to be assigned to that position shall be acceptable to both governments.

"(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—Each government shall be required under an agreement authorized by subsection (a) to provide personnel having qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

"(d) PAYMENT OF PERSONNEL COSTS.—Each government shall pay the salary, per diem, cost of living, travel, cost of language or other training, and other costs (except for cost of temporary duty directed by the host government and costs incident to the use of host government facilities in the performance of assigned duties) for its own personnel in accordance with the laws and regulations of such government that pertain to such matters.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of such chapter is amended by adding at the end the following new item:

"2350j. Exchange of scientific personnel.".

SEC. 3035. REPEAL OF AUTHORITY FOR SECRETARY OF THE NAVY TO PROVIDE TEMPORARY RELIEF FOR CONTRACTORS AND CONTRACTOR EMPLOYEES FROM LOSSES CAUSED BY ENEMY ACTION.

(a) REPEAL.—Section 7213 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7213.

SEC. 3036. REPEAL OF AUTHORITY FOR SECRETARY OF THE NAVY TO SELL DEGAUSSING EQUIPMENT.

(a) REPEAL.—Section 7230 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7230.

SEC. 3037. REPEAL OF AUTHORITY FOR ALTERNATIVE USE OF APPROPRIATIONS FOR CONSTRUCTION OR CONVERSION OF VESSELS.

(a) REPEAL.—Section 7296 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7296.

SEC. 3038. REPEAL OF AUTHORITY FOR CONVERSION OF COMBATANT AND AUXILIARY NAVAL VESSELS.

(a) REPEAL.—Section 7298 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7298.

SEC. 3039. CONSTRUCTION OF COMBATANT AND ESCORT VESSELS AND ASSIGNMENT OF VESSEL PROJECTS.

(a) REPEAL OF OBSOLETE AND INTERNALLY INCONSISTENT PROVISIONS.—Section 7299a of title 10, United States Code, is amended—

(1) by striking out subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(b) CONFORMING AMENDMENT.—Subsection (b) of such section, as redesignated by subsection (a)(2), is amended in paragraph (2) by striking out "subsection (a) or".

SEC. 3040. REPEAL OF REQUIREMENT FOR ESTIMATES IN CONNECTION WITH BIDS ON CONSTRUCTION OF NAVAL VESSELS.

(a) REPEAL.—Section 7301 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7301.

SEC. 3041. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF VESSELS ON PACIFIC COAST.

(a) REPEAL.—Section 7302 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7302.

SEC. 3042. FITNESS OF NAVAL VESSELS: EXAMINATION; STRIKING UNFIT VESSELS; DISPOSAL.

(a) CONSOLIDATION AND REVISION OF AUTHORITY.—

(1) AUTHORITY.—Section 7304 of title 10, United States Code, is amended to read as follows:

"§ 7304. Fitness of vessels: examination; striking from Naval Vessel Register; disposal

"(a) TRIENNIAL EXAMINATION OF VESSELS REQUIRED.—The Secretary of the Navy shall designate boards of naval officers to examine all naval vessels, including unfinished vessels. Each vessel shall be examined at least once every three years if practicable.

"(b) BOARD RECOMMENDATIONS.—A board designated under subsection (a) shall recommend to the Secretary of the Navy in writing which vessels, if any, should be stricken from the Naval Vessel Register. In making such recommendations, the board shall consider whether a vessel is unfit for service or whether an unfinished vessel cannot be finished without disproportionate expense.

"(c) ACTION OF THE SECRETARY.—If the Secretary concurs with a board's recommendation that a vessel be stricken from the Naval Vessel Register, the Secretary shall strike the name of that vessel from the Naval Vessel Register.

"(d) APPRAISAL OF STRICKEN VESSEL.—The Secretary of the Navy shall appraise each vessel stricken from the Naval Vessel Register.

"(e) SALE OF STRICKEN VESSEL.—(1) When the Secretary determines that it is in the national interest, the Secretary may sell a vessel stricken from the Naval Vessel Register.

"(2) A vessel stricken from the Naval Vessel Register and not subject to disposition under any other law, may be sold at public sale to the highest acceptable bidder, regardless of the vessel's appraised value, after being advertised for sale for a period of not less than 30 days.

"(3) If the Secretary determines that the bid prices received after advertising are not reasonable and that readvertising will serve no useful purpose, the vessel may be sold by negotiation to the highest acceptable offeror, but only if—

"(A) each responsible bidder has been notified of the intent to negotiate a sale of the vessel and has been given a reasonable opportunity to negotiate with the Secretary for the purchase of that vessel; and

"(B) the negotiated price—

"(i) is higher than the highest rejected price of any responsible bidder; or

"(ii) is reasonable and is in the national interest.

"(f) OTHER TRANSFERS.—(1) The Secretary of the Navy is authorized to transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register or any captured vessel to—

"(A) any State, Commonwealth, or possession of the United States, or to any municipal corporation or political subdivision thereof;

"(B) the District of Columbia; or

"(C) any not-for-profit or nonprofit entity.

"(2) A transfer under paragraph (1) shall be made at no cost to the United States and may not be made unless the transferee agrees to maintain the vessel in a condition satisfactory to the Secretary of the Navy.

"(g) USE FOR EXPERIMENTAL PURPOSES.—The Secretary of the Navy is authorized to use for experimental purposes any vessel stricken from the Naval Vessel Register. A vessel so used shall first be stripped to the maximum extent practicable. The proceeds received from stripping the vessel shall be credited to appropriations available for the procurement of the scrapping services needed for stripping of that vessel. Excess receipts shall be deposited into the general fund of the Treasury.

"(h) Inapplicability of Other Law.—The provisions of title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) do not apply to the disposition of a naval vessel under this section.

"(i) Limitation.—Notwithstanding any other provision of law, no battleship, aircraft carrier, cruiser, destroyer, or submarine of the Navy may be sold, transferred, or otherwise disposed of, unless the Chief of Naval Operations certifies that it is not essential to the defense of the United States.".

(2) Clerical amendment.—The item relating to such section in the table of sections at the beginning of chapter 633 of such title is amended to read as follows:

"7304. Fitness of vessels: examination; striking from Naval Vessel Register; disposal.".

(b) Repeal of Superseded Provisions.—

(1) Repeal.—Sections 7305, 7306, 7307, and 7308 of title 10, United States Code, are repealed.

(2) Clerical amendment.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the items relating to such sections.

SEC. 3043. REPEAL OF POLICY ON CONSTRUCTING COMBATANT VESSELS.

(a) Repeal.—Section 7310 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7310.

SEC. 3044. NAVAL SALVAGE FACILITIES.

(a) Consolidation of Authority.—Chapter 637 of title 10, United States Code, is amended—

(1) in section 7361—

(A) in subsection (a), by inserting "Authority To Provide Facilities by Contract or Otherwise.—" after "(a)";

(B) in subsection (b), by inserting "Contracts Affecting the Department of Transportation.—" after "(b)"; and

(C) in subsection (c)—

(i) by inserting "Limitation on Term Contracts.—" after "(c)"; and

(ii) by striking out "under this section" and inserting in lieu thereof "under subsection (a)";

(2) by designating the text of section 7362 as subsection (d) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(3) in subsection (d) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "Commercial Use of Naval Vessels and Equipment.—";

(4) by designating the text of section 7363 as subsection (e) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(5) in subsection (e) of section 7361 of such title, as so designated and transferred, by inserting before "Before any salvage vessel" the following: "Conditions for Transfer of Equipment.—";

(6) by designating the text of section 7365 as subsection (f) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(7) in subsection (f) of section 7361 of such title, as so designated and transferred, by inserting before "The Secretary" the following: "Settlement of Claims.—";

(8) by designating the text of section 7366 as subsection (g) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(9) in subsection (g) of section 7361 of such title, as so designated and transferred—

(A) by inserting before "Not more than" the following: "Limitation on Appropriations.—"; and

(B) by striking out "this chapter" and inserting in lieu thereof "this section";

(10) by designating the text of section 7367 as subsection (h) and transferring such text, as so designated, to the end of section 7361 of title 10, United States Code;

(11) in subsection (h) of section 7361 of such title, as so designated and transferred—

(A) by inserting before "Money received" the following: "Disposition of Receipts.—"; and

(B) by striking out "this chapter" in the first sentence and inserting in lieu thereof "this section";

(12) by striking out the section headings for sections 7362, 7363, 7365, 7366, and 7367;

(13) by striking out the heading for section 7361 and inserting in lieu thereof the following:

"§ 7361. Navy support for salvage operations";

and

(14) in the table of sections at the beginning of such chapter—

(A) by striking out the item relating to section 7361 and inserting in lieu thereof the following:

"7361. Navy support for salvage operations.";

and

(B) by striking out the items relating to sections 7362, 7363, 7365, 7366, and 7367.

Subtitle D—Department of Defense Commercial and Industrial Activities

SEC. 3051. FACTORIES AND ARSENALS: MANUFACTURE AT.

(a) Consolidation and Revision of Authority.—

(1) Authority.—Subchapter V of chapter 148 of title 10, United States Code, as amended by section 3025(a)(1), is further amended by adding at the end the following:

"§ 2541. Factories and arsenals: manufacture at

"(a) The Secretary of Defense or the Secretary of a military department may have supplies needed for the Department of Defense or such military department, as the case may be, made in factories or arsenals owned by the United States.

"(b) The Secretary of Defense or the Secretary of the military department concerned may abolish any United States arsenal that such Secretary considers unnecessary.".

(2) Technical amendment.—The table of sections at the beginning of subchapter V of such chapter, as amended by section 3025(a)(2), is further amended by adding at the end the following new item:

"2541. Factories and arsenals: manufacture at.".

(b) Repeal of Superseded Authority.—

(1) Army authority.—

(A) Repeal.—Section 4532 of title 10, United States Code, is repealed.

(B) Clerical amendment.—The table of sections at the beginning of chapter 433 of such title is amended by striking out the item relating to section 4532.

(2) Air force authority.—

(A) Repeal.—Section 9532 of title 10, United States Code, is repealed.

(B) Clerical amendment.—The table of sections at the beginning of chapter 933 of such title is amended by striking out the item relating to section 9532.

SEC. 3052. ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) Funding To Be Identified in Budget.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for consulting services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2) For purposes of this subsection, consulting services include—

"(A) management and professional support services;

"(B) studies, analyses, and evaluations;

"(C) engineering and technical services (excluding routine engineering services such as automated data processing and architect and engineering contracts); and

"(D) research and development.".

(b) Repeal of Source Law.—Section 512 of Public Law 102-394 (106 Stat. 1826) is repealed.

(c) Repeal of Superseded Provision.—

(1) DoD specific law.—Section 2212 of title 10, United States Code, is repealed.

(2) Clerical amendment.—The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2212.

Subtitle E—Fuel- and Energy-Related Laws

SEC. 3061. LIQUID FUELS AND NATURAL GAS: CONTRACTS FOR STORAGE, HANDLING, OR DISTRIBUTION.

(a) Revision of Authority.—Section 2388 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) Authority To Contract.—The Secretary of Defense and the Secretary of a military department may each contract for storage facilities for, or the storage, handling, or distribution of, liquid fuels and natural gas.

"(b) Period of Contract.—The period of a contract entered into under subsection (a) may not exceed 5 years. However, the contract may provide options for the Secretary to renew the contract for additional periods of not more than 5 years each, but not for more than a total of 20 years."; and

(2) in subsection (c), by inserting "Option To Purchase Facility.—" after "(c)".

(b) Clerical Amendments.—

(1) Section heading.—The heading of such section is amended to read as follows:

"§ 2388. Liquid fuels and natural gas: contracts for storage, handling, or distribution".

(2) Table of sections.—The item relating to such section in the table of sections at the beginning of chapter 141 of title 10, United States Code, is amended to read as follows:

"2388. Liquid fuels and natural gas: contracts for storage, handling, or distribution.".

SEC. 3062. ACQUISITION OF PETROLEUM AND NATURAL GAS: AUTHORITY TO WAIVE PROCEDURES.

(a) Acquisition, Sale, and Exchange of Natural Gas.—Section 2404 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter above paragraph (1), by inserting "or natural gas" after "petroleum";

(B) in paragraph (1)—

(i) by inserting "or natural gas market conditions, as the case may be," after "petroleum market conditions"; and

(ii) by inserting "or acquisition of natural gas, respectively," after "acquisition of petroleum"; and

(C) in paragraph (2), by inserting "or natural gas, as the case may be," after "petroleum"; and

(2) in subsection (b), by inserting "or natural gas" in the second sentence after "petroleum".

(b) EXPANSION OF EXCHANGE AUTHORITY.—Subsection (c) of such section is amended to read as follows:

"(c) EXCHANGE AUTHORITY.—The Secretary of Defense may acquire petroleum, petroleum-related services, natural gas, or natural gas-related services by exchange of petroleum, petroleum-related services, natural gas, or natural gas-related services.".

(c) SALE OF PETROLEUM AND NATURAL GAS.—Such section is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) AUTHORITY TO SELL.—The Secretary of Defense may sell petroleum or natural gas of the Department of Defense if the Secretary determines that the sale would be in the public interest. The proceeds of such a sale shall be credited to appropriations of the Department of Defense for the fiscal year in which received and shall be available for such fiscal year for the acquisition of petroleum, petroleum-related services, natural gas, or natural gas-related services.".

(d) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) SUBSECTION CAPTIONS.—Section 2404 of title 10, United States Code, is amended—

(A) in subsection (a), by inserting "WAIVER AUTHORITY.—" after "(a)";

(B) in subsection (b), by inserting "SCOPE OF WAIVER.—" after "(b)"; and

(C) in subsection (e), as redesignated by subsection (c)(1), by inserting "PETROLEUM DEFINED.—" after "(e)".

(2) SECTION HEADING.—The heading of such section is amended to read as follows:

"§ 2404. Acquisition of petroleum and natural gas: authority to waive contract procedures; acquisition by exchange; sales authority".

(3) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of chapter 141 of title 10, United States Code, is amended to read as follows:

"2404. Acquisition of petroleum and natural gas: authority to waive contract procedures; acquisition by exchange; sales authority.".

Subtitle F—Fiscal Statutes

SEC. 3071. DISBURSEMENT OF FUNDS OF MILITARY DEPARTMENT TO COVER OBLIGATIONS OF ANOTHER AGENCY OF DEPARTMENT OF DEFENSE.

Subsection (c)(2) of section 3321 of title 31, United States Code, is amended by striking out "military departments of the" and inserting in lieu thereof "The".

Subtitle G—Miscellaneous

SEC. 3081. OBLIGATION OF FUNDS: LIMITATION.

Section 2202 of title 10, United States Code, is amended to read as follows:

"§ 2202. Obligation of funds: limitation

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

SEC. 3082. REPEAL OF PROVISIONS FOR THE ENCOURAGEMENT OF AVIATION.

(a) REPEAL.—Chapter 135 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A of such title and the beginning of part IV of such subtitle are amended by striking out the item relating to chapter 135.

SEC. 3083. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item related to section 2369.

SEC. 3084. REPEAL OF PRICE ADJUSTMENT AUTHORITY AND PURCHASE AUTHORITY RELATING TO THE PROCUREMENT OF MILK.

(a) REPEAL.—Section 2389 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item related to section 2389.

SEC. 3085. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410e. Lease of vessels, aircraft, and vehicles

"The head of an agency named in paragraph (1), (2), (3), or (4) of section 2303(a) of this title may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement without previously having considered all costs of such lease (including estimated termination liability) and determined in writing that such lease is in the best interest of the Government.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2410e. Leases of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101-165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified Acquisition Threshold

PART I—ESTABLISHMENT OF THRESHOLD

SEC. 4001. SIMPLIFIED ACQUISITION THRESHOLD.

(a) TERM DEFINED.—Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) is amended to read as follows:

"(11) The term 'simplified acquisition threshold' means $100,000.".

(b) INTERIM REPORTING RULE.—Until October 1, 1996, contracting activities shall continue to report procurement awards with a dollar value of at least $25,000, but less than $100,000, in conformity with the procedures for the reporting of a contract award in excess of $25,000 that were in effect on October 1, 1992.

PART II—SIMPLIFICATION OF PROCEDURES

SEC. 4011. SIMPLIFIED ACQUISITION PROCEDURES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SIMPLIFIED ACQUISITION PROCEDURES

"SEC. 29. (a) In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for contracts for acquisition of property and services that are not in excess of the simplified acquisition threshold.

"(b) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified acquisition procedures required by subsection (a).

"(c) In using simplified acquisition procedures, the head of an executive agency shall promote competition to the maximum extent practicable.".

SEC. 4012. SMALL BUSINESS RESERVATION.

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended to read as follows:

"(j)(1) Each contract for the procurement of goods and services that has an anticipated value not in excess of the simplified acquisition threshold and that is subject to simplified acquisition procedures prescribed pursuant to section 29 of the Office of Federal Procurement Policy Act shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and are competitive with regard to the quality and delivery of the goods or services being procured.

"(2) In carrying out paragraph (1), a contracting officer shall consider a responsive offer timely received from an eligible small business offeror.

"(3) Nothing in paragraph (1) shall be construed as precluding an award of a contract with a value not in excess of the simplified acquisition threshold under the authority of section 8(a) of this Act, section 2323 of title 10, United States Code, or section 712 of the Business Opportunity Development Reform Act of 1988 (Public Law 100-656; 15 U.S.C. 644 note).

"(4) In utilizing procedures referred to in paragraph (1), contracting officers shall, wherever circumstances permit, provide for the use of fast payment terms and disbursement of payment through electronic fund transfer.".

SEC. 4013. PROCUREMENT NOTICE.

(a) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(2) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order expected to exceed the simplified acquisition threshold,".

(b) CONTENT OF NOTICE.—Subsection (b) of such section is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed the $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

(c) NOTICE UNDER THE SMALL BUSINESS ACT.—

(1) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (e) of section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(A) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(B) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order estimated to exceed the simplified acquisition threshold,".

(2) CONTENT OF NOTICE.—Subsection (f) of such section is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to exceed the $25,000 but not to exceed the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

PART III—INAPPLICABILITY OF LAWS TO ACQUISITIONS NOT IN EXCESS OF SIMPLIFIED ACQUISITION THRESHOLD

Subpart A—Generally

SEC. 4021. INAPPLICABILITY OF FUTURE ENACTED PROCUREMENT LAWS TO CONTRACTS NOT EXCEEDING THE SIMPLIFIED ACQUISITION THRESHOLD.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4011, is further amended by adding at the end the following new section:

"INAPPLICABILITY OF CERTAIN LAWS TO CONTRACTS NOT EXCEEDING SIMPLIFIED ACQUISITION THRESHOLD

"SEC. 30. (a) IN GENERAL.—The applicability of a provision of law described in subsection (b) to contracts not in excess of the simplified acquisition threshold may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(b) REFERENCED LAW.—A provision of law referred to in subsection (a) is any provision of law enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1993 that, as determined by the Administrator for Federal Procurement Policy, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.".

Subpart B—Armed Services Acquisitions

SEC. 4031. INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.

Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is not in excess of the simplified acquisition threshold.".

SEC. 4032. INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.

Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

SEC. 4033. INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.

Section 2313 of title 10, United States Code, as amended by section 2201, is further amended by adding at the end of subsection (e) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

SEC. 4034. INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.

Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that does not exceed the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

SEC. 4035. INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.

Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

SEC. 4036. INAPPLICABILITY OF PREFERENCE FOR USE OF UNITED STATES VESSELS FOR TRANSPORTING SUPPLIES OF THE ARMED FORCES.

Section 2631 of title 10, United States Code, is amended by adding at the end the following: "The first sentence does not apply to a contract for the transportation of those supplies by sea if the contract does not exceed the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

Subpart C—Civilian Agency Acquisitions

SEC. 4041. INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.

Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract that is not in excess of the simplified acquisition threshold.".

SEC. 4042. INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.

Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is not in excess of the simplified acquisition threshold.".

SEC. 4043. INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.

Section 304B of the Federal Property and Administrative Services Act of 1949, as added by section 2251(a), is amended by adding at the end of subsection (e) the following:

"(2) A contract that is not in excess of the simplified acquisition threshold.".

Subpart D—Acquisitions Generally

SEC. 4051. INAPPLICABILITY OF LIMITATION ON USE OF FUNDS TO INFLUENCE CERTAIN FEDERAL ACTIONS.

Section 1352(e)(2)(B) of title 31, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)))".

SEC. 4052. INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE RELATING TO KICKBACKS.

Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57) is amended by adding at the end the following new subsection:

"(d) Subsections (a) and (b) do not apply to a prime contract that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

SEC. 4053. INAPPLICABILITY OF THE MILLER ACT TO CONTRACTS BELOW THE SIMPLIFIED ACQUISITION THRESHOLD.

(a) IN GENERAL.—

(1) CONTRACTS NOT EXCEEDING SIMPLIFIED ACQUISITION THRESHOLD.—The Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act", is amended by adding at the end the following new section:

"SEC. 5. This Act does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(2) CONFORMING AMENDMENT.—Subsection (a) of the first section of such Act is amended by striking out ", exceeding $25,000 in amount,".

(b) ALTERNATIVE PAYMENT PROTECTIONS.—

(1) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials on contracts referred to in paragraph (2).

(2) COVERED CONTRACTS.—The protections required by paragraph (1) shall apply with respect to contracts referred to in subsection (a) of the first section of the Miller Act that are in excess of $25,000 but not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

(3) MILLER ACT REFERENCE.—The Miller Act referred to in paragraph (2) means the Act of August 24, 1935 (40 U.S.C. 270a et seq.), commonly referred to as the "Miller Act".

SEC. 4054. INAPPLICABILITY OF CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.

(a) IN GENERAL.—Section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 329) is amended by adding at the end the following new subsection:

"(c) This title does not apply to a contract in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(b) CONFORMING AMENDMENT.—Section 107(a) of such Act (40 U.S.C. 333(a)) is amended by inserting after "It shall be a condition of each contract" the following: "(other than a contract referred to in section 103(c))".

SEC. 4055. INAPPLICABILITY OF THE DRUG-FREE WORKPLACE ACT OF 1988.

Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-Drug Abuse Act of 1988; Public Law 100-690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "in excess of the simplified acquisition threshold (as defined in section 4(11) of such Act (41 U.S.C. 403(11))) by any Federal agency".

SEC. 4056. INAPPLICABILITY OF A REQUIREMENT IN THE MERCHANT MARINE ACT, 1936, TO SHIP ON AMERICAN-FLAG COMMERCIAL VESSELS.

Section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)) is amended by adding at the end the following new paragraph:

"(3) Paragraph (1) does not apply to a contract for transportation on ocean vessels in an amount that is not in excess of the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))). The gross tonnage transported under such a contract may not be counted for purposes of determining the minimum gross tonnage required to be transported on privately owned United States-flag commercial vessels or for purposes of satisfying such requirement.".

SEC. 4057. INAPPLICABILITY OF CERTAIN PROCUREMENT INTEGRITY REQUIREMENTS.

(a) CERTIFICATION REQUIREMENT.—Subsection (e)(7)(A) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by striking out "$100,000" and inserting in lieu thereof "the simplified acquisition threshold".

(b) CONTRACT CLAUSE REQUIREMENT.—Subsection (g)(1) of such section is amended by inserting after "awarded by a Federal agency" the following: "(other than a contract in an amount that is not in excess of the simplified acquisition threshold)".

PART IV—CONFORMING AMENDMENTS

SEC. 4071. ARMED SERVICES ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as redesignated by paragraph (3), by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 2305(a)(2) of title 10, United States Code, is amended by striking out "small purchases)" in the matter above subparagraph (A) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 2306(e)(2)(A) of title 10, United States Code, is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 4072. CIVILIAN AGENCY ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services not in excess of the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(5) in paragraph (3), as redesignated by paragraph (3), by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(6) in paragraph (5), as redesignated by paragraph (3), by striking out "the term 'small purchase threshold' has the meaning" and inserting in lieu thereof "the term 'simplified acquisition threshold' has the meaning".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 303A(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter above paragraph (1) and inserting in lieu thereof "purchases not in excess of the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended in the third sentence by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 4073. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements in excess of the simplified acquisition threshold".

SEC. 4074. SMALL BUSINESS ACT.

(a) DEFINITION.—Section 3(m) of the Small Business Act (15 U.S.C. 632(m)) is amended by striking out "'small purchase threshold'" and inserting in lieu thereof "'simplified acquisition threshold'".

(b) USE OF SIMPLIFIED ACQUISITION THRESHOLD TERM.—Section 8(d)(2)(A) of the Small Business Act (15 U.S.C. 637(d)(2)(A)) is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

PART V—REVISION OF REGULATIONS

SEC. 4081. REVISION REQUIRED.

(a) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall review the Federal Acquisition Regulation to identify regulations that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The Council shall amend the regulations so identified as necessary to provide that such regulations do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation for which such an amendment would not be in the national interest, as determined by the Council.

(b) SUPPLEMENTAL REGULATIONS.—The head of each Federal agency that has issued regulations, policies, or procedures referred to in subsection (c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(2)) shall identify any such regulations, policies, or procedures that are applicable to acquisitions in excess of a specified amount that is less than $100,000. The agency head shall amend the regulations so identified as necessary to provide that such regulations, policies, and procedures do not apply to acquisitions that are not in excess of the simplified acquisition threshold. The preceding sentence does not apply in the case of a regulation, policy, or procedure for which such an amendment would not be in the national interest, as determined by the agency head.

(c) COMPLETION OF ACTIONS.—All actions under this section shall be completed not later than 180 days after the date of the enactment of this Act.

(d) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as amended by section 4001.

(2) The term "Federal agency" has the meaning given such term in section 3(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 472(b)).

Subtitle B—Socioeconomic and Small Business Laws

SEC. 4101. ARMED SERVICES ACQUISITIONS.

(a) INAPPLICABILITY OF CERTAIN LABOR LAWS TO CONSTRUCTION OF NAVAL VESSELS.—Section 7299 of title 10, United States Code, is amended to read as follows: "No contract for the construction, alteration, furnishing, or equipping of a naval vessel shall be subject to the Act of March 3, 1931 (40 U.S.C. 276a(a)), commonly referred to as the 'Davis-Bacon Act', or to the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), unless the President determines that such requirement is in the interest of national defense.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 7299. Contracts: applicability of certain labor laws".

(2) The item relating to such section in the table of sections at the beginning of chapter 633 of title 10, United States Code, is amended to read as follows:

"7299. Contracts: applicability of certain labor laws.".

SEC. 4102. ACQUISITIONS GENERALLY.

(a) REPEAL OF EXECUTED REPORTING REQUIREMENT.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516) is repealed.

(b) WALSH-HEALEY ACT.—

(1) REPEAL OTHER THAN FOR CERTAIN DEFINITIONAL PURPOSES.—The Act of June 30, 1936 (41 U.S.C. 35 et seq.), commonly referred to as the "Walsh-Healey Act", is amended to read as follows:

"SECTION 1. (a) The Secretary of Labor may prescribe in regulations the standards for determining whether a contractor is a manufacturer of or a regular dealer in materials, supplies, articles, or equipment to be manufactured or used in the performance of a contract entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all the stock of which is beneficially owned by the United States, for the manufacture or furnishing of materials, supplies, articles, and equipment.

"(b) Any interested person shall have the right of judicial review of any legal question regarding the interpretation of the terms 'regular dealer' and 'manufacturer', as defined pursuant to subsection (a)."

(2) CONFORMING AMENDMENT.—Section 2304(h) of title 10, United States Code, is amended to read as follows:

"(h) For the purposes of the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a et seq.), purchases or contracts awarded after using procedures other than sealed-bid procedures shall be treated as if they were made with sealed-bid procedures.".

(c) REPEAL OF REDUNDANT REQUIREMENT REGARDING APPLICABILITY OF THE DAVIS-BACON ACT AND THE WALSH-HEALEY ACT.—Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

(d) PROHIBITION ON CONVICT LABOR AND PRISON GOODS.—No agency of the United States shall purchase any goods, wares or merchandise whose transportation in interstate commerce, or whose importation, is prohibited by section 1761 of title 18, United States Code. The preceding sentence does not apply to a contract in an amount that does not exceed the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

SEC. 4103. DIRECT CONTRACTING WITH SMALL BUSINESSES.

Section 8(a)(1) of the Small Business Act (15 U.S.C. 637(a)(1)) is amended in subparagraph (A) by striking out "In any case in which the Administration certifies" and all that follows through "may be agreed upon between the Administration and the procurement officer." and inserting in lieu thereof the following: "In any case in which the Administration certifies to any officer of the Government having procurement powers that the Administration is competent and responsible to perform any specific Government procurement contract to be awarded by any such officer, such officer shall be authorized in his discretion (i) to award such procurement contract to the Administration upon such terms and conditions as may be agreed upon between the Administration and the procurement officer, or (ii) to award such procurement contract directly to a socially and economically disadvantaged small business concern designated by the Administration, except that such contract may not be awarded directly to that small business concern if the small business concern requests that the award be made through the Administration.".

Subtitle C—Miscellaneous Acquisition Laws

SEC. 4151. REPEAL OF OBSOLETE LAWS RELATING TO PROCUREMENT OF NAVAL AIRCRAFT AND COMPONENTS.

(a) AUTHORIZED NUMBER.—Section 7341 of title 10, United States Code, is repealed.

(b) CONSTRUCTION OR MANUFACTURE IN FEDERAL GOVERNMENT PLANTS.—

(1) MINIMUM PERCENTAGE.—Section 7342 of title 10, United States Code, is repealed.

(2) AUTHORIZATION UNDER CERTAIN CIRCUMSTANCES.—Section 7343 of title 10, United States Code, is repealed.

(c) ANNUAL REPORT OF NAVY AIRCRAFT REQUIREMENTS.—Section 7345 of title 10, United States Code, is repealed.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 635 of title 10, United States Code, is amended by striking out the items relating to sections 7341, 7342, 7343, and 7345.

SEC. 4152. REVISION AND CODIFICATION OF PROHIBITION ON USE OF FUNDS FOR DOCUMENTING ECONOMIC OR EMPLOYMENT IMPACT OF CERTAIN ACQUISITION PROGRAMS.

(a) IN GENERAL.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2246. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs

"No funds appropriated by the Congress may be obligated or expended to assist any contractor of the Department of Defense in preparing any material, report, lists, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2246. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.".

SEC. 4153. RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES FOR PROCUREMENT FROM A PARTICULAR SOURCE.

(a) ARMED SERVICES ACQUISITIONS.—Section 2304 of title 10, United States Code, as amended by section 1005(b), is further amended—

(1) in subsection (c)(5), by inserting "subject to subsection (j)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(j)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

(b) CIVILIAN AGENCY ACQUISITIONS.—Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

(2) by adding at the end the following new subsection:

"(h)(1) It is the policy of Congress that no legislation should be enacted that requires a procurement to be made from a specified non-Federal Government source.

"(2) A provision of law may not be construed as requiring a procurement to be made from a specified non-Federal Government source unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government source involved; and

"(C) specifically states that the procurement from that source is required by such provision of law in contravention of the policy set forth in paragraph (1).".

TITLE V—INTELLECTUAL PROPERTY

Subtitle A—Technology Transfer

SEC. 5001. COPYRIGHT PROTECTION FOR COMPUTER PROGRAMS OF THE FEDERAL GOVERNMENT.

(a) GENERAL AUTHORITY TO COPYRIGHT.—Section 15 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710d) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) RIGHTS TO COMPUTER PROGRAMS PREPARED BY GOVERNMENT EMPLOYEES.—(1) For purposes of title 17, United States Code—

"(A) a computer program prepared by an officer or employee of the Federal Government in the course of the officer's or employee's official duties shall be considered as a work made for hire within the meaning of paragraph (1) of the definition of the term 'work made for hire' set forth in section 101 of such title; and

"(B) notwithstanding section 105 of such title, the Federal Government shall be considered the author of the computer program for purposes of section 201(b) of such title.

"(2)(A) If the Federal agency concerned does not intend to register a copyright of the computer program or otherwise to promote the commercialization of the computer program, the Federal agency may enter into an agreement with the officer or employee of the Federal Government who prepared the computer program to allow such officer or employee to own a copyright protecting such computer program under title 17, United States Code.

"(B) The agreement shall be a written instrument that satisfies the requirements of section 201(b) of title 17, United States Code.

"(C) The agreement shall include—

"(i) a reservation for the Federal Government of a nonexclusive, nontransferable, irrevocable, paid-up license to exercise all rights under the copyright by or on behalf of the Federal Government throughout the world; and

"(ii) such other reservations as the head of the Federal agency concerned considers necessary to ensure distribution and utilization of the computer program.

"(3) In this subsection, the term 'computer program' has the meaning given such term in section 101 of title 17, United States Code.".

(b) WORKS IN CONNECTION WITH COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—

(1) COPYRIGHT PROTECTION FOR THE UNITED STATES.—Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended by adding at the end the following new subsection:

"(h) COPYRIGHT OF COMPUTER PROGRAMS.—(1) Notwithstanding section 105 of title 17, United States Code, a Federal agency may secure, on behalf of the United States as author or proprietor, copyright protection for any computer program prepared by an employee of the Federal Government in the course of work under, or work related to, a cooperative research and development agreement entered into by such Federal agency under the authority of subsection (a)(1) or under any similar authority.

"(2) A Federal agency may grant or agree to grant in advance to a collaborating party licenses or assignments for a copyright of a computer program registered pursuant to paragraph (1), or options thereto, retaining—

"(A) a nonexclusive, nontransferable, irrevocable, paid-up license to reproduce, adapt, translate, distribute, and publicly perform or display the computer program throughout the world by or on behalf of the Federal Government; and

"(B) such other rights that the Federal agency deems appropriate.".

(2) COMPUTER PROGRAM DEFINED.—Subsection (d) of such section is amended—

(A) by striking out "section—" and inserting in lieu thereof "section:";

(B) by capitalizing the initial letter of the first word in each of paragraphs (1), (2), and (3);

(C) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period;

(D) in paragraph (2), by striking out "; and" at the end and inserting in lieu thereof a period; and

(E) by adding at the end the following new paragraph:

"(5) The term 'computer program' has the meaning given such term in section 101 of title 17, United States Code.".

SEC. 5002. USE OF COPYRIGHTED WORKS OF THE FEDERAL GOVERNMENT.

Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting "or copyrighted works" after "(including licensees of inventions"; and

(ii) by striking out "and" at the end;

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(3) to negotiate licensing agreements consistent with section 207 of title 35, United States Code, or under other authorities (in the case of a Government-owned, contractor-operated laboratory, subject to subsection (c) of this section) for copyrighted works owned by the Federal Government pursuant to subsection (h) or copyrighted works that may be voluntarily assigned to the Federal Government."; and

(2) in subsection (b)—

(A) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) grant or agree to grant in advance, to a collaborating party—

"(A) patent licenses or assignments, or options thereto, in any invention made in whole or in part by a laboratory employee under the agreement, retaining—

"(i) a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention, or have the invention practiced, throughout the world by or on behalf of the Government; and

"(ii) such other rights as the Federal laboratory deems appropriate; and

"(B) copyright licenses or assignments, or options thereto, in any copyrighted work prepared in whole or in part by a laboratory employee under the agreement, retaining—

"(i) a nonexclusive, nontransferable, irrevocable, paid-up license to exercise all rights under the copyright, or have all rights under the copyright exercised, throughout the world by or on behalf of the Government; and

"(ii) such other rights as the Federal laboratory deems appropriate;

"(3) waive in advance, in whole or in part, any right of ownership which the Federal Government may have to—

"(A) any subject invention made under the agreement by a collaborating party or employee of a collaborating party, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to practice the invention, or have the invention practiced, throughout the world by or on behalf of the Government; or

"(B) any subject copyrighted work prepared under the agreement by a collaborating party or employee of a collaborating party, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to reproduce the copyrighted work, or have the copyrighted work reproduced, throughout the world by or on behalf of the Government;"

(B) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) to the extent consistent with any applicable agency requirements and standards of conduct, permit an employee or former employees of the laboratory to participate in efforts to commercialize an invention that the employee or former employee made, or a copyrighted work that the employee or former employee prepared, while in the service of the United States (notwithstanding that such employee or former employee may have received royalties pursuant to section 14), but only if such employee or former employee did not participate in the selection of the collaborating party to the relevant cooperative research and development agreement or in the negotiation of a licensing agreement under which the invention or copyrighted work, as the case may be, is being commercialized."; and

(C) in the matter following paragraph (5)—

(i) by inserting "or copyrighted work" after "any invention"; and

(ii) in clause (i), by inserting "or to authors of copyrighted works" after "inventors".

SEC. 5003. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

(a) COPYRIGHTED WORKS.—Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended—

(1) in subsection (a)—

(A) in the matter above subparagraph (A), by striking out "inventions under agreements" and all that follows through "produced the invention" and inserting in lieu thereof "an invention or copyrightable work under an agreement entered into by a Government-operated Federal laboratory under section 12, and an invention or copyrightable work of a Government-operated Federal laboratory licensed under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency whose laboratory produced the invention or copyrighted work";

(B) in paragraph (1)(A)—

(i) in clause (i)—

(I) in the first sentence, by striking out "inventor" and all that follows and inserting in lieu thereof "inventor or copyrighted work to the author (or the co-inventors or co-authors) if the inventor or author (or each such co-inventor or co-author) has assigned his or her rights in the invention or copyrighted work to the United States."; and

(II) by striking out the second sentence;

(ii) in clause (ii)—

(I) by inserting "or authors" after "inventors" in the matter above subclause (I);

(II) by striking out "inventor," in subclauses (I) and (II) and inserting in lieu thereof "inventor or author";

(III) by inserting "or author's copyrighted work" in subclauses (I) and (II) after "inventor's invention";

(IV) in subclause (III), by inserting "and authors" after "such inventors"; and

(V) in subclause (IV), by striking out "licensed invention" and all that follows and inserting in lieu thereof "licensed invention between the time of the filing of the patent application and the licensing of the invention or to the technical development of a licensed copyrighted work between the time of the filing of the application for copyright registration and the licensing of the copyrighted work."; and

(iii) by adding at the end the following new clause (iv):

"(iv) An agency that has published its intention to promulgate regulations under clause (ii) with regard to authors of copyrighted works may elect not to pay authors under clause (i) until the earlier of the date two years after the date of the enactment of the Federal Acquisition Streamlining Act of 1993 or the date of the promulgation of such regulations. If an agency makes such an election and after two years the regulations have not been promulgated, the agency shall make payments (in accordance with clause (i)) of at least 15 percent of the royalties involved, retroactive to the date of the enactment of the Federal Acquisition Streamlining Act of 1993. If promulgation of the regulations occurs within two years after the date of the enactment of the Federal Acquisition Streamlining Act of 1993, payments shall be made in accordance with such regulations, retroactive to such date. The agency shall retain its royalties until the author's portion is paid under either clause (i) or (ii). Such royalties may not be transferred to the agency's Government-operated laboratories under subparagraph (B) and may not revert to the Treasury pursuant to paragraph (2) as a result of any delay caused by rule making under this subparagraph.";

(C) in paragraph (1)(B)—

(i) in the matter above clause (i), by striking out "going to the laboratory where the invention occurred" and inserting in lieu thereof "or copyrighted work going to the laboratory where the invention occurred or the copyrighted work was prepared"; and

(ii) in clause (i)—

(I) by inserting "or copyrighted works" after "licensing of inventions";

(II) by inserting ", or copyrighted works were prepared," after "inventions which occurred"; and

(III) by inserting "or copyrighted work" before "management";

(D) in paragraph (2), by inserting "and authors" after "inventors";

(E) in paragraph (3), by inserting "or author" after "inventor" both places it appears in the second sentence; and

(F) in the first sentence of paragraph (4)—

(i) by inserting ", or copyrighted work management services," after "management services";

(ii) by inserting "or authors" after "inventors";

(iii) by inserting "or copyrighting" after "patenting"; and

(iv) by inserting "or copyright" after "for any invention";

(2) in subsection (b)—

(A) in the matter above paragraph (1), by inserting "or copyrightable work" after "invention"; and

(B) in paragraph (2), by striking out "at the time" and all that follows and inserting in lieu thereof "at the time the invention was made or copyrightable work was prepared,"; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking out "(1)"; and

(ii) by inserting "or author" after "(including inventor"; and

(B) by striking out paragraph (2).

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1)(B)(i)(I) shall take effect with respect to a department or agency of the Federal Government as of the date of the enactment of this Act unless, within 90 days after that date, such department or agency publishes in the Federal Register a notice of election to file a notice of proposed rulemaking with regard to authors of copyrighted works pursuant to section 14(a)(1)(A)(ii) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(A)(ii)), as amended by subsection (a)(1)(B)(ii).

SEC. 5004. EXCEPTION TO PROHIBITION ON COPYRIGHT PROTECTION FOR WORKS OF THE FEDERAL GOVERNMENT.

The text of section 105 of title 17, United States Code, is amended to read as follows:

"(a) Except as provided in subsection (b), copyright protection under this title is not available for any work of the United States Government.

"(b)(1) Subsection (a) does not preclude the United States from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

"(2) Subsection (a) does not preclude the United States from copyright protection under this title that is authorized in section 12(h) or 15(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(h) or 3710d(b)).".

Subtitle B—Government Use of Private Patents, Copyrights, and Trade Secrets

SEC. 5011. GOVERNMENT USE OR MANUFACTURE OF A PATENTED INVENTION.

(a) WITHHOLDING OF GOVERNMENT CONSENT FOR CONTRACTOR USE OR MANUFACTURE.—The second undesignated paragraph of section 1498(a) of title 28, United States Code, is amended by inserting after the first sentence the following: "The Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall prescribe in the Federal Acquisition Regulation the circumstances under which a contracting officer may withhold authorization or consent under this paragraph. The Federal Acquisition Regulation shall provide that authorization or consent may not ordinarily be granted for contracts for the acquisition of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12))).".

(b) INJUNCTION NOT AUTHORIZED REGARDING GOVERNMENT CONTRACTOR USE OR MANUFACTURE.—Section 283 of title 35, United States Code, is amended by adding at the end the following: "Notwithstanding the preceding sentence, no such court may grant an injunction in the case of a violation of a right secured by patent that occurs in the performance of a Federal Government contract.".

SEC. 5012. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

(a) AUTHORIZED ACQUISITIONS.—Section 2386 of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

(b) REDUNDANT PROVISION.—

(1) REPEAL.—Section 7210 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7210.

TITLE VI—STANDARDS OF CONDUCT

Subtitle A—Ethics Provisions

SEC. 6001. AMENDMENTS TO OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

(a) RECUSAL.—Subsection (c) of section 27 of the Office of Procurement Policy Act (41 U.S.C. 423) is amended—

(1) in paragraph (1)—

(A) in the matter above subparagraph (A), by inserting "only" after "subsection (b)(1)"; and

(B) in subparagraph (A), by inserting "(including the modification or extension of a contract)" after "any procurement";

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) Whenever the head of a procuring activity approves a recusal under paragraph (1), a copy of the recusal request and the approval of the request shall be retained by such official for a period (not less than five years) specified in regulations prescribed in accordance with subsection (o).

"(3)(A) Except as provided in subparagraph (B), all recusal requests and approvals of recusal requests pursuant to this subsection shall be made available to the public on request.

"(B) Any part of a recusal request or an approval of a recusal request that is exempt from the disclosure requirements of section 552 of title 5, United States Code, under subsection (b)(1) of such section may be withheld from disclosure to the public otherwise required under subparagraph (A)."; and

(3) in paragraph (4), by striking out "competing contractor" and inserting in lieu thereof "person".

(b) APPLICABILITY OF CERTIFICATION REQUIREMENT.—Subsection (e)(7)(A) of such section is amended by adding at the end the following: "However, paragraph (1)(B) does not apply with respect to a contract for less than $500,000.".

(c) RESTRICTIONS RESULTING FROM PROCUREMENT ACTIVITIES OF PROCUREMENT OFFICIALS.—Subsection (f) of such section is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) No individual who, in the year prior to separation from service as an officer or employee of the Government or an officer of the uniformed services in a covered position, participated personally and substantially in acquisition functions related to a contract, subcontract, or claim of $500,000 or more and—

"(A) engaged in repeated direct contact with the contractor or subcontractor on matters relating to such contract, subcontract, or claim; or

"(B) exercised significant ongoing decisionmaking responsibility with respect to the contractor or subcontractor on matters relating to such contract, subcontract, or claim,

shall knowingly accept or continue employment with such contractor or subcontractor for a period of 1 year following the individual's separation from service, except that such individual may accept or continue employment with any division or affiliate of such contractor or subcontractor that does not produce the same or similar products as the entity involved in the negotiation or performance of the contract or subcontract or the adjustment of the claim.

"(2) No contractor or subcontractor, or any officer, employee, agent, or consultant of such contractor or subcontractor shall knowingly offer, provide, or continue any employment for another person, if such contractor, subcontractor, officer, employee, agent, or consultant knows or should know that the acceptance of such employment is or would be in violation of paragraph (1).

"(3) The head of each Federal agency shall designate in writing as a 'covered position' under this section each of the following positions in that agency:

"(A) The position of source selection authority, member of a source selection evaluation board, or chief of a financial or technical evaluation team, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the evaluation of proposals or the selection of a source for a contract in excess of $500,000.

"(B) The position of procuring contracting officer, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the negotiation of a contract in excess of $500,000 or the negotiation or settlement of a claim in excess of $500,000.

"(C) The position of program executive officer, program manager, or deputy program manager, or any other position, if the officer or employee in that position is likely personally to exercise similar substantial responsibility for ongoing discretionary functions in the management or administration of a contract in excess of $500,000.

"(D) The position of administrative contracting officer, the position of an officer or employee assigned on a permanent basis to a Government Plant Representative's Office, the position of auditor, a quality assurance position, or any other position, if the officer or employee in that position is likely personally to exercise substantial responsibility for ongoing discretionary functions in the onsite oversight of a contractor's operations with respect to a contract in excess of $500,000.

"(E) A position in which the incumbent is likely personally to exercise substantial responsibility for ongoing discretionary functions in operational or developmental testing activities involving repeated direct contact with a contractor regarding a contract in excess of $500,000.".

(d) DISCLOSURE OF PROPRIETARY OR SOURCE SELECTION INFORMATION TO UNAUTHORIZED PERSONS.—Subsection (l) of such section is amended—

(1) by inserting "who are likely to be involved in contracts, modifications, or extensions in excess of $25,000" in the first sentence after "its procurement officials"; and

(2) by striking out "(e)" each place it appears and inserting in each such place "(f)".

(e) RULES OF CONSTRUCTION.—Subsection (n) of such section is amended to read as follows:

"(n) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals of a Federal agency, the Comptroller General, or an inspector general of a Federal agency;

"(2) restrict the disclosure of information to, or receipt of information by, any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

"(3) restrict a contractor from disclosing its own proprietary information or the recipient of information so disclosed by a contractor from receiving such information; or

"(4) restrict the disclosure or receipt of information relating to a Federal agency procurement that has been canceled by the agency and that the contracting officer concerned determines in writing is not likely to be resumed.".

(f) TERM TO BE DEFINED IN REGULATIONS.—Subsection (o)(2)(A) of such section is amended—

(1) by inserting "money, gratuity, or other" before "thing of value'"; and

(2) by inserting before the semicolon "and such other exceptions as may be adopted on a Governmentwide basis under section 7353 of title 5, United States Code".

(g) TERMS DEFINED IN LAW.—Subsection (p) of such section is amended—

(1) in paragraph (1) by striking out "clauses (i)-(viii)" and inserting in lieu thereof "clauses (i) through (vii)";

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking out clause (i);

(ii) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), and (viii) as clauses (i), (ii), (iii), (iv), (v), (vi), and (vii), respectively; and

(iii) in clause (i) (as redesignated by subclause (II) of this clause), by striking out "review and approval of a specification" and inserting in lieu thereof "approval or issuance of a specification, acquisition plan, procurement request, or requisition"; and

(B) in subparagraph (B), by striking out all after "includes" and inserting in lieu thereof the following: "any individual acting on behalf of, or providing advice to, the agency with respect to any phase of the agency procurement concerned, regardless of whether such individual is a consultant, expert, or advisor, or an officer or employee of a contractor or subcontractor (other than a competing contractor)."; and

(3) in paragraph (6)(A), by inserting "nonpublic" before "information".

SEC. 6002. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Section 208(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Except as permitted"; and

(2) by adding at the end the following new paragraph:

"(2) Whoever knowingly aids, abets, counsels, commands, induces, or procures conduct prohibited by this section shall be subject to the penalties set forth in section 216 of this title.".

SEC. 6003. REPEAL OF SUPERSEDED AND OBSOLETE LAWS.

(a) REPEAL.—The following provisions of law are repealed:

(1) Sections 2207, 2397, 2397a, 2397b, 2397c, and 2408 of title 10, United States Code.

(2) Section 281 of title 18, United States Code.

(3) Section 801 of title 37, United States Code.

(4) Part A of title VI of the Department of Energy Organization Act (42 U.S.C. 7211 through 7218).

(b) CLERICAL AMENDMENTS.—

(1) TITLE 10.—Part IV of subtitle A of title 10, United States Code, is amended—

(A) in the table of sections at the beginning of chapter 131, by striking out the item relating to section 2207; and

(B) in the table of sections for chapter 141, by striking out the items relating to sections 2397, 2397a, 2397b, 2397c, and 2408.

(2) TITLE 18.—The table of sections for chapter 15 of title 18, United States Code, is amended by striking out the item relating to section 281.

(3) TITLE 37.—The table of sections for chapter 15 of title 37, United States Code, is amended by striking out the item relating to section 801.

(4) DEPARTMENT OF ENERGY ORGANIZATION ACT.—The table of contents for the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.

SEC. 6004. IMPLEMENTATION.

(a) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, regulations implementing the amendments made by this section to section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), including definitions of the terms used in subsection (f) of such section shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405 and 521) after coordination with the Director of the Office of Government Ethics.

(b) SAVINGS PROVISIONS.—

(1) CONTRACTOR CERTIFICATIONS.—No officer, employee, agent, representative, or consultant of a contractor who has signed a certification under section 27(e)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(1)(B)) before the effective date of this Act shall be required to sign a new certification as a result of the enactment of this Act.

(2) FEDERAL PROCUREMENT OFFICIAL CERTIFICATIONS.—No procurement official of a Federal agency who has signed a certification under section 27(l) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(l)) before the date of enactment of this Act shall be required to sign a new certification as a result of the enactment of this Act.

(c) INSPECTOR GENERAL REPORTS.—Not later than May 31 of each of the years 1994 through 1998, the Inspector General of each Federal agency (or, in the case of a Federal agency that does not have an Inspector General, the head of such agency) shall submit to Congress a report on the compliance by the agency during the preceding year with the requirement for the head of the agency to designate covered procurement positions under section 27(f)(3) of the Office of Federal Procurement Policy Act (as added by section 6001(c)).

Subtitle B—Additional Amendments

SEC. 6051. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) AMENDMENT OF OFPP ACT.—The Office of Federal Procurement Policy Act, as amended by section 1091, is further amended by inserting after section 22 the following new section 23:

"CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL

"SEC. 23. (a) LIMITATION ON PAYMENT FOR ADVISORY AND ASSISTANCE SERVICES.—(1) No person who is not an employee may be paid by an agency for services to conduct evaluations or analyses of any aspect of a proposal submitted for an acquisition unless employees with adequate training and capabilities to perform such evaluations and analyses are not readily available within the agency or any other Federal agency.

"(2) In the administration of this subsection, the head of each agency shall determine the standards of adequate training and capability of employees to conduct such acquisitions.

"(b) DELEGATION OF PROCUREMENT AUTHORITY.—With respect to an acquisition that is subject to section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), the Administrator of General Services may not issue a delegation of procurement authority for the acquisition unless the request for the delegation of procurement authority includes a determination of the contracting agency that—

"(1) such agency has and will utilize employees within the agency, or employees available from another agency, who are adequately trained and capable of conducting evaluations and analyses of proposals submitted for such an acquisition; or

"(2)(A) such agency does not have employees within the agency who are adequately trained and capable of conducting evaluations and analyses of proposals submitted for such an acquisition; and

"(B) adequately trained and capable employees are not readily available from other agencies in accordance with regulations promulgated by the Federal Acquisition Regulatory Council.

"(c) DEFINITION.—For purposes of this section, the term 'employee' has the meaning given such term in section 2105 of title 5, United States Code.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—

(1) GUIDANCE AND REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall—

(A) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(B) provide guidance and promulgate regulations regarding—

(i) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(ii) the manner in which Federal employees with expertise may be shared with agencies needing expertise for such acquisitions.

(2) DEFINITION.—In paragraph (1), the term "employee" has the meaning given such term in section 2105 of title 5, United States Code.

SEC. 6052. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 6053. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

Section 22(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" and inserting in lieu thereof "60 days"; and

(2) by adding at the end the following: "Notwithstanding the preceding sentence, such a policy, regulation, procedure, or form may take effect earlier than 60 days after the publication date when there are compelling circumstances for the earlier effective date, but in no event may that effective date be less than 30 days after the publication date.".

TITLE VII—DEFENSE TRADE AND COOPERATION

SEC. 7001. PURCHASES OF FOREIGN GOODS.

(a) REPEAL OF EXECUTED REQUIREMENTS.—

(1) BUY AMERICAN PROVISIONS.—

(A) REQUIREMENT FOR POLICY GUIDANCE.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b-1(g)) by striking out paragraphs (2)(C) and (3).

(B) REPORTING REQUIREMENT.—Section 9096(b) of Public Law 102-396 (106 Stat. 1924; 41 U.S.C. 10b-2(b)) is repealed.

(2) STUDIES OF BUY AMERICAN ACT WAIVERS.—Section 306 of the Trade Agreements Act of 1970 (19 U.S.C. 2516), relating to studies of certain employment effects and procurement effects of a waiver of title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is repealed.

(b) REPEAL OF REDUNDANT PROVISION.—Section 2327 of title 10, United States Code, is repealed.

SEC. 7002. INTERNATIONAL COOPERATIVE AGREEMENTS.

(a) DEFENSE INTERNATIONAL AGREEMENTS.—

(1) TERMINOLOGY REVISIONS.—Section 2531 of title 10, United States Code, is amended—

(A) in the subsection captions for subsections (a) and (c), by striking out "MOUs AND RELATED" and inserting in lieu thereof "INTERNATIONAL";

(B) in subsection (a), by striking out "proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding," in the matter above paragraph (1) and inserting in lieu thereof "proposed international agreement, including a memorandum of understanding,";

(C) by striking out "memorandum of understanding or related agreement" each place it appears and inserting in lieu thereof "international agreement";

(D) in subsection (b), by striking out "memorandum or related agreement" each place it appears in the second sentence and inserting in lieu thereof "international agreement"; and

(E) in subsection (c)—

(i) by striking out "A" after "AGREEMENTS.—" and inserting in lieu thereof "An"; and

(ii) by striking out "memorandum or agreement" and inserting in lieu thereof "international agreement".

(2) EXPANDED SCOPE OF AGREEMENTS.—Section 2531(a) of title 10, United States Code, is amended by striking out "research, development, or production" in the matter above paragraph (1) and inserting in lieu thereof "research, development, production, or logistics support".

(3) CLERICAL AMENDMENTS.—

(A) SECTION HEADING.—The heading of section 2531 of title 10, United States Code, is amended to read as follows:

"§ 2531. Defense international agreements".

(B) TABLE OF SECTIONS.—The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2531. Defense international agreements.".

(b) REPEAL OF UNNECESSARY AUTHORITY.—

(1) REPEAL.—Section 7344 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 635 of such title is amended by striking out the item relating to section 7344.

SEC. 7003. ACQUISITION, CROSS-SERVICING AGREEMENTS, AND STANDARDIZATION.

(a) LIMITED WAIVER OF RESTRICTIONS ON ACCRUED REIMBURSABLE LIABILITIES AND CREDITS FOR CONTINGENCY OPERATIONS.—Section 2347 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The Secretary of Defense may waive the restrictions in subsections (a) and (b) for a period not to exceed 180 days upon a written determination that the armed forces are involved in a contingency operation or that involvement of the armed forces in a contingency operation is imminent. Upon making such a determination, the Secretary shall transmit a copy of the determination to the Committees on Armed Services of the Senate and House of Representatives.".

(b) COMMUNICATIONS SUPPORT.—Section 2350f of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) Nothing in this section shall be construed to limit the authority of the Secretary of Defense, without a formal bilateral agreement or multilateral arrangement, to furnish communications support and related supplies to, or receive communications support and related supplies from, an allied country in accordance with this subsection.

"(2) The Secretary of Defense may furnish or receive such support and supplies on a reciprocal basis for a period not to exceed 90 days—

"(A) in order to meet emerging operational requirements of the United States and the allied country; or

"(B) incident to a joint military exercise with the allied country.

"(3) If interconnection of communication circuits is maintained for joint or multilateral defense purposes under the authority of this subsection, the costs of maintaining such circuits may be allocated among the various users.".

TITLE VIII—COMMERCIAL ITEMS

SEC. 8001. DEFINITIONS.

Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), as amended by section 4001(a), is further amended—

(1) by striking out "Act—"and inserting in lieu thereof "Act:";

(2) by capitalizing the initial letter in the first word of each paragraph;

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period;

(4) in paragraphs (4) and (10), by striking out "; and" at the end and inserting in lieu thereof a period; and

(5) by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means—

"(A) property, other than real property, that is of a type regularly used by the general public or by nongovernmental entities in the course of normal business operations for purposes other than governmental purposes and—

"(i) has been sold or licensed to the general public;

"(ii) has not been sold or licensed to the general public but has been offered for sale or license to the general public; or

"(iii) is not yet available in the commercial marketplace but will be made available for commercial delivery within a reasonable period;

"(B) any item that, but for minor modifications made to meet Federal Government requirements or modifications of a type customarily available in the commercial marketplace, would satisfy the criteria in subparagraph (A);

"(C) any combination of items meeting the requirements of subparagraph (A) or (B) that are of a type customarily combined and sold in combination to the general public; and

"(D) installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), or (C) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public.

"(13) The term 'nondevelopmental item' means—

"(A) any commercial item;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification of the type normally available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

"(D) any item of supply currently being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or

"(ii) is not yet available in the commercial marketplace.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

SEC. 8002. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS.

(a) PREFERENCE REQUIRED.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 4021, is further amended by adding at the end the following new section:

"PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS AND NONDEVELOPMENTAL ITEMS

"SEC. 31. (a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the executive agency with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items or other nondevelopmental items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of commercial items or other nondevelopmental items.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items or other nondevelopmental items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items or other nondevelopmental items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or other nondevelopmental items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items or other nondevelopmental items in response to the executive agency solicitations;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items and other nondevelopmental items; and

"(6) require training of appropriate personnel in the acquisition of commercial items and other nondevelopmental items.

"(c) PRELIMINARY MARKET RESEARCH.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items or other nondevelopmental items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.".

(b) REPEAL OF SUPERSEDED PROVISION.—

(1) SEPARATE STATEMENT OF PREFERENCE FOR DEPARTMENT OF DEFENSE.—Section 2325 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 8003. ACQUISITION OF COMMERCIAL ITEMS.

(a) REQUIRED FAR PROVISIONS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8002, is further amended by adding at the end the following:

"FEDERAL ACQUISITION REGULATION PROVISIONS REGARDING ACQUISITIONS OF COMMERCIAL ITEMS AND COMPONENTS

"SEC. 32. (a) CONTRACT CLAUSES AND OTHER CLAUSES.—(1)(A) The Federal Acquisition Regulation shall include one or more sets of contract clauses containing the terms and conditions for the acquisition of commercial items and commercial components by executive agencies and by contractors in the performance of contracts of executive agencies.

"(B) The contract clauses referred to in subparagraph (A) shall include only—

"(i) those clauses that are required to implement provisions of law applicable to acquisitions of commercial items or commercial components, as the case may be;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in an acquisition of commercial items or commercial components, as the case may be; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate to be included in a contract or subcontract for commercial items or commercial components, as the case may be.

"(2) Subject to paragraph (3), the Federal Acquisition Regulation shall require that, to the maximum extent practicable, only the contract clauses referred to in paragraph (1) be used in a contract or subcontract for the acquisition of commercial items or commercial components by or for an executive agency.

"(3) The Federal Acquisition Regulation shall provide that a contract or subcontract referred to in paragraph (2) may contain contract clauses other than the contract clauses referred to in that paragraph only if the other clauses are essential for the protection of the Federal Government's interest in—

"(A) that contract or subcontract, as determined in writing by the contracting officer for such contract; or

"(B) a class of contracts or subcontracts, as determined by the head of an agency concerned, unless the determination of that head of an agency is disapproved by the Administrator.

"(4) The Federal Acquisition Regulation shall provide standards and procedures for waiving the use of contract clauses required pursuant to paragraph (1), other than those required by law, including standards for determining the cases in which a waiver is appropriate.

"(b) MARKET ACCEPTANCE.—The Federal Acquisition Regulation shall include a requirement for the head of an executive agency, when determined appropriate in accordance with criteria set out in the regulation, to require offerors for a contract to demonstrate in the offer that the items offered—

"(1) have either—

"(A) achieved a level of commercial market acceptance necessary to indicate that the items are suitable for the executive agency's use; or

"(B) been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements; and

"(2) otherwise meet the item description, specifications, or other criteria prescribed in the public notice and solicitation relating to the contract.

"(c) USE OF FIRM, FIXED PRICE CONTRACTS.—The Federal Acquisition Regulation shall include a requirement that firm, fixed price contracts be used, to the maximum extent practicable, for the acquisition of commercial items.

"(d) CONTRACT QUALITY REQUIREMENTS.—The Federal Acquisition Regulation shall include provisions that—

"(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the contractor's existing quality assurance system as a substitute for compliance with a requirement for the Federal Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Federal Government;

"(2) require that, to the maximum extent practicable, an executive agency take advantage of warranties (including extended warranties) offered by offerors of commercial items and use such warranties for the repair and replacement of commercial items; and

"(3) set forth guidance to executive agencies regarding the use of past performance of items and sources as a factor in contract award decisions.".

(b) DEFENSE CONTRACT CLAUSES.—

(1) REPEAL OF DOD AUTHORITY.—Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 2325 note) is repealed.

(2) SAVINGS PROVISION.—Notwithstanding section 32(a) of the Office of Federal Procurement Policy Act (as added by subsection (a)), contracts of the Department of Defense entered into before October 1, 1994, and subcontracts entered into before such date under such contracts, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 2325 note).

SEC. 8004. CLASS WAIVER OF APPLICABILITY OF CERTAIN LAWS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8003, is further amended by adding at the end the following:

"CLASS WAIVER OF APPLICABILITY OF CERTAIN LAWS TO ACQUISITIONS OF COMMERCIAL ITEMS

"SEC. 33. (a) IN GENERAL.—(1) The applicability of a provision of law described in paragraph (2) to contracts for the acquisition of commercial items may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.

"(2) A provision of law referred to in paragraph (1) is any provision of law enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1993 that, as determined by the Administrator for Federal Procurement Policy, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government.

"(b) WAIVER OF APPLICABILITY TO SUBCONTRACTS.—The applicability of a provision of law described in subsection (a)(2) to subcontracts under a contract for the acquisition of commercial items may be waived on a class basis in the Federal Acquisition Regulation. Such a waiver shall not apply to a provision of law that expressly refers to this section and prohibits the waiver of that provision of law.".

SEC. 8005. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) ARMED SERVICES ACQUISITIONS.—

(1) PROHIBITION ON CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, as amended by section 4031, is further amended by inserting before the period at the end of the sentence added by section 4031 the following: "or to a contract for the acquisition of commercial items".

(2) REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items, as defined in section 2302 of this title.".

(3) PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, as amended by section 4034, is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(4) PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—Section 2402 of title 10, United States Code, as amended by section 4032, is further amended by adding at the end the following new subsection:

"(d)(1) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(5) PREFERENCE FOR USE OF UNITED STATES VESSELS FOR TRANSPORTING SUPPLIES OF THE ARMED FORCES.—Section 2631 of title 10, United States Code, as amended by section 4036, is further amended by inserting before the period at the end of the sentence added by section 4036 the following: "or to a contract for the transportation of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12))).".

(b) CIVILIAN AGENCY ACQUISITIONS.—

(1) RESTRICTIONS ON SUBCONTRACTOR SALES TO THE UNITED STATES.—Section 303G of the

Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section 4042, is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(2) PROHIBITION ON CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 4041, is further amended by inserting before the period at the end of the sentence added by section 4041 the following: "or to a contract for the acquisition of commercial items".

(c) ACQUISITIONS GENERALLY.—

(1) FEDERAL WATER POLLUTION CONTROL ACT.—Section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1368) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(2) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—The Contract Work Hours and Safety Standards Act (title I of the Work Hours and Safety Act of 1962 (40 U.S.C. 327 et seq.)) is amended by adding at the end the following new section:

"SEC. 108. (a) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement in this title.

"(b) In subsection (a), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(3) OFFICE OF FEDERAL PROCUREMENT POLICY ACT REQUIREMENT RELATING TO PROCUREMENT INTEGRITY CERTIFICATIONS.—Section 27(e)(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by adding at the end the following new subparagraph:

"(C) This subsection does not apply to a contract for the acquisition of commercial items.".

(4) CERTAIN PROVISIONS OF THE ANTI-KICKBACK ACT OF 1986.—

(A) REQUIREMENT FOR CONTRACT CLAUSE.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57), as amended by section 4052, is further amended by inserting before the period at the end of subsection (d) the following: "or to a prime contract for the acquisition of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12))).".

(B) INSPECTION AUTHORITY.—Section 8 of such Act (41 U.S.C. 58) is amended by adding at the end the following: "This section does not apply with respect to a prime contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(5) DRUG-FREE WORKPLACE ACT OF 1988.—The Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100-690; 41 U.S.C. 701 et seq.), as amended by section 4057, is further amended by inserting after the matter inserted by such section 4057 the following: ", other than a contract for the procurement of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12)))),".

(6) CLEAN AIR ACT.—Section 306 of the Clean Air Act (42 U.S.C. 7606) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(7) MERCHANT MARINE ACT, 1936.—Section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), as amended by section 4058, is further amended by adding at the end the following new paragraph:

"(4)(A) Paragraph (1) does not apply to a contract for transportation of commercial items on ocean vessels.

"(B) In subparagraph (A), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(7) FLY AMERICAN REQUIREMENTS.—Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1517) is amended by adding at the end the following new subsection:

"(e)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

SEC. 8006. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)) is amended by adding at the end the following new paragraph:

"(4) The requirements of paragraph (3)(B) do not apply to contracts for the purchase of commercial items. The Administrator shall prescribe for such contracts appropriate limits on the applicability of a deadline for submission of bids or proposals that is required by subsection (a)(1). Such limits shall be incorporated in the Federal Acquisition Regulation.".

SEC. 8007. ADVOCATE FOR ACQUISITION OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS.

(a) ESTABLISHMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 8004, is further amended by adding at the end the following:

"ADVOCATE FOR ACQUISITION OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS

"SEC. 34. (a) ESTABLISHMENT.—There is established in the Office of Federal Procurement Policy the position of Advocate for Acquisition of Commercial and Nondevelopmental Items.

"(b) FUNCTIONS.—The Advocate for Acquisition of Commercial and Nondevelopmental Items shall—

"(1) monitor compliance by executive agencies with the preference for the acquisition of commercial and nondevelopmental items that is set forth in section 29;

"(2) make recommendations and proposals to the Administrator regarding the reform of procurement statutes and regulations to implement that preference; and

"(3) report to the Administrator on the prospective effect of proposed legislation and regulations on the acquisition of commercial items and nondevelopmental items.

"(c) REPORT.—The Administrator shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives an annual report describing for the year covered by the report all actions taken by the Office of Federal Procurement Policy to promote the acquisition of commercial items and other nondevelopmental items.".

(b) RESPONSIBILITIES OF THE ADVOCATE FOR COMPETITION.—Section 20(c) of such Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items and other nondevelopmental items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(c) REPEAL OF SUPERSEDED PROVISION.—Section 28 of such Act (41 U.S.C. 424) is repealed.

SEC. 8008. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as amending, modifying, or superseding, or as intended to impair or restrict authorities or responsibilities under—

(1) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), popularly referred to as the "Brooks Automatic Data Processing Act";

(2) title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.), popularly referred to as the "Brooks Architect-Engineers Act";

(3) section 8(a) of the Small Business Act (15 U.S.C. 637(a)) or any other provision of that Act; or

(4) the Act of June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), popularly referred to as the "Javits-Wagner-O'Day Act".

SEC. 8009. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE IX—EFFECTIVE DATE

SEC. 9001. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

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THE FEDERAL ACQUISITION STREAMLINING ACT OF 1993—SECTION-BY-SECTION ANALYSIS

TITLE I—CONTRACT FORMATION

Subtitle A—Competition statutes

Part I—Armed Services Acquisitions

Subpart A—Competition requirements

Sec. 1001. would clarify references to the FAR, as recommended by the Section 800 panel.

Sec. 1002 is a technical change, which would move a provision prohibiting class determinations to a new section of the code, as recommended by the Section 800 panel.

Sec. 1003 would clarify that a higher-ranking official within the DOD may approve the use of non-competitive procedures, as recommended by the Section 800 panel.

Sec. 1004 would substitute the term "contracting activity" for the term "procuring activity", as recommended by the Section 800 panel.

Sec. 1005 would add a new section 2304a to Title 10, to address task order and delivery order contracts. The Section 800 panel recommended a new provision expressly authorizing the use of such contracts. The new section 2304a would do so, subject to time and dollar limitations and a requirement for competition whenever practical.

Subpart B—Planning, solicitation, evaluation, and award

Sec. 1011 would clarify CICA's solicitation provisions requiring the disclosure of evaluation factors and subfactors and authorizing awards without discussions. Similar language was included in H.R. 3161 last year, and has been included in S. 554 (for civilian agencies) this year.

Sec. 1012 is a technical change, which would move a provision regarding the consideration of option pricing to a new section of the code, as recommended by the Section 800 panel.

Sec. 1013 would require notice to all offerors within 3 days of contract award. This provision is a part of the accelerated debriefing and protest schedule established in Sections 1014 and 1402.

Sec. 1014 would require debriefings providing basic information on the award to unsuccessful offerors, if requested within 7 days after contract award. Similar language is included in S. 555. The Section 800 panel also recommended adding a debriefing requirement (with a longer time frame and less detail) to this section.

Sec. 1015 would require DOD to maintain protest files in protests to the Comptroller General, as recommended by the Section 800 panel.

Sec. 1016 would authorize DOD to pay costs and fees in bid protest settlements, as recommended by the Section 800 panel.

Subpart C—Kinds of contracts

Sec. 1021 would repeal the requirement for a determination prior to the use of cost or incentive-type contracts, as recommended by the Section 800 panel. Such determinations are unnecessary in light of the acquisition planning requirements of the Federal Acquisition Regulation. The repeal of this section is not intended to encourage increased use of cost of incentive-type contracts.

Sec. 1022 would make technical and conforming changes recommended by the Section 800 panel and legislative counsel.

Subpart D—Miscellaneous competitive statutes

Sec. 1031 would consolidate 10 USC 2317 with other acquisition work force provisions codified in 10 USC 1701 et seq. The Section 800 panel recommended repeal of this provision.

Sec. 1032 would repeal 10 USC 2318, requiring annual reports by DOD competition advocates. The separate requirement for annual reports on competition by competition advocates of all agencies (in section 20(b) of the OFPP Act) would remain in effect.

Part II—Civilian Agency Acquisitions

Subpart A—Competition requirements

Sec. 1051 would clarify references to the FAR, in the same manner as Sec. 1001.

Sec. 1052 would move a provision prohibiting class determinations to a new section of the code, in the same manner as Sec. 1002.

Sec. 1053 would authorize higher-ranking officials in civilian agencies to approve the use of non-competitive procedures, in the same manner as Sec. 103.

Sec. 1054 would substitute the term "contracting activity" for the term "procuring activity", in the same manner as Sec. 1004.

Sec. 1055 would add a new section 303H to the Federal Property Act, to address task order and delivery order contracts. This provision is identical to the provision added to Title 10 by Sec. 1005.

Subpart B—Planning, solicitation, evaluation, and award

Sec. 1061 would clarify CICA's solicitation provisions requiring the disclosure of evaluation factors and subfactors and authorizing awards without discussions. Conforming changes to Title 10 would be made by Sec. 1011.

Sec. 1062 would move a provision regarding the consideration of option pricing to a new section of the code, in the same manner as section 1012.

Sec. 1063 would require notice to all offerors within 3 days of contract award. An identical change to Title 10 would be made by section 1013.

Sec. 1064 would require civilian agencies to conduct debriefings providing basic information to unsuccessful offerors, if requested within 7 days after contract award. An identical change to Title 10 would be made by section 1014.

Sec. 1065 would require civilian agencies to maintain protest files in protests to the Comptroller General, in the same manner as section 1015.

Sec. 1066 would authorize civilian agencies to pay costs and fees in bid protest settlements, in the same manner as section 1016.

Subpart C—Kinds of contracts

Sec. 1071 would repeal the requirement for a determination prior to the use of cost or incentive-type contracts, in the same manner as section 1021. Such determinations are unnecessary in light of the acquisition planning requirements of the Federal Acquisition Regulation. The repeal of this section is not intended to encourage increased use of cost or incentive-type contracts.

Part III—Acquisitions Generally

Sec. 1091 would repeal Section 23 of the OFPP Act, which requires an annual report on competition each year through FY 1990, as recommended by the Section 800 panel. The separate requirement for annual reports on competition by agency competition advocates (in section 20(b) of the OFPP Act) would remain in effect.

Subtitle B—Truth in negotiations

Part I—Armed Services Acquisitions

Sec. 1201 would repeal the sunset date for the $500,000 cost or pricing data threshold, making the increase permanent. Although this provision would also repeal the statutory requirement for a DOD Inspector General report on the test, it is expected that the IG would routinely review and report on the Department's handling of below-threshold procurements.

Sec. 1202 would amend the TINA exceptions, as recommended by the Section 800 panel, to cover contracts for services that are sold at catalog prices and modifications to commercial item contracts that would not change the commercial item to a non-commercial item.

Sec. 1203 would require a written determination for the submission of cost or pricing data in a case where one of the TINA exceptions applies. A similar provision was agreed to in discussions of H.R. 3161 last year.

Sec. 1204 would add a new subsection (d) to Section 2306a, creating a new TINA exception for commercial items. The new exception would be available where competition is not feasible and the contracting officer determines that price data is adequate to determine price reasonableness. The Section 800 panel recommended a similar exemption.

Sec. 1205 is a technical change, to cross-reference the new consolidated audit provision in section 2313, as recommended by the Section 800 panel.

Sec. 1206 would codify provisions requiring the issuance of regulations regarding the disclosure of data in procurements below the $500,000 threshold. The Section 800 panel recommended the repeal of these requirements.

Sec. 1207 would authorize the parties to agree upon an appropriate effective date for certifications of cost or pricing data, as recommended by the Section 800 panel.

Sec. 1208 would repeal the uncodified provisions that are codified in section 1206.

Part II—Civilian Agency Acquisitions

Sec. 1251 would amend the Federal Property Act to add a new Section 304A, codifying TINA for civilian agencies. The new provisions would raise the civilian TINA threshold to $500,000, require regulations for contracts below the new threshold, and add a new TINA exemption for commercial items, parallel to the changes made for DOD in Part I.

Sec. 1252 would repeal the obsolete provision replaced by the new Section 304A.

Subtitle C—Research and development

Sec. 1301 would amend 10 USC 2356, revising DOD delegation authority for R&D contracts, as recommended by the Section 800 panel.

Sec. 1302 would amend 10 USC 2358, to consolidate the R&D authority of the military departments and repeal redundant and obsolete authority, as recommended by the Section 800 panel.

Sec. 1303 would amend 10 USC 2364, to delete specific R&D milestone requirements and give DOD broader discretion over specific implementation methodologies, as recommended by the Section 800 panel.

Subtitle D—Procurement protests

Part I—Protests to the Comptroller General

Sec. 1401 would amend section 3553 of Title 31.

Subsections (a) and (b) would make technical changes, to refer to calendar days instead of working days and to refer to "contracting activities" instead of the "procuring activities", as recommended by the Section 800 panel.

Subsection (c) would prohibit contractors from beginning performance in the first ten days after contract award, unless authorized by the contracting officer. A contracting officer could authorize earlier performance unless he or she felt that a bid protest was likely and that immediate performance would not be in the best interest of the United States. This provision is intended to avoid added costs to the United States from starting, stopping, and restarting contract performance in cases where protests are considered likely and immediate performance is not necessary.

Sec. 1402 would amend 3554 of Title 31, regarding Comptroller General decisions on bid protests.

Subsection (a) would make technical changes to refer to calendar days instead of working days and to provide that an amendment that adds new ground of protest should be resolved to the maximum extent practicable, within the time period for final decision on the initial protest, as recommended by the Section 800 panel.

Subsection (b) would provide that the Comptroller General may recommend the payment of attorneys fees in bid protest cases, rather than directing agencies to pay such fees. This provision would address questions that have been raised about the constitutionality of existing law. Similar language was included in H.R. 3161 in the last Congress and has been included in S. 566 in this Congress. This subsection would also authorize the payment of consultant and expert witness fees as well as attorneys fees in protest cases (as recommended by the Section 800 panel), and would limit all such fees to the levels established in the Equal Access to Justice Act.

Subsection (c) would make technical changes to refer to "contracting activities" instead of "procuring activities", as recommended by the Section 800 panel.

Sec. 1403 would authorize the Comptroller General to issue regulations on the calculation of time periods and on electronic filings and disseminations, as recommended by the Section 800 panel.

Part II—Protests in the Federal Courts

Sec. 1421 is a conforming change to Sec. 1422, giving the U.S. Court of Claims exclusive judicial jurisdiction over bid protests.

Sec. 1422 would give the U.S. Court of Claims exclusive judicial jurisdiction over bid protests, and eliminate district court jurisdiction over such protests, as recommended by the Section 800 panel.

Part III—Protests in Procurements of Automatic Data Processing

Sec. 1431 would authorize the Administrator to revoke a delegation of authority after the award of a contract, where there is a finding of a violation of law or regulation in connection with the contract award. A similar provision is included in S. 555.

Sec. 1432 would clarify that at the request of an interested party, the Board shall review any decision by a federal agency alleged to have violated a statute, regulation, or the conditions of any delegation of procurement authority. The identical provision was included in S. 555 earlier this year.

Sec. 1433 would amend Section 111(f)(3) of the Federal Property Act.

Subsection (a) would conform the schedule for GSBCA hearings on suspension of procurement authority to the time frames established in section 1402.

Subsection (b) would substitute calendar days for working days and require that an amendment that adds new grounds of protest be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest, as recommended by the Section 800 panel.

Sec. 1434 would authorize the GSBCA to dismiss a protest that is frivolous, brought in bad faith, or does not state on its face a valid basis for protest. Similar provisions were included in S. 555 and recommended by the Section 800 panel.

Sec. 1435 would authorize the payment of consultant and expert witness fees as well as attorneys' fees in protest cases (as recommended by the Section 800 panel), and would limit all such fees to the levels established in the Equal Access to Justice Act.

Sec. 1436 would require public disclosure of any settlement agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds. This provision also authorizes agencies to make such payments from the judgment fund. A similar provision was included in S. 555.

Sec. 1437 is a conforming change to Sec. 1422, giving the U.S. Court of Claims exclusive judicial jurisdiction over bid protests.

Sec. 1438 would authorize the GSBCA to adopt appropriate rules and procedures which would, at a minimum, address the computation of time periods under the statute; provide procedures for electronic filing and dissemination of documents; and provide for sanctions (including the payment of costs) where a person brings a frivolous or bad faith protest, or willfully abuses the board's process. Similar provisions were recommended by the Section 800 panel.

Sec. 1439 would amend the definition of "protest" in section 111(f)(9) of the Federal Property Act to clarify that the term covers protests of solicitations, cancellations of solicitations, award or proposed awards of contracts, and the cancellation of an award (where such cancellation is alleged to be based on improprieties in the award process).

Sec. 1440 would require the GSA Administrator to collect and compile data on the procurement of automatic data processing equipment. A similar provision was included in S. 555.

Subtitle E—Definitions and other matters

Part I—Armed Services Acquisitions

Sec. 1501 would amend the definitions in 10 USC 2302 to cross-reference definitions in the OFPP Act, where appropriate.

Sec. 1502 would consolidate provisions on delegation of procurement functions, as recommended by the Section 800 panel.

Sec. 1503 would streamline provisions on determinations and decisions, as recommended by the Section 800 panel, while retaining the requirement that such findings be made in writing and retained for no less than 6 years.

Sec. 1504 would make technical changes to clarify the limitation on undefinitized contract actions, as recommended by the Section 800 panel.

Sec. 1505 would repeal an obsolete provision regarding production special tooling, as recommended by the Section 800 panel.

Sec. 1506 would clarify, as recommended by the Section 800 panel, that the authority established in 10 USC 2381(a) to issue regulations on bids is vested in the Secretary of Defense, as well as the secretaries of the military departments.

Part II—Civilian Agency Acquisitions

Sec. 1551 would amend the definitions in the Federal Property Act to cross-reference definitions in the OFPP Act, where appropriate.

Sec. 1552 would consolidate provisions on delegation of procurement functions, in the same manner as section 1502.

Sec. 1553 would streamline provisions on determinations and decisions, while retaining the requirement that such findings be made in writing and retained for no less than 6 years, in the same manner as section 1503.

Sec. 1554 would add a new section 311 to the Federal Property Act, to limit the use of undefinitized contract actions by civilian agencies. This provision would ensure uniform treatment of undefinitized contract actions by civilian agencies and the Department of Defense.

Sec. 1555 would repeal an improperly codified provision that purports to exempt from CICA all IRS contracts to hire experts for the examination of tax returns or litigating actions under the Internal Revenue Code.

Recommendations not adopted

Title I would not adopt recommendations of the Section 800 panel to revise the statement of procurement policy in 10 USC 2301; and grant the Comptroller General power to issue protective orders in bid protests. It would not repeal the requirement to issue regulations on certificates of independent price determination or the requirement to issue uniform rules on the dissemination of acquisition information. Although such rules have already been issued, the continued existence of the statute expresses Congress' intent that they be retained.

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract payment

Part I—Armed Services Acquisitions

Sec. 2001 would consolidate contract financing provisions for DOD in 10 USC 2307 and repeal obsolete and superceded provisions, as recommended by the Section 800 panel.

Sec. 2002 would repeal 10 USC 2355, which creates unique vouchering requirements for DOD, as recommended by the Section 800 panel. The Office of Federal Procurement Policy should review existing vouchering systems and attempt to develop a standard, government-wide procedure.

Part II—Civilian Agency Acquisitions

Sec. 2051 would consolidate contract financing provisions for civilian agencies in Section 305 of the Federal Property Act, and ensure uniform requirements for progress payments by civilian agencies and DOD.

Subtitle B—Cost principles

Part I—Armed Services Acquisitions

Section. 2101 would amend the DOD contract cost principles in 10 USC 2324 to—(a) clarify the requirement of GAO evaluations; and (b) raise the threshold for coverage to $500,000. This bill would not adopt the Section 800 panel's recommendation to repeal the statutory contract cost principles.

Sec. 2102 would repeal 10 USC 2382, which provides standby profit controls for use during national emergencies, as recommended by the Section 800 panel. Contractor profits would continue to be negotiated pursuant to the principles established in the Federal Acquisition Regulation.

Part II—Civilian Agency Acquisitions

Sec. 2151 would amend Section 306 of the Federal Property Act to establish contract cost principles for civilian agencies. This provision would ensure uniform treatment of contract costs by civilian agencies and the Department of Defense.

Part III—Acquisitions Generally

Sec. 2191 would repeal section 24 of the OFPP Act, regarding travel expenses of government contractors, as recommended by the Section 800 panel.

Subtitle C—Audit and access to records

Part I—Armed Services Acquisitions

Sec. 2201 would amend 10 USC 2313 to provide a consolidated audit provision and repeal superceded provisions, as recommended by the Section 800 panel.

Part II—Civilian Agency Acquisitions

Sec. 2251 would add a new section 304B to the Federal Property Act to provide a consolidated audit provision for civilian agencies and ensure uniform audit authorities for civilian agencies and DOD.

Subtitle D—Cost accounting standards

Sec. 2301 would repeal an obsolete deadline for procedural regulations that have already been issued, while retaining the provision authorizing the issuance of such regulations.

Subtitle E—Price, delivery, and product quality

Part I—Armed Services Acquisitions

Sec. 2401 would repeal 10 USC 2383, which established special qualification requirements for contractors on spare parts contracts, as recommended by the Section 800 panel.

Sec. 2402 would amend 10 USC 2403, on contractor warrantees, to require he Department of Defense to establish guidelines and procedures for negotiating and administering contractor warrantees. The Department should take steps to test innovative approaches to warranties, as suggested by the Section 800 report; however, this provision would not repeal 10 USC 2403, as amended by the Section 800 panel.

Sec. 2403 would repeal provisions regarding the delivery of subsistence supplies, as recommended by the Section 800 panel.

Part II—Acquisition Generally

Sec. 2451 would amend 41 USC 15 to expand authority for settoffs against assignees, as recommended by the Section 800 panel.

Sec. 2452 would repeal an obsolete requirement for deposit of contractors with GAO, as recommended by the Section 800 panel.

Subtitle F—Claims and disputes

Part I—Armed Services Acquisitions

Sec. 2501 would appeal 10 USC 2410, establishing DOD-unique requirements for the certification of contract claims. Provisions of the Contract Disputes Act of 1978 regarding the certification of claims would remain in effect and would govern all claims, including those at DOD. Section 2501 would also codify a provision restricting legislative payment of claims.

Part II—Acquisitions Generally

Sec. 2551 would amend the Little Tucker Act to clarify jurisdiction over contract disputes, as recommended by the Section 800 panel.

Sec. 2552 would amend the Contract Disputes Act to clarify the periods for filing claims, raise thresholds for certifications, and clarify that claims included requests for equitable adjustments to contract terms and requests for relief under Public Law 85-804.

Recommendations not adopted

Title II would not adopt recommendations of the Section 800 panel to amend the Prompt Payment Act to lengthen the discount period; repeal the statutory contract cost principles; repeal the provision requiring contractor warranties for major weapons systems; and expand the applicability of Public Law 85-804.

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEM STATUTES

Subtitle A—Major systems statutes

Sec. 3001 would modify requirements for independent cost estimates and manpower estimates, as recommended by the Section 800 panel.

Sec. 3002 would streamline requirements for program baseline descriptions and deviation reporting, as recommended by the Section 800 panel. Although these modifications provide DOD with added flexibility, it is anticipated that the Department will continue to establish program baselines and provide essential program cost information.

Sec. 3003 would repeal the requirement for Defense Enterprise Programs, as recommended by the Section 800 panel.

Sec. 3004 would repeal the requirement for competitive prototyping in major programs, as recommended by the Section 800 panel. It is anticipated that the Department will continue to consider competitive prototyping as an option in the acquisition planning process, and to use competitive prototype strategies where appropriate.

Sec. 3005 would repeal the requirement for competitive alternative sources in major programs, as recommended by the Section 800 panel. it is anticipated that the Department will continue to consider competitive alternative sources as an option in the acquisition planning process, and to use competitive alternative sources where appropriate.

Subtitle B—Testing statutes

Sec. 3011 would repeal specific testing requirements for wheeled or tracked vehicles.

Sec. 3012 would modify requirements for survivability and lethality testing to authorize less than full-up testing for high-value systems, as recommended by the Section 800 panel.

Sec. 3013 would, as recommended by the Section 800 panel, authorize the Secretary of Defense to utilize alternative operational testing procedures upon a certification to Congress that use of the statutory procedures would be unreasonably expensive and impracticable, cause unwarranted delay, or be unnecessary. The Secretary would not be permitted to use such alternative procedures to support a final decision to proceed beyond low rate initial production.

Sec. 3014 would provide a new exception to low-rate initial production requirments for strategic defense missiles, as recommended by the Section 800 panel.

Subtitle C—Service specific laws

Sec. 3021 would consolidate existing statutes on industrial mobilization and repeal superceded statutes, as recommended by the Section 800 panel.

Sec. 3022 would consolidate existing statutes on listing of plants for industrial preparedness purposes and repeal superceded statutes, as recommended by the Section 800 panel.

Sec. 3023 would consolidate existing statues on procurement for experimental purposes and repeal superceded statutes, as recommended by the Section 800 panel.

Sec. 3024 would repeal obsolete statutes regarding the procurement of production equipment, as recommended by the Section 800 panel.

Sec. 3025 would consolidate existing statutes authorizing the Secretary of Defense to make use of manufacturing information in the interest of national defense, and repeal superceded statutes, as recommended by the Section 800 panel.

Sec. 3026 would repeal obsolete and duplicative general procurement authority granted to the Army and the Air Force, as recommended by the Section 800 panel.

Sec. 3027 would repeal an obsolete provision authorizing the delegation of procurement of Army rations, as recommended by the Section 800 panel.

Sec. 3028 would repeal obsolete provisions authorizing the purchase of subsistence supplies, as recommended by the Section 800 panel.

Sec. 3029 would repeal obsolete provisions authorizing the Army and the Air Force to obtain assistance from U.S. mapping agencies, as recommended by the Section 800 panel.

Sec. 3030 would repeal obsolete provisions authorizing the Army and the Air Force to reclaim unserviceable ammunition, as recommended by the Section 800 panel.

Sec. 3031 would consolidate existing statutes authorizing the services to accept the gratuitous services of reserve officers and repeal superceded statutes, as recommended by the Section 800 panel.

Sec. 3032 would streamline and consolidate existing law on the civil reserve air fleet, as recommended by the Section 800 panel.

Sec. 3033 would repeal an obsolete provision regarding the acquisition of guided missiles by the Navy, as recommended by the Section 800 panel.

Sec. 3034 would add a new section 2350j to Title 10, authorizing international exchange of scientific personnel, as recommended by the Section 800 panel. This issue was left open because it was not clear why such exchanges would require statutory authority.

Sec. 3035 would repeal an obsolete provision authorizing the Secretary of the Navy to provide temporary relief for contractors from losses caused by enemy action, as recommended by the Section 800 panel.

Sec. 3036 would repeal an obsolete provision authorizing the Secretary of the Navy to sell degaussing equipment, as recommended by the Section 800 panel.

Sec. 3037 would repeal an obsolete provision regarding the construction of naval vessels, as recommended by the Section 800 panel.

Sec. 3038 would repeal an obsolete provision regarding the conversion of naval vessels, as recommended by the Section 800 panel.

Sec. 3039 would remove obsolete language from a provision on the assignment of naval construction projects, as recommended by the Section 800 panel.

Sec. 3040 would repeal an obsolete requirement for estimates on naval construction bids, as recommended by the Section 800 panel.

Sec. 3041 would repeal an obsolete requirement regarding construction of naval vessels on the Pacific coast, as recommended by the Section 800 panel.

Sec. 3042 would consolidate existing statutes on the fitness of naval vessels, as recommended by the Section 800 panel.

Sec. 3043 would repeal an obsolete provision of the construction of combatant vessels for the Navy, as recommended by the Section 800 panel.

Sec. 3044 would consolidate existing provisions regarding naval salvage authority, as recommended by the Section 800 panel.

Subtitle D—DOD commercial and industrial activities

Sec. 3051 would consolidate existing statutes on manufacture at DOD factories and arsenals and repeal superseded statutes, as recommended by the Section 800 panel.

Sec. 3052 would codify requirements to establish consulting services as a separate item in budgets submitted to Congress and repeal the uncodified language. The Section 800 panel recommended repeal of this provision.

Subtitle E—Fuel and energy-related laws

Sec. 3061 would consolidate and streamline statutes regarding contracts for storage, handling, and distribution of fuels, as recommended by the Section 800 panel.

Sec. 3062 would clarify DOD's authority to exchange or sell fuels and fuel-related services, as recommended by the Section 800 panel.

Subtitle F—Fiscal statutes

Sec. 3071 would amend 31 USC 3321 to clarify the authority to designate disbursing officers within DOD, as recommended by the Section 800 panel.

Subtitle G—Miscellaneous

Sec. 3081 would amend a provision regarding production, warehousing, and distribution of supplies to delete unnecessary and redundant language, as recommended by the Section 800 panel.

Sec. 3082 would repeal obsolete provisions for the encouragement of aviation, as recommended by the Section 800 panel.

Sec. 3083 would repeal an obsolete and redundant provision regarding product evaluation activities, as recommended by the Section 800 panel.

Sec. 3084 would repeal an obsolete provision regarding price adjustment authority relating to the purchase of milk, as recommended by the Section 800 panel.

Sec. 3085 would codify a provision limiting the lease of vessels, aircraft, and vehicles by the Department of Defense, with modifications to make the provision less onerous. The Section 800 panel recommended repeal of this provision.

Recommendations not adopted

Title III would not adopt the recommendations of the Section 800 panel to eliminate detailed requirements for SAR and UCR reports on acquisitions of major weapons systems; delete or substantially modify conflict-of-interest provisions related to operational test and evaluation; increase the blanket delegation of procurement authority for the Department of Defense; revise statutes governing contracting out by the Department of Defense; and loosen restrictions on use of the so-called "M account".

The SAR/UCR system is already fully automated and appears to be working well. Blanket DPA's can be increased, if appropriate, without legislative action. The contracting-out statutes are currently under review by other congressional committees and subcommittees.

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD AND SOCIOECONOMIC, SMALL BUSINESS, AND MISCELLANEOUS LAWS

Subtitle A—Simplified acquisition threshold

Part I—Establishment of Threshold

Sec. 4001 would amend the OFPP Act to establish a new 'simplified acquisition threshold' of $100,000, as recommended by the Section 800 panel. This provision would continue data collection requirements on contracts between $25,000 and $100,000 for a period of two years after the new threshold goes into effect.

Part II—Simplification of Procedures

Sec. 4011 would add a new section 29 to the OFPP Act, authorizing the use of simplified procedures for acquisitions under the simplified acquisition threshold, as recommended by the Section 800 panel.

Sec. 4012 would reserve all contracts under the simplified threshold for small business, and specifically authorize continued set-asides of such contracts for minority small business, as recommended by the Section 800 panel.

Sec. 4013 would amend section 18 of the OFPP Act and section 8(e) of the Small Business Act to continue the requirement that a notice of any procurement over $25,000 be published in the Commerce Business Daily 15 days prior to the issuance of a solicitation. After the issuance of this notice, the agency would be free to pursue any procedures described in the notice; the requirement to allow the 30 days for the submissions of bids and proposals would apply only to contracts in excess of the simplified acquisition threshold.

Part III—Inapplicability of Laws to Acquisitions not in Excess of Simplified Acquisition Threshold

Subpart A—Generally

Sec. 4021 would add a new section 30 to the OFPP Act, authorizing the Federal Acquisition Regulation to waive the applicability of future-enacted procurement laws on a class basis for contracts below the simplified acquisition threshold, unless the provision expressly prohibits such a waiver.

Subpart B—Armed services acquisitions

Sec. 4031 would exempt procurements below the simplified acquisition threshold from contingent fees certifications, as recommended by the Section 800 panel.

Sec. 4032 would exempt procurements below the simplified acquisition threshold from the prohibitions on limiting subcontractor direct sales to the United States, as recommended by the Section 800 panel.

Sec. 4033 would exempt procurements below the simplified acquisition threshold from the audit requirements in 10 USC 2313, as recommended by the Section 800 panel.

Sec. 4034 would exempt procurements below the simplified acquisition threshold from the requirements to identify suppliers and sources of supplies.

Section 4034 would exempt procurements below the simplified acquisition threshold from the requirements to identify suspended or debarred subcontractors. The Section 800 panel recommended exempting such procurements from suspension and debarment provisions generally.

Sec. 4036 would exempt procurements below the simplified acquisition threshold from the preference of U.S. flag vessels, as recommended by the Section 800 panel.

Subpart C—Civilian agency acquisitions

Sec. 4041 would exempt civilian agency procurements below the simplified acquisition threshold from contingent fees certifications, in the same manner as section 4031.

Sec. 4042 would exempt civilian agency procurements below the simplified acquisition threshold from the prohibition on limiting subcontractor direct sales to the United States, in the same manner as section 4032.

Sec. 4043 would exempt civilian agency procurements below the simplified acquisition threshold from audit requirements, in the same manner as section 4033.

Subpart D—Acquistions Generally

Sec. 4051 would make a technical change to the Byrd Amendments, substituting "simplified acquisition threshold" for "$100,000", as recommended by the Section 800 panel.

Sec. 4052 would exempt procurements below the simplified acquisition threshold from the procedural requirements of the Anti-Kickback Act. The Section 800 panel recommended exempting such procurements from the anti—kickback laws generally.

Sec. 4053 would exempt procurements below the simplified acquisition threshold from the Miller Act, as recommended by the Section 800 panel.

Sec. 4054 would exempt procurements below the simplified acquisition threshold from the Contract Work Hours and Safety Standards Act, as recommended by the Section 800 panel.

Sec. 4055 would exempt procurements below the simplified acquisition threshold from the Drug-Free Workplace Act of 1988, as recommended by the Section 800 panel.

Sec. 4056 would exempt procurements below the simplified acquisition threshold from the requirement to ship on American-Flag commercial vessels, as recommended by the Section 800 panel.

Sec. 4057 would make technical changes to the Procurement Integrity Act, substituting "simplified acquisition threshold" for "$100,000", and making conforming changes.

Part IV—Conforming Amendments

Sec. 4071 would make a conforming amendments substituting "simplified acquisition threshold" for "small purchase threshold" in Title 10 provisions, as recommend by the Section 800 panel. The changes in this Part will ensure that agencies have the intended flexibility to utilize streamlined procedures for acquisitions under the new threshold.

Sec. 4072 would make a conforming amendments substituting "simplified acquisition threshold" for "small purchase threshold" in Title 41 provisions, in the same manner as section 4071.

Sec. 4073 would make conforming amendments substituting "simplified acquisition threshold" for "small purchase threshold" in the OFPP Act, as recommended by the Section 800 panel.

Sec. 4074 would make conforming amendments substituting "simplified acquisition threshold" for "small purchase threshold" in the Small Business Act, as recommended by the Section 800 panel.

Part V—Revision of Regulations

Sec. 4081(a) would require the FAR Council to review the Federal Acquisition Regulation to identify and amend, as appropriate, regulations that are applicable below the new simplified acquisition threshold.

Sec. 4081(b) would require agency heads to review supplemental regulations, policies, and procedures to identify and amend, as appropriate, regulations that are applicable below the new simplified acquisition threshold.

Subtitle B—Socioeconomic and small business laws

Sec. 4101 is a conforming change to section 4102(c), which would repeal the Walsh-Healey Act.

Sec. 4102(a) would repeal Section 306 of the Trade Agreements Act of 1979, an obsolete provision requiring a completed report on labor surplus areas, as recommended by the Section 800 panel.

Sec. 4102(b) would repeal the Walsh-Healey Act, as recommended by the Section 800 panel (except for the purpose of authorizing the Secretary of Labor to define the terms "regular dealer" and "manufacturer", because the definitions authorized under the Walsh-Healey Act have been adopted by a number of other statutes). A conforming amendment would be made to Section 2304(h) of title 10.

Sec. 4102(c) is a conforming change to section 4102(c), which would repeal the Walsh-Healey Act.

Sec. 4102(d) would exempt procurements below the simplified acquisition threshold from the prohibition on use of convict labor and prison goods, as recommended by the Section 800 panel.

Sec. 4103 would amend section 8(a) of the Small Business Act to authorize agencies to contract directly with an 8(a) contractor, rather than indirectly through the Small Business Administration, unless the contractor objects. This change was recommended by the Section 800 panel.

Subtitle C—Miscellaneous armed services acquisition laws

Sec. 4151 would repeal several obsolete laws relating to procurement of naval aircraft, including one provision addressing the acquisition of lighter-than-air aircraft, as recommended by the Section 800 panel.

Sec. 4152 would codify a provision from the FY 1991 DOD Appropriations Act, which prohibits the use of appropriated funds to prepare materials, reports, lists, or analyses on the economic effect of acquisition programs in specific states or congressional districts, as recommended by the Section 800 panel.

Recommendations not adopted

Title IV would not adopt recommendations of the Section 800 panel to apply the simplified acquisition threshold to the Buy American Act and U.S. source restrictions codified in 10 USC 2507 and to repeal provisions related to the small business Certificate of Competency program.

TITLE V—INTELLECTUAL PROPERTY

Subtitle A—Technology transfer

Sec. 5001 would amend section 15 of the Stevenson-Wydler Technology Innovation Act to cover rights in computer programs in the same manner as patents and copyrights, as recommended by the Section 800 panel.

Sec. 5002 would amend section 12 of the Stevenson-Wydler Technology Innovation Act to clarify the treatment of employees of government-owned, contractor-operated laboratories, as recommended by the Section 800 panel.

Sec. 5003 would amend section 14 of the Stevenson-Wydler Technology Innovation Act to clarify the treatment of copyrighted works, as recommended by the Section 800 panel.

Sec. 5004 would amend 17 USC 105 to conform to the change made by section 5003 with respect to the treatment of copyrighted works, as recommended by the Section 800 panel.

Subtitle B—Government use of private patents, copyrights and trade secrets

Sec. 5011 would require the issuance of regulations regarding the circumstances under which a contracting officer should withhold authorization or consent for a contractor to violate private patents in the performance of a government contract, as recommended by the Section 800 panel. Under this provision, no injunction could be issued for a violation of patent that occurs in the performance of a government contract.

Sec. 5012 would make several minor technical changes to provisions regarding DOD acquisition of intellectual property rights, as recommended by the Section 800 panel.

Recommendations not adopted

Title V would not adopt recommendations of the Section 800 panel to revise the statutes governing rights in technical data and to address the imposition of secrecy orders. The technical data revisions would be premature in light of the ongoing review of a separate DOD-industry panel, known as the "Section 807 panel". The secrecy order revisions would be premature because the handling of classified information is currently being reviewed by the executive branch.

TITLE VI—STANDARDS OF CONDUCT

Subtitle A—Ethics provisions

Sec. 6001 would amend the Procurement Integrity section of the OFPP Act to streamline the recusal provision; consolidate the revolving door ban with similar provisions applicable only to the Department of Defense; harmonize the gratuities provision with government-wide ethics provisions; revise certification provisions to eliminate unnecessary administrative burdens; and clarify several other provisions. An identical provision was passed by the Senate as an amendment to the DOD Authorization bill in 1991, but was never enacted into law.

Sec. 6002 would amend the criminal conflict of interest provision in 18 USC 208 to expressly cover persons who aid or abet violations. An identical provision was passed by the Senate as part of the 1991 Senate amendment.

Sec. 6003 would repeal several superseded and obsolete procurement ethics laws. These include—

The post-employment and revolving door provisions in sections 2397, 2397a, 2397b, and 2397c, of title 10; section 281 of title 18, section 801 of title 37; and Part A of Title VI of the Department of Energy Organization Act. Each of these provisions would be superceded by the amended Procurement Integrity provision and would have been repealed by the 1991 Senate amendment. All except for the provisions of the DOE Organization Act were recommended for repeal by the Section 800 panel.

The DOD contractor gratuities provision in section 2207 of title 10 which has already been superceded by the enactment of the procurement Integrity law.

The prohibition on doing business with persons convicted of defense-contract related felonies in section 2408 of title 10, which is unnecessary in light of existing suspension and debarment provisions.

Sec. 6004 addressed the implementation of the changes in this Subtitle. Similar provisions were included in the 1991 Senate amendment.

Subtitle B—Additional amendments

Sec. 6051 would add a new section 23 to the OFPP Act, which would prohibit the use of consultants to conduct evaluations or analyses of any aspect of a proposal if qualified federal employees are available to do the job. A similar provision was included in S. 554 earlier this year.

Sec. 6052 would repeal a section 17 of the OFPP Act, calling for a study and report that have already been issued.

Sec. 6053 would amend section 22(a) of the OFPP Act to clarify that 60 days notice should be provided for significant changes to acquisition regulations unless there are compelling circumstances for an earlier effective date.

Recommendations not adopted

Title VI would not adopt recommendations of the section 800 panel to substantially amend the False Claims Act, repeal the Procurement Integrity provision, repeal the Byrd Amendment, and repeal the whistleblower protection provision codified at 10 USC 2409.

Substantial amendments to the False Claims Act are currently being considered by the Judiciary Committee, which has jurisdiction over that Act. A recommendation to repeal the Procurement Integrity provision was considered by the Senate in 1991; the Senate decided that the amendments included in this bill were more appropriated. Amendments to the Byrd Amendment have already passed the Senate as a part of the Lobbying Disclosure Act of 1993, and are more appropriately considered as a part of that broader lobbying bill. Section 2409a was enacted as a test program; because the test period has not yet expired, it is premature to repeal the provision.

TITLE VII—DEFENSE TRADE AND COOPERATION

Sec. 7001 would repeal obsolete and redundant provisions in the Buy American Act, as recommended by the Section 800 panel.

Sec. 7002 would amend 10 USC 2531 to replace the term "Memorandums of Understanding" with the broader term "International Cooperative Agreements" and to expand the authorized scope of such agreements to cover logistics support, as recommended by the Section 800 panel.

Sec. 7003 would provide added flexibility for acquisition, cross-servicing agreements, and standardization under joint and multilateral defense agreements, as recommended by the Section 800 panel.

Recommendations not adopted

Title VII would not adopt recommendations of the Section 800 panel to replace the "domestic components" test in the Buy American Act with a "substantial transformation" test; repeal domestic source restrictions for jewel bearings, night vision devices, PAN carbon fibers, and other items; revise the statement of defense trade policy in 10 USC 2533; repeal the prohibition on purchases from terrorist states; and exempt NATO purchases and purchases under cooperative agreements from the procurement laws.

TITLE VIII—COMMERCIAL ITEMS

Sec. 8001 would amend the OFPP Act to add new definitions of "commercial item", "nondevelopmental item", "component", and "commercial component". Similar definitions of commercial and nondevelopmental items were recommended by the Section 800 panel, and were included in S. 260 and H.R. 3161 in the last Congress.

Sec. 8002 would add a new section 31 to the OFPP Act to create a preference for the acquisition of commercial items and other nondevelopmental items. Similar provisions were recommended by the Section 800 panel, and were included in S. 260 and H.R. 3161 in the last Congress.

Sec. 8003 would add a new section 32 to the OFPP Act to require the issuance of uniform contract clauses for commercial item contracts. This provision would also address market acceptance; the use of firm, fixed price contracts for commercial items; and reliance on existing quality assurance systems for commercial items. Similar provisions were recommended by the Section 800 panel, and were included in S. 260 and H.R. 3161 in the last Congress.

Sec. 8004 would authorize the applicability of future enacted procurement statutes to contracts and/or subcontracts for the acquisition of commercial items to be waived on a class basis, through the Federal Acquisition Regulation.

Sec. 8005 would exempt commercial items procurement from the requirement to identify suppliers and sources of supplies; the prohibition on contingent fees; the requirement to identify suspended or debarred subcontractors; the preference for U.S. flag vessels; so-called "Fly American" requirements; the procedural requirements of the Anti-Kickback Act; the Federal Water Pollution Control Act; the Clean Air Act; the Contract Work Hours and Safety Standards Act; the certification requirements of the Procurement Integrity provision; and the Drug-Free Workplace Act. This section would also restrict the applicability to commercial item contracts of the statutory prohibition on limiting subcontractor direct sales to the government. Similar exemptions were recommended by the Section 800 panel.

Sec. 8006 would authorize greater flexibility in setting deadlines for the submission of offers in contracts for the purchase of commercial items.

Sec. 8007 would amend the OFPP Act to expand the responsibilities of OFPP's commercial items advocate and to give agency competition advocates the added responsibility of promoting the acquisition of commercial items and other nondevelopmental items. Similar provisions were included in S. 260 and H.R. 3161 in the last Congress.

Sec. 8008 would identify certain provisions that are not intended to be affected or modified by this Title. Similar language was included in H.R. 3161 in the last Congress.

Sec. 8009 would require a Comptroller General review of federal government use of market research. A similar provision was included in S. 260 and H.R. 3161 in the last Congress.

Recommendations not adopted

Title VIII would not adopt recommendations of the Section 800 panel to include items that are made to government specifications in the definition of commercial items and to provide all NDI's the same contractual treatment provided for commercial items. It would not exempt commercial items from the Buy American Act and domestic source restrictions; special provisions regarding disabled Vietnam veterans and the handicapped; or the requirement for small business subcontracting plans.

TITLE IX—EFFECTIVE DATE

This Title would provide that the amendments made by this Act are effective upon enactment, except as otherwise provided.

SUMMARY—FEDERAL ACQUISITION STREAMLINING ACT OF 1993

SIMPLIFIED ACQUISITION THRESHOLD

Raises small purchase threshold from $25,000 to $100,000, as recommended by the Section 800 Panel and NPR.

Maintains current requirement that notice of procurements over $25,000 be published in Commerce Business Daily. Once notice is issued, streamlined procedures in notice can kick in.

Leaves open the options available to the Administration for the development of an EDI system, as proposed by the NPR.

Reserves contracts under threshold for small business; authorizes continued set-asides of such contracts for minority small business, as recommended by the Section 800 panel.

Exempts procurements below threshold from statutory restrictions (which generally were recommended by the NPR and the Section 800 Panel) such as the: contingent fees certification; contract audit requirements; procedural requirements of Anti-Kickback Act; Miller Act; Contract Work Hours and Safety Standards Act; Drug-Free Work Place Act of 1988; prohibition on limiting subcontractor direct sales to the United States; requirement to identify suspended or debarred subcontractors; the prohibition on the use of convict labor and prison goods; preference for transportation on U.S.-flag vessels; and identification of suppliers and sources.

COMMERCIAL ITEMS

Encourages use of commercial and other nondevelopmental items (NDI), as recommended by the Section 800 Panel and NPR.

Defines Commercial and NDIs similar to S. 260 last year, and the Section 800 Panel, and establishes preference for them.

Exempts purchases of such items—which generally was recommended by the NPR and the Section 800 Panel—from the: procedural requirements of Anti-Kickback Act; Drug-Free Work Place Act of 1988; requirement to identify suspended and debarred subcontractors; requirement to identify suppliers and sources of supplies; preference for transportation on U.S.-flag vessels; Fly American Provisions; prohibition on limiting subcontractor direct sales to the United States; contingent fees certification; procurement integrity certification; Contract Work Hours and Safety Standards Act; Federal Water Pollution Control Act certifications; and Clean Air Act certifications.

Amends the Truth in Negotiations Act to create a new commercial items exception, similar to the recommendation of the Section 800 Panel.

COMPETITION IN CONTRACTING

Amends CICA to require solicitations contain evaluation factors and subfactors and their relative weights, similar to the recommendation of the NPR.

Authorizes task order and delivery order contracts subject to time and dollar limitations and a specific competition requirement, in accordance with a similar recommendation by the Section 800 Panel.

BID PROTESTS

Consolidates judicial jurisdiction over bid protests in the Claims Court, as recommended by the Section 800 Panel.

Establishes new, accelerated schedule for notice of contract award, and a new contractor debriefing procedure, as recommended by the Section 800 Panel.

Authorizes the payment of consultant and expert witness fees (in addition to attorney's fees) in protests to the GAO and the GSA Board of Contract Appeals (GSBCA), as recommended by the Section 800 Panel. Limits all such fees to the levels established in the Equal Access to Justice Act.

Authorizes GSBCA to dismiss a protest that is frivolous or brought in bad faith and allows the GSBCA to invoke sanctions where a person brings a frivolous or bad faith protest, or willfully abuses the board's process, as recommended by the Section 800 Panel and the NPR.

Makes procedural changes including: Providing for public disclosure of any settlement agreement that involves a direct or indirect expenditure of appropriated funds.

Amends GAO's authority to provide that it may recommend payment of attorney's fees in bid protest cases, rather than directing agencies to pay such fees.

PROCUREMENT ETHICS

Amends procurement integrity law (in the spirit of the NPR) along lines of Senate passed amendment to 1991 DOD Authorization bill to: streamline the recusal provisions; consolidate DOD and civilian revolving door provisions; and revises certification provisions.

Repeals: Post-employment revolving door provisions in Title 10; DOD contractor gratuity provision; prohibition on doing business with people convicted of DOD contract-related felonies (unnecessary given suspension/debarment).

Prohibits use of consultants to conduct proposal analyses where qualified federal employees are available.

ESTABLISHING A UNIFORM PROCUREMENT SYSTEM

Codifies TINA for civilian agencies and establishes $500,000 cost and pricing data threshold government-wide in accord with similar recommendations made by NPR and the Section 800 Panel.

Establishes statutory contract cost principles for civilian agencies similar to those which exist for DOD. Threshold for application of these principles is $500,000.

Repeals Walsh-Healy Act with respect to minimum wage requirements (covered in other law), as recommended by the Section 800 Panel.

Authorizes agencies to contract directly with 8(a) contractors, as recommended by the Section 800 Panel.

Repeals and consolidate obsolete and redundant DOD laws, as recommended by the Section 800 Panel.

THE FEDERAL ACQUISITION ACT OF 1993—SUMMARY OF MAJOR ISSUES

I. COMMERCIAL ITEMS

Title VIII of the bill would encourage the use of commercial and other non-developmental items and make it substantially easier for federal agencies throughout the government to purchase such items. The purchase of proven products such as commercial and nondevelopmental items can eliminate the need for research and development, minimize acquisition leadtime, and reduce the need for detailed design specifications or expensive product testing.

Sections 8001 and 8002 contain definitions of commercial and nondevelopmental items, and would establish a preference for such items. Section 8003 would require the issuance of uniform contract clauses for commercial item contracts and require the issuance of regulations to make it easier to buy such products. Similar provisions were recommended by the Vice President's National Performance Review and Section 800 panel, and were included in S. 260 and H.R. 3161 in the last Congress.

Sections 8004 and 8005 would reduce impediments to the purchase of commercial items by exempting such purchases from a series of statutes that are unique to government purchases, and have no counterpart in the commercial sector. Section 8004 would authorize the Federal Acquisition Regulatory Council to waive the applicability of future statutes to commercial item procurements, unless such a waiver is expressly prohibited by the statute. Section 8005 would create express commercial item exemptions from the requirement to identify suppliers and sources of supplies; the requirement to identify suspended or debarred subcontractors; the preference for transportation on U.S. flag vessels; so-called "Fly American" requirements; the procedural requirements of the Anti-Kickback Act; the Drug-Free Workplace Act; the Contract Work Hours Safety Standards Act; the Clean Air Act, the Federal Water Pollution Control Act; contingent fees certifications; and Procurement Integrity certifications. Similar exemptions were recommended by the Vice President's National Performance Review and the Section 800 panel.

Other provisions, in Sections 1204 and 1251 of the bill, would amend the Truth in Negotiations Act for DOD and civilian agencies to create a new commercial items exception. This new exception would be available where competition is not feasible and the contracting officer determines that price data are adequate to determine price reasonableness. This approach would relieve commercial contractors from their number one complaint—the burden of collecting cost data for the government. The Section 800 panel recommended a similar exemption.

II. SIMPLIFIED ACQUISITION THRESHOLD

Title IV of the bill would raise the small purchase threshold from $25,000 to $100,000 and relabel it the "simplified acquisition threshold", as recommended by the Vice President's National Performance Review and the Section 800 panel. Of federal agency contract actions over $25,000, roughly 60% are under $100,000—but these purchases account for only 5% of the contract dollars. The new simplified acquisition threshold should substantially simplify the process of making small purchases and reduce the amount of manpower needed for such purchases, resulting in substantial savings for the government.

Section 4001 of the bill would establish the new simplified acquisition threshold of $100,000. Sections 4011 and 4013 would authorize the use of simplified procedures for acquisitions under the new threshold. The bill would continue the requirement that a notice of any procurement over $25,000 be published in the Commerce Business Daily 15 days prior to the issuance of a solicitation. After the issuance of this notice, however, simplified acquisition procedures could be used—for example, by shortening the period for the submission of bids and proposals.

The procedural changes made in these sections would be enhanced by the establishment of an effective electronic data interchange (EDI) system to provide access to information on contracting opportunities. The Vice President's National Performance Review has committed the executive branch to establish such a system in the next year.

Sec. 4012 would reserve all contracts under the $100,000 simplified acquisition threshold for small business, and specifically authorize continued set-asides of such contracts for minority small business, as recommended by the Section 800 panel. At present, only contracts under the $25,000 small purchase threshold are reserved for small business.

Title IV would also raise the threshold on a number of other procurement-related provisions to $100,000, as recommended by the Vice President's National Performance Review and the Section 800 panel. Section 4021 would authorize the Federal Acquisition Regulatory Council to waive the applicability of future statutes to contracts below the simplified acquisition threshold, unless such a waiver is expressly prohibited by the statute. Sec. 4081 would require a review of federal procurement regulations to identify and amend regulations that apply below the new $100,000 threshold.

Sections 4031 through 4060 would exempt procurements below the simplified acquisition threshold from contingent fees certifications; the requirement to identify suppliers and sources; the prohibition on limiting subcontractor direct sales to the United States; contract audit requirements; the requirement to identify suspended or debarred subcontractors; the preference for U.S. flag vessels; the procedural requirements of the Anti-Kickback Act; the Miller Act; the Contract Work Hours and Safety Standards Act; the Drug-Free Workplace Act of 1988; and the prohibition on use of convict labor and prison goods.

III. BID PROTESTS

Title I of the bill would make a number of changes to provisions regarding bid protests to the Comptroller General, the General Services Board of Contract Appeals (GSBCA) and in the federal courts. Bid protests are used by contractors to challenge contracting decisions that they believe violate law or regulation. Such protests serve not only to safeguard the rights of individual contractors, but also to ensure the integrity of the contracting system. When the protest process becomes too judicialized, however, it may impede the contracting process and make agency officials less willing to try innovative approaches to get the job done.

Sections 1013, 1014, 1063, 1064, 1402 would establish a new, accelerated schedule for notice of contract award, contractor debriefings, and bid protests. Under these provisions, agencies would be required to notify unsuccessful offerors of award decisions within 3 days of contract award, and to provide debriefings if requested within 7 days after contract award. Contractors could begin performance in the first 10 days after contract award, upon authorization by the contracting officer. Contracting officers would be empowered to withhold such authorization in cases where a bid protest is likely and immediate performance is not in the best interest of the United States.

By requiring contractor debriefings (as recommended by the section 800 panel and provided by S. 1958, H.R. 3161, and S. 555), these provisions should reduce the number of unmeritorious protests—because many contractors now file protests simply to get information about why they were not successful. By authorizing contracting officers to withhold authorization to begin performance, they should help agencies avoid added costs which occur when contractors unnecessarily start, stop, and restart contract performance.

Sections 1403 and 1435 would authorize the payment of consultant and expert witness fees (in addition to attorneys' fees) in protests to the GAO and the GSBCA, as recommended by the Section 800 panel. These provisions would also limit all such fees to the levels established in the Equal Access to Justice Act for attorneys fees against the United States generally. At present, there is no statutory limit on attorneys' fees in bid protest actions, and federal agencies may be required to reimburse any reasonable fees incurred by a successful protestor.

Section 1403 would also amend the provisions applicable to bid protests to the GAO to provide that the Comptroller General may recommend the payment of attorneys fees in bid protest cases, rather than directing agencies to pay such fees. This provision (which parallels language included in H.R. 3161 in the last Congress and S. 556 in this Congress) would address questions that have been raised about the constitutionality of existing law.

Sections 1434 and 1438 would address frivolous or bad faith protests to the GSBCA, as recommended by the Section 800 panel. Section 1434 would authorize the GSBCA to dismiss a protest that is frivolous, brought in bad faith, or does not state on its face a valid basis for protest. Sec. 1438 would authorize the GSBCA to invoke sanctions (including the payment of costs) where a person brings a frivolous or bad faith protest, or willfully abuses the board's process. Dismissal, but not sanctions, would be available for frivolous protests at GAO, because GAO protests are less formal and are frequently brought on a pro se basis.

Title I would also adopt a number of provisions from S. 555, to clarify GSBCA protest jurisdiction and procedures. Section 1431 would clarify the GAO's authority to revoke a delegation of authority after the award of a contract, where there is a finding of a violation of law or regulation in connection with the contract award. Section 1432 would clarify the GSBCA's authority to review contracting decisions that are alleged to have violated a statute, regulation, or the conditions of any delegation of procurement authority. Section 1436 would provide for the public disclosure of any settlement agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds. Section 1439 would clarify that the scope of GSBCA's protest jurisdiction.

This Title would also consolidate judicial jurisdiction over bid protests in the court of claims, as recommended by the Section 800 panel.

IV. PROCUREMENT ETHICS

Title VI of the bill would substantially streamline the procurement ethics laws, as recommended by the Vice President's National Performance Review and the Section 800 panel. Over the last decade, Congress has enacted a series of new procurement ethics provisions. Although each of these provisions, standing alone, addresses a specific ethics problem, the cumulative impact has been a complex patchwork of overlapping and sometimes redundant requirements.

In 1989, the President's Task Force on Ethics recommended the repeal of all procurement specific ethics laws except for a narrow provision on the disclosure of inside information. The Senate examined this proposal and decided instead to streamline and consolidate the procurement ethics laws, while retaining needed safeguards. Title VI mirrors the provisions adopted by the Senate as an amendment to the DOD Authorization bill in 1991.

Section 6001 would amend the Procurement Integrity section of the OFPP Act to streamline the recusal provision; consolidate the revolving door ban with similar provisions applicable only to the Department of Defense; harmonize the gratuities provision with government-wide ethics provisions; revise certification provisions to eliminate unnecessary administrative burdens; and clarify several other provisions. Section 6002 would amend the criminal conflict of interest provision in 18 USC 208 to expressly cover persons who aid or abet violations.

Section 6003 would repeal several superseded, obsolete, or redundant procurement ethics laws, including sections 2207, 2397, 2397a, 2397b, 2397c, and 2408 of title 10; section 281 of title 18, section 801 of title 37; and Part A of title VI of the Department of Energy Organization Act. Each of these provisions would have been repealed by the 1991 Senate amendment, was recommended for repeal by the Section 800 panel, or both.

V. ESTABLISHING A UNIFORM PROCUREMENT SYSTEM

The bill would make a number of changes to the procurement code to ensure the uniform treatment of DOD and civilian agency procurements, as recommended by the Vice President's National Performance Review.

Section 1251 of the bill would amend the Federal Property Act to codify the definitions and requirements of the Truth in Negotiations Act (TINA) for civilian agencies. TINA is the statute which requires contractors in sole-source procurements to provide the government with "cost or pricing" data to support the validity of their prices. A similar codification was added to Title 10 in 1986, but applied only to the Department of Defense.

Section 2151 would amend the Federal Property Act to establish contract cost principles for civilian agencies identical to those already in effect for DOD. Contract cost principles provide that certain types of costs—such as the entertainment costs, lobbying expenses, advertising costs, and so-called "golden parachute" payments—should not be paid by the taxpayers and are not "allowable" on federal contracts. The new provision would also establish cost certification procedures and penalties identical to those that have long been applicable in DOD procurements. The Section 800 panel recommended repeal of the statutory contract cost principles. This provision would retain these provisions, and ensure uniform treatment of DOD and civilian agency contracts.

Section 2501 would repeal 10 USC 2410, which establishes DOD-unique requirements for the certification of contract claims. The Contract Disputes Act of 1978 establishes government-wide requirements for the certification of claims. Under the bill, these requirements would remain in effect and would be amended to clarify that they govern all claims, including those at DOD.

In addition, Section 2002 would repeal 10 USC 2355, which creates unique vouchering requirements for DOD, as recommended by the Section 800 panel. The Office of Federal Procurement Policy would be expected to review existing vouchering systems and develop a standard, government-wide vouchering procedure.

VI. OTHER RECOMMENDATIONS ADOPTED

The bill would also adopt several dozen other recommendations of the Section 800 panel to streamline and improve the acquisition laws. For example, the following provisions would adopt recommendations of the Section 800 panel:

Sections 1003 and 1053 would allow an agency flexibility to designate higher-ranking officials to approve the use of non-competitive procedures;

Sections 1005 and 1055 of the bill would expressly authorize the use of umbrella contracts, as recommended by the Section 800 panel, but subject to time and dollar limitations and specific competition requirements;

Sections 1201 and 1251 would raise the threshold for cost or pricing data to $500,000 on a permanent basis for DOD and civilian agencies;

Section 1303 would give DOD broader discretion over acquisition planning in R&D contracts;

Sections 2001 and 2051 would consolidate contract financing provisions for DOD and civilian agencies, respectively;

Sections 2101 and 2151 would raise the threshold for the contract cost principles to $500,000;

Section 2102 would repeal a provision providing for standby profit controls for use during national emergencies (which hasn't been used for more than 30 years);

Section 2191 would repeal a provision requiring contractor employees to travel at government airfares (because government agreements with air carriers do not cover travel by contractor employees);

Sections 2201 and 2251 would provide consolidated audit provisions for DOD and civilian agencies, respectively;

Section 2401 would repeal a requirement for special qualification of spare parts contractors;

Section 2551 would amend the Little Tucker Act to clarify jurisdiction over contract disputes;

Section 2552 would amend the Contract Disputes Act to clarify the periods for filing claims and raise thresholds for certifications;

Section 3001 would streamline requirements for independent cost estimates and manpower estimates;

Section 3002 would streamline requirements for program baseline descriptions and deviation reporting;

Section 3003 would repeal the requirement for Defense Enterprise Programs;

Section 3004 would repeal the requirement for competitive prototyping in major programs;

Section 3005 would repeal the requirement for dual-sourcing in major programs;

Sections 3011 through 3014 would consolidate and simplify requirements for operational testing and evaluation on major defense programs;

Sections 3021 through 3084 would repeal and consolidate obsolete and redundant DOD-unique laws;

Section 4102 would repeal the Wash-Healey Act, which no longer has any impact on prevailing minimum wage rates (with the exception of certain definitional provisions);

Section 4103 would authorize agencies to contract directly with an 8(a) contractor, rather than indirectly through the Small Business Administration, unless the contractor objects;

Sections 5001 through 5004 would amend the Stevenson-Wydler Technology Innovation Act to allow employees to gain rights in copyrights as well as patents; and

Sections 7002 and 7003 would broaden DOD's authority to use international cooperative agreements and provide added flexibility for acquisition, cross-servicing, and standardization under joint and multilateral defense arrangements.

VII. RECOMMENDATIONS NOT ADOPTED

Finally, about a dozen recommendations of the Section 800 panel would not be adopted by the bill:

The proposed revisions to the False Claims Act are not included in the bill, as these issues are currently under consideration by the Judiciary Committee.

The proposed revisions to statutes governing rights in technical data are not included in the bill, because these issues are currently under review by a separate DOD-industry panel, known as the "Section 807 panel".

The proposed revisions to procedures for the imposition of secrecy orders are not included in the bill, because the handling of classified information is currently being reviewed by the executive branch.

The proposed revisions to statutes governing contracting out by the Department of Defense are not included in the bill, because these statutes are currently under review by other subcommittees with jurisdiction over the issue.

The contract cost principles would not be repealed as recommended, because this statute constitutes an important statement of congressional policy, and the Section 800 panel did not identify any substantive deficiency in the statute.

Detailed reporting requirements for the acquisition of major weapons systems would not be repealed as recommended, because these reports have already been fully automated, and provide Congress with useful information.

The contractor warranty provision would not be repealed because the report states that although the provision has been poorly implemented, it serves an important purpose. Improved implementation guidelines would be required by the bill.

The bill would not increase the blanket delegation of procurement authority (in ADP procurements) for the Department of Defense, because this action can be taken, if appropriate, without legislative action.

The bill would not roll back conflict-of-interest provisions related to operational test and evaluation, because these provisions were recently enacted to address specific concerns about the integrity of product testing.

The bill would not loosen restrictions on the use of the so-called "M Accounts", as these limits were recently enacted to address specific abuses of DOD funds.

Mr. LEVIN. Mr. President, I am pleased to introduce, with my colleagues, Senators GLENN, NUNN, BINGAMAN, BUMPERS, and LIEBERMAN, the Federal Acquisition Streamlining Act of 1993—the most significant procurement reform legislation to be considered by the Senate since Senator COHEN and I introduced the Competition in Contracting Act 10 years ago.

This bill would implement the most important procurement recommendations of both the Vice President's National Performance Review and the DOD-Industry panel on streamlining the acquisition laws—the so-called section 800 panel. More importantly, it could save billions of taxpayer dollars every year.

As the Vice President's report on reinventing government states, excessive regulation in the existing procurement system "adds costs without adding value; it impedes Government's access to state-of-the-art commercial technology; and its complexity forces businesses to alter standard procedures and raise prices when dealing with the government."

We must simplify procurement regulations and procedures and we must do it now. The bill we are introducing today would achieve this objective by eliminating obsolete and redundant laws, while streamlining and reforming others, to create a simpler and more efficient procurement system.

The Federal Acquisition Streamlining Act is the product of many months of work. Starting in late January, the majority and minority staffs of the Senate Governmental Affairs, Armed Services, and Small Business Committees have met on a weekly basis to review the acquisition laws on a line-by-line basis to determine where these laws could be streamlined, simplified, or reformed. The bill that we are introducing today is the consensus product of that review.

Our review was based, in large part, on the work of the section 800 panel on acquisition reform, which delivered its report to the Congress in late January. This report is 8 volumes and 1,800 pages long; it contains hundreds of recommendations and a review of every procurement-related statute the panel was able to identify.

With the exception of a few obsolete provisions, every one of these statutes serves some valid purpose. We have competition requirements to ensure that we obtain low prices, avoid favoritism and conflict of interest, and provide everybody with a fair chance to compete for Government contracts. We have audit requirements and cost principles to ensure that we get what we pay for under cost type contracts. We have socio-economic requirements to promote desirable social objectives like promoting small and minority businesses. We have ethics requirements to ensure that our procurement officials do not engage in employment discussions with contractors with whom they are negotiating contracts or show favoritism by giving inside information to contractors.

However, when all these laws—and hundreds more requirements that are imposed by regulation—are added together, the result is an almost impossibly complex and unwieldy system. There is much that we can do and should do to streamline this system and make it cheaper and easier for the Government to buy the products and services we need, without sacrificing the important objectives served by the procurement laws.

Most importantly, this bill would make it easier for the Government to buy commercial products instead of requiring products to be designed to Government-unique specifications. As I explained when I first introduced commercial products legislation 5 years ago, it only makes sense that products that are already in use—known as nondevelopmental items or NDI's—are less expensive and easier to purchase than new, Government-unique items. The acquisition of NDI's can lower initial purchase costs by reducing or eliminating the need for research and development. Acquisition leadtime can be reduced since NDI's are readily available and can be produced on existing production lines. Because the product is already developed and has been shown to work, the need for detailed design specifications and extensive testing is also reduced.

As the Vice President's report on reinventing government states, "Our government buys such items as integrated circuits, pillows, and oil pans, designed to Government specifications—even when there are equally good commercial products available." We can save a huge amount of money by taking advantage of these proven commercial products, instead of trying to reinvent the wheel at taxpayer expense.

For example, a 1991 study by the Logistics Management Institute found that a single Navy command had been able to save:

Five million dollars by substituting commercial standards for Government-unique specifications for thermal insulation materials; $3.7 million by purchasing general purpose automobiles with standard commercial paint, instead of requiring that all vehicles be painted medium Navy gray; $5 million by purchasing commercially available fire and rescue trucks instead of custom designed vehicles; $1 million by buying commercially available generators and floodlights, instead of specially designed, DOD-unique floodlights and generators.

Earlier this year, the Defense Science Board task force on acquisition reform concluded that DOD alone could save more than $2 billion a year by using more commercial items and commercial specifications.

I have been fighting for this goal for years—holding three subcommittee hearings, issuing two committee reports, authoring two successful amendments to DOD authorization bills, and introducing two bills to extend these reforms governmentwide. I am proud that title VIII of the bill—the commercial products title—incorporates all of the major elements, and much of the language, of the legislation that I have previously introduced—and which passed the Senate in two consecutive Congresses—to remove obstacles to Government purchases of commercial products and encourage Federal agencies to make greater use of products that have already been proven in the commercial marketplace.

Like the commercial product bills I have introduced in the past, title VIII would:

Establish new, governmentwide definitions of commercial items and other off-the-shelf products; create a preference for the acquisition of such items; require Federal agencies to use simplified procurement specifications to the maximum extent possible; require agencies to conduct market research to determine whether their needs can be met by commercial and off-the-shelf products; require the use of uniform, simplified contracts for the purchase of commercial items; authorize the use of market acceptance criteria in commercial procurements; encourage the consideration of contractors' past performance in decisions to award future contracts; permit commercial contractors to use existing quality assurance systems instead of extensive Government testing; and require Federal agencies to take advantage of commercial warranties.

In addition to these measures, the bill would take two other very significant steps—recommended by both the Vice President's National Performance Review and the section 800 panel—to simplify the acquisition of commercial products.

First, the bill would modify the Truth in Negotiations Act to permit contracting officers to waive its applicability to the acquisition of commercial items in appropriate cases. This means that commercial companies would not be subject to the requirement to produce extensive cost or pricing data to justify the prices they charge for their products. This data requirement creates an unneeded paperwork burden in cases where fair prices have already been reached through competition in the commercial marketplace.

Second, the bill would waive a series of Government-unique statutory requirements that have no parallel in the commercial marketplace. These requirements create an impediment to the purchase of commercial items, because they require commercial companies to make extensive changes to their business operations if they choose to sell to the Government. We join with the Vice President in seeking to take this important step to streamline the acquisition system.

Mr. President, this bill contains many other significant changes to the procurement system, which should enable us to purchase goods and services more efficiently, at a lower overall cost to the taxpayer. For example, the bill would:

Establish a new simplified acquisition threshold of $100,000, as recommended by the Vice President's National Performance Review and the section 800 panel; raise the threshold on a number of other procurement-related provisions to $100,000, as recommended by the Vice President's National Performance Review and the section 800 panel; authorize the use of umbrella contracts, as recommended by the section 800 panel, but subject to time and dollar limitations and specific competition requirements; streamline and consolidate the procurement ethics laws, while retaining needed safeguards; amend the Federal Property Act to codify the definitions and requirements of the Truth in Negotiations Act [TINA] for civilian agencies; raise the threshold for cost or pricing data to $500,000 on a permanent basis for DOD and civilian agencies; amend the Federal Property Act to establish contract cost principles for civilian agencies identical to those already in effect for DOD; establish a new, accelerated schedule for notice of contract award, contractor debriefings, and bid protests; require contractor debriefings when requested by a disappointed bidder; authorize the payment of consultant and expert witness fees in bid protests—in addition to attorneys' fees—while limiting all such fees to the levels established in the Equal Access to Justice Act; amend the provisions applicable to bid protests to the GAO to address questions that have been raised about the constitutionality of existing law; address frivolous or bad faith protests, by authorizing the dismissal of such protests and the use of sanctions in appropriate cases; and clarify GSBCA protest jurisdiction and procedures, as proposed by Senator GLENN in a series of bills introduced in the last two Congresses.

This bill is the product of a true collaborative effort among three Senate committees and between both Democrats and Republicans. It would not have been possible without the commitment of Senators GLENN, NUNN, and BUMPERS, who have whole-heartedly embraced the goal of acquisition streamlining and made the staffs of their respective committees available to work on this project over a period of many months. It would not have been possible without the efforts of Senator

BINGAMAN, who initiated the section 800 review of the defense acquisition laws and pushed us all to give the panel's report the attention it deserved.

Finally, this bill could not have been drafted without the full participation of the Republican staffs of the Governmental Affairs, Armed Services, and Small Business Committees. It is my hope that we can continue to work on a bipartisan basis as this bill goes through the committee process, and can enact a sensible bill that has strong support from both Democrats and Republicans.

The Federal Acquisition Streamlining Act is an important piece of reinventing government. It deserves the close attention and quick action from the Senate. I hope our colleagues will join us in supporting this far-reaching measure.

Mr. NUNN. Mr. President, President Clinton and Vice President GORE presented the details of the administration's acquisition reform agenda at a White House ceremony today. Acquisition reform is a central feature of the administration's blueprint for reinventing government. The proposals put forth by the administration today underscore the commitment of President Clinton to achieving significant savings in the defense acquisition process, and reflect the diligent efforts of Vice President GORE to promote major changes in the way that the Government buys goods and services.

I was particularly pleased that the administration has endorsed the Federal Acquisition Streamlining Act of 1993, which will be introduced today with the sponsorship of Senators GLENN, BINGAMAN, LEVIN, BUMPERS, and myself. The introduction of this legislation is another major step in the effort to promote significant changes in the Government's complex and burdensome acquisition process.

Acquisition reform is not a particularly glamorous subject. The maze of statutes and regulations that govern the purchases of everything from pencils to nuclear submarines presents a daunting challenge to any reformer. I want to commend each of the cosponsors of the bill for the diligent attention that they have brought to this subject. As a member of the Armed Services, Governmental Affairs, and Small Business Committees, I have worked with each of these Members on a wide variety of procurement issues. Their many years of combined experience is reflected in the provisions of this bill.

Senator JOHN GLENN, as chairman of the Governmental Affairs Committee and as chairman of the Subcommittee on Military Readiness and Defense Infrastructure of the Senate Armed Services Committee, has been a leader in promoting governmentwide procurement reform.

Senator CARL LEVIN, as chairman of the Governmental Affairs Subcommittee on the Oversight of Government Management, and as chairman of the Armed Services Subcommittee on Coalition Defense and Reinforcing Forces, has mastered the intricate details of the defense procurement system.

Senator JEFF BINGAMAN, as chairman of the Armed Services Subcommittee on Defense Technology, Acquisition, and the Industrial Base has been a major force in promoting acquisition reform. In fact, his initiatives are largely responsible for the legislation that we are introducing today.

Senator DALE BUMPERS, chairman of the Committee on Small Business, has ensured that the procurement system takes into account the special needs, capabilities, and contributions of the small business community.

Over the past decade, Congress and the executive branch have struggled to make sense out of the complex process of supplying our men and women in uniform with the best, most cost-effective weapons systems. In the 1980's, the need for reform was underscored by the spare parts horror stories, the criminal enterprises characterized by the Ill Wind prosecution, the frequency of cost-overruns, and the increasing delays in fielding new systems. At the same time, the graphic success of the equipment used by our Armed forces in Operation Desert Storm illustrated the fact—overlooked by many before the war—that the acquisition system in place in the 1970's also could produce the finest weapons systems in the world. The problem, however, was—and is—that the system that produced those weapons took too long and cost too much. In the aftermath of the cold war, with the increasing pressure to reduce the defense budget, we simply cannot afford huge costs associated with an inefficient acquisition system.

During the 1980's, the acquisition laws and regulations proliferated as Congress and the executive branch attempted to balance the need for reform with the need to ensure continued effective research and procurement. The result was a proliferation of often contradictory requirements that increasingly encumbered the acquisition process, as illustrated in testimony before the committee from the Department of Defense, industry witnesses, and such independent observers as the General Accounting Office.

During the late 1980's, the Armed Services Committee and Senator BINGAMAN's subcommittee repeatedly sought recommendations from the Department of Defense to reform the acquisition system. Year after year, the Department complained about the acquisition laws, but no significant legislative proposals were forthcoming. In 1990, Senator BINGAMAN concluded that we simply could not wait for the Department to act. Working on a bipartisan basis with the members of his subcommittee, he developed legislation, which was enacted as section 800 of the National Defense Authorization Act for fiscal year 1991, requiring the Department of Defense to establish an advisory panel on streamlining and codifying the acquisition laws.

The advisory panel completed a mammoth undertaking, producing an 1,800-page report that reviews more than 600 procurement laws and makes specific proposals to amend or repeal nearly 300 laws. The report focuses on the most critical issue facing us today—how to transform a outmoded system that was designed to regulate defense-dependent industries into a system that will facilitate the commercial-military integration and the development of dual-use industries that can meet the defense technology and industrial base requirements for the nineties and beyond.

The report of the advisory panel establishes a solid foundation for acquisition reform. Many of the procurement streamlining recommendations in the Vice President's National Performance Review are based upon the report of the advisory panel.

The bill that we are introducing reflects the advisory panel's report, the Vice President's National Performance Review, and an extensive bipartisan review undertaken on a joint basis by the staffs of the Armed Services, Governmental Affairs, and Small Business Committees.

The statutory changes proposed in our bill are detailed and complex. The underlying issues, however, involve the foundations of the acquisition process—auditing practices, oversight activities, competition in contracting, paperwork reduction, integration of the Government and commercial sectors, and simplified small purchases, and strengthening the technology and industrial base.

The bill we are introducing today includes major changes in the procurement laws. First, the bill establishes a $100,000 simplified acquisition threshold, which will replace the current $25,000 small purchase threshold. The simplified threshold expands the number of statutes that are waived for small purchases, and expands the streamlined process of making small purchases. This will reduce the amount of manpower needed for such purchases, resulting in substantial savings for the Government.

Second, the bill facilitates the use of commercial and other nondevelopmental items and makes it substantially easier for Federal agencies to purchase such items. The purchase of proven products such as commercial and nondevelopmental items can eliminate the need for research and development, minimize acquisition leadtime, and reduce the need for detailed design specifications or expensive product testing.

Third, the bill revises and simplifies the bid protest process. Fourth, the bill consolidates and simplifies the confusing and often contradictory rules that govern procurement ethics. Finally, the bill promotes efficiency by establishing procedures that will apply on a uniform basis to both the Department of Defense and the civilian agencies, to the maximum extent practicable. This will greatly facilitate the ability of suppliers, particularly in the commercial sector, to meet the needs of the Government without excessive overhead.

The bill we are introducing today will be the subject of joint hearings before the Committees on Armed Services, Governmental Affairs, and Small Business in which representatives of the executive branch, as well as witnesses from public and private sectors, will be afforded an opportunity to make specific comments and recommendations on the legislation.

This is an ambitious task, but I believe that there is a growing consensus that the time for action has come. I look forward to working with the Clinton administration, with my colleagues in the Senate and House of Representatives, and with representatives from government, industry, and academia, in enacting comprehensive acquisition-reform legislation.

Mr. BINGAMAN. Mr. President, I am pleased to join Senator GLENN, Senator LEVIN, Senator NUNN, Senator BUMPERS, and Senator LIEBERMAN today in introducing the Federal Acquisition Streamlining Act of 1993. The introduction of this bill in both Houses today begins a legislative process. It is a process in which I fully expect changes to be made in the bill as a result of comments the Governmental Affairs, Armed Services, and Small Business Committees will receive in our hearings. Those changes will be made in markup and on the floor and in conference. In the areas of simplified acquisition threshold and purchase of commercial products, I myself expect to propose and support changes during that process to enhance the application of these provisions. Each of the sponsors of this bill would have liked to have gone further in certain areas, and we will undoubtedly have a vigorous discussion of possible enhancements throughout the legislative process.

But today I want to stress how far we have come to get to this point. This is the first serious effort at acquisition reform in many, many years. We have had commission after commission and executive branch management review after executive branch management review, all reaching similar broad conclusions that our current acquisition system is broken, that we have piled statute upon statute and regulation upon regulation, each perhaps having merit taken individually, but together weighing down the system in inefficiency and redtape at great cost to the taxpayers of this Nation.

What we were not able to get out of these commissions and executive branch management reviews in the past were any detailed prescriptions for changes in the large body of acquisition law. The commissions did not stay together long enough to get into the necessary level of detail. And the executive branch seemed only capable of tying itself up in knots over any proposals for legislative relief, however modest.

Back in 1990, after 4 years of getting no recommendations for reform to implement the 1986 Packard Commission's acquisition reform recommendations from the executive branch, the Armed Services and Governmental Affairs Committees on a bipartisan basis tried to break out of this impasse by creating the Acquisition Law Advisory Panel or section 800 panel. Section 800 refers to section 800 of the fiscal year 1991 Defense Authorization Act, which created the panel. The section 800 panel was charged with reporting at the end of 1992 with detailed statute-by-statute recommendations on how to streamline the acquisition process and get better value for the taxpayers' investment. We knew that the American Bar Association had been able to draw up a uniform procurement code for State governments, which the overwhelming majority of States had adopted, and we hoped that the section 800 panel report would be able to jumpstart the acquisition reform process in 1993, whoever was elected in 1992. The panel, composed of both private sector representatives and Federal officials, was appointed by mid-1991 and used the remaining 18 months of its tenure to pursue its mandate.

The section 800 panel under Rear Adm. W.L. Vincent's able leadership did just what we had requested. They reviewed the entire body of acquisition law, producing a 1,800-page report that discusses more than 600 procurement statutes and makes specific proposals to amend or repeal nearly 300 laws. Their report has been the point of departure for every serious discussion of procurement reform this year, both here in the Congress and in the executive branch and in the private sector. All the members of the panel deserve a great deal of credit for their tireless efforts. I ask unanimous consent that the list of panel members be included in the RECORD at the end of my statement, together with the executive summary of their report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION 800 PANEL MEMBERS

Pete Bryan, Director, Contract Policy & Administration, Office of the Secretary of Defense.

Allan Burman, Administrator for Federal Procurement Policy.

Anthony Gamboa, Deputy General Counsel, Department of the Army.

Jack Harding, Vice President, Contracts, Raytheon Corporation.

LeRoy Haugh, Vice President, Procurement & Finance, Aerospace Industries Association.

Thomas J. Madden, Partner, Venable, Baetjer, Howard and Civiletti.

Ralph Nash, Jr., Professor of Law, George Washington University.

F. Whitten Peters, Partner, Williams and Connolly.

Gary Quigley, Deputy General Counsel, Defense Logistics Agency.

Major General John D. Slinkard, USAF, Deputy Chief of Staff for Contracting, Headquarters, Air Force Materiel Command.

Rear Admiral W. L. Vincent, USN, Commandant, Defense Systems Management College.

Robert D. Wallick, Partner, Steptoe & Johnson.

Harvey Wilcox, Deputy General Counsel, Department of the Navy.

STREAMLINING DEFENSE ACQUISITION LAW—REPORT OF THE ADVISORY PANEL ON STREAMLINING AND CODIFYING ACQUISITION LAWS

INTRODUCTION

A. Background

Hundreds of individual laws create the underpinnings of the defense acquisition system. Large and small, significant and trivial, new and old, these laws emanate from the fundamental Constitutional responsibility of the Congress "To raise and support Armies (and) * * * To provide and maintain a Navy."[1] Expanded many times by regulations, by supplements to regulations, by directives, and by established practice, these laws have been interpreted and applied by various courts, boards of contract appeals, and the General Accounting Office. Separately and together, they govern the way tens of thousands of Government workers buy—and hundreds of thousands of Americans manufacture, perform, and sell—the millions of items and services required by a modern fighting force—literally everything from desert camouflage uniforms to precision-guided munitions.

With the passage of the National Defense Authorization Act for FY91, Congress declared that the time had come to start the process of rationalizing, codifying, and streamlining this body of laws. Section 800 of that Act directed the official responsible for administering acquisition law and regulation—the Under Secretary of Defense for Acquisition—to appoint an advisory panel of Government and civilian experts. Under the leadership of the Commandant of the Defense Systems Management College,[2] this panel was to review all laws affecting DOD procurement, "with a view toward streamlining the defense acquisition process," and to issue a report for transmission by the Secretary of Defense to the Congress in January 1993. The report was to be a practical plan of action for moving from present law to an understandable code containing specific recommendations to Congress: to eliminate any laws "unnecessary for the establishment of buyer and seller relationships in procurement;" to ensure the "continuing financial and ethical integrity" of defense procurement programs; and to "protect the best interests of the Department of Defense." Finally, the panel was asked to "prepare a proposed code of relevant acquisition laws."[3]

Maintaining a fair, efficient, and open system of defense procurement has been a fundamental public policy since the earliest

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Footnotes at end of article.

days of the Republic, as well as a specific congressional goal since DOD was created by the National Security Act of 1947. In the decades that followed, six major executive branch commissions separately examined the perennial problem of defense management. In addition to serving as benchmarks for reform, these commissions also resulted in some significant improvements. The recommendations of the 1972 Commission on Government Procurement concerning the need for a uniform procurement system "led to the establishment of the Office of Federal Procurement Policy and the development of the Federal Acquisition Regulations."[4] In 1986, a new wave of change resulted in the passage of the Goldwater-Nichols Act—a landmark law that resolved entrenched issues of defense structure and command authority—as well as the creation of yet another commission—the President's Blue Ribbon Commission on Defense Management headed by David Packard.[5]

The Packard Commission provided a comprehensive analysis of the major problem areas affecting defense management, and it also made a specific recommendation to recodify the Federal laws governing procurement:

"* * * the legal regime for defense acquisition is today impossibly cumbersome. * * * At operating levels within DOD, it is now virtually impossible to assimilate new legislative or regulatory refinements promptly or effectively. For these reasons, we recommend that Congress work with the Administration to recodify Federal laws governing procurement into a single, consistent, and greatly simplified procurement statute."[6]

Although the Packard Commission's recommendations attracted wide public attention, they nevertheless failed to prompt the sweeping legislative changes that many had thought possible in the aftermath of the Goldwater-Nichols reforms. A 1988 congressional report noted that the Packard Commission's status as the sixth major study of defense acquisition over four decades meant that it was merely the latest to address continuing problem areas in defense procurement. As House Armed Services Committee Chairman Les Aspin stated in his foreword to the report, "Perhaps the next executive commission on acquisition should be created, not to propose the reforms, but to implement them."[7] In June 1989, Secretary of Defense Dick Cheney set forth just such a plan in his Defense Management Review [DMR], an ambitious effort not only to implement the recommendations of the Packard Commission, but to provide a framework for continuing improvements in Pentagon acquisition practices.[8]

One of the Packard Commission's findings, endorsed by the DMR, was the need for broad changes in the acquisition statutes:

"With the enactment of additional major legislation since 1986, when the Packard Commission finished its work, there is increased urgency to addressing the body of procurement law in its totality—in order to simplify, and clarify the framework under which DOD and other departments operate, and more broadly * * * to make the acquisition process fundamentally more effective.[9]

The DMR subsequently provided a benchmark for a number of important acquisition initiatives: the identification of almost 400 acquisition directives for cancellation or consolidation; the streamlining of the Defense Federal Acquisition Regulation Supplement to a document less than half the size of its predecessor; and, in response to a DMR White Paper, congressional action to cancel 30% of the recurring reports that it had originally required for oversight purposes.[10]

This executive-legislative branch partnership was implicitly recognized by the Senate in approving the legislation which authorized the formation of the "Advisory Panel on Streamlining and Codification of the Acquisition Laws."

"The Packard Commission and Secretary Cheney's Defense Management Review represent the most recent efforts to promote efficiency in Government procurement practices. The purpose of this Advisory Panel will not be to plow the same ground as previous studies; rather, it will be to take the general principles set forth in these studies and prepare a pragmatic, workable set of recommended changes to the acquisition laws."[11]

B. Strategic changes

The authorization of the Panel took place in the midst of fundamental changes in the international security environment, highlighted by the unification of Germany, the transformation of Eastern Europe, and the break-up of the Soviet Union. Before the Panel could even begin its deliberations, however, the United States found itself at war in the Persian Gulf, the results of Operation Desert Storm providing another clear demonstration that procurement decisions made in peacetime have life-or-death consequences in combat. Those lessons were still being absorbed when the failed coup d'état of August 1991 heralded the end of Soviet communism, the collapse of the Soviet Union, and the emergence of the new Commonwealth of Independent States. The United States thus emerged victorious from a short, hot war and a much longer Cold War—all in the space of six months.

These strategic changes had profound implications for the American defense establishment. Not only could U.S. military forces be reduced, but the money spent on defense could be redirected toward other national priorities. Those changes in turn had equally profound implications for the Panel. The dramatic reductions in defense spending were sufficient by themselves to create a presumption that the acquisition system of the future would demand better management by fewer people of far fewer tax dollars. "Better" in this case was synonymous with the simpler, more flexible, and more responsive procedures needed to match the sweeping personnel reductions and management realignments that had become the order of the day. Under the blueprint established by the DMR, for example, cost reductions of more than $70 billion between 1990 and 1997 had to come as a result of "improved business practices * * * not from program or force level cuts."[12] In its review, therefore, the Panel had a clear obligation to seek out legislative reforms which would enable both Government and industry to operate more efficiently with reduced budgets.

Other major influences upon the Panel's deliberations were the changes occurring in the defense industrial base. Operation Desert Storm demonstrated that an industrial base built around the global requirements of the Cold War had the capacity to respond to the demands of a regional conflict. However, as a study by the Air Force Association noted, this industrial base,

"* * * no longer exists. Even as the nation watched the war on television, the companies that produced the impressive weapons were releasing workers, closing plants, and searching for nondefense business."[13]

This exodus from the defense marketplace was not solely due to the downturn in defense spending:

"Firms, particularly subcontractors and suppliers of system components, are moving from defense to the commercial market, where the profits are better and where business is conducted in a more stable, less adversarial manner."[14]

Two congressional studies completed in the aftermath of the Gulf War simultaneously praised the performance of U.S. weapons systems while citing the burden of regulatory controls imposed through the DOD acquisition system as an importance factor in the decline of the industrial base.[15]

While the Panel's charter called for legislative rather than regulatory reform, there is an important linkage, often missed in public and congressional criticism of DOD contracting methods: many of the regulations which impose the most burdensome controls are specifically mandated by statute.[16] With widespread public perceptions that the term "Government procurement" is synonymous with "scandal," the stakes have never been higher for DOD administrators understandably determined to avoid the appearance of wrongdoing or, worse yet, any controversy suggesting the need for still more legislation. Risk aversion leads in turn to a search for safety through the ever tightening knot of restrictive rule making and detailed regulations. This "missing link" between law and regulation overlooked by so many analysts was addressed in a study specially prepared in 1992 for the Panel by the American Defense Preparedness Association. It found that acquisition laws represented the apex of a "cascading pyramid" of restrictive regulations, overly detailed military specifications, and common procurement practices that typically added 30–50% to the costs of doing business with the Department of Defense.[17]

Although these costs have customarily been measured in both time and money, they also burden technological innovation. Ironically, it is technological sophistication which has characterized American weapons development for more than a generation, and is an essential component of our continued military superiority. It is also important to remember that these laws are part of a system that has been successfully applied for almost a half century to procure the weapons and material used by American armed forces in actual combat in Korea, Vietnam, and the Persian Gulf, as well as a host of Cold War confrontations. By the early 1990s, however, this record of success could not completely offset a growing concern among lawmakers and procurement experts who worried about the system's ability to respond to future scientific challenges. For one thing, the procurement process typically operated at a pace which was far slower than the technological developments it sought to capture. Worse yet, it imposed bureaucratic requirements which were so unique and intrusive (e.g., cost accounting standards) that many contractors totally separated their Government and commercial production facilities. These barriers not only added to the costs of doing business with the Government, but they also "walled off" the rapid advances being made in commercial research and development from each exploitation and use in military systems.

A particular vivid example of this barrier occurred during the Gulf War. According to a story cited by Donald A. Hicks, a former Under Secretary of Defense for Research and Engineering, the U.S. Army placed an emergency order for 6,000 commercial radio receivers, waiving all military requirements and specifications. Because of the urgency of preparations for war—as well as the ever present threat of second-guessing once that urgency had faded—no responsible procurement official could be found who would waive the requirement for the company to certify that the Army was being offered the lowest available price. Since the radio was widely marketed and any misstatement might constitute a felony, no company official would make this certification. The impasse was resolved only when the Japanese Government bought the radios without a price certification, donated them to the U.S. Army, and credited the purchase against Japan's financial contribution to the Operation Desert Storm.[18]

The Gulf War demonstrated the devastating tactical effect of sophisticated weaponry of all kinds, particularly when precision munitions were coupled with advanced command and control systems. If these developments truly represent what DOD referred to as a "military technological revolution," then the information needed to hone the American combat edge will increasingly depend on developments in the commercial sector.[19] A number of public and private studies have documented the need for more effective integration of commercial and military technology. These analyses have pointed out that this linkage is not only needed to ensure a stable, viable defense industrial base as Government spending is reduced, but is equally important to ensure a wartime surge capability as traditional defense plants are eliminated. Recognizing this trend, Congress has given clear guidance in a series of defense authorization bills that it too is concerned with this objective. Unfortunately, this guidance has not reduced the barriers to commercial access. The impediments to civilian-military integration, therefore, became a topic of continuing interest to the Panel, typifying in many ways the overriding need to streamline the defense procurement laws in a new era of fiscal austerity and great strategic uncertainty.[20]

C. Goals and objectives

At the first meeting of the Panel, the members established the basic framework for the conduct of this study. As a result of that discussion, they agreed that their congressional charter (Public Law 101-510, section 800) provided the following goals for their efforts:

Streamline the defense acquisition process and prepare a proposed code of relevant acquisition laws.

Eliminate acquisition laws that are unnecessary for the establishment and administration of the buyer and seller relationships in procurement.

Ensure the continuing financial and ethical integrity of defense procurement programs.

Protect the best interests of DOD.

During several of its initial meetings, the Panel heard testimony from a wide variety of experts representing Government, the military, and industry. Noted defense analyst Dr. Jacques S. Gansler spoke of the need for closer integration of commercial and military technologies, while Senator William Roth was equally forthright in urging the members to propose dramatic changes in the laws governing the procurement process. In his presentation to the Panel, Senator Jeff Bingaman also acknowledged that many acquisition laws enacted in the 1980s had been passed without careful consideration for their impact on the existing framework. Because Congress was clearly concerned with its ultimate accountability for the procurement system, he pointed out, a comprehensive revamping of the system of acquisition laws was now in order. General officers from the military services, as well as senior civilian executives representing such key procurement elements as the Defense Logistics Agency, were also invited to testify as the Panel sought to identify the most critical problem areas. Industry groups, such as the Council of Defense and Space Industry Associations, the American Bar Association, and the U.S. Chamber of Commerce, were also contacted during this phase of the review.

Although individual perspectives varied, there was surprising agreement on the burden placed upon the acquisition community by the increasingly complex web of procurement laws. Many of these viewpoints were summarized in a timely article by Professor William E. Kovacic of George Mason University:

"The perceived imperative to embrace immediate statutory cures for apparent (procurement) deficiencies in the 1980s inspired several enactments of sweeping scope and questionable draftsmanship. * * * Once adopted, such enactments typically resist subsequent retrenchment, as any suggested ex post weakening of requirements usually is successfully attacked by the advocates of the original legislation as an unwarranted dilution of congressional efforts to discourage fraud and otherwise improve procurement performance. There is, in effect, an upward statutory ratchet in procurement regulation that ensures that regulatory commands become ever more restrictive."[21]

In the early months of the Panel's activities, its members sought to simplify their original goals and to identify more specific criteria to guide their recommendations for statutory change. The key to this effort was a broadly based pattern of outreach activities, all aimed at ensuring a review process that was open to the widest possible variety of public access and comments. Monthly Panel meetings, held in several locations at Fort Belvoir, Virginia and the District of Columbia, were regularly advertised in the Federal Register and became the venue for both formal presentations and more informal consultations between the concerned public and the members. Federal Register announcements and widely distributed letters were also used as a means of soliciting public comments in the principal functional areas selected for review. Panel members and their staffs routinely provided briefings on their work to both the executive and legislative branches as well as to a wide variety of public interest and industry groups. Through these individual and collective efforts, the Panel was able to establish from its inception a remarkably free-ranging dialogue with both the acquisition community and the general public.

One of the first concrete results of that dialogue was the Panel's agreement on the 10 objectives that would help to guide its review:

(1) Acquisition laws should identify the broad policy objectives and the fundamental requirements to be achieved. Detailed implementing methodology should be reserved to the acquisition regulations.

(2) Acquisition laws should promote financial and ethical integrity in ways that are:

(a) simple and understandable;

(b) not unduly burdensome; and

(c) encourage sound and efficient procurement practices.

(3) Acquisition laws should establish a balance between an efficient process and

(a) full and open access to the procurement system; and

(b) socioeconomic policies.

(4) Acquisition laws should, without alteration of commercial accounting or business practices, facilitate:

(a) Government access to commercial technologies; and

(b) Government access to the skills available in the commercial market place to develop new technologies.

(5) Acquisition laws should, without requiring contractors to incur additional costs, facilitate the purchase by DOD or its contractors of commercial or modified commercial products and services at or based on commercial market prices.

(6) Acquisition laws should enable companies (contractors or subcontractors) to integrate the production of both commercial and Government-unique products in a single business unit without altering their commercial accounting or business practices.

(7) Acquisition laws should promote the development and preservation of an industrial base and commercial access to Government developed technologies.

(8) Acquisition laws should provide the means for expeditious and fair resolution or procurement disputes through uniform interpretation of laws and implementing regulations.

(9) Acquisition laws should encourage the exercise of sound judgment on the part of acquisition personnel.

(10) Acquisition laws should, when generating reporting requirements, permit as much as possible the use of data that already exists and is already collected without imposing additional administrative burdens.

D. Approaches

Before these goals and objectives could be applied to the task of streamlining, it was necessary to define the universe of laws affecting defense acquisition. The last attempt to compile these laws had occurred in the early 1970s, when the Commission on Government Procurement identified over 4,000 statutes (Public Laws and U.S. Code sections) thought applicable to the procurement process.[22] In addition to being outdated, however, the criteria used in making those judgments could not be readily determined or easily applied. More helpful was the biennial report prepared by the House Armed Services Committee, Laws Relating to Federal Procurement.[23] The statutes identified there were correlated with a key word search on acquisition related terms contained in a FAR/DFARS data base.[24] Fiscal laws accompanying acquisition related statutes were also included in this initial compilation, as well as various executive orders. Throughout their search, the researchers routinely included any laws of possible applicability in order to minimize the risk of overlooking any pertinent statute.

From these sources, the Panel initially identified 889 provisions of law that appeared to have some relationship to DOD acquisition. In reviewing this list, however, the Panel soon decided that some of these statutes did not warrant further consideration. Laws relating to basic DOD organizational structure, the operation of the defense commissary system and nonappropriated fund activities, as well as traditional supply functions were determined to have only a minimal impact on the buyer-seller relationship which was the main focus of the Panel's efforts. Fiscal laws were similarly excluded from more detailed review because the Panel decided that they affected defense budgeting more than defense acquisition. Recently passed legislation dealing with the acquisition work force, although considered both relevant and important, was not considered because it was still in the implementation process. The provisions of the public contract statutes in Title 41 of the U.S. Code were generally excluded from review in favor of a tighter focus on their parallel provisions in Title 10, the primary reference for DOD.[25] Several exceptions to this rule included the Office of Federal Procurement Policy Act and certain other provisions of Title 41 which had a direct impact upon DOD acquisition. Following this initial winnowing process, the Panel continued to filter out laws when subsequent review revealed them to be of only marginal importance to its declared objectives.

Even after this screening, the Panel was left with a universe of over 600 DOD-related procurement laws that it was required to review in line with its congressional charter. Those numbers highlighted the importance of approaching defense acquisition as a system. Defined doctrinally, the defense acquisition system is "a single uniform system whereby all equipment, facilities, and services are planned, developed, acquired, maintained, and disposed of within the Department of Defense."[26] The requirement to think systemically, combined with the need to divide the labor of reviewing so many statues, led the Panel to establish working groups covering six major functional areas: contract formation; contract administration; service-specific and major systems statues; socioeconomic requirements, small business, and simplified acquisition; standards of conduct; and intellectual property. In addition, two ad hoc working groups addressed commercial procurement and international defense cooperation.

The functional working groups each consisted of two Panel members, one from the public sector and one from the private sector. They quickly became the focal points for research and analysis in these functional areas, reviewing the laws assigned to them and preparing recommendations for decision by the Panel as a whole. In reviewing the major statutes, the working groups typically began the process with a legislative history and a literature search. Building upon the wide public contacts that had already been established, comments were solicited from the acquisition community and other interested parties, often through the use of Federal Register notices or questionnaires. Minutes of Panel meetings, legislative abstracts, and various position papers were also distributed through the extensive mailing and telefax lists that were eventually developed by each working group and the Panel as a whole. Specific inputs were also obtained from departmental staffs, trade associations, and Governmental agencies with particular expertise, such as the Air Force Contract Law Center. Where appropriate, public meetings on issues being examined by the working groups were also held to ensure that a wide range of opinions was considered. Similarly, when specific issues were scheduled for discussion at Panel meetings, interested groups from both the public and private sectors were routinely invited to speak.[27] These inputs eventually became a kind of dialogue between the Panel, the acquisition community, and the general public that was important in framing recommendations. The tentative decisions reached throughout this process were then reviewed in toto by the Panel at the conclusion of its deliberations. This "last look" was intended to ensure that the individual decisions made over many months were consistent with one another—and with the Panel's goal and objectives.

E. Overview of conclusions and recommendations

The Panel's review of the major functional areas it chose for this study produced specific recommendations to retain, amend, or repeal individual statutes.[28] In a number of other instances, the Panel recommended the consolidation of several statutes or even the creation of new laws. The principal conclusions reached in each of these areas are highlighted here:

Contract Formation: The 80 statutes in this area include the fundamental statutes that require and implement the policy of full and open competition on which the DOD procurement system is based. These laws cover the critical path of procurement, including publicizing requirements, competing or justifying the absence of competition, soliciting offers, evaluating bids or proposals, and pricing and awarding contracts. The Panel analyzed alternatives to the policy of full and open competition, and concluded that this standard should be retained. It also concluded that the competitive statutes continue to provide a sound framework for conducting the DOD procurement process in an open, fair, and ethical manner—while still meeting mission requirements.

The Panel has proposed changes to the baseline statement of congressional procurement policy in 10 U.S.C §2301 and the accompanying definitions in section 2302. These changes stress the need for an appropriate balance between an efficient procurement system, full and open access to that system, and sound implementation of socioeconomic policies. They also stress a clear priority for meeting DOD requirements through the procurement of commercial or other nondevelopmental items, both as end items and as components. A significant change to section 2304 recommends deletion of the authority for master agreements for advisory and assistance services as well as the substitution of a new rule structure for contracts that do not procure or specify a firm quantity of supplies or services and involve delivery or task orders. The Panel also made two important recommendations for amendment of 41 U.S.C. §416, "Procurement Notices." The first would allow exemption of commercial items from the minimum statutory time periods that offerors have to submit bids or proposals after publication in the Commerce Business Daily by permitting the Administrator for Federal Procurement Policy to issue more flexible rules prescribing appropriate time periods. The second seeks to improve the use of automated means of providing notice for purchases made under the Panel's recommended "simplified acquisition threshold." The Administrator for Federal Procurement Policy would be required here as well to issue rules for notice procedures through the use of automated means, taking into account the costs and availability of these means to potential offerors, especially small businesses.

The Panel also made two important recommendations to modify the Truth in Negotiations Act (10 U.S.C. §2306a). The first is to stabilize the threshold for cost or pricing data at $500,000. The second is to utilize more effectively the forces of the commercial market place by expanding and clarifying the use of the exception for adequate price competition. The new wording would allow a broadened exemption from cost or pricing data requirements if: (1) a product or service is purchased from a company or business unit which produces the same or similar products for the commercial market; (2) the company uses the same or similar production processes for the commercial market; and (3) the price is fair and reasonable.

In the area of procurement protests, the Panel has recommended amendments to a number of statutes in order to promote efficiency, improve information flow, encourage the filing of protests with procuring agencies, and speed the resolution of protests under the current system administered by the General Accounting Office (GAO) and the General Services Administration Board of Contract Appeals (GSBCA). The Panel also recommends that Congress consolidate into a single judicial forum the current bid protest jurisdiction of the Court of Federal Claims and the District Courts. A further recommendation is that Congress consider and further study whether competition policy might be better served through the resolution of protests by a single agency located within the executive branch whose powers would be comparable to those exercised by the four existing forums. With proper authority, this single forum might provide more uniform and cost-effective treatment of protests. It could also provide two different methods for consideration of protests: first, a procedure similar to the relatively inexpensive and expeditious one now provided by the GAO; and second, a procedure which would be similar to the adjudicatory process provided by the GSBCA. The GSBCA-type procedure would be available for all types of procurements over $100,000, if elected by the protester.

Contract Administration: The major task in this area involved bringing some order to the 107 statutes which affect the basic business relationship between DOD and its contractors. The extensive duplications and repetitions throughout the U.S. Code suggested the need to focus on seven key areas: payment; cost principles; audit and access to records; cost accounting standards; administration of contract provisions; claims and disputes; and extraordinary contractual relief. Many of the Panel's recommendations in these areas involve merging duplicative code sections into a single major statute in order to clarify and simplify its requirements. The proposed statute on contract payment (10 U.S.C. §2307), for example, will consolidate similar provisions from three other statutes. Such clarification also permit the elimination of statutory detail more appropriately covered by regulation. That objective underlies the Panel's recommendation on 120 U.S.C. §2324 (cost principles) which would retain only those provisions delineating that law's basic policy and penalty provisions—and eliminating the excessive detail found in this statute today. The Panel's review in this area also concentrated on removing obstacles to the participation of small business and commercial entities in general. One example is the law (41 U.S.C. §422) establishing the Cost Accounting Standards Board, which promulgates criteria for allocating costs and therefore affects financial reimbursements under Government contracts. Although this statute is recommended for retention, the Panel urged the Board to waive or modify cost accounting standards for most transactions involving commercial entities. A related area involves claims certification requirements, a problem which has caused seemingly endless litigation at the Court of Federal Claims and boards of contract appeals. In conjunction with the recent changes in the Defense Authorization Act for FY93 and its anticipated regulatory implementation, the Panel's recommendations should help to achieve a simplified, unified set of certification requirements. All of these recommendations are consistent with one of the Panel's key objectives for streamlined acquisition laws: statutes should identify broad policy objectives and fundamental requirements while leaving matters of implementation to be covered by regulations.

Service-Specific and Major Systems Statutes: The 220 statutes falling under this heading highlight the difficulty of reducing the defense procurement code from its present condition to a more workable instrument. The consolidations recommended as a result of the Panel's review of this area are intended to streamline a process which has often been made needlessly complex by obsolete or overlapping statutes. These recommendations affect the following major procurement functions:

Modifications are suggested to the reporting requirements concerning major defense programs (such as Selected Acquisition Reports and Unit Cost Reports) mandated by several different statutes. Those recommendations reflect the need for a common baseline for both executive management and legislative oversight.

Four major testing laws are recommended for consolidation into a single streamlined statute which retains existing fundamental policies but provides greater flexibility.

Similar recommendations for consolidation are submitted for numerous service-specific chapters within Title 10, both to eliminate obsolete authorities—some dating from before World War II—and to provide a common framework for those authorities which are still necessary.

Changes are suggested to a number of fuel and energy-related statutes detailing the procurement authority exercised by the DOD in order to enhance their coherence and efficiency.

The numerous provisions affecting DOD commercial and industrial activities were recommended for consolidation into three distinct statutes setting forth clearer guidelines for A-76 contracting and core defense logistics functions.

The Brooks Act was closely studied to determine its impact upon DOD's authority to procure automatic data processing equipment (ADPE). While the Panel presents no formal recommendations on this issue, it suggests that Congress consider modifying the oversight authority of the General Services Administration in order to permit DOD to exercise greater internal responsibility in ADPE procurements below a designated threshold.

The specific solutions suggested by the Panel in each of the areas affecting major systems and the procurement authorities of the uniformed services reflect its objectives concerning the basic attributes of acquisition laws: that they should identify broad policy objectives and fundamental requirements; that they should encourage the exercise of sound judgment by procurement personnel; and that reporting requirements generated in law should insofar as possible not impose additional administrative burdens. Taken together, these recommendations represent an essential step in rationalizing a body of law which is at present too large, too diffuse, and far too complex.

Socioeconomic Laws, Small Business, and Simplified Acquisition Threshold: In assessing the 114 laws that impose various socioeconomic requirements upon the acquisition process, the Panel determined that the overriding need in this area was to establish uniform thresholds and criteria for applying socioeconomic laws to DOD procurements. The principal recommendation in this area concerns the adoption of a "simplified acquisition threshold" that would exempt DOD contracts below $100,000 from most socioeconomic requirements and corresponding contract clauses. The exemption from these contract clauses would permit the use of expedited procurement procedures for contracts at or below the $100,000 level, reducing paperwork and overhead costs for both the Government and its suppliers. The new threshold would streamline over 50% of all DOD contract actions above $25,000, while affecting only 5% of all contract dollars, thus paving the way for more effective management of DOD's increasingly limited manpower resources.[29] Perhaps most significant, however, is the recommendation that procurements in this range be reserved under most conditions for small businesses. The primary rationale for this recommendation is that smaller contracts provide the best opportunities for small businesses, especially those which are both small and disadvantaged. The Panel's recommendations are also linked to the gradually increased use of electronic contracting and advertising methods, not only to improve the efficiency of the acquisition process, but also to provide better notification of procurement opportunities. Equally important, these recommendations take place within a context that reaffirms and is intended to improve DOD's capability to support the small business and minority contracting goals established by the Congress. The combination of simpler procedures with wider public notice also provides stronger incentives for small businesses of all kinds to compete for Government contracts. Finally, the Panel recommends that Congress adopt a consolidated chapter in Title 10 which clarifies and streamlines the labor, environmental, small business, and minority contracting requirements applicable to DOD. These recommendations promote several of the Panel's key objectives: that acquisition laws should establish a balance between an efficient process and socioeconomic policies; and that acquisition laws should, without requiring contractors to incur additional costs, facilitate the purchase by DOD or its contractors of commercial products and services based on commercial market prices. Because Government and business have a common interest in reducing overhead, the Panel's intent is to maintain the socioeconomic balance while streamlining its statutory requirements.

Standards of Conduct: The 119 statutes falling within this field reflect the fundamental importance of ethics and integrity in the defense acquisition process—as well as the fact that this issue has frequently received congressional attention. Consequently, the Panel was more concerned with the consolidation of existing ethical requirements, rather than the addition of new ones. Particular attention was given to those statutes covering post-employment restrictions of Government personnel, the operation of the rule making process affecting Government procurement, contractor certifications, and false claims. The Panel's recommendations consistently aim at eliminating the duplication of related requirements and the pyramiding of penalties that occur frequently throughout the current code. Those recommendations also address various administrative procedures—often mandated by statute—which add both confusion and cost, but do not demonstrably promote integrity. Those recommendations are consistent with one of the Panel's main objectives: that acquisition laws should promote financial and ethical integrity in ways that are simple, understandable, not unduly burdensome, and which encourage sound and efficient procurement practices. The amendments and other clarifications recommended here are especially important in view of the personal and institutional stakes that are always present in matters relating to procurement integrity.

Intellectual Property: The Panel examined seven key areas in this fast developing field: patent infringement; secrecy; university research patents; recoupment; copyrights; technology transfer; and technical data. Its findings reflect the fact that modern technology is heavily dependent upon proprietary invention and entrepreneurial innovation: to have access to this technology, the Government must respect these market-driven norms. Accordingly, the Panel recommends:

Statutory changes which allow the Secretary to utilize technical data rights policies that provide protection for commercially valuable technology;

Amendment of the Bayh-Dole Act to encourage the prompt filing of patent applications by inventors working on federally sponsored research;

The elimination of mandatory Government recoupment of non-recurring costs in defense products being offered through the foreign military sales program;

New limitations on the imposition and duration of secrecy orders applied to certain inventions by Title 35 of the U.S. Code; and

Enhancements to the Federal Government's authority to secure copyright protection for computer programs developed under Government auspices.

These recommendations specifically implement the Panel's objectives of integrating civilian and military procurement. More importantly, however, they also reflect the urgency expressed in Congress and the acquisition community that procurement efficiency in high technology is essential for the competitiveness and development of the national industrial base.

Commercial Procurement: The centerpiece of the Panel's effort to promote more effective integration between the military and civilian markets is a consolidated new subchapter on commercial procurement which is recommended for inclusion in Title 10. The draft statute, which is closely coordinated with the changes being recommended to the Truth in Negotiations and Competition in Contracting Acts, states that commercial items are to be used whenever they will satisfy the requirements of DOD. This policy statement is reinforced by broader definitions of such key terms as "commercial item" and "component" and is implemented with due regard to nondevelopment items and existing sources of supply. However, the most important part of the new statute may be the list of related laws which it specifically exempts from any DOD contract for the purchase of a commercial item. Simply stated, any commercial item meeting the definition of that term would be exempt from statutory contract requirements listed in the law. Another significant feature of the draft statute is its reliance on commercial standards and practices, such as established catalogues or prevailing market prices, in determining if the cost of a commercial product is reasonable. These practices are also reflected in a limitation on the Government's right to audit or to require additional documentation beyond prevailing market practices. The Panel's overall trust is to make DOD's buying processes conform more closely to the norms of the commercial marketplace.

Those changes are intended not only to fulfill the Panel's objectives regarding commercial-military integration, but also to apply long standing and repeated congressional guidance on this subject as well.

Defense Trade and Cooperation: The Panel reviewed this functional area because of a conviction that international considerations will play an increasingly important role in the defense acquisition system. Recognizing the importance of a team approach, Secretary of Defense Dick Cheney has repeatedly advocated greater cooperation between the NATO allies in all phases of the procurement process, particularly in research and development.[30] In examining those statutes which affect DOD ability to play a constructive role in defense trade, the Panel found that there were almost as many legislative barriers to cooperation in the international arena as there were to military-civilian cooperation on the domestic scene. In addition to the Buy American Act, there were numerous product and source restrictions on the books, barriers that were continued or augmented with the passage of each appropriations or authorization act.[31] The Panel determined that its advice in this area would be guided by three principles.

First, DOD acquisition policy should be consistent and reciprocal with the acquisition and trade policies of its allies. DOD should have, for example, the statutory authority to purchase NATO-standard items—which may or not be available from American sources. The Panel's principal recommendations on the Buy American Act—to substitute the "substantial transformation" test of the Trade Agreements Act for the current "component test"—are intended to foster the use of American commercial items, as well as to adjust the critical balance between flexibility and reciprocity. Second, DOD's acquisition policy should be consistent with the promotion of a strong U.S. defense technology, industrial, and mobilization base. Because military-commercial integration is not the solution to all problems, DOD must have the ability to restrict acquisitions to domestic sources when it is in the nation's interest. The Panel's recommendations on 10 U.S.C. §2504 will ensure that future agreements concluded between the United States and foreign Governments will be coordinated with defense industrial base requirements. Third, DOD acquisition policy must be coordinated with international operational agreements, allied logistics support, standardization, and sales of U.S. equipment to foreign countries. Because foreign military sales are an important factor in maintaining the American defense industrial base, DOD should have the authority to coordinate the buying and selling of products and services in order to negotiate with our allies and other foreign countries. The repeal of recoupment for non-recurring research and development costs contained in the Panel's review of 10 U.S.C. §2761 is an example of the flexibility needed in this area.

In summary, while civilian-military integration, like charity, begins at home, promoting and developing the U.S. defense industrial base also means adjusting to the twin realities of competition and cooperation in the global defense marketplace.

F. Constraints

It will ultimately be for the Congress to decide how well the Panel's recommendations met its declared objectives as well as the goals suggested by the original mandate. However, in assessing those results, both Congress and the general public should be aware of the constraints which affected the Panel's work.

The key constraint was time, especially when measured against the magnitude of the task. The 16 months between the convening of the Panel and the printing of this Report obviously constrained the process of considering the 889 statutes comprising the universe of acquisition laws—a number so high that it surprised even veteran observers of these matters. While an extension of the statutory deadline of January 15, 1993 could have been justified, the Panel members strongly believed that it was more important to place their recommendations squarely on the agenda of a new Administration and a new Congress. Inevitably, priorities were set in order to bring the greatest analytical attention to the most obvious and best understood problems, especially in those areas that offered the greatest prospects for improvement. In addition to focusing on the most relevant acquisition laws, the Panel necessarily excluded regulations, executive orders, and most case law from the study. However, the most significant effects imposed by the time constraint may have come when the Panel chose to recommend a law's retention or to exclude it from more detailed consideration, either because the evidence for change was ambiguous or because it was impossible to obtain additional data without the expenditure of far greater resources than the Panel had at its disposal. The Panel is, therefore, recommending the retention of more laws than might otherwise have been identified for amendment or repeal. It is important to note that these recommendations are made on the basis of the "best evidence" available to the Panel at the time of its decision.

The second constraint reflects a general concern about the number of laws considered during this review, as well as their replacement within the U.S. Code. Many of the statutes affecting defense procurement arise from titles of the Code beyond Title 10, often reflecting the divergent interests and agendas of many different congressional committees and subcommittees. The organization of the Code also reflects multiple functions which may apply in different ways to different agencies of the Government. The recognition of those realities affected one of the Panel's original goals, which was to "prepare a proposed code of relevant acquisition laws." Early in its deliberations, the Panel decided that this goal did not imply the creation of a "model code" for DOD procurement to be located at a single point within the body of Title 10—primarily because the administrative tidiness of such a compilation would be less helpful than the jurisdictional questions that would inevitably be raised. Equally important was the need to assemble and review the array of procurement laws before creating a "model code" in Title 10 or anywhere else. Consequently, though it has recommended the consolidation of certain laws and chapters in several of the areas noted above, the statutes which the Panel has assembled, reviewed, and presented in the following pages represent its best judgments on the core functions of the defense procurement process. Should those recommendations be enacted, therefore, a new code of relevant acquisition laws will have been created.

There can be no doubt, however, that the task of codification will require a great deal of leadership and teamwork in the new Congress. A recent study by the Business Executives for National Security, for example, is merely the latest to note that no fewer than 107 congressional committees and subcommittees exercise some degree of Pentagon oversight: "The result is massive jurisdictional confusion."[32] But without better coordination, defense procurement law will remain complex, confused, and often chaotic. The evidence accumulated during the review also suggests that an ancillary result of jurisdictional confusion is the proliferation of laws which can impose burdensome and often conflicting requirements. While the Panel is particularly appreciative of the strong congressional support for its efforts, it respectfully suggests that the enactment of the reforms recommended here will not achieve a lasting effect unless Congress also gives continued attention to its responsibility for maintaining a disciplined and coherent legal structure.

The final point of this introduction may not be so much a constraint as a caveat. The work of this Panel represents its best efforts to provide a common baseline for those who seek to improve defense acquisition laws as well as the policies which implement them. In each of the areas they reviewed, however, the Panel members were struck by the magnitude of the task which future reformers will face in making comprehensive legislative changes. There is also no question that these recommendations are best thought of as a "first cut" at a large problem, and certainly not as an ideal solution to it. Moreover, the Panel recognizes the importance of seeking Government-wide consistency in procurement matters and hopes that its recommendations can serve as the baseline for parallel changes in the legislative underpinnings of civilian agency acquisition. While these findings do not fully achieve the Packard Commission's ultimate goal of providing a "single, consistent, and greatly simplified procurement statute,"[33] they clearly carry out the will of Congress by translating those general principles into a "pragmatic, workable set of recommended changes to the acquisition laws."[34] It is therefore our sincere hope that the changes charted in the following pages will make a substantial and lasting contribution to the development of a more efficient defense procurement system, one that is capable of meeting any future challenge to American national security.

FOOTNOTES

[1] U.S. Const. art I, §8.

[2] The Defense Systems Management College is a DOD educational institution which has, since 1971, trained program managers and program executives from the uniformed services, defense industry, and all branches of the Federal Government.

[3] Pub. L. No. 101–510, §800, 104 Stat. 1587. See H.R. Conf. Rep. No. 923, 101st Cong., 2d Sess. 107 (1990) to accompany H.R. 4739 (National Defense Authorization Act for Fiscal Year 1991).

[4] Defense Policy Panel and Acquisition Policy Panel of the H.R. Comm. on Armed Services, 100th Cong., 2d Sess., Defense Acquisition: Major U.S. Commission Reports (1949–1988) (Comm. Print 1988), vi.

[5] Pub. L. No. 99–433, 100 Stat. 992. See H.R. Conf. Rep. No. 824, 99th Cong., 2d Sess., (1986) to accompany H.R. 3622 (Goldwater-Nichols Department of Defense Reorganization Act of 1986).

[6] "A Quest for Excellence: Final Report by the President's Commission on Defense Management" 55 (June 1986).

[7] Defense Policy Panel and Acquisition Policy Panel of the H.R. Comm. on Armed Services, 100th Cong., 2d Sess., "Defense Acquisition: Major U.S. Commission Reports (1949–1988)" (Comm. Print 1988), vii.

[8] U.S. Dep't. of Defense, "Defense Management Report to the President by Secretary of Defense Dick Cheney" (1989).

[9] Id. at 26.

[10] U.S. Dep't. of Defense, "Annual Report to the President and the Congress' 28–29 (1992). Hereafter, 92 Annual Report.

[11] S. Rep. No. 384, 101st Cong., 2d Sess. 819 (1990) to accompany S. 2884 (National Defense Authorization Act For Fiscal Year 1991).

[12] U.S. Dep't of Defense, "Implementation of the Secretary of Defense's Defense Management Report to the President: Progress Report" 19 (1992).

[13] Air Force Ass'n., Arlington, VA, "Lifeline Adrift: The Defense Industrial Base in the 1990's" i (1991).

[14] Id.

[15] Office of Technology Assessment, "U.S. Congress, Redesigning Defense: Planning the Transition to the Future U.S. Defense Industrial Base," OTA-ISC-500, (1991); H.R. Comm. on Armed Services, 102d Cong., 2d Sess., "Future of the Defense Industrial Base, Report of the Structure of US Defense Industrial Base Panel" (Comm. Print 1992).

[16] One notable exception to the usual "missing link" between law and regulation was provided by the report of a 1992 congressional panel studying the industrial base which charged that "Defense Department provisions requiring compliance with Government Cost Accounting Standards and the Truth in Negotiations Act are serious impediments to commercial companies wishing to sell to the department." H.R. Comm. on Armed Services, 102d Cong., 2d Sess., "Future of the Defense Industrial Base, Report of the Structure of US Defense Industrial Base Panel" 13 (Comm. Print 1992).

[17] George K. Krikorian, Presentation to the Acquisition Law Advisory Panel, Ft. Belvoir, VA (June 3, 1992). See also Mr. Krikorian's statement before the House Armed Services Committee Subcommittee on Investigations, July 22, 1992, and his article, "DOD's Cost Premium Thirty to Fifty Percent, National Defense" (Journal of the American Defense Preparedness Association) 12–13 (Sept. 1992).

[18] Donald A. Hicks, "Requirements for a Viable Defense Industrial Base", Speech to the Economist Conference on Defense Spending Retrenchment, London, UK (Oct. 21, 1991).

[19] "92 Annual Report," at 6.

[20] H.R. Comm. on Armed Services, 102d Cong., 2d Sess., "Future of the Defense Industrial Base, Report of the Structure of U.S. Defense Industrial Base Panel" 13–16 (Comm. Print 1992). See also two reports by the Center for Strategic and International Studies, "Deterrence in Decay: The Future of the U.S. Industrial Base" Washington, DC (May 1989) and "Integrating Commercial and Military Technologies for National Strength: An Agenda for Change," Washington, DC (March 1991). For a DOD perspective, see Robert B. Costello, "Bolstering Defense Industrial Competitiveness." Report by the Under Secretary of Defense (Acquisition) to the Secretary of Defense (July 1988).

[21] William E. Kovacic, "Regulatory Controls as Barriers to Entry in Government Procurement," 25 Policy Sciences 31 (1992).

[22] "Report of the Commission on Government Procurement, Table and Digest of Procurement-Related Laws." (1973).

[23] H.R. Comm. on Armed Services, 102d Cong., 1st Sess., "Laws relating to Federal Procurement As Amended Through April 6, 1991" (Comm. Print 1991).

[24] The data base used was originally compiled by the Logistics Management Institute for the DMR and reported as "Regulatory Relief: Simplifying and Eliminating Contract Clauses," Report PL903RI Prepared for the Defense Management Review Regulatory Relief Task Force, Bethesda, MD (Nov. 1989).

[25] A list of the statutes considered but excluded from further review is at Appendix E of this Report.

[26] U.S. Dep't of Defense, Defense Systems Management College, "Introduction to Defense Acquisition Management," 1 (Ft. Belvoir, VA, 1989).

[27] Examples included: the National Association of Minority Business when the Small Business Act was under discussion; the Management Review Division of the General Services Administration during discussion of the Brooks Act; an industry coalition, the Integrated Dual-Use Commercial Companies, during several discussions of commercial products and services; and the General Accounting Office during discussions of protests.

[28] In those cases where an amendment (including recodifications) was recommended, the analysis of that statute contains a subsection entitled "Proposed Statute". This subsection contains or references the current statutory language together with the proposed changes highlighted by underlining (for additions) or strikeovers (for deletions).

[29] This discussion is presented more fully in Chapters 4.0 and 4.1 of this report.

[30] See, e.g., "92 Annual Report," at 15–17.

[31] U.S. Office of the Secretary of Defense, "The Impact of Buy American Restrictions Affecting Defense Procurement: Report to the Congress," 18–22, Table 3.1 (July 1989).

[32] Business Executives for National Security, Washington, DC, "Report of the Commission on Fundamental Defense Management Reform," 36 (1992).

[33] See note 6, supra.

[34] See note 11, supra.

Mr. BINGAMAN. Mr. President, our bill builds on this foundation. The Armed Services Committee directed the staff on a bipartisan basis and in partnership with the staff of the Governmental Affairs and Small Business Committees to carry out a thorough review of the section 800 panel's proposals and to make recommendations to the members on an acquisition reform bill that we could see enacted in this Congress. Each of us is committed to this goal.

That months' long process produced a draft last month, about the same time the administration was completing the national performance review which was reaching very similar conclusions. The draft did not follow the section 800 panel's recommendations in every detail, as Senator GLENN has pointed out in his statement. But it did make recommendations on every section 800 provision, carrying out the most significant and far-reaching recommendations of both the section 800 panel and the national performance review, and included additional ideas which arose in the staff discussions. It is a slightly amended version of that draft which we are introducing today with the support of the administration, support that will be crucial to getting this bill enacted. I compliment the President and the Vice President for seizing this opportunity to make a fundamental change in how the Government does business and getting behind this effort so forcefully.

I will not go into the provisions of the bill. Senator GLENN, who has been a leader on this issue for many years, has included both a summary and section-by-section analysis in his statement. Senator LEVIN, who together with Senator COHEN has led the effort to simplify commercial product purchases and who coauthored with Senator COHEN the last major piece of acquisition legislation—the Competition in Contracting Act of 1984, has described the commercial product provisions in detail. But I would like to point out that one of the fundamental principles we are trying to advance in this bill is integration of the commercial and military sectors of our economy. The Armed Services Committee under Senator NUNN's able leadership and the Department of Defense under Bill Perry's and John Deutch's leadership have concluded that it is critical that DOD rely in the future to the maximum extent possible on the commercial sector for the products and services it needs to secure our defense. We can not afford to try to support a duplicative effort in what Adm. Bobby Inman has termed a defense ghetto walled off by the acquisition system from the mainstream of American and international commerce. In our view we must make it easier for defense-dependent firms to use commercial practices and produce commercial products and for commercially oriented firms to do business with Government.

This commercial-military integration strategy will not meet all of DOD's needs. Clearly, there are areas such as advanced conventional munitions or nuclear attack submarines or aircraft carriers where the only customer is the Government and the Government must decide how large a base to maintain and have an acquisition system in part suited to dealing with that largely captive base. But a commercial-military integration strategy can and must work in the large number of dual-use areas—electronics, materials, manufacturing processes, software—where the commercial market is the dominant buyer and DOD really has no choice but to leverage that market.

In a sense we are saying that DOD's leverage as its budget declines—and it has been declining since 1986—DOD's leverage to impose additional burdens on the large and growing commercial sector is sharply declining, but our laws have not caught up. We are still acting as if DOD and the Federal Government more generally has all the leverage and that firms will beat a path to our door to do business with us. In 1986, the manufacturing sector of our economy was about $850 billion. DOD was consuming about $120 billion a year in manufactured products, fully 15 percent of that sector's output. In fiscal year 1994, DOD's purchases will be well less than 10 percent of the $1.1 trillion manufacturing sector's output. By the end of the decade DOD will be less than 5 percent.

If we do not reform our acquisition system to foster commercial-military integration, as our bill does, we run the risk that DOD will be able to do business with only an ever diminishing set of captive contractors—those contractors willing to put up with all the requirements passed down to them in their contracts, but increasingly disconnected from the innovations occurring in the commercially oriented private sector. This would have grave consequences for our security. That it fosters commercial-military integration is one of the most compelling arguments in favor of our legislation. It is also a key yardstick by which we should judge the proposals we receive for changing the legislation.

Mr. President, I know that this bill, which is over 300 pages long, will require a careful, deliberative process here in the Congress. We are committed to proceeding in our respective committees promptly with hearings, hopefully joint hearings as often as possible, to receive the comments of the many groups interested in our proposals. We will proceed on a bipartisan basis, as all of our efforts have proceeded since the inception of the section 800 process. I look forward to a constructive process that produces the most comprehensive acquisition reform legislation in a very long time. I hope that those with an interest in only a few specific details of our bill will seek to understand the overall spirit in which the bill is put forward before asking us to maintain the status quo in their particular area.

There is frankly a danger of this bill unraveling. All the laws on the books in the acquisition area respond to some real problem or seek to advance some meritorious goal. Many have Members of Congress' names attached to them. If we are to loosen the grip of these individual laws to streamline the acquisition process, improve its efficiency, and foster commercial-military integration, a majority of the Congress will have to join us in the pursuit of these broader goals.

I believe that we will see that support and that this legislation will be enacted in this Congress in a form very similar to what we are introducing today. The time is ripe because the public is looking for a more efficient Government, a better performing Government. They do not want to see 23 hands touch a simple computer procurement or millions of dollars spent in an effort to save thousands as too often occurs today.

My colleagues and I are offering a prescription for change in a fundamental area of Government activity. It is time for change and time for the inefficiencies to go. The section 800 panel has taken the excuses away from us and from the executive branch. We have the roadmap for where we need to go. The question is now whether we will make the journey. As of today, Senator GLENN has placed that question before the Senate. I hope that the response will be overwhelmingly positive.

By Mr. FORD:

S. 1588. A bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996; to the Committee on Commerce, Science, and Transportation.

INDEPENDENT SAFETY BOARD ACT AMENDMENTS OF 1993

Mr. FORD. Mr. President, today I am introducing legislation to reauthorize the National Transportation Safety Board for 3 years. A hearing will be held on this measure on Friday, October 29, 1993.

The authorization levels in this legislation are the same as being considered in the House of Representatives. There are no substantive amendments to the Independent Safety Board Act.

The NTSB was created by the Department of Transportation Act of 1966, and made an independent agency by the Independent Safety Board Act of 1974. The NTSB is primarily responsible for investigating and determining the cause of aviation, highway, rail, pipeline and marine accidents. Following its investigations, the NTSB also has the responsibility of making recommendations to Federal, State and local agencies to prevent the recurrence of accidents.

I look forward to early action on this legislation. It is my hope that soon after the Commerce Committee hearing the bill will be reported from the committee and ready for Senate floor action.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Safety Board Act Amendments of 1993".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Sec. 309(a) of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1907(a)) is amended to read as follows:

"(a) There are authorized to be appropriated for the purposes of this Act not to exceed $37,580,000 for the fiscal year ending September 30, 1994, $44,000,000 for the fiscal year ending September 30, 1995, and $45,100,000 for the fiscal year ending September 30, 1996. Such sums shall remain available until expended.".

By Mrs. BOXER (for herself, Mr. WARNER, Mr. DECONCINI, Mrs. FEINSTEIN, Mr. WOFFORD, Ms. MOSELEY-BRAUN, Mr. METZENBAUM, Mrs. MURRAY, Mr. HARKIN, Ms. MIKULSKI, and Mr. FEINGOLD):

S. 1589. A bill to amend title 18, United States Code, to prohibit any State motor vehicle department from disclosing certain personal information about a person doing business with such department; to the Committee on Governmental Affairs.

DRIVER'S PRIVACY PROTECTION ACT OF 1993

Mrs. BOXER. Mr. President, I ask unanimous consent that the text of the Driver's Privacy Protection Act of 1993, which I am introducing, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Driver's Privacy Protection Act of 1993".

(b) PURPOSE.—The purpose of this Act is to protect the personal privacy and safety of licensed drivers consistent with the legitimate needs of business and government.

SEC. 2. AMENDMENT TO TITLE 18, UNITED STATES CODE.

Title 18 of the United States Code is amended by inserting immediately after chapter 121, the following new chapter:

"CHAPTER 122—PROHIBITION ON RELEASE OF CERTAIN PERSONAL INFORMATION

"Sec. 2720. Prohibition on release of certain personal information.
"Sec. 2721. Unlawful use of personal information.
"Sec. 2722. Definitions.
"Sec. 2723. Penalties.
"Sec. 2724. Effect on State and local laws.

"§ 2720. Prohibition on release of certain personal information

"(a) DISCLOSURE.—It is unlawful for any department of motor vehicles of any State or any other person or organization to disclose or obtain, except as authorized by this chapter, personal information about any individual obtained by such department in connection with a motor vehicle operator's permit, motor vehicle title, identification card, or motor vehicle registration issued by the department to that individual, unless such individual has authorized such disclosure.

"(b) EXCEPTIONS.—It is not unlawful to disclose or obtain personal information, otherwise unlawful under this chapter, for any of the following routine uses if the person receiving such information has certified to the Department that the information will be used only for one of the specified permissible purposes:

"(1) For the use of any Federal, State or local court in carrying out its functions.

"(2) For the use of any Federal, State or local agency in carrying out its functions, including a law enforcement agency.

"(3) For the use in connection with matters of automobile and driver safety, including manufacturers of motor vehicles conducting a recall of motor vehicles.

"(4) For the use in any civil or criminal proceeding in any Federal, State or local court, if such proceeding involves a motor vehicle.

"(5) For use in research activities, if the motor vehicle department determines that such information will not be used to contact the individual and that individual is not identified or associated with the requested personal information.

"(6) For use in marketing activities if the motor vehicle department—

"(A) has provided the individual with regard to whom the information is requested with the opportunity, in a clear and conspicuous manner, to prohibit a disclosure of such information for marketing activities;

"(B) has received assurances that the information will be used, rented, or sold solely for a permissible use under this chapter, including marketing activities; and

"(C) has received assurances from any person purchasing such information from a motor vehicle department for marketing purposes that such person to whom they sell or rent the information and the permissible purpose for which the purchaser will use the information.

"(7) For use by any insurer or insurance support organization; or their employees, agents, and contractors, in connection with claims investigation activities and antifraud activities.

"(8) For use by any organization, or its agent, in connection with a business transaction, when the purpose is to verify the accuracy of personal information submitted to that business or agent by the person whom such information pertaining, or, if the information submitted is not accurate, to obtain correct information for the purpose of pursuing remedies against a person who provided false information or presented a check or similar item that was not honored.

"(9)(A) For use by any organization, if such organization has certified that it has obtained a statement from the person to whom the information pertains authorizing the disclosure of such information under this chapter in accordance with an agreement entered into pursuant to subparagraph (B).

"(B) Any motor vehicle department of a State is authorized to enter into an agreement (A) pursuant to which the motor vehicle department may subsequently release information to that organization on the basis of a certification that the entity has obtained or will have obtained consent from the individual to whom the information pertains to obtain such personal information from the State motor vehicle department.

"§ 2721. Unlawful use of personal information

"(a) UNLAWFUL ACTS BY STATE MOTOR VEHICLE DEPARTMENTS, ORGANIZATIONS OR PERSONS.—It is unlawful for any State motor vehicle department or organization or person to disclose, sell or otherwise make available, or use personal information about any individual referred to in section 2720 except in accordance with this chapter.

"(b) UNLAWFUL ACTS BY PERSONS OR ORGANIZATIONS.—It is unlawful for any person or organization—

"(1) to make any false representation to obtain personal information from a department of motor vehicles of any State or other person about any individual referred to in section 2720; or

"(2) to use personal information obtained from any department of motor vehicles of any State or other person for any purpose other than as requested by that person or organization, or other than the purpose for which such information was disclosed.

"(c) EXCEPTION.—The prohibition referred to in subsection (a) of section 2720 and subsections (a) and (b) of this section shall not apply to any person to whom the information pertains.

"§ 2722. Definitions

"As used in this chapter:

"(1) The term 'personal information' includes an individual's photograph, driver's identification number, name, address, telephone number, social security number, and medical and disability information. Such term does not include information on vehicular accidents, driving violations, and driver's status.

"(2) The term 'person' means any individual.

"(3) The term 'State' means each of the several States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(4) The term 'organization' means any person other than an individual, including but not limited to, a corporation, association, institution, a car rental agency, employer, and insurers, insurance support organization, and their employees, agents, or contractors.

"§ 2723. Penalties

"(a) WILLFUL VIOLATIONS.—

"(1) Any person who willfully violates this chapter shall be fined under this title, or imprisoned for a period not exceeding 12 months, or both.

"(2) Any organization who willfully violates this chapter shall be fined under this title.

"(b) NONWILLFUL VIOLATIONS.—Any person or organization who violates this chapter, other than a willful violation, shall be subject to a civil penalty in an amount not to exceed $5,000.

"(c) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—Any State department of motor vehicles which willfully violates this chapter shall be subject to a civil penalty in the amount of $10,000. Each day of continued noncompliance shall constitute a separate violation.

"§ 2724. Effect on State and local laws

"The provisions of this chapter shall supersede only those provisions of law of any State or local government which would require or permit the disclosure or use of personal information which is otherwise prohibited by this chapter.".

SEC. 3. The amendments made by this Act shall take effect upon the expiration of the 270-day period following the date of its enactment.

Mr. WARNER. Mr. President, I join with my distinguished colleague from California, Senator BOXER, as an original cosponsor of her excellent initiative, the Driver's Privacy Protection Act of 1993.

The legislation would protect a driver's privacy by preventing access to an individual's identity and address on the basis of that individual's license plates. Currently, 32 States permit such access for a nominal fee paid to the Department of Motor Vehicles.

In today's world, both personal privacy and personal safety are disappearing and this legislation would help to protect both. The bill incorporates the intentions of the 1974 Privacy Act, which addresses the collection of personal information by Federal agencies. The bill also includes the recommendations of the 1977 Privacy Protection Study Commission report.

Citizens who wish to operate a motor vehicle have no choice but to register with the Department of Motor Vehicles and they should do so with full confidence that the information they provide will not be disclosed indiscriminately.

The Commonwealth of Virginia currently makes vehicle owners' identities available only to inquiring individuals who demonstrate good reason for wanting to know. There is no reason good enough to invade the privacy or risk the safety of any citizen.

ADDITIONAL COSPONSORS

S. 732

At the request of Mr. KENNEDY, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 732, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 784

At the request of Mr. HATCH, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 784, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

S. 1087

At the request of Mr. KOHL, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1087, a bill to amend title 18, United States Code, to prohibit the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.

S. 1128

At the request of Mr. AKAKA, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1128, a bill to amend title 38, United States Code, to permit the burial in cemeteries of the National Cemetery System of certain deceased reservists.

S. 1208

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1354

At the request of Mrs. KASSEBAUM, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1354, a bill to amend the Fair Labor Standards Act of 1938 relating to the minimum wage and overtime exemption for employees subject to certain leave policies, and for other purposes.

S. 1356

At the request of Mr. HATCH, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1356, a bill to restore order, deter crime, and make our neighborhoods and communities safer and more secure places in which to live and work.

S. 1425

At the request of Mr. CONRAD, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1425, a bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes.

S. 1437

At the request of Mr. LAUTENBERG, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1437, a bill to amend section 1562 of title 38, United States Code, to increase the rate of pension for persons on the Medal of Honor roll.

At the request of Mr. DOLE, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 1437, supra.

S. 1450

At the request of Mrs. FEINSTEIN, the names of the Senator from West Virginia [Mr. BYRD], the Senator from New Hampshire [Mr. GREGG], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from New Hampshire

[Mr. SMITH] were added as cosponsors of S. 1450, a bill respecting the relationship between the workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

S. 1478

At the request of Mr. PRYOR, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1478, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure that pesticide tolerances adequately safeguard the health of infants and children, and for other purposes.

SENATE JOINT RESOLUTION 55

At the request of Mr. HATCH, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Texas [Mrs. HUTCHISON], the Senator from Alabama [Mr. SHELBY], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 55, a joint resolution to designate the periods commencing on November 28, 1993, and ending on December 4, 1993, and commencing on November 27, 1994, and ending on December 3, 1994, as "National Home Care Week."

SENATE JOINT RESOLUTION 75

At the request of Mr. ROTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 75, a joint resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week."

SENATE JOINT RESOLUTION 122

At the request of Mr. LAUTENBERG, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Washington [Mrs. MURRAY], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 122, a joint resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month."

SENATE JOINT RESOLUTION 131

At the request of Mr. BRADLEY, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Joint Resolution 131, a joint resolution designating the week beginning November 14, 1993, and the week beginning November 13, 1994, each as "Geography Awareness Week."

SENATE JOINT RESOLUTION 135

At the request of Mr. SIMON, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Joint Resolution 135, a joint resolution designating the week beginning October 25, 1993, as "World Population Awareness Day."

SENATE JOINT RESOLUTION 140

At the request of Mr. LAUTENBERG, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of Senate Joint Resolution 140, a joint resolution to designate December 7, 1993, as "National Pearl Harbor Remembrance Day."

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. BRADLEY, the names of the Senator from Florida [Mr. MACK] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Concurrent Resolution 34, a concurrent resolution expressing the sense of the Senate regarding the accounting standards proposed by the Financial Accounting Standards Board.

AMENDMENTS SUBMITTED

RELIGIOUS FREEDOM RESTORATION ACT OF 1993

KENNEDY (AND HATCH) AMENDMENT NO. 1082

Mr. KENNEDY (for himself and Mr. HATCH) proposed an amendment to the bill (S. 578) to protect the free exercise of religion; as follows:

On page 2, line 14, insert "substantially" before "burden".

On page 3, line 5, insert "substantially" before "burdened".

On page 3, line 7, insert "substantially" before "burdened".

On page 3, line 9, insert "substantially" before "burden".

On page 3, line 13, insert "substantially" before "burden".

REID (AND OTHERS) AMENDMENT NO. 1083

Mr. REID (for himself, Mr. SIMPSON, Mr. BRYAN, Mr. SASSER, Mr. MATHEWS, Mr. BURNS, and Mr. HELMS) proposed an amendment to the bill S. 578, supra; as follows:

At the end of the bill, add the following:

SEC. . CONSTRUCTION.

Notwithstanding any other provision of this Act, nothing in this Act or any amendment made by this Act shall be construed to affect, interpret, or in any way address that portion of the First Amendment regarding laws prohibiting the free exercise of religion, with respect to any individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility (including any correctional, detention, or penal facility that is operated by a private entity under a contract with a government).

NOTICES OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests on mining activities in units of the National Park System in Alaska.

The hearing will take place on Saturday, November 6, 1993, beginning at 9 a.m. and concluding at approximately 1 p.m. The hearing will be held in the auditorium of the Anchorage Museum of History and Art, 121 W. Seventh Avenue, in Anchorage, AK.

The subcommittee will invite witnesses representing a cross-section of views and organizations to testify at the hearing. Others wishing to testify may, as time permits, make a brief statement of no more than 2 minutes. Those wishing to testify should contact Senator MURKOWSKI's office in Anchorage at (907) 271–3735. The deadline for signing up to testify is Friday, October 29. Every attempt will be made to accommodate as many witnesses as possible, while ensuring that all views are represented.

Witnesses invited to testify are requested to bring 10 copies of their testimony with them to the hearing, and not to submit any testimony in advance. Statements may also be submitted for the hearing record. It is only necessary to provide one copy of any material submitted for the record. Comments for the record may be brought to the hearing or submitted to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact David Brooks of the subcommittee staff in Washington at (202) 224–8115 or Jim Deagen in Senator MURKOWSKI's Anchorage office at (907) 271–3735.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry, and General Legislation will hold a hearing to explore how the U.S. Forest Service intends to define and implement ecosystem management and how it compares with efforts underway by the Bureau of Land Management to implement their version of ecosystem management. The hearing will be held on Tuesday, November 9, 1993, at 2 p.m. in SR–332. Senator TOM DASCHLE will preside.

For further information, please contact Eric Washburn at 224–2321.

NOTICE OF MEETING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Thursday, November 4, 1993, at 9:30 a.m., to hold a markup on pending executive, legislative, and administrative business.

The committee will consider the following executive and legislative business: the nomination of Michael F. DiMario, of Maryland, to be Public

Printer; H.R. 877, to authorize the establishment of the National African-American Museum within the Smithsonian Institution; H.R. 2677, to authorize the Board of Regents of the Smithsonian to plan, design, and construct the West Court of the National Museum of Natural History; Senate Joint Resolution 143 and 144, providing for the appointments of Frank Anderson Shrontz and Manuel Luis Ibanez, respectively, as citizen regents of the Board of Regents of the Smithsonian Institution; S. 716, to require that all Federal lithographic printing be performed using ink made from vegetable oil; and an original resolution to authorize the printing of a revised edition of the Senate Election Law Guidebook.

The committee will also consider the following administrative business: Regulations for operation and use of the Senate subway system; regulations governing use of the Senate health and fitness facility; rule for use of display materials in the Senate Chamber; and other matters ready for consideration at time of markup.

For further information regarding this meeting, please contact Carole Blessington of the Rules Committee staff on extension 40278.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Tuesday, October 26, 1993, at 10 a.m. to conduct a hearing on S. 1527, the Fair Trade in Financial Services Act of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works and the Subcommittee on Clean Air and Nuclear Regulation be authorized to meet during the session of the Senate on Tuesday, October 26 beginning at 10 a.m. to conduct a joint hearing on the Clinton administration's national action plan on global climate change.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to hear testimony on the subject of "Medical Practice Patterns and the Appropriateness of Care."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 26, 1993, at 10 a.m. to hold a hearing on environmental and other treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. REID. Mr. President, I ask unanimous consent that the Science, Technology, and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on October 26, 1993, at 2:30 p.m. on S. 1517, the Technology Commercialization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HARD TRUTHS AND SOUND ADVICE FROM PETE PETERSON

• Mr. HOLLINGS. Mr. President, in the run-up to election day next week, the air is filled with the kind of cheap political promises we have come to except from candidates in recent years. In New Jersey, a candidate for Governor promises a 30-percent tax cut. In Virginia, a candidate promises to end parole—with no plan whatsoever for financing the massive expansion of prisons that would be required. Meanwhile, here in Washington, we are still trying to digest the proposed enactment of a new entitlement to top all previous entitlements: Universal national health insurance guaranteed by the Federal Government. Who would guess that our National Government, and State governments including those in New Jersey and Virginia, are facing monumental fiscal shortfalls?

Mr. President, it is shocking and disturbing, at this late hour, to witness the pervasive attitude of denial with regard to our national deficit crisis. A timely antidote to this dreamworld denial is offered by Pete Peterson in the October issue of the Atlantic Monthly. His article, "Facing Up," is a condensed version of his book-length treatment of the deficit crisis titled, "Facing up: How To Rescue the Economy From Crushing Debt and Restore the American Dream." It offers an unflinching diagnosis of the true breadth and danger of the Federal deficit. And it advocates an equally hard-nosed remedy emphasizing major reductions in entitlements for middle- and upper-income earners. On that score, he notes that the average household with income above $100,000 collected $9,300 in entitlements in 1991.

Mr. President, both the article and the book offer a first-rate analysis of the causes and future trends of the deficit crisis, and they offer an admittedly painful solution—including new taxes and cuts in entitlements—that sooner or later we will have to face up to. I urge my colleagues not just to read this article, but to study it. To that end, I ask that it be reprinted in its entirety in the CONGRESSIONAL RECORD.

The article follows:

[From the Atlantic Monthly, October 1993]

FACING UP

(By Peter G. Peterson)

Early on in his presidential campaign Bill Clinton talked about the need for Americans to pull together and "sacrifice." Later, in a State of the Union address remarkable for its candor, he spoke to a raptly attentive nation about how our ballooning federal deficits cloud our economic future. That was a subject George Bush had found worthy of mention only once in his 5,000-word State of the Union address the year before. The budget plan that Bill Clinton then delivered to Congress not only used real numbers instead of rosy scenarios; it shattered some paralyzing dogmas. The nonsense that we could put our fiscal house in order without new taxes was laid to rest. Especially commendable was the President's opening the door to energy taxes, which not only raise revenues but also represents a means to curb a particularly toxic kind of consumption. Even Social Security, our ultimate sacred cow, was put on the budget-cutting table—if only at the table's edge. After years of empty "Morning in America" and "Don't Worry, Be Happy" rhetoric, all of this was welcome—even intoxicating—to us deficit hawks.

But in the end the actual sacrifice called for under the Clinton plan is so mild and selective that it can hardly be said to address our long-term economic challenges. The President's new taxes on the "rich" turned out to spare almost entirely a much enlarged but fiscally misnamed middle class, excluding all but the top one percent of U.S. tax filers. Despite all the talk of draconian sacrifice, the Clinton plan's proposed energy tax amounted to little more than a flea bite. As for entitlements, the thing that mattered most, the President barely managed to crimp their growth. From 1993 to 2004 federal benefit spending under the original Clinton plan, which, in its handling of entitlements and its overall budget savings, differs only in detail from what Congress approved, would have soared by some $730 billion—as compared with $790 billion under the Congressional Budget Office's business-as-usual baseline scenario.

Without much broader sacrifice—and a presidential vision that truly explains its purpose and inspires us to consume less today for a better tomorrow—we will never cure America's economic ills.

The Clinton plan doesn't come close to balancing the budget, even in the near term. According to the numbers developed by the White House itself, if the President's entire original budget package had been passed and implemented, by 1997 the federal deficit would have declined by only $140 billion from what it otherwise would have been. That would put it at $206 billion, or 2.7 percent of gross domestic product—just a smidgen under where it was (3.0 percent of GDP) in 1989 before the recession began. If 2.7 percent of GDP doesn't seem like a lot, consider that in 1992 a deficit that size would have soaked up about half of U.S. net private savings. And consider also that about three quarters of the spending cuts that the President has proposed for 1994 to 1998—modest as they are—are only to take place after the 1996 election, which, of course, raises the risk that they will not materialize at all.

After 1997 the federal deficit will once again begin to rise rapidly. Under the impact of continued growth in entitlement spending, by 2004 it will have climbed to about $465 billion, or 4.6 percent of GDP. As the Baby Boom generation begins to reach retirement age in the years that follow, a General Accounting Office study indicates, the deficit could then soar to an unthinkable 21 percent of GNP in the year 2020, when today's toddlers are starting to raise their own families.

Economists disagree on many things, but almost none would disagree that it is essential not to let our public debt grow faster than the economy. Yet under the Clinton plan public debt is on track to grow far faster than the economy. Today public debt is already at a higher level—55 percent of GDP—than it has been at any other time since the mid-1950s, when we were still paying off the costs of the Second World War. Because the Clinton budget plan leaves on the table a full two thirds of deficits previously projected for 1993-2004, public debt will grow to about 65 percent of GDP by the end of that period. And along with the debt, needless to say, federal interest costs will soar.

Considering how ravenously a large deficit consumes national savings—and Clinton has spoken eloquently about this—and how important the availability of savings is to making the future-oriented investments that Clinton says he wants (and that America surely needs), how can we possibly justify short-term tweaking of the deficit in lieu of radical surgery to balance the budget?

I have asked the Clinton people this question. One answer they offer is that the volcanic eruption of red ink projected for after 1997 will never occur, owing to steps they will take to control that most intractable force driving our deficits—exploding health-care costs.

The President is certainly right to go after health care. This is where much of deficit reduction must occur. But as to whether Bill Clinton will find his hoped-for health-care savings, I am more than a bit skeptical. As Charles Schultze, a former chairman of the Council of Economic Advisers, put it, "God couldn't design a program" that will achieve net savings in health care in the near term. The President, after all, is proposing that we spend more on health care—according to some, as much as $100 billion to $150 billion annually in new public and private benefits, much of it picked up by the federal government. In the longer term achieving real savings elsewhere in health care will require real sacrifices—including, ultimately, selective rationing of high-cost, low-benefit medical technologies and services. But the Administration isn't preparing the American people for such sacrifices. Until it does, it won't be able to come up with enough health-care savings to offset the cost of the benefit expansions we are now talking about, much less contribute to overall deficit reduction.

Bill Clinton warned of an economic Armageddon if we fail to change course—but then all he was able to give us to cure our economy's ills was a few teaspoons of syrupy medicine.

What happened? The President, according to senior aides, kept asking, "What is *politically* feasible? I do not want this to be another budget that is D.O.A." In the end his political advisers told him he couldn't ask for sacrifice where he had to—from the great American middle class. Let me now speak the unpopular truths that I am sure the President knows but believes are too politically dangerous to act upon. Let me turn to the problem of the great American middle class—and the absolutely essential role it must play in shared national sacrifice if we are to reclaim our future.

THE BRUTAL TRUTH

If you listen carefully to most economists and policy experts today, a consensus emerges about the magnitude of America's economic challenges and what sorts of reforms will be necessary to overcome them.

In particular, most would agree with the following: (1) To get American living standards rising again, we must increase productivity growth. (2) To boost productivity we must invest more—much, much more—not just in machines but in research and development, in infrastructure, and in people. Making the new investments we need if we are again to know the kind of rising living standards we remember from the 1950s and 1960s will require a lot of money. Many, myself included, think that at least $400 billion a year in new investments is needed in order to boost our rate of investment back toward our long-term historical average and put us in the ballpark of what other major industrial countries are now managing to invest. (3) This in turn means that we must save much, much more—at least $400 billion a year more. (4) The surest and fastest way to increase our savings is to reduce and eventually eliminate the federal deficit, which is really just a form of negative public savings. (5) To reduce the deficit and keep it down we must make major cuts in consumption spending, and in particular in entitlements. But this, alas, requires us to confront a brutal question: If we are to save more by consuming less, whose consumption growth do we propose to cut?

It's at this point that agreement on what needs to be done, while not exactly breaking down, comes face to face with a truth that remains politically inexpressible. That truth is that the problem is all of us. *Most Americans—emphatically including the middle class—will have to give something up, at least temporarily, to get back our American Dream.*

We all remember the slogan that came out of the Clinton campaign: "It's the economy, stupid." Well, when it comes to the budget, the watchword ought to be "It's entitlements, stupid." From Social Security and Medicare to the vast tax favors for home-mortgage interest and employer-paid health insurance (policy wonks call these benefitlike subsidies in our tax code "tax expenditures"), consumption-oriented spending dominates the budget today. And the explosive growth of these entitlements will continue to rob our future. The budget arithmetic is inescapable: we just can't get the spending cuts we need from anywhere but entitlements. As big as it is, even defense spending isn't big enough. We could shut down the Pentagon tomorrow and still not balance the budget. Nor can we count on saving much on our huge interest bill unless we first reduce other types of spending. Interest on the national debt is something that we must pay to avoid a devastating financial panic—and it keeps growing as our national debt grows, just as it would fall if we began to attack the deficit. The rest of what government does represents just pennies out of the overall budget dollar.

THE COST OF ENTITLEMENTS

Let's define some key terms and look at some key facts about entitlements. "Entitlements" are any public-sector payments, received by a person or a household, that do not represent contractual compensation for goods or services. This definition obviously excludes large portions of the federal budget, from defense procurement to interest on the national debt to purchases designed for America's collective benefit (such as highway construction). But it includes nearly everything else—most notably such dominating fixtures of the American political landscape as Social Security, Medicare, Medicaid, food stamps, unemployment compensation, veterans' benefits, and farm aid, to say nothing of our lavish federal pension systems.

The most striking single fact about entitlements is their vast cost. Over the course of fiscal year 1993 the U.S. Treasury will have mailed out benefit checks (directly to individuals or to state agencies and insurance companies that administer benefits) totaling some $800 billion, or about one eighth of our nation's GDP. That amounts to more than half (53.5 percent) of the entire federal budget—or about $6 million every minute of every working day, flowing to one out of two American households. These figures, moreover, include only direct outlays from the federal budget. The numbers would be even larger if we included tax expenditures. If we count them and add the cost of administering entitlement programs—as many economists argue we should in order to get the full picture—federal entitlements now amount to more than $1 trillion annually and flow to well over three quarters of all U.S. households.

TEN MYTHS ABOUT ENTITLEMENTS

Myths about entitlements are everywhere. They are used—and abused—in the political dialogue in ways that seem to make reasoned debate and reasonable reforms impossible. Let's look at ten of the most common myths.

1. Most federal social spending goes to the poor.

It is important to remember what entitlements have done to reduce poverty. Before the New Deal millions of Americans had no means of support in the event of unemployment, disability, unexpected retirement, or the death of a parent or spouse. Vast numbers of children grew up in destitute families. At great cost to society and the economy, millions of workers could fall into poverty and never recover. In 1937 President Franklin D. Roosevelt could say, "I see one third of a nation ill-housed, ill-clad, ill-nourished." Today entitlements prevent some 20 million Americans (half of them elderly) from falling into poverty.

This is clearly all to the good. However, keeping people out of poverty is not the purpose toward which most entitlement spending is directed. In reality, only about one out of eight federal dollars of social spending serves to lift poor families above the poverty line. Only about one out of four federal benefit dollars even flows through a program that uses financial need as a criterion for eligibility. Counting both direct benefits and the value of entitlements conveyed through the tax code, the aggregate amounts received by people above the national median income are simply staggering. In 1991 nearly half of all entitlements went to households with incomes over $30,000. One quarter went to households with incomes over $50,000.

2. Entitlement spending helps to equalize incomes by giving more to the poor than to the rich.

Few axioms of American political life find such uncritical acceptance as the belief that social-welfare programs effect a dramatic redistribution of wealth in favor of low-income households. It apparently makes little difference that most experts, liberal and conservative alike, have never subscribed to this axiom—and that recent data repudiate it altogether.

Back in the sixties the Nobel laureate economist Milton Friedman used to shock audiences by asserting that Social Security was actually a regressive program—since the program's mildly progressive benefit formula compensated neither for its regressive payroll tax nor for the fact that the poor pay taxes over more years (since they tend to start working at a younger age) and receive benefits over fewer years (since they tend also to die at a younger age). Most economists found Friedman's analysis at least plausible; no one has yet disproved it. More recently the celebrated political scientist Mancur Olson looked over the panoply of American entitlement programs and concluded:

"Most of the redistribution of government is not from upper-income and middle-income people to low-income people. Most of the redistribution of income in fact is from middle-income people to other middle-income people, or from the whole of society to particular groups of rich people, or from one group to another where the groups are distinguished not by one being poor and the other being rich, but only by the fact that some groups are organized and some are not."

Income data from the Congressional Budget Office tend to bear out Olson's critique. Total federal benefits to the affluent are at least as substantial as those to the needy. Among Social Security beneficiaries, for instance, households with incomes of $100,000 or more receive, on average, checks that are twice as large as those of households with incomes of less than $10,000. Even when we add in the cash and in-kind benefits disbursed by all of the other federal sources for which we have income data—including "means-tested" welfare and food stamps—we find that households in the top bracket ($100,000 and up) received an average of about $5,700 in 1991, slightly more than the average of $5,600 received by households in the bottom bracket (under $10,000).

But direct federal payments are not the only way in which the federal government distributes benefits. We also have to take tax expenditures into account. These loopholes, designed to favor certain households and bearing no relationship to ability to pay, are the fiscal and economic equivalent of a government check. Most tax expenditures are unquestionably regressive: many poor households cannot qualify for them—and even when they do, what they receive is smaller, relative to their income, than what the affluent get. This year, for example, the Congress's Joint Committee on Taxation estimates that the average value of the home-mortgage interest deduction for taxpayers with incomes over $100,000 is $3,453 and that the same deduction is worth an average of only $478 for taxpayers in the $20,000 to $30,000 bracket. Even these figures include only those who qualified for the benefit. They exclude many low-income families, including renters and those who opted for the standard deduction, who do not qualify.

When we add together all the direct-benefit outlays and all the tax expenditures, an unambiguous picture emerges. On average, a household with an income under $10,000 collected roughly $5,700 in 1991. On average, a household with an income over $100,000 collected $9,300. This distribution of benefits by income became more—not less—skewed during the 1980s. Clearly, it has nothing to do with economic equality. Let's phrase the issue a bit more bluntly. If the federal government's purpose were to straighten out the national income distribution, it would do a better job if it dispensed with all the programmatic rules and simply scattered all the money by airplane over every population center, to be gathered at random by passers-by.

3. Social Security and Medicare are an earned right: beneficiaries are only getting back what they paid in.

Here the case is open and shut. Most currently retired Americans receive Social Security benefits that are two to five times greater than the actuarial value of prior contributions, by both employer and employee. The payback for the Medicare Hospital Insurance program is five to twenty times greater. A typical middle-income couple who retired in 1981 have already received back, with interest, not only the total actuarial value of their previous Social Security and Medicare taxes but also the total value of their lifetime federal income taxes.

And these calculations of actuarial value are conservative. They assume that employer contributions "belong" to the beneficiary and that the public must guarantee a "market" interest rate on all contributions, no matter what the condition of the economy or the wages of those who are taxed to make good on this claim. In fact, the Social Security Administration keeps no direct record of how much each person contributes. It just keeps records of each person's wage history, to which a politically determined formula is applied when that person retires.

The politically potent and disingenuous language adopted by the Social Security Administration has contributed to the earned-right myth. The system is described as an "insurance" program, although it is nothing of the sort. References are made to contributors' "accounts," when no such accounts exist.

My father, helped along by years of such misleading nomenclature, went to his grave thinking that he was simply getting back his money, by which he meant what he had put into his "account" over the years. Since by this logic the benefits belonged to him, any proposal to take any of them away was both unjust and immoral. In truth, it was as though the government had a moral obligation to provide a windfall forever. He could only wonder why his otherwise well-educated son thought differently. I could never persuade him. It would have depressed him to find out that in fact there was no Social Security savings account in Washington with George Peterson's name on it.

Nor would I have wanted to depress him further with other unpleasant facts about entitlements. My father was immensely supportive of my wife's work in behalf of poor children at the Children's Television Workshop. He would have been distressed to learn that is 1986, the last year of his life, the nation was told that it could not afford to fund fully the much-admired Head Start program. Yet merely the increases in Social Security's cost-of-living adjustments that year would have fully funded Head Start. Had he known the facts, I am confident he would have been happy to give up his silver of the huge entitlement pie for such a worthy cause.

4. The elderly, as a group, are poorer than young Americans.

In reality, the 1990 official poverty rate among the over-sixty-five population was 12 percent, as compared with 21 percent among children. When we include the value of all noncash benefits as income, the poverty rate for the elderly is six percent, as against 15 percent for children. On this later basis poor children outnumber the poor elderly in America by more than five to one. In no other major industrial nation is the poverty rate for children (using identical definitions) anywhere near what it is in the United States.

Children are the truly needy in our society, but they certainly don't get most of the public money. In 1990 of all direct federal benefits 63 percent went to the 13 percent of all Americans over age sixty-five, while nine percent went to the 26 percent of all Americans under age eighteen. On a per capita basis, and including all federal outlays that might be called "child benefits," from education to immunization, the ratio of average benefits received was eleven to one: $13,890 to each elderly person and $1,271 to each child. Even adding in everything spent by state and local governments (on schools, for instance), the ratio still favors the elderly by at least three to one.

Some argue that entitlements for the elderly merely substitute for transfers of wealth that the young would otherwise make to their parents. That might be true if these programs weren't so lavish. Before Social Security and Medicare, young families did sacrifice for older parents—if and when Mom and Pop were in need. Yet because today's retirees are, as a whole, wealthier than the young, adults aged twenty-five to thirty-four now report receiving from their parents twenty times more support than they give to them; even for adults thirty-five to forty-four, the ratio is five to one. Social Security and Medicare, far from embodying traditional family values, have turned them on their head.

5. Social Security is building up a huge surplus that will be available to pay for benefits promised to Baby Boomers.

It is true that Social Security receipts from payroll withholding taxes currently paid into the retirement part of the Social Security system (not the health-care or Medicare part) are higher than Social Security expenditures, and will probably remain so until the Baby Boomers start retiring in large numbers. But this surplus is temporary. What is more, the funds are not being saved or invested. Instead they are being used to help offset each year's overall federal budget deficit. Thus these surpluses are transformed into debts held by the Social Security trust funds. Future taxpayers will become liable for the principal and interest.

Let's peer into the future to see what the real financial status of our old-age benefit programs is. In assessing their solvency actuaries tally up what are known as unfunded liabilities—the amounts (in this year's discounted dollars) by which future benefits promised to today's adults exceed all their future payroll taxes plus the assets currently held in all the government's relevant "trust funds." The federal government's unfunded liabilities for just four programs—Social Security, Medicare, and federal civil-service and military retirement—come to about $14 trillion. That's a sum several times larger than the national debt, and one equivalent to roughly $140,000 for every household. This is a system in surplus?

6. Today's younger Americans will eventually receive the same health and pension benefits they are providing today's retirees.

Recently the Senate Finance Committee held a hearing on likely paybacks to various generations. No expert disagreed on the trend (an unusual fact in itself): the earliest beneficiaries got by far the best deal, and the deal has been getting worse for each successive generation. By some calculations some upper-income single males retiring this year may get less out of Social Security than they put it.

Moreover, financing even the reduced returns that are promised to tomorrow's retirees is unlikely to be economically or politically sustainable as America ages. The Social Security Administration projects that, depending on demographic and economic trends, the cost of Social Security and Medicare will by 2040 rise to between 38 percent and 53 percent of payroll—unless we cut benefits. I believe the only real question is when, not whether, we will change course. We can make modest, fair-share sacrifices now. Or we can make wrenching changes later, amid economic crisis and, as Paul Tsongas would say, intergenerational war. The choice is not just economic but also moral. I can imagine few ethical principles more important than fairness toward our children.

7. Retirement benefits are an "inviolable contract" between the generations.

No, Virginia, there is no sacred contract, at least not according to the U.S. Supreme Court, which has repeatedly ruled that no covered worker retains any rights, contractual or otherwise, over taxes paid into the Social Security system. Perhaps I may be permitted a layman's less lofty legal opinion. As I recall (from a college course in commercial law), one fundamental requirement of a valid contract is a "meeting of the minds" of the parties to the contract: between those who pay and those who receive. But no such meeting of the minds exists. I am not aware that anyone has consulted my grandson, Peter Cary, now aged three, about the staggering tax rates that our current entitlement "contracts" will require him to pay when he enters the work force.

Simply repeating "inviolable contract," "mandatory," "nondiscretionary," "uncontrollable" payments, or some other disingenuous mantra does not change certain truths. What Congress mindlessly gives can be taken away. A fundamental reality is that the current system is not sustainable. If Social Security (or Medicare) is a contract, it is an unenforceable one.

8. Tax breaks for health insurance primarily benefit people who otherwise could not afford proper health care.

Maybe this one isn't really a myth, but the regressivity of our subsidies to privately paid health care is too shocking not to mention. In 1994 exempting employer-paid health insurance from taxes will cost the U.S. Treasury about $75 billion. Needless to say, of the 35 million or so Americans without health insurance, who receive zero benefits from this huge tax break, most are poor or low-income citizens. Among households that do have insurance, those with the highest incomes and the most generous insurance plans receive several times as much from this federal tax subsidy as those with low incomes and a cost-conscious HMO.

9. The federal government's major housing entitlement, the home-mortgage interest deduction, promotes homeownership and stimulates the economy.

In 1994 the cost of the home-mortgage interest deduction in lost revenues to the federal Treasury will be $46 billion, 80 percent of which will go directly to households with incomes over $50,000. The main economic effect of the home-mortgage deduction is to inflate the price (and size) of homes, while diverting investment away from more productive sectors of the economy.

Our global competitors, who hear us publicly rail about our investment-starved economy and the stagnation of our productivity, politely ask what conceivable connection this tax subsidy for the relatively well off has with enhancing productivity. Officials in Canada regularly chide me about the fact that Canada has the same rate of homeownership as the United States without the benefit of this tax subsidy.

Why, then, do we have it? The answer, of course, does not lie in any real economic imperative. The subsidy exists because we all think we deserve it. What's more, it props up one of our most powerful special interests: the real-estate lobby.

10. The only reason that Ronald Reagan could not keep his promise to shrink the size of government was the huge rise in defense spending.

Judging by the cheers of his supporters and the jeers of his critics, we might suppose that President Ronald Reagan cut everything but defense. And judging by the similar partisan bickering over the policies of his successor, George Bush, we might suppose that the "welfare state" was the victim of further slashing and hacking for another four years after Reagan stepped down.

But the reality is very different: the cost of all direct federal benefits today ($807 billion in fiscal year 1993) is considerably greater than the entire federal budget that existed when Reagan first took office ($696 billion in fiscal year 1981). In fact, adjusted for inflation, federal benefits soared by 54 percent from 1981 to 1993—while all other domestic spending showed zero real growth, and defense, the one area where everyone supposed the Reagan and Bush Administrations had gone hog-wild, showed real growth of only 15 percent.

Contrary to popular impressions, the advent of the Reagan-Bush era did not signal a decisive shift in entitlement policy. With the exception of the 1983 Social Security amendments (designed by a bipartisan commission), both Presidents left non-means-tested outlays and tax expenditures—that is, most entitlements—on autopilot. Thus the Reagan-Bush years only reaffirmed that these vast middle- and upper-class entitlements were politically "uncontrollable"—weasel word behind which Congress and the President can hide their unwillingness to act, since together they can control any spending they want.

THE MIDDLE CLASS: THE THIRD RAIL OF AMERICAN POLITICS

The middle class is at the heart of our budget problem—and must be at the heart of the solution. Taken together, the major benefit programs for which we have income data on recipients—spending roughly 80 percent of total federal benefit dollars, and including everything from Social Security and Medicare to AFDC and food stamps—deliver 99 percent of their benefits ($529 billion in 1991) to the 99 percent of American households with incomes under $200,000. This is the upper boundary of what President Clinton has for political convenience defined as the "middle class." (The income-tax increases proposed by the Clinton Administration begin at $140,000 of taxable income, the number most people have heard quoted. But that's really equivalent to about $200,000 of adjusted gross income from all sources.)

Yet 43 percent of such benefit dollars ($227 billion in 1991) go to households that cannot possibly be considered poor: those with incomes between $30,000 and $200,000. And note that the absolute dollar figure surely understates the total, since it reflects only 80 percent of all benefit dollars. What about the remaining 20 percent? We cannot be sure. Some of it flows through programs such as Medicaid, which mostly benefit lower-income households; some, too, flows through programs such as student loans, farm aid, and veterans' health care, which disproportionately benefit upper-income households. All told, it would be safe to assume that total federal benefit outlays reaching the $30,000-to-$200,000 income brackets amounted to at least $265 billion in 1991.

And what about our ocean of so-called tax expenditures—the subtle subsidies that help the wealthy borrow huge sums for home mortgages and take unlimited health-care deductions? More than two-thirds to tax filers with incomes between $30,000 and $200,000. Just seven percent go to the Americans whom the President calls "rich."

The top-earning one percent of Americans, it's true, receive 13 percent of all income in the United States. Going after the rich to help balance the budget is fine—as far as it goes. Unlike some of my Wall Street colleagues, I see absolutely nothing wrong with imposing higher tax burdens on the wealthiest in our society. But it does not require any arcane knowledge of fiscal arithmetic to see that even with the substantial tax increases proposed by the Clinton plan, trying to balance the budget is quite literally impossible on such a narrow stretch of income territory. In fact, to meet this goal by the year 2000 by taxing the "rich," we would need to tax away all the taxable income of everyone with more than $175,000 of adjusted gross income. Or, if we would prefer a less draconian approach, we could merely double the income taxes of "affluent" tax filers—but we would need to include everyone down to about $50,000 of income. Even this kinder and gentler approach would amount to something more like expropriation—hardly consistent with either free markets or democracy.

As for direct entitlement benefits, here too not much help is available from the rich. The maximum entitlement savings obtainable from the one percent of households enjoying incomes of more than $200,000 are unfortunately limited to the benefits that go to them—about $5 billion if we took away all their benefits (something that even Bill Clinton, with his laser beam on the rich, has never dreamed of suggesting.)

But if we are willing to ask for even modest sacrifices from all Americans with incomes above about $30,000, the picture changes entirely. Suddenly we're talking about a whopping 73 percent of national household income. We're also talking about a stunning 74 percent of all tax expenditures and 43 percent of major federal entitlement benefits, which, taken together—and including our estimate for all benefits—amounted to $372 billion in 1991. That's sum we simply cannot afford to ignore if we are at all serious about putting our fiscal house in order.

Twelve years ago, when Ronald Reagan ascended to the White House, I hoped that his politically candid talk about cutting the budget deficit would lead to politically courageous action. But instead we found a convenient scapegoat. The "poor," we learned, were bankrupting America. Just eliminate the "waste, fraud, and abuse" in our welfare system—all those mink-wearing welfare queens driving Cadillacs and buying vodka at taxpayers' expense—and a balanced budget would be in reach. The premise, of course, was wrong from the beginning. Despite cuts in programs for the poorest Americans during the Reagan years, the deficit kept exploding.

When Bill Clinton ascended to the White House, I was once again hopeful that the

President would seize the moment and make the tough choices needed to cut the deficit and boost savings and investment. But we seem to be caught up in another form of scapegoating. This time it's not the poor who are to blame; it's the rich who are not paying their way.

To be sure, President Clinton will get further with his scapegoat than President Reagan did with his. But both ways of dodging tough choices veer away from the heart of the problem. We are all implicated in our budget deficits, our entitlement ethos, and the overall consumption bias in our economy. And all of us, most particularly the broad middle class that is the backbone of America, must now be part of the solution.

Let's pause for a moment to ask ourselves, what in reality is the "middle class"? Ask any American if he or she is "middle class," and the answer will almost always be yes. The truly poor will admit to being "lower middle class," and the rich will go along with "upper middle class," but few will forthrightly call themselves "poor" or "rich." This is a characteristically American self-perception, and it reflects our desire to live in a basically egalitarian society. But in recent years it has allowed nonpoor Americans to believe that they deserve universal federal entitlements—much of them windfalls—such as Social Security and Medicare, which are often disingenuously called "insurance," and which people mistakenly think of as the payback on their contributions to "their accounts."

Next, ask any group of Americans to specify the annual income that defines "middle class" and you'll hear responses ranging from, say, $20,000 all the way up to $200,000—if we include the Clinton Administration's definition. But there are more precise and realistic definitions. If nontaxable entitlement benefits and other tax-exempt income are included with adjusted gross income reported to the IRS, the median family in the United States had a total adjusted gross income of $31,700 in 1993. If "middle class" is then narrowly defined as comprising half of all American families equally distributed around that $31,700 family, the statistical middle-class income turns out to range from $14,040 to $55,880.

This exposition regularly startles those who are new to it. A family with $60,000 of income invariably thinks of itself as "just getting by," but it actually stands in the top quarter of families. A two-earner family with an income of $120,000 may think of itself as just middle class. In fact that two-earner family stands in the top five percent of American families. By the time we reach those with incomes in excess of $200,000—the only households targeted for significant sacrifices by the Clinton Administration's proposals—we are left with a mere statistical sliver of the population: roughly one percent.

Middle-class Americans today, it seems, suffer from what might be called a "reverse Lake Wobegon" syndrome. As Garrison Keillor fans know, Lake Wobegon is a wonderful fictional place where all the children are above average. When it comes to incomes, however, most middle-class Americans, trying hard to make ends meet, assume they must be below average.

Middle-class Americans today feel hard pressed and beleaguered—and they are. Nobody could possibly argue that even a well-above-the-median $50,000 a year in household income will put one on easy street. It's hard to make it on a typical middle-class income today—when paychecks barely keep up with the cost of homes, of college educations, and even of necessities.

Working hard and trying to follow the rules, middle-class Americans have adopted a kind of siege mentality in the face of evaporating expectations about future income growth. The middle class is already making a de facto and unplanned sacrifice in terms of the loss of upward mobility. But an organized, planned, and temporary additional sacrifice can reverse that trend. Only if we all give up something to reinvest in our future will be able to rekindle the rise in U.S. living standards. If we all just hunker down to protect what we feel we're entitled to, we will condemn ourselves to a future that grows bleaker each year. Evaporating and diminished expectations are not what America is about. The willingness of middle-class citizens to sacrifice a little today for a better tomorrow is, however, exactly what America used to be about and ought to be about once again.

In spite of the recent stagnation of its living standards, the American middle class is still the world's richest middle class, consuming far more than any of its counterparts in Europe or Japan—and paying far lower taxes than most. Indeed, Americans may think themselves over-taxed, but we pay some 10 to 20 percent less of our national income in taxes than do the citizens of most other industrialized countries. The actual economic room for sacrifice exists; what we are missing is the public understanding and the political will to recognize such sacrifices as being in our long-term best interests.

We can't, of course, call on the middle class alone to sacrifice. The rich must pay their fuller and fairer share. Many of the same people who argue that the middle class is too beleaguered to contribute to solving our economic problems stand by silently as the $30,000-a-year middle-class worker pays ever-increasing payroll taxes (which in many cases come to more than his or her income taxes) to subsidize the entitlement benefits of retirees who are getting ten times their contributions in Medicare payments (tax-free) and who may be earning $100,000 or more a year in retirement. This is unconscionable.

RELEARNING OUR ENDOWNMENT ETHIC

These things are certain: we can't do it without the middle class. And we can't do it without going at entitlements head on.

Bill Clinton's decision to skirt entitlements and to spare the middle class from all but token sacrifice may have seemed a politically expedient course for the short term, just as it has to the past several Administrations. (According to the economist Benjamin Friedman, 74 percent of the burden of what deficit reduction the Clinton plan does achieve through higher taxes or benefit cuts will be borne by the small share of U.S. families earning more than $100,000.) But it has meant that his only feasible program is one that has no hope of balancing the budget—or even coming close.

Bad economics may end up being bad politics as well. It is a matter of debate whether the American public is actually ready for real change and tough choices. And avoiding excessively rapid spending cuts or large tax increases in the midst of a creeping recovery was an understandable concern—though for all too many years it has never been the right moment in the business cycle or the political-election cycle for decisive action on the long-term economic predicament that by now also harms our short-term economic prospects. Any responsible budget plan must be phased in gradually if we are to avoid too bumpy a ride. But I believe that a clear goal of budget balance—and a commitment to meeting it by the end of the decade—would ultimately go over better with both the markets and the public than the course Clinton has chosen. Indeed, if one accepts Richard Nixon's dictum that the economy that matters most is the one that prevails three months before the next election, the President's current approach is a dangerous one.

By not asking the public to swallow the bitter pills at the outset, Clinton risks being forced to ask the public—and especially the middle class—to swallow them later, closer to the 1996 election. At that point, having denied the middle class its promised tax cut—and having created the impression that Americans are already making the needed sacrifices when they're not—Clinton may find the public wondering at the need for further sacrifice. Moreover, the lift given to the bond market in 1993 by the early promise of deficit reduction may be 1996 have reversed itself. With health care and other entitlements still spiraling out of sight, and with private credit demands likely rising as we and the rest of the world fully emerge from recession, the United States could once again see soaring interest rates right around election time. As 1996 approaches, Bill Clinton not only inevitably faces a second major budget-cutting exercise but also runs the distinct risk of being tagged the Biggest Borrowing President in history—and he won't even have the excuse of having presided over a divided government. It's easy to imagine a 1996 Republican campaign advertisement along these lines: "Bill Clinton raised your taxes, still borrowed a billion dollars a day, built a bunch of bridges to nowhere—and this time you know who to blame."

My view is that everybody except the poor and near-poor must be part of the solution to America's economic problems. But as we move through the various strata of the middle middle class and upper-middle middle class, and on into the upper middle class, the sacrifices called for in the form of higher taxes or curtailed entitlement benefits should get much larger. By the time we reach the genuine upper class, we should have increased the tax bite significantly and cut deeply into tax subsidies and windfall entitlement benefits.

To help restore fiscal and moral responsibility to our entitlement system, the budget plan I propose in my book *Facing Up: How to Rescue the Economy From Crushing Debt and Restore the American Dream* therefore includes an "affluence test," or a graduated entitlement-benefit reduction. This affluence test (along the lines of the comprehensive means-testing idea discussed by Neil Howe and Phillip Longman in "The Next New Deal," in this magazine in April of 1992) would apply to all federal benefits, both cash and in-kind. No sacrifice would be required of households with incomes below the U.S. median (generously assumed to be $35,000 by 1995, when the test's phase-in would begin). For families with above-median incomes, a portion of total entitlement benefits would be withheld on a steeply progressive basis. Under the test, households would lose 7.5 percent of all benefits that cause their incomes to exceed $35,000, plus five percent at the margin for each additional $10,000 in income. For most types of entitlement benefits, the maximum benefit-reduction rate would be 85 percent, applicable to household incomes greater than $185,000.

If this proposal doesn't silence those who rail that entitlement reform is inevitably regressive and must ravage the poor, it should at least give them pause. For families who are earning between $30,000 and $40,000, are receiving benefits, and are subject to the test, the sacrifice called for would average just $260 a year—or one percent of their benefits. Moreover, most who would have to sacrifice are retired and have lower expenses than working-age adults with similar incomes. For families earning between $50,000 and $75,000, the sacrifice would rise to an average of $2,310, or 12 percent of benefits; for families with incomes over $200,000 it would average $15,345, or 72 percent of benefits.

All told, the budget savings made possible by the affluence test are enormous: at least $93 billion in 2004, on the basis of a conservative calculation that takes into account only the 80 percent of entitlement benefits for which we currently have detailed data on recipient income. Affluence testing alone, however, does not add up to complete entitlement reform. Among other measures, we will also need to cap our open-ended tax subsidies for retirement, housing, and health care, accelerate the scheduled rise in Social Security retirement ages, and trim the largesse of our federal pension systems.

All of these reforms involve structural spending cuts that will save significant money in the 1990s and much more beyond. In a business-as-usual budget scenario, entitlement costs could be closing in on a quarter of GDP by 2024. Under my plan we would already be saving about 1.9 percent of GDP in entitlement spending by 2004; by 2040 we would be saving 5.3 percent of GDP, or some $690 billion in today's dollars—more than twice what we now spend on the Pentagon. That's what I mean by structural spending cuts.

We must invent a new entitlement system that will not just pay us affordable benefits when we need them but will also encourage us to save more for the future, care better for our own children and parents, and take more responsibility for our own health. As America itself grows old, perhaps the most vital changes in our entitlement system will be those that encourage a positive new vision of aging. Entitlements for the elderly must promote an active, economically self-sufficient lifestyle for elders who are able. We will no longer be able to afford a system that equates the last third or more of one's adult life with a publicly subsidized vacation.

Getting our entitlements system back on a sound footing is the key to both a balanced budget and a renewed rise in U.S. living standards in the next century. But of course, putting our fiscal house in order will require much, much more. There is still room for trimming in the small discretionary domestic corner of the federal budget. I also believe that in this post-Cold War world we can spend substantially less on defense, and I endorse the President's proposed cuts. To balance the budget by the year 2000, and at the same time spend more on worthy public goals, from more-generous targeted assistance to the poor to productivity-enhancing investments in human capital, research and development, and infrastructure, we will also need to raise new revenues above and beyond the tax increases President Clinton has already proposed. Along with a broad-based progressive consumption tax, I recommended higher "sin" taxes and a fifty-cent-a-gallon federal gasoline tax phased in over five years, in order to target a particularly profigate type of consumption. But in the end, unless we are willing to touch the third rail of American politics and rein in the growthd upper-class entitlements, our goal will elude us.

The worst aspect of our entitlement addiction is how it subtly fixes our attention on how much we are going to get—and how it obscures any thought of what we have received from others and what we wish to pass on in our turn. In this sense our entitlement ethos pervades not just our public benefit programs but our entire approach to deficit-financed consumption. It is time for America to begin unlearning its entitlement ethic and begin relearning its endowment ethic. At some point we must decide how much we are willing to give up today in order to save for and invest in a tomorrow of rising living standards for ourselves and, or course, our children. The alternative—a future without an American Dream—is no alternative at all.●

IN HONOR OF THE 125TH ANNIVERSARY OF THE UNIVERSITY OF WISCONSIN-WHITEWATER

● Mr. KOHL. Mr. President, I rise today to recognize the achievements of the University of Wisconsin-Whitewater which is celebrating its 125th anniversary.

UW-Whitewater provides precisely the kinds of initiatives which can best prepare our Nation's young people for secure and productive futures. Among the top priorities of the school are an emphasis on quality teaching and the integration of career oriented programs with a general studies program. The College of Businesss and Economics is Wisconsin's largest undergraduate business program, and Whitewater has the largest graduate studies program of all comprehensive universities in the UW system.

The importance of quality education cannot be overestimated. Educational excellence, particularly higher education such as that provided by UW-Whitewater, is perhaps the best way to deal with a host of domestic social problems ranging from substance abuse, to poverty, to homelessness. If education is going to be used effectively as a part of the solution to our Nation's problems, then a university education must be available for every American; Whitewater provides that quality education at a price affordable for average Americans.

At a time when our Nation is desperately looking for ways to improve the education system, we must look to institutions such as the University of Wisconsin-Whitewater to see what is working. As we take encouragement from its successes, I ask my colleagues to join me in congratulating the university—students, faculty, staff, and alumni—on 125 years of educational excellence in Wisconsin.●

THE INTERNATIONAL CRIMINAL COURT

● Mr. DODD. Mr. President, for some time now I have been a strong supporter of the concept of a permanent international criminal court as a way to bring international criminals to justice and to promote a greater respect for the rule of law among nations. Today those who support this concept gained an important and welcome ally, in the form of the Clinton administration.

I want to bring to the attention of my colleagues a statement made today by Conrad Harper, the State Department legal adviser, during consideration of this issue at the United Nations in New York. Mr. Harper appeared during the second day of a week-long debate in the United Nation's Sixth Committee, the committee that is charged with debating legal issues on behalf of the General Assembly. The Sixth Committee was meeting to discuss a 68-article draft statute for an international criminal court that was put forth this summer by the International Law Commission.

In his statement, Mr. Harper noted that the U.S. Government is firmly committed to the fight against international crime, and has actively pursued bilateral and multilateral efforts to combat such crime. In that context, he said, the time had come for the United States to revisit its long-standing reluctance to support the concept of the international criminal court.

Here is an excerpt of what he said:

> My government has decided to take a fresh look at the establishment of such a court. We recognize that in certain instances egregious violations of international law may go unpunished because of a lack of an effective national forum for prosecution. * * * In general, although the underlying issues must be appropriately resolved, the concept of an international criminal court is an important one, and one in which we have a significant and positive interest.

Mr. President, in all candor, I would have liked to see the Clinton administration go even further in this statement. I would prefer that this statement had made clear our explicit endorsement of the concept rather than our positive interest in it. And I do regret that the administration found it necessary to say, later in this statement, that it will need to consider whether drug crimes and crimes by terrorists are better handled by an international court as opposed to national courts. In my view, our experience in trying to combat these crimes over the past decade shows quite clearly that the current reliance on national courts is simply not sufficient.

Nonetheless, this statement is a dramatic improvement over the statements made by the previous administration on this matter. It was only a year ago this week that a State Department legal adviser appeared before the Sixth Committee to say only that the United States was "not necessarily opposed" to the concept, and to argue for a delay in the drafting of a statute. In that sense the statement delivered today by Conrad Harper represents a welcome and important change in both tone and substance, and I commend the administration for having the foresight to lend its support to this very important effort.

Mr. President, I ask that the full statement of Conrad Harper be included in the RECORD at this point.

The statement follows:

STATEMENT BY HON. CONRAD K. HARPER

Madam Chairman, as this is my first time addressing the Committee, I wish to express my appreciation for the work of the Committee and its officers. I am very pleased to be here for the discussion of the work of the International Law Commission ("ILC"), which is one of the most important elements of the annual deliberations of the Committee.

My delegation commends the ILC for the valuable work it has done in many fields, including its expeditious work on the vital topic before us today. My delegation also wishes to note with appreciation the excellent work done by the ILC's working group. The working group's strong efforts have produced a thoughtful and serious work product that deserves attention by members states.

I am pleased to provide comments for my Government on the question of the establishment of a permanent international criminal court, and in particular the proposed statute contained in the report of the International Law Commission (A/48/10) and prepared by the ILC's working group over the past year.

My Government is firmly committed to the fight against transnational crime in all its forms. We have taken an active role in all fora where proposals for international cooperation in this area are debated and implemented. In addition, we actively pursue bilateral and multilateral relationships that underlie cooperation in the criminal justice field, and have entered into numerous extradition treaties as well as treaties on mutual legal assistance in criminal matters. We have placed considerable emphasis on international efforts to curtail drug trafficking, money laundering, organized crime, and terrorism.

Last May, the Security Council created an Ad Hoc Tribunal to address serious violations of international humanitarian law in the former Yugoslavia. My Government is a major proponent of this effort to ensure that those who have committed such crimes are held personally responsible. This Tribunal for Yugoslavia establishes a new and largely untested mechanism—one that has gained wide-ranging support in part because it was carefully tailored to meet the needs of a specific situation. The same level of care must be taken with other new mechanisms in the criminal justice field.

It is in this context of multilateral and bilateral cooperation that this Committee considers the question of an international criminal court. My Government has decided to take a fresh look at the establishment of such a court. We recognize that in certain instances egregious violations of international law may go unpunished because of a lack of an effective national forum for prosecution. We also recognize that, although there are certain advantages to the establishment of ad hoc tribunals, this process is time consuming and may thus diminish the ability to act promptly in investigating and prosecuting such offenses. In general, although the underlying issues must be appropriately resolved, the concept of an international criminal court is an important one, and one in which we have a significant and positive interest. This is a serious and important effort which should be continued, and we intend to be actively and constructively involved.

Madam Chairman, my Government continues to study the concept of an international criminal court and the ILC working group's proposal. While some of the issues are very difficult and the review is not complete, we do have a number of comments on aspects of the draft at this stage. Ultimately, no proposal can gain the support of governments if certain key issues are not satisfactorily resolved. I believe that many member states may share our concerns, and will agree that careful study is required.

Careful consideration needs to be given, for example, to whether the subject matter jurisdiction of the court has been framed appropriately. We are not yet convinced that the general category of "crime[s] under general international law" is sufficiently well-defined or accepted by the world community that it could, at this stage, form a basis for jurisdiction of the criminal court. We will also need to consider, for example, whether drug crimes and crimes by terrorists are better handled by an international court than by national courts. We will want to ensure that cases which can be properly and adequately handled in national courts are not removed unnecessarily to the international court. We also have a concern over how international jurisdiction would relate to existing status of forces agreements, the prosecution of war crimes, and other military matters.

We also note that, under the current proposal, many states which have a definite interest in a particular case have no role in deciding whether the international criminal court or national courts handle that case. Thus the state or states where the crime took place, where the victims reside and the state of nationality of the accused person might none of them consent to a given prosecution, yet it might proceed. At this point, we do not suggest that all states with any of these various interests in a case must give consent, or otherwise accept the jurisdiction of the court over the particular crime, before a prosecution will proceed. Nonetheless, and in view of the fact that there would always be the possibility of cases initiated by the Security Council, we believe that further review of this issue is warranted.

We also believe that there is a need to think through how the international criminal court will affect existing extradition relationships, whether according to treaty or other legal mechanisms. The United States has, as we have pointed out, put considerable energy into entering into bilateral extradition treaties with numerous governments. The arrangements for the proposed court should be in addition to, and not frustrate the purposes of, those treaty relationships. Thus, we should consider whether a request for surrender of an accused person to the international criminal court should really take precedence over a proper request for extradition under an extradition treaty, or whether the court should function more as a mechanism to be used when national courts are unable or unwilling to act.

In this connection, we note that the current draft's provision for immediate arrest and surrender of an offender may be inconsistent with requirements for a judicial hearing that are for the United States, and likely for other states as well, a matter of constitutional dimension.

We will also want to ensure that the treaty is consistent with international standards for due process and human rights. The ILC working group has certainly taken these concerns into account to a considerable extent. At the same time, others may have further contributions to make on this subject. We note, for example, that the current draft does not make provisions for a true "appeal" to a separate group of appellate judges. The War Crimes Tribunal for Yugoslavia, on the other hand, includes this very important feature. More generally, given the extent to which the court's rules will give definition to the principles of due process and human rights, consideration should be given to drafting those rules in conjunction with the statute.

Cognizant of the budgetary pressures on the United Nations and other organizations, we believe that an international criminal court will need to have an acceptable mechanism for budgetary and administrative oversight.

Madam Chairman, we believe that it is critical for the success of this endeavor that the court have the full support of the world community. Any other course would run the danger of undercutting cooperation in international criminal matters. For this reason, it is essential that the fundamental issues relating to such a court be satisfactorily resolved.

Our review is continuing, and this is not a complete list of our concerns. Nonetheless, we wanted member states to have the benefit of our views. I wish to emphasize that my Government is ready to work energetically with the members of this Committee to examine the issues related to establishing an international criminal court, and to work together to resolve the relevant issues and concerns.•

ILLINOIS FLOOD EFFORTS

• Mr. SIMON. Mr. President; I would like to recognize the efforts of the USDA Soil Conservation Service [SCS] and the Illinois Soil and Water Conservation [ISWC] Districts during the Great Flood of 1993. These dedicated individuals battled against the floodwaters that devastated Illinois and the Midwest this past summer.

Working through five emergency response centers, SCS and ISWC staff gathered information from local communities, and dispatched technical specialists to evaluate flood situations and offer assistance. Many of these workers were flood victims themselves, ravaged by the loss of their crops, homes, and property. Despite their personal deprivation, they gave freely of their time, energy and resources to those who were more in need.

SCS members helped repair levees at the height of the flooding and surveyed the affected areas for people who might need urgent assistance. They also assisted evacuation efforts in towns before the floods hit, and worked to provide necessary supplies. Even now, as the floodwaters recede, they continue to assist communities' repair and recovery operations. SCS has already completed 11 restoration projects and is working on 70 others at present.

Mr. President, each member of the Soil Conservation District staff—which includes Ron Hall, Joe Gates, Ivan Dozier, Jerry Kaiser, Marlyn Schafer, Rob Meats, and Glen Smiddy—deserves our highest praise and thanks. I commend everyone involved with the Soil

Conservation Service and the Illinois Soil and Water Conservation Districts for their selflessness and dedication.•

THE ESPERANZA PRIMARY CAMPUS

• Mr. DECONCINI. Mr. President, today I rise to recognize the Esperanza Primary Campus in Phoenix, AZ, which provides a unique academic setting for children of different ages who discover, question, and learn together.

The Esperanza Primary Campus began operating 2 years ago. Administration, faculty, and architects designed the school to produce a conducive and comfortable atmosphere for students. This school was the first in the State of Arizona to utilize the multi-age program, a distinctive program in which children of various ages and cultural backgrounds learn together. Further, this program fosters a family-like environment where children can excel through their interactions and experiences with one another. A multi-age classroom has many benefits for students as it builds social skills, increases self-esteem, and encourages higher-level thinking.

Bilingual and monolingual children benefit greatly from the multiage program at Esperanza Primary Campus where learning situations and interactions create a nurturing environment. Bilingual students receive basic scholastic instruction in their primary language, but other types of creative instruction are carried out in English thereby supporting second language acquisition.

Another feature of this school is the developmental center that includes a display and discussion area, a multisensory room, a kitchen/lab area, an enclosed animal housing area, an outdoor garden, sand and water exploration tables, and a woodworking center. Esperanza Primary Campus seeks to provide children with the opportunity for personal discovery and investigation which builds both knowledge and self-esteem and further develops a child's sense of purpose for attending school and participating actively in all areas of the educational program. This primary campus also houses a creative center which offers students experiences in the fine arts. The facility includes graphic design, drama, a publishing center, as well as a recording studio.

I commend Principal Maria Rosales and the faculty of the Esperanza Primary Campus for promoting a positive educational environment for students that provides a sense of continuity, the motivation to learn and builds self-esteem.•

NEIGHBORHOOD HOUSING SERVICES OF CHICAGO AND CONTINENTAL BANK

• Mr. SIMON. Mr. President, I am proud to acknowledge National Housing Services [NHS] and Continental Bank as one of Social Compact's 1993 Outstanding Community Investment Award partnership recipients. NHS and Continental Bank are being recognized for their efforts to strengthen neighborhoods by helping lower income families achieve home ownership.

Continental Bank was a founding partner of NHS of Chicago. Over nearly 20 years of operation, it has evolved to offer a highly sophisticated and comprehensive program of services which are helping to rebuild neighborhoods on Chicago's west and south sides. These are primarily minority communities with large elderly populations. One-third of NHS' clients are female heads of families.

In 1987 Continental initiated a home improvement loan fund with a $20 million loan to be administered by NHS of Chicago with loans up to $50,000. Over 1,000 loans have been made to restore 1,833 units to safe, affordable housing. In 1992 the commitment was renewed with longer terms and lower rates. In 1992 127 loans were made totaling $2.7 million leading to rehabilitation of 212 housing units for Chicago's lower income residents. This program has provided capital to over 1,800 Chicago families to improve and save their homes and has not experienced a single loss.

I am proud to recognize the members of NHS and Continental Bank for their dedication to providing secure housing for those who need it most. Partnerships such as NHS and Continental Bank play a critical role in rehabilitating disadvantaged neighborhoods, and I commend their commitment to community enhancement.•

WELCOMING DEMOCRATIC ELECTIONS IN PAKISTAN

Mr. REID. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from and the Senate proceed to the immediate consideration of Senate Resolution 154, a resolution welcoming the holding of democratic elections in Pakistan; that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table, and that any statements relative to the passage of this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 154) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 154

Whereas the United States and Pakistan have maintained close and cooperative relations over many years;

Whereas the United States has a strong interest in strengthening democracy and human rights in Pakistan;

Whereas Pakistan held elections for the National and Provincial Assemblies on October 6 and 9, 1993, respectively;

Whereas the elections were observed by independent domestic monitors and by an international delegation organized by the National Democratic Institute for International Affairs (NDI);

Whereas the NDI delegation reported that "the balloting was generally open, orderly and well-administered," that "election officials generally carried out their tasks impartially and with diligence," and that the announcement of results "generally proceeded in accordance with the law;"

Whereas the people of the United States enjoy an abiding friendship with the people of Pakistan; and

Whereas the United States and Pakistan share a common interest in the promotion of stability in Pakistan and the easing of tensions in the South Asia region: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes the holding of elections on October 6 and 9, 1993, in Pakistan as an important step toward reaffirming Pakistan's democratic course;

(2) congratulates Prime Minister Benazir Bhutto on the occasion of her swearing-in on October 19, 1993;

(3) reaffirms the existing ties of friendship between the peoples of Pakistan and the United States; and

(4) underscores the continuing interest of the United States in working with the government of Pakistan on issues of bilateral and regional concern.

ORDERS FOR TOMORROW

Mr. REID. On behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m., Wednesday, October 27; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business not to extend beyond the hour of 9:40 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the time from 8:30 until 9:30 equally divided and controlled between Senators MOSELEY-BRAUN and KEMPTHORNE, or their designees; that at 9:30 a.m., Senator KERRY of Nebraska be recognized for up to 10 minutes; that at 9:40 a.m. the Senate resume consideration of S. 578, the Religious Freedom Restoration Act, with 20 minutes total remaining for debate on the Reid amendment and that the bill, with the time equally divided and controlled between Senators KENNEDY and REID, or their designees; that at 10 a.m., without intervening action or debate, the Senate vote on or in relation to the Reid, et al. amendment No. 1083; that upon disposition of the Reid amendment, the remaining provisions of the previous order be executed, with the above occurring without intervening action or debate; that upon conclusion of the vote on passage of H.R. 1308, the Senate then stand in recess until 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, there will be two votes beginning at 10 a.m. The first vote is in relation to the Reid amendment, the second passage of the bill. At the conclusion of the second vote the Senate will then recess until 1 p.m.

RECESS UNTIL TOMORROW AT 8:30 A.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate at 9:09 p.m., recessed until tomorrow, Wednesday, October 27, 1993, at 8:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 26, 1993:

DEPARTMENT OF TRANSPORTATION

FRANK EUGENE KRUESI, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

STEVEN O. PALMER, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

CRISIS IN KASHMIR

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BURTON of Indiana. Mr. Speaker, I want to call your attention to a crisis in Kashmir which deserves our administration's immediate attention. Over 100 Kashmiris seeking independence from India have taken refuge inside the Hazratbal Mosque in Srinagar and are currently surrounded by over 1,000 Indian troops.

While many of the facts surrounding the origins of this conflict are still unclear, I am concerned about reports that Indian security forces have beaten innocent civilians who have participated in peaceful marches and rallies in support of those Kashmiris barricaded in the mosque. I am particularly concerned about Mr. Abdul Lone who was badly beaten during a peaceful march to the Hazratbal Mosque. He is now being held in the Institute for Medical Sciences where his family has been refused permission to see him. It is my fear that the Indian Government does not want anyone to see Abdul Lone until his injuries heal.

I believe that our administration must urge the Government of India to avoid the use of military force against innocent civilians. I also call on the Indian Government to provide proper medical treatment to those injured as a result of this crisis. Mr. Speaker, to help shed light on this current crisis, I would like to insert some information about the Hazratbal crisis. I would also like to insert some additional information concerning the recent arrests of several top Sikh leaders in India. I encourage everyone to read this material.

The articles follow:

[From the New York Times, October 17, 1993]

INDIAN TROOPS SURROUND MOSQUE IN KASHMIR

(By Edward A. Gargan)

NEW DELHI, October 16.—Heavily armed Indian troops surrounded the main mosque in the capital of the state of Jammu and Kashmir today, saying the mosque was filled with weapons and separatist Muslim guerrillas.

About 100 guerrillas were taking refuge in the Hazratbal Mosque in Srinagar, an army spokesman said. About 1,000 soldiers were at the scene.

Occasional volleys of gunfire echoed through the narrow, twisting streets of the old city. A 20-year-old man was killed on Friday night during a shootout near the mosque compound, but it is unclear who fired the fatal shot.

The Kashmir Valley, a dramatically beautiful land of lakes, mustard fields and eucalyptus groves hemmed in by snow-dipped mountains, has been engulfed by a secessionist rebellion for more than three years. Jammu and Kashmir is the only state in India with a Muslim majority and the region has been in revolt against New Delhi's rule, which many Kashmiris resent as Hindu domination.

In the three years of war, hundreds of thousands of soldiers, paramilitary troops and police officers have tried to suppress the revolt, engaging in widespread terror and abuse of human rights, according to a steady stream of reports by human rights groups.

Sweeps against villages have left thousands of people dead. Hundreds of women have been raped by soldiers and thousands of young men have been arrested and tortured, human rights organizations have reported.

The Hazratbal Mosque contains what Muslims believe to be a hair of the prophet Mohammed and is the holiest shrine in the valley. For years, militant Muslim separatists have gathered at the mosque to vent their grievances against the Government in New Delhi. Muslim clerics have regularly called for independence from New Delhi in their Friday sermons.

Army troops in battle gear, armed with heavy weapons, surrounded the mosque overnight. With loudspeakers, they demanded that those inside surrender. During these demands, exchanges of gunfire are reported to have occurred. A building in the compound caught fire, but there were conflicting reports of how the blaze had begun.

A Government spokesman in New Delhi said the militants had set it, but in the last year Indian troops and paramilitary forces have repeatedly used arson as a weapon of retribution.

Last year, a library in the mosque compound was set on fire by Indian forces and thousands of books were destroyed. On Jan. 6, in the town of Sopore, about an hour north of Srinagar, Indian troops burned down a large section of the center of town and killed 43 people. And in April, Indian paramilitary troops set fire to the center of Srinagar, a densely packed area of wood-frame houses and storefronts, destroying blocks of houses and shops.

The Government denies that it engages in human rights abuses, but this month, in an acknowledged effort to counter criticism from international human rights groups, it set up an official human rights commission. But the commission has no power to investigate abuses by the military.

The rebellion in Kashmir is one of several insurgencies faced by India, but it is by far the most serious. Since India and Pakistan became independent in 1947, Kashmir has been a disputed territory between the two countries.

INDIAN SECURITY FORCES BREAK UP PEACEFUL RALLY

WASHINGTON, DC.—In a further incident involving the situation at the Hazratbal Mosque, Indian military personnel today brutally disbanded a peaceful rally organized to end the standoff at the mosque without bloodshed.

The All Party Freedom Conference, lead by executive members Abdul Gani Lone, Mohamad Naeem Khan, Shahid Islam and others, arranged the peaceful march from Magarbal Bagh to the Hazratbal to show their solidarity for the citizens detained inside the mosque.

Upon reaching Badshah Chowk, however, the marchers were met by heavily armed Indian Border Security Forces (BSF). Mr. Lone, of the Jammu and Kashmir People's Conference, was badly beaten and he, Mr. Khan, of the People's League, and Mr. Islam of the Muslim Conference were taken into custody by the BSF. Mr. Lone's son, Bilal Lone, reported the incident to the Kashmiri-American Council (KAC). The fate of those in custody is not known at this time.

Dr. Ghulam Nabi Fai, Executive Director of the KAC, reacted to the brutality by stating, "This is yet another demonstration of the Indian Government's ruthless reaction to peaceful attempts to resolve conflicts. This display of inhumanity is beyond condemnation."

Mr. Abdul Gani Lone made his intentions known by announcing the peaceful rally yesterday during a news conference. Approximately 3,000 Kashmiris responded to the call. Said Dr. Fai, "The Indian troops knew well in advance of the peaceful nature of the rally, yet the men, women and children were met with volleys of teargas and clubs. How can we possibly expect peace in the valley when peaceful demonstrations are countered with such savagery?"

KASHMIRIS PROTEST INDIAN MILITARY ACTION AT MOSQUE

WASHINGTON, DC.—The Kashmiri-American Council today condemned the contentious actions of the Indian military forces at the Hazratbal Mosque in Sringar.

Approximately 200–300 civilians had taken refuge inside the mosque prior to their return home from a religious pilgrimage to Kashmir's holiest shrine. Once inside, they were surrounded by more than 1,000 heavily armed Indian troops. One civilian has reportedly been killed.

"This is a clear indication of India's policy of using troops and aggression to intimidate civilians in the Kashmir Valley," said Dr. Ghulam Nabi Fai, Executive Director of the Kashmiri-American Council. "We are outraged at this deliberate action to induce greater fear into an already terrified community."

The Hazratbal Mosque is visited by thousands of Kashmiris each day. As a result, the mosque has periodically been assailed by Indian troops, including an incident of arson last year which destroyed the mosque's library.

Dr. Fai stated, "India has acquired expertise in direct assaults on religious shrines and in causing the deepest wounds to the peoples' psyche: first the attack on the Sikh shrine in Amritsar, then last years' rampage at the sixteenth century mosque, and now the assault on Hazratbal. How long can this persecution continue?"

Contrary to reports from the Indian Government, the civilians detained inside the mosque have attempted to diffuse the situation through negotiations. Thus far, the military has rejected any peaceful settlement and the standoff continues.

Indian authorities have also intentionally misrepresented the use of the holy mosque as a hideout for Kashmiri militants and weapons. This disinformation seriously undermines the attempt of the Kashmiri struggle for a peaceful resolution of the conflict.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

"The military has chosen to use propaganda and terror over reason as a tactic of settlement," stated Dr. Fai. "This has been its principle policy in the larger question of the future of Kashmir. While the Kashmiris organize themselves to reach a peaceful solution, the military continues to use brutality and fear to suppress the will of the people. The international community cannot allow this to continue."

URGENCY OF PEACE IN KASHMIR

(By Dr. Ghulam Nabi Fai)

The end of the East-West (so called) bipolar confrontation has ushered in an era in which long-standing disputes are on the way of settlement. Nelson Mandela and President de Klerk stand together to proclaim a schedule for South Africa's first nonracial elections; Israel and Palestinians are openly and jointly charting the path of a compromise. For the world as a whole, this emerging global condition has brought about a real reduction in nuclear arsenal.

At the same time, the lid has been taken off the boiling cauldron of ethnic and religious hate. The resulting regional conflicts replace the superpower confrontation as the new threat to a decent or at least tolerable world order. Yet there seems to be no resolve on the part of the great powers to deal rationally and effectively with this threat.

The most visible of these conflicts is the horrendous brutality unleashed in Bosnia-Herzegovina. Even though it has outraged the human conscience, nothing has been done to prevent such crimes against humanity and punish the perpetrators.

Precisely the same phenomenon of unstopped and unpunished barbarities is being witnessed in Kashmir. The irony is that the impunity that is thus being granted to the violator of human rights is not in the context of a new dispute, or a civil war where the status, the positions and the actions of the parties remain obscure for sometime and international response lags behind turns in the situation. It is being done in a territory known to be disputed for 46 years. There is no alibi for the international communities' inaction except that India with its major power pretensions maintains violent occupation of the territory. Furthermore, the dispute is known to have the potential of large-scale international conflict with the possibility of nuclear confrontation. It has produced two wars and a third cannot be ruled out unless a peace process is set in motion.

The dispute over the status of Kashmir can be settled only in accordance with the will of the people which can be ascertained through the democratic method of a free and impartial plebiscite, internationally supervised. This was the common ground taken by all the three parties to the dispute—viz: the people of Kashmir, India and Pakistan. It was supported without any dissent by the United Nations Security Council—and prominently championed by the United States, Britain, France, the Scandinavian countries and other democratic States.

It became a matter of controversy only after India realized that she could not win the peoples' vote and, in conditions of the cold war procured the support of the Soviet Union for its obstructionist strategy. With the end of the cold war, it was right to expect that the original perspective would be recovered and the dispute would be subjected to procedures of peaceful settlement in accordance with humane and democratic principles.

This expectation has been frustrated so far. Only recently, however, some small indications of a more responsible—and more responsive—trend have emerged. President Clinton, in his speech before the United Nations on September 27, specifically made reference to Kashmir among enduring dangers which threaten "to take on murderous proportions." Secretary General Boutros Boutros-Ghali has offered his assistance in promoting a solution. In Kashmir itself, there has been established the All Parties Freedom Conference (APFC) which has unified the resistance against Indian occupation on a moderate and responsible platform.

The community of nations must seize this opportunity to promote an initiative towards bringing about conditions necessary for settlement of the Kashmir dispute. The first necessity is a mutually agreed ceasefire between the Indian occupation authority and the Kashmiri resistance. Once violence ceases, the community of nations can initiate an intra-Kashmiri dialogue without publicity at a place outside the subcontinent with the participation of the representatives of All Parties Freedom Conference (APFC), the Kashmiri Pandits, the Dogras, the Ladakhis and the prominent political parties of Azad Kashmir. Simultaneously, the community of Nations can proceed to engage all parties to the dispute—India, Pakistan and the accredited representatives of Kashmir—in a dialogue for a peaceful settlement.

Global initiatives in Kishmir will not only end the bloodshed and suffering in Kashmir, but also have a direct positive effect on international security by eliminating regional fighting, national tensions, and the risk of a nuclear war between India and Pakistan. It is in everyone's interest to settle the Kashmir conflict peacefully without further delay.

As this message is being prepared, the news has come through radio bulletins that Indian troops have attacked the holiest shrine of Kashmiris—the Hazratbal Shrine. India has acquired a formidable expertise in direct assaults on religious shrines and in causing the deepest wounds to a peoples' psyche. Some years ago, it attacked the sacred shrine of Sikhs in Amritsar and incurred their unceasing wrath. Late last year it allowed mobs to go on a vandalist frenzy and destroy a sixteenth century mosque, an architectural monument. Now, added to its barbarities, it is committing cultural genocide in Kashmir. Is there no element in decent international opinion to cry 'Halt'?

European Socialists have a long and proud tradition of upholding the causes of human freedom and dignity. Kashmir calls urgently for initiatives in accordance with that tradition.

INDIA SHAMELESSLY ARRESTS TOP SIKH LEADERS—INDIAN STATE TERRORISM CONTINUES UNABATED; WAR BETWEEN INDIA AND PAKISTAN LOOMS

WASHINGTON, DC, Oct. 21.—In an operation that has become all too familiar, the Indian government has simply arrested top Sikh leaders in anticipation of their upcoming November 1 peaceful march to New Delhi.

Yesterday, Sikh leaders including Gurcharan Singh Tohra, President Shiromani Gurdwara Prabhandak Committee; Prakash Singh Badal President Akali Dal (Badal); and Surjit Singh Barnala, President Akali Dal (Barnala) and many others were rounded up in the state of Punjab. They have been arrested indefinitely.

Sikh leaders had unanimously decided to launch a peaceful march to New Delhi from November 1 in order to protest the September 15 sacrilege of the Sikh holy scriptures by the Punjab police at the historic Gurusar Gurdwara (Sikh temple) in Gujjarwal, Punjab.

On September 15, police raided the Gurusar Gurdwara and interrupted an Akhand Path (continuous reading) of the Guru Granth Sahib (Sikh holy scripture). Police entered the gurdwara and indiscriminately beat people and stopped the reading of the Sikh holy scriptures. Gurbachan Singh, a 75 year old man, died as a result of a police beating inside the gurdwara.

Sikh leaders had attempted to submit a memorandum to Indian President Shankar Dayal Sharma immediately after the police sacrilege but were stopped ostensibly because they were carrying Sikh ceremonial swords. This is despite the fact that they had met previous Indian Presidents with their swords.

The arrest of the Sikh leaders planning to protest the gurdwara sacrilege bears an eerie connection to the current Indian siege of the Hazratbal Mosque in Srinagar, Kashmir. It seems religious shrines have become the foci of governmental oppression against religious minorities.

"The Indian government can only get away with its treachery for so long," said Dr. Gurmit Singh Aulakh, President Council of Khalistan. "On one hand the Congress government is aggressively demanding an apology from the BJP for the destruction of the Ayodhya mosque, on the other hand it refuses to apologize for its own sacrilege of Sikh gurdwaras and rationalizes the attacks on mosques in Kashmir. The arrest of Sikh leaders and the current siege of the mosque may very well be a prelude to war with Pakistan over Kashmir. India wants to arrest Sikh leaders whom it knows will side with Pakistan in case of war."

"The world is watching the events in Kashmir and Punjab, Khalistan very closely," said Dr. Aulakh. India cannot expect to groundlessly arrest peaceful Sikh leaders with impunity. There is one human rights standard and India is being exposed as one of the worst human rights violators in the world."

Indeed, today the Washington Times reported charges by Amnesty International that "India relied on 'coverups and blatant lies'" in order to hide human rights violations. In addition an October 14 Amnesty International "Urgent Action Appeal" states "Press reports indicate the Punjab police operates a 'license to kill policy.'"

Considering Asia Watch has reported "Virtually everyone detained in Punjab is tortured," the lives of the arrested Sikh leaders are certainly in danger.

Since 1984 over 110,000 Sikhs have been killed by Indian government police, paramilitary forces, death squads, and vigilante groups. Currently, over 70,000 Sikhs languish in Indian prisons without charge or trial under barbaric, draconian laws. The United Nations Human Rights Commission has condemned these laws as "disturbing" and "completely unacceptable." Even worse, Amnesty International has not been barred from conduct investigations in India since 1978.

In the face of such oppression the Sikh nation declared independence on October 7, 1987 forming the separate country of Khalistan. Indeed, international support for Sikh freedom grows everyday. On August 5, Congressman Pete Geren, along with 12 co-sponsors, introduced House Concurrent Resolution 134 recognizing the right to Sikh self-determination. The resolution calls for a U.N.-sponsored plebiscite in the Sikh homeland, Punjab, Khalistan so Sikhs may "determine for themselves, under fair and peaceful conditions, their political future." It currently has sixteen co-sponsors.

"I fear for the lives of the arrested Sikh leaders," said Dr. Aulakh. "The Indian government is devoid of morals. I appeal especially to President Clinton, the administration and the Congress to intervene immediately for the release of the Sikh leadership."

"They will do anything to suppress the Sikh demand for freedom. How could they stoop so low as to arrest Sikh leaders who were only planning a peaceful march? It is time for India to face the world and answer to its misdeeds. It is time for India to realize that its tactics of government by oppression will no longer be accepted by the international community. It is time for India to respect the human rights of the Sikh, Christians and Muslim people. And it is time for the freedom of Khalistan, Nagaland and Kashmir. Khalistan, Nagaland and Kashmir will have their freedom. India has no other choice."

[From the Tribune, Oct. 8, 1993]

AKALI DAL MARCH TO DELHI

GUJJARWAL (LUDHIANA), October 7.—The Akali Dal factions today unanimously decided to launch a march to Delhi from November 1 to protest against the excesses against Sikhs and the sacrilege of the Akhand Path by the police in the Historic gurdwara Gurusar in this village on September 15 during a raid by the police.

The decision to launch the protest march was announced by the SGPC chief. Mr. Gurcharan Singh Tohra amidst slogans of "bole so nihal Sat Sri Akal". The gurdwara hall was packed to capacity and a large number of Sikh men and women had gathered outside the hall.

The SGPC president had formed an action committee comprising heads of the Akali factions with himself as the convener and the committee had decided to organise Akhand Paths in the state on October 3 and at Gujjarwal today to announce the next programme of action.

Mr. Tohra announced that the Akali Dal had been forced to take this decision as the government had failed to tender a public apology and punish the guilty police officials responsible for the September 15 incidents. Mr. Gurbachan Singh an old man of 75 years died later as a result of the alleged beating by the police. His bhog ceremony was held yesterday in the village. Mr. Tohra would lead the first jatha from Amritsar on November 1 on the Gurpurab of Guru Ram Das. The bhog of Akhand Path would be held at Akai Takht on that day.

The SGPC chief said that four more Akhand Paths would be held at Takht Damdama Sahib (Talwandi Sabo). Takht Sri Kesgarh Sahib Anandpur Sahib, Gurdwara Rakab Ganj and finally at Akal Takht. He explained that 'jathas' would start from other places also and all jathas would make a big march in Delhi. Asked if they would hold a march in front of Parliament or the Rashtrapati Bhawan, Mr. Tohra said that if Parliament was in session they would march to the Parliament house.

He said that the government had forced them to take this decision of launching the morcha as the same had failed to tender a public apology and dismiss the two police officials responsible for the sacrilege of the Akhand Path at Gujjarwal.

No Sikh could tolerate the sacrilege of the Guru Granth Sahib and appealed to all Sikhs of participation in the march.

Before Mr. Tohra made the announcement the Akali leaders namely Mr. Parkash Singh Badal, Mr. Jagdev Singh Talwandi, Mr. Kabul Singh, Mr. Simranjit Singh Mann and after Mr. Kartar Singh Narang had a closed door meeting and discussed the programme of action. After about two hours Mr. Tohra made the announcement in the hall of the gurdwara where the Sangat had gathered. Bhai Manjit Singh, president Akali Dal (Manjit) and Captain Harcharan Singh Rode also joined the congregation later.

Earlier an "ardas" of bhog of Akhand Path was performed by Prof Manjit Singh acting Jathedar of the Akal Takht while Bhai Mohan Singh head granthi of the Harmander Sahib was in the "Tabya" of Guru Granth Sahib.

Mr. Tohra lashed out at the Chief Minister Mr. Beant Singh, and the Central Government for unleashing a reign of terror in Punjab. He in particular, asked the sarpanches in the villages not to attend to the functions of Congress rulers.

Mr. Tohra said that all Akali leaders had agreed to unite on this issue despite their differences.

When asked if this would pave the way for unity of the Akali leaders Mr. Tohra said that foundations for the unity had been laid and roof would also be laid. He emphasised that the morcha would be peaceful and alleged that the government had been maligning the Sikhs.

Mr. Tohra also condemned the President of India for not meeting Akali leaders and refusing them permission to carry "kirpans" with them. He said that they had gone to the residence of the Rashtrapati and in the past too they had been taking kirpans along with them.

The SGPC president asserted that the morcha was only to preserve the sanctity of the Guru Granth Sahib and this could be averted even now if the government tendered an apology publicly and dismiss the two police officials responsible for the same.

Had the Chief Minister during his visit to the gurdwara announced the punishment and made a public apology, the matter would have been settled.

Mr. Beant Singh had visited Gujjarwal gurdwara on September 25 and expressed regrets for the sacrilege of the Akhand Path. He had announced that the guilty police officials would be punished. Mr. Tohra announced that a library would be set up in the gurdwara in memory of Mr. Gurbachan Singh who died due to police torture. Mr. Tohra said that all justice and peace loving people would support the Akali Dal decision.

Mr. Simranjit Singh Mann, president, Akali Dal (Mann) addressing the congregation said that history was witness to the fact that the Sikhs had never forgiven those who had committed sacrilege of the Guru Granth Sahib and the gurdwaras.

Mr. Mann said that the Sikhs had faced the onslaught of the government as fake encounters were taking place and innocent Sikhs had been killed by the police and no action had been taken. Even the Supreme Court had not moved into the matter.

Mr. Parkash Singh Badal, president, Akali Dal (Badal) in his address said the Sikhs were passing through a difficult period of their existence. He assailed the Chief Minister for not tendering a public apology and supporting the police excesses. Sikhs would not tolerate any insult to the Guru Granth Sahib and the Sikh shrines.

Mr. Jagdev Singh Talwandi in his address also lashed out at government for adopting anti-Sikh policies and launching the "Operation Blue Star".

Mr. Talwandi made a strong plea for the unity of the Sikh Panth and said that all leaders must unite at one plateform to face the onslaught of the government. Without unity they would not be able to put up a fight, he said.

Mr. Kabul Singh, president of the Akali Dal (Longowal) also supported the plea of Mr. Talwandi and called for lasting unity of the Sikh Panth. He criticised the police excesses in the state.

Mr. Manjit Singh, president, Akali Dal (Manjit), also recalled the sacrifices of Bhai Amrik Singh and other Sikh leaders for the Sikh Panth and said that no insult to the Guru Granth Sahib could be tolerated.

Besides, the chiefs of the different Akali factions, many other leaders and workers had come from different parts of the state.

Mr. Ajmen Singh Lakhowal, president, the Bharati Kisan Union, Mr. Jagjit Singh Lyallpuri, leader of the Marxist Communist Party of India (MCPI), Mr. Kirpal Singh Aujla, Samajwadt Janata Party and heads of the Sikh sampardas had also participated.

Mr. Tohra announced that three akhand paths had been started in memory of Harjinder Singh Jinda and Sukhdev Singh Sukha executed in the General Vaidya case at Akal Takht, Gurdwara Alamgir in Ludhiana district and the native village of the slain militants and appealed to the Sikhs to participate in the same.

CONGRATULATIONS TO EDWIN ARMITAGE

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MANN. Mr. Speaker, and Members of the House, please join with me in recognizing Mr. Edwin Armitage who will be retiring after 25 years as director of the Cincinnati Baptist Association's Baptist Family Services on December 31, 1993. The Baptist Family Services is the longest, continuing-inservice juvenile rehabilitation ministry in the Southern Baptist Convention. The Cincinnati community owes a debt of gratitude to Edwin Armitage for helping to make family values a priority and a reality.

As director, Edwin has been credited with making the Baptist Family Services a more effective program. During the last year of service, Edwin attended the World Missions Conference, lead the Family and Marriage Enrichment Conference at Memorial and attended the Home Mission Board task force in Birmingham, AL. He taught at 38 bible schools and visited 21 prisons in and around the area.

Edwin Armitage has dedicated his life to helping others. Many people around the country have been helped thanks to his hard work throughout the years. For example, he helped secure food, furniture, clothing, and shelter for those in need. He provided guidance and inspiration to youth organizations and helped to foster relations between prison inmates and their families.

Please join me in offering Mr. Edwin Armitage my whole-hearted congratulations on his retirement after 25 years as director of the Baptist Family Services.

HENRY WAXMAN: A GREAT LEGISLATOR

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STARK. Mr. Speaker, the Nation and the Congress are lucky at this critical time in the consideration of health reform legislation to have Congressman HENRY WAXMAN of California in such a key position.

Our colleague has left his mark in the improvement of every sector of the Nation's health—in NIH research, manpower improvements, public health and the quality of our air and water, extension of care to the poor, and the reform of the Medicaid Program. He is truly an example to all of us of what a legislator should be—and gives us all hope that this Congress will succeed in achieving a truly monumental reform of the Nation's health care system.

I urge Members to read the following article from the Los Angeles Times of October 10, 1993, entitled "Henry Waxman, In the Eye of the National Health-Insurance Reform."

[From the Los Angeles Times, October 10, 1993]

HENRY WAXMAN, IN THE EYE OF THE NATIONAL HEALTH-INSURANCE STORM

(By Robert Scheer)

Funny, he doesn't look powerful. Sitting in his small, cluttered congressional office in a decaying section of rundown storefronts just south of the flashy Beverly Center, it is hard to picture the diminutive and chipper figure of Henry A. Waxman as a mover and shaker in Congress. But he is.

"The Almanac of American Politics" refers to the West Los Angeles congressman as, "One of the most powerful and skillful legislators in recent American history." His friend and colleague, George Miller (D-Martinez) recalls, in a tribute to Waxman's legendary in-fighting skills, "When I first came on the Budget Committee, I thought Henry's first name was 'Sonofabitch.' Everybody who had to deal with the committee kept saying, 'Do you know what that sonofabitch Waxman wants now?' "

If President Bill Clinton is to get his health reform turned into law, it will require many hours of legislative rewriting and arm-twisting by the 54-year-old chairman of the health subcommittee of the House Energy and Commerce Committee. For 14 years as chair of this crucial subcommittee, Waxman has pushed a considerable body of health legislation on AIDS, nursing homes, breast cancer, nutrition, medical devices and pharmaceuticals into law.

Health is his issue and universal coverage his cause. "I've been in Congress 18 years," he says, "and before that I was chairman of the Health Committee in the Assembly in Sacramento, and all of my legislative career I've felt strongly that we need a national health-insurance system to cover everybody."

His other passion has been support for Israel, and Waxman, a conservative jew, now exhibits the dazed optimism of one whose long, often futile wars may suddenly be won. "National health insurance and peace for Israel are the two public-policy issues that have been of great concern to my entire professional career—and I started to think that both were intractable, that the Messiah might have to come to accomplish both goals. But now both seem possible."

If comprehensive health insurance passes, he enthuses, "It will be the most important domestic legislation of our generation. I feel proud to be somewhat part of it." But don't celebrate yet. "I always have to hold back until it is done, because nothing is accomplished until it is followed into law and working."

Waxman has a law degree from UCLA. He and his wife, the former Janet Kessler, have a daughter, a son and one grandson.

Question: What are your reservations about the President's health-care program? What are the pitfalls?

Answer: Before I go into my concerns, let me tell you what I think is positive. It is a bold proposal by the President to accomplish the goals of coverage for everybody in the country—comprehensive health-insurance benefits. It is the kind of thing that I wanted to do all the time I've been in public life. And I came to the conclusion quite a while ago that there was no chance to get reform of this magnitude passed without the President of the United States making it an issue, front and center, to make it a reality. I think that President and Mrs. Clinton deserve a great deal of credit for taking on this issue.

Question: And your reservations?

Answer: We need to look very carefully at the plan itself. We've got all the concepts and the basic framework of what the President is proposing, but we haven't seen the exact terms of the legislation.

Question: We know it preserves the role of insurance companies, rather than a single-payer plan, which would eliminate them. Would you prefer a single-payer plan?

Answer: I personally would prefer a single-payer plan. It is certainly less complicated than what the President is proposing. It would have guaranteed a clear way to a comprehensive, universal benefit and people would have understood it a lot better than they will this plan—which involves alliances to negotiate with health-care systems and states to have a lot of discretion as to how they are going to organize all of this. But the President made a political decision that the Congress was not ready to pass a single-payer system. And he's come forward with another way of providing the same goals of a single-payer system, which would be a universal, comprehensive benefit.

Question: Is this feasible?

Answer: Those goals can be achieved in the kind of system that he has proposed. I have concerns about the amount of money they hope to get out of spending that otherwise would take place in the Medicare program for the elderly and the MediCal/Medicaid for the poor.

Question: OK, but I hear a lot of grumbling. I talked to a doctor just an hour ago who told me how HMOs are awful—how people don't get the specialized care they need. Aren't we institutionalizing all this now?

Answer: HMOs are a fact of life, and many people find them an attractive way to get their health-care services. In Southern California, we've had Kaiser Permanente since World War II—and they have a reputation for providing good-quality care. Most people who belong to Kaiser and the other HMOs are quite satisfied. The notion of the health-care proposal is that there will be a score card on all the systems that are going to compete for the consumers' choice—so we can check the quality of those plans. But, ultimately, the consumer will be able to choose another plan or choose a physician in a different kind of setting if they want that choice.

Question: What would have been wrong if we had just expanded Medicare?

Answer: If we had expanded Medicare within a single-payer system, I think there would be a lot say for that. I, myself, have introduced legislation that would have provided national health care through a single-payer system. There are lots of different ways to accomplish the goals that I think everybody wants in a health-care-system reform, and the President has come up with a different idea.

Question: One hears that the administrative costs for Medicare run in the 2%-5% range as opposed to 20% for private insurance companies. Are those figures accurate?

Answer: I think it is accurate to say that the overhead costs for the public system of Medicare are a lot less than what we have in the private insurance systems today.

That is why insurance reform is going to be a necessary prerequisite to make this whole system work, in what the President is proposing. Insurance companies spend a lot of money excluding people from coverage who offer a high risk, the high overhead, the high marketing costs. A lot of insurance companies are going to go out of business under the Clinton proposal because they are not equipped to do what insurance should be doing, and that is to spread the risk for those who need the services to a broad population base.

Question: Are you going to have a big problem with insurance companies and other special-interest groups?

Answer: I think a lot of the special interests are going to try to pull this bill apart. But the good news is that the special-interest groups are divided. The AMA [American Medical Assn.] is strongly for requiring employers to cover their employees—so we will have universal coverage—but they will fight against cost control. Some in the business community are against the mandate on employers to cover employees—but they favor keeping costs down.

I know firsthand the power some of these special-interest groups have—the drug companies, the insurance industry, the AMA and many others. They command a lot of money and support around the country, which goes to candidates. The public has got to watch out for them.

Question: And the insurance companies?

Answer: I think the insurance companies are going to resist the system that will exclude most of them from being able to participate, because they have been able to make money not by covering everybody but by excluding people or trying to cherry-pick those whose are the best risks.

A lot of insurance companies—especially small insurance companies—have a lot to lose. I don't see how they can come in and argue that we should allow them to continue a system that will permit those kinds of insurance practices that exclude people from coverage. I think other insurance companies, some of the bigger ones, are going to try to adapt themselves into a system of managed competition.

Question: What should consumers be alerted to?

Answer: The consumer should be alert to the fact that there are going to be two areas, generally speaking, of controversy. One will be over whether we're going to have a universal health-insurance program. The President decided to make it universal, building on the employer-employee base and then having a subsidy for those not covered in that way. But there are going to be a lot of people who are going to come in and fight that are argue that employees not be required to cover their employees or to participate in making sure that their employees have health coverage.

Another major battleground is going to be over some way to control the cost increases in the health-care system. We spend more for our health-care system than any system in the world, and businesses and individuals are finding that health care is unaffordable.

The major battles are going to be over universal coverage and whether we are going to have it or not, and whether we're going to have actual controls to limit the increases in health-care costs.

Question: Cardinal Roger M. Mahony has criticized the plan's failure to cover undocumented residents. Do you agree?

Answer: I'm sympathetic with what Cardinal Mahony called for in making illegal aliens eligible for benefits on humanitarian grounds.

But I don't think there is political support for it in the Congress—to entitle illegal aliens to full benefits that Americans have. Mrs. Clinton testified that the Administration could not support such coverage of illegal aliens.

Question: Are you saying if they are working in the garment district and are undocumented, that the employer doesn't have to provide health insurance?

Answer: If they are working for an employer, that employers is probably breaking the law by hiring them. But if they are employed, the employer would have to pay for their coverage just as the employer pays Social Security. But whether they will be able to get those benefits is very much in doubt.

Question: We're talking about a million people in this state who are not going to have coverage. Isn't this a major flaw?

Answer: The failure to cover undocumented aliens puts a tremendous strain on our health-care system and on the country's taxpayers. That's why we have to insist that the federal government, which has control over our borders, will reimburse the hospitals and local government for the health-care services that are given.

Question: Do you think the battle has already been won on some kind of basic reform?

Answer: I don't want to be overconfident. I think there is a serious fight and we still could lose it if the Republicans and conservative Democrats put together a coalition that drops universal coverage, or the medical professions and some of the conservatives get together and say they don't want [cost] controls except on Medicare and Medicaid.

Question: What is your sense of the current mood in Congress?

Answer: Members of Congress are looking to see what the public thinks and they are hearing from a lot of the special-interest groups.

I worry that some congressmen may think that, if they appease those special-interest groups, they can vote for a bill that they call health reform, but it may well mean that millions will continue to be uninsured and that the middle class will have to pay more for the coverage they now have.

Question: Are there circumstances where you would vote against the bill?

Answer: I think if we don't get a bill that provides for universal coverage, comprehensive health-care benefits, that's fair to the elderly and the poor, as some Republicans and conservative Democrats are proposing, I would have to reach the conclusion that we lost the fight and that it's not worth voting for.

PHILLIP CHRISTOPHER HONORED FOR GREAT ACHIEVEMENTS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mrs. MALONEY. Mr. Speaker, last Friday marked the 45th birthday of an important member of the community of Astoria, NY, which I am proud to represent—Mr. Phillip Christopher.

Mr. Christopher has been a vocal and effective leader for the cause of freedom for Cyprus for many years. He came to this country from his hometown in Kyrenia, Cyprus, in 1959, joining his father and older sister who had already been here for 7 years. Mr. Christopher quickly achieved academic excellence in his adopted country, graduating with honors from New York University [NYU] in 1970. Mr. Christopher also gained distinction as a superb soccer player, captaining NYU's varsity team and earning All-American honors.

After graduation, Mr. Christopher joined Audiovox Corp., a rapidly rising electronics corporation. His career with Audiovox has been highly successful; he is currently executive vice president of the corporation.

But I know Phil best as a tireless champion of freedom for the Cypriot people. He has dedicated his life to the advancement of justice and freedom on that troubled island. In 1975, he founded the Pancyprian Association of America, where he continues to serve as president. Under his capable direction, the Pancyprians have become the leading organization in the Greek Cypriot community in the United States. In two decades, the Pancyprian Association has seen enormous expansion, becoming a vocal lobbying force for the Cypriot people, building a beautiful community center, promoting Cypriot-American cultural exchanges, and providing hundreds of scholarships to young Cypriots for study in American universities.

Phil has served with great distinction as president of the Cyprus Federation and of CY–PAC, and as chairman of the Justice for Cyprus Committee. He is a member of the board of directors of the Cyprus Children's Fund, the American Hellenic Alliance, and the United Hellenic American Congress. I hope that my colleagues will join me in commending Mr. Christopher's dedication and leadership on behalf of the Cypriot people by wishing him a very happy 45th birthday.

IN TRIBUTE TO JOE WILLIAMS

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. LEHMAN. Mr. Speaker, I rise before my colleagues today to honor the achievements of Joe Williams, a person whom I am proud to call a friend and a true civil leader who is retiring as executive director of the Fresno County Economic Opportunities Commission.

Under Joe's guidance for more than two decades, the nonprofit Fresno EOC has grown to become the largest community action agency in California and one of the top five in the United States in terms of the services it provides, its innovative efforts and its longevity.

Joe's dreams as a young student were on sports and coaching. But his work with young people led not to coaching, but to his increased involvement in community activities.

From 1969 until 1971 Joe served as project director of the Head Start Program. Today this nationally recognized preschool education program serves more than 1,550 children living in Fresno County.

During his tenure as EOC director, Joe became the first African-American elected to the Fresno City Council, touching the lives of many people in our community. He was elected to two 4-year terms from 1977 to 1985 and also served as mayor pro tem.

A quiet, unassuming person, Joe has long been recognized as the man behind the scenes, a leader who offers his assistance whenever he has been asked. I know Joe to be a consensus-builder, a leader who has often brought together diverse groups who can be mutually beneficial to each other.

Joe's accomplishments are too numerous to mention. Perhaps the best description of what Joe Williams means to our community are Joe's own goals. He once said,

> I have tried to give this community my energy as it relates to caring about people who are less fortunate * * *. I hope my future is to figure out ways some of us in this community can help our young develop and assume leadership roles in the community.

Joe, you have succeeded. And I know that every Member of the House will join me in saying thank you for making our community that much better because of your efforts.

IN SUPPORT OF RENAMING OF THIRD COLLEGE AT THE UNIVERSITY OF CALIFORNIA SAN DIEGO TO THE "THURGOOD MARSHALL COLLEGE" IN HONOR OF JUSTICE THURGOOD MARSHALL

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BLACKWELL. Mr. Speaker, I rise in strong support of the renaming of Third College to the Thurgood Marshall College in honor of Justice Thurgood Marshall. Charged with educating the citizens of the State of California, the University of California maintains eight campuses which offer baccalaureate, masters, and doctoral as well as professional degrees.

The San Diego campus of the University of California system was created in the early 1960's as the southernmost site for State-sponsored higher education. Third College, on the University of California's San Diego campus, was founded in 1970 to represent the higher academic achievement and the best aspirations of the civil rights movement in this country. It is a real pleasure for me to recognize this institution which has so successfully fulfilled its charter philosophy to challenge students both as scholars and citizens in a growing multicultural State and world.

I am pleased to note that the students of Third College take a set of general education requirements that include mathematics, a social science sequence called Dimensions of Culture, a course in the physical sciences, humanities, and the arts. These bright and able Third College students, who receive academic credit for training and placement as tutors and mentors in local inner-city elementary schools, have also been commended time and time again for their community contributions.

Supporters of Third College have continually sought to find a more meaningful name. Associate Justice Thurgood Marshall's passing in January 1993, led to enormous support for the University of California San Diego campus to rename the college. I could not agree more, and that's why I urge you, Mr. Speaker, and my colleagues to join me in supporting the name change to Thurgood Marshall College, a name that will forever be known for its important impact in the area of access to quality education. Indeed, Thurgood Marshall is an icon which the University of California wishes to have its students emulate.

TRIBUTE TO THE LOS ANGELES CENTER FOR ENRICHED STUDIES

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to a school in my district which has been nationally recognized by the U.S. Department of Education with the Blue Ribbon School Award. In commemoration of this prestigious event, the Los Angeles Center for Enriched Studies [LACES] was honored by Vice President AL GORE in a White House ceremony on October 21.

The Blue Ribbon School Program, which is sponsored by the U.S. Department of Education, is a national competition which identifies those schools that surpass educational goals and work ardently toward continued improvement. As pointed out by the Department of Education, recipients of this award have "a can-do attitude toward problem-solving, preferring to view problems as opportunities." Using this approach, the Los Angeles Center for Enriched Studies has continued to employ every possible resource in responding to the needs of its students.

The Los Angeles Center for Enriched Studies is a culturally diverse school that was established as a part of the city's integration program in 1977. About 90 percent of the student body are bused from various parts of the city. This exceptional institution stresses college preparation as one of the goals of its academic curriculum, and was selected to be a California Distinguished School in 1992. The first magnet school of the Los Angeles Unified School District, its classes are based on a modular system similar to those used in colleges. Students are required to take seven classes a semester, and often graduate early. Although the school's standards for graduation are higher than that of the State, most of the students exceed the school's grade point average requirements in virtually every subject area.

The Los Angeles Center for Enriched Studies includes grades 4 through 12 and the average student attends the school for at least 6 years. The ability to remain at the school for an extended number of years helps to strengthen ties between the students and teachers as well as fostering the parent's commitment to the school. Parents actively volunteer, from working in the classrooms to holding fundraisers, in order to help the school reach its goals. These goals: student achievement, diversity, leadership, and community involvement are evidenced in the success of its students, 97 percent of whom continue their education by going to college after graduation.

Accepting this award on behalf of the Los Angeles Center for Enriched Studies was Ms. Marion Collins, principal of the Los Angeles Center for Enriched Studies; Mr. Jerry Hasson, president of the Parents of LACES Association; and Mr. Demetrius Brunson, student body president.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in commending the Los Angeles Center for Enriched Studies administrators and faculty, who, in a time when both hope and resources seem to be limited, have found the time and made a way to promote continued academic excellence among the Culver City High School student body of the Los Angeles Center for Enriched Studies.

SPENT NUCLEAR FUEL MANAGEMENT

HON. ROD GRAMS

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. GRAMS. Mr. Speaker, I want to bring to my colleagues attention the plight of the Nation's Spent Nuclear Fuel Management Program and to remind this Congress that for the sake of the Nation's environment and energy security, it is our responsibility to ensure that this congressionally mandated program fulfills its mission of finding a suitable repository for the Nation's high-level radioactive waste.

However, I am disappointed to report that the Government is not fulfilling its responsibility to the American public, and in fact, the Department of Energy is falling years behind in characterizing and building a spent fuel repository, and has not yet provided any guarantee that it will fulfill its 1998 obligation to begin accepting spent fuel from civilian nuclear reactors used to generate electricity.

This failure has significant consequences to American electric ratepayers who have already paid in over $7.6 billion to the Nuclear Waste Fund. Compounding this problem is that nuclear electric generating plants constructed limited-capacity spent-fuel handling facilities on site because they were promised by the U.S. Government that a national waste repository would be available in the mid-1990's.

In my State of Minnesota, where ratepayers have already paid over $200 million to the Nuclear Waste Fund, we face the choice of either constructing additional temporary storage facilities, or as soon as next year having to shut down an efficient, reliable, and nonpolluting powerplant that supplies a significant percentage of my State's electricity.

I ask my colleagues to join with me and insist that DOE fulfill what Energy Secretary Hazel O'Leary called the Department's "moral obligation" to begin removing spent nuclear fuel from the more than 70 de facto repositories scattered over 38 States, and moving this radioactive waste to a safe and controlled location. This is what the Congress in the Nuclear Waste Policy Act of 1982 and in the subsequent amendments in 1987 mandated, and what the American ratepayers have paid for.

However, while DOE has indicated that it is prepared to move forward with its program to determine the suitability of Yucca Mountain as a repository site, it is Congress' responsibility to make the funds available for this to happen. To be clear, not taxpayer funds, not Treasury funds, but the funds that were paid by American electric ratepayers expressly for the purpose of managing spent nuclear fuel.

Congress must address the fiscal accountability for funding the Spent-Fuel Management Program. The National Association of Regulatory Utility Commissioners [NARUC], which is an organization that represents the interests of American electric utility ratepayers, adopted a resolution—which I would like to request be inserted in the RECORD—calling for Congress to address the funding mechanism to ensure that adequate money is available to complete the high-level waste program.

Specifically, the resolution calls for a funding mechanism—an off-budget revolving fund—that makes the ratepayers' money available to the program as needed, and not subject to congressional budgetary constraints, which would divert these funds for deficit reduction.

The ratepayer resolution also finds that the waste fund has collected and continues to collect adequate funds for the program, and Congress under this resolution would continue to exercise strong oversight through reviewing DOE's annual budget.

Mr. Speaker, this is not only an urgent matter for Minnesotans, but for our environment, for our energy security, and for American ratepayers who are shouldering the expense, which to date is more than $7.6 billion. I ask Members to join with me in urging DOE to fulfill its responsibilities with the Spent-Fuel Management Program, and to ensure that sufficient funds are available when needed, adopt a revolving fund mechanism to jump start this vital energy program.

LEGISLATION TO ASSIST SMALL BUSINESS TO CREATE MORE JOBS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. RANGEL. Mr. Speaker, I am pleased to introduce a bill to provide greater flexibility in obtaining financing from tax-exempt entities for licensed Small Business Investment Company [SBIC] and Specialized Small Business Investment Company [SSBIC] Programs.

The Small Business Enhancement Act of 1992 corrected several significant structural flaws in the Small Business Investment Company and Specialized Small Business Investment Company Programs. These changes, the first major changes in the programs since their inception in 1958, enhance the flow of capital to small business owners to expand their businesses. Unfortunately, for the small business owners the new law does not provide the appropriate flexibility in matching sources of capital to the specific capital structure needs of the entrepreneur. This bill rectifies this problem by providing an exemption to tax-exempt entities from the unrelated business income tax [UBIT] for debt financing for licensed SBIC's and SSBIC's.

Small businesses have traditionally been the engine of economic growth comprising over 95 percent of all businesses in the United States. SBIC's provide small businesses with capital, strategic advice, and management assistance in order for small businesses to grow and enhance their likelihood of long term success. SSBIC's play this role for minority owned businesses who we all know have a more difficult time raising capital to start up and continue operating.

Tax-exempt entities are the largest source of long term risk capital available today for small business owners. In 1991, pension funds and endowments made up over 63 percent of the total sources of private equity dollars invested in venture capital funds. Unfortunately, the leveraging of private capital through the SBA Guaranteed Funding Program creates acquisition indebtedness—under Internal Revenue Code section 514(c)—and therefore, UBIT to the tax exemption investor. Tax-exempt investors have traditionally chosen not to invest in SBIC's and SSBIC's principally because of the administrative complications that UBIT presents.

This legislation provides, in part, a SBA guaranteed leverage vehicle that would fund SBIC's and SSBIC's with a preferred stock rather than the traditional debentures or loans. This structure allows a tax exempt entity to invest in an SBIC or SSBIC without incurring UBIT. However, for providing this preferred stock leverage to an SBIC or SSBIC, the bill requires that the SBIC or SSBIC invest its portfolio in the form of straight equity in small businesses. This presents a dilemma for a large number of small business owners who seek to minimize their equity dilution by using debt together with equity in their financing packages from SBIC's or SSBIC's. The inflexibility of this capital structure is particularly harsh for small businesses with slower growth potential who may be required to sell a greater portion of their businesses in order to obtain growth financing. Thus, under the current law, the access to capital through a licensed SBIC or SSBIC is being driven by ambiguities in the tax law relevant to UBIT rather than the needs of the small business owner for whom these provisions were intended to benefit. The access to equity or debt by a small business should not be driven by tax provisions like UBIT, but rather by a financing package from SBIC's or SSBIC's that best matches the concern's particular needs.

Small business is the great generator of new jobs in the United States, creating over 60 percent of all new jobs in the economy. From 1987 to 1992, small businesses created 5.8 million net new jobs compared to a loss of over 2.3 million jobs during the same period of downsizing big business. This bill will help meet the objective of creating new jobs by providing small businesses with access to the greatest sources of private capital today, pension funds, in an appropriate capital structure that meets the needs of the small business owner.

VETERINARIAN IN SPACE

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. ALLARD. Mr. Speaker, rarely am I afforded the unique opportunity to recognize an outstanding representative of my profession: Veterinary medicine. It is with great pleasure that I come before you this morning in order to comment on Dr. Martin J. Fettman.

Dr. Fettman, who received the doctor of veterinary medicine degree from Cornell University and the doctor of philosophy degree from Colorado State University, is one of seven astronauts aboard Space Shuttle *Columbia* which is engaged in the mission designated as Spacelab Life Sciences 2. Dr. Fettman serves in the data gathering effort which will measure how blood and other fluids shift from the legs into the upper body during the transition to weightlessness. Dr. Fettman is on-board as a guest researcher due to his qualifications in veterinary medicine and its applicability to this particular mission.

As a veterinarian and Member of this House, I am pleased to honor Dr. Fettman and his colleagues as they continue their progress in this essential mission and exemplify the contributions of veterinary medicine to the well-being of our Nation.

HONORING THE SENIOR AND JUNIOR COMPANION PROGRAMS

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. LAZIO. Mr. Speaker, the Federation of Organizations for the New York State Mentally Disabled is a statewide organization that works on behalf of the mentally disabled. The federation was founded in 1972 by concerned parents of the mentally ill and works to improve services for the mentally disabled and their families in Suffolk County.

I take this opportunity to recognize those participants of the federation's Senior and Junior Companion programs who on Friday, October 22, 1993, celebrated 12 years of outreach and advocacy for the mentally disabled community in Suffolk County, Long Island.

The Senior Companion Program places people with psychiatric disabilities in various community settings. The companions, all of whom are at least 60 years of age, work 4 hours a day, 5 days a week, for a small stipend. They act as role models, assisting disabled people to learn new skills in a peer support network. The program is based on the concept that through a one-on-one caring relationship, people can progress toward greater independence and self-confidence, no matter how severe the disability.

The Junior Companion Program was developed for psychiatrically disabled persons between the ages of 18 and 59. It provides activities which enable individuals to rebuild their skills and confidence in the community while exploring individual potential and possibilities for employment and training.

Mr. Speaker, it is a privilege and honor to recognize the many men and women who assist the over 400 mentally disabled Long Islanders every day at 57 separate community sites.

IN RECOGNITION OF INDUCTEES INTO FRESNO ATHLETIC HALL OF FAME

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. LEHMAN. Mr. Speaker, it gives me great pride to rise before my colleagues today to pay tribute to six standout sports figures whose contributions must not be forgotten.

I am pleased these six—Merritt Gilbert, Boyd Grant, Dean Philpott, John Toomasian, Harold Zinkin, and Jim Merlo—are having their deeds enshrined for posterity with their induction on November 3, 1993, into the Fresno Athletic Hall of Fame.

I think Hall of Fame President Peter G. Mehas summed it up best when he said of these inductees, "We're looking at people in the community who have invested their lives in the San Joaquin Valley. These individuals provide very positive role models for our youth. They have done much to make the valley a great place to live."

Dean Philpott was a teacher when I was a student at Sanger High and he was a neighbor of mine for many years. Dean was a two-way starter on the Fresno State University Battlin' Bulldogs football team from 1954 until 1957. To show the mark he left in the annals of FSU football, it was only this October that Dean's 36-year-old FSU career rushing record was broken. His all-purpose career touchdown record of 35 was also on the books for more than three decades.

Harold Zinkin was a three-sport athlete at Roosevelt High School in Fresno who developed a lifelong interest in weight lifting and bodybuilding. Harold was a successful competitive bodybuilder, but his best-known accomplishment was inventing the universal weight gym, a fixture in training rooms across the United States for many years. Harold and his wife, Betty, have been special friends of mine for many years. They are a credit to our community in ways too numerous to mention.

John Toomasian made his mark on the sidelines of a basketball court at my alma mater, Fresno City College, where he complied an enviable record as a coach. John's record was 407 wins against 201 losses in 30 years as a high school and junior college coach. He led the City College Rams to three conference titles and 19 or more victories in 10 of his 14 seasons at FCC.

Boyd Grant is recognized as the most successful basketball coach in Fresno State history where he compiled a 194–74 record in nine seasons. He won three conference titles plus the National Invitation Tournament championship in 1983. Boyd's division 1 record was 275–120.

Merritt Gilbert has served as the California Interscholastic Federation's Central Section commissioner for the last 9 years where he continues to influence the direction of San Joaquin Valley sports. As a school coach, Merritt won 11 titles as a high school basketball coach, one at Riverdale High School and 10 at Sierra High. His 20-year record was 304–101.

Sanger, where I was raised, also produced another sports figure who is being honored with induction into the Athletic Hall of Fame. Football standout Jim Merlo played at Sanger High, Fresno City College, and Stanford University before starting a successful 7-year career with the New Orleans Saints of the National Football League. The Merlo family lived just down the road from the Lehman family and have been family friends for many years. I am very proud of Jim Merlo's accomplishments and I am honored by having the opportunity to pay tribute to him.

TRIBUTE TO ARTHUR A. COIA

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BLACKWELL. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to pay tribute to a man who has constantly dedicated his time and boundless energy to the cause of representing others.

As one of the most respected and progressive labor leaders in the Nation, Mr. Arthur A. Coia has redefined the mission of labor unions throughout the United States, and has revitalized the concepts of union representation and workers rights for all of the hard-working men and women of this Nation. I would therefore like to take a moment to reflect on the remarkable achievements of this outstanding individual.

As general secretary-treasurer of the 650,000-member Laborers' International Union of America, AFL–CIO [LIUNA], Mr. Coia has developed a clear and concise agenda for LIUNA which will carry this internationally renowned organization through the 1990's and well into the next century. From issues of health and safety in the workplace, to the implementation of new and improved training methods, Mr. Coia indeed stands at the forefront of international union leadership.

Furthermore Mr. Speaker, in this demanding capacity, Mr. Coia is charged with the awesome responsibility of being a loud and clear voice for LIUNA's 650,000 members.

That position alone could certainly occupy all of the time and energy of an average person, but Mr. Speaker, Arthur Coia is no average person.

In addition to his unfailing efforts as general secretary-treasurer, Mr. Coia has gained the respect of our entire community on behalf of his many charitable endeavors. It is no secret that Arthur Coia's remarkable dedication has become a vital resource for a countless number of community and charitable organizations throughout the Delaware Valley.

Mr. Speaker, having had the good fortune to know Mr. Coia for a great many years, I can personally attest to his outstanding leadership abilities, and his warm and giving personality. He is a friend whom I have always been able to count on, and a confident whom I have always trusted. I would like to ask my colleagues to rise and join me in paying our greatest tributes to Mr. Arthur A. Coia.

On behalf of the entire U.S. Congress, I would like to thank you Arthur, for all of your unfailing years of dedicated service to the men and women of LIUNA, our community, and the United States of America.

TRIBUTE TO CULVER CITY HIGH SCHOOL

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to a school in my district which has been nationally recognized by the U.S. Department of Education with the Blue Ribbon School Award. In commemoration of this prestigious event, the Culver City High School was honored by Vice President AL GORE in a White House ceremony on October 21.

The Blue Ribbon School Program, which is sponsored by the U.S. Department of Education, is a national competition which identifies those schools that surpass educational goals and work ardently toward continued improvement. As pointed out by the Department of Education, recipients of this award have "a can-do attitude toward problem-solving, preferring to view problems as opportunities." Using this approach, Culver City High School has continued to employ every possible resource in responding to the needs of its students.

Culver City High School is a unique institution with a multicultural student enrollment of about 1,400 students. Collectively, the students speak 34 languages and at least one-fifth are not fluent in English. Culver City High School students are high achievers who have excelled in their academic pursuits and civic endeavors. The students' Scholastic Aptitude Test [SAT] scores for college continue to place above State and national averages. In 1991, when California's deficit caused a $2 million cut in the school's funding, the student body performance still warranted receipt of the California Distinguished School Honor. In fact, the school motto "Together We Do Better," not only applies to the students and faculty, but to the community as well. Local universities, businesses, and community service organizations have formed partnerships with Culver High giving students access to a guidance information center, youth health center, art gallery, technology center, and a Sony resource center. There are also support groups and at-risk programs that help to counter some of the distractions to educational success that so many of our students are facing today.

Accepting the Blue Ribbon Award on behalf of Culver City High School was Ms. Julie Lugo Cerra, president of the Culver City Board of Education, Dr. Laura Plasse, the principal of Culver High, and Mr. Tim Reed, the school's restructuring coordinator.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in commending Culver City High School administrators and faculty, who, in a time when both hope and resources seem to be limited, have found the time and made a way to promote continued academic excellence among the Culver City High School student body of the Los Angeles Center for Enriched Studies.

RECOGNIZING THE CONGRESSIONAL YOUTH LEADERSHIP COUNCIL'S EFFORTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STARK. Mr. Speaker, on September 21, I introduced H.R. 3109 to require that organizations providing educational opportunities or honors to students must make certain information available to parents.

As an example of why this legislation was needed, I referred to press reports and a May 20 statement by Senator METZENBAUM about the Congressional Youth Leadership Council [CYLC]. Since making that statement, CYLC reports it has taken steps to clarify its marketing materials. After extensive consultations with Senators METZENBAUM and DOLE, they have made a substantial effort to conform with the standards set by H.R. 3109. CYLC clearly had problems in the past, but I would like to take a moment to recognize their efforts to respond to our concerns.

The CYLC says that it now explains to parents how their children were selected. They have improved the process which they use to confirm student's grades and instituted a scholarship program for low-income students. They have begun assisting physically challenged students. And most importantly, they now furnish parents a breakdown of how students' tuition money is spent and the CYLC's relationship with National Capital Resources [NCR]. Parents can now evaluate, based on the information they receive, the value of the program and whether the program's operational costs are reasonable.

In response to my concerns, CYLC has also promised to no longer invite students to be congressional scholars. I feel that this title implies an official affiliation with Congress, and am glad that they will discontinue the practice starting with the next round of invitations.

The CYLC fully supports H.R. 3109 and/of feels that it has strengthened their program. I hope that other programs which bring students to Washington will follow their lead in this area.

This example shows how H.R. 3109 would encourage more informational marketing practices benefiting both parents and the industry. I urge that my colleagues examine H.R. 3109 and support this bipartisan consumer protection effort.

RECOGNIZING RICHARD F. HUNTER

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MANN. Mr. Speaker, I rise today to recognize the contributions of Richard F. Hunter, the mayor of Silverton, OH. Mayor Hunter is completing his seventh and last term in office this year.

Richard Hunter has provided the citizens of Silverton with 20 years of distinguished public service. Prior to being elected mayor of Silverton, Mayor Hunter served 6 years on the city council as chairman of the Finance Committee. Mayor Hunter's experience and knowledge will surely be missed at the Silverton Municipal Building.

Though Mayor Hunter will no longer be a regular visitor to the municipal building, I am confident that he will continue to give his time and his talent to the community as he has done in the past. Mayor Hunter is currently a trustee of Allen Temple A.M.E. Church and is an area chairman of the American Heart Association. Mayor Hunter has also served as president of the Ken-Sil Athletic Association, the secretary/treasurer of the Ohio chapter of Black Mayors and has been a member of the National Conference of Black Mayors.

I extend my best wishes to Mayor Richard Hunter and his family as they celebrate his 20 years of service to the citizens of Silverton.

TRIBUTE TO FRANK ZABAWA

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, I am honored today to pay tribute to Frank Zabawa who has been selected as the citizen of the year by the Polish-American Citizen's Club of Three Rivers, MA. I would like to share with my colleagues Mr. Zabawa's extensive background of community service which has led up to this distinguished award.

Born and raised in western Massachusetts, Frank Zabawa has contributed unlimited services to this region. Frank's commitment and dedication to his community is clearly evident in his 32-year career as a security guard at Monsanto Chemical Co. He has also served his country during World War II as a provost sergeant in the Army Air Force.

He has devoted much of his life to both his church and his community. He is an active member of Saints Peter and Paul Church, the Polish Citizens Club, the Three Rivers Chamber of Commerce, Club "55", and various other civic organizations.

One of his greatest contributions has been the endless hours of joy he has given children throughout Massachusetts as being Santa Claus during Christmas time. For over 45 years, Frank Zabawa has been Santa Claus for various community organizations. He has been recognized and rewarded for his tireless work on the behalf of these groups. Television station channel 22 awarded Frank Zabawa as an outstanding public servant in the Springfield and Palmer, MA, area.

Married for over 50 years, a father of two sons, and a grandfather of five, Frank Zabawa has unquestionably devoted himself to his family as well. He is the epitome of a model citizen to his family, friends, and all who have realized his accomplishments.

Mr. Speaker, I ask my colleagues to join me in congratulating Frank Zabawa for being the Polish-American Citizen's Club's citizen of the year and also thanking him for a lifetime dedicated to public service.

WILLIAM DOYLE'S MEMORY HONORED

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mrs. MALONEY. Mr. Speaker, I am deeply saddened to rise today to bring to the attention of my colleagues a deep loss to our community in New York and to the art world in general. On October 18, William Doyle, the founder and director of one of New York City's largest fine art and antiques auction houses, died of leukemia at his home in Manhattan. He was 53.

Mr. Doyle was a pillar of New York's arts community. His auction house, William Doyle Galleries at 175 East 87th Street in Manhattan, bought and sold countless numbers of antique furniture, art, and carpets during its 30 years under his direction. Mr. Doyle brought a warm personal touch to what is often perceived—perhaps wrongly—as a somewhat stuffy and pretentious business. He brightened the lives of all who came into contact with him.

Mr. Doyle was born into a large Irish family in Massachusetts. He arrived in New York City in 1961 intent on pursuing a career in banking. Within 2 years, he had decided to concentrate on his greater love for buying and selling beautiful objects. His business continued to grow over the decades, and developed quickly into one of the most respected auction houses in the country.

But I will always remember Bill as a friend whose advice and support were invaluable to me. He applied his energies to help so many in our community, and he will be deeply missed by all those whose lives he touched with his characteristic kindness and generosity. I hope my colleagues will join me in extending our deepest sympathies in particular to his wife, Kathleen, his three daughters, Elizabeth, Caroline, and Laura, and the countless others who knew and loved him.

TRIBUTE TO EARLINE PATRICE

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. FISH. Mr. Speaker, I rise today to speak of a great woman, Mrs. Earline Patrice, who died earlier this week. Earline was a friend and constituent who was totally dedicated and completely committed to the service of others.

A native of New Orleans, Earline was born and grew up in the final days of a segregated society. Earline learned at an early age the meaning of denial, rejection, injustice, and the destructive efforts of the dual evils of racism and bigotry. Committed to the elimination of these evils, the continuing struggle against racial and all forms of injustice were a lifelong effort for her.

The Poughkeepsie community knows Earline as a community leader. While she became known for her Thanksgiving dinners, Christmas parties, and Easter dinners for the less fortunate, she was also unrelenting in her efforts to eliminate every vestige of injustice in our community. To name just a few of her causes, Earline has been recognized for her efforts to provide housing for the needy, to register voters, and for working countless hours with the city clean street committee, the Lower Main Street Association, and the Poughkeepsie's Urban Renewal Program.

It is also appropriate to note that Earline participated in the original March on Washington for civil rights, and chaired the Mid-Hudson Valley delegation on its 20th anniversary. I am sure that for Earline, and many others, this event was both a celebration of past progress, and a rededication and commitment to work for a better future. While Earline Patrice has died, her memory continues to inspire us to carry on the struggle for justice.

Earline was a giant among her many peers and admirers. I wish to extend my deepest sympathy to her children, grandchildren, and all of those who join me in mourning her loss.

A 50TH ANNIVERSARY TRIBUTE TO THE OAK GROVE BAPTIST CHURCH

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BLACKWELL. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to pay tribute to one of Philadelphia's most celebrated and respected religious institutions. As the Oak Grove Baptist Church prepares to commemorate its 50th anniversary, I would like to take a moment to reflect on this beautiful house of our Lord Jesus Christ.

Known throughout Philadelphia as the city's foremost teacher and practitioner of evangelism, the Oak Grove Baptist Church was founded 50 years ago under the blessed guidance of Rev. William Sullivan, Sr. Located at 21st and Cambria Streets in Philadelphia, the sanctuary of Oak Grove certainly embodies the spirit of our Saviour and King, now under the guidance of Rev. William Sullivan, Jr.

Mr. Speaker, throughout its 50 years of existence, the congregation of Oak Grove Baptist Church has always sought to make our world a better place. The exceptional ministry of the church has indeed left the halls of the sanctuary, and has become an effective voice for the betterment of our entire community.

On October 23, 1993, Oak Grove Baptist Church will celebrate its 50th anniversary at a most special banquet. The self sufficiency and determination that has always marked the will of this reverent and powerful congregation clearly means that this special event will be one to remember.

Mr. Speaker, I would now like to ask my colleagues to rise and join me in paying our greatest tributes to Philadelphia's beloved Oak Grove Baptist Church. May this faithful and humble flock to Jesus Christ always shine as a symbol of His unfailing love and righteousness.

TRIBUTE TO ROSALIE ROSEN

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. DIXON. Mr. Speaker, I rise today to acknowledge the valuable contributions of the United Citizens' Committee of America [UCCA] and the years of dedicated service of its president and founder, Mrs. Rosalie Rosen. Mrs. Rosen, a constituent in my congressional district, has made a significant contribution to our community through her efforts to give inner-city youth positive alternatives to gangs and drugs.

The UCCA works to "Build a Better Drug Free America, beginning with our youth, you and me thru Dancing, Drama, Music, Arts, and Sports." By promoting dance, particularly swing dancing, the United Citizens' Committee encourages youth to participate in positive activities. Members of this group volunteer to teach dancing and drama through the park and recreation department. The UCCA has taught swing dancing in local schools and also worked to raise funds for these schools. Additionally, the committee was instrumental in installing a flagpole with a lighted flag on the breakwaters in the Marina del Rey Harbor.

Mrs. Rosen's enthusiasm is the driving force in this effort, and I commend her outstanding achievements in serving as a positive role model and community leader. Her organization has accomplished many important goals, and her optimism for the future of our country is refreshing. I hope that she will continue to inspire future volunteer efforts that assist our young people of Los Angeles who are facing the difficult challenges of growing up in today's society.

JAYCEES HONOR PHILADELPHIA'S DAVID COHEN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. FOGLIETTA. Mr. Speaker, the Philadelphia Jaycees recently honored David L. Cohen, the chief of staff to Philadelphia Mayor Edward G. Rendell, and I could not let that pass without offering my honors.

My city, Philadelphia, has celebrated a dizzying renaissance over the past 2 years. Our skyline has dramatically changed. Our new convention center has opened to rave reviews from tourism experts and architectural critics. The city's finances seem to be on the road to recovery. The basic management of municipal services and practices are seeing reinvention. The inferiority complex that has held our city back for decades has been replaced with vigor, excitement and hope.

Much of the credit goes to the city's former mayor, W. Wilson Goode, who began many of the development projects, including the thrilling Liberty Place towers that so radically transformed the skyline.

Much of the credit goes to the present mayor, Ed Rendell, whose energy and relentlessness has remade the city's image and attitude of its people.

When it comes to attitude, the success of our Phillies has been a grand slam.

But a great deal of the credit goes to the mayor's chief of staff, David Cohen. David's fingerprints are on all of the city's recent victories. David is a whirling dervish. He has unlimited energy; his depth and knowledge is incredible; no detail, issue or problem seems is too small. Throughout Philadelphia, in business board rooms or governmental offices, a problem arises and you can hear the refrain, "Call David."

Too often, the men and women behind elected officials are forgotten. I applaud the Jaycees for giving David Cohen this prestigious award and I applaud David Cohen for his great work.

LYNN E. JOHNSON RECEIVES OLIN E. TEAGUE AWARD

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MONTGOMERY. Mr. Speaker, in a ceremony on Thursday, October 28, 1993, in the House Veterans' Affairs Committee hearing room, Mr. Lynn E. Johnson will receive this year's Olin E. Teague Award for his efforts on behalf of disabled veterans.

The Teague Award is presented annually to a VA employee, or group of employees working as a team, whose achievements have been of extraordinary benefit to veterans with service-connected disabilities.

The Teague Award is the highest honor at VA in the field of rehabilitation.

Mr. Johnson is a vocational rehabilitation specialist at the Cleveland, OH, VA regional office. He is being cited for his outstanding work in the field of self-employment programs for disabled veterans. Self-employment has long been an option of VA's vocational rehabilitation program, but one that was not frequently used because of the detailed planning and research involved in launching a successful small business enterprise. Johnson developed with Small Business Administration executives and small business development centers in the greater Cleveland area, self-employment opportunities for disabled veterans, some severely disabled.

Mr. Speaker, the name Olin E. "Tiger" Teague is synonymous with exemplary service to the Nation's veterans. The late Congressman Teague served on the House Veterans' Affairs Committee for 32 years, 18 of those years as its distinguished chairman. No one who opposed him on veterans' issues ever had to ask why he was called Tiger. He set the standards by which we can best serve all veterans.

I know my colleagues join me in offering our deep appreciation to Mr. Johnson for his concern, dedication, and innovation in meeting the special rehabilitation needs of disabled veterans. We congratulate him for the excellence of his work and for the distinguished award he will receive.

H.R. 1709—DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STENHOLM. Mr. Speaker, in response to concerns raised by hundreds of my constituents, I am today asking that my name be added as a cosponsor of H.R. 1709, the Dietary Supplement Health and Education Act of 1993, introduced by Representative BILL RICHARDSON.

Clearly, this is an issue in which competing priorities and concerns must be balanced in a way that protects both consumers' rights and consumers' health and safety. Even though the Nutrition Education Labelling Act was passed with all good intentions, there has been some indication that it is time for Congress to take a second, closer look at both the substance of the statute and the way it will be implemented by the Food and Drug Administration [FDA]. The FDA generally receives high marks for its efforts to protect the public from hazards to health and well-being by any of the products it regulates, but there is also evidence of cases in which the FDA has used excessive and unreasonable force in fulfilling its duties. All of these concerns should be reexamined through the proper legislative process.

It is in this spirit of balancing competing demands and needs that I believe it is important for Congress to address the issue of the safety and efficacy of dietary supplements meeting health claims. I feel that H.R. 1709, while perhaps not the perfect solution, provides us with impetus for that discussion. I look forward to the completion of the committee process in the coming weeks and will be open to possible improvements that might be made to this legislation. My cosponsorship is intended to be part of the effort which encourages action on the issue by the part of the effort which encourages action on the issue by the House and Senate before December 31, 1993, when several controversial provisions of the Nutrition Labelling and Education Act are set to go into effect.

I am happy to be part of moving this process forward in a way which meets the concerns of my constituents, as well as thousands of consumers across America.

HAITIAN CHILDREN IN AMERICA

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mrs. MEEK of Florida. Mr. Speaker, today I am introducing legislation which would allow the Haitian children of legal U.S. residents and citizens to adjust their status here in the United States.

As a result of a backlog of cases, antiquated facilities, a shortage of officers, and the closure of the United States consulate office in Haiti for a year after the coup that deposed President Jean-Bertrand Aristide, numerous children of legal United States residents and United States citizens are being stranded in Haiti. Most of the children have lived in the United States for years and were summoned to the consulate for routine interviews, the final step in becoming a legal resident. In all of the cases the petitions for these children have been approved by the Immigration and Naturalization Service. Usually approval is automatic, as long as parents can prove they can support the children without public assistance.

But consular officers are denying these children the necessary visas to return to the only home they know, requiring more documentation. Even when the necessary proof has been received, children are forced to remain in Haiti for months separated from their families, friends, and schools—for a new appointment at an already overburdened consular office. As a result, many of the children are having to miss school and oftentimes live with strangers, costing their parents thousands of dollars to support them in Haiti. Too many of them are having to stay in poor neighborhoods which are subjected to constant gunfire by the military-backed thugs.

Mr. Speaker, it is negligent of us to send these children back to Haiti for what is usually a 1 day interview in other countries to determine if these children actually are the offspring of people who were granted amnesty by the 1986 Immigration and Nationality Act. There is something terribly wrong with immigration policies and procedures that disrupt lives and break up the families of legal residents. If Haiti is not safe enough for armed soldiers to land there, it certainly is not safe for children to be there.

Mr. Speaker, I would like to enter into the RECORD the statement by Yolna Lanoix, who recently returned to the United States after the laborious and painstakingly slow process of attaining her visa at the United States consulate office in Haiti. I believe Ms. Lanoix's statement conveys the heartache experienced much too often by these children.

STATEMENT OF YOLNA LANOIX

1. My name is Yolna Lanoix. I was born in Haiti. I live in the United States and went to school for 8 years, until I had to return to Haiti to meet with U.S. immigration people.

2. In 1986, my parents, who are legal residents of the U.S., filed a form with INS so that me and my brother and my sister could legalize my status. On June 15, 1991, we went back to Haiti. The Consulate sent us a letter saying we had to go back to Haiti to meet with them. Others had to do this too—from the Bahamas or Jamaica—they had to go back to their countries for the interviews with U.S. Consulate people. My appointment was on June the twenty-four, 1991, I think, but I went early because I had to do the medical exam. They want the test done over there, not here. The medical exam includes X-Rays and blood tests.

3. When me and my brother and my sister first went to the Consulate in June, 1991, they told us that we had been called by mistake and that our interviews would not take place for about a year. In the meantime, they said we could not return to the United States. A lawyer had to argue with the Consulate about that.

4. I had been in the last month of high school in Miami when I went to Haiti. My school was supposed to be done by the middle of July—the eighteenth, I think. So I missed the final exam, and I missed the graduation ceremony with my class.

5. While in Haiti, I stayed with a cousin outside of the capital, close to the airport. You would have to go inside to stay at 6 p.m. every night because of the violence. You would constantly hear gunfire, and bullets ricocheting.

6. Right after the coup in September of 1991, there as an announcement that the U.S. embassy was closed. I think it was on the radio. That meant that all of our cases were put on hold. Why did the embassy have to close? It took the longest to open in Haiti—why? There are many embassies in Haiti—French, British, etc. But the United States Embassy is the only one that was having the problems, closing for so long. I received my notice of approval, and went to Haiti. There were rumors that the embassy would open again, but they weren't open. I didn't believe it was open again til they wrote me; they were very unpredictable. The embassy closed for approximately one year and I couldn't do anything about my case.

7. It was such a problem getting through to the Embassy. You could call all day and not get anybody. Or you could get a busy signal. Sometimes you'd get such a smart answer you wouldn't want to call again. They'd say "We'll call you when it's convenient * * * click"—they'd hang up, without giving you a chance to answer. They don't give you time to ask questions. They were very rude, and they leave you in the dark. If you are without a document, they are no help. They talk like there is no hope for you. You could spend a whole day there getting nowhere. This happens so often, that you get to the point of just not want to call anymore.

8. Since people are so fed up with the embassy, there's con men out there trying to take advantage of you in your situation. All we want is to get our problem solved and return to the United States legally. While I was standing outside of the Embassy, I was approached by a man, who asked, "What's wrong?" "How long is it taking?" He acts as though he relates to your problem. Then he tells you that he can help you—in exchange for money. He says that he knows someone in the Embassy, and that he can make sure that they call you next, that you won't have to wait any longer to get an answer on your case. And it was more than this one person doing it. I saw this happen repeatedly while I was standing in line. This happens even though there are signs saying, "Do not get information from anyone outside of the Embassy." So many people get their money taken away by these people.

9. The embassy drives people to the streets. The less helpful the embassy is, the more people go look for help in the streets. The embassy provides so little help, that people seek assistance in the streets this way. If the embassy would do its job, fewer people would try to come here illegally. The people in the embassy have forgotten that they must obey U.S. laws, and that they are there for public service.

10. There was a woman who was there the same day I was. She had married an American, and the embassy really gave them a hard time. They get strict measures for people getting married now. The woman had to show the embassy the video from their wedding reception. If they did not have the money for the video, the embassy wouldn't have accepted the marriage as valid. And they did this for someone marrying an American—imagine how hard it is for someone who is not American.

11. The law is that you have to take a blood test for HIV or syphilis. If the embassy has not processed you within six months, you have to take another test. Each time you have to take an x-ray and complete physical exam too. So I had to have two complete physicals and everything else three times. And each time you have to pay a lot of money.

12. The embassy doesn't even tell you the results of the tests. The doctor doesn't tell you the results either. You take the results in a closed, sealed envelope to the embassy without opening it. When you find out the results is when they say that you can't come in to the U.S. because you have diseases.

13. There was a mistake on my sister's birth certificate. The mistake was repeated on the income tax. So my mother even had to take a test to prove she was the mother.

14. The embassy requested an income statement from my father. He flew back to the U.S. to get it. But embassy never tells you all at once what you need.

15. The embassy started getting better when they re-opened around the time that Clinton was elected, I think in November, 1992. The State Department wrote a letter to people saying they're sorry and that they're trying to do the best they could, but they had everthing—all the paperwork—bunched up together there in the embassy. They've come a long way now. The new people there are trying to correct the mistakes done there before; they were really backed up on paperwork. The embassy people would go back to the younger ones to help them, the embassy said. Everyone who had appointments scheduled before the coup had lost their appointments. Still, after the Consulate reopened they made us and all the others submit so much of the paperwork on our case over again that we had to spend even more time in Haiti. My dad had to submit new income tax papers, new bank statements, new affidavits of support, new statements from his work, etc. And we had to have a new medical exam too. Also, two days before I turned 21 years old, the Consulate approved the applications filed for my brother and my sister but not for me. My application was denied because they said I had turned 21, but I was under 21 when they approved my brother's and sister's visas and I was under 21 for most of the two years I had to wait for my visa.

16. The parents of the kids who have had to leave school in the United States to go to Haiti for their interviews are scared of sending their kids to school in Haiti. They are afraid of what could happen in Haiti. They are afraid of what could happen in the streets. There are kids who have not had a decent year in school. With the curfew there is a time limit on when you could not be out on the street.

17. People ask me how you do it, how did you stay away from your family, school and everything in Miami. I tell them I have God on my side. It was really hard to leave Haiti as a kid and then go back again many years later; I had no intention to spend all this time there. I did not even get to see my young son, Joshua, for the time I was there in Haiti. Joshua was born just two months before I had to go to Haiti and so I didn't see him practically for the first two years of his life. I was 19 when I had to go to Haiti and I was 21 when I was allowed back home.

18. I wasn't alone in my situation. Some kids have been waiting five years, maybe because of some document they couldn't bring up. They could be in danger if they were in politics. I wasn't involved in politics, and where I was, the people didn't discuss politics. You cannot state your political opinions in Haiti—unless it is for the man in power. One of my uncles was arrested because someone said he supported Aristide. A lot of people are still in hiding, because they fear what will happen to them.

19. There's so much for Aristide to do even if he goes back, for a country which was trying to make it. The people who control it are still in power. For you to help a country so much in poverty, you need a miracle. Haiti is a beautiful place, but it has some bad problems. It is like a diamond in the rough. Maybe someday things will be better there.

20. Now that I am here, I had to do three months of school to be over with it. If I had taken the test when I was supposed to, in June, 1991, I would be done. It's like losing two years and having to start over again. I could have been in junior college by now.

21. I intend to continue my education. I want to study first to be a paralegal, and then maybe later an attorney. Maybe in the future, I could run for public office. Even though I feel I've lost two years, I'm not going to let that stop me. I've got to get on with my life now.

Ms. Lanoix is currently attending Miami-Dade Junior College where she is studying criminal justice. She eventually wants to be a lawyer because she believes if law is on your side you can really make a difference.

SALUTE TO WILLIAM D. "ROD" FRANZ

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. GALLEGLY. Mr. Speaker, some people seem to accomplish more in an hour than most of us accomplish in a year. William D. "Rod" Franz of Camarillo, CA, is one of those people.

Rod Franz is the quality management facilitator at the Port Hueneme Division, Naval Surface Warfare Center, a demanding position that would be enough for most people. But one job isn't enough for Rod Franz, who has so selflessly given of his time and talents on behalf of his community that he has earned the nickname of "Mr. Camarillo." For those efforts, he was recently named Camarillo's Man of the Year.

As the Ventura County Board of Supervisors put it, "Rod is the essence of community volunteerism. He has touched and enriched many lives and has made Camarillo a better community in which to live." A look at just some of the community projects he has been involved with over the years tells why.

Rod is currently president of the Camarillo Pageant Association. He has been a member of Camarillo Beautiful, founding member of Camarillo Coalition Against Crime, co-founder of the Ventura County Boys Club football league, a director and past president of the Boys and Girls Club, and past chair of the Venture County Boys and Girls Club area council.

He also is a member and past president of the Pleasant Valley Lions Club, founding board member and chairman of the Southern California Ear Foundation, a member of the Channel Coast Football Officials Association, an Explorer adviser to Ventura County Boy Scouts, a member of the Rio Meas High School boosters club, a member of the Camarillo Veterans Memorial Committee and a member of the Cancer Society Board of Directors.

In addition, he has served on the Mayor's Select Advisory Committee, served as master of ceremonies for Camarillo's Salute to Desert Storm, was a member of the Camarillo Bicentennial Committee, tutored for the Camarillo Library Adult Literacy Program and Channel Islands High School—the list goes on and on.

Mr. Speaker, as my colleagues know, I have long believed that it was the pioneer ethic of pitching in and helping out that helped make America great. I also believe if we had more people even one-tenth as involved in their communities and Rod Franz that many of our Nation's problems could be easily solved.

I ask my colleagues to join me in honoring an outstanding American, Rod Franz.

KINDERHOOK ELKS LODGE 2530 DESIGNATED ALL-AMERICAN LODGE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SOLOMON. Mr. Speaker, as a Brother Elk I take great pride in bringing to the attention of this House the honor being bestowed on the Elks Lodge of Kinderhook, NY.

On November 7, 1993, Kinderhook Elks Lodge 2530 will be designated an "All-American Lodge," of which there are only six in the entire United States.

The award recognizes the outstanding work of lodge 2530 during last year under past Exalted Ruler Bill Herwerth.

I'd like to commend present Exalted Ruler Mark Brennan, Grand Exalted Ruler Vincent R. Collura, and every other lodge officer and member, friend and family member who contributed to this outstanding record.

As many of you, Elks have played a leading role in promoting pride and patriotism in the United States. Throughout their history, Elks have exhibited the kind of spirit that has made this the greatest and freest Nation on Earth.

That being the case, Mr. Speaker, I ask all Members to join me in congratulating Elks Lodge 2530 of Kinderhook, NY, for this rare and deserved honor.

IN HONOR OF THE 15TH ANNIVERSARY OF THE MINISTRY OF REV. FATHER GEORGE G. PASSIAS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. ACKERMAN. Mr. Speaker, I rise today to ask my colleagues to join with me in celebrating Rev. Father George G. Passias' 15th anniversary at the Greek Orthodox shrine Church of St. Nicholas. The Rev. Father George G. Passias is a truly wonderful, giving and compassionate man. A party will be held for him on November 14, 1993, at Leonard's in Great Neck, NY.

Born in Chicago, IL in 1947, Father George was supported by a dedicated and caring family as he earned a bachelor of science degree in structural and mechanical engineering and a master of science degree in mechanical engineering. While working on his doctoral degree, he was most active in his parish of St. John the Baptist in Des Plaines, IL, where he taught in the church school, was a parish council member as well as a member of the church's executive board.

It was in 1976, that Father George left his doctoral studies and embarked upon a path that would reveal his most conspicuous talents of serving others through faith and compassion. Attending the Holy Cross School of Theology, he earned his degree and accumulated wide honors. He was elected to "Who's Who Among American Colleges and Universities" and was awarded the Massachusetts Bible Society Award.

In 1979, Father George and his family came to St. Nicholas, in Queens, NYC, and began serving as an assistant pastor. He began a ninth-grade class and high school religious classes, and brought many improvements to the programs of the church's William Spyropoulos School. Recognizing his ability to inspire and lead, His Eminence Archbishop Lakovos appointed him pastor of St. Nicholas in 1982. Under the pastorship the church's membership has doubled and a variety of programs have been undertaken to enhance the program of the church for all ages.

Mr. Speaker, as Father George now takes time to accept the warm and enthusiastic appreciation of his congregation, I ask all of my colleagues to join me in congratulating Father Passias on his 15th anniversary at the Orthodox Shrine Church of St. Nicholas.

TRIBUTE TO DR. RUFUS YOUNG, JR.: AN OUTSTANDING EDUCATOR

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. CLAY. Mr. Speaker, Dr. Rufus Young, Jr., has retired from the St. Louis public schools after 48 years of committed service to the educational achievement of children in the Metropolitan St. Louis area. On October 30, 1993, he is being honored by his colleagues who will pay tribute to his outstanding professional career. Dr. Young has served the district in a variety of important roles and has been a guiding force in urban education in Missouri and across the Nation.

Dr. Young earned his bachelor of arts degree in history and education from Lincoln University and his master of science degree in school administration from the University of Illinois. As a recipient of a national competitive fellowship from the Ford Foundation, he completed doctoral studies at Atlanta University with his doctoral dissertation focusing on "An Investigation of the Perceptions Held by Urban Elementary School Teachers and Principals Relative to Administrative Leadership Traits."

Dr. Young began his impressive career as a teacher in the Kirkwood public schools. In 1950 he was employed by the St. Louis public schools and served the district as a teacher, principal, Project Stay director, executive director of personnel, area superintendent, assistant superintendent of effective schools, and director of School Partnerships Volunteer Services and External Resources. As director of the Title VIII Prevention of Dropouts Program, Project Stay, which was identified as a national model program. Dr. Young developed and conducted six work-study programs, retrained staff and expanded the counseling, afterschool, curriculum and instructional programs. Under his leadership as executive director of personnel, numerous innovations in personnel procedures were made. Dr. Young's tenure in the personnel division is most remembered because of the humanness, patience and care for others he expressed as he carried out his responsibilities for the district.

As area I superintendent and assistant superintendent for effective schools, Dr. Young focused on increasing student achievement. School staff were trained in the philosophy, theory, tenets and practices of the effective schools research. Believing in the slogan, "All Children Can Learn," staff persons focused on the idea that all children, regardless of race or socioeconomic status, can and will achieve when their teachers and principals totally commit to their educational achievement. Dr. Young directed the expansion and implementation of the effective schools concept into 114 schools making it a nationally recognized program.

Dr. Young's educational expertise continues to be sought after by colleges, universities and school districts across the nation. He has made presentations to teachers, principals, district administrators, superintendents and school boards in Sweden, The Netherlands, Israel, Wales, and Canada.

Dr. Young has contributed significantly to the community. He is a member of St. Phillip's Lutheran Church, the Royal Vagabonds, Inc., the YMCA, the 100-year old Anniversary Club, the Veiled Prophet Organization, Sigma Pi Phi and Phi Delta Kappa Fraternities. He is a life member of Kappa Alpha Psi. Dr. Young also serves on the Rockefeller Foundation Board of Directors, the Duchesne Scholarship House Board of Directors and the Advisory Board of the United Nations, St. Louis chapter.

Dr. Young is a superior educator who has given fully and creatively to guide our most precious resource, our children and our youth. I am pleased to call attention to a truly fine educator who contributed greatly to a more humane and richer society through quality education.

I invite my colleagues in the U.S. Congress to join with me in wishing Dr. Rufus Young, Jr. Godspeed and much success in a retirement filled with tranquility, challenge and personal fulfillment.

RECOGNIZING NORMA BRAWNER FOR HER YEARS OF SERVICE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STARK. Mr. Speaker, I ask my colleagues to join me in honoring Ms. Norma Brawner, who retired last December after more than 25 years of dedicated service to my constituents and neighbors in Alameda County.

Norma worked as a cafeteria aide in the San Leandro Unified School District for many years until becoming an instructional aide with the juvenile court and community schools, part of the central Alameda County school administration. For 14 years, she helped the students caught up in the juvenile justice system to continue their education. The work was tough and the environment was challenging, but the students were among the most troubled in the school system.

On October 28, Norma Brawner's friends and colleagues will gather to honor her for her many years of service to our community. I am pleased to join them and offer a sincere thank you and my best wishes for a well-deserved retirement.

TRIBUTE TO CAROL COE

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. KREIDLER. Mr. Speaker, I rise today to recognize the outstanding work of Carol Coe, a teacher at Puyallup High School in my district in Washington State.

Mrs. Coe was recently named "Teacher of the Year for 1994" in the State of Washington. Being a teacher today takes a special kind of person. Teachers work long hours for little pay and less reward in sometimes dangerous situations. Yet we often fail to acknowledge the increasing difficulties they face and the enormous dedication they bring to their profession.

Carol Coe is making quite an impression on her students. They are the center of the classroom and she creates an environment that encourages them to speak out and think for themselves. Mrs. Coe's style of teaching emphasizes her special gift of not only dispensing knowledge, but instilling the confidence and motivation that allow her students to succeed.

Mrs. Coe also understands that education is not limited to the classroom. Her students learn by participating in their community, serving in local programs at day care centers, nursing homes, and shelters for the homeless. It is inspiring to see that kind of imagination and commitment to education.

I would like to congratulate Carol Coe for her efforts as a teacher and as a member of the community, and I would like to share a recent editorial about her. Mrs. Coe has been teaching for 23 years, and the people of Puyallup and I hope that she will continue for many years to come. I know my colleagues join me in saying thank you for a job well done.

The editorial follows:

[From the Tacoma (WA) News Tribune, Oct. 22, 1993]

TEACHER OF THE YEAR

Carol Coe has never tried to be a competent teacher. She's strived to be a great one, averaging an 85-hour work week.

Being named Washington's teacher of the year is official recognition that the Puyallup High School social studies teacher has achieved greatness. But her students didn't need anyone to tell them that.

Coe knows what it takes to be a great teacher: "An undying interest in the ability of kids to learn . . . a commitment to find the keys that open up the world of learning for kids . . . subject-matter expertise."

Public schools and teachers take a lot of heat these days. But teachers like Coe are not aberrations; many people are equally committed to their profession. It's important for the community to appreciate and recognize these devoted educators.

SALUTE TO KAREN FEDERING, STAGE MANAGER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MINETA. Mr. Speaker, 30 years ago today, President John F. Kennedy received an honorary degree from Amherst College in Massachusetts. During the ceremony, he said, "I look forward to an America which will steadily raise the standards of artistic accomplishment and which will steadily enlarge cultural opportunities for all of our citizens."

This past Saturday—October 23, 1993—one such artistic accomplishment was achieved by Karen Federing in her debut as stage manager for New York City Opera's new production of Mozart's Nozze di Figaro (Marriage of Figaro) in Lincoln Center.

Of that production, Bernard Holland of the New York Times said it to be a "model of limited resources turned to artistic advantage" and "every gesture and arrangement of players onstage are thought through and make perfect sense." High praise indeed.

Stage management in live theater is an art form in and of itself, and a special challenge in opera in which stage timing must marry the music perfectly. So whether the cue is for a performer or for a special effect such as lighting, precision and natural flow are essential to keep the rhythms of the story and score seemingly effortless—and to the delight of the audience.

Mr. Speaker, for her outstanding work, Karen Federing is to be commended for helping to realize the dream President Kennedy held for the arts in America. And to all of her colleagues at city opera, bravo!

WORKING TOWARD DEMOCRACY

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SAXTON. Mr. Speaker, there are many organizations in the Commonwealth of Independent States that are supporting the nonviolent transformation of their country into a democracy. One of these organizations is the General Confederation of Trade Unions [GCTU].

The GCTU and the Russian Union of Industrialists and Entrepreneurs have jointly established the Social Partnership Foundation [SPF] for the purpose of coordinating and working out privatization. They also concentrate on training and retraining of defense workers being laid off because of the cut back in the defense industry.

One of the main objectives of SPF is to coordinate the activity of the unions, business and industrial communities, and the Government in promotion of economic reforms to all spheres of life and improvement of social stability.

The following is a statement by the General Confederation of Trade Unions of the Commonwealth of Independent States of the former Soviet Union:

> The General Confederation of Trade Unions on behalf of millions of its members in the Commonwealth of Independent States expresses deepest condolences to the families of those who died as a result of the bloody events in Moscow.
>
> Trade unions of the Commonwealth wrathfully condemn violence against Moscow City Hall, Ostankino TV Center, and peaceful civilians. That criminal act brutally tramples that democratic process in Russia.
>
> We urge the unions, the workers' collectives to stay calm, and we call them to common sense and peace.

TRIBUTE TO MAYOR COLEMAN YOUNG

HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Miss COLLINS of Michigan. Mr. Speaker, today I pay tribute to one of the most important and history-making public servants of our time, Mayor Coleman A. Young of Detroit. When others forecast Detroit's demise, Coleman Young engineered its revival. Mayor Young's decision to not seek reelection marks the end of one of the greatest eras in Detroit's history. Coleman Young dismantled the walls of exclusion to become this city's first African-American mayor, and conquered impossible odds to do it.

Coleman Young then made city hall accessible to people who had not been welcome there before: African-Americans, the working class, and women. Not only did he grant access to these disenfranchised groups, Coleman Young elevated them to high positions in his administration. For the first time, ability determined how far their careers would lead them, not race or gender.

Certainly, no mayor had a brighter vision for Detroit or worked harder to recapture the city's pride than Coleman Young. Detroit was truly privileged to have the skillful and courageous leadership of Coleman Young for nearly 20 years. His marks will be engraved in history and his shoes impossible to fill. Mayor Coleman A. Young's exemplary service to Detroit has truly made him a legend in his own time.

FIRST REFORMED CHURCH OF WYNANTSKILL CELEBRATES 200TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SOLOMON. Mr. Speaker, those of us who live in the 22d Congressional District of New York can boast of living in one of the historically richest areas of the country.

Our churches, especially, are virtual depositories of historical information, and the stories of these great old churches is the history of their respective communities.

One such church is First Reformed Church in Wynantskill, which is celebrating its 200th anniversary on November 6.

This church has truly been a beacon of hope and inspiration to those who have worshipped in the sanctuary. The church has also served as the focal point for numerous other community activities, such as Boy Scouts, Girl Scouts, bloodmobiles, Home Bureaus, and services for toddlers and older Americans.

Mr. Speaker, as Alexis de Tocqueville said more than 160 years ago, America would be great as long as she is good, and the goodness of America has always been centered in churches like the First Reformed Church of Wynantskill, NY.

Please join me in congratulating the good people of this great old church on the event of their 200th anniversary.

SOCIETY OF ST. MARY OF THE SNOW TURNS 105

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the extraordinary achievements of the Society of St. Mary of the Snow as it marks its 105th anniversary this year. This organization, located in the Greenpoint/Williamsburg section of my district, is one of the oldest mutual aid societies in the United States, having been founded in 1888 just 2 years after the Statue of Liberty was dedicated.

The Society of St. Mary of the Snow became a place of family, friendship, and mutual assistance to the Italian-American immigrants who founded it. It was a place where they could find a sense of pride in their achievements in their new country. The members of St. Mary of the Snow also could find familiar faces from their hometown of Sanza, Italy.

Throughout the history of the society, the members of St. Mary of the Snow have shown their love for their adopted country by fighting in the Armed Forces in every war that the United States has entered. Their patriotism is also evident in their extended drives on behalf of the American Red Cross and war bonds.

Today, the Society of St. Mary of the Snow remains a vital part of the Greenpoint/Williamsburg community. The society supports a variety of programs aimed at promoting the well-being of all community residents. In particular, the society continues to give mutual assistance to its members in times of sickness and death. But the society also never forgets its origins, providing assistance to the members' hometown of Sanza and other cities and towns in Italy during times of disaster and need. The society also has remained a haven of support for newly arriving immigrants from Italy, and Sanza in particular.

Because of its tremendous contributions to the entire northern Brooklyn community, and for instilling a sense of citizenship, patriotism and pride in the United States of America, I would like my colleagues to join with me in saluting the Society of St. Mary of the Snow on its 105th anniversary.

THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT CONTROL AND LAW ENFORCEMENT ACT OF 1993

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BROOKS. Mr. Speaker, today I am introducing with Congressman CHARLES E. SCHUMER, six separate bills that are drawn from titles of my larger, omnibus crime bill, H.R. 3131, the Violent Crime Control and Law Enforcement Act of 1993.

I take this step because time is running out in the 1st session of the 103d Congress; and, unfortunately, the forces of gridlock and hesitation appear to be reemerging precisely at a time when the American people are desperate about crime as never before. I, for one, cannot stand aside and permit further delay in moving pieces of crime legislation that have consensus now.

It is time for this body to fight crime with action, not slogans; with innovative and well-targeted policy initiatives, not posturing or tough-sounding rhetoric. It is time finally to let go of what this group or that group deems a wonderful defining issue and opt to pass statutes instead. The reason is as simple as it is terrifying: Blood is flowing in the streets; crime is on the rise; recidivism is a depressing but terribly real fact of American life and, all the while, Congress continues its interminable debate over crime. At some point, the purists must step aside, become result-oriented and act where they can.

At the same time, however, we should be fair in acknowledging that there are indeed a number of sensitive and highly complex substantive issues on which Members of both parties continue to disagree. In these areas, I will respect their wish for further deliberations on differing approaches before fashioning a final product. But there are other initiatives that should not be deferred, that in good conscience cannot wait for another recess, another session, even another month, to be resolved.

The six bills that I am introducing today will put more cops on the beat in urban and rural communities alike across the Nation; will help States and local governments fight juvenile drug and gang-related activities; will provide grants to help State and local governments develop alternative methods of punishment—such as boot camps—for certain young offenders to prevent them from falling into the all too predictable mode of becoming repeat, hardened career criminals; will require drug treatment of prisoners at both the Federal and State levels to prevent putting drug-dependent individuals back on the streets; and will help local educational entities provide assistance to schools most directly affected by crime, violence and illegal drugs.

Very shortly, I intend to bring these bills to full committee for markup and then proceed posthaste to the floor. As other crime initiatives are developed and reach a working consensus within the relevant subcommittees, we can then move those proposals forward. With adjournment looming, it is imperative to push ahead with the worthwhile programs embodied in these six proposals, and I urge all Members to lend their support to this important effort.

IN HONOR OF DOROTHY DAHL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STARK. Mr. Speaker, I would ask my colleagues to join me in recognizing Ms. Dorothy Dahl, who retired in June after more than 20 years as a teacher in the Alameda County public schools.

From 1969 to 1984, Dorothy taught in the Castro Valley and San Leandro Unified School Districts. Between 1984 and her retirement, she has been a teacher for the juvenile court schools of the Alameda County Office of Education, working with children in a difficult and challenging environment.

Whether the subject was math, social or physical sciences, career education or home economics, Dorothy spent each day investing in the lives of children. Thousands of students are better prepared adults as a result of her efforts.

On October 28, Dorothy Dahl's friends and colleagues will gather to celebrate and remember her service to our community. I am glad to join them in thanking her and wishing her a well-deserved rest.

PROTECT CITIZENS WITH HIGHER STANDARDS FOR SECURITY OFFICERS

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MARTINEZ. Mr. Speaker, in January, 1994, the State of New York will become the only State in the Nation which has a comprehensive law for the regulation of private security officers and their employers. After that date, New York will require that any person who is employed as a security officer, whether they are a contract guard or an in-house guard, will be screened for any prior criminal activity and will be given training necessary to perform their duties.

The fact that New York is the only State to have such regulations comes, I'm sure, as a surprise to most people.

And while most security guard companies do a good job of checking the background of prospective employees and have good training programs, the citizens of the other 49 States have no assurance that the security officers in their States have been screened or properly trained. These are the very same security officers who patrol our shopping malls, who provide protection at apartment complexes and who guard our children at school and at athletic events.

During my investigation of this issue, I did learn that many States other than New York do have some regulations regarding security officers. However, not one other State covered all guards, and in fact, 18 States allow guards to carry a lethal weapon without requiring any training.

It is because of this void that I have been joined by 21 of our colleagues in sponsoring H.R. 1534, the Security Officers Quality Assurance Act. This legislation, which was reported out of the Human Resources Subcommittee of the House Education and Labor Committee on September 30, would set forth federally mandated rules for States to follow in establishing stringent requirements for background screening and training standards.

Mr. Speaker, it is important to note that this legislation will not impose financial burdens on the States. The bill permits recovery of program costs through fees on the licenses which the States will issue. In this manner, the security industry itself will be paying for the administration and enforcement of this program.

In addition to setting forth minimum screening and training standards, which a State may exceed if it chooses, H.R. 1534 allows employers of security officers timely access to criminal records so that they can adequately screen job applicants.

At hearings held before the Human Resources Subcommittee, which I chair, there was near universal support for this legislation among the witnesses who represented both large and small contract security guard companies, consultants who advise shopping centers and major companies on security issues, and from victims who have been injured because of poor selection of guards or improper training.

In bringing this legislation to the attention of my colleagues today, it is my hope that you will join in cosponsorship of H.R. 1534. The bill has the following Members as cosponsors: Major Owens, Ronald V. Dellums, Benjamin A. Gilman, Marge Roukema, Nancy Pelosi, Marcy Kaptur, Thomas M. Foglietta, Andrew Jacobs, Jr., Howard L. Berman, James L. Oberstar, Edolphus Towns, Jolene Unsoeld, Peter Hoagland, Robert E. Wise, Jr., Ron de Lugo, Austin J. Murphy, Douglas Applegate, Bob Filner, James H. Bilbray, Robert E. Andrews, and Leslie L. Byrne.

THE KNIGHTS OF PYTHIAS 125TH ANNIVERSARY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SCHUMER. Mr. Speaker, I rise today to call to the attention of my colleagues a wonderful commemoration occurring across the country. The Knights of Pythias, a benevolent fraternity, will gather this week to celebrate their 125th year of service to many communities in our Nation. The knights number more than 175,000 in lodges throughout the United States and Canada, with the largest proportion found in my home State of New York.

The Knights of Pythias is the only fraternity chartered by the U.S. Congress, and the organization has served its principles of friendship, charity and benevolence well by focusing on the needs of our youngest and more vulnerable citizens. I want to share with my colleagues some of the work Pythians are doing in our Nation's communities.

To introduce the experience of summer in the mountains to inner-city youths, the Knights of Pythias ran Pythian summer camps for disadvantaged young boys. The camps were open for 50 years, and today Pythian lodges sponsor both boys' and girls' attendance at camps operated by other groups.

The knights lodges serve as a way station for information about missing and runaway children printing missing child case histories in its publications and publicizing a toll-free number that runaway children can use to call home. They also sponsor free voluntary fingerprinting of children, a practice which is growing more common in many communities, in order to assist local law enforcement with criminal investigations.

Continuing its good work with young people, the Knights of Pythias affiliated with Samaritan Village, a nonprofit drug rehabilitation program, to educate its members about drug use and the warning signs of drug abuse. In this program, Pythians learn how to find help in coping with substance abuse for themselves, their families and neighbors.

Finally, the Knights of Pythias are reliable volunteers, running events at the annual games for the physically challenged, providing medical equipment to the needy, and raising funds to support these worthy efforts year-round.

Mr. Speaker, I am pleased to be able to recognize the fine work that the members of the Knights of Pythias perform every day in many of our communities. I ask my colleagues to join me in congratulating them on their 125th anniversary and in wishing the group many more years of distinguished service and fellowship.

THE MANAGED COMPETITION ACT OF 1993

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. CLINGER. Mr. Speaker, I recently joined 48 of my colleagues in sponsoring the only bipartisan bicameral comprehensive health care reform legislation yet to be introduced in the 103d Congress. The Managed Competition Act of 1993, authored by Congressmen JIM COOPER and FRED GRANDY, is largely based on the "managed competition" model originated by the Jackson Hole Group, and it represents a true bipartisan, market-based effort to overhaul our ailing health care system. Senators BREAUX and DURENBERGER introduced companion legislation in the Senate last Thursday.

As those whom I represent back home know, over the past several months, I have repeatedly aired my concerns about the managed competition theory in newspaper editorials, correspondence with constituents, and meetings with health care providers. In particular, I was worried about managed competition's feasibility in rural areas. As one who represents a rural district spanning 17 counties, I am acutely aware of the unique health care problems confronting rural doctors, nurses, and patients, and long before health care reform was thrust to the top of the national agenda, I have insisted that these problems be addressed by any reform plan adopted by Congress.

In addition to controlling health care costs, improving access for the uninsured, and maintaining high quality medical care, rural residents must overcome other barriers to quality health care that most of our urban counterparts do not have to deal with. Vast distances between medical facilities, a shortage of medical resources and personnel, and the revitalization of our deteriorating health care delivery system and infrastructure are problems unique to rural areas that health care providers and patients in my congressional district must contend with each day.

When I read that some of the architects of managed competition admitted that the model may not be workable in rural areas, I became wary of those advancing managed competition as a panacea to all of America's health care woes. I feared that policymakers would become so enamored with the theory that rural health care would be swept under the rug. And I must admit that I still harbor doubts about managed competition's applicability in sparsely populated, rural areas.

Considering my reservations, one might ask, "why would a congressman who has prided himself as an advocate of rural America enlist himself as an original cosponsor of legislation which he acknowledges may not solve all of the health care difficulties in rural areas?" That is a fair question for which I have a simple answer: It is good public policy.

Everyone agrees that our health care system is broken and needs to be fixed. In my opinion, our health care system's problems stem from perverted economic incentives in the health care market place. For instance, under normal market conditions consumers decide what they will purchase from producers based on the price and quality of the goods. If the consumer feels the quality of the goods is not worth the price charged by the producer, the consumer can search for less expensive goods produced by a competitor. These are the basic, undisputed principles of free market economies.

However, in our present health care system, the producer—health care provider—tells the consumer—patient—what goods—medical procedures, tests, or drugs—that he or she will purchase. The patient must rely on the expertise and training of the doctor, and trust that the doctor is providing the best quality and most effective care. To make the situation worse, an independent, third party—insurance company—pays the bills so that the consumer is isolated from the cost of health care. As a result, there is very little price or quality competition in the health care market place, and as free marketers know, competition is themost effective way to keep inflation in check.

The Managed Competition Act of 1993, also known as the Cooper-Grandy bill, is a market-based approach to health care reform which seeks to readjust these imperfect, distorted incentives. By modifying the tax code, it is my belief all Americans can be assured access to high quality, affordable health care.

The essence of the Cooper-Grandy bill is to restructure the health care market so that providers are forced to compete for consumers on the basis of cost and quality of care. Tax incentives would encourage consumers to select the most cost-effective plan and prompt providers to arrange themselves in the most efficient manner. Also, health plans would have to cut rates by controlling prices, eliminating administrative waste and preventing unnecessary procedures in order to keep premiums at a competitive price and attract subscribers.

Another cornerstone of the Cooper-Grandy bill is the facilitation of health insurance purchasing pools which give individuals and small businesses the opportunity to negotiate lower prices for health coverage. Right now, larger businesses enjoy lower costs due to their size which allows them to spread their risk among employees and bargain with insurance companies for lower rates. The collective purchasing pool would allow small businesses and individuals to benefit from those same low rates.

Under the Cooper-Grandy legislation, employers with 100 or fewer workers and individuals seeking health care coverage would purchase their insurance through these pools, also known as health plan purchasing cooperatives [HPPC]. The HPPC's would offer a wide array of health plans, and since health plans would be required to report on medical outcomes, consumers—not employers—would choose their health plan based on price and quality. It is expected that the HPPC's would cut administrative costs by 40 percent, improve the availability of consumers information regarding the various health plans, and foster better competition among plans.

Another important component of the Cooper-Grandy proposal would make individuals more cost-conscious health care consumers. Currently, employers are permitted to deduct the cost of providing health care coverage to their employees, and employees are allowed to exclude these benefits from their taxable income. To discourage inflationary "Rolls-Royce" health plans which fail to contain costs, the Cooper-Grandy bill would limit the tax deductibility of health care costs at the cost of the area's lowest priced plan which meets the minimum Federal standards. The funds raised by this tax cap would be used to provide subsidies to low income individuals and to adjust inequities in the tax code which allow the self-employed to deduct only 25 percent of their premiums from their taxable income.

Many political pundits and journalists are drawing strong similarities among the President's proposal, the Senate Republican plan, and the Cooper-Grandy bill. While they are all largely based on the managed competition model, there are some major, critical differences. In fact, the Senate Republican plan and the Cooper-Grady bill, which are very close in substance, differ dramatically from the Clinton plan in many key areas.

First, the Cooper-Grandy bill does not force employers to pay for the health insurance premiums of their employees. The Clinton plan would require all employers to pay at least 80 percent of health care costs of their employees. Although there would be subsidies for small businesses, this employer mandate would still have a drastic impact on job growth nationwide and hamper our international competitiveness.

The Cooper-Grandy bill recognizes the pivotal role small businesses play in the creation of jobs. At least 3 out of every 4 new jobs are created by small businesses. An employer mandate would put many small businesses out of business and force others to lay off employees. No matter how you look at it, the Clinton plan will kill jobs and threaten our tenuous economic recovery.

I believe that almost all employers would contribute to their employees' health care coverage if it were affordable. In fact, although we currently don't have an employer mandate, approximately 80 percent of Americans have some or all of their health care coverage paid for by their employers. Therefore, the Government should not waste its time dreaming up new, creative ways to compel employers to pay for their workers' health coverage, but instead focus on controlling the costs of health care so that employers can afford it.

A second critical difference is that the Cooper-Grandy bill does not include artificial price controls or global budgets. The Managed Competition Act relies on market forces to control medical inflation. History has proven that price controls do not work and would only freeze in place inefficiencies in the existing system. Global budgets do not address what is fundamentally wrong with our health care system and would result in nothing short of rationing. All in all, I fear that the high quality health care that Americans have come to expect would be compromised by price controls and global budgets.

Third, the Cooper-Grandy plan accomplishes health care reform without a massive expansion of governmental bureaucracies and regulatory control. Although both proposals establish a National Health Board, the Cooper-Grandy health board would merely define the minimum standards for health plans, while the Clinton health board would be granted sweeping regulatory powers. Also, unlike President Clinton's health alliances, the Cooper-Grandy purchasing pools would be actual cooperatives governed by the members, not regulatory State agencies administered by political appointees of the Governor.

Then, of course, there is the issue of cost. While the Clinton plan would cost $100 billion per year, the Cooper-Grandy bill would cost $25 billion. Sliding scale subsidies for low income individuals would be financed by eliminating tax subsidies for the most expensive health care plans and by phasing out the Medicare Part B premium subsidy for upper income beneficiaries. The Medicaid Program would be eliminated and the funds used to provide health care coverage to those individuals with incomes below the poverty line.

The introduction of the Managed Competition Act is an important step forward in the health care debate. Twenty-seven Democrats and twenty-two Republicans chose to cast partisanship aside and craft a truly centrist bill. As both President and Mrs. Clinton have acknowledged, the passage of health care reform legislation will have to be a bipartisan effort, and the Cooper-Grandy legislation is the first proposal to take a step in that direction.

As I close my remarks, I must make one last point. Although I agree with the principles of the Managed Competition Act and realize that the Republican sponsors and the House Rural Health Care Coalition have worked closely with Congressman COOPER to improve his bill, I recognize that it is not perfect legislation. I feel there is still more room for improvement of the provisions addressing rural areas, and I believe the malpractice reforms can be further strengthened. So I pledge to my constituents that as the health care debate progresses and final legislation is crafted, I will work to further improve and reinforce these important provisions.

ELECTIONS IN RUSSIA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SOLOMON. Mr. Speaker, as you know, parliamentary elections are scheduled in Russia for December. These elections, if they are free and fair, will result in the first truly representative parliament in Russian history and are thus of immense importance.

Further, such a parliament would almost certainly be more democratic and friendly to the West than the previous parliament. Thus, these elections have a direct bearing on our national security and should be treated as a top foreign policy priority by the administration.

Dr. Constantine Menges, a former NSC official and one of the intellectual authors of the hugely successful Reagan doctrine, has reflected extensively on this subject and feels that the United States can and should take an active role in trying to facilitate a smooth and open electoral process in Russia.

I fully agree and have recently, along with my colleagues TOM DELAY and JAN MEYERS, sent a letter to the President urging him to prioritize these elections and to divert existing foreign aid moneys to this process. We have just appropriated $2.6 billion for Russia, Mr. Speaker, so there should be no excuses about a lack of funds. Fielding a monitoring team and giving technical support to democratic parties and candidates in Russia won't cost more than a few million dollars.

Considering that the administration plans to pour several hundred million dollars into the black hole that is the state-owned, monopolized, price-controlled Russian energy sector, I submit that a few million dollars diverted to ensuring free and fair elections in Russia is a much wiser investment.

Dr. Menges has written an op-ed piece on this topic and I would like to submit it, along with our letter to the President, for the RECORD.

THE RUSSIAN CRISIS AND THE CLINTON ADMINISTRATION[1]

Russian President Yeltsin succeeded in his decision to abolish the communist dominated Parliament that had been systematically blocking his efforts at reform. The elections for a new legislature scheduled for December 11-12, 1993, can provide the opportunity for democracy and reform to move forward, or if hard-liners were to win a majority, the election could well be a decisive set back for President Yeltsin and the interests of the U.S. and all the democracies which know that a democratic Russia will be peaceful. Although time is short, the Clinton Administration needs to understand that its actions could make a positive and perhaps decisive contribution to helping the pro-democratic political parties in the coming electoral competition.

In the April 1993 referendum, Yeltsin received support from 58% of the Russians who voted. But fewer than half of the population voted, and the hard-line communists and ultranationalists have shown determination and cunning during the last two years as they have maneuvered to recover from the setbacks of the failed coup in August 1991, the formal dissolution of the U.S.S.R. in December 1991, and the results of the April 1993 referendum. Now though losing another round, they will see the coming parliamentary election as an opportunity to obtain a working majority and thereby relegate Yeltsin and the reformers to mere figureheads. The Communist Party of the Russian Federation has retained about 500,000 members, and whether or not it is allowed to participate officially in the elections, its members will work for their objectives through other parties. In contrast, though many pro-democratic parties exist, in a country of 160 million, none have a membership approaching that of the Communist Party and most have only a few thousand members. The largest pro-democratic movement, Democratic Russia, split into three movements in 1991, each of which has only the beginnings of a Russia-wide organization.

Besides the self-identified communist parties which demand a full return to the old system, the hard-liners have also formed political parties and groups that profess a much more moderate course—calling themselves the "center" between the old-fashioned communists of the past and the heartless and ineffectual "capitalism" they say Yeltsin represents. The hard-liners assume that they are beginning with a core support of about 30 percent of the voters who supported their position in the April 1993 referendum. In addition they know that they are supported by most of the communist managerial class in the government ministries (including the KGB), the state factories, the military-industrial-complex, as well as by most of those in authority in state, regional and local governments. Virtually all of these governing institutions consist of people who were also chosen in 1989 and 1990 when the communist party still determined the outcome of Soviet elections. For the hard-liners, the combination of decades of personal networks and running virtually all institutions in Russia at the national and regional levels will be a significant advantage that could bring them a majority of seats in the new legislature.

The hard-liners will profess to be moderates and will tell the Russian people that Yeltsin has had two years of power and has failed to bring them a better life. They will follow the example of the Communists in Poland and other Eastern European countries who say they reject the old form of dictatorship and want only a "middle way" that can work better. In addition the hard-liners will probably concert their efforts in several political parties and will extract support for these by using all of their organizational resources e.g. jobs, money, printing presses, transportation, communications and the like. They are also likely to use systematic propaganda and "dirty tricks" in an attempt to fragment, penetrate and weaken the still fledgling pro-democratic parties.

Further, the hard-liners are likely to use their connections with regional and local governments throughout Russia to make it difficult in many places for pro-democratic groups to function at all. Legalisms, cunning tactics and perhaps clandestine coercion might well prevent the pro-democratic parties from reaching voters directly in much of Russia outside of the major cities. And it is quite possible that the hard-liners will be planning secretly to rig the counting of the votes in the thousands of polling places where their political allies have control, thereby hoping to guarantee the success of their candidates.

On the other side, there are numbers of pro-democratic leaders and parties who have gained their first electoral experience in the June 1991 Yeltsin campaign for the Russian presidency and during the April 1993 referendum. But in both those cases, the pro-reform groups were united together against the hard-liners of the left and right. In the December 1993 parliamentary election they will—for the first time—be competing against each other as well as against the anti-reform groups. Further, since the pro-democratic political parties came into existence after the election of the now dissolved Russian parliament, they have remained relatively weak as organizations and have comparatively small memberships. As Yeltsin recently said, his "greatest mistake" was in having failed to have established a Russia-wide reformist political party with a grassroots membership base.

Yeltsin should and most likely will give all major political parties—including hard-line communists—reasonably equal access to the national radio and television that he controls. That would be fair and that would give the Russian public a chance to assess the various parties and their leaders. But, if numerous pro-democratic political parties take to the field and spend much of their time criticizing each other and Yeltsin as well as the hard-liners, and if the hard-liners are represented by a few moderate sounding parties, this could also work in their favor and against the reformers.

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[1] Professor Constantine Menges is Director of the Program on Transitions to Democracy at The George Washington University. He has edited and contributed to the forthcoming book, Transitions from Communism in Russia and Eastern Europe (1993).

There are feasible, open and relatively inexpensive actions that the Clinton Administration can and should take immediately to encourage and assist the pro-democracy movements within Russia. First, it is important to identify the five or so leading pro-democratic parties and come to understand their programs and leadership. Second, pro-democratic political parties which request it should be given practical assistance so that they can become more effective in conducting a political campaign throughout Russia. Such assistance might include training, communications equipment, funding, assistance with modern campaign and fund raising techniques, and help in preparing themselves to play a significant role in monitoring the election process and vote counting.

Every election can be unfairly rigged at any one of three stages—during the campaign, during the actual voting process, or during the vote counting and tallying. The Clinton Administration should respond to the invitation of the Russian government and immediately establish a credible monitoring group from the United States and other democracies that would have enough people, expertise, resources and mobility to support and monitor all three phases of the coming election for a new Russian legislature. The U.S. has a great deal of experience in conducting activities of this kind and this is the time for President Clinton to match his support for democracy with a rapid and competent response to the need and opportunity presented by the next phase of the dramatic competition for the future of Russia.

In December 1992 there were elections for the national legislature in Serbia. The communist dictator, Milosevic, fully intended to use the entrenched powers of his party and regime to control the outcome, but he did permit pro-democratic parties to compete. The West should have given those pro-democratic parties encouragement and practical assistance in sufficient quantity and time to have helped them campaign effectively. If that had been done, the democratic parties might well have won the election and brought about an end to the tragedy of the conflict in the former Yugoslavia. There is still time for a rapid response between now and the December 1993 Russian election is very short but with leadership by President Clinton, there could be a program of practical political assistance that could help the democratic parties in Russia turn the tide.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1993.

Hon. BILL CLINTON,
The President, The White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to request your immediate attention to the issue of the parliamentary elections scheduled for December in Russia.

We believe that the election of a truly representative parliament through free, fair and competitive elections is absolutely critical to the future of Russian democracy. Further, we believe that such a vote would produce a Russian parliament that is far more democratic and friendly to the West than the just-disbanded Supreme Soviet. Hence, these elections have a direct bearing on our national security.

The problem, however, is that the democratic forces in Russia are poorly organized and have extremely limited means. The anti-democratic forces, on the other hand, retain much of the organizational ability of the former Communist Party and are in control of most of the local and regional legislatures in the country. There is a very real danger that they will be able to stifle competition and even rig the vote to produce another reactionary parliament. The democrats are in desperate need of outside assistance. We believe it is imperative for the West to provide as much assistance as possible to democratic candidates in Russia and to facilitate a smooth, fair electoral process through monitoring, etc.

There are of course, many organizations, such as NED, IRI, NDI and the newly-created Committee to Support Russian Democracy, that are already involved in these types of activities in Russia and which have fielded monitoring teams in the past. Also, there are several indigenous groups in Russia which are working along the same lines. We believe that immediate, direct assistance to these various groups would greatly enhance the chances of the December elections being free and fair.

We strongly urge you to make the December elections a top foreign policy priority and to divert from existing programs whatever resources necessary to achieve the objective of ensuring a free, fair and competitive process. Other foreign aid programs, both for other countries and within Russia, may indeed have merit. But ensuring democracy in Russia through truly democratic parliamentary elections is surely of the utmost urgency and should be treated as such.

We stand ready to lend our support to this process and thank you for your time and attention.

Sincerely,

GERALD B. SOLOMON,
Member of Congress.
TOM DELAY,
Member of Congress.
JAN MEYERS,
Member of Congress.

OPPOSITION TO NAFTA

HON. JACK QUINN

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 26, 1993

Mr. QUINN. Mr. Speaker, I rise today to state my serious concerns and opposition to the North American Free-Trade Agreement [NAFTA].

President Clinton has reaffirmed his administration's support for ratifying the treaty which was signed last December. Along with many of my colleagues in the House I am concerned that provisions in the agreement would encourage the migration of American manufacturing jobs to Mexico.

The Mexican labor system is vastly different from the United States system. Government control of organized labor forces wage controls and exerts pressure on the market to keep wages low, while state-of-the-art infrastructure fosters first rate productivity.

The arguments made by NAFTA proponents are predicated upon an open market economy where Adam Smith's invisible hand guides wages. There is no invisible hand in Mexico, rather a very visible hand of governmental control over the economy, a hand that represses wages, independent labor unions, and standards of living.

Our country exports large amounts of capital goods—materials to build infrastructure to export goods back to the United States. In addition, the United States exports materials which are assembled into final products in Mexico and exported back to the United States. Large portions of these United States exports are actually materials sent to Mexico to complete finished products using cheap labor—and shipped back into our country for our consumption.

The economy of Mexico is 4 percent of the size of the United States economy—but labor costs represent only one-seventh of labor costs in the United States. How can NAFTA expect to expand United States exports to Mexico when there is such a low-paid work force, in a small economy, that is pressured by the hand of governmental control to attract international investment?

Examine the investment criteria developed by AmeriMex investors. You will find that 5.9 million U.S. manufacturing jobs are vulnerable under NAFTA. New York would be the fifth hardest hit State in the Nation in terms of job losses.

In my district in western New York you only need look at the TRICO plant in Buffalo, or IBM in Rochester or Smith-Corona in Cortland, NY. NAFTA will open the floodgates for American businesses with labor intensive aspects to expand or move to Mexico.

Furthermore, the labor side agreements do not address these concerns. These agreements exclude industrial relations issues such as the right to strike or organize independent labor unions from the possibility of fines or sanctions. The side agreements simply ensure the enforcement of domestic labor laws.

Mr. Speaker, I support free trade—but only when it's fair and on a level playing field—I call that smart trade. The United States-Canadian Free-Trade Agreement is an excellent example of how free trade can and should work on a fair and level playing field.

I support the idea that expanded trade offers considerable investment and economic opportunities for the United States—however, a trade agreement that ignores, jobs, income levels, and the environment is not the answer. To achieve true economic expansion and integration among the NAFTA countries, we need effective, independent mechanisms that address inadequate labor and environmental standards and force upward harmonization—to U.S. standards.

INTRODUCING THE FEDERAL COGENERATION ACT OF 1993

HON. DICK SWETT

OF NEW HAMPSHIRE
IN THE HOUSE OF REPRESENTATIVES
Tuesday, October 26, 1993

Mr. SWETT. Mr. Speaker, today I am introducing the Federal Cogeneration Act of 1993, legislation to provide Federal agencies with the authority to sell energy from cogeneration. Under current law, only the Defense Department has this authority—to the exclusion of all other Federal sites where cogeneration makes good economic and environmental sense.

The Federal Cogeneration Act will help reduce the Government's energy costs, allow the Government to make efficient use of Federal facilities and resources, foster greater cooperation between the Government and private industry, and help the Government to set an example in energy efficiency.

I urge my colleagues to join me in supporting the Federal Cogeneration Act of 1993.

IN HONOR OF THE YWCA OF GREATER NEW HAVEN

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Ms. DELAURO. Mr. Speaker, tomorrow the YWCA of Greater New Haven will celebrate its 114th year of service. This occasion will also mark the 63d year of service at its current location at 48 Howe Street, New Haven. The YWCA has contributed so much to improving the lives of women across the country. I am pleased to pay tribute to this cherished local institution and invaluable national organization.

This year the YWCA of the United States of America is celebrating 135 years of service to American women, girls, and their families. Founded in 1858 by 35 women, the YWCA was established to assist women and girls adjusting to an increasingly urbanized and industrialized world. The YWCA supported and empowered these women through health, recreation, and community service programs.

In New Haven, the local YWCA has enjoyed over a century of service to area women. I am pleased to honor four extraordinary women who contributed to the planning and creation of the current Howe Street, building: Edith Suttie, age 102, Marjory Lundvall Zang, 94, Margaret Bozyan, 92, and Elizabeth Watson, 90. As members of the local YWCA board in 1929, these dedicated women were instrumental in the expansion of the struggle for women's rights in our area and promoted services for women such as skills training, child care, shelter and health and fitness information. The Howe Street YMCA stands today as a legacy of their hard work and commitment on behalf of area women. Though the times have changed, the mission has not. The Howe Street YWCA continues to offer a variety of services for women, from day care to a residential program for homeless women.

Thanks to the work of these four founders and the dedication and commitment of members through the years, the Greater New Haven YWCA continues to play a significant role in our community. I am honored to recognize Edith Suttie, Marjory Lundvall, Margaret Bozyan and Elizabeth Watson for their lasting contributions. On this special anniversary, I congratulate the YWCA of Greater New Haven for 114 years of exceptional service to women.

MEDISAVE EMPOWERS PATIENTS

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. HOKE. Mr. Speaker, for the 182 million Americans presently covered by private health insurance, health care reform need not involve a reduction of services, more bureaucracy, higher taxes, or diminished freedom of choice. In fact, there is a simple, easy to implement proposal that gives individual Americans more power over their personal health care than they have had in 30 years.

The fundamental problem with health care in America is that it costs too much. Next year, we will spend 15 percent of our gross domestic product—$900 billion—on health care, up from only 5 percent—$23 billion—in 1960. Individually, we spent an average of $2,518 per person for health care in 1991, 25 times the $126 spent in 1960.

A major unrecognized cause of these skyrocketing numbers is the lack of consumer incentives to control health care costs. Specifically, two historic events have combined to insulate most Americans from the cure cost of health care.

First, following World War II, employers began offering their workers paid health insurance coverage as a way of increasing compensation without violating the wage and price controls then in effect. Congress encouraged this both by allowing employers to deduct the premiums they paid, and by not taxing workers on the value of their new fringe benefits.

The second event occurred with the enactment of Medicare, when the Federal Government got into the health insurance business for everyone 65 and older. Millions of Americans became eligible for a health plan which, like most private insurance, limits their payments to a fraction of the true cost of the medical services they receive.

There is absolutely no doubt that both Medicare and employer-paid health insurance have done much to improve health care for Americans. There is also no doubt that both have kept consumers out of the health care price equation, allowing unchecked prices to spiral out of control. The simple fact is—when someone else pays, we as consumers just do not care what it costs.

Downward pressure on health care prices—just as on prices for food, clothing, or anything else—can only come from consumers. For decades that has not existed, and the result has been runaway costs rising at nearly triple the rate of inflation.

So what's the solution? The solution is Medisave, a commonsense idea that protects families from catastrophic medical expenses, provides them with a powerful new incentive to manage their own health needs responsibly, keeps doctors working for patients—not bureaucrats, and restores badly-needed competition to the health care market.

Here's how Medisave works. Currently, the national average for an employer-paid family health care plan is about $4,500 annually. Under Medisave, $1,500 of that $4,500 amount would be used to purchase a catastrophic health insurance policy with a $3,000 deductible, covering 100 percent of all health care costs above that amount. The remaining $3,000 currently being used to buy insurance would be deposited into the individual's Medisave account. These funds could be withdrawn tax-free as needed to purchase medical services. Money left over in the Medisave account plus interest would accumulate annually. Upon retirement, these funds could be withdrawn under rules identical to those covering individual retirement accounts [IRA's].

With Medisave, employers would not pay any more than they are currently paying for the same health care coverage, but consumers would have a powerful personal incentive to be cost-conscious when buying medical services. Medisave encourages and rewards healthy lifestyles and health-conscious personal decisions by awarding savings not to an insurance company or health maintenance organization, but directly to the consumer. Medisave puts patients back in the driver's seat where they belong and lets them choose their own doctors.

Not only will Medisave empower consumers, but it will also increase savings, spur economic growth by creating a vast new source of investment funds, and reduce administrative costs by substantially reducing the number of health insurance claims. And if you lose your job or find a new one, Medisave still works, because Medisave account belongs to the worker, not the employer. It can also be used to purchase insurance coverage while looking for a new job.

Medisave could even be used to address the health care needs of the 37 million uninsured Americans by applying its provisions to a voucher program. Most importantly, Medisave could be enacted today without hiring one new bureaucrat, and its positive benefits would become evident immediately.

Let's face it. Ultimately the question each of us must decide is how much power over our individual lives we want to assign to big government. Personally, my confidence is in the individual, the family, and private institutions, and I frankly find it ironic that a President who recognizes that the Government is broken and needs to be reinvented, would trust that same broken Government to fix the Nation's health care industry—fully one-seventh of our entire economy.

The positive impact on health care reform of having 182 million people suddenly asking tough questions about the cost of their medical services cannot be overestimated. Because I believe there is no more powerful instrument of reform than an educated consumer with a stake in the outcome, I have introduced H.R. 3333, the Medisave Patient Empowerment Act of 1993. I urge everyone who would like to return economic power over our health care system to the people who use it, to ask the President, their Representatives and Senators to support this legislation .

WILL BIOTECHNOLOGY SURVIVE THE CLINTON HEALTH CARE REFORMS?

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. GALLEGLY. Mr. Speaker, I think most of my colleagues would agree with me that one of the most exciting developments of the past decade or so has been the growth in the biotechnology sphere. Biotechnology has already produced many impressive breakthroughs that are enabling millions of Americans to live fuller, more productive lives, and even more breathtaking developments are on the horizon.

For that reason, I urge my colleagues to read the speech given earlier this month by Gordon M. Binder, Chairman and CEO of Amgen, Inc., the pioneering biotech firm headquartered in Thousand Oaks, CA. The future of untold Americans' lives is truly at stake as Congress debates revolutionary changes in our health care delivery system, and like Dr. Binder, I believe it is crucial that we take the time to really see what effect any changes will have before we impose them on the American people.

WILL BIOTECHNOLOGY SURVIVE THE CLINTON HEALTH CARE REFORMS?

(By Gordon M. Binder)

The question of the day: "Will Biotechnology survive the Clinton Health Care Reforms?"

The answer to that question depends, of course, on what kind of reforms evolve out of the tortuous and tumultuous year-long legislative and political process that has only just begun.

And let me say early on—like most biotechnology companies—and the pharmaceutical industry—we at Amgen are in full agreement with the overall goals of the Administration and the Congress that universal coverage, insurance reforms, and the inclusion of comprehensive coverage for prescription drugs are not only laudable—but necessary elements for a health care plan.

But, as this debate commences, it is crucial that in the process of reforming one-seventh of the nation's economy, we do not allow the weakening or destruction of an industry whose products hold the promise of improved lives and reduced costs to the overall health care system.

I am cautiously optimistic that the end result of this process will preserve that promise.

Why am I optimistic . . . why do I harbor hope?

Because biotechnology works.

And because it works, biotechnology's future is simply too important and too full of potential to be sidetracked by the only policy that could deal it a fatal blow—a policy that includes price controls on breakthrough drugs.

The Administration has justified this price control system by stating that U.S. drug prices are markedly higher here than abroad.

Let me say here and now—as far as biotech medicines—that assertion is flat wrong. Most biotech medicines sold in Japan are two and a half to three times the U.S. price . . . and European prices are appreciably higher than U.S. prices.

The sad fact is, the Administration and many journalists use statistics cited by critics of the industry that are false and misleading.

A recent column in the Wall Street Journal revealed basic flaws in the way the government has been tracking percentage increases in drug prices. By excluding older drugs and generic equivalents from the data, the government shows an increase in drug prices much higher than is really the case.

And, as the Washington Post recently pointed out in an editorial, "Drug costs have not gone up much faster over the past decade than other costs of health care . . . but drug prices are particularly sensitive because some insurance plans . . . notably Medicare—do not cover prescriptions . . ."

And let me add on behalf of the biotechnology industry—our drug have rarely had price increases at all. Those that have occurred have been less than the rate of inflation.

And yet critics of the medicine-producing industries, including biotech, continue to condemn us with faulty numbers based on faulty premises.

There is another reason why I am optimistic that biotech will survive these reforms . . . and that is because I think that proponents of price controls will lose this fight.

Does anyone really think price controls will work? Have they ever worked in the past?

Does anyone really think this Congress will defy logic—and the voting public—to install something that has never worked?

And I am optimistic because there are other signs of hope . . . House Majority Leader Richard Gephardt, for example, recently said that the proposed National Health Board—a proposed panel of political appointees with omnipresent power to pass judgment on prices and other mischie—isn't a sure thing for the final version of the health care legislation.

Let us hope he's right.

The products biotechnology has successfully brought to the market, though relatively few in number, have helped hundreds of thousands, if not millions of Americans live better, more productive lives.

And, although our biotech industry has been described as the "incubator for most of the progress that will be made in human health care in coming decades," the newness of this highly technical industry and the complexity of its products has sheltered it from the kind of exposure given to other technological industries such as computers and software manufacturing.

Our science gained new acclaim this week, however, with the Nobel Prizes for Medicine and Chemistry going to four researchers whose discoveries were instrumental in the development of biotechnology.

What is this thing biotechnology and how is it defined?

We at Amgen say that biotechnology is the art and science of using biological technology as a tool to unlock the body's natural secrets.

We see that art and that science as a part of the vision we have at Amgen and the vision held by the industry itself.

That vision begins through the eyes of the thousands of scientists working in hundreds of small biotechnology companies across the country.

Each day these dedicated researchers are making solid progress towards solving the mysteries of the human system.

As they work at their lab benches, they diligently and systematically search for the ever elusive solutions to such complex human ailments as cancer, AIDS, Parkinson's disease and Alzheimer's disease—diseases which have devastating effects on millions of Americans, both young and old—diseases which contribute significantly to the national health care bill—diseases for which there are no adequate treatments or cures.

Our vision is to find the solutions and cure these diseases. We believe we have the ability to do it.

It is estimated that the cost of these uncured diseases is some $419 billion annually—nearly half of our national health care cost. The most costly are Alzheimer's, cancer, cardiovascular diseases and even arthritis.

Our vision is an American vision shared by nearly 100,000 biotechnology industry employees across the United States who go to work each day knowing they are part of the solution.

They are part of a healthy and vital and growing industry . . . an American industry that leads medical science in such a dramatic way that the competition from the rest of the world is far, far behind.

They share the pride that comes with delivering hope and the reality of a healthier future to those who need it the most—the patients.

The miracles of biotechnology have brought the future to the present.

Just ask the breast cancer patient who can now receive her chemotherapy on schedule because she is at less risk of getting a life-threatening infection due to a breakthrough biotech product.

Or ask the elderly patient with chronic kidney failure who no longer suffers from severely debilitating anemia and who now has the energy to take his or her grandchildren to the zoo thanks to the relief provided by another breakthrough product.

Or ask the child who was destined for a short life because of repeated infections who can, for the first time, run and play with the neighborhood kids and attend school without fear of catching an infection that could threaten his or her life.

There are other equally compelling examples of patients suffering from multiple sclerosis and Gaucher's disease who have already benefited from the miracles of biotechnology.

To date, 22 new human medicines have been introduced as a result of biotechnology research and development.

Every one of these products was brought to the market by an American company.

There are another 130 therapeutics in the pipeline—which are already being tested in humans. Many of these medicines will directly find cures or relief for millions who suffer from the ravages of dread—and even exotic—diseases. Hundreds of other possible drugs and diagnostics are being researched in biotech labs in 47 of the 50 states.

This exciting and vibrant biotechnology industry showed a seventeen percent increase in sales between 1991 and 1992; its research and development budget increased 14 percent to nearly $6 billion; and it now employs nearly 100,000 Americans, an increase of better than 23 percent in one year's time.

In biotechnology, the U.S. is number one . . . and no one else is number two. But that is not to say the Europeans and Japanese are not hard at work—they are and with great energy and with strong governmental support.

As the biotechnology industry continues to grow, we are confident it will emerge as a major engine driving the U.S. economy.

The United States Department of Commerce has estimated that biotechnology will have sales of over $50 billion by the end of this decade.

We in the industry feel that biotechnology is on the cutting edge of the American economic reformation of the 1990's—unless unintended consequences of reform derail our steady progress.

Despite the spectacular breakthroughs and economic growth over the past decade, concern and uncertainty have descended over our industry during the past eight months.

If some of the more dire threats prove out—principally controls over what companies can expect in return for expensive research and development investments, we have to ask: what will be the impact on the American biotechnology industry?

Let me cite Amgen's experience as an example of what an unfettered, innovative and competitive environment can mean in new products and new jobs.

Amgen's truly remarkable record of achievement and success is the result of a combination of courage, entrepreneurship and talent that combined in the early 1980's with little more than a few good ideas and expertise in gathering together top rank scientists into an environment that allowed them to be productive.

We then built an enviable record of capital formation. In fact, Amgen gained $19 million in its initial private offering, at that time a record for a biotechnology company. In total, Amgen raised more than $400 million before selling a single vial of product. We could not have raised this money in any other country.

The success of Amgen has been the direct result of a studied effort to invest in the future.

From a few dedicated scientists in 1981, we now have some 3,000 employees. Just this year we moved up more than 100 places on the Fortune 500 list of companies on the basis of sales of more than $1 billion. We are now the largest American-owned biotechnology company, and the largest biotech company in the world.

In 1994 we will spend nearly a quarter of a billion dollars in research and development—our new 200,000 square foot research and development center is a commitment to the people of our nation who face illness and the threat of illness. This building demonstrates our further commitment to the continued American dominance in this exciting industry, and is a symbol of the innovation, energy and skill of American science and the American worker.

This is a risk-heavy business.

There are 1,300 biotech companies in the U.S. Most are small and entrepreneurial. They are research-dominated, with more than 50 percent of their costs going into research and development. As many as 75 percent of these companies have less than 50 employees.

All but a handful of biotech companies do not have any product sales. They must fund their research through equity financing and are almost entirely reliant on private financing and public stock offerings on Wall Street.

And despite some flattering news accounts and political rhetoric, the truth is that our industry as a whole has yet to show a profit. In 1992, our industry lost $3.6 billion.

Because of the staggering promise of the industry, at least 90 percent of the nearly $6 billion spent on research and development this past year has come from private investors.

Even with all the risk and dangers, biotechnology has dramatically demonstrated its potential to become a major element of growth in our nation's strategic effort to meet foreign competition by maintaining American dominance in the world economy.

The writer and futurist John Naisbitt believes biotechnology will be to the 21st century what physics and chemistry have been to the 21th century.

And the future will be an American future. We have the products, the patents, the science, the markets.

In the competitive marketplace, the U.S. is really the only player.

At this point we should rephrase the question of the day: From "Will Biotechnology Survive the Clinton Health Care Reforms?" To "How Will Biotechnology Survive the Clinton Health Care Reforms?"

The Clinton Administration's proposed system of so called "stand by" or "indirect" price controls not only would seem to be unduly cumbersome with its new layer of bureaucracy, but is, in fact, simply unnecessary.

Most biotechnology medicines reach the United States market with prices that are determined by the research and development costs and market forces that include patient population and competing products.

Biotechnological products are an infinitesimal part of the total health care picture.

Total drug costs are only seven percent of the total health cost figure. And of that seven percent, breakthrough biotechnology drugs are between three and four percent of all drug costs, or about 1/500th of the nation's total health care costs.

We have seen in the initial draft version of the Clinton health care reform package price controls, mandatory rebates and arbitrary mechanisms that could remove a drug from Medicare. Any or all of these measures can only result in further uncertainty for biotechnology and put further pressure on this young industry's ability to secure the money and to engage in research and development of new products.

We are also troubled by the concept of "global budgets" for health care. How can we face up to the costly cures for AIDS and other unanticipated phenomenon that might arise in the coming years without an unencumbered research and development capability?

The simple fact is, the Clinton reforms as they stand today, will not dramatically change the largest producers of patent protected biotechnology products such as Amgen, or the big, fully-integrated pharmaceutical giants. But those controls will surely kill many smaller research-oriented companies.

The ultimate penalty for a complicated system of controls and rebates and mandates will be the further erosion of competitiveness and entrepreneurship in this vital and creative industry.

Why is this? Wall Street understands that government price controls would mean that investors' returns on their biopharmaceutical investments will be determined by the unpredictable actions of a few government officials rather than the marketplace, no matter what the drug's actual value to society.

The most effective, cost-control measures that the Administration can initiate is to encourage investment and risk-taking in medicines that can cure or knockout Alzheimer's, AIDS, Parkinson's and other debilitating diseases—cures that could save hundreds of billions on long-term care costs.

But, if there is no return commensurate to the investor's risk due to a government-set price, there will be no drug.

An exciting example of this kind of risk taking and its possible benefits was announced yesterday by Genzyme in that it has conducted the first successful clinical trial of cystic fibrosis gene therapy.

The 30,000 Americans now suffering from the effects of CF will be eagerly awaiting the outcome of further trials and research yet to be completed. The company has invested $40 million thus far and anticipates spending another $400 million even before the product enters the market. That's about $13,000 per patient for pre-market research and development alone—and there are no absolute guarantees of success.

This is a high risk industry—and now that we have the threat of price controls on breakthrough drugs—it is even riskier.

Common sense would tell us that the public will not stand for policies that impede the development of new medicines and new cures.

Let us hope common sense prevails.

Why? Because biotechnology is the incubator of new products for cures and diagnostics that will surely be the early detection pillar of cost-effective health care that all of us—not just the White House—want to evolve from this debate.

And so I say to those of you about to embark on this great challenge.

DO NOT impose punishing and unnecessary restraints upon biotechnology and medical innovation;

DO NOT cast away the great competitive advantage now held by our country;

BUT . . . DO allow biotechnology to compete freely in the marketplace, develop new cures and new miracles of diagnostics and outcomes to our people—now and in the future.

Biotechnology will, of course, survive—and that survival will be especially bountiful if we in the industry, and those making policy, work cooperatively to put together health care reforms that benefit the whole—without destroying that which has made our industry the wonder of the medical world.

Yes, we need universal coverage for all Americans.

Yes, we need health insurance that is portable, that can be obtained regardless of preexisting conditions.

Despite all the rhetoric, the best medical care in the world is right here in the United States. Many complain that the amount of GNP spent on health care in the U.S. is higher than anywhere else. But too many conveniently ignore the reason: we provide more care to each person, at a higher quality, than any other country.

Surely, we need to control costs. We need prescription drug coverage for senior citizens and other health care changes that most Americans support.

But we cannot destroy what works in our overriding desire to achieve reform.

Let us not change just for the sake of change.

This nation will be ever grateful if we can put more order and more efficiency into a system that may not be perfect—but is still better than any other.

So, let us get on with the process . . . and let us do it fairly, wisely and with compassion for those who need health care today—and for those who will need it tomorrow.

CONTINUED HUMAN RIGHTS ABUSES IN CHINA—A QUARTERLY REPORT ON CONDITIONS FOR MFN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. SMITH of New Jersey. Mr. Speaker, 3 months ago today the House of Representatives failed to end most-favored-nation trading status for the People's Republic of China.

The Clinton administration argued that Beijing needed more time and promulgated an Executive order outlining conditions that would have to be met for renewal next year.

During the debate some Members of Congress who voted to end MFN during the Bush Presidency urged us to change this year and embrace the conditions. Like the President, they argued that China needed more time.

Well China got their reprieve. So this quarter we're asking, how are they doing after 3 months? Has the extension of MFN encouraged reform? Does China show any indication that it is willing to accept the conditions spelled out in the Executive order?

Today we are issuing the first quarter report card evaluating the progress—I should say lack of progress—that China has made since the conditions were spelled out.

By any reasonable barometer, it is tragically clear that China has failed miserably. If Mr. Clinton sought to renew MFN today, MFN would be a goner.

In not one area has China improved. In most cases conditions have deteriorated. And what is most disturbing, the Government of China not only does not care, it remains as defiant and arrogant as ever.

The report card would instill fear in the heart of any student who received it. Ten conditions. Eight failures. Two incompletes.

Freedom of emigration—failed.

Prison labor—failed.

Adherence to nuclear and other nonproliferation commitments—failed.

Releasing and accounting for political and religious prisoners—failed.

Ensuring human treatment of prisoners—failed.

Stopping forced abortion—failed.

Adherence to the Universal Declaration of Human Rights—failed.

Protecting Tibet's heritage—failed.

Permitting international radio and television broadcasts—incomplete.

Fair, nondiscriminating trade practices—incomplete.

The report card could not be made large enough to include all the comments that could—and probably should—be made. Each category, except permitting international radio and television broadcasts, contains one or two examples of China's continued violation of the conditions.

Along with my colleagues Mr. LANTOS, who led the effort to have the House go on record as opposed to China's Olympic bid; Mr. MARKEY, who led the drive to disapprove MFN in July; and Mr. WOLF, who has led the effort to stop the exploitation inherent in gulag labor and who will be issuing his own regular reports on China, I would like to point out some of the most egregious offenses which China continues to perpetuate.

In July we argued that China has one of the most deplorable human rights records in the world. The Government of China has given us no reason to think they've improved. In fact their actions serve as evidence that since MFN, China's record has gotten worse.

For instance—the Executive order requires that China comply with the 1992 bilateral agreement concerning prison labor.

Yet at recent hearings Assistant Secretary Winston Lord testified that there is—and I quote—"reason for concern." Lord went on to say that "overall implementation of the prison labor agreement has generally been characterized by poor communications, slow and cursory responses to investigation questions, and stonewalling or rejections of requests for visits."

The United States had asked the Chinese to investigate 31 cases of suspected prison labor violations. Up until the day of the hearing only 16 responses had been received. According to Commissioner George Weise these responses have been "very brief and lacked sufficient detail for customs to resolve the issue."

Of five requests to visit facilities, only one site has been visited. This one paltry visit proved inconclusive because the investigating team was denied access to several areas of the prison. In response to the United States criticism that prisoners are forced into labor, the Chinese maintain that in some factories attached to prisons, family members of prison employees, not prisoners, form the work force. Mr. Weise summed up well the frustration of this situation when he said, "We regrettably find ourselves at an impasse with the Chinese."

And testimony of a former labor camp prisoner further illustrates the horrors of the Chinese system. Xu Yiruo testified that

> Everyday, Sundays included, all prisoners were made to work for an average of 17 to 18 hours assembling electric Christmas tree lights. All work was performed on the cell floor and we were allowed out of the cell for only 15 minutes each day for a short period of fresh air. * * * Cell discipline was maintained by a cell boss—a prisoner who had gained favor with the guards and was entrusted with the job of reporting on the other inmates and forcing them to work harder. * * * On numerous occasions, the jail governor and other officials informed us that the goods we were making were for export, and they stressed that this was a 'glorious production task' which generated foreign currency for the state.

Given the evidence that forced prison labor continues, that many of the goods produced in these prisons are for export, and that the United States officials experience difficulty investigating the violations, China deserves an F for this condition.

When we visited China in 1991, FRANK WOLF and I presented a list of Christians who were then being held in Chinese prisons because of their religious activities.

Human rights organizations continue to document the detention and persecution of so called "non-registered Christians"—any Christian not registered with a state-approved church. Just last month I met with a high-ranking delegation of religious officials from China. Once again I had the opportunity to present a list of Christians who are imprisoned or persecuted for their religious activities.

Members of this delegation asserted that all religious prisoners were released before the delegation left China. In a despicable use of semantics, they claimed that many of the people still in prison have violated Chinese law, not because of their religious activities. Some on the list they said were not being detained in prisons but were living in old age homes, another semantic trick which attempts to deny the reality. Men and women, some advanced in age, are being detained, are denied basic human rights, or are victims of persecution simply because they are Christians.

Assistant Secretary of State John Shattuck, who recently returned from China, also presented a list of political and religious prisoners to Chinese officials. I look forward to hearing his report later this afternoon and hearing his impressions on China's response to the conditions.

Many pro-democracy activists continue to be detained in Chinese prisons. These young people are being punished for exercising rights that people the world over take for granted. The Chinese Government refuses to release them or provide for an accounting of their situation.

For China's continued abuse of political and religious prisoners, for their denial that there are people detained for their religious beliefs, for their refusal to account for religious and political prisoners, they deserve an F.

Prior to his return to China, Han Dongfang, hailed as the "Lech Walesa of China" for his efforts to organize independent trade unions, visited my office. At that time he told me of his desire to return to China and continue to work for labor and trade union reform. Unions in China are instruments of the government. They only benefits that workers receive from the unions are tickets to sporting events. Mr. Han's desire is to form a labor movement which works for the good of the laborer, improving conditions, and protecting their rights. As much as I admired him for that, when he told me about the suffering he and his wife endured when they reported to their local officials that she was pregnant without government permission, my admiration increased greatly. Denied any type of assistance or benefits, they chose to have the child. Although pressure to abort the child was great, they held to their convictions.

Han returned to China only to be stopped at the border, refused entry, and deported to Hong Kong. It has also been reported that he had been physically abused. China's refusal to allow Han to return to China clearly violates the Universal Declaration of Human Rights which allows for citizens to return to their homeland.

China also detains more journalists in prisons than any other nation. Since July several have been arrested and imprisoned, charged with leaking state secrets. Since the state controls all media it can control all information. Any journalists who work independently from the state, especially those who have contact with foreign journalists, are subject to imprisonment. Their trials are held in secret. Not even the families are allowed to attend. Chinese authorities justify this by saying that the trials deal with state secrets. The imprisoned journalists are then subject to the same prison conditions as those that I talked about earlier.

For its many violations of the Universal Declaration of Human Rights, China deserves an F.

On the very day MFN was extended, an article in the New York Times reported that China's population control policy has so affected the balance of male-female births to the point that there are reports of bachelor villages. There have also been warnings that in 20 years young men may have difficulty finding wives. China's policy of one child per couple, combined with technology which enables the couple to determine the sex of the child, has resulted in millions of baby girls being aborted. Female infanticide continues unabated as a direct result of China's odious one-child-per-couple policy.

A previous exposé by the New York Times sheds further light on the nightmare of China's "Brave New World" of coercive population control. In that page one article entitled, "China's Crackdown on Births: A Stunning, and Harsh, Success," New York Times reporter Nicholas Kristof writes:

> She should be taking her two-month old baby out around the village now, proudly nursing him and teaching him about life. Instead, her baby is buried under a mound of dirt, and Li Quilang spends her time lying in bed, emotionally crushed and physically crippled.
>
> The baby died because under China's complex quota system for births, local family planning officials wanted Ms. Li to give birth in 1992 rather than 1993. So on Dec. 30, when she was seven months pregnant, they took her to an unsanitary first-aid station and ordered the doctor to induce early labor.
>
> Ms. Li's family pleaded. The doctor protested. But the family planning workers insisted. The result: The baby died after nine hours, and 23-year-old Ms. Li is incapacitated.

Secretary of State Warren Christopher told the Foreign Affairs Committee that he was "appalled" by what he read in the Times and that he found it "really very abhorrent."

In an article in the July 1993 edition of Ladies' Home Journal, Steven Mosher details another woman's personal experience in China's brutal policy. "In China, she was a nurse who had no choice but to enforce her country's rigid population control policy. But when she became pregnant herself with a forbidden second child, she fought back against the government."

It was also reported that a Chinese bureaucrat wrote to a woman the author calls Chi An. She was temporarily living in the United States with her husband and son. The letter said, "Your news that you had accidentally become pregnant caught me by surprise. * * * If you come back at the end of this year pregnant, you will absolutely not be allowed to have your baby. * * * If you cannot have an abortion done abroad, then the factory director orders you to return to China immediately. Any further delays, and you will be punished according to the law. There is nothing ambiguous about our order!"

Perhaps we should all ask ourselves how we would feel, if our lived ones, including family and friends, were forced to live in a land where brothers and sisters were officially declared illegal; where only one child per couple is permitted; where children, if not explicitly authorized by a birth quota system engineered by the government, are literally stolen from their moms and killed with poison by population control fanatics.

How would you like to be ordered to be sterilized—"but I desperately want to have a family," you might say. "Tough," says the dictatorship, "get back in line for your sterilization or you'll be punished. This isn't a democracy; it's a dictatorship. You have no rights of appeal or due process rights of any kind."

Some brave souls in China somehow manage to evade the population gestapo, but they too are usually discovered for the punishable offense of having and loving children. Once discovered, they are often beaten, demoted, and discriminated against at work, severely fined, or their homes are demolished.

All of this cruelty against women, children—the family—is day-to-day reality on an unbelievably massive scale in the People's Republic of China.

My wife and I are proud parents of four wonderful children. If Beijing's policy applied to us, three of our kids would be dead. China's one child per couple policy, with its pervasive use of forced abortion and forced sterilization to achieve its goals, is a scandal. It is inhumane and constitutes crimes against humanity. All this cruelty from a dictatorship in Beijing, answerable to no one.

On two occasions Congress has condemned China's egregious human rights practices as crimes against humanity.

For its continued crimes against humanity China deserves an F.

I could go on about other categories, and I am sure that my colleagues will discuss some of them. What adds to the offensiveness of these crimes is China's response to the conditions.

Chinese authorities say they welcome the dialogue, but they continue to let us know quite clearly, and with one voice, what they think of the conditions. They hope that the human rights dialog will enable the United States to make an objective and fair assessment of China's human rights situation. But they want it their way.

A foreign ministry spokesman said, "The human rights issue in essence falls within the scope of a country's sovereignty. To attach conditions * * * is unacceptable to the Chinese."

Whether the Chinese like it or not, the conditions are there, and for me, they are not negotiable. For 3 months the Chinese have been the recipients of most-favored-nation trade status. In that time they have stuck the conditions in our face each time they had an opportunity. Assistant Secretary of State John Shattuck, after his recent trip to China, said, "There has been little or no human rights progress in China."

Not only has there been no progress, for thousands, if not millions, conditions have gotten worse. While the conditions attached to MFN may be unacceptable to the Chinese, the condition of human rights in China is not acceptable to the American people. And their response is unacceptable as well. The wanton disregard for human rights and the blatant defiance of the conditions must be corrected.

After one quarter China is failing—and failing badly.

1ST QUARTER, CHINA MFN REPORT CARD, JULY 21 TO OCTOBER 21

Condition	Grade	Comments
Freedom of emigration	F	Gao Yu was arrested on October 13, two days prior to her leaving China to accept a visiting scholar position at Columbia University Graduate School of Journalism. She has been charged with "leaking state secrets abroad."
Prison labor	F	Asia Watch reported on September 9 "that China's policy on prison labor remains essentially unchanged. Forced labor continues, political and religious prisoners and others are used to produce goods for export, and human rights abuses in the Chinese gulag are rampant and unchecked by Chinese authorities."
Adherence to the nuclear and other nonproliferation commitments	F	China transferred M–11 missile technology to Pakistan, violating the Missile Technology Control Regime.
Releasing and accounting for political and religious prisoners	F	A list of over 100 Christian prisoners was presented to a high-ranking delegation of religious officials in September. They claimed that all religious prisoners were released and that the names on the list were not detained because of their religious activities but because they have broken Chinese laws.
Ensuring humane treatment of prisoners	F	A pregnant Tibetan woman suspected of pro-Tibetan activities, was arrested in May. She lost her child during this detention due to harsh treatment, which included standing for over twelve hours.
Forced abortion	F	Millions of women are forcibly aborted. Female infanticide continues unabated as a direct result of China's odious one child per couple policy.
Permitting international radio and television broadcasts	I	No reports indicate any significant positive change.
Fair, nondiscriminatory trade practices in dealing with U.S. businesses	I	No reports indicate any significant positive change. Although the Communist Party has continually promised to relax its policies on private enterprise, they have not made any moves to enact any laws to enforce fair and just treatment.
Adherence to the Universal Declaration of Human Rights	F	Some sources indicate that China hold more journalists in prison than any other nation and the Communist party continues to censor information. Some journalists arrested since July include Xi Yang, Tian Ye, Bai Weiji, Zhao Lei, Wang Jun, Tang Yi, Wu Shishen and Ma Tao.
Protecting Tibet's distinctive religious and cultural heritage	F	The Chinese government continues to authorize the destruction of traditional Tibetan homes and buildings and replacing them with Chinese structures. A U.S. delegation noted the large military and Chinese presence occupying Tibet.

THE TRUTH ABOUT NAFTA

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. ANDREWS of Texas. Mr. Speaker, too much of what we have heard about the NAFTA has been based on unjustified fear, rather than on rigorous economics analysis. Last month the Congressional Budget Office reconfirmed the previous work by the International Trade Commission demonstrating that NAFTA will benefit U.S. workers and consumers.

A superb example is what NAFTA will do for the U.S. petroleum service industry, which is probably one of the most competitive industries in the world.

The Houston petroleum service and supply industry has been a world leader in technology and high-wage, skill-intensive jobs. As the decline in U.S. exploration and production has caused a dramatic decline in domestic demand for their goods and services, U.S. energy service and supply companies have turned increasingly to exporting their services and equipment to foreign markets.

U.S. jobs in the petroleum service and supply sector have declined by 400,000 over the last 12 years, more than in any other industrial sector with exports now accounting for over 70 percent of sales of U.S. oilfield equipment.

Mexico represents a great opportunity for the Houston petroleum service, supply companies, and their employees. Mexico is in the very early stages of a multiyear program of modernization that is estimated to require over $20 billion in investments for exploration and development activities, pipeline and refinery expansion and replacement, and pollution control equipment.

Mexico agreed in the NAFTA to open procurement to foreign participation and to reduce tariffs on oilfield equipment—a dramatic change from the current practice of protecting Mexican suppliers.

United States companies supply about 65 percent of the foreign materials bought by Mexico's national oil company; if that share continues as Mexico increases foreign procurement, United States firms will gain more business, creating a much improved jobs situation in the United States.

U.S. petroleum service and supply jobs are high paying and skill intensive. Petroleum exploration has been a driving force in advances in high capacity computers and computing software. Advances applied to petroleum exploration and production include advanced telecommunications, satellite navigation and positioning, metallurgy, mechanical engineering, rock mechanics, fluid dynamics, materials engineering, pollution control engineering, interactive computing, logic systems, artificial intelligence, mathematics, chemistry, and physics.

Manufacturing and field jobs require highly-automated equipment engineered for safety, cost efficiency, and flexibility to respond to requirements of a particular project or various operating conditions. Training and education expenditures in the petroleum service and supply industries probably exceed the average for all U.S. manufacturing because of the skills demanded and the continual advances in technology.

If the NAFTA is not implemented, our gains on Mexico's procurement practice—made after very tough negotiations that put Mexico's negotiators under stiff pressure from its suppliers—will be lost. The Mexican market probably will be left to foreign competitors who have been gaining rapidly on United States technology leadership in recent years. The result will be U.S. job losses and the de-Americanization of a leading U.S. industry.

The NAFTA comes at a critical time for Texas and all U.S. energy service and supply companies. It represents a great opportunity for United States jobs in support of exports to Mexico, especially since we are neighbors. To fail to "lock in" the gains made in the NAFTA would be a major blow to U.S. energy service and supply firms and their employees.

SUPPORTING UNITED STATES-CARIBBEAN COMMERCIAL LINKS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. TOWNS. Mr. Speaker, I wish to draw my colleagues' attention to an issue of major importance for the overall health of the U.S. international trade position—the U.S.-Caribbean Basin commercial relationship.

U.S.-Caribbean Basin trading links have grown stronger in the past decade largely because of trade and investment programs such as those that offer duty-free access under the Caribbean Basin Initiative and financing by the section 936 tax credit. By directing some of our limited resources to encourage trade-related growth in the Caribbean, we have stimulated economic development throughout the region while providing U.S. exporters with a growing market.

In the last 10 years, U.S. exports to the Caribbean have expanded by 100 percent, making the Caribbean Basin the 10th largest market for U.S. exporters. The bilateral trade relationship now stands at over $21 billion, providing employment for over 220,000 American workers and generating many thousands more jobs throughout the Caribbean Basin. In 1992, the United States posted a trade surplus with the Caribbean for the 7th year in a row.

More than ever, Caribbean Basin countries are highly dependent upon trade with the United States to sustain their economic growth. For some countries, such as Jamaica, we are the market for over half their exports and the source for as much as 90 percent of their purchases. To become more competitive, these countries have taken brave steps to reform their economies, lower trade barriers, and open up their markets for U.S. competition. Just 2 weeks ago, for example, Jamaica removed the import duty on rice, further liberalizing its agricultural import market while eliminating the cause of a potential trade dispute with the United States.

But these trade gains have been accompanied by an unusual affect that is indicative of the success of these programs as well as the need for constant engagement in U.S.-Caribbean trade relations. As the Caribbean economies have grown, Caribbean exporters have begun to diversify out of the traditional commodities—such as sugar and aluminum—into manufactured goods not covered by the Caribbean Basin Initiative [CBI]. As a result, the average U.S. tariff faced by Caribbean exporters to the United States has increased from about 1 percent in 1983 to nearly 10 percent in 1992.

Although the Caribbean exporting community has been able to remain competitive despite this gradual increase in tariffs, we are beginning to debate legislation that will virtually wipe out any hopes that they will remain competitive in the years to come.

As it is currently drafted, the North American Free-Trade Agreement [NAFTA] will provide tariff free treatment for Mexico in many goods that the Caribbean countries now export to the United States. By giving Mexico preferential access to the United States market, NAFTA will undermine the economic diversification in the Caribbean, deflating any hopes for sustained economic growth in that region. Without access to export revenues from sales in the United States, the Caribbean Basin countries will be unable to purchase American-made goods and services. This, in turn, will threaten the job base of many businesses and communities that depend on strong U.S.-Caribbean links to thrive.

Mr. Speaker, in mid-October, I had the opportunity to meet with Dr. Paul Robertson, the Jamaican Foreign Minister, who was in town meeting with representatives of the Clinton administration to discuss ways to enhance U.S.-Caribbean economic relations. In that meeting, I told the Foreign Minister that I strongly support efforts to include within NAFTA the necessary provisions to protect the Caribbean from such a scenario. Earlier this year, I cosponsored legislation H.R. 1403—introduced by Chairman GIBBONS—that would ensure that the Caribbean countries not be trampled by Mexico under NAFTA. I believe that H.R. 1403 is good model for the kind of policy we should be developing to support U.S.-Caribbean trade links, and I again urge the administration to include it as part of its NAFTA package.

NATIONAL PASTORAL CARE WEEK

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. LEWIS of Georgia. Mr. Speaker, across our Nation, thousands of dedicated, well-trained and gifted pastoral care givers of all faiths labor intensively in congregations, hospitals, correctional facilities, mental health systems, the military, and counseling centers. They draw on spirituality to care for so many in need of their guidance and their faith.

These clergy and lay-persons will be honored this week, October 25–31, 1993, during "National Pastoral Care Week."

The Congress on Ministry in Specialized Settings [COMISS], a national organization comprised of pastoral care providers, pastoral care professionals and faith group endorsers, has established several objectives for the observance of National Pastoral Care Week.

These objective include: Celebration of the growing professional development of pastoral care and affirmation of its mission and purpose within specialized settings; recognition of professional chaplains, volunteer care givers and persons in local congregations who provide pastoral care; appreciation for appropriate institutions and their staff for their support for pastoral care ministries; promotion of the work and certification procedures of pastoral care organizations affiliated with COMISS; and, a continuation of education for clergy, laity and institutional employees.

National Pastoral Care Week and the theme of this week, "Pastoral Care: Stories in Partnership," provides a time for celebrating partnership in pastoral care. Some pastoral care givers may use this time to share stories of their ministries. Some may use this time to heighten awareness in their communities of their work. Above all, this week provides a time for reflection on the values embodied by pastoral care givers. Pastoral care givers encourage appreciation for individuality, respect for human dignity, a sense of justice and mercy, a balance of acceptance and accountability, and an incarnation of love and hope.

Too often the work of pastoral care givers goes unappreciated or unacknowledged. We must remember, especially during this seek, to take the time to express appreciation for our spiritual healers. I ask my colleagues to join me in recognizing the great necessity and value of pastoral care givers in this country. Please join me in celebrating "National Pastoral Care Week."

EMPLOYER SANCTIONS MUST BE STRENGTHENED

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. MAZZOLI. Mr. Speaker, last week the Subcommittee on International Law, Immigration, and Refugees, which I am honored to chair, approved legislation to reform our asylum system. Moving that bill was a giant step forward in our efforts to deal with illegal immigration, but much more needs to be done.

The flow of undocumented aliens into the United States must be stemmed, and to that end the promise of employment must be eliminated as an incentive for aliens to enter the United States illegally. Jobs continue to be the prime magnet. Until we eliminate the lure of jobs, we will never come to grips with the problem of illegal immigration.

Employer sanctions was a critical part of the 1986 Immigration and Reform and Control Act, and I continue to believe that employer sanctions provide an important tool in our efforts today against illegal immigration.

However, it is clear that the employer sanctions program has not lived up to its potential. Some of the weaknesses of the current employer sanctions program that hinder its effectiveness in preventing illegal immigration are a lack of enforcement, a vast array of documents that can be proffered by job applicants, and low penalties for violations of the law.

As the Commission on Agricultural Workers states:

> With employer sanctions failing to curtail the employment of large numbers of these unauthorized immigrants, unauthorized entrants have continued to supplant the pool of available workers in the United States. * * * Illegal immigration must be curtailed. This should be accomplished with more effective border controls, better internal apprehension mechanisms, and enhanced enforcement of employer sanctions. The U.S. government should also develop a better employment eligibility and identification system * * * so that employer sanctions can more effectively deter the employment of unauthorized workers.

Testimony at the subcommittee's June 16, 1993, oversight hearing on employer sanctions also emphasized that the current employer sanctions program could be made much more effective in preventing illegal immigration.

Preventing illegal immigration is necessary in order to preserve legal immigration. The American public has seen how our immigration laws are being abused and many people are demanding a drastic reduction in all immigration, legal as well as illegal. This would be unfortunate. While we must take firm measures to prevent our immigration laws from being abused, legal immigration adds immeasurably to the strength and vitality of our country and needs to be preserved. What is needed is legislation to strengthen our employer sanctions law. Accordingly, I am today introducing the Employer Sanctions Improvement Act of 1993. This bill strengthens the current employer sanctions law by promoting enforcement, by making the law more understandable to employers by reducing the number of documents that can be proffered to show work eligibility, and by raising the penalties for violations of the law.

A complete description of the bill follows:

Section 1—Short title; table of contents; references to Immigration and Nationality Act.

The short title of the bill is the "Employer Sanctions Improvement Act of 1993."

TITLE I—PROMOTING ENFORCEMENT

Section 101—Removal of Federal preemption from employer sanctions.

Under current law, states are expressly preempted from establishing programs of their own that impose sanctions on employers who knowingly employ unauthorized aliens or fail to comply with an employment verification system. Section 101 would remove the federal preemption and allow states to establish state employer sanctions programs.

Section 102—Creation of private right of action.

Section 102 creates a private right of action against employers who violate federal employer sanctions law. Under the private right of action established by this section, persons and other entities—including states—aggrieved by an employer's violation of the employer sanctions law may bring suit against the employer in a proceeding before an administrative law judge (ALJ) and recover damages.

Certain conditions must be met before a suit can be filed. A complainant who alleges that an employer is violating the employer sanctions provisions must first file a charge with the Attorney General, who will serve a notice of the charge on the alleged violator. If the Attorney General does not institute a proceeding, or impose an order against the alleged violator, within 120 days, the private person or entity making the allegations can file a complaint before an ALJ within 90 days after receiving notice from the Attorney General. States are exempt from these conditions and can file suit directly before an ALJ.

If the ALJ finds that a violation has been committed, the ALJ may order the violator to pay the complainant liquidated damages of up to the maximum fine that could be imposed by an ALJ in a proceeding brought by the Attorney General and to cease and desist from the violations. The ALJ may also grant the prevailing party attorney's fees if the judge determines the opposing party's argument was without reasonable foundation in law and fact. Judicial review for private employer sanctions suits will be the same as those that currently exist for employer sanctions suits that are filed by the Attorney General.

Section 103—States immigration assistance and enforcement grants.

This section creates a $300 million grant program ($100 million per year for each of fiscal years 1995, 1996 and 1997) to assist states in implementing state employer sanctions programs and in defraying state and local costs (such as health, education, and law enforcement costs) attributable to the presence of undocumented aliens.

A state will not be eligible for such a grant unless the state cooperates with (and does not take any action that impedes) the Attorney General in activities to prevent and deter the entry of undocumented aliens. To obtain a grant, the state must submit an application to the Attorney General who will determine the amount of the grant based on a formula involving the needs of the states and the extent of their cooperation with the Attorney General. Not more than 5% of the funds paid to a state maybe used for administrative purposes. Not more than 2% may be used by the Federal Government to administer the program.

Section 104—Requiring State enforcement as a condition of Federal assistance.

Section 104 requires states to enforce employer sanctions as a condition for receiving grants under the Omnibus Crime Control and Safe Streets Act of 1968. States could meet this requirement by either actively enforcing the existing federal employer sanctions program through private suits (see section 102 above) or by establishing and actively enforcing their own employer sanctions program. This provision applies to grants beginning in fiscal year 1996.

Section 105—Permitting complaints other than in writing.

Some violations of the employer sanctions law are brought to the attention of the Immigration and Naturalization Service (INS) by private individuals who complain that a particular employer is violating the law. Under current law, individuals can inform the Attorney General of violations only if they file written, signed complaints. In order to make it easier for people to register complaints, section 105 requires the Attorney General to establish procedures that permit complaints to be registered in person, by toll-free telephone number or by mail.

Section 106—Authorizing the Attorney General to seek judicial review of adverse decisions.

Under current law, defendants who lose their employer sanctions cases can appeal the decision to the appropriate Court of Appeals. The law, however, provides no right of appeal when the Attorney General is the losing party. Section 106 remedies this by permitting the Attorney General to appeal an adverse decision to the appropriate Court of Appeals.

TITLE II—IMPROVING THE EMPLOYMENT VERIFICATION SYSTEM

Section 201—Eliminating unnecessary employment verification documents.

A fundamental weakness in the employer sanctions program is that a vast array of different documents can be proffered by job applicants to prove identity and authorization to work in the United States. Under the Attorney General's current regulation implementing the employer sanctions law, there are 29 different types of documents that applicants can proffer to illustrate employment eligibility, identity, or both eligibility and identity. Included among the current list of acceptable documents are a foreign passport, a Canadian driver's license, a school ID card, a report card, a hospital record, and a day-care or nursery school record. Section 201 would reduce confusion by greatly reducing the number of such documents that could be proffered to employers.

Documents to establish both identity and employment authorization.

Under current law, the following documents establish both identity and employment authorization: a U.S. passport, a certificate of citizenship, a certificate of naturalization, a foreign passport (if endorsed by the Attorney General), and alien-specific documentation issued, or recognized, by INS. Section 201 would remove the certificate of citizenship, the certificate of naturalization, and the foreign passport from the list, leaving the U.S. passport and the alien-specific documentation.

Documents to establish work authorization.

Under current law, the following documents establish employment authorization: a social security card, a birth certificate in the United States, and such other documentation as the Attorney General finds acceptable by regulation. Under current regulations, other acceptable documents include a certificate of birth abroad issued by the Department of State, a U.S. citizen ID card, an ID card for use of Resident Citizen in the United States (sic), and various other INS employment authorization documentation. Section 201 limits the list to the social security card and birth certificate.

Documents to establish identity.

Under current law, applicants can proffer a driver's license or a similar document issued by a state for the purpose of identification to establish identity. Also, children can proffer documentation deemed acceptable by the Attorney General. Under the current regulation, acceptable documents for children are: a school record or report card, a clinic, doctor, or hospital record, and a day-care or nursery school record.

This provision removes documentation for children from the list, leaving the driver's license and state identification card as the acceptable documents to establish identity.

Attorney General's authority to expand list.

This provision prohibits the Attorney General from expanding the list of acceptable documents for employment authorization or identity, or both, beyond the documents that are provided for by statute.

Section 202—Authorizing the Attorney General to improve the employment verification system.

Current law gives the President the authority to monitor and evaluate the degree to which the current employment verification system is secure. If the President finds it is not, the President can implement changes to establish a secure system. For example, the President could reduce the number of employment verification documents or even establish a call-in verification system that does not require documents at all. However, no effort has ever been made to utilize the authority provided by this law.

Section 202 transfers from the President to the Attorney General the authority to monitor and evaluate the verification system and to establish a secure system. If any changes are to be made to the social security card, the approval of the Secretary of Health and Human Services is also required.

Section 203—Report on consolidation of documentation evidencing temporary work authorization.

Throughout the years, INS has issued many different types of documents that can be used by aliens to demonstrate temporary work authorization. Consequently, there are numerous variations of valid temporary work documents, with the style of the document varying depending on the year the document was issued.

Section 203 requires the Attorney General to submit a report to Congress that describes the various types of documents that have been issued to aliens by INS for purposes of demonstrating temporary work authorization, INS' efforts to update or consolidate the documentation into a single, tamper-resistant document, the costs associated with such efforts, the status of current plans to update and consolidate the documentation, and the feasibility and cost of eliminating from circulation within 3 years after date of enactment, all of the various forms of temporary work documents and replacing them with a single, tamper-resistant document evidencing temporary work authorization.

TITLE III—ADDITIONAL PENALTIES AND INCREASES IN PENALTIES

Section 301—Civil penalties for aliens employed without authorization.

An employer who knowingly hires an unauthorized alien to work in the United states is currently subject to a range of fines, and possibly imprisonment. However, the alien who actually works without authorization is subject to no such sanctions. Section 301 creates civil penalties for aliens who work without authorization. Aliens who are self-employed would also be subject to this penalty. The civil penalty is not less than $250 and not more than $2,000.

Section 302—Prohibition of adjustment of status for unlawful employment.

Current law provides that aliens who have worked without authorization are generally not eligible to adjust status to permanent residence. However, an exception exists which allows immediate relatives and certain special immigrants who have worked without authorization to adjust. Section 302 eliminates this exception and provides that no one who has worked in the United States without authorization can adjust status to permanent residence.

Section 303—Increased penalties for violations of employer sanctions.

Current civil penalties for hiring unauthorized aliens range from $250 to $2,000 for the first offense, $2,000 to $5,000 for the second offense, and $3,000 to $10,000 for the third offense. Criminal penalties include a maximum $3,000 fine and 6 months in jail. Penalties for paperwork violations range from $100 to $1,000. The penalty for indemnity bonds is $1,000 for each offense. Penalties for discriminating based on national origin or citizenship range from $250 to $10,000, depending on how many previous violations occurred.

This section increases the penalties. The civil penalties for hiring aliens would range from $500 to $4,000 for the first offense, $4,000 to $10,000 for the second offense, and $10,000 to $30,000 for the third offense. The criminal penalty would be a maximum of 2 years in jail and a fine of $5,000 for individuals and $10,000 for organizations. Penalties for paperwork violations would range from $500 to $5,000. The penalty for indemnity bonds would be $2,000 for each offense. Penalties for discrimination would range from $500 to $30,000, again depending on how many previous violations occurred.

Section 304—Increase in civil money penalties for document fraud.

Current civil penalties for immigration related document fraud range from $250 to $5,000. This section increases the range of penalties from $500 to $10,000.

HONORING THE U.S.S. "WASHINGTON"

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. RICHARDSON. Mr. Speaker, I am honored to recognize the service of the U.S.S. *Washington,* a battleship which protected our Nation for more than two decades and defended the Allies and holds special memories to the thousands of sailors who served on it. I am proud to recognize the U.S.S. *Washington* and its rich history of accomplishments.

The eighth *Washington* BB56 was laid down on June 14, 1938, in the Philadelphia Navy Yard and launched on June 1, 1940. Sponsored by Miss Virginia Marshall, the U.S.S. *Washington* was commissioned on May 15, 1941, with Capt. Howard H.J. Benson in command. The battleship served for 4 months in 1942 with the British fleet as flagship on the mission to escort convoys to Murmansk and Archangel, Russia.

On August 23, 1942, the U.S.S. *Washington* sailed to the Pacific for 34 months of outstanding service. While in the Pacific the battleship fought and won a classic ship to ship duel with the Japanese battleship *Kirishima* at Guadalcanal becoming the first United States battleship to fight an enemy battleship and the only one to singly destroy one.

The U.S.S. *Washington* patrolled the enemy waters alone for 5 weeks where the battleship damaged three enemy cruisers and a destroyer, and sank a battleship, destroyer, oil tanker, and several other transports. In addition, the U.S.S. *Washington* shot down 12 enemy planes and bombarded 10 enemy islands. After bravely serving our Nation, the U.S.S. *Washington* arrived in Puget Sound Navy Yard on June 23, 1945, after steaming 289,609 miles and never being hit or losing a man to the enemy.

The U.S.S *Washington* was struck from the Navy list June 1, 1960, without ever receiving due praise for sinking more combat tonnage than any U.S. battleship in World War II. I ask my colleagues to join me in recognizing the contributions of the U.S.S. *Washington* and the persons who fought on its decks and manned its bows.

H.R. 1845, NATIONAL BIOLOGICAL SURVEY

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. LEHMAN. Mr. Speaker, I wanted to express my regret for having missed the vote on final passage of H.R. 1845, a bill to authorize the Secretary of the Interior to establish a Biological Survey within the Department of the Interior. I was unfortunately detained in a meeting with Secretary of Labor Reich, and could not reach the floor to cast my vote. Had I been able, I would have voted in favor of the survey because, while I have reservations about it, I do believe that the Secretary will establish the survey even without congressional authorization. With this in mind, I want to ensure that this body's views are adhered to by the Secretary in managing the Biological Survey.

As part of the House's consideration of this bill, I offered two amendments which were accepted. They stipulate that the science conducted by scientists at places like the Sequoia National Park in my district will not be discontinued because scientists from the park are transferred to the survey. This will maintain the high quality of research on the giant sequoia and other concerns important to our Nation's parks are maintained.

The other amendment makes certain that employees of the survey will meet similar conflict of interest criteria currently applied to the U.S. Geological Survey. No survey employee may own an interest in land under survey or have side work in a job that might undermine the credibility of his/her work for the survey.

THE 30TH ANNIVERSARY OF BIOLOGY, BIOTECHNOLOGY, AND ENVIRONMENTAL SCIENCES PROGRAMS

HON. WILLIAM P. BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. BAKER of California. Mr. Speaker, I rise today to extend my congratulations to the men and women of the Biology, Biotechnology, and Environmental Sciences Programs of Lawrence Livermore National Laboratory, which on September 24, 1993 celebrated the 30th anniversary of their efforts to understand, preserve and improve human health and the environment.

For three decades Livermore biomedical researchers have developed innovative technologies to understand the causes and improve the diagnosis of many human diseases. Today they are aggressively transferring these technologies to the commercial sector, and are developing new scientific directions in structural biology and bioengineering to keep this Nation at the forefront of biotechnology research in the 21st Century.

Livermore biomedical breakthroughs have captured the attention of the Nation and the world. Recently, Livermore scientists in the Human Genome Center, working as part of an international team, discovered the genetic defect that causes the most common form of muscular dystrophy. Another team of Livermore scientists has identified a gene responsible for a rare form of skin cancer. Additional groups of researchers have developed innovative methods for characterizing mutations that may cause cancer and birth defects.

At the same time, Livermore environmental researchers have been examining the effects of energy-related pollutants and radiation on all forms of life. Major assessments have been prepared on the consequences of the Chernobyl accident in the former Soviet Union, nuclear tests in the Marshall Islands, and the potential risks related to hazardous wastes at U.S. Department of Energy sites. Also, these scientists have developed innovative new techniques such as optical fibers to detect and monitor pollutants in environmental media. They have designed creative environmental cleanup strategies that include using microorganisms to completely degrade pollutants to harmless endproducts.

Additionally, atmospheric scientists at Livermore are developing and using the most sophisticated computer models in existence to predict local, regional, and global effects of man-made pollutants released into the air. For example, these models are being used to evaluate quantitatively the potential Greenhouse Effects on the biosphere; played a significant role in the assessment of the atmospheric and environmental consequences of the oil fires ignited in Kuwait during the Gulf War; and were instrumental for evaluating atmospheric dispersion and terrestrial deposition of the radionuclides released during the Chernobyl accident.

Again, I offer my heartfelt congratulations and sincere thanks for three decades of enormous contributions to the Nation.

IN HONOR OF MELBA SAWYER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize Melba Sawyer's distinguished career of services to the children of Alameda County and the East Bay.

For more than 23 years, until her retirement in July, Melba Sawyer served as a teacher at the Alameda County Juvenile Court Schools and with the Castro Valley Unified School District.

While working for the Alameda County Office of Education, Melba Sawyer was a teacher of language arts and home economics. Previously, she was a special education teacher in Castro Valley who worked with the blind. She is also a founding board member of Project Eden, a drug abuse program in the East Bay.

The people of Alameda County will miss this dedicated woman who spent her life teaching and helping the young people who will lead the next generation. She chose a career of service that many shy away from, and our friends and neighbors are better off as a result. I want to join those who have recognized and thanked Melba Sawyer for her hard work and many achievements.

THE 1993 CRIME BILL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. DORNAN. Mr. Speaker, as I address the House, the Judiciary Committee is preparing to mark up the 1993 crime bill. Since our Nation is being pummeled by a storm of violence and crime, it is important that every Member of the House take a personal interest in the crime bill. In my district it will literally mean the difference between life and death for many citizens.

The city of Santa Ana, CA, sits squarely within my congressional district. Santa Ana is the seat of government for Orange County and, therefore, houses many of the judicial and social services for all of Orange County's citizens.

Because of the rapid increase in crime throughout southern California, the court and jail systems in Orange County are beyond bursting at the seams; they have become sieves, pouring arrested criminals back onto the streets. In fact, the Federal court in Santa Ana was deemed so inadequate that Congress this year has funded a massive expansion of those facilities.

Unfortunately, even though the court system will be expanded and improved, there will be nowhere to house individuals charged with crime while they await trial. Compounding the problem is the fact that Santa Ana was identified as a high crime area and targeted for Operation Weed and Seed funds.

In the last year, as a result of weed and seed funding, drug arrests in Santa Ana have increased 26 percent, robbery has been reduced by 45 percent, assault is down 38 percent, auto burglary is down by 60 percent, and commercial burglary has been reduced by 35 percent. However, as of October 21, Santa Ana was the site of 61 murders, more than the entire amount in 1992. The increase in murders and arrests have placed additional burdens on the jails in Santa Ana, and as criminals learn that the revolving door will put them back on the streets, we will undoubtedly see crime rates increase for burglaries and assaults.

I know that other cities are in the same predicament: releasing criminals onto the streets because the jails are full. And the waves of crime and drug abuse continue.

And what is the Clinton administration doing about the crime and drug problems plaguing our cities? They have rolled up the carpet at the Office of Drug Control Policy and are planning to kill the very successful Weed and Seed Program. You would think someone in the administration is inhaling. But unlike the soft on crime Clinton administration, I am not willing to hand our streets over to drug dealers and thugs.

I will be offering an amendment to ensure that Operation Weed and Seed continues.

Also, I will be exploring ways that the Federal Government could support innovative incarceration and retention programs. I ask all members to support my efforts to clean up America's streets.

A BANNER YEAR—1992—FOR THE AMERICAN NUCLEAR ENERGY INDUSTRY

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. WALKER. Mr. Speaker, I want to bring to the attention of my colleagues the outstanding performance of America's nuclear energy plants and how well American nuclear energy technology is serving our Nation and the world's energy needs in an environmentally responsible manner.

According to reports compiled by the Federal Energy Regulatory Commission and the Department of Energy's Energy Information Administration, 1992 was a banner year for American nuclear energy plants in setting reliability records and in lowering electricity generation costs. On average, the overall reliability of the Nation's nuclear reactors, as measured by capacity factors, continued its upward trend, climbing to 70.56 percent in 1992. Twenty-seven electricity generating plants achieved capacity factors of 80 percent and above.

Equally impressive and important to the economy, these nuclear energy facilities, which in 1992 generated more than 22 percent of America's electricity, operated with an average production cost of 2.16 cents per kilowatt hour. The top 10 most economic plants in the Nation generated electricity for less than 1.5 cents per kilowatt hour. This compares to the averages per kilowatt hour for electricity produced by coal powered plants at 1.98 cents, gas at 3.07, and oil at 3.51. (Statistics provided by the Utility Data Institute 1992).

Succinctly stated, in 1992 America's nuclear stations continued a decade long trend of supplying America's manufacturers, commercial enterprises and private residences with an economic and reliable supply of electrical power.

Furthermore, I want my colleagues to realize that this vitally needed energy was generated without any air polluting sulfur dioxide, nitrogen oxide, dust or greenhouse gases such as carbon dioxide. The electricity needs of 65 million households were met with no air pollution.

The fact is, U.S. nuclear energy plants reduce sulfur dioxide emissions, which are believed to cause acid rain, by 4 million tons each year, and reduce carbon dioxide, one of the greenhouse gases, by 20 percent.

Nuclear energy is not only contributing to a cleaner American environment, nuclear energy is weighing-in globally as part of the solution to supplying vitally needed energy without noxious air pollutants. The world's 418 nuclear energy stations produced 17 percent of the electricity consumed, thereby reducing the worldwide emission of carbon dioxide by 5 percent.

American industry is ready to build advanced nuclear stations, featuring enhanced safety features and simplified operations, at home and for export abroad. This would translate into hundreds of billions of dollars in export earnings and tens of thousands of jobs here in America.

For these reasons—the economy, the environment, for trade and jobs—it is important that my colleagues realize the successes of America's nuclear energy program and understand the importance of nuclear energy to the future. We in this Congress will play a guiding role that will determine if nuclear energy continues in America's energy mix, and whether American industry will prosper from its innovation and development.

One of the hallmarks of the last Congress is the Energy Policy Act of 1992, a blueprint for insuring our Nation's energy security and environmental well being into the future. Maintaining the nuclear energy option is an important plank in this blueprint. I commend my colleagues for standing by that policy by fully implementing it in the fiscal year 1994 Energy Appropriations Act conference report.

Mr. Speaker, it is clear from the latest performance numbers that America's investment in nuclear energy is paying great dividends in economically priced energy and a cleaner environment. I praise the operators of these outstanding energy facilities and urge my colleagues to continue to support this vital domestic energy source as we did this year.

SALUTE TO COL. ANTHONY C. VOLANTE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. GALLEGLY. Mr. Speaker, I rise today to honor Col. Anthony C. Volante of the 146th Tactical Airlift Wing of the Air National Guard, who retires from the military Friday after more than 40 years of service to his country.

Colonel Volante retires as the support group commander for the 146th, based at the Channel Islands ANG Base in Oxnard, CA—a long way no matter how you look at it from the day in 1953 when the Jersey City, NJ, native enlisted in the Air Guard as an airman basic. Along the way, he has compiled an outstanding record that I would like to share with my colleagues.

After moving to California in 1955, he continued his career in the Air National Guard by joining what was then the 146th Supply Squadron in Van Nuys. He served simultaneously as an air technician at the Van Nuys ANG Base. Among his responsibilities were item accounting, document control, inventory, contracting and procurement, and he eventually rose to become the squadron's first sergeant.

Shortly after entering the comptroller career field, he was commissioned as a first lieutenant in 1970 and assigned to the 146th Combat Support Group as a computer system operation officer. An excellent musician as well, his career took a delightful twist as he was temporarily named commander of the 562d Air Force Band—an assignment supposed to last 3 months that eventually stretched 3½ years before he returned to computer systems operations.

In 1978, he was assigned as chief management and procedures, for the 146th Combat Support Group, and soon became the base budget officer and comptroller. In 1980, he became squadron commander of the 146th Resource Management Squadron, and 4 years later was named technical resource manager, responsible for a wide range of budgetary, logistics and supply functions. In 1987, he was promoted to deputy commander for resources for the wing, and as I said earlier, he retires as the support group commander.

Throughout his career, Colonel Volante has emphasized professional excellence. His units have consistently scored outstanding ratings, and during his tenure as squadron commander his group twice earned the Governor's Outstanding Unit Citation.

Mr. Speaker, Colonel Volante is an embodiment of the American dream, and proves once again that talent and hard work is the key to success. I ask my colleagues to wish him and his wife, Barbara, well upon his retirement.

HOUSE CONCURRENT RESOLUTION 170 DIRECTS PRESIDENT CLINTON TO REMOVE ARMED FORCES FROM SOMALIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. GILMAN. Mr. Speaker, last Friday, along with the distinguished ranking Republican member of the Committee on Armed Services, the gentleman from South Carolina [Mr. SPENCE], I introduced House Concurrent Resolution 170, a concurrent resolution pursuant to section 5(c) of the War Powers Resolution directing the President to remove United States Armed Forces from Somalia by January 31, 1994.

Concurrent resolutions pursuant to section 5(c) of the War Powers Resolution are entitled to expedited consideration under section 7 of the War Powers Resolution. In accordance with section 7, our concurrent resolution has been referred to the Committee on Foreign Affairs. It must be reported by that committee within 15 calendar days, and it must be voted on by the House within 3 calendar days thereafter. This means that House Concurrent Resolution 170 must be reported by November 6, and voted on by the House by November 9.

Section 5(c) of the War Powers Resolution states that the President is required to withdraw U.S. Armed Forces from hostilities outside the territory of the United States whenever Congress so directs by concurrent resolution. Subsequent to the adoption of the War Powers Resolution, however, the Supreme Court ruled that Congress cannot impose legally binding obligations on the President by concurrent resolution. Accordingly, the adoption of House Concurrent Resolution 170 will amount to an expression of the sense of Congress that United States forces should be withdrawn from Somalia by January 31, 1994.

It will not legally compel the President to withdraw U.S. forces by that date.

Mr. SPENCE and I have introduced separate legislation, H.R. 3292, that would compel the withdrawal of U.S. forces by January 31. That bill is modeled after the Byrd amendment to fiscal year 1994 Defense appropriations bill that was adopted by the Senate 2 weeks ago. The Byrd amendment cuts off funding for United States military operations in Somalia effective March 31. The principal difference between our bill and the Byrd amendment is that our bill moves the funding cutoff date forward 2 months, to January 31.

Since the administration is not objecting to the Byrd amendment, the Byrd amendment will appear in the conference report on the Defense appropriations bill unless the House acts in the interim. This means that the only role the House would have in reviewing and approving the President's new policy in Somalia would be in voting on a conference report. We would have no meaningful opportunity to debate the issue or to vote on alternatives to the March 31 date.

The issue of continued United States military operations in Somalia is of great importance to the American people. Certainly it deserves more careful consideration than will be permitted by a mere vote on a conference report.

In particular, I think we need to look carefully at the March 31 deadline that the President has set for withdrawing U.S. forces and that the Senate has voted to make legally binding. I must emphasize that there is no longer any question about whether there should be a deadline for withdrawing United States forces from Somalia. Both the President and the Senate have decided to set a deadline, and it is obvious that we are going to have one. The question now is whether March 31 is the right deadline, or whether an earlier deadline would be more appropriate.

Mr. SPENCE and I introduced H.R. 3292 on October 15 in order to permit the House to consider this question. It has become clear, however, that the House leadership has no intention of permitting the House to fully consider the question. H.R. 3292 will not be allowed to come up for a vote. It is for this reason, and this reason alone, that Mr. SPENCE and I have decided to rely on the expedited procedures provided by the War Powers Resolution to bring the question before the House by means of a concurrent resolution. We would prefer that the House consider H.R. 3292. Since that is not going to happen, we have introduced House Concurrent Resolution 170.

Our introduction of House Concurrent Resolution 170 is without prejudice to questions about the constitutionality of the War Powers Resolution. We have introduced the concurrent resolution solely in order to take advantage of the expedited procedures provided under the War Powers Resolution for this type of concurrent resolution, not because we are taking any position on the constitutionality of the War Powers Resolution.

Mr. Speaker, I request that the full text of House Concurrent Resolution 170 be inserted at this point in the RECORD and I invite our colleagues to support this measure.

H. CON. RES. 170

Resolved by the House of Representatives (the Senate concurring).

SECTION 1. FINDING THAT THE UNITED STATES ARMED FORCES IN SOMALIA ARE ENGAGED IN HOSTILITIES.

For purposes of sections 5(c) and 7 of the War Powers Resolution (50 U.S.C. 1544(c) and 1546), the Congress finds that the United States Armed Forces in Somalia are engaged in the hostilities without a declaration of war or specify statutory authorization.

SEC. 2. REMOVAL OF ARMED FORCES FROM SOMALIA.

Pursuant to section 5(c) of the War Powers Resolution (50 U.S.C. 1544(c)), the Congress hereby directs the President to remove the United States Armed Forces from Somalia by January 31, 1994.

KASHMIR—WHERE HUMAN RIGHTS HORROR STORIES CONTINUE UNABATED

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1993

Mr. PORTER. Mr. Speaker, the Congressional Human Rights Caucus recently sponsored a briefing to discuss human rights conditions in India. One of our speakers, Safia Qadri, provided a chilling account of the horrors which are currently taking place in Kashmir. I would like to enter into the RECORD a copy of Ms. Qadri's statement:

STATEMENT BY SAFAI QADRI, KASHMIR-AMERICAN COUNCIL

Thank you for organizing this briefing and for inviting me to address this group on the deplorable human rights situation in Kashmir.

Since 1990, when India's crackdown in the valley began, the Indian military has systematically raped thousands of Kashmiri women, burned entire villages to the ground, illegally detained and tortured untold numbers of Kashmiri civilians, and shot peaceful demonstrators in the streets.

Thank you for letting me speak this morning about a particular aspect of the crisis in Kashmir, the abuse of women and children including the systematic use of gang-rapes and other forms of sexual abuse.

The molestation against these civilians only fuel animosities and make the conflict more intractable. The abuses empower the militants, as each day more people lose hope that a peaceful settlement can be achieved.

In an effort to suppress the will of the Kashmiri people to seek self-determination, the Government of India has waged a war of terror against the civilian population in Kashmir. This campaign has particularly affected women and young children. India's abuses in Kashmir have been documented by many leading human rights groups such as Amnesty International, Freedom House and, most recently, a report by Asia Watch and Physicians for Human Rights.

Asia Watch and Physicians for Human Rights chilling new report "Rape in Kashmir A Crime of War," provides extensive evidence and documentation that the Indian Government is systematically using rape as a means of humiliating and punishing the entire Kashmir state.

The report details case after case of random and planned attacks against the innocent women and children of Kashmir. Rape, according to the report, "is used as a means of targeting women whom the security forces accuse of being militant sympathizers; in raping them, the security forces are attempting to punish and humiliate the entire community * * * In both conflict and non-conflict situations, the central element of rape by the security forces is power. Soldiers and police use rape as a weapon; to punish, intimidate, coerce, humiliate and degrade."

In one widely reported case, a bride and bridesmaid were gang-raped by an Indian detail when the bus carrying their wedding party was stopped and searched. The bride was taken away by the Indians and was only released after 48 devastating hours in their custody. In another prominent case documents in Asia Watch's report, over 50 women had been raped from the town of Kunan Poshpora by army soldiers. The incident illustrates how the Indian government deals in resolving these cases.

The rapes allegedly occurred during a search operation in the village conducted by the army unit. The village headman and other village leaders claimed that they reported the rapes to army officials on February 27, and that the officials denied the charges and took no further action * * *. A local magistrate who visited the village requested that the commissioner order a more comprehensive investigation, only to be told that the investigation officials in Delhi had eventually ordered never commenced because the police officer assigned to conduct it was on leave at the time and was then transferred by his superiors.

Women and children are protected from deliberate military assault by every international convention of war. And yet, in its war on the Kashmiri people, India specifically targets non-combatants. All Kashmiris are acceptable targets for attack—even women and small children.

These atrocious acts committed by the Indian paramilitary forces are done with total impunity. Despite the fact that these abuses are being committed by Indian authorities, the Government of India has yet to admit that such abuses even occur, much less bring the perpetrators to justice.

The only way for this carnage to end is for the United States and the international community to bring pressure to bear on the Indian Government to cease its human rights abuses and seek a peaceful, negotiated settlement to the crisis. The United States and the United Nations should work to bring all parties to the dispute—Indian, Pakistani and Kashmiri—to the peace table.

HOUSE OF REPRESENTATIVES—*Wednesday, October 27, 1993*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful for so many gifts, O God, and this day we remember with thanksgiving the gifts of the family and our sense of community. We recognize the positive relationship that can exist between families and in communities where mutual support and appreciation bind us one to another in respect. When we are weak and dispirited, their blessing brings joy; when we feel alone, their presence inspires and encourages. With praise and gladness we thank You, O God, for the trust of family and community and we pray that we will be worthy of that trust. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. TRAFICANT. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. TRAFICANT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 242, nays 160, answered "present" 1, not voting 30, as follows:

[Roll No. 531]

YEAS—242

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bishop
Blackwell
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hughes
Hutto
Hyde
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Ravenel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Sarpalius
Sawyer
Schenk
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Slattery
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velázquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—160

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clay
Clinger
Coble
Collins (GA)
Cox
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hunter
Hutchinson
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Packard
Paxon
Petri
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (MS)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Hayes

NOT VOTING—30

Bateman
Bentley
Berman
Bilbray
Bonior
Brown (CA)
Chapman
Collins (IL)
Crane
Dellums
Dornan
Edwards (TX)
Hoyer
Kennedy
Lancaster
Livingston
McNulty
Menendez
Myers
Pickett
Rangel
Royce
Sanders
Schumer
Skelton
Tauzin
Taylor (NC)
Torres
Washington
Whitten

☐ 1221

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MAZZOLI). Will the gentleman from Pennsylvania [Mr. HOLDEN] please come forward and lead the House in the Pledge of Allegiance.

Mr. HOLDEN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1308. An act to protect the free exercise of religion.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill earlier today:

H.R. 2403, making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1994, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to announce that pursuant to instructions of the Speaker the 1-minutes will be limited to 15 per side.

THE HEALTH SECURITY ACT

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today is a historic day—President and Mrs. Clinton came to the Congress to present the details of their plan to overhaul our Nation's health care system. The Health Security Act is the most detailed, comprehensive, and responsible health care reform proposal ever offered. It is a historic piece of legislation and it may be the most important piece of legislation any of us will ever work on. Let us get it right.

The President has already demonstrated that he welcomes new ideas to improve this plan. The legislation introduced today includes significant changes from the original plan that will increase confidence in the plan and increase public support.

To answer concerns of small business owners about costs of employer-based insurance, the President has expanded the health package to offer more small business discounts. The President has also reshaped the plan to allow for greater choice of health care plans by every American.

Mr. Speaker, I look forward to an enlightened debate here in Congress, not a partisan debate. And, while it is natural that we will not agree on every detail of this legislation, one primary goal should guide our debate—to guarantee every single American comprehensive health benefits that can never be taken away. Let us get to work.

WHERE IS THE BILL?

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I just double-checked with my staff who talked with the White House staff and, as I understand it, after all of the circus fanfare of this morning, there is no bill being introduced today. And while there is various legislative language, it is not yet in a form which the Democratic leadership is comfortable putting into bill form.

Now, come on. We have now had a major speech to the entire country. We have had 5 weeks of testimony about a nonexistent bill by people who do not know what they are talking about. We have had a White House task force that broke the law in a way which would put every small business in America in jail, if they did it. And the defense was that they were too busy to fill out the technical, legal forms required by the U.S. Government, a defense which I hope every small business will try out when it has a problem with the IRS.

Now we are told, after this morning's circus, there is still no bill. The serious business of government should require genuine legislative effort with a specific written document, because this is not about personality. This is not about quality of testimony. This is not about effectiveness of speech. This is about a written legislative bill that would become law.

WHAT HAPPENED TO BIPARTISANSHIP?

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, I just simply could not resist commenting on what a departure that last speech was from the decorum and the bipartisanship that existed in Statuary Hall.

The gentleman from Illinois [Mr. MICHEL] and Mr. DOLE joined bipartisan Members of both Houses in setting a goal, not a partisan goal, specifically not a partisan goal, to put in place by the end of this Congress a comprehensive national health care bill that all of us hopefully will be able to support. I get the impression there are some Members who simply cannot imagine that they could support a bipartisan product.

I think the evidence of those who turned out today to join with the President and the First Lady to put something together that all of us want to see accomplished, I thought, for the American people, is really the message that ought to be taken home by the American people. I really find it very regrettable that our leadership on the Republican side would put a discordant note into what otherwise has been a very effective beginning today.

POINT OF ORDER

Mr. BARLOW. Mr. Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BARLOW. Mr. Speaker, the gentleman should not be reading a newspaper.

The SPEAKER pro tempore. That point of order is not sustained.

ACT NOW ON HEALTH CARE REFORM

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, we do have an historic opportunity this Congress. We can take action to reform our Nation's health care system and improve the lives of millions of Americans. Or, we can just continue to do what our critics say we do best—talk, argue, and pontificate or we can rush to adjournment and forget about health care reform until next year.

But Mr. Speaker, there is another option on health care reform. Let us act now on consensus health reform.

There is no objective reason why Congress cannot take action this year on administrative simplification, malpractice reform, antifraud and antitrust reform and insurance portability which would prohibit exclusions for preexisting conditions.

Mr. Speaker, people are hurting right now, everyday, people are prevented from buying health insurance because of previous illnesses. Everyday, people are forced to remain in unrewarding employment because of a concern over the ability to qualify for new coverage in a new job.

Health reform should not and cannot be an "all or nothing" issue.

□ 1230

PARLIAMENTARY INQUIRY

Mr. WALKER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, has a limitation on the number of speakers for 1 minutes been announced?

The SPEAKER pro tempore. The Speaker pro tempore, pursuant to the instructions from the Speaker, announced a moment ago that there would be 15 speakers per side.

Mr. WALKER. I have a further parliamentary inquiry, Mr. Speaker. On our side we are a little confused by that. We have a much larger number of Members that want to speak on this side. Usually that has been accommodated. I know nothing in the time schedule today that is pressing us to limit the number of speeches. I am wondering if an accommodation could be made on that.

The SPEAKER pro tempore. The Chair will advise the gentleman that the privileges of the Members here will be protected within the first 15, and the Speaker pro tempore will endeavor to make accommodations for other speakers as well.

Mr. WALKER. I thank the Chair.

The SPEAKER pro tempore. The Chair would advise the gentleman, of course, that 1 minutes are in order at the end of the day, but the Chair would try to get accommodations.

WE CAN AND WE MUST REFORM THE HEALTH CARE SYSTEM

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, I recently received this letter from a doctor in Boulder, CO. He writes:

> I've just had my fourth patient in four weeks tell me that they were rejected for health insurance because they have a child who has a diagnosis of asthma * * * This is causing great hardships for both the care of the child, and also for the family as a whole. Is there some way that the Congress could make * * * this 'preexisting condition business'* * * come to end?

The answer, doctor, is yes—we can and we must do that, and more. It's inexcusable that in a country as great as ours, hardworking, responsible families lose health insurance coverage simply because their child has asthma. And it's unacceptable that the health insurance that you've paid into for years and years doesn't cover you when you get sick.

Today, President Clinton delivered the details of his health care reform proposal to Congress. It's a comprehensive plan that will provide health security for all Americans.

I applaud the President for having the courage and determination to tackle one of the most difficult and urgent problems we face as a nation. Now it's time for Congress—Democrats and Republicans—to join with him in making real health care reform happen. Only then will we meet our responsibilities as a nation—and do what this doctor from Boulder, his patients, and millions of families across the Nation demand—provide health security for all Americans.

HEALTH CARE AND REFORM

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, the President is on the Hill today to unveil his health care reform bill once again. After months of running a gigantic propaganda machine to sell the American public Hillary's version, or vision, I should say, of health care, the Clinton health plan has finally been put into legislative language, although we understand that legislative language is still not ready.

After all the hoopla and revisions, one characteristic seems to summarize the plan. The Government, not us, not our doctors, not our insurers, but the Government will decide every citizen's health care package.

Mr. Speaker, I have a question. This week we are supposed to be considering congressional reform, because Congress simply does not work very well. Things like proxy voting, for instance, the American people are absolutely appalled at, and they say it needs to be changed. We are supposed to be considering that this week.

My question is, If the American people feel that the Government is broken, why in the world would the Clinton White House trust Government to determine the health care of every American citizen?

THE QUESTION IS NOT WHETHER WE CHANGE AMERICA'S HEALTH CARE SYSTEM, BUT HOW WE CHANGE IT

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, before being elected to Congress I served as the president of my county hospital's board of directors. I pledged to my constituents then that I would continue to be an active advocate for health care reform on Capitol Hill.

Today I am proud to be an original cosponsor of President Clinton's Health Security Act. We can now formally begin what promises to be one of the most significant policy debates ever to be carried out here on the Hill.

Mr. Speaker, I am encouraged by what the President said today. For the millions of Americans who are uninsured, receive inadequate care, or fear losing their coverage, it is clear that our health care system needs major surgery, not a band-aid. The question is no longer whether we change the system, but how we change it.

Health care coverage must be universal, accessible, affordable and provide high quality care and choice for all Americans. It should place an emphasis on primary and preventive care, and not discriminate against those with preexisting conditions. Finally, reform must eliminate the inequities which exist in health care for men and women, guaranteeing women complete reproductive health services.

I look forward to working with my colleagues to enact this historic reform. Health care security must be a reality of the 103d Congress. The Nation deserves it.

GOVERNMENT-RUN HEALTH CARE

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, as the President continues to talk about the health care plan today, I urge the American people to think of the implications of Government-run health care, and think of it in the context of our Government today. The President's Health Care Task Force, while they devised this Government-run scheme, decided they were too busy to fill out the employee forms required of the Government. Of course, that is against the law. Do we suppose that being too busy would be an acceptable defense for those who do not comply with health care programs?

In the House, where this Government-run proposal is being considered, we spend much of our time talking about the inefficiency in the delivery of the Federal Government, unsuccessfully, I might add.

Mr. Speaker, the President, with his health care scheme, puts an awful lot of faith in Government that, frankly, does not warrant it. I urge the White House and the Democrats to think twice about a Government-run program. Instead, we should make fundamental changes in a system that is left as a basic function of the private sector.

NOW IS THE TIME FOR ACTION ON HEALTH CARE REFORM

(Ms. SHEPHERD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SHEPHERD. Mr. Speaker, while the health insurance industry spends millions on a slick television campaign designed to provoke fear, and today while mockery becomes a form of debate on the House floor, millions of Americans cannot get and keep health care insurance, and millions more are one job or one illness away from financial catastrophe.

We must hear them and we must respond. We are morally obligated to solve this problem, to stop partisan fighting, and decide not who wins and who loses, but find out how to make sure that everyone wins.

Mr. Speaker, as C. Everett Koop has recently stated, the President has already done more than any living predecessor to engender change by just promising that this issue will be resolved. Mr. Speaker, the time for inattention, fear, and gridlock has passed. Now it is time for action. I urge my colleagues to join me as original cosponsors of this heath security plan.

SIXTY-TWO REPUBLICAN HOUSE MEMBERS DEMAND AN EXPLANATION OF THE PRESIDENT'S HEALTH CARE REFORM LEGISLATION

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, today Mrs. Clinton and the President submitted their health care reform legislation. Until today, we have been dealing only with nothing more than a draft of the proposal, and yet the administration has, for over a month, been promoting this plan as if it was the final product. How? With this slick, 12-page, full-color brochure; 150,000 copies of this were printed at a cost of $82,000; 10,000 copies were sent to the Democrat National Committee, which is an unusual distribution of literature printed at Government expense.

This brochure is so shot through with misrepresentations and unsupported assurances that, in my opinion, if a private insurance company distributed this they would be subject to criminal prosecution.

It does not help the health care debate for Government agencies to be sending out blatantly misleading propaganda. Last week a letter, signed by 62 Members, was sent to the President asking for an explanation. We have not received any answers. We want some answers, and if we do not get them soon, the administration's credibility is subject to question.

URGING SUPPORT FOR LEGISLATION TO END FREE HIGHER EDUCATION FOR PRISONERS

(Mr. HOLDEN asked and was given permission to address the House for 1 minute.)

Mr. HOLDEN. Mr. Speaker, in my almost 11 months in this body I have seen a lot of wasteful Government programs eliminated, but I cannot believe that the Federal Government is subsidizing the higher education of prisoners. A newspaper in my district, the Pottstown Mercury, has done a series of articles that reveals we are spending $200 million a year in Pell grants to educate prisoners. Maybe I have been a county sheriff for too long, and maybe I am not so sure there is such a thing as rehabilitation, but I cannot believe we should be spending taxpayers' money in this fashion.

□ 1240

I urge all of my colleagues to stop this madness and to sponsor Congressman GORDON's bill, H.R. 1168, and end this.

TAKING ACTION ON CONGRESSIONAL REFORM

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, the Democrats are always signing the great Fleetwood Mac's "Don't Stop Thinking About Tomorrow," and in the case of congressional reform it is certainly true.

Tomorrow, the day after, maybe next month, do not worry, they say, it will be here soon.

Mr. Speaker, I certainly hope Americans are not buying that song and dance. I hope they continue to put the pressure on the Congress for meaningful and real reform today.

The Joint Committee on the Organization of Congress was created to bring together the House and the Senate in a bipartisan effort to make this institution work the way the country deserves.

We Republicans have proposed reforms that would certainly clean house, congressional reforms that actually reduce the size of committee staffs, that reduce the numbers of committees that keep us so frantically busy, that force the Federal Government to live by the laws they mandate on the rest of the country, that return fairness and the deliberative nature to the congressional process.

Mr. Speaker, House Republicans have made an honest and a forthright effort to bring changes to Congress, and it has been answered with delay and a commitment to the status quo. Mr. Speaker, maybe the Democrats should stop just singing about change and show a willingness to make some.

NATIONAL BREAST CANCER MONTH

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, this is National Breast Cancer Month, and I think that means it is a very important month to be looking at our health care program.

As the President and the First Lady brought over that bill today, I wish everybody would shut up and read before they start shouting. It is amazing. There must be some real speed readers around here, because apparently they have read all of the pages, they know everything, and they are all ready to tear it apart before the ink is even dry.

I remember the budget debate too. Some of the same people stood around and said boy, the world is going to stop on its axle, and this will be terrible if this budget went into effect. Well, it went into effect, and the deficit projections are even lower than they anticipated, and things are looking a lot better than they were now. These people ought to be forced to come down and do apologies.

Please, this country needs to deal with the health care agenda. And we need to deal with it in a reasoned and a factual way. We need to find ways that we can have prevention so that we do not see diseases like the incredible rash of breast cancer and many of these other things that are out there because we have not focused on prevention.

Read before you talk.

JEFF DAVIS HIGH SCHOOL ENDS NATION'S LONGEST LOSING STREAK

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to congratulate my alma mater, Jeff Davis High School in Houston, This past Saturday Davis won its first football game since 1985. That ends the longest losing streak in the history of the Nation. This achievement crowned a 25-year reunion that I was attending also Saturday night.

The fact that Jeff Davis rose to the occasion is not as great as the fact that they were able to overcome their past losses. It is an inner city school where we have seen over the years a lot of students transfer to other schools and we would have as few as 20 people show up for the football team in the fall.

They prevailed after a lot of community action and a lot of students decided that they were not going to take it anymore. They prevailed because their teammates put their best performance forward, not just in this game, but for a number of years.

The North Side community in Houston pulled together, and despite living under the scrutiny of this streak, they pulled together, and they worked as a team. The Jeff Davis Panthers set a shining example for our whole Nation. Through persistence, dedication, hard work, and pride they proved they can achieve if they maintain their discipline and never lose their faith.

Davis is far more than proud of this one win. They have proven to themselves and the Nation that they have the spirit to overcome all sorts of adversity.

This school is like our Nation, which fights, and we work, and then we pull together to win.

EXPANDING WOMEN'S ACCESS TO CLINICAL EXAMS AND MAMMOGRAMS

(Mr. FISH asked and was given permission to address the House for 1 minute.)

Mr. FISH. Mr. Speaker, every 3 minutes an American woman is diagnosed with breast cancer and every 12 minutes a woman dies from this disease. More than 1.5 million cases of breast cancer will be diagnosed before the end of this decade.

These high incidence and mortality rates demand that we encourage early detection and screening for breast cancer. I am concerned, therefore, about the limited coverage for mammograms included in President Clinton's health care plan. The administration's proposal to cover mammograms only every 2 years beginning at age 50 varies greatly from the breast cancer screening guidelines of the American Cancer Society. Those guidelines recommend clinical exams every year after age 40, with screening mammograms at 1 to 2 year intervals between ages 40 and 49 and annually after age 50.

Mr. Speaker, until concrete scientific data is available to support a decision limiting the availability of these lifesaving tests, we must do everything possible to expand the access of women aged 40 to 50 to clinical exams and mammograms. Encouraging early detection is second only to our ultimate goal—finding a cure for this deadly disease.

WHO WILL PAY?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I commend the President and the First Lady for their efforts on health care. They deserve it. But now it is time, Congress to get down to business.

Who will pay the bill? Big business will not. They will pass the costs on to you and me, or they will move to Mexico. Small businesses may close.

There is one issue here: Who will pay? And I say it is you, and it is me, it is your neighbor, your family, your friends, your coworkers. The American worker will pay the bill, and everyone is not going to get everything that anyone wants, Congress, so let us be honest.

I have a word of caution. Be careful before it is over that everybody in America ends up with health insurance and no one has a job.

NATIONAL UNFUNDED MANDATES DAY

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, today is National Unfunded Mandates Day. Local officials and taxpayers in my district and across the Nation have had enough. They simply cannot afford any more unfunded Federal Government mandates. It is wrong to force local governments to pay for new spending programs whose purpose it is to help Members of Congress get reelected. If Members of Congress had to raise Federal taxes or cut other Federal programs to pay for their spending, they know that they wouldn't be around here much longer. So they push this responsibility onto State and local officials.

As a former State legislator I know how much of a problem this creates at the State and local level. Often mayors or other officials are forced to cut vital programs or raise local taxes to pay for these mandates. Then they catch flak from their constituents when it's really Congress' fault.

Let us put an immediate stop to all new unfunded mandates—right now, today. Then, let us get rid of all the existing unfunded mandates. Then let us cut spending, cut taxes, and shift responsibility—and resources—back to State and local governments.

□ 1250

INTRODUCTION OF DEFICIT REDUCTION FRANKING ACT

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, I rise today to introduce a bill that makes a meaningful statement to the American people, who want deficit reduction and campaign reform. The Deficit Reduction Franking Act takes a major step toward meeting these goals by eliminating all unsolicited mass mailings from our office operations.

Deficit reduction must begin within our own offices, and this act would save taxpayers millions of dollars.

Mass mailings are often used for the purpose of building name recognition. As incumbents, this activity clearly gives us an edge over our opponents. We cannot say that we are serious about campaign reform if we ignore this issue. I believe that eliminating unsolicited mass mailings is as important as reforming the campaign finance system.

Members may find reporting their record more difficult without the use of mass mailings, but we have a variety of other tools to report to our constituents, such as press releases, news conferences, responding to constituent mail, and simply getting out among the people.

I urge my colleagues to cosponsor the Deficit Reduction Franking Act and work toward its passage. The details of my bill can be found in today's Extensions of Remarks.

RED RIBBON CAMPAIGN OF NATIONAL FAMILY PARTNERSHIP

(Mr. QUINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUINN. Mr. Speaker, I rise today to speak about a different, but important kind of health care and health care reform.

I rise today in recognition of the efforts of the National Family Partnership and to demonstrate my support for their red ribbon campaign to promote the National Drug Awareness Initiative. This campaign asks everyone to show their support for this campaign by wearing a red ribbon during the last week in October—October 23 to 31.

Red Ribbon Week commemorates the brutal slaying of Federal Drug Enforcement Agent Enrique Camarena, which occurred in 1985. The goal of the red ribbon project is to increase awareness of drug and alcohol abuse issues and promote personal and community action. The National Family Partnership, in conjunction with the Business Partnership to Knock Out Drug and Alcohol Abuse are striving to promote education, training, and support to inform the general public of the dangers of substances abuse. This year's events of Red Ribbon Week in Buffalo, NY, will spotlight the cooperative nature of businesses and community activities to reduce the demand for alcohol and drugs.

Since embracing this project 6 years ago, WNY United has enjoyed great success promoting a wide array of Red Ribbon Week activities within families, schools, communities, and businesses.

The highlight of the activities held in Buffalo, NY, this week will include the unfurling of the world's largest red ribbon down the side of the 13-story Niagara Mohawk building in downtown Buffalo. This ribbon will be decorated with drug-free messages from school children, community leaders, and business associations.

Mr. Speaker, we cannot just wish for a drug-free America; we must strive to defeat the problem of substance abuse. I for one salute the efforts of the National Family Partnership and the WNY United Against Drug and Alcohol Abuse, Inc., and hope that we will all participate wholeheartily during the red ribbon campaign.

LEGISLATION ON MUTUAL FUNDS

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, today, I am introducing legislation that addresses a particular concern of mine, mutual fund sales. In the last few months, banks have increased their sale of mutual funds. For the first time in history, assets of mutual funds have exceeded assets of deposits.

This legislation would require financial institutions to disclose in writing information about mutual funds. More specifically, the disclosure should explain that mutual funds are not covered by the Federal Deposit Insurance System. Many depositors are unaware of what is covered by the Federal Deposit Insurance System.

In the last few years, there were several bank failures, particularly in the New England area. I heard from numerous constituents who had more than $100,000 in their accounts. Several of these constituents were not aware of the $100,000 limit. This leads me to believe many depositors are not clear on which types of deposits are covered by Federal deposit insurance.

Recently, several banks have voluntarily let customers know mutual funds are not covered by deposit insurance. This is an important step. However, I believe there should be legislation that requires institutions to let customers know in writing mutual funds are not covered by the Federal Deposit Insurance System. This legislation would protect depositors and eliminate the confusion surrounding the sale of mutual funds by banks.

I urge you to protect depositors by joining me as cosponsors of the Depository Institution Mutual Fund Sales Act.

THE PREMISE OF PRESIDENT CLINTON'S HEALTH PLAN

(Mr. BUNNING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNNING. Mr. Speaker, the President is unveiling his health care plan today which basically says the Government can do it better.

That is the premise of Mr. Clinton's plan: The Government can operate one-seventh of our Nation's economy—the health care industry—and make it run more efficiently and more effectively than it is running right now.

But Mr. Speaker, the Clinton administration cannot even tell us with any certainty who actually served on the Task Force on Health Care Reform.

They say "trust us". But how can we believe their number; how can we believe that they have the answer to provide effective and efficient health care for 250 million Americans when they cannot even keep track of 500 members of their own Health Care Task Force?

It does make you wonder, and it makes me worry.

IN SUPPORT OF FUNDING CVN-76, THE NEXT NUCLEAR AIRCRAFT CARRIER

(Mr. SCOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCOTT. Mr. Speaker, recently, Secretary of Defense Aspin and General Powell released their study of our future military needs in the "Bottom-Up Review." This review indicated that our national defense requires at least 12 aircraft carriers.

Mr. Speaker, I submit these carriers should be the most modern and most capable the Congress can provide. To this end we must fully fund the next *Nimitz* class carrier, CVN-76.

Soon, the House and Senate conferees on the Defense appropriations bill will be discussing when to fund CVN-76. To me, the issue is very simple. We need CVN-76. Therefore, we should select the most cost effective method to fund the carrier.

By allowing the Navy to begin negotiations this year and permitting the shipbuilders to take advantage of construction cycles, we can save $200 million by funding CVN-76 in this year's appropriation bill.

To accomplish these savings, the Senate has fully appropriated the funds for the carrier. I urge my colleagues to support the Senate position and fund CVN-76. It is good for our country; it is good for our national defense, and it is good for the taxpayers.

THE PRESIDENT AND SOCIALIZED MEDICINE

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, the President and Mrs. Clinton have worked very hard to develop and bring to us a health care reform proposal.

I have been guardedly optimistic that this body could work together in a bipartisan effort to have some health care reform. There are so many areas that we agree, both Republicans and Democrats, areas that can substantially reduce the cost of health care in this country; however, this morning I was very discouraged about something the President said. I heard the President say that he would not sign, that he would veto any health care reform package that did not go to socialized medicine, that did not have universal coverage for everybody. I think that closes the door on so many things that we can do that need to be done to increase competition, to reduce the paperwork, to make changes in the overzealous regulations that we have in this country, to make sure that doctors and health providers do not overcharge, to make sure our system is not abused.

We need to make those changes. We need to work to move ahead on those areas that we agree on. I hope the President will reconsider.

LISTEN TO THE PRESIDENT ON HEALTH CARE

(Mr. TUCKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TUCKER. Mr. Speaker, today the President and the First Lady did come to the Congress to unveil their plan on health care. I applaud them. I know it is going to be a long road before we come to some resolution, but let us be clear about one thing. We are going to have a debate, but at least let us be honest when we debate and let us not give out information, at least this early in the game.

The President did say that he had one key point and that is he would not sign that piece of legislation, not if it was not socialized medicine, but if there was not universal coverage.

The point, Mr. Speaker, is this. Be careful of those plans that say that they want universal coverage, but they do not have any kind of mandates. If in fact we are trying to insure that every American is covered for health care, there must be some guarantees. We cannot just leave this to an open market willy-nilly type of hopeful system that says, "We hope that everyone gets coverage."

We know that 37 million Americans out there do not have coverage, and we have to have some responsibility and some accountability to do it.

So Mr. Speaker, let us listen to what the President says, instead of trying to tell the people what he did not say.

ON REDUCING COMMITTEE STAFFS

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, my constituents often describe Government as a burden much like a disease. Congress shows numerous symptoms of Government disease. One is bloated committee staff. Treatment could start with a 25-percent reduction in staff. I was surprised to learn that in 1947 there were approximately 400 staff for standing committees. In 1992 that number had expanded to about 3,200. Each Member of Congress knows we have a phenomenal budget deficit. Each congressional district has a large number of people who want responsible spending decisions in Congress. They expect Congress to recognize this and reduce our payroll to adapt to these fiscal demands. The problem is that Government does not have external controls and it does not respond to internal controls. In a weak economy Government expands to find jobs. If times are good Government adds staff to meet increased work loads. In poor economic times a business would be forced to downsize and reduce its payroll. What is most disturbing is it seems that very few here in Congress ask themselves, "Who is paying for all these staff positions?" The answer is all the businesses and individuals who struggled during the tough economic conditions. Mr. Speaker, if you think they feel good about supporting a government-paid committee staffer, you are wrong.

Congress needs to do more to treat this disease by adopting a 25 percent staff reduction. Congress needs to set a good example of what needs to be done.

□ 1300

FEDERAL CONTRIBUTION NEEDED TO ACCOMPLISH GOALS OF THE CLEAN WATER ACT

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, I agree that it is time for the Federal Government to alter the process by which it orders local units of government to spend large amounts of money without making any significant contribution, and no area is more glaring in this regard than the Clean Water Act.

Twenty years ago the President, the Congress, mandated that the local governments clean up the waters, and that is a very worthy goal. Unfortunately, Mr. Speaker, during the eighties the Federal Government took away the funding while leaving the order in place. As a result, particularly poorer, older urban communities, several of which I represent, face a burden that is simply unsustainable. It is not appropriate for the Federal Government to mandate that local communities engage in the national goal of cleaning up waters which are national and international in scope and make virtually no significant contribution.

Mr. Speaker, I hope that one of the things we will do before this Congress ends next year is to change the law to restore the situation where the Federal requirement that there be clean waters be accompanied by Federal resources with which to accomplish it.

NATIONAL UNFUNDED MANDATES DAY

(Mr. BLUTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUTE. Mr. Speaker, today, on National Unfunded Mandates Day, I bring to your attention the plight of hundreds of communities across the Nation that continue to suffer financially because of irresponsible policymaking in Congress.

In my district, ratepayers in Fall River could see their water rates quadruple to pay for a new sewage treatment system to the tune of $130 million mandated but not paid for by the Federal Government—$130 million that should be staying in the pockets of those ratepayers so that they can buy a house and feed their family; $130 million that businesses facing skyrocketing rates should be using to hire more people or improve their plant.

But the Congress continues to impose oppressive mandates on cities, States, and towns and then turns its back when it is time to pay for it.

It is time to stop the dishonesty and end unfunded Federal mandates.

Pay for it, or do not pass it.

THE HEALTH CARE ISSUE DESERVES FORCEFUL, YET RESPECTFUL, DEBATE

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, somehow in the health debate ahead we are going to have to be able to disagree without being disrespectful. The references earlier today to the President's health care presentation as "a circus" go well beyond disagreement. After all, the minority leaders participated with the Clintons. Were the minority leaders there as circus ringmasters?

Clearly, Mr. Speaker, there is room for vigorous disagreement on health reform. Clearly the final product will be different than the introduced bill. The issue is not Government versus private health care; the issue is not regulation versus competition. Universal access does not mean socialized medicine. Some of the Republican proposals have provisions for universal access.

Colleagues, let us debate forcefully but in good faith.

CLINTON'S HEALTH CARE REFORM

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, most Americans believe health care reform means better quality at a lower cost. I fear that the Clinton plan will give them just the opposite. The heavy-handed employer mandates in the Clinton plan would cost jobs, slow the economy, and hurt American competitiveness in the global marketplace. The price controls in the Clinton plan would freeze in the inefficiencies of the current system and stifle the medical research which has helped produce the high quality of American medical care.

Mr. Speaker, according to virtually all the independent experts, President Clinton's numbers do not add up. This means the Government will be forced to decide between new taxes and more deficit spending.

We need true reform, not a cure that is worse than the disease.

NAFTA—THERE IS A CHOICE

(Mr. FINGERHUT asked and was given permission to address the House for 1 minute.)

Mr. FINGERHUT. Mr. Speaker, the debate on the North American Free-Trade Agreement is heating up. The lobbyists are pounding the corridors, and the pundits are given to prophesy what the final tally will be. As we come down to the end, Mr. Speaker, the principal argument in favor of NAFTA is that there is no choice.

Mr. Speaker, I am here to say today that there is a choice, there is a choice other than a policy that allows, encourages, our businesses to chase low-wage jobs and chase the lax environmental standards across the border in Mexico.

On the Committee on Foreign Affairs subcommittee on which I serve, chaired by the gentleman from Connecticut [Mr. GEJDENSON], we are working with the administration to coordinate our export promotion activities and to lower our barriers against exports in high-technology industries, and the Committee on Banking, Finance and Urban Affairs subcommittee on which I serve, chaired by the gentleman from Pennsylvania [Mr. KANJORSKI], is working on ways to encourage the development of capital for new technology businesses. All over the Government we are working to improve our manufacturing capabilities, to lower the capital gains taxes on new investment in new companies that are going to be the growth companies of the future.

We can promote trade. We can improve the quality of jobs in this country. It is our only choice to send jobs down to Mexico.

Mr. Speaker, I urge people to stand firm in this debate on the North American Free-Trade Agreement.

NATIONAL UNFUNDED MANDATES DAY

(Mrs. FOWLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FOWLER. Mr. Speaker, as a member of the Jacksonville City County for 8 years, I saw first hand the impact of unfunded Federal mandates and regulations. That is why I add my voice to the protests today, National Unfunded Federal Mandates Day.

Smaller municipalities in my district cannot begin to deal with one size fits all regulations and penalties. In Neptune Beach, population 6,500, a violation of the Safe Drinking Water Act cost them $100,000. That left no money to actually fix the problem. All they can do is wait for the next fine.

Up near the Georgia border, pending chlorine regulations threaten to close a pulp mill which is the major employer in Fernandina Beach. Further south, Federal mandates will eat up a quarter of the Ormond Beach budget. Throughout my five counties, supervisors of elections prepare to double their staffs to comply with the motor voter legislation.

Mr. Speaker, we cannot continue to pass laws and mandates on the people back home and refuse to back them up with the resources necessary to get the job done.

UNFUNDED FEDERAL MANDATES

(Mr. BARCA of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARCA of Wisconsin. Mr. Speaker, Members, today is National Mandates Day, and I join many of my colleagues today in talking about addressing this problem in Congress this session. I am a member of the mandates caucus and on the executive board of the caucus. We invite many other Members to join us in this effort.

Each year, the Federal Government passes new regulations and laws which place a heavier and heavier financial burden on our States and localities.

Whenever Washington feels it is short on money to implement a program, they pass the cost on to local government. As one of the newest Members of Congress and a former State legislator, I know all too well the cost of these mandates.

In my home State of Wisconsin, one study estimates that State and local governments spend at least $100 million a year to meet Federal mandates.

The time has come to put an end to this practice.

States and local governments are not a cash cow for Congress. We cannot go to them every time we want a problem solved or a new program funded.

We are all too aware at the Federal level of our national deficit. We now need to show in our actions that we understand the financial strain we put on local taxpayers by passing the cost on to their shoulders.

Forcing local and State governments to pay for the cost of Federal programs, by either raising taxes or cutting local programs, does not leave our constituents any better off.

If Congress is going to pass a Federal mandate, then we should be willing to pay for it.

INTRODUCTION OF LEGISLATION TO WITHDRAW FORCES FROM SOMALIA BY JANUARY 31, 1994

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, the War Powers Resolution clearly states: U.S. troops are not to be deployed overseas in combat, or where combat is deemed imminent, for more than 60 days without congressional authorization.

United States forces in Somalia have been involved in combat operations for well over 60 days. Thirty troops have been killed and 170 wounded.

Congress has never authorized this operation, yet the Clinton administration contends that it supports the War Powers Resolution and is complying with it.

To end this confusion, I have introduced—under section 5(c) of the War Powers Resolution—legislation that calls upon the President to withdraw our forces by January 31, 1994.

Under section 5(c), the Foreign Affairs Committee must report out my legislation within 15 days and this body must vote on it within 3 days thereafter.

In this way, the House will have the opportunity to fully debate the issue. I urge my colleagues to support House Concurrent Resolution 170 when it reaches the House floor.

□ 1310

A GUARANTEE OF HEALTH INSURANCE FOR ALL AMERICANS

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute.)

Mr. BARRETT of Wisconsin. Mr. Speaker, over the weekend I learned of a Milwaukee couple who are new parents. But their happy occasion has been clouded by two simple facts: their child has spina bifida and they have no insurance.

I can only imagine the burdens this couple faces: their child's constant pain, countless doctors visits, and the worries.

Where will they find a company now to cover the baby's preexisting condition? How do they pay for it? And how do they keep their small business running while taking care of their child?

Bureaucracies, rising costs have skewed our health care to serve some and ignore others.

We provide health care for prisoners and welfare recipients. But if you are working, paying your bills, and just getting by, it is likely you are going without health insurance.

We in Congress must commit our energies to make sure all Americans, including working couples, have health care. Let us give health care back to the American people.

A BIPARTISAN COMMITMENT FOR SPENDING CUTS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, as Americans prepare themselves for traditional Halloween antics—they are watching the Congress with a wary eye. At the urging of the Clinton administration, the majority party has already socked it to us with the largest tax increase in history and so far failed to make good on promises of spending cuts. But this week, a bi-partisan group of 29 Members presents a long-overdue treat—a package of concrete spending cut proposals to save taxpayers tens of billions over the next 5 years. This package is the product of long hours and tough negotiations—and it includes some sacrifices for most of us especially including Members of Congress. But we will never bring our Federal budget into line without some sacrifice—and that means earmarking all savings for deficit reduction. It is time for bold spending reform. That may sound scary to big spending liberals, but we need spending cuts more than Halloween trickery.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. MAZZOLI). Pursuant to the agreement reached earlier today, that concludes the 1-minutes speech section. The Chair will advise the gentleman from California [Mr. DORNAN] and other Members that at the end of legislative business 1-minute speeches will be in order.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Speaker, I have a parliamentary inquiry.

It was my understanding, with respect to the Members who were sitting here ready to do 1-minutes, that the Chair might be liberal in its interpretation. That is why I told the gentleman from California that he might be allowed to speak.

The SPEAKER pro tempore. The Chair will tell the gentleman from Indiana that the Chair was very indulgent today beyond what had been earlier indicated.

APPOINTMENT OF CONFEREES ON H.R. 3116, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1994

Mr. MURTHA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3116) making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. MCDADE

Mr. McDADE. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. McDADE moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on H.R. 3116, be instructed to agree to the provisions in the amendment of the Senate numbered 13 relating to Somalia, beginning after the colon on page 8, line 19 and ending on page 12, line 2 of the bill printed with the amendments of the Senate numbered, amended to make them findings and directives of the Congress rather than of the Senate.

Mr. McDADE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. For what purpose does the gentleman from Louisiana [Mr. LIVINGSTON] seek recognition?

Mr. LIVINGSTON. Mr. Speaker, I seek time in opposition to the motion.

The SPEAKER pro tempore. Is the gentleman in opposition to the motion to instruct offered by the gentleman from Pennsylvania [Mr. McDADE]?

Mr. LIVINGSTON. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. Is the gentleman from Pennsylvania [Mr. MURTHA] in opposition to the motion?

Mr. MURTHA. No, Mr. Speaker. I accept the motion.

The SPEAKER pro tempore. The time will be divided. The gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 20 minutes, the gentleman from Pennsylvania [Mr. McDADE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. McDADE].

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion is self-explanatory. It simply suggests the enactment by the House conferees of the Byrd-Dole amendment that was adopted in the Senate. I have discussed it with my distinguished colleague, the gentleman from Pennsylvania. I do not believe there is any objection to it at all on his side.

Mr. Speaker, my motion to instruct is simple and straightforward—it instructs the House conferees on the Defense appropriations bill to agree to the so-called Byrd-Dole amendment passed by the Senate, which places limits on our military involvement in Somalia.

I do not offer this motion because I agree completely with everything in that amendment—because I do not.

I do not offer this motion as an endorsement, or a defense, of everything which has happened with regards to our Somalia policy—because all of us, and all Americans, have been distressed and deeply troubled with the course of events there, especially over the past 6 months.

And I do not offer this motion to indicate that this Member, or this House, wants to keep our forces in Somalia 1 day longer than is necessary or prudent. Like all of us, if I could wish for a perfect world, our forces would be home today.

But, Mr. Speaker, we do not live in a perfect world. We live in a world that forces us to grapple with conflicting issues and that resists simple solutions. The challenge before us is to look forward and make the best of a difficult set of circumstances, in a clearly defined and responsible manner.

And there are two facts we cannot escape—that as we speak there are nearly 20,000 American troops deployed to that troubled region, joined by 24,000 soldiers from other nations; and second, that the United States will be leaving Somalia early next year. We are going to leave Somalia; of that there is no doubt.

So the questions before us are not whether we will leave, but how we leave, and how we conduct ourselves while we are still there.

And in my considered judgment, the Byrd-Dole amendment, constructed in a fully bipartisan fashion, provides a framework for our Somalia policy which is both well-defined and workable, and goes a long way toward redressing the deep flaws which had become apparent in our policy over the past few months.

There is a clearly stated and limited mission for our troops: To protect American and U.N. forces, and to keep the supply lines open and the relief efforts secure. That's the mission—period.

No nation building, no intervention on one side or the other, no warlord hunting. We will protect the multinational forces and relief efforts—a mission which is well defined, and which can be performed.

And it limits our involvement by setting a date for withdrawal, March 31 of next year as proposed by the President.

Mr. Speaker, I do not like setting dates, for obvious reasons, but like it or not that market was laid down and this amendment will ensure that it is adhered to. And there is nothing that says we must remain in Somalia until March 31. We can withdraw sooner and the President has indicated his intention to do so if events warrant.

In closing, Mr. Speaker, I understand that this amendment does not go far enough for some, and goes too far for others. But I do think it is the best option before us in terms of striking a balance between our political objectives for Somalia and our military requirements on the ground. And it does reflect the new policy being carried out by the White House, our troops on the ground, and our diplomats—as such, it deserves an opportunity to work.

On that basis I believe this approach merits the support of the House, and accordingly, I would ask the House to vote "yes" for my motion.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, I have no objection to the motion to instruct, and I yield back the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while I agree with both gentlemen from Pennsylvania and appreciate the way they have handled the business of the subcommittee, I respectfully believe that we should withdraw forces sooner than the time and date stated in the motion to instruct.

Mr. Speaker, I rise in opposition to the motion to instruct conferees on H.R. 3116, the fiscal year 1994 Defense appropriations bill.

The motion offered by my good friend from Pennsylvania would instruct the conferees to agree to the Senate amendment 13, commonly referred to as the Byrd amendment regarding United States operations in Somalia.

The Byrd amendment tracks President Clinton's October 7 pronouncement and allows the use of funds for continued operations in Somalia through March 31, 1994.

I commend and applaud the distinguished chairman of the Senate Appropriations Committee for his efforts to maintain congressional oversight on the funds we spend on the Somalia operations. And I agree with most of the conditions the gentleman put on the use of any funds for Somalia, especially those dealing with the protection of our troops and keeping our troops under the command of United States forces.

What I do not agree with is the approval of this administration's policy to keep us in Somalia for 5 more months.

I believe we should only provide the funds necessary to protect the orderly withdrawal of our troops as promptly as possible.

This should not take 5 months.

Democrats and their friends in the press love to criticize conservatives for being political and "Johnny-come-lately" in disagreement with administration policy on Somalia.

But as usual the press doesn't do justice to the truth.

After a visit to Somalia back in January 1993, I said our humanitarian mission was successful and should be concluded.

In May, the House voted to authorize the use of our troops in Somalia; I voted against this bill and for the Roth amendment prohibiting United States troop involvement after June 30.

On September 1, I condemned this practice of this administration to double the cuts in the Defense Department proposed by the Bush administration diminishing the support for our troops, while still expecting them to engage in miscellaneous peacekeeping operations all over the world.

To date, some 74,000 soldiers, sailors, airmen, and marines are deployed to over 18 separate countries for the purpose of keeping the peace.

If the United Nations and this administration have their way, they will be in 10 to 15 more countries in the next year, including Haiti and Bosnia.

This is a woebegotten and mistaken policy, Mr. Speaker, and it should be sent back to the drawing board, or else we will unnecessarily lose dozens, hundreds, or even thousands of young Americans in uniform.

We should stop this shameful policy of deploying the young people in our armed services at the whim, direction, and even the control of the United Nations.

We should begin by returning all our soldiers and marines from Somalia—not by March 31, but this year, and within the next few weeks. To do otherwise is to condemn more young Americans to death, and more American families to sorrow and misery.

I urge the defeat of the motion to instruct, and the immediate withdrawal of United States troops from Somalia.

Mr. MCDADE. Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. MCDADE].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. MURTHA, DICKS, WILSON, HEFNER, SABO, DIXON, VISCLOSKY, DARDEN, NATCHER, MCDADE, YOUNG of Florida, LIVINGSTON, LEWIS of California, and SKEEN.

There was no objection.

MOTION TO CLOSE PORTIONS OF CONFERENCE MEETINGS ON H.R. 3116, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1994

Mr. MURTHA. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. MURTHA moves, pursuant to rule XXVIII, clause 6(a) of the House rules, that the conference meetings between the House and the Senate on H.R. 3116, the Department of Defense appropriations bill for the fiscal year ending September 30, 1994, and for other purposes, be closed to the public at such times as classified national security information is under consideration: *Provided, however*, That any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER pro tempore. Under the rule, this vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 409, nays 3, not voting 21, as follows:

[Roll No. 532]

YEAS—409

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Becerra
Beilenson
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Synar
Talent
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velázquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NAYS—3

DeFazio
McKinney
Washington

NOT VOTING—21

Barcia
Bateman
Bentley
Berman
Chapman
Conyers
Geren
Harman
Kennedy
Rogers
Royce
Schumer
Sharp
Stokes
Swift
Tauzin
Thomas (CA)
Torres
Whitten
Wilson
Young (AK)

□ 1336

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE WAR POWERS RESOLUTION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN], the distinguished ranking Republican on the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, the War Powers Resolution clearly states: U.S. troops are not to be deployed overseas in combat, or where combat is deemed imminent, for more than 60 days without congressional authorization.

United States forces in Somalia have been involved in combat operations for well over 60 days—30 troops have been killed and 170 wounded.

Congress has never authorized this operation, yet the Clinton administration contends that it supports the War Powers Resolution and is complying with it.

To end this confusion, I have introduced—under section 5(c) of the War Powers Resolution—legislation that calls upon the President to withdraw our forces by January 31, 1994.

Under section 5(c), the Foreign Affairs Committee must report out my legislation within 15 days and this body must vote on it within 3 days thereafter.

In this way, the House will have the opportunity to fully debate the issue. I urge my colleagues to support House Concurrent Resolution 170 when it reaches the House floor.

FURTHER CONFERENCE REPORT ON H.R. 2492, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1993

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 283 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 283

Resolved, That all points of order against the conference report to accompany the bill (H.R. 2492) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes, are waived. The motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement shall be considered as read.

□ 1340

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 283 waives all points of order against the conference report on H.R. 2492, the District of Columbia Appropriations Act for fiscal 1994. The rule further provides that the motions printed in the joint explanatory statement of the conference committee to dispose of amendments in disagreement shall be considered as read.

Mr. Speaker, the House considered and rejected the conference report on the District of Columbia Appropriations Act last week. This rule will allow consideration of a conference report which includes a new section 142 prohibiting the use of Federal funds in the bill for abortions except to save the life of the mother and in cases of rape or incest. There was no language in either the House or Senate versions of H.R. 2492 concerning the use of funds for abortions.

This language is similar to the Hyde language as it applies to Federal funds. In addition, the Labor-HHS Appropriations conference report restricts the use of Federal Medicaid funds for abortions with these same three exceptions.

Mr. Speaker, House Resolution 283 will expedite consideration of this important conference agreement. I urge my colleagues to support the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly oppose this rule and urge my colleagues to vote against it. When this conference report was defeated last week, the majority of the Members of this House made a strong statement against allowing the District of Columbia to subsidize abortion, except in case of rape, incest, or when the life of the mother is in danger. Although this revised conference report prohibits the use of Federal funds for abortion services, it does not prevent the D.C. government from subsidizing abortion. In my opinion, this is contrary to the House position on this matter.

Mr. Speaker, I strongly oppose this rule. When this measure was before the Committee on Rules, an amendment to the rule was offered to allow the gentleman from New Jersey [Mr. SMITH] to offer an amendment which would ensure that no funds could be used by the District of Columbia to help pay for abortion services. The gentleman from New Jersey was denied this opportunity, and the entire House has been denied the right to vote on this matter.

Mr. Speaker, again, I strongly urge my colleagues to vote down this rule and to oppose the conference report all the way.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I rise in strong opposition to this rule. As my colleagues may recall, 1 week ago today, on October 20, this House rejected the first conference report on this bill by a vote of 206 to 224.

The one and only reason for that rejection was the failure of the bill to address the abortion issue.

On that same day a new conference was convened and concluded. Folded into the new conference report was a prohibition on the use of Federal funds for abortions, except in the cases of rape or incest, or to save the life of the mother.

As the gentleman from New Jersey [Mr. SMITH] pointed out at our Rules Committee meeting on the conference report that same evening, this alleged compromise doesn't really stop one single abortion, since it puts no abortion restrictions on any of the District money appropriated in this bill.

Mr. Speaker, by putting this weak abortion language inside the conference report, the conferees have violated the scope rule. Ordinarily, such matters are reported as amendments in disagreement to allow a separate House debate and vote on new issues originating in conference.

Had the appropriators followed this standard procedure of reporting the abortion language as an amendment in disagreement, the so-called Smith language could have been offered as an amendment to that.

Instead, we have this rule, which waives points of order against the conference report's violation of the scope rule—the most serious rules violation there is.

What we asked for in the Rules Committee was that the Smith amendment be treated as the conference abortion provision should have been and that is that it be offered to one of the amendments in disagreement, and be protected against a germaneness point of order, just as the other abortion language is.

When we made known our plans at last Wednesday night's meeting to allow the gentleman from New Jersey an opportunity to offer his amendment, the Rules Committee hastily adjourned in disarray and did not reconvene until yesterday on this bill.

At that time, the Rules Committee rejected our motion to make the Smith amendment in order under this rule.

Mr. Speaker, Chairman DIXON suggested in the Rules Committee that Mr. SMITH could offer his language if he defeated the previous question here on the floor. But that is not a realistic option since the language would still be subject to a germaneness point of order without the waiver we attempted to get up in the Rules Committee.

Therefore, our only recourse is to defeat this rule, go back to the Rules Committee today, and bring back a rule that gives Mr. SMITH the equal treatment and protection that is given in this rule to the abortion language contained in the conference report. That is the least we can do to be fair to both sides on this issue. I urge Members to defeat this rule and give the gentleman from New Jersey [Mr. SMITH] that opportunity.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, many of my colleagues know I have always taken a pro life stand here on this floor, but at the same time I have to recognize the District of Columbia has the right to run its own internal affairs. I think too often we forget that the District of Columbia has home rule. I think that we have decided in this House that they have home rule for things that we like, but they do not have home rule for what we do not like.

I personally believe they have the right to run their own internal affairs. I think we should support the people of the District of Columbia in what decisions they make. If that decision is contrary to our personal beliefs, I think we have the right in our States to make the rules. We do not fund abortions in the State of Nevada, but I honor the right of the people of the District of Columbia to make their own choices, and urge that we support this rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. GOSS], a valuable member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the chairman emeritus for yielding me this time.

Mr. Speaker, in waiving all points of order against the conference report, this rule allows the House leadership to bring forward a compromise on the contentious issue of how funds are spent by the District of Columbia. I do not support this attempt to obfuscate the direct link between Federal funds and abortions—money is fungible and we all know it. I do believe that the gentleman from New Jersey [Mr. SMITH] should have been given the chance to bring his amendment to the floor for full debate and vote. Mr. Speaker, I am mostly troubled about the larger issue of home rule in the District of Columbia—which is the underlying basis for arguments I favor of letting the District decide for itself how it will use its money, Federal or otherwise. As someone who lives in DC for a big part of every year, and as a former mayor of a small city, I have concluded with regret and some sadness that the home rule experiment in DC has failed. After 20 years of attempting to make this city work, even the friends of DC—and I count myself one—have lost confidence. I was full of hope in the midsixties that home rule was worth a try—and I live here now, by choice. Quite honestly, the District of Columbia is one of the most poorly run cities I have ever lived in. The Mayor of DC has conceded her inability to get a handle on the extraordinary violence here, resorting to seeking help from the National Guard in beefing up the everyday law enforcement of the city. The prison system is failing; the infrastructure is crumbling; the schools are struggling and if dealing with the Department of Motor Vehicles or any other city agency is usually a nightmare. To put it charitably—courteous/efficient service is apparently not a priority. The Constitution specifically establishes a Federal enclave—but it does not in any way assert that DC should be considered on par with every other State in the Union. Mr. Speaker, today we are discussing funding for the District. Leadership has signalled that in the next few weeks we will be discussing statehood. I think it is time we rethink the policy of home rule in the District of Columbia. As our Nation's Capitol, this city is a beautiful inspiration of monument and memorial. As a place to live it should provide a pleasant, safe and enriching experience for all. What has gone wrong? In a word—the D.C. government. Mr. Speaker, I cannot support efforts to pour more taxpayers' funds into a system that simply is not working.

□ 1350

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, by a narrow margin last week this body defeated the conference report necessary for my city to carry on its daily business. Out of respect for the differences expressed among Members and for the positions of some of you, I agreed with Chairman DIXON to the new position the conference committee has taken.

This position, on its face, applies a standard on abortion to the District that is more restrictive than that applied to all 50 States and all four territories. The new standard before us today goes well beyond the Hyde amendment for Medicaid abortion funding that applies to my district as to those of my colleagues.

In addition to the Hyde amendment restrictions, we have accepted these same restrictions on other Federal funding, funding that has never been used for abortion in the past is unavailable under present budget conditions in the District to be used for abortion now.

In the face of this uniquely disparate treatment to my district and my constituents, a few opponents are now trying to pile on, by insisting upon an unprecedented rule that would invade local funding. This local funding, my friends, is 10 percent committed to local necessities other than abortion.

Mr. Speaker, the conference report on H.R. 2492 as it now reads is a virtual carbon copy of the bills passed by the House for the 10 years, from 1979 to 1989, and in 1991 and 1992. None of these bills—for 12 years—restricted the District's use of local funds to pay for abortions. The language in today's conference report discriminates uniquely against the District of Columbia. How much invidious treatment should one small jurisdiction be made to bear?

For 8 fiscal years, from 1980 to 1988, the House passed, and President Reagan signed, D.C. appropriations bills that were silent on the use of local revenues to fund abortions. In addition, in 4 of the past 5 years, the House sent D.C. appropriations bills to President Bush that did not restrict the District's use of local funds to pay for abortions. It was not until President Bush vetoed those bills that the House included language that restricted the District's use of locally raised funds to pay for abortions.

Thus, procedurally, what the subcommittee has done in this case is what it has consistently done in the past when conference reports were turned down. What our opponents are asking that this body do is unprecedented, and a particularly dangerous precedent for conference reports. Conference reports have almost not been subject to amendment. Surely, this body does not want to create this precedent just to penalize the District unnecessarily when the conference report has already excluded the use of Federal funds for abortion.

I am asking my colleagues not to use the rule as a club to whip the Nation's Capital. A vote against this rule does much more than harm the District. It is a precedent for the unmitigated confusion that would come with amendments outside conference reports.

A vote for this rule is in keeping with a long line of precedent that puts this body on record barring abortion using the only funds over which Congress has any rightful jurisdiction. There are more than $3 billion in funds in this appropriation that were raised exclusively in the District, paid for exclusively by District taxpayers and District businesses. These funds do not belong in your province.

My colleagues know well that my district and my constituents are experiencing tough days. They deserve better than a rule vote that is not satisfied to stop when discriminatory treatment is inserted, but insists on beating this horse to death.

Please help us. Vote in favor of the rule on the conference report on H.R. 2492.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, I rise in strong opposition to this rule. As Members may know, the conference report was defeated last week.

After the conference report, Members met with the Rules Committee and were denied the opportunity to further amend the report to disallow the use of local funds for abortion. This is taxpayers' money, and the larger majority of Americans oppose the use of taxpayers' money for abortions.

The problem is when you preclude Federal funds for use, those funds then free up local money for this purpose.

In addition, the conference allows the Congress to break its own commitment to the District of Columbia pension fund for the first time in 15 years. This is a deeply underfunded program, and the more we tinker with it, the worse the fiscal situation those pensioners will have. This commitment to those retirees must be kept.

For these reasons, I urge my colleagues to defeat the rule.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. GINGRICH] our distinguished Republican whip.

Mr. GINGRICH. Mr. Speaker, I rise in opposition to the rule. But I also rise to take 30 seconds of my colleagues' time, who may have wondered what I was referring to earlier in a 1-minute speech.

If Members will look at page 315 of the proposed bill which was dropped at their offices today they will see subtitle (H) reserved, subtitle (I) reserved. That is, the two entire subtitles do not exist.

So when my colleagues on both sides of the aisle get the draft of the Health Security Act, turn to page 315 and look at subtitle (H), which simply says reserved, and subtitle (I), which simply says reserved. There is no legislative details on either of the two subsections of the bill.

I do urge a "no" vote on the rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding the time. I rarely rise to speak on a rule, but I do so today in strong opposition to the rule for the conference report on the District of Columbia appropriation bill.

This rule is simply an attempt to protect the so-called revised language that would still, still permit the D.C. city government to resume funding of abortion on demand, entirely with federally appropriated taxpayer funds.

Mr. Speaker, the changing in the wording restricting the use of Federal funds for abortions is simply a sham. We all know that the entire D.C. budget is appropriated by Congress, including those funds raised through local revenue sources.

The Dixon language is a purely verbal distinction between Federal and local funds for the use of funding abortions.

□ 1400

Mr. Speaker, if this language were adopted, the District of Columbia would be the only jurisdiction where funds appropriated by Congress would be allowed to be used for routine, routine, Medicaid abortions. The language contained in the Hyde amendment only applies to those funds in the Department of Health and Human Services appropriations bill—not funds appropriated through the D.C. appropriations bill. The Dixon language would not deny funding for a single abortion.

This rule is restrictive, it's unfair, and frankly—it is downright wrong. The Rules Committee would not allow my colleague from New Jersey, Mr. SMITH, to offer a compromise which would have continued the ban on the use of D.C. appropriated funds for abortion—in other words, codifying the Hyde amendment. So, I must ask my colleagues on the Rules Committee—why did you grant special protection to the Dixon language?

We should have been able to have chosen between the two. I urge my colleagues to reject this rule and to reject this weak attempt to appease those of us who are trying to protect the rights of the unborn.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman from yielding me this time.

Mr. Speaker, I rise today to urge my colleagues to vote against the rule for the D.C. conference report. This rule offers special protection to an amendment which it's supporters claim limits the use of taxpayer appropriated funds for abortions. All of the funds for the District of Columbia are appropriated by Congress. Federal as well as local. It is disingenuous to claim that by limiting the use of Federal funds for abortion, it will limit taxpayer funded abortion on demand in the District of Columbia.

A recent poll has shown that 69 percent of all Americans oppose the use of taxpayers' funds for abortion except to save the life of the mother or in cases of rape or incest. It is reprehensible that we should be here today voting on a rule that does not allow those of us who cherish life to offer an amendment that clearly has the support of the taxpaying American public—an amendment that would ensure that no taxpayer funds are used for abortion except to save the life of the mother or in the tragic cases of rape or incest.

Again, I urge my colleagues to vote "no" on this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. I thank the gentleman for yielding me this time.

Mr. Speaker, it should not be necessary for us to discuss abortion during a debate on appropriations for the District of Columbia, but unfortunately some members feel that the women in the District of Columbia—if they're poor—shouldn't have the same rights as other American women, and that the people of the District should not have control over their own tax funds. So abortion is once again a central issue here today.

I believe very strongly that the decision about abortion during the early months of pregnancy is a decision properly left with the women, her family, and her physician. In each case, it is the woman, along with those she most trusts, who is in the best position to decide about an abortion. It is a personal moral decision, not a governmental one. And it is impossible for any of us here today to prejudge what that woman is going through, and what the right decision for her is when she is faced with that choice.

The Supreme Court has, on many occasions, made it clear that women have this fundamental right, and Government cannot take it away. This medical procedure is legal. We should not deny access to a legally protected medical procedure to certain citizens simply because they live in the District of Columbia.

This conference report, in its original form, would have allowed the people of the District of Columbia to decide whether, and under what terms, they would or would not use Federal funds for abortions for poor women. That is it. It would have neither preempted nor overridden any decision about this issue by the government of the District. That's the essence of home rule.

As the House showed by its vote last week, this was not an acceptable approach for those who want the Government to interject itself into these affairs. So the conferees have fashioned a compromise that would put the people of the District of Columbia on the same footing as the people of New Jersey and Indiana and Colorado. We have amended this conference report by inserting the very same restrictions on the use of all Federal funds provided in this bill that the House adopted in the Labor-HHS appropriations bill a few weeks ago for Medicaid funds.

There are some in this body who are not satisfied even with this compromise. They want to continue to force the same restrictions on local D.C. funds that have been in effect since the mid-1980's—restrictions that have made second-class citizens out of poor women—really, all people—in the District of Columbia.

They apparently do not see the inconsistency, or just want to gloss over the inconsistency, in trying to impose on 600,000 hardworking Americans a mandate that they would never dream of asking the House to impose on the rest of the American people.

Can we imagine the uproar from Park Ridge, IL or Huntington Beach, CA or Bartlesville, OK if we told their citizens, "We don't care how your elected officials in Springfield or Sacramento or Oklahoma City decide how they're going to spend your State taxes, we've got a few instructions of our own?"

Our capital city has a multitude of problems, and its leaders are not dealing with them in a manner that satisfies us. Washington is an easy target. We have all seen the post cards in our offices from the right-wing direct-mail organizations. They are bashing the District's efforts to become the 51st State and raising money by stirring up fear and promoting racial hatred.

But this argument isn't over whether we approve or disapprove of the D.C. government or its officials. It is over whether its 600,000 residents have the right to make their own decisions about spending their own money. D.C.'s local taxes cover 84 percent of their expenses, and the opponents of this compromise want to restrict that 84 percent—not the 16 percent the Federal Government provides in lieu of property taxes. Do we honestly think the people from our home districts would stand still for a similar interference?

Mr. Speaker, this new restriction is a compromise we should support. It is not ideal, but it does reverse a travesty that has been perpetrated on the people of the District of Columbia for the past several years. The original conference report took a giant step in that direction. But the House has said that is not to be. We are instead taking a small step backward by restricting all Federal funds that flow to the District government. We should, if we have any basic respect for the principle of local autonomy, vote for this rule and then for the conference report.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. I thank the gentleman for yielding me this time.

Mr. Speaker, last week the House rejected the D.C. appropriations conference report precisely because it reversed current policy that proscribes taxpayer funded abortions in the District of Columbia.

After the vote, Mr. DIXON and other conferees reopened the conference, and inserted language that says no Federal funds can be used to pay for abortions except in the case of rape, incest and life of the mother.

Notwithstanding its obvious surface appeal, this action, this language, is not at all what it seems to be. Please, I say to my colleagues, do not be fooled. Please do not be misled.

Simply put, if this rule passes and the D.C. conference report is enacted into law as presently written, taxpayers will be forced to pay for abortion on demand, at any time during the baby's gestational age.

What the purported Hyde language in this bill does not do is reach or affect in any way the other pot of funds over which Congress has jurisdiction.

If enacted, this appropriations bill will be used to pay D.C. abortionists to inject poison into the fragile bodies of little children. The chemical poison of choice, a highly concentrated salt solution, chemically burns, chokes, and ultimately kills the baby. Hiding behind home rule to defend that kind of tragedy and travesty is simply wrong.

In like manner, if you vote "yes" on the rule and "yes" on the bill, public funds will be diverted to abortionists who will then cut, hack, and dismember unborn babies.

The bottom line, Mr. Speaker, is that the so-called Hyde language in the bill will not stop even one dime, not one abortion payment, not one dime would be prohibited as a result of this language. It is interesting to note how the pro-abortionists in the House keep harping on how the Hyde amendment is preserved in the D.C. bill. They know, including the provision is the only way to pass this bill. But I ask Members, do not be fooled.

Mr. Speaker, it is bad enough that this baby-battering called abortion on demand has been given sanction by the high court, but do not force taxpayers to underwrite the cost of this child abuse. Do not force conscientious objectors, be they in the District of Columbia or anywhere else in the land, to be party to the destruction of children.

I ask my colleagues to defeat the pending rule so that an amendment that I have asked be made in order be permitted consideration. The amendment cosponsored by Mr. HYDE and Mr. DORNAN, like the policy that has been in effect since 1988, says simply no taxpayer funds, local or Federal, can be used for abortions except to save the life of the mother.

Additionally, tracking the recently enacted Hyde amendment, the amendment adds two additional exceptions: rape and incest. This admittedly is a compromise on the part of the pro-life side, but it is a position we advance to save the most number of kids from the human butchers.

Mr. Speaker, I simply ask for a chance to offer this pro-life amendment. I ask that it be considered. We ask for fairness, not a closed rule. We ask for an opportunity to do just what Mr. DIXON has done. He has his amendment, his language protected by this rule. Why not allow our side at least an opportunity on the House floor, whether we win or not, be given an opportunity to be considered?

Mr. Speaker, let me say finally that we should make no mistake about it that if this amendment passes, lives will be saved. During consideration of the Hyde amendment earlier this year, I and others pointed out during that debate that as a direct result of the Hyde amendment, an estimated 1 million children have been spared. If you look at it another way, that is JFK Stadium filled to capacity with children not once but 20 times. Lives, too, will be saved if our amendment is approved to this bill.

About 5,000 children, it has been estimated, have been spared the agony and the cruelty of abortion since Mr. DORNAN successfully amended the law back in 1988. It would fill our own House Chamber—look around and see the seats around you—fill that Chamber to capacity 10 times. That is how many kids we are talking about would be saved if this amendment is continued.

Mr. Speaker, I know that we cannot save everybody; we all try, we are all concerned about children. But to hide behind home rule and say somehow this injustice of abortion on demand at taxpayer expense ought to be promoted and provided as a SOP to home rule is ridiculous. We have a moral obligation, I would submit, to help those we can especially children whether those people be in New Jersey, the District of Columbia, or anywhere else. If we can save a child in the District of Columbia today, that precious child's life is worth any and all aggravation. And if that means defeating a conference report move debate and discussion the life of a child is worth, in my view, that kind of effort.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished chief deputy whip, the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, last week I urged my colleagues to be really clear about the issue that is in front of us today. And today I renew that plea. Even though the waters have become more muddied, we are still dealing with a very straightforward issue, and that issue is the right of 600,000 citizens of the District of Columbia to exercise self-determination.

□ 1410

Last week I told my colleagues that this debate was not about Medicaid funding, which it is not. All Medicaid funding is covered by the Hyde amendment.

Last week we brought this conference report to the floor and it treated the District just like every other State. Other States have the right to self-determination. The conference report went down.

We went back to the Rules Committee and inserted the words saying, "No Federal funding for abortion"; but it seems this still does not satisfy some people.

So I urge my colleagues to look at this as an issue of fairness.

So many of the people who come to Congress have been in State legislatures. Can you imagine being told by Washington, DC, how you would spend your State money, money raised by your State income tax? The people of your State would be outraged, and so would you.

I was a Hartford city councilwoman for 5 years and I know how the people of my city of Hartford treasure their tax dollars, their local tax dollars, and I would have fought to the death to make sure nobody told them how to spend their hard-earned dollars.

So be fair today to the District of Columbia. If you cannot be fair, then have some pride. This is our National Capital.

A constituent of mine came here last week and said, "Oh, what a wonderful city," but this is a city with two sides. It is a city to which tourists come, and you see them in the hall. They love this city.

But this city has the same problems as every other city in the United States of America, real terrible tough problems.

So today we should allocate the money to the city so that they can go on with the work of trying to solve the same problems that many of us have.

I ask people to have pride in their National Capital, to treat them well. I ask people to be fair. I ask them not to use a debate that is going on in this country, and we all have very strong feelings about that debate, but do not put this difficult question on the back of the District of Columbia. Vote for the rule. Be fair.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, I will echo the words of the last speaker, the distinguished gentlewoman.

I want to be fair, too. But I also want to adhere to the U.S. Constitution which gives us the responsibility to speak here today.

I have true affection for three cities in the United States, and all of them are horribly besieged by crime. For example, New York City, the Big Apple where I was born, has got serious troubles.

Los Angeles has a similar problem. In fact, I went home to speak at the Biltmore Hotel in Los Angeles, where John F. Kennedy beat LBJ. There was a pall of melancholy over the whole greater Los Angeles area because of crime. It is sad that a city named after the angels would be so plagued by crime.

I love this capital city. And I can tell the gentlewoman from the District of Columbia [Ms. NORTON] there is no more intellectually stimulating place on the planet Earth. But this city is in bad shape. If we love it then we have got to use the constitutional paper we have to improve it.

I rise to oppose this rule because some of us are trying to get something considered and we are being unfairly blocked.

For the past 5 years, the D.C. appropriations bill has included a provision that I initiated years ago preventing all congressionally appropriated funds from paying for abortions in the District of Columbia.

This conference report will completely overturn this pro-life policy.

The amendment by the gentleman from California [Mr. DIXON], which was added to the conference report, is not—repeat, not like the Hyde amendment to the Labor-HHS bill. It would not deny funding for a single abortion.

My friend, the gentleman from California [Mr. DIXON] added the word "Federal" to the Hyde language, which renders the limitation utterly meaningless. With this language, the District of Columbia will simply designate the money that pays for 4,000 abortions, which is more than the number of children actually born in the District of Columbia, as local funds which are, of course, fungible.

The gentleman from New Jersey [Mr. SMITH] and the gentleman from Illinois [Mr. HYDE] offered an amendment in the Rules Committee that would allow the House to vote on the old Dornan amendment, with no funding of abortions except in cases of rape, incest, and life of the mother. That was a hard-fought battle on our side, I can guarantee you that.

There are many of us who believe the product of rape is a human being with an immortal soul.

What is interesting is that the amendment of the gentleman from California [Mr. DIXON] was placed within the conference report and given special protection by the Rules Committee. Twelve other amendments in disagreement will be considered after the conference report is adopted, none of which address the new language on abortion.

Vote "no" on this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3½ minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, unlike the previous speakers who have risen in support of this rule and conference committee report, I come to the well with a slightly different background on the issue of abortion.

I supported the Hyde amendment. I even supported the Hyde amendment when it was the Boxer amendment.

I think the gentleman from Illinois is correct. The expenditure of Federal funds should be restricted, there should be a restriction on abortions. It should be limited to cases of rape, incest, and the life of the mother, and I voted that way.

But I find it somewhat insistent, the previous speaker and many others who have risen today are trying to impose a different standard on the District of Columbia and saying to them when it comes to their local funds, when it comes to revenues that they have raised, we want also to impose that obligation and the limitation of the Hyde amendment.

It is curious to me that for 8 years the previous speaker, the gentleman from California, has risen on this issue and on three or four consecutive years I made the point to him that his own home State of California uses its State funds far beyond the restrictions of the Hyde amendment.

The gentleman has said, "Well, I'm going to have to look into that."

Well, I have waited for 8 years. I cannot recall a single speech or an amendment by that gentleman or anyone else from the 13 States which allow their State funds to be used beyond the Hyde amendment that would restrict any Federal funds or restrict any expenditures in terms of their use of State funds.

So you have to ask yourself the question, why is it that some Members are on their high moral horse here when it comes to the District of Columbia, and yet ignore when their own home States are using their State funds beyond the restrictions of the Hyde amendment?

Why are they singling out the District of Columbia? Is it because it is an impoverished city in many areas? Is it because there are so many African-Americans in the District of Columbia, or so many Democrats, or the fact that it does not have full congressional representation? Why must the District of Columbia always be the whipping post year in and year out for these same Congressmen who will not apply the same standards to their own home States?

It is time for us to recognize that if you support the Hyde amendment, it applies to Federal funds, and this bill explicitly says that the Hyde amendment shall apply to Federal funds.

By this little quirk of bookkeeping where the local funds of the District of Columbia go through the Federal Treasury, the right-to-life movement and many of my colleagues are trying to make a great issue.

I will believe their sincerity when they apply the same standards to their home States, and until then, respect the right of the District of Columbia to home rule.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I yield to my colleague, the gentleman from California.

Mr. DORNAN. Mr. Speaker, I thank the gentleman for yielding to me, and he is a gentleman. I have tried to figure out a way in 8 years to find jurisdiction in my own State where there is some of this hyprocisy; but the gentleman knows as I know that we have constitutional authority here and I do not have constitutional authority to stop fungibility of funds or hypocrisy in California.

Mr. DURBIN. Reclaiming my time, Mr. Speaker, let me say in closing, I do not quarrel with the gentleman. We are dealing with the fact that the local funds of the District of Columbia do pass through Congress and through the Federal process. I do not quarrel with it.

But where is the justice and equity when 13 States through their legislatures can establish standards which this country recognizes and then turns to the District of Columbia, subjugates them and says that they will be treated differently?

I see no fairness in this. I urge my colleagues, those who voted for the Hyde amendment, to stay consistent. Vote for the rule and vote for the conference committee report.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, I want to answer the gentleman further, because he said we are picking on this city because of the African-American makeup of the population.

I have stood in this well many times to say that I marched for civil rights with Martin Luther King in this very city, and I am proud of that.

I went to Mississippi and Alabama as a Republican conservative to register voters.

I admit, I was kind of lonesome in that category, but I did enough that I had a death contract out on me by sheriffs Ferris, Price, and Raney. I faced them down in their own offices.

There is no African-American twist to this. Indeed, how could there be? How those of us who want more black babies born in this city possibly have their motives questioned? When Jesus said, "Whatever you do for the least of these, you do for me," he was not just speaking to DORNAN of California. He was speaking also to DURBIN of Illinois.

I am simply trying to save lives. If they happen to be black babies in their mother's womb or Asian, or white. A life is a life. It is a crime that more babies die by abortion than are allowed to be born in this city. So please, spare us your home rule hypocrisy and don't dare question my motives.

□ 1420

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair indicates to the gallery that we are pleased to have guests here. However, demonstrations concerning what happens here on the floor are not permitted by the House rules.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to the gentleman from Illinois [Mr. HYDE] I would like to say that it is so important that we defeat this rule.

Mr. Speaker, it is awfully easy for the District of Columbia to play a shell game and use Federal dollars for abortion.

You know, when you have a shell game, you spend money from underneath one shell, and you move it over, and you spend it from the other shell. I would like to believe that this could not be true, but I think it is. The gentlewoman from the District said that conference reports were always under a closed rule. I would like to inform her that is not the case. We do allow amendments. The Committee on Rules has the authority, Mr. Speaker. We tried to get the Smith amendment made in order unsuccessfully.

So, I urge the defeat of this rule at this time.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. HYDE] to close the debate on this date.

Mr. HYDE. Mr. Speaker, I thank the gentleman from Tennessee [Mr. QUILLEN] for yielding this time to me.

I would never presume to instruct my dear friend from Illinois [Mr. DURBIN], Mr. Speaker. He is a fine man and a fine Congressman. But, "Really," I say to the gentleman, "don't question our motives. Don't say that we are picking on the District of Columbia because there are a lot of African-Americans there. That's really beneath you. I would like more children born rather than killed; that's my motive, and I don't care where they are." And the gentleman well knows, I have opposed abortion everywhere in the country, not merely in the District of Columbia.

Now, Mr. Speaker, this rule is oppressive. It is a closed rule in the sense that the majority gets what it wants, points of order waived, a fraudulent Hyde amendment, and we did not get a full Hyde amendment. We did not get what we want.

The issue is big enough, important enough, significant enough to be fully debated, but we are oppressed with another closed rule, and so I say to my colleagues, "So then, when you people get down here and talk about bipartisanship and fairness, it really has a hollow sound, believe me."

Now, the District of Columbia, with all its problems, and I mean problems, is hung up on abortion, killing unborn children. We want to vote for money for the District of Columbia. It is the Capital City, it is the Federal City, but we are hung up here on the power, to exterminate innocent, inconvenient children. That is what is hanging this up. What an irony.

Now the amendment that the gentleman from California [Mr. DIXON] has put in this bill is a distinction without a difference. It does not stop one abortion, but it pretends to stop abortions by its very words.

There is an old Italian saying: "You may dress the shepherd in silk, but he will still smell of the goat." Now they put a Hyde amendment in here, but the goat smell is in here, too, Mr. DIXON.

Money is fungible like corn in a silo. If we give money to the District, that frees up what they are pleased to call "District money" for abortions, but the quarrel the gentleman from Illinois [Mr. DURBIN] has and the gentlewoman from Connecticut [Mrs. KENNELLY] has is not with us; it is with the Constitution.

Mr. Speaker, may I remind my colleagues, may I presume to remind my colleagues, the District of Columbia is not a State, not yet, and until it is, article I prevails, and article I gives this body the legislative authority, the exclusive legislative authority, over the District of Columbia. So, their quarrel is with the Constitution, not with us.

Now this bill's formula, as presented artfully and craftily by the gentleman from California, will coerce, through the tax process, the use of public funds to subsidize abortions. I ask, "Aren't there enough abortions in the District of Columbia? How do you make abortion safe, legal, and rare when you subsidize it? You get more of it—more—and already, among its distinctions, the District of Columbia has an abortion rate three times that of any State of the Union."

Vote "no" on this rule.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I may be in a somewhat awkward position because I agree with the gentleman from Illinois on the principle of no elective abortions. I am sorry; that is just my position. I favor the exceptions of rape, and incest, and the saving of the life of the mother. I do not believe in killing anything. In fact, Mr. Speaker, I am a vegetarian.

But I think there is a misconception about the payments to the District of Columbia, and I say to my colleagues, those of you who may come from jurisdictions where there is a Federal presence will remember Federal impact aid. The theory of Federal impact aid is that the Federal Government occupies territory that otherwise would be owned privately and would pay property taxes to the local jurisdictions.

Mr. Speaker, that is the proper analogy for the so-called aid to the District of Columbia. It is Uncle Sam paying his taxes because he is a tenant in the District of Columbia, and I might not have been able to make that argument before home rule, but since home rule it is crystal clear to me.

Therefore, Mr. Speaker, I support the position of the committee.

Mr. DERRICK. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 239, nays 187, not voting 7, as follows:

[Roll No. 533]

YEAS—239

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Coyne
Cramer
Darden
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)

Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Horn
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kaptur
Kennedy
Kennelly
Kleczka
Klein
Klug
Kolbe
Kopetski
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Machtley
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Price (NC)
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Shays
Shepherd
Sisisky
Skaggs
Slattery
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Strickland
Studds
Swett
Swift
Synar
Tanner
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zeliff
Zimmer

NAYS—187

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clement
Clinger
Coble
Collins (GA)
Combest
Costello
Cox
Crane
Crapo
Cunningham
Danner
de la Garza
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English (OK)
Everett
Ewing
Fields (TX)
Fish
Fowler
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoekstra
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kanjorski
Kasich
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kyl
LaFalce
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Mann
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Mollohan
Moorhead
Myers
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Stupak
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Bateman
Berman
Royce
Sharp
Stokes
Tauzin
Whitten

□ 1448

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Tauzin against.

Mr. PORTER and Mr. DELAY changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1450

Mr. DIXON. Madam Speaker, pursuant to the previous order of the House, I call up the further conference report on the bill (H.R. 2492) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mrs. UNSOELD). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House, Wednesday, October 20, 1993, at page 25612.)

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] will be recognized for 30 minutes, and the gentleman from New York [Mr. WALSH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. SMITH of Michigan. Madam Speaker, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from Michigan.

(By unanimous consent Mr. SMITH of Michigan was allowed to speak out of order).

ANNOUNCEMENT REGARDING FRESHMAN CLASS SPECIAL

Mr. SMITH of Michigan. Madam Speaker, I appreciate the indulgence of the House to announce a meeting this afternoon from 3 to 4 o'clock for Republican freshmen and Democrats, and I join with the gentlewoman from New York [Mrs. MALONEY] in announcing that John Kamensky, Deputy Project Director of the National Performance Review, and Roger Johnson, with the GSA, and other Members will give the freshman class a briefing between 3 and 4 in room 2154 Rayburn.

GENERAL LEAVE

Mr. DIXON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include tabular and extraneous material, on the future conference report on H.R. 2492.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DIXON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the revised conference agreement which I bring to the House this afternoon is identical to the conference agreement which was voted on last Wednesday with one exception, the issue of funding for abortion.

The conferees met last week and agreed to include a new section, section 142, under amendment number 30, which places the same abortion restrictions on the use of Federal funds in this bill as the so-called Hyde amendment mandates for Federal Medicaid funds.

In other words, the new language we bring to the floor today in section 142 prohibits the use of Federal funds in this bill for abortions except when it is made known to the entity or official to which funds are appropriated that such procedure is necessary to save the life of the mother, or that the pregnancy is the result of an act of rape or incest.

Madam Speaker, I personally believe this restriction is unfair, because it applies a higher standard to the District than is applied to the 50 States. The Federal funds in our bill are paid to the District in lieu of taxes on the 41 percent of District land owned by the Federal Government, and therefore, should be treated as any other local taxes and revenues are treated, and not be subject to Federal restrictions.

Nevertheless, I urge Members to support this revised agreement so we may proceed with necessary funding for District of Columbia programs.

At this point in the RECORD, I will insert a tabulation summarizing the conference action.

(The table referred to follows:)

District of Columbia Appropriations Bill, FY 1994, (H.R. 2492)

	FY 1993	FY 1994				Conference compared with			
	Enacted	Estimate	House	Senate	Conference	Enacted	Estimate	House	Senate
TITLE I									
FISCAL YEAR 1994 APPROPRIATIONS									
FEDERAL FUNDS									
Federal payment to the District of Columbia	624,854,400	653,031,000	630,603,000	630,603,000	630,603,000	+5,748,600	-22,428,000		
Federal contribution to retirement funds	52,070,000	52,070,000	52,070,000	52,070,000	52,070,000	—	—	—	—
Federal contribution to crime and youth iniatives	—	—	17,327,000	15,327,000	17,327,000	+17,327,000	+17,327,000	—	+2,000,000
Presidential inauguration	5,514,000	—	—	—	—	-5,514,000	—	—	—
Trauma care fund	5,561,600	—	—	—	—	-5,561,600	—	—	—
Total, Federal funds to District of Columbia	688,000,000	705,101,000	700,000,000	698,000,000	700,000,000	+12,000,000	-5,101,000	—	+2,000,000
Total, Federal funds to the District of Columbia	688,000,000	705,101,000	700,000,000	698,000,000	700,000,000	+12,000,000	-5,101,000	—	+2,000,000
Appropriations, fiscal year 1994	(688,000,000)	(705,101,000)	(700,000,000)	(698,000,000)	(700,000,000)	(+12,000,000)	(-5,101,000)	—	(+2,000,000)
DISTRICT OF COLUMBIA FUNDS									
Operating Expenses									
Governmental direction and support	(115,591,000)	(115,888,000)	(118,543,000)	(114,781,000)	(115,888,000)	(+297,000)	—	(-2,655,000)	(+1,107,000)
Economic development and regulation	(102,888,000)	(87,293,000)	(85,348,000)	(85,629,000)	(87,293,000)	(-15,595,000)	—	(+1,945,000)	(+1,664,000)
Public safety and justice	(945,551,000)	(892,156,000)	(907,966,000)	(877,703,000)	(892,156,000)	(-53,395,000)	—	(-15,810,000)	(+14,453,000)
(By transfer)	—	—	—	—	(1,025,000)	(+1,025,000)	(+1,025,000)	(+1,025,000)	(+1,025,000)
Public education system	(713,592,000)	(711,742,000)	(711,813,000)	(710,742,000)	(711,742,000)	(-1,850,000)	—	(-71,000)	(+1,000,000)
Human support services	(886,777,000)	(882,359,000)	(914,830,000)	(869,587,000)	(882,359,000)	(-4,418,000)	—	(-32,471,000)	(+12,772,000)
Public works	(227,622,000)	(206,191,000)	(215,749,000)	(203,939,000)	(206,191,000)	(-21,431,000)	—	(-9,558,000)	(+2,252,000)
Washington Convention Center Fund	(13,250,000)	(12,850,000)	(12,850,000)	(12,850,000)	(12,850,000)	(-400,000)	—	—	—
Repayment of loans and interest	(291,299,000)	(306,264,000)	(312,948,000)	(316,948,000)	(306,264,000)	(+14,965,000)	—	(-6,684,000)	(-10,684,000)
Repayment of general fund recovery debt	(38,342,000)	(38,337,000)	(38,337,000)	(38,337,000)	(38,337,000)	(-5,000)	—	—	—
Optical and dental benefits	(3,423,000)	(3,323,000)	(3,423,000)	(3,423,000)	(3,323,000)	(-100,000)	—	(-100,000)	(-100,000)
Inaugural expenses	(5,514,000)	—	—	—	—	(-5,514,000)	—	—	—
Pay adjustment	—	(81,680,000)	(70,680,000)	(81,680,000)	(81,680,000)	(+81,680,000)	—	(+11,000,000)	—
Severance pay	—	(2,202,000)	—	(11,033,000)	(2,202,000)	(+2,202,000)	—	(+2,202,000)	(-8,831,000)
Facilities rent/leases	(16,682,000)	—	—	—	—	(-16,682,000)	—	—	—
Trauma care fund	(5,561,600)	—	—	—	—	(-5,561,600)	—	—	—
Furlough adjustment	(-36,000,000)	—	—	—	—	(+36,000,000)	—	—	—
Within-grade salary adjustments	(-13,000,000)	—	—	—	—	(+13,000,000)	—	—	—
D.C. General Hospital deficit payment	—	(10,000,000)	—	(20,000,000)	(10,000,000)	(+10,000,000)	—	(+10,000,000)	(-10,000,000)
Personal and non-personal services adjustment	(-30,798,600)	—	(-27,062,000)	(-7,000,000)	—	(+30,798,600)	—	(+27,062,000)	(+7,000,000)
Energy adjustment	—	(-482,000)	—	—	(-482,000)	(-482,000)	—	(-482,000)	(-482,000)
Communications adjustments	—	(-158,000)	—	—	(-158,000)	(-158,000)	—	(-158,000)	(-158,000)
Contractual services adjustment	—	(-1,500,000)	—	—	(-1,500,000)	(-1,500,000)	—	(-1,500,000)	(-1,500,000)
Cash reserve fund	—	(3,957,000)	—	—	(3,957,000)	(+3,957,000)	—	(+3,957,000)	(+3,957,000)
Total, operating expenses, general fund	(3,286,294,000)	(3,352,102,000)	(3,365,425,000)	(3,339,652,000)	(3,352,102,000)	(+65,808,000)	—	(-13,323,000)	(+12,450,000)
Capital Outlay									
General fund	(393,639,000)	(108,743,000)	(108,743,000)	(158,743,000)	(108,743,000)	(-284,896,000)	—	—	(-50,000,000)
Enterprise Funds									
Water and Sewer Enterprise Fund:									
Operating expenses	(251,630,000)	(240,929,000)	(240,929,000)	(240,929,000)	(240,929,000)	(-10,701,000)	—	—	—
Capital outlay	(45,908,000)	(29,087,000)	(29,087,000)	(29,087,000)	(29,087,000)	(-16,821,000)	—	—	—
Total, Water and Sewer Enterprise Fund	(297,538,000)	(270,016,000)	(270,016,000)	(270,016,000)	(270,016,000)	(-27,522,000)	—	—	—

District of Columbia Appropriations Bill, FY 1994, Including FY 1993 Supplemental (H.R. 2492) - Continued

	FY 1993	FY 1994				Conference compared with			
	Enacted	Estimate	House	Senate	Conference	Enacted	Estimate	House	Senate
Lottery and Charitable Games Enterprise Fund	(8,450,000)	(7,168,000)	(7,168,000)	(7,168,000)	(7,168,000)	(-1,282,000)	---	---	---
Cable Television Enterprise Fund	(2,500,000)	(2,353,000)	(2,353,000)	(2,353,000)	(2,353,000)	(-147,000)	---	---	---
Total, Enterprise Funds	(308,488,000)	(279,537,000)	(279,537,000)	(279,537,000)	(279,537,000)	(-28,951,000)	---	---	---
Total, District of Columbia funds 1/	(3,988,421,000)	(3,740,382,000)	(3,753,705,000)	(3,777,932,000)	(3,740,382,000)	(-248,039,000)	---	(-13,323,000)	(-37,550,000)
Total, title I, fiscal year 1994 appropriations:									
Federal Funds to the District of Columbia	688,000,000	705,101,000	700,000,000	698,000,000	700,000,000	+12,000,000	-5,101,000	---	+2,000,000
Federal funds to other institutions	---	---	---	---	---	---	---	---	---
District of Columbia funds	(3,988,421,000)	(3,740,382,000)	(3,753,705,000)	(3,777,932,000)	(3,740,382,000)	(-248,039,000)	---	(-13,323,000)	(-37,550,000)
(By transfer)	---	---	---	---	(1,025,000)	(+1,025,000)	(+1,025,000)	(+1,025,000)	(+1,025,000)
TITLE II									
FISCAL YEAR 1993 SUPPLEMENTAL									
DISTRICT OF COLUMBIA FUNDS									
Operating Expenses									
Governmental direction and support	---	(14,231,000)	(15,133,000)	(15,501,000)	(14,231,000)	(+14,231,000)	---	(-902,000)	(-1,270,000)
Rescissions	---	(-6,342,000)	(-4,760,000)	(-7,162,000)	(-6,342,000)	(-6,342,000)	---	(-1,582,000)	(+820,000)
Economic development and regulation	---	(5,202,000)	(1,047,000)	(6,047,000)	(5,202,000)	(+5,202,000)	---	(+4,155,000)	(-845,000)
Rescissions	---	(-10,242,000)	(-10,587,000)	(-10,587,000)	(-10,242,000)	(-10,242,000)	---	(+345,000)	(+345,000)
Public safety and justice	---	(6,230,000)	(6,230,000)	(6,230,000)	(6,230,000)	(+6,230,000)	---	---	---
Rescission	---	(-20,578,000)	(-18,921,000)	(-21,078,000)	(-20,578,000)	(-20,578,000)	---	(-1,657,000)	(+500,000)
Public education system	---	(1,976,000)	(246,000)	(4,246,000)	(1,976,000)	(+1,976,000)	---	(+1,730,000)	(-2,270,000)
Rescission	---	(-5,233,000)	(-7,503,000)	(-7,503,000)	(-5,233,000)	(-5,233,000)	---	(+2,270,000)	(+2,270,000)
Human support services	---	(81,772,000)	(70,772,000)	(81,772,000)	(81,772,000)	(+81,772,000)	---	(+11,000,000)	---
Rescissions	---	(-2,221,000)	(-2,221,000)	(-2,221,000)	(-2,221,000)	(-2,221,000)	---	---	---
Public works	---	(23,447,000)	---	---	(23,447,000)	(+23,447,000)	---	(+23,447,000)	(+23,447,000)
Rescissions	---	(-3,271,000)	(-3,271,000)	(-3,271,000)	(-3,271,000)	(-3,271,000)	---	---	---
Washington Convention Center Fund (rescission)	---	---	---	---	---	---	---	---	---
Repayment of loans and interest	---	(11,059,000)	(19,051,000)	(11,059,000)	(11,059,000)	(+11,059,000)	---	(-7,992,000)	---
Repayment of general fund recovery debt	---	(-5,000)	(-5,000)	(-5,000)	(-5,000)	(-5,000)	---	---	---
Resizing	---	(225,000)	(225,000)	(225,000)	(225,000)	(+225,000)	---	---	---
Pay adjustment	---	(7,880,000)	(7,880,000)	(7,880,000)	(7,880,000)	(+7,880,000)	---	---	---
Severance pay	---	(10,410,000)	(10,410,000)	(10,410,000)	(10,410,000)	(+10,410,000)	---	---	---
Facilities rent/leases	---	(-16,682,000)	(-16,682,000)	(-16,682,000)	(-16,682,000)	(-16,682,000)	---	---	---
Furlough adjustment	---	(36,000,000)	(36,000,000)	(36,000,000)	(36,000,000)	(+36,000,000)	---	---	---
Within-grade adjustment	---	(13,000,000)	(13,000,000)	(13,000,000)	(13,000,000)	(+13,000,000)	---	---	---
Personal and nonpersonal adjustment	---	(30,798,600)	(1,068,600)	(30,798,600)	(30,798,600)	(+30,798,600)	---	(+29,730,000)	---
Total, operating expenses, general fund (net)	---	(177,656,600)	(117,112,600)	(154,659,600)	(177,656,600)	(+177,656,600)	---	(+60,544,000)	(+22,997,000)
Capital Outlay									
General fund	---	(200,000)	(200,000)	(200,000)	(200,000)	(+200,000)	---	---	---
Rescissions	---	---	---	---	---	---	---	---	---
Total, Capital Outlay (net)	---	(200,000)	(200,000)	(200,000)	(200,000)	(+200,000)	---	---	---
Enterprise Funds									
Water and sewer enterprise fund:									
Operating expenses	---	(12,717,000)	(12,717,000)	(12,717,000)	(12,717,000)	(+12,717,000)	---	---	---
Rescissions	---	(-41,482,000)	(-41,482,000)	(-41,482,000)	(-41,482,000)	(-41,482,000)	---	---	---
Total, Water and Sewer	---	(-28,765,000)	(-28,765,000)	(-28,765,000)	(-28,765,000)	(-28,765,000)	---	---	---

District of Columbia Appropriations Bill, FY 1994, Including FY 1993 Supplemental (H.R. 2492) - Continued

	FY 1993	FY 1994				Conference compared with			
	Enacted	Estimate	House	Senate	Conference	Enacted	Estimate	House	Senate
Lottery and Charitable Games Enterprise Fund	---	(-270,000)	(-270,000)	(-270,000)	(-270,000)	(-270,000)	---	---	---
Cable Television Enterprise Fund	---	(35,000)	(35,000)	(35,000)	(35,000)	(+35,000)	---	---	---
Rescissions	---	(-300,000)	(-300,000)	(-300,000)	(-300,000)	(-300,000)	---	---	---
Total, Enterprise Funds, Net	---	(-29,300,000)	(-29,300,000)	(-29,300,000)	(-29,300,000)	(-29,300,000)	---	---	---
Total, title II, fiscal year 1993 supplemental									
District of Columbia funds (net) 2/	---	(148,556,600)	(88,012,600)	(125,559,600)	(148,556,600)	(+148,556,600)	---	(+60,544,000)	(+22,997,000)
Appropriations	---	(227,166,600)	(158,006,600)	(208,104,600)	(227,166,600)	(+227,166,600)	---	(+69,160,000)	(+19,062,000)
Rescissions	---	(-78,610,000)	(-69,994,000)	(-82,545,000)	(-78,610,000)	(-78,610,000)	---	(-8,616,000)	(+3,935,000)
Grand total:									
Federal funds to the District of Columbia	688,000,000	705,101,000	700,000,000	698,000,000	700,000,000	+12,000,000	-5,101,000	---	+2,000,000
District of Columbia funds, 1994	(3,988,421,000)	(3,740,382,000)	(3,753,705,000)	(3,777,932,000)	(3,740,382,000)	(-248,039,000)	---	(-13,323,000)	(-37,550,000)
(By transfer)	---	---	---	---	(1,025,000)	(+1,025,000)	(+1,025,000)	(+1,025,000)	(+1,025,000)
District of Columbia funds (net), 1993	---	(148,556,600)	(88,012,600)	(125,559,600)	(148,556,600)	(+148,556,600)	---	(+60,544,000)	(+22,997,000)
Appropriations	---	(227,166,600)	(158,006,600)	(208,104,600)	(227,166,600)	(+227,166,600)	---	(+69,160,000)	(+19,062,000)
Rescissions	---	(-78,610,000)	(-69,994,000)	(-82,545,000)	(-78,610,000)	(-78,610,000)	---	(-8,616,000)	(+3,935,000)

1/ Includes decreases of -$36,969,000 for FY 1994 submitted in H.Doc. 103-136.

2/ Includes supplemental increases of $30,815,000 for FY 1993, of which, $23,447,000 is for the July-September 1992 payment to METRO for operating expenses, submitted in H.Doc. 103-136.

Madam Speaker, I reserve the balance of my time.

Mr. WALSH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, last week the House conference report on the District of Columbia was defeated. Madam Speaker, we defeated this bill for a number of reasons, primarily, because it allowed the use of taxpayers' dollars to pay for abortion. Now the report before us, while precluding federally appropriated dollars, would allow local funds to be used. Since use of Federal dollars for other municipal obligation would free up more local funds, it is my concern that more abortions would be performed. I cannot support that.

I will also take a moment to say to my colleagues that the report still contains language delaying the obligation of $2 million to the retirement fund until the end of fiscal year 1994. This pension is already seriously underfunded and will require major surgery if it is to survive. I would like to have seen full payment of $52 million, as agreed to by Congress. I fear that we are setting a bad precedent when we start delaying payment. Our commitment to the District has the force of law and obliges us to meet our commitment. We should stick to it. Those retired employers were given our commitment and have planned accordingly, we cannot continue to shortchange them.

An unfortunate sidelight to this debate has been the statehood demonstrations. No one would deny the citizens of the District the right to protest. The right of free speech should not be challenged. However, when some of the demonstrators block entrances and exits to Federal buildings, they broke the law, and created a public safety hazard. When the district attorney decided not to prosecute the lawbreakers, it created a bad faith situation between Congress and the District of Columbia. Regardless of how they feel about the demonstration and the demonstrators' violation of the law, they are obligated to prosecute. Clearly, this does not help the already strained relationship between the District of Columbia and Congress.

A request of the Congress to provide National Guard troops to the District of Columbia in the face of official disregard of existing laws may be met with some degree of cynicism. For these reasons, I will again vote against the conference report in its current form, and urge my colleagues to oppose the conference report.

Madam Speaker, I reserve the balance of my time.

Mr. DIXON. Madam Speaker, I yield 6 minutes to the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, the first words I want recorded on the floor at this time are words of thanks to my colleagues. I appreciate the strong support we have just gotten on the rule. It means a great deal to me personally. I cannot tell Members how much it means to the people I represent.

However, I must appeal to my colleagues one more time. We must approve the conference report itself and get the D.C. appropriation behind us.

It should be remembered that the Senate overwhelmingly passed our first bill that was silent on abortion for both Federal and local funds. The Members of this House have now inserted unique language into our appropriation, language that applies nowhere that flies the American flag.

This bill has been needlessly difficult for the House, and it has been tortuous for the people I represent, especially at this moment in time.

What the Members have just done is to reject an extreme position on abortion, and the Members have done so because that has never been the position of this body.

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The vote just taken on the rule is where this House has always been.

If it was good enough for Ronald Reagan, who signed bills just like this conference report, it should be good enough for anybody on that side of the aisle and on this side of the aisle. Ronald Reagan signed a bill just like the bill before us today every year for two terms. Do not depart from that tradition. Keep that balance here.

As to whether we in the District of Columbia will be spending local funds for abortion, I must ask, are you serious? Have you been reading the local newspapers lately? The District does not have money for cops in the streets. The only money for abortions for poor women is money you have already restricted for your districts and for mine in restriction on Medicaid funding.

Today I have heard a virtual roster of reasons why people may not vote for this appropriation: Crime in DC, problems with the city government, personal slights inflicted by someone in the District that people feel, votes against spending. How many of my colleagues come from jurisdictions to which these do not apply: Crime, problems with local government and the like? If you come from a jurisdiction where the government runs smoothly, where there is no crime, where you have not felt a personal slight from your local government, you are both fortunate and atypical.

If you deny funds because you just want an opportunity to vote down an appropriations, who are you hurting? You are not hurting the District government. You are not hurting the Mayor or the city council. You are hurting the people that the gentleman from Illinois [Mr. HYDE] says he cares most about. You are hurting poor children in the District of Columbia.

This city is in the middle of cruel layoffs, does not have enough money to pay for cops, has gone to ask the President for the National Guard—and you want to deny it funds.

Further, let us get the buzz words out of this debate. This debate got out of control for a while. It has come back into balance and moderation where the American people are. This is now a question of straight-out fairness.

Is it fair to overturn local self-government? Is it fair to compel uniquely discriminatory language in an appropriation bill? Is it fair to tell D.C. taxpayers how to spend money you had nothing to do with raising? These issues are what fairness is about. Fairness is about paying the debt you owe the District of Columbia because this appropriation is different from every appropriation that comes before this House. It is a debt you owe the District for services rendered and for compelling restrictions on the ability of the District to develop itself economically.

Finally, when you cite the Constitution, my dear colleagues, please cite it all. Do not just cite the part that says that you have plenary jurisdiction over the District of Columbia. You gave that up with the passage of the Home Rule Act, unless you did not mean it 20 years ago. If you want to cite the Constitution, cite the whole Constitution. Cite that part of the Constitution that guarantees self-government and democracy to the people of the District of Columbia, just the same way that the Constitution guarantees those rights to you and to those you represent.

Please vote for the conference report.

Mr. WALSH. Madam Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I think the arguments made by my colleague from the District of Columbia about the sad shape of the economy and the sad shape of the District of Columbia budget again underscores the fact that this area is not ready to be a State, this area is having a tough time working as a city, much less a State.

Well, Madam Speaker, here we are again with the D.C. appropriations conference report—for all practical purposes, the very same conference report we just defeated last week.

The amount of money in the bill—$17 million over the authorized Federal payment—is still the same. The poor fiscal practice of forward funding the pension contribution is still the same. And the ability of the D.C. government to fund abortions is exactly the same.

What is also exactly the same is that this bill rewards city officials who have proven themselves irresponsible by committing illegal acts to pressure Congress, blocking streets leading to the Capitol and even blocking the doorways to a congressional office building.

Let me clarify a few things for my colleagues. I am not talking about citizens exercising their first amendment rights. I strongly support those rights, the right to speak, loudly and aggressively, the right to demonstrate, holding signs and joining with others to make a point. Blocking doors and streets is a totally different matter.

I am also suggesting that this bill should be defeated because of the legal actions of a few private citizens. As I said last week, if that's all it was, I wouldn't even mention it.

What I am talking about are the illegal actions of elected public officials to try to coerce Congress. Our colleague, Ms. NORTON, said that the residents of the District of Columbia didn't vote to blockade Congress, and that's true—but they did vote for several people who have engaged in such illegal activities, and that's the point. And then, of course, appointees of their government made sure that they suffer no punishment for their illegal actions of coercion against this Congress.

If you vote for this conference report, you will be telling the officials of this city, "Go ahead. Commit as many illegal acts against us as you want. Block our streets. Block our doors. There'll be no repercussions. We're such patsies, we'll not only give you your full Federal payment, we'll give you $17 million to boot."

Madam Speaker, we should be stronger than that. We rejected this bill last week. It still has the same problems it had then. Let's reject it again. Vote "no" on this conference report.

Mr. DIXON. Madam Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Madam Speaker, I have not spoken on this issue previously because I know that it is a loser politically in my congressional district, but we must speak out on this.

You know, next month we will all turn our backs on the District of Columbia where we do legislative business, and we will go home to a comfortable place, and sit around and celebrate Thanksgiving with our family, with our children, all of whom were wanted, all of whom are very well cared for, all of whom feel secure in the lives that we are able to provide for them. And we will turn our backs on the District of Columbia, having legislated that women in the northwest of D.C. who can afford to control their own lives will continue to be able to do that, and many of the women in southeast D.C. who do not have the financial resources to do so will not have that control over their own lives, because we have taken it away.

And we have also, many of the Members of this body, attempted to emasculate the D.C. City Council from even being able to determine how to spend its own tax revenue, because we know best what is best for them, how they should be making up their own minds. Our sense of morality is superior to them. Our sense of morality is superior to those young women whose lives we will never for one second experience. We do not know what kinds of conditions they are living under, but we know best how they should make that decision whether to carry a fetus to term or not.

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Over 90 percent of the abortions performed in the District of Columbia are performed in the first trimester, before there is a viable fetus. That is responsibility; but it is also a responsibility to know whether that child can be cared for. Do you think that the amount of violence and the devaluation of life that we see happening in the District of Columbia has no relationship to the number of unwanted children? Have any of you ever walked the family corridor of the District of Columbia and seen young children cower, cower at the sight of their parents? But yet we have some type of moral superiority that we know what is best for people's lives.

We were not elected to play God. We were elected to support the Constitution of the United States. The Constitution of the United States makes clear we ought to separate religion from state. It makes clear that fundamental above all other principles is individual liberty.

Today we are going to violate that sense of individual freedom because of our moral superiority over the people who live in the District of Columbia every day.

Let me also tell you, ladies and gentlemen, what we are talking about is very directly related to the history of the District of Columbia, the fact that the grandparents and great-grandparents of many of the residents of the District of Columbia never had the opportunity to get a decent job or to live in decent housing. They were excluded from the suburbs that I represent. They did not have the options that were available to the white middle class. They were suffering under intolerable economic conditions.

But yet it is up to us to determine what is right and what is wrong in their lives? It is a shame that this bill is going to be passed and that this is the only way that we can appropriate funds to the District of Columbia. It is a shame, and we should be ashamed of ourselves.

Mr. WALSH. Madam Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Madam Speaker, I just want to say for the good of my soul that I think that, following the words of our Founding Fathers in the Declaration of Independence, when they said, "We hold these truths to be self-evident that all men," meaning mankind, "are created equal and endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness," I take that to mean that it is an endowment from Almighty God that is inalienable, the right to life, and if trying to defend that right to life against people who think individual liberty is manifestly exterminating inconvenient, defenseless, vulnerable, can't-rise-up-in-the-streets, cannot-vote, little babies, then I am happy to do it, think whatever of me that ye will.

Mr. DIXON. Madam Speaker, I am pleased to yield 1 minute to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. I thank the gentleman for yielding this time to me.

Let me say to the gentleman from Illinois [Mr. HYDE] that I happen to agree with his respect for the dignity of life, but it is my conclusion—and I have gone through much the same schooling that the gentleman has; I have had a Catholic education my whole life—I do not believe that before the fetus is viable that that is the same human life that exists in the last trimester of pregnancy. If the gentleman wants to put in an amendment that makes it more difficult in the last trimester of pregnancy, I would strongly support that. But there are many Americans who do not believe that what we are trying to do is to preserve human life.

Mr. HYDE. Madam Speaker, will the gentleman yield?

Mr. MORAN. I yield to the gentleman.

Mr. HYDE. I thank the gentleman for yielding.

Madam Speaker, if I may say to the gentleman, it is human, not animal, vegetable, or mineral; it is a life that abortion killed, human life.

Mr. MORAN. It is not a human life. The sperm united with the egg is not human life. Where does the gentleman make that distinction? That is a judgment that each of us must make.

Mr. HYDE. No, sir, that is a medical judgment, and the gentleman is wrong.

Mr. MORAN. It is the gentleman's philosophical and religious conclusion, which I respect, but it ought to also be up to the gentleman to respect other people's conclusions when they differ.

Mr. HYDE. We are here to defend innocent human life.

Mr. WALSH. Madam Speaker, I yield 3 minutes to the distinguished gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman for yielding this time to me.

Madam Speaker, I rise today in opposition to the conference report on the District of Columbia appropriations bill H.R. 2492. This revised version includes a provision that, while no Federal funds may be used for abortion except to save the life of the mother or in cases of rape and incest, local funds may be used to pay for abortions. Local funds and Federal funds are commingled in this bill.

It is merely an exercise in bookkeeping to say that no Federal funds are used for abortion services since all funds in this bill are appropriated by Congress. This bill still allows abortion on demand in our Nation's Capitol.

I recently did a survey of my constituents on a wide range of issues and abortion was one of them; 69 percent of Nevadans said they do not support the use of Federal funds for abortions. This directly correlates with a nationwide survey that shows that 69 percent of all Americans do not support the use of Federal funds for abortion except to save the life of the mother or in cases of rape and incest. It is irresponsible of us to vote on a bill that uses taxpayers moneys in a way that taxpayers absolutely do not support. I urge my colleagues to vote against this bill. Let us send this bill back to conference until it contains language that has the support of the majority of the American people.

Mr. DIXON. Madam Speaker, I have no further requests for time, but I reserve the balance of my time and I reserve the right to close.

Mr. WALSH. Madam Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. I thank the gentleman for yielding this time to me.

Madam Speaker, look at what is going on in Washington, DC: The District of Columbia cannot protect the living, much less those who are yet to be born. When the District of Columbia has crime problems, murder problems, who does the Mayor call for? The Feds, the National Guard.

Now when we want to protect the innocent, the unborn, sudddenly the delegate from the District of Columbia tells us, "Well, the Feds aren't welcome now. Now you are meddlers. Now you are interfering."

The District of Columbia says, Ignore the U.S. Constitution and let them do anything that their council wants to do, the same council whose policies over the past several years have accounted for tens of thousands of people to move out of this place.

Article I, section 9 of the U.S. Constitution says, "We, the Congress," not the D.C. council, have exclusive jurisdiction over the legislation for the District of Columbia. And the home rule charter, by which we try to give them more local control, expressly has the reservation that we maintain the final say in these matters because we cannot give it away.

We kept the power, and it is our duty to decide that issue.

The District of Columbia can shift money around. If it is rape, incest, or the life of the mother, then they can use Federal money. But for other abortions, abortions on demand, they will say, "We will just use that money, but it is still taxpayers money." Federal funds cannot be used for abortion on demand, they can use social workers money or firefighters money, or street cleaners money, and the result is the same. We need to say taxpayers money is not going to be used for abortion on demand; only under limited circumstances such as we adopted for the Hyde amendment.

We need to reject the conference committee report accordingly.

I call upon the Members of this body to do so.

☐ 1520

Mr. WALSH. Madam Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Madam Speaker, I thank the gentleman for yielding this time to me.

I would like to ask my colleague, the ranking Republican, just one brief question.

As I understand it, the gentleman served on the council in his home city before he came to Congress?

Mr. WALSH. Madam Chairman, if the gentleman will yield, that is correct, in Syracuse, NY.

Mr. BURTON of Indiana. And how much did the gentleman get paid for being on the council?

Mr. WALSH. The pay scale then, and I think it still may be, is $15,000.

Mr. BURTON of Indiana. $15,000?

Mr. WALSH. For the city council, part-time.

Mr. BURTON of Indiana. And what is the population of that city?

Mr. WALSH. It is about 170,000.

Mr. BURTON of Indiana. Madam Chairman, I thank the gentleman for his answer.

In Indianapolis, we have 750,000 people and the councilmen there make about $10,000 a year, plus they get meeting stipends, which bring the overall total to about $15,000 a year.

Does the gentleman know how much the councilmen make here in Washington, DC?

Mr. DIXON. Madam Chairman, will the gentleman yield?

Mr. BURTON of Indiana. Let me just finish and then I will be happy to yield in just one moment.

They make $72,000 a year. That is five times what they get in Syracuse. That is five times what they get in Indianapolis, and Indianapolis is 50 percent more in population than Washington, DC, 50 percent more people in Indianapolis than here, and yet they are making five times as much, $75,000 a year to be on the council.

Mr. DIXON. Madam Chairman, will the gentleman yield?

Mr. BURTON of Indiana. Yes, I am happy to yield to the gentleman from California.

Mr. DIXON. In the two States and local jurisdictions that the gentleman cited, who decided what the council would be paid?

Mr. BURTON of Indiana. I imagine the council and the people of the city of Indianapolis.

Mr. DIXON. And that is exactly what has happened here. The people here have made that decision, and through the same kind of process.

Mr. BURTON of Indiana. If I might reclaim my time, Madam Chairman, I would just like to say that when they are using Federal tax dollars from all over the country, and you say to the people of Washington, DC, "What do you want to pay your councilmen?" Or "What do you want to pay my buddies on the council?"

They say, "Well, we don't have to worry about it. It's not our tax dollars. It's Federal tax dollars coming from all over the country."

Mr. DIXON. Madam Chairman, will the gentleman yield?

Mr. BURTON of Indiana. No, I will not yield. I just yielded.

You get five times as much money as you are getting in cities that are much larger in this country; Detroit, Chicago, Indianapolis, Syracuse.

I mean, I think it is absolutely unconscionable that Federal tax dollars are going to this city in the amounts that we are giving them, and they are squandering, in my view, large amounts of money that they are not accountable for because the monies are not raised here.

Now, I am checking and I am sure because I checked this last year and the year before, I am sure that the public employees here in Washington, DC, even if you take into consideration that the cost of living is higher here, the public employees are getting a tremendous amount of money more than cities of like size throughout this country, and I believe it is because of the mentality that exists on the council here, and that is that it is not our tax dollars. We do not have to raise it here. It is coming from the Federal Treasury, and we are as Big Brother here in the Congress keep giving them more and more money.

As a matter of fact, this year we are giving the District of Columbia——

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. WALSH. Madam Chairman, I yield 1 additional minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Madam Chairman, I thank the gentleman for yielding this additional time.

You are getting $12 million more than you got last year, and last year it was $688 million.

Now, I have not checked the budgets for other cities of this size, but I am very confident that this is extremely in excess of what other cities of comparable size are getting.

I just would like to say to my colleagues who may be watching back in their offices that we have to do something about getting control of this city government here. They cannot control crime. They cannot control drugs. They cannot control the streets, and yet every year we give them more and more money.

And what do they do? They take a former convicted felon, the former Mayor of this city, and after he was convicted, he was reelected to the council and he is getting $72,000 a year, which is five times what comparable cities are getting.

I mean, for goodness sakes, where do we draw the line? We need to have more accountability in this city. We are not getting it.

I just would like to say to my colleagues, we ought to vote this thing down, send it back and put some pressure on this administration in this city to change its policies.

Mr. DIXON. Madam Chairman, I yield myself such time as I may consume to engage in a colloquy with the gentleman from Indiana.

Can the gentleman from Indiana tell me the total amount of money in this bill?

Mr. BURTON of Indiana. Madam Chairman, if the gentleman will yield, according to the new budget authority obligated this year in fiscal year 1992, it was $688 million.

Mr. DIXON. No, the total amount in the bill.

Mr. BURTON of Indiana. Well, it says $700 million is obligated for fiscal years 1993 and 1994.

Mr. DIXON. The point that I am trying to make is that the gentleman is talking about things that he has not even taken the time to really discuss and analyze.

I asked the gentleman how much money in total was in the bill. The gentleman is talking about whose money it is.

There is $3.7 billion in this bill; $3 billion are taxpayer dollars from District of Columbia taxpayers; $700 million in Federal funds is provided to the District, $630-some odd million is a Federal payment in lieu of the Federal government paying a property tax here.

You could argue that there is no Federal money in this bill; but my whole point to the gentleman is that he gets up on the floor, and when I ask the gentleman a simple question as to the total amount of money in the bill, the gentleman has to refer to the bill, and then he cannot come up with the answer, he comes up with the wrong answer, just as the gentleman comes up with the wrong answer when he goes through this dialog about something that the gentleman is not conversant with.

Madam Speaker, I reserve the balance of my time.

Mr. WALSH. Madam Speaker, I yield 1 additional minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Madam Chairman, I thank the gentleman for yielding me this additional time.

The gentleman said he wants to be involved in a colloquy, and he stands up and makes a statement and sits down. Is that a colloquy?

Mr. DIXON. I allowed the gentleman to respond.

Mr. BURTON of Indiana. Let me just say, the fact of the matter is, there is $700 million of Federal money in this bill, and every statement I made was accurate.

If the gentleman wants to obfuscate the issue, that is fine.

Now, I realize that the total amount in the bill is $3.753 billion, but the fact of the matter is, there is $700 million in Federal tax dollars.

Mr. DIXON. Madam Chairman, I yield myself 1 additional minute, if the gentleman from Indiana would engage in a colloquy with me.

Mr. BURTON of Indiana. Madam Chairman, the gentleman really wants to talk?

Mr. DIXON. Will the gentleman engage in a colloquy?

The gentleman is absolutely correct. There is $700 million of Federal money—what we want characterized as "federal money."

Can the gentleman break that down for me?

Mr. BURTON of Indiana. I do not think I have to break it down. It is $12 million more than last year, and this city is being run in an efficient manner.

Mr. DIXON. The question is, Does the gentleman know how this money is broken down?

Mr. BURTON of Indiana. I say to the gentleman, he knows I do not sit on his committee. The gentleman knows I have not been privied to all the discussions, but I do know the bottom line, and I can see what is going on here.

Mr. DIXON. Madam Chairman, the gentleman makes my point very well.

Mr. WALSH. Madam Speaker, I yield 3 minutes to the distinguished gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Madam Chairman, I thank my good friend from New York for yielding this time to me. Let me say, Mr. WALSH has done an outstanding job as ranking member of the D.C. Subcommittee.

Madam Chairman, as we move toward a vote on this D.C. appropriations conference report, I urge Members to take a good hard second look as to what we will be authorizing.

You know, I talked to a large number of Members as they were coming through the door a moment ago during the vote on the rule, and Members kept telling me, "Oh, the Hyde amendment is in there. It's covered." In my mind, there continues to be a great deal of confusion purposefully put there by the proabortionists as to what this conference report will do on the issue of abortion.

Yet, it would also appear, at least judging by what Mr. DIXON and others have said, there is at least a consensus that Federal funds shouldn't be used for abortion. Even the proaborts say that now. I will remind them of this next year when we debate the Hyde amendment.

But let me just say very clearly and unambiguously that under this legislation, abortion on demand will be subsidized by the taxpayers in the District of Columbia.

The language in the report is deficient and bows to home rule. Yet if home rule is so sacrosanct, I must ask Madam Chairman, why we would have the large number of provisions, about 37 I think, under the "General Provisions" title, which restrict the use of funds dealing with travel expenses, the implementation of the Domestic Partners Act, gas mileage requirements, and on and on.

There are already restrictions in the bill that abridge home rule. Chairman DIXON himself offers us a piece of legislation today that circumscribes home rule in myriad ways. Yet, I don't hear a peep out of those who are arguing home rule about those particular matters today.

It seems to me that when we are looking at priorities, the care, the preservation, and the protection of innocent human life must be paramount. Protection of the right to life is the most elemental human right of all.

To argue home rule when talking about abortion on demand with no restrictions throughout the entirety of pregnancy, well it just pales in my view to insignificance in that comparison.

A child's life, Madam Chairman, is priceless. That life is in no way diminished because we are admonished to kowtow to home rule. I believe that we need to enhance those lives, but first and foremost we need to protect those lives from the implements of destruction that are no less lethal than Uzis, pistols, shot guns, and other types of weapons that are used to kill people.

□ 1530

To use poison shots to kill unborn babies with saline solutions is wrong, and we ought not to subsidize it. To pay off abortionists with tax dollars from the people of the District of Columbia, to give abortionists money to rip apart an unborn child limb to limb, tearing off the head, the body, the legs—and that is the gruesome reality of abortion—is unseemly. We sanitize abortion when we talk about it in this Chamber; the so-called pro-choice movement sanitizes it in its marketing. Their euphemisms drip like cyanide. They love to talk around it, but not about it.

The simple fact of the matter is that abortion rips apart babies. It is not a respecter of race, gender, or even gestational age. Abortionists murder babies for a profit. If we vote for this conference report, Madam Chairman, we will authorize payoffs to abortionists to kill 3,000 or 4,000 innocent children per year. Some of those children, I say to my colleagues, if that subsidy were not there, would be saved from the cruelty of abortion. It seems to me that we have a moral obligation to stop those death payoffs. Those of us who see birth as an event that happens to each of us, those of us who respect babies, must stand firm against any and all efforts to facilitate or promote the demise of these vulnerable children.

Mr. DIXON. Madam Speaker, I yield 2 minutes to the distinguished Delegate from the District of Columbia [Ms. NORTON].

Ms. NORTON. Madam Speaker, I rise because there has been some discussion about how the District spends its funds. When we combine taxes paid to the Federal Treasury and local taxes, the District has the highest per capita tax rate in the United States. We pay for ourselves, Madam Speaker. What is paid us by the Congress is for what is owed us for restrictions and burdens Congress has placed on the District.

Members have surely chosen the wrong time to complain about how money is spent in the District of Columbia because the District of Columbia is not spending money these days. The District of Columbia is cutting money these days. This is not a time to complain about spending. Everything in the District is being cut.

My colleagues, the American people will think we have lost our minds if they wake up tomorrow morning and find headlines that say that Congress, in the midst of the District's crime crisis, denies the District of Columbia funds. During the Nixon administration, when there was a crime wave, that administration requested that the District be given more money to hire policemen and Congress complied. This administration has not, and this Congress has not.

Cite your excuse—whether it is abortion, whether it is crime, whether it is what the District spends its money for. We have heard them all. Most of this money is ours. Vote for this conference report and give the District of Columbia what belongs to the residents of the District of Columbia.

Mr. WALSH. Madam Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Madam Speaker, I say to my colleagues, you know, what's happening here reminds me of the story of the importuning widow in the Bible. You probably remember that story.

The widow really does not have much of a case, but she keeps coming to the judge and pressing her case, and finally he says, "You don't really have a case, Madam, but you're wearing me out, so I'm going to give you what you want."

This bill came to the Congress before, and we sent it back with a large majority. It now comes back, and it is fundamentally not a different bill than it was before.

Remember the story of the importuning widow. Do not be weary of welldoing. Send this bill back again, and tell them they have to send it here with the language we want or we are not going to fold like that judge in the Bible. We are going to keep sending it back until it comes back with the proper language.

Mr. WALSH. Madam Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN. Madam Speaker and my colleagues, distinguished on both sides, we have all been subject to some of these deep, psychoanalytical questionings by reporters who ask us, as my colleagues know, what our favorite color is and what book is on our nightstands. I always say, "You mean after the Bible, and the Constitution, and the collected works of Jefferson and Lincoln, what's on my nightstand?"

And then the reporters ask, "What would you like on your gravestone?"

Madam Speaker, I say this quite seriously:

I don't mind putting on my gravestone the number of unborn children that have been spared because of the Dornan amendment, which prevented public funds from being used to kill innocent life in the womb. I had help in this fight. CHRIS SMITH, HENRY HYDE, George Bush, and Ronald Reagan. I took note that in the current Newsweek's "conventional wisdom" section it says this about President Bush, "We miss you, Big Guy."

Here is the arithmetic that I would not mind having on my gravestone:

> In 1988, before the Dornan language prohibiting federal funding of abortion was adopted, there were 3,139 abortions. After the Dornan language took effect in Fiscal Year 1989: One. Fiscal Year '90: One. Fiscal Year 1991: One.

Madam Speaker, that is a fine legacy. And I just want to say to my friend, the gentleman from California [Mr. DIXON], and everybody else, including the former councilwoman, that I see troops around the floor now who proudly say they know more than Mother Teresa, and Pope John Paul, and Billy Graham and all the other great leaders about abortion and life in the womb. But they are wrong. And doesn't anybody find it the least bit hypocritical that the most liberal among us, who fancy themselves exemplars of compassion, are downright uncompassionate when it comes to unborn children? They give the benefit of the doubt to a very unfortunate or disadvantaged human being, except the unborn.

It's my constitutional right to serve as the legislator for the District of Columbia. This House and the U.S. Senate function as the legislature for the District of Columbia. We are collectively the governors-general for this Federal District. It's our constitutional right to come to this well and defend innocent human life, with an immortal soul, put there by God, our Creator Himself. It is our right and it is right, that we should do that.

Now, Madam Speaker, we can be generous and defer to the city council, on many local issues. For instance, we do not interfere with their gun control laws. But I would like to know why I am tempted to break the law and carry a concealed weapon for personal safety every time I come into this District. I do not, even though I know I could get away with it because, as a Congressman, I will never be asked, let alone frisked. So I could get away with it for my personal safety. What in the three plus billion dollars in tax dollars, most of it paid by lobbyists, and corporations, and visitors to the city, and by wealthier citizens all in Northwest, goes to control crime in this beautiful city? Why does the District of Columbia have to turn to the National Guard and ask the President, who "fudged" it, to give them men in uniform?

Mr. DIXON. Madam Speaker, I have no further requests for time, and I reserve the right to close.

Mr. WALSH. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DIXON. Madam Speaker and Members, first let me acknowledge and thank both sides for a very stimulating discussion on the issue of abortion in this country. No doubt the issue of abortion is tremendously controversial and the kind of response we get from the American public depends on what issue is surrounding abortion. And I would also like to say that I appreciate the point of view of those Members who are generally characterized as pro-life.

☐ 1540

They obviously characterize this whole issue as one about abortion in the District of Columbia. I like to think of the issue as the issue of fairness and how under our Constitution and as a body we treat the 50 States and those jurisdictions that do not have statehood. So for me, this is an issue of fairness.

During the debate on the rule, the issue of a shell game came up. I suggest that there is no shell game here on either side. Let me give you an example.

The gentleman from New Jersey [Mr. SMITH], my colleague and friend, continually says that the Hyde language is not in this bill. To that limited extent, the gentleman is correct. He even goes on to say and use the word "fraud." The gentleman really does not mean fraud, he means that the Hyde language, the way he would like to see it, is not in this bill.

As I understand the Hyde language, the Hyde language deals directly and only with Medicaid funds. This bill is silent on that. That means that Medicaid restrictions, whatever they may be—in this case the Hyde language—apply to the citizens of California as they apply to the citizens of Washington, DC. So to that extent, the Hyde language is in this bill. It applies to all citizens of the United States.

Now, as it relates to taxpayer funds, I am sure that there are a lot of people really confused about the whole issue of money being fungible and what are taxpayers' funds, because we very loosely throw out this whole issue, that it is taxpayers' money.

It certainly is taxpayers' money. In this bill there is $3.7 billion. Of that amount, $631 million are a Federal payment made to the District in lieu of the Federal Government paying property taxes. There is $52 million in a pension program that has been authorized by this body, and $17 million in an additional payment to the District of Columbia for a crime and youth initiative.

By any stretch of the imagination, the only Federal money in this bill is $700 million. There is $3 billion of D.C. taxpayer money—income taxes, property taxes, fines, fees and various other charges.

Now, the next issue we move to is this term of art called "appropriated." So we move from Federal money to appropriated money.

It is true, as many Members have pointed out on both sides of the aisle, that the money that the District raises moves through our appropriation process, and in that sense it is appropriated by Congress. But by no means, because it is appropriated by Congress, does it become Federal money.

So what the District wants to do is use its own money, that $3 billion, or a part thereof, to provide abortions for those people who so desire them but cannot afford to pay for the procedure.

Now, this bill will in no way, in no way, impact the right of a person who can afford an abortion here in the District to get one. I do not think that anyone is happy with what the Supreme Court has said. But the Supreme Court in the Webster decision said that States, and I suggest to you to be fair we should treat all other jurisdictions of the United States as we do States, can reasonably promulgate rules. And the District here has said they want to provide abortions for those people who cannot afford them. It does not stop anybody who can afford an abortion from getting one.

So if we are going to treat these people fairly, if we are to treat the United States fairly, I think the average citizen, regardless of their philosophy on abortion, would say treat everyone in this country the same. Do not discriminate against one class of people, that is, people who live in the District and people that are poor, at the expense of pushing your own philosophy.

Finally, let me say that as it relates to District money, it makes no matter what the people in Nevada say about taxpayer money, because it is not their taxpayer money. Yes, there is a whole feeling and a whole body of thought about what we should do with Federal money as it relates to abortion, but not as it relates to local funds.

So, you really have to bend logically to say that Federal money is being used. It says in this bill that no Federal funds will be used. In other bills it applies to Medicaid funds, and the Hyde language is the language that prevails.

Mr. WALSH. Madam Speaker, will the gentleman yield?

Mr. DIXON. I will be glad to yield to the distinguished minority member.

Mr. WALSH. Madam Speaker, I would like to ask the distinguished chairman a question: When these appropriated funds or this program in lieu of taxes is made to the District of Columbia, are there any strings attached, other than on abortion, as to the use of those funds?

Mr. DIXON. Absolutely. Absolutely.

Mr. WALSH. And what might those be?

Mr. DIXON. Well, there are a great deal of restrictions on the use of Federal money in the bill. For instance, we have lifted a restriction on the closing of Fire Engine Company No. 3.

Mr. WALSH. Madam Speaker, if the gentleman will yield further, there are some minor requests that those funds not be used, for example, or that they be used for a certain number of firemen and that sort of thing. But does this money not enter the general fund of the District of Columbia?

Mr. DIXON. Madam Speaker, reclaiming my time, that is the argument I alluded to. All money is fungible. When you accept that argument, you have to accept the argument that local funds far outweigh Federal funds $3 billion versus $700 million, and therefore you would have to use all of the District's funds—all of the $3 billion—to get to what are called the Federal funds. But this is the shell game. This is just a word game.

I would say to the gentleman that after we appropriate the $631 million that we owe them in lieu of a property tax by way of a formula, it is not our money at all. It is not Federal money at all. When you pay an obligation, the funds do not remain in your control.

Mr. WALSH. Madam Speaker, if the gentleman will yield further, other municipalities contained within a larger jurisdiction, for example, a city within a county, do not receive large payments in lieu of taxes to offset the loss of property tax.

Mr. DIXON. Madam Speaker, reclaiming my time, that is true. That is a whole different argument. Forty-one percent of the land mass here is occupied by the Federal Government. The Federal Government decided some time ago they would provide a Federal payment in lieu of paying property taxes because they are exempt from property taxes.

Madam Speaker, let me finally say that there are 13 States that allow the use of State monies for abortion. But that is not the issue either. The issue is whether all 50 States have the right to make that decision, and all 50 States have that right. And I suggest that the only fair thing to do is let this District have that same right.

I have a great deal of affection for the gentleman from Illinois [Mr. HYDE], and I respect his ability and understand his position. The gentleman said that we should have respect for the unborn.

Madam Speaker, we should have respect for the unborn. But this is not the forum to decide where life begins. But I know that we should have respect for the living in the District of Columbia.

Madam Speaker, we voted for the rule. I ask for an "aye" vote on the bill.

Mrs. MORELLA. Madam Speaker, I rise in support of the conference report. The conference report now includes language stating that none of the Federal funds appropriated in the bill will pay for abortions except in the cases of rape, incest, or to save the life of the mother.

The bill has properly restored the right of the District of Columbia to decide how its own revenues should be used, as is the case for the States. This position has been consistently supported by the House since 1989. The concept of home rule is meaningless if Congress can dictate the allocation of local revenues.

Home rule was established in 1973 by Congress to allow the District to manage its own local affairs. The Supreme Court in recent years has defined matters to be reserved for State and local decisionmaking: "fire protection, police protection, sanitation, public health, and parks and recreation." To restrict the use of local District revenues for locally funded abortions violates the right of the District Government to make its own public health policy. In doing so, Congress is denying District residents the right of self-determination, a right belonging to every other resident of this country.

I urge my colleagues to support the conference report.

Mr. DIXON. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. UNSOELD). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALSH. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 225, nays 201, not voting 7, as follows:

[Roll No. 534]

YEAS—225

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Becerra
Beilenson
Bilbray
Bishop
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Coyne
Danner
Darden
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gallo
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Greenwood
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kleczka
Klein
Klug
Kolbe
Kopetski
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Machtley
Maloney
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McCurdy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Moran
Morella
Nadler
Natcher
Neal (MA)
Neal (NC)
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Pomeroy
Price (NC)
Rangel
Reed
Regula
Reynolds
Richardson
Ridge
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Slattery
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Strickland
Studds
Swett
Swift
Synar
Tanner
Thomas (CA)
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—201

Allard
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bevill
Bilirakis
Blute
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Costello
Cox
Cramer
Crane
Crapo
Cunningham
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Green
Gunderson
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kyl
LaFalce
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Mann
Manton
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Mollohan
Montgomery
Moorhead
Murphy
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Stupak
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (WY)
Thornton
Upton
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—7

Bateman
Berman
Murtha
Myers
Royce
Stokes
Tauzin

□ 1610

The Clerk announced the following pairs:

On this vote:

Mr. Stokes for, with Mr. Tauzin against.

Mr. ROWLAND changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BATEMAN. Mr. Speaker, I had an official leave of absence granted by the House. I was unable to participate in floor debate that day due to the flu. I missed rollcall votes 531 through 534. Had I been present I would have voted:

Rollcall 531, "yea."
Rollcall 532, "yea."
Rollcall 533, "no."
Rollcall 534, "no."

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2445) "An Act making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes." The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 2, 3, 4, 17, 33, and 36, to the above-entitled bill.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 19. Joint resolution to acknowledge the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii, and to offer an apology to native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii.

FURTHER CONFERENCE REPORT ON H.R. 2492, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1993

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mrs. UNSOELD). Pursuant to the rule, the amendments in disagreement and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement are considered as read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 4, line 6, after "sion" insert ": *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 5, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 6: Page 4, line 8, strike out $85,348,000 and insert: "$85,629,000".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 6, and concur therein with an amendment, as follows: In lieu of the sum inserted by said amendment, insert "$87,293,000".

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Madam Speaker, I object.

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] is recognized for 30 minutes.

Mr. BURTON of Indiana. Madam Speaker, will the gentleman yield so that I may ask a question?

Mr. DIXON. I am glad to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Madam Speaker, in my notes, in amendment No. 6, economic development and regulation, the House passed about $85.3 million, the Senate was $85.6 million, and the conference committee came up with about $1.664 million more than either the House or the Senate. My question is I understand the Mayor and the city council transmitted their budget on September 13. Can the gentleman tell me what that extra $1.66 million is for?

Mr. DIXON. The additional $1.6 million is, No. 1, all District funds, and No. 2, it was a transfer from another appropriation account. The District's request for this change came up after the bill passed the House and the Senate.

Mr. BURTON of Indiana. Is the gentleman saying this is not Federal money?

Mr. DIXON. That is correct.

Mr. BURTON of Indiana. It is not Federal money?

Mr. DIXON. No, it is all District money.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 10: Page 8, line 11 after "Department" insert " : *Provided further*, That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 10, and concur therein with an amendment, as follows: In lieu of the matter proposed in said amendment, insert: " : *Provided further*, That in addition to the $892,156,000 appropriated under this heading, an additional $1,025,000 and 11 full-time equivalent positions shall be transferred from the Department of Administrative Services to the District of Columbia Court System for janitorial services, pest control, window washing, trash collection and removal, and landscaping," and on page 5, after line 7 of the House engrossed bill H.R. 2492 insert "(Including Transfer of Funds)" as a centerhead.

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Madam Speaker, I object.

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] is recognized for 30 minutes.

Mr. DIXON. Madam Speaker, I am glad to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, in item 10, amendment No. 10, there is $1.025 million, and it is to be used for transferring people from the Department of Administrative Services to the District of Columbia court system for janitorial services, pest control, window washing, trash collection and removal, and landscaping. Is that Federal money?

Mr. DIXON. The answer is no. The court system expressed the desire to take care of their own janitorial services. This is money allocated to them out of District funds to do so; it is a transfer from another District agency, the Department of Administrative Services.

Mr. BURTON of Indiana. I thank the gentleman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 12, line 16, strike out "$312,948,000" and insert "$316,948,000".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 19, and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$306,264,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 22: Page 13, after line 9, insert:

D.C. GENERAL HOSPITAL DEFICIT PAYMENT

For the purpose of reimbursing the General Fund for costs incurred for the operation of the D.C. General Hospital pursuant to D.C. Law 1–134, the D.C. General Hospital Commission Act of 1977, $20,000,000.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 22, and concur therein with an amendment, as follows: In lieu of the matter proposed in said amendment, insert:

D.C. GENERAL HOSPITAL DEFICIT PAYMENT

For the purpose of reimbursing the General Fund for costs incurred for the operation of the D.C. General Hospital pursuant to D.C. Law 1–134, the D.C. General Hospital Commission Act of 1977, $10,000,000.

ENERGY ADJUSTMENTS

The Mayor shall reduce appropriations and expenditures for energy costs in the amount of $482,000 within one or several of the various appropriation headings in this Act.

COMMUNICATIONS ADJUSTMENTS

The Mayor shall reduce appropriations and expenditures for communications costs in the amount of $158,000 within one or several of the various appropriation headings in this Act.

CONTRACTUAL SERVICES ADJUSTMENTS

The Mayor shall reduce contractual services appropriations and expenditures within object class 40 in the amount of $1,500,000 within one or several of the various appropriation headings in this Act: Provided, That no reductions shall be made to agencies not under the direct control of the Mayor or to the Department of Human Services.

CASH RESERVE FUND

For the purpose of a cash reserve fund to replenish the consolidated cash balances of the District of Columbia, $3,957,000.

On page 13, line 3 of the House engrossed bill, H.R. 2492, strike "$3,423,000" and insert "$3,323,000".

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON of Indiana. Madam Speaker, I object.

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] is recognized for 30 minutes.

Mr. DIXON. Madam Speaker, I am glad to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Madam Speaker, in this amendment it says the conference allows $10 million to be spent for D.C. General Hospital deficit payment. It was not included in the House measure. For what purpose is that money spent, and is that Federal money?

Mr. DIXON. First of all, this is all District money. The Senate had $20 million. We reduced it to $10 million.

This is a return from D.C. General Hospital to the District's budget of $10 million because the hospital has overspent its budget over the past few years by $74 million. The rest of the items in this amendment are strictly an accounting procedure of all District funds.

Mr. BURTON of Indiana. It does not include Federal tax dollars?

Mr. DIXON. There are no Federal tax dollars.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 23: Page 13, line 13, strike out "$27,062,000" and insert "$7,000,000".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 23, and concur therein with an amendment, as follows:

Delete the sum stricken by said amendment and delete the sum inserted by said amendment and strike out line 10 through and including line 14 on page 13 of the House engrossed bill H.R. 2492, and on page 29, line 12 of the House engrossed bill H.R. 2492 strike out "1993" and insert in lieu thereof "1994".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 25: Page 15, line 13, after "lapse" insert ": *Provided further*, That $50,000,000 shall be solely for the purpose of carrying out section 6 of Public Law 101-590 (104 Stat. 2929) and shall be transferred within 4-5 days of receipt of bond proceeds

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 25, and concur therein with an amendment, as follows:

In lieu of the matter proposed in said amendment, insert ": *Provided further*, that the District of Columbia government shall transmit to the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, and the Senate Committee on Governmental Affairs, no later than April 15, 1994, a proposed plan providing for the financing of the capital rehabilitation and revitalization of the medical infrastructure within the District of Columbia: *Provided further*, That this plan shall include how the capital needs of all hospitals will be addressed: *Provided further*, That this plan shall specifically address the currently authorized George Washington University project as part of the overall plan

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 26: Page 15, line 13, after "lapse" insert "*Provided further*, That, once the Fish and Wildlife Service study on the fishway at Little Falls Dam is complete the Washington Aqueduct may use up to $500,000 of funds provided to it under this heading to initiate construction of modifications to the Little Falls Dam facility for the purpose of environmental restoration and improvements by providing passage for anadromous fish on the Potomac River".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 26, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 29: Page 34, after line 5, insert:

SEC. 139. The Mayor of the District of Columbia shall report back to the Congress within 90 days of the status of construction of a new Federal prison in the District of Columbia as previously authorized by Congress.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 29, and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "137".

On page 33, line 11 of the House engrossed bill H.R. 2492 strike out "SEC. 137" and insert in lieu thereof "SEC. 135".

On page 33, line 23 of the House engrossed bill H.R. 2492 strike out "SEC. 138" and insert in lieu thereof "SEC. 136".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 31: Page 34, line 14, strike out "$15,133,000" and insert "$15,501,000".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 31, and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$14,231,000".

On page 35, line 12 of the House engrossed bill H.R. 2492 strike out "$10,587,000" and insert in lieu thereof "$10,242,000".

On page 37, line 4 of the House engrossed bill H.R. 2492 after "*Provided*," insert:

"That $7,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*,".

On page 37, line 11 of the House engrossed bill H.R. 2492 strike out "(Rescission)" and insert in lieu thereof "Including Rescission".

On page 37, line 12 of the House engrossed bill H.R. 2492 strike out "Of" and insert in lieu thereof "For an additional amount of "Public works", $23,447,000: *Provided*, That of".

On page 37 line 16 of the House engrossed bill H.R. 2492 after "rescinded" insert "for a net increase of $20,176,000".

On page 44, after line 14 of the House engrossed bill H.R. 2492 insert "Sec. 203. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1993."

The SPEAKER pro tempore. Without objection, the motion is agreed to.

Mr. BURTON OF Indiana. Madam Speaker, I object.

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] is recognized for 30 minutes.

Mr. DIXON. Madam Speaker, I am glad to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Madam Speaker, the House and the Senate appropriated $3.27 million, and the conference increased that by $20 million. What was the reason for that? It is for the Washington Metropolitan Area Transit Authority, but what was the reason for the quantum leap from $2.3 million to $23 million?

□ 1620

Mr. DIXON. First of all it is all District funds.

Mr. BURTON of Indiana. Would the gentleman yield for a question?

Mr. DIXON. I yield to the gentleman.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Madam Speaker, every one of these amendments in disagreement I have asked the gentleman about, he said they are all District funds. Are the Federal funds and District funds intermingled?

Mr. DIXON. In this case, no; this is a 1993 supplemental request.

Mr. BURTON of Indiana. What I am saying is that on these technical amendments, when we give the $700 million to the District of Columbia, is that incorporated into their overall budget?

Mr. DIXON. Yes.

Mr. BURTON of Indiana. How do you determine what is Federal money and what is city money?

Mr. DIXON. Well, I determine that by the fact that the bill is $3.7 billion and of that, $3 billion is District money. In this particular amendment, this is a 1993 supplemental and this is clearly all District funds, without any fungible item or issue involved.

Mr. BURTON of Indiana. And the previous amendments I asked about, the gentleman said those were all District moneys, there were no Federal tax dollars involved. Could it be that part of those moneys were Federal tax dollars?

Mr. DIXON. I did not hear the last part of the gentleman's question.

Mr. BURTON of Indiana. Could it be that part of the money that went to those amendments were Federal tax dollars?

Mr. DIXON. Madam Speaker, not according to my interpretation. If the gentleman would ask me, it was not.

Mr. BURTON of Indiana. I would like to say to the gentleman that I am a little disappointed because when I asked the question, I asked it in good faith, were any Federal tax dollars involved; and the gentleman said "no." Now the gentleman is saying according to his interpretation none of the $700 million, tax dollars we give, were included in those amendments. Had I known that that was partially Federal tax dollars, I would have called for some votes.

So I am a little disappointed in the gentleman's answer on the previous amendments.

Mr. DIXON. As it relates to this amendment, this is a $23 million payment from the District to the Metro system, paying their proportionate share of the Metro system.

Mr. BURTON of Indiana. According to the gentleman's interpretation, then, none of this is Federal tax dollars?

Mr. DIXON. Well, his is clearly not Federal tax dollars.

Mr. BURTON of Indiana. Well, what about the three previous amendments that I asked about?

Mr. DIXON. I think I answered that. The gentleman would say it is tax dollars because he says money is fungible. I look at the entire bill of $3.7 billion of which only about $631 million are a payment by the Federal Government in lieu of taxes.

Mr. BURTON of Indiana. Well, this $20 million is all Washington, DC, tax moneys. Is that right? This $20 million is all Washington, DC, tax money, no Federal tax dollars are involved?

Mr. DIXON. That is correct.

Mr. BURTON of Indiana. OK. Let me just say that I am truly diappointed on the previous three amendments because I asked the question, as I said, in good faith, and part of that was Federal tax dollars. I think I have been misled just a little bit, and I am disappointed in that.

But since all of this money is not Federal tax dollars by any stretch of the imagination, Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mrs. UNSOELD). The question is on the motion offered by the gentleman from California.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 33: Page 34, line 19, strike out "$10,373,000" and insert "$8,339,000".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 33, and concur therein with an amendment, as follows: In lieu of the sum proposed in said amendment, insert "$7,889,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment in as follows:

Senate amendment No. 38: Page 35, line 23, after "the" insert "Personal and".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Madam Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. DIXON moves that the House recede from its disagreement to the amendment of the Senate numbered 38, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
October 27, 1993.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Repesentatives, I have the honor to transmit a sealed envelope received from the White House on Tuesday, October 26, 1993 at 8:00 p.m. and said to contain a message from the President wherein he transmits the "Government Reform and Savings Act of 1993", draft legislation.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

GOVERNMENT REFORM AND SAVINGS ACT OF 1993—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–155)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Union Calendar and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the "Government Reform and Savings Act of 1993". This legislation is based on the recommendations of the National Performance Review (NPR). Also transmitted is a section-by-section analysis.

The goal of the NPR is to provide the American people with a more effective, efficient, and responsive government—a government that works better and costs less. The NPR began on March 3, 1993, when I asked Vice President Gore to conduct an intensive 6-month review of how the Federal Government works. The Vice President organized a team of experienced Federal employees from all corners of government to examine both agencies and cross-cutting systems, such as budgeting, financial management, procurement, and personnel. He spoke with employees at every major agency and sought the views of hundreds of organizations, business leaders, and State and local officials.

The NPR report presents numerous proposals, some of which require legislation, some of which can be achieved through administrative action. The legislation I am presenting today is a major step in implementing those NPR recommendations that require action by the Congress. I plan to include additional NPR proposals in the Fiscal Year 1995 Budget.

This legislation includes proposals that seek to: consolidate and streamline agency operations; eliminate unnecessary programs; end unneeded subsidies; improve financial management and debt collection; reduce the burdens resulting from statutory reporting requirements; and improve the dissemination of government information. They were selected from the NPR report with the expectation that they can be considered expeditiously by the Congress. It is my hope that these recommendations will be passed by the Congress prior to adjournment this year.

The savings total for the legislation I am submitting today is $9 billion.

To accompany these NPR recommendations, a package of rescissions will be sent to the Congress shortly. The Administration is also working with the appropriate committees of jurisdiction on a major procurement reform measure.

By implementing these recommendations, I believe we can make fundamental changes for the better in the performance of the Federal Government. I pledge to work with the Congress to ensure the prompt enactment of this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 26, 1993.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the discussion earlier today, the Chair will take 1-minutes at this time.

DO WE HAVE A FOREIGN POLICY?

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DORNAN. Madam Speaker, this adjournment of the regular legislative business happened very quickly, and I appreciate the Chair honoring the decision this morning to allow 1-minutes and not have those 1-minutes interfere with the special orders of 5 minutes or 60 minutes, so that I may do a commercial for my 1-hour special order on Mogadishu, Haiti, Somalia, and where our foreign policy is going. I do not think we have one.

Madam Speaker, the letters are starting to show up from the parents of those young Rangers and the Fort Bragg special-ops guys, the 160th special operations aviation regiment heroes who died in Somalia. I have one I would like to put in the RECORD right now from retired Lt. Col. Larry Joyce, his wife Gail.

I also want to point out that in that special order this evening for an hour I am going to have color blowups this big on the floor here on an A-frame of about 25 of them explaining more clearly for you in color the quagmire we are in in Somalia than I have seen with black-and-white satellite imagery upstairs under secret conditions on the Committee on Intelligence.

I promise you that you will learn something if you stay with us during these special orders tonight. That is a promise.

The letter referred to follows:

CHICAGO, IL,
October 22, 1993.

Hon. ROSCOE G. BARTLETT,
Committee on Armed Services,
Washington, DC.

DEAR CONGRESSMAN BARTLETT: My son, Sgt. James Casey Joyce, was one of the U.S. Army Rangers killed in the October 3 Somalia ambush in Mogadishu.

Even though I served two combat tours in Vietnam, I could rationalize Bill Clinton's protesting the war in Vietnam. Now, I'm struck by the irony of his objection to American policy in Vietnam, and his support of a similar policy for U.S. involvement in Somalia. It's similar, at least, in its vagueness, its politicization, and its misguided use of the military. My son opposed my support for Bill Clinton. His death in Somalia—brought about by weak and indecisive amateurs in the Clinton Administration—confirms my son's wisdom and my naiveté.

Senior military officers, including Chairman of the Joint Chiefs of Staff General Colin Powell, repeatedly requested armored and mechanized vehicles for Somalia. Secretary of Defense Les Aspin denied each request. Armored and mechanized units are essential reinforcements for the highly mobile but lightly armed Rangers my son was so proud to join.

Those reinforcements might not have helped my son, because he apparently was one of the first killed. But, they certainly would have helped many of the other 16 soldiers who were killed and the scores of others who were wounded. Army Rangers are the most highly trained and motivated soldiers this country ever produced. To put them, or any other soldiers, into combat with no way to reinforce them is criminal.

Americans, especially the casualties and their families, deserve answers. Congressional hearings should be held immediately to determine what went wrong in Somalia so those mistakes are not repeated. We must know who, specifically, made the disastrous decision to change the American military posture in Somalia from one of humanitarian relief to one of offensive combat and why this decision was made.

Did someone in the administration make that decision? Or were the President, the secretary of state and the secretary of defense simply asleep at the switch? Who decided Rangers should be used to arrest general Aideed? Why? If his arrest was so essential, why did we suddenly decide to reverse course after my son and 17 other American soldiers were killed on October 3? Who so grossly underestimated his generalship in urban guerrilla warfare? Why? Is Aideed perhaps the only stabilizing influence in Somalia? If so, why did it take so many American casualties to learn that fact? Didn't we learn anything from Vietnam, where our obsession with Ho Chi Minh drew us deeper and deeper into that quagmire?

These are just a few questions that are begging for answers. I urge you to call for an investigation and congressional hearings so we can set our foreign policy straight and make proper use of our military in enforcing that policy.

Questions also need to be asked of the military command in Somalia. Why were Army Rangers inserted into what we know was a deadly ambush without United Nations Forces—in place—to reinforce them? They were not American, but certainly, Malaysian and Pakistani tanks and armored personnel carriers were better than none at all. They did eventually arrive—ten hours late.

Today's army is far superior to the one in which I served in the 60s and 70s. The young men and women who serve in the defense of our country are a national treasure. In the future, let's ensure they get proper direction and support they need and deserve no less. Please let me know how I can help.

Respectfully yours,

LARRY E. JOYCE,
Lt. Col. (Ret.), U.S. Army.

SPEND THE NIGHT WITH AMERICA'S HEROES

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WELDON. Mr. Speaker, on Oct. 8, Joe Ungrady of the Brookline Fire Co. in Havertown, PA, crawled across the second floor of a burning, smoke-filled apartment, found an unconscious woman, and dragged her to safety.

Joe has been a volunteer firefighter since the age of 16, and is now in his 10th year of service. I rise to commend Joe Ungrady's heroic efforts, and cite him as just one example of America's heroes all across this country.

Tonight, as I have done every year that I have been in this institution, I invite my colleagues to rise with the D.C Fire Department, to learn firsthand the challenges that America's heroes face.

Firefighters respond not just to fires, but in our cities are the first on the scene of crimes, at drug shootings, and all of the problems of urban America. Much has been made over the past week about the need for assistance in addressing the alarming crime rate in the District. Well, get out from behind your desk and join us tonight, and have a chance to see firsthand what these men and women go through every day in cooperation with the law enforcement community.

I urge my colleagues to join us in this effort so that we can better understand and appreciate the need to support the emergency response community in America.

Mr. Speaker, I include for the RECORD an article from the News of Delaware County about Joe Ungrady.

[From the News of Delaware County, Oct. 13, 1993]

FIREMAN RESCUES WOMAN FROM BLAZE

(By Mary Beth Lauer)

Joe Ungrady crawled across the floor of a burning, smoke-filled Havertown apartment

Friday night, found an unconscious woman and dragged her to safety.

"I didn't feel like a hero," the 26-year-old Brookline firefighter said. "I was just doing my job."

Ungrady was part of the search and rescue team that entered the second floor apartment at 424 Darby Road shortly after 10:37 p.m. when the alarm sounded.

Llanerch firefighters were already there trying to put out the blaze. They had arrived on the scene to find flames coming out the front room on the second floor of the duplex.

As Ungrady carried Terry Belciano, 38, to the steps of the apartment, he heard her cough.

"I was pleased to hear that," he said. "It meant she was still alive."

"Three of us got her down the stairs," Ungrady recalled.

Llanerch engineer Thomas Kelly and firefighter Kevin Doughtery helped Ungrady get Belciano, the only occupant of the apartment, down the stairs, said Llanerch Fire Chief Dave McKinney.

Once outside Belciano was treated by Haverford paramedics and then taken to nearby Veteran's Field. From there she was taken by helicopter to the Crozer-Chester Burn Center.

Suffering from severe smoke inhalation, she was listed in critical condition until Monday, when her condition was listed as critical but stable, officials said.

"When you go into a burning building, you're hoping everyone will be out and it will be just routine," Ungrady said Monday night.

It was the first time Ungrady was ever called upon to save a life.

"You're trained to know what to do," said Ungrady, who has been a volunteer firefighter since he was 16. "Now I know all that training paid off."

Ungrady said the first thing he felt when it was all over was pride and satisfaction. Now, he said he would like to meet Belciano.

The duplex, which houses an attorney's office on the first floor, suffered heavy damage, McKinney said.

Both the Bon Air and Manoa fire companies were called in to help put out the blaze.

McKinney, who was also on the scene, said the fire seemed to start in a front sitting room.

The cause of the fire has not been determined, he said.

□ 1630

UNFUNDED FEDERAL MANDATES

The SPEAKER pro tempore (Mr. NADLER). Under a previous order of the House, the gentleman from Ohio [Mr. GILLMOR] is recognized for 5 minutes.

Mr. GILLMOR. Mr. Speaker, I rise to join my congressional mandates caucus colleagues in support of National Unfunded Mandate Day, and to talk about the constitutional amendment I introduced yesterday on unfunded mandates. I reserved my own 5 minutes to allow other Members more time to participate in the caucus' special order.

Federal mandates are crushing State and local governments. In my home State of Ohio, Gov. George Voinovich released a report earlier this year showing that mandates cost the State over $300 million per year. Ohio spends more just to implement Medicaid mandates passed in 1988 than it spends on the entire Ohio Department of Health. No wonder the State has been forced to cut health department programs over the past several years.

I started serving in the Ohio Senate in 1967. By the time I left as senate president in 1988, what had started out as a trickle of mandates from the Federal Government had become a raging flood, setting the States adrift in red ink.

GROWTH OF FEDERAL MANDATES

A recent insight magazine article calculated just 17 mandates from 1960 to 1985. Then from 1988 to 1992—just 4 years—the Federal Government added 88 mandates relating to toxics alone. Already this year, no less than 130 mandates have been proposed by a Congress full of avowed reformers and would-be reinventors of government.

Congress in effect tells State and local governments, "We know how to spend your money better than you do." Let me describe just how false that is. Federal regulations could require cities to keep atrazine levels in drinking water below 3 parts per billion. Yet a human would have to drink 38 bathtubs of water per day with 3 parts per billion of atrazine to equal the dose found to be cancerous in rats. Even though its water rarely exceeds that 3 part per billion level, it could cost the city of Columbus $80 million to build a water purification plant to comply with this rule. For the same amount of money, the city could hire an extra 2,300 teachers at the average State salary.

MANDATE-O-METER

This is exactly the kind of story that gave me the idea for the Mandate-O-Meter. I am going to be bringing out this meter from time to time to show how mandates are destroying State sovereignty and taking away their ability to serve other important public needs.

This graph shows how much the motor-voter bill will cost Ohio, and shows other things the State could be spending its money on. While Members of Congress passed congratulatory handshakes back and forth, the State budget director must scramble to find another $20 million to pay for this bill after another year of bruising budget cuts. That's a lot of money for some new mandated government forms, and an expanded role for the bloated Federal bureaucracy. The $20 million could have been used for an extra 574 teachers. With that money you could increase by nearly 65 percent the number of tutors and small group instructors. You could double the number of preschool special education teachers. The State could have hired more than 400 extra highway patrolmen. It could increase tenfold its drug traffic interdiction team. The State could also have offered a full year of tuition to 2,000 students to attend Ohio State University.

Congress is intruding into legislative areas traditionally left to State governments, directly displacing State authority. When Congress imposes these unfunded mandates, States and local governments lose the flexibility to pay for vital services. They have to raise taxes or cut services to pay for programs into which they have no input.

Congress is in effect raising State taxes, and cutting services like police protection and education.

Yesterday I introduced a constitutional amendment to prohibit Congress from enacting any unfunded mandates and invite by colleagues to join me in cosponsoring it. This resolution will protect State and local entities from bankruptcy, and prevent us from driving more nails into the coffin of cooperative federalism.

I thank the congressional mandates caucus for its outstanding work, and yield back the balance of my time.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 334, RECOGNITION OF LUMBEE TRIBE OF CHERAW INDIANS OF NORTH CAROLINA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–309) on the resolution (H. Res. 286) providing for consideration of the bill (H.R. 334) to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 283, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–310) on the resolution (H. Res. 287) providing for consideration of the joint resolution (H.J. Res. 283) making further continuing appropriations for the fiscal year 1994, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO LAY CERTAIN HOUSE RESOLUTIONS ON THE TABLE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that House Resolution 52, House Resolution 150, House Resolution 153, and House Resolution 218 be laid on the table.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COMMUNITY ARTS PROGRAM IN FOREST, MS, OFFERS WIDE RANGE OF ACTIVITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, October is National Arts and Humanities Month. In conjunction with that observance, I want to call attention to a very active community arts program in Forest, MS.

Forest Community Arts, Inc., presented an exhibit of original paintings by 18 Mississippi artists on October 3 to kick off its monthlong focus on the arts. This past week it sponsored a Creative Christmas program at the National Guard armory that included entertainment, educational exhibits, arts and crafts exhibits, and Christmas gift items for sale. On October 31, the observance will end with a concert of sacred and classical music at the Forest Baptist Church, featuring the University of Mississippi Concert Choir under the direction of Jerry Jordan.

Mr. Speaker, I want to take this opportunity to congratulate Forest Community Arts, Inc., for the work it is doing to promote a greater appreciation of the arts in Forest and Scott County.

INTERNATIONAL COUNTERFEITING DETERRENCE ACT OF 1993

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 5 minutes.

Mr. LEACH. Mr. Speaker, today, along with Congressman BACHUS of Alabama, I am introducing the International Counterfeiting Deterrence Act of 1993, to protect the integrity of the Nation's financial system from international counterfeiting and economic terrorism.

It has been reported that billions of dollars' worth of American currency around the world is fake and that as much as 200 million dollars' worth has already been identified. What was once an irritating problem has blossomed into an Achilles heel for our economy. Recent news reports show terrorists in the Bekaa Valley of Lebanon mass producing $100 bills. These terrorists have refined the process so that counterfeit $100 bills are near perfect. Intelligence sources have indicated that counterfeit bills are being used to finance international terrorism and to purchase illicit weapons from international arms markets. International counterfeiters are operating on an unprecedented scale and their activities have become a serious national security problem.

I am introducing this legislation in response to the increasing international threat to our economy and our national security from counterfeiters. The bill establishes an anticounterfeit strike force, chaired by the Secretary of Treasury and is charged with coordinating U.S. policy for the prevention and detection of international counterfeiting. Specifically, the strike force must determine the extent and probable effect of the counterfeiting of U.S. currency outside the United States and the extent to which it is engaged in as a form of economic terrorism. The bill also authorizes the Secretary to propose and enter into international agreements to promote international coordination in preventing, detecting, and prosecuting counterfeiters. The strike force is also required to study counterfeiting deterrence, detection, and enforcement techniques, and report to Congress within 18 months. In order to better coordinate U.S. overseas policy toward international counterfeiting, the strike force would be authorized to establish foreign offices.

□ 1640

The heart of the bill is in its various sanction provisions, one of which authorizes the President to issue Executive orders prohibiting depository institutions in the United States from transferring funds or accepting deposits from any person of a foreign country identified as engaging in significant amounts of counterfeiting. Other provisions authorize severe criminal penalties that apply to individuals within the United States and to individuals located elsewhere. Finally, the bill requires certain sanctions against countries engaged in State-supported counterfeiting.

In the process of development of this bill, Mr. Speaker, over the past 3 months input was solicited from all relevant Federal agencies. The bill is intended to send a clear message to international counterfeiters that the United States is taking counterfeit detection seriously. We plan to marshal all appropriate intelligence networks and law enforcement agencies to eradicate counterfeiting and preserve the integrity of our money supply.

I urge my colleagues to join me in cosponsoring this measure, and I insert in the RECORD a section-by-section description of the bill:

SECTION-BY-SECTION ANALYSIS OF THE INTERNATIONAL COUNTERFEITING ACT OF 1993

(A bill to protect the integrity of the Nation's financial system from international counterfeiting and economic terrorism, and for other purposes)

Section 1. Short title.

The International Counterfeiting Deterrence Act of 1993.

Section 2. International counterfeiting deterrence strike force.

Establishes an International Counterfeiting Deterrence Strike Force (Strike Force) to be chaired by the Secretary of the Treasury (Secretary) with representatives from: Treasury, BEP, FED, Secret Service, FBI, CIA, State Department, Attorney General's Office.

Requires the Strike Force to determine the extent and probable effect of the counterfeiting of U.S. currency outside the U.S., and the extent to which it is engaged in as a form of economic terrorism and report to Congress annually.

Authorizes the Secretary to propose international agreements to achieve international coordination and cooperation in combating counterfeiting.

Authorizes the Strike Force to seek assistance from the intelligence community and the Secretary of Defense in carrying out its functions.

Section 3. Studies of counterfeit deterrence and enhanced detection and enforcement techniques.

Requires the Strike Force to do the following: (1) study available technological devices and methods used to enhance detection and enforcement techniques; (2) determine how much counterfeit currency has been detected and its cost to the U.S. government; (3) analyze and recommend methods and technologies used in the production of Federal Reserve notes; (4) study the demand for U.S. currency, to what extent its use is limited to $100 Federal Reserve notes and whether or not $100 Federal Reserve notes should be abolished.

Requires a report to Congress 18 months after the date of enactment. Allows certain information to be withheld if its disclosure would interfere with enforcement activities.

Section 4. Changes in design of currency.

Establishes a Currency Design Commission composed of the Secretary, the Board of Governors of the Federal Reserve System, and the Director of the Bureau of Engraving and Printing. If any member of the Commission proposes a need for a design change for counterfeit deterrence purposes, and two of the three members agree, the Secretary is authorized to implement the design change.

Section 5. Foreign offices authorized.

Authorizes the Strike Force to establish foreign offices to better coordinate U.S. overseas policy toward international counterfeiters.

Section 6. Anticounterfeiting training team.

Requires the Director of the Secret Service to establish a team of experts to provide training to foreign governments in detecting and prosecuting counterfeiting.

Section 7. Negotiations with countries in which a significant amount of counterfeiting of U.S. currency occurs.

Authorizes the Secretary to negotiate and to enter into international agreements with foreign countries identified as engaging in significant amounts of counterfeiting, to share information, technical expertise, and ensure cooperation between law enforcement officers in the prosecuting of counterfeiting activities.

Requires an interim report to Congress and a final report on the outcome of the negotiations and on foreign countries where there is reason to believe that significant counterfeiting is occurring and for which no agreement was reached.

Authorizes the President to issue Executive Orders prohibiting Federal Reserve banks, depository institutions and other person engaged within the U.S. in the transfer of funds from participating in any transfer of funds or accepting deposits from any person of a foreign country identified as engaging in significant amounts of counterfeiting. Also by Executive Order, foreign countries identified as engaging in significant amounts of counterfeiting, would also be prohibited from participating in any transfer of funds or from maintaining a deposit account in the U.S.

Authorizes criminal penalties, fines and/or imprisonment for not more than 15 years, for violations of any Executive order.

Section 8. Awards authorized for counterfeiting cases.

Authorizes the Strike Force to grant awards for actions that lead to convictions of persons for violations of U.S. anti-counterfeiting laws.

Section 9. Counterfeiting U.S. currency abroad.

Allows those outside the U.S., who engage in counterfeiting of U.S. currency, to be fined and/or imprisoned for not more than 15 years.

Section 10. Sanctions against State-supported counterfeiting.

Requires the Strike Force to recommend sanctions against any foreign country engaging in counterfeiting or who knowingly or recklessly permits counterfeiting to occur.

Requires the Export-Import Bank not to guarantee, insure, extend credit or service to any country engaging in counterfeiting or who knowingly or recklessly permits counterfeiting to occur.

Amends the Export Administration Act to include licensing for countries involved in State-supported counterfeiting.

Amends the Foreign Assistance Act of 1961 to prohibit foreign assistance to countries involved in State-supported counterfeiting.

CONDEMNATION OF THE CARNAGE OF THE PAST FEW DAYS IN NORTHERN IRELAND

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, once again the men of violence have spoken through the mouths of guns, and once again their gruesome sabotage has blocked the road to peace in Northern Ireland.

Yesterday, paramilitaries of the Ulster Freedom Fighters killed two and injured five more Catholic workmen in Belfast. Monday night a 72-year-old Catholic pensioner was shot dead. On Saturday night another Catholic was killed.

The evidence is that these murder victims were chosen at random, sacrificed in retaliation for the bombing murders earlier Saturday, of 10 innocent shoppers—including 2 children—in a Protestant neighborhood of Belfast. The Irish Republican Army has claimed credit for that massacre, which killed 1 of its paramilitaries and injured 57 other unsuspecting bystanders. There was no warning, because the IRA sought to kill loyalist paramilitaries of the Ulster Defense Association it thought it would meet above the fish shop where their bomb exploded prematurely.

Such is the tit-for-tat cycle of death in Northern Ireland from which the Governments of Ireland and the United Kingdom have been struggling to pull the people of the North. The process for that effort was a series of talks that involved all the political parties in the North which have renounced the use of violence. Both Governments seek a third round of such talks, but little progress has been made in the last year.

Some hope had been raised in recent weeks by private talks between the leaders of the Social Democratic Labour Party, which renounces violence, and the Sinn Fein, the political arm of the IRA, which does not. The SDLP leader, John Hume, had issued a joint statement with Gerry Adams, leader of Sinn Fein, which offered the prospect of a cessation of violence by the IRA and political talks involving Sinn Fein as well as the constitutional political parties—those which commit themselves to constitutional processes and renounce violence.

All who know John Hume, himself the target of numerous paramilitary attacks, applaud his dedication to a lasting peace for all of the people of the North through dialogue and economic empowerment, as exemplified by the multilateral efforts of the International Fund for Ireland. No details of the initiative he has authored have yet been made public, but one must question whether the IRA, which continued its campaign of bombings and killings in the aftermath of the joint statement, was ever serious about ending that violence. Certainly this most recent wanton attack cannot be squared with a commitment to peace or reconciliation. What is clear is that both the IRA and their counterpart Loyalist paramilitaries such as the UFF are dedicated solely to keeping their body counts up to date and in balance. This cruel preoccupation cannot but lead to future suffering, to grieving widows and parents, and, just as surely, to a diminution of the primacy of the human spirit over savagery.

Mr. Speaker, I cannot summon words to adequately condemn the brutal, callous character of the carnage of the past few days in Northern Ireland. The civilized world stands in awe and abhorrence at what we see there. What the Irish people, indeed all of us, must endeavor to take away from this view of the inferno, however, is not the terror that its perpetrators seek to instill, but the determination to see in our utter horror that its only solution lies in nonviolent dialog and shared devotion to a fair and peaceful solution that can bring together those whom the killing drives asunder.

A beginning to such an end would be a resumption of political talks among the constitutional parties and the two Governments. The Sinn Fein could be part of those talks, but its entry can only be bought by a genuine and convincing repudiation of paramilitary violence. There is no excuse, however, for any official or party who fails to see in these bloody reprisals the imperative for a renewed and genuine peace process. When Prime Ministers Albert Reynolds and John Major meet this Friday, Northern Ireland will dominate their discussions. The world awaits their joint demonstration of resolve to rejuvenate the quest for peace reconciliation, and justice in that troubled land.

OPPOSITION TO NAFTA IN ITS PRESENT FORM

The SPEAKER pro tempore (Mr. NADLER). Under a previous order of the House, the gentleman from Kentucky [Mr. BARLOW] is recognized for 5 minutes.

Mr. BARLOW. Mr. Speaker, the people of my First District in Kentucky have the deepest respect for the people of Mexico. We revere their proud history and traditions. The people of Mexico have gone thru the same intense nation-forming process as has our United States. I have the deepest respect for the negotiators on all sides of the issues involved in the proposed North American Free-Trade Agreement [NAFTA]. Yet, I rise today to register my opposition to this proposed agreement in its present form.

The proposed agreement concentrates its attention on the business sector, virtually solely, as the engine for economic growth in our nations. While the business sector is crucial as a determinant of economic growth, we in the United States have very laboriously learned that it is not the only determinant of economic growth. A modern factory with the highest standards of efficiency and productivity and product quality is not truly an indicator of economic prowess if the social infrastructure in the community and region of housing, water and sewers, quality roads, schools, police and courts of law, and fire protection is not being carefully nurtured.

How is this social infrastructure to be provided? Through public sector investment supported by wise tax policy. In truth, true economic development is rooted in business growth and, coequally, parallel public sector investment.

Mr. Speaker, it is deeply troubling to me when I view the growing industrial community just on the other side of our United States border with Mexico operating in tax-free zones, contributing little in proportion to needs of social infrastructure in the communities in which they operate. Many of these industries ship their product into our Nation where the product competes unfairly from a production pricing standpoint because this product is virtually tax free.

Companies in our Nation shoulder a significant tax burden for the sake of the communities in which they operate. If we were to pass NAFTA, as proposed, without Mexican industries paying appropriate taxes to meet infrastructure needs in Mexico, I believe that we would be promoting unfairness in the marketplace for companies operating in the United States and our working men and women and their families—who depend on their jobs in these companies—when we open our borders to imports from Mexico, that are virtually tax free. Further, I believe that we would be promoting the continuation of social infrastructure conditions in Mexico that must be improved if the Mexican people are truly to benefit from economic development.

We in Kentucky respect the choices of the Mexican people in the economic system that they have developed through time. We ask that the Mexican people respect our economic system that we in the United States have worked so hard to nurture over time.

☐ 1650

UNITED STATES POLICY REGARDING HAITI

The SPEAKER pro tempore (Mr. NADLER). Under a previous order of the House, the gentleman from Arkansas [Mr. HUTCHINSON] is recognized for 60 minutes.

Mr. HUTCHINSON. Mr. Speaker, recently, six American and three Canadian warships were deployed in waters off the Haitian coast in an effort to enforce the United Nations' agreement with Haiti's military rulers to return the country's elected president, Jean-Bertrand Aristide, to power. The naval action is an attempt to make sure the United Nations' oil embargo, first begun in June, holds tight. In addition, President Clinton has refused to rule out the use of force in Haiti, prompting a confrontation with Senate Minority Leader BOB DOLE over a President's authority to send American forces to foreign countries without Congressional approval. The debate in the Senate illustrates the continuing concern in Congress over the worsening political and economic crisis in Haiti.

As early as January of this year, I wrote to President Clinton urging him to lift trade sanctions against Haiti. Currently, the United States is enforcing an embargo begun by the Organization of American States which prohibits nearly all trade with Haiti, the only exceptions being humanitarian goods such as food and medicine. The trouble with this policy, I argued to the President, is that it has had little effect in restoring democratic rule to that desperately poor country. I also wrote:

> However, there is widespread agreement that the embargo has had one devastating effect. It has forced the Haitian people into even deeper economic deprivation.

That is even truer today: Haiti is ruled by ruthless military officers whose main concern is to retain power, and who have nothing to gain by allowing the return of Mr. Aristide, or by keeping promises made to the United Nations.

When I visited Haiti a few years ago, I observed first hand the grinding poverty and economic chaos.

A country's economy, even in an economic basket case like Haiti, is actually a patchwork of transactions; destroying one part leads to the devastation of other parts. That is why the international sanctions cannot help but destroy what little semblance of commerce once existed in Haiti. Also, exempting food and medicine has not saved the Haitian people from near-starvation and an almost complete shutdown of Haiti's rudimentary health care system. On October 21, the Washington Post, in a front-page story, reported that even Aristide's staunchest supporters now resent the economic sanctions which are making life progressively more difficult.

I am afraid that if the United States and the United Nations continue their present policy of sanctions, the likely result will be thousands of deaths from starvation and disease in Haiti, coupled with additional thousands of refugees teeming to United States shores in creaky boats, hoping to escape their nation's growing misery. Certainly, the United States has an interest in political events in Haiti; but a series of crippling economic sanctions are not going to turn hardened military leaders away from their tyranny. Poverty and dictatorship usually go hand in hand. Our policy of further impoverishing Haiti not only has hurt the Haitian people, but may have increased the resolve of a military regime which resents the world's great powers seeking to impose a system as delicate as representative democracy on a country which can barely feed itself.

Today, in my statewide newspaper in Arkansas, in Little Rock, the Arkansas Democrat Gazette, columnist John Robert Starr wrote, and I think his analogy is perfect for the situation that we face in Haiti, he wrote this:

> What Clinton and the United Nations are proposing to do to Haiti is the moral equivalent of building a wall around the scene of the Los Angeles riots and starving everyone who lives there until all gang members are converted into angels.

That is basically and simplistically the policy that has been adopted concerning this very impoverished nation called Haiti.

Mr. Speaker, I yield to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Well, I thank the gentleman for making this important point. It is my understanding the gentleman has actually visited Haiti, which I think places him in a select group of individuals, at least here in this body, as someone who is familiar firsthand with the conditions that are in Haiti.

I understand that Haiti is a very impoverished country. I think I read it has a per capita income of something like $370 a year per person. I believe that is what I read.

You know, I have been very concerned about our mission in Haiti, this U.N. mission which the President had approved and was trying to move troops into in support of that. Thank goodness, under pressure from the Congress, he reversed his decision.

I think, however, the blockade, for reasons the gentleman mentioned, is ill-advised. It could only have consequences contrary to what would be desirable. Indeed, perhaps really creating a severe pressure for a refugee crisis.

I go to the President's comments before the United Nations. We are familiar with the Weinberger doctrine developed by the former Secretary of Defense under President Reagan and followed by both Presidents Reagan and Bush. But President Clinton, before the U.N. in a speech recently, asked three questions when we get into involving U.S. troops in some sort of peacekeeping mission. Those questions were this: First, is there a real threat to international peace and security; second, does the peacekeeping mission have clear objectives; and third, can an end point be identified?

Let us go through those for a minute. What is the interest of involvement by the United States in Haiti? As far as I can see, as one Representative, we have no national interest at stake in sending our troops there. So I think the first test, is there a real threat to international peace and security, there are problems in Haiti, and there have been problems for years, arguably centuries. But it is not something which is a threat to the international peace and security. I think that is quite clear.

Second, does the peacekeeping mission have clear objectives? I think this was the problem. The objectives were not clearly defined. Indeed, I understand from the reports I am familiar with that it is likely that the parliament of Haiti is going to reject the U.N. peacekeeping mission. So there is no support for it. And we know with the violence that has occurred, obviously that has been clearly demonstrated.

Third, can an end point be identified? It is on that third point that we should all take note, because this has been tried before, hasn't it? It seems to me there was an expedition of Marines that was sent there, I believe in 1915, by President Wilson, is that correct?

Mr. HUTCHINSON. If the gentleman will yield, he is absolutely correct in his historical analysis of Haiti. In 1915 American Marines went in, stayed almost 20 years, and were very unsuccessful in the process of nation-building.

Mr. DOOLITTLE. That was their effort, was it not? In fact, were not the Marines sent to protect U.S. investments after the President of Haiti was assassinated in 1915? And they ended up staying 19 years. And as soon as they left, Haiti split off the road of democracy back into whatever they have.

By the way, I think it is interesting to note, just to understand the nation of Haiti, which I think is about 6.4 million residents, a majority of the population of Haiti actually practices voodoo. So we are dealing with a country that is very different from our own and which has enormous problems. We have tried to help solve those in the past to no avail. Nineteen years worth of nation-building went down the drain and ended in the 1930's. And here we go again. Now we are being called upon to install Mr. Aristide.

I could go on about Mr. Aristide, but I see our friend from Texas [Mr. DELAY] rising. Maybe he will tell us.

Mr. DELAY. If the gentleman will yield, I just wanted to make the point, and make it very clear, that not only does it seem that this administration does not understand what military power is, how it should be used, and in what way it should be used. I mean, to send a contingent of our military to Haiti unarmed is absolutely outrageous. But obviously they cannot even, or have not even, had any sort of historical perception or historical basis. I mean, it would seem to me that you would look back at the history of our involvement with Haiti and understand that you just cannot do what they are intending to do; that it did not work then, and it will not work now. Nothing has really changed since we spent all that time in Haiti unsuccessfully.

What makes this President or this Secretary of Defense or this Secretary of State think that they can change things and change history and change a whole culture in a country that has always had these kinds of problems? Are you going to talk about Aristide?

Mr. HUTCHINSON. Yes, I am. The gentleman from California [Mr. DOOLITTLE] a moment ago mentioned as he went through the President's criteria for determining where we should be involved and where we should not be involved, mentioned the issue of national interest.

□ 1700

Do we have a national interest in Haiti? Certainly, most would agree that in contrast to Somalia a case for national interest could be made in Haiti. But if it is, it is based upon the risk of thousands and thousands of boat people making their way to American shores.

In a recent Washington Post article, the October 15 Washington Post, they admitted that the reimposition of the sanctions would demolish the few viable businesses in weeks and that the result of that is that the United States would bear the major responsibility for the harm caused by the embargo. Accounting for over 70 percent of Haiti's exports and more than 50 percent of its imports, the United States is by far Haiti's most important trading partner.

What results from that? Since the embargo went into effect, at least 140,000 private sector jobs have been lost from a total of 252,000. Since there are approximately six dependents per jobholder, the losses directly affect nearly 1 million people. These conditions that are generated produce a flood of desperate Haitians, more than 40,000, attempting, ready to attempt to escape the economic hardship and political repression existing in Haiti. And so the very policies that we have adopted, instead of curing and minimizing the risk of illegal immigrants coming to our shores, exacerbate the problem, increase the very conditions that cause people to want to escape the Island of Haiti.

I yield to the gentleman from Texas for pursuing the whole issue of Aristide and whether he is the right one for us to support, if we are to accomplish our goals of seeing democracy established in Haiti.

Mr. DELAY. Mr. Speaker, before I get into that, I want to ask the gentleman a question about what he just said, because it seems to me that our national interest, number one, is to make sure we do not have a flood of immigrants, and some of them being illegal or even political refugees, because they may be fleeing the tyranny of the army or the people that are in power now in Haiti. So there are two reasons: first for economic interests, because they cannot eat, do not have a job, have to take care of their family; and second, fleeing political persecution, probably risking their lives.

It seems to me that this embargo, as the gentleman has pointed out, costs us all these jobs, but it also puts those that are in power, the people that are killing people in Haiti, puts them into a better position, more powerful, because if they control the economy and they control the money and they control the goods that are in the country, the embargo makes is even more onerous about putting into power the very people you are trying to take out of power.

Mr. HUTCHINSON. The reports that I have heard indicate that the last ones in Haiti to run out of oil and gasoline will be the military regime, that it will take very little for them to continue their regime of repression, their power and dictatorial policies, and they will be able to continue that even as the nation of Haiti continues to go deeper and deeper into hunger and deprivation.

Mr. DELAY. The army is probably sitting there looking at our ships offshore and just laughing themselves sick about the United States trying to come get them, trying to impose Aristide on them and yet, at the same time, the United States is increasing their power.

Who is Aristide anyway? If I may just take a minute, I would like to go over what the Heritage Foundation found. We are going to spend all this money, we are going to spend or at least put our people at risk to put a leader back into power, and maybe the American people do not know who this Aristide is.

As has already been said, Haiti's military views the deposed Aristide as an unstable leader who filled his cabinet with cronies. And some accused Aristide's government of Marxist leanings and said that the Haitian army could not tolerate the existence of such a government.

The first question you ought to ask is, are the views of the military in Haiti justified.

CBS News reported on October 13 that President Aristide, during his short reign, encouraged the necklacing of his political opponents, the practice of igniting gasoline-soaked tires around the neck and burning the victim alive.

Here is the quote that CBS—not exactly one of our friends, and not exactly having been accused of being a right-wing or a conservative operation—CBS ascribes to Aristide, in reference to necklacing, this quote:

> What a beautiful tool. What a beautiful instrument. What a beautiful device. It is beautiful. Yes, it is beautiful. It is cute. It is pretty. It has a good smell. Wherever you go, you want to inhale it.

This is the man that they want to put back in power in Haiti, that believes this way about necklacing. And President Clinton has embraced Aristide, as has Jesse Jackson, Randall Robinson of TransAfrica, and members of the Congressional Black Caucus.

The Heritage Foundation, in 1991, had this to say to Aristide:

> He is a lifelong leftist, a fervent nationalist and a strong advocate of liberation theology, which promotes the ideals of Communism thinly veiled with religion. In fact, Aristide, who is a Roman Catholic priest, was ousted from the Salesian order of the Roman Catholic Church in 1988 because it considered him a revolutionary.

Now, this is a man that, one, believes in necklacing people and could really turn into a tyrant, if we put him back into place, and a man that embraces Socialism and Communism and has even been removed from an order in the Catholic Church.

It does not make too much sense to me. There is also the Heritage Foundation, in February of 1991, stated that:

> Aristide invited Fidel Castro's regime to send a delegation to attend his inauguration. Haiti and Communist Cuba had never had diplomatic relationships, but Aristide seemed to be opening the door to diplomatic ties. Aristide's party sent young volunteers to Cuba for training as "political party operatives." Aristide's party also created neighborhood militias.

Does that sound familiar?

> Titled Vigilance Committees, modeled on Cuba's neighborhood militias, which appeared to target Aristide's political rivals, including the press and foreign diplomatic and business interests. The Vigilance Committees organized street protests, sponsored attacks against their opponents and served as intelligence operatives for Aristide.

Mr. DOOLITTLE. I do not think we have any business with United States troops going to Haiti, but I will tell you, as one Representative, if I were going to send United States troops to Haiti, it would be to eradicate Aristide, not to install him back as the President.

I cannot believe that this country, under the leadership of President Clinton, would be seeking to install a man who in essence is a Communist, who has preached openly the murdering of people by fire, death by necklacing, a burning tire, you eventually die. Think of that for a minute.

Where is the compassion? Where is the justice? Where is the humanity that has always been the hallmark of the U.S. policy?

And here we are, furthering the purposes of somebody like this, somebody who reliable reports indicate is not even mentally stable; obviously, not with that kind of an attitude.

I have a quote here that I would like to quote from the Boston Globe, October 15, quoting a top Haitian officer who said this:

> We have lived seven months with Aristide. We had many soldiers killed. We had many members of society killed. And the international community says this is democracy and you have to drink this same poison because he is an elected president, and an elected president can do anything he wants. This is incredible. I can't believe it.

It may help people, Mr. Speaker, to understand why the military does not want to see Mr. Aristide come back, because he has, in essence, threatened them with mass executions, if he comes back. And obviously, some of those things were going on even when he was President.

It is just remarkable to me. I do not see a national interest there.

□ 1710

They say it is immigration, or illegal immigration, but it seems to me if we continue this blockade we are going to ensure that the problem happens. Of course, maybe that is what President Clinton wants, because he opposed President Bush's policy on repatriating the Haitians. He criticized him for lacking humanity, if you can imagine that, for lacking humanity. Then, of course, he got into the Presidency and decided that maybe we should keep the policy up.

From what the gentleman from Arkansas [Mr. HUTCHINSON] said, we may be faced, if we continue our blockade, with having 40,000 refugees coming by boat to this country, when instead we could eliminate the blockade, stay out of Haiti, and hope that they can somehow resolve their differences, and not be party to reinstalling Mr. Aristide. We should be glad he is out of there.

Mr. HUTCHINSON. If I might reclaim my time for a moment, I think in pursuing whether Aristide is the right one for us to be banking our foreign policy on in regard to Haiti, the Washington Post article this year, January 24, 1993, and again, the Washington Post, I think, is not one necessarily to take a conservative position, but they point to his record in Haiti when he was actually President in Haiti.

> "The Catholic Church was a central target of Aristide's more violent supporters," they wrote. "Monsignor William Murphy wrote a graphic account of events in January 1991 when, according to Murphy, a group of thugs, supporters of newly elected President Aristide, went on a rampage. They destroyed the old cathedral, gutted the archbishop's house, went on to the nunciture, the home of the Pope's representative. There they completely destroyed the building, attacked the nuncio, and his priest secretary, broke both legs of the priest, and roughed up and stripped the nuncio, who was saved only by the intervention of a neighbor."

This is the person we want to bank our foreign policy on. This is the one we want to put on an embargo to restore him to power. This is the one we are even talking about risking American lives for.

Then I would like to cite a statement from Lawrence Harrison in the Atlantic Monthly, who made a return to Haiti in April of this year. This is what he said.

> On my brief return to Haiti in April to finish my work on the democratization program, I noticed an ominous change in the Atmosphere. Aristide had been slow to organize his government. His relations with the bicameral parliament, chosen in the same elections that brought him to power, were deteriorating, in no small part because his goons had threatened and even roughed up some legislators. Some in the military believed he was out to destroy their institutions, as did some of the judiciary.

That is the Atlantic Monthly. That is Lawrence Harrison, saying that indeed Aristide is not a model of democracy, or the one that ought to carry the banner of representative democracy in Haiti.

Mr. DELAY. Mr. Speaker, if the gentleman will yield, what the gentleman is saying is the President is saying it is in our national interest to reinstate someone, and we have already pointed out, who believes in necklacing, but more important, reinstate someone that leans toward communism, that is a despot, that believes in punishing, not just punishing his opponents, but actually killing them and terrorizing them, even if it is the church, the Catholic Church.

That does not seem to me to be in our national interest. Our national interest should be to support democracy, not replace one dictator for another.

Mr. HUTCHINSON. That is exactly true.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. HUTCHINSON. I am glad to yield to the gentleman from California.

Mr. DORNAN. I do not know if any of the gentlemen are of the Catholic denomination of the Christian faith. Let me touch on this Catholic thing with a Reuters story out of Rome yesterday about what the Vatician's position is, because I am embarrassed as a Catholic that this person is described as a priest all the time.

Judas Iscariot was a priest of Jesus, and when he hung himself in the valley of fire he was still a priest, going to his judgment day, so once a priest, always a priest in the church. However, this guy was kicked out of the Silesian order and suspended from all of his priestly functions in public.

It is fair to say he is defrocked in the sense that he has no permission to say mass or hear confession or baptize or marry or do any priestly functions.

Here is the Reuters story out of Rome, headline: "Vatican Wary," and that is a typical Vatican diplomatic word, "wary," w-a-r-y, "Wary of his return to Haiti."

It says "Vatican diplomats long opposed to the policies of exiled Haitian President Jean-Bertrand Aristide expressed deep concern this week about the possible return to power of the left-wing Roman Catholic priest." They keep saying that, because once a priest, always a priest.

Then it says "The Silesians, one of the largest religious orders of the Catholic Church, said the charismatic priest had used religion to incite hatred and violence." One little word about that word "charismatic." The first time I ever went to a dictionary to look up that word in the eighth grade it was used, applied to Adolf Hitler. They said he was charismatic, or had charisma. I did not know the word. I went and looked it up.

I never considered that word in the same light that it is used in American politics, that this Congressman is charismatic or that Senator or this Presidential candidate, because I learned the word applied to Adolf Hitler, so charismatic does not mean this guy is some kind of hero.

It says "Church laws bar priests from holding elective office." Anyway, that is why the two priests were, and I heard the gentleman from Wisconsin, TOBY ROTH, beat one, and the other one was ordered to leave here, leave his priesthood.

I heard him in the Speaker's lobby right outside his door to CHRIS DODD, right outside in the Senate, saying "I was between a rock and a hard place. If I had chosen the House, I would have lost my seat anyway, because my district in half Jewish, half Catholic, so there is more than one way to skin a cat," his exact words. He ends up head of the Americans for Democratic Action, which is kind of like flaunting it to the Pope anyway, and he is now teaching left-wing law down at Clinton's alma mater, the former pro-abortion priest of the House, Robert Drinan, with ROBERT DORNAN canceling every one of his votes, so there are some strange things going on in the priesthood.

One Vatican high-ranking official says "We are not too thrilled here. One thing is that he is a priest. The other thing is that he advocates violence," as we all heard in depth in a classified session down in the deep basement today.

This guy, and they gave us the word, did you keep that note, TIM, on what he calls necklacing, Pere Lourran, the name of a man who opened a tire company who was his biggest supporter. So when Aristide says "You must use Pere Lourran," he is saying use "Father Necklacing," use those tires.

I got the names on something else we were told in this briefing that is not classified. The great national hero who freed the slaves and fought Napoleon Bonaparte, the Napoleon, emperor, the first, was named Toussaint L'Ouverture, Toussaint is the George Washington of Haiti. He said "I will give amnesty to my rival, Rigaud". But Toussaint subsequently killed all of Rigaud's supporters after he said he would give them amnesty.

In this country, you remember in our briefing, they said they did not know where it was from, but it was in exile recently Aristide said "I promise everyone amnesty," in the tradition of Toussaint, promising Rigaud's followers amnesty. So he is actually saying, and this escapes no one's attention in Haiti, from the second grade education on up, he is saying, like our George Washington, "I am promising you amnesty but what you are going to get is Pere Lourran," the necklacing of tires.

Did you already read his exact words about the smell of burning human flesh and all? I mean, what is going on that our colleagues in the other body are actually putting their arms around this guy, physically embracing him sideways, shaking his hand in public, and here is what offends me most, resisting classified briefings?

I have some more stuff here, but let us kick the ball around.

Mr. HUTCHINSON. Reclaiming my time, I yield to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, first, I want to thank the gentleman from Georgia [Mr. HUTCHINSON] for bringing this matter before the House. I come from the State of Florida. I wanted to discuss with the gentleman the impact of immigration and Haitian policy on our State, and also some of my personal involvement in this matter that has been such a critical issue.

I know the gentlemen that have spoken from California, that State has been heavily impacted. However, let me talk, if I may, for a few minutes about what has happened in Florida.

☐ 1720

In 1980 I had the opportunity to come here as a member not of the House, but as a staff member in the U.S. Senate and representing a U.S. Senator from the State of Florida. Remember, if you will in your minds what took place in 1980, the Mariel boatlift and the tens of thousands of people who Carter had permitted to enter the State of Florida and the United States who soon became the charge of the State of Florida.

I was first met in my work in the Congress with that deluge of humanity that had been cast upon us by failed policy from another former Governor who had been President of the United States. So I saw firsthand the impact, the financial impact, that our hospitals were overburdened, we had people sleeping in the streets. It took us many years to recover, and we still have not recovered financially from the impact of that.

So when I was elected in November to the U.S. Congress, just a few days after the election, President-elect Clinton had again pronounced his intentions of reversing the Bush policy on Haitian immigration. And I woke one morning, Saturday morning to hear the President-elect again say that he was reversing this policy. From the experience Florida had and I personally witnessed, I anticipated a similar travesty taking place in my State, and my immediate reaction was to wire the President-elect of the United States, which I did, and I asked him then and informed him that your action is going to cause a disaster for the State of Florida, it is going to cause a disaster for Haiti in that people's lives would be lost trying to reach our shores for freedom and economic advantage. And he did not respond.

But I did have an opportunity to talk again personally with the President-elect when he met with some of the new Members in the Library of Congress, and I again reiterated my concern, and the flood began. And I do not know if the people of the Congress are aware of it, but 40,000 Haitians came to Guantanamo, and again, Florida ended up with 10,000 of the 12,000. We did not send all of those folks back. Florida again, and New York, and some of the other States, Massachusetts, ended up with these folks. But Florida ended up with more than 10,000 Haitians. We did not send them all back.

Fortunately, the President finally, after lives were lost at sea and probably hundreds of Haitians washed up on our shores in Florida. Again our hospitals, our facilities were not able to absorb these folks the way we were the Marielitos because we had a larger Cuban population who chipped in and helped that failed policy through.

So here we were again. We did fortunately get the attention of the President-elect of the United States.

In 1 week, on a Thursday morning before he was sworn into office, he did change his policy, but again, only after this disaster took place. And as I recall, he took the air urging the Haitians to stay at home who were tearing down their homes and building boats to reach our shores.

Mr. HUTCHINSON. Will the gentleman yield for a question?

Mr. MICA. Yes, I yield.

Mr. HUTCHINSON. I want to compliment the gentleman for being such a leader on this issue. I know you have deep concern about this as it impacts your own State.

I think there was a spate of stories on this back in January that there would be relocation centers, 10 of them around the Nation. So it is not just, as you well pointed out, not just the State of Florida that would be impacted by a flood of Haitian refugees coming in. But I have a figure of anywhere from 90 percent-plus of the refugees are economic refugees, not political, not trying to escape oppression necessarily, but economic, trying to escape the grinding poverty.

Mr. MICA. Yes. And this administration has made it an international policy to reach our shores now and claim political asylum. That is the key word. It is political asylum. And we cannot possibly take in all of these. If you look at China you have probably a billion people who would like to come in from China. You have hundreds of underdeveloped nations, people who are economic refugees, but also political refugees. So Florida experienced that in the 1980's.

Let me tell you right now the State of Florida is owed over $150 million in documented costs from the Mariel and tens of millions from the impact. Imagine absorbing 10,000 into any of your communities. So this is what we have had to endure with this failed policy.

Let me tell you what took place next. We stopped. We reversed the President. We finally turned him around. Then we had the question as we sent back people to Haiti, and the boats stopped sailing for our shores, then what happened is we ended up with 140-some HIV-infected individuals, Haitians. And this Congress, the United States Congress passed on the floor of this House of Representatives legislation that prohibited the entry into the United States, and it passed overwhelmingly, 300-something, which is unusual in this body, we passed legislation that prohibited having HIV-infected individuals come into the United States, not on a discriminatory basis. We just cannot absorb them. We have trouble right now.

The President stood just down the hall today describing how we are trying to provide health care for our citizens, and it was within days that the President, when a court sought to overturn previous language that prohibited these folks with HIV, he failed to direct the Department of Justice to appeal that decision, and quietly, through the night, they flew into Miami, and to New York, and again

Florida ended up with the vast majority of these people, HIV-infected.

I introduced legislation and had sponsors for legislation, and it is still sitting in this House of Representatives, to reimburse the State of Florida for even a portion of the costs that we are going to endure with HIV-infected individuals. Forty Members of the House of Representatives joined me in a letter which I sent to President Clinton asking him to appeal this decision. It was not just Florida. We do not have that many Members. It was Members from all over the United States. So they signed that letter. We sent it to the White House. And then he flew the people in in flights, and we are now absorbing that cost. We have them in the United States.

Mr. DORNAN. If the gentleman will yield for a question, I missed how much the State is already owed on the Mariel boatlift.

Mr. MICA. It is owed over $150 million.

Now I want to get into something else that I have found since I have been elected to Congress, that you have to have documented expenses. Those are the expenses, and they changed the rules on our hospitals and our facilities and our public entities. Those are the documented costs that still have not been paid by this Congress, or by the United States, owed to our State, the cost for 150 HIV-infected, of which we will get probably three-quarters and end up, and the other States, at probably $10 million or more.

The other problems with these individuals is many of them we were told did not even feel that they had AIDS. They did not believe that they had AIDS. They believed that we were telling them something because we did not want them in the United States. And we know that once they were released into the United States they had a multiplier effect in spreading that disease, and the cost of this is tremendous.

So let me continue, if I may. Let me tell you where we are with Haiti. What has happened in Haiti is a disaster again for my State, because Haiti has had a terrible history. It has been sort of the stepchild, the neglected stepchild of the Western Hemisphere, and it is an international disgrace. It is a disgrace for this country, because I have been there, I have worked with their people trying to lift them out of poverty. And we have not provided that means.

☐ 1730

And what is really sad is the failed policy that this administration brought forth with Somalia in making a paper tiger out of the United States of America. That policy, when we sailed our ship into the harbor of Port-au-Prince and set ourselves up in a fashion—my goodness, in 10 months have we destroyed the intelligence capability of the United States? Have we destroyed our ability to take advice from our military? Have we destroyed our ability to develop a foreign policy that makes sense?

We sailed that boat, that single boat with engineers and carpenters into the port of Port-au-Prince harbor, setting ourselves up for the thugs who had sent the demonstrators to the port. I was told today by people who were there it was a disaster.

So we set ourselves up for a disaster. We did not listen to even Teddy Roosevelt, who said, "Walk softly, carry a big stick."

If we were going in there, that was our time to go in there with force and to demonstrate our commitment to democracy on that island.

We have lost that chance. We will never gain that opportunity again.

We lost the confidence of this Congress, we have lost the confidence of the American people, and we have lost the confidence of the world because we are now a laughingstock when it comes to our creating or supporting Democratic institutions, whether in the Western Hemisphere or anywhere else.

Let me say one more thing, if I may: That same policy is the policy that has caused the murders of those who would seek freedom and democracy in Port-au-Prince. My heart aches for those people. But they were set up, and now they are being murdered.

What is going to be so sad is if November 1 comes and goes and nothing has occurred. Now our only hope—and I thank the gentleman for pointing this out—what we have done with sanctions, this administration's policy of sanctions are the worst thing that we can do to the people. We have put those people out of jobs, we have made them more dependent on seeking our shores, or reasons to come to our shores.

Sanctions are dumb, they are stupid, they are idiotic to impose on a country—and the gentleman is exactly right—the military leaders, the elite have gas, they have supplies. The people, however, are out of jobs, they are out of work, they are desperate.

So we have become a paper tiger, we have hurt the people we should be helping, and we will not restore democracy to that land.

So it is a sad day.

Now our only hope is the United Nations. And if we do not get behind the United Nations in some final effort, and the whole thing has become bizarre because, again, who is going to look up to the United States? What do we do?

So I commend the gentleman so much for bringing this to our attention. I apologize for taking so much time. But I had to go over with you my personal involvement in this issue and what it means to the people of the State of Florida and to me personally.

Mr. HUTCHINSON. JOHN, I thank you for being a part of this special order. I think the gentleman has quoted a great quote from Teddy Roosevelt, "Speak softly, carry a big stick." Somebody suggested our foreign policy is that we have a broken stick and that we have lost our voice.

It certainly, I think, indicates the misdirection that we have.

Mr. Speaker, I yield to the gentleman from Colorado. I am glad that he is a part of this special order.

Mr. McINNIS. I thank the gentleman for yielding.

Let me say that over the weekend I was back in Colorado—it is snowing in Colorado, by the way—I was watching television and noticed that the President had come on and they asked the President in some of these newscasts, "What about the CIA reports about Aristide?" This guy is not exactly a guardian angel. The fellow that our Government is trying to put back into power is not exactly what our country may think that he is. I was surprised by that, but what surprised me more was the President's response of the Central Intelligence Agency and the President's administration response discounting significantly any kind of information that the CIA offered in regard to Aristide.

So I wanted to take a look at Aristide. I will keep my comments limited to a couple of minutes.

Let me say that in November I did a little research. In November the Cato Institute critique on the Haiti policy, let me read it. It says: "The United States and the Organization of American States so far have achieved precisely the opposite of what they intended. Their policy has provoked human rights violations," repeat, "human rights violations, further impoverished the destitute nation, helped degrade the environment, worsened public health conditions, encouraged drug smuggling, and failed to achieve a primary goal, restoring democracy." I do not know what we are about to send back down there in this Aristide. I guess not being up on the Haiti as a freshman Congressman, I am stunned that our Government is about to put young American men and women's lives at risk to restore this character Aristide.

Let me go on with a couple of other comments. This is from the Washington Post. Let me give you the date, December 18, 1992. "During his 7-month rule when Haiti needed someone to bridge social divisions, Aristide exacerbated class strife. He showed brazen intolerance for those who didn't support him, and he condoned violence and mob terror. In fact, the new leader all but urged his followers to 'necklace' opponents." That is, execute opponents.

Let me go on further, and this is curious. We always look to someone like Aristide, and everytime I see the guy, he is in a brand-new suit, well groomed, very well groomed. Most of the time they show him walking out somewhere and he gets into a limousine. I am curious as to where he gets the money.

My understanding is, and the gentleman from California is here, my understanding is that he is getting about $900,000 a month, $900,000 a month being released to him from frozen assets of Haiti, out of Haiti.

But what is going on here?

Mr. DORNAN. Swiss banks.

Mr. McINNIS. Yes.

And them, my God, to throw it all on top of all this confusion, and there are the kind of mysteries that, as a former police officer, just puts more questions in my mind: Where is Ron Brown? Did he not represent—maybe one of the gentlemen here can help me on this—was not Ron Brown, before he became Secretary of Commerce, a lobbyist for Haiti down there, for one of these regimes?

Mr. DORNAN. Duvalier.

Mr. McINNIS. I mean this is incredible. The more the story goes on—I know others would like to speak.

Mr. DOOLITTLE. I would like to ask the gentleman a question.

Mr. McINNIS. Let me finish my comment, and then I will be happy to yield for a question.

What is required? Is the policy aimed at advancing the interests of the Haitian people rather than the promise to Aristide? If nothing else happens—well, let me quote this: "If nothing happens and life remains as bleak as it is today for the Haitian people," they grimly predict that up to 200,000 Haitian boat people may hit U.S. shores. And who blames them? If that guy came into my backyard and I could go into your backyard and get the benefits offered by this country, I would go into your backyard.

U.S. intelligence estimates that 100,000 people are ready to depart Haiti for the United States. That does not take a rocket scientist. We know they are down there and we know they want to land on our shores. We are going to take the driving force to push these people into our country, a fellow who has $900,000 a month, then we know the CIA says this guy "ain't so good." He is not all he is built up to be. In fact, he vioaltes—if we can take the U.S. criminal laws and apply it toward this gentleman, he would be in prison for the rest of his life if, if not executed, in this country. Instead we support him, we call him the guiding light of democracy, and we are ready to restore him back in Haiti. It is amazing.

Mr. DORNAN. We are in the full House and I discussed this with the gentleman from Arkansas, but we would like to ask unanimous consent to put in this entire December 18 column of Mr. Lally Weymouth, along with this full January 4 column earlier this year.

(The documents referred to follow:)

[From the Washington Post, Dec. 18, 1992]

HAITI VERSUS ARISTIDE

(By Lally Waymouth)

PORT-AU-PRINCE.—President-elect Clinton has criticized President Bush's policy on Haitian refugees. But if Clinton is genuinely concerned about improving the welfare of the Haitian people, the incoming president would do well to focus on facilitating a political settlement in Haiti and on lifting the harsh economic embargo imposed by Washington—the embargo that almost brought this already poor nation to its knees.

Only two years ago, Haiti held its first free elections, choosing a president and a parliament. Liberated from the long Duvalier dictatorship, the country appeared to have a promising future. But the new president, a young, charismatic, extremely radical anti-American priest named Jean-Paul Aristide—perceived as the most ardent foe of the old order—did not exactly lead the island into a period of liberal enlightenment.

During his seven-month rule, when Haiti needed someone to bridge social divisions, Aristide, exacerbated class strife. He showed brazen intolerance for those who didn't support him, and he condoned violence and mob terror. In fact, the new leader all but urged his followers to "necklace" opponents. Mobo heeded his word in several instances; I saw harrowing photographs here depicting the charred remains of men who had been burned alive.

In August 1991, the parliament met to consider a vote of no confidence in Aristide's prime minister, Rene Preval. A mob surrounded the parliament building, threatening the very lives of the members—who then backed off.

Seven months after Aristide's inauguration, with opposition leaders fearing for their lives, the Haitian army staged a coup.

In response to the military coup, the United States, in collaboration with the Organization of American States, imposed an economic embargo that remains in effect.

Nevertheless, the elected parliament, with the approval of the army, went ahead and chose Mark Bazin to serve as prime minister. A former World Bank economist with close ties to the United States, he had run for president against Aristide and lost. Bazin's job now is to find a political solution and, in the meantime, to direct Haiti's economic and foreign policy.

Bazin is an impressive man of moderate sensibility who understands the importance of achieving an electoral mandate; he believes he can earn one if he is given the time and opportunity to reduce poverty.

But the chief barrier to his success, Bazin asserts, is the economic embargo. He notes, moreover, that few U.S. businesses have been willing to stay in Haiti: "We have lost 75 percent of them."

Even senior Bush administration officials admit that the embargo has been a failure. It has not succeeded in its dubious purpose: to ease the return of Aristide. It has instead all but destroyed the economy of the poorest nation in the Caribbean, driving up prices, eliminating jobs and making life for the poor unbearable.

American leadership is the key to any potential settlement: At the moment, all sides appear frozen in place. Aristide sits in Washington, receiving, according to U.S. sources, about $900,000 a month from frozen Haitian assets to maintain his ambassadors and himself in style. Since Aristide hopes that Clinton will restore him to power, he is disinclined to make any compromises.

The army, on the other hand, is equally unlikely to bend unless there is genuine U.S. pressure to compel it to reduce its role in Haitian life. There's little question that the military continues to commit major human rights violations.

For the Clinton administration, the "Washington Protocol" of February 1992 provides a possible starting point for a settlement. Under its terms, Aristide might remain president, but his return home would be delayed. In exchange, he would be expected both to abide by laws passed by the Haitian parliament and to grant a general political amnesty—including, of course, those involved in the coup.

What is required is a policy aimed at advancing the interests of the Haitian people rather than one that promotes Aristide. If nothing happens and life remains as bleak as it is today for the Haitian people, Bazin grimly predicts that up to 200,000 Haitian boat people may hit U.S. shores. There are U.S. intelligence estimates that 100,000 people are ready to depart Haiti for the United States. Bazin estimates that 99 percent of them are, contrary to the prevailing wisdom in liberal circles, economic and not political refugees.

If Bazin's moderation doesn't appear to pay off, it's altogether possible that the army will depose the Bazin government and revert to a more traditional and brutal Haitian military dictatorship.

"The opportunity is now," says Bazin. "If we let it pass, no one will be in control of the boat people and the extremists. The Americans could then," he warns, "have to carry out another Somali operation"—right here in our own hemisphere.

[From the Republican Study Committee, Oct. 22, 1993]

HAITI'S ARISTIDE: DEMOCRAT OR DICTATOR?

"The announced purpose of the U.N. Haitian initiative is, *in the name of democracy*, to reinstall Jean-Bertrand Aristide to power. It has been publicly reported, however, that U.S. intelligence believes Aristide to be a clinical psychotic, an individual who is sufficiently mentally unstable as to require medication and institutional treatment for depression and megalomania."—October 14 Decision Brief, The Center for Security Policy.

"Because of our concern that U.S. military involvement in Haiti could result in a situation similar to Somalia, we request that you provide us with answers to the following important questions in order to clarify the reasons for your decision to commit U.S. troops to Haiti."—October 8 Letter to the President sponsored by Congressmen John Doolittle and Robert Dornan.

"Peace-keeping commitments may so degrade the armed forces' war-fighting capability that it will be impossible to carry out the national military strategy * * * If the commitments/forces mismatch continues to develop as current trends suggest, the military will be unable to carry out the strategy."—Floor Speech by Congressman Ike Skelton (D-MO).

INTRODUCTION

Reverend Jean-Bertrand Aristide was evicted from office in a military coup on September 30, 1992, seven months after his inauguration. Aristide was elected with 67% of the vote.

A peace accord was signed July 3 at Governor's Island, New York, between the military, headed by Lt. General Raoul Cedras and exiled President Aristide. Cedras was to resign by October 15, and Aristide to return to office by October 30. Other conditions of the accord included passage of a bill by the Haitian Parliament that would grant amnesty to those responsible for the coup, and another bill to separate the army from the police. General Cedras has said he would not leave office until the other conditions of the accord are met.

U.N. Security Council Resolution 867 (approved September 23) created the U.N. Mission in Haiti (UNMIH). UNMIH was to be composed of 1600 U.N. observers, police and civilians. Violence and death threats against the Canadian chief of the UNMIH police forced his recall on September 30. U.S. troops would be particularly exposed in Haiti, since the original plan was to provide 600 UNARMED U.S. troops to help rebuild Haiti.

Country background: Haiti's adult literacy rate is 23%. Its population is 6.4 million. Haiti is the size of the state of Maryland, and is based 100 miles east of Cuba and 750 miles southeast of Miami. The official language is French (although the majority of Haitians speak Creole); Haiti's GNP per capita is $370, and its population is 95% African descent.

WHO IS PRESIDENT ARISTIDE?

Haiti's military views the deposed Aristide as an unstable leader who filled his Cabinet with cronies. Some accuse Aristide's government of Marxist leanings and said the Haitian Army could not tolerate the existence of such a government.

Are the military's views on Aristide justified?

CBS News reported on October 13 that President Aristide during his short reign encouraged the "necklacing" of his political opponents, the practice of igniting gasoline-soaked tires around the neck and burning a victim alive. (This is a practice frequently used against political enemies by the African National Congress in South Africa.) Here's the quotation CBS ascribes to Aristide in reference to necklacing:

"What a beautiful tool, what a beautiful instrument, what a beautiful device, it's beautiful, yes, it's beautiful, it's cute, it's pretty, it has a good smell. Wherever you go you want to inhale it."

ARISTIDE IS THE CENTERPIECE OF CLINTON'S HAITI POLICY

President Clinton has embraced Reverend Aristide, as has the Reverend Jesse Jackson, Randall Robinson of TransAfrica and members of the Congressional Black Caucus. The Heritage Foundation in 1991 had this to say of Reverend Aristide:

"He is a lifelong leftist, a fervent nationalist, and a strong advocate of liberation theology, which promotes the ideals of communism thinly veiled with religion. In fact, Aristide, who is a Roman Catholic priest, was ousted from the Salesian Order of the Roman Catholic Church in 1988 because it considered him a revolutionary."

Aristide's political platform endorsed redistribution of wealth from the rich to the poor, and his rhetoric blamed the U.S. Government for the abuses of the Papa Doc and Baby Doc Duvalier dictatorships, the latter previously represented in the U.S. by Clinton's Commerce Secretary Ron Brown.

ARISTIDE'S TIES TO FIDEL CASTRO

The Heritage Foundation's February 1991 analysis states that Aristide invited Fidel Castro's regime to send a delegation to attend his inauguration. Haiti and Communist Cuba had never had diplomatic relations, but Aristide seemed to be opening the door to diplomatic ties. Aristide's party sent young "volunteers" to Cuba for training as "political party operatives." Aristide's party also created neighborhood militias titled "vigilance committees," modeled on Cuba's, which appeared to target Aristide's political rivals, including the press, and foreign diplomatic and business interests. The vigilance committees organized street protests, sponsored attacks against opponents, and served as intelligence operatives for Aristide.

HAITIAN MILITARY FEARS REPRISALS BY ARISTIDE

The Army fears reprisals by the deposed President, a proponent of necklacing, should he be returned to office. The October 15 Boston Globe quoted a top Haitian officer saying:

"We have lived seven months with Aristide . . . we had many soldiers killed. We had many members of society killed, and the international community says this is democracy and you have to drink this same poison because he is an elected president, and an elected president can do anything he wants. This is incredible. I can't believe it."

The military appears justified in its views on Aristide by the 1991 State Department's Country Reports on Human Rights Practices: "President Aristide, however appeared less concerned about prosecuting members of the military accused of human rights abuses if they were supporters or appointees of his government. The Aristide Government repeatedly attempted to interfere with the judicial process or usurp it through 'mob justice.'"

CLINTON'S RATIONALE FOR INTERVENTION IN HAITI: REFUGEES

Secretary of State Christopher and Madeleine Albright have sought to rationalize U.S. interference in Haiti by arguing that its policy will prevent the flow of Haitian refugees to the U.S. President Clinton's support for U.N. sanctions is likely to produce the one result the Administration claims it is fighting—More Refugees!

The October 15 Washington Post admits that: "reimposition of the sanctions . . . would demolish the few viable businesses in weeks." A Cato Institute Policy Analysis (November 5, 1992) claims the embargo cost 140,000 private sector jobs from a total of 252,000 total and generated 40,000 refugees. "Since there are approximately six dependents per job holder, the losses directly affect nearly 1 million people." To circumvent sanctions, the nation's military elite has resorted to selling smuggled goods, expanding trade with the Dominican Republic, and allegedly engaging in drug-trafficking.

Most Haitians fleeing their country are economic refugees. How can President Clinton justify the imposition of sanctions against the most impoverished black-ruled nation in the Western Hemisphere? Sanctions will only inflict mass suffering and deprivation on Haiti's people. Some speculate that the President, having reneged on his campaign pledge to hear the asylum claims of Haitian refugees, is now trying to compensate for his policy reversal.

It is a sad commentary on a great power that it claims it can do nothing about the influx of refugees from a nation of 6.4 million. There is a rather simple solution—Haitians know that if they can make it to U.S. ships only a few miles offshore, they will be taken to the Florida coast. This promotes refugee flight. Political stability, law and order, and economic growth, which can only be achieved by the Haitians themselves, are the key to stopping the refugee flow.

BLIND SUBSERVIENCE TO A RADICAL U.N. AGENDA

President Clinton's misplaced fealty to the United Nations produced a disastrous policy in Somalia. He is on the verge of repeating the same mistake in Haiti, and again, recklessly endangering the lives of U.S. soldiers. The American people are unwilling to see more American troops placed at risk, or to be sacrificed on the altar of "mindless multilateralism," the foreign policy being pursued by the Clinton White House.

The U.S. is not the enforcement arm of the U.N. President Clinton failed, in approving U.S. participation in U.N. peacekeeping in Haiti, to address basic questions raised in his speech to the U.N. General Assembly:

"Is there a threat to international peace and security? Does the peace-keeping mission have clear objectives? Can an end point be identified?"

The answer, in Haiti, to all of President Clinton's conditions is a resounding NO.

American soldiers are volunteers, but they volunteered to defend the United States and its interests, not to become proxies for the United Nations or world policemen. Clinton's policies reflect a contempt for the military and if continued, may result in more dead American boys for no just cause.

CONGRESS REJECTED WHITE HOUSE REQUEST FOR PEACEKEEPING MONEY

The President must get Congress' message; the peacekeeping money his Administration requested was rejected by the House, both on the DOD Authorization bill and DOD Appropriations bill. The President cannot ignore the Congress or the will of the people in decisions to deploy forces overseas under U.N. command.

AMERICAN SOLDIERS TO BE LEFT DEFENSELESS IN HAITI

The Haitian Parliament is expected to vote to condemn the U.N. intervention. Why would the President deploy troops with only "self-defense weapons" given the obvious hostile political climate in Haiti? As recently as September 26, the State Department's assessment was that the U.N. military trainers and police advisors were not expected to face any hostile reaction in Haiti.

The Clinton Administration must know that the hotel housing U.N. staff was attacked, and that the Haitian civilian "attaches," said to be armed by the Haitian military, carry Uzis. Yet regardless, American soldiers were to be sent into harm's way, with the hope that the Haitian military, roundly condemned by Clinton spokesmen, would protect them. U.S. troops would be obvious targets for terrorist attack, especially with inflammatory Administration rhetoric fanning military and nationalist animosity towards U.S. Government representatives.

TROUBLED HISTORY OF U.S. INTERVENTION IN HAITI

President Woodrow Wilson deployed 350 marines to Haiti in 1915 following the assassination of Haiti's President and prompted by concerns about U.S. investment in Haiti. The U.S. occupation force stayed until 1934. During that period of time, the Marine Corps restored order, introduced constitutional reforms and the country's first telephone service, and built roads and schools.

The United States should profit from history. The U.S. Marine deployment in 1915 did not stop Haiti from sliding off the road to democracy. In fact, the Marines increasingly inspired Haitian resentment towards the Yankee oppressors. Large anti-American demonstrations helped force the U.S. withdrawal. Post-U.S. occupied Haiti returned to corruption, political chaos, dictatorship, and human rights abuses.

As the November 5, 1992 Cato Institute policy critique persuasively argues, "The United States and the OAS (Organization of American States) have so far achieved precisely the opposite of what they intended. Their policy has provoked human rights violations, further impoverished a destitute nation, helped degrade the environment, worsened public health conditions, encouraged drug smuggling, and failed to achieve its primary goal—restoring democracy.

RECOMMENDATIONS

The U.S. Government should explore the possibility of having the Vatican mediate the political impasse in Haiti, a suggestion offered by the Haitian military. The Vatican, far more than the U.N. or the Clinton State Department, which have taken sides in Haiti's political feud and implemented counterproductive policies, could serve as an objective mediator.

The U.S. should avoid any military intervention in Haiti except in the defense of American lives on the island.

The Congress should fault the Clinton Administration policy for its political bias towards the deposed and discredited President Aristide, and should endorse a policy which supports democratic principles, not undemocratic individuals.

The Congress should encourage the immediate revocation of the trade embargo, which is exacerbating Haiti's deep poverty, escalating political tensions in Haiti and reducing the possibility of a peaceful and negotiated settlement of the conflict.

The U.S. should distance itself from any U.S. "nation-building" plan in Haiti, which undoubtedly would be a bureaucratic boondoggle, and instead, embrace a genuine prodemocracy strategy towards Haiti, which emphasizes free market economics, decentralized government, civilian control of the military, and improving human rights.

MARGARET HEMENWAY,
Senior Policy Analyst.

[From the Washington Post, Jan. 24, 1993]

HAITI'S SUSPECT SAVIOR: WHY PRESIDENT ARISTIDE'S RETURN FROM EXILE MAY NOT BE GOOD NEWS

(By Lally Weymouth)

Before his Inauguration, well aware that thousands of Haitians were planning to set sail for America in direct response to his perceived campaign promises, Bill Clinton reversed course and adopted the Bush administration policy he had bashed resoundingly—ostensibly on humanitarian grounds—during the campaign. The president-elect announced that Haitians trying to reach U.S. shores would be forcibly returned to Haiti.

Human rights groups have attacked Clinton for the reversal. Their chief hope now with regard to Haiti is that the incoming administration will restore deposed President Jean-Bertrand Aristide to power. A leftist priest, Aristide was chosen president of Haiti in a free election in December 1990. Seven months later, he was ousted from office in a military coup.

After the coup, the Bush administration, in coordination with the Organization of American States, slapped a harsh embargo on Haiti. A senior Bush foreign policy official explains that the action was meant to remind the militaries of other Carribean and Latin American countries that coups don't pay.

Not surprisingly, however, the Haitian people became the primary victims of the embargo. While Aristide lived nicely in Washington—enjoying access to thousands of dollars in frozen Haitian assets made available to him by the U.S. government—Haiti, already the poorest country in this hemisphere, saw the loss of thousands of jobs as companies in electronic assembly, clothing manufacture and other light industry sold out to Haitian businessmen or moved operations elsewhere.

Before the Clinton administration sets out to restore Aristide to power, newly appointed officials would be wise to study carefully the true character of Aristide's short, but brutal, tenure in office. Not only did he abuse democratic practices but Aristide condoned and even encouraged violence.

The State Department 1991 human rights report said that under Aristide there were fewer instances of abuse by the military but "the government proved to be unwilling or unable to restrain popular justice through mob violence. . . ."

In his speeches Aristide called upon his followers to attack freely anyone who dared disagree with him. This included even organizations such as the labor union CATH, which had supported Aristide's election but later criticized some of his actions.

Aristide actually urged his followers to engage in the hideous practice of "necklacing"—slapping a petrol-soaked tire around the neck of a political opponent and igniting it, thus burning the victim alive. On Sept. 27, 1991, shortly before he was overthrown by the military, the former Haitian president told a mass rally that if they should see "a faker who pretends to be one of our supporters . . . just grab him. Make sure he gets what he deserves . . . with the tool you have now in your hands [the burning tire]. . . . You have the right tool in your hands . . . the right instrument. . . What a beautiful tool we have. What a nice instrument. It is nice, it is chic, it is classy, elegant and snappy. It smells good and wherever you go, you want to smell it."

A few days, later an Aristide-inspired mob attacked Sylvio Claude, the founder of the Democratic Christian Haitian Party (PDCH)—a man who had been jailed and tortured by Duvalier but was a political opponent of Aristide. Although Claude sought shelter in a police station, he was turned over to the mob and burned to death.

The Catholic Church was a central target of Aristide's more violent supporters. Monsignor William Murphy wrote a graphic account of events in January 1991 when, according to Murphy, ". . . a group of thugs, supporters of newly elected President Aristide, went on a rampage. They destroyed the old cathedral, gutted the archbishop's house . . . and then went on to the nunciature, the home of the pope's representative. There, they completely destroyed the building, attacked the nuncio and his priest-secretary, broke both legs of the priest and roughed up and stripped the nuncio . . . who was saved only by the intervention of a neighbor."

According to senior U.S. government officials. Aristide also participated in a cover-up of the killing of five teenagers on July 26, 1991. Members of an anti-gang unit claimed the killings occurred when they became involved in a struggle with the youths as they tried to escape. Photographs, however, showed that the young men were severely beaten and shot at point blank range by several weapons. The Haitian armed forces—in particular Interim Commander-in-Chief Raoul Cedras—demanded that the incident be investigated. But Aristide, who had been building his own security forces outside the military chain of command, tried to block the investigation and sided publicly with one of the officers involved in the slaying.

U.S. government officials cite extensive evidence showing that Aristide personally gave the order to kill Roger Lafontant, the Duvalierist, who was incarcerated in the National Penitentiary after his conviction for leading a coup attempt in January 1991.

When Lafontant was tried in July 1991, a mob of Aristide supporters assembled outside the courtroom carrying tires and gasoline cans and threatening to kill the judge in the case if Lafontant were not given a life sentence. As a result, Lafontant received a life sentence although the Haitian constitution sets the maximum penalty for his alleged crime at 15 years. Aristide praised his followers for their efforts, asking whether, without the threat of necklacing, "don't you think that the sentence handed down would have been 15 years?" Lafontant was killed by his jailers on the night that Aristide was overthrown.

After the coup, Cedras became chief of staff. He is, nevertheless, credited by U.S. officials with saving Aristide's life the night of the coup. In a December interview, Cedras said he also has information that Aristide intended to have other political prisoners killed, not just Lafontant: "He [Aristide] gave the orders to kill around 20 people, but they had the courage to execute only Lafontant.".

During Aristide's short rule, says Canadian journalism professor Gerard Etienne, a Haitian-born staunch opponent of Duvalier who conducted a detailed study of Aristide's rule, soldiers were regularly assassinated and several military posts were burned. Aristide, according to Etienne, not only failed to denounce these brutal slayings, but "backed them up by his silence and his demagogic tirades . . . ."

In August 1991, Haitian legislators met to deal with the government's abuses. They planned to question Prime Minister Rene Preval—who, according to the State Department human rights report, had personally interrogated political prisoners and denied them recourse to legal counsel—and then to consider censuring him. Before parliament met, shots were fired outside the headquarters of the National Front for Change and Democracy (FNCD)—a political party that had originally supported Aristide but had begun to criticize some of his actions. The home of an FNCD legislator was also stoned.

When the parliament met, its members found themselves surrounded by about 2,000 demonstrators, many carrying burning tires. Under the threat of the mob, the legislators decided to recess.

Cedras says he did his best to keep order in Haiti during the 1990 elections that brought Aristide to power. Moreover, he recalls trying subsequently to cooperate with Aristide. "But we could never really find out why he behaved the way he did," said Cedras. "He spent seven months violating the constitution of this country which he was there to guarantee."

After Aristide was overthrown by the military on Sept. 30, 1991, the army soon appointed a civilian government, headed by Prime Minister Marc Bazin. Since then, efforts have been made—with U.S. assistance—to arrive at a negotiated settlement between Aristide, the army and Bazin.

The closest the two sides came to an agreement was the Washington Accord reached 11 months ago. But the accord reached a stumbling block after Aristide changed his mind on a central element—amnesty for the armed forces leadership. Negotiations dragged on, and Aristide proved to be in no hurry to make a deal.

During the transition, the threat that thousands of Haitian boat people might descend on Florida quickened the negotiating pace. The two sides appear to have approached a solution—amnesty would be granted to tne army in return for a recognition of Aristide's right to return to power. In theory, both sides have agreed to accept a large team of international monitors that would hopefully reduce the widespread human rights violations currently being committed by the army and prevent future abuses by Aristide's supporters should he return.

The challenge for Haiti and its U.S. friends is to turn to building institutions that can sustain a measure of democracy. Helping Aristide regain power may make sense as a way of stemming the flow of Haitian immigrants to Florida. But it is foolish to assume that he represents a return to human rights and democratic rule for that impoverished island.

(Lally Weymouth writes frequently on foreign issues for The Washington.)

[From the Washington Times, Oct. 24, 1993]

VATICAN WARY OF ARISTIDE'S RETURN TO HAITI

ROME.—Vatican diplomats, who have long opposed the policies of exiled Haitian President Jean-Bertrand Aristide, expressed concern this week about the possible return to power of the left-wing Roman Catholic priest.

Mr. Aristide became Haiti's first democratically elected president in 1990, two years after he was expelled from the Salesian order and suspended from carrying out his priestly functions in public.

The Salesians, one of the largest religious orders in the Catholic Church, said the charismatic priest had used religion to incite hatred and violence.

But Mr. Aristide is still a priest in the eyes of the church, since he never officially received a dispensation from his vows. Church law bars priests from holding elected office, except in unusual circumstances.

"We're not too thrilled," said one high-ranking Vatican official, speaking on condition of anonymity. "One thing is that he's a priest. The other thing is that he advocates violence."

Mr. Aristide, who was overthrown in a bloody coup in September 1991, was scheduled to return to Haiti at the end of the month as part of a U.N.-brokered accord.

But Haitian military leader Lt. Gen. Raoul Cedras has refused to comply with the U.N. plan and has suggested that the Vatican mediate. A Vatican spokesman said no official request for mediation had arrived in Rome.

The Vatican blames Mr. Aristide for an assault on a Vatican mission in Port-au-Prince in January 1991 by a crowd unhappy with the church's official position toward the exiled president. The Vatican ambassador, an Italian archbishop, was stripped to his underpants, and his assistant was both stripped and severely beaten in the attack.

In other words, in our busy day around here, this has been kicking around for almost a year, and we have just not been able to, with our other duties, to focus on this. And by the way, I want to get it right because we are going to hear more of it, I am afraid, if we lose the lives of our young men and women in harm's way to force him back; his term for this cruelest of all deaths, putting a tire around someone and the tire is filled with gasoline or turpentine so as it is set on fire you run and the gasoline splashes out of the tire and continues to burn you alive, he calls that "pere," as in "father," "Lebrun." That is the name of the guy who is one of the main financial supporters.

I wanted to give one final paragraph from that Vatican column of Reuters out of Rome, and then I want to ask JOHN a couple of questions because he is the expert of our 50 States closest to Cuba and Haiti. It says, "The Vatican blames Mr. Aristide for an assault on a Vatican mission in Port-au-Prince in January 1991 by a crowd unhappy with the church's official position toward the exiled president." And this built up to his overthrow in September. "The Vatican ambassador, an Italian archbishop, was stripped to his," and this is the word they used, "underpants and his assistant was both stripped and severely beaten in the attack. And the gentleman said his legs were broken." What I wanted to, with the gentleman's permission, is ask the gentleman from Florida [Mr. MICA], who said, "All HIV-infected people have been brought here on flights from Guantanamo." Are we still putting just general refugees that we pick up at sea—now, Coast Guard ships snuck into Port-au-Prince quietly and deposited, I think, 24 people last night or this morning. They were picked up, saved from the high seas. Are we still putting Haitians found on the high seas, surviving shark attack and dehydration; are we bringing them into Florida or taking them back to Guantanamo?

□ 1740

I believe we are taking them into Florida, but now you have created this situation where you may truly have questions raised as far as political amnesty, and they will immediately claim political refugee status, which is a very murky area.

Basically this administration because of its lack of enforcement has created an atmosphere that allows anyone to make that claim.

They have also created a new category of entrants, which are HIV infected. In spite of the law, we have allowed them in. We have allowed that judge's decision to stand.

But let me say this, that Haiti will not go away. Haiti is an integral part of the western hemisphere. It has been a neglected nation. There is no reason that Haiti should exist the way it does today, except for some of the failed policies of the past where we have given tremendous amounts of aid that has ended up in Swiss bank accounts, where we have paid for studies, but we do not pay for the thing that has made this country successful, which is helping people to help themselves.

Our policies have been handouts. We have an AID program and we have missions all over this world that are giving out money, and once that money is gone it is either again in a Swiss bank account or in some project. It is not established in a fashion to create an entrepreneurial system to promote business.

The thing that will make Haiti a success, that will keep Haitians from our shores, and the independent proud people that they are, is their economic success.

So if we can do business in trade and show them how to do that, and they are great people, these are people who want to work. They want the same things Americans want. They want a home. They want transportation. They want a job, just like Americans do. That is the problem with this Congress. It is easier to give aid to some foreign country. It is easier to give aid to these cities.

I heard yesterday one of the speeches that absolutely just brought me almost to tears, when one of our Representatives from Detroit told me that 20,000 Americans showed up for job applications because of a post office job opportunity in Detroit, which has the highest amount of unemployment in the United States, I think somewhere around 50 percent.

But those policies in Detroit or those policies in Port-au-Prince have failed. That is what needs to be addressed. That is what can raise all the boats, all the people to success.

Mr. Speaker, that is the positive note on which I leave.

Mr. DORNAN. Mr. Speaker, if the gentleman will yield for just a moment, and then the gentleman can please close this.

The letter that the gentleman helped circulate, with the gentleman from California [Mr. DOOLITTLE] and myself, the million-and-a-half audience watching will say, "Well, you are criticizing the President. What are you offering?"

Mr. Speaker, I will put in the RECORD the letter from myself, the gentleman from Arkansas [Mr. HUTCHINSON] and the gentleman from Texas [Mr. DELAY], the October 8 letter to the President giving him suggestions, putting Senator DOLE's article in yesterday's Washington Times that Aristide is not worth one American life, that he is not the Thomas Jefferson of Haiti. I just want to get those in.

Mr. Speaker, I include that material at this point.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 8, 1993.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: There is considerable concern within the U.S. Congress about your administration's plans to expand the role of U.S. military forces in United Nations peacekeeping missions. Much of the concern results from your administration's failure to clearly define the criteria used to determine when U.S. troops will be committed abroad.

On October 11, 1993, 200 U.S. servicemen and women will arrive in Haiti, with 400 more to follow later in October, to participate in a U.N. mission that is designed to prepare Haiti for the scheduled October 30 return of exiled President Jean-Bertrand Aristide. Because of our concern that U.S. military involvement in Haiti could result in a situation similar to Somalia, we request that you provide us with answers to the following important questions in order to clarify the reasons for your decision to commit U.S. troops to Haiti:

1. What are the vital national security interests that require the placement of United States forces in Haiti under the auspices of the United Nations?
2. What is the mission of the United States forces involved in the United Nations mission in Haiti and the estimated duration of that mission?
3. What is the exact size and composition of the United States forces involved in the United Nations mission in Haiti?
4. What is the estimated cost of this United Nations mission to the United States?
5. What is the precise command and control relationship between the United States forces and the United Nations?
6. What is the precise command and control relationship between the United States forces involved and the commander of the U.S. military command here in the United States?
7. To what extent will United States forces deployed to Haiti rely on non-U.S. forces for security and self-defense, and what is the ability of those non-U.S. forces to provide adequate security to the U.S. forces involved?
8. What are the "rules of engagement" for United States forces in Haiti?
9. What are the conditions under which the United States forces can be withdrawn from Haiti?

We know that you appreciate and understand our concerns about deploying U.S. forces abroad as part of a United Nations operation. We hope that you will provide us with a prompt reply to these important questions.

Thank you for your cooperation and for your attention to this matter.

Sincerely,

John T. Doolittle, Robert K. Dornan, Richard Pombo, Tim Hutchinson, Nick Smith, Rod Grams, Paul Gillmor, Bill Archer, Dana Rohrabacher, Jack Kingston, Richard Baker, Jim Ramstad, Roscoe Bartlett, Chris Cox, Dan Burton, Jim Bunning, Jan Meyers, Carlos Moorhead, Bob Livingston, Toby Roth, Gerald Solomon, Tom Ewing, Sam Johnson, Randy "Duke" Cunningham, Duncan Hunter, Dick Armey, Ed Royce, Bill Goodling, Cass Ballenger, James Sensenbrenner, Elton Gallegly, Wally Herger, Jon Kyl, John Duncan, Jim Saxton, Bob Inglis, Howard "Buck" McKeon, Henry Hyde, Tom Delay, Spencer Bachus, Bill Baker, C.W. Bill Young.

[From the Washington Times, Oct. 25, 1993]

DOLE OPPOSES SENDING TROOPS—SAYS ARISTIDE ISN'T WORTH U.S. LIVES

(By Major Garrett)

Senate Minority Leader Bob Dole and former Defense Secretary Dick Cheney joined forces yesterday to oppose using any U.S. combat forces to restore exiled President Jean-Bertrand Aristide to power in Haiti.

In response, Vice President Al Gore said the Clinton administration continues to support Mr. Aristide's peaceful attempt to get his office back from the military junta that ousted him in September 1991.

Mr. Dole said a recent CIA briefing given to 13 senators last week unearthed some "very disturbing" information about Mr. Aristide's mental stability, his treatment of political opponents and his commitment to democracy."

"It involves a lot of different areas that would indicate he doesn't believe in democracy with a small d and that he may not be very successful once he returns," Mr. Dole said on ABC-TV's "This Week." "I certainly wouldn't risk one American life to put him back in power."

Mr. Cheney said the Clinton administration should think twice about making Mr. Aristide's return to Haiti a top diplomatic or military priority.

"This is not the Thomas Jefferson of Haiti. I don't think it's worth American lives to try to restore him to his office in Haiti, especially when he might well not survive very long if he were to go back to Haiti," he said.

"While certainly he was democratically elected, there are very serious questions about his mental stability, about his conduct in office the few months he was in office," Mr. Cheney said on the ABC news program.

Mr. Gore discounted the negative reports about Mr. Aristide.

"There are allegations by his opponents that he denies, that are uncorroborated," said Mr. Gore, who appeared on the same program. "I can tell you this, that we have dealt with him for nine months now. He has been reliable, he has been very thoughtful, he has been persistent in his efforts in behalf of the Haitian people."

Ever since he was ousted in a military coup, Mr. Aristide has appealed for support from the United States, the United Nations and the Organization of American States.

The Bush administration expressed initial sympathy for Mr. Aristide after the coup but ruled out the use of U.S. troops to restore him to power. It also turned back roughly three-quarters of the 40,000 refugees who sought to come to the U.S. in makeshift wooden boats.

The Bush administration began to distance itself from Mr. Aristide in early October 1991, when politicians and businessmen interviewed by the Organization of American States revealed a harsh side to the Aristide regime.

The critics complained that Mr. Aristide encouraged vigilantism among the poor and intimidated his political opponents.

Allegations also surfaced that Mr. Aristide condoned torture and executions to settle political scores and that he had bypassed the legislature and imposed his definition of social justice above those outlined in the constitution.

As a candidate, Mr. Clinton criticized the policy of shipping refugees back to Haiti as "immoral" and vowed to do more on Mr. Aristide's behalf. After months of employing a policy quite similar to Mr. Bush's, Mr. Clinton has moved more aggressively to restore Mr. Aristide to power.

The vice president said the administration remains committed to Mr. Aristide because of his standing as Haiti's democratically elected leader.

"He represents democracy in Haiti," Mr. Gore said. "We believe that he should be restored. He was elected president by the people there. When he was president, conditions began to improve. The people began to have an opportunity to restore some stability there."

Mr. Gore said that a blockade by U.S. and Canadian ships is working and that prospects are improving for a negotiated settlement between Mr. Aristide and the military leaders.

Mr. Dole said the United States had a "national interest" in preventing more Haitian refugees from trying to enter the country. But that goal should be pursued entirely through diplomatic efforts, the senator said.

"This country needs help, but I doubt if they're going to get much help from the likes of Aristide," he said.

Mr. Cheney said it may not be within the United States' power to restore Mr. Aristide—peacefully or otherwise—and that Mr. Clinton might have to wait for international efforts to run their course.

"I think that sometimes, in fact, the right answer is that there is no quick and easy fix; there is no solution that can be imposed by the United States on Haiti," Mr. Cheney said. "They've been independent for 200 years, they've never mastered the complexities of building a democratic society. And I would not sacrifice any American lives to that end."

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman from California [Mr. DORNAN].

Just wrapped this up, I do not have time to expand on this, we are not against the nation of Haiti. As the gentleman from Florida [Mr. MICA] so eloquently said, they are a proud people. They are a nationalistic people, and our hearts go out to them.

It is not enough to criticize American foreign policy. I want to suggest four components of what we need to do very quickly.

First, we need to refrain from sending United States military personnel to Haiti. It would be a recipe for disaster to send lightly armed American troops into Haiti.

We need to lift the economic embargo on Haiti. All that is doing is hurting those who are already most hurting. It is only causing greater starvation, greater hunger, greater chaotic economic conditions.

Third, we need to delink the United States Haiti policy from Aristide. We need to drop our support for Aristide as being the sole one who can restore democracy to Haiti.

I think there has been adequate testimony and evidence presented during the this special order to show indeed that Aristide is the wrong one for us to be backing.

Fourth, we need to promote United States interests and encourage a political compromise in Haiti through the OAS, through the United Nations, and through the good offices of the Roman Catholic Church.

Mr. Owens. Mr. Speaker, will the gentleman yield?

Mr. HUTCHINSON. I am out of time. I would like to.

I think we need another special order on the subject of Haiti.

But let me just say, I have gone to Haiti. I have spent time, my church

sponsors a mission there, a school there. We send food there. We send clothes there. I have spent 8 days down there myself helping and working with those people. We need to do all we can to continue to do that.

Our hearts go out to the people of Haiti. Our concern is the misguided foreign policy that is only making the conditions and the situations of poverty even worse in that impoverished nation.

Mr. OWENS. Mr. Speaker, will the gentleman yield now?

Mr. HUTCHINSON. Yes, I yield to the gentleman from New York.

Mr. OWENS. Mr. Speaker, would the gentleman be in favor of free elections to elect new leaders in Haiti?

Mr. HUTCHINSON. I would support free elections wholeheartedly, and in fact I think——

Mr. OWENS. Would the gentleman accept the result of that free election? Aristide was elected by two-thirds of the voters, 70 percent of the voters. We have not elected a President of the United States with 70 percent of the vote in a long time, so that is their choice. If they voted again, would the gentleman accept their choice for freedom and democracy?

Mr. HUTCHINSON. Reclaiming my time, Mr. Speaker, I wholeheartedly support free elections. The problem is the elections in which Aristide gained that office was years ago now and the time that he served—

Mr. OWENS. Two years ago.

Mr. HUTCHINSON. The time that he served, the 2 years that he established, as we pointed out, was in violation——

Mr. OWENS. U.N. supervised.

Mr. HUTCHINSON. It was one of initiating and supporting violence against his political opponents. That is not the right way to go about getting democracy.

Mr. Speaker, I yield back the balance of my time.

NAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR. Mr. Speaker, I appreciate the opportunity to speak to the House this evening, but before I talk about the North American Free-Trade Agreement, I know the gentleman from New York [Mr. OWENS] would like to respond and talk about the issue that was just being discussed on Haiti.

Mr. Speaker, I yield to my friend, the gentleman from New York.

Mr. OWENS. Mr. Speaker, I thank the gentleman for yielding to me.

I do appreciate the discussion of my previous colleagues. They have a point of view, but I think it is very important not to allow that distorted point of view to go unchallenged.

The most important thing for the American people to know is that President Jean-Bertrand Aristide was elected by the people of Haiti in a United Nations supervised election, the only fair election ever held in the history of Haiti.

Now, if we cannot accept the people's choice, then what is democracy all about?

It is their choice. If you had elections now, after more than 2 years that Aristide had been out of office because he was thrown out of office by a military coup—the people who had the guns and the army forced him to leave—he has been gone now for 2 years; if you still held an election, the population of Haiti would overwhelmingly reelect Jean-Bertrand Aristide as their President.

After all the suffering they have gone through and all the suffering that was described by the previous speakers, which is very real, the question they raise is not one that should be dealt with lightly.

How much do you make the people suffer as a result of trying to force their illegal gangster rulers to bow down to democracy and accept the result of democracy? That is a very fair question.

I am not sure from day to day where we come out on this embargo and sanctions as the only means of being able to get a return to democracy in Haiti.

I would like not to go on too long. I know the gentleman has other things to say, but I just would like to correct a few other misstatements.

Aristide has been described as a Communist and therefore we should not support his return because he is a Communist. That is a flat untruth. He is not a Communist, has never been a Communist.

Now, if they say he had some ideas that sounded socialistic or sounded communistic, that may be true, because you can use your own judgment about what sounds communistic and what sounds socialistic.

□ 1750

But let us understand where we are in October 1993. We are openly supporting ex-Communists. As my colleagues know, the chief ex-Communist now being supported by the United States is Boris Yeltsin. Boris Yeltsin was once a card-carrying Communist. He will not deny he was once a Communist. We do not hold that against Boris Yeltsin or the nation of Russia as we seek to give them large amounts of foreign aid because that is a bygone era as far as we are concerned.

We want to build a new world order. Lech Walesa came to this House and was roundly applauded by both sides of the aisle. Lech Walesa was once a card-carrying Communist. He does not deny that he was once a Communist.

Aristide, he once had some socialistic ideas and set forth those ideas in one place or another. It may be true, but he has never been a Communist and is not now a Communist. He is the democratically elected leader of the nation.

Finally, I want to say that in terms of the caliber of leadership around the world, stop and think a moment about Jean-Bertrand Aristide, and think of what we have. We have a man who is an ex-priest. He is no longer a priest in the Catholic Church because they excommunicated him. Why did they excommunicate him? Because the Catholic Church in Haiti is under the control of the Government. By a special arrangement with the Pope the Catholic Church in Haiti gets their appointments approved by the Government. So, the Government and the Catholic Church in Haiti have been hand in hand for a long, long time. It is nothing new if one really reads.

I want to say to the viewers who might be listening that there are three articles being prepared, already in print, by the New York Review of Books where they take books written by Jean-Bertrand Aristide, and books about Aristide, and books about Haiti, and they do a thorough analysis, and it is kind of strange to offer this to my colleagues because they were sent to me by the editor of the New York Review of Books, and this is a November 4, 1993, issue. It is not on the stands yet, but it is coming. This is a November 18, 1993, issue, and they are printed ahead of time, and they are not on the stands yet, but I urge my colleagues to look for the New York Review of Books on November 4, when it comes out, and November 18, and then there is a third article which thoroughly reviews the history of Aristide through the writings of Jean-Bertrand Aristide and also through the writings about him.

The man speaks eight languages. The man has studied all over the world, in Israel, in Canada, in Santo Domingo. The man has a very exceptional education, and among the leaders of the world we find very few who are as well educated as Aristide. Very few have as deep religious and spiritual underpinnings as Aristide.

Mr. BONIOR. And the man was elected, as the gentleman from New York [Mr. OWENS] correctly said, by the people.

Mr. OWENS. To complete the circle, the man was elected in a free and fair election supervised by the United Nations by a vote of 70 percent of the voters in Haiti. He deserves to be returned as their democratically elected leader, and we, as the leader of the free world, deserve to help him to return.

Mr. BONIOR. Mr. Speaker, I thank my colleague for his response, and I would like now to return to the issue of the North American Free-Trade Agreement.

To be honest, Mr. Speaker, I have to admit that I have a tough act to follow tonight. I have a tough act to follow because 2 days ago the people of Canada spoke more forcefully and more powerfully about NAFTA than I could ever hope to do this evening. Mr. Speaker, 2 days ago the people of Canada sent a very clear and very convincing message that this NAFTA treaty will not work. It is fatally flawed, and it is time that we go back to the drawing board with the new Prime Minister of Canada, our newly elected President and a new President in Mexico who will be elected next summer.

In their national election 2 days ago, Mr. President, the people of Canada were given a choice, a choice between one party that supported NAFTA and another party whose platform called for NAFTA to be renegotiated, and, when all the votes were counted and all the counts were in, the party that supported NAFTA was wiped off the political map in a way that we have not seen in the Western world.

The conservatives who supported NAFTA started the day with 154 seats in Parliament. When the final votes were tallied, they were left with just two seats in the Parliament. Meanwhile the Liberal Party, which has pledged to renegotiate NAFTA, has been swept into office in a landslide. They picked up an unexpected 98 seats, which leaves them 177 of the 295 seats in the Parliament.

This election, Mr. President, confirms what all the polls in Canada have been telling us about NAFTA. Leading up to the election, Canadian polls showed that 58 percent of Canadians opposed NAFTA while only 29 percent supported it, and among Canadians with strong opinions on the subject 63 percent said they oppose NAFTA.

In the Province of Ontario which borders my congressional district in which I have a lot of personal, and political and business dealings with the fine Canadian people there, Ontario, which has 37 percent of the people in Canada, 69 percent of the people there oppose NAFTA while only 23 percent favored it, a margin of 3 to 1, and, as a result of this election, the Conservative Party that negotiated this NAFTA has nearly ceased to exist.

Mr. Speaker, by next year at this time the three Presidents who negotiated the original NAFTA, Presidents Salinas, former President George Bush and, of course, Brian Mulroney, will all be private citizens. Mulroney is already, and so is George Bush, and of course President Salinas will be next summer.

Mr. Speaker, I agree with the people of Canada. I say it is time to go back to the drawing board, it is time to go back to the drawing board with a new generation of leadership from all three countries, and come up with a treaty that benefits the people, the working people, of Canada, the working people of Mexico and the people of the United States.

As it stands now, Mr. Speaker, this treaty is a bad deal for working people in all three countries. It will do nothing, nothing, to raise wages. It will do nothing to raise our standard of living. It will do nothing to move us into a future that we will be proud of, that we want our children to be raised in. All this NAFTA will do for the United States and for Canada is to make jobs our No. 1 export, and it will lock into place a system in Mexico that exploits its own people.

Mr. Speaker, 2 days ago the Joint Economic Committee under the leadership of Congressman DAVID OBEY, one of the most respected and knowledgeable people about economics in this institution, released an analysis of the 16 major NAFTA economic impact studies, and they found some very disturbing results. The Joint Economic Committee found that in the United States, and I quote, NAFTA could result in a gross job dislocation of 500,000 or more workers in a downward pressure on U.S. wages. Let me say that again. Mr. Speaker, the JEC found that NAFTA could result in a gross job dislocation of a half a million or more in downward pressure on U.S. wages.

I wish I could say I was shocked and surprised by these findings. I wish I could say that these findings, as my colleagues know, just came out of the blue. But the truth is we were told it was going to be this way. We were told that jobs would be exported. We were told that wages would be forced down.

Do my colleagues know who told us, who we were told by? We were told by the business leaders themselves. They told us. Do not take my word for it. Listen to their own words.

I have some charts that I am going to put up there that illustrate a study that was done in the Wall Street Journal last year. It was done in September of last year by Roper for the Wall Street Journal. They interviewed 455 business executives, and this is what they said in their study of these executives.

I think the headline says it all: "Heading South. U.S. Companies Plan Major Moves into Mexico." The study found that in a sign of American eagerness to expand in Mexico that 40 percent of the respondents say it is very likely or somewhat likely that they will shift some production to Mexico in the next few years, and that share was even increased, goes to 55 percent for executives who represent companies with sales of a billion dollars a year or more, the very biggest of companies.

Let me say that again. If NAFTA passes, 55 percent of America's largest businesses said they will move manufacturing to Mexico in the next few years.

What is more damning is what they say about wages, which is shown in the next chart. Even if they do not move directly to Mexico, the poll found that about one-quarter of the executives surveyed said they are very likely or somewhat likely to use the trade accord as a bargaining chip to try to hold down wages in the United States.

Again, one out of every four business executives said they would use NAFTA to force down our standard of living here in America, and that is just what they admit. When we look at their track record over the past 10 years, the reality has got to be worse, and we know why they want to go down to Mexico. It is very clear why they want to go to Mexico. The Mexican Government has proven why they want to go to Mexico, and this ad has appeared in major trade publications all over America, seven major trade publications.

☐ 1800

I just want to read it for you tonight. It is a beleaguered looking American businessman, with the caption, "I can't find good, loyal workers for $1 an hour within 1,000 miles from here."

"Yes, you can, in Yucatan."

This is an ad by the Mexican Government. It goes on to say, "Labor costs average under $1 an hour, including benefits. You could save over $15,000 a year per worker if you had a production facility here. So if you and your plant manager want to see how well you can live, come on down." It gives you a phone number to call.

Of course, we called the number, and they have been flooded with calls from American business, just ready, perched, roosting and ready to go to Mexico once this agreement is put into effect.

So on one hand you have Mexico beckoning our companies to move down there. On the other hand, you have American companies who say they are eager to use NAFTA to move. It makes you really wonder. It makes you wonder why many of the pro-NAFTA studies that have been done never conclude that American jobs will be lost. They never factor into the equation these things.

Well, the Joint Economic Committee had some interesting findings on that front, too, Mr. Speaker. Of the 16 studies that the Joint Economic Committee looked into, they found that 10 of the studies begin by assuming that no investment will be diverted from the United States to Mexico.

Now, having just demonstrated the invitation, having demonstrated what the business community has said, having demonstrated in fact what has happened in the maquiladoras since the mid-1960's, the studies start off by suggesting that no investment will be diverted to the United States, and therefore by design they are unable to conclude that the United States would suffer job losses because of shifts in investment, even though the Wall Street Journal showed that NAFTA would shift investment to Mexico.

Seven of the studies begin by assuming that the United States will experience no net change in employment levels in the future, and therefore by design they cannot conclude that the United States would lose jobs under NAFTA. The four studies that predict net job gains for the United States begin by assuming no diversion of investment, and, therefore, by design, could conclude nothing but the fact that jobs will be gained.

Mr. Speaker, talk about using a stacked deck. Most of these studies could not conclude that the United States would lose jobs even if they wanted to.

As misleading as these studies are, this does not really come out as any great surprise, because this is the same kind of formula they use to come up with all their other numbers, all their job projections, all their export numbers, all their wage figures. And in every case, the formula they use is what I like to call NAFTA math.

Here is how NAFTA math works. Under NAFTA math, if an export creates a job, it counts; if an import displaces a job, it does not count. If a product is sold to Mexico, it counts; but if a company moves its plant to Mexico, it does not count.

NAFTA math is kind of like taking gross profits instead of net profits. It is only half of the equation. Using NAFTA math you would conclude that Maryland has a great football team because its offense averages 24 points a game and over 450 yards per game. NAFTA math lets you ignore the fact that Maryland's defense has given up 46 points and 572 yards per game. That is why their record is one and six. That is how NAFTA math works.

Let me give you another example, one that I think hits a little closer to home. When Ford shifted its production of the Ford Escort plant in Wayne, MI, to Hermosillo, Mexico in 1992, they laid off 4,000 workers. Most people would regard that as a loss of 4,000 jobs.

But not under NAFTA math. Under NAFTA math, the way the administration figures it they would ignore the 4,000 American jobs that were lost and they would ask how many jobs were involved in companies supplying that plant? They find out that about 12,000 jobs were involved in companies that supplied that plant. These are not new jobs, but the same jobs that have been all along supplying that plant. But because they are now shipping their parts to Hermosillo, Mexico, instead of Wayne, NI, they are counted as 12,000 new export jobs. So under NAFTA math a loss of 4,000 jobs magically becomes a gain of 12,000 jobs.

That is the deception that is going on here with this treaty and the selling of it, and that is not even counting the jobs lost when many of those supplier plants follow the main plant to Mexico, as they are bound to do under NAFTA. It is not counting the imports that result when these products are assembled in Mexico and shipped right back to the United States, displacing even more American workers.

But that is what has been happening in the past 10 years. Maybe in his next TV commercial, Lee Iacocca can explain why the auto industry has sent 100,000 jobs to Mexico over the past 12 years.

Ladies and gentleman, that is how NAFTA math works. That is the formula that NAFTA supporters use to generate export and job numbers.

Last week the Office of Special Counselor to the President for NAFTA issued a statement claiming that 19 of 20 studies indicate that NAFTA would produce positive results for the United States. My only reaction was that I was surprised that it was not 20 out of 20, because under NAFTA math, you could prove just about anything.

These numbers are not real and the American people know they are not real. What is real is what has been happening to the American people. We have seen job losses, we have seen wages distressed, we have seen communities uprooted, we have seen lives displaced. They know that NAFTA will not make the situation better. They know instinctively it will make the situation worse.

I would be willing to bet that the biggest regret of NAFTA supporters is that they cannot use NAFTA to pay for this treaty. That is what they would like to do, use NAFTA to pay for this treaty. But they have to use real numbers this time, and they are having a very hard time coming up with them. Here we are. Think about it. This debate has been raging for about, feverishly I would say 6 months, but at least a good year now, and we are 3 weeks away from a vote on the biggest, most comprehensive trade agreement, in the history of the world, and the supporters of NAFTA do not have a single clue about how they are going to pay for it.

We have said time and time again, over the past 6 months, that the deep, dark secret of NAFTA is that it is going to cost between $40 and $50 billion to implement, and none of the NAFTA supporters have been willing to talk about how we are going to pay for it.

Let me ask the same question that Business Week asks in its current issue: Has anybody seen the NAFTA blueprint? Does anybody have any idea how they are going to pay for this? If they do, they are sure not telling us. The past 3 weeks all we have seen is a lot of trial balloons. First we read that the administration was looking at taking money from Social Security, Medicare, and disability payments, to pay for NAFTA. At least they were considering it.

Then we heard they were looking to take money from the Mickey Leland Hunger Program. Then we heard they were going to cut Civil Service retirement benefits to pay for NAFTA. Then somebody suggested they would cut the capital gains tax in order to pay for NAFTA.

As Business Week says, "Can't anybody here play this game?"

Now, what is next? Taking money from Head Start to pay for NAFTA? Using funds from the Child Immunization Program to pay for NAFTA? Here is an idea. How about if we take the money from the School Lunch Program? We will call it Hot Meals for Lost Jobs. How does that sound?

The truth is, ladies and gentlemen, it looks like we are going to be asked to raise taxes in order to pay for NAFTA. It looks like we are going to be asked to raise our taxes in order to pay for NAFTA. Our jobs are going to Mexico and we are going to be asked to raise our taxes to do that.

Over the past few weeks the administration has proposed to raise airline taxes as well as truck and rail fees. First the idea was proposed, then it was modified, then it was scrapped, and then it was modified again. Now it looks like it is back on the table.

Keep in mind they are having all this trouble coming up with just $2.5 billion to offset the lost tariff revenues, $2.5 billion a year. We are not even talking about the overall cost of $40 to $50 billion to implement this. We are just talking about the $2.5 billion in lost revenue.

But it looks like we are going to be asked to raise taxes in order to send our jobs to Mexico. If this is not the straw that broke the camel's back, I do not know what is.

Mr. Speaker, I do not know where it ends. Are our laid-off auto workers in Michigan, Ohio, and Pennsylvania going to have to have taxes raised to clean up environmental waste coming from Mexican factories that took their jobs? Are laid-off furniture workers in California going to have to have their tax bills go up to rebuild the roads that carry the trucks that took their jobs to their factories in Tijuana? Mr. Speaker, that charade really has gone on long enough.

□ 1810

We cannot afford the cost for this NAFTA. We cannot afford the human cost. We cannot afford the social cost, and we cannot afford the economic cost.

The people of Canada were right on the money. It is time to go back to the drawing board. It is time to come up with a NAFTA that will put people back to work, that will raise our standard of living, that will raise wages.

It is time to go back to the drawing board and come up with an agreement that will create the kind of future we want for the people of Canada and the people of Mexico and the people of the

United States. This NAFTA is not going to cut it. It will not do it. It will just make jobs our No. 1 export and force our standard of living down.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. HOLDEN], who has been a strong opponent of this agreement.

Mr. HOLDEN. Mr. Speaker, I thank the gentleman for yielding to me.

I would like to take a few moments to talk about how I believe this North American Free-Trade Agreement will affect the Commonwealth of Pennsylvania and the district which I represent in Pennsylvania, the Sixth District.

As my friend from Michigan has stated, that both the Bush administration and the Clinton administration have admitted that there is going to be a short-term job loss if NAFTA is ratified and goes into law. I happen to believe it will be a long-term job loss. I also happen to believe that the jobs they are talking about losing will greatly affect Pennsylvania.

I would like to give a few examples of that. People like to say that the garment industry is dead. It is not dead, but it is dying. A lot of the industry that survives is in the district I represent, and the administration can talk about displaced workers and how we are going to take the time, energy, and effort to retrain our workers so they can be competitive and find a job in another field all they want, but the truth of the matter is, if we talk about the garment industry, we are talking about a work force that is mostly made up of women, closer to retirement than they are entering into the job market. They have a long tradition of living in Pennsylvania, Michigan, or Ohio. They have their families there.

In many cases, their grandchildren are there. They do not want to go anywhere. They want to stay where they are. If this agreement goes into effect, I say it is going to be the nail in the coffin of the garment industry. We are going to have no manufacturing jobs left at all in that one particular field.

I also had the opportunity, in studying this agreement that has been proposed, to talk to many manufacturers, so-called business people, who we are being led to believe are totally in favor of this agreement. I had a meeting in Berks County, PA, the largest county in my district, with 17 manufacturers.

I walked into the meeting expecting them to be totally in favor of this agreement, expecting them to pressure me to vote for this agreement. To my surprise, 13 out of the 17 people at the meeting were vehemently opposed to the North American Free-Trade Agreement, and they were opposed to it for the same reasons that I have been hearing the majority whip talk about for so many months on this floor, that they are fearful that all our jobs will be lost and our competitors will move south and take advantage of cheap labor and environmental laws that may be on the books, but certainly are not enforced, and that they will not be able to compete with products coming back across the border. They asked me not to support that agreement.

The majority whip talked about a plant in Michigan, the Ford plant, that went south of the border. I will give you one example in the Commonwealth of Pennsylvania. In the western part of the State, Governor Thornburgh, in his administration, spent millions of dollars trying to entice Volkswagen to move a plant from Germany to Pennsylvania because we have a good work ethic. And we will be able to manufacture and produce Volkswagens. We did that, and they did not stay long. And they did not give anything to the community, because they created a false economy. They created jobs for a very short period of time, and then what did they do? They closed the doors, because they did not want to pay the wages. And they went to Mexico.

They survived in Mexico for a few years, and then what did they do? They shut the doors down there and said they would not bring anybody back unless they agree to concessions on wages. And they did that because the Mexican workers are hungry for work and they will work for anything.

They took jobs from Pennsylvania, took them to Mexico. And when they thought the Mexican workers were getting too much money, they stopped paying down there.

We have to defeat this agreement, Mr. Speaker. I also serve on the Agriculture Committee. If you listen to the proponents of NAFTA, they will tell you that everything about this is great for agriculture. You will hear them say that this will be wonderful for the American farmer. I disagree with that. I will admit that there are some aspects of the agriculture community that are supporting the agreement, pork producers are one, for example. But I spend a lot of time talking to fruit and vegetable growers and dairy farmers, because I represent a lot of those farmers. They are concerned about this agreement. They are concerned because of the cheap wages and because of food safety regulations in Mexico. We are going to have fruit and vegetables produced down in Mexico and, because of our highway system being so superior and our infrastructure being what it is, they are going to have their produce in our markets in 48 hours. Therefore, undercutting the price of the crops that we are growing in Pennsylvania and throughout the Midwest.

Mr. BONIOR. People should know that the Mexican standards on herbicides are much, much different than ours. The stuff in this country that is banned because it causes nausea and even death, in some instances, is used on those products that the gentleman just mentioned and, undoubtedly, will be able to be shipped into this country without being inspected and on into our markets.

Mr. HOLDEN. I do not think there is any side agreement that has been negotiated or on the board that is going to be able to enforce the use of pesticides in Mexico, as it goes to the produce as it gets into this country. You remember the Chilean grape fiasco or scandal we had. We had Americans dying because of unsafe food. I remember going into the supermarket in Pennsylvania and seeing "Grown in the U.S.A." Are we going to have that same problem? Are we going to be able to enforce the law so we have safe foods, or are we going to have a reaction where we are going to have consumption go down in this country, therefore harming farmers even further?

Mr. BONIOR. The administration has not come up with the money to even pay for the lost tariff revenues, let alone for the additional border cleanup or inspection people that are needed to deal with this agriculture question which you raise. There is $40 to $50 billion in costs here on border cleanup, retraining of workers. And speaking of retraining of workers, I do not mean to depart from the gentleman's text, but I just—what are we going to retrain these people for? Does anybody ever ask that question?

First of all, Secretary Reich is offering in the way of retraining about a third of what the Bush administration offered with regard to retraining because of NAFTA. Secondly, what are we going to retrain these people for? They lose their jobs. When they get another job, it is usually for something that pays about 50 percent of what they had before. And they are lucky to have that in this economy today. And in terms of the good jobs, I saw a study recently done in the Philadelphia Inquirer about retraining that showed that retraining really basically has not worked.

One out of ten people who are retrained are getting work today in this country. It is an abysmal number. So there is tremendous dislocation associated with this agreement. There is no money to pay for retraining. There is no money to pay for border cleanup. There is no money to pay for inspection of these agricultural products. It goes on and on and on.

Mr. HOLDEN. One more point I would like to make in the agriculture end of the NAFTA agreement, NAFTA will eliminate section 22. What that will do, it will eliminate our protection for the dairy industry.

A dairy farmer should be very concerned. I am afraid that they are forgetting the meaning that is here. If section 22 is eliminated, we will not have the protection that we need if we are going to protect our dairy farmers from dumping. We are going to have Irish milk and British milk coming across the border, as well as Mexican milk coming across the border, coming north. And we cannot go south with our product until 15 years down the line.

I think there is a great possibility in the United States that our dairy farmers are not totally understanding the damage that can be done with this agreement. I had the opportunity to talk to Chairman VOLKMER about this specific issue. He is also concerned about that. He is very concerned about the cattle, the price of beef in this country. We have an influx right now of cattle coming north of the border. We have those cattle, we find are being contaminated with tuberculosis. That is contaminating the beef in the United States.

We have the opportunity to trace where the disease is coming from, 83 percent of it can be traced directly to Mexican beef.

Again, Mr. Speaker, I say this agreement is wrong. It is bad for the American worker. It is bad for the American farmer. I agree with the majority whip that it is time to renegotiate this.

The Canadian voters have sent a clear and loud message to their government, and I think it is time that we do the same thing in this Congress.

Mr. BONIOR. I thank my colleague for his eloquent statement.

People say, you cannot renegotiate this. Of course, you can renegotiate this. The Europeans have spent 40 years putting the economic community together, the EC together in Europe. They have done it carefully. They have done it slowly. They have required two things before a country is accepted: that weight standards and approximate to the rest of the nations in Europe and, second, that they have a set of democratization standards: free ability of organized labor to organize freely without impediments, the ability to have a safe workplace, all the basic human rights issues that are important.

□ 1820

Before the EC accepted Spain or Portugal or Greece, they had to improve their economic or democratization process. They did. Now they require that of the Turks before they are accepted into the EC. It took them 40 years.

The Europeans have spent over $100 billion in the last 3 years just to get ready for their Common Market. We do not even have the money to replace the $2.5 billion tariff. We are trying to do this in a couple of years. I frankly think it was initiated to take care of the former President's reelection, and now Salinas is trying to get this done because he wants to make sure that the person that he chooses—and that is part of the problem—they choose the President down there, when he picks his successor, that this is done.

This is not a way to deal with people's lives. That is what we are talking about, virtually every life in Canada and Mexico and the United States hinges on this agreement to take care of the needs of two political leaders, one who is now gone, the other of whom will be gone in a very short time. It is not a good way to do business.

We are wise to renegotiate this. We are going to have to deal with our Latin neighbors in a way that is free and fair. I think every one of us here who opposes this agreement understands that, is willing to accept that responsibility to have a free and fair trade agreement with Mexico, but one that will be patterned and one we will be proud of to expand to Chile and Venezuela and Colombia and Brazil and Argentina and the rest of Latin America.

This is important, because this will set a pattern for what we do with the rest of Latin America. If we say, "OK, just because you do not have free and fair elections, just because you do not have a free judiciary, just because you do not have free labor unions, just because your human rights record is miserable, we are going to ignore all that. We are just going to do it on some theory and some economic numbers."

If we say that, by OK'ing this treaty, we are telling the rest of Latin America, "It is OK for you to do the same thing, and the United States of America will not penalize you, we will just turn a blind side to that, and we will engage in economic agreement."

That is not the way to do business with our neighbors.

When we do business with neighbors and friends, we do it on the basis of trust and on the values for which we both commonly stand. I think the Americas and the people in the Americas certainly stand for freedom, they stand for respect for work, for human dignity, and that is not what the Mexican workers are getting from their government today.

I yield to my friend, the gentleman from Michigan [Mr. LEVIN]. Also joining us in this special order is the gentleman from Ohio [Mr. BROWN] and the gentleman from Michigan [Mr. STUPAK].

I yield to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I am pleased to join in this special order. The gentleman from Michigan [Mr. BONIOR] has spent a lot of time on this floor in special orders. I very much agree with the gentleman's sentiments expressed at the end. Integration of our economies, the United States economy with the Mexican economy, much more integration is inevitable. The question is on what terms.

I strongly believe this NAFTA does so on terms that are so likely to be disadvantageous to millions of Americans. Let me just, if I might, continue on the math issue. I want to spend a few minutes on it, because I was going through some of the remarks yesterday that were made in a special order, and I think they very much illustrate how numbers are being used sometimes to deny a problem.

The basic problem with this NAFTA is that there is an effort to put together two very disparate economies without clear attention to the attendant problems, so there is this process of denial.

At first we said, "there is no major differential in wages and salaries." Or it is argued, "Well, if there is one, it is diminishing." We have heard that, often using just erroneous numbers.

Then it is said, "If there is a major differential, it does not matter because plant decisions, decisions on plant locations, really are not made on the basis of wages and salaries anyway. It is productivity that really counts." Then there is an attack on the ability of Mexican workers and businesses to be productive.

Mr. BONIOR. Will the gentleman yield on that point, because I think it is an important point?

Mr. LEVIN. I am pleased to yield to the gentleman.

Mr. BONIOR. The productivity of Mexican workers is very high. Professor Shaken from the University of California has demonstrated that in his writings and in his book and in his studies and in his visits to Mexico. We are sending down to Mexico the most high-technology and sophisticated plants. In a lot of their new automobile facilities, they have a higher quality standard, they have higher quality ratings. They are the most sophisticated facilities in the world today, and they are producing good quality stuff. We are not talking just about low wage jobs, here.

Hughes Aircraft, for instance, out of Los Angeles, ships 1,000 high-technology electronics jobs down to Mexico. They were paying $17 an hour in Los Angeles. They are paying $6 a day now to workers down there who are doing the same quality work.

Mr. LEVIN. Absolutely. I asked the question of people, "How many motor vehicle engines are produced in Mexico every year?" People sometimes say, "Maybe 50,000." It is 1 million.

Mr. BONIOR. One million.

Mr. LEVIN. Eighty percent are shipped back to this country.

Yesterday, on page 8504, this was said. There was reference to GM and the UAW making a decision to move a plant back from Mexico to Lansing, MI. There was not a plant moved back. Some production was. "Why," it was said. Because, and I quote, "The U.S. auto worker is actually nine times more productive than the Mexican auto worker." That is a figure out of thin air.

In the Hermosillo plant in Mexico, the productivity level is the same, essentially the same, as it is in Wayne, MI. Then it was said on an earlier page, "Eighty-three percent of the items which go from the United States to Mexico stay in Mexico." Simply wrong.

Mr. BONIOR. Not only simply wrong, it is grotesquely wrong.

Mr. LEVIN. For example, you mentioned Harley Shaken. In a document he inserted in the Los Angeles Times, September 20, 1993, he goes through Mexican figures. Of the $44 billion in exports from the United States, $44 billion, more or less, when we add together the maquiladora exports, those that are shipped from the United States.

Mr. BONIOR. These are things manufactured there and shipped right across the border to these plants.

Mr. LEVIN. Usually across the border.

Mr. BONIOR. Assembled and brought right back here.

Mr. LEVIN. That is $14 billion, $14 billion of the $44 billion in parts, plus $7 billion that enters Mexico under the PITEX Program, which is like the maquiladora, that is $21 billion. Everybody understands the vast majority of the $21 billion comes back to the United States in assembled goods.

Then add the $6.6 billion in U.S. exports in capital goods.

Mr. BONIOR. By that, we are talking about factories that are constructed down there, presses that go into those factories.

Mr. LEVIN. Exactly. Exactly. Much of that produces goods that are exported back to the United States. Eighty-three percent, it is at least 60 percent of what we send there, comes back to the United States in assembled goods, paying very, very low tariff.

Mr. BONIOR. The idea was, the advocates say, this is going to create a situation in which we are going to have a Mexican middle class. They are going to buy products in the United States and we are going to make them here, and it is going to put people to work.

The fallacy of that is that they have a low-wage system in Mexico. Fifty-eight cents an hour is the minimum wage, but for those who do not make the minimum wage, the actual wage level is 32 percent lower in real wages today than it was back in 1979. They have attracted business there by a low-wage policy, which will not change under this NAFTA. People there do not have the economic wherewithal to buy an automobile. They don't have the money to buy spark plugs, for heaven's sake, let along an automobile. Eighty million people in Mexico, you have maybe 7 of the 80 million that have any purchasing power at all.

Mr. LEVIN. That was the deep disappointment of the supplemental agreements. I was hoping they would address this disparity issue head-on, and go into issues that really relate, that are relevant to the standard of living in this country, but they ducked it, as the gentleman knows.

Just a couple of other points, and then other colleagues want to join in.

□ 1830

It is so important we discuss the facts here. This issue, as you pointed out, so deserves attention to the facts.

On page 8502 yesterday it says our tariff is 2.2 percent that we impose on Mexican light trucks coming into the United States. Now look, it is a 25-percent tariff that the U.S. imposes on light trucks.

A quarter of our production, actually more is in light trucks and vans, big three production. The NAFTA proposes to cut from 25 percent, as I remember, to 10 percent all at once this tariff on goods coming from Mexico. So it is legitimate for us to ask the question: What is going to happen to light-truck production when you cut the tariff by more than half instantaneously, and then you eliminate it over a short period of time? We want answers to these questions, not general economic theory, but hard economic reality in response to these issues, and we have not received them. We have not received them. And I am deeply troubled as a result. We are determined to make sure answers are given to the hard questions before we leave. We are determined that we will not repeat in the 1990's the mistakes we made in the 1980's.

I will close with this. You, Mr. Whip, and I sat through the discussions here in the 1980's. We were part of the battle in terms of the trade deficit with Japan. To try to be realistic we said, you and I and others, loudly, look, we have a $120 billion deficit with Japan. Some of it has resulted in competition that is good for the United States. But some of it badly hurt the United States and unnecessarily because they targeted our industries and closed their markets to us.

Well, we were dismissed, we were written off, we were called everything, xenophobes, protectionists. They raised the issue of Smoot-Hawley, right? Remember that?

Mr. BONIOR. I do.

Mr. LEVIN. And they said look, there is a globalization of the economy. And if someone else rigs their markets, it is only they who are hurt.

As it turns out, the activists of the 1980's were far more right than wrong, and those who raised all of the symbols and pushed all of the buttons and said do nothing, they turned out to be wrong, at least far more wrong than right.

We cannot let our trade relationships with Mexico repeat the mistakes of the 1980's. We are determined to avoid this, not to draw lines down over us, not to build walls up in the United States, not to deny for 1 minute that there is globalization. We need a NAFTA. Not this one.

Mr. BONIOR. I thank my colleague for his comments. They were eloquent, and they were right on the button, and they were prophetic as he looked back into the last decade. I can assure him that from my perspective he is absolutely right in pressing the case we made with respect to trade with some of our partners in Asia. I hope we do not make the same mistakes again, and we are close to it. I mean, the fact that this treaty has gotten this far is quite an amazing story as it is. We have the chance to put the kibosh on this and make sure it is done well and done right.

The gentleman mentioned Japan, and I would just touch on that for just a second, because there is this misinformation going out there that if we say no to this treaty that the Germans and the Japanese are going to rush in and fill the void, which is utter nonsense. It just absolutely flies in the face of any logic. They were asked to come in by Mexico years ago. They did not come in for a very simple reason. They came in, in a limited way, because No. 1, there is no market in Mexico for what they produce, basically. The market is here in the United States. Second, they did not have any protection with regard to their industries down there, there was the nationalization problem, the copyright protection, the limited tariff that was a factor as well into the United States.

If we pass NAFTA, even though the Japanese are saying right now that they do not want NAFTA passed, if we pass NAFTA we will be doing them a big favor, because they will use Japan as a platform to build plants and to move stuff into our market here, which is the big bonanza for them. So let us be clear on that argument. We will be hearing that argument from our opponents in the next 3 weeks, and it is one which really holds no water whatsoever. In fact, NAFTA will accelerate the activities by Japan in our market.

Mr. Speaker, I yield to my friend from Ohio [Mr. SHERROD BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I want to follow up on the gentleman's comments about the new NAFTA math that seems to run rampant by the supporters, the proponents of NAFTA. The new NAFTA math has not just been games they have played with job loss, and wages going down, and exports, and the exporting of jobs, but it has also been, as you said on the $2.5 billion on forgone Government revenues, the money we lose that we are now getting for tariffs. They talk little about that. They say well, we want a tax increase. Well, we do not want a tax increase, the Republicans will say on this issue, and there are not even that many Republicans supporting NAFTA as of now, but they will say that we will make spending cuts for the $2.5 billion, but they do not get specific about that.

But where the real new math comes in NAFTA math, and comes with the proponents of NAFTA is that they will not talk about the $50 billion, that this is a $50 billion new Government program. Sure, it is $2.5 billion, and they want a NAFTA tax to pay for the $2.5 billion in lost revenues. That is all they have to do right now. But they have got to come up with $10 billion, if this passes, we, the American people, this Congress has to come up with $10 billion for Texas that the Governor of Texas says they need for infrastructure rebuilding, and water, and sewer, and all of those things.

Mr. BONIOR. And Arizona and California have not even submitted their figures.

Mr. BROWN of Ohio. And Arizona and California have not even submitted, and that will be billions and billions more than the $10 billion more. That does not include more Customs officials because of the trucks going, the unsafe trucks, I might add, going back and forth across the border. It does not include environmental cleanup. It does not include job retraining moneys, which you have noted are significantly less than they were under even the former President. It is billions after billions after billions, and they are not willing to address the $50 billion question. They are not willing to address how they want to pay. The proponents of NAFTA do not want to say how they are going to pay the $50 billion for this new program. And that NAFTA math, coupled with the NAFTA tax simply does not cut it. And I think that we need to keep in front of the American people that yes, in fact, this is a $50 billion Government program. They have got to figure out how they are going to pay for it.

Mr. BONIOR. People ought to be aware, and I am glad my colleague mentioned it, there is a NAFTA tax involved in all of this. And when people vote for this treaty they will be voting for a tax, according to the administration's latest proposal, to supplant these lost revenues.

Mr. BROWN of Ohio. I am glad the gentleman said that. And you know that the $50 billion does not even count the human hardship, what a closed plant does to a school system, what a closed plant does to wage-earners and families, what a closed plant does to children, and what a closed plant does to a community overall. It does not even address the social and human costs. It only addresses the initial cost of infrastructure, job retraining and all of that.

One other point that I wanted to add, we have, as you know, Mr. Whip, and as BART STUPAK, who is here with us now, a lot of people around the country tune in and watch this NAFTA discussion that we have once a week. And I got a call today from a lady from Laguna Hills, CA. I am not too close in my district, but her sentiments are so right. This is from Nancy Zeiger, and she got a letter from the chairman of the House Banking Committee, HENRY GONZALEZ, who is a strong opponent of NAFTA. And I would like to share this because I think it is one more facet of NAFTA math that we are unwilling to share. Let me quickly read this paragraph. This is a letter from HENRY GONZALEZ, who has shown great courage in the S&L scandal, and if people would have listened to him, if Ronald Reagan had listened to him, and some people in Congress would have listened to him we would not have had the S&L problem. But that is another story.

The letter says, "Although the section of NAFTA on banking and finance has generally not been brought out in the public debate, upon analyzing the text I found the financial services provisions to be the driving force behind the agreement." Some of the biggest supporters of NAFTA are banks, because they stand to make money from America's largest banks.

> NAFTA will have profound implications for the safety and soundness of the U.S. banking and financial system, particularly with regard to risky investments in Mexico by U.S. financial interests, the circumvention of U.S. laws governing banking and finance, and our ability to counteract international money-laundering. I have held hearings—

Chairman GONZALEZ says,

> in San Antonio and in Washington and have requested that the finance chapter of NAFTA be referred to the Banking Committee once the agreement is submitted to Congress. While proponents of NAFTA couch their support in the lofty ideology of so-called "free trade," what we actually have in NAFTA are fat cats who see fatter profits from their investments in Mexico, * * *

Two things are happening here with this new kind of NAFTA math. One is that banks will gain a lot from this, and at the same time they will avoid a lot of American regulation, which got the savings and loans and in some cases the banks into the problems that were so expensive for this country and for this Congress and for this society in the 1980's.

□ 1840

And he also hits the nail on the head when he says that we have a NAFTA with people who are going to benefit are the fat cats who see fatter profits from their investments in Mexico. This is not a trade agreement, this is not a jobs agreement. As the gentleman from Michigan [Mr. BONIOR] has said, it is an investment agreement where the rich will get richer and the largest of American corporations will see bigger profits; the Mexican people are hurt, the 36 families in Mexico that control half the wealth in that country will gain, and American workers and American small business will get hurt. It is a job-killer, it is a small-business-killer, and it devastates communities.

Mr. BONIOR. I thank my colleague for his contribution. The gentleman is absolutely right, that it will kill small businesses in this country. This is a bad agreement. We have to defeat it when we face it in 3 weeks. And I thank the gentleman for his participation.

Mr. BROWN of Ohio. I would just ask every person who talks to a Member of Congress on the phone or by letter to ask that Member of Congress, "If you are voting for this agreement, how are you going to pay the $50 billion? Are you going to deal with both the financial loss in this country of jobs and how are you going to deal with the social costs in the communities, the schools, the children, and the problems that happen to people when they are unemployed?"

Mr. BONIOR. I thank the gentleman. It is critically important for people in this country to raise their voices and express their views to their elected Representatives in this House of Representatives.

I yield now to my friend, the gentleman from Michigan [Mr. STUPAK], who has been such a strong opponent of this agreement.

Mr. STUPAK. I thank the gentleman.

To answer Mr. BROWN'S question, "How are we going to pay for the $50 billion," earlier there was a press conference today in which I was a part, a bipartisan press conference outlining $100 billion in cuts over the next 5 years to try to get our deficit under control. So if we are working so hard to get our deficit under control and trying to work our $4 trillion national debt, where will we come up with the $50 billion to pay for NAFTA?

We talk a lot about NAFTA math here tonight, and I would like to take a moment or two and go over the NAFTA math, the math that the U.S. Treasury Department is using.

The Treasury Department says we will pick up about 200,000 jobs from NAFTA. This figure is based on the conclusion that exports will rise about $10 billion over the next 3 years if NAFTA is implemented. The Department of Commerce says that for every $1 billion in exports we create 20,000 jobs. So, according to the administration's math, $1 billion is 20,000 jobs, so therefore $10 billion is 200,000 jobs. But the math does not add up. Take the basic American factory: After NAFTA passes, the factory closes its doors and heads to Mexico. The new factory uses Mexican wages, which is guaranteed to be cheap labor because there is no real NAFTA, no real agreement in NAFTA to increase Mexican wages to any type of respectable level. But this new Mexican plant uses the same parts supplied now from parts from across the United States. However, since those parts cross the border to Mexico, we now call them exports. And when they get to their new Mexican plant, they are called exports and the Department of Commerce says, "Here is another billion dollars of exports." But before there were no exports before the final assembly plant was where? In the United States. So those U.S. parts stayed in the United States, went into a U.S. plant for final assembly. Now, because the parts cross the border, we have exports. Same parts. Any new jobs created? No. Just the exports of American jobs.

That is the NAFTA math that they are using to try to convince us and the American people we are going to create all kinds of jobs.

Under the administration's NAFTA math, does it mean more jobs? No, it means less jobs for the American people.

The people in this country who make their living doing the final assembly know that NAFTA will not create any new jobs.

When you demonstrate this to the administration and those who support NAFTA, what have they said? What have we all heard the Trade Representative, Mr. Kantor, say in the last few days? He says, "If we don't like it in 3 years we can get out of NAFTA, revisit it, take another vote, and get out of NAFTA." Simply not true. Nowhere in that agreement, which is some 2 volumes and side agreements, is there anything that says after 3 years we can have another vote and get out of NAFTA. It does not exist.

Mr. BONIOR. And 3 years is a lot of pain for a lot of people.

Mr. STUPAK. A lot of pain, a lot of exports, and a lot of lost jobs.

Mr. BONIOR. Lost jobs.

Mr. STUPAK. The public knows the agreement is bad, the administration is making claims that do not exist, and that is why it is so important we have these special orders to bring these things to light.

So there is no 3 years in and out, there is no magic in the afta-NAFTA math. We still have to come up with $50 billion to implement it.

So, hopefully, Mr. Majority Leader, with your leadership and that of our colleagues who have been able to join us tonight, we will be able to say "no" to the NAFTA agreement.

Mr. BONIOR. I thank my colleague for coming once again this evening to voice his views on this critically important issue to the people we both represent in Michigan. I thank the gentleman for his math lesson again tonight.

Clearly, the math the administration is trying to—and those who are supporting this agreement—would lay upon the American people does not add up. I think folks are figuring all that out right now.

I think at the end of the process the figures on the board will say "no" to this issue.

I yield to my friend.

Mr. BROWN of Ohio. The gentleman is exactly right. The problem we face in these last 3 weeks before the vote is that their side has already spent $30 million and the Government of Mexico itself has spend $30 million doing something that no government has ever done, spending lavishly like that, lobbying elected officials in other countries. At the same time, USA-NAFTA, generally large corporate contributions, are spending millions of dollars lobbying Congress also. We just have a bunch of us doing this here, doing special orders, talking to other Members. We happen to have a great majority of the American people on our side. We need their help to continue to put the pressure on.

Mr. BONIOR. The final push as we head toward the vote in 3 weeks. The 17th is the schedule, the vote the administration has called for is on that date, and on the 17th of this month we need everybody's help here around this institution and around the country to make it a very good day for the American worker, the Mexican worker, as well as for our Canadian friends to the north.

I thank my colleagues for joining me this evening.

TRANSFER OF SPECIAL ORDER TIME

Mr. MCINNIS. Mr. Speaker, I ask unanimous consent to claim the special order previously granted to the gentleman from New York [Mr. SOLOMON].

The SPEAKER pro tempore (Mr. NADLER). Is there objection to the request of the gentleman from Colorado?

There was no objection.

FOREIGN POLICY IN MOGADISHU, SOMALIA, AND UNFUNDED FEDERAL MANDATES

The SPEAKER pro tempore. Pursuant to the unanimous consent request, the gentleman from Colorado [Mr. MCINNIS] is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, first of all this evening I would like to spend a little time with my colleagues to discuss two subjects that are unrelated but nonetheless I think are very important to us to spend some time on.

First of all, I would like to visit about Somalia, Mogadishu, and some other areas. Then I would like to switch some frames and go to unfunded mandates.

Let me first of all begin with Somalia.

Mr. Speaker, I think it probably would be most appropriate if I yield to my colleague, an expert in Somalia, my good friend from California, Mr. DORNAN, from the State of California. So I would yield to my friend from California.

Mr. DORNAN. I thank my distinguished friend from Colorado.

Let me say, as I always do beginning these, that it has been months and months and months since it was promised States taxpayers, your constituents, mine, the other Members' on the floor, and about 50 or so watching in their offices, that these six taxpayer-funded cameras would stop prowling an empty hall to embarrass us and give the impression that we are speaking in a cave of winds, when we know from C-SPAN cable operators all across this country the audience is creeping past 1,200,000 people.

I went out to Chicago for our beloved colleague, Mr. CRANE, and did three events for him. At every event people came up and said, "I like to listen to some of the things you say, but I always feel sorry for you all alone in that big chamber." I said, "Yeah, you and 1,250,000 other people." I said, "If you are watching, just remember all those people are watching with you."

Now, I have mentioned several times last week and this morning that 8 or 9 days ago when I was in Somalia my Nikkon camera did not let me down, and I got some pictures that will help illustrate, as Confucius says, "One picture is worth a thousand words." And if it is a good picture, sometimes it is worth an essay.

I brought, out of about three rolls of film that I took, and this is, again—I know that camera has the technology to come down and frame this corner to corner, whether they stay way back, sitting downstairs in the control room—give me a break, guys and gals—if you stay way back, you are insulting Americans who are paying your salary. You are paid by taxpayers. Do not be so far back with your lens, which is capable of coming in on tight on this, so that the people do not know what I am referring to and make me out to be a jerk.

□ 1850

I am sorry, Mr. Speaker, I should have referred to the control room through the Speaker.

That was a C-5 Galaxy. That is what I flew in over there. Two refueling missions on the first flight over, this was a refueling C-135 tanker, a KC-135 out of Plattsburgh, NY, and the young man that you see up there in the Boomer's operation is from Michigan, and I am sorry, I tried to memorize his name and forgot, but that is a great team effort in that big C-5 Galaxy, which is like a flying apartment house. It is, well, not everybody in the C-5 squadrons I found out are qualified to sit in the pilot seat when they are doing refueling or doing it from the copilot's seat.

Here is what it looks like coming into Mogadishu.

Now, my pal who is an infantry paratrooper from California was with the 75th Rangers in the 173rd Airborne Brigade.

Congressman DUNCAN HUNTER of San Diego said, "Well, how can you say it is a small city when it looks so big?"

Well, the airport is so small, we had to orbit for about 20 minutes because it can only hold two C-5's at a time.

It is obviously under mortar fire sometimes.

What I meant by small city, of course, it is 700,000 people. That is about 130,000 more than the city of D.C., but nevertheless, you can see the perimeter of the desert all around the city, and when a helicopter pops up 1,500 feet to 2,000 feet, you can see the entire city.

Here is the Black Hawk helicopter. I clicked that picture as I was running to the helicopter to get on board. That is the C-5 in the background, and within less than 4 minutes on the ground, I was up in the air.

Taxiing in, I photographed the world's largest helicopter. It is not American. It is a MI-26. It is Soviet and, of course, it never goes in harm's way. It is the world's largest helicopter.

I was not in the air with the American number 2 in command, the number one in command at the United Nations forces under Admiral Howe is a Turkish three-star general, Civik B'ir. I had lunch with him, a tremendous gentleman, a little uncomfortable with most of his fighting forces under him were American, but the two-star general under him is Major General Thomas Montgomery. He met me at the airplane and took me on that helicopter.

I am now sitting at his side with a flack jacket on. I have got my armored helmet off, but I have a headset on and I am talking to him.

I look down and I say, "What are those, British Challenger tanks?"

And he said, "No, we're calling for a tank. It's painted white, isn't it? These are Russian T-72's, but they are owned by India."

I said, "These are Indian main battle tanks?"

I said, "General, tell me they were not here October 3rd during the rescue mission that took 9 hours to one site, 11 to the other." There was nobody left there. They had been overrun. Durant survived. The other five beaten to death, their bodies desecrated, alive and dead.

And I said, "What are they doing here?"

And he said, "Well, I know what you're thinking, Congressman. I called them in the dead of night and they said they had to check with Delhi," as in New Delhi, the capital of India. So much for the rescue force just maybe 8 minutes away from the K-4 circle, which we tried to go through when it was still daylight on the afternoon of Sunday, October 3rd, and the first lead truck, what the guys call a deuce and a half, 5,000 pound truck, it was hit by an RPG; two members of the 10th Mountain Division were wounded fatally. One died on the site, the other died 3 days later up in Germany at the Landstuhl Army Hospital.

As soon as we got back and started to circle the city, here is what they call Old Port. They are tiny. Why are we even in Mogadishu? They have got 5 or 6 ports. The others are just as big as this. Why did we pick Aideed's stronghold to set up in?

This is Old Port. Here is New Port.

Now, I just found out this afternoon from a Newsday reporter, Patrick told me that we lost a helicopter early in the morning on October 3. I find that out, you know, weeks later, and I am on the Intelligence Committee. It was unrelated to that attack on Aideed's men at the Olympic Hotel.

So four helicopters went down that day. One was lost 8 days earlier to an RPG on October 25. More about that in a second.

The third helicopter lost in the assault, number five overall, made it back and crashed on the dock here.

One of the Rangers from Fort Bragg has his leg blown off in that helicopter. He is alive in a hospital. I hope to see him soon in the next week.

All five from that helicopter got down all right, but the helicopter was totaled.

And I said, "Where is it? I want to see it."

They said it was packed onto a C-5 and taken back to the United States.

Here is the site of the crash right here. An ambulance got right there and they got these guys back to the hospital compound where heroic men and women do excellent work. They kept a lot of our 87 wounded alive during this October 3 and 4, a 15-hour firefight is what the Rangers up at Walter Reed Hospital told me yesterday afternoon; not 7, not 9, not 11. They told me 15 hours is how long that went.

Then we circle back around. To give you an idea of the equipment we have in there and why I plead in this well to get out of Somalia as fast as we can, meant at a minimum 2 or 3 months.

Look at the amount of equipment we have at Sword Base on the old, destroyed, once beautiful, university campus at Hunter base.

Here is a shot of the beaches along the coast. This tempts our young guys to go out when they are sweating on construction projects, go in the water. Four people have died by shark bite. Somebody told me two Americans. I can only find one who was kept alive until he got back to Walter Reed here and his family was flown to his side. They were at his side when he died, thanks to the excellent care of our Americans. He lost both his legs in that shark attack.

I know two foreigners were killed back there in the summertime. We have no control over them.

General Montgomery said his order always was and still stands, no swimming in the surf whatsoever for Americans.

General Montgomery said he has had to give orders that he will discipline any superior who allows any of his men to go in the water.

Here it gives you an idea of the air base. Now, I have excellent pictures all over the air base, Ranger compound, headquarters compound. Many of the faces of the senior older, late 20's, up to 45 years of age, and Ray Frank who gave his life for us in a foreign policy nobody can figure out, including the wounded up at Walter Reed.

But I cannot show you those pictures because they have been hit by mortar fire and they are just too good, and I do not want to show the faces of our Special Forces out of Fort Bragg. They sometimes get into movie titles, or our Rangers out of Fort Benning or the guys who train and fly them, the 160th Special Operations Aviation Regiment out of Fort Campbell, which I hope to visit Monday.

But this shot of the airport is kind of nondescript. It is the civilian side, two small Hughes helicopters, rotten, decaying buildings, but I want you to see the high ground here. All of the high ground, Mogadishu rises from the water's edge all the way up to a pinnacle and on that top highest ground is the Olympic Hotel.

Here it is, with God helping me with cloud cover that kind of highlighted like a heavenly light the Olympic Hotel, the big hotel across the street. This is where our Rangers fast roped down in the afternoon of October 3 between 3 and 3:30. One Ranger died in that operation. They had to cross the street, go up here to an Aideed compound where they took 24 prisoners and then hell hit.

Four of the Aideed prisoners were killed by other Somalis firing wildly into them.

They got their men into Humvees. I asked a lieutenant lying in Walter Reed, his wife, Beth, was next to him. They had saved his leg, fought all week to save it. He showed me his leg, four big pins sticking into it, but he was a tough, typical Ranger, smiling, and I said, "Well, you had armored Humvees with the special opts."

He said, "Yes, sir, armored—translate that—cardboard."

He got hit with an AK right through the side of the Humvee.

Here is where the clouds and the light are helping me again, big cloud around here. I did not touch this photograph, bright lights shining on the high ground.

You cannot quite see the rise here, but everybody at all our military installations, Old Port, New Port, the International Airport, the Headquarters of the Rangers, over Sword Base, Hunter Base, everybody could see the smoke from this fire fight coming up three to four, four to five, five to six, six to seven, when it starts getting dark, and all night long the sky filled with helicopters and exploding rocket propelled grenades, and they are not the expert marksmen I had suspected.

I asked the men at the hospital yesterday and they said, "Sir, you can't see them going through the sky, but you can see a rocket propelled grenade when it explodes."

And they were salvoing. They had more ammunition than we could ever have conceived of. They said the AK-47 fire started within the first hour and the staccato was deafening for the next 4 or 5 hours, and we were not sniped at. It was constant, unrelenting automatic machine gun fire from AK-47's, and they said it was the worst fire fight, we all believe, since World War II, and I am not going to doubt their word.

Mr. MCINNIS. Mr. Speaker, will the gentleman yield?

Mr. DORNAN. Yes, I yield to the gentleman from Colorado.

Mr. MCINNIS. Mr. Speaker, could the gentleman put in perspective for us exactly when the fire fight started and when the calls for reinforcement came, when our troops realized they were clearly outgunned, when our troops put in a call for reinforcement, when that 9- to 11-hour period transpired in perspective to the 15-hour fire fight.

Mr. DORNAN. Well, the first thing I asked when I was all through with the two aerial surveys and meeting with the Turkish general and lunch with General Montgomery and meeting Admiral Howe over at the compound, I went back to the ranger base, found out we had a two-star general there, nothing wrong with not announcing that, spoke to him. He took me to his men. I saw how they lived and where they lived.

And I said, "Does anybody know of a gunner or crewman from the third helicopter that made it back to New Port and crashed with the Ranger on board with his leg blown off and one door gunner with his hand pierced by fire?"

□ 1900

And they said, "Sure, we'll get him for you," and they got me a young man, Mason is his first name, and I said, "These two heroic rangers that should get the Medal of Honor from Fort Bragg, special, special, special ops guys," I said, "did they fast rope down into hell itself?"

"No, sir. We went right down on the deck." Three or four feet off the deck they jumped off.

"Did they have bandoleers around them, extra rifles for the crew to create a perimeter of six guys to wait for a rescue?" I said, "They have radios?"

"No, sir," he said, "they jumped right out of the helicopter, ran to Durant's helicopter, second down of three," and he said, "They got Durant out, they got Ray Frank out," 31 combat months in Vietnam, 1 year younger than Clinton. There is a story of two young Americans with different lives.

And he said, "As he got them out, we took an RPG in the side." That is when the ranger behind them lost his leg, and they pulled up, went back to Newport, leaving the Durant crew, Durant plus three, his copilot, Ray Frank, or pilots, they are both pilots—the two pilots, the two door gunners, and the two rangers left those six alone. "We never got to them ever until 11 o'clock at night, and nothing was left but blood, expended 7.6 ammo and expended 9 millimeter ammo," and Durant said himself that he fought until he was out of ammunition.

The call went out to the first helicopter within minutes, and they ginned up within minutes, so I repeat it on this floor with General Montgomery, the only time I saw him really get upset was he said, "No Malaysian had to be at gunpoint ordered to help. They all wanted to help, but, as soon as it started to get dark, they had no night vision capability. They didn't know which armored vehicle to use. The column was led up to the K-4 circle by," he said, "a deuce and a half truck that was kicked with an RPG grenade."

When the rangers came out the next morning, they came that same route, I learned up at Walter Reed yesterday, and they said, "It was an unrelenting gauntlet of automatic weapons and RPG's all the way back in the 15th hour of the fight, so the call went out immediately."

General Montgomery said he started trying to rally a rescue force because now we go from U.S. command to quick reaction force under Admiral Howe in the United Nations. They were ginned up in about an hour as they start up the road still in daylight. They hit this first big K-4 circle near the airport, and get hit with incredible fire, and the two mountain division guys and four Malaysians give their lives, greater love than this no man has, trying to reach the site. They never got any further than K-4.

From that point, while it is daylight—it was not until the dead of night, between 11 and 12 o'clock—that we got other groups, the rangers, meanwhile, from the airport to save their own. They start up a main road right from this big Catholic church area. I will show my colleagues the old downtown. They hit an ambush right away.

The Aideed forces have Motorola radios. They were up on the radios instantly. The coordination was frightening, and one of the rangers from his hospital bed yesterday said, "Sir, we were up against 20,000 men."

I said, "No people, women, children." I said, "Nobody is going to believe me if I say 20,000." I said, "If it was ten, it's frightening."

He said, "Well, let me put it this way, Congressman. In any one scene looking down a street or an alley we saw hundreds of people. My sergeant took a bullet right in his throat. He was dead instantly, dropped. I said to him, 'Officer, you want me to take that gun?' He said, 'I got up on the gun turret, 40 millimeter grenade launcher,' and he said, 'Here are women coming at me with a grenade launcher, ammunition around their bodies, these rocket propelled grenades,' and he said, 'and children at their sides.'"

And I said, "What do you do," and he said, "Fire."

Then he said, "Donovan Bliley and Cliff," and I forget his last name. I will get it and put it in the RECORD. "The two pilots from the first helicopter to go down, they didn't get hit out of the sky." He said, "We were being so massively assaulted that Cliff and Donovan came down over the crowd, bent that big H-60 up in the area." He said, "It's now light, got a 701 powerful engine." He said, "I have never seen a guy do things with a helicopter like this," and they got down over the crowd and blew people literally away with the downdraft of the helicopter, including women and children.

He said, "We're firing, and he keeps doing that with his helicopter. We're yelling for emergency help. Then they hit him with a rocket propelled grenade. He goes down hard. The pilot's body is trapped in the," and I do not know which one is trapped in the wreckage, and I want to put in an article from the New York Times, Monday, the day before yesterday, where some person in the Pentagon and the rangers up at the hospital told me about this article, so I got it. A senior military officer at the Pentagon is critical of the rangers' decision to stay with the body. It was an emotional response open to question.

They told me, "This guy, unnamed, doesn't know anything about rangers and their creed, put that in the article."

But let me quickly go through the rest of these pictures.

This is the university. Look at the size of this complex that the Italians and the British left behind that was a thriving university complex. Now it is the U.N. headquarters. A university of education turns into a war compound because of warring clans: The Daroods against the Hawayi.

Now here is again, just quickly, all the—that is one of our field hospitals. There is the Greeks'. There is the Nigerians'. All of this effort in here cannot be collapsed overnight. Here is the downtown area. I want to hold this still. I saw this big huge cathedral. I assumed, because of the Italian colonial period, it was a Catholic cathedral. "Was" is correct. There is not a roof on it. It looks like Coventry after a Luftwaffe bombing.

Mr. Speaker, half of these buildings around here are gutted. This once beautiful city is utterly destroyed. All it is now is a series of broken buildings where people can hide with machine guns, AK-47's and rocket-propelled grenades.

Just another shot of these Black Hawks. I know a contract has been let in California to a ballistics expert to find out why these helicopters and their armor are being pierced so easily.

Mr. McINNIS. Mr. Speaker, would the gentleman from California yield on this just very quickly?

Mr. DORNAN. Sure.

Mr. McINNIS. On the helicopters, were our helicopters armed, and did they have .50 caliber machine guns, or were they armed or were they disarmed prior to conflict? What was the rule of engagement in regard to these helicopters?

Mr. DORNAN. No; they are armed. They have the mini Gatling guns, there are door guns from the third helicopter. I did find out they did have an extra gunner in this one that did not go down on the ground. The problem is a helicopter, and I used to fly helicopters in civilian life, it is a very delicate, sensitive instrument. It is aerodynamically instable. Even though the blades on the Black Hawks are hardened, one bullet into the transmission of the helicopter, into the very delicate, sensitive hub, the hub on a big H-53 I think is the most complex single industrial piece of aluminum equipment in the world. When I saw it up at Connecticut last summer, I could not believe my eyes. I said, "This is amazing."

They said, "Well, that's not finished. We've got to work on that and hone it down for another month or so."

It is unbelievably sensitive, so, when we are getting all this ground fire and they are salvoing without any fear of running out of ammunition, these Soviet designed—helluva weapon in Vietnam—these rocket propelled grenades that can go through the side of most armored personnel carriers, well, what do we think is going to happen when they are shooting at the helicopters who are ground level, eye level, trying to help their men or when they are orbiting in a circle overhead.

I did find out, to my satisfaction, that like Vietnam, everybody stopped everything they were doing, especially here in the daylight hours, and focused on rescuing those men. The air was filled with helicopters.

I asked one of the hero lieutenant colonels from the 10th Mountain Division—I said, "In other words it's miraculous you didn't have a mid-air."

He said, "Yes, sir. It was because everybody was focusing on firing on anything that moved on the ground and helping our men, but what we needed was armor on the ground."

And I did not ask General Montgomery; he volunteered it to me. He said, "That's why I asked for armor last month, Congressman."

Mr. McINNIS. Mr. Speaker, if the gentleman from California would yield for another question, would he tell me very succinctly what was—how much time did it take the United Nations, once this is all gone? Everybody is screaming for an emergency. They want reinforcements. How long did it take the United Nations to get there? How far away was the United Nations? Were they not within a mile approximately? Was it not a fact they could not get orders from around the world and the lack of organizations that our troops surrounded, pinned down our helicopters, shot down? We could not get reinforcements?

Mr. DORNAN. Well, I am not quoting General Montgomery, but probably what he was thinking:

> Well, here is my worst fear. This is the sixth or seventh ranger raid.

All the press knows that. That is not classified.

And he said, "And here is the time that I wanted the armor. Now I don't have it. So, I've got to go to these other commands, even though I'm the No. 2 in command. Turkish general is giving me full bore to go here. I can't solve the problems of language, of night vision, to get this thing going."

By the time they cranked it up and reached Donovan Bliley and Cliff's site, the first crew, it was 7 hours. By the time—9 hours; excuse me, 9 hours. The rangers had formed a perimeter around the first crash. By the time they reached Durant's helicopter, he was gone. The other five men were gone. We saw their bodies the next evening on American television being beaten, desecrated, handcuffed, cut off, dragged around the streets. All five of those men we miraculously got back.

Why?

□ 1910

Two sets of remains we did not get back from the September 25 crash. And I have really stuck it to the Army hard, pushing them and pushing them, and they have satisfied this Member that we lost many young men, wounded, not dead, thank God, trying to get to those remains. The men went into that white hot helicopter almost, climbed up in the tail, which was separated from the explosion, could not find any remains but one set, badly burned, which they got back.

By the way, the Rangers knew that from September 25. That is why they did not want to leave one of the pilots of the first downed helicopter in the wreckage. They knew that that pilot would be dragged around the next day, dead and desecrated, and it happened, didn't it? From Donovan's helicopter the very next few hours with five men, some of whom may have been beaten to death by the crowd.

So that is why they stayed and took killed in action and more wounded, not to desert that helicopter.

It says in this article that I will put in that they finally got a Humvee, one of these fragile little four-wheel Humvees that Arnold Schwarzenegger made famous by buying a commercial red one. That is how they ripped the helicopter apart to get Donovan or Cliff's body out. If they had had a tank there, they not only would have had armored positions from four directions, but a tank in an instant could have torn the broken H-60 apart and gotten those bodies out hours earlier. So it is 9 hours to crash site one, and 11 hours to crash site two, and 4 more hours of firefight through the morning. And something that I have read in no paper, an absolute running of an Iroquois gauntlet back to the base with their wounded. No more prisoners, they had gotten them out early. And their dead, and Donovan or Cliff's body, to get back to the main U.N. compound or the airport. An unbelievable 15-hour firefight.

Mr. Speaker, let me go over the rest of the slides. Here is the crash site of the September 25 helicopter. Let me hold this very steady and point to the helicopter.

You can see that it is almost melted. My argument with the Army, these guys that I dearly respect, was if we can spend millions, and I mean millions of dollars, and have 50 or 60 people on full payroll at the Pentagon looking for a tooth in Vietnam, and that is important, I do not say that in a demeaning way. I have seen a casket with nothing but a tooth in it. I said Do the parents know? Yes, sir, we learned the hard way. Do they accept it? Yes, sir. Here is the dental records and a spectrograph. Look at that gold inlay that matches. I said it sure satisfies me. No wonder the parents agree. And they would bury that respectfully in some cemetery around middle America.

If they can get a tooth, I said, why can you not go into this crash site right here and get those remains?

And a two-star general who has the responsibility on this said to me, "Congressman, I am convinced by good men who I trust, including a classmate of mine, Thomas Montgomery, that we will get in one hell of a firefight."

I said, "You mean on the perimeter, where you allowed me to fly over?"

"Yes, sir. We can't even go near the Olympic Hotel and the two helicopters shot down on the third, the third one being destroyed at Newport, because we know that is a death trap. But even on the perimeter, if we were to land and try to show you that helicopter's remains, or this Humvee in the middle of the street where four men died," and I just got off the phone 30 minutes ago with Jody Pearson, and she said to correct something. The Army did not tell her that they buried that Humvee out of respect to the four MP's that died there. She said a soldier who went over after her husband, who knew her husband Keith, he told her it had been buried. So I have to apologize. Anything I indicated last week, that the Army should not have given that information out if it was not true, the Army did not do it. A sergeant probably saw the Humvee buried from January, another one from July where men were wounded and one died. They maybe got to those before this thing heated up and buried those out of respect.

By the way, I thought my overhead shot might be a shadow of the burned debris and burned tires. But then I took it from an angle, and this shows you that that is the full Humvee. You cannot get there with a flatbed and 10 M–1 tanks without the danger of taking more casualties. And yet I call it an evil fountain or memorial in the middle of a major intersection downtown. And the hand of this young door gunner, I am sorry, I did not get his name, he was the first air on the ground, he called it. He landed right in front of all these burned out trucks. By the way, there are pillboxes on all these buildings around. He landed right there, jumped out of his helicopter, and reached Keith Pearson, Jody's husband, who was the only man not killed instantly, he died 2 hours later in the hospital. He wrote me a letter that I have not received yet that I will read on the floor here next week.

Mr. McINNIS. Could you in the last few minutes here, our troops over there were so underarmed, could you specify again for the American people what your perceptions were?

Mr. DORNAN. I could do 20 seconds of slides to show how we closed the barn door after the horse was out and 18 men died, a 19th by mortar fire 3 days later.

Now we have the gunships, the big HC–130 Specters. These guys consider themselves fighter pilots. All 10 crewmen consider themselves flying the biggest fighter aircraft in the world with a cannon for punch. They brought these down from Jabouti. Why were they not there when they were asked for a month earlier?

Here is the first M–1 tank on the scene. I could only see on the ground that I was able to photograph. Guess what? We had an M–1 tank at Waco. Janet Reno sent one to Waco. Maybe we should have asked Janet Reno to send that same tank. But there is the first one of our big M–1 Creighton Abrams tanks sitting there in the compound.

I don't want to show this last shot anyway, because that is one of our young Rangers and Mason, and I do not want to compromise the security of where the Rangers live.

But this is over the European compound. This young guy stopped me, maybe from the 10th Mountain Division, about to go back on the Blackhawk. Here is a U.N. soldier. They wear green berets in the U.N. compound, although they are U.S. soldiers.

And he just asked me right there, Scout's honor, "What am I doing here now? Do you have any idea, Congressman, what my mission is?"

This brings me to the close, so you can share with other Members on important domestic issues here.

Mr. Speaker, I will put in Larry and Gail Joyce's letter. I am going to read this into the RECORD next week. But in the interest of time, I want to put in a few letters on Halperin, who is not even confirmed, so he is breaking the law to counsel our pal Les Aspin on whether or not to send tanks or gunships or anything else over there. I already asked permission for the fateful decision on the pilot's body.

I will just read the Rangers' Code, and then sum up in a minute on where we go from here. The Ranger Creed, drilled into new volunteers, instructs each soldier to complete the mission, though I be the lone survivor, and never to leave a fallen comrade to fall into the hands of the enemy.

It says that they knew that Aideed's deputies were claiming that they were holding up charred body parts from the crash 8 days earlier. They knew what might happen. And still it is contentious whether they were holding up animal parts. Lying. Whether that is true or not, it sure happened in spades to 5 of our heroes 8 days later.

One Ranger says there was no question in anybody's mind that we were going to stay there until we got the pilots' bodies out, and those are the words also of Lt. Col. Danny McKnight, who was wounded and stayed there all night, was not evacuated, and came out in the morning.

Now, for a close, do you know what Jody Pearson, who lost her husband August 8, an MP in that Humvee crash, said? She said, "Congressman, Mr. Clinton is going to Russia soon. He has not been back there since '69." She said, "Isn't anybody going to Somalia to visit our troops?"

The security would be formidable. There would be a way to do it. He could also land way out in the country and have some of our guys come out there to see him, as George Bush and Barbara went over to Desert Shield before the war started and had Thanksgiving with our troops over there.

She said, "Does anybody care about our troops?"

Let me tell you what I thought driving in. I got on my car phone and called my daughter who lives in Virginia. I said, "Terri, remember when you got Ricky and Tara and Anna to write and their whole classes to write letters to our guys in Desert Shield and then in Desert Storm and then the hospitals when they got back? And Robin did it with Colin and Kevin out in California?" I said, "Let's do that again. Let's get letters going to these guys at Walter Reed."

My daughter Theresa Ann Dornan Cobban said, "Dad, Thanksgiving is coming up. Do it on the House floor. You are a Congressman. Ask the whole Nation to write to these guys in the hospital at Benning, at Fort Bragg, and to write to them at Fort Campbell, and write to them at Walter Reed. I am going to get the Army to give me every hospital. And I said, "Jody, I asked my staff about the dead. Would it create pain for you if little kids wrote you to thank you for your hubby, Keith Pearson, giving his life?"

And she said, "Congressman, I would cry, but I would feel great to know that somebody knew the sacrifice of my Keith. Yes, don't leave us out, the loved ones of the killed in action."

So I am going to build on this, and I know America will respond. Those guys up at Walter Reed would like nothing better than to read letters from grade school kids and high school kids and college people all across this country discussing with them the good part of what they did, saving 350,000 lives.

□ 1920

And the difficult part is trying to get the warlord who fought in these ego battles, while 350,000 of his countrymen died for his militaristic fantasies.

Mr. McINNIS. Mr. Speaker, I thank the gentleman from California.

To the gentleman from California, I think that your conclusion there, requesting that we consider Thanksgiving and the response, I would ask, within the next few days, during special orders, you certainly make the addresses available via C–SPAN or any other way that you can for Walter Reed Hospital and so on and the names, because I think your idea is excellent.

Mr. DORNAN. Mr. Speaker, I include for the RECORD the following documents:

Chicago, IL., October 22, 1993.

Hon. ROSCOE G. BARTLETT,
Committee on Armed Services, Washington, DC.

DEAR CONGRESSMAN BARTLETT: My son, Sgt. James Casey Joyce, was one of the U.S. Army Rangers killed in the October 3 Somalia ambush in Mogadishu.

Even though I served two combat tours in Vietnam, I could rationalize Bill Clinton's protesting the war in Vietnam. Now, I'm struck by the irony of his objection to American policy in Vietnam, and his support of a similar policy for U.S. involvement in Somalia. It's similar, at least, in its vagueness, its politicization, and its misguided use of the military. My son opposed my support for Bill Clinton. His death in Somalia—brought about by weak and indecisive amateurs in the Clinton Administration—confirms my son's wisdom and my naiveté.

Senior military officers, including Chairman of the Joint Chiefs of Staff General Colin Powell, repeatedly requested armored and mechanized vehicles for Somalia. Secretary of Defense Les Aspin denied each request. Armored and mechanized units are essential reinforcements for the highly mobile but lightly armed Rangers my son was so proud to join.

Those reinforcements might not have helped my son, because he apparently was one of the first killed. But, they certainly would have helped many of the other 17 soldiers who were killed and the scores of others who were wounded. Army Rangers are the most highly trained and motivated soldiers this country ever produced. To put them, or any other soldiers, into combat with no way to reinforce them is criminal.

Americans, especially the casualties and their families, deserve answers. Congressional hearings should be held immediately to determine what went wrong in Somalia so those mistakes are not repeated. We must know who, specifically, made the disastrous decision to change the American military posture in Somalia from one of humanitarian relief to one of offensive combat and why this decision was made.

Did someone in the administration make that decision? Or was the President, the secretary of state and the secretary of defense simply asleep at the switch? Who decided Rangers should be used to arrest general Aidid? Why? If his arrest was so essential, why did we suddenly decide to reverse course after my son and 17 other American soldiers were killed on October 3? Who so grossly underestimated his generalship in urban guerrilla warfare? Why? Is Aidid perhaps the only stabilizing influence in Somalia? If so, why did it take so many American casualties to learn that fact? Didn't we learn anything from Vietnam, where our obsession with Ho Chi Minh drew us deeper and deeper into that quagmire?

These are just a few questions that are begging for answers. I urge you to call for an investigation and congressional hearings so we can set our foreign policy straight and make proper use of our military in enforcing that policy.

Questions also need to be asked of the military command in Somalia. Why were Army Rangers inserted into what we now know was a deadly ambush without United Nations Forces—in place—to reinforce them? They were not American, but certainly, Malaysian and Pakistani tanks and armored personnel carriers were better than none at all. They did eventually arrive—ten hours late.

Today's army is far superior to the one in which I served in the 60s and 70s. The young men and women who serve in the defense of our country are a national treasure. In the future, let's ensure they get proper direction and support they need and deserve no less. Please let me know how I can help.

Respectfully yours,

LARRY E. JOYCE,
Lt. Col. (Ret), U.S. Army.

[From the Washington Times, Oct. 27, 1993]

CIA KEPT QUIET ON HALPERIN

(By Bill Gertz)

The White House yesterday blocked CIA Director R. James Woolsey from briefing the Senate Intelligence Committee chairman and two other senators on secret documents related to the Defense Department nomination of Morton Halperin.

The intervention by White House Counsel Bernard W. Nussbaum is the latest skirmish in a high-level political battle over Mr. Halperin, who has been chosen as assistant defense secretary for peacekeeping and democracy:

Mr. Nussbaum kept Mr. Woolsey from meeting with Sen. Dennis DeConcini, chairman of the intelligence panel, and Republican Sens. Trent Lott of Mississippi and John Warner of Virginia. They wanted the CIA to reveal what it knows about Mr. Halperin's travel overseas.

"It really looks to me like they're trying to stonewall," Mr. Lott said.

Mr. DeConcini's office did not return repeated phone calls, but a source close to the decision said the Arizona Democrat was "disappointed" the White House prevented Mr. Woolsey from testifying.

The White House would not comment.

Mr. Nussbaum said he ordered Mr. Woolsey not to brief the senators on Mr. Halperin's past because the nomination is an FBI matter and not the CIA's responsibility. The FBI routinely conducts background checks of nominees.

Under current law, however, the CIA director is required to report to Congress in a timely fashion on all intelligence matters.

Mr. Woolsey has said he views Congress as his "board of directors" equal to the president. He reports to the Senate through Senate leaders and the Senate Intelligence Committee.

Mr. Halperin has come under fire from Senate Republicans for his liberal views, including his outspoken opposition to U.S. military intervention and covert operations.

The White House's refusal to allow the CIA director to testify sparked ire among both Democrats and Republicans, who see the matter as a "politicization" of intelligence—preventing politically neutral spy agencies from supplying information needed by Congress to do its job.

Senate sources said that impeding the Intelligence Committee's probe of the Halperin nomination is viewed as an unprecedented political interference in intelligence matters.

"All the members are upset by the White House," one aide said. "If there are documents [related to Mr. Halperin], this is the politicization of intelligence—the White House is preventing the CIA director from executing his responsibility under the law to keep Congress fully informed."

If the CIA does not have the documents requested by the senators, Mr. Woolsey still has a legal responsibility to appear before the Senate and explain what he knows to the best of his ability.

Republicans are delaying passage of the fiscal 1994 intelligence authorization bill until Mr. Woolsey testifies on the Halperin nomination.

Senate aides said yesterday the delay will remain on the bill until Mr. Woolsey testifies.

Mr. Woolsey, in response to questions from Republican members of the Senate Armed Services Committee, had agreed to meet in secret with senators to discuss CIA files on Mr. Halperin.

But Mr. DeConcini was notified Monday night in a telephone call from Mr. Woolsey that Mr. Nussbaum had blocked the meeting and that it was canceled.

It could not be learned which type of information the senators have requested from the CIA, whose spokesman declined to comment.

Mr. Halperin traveled to Britain in 1977 to testify at a deportation hearing in support of Philip Agee, a former CIA officer who defected to Cuban intelligence.

His contacts with Agee, who was engaged at the time in exposing the identities of CIA agents, would have attracted the attention of the CIA, experts say.

Meanwhile, Sen. John McCain, Arizona Republican, said he received a letter from Frank Wisner, undersecretary of defense for policy, that appears to contradict Defense Secretary Les Aspin on Mr. Halperin's role in Somalia policy.

Mr. Aspin stated on Oct. 15 that Mr. Halperin was unaware of a request for four tanks and 14 vehicles sought by U.S. field commanders in Somalia.

But Mr. Wisner stated that Mr. Halperin wrote two memorandums on the request and "has also participated in discussions within my office about Somalia policy." The letter did not elaborate.

In a related development, Sen. Strom Thurmond of South Carolina, ranking Republican on the Senate Armed Services Committee, said yesterday secret documents confirm that Mr. Halperin improperly tried to order Army Gen. George Joulwan, commander of U.S. forces in Latin America, to cancel a military exercise in Guatemala.

The senator said in a statement issued in response to a report in Monday's editions of The Washington Times that "information I have received from the Pentagon, including classified documents, leaves no doubt this story is true."

"A nominee has no business, and no authority, calling a field commander to offer recommendations, directions or advice," Mr. Thurmond said. "When the chain of command is not respected, a breakdown of command and control is the inevitable outcome."

Mr. Thurmond has stated publicly that he opposes the confirmation of Mr. Halperin and has described him as "dangerous" to U.S. national security.

At the Pentagon, spokeswoman Kathleen deLaski said Mr. Halperin called Gen. Joulwan on May 21 to "gather information," which she said was permitted by guidelines for unconfirmed appointees.

"He called General Joulwan informally and General Joulwan informed him that the operation would end the next day," Ms. deLaski said.

U.S. officials, however, said the exercise began in January and ended June 22. Ms. deLaski could not explain why Mr. Halperin says the exercise ended the day after his telephone call to Gen. Joulwan.

According to a document produced by the Joint Staff, Mr. Halperin tried to have Gen. Joulwan end the exercise early. The document said the request by Mr. Halperin was "a knee-jerk reaction made with incomplete information."

[From the New York Times, Oct. 25, 1993]

FATEFUL DECISION: STAYING TO GUARD PILOT'S BODY

(By Michael R. Gordon)

WASHINGTON, October 24.—As the bullets and grenades whizzed through the streets of south Mogadishu on the night of Oct. 3, the Rangers made a fateful decision: after they retrieved two wounded soldiers from a downed Blackhawk helicopter they stayed to guard the body of a dead pilot caught in the wreckage.

"Some people may think it is not normal to stick around a dead pilot," said Robert Gallagher, 31, a platoon sergeant who was wounded in a firefight near the Olympic Hotel. "But when you work with people on a daily basis, you develop a bond. Whether you are killed or wounded, you need to have someone look after you."

Although it would seem there must have been a moral question about whether to risk more lives by guarding a dead comrade, the Rangers say they never agonized over that decision.

There is no Army requirement to retrieve the dead if lives are in jeopardy. And at the Pentagon some military officials question whether Rangers should have put themselves at risk, and suffered additional casualties, for a dead soldier.

But the elite Army Rangers go by their own ethic.

In conversations with the Rangers, this is how they describe the code: In a world where, at any moment, they could be dropped into a country to fight with clans or oust a dictator, their loyalty to those fighting beside them is as intense as their loyalty to their country.

"The Ranger Creed," the code drilled into new volunteers, instructs each soldier to "complete the mission, though I be the lone survivor," and never to "leave a fallen comrade to fall into the hands of the enemy."

When the Rangers set out on that raid to capture Gen. Mohammed Farah Aidid's deputies, they knew that after three American soldiers were killed when their helicopter was shot down on September, 25 Somalis loyal to General Aidid had gleefully waved what they said were charred body parts.

When a Blackhawk helicopter from the Army's 160th Special Operations Aviation Regiment which trains and fights with the Rangers, was shot down in the raid, the Rangers fought their way to the crash site and rescued the wounded only to discover that the pilot's body was pinned in the wreckage and could not be removed without special equipment.

The Rangers, said Lieut. Col. Danny McKnight, the commander of the Ranger battalion, could have fought their way out, bringing their wounded along to less hostile territory so they could be taken out by vehicles or picked up by helicopter. But that would have meant leaving the body of the pilot behind.

NO QUESTION IN ANYBODY'S MIND

"There was no question in anybody's mind that we were going to stay until we got him," Colonel McKnight said.

It was not until 5:30 a.m., more than 12 hours after the helicopter was downed, that the Rangers completed the extraction of the dead pilot using a Humvee to help pull apart the wreckage

One senior military officer at the Pentagon who is critical of the Rangers' planning challenged the decision to stay with the body. "It was an emotional response that was open to question," he said.

But the Ranger creed, officers say, turns on sacrifice, not arithmetic. "War is not a matter of cost accounting," a special operations soldier said.

THE CASE AGAINST MORTON HALPERIN

Morton Halperin has been nominated to be Assistant Secretary of Defense for Democracy and Peacekeeping, a new position created by the Clinton Administration. Mr. Halperin:

Is a principal architect of Presidential Decision Directive #13, a blueprint for largely subsuming U.S. participating in "peacekeeping" to UN command and control.

Favors considerably augmenting the capabilities and responsibilities of the UN, to include the authority to raise revenues by taxing multilateral transactions such as arms sales, telecommunications, and multinational corporate sales.

Has, since the early 1970s, consistently strongly opposed U.S. covert operations abroad (He now claims that within the last two years, he has changed his mind.)

Has participated in leadership positions with radical leftist groups engaged in public campaigns to shut down the counterintelligence capabilities of the FBI and Justice Department and to reduce drastically the foreign intelligence capabilities of the CIA.

Considers his role in defeating Senator Dole's constitutional amendment to the Constitution prohibiting the burning of the American flag a crowning career achievement.

Opposes the unilateral use of U.S. force except in very limited circumstances (e.g., opposed American intervention in Grenada and Panama).

Opposes random drug-testing for federal employees, including those in sensitive positions such as air traffic controllers and national security officials.

Consistently excused the actions of the Soviet Union and its clients like Cuba at the height of the Cold War, characterizing their intentions as benign.

Spent five months leading Daniel Ellsberg's defense team and testified on Ellsberg's behalf, characterizing the Pentagon Papers as inconsequential to U.S. national security interests.

Flew to the U.K. to testify on behalf of Philip Agee, CIA renegade who exposed the identities of hundreds of American intelligence agents, including Athens CIA Station Chief Richard Welch who was subsequently murdered.

Filed a "Friend of the court" brief in defense of David Truong, a Vietnamese expatiate convicted of espionage on behalf of communist Vietnam and theft of government property.

Played an integral role in orchestrating the Clinton Administration's campaign to allow gays in the military.

Considers such issues as mental health, prior arrest record, drug or alcohol abuse, or membership in the Communist Party irrelevant questions to be asked for security clearance background checks.

A CHRONOLOGY OF RELEVANT ASPECTS OF MORTON HALPERIN'S CAREER

Present: On 31 March 1993, the White House announced the President's intention to nominate Halperin to the newly created position of Assistant Secretary of Defense for Democracy and Human Rights. Since that time, he has been working in the Pentagon nominally as a consultant but on an essentially full time basis and in a manner that appears to exceed congressional and departmental restrictions on the involvement of nominees in policy-making prior to their confirmation.

Halperin is formally still listed as a Senior Associate of the Carnegie Endowment for International Peace and the Baker Professor at George Washington University's Elliott School of International Affairs.

1984–1992: Director of the Center for National Security Studies (CNSS), originally an offshoot of the hard left-wing Institute for Policy Studies (IPS). Halperin was also the director of the Washington Office of the American Civil Liberties Union (ACLU), with responsibility for the national legislative program of the ACLU.

1977: One of the founders and the director of the Campaign to Stop Government Spying, which changed its name the following year to the more benign Campaign for Political Rights. Like CNSS, the Campaign was populated with personnel associated with the Institute for Policy Studies and dozens of other dubious organizations (e.g., the National Committee Against Repressive Legislation, reportedly a Communist Party front).

Also in 1977, while serving as the deputy director of the Center for National Security Studies, Halperin went to London to help in the defense of Philip Agee. At the time, Agee was in the process of being deported from Great Britain as a security risk for collaborating with Cuban and Soviet intelligence.

1969–1973: Senior Fellow associated with the Foreign Policy Division of the Brookings Institution.

1969: Member of senior staff of the National Security Council during the Nixon Administration with responsibility for program analysis and planning. During this period, the information concerning secret U.S. bombings of targets in Cambodia was leaked to the New York Times. Then NSC Advisor suspected Halperin and colleague Anthony Lake of the leak and authorized FBI wiretaps on their office and home phones.

1966–1969: Deputy Assistant Secretary of Defense for International Security Affairs, with responsibility for political-military planning and arms control.

NOTABLE HALPERIN QUOTES ON SELECTED TOPICS

ON THE FUNDAMENTAL NATURE OF THE COLD WAR

"The Soviet Union apparently never even contemplated the overt use of military force against Western Europe. . . . The Soviet posture toward Western Europe has been, and continues to be, a defensive and deterrent one. The positioning of Soviet ground forces in Eastern Europe and the limited logistical capability of these forces suggests an orientation primarily toward defense against a Western attack." (Defense Strategies for the Seventies, 1971)

". . . Every action which the Soviet Union and Cuba have taken in Africa has been consistent with the principles of international law. The Cubans have come in only when invited by a government and have remained only at their request. . . . The American public needs to understand that Soviet conduct in Africa violates no Soviet-American agreements nor any accepted principles of international behavior. It reflects simply a different Soviet estimate of what should happen in the African continent and a genuine conflict between the United States and the Soviet Union." ("American Military Intervention: Is It Ever Justified?", The Nation, June 9, 1979)

ON U.S. INTERNATIONAL COMMITMENTS

"One of the great disappointments of the Carter Administration is that it has failed to give any systematic reconsideration to the security commitments of the United States. [For example, President Carter's] decision to withdraw [U.S. ground forces from Korea] was accompanied by a commitment to keep air and naval units in and around Korea—a strong reaffirmation by the United States of its security commitment to Korea. This action prevented a careful consideration of whether the United States wished to remain committed to the security of Korea. . . . Even if a commitment is maintained, a request for American military intervention should not be routinely honored." (The Nation, June 9, 1979)

ON THE USE OF U.S. MILITARY POWER ABROAD

"All of the genuine security needs of the United States can be met by a simple rule which permits us to intervene [only] when invited to do so by a foreign government. . . . The principle of proportion would require that American intervention be no greater than the intervention by other outside powers in the local conflict. We should not assume that once we intervene we are free to commit whatever destruction is necessary in order to secure our objectives." (The Nation, June 9, 1979)

ON THE U.S. DEFENSE ESTABLISHMENT

Referring to the Reagan defense buildup: "Are we now buying the forces to meet the real threats to our security? Unfortunately, there is little reason to be confident that we are." (New York Times, June 7, 1981)

"In the name of protecting liberty from communism, a massive undemocratic national security structure was erected during the Cold War, which continues to exist even though the Cold War is over. Now, with the

Gulf War having commenced, we are seeing further unjustified limitations of constitutional rights using the powers granted to the executive branch during the Cold War." (United Press International, January 28, 1991)

ON THE U.S. INTELLIGENCE ESTABLISHMENT

"Using secret intelligence agencies to defend a constitutional republic is akin to the ancient medical practice of employing leeches to take blood from feverish patients. The intent is therapeutic, but in the long run the cure is more deadly than the disease. Secret intelligence agencies are designed to act routinely in ways that violate the laws or standards of society." (The Lawless State; The Crimes of the U.S. Intelligence Agencies, 1976)

"You can never preclude abuses by intelligence agencies and, therefore, that is a risk that you run if you decide to have intelligence agencies. I think there is a very real tension between a clandestine intelligence agency and a free society. I think we accepted it for the first time during the Cold War period and I think in light of the end of the Cold War we need to assess a variety of things at home, including secret intelligence agencies, and make sure that we end the Cold War at home as we end it abroad." (MacNeil/Lehrer Newshour, July 23, 1991)

"Generally, secrecy has been used more to disguise government policy from American citizens than to protect information from the prying eyes of the KGB. . . . U.S. government officials admit that experts in the Soviet Union know more about American policies abroad than American citizens do." (The Lawless State)

". . . The intelligence [service's] . . . monastic training prepared officials not for saintliness, but for crime, for acts transgressing the limits of accepted law and morality. . . . The abuses of the intelligence agencies are one of the symptoms of the amassing of power in the postwar presidency; the only way to safeguard against future crimes is to alter that balance of power. . . .

"Clandestine government means that Americans give up something for nothing—they give up their right to participation in the political process and to inform consent in exchange for grave assaults on basic rights and a long record of serious policy failures abroad." (The Lawless State)

"Secrecy . . . does not serve national security . . . Covert operations are incompatible with constitutional government and should be abolished." ("Just Say No: The Case Against Covert Action," The Nation, March 21, 1987)

"The primary function of the [intelligence] agencies is to undertake disreputable activities that presidents do not wish to reveal to the public or expose to congressional debate." (The Lawless State)

"CIA defenders offer us the specter of Soviet power, the KGB, and the Chinese hordes. What they fail to mention is more significant: they have never been able successfully to use espionage or covert action techniques against the USSR or China, which are the only two nations that could conceivably threaten the United States . . . The 'success' of covert action and espionage, of which the CIA is so proud, have taken place in countries that are no threat to the security of the United States." (The Lawless State)

"Spies and covert action are counterproductive as tools in international relations. The costs are too high; the returns too meager. Covert action and spies should be banned and the CIA's Clandestine Services Branch disbanded." (The Lawless State)

ON BEHALF OF EXTREME INTERPRETATIONS OF THE FIRST AMENDMENT

"Under the First Amendment, Americans have every right to seek to 'impede or impair' the functions of any federal agency, whether it is the FTC or the CIA, by publishing information acquired from unclassified sources." ("The CIA's Distemper: How Can We Unleash the Agency When It Hasn't Yet Been Leashed?", The New Republic, February 9, 1980)

"Lawful dissent and opposition to a government should not call down upon an individual any surveillance at all and certainly not surveillance as intrusive as a wiretap." ("National Security and Civil Liberties," Foreign Policy, Winter 1975–76)

In opposition to draft legislation setting heavy criminal penalties for Americans who deliberately identify undercover U.S. intelligence agents: "[Such legislation] will chill public debate on important intelligence issues and is unconstitutional. . . . What we have is a bill which is merely symbolic in its protection of agents but which does violence to the principles of the First Amendment." (UPI, April 8, 1981)

In criticizing scientists who "refused to help the lawyers representing *The Progressive* and its editors" in fighting government efforts to halt the magazine's publication of detailed information about the design and manufacturing of nuclear weapons: "they failed to understand that the question of whether publishing the 'secret of the H-bomb' would help or hinder non-proliferation efforts was beside the point. The real question was whether the government had the right to decide what information should be published. If the government could stop publication of [this] article, it could, in theory, prevent publication of any other material that it thought would stimulate proliferation." ("Secrecy and National Security," *The Bulletin of the Atomic Scientists*, August 1985).

In response to government attempts to close down the Washington offices of the PLO: "It is clearly a violation of the rights of free speech and association to bar American citizens from acting as agents seeking to advance the political ideology of *any* organization, even if that organization is based abroad. *Notwithstanding criminal acts in which the PLO may have been involved*, a ban on advocacy of all components of the PLO's efforts will not withstand constitutional scrutiny." (*The Nation*, October 10, 1987)

In arguing that the random use of polygraph tests to find spies was unconstitutional: "Congress should strip these measures from the bill and start attacking the genuine problems, such as over-classification of information." (Associated Press, July 8, 1985)

ON U.S. AID TO FOREIGN PRO-DEMOCRATIC MOVEMENTS

Regarding President Reagan's veto of a bill tying U.S. military aid to El Salvador to improved human rights, "[This action] makes clear that the administration has reconciled itself to *unqualified support* for those engaged in the systematic practice of political murder." (*Washington Post, December 1, 1983)*

Halperin called U.S. aid to the pro-democracy Contra rebels "ineffective and immoral." (Associated Press, October 2, 1983)

ON NUCLEAR STRATEGY AND ARMS CONTROL

As reported by the *New York Times* on November 23, 1983: "Mr. Halperin said the most important contribution American officials could make to stability would be 'to renounce the notion that nuclear weapons can be used for any other purpose than to deter nuclear attack.' He also argued that the United States should abandon plans to attack Soviet missile silos in responding to a nuclear attack. For one thing, he said, the missiles would probably have already been fired. Also, he said, a high degree of accuracy would be required."

As reported by the Chicago Tribune on December 11, 1987: "Halperin explained the NATO deterrent strategy known as coupling, whereby a Soviet conventional attack in Europe would be met with Allied tactical, and if the Soviets persisted, strategic nuclear weapons, in this way: 'First, we fight conventionally until we're losing. Then we fight with tactical nuclear weapons until we're losing; then we blow up the world.' "

Referring to the Nuclear Freeze proposal: "Sounds like good arms control to me." (Bulletin of the Atomic Scientists, March 1983)

ON CLASSIFICATION OF SENSITIVE INFORMATION

"While the most flagrant abuses of the rights of Americans Associated with the Cold War are thankfully gone from the scene, we have been left behind with a legacy of secrecy that continues to undermine democratic principles." (Boston Globe, July 26, 1992)

Halperin called the government's prosecution of Samuel Loring Morison, who was convicted of disclosing classified satellite photos of a Soviet aircraft carrier under construction "an extraordinary threat to the First Amendment." (Washington Post, October 8, 1985).

[From the Center for Security Policy]

THE "HALPERIN SYNDROME": CLINTON APPOINTEES' ANTIPATHY TO CIA, MILITARY SETS STAGE FOR DEBACLES IN HAITI, BEYOND

WASHINGTON, DC.—The world is now being treated to the spectacle of a U.S. president determinedly pursuing a policy toward Haiti predicated upon a man whom the American intelligence community believes to be a psychotic manic depressive and involving a use of the armed forces opposed by senior military commanders. Unfortunately, the bizarre overinvestment by the Clinton Administration in Jean-Bertrand Aristide is not an isolated incident. Rather, it seems the product of a dangerous predisposition shared by many of Mr. Clinton's senior security policy advisors, and perhaps by the President himself.

While much of the focus to date has been on a dubious commitment to multilateralism that is rife in the senior echelons of the Clinton Administration, another—arguably more insidious—mindset appears to be at work: a deep-seated mistrust of, if not outright contempt for, the Central Intelligence Agency, its sister organizations and the American military. Unless there are wholesale changes in the Administration's foreign and defense policy team, it is predictable that such a predisposition will produce even more serious and expensive debacles for the United States than that entailed in trying to restore Jean-Bertrand Aristide to power and to assure his survival once there.

THE HALPERIN SYNDROME

For want of a better term, this mindset might be called the "Halperin Syndrome" since Morton Halperin, Mr. Clinton's nominee to become the top Pentagon policymaker responsible for democracy-building and peacekeeping in places like Somalia and Haiti, epitomizes the phenomenon. In over two decades of public advocacy and agitation prior to beginning work on the Clinton Defense transition team in 1992, Halperin repeatedly and unambiguously made clear his low regard for what he has called the "massive undemocratic national security structure [that] was erected during the Cold War."

In particular, Halperin has consistently excoriated the U.S. intelligence community. To cite but a few illustrative examples from Halperin's copious writings, public statements and congressional testimony on the subject (emphasis added throughout):

"Using secret intelligence agencies to defend a constitutional republic is akin to the ancient medical practice of employing leeches to take blood from feverish patients. The intent is therapeutic, but in the long run the cure is more deadly than the disease. Secret intelligence agencies are designed to act routinely in ways that violate the laws or standards of society." (The Lawless State: The Crimes of the U.S. Intelligence Agencies, 1976)

"You can never preclude abuses by intelligence agencies and, therefore, that is a risk that you run if you decide to have intelligence agencies. I think there is a very real tension between a clandestine intelligence agency and a free society. I think we accepted it for the first time during the Cold War period and I think in light of the end of the Cold War we need to assess a variety of things at home, including secret intelligence agencies, and make sure that we end the Cold War at home as we end it abroad." (MacNeil/Lehrer Newshour, July 23, 1991)

Halperin concluded a favorable review of CIA turncoat Philip Agee's book Inside the Company: CIA Diary by pronouncing: "The only way to stop all of this is to dissolve the CIA covert career service and to bar the CIA from at least developing and allied nations." (Center for National Security Studies newsletter First Principles, September 1975)

HALPERIN AS POLICY-MAKER

Even though Morton Halperin has yet to be confirmed as the Assistant Secretary of Defense for Democracy and Peacekeeping, he has been one of the principal authors of the Clinton policy toward Haiti. It is hardly surprising that a man with such a low opinion of the U.S. intelligence community would be inclined to give short shrift to warning signs produced by that community.

What is more, Halperin has recently been implicated in two decisions that suggest an equally cavalier attitude toward the American military. Notwithstanding formal denials by Secretary of Defense Les Aspin, there are persistent reports that Halperin contributed to the decision not to approve the repeated requests for additional armor to support U.S. armed forces deployed in Somalia on the grounds that doing so would not square with the Administration's political agenda. This decision contributed to the loss of 18 American servicemen in Mogadishu on 3 October.

While Halperin's exact pre-confirmation role in that tragic episode remains a matter of dispute, his reported involvement in the Somalia decision is of a piece with another confirmed instance of subordinating military requirements to a perceived political agenda: According to yesterday's Washington Times, Halperin has acknowledged asking that a joint U.S.-Guatemalan exercise be terminated prematurely to protest the alleged involvement of Guatemala's military in the escape of an individual convicted of killing an American. This direction was, properly, ignored by the U.S. military as it came outside of the normal chain of command and from someone who—by virtue of being only a consultant—had no authority to issue such guidance.

THE HALPERIN SYNDROME AND CLINTON POLICY TOWARD HAITI

Morton Halperin's disdainful attitude toward the U.S. intelligence community and the American military appears to be shared by other Administration officials, as well. At the very least, such widely shared sentiments seem to be driving factors regarding the Clinton policy toward Haiti.

As President Clinton, himself, put it on 22 October: "The CIA would be the first to tell you that they get a lot of information. It's not always accurate. It's not always determinable." the unsaid implication of this statement: In the case of the intelligence community's assessment of Jean-Bertrand Aristide, its information is simply inaccurate.

And yet, the information being thus discounted is compelling. According to press accounts of the congressional briefings presented in recent days by a 30-year veteran of the Central Intelligence Agency (who has served for the past three years as its senior national intelligence officer for Latin America), Aristide takes medicine to treat "psychotic manic depression" which can have such symptoms as suicidal tendencies, delusions of persecution and hallucinations. The briefing also confirmed reports that while president of Haiti, Aristide encouraged the "necklacing" of his political opponents, the practice of lighting gasoline-laden tires placed around the victim's neck. Aristide said of necklacing:

"What a beautiful tool, what a beautiful instrument, what a beautiful device, it's beautiful, yes, it's beautiful, it's cute, it's pretty, it has a good smell. Wherever you go you want to inhale it."[1]

Importantly, according to the 24 October edition of the Washington Post, the briefing represented "the consensus judgment of the entire spy community, including the Intelligence and Research branch of the State Department." On Thursday, CIA Director James Woolsey endorsed the conclusions of the briefing before members of the House and Senate intelligence committees.

Speaking on ABC-TV's "This Week" on Sunday, Senate Minority Leader Robert Dole said that the CIA briefing unearthed "very disturbing" information about Aristide's mental stability, his treatment of political opponents and his "commitment to democracy." Sen. Dole averred that, in light of what he had heard, he "certainly wouldn't risk one American life to put him back in power."

DON'T BOTHER ME WITH THE FACTS

Two particularly noteworthy manifestations of the Halperin syndrome have recently been reported. According to the 25 October edition of U.S. News and World Report, Phil Peters, a spokesman for the State Department's Bureau of Inter-American Affairs called the CIA accusations about Aristide's mental health part of "a full-scale attack on the President's policy." According to Peters, the Pentagon (i.e., the uniformed military—as opposed to Halperin and the civilian leadership) and other agencies "don't think it is worth doing anything to reinstate Aristide, despite the fact that President Clinton decided on that course."

Meanwhile, syndicated columnists Rowland Evans and Robert Novak reported yesterday that Deputy National Security Adviser Sandy Berger angrily ordered the Pentagon to proceed to deploy the USS Harlan County to Haiti three weeks ago over the objections of senior military commanders who were recommending a postponement of its embarkation. Berger is said to have overruled the military—setting the stage for the ensuing embarrassing withdrawal of the vessel in the face of a small number or armed protesters—on the grounds that "We committed ourselves publicly in the campaign, and we're going to do it."

IF MICHAEL BARNES SAYS IT'S SO . . .

Such is the influence of the Halperin syndrome that Clinton Administration officials who exhibit its symptoms are prepared to rely upon the self-serving judgments of interested parties—rather than the findings of U.S. intelligence. As President Clinton himself put it on 22 October: "No one knows whether [the CIA's allegations about President Aristide's mental illness] were true or not" but that the "sustained experience" of U.S. advisers working with Mr. Aristide "tended to undermine those reports."

One of those advisers upon whom the President and his staff are apparently relying is the former chairman of the House Foreign Affairs Subcommittee on Western Hemisphere Affairs, Michael Barnes. Rep. Barnes has recently been playing a highly visible role so a witness to President Aristide's mental fitness. He has gone so far as to claim that Mr. Aristide "has not suffered from nor been treated for any mental problems." Rep. Barnes may have at least as compelling—and certainly a far more tangible—stake than Mr. Clinton in arriving at such a conclusion, however: He is reportedly receiving $50,000 per month to serve as counsel for President Aristide.

THE BOTTOM LINE

What has become evident in both the Somalia and Haiti debacles is that the Clinton Administration is prepared to discount the advice of the U.S. intelligence community and the military, a modus operandi that has already had tragically fatal consequences in the first case and humiliating effects in the second. Unless a thorough housecleaning of those prone to such attitudes is accomplished at once, it seems inevitable that additional—and probably more serious—disasters lie ahead.

This is not to say that the intelligence community is infallible or that civilian control of the military should not be exercised. It is, however, to say that the nation is poorly served by an Administration staffed in key positions by those who have an ill-concealed, visceral and apparently immutable distrust of the U.S. intelligence agencies and the armed forces as institutions and of their activities. Such individuals are unlikely to be able either to utilize the products of intelligence properly or to exercise the kind of effective civilian control of the military that is clearly required.

The Center for Security Policy believes, in addition, that an urgent effort should be made to declassify—and present publicly—the CIA analysis of Jean-Bertrand Aristide's mental health and his record with regard to democracy during his brief presidency. The fullest possible transparency is in order before the American people are asked to entrust additional American lives, treasure and prestige to policy-makers who have already demonstrated proclivities that could result in a further squandering of these precious assets.

UNFUNDED FEDERAL MANDATES

Mr. McINNIS. Mr. Speaker, as the gentleman from California said, this previous 30 minutes has been spent on the international situation. I think it is time we now shift to the domestic situation.

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[1] Incredibly, some of Aristide's defenders contend that this statement was actually made in reference to the Haitian constitution adopted during his brief presidency.

Of course, one of the biggest problems that we face domestically, that has to be resolved and that cannot continue along the same path that it is, is unfunded mandates.

Mr. Speaker, I now yield to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Speaker, I thank the gentleman for yielding to me. He has been very kind to share his time with us this evening.

For those Members who have been planning to speak on the unfunded mandate portion of the evening, this is it. If they are out there and they want to come over, we would love to have them.

This is a special order, and it is an important special order. It is important, because it deals with the most pressing issue facing States and local governments today. That is beginning the issue of unfunded mandates.

As many of us know, today has been designated as National Unfunded Mandate Day, a day in which local officials across the country were to begin educating the public of the devastating consequences of unfunded Federal mandates.

I was told by the U.S. Conference of Mayors, which was the primary sponsor of the National Unfunded Mandate Day, that over 1,000 local officials around the Nation held events in which they singled out unfunded Federal mandates as the biggest problem they face.

In these communities, the message to the Congress was clear: Stop approving legislation that imposes requirements on local governments without containing the resources necessary to carry out that mandate.

This August, I and a number of Members of Congress have formed the Congressional Caucus on Unfunded Mandates in order to bring together Members of Congress who agree that this body must honestly address this issue.

Since August, we have 84 Members of the Congress who have joined the caucus on unfunded mandates.

As anybody who knows me can attest, I am not a frequent participant in special orders. However, I feel that this issue is so important to our Nation that it deserves the topic of discussion on the House floor. In addition, I feel that a special order devoted solely to unfunded Federal mandates is appropriate activity for National Unfunded Mandate Day.

I am proud to join with my colleagues and local government across this country to try to educate Congress and the American people about unfunded mandates. Unfunded mandates is what we call in the business "feel good legislation." That is where we in Congress get to feel good and pass the cost on to local governments.

We have got to put a stop to that. There are a group of Members of Congress who have come together to try to find a bipartisan solution. This is a bipartisan issue. Democrats and Republicans have come together to try to come to a consensus about how we deal with the unfunded Federal mandate issue, and we do have limited time this evening.

Mr. Speaker, I would like to share with my colleagues some profiles of cities that are being adversely affected by unfunded Federal mandates. For instance, the city of Phoenix, AZ, could provide substantially lower water and sewer rates to its citizens if they did not have to commit much of their local revenue to unfunded mandates.

In Fresno, CA, the city estimated the costs of closing a landfill, without Federal mandates, to be $10 to $12 million. However, because the landfill is included as a Superfund site, the cost of closing the facility will range from $35 to $60 million. You should note that all of the costs will be borne by the city's solid waste ratepayers.

In Los Angeles, unfunded mandates will have a detrimental impact on the city's ability to provide essential services. Mayor Richard Riordan has told me that he could put many more cops on the streets if the city did not have to comply with so many unfunded Federal mandates.

In Philadelphia, an Environmental Protection Agency requirement that the city develop an advanced wastewater treatment system to improve the oxygen levels for fish in the Delaware Water Basin will cost Philadelphia upward of $500 million. The mayor of Philadelphia, Ed Rendell, has told me that he will not comply with this mandate because there is no way that he can justify this expenditure to the citizens of Philadelphia.

Merced, CA, located in my congressional district, will incur $1.4 million in unfunded Federal mandates in 1993–94. In order to balance this year's budget, Merced had to cut over 30 staff positions. Remember, Merced only has a population of 53,000 people and it is suffering in the worst sort of way because of unfunded Federal mandates.

In Modesto, CA, also in my congressional district, the city will spend $5.8 million on nine Federal mandates over the next 6 years. This money could be used to hire 150 police officers.

In Stockton, CA, the San Joaquin County district attorney was contemplating laying off one-quarter of his prosecutors because of unfunded mandates. However, a temporary extension of the 1-cent sales tax surcharge allowed the county to retain its prosecutors. Nevertheless, if a permanent solution is not found, the DA will be forced to let these prosecutors go, thus leaving the citizens of San Joaquin County unprotected from crime.

In California, the classic example of an unfunded Federal mandate is immigration. Our immigration policy is solely the province of the Federal Government. Congress and the administration determine who may enter this country, and to a great extent, they determine where these immigrants reside. However, the State of California and its counties are responsible for the education, health, and welfare of these people. For this year, Governor Wilson has stated that providing social services to these people will cost the State at least $1.4 billion.

It should be clear to those listening to this debate that unfunded Federal mandates are a problem. What can we do in Congress to mitigate the problems of unfunded Federal mandates? Well, we can prevent future unfunded Federal mandates from being enacted. Since last year, I have tried to offer floor amendments to any legislation considered by the House that contains unfunded mandates.

Last Congress, the House considered the Voting Rights Language Assistance Act of 1992. This legislation mandated that States and local jurisdictions, containing large minority populations, print voting materials in the native language of those groups. This mandate will no doubt increase the normal costs of running elections. When the Voting Rights Language Assistance Act of 1992 was considered on the House floor, I offered an amendment that would have required the Federal Government to reimburse local governments for the increased costs due to this mandate. Unfortunately, my amendment was defeated by two votes.

This Congress, I wanted to offer a similar amendment to the National Voter Registration Act, more commonly referred to as motor-voter. It was estimated that motor-voter would cost my State of California $26 million a year. The Congressional Budget Office estimated the cost of compliance for all of the States to be $200 million. Unfortunately, the Rules Committee did not allow my amendment to be offered and the Congress went ahead and pushed another unfunded mandate onto the States.

Last week, I, along with Congressman GOODLING, offered an amendment to the Education Goals 2000 that clarified that the bill would not become an unfunded mandate on States and school districts. I am proud that our amendment was unanimously approved by the full House.

It is my full intention to continue offering these sorts of amendments to unfunded mandates that make their way to the House floor. I would appreciate the assistance of my colleagues in this endeavor.

Besides offering floor amendments I believe that this body needs to consider specific mandate relief legislation. To that end, I have introduced H.R. 140, the Federal Mandate Relief Act of 1993. My bill is very simple. It merely states that compliance with, or implementation of, an unfunded Federal mandate is voluntary for States and localities until the Federal Government provides the funding needed to pay for the mandated requirements. The bill is not retroactive and would only apply to mandates which take effect on or after the date of enactment.

By requiring the Federal Government to put up the money before it can enforce any future mandates, my bill accomplishes exactly what local governments are requesting. That is why H.R. 140 has been endorsed by the U.S. Conference of Mayors, the National Association of Counties, the National League of Cities, the National Association of Towns and Townships, the National Conference of State Legislatures, the Council of State Governments and the National Taxpayers Union.

Currently, H.R. 140 enjoys the support of 108 Members of Congress. I hope that my colleagues who are not cosponsors of H.R. 140 will take a look at the legislation and consider adding their names as cosponsors.

Mr. MCINNIS. Mr. Speaker, I yield to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman for calling this special order on this very important subject and for giving us this time.

As a member of the Congressional Unfunded Mandates Caucus, I am certainly pleased to do my part, as the other members that are here tonight and have waited so long in order to speak on this particular issue and to figure out exactly the financial burdens that we are placing on the States and the local governments as time goes on.

I have long spoken out against the Federal Government conducting its social engineering designs through mandates on the private sector. These burdens certainly increase costs. They destroy jobs and are exactly a hidden tax on all Americans.

With a restricted budget and unrestrained desire to expand the total reach of government, Congress has more recently turned to State and local governments to finance its desires. In the areas of social services, transportation, environment, public safety and health, which I will talk about briefly in a minute, Federal mandates are escalating costs and restricting the flexibility of local governments to meet their own unique problems.

In Colorado, for instance, the State government has identified 195 Federal programs containing mandates for State and local agencies, 195. It has got to be a lot more than that in California. Over 100 of these mandates are direct orders which the State or locality must comply with in order to participate or to receive Federal funds. It will cost the State of Colorado $794 million this fiscal year alone to comply with these mandates.

One of the most outlandish areas of Federal abuse comes in health care, and we are about ready to take up this particularly whole new issue again. Recent changes in Federal social service programs have nearly doubled the cost of Medicaid coverage for some while certainly causing dramatic cost inflation in nearly all categories. Unfortunately, Congress found a real taste for dishing it out and its problems keep going on to others.

Just in the past few months, Congress has added major new mandates under the Motor-Voter Act and the 1993 reconciliation bill, in other words, the budget bill. And there is little relief in sight for the folks back home.

Congress is currently considering 60 bills, 60, which contain some form of mandate or requirements for State or local governments.

The sad truth is that Members of Congress have found that through mandates they can gain all the political benefits of creating new entitlements for their constituents without having to face the political pain of paying for them.

The unfunded mandate caucus is dedicated to restoring accountability to Congress by forcing Congress to prioritize its spending desires and to fully fund mandates on the State and local governments.

In closing, many of us served in State legislatures, and we also know that our individual State governments are having a tough time having revenues meet expenditures. And many times, and I can recall sitting there and saying, why is the Federal Government doing this to us. You start a program that is funded 80/20 Federal money. The next year it may be 60/40. Pretty soon there is not any Federal money but the mandate stays.

I certainly appreciate the gentleman from California conducting this special order tonight. I am sure lots of my other colleagues here have a lot to say about this.

Mr. CONDIT. Mr. Speaker, I thank the gentleman from Colorado for his words. I would like to remind those Members who are watching that the unfunded mandate caucus has created what we call an alert, and we are going to alert Members, as the issues come up that the gentleman from Colorado mentioned, anything that comes on this floor that has an unfunded mandate to it, we are going to put out an alert, ask Members to make a decision, knowing that they are creating a mandate on local government. They may agree with the public policy, but they then have got to determine whether it is worth putting the cost back on local government. That is one of the endeavors that the unfunded mandate caucus is gong to attempt to do. Mr. GEREN has taken responsibility to do that.

Mr. MCINNIS. Mr. Speaker, I yield to the gentleman from Kansas [Mr. ROBERTS].

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the special order today by the gentleman from California [Mr. CONDIT], who is conducting the special order under the generous time of the gentleman from Colorado [Mr. McInnis].

The SPEAKER pro tempore (Mr. NADLER). Is there objection to the request of the gentleman from Kansas?

There was no objection.

□ 1930

Mr. ROBERTS. I want to thank the gentleman from Colorado [Mr. MCINNIS] for taking this time. The gentleman from California [Mr. CONDIT] has reserved an hour later on unfunded mandates. I reserved an hour. Obviously, because of the lateness of the day and Members' very, very busy schedule, this is the unfunded mandates special order.

I want to thank the gentleman from California [Mr. CONDIT] for his very unique and persevering leadership to bring us together. Here is the list, if you will, of the Unfunded Mandates Caucus, 84 strong. Members will notice that there are senior members, junior members, all committees, Republicans, and Democrats. The gentleman from California [Mr. CONDIT] is a cochair. The gentleman from Pennsylvania [Mr. GOODLING] is a cochair. We have six on the steering committee, and quite a posse, really, hopefully riding in the direction of less regulations, less red tape, and less mandates. It is bipartisan, as I have said before.

If I am any judge of the mood in regard to this Congress, I think it could be exemplified by what I experienced when I went on my district tour. I have the privilege of representing a district almost as big as the State of Wyoming, represented by the gentleman from Wyoming [Mr. THOMAS], 66 counties. It takes me 5,000 miles and about 3½ weeks to tour the district.

Let me assure the Members that this is a big-time priority problem for rural and small town America, just as it is a problem for the mayor of Philadelphia and the thousands of county officials and State officials and mayors who really tried to bring the point home during National Unfunded Mandates Day, so we are really joining that effort.

What kind of an issue is it? When I reported to the press on the number one issue of concern to the people of the big First District of Kansas, they said, "What about health care?" Yes, they are concerned about health care. "What about agriculture?" Obviously, they are always concerned about agriculture. "NAFTA?" Certainly. "Crime?" Certainly.

The number one issue of concern: Federal regulation of trash. Many members of the press said, "What? I beg your pardon? What is going on here?" I will tell the Members what is going on in St. Francis, KS, America, way out in the north corner of Kansas, way out in the prairie, with 3,600 people.

Seven hundred and fifty of them got together, signed a petition, many over 65 years of age, senior citizens on fixed incomes, asking their Congressman why under the Clean Air Act, and with the EPA riding shotgun on this act, are they going to have to close their local landfill that is perfectly safe, and charge those senior citizens ten times as much to close the landfill and ship the trash, if you will, to a regional landfill that does not exist?

Where are we going to send it? What, to Denver? Denver does not want it. It is 250 miles away. Do you know what is going to happen to the trash? I will tell you what will happen. That elderly citizen will call the grandson over and say, "Bring the pickup. I want to put the trash in the pickup." It will end up in every ditch, in every creek bed all throughout the first district. It will be blowing all over the country. It is the law of unintended effects that is happening to every hospital board, every school board, every business up and down main street, every local official who writes me, not on behalf of legislation, but writing me, "What in the Lord's name are you doing back here, saddling us with more paper work, more regulations, more red tape that is terribly counter productive, sapping the average budget of our counties out there by half or a third when they must have those funds for other essential projects?"

I thank the gentleman, and I thank my colleagues. The gentleman is exactly correct. We are going to have a red alert down here, so when Members come on the floor and they have 5 minutes to vote, one of the things they are going to look at is the cost of these mandates, and take a second look.

Again, I thank my colleague, the gentleman from California [Mr. CONDIT]. We are committed to this. It is going to be a long, slow, tough, fight, but we have signed up, and I appreciate it very much.

Mr. Speaker, I include for the RECORD information regarding the problem of unfunded mandates:

[Remarks by Congressman Pat Roberts before the Legislative Policy Group, Sept. 18, 1993]

THE MANDATE REBELLION

As you know, I have the privilege of representing the 66-county "Big First" district, a district that is larger than most states, 57,000 square miles of rural and small community America. And, as some of you doubtlessly know, once again, we have just completed our annual 5,000 mile, month long tour of the "Big First"—visiting our friends across the western two-thirds of our state. I want to thank those in attendance here today who attended some of those meetings.

And, those of you who did take time from your busy schedule to visit with us heard our constituents reiterate concern and frustration that is alarming but also represents public support for positive reform and action.

Bluntly put, American taxpayers and citizens are fed up to the point of grassroots rebellion against Federal mandates and regulation that are burying local governments, businesses and individuals. This regulatory flood tide comes with costs that threaten to bankrupt and dismantle rural America. And, the alleged "benefits" in regard to safety, health, environmental clean up, consumer and minority protection—when measured by any common sense cost-benefit criteria—are questionable to say the least and result in wasting funds that could be used for urgent and priority community needs.

What would you guess would be the number one issue of concern, the concern most often raised in town hall meetings in 66 counties of our state? Health care? The recent budget and tax bill? NAFTA? To be sure, these issues were discussed but the number one issue was Federal regulation of trash! Landfill regulations if you will, and that issue immediately led to further discussion of other mandates and regulations that have become so pervasive throughout our economy and that adversely affect our daily lives and pocketbooks.

It is truly overwhelming and extremely frustrating. Like the floods of this spring and summer, this regulatory floodtide is such the waters rise faster than we can sandbag or bail out. But, the message from farmers, ranchers, business owners, local government, our essential services—our schools, hospitals, lending institutions—and from just plain Joe Q. Taxpayer, was simple and clear: The mandates being passed along by the Federal Government must stop. We cannot afford them. They are counterproductive!

Now, I know what you are thinking. Congressman, this is nothing new. We have all been singing this same hymn of protest from the same church, same pew, same hymnal, same page, for years. The complaints you get at your city and county meetings have been mirrored in hundreds of letters and calls and personal pleas to my office. We get approximately 150 letters a day, scores of telephone calls, and we travel many miles throughout the district.

You know, I don't get letters asking me to pass this bill or that bill—oh, perhaps a few form letters from various organizations—but, the majority of letters and calls and personal visits pretty much say the same thing. "What on earth is Congress doing back there passing all of these mandates and saddling us with regulations, paperwork and red tape that are about to put me or my community out of business?"

Several decades ago, my predecessor said it was more important for Congress to prevent bad legislation from passing than it was to add more to the books. Keith Sebelius was right then and that admonition is even more important today.

So, what has changed? Why has the problem of unfunded mandates and regulation become so crucial? Upon my return to Washington, I set out to research with my colleagues how we could take advantage of the growing public outcry for mandate reform.

My conclusion was that nothing had really changed, except the rate and the cost of federal mandates continue to rise and the negative financial impacts are now taking place at record levels. The cumulative effort now threatens to dismantle our rural infrastructure!

The difference between several decades ago and today is a little frightening:

It is estimated today that the cost of federal regulations is more than $400 billions annually. That exceeds the size of the deficit!

The federal government has about 122,000 regulatory personnel, up from 114,000 in 1980.

In recent years, the Federal Register has grown from 55,000 pages to 70,000.

The key problem in today's economy is a justified lack of confidence in the Federal government and its ability to make rational policy decisions. Too many times, government is an adversary, not a partner.

The Kansas Association of Counties pretty well summed it up last month in Topeka. The KAC told the Kansas press that 12 mandates cost 22 counties in Kansas more than $200 million during fiscal year 1992—nearly half of their total expenditures. Bottom line, federal and state government are setting policies while forcing counties to cover the costs.

And, it's not just rural America. Last week the newly created Mandate Caucus in the House of Representatives met with the Mayor of Philadelphia—you should hear his problems in regard to the Americans With Disabilities Act and the Delaware River Basin Authority!

In the 1980's, Congress passed 60 unfunded federal mandates on state and local governments. In the 1990's, that figure is expected to rise to 100 or more that will have to be paid for and implemented on the local level.

WHAT ARE WE TALKING ABOUT?

Today's best known federal mandate, I would guess among all of you, is the soon-to-be-implemented, but soon-to-be-officially delayed for some, always confused, stop again-off again-on again, solid waste disposal regulations. These regulations are intended to safeguard public health by closing many of our nation's landfills—particularly those in rural areas.

Problem is, the alternatives to today's landfills are not only costly, but in many areas alternative regional landfills simply do not exist. This has left small communities and state officials scrambling to find alternative dumping sites and leaving the average citizen perplexed with the suddenly announced trash disposal rate increase of double, three times and even five times their normal annual cost. Why? What's the benefit compared to these dramatic costs?

The examples can go on and on regarding confusing and seemingly senseless federal regulations and the costs being pushed on local government and small business. In our district alone, I think of:

A community faced with paying for the entire cleanup cost of a superfund site that would equal the entire annual operating budget of the community government—despite the limited benefit such an extensive cleanup would have compared to alternative ways to respond to the problem.

A town required to install a water treatment facility costing ten times the city's annual operating budget—despite the fact that no one has ever reported any health concerns or health-related effects. The required improvements only result in marginal changes in drinking water quality and were forced upon the community by regulatory rules changes.

On a summer afternoon the only thing moving in a square mile area of rural Kansas is the farm tractor. New federal regulations say that tractor is causing pollution and must in the future have costly emissions equipment installed. Tractor emissions are a problem? Give us a break, Washington.

It is senseless, but the bad news is, more is on the way. Communities and businesses are facing a dark cloud of additional regulations and mandates, including:

The Clean Air Act—which requires the creation of multi-colored diesel (to be separated for differing uses), and which will result in the installation of various air quality equipment for off-road vehicles, such as farm tractors and construction equipment that provide no net gain in air quality improvements.

The Clean Air Act—a law that requires the permitting of "storm water runoff," so when it rains on your property—you are responsible for everyone up and downstream.

Americans with Disabilities Act—a law whose accompanying regulations are far more restrictive than ever intended and is forcing billions of dollars in additional structural and outfit modifications.

Solid Waste Disposal Act—as I've already mentioned, is requiring the long distance transport (then disposal) of trash with limited or net gain in environmental quality.

Safe Drinking Water Act—a law and accompanying regulations are requiring all drinking water sources to be tested for chemicals and contaminants that have never been found in drinking water sources. This wasteful, unneeded, costly testing will result in the dissolution of many rural water districts that were organized to protect drinking water supplies—that will now be forced to dissolve and require individuals to seek wells and other water sources outside the testing requirements.

Endangered Species Act—Intended to protect bio-diversity, it has been interpreted and twisted to take away many individual private property rights.

The list can go on.

WHAT'S TO BE DONE?

First, the Administration has just announced the National Performance Review, a project intended to end government waste, streamline government and (most importantly) begin to stem the cost of government over-regulation and end further unfunded mandates.

While this report has been received with understandable skepticism in some quarters, I believe strongly in the need for these objectives and have already begun a campaign among my Republican colleagues to embrace the proposals and begin to draft legislation to put many of the recommendations into place.

But, let me issue a word of warning. One of President Clinton's first acts in assuming office was to abolish former Vice President Dan Quayle's Competitiveness Council, which had the goal of reducing regulation on business.

Separate from the reinventing Government project, the President will soon order sweeping changes in the way the government issues regulations. The new order will give Vice President Gore and his team the lead role in shaping the Administration's regulatory priorities and in settling disputes.

Under the new policy, White House reviewers at the Office of Information and Regulatory Affairs will have a "broader definition" of costs and benefits. Reinventing government to reduce government and make it a partnership with people is one thing. Reinventing government by providing more regulatory power is quite another.

Well sir, with all due respect, I have a litmus test for the Vice President and the Administration's reinventing government plan. This coming week, we will be meeting with the Vice President to discuss the proposals. During this meeting, I will present him the letter and list of the major mandates that are causing us problems here in rural and small-town America. I will urge Vice President Gore to take immediate action as part of his efforts to streamline the federal government. As well, I am urging the Vice President to support legislation in the House that would prevent the passage of any mandate that does not contain the funds for implementation for state and local governments.

In addition, I have helped organize a bipartisan caucus of House members known as the Congressional Caucus on Unfunded Mandates. We met last Tuesday and began organizing a steering committee and a legislative agenda with the intention of passing legislation that would prevent the future enactment of any unfunded mandates.

Our agenda is clear: Stop the unfunded mandates. End the arrogant and elitist shotgun approach of current regulatory policy where everyone, regardless of local circumstance, is guilty until proven innocent. Rely on local government and local citizens in regard to cost sharing and flexibility and yes even compliance. After all, it is our water, our soil, our air, our families, our homes, our businesses and our economic future. You are damn right we care and we can, in fact, do a better job making our environment a better and safer place in which to live and raise our families. But, we also have to make a living!

Did you know that back in 1980, Congress passed something called the Regulatory Flexibility Act. It required Federal agencies to monitor their regulations to see if they are needed or could be modified to lessen regulatory burdens. Agencies were to do this annually for a period of ten years. The Mandate Caucus intends to inspect those ten year review records. it should be interesting!

All of these actions are a long way from your homes here in Kansas. But, they are positive steps. Word is beginning to get out among my colleagues that enough is enough and serious action is needed. That is certainly good news and we must take advantage of this new political climate. In Washington the rule is that legislators legislate and regulators regulate. It may take a revolution in the Congress to end this mind set but it's a revolution long overdue.

Part of our problem is that these mandates and resulting regulatory costs are so numerous, pervasive and complicated that we have trouble even keeping track, defining them or defining the issue both for our constituents and especially to the press.

Let's face it, "unfunded mandates" is just not a hot button issue. Talk about landfill regulations and the reporter's eyes glaze over. But, if we talk about "big brother" government forcing 900 senior citizens living on fixed incomes in Cheyenne County, Kansas to pay five times their current trash fee ($50!) to haul their refuse to a regional landfill that does not exist, the attention span gets refocused.

We have to do a better job of communicating the seriousness of this problem before we bankrupt and dismantle rural America. And, it is an issue that is much larger than landfill regs or water testing or endangered species. Make no mistake about it, this somewhat esoteric battle goes to the heart of democracy. Our objective is to preserve regulations that truly protect the safety, welfare and health of the American people. But, we must remember unnecessary red tape and needless litigation add nothing to our economy and excessive regulation simply serves to throw people out of work, lower production, reduce consumer choice, and erode our standard of living. Somehow, some way these regulations and the nonelected special interest groups and bureaucrats who propose and administer them must be held accountable to individual citizens.

The strength of America lies not with Government or regulations. It lies in the spirit of the American people and our ability to compete, create, innovate and generate opportunity. It is a paradox of enormous irony that while citizens of the former Soviet Union endeavor to embrace these strengths at considerable risk and with personal deprivation, this country seems to be on a treadmill towards greater Government control, national bankruptcy and a regulated social welfare state.

Certainly, there comes a point where regulation becomes so onerous, so costly and so unmanageable that citizens have no choice but to refuse to comply. My friends, we are not far off from that point in this country.

Quite frankly, this nation faces the real possibility of domestic rebellion by local governments, business and individuals over their frustration with federal mandates. Such action has been threatened by a number of city mayors and county commissioners. With all due respect, that is newsworthy! Think of the consequences of having the federal government say, "Close your landfills," then having every community in the nation say "no, thank you."

Your organization and similar groups must continue to work to educate your membership and all of our citizens on the impact of unfunded mandates, their costs and how they are hurting your communities. This education is critical. Only when it is fully realized—that these legislative good intentions are actually hurting us all—will the politicians wake up to their constituent demands to stop.

Only then can we stop the special interest groups that are so often behind these mandates in efforts to further one cause or another.

In closing, let me stress, I don't mean to make this a doom and gloom message. The political climate in the Congress is changing. Those of us who believe the philosophy I have outlined believe that with your help, we can make a difference. The time to act is now.

I hope you found my comments helpful. I am open to any suggestions. Only if we work together will we be successful in restoring the political power to where it belongs in our great nations—back to you and back to our people.

Thank you.

Mr. CONDIT. I thank my colleague, the gentleman from Kansas. It brings up the question of why should the American people care about unfunded mandates. They should care because it is a hidden tax. It is a hidden tax to them. When these mandates are passed, and passed through the States and the counties and cities, what happens if the cities and counties and States are forced, then, to take their budget money and apply it to that mandate?

It takes away the choice, the local autonomy of city councils, of country supervisors, of State legislatures. They have to make a decision that they are locked into making. They are not able to decide whether or not they are going to add law enforcement people to their budget, whether or not they are going to build a new park, because their money is already consumed with this mandate.

It is important to the American people to understand that we have got to set priorities for this country.

Mr. McINNIS. Mr. Speaker, I yield to my colleague, the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding to me. I appreciate joining with my friends to talk about this issue. I really think it is one of the most important issues before the Congress. Frankly, I must tell the Members that I am surprised that there is not a little bit more interest in it, if the cities over the country and the town are as interested in it as the cities and towns are in Wyoming.

Last year I had, because of the opportunity of serving on a subcommittee, a chance to be a member of the Intergovernmental Relations Commission. That is a federally mandated, I think it is funded, however, operation. It brings together both the Congress and the Governors and the mayors and so on. That was the principal issue that these folks talked about, was unfunded mandates.

One of the communities, I think it was Columbus, OH, did an excellent portrayal of where they were. They talked about the mandated costs. As I recall, it was about 90 percent of their increased revenue they would have over the next few years was committed to unfunded mandates, so the choices they had to do the thing that their people wanted were simply taken from them in terms of unfunded mandates.

There are lots of examples. Let me talk, just a second, though, about what I think is an element of good government. It seems to me that one of the issues that is really involved with good government is that of the taxpayers being able to measure the value of what is done with their tax dollars, being able to measure the cost-benefit ratio.

When we remove that from the local area and take it to the Federal decision, then the guy who pays his taxes in Cowley, WY, or Greybull, WY, has no impact at all over how those dollars are spent. I think that is bad government. I think we really ought to allow that taxing authority to remain at the local level. We ought not to have an activist Congress who wants to do a ton of things with no money to do it with, and simply mandate or command that it is done on the local level.

The old idea of "one fits all," of course, does not work. What fits in Philadelphia does not fit in Cowley, with 500 people. That is exactly what we run into with all the testing that needs to be done on water, with solid waste disposal.

I want to thank the gentleman from California [Mr. CONDIT] for what he has done. He and I serve on a subcommittee together. I am pleased with what he does, and I appreciate the effort to highlight this question of unfunded mandates.

Mr. CONDIT. If the gentleman will continue to yield, I thank the gentleman from Wyoming very much. He reminds me of a comment I heard here where one of the Members told me, "Well, if we do not have these mandates, my city councils will not do the things that I think they should do." With that attitude I take issue. I really believe that people, local people that are elected by their constituents and their neighbors, are responsive to them. I believe that they want to do what is right.

I believe that local governments, county governments, State governments, want clean water. They want clean air. I think that they are the closest to the people and are able to make some discretionary decisions about how they had best achieve those things.

Mr. MCINNIS. Mr. Speaker, I yield to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman for yielding to me. Let me add my words to those of the others who have complimented the gentleman from California [Mr. CONDIT] on his leadership on this issue, as well as the other members of the caucus. It is extraordinary when we have an issue that so unifies everyone in your district, but seems to not get a whole lot of attention here in Congress. For the gentleman's help in bringing attention to this issue, I really am very grateful.

It is also good to see my friend, the gentleman from New York [Mr. NADLER] sitting in the chair, my colleague from my freshman class.

This morning during our press conference I had just a minute of time, Mr. Speaker, to share some examples of this problem. I thought tonight I may be able to elaborate a little bit more on those examples. I took the opportunity on Unfunded Mandates Day to call some of the mayors in the communities who had already written to me about this issue and asked them if they would take some time and some of their staff time, which I know is precious, to try and give me some examples, and maybe even some totals, of the amount of money that the Federal Government has mandated that local governments spend.

I have a few responses that I think are worth paying some attention to.

□ 1940

I would add before I read these that this does not mean that either the mayors who have written these letters to me or I feel that every one of these laws was not well-intended. Nor do either of us believe, either the mayors who wrote this or I, that we should not try and accomplish the public policy goals that underlie these laws that Congress passed. We do not necessarily disagree with the purpose of these laws, but we believe that if the Federal Government wants to accomplish these goals that they ought to do so in a cooperative way working with the local government rather than mandating it on them.

I will read these examples quickly. From the city of Strongsville, a letter from Mayor Ehrnfelt of the city of Strongsville, which I represent, which provides a list of nine different Federal mandates which total over $3 million in total costs to the city of Strongsville, $3,085,000, which represents 13 percent of the budget. These are different laws, and the mayor said this is not necessarily an all-inclusive list, but represents the best evaluation and estimate of the current expenditures required to meet the major mandates. This does not include the minor mandates.

From the city of Walton Hills, a very small community, Mayor Ed Thellman wrote me a letter which provided me four different areas just off the top of his head of unfunded mandates totaling $4 million.

From the city of North Royalton, again a small community in my district, Cuyahoga County, nearly $21 million. That is a community that repeatedly has been forced by the Federal Government to go back and change their wastewater treatment rules, and upgrade their facilities over and over again to the tune of millions of dollars.

From the city of Bedford, which is a community of 15,000 people, they have provided me with a list of unfunded mandates totaling $14.5 million.

Just from those four communities we have $42,585,000 in unfunded mandates.

Mr. Speaker, I have other letters from other communities which I will submit for the RECORD. Just two examples that I think might provide some fodder for how silly sometimes these get, or how funny it would be if this was not our taxpayers' money that we were playing with, the city of Geneva-on-the-Lake, which is a picturesque tourist community right on the shores of Lake Erie, and I encourage anyone to come and visit there, they are mandated to test frequently for heavy metals which are the product of manufacturing, even though their only industry is tourism.

Another example from the city of Painesville, and I know that this happened in a lot of communities around the country, they spent millions of dollars in the last decade to separate out their water treatment system wastewater and storm water. Having finished that task, the EPA has now decided that they should put them back together again, because they should meet the same standards, and they are now being required to spend the money to put it back together again.

Again, these are the types of examples I know you are talking about, and I thank you for your leadership.

Mr. CONDIT. Mr. Speaker, I appreciate the gentleman's remarks.

I yield to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I thank the gentleman for yielding and I will be brief.

Mr. Speaker, unfunded mandates have become Washington's preferred method of curing a problem while passing the costs off to State and local government. Washington takes the credit; Utah pays the bill. As one of Utah's

Representatives in Washington, I believe this should not be allowed to continue.

Generally, one-third of State revenue growth will be consumed by Federal mandates. The costs to Utah of only the most recent of these mandates runs into the millions of dollars.

Some of these mandates are downright nonsensical. For instance, why should Utah water be tested for chemicals which are used only on crops which have never been grown in the State of Utah? Well, EPA does not care; you have to test for a whole list of insecticides anyway, with the cost to Utah of $37.9 million per year. Other mandates are well-intentioned, but expensive. Washington now requires States to have motorcycle helmet and seat belt laws to remain eligible for Federal highway funds. The cost of compliance in Utah is $1.1 million per year.

The bottom line is even more staggering. The Governor's office estimates that total cost of Federal mandates imposed upon Utah each year is $170 million.

Our governor, mayors and council members have a hard enough time balancing their State and municipal budgets while funding the services their constituents need, let alone being mandated to finance the services the Federal Government says their constituents need.

The problem is not going away. The last Congress enacted 15 major new unfunded mandates on State and local governments. There are currently over 90 pieces of legislation pending that would require some type of State administrative or financial participation, without hope of reimbursement.

Recently I asked State legislators, county officials, mayors and town council members across my district about the problem. Their response was overwhelming. It was also instructive, because it shows how out of touch Washington has become.

The plight of most of rural America is reflected in a letter from Orlin Howes of Junction, UT, in my district. After I wrote to elected officials in Junction about unfunded mandates, Howes wrote back stating that he is gratified that a Member of Congress:

> * * * really does understand our problem—a tiny county and town such as ours with a small tax base trying to raise funds to comply with laws passed in far away Washington.
>
> We in Junction town are 130 people strong. Only 1250 in the entire county of Piute. We are strapped * * * For instance, not many years ago my water for my home and about 30 cattle was $2 per month. Now I pay $45 per month. Now we are told we must build a central disposal place and have our garbage hauled * * * We certainly want to comply with the laws you people keep passing but we cannot.
>
> We have been toying with the idea of dissolving our town and turning it back to the B[ureau of] L[and] M[anagement] * * * Sad indeed, sir, because I was born here.

Mr. Howe's letter is only one of scores I have received detailing the burden that small and large communities carry, trying to comply with unfunded mandates which sometimes bear little relationship to wise public policy and end up bankrupting communities across my district and the Nation.

Several bills have been filed to resolve the problem of unfunded mandates. I have cosponsored three of them. H.R. 140 provides that no mandate is valid unless funded. H.R. 1295 provides for an evaluation of Federal legislative and regulatory requirements on State and local governments. H.R. 886 sets up a procedure for terminating or suspending unfunded mandates. Each of these bills would help to alleviate the difficult situation which all States and most local governments face in trying to comply with the laws we pass.

I believe that if it is important enough to mandate State action, it is important enough to provide the funds necessary for State compliance. If Congress is not willing to provide funding, then Congress should not issue the mandate.

I congratulate the founders of this caucus for doing its part to make Washington aware of this issue. After so many years of passing the buck, there are signs of progress in Washington.

Ms. SNOWE. Mr. Speaker, it is indeed appropriate that we should address the subject of unfunded Federal mandates in the days approaching Halloween, because for many State and municipal governments, unfunded mandates is indeed a frightening and ghoulish issue. Like a proverbial curse, they continue to haunt the efforts of administrators and legislators to achieve responsible fiscal planning for their communities. While the Federal Government presents the "treat" of many laudable and constructive projects and regulations, by refusing to provide corresponding funding it then reveals the "trick" of shifting the cost to pay for the "cumulative burden" on to the States and ultimately down to the local levels. It is wrong for the Federal Government to literally "pass the buck" on these issues and contribute to the fiscal frustration of local governments. Those of us in Congress and in the executive agencies can and should put a stop to the gruesome specter of unfunded mandates.

On this, the first National Unfunded Mandates Day, I join my colleagues in the Congressional Unfunded Mandates Caucus in pledging to concentrate our efforts to end Federal unfunded mandates. It is estimated that unfunded Federal mandates cost the American economy $480 billion annually—almost twice the size of our annual Federal budget deficit. The Congressional Budget Office figured the cumulative cost of new regulations imposed on State and local governments from 1983 to 1990 to be between $8.9 billion and $12.7 billion. According to the U.S. Conference of Mayors, the Federal Government imposed only 17 cost-bearing regulations on cities and States between 1960 and 1985. From 1988 to 1992, the Government mandated 88 such regulations in the area of toxic management alone.

Each time the Federal Government hands down one of these mandates without providing the necessary funding, it causes States and local governments to redirect their spending priorities. It takes away money that could go to upgrade firefighting capabilities, provide extra police protection, maintain streets and roads, construct new hospitals, or build parks and recreational facilities. Basically, it hinders them from providing the necessary services to their communities that they, at the local level, know best what their communities need. In 1992, Tennessee projected that 27 percent of its revenue growth would be consumed by Federal mandates. This year in Michigan, the State calculated that 30 percent of its revenue growth would go toward paying off Medicaid mandates alone. In the words of Mayor Wellington Webb of Denver, "Mandates in some cases are important, and if they are important enough for the Congress to pass, the Congress should also be willing to appropriate the money for local governments to help implement them."

No one here is criticizing the merits of mandates. The intentions behind the National Voter Registration Act, the Clean Water Act, and the Crime Control Act, to take a few examples, serve laudable purposes and aim to improve the quality of life for all Americans. However, without providing the corresponding funding, Washington is sacrificing local priorities at the expense of Federal initiatives on the altar of unfunded mandates.

Yet, some of the regulations coming from Washington do give one cause to wonder about their utility. There are also valid questions about whether mandates are, according to the Heritage Foundation, "passed independently of one another * * * with little regard for [or knowledge of] their cumulative impact on lower levels of government." So, to draw attention to the impact of unfunded mandates, and with sincere apologies to David Letterman, I have compiled a "Top Five" list of ridiculous unfunded mandates and their effects on local governments:

No. 5: A Federal court order that requires the city of Philadelphia to install curb cuts on streets as they undergo repair. The definition of street repair includes the filling in of a pothole. As a result the mayor of Philadelphia estimates that it will cost the city one-third of its $15 million street resurfacing budget to install curb cuts;

No. 4: A Federal law that requires the signature of a single city health official on all 120,000 Medicaid reimbursement claims the city of Chicago submits. The mayor's staff spent 4000 hours just signing the official's name to the forms;

No. 3: An environmental regulation that mandated the city of Phoenix to clean its river to 99 percent purity—the city had already spent $450 million on sewage treatment to achieve 97 percent purity. Problem: the riverbed is dry 10 months of the year, so most of the time the effluent is the river. It is understandable that it would be difficult to achieve 99 percent purity under these circumstances;

No. 2: An insecticide law that requires Columbus, OH, to spend $20,000 to test its drinking water for a pesticide that was banned in 1977 and is used mainly in Hawaii to protect pineapples; and, the No. 1 ridiculous unfunded mandate . . .

No. 1: A law requiring Anchorage to remove 30 percent of the solid wastes from its waters. The water around the city is so clean that it is difficult to remove 30 percent, so in order to comply with the regulation, the city allowed a couple of fish processing plants to dump their waste into the sewers so the city could remove it again.

Although these represent some of the more incredulous examples, these and other admirable federally mandated regulations have one thing in common: the cost of compliance is passed down to the State and local level, and eventually the taxpayers.

My own State of Maine has not escaped the burden of unfunded mandates. Lewiston, Maine's second-largest city, completed its own study last year on the effects of unfunded mandates. City officials found that the projected cost of adhering to Federal regulations through the year 2000 totaled $61.2 million for a city of 40,000. That amounts to a burden of $664 per year, per household in Lewiston. When asked how this impacted the city's plans for local programs and services, administrators responded that they had to cut back on fire protection resources, forego expansion of the police force, and abandon plans to minimize property tax increases.

In Bangor, city efforts to comply with clean water requirements on the sewer system will cost $22 million, a project totally funded by sewer rate payers. Another $11 million will be spent over 5 years to address combined sewer overflows. As a result of these construction projects, sewer user fees have increased 10 percent every 6 months for the last 5 years and the same rate of increase is expected for the next 4 years.

City officials in my hometown of Auburn estimate that to comply with Federal unfunded environmental mandates alone will cost the city $2 million. Federal drug testing and physical examination rules add costs to the mass transit budget that average out of $200 per bus driver. The cost is passed down to the taxpayers who partially fund the subsidy for the bus service.

In Maine's capital, Augusta, Federal mandates under the Safe Drinking Water Act will result in a tripling of the water district's revenue requirements between 1988 and 1993. Besides raising user costs, this mandate translates into additional fire protection charges to the city of nearly three-quarters of a million dollars on this one item alone. Implementation of new sewage treatment requirements could raise the average yearly user charge by more than $1,500 per year over a 30-year period and could threaten the viability of some local businesses. While quick to point out that Federal mandates have made significant contributions to the city in the past, the lack of Federal funding tends toward diminishing municipal services.

When considering the impact of unfunded Federal mandates on States and municipalities, it is also important to consider the implications on rural communities and small communities, where the impact of unfunded mandates hit hardest and have a disproportionate impact. For instance, the Safe Water Drinking Act is an example of unfunded environmental mandates which impose heavy burdens on small communities like Southwest Harbor and Bar Harbor on Mt. Desert Island in Maine.

The Federal Government shares a large portion of the responsibility for unfunded mandates, but I am encouraged to see that Congress and the administration are taking steps to rectify this problem. According to one study, 244 bills containing mandates were proposed during the 102d Congress. Now there are at least 11 bills, including my own, H.R. 369, pending before Congress aimed at eliminating or mitigating the impact of unfunded mandates. My bill proposes that no State or local government shall be obligated to take any action required by Federal law * * * unless the expenses of such government in taking such action are funded by the United States. The Vice President, in the National Performance Review report on reinventing government, recommends limiting the use of unfunded mandates by the administration. These efforts are a good start on the part of the Federal Government to live up to its responsibility to provide funding for programs it requires States and municipalities to implement.

Mr. Speaker, it is within our prerogative to relieve the burden of unfunded mandates and help restore confidence to fiscal planning at the local level. On this, National Unfunded Mandates Day, we in Congress should commit to doing our part to eliminate unfunded mandates. To paraphrase Mayor Ed Rendell of Philadelphia: if we pass the bill, don't pass the buck!

Mrs. FOWLER. Mr. Speaker, as a member of the Jacksonville City Council for 8 years, I saw first hand the impact of unfunded Federal mandates and regulations. That is why I add my voice to the protests today, National Unfunded Federal Mandates Day.

When asked for horror stories about misguided and unfunded mandates that drain local budgets, officials in my district could go on for days. The plain truth is that elected officials in Washington have overextended their credit and are now spending money for businesses and local governments.

Local officials would like to put more police on the streets and invest in our schools. Unfortunately, the burden of Federal mandates leaves little flexibility for local officials to pursue worthwhile programs. Smaller municipalities in my district cannot even begin to deal with the one-size-fits-all mandates and regulations that have been imposed by the Federal Government.

Here are just a few of the examples of Federal mandates around the five counties of my district:

Jacksonville: For 1993, the city will spend an estimated total of $6.6 million in order to comply with the Underground Storage Tank Regulations, Clean Water Act, Clean Air Act, EPA asbestos rules, Americans with Disabilities Act, and the Fair Labor Standards Act.

By the year 1998, the cost of compliance with Federal asbestos regulations is estimated to reach $17 million. The current regulation discourages the demolition of dangerous buildings containing asbestos. Under the current regulation, Government entities performing condemnation or demolition activities must comply with the EPA's asbestos regulations. Individual owners need not.

Neptune Beach: With a population of 6,500, a violation of the Safe Drinking Water Act cost them $100,000. That left no money to actually fix the problem. All they can do is wait for the next fine.

Nassau County: Due to the expansive size of the county, rural areas depend on volunteer firemen. Under the Fair Labor Standards Act, professional firemen who wish to volunteer on their off time cannot do so without compensation. This restriction causes great hardships on small communities where funding and human resources are limited.

Flagler Beach: The city faces similar problems as Neptune Beach on the need for water treatment and maintenance to comply with the Clean Water Act.

Ormond Beach: Unfunded mandates mean that up to a quarter of its budget is out of the control of local elected officials. Recycling requirements, EPA regulations on lead and copper in water, and the implementation of storm water treatment are just a few of the mandates that will cost the city millions of dollars.

As a Federal legislator, I realize that the Congress can enact some worthwhile programs. However, as a former local official, I know that mandated programs that come from Washington without the funds to implement them often do more harm than good. Unfortunately, many unfunded Federal mandates do not account for the ability of some of our smaller municipalities to comply, they are implemented with rigid guidelines and penalties, and they do not provide any means by which to implement them. We cannot continue to pass laws and mandates on to the people back home and refuse to back them up with the resources necessary to get the job done.

Mr. LAZIO. Mr. Speaker, I rise in observance of National Unfunded Mandates Day. As we well know, an unfunded Federal mandate is a requirement imposed by the Federal Government on another government entity, private business, or individual without the appropriate financing to meet that requirement. These mandates on State and local governments and the private sectors, have grown since the 1970's. More than 60 unfunded mandates were enacted in the 1980's alone. It is estimated that these programs cost the U.S. economy $430 billion annually—approximately $4,000 per American household.

Prior to my election to Congress, I had the privilege of serving in the Suffolk County legislature in New York, which was responsible for raising and allocating $1.5 billion each year. My colleagues and I were constantly faced with the difficult and, sometimes, impossible task of complying with increasing Federal demands and decreasing Federal support. For example, over the past 5 years, Suffolk County has seen the seven largest mandates they are required to implement grow by 85 percent. The largest of these will cost the country an additional $17 million in fiscal year 1994—a staggering 120 percent increase since 1989.

Most recently, the Suffolk County Board of Elections notified the county legislature that the motor-voter bill, which was passed and signed into law earlier this Congress—without my support, I might add—is going to cost my constituents at least $2.2 million. I don't envy the task that they and many others local municipalities now face in finding this money, because, it will surely come from the pockets of the taxpayers. For taxpayers in my congressional district, who already pay some of the highest taxes in the country, this prospect is daunting.

Mr. Speaker, in my short tenure here, I have come to realize that unfunded Federal mandates, for the most part, are usually enacted with the best of intentions. They generally meet legitimate and important policy goals, and by definition, do not increase the Federal deficit. But, this is accomplished through cost-shifting. So while we may be able to go home and say we passed important legislation and didn't increase the deficit, we cannot go home and tell our hard-working constituents we relieved their financial burden. There is no free lunch.

I am glad there is a growing awareness, in Congress and in the administration, of the burdens imposed by mandates. I am a part of the largest freshman class in 45 years, many of whom, like me, served in local government and saw the other side of Federal mandates. I am pleased that there is now a bipartisan caucus of Members, to which I belong, who are concerned about this issue and who are working towards its end.

There are over a dozen bills currently before the House which address this issue. And, the administration's recent proposal on reinventing government also addresses this issue, which I find encouraging.

Mr. Speaker, I came to Congress sensitized to concerns that State and local officials and private individuals and businesses have about Federal mandates. I hope that the efforts put forth today by our Governors, mayors, local officials and the Congressional Caucus on Unfunded Mandates, have heightened our colleagues' awareness of this issue.

It is time for Congress to stop passing the buck. We must be honest and acknowledge that unfunded Federal mandates mean that Federal politicians may take the credit for solving the nation's ills while local officials, and ultimately, taxpayers take all the pain.

Mr. CLINGER. Mr. Speaker, National Unfunded Mandates Day is about responsibility, or may I say, characteristic lack of responsibility, with regard to Federal actions toward State and local governments. Congress and the executive branch have been making policy for years now with reckless disregard for the crushing blow such policies—and their cost—can have on State and local entities.

The old joke, "We're from the Federal Government, and we're here to help you," can be updated to say, "We're here from the Federal Government, and we're here to help you go bankrupt." It's 1990's-style federalism, characterized by a Congress unable to exercise any self control and an executive branch unwilling to put some muscle behind its mandate relief rhetoric.

Two days ago, the Government Operations Committee's Subcommittee on Human Resources and Intergovernmental Relations held a hearing in Harrisburg, PA, on the impact of unfunded Federal mandates on State and local governments. The tales of woe we heard from State and local elected officials were worthy of any Halloween horror story.

Port Allegany Borough, in my district, is a rural community home to approximately 2,400 people. Two manufacturing plants have sustained the job base of this borough for many years. Yet the cost of compliance with unfunded Federal mandates threatens to drive property taxes higher, which in turn acts as a disincentive for businesses to stay in this small town. The loss of a manufacturing plant would be devastating to the citizens and other businesses of Port Allegany Borough. Like so many small communities affected by unfunded mandates, this town faces its future with a little trepedation, and for good reason: if current trends continue, the borough may not have a future at all.

County governments, responsible for most of the human services provided on the local level, bear a substantial burden for unfunded mandates. Just consider one statistic: in Clinton County, PA, over 80 percent of the county's budget is either federally or State mandated. Eighty percent. That leaves precious little funding for the county's own priorities, and even less for the health care reform and welfare reform roles the Federal Government expects counties to play.

Mr. Speaker, this unhealthy dependence on State and local treasuries to meet Federal objectives must end. I urge my colleagues to take the message of National Unfunded Mandates Day to heart, and to get serious about real mandate relief for our Nation's State and local governments.

Mr. CLEMENT. Mr. Speaker, I rise today for the purpose of calling to the attention of the public and Congress the adverse impact of unfunded Federal mandates on State and local governments.

I represent Nashville, TN. While Tennessee is known as the Volunteer State, we Tennesseans did not agree to volunteer all our resources to meet the mandates of the Federal Government.

Tennessee, like almost every other State in the union, continues to experience a tight budget. We have experienced the same increase in demand for services coupled with a sharp decline in revenues. In addition, Federal aid as a share of the total State budget in Tennessee has declined since 1980.

Unlike the Federal Government, Tennessee must balance its budget. But in either case, both Tennesseans and the American taxpayers are no longer able to pay for all the laws Congress has passed over the years.

Earlier this year I called for a joint Tennessee leadership—congressional delegation meeting. The purpose of the meeting was to discuss the future of Tennessee as well as improve communications between those of us at the Federal level and those at the State level. The number one issue discussed at the meeting was Federal mandates on the States.

Managing Federal mandates imposed on Tennessee has become an ever-increasing financial challenge. According to recent estimates, Federal mandates imposed on Tennessee since 1986–87 have grown to $153.8 million annually. Tennessee now estimates that by fiscal year 2002 Federal mandates will cost $242 million a year in State general fund appropriations. This is just for laws on the books before 1993.

Based on Tennessee's tax structure, funding of $242 million in Federal mandate costs through State tax increases would equate to a one-half cent increase in the State's 6 percent sales tax or a 9 cent increase in the 20 cent per gallon gas tax.

While much of the legislation we pass in Congress has merit, we must all become more sensitive to the problem of shifting costs to the States to pay for Federal programs. That's why I am here today supporting this event. The Congress must begin to understand that there are Members here who will not continue to compound the burden of Federal mandates on the States.

As a result, I have joined the Congressional Caucus on Unfunded Mandates. The caucus will work to pass several bills which I have cosponsored. The first bill, H.R. 140 was introduced by Representative GARY CONDIT. Under this legislation, States and local governments would not have to comply with Federal requirements unless all funds necessary to pay the direct costs are provided by the Federal Government. H.R. 1295, introduced by Representative JIM MORAN, would require the Congressional Budget Office to provide a fiscal impact statement legislation considered in the Congress will have on State and local governments. The fiscal impact statement must be available before we vote on the legislation. I urge my colleagues who have not done so to cosponsor these bills.

Unfunded Federal mandates are a serious problem for State and local governments in Tennessee. This is one member who will not let the Federal Government pick-the-pockets of Tennessee's working people to pay for Federal programs. My constituents demand that this practice end and I agree with them.

Mr. BARLOW. Mr. Speaker, I rise today to draw attention to the plight of city, county, and other municipal governments across the country. Today, on National Unfunded Mandates Day, we in Congress are recognizing the harmful impact Federal mandates are having on local governments across our Nation.

Over the past two decades, Washington has created a whole host of new programs that local city and county governments are forced to fund. This practice only puts in a bind Americans who must ultimately pay the local taxes required to fund these programs. These higher local taxes come on top of the taxes we pay to the IRS in Washington.

At last count, there were 172 separate pieces of Federal legislation in force that impose requirements on State and local governments. Millions of dollars from local residents go to fund these programs. If taxpayers in towns and counties could decide what to do with their dollars, they would likely choose to focus on projects of local interest, such as improved schools, new parks and recreation facilities, and better roads.

I have joined in sponsoring the Federal Mandate Relief Act to provide protection to local governments. This legislation was introduced in response to the deep concerns of mayors, county judges, and other local officials from across the country. They want Congress to recognize how mandates are straining the budgets of local governments and constricting municipalities from providing adequate services to their residents. Local leaders rightfully point out that paying for all the programs placed on them by Congress and the administration can prevent them from fulfilling their obligations under State and local laws.

The Federal Mandate Relief Act would require the Federal Government to conduct sharply focused studies on the effects unfunded mandates have on local communities. Mayors, county judges, and other officials must have a strong say in how Washington would design legislation and programs. Taxpayers at the local level will benefit from having to pay for fewer costly programs that provide limited definable or needed benefits.

Another very promising development to come out of Washington is the reinventing Government initiative. This proposal calls for strictly limiting unfunded mandates. The administration will direct each agency to review all mandates under its jurisdiction and eliminate those that prohibit local governments from effectively serving their constituents. This is a good first step in the right direction.

I will be working hard to get the Federal Mandate Relief Act passed and signed into law as quickly as possible. I have joined with other Representatives in the House to press for quick passage of this legislation. There is strong support in our Nation for reinventing government and making it operate more effectively and efficiently. It is my hope that the Federal Mandate Relief Act will be a major part of the effort to relieve local governments of the burden of unfunded Federal mandates.

Mr. PACKARD. Mr. Speaker, today has been declared National Unfunded Mandates Day.

As a former mayor of Carlsbad, and a Member from California, I am all too aware of the fiscal burden unfunded mandates place on our State and local governments.

Unfunded mandates are laws passed by Congress which require State and local governments to render services and meet certain regulations. However, funding to meet these mandates is not provided by Congress.

Federal immigration law provides the most vivid example in California.

Under current Federal law, State and local governments in California are required to provide certain social services to illegal immigrants. However, Congress does not provide the money to pay for these services. The resulting shortfall produces a huge strain.

A recent study found that the net State and local government annual cost of providing these services to undocumented immigrants in California was $5 billion a year. This is outrageous.

It is also interesting timing that Unfunded Mandates Day is today, as the White House introduces its legislation on health care.

The Clinton health care legislation will be the biggest mandate of all. The regulations that the Clintons have proposed in order to produce a Government-run system of health care will give new meaning to the word "excessive."

The Clinton health care proposal means: a Government-run system, the creation of 100 new Government bureaucracies to micromanage and regulate decisions and mandates on business.

I predict that if the major provisions of Clinton's plan are passed it will unleash a regulatory juggernaut that we have never witnessed before and thus, destroy the quality of our health care system.

The bottom line is that when the Federal Government passes mandates, businesses and individuals suffer.

States currently face an unprecedented fiscal challenge because of the Federal Government's practice of passing unfunded Federal mandates. California is no exception.

Although mandating programs often have merit, the Federal Government needs to take greater responsibility in financing their implementation.

First, Federal immigration law: It has been estimated in a recent report that the net State and local cost associated with providing services to undocumented immigrants throughout California is approximately $5 billion annually. In San Diego County it is $244,287,699.

Second, Federal Clean Air Act—The Federal Clean Air Act mandates California's air pollution control program to meet specified Federal clean air requirements. Estimated cost to the State of California to operate the State air resources board for 1 year: $69 million.

Third, Cal/OSHA Compliance Program—The Federal Occupational Safety and Health Act of 1970 provides for up to 50-percent funding of an approved State OSHA plan. The Cal/OSHA Program has not been provided 50-percent Federal funds since fiscal year 1983–84. However, the Cal/OSHA Program is the largest State plan in the country and receives approximately 25 percent of all moneys appropriated by Congress to the 25 States with their own State OSHA plan. Cost to California: $37.2 million.

Fourth, National Voter Registration Act, so-called motor-voter legislation—The second bill signed into law by President Clinton is estimated to cost California $26 million to implement.

Fifth, Fair Labor Standards Act [FLSA]. This law requires the State to pay employees at a rate of 1½ of the regular rate of pay for all hours beyond 40 in a 7-consecutive-day work-week, $86 million.

Sixth, Federal Clean Water Act—The Federal Clean Water Act mandates California to regulate the discharge of pollutants into California's waters. It is estimated that additional resources for permitting monitoring and assessments, and the development of water quality plans would be necessary to fully comply with this Federal mandate. Annual cost to the Water Resources Control Board: $37.4 million.

Efforts to reduce the financial burden of Federal mandates is supported by the Congressional Caucus on Unfunded Federal Mandates, the U.S. Conference of Mayors, the National League of Cities, the National Governors Association, the Association of Counties, and the National Association of City Supervisors.

Mr. FRANKS of New Jersey. Mr. Speaker, today is National Unfunded Mandates Day. All over America, State and local officials from both parties are coming together to tell Congress one thing loud and clear: no more unfunded Federal mandates.

As my colleagues are aware, many State and local government budgets are straining under the onerous burden of unfunded Federal mandates. It is estimated that unfunded mandates cost the States as much as $500 billion a year. State and local spending to implement Federal mandates has increased from 30 percent of their budgets in 1962 to a whopping 50 percent in 1992. Additionally, many States are being forced to raise taxes or cut services to comply with the new Federal mandates routinely passed by Congress.

Recently, I introduced an amendment to the U.S. Constitution with bipartisan support—House Joint Resolution 254—that would force Congress to pay for any new Federal programs it mandates on the States. My legislation, which has been endorsed by the National Taxpayers Union and the National League of Cities, would relieve the States of any obligation to comply with a new Federal mandate unless that mandate was fully funded by Congress. This amendment is necessary because Congress' increasing appetite for unfunded Federal mandates shows no signs of abating. Furthermore, many States fear that Congress will solve the Federal budget problem by simply transferring more and more unfunded mandates to the States.

I believe amending the U.S. Constitution is necessary in this instance because unlike statutory law, my amendment would force Congress to face up to its own fiscal responsibility. Currently, the rules of Congress are too easy to evade, and statutory law too frequently waived, for any legislative avenue but a constitutional amendment to end this pressing problem. While Congress could pass a bill banning new unfunded mandates, I remind my colleagues that Congress tried this tactic earlier to hold down spending, with dismal results. In fact, one pundit compared Congress trying to stop unfunded mandates without a constitutional amendment to a drunk who locks away the booze but keeps the key in his pocket.

I am not alone in my analysis that a constitutional amendment is needed. Sharpe James, the Democratic mayor of Newark, recently wrote a letter to me endorsing my legislation. In his letter, Mayor James wrote:

> I agree with you that a constitutional amendment is the only sure way to overcome the problem of unfunded mandates. I hope that your constitutional amendment meets with success.

My legislation enjoys broad support across my home State of New Jersey. All together, 31 New Jersey municipalities and 1 county have passed resolutions endorsing my legislation. These communities include the largest city in the State, Newark, as well as communities that I represent, such as Fanwood, Roselle Park, North Plainfield, Watchung, Union, South Plainfield, and Green Brook. Communities supporting House Joint Resolution 254 outside of my congressional district include: Cedar Grove, Barnegat, Berlin, Aberdeen, Maywood, Mansfield, Closter, Ocean Gate, Hampton, Frankford, Carteret, Boonton, Bordentown, Northfield, Fort Lee, Estell Manor, Margate City, Lopatcong, Northvale, Bernardsville, Neptune, Monroe, and Hardyston. Morris County has also passed a resolution supporting enactment of House Joint Resolution 254.

Mr. Speaker, mandates are as pervasive as they are onerous. A tally by the National Conference of State Legislatures finds 172 Federal laws that require State and local governments to spend money on federally mandated programs. I believe that one reason this issue is gaining so much attention recently is because most mandates were passed only in the last 10 years, with some 15 mandates added during the last congressional term alone. Statistics show that Congress enacted 27 major laws that imposed new or expanded mandates on the States during the 1980's, while 20 such statutes were enacted in the 1970's, 12 in the 1960's, 0 in the 1950's and 1940's, and only 2 in the 1930's. Clearly, the growth of mandates has grown out of control.

The cost of unfunded mandates is staggering. Although only rough estimates exist on the true cost of all mandates nationwide, anecdotal evidence shows that the cost of mandates must be high. Consider that in 1990, the Environmental Protection Agency [EPA] predicted that by the year 2000, cities and towns will have to spend $12.8 billion annually just to comply with Federal environmental mandates that are currently in effect. Or that Maryland's State Budget Office calculates that one-quarter of its budget is directed by the Federal Government through mandates. Or that mandates will cost Ohio $307.9 million this year. Or that mandates account for approximately 13 percent of Newark, NJ's 1993 budget. Or that environmental mandates account for 11 percent of the budget for the city of Anchorage, AK. Or that New York City will spend $4.6 billion over a decade for environmental mandates. Or that a study for the city of Columbus, OH, found that complying with Federal environmental mandates alone will cost the city up to $1.6 billion over the next decade, for an annual cost of $856 a household. Or that according to Los Angeles Mayor Richard Riordan, his city will spend $576 million to comply with Federal mandates this year. In addition, Los Angeles will spend over $6 billion on capital expenditures over the next 5 years to comply with Federal mandates. Mr. Speaker, I could go on and on detailing the list the burden unfunded Federal mandates place on our Nation's States and cities.

Mandates can also be downright ridiculous. This is because most mandates are one-size-fits-all—they tell the States and cities not only what to do, but how to do it, preempting State and local initiatives and impeding innovation and efficiency. I ask my colleagues to consider the most egregious examples of waste by mandate I could find from two cities: Columbus, OH, and Philadelphia, PA.

Under the Safe Water Drinking Act, Columbus spends $24,000 a year to test for 43 pesticides that are not used in Ohio. Among these 43 pesticides is one that was used only on pineapples in Hawaii and was banned in 1977.

Columbus estimates that it will have to spend $190 million over the next 20 years to reduce the level of artizine, a corn herbicide, in its water supply to a level of less than three parts per billion, or the equivalent of one-half an aspirin tablet per 16,000 gallons of water.

Under the Motor-Voter Act, all polling places in Philadelphia will be required to be accessible to the handicapped. Unfortunately, 35 to 40 percent of the polling places used by the city are only rented for 2 days.

The EPA has required that Philadelphia build an advanced wastewater treatment system to improve oxygen levels for fish in the Delaware Water Basin. This will cost Philadelphia upward of $500 million, irrespective of the fact that Philadelphia has been tottering near bankruptcy for a number of years now.

Mr. Speaker, it's time to stop Congress from passing legislation where Congress gets the political credit and the States, counties, and municipalities are forced to pay the bill. I urge my colleagues to support my legislation, House Joint Resolution 254, to put an end, once and for all, to new unfunded Federal mandates.

Mr. STUMP. Mr. Speaker, today, across the country, businesses, city councilmembers, mayors, county supervisors, Governors, State legislators, and even Members of this body are demanding the end of the practice of handing down fiscal responsibility for a mandated program. No longer can lower governments and businesses pick up the tab for the unfunded programs of a higher government.

Budget woes are not unique to the Federal Government. Our State and local governments are also feeling the effects of shrinking coffers and greater demand for services. We should not be a party to further straining the solvency of their budgets by imposing on them the costs for Federal programs. It is an unfair and needless burden for them to assume.

I urge my fellow colleagues at all levels to embrace a new philosophy—pay for the programs you require lower governments to adopt. It's just that simple. If the program costs are too high, adjust the program's requirements accordingly until it is affordable for the Government implementing the program. Don't expect others to pay the bill—we can't afford any more free lunches.

Today, join in the nationwide efforts to stop passing the buck for Federal programs to State and local governments. Cosponsor legislation, such as my bill, H.R. 410, which prevents Congress from continuing on this disastrous path and reimburses State governments for additional direct costs of federally mandated and unfunded programs.

Local governments are clearly in a better position to determine the needs of their citizens and how their taxes should be spent to benefit its resources. The Federal Government should not receive money from State and local budgets to finance its programs. Let's stop taking credit for national policy goals for which we are not financially responsible.

Mr. HOBSON. Mr. Speaker, our Nation's State and local elected officials have long pleaded with Congress to stop passing unfunded Federal mandates. By passing legislation requiring State and local governments to comply with Federal mandates, without providing the funds to do so, Congress forces States to stretch their budgets, cut programs, or raise taxes.

We know even better the cost to Ohio since Gov. George Voinovich issued a comprehensive study of unfunded Federal mandates on our State. The statistics are alarming. According to Governor Voinovich, Ohio will pay $1.7 billion over 4 years to comply with Federal mandates.

Medicaid, a federally mandated entitlement program, is particularly costly to States. Currently this program accounts for 17 percent of all State spending. By 1995 it will consume 25 percent of all State budgets. That means States will have 8 percent less money to spend on other pressing needs.

Recently I introduced the Medicaid Health Allowance Act of 1993, which enables States to redirect Medicaid funds into health allowance programs that enroll eligible individuals in private market plans. It promotes State flexibility to meet local health needs. Many States are ready to initiate this Medicaid managed care program now, but they are blocked by Federal barriers.

Another example of mandates costly for States includes environmental mandates. The Safe Drinking Water Act requires States to test drinking water for a total of 83 contaminants. Well meaning in principle, this one-size-fits-all Federal mandate requires testing for chemicals not even used in Ohio.

As a former State senator, I am particularly sensitive to the many costs that are transferred to State and local budgets to pay for Federal mandates. So one of my top priorities in Congress is the elimination of unfunded Federal mandates. I am a cosponsor of several legislative initiatives either to require that the Federal Government pay for these mandates or to require a local impact and cost analysis.

For example, I have cosponsored the Mandate and Community Assistance Reform Act (H.R. 886). This bill establishes a commission to set standards for mandates and eliminate those mandates which do not meet the standards. It also gives local governments more flexibility in using Federal funds, allowing local officials to tailor social service programs to meet the specific needs of their community.

Congress has finally started to take notice on this issue. The budget alternative proposed this year by House Republicans, cutting spending first, included a provision requiring that all Federal mandate costs be reimbursed. Although our provision was not included in the President's budget, it sends a signal that many Federal lawmakers understand the problem with Federal mandates: Balancing the Federal budget on the backs of State and local governments is no solution to the Federal budget crisis.

Mr. BONILLA. Mr. Speaker, there are two realities: one the normal kind of existence, and the other is the twilight zone of unfunded Federal mandates. In normal reality, I stepped into a taxi. The cab started and the meter read $1; $1 quickly became $2; $2 rapidly turned into $5. At my destination the meter stopped. I paid my fare. However, in the twilight zone of unfunded Federal mandates the meter keeps on running, the fare keeps adding up, and the ride never ends for the American taxpayer, who continuously pays the monster Federal cabby.

I am introducing legislation which will amend the Clean Water Act's storm water provision. The provision has forced my hometown, San Antonio, TX, to raise taxes. This provision has given my constituents a tax increase. This provision has given the job providers—the small-business people—the monthly water statements have gone from $30 to $200 a month. Help me, help our constituents, by supporting my bill, which like Rod Serling used to say, "is submitted for your approval."

Mr. SCHAEFER. Mr. Speaker, as a member of the congressional unfunded mandates caucus, I am pleased to do my part to bring much-needed attention to the financial burdens Congress is placing on State and local governments.

I have long spoken out against the Federal Government conducting its social engineering designs through mandates on the private sector. These burdens inevitably increase costs and destroy jobs and are really a hidden tax on all Americans.

With a restricted budget but unrestrained desire to expand the reach of government, Congress has more recently turned to State and local government to finance its desires. In the areas of social services, transportation, environment, public safety and health, Federal mandates are escalating costs and restricting the flexibility of localities to meet their own unique problems.

In Colorado, for instance, the State government has identified 195 Federal programs containing mandates for State and local agencies. Over 100 of these mandates are direct orders which the State or locality must comply with in order to participate or receive Federal funds. It will cost the Colorado State government $794 billion this fiscal year alone to comply with these mandates.

One of the most egregious areas of Federal abuse comes in health care. Recent changes in Federal social services programs have nearly doubled the costs of Medicaid coverage for some, while causing dramatic cost inflation in nearly all categories.

Unfortunately, Congress has found a real taste for dishing its problems off on others. Just in the past few months, Congress has added major new mandates under the Motor-Voter Act and the 1993 Reconciliation Act. And there is little relief in sight for the folks back home—Congress is currently considering 60 bills which contain some form of mandates or requirements for State or local governments.

The sad truth is that Members of Congress have found that, through mandates, they can gain all the political benefits of creating new entitlements for their constituents without having to face any of the political pain of paying for them. The unfunded mandates caucus is dedicated to restoring accountability for forcing Congress to prioritize its spending desires and fully fund its mandates on State and local governments.

The SPEAKER pro tempore. The time of the gentleman from Colorado [Mr. McINNIS] has expired.

The SPEAKER pro tempore (Mr. NADLER). Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

TRANSFER OF SPECIAL ORDER

Mr. McCANDLESS. Mr. Speaker, I ask unanimous consent to use the 1 hour allotted to the gentleman from California [Mr. DREIER].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NORTH AMERICAN FREE-TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. McCANDLESS] is recognized for 1 hour.

Mr. McCANDLESS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. CONDIT].

UNFUNDED FEDERAL MANDATES

Mr. CONDIT. I thank the gentleman for the time. I have several speakers that I would like to yield to, and I hope we can squeeze everybody in here.

I yield to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Speaker, I appreciate the gentleman from California allowing me to speak tonight and bring focus to this issue that he has done a great job in bringing a lot more focus to here in the Congress, the issue of unfunded mandates. As many speakers have already said tonight, and as the gentleman from Utah just said, Congress and Federal agencies must stop imposing crippling legislative mandates on State and local governments without providing the funding to carry them out.

It is all too easy for Congress to accept credit for noble legislation but then sidestep the costs by passing them along to States. But it is not only easy—but also dishonest—a dishonest way of accomplishing Federal objectives without the pain of increasing Federal spending or expanding our already burgeoning annual Federal deficits.

In the past 2 years, there have been a number of studies measuring the direct impact of unfunded Federal mandates on specific States or localities. One of the best was done in Ohio by Governor George Voinovich. This comprehensive report concludes that between 1992 and 1995, the cost of unfunded Federal mandates to the State of Ohio alone, not to other local governments but just the State government, will be a whopping $1.74 billion.

I recommend the Ohio study to those interested in understanding better the impact we have here in Congress.

Nine Ohio cities report 10-year costs of $2.8 billion to comply with various environmental mandates. Among those, for example, is a questionable Federal rule that requires Ohio communities to test water for an herbicide used on cotton—a crop not ever grown in Ohio.

In another example, the Safe Drinking Water Act requires each and every local government to test for 83 chemicals, many of which are no longer in common use. This is representative of the one-size-fits-all kind of mentality in Congress.

Every year, the Federal Government approves laws and regulations that cost not only State and local governments, but also taxpayers and consumers billions of dollars. Inevitably, it is the taxpayer who will be asked to foot the bill, either in the form of higher State and local taxes or cuts in important community services.

The Federal Government must be aware of these high costs before it passes laws and regulations impacting States and localities.

I agree with the gentleman from Colorado.

□ 1950

Mr. CONDIT. Mr. Speaker, I yield to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. I thank the gentleman for yielding.

I want to be quick because the gentleman has talked so well already. I would like to just give you a couple of statistics from my home State of Georgia that I think are pertinent. Georgia has 39 unfunded mandates right now that elected officials have to work with. The total cost of these 39 unfunded mandates is $1.2 billion. Sixty-nine cities in Georgia have passed resolutions asking us to stop unfunded mandates. To give you some specific examples, the city of Atlanta alone spent $6 million last year just for public school unfunded mandates. The city of Waycross has to spend 45 percent of its property taxes on unfunded mandates; $2 million for example comes out of the water and sewer budget; $300,000 for solid waste. All of these then deny the city of Waycross other uses for this valuable money.

Finally I want to mention the city of Savannah. They spent $1,045,000 for mandates which include landfill liner, water pollutant test, lead and copper corrosion control. The Federal contribution for this was less than half. This has to stop. It is taxing our own constituents and it is killing the elected officials because there are tax increases here and we ought to own up to it. I thank the gentleman.

Mr. CONDIT. I thank the gentleman from California [Mr. McCANDLESS]. I have other speakers, but the gentleman has been so kind with these 5 minutes.

Mr. McCANDLESS. The time is growing late and I would be willing to yield another couple of minutes if that would help. We have been patiently waiting.

Mr. CONDIT. I would like to get Mr. SWETT and Mr. MORAN on. They have both been very active.

Mr. SWETT. I thank the gentleman for this opportunity to come before the House and to talk about the unfunded mandates problem. My colleagues on both sides of the aisle but certainly with the leadership of GARY CONDIT from California have recognized this and have organized a body of Members to do what I think is substantial and substantive work in this regard.

I have a very short story that I would like to tell that illuminates and brings to light the problem that New Hampshire is facing.

I am from the Second District of New Hampshire. There is a small town called Jaffrey, NH. When I first was elected to this body in 1990 the first town I happened to be traveling through after the election was Jaffrey. I went into the town hall, introduced myself, and before I knew it I was pinned against the wall by the town manager, who proceeded to tell me about how the small town of 1,500 people, experiencing a 20-percent unemployment rate, was being saddled with a $4.5 million water purification facility. Their water test had even showed that over the past 30 years it had never changed and it was just the changing technology that was forcing them to have to adhere to these unfunded mandates. This was a very clear and real situation.

I saw how it was putting this poor community flat on its back.

I think we have got to stop this practice of unfunded mandates, bring some responsibility into the process and ultimately, I hope, return back to the local communities the responsibility of their being able to conduct their lives in a way that is best for the safety and health and welfare of their citizens.

Mr. MORAN. I thank the gentleman very much. I understand the need to wrap this up because the Republican side has been very generous with their time.

But, GARY, since we introduced our bill a couple of years ago I think there is reason for some optimism. The fact is we have had twice as many cosponsors, States, and localities across the Nation are aware of what is happening to them. I think the American people are beginning to realize that they are losing the control they ought to have over their local money which has to go into schools and police and fire protection and their own local priorities. It cannot because it is going to fund unfunded mandates. The fact is States and localities spend more money today on unfunded Federal mandates than all of the Federal assistance they get. And the other fact is that they are less able to do so. So the best thing we can do for them right now is to stop passing the bill and then passing the buck onto other local governments and the private sector and to stand up and say "Look, we are going to let you determine what your priorities are." That is what this issue is all about.

I think it is time to bring government back to the American people and we appreciate all of our cosponsors and appreciate the generosity of the Republican side letting us share this time and emphasizing this subject.

Mr. CONDIT. I say to the gentleman from California [Mr. MCCANDLESS] thank you very much. The gentleman has been very kind. I appreciate it and maybe I can return the favor sometime.

Mr. MCCANDLESS. As a product of local government, I understand where the gentleman is coming from.

I thank the Speaker for allowing us to give a little bit of time to the gentlemen.

What the gentleman from New Hampshire [Mr. ZELIFF] and I would like to talk about this evening is not a new subject to you.

I was quite taken aback earlier this evening by some of the comments made by the majority whip and the information he and those who participated in that special order were passing on to you and the audience and any Members who may be listening. I take great exception to the level of misinformation that has surrounded this subject.

In my time in public office I have never been involved in anything where so much information was taken virtually as gospel about the subject.

So I want to take some time here this evening along with my colleague, the gentleman from New Hampshire, to talk about some of the areas in which this misinformation most pointedly takes place and share with you a little bit about the 4 days we collectively spent in Mexico reviewing some of this information which almost all of a sudden we began to believe relative to labor and the environment.

So let me start with a little story here about the Government of Mexico, where we have come from, in terms of the policies of the Federal Government of Mexico.

The Mexican Federal Government was moving toward a socialistic order back in the sixties and seventies to the degree that they expropriated most of the major industries in Mexico. They finished that up in 1982 by taking over all of the financial institutions. That meant that if you are a stockholder in a private bank you were no longer a stockholder in the private bank, it belonged to the Mexican Government.

That began to show that it was a real problem on the economy and on the development of Mexico and to create a better standard of living which was the intent. It did actually the opposite.

What happened? Inflation set in. Inflation got out of hand. It got to the point where people could not buy anything.

So as the administrations passed in Mexico we had a change in the general philosophy of what direction the Mexican nation should go to provide a standard of living for the people that was acceptable, from which then they could build on to a better standard of living.

Ladies and gentlemen, that was the major reason, that era was the major reason for the influx of illegal immigrants into the United States. They could not feed their families in Mexico with 1200-percent-per-year inflation. That is how huge it got.

So then we start a new trail with President Salinas' predecessor, President de la Madrid. President de la Madrid decided that we were on the wrong course, that is the Federal Government of Mexico, that we needed to change course.

In so doing we needed to address the issue primarily of inflation, to permit individuals the amount of money necessary to even buy the basics for living.

President de la Madrid proceeded then on a course which President Salinas has followed. It is interesting to note that at this point we had a Secretary of Treasury by the name of Jim Baker. In 1985 Jim Baker was up to his eyeballs in what they referred to as a Third World debt and how nations could not pay this debt, that is Peru, Mexico, and others.

□ 2000

So after a period of time the Treasury Department came out with what they referred to as the Baker initiative. One of the important cornerstones of this was that the nations who wanted to change and wanted to become meaningful members financially and to pay off their debts and retain their integrity had to do certain things that they were not doing or had not been doing in the history of their country, one of which was to privatize industries, the opposite that had been taking place in Mexico.

The other was to have a program within the nation that would attract foreign capital, which Mexico and the others had not had.

There were a number of other issues, not the least of which was you have got to take a look at the kind of government you have, bite some political bullets and make some sense out of it so that it is productive.

It is interesting to note that the Baker plan and the evolutionary process from socialism to capitalism in Mexico transcended one another as we moved into the 1990's.

So we have now a President who is in his fifth year, President Salinas, who understands economics, who has a Ph.D. from Harvard, and is one who is trying to bring about the next step in the Mexican culture, and that is to bring the standard of living up.

Since that time, now, we must understand, since that time the inflation has dropped to 8 percent, a tolerable level.

As an agreement during that period of time, the Mexican Government worked with the unions and said that there is no point in chasing the stars because inflation is out of control. If you will bite the bullet, we will bring back the wages, but there will be a time here because of the inflation that we are not going to be able to offer anything in the way of increases. And so all of a sudden you have the offer.

That means then that the labor unions are in bed with government? The opposite is true. It was a working agreement for the benefit of the future of Mexico.

Now they are back at it and they are beginning to bring back, as they have the last 5 years, that particular level of increase in pay which is now approximately 50 percent greater than they had.

So the purchasing power that was referred to earlier in the other special order has increased now, and on October 1 they increased it still again, and the labor unions are back now in their normal position after having worked with the government during that tremendous crisis of inflation in Mexico.

So when we talk about labor unions, we are talking about a very strong part of the Mexican society that is not under the thumb of the Mexican Government.

And you say, "Oh, McCANDLESS, you have been reading too many articles."

In this 4 days, we spent time with not only our labor attaches, but time with the labor union leaders, and I will get into that in a little bit; but now I would like to yield to my colleague, who also took our Government Operations Committee trip, sponsored by our chairman. It was an eye opener, and a revealer and a confirmation of many of the things that I felt were true, but needed to have that confirmation.

I yield to the gentleman from New Hampshire [Mr. ZELIFF].

Mr. ZELIFF. Mr. Speaker, I thank my colleague for yielding to me.

We had quite a trip. As the gentleman was, I was very impressed with President Salinas and his cabinet, top grade, top level people. What he has done since 1986 has been rather dramatic. We had a chance to observe that first hand.

The last time I was in Mexico City was over 10 years ago. We could see a tremendous change in terms of environmental concerns, in terms of poverty; but since 1986 the Salinas government has done exactly what the gentleman says it has done. It got lower inflation rates. It has gotten lower interest rates. It has frozen its spending. It is starting to live within its means.

As a result of that, their economy is starting to grow. As a result of that, their cost of living and their opportunities to buy more, have more disposable income, buy more products from the United States, have grown as well.

Since 1986, Mexico joined the GATT.

Mr. McCANDLESS. For our listeners, that is the General Agreement on Trade and Tariffs, which is an international organization.

Mr. ZELIFF. That is correct, which has brought down tariffs and expanded their trade, so rather than building walls, they tore walls down. As a result of that our trade in the United States to Mexico has grown from a $4.9 billion negative balance of trade to some $6 billion positive.

Now, if you assume—and the gentleman has a chart over here and I will let him point it out—but for every billion dollars worth of export business, it equates to some 20,000 or 22,000 jobs. I think that is the key ingredient here.

Since 1986 we have gone from a negative $4.9 billion to a $6 billion-plus, backed up by the people who made those products that went into that export, and certainly we were able basically to increase the job level as a result of trade with Mexico.

Mr. McCANDLESS. I think it is important at this point that we bring in another part of the equation.

I talked about privatizing industries. When all these industries were run by the Federal Government, they did not have to report a profit. They did not have to pay taxes. As a result they were a liability, rather than an asset of the Federal Government composition.

President Salinas has privatized somewhere in the neighborhood of over 700 of the previously government-owned agencies. The sale of the telephone company, the sale of the banks and financial institutions, the sale of the airlines, the steel companies and major, major types of industries, has brought $23 billion to the Federal Treasury, as well as making those private enterprises which now still employ people, but pay taxes to the Federal Government, which then permits the Federal Government to move into the country and do things that it was not able to do, which raises the standard of living and the ability of people to communicate and help the overall picture.

I might add, we do not want to get too technical here tonight, but as a result of what they have been doing, for the last 2 years the Mexican Government budget has had a surplus, last year $22 billion.

It is interesting to note that Mexico's percentage of gross national debt to gross product is less than either Japan or the United States, so that the Third World country that we talked about just briefly a little bit earlier has moved from a position of begging people to extend their loans, not knowing how they are going to pay for them, to paying off loans to the point that they have decreased their international debt by 51 percent and are running a surplus.

I think this is important, because as we talked about the jobs, we have to talk about, "Well, that's great, Bill and Al, but who is going to buy these goods and services?"

The idea is that the Mexican economy is growing now, that jobs are becoming available. People are working, and as a result they now have an average income of $4,000 per capita, which is something far greater than they have had at any time in the history of the country.

Mr. ZELIFF. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. Certainly, I yield to the gentleman from New Hampshire.

Mr. ZELIFF. It is interesting, in an earlier special order the gentleman from Michigan [Mr. BONIOR] talked about the fact that there is no market in Mexico for our goods. It was his special order and I did not want to interrupt him.

But I have to just show this, you cannot see these on the TV set, but here is an end cap display of Pampers, another end cap, a whole wall display of Rubbermaid products made in the United States; Prestone antifreeze, made in the United States; Budweiser beer, Marlboro cigarettes, Carnation milk, shampoos, you know, one after another.

You know, 70 cents on the dollar from Mexican imports goes to United States goods.

Again, I think the gentleman mentioned $450 per capita, which is one of the highest, and that is the chart right next to the gentleman there, in terms of the average amount of goods, American goods and products that people in Mexico buy from the United States.

So I think the fact that there is no market down there is kind of a myth. I would just like to correct that. I wish I could have shown these pictures, but there is a great opportunity to expand our markets.

Let us take a look at the automobile industry, and the gentleman has some experience in that. The gentleman might just mention a little bit about that. We went to a couple factories. The gentleman went to Delco, for example. The gentleman might just mention a little bit about that.

Mr. McCANDLESS. Yes. That is a very interesting part of the industrial complex. I think it is important to anyone who might be listening that we use that as an example of the problems that will be corrected and can be corrected to our advantage when we look at the second chart here. We see a little brick wall.

□ 2010

Mexican tariffs average 10 percent, United States tariffs average 4 percent. I might add that almost 50 percent of the Mexican goods being imported do not have tariffs at the current time.

Now why I am mentioning this to my colleagues is that Mexican wall, when it comes to United States products, that is automobiles or trucks, is a 50-percent wall. So, if that car is judged to be a $10,000 value, then there is a $5,000 fee paid before that car can move inland into interior Mexico.

As a result, over the years, because the market has improved, the United States manufacturers of automobiles, General Motors, Ford, and Chrysler, could not find it competitive to pay for that import, so, because the market was enough, they went and built assemply plants in Mexico to avoid the 50-percent tariff.

Mr. COPPERSMITH. Mr. Speaker, will the gentleman yield on that?

Mr. McCANDLESS. I see we are joined by the gentleman from Arizona [Mr. COPPERSMITH], and, yes, I am happy to yield.

Mr. COPPERSMITH. Mr. Speaker, I thank the gentleman from California [Mr. McCANDLESS] for yielding because it is not only just the tariff on automobiles, but Mexico also has local content laws that affect, that acted as a barrier to automobiles, and it is very interesting to compare what NAFTA requires, specifically in the automobile sector of the United States into Mexico.

The United States under NAFTA would reduce a tariff on Mexico automobiles, but the tariff right now is only 2.5 percent. That tariff would go to zero. On the other hand, why Mexico has not been a good market for United States automobiles is because not only their high tariffs, but also their domestic content. NAFTA would require Mexico to reduce tariffs on United States cars from 20 to 10 percent immediately and then to zero in 10 years. It would immediately eliminate the coil on new car imports which is now 20 percent of their market. It would phase out the trade balance requirements which force United States producers to locate in Mexico and would replace a Mexican content requirement with a North American content requirement that would give American automobile manufacturers preferential treatment in the Mexican market. Japanese cars, West German cars, would still face the high tariff, but American cars would not.

Mr. McCANDLESS. Right. I think we should know these figures. Now that we have the manufacturers in Mexico producing United States vehicles, there is a 20-percent content requirement that means that 20 percent of that going into that car has to be manufactured, produced, in Mexico, and we talk in terms of the North American Free-Trade Agreement. We are talking in terms now of a car sold in Mexico, sold in the United States or sold in Canada that would have to have 62½-percent content from one or more of those countries in order not to have the tariffs that would be applied to other types of cars and trucks, and so that becomes a real boon to the North American manufacturers of automobiles, and for the life of me I have trouble visualizing the fact that this is going to lose jobs because article after article, and I would quote one, Forbes, April 12 of this year, spent quite a bit of its issue talking about the Ford manufacturing complex in Mexico and how many of those units would be manufactured after NAFTA in the United States, and particularly Thunderbirds and Cougars in Ohio, and shipped and completed ready to deliver into Mexico because it would be cheaper.

Mr. Speaker, studies have shown that cars manufactured in the United States and sent to Mexico would run about $400 less a copy.

Mr. ZELIFF. Will the gentleman yield?

Mr. McCANDLESS. Yes, I am happy to yield.

Mr. ZELIFF. That is confirmed by Lee Iacocca, and we were talking to him last week when we were at the White House, and what he and also the Department of Commerce estimates is that NAFTA will create $1 billion in new sales for U.S. auto makers for the first year, and he very eloquently took the time and pointed out that productivity is the key. That car can be made in Detroit cheaper than it can be made in Mexico, and that this the key to the whole ballgame.

It is interesting. In my district we have a firm, Davidson Textron in Dover, NH, that manufactures and supplies dashboards and arm rests for the automotive industry. With NAFTA a proposal that Textron supports the market for the auto industry open provided more opportunity for the firm such as Textron to increase its sales, so they supply all kinds of products for Detroit, all three of the car manufacturers. Those products will increase. They will ship them to Detroit. Detroit will make the cars, ship them to Mexico, expand our market.

We are talking about 1 billion dollars' worth of a new market.

Mr. McCANDLESS. I think that is just one example. Let me give my colleague another one.

One of the luncheons that we had in the city of Chihuahua in the State of Chihuahua which is north central Mexico was with local businessmen, and then later we met with labor in the area, and one of the businessmen is a Caterpillar tractor distributor for the State of Chihuahua and the adjoining state, and he said within the last 5 years that Caterpillar tractors, and we are talking about the major unit, the purchases of those since the GATT agreement, the General Agreement on Trade and Tariffs, and since Mexico in 1986 readjusted their approach and joined GATT, that Caterpillar had sold last year 1250 units instead of the previous couple of years back 250 units, and I think that is an example of what we are looking at here in terms of products and markets.

Another thing I think we need to talk about here in terms of Mexico and how are they going to pay for these various and sundry types of goods and services is, and I must point this out to the gentleman, that 45 percent of the United States deficit of trade is oil that we import. Mexico has a large reserve, a huge reserve of oil, and that oil is in the process and can be developed into a very productive flow to the United States instead of our buying the oil overseas.

We also have many of the minerals in the metal field that we import from South Africa and other parts of the country that are available to Mexico, but the wherewithal, and the knowledge and the equipment is not available to develop these minerals in present day, but would be in the future.

Therein lies a trade of materials which we need for our industrial complex for finished goods that they need for theirs.

I would like now to talk about something that has become key in this argument relative to the NAFTA program, and it deals with Mexican labor, and I mentioned to my colleagues earlier that the labor unions agreed with the government, until they got through that inflation crisis and that terrible situation that they had relative to their economy, that they would work with the government as best as they could. Quite by accident at one of the activities sponsored by the embassy in Mexico City I ended up at a table with the gentleman who is the president of one of the unions representing 3 million workers, and at that table we had also the labor attaché from the Embassy and also the agricultural attaché, and it was very interesting because I was asking this gentleman point blank out, as politely as I could, all of these things which have been a part of those who oppose NAFTA relative to labor is in bed with the Federal Government, and he assured me, and was very polite about it, that, as president of a union, he was not in bed with the federal government, and he went into detail about what we talked about relative to their crisis.

The Mexican Constitution sets up the fact that workers will have rights to organize and freedoms of association in collective bargaining. That is in their Constitution. Mexico, believe it or not, is a highly unionized country, and about 9 to 10 million workers are in these unions or about 30 to 35 percent of the work force.

Now, we have heard about maquiladoras. Those are the agreement manufacturing or processing plants along the border and now inland as far as Guadalajara. Their unions are not too strong in the Baja area, but in Matamoros and Monterrey they are heavily unionized.

I want to emphasize this:

According to those in our United States embassy in Mexico City there is no knowledge or no evidence of the Mexican Government suppressing any type of union activity, particularly in the maquiladora unionization areas. Incidentally, the Mexico workers will work with their employer after the union has reached certain types of agreements with a new administration in Mexico.

□ 2020

It is a little different than us. You say well, yes, but that is like going to bed. And I posed that question to the gentleman who is president of the union.

He said, "Well, over the years, Mr. McCANDLESS, we have been able to get such things as Social Security, retirement, health benefits, and so on, as unions working with the Federal Government because those were Federal Government programs. And then we sit down with the labor unions."

I said, "Wait a minute now. What if you can't get agreement with the Federal Government?"

He said, "Well, then the Federal Government has got a lot of problems."

I said, "Has this happened?"

He said, "Yes, a couple of times since my union was formed back in 1919." But he said, "Usually we are able to work things out with a new administration so that we understand and they understand that certain things are going to have to happen during that administration as it relates to labor and labor policy. Then we sit down and negotiate with our employer the various benefits and things and working conditions and so on."

Mr. ZELIFF. If the gentleman will yield, we hear a lot about the 58-cent-an-hour so-called Perot sucking sound of jobs leaving the United States. In our trip down there we talked to many employers. I think the gentleman was there when we asked the question, we found many employers were paying on an average of, some, anywhere from $2.76 to $3.86 an hour, plus benefits.

The key factor here is that when you look at productivity, and I think that is what the bottom line here is, basic wage rates it is about 10 percent.

I can remember when I ran the Xerex anti-freeze business for Du Pont. Freight was some 10 to 15 percent, and wages was less than 10 percent. The key thing is all the costs that go into that product. That is what is going to determine our ability to compete worldwide.

If we look at Mexico in terms of the bigger picture, we have got a chance with the North American Free-Trade Agreement to combine forces in a partnership with three countries that will allow us to come up with a $6.5 trillion market and 370 million people. That will give us an ability certainly to take a trade agreement that was conceived by Ronald Reagan, negotiated by George Bush, and implemented by Bill Clinton, to create jobs and provide us an opportunity to compete worldwide.

Does the gentleman not think that is where we are heading?

Mr. McCANDLESS. Yes. Let me continue on the wage thing. In 1991, and these are the figures given to us by the Embassy, real average cash wage in Mexico for a factory laborer was $2.17 per hour. This is real cash. We are not talking about the fringe benefits, the bonuses that the industries pay at the end of the year, 10 percent of their profits. We are not talking about the health benefits that they get through the employer deduction. We are not talking about the child care that they participate in, and a number of other things which are employer-paid, not employee-paid.

Two dollars seventeen cents per hour for a factory laborer, $4.90 per hour for clerical help, $3.40 per hour for semi-skilled workers, and $22.70 per hour for professionals and managers. In 1993 the wages will go up as far as the lower part is concerned. The unions are now negotiating for the coming years, and we will be looking at an increase, and the Federal Government is not involved. The deal that they had with the Federal Government in the 1980's is gone. They are now involved in negotiating again as regular unions in a regular set of circumstances.

I might add that as a part of that trip, we talk about the labor in Mexico and how things are cheaper there and how supposedly everybody is going to move south to Mexico to manufacture something. In the town of Chihuahua we met with a gentleman, as I mentioned at lunch, who owned the Inter-Ceramic Tile plant. They make floor tile, beautiful floor tile.

We went out to his plant and went through it, and I have not seen a better designed, better operated plant than this particular one.

As a result of that we got into quite a conversation relative to his operation. We were interested in learning that because of certain types of materials and because of markets that currently exist, irrespective of NAFTA, Inter-Ceramic Tile is building a plant outside of Dallas. They are coming to the United States.

So we got into a little bit of mathematics there. I asked him about wages. I asked him about this. And he said when all is said and done and that piece of tile is in a box ready to ship, we are looking at probably about a 5 percent additional cost on that tile, which is more than made up by the problems we have in getting the tile to the United States for sale by the trucks and the other activities that they use for transportation purposes.

Those people in that plant earn $1.88 per hour, plus 81.35 percent in supplemental benefits, for a total compensation package of about $3.40 per hour. Middle level factory supervisors make $23,144 a year, with a 69.19 percent amount in supplemental benefits, for total compensation.

Now, what I am trying to point out here is that not everything in Mexico, and I am not saying there are not some, but not everything in Mexico is a sweatshop, with smoke and fumes and environmental problems, and that people live in fear for their lives because of the working environment they are in.

Every country has that. We have it in the United States. When it is found, it is corrected. In Mexico when it is found out, there are means by which it is corrected. So we are not talking here about sweatshops in the sense that they are being pictured by our opposition.

Mr. COPPERSMITH. If the gentleman will yield, I want to underscore four points that I believe you made and I think are worthy of some repetition, because it goes to the facts of the relationship between the Mexican and the United States economies, rather than the fears that people have.

The first point is that Mexican wages have been rising steadily since 1987–1988. As you pointed out, the Mexican economy was inflicted with chronic inflation, which in 1988 was 150 percent a year. Through concerted action with the government and labor unions, that inflation rate was brought down to under 5 percent.

During that period from 1988 to 1992 Mexican wages went up 135 percent. In real terms they increased 19.3 percent. So it is not true that the statistics you are hearing about low Mexican wages or the rate of growth of Mexican wages, if you take in the period that included the oil boom and the hyper-inflation. But if you look over the past 5 years, since the economic reforms, Mexican wage rates are higher than has been stated. They are increasing. They will be increasingly linked with productivity according to the proclamation by President Salinas. So the wage differential is not as has been portrayed.

Second is actually Mexican wage rates increasing is a tremendous benefit for the United States. It helps create a Mexican middle class, which today is larger than the entire population of Canada. We already know that Mexican citizens are tremendous customers of United States goods. On a per capita basis they buy far more than Japanese citizens do, even though the Japanese have far more income. They are tremendous customers. It is a rapidly growing market, and it is one that we can get preferential access to through NAFTA.

The third point I think was mentioned by the gentleman when he talked about the plant moving back to the United States. A lot of the opponents of NAFTA are talking about wage costs as if those were the only thing that mattered in making a business decision.

It is not. It is total costs. And total costs of production include the infrastructure, the productivity of the workers, it includes proximity to market, the transportation costs. All those things work in.

The gentleman from New Hampshire spoke earlier about how labor costs were actually a relatively small percentage, and, in fact, for many products are exceeded by the transportation costs, or in this country perhaps by the cost of health care.

There are many other factors that go in this other than just wage rates. If wage rates determined all those decisions, then extremely low wage countries, like Haiti, Bangladesh, and Burkina Faso, would be our true economic competition. They are not. Our competition are higher wage countries.

If wage rates were everything, then BMW and Mercedes would have chosen to locate their new plants in Mexico and not in the United States.

The last point that I wish to emphasize from what the gentleman said is that our well-being as a country is going to become increasingly linked to the countries to our south.

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Our economic growth will be increasingly derived from exports. Latin America is our natural market. It is the market where we have a natural advantage, and NAFTA begins the process of giving us a preferential advantage in that market ahead of our greatest competitors, the Japanese and the Western Europeans. But even more so, our fight against drugs depends upon stable governments in Latin America. Our immigration problems in large part are caused by the fact that the economies of those countries have not been able to keep pace with the demands of their population. As those economies grow, the governments become more stable. They will be able to assist us to a greater extent on those issues.

The final point is with the environment. There are environmental problems along the border, but I just do not see how we deal with those in the absence of NAFTA, in the absence of a Mexico that is economically strong enough to start dealing with the environment. And should NAFTA be defeated, I do not see any mechanism out there that those problems will finally be addressed either on the United States side or the Mexican side.

There are so many reasons why the free-trade agreement is a good deal for the United States, but I think you have hit on so many of them that the reasons a lot of the opponents give for fearing the agreement actually, when you look at them and you look at them in the way our economy works now, actually are reasons that we should support it.

Mr. ZELIFF. It is interesting, back home in New Hampshire, we have articles, and again, you have fear and misinformation. You go down to Mexico and the folks down there have fear and misinformation, because they, too, think that they are not going to be able to compete in a world market. And there are some sectors of our country that feel the same way.

It is interesting, a country the size of the State of Illinois, with 4 percent of our gross domestic product, is certainly, in my judgment, if we cannot compete against them, then how are we ever going to compete in a worldwide market.

The other thing I would like to toss in, and I think you made some excellent points, when we were down there, we talked with President Salinas. We spent over 2 hours with him. Prior to his election, I think many of the politicians in Mexico campaigned on an anti-American campaign theme. Now we have an opportunity, with a President that is making a commitment to a partnership to the north in a partnership with the North American Free-Trade Agreement which will allow us a gateway from Mexico into Central America, into South America. And, again, as we develop trade partnerships and markets in our own hemisphere, then we have a better ability to compete with the Asian rim countries, Japan, and certainly Western Europe.

So I think, again, it is a win-win, as you so ably mentioned.

Mr. McCANDLESS. I would like to talk a little bit, when I talked about the tile plant in Chihuahua, I was talking about the fact that they are keeping that plant and building one in the United States, which is kind of an interesting scenario in view of the fact that everything that we have been talking about allegedly is going to move south. Let me talk about the environmental aspect, because this has been a concern to a lot of people who are sincere about wanting to learn about the elements of the North American Free-Trade Agreement.

Mexico has not been noted for its environmental concerns. I can attest to that, having been born in the Imperial Valley just north of Mexico in the little city of Brawley, which is about 15 miles from the border. The New River flows out of Mexicali into the Salton Sea, part of which now is my congressional district. For 50-some-odd years, we have been trying to do something with that, which is a multinational problem.

We have our Border Commission. Those people have put together plans and agreements. But we have never been able to get them financed. So when we talk about environment in Mexico, one has images of smoke stacks and trash and waste all over the terrain around the town. And in many cases, you have a tendency to believe that because you have seen it, if you have taken a trip through Mexico, I can assure you not all of the towns in Mexico are like some of those that you see along the border.

What I want to make in the way of a point here is that the current administration realized that it had to do something with the environment so it took the necessary steps and developed the necessary legislative base to create roughly an equivalent to the EPA about 3 years ago, possibly a little longer than that.

As a result, they are in the process of developing then this table of organization which includes a branch of the attorney general's office, environmental auditing, compliance and inspection, and urban development and the overall direction of this.

They have been in operation for 3 years, and they have made reasonably good progress. Those who criticize Mexico's environmental department are looking at what our EPA has been doing for over 25 years, and they are trying to bring some kind of a standard equivalent to that, when these people are just beginning to get their organization together and perform the job and services that they have been mandated by the Federal Government and the laws that created them.

So you say, OK, we have talked now to five people who are in charge of the various branches of the environmental protection program: the attorney general for environment, the deputy attorney for auditing, the deputy attorney general for compliance, et cetera. Is this a paper tiger that has been designed as a facade for purposes of local consumption?

And so we asked the young lady who is with us, who is an attorney and a member of the Mexico City Embassy staff from the EPA, I want to know from you straight out what we have here. And she says, well, I work with these people. And I know that they are working toward getting this thing together. They have made moves.

One of the most painful moves that was made by the Mexican Government in their environmental protection is to move a petrochemical company owned by the Federal Government, a refinery, out of the vicinity of Mexico City, which cost 6,000 jobs to that community, because of the level of pollution that was taking place.

When the Federal Government takes a federally owned, and the gasoline refining distribution system is still federally owned, takes that plant by legislative process, by administrative process, closes it down and moves it, then to me that means that they are sincere about what it is that they have in the way of an environmental protection program.

Mr. ZELIFF. The World Bank and Mexico recently signed an agreement to finance the $3 billion for pollution cleanup in Mexico. The funds, to be spent between 1994 and 1996, consist of $1.8 billion in World Bank loans and $1.2 billion from the Mexican Government. The NAFTA environmental side agreement creates a new financial authority, which will be capitalized by

Mexico and the United States equally, about $225 million each.

There is a myth, and the myth is that Canada is not paying anything for the border cleanup. And frankly, I do not think that they should. They are not on the border. It should be equally cleaned up between Mexico and the United States. Mexico is making a major commitment beyond that.

During our meeting with Brownsville government officials we learned of their close working relationship with the government of Matamoros as well as the Maquiladora industries in the area. According to Brownsville councilwoman, and you and I both interviewed her, Jackie Lockett, NAFTA has already leveraged new laws and environmental regulations in Mexico, even before it has passed. So they have made tremendous progress, and I think these side agreements codify those commitments they have made.

Mr. COPPERSMITH. The gentleman already mentioned oil refineries near Mexico City. A tremendous number of jobs in a government-owned enterprise that were lost because the government determined that the ecological cost, the damage to the environment caused by that facility was simply too great to justify.

There are a number of examples about Mexico becoming more concerned about the environment. In 1991, Mexico was able to enter into the world's first debt-for-nature swap, where some Mexican debt was used to finance biodiversity programs. In 1992, there was a landmark decision to relocate a major highway connecting central and southern Mexico to preserve one of the country's oldest nature preserves.

Nationally, Mexico is committing over 1 percent of its gross domestic product, which is proportionately more than France, to environmental protection. And it never ceases to amaze me people who are concerned about the border environment and the problems that do exist along the border. They have never been able to explain to me in any coherent way how defeating NAFTA will change that.

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NAFTA changes the whole framework by making all of Mexico a duty-free zone. It eliminates the incentive to locate along the border. By raising the Mexican standard of living, it not only creates a better market for our goods, but gives Mexico more ability to finally deal with its environmental problems.

Mr. McCANDLESS. Good point. Let me kind of draw this to a conclusion by leaving our audience with a few thoughts. In the 2 hours we spent with the President, a great deal was said about the various aspects of what we have discussed here tonight, and we have just scratched the surface with the three charts, and my colleagues and their wonderful input.

The subject came up with the President, "Well, we can renegotiate this, Mr. President." I do not know exactly how the subject surfaced, but that was the intent of the question. President Salinas all during this meeting was a perfect gentleman. I might add, he had no staff people in the room. All of the questions, all of the information that was asked by the delegation, he responded to without notes.

He said, "Well, you know, you are not the only country that has a certain level of opposition to this agreement. I have many people here in Mexico, people of means, who are concerned and are not supporting this agreement because they have fear. They have fear that the United States economy will simply absorb the country of Mexico as another state or community, and that we will lose our identity, our heritage, and the things that make our country great.

"I have convinced these people, or at least they have been neutered, that we have here something that is good for the country." He said, "It took us the better part of 3 years to negotiate this contract, this trade agreement. As a result," a great deal, in his words a little differently, "a lot of water went under the bridge. A lot of concessions were made on both sides. It is an agreement we felt was in the best interests of the countries involved.

"Now you are saying, let us renegotiate it. I do not think that Mexico is going to be ready to renegotiate this contract for at least the next 8 years."

Mr. ZELIFF. If the gentleman will continue to yield, I would just like to add a couple of things. This is a trade agreement. What many of our colleagues are doing, I believe, is that they are going to try to weave into this, and we did get these sidebar agreements, but many people, and on our trip we know who they were, they went down and they would like to change the whole Mexican society.

It is not about social change, it is about tariff change. It is about change in terms of opportunities for jobs, creating economic development opportunities. I think that is the thing we have to keep very foremost in our minds.

Mr. COPPERSMITH. The unique thing about NAFTA is that it is the first trade agreement that does begin to address some of these issues. The word "environment" does not appear once in the entire General Agreement on Tariffs and Trade.

Mr. ZELIFF. It goes way beyond a normal trade agreement.

Mr. COPPERSMITH. It addresses a number of those issues, because Mexico is our neighbor. It is not going away. It is a proud and independent society, and people need to think very seriously, as the gentleman from California [Mr. McCANDLESS] said, of the consequences of rejecting NAFTA, of what that means for our political and diplomatic relationship with one of the fastest growing markets in the world.

Mr. ZELIFF. It would be a tragic mistake.

Mr. McCANDLESS. We no longer have the European Community, as such, as a big customer. We cannot seem to make much progress in the Asian Rim as a customer. It is up to us, if we are going to maintain what we have in the way of a political, social, and economic structure, which has a lot to do with the economics of day-to-day life, that we are going to have to develop and work with new markets.

Members say, "Well, yes, Mexico is 80 million people. As soon as they all have a TV, then there will not be any more TV's sold." This is the tip of the iceberg. Everybody in Central and South America is looking at this North American Free-Trade Agreement and the United States and Mexico, and whether or not this relationship will bring fruition. Our future is in the Western Hemisphere, Central and South America, as we develop these markets.

As we have pointed out this evening, Mexico has developed as a nation and has the purchasing power now, and that purchasing power will increase to buy more goods and services.

Mr. ZELIFF. Five Presidents, five Presidents, both Republicans and Democrats, have endorsed this. Certainly Bill Clinton, George Bush, Ronald Reagan, Jimmy Carter, Jerry Ford. Almost every single economist in this country has felt that this is a win-win, a job creator, an economy booster.

Mr. COPPERSMITH. This debate in many ways is about our future. It is about our economic future. If we look at where the jobs of tomorrow will be, where the economic growth of tomorrow will be, it will largely come in exports. Those are the goods, those are the services, those are the jobs that are higher value-added where America has an advantage over the rest of the world.

It also looks to our future in the Western Hemisphere: What will our relationship be with our neighbors, not only to the north but also to the south? Will they have stable governments? Will they continue to grow? Many people forget that probably free trade and economic growth is the single most important thing we can do to encourage democracy, to encourage exactly those parts of the Mexican middle class to assert greater political independence and their rights, to take care of their environmental problems.

All of those issues are really tied into NAFTA. It is a small step, but it is a very significant one, because it says which direction this country will go, whether we will go into the future or whether we will try and face the past.

Mr. ZELIFF. The key to our future in New Hampshire is international trade, certainly our ability to compete as a State and as a country.

When we take a look again at the country, the size of Mexico is equal to the size of our State of Illinois. It is 4 percent of our gross domestic product. We have nothing to fear. We have the greatest opportunity in the world to improve our economy and create jobs. That is what NAFTA will do.

Mr. McCANDLESS. For those of us in southern California who have taken the big hit relative to defense industries, this is the newest, best possibility if we can pass this agreement, to take care of the vacuum that has been created and build on that vacuum the jobs that we need.

I leave the Members with this thought. Can five past Presidents, living, be wrong? Can 40 Governors be wrong? I thank the Members for joining me tonight. It has been a pleasure.

The SPEAKER pro tempore (Mr. NADLER). Under a previous order of the House, the gentleman from California [Mr. MATSUI] is recognized for 60 minutes.

[Mr. MATSUI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

OBSERVATIONS CONCERNING THE PLIGHT AND STRUGGLES OF THE LUMBEE INDIAN TRIBE OF ROBESON COUNTY, NC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, in anticipation of a bill that will be brought forth tomorrow in this Chamber, I have decided to take this special order to share with my colleagues and the American public some observations concerning the plight and struggles of the Lumbee Indian Tribe of Robeson County of North Carolina.

Mr. Speaker, I want to thank the chairman of our Indian Affairs Subcommittee, Congressman BILL RICHARDSON, for his leadership and initiative to take up this piece of legislation through the House Committee on Natural Resources and our hill committee chairman, Congressman GEORGE MILLER, for his support and leadership to bring this bill to the floor tomorrow for consideration.

In accordance with the provisions of H.R. 334, introduced by Congressman Charles Rose of North Carolina, this piece of legislation will finally grant to the Lumbee Tribe their rightful status as a federally recognized tribe. The Lumbee struggle for recognition is over one hundred years old, and I urge my colleagues to give their attention to this matter. The Lumbee Indians of North Carolina do not view this issue as one of partisan politics. Neither should we. This is not a heartening issue that makes you want to wave the American flag, either. It is not often that we take up issues that make us consider events that occured decades, let alone a century ago. Unfortunately, this is often the case when we meet to discuss legislation that involves Native Americans. In its true light, H.R. 334 is a bill about an elected body of our national leaders taking the initiative to finally take corrective action against 110 years of wrongdoing against the Lumbee Tribe. This is about removing the only barrier that stands in the way of rightfully recognizing the Lumbee people for who they are and what they rightfully deserve. That barrier, and cynics would say this is no surprise, is our own United States Government.

Anthropologists, historians, and even the North Carolina state government have had no trouble recognizing the Lumbee people as a tribe. Now is the time, after one hundred years of stubborn resistance, to give the Lumbees what is rightfully theirs. The Lumbee do not need to be told to be patient; they have been patient. They do not need to be told to follow the "process"; they have endured one hundred years of what you may call the process. They do not need to be told to work with their government; they know that the problem is the government.

We have to be honest enough to realize that when we say the words government, or process, any Native American could justifiably think of a host of negative things. They may think of a parade of broken treaties. They may think of being legally forced off their ancestral lands. They may even think of brutality and violence. Some historians characterize our government's general policy regarding the American Indian through 1812 as one of systematic extermination. Today we would call this genocide and, indeed, American Indian sympathizers have even filed charges against the U.S. Government before U.N.-sponsored working groups on human rights violations. It is not surprising that the treatment of native inhabitants from North, Central, and South America can easily be categorized as genocide.

As our institutions of higher learning expand, and there is more documentation of the American past, the more the shocking plight of the American Indian is brought to light, and the more outraged the American people are becoming. Helen Hunt Jackson sadly called the American 1800's "a century of dishonor." Some American Indians call their history with our government, as do the Cherokee, "a trail of broken treaties." So today, when we tell Indian tribes that they must go through the process to obtain Federal recognition, it is understandable that they will respond by saying they have had enough of the process.

Just what exactly is the process that our government has forcibly imposed on Native Americans for so long? By our admission, I believe we can divide the evolution of the process into six periods.

As noted, the first process has been referred to by historians as one of extermination. This is interesting considering our government's stated policy during this earlier period was actually to "make friends with the Indians." "The pious ones of Plymouth," remarked William Evarts, "who, reaching the rock, first fell upon their knees, and then upon the aborigines."[1] The unofficial record may provide us a more accurate picture of the sometimes harsh realism of this period, such as General Philip Sheridan's blunt statement "[t]he only good indian I ever saw is a dead indian."[2] Or how about "[a]ttack and kill every male Indian over 12 years of age"—This order came from the mouth of General Patrick Connor before his troops slaughtered 263 Paiutes at Fort Reno in 1864. Most scholars agree that this horrendous extermination period ended in 1812, but that by no means was the end of mass killings of American Indians. A noble group of people in South Dakota will attest to this.[3]

The second process imposed by our national government on Native Americans was removal. This was the forced removal of American Indians to lands west of the Mississippi termed Indian territories. Today, we call this exile. One elected official put it this way: "No state can achieve proper culture, civilization, and progress in safety as long as indians are permitted to remain."[4] That was President of the United States Martin Van Buren in 1838. Thousands of Cherokees died of exposure on the infamous "trail of tears" when they were forced off their Georgia homelands to travel west. Today, we would call this an outrage or unconstitutional. The government called it Manifest Destiny.

The third process was assimilation. Never mind their centuries-old culture and religious heritage, these "savages" did not know any better was this period's rationale. One prominent civil servant condescendingly said, "To tame a savage you must tie him down to the soil. You must make him understand the value of property, and the benefits of its separate ownership."[5] That statement was uttered in 1851 by the Secretary of the Interior. How helpless would you feel petitioning for aid from the Secretary of the Interior? His statement epitomizes the process of assimilation, and the process continued to leave the American Indian with a very dubious future.

The fourth process was termination. It was an extension and institutionalization in the 1950's of the assimilation

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Footnotes at end of article.

policy. The relationship between the Federal Government and tribal governments was terminated during the 1950's in an effort to eradicate past fiscal inefficiencies and to reverse a trend of dependency on Federal aid in Indian communities. This new process, intended to help free American Indians, only contributed to their continuing disappearance as Congress also decided to terminate out of legislative existence the legal meaning of the words tribe, nation, and people.

Imagine Congress announcing today that terms concerning heritage like Jewish or British-American no longer exist. Frankly, that sounds like something out of a Marxist regime.

On May 1, 1961, the Menominee Indian tribe of Wisconsin was officially dissolved in Washington's halls and courts. This was not the first time though, that an Indian tribe had to fight the government's chosen "process" for its very survival. The Menominee tribe was re-recognized in 1973 only after years of fierce lobbying. As the Chairman of the Menominee Tribe, Glen Miller, testified a few years ago, "[w]e were the Menominee Tribe in 1491, before your boats reached our shores, and for the ages before that time. We knew our history."[6] Other tribes have not been so fortunate.

This stark termination "process" meant a callous disregard for not only the sacred culture, but the health and stability of many Native Americans. It meant termination for many in already poor reservations of needed health care benefits from the Indian Health Service and lost eligibility for grants, loans, and scholarships from the Bureau of Indian Affairs.[7] Perhaps most importantly, this sudden shift meant also that they had to pay property taxes. When they could not pay, they sadly lost portions of their land.[8]

Thus the "process" perpetuated the ever weak legal position of Native American interests. This century, the American Indian has suffered sometimes arbitrary deprivation of health care, land, and educational aid. Many even have had portions of their ancient graves dug up and sifted through for study. I can only imagine the anger, frustration, and resentment I would feel if my ancestors were on "display" in some museum, whether my tribal leadership authorized it or not—especially if my religion placed so much emphasis on the dead and their honor. Ironically, anthropology is the Native American ticket these days to federal recognition in today's "process." The more your burial grounds were exploited, the better chance you have of proving now, because of the documentation done by academics, that you are a real American Indian tribe.

In any event, however, this flawed "assimilation" process, though perhaps well-intentioned, sadly fueled the continued descent of the American Indian into yet another "process."

As the "assimilation" process died as a policy, tribal status was being restored through either the Congress, court rulings, or the Department of Interior. The fifth "process," that of recognition, introduced in 1978, was calculated to establish uniformity in recognition standards.

The recognition process, however, has not promoted uniformly. There are still three other alternative legal avenues available to tribes who do not want to deal with an overly-expensive and exacting administrative process.[9] This policy has only continued to incite division and fighting among tribes, and perpetuated the familiar pattern of frustration and inefficiency in our U.S. Native American government relationship.

In an effort to improve the administrative process through which Indian tribes can receive Federal recognition, I introduced H.R. 2549 in June this year—a bill I hope will significantly improve the recognition process. Today, with a limited appropriation for the BIA, tribes know that every additional recognition means less funding will go around to each tribe. This is undoubtedly a sign of how the "process' has practically destroyed the dignity and self-esteem of our Native Americans. Before Europeans began settling this land, inter-tribal conflict was more of a spiritual subject, proud tribes clashing in defense of their land and honor. Today's "process" has tribes squabbling over health benefits and federal hand-outs. How times have changed for the American Indian. Perhaps this was inevitable—yes, but still it must be recognized as yet another bitter fruit of what Native Americans understand as the "process."

The present "process" is flawed and unrealistic. By now, Native Americans must see our government as a big monster that keeps growing a new head every year. Says John Rivers, counsel for the Mowa tribe, "[I]f you could meet the criteria set by the B.I.A., then you probably weren't Indian, because that means you've stayed in one spot, could read and write, kept a journal of everything you've done for the past few hundred years, and were economically stable. If we had all that, we would be middle-class white people".[10] I would challenge my colleagues to come up with the detailed two-hundred-year history and genealogy required of these tribes to prove the identity of their own families!

Furthermore, it is not as though these tribes have all the money in the world to hire the needed anthropologists and historians to verify their identity over the last two hundred years. Costs for the Lumbee petition escalated to a half-million dollars dispersed over seven years of having to deal with the Department of the Interior.

Time is also clearly the companion problem to money. It not only takes too long to compile these petitions, it takes just as long, and sometimes more, to process them. Senator McCAIN of Arizona reported that some petitioners have waited "10 years or more for even a cursory review by the BIA."[11] The petition of the Chinook Tribe of Washington state has sat in the Bureau of Indian Affairs for 15 years now without being processed.[12]

This is what Native Americans are looking at when we lecture them to follow today's "process." A few years ago, Congressman George Miller called today's process "an abomination,"[13] and I could not agree more with the Chairman of the House Committee on Natural Resources.

As you reflect on the outrageous history of our "process," I ask you to also reflect on the plight of the Lumbee Indians of Robeson County, North Carolina who have given up on the "process," and who have turned to the Congress again for help.

The Lumbee have had their share of processing. They have fought for recognition since 1888. Their first effort was a petition to Congress for Federal educational aid. We note first that the Department of Interior's negative response does not deny the existence of the Lumbee as a tribe. The Department denied the petition because of insufficient funds. In fact, the language of their report sounds like they recognize the Croatans, or Lumbee, as a civilized tribe. Their report said, "I do not see how I can consistently render any assistance to the Croatans or any other civilized tribe".[14]

Then between 1899 and 1911, three bills were introduced in Congress recognizing the tribe as "the Croatan Indians of Robeson County". The Department's response was again negative, but Charles Pierce, who wrote the report to the Department of Interior recognized their legitimate Indian ancestry. But it was the "process" that prevented a positive response. The tribe's identity was not in question. Pierce gave a negative recommendation because aid in education was legally supposed to be delegated to state governments, not the Federal government. The policy was that "states having an Indian population" should "assume the burden and responsibility for their education as soon as possible."[15]

In 1914, the Department of the Interior sent Special Indian agent O.M. McPherson to investigate the tribal rights question in response to another bill: Senate Resolution 344. His report said that the Lumbee are "in part, of undoubted Indian origin", but he seems to question their qualifications as a historically distinct and autonomous community or tribe.[16]

Here I would like to address the larger issue of conflicts of opinion between the government and the academic community. The greater community of anthropologists do not challenge the

Lumbee past. Dr. Jack Campisi of Wellesley College testified before the House and Senate subcommittees in this field a few years ago that of the eighteen other Indian petitions he has worked on, "[n]one has exceeded the Lumbee petition in documentation and no group has exhibited more evidence of community cohesion and political continuity than the Lumbee tribe".[17] The Lumbee are also recognized by Dr. John Reed Swanton, a long-time anthropologist with the Bureau of American Ethnology and a leading authority on Southeastern Indians. And Dr. William Sturtevant of our own Smithsonian Institution, another leading scholar in this field, acknowledges that anthropologists unanimously recognize the Lumbee. So why is it that the experts have no trouble recognizing the Lumbee, but the government has found grounds to resist recognizing them for over 100 years?

Well, life inside the Beltway is very different from that of inside our nation's academic halls. Frankly, I believe this is a funding issue. Simply put, the problem is money. If recognition were costless, the Lumbee would have been recognized a long time ago.

For those of you who are looking at the Lumbee from an "economic man" perspective and are concerned over resource allocation or investment return, I will speak openly about the Lumbee as an investment return.

Nowhere is the return on this people more apparent than in the Lumbee record of military service. I am informed that over 400 Lumbee have served our country in World War II, Korea, and Vietnam. The last Lumbee World War I veteran passed away this year. This call to serve came from a government that challenged their heritage and refused to recognize them. Nevertheless, like many other Native Americans, they went. Bitter stories are still told about Lumbee men being sent to Vietnam by non-Indian draft boards. Still, they answered the call. The membership records of the Veterans of Foreign War organization in Pembroke, North Carolina, which is a 90 percent Lumbee town, show 420 members, only one of which is non-Indian.

So how would you calculate the investment return on a Lumbee like the highly decorated Henry T. Locklear, the recipient of two Silver Star awards—or for that matter, on Mr. Adolph Dial, a World War II vet and also an author, former state legislator, and energetic leader in several Pembroke community service organizations? How do you calculate the larger return on this people who in 1958 collectively confronted the morally-bankrupt Ku Klux Klan and ran them out the state? How do you calculate the return of social good done in that effort?

The Lumbee must wonder why they can be recognized on the battlefield, in academic halls, or newspapers and radio, but not in our nation's capital.

Truly, we cannot be afraid to make a positive and fair investment in these people. The Lumbee must be puzzled why they hear about the United States giving $5 billion economic/military aid to Iraq during the 1980s, or to Jordan, who turned around and gave military intelligence to Mr. Hussein, or to a host of politically-strange dealings with authoritarian governments down south, but are then told that we cannot afford to invest in them. Should this cast of bizarre dictators and other undesirables be getting financial backing before our own American people? What do we tell the Lumbee? Yes?

So the 1915 McPherson report was submitted with its doubts of Lumbee eligibility. But even so, seeing the great need there, Mr. McPherson recommended that the Department grant agricultural and other technical aid to them. But the Department again opposed these actions—probably not wanting to stretch their already limited appropriation.

Between 1914 and 1934, four more bills were introduced to recognize the tribe. Again, a specialist, George Swanton, was sent to investigate. This time, the Lumbee Indian ancestry was endorsed. His report identified the Lumbee as descendants from the Cheraw and other Siouan speaking Indian tribes.[18] But the Department again resisted recognizing the tribe.[19]

The Wheeler-Howard Act of 1934 and the recommendations made to them from the Department of the Interior prompted the Lumbee to try to establish themselves as one-half or more Indian blood, and thereby be entitled under the act to draft up their own constitution, i.e., become Federally-recognized. This "blood" test is representative of the greater parade of demeaning "processes" suffered so long by Native Americans. Who but the most condescending of governments, after all they had already done to the American Indian, would actually make them go through tests to see how "Indian" they are!

These tests though, shed some interesting light on the nature of the relationship between the government and the American Indian. Remember that the government's policy was once (and would be again) an assimilation policy. So if you historically were a "good savage", and abided by the government's assimilation process, then you would actually have less of a chance of being eligible for government services now. On the other hand, the more effectively you had fought the government on integrating with whites, the better your chances would be now of being declared half or more Indian, and thus being recognized. So this "process" says, you would have been better off fighting against the government policy. These are the illogical results of the "process."

These tests subjected the Lumbee to all kinds of demeaning things, including measurement of head size and tooth and nail shape. Who decided these criteria anyway? This fiasco showed results listing one person qualifying as a "half-blood or greater" but some of his own brothers and sisters as "less than half-blood"![20] To this day, all these so-called tests have not helped the Lumbees. Their attempts to acquire a land base for organization, which was also a requisite under the act, were a failure, as bureaucracy and non-Indian opposition prevented government action in procuring land.

After this failure, the Lumbee again went back to Congress. They are in a like position right now. It had been over 70 years since the North Carolina state government had recognized them. What was wrong with the Federal government? A recognition bill was adopted that passed the House but received a critical wound in the Senate. One clause in a 1956 Senate amendment has been the cause of almost 40 years of misunderstanding and controversy. The Lumbee believed the bill gave them Federal recognition, but without services. The government apparently held that all the bill did was change the name of the tribe from "the Cherokee Indians of Robeson County" to "the Lumbee Indians of Robeson County." The controversy was brought to light in the early 1970's, when the Lumbee were denied exemption from a school desegregation order because they were not Federally recognized.

Thus when the 1978 recognition "process" was introduced, the Lumbee were found to be technically ineligible because of the Senate amendment in the 1956 Lumbee Act.

Other attempts were made at recognition which also failed in the mid-1970's, as bills were introduced arguing for the eligibility of the Lumbee to receive non-Federally recognized services. But the Department of the Interior would not move from their position and recognize the Lumbee.

This brings us to the 1980's and to where the Lumbee are today. In spite of the preventive language of the 1956 Lumbee Act, the tribe informally asked the Department whether they should try to petition through this latest recognition process. They were told informally that they do qualify and to proceed with the preparation of their petition.

The Lumbee began assembling their petition in earnest in 1980 and finished 7 years and $500,000 later. After 2 years of waiting and three broken deadlines for beginning work on their petition, the Department of the Interior had the gall to reverse its position and tell the Lumbee that they actually do not qualify to petition the government for Federal recognition.

Can you believe this?

After a decade of diligent work and patient waiting, the Department of the

Interior reversed their position. That is why we say that this is not a partisan issue. This issue is not about dividing lines between political parties. This is an issue of right and wrong. You cannot sit here and listen to these people plead the same cause that they have been pleading for over 100 years and assert that this is not a fundamentally moral issue.

I have said before that there comes a time when the "process" has to be sacrificed to correct an injustice. As my colleagues from Maine, California and other states will also attest, the "process" for these peoples means more waiting, more frustration, and possibly tribal break-up and collapse. The media has written about the "shrinking" or "disappearing Red man". Well, we have tried to "process" him out of existence, and it is time to recognize that the "process" has been and is, like Chairman MILLER says, "an abomination".

When my colleagues vote "yes" for Lumbee recognition, we are voting to help repair one of the larger broken bones in a greater sick and suffering body that is our relationship with today's Native Americans. And given that the Lumbee tribe is four times larger than the next biggest petitioner, this would be a significant repair. We may never see the day when the American Indian has an understanding and fair relationship with the Federal Government. But our duty demands that we try. Having the wisdom to see that the "process" is not working for the Lumbee and other tribes is a step in the right direction. I plead with my colleagues in the Congress to make this present Congressional "process" the last process the Lumbee will ever have to suffer again. Let us support H.R. 334 and let's answer the Lumbee Tribe's plea for recognition.

FOOTNOTES

[1] Taken from Crown's Book of Political Quotations, compiled by Michael Jackman. New York, Crown Publishers, [1990]. p. 205.

[2] Same source as 1, p. 147.

[3] This has reference to the 1890 Wounded Knee Massacre.

[4] Taken from "Dangerous Memories: Invasion and Resistance Since 1492." Chicago Religious Task Force on C.A., [1991]. p. 122.

[5] Same source as 4, p. 123.

[6] Testimony for S. 1036 and H.R. 1426, Lumbee Bills Joint Hearing. Senate select committee on Indian Affairs. House Interior and Insular Affairs. p. 7.

[7] Fisher, Marshall. "Bones of contention: Can Native Americans and Archaeologists find common ground?" Earthwatch, August, 1990, p. 6.

[8] Same source as 6, p. 7.

[9] The four legal avenues available to Indian groups seeking Federal Recognition are: A presidential decree, a judicial ruling, a Congressional act, or since 1978, the formal petition process through the Bureau of Indian Affairs. Although there is a "process" in place (the latter BIA process), there are still the three former legal avenues available to Indian groups.

[10] See "New ways to recognize tribes split Indians", August 4, 1991. Special to The New York Times. 1:1, p. 1, c. 1.

[11] Same article source as note 8. Entire article is on one page.

[12] Bock, Paula. "Girl Stumps Clinton with Tribal Question." The Seattle Times, February 21, 1993.

[13] Taken from CO Weekly Report 1991, p. 3389.

[14] CRS Report from Roger Walke to Del. Faleomavaega. October 18, 1991. It contains a correctional commentary on the said Congressman's own staff records of Lumbee efforts to obtain Federal recognition and CRS's own chronological table of these efforts. Also included is an attachment narrating the history of Lumbee related legislation. This quote is taken from page 1 of the narrative attachment.

[15] Same source as 14. p. 1. (Italics added).

[16] The McPherson Report concluded, in substance, that "the Lumbee are "in part, of undoubted Indian origin" but with no Indian names, language, or customs; to be an "amalgamation" of Hatteras Indians, the Lost Colony, early white settlers, and other races; and to have no treaty relations with the U.S., no tribal rights with other Indian tribes, and no lands or money due them ("Report on Condition . . . ", p. 16-17)." (Preceding quotation from CRS Report-Roger Walke, same source as 14). This is very strange when you contrast his report with Dr. Campisi's or Dr. Swanton's. McPherson seems to see the Lumbee as a kind of loose coalition of Indians with no real historical identity. Dr. Campisi and the greater body of anthropologists seem to have always recognized the Lumbee as a historically legitimate tribe.

[17] This statement is taken from Dr. Campisi's testimony before the Senate Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs in support of S. 1036 and H.R. 1436; August 1, 1991, p. 1.

[18] The Swanton Report was a Smithsonian opinion published at the request of the Department of Interior in 1933. In response to S. 1632, 73d Cong., 1st Sess., the Senate Committee on Indian Affairs asked the Department of Interior for comment. The memorandum identified the Lumbee as predominantly descendants of earlier "Siouan Tribes of which the most prominent were the Cheraw and Keyauwee" with other minor strains of perhaps Algonquians or Iroquians. He proposed the name "Siouan Indians of Lumber River" (H. Rept. [73-] 1752, p. 6). Same memorandum as 14. Roger Walke, CRS Report to Congressman Eni F.H. Faleomavaega.

[19] H.R. 5365 and S. 1632 were designed to accomplish three things. 1) Recognize the Indians of Robeson County as Cheraw. 2) Deny them rights in other tribes' lands or money. 3) Allow access to Bureau of Indian Affairs schools for Lumbee children. "The Department of Interior opposed the bill because it would entitle Robeson Indians to BIA services" (Walke 1991, 13). This is taken from an abstract by Roger Walke of CRS pertaining to the Interior's response on H.R. 5365 and S. 1632. Same memorandum as 14.

[20] A narrative chart of the events of Lumbee efforts to gain Federal recognition written up by Roger Walke at CRS give commentary on the strange nature of these tests. "These tests were so arbitrary that Selzer listed different blood quantums for full brothers and sisters" (Walke 1991, (Brief section) 2). Same source as note 14.

Mr. Speaker, at this time I want to give special recognition to Mr. Brian Nantos for the outstanding job that he provided to my office while he served as a summer intern two months ago. In fact, a substantial portion of the research in preparation of this special order was due to Mr. Nantos' hard work and diligence, and I commend him for his thoroughness and scholarly work on this important matter. I also want to thank Mrs. Nancy Leong, Ms. Kawen Young, Ms. Pela Enesi, Mr. Vili Le'i, Mr. Marty Yerick, and Mr. Ali'imau J.R. Scanlan of my staff for their assistance.

☐ 2110

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. NADLER) laid before the House the following communication from the President of the United States:

THE WHITE HOUSE,
Washington, DC, October 27, 1993.

The HON. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR GENTLEMEN: The "Health Security Act of 1993" holds the promise of a new era of security for every American—an era in which our nation finally guarantees its citizens comprehensive health care benefits that can never be taken away.

Today, America boasts the world's best health care professionals, the finest medical schools and hospitals, the most advanced research and the most sophisticated technology. No other health care system in the world exceeds ours in the level of scientific knowledge, skill and technical resources.

And yet the American health care system is badly broken. Its hallmarks are insecurity and dangerously rising costs.

For most Americans the fear of losing health benefits at some time has become very real. Our current health insurance system offers no protection for people who lose their jobs, move, decide to change jobs, get sick, or have a family member with an illness. One out of four Americans is expected to lose insurance coverage in the next two years, many never to be protected again. Altogether, more than 37 million Americans have no insurance and another 25 million have inadequate health coverage.

Rising health care costs are threatening our standard of living. The average American worker would be making $1,000 a year more today if health care accounted for the same proportion of wages and benefits as in 1975. Unless we act, health care costs will lower real wages by almost $600 per year by the end of the decade and nearly one in every five dollars Americans spend will go to health care.

Small businesses create most of the new jobs in America and while most want to cover their employees, more and more cannot. Under the current health care system, cost pressures are forcing a growing number of small business owners to scale back or drop health insurance for their employees. Small businesses spend 40 cents of every health insurance dollar for administration—eight times as much as large companies. And only one in every three companies with fewer than 500 workers today offers its employees a choice of health plan.

Our health care system frustrates those who deliver care. Doctors and nurses are drowning in paperwork, and hospitals are hiring administrators at four times the rate of health care professionals. The system places decisions that doctors should be making in the hands of distant bureaucrats. Its incentives are upside down; it focuses on treating people only after they get sick, and does not reward prevention.

Clearly, our challenges are great. This legislation is sweeping in its ambition and simple in its intent: to preserve and strengthen what is right about our health care system, and fix what is wrong.

Our needs are now urgent. A nation blessed with so much should not leave so many without health security.

This legislation draws upon history. It reflects the best ideas distilled from decades of debate and experience.

It reflects the sense of responsibility that President Franklin Roosevelt called for when he launched the Social Security program in 1933 and recommended that health care be included.

It reflects the vision of President Harry Truman, who in 1946 became the first President to introduce a plan for national health reform.

It reflects the pragmatism of President Richard Nixon, who in 1972 asked all American employers to take responsibility and contribute to their workers' health care.

And it reflects the ideas and commitment of generations of Congressional leaders who have fought to build a health care system that honors our nation's commitments to all its citizens.

Today America stands ready for reform. For the first time, members of both parties have agreed that every American must be guaranteed health care. An opportunity has been placed before us. We must not let it pass us by.

This legislation builds on what's best about the American health care system. It maintains and strengthens America's private health care. It extends the current system of employer-based coverage that works so well for so many. It protects our cherished right to choose how we are cared for and who provides that care. It invests in improving the quality of our care.

This legislation recognizes that America cannot, and need not, adopt one model of health care reform. It allows each state to tailor health reform to its unique needs and characteristics, as long as it meets national guarantees for comprehensive benefits, affordability and quality standards. It establishes a national framework for reform, but leaves the decisions about care where they belong—between patients and the health care professionals they trust.

Under this legislation, every citizen and legal resident will receive a Health Security card that guarantees the comprehensive benefits package. People will be able to follow their doctor into a traditional fee-for-service plan, join a network of doctors and hospitals, or become members of a Health Maintenance Organization. Like today, almost everyone will be able to sign up for a health plan where they work. Unlike today, changes in employment or family status will not necessarily force a change in health coverage.

The self-employed and the unemployed will receive their health coverage through the regional health alliance, a group run by consumers and business leaders, that will contract with and pay health plans, provide information to help consumers choose plans, and collect premiums. The largest corporations—those employing 5,000 workers or more—will have the option of continuing to self-insure their employees or joining a regional alliance.

The legislation is financed by three sources: requiring every employer and individual to contribute to paying the cost of health care; raising excise taxes on tobacco and requiring small contributions from large corporations which form their own health alliance; and slowing the growth in spending on federal health care programs. Enormous efforts have been made to ensure that the financing is sound and responsible.

The Health Security Act is based upon six principles: security, simplicity, savings, quality, choice and responsibility.

Security. First and foremost, this legislation guarantees security by providing every American and legal resident with a comprehensive package of health care benefits that can never be taken away. That package of benefits, defined by law, includes a new emphasis on preventive care and offers all Americans prescription drug benefits.

Under this legislation, insurers will no longer be able to deny anyone coverage, impose lifetime limits, or charge people based on their health status or age. The legislation also limits annual increases in health care premiums, and sets maximum amounts that families will spend out-of-pocket each year, regardless of how much or how often they receive medical care.

The legislation will preserve and strengthen Medicare, adding new coverage for prescription drugs. To meet the growing needs of older Americans and people with disabilities, a new long-term care initiative will expand coverage of home and community-based care.

The legislation also provides residents of underserved rural and urban areas with better access to quality care. It also offers incentives for health professionals to practice in these areas, builds urban-rural health care networks, and protects those doctors, hospitals, clinics and others who care for people in underserved areas.

Simplicity. To relieve consumers, businesses and health professionals of the burdens of excess paperwork and bureaucracy, this legislation simplifies our health care system. It requires all health plans to adopt a standard claim form; creates a uniform, comprehensive benefits package; and standardizes billing and coding procedures.

Savings. The legislation promotes true competition in the health care marketplace. It increases the buying power of consumers and businesses by bringing them together in health alliances. Health plans will no longer succeed by trying to pick only healthy people to insure; they will have to compete on price and quality. This competition will be backed up by enforceable premium caps.

This legislation also criminalizes health fraud, imposing stiff penalties on those who cheat the system. And it takes steps to reduce "defensive medicine" and discourage frivolous medical malpractice lawsuits by requiring patients and doctors to try to settle disputes before they end up in court, and by limiting lawyers' fees.

Quality. The legislation empowers consumers and health care professionals by providing information on quality standards and treatment results. It calls for new investments in medical research, including heart disease, bone and joint disease, Alzheimer's disease, cancer, AIDS, birth defects, mental disorders, substance abuse and nutrition. To help keep people healthy, rather than only treating them after they get sick, the legislation pays fully for a wide range of preventive services and offers new incentives to educate primary care doctors, nurses and other family practitioners.

Choice. Through comprehensive reform, the legislation gives Americans a new level of control over their health care choices. It ensures that people can follow their doctor and his or her team into any plan they choose to join. It transfers the choice of health plan from the employer to the individual, and guarantees a choice of health plans, including at least one traditional fee-for-service plan. Doctors and health professionals may participate in multiple health plans if they wish.

Responsibility. Under this legislation, every employer and individual will be required to pay for health coverage, even if that contribution is small. It extends the current employer-based system for financing health coverage—a system that now serves nine of every ten Americans who now have health insurance. To ensure affordability, small businesses, low-wage employers and low-income individuals and families will get substantial discounts.

This legislation will strengthen our economy. Our current system is so much more costly than any other system in the world, and the American people should not be asked to pay huge new taxes in order to afford health care reform. This plan raises no new broad-based taxes, but spends our health care dollars more wisely. It levels the playing field for small businesses, making it possible for them to insure their families and employees. It eases the tremendous burden of rising health costs on big business, helping them to compete for global markets. And by bringing the explosive growth in health costs under control, it sets us in the right direction of reducing our national debt.

The legislation restores common sense to American health care. It borrows from what works today, letting us phase in change at a reasonable pace and adjust our course in needed. It builds on what works best—and makes it work for everyone. Our task now is to work together, to leave behind decades of false starts and agree on health care reform that guarantees true security. The time for action is now. I urge the prompt and favorable consideration of this legislative proposal by the Congress.

Sincerely,

BILL CLINTON.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BATEMAN (at the request of Mr. MICHEL), for today, on account of illness.

Mr. ROYCE (at the request of Mr. MICHEL), for today, on account of illness.

Mr. PORTER (at the request of Mr. MICHEL), for Tuesday, October 26, on account of illness.

Mr. TAUZIN (at the request of Mr. GEPHARDT), for today and October 28, on account of personal business.

Mr. MYERS of Indiana (at the request of Mr. MICHEL), after 3 p.m. today, on account of family illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. DORNAN, for 60 minutes, today.

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. HORN, for 60 minutes, on October 28 and 29 and November 1 and 3.

Mr. KOLBE, for 60 minutes, on November 2, 3, 4, 5, 8, 9, 10, 15, and 16.

(The following Members (at the request of Mr. NADLER) to revise and extend their remarks and include extraneous material:)

Mr. MONTGOMERY, for 5 minutes, today.

Mr. SABO, for 5 minutes, on October 28.

Mr. HINCHEY, for 5 minutes, on October 28.

Mr. FALEOMAVAEGA, for 60 minutes, today.

Mr. FINGERHUT, for 60 minutes, on October 28.

(The following Member (at the request of Mr. DOOLITTLE) to revise and extend his remarks and include extraneous material:)

Mr. LEACH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. CALVERT.
Mr. GOODLING in three instances.
Mr. CRANE in two instances.
Mr. FRANKS of New Jersey.
Mr. PORTER.
Mr. PACKARD in two instances.
Mr. FISH.
Mr. RAMSTAD.
Mr. DORNAN in two instances.

(The following Members (at the request of Mr. NADLER) and to include extraneous matter:)

Mr. FORD of Michigan.
Mr. STARK.
Mr. MONTGOMERY.
Mr. LAROCCO.
Mr. NEAL of Massachusetts.
Mr. HAMILTON, in two instances.
Mr. BONIOR.
Mr. MANN, in two instances.
Mr. MINGE.
Mr. ACKERMAN.
Mrs. THURMAN.
Mr. STRICKLAND.
Mr. HUGHES.
Mr. DOOLEY.
Mr. BARLOW.
Mr. TANNER.
Mr. DEFAZIO.

(The following Members (at the request of Mr. FALEOMAVAEGA) and to include extraneous matter:)

Mr. POMEROY.
Mr. PARKER.
Mr. MENENDEZ.
Mr. PASTOR.
Mr. PICKLE.
Mr. KYL.
Mr. FORD of Michigan.
Ms. LONG.
Mr. HENCHEY.
Mr. TRAFICANT.
Mr. COPPERSMITH.
Mr. SANTORUM.
Mr. BONIOR.
Mr. BUYER.
Mr. SPENCE.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1534. An Act to amend title 38, United States Code, to repeal a requirement that the Under Secretary for Health in the Department of Veterans Affairs be a doctor of medicine.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2403. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1994, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H.J. Res 228. Joint resolution to approve the extension of nondiscriminatory treatment with respect to the products of Romania.

H.R. 2491. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 328 An act to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM.

H.R. 2750. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 2519. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

H.J. Res. 281. Joint resolution making further continuing appropriations for the fiscal year 1994, and for other purposes.

ADJOURNMENT

Mr. FALEOMAVAEGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 18 minutes p.m.), the House adjourned until tomorrow, Thursday, October 28, 1993, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2061. A letter from the Acting Assistant Secretary of Education, transmitting Notice of Final Funding Priority—Rehabilitation Research and Training Center on Rehabilitation in the Pacific Basin, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2062. A letter from the Acting Inspector General, Department of the Interior, transmitting a copy of a final audit report entitled "Accounting for Fiscal Year 1992 Reimbursable Expenditures of Environmental Protection Agency Superfund Money, Bureau of Reclamation," Report No. 93-I-1599, dated September 1993, pursuant to 31 U.S.C. 7501 note; to the Committee on Energy and Commerce.

2063. A letter from the Chairman, U.S. Merit Protection Board, transmitting the fiscal year 1993 annual report as required by the Inspector General Act Amendments of 1988, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALL of Ohio: Committee on Rules. House Resolution 286. Resolution providing for consideration of the bill (H.R. 334) to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes (Rept. 103-309). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 287. Resolution making further continuing appropriations for the fiscal year 1994, and for other purposes (Rept. 103-310). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS (for himself and Mr. SCHUMER):

H.R. 3375. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to local educational agencies for the purpose of providing assistance to such agencies most directly affected by crime and violence; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. FORD of Michigan (for himself, Mr. GOODLING, Mr. CLAY, Mr. PETRI, Mr. MILLER of California, Mr. GUNDERSON, Mr. MURPHY, Mr. CUNNINGHAM, Mr. KILDEE, Mr. WILLIAMS, Mr. MARTINEZ, Mr. SAWYER, Mr. PAYNE of New Jersey, Mrs. UNSOELD, Mr. ANDREWS of New Jersey, Mr. SCOTT, Mr. ROMERO-BARCELÓ, Mr. DE LUGO, and Mr. UNDERWOOD):

H.R. 3376. A bill to make certain technical and conforming amendments to the Higher Education Act of 1965; to the Committee on Education and Labor.

By Mr. HUGHES:

H.R. 3377. A bill to authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes; to the Committee on Natural Resources.

By Mr. GEKAS:

H.R. 3378. A bill to amend title 18, United States Code, with respect to parental kidnapping, and for other purposes; to the Committee on the Judiciary.

By Mr. HUGHES:

H.R. 3379. A bill to amend section 156 of title 35, United States Code, to provide for the interim extension of patents subject to that section; to the Committee on the Judiciary.

By Mr. BONILLA (for himself, Mr. ORTIZ, Mr. STENHOLM, Mr. TEJEDA, Mr. PETE GEREN of Texas, Mr. MCKEON, Mr. LIGHTFOOT, Mr. ARMEY, Ms. Pryce of Ohio, Mrs. Fowler, Mr. Emerson, Mr. DeLay, Mr. Smith of Texas, Mr. McInnis, Mr. Buyer, Mr. Pombo, and Mr. Calvert):

H.R. 3380. A bill to amend the Federal Water Pollution Control Act to provide for consideration of the ability of an applicant for a stormwater permit to pay, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BREWSTER:

H.R. 3381. A bill to provide for the continued sale of power by Federal power marketing agencies to preference entities using power at military installations selected for closure; to the Committee on Natural Resources.

By Mr. GORDON:

H.R. 3382. A bill to amend the Higher Education Act of 1965 to prevent an institution from participating in the Pell grant program if such institution has a high default rate under the Guaranteed Student Loan Program; to the Committee on Education and Labor.

By Mr. ACKERMAN:

H.R. 3383. A bill to amend title 10, United States Code, to establish a program to place members of the Armed Forces who are separated from the Armed Forces in employment positions with law enforcement agencies to relieve shortages of law enforcement officers and to provide employment for displaced military personnel; jointly, to the Committees on Armed Services and the Judiciary.

By Mr. KYL (for himself and Ms. English of Arizona):

H.R. 3384. A bill to repeal certain provisions of law relating to trading with Indians; to the Committee on the Judiciary.

By Mr. LEACH (for himself and Mr. Bachus of Alabama):

H.R. 3385. A bill to protect the integrity of the Nation's financial system from international counterfeiting and economic terrorism, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Foreign Affairs, and the Judiciary.

By Mr. McCRERY (for himself and Mr. Boehlert, Mr. Crapo, Mr. Jefferson, Mr. Oberstar, Mr. Wolf, Mr. Payne of Virginia, and Mr. Combest):

H.R. 3386. A bill to amend the Internal Revenue Code of 1986 to delay the effective date for the change in the point of imposition of the tax on diesel fuel, to provide that vendors of diesel fuel used for any nontaxable use may claim refunds on behalf of the ultimate users, and to provide a similar rule for vendors of gasoline used by State and local governments; to the Committee on Ways and Means.

By Mr. MEEHAN (for himself and Mr. Neal of Massachusetts):

H.R. 3387. A bill to suspend temporarily the duty on Neurolite (complete dosage kits); to the Committee on Ways and Means.

H.R. 3388. A bill to suspend temporarily the duty on Cardiolite (complete dosage kits); to the Committee on Ways and Means.

By Mr. NEAL of Massachusetts:

H.R. 3389. A bill to amend the Federal Deposit Insurance Act to require insured depository institutions to provide notify customers who purchase mutual funds on the premise of the institution that such mutual funds are not insured deposits, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RUSH:

H.R. 3390. A bill to provide assistance to local elementary schools through its local educational agency for the prevention and reduction of conflict and violence; to the Committee on Education and Labor.

By Mr. SANGMEISTER:

H.R. 3391. A bill to restore eligibility for burial in national cemeteries to unremarried surviving spouses; to the Committee on Veterans' Affairs.

By Mr. SLATTERY (for himself, Mr. Bliley, Mr. Rowland, Mr. Hall of Texas, Mr. Cooper, Mr. Paxon, Mr. Upton, Mr. Lehman, Mr. Tauzin, Mr. Pomeroy, Mr. Bereuter, Mr. Canady, Mr. Williams, Mr. Frank of Massachusetts, Mr. Barrett of Nebraska, Mr. Barlow, Mr. McHugh, Mr. Swett, Mrs. Vucanovich, Mr. Jefferson, Mr. Hunter, Mr. Grandy, and Mr. Walsh):

H.R. 3392. A bill to amend the Safe Drinking Water Act to assure the safety of public water systems; to the Committee on Energy and Commerce.

By Mr. STRICKLAND:

H.R. 3393. A bill to amend the provisions of title 39, United States Code, relating to the franking privilege for Members of Congress, and for other purposes; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. KLUG (for himself, Mr. Boehner, Mr. Bonilla, Mr. Grams, Mr. Greenwood, Mr. Gilchrest, Mrs. Johnson of Connecticut, Mr. Ramstad, Mr. Roberts, Mr. Santorum, Mr. Shays, Mr. Smith of Texas, and Mr. Zimmer):

H.R. 3394. A bill to amend title 5, United States Code, to require disclosure of information by the Congress; jointly, to the Committees on House Administration and Government Operations.

By Mr. TAUZIN (for himself, Mr. Condit, Mr. Stenholm, Mr. Laughlin, and Mr. Hayes):

H.R. 3395. A bill to require the preparation of risk assessments in connection with Federal health and safety or environmental regulations, and for other purposes; to the Committee on Energy and Commerce.

By Mr. NATCHER:

H.J. Res. 283. Joint resolution making further, continuing appropriations for the fiscal year 1994, and for other purposes; to the Committee on Appropriations.

By Mr. DeFAZIO (for himself, Mr. Abercrombie, Ms. Furse, Mr. Lipinski, Mr. Hinchey, Mr. Sanders, Ms. Woolsey, and Mr. Hamburg):

H.J. Res. 284. Joint resolution to amend the War Powers Resolution; jointly, to the Committees on Foreign Affairs and Rules.

By Mr. DEUTSCH:

H. Con. Res. 171. Concurrent resolution concerning the heroic rescue of Danish Jews in World War II by the Danish people; to the Committee on Post Office and Civil Service.

By Mr. BONILLA (for himself, Mr. Armey, Mr. Stenholm, Mr. Lewis of California, Mr. Penny, Mr. Fields of Texas, Mr. Cooper, Mr. Barton of Texas, Mr. Glickman, Mr. Smith of Texas, Mr. Parker, Mr. Cox, Mr. Gutierrez, Mr. Hobson, Mr. Coppersmith, Mr. Bunning, Mr. Boehner, Ms. Margolies-Mezvinsky, Ms. Pryce of Ohio, and Mr. Grams):

H. Res. 288. Resolution requiring the committees of the House of Representatives to report legislation to include the Congress under certain employment and civil rights laws; jointly, to the Committees on House Administration, Ways and Means, Education and Labor, Government Operations, and the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 31: Ms. Eshoo, Mr. Berman, and Mr. McDermott.

H.R. 44: Mr. Conyers, Ms. Long, Mr. Mineta, and Mr. Wynn.

H.R. 115: Mr. Bonior and Mr. Reed.

H.R. 144: Mr. Boehner.

H.R. 145: Mr. Armey.

H.R. 324: Mr. Andrews of New Jersey.

H.R. 417: Mr. Hochbrueckner and Mr. Gingrich.

H.R. 431: Ms. Velázquez.

H.R. 647: Mr. Bilbray.

H.R. 649: Mr. Frank of Massachusetts.

H.R. 786: Mr. Goss and Mr. Reed.

H.R. 789: Mr. Markey and Mr. Neal of North Carolina.

H.R. 1048: Ms. Byrne and Mr. Underwood.

H.R. 1120: Mr. McHale.

H.R. 1164: Mr. Meehan.

H.R. 1168: Mr. Holden.

H.R. 1181: Mr. Fields of Texas and Mr. Deal.

H.R. 1239: Mr. McHale.

H.R. 1240: Mr. Parker.

H.R. 1295: Mr. Fazio, Mr. Stearns, Mr. Hayes, Mr. Torkildsen, Mr. Stump, Mr. Pete Geren of Texas, Mr. Baesler, Mr. McMillan, and Mr. Matsui.

H.R. 1314: Mr. Hoagland.

H.R. 1391: Mr. Stark, Mr. Ravenel, Mr. Matsui, Mr. Rose, and Mr. Yates.

H.R. 1453: Mr. Hansen, Mr. Orton, and Ms. Shephard.

H.R. 1455: Mr. Mineta.

H.R. 1504: Mr. McMillan.

H.R. 1551: Mr. Bacchus of Florida and Mr. Darden.

H.R. 1687: Mr. Dooley.

H.R. 1900: Mr. Wyden, Mr. Andrews of Texas, and Ms. Lambert.

H.R. 1928: Mr. Santorum.

H.R. 1981: Mr. Pete Geren of Texas and Mr. Darden.

H.R. 1986: Ms. Brown of Florida.

H.R. 2043: Mr. Lewis of Georgia.

H.R. 2076: Ms. Kaptur.

H.R. 2157: Mr. Bachus of Alabama.

H.R. 2231: Mr. Tucker.

H.R. 2232: Mr. Tucker and Mr. McHale.

H.R. 2357: Mrs. Morella.

H.R. 2396: Mr. Armey.

H.R. 2457: Ms. Furse.

H.R. 2499: Mr. Walsh, Mr. Smith of Texas, and Mr. Barca of Wisconsin.

H.R. 2556: Mr. Levy.

H.R. 2571: Mr. Rahall, Mr. Pete Geren of Texas, Mr. Darden, Mr. Sanders, and Mr. Bishop.

H.R. 2592: Mr. Peterson of Minnesota, Mr. Romero-Barceló, Mr. Underwood, and Mr. Fish.

H.R. 2613: Mr. Frank of Massachusetts.

H.R. 2623: Mr. Calvert, Mr. Wise, and Mr. Boehlert.

H.R. 2641: Mr. Barca of Wisconsin.

H.R. 2676: Mr. Gutierrez.

H.R. 2708: Mr. Hefner.

H.R. 2709: Mr. Dicks, Mr. Klein, Ms. Molinari, and Mr. Zimmer.

H.R. 2758: Mr. Gilman and Mr. Gallegly.

H.R. 2788: Ms. Pelosi.

H.R. 2872: Mr. Saxton and Mr. Dreier.

H.R. 2886: Mrs. Vucanovich, Mr. Baker of Louisiana, Mr. Kolbe, Mr. Stearns, and Mr. Talent.

H.R. 2896: Mr. Fish.

H.R. 2929: Mr. Lehman, Mr. Diaz-Balart, and Mr. Kingston.

H.R. 2936: Mr. Dellums.

H.R. 2938: Mr. DELLUMS.

H.R. 2951: Mr. HAYES.

H.R. 3006: Ms. FURSE.

H.R. 3025: Mr. DELLUMS, Ms. SHEPHERD, and Mr. STARK.

H.R. 3026: Mr. DELLUMS, Ms. SHEPHERD, and Mr. STARK.

H.R. 3065: Mr. FISH, Mr. HASTERT, Mr. DUNCAN, and Mr. CRANE.

H.R. 3086: Mr. TALENT and Mr. PETRI.

H.R. 3087: Mr. BARCA of Wisconsin, Mr. ENGLISH of Oklahoma, Mr. SMITH of Michigan, Mr. LEVY, Mr. SISISKY, Mr. LEWIS of Georgia, Ms. SCHENK, and Mr. MINGE.

H.R. 3088: Mr. KING, Mr. LaFALCE, Mr. PARKER, Mr. McHUGH, Mr. HOEKSTRA, Mr. ENGLISH of Oklahoma, Ms. PELOSI, Mr. SCOTT, and Mr. ROMERO-BARCELÓ.

H.R. 3098: Mr. BARRETT of Wisconsin, Mrs. JOHNSON of Connecticut, Mr. TORKILDSEN, Mr. MENENDEZ, Mr. SLATTERY, Mr. ROEMER, and Mr. FARR.

H.R. 3101: Mr. SOLOMON.

H.R. 3121: Mr. JEFFERSON, Mr. SERRANO, Ms. PELOSI, Mr. RAHALL, Mr. McDERMOTT, and Mr. HALL of Ohio.

H.R. 3125: Mr. BARTON of Texas and Mr. LaFALCE.

H.R. 3206: Mr. GENE GREEN of Texas.

H.R. 3208: Mr. BARRETT of Wisconsin.

H.R. 3238: Mr. JACOBS.

H.R. 3265: Mr. HOUGHTON.

H.R. 3272: Mr. McDERMOTT, Mr. TUCKER, and Mr. DEUTSCH.

H.R. 3341: Mr. GILMAN.

H.J. Res. 28: Mr. SANDERS.

H.J. Res. 37: Mr. DEAL.

H.J. Res 79: Mr. CLAY, Ms. DUNN, Mr. HALL of Texas, Mr. HALL of Ohio, Mr. HOYER, Mr. FRANKS of New Jersey, Mrs. FOWLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MAZZOLI, Mr. MATSUI, Mr. VISCLOSKY, Mr. WYNN, Mr. HUNTER, Mr. SAXTON, and Mr. MILLER of California.

H.J. Res 95: Mr. UNDERWOOD.

H.J. Res. 113: Mr. DEAL and Mrs. FOWLER.

H.J. Res. 131: Ms. SLAUGHTER, Mr. MATSUI, and Mr. McDERMOTT.

H.J. Res. 188: Mr. GEJDENSON, Mr. GENE GREEN of Texas, and Mr. GUNDERSON, Mr. HORN, Mr. MACHTLEY, Mr. OLVER, Mr. PASTOR, Mr. SOLOMON, Mr. STUMP, Mr. BARTLETT of Maryland, Mr. BLACKWELL, Mr. MANTON, Mr. HOYER, Mr. CONDIT, Mr. GUTIERREZ, Mr. HINCHEY, Mr. STENHOLM, Mr. WISE, Mr. CARR, Ms. DeLAURO, Mr. FIELDS of Texas, Mr. MFUME, Mr. FORD of Tennessee, and Mr. NEAL of Massachusetts.

H.J. Res. 191: Mr. DELLUMS and Mr. LIPINSKI.

H.J. Res. 209: Mr. HUTTO, Mr. GREENWOOD, Mr. LEACH, and Mr. PALLONE.

H.J. Res. 237: Mr. DEUTSCH, Mr. HILLIARD, and Mr. MENENDEZ.

H.J. Res. 242: Mr. EVANS.

H.J. Res. 254: Mr. EMERSON and Mr. GALLO.

H. Con. Res. 56: Ms. VELÁZQUEZ and Miss COLLINS of Michigan.

H. Con. Res. 110: Mr. CALLAHAN, Mr. KLEIN, Mr. FOGLIETTA, Mr. HOUGHTON, and Ms. SLAUGHTER.

H. Con. Res. 147: Ms. VELÁZQUEZ.

H. Con. Res. 169: Mr. HUGHES, Mr. ANDREWS of Maine, Mr. HOCHBRUECKNER, and Mr. TORKILDSEN.

H. Res. 38. Ms. SLAUGHTER.

H. Res. 247: Mr. KOLBE.

H. Res. 270: Mr. SHAW, Mr. GOODLATTE, and Mr. GRAMS.

SENATE—*Wednesday, October 27, 1993*

(Legislative day of Wednesday, October 13, 1993)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL FORD, a Senator from the State of Kentucky.

The PRESIDING OFFICER. Today's prayer will be offered by the guest chaplain, the Reverend William F. Burrough, Washington Farm United Methodist Church, Alexandria, VA.

PRAYER

The guest chaplain, the Reverend William F. Burrough, Washington Farm United Methodist Church, Alexandria, VA, offered the following prayer:

Let us pray:

O Lord, we come to Your throne of grace with praise and adoration as we assemble in Your name. We confess that we are easily deterred from placing You before the work You have given us. Indeed, we have done those things which we ought not to have done, and we have left undone those things which we should have done, and Thy health is not in us. Forgive us, and set our feet on Thy paths this day.

We give Thee praise for all who have devoted their lives to this country, especially those in this Chamber. You know their needs, motives, hopes and fears, and we ask Your direction.

Especially do we pray for family members who have special needs and burdens heavy to support; we remember our constituents who suffer and are in special need today.

Finally, we ask You to give special strength to all elected and appointed officials of this land, especially our President and the Governors of our States. May the Members of this Senate be under Your special protection, in Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 27, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:40 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Chair, in his capacity as a Senator from Kentucky, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The time until 9:30 shall be under the control of the Senator from Illinois [Ms. MOSELEY-BRAUN] and the Senator from Idaho [Mr. KEMPTHORNE] or their designees.

The Senator is recognized.

Mr. KEMPTHORNE. Thank you very much, Mr. President.

I was just on the phone with Senator MOSELEY-BRAUN, who has had an illness in the family and will not be able to join us this morning. I know all of us join in wishing her the very best, and our prayers are that everything will be well with her family.

NATIONAL UNFUNDED MANDATES DAY

Mr. KEMPTHORNE. Mr. President, today is a significant day. Today is National Unfunded Mandates Day. Today, over 1,000 mayors, county commissioners, and Governors will be meeting in front of their townhalls, the courthouses, and statehouses, and they will be discussing with their citizens the problems with unfunded Federal mandates.

Congress for too long, Mr. President, has had a habit of passing a bill and then passing the buck—passing it to the States and the local units of government. But there is a growing sense, Mr. President, that something is going to finally be done about this.

There have been efforts here in the legislature, and there have been some very positive signs from the White House. Yesterday, President Clinton issued an Executive order to deal with one of the most significant problems facing America's communities, and that is unfunded Federal mandates. I applaud President Clinton for his effort.

With the issuing of this Executive order, as in the reinventing Government report, the President, as a former Governor, shows that he, too, is aware of the heavy burden unfunded Federal mandates place on the shoulders of local government. I applaud the President for joining the fight against unfunded Federal mandates. It is, indeed, a great step forward.

But more must be done. The Congress must pass legislation that eliminates unfunded Federal mandates. Simple "fiscal note" legislation has not engendered the support of State and local governments, and it will not get their support now. It does no good to tell a city or county government how much a mandate will cost if they do not have the money to pay for it.

Philadelphia Mayor Ed Rendell describes unfunded Federal mandates as "an issue that's killing us." He went on to say that there is no issue that impacts Americans more that they know less about.

And in Chicago, Mayor Rich Daley says that Federal mandates and regulations cost his city more than $160 million a year. He says ultimately those costs are passed along to the taxpayer in "higher taxes and fewer services."

It does not matter whether you are talking to a mayor of a big city or a small town, their reaction to the unfunded Federal mandates is almost always the same. They tell you that the Federal Government, through the imposition of unfunded mandates, has many communities teetering on the brink of bankruptcy.

Avoiding unfunded Federal mandates does not mean that local communities want to avoid their responsibilities. They are eager to carry out their responsibilities. We are reminded continually in news reports that Congress chooses to ignore the financial plight of local governments when they pass wide-ranging legislation without having to face any fiscal responsibility for their action.

If the Federal Government feels another mandate is necessary, cost effective, and enhances the well-being of

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

our citizens, then the Federal Government, our Government, should pay for it. It is very straightforward.

To make individual cities come up with funds on their own to comply with those Federal mandates tries to pretend that those local citizens do not already pay Federal taxes. Since I first introduced the Community Regulatory Relief Act of 1993, intended to end the costly burden of unfunded Federal mandates, our Nation's local elected officials from communities large and small, and Members of Congress from both parties, have recognized the importance of supporting this legislation.

Currently, more than 350 cities and towns have passed resolutions supporting National Unfunded Mandate Day. Today, more than 1,000 cities and counties across America will participate to bring this issue home to their citizens.

As a former Governor, President Clinton has said he will consider supporting this effort because, "I do not want us up there on the Hill supporting bills to load up a bunch of new burdens on the mayors and the Governors when they are broke."

The President is right. All too often as local governments struggle to comply with Federal mandates they must make the difficult decision between eliminating or postponing needed services in the community, decisions such as not adding police officers or firefighters or needed infrastructure because the money that would be used is now going to pay for unfunded Federal mandates. Really there is no choice in the matter because the Federal mandate has been dictated by the Federal Government and compliance is demanded.

The U.S. Conference of Mayors, in a report issued yesterday, says that unfunded Federal mandates contribute approximately 12 percent of their budget. Twelve percent of their budget is going to pay for unfunded Federal mandates.

Yesterday, in a press conference, the U.S. Conference of Mayors issued this report. It is a report called, "Impact of Unfunded Federal Mandates on U.S. Cities." Over 30 cities participated in this report, which was compiled by Price Waterhouse.

In addition to pointing out all of the burdens of unfunded mandates, they also addressed what would you do in your community if those funds were still available to you, the local money, instead of being used for Federal mandates.

Let me read just a few examples of what some of these communities have said.

In Los Angeles, California they stated:

> The cost of unfunded federal mandates has had a detrimental impact on the City's ability to provide essential services to the people of Los Angeles. City resources which are presently being used to comply with federal mandates would be used to hire and train more police, which is the City's first priority. The City would also dedicate these revenues toward overall enhancement of a variety of other public safety programs.
>
> Next year, Los Angeles will be faced with a $200 million budget deficit. Use of mandate compliance funds would allow the City to forego across the board cuts in services, such as libraries, parks and street maintenance, and would avert impending lay-offs of hundreds of city employees.

The idea that the Federal Government should not be paying for Federal mandates because "we do not have the money" begs the question. The cities do not have the money. The responsibility should lie with those entities that are putting the regulation in place.

Another example—

From Merced, CA:

> Our City recently cut 30.5 positions in order to balance our 1993-94 budget. For the next fiscal year, the City faces another $1.5 million shortfall which has yet to be funded. By our own estimates, we expect to incur $1.4 million in unfunded federal mandate expenditures in 1993/94. Clearly, if the City was not faced with these costs we would be in far better shape to balance our budget without sacrificing current service levels.

Mr. President, I reserve the remainder of my time and at this point yield the floor to the Senator from Delaware.

The ACTING PRESIDENT pro tempore. Does the Senator yield so much time to the Senator from Delaware that he has?

Mr. KEMPTHORNE. Mr. President, I yield 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized for 5 minutes.

UNFUNDED FEDERAL MANDATES

Mr. ROTH. Mr. President, I would like to thank the Senator from Idaho for his leadership in helping to raise this issue on the Senate agenda. As a former mayor, Senator KEMPTHORNE brings to it a particular sensitivity and credibility.

Today has been declared National Unfunded Mandates Day by State and local government organizations across the country.

As they rightfully point out, the Federal Government has through the years imposed many regulatory and other legal requirements on these governments.

In order to comply, State and local officials often find they must shift scarce financial resources from their own priorities, to those of Washington. This does violence to our cherished notions of representative government. Citizens expect their local governments to deal with those problems the community has defined to be of importance.

They do not expect city hall to focus on so-called national problems, as defined by Congress. Nor do they want the cost of local services—and as a result, their local taxes—driven up by decisions made in Washington, DC.

Also, Federal regulations by their very nature treat diverse communities uniformly. The regulators generalize about the existence and seriousness of a particular problem. They mandate that its resolution be a high priority everywhere. And then they prescribe a standardized, one-size-fits-all solution.

Unfunded Federal mandates have been an issue of concern to State and local governments for some time. It could get worse, because of the serious nature of the budget deficit. There is no money to add new Federal programs, services, or benefits. This will increase the temptation by Congress to require others to pick up that burden.

We saw this phenomenon at work most recently, with enactment of the motor-voter legislation—another unfunded mandate on the States, courtesy of the Federal Government.

This is a real problem that the Federal Government must address. Believing this, last November I wrote to President-elect Clinton, urging that the issue of unfunded Federal mandates be included in any "reinventing Government" effort. This past June, I requested that the mandates issue be a subject of hearings before the Governmental Affairs Committee.

In July, the chairman of the committee, Senator GLENN, responded affirmatively. Our committee will be holding its first such hearing next Wednesday. More hearings on this and other concerns dealing with Federal regulation will probably be held early next year.

I am also pleased to be a cosponsor of S. 993, Senator KEMPTHORNE'S legislation to address the unfunded mandates problem.

I recognize that the problem is not an easy one to resolve. There are difficult questions surrounding even the definition of an unfunded mandate. Should that definition, for example, include a program in which a State's participation is legally optional?

Whether the proper solution is to absolve States and cities of responsibility for unfunded mandates, or to give them more flexibility in meeting those requirements, or to require that the costs of compliance be estimated before congressional enactment—these and other approaches should all be considered.

This is a problem Congress must address. I look forward to next week's hearing, and the others that will follow, in order to fully explore the various issues and alternatives.

Again, I congratulate and thank the Senator from Idaho for his leadership in this most important issue.

I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I would like to thank the Senator from Delaware for adding his strong voice and the very valid points he has raised with regard to this issue of unfunded

Federal mandates. To have his support is certainly significant.

Mr. President, I also ask unanimous consent with regard to Senate bill 993, that Senator ROTH be added as a cosponsor, as well as Senator BOREN, Senator D'AMATO, Senator GORTON, Senator GRASSLEY, Senator HATCH, Senator JOHNSTON, Senator NUNN, and Senator SHELBY.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I would also like to point out, as I was earlier, some of the other communities and what they would be doing with the money at the local level if it were not being utilized to carry out the Federal mandates.

In Norwalk, CT, they stated, "Increased or improved education programs and services have been foregone" because of the unfunded Federal mandates.

In Fort Lauderdale, FL—unfortunately we all know some of the problems that Florida is currently experiencing with regard to crime—Fort Lauderdale states, "the $7.6 million spent to meet Federal mandates equates to 153 police officers."

In Hollywood, FL, they state:

> Unfunded Federal mandates have impeded the city of Hollywood's ability to fund a variety of projects necessary for the growth of the city. Such projects include a host of infrastructure activities, not the least of which is beach revitalization and downtown revitalization, the quality of life issues, the essential issues that are so important at the local level.

In the city of Atlanta:

> The city would be in a better position to address its infrastructure needs, such as aging and deteriorating sewers, bridges, roads and viaducts. Furthermore, some funding would be available to address an overburdened and overcrowded criminal justice system, particularly courts and detention facilities. Moreover, additional funds would be available to provide more affordable housing in our community. Finally, more emphasis could be placed on training employees to improve the overall management of city government and thereby enhance the quality of life for our citizens.

In Northbrook, IL, they state:

> Adding a third fire station has been a subject of great local debate for the last 10 years. One major factor which has prevented funding is concern over the impacts of unfunded mandates. Thus, mandates are diverting resources from life-safety investments for almost intangible risks.

Mr. President, these examples show us that whether it is a large city or a small city, it is all the same. Cities of America are teetering on a financial brink. We need to help them.

Mr. President, I ask unanimous consent that pertinent sections of the U.S. Conference of Mayors' unfunded Federal mandates survey be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX A.—SURVEY BACKGROUND

RESOLUTION

Mayors meeting this summer in New York City for the 61st Annual Conference of Mayors adopted a resolution calling on Congress and the President "to oppose any regulation, policy proposal or legislative bill which mandates programs and responsibilities on state and local governments without full federal funding." The resolution, submitted by Philadelphia Mayor Edward Rendell, also called on Congress and the President "to perform risk assessment and cost-benefit analyses on all legislation which requires mandates on state and local governments."

Over the past decades Washington has produced dozens of pieces of legislation creating hundreds of costly regulations which must be satisfied by state and local governments. According to the U.S. Advisory Commission on Intergovernmental Relations, 22 statutes imposing new regulations on states and localities or significantly expanding programs were enacted during the 1970s; during the 1980s, 27 such statutes were added. And during the 1980s, the ACIR reports, Congress also attached new conditions to many exiting grant programs.

The costs of implementing the regulations imposed by all of this legislation have not been assumed by the federal government; instead, the costs have been passed down to the local level. Washington's practice of imposing, but not funding, costly mandates on local governments, coupled with the dramatic cuts made in federal urban aid over the past decade, has added significantly to the already serious financial problems of these governments.

RESEARCH

A few recent studies of the impact of unfunded mandates reflect the magnitude of the problem.

In 1992, nine cites in Ohio—including Cleveland, Columbus and Akron—published a joint report documenting the costs they would be forced to pay over the next 10 years to meet federal environmental mandates. The total in 1992 dollars was $2.85 billion, or approximately $2,136 per household. The City of Columbus reported that by 1996, compliance with environmental mandates is projected to require 23.1 percent of its total budget.

A 1992 study by the City of Chicago indicated that the City would spend over $95 million that year for capital improvements required by federal and state environmental mandates. More than 45,000 staff hours would be consumed. Chicago estimates that between 1992 and 1995, $319,240,373 will be expended on unfunded environmental mandates alone.

The Municipality of Anchorage estimated that for the period 1991–2000, costs of existing federal environmental regulations would total $429,936,737. Its January 1993 report stated that Clean Water Act compliance would be the most expensive for Anchorage, accounting for 36 percent of real and projected costs.

A July 1993 report by the ACIR states that good data on the cumulative financial costs of federal regulations imposed on state and local governments is not available. The best estimates, from the Congressional Budget Office, indicate that new regulations enacted between 1983 and 1990 imposed cumulative costs of between $8.9 and $12.7 billion on states and localities, depending on the definition of mandates used. These estimates are acknowledged to be approximate and generally conservative.

NATIONAL UNFUNDED MANDATES DAY

The resolution adopted by the mayors in June also called for a "National Unfunded Mandates Day," a day on which mayors of all cities would conduct simultaneous press conferences in their city halls to heighten awareness of the tremendous costs the unfunded mandates were imposing on city residents. The resolution directed the President of the Conference of Mayors to appoint a committee to plan for "NUM-Day" and to coordinate with other associations representing local government.

On July 20, in a press conference in Chicago's City Hall, the President of the Conference, Louisville Mayor Jerry Abramson, announced that Chicago Mayor Richard Daley would chair the National Task Force on Unfunded Federal Mandates; vice chairs named by Abramson were Mayors Rendell of Philadelphia, Richard Riodan of Los Angeles, Greg Lashutka of Columbus, and Wellington Webb of Denver.

SURVEY

One week later, Abramson announced that Price Waterhouse had been selected by the Conference to report to the nation in the fall on the costs of unfunded federal mandates. The mayors had determined that any effort to call attention to the federal mandate problem and gain popular support for legislation to end unfunded mandates—such as that introduced by Idaho's Senator Dirk Kempthorne, the former Mayor of Boise, and sponsored in the House by California Representative Gary Condit—would have to be supported by national data on the actual costs of the mandates to local taxpayers. Price Waterhouse was selected from among several major accounting and auditing firms to work with the Conference on the design and conduct of a survey of the more than 1,000 U.S. cities with populations over 30,000 (i.e., those served by the Conference).

On August 12, in a press conference in Washington, leaders of four organizations representing local governments nationwide—the Conference, the National League of Cities, the National Association of Counties and the International City/County Management Association—announced that National Unfunded Mandates Day would be Wednesday, October 27. They also announced that the National Association of Counties would be working with Price Waterhouse in a survey of mandate impact in counties across the nation, and the county survey would be released along with the Conference's survey of cities prior to October 27.

On August 20, a letter to mayors from Mayors Abramson and Daley informed them of the October 27 date for NUM-Day and asked them to participate in the Conference's survey on unfunded mandate impact. The letter clarified the purpose of NUM-Day and the survey: "It is important to understand that mayors have not come out in opposition to the goals of all of the mandates; most are worthy goals for this nation. But what mayors have been saying, and will continue to say, is that the Congress should no longer be handing down mandates without money, no longer dictating local spending priorities through their mandates."

Because survey response time available to the cities would be limited, only 10 mandates were selected for study. It was believed that most cities would be able to assemble some data on many, if not all, of the 10 in time to meet the survey deadline. The survey covered Underground Storage Tanks, the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act, Asbestos Abatement, Lead Paint Abatement, the Endangered Species Act, the Americans with Disabilities Act, and the Fair Labor Standards Act.

The survey called for three basic types of information; first, cost information for each of the federal mandates selected for study; second, related information on the problems created by the mandates and on the programs and services the city has had to forego because of the local resources absorbed by the mandates; and third, for those cities which have been named "potentially responsible parties" in Superfund clean-up costs, data on legal and other costs incurred.

For each mandate in the survey, city officials were asked to provide:

An all-inclusive estimate of the hours city employees spent in Fiscal Year 1993 in any function related to compliance, and for the costs that those hours represented. Respondents were instructed to keep separate any overtime hours for employees considered to be exempt from the Fair Labor Standards Act—professional, executive or administrative—and to report those under FLSA.

An estimate of all direct and indirect costs incurred in Fiscal Year 1993 across all departments for any function related to compliance. This could include office supplies, postage, contractual services, equipment amortization, printing, conferences and travel, training, computer maintenance, workers' compensation, liability insurance, outside attorneys' fees consultants' fees, staff overtime, compensatory time under FLSA, etc.

A projection of total costs, capital and operating, for Fiscal Years 1994 through 1998. For this period, the annual inflation rate projected by the Congressional Budget Office is 2.7 percent.

While the total costs calculated by cities were to include both operating and capital costs, these two basic cost categories were not broken out in the survey. It is important to recognize that federal mandates require significant capital spending. In the City of Louisville, for example, the mandates reported cost $11,882,340 in 1993 operating funds plus $2,708,200 in capital expenditures. In Cleveland, the mandates required $5,840,616 in operating funds plus $6,403,000 in capital expenditures. In Beaumont it was about $3,026,000 in operating costs and $460,000 in capital costs.

DESCRIPTION OF UNFUNDED FEDERAL MANDATES INCLUDED IN SURVEY

The survey collects cost data on the following ten unfunded mandates:

(1) *Underground Storage Tanks*—The federal Underground Storage Tank law regulates tanks which store petroleum and hazardous substances, preventing, detecting and correcting damage done by leaks and spills. Many local governments are required to regulate tanks in their jurisdictions and also are responsible for tanks they own and operate.

(2) *Clean Water Act*—This federal statute regulates discharges into navigable waters, setting standards for improving and maintaining water quality, regulating and requiring permits for point source discharges, and controlling discharges to public waters by Publicly Owned Treatment Works and direct discharges by industry. It requires sewerage authorities to assume a wide range of responsibilities.

(3) *Clean Air Act*—This is the primary federal statute governing air emissions from stationary and mobile sources, setting air quality standards, requiring state implementation plans in which local governments must participate, and requiring permits for all major sources of pollution. For those cities in non-attainment areas it requires that a number of corrective activities be undertaken.

(4) *Resource Conservation and Recovery Act*—Enacted in 1976 as the primary federal statute regulating solid and hazardous waste, RCRA completely replaced the Solid Waste Disposal Act of 1965 and supplemented the Resource Recovery Act of 1970. RCRA itself was substantially amended by the Hazardous and Solid Waste Amendments of 1984.

(5) *Safe Drinking Water Act*—The primary statute regulating drinking water standards, the Act establishes maximum levels for contaminants which are known to occur in public water systems, certifies appropriate analytical techniques, specifies appropriate treatment techniques and establishes public notification procedures, among other activities. It requires drinking water suppliers to assume a wide range of responsibilities.

(6) *Asbestos Abatement*—There is a wide range of federal requirements for handling asbestos-containing materials (ACMs) in properties or buildings undergoing rehabilitation or demolition, and for treating asbestos in school buildings. Regulations cover inspection, removal, transportation, disposal and worker exposure, among other areas.

(7) *Lead Paint Abatement*—Under the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992), local governments responsible for federally assisted housing must assess, inspect, reduce or abate lead hazards in such housing.

(8) *Endangered Species Act*—This Act provides for the conservation, protection, restoration and propagation of species of fish, wildlife and plants facing extinction. Various federal agencies work to implement the Act by monitoring potential destruction of natural habitats by public or private sector projects in communities.

(9) *Americans with Disabilities Act*—Title II of the ADA, which covers public services, (a) prohibits discrimination on the basis of disability in state and local government employment and services; (b) requires that all new buses be accessible and that supplementary paratransit services or other special transportation services be provided to individuals with disabilities who cannot use fixed-route bus services; (c) requires that all new rail vehicles and all new rail stations be accessible and that existing rail systems have one accessible car per train (by July 26, 1995), and that existing key stations in rapid rail, commuter rail and light rail systems also must be accessible, unless an extension is granted; and (d) requires that every local government with 50 or more employees designate an ADA coordinator and complete a self-evaluation, unless this was already done under Section 504, and complete a transition plan (by July 26, 1992).

(10) *Fair Labor Standards Act*—FLSA establishes and sets the minimum wage and specifies a range of labor practices, including overtime compensation, for both the public and private sectors.

APPENDIX B—SUPERFUND COSTS TO CITIES

The U.S. Conference of Mayors analyzed the survey responses on superfund costs to cities. Following is a summary of the results.

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), popularly known as Superfund, holds any party that disposed of any waste in a Superfund site liable for its entire clean-up. This liability system—known as strict, joint and several liability—makes local governments liable for the clean-up of sites contaminated by industrial hazardous waste, even when the local government only disposed of normal household garbage at the site.

The liability structure of Superfund allows for corporations found liable for clean-up to sue local governments to recapture the cost of a portion of the site. The average cost of a Superfund site clean-up is $25–30 million, and local governments have become prime targets for recapturing clean-up costs.

Over 450 local governments have been sued by industrial polluters for sending regular household municipal solid waste and sewage sludge for landfills that eventually became Superfund sites. Local governments are liable for clean-up caused by industrial pollution whether the local government was a generator, transporter, owner or operator of a site at any time. Settlement costs can vary dramatically from city to city depending on whether the city serves as an owner/operator (with potentially large liability) or as a generator/transporter where settlements can be smaller if relatively small volumes of waste have been disposed at the site. Because municipal waste tends to be "generated" by cities in large volumes, even cities that do not own sites have been sued for millions of dollars for picking up their citizens' trash.

Cities were asked whether they had been notified by the Environmental Protection Agency that they were "potentially responsible parties," potentially liable for Superfund clean-up costs. Those that had been notified were asked for information on (1) the level of potential liability for which they were being sued; (2) the costs to date (legal, environmental consulting, city staff, etc.) they had incurred as a PRP; and (3) a description of the settlement, if the city had settled lawsuits with other PRPs or with the EPA.

Forty-nine of the cities responding to the survey indicated that they had been named as PRPs. Table A-1 summarizes their responses to the questions on potential liability, costs incurred and settlements.

In addition to the cities listed on the chart, seven cities indicated that while they were PRPs, their costs had not yet been incurred, had not yet been determined, or were otherwise not known. These cities: Chicago, IL; Ft. Pierce, FL; Knoxville, TN; Lafayette, IN; North Tonawanda, NY; Pico Rivera, CA; and Racine, WI.

TABLE B–1.—RESPONSES REGARDING SUPERFUND COSTS

City	Liability	Cost incurred	Settlement
Fairbanks, AK	$3.2 million	$4,000	$61,969 (proposed).
Phoenix, AZ	Site I: $60 million	Site I: $5 to $6 million	Site I: City filed suit against several PRP's and recovered approximately $29 million.
	Site II: $30 to $60 million	Site II: $4 to $5 million	Site II: City filed suit against one PRP and recovered $1 million plus 40 percent of future costs; may file against other PRPs in the future.
	Site III: unspecified	Site III: less than $100,000	Site III: None to date.

TABLE B–1.—RESPONSES REGARDING SUPERFUND COSTS—Continued

City	Liability	Cost incurred	Settlement
Scottsdale, AZ	$1 million (est.)	$800,000 (est.)	$50,000 (The City is committed to pay this amount. The City received a groundwater clean-up project worth $35 to $50 million in settlement of claims against PRPs.)
Tucson, AZ		$3 million	
Antioch, CA	$100 million	$40,000	
Los Angeles, CA	Exposure is in the hundreds of millions	Tens of millions; certain cost components are either confidential or not readily determinable.	The City has reached several multimillion dollar settlements. Exact figures are confidential.
San Leandro, CA	$5 million plus	$200,000 plus	
Santa Monica, CA	$50,000	$75,000	$50,000.
Temple City, CA	$2 million plus	$305,644	
Colorado Springs, CO (3 sites)	$110,000 (only one lawsuit to date)	$60,000 (est.)	$295,000 (one site).
Shelton, CT		$10,000 per year (ongoing for about 6 yr)	
Torrington, CT		$2,500	
Boca Raton, FL		$20,000	
Fort Lauderdale, FL		$1 million plus	
Orlando, FL		$13,042	$723.
Sarasota, FL		$12,345	
Tampa, FL		$79,465	
Quincy, IL	$1,200,000	$350,000	
Bloomington, IN	$100 million	$5.5 million (mostly legal costs)	$100 million (Settlement with other PRP resulted in that party being responsible for clean-up of PCB sites.)
Columbus, IN		$416,059	
Lafayette, LA	$2 million		
Haverhill, MA	$5 million	$200,000	
Flint, MI		$2,000	$3,000 (This relates to PCB transformer oil disposed of at Rose Chemical in Missouri. This is a one-time payment to reduce further liability.)
Grand Rapids, MI	$15 to $20 million (est.)	$1.5 to $2 million	
Kalamazoo, MI	$8.5 million (est.)	$140,000 (1993 only)	$1.3 million (one of three sites).
Sterling Heights, MI		$5,000	
Warren, MI		$3 million	
Independence, MO			$18,767.
Greensboro, NC	De minimus		
Greenville, NC		$7,140	
Jersey City, NJ	$3.1 million	$1.328 million	
Lakewood, NJ		$1.3 million	
Cleveland, OH	$10 million		
Dayton, OH	$39 million	$75,000	
Moore, OK	De minimus	$40,000	$6,100.
Altoona, PA	$1.5 million (est.)	$1 million	
York, PA	$6 million	$2 million	$3 million.
Chattanooga, TN	$1 million	$50,000	
Salt Lake City, UT	$1.1 million (We are currently being threatened with a suit by a PRP for this amount. However, EPA does not believe we are responsible, and we do not anticipate paying.).	$5 million	$85,000.
Portsmouth, VA	$27 to $34 million	$45,000	
Suffolk, VA	$300,000	$1.2 million	
Madison, WI	$10 to 15 million	$983,000	$400,000.

At this time, I would like to yield 5 minutes to the Senator from South Dakota.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized for 5 minutes.

UNFUNDED FEDERAL MANDATES

Mr. PRESSLER. Mr. President, I will not use the 5 minutes, but I do rise in strong support of this legislation and congratulate my colleague from the State of Idaho for his leadership.

In my State, government leaders of small cities, towns, and counties, as well as State government officials, frequently discuss with me the problems that are caused by unfunded Federal mandates. It is a serious issue which we must deal with in this Congress.

I ask unanimous consent to print in the RECORD several resolutions from South Dakota communities expressing their opposition to unfunded Federal mandates.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION NO. 7—NATIONAL UNFUNDED MANDATES DAY

Whereas, the number of unfunded federal mandates on counties and cities have significantly increased during the last decade, while many federal programs, which were made available to local governments to ease the burden of carrying out federal mandates, have been terminated or drastically reduced; and

Whereas, such mandates stem from federal laws and regulations that require counties and cities to provide services and programs, and perform certain responsibilities without providing federal funding for such services; and

Whereas, by shifting costs to counties and cities, unfunded federal mandates breach the underlying principles of federalism which assumes a working partnership and shared responsibilities between the federal, state and local governments; and

Whereas, American citizens are unaware of the impact of unfunded mandates on local services and their won local taxes; and

Whereas, risk assessment is an essential component to any cost-benefit analysis of mandates and should be included in all bills that impose mandates on counties and cities: Therefore, be it

Resolved, Bennett County urges Congress and the Administration to enact legislation that would relieve counties and cities of all obligations to carry out any new mandate arising from federal law, regulation or policy unless federal funds are provided; and be it further

Resolved, That Congress and the Administration are urged to enact legislation to reimburse local governments for the costs of complying with existing federal mandates; and be it further

Resolved, That Congress and the Administration are urged to include in any future mandate, a provision that requires federal departments and agencies to provide scientifically sound assessments of purported health, safety or environmental risk prior to the imposition of any new mandate on local governments; and be it further

Resolved, That Bennett County supports a "National Unfunded Mandates Day" to be held October 27, 1993, during which county officials in all counties will be urged to hold press conferences in coordination with local and state officials to draw public attention to the problems imposed on counties by unfunded federal mandates.

RESOLUTION

Whereas, the number of unfunded federal mandates on counties and cities have significantly increased during the last decade while many federal programs, which were made available to local governments to ease the burden of carrying out federal mandates, have been terminated or drastically reduced; and

Whereas, such mandates stem from federal laws and regulations that require counties and cities to provide services and programs, and perform certain responsibilities without providing federal funding for such services; and

Whereas, by shifting costs to counties and cities, unfunded federal mandates breach the underlying principles of federalism which assumes a working partnership and shared responsibilities between the federal, state and local governments; and

Whereas, American citizens are unaware of the impact of unfunded mandates on local services and their own local taxes; and

Whereas, risk assessment is an essential component to any cost-benefit analysis of mandates and should be included in all bills that impose mandates on counties and cities: Therefore be it

Resolved, Douglas County urges Congress and the Administration to enact legislation that would relieve counties and cities of all obligations to carry out any new mandate arising from federal law, regulation or policy unless federal funds are provided; and be it further

Resolved, That Congress and the Administration are urged to enact legislation to reimburse local governments for the costs of complying with existing federal mandates; and be it further

Resolved, That Congress and the Administration are urged to include in any further mandate, a provision that requires federal departments and agencies to provide scientifically sound assessments of purported health, safety or environmental risk prior to the imposition of any new mandate on local governments; and be it further

Resolved, That Douglas County supports a "National Unfunded Mandates Day" to be held October 27, 1993, during which county officials in all counties will be urged to hold press conferences in coordination with local and state officials to draw public attention to the problems imposed on counties by unfunded federal mandates.

Dated at Armour, South Dakota, this 5th day of October, 1993. Commissioner Stern seconded the motion to adopt the foregoing resolution. Upon roll call vote the following commissioners voted "aye": VanZee, Ymker, Spaans, Stern and Will. Voting "naye": None.

RESOLUTION NO. 1993–54

Whereas, the federal government of the United States continues to pass more and more legislation each year that places state and local governments under a seemingly endless stream of programs, red tape, and regulations; and

Whereas, the federal government continues to pass more and more of their financial responsibility for the implementation of these programs and regulations on to state and local governments; and

Whereas, these federally mandated, but unfunded, programs and regulations overshadow and override local priorities, requiring undue financial burdens on local government to fund federal programs first, leaving little or no revenues left to address local needs: Now, therefore, be it

Resolved, That the City of Hot Springs joins the United States Conference of Mayors, the National League of Cities, the National League of Counties, the American Water Waters Association, the International City Management Association, and many other fine national civic organizations in declaring October 27, 1993, as National Unfunded Mandates Day; and be it further

Resolved, That the City of Hot Springs demands that the federal government of the United States cease in developing any new programs or regulations without first providing the financial tools and resources to implement such programs and regulations.

RESOLUTION NO. 10–93

Whereas, the number of unfunded federal mandates on counties and cities have significantly increased during the last decade, while many federal programs, which were made available to local governments to ease the burden of carrying out federal mandates, have been terminated or drastically reduced; and

Whereas, such mandates stem from federal laws and regulations that require counties and cities to provide services and programs, and perform certain responsibilities without providing federal funding for such services; and

Whereas, by shifting costs to counties and cities, unfunded federal mandates breach the underlying principles of federalism which assumes a working partnership and shared responsibilities between the federal, state and local governments; and

Whereas, American citizens are unaware of the impact of unfunded mandates on local services and their own local taxes; and

Whereas, risk management is an essential component to any cost-benefit analysis of mandates and should be included in all bills that impose mandates on counties and cities: Therefore be it

Resolved, That Lyman County urges Congress and the Administration to enact legislation that would relieve counties and cities of all obligations to carry out any new mandate arising from federal law, regulation or policy unless federal funds are provided; and be it further

Resolved, That Congress and the Administration are urged to enact legislation to reimburse local governments for the costs of complying with existing federal mandates; and be it further

Resolved, That Congress and the Administration are urged to include in any future mandate, a provision that requires federal departments and agencies to provide scientifically sound assessments of purported health, safety or environmental risk prior to the imposition of any new mandate on local governments.

Mr. PRESSLER. I yield the floor.

Mr. KEMPTHORNE. Mr. President, I do indeed thank the Senator from South Dakota for his support on this entire effort of unfunded Federal mandates. In fact, it is time to stop the practice of unfunded Federal mandates.

There have been those who have suggested that somehow we would not carry out our responsibilities then as a nation if we do not require this and put the burdens at the local and the State level.

There was a report put out in the city of Chicago by Rich Daley, being the mayor of Chicago who was here yesterday who met with the President, who met with the majority leader, the Republican leader of the Senate, who met with other Members of the Senate. In this report, which is called "Putting Federalism to Work for America: Tackling the Problems of Unfunded Mandates and Burdensome Regulations," I would like to reference, Mr. President, just one paragraph that I think states it very well. It says:

> It is important to note that this report does not seek to challenge the merits of individual Federal mandates and regulations. Indeed, most mandates seek to advance socially laudable goals that are as unassailable as mom and apple pie. Yet, their accumulated weight has made it nearly impossible for local governments to prioritize among the residents' most pressing needs. Municipal officials, closest to the most difficult problems afflicting the Nation, must be accorded the flexibility to prioritize among and address critical issues.

I think that helps us with this whole issue. It is not to stop mandates. If a mandate is well-founded, Mr. President, it ought to be funded, but it ought to be funded by the Federal Government if it is a Federal mandate.

We focused a great deal of discussion this morning on the plight of cities and counties and States, but it also is a shared problem with the schools throughout the United States.

Boyd Boehlje, who is the president-elect of the National School Boards Association stated:

> The Federal Government's increasing practice of requiring, but not funding, programs or services that local school boards are directed to implement is hurting schoolchildren. The money could be put to better use to buy textbooks, computers, science lab equipment and provide training for teachers and administrators. We are most concerned with the eventual result of the unfunded mandates which is the very children Congress is trying to protect are the ones who are hurt most often by proliferation of unfunded mandates.

"The very children Congress is trying to protect are the ones who are hurt most often by proliferation of unfunded mandates."

Mr. President, it is impacting all branches of government at the State and local level. We need to join the thousands of mayors, county commissioners, and Governors, for bringing about a unified voice saying, loud and strong, to Congress: "We are not saying stop the mandates, we are saying stop unfunded mandates. If you are going to impose that responsibility on us, provide the funds so that we can carry them out."

There is an idea that somehow if the Federal Government cannot provide it, we should shift that burden to someone else, as though there are different groups of taxpayers, as though there is a group of Federal taxpayers and then there is a different group of State taxpayers. Then there is a different group of local taxpayers. We know that is not true, Mr. President. There is one taxpayer. It is the American taxpayer, whether that taxpayer pays it in the form of the local tax or the State tax or the Federal tax. Mr. President, we ought to be up front and we ought to have the responsibility. This is the only way we can truly address the national priorities of this Nation, by stopping unfunded mandates.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KEMPTHORNE. I yield 5 minutes to the senior Senator from California.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized for up to 5 minutes.

Mrs. FEINSTEIN. I thank the Chair.

AWARENESS OF THE EFFECTS OF UNFUNDED MANDATES

Mrs. FEINSTEIN. Mr. President, I would like to join with the Senator from Idaho in making a comment with respect to unfunded Federal mandates. I do so not only as a Senator, but I do so as a former mayor for 9 years and as a former member of a local legislative body, the Board of Supervisors for the City and County of San Francisco. For

18 years as a member of local government, I watched the Federal Government begin to develop unfunded mandates. Perhaps, for me, the biggest unfunded mandate was the clean water program, which necessitated in my city in 1979 a major effort to build a $2 billion new wet weather sewer system which was funded at the local level by a sewer service charge.

My point, Mr. President—and I think the point of the Senator from Idaho and others in this body—is that the Federal Government cannot be big brother to local and State governments and say you must do this; this is the law, but we will provide no method of funding for carrying out that law.

Local governments—and let me now speak as a Californian—in the wake of proposition 13, which was passed in 1978, are prevented from raising revenues that are necessary to fund local expenses. The property tax has been the major method for funding local governments in the State of California, a State of almost 32 million people. That property tax rate today is frozen. Therefore, local jurisdictions have no way of raising the necessary funds to comply with Federal mandates unless funds accompany those mandates.

It seems to me that there ought to be awareness of this fact in the Senate and in the House. Unfortunately, in the short time I have been here, I see that the awareness is not always present, that there is still an egregious tendency to say, local government, you must do this. You must protect these endangered species; you must examine those underground storage tanks, and you must find a way to pay for it.

In fact, that is impossible.

I found, and I think it is interesting to note, that of the 52 San Francisco city departments over which I had jurisdiction, 50 percent of all of the available property tax dollars we had went to support three departments—the police department, the fire department, and the municipal railway. All the other departments had to come from the remaining 50 percent, and the largest single escalating cost to my local government was the health department, which went in the 9 years I was mayor from about $90 million to almost $400 million in cost with no additional ability to fund it. And yet State and Federal mandates said in order to accredit a general hospital, you must increase staff by X amount, and we had to find a way to fund it.

That kind of decisionmaking has simply got to stop, and there has to be an awareness that if the Federal Government is going to tell another level of government what to do, the Federal Government must come up with the money to enable that government to carry out the mandate.

I thank the Senator from Idaho.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair would entertain a motion from the Senator from Idaho that the remainder of the time be placed under his control.

Mr. KEMPTHORNE. Mr. President, I make such a request.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KEMPTHORNE. I thank the Chair.

I wish to thank the Senator from California for her strong support on this issue, and also to acknowledge her work as mayor of San Francisco. She knows the burden of these unfunded mandates, so I appreciate having the Senator speak.

Mr. President, I now yield 5 minutes to the Senator from Georgia.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized for 5 minutes.

DEALING WITH UNFUNDED MANDATES

Mr. COVERDELL. Mr. President, I appreciate the comments of the distinguished Senator from California, and I appreciate the Senator from Idaho for bringing this issue so forcefully to the forefront. These Senators have firsthand knowledge of the effect of unfunded mandates because, as the Senator from California acknowledged, they were on the front line, in the trenches, trying to deal with these unfunded mandates.

Several days ago, I was speaking in this Chamber with regard to retroactive taxation, and I revisited many of the comments made by perhaps our most distinguished forefather, Thomas Jefferson.

I wish Thomas Jefferson was here today to help us with this debate because I believe he, along with all of the other distinguished forefathers of this Nation, would find the nature of unfunded mandates to be reprehensible and in total violation of the concept of the separation of powers and duties that were originally envisioned to be those of the Federal Government and those of the State and local government. If there was ever an example of the erosion of the fundamental principles under which our people are to be governed, it is embraced in the concept of unfunded mandates.

Here we have a Federal Government for which specific powers were designated and put in place, and it has begun the process of ordering, instructing local governments to carry out its view and vision of what ought to be done and then has the audacity to say you go find out how to do it. We are not going to assist in the funding of the project or instruction.

No matter how laudable the goal may be, this is a fundamental violation of the separation of powers.

The Federal Government cannot take much pride in the fact that it has spent every dime it has and $4.5 trillion it does not have. I believe this is at the essence of where this breakdown began, because we have so much debt and so many pressures to do things that the Federal Government found an escape hatch: Well, we will assuage, we will calm down all the special interests pressing for us to do things, pass it off to a local government and make them pay for it.

(Mrs. FEINSTEIN assumed the chair.)

Mr. COVERDELL. The American people are going to unravel this, as you called it, Madam President, "egregious" mistake in the near term and there is going to be a near revolution over it. Ten percent at a minimum of everyone's property tax bill is a direct result of unfunded mandates. We have begun to appropriate the property tax base, the venue of local governments, and we are beginning the process of doing to local governments what we have done to ourselves in the Nation's Capitol.

In a coastal county of Georgia, Liberty County, a small county, at a recent public hearing they estimated 30 percent of their budget goes to pay for unfunded Federal mandates. Glynn County, another coastal county, 42 percent of their total budget is now brought about by State and Federal mandates. The National Conference of State Legislators says that there are 172 Federal laws now that require funding from the local level but for which there is no money flowing from Washington, the ultimate arbitrator or instructor to these local governments.

We have spent a lot of time in the 103d Congress talking about jobs.

It is estimated that already some 3 million jobs have been lost because of unfunded mandates, pressures on local governments that rob them of their own revenues to do the things that they feel are their own priorities which we have reordered in Washington, which is costing them jobs at home.

Madam President, in closing let me simply say there are probably now 10 different proposals attacking unfunded mandates. This is Unfunded Mandates Day. Thousands of local officials across our land are beginning the revolution to bring an end to this fundamental wrong and flaw in our system.

I commend all local mayors, county commissioners, school board members, and superintendents who are going to their people, because it is the only way we are going to stop this, and making them aware of what is happening and how it is reordering their own community priorities and how it is a violation of the fundamental separation of our duties as well as our powers.

I support the good Senator from Idaho in his efforts and call on his colleagues across the Nation to join him today in calling to the attention of the Nation a wrong that must be righted right here in the Nation's capital.

I yield the floor.

Mr. KEMPTHORNE. Madam President, I wish to thank the Senator from

Georgia for the strong partnership he has on this issue of stopping unfunded Federal mandates.

MANDATES

• Ms. MOSELEY-BRAUN. Mr. President, we all know the Federal Government is in serious fiscal trouble. Our annual deficits have exceeded $300 billion, and our national debt is now over $4.3 trillion.

One of the results of this sea of red ink has been that the Federal Government is increasingly inclined to practice a kind of trickle-down economics. Because the Federal Government does not have the money to solve problems, it proposes solutions, and then requires State and local governments to find much of the money necessary to implement those solutions. The Federal Government mandates States and local governments to solve problems, without providing the money needed to fund those solutions.

Now, I didn't like trickle-down economics as it was originally proposed. I thought trickle-down economics benefited the rich at the expense of middle-class and poor Americans.

I don't like the mandates variant of trickle-down economics any more than I like the original. Requiring hard-pressed State and local governments to fund programs mandated by the Federal Government is not good Government. It is not fair to State and local governments, and it is not fair to the American people.

Vice President GORE's report on reinventing Government identified 172 unfunded Federal mandates, and these mandates have serious consequences for my State and for units of local government throughout my State.

The city of Chicago, for example spends over $160 million per year to comply with just 50 of the 172 mandates identified by the Vice President. Chicago spends $27 million per year just on paperwork associated with Federal mandates and regulations. These figures, as large as they are, do not include the costs incurred by other units of local government operating in Chicago. The Chicago Sanitary District, the Regional Transportation Authority, and the Chicago Transit Authority, and the county government also all have to commit major local resources to complying with unfunded Federal mandates.

And other cities around my State, and the State itself, have the same problem. They, too, have to spend substantial taxpayer dollars to comply with unfunded Federal mandates.

For the first time, this year, my own State of Illinois spent more on health care than on education. Unfunded Federal mandates are, in part, responsible for that fact.

Mr. President, I am the first one to say that many of the mandates involve very important public purposes. However, the issue is not whether our objectives are sound. Rather, the issue relates to the methods we use to pursue those objectives.

We need to fund federally mandated benefits at the Federal level. We need to stop funding federally mandated benefits with State and local tax dollars.

I am very pleased, Mr. President, that the Vice President is asking the President to issue a directive limiting the use of unfunded mandates by the administration. However, more needs to be done. Congress itself must act.

There are a number of steps Congress should consider. One of the most basic is to ensure that we have the information to make good decisions on mandates issues.

I come from a background in State and local governments, where the mandates issues has been receiving serious attention for a long time. But when I arrived here in Washington, I found that most of the Federal Establishment was totally unaware of the impact that Federal mandates have on State and local governments. In fact, the situation was even worse than that. Much of the Government does not even know what a mandate is.

I have introduced a bill, S. 563, that attempts to end that state of affairs. It does not prohibit the Federal Government from issuing new mandates, nor does it repeal any existing Federal mandates. Instead, it simply requires that the Senate have information on any mandates in proposed legislation before it when the legislation is considered by the full Senate.

The legislation adds a section to committee reports on proposed bills. This new section, which would be prepared by the Congressional Budget Office, would include information on:

First, the cost to State and local governments of complying with any Federal mandates in the reported bill, and

Second, the extent to which Federal funds, either contained in the bill or Otherwise, cover the costs of complying with the mandates.

In addition, the legislation requires the Congressional Budget Office to issue an annual report on the cumulative costs of complying with Federal mandates in all enacted bills, together with an analysis of the extent to which Federal funds cover the costs of complying with the mandates.

That would be a modest step forward, Mr. President, but it would make a real difference. It would help end the current budgetary disconnect where the Federal Government makes the decisions on benefits, but State and local governments are left to pay for them.

I want to congratulate my colleague from Idaho, Senator KEMPTHORNE, for his leadership on the mandates issue. He has worked tirelessly to raise the attention of our colleagues and the entire Federal Government to the issue of unfunded Federal mandates.

I also want to congratulate him for his efforts on national unfunded Federal mandates day. He knows, as I do that this day is just a beginning, and that the hard work will come when Congress begins work on reauthorizing some of the major Federal mandates programs, like the Safe Drinking Water Act, and other major Federal mandates ranging from the education area—where the Federal Government provides only about 10 percent of the elementary and secondary school budget nationally—to solid waste disposal, to procurement procedures, to asbestos removal.

Mr. President, the issue of unfunded Federal mandates is not a liberal issue or a conservative issue. Rather, it is a federalism issue. This country was founded on the principle that there should be no taxation without representation. What that means to me, in the mandates context, is that those who have to vote the taxes ought to have a say in how those taxes are spent.

That doesn't sound like a revolutionary thought to me. In fact, it is just common sense. And that, at its heart is what the mandates issue is—just common sense.

I do not underestimate the difficulty of legislating common sense, but this is one area where I think we must try. The practice of unfunded Federal mandates must stop.•

Mr. KEMPTHORNE. Madam President, I yield 5 minutes to the senior Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. CRAIG. Thank you, Madam President.

Let me also thank my colleague from Idaho for developing this special order to talk about a very special issue that has been largely ignored for a good many years in the Congress of the United States as we went about the business of passing laws and inflicting the authority and the power of the Federal Government on local units of government by suggesting, for all the right reasons, that they ought to be doing things differently, but failing in all of the right reasons to recognize the kind of impacts we were having on the ability of those governments to function under their constitutional responsibilities and to serve the constituents that they had their own mandates to serve.

It is with those thoughts in mind that I come to the floor this morning to recognize my colleague from Idaho, who was once a mayor in our capital city of Boise, in Idaho, and began to recognize very early on that it was very difficult for many as a mayor to function.

As the Presiding Officer this morning notes, she, too, was a mayor of a major city in this country. And every time you turn to do something that your constituents want, you find there is a phenomenal financial responsibility or burden to do something your Federal Government wants. And local units of government, be they State or county or city, began to be put aside between what we in Washington have suggested or mandated that they do versus what they feel it is their responsibility and right to do.

Also, it became very evident by the late sixties and into the early seventies, as mandates began to grow, that we here at this level, choosing not to tax at this level for our desires of what we wanted to do in relation to what we wanted to spend, were pushing that off to local units of government, saying, You do this. What we were really saying is, You raise the taxes. You generate the revenue to fund the programs that we tell you you have to have. Oh, all for the good of the citizenry in this country, but all of it having some form of impact.

My colleague from Idaho came to Washington a year ago recognizing how burdensome that responsibility had been and what we were doing and immediately started a crusade by introducing legislation and gaining cosponsors and going to the National Conference of Mayors and lifting the visibility and the recognition of this important problem. I congratulate him for doing what is legislatively responsible by forcing us to rethink what we are doing.

When I first came to Congress a good number of years ago now, I was conscious of our problems. And the reason I was was because I had been a State legislator. In my first year in the State of Idaho, I remember voting on a bill that told county governments they had to do something. And a year later a county commissioner from one of our rural counties came to Boise to the State legislature. I had known him in our private lives and we visited. I said, "Did you find that law that we passed difficult to implement?"

He said, "Well, yes we did." He said, "We would have had to have raised taxes at the county level to do what the State was telling us to do, and as a county commissioner, I knew I could not do that because in public land States like Idaho and in this particular county where 90 percent of the property base is owned by the Federal Government and only 10 percent is owned by private citizens, that county source of revenue came from the property base. Largely," he said, "we just simply could not raise the money."

I said, "What did you do?"

"Well," he said, "we fired a snowplow operator." He said, "We decided we would not plow the snow during the winter in the outlying ranching areas because the State told us we had to fund that program."

What I found out was that what I thought I was doing in the name of goodwill and responsibility had, in reverse, inflicted a complication and a difficulty on rural, outlying families because their rural roads could no longer get plowed. It was not the county commissioner's fault. They had to make tough decisions because the State of Idaho had told them they had to do this.

The Federal Government is continually telling county, city, and State governments they have to do things. And those units of government are raising billions of dollars annually to meet Federal mandates.

I am glad the President signed the Executive order. I am glad our Senator lifted the visibility of this issue. But I hope this administration recognizes that the Executive order ought to mean something. When they talk about health care, when they talk about anything else at the White House or in the executive branch as to new programs and new ideas, all designed to help people, they had better ask: What are we going to force the States to do and the counties and the cities? Is that going to be a mandate? And, if it is, are you, in fact, going to be in violation of your own Executive order, Mr. President?

We ought to be asking ourselves the same question because it is clearly now an escapism on our part, getting our headlines as politicians by saying, We did this for you, but quietly then saying to the local units of government, But you pay for it.

That is what mandates are, and they are clearly out of line today. It is estimated at $500 billion—and there is a new study coming out today that indicates that it is probably a good deal more than that—$500 billion of taxation that we have forced on the citizens of this country and forced the responsibility of that taxation on the local, elected officials and leaders. That is what we are doing. Those are the mandates we are talking about, Madam President.

And it is wrong. It ought to be up front. There ought to be a better way and a better test, and clearly the legislation that my colleague from Idaho has introduced puts that test before us. If we are going to do it, if we think it is so overpoweringly right as a country that our citizens ought to have this program or that alternative, then we ought to pay for it. We ought to be up front in doing so. That is a responsible way to legislate.

What we have done over the course of the last three decades is now beginning to appear to be an act of phenomenal irresponsibility to the tune of $500 billion-plus a year. Eleven point seven percent of cities' revenues in this country are paid out for Federal mandates, mandates that city councils did not vote on, that mayors did not propose, that citizens of the municipality did not suggest, that nobody promised in their campaigns, but we back here said, You cities do it.

Similar percentages are true to counties, and higher percentages are true to States. And then what happens? When we decide to get fiscally responsible here, but the mandate stays in place, local county officials, local city officials, and State officials come back here almost begging: You have told us to do it, you have required us by law to do it, and now you have cut the funding back, and you are forcing us to go raise the taxes to do what you think is the right thing to do.

Our Founding Fathers were wise, and if they were here today, they would have rejected what we were doing, because they said this Government ought to be limited. I am paraphrasing, of course, but State governments ought to be the ones with the power. We forgot that a good many years ago, as we found that it was to our best political interests to require these mandates down on those local units. It is time it stops, and I am so pleased that the legislator—the Senator from Idaho—who has chosen to make this a national crusade has offered it up not only in the form of legislation, produced this special order, but has encouraged this administration and mayors across this country to join with him in making a reality out of something that cries out for a solution—that is, an end to Federal mandates when they do not carry with them the largess of the Public Treasury of this Nation.

I yield the remainder of my time.

Mr. KEMPTHORNE. Madam President, I thank my colleague from Idaho for laying out the compelling logical arguments as to why we should stop these Federal mandates.

Now I am pleased to yield 5 minutes to the Senator from Montana.

UNFUNDED MANDATES

Mr. BURNS. I thank my friend from Idaho. I thank him for coming to the U.S. Senate. When I first came here, I came out of county government. I was a county commissioner, and whenever we talked about reinventing Government and making it more efficient, that is the only part of government where they are the budget makers, the three commissioners in that County of Yellowstone which, by the way, is larger than Delaware—land mass wise, not population wise. They are also the appropriators and the policymakers on how it is spent.

So I am happy that the mayor is here—his honor is here—and he has a way of articulating the problems that local government runs into, because this is where the rubber hits the road. No matter what we do here in this Federal Government, the people who have to deliver the services are local governments, our welfare departments, our road and bridge departments, all of these problems that the Senator in the chair is familiar with in her duties as a former mayor of the great city of San Francisco, one of my favorite cities. We know how that goes.

I am also a cosponsor on Senator BROWN's constitutional movement to take these mandates that this Government places on local governments, because the real cost is that when we pass and do things called standards here, we get into this business of one size fits all. The road and bridge requirements in San Francisco or in California may be a little different than the road and bridge situation in Montana, Idaho, Indiana, Texas, or Virginia. The real cost in mandates is the standards set up by the Government and how we have to do things to operate as local governments. That is where the real cost comes in. It is not that we are mandated to do it. They tell us how we are going to do it. That is where we run into real costs.

The National Association of School Boards is supporting this effort. Many of us in this body have roots in groups like these, and we know the burden that is placed on State and local governments when mandates are imposed, but they are not funded.

As a former county commissioner in Yellowstone County, I think everybody who serves in the national Congress, either the House of Representatives or the U.S. Senate, should serve at local government first. They will find out that their name is in the phone book, and the taxpayers can call them up. If you do something wrong, they can get ahold of you pretty quick.

There was a good friend of mine in Carbon County, MT, and he was not the smartest guy in the world, but he could climb on a grader and plow out the road so the school buses could run. He was out there at 3 o'clock in the morning so school buses could pick up kids and get them to school. He understood what roads are about. And what the basics are to the infrastructures that makes our communities run. There is transportation, communications, how we deliver our welfare services, and how we take care of our people. They make those decisions.

So, with that, and working through the county organizations and through Montana's League of Cities and Towns, I would say, Mr. Hansen made quite an impression on me because of this piece of legislation—the man that runs that in the State of Montana. According to the National Performance Review, there are currently 172 pieces of Federal legislation in force that impose requirements on State and local governments. And the report recommends that we cut a number of the unfunded mandates. I say we stop them altogether.

If you want to help local governments, send them a little chunk of change every now and again, but do not put all these strings on it, because I have found that local governments pretty well understand what has to be done and how to get the job done.

In 1992 alone, the estimated direct cost of regulations was $564 billion. The State mandates accounted for $40 billion to $78 billion of that total. If you combine all of the costs together, we are almost up to a $1 trillion impact on this economy here in this country.

My colleagues, I have said it before and it bears repeating: If Congress feels strongly enough about the need for a given program, then Congress should find a way to fund it. Otherwise, it is just another example of the heavy hand of Government trying to have some control over our lives right down to where the rubber hits the road. I feel very strongly that the people of Montana know what is best for them. I have said this before, and I will continue to say it: Montana ideas work a lot better back here than Washington ideas work in Montana.

County governments and State legislators and the residents know better the priorities than bureaucrats or those of us here in Washington, DC.

I ask support of both this piece of legislation and the constitutional amendment.

I yield the floor.

Mr. KERREY. Madam President, are we in morning business?

The PRESIDING OFFICER. The Senator from Idaho controls the remaining time up to 9:30, after which the Senator from Nebraska has 10 minutes.

Mr. KEMPTHORNE. How much time is remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. KEMPTHORNE. We are anxious to hear from the Senator from Nebraska.

I yield 1 minute to the Senator from Texas.

Mrs. HUTCHISON. Madam President, you have been a mayor, Senator KEMPTHORNE has been a mayor, Senator BURNS has been a county commissioner, and I have been a State treasurer. I rise to support everything that has been said this morning. I have seen it at the State level. I have gone from the Cash Management Improvement Act that is costing my State millions of dollars to talking to my mayors all over Texas when I was home in August about the onerous mandates.

In fact, the city of Odessa now spends 18 percent of its entire city budget on unfunded mandates. I just believe that we who have been in local government—and you have heard from so many of us today—must come together and do something about this. So I do support Senator KEMPTHORNE. I support the mayors who have asked us to support unfunded mandates today to try to do something about this, especially in the environmental area.

We are just weighing down our cities from the burden of the environmental mandates.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. HUTCHISON. Madam President, I will just end by saying that I think it is very important that we support our mayors in this National Unfunded Mandates Day, but we must do more than that. We must have legislation that corrects this situation.

Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Madam President, I yield 30 seconds to my friend, the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 30 seconds.

END TO UNFUNDED MANDATES

Mr. BENNETT. Madam President, as I campaigned for this job, the one thing I heard over and over again from local officials, regardless of party or gender or location, was do something about the unfunded mandates. The Feds pass the laws. They take the credit. We get the bills. We have to raise the taxes. We get the heat. It is not fair.

So on behalf of all those municipal officials, I rise in support of those who are calling for an end to unfunded mandates.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Madam President, I thank all colleagues.

It is clear this is not a partisan issue. There has been bipartisan support.

I thank the president of the U.S. Council of Mayors, Jerry Abramson, and Barbara Sheen Todd, the chairman of the National Association of Counties, for their leadership.

This is National Unfunded Mandates Day, a significant day in the history of this Nation.

Madam President, thank you very much.

Mr. MCCAIN. Madam President, it is time for the Congress to stop imposing unfunded Federal mandates on the States and local governments. This action is long overdue. I believe that not only will State and local officials agree that we need this amendment, but the public as a whole will strongly support the idea that what the Congress mandates, the Congress should fund.

Madam President, too often we force the States and local governments to live up to Federal mandates, many of which are appropriate and well-intended but for which we do not fund. This is wrong. If there is an issue which is important enough to force upon the States and local communities, then we have an obligation to pay for the costs associated with such issues.

As reported by the Washington Post this morning:

> 314 U.S. cities reviewed as a sample will spend $6.5 billion enforcing 10 such programs. Enforcing the Clean Water Act alone in 1993 cost those cities $3.6 billion, the survey said, and will cost them $29.3 billion over the next five years.

Madam President, the cost of these mandates is rapidly becoming so oppressive and extreme, the local services are suffering due to a lack of funds. On average, U.S. cities spend approximately 11.7 percent of their revenue enforcing Federal mandates.

Just 2 days ago, I heard from one Arizona city, Casa Grande. The mayor of that fine city, the Honorable Bob Mitchell, wrote:

> Last March, our Public Works Director presented a report to the Council outlining the economical impact of various State and Federal mandates. Total capital costs for the City over a 3-year period to comply with these mandates were estimated at $519,500.

Madam President this is a large amount for a small city to have to spend. Madam President, I ask unanimous consent that the letter from the mayor of Casa Grande and proclamation passed by the Casa Grande City Council regarding unfunded Federal mandates appear in the RECORD at this time.

Unfortunately, unless the Congress' current practice stops, the costs of mandates to local governments are destined to grow.

Madam President, this is a simple matter of fairness. When a local government passes a law or regulation, it then must raise the money to enforce it. Yet for some reason, the Federal Government acts as if it has some divine right to pass laws and then pass on the costs to others.

For that reason, Madam President, I am currently supporting legislation that would require a three-fifths vote of the Senate to pass an unfunded Federal mandate. Additionally, I am an original cosponsor of a constitutional amendment which will be introduced today to ban unfunded mandates.

Lastly, Madam President, I ask unanimous consent that an opinion/editorial from the Sunnyslope Sentinel regarding this issue appear at the end of my remarks.

I repeat, unfunded Federal mandates are wrong and the Congress' practice of passing them must stop.

It is time we allow those elected officials closest to the people of America—local elected officials—to do their jobs without being burdened by unfunded Federal mandates. We must be fair. If we believe in a cause, we must be prepared to pay for it.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CITY OF CASA GRANDE,
Casa Grande, AZ, October 20, 1993.

Senator JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: As you likely know, October 27 is being recognized by cities and counties throughout the country as National Unfunded Mandates Day. I have attached a copy of a recent proclamation we approved to recognize this important day.

Last March, our Public Works Director presented a report to the Council outlining the economical impact of various State and Federal mandates. Total capital costs for the City over a 3-year period to comply with these mandates were estimated at $519,500. Annual operating costs for the City to comply were estimated at $123,400. These projections include only public works activities such as solid waste and sewer regulations. Additional cost impacts are being experienced due to mandates in such areas as parks and recreation, personnel, building improvements to City facilities and our airport operations.

For a City of our size, these mandates have a significant impact on our ability to provide basic services to our citizens. We hope that you will support all efforts to eliminate unfunded mandates. Thank you for your consideration, as well as your continued assistance to the City of Casa Grande.

Sincerely,

BOB MITCHELL,
Mayor.

PROCLAMATION

Whereas, the number of unfunded federal and state mandate on cities and counties have significantly increased during the last decade; and

Whereas, many federal and state programs, which were made available to local governments to ease the burden of carrying out federal mandates, have been terminated or drastically reduced; and

Whereas, these mandates have been added to the financial hardships that some cities and counties are experiencing and have resulted in the need for many local governments to increase revenues or curtail services; and

Whereas, studies have shown these mandates consume one-fourth of most city, country and school budgets meaning that these local dollars are used to fund state and federal priorities rather than local priorities; and

Whereas, there are numerous proposals before Congress to limit unfunded mandates and the burdensome regulations that accompany many federal laws; and

Whereas, October 27, 1993, has been designated as National Unfunded Mandates Day in order to call attention to the severe problems that these mandates impose on cities and counties; and

Whereas, the City of Casa Grande requests that the Clinton Administration, the Congress, and the State Assembly pass meaningful legislation to end the practice of unfunded mandates, and to include in any future mandate, provisions requiring local government input, cost/benefit analysis, and scientifically sound assessments of purported health, safety or environmental risk.

Now, therefore, I, Robert Mitchell, Mayor of the City of Casa Grande hereby proclaim October 27, 1993 as "Unfunded Mandates Day" in observance of National Unfunded Mandates Day.

In witness whereof, I have hereunto set my hand and caused to be affixed the seal of the City of Casa Grande.

Done at the City Hall of Casa Grande, this 18th day of October, 1993.

ROBERT MITCHELL,
Mayor.

[From the Sunnyslope Sentinel, Oct. 6–12, 1993]

THE BURDEN OF FEDERAL MANDATES

(By Senator John McCain)

Too often Congress forces the state and local governments to live up to Federal mandates, many of which are very noble and well-intended, but for which Congress does not provide funds. It is a "win-win" political game. Congress gains the credit for doing something politically worthwhile, but escapes the political risk of financing the decision. It is a "lose-lose" game for state and local officials. The costs become part of state and local budgets, to be dealt with by state and local politicians, using state and local tax dollars.

A survey conducted by the National Council of State Legislatures found that at least 172 federal mandates need to be paid for, and this number does not even include the specific requirements contained in each mandate.

For example, in Tennessee, an estimated 27 percent of the state's revenue growth must be devoted to compliance with unfunded federal mandates.

The city of Columbus, Ohio discovered that 10.6 percent of the city's budget, or $62 million, was devoted to compliance with unfunded environmental mandates. By 1995, this total will rise to 18.3 percent, or $107 million. From 1996 to 2000, the costs will average $135 million annually, or 23.1 percent of the city's budget.

The federalization of state and local budgets causes a significant decrease in state and local services such as education, welfare and transportation. The federal mandates leave state and local officials with little flexibility because so much of their budgets are allocated to complying with the new laws.

We need to reverse this process. I believe the people of Arizona and the public as a whole would strongly support the idea that what the Congress mandates, the Congress should fund.

Many solutions have been suggested that would be beneficial. Some states have decided to call their Senators before a joint legislative session each year to answer for their votes that drained state budgets.

I and others in Congress have introduced legislation this session that would not obligate state or local governments to implement unfunded mandates unless the costs are funded by the Federal Government.

This legislation would apply to newly enacted mandates and to existing mandates. Each agency will be required to publish a regularly updated schedule of costs to state and local governments imposed by implementing regulations.

Mayors and supervisors from all over our state have written to me in support of this legislation. The most recent concerns—coming from Tucson, St. Johns, Pinal County and Pima County—are that while federal mandates have been increasing in the last decade, federal revenues have been decreasing, making it difficult for their city or county to meet local needs and concerns.

Rather than passing tax bills that increase the burden on the working people in the country, Congress should be ensuring that the laws they pass do not add to the financial requirements of state and local governments. The bill I have introduced would not only cut back on added regulation but would help ease the tax burden at the state and local levels of government.

UNFUNDED FEDERAL MANDATES

Mr. GORTON. Madam President, today I rise in support and recognition of National Unfunded Federal Mandates Day. This day has been designated as such to heighten citizen awareness of the tremendous burden which unfunded Federal mandates have on State and local governments.

Over the years, Congress has increasingly imposed Federal mandates on

State and local governments. Congress continues to pass laws which direct and require these governments to take specific action—action which costs enormous amounts of money. But, conveniently, Congress fails to provide the funding necessary to carry out those Federal directives. Congress says to local governments, in its imperialistic manner, "you must pay to carry out our wishes." This is clearly wrong.

If society as a whole determines that a particular policy goal is worthwhile, then society as a whole should pay for it. If Congress determines that cities should perform some new task, then it is only right that Congress provide the resources to that city to carry out its responsibilities.

State and local governments have for too long been at the mercy of a Congress which routinely ignores their concerns and disregards their fiscal situations. Comments from local officials in my home State of Washington proves this point.

I have asked local officials for their perspective on this issue and listened to their opinions. Officials all across Washington State responded, ranging from the mayor of Colfax to the commissioners of Clark County. They have all pleaded their case that local governments cannot continue to foot the bill for Federal programs. The message which they have been sending loud and clear is that they are tired and frustrated with Congress continually shifting the financial burdens of its mandates to the local level.

Local governments face the dilemma of either cutting back on badly needed services or raising additional taxes to pay for these provisions. In either instance, the community loses.

The city manager of Kirkland expressed his concern by stating that "unfunded mandates continue to constitute a significant and growing portion of local budgets." He writes that these unfunded Federal mandates "place undue financial and regulatory burdens on municipal government, increasingly compromising our ability to provide basic services."

The city manager of Lacey expressed his frustration by writing that "without adequate funding, other programs will suffer, reducing the net effect of what Government is responsible for: serving the public."

Take for example, the Safe Water Drinking Act, which, despite being a laudable piece of legislation, has placed enormous burdens on small communities in particular. The act does not provide, for the most part, financial assistance to communities to comply with testing requirements and construction of filtration systems. I have heard from many in the State that such testing mandates and construction are expensive and encumbering, and result in drastically increased water rates on communities who cannot afford to pay them.

Another example is the Americans With Disabilities Act, which has required redesign and new construction of Government facilities to accommodate those who are physically impaired. Other legislation containing costly unfunded mandates which are frequently cited by local officials include the Clean Water Act, the Clean Air Act, and the list of unfunded Federal mandates goes on and on. Local governments end up having to foot the bill for significant personnel costs, paperwork, and training which these mandates require. Taken collectively, these unfunded mandates wreak havoc on local budgets.

Opposition to these Federal mandates is not raised against the intent of these mandates, but rather, it is directed toward Congress' refusal to pay for these new laws. It is a legitimate and local argument—one which desperately needs to be addressed.

That is why I am joining my fellow colleagues in cosponsoring S. 648, the Federal Mandates Relief Act of 1993 and S. 993, the Community Regulatory Relief Act. These bills will end the practice of imposing unfunded Federal mandates on local governments. Local governments rightly deserve this fair treatment so that they can be freed up to spend their valuable time and resources on the important and vital local needs of their communities.

Today, local officials across the Nation are holding press conferences and public forums to call attention to Washington, DC's long-held practice of imposing financial strain on local governments. The National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and the International City/County Management Association have all endorsed the call to end unfunded Federal mandates. I enthusiastically join these organizations and the numerous local officials who have written me from my home State of Washington in opposing these mandates. It is time for unfunded mandates to stop. Now.

I urge my colleagues to join us in this effort for which we will continue to fight. We need to release the stranglehold which Congress has placed on local governments through Federal mandates and provide some measure of relief.

NATIONAL UNFUNDED MANDATES DAY

Mr. HATCH. Madam President, today is National Unfunded Mandates Day, and I wish to direct a few words to the threat to State and local governments posed by Washington's habit of enacting unchecked Federal mandates. These mandates are imposing staggering costs on State and local governments and are violating the principles of political accountability upon which our Nation was founded.

In Utah, virtually every time I meet with State and local officials they raise the problem of unfunded mandates. They rightly complain that the mandates fail to take into account local circumstances and deny local and State governments the needed flexibility to find more cost-effective solutions. In effect, through unfunded mandates, the Federal Government is commandeering State and local governments.

This problem has been steadily escalating over the years. More and more, Congress has enacted laws that impose mandates on State and local governments but that fail to pay the costs of those mandates. Among the more burdensome mandates are the 1987 amendments to the Clean Water Act, the Clean Air Act's deadline for ozone reduction implementation plans, Federal standards on municipal landfills, the Americans with Disabilities Act, the Motor-Voter Act, and many others.

This is plainly irresponsible. If the Federal Government finds it necessary to act on matters of national concern, it ought to pay the piper, it ought to foot the bill. No family, no company, and no local government can conduct its business in such a manner. It is time that Washington play by the same rules as everyone else.

Unfunded mandates are as addictive as deficit spending. Congress and the President get to hand out benefits, but they do not have to shoulder the costs. They get to please constituencies without paying the costs.

Even the Clinton administration concedes the dimensions of this problem. On pages 36 and 37, the President's National Performance Review's clearly calls for cutting the number of unfunded Federal mandates that Washington imposes, and for limiting the administration's use of unfunded mandates to achieve its public policy goals.

Let us be honest about why Washington imposes unfunded mandates: It wants to do an end run around the Federal budget deficit. Officials and bureaucrats in Washington know they do not have the money to fund everything they want to do. They know the money's not there, so they simply end run the deficit by enacting unfunded mandates and burdening States, local governments, and private sector businesses and individuals with the costs.

These costs are hardly trivial. Indeed, they are staggering. The President's performance review indicated that there are at least 172 Federal laws that impose mandates on State and local governments. One estimate of the costs by the Rochester Institute indicates that State mandates carry a price tag of between $40 and $78 billion every year. Other estimates place the total annual costs as high as $500 billion.

Madam President, unfunded mandates are wreaking fiscal havoc with State and local governments across this country. We already have a deficit spending crisis in Washington. Congress and the President ought not to export this fiscal crisis to the States through unfunded mandates.

Even more disturbing, Washington's addiction to unfunded mandates is undermining political accountability.

Our Nation was founded on the idea of the accountability of Government officials to the people who elect them. Unfunded mandates strike at the heart of democratic accountability.

It is a question of who is going to be the boss. Will State and local officials look to their voters in making their decisions or will they be forced to take their orders from Washington? Accountability requires the former, but unfunded mandates lead to the latter.

That must change. As unfunded mandates consume ever greater shares of State and local budgets, they are frustrating the ability of State and local leaders to serve the needs that they are elected to address. If Members of Congress believe in democratic accountability, it is time that Congress require that mandates be paid for.

Mr. President, the problem of unfunded mandates is part of a wider problem of Federal overregulation, about which I would like to say a few words.

This year Federal regulation will cost Americans an estimated $542 billion in direct and indirect costs. Through regulations, the Federal Government assesses a hidden tax on every family—a hidden tax that takes an average of $5,000 from every American household. What is worse, this hidden tax will increase by 50 percent over the remainder of this decade.

Those are just numbers, but they have real effects. Regulatory costs consume resources that cannot be used to address important problems such as poverty, health care, job creation, and education. It is time that the Federal Government adopt a system to control the regulatory burden on the economy and on the American people.

I will shortly introduce a bill that would establish such a system:

My bill would create a national regulatory budget to assess and control the costs of regulations and would impose a 5-year regulatory cost cap.

It would require agencies to propose regulatory cost offsets for new regulations that they seek to implement every year.

By integrating a regulatory budget process into the fiscal budget process, it would restore to Congress the power to control regulations that are imposed to implement the laws Congress enacts.

It would create a governmentwide mechanism to control the overall burden of regulation and to make choices about regulatory priorities.

Most important, it would put the brakes on runaway Government regulation that has put the brakes on economic growth.

Madam President, unfunded mandates and excessive regulation are corroding political accountability and thwarting economic opportunity. On National Unfunded Mandates Day, we must resolve to change course.

UNFUNDED MANDATES

Mr. WARNER. Madam President, some sage once said that American business needs more orders from customers and less from Government. That is especially true when those Government mandates are unfunded.

In addition to unduly burdening business, Congress, in its Big Brother role, often ignores States' rights in determining what is best for the States. It also demands that the States figure out how to pay for those unwanted mandates.

Today, as we observe "National Unfunded Mandates Day," State and local officials in my own State of Virginia are counting on those of us in Congress to at least recognize the problem. In particular, I would like to recognize and commend State Senator Hunter B. Andrews, majority leader and chairman of the Senate Finance Committee, for his leadership in focusing attention on the problems imposed by unfunded mandates. At his request, members of Virginia's Finance Committee staff have conducted a review on Federal mandates and the burdens they exact. I would like to share some of those findings with my colleagues today.

While only estimates of the cost-burden imposed by regulations are available, those estimates are staggering. For example, the Rochester Institute quantifies the direct costs of regulations for 1992 at $564 billion. That figure includes between $40 and $78 billion for State mandates.

While some argue that these mandates offer some benefits, States would gladly trade limited advantages for greater autonomy.

To quote Senator Andrews, "the pervasive Federal influence on the State budget is at best a two-edged sword * * * Federal restrictions on the use of funds constrain Virginia's ability to set budget priorities or respond to changing economic conditions."

In the Commonwealth of Virginia, at least 20 percent of the State budget is either driven, defined, or constrained by Federal laws, regulations, or Federal agency decisions. and, bear in mind, this is a conservative estimate—it does not take into account the impact of such laws as the Americans with Disabilities Act [ADA], for which no systematic survey has been done.

Let us take a look at the ways in which the Federal Government impacts the Commonwealth of Virginia's ability to set budget priorities.

First, there are must do, no Federal funds, the infamous unfunded mandates—laws, regulations and court orders which come with no Federal funding. These includes so-called cross-cutting laws such as the above-mentioned ADA; they affect all State agencies, as well as much of the private sector. It is virtually impossible to calculate the true cost of such programs, since many agencies are affected to different degrees.

Next come must do, must match programs, which provide some Federal funding but require states' financial participation. In Virginia, these account for some $1.2 billion in general fund expenditures—20 percent of the annual general fund expenditures—for such programs as Medicaid, job training, special education, clean water, clean air, and waste management.

Next come may do, must match and may do, must maintain programs, including education and health-related programs such vocational training, substance abuse and mental health block grants. Fortunately, participation in these programs is voluntary.

Finally we have may do, no match, which are largely grants—but Federal funds used for these programs may not supplant general funds provided for similar purposes.

And it is important to note that, unlike the Federal Government, Virginia has no choice but to balance its budget. Congressional benevolence often translates into reckless, unfunded burdens.

Two areas in which Virginia is constantly challenged are education and health care.

The Education for All Handicapped Children Act, passed a decade ago to fund special education in public schools, seemed an important undertaking. Congress committed itself to providing 40 percent of total program cost. In reality, during fiscal year 1993, the Federal Government provided less than 8 percent of the funding necessary.

The jointly funded Medicaid Program presents a particular dilemma for my State. Because of the relative affluence of Virginia, my State must provide 50 percent of program costs. But Congress determines minimum eligibility standards for Medicaid recipients, as well as the level of required service. While no doubt well-intentioned, congressional expansion of Medicaid is projected to cost Virginia more than $300 million over the next 2 years alone.

Virginia must also foot 50 percent of the bill for Aid to Families with Dependent Children [AFDC] and State costs should be close to $115 million per year over the 1994–96 biennium.

Federal mandates in the realm of environmental regulations also impose great financial burdens on Virginia. The Environmental Protection Agency estimates the direct compliance costs of Federal environmental regulations at $122 billion per year. As staggering as this estimate is, it is even more troubling that these costs are growing rapidly.

More than half of these costs are related to water pollution control under the Clean Water Act Amendments of

1987. Federal funding accounts for 52 percent of the operating budget for water pollution control, with the remainder coming from dedicated revenues such as permit fees, and from the State's general fund. About 85 percent of the Federal funding available is provided for the voluntary State Revolving Loan Fund Program. To receive funds from this program, a 20-percent State match is required. Failure to meet the match means loss of Federal funds, as well as further erosion of State autonomy: loss of State primacy in water pollution control.

Air pollution control is the second largest spending area and we have not even implemented fully the 1990 Clean Air Act amendments. To date, Federal funding accounts for 22.5 percent of Virginia's operating budget. Failure to implement Federal air pollution programs result in State's losing Federal money, losing State primacy, and also being slapped with Federal sanctions. Those could include loss of transportation funding and prohibitions against new industrial facilities.

Unfortunately, the Federal Government continually uses its own fiscal problems to impose additional mandates on the States.

There seem to be few, if any, incentives for Congress to halt the trend: Mandates are almost magical, allowing Congress to fund costly programs without raising or cutting other services.

Federal mandates continue to proliferate. In the 102d Congress, 15 bills were passed with mandates; the 103d has over 100 bills which include such edicts.

Several new mandates loom: The Motor-Voter Act, which is expected to cost over $100 million in the next 5 years nationwide; the Family Support and Preservation Act of 1993, and the as-yet unrealized national health care plan proposed by the administration.

But recognition alone is hardly enough—we must take steps to correct this impossible situation.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

BELL ATLANTIC-TCI MERGER

Mr. KERREY. Madam President, 2 weeks ago today America witnessed the latest and largest piece of evidence that we are in the midst of a communications revolution. On that day, Bell Atlantic and Telecommunications, Inc., announced their intention to merge. It is a move which signals the marketplace is aware of the possibility that we could change the way Americans communicate.

It was indeed a monumental announcement, one with far-reaching implications not only for the telecommunications industry itself, but also for us as a nation and as individuals. The announcement is the most dramatic signal to us that our old regulatory devices can no longer work. If we want to ensure that these new technologies improve our economy, our culture, and our political system, this merger should be a wake-up call that it is time for us to change as well.

For some, the deal raises understandable concerns about this arrangement; they question whether it might create antitrust problems. In some ways they are right: We do need to think long and hard about what public purposes we want to achieve. For others, there is only excitement about new possibilities if Government will only leave the process alone. In some ways they are right as well: We do need less, not more, Government involvement.

My hope is that we will respond to this merger in a spirit of productive partnership, not reactionary regulation. My hope is that we will address the important antitrust questions without quashing either the bold vision that guided this merger proposal or the energy which has powered the great engine of American entrepreneurship throughout our history.

My preference would be to allow the information companies to compete more openly. To me, the restrictions, a.k.a. the modified final judgment agreed to in 1983 and enforced for the past 10 years by the Federal court, should be lifted. Consumers should be allowed to purchase their information needs from any company capable of supplying those needs. Neither the government with regulation or a company with monopoly power should be allowed to limit our choice.

My preference would be for Government to regulate to achieve at least five important purposes. The FCC and the State public utility corporations should maintain open competition. In particular, no company should be given the right to strangle entrepreneurs whose innovations must be allowed to reach the customer. They must ensure that our schools and homes are not denied new learning opportunities offered by these communication technologies. They must guarantee that rural America does not become a second-class information environment. They, and we, should preserve the privacy demanded by our citizens. They, and we, must decide how to allow community standards regarding pornography and violence to determine which content reaches the home.

In the 10 years since divestiture the technologies of communication—which have influenced our lives greatly during the past 50 years—have increasingly dominated our economy, our social-cultural scene, and our political system.

The explosion of new economic activity has been phenomenal. Culturally, while broadcast and cable television have continued to follow the market's interest in all things, including the prurient and the violent, a new underground, liberated by the constraints of central government, has sprung up on the Internet. Politically, we have seen worldwide telecommunications spread the message that free markets and democracy work; unfortunately we have also spread the message that televised terrorism works, too.

Thus, the urgency to consider what changes we need to make in our regulation should be driven by concerns about our economy, our culture, and our political system. For good and for bad telecommunications changes are affecting all three.

The changes in our economy have been most dramatic. Most noteworthy have been advances in computer technology that has allowed American business to become more productive by driving decisionmaking authority down to the shop floor and flattening out corporate structures. While some jobs have been destroyed many more have been created. Microsoft Corp.—the world's leading software company—began the 1980's with 40 employees. Today, Microsoft employs 14,500 people and ended fiscal year 1993 with a net revenue of $3,753,000,000. Its software products are sold in more than 275 countries. Adobe Software opened its doors in 1982 with three employees. Ten years later Adobe employed 1,000 people and made $265.9 million in 1992 alone. And, Apple Computer, which in 1977 took in $774,000, expects revenues of $8 billion in 1993. In fact the entire software industry raced ahead of the rest of the economy in the 1980's, tripling its share of the gross domestic product and creating jobs at a rate several times that of the economy as a whole.

The changes in our culture have been no less dramatic. Entire communities have disappeared into the cathode ray tubes in their living rooms. Our language, our dress, and our behavior begins to model the characters we see on our television sets. Reading scores have declined, literacy rates have decreased, and the phrase "couch potato" accurately describes our collective response to the new media.

Finally, these technologies have transformed American democracy and our view of the world. The news events that 10 years ago were relegated to the obscurity of the back page of the newspaper are today beamed all over the world on television. The same technology which produces high-tech games for our children has the power to bring the resources of the greatest libraries in the world in to their living rooms over phone lines and through computers.

Neil Postman pointed out in "Amusing Ourselves to Death" that technologies are not morally neutral. They are predisposed to head in one direction or another. Like the farmer whose spine changes shape as a consequence of prolonged exposure to the technology of a hoe, these technologies over time have and will change us.

Thus, the way we respond to these technologies will have the most monumental consequences for our economy, our culture, our political system, and our nature as human beings. So I am most anxious that we respond quickly and forcefully to decide where it is we want to go. I do not believe God put us on this planet to merely become more efficient shoppers or players of video games, which is what we will become if we merely let the marketplace do its job.

The announcement of the merger between Bell Atlantic and TCI had a profound effect on me. It brings into focus the changes which have been swirling around us for the past year. For the past year there have been increased mergers and acquisitions among these businesses. Companies that are clearly and fairly competing with no intent of merging are cooperating in more and more ways. And, where competition begets vigilance, the steady march toward improved quality and lower prices continues.

My vision of the kind of regulatory structure we should impose is different today than it was before the announcement of this merger. Before October 13 I still thought the important question would be how to manage the transition from a local telephone monopoly and a separate local cable franchise toward an environment where each would be allowed to provide telephone and television service. I thought we would, and should see, competition between cable companies and the telephone companies to provide video and phone service for the so-called last half mile connection to the long distance service of AT&T, MCI, and Sprint.

Now, however, I see a different possibility. I see the cable and telephone technologies converging, not competing. And in that convergence, Madam President, I see the possibility of providing American households with real competitive choices in a much different and far superior fashion.

My idea is this: Allow open competition for all telecommunications services directly to the home and business. This would mean that at my home in Omaha, NE, I would have the competitive option of choosing between a wide variety of services offered by a host of information companies. My idea is to allow the consumer to choose between purchasing voice, data and video services from US West-Time Warner versus Bell Atlantic-TCI, or AT&T-McCaw versus MCI-British Telecom, or CBS, Disney, or any other information company.

That vision can be achieved only if we agree that the old world technologies of telephone, television, radio, publishing, and video have been shattered by the blows of the new kids on the block: computer and fiber optics technology. Prior to development of the computer and fiber-optics the old technologies were easily and naturally divided. Voice was carried over the phone lines, radio and television signals through the air and text on paper. Before the advent of computer and fiber-optic technology, it made sense to divide our regulatory effort into common carrier, broadcast, and related ownership issues.

But today where I used to hear the dial tone and the sound of a friend's voice I now hear sound waves which were once the ones and zeros of a digital stream of information. Likewise, the video image on my television screen, the video tape in my VCR, the words on my newspaper or book, and the text on my computer are all encoded in the ones and zeros of the digital world.

The significance of this to me as a consumer is that all information—no matter how different its form and look—can and will be converted into the same code and will be transmitted in the same wired or wireless fashion.

There are those who see telephone and cable technologies converging and fear that it will create unfair competition, or unfair pricing. We must understand that the merger of Bell Atlantic and TCI is about a marriage of technologies born of science, not corporate greed. We should not attempt to force these technologies to compete. Their convergence is inevitable. What we must do is see that those who provide this combined technology and the services associated with it compete fairly and aggressively.

In fact, Madam President, this so-called convergence presents an opportunity for more choice and more power for the consumer if we, in our capacity as the makers of regulation, do the right thing.

If we do the right thing, American consumers will no longer buy their dial tone from a phone company, video signals from broadcast or cable companies, content from production companies, sound from radio companies, or text from newspaper and publishing companies. Instead, American consumers will buy information from each of these and many more besides. Instead of being restricted by an old regulatory structure Americans will be able to buy according to their social, economic, entertainment and educational needs.

The right thing, Madam President, is to make certain that consumers have genuine choice and that real competition occurs in the marketplace. Our most recent experience in the long distance market shows that consumers need real choices. AT&T just raised its prices almost 4 percent, and so did MCI and Sprint. Follow-the-leader price competition does not benefit Americans' wallets. We obviously need to inject more competitors into this market—and the logical choice is AT&T's seven offspring.

However, we should not try to manage the competition between cable companies and telephone companies, nor between long distance telephone companies and local telephone companies, nor between networks and producers, nor between publishers and telephone companies. Instead, we should allow all of these and more to come directly to the customer and offer to provide some or all of the information needs of the American consumer.

Our role—particularly as we transform from the monopolistic model to a competitive model—should be to ensure that competition exists. The best way to create real competition is to allow the so-called big guys to have at each other as quickly as possible. Efforts to control the pace will merely preserve the heavy cash advantages these monopolies currently enjoy.

There are four other areas where a public interest exists and where we should direct our attention. I will mention each briefly:

1. EDUCATION

We should challenge the information industry to deliver a plan which will provide every American classroom with affordable access to the Internet. This access could be wired or wireless, but it cannot be funded with property, sales or income taxes. Local schools cannot fight this battle alone. Unless we address the problem faced by the all of America's 100,000 schools as a group, education will enter the age of information too slowly.

We should also consider creating a communication technology fund for our schools so that work stations and software do not become cost-prohibitive for all but our wealthiest schools. Perhaps we should dedicate a portion of the proceeds from the 160 mHz auction which will begin next year for personal communications systems.

2. RURAL ACCESS

We are at a crossroads for enhanced rural service. As we steer onto a path which will provide rural American homes and businesses with enhanced service, I prefer to use direct spending subsidies instead of regulatory restrictions.

3. PRIVACY

We must remain ever-mindful of the easy invasion of privacy which can occur once a connection is made to our homes. The idea of privacy should not be abandoned in the electronic age.

4. CONTROL

Simply put, we should not allow any owner of infrastructure to use the advantage gained as a consequence of having been granted a monopoly franchise to use this power to strangle innovative and entrepreneurial information services.

5. CONTENT

Pornographic and violent content must be easily excluded if the consumer does not want such content entering their home.

Madam President, those who sense that this merger signals a need for government to do things differently in order to avoid an abuse of power are correct. My hope is that we do not react with a regulatory model designed for a technological world which no longer exists. American jobs, American culture, and our capacity to govern ourselves all depend on our actions.

Madam President, I appreciate the time. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIGIOUS FREEDOM RESTORATION ACT OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 578, which the clerk will report.

The bill clerk read as follows:

A bill (S. 578) to protect the free exercise of religion.

The Senate resumed consideration of the bill.

Pending:

Reid Amendment No. 1083, to prohibit the application of this Act, or any amendment made by this Act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility.

AMENDMENT NO. 1083

The PRESIDING OFFICER. The time between now and 10 o'clock is evenly divided, and the time will be controlled by Senators KENNEDY and REID.

Mr. KENNEDY. Madam President, I yield 4 minutes to the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Senator from Massachusetts.

Madam President, I rise in opposition to the amendment offered by my colleague from Nevada which would exempt prisoners from the Religious Freedom Restoration Act of 1993. I do so not only as a Member of the Senate but as a former attorney general of the State of Connecticut who dealt with prisoner litigation.

Madam President, the overall act aims to restore a standard that existed prior to the Supreme Court holding in Oregon v. Smith which was both protective of the people's religious freedom and also gave prison officials the opportunity to protect the security and indeed to pursue the most cost-efficient manner of operating the prisons.

I understand the intuitive appeal of this amendment. It is intended to respond to concerns about the cost, security, and manipulation and, indeed, abuse by prisoners. None of us wants to see taxpayers' dollars wasted or jails made more dangerous or the difficult jobs of correction officers made more difficult. But I will tell you that this amendment will create many more problems than it will solve.

RFRA does not create a new legal standard. And that is important to say. The main bill before us returns to us to a standard that existed in a majority of judicial circuits prior to 1987. It establishes a balancing test between the Government's interests, which includes saving money and providing security, and an individual's religious rights, which are neither expensive nor dangerous to accommodate.

The compelling and least burdensome test that existed prior to the court ruling in 1987 simply was not used to cost prison officials a lot of money or put them under pressure to endanger security within the prisons.

Madam President, the proponents of this amendment, I say respectfully, have not pointed to a single incident of excessive expense incurred through the use of this standard. In fact, this standard—which, again, existed prior to 1987, so we have a track record as to how it will affect the conduct in the prisons—has been applied to restrict religious claims on the basis of cost or security.

For example, the law in some circuits already requires prisons to accommodate the religious dietary needs of prisoners. The RFRA standard, the underlying standard in this act, has been applied to restrict this law when compliance creates too great an expense.

I say again, respectfully, that the proponents of the amendment have not offered evidence of a single security incident that has arisen from application of the standard that the underlying act would put back into place.

As an example, the Seventh Circuit applied the standard that this amendment would eliminate to deny a prisoner access to satanic religious services and articles because of security concerns. In fact, of all the examples that the proponents of the amendment have cited that are outrageous and excessive—of prisoners demanding chateaubriand on religious grounds or demanding marijuana or demanding nothing to eat but steak—each one of those examples resulted in a decision in favor of prison officials under the standard that will now be restored by the basic RFRA legislation, not a decision in favor of the prisoners making these outrageous claims.

Courts, however, on the other side, have used the standard established by the Supreme Court in Oregon v. Smith that the underlying law would overturn, that this amendment would restore, to go to the other extreme, and unnecessarily clamp down on harmless religious practices.

The PRESIDING OFFICER. The Senator has used his time.

Mr. LIEBERMAN. I ask unanimous consent for one additional minute to finish the statement.

Mr. REID. Madam President, the problem is the majority leader has ordered a 10 o'clock vote and we have a limited amount of time. I am not sure we can do that. We have a number of speakers.

Mr. LIEBERMAN. I would just ask for 10 seconds.

Mr. KENNEDY. I yield the Senator 10 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. An example of how the current standard has affected people, Oregon v. Smith has been applied to deny Episcopalian prisoners the right to tiny amounts of wine for communion.

That is just one concern we have why this amendment should be defeated.

Proponents of this amendment have not proven their claim that RFRA will open the floodgates for prisoner's religion-based claims. Before Smith, prisoners' religion-based suits were not clogging up our courts. Because religion-based suits cannot win a prisoner his or her freedom, they represent only 2 percent of all prisoner's claims. It has always been 2 percent: before Oregon versus Smith and after Oregon versus Smith. Out of that 2 percent, the same, tiny percentage of claims are legitimate as are legitimate in other areas of prisoner's litigation; the rest are simply dismissed. Speaking as a former attorney general, the resources of State attorneys general are not stretched to the breaking point by prisoner's spurious legal claims based on religion. The Government will spend the same small amount enforcing RFRA as it did enforcing Oregon versus Smith. In fact, for all its proponent's arguments that this is a cost-saving amendment, no one has presented evidence that Oregon versus Smith has saved money.

While the problems this amendment's supporters have with RFRA are unfounded, the problems with this amendment are of concern. This amendment is that proposes that this body create two separate standards for the protection of religious freedoms: protections afforded citizens out of jail and protections afforded incarcerated citizens. This is a dramatic proposal. As it stands now, all prisoners receive the same Bill of Rights protections as do ordinary citizens, with three obvious exceptions. Prisoners have restricted ability to assemble, they are subject to searches without warrant, and they cannot possess weapons. These exceptions draw a bright line between those rights whose exercise a prisoner cannot be afforded and those rights whose exercise might cost money and bother but cannot be denied. The rationale behind the law prior to Oregon versus Smith was that religion belongs in this latter group. Why? Because, in a prison, unlike the right to assemble, religion is not dangerous; unlike the right to be secure in one's possessions, religion cannot hide weapons; unlike the right to bear arms, religion cannot kill.

What is the harm free exercise of religion in prison presents? RFRA will not guarantee that drugs and alcohol are distributed to prisoners. RFRA means that a religious prisoner may have access to wine for sacramental purposes. RFRA means that a prisoner might be allowed to possess a prayer book. RFRA means that a prisoner might have access to certain clothing or specific foods. RFRA means that a legitimately religious persons will be allowed to keep practicing their religion in jail. Are these great harms?

On the other hand, what are the benefits to RFRA passing unmended? That prisoners, those members of our society in greatest need of moral guidance and healing, be taught that such is available to them. Religion is often the only moral structure that permeates prison cells. It has helped countless prisoners rehabilitate themselves. By leaving RFRA unamended, we symbolically and practically show prisoners that morality and religion are avenues available to them. By leaving prisoners with the bare protection RFRA offers, we not only offer them the means to find redemption, we show prisoners that a civilized society treats even its miscreants with respect and decency. Treating prisoners honorably helps infuse them with the self-esteem necessary to alter what at times are lifetime patterns of criminal behavior.

In closing, I offer as an example "We Care," a program dedicated to Christian-based outreach in a Connecticut prison. Prisoners participating in "We Care" donates time to a Hartford soup kitchen and are helping develop a rooming house for the homeless. The organization is funded by members' donations and from the sale of inmates' artwork and crafts. It was founded by Raymond Outlaw, a Webster Community Correctional Center inmate in Cheshire. This is just one instance of religion inspiring a positive program for inmates. This is one more reason not to deprive prisoners of the harmless and inexpensive constitutional right to exercise their religion.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, my understanding is the only time remaining is that that I control, is that right?

The PRESIDING OFFICER. The Senator from Massachusetts has 3 minutes and 12 seconds, and the Senator from Nevada has 7 minutes and 54 seconds.

Mr. REID. Did we have time running with the quorum? Is that why we have only 7 minutes? Because we have not spoken.

The PRESIDING OFFICER. The Senate proceeded to deliberate on this 4 minutes late and there is a rollcall scheduled for 10 o'clock.

Mr. REID. I would not have objected to the Senator from Connecticut's request for additional time had I known there was more time controlled by the Senator from Massachusetts.

I yield 3½ minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 3½ minutes.

Mr. SIMPSON. Madam President, it is too bad so many of our colleagues missed the debate. It was a good debate last night, and we knew the vote would be today. As is often the case, it is difficult to summarize too much in 3½ minutes, but I do want to commend my colleague from Nevada.

There is a not a single thing that has come up in this debate that should lead anyone to believe anything other than that we all believe in religious freedom for everybody. It is absurd, to describe any person who would deign to vote against this bill as being bigoted, or having some great prejudice, or some horrid antireligious feeling. Although, I have had some of that characterization from some of the local media clowns in Wyoming, at least in Casper. So I know what that is. And it is unfortunate.

So we should just clean that out, and then just realize that our focus is purely on this amendment. This amendment would exempt prisons and prisoners to avoid the extraordinary creativity of people who spend their time figuring out how to concoct a new religion and misuse the compassion, care, and sensitive feelings that we have for those who are struggling who are in prison and who need religion as a stabilizer, a personal gyroscope. The sponsors of this amendment are not talking about discouraging the practice of religion. This amendment simply avoids having a standard of evidence which would be absolutely absurd.

I have heard many of my colleagues say that "All we should do is go back to the law as it was before the Supreme Court decision." I would be the first one to do that. The Supreme Court decision was 6 to 3. It had to do with a couple of guys doing peyote in Oregon. It was not a case involving the great fabric of our society, or any such thing. They were not supposed to use controlled substances or drugs. They did. They got canned. They went through the unemployment system to get benefits and the case that they brought to assert their rights ultimately went to the Supreme Court.

The Supreme Court made a decision, 6 to 3. It was not the liberals versus the conservatives, or the "in's" versus the "out's." It was a sensible decision. And now most of us agree to go back to where the law was—but this bill does not go back to that point. As is typical in these situations, we have gone too far. If we remove this evidentiary standard of "reasonableness," we will have tons of problems in some of the worst places. These are not social places for social engineering—these are prisons. You put people in the "clink" and you keep them there. This is to avoid terrible evidentiary burdens placed upon prison administrators and attorneys general. That is what the amendment is all about.

How ironic that today is "National Unfunded Mandate Day." Legislation addressing "unfunded mandates" now has 47 cosponsors. Yet today we are considering a bill—the Religious Freedom Restoration Act—which is an unfunded Federal mandate requiring the State and local governments to pay for more frequent, expensive, and protracted prisoner suits in the name of religious freedom. The taxpayer will lose again.

At a time when every State and Federal jurisdiction in the country is faced with overcrowded prison facilities and more lawsuits brought by prisoners than are brought against criminals, this bill will allow prison inmates to sue prison administrators with greater frequency and success. Corrections administrators and their attorneys state that this bill will make it extremely difficult to quickly dismiss frivolous or undeserving inmate challenges—the inmates will use religious freedom claims to manipulate the system. Frivolous challenges will no longer be resolved swiftly by summary judgment motions but will require full-blown evidentiary hearings—a much more expensive and time-consuming process.

This amendment exempts prisons from the bill's application, allowing the actions of prison administrators to be judged by a reasonableness standard. While I agree that prisoners do and must have first amendment rights, including the right to exercise their religion, I believe, as the Supreme Court does, that there are sensible and reasonable limits to those rights. Pursuant to the amendment, prison interests would—and should—be given considerable deference. Prison authorities would not be required to accommodate practices which significantly interfere with the security and operation of the prisons.

Numerous State attorneys general, the correctional directors of all 50 States, Norman Carlson, the former Director of the Federal Bureau of Prisons, J. Michael Quinlan, former Director of the Federal Bureau of Prisons—both representing 22 years of experience as the head of the Federal prison system, 1970–92—the American Federation of State, County and Municipal Employees [AFSCME], which represents corrections officers and other prison personnel, and the National Sheriffs' Association support this amendment to exempt prisons. These are the people who will have to deal with the consequences of our vote on this amendment today. They are the people in the trenches with the thankless job of operating and managing our State and Federal prison system.

This bill is a Leave-it-to-the-Courts Act. The proponents of this bill are intentionally throwing the management of the prisons to the courts—a move which will result in second-guessing the State and Federal legislatures, the attorneys general, and the prison administrators. On this issue, Justice O'Connor, in her opinion in *Turner* v. *Safley*, 482 U.S. 76 (1987) said:

> Subjecting the day-to-day judgments of prison officials to an inflexible strict scrutiny analysis would seriously hamper their ability to anticipate security problems and to adopt innovative solutions to the intractable problems of prison administration. The rule would distort the decision-making process, for every administrative judgment would be subject to the possibility that some court somewhere would conclude that it had a less restrictive way of solving the problem at hand. Court inevitably would become the primary arbiter of what constitutes the best solution to every administrative problem, thereby "unnecessarily perpetuat[ing] the involvement of the federal courts in affairs of prison administration."

I agree with Justice O'Connor.

My colleagues argue that prisoners will bring frivolous claims no matter what standard is used. Mr. President, the standard does matter. In the committee report the proponents cite the case of Green versus White—which uses the compelling interest standard "restored" in the bill—a perfect example of a prisoner abusing the system in endless appeals of a frivolous claim. In Green, the claim was heard before a trial court, an appeal to the Eighth Circuit Court of Appeals, a remand to the trial court, another appeal to the eighth circuit, and a subsequent remand—seven separate appearances before the Federal courts. On the final remand, the trial court judge said:

> The time and resources expended by State and Federal officials in coping with plaintiff's litigation barrage is enormous. At the evidentiary hearing, plaintiff gloated over this fact. He proudly announced that he has suits pending in every prison system in the country. He estimated that he has filed close to one thousand lawsuits on his own behalf of others in the past 10 years.

After this judge made his views known, the inmate appealed yet again and then appealed to the Supreme Court. Under the Supreme Court's current reasonableness standard which this amendment would retain, this case could have been more easily and swiftly disposed of by summary judgment motion.

Pursuant to this bill, not only do prison administrators have to demonstrate a compelling State interest, but courts must determine whether or not the prison used the "least restrictive means" to achieve its goal. In other words, was there another way to achieve the goal that does not burden religious activity? When applying the "least restrictive means" standard, the courts are not required to look at the cost of the alternatives.

For prison administrators, in many cases alternatives are available but at great cost to the State government. In other cases, the least restrictive means can disrupt the security and order of the prisons. Under the bill, if the prison could accommodate a prisoner's activities—even if it required 100 more prison guards or building new facilities—the prison could be required to do so—more unfunded mandates. I agree with the Supreme Court when it expressly rejected the idea that "prison officials * * * have to set up and then shoot down every conceivable alternative method of accommodating the claimant's constitutional complaint.

I urge my colleagues not to impose additional unfunded mandates on our Federal, State, and local prison administrators and support the amendment to exempt prisons from this bill.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. I yield 1 minute 15 seconds to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 1 minute and 15 seconds.

Mr. COATS. Madam President, I am pleased the Senate today is moving toward restoration of religious freedom for all Americans. Freedom of religion, freedom of conscience, and freedom of worship are the most fundamental safeguards of the liberty all Americans cherish.

I will first submit a letter which I received from Charles Colson, who has dedicated 17 years of his life, visited 60 prisons, and has an organization with 50,000 volunteers working with prisoners with some remarkable results. This letter is dated October 20, 1993, and I ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 20, 1993.

Three years ago in Employment Division v. Smith, the Supreme Court took away what many Americans consider their most treasured basic freedom—the right to worship God as they saw fit without interference from the government. The decision removed the requirement that government show a compelling interest before imposing restrictions on religious exercise and that it employ the least intrusive means possible. The Court has effectively turned religious Americans into second class citizens.

With the enactment of the Religious Freedom Restoration Act, we will give back what the Court took away. With the enactment of RFRA we will restore full citizenship to millions of Americans for whom their faith is the most important aspect of their lives.

But, this will only happen if we restore religious freedom to all Americans. That is why I oppose the proposed amendment. Excluding prisoners is both bad policy and sets a dangerous precedent.

It is bad policy because religion can be a catalyst in rehabilitating an offender. We know that most men and women in prison—94 percent, in fact—were previously convicted of another crime. Studies sponsored by groups as diverse as Prison Fellowship and the National Council on Crime & Delinquency attest to the positive influence of religious programming.

For both constitutional and practical reasons, the state cannot be the only or even the primary source of religious programming. It must depend on volunteers who are willing to give both time and money to provide prisoners with what may be their last, best hope for rehabilitation.

The proposed amendment threatens the ability of organizations and volunteers to do this important work. By preserving the status quo, the amendment makes it possible for officials to bar all but minimum religious activity without having to explain their actions to anyone.

The amendment also sets a dangerous precedent. It's easy to think of inmates as second class citizens who have forfeited some of their rights. But, if we can carve out exceptions for one class of citizens, what is to keep us from exempting, say, students or anyone else whose religious freedom may be a little inconvenient to accommodate? Religious freedom is possibly the most fundamental human right. It is too important to be sacrificed on the altar of administrative convenience.

Freedom of religion is a right that should belong to all Americans. God didn't create second-class children. We shouldn't create second-class citizens. Thank you.

CHARLES W. COLSON.

Mr. COATS. Mr. President, I rise to oppose the proposed amendment to the Religious Freedom Restoration Act. First, the amendment is unneeded by prison wardens; second, it is counterproductive to the rehabilitation goals of our penal system; and third, it will trample on one of our most cherished freedoms, the freedom to practice religion.

True, some prison inmates file frivolous lawsuits as a means of retaliating against the system. But this amendment cannot stop a single one of those suits; inmates can and will continue to file them. The point is that RFRA will not give inmates a new legal theory on which to base additional claims. Neither are religious claims a significant problem for the penal system. Prisoner religious exercise suits were less than 1 percent of all prisoner civil rights cases in Ohio when RFRA's higher standard of review was in force in those States.

Moreover, under RFRA as currently drafted, prison wardens will continue to prevail in the vast majority of religious cases brought by inmates. Under the legal standard that would be restored by RFRA, prisons had no difficulty winning on summary judgment. Courts have always given substantial deference to the special needs of prison wardens, holding that burdens they place on inmate religious exercise are usually outweighed by the Government's compelling interest in prison safety, health, discipline, and financial constraints.

Furthermore, we cannot afford the high cost of this amendment. Religious influence is proven to be the most effective means of reducing recidivism among inmates. Yet this proposal seeks to give prison officials total discretion to deny prisoners all religious rights, unless prisoners can prove that prison officials are expressly targeting religion. Prison wardens have near absolute power over every aspect of prisoner life. And in a small but important number of cases, prison wardens act arbitrarily toward inmate religious needs. They do so in ways that cost, rather than save society money and security because they set aside the most positive influence on inmate rehabilitation.

Most of us are familiar with Charles Colson. We know his story—the years he spent in prison, and we know of his commitment to prison issues. Seventeen years ago, Chuck Colson founded the Prison Fellowship, an organization of over 50,000 volunteers who are working in hundreds of prisons to assist prisoners in adopting the responsible lifestyle that will keep them out of prison once they are released.

Chuck Colson has personally visited over 600 prisons in nearly 30 countries. Based on this knowledge and experience, he has urged us to oppose the Reid amendment. He speaks with authority on this issue, so I would like to take a few minutes to read excerpts from a letter every Senate office should have received dated September 13.

Mr. Colson writes:

> It is clear that America has a crime problem. What is not as clear to many people is that the problem isn't in a lack of law enforcement or sound corrections policy. It is a poverty of values. In our violent, inner-city neighborhoods and in our formerly peaceful suburbs, people are crying for the order that grows only out of moral character and moral courage.
>
> Crime, after all, is the result of a moral failure—either of a failure to discern right from wrong, or of a deliberate choice of wrong over right. Crime is a mirror of a community's moral state. Today that mirror reflects a broken consensus. A set of traditional beliefs that defined the content of our character has been shattered like glass. Americans are left to pick their way among the jagged pieces.
>
> In their 1977 book, "The Criminal Personality," psychologist Stanton Samenow and the late psychiatrist Samuel Yochelson argued that the cause of crime cannot be traced to environment, poverty, or oppression. Instead, crime is the result of individuals making, as they put it, wrong moral choices. Samenow and Yochelson concluded that the answer to crime is a conversion of the wrong-doer to a more responsible lifestyle.
>
> And traditional efforts at rehabilitation, however, well-intentioned, have done little to help the wrong-doer choose that more responsible lifestyle. Over sixty percent of all inmates released from prison are re-arrested within three years. Ninety-four percent of all prison inmates are repeat offenders. Something else is needed.

Mr. Colson is right. Something else is needed. And groups like Prison Fellowship, in my opinion, have the answer for many in our prison population. Programs like these work. Yet, under the Reid amendment, they could be barred simply because of the indifference of a prison official.

A 1990 study conducted by the Institute for Religious Research at Loyola College in Maryland compared two groups of ex-offenders. They were similar in terms of crimes committed, age, gender, and race. The only difference between them was that one group had participated in Prison Fellowship programs and the other had not.

The study found that, overall, offenders who had taken part in the program were nearly 22 percent less likely to be re-arrested than those who had not. Among women, the difference was even more notable. Women who attended Prison Fellowship seminars were 60 percent less likely to be arrested. And, those who were re-arrested were charged with less serious offenses.

Mr. Colson believes, and I agree that if the Reid/Simpson amendment becomes law, programs such as those operated by Prison Fellowship can and will be cut off at the discretion of prison officials without any compelling reason. And for that reason, I urge my colleagues to oppose this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 1 minute to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 1 minute.

Mr. HATCH. Madam President, religious freedom is a fundamental right. It is the first fundamental right explicitly mentioned in the Constitution. The Smith case is wrong. It ought to be overruled. Prison administrators have an interest in order, safety, discipline, and other types of controls over the prisons. This amendment will not interfere with their rights to do that. In fact, they will be able to show in almost every instance a compelling interest to enforce their discipline.

There is nothing wrong, however, in protecting prisoners' rights. They are not total animals. They should have some rights protected.

Madam President, I ask unanimous consent to have printed in the RECORD a letter from a number of attorneys general of the United States who support our position.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NEW YORK,
DEPARTMENT OF LAW,
New York, NY, October 19, 1993.

DEAR SENATOR: The undersigned Attorneys General support the passage of the Religious Freedom Restoration Act ("RFRA"), S. 578, without amendment.

We oppose Senator Reid's amendment exempting prisons from RFRA and believe that the Senate Judiciary Committee's report language regarding RFRA's effect on prisoner claims strikes a proper balance between the right of free religious expression and the critical need for cost effective security and order in our nation's penal institutions.

Based on past experience with RFRA's legal standard, the bill will neither jeopardize prison security nor produce significant increases in costs. Although prisoner litigation is indeed an enormous and growing problem, free exercise of religion claims are made in only a tiny fraction of these cases. In New York, for example, only 1% of all cases involve free exercise claims, and the percentage of such cases has remained essentially constant in recent years even as Supreme Court decisions were substantially changing the applicable legal standard.

We concur with U.S. Attorney General Janet Reno to advocating adoption of RFRA without amendment.

Sincerely,

Robert Abrams, Attorney General of New York; Hubert H. Humphrey III, Attorney General of Minnesota; James E. Doyle, Attorney General of Wisconsin; Scott Harshbarger, Attorney General of Massachusetts; Larry EchoHawk; Attorney General of Idaho; Roland W. Burris, Attorney General of Illinois; John Payton, Corporation Counsel, District of Columbia; Michael E. Carpenter, Attorney General of Maine; Winston Bryant, Attorney General of Arkansas; Richard Blumenthal, Attorney General of Connecticut; J. Joseph Curran, Jr., Attorney General of Maryland; Dan Morales, Attorney General of Texas; Jeffrey B. Pine, Attorney General of Rhode Island.

Mr. HATCH. Madam President, there are seven points I would like to stress in opposition to the Reid amendment.

First, religious liberty is a fundamental right. For almost 200 years of this Nation's history that right has remained fundamental. There is no exemption in the first amendment's guarantee of religious liberty. There should be no exemption in this religious liberty statue we are about to enact.

Second, exposure to religion is the best hope we have for rehabilitation of a prisoner. Most prisoners, like it or not, will eventually be returning to our communities. I want to see a prisoner exposed to religion while in prison. We should accommodate efforts to bring religion to prisoners.

Third, the compelling State interest test outlined in RFRA is an appropriate test for challenges to religious liberties. It has proven to be a workable balance between the interests of prison administrators and the more limited rights of prisoners. Contrary to what some have suggested, prison officials clearly have a compelling interest in maintaining order, safety, security, and discipline. The sponsors of this bill have emphasized this point repeatedly.

Fourth, the claims of increased prisoner litigation are a red herring. The litigious prisoner will litigate his claims regardless of this amendment. The Reid amendment will do absolutely nothing to reduce the number of lawsuits filed by prisoners.

Fifth, the cost of religious accommodation is a consideration under the compelling State interest test. The courts have recognized the budgetary limitations of prison administrators and will continue to consider the cost of religious accommodation under RFRA.

Sixth, the courts are well suited to identify sham religions which mock established religion. Claims that prisoners will successfully extract special privileges by forming their own religions will be easily detected.

Finally, let me point out that this amendment sets a dangerous precedent for religious liberty. The real danger lies not so much in the exemption of prisoners, but in the choice we are making about exempting anyone from the principle of the free exercise of religion. Today we are asked only to exempt prisoners. Tomorrow, however, we will be asked to exempt others. Ultimately, we may be asked to exempt certain religions which are, arguably, out of the mainstream of American culture. How far we will venture is a legitimate unanswered question.

By supporting the Reid amendment we embark on a journey down the most dangerous of paths. Religion truly deserves more protection than offered by the Reid amendment. I ask you to help us restore religious liberty to our nation. I ask you to defeat the Reid amendment.

Mr. DOLE. Mr. President, I want to take a few moments to express my support for the Religious Freedom Restoration Act.

In one sense, tonight's debate can be described as a battle between two competing legal standards: should Congress endorse the standard in the Supreme Court's Smith decision, upholding laws that interfere with religious practices, if the law is rationally related to a legitimate government objective? Or should we go back to the higher standard that existed before the Smith decision—that laws interfering with religious practices should only be upheld if they are necessary to achieve a compelling government objective?

These are important questions, questions whose answers have real-life consequences.

But perhaps the most important issue raised by this debate is not strictly a legal one, but rather the proper relationship between Government and religion in our society.

For, in the America of 1993, Government too often views religion with deep skepticism and our popular culture too often treats religious belief with contempt.

We seem to have forgotten that the very first sentence of the first amendment to the Constitution guarantees not freedom of speech or assembly, or even freedom of the press.

The first freedom of our Bill of Rights is the freedom of religious expression, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

These words—direct, but all too often misunderstood—were not designed to protect a defenseless Government from the encroachments of religion, but rather to protect religion from an overreaching Government.

And there is a good reason for this: religion is perhaps the most powerful competitor to Government. Government's greatest threat. It's no surprise that when the Communists took over Eastern Europe, they tried to destroy the one institution that could serve as an agent of social change—the church.

And we have seen the church act as an agent of change here in America: the civil rights movement of the 1950's and 1960's was, at its core, a religiously inspired mass movement. The Rev. Martin Luther King, Jr., and other civil rights leaders were called to secular action by a deep and rich religious faith and America is a better place for it.

So, the time has come to put an end to the motivations blame game that seems to have become the fashion in this country. All too often, our society dismisses out-of-hand those who admit a religious motivation. The term "religious fanatic" is so overused—and misused—that anyone who seeks to translate religious belief into political action is demonized as a fanatic.

When a person or group seeks to participate in the public debate, it is irrelevant whether that participation is motivated by religious belief. What is relevant is the quality of the participation. Are the ends being sought worthy of secular support? Is the argument persuasive?

And that's what the Religious Freedom Restoration Act is all about—allowing people with sincere religious beliefs to act upon those beliefs, to participate in the public debate without having to run the gauntlet of unnecessarily large Government roadblocks.

Finally, Mr. President, I intend to vote against the amendment that would exempt prisons from coverage under the act. It is not too often that I disagree with my distinguished colleague and friend from Wyoming, Senator SIMPSON, but in my view, this amendment is not necessary.

The Religious Freedom Restoration Act will not prevent prison officials from implementing rules designed to enforce prison discipline. If a disciplinary rule interferes with an inmate's religious practices, that rule will still remain valid if it serves a compelling interest of the Government. That was the standard before the Smith decision and that is what the standard should be today.

With the crime epidemic sweeping across our country, the American people are demanding solutions and, when all is said and done, the best solution to crime is not more police or a prison cell, but that little inner voice called conscience.

Down through the ages, people have developed conscience through the family and the schools, and through the religious training offered by our churches.

And if religion can help just a handful of prison inmates get back on track, then the inconvenience of accommodating their religious beliefs is a very small price to pay.

Mr. HATFIELD. Mr. President, the Religious Freedom Restoration Act returns the state of the law to that prior to the Supreme Court case, Oregon Employment Division versus Smith. This is a much needed change because the Smith decision—along with two cases specific to prisons, O'Lone and Turner—has severely limited the first amendment's protection of the right to exercise our religious beliefs by holding that the Government no longer needs a compelling interest to infringe on this right.

This bill should be passed without an amendment to exempt prisons. To reinstate the compelling interest test but specifically exempt prisons would be to jeopardize this fundamental right in a place where it can do the most good.

Religious practice is the one right prisoners have that maintains their dignity and self-worth. While prisoners justifiably lose many of their rights when they go behind bars, religious freedom has long been acknowledged as a special case because of the extremely personal nature of religious faith and because of its rehabilitative attributes.

We are very worried about the increasing cost of our prison system. But, costs grow exponentially when we incarcerate the same individuals three of four times. Why is there such a high recidivism rate? Because, as Chuck Colson, chairman of the Prison Fellowship Program explains, "Crime is a mirror of a community's moral state." Enforcement and punishment has little effect if an excon does not possess a value system that rejects the lure of repeated criminal activity in the future.

In addition, I understand that Mr. Colson's prison ministries group, which has successfully rehabilitated many prisoners, has been denied access to prisoners in Maryland who upon admission to prisoners who did not identify themselves as protestants. I also understand that a Colorado prison presently denies prisoners rights to take communion. These are examples of the need for us to pass this bill without this amendment.

Attorney General Reno, overseeing the Nation's largest prison system, urged the adoption of this bill in committee without amendment. She stated that an amendment exempting prisons was unnecessary and reinstitution of pre-Smith law would not pose an undue burden on the operation of prisons.

Many State attorneys general and directors of prison systems are concerned about changing the standard of review for cases in prisons. This is understandable. In Oregon, prison and jail officials have gone to some length to provide adequate deference to religious practice. These corrections officials generally respect the need to protect the free exercise of religion, but are concerned about the costs and time involved with litigation on these cases.

But, as Attorney General Reno wrote in a letter to the Judiciary Committee, some prisoners attempted to gain privileges based on fabricated free exercise claims before the current standard was in place, these claims have continued under the current standard, and "they will doubtless continue whether S. 578 becomes law or not." Further, free exercise claims are a small percentage of the cases that are filed. The New York attorney general's office found that, regardless of the standard used, religious freedom cases are less than 1 percent of all prison cases. In Ohio, they were less than 2 percent.

Finally, this amendment is not necessary for the security of prisons. In fact it could even be detrimental to security by setting back the rehabilitative process and by furthering alienation and discontent in the prison setting. Activities that are dangerous or jeopardize discipline would still be subject to restriction under the compelling interest standard implemented in this bill.

The courts recognize the compelling interests inherent in prison operations. As the committee report on this bill states:

> The committee expects that courts will continue the tradition of giving due deference to the experience and expertise of prison and mail administrators in establishing necessary regulations and procedures to maintain good order, security and discipline consistent with consideration of costs and limited resources.

I will vote against this amendment because it is simply not necessary and is contradictory to the purpose of the entire bill: protection of an individual's right to free exercise of religion.

Mr. DANFORTH. Mr. President, I have decided to vote against the Reid amendment to the Religious Freedom Restoration Act [RFRA]. As I understand it, the Reid amendment would create an exception in RFRA so that prisons would not have to show that they have a compelling interest for restricting a prisoner's religious liberty. The reason for making this exception is to curtail inevitable, self-serving, often frivolous prison free exercise lawsuits.

I am extremely sympathetic to Senator REID's aims. Before coming to the Senate, I was Missouri's State attorney general. So I know very well that there is a problem with frivolous prison lawsuits. Some, maybe 1 or 2 percent, are based on religion. Most are not. I agree with the Senator from Nevada that we should do something to curtail absurd prisoner claims. Perhaps we should consider amending section 1983 to curb all frivolous section 1983 suits. I would be very interested in exploring such an option. But to summarily cut off religious free exercise for an entire group cannot be the answer.

It cannot be the answer for several reasons. First, because it is too broad. The freedom to practice religion is one of our most precious fundamental rights. And Congress should not codify group exceptions to fundamental freedoms. Many of the arguments in favor of this amendment could be made to curtail free exercise in the public schools and other arenas as well. Before we deny anyone the right to practice his faith, prisoner or schoolchild, the Government should scrutinize his individual claim.

Legitimate free exercise claims must be protected. This amendment would grant prison officials almost unbridled discretion to deny rights. And prison officials do not have a good track record for respecting legitimate religious needs. There are already cases illustrating this which were decided under the standard the Reid amendment would retain. For example, in 1991, in the case of Young versus Lane, an Illinois prison denied Jewish inmates' requests to wear yarmulkes based on the silly assertion that the Jewish inmates might wear the yarmulkes as a means of gang identification.

In Friend versus Kolodzeiczak, also in 1991, an Alameda County jail refused Catholic inmates the right to keep rosary beads and scapulars in their cells. The court, finding for the prison, relied on the defendants' argument—available in virtually every free exercise case—that accommodating the prisoners' request to practice his religion would create an impression of favoritism.

A Colorado prison now denies inmates the right to take communion. Surely these were not capricious or frivolous requests. Surely they could have been accommodated to some extent. But under the present standard, the standard of the Reid amendment, they will not be accommodated.

Now, I understand that it is not always easy to accommodate even a sincere religious individual or group. Even before Oregon versus Smith, courts took costs into account and denied claims on that basis. And they will continue to do this under the RFRA standard. But now some prisons deny inmates with religious dietary restrictions the right to appropriate food—even where there is no additional cost. Even where members of the community offer to provide the food for free. This cannot continue.

And, while these and other legitimate religious claims are being ignored, I am not aware of even one decision in which a bizarre claim was upheld under the RFRA standard.

In fact, and this is another reason I am voting against the amendment, courts have generally been extremely deferential to prison authorities. Courts have long recognized that safety and order in prisons are compelling State interests. Courts have accepted the expertise of prison administrators as to how to achieve these goals. RFRA mandates a uniform test, not a uniform result. Prisons by their nature differ from other settings. That is taken into account under RFRA. I am also satisfied that these principles are clearly spelled out in RFRA's legislative history.

Mr. President, I have long supported measures to reduce the amount of litigation in this country. I am obviously concerned by the prospect of any increase. But there is no evidence that frivolous claims will proliferate under RFRA. On the contrary. RFRA reestablishes a standard that existed for 30 years. The only reason to suspect a new explosion of litigation would be if there had been a precipitous decrease after the Smith decision. But since Smith, the amount of prisoner religious litigation has not decreased. I see no reason to suspect a sudden increase now.

Finally, as has been pointed out by several of my colleagues, far from discouraging religious practice in prison, we should invite it. Under the current standard, Chuck Colson's Prison Ministries, which has an extremely positive effect on prisoners, has already been excluded from prisons in Maryland. The evidence is overwhelming that inmates who join religious outreach groups have far lower recidivism rates. Isn't that part of what we hope to accomplish in prisons.

Mr. President, I suppose that there will inevitably be a few dozen of these silly steak and sherry cases wasting our time every year. The courts will see them for what they are. Perhaps RFRA will even add a few to that number. We really cannot afford them. But we can afford even less the result under this amendment. We can afford even less the loss of legitimate religious exercise by prisoners under government control.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I yield myself the last remaining moment.

Today Members of the Senate have the opportunity to cast a historic vote for religious liberty: The Religious Freedom Restoration Act will assure all Americans the right to follow the teaching of their faiths, free from Government interference.

As we vote today to restore the broad protection for religious freedom envisioned by the Framers of the Constitution, let us not deny this fundamental right to persons in prison.

In a famous passage in the Book of Matthew, Jesus says to the righteous ones "I was in prison and you visited me." And the righteous asked Him, "when did we ever see you in prison and visit you?" And Jesus responded, "I tell you whenever you did this for the least of your brothers, you did it for me."

There is no doubt that those who are in prison are among the least among us. But they are entitled to practice their religions, and we should encourage them to do so.

The Attorney General of the United States and 13 State attorney generals oppose the Reid amendment, because it is unnecessary and inappropriate to deny prisoners the same religious rights the act will guarantee to all Americans. They know that the Religious Freedom Restoration Act will not undermine prison security or increase frivolous prisoner litigation; but it will protect the religious rights of all Americans.

I urge my colleagues to support religious liberty by voting to reject the pending amendment and to support the Religious Freedom Restoration Act.

ANIMAL CRUELTY

Concerns have been raised as to whether RFRA will limit a State's ability enforce laws banning animal cruelty. I want to assure my colleagues that these concerns are unfounded.

This question arose following the Supreme Court's decision last summer in *Church of the Lukumi Babalu Aye, Inc.* v. *Hialeah*, [61 U.S.L.W. 4587, No. 91-948 (U.S. June 11, 1993)], which arose when persons practicing the Santeria religion, which practices animal sacrifice, challenged a Hialeah city ordinance outlawing religious ritual animal slaughter while permitting the killing of animals in other circumstances. The Supreme Court ruled that the Constitution's Free Exercise Clause barred a government from singling out for prohibition religiously motivated killing of animals while permitting such killings motivated for other purposes.

The Court noted that under the statute at issue, "few if any killings of animals are prohibited other than Santeria sacrifice * * * [A]though Santeria sacrifice is prohibited, killings that are no more necessary or humane in almost all other circumstances are unpunished." Reviewing the events that led to the enactment of the ordinance, the Court concluded that the provision had been passed to suppress religious activity, and that it unconstitutionally discriminated against religion in violation of the first amendment.

The Santeria case thus dealt only with laws that single out religious animal sacrifice while allowing other kinds of killing of animals. In contrast, RFRA is intended to deal with statutes of general applicability, not those that single out religious activity.

RFRA requires that statutes of general applicability that substantially burden free exercise of religion must be necessary to achieve a compelling Government interest. The Court in the Hialeah case did not address the question whether a nondiscriminatory ban on animal killing would meet this compelling interest standard. But in my view there clearly is a compelling Government interest in avoiding the needless slaughter of animals.

Our country has a long history of protecting animals from cruelty through the enactment and enforcement of general anticruelty statutes. In fact, the Massachusetts Bay Colony enacted the first statutory legislation to protect animals from cruel treatment in 1641. Today, virtually every State in the Nation has an anticruelty law that protects animals from unnecessary torture, abuse, or killing.

The Federal Government passed a humane slaughter law in 1960 and currently 26 States have enacted State humane slaughter statues. It is certainly not the intent of Congress to stifle the enforcement of religious-neutral laws that protect animals.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, as indicated by the Senator from Utah, it is not the SMITH case that is the controlling aspect of the matter before us. It is the O'Lone case. We do nothing to affect a person's religious liberty. I am a cosponsor of this bill. I hope the bill passes. But the bill should pass with the amendment offered by me and Senator SIMPSON because it would make a better bill. We simply maintain the same standards that have been in effect in this country for many years.

Last year, 48,538 criminal cases were brought in Federal court. During the same period, inmates in Federal and State systems filed almost 50,000 civil lawsuits against the Government in the same court system. The criminals are winning by almost 1,500. The criminals are tying up our court system with suits just for the sake of doing it, and it costs enormous amounts of money every year. It costs the State of Nevada millions and other States far more.

All the amendment does is maintain the current standard for reviewing inmates' religious claims. Under this Supreme Court standard, a prisoner's free exercise may be burdened if it is reasonably related to prison interests. Under RFRA the standard could be changed so the State would have to have a compelling interest and the alternative would have to be the least restrictive means.

What this means is that prisoners who sue the Government to receive pornographic material, knives to perform animal sacrifice, women to dance with in the moonlight in religious ceremonies—and there are reams of cases like these I mentioned—are going to be able to tie up the courts even more and their cases are going to be even more winnable. Far over half the attorneys general favor this amendment. Every prison administrator in this country favors this amendment. Judges will no longer be able to dismiss cases by summary judgment if this standard is not adopted by this amendment.

Full evidentiary hearings will be necessary in all these ridiculous claims by prisoners. We cannot afford to impose upon the States another unfunded mandate, and that is what this would be. The opponents of our amendment claim we are trying to take away a prisoner's religious rights. That is poppycock. Nothing is further from the truth. We maintain all the rights prisoners currently have, and, believe me, they have a lot of rights, far more than most people even outside prisons in some instances.

I appreciate the Biblical quotation, but we are not taking any Bibles away from anyone. We are taking no religious freedom away from any prisoners. I repeat, all this amendment does is maintain the current standard in the prisons for reviewing a prisoner's religious rights. It is a standard long established by the Supreme Court and one supported by all 50 State prison directors, a majority of State attorneys general, the National Sheriffs Association, the American Federation of State, County, and Municipal Employees, and many Governors, and, I respectfully submit, common sense.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent it be in order to request the yeas and nays on the passage of H.R. 1308.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia (Mr. ROCKEFELLER), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 330 Leg.]

YEAS—41

Baucus
Bond
Breaux
Brown
Bryan
Burns
Byrd
Cochran
Cohen
Conrad
Coverdell
Daschle
Dorgan
Exon
Faircloth
Feinstein
Gorton
Graham
Gramm
Helms
Hollings
Hutchison
Johnston
Kerrey
Lott
Mack
Mathews
McCain
Murkowski
Nickles
Nunn
Pressler
Reid
Roth
Sasser
Shelby
Simpson
Smith
Stevens
Thurmond
Wallop

NAYS—58

Akaka
Bennett
Biden
Bingaman
Boren
Boxer
Bradley
Bumpers
Campbell
Chafee
Coats
Craig
D'Amato
Danforth
DeConcini
Dodd
Dole
Domenici
Durenberger
Feingold
Ford
Glenn
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Inouye
Jeffords
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Pryor
Riegle
Robb
Sarbanes
Simon
Specter
Warner
Wellstone
Wofford

NOT VOTING—1

Rockefeller

So the amendment (No. 1083) was rejected.

● Mr. FEINGOLD. Mr. President, I rise today as an original cosponsor and strong supporter of S. 578, the Religious Freedom and Restoration Act of 1993. I want to emphasize, Mr. President, that I support the bill unamended and in its current form.

S. 578 is designed to reverse the results of two Supreme Court cases and codify the Free Exercise Exemptions Doctrine established in Sherbert versus Verner, 374 U.S. 398 (1963). The Supreme Court in Sherbert established a standard of review requiring any government to show a compelling interest in order to substantially burden or restrict religious practice, and that if a compelling interest is shown, the Government can only burden or restrict religious practice by the least restrictive means available.

For nearly 20 years the compelling interest standard has proved to be sufficiently flexible to strike an appropriate balance between the free exercise of religion and the functions of Government—even those functions related to safety and security. However, the Court reversed the compelling interest standard, first in O'Lone versus Estate of Shabazz, 482 U.S. 342 (1987), where the Court afford[ed] appropriate deference to prison officials, in declaring prison regulations to be judged under a reasonableness test, and later in Employment Division versus Smith, 494 U.S. 872 (1990), in which religious protections were weakened for the general public as well. Congressional action is needed in order to enforce the first amendment's religious liberty protections. Under the fourteenth amendment Congress has the authority to enact legislation providing greater protection to religious freedom than has been granted by the Court.

I am aware that many prison officials and attorneys general in the States oppose the legislation in its current form. They would amend the act to exempt prisons and prisoners claims from the application of the compelling interest standard. They have maintained that requiring States to show a compelling interest in restricting the free exercise of a prisoner's religion will result in an overwhelming avalanche of prisoner claims and demands for special meals, release from a variety of prison rules, access to drugs and other contraband, refusal of medical treatment for communicable diseases, access to religious materials that spread racial hate and other rights seen as a threat to the safety and security of the prisons. Additionally, the attorneys general contend, litigation costs to defend the State against such claims will sky rocket. But in the face of these claims, stands the empirical evidence to flatly rebut these assertions.

In the years preceding O'Lone, and Smith, when the courts applied the compelling interest standard in all cases of religious freedom, first amendment jurisprudence has always respected the compelling need for prisons to maintain safety, order, and discipline. In fact, prisoner religious rights claims have never been more than 1 percent of all prisoner complaint cases nationally. The same is true in my home State of Wisconsin, where not only have prisoner's religious rights cases never exceeded 1 percent, but the proportion of these cases has actually decreased from a height of .7 percent in 1987, the year of the O'Long ruling, to one-half of 1 percent currently. What has happened, however, to increase litigation costs to States in relation to prisoner claims, is the tremendous increase in the number of prisons built, and the number of prisoners States have warehoused in their prison systems. This fact is more likely to have had an affect on costs associated with litigation, prison security, safety, order and discipline than the religious claims of the prisoners themselves.

Simply stated, Mr. President, the religious Freedom and Restoration Act as introduced would recognize the constitutional importance of religious liberty in the prison context, and restore the societal benefits flowing from religious exercise by prisoners. However, it would not do so at the expense of security, discipline, and institutional order, or substantially increased cost. The bill does not enact a revolutionary legal standard for prisoner free exercise claims. It restores a standard that proved workable and balanced in securing the freedoms granted by the first amendment and safety in the conduct of Government functions.

Mr. President, the religious freedom provisions of the first amendment to the Constitution are integral parts of the Bill of Rights, and the fundamental civil liberties of every American of every faith and religion. For more than 200 years, our society has functioned under the principle that the free exercise of religious beliefs is a fundamental right that Government cannot restrict except under the most compelling circumstances, and then only in the most narrow manner so a to not interfere with the exercise of these rights. This legislation would reestablish these protections, which were weakened by these recent decisions. I am pleased to cosponsor and strongly support this important legislation.●

Mr. BRADLEY. Mr. President, I rise today in strong support of the Religious Freedom Restoration Act [RFRA], arguably one of the most important pieces of legislation concerning religious freedom in our lifetime.

Our nation's commitment to individual religious liberty is as old as our Nation itself—indeed, older. This long tradition of upholding the right to practice one's religion freely, without the unnecessary interference of Government, remains a core element of our national heritage. Since colonial times, millions of people have left their homelands in search of a safe harbor from persecution to arrive at our shores secure in the fact that this land is a land of liberty. Religious freedom has remained a bedrock in our societal framework. Because our Nation has guaranteed religious freedom, we have all been enriched by a diverse tradition of religious experiences—one that has flourished, in large part, because of the free exercise clause. Far from a luxury, religious freedom is a right without which we would be all the poorer.

The right to be allowed to practice one's religion unburdened by the Government has been enshrined in the free exercise clause of the first amendment. This amendment provides that "Congress shall make no law * * * prohibiting the free exercise [of religion]." Our modern day jurisprudence on the free exercise clause can be traced back 30 years, when in 1963 the Supreme Court issued its landmark decision, Sherbert versus Verner. In his opinion for the Court, Justice Brennan held that in instances where governmental laws or actions place a substantial burden upon the free exercise of religion, the Government must demonstrate that by doing so it is using the least restrictive means to achieve a compelling governmental interest. This standard has come to be known as the compelling interest test. And for 27 years following Sherbert, the courts, in large part, employed the compelling interest standard in its free exercise analysis.

To the surprise of the legal world, however, the Supreme Court introduced a new standard in its 1990 decision, Employment Division versus Smith. In Smith, a divided Court abruptly abandoned the compelling interest standard and dramatically weakened the constitutional protection for freedom of religion. Smith declared that a law of general applicability that operates to burden religious practices does not violate the first amendment so long as that law is rationally related to a legitimate governmental interest. This rational relation standard brings the level of scrutiny down to a far lower level. Most importantly, Smith has in essence, removed any real or significant constitutional protection for the free exercise of religion. It has, in effect, gutted the free exercise clause.

Mr. President, I believe this bill breathes new life into the protections we give for the free exercise of religion and ensures that, like freedom of speech and freedom from discrimination, freedom of religion will again be restored as a constitutional norm, not an anomaly. This bill ensures that religious liberty will once again be given its proper place among our most valued liberties.

RFRA bolsters the free exercise of religion by restoring the legal standard that was applied to the decisions which preceded Smith, the compelling interest standard. RFRA simply insures that courts will protect the fundamental right to freely exercise one's religion at an appropriate level of scrutiny. RFRA does not dictate the outcome of any particular case; rather, it allows each case to be judged on its merits within the proper framework.

It is a testament to the importance of RFRA that virtually every religious group, spanning the entire spectrum, has voiced its support for this bill. It is a rare thing when such a diverse coalition joins in wholehearted agreement. Like this large and diverse coalition, I urge my colleagues to support this bill.

Mr. GRASSLEY. Mr. President, I intend to support this bill, as I did in the Judiciary Committee. Like the sponsors, I am not confident that the Supreme Court's decision in Oregon versus Smith gives sufficient protection to the freedom of worship. After all, freedom of worship is one of the fundamental rights on which our Nation was founded—perhaps the most fundamental. It is important that we put the burden on Government to justify itself when it wishes to hinder the free exercise of religion.

I should note that I have had some reservations about the bill. Congress must tread very carefully when legislating standards for the freedom of religion. When we considered the bill in the Judiciary Committee, I raised concerns about Congress' constitutional authority to enact legislation dictating to the Supreme Court what standards it must employ in free exercise cases, and about the wisdom of mandating a compelling interest standard in all cases. Fortunately, the Senator from Utah was able to alleviate many of these objections. I ask unanimous consent that my colloquy with Senator HATCH be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. Mr. President, I would like to congratulate the outside supporters of this bill for their persistence in fighting for passage of a bill which they consider necessary to secure the religious liberty of their diverse parishioners. It has been nice to see people of so many different faiths uniting behind a common cause. When you see Mike Farris and the ACLU working together on a first-amendment issue, you know something special is going on.

I would also congratulate the Senator from Utah for his persistence. I am quite confident this bill would not be before us today were it not for his strong support. I admire the commitment to religious freedom that generates such tenacity.

I share the concerns of the Senator from Nevada and the Senator from Wyoming that the bill not establish a new, liberal standard for first-amendment claims by prisoners. Indeed, I raised these concerns during full committee consideration of the bill. But I think those concerns have been satisfactorily addressed by the sponsors.

As Senator HATCH explained to me in the Judiciary Committee markup of the bill, and as the committee explains in the report, the bill is to be read by the courts as recognizing the inherently compelling interest prison administrators have in maintaining prison order. But given the importance of religion as a tool for rehabilitation, and the importance of prison as a place for people of faith to try to save the most desperate and lost members of our society, we should require prison administrators to at least put forward a justification for restrictions placed on worship by prisoners.

I am also satisfied the bill will not create a new flood of prisoner litigation. And I think the problem of frivolous prisoner litigation must be dealt with generically, not by restricting discreet classes of claims. I hope the proponents of the amendment will support my efforts to the Judiciary Committee to establish additional requirements for prisoner exhaustion of administrative remedies prior to filing suit. Prisoner litigation is a serious problem, and we should deal with it. But we shouldn't start by restricting prisoners' right to worship.

EXHIBIT 1

COLLOQUY OF SENATORS HATCH AND GRASSLEY, SENATE JUDICIARY COMMITTEE, MAY 6, 1993

Mr. GRASSLEY. What is the basis for congressional power to enact this bill? Do we have authority to prescribe a specific standard for the Supreme Court?

Mr. HATCH. In my view there is congressional authority to defend the first amendment's protection of our religious freedom. Congress has the power to regulate state action under section 5 of the 14th amendment to the Constitution. The due process clause of the 14th amendment provides that authority and it has consistently been held to incorporate and apply the First Amendment to the States. Constitutional scholars, including professor Douglas Laycock of the University of Texas, have testified before our Committee to this effect.

Mr. GRASSLEY. How does the bill apply to the military and prisons—where I believe—and the court has stated—the government has a very strong interest in order and discipline?

Mr. HATCH. I believe the United States military will certainly be able to maintain good order, discipline, and security under this bill. The courts have always recognized the compelling nature of our military's interest in order, discipline, and security in the regulation of our armed forces and have always extended to them significant deference. I would expect this deference to continue under the bill.

With respect to prisons, the bottomline is that prison administrator's interest in order, safety, security, and discipline are going to be deemed compelling, and that is certainly my intention.

As a practical matter, I should emphasize, prison administrators will have to articulate their security concerns and demonstrate the connection between their legitimate concern and the regulations. I do not think that is too much to ask on behalf of the free exercise of religion, even for prisoners. Indeed, prisoners are especially needful of the influence of religion. I would rather have prisoners trying to practice their faith than learning how to become better criminals once released. Obviously, when the practice of religion collides with the need to maintain order and security, the prison administrators will win their case under this bill.

Mr. GRASSLEY. How will this bill apply in cases the courts have decided on the basis of the need to conduct the internal affairs of the government? In one case—*Bowen* v. *Roy*—the Court denied a free exercise challenge to the government's use of Social Security numbers for internal management. In another case, *Lyng* v. *Northwest Indian Cemetery Protective Association*, the Court rejected a free exercise challenge to the government's use of government's lands. Instead of using the compelling interest test, the Court in these cases found that the religious claims of particular citizens were outweighed by the government's need to conduct internal affairs. Are these cases essentially overruled by this bill?

Mr. HATCH. RFRA would have no effect on cases like *Bowen* v. *Roy*, 476 U.S. 673 (1986), involving the use of social security numbers, because the incidental impact on a religious practice does not constitute a cognizable "burden" on anyone's free exercise of religion. Unless such a burden is demonstrated, there can be no free exercise violation. Thus, a claimant never gets to the compelling interest test where there is no burden demonstrated. RFRA language intentionally includes terminology requiring a "burden" on one's exercise of religion.

RFRA also does not effect *Lyng* v. *Northwest Indian Cemetery Protective Assn.*, 485 U.S. 439 (1987), a case concerning the use and management of government resources, because, like *Bowen* v. *Roy*, the incidental impact on a religious practice does not "burden" anyone's free exercise of religion. In *Lyng*, the court ruled that the way in which government manages its affairs and uses its own property does not impose a burden on religious exercise. Unless a burden is demonstrated, there can be no free exercise violation.

Mr. GRASSLEY. Does this bill change the way courts assess a "compelling state interest"? Will it still be up to the judge—who will look at all the factors in the case—to say whether there is a compelling interest? In other words, this bill does not purport to legislate a definition of compelling interest, does it?

Mr. HATCH. RFRA reestablishes a very familiar and traditional standard of review that the courts have been applying since the 1963 decision *Sherbert* v. *Verner*. That is why we do not attempt to define the standard in the bill. This bill does not dictate the proper result in a particular free exercise case nor does it identify specific governmental interests that are compelling. The courts will continue to determine whether burdens on religious exercise are justified based upon a consideration and weighing of all relevant facts and circumstances. Historically, the courts have had little difficulty identifying important governmental interests. For example, the courts have found eradication of racial discrimination to be compelling governmental interest.

Mr. INOUYE. Mr. President, I rise to commend my colleagues and sponsors of the Religious Freedom Restoration Act for their perseverance in securing Senate action on this very important measure. Today, we take a historic first step in assuring that the protections of the first amendment to the U.S. Constitution will not be diminished. Unfortunately, today's action will not bring to a close the religious freedom crisis in this country for one very important group of Americans—this Nation's first American.

On May 25, 1993, a number of my colleagues joined me in cosponsoring the Native American Free Exercise of Religion Act, S. 1021. If enacted, this bill will accomplish what the Religious Freedom Restoration Act did not address—namely, the circumstance in which Government action on public and Indian lands directly infringes upon the free exercise of a native American religion.

There is language in the Supreme Court's ruling in Lyng versus Northwest Indian Cemetery Protective Association and the Senate committee report accompanying the Religious Freedom Restoration Act which indicates that native American worship at sacred sites on Federal land will not be protected by the act in light of language which provides that the Government's use of its own property does not impose a burden on the exercise of one's religion and, therefore, the compelling State interest test might not apply to those sacred and religious sites of native Americans that are located on Federal lands.

It is not well known that by virtue of numerous Federal laws, there was a period in our history that the exercise of religion and culture by the native peoples of the United States was prohibited. Children were punished for speaking in their native language. Native people were imprisoned for practicing their religion. Accordingly, we have a long history of Government oppression to correct when it comes to the religious freedom of native Americans.

We have been meeting with the Federal agencies that administer the public and Indian lands, and I am pleased to report that they fully support the policy and the objectives of the Native American Free Exercise of Religion Act. Our task is now to work out the details of how we can most effectively balance the protection of native religions with the management of Federal lands. I am confident that we can strike such a balance.

In the interim, I would hope that we may consider the Religious Freedom Restoration Act as an important building block—resting upon the foundation of the first amendment—and supporting the extension of religious freedom protections for all citizens of this great society, including the native people of the United States—this Nation's first Americans.

The PRESIDING OFFICER. Under the previous order, the bill is deemed read a third time. The Senate will now proceed to the immediate consideration H.R. 1308, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 1308) to protect the free exercise of religion.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken. The text of S. 578, as amended, is inserted in lieu thereof. Under the previous order, the bill is deemed read a third time. The question is on the passage of the bill, as amended. The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 97, nays 3, as follows:

[Rollcall Vote No. 331 Leg.]

YEAS—97

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—3

Byrd
Helms
Mathews

So the bill (H.R. 1308), as amended, was passed.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed and move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, at this historic moment I want to extend my thanks to all of those who worked so hard to make this day possible, including: Rev. Oliver S. Thomas, and J. Brent Walker of the Baptist Joint Committee on Public Affairs; Rabbi David Saperstein of the Religious Action Center of Reform Judiasm; Forest Montgomery of the National Association of Evangelicals; Robert Peck of the American Civil Liberties Union; Steven T. McFarland of the Christian Legal Society; Leslie Harris and Jim Halpert of People for the American Way; and Richard Foltin of the American Jewish Committee.

All Americans committed to religious liberty owe them our thanks for their exhausting efforts.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ON H.R. 2445

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that at 1:10 p.m. today, the Chair lay before the Senate the conference report accompanying H.R. 2445, the energy and water appropriations bill; that there be 20 minutes for debate on the conference report with the time equally divided and controlled between Senators JOHNSTON and HATFIELD; that upon disposition of the conference report, the motion to reconsider be laid upon the table; that the Senate then concur, en bloc, in the amendments of the House to the amendments of the Senate; and that the motions to reconsider be laid upon the table, en bloc, with all of the above occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, on behalf of the majority leader, I now ask unanimous consent that it be in order to request the yeas and nays on adoption of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

100TH ANNIVERSARY OF THE OVERTHROW OF THE KINGDOM OF HAWAII

Mr. FORD. Mr. President, under the authority granted to the majority leader regarding S.J. Res. 19, and following consultation with the Republican leader, I now announce that the Senate will proceed to consideration of S.J. Res. 19 at 1:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. FORD. Mr. President, on behalf of the majority leader, I now ask unanimous consent that the vote on adoption of the conference report occur following the vote on passage of S.J. Res. 19, a joint resolution to acknowledge the 100th anniversary of the overthrow of the Kingdom of Hawaii.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 1 p.m. today.

Thereupon, the Senate, at 10:47 p.m., recessed until 12:59 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KERRY).

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may speak for several minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I thank the Chair.

HEALTH CARE

Mr. SPECTER. Mr. President, now that the President has submitted the legislation on health care reform, there will be an opportunity for Members of Congress to examine it in some detail.

I think that most of us, and certainly I am committed to health care reform for all Americans, to see that health care is extended to the 37 million Americans who are now not covered; to see that the individuals who may change jobs are covered when they move from one job to another; to see that health care services are provided in rural areas; that an increase in the number of family practitioners is encouraged; and that there will be more preventative care services.

One of the concerns which I think we have to be very careful about is the creation of big Government and the creation of an unwieldy Federal bureaucracy which could conceivably overwhelm the health care delivery system that today serves effectively some 86 percent of all Americans.

In reviewing the President's preliminary outline of some 239 pages, which he submitted last month, I was concerned about the creation of many new boards and agencies. My staff and I have prepared a chart which depicts only in part the complexities of the new administrative bureaucracy.

The 239-page report, which the President has outlined, has some 77 new agencies, boards and commissions. They are outlined in red on this chart starting with the National Health Board and moving through a total of 77 advisory boards, commissions, and agencies. The boxes depicted in green represent the existing agencies, which are given new jobs, responsibilities, and functions totaling some 54.

Within the confines of this relatively small chart we have 131 new boards, agencies and commissions, including 77 new ones and some 54 existing ones where new tasks and responsibilities have been assigned.

As I reviewed the President's 239-page summary—and we have to compare it now with the proposed legislation, which I am told numbers in excess of 1,300 pages—the concern has to be that we do not allow big Government to overwhelm the delivery of health care services in this country.

During my 12½ years in the Senate I have served on the Appropriations Subcommittee on Health and Human Services. It has been a struggle to find sufficient funding within that subcommittee to take care of funding for the National Institutes of Health, to fund research on heart disease, on diabetes, on cancer research, prostate cancer, breast cancer, and the many other functions where the Federal Government expends moneys. The concern is an obvious one; we should not have such an overwhelming bureaucratic maze and big Government, which will take substantial funds, so as to deprive the health care delivery system from actually reaching American citizens.

When I prepared this chart, frankly, it surprised me. As my colleagues have had the opportunity to see the chart, I have had many comments of surprise from them. One of my colleagues, who is going to appear on one of the network talk shows tomorrow morning, asked for access to this chart because it depicts in a very graphic way the complexities of the bureaucracy which we may confront.

I believe that the next step has to be that the legislation will come to the floor of the House and the floor of the Senate, and we will then have an opportunity to offer amendments, suggestions, and changes.

I have noted that President Clinton and First Lady Hillary Clinton have talked about their flexibility and willingness to listen. I have had an opportunity to talk to the First Lady about some of the proposals I have introduced, some going back to 1985 in the comprehensive health care bill which is now pending, that I submitted on January 21, Senate bill 18. My thought is that it will be very much like the Clean Air Act that came to the floor. We took it up piece by piece, made analyses, suggestions and made modifications.

I think one of the highlights we have to consider is the new bureaucracy and the new administrative agencies, boards, and commissions to make sure that big Government does not subsume health care delivery in this country.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, there is a unanimous-consent agreement, I believe. Is the report of the conference on the energy and water appropriations Bill at the desk?

The PRESIDING OFFICER. The order is to lay before the Senate the report at the hour of 1:10 p.m. If there is no objection to laying the report before the Senate now, the Senator may proceed to do so at this time.

Is there objection? Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

Mr. JOHNSTON. Mr. President, I submit a report of the committee of conference on H.R. 2445 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2445), making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 22, 1993.)

The PRESIDING OFFICER. The Chair will advise that debate is limited to 20 minutes equally divided on both sides under the previous agreement, and the time is to be controlled by the Senator from Louisiana and the Senator from Oregon.

The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, the energy and water appropriations bill passed the Senate overwhelmingly and the report did. The really controversial part of this bill was the superconducting super collider, which was rejected in the House. We went back to conference. The principal thing done when we went back to conference was to deal with the superconducting super collider.

I asked for time today because I wanted to clear up a couple of things and make it clear in this RECORD what the report of the conference with respect to the superconductor means.

The language provides $640 million only to orderly terminate the superconducting super collider. It sets up a separate account to remain available until expended. It cannot be reprogrammed into another account. It is only for that purpose.

The word "orderly," which is put in before "terminate," means, to use the language of one of the principal opponents who was there in our conference, Representative SLATTERY from Kansas, to terminate in a way that makes sense. That might mean—and this was an example I used in the conference, which was accepted by all parties—that, for example, if you have a building which is 90-percent complete but the roof has not yet been put on, then an orderly termination would be to finish the roof so as to maximize the value of the building and minimize the amount of loss.

There are some 40,000 work packages and many, many different kinds of work and degrees of completion of that work. But suffice it to say that the conferees meant, by using the word "orderly," to give the Department of Energy a maximum amount of discretion so as to maximize the value to the United States and minimize the loss and, notwithstanding the phrase, that the money can be used only to terminate the project. It does definitely and clearly mean, and it was our clear intention, that some of those contracts could be finished in whole or in part in order to maximize the value and minimize the loss.

Mr. President, we also have language in the conference which directs the Secretary to make a report as to how to maximize the value and minimize the loss from the research and from the work that has been done on the superconducting super collider.

It further authorizes the hiring, or the contracting with, of University Research Associates—which is the present contractor—other contractors, or other experts in the field.

Now, it is our expectation, Mr. President, that the Secretary of Energy will contract with University Research Associates, keep that core group in place for a sufficient period of time so as to tell us how we can best use that which we have discovered with respect to the work that has been done and accomplished with respect to the superconducting super collider and also to give us advice on what to do on high-energy physics and on what to do on other major scientific projects in the world.

We also specifically direct that they make a report on whether we can have an international consortium. The language says to maximize the value of the investment that has been made on the project and minimize the loss, including recommendations as to the feasibility of utilizing SSC assets in whole or in part in pursuit of an international high-energy physics endeavor.

It is our expectation, Mr. President, that URA will call for an international meeting among high-energy physicists around the world, particularly at CERN and elsewhere, and determine what is the future of high-energy physics, whether the facilities, in whole or in part, at Waxahachie, or elsewhere throughout the United States, can be used in pursuit of some international high-energy physics endeavor. What that might be would be for them to recommend. It could be anything from getting an international consortium to actually build the SSC, to recommendations to use the manufacturing of magnet capability to help in CERN. I do not know what all the different permutations could be, but it is up to them to make that recommendation and it is our expectation that the Secretary will use their skills.

Mr. President, we also authorize the Secretary, and it is our expectation that the Secretary will grant 90 days termination pay and relocation expenses to those employees of the contractors who have been fired by virtue of this action.

Even though the language speaks in terms of an authorization, it is our expectation that it will be done pursuant to guidelines issued by her. In fact, the Secretary of Energy has assured me that she will do that; that she will grant 90 days termination pay, as she should.

Let me say, finally, Mr. President, that it was a great blow and a great disappointment to me personally and to scientists all over the world to lose the superconducting super collider. It is, as the death of a close friend or family member, all of those emotions of disappointment, denial, anger. All of those emotions were there when this happened, not just with me but with scientists and with people who have invested their lives in this project in this country, in my State, the State of Texas, and elsewhere around the country.

Now that those emotions are gone, I must say, Mr. President, I am left with a sort of a melancholy emotion.

I am reminded of the phrase or the allusion that Herman Wouk came up with in his book "War and Remembrance," where he talked about the British Empire in its decline. He stated that when a great country retreats from a position of power, that it is not as a sunset on a cloudless day, where you can see the sun setting on the horizon, clearly and palpably and measurably going inch by inch below the horizon, but it is rather like a sunset on a cloudy day, where it is difficult to tell exactly where the decline begins or exactly where it ends, but you can tell that there was a clear retreat from excellence and from power of that nation.

Now, that may be an overstatement. Herman Wouk talked about the British at Singapore and the relentless, inexorable advance down the Malay peninsula to Singapore by the Japanese, when all the while the guns were turned out to sea, not even defending against the right defense. And Wouk, having made this allusion to the sunset, said that there are some defining events in the decline of a great power.

And I must tell you, Mr. President, that I feel that this may be one of our defining events in this country, not because the superconducting super collider science is of such a key, critical nature that the country cannot survive without it—while I think it is vitally important science, while all the scientists agree to it, while even the opponents of this project call it good science—it is not because of the key and critical nature of the quality of the science that it is so vital to this country, but it is because of what it says about the United States.

Ten years into the project, three Presidents, $2 billion, 10,000 employees, all devoting their lives to this, the whole country marching out in one direction and, all of a sudden, the country loses its nerve, loses its resolve, loses its ability.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATFIELD. I yield the Senator 2 additional minutes.

Mr. JOHNSTON. A country loses that dedication, that purposefulness that marks a great power.

This country, Mr. President, has been the preeminent leader in the world in science, in technology, in our economy, in military matters by the force of our culture—indeed, by the example of our Constitution—and we have not lost all of that by virtue of this one failure.

But I wonder what this one failure tells about what our attitude is with respect to leadership in science. If we would abandon this, not because of the science but because there is a problem with the budget, an emotional problem with the budget—and it is a emotional problem, Mr. President. It is not a real problem. Not that there is not a problem with the budget deficit. But we all know what causes it around here. It is entitlements and transfer payments.

It is forty-three/one-thousandths of 1 percent of the budget that was represented by the superconducting super collider. That has very, very little to do with it.

But it has a lot to do, Mr. President, with what this country stands for, its dedication to excellence, its ability to lead the world.

How are we ever going to get other countries now to come together with us on an international project? What are we going to tell them, that this is different?

"This is different, why?"

"Because the President says so."

"But three Presidents said they were dedicated to this project."

"Because the Congress says it is for it."

"But this Congress was for it on other occasions."

Is it because the science is good? This science was good. How can this country be trusted? How can you rely upon this country?

I have said earlier in this debate that a country takes on in many respects the personal qualities of an individual, whether it is purposefulness, whether it is character, whether it is integrity—I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon has 7 minutes and 20 seconds remaining. The Senator is yielded 2 minutes from the time of the Senator from Oregon.

Mr. JOHNSTON. Mr. President, I believe that is so. I believe people around the world and people in this country look at a country as having certain characteristics.

What does it say about this country when it can no longer, in effect, be trusted? When its contracts—I am not talking about a contract in the sense of being an enforceable contract—but when the country, in effect, pledges its word to these outstanding scientists, to the people of Texas, when they uprooted farmers, and then all of a sudden it is changed. And we say, "Too bad."

How would we feel if we were contracting with an individual who said that? We would say they were flaky, could not be trusted, did not have integrity, they did not have resolve—they did not have all of those personal characteristics we like to find in a person of real quality.

I hope I am overstating this matter, but I fear that I am not. If these fears are correct, it will probably not be remembered, what I have to say here. It would certainly not be a source of pleasure to be able to prove that I was right in these comments.

I simply say it as a word of caution to this country. We cannot allow the United States of America to be a country dedicated to entitlements and transfer payments rather than to excellence, rather than to science, rather than to be on top of the world in terms of technology. If we do, it will surely be the decline of this Nation. Transfer payments and entitlements are important but they are no substitute for greatness in a Nation.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield myself whatever time I use.

The PRESIDING OFFICER. The Senator is recognized for such time as he may use.

Mr. HATFIELD. Mr. President, I want to thank the chairman of the Energy and Water Development Appropriations Subcommittee, Senator JOHNSTON, for his many efforts to complete action on this conference report today. I also want to thank Senator BYRD for his assistance in bringing this and the other appropriations conference reports before the Senate for final passage.

This was a particularly difficult year for the Energy and Water Development bill, and I am pleased that we finally have arrived at this last step in our process. Our conference report is the product of hundreds of hours of hard work by many Members in both Houses, and reflects the attitude of the Congress, as a whole, on many controversial issues.

I especially want to recognize the skills, knowledge, expertise, and political wisdom of the person most responsible for bringing this conference report before the Senate today—Senator JOHNSTON. Once again, Senator JOHNSTON has provided the bipartisan leadership necessary to thread the eye of the appropriations needle. He has been responsive to Members' concerns on both sides of the aisle, and has presented the Senate with a product most Senators can support.

I have had the pleasure of working with the Senator from Louisiana for many years, both on the Appropriations Committee and on the Committee on Energy and Natural Resources, and continue to be impressed with his complete mastery of the programs under the jurisdiction of this subcommittee, especially the Department of Energy's highly complicated energy research and general science programs.

Regardless of personal political views, I doubt there is even one Senator who is not in awe of Senator JOHNSTON's knowledge of nuclear energy and high energy physics. Those of us who witnessed last month's Senate debates on the superconducting super collider, the advanced liquid metal reactor, and the gas turbine modular helium reactor, could not help but be envious of Senator JOHNSTON's expertise on these subjects. And make no mistake, his knowledge and understanding of these complex scientific matters are his own—not his staff's, not the Department of Energy's, not anyone else's. He has done his homework, learned the programs, and can hold his own in debate against any Member of the Senate or House.

I look forward to serving with the Senator from Louisiana for many more years on this subcommittee, and know that his expertise in these subject areas is a great asset to this subcommittee and this institution.

Mr. DOMENICI. Mr. President, I rise in support of the conference report on the energy and water development appropriations bill.

By CBO's scoring, this bill provides $22 billion in new budget authority and $12.7 billion in new outlays for the Department of Energy, the Corps of Engineers, the Bureau of Reclamation, and for other selected independent agencies. With outlays from prior-year budget authority and other completed actions, the Senate bill is within the subcommittee's section 602(b) allocation.

I particularly appreciate the conferees' support for a number of projects and programs important to my home State of New Mexico.

The conference report strongly supports technology transfer efforts by our DOE national laboratories.

The committee has provided a total of $223 million to carry out the National Competitiveness Technology Transfer Act of 1989, which I coauthored. This is less than the President's requested level and the level proposed by the Senate, but still represents a significant increase for this initiative.

The funding initiatives in this bill will encourage the integration of the scientific and technical expertise of DOE's national laboratories with U.S. industry to enhance their capabilities and their ability to compete in an expanding global market.

The Senate report on this bill does an excellent job in describing how the DOE laboratories are well-suited to take on these significant challenges and the importance of partnerships between these labs and small- and medium-sized businesses to strengthen our global competitiveness.

It is unfortunate that the other body prevailed in its efforts to terminate the superconducting super collider—the SSC. While promoted as a deficit reduction effort and the American people believe this is the case, I see no evidence that any of the savings from the termination of the SSC will be devoted to deficit reduction. To guarantee deficit reduction, the caps on overall discretionary spending would have to be lowered, and this bill does not make that change.

Although I applaud the renewed emphasis on spending restraint, the candidates for spending reductions and terminations are largely discretionary programs looking to the future—investments in science and technology that will contribute to the future wealth and competitiveness of this Nation.

If we really want to do something about the deficit, we must look at the real culprit, the growth in mandatory spending. Some savings should come from discretionary programs, but I would hope that it would come from the programs that have outlived their usefulness.

I know this has been a difficult bill for the chairman of the subcommittee, the distinguished Senator from Louisiana. I applaud him and the ranking Republican member, the distinguished Senator from Oregon, for bringing this bill to the floor within its section 602(b) allocation and the spending cap.

Mr. President, I also want to express my sincere appreciation to the distinguished chairman of the Energy and Water Development Subcommittee, Senator JOHNSTON, for his efforts to include funding in the Fiscal Year 1994 Energy and Water Development appropriations bill to implement the new authorities of title XXVI of the Energy Policy Act, the Indian energy title. I am very pleased that the conferees agreed with the Senate's position and appropriated $5 million, which is intended to be used to provide support for the Navajo transmission project.

The Navajo transmission project is an excellent example of a vertical integration energy project through which Indian tribes can receive direct benefits from environmentally responsible energy projects utilizing Indian resources. The Navajo transmission project is a 400-mile, 500-kilovolt electrical transmission line that will run from the Four Corners area to a termination point in Nevada. The Navajo transmission project will provide public and private utilities and other energy companies strategic access to planned transmission facilities in the southern Nevada area, and will alleviate the transmission bottleneck in the Four Corners area, which today prevents the efficient delivery of excess electrical generation capacity in the southwest.

In addition to providing important energy benefits, the Navajo transmission project will set a precedent as a mechanism through which Indian tribes can move from passive lessors of their energy resources to active participants in energy development of Indian lands, as Congress intended in the Indian energy title. The Navajo transmission project will be majority owned by the Navajo Nation, which has invested heavily in the project and authorized a right-of-way for the transmission line.

Adding transmission capacity in the area is a longstanding Federal objective, which can now be realized through the partnership between the Navajo Nation and the Western Area Power Administration in the Navajo transmission project. Federal support for the Navajo transmission project as provided in this appropriation would be used to pay costs associated with environmental review and other preconstruction costs. To keep the Navajo transmission project on schedule, as indicated by the conferees, the Department of Energy must move expeditiously in allocating the $5 million in funding provided. Consistent with the clear direction provided by the Congress in the statement of managers, I look forward to prompt action by the Department to make these funds available for the Navajo transmission project.

Again, I thank the distinguished subcommittee chairman and all the conferees for their support for this important initiative.

Mr. HATFIELD. In the Pacific Northwest, salmon that spawn in the Snake River and its tributaries are on the Government's endangered species list. Petitions have been filed with Federal fish and wildlife agencies to list two other species: Salmon that spawn in the mid-Columbia River and bull trout throughout their range in the Columbia River Basin.

These listings and petitions emphasize the importance of implementing a comprehensive, basin wide program to improve the survival of these runs at every stage of the life cycle. The Northwest Power Planning Council—the Council—adopted such a program in December 1992. It is the strategy for salmon, and it is part of the Columbia River Basin Fish and Wildlife Program. Recently, the Council completed amendments to the program that address the needs of the resident fish such as bull trout.

I am pleased to say that under the Council's program, the region has made significant progress in rebuilding depleted runs of salmon. It is critical to the recovery of these salmon, and to our regional effort to improve the survival of all salmon runs in the Columbia Basin, and that the obligations of the Endangered Species Act and the Northwest Power Act be met in a unified manner by the relevant State and Federal agencies. These two Federal laws complement each other. They should not be seen as working at cross purposes.

Mr. JOHNSTON. It is heartening to learn that progress apparently is being made toward improving salmon survival in the Columbia Basin. Is there any part of this effort where cooperation among the relevant agencies will be particularly important in the future?

Mr. HATFIELD. Cooperation in all areas of this effort—hydropower, habitat, hatcheries, and harvest—is critical to rebuilding the runs, but I am particularly concerned about cooperation among relevant agencies to improve salmon habitat. In my State of Oregon, salmon in the Grande Ronde River are among the threatened species of salmon that spawn in the Snake River Basin. Under the Council's salmon strategy, the State of Oregon designated the Grande Ronde Basin a model watershed. The purpose of this designation is to ensure collaborative actions among local citizens, the State, and Federal land and water agencies. This is not so much a planning process as a way of doing business. Cooperative habitat improvements already have been undertaken in partnerships between private landowners and government agencies. These projects not only improve conditions for salmon, but often improve agricultural practices as well. Controlling erosion, for example, can make farmland more productive and also improve conditions for salmon by reducing silt that flows into rivers.

That is only one example, but it serves to illustrate that local residents and government agencies can cooperate to improve salmon survival. These agencies include the USDA Forest Service, Environmental Protection Agency, Soil Conservation Service, Bureau of Land Management, Bureau of Reclamation, Bonneville Power Administration and the State of Oregon. As the Appropriations Committee has previously indicated, Federal agencies are expected to interpret their existing authorities and utilize available funds to enable implementation of regional salmon measures. I particularly want these agencies to understand that we expect them to give special and preferential support to such collaborative watershed recovery efforts. We wish them to coordinate these watershed efforts on Federal lands with efforts on adjacent private lands. They should leverage Federal funds through joint activities with State and local resources.

The State of Oregon is working hard in the Grande Ronde. The Governor's Watershed Enhancement Board is directing State money—some $5 million in new money—into this effort. A citizen's committee has been established to guide work in the Grande Ronde Basin, and Wallowa County even has developed its own plan to improve watershed conditions for salmon.

It appears that the salmon recovery effort has broad general support in northeastern Oregon, and this is not the time for government cooperation in this effort to falter. The relevant Federal agencies need to continue working cooperatively in the Grande Ronde, and in other tributary basins where collaborative salmon restoration efforts are under way—particularly in the Umatilla, Deschutes and John Day watersheds.

One of our highest priorities for salmon habitat is to maintain its quantity and productivity. Much of the salmon habitat in these basins is controlled by Government agencies, but much also is controlled by private landowners. Therefore, it is essential that public and private landowners cooperate in comprehensive efforts to manage and improve salmon habitat. The Council's Strategy for Salmon provides the mechanism for this collaboration, and I look forward to the continued cooperation of Federal agencies to ensure full implementation of habitat protections that the strategy is fully implemented.

I thank the distinguished chairman of the Energy and Water Development Appropriations Subcommittee for his time and consideration of this issue.

Mr. JOHNSTON. I thank the Senator from Oregon and agree that the Federal agencies should participate in cooperative habitat efforts and projects in the Columbia River Basin.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS addressed the Chair.

Mr. HATFIELD. Mr. President, what is the time left?

The PRESIDING OFFICER. The Senator from Oregon controls 2 minutes and 40 seconds.

Mr. HATFIELD. I will be glad to yield 2 minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent I be permitted to proceed for an additional 3 minutes past the time yielded by the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, first, I would like to say to the distinguished chairman of the subcommittee that in his remarks he correctly pointed out the conference report authorizes the Secretary of Energy to consult with and use University Research Association, but not exclusively. The conference report also says, "and/or other contractors and/or recognized experts in preparing this report."

I see the Senator nodding his head. Obviously, he intended to include that as part of his statement.

Second, I send to the desk for inclusion in the RECORD a letter from the Secretary of Energy dated January 14, 1993, to the Honorable GEORGE E. BROWN, JR., chairman of the Committee on Science, Space, and Technology in the House and the attachment with his estimated cost of termination of the SSC which is $281 million.

I ask unanimous consent that be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUMPERS. Let me start by echoing what the Senator from Oregon just said about our distinguished colleague, the chairman and good friend, BENNETT JOHNSTON. I was obviously never a match for him in the 4 years we have debated this matter technically. Rhetorically, I might have been in the same league with him, but when we got to the technical part of the SSC, Senator JOHNSTON had no peer on this floor.

Second, the thing that is so difficult about being a Senator is oftentimes having to take issue with a close friend. Senator JOHNSTON is not only a close friend, he is my neighbor from the State of Louisiana. I have served with him 19 years. Our friendship has been deep, abiding, and has not, hopefully, been severed as a result of our difference on this one project.

When I started opposing the superconducting super collider, I do not think it would have changed my mind any, but I did not realize that Louisiana was a big economic beneficiary of the superconducting super collider. Once I found out, as we got into these debates, how important it was to the State of Louisiana from an economic standpoint, that made my chore very difficult simply because of my friendship with Senator JOHNSTON. We socialized together. We would go to the Appropriations Committee together. He has been very accommodating to me and other members of the committee on items in our State that are extremely important to us.

He won the debate in the Senate every year, including this year. If I had any role in killing the superconducting super collider, it was perhaps the fact that we got 10 more votes this year than we got last year. I think people began to think it was going to die and there was no point in spending more money this year on it if it was going to die next year.

Finally, I disagree with one thing Senator JOHNSTON said in his remarks about technology in this country. It is important that we lead the world technologically as that relates to competitiveness. To lead the world in technology in matters that are not giving us an additional edge is a different matter.

I happen to think the gravest crisis in the United States is not the technological edge but the social and cultural deterioration of this great Nation.

We can stand here and debate for hours what we consider to be the underlying causes of that. I watched the night before last and last night, and intend to watch tonight and as long as it is on, a show called "Depression" on public broadcasting. I am a Depression child. Some of the scenes and some of the stories were from Arkansas.

I can remember when my mother kept the grocery bill $15 or below. I can remember when my father made $75 a month when virtually everybody else in the town was working on WPA for $1 a day plus dried beans and cheese and milk at the courthouse. I am marked by that. I cannot avoid it.

My father-in-law was a relatively wealthy man. He told me one day, "I will die poor." What he meant by that was he would never be able to overcome the psychology and the dramatic impact the Depression had on him trying to feed four children during the depths of the Depression.

Incidentally, I recommend that show to everyone. But my children do not relate to it. They do not value money quite like I do—as most people do not today. We were taught to conserve, to save for a rainy day, and so on.

But all I want to say is, when I walk into a little restaurant and I see all the men sitting there at tables in that restaurant with their baseball caps on—it is not a big item. If you have ever watched "Roseanne," you can see who their role model is, where the father sits at the table with his baseball cap on chewing food while he is talking, food falling out of both sides of his mouth. And that is a role model for a lot of people in this country.

But I can stand here and reiterate 300 items that I think are important to a civilized nation that we are losing. So one of the reasons I opposed the super collider had nothing to do with science. It was good science. I always admitted it. The reason I opposed it is because I think there are other, higher priorities. As William Raspberry said this morning in his column, we simply have to make some kind of a giant leap in the psychology of this country to make people believe that civilized conduct is to everybody's benefit. We have forgotten to say "thank you," "please," "excuse me," "I'm sorry." There is too much viciousness.

So I think that all of that—the way people drive, their attitudes toward each other—I think all of that shows that our priorities have been misplaced in this country. I would rather see the $640 million which we must now spend to terminate that project spent in trying to get at the root causes of crime and violence and uncivilized conduct.

I yield the floor, Mr. President.

EXHIBIT 1

SECRETARY OF ENERGY,
Washington, DC, January 14, 1993.

Hon. GEORGE E. BROWN, Jr.,
Chairman, Committee on Science, Space, and Technology, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed is our response to your letter of December 15, 1992. We deeply appreciate your continuing support for the Superconducting Super Collider (SSC) and your insight on the issues facing the project.

The reduced Fiscal Year (FY) 1993 funding for the SSC ultimately approved by Congress has required that near-term work packages be re-planned, contracts be postponed, and some facilities delayed. The uncertainty growing out of last year's Congressional actions concerning SSC has adversely affected morale. Despite all this, our professional project personnel have been able to minimize the disruption to cost and construction objectives.

There are two actions that I feel must be taken to establish a solid financial foundation for SSC project execution. First, I strongly recommend that this important national project be completed on schedule independent of foreign contributions. We should not be in the position of allowing another nation to determine the schedule of this project which is important to the advancement of scientific knowledge and our technical leadership. We should be prepared to make up shortfalls in funding from the baseline budget if necessary.

Second, a new way of doing business should be pursued that will support the long-term planning necessary to execute a large construction program. This is particularly true now that the SSC project is transitioning out of its R&D phase into production and construction. Production and construction on a project of this scale requires constant coordination of a multitude of activities. Annual Congressional debate and uncertainty over the proper funding level can be inordinately expensive in this environment. Such uncertainty creates cascading impacts over a wide variety of activities and limits our management's flexibility in dealing with emerging challenges that invariably occur in any program.

Experience in the military, especially in Navy Shipbuilding, has application here. Once a shipbuilding project is mature enough to move out of R&D, it is fully funded for construction of the entire ship at one time. The project director is given the flexibility needed to make real time trades to meet objectives. Actions may have to be taken to maintain, accelerate, stretch out, de-scope, or terminate parts of the program to meet the overall "agreed-to" objective. Actual outlays do not significantly change under this appropriation strategy so deficit concerns are not driving.

I strongly believe we should pursue in FY 1994 a similar "full funding" strategy for SSC. I recognize that this is a major change that demands serious discussion. However, this approach would substantially improve our ability to successfully complete this project on time and on budget. It also could serve as a model for a new way of doing business on large scientific projects, one based on commitment and accountability.

Your leadership and staunch support for the SSC Program is greatly appreciated.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

Enclosures.

Question #2E—What are the implications, impacts, or requirements for termination of the project?

The major impact of termination of the SSC project would be that the Nation will cede leadership in high energy physics to others, as well as lose an exciting opportunity to explore man's understanding of the most basic forces and components of nature. The High Energy Physics Advisory Panel (HEPAP) has consistently ranked the SSC the highest priority in the field of high energy physics. Only the SSC has the energy and luminosity necessary to guarantee future advancement in this important field.

In addition to the U.S. losing its ability to remain at the forefront of high energy physics research, the following secondary but significant impacts would also occur; thousands of jobs would be lost; over 100 universities would lose research grants across the country; America's finest high energy physicists and graduate students could be lost to superior facilities outside the country; American industry's ability to compete internationally in the superconducting technologies would be severely damaged; State governments and potential international partners could be discouraged from future participation on major projects; and educational programs aimed at encouraging young students to study science would end.

Perhaps the greatest cost, to the Nation, of termination of this high visibility project is the negative message we send the international science community and young Americans about our commitment to science and technology. Approximately 25,000 students and teachers participated directly in SSC educational activities in 1992.

Although the total cost of termination is dependent on the state of the project at the time of termination, the attached table outlines costs identified at this time.

Estimated cost of SSC termination

	(Cost in thousands)
Personnel:	
Severance package:	
Relocation to origin or equal	$15,000
Up to one year continuation of benefits	10,000
Outplacement services	1,000
Severance pay	24,000
Workers' compensation liabilities	10,000
Subtotal	60,000
Close out staff:	
Technical staff (includes assy of data)	28,000
Administration staff (includes assy of data)	19,000
Subtotal	47,000
Subcontracts:	
Termination liability cost	45,000
Continuance of near completion WIP	65,800
Completion of design in process for magnet, AE, cryogenics, etc	
Completion of on-going construction activity	
Completion of production work in process	
Claims from T for C and on-going claims	5,000
Audit	200
Litigation cost	15,000
Subtotal	131,000
Facilities:	
Lease termination cost (subcontracts)	12,000
Cleanup cost	15,000
Security	2,000
Utility cost	1,000
Lease of Parkerville warehouse	100
Lease of central facility from Texas	5,000
Long-term storage of data	5,000
Subtotal	40,100
Estimated cost of SSC shutdown	$278,100

STATEMENT ON THE FY 1994 ENERGY AND WATER APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2445, the energy and water appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $126 million and at its 602(b) outlay allocation.

I compliment the distinguished manager of the bill, Senator JOHNSTON, and the distinguished ranking member of the energy and water subcommittee, Senator HATFIELD on all their hard work.

Mr. President, I have a table prepared by the budget committee which shows the official scoring of the energy and water appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEES SCORING OF H.R. 2445, FISCAL YEAR 1994 ENERGY-WATER DEVELOPMENT APPROPRIATIONS—CONFERENCE

[In millions of dollars]

Bill summary	Budget authority	Outlays
Discretionary totals:		
New spending in bill	21,991	12,927
Outlays from prior years appropriations		8,775
Permanent/advance appropriations	0	0
Supplementals	0	0
Subtotal, discretionary spending	21,991	21,702
Mandatory totals	0	0
Bill total	21,991	21,702
Senate 602(b) allocation	22,117	21,702
Difference	−126	0
Discretionary totals above (+) or below (−):		
President's request	−133	−97
House—passed bill	485	291
Senate—reported bill	1	2
Senate—passed bill	23	13

Mr. DECONCINI. Mr. President, I rise today in support of the conference agreement on H.R. 2445, the Energy and Water development appropriations bill for fiscal year 1994, which provides an appropriation of $5 million to begin implementation of the Indian energy title of the Energy Policy Act.

I would like to begin by thanking the manager of the bill, Senator JOHNSTON, for his integral role in the conference agreement. His continuing assistance to the State of Arizona and the Navajo Nation has been vastly helpful, and is deeply appreciated.

There is one item included in the conference agreement, the Navajo transmission project, that I would like to particularly cite as significant. Providing funding to the Navajo Nation for the Navajo transmission project will advance the objectives of the Indian energy title; and this in turn will assist Indian tribes in assuming greater independence of management and development of their energy resources. The Navajo transmission project will be the first transmission project in the Nation that will be majority-owned by an Indian tribe.

The Navajo Nation and the Western Area Power Administration are working cooperatively on the Navajo transmission project, which will eliminate a chronic bottleneck in electricity transmission located in the Four Corners area. Nearly all the transmission projects that have been proposed to alleviate this problem cross Navajo lands, and thus require Navajo permission. With this new collaboration, the Navajo themselves are involved in the process and are accordingly more devoted to the project's success. This commitment of the Navajo Nation to the Navajo transmission project is reflected in the tribe's significant investment in the project, their authorization of a right-of-way for the transmission line, and their work with WAPA on environmental review. This dedication assures the project's success.

Mr. President, by providing these funds Congress will reaffirm its commitment to the Indian energy title. It will benefit electricity consumers throughout the Southwest as well, by addressing a longstanding capacity problem in the Four Corners area. I strongly support this appropriation, and again express my gratitude to Senator JOHNSTON and the members of the conference committee for including this funding in the fiscal year 1994 Energy and Water appropriations bill. I look forward to timely action by the Department of Energy to make these funds available for the Navajo transmission project.

Mr. President, I urge my colleagues to support the pending measures.

100TH ANNIVERSARY OF THE OVERTHROW OF THE HAWAIIAN KINGDOM

The PRESIDING OFFICER. Under the previous order, the clerk will report Senate Joint Resolution 19.

The bill clerk read as follows:

> A joint resolution (S.J. Res. 19) to acknowledge the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. Debate on the resolution is limited to 1 hour equally divided and controlled in the usual form.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, it is my honor and privilege to call upon my colleague from the State of Hawaii, a son of whose ancestors were present on that fateful day 100 years ago when the beloved Queen Liliuokalani was overthrown illegally. So, if I may, I would like to yield 15 minutes to my colleague.

The PRESIDING OFFICER. The Senator from Hawaii, Senator AKAKA, is recognized for 15 minutes.

Mr. AKAKA. Mr. President, I thank my senior Senator for his graciousness and for his leadership in the Senate and for the people of Hawaii.

I appreciate this opportunity to speak about a very, very important but forgotten chapter in American history concerning U.S. policy toward its native peoples. I am referring to the involvement of the U.S. diplomatic and military representatives in the 1893 overthrow of Queen Liliuokalani, the last ruling monarch of the Kingdom of Hawaii.

Earlier this year, on January 17, native Hawaiians commemorated the 100th anniversary of this historic event which brought an untimely end to the Kingdom of Hawaii and altered the destiny of the native Hawaiian people. In an effort to educate the Congress and the American public on the profound impact that this event has had on native Hawaiians, the Senate last year passed a resolution I introduced which acknowledged the 1893 overthrow and offers a U.S. apology to native Hawaiians for its complicity. Unfortunately, the House was unable to act on the measure before the 102d Congress adjourned.

The resolution we are considering today, Mr. President, is identical—identical—to the legislation as passed unanimously by the Senate last year. I had hoped that we could pass the resolution through a unanimous-consent agreement again in the 103d Congress. That is why we are debating this issue today.

Senate Joint Resolution 19 acknowledges the historic significance of the January 17, 1893, overthrow of the Kingdom of Hawaii. It offers an apology to the native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii with participation of citizens and agents of the United States. It commends efforts of reconciliation initiated by the State of Hawaii and the United Church of Christ with Native Hawaiians, and it urges reconciliation efforts between the United States and the native Hawaiian people.

While the primary purpose of Senate Joint Resolution 19 is to educate my colleagues on the events surrounding the 1893 overthrow, the resolution would also provide the proper foundation for reconciliation between the United States and Native Hawaiians. This, I believe, is the least our Government can do.

As some of my colleagues may know, the United Church of Christ, through its American Board of Commissioners for Foreign Missions, sent the first missionaries to the Kingdom of Hawaii between 1820 and 1850. In recognition of the complicity of some members of the church in the 1893 overthrow of Queen Liliuokalani, the 18th general synod directed the president of the United Church to offer a public apology to the native Hawaiian people and to initiate the process of reconciliation between the United Church of Christ and of Native Hawaiians. This action, which occurred on the centennial of the overthrow earlier this year, was a significant gesture by the United Church of Christ and was deeply appreciated by the native Hawaiians.

Mr. President, the Federal Government must also begin the healing process. Not until our Nation understands the significance of the events surrounding the 1893 overthrow of the Kingdom of Hawaii will American people appreciate the meaning of the Native Hawaiian rights movement, which grows each day.

Few Americans know that the Kingdom of Hawaii was a highly organized, civilized, and sovereign nation from the unification of the Hawaiian Islands under King Kamehameha I in 1810 until the overthrow of its last monarch in 1893. Few Americans appreciate that for nearly 70 years, between 1826 and 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full and complete diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation.

Americans do not understand that without the active support and intervention by U.S. diplomatic and military representatives, the overthrow of Queen Liliuokalani on January 17, 1893, would have failed for lack of popular support and insufficient arms.

Finally, few Americans know that in a message to Congress on December 18, 1893, President Grover Cleveland described the overthrow of the Kingdom of Hawaii as "an act of law committed with the participation of a diplomatic representative of the United States without the authority of Congress," and he acknowledged that by such acts, the government of a peaceful and friendly people was overthrown.

No official apology has ever been made to native Hawaiians, nor has there ever been an attempt at a Federal policy addressing their rights.

Too often, when the American public and U.S. policymakers think about native Americans, they mistakenly consider only native American Indians and Alaska natives as native peoples of the United States.

This misperception is based on a lack of knowledge of events surrounding the 1893 overthrow of the Kingdom and the current status of native Hawaiians in our Nation's political system.

Long neglected by the United States, native Hawaiians have literally fallen through the cracks when it comes to a comprehensive Federal policy towards native Americans.

Mr. President, native Hawaiians are, indeed, native Americans. While we are culturally Polynesian, we are descendants of the aboriginal people who occupied and exercised sovereignty in the area that now constitutes the State of Hawaii. Like the varying cultures among the hundreds of American Indian tribes or Alaska Natives, native Hawaiians likewise have a unique political and historical relationship with the United States.

My colleagues, we are in an era of dramatic political and social evolution throughout our world community. America righteously leads civilized coalitions in nation-building and military actions against tyrants around the globe. It is an incredible irony that native Hawaiians, having had the most politically developed nation of all indigenous peoples in the history of the United States itself, continue to be the only such population that has never been accorded our country's recognition of its loss of sovereignty as a people.

The deprivation of Hawaiian sovereignty, which began a century ago, has had devastating effects on the health, culture, and social conditions of native Hawaiians, with consequences that are evident throughout the islands today.

My resolution simply seeks to reconcile the growing alienation by native Hawaiians toward the United States, which stems from a century of this Nation's neglect of their plight.

If we are to continue to tout our Nation as a model to the world community on freedom, justice, and democracy, then it is incumbent on us as leaders to reflect on America's own history and recognize past wrongs committed against all of its native peoples.

The purpose of Senate Joint Resolution 19, Mr. President, is to educate my colleagues, as I mentioned earlier, and the American public on events surrounding the overthrow. It would also provide for reconciliation between the United States and the native Hawaiian people.

Earlier, I mentioned the efforts of the United Church of Christ in Hawaii to reconcile with native Hawaiians. Just this past week, Mr. President, the presiding bishop of the U.S. Episcopal Church, Rev. Edmund Browning, condemned the injustices committed against native Hawaiians a century ago.

In remarks before the convention of the Episcopal Church in Hawaii, Reverend Browning stated:

> I wish to affirm that it is the place of this church to be in solidarity with the Hawaiian sisters and brothers, within and without the church, and to acknowledge their right to seek justice and dignity of personhood, which is the trust the monarchy gave us in establishing the church in these islands.

What happened 100 years ago in the islands with the overthrow of a legitimate and sovereign government is a memory that challenges us powerfully today, the whole church, the whole country, not just the diocese or this State. Until we understand our common grounds and common interests to be more important than those things which make us different from one another, we cannot act from compassion.

I would like to commend Reverend Browning for his compassion and for the generous support of the U.S. Episcopal Church in the native Hawaiian cause.

Mr. President, in concluding my remarks, I would like to close with a plea made by Queen Liliuokalani to the American people 100 years ago in which she lamented the plight of her people.

> Oh, honest Americans, as Christians, hear me for my downtrodden people. Do not covet the little vineyard of Naboth's, so far from your shores, lest the instrument of Ahab fall upon you, if not on your day in that of your children.
>
> The children to whom our fathers told of the living God * * * are crying aloud to Him in their time of trouble; and He will keep His promise and will listen to the voices of His Hawaiian children lamenting for their homes.

I ask my colleagues, Mr. President, to finally acknowledge Queen Liliuokalani's plea for justice. Let us pass this resolution and commence the healing process between the Federal Government and the Native Hawaiian people.

I yield the floor.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington is recognized.

Mr. GORTON. Mr. President, in the summer of 1989, this Senator, with a number of his colleagues, attended a conference on the future of Eastern Europe, which took place in Dubrovnik, Yugoslavia, in either the last or the next-to-the-last summer during which that then multi-ethnic community was at peace with itself.

The most striking impression that this Senator has of the message that we received from at least those Yugoslavs of Serbian dissent was that that summer marked the 600th anniversary of the Battle of Kossovo, a battle in which Turkish Moslems slaughtered the Serbian Christian army and ended the independence of Serbia for the better part of half a millennium. I remarked at the time that it seemed to me that that battle was more green and vivid in the minds of many Serbs than events which had taken place every bit as tragically during the course of their own lifetime.

A short 2 years later and continuing today, many of those Serbs are in the process of killing Bosnian Moslems in significant measure to revenge their loss at Kossovo in 1389.

That combination of ethnic politics and claims to particular pieces of land is literally lethal across stretches of Eastern Europe, throughout much of Africa, and in many nations in Asia.

It is an evil which we as Americans have largely avoided. And with all of the respect that I can possibly muster for my two friends and colleagues from Hawaii and for all of the evident goodwill in the world which they show, this resolution is a signpost pointing toward that dark and bitter road.

The operative language of this resolution—not about the State's history which seems to this Senator to be largely accurate—but the operative language of this resolution apologizes to native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii more than a century ago, and expresses our commitment to acknowledge the ramifications of the overthrow of that kingdom in order to provide a proper foundation for reconciliation.

What those ramifications are is mentioned nowhere in the course of the resolution or in the modest committee report on that resolution.

But it is clear that the resolution accomplishes one goal. It divides the citizens of the State of Hawaii who are of course citizens of the United States into two distinct groups, native Hawaiians and all other citizens.

I may say, Mr. President, that native Hawaiians are defined as any individual who is the descendent of any person, any aboriginal people who prior to 1778 lived in or occupied what is now the State of Hawaii. That is to say in some cases people with 1/16th or 1/32d blood of native Hawaiians.

It does so in what seems to this Senator, and I suspect it seems to both Senators from Hawaii, to be the single multiethnic community in the entire world in which a multitude of people from many ethnic backgrounds, perhaps a majority of them from mixed ethnic backgrounds, live together in peace and friendship.

In guidebooks about the State of Hawaii, and it is mentioned in our own history, that State is given as an example of how people from different backgrounds can live together happily and peacefully. Yet here we begin that process of division.

At the time of the commemoration of this coup, or this overthrow, last January the Governor of Hawaii caused the flag of the United States to be removed from the capitol for 5 days. I must hasten to add he was denounced by the two Senators from Hawaii for having done so. But it was symbolic of the divisive nature of this kind of proposal.

My distinguished friend, the junior Senator from Hawaii, made no mention in his opening speech of what these ramifications were or of how this reconciliation was to take place. Many members of the native Hawaiian community in the State however have done exactly that. I will quote from stories from newspapers on the subject. The Los Angeles Times says:

> A small minority advocates total independence, in effect the re-creation of the old kingdom, and an even smaller minority has

> gone on record for total independence coupled with expulsion of many non-natives from the State. A broad middle group wants a nation within a nation——

With a form of sovereignty perhaps, a legislative and an executive and a judicial set of bodies coupled with claims for somewhere between 200,000 and 1.4 million acres of public lands owned by the Federal Government and by the State of Hawaii, and I suspect some kind of monetary compensation at some point or another.

Mr. President, these demands for compensation differ profoundly from those offered to Japanese-Americans by this body in a bill of which this Senator believes that he was a sponsor not many years ago. Those reparations were given to individuals who were greatly wronged by their Government, who were deprived of their homes and of their livelihoods solely by reason of their race and ethnic origin, and who were alive to receive reparations granted to them by Members of this body and the other body almost all of whom were alive when that terrible injustice to individuals took place.

This coup took place more than 100 years ago. No one is alive who played any role in it. No one is alive, perhaps there are a couple of centenarians who may have been there when this took place. This is a different time and a different generation.

It goes without saying in this body, it seems to me, that every square inch of the United States of America was acquired in a manner which bears certain similarities to the acquisition by the United States of America of what is now the State of Hawaii.

Certainly this can be precedent for the Government of Mexico reclaiming Texas—which was seized first in a war of independence and confirmed in a war against Mexico in which many died only about 50 or 60 years before the overthrow of the Kingdom of Hawaii. Does this justify some kind of special acknowledgment to citizens of Mexico? The rest of this country was acquired either from its natives or by way of England, France, Spain, or Russia.

In fact, we are no different than any other society in the world today. I doubt that there is a square mile of the world which is occupied by exactly the same people who were the original human beings on the spot. But it is the genius of us as Americans, it seems to me, Mr. President, that this does not count in America. What counts is that we are all citizens, and that we are all equal.

In no realistic way did we apologize for the acts by people over whom we had no responsibility and with whom we shared no life whatsoever. As a consequence, it seems to me we must look toward the consequences not only of what we do here but the consequences of that coup. The consequences of that overthrow are the fact that Hawaii is the 49th State of the United States. The fact that it has more than 1 million inhabitants live together in peace and harmony in an extremely prosperous society, the fact that all except for aliens are citizens not only of the State of Hawaii but of the United States of America.

Are these adverse or unhappy consequences? Are these consequences or ramifications of that overthrow which we wish to undo? I know that the two Senators from Hawaii do not agree with the radicals who wish independence as a result, but the logical consequences of this resolution would be independence. That is the only way that the clock can ever truly be turned back.

This Senator intensely regrets the fact that we are in this process creating a division which does not exist. I probably can come up with no better description of both what Hawaii is like and what some thoughtful people think is an appropriate response than to quote a couple of paragraphs from a speech by a former president of the University of Hawaii, Harlan Cleveland. He says, after acknowledging the history that is included in this resolution, and I quote him:

> But my judgment is also that diffusion of American democracy and enterprise with Hawaiian culture mixed now by immigration and intermarriage with Japanese, Chinese, Korean, Filipino, and other workways and mindsets has produced one of the worlds most intriguing experiments in the building of a multicultural society.

That is the actual real world consequence of something which took place more than a century ago. President Cleveland goes on to say that sovereignty which is what many of the native Hawaiian groups wished is unlikely to be the answer; that the way in which any individual problem should be dealt with is through education and through quite a different course of action than seems clearly implied from the proposal which we have before us here.

Mr. President, in concluding these remarks, I would like to remind my colleagues of a remarkable part of our early history and of our genius. On the Fourth of July in 1858, while he was in the midst of the campaign—ultimately unsuccessful—to be elected to the Senate of the United States, Abraham Lincoln spoke to a throng of his constituents about something which troubled those constituents even then: The distinction between Americans who could trace their descent to the generation which signed the Declaration of Independence and fought for our freedom, and those who were immigrants or the sons or daughters of immigrants.

This is what Abraham Lincoln said on that day, a century and a half ago:

> We have, besides these who are descended by blood from our ancestors, those who are not descendants at all of the men who signed the Declaration of Independence or fought to establish it. But when they look through that old Declaration, they find: "We hold these truths to be self-evident, that all men are created equal . . ." and then they feel that that moral sentiment evidences their relation to those men, and that they have a right to claim it as though they were blood of the blood and flesh of the flesh of the men who wrote that Declaration; and so they are.

That is Abraham Lincoln on the true American heritage, on the American heritage that all are created equal and that all deserve equal treatment—not a divisive sentiment, but a uniting and inclusive one. That is the genius of the State of Hawaii, whether its inhabitants are native Hawaiians, Japanese, Chinese, or Caucasians from the mainland. And it is, regrettably, that equal heritage which, in the view of this Senator, this resolution significantly undercuts.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. GORTON. Yes. I yield such time as the Senator wishes.

Mr. DANFORTH. Mr. President, I want to say to my friend, Senator GORTON, that he obviously has undertaken a thankless job here, but I think a very important one, in making the statement he just made on the floor of the Senate. I say this with all due respect to all Senators, especially the Senators from Hawaii, whom I admire very much.

The great challenge of this country has always been the challenge of attempting to hold together diverse people. The statement over the Presiding Officer's head, carved in the marble of this room: "E Pluribus Unum," from one, many. That is the motto and challenge of the United States of America, to keep us all together.

It is a challenge which is tested constantly. It is tested by bigots and by hateful people; by mean people; by people who like to lord over others and discriminate against other people. For most of our history, that has been the terrible challenge of America, from slavery on. How do we overcome that kind of mean divisiveness?

There is another kind of challenge, I think, to the test of living together, and that is that it is possible to divide not only by being mean, but by making ourselves victims. I think this is something of a national trend, of whatever group, to be treated terribly and to say: Well, we have been victims. And if we have not been victims ourselves, then somebody else has been a victim, some ancestor has been a victim, so please apologize.

So it is possible to keep others off balance and on guard, defensive at all times. Therefore, not only by meanness, but also by making ourselves a nation of victims, it is possible to emphasize what divides us and separates us, rather than what keeps us glued together.

For obvious reasons, I have not been one who has been constantly taking the floor of the Senate citing Scripture, but the words of Isaiah did come to mind as I listened to Senator GORTON. The prophet said:

> Comfort, comfort my people, says your God; speak tenderly to Jerusalem and cry to her that her warfare is over, that her inequity is forgiven.

That, to me, is one of the messages that we should be proclaiming, those of us who are in public life—that warfare and divisions are not things to be emphasized constantly; that the past is not something to be constantly relived with a view toward how to get other people to apologize.

There comes a time to put warfare behind us and divisiveness behind us and to dedicate ourselves to a common purpose, because we are all Americans, and because it is challenging enough to live together in this one country as one people, without constantly fighting the battles of the past.

The PRESIDING OFFICER (Mr. KERREY). Who yields time?

Mr. INOUYE. Mr. President, before proceeding with my remarks, I will respond to the statement of my distinguished colleague from Washington.

To suggest that this resolution is the first step toward declaring independence for the State of Hawaii is a painful distortion of the intent of the authors. To suggest that this resolution is intended to expel non-Hawaiians from the State of Hawaii is something that even the most severe critics of this resolution in Hawaii would not even consider.

Mr. President, this is a very simple resolution. It was authored by my friend from Hawaii because he loves America. It is because of our love for this Nation that this resolution was presented, to make it possible for all of us, even after 100 years, to cleanse one of our pages, to make it a bit brighter.

Mr. President, I realize that we are deluged with problems, and there are many pressing issues before us. Just to name a few: Bosnia, Haiti, Somalia, and a few moments ago, the President of the United States presented to Congress his health bill. And there is NAFTA, our economy, and jobs. So there may be some among us who would question the propriety of bringing this up at this time.

Why this measure? Is it that important? I wish to assure my colleagues that I believe it is important and most appropriate that we bring this matter before the body.

Mr. President, for the past few weeks, we have considered and debated long into the night the appropriateness of the deployment of our troops on foreign shores in Somalia and in Haiti.

While this was going on, the citizens of Hawaii were recalling another time in history when the United States sent troops to an island kingdom that was considered at that time to be far away and exotic.

Mr. President, a century ago, a company of uniformed U.S. Marines and two companies of U.S. sailors landed on the shores of the Kingdom of Hawaii at the behest of the Minister of the United States of America, Mr. Stevens, and by so doing, assisted a handful of American and European businessmen, the pillars of society, in an illegal overthrow of the kingdom, a kingdom which was then internationally recognized by treaty by the United States, Great Britain, France, and Germany with exchange of Ambassadors.

The overthrow of Queen Liliuokalani on January 17, 100 years ago, Mr. President, was not supported by the people of Hawaii. It was not supported by the elected members of the legislature of the Kingdom of Hawaii, and most certainly, it was not approved by the Queen.

It was an illegal act committed in violation of the constitution of the Kingdom of Hawaii, and most importantly, it was an act which was supported without proper authorization by agents and representatives of this country.

But the Queen, fearing bloodshed of her native people, gave up her throne, not to the revolutionary Americans and Europeans, but to the Government of the United States, to the ship's captain. The Queen believed that once the facts were presented to the leader of the country, the United States would undo the unlawful acts, but history shows that she was not successful.

I think it will be well for all of us to look back 100 years ago—and I am not saying this to be facetious—but at that time we had no CNN, no television; we did not have the technology which would have enabled the Congress to know of and thus be able to debate the appropriateness of the actions taken by the Minister of the United States and Captain Wildes, the commanding officer of the USS Boston, who authorized the landing of marines and sailors upon the undefended shores of Hawaii.

We did not know, so the Congress could not debate whether Minister Stevens and Captain Wildes had exceeded the authority granted to them by the laws of the United States. We in the Congress could not debate whether the actions and the landing of U.S. troops was consistent with the foreign policy of our Nation. Nor could the Congress debate whether the actions of these unauthorized agents violated treaties between the United States and the Kingdom of Hawaii. And, obviously, we could not debate or demand an immediate withdrawal.

Our inability to act then and in the months and years that follows should not prevent our actions on a measure before us today. Some will suggest that it happened 100 years ago so why not forget about it?

I am chairman of the Indian Affairs Committee, Mr. President, and if that is the attitude, we should do away with that committee. This committee has to act upon 800 treaties—800 treaties—entered into by sovereign Indian nations and the sovereign Government of the United States. But, shamefully, 430 of these treaties were not even considered by this body. And of the 370 that we did consider and ratify, we violated provisions in every one of them.

Are we to forget that? That happened over 100 years ago. But it is the essence of the goodness of this country to remember that if we have done wrong we admit that, and if it calls for an apology we do so. That is all we are asking for.

So we stand here today in solemn observance and remembrance of that day in January 1893, yes, in hindsight, and extend an apology for the role of the agents of the United States in the illegal overthrow of Queen Liliuokalani, the constitutional sovereign of Hawaii.

We are here to recognize the results of the unfortunate events of that day. We all know that the history and actions of our great country have been less than honorable in dealings with native peoples of this Nation. But, as I have indicated, this fact should not prevent us from acting to recognize and rectify these wrongs. Obviously, we cannot change history. We are not here to change history. But we can acknowledge responsibility.

So I say to my colleagues the measure before us is important. It is appropriate. And it is significant as a first step in that process, as my colleague has so eloquently stated, to bring about some understanding and reconciliation.

Before I close, Mr. President, just a few footnotes in history, and this might give one a better picture of what happened. This so-called revolution that overthrew our Queen was engineered by 12 men, leaders of the business community, owners of great sugar plantations and shipping companies. They called themselves the Committee of Safety. On that fateful day when the flag of the Kingdom of Hawaii was lowered over Iolani Palace and the American flag went up, it is reported that one of the Committee of Safety remarked to the others: "This is a glorious day. We need something to remind us of this auspicious moment." So someone is reported to have suggested, "Why don't we cut that flag in 12 parts; each of us take a piece, a piece of the action?"

And that is what happened. It is said that one piece remains today, the last remaining piece of the flag of the Kingdom of Hawaii.

I think that would give you an idea of the attitude of the Americans who were residing there at that time. It is not an attitude that we would condone today. We would not raise that attitude with accolades. Why not recognize it for what it was?

The United States is an extraordinary country. Though we may express hatred and animosity, we have certain principles that we have always abided with.

For example, I took part in the great war, World War II, and we had to seek the permission of the Pope to destroy the Monte Cassino Abbey because that was used by the Germans as an observation point. We did not want to destroy that. It was against our principles. And we promised the Pope once the war is over we will replace it.

In the same attitude of principle, we issued orders, orders that were devastating to our men—and many lost their lives as a result of this military order—not to bomb the palace of the Emperor of Japan, our most hated enemy, but not to bomb the palace, not to bomb the city of Kyoto, because that is the royal city, that is the sacred city.

But in this case, the first thing they did was take over the palace, the only palace in the United States at this time, ran the legislature in the throne room, imprisoned the queen in her bedroom, desecrated the palace, something that we Americans have never done before or since.

I think these footnotes might give you a different flavor of what happened on January 17.

And so I say to my colleagues, I think the time has come. One hundred years has been long enough. All we have to say is that we are sorry.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I intend in just a moment to yield to the Senator from Colorado, but I wish to make only one or two preliminary remarks.

Of course, this Senator does not believe that either of his colleagues from Hawaii wish the consequences of this resolution to be the restoration of the independence of Hawaii itself. What this Senator said was that there are some splinter groups in Hawaii who believe that is the only appropriate response to the overthrow and they will clearly use this resolution as the basis on which to make such a demand.

This Senator finds that he has been unable to disagree in most respects with anything that either of the Senators from Hawaii has said about the history which led up to the overthrow and the annexation of Hawaii by the United States.

But this Senator needs to point out that neither Senator from Hawaii has said one word about what the ramifications of the overthrow and the proper foundation for reconciliation is to be. In fact, the senior Senator from Hawaii said it is not to be independent. This Senator believes that, on the record of this debate should be spread the intentions of the two Senators from Hawaii in that respect.

Is this a purely self-executing resolution which has no meaning other than its own passage, or is this, in their minds, some form of claim, some form of different or distinct treatment for those who can trace a single ancestor back to 1778 in Hawaii which is now to be provided for this group of citizens, separating them from other citizens of the State of Hawaii or the United States?

At the very least, before we vote on their resolution, we ought to understand what the two Senators from Hawaii mean those ramifications and consequences to be.

With that, how much time does the Senator from Washington have remaining?

The PRESIDING OFFICER. The Senator from Washington has 8 minutes and 3 seconds.

Mr. GORTON. I yield 4 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Thank you, Mr. President.

First, Mr. President, let me recognize the very thoughtful and very sincere and very moving words of the senior Senator from Hawaii. His comments and his observations, I think, hold great meaning for all Americans, regardless of their background or heritage.

As I read through the resolution, I have concerns—concerns because I fear it is not clear as to what it implies or means.

Let me be specific. The apology states:

> Apologizes to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom.

Included in the whereases that precede this is a recitation that at that time it involved communal land tenure.

That, as my friend knows, has been replaced by a concept of private property. Surely, we do not mean to suggest that we apologize for bringing the concept of private property to replace the concept of a communal land tenure system.

The whereases also note a unified monarchical government.

As everyone knows, that has been replaced by a representative democracy. Surely, we do not intend—and I do not mean to imply that anyone intends that we apologize for having replaced a monarchy or a form of monarchy with a representative democracy.

My guess is, Hawaiians take great pride in our representative democracy, just as every American does.

I notice in the first section, it ends with these words, referring to the "event which resulted in suppression of the inherent sovereignty of the Native Hawaiian people."

Mr. President, it seems to me, we ought to be clear that we are not here apologizing for democracy or the concept of private property.

We do indeed and should apologize for a violent, forceful overthrow of the government.

I would like an opportunity to clarify this, which, I think, would meet the intentions of all parties. I ask unanimous consent that we be allowed an additional half hour of debate wherein amendments may be offered to clarify the intent of this resolution.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. Mr. President, reluctantly, on behalf of the leader, I must object, because a schedule has been established for the rest of the afternoon.

The PRESIDING OFFICER. Objection is heard.

Mr. BROWN. Let me simply conclude my remarks with this concern.

I, for one, am not going to be able to vote for this resolution, not because I do not sympathize with the very eloquent remarks of the distinguished senior Senator from Hawaii, but because I believe this is not clearly worded and perhaps may imply some things that this Chamber and the Members would not agree with. Specifically to lament or to imply a lamentation of moving private property away from communal property, I think, would be a mistake; specifically to lament or imply that we lament moving away from a monarchy to a representative democracy, I think, would not represent the feelings or intentions of the Members of this Chamber.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii has 2 minutes and 20 seconds and the Senator from Washington has 4 minutes and 30 seconds.

Mr. INOUYE. Mr. President, may I once again say that the suggestion that this resolution was the first step toward declaring independence or seceding from the United States is at best a very painful distortion of our intent.

The whereases were placed in the resolution for a very simple reason: So that those who are studying this resolution or those students of history in years to come can look back and say that is the way it was in Hawaii on January 17, 1893.

To suggest that we are attempting to restore the Kingdom, Mr. President, I find it most difficult to find words to even respond to that.

Mr. President, I indicated that we submitted this resolution because of our love for our country. It is that simple. Because we believe that our country is big enough and great enough to recognize wrong and admit it. It is simple.

And for those who may somehow question the patriotism of the people of

Hawaii, it may be well to note that in World War II—that great war—there were more volunteers from Hawaii on a per capita basis than any other State in the Union. We sent more sons and daughters than any other State in the Union. Never did we complain, because we felt it was a matter of honor.

No, no, this is not seceding or independence. We fought for statehood long enough and we cherish it and we want to stay there. I can assure you, I do not wish to leave this place.

So, Mr. President, I hope that our assurance would suffice. After all, we are the authors of this resolution, and that is not our intention.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Washington has 4 minutes and 28 seconds.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I will suggest through the President to either Senator from Hawaii, that this Senator, as he has already said twice, has never had the remotest idea that independence was the meaning of this resolution on the part of the two sponsors. But this Senator will be happy to yield his own time to either Senator from Hawaii if they will tell us what their operative intention is. What are the appropriate consequences of passing this resolution? Are they any form of special status under which persons of Native Hawaiian descent will be given rights or privileges or reparations or land or money communally that are unavailable to other citizens of Hawaii?

Mr. INOUYE. If the Senator will yield?

Mr. GORTON. I will be delighted to do so.

Mr. INOUYE. As I tried to convince my colleagues, this is a simple resolution of apology, to recognize the facts as they were 100 years ago. As to the matter of the status of Native Hawaiians, as my colleague from Washington knows, from the time of statehood we have been in this debate. Are Native Hawaiians Native Americans? This resolution has nothing to do with that. This resolution does not touch upon the Hawaiian homelands. I can assure my colleague of that.

It is a simple apology.

Mr. GORTON. Mr. President, this Senator wants to sincerely thank the senior Senator from Hawaii for that answer and accepts it as such. This Senator believes the Senator from Hawaii has said this resolution is unrelated to—it neither advances nor detracts from—any kind of special treatment for Native Hawaiians.

In fact, if this Senator believed that this resolution could not be used in that fashion there would have been no such debate here. The Senator does not disagree with the history and would have been happy to restate it. This Senator feels, unfortunately, that the consequences of the portions of this resolution after the whereas clauses do in fact provide a basis—perhaps even a legal basis—for some kind of demand for special treatment or for the return of lands. It is for that reason, for that reason which this Senator believes to be very divisive within our society, that the Senator regretfully opposes the resolution, and at this point, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GORTON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has one minute and 20 seconds.

Mr. GORTON. I yield the remainder of my time to the Senator from Colorado.

Mr. BROWN. Mr. President, I simply wanted to make it clear I certainly had not suggested that the resolution implies we wanted the monarchy back. I certainly hope it does not.

What I have said is the resolution is not clear. To apologize or to lament, and then spell out communal land and a monarchy government, in areas that I think can be implied as lamentation, does not represent the feelings of this Senate, does not represent, I believe, the feelings of any Member of the Senate.

What I am hoping is that we would have an opportunity to make that clear because I think the resolution, with the whereases, is not clear. The function, I think, of any legislator is to try to develop common grounds and develop clear language. It strikes me that we do agree as Members that a violent overthrow of that government in an unauthorized way is something we ought to apologize for.

Having that apology, though, linked with the resuscitation of a monarchal government and communal land tenure I think misrepresents what we believe and what we have to apologize for.

It is thus, why I wanted an opportunity to clarify the intent and I am sorry we were not afforded that opportunity.

The PRESIDING OFFICER. All time has expired.

The yeas and nays have been ordered.

The clerk will read the joint resolution for the third time.

The joint resolution (S.J. Res. 19) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is on the passage of the joint resolution.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Georgia [Mr. NUNN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 332 Leg.]

YEAS—65

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cochran
Conrad
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Simon
Specter
Stevens
Warner
Wellstone
Wofford

NAYS—34

Bennett
Bond
Brown
Coats
Cohen
Coverdell
Craig
D'Amato
Danforth
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Jeffords
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Nickles
Packwood
Roth
Sasser
Shelby
Simpson
Smith
Thurmond
Wallop

NOT VOTING—1

Nunn

The joint resolution (S.J. Res. 19) was passed.

The PRESIDING OFFICER. Under the previous order, the preamble is agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 19

Whereas, prior to the arrival of the first Europeans in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistent social system based on communal land tenure with a sophisticated language, culture, and religion.

Whereas a unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii;

Whereas, from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full and complete diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1975, and 1887;

Whereas the Congressional Church (now known as the United Church of Christ), through it American Board of Commissioners for Foreign Missions, sponsored and sent more than 100 missionaries to the Kingdom of Hawaii between 1820 and 1850;

Whereas, on January 14, 1893, John L. Stevens (hereafter referred to in this Resolution as the "United States Minister"), the United States Minister assigned to the sovereign and independent Kingdom of Hawaii conspired with a small group of non-Hawaiian residents of the Kingdom of Hawaii, including citizens of the United States, to overthrow the indigenous and lawful Government of Hawaii;

Whereas, in pursuance of the conspiracy to overthrow the Government of Hawaii, the United States Minister and the naval representatives of the United States caused armed naval forces of the United States to invade the sovereign Hawaiian nation on January 16, 1893, and to position themselves near the Hawaiian Government buildings and the Iolini Palace to intimidate Queen Liliuokalani and her government;

Whereas, on the afternoon of January 17, 1893, a Committee of Safety that represented the American and European sugar planters, descendants of missionaries, and financiers deposed the Hawaiian monarchy and proclaimed the establishment of a Provisional Government;

Whereas the United States thereupon extended diplomatic recognition to the Provisional Government that was formed by the conspirators without the consent of the Native Hawaiian people or the lawful Government of Hawaii and in violation of treaties between the two nations and of international law;

Whereas, soon thereafter, when informed of the risk of bloodshed with resistance, Queen Liliuokalani issued the following statement yielding her authority to the United States Government rather than to the Provisional Government;

"I Liliuokalani, by the Grace of God and under the Constitution of the Hawaiian Kingdom, Queen, do hereby solemnly protest against any and all acts done against myself and the Constitutional Government of the Hawaiian Kingdom by certain persons claiming to have established a Provisional Government of and for this Kingdom.

"That I yield to the superior force of the United States of America whose Minister Plenipotentiary, His Excellency John L. Stevens, has caused United States troops to be landed at Honolulu and declared that he would support the Provisional Government.

"Now to avoid any collision of armed forces, and perhaps the loss of life, I do this under protest and impelled by said force yield my authority until such time as the Government of the United States shall, upon facts being presented to it, undo the action of its representatives and reinstate me in the authority which I claim as the Constitutional Sovereign of the Hawaiian Islands.".

Done at Honolulu this 17th day of January, A.D. 1893.;

Whereas, without the active support and intervention by the United States diplomatic and military representatives, the insurrection against the Government of Queen Liliuokalani would have failed for lack of popular support and insufficient arms;

Whereas, on February 1, 1893, the United States Minister raised the American flag and proclaimed Hawaii to be a protectorate of the United States;

Whereas the report of a Presidentially established investigation conducted by former Congressman James Blount into the events surrounding the insurrection and overthrow of January 17, 1893, concluded that the United States diplomatic and military representatives had abused their authority and were responsible for the change in government;

Whereas, as a result of this investigation, the United States Minister to Hawaii was recalled from his diplomatic post and the military commander of the United States armed forces stationed in Hawaii was disciplined and forced to resign his commission;

Whereas, in a message to Congress on December 18, 1893, President Grover Cleveland reported fully and accurately on the illegal acts of the conspirators, described such acts as an "act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress", and acknowledged that by such acts the government of a peaceful and friendly people was overthrown;

Whereas President Cleveland further concluded that a "substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair" and called for the restoration of the Hawaiian monarchy;

Whereas the Provisional Government protested President Cleveland's call for the restoration of the monarchy and continued to hold state power and pursue annexation to the United States;

Whereas the Provisional Government successfully lobbied the Committee on Foreign Relations of the Senate (hereafter referred to in this Resolution as the "Committee") to conduct a new investigation into the events surrounding the overthrow of the monarchy;

Whereas the Committee and its chairman, Senator John Morgan, conducted hearings in Washington, D.C., from December 27, 1893, through February 26, 1894, in which members of the Provisional Government justified and condoned the actions of the United States Minister and recommended annexation of Hawaii;

Whereas, although the Provisional Government was able to obscure the role of the United States in the illegal overthrow of the Hawaiian monarchy, it was unable to rally the support from two-thirds of the Senate needed to ratify a treaty of annexation;

Whereas, on July 4, 1894, the Provisional Government declared itself to be the Republic of Hawaii;

Whereas, on January 24, 1895, while imprisoned in Iolani Palace, Queen Liliuokalani was forced by representatives of the Republic of Hawaii to officially abdicate her throne;

Whereas, in the 1896 United States Presidential election, William McKinley replaced Grover Cleveland;

Whereas, on July 7, 1898, as a consequence of the Spanish-American War, President McKinley signed the Newlands Joint Resolution that provided for the annexation of Hawaii;

Whereas, through the Newlands Resolution, the self-declared Republic of Hawaii ceded sovereignty over the Hawaiian Islands to the United States;

Whereas, the Republic of Hawaii also ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government;

Whereas, the Congress, through the Newlands Resolution, ratified the cession, annexed Hawaii as part of the United States, and vested title to the lands in Hawaii in the United States;

Whereas, the Newlands Resolution also specified that treaties existing between Hawaii and foreign nations were to immediately cease and be replaced by United States treaties with such nations;

Whereas, the Newlands Resolution effected the transaction between the Republic of Hawaii and the United States Government;

Whereas, the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum;

Whereas, on April 30, 1900, President McKinley signed the Organic Act that provided a government for the territory of Hawaii and defined the political structure and powers of the newly established Territorial Government and its relationship to the United States;

Whereas, on August 21, 1959, Hawaii became the 50th State of the United States;

Whereas, the health and well-being of the Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land;

Whereas, the long-range economic and social changes in Hawaii over the nineteenth and early twentieth centuries have been devastating to the population and to the health and well-being of the Hawaiian people;

Whereas, the Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions;

Whereas, in order to promote racial harmony and cultural understanding, the Legislature of the State of Hawaii has determined that the year 1993 should serve Hawaii as a year of special reflection on the rights and dignities of the Native Hawaiians in the Hawaiian and the American societies;

(3) apologizes to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii on January 17, 1893 with the participation of agents and citizens of the United States, and the deprivation of the rights of Native Hawaiians to self-determination;

(4) expresses its commitment to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii, in order to provide a proper foundation for reconciliation between the United States and the Native Hawaiian people; and

(5) urges the President of the United States to also acknowledge the ramifications of the overthrow of the Kingdom of Hawaii and to support reconciliation efforts between the United States and the Native Hawaiian people.

SEC. 2. DEFINITIONS.

As used in this Joint Resolution, the term "Native Hawaiian" means any individual who is a descendent of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

SEC. 3. DISCLAIMER.

Nothing in this Joint Resolution is intended to serve as a settlement of any claims against the United States.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will not return to the consideration of the conference report to accompany H.R. 2445.

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mrs. MURRAY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 11, as follows:

[Rollcall Vote No. 333 Leg.]

YEAS—89

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feinstein
Ford
Glenn
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—11

Brown
Faircloth
Feingold
Gramm
Gregg
Helms
Hutchison
Kerry
Roth
Smith
Wallop

So the conference report was agreed to.

Mr. SARBANES. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that I might proceed as if in morning business for 5 minutes followed by 5 minutes for the Senator from Oklahoma.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Yes.

Madam President, I am sorry to object. I really do not want to object. But I would like to have 5 minutes of morning business myself. Is the Senator agreeable? If I could have 5 minutes after the two Senators finish, if the Senator will amend the unanimous-consent request, I will not object.

Mr. MOYNIHAN. Yes.

Mr. DECONCINI. Madam President, then if the unanimous-consent request also includes 5 minutes following the Senator from Oklahoma and the Senator from New York, then I have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New York.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. MOYNIHAN. Madam President, as Senators well know, on yesterday at about this hour, the Senator from Oklahoma raised a point of order under the Budget Act against H.R. 3167, the legislation before us today. The Senator's point of order holds that the funding contained in H.R. 3167 is not sufficient to finance the bill's outlays in the current fiscal year. It is worth noting that the Office of Management and Budget does attest that the bill is paid for over 5 years.

In order that the bill could be enacted with the funding provisions intact, I moved to waive the Budget Act. The motion received only 59 votes, thereby putting us in a difficult situation. Persons who did not want to see the unemployment benefits program stopped so abruptly but who also wanted to see different forms of financing were in a situation which is still unresolved.

We, accordingly, gave ourselves a day in which we might see what could be done.

I come to the floor, Madam President, to say nothing can be done about the financing. It is a 5-year matter, and there is not at hand a billion dollars that can be found in this year to pay for this program. So we will have to go forward, if we go forward at all, on the basis originally presented.

The Senator from Oklahoma, and others, made a good-faith effort to find the money. We have not succeeded.

So we are going to proceed. The Senator from Oklahoma has thoughtfully suggested we do not need a rollcall vote on the motion to reconsider, we will then vote on the motion to waive the Budget Act.

This sounds much more arcane than it is. The point here is that we have reached agreement on a simple sense-of-the-Senate resolution which will be offered at the conclusion of the vote on the motion to waive the Budget Act. The resolution says that based on current economic forecasts, the Senate does not anticipate the need for the enactment of a further extension of the Emergency Unemployment Compensation Program which will, if the bill is enacted, expire in February, and at the earliest possible date the administration should propose and the Congress should enact legislation to reform the current unemployment insurance system.

Madam President, I spoke to that yesterday to say that we now have three tiers of insurance which do not address extended individual unemployment, which can exist simultaneously with a rather moderate overall rate.

In a State where a defense industry has closed down or drastically downsized, there will be workers out of work for a long while.

The Senator from California very ably described an aeronautical engineer from Riverside, CA, who was in that situation, and there are many more like him.

We need to rethink this program. We have an able and energetic Secretary of Labor. I am sure he would want to do it. In any event, I know the Committee on Finance will proceed to deal with health care, welfare reform, NAFTA, the Uruguay Round, and related business. But this is an important program that needs significant change.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

The Senator from Oklahoma.

Mr. NICKLES. Madam President, first, let me just say I thank my friend and colleague from New York for his cooperation.

Madam President, yesterday I made a point of order that the bill that is before us today, H.R. 3167, was not in order because it was not paid for, and clearly under the budget rules it is not.

The point of order I think is well taken. My friend and colleague from New York is moving to waive the point of order, which certainly he has the right to do so. Under the rules of the Senate, he has to have 60 votes.

Yesterday, the Senator was not successful in getting 60 votes. My guess is that today he will be successful in getting the 60 votes.

I might mention to my colleagues the rule. The agreement that was reached earlier this year under section 12 of the concurrent budget resolution says, "It shall not be in order in the Senate to consider any bill or joint resolution that would increase the deficit in its resolution for any fiscal year through fiscal year 1998."

If my colleagues would look at the report accompanying the legislation, Mr. Reischauer, the head of the Congressional Budget Office, dated September 29, states in 1994 it has a negative outlay result of over a billion dollars. In other words, it adds a billion dollars to the deficit in 1994.

That was the reason I made my point of order. This resolution assumes hypothetically that there will be savings over the next 5 years to pay for it with the majority of the savings coming in 1997 and 1998.

I think that is irresponsible to fund a program where we are going to have outlays going for 4 months and then we are going to fund it over the next 5 years hypothetically. I think that is a fraud. I think it is a sham. I think it is irresponsible. That is the reason I made my point of order. I am not going to win today and I regret that. Frankly, that adds a billion dollars to the deficit. There is no question about it.

Madam President, I make a couple other points. I have some other concerns about this bill. This bill has unfunded mandates, unfunded mandates to the States to the tune of $897 million that are not paid for.

It says that the State agency charged with administration of State law shall establish and utilize the system. That is all of page 5, a mandate. A good part of page 6 is a mandate on the States.

Several of my colleagues made speeches that we do not want unfunded mandates to the States. This program is an unfunded mandate to the States.

Madam President, I raised a couple other concerns yesterday, and that was we seem to be doing this on a more routine basis. We have done it in the last couple of years. We did it in 1991, 1992, and 1993.

The sense-of-the-Senate resolution that my friend and colleague from New York and I have agreed upon basically the first paragraph says, "Based on current economic forecasts, the Senate does not anticipate the need for enactment of further extension of the Emergency Unemployment Compensation Program."

I might mention I talked to the Director of OMB, Mr. Panetta, and he agrees with that. We cannot continue this kind of continual system of the Federal Government paying 100 percent of the increases in unemployment compensation.

I might mention I will put into the RECORD the history of the growth of this program. It has grown and grown astronomically as the Federal Government has increased its willingness to fund 100 percent of the program.

I mentioned that in 1992 the cost of this program went up 47 percent. In 1991 it went up 43 percent. So you see this is growing very rapidly as the Federal Government has assumed 100 percent of the responsibility.

So, Madam President, I urge my colleagues to vote against the motion to waive, and we will see where the vote goes.

Regardless of that, I will tell the chairman of the Finance Committee that I do not think we need a rollcall vote on the sense-of-the-Senate resolution. I appreciate his cooperation in working with me and our staff.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. NICKLES. I am happy to yield.

Mr. MOYNIHAN. Is it his understanding that we will bring up this resolution after we have disposed of the legislative matter?

Mr. NICKLES. The Senator is correct.

Mr. MOYNIHAN. I thank the Senator.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired.

Under the previous order, the Senator from Arizona is recognized for 5 minutes.

MARY C. LAWTON

Mr. DECONCINI. Madam President, it was with deep sadness that we learned today that Mary C. Lawton, counsel for Intelligence Policy at the Department of Justice, had passed away unexpectedly last night.

Mary, who had a long and distinguished career in the Federal service, was almost an institution herself in the intelligence business. Tough, principled, uncompromising, she made intelligence agencies toe the line and brooked incompetence from no one. For the last 10 years, her office, and indeed, Mary personally, have played a key role, if not a vital role, in ensuring that intelligence gathering activities of the Federal Government comply with law and Attorney General guidelines.

The Intelligence Committee, in fact, came to rely upon her review of operational decisions as a vital safeguard in the executive branch process. It made us breathe a little easier knowing Mary was there.

It is with a great deal of admiration and respect for the job she has done over the years that I note her passing to this body.

STATUS OF INTELLIGENCE AUTHORIZATION BILL

Mr. DECONCINI. Madam President, today I had planned to address the status of the intelligence authorization bill, S. 1301. Articles in the press this morning make it even more imperative that I do so to set the record straight.

We have a very unfortunate situation on our hands, Madam President. We have been trying to bring the intelligence authorization bill to the floor now for several weeks. The latest obstacle in our path is a hold placed on our bill by several Republican Senators on the Committee on Armed Services.

Let me make it clear, their hold has nothing to do with the substance of the bill or the merits of the bill.

They have placed the hold on our bill because they believe, based upon an allegation from a confidential source, that the CIA has a classified document pertaining to a nominee before their committee, Morton Halperin. After an exhaustive search of its records, CIA cannot find the alleged document, and, in the meantime, our bill is being held hostage.

Madam President, since the hold was placed on our bill last week, we in the committee have been attempting to resolve this issue. We urged the CIA to complete its file searches in a prompt and diligent manner and provide an expeditious response to the Committee on Armed Services.

I asked them to extend that search, when one of the Members who has a hold on the bill indicated that there was another year they wanted searched. The CIA did that search and found nothing.

This has been the extent of our involvement from the committee point of view. I want to make it absolutely clear that we are not, as the Washington Times suggested this morning, investigating Mr. Halperin in the Intelligence Committee. This nomination has been referred to the Armed Services Committee, not the Intelligence Committee. I have offered to my Republican colleagues on the Armed Services Committee the assistance of our committee staff in interviewing the source of the allegation in question in hopes of obtaining further information that would be helpful to the search for the alleged document, but they have not accepted this offer.

We are not in the process of doing a full-scale investigation. But I think it would be proper for them to come forward and let us talk to the so-called alleged person who has this information.

In the meantime, the Director of the CIA, James Woolsey, has given me his personal assurance that a thorough search of CIA records has occurred, and that the alleged document cannot be located. He has also told me that individuals who ordinarily would have been aware of such a document have been interviewed and do not recall ever seeing the alleged document. That is the word of the Director and Madam President, that word is good enough for this Senator.

We had attempted to arrange a meeting yesterday morning between Director Woolsey and the key Senators on the Armed Services Committee so that Director Woolsey could provide them with the same personal assurances he had given me.

Unfortunately, Director Woolsey was not permitted to attend the meeting because of concerns on the part of the White House counsel, Mr. Nussbaum, that all communications to congressional committees concerning pending nominations be made through the FBI after clearance by the White House. I was very disappointed, indeed, and quite frankly, upset.

I think that under the circumstances that was an unfortunate decision. Nevertheless, I have absolutely no reason to think there is any effort here to cover up anything or to stonewall the Armed Services Committee. According to the Director, CIA has made a good-faith effort to locate the alleged document and cannot do so. In fact, the CIA on my request initiative extended the scope of the search by several years in regard to the request.

In the meantime, Madam President, our authorization bill languishes. The conferees on the Defense appropriations bill are meeting this week, and we have not gotten our authorization to the floor.

I wonder whether the Senators who are keeping our bill hostage appreciate the consequences of keeping us from acting. Let me take a moment to go over them.

To begin with, the absence of an intelligence authorization bill creates a serious legal problem for intelligence agencies. Section 504 of the National Security Act of 1947 prohibits intelligence agencies from spending appropriated funds that have not also been specifically authorized by the Congress. This requirement was written into law to ensure that the special oversight committees created by each House would have a say in all funding decisions involving intelligence activities. Without an authorization bill, we will be left with an untenable legal situation where, by law, intelligence agencies are precluded from spending funds that will be appropriated in the fiscal year 1994 appropriations bills.

It is also no exaggeration to say that this authorization bill represents a year's work by the Select Committee on Intelligence.

It reflects, as probably no other bill can, the direction being set up in the Intelligence Committee, reviewing each program in confidence, going over it with the Director in confidence, and then passing a bill and recommending it to the floor.

In this particular bill, we have authorized funds to deal with such critical problems as nonproliferation, terrorism, and support to U.S. military operations. We also establish long-term, far-reaching strategies for satellite architectures and processing capabilities.

Without a bill, the endless hours devoted to hearings, briefings, budget scrubs, and negotiations of sensible compromises will all have gone for naught.

Indeed, the institutional position of the committee vis-a-vis the agencies we oversee will necessarily have suffered.

Madam President, this is not a controversial bill. It is supported by the administration and has strong bipartisan support within the committee. It is being subjected to a hold in order to achieve a purpose that has nothing to do with the merits of the bill.

It is as if I were to place a hold on the Defense authorization bill because I was not satisfied that the Intelligence Committee had been given everything that a DOD agency might have concerning a nominee before our committee.

I would not do that, Madam President, because it would not be fair to the Armed Services Committee or to the Senate. It would not be fair to hold up legislation that is so important to our institutional process and to the functioning of our Government.

Madam President, there are many options available to Senators on the Armed Services Committee who are opposed to this nomination. I presume, as long as they are dissatisfied with the information being provided by the administration on the nominee, they can keep the nomination from coming to a vote. It makes no sense, however, and is particularly unfair to the Select Committee on Intelligence and its staff, which has spent the last year on this bill, to keep our authorization bottled up.

I am hopeful, Madam President, that those who are now holding up our bill will yet release their hold and let us proceed.

I hope that the Senators will consider pulling off the hold and fighting their nomination fights someplace else, which ought not be on this bill.

The PRESIDING OFFICER. The Senator from Arizona's time has expired.

Mr. WARNER. Madam President, it had been my intention to join the distinguished chairman in this colloquy, since I have the privilege of serving as the vice chairman. I did not know that the chairman was coming to the floor at this particular time.

Is there a possibility, I inquire of the Chair, whereby the vice chairman may have an equal amount of time within which to provide a reply to the very important statements made by the distinguished chairman?

Mr. DECONCINI. Madam President, I have no objection to that.

The reason that this Senator brought this to the floor now is, after reading the article in the paper this morning, this is the first opportunity I have had to get here to refute what was in the paper. I would have no objection at all if the Senator wants to propound a unanimous-consent request to have 7 minutes or whatever time he wants.

Mr. WARNER. Madam President, I ask unanimous consent that the Senator from Virginia be afforded a period of time equal to that afforded to the Senator from Arizona.

The PRESIDING OFFICER. Is there objection.

Without objection, it is so ordered.

THE NOMINATION OF MORTON HALPERIN

Mr. WARNER. Mr. President, first I say to my good friend, cochairman on the Intelligence Committee, that I, indeed, regret the fact that this bill, which is the joint responsibility of the two of us, has been held up. I accept full responsibility. Although other colleagues on the Armed Services Committee have joined in placing the hold on this bill, I accepted the responsibility because the ranking member, Mr. THURMOND, has designated each of us to take care of a certain segment of the nomination of Halperin. My segment happens to be in the intelligence area. Therefore, I participated in the hold and I take full responsibility.

I say to my good friend and chairman, I recognize the seriousness of the consequences of this hold. It is my expectation and hope it can be lifted.

I regret I do not have all my papers here, but I will make certain the RECORD reflects the accurate dates. I was not given time to get my file papers.

I spoke to the Senate sometime in late August or September and expressed some concerns that I had about the nomination of Morton Halperin. I continue to have those concerns.

I have had the opportunity to meet with him on two occasions. Nevertheless, although I still have not, to my satisfaction gained those facts which answer questions that concern me greatly, I continue to pursue my work on the Halperin nomination in an objective and in a fair manner.

Shortly after I made my statement on the floor, information came to me that on its face appeared credible. I felt it imperative that we verify and get corroboration. I consulted with the ranking member, Mr. THURMOND, and suggested that we write the Central Intelligence Agency, since this individual who approached me, in writing—by letter—and later I interviewed him, indicated that the files of the agency could possibly have information pertinent to the Senate's inquiry about Morton Halperin.

In fact, this particular individual indicated that he saw the document and he has since that time indicated to me a second individual who corroborated the fact that the first individual reported to the second individual the existence of the document. I am proceeding as diligently as I can to determine whether or not this document exists.

The distinguished ranking member wrote the Director of the CIA and asked that a search be initiated. We waited patiently. I will put in the RECORD the date of that letter. But more than a reasonable period of time transpired and we received no acknowledgment of the letter, and therefore I and other members on the Republican side of the Armed Services Committee felt we could best leverage an answer to our letter by putting the hold on. That hold still remains. I am not lifting it as yet.

I have spoken to Director Woolsey about this. Incidentally, I have the highest regard for the Director. I have worked with him for two decades or more. He is a man of honor and integrity, and I think he is trying to do his best.

Today is the first time, as the chairman spoke, that I and other Members of the Senate learned that the Director has responded to Senator THURMOND's letter. That is the first time; albeit yesterday, when I spoke to the Director, he and his assistant indicated that a letter was in the pipeline but they did not give me the assurance it had left the Agency, cleared the White House, and arrived at the Senate.

So, part one, we have now determined the Director, based on his inquiry to date, has not found this particular document that we described.

Part two will be a further inquiry by the Senator from Virginia to the Director, providing the Director with names and information that has come into my position as to where he might, once again, reinitiate his search for this document. I will undertake to do that the moment I leave this Chamber. Depending on the time in which the Director can then respond to my second request, I will determine the advisability or lack thereof of lifting the hold.

I see the distinguished chairman seeks the floor?

Mr. DECONCINI. Will the Senator yield for a question? I appreciate the Senator's question, but is there any reason he cannot work this on another bill? He knows the importance of our bill. At least the Senator could pull his own hold off the bill, and maybe the other Members will follow.

I do not see how it is really relevant to the passage of our bill, frankly. I understand the importance of and the dedication to try to do something about the Halperin nomination, from the Senator's point of view, but I just do not see the relevance to this bill. That is the only reason I am standing here today, is to ask the Senator to help us pass this bill before the Appropriations Committee finishes their work in the next day or two.

I thank my friend.

Mr. WARNER. Mr. President, in response, I must say to my friend and colleague on the Intelligence Committee, at this time I will continue to maintain this hold until such period that I have the opportunity to speak to the Director, acquaint the Director with such information as I possess, and then hear back from the Director with respect to the information.

I thank the Chair and I thank my colleague for the time.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I ask a final additional 5 minutes, to be divided between a statement by my dear friend and member of the Committee on Finance, the Senator from Michigan——

Mr. D'AMATO. I object.

Mr. HELMS. Objection.

Mr. MOYNIHAN. This is just 5 minutes now, the last 5 minutes.

Mr. D'AMATO. All right, but let me simply state I attempt to be courteous to all my friends. But we have gone from nothing to 5 minutes, 5 minutes, 5 minutes. Is it going to keep on?

But if this is the last 5 minutes, fine. The final 5 minutes. I do not object.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MOYNIHAN. I was surprised by the objection, but I will keep it in mind in the future.

What is the pending business?

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3167, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. HELMS. I withdraw my objection.

Mr. MOYNIHAN. I ask, of the final 5 minutes, 2 minutes to the Senator from Michigan, 2 minutes to the Senator from California, and 1 minute for me for a brief explanation. Then we go to work.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. RIEGLE. Madam President, I will try to say this in 1 minute to conserve some of that time. Yesterday, I was unable to be present for the vote. I very much wanted to be here, and of course I am able to be here and voting today. I was away for a family medical emergency and was in California at the bedside of my 11-month-old grandson, Christian Kennedy, who is in the intensive care ward in the Children's Hospital in Los Angeles. He is struggling with some serious health problems.

I thank everyone who has been saying prayers in his behalf for his full and safe recovery, but I look forward to voting for this bill and getting these unemployment benefits passed today.

I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I rise to represent California in this debate because there is no State for which unemployment benefits are more important. I might say, of the 1.4 million unemployed today in California, 327,000 of them have been unemployed for more than 6 months and qualify for these benefits.

I want to read once again a letter which tells the story of unemployment benefits and their importance in California for a person in Riverside.

> I am a casualty of the cold-war victory. I am an aerospace engineer, diligently looking for a job for many months with no success. In fact, after responding to approximately 21 ads relating to my specialty, and sending out approximately 100 resumes to Los Angeles area companies, I have had one interview and I was rejected.
>
> I am concerned that people in my situation need more than the usual 6 months of unemployment benefits to get situated.

This speaks directly to the issue; 327,000 lives rest on this unemployment decision today from one State alone, and that is the State of California.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York has 1 minute.

Mr. MOYNIHAN. Madam President, just to put Senators on notice, I will ask that the sense-of-the-Senate resolution be considered and agreed to without any amendments or motions. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is now on agreeing to the motion to reconsider the vote to waive section 311 of the Congressional Budget Act and section 12(c) of the concurrent resolution on the budget for fiscal year 1994 for the consideration of the bill.

The motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive section 311 of the Congressional Budget Act and section 12(c) of the concurrent resolution on the budget for fiscal year 1994, H. Con Res. 64, for the consideration of the bill.

The yeas and nays have been previously ordered on the motion. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 61, nays 39, as follows:

[Rollcall Vote No. 334 Leg.]

YEAS—61

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Conrad
D'Amato
Daschle
DeConcini
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Specter
Warner
Wellstone
Wofford

NAYS—39

Bennett
Bond
Boren
Brown
Burns
Coats
Cochran
Cohen
Coverdell
Craig
Danforth
Dole
Domenici
Durenberger
Exon
Faircloth
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Kassebaum
Kempthorne
Kerrey
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Simpson
Smith
Stevens
Thurmond
Wallop

The PRESIDING OFFICER. On this vote, the yeas are 61, and the nays are 39. Three-fifths of the Senators duly chosen and sworn, having voted in the affirmative, the motion is agreed to.

And the point of order falls.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS FOR VISIT TO THE SENATE BY PRESIDENT MOHAMMED HOSNI MUBARAK, PRESIDENT OF THE ARAB REPUBLIC OF EGYPT

Mr. MITCHELL. Mr. President, Senator DOLE and I have just met with President Hosni Mubarak of Egypt.

I believe many, if not most, of the Senators have had the opportunity to meet and talk with President Mubarak. He is, of course, the head of state of a nation with which our Nation is closely allied, and is an outstanding national leader who has aggressively promoted a strong and close relationship between his people and the people of the United States.

Accordingly, Mr. President, I now ask unanimous consent that President Mubarak be accorded the privilege of coming onto the Senate floor, and that the Senate stand in recess for a period of 10 minutes within which Senators be given the opportunity to welcome and greet President Mubarak.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 4:13 p.m., recessed until 4:23 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. WELLSTONE].

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation in greeting President Mubarak.

We will now continue on the pending bill, H.R. 3167, to extend the emergency unemployment program, and we are falling further and further behind in our schedule.

In an effort to meet the target of adjournment by Thanksgiving, it is necessary to complete action on this bill as soon as possible. Therefore, if there are to be further amendments, Senators should expect a very late session tonight, as well as a very late session tomorrow night, in an effort to make progress on this and several other important matters which are pending before the Senate. I yield the floor.

Mr. BUMPERS. Mr. President, parliamentary inquiry. Is the bill now open to amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. I will soon send an amendment——

Mr. NICKLES. Mr. President, If the Senator will withhold a minute. Senator MOYNIHAN, Senator PACKWOOD, and myself have agreed to a sense-of-the-Senate resolution. I wonder if the Senator will allow us to send it up, and we do not expect a rollcall vote. It should not take 2 minutes.

Mr. BUMPERS. Since the Senators have agreed to it, I ask unanimous consent that they be allowed to offer that and that I be recognized thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO FUTURE EXTENSIONS OF THE EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

Mr. NICKLES. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 156) expressing the sense of the Senate with respect to future extensions of the emergency unemployment compensation program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. NICKLES. Mr. President, this resolution is very simple. I will read it:

Based on current economic forecasts, the Senate does not anticipate the need for enactment of a further extension of the emergency unemployment compensation program, and at the earliest possible date, the administration should propose, and the Congress should enact, legislation to reform the current unemployment insurance system.

I think it is self-explanatory. It says we do not want to get in this situation where we perpetually extend the unemployment emergency compensation program, which is financed 100 percent by Federal dollars. This is sponsored by myself, Senator MOYNIHAN, and Senator PACKWOOD. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 156) was agreed to, as follows:

S. RES. 156

Resolved, That it is the sense of the Senate that—

(1) based on current economic forecasts, the Senate does not anticipate the need for the enactment of a further extension of the emergency unemployment compensation program, and

(2) at the earliest possible date, the administration should propose, and the Congress should enact, legislation to reform the current unemployment insurance system.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized.

AMENDMENT NO. 1084

(Purpose: To repeal the retroactive income, estate, and gift tax increases and compensate for the lost revenue by terminating the space station)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. KERREY, Mr. DORGAN, Mr. SASSER, and Mr. CONRAD, proposes an amendment numbered 1084.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following new sections at the end of the bill:

SEC. 8. REPEAL OF RETROACTIVE APPLICATION OF INCOME, ESTATE, AND GIFT TAX RATE INCREASES.

(a) INCOME TAX RATES.—

(1) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR TAXABLE YEARS BEGINNING IN 1993.—In the case of taxable years beginning in calendar year 1993, each of the tables contained in subsections (a), (b), (c), (d), and (e) shall be applied—

"(1) by substituting '32.97 percent' for '36 percent',

"(2) by substituting '34.39 percent' for '39.6 percent', and

"(3) by substituting for the dollar amount of tax in the last rate bracket the dollar amount determined under such table by making the substitution described in paragraph (1).".

(2) CONFORMING AMENDMENTS.—

(A) Sections 531 and 541 of the Internal Revenue Code of 1986 are each amended by inserting "(34.39 percent in the case of taxable years beginning in calendar year 1993)" after "39.6 percent".

(B) Paragraph (1) of section 55(b) of such Code is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULES FOR 1993.—In the case of any taxable year beginning in the calendar year 1993, subparagraph (A)(i) shall be applied by substituting—

"(i) '24.79 percent' for '26 percent' in subclause (I), and

"(ii) '25.8 percent' for '28 percent' in subclause (II)."

(C) Section 13201 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking subsection (d).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(b) ESTATE AND GIFT TAX RATES.—

(1) IN GENERAL.—Subsection (c) of section 13208 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "December 31, 1992" and inserting "August 10, 1993".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1993.

SEC. 9. TERMINATION OF THE SPACE STATION PROGRAM.

(a) PROHIBITION.—Effective 90 days after the date of enactment of this section, no appropriated funds shall be available to carry out the provisions of section 106 of the National Aeronautics and Space Administration Authorization Act of 1988 (42 U.S.C. 2451 note).

(b) EXCEPTION.—The provisions of subsection (a) shall not apply to any actions taken in terminating the United States International Space Station Freedom Program.

(c) UNEXPENDED FUNDS.—Subject to the provisions of subsection (b), any funds appropriated for use on the United States International Space Station Freedom Program that remain unexpended and unobligated 90 days after the date of enactment shall be credited to the general revenues of the United States Treasury.

Mr. BUMPERS. Mr. President, I will explain very briefly to my colleagues what this amendment does. I think there is a very strong sentiment in the Senate against retroactive taxes. There are some who do not really see anything wrong with it, and certainly I am not here trying to eliminate the retroactivity of the recent tax increase to ingratiate myself with the richest 1 percent in the country who will be affected by my amendment. I voted for the deficit reduction package which had the retroactivity provision in it because I believed very strongly in what we were trying to do—dramatically reduce the deficit. But we do not vote here because a bill is perfect; we vote because, on balance, it is more good than bad. So I voted for it.

Mr. President, this is also a very good time to note that I am offering this amendment on behalf of myself and the chief cosponsors—Senators DORGAN, KERREY of Nebraska, SASSER, and CONRAD.

To continue with what I was about to say, the problem with retroactive taxes is not who will be affected by them, because, indeed, the wealthiest people in the country were affected, but because there is an element of unfairness, I think, that troubles every Senator. The Senator from Texas offered an amendment the other day that I thought was fatally flawed, not because of its constitutionality, but because it allowed the Director of the Office of Management and Budget to pick and choose from $245 billion in Government spending. It would have allowed the Director of OMB to pick and choose, where he would find the money to pay for the roughly $10.5 billion it would cost to eliminate the retroactive tax increase. I thought that was a tremendous amount of power.

I do not want to debate that amendment again. The Senator from Texas and I debated that for a long time here, and the Senate voted not to accept that amendment. However, I would like to note that today I am giving the Senate the opportunity to make a specific spending cut on a specific project to offset the lost revenue rather than an unspecified cut. It is always easy to do the latter.

Mr. President, technically, the deficit reduction package went into effect this past August 10. If you eliminate retroactivity, technically the income you make for the first 7½ months would be taxed at 31 percent, and all the money you make after that would be taxed at 36 percent.

Because that would be an administrative nightmare for the business community of this country to try to administer and send out W-2 forms for 7 months and 10 days and another W-2 form for all the income you received from August 10 to the end of the year, I have in my amendment a blended rate, a little over 32 percent for the entire year, and that effectively takes care of the retroactive portion of that bill.

Now the controversy, and the thing that will cause some people to squeal like a pig under a gate, I would pay for the repeal of the retroactive tax increase by terminating the space station.

While the Senator from Texas had an amendment that allowed the Director of OMB to decide whether veterans would be punished, whether the Federal employees would lose part of their health-care coverage, whether NASA would take a bigger hit than anyone else, I have the neatest, nicest, cleanest amendment anybody could vote for. All you do is to terminate the space station to pay for this.

To my colleagues let me say, Mr. President, you would not only be voting to take money from the space station until you have taken out $10.5 billion, but because the space station is going to cost $83 billion to build, you are going to save a lot of money on the deficit.

Here is a very important point. I hope my colleagues will listen to this, if they do not hear another word I say. The first year I was in the Senate was 1975. The Congress had approved a $6 billion expenditure to build an antiballistic missile system in North Dakota. They voted that $6 billion appropriation by one vote. When I came to the Senate, one of the first votes I cast was to tear it up and destroy it at precisely the same time it was completed because the technocrats decided it would not work.

So we spent $6 billion, with a lot of people warning the Senate and the Members of the House it would not work, but you could not stop it. It was kind of like the space station and the super collider. You could not stop it. So we went ahead and appropriated $6 billion and started destroying it the day it was completed.

The B-2 bomber, which I originally favored, you could not kill that sucker. I favored it because I had been told by people I respected that Soviet radar—this was at the height of the cold war—could not detect it. I also favored it because I thought the B-1 bomber was going to be a waste. That turned out to be prophetic. The plane has hardly ever gotten off the ground, never been flown in combat, and now we were getting ready to spend billions to convert the B-1 for other than strategic purposes, for conventional missions.

You could not tell the U.S. Senate anything about that. They were hell bent on building the B-1 bomber, and they built it. Now we have 96 of those turkeys on our hands at a cost of $38 billion.

The B-2 bomber—I am not sure, but we finally built 20 of them. Instead of costing roughly $500 million each, I believe they cost $2 billion each, and there is a serious question, a very serious question about the reliability of that airplane.

I am telling you, every time I stood on this floor and voted on the B-2 bomber I was told the Russians were just at the mouth of the Potomac River; we had to have it. Then all of sudden we discover one day that the B-2 bomber has a radar blip easily visible to Soviet radar. So all the roughly $35 billion or $40 billion spent for a bomber that was supposed to elude Russian radar, were utterly wasted. Not that the plane will not fly. It will fly.

Less than a month ago I stood on the floor and said we do not need the advanced solid rocket motor. NASA does not want it and does not need it. We were getting ready to spend another $3.5 billion on a motor that serves no purpose. I got 47 votes. The House of Representatives killed it by 378 votes to about 40 votes. It is now dead, dead, dead, because the House of Representatives killed it and refused to recede to the Senate position.

Then the super collider: This year was the fourth year I stood on the floor of the Senate and said this is good science, but it is an utter waste of money, there is no payback, was all to no avail, although I think this: I will take some small credit for the demise of the super collider, not just because I stood here for 4 years fighting it, but because this year we got 10 more votes than we did last year. The House killed the thing overwhelmingly, and I think one of the things that convinced everybody that battle was over was that they knew we would probably get another 10 votes next year, but we would have spent another $640 million and the termination costs would have grown.

We spent $1.5 billion on ASRM before we killed it. We spent $2 billion on the super collider before we killed it. On SDI we spent $35 billion before we killed it. And on the B-2 bomber and the B-1 bomber we spent billions before we stopped them.

Mr. President, I have just listened to the reasons the American people do not trust Congress. If you want to know why we have an 18- to 19-percent approval rating with the American people, it is because they see us day after day after day squandering their money when we ought to be putting it on the deficit.

How many times have you heard—and I do not always believe it—people say, "I would not mind paying more taxes, but you guys would just spend the money," or "I would not mind paying more taxes if I knew it was going to reduce the deficit?" Some people use that as an excuse so they do not have to pay more taxes. They think they are perfectly safe when they say it. But there is certainly enough legitimacy to that argument.

I think everybody understands that the deficit is going to destroy the country. You can talk about anything you want to. You can talk about a nuclear holocaust. You can talk about us losing our technological edge. But the thing that really threatens the economic future of the Nation is the deficit.

Now here is a space station. In fiscal year 1994 we appropriate $2.1 billion for the space station. Nobody knows what it is going to look like. The final design has not been chosen. We have already spent $8 billion on space station *Freedom*. That is now in the trash heap; $8 billion gone, virtually no benefit to the country for it.

And what are we doing? Going back to the drawing board to design another space station and we put $2.1 billion into it and not a soul in this body can give you a clue as to what it is going to look like, what its mission is, what the payback is going to be. Nothing.

Everybody knows the Russians have had a space station up there for 8 years; wish they could get it down; got nothing out of it.

I do not mean to disparage NASA, because there are a lot of very competent, able, patriotic people at NASA. But it seems like every time we have a debate up here, we get a shuttle launched with some kind of experiment.

The other day I saw an experiment which I am not going to describe. But I thought, you know, $1 billion per shuttle launch, that is an awful lot for an experiment like that.

So, Mr. President, if you think retroactivity is unfair, you want to go home to the Chamber of Commerce and tell people you did everything you could do to eliminate it, vote for my amendment.

And, in addition to the fairness issue on retroactivity, you remember the day DALE BUMPERS stood at this desk and told you the space station is dead. I said for the last 2 years: The super collider is dead. It is just a question of when we are going to have the funeral.

Now we have had the funeral. ASRM is dead, but only after we spent billions and billions of dollars. I am telling you today the space station is dead.

So you can go ahead and spend this $2.1 billion we have appropriated, and next year we will kill it. We may appropriate another $2 billion next year, and the next year we will kill it. But that money will have been gone and been wasted. Now is the time.

So, Mr. President, I hope my colleagues will remember that this bill for the space station passed the House by one vote—one vote. And I can tell you what that portends for the future—death. Do not spend another $2 billion and wait for the House to kill that thing next year overwhelmingly, which they are very likely to do. It passed the House by one vote. We should never embark on a $100 billion expenditure on a project that passed the other House by one vote.

It loses support year after year. It has an incredibly sorry record on design and cost and it is headed for the trash heap.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 1085 TO AMENDMENT NO. 1084

(Purpose: To lower the discretionary spending caps to take into account the termination of the Space Station)

Mr. DORGAN. Mr. President, I send to the desk a second-degree amendment to the amendment of the Senator from Arkansas and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 1085 to Amendment number 1084.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Insert the following at the end of the amendment:

SEC. 10. REDUCTION IN DISCRETIONARY BUDGET CAPS.

(a) REDUCTION IN CAPS.—The Director of the Office of Management and Budget shall, upon enactment of this section, reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 through 1998 as follows:

(1) For fiscal year 1994, for the discretionary category: $1,446,000,000 in new budget authority and $1,015,000,000 in outlays.

(2) For fiscal year 1995, for the discretionary category: $2,100,000,000 in new budget authority and $1,799,000,000 in outlays.

(3) For fiscal year 1996, for the discretionary category: $2,100,000,000 in new budget authority and $1,992,000,000 in outlays.

(4) For fiscal year 1997, for the discretionary category: $2,100,000,000 in new budget authority and $2,100,000,000 in outlays.

(5) For fiscal year 1998, for the discretionary category: $2,100,000,000 in new budget authority and $2,100,000,000 in outlays.

(b) COMMITTEE ALLOCATIONS.—The allocation of appropriate levels of total outlays and new budget authority for fiscal year 1994 to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate included in the joint explanatory statement accompanying the conference report on the concurrent resolution on the budget for fiscal year 1994 (H. Con. Res. 64) are reduced by $1,446,000,000 in new budget authority and $1,015,000,000 in outlays.

Mr. DORGAN. Mr. President, I am offering a second-degree amendment to the amendment offered by the Senator from Arkansas. By adjusting the budget caps, my amendment simply finishes the job he is trying to do.

I would like to discuss the amendment offered by the Senator from Arkansas. We have two issues here. One is the retroactive application of the taxes that were imposed in the budget agreement earlier this year. The second is the funding of the space station.

Now, we had a debate on the floor earlier this week on retroactivity. As I pointed out when I was on the floor, the amendment that we debated then really did not eliminate a retroactive tax increase. The title of it said "eliminating retroactive tax increases." But the bill was written in a way that did not eliminate a retroactive tax increase at all.

The Senator from Arkansas offers today to the Senate a provision with two parts. The first part attempts to eliminate the retroactive tax increase. The second part would replace that lost revenue by cutting spending.

Now, if I had my choice, we would not have bills come to the floor of the Senate in which we apply taxes retroactively. We do not always have the choice, because we do not often have the opportunity to vote on something that is perfect. Usually the question is, what is the best of a couple of alternatives?

Also, if I had my choice, we would kill the space station and use that money only to reduce the Federal budget deficit.

The Senator from Arkansas is not going to get any prizes or awards in this town for cutting spending, nor will the Senator from New Mexico, nor, I would guess, am I. But the Senator from Arkansas has come to this floor day after day on bill after bill. Even his detractors must admit that he is faithful on these issues.

He says: Let us cut spending where it is wasteful. Let us cut star wars. We do not need it. Let us eliminate the space station. It cannot do what it was advertised to do and it is going to cost far more than was promised. Let us get rid of the super collider. Let us at least cut the increase in spending for the National Endowment for Democracy.

Day after day he has come to the floor proposing to cut spending. He is not a sloganeer. He asked us to vote on specific proposals to cut specific areas of Federal spending.

Frankly, he has not been very successful. It is not because he is not persuasive. He is one of the best speakers in the Senate, in my judgment, and one of the best thinkers in the Senate.

But he is hauling a pretty heavy load. Everybody here wants to talk about cutting spending, but nobody really wants to vote to cut spending. That is a plain fact.

I keep urging the Senator from Arkansas to put together a giant chart and show us who talks and who votes. But I think it would be instructive to find out who talks about cutting spending and then who walks to the floor of the U.S. Senate and does it: "Here's my vote. I cast my vote to cut spending. I believe this is wasteful. Let us cut it back." It is pretty hard to find people to do that because nobody is giving out plaques and awards for people who are standing here proposing these amendments to cut spending.

We have industries around this country built on the basis of trying to get us to support this activity or that activity or this project or that project. We all understand that. You support it, you fight for it. You get it done. It is for your State. It is for your region. And they give you a plaque with a picture on it and say, "You have done yeoman's work." Lord knows you are the best Senator they have ever seen because you got money for back home.

But has anyone seen anybody in this town called to the dais and told, "Senator, I want to offer you an award. Here is a little plaque. It says you are the fiercest, most aggressive spending cutter in the U.S. Senate." There is nobody who gives plaques like that.

There is one group, Citizen's Against Government Waste. It is a Republican group. They rate all Republicans high and all Democrats low. They claim they are a fair-minded group. They are not fair-minded. Their indexes are a joke.

The question is: Who is going to stand up here and vote to cut spending?

Do you realize that today, Wednesday, we will spend $1 billion more than we take in? But that is not unique to today. It is true every day. It was true yesterday, on Tuesday. It will be true tomorrow, on Thursday. Every day this year, 7 days a week, Sunday through Saturday, we will spend $1 billion we do not have and a fair amount of it on things we do not need. The Senator from Arkansas offers to the Senate, day after day and week after week, opportunities to address this problem.

The Senator from Arkansas now has, I see, his favorite yellow chart adorning his section of the U.S. Senate. It shows the programs he has tried to cut. The list includes the superconducting super collider, the space station, star wars, intelligence funding, the D-5, the advanced solid rocket motor, and National Endowment for Democracy.

Can I just spend a minute on NED? There are not many living Americans who understand what the National Endowment for Democracy is all about—except those who get the money. Let me tell those who are listening how NED began. People got together and said, "We need a program to promote democracy around the world. Who best to do that? Let's divide up a pot of money about four ways. Let's give some cash to the AFL-CIO, give a comparable check to the U.S. Chamber of Commerce, give some money to the National Republican Party, and give some more dough to the National Democratic Party."

Now you have four groups. We have given them taxpayers' money and we say: "Go forth and do good in the world. Promote democracy."

That is some terrific program. When we are spending $1 billion a day we do not have, we give taxpayers' money to the Republican Party, the Democratic Party, the chamber of commerce, and the AFL-CIO to run around the world encouraging democracy in places like France and England.

What is more, NED supporters come to the floor at a time when we are cutting health care, we are cutting programs for kids, we are cutting programs for the most vulnerable among us. And they ask for a lot more money for NED. They want a big, healthy increase this year. Do my colleagues know the Senator from Arkansas offered that amendment and we could not even pass that one?

Back to the issue at hand: the space station. I would prefer to kill the space station and use the money only to reduce the deficit. But we have tried that and we failed.

So, if we cannot get rid of the space station on an up-or-down vote to reduce the deficit, I say let us use it for some other worthwhile purpose. Let us cut a space station we do not need and use the money saved to avoid the retroactive tax increase.

It is absolutely true that the retroactive tax increase applies only to those in the highest income bracket. I understand that, and, frankly, I supported the tax increase. Those with high incomes ought to pay more.

Some will say that is just bashing the rich. That is ridiculous. The other side would also allege that we are taxing little hardware stores, little gas stations, families who are struggling to buy groceries.

The only people who will pay more income tax under these retroactive tax increases are people with gross incomes of above $180,000 to $200,000 a year. Those are the only people. The average person who is going to be paying the tax increase earns about $325,000 a year.

Why should they pay a higher tax burden? In the 1980's these same folks, the top 1 percent among us, saw a 120 percent increase in their real incomes, but their tax burdens rose only half that much. In other words, they got a lot more income and paid a little more in taxes.

They were part of the crowd that was buying and selling junk bonds and S&L's in the 1980's. Then the tent collapsed. But they ended up holding all the money and doing pretty well. We simply think they ought to pay their share.

Now, should the tax changes have been retroactive? No, not in my judgment. Tax law changes ought to be prospective. So let us get rid of retroactivity. I say, yes, let us rise to that challenge, let us do it.

How are we going to pay for it? If we cannot get rid of the space station and use the money to reduce the deficit, I say get rid of the space station and use money to get rid of the retroactive tax increase. This is the reasonable proposition put to us today by the Senator from Arkansas. I am pleased to be a cosponsor with the Senator from Arkansas and my colleague from North Dakota, Senator CONRAD, and Senator KERREY from Nebraska. I think both halves of this amendment are worthwhile.

Let me reiterate, it is not perfect, because I guarantee to my colleagues I would much sooner reduce or eliminate the space station and reduce the deficit with the money. But we cannot do that, so let us use the money to do something else that I think is worthwhile.

The Senator from Arkansas, as I said, has brought out his chart. I would like to ask if he would be willing to answer a question about that chart. We are dealing with the space station. I think it would be helpful for Members of the Senate if the Senator from Arkansas would tell us exactly what those numbers on that chart mean. You expect about $216 billion in savings, but only $1.6 billion in fiscal year 1994.

I yield to the Senator from Arkansas for an answer on that.

Mr. BUMPERS. I would be delighted to answer the question of the Senator.

The space station, which is listed here in 1990 with savings of $1.6 billion, is based on the fact that we have already appropriated $2.1 billion for 1994. I have subtracted the $500 million it is estimated it would take to terminate the space station. So that is not a saving. We subtracted that from the amount of money we appropriated. That is the $1.6 billion. Then you add the $83 billion it is estimated to cost to build the space station, compound the interest on that at 4.5 percent for 35 years because, as everybody in this body knows, we have to borrow every dime we spend on the space station. It is just more deficit spending.

And when you take the total cost, do not just look at 1 year's expenditures. We are headed for a $83 billion expenditure. And when you take that compounded at 4.5 percent interest for 35 years, the savings is $216 billion.

Further, answering the question of the Senator from North Dakota—and I alluded to this in my remarks a moment ago—as you can see the House authorized the space station by a big one-vote majority. In the Senate, the vote was 40 to 59. I lost, I got 40 votes. But last year we got 34 votes. So you can see six Senators changed their mind this year and voted against the space station. Next year, if another 10 Senators change their mind it is a dead turkey.

You heard me mention the superconducting super collider. The House overwhelmingly defeated that 280 to 150, but in the Senate we resurrected it. I only got 42 votes in the Senate, but that was 10 more votes than we got last year, and that is one of the reasons the House decided and our conferees decided, not to spend any more money on it because the handwriting was on the wall just as it is on the space station.

Here is an opportunity to not only do something worthwhile in eliminating the retroactivity part of the tax bill but to save the taxpayers hundreds of billions of dollars in addition to that to go on the deficit.

Mr. DORGAN. I would like to ask the Senator two other brief questions if I might. I know others want to speak. Let me also say to the Senator from Texas, who offered the amendment the other day, that I share her interest in cutting overhead expenditures.

As I indicated the other day, I worked on the issue of Government overhead for a couple of years, first in the House of Representatives. I published a booklet on it. I offered 12 amendments on the floor of the House—most passed—cutting overhead expenditures.

One of the largest items, incidentally, was the Department of Defense. One of the flaws in the amendment that was offered the other day was that it cut overhead expenditures but it exempted the Department of Defense.

So one of the amendments I offered on the floor of the House was to cut inventory in the Department of Defense. Do you know that the Pentagon routinely buys 10 percent more than it needs? It has $50 billion of inventory stored up that it does not need. Guess how many bottles of nasal spray are on inventory in the DOD? Two million. It takes a lot of plugged noses to use that nasal spray. The point is, the Defense Department consistently wastes money on inventory.

So when we are talking about overhead expenditure, I will say that the Senator from Texas does a service. I know this is not the first time she raised this matter on the floor. I commend her for it. I want to support broad cuts across the board, in every Federal agency is overhead expenditures, but I do not want to exempt the biggest part of Government.

Second, I ask the Senator this: I believe the flaw in the amendment by the Senator from Texas was that the title said her amendment would eliminate retroactive tax increases but the bill did not eliminate them. The bill set up a blended rate. This still meant that her amendment would have imposed on January 1 a tax rate higher than the one existing on December 31. I understood why she did that. But my point is, her amendment did not truly eliminate retroactivity.

It is my understanding that the amendments offered by the Senator from Arkansas adopts a similar approach. I would prefer a proposal that fully eliminated retroactivity.

Would the Senator from Arkansas discuss the reasons for his choice?

Mr. BUMPERS. I have to confess to you, we debated that a long time in a staff conference. Here was the reason we used the blended rate. If you make the business people—you are absolutely right. This amendment, nor the Texas Senator's amendment—neither one—totally eliminate retroactivity. But it goes a long way toward it. It eliminates by far most of the retroactivity features in the bill.

But if you said we are going to eliminate retroactivity, period, without a blended rate, what you are saying is, if you make $200,000—I heard the story about a very wealthy guy who said, "Take an ordinary guy who is making $150,000." There ain't very many ordinary people I know making that kind of money.

So let me get it down—as Herman Talmadge used to say, throw the corn where the hogs can get to it. Let us assume that you make $30,000 from January 1 to August 10, the day the deficit reduction tax bill goes into effect, that part of the deficit reduction bill. Let us assume you make $30,000 during that first 7 months and 10 days. Let us assume you make another $20,000 from August 10 to the end of the year. You have a total income of $50,000. Under my amendment, you would pay about 32.4 percent on the taxable income part of that. If you did not use a blended rate, your employer would have to keep up with how much money you made the first 7 months and 10 days and how much you made from August 10 to the end of the year and send you two W-2 forms.

When you consider what a nightmare that would be for the business community, and when you consider all the other kinds of income—interest where people get 1099's to show how much interest a bank has paid you on a CD or dividends on stock, and you force everybody to keep up with all income they sent out to anybody in that period of time, we decided it would be an administrative nightmare, so we also used the blended rate.

But the Senator is absolutely correct; it does not totally eliminate the retroactivity but it addresses about 90 percent of the problem.

Mr. DORGAN. I appreciate the answer of the Senator. Perhaps I should have offered a second-degree amendment to change this provision in the amendment of the Senator from Arkansas. I happen to think that the blended rate is a weakness of the approach of the Senator from Texas and a weakness of this amendment.

Frankly, I think if you mention the elimination of retroactivity in the title of either bill, then we ought to do it. Otherwise, we should change the title. But as I indicated earlier, that is not the only issue. We are going to try to deal with the question of retroactivity, and also deal with the question of how to pay for it. The Senator from Arkansas offers us an opportunity to do both. Cutting the space station is not new; we have had that debate before. But perhaps we will succeed in cutting it by linking that issue to another worthy approach that others might support. The Senator from Arkansas is able to free up some money to do something else, and that is deal with retroactivity.

Let me make one final comment with respect to the approach today by the Senator from Arkansas. None of these votes are always easy or clear. What happens is, one Senator proposes an amendment on the floor and another Senator thinks, "Well, that's unfair. That's not what I want to vote on because I agree with this part of it but disagree with that other part." We cannot vote maybe. There are only two votes that you cast: Yes or no. I guess you could be absent if you chose, but that would not be a very smart way to represent anybody. So the choices are not always choices everyone in this Chamber wants.

We had a vote the other day on the issue of whether we should apply taxes retroactively. In my judgment, the answer is no. My sympathies are with those who believe when we make a change in tax law, that change ought to be prospective. That ought to be our routine course of action.

Second, when we try to cut overhead expenditures, we ought to do it across the board; that is, we should cut every agency.

Third, when we deal with proposals by the Senator from Arkansas to cut spending on projects that are wasteful, we ought to own up to it and decide "count me in; I want to cut that spending and I want to reduce the deficit."

Mr. HEFLIN. Will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield.

Mr. HEFLIN. It may be directed to you or to Senator BUMPERS, but do I understand that the Bumpers amendment in the first degree and the Dorgan amendment in the second degree on the unemployment compensation bill do not attempt to pay for the unemployment compensation, but it is for deficit reduction? Do I understand you correctly on that?

Mr. BUMPERS. If I may answer the Senator.

Mr. DORGAN. I yield to the Senator from Arkansas.

Mr. BUMPERS. This has nothing to do with how to pay for unemployment compensation. The bill has a provision which taxes legal aliens to do that. This is technically a nongermane amendment. It is an amendment that deals with eliminating retroactivity on the tax portion of the deficit reduction bill.

Mr. HEFLIN. So it reduces the taxes and, I noticed in reading it, that after 90 days, then it goes to the general revenue of the State, the unexpended funds in your amendment; is that correct?

Mr. BUMPERS. That is correct. Incidentally, Senator, all money that we would have otherwise appropriated for the space station, of course, will not be appropriated.

Mr. HEFLIN. I understand that. But I am just trying to see, in other words, if it has anything to do with unemployment compensation.

Mr. BUMPERS. It does not.

Mr. HEFLIN. Or payment of anything dealing with unemployment compensation.

Mr. BUMPERS. No. This amendment will probably be offered on other bills if this amendment fails. An awful lot of people here want to do away with the retroactive part of the tax bill. If this one fails, there probably will be other efforts and it may not necessarily be germane on those bills, either.

Mr. HEFLIN. I just want to understand what it is directed to.

Mr. DORGAN. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). Who seeks recognition?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I rise in opposition to this amendment, and I would like to make a few points before some other point of order or motion is made.

First of all, I know we will hear probably later on tonight or later on this week, as we heard yesterday, that we should not delay this very, very important piece of legislation.

It was argued just yesterday that we should not have this amendment to repeal the retroactivity of the tax in the tax bill we passed earlier this year; that we should not have it on this unemployment benefits extension; it is not germane; it delays things; Republicans are just holding up this unemployment benefits bill.

Well, now, is this different? I thought the leadership was going to try to hold off unrelated, nongermane amendments, not wanting to delay this very important piece of legislation. But now is it so different?

I think we need to make it clear. I am sure the Senator from Arkansas knows this amendment is certainly going to be very controversial; it could take up a lot of time, could delay the bill, probably could be called a killer amendment. In fact, that was the statement yesterday of the distinguished majority leader. He stood up and said, "Oh, if this repeal of retroactivity of taxes passes, this will kill the bill." Well, what is this one going to do? Half of this amendment would do the same thing—repeal the retroactivity of the tax in that earlier tax bill, and then it would pay for it differently. But if it was a killer amendment yesterday, why would it not be today?

So I assume that later on the leadership will come out and take the position that this is a delay; it is not germane; it is a killer amendment; and it should not be offered at this point. That is the first point I wish to make.

There is another thing I have a hard time with. Some of the Senators who have already spoken today said, look, we are for repealing retroactivity and we are for the administrative cost savings, but they voted against that very thing yesterday. I do not understand why it is different today. That is what has already been said: Yesterday, I was for both parts of the amendment of the distinguished Senator from Texas, but I did not vote for it.

That just does not add up right to me.

I know in this city what everybody likes to see is more taxes. Oh, yes, that is the answer. Let us always raise more taxes.

That is not what we hear when we go home.

So that is why the retroactivity was in that bill earlier this year. It is another way to get taxes. Let us go back beyond the time we passed the bill. Let us go back and raise income tax rates and gift taxes and even estate taxes. Yes, let us go into the grave and get some more taxes.

Now, all of a sudden, oh, well, wait a minute; we would like to repeal retroactivity of the taxes, but not this way, or not that way.

The Senator from Arkansas is right. Yes, sir, we are going to have a lot more votes on repeal of retroactive taxes in that monstrous tax bill we passed earlier this year, but not necessarily in the way he proposes it. But there are going to be some more votes on it because that is fundamentally unfair. It was wrong at the time. We knew it.

Remember now, a majority of the Senators voting yesterday voted for the amendment of the distinguished Senator from Texas [Mrs. HUTCHISON]—50 Senators voted for the amendment. I noticed a little wringing of the hands, a little sweat on the brow. Senators are not going to want to go home and defend a vote against the repeal of this retroactivity.

Now, the speech was made yesterday: Oh, this only affects 1.1 million people. It is only for those who make above $200,000. Of course, that is a joint filing by a couple. And it may or may not apply to small businesses. As a matter of fact, the largest number of people that would be affected by this retroactivity is small business.

But there is something more important here than the number that pay or how much they pay or how much they earn. It is the fundamental principle. It is wrong to have a retroactive tax. I believe it is going to wind up being ruled unconstitutional.

Mr. President, I have a proposal. The Senator from North Dakota was saying, well, I would rather not do it using a blended rate. I agree. I want us to repeal the retroactive effect. No retroactive tax. It can be done so that taxpayers do not have to bifurcate their tax years or file two 1040 forms. They would only have to file one. And if this dastardly tax we pass is going to be applicable, it ought to be applicable, at least, prospectively.

So you are going to get a chance to vote on that, if not today or tonight, at some point.

Now, I looked at that list. I tell you what is involved. This is another step in the process to get rid of NASA. Do we want a space program in America or not? If we are not going to have one, all right, let us just go ahead and make that admission. I think we should have one.

Let us eliminate ASRM. Then let us eliminate the space station. Then, how about the shuttle? Next thing you know, all we will have is a few science programs studying the greenhouse effect at NASA. I do not believe we need NASA to do that.

That is what is really at stake. If you want to destroy NASA, if you do not want a space program, if you do not want the benefits of science and technology and medical experimentation, and the numerous other benefits we get from the space station, OK, go ahead and say it. I tell you right now, if the space station is defeated, that could be the last step in my support of the program because then I would just have to wonder what we are getting for our investment.

But there is more than this. What is being suggested is, oh, let us eliminate the space station. It does not make any difference that there are hundreds, thousands of jobs involved. In this body, that would be fine. Just put some more people on food stamps. We can give them food stamps. They do not need a job. So they are scientists. Put them out of work. The goal here is to attack the big science programs, the programs that cannot be done at the State and local level, so we can have everybody dependent on the Federal Government.

This is a big mistake. We have already had a vote in the Senate; 59 to 40 the Senate has voted for the space station. The House has voted by one vote for it.

It could be argued, well, that is not much; it will go down next year.

It may go up next year. Who knows what will happen in the future in the House?

Let me tell you what these kinds of amendments do. ASRM is terminated, yes. Great; $1.5 billion of the people's money may be wasted because the amendment of the Senator was aimed to knock out ASRM. What about that investment? What about the 1,200 jobs that were involved there? Great, let us just move them over to welfare. We do not have to worry about that. It does not make any difference; we have already spent $2 billion total of the people's money. Go ahead and get started on these programs and then shut them down.

I do not think this is the way to solve the problem of retroactivity, the way to pay for repealing it. We ought to do it by eliminating Government administrative costs. Maybe there are some other ways we could do it, and I would be willing to work with any Senator willing to do that.

I thought I remembered last Monday I heard the Senator from Arkansas attacking the amendment to eliminate retroactivity because of the blended rate used to repeal the income tax rate increase. I know I heard the distinguished majority leader say just yesterday that the amendment actually had retroactive taxes because it had a blended rate. It looks to me as if he has turned right around today and is supporting something he argued against earlier.

So I do not like this kind of approach at this hour. We can repeal retroactivity. We can pay for it. We tried to do that yesterday. This is really an attack on the space station and the space program of this country. I think that is the wrong way to try to find a solution.

At the appropriate time, Mr. President, I would urge my colleagues in the Senate to support a point of order or other actions that may be taken to defeat this amendment.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I thank the Chair.

I thank the Senator from Arkansas. I think the Senator from Arkansas is coming along. The Senator was absolutely wrong yesterday but now he is half right. Mr. President, Senator BUMPERS is coming along. He understands now, I am convinced, how important it is that we repeal the retroactive taxes which were passed by Congress in August. I am so pleased that the Senator sees this, and I hope we will have the opportunity to vote on a clean amendment once again to give the Senator the chance to show his conversion.

I am also very pleased that Mr. BUMPERS has now seen the wisdom of the blended rate because that is the fairest and best way to eliminate the horrors of retroactivity without creating another horror of having to have two different rates and a very complicated tax return for the people we have put on a roller coaster, up and down and up and down. I do not think we ought to do that to the small business people of this country anymore. So I am very pleased we now have an amendment that is half right.

So let us talk about the priorities that we need to pay for this, because nobody wants to increase the deficit. Let us talk about the priorities of spending. The Senator from Arkansas says that the space station is dead. I hope that the Senator from Arkansas is wrong, because I think we took one giant leap backward when, in the name of the next election, we cut the SSC. The SSC was the largest science project in the world and would have kept America's world eminence in science and technology.

I hope that we are not going to follow the end of the SSC by eating the seed corn of another great scientific project, and that, of course, is the space station. We all know what space research has done for this country in creating new industries, in creating new products that make life better, and in creating new jobs. The space program has helped create an economy that is vital and growing—so that we will not have people on unemployment. We need the space station to ensure long-term employment in productive industry; we do not need long-term emergency unemployment bills.

So I am very pleased that the Senator from Arkansas is now half right, and I hope that we will soon have a good, clean amendment that will take the retroactivity out of the tax bill. I just hope that the Senator will allow us to vote separately on whether we are going to repeal the retroactive taxes and then determine the priorities of how we pay for it. I hope that we will pick a 3 percent cut in paper clips, travel, printing, consultants, and office supplies, and rent, and other government administrative overhead rather than choose to end our present eminence in science, which creates jobs for the young Americans that are coming into the employment pool.

So I thank the Senator from Arkansas. I hope we are going to get to continue to debate, and I hope that we will split this amendment so that we can vote on retroactivity and vote on our spending priorities. We can then determine if we would rather take a 3 percent cut in administrative costs of Government versus the seed corn of science in this country.

Thank you, Mr. President.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ETHICS COMMITTEE INQUIRY

Mr. MITCHELL. Mr. President, Members of the Senate, over the past several days I have met on several occasions with Senator DOLE and with other Senators involved in the matter relating to the resolution reported and filed by the Ethics Committee last Thursday evening with respect to its inquiry regarding Senator PACKWOOD.

It had been my hope that the Senate could proceed promptly to consider the resolution under an agreement limiting the time and possible amendments to the resolution. That has proved not to be possible.

Accordingly, following these discussions and after careful deliberation of all of the competing interests involved there in an attempt to make a decision that is the most fair to all concerned, I have decided that at noon on Monday there will be a vote in the Senate, a procedural vote with respect to attendance, and that immediately following that vote the Senate will proceed to consider the resolution reported last Thursday evening by the Ethics Committee.

I am advised by the Parliamentarian that under the Senate's rules, absent unanimous consent there is no limitation either with respect to debate or amendment when that resolution is considered, and as I previously indicated there is no such consent. Therefore, the debate will not be limited and amendments will be possible.

Mr. President, I thank my colleagues for their consideration.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

Mr. HEFLIN. Mr. President, I rise in connection with the Bumpers amendment, and my remarks at this time will be brief. But I ask unanimous consent that all remarks that I make be considered one speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I understand that there will probably be a point of order raised relative to this by the distinguished chairman of the Finance Committee, Senator MOYNIHAN, and he will set forth the reasons relative to that point of order on the Budget Act.

Then there is the issue of the matter of where revenue measures must originate. We are all familiar with the fact that they do have to originate in the House of Representatives.

I want to speak briefly now, because I think there are a number of Senators here who wish to speak. There are several of us who, should the point of order fail, would like to discuss the space program at length and get into this in a very detailed manner.

But let me just say that we voted on the space station and we have voted on this issue of retroactivity. I supported the amendment though I was opposed to the retroactivity at the time. I think we considered amendments of this type at that time and determined that if we attempt now to launch a piecemeal attack on the budget and amend the various aspects of it, it then calls for us to have to look at the overall matter of financing the deficit reduction package that was presented.

So when the matter starts falling apart, I think we have to give consideration to the overall ramifications of amendments like this. There are many integral parts of the deficit reduction package that would have to be considered. I would say that I do not think that the Senate wants to go through that again, with the approaching Thanksgiving season and Christmas season.

But the space station, I think, as the distinguished Senator from Texas just stated, is an important program. If we are going to abolish the space station and the space program, then I think we are saying that America cannot grow in the area of science and research.

We thought when John Kennedy called for the effort to put man on the Moon it was a phenomenal event. And we had people with vision toward the future. Now as we approach the 21st century, we wonder whether or not our vision has become clouded, whether or not we have forgotten the great benefits that the space program has brought about.

I stated what it had meant to me in regards to some heart problems and the procedures that were undertaken in a previous speech. I will not go into that at this time. But I hope that we do not get caught up in some sort of movement at this particular time that prevents America from remaining in the forefront of research, and that demonstrates we have lost our guiding vision in regards to the future.

I will be talking later relative to these matters. But I did want to mention these parts briefly at this time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I support the effort to repeal the retroactive taxes. I am going to oppose this point of order. Let me tell you why I am going to do it.

I supported the Senator from Texas yesterday when she offered an amendment to cut Government overhead and pay for the repeal of the retroactive taxes. The Senator from Arkansas opposed it. Now, today, the Senator from Arkansas wants to kill the space program to repeal retroactive taxes. So let me tell you what I intend to do.

First of all, I am going to vote against the point of order so we can bring this issue of killing retroactive taxes before the Senate. Second, I am going to vote for the second-degree amendment to lower the spending caps so we save money. Then I am going to join my other colleagues and offer a substitute for the Bumpers amendment so that we can take a portion, a very small portion, of the $108 billion of savings from reinventing Government that the President is begging us to seize, by cutting Government waste rather than killing the space program.

At that point, we will have an opportunity to choose between cutting Government waste and reinventing Government in support of our President, and at the same time doing God's work by repealing the retroactive taxes, or killing the space program as a way of funding a repeal of retroactive taxes.

So it seems to me that what we ought to do is get on with the job of repealing retroactive taxes.

Finally, the Senator from Arkansas is on the same side that I am. I intend to vote against the point of order. I intend to vote for the second-degree amendment. Then I intend to join other colleagues in offering a substitute so that we are not killing the space program but we are, instead, cutting Government waste as the President told us we could. He said we could save a total of $108 billion over a 5-year period. Surely, if we can do that, we can fund the amount of money that the Senator from Arkansas would cut as a way of funding retroactive repeal of taxes.

So I know that sounds kind of around the barn. But it seems to me that the Senator from Arkansas is giving us an opportunity that we could not get with the amendment of the Senator from Texas because the Senator from Arkansas voted to kill her amendment.

Now today he says let us repeal retroactive taxes. He wants to do it by killing the space station. But I say let us vote down the point of order, let us adopt the second-degree amendment to lower the caps, and then let us offer as a substitute the language of the junior Senator from Texas that cuts Government overhead or a similar amendment as an alternative to killing the space station. Then Members of the Senate can choose whether they want to reinvent Government and take a very small part of the savings that the President says we can achieve, or whether they want to kill the space station.

Since 59 Members have voted against killing the space station, my guess is that if, in fact, we waive the point of order, at that point we will have a chance to repeal the retroactive taxes and do that by cutting wasteful Government spending.

I thank our colleague from Arkansas. I disagree with the way he is doing it, but I support his effort to repeal these taxes. So I am going to vote to waive this point of order.

AMENDMENT NO. 1804, AS MODIFIED

Mr. BUMPERS. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 1084), as modified, is as follows:

On page 10 of the bill strike "March 26, 1994" in line 16 and insert the following "March 26, 1994."

SEC. 8. REPEAL OF RETROACTIVE APPLICATION OF INCOME, ESTATE, AND GIFT TAX RATE INCREASES.

(a) INCOME TAX RATES.—

(1) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR TAXABLE YEARS BEGINNING IN 1993.—In the case of taxable years beginning in calender year 1993, each of the tables contained in subsections (a), (b), (c), (d), and (e) shall be applied—

"(1) by substituting '32.97 percent' for '36 percent',

"(2) by substituting '34.39 percent' for '39.6 percent', and

"(3) by substituting for the dollar amount of tax in the last rate bracket the dollar amount determined under such table by making the substitution described in paragraph (1).".

(2) CONFORMING AMENDMENTS.—

(A) Sections 531 and 541 of the Internal Revenue Code of 1986 are each amended by inserting "(34.39 percent in the case of taxable years beginning in calendar year 1993)" after "39.6 percent".

(B) Paragraph (1) of section 55(b) of such Code is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULES FOR 1993.—In the case of any taxable year beginning in the calendar year 1993, subparagraph (A)(i) shall be applied by substituting—

"(i) '24.79 percent' for '26 percent' in subclause (I), and

"(ii) '25.8 percent' for '28 percent' in subclause (II)."

(C) Section 13201 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking subsection (d).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(b) ESTATE AND GIFT TAX RATES.—

(1) IN GENERAL.—Subsection (c) of section 13208 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "December 31, 1992" and inserting "August 10, 1993".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1993.

SEC. 9. TERMINATION OF THE SPACE STATION PROGRAM.

(a) PROHIBITION.—Effective 90 days after the date of enactment of this section, no appropriated funds shall be available to carry out the provisions of section 106 of the National Aeronautics and Space Administration Authorization Act of 1988 (42 U.S.C. 2451 note).

(b) EXCEPTION.—The provisions of subsection (a) shall not apply to any actions taken in terminating the United States International Space Station Freedom Program.

(c) UNEXPENDED FUNDS.—Subject to the provisions of subsection (b), any funds appropriated for use on the United States International Space Station Freedom Program that remain unexpended and unobligated 90 days after the date of enactment shall be credited to the general revenues of the United States Treasury.

Mr. MOYNIHAN. Mr. President, may we learn of the modification?

Mr. HEFLIN. Will the clerk report the modification?

Mr. MOYNIHAN. Mr. President, perhaps the Senator from Arkansas would wish to describe the modification.

The PRESIDING OFFICER. The normal course is that the amendment would not require the modification to be reported.

Mr. HEFLIN. I ask unanimous consent that it be reported.

Mr. GLENN. I ask my colleague from Arkansas, would he do us a favor and tell us what the modification of the amendment changes and what is provided?

Mr. BUMPERS. It just changes the date. On line 16, page 10 of the bill, it changes the date. My amendment did not have a date in it, and I put the date in it.

Mr. GLENN. I thank my colleague.

Mr. President, I oppose the amendment of my distinguished colleague from Arkansas for a number of reasons. I do not think each Member of this body needs to give an hour speech to support the research that will come from the space station. We had the opportunity a few weeks ago to vote on the space station in the Senate, and we did just that.

As much as I agree with my distinguished colleague from Arkansas on not liking the retroactivity of the tax portion of previous legislation, I agree that the tax legislation should not be retroactive, and I wish there was some way to correct that now. I think that deals unfairly with people who have planned their estates and their family's financial well-being around certain tax provisions, and then we find that later on the Government basically pulls the rug out from under them and says "We did not really mean it." And all your planning has gone for nought.

I agree that that is unfair. But I would, at the same time, say that if we are going to make corrections, then I think we need to correct it in other ways than going back and resurrecting votes that were lost by a decisive margin.

Mr. MOYNIHAN. Mr. President, we are hearing from one of the most important persons in the history of space, a man revered in this body and in the world. I think that the Senate ought to be in order that we might hear him.

Mr. GLENN. I thank my colleague.

The PRESIDING OFFICER. The Senate will be in order.

Mr. GLENN. Mr. President, I will not give a very lengthy speech on this subject. We had several hours of debate on this before the previous vote on the space station. Quite apart from the fact that I agree with what the Senator from Arkansas is trying to do regarding the Tax Code in not making it retroactive, I must say that I do not agree that we should bring up votes that have occurred recently and try to reverse them in this short order, votes in which a decided majority of the Senate voted in a particular direction.

And whether the distinguished Senator from Arkansas liked that vote or not is beside the point. It was a vote. It was 59 to 40, a decisive Senate vote.

I heard my distinguished colleague from Arkansas talking about how tight the vote was in the House. That is of no import to us here. The House voted, and whether it was overwhelming or not, the vote in the Senate was 59 to 40.

During that debate, I spent quite a bit of time giving my views on the benefits the space station may bring us. As with a lot of research, one cannot guarantee in advance which benefits will be realized.

I know my distinguished colleague from Arkansas is very interested in some agricultural research, and part of it applies specifically to Arkansas. Are we to resurrect that? Am I to bring that up and ask we knock it out because we do not know what the outcome of that research may be? Should we say take all research now and reconsider it to make sure we are on a level playing field and make sure that every research dollar gets spent in a proper way?

I went through quite a number of areas where I think the space station is of great value. I will just summarize a few of those at this time. I am not going into the specifics of them unless my distinguished colleague from Arkansas wishes me to do so. And we could go into this for several hours if that is required, but I do not think we want to do that. I do not believe that my distinguished colleague from New York wants to do that.

Let me summarize: Several important benefits of space station research include research in physical microgravity; fluid mechanics, benchmark physics; life sciences research; human physiology; tissue modeling, which has enormous potential for the future. Protein crystal growth. In the area of health and medicine, we have new procedures, new ways of looking at things, new techniques that are developing. All of these have a good chance of coming to fruition should we continue to support the space program.

Environmental resource management is another important area that can have a tremendous impact on the quality of life here on Earth. Public safety, industrial productivity and manufacturing technology, and transportation are also important benefits from space research.

There are quite a number of technologies which will be researched on the space station and have an application to our everyday lives on Earth. This is not esoteric stuff. This is stuff that has the potential for very practical applications right here on Earth, for everybody. It will affect the life of every single human being in this country, and indeed around the world.

I will not belabor the issue here. I think the Senate did express itself with regard to the space station.

I will say that if we are to open up the space station for further consideration on research projects, then I think some of the agricultural research that the distinguished Senator from Arkansas has supported, and some of the other areas of research, should also be brought up and made subject to this same kind of review.

Mr. President, I have not backed off on my support for the space station. I think it would be a tragedy for this Nation and for the young people of our country who are looking forward to the science and technology that will come out of this research. I believe it would be a tragedy if we voted that hope down.

I repeat: The last time the Senate voted a few weeks ago, on September 21, at 5:01 in the afternoon, the result was 59 to 40 to maintain the space station.

That may not please the senior Senator from Arkansas, but it pleased the U.S. Senate to vote that majority. I do not think the will of the U.S. Senate has changed in that time period.

Mr. President, I understand a point of order will be raised against this. I do not know whether there may be a vote called on the point of order to try and override it. If there is, I hope that override will not prevail.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, the adoption and enactment into law of the pending Bumpers amendment would reduce revenues by $10.5 billion over the 5-year period of years 1994 through 1998.

The amendment would thus increase by $10.5 billion the amount by which revenues would be below the appropriate level of total revenues set forth for those fiscal years in the budget resolution. Consequently, the amendment violates section 311(a)(2) of the Congressional Budget Act of 1974.

Accordingly, Mr. President, I raise a point of order that——

Ms. MIKULSKI. Mr. President, will the distinguished chairman withhold a second?

Mr. MOYNIHAN. Of course.

Ms. MIKULSKI. As the distinguished chairman of the Finance Committee knows, I chair the subcommittee that funds NASA.

Mr. MOYNIHAN. I surely do.

Ms. MIKULSKI. Mr. President, I just want to make a statement.

Ms. MIKULSKI. Mr. President, I rise in opposition to the Bumpers-Dorgan amendment.

This amendment, if adopted, would put thousands of Americans out of work. It is outrageous that this amendment has been offered to a bill that extends unemployment insurance benefits.

Even as we debate this amendment, seven brave Americans are orbiting the earth in the space shuttle, *Columbia*. Their mission is the study of life science in the shuttle's spacelab science module, to better understand how research in a microgravity environment can benefit medical science on Earth. Whether it is the issue of bone loss that leads to osteoporosis or the development of tumors that lead to cancer, their research in space can and will have a direct payoff on Earth.

On the day when the President has proposed legislation to reform our health care system, it would be unthinkable to kill the lab where so much innovative health care research will be done.

I want to also point out that this amendment will actually increase the deficit by $10.5 billion. That is because the cut in funding for the space station would not offset the revenue loss from repealing tax retroactivity.

I am no fan of retroactive taxes, but the solution to their elimination is not killing the space station. The Senate voted to defeat an amendment to kill the space station by a vote of 59–40 on September 21, 1993.

It makes no sense for this body to revise its position just 5 weeks later. I urge my colleagues to join me in voting against this amendment and in favor of sustaining the point of order that the the distinguished chairman of the Finance Committee will make very shortly.

Let us support jobs today, jobs tomorrow. Let us vote to kill the Bumpers amendment.

I will work to sustain the chairman's point of order.

I think it is outrageous that we are going to cut a space station that will cause a loss of thousands of jobs in our great Southwest while we are debating unemployment compensation. I would rather have money in space and science, and create jobs.

Mr. MOYNIHAN. I thank the distinguished Senator from Maryland.

Now, Mr. President, I raise the point order that the pending Bumpers amendment violates section 311(a)(2) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I move to waive the Congressional Budget Act of 1974 and section 12(c) of the budget resolution (H. Con. Res. 64) for consideration of the pending Bumpers and Dorgan amendment.

The PRESIDING OFFICER. Is there further debate on the motion to waive?

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the motion of the Senator from Arkansas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Kansas [Mrs. KASSEBAUM] are necessarily absent.

I further announce that if present and voting, the Senator from New York [Mr. D'AMATO] would vote "yea."

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 36, nays 61, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—36

Boren
Bradley
Brown
Bryan
Bumpers
Coats
Cohen
Conrad
DeConcini
Dorgan
Exon
Feingold
Ford
Gorton
Gramm
Gregg
Hollings
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lugar
Mathews
Nunn
Pell
Pryor
Reid
Roth
Sasser
Simon
Specter
Warner
Wellstone
Wofford

NAYS—61

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Burns
Byrd
Campbell
Chafee
Cochran
Coverdell
Craig
Danforth
Daschle
Dodd
Dole
Domenici
Durenberger
Faircloth
Feinstein
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hutchison
Inouye
Jeffords
Johnston
Kempthorne
Kennedy
Lieberman
Lott
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Packwood
Pressler
Riegle
Robb
Sarbanes
Shelby
Simpson
Smith
Stevens
Thurmond
Wallop

NOT VOTING—3

D'Amato
Kassebaum
Rockefeller

The PRESIDING OFFICER. On this vote, the yeas are 36, the nays are 61. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The adoption and enactment into law of the pending Bumpers amendment would reduce revenues by $10.5 billion over the 5-year period of fiscal year 1994 through 1998. The amendment would thus increase by $10.5 billion the amount by which revenues will be below the appropriate level of total revenues set forth for those fiscal years in the budget resolution. Consequently, the amendment violates section 311(a)(2) of the Congressional Budget Act of 1974.

The point of order is well taken and the amendment falls.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, there has been a natural disaster of extraordinary proportions in California at this moment, and I accordingly ask unanimous consent that we might proceed as in morning business for 10 minutes, with the time equally divided between the two distinguished and very much concerned Senators from California.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Reserving the right to object.

Mr. MOYNIHAN. There is no objection.

Mr. HELMS. I have no objection.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized.

A CATASTROPHE IN THE MAKING IN CALIFORNIA

Mrs. FEINSTEIN. Mr. President, I thank the chairman of the Finance Committee for his indulgence, and I thank the United States Senate for its indulgence.

I do so because there is a potential catastrophe in the making in the State of California. There are more than 14 fires in seven counties raging uncontrolled from Ventura to the Mexican border. The fires are fueled by Santa Ana winds, which are moving in from the desert area at 60 miles an hour or above, they have dropped somewhat just in the last hour or so. The winds and the temperature, which is above 80 degrees, are just devastating large areas. Brush is on fire, and more than 100 homes have burned to the ground thus far.

I have spoken with the Governor's office. Several of the counties have declared a state of emergency. The Governor is now flying over the area. I have spoken twice with FEMA. They are alerted. They are prepared to move with tankers, helicopters, planes, and additional personnel, if requested by the State.

Mr. President, these are very large areas—tens of thousands of acres with homes. The latest blaze is in Laguna Beach, CA, where many acres are burning. Many homes are very seriously threatened. One fire truck was already engulfed in flame and sent four firefighters to the hospital. The number of injuries is unknown as of this time.

But the point I want to make to the Senate is that FEMA is on the alert and, I believe, this time is going to be prepared, if requested by the Governor, to move very rapidly. This is a very potentially dangerous situation due to the wet winter, the very dry warm summer, a lot of fuel, heavy winds, high temperatures, and, I am sorry to say, some arsonists who had been arrested earlier today.

I thank the Chair, and I thank the chairman.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California, Mrs. BOXER.

TIME TO PULL TOGETHER

Mrs. BOXER. Mr. President, I want to say to my friend, the chairman of the Finance Committee, the Senator from New York, that I thank him so very much for taking time out for us to take a little breath here and catch up on where we are in this situation.

I want to say to my friend, Senator FEINSTEIN, she and I have been conferring throughout the day on this. We really want to alert the U.S. Senate to what is happening in California where 12 percent of our people live, the largest State in the Union.

We have had our problems. We have had our economic problems. We have had earthquake problems. We have had flood problems. And now we have these fires. It is a moving situation, Mr. President, moving quickly; the fires are moving quickly. The fires are also in the north. We have three to four fires burning in the north. We have homes damaged throughout the State and, as Senator FEINSTEIN has said, FEMA is ready to help.

I urge the Governor to move quickly and ask for disaster relief from this Federal Government. Anyone who has been in the Santa Ana wind situation knows how vicious those winds are. According to FEMA in a situation report that I have just received, no rain is forecast for the next 7 days in southern California. Humidity levels are extremely low, and the weather projections show increasing winds for Thursday and Friday.

So we are in a very difficult time right now, and I do not think we have time to waste. I want to say that the local people are acting heroically handling this in a magnificent fashion, according to the FEMA report that I have read. But I think it is time for us to pull together.

Again, I urge the Governor to move quickly. Los Angeles County has been declared an emergency, as has Ventura, according to the situation report. I have to tell you, a lot of people live in those two counties. So I hope that the Governor will land quickly and make the phone calls that have to be made.

Again, I thank my friend and colleague, Senator FEINSTEIN. We are acting as a team on this, as we always do. I thank very much the entire U.S. Senate, in particular the Senator from New York.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I am sure the entire Senate, those of us who are not from California, would wish to state our concern, so eloquently and succinctly and urgently stated by the Senators from California, Senator FEINSTEIN and Senator BOXER. We have established a Federal Emergency Management Agency for the purposes of responding to just such crises. They need only to be summoned by the Governor of the State. We will await further news and, if it comes, I hope they will bring it to the Senate floor.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, we are at a moment of truth with respect to this unemployment compensation measure. We have had a day and a half of debates on everything save unemployment compensation.

I see the distinguished Senator from Colorado is here to raise an issue in that regard. But I understand we are told of 10 possible amendments, most of which have nothing to do with the subject before us. I do not know if I can ask at this point for a limitation, as we do not have reports yet. But in very short order, I will ask that a list of amendments be agreed to and closed and then, thereafter, that there be time agreements on them. But for the moment, the bill is open to amendment.

Mr. WALLOP. Mr. President, if the Senator will yield, I am told that we do not have at this moment—but we are trying—we do not have at this moment such a limitation within reach.

Mr. MOYNIHAN. Fine. No doubt we will. With that, I yield the floor.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, until the Senator from Colorado is ready, I ask unanimous consent that I might proceed as in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

OUR HEART GOES OUT TO THE PEOPLE OF CALIFORNIA

Mr. WALLOP. Mr. President, let me just say to the two Senators from California, as one westerner, that I am very familiar with fires. People in my State certainly understand the challenge that such disasters produce. Many Senators will remember when, during the summer of 1988, my State nearly burned up—Yellowstone and seven national forests. So our heart goes out to the people of California.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

A WATER ISSUE

Mr. WALLOP. Mr. President, let me just say that those of us who have been trying to salvage the lifestyle of the West through what has been called a filibuster on the Interior appropriations bill have seriously made efforts at every level over the course of the time since the last cloture vote, right through the present hour, to make contact with the Secretary of the Interior and to try to forge some understanding with him and others involved in this as to what the nature of the proposal means to the citizens of the West.

In fact, the point has been made again and again and again that it is not a grazing issue. The water issue extends well east of the Mississippi, Mr. President. It is too drastic a thing for the Senate and the Congress and the Secretary of the Interior to act with no hearing.

We have tried and tried and tried to engage the Secretary, who claims that he is helpless.

Mr. President, nobody believes that the Secretary of Interior is a helpless entity. Nobody believes that were he willing to resolve this issue in behalf of the people of the West and had the President behind him, it could not be resolved.

It is not the folks who are engaging in trying to protect the West from an ill-timed, ill-drawn, ill-advised 19 pages of new legislation over which no hearings on their specifics have ever been held: No hearings about property rights, no hearings about binding rights, no hearings about transmission rights, no hearings about gas pipelines, no hearings about water storage, no hearings about water transportation, no hearings about roads and highways, no hearings about tax losses.

Every western Governor has not objected and all have agreed to a letter objecting to this thing. We wish to engage the Secretary or somebody willing to talk. The Secretary of Interior has now made and then rejected two afternoon meetings with principals involved. He will not even meet with us to tell us to go to hell. Somehow or another I think it ill-becomes the Government of the United States to treat a whole region of this country as though it was of no consequence. Surely, the President does not feel that way. But that is the way those of us who have been trying to resolve this issue feel.

Mr. President, there are a number of reasons why the amendments to the Federal Land Policy and Management Act should be deleted from the Appropriations Act and sent to the Committee on Energy and Natural Resources. Although the proponents of the amendment keep referring to it as a grazing fee amendment, there are provisions which have nothing at all to do with grazing but have a lot to with the Constitution, the framework of this system of government, the sovereignty of the several States, and the underlying philosophy and policy set forth in the Federal Land Policy and Management Act as well as other statutes.

For the moment I want to focus on the water provisions of this legislation. There are two provisions, neither one of which has been a subject to a hearing, and both of which implicate over 100 years of legislative and judicial decisions. The proponents casually state that all they are doing is returning the Bureau of Land Management to a pre-1982 status. If they mean 1782, they may be partially correct. At best, their language is sloppy and ill thought out. The worst, it is almost unimaginable. In either case, the proponents should have had the common courtesy to have introduced their legislation and had it referred to the Committee on Energy and Natural Resources for hearings.

Before describing the two provisions, I want to briefly review the history of Western water law. Unlike the riparian principles which underlie water rights in the Eastern United States, the arid conditions in the West brought forth the appropriation doctrine which basically provides that individuals who put water in a beneficial use have a priority with respect to the use of that quantity. Beneficial use is the basis, measure, and limit of the use. Congress recognized the different laws which were developing in the Western States and terrorities and repeatedly deferred to them. The mining laws are but one example among the various public land laws.

In 1877, Congress enacted the Desert Land Entry Act which formally ended any suggestion that water rights in the public land States could be acquired other than in accordance with the requirements of State law. While the Federal Government still has a navigational servitude on navigable streams, the jurisdiction and management of all surface waters is vested in the several States. It is worth quoting Mr. Justice Sutherland in the landmark Supreme Court case of *California Oregon Power Co.* v. *Beaver Portland Cement Co.* (295 U.S. 142) in 1935.

"After a review of the history of the development of local water laws and the deference Congress had given to those laws," Mr. Justice Sutherland, speaking for a unanimous Court, addressed the specific language in the 1877 Desert Land Act, and stated "[i]f this language is to be given its natural meaning, and we see no reason why it should not, it effected a severance of all waters upon the public domain, not theretofore appropriated from the land itself." (295 U.S. 142, 158) Later in the opinion, the Court stated, "If it be conceded that in the absence of federal legislation the state would be powerless to affect the riparian rights of the United States or its grantees, still the authority of Congress to vest such power in the state, and that it has done so by the legislation to which we have referred, cannot be doubted." (295 U.S. at 162.)

The Court concluded "[w]hat we hold is that following the act of 1877 if not before, all nonnavigable waters then a part of the public domain became publici juris, subject to the plenary control of the designated States, including those since created out of the territories named, with the right in each to determine for itself to what extent the rule of appropriation or the common-law rule in respect of riparian rights should obtain. For since 'Congress cannot enforce either rule upon any State'—citing Kansas versus Colorado—the full power of choice must remain with the State. The Desert Land Act does not bind or purport to bind the States to any policy. It simply recognizes and gives sanction, in so far as the United States and its future grantees are concerned, to the State and local doctrine of appropriation, and seeks to remove what otherwise might be an impediment to its full and successful operation." (259 U.S. 142, 163–164.)

That recognition has remained undisturbed. When Congress approved the admission of various Western States, including Wyoming, it specifically approved the State constitutions. In the case of Wyoming, and I believe in the case of Colorado and others, there is a specific declaration of the ownership of all waters being in the State. There was no controversy over that declaration, for it was consistent with the Federal public land laws, each of which required the applicant for benefits to comply with State law in acquiring water rights. The homestead laws required such compliance, the mining laws required such compliance, the reclamation laws required such compliance.

The supremacy of State law, subject only to the navigable servitude retained by the United States and sporadic preemptions under the reserved rights doctrine, is the basis not only of individual State rights, but also of interstate allocations and apportionments. It forms the basis for the law of the river governing the Colorado and the relations between the Upper Basin and the Lower Basin and among the seven States party to the compact. It forms the basis of both interstate compacts, all approved by the Congress, and interstate apportionments approved by court decree. The rule set forth with respect to the interpretation of the Desert Land Act is at the heart of the Supreme Court's decision in *California* v. *United States* (438 U.S. 645) 1978, which upheld the requirement that the United States must comply with State laws under section 8 of the Reclamation Act.

It is with that background that we must examine the two provisions dealing with water laws which the conference has presented us. The first provision is contained in the new section 406(d). That provision states in full:

> WATER RIGHTS.—Subject to valid water rights existing on the date of enactment, no water rights shall be obtained for grazing-related actions on public lands except in the name of the United States.

Taking the section phrase by phrase, it is bewildering.

First of all, the section seems to impose some sort of Federal validity determination. The Federal Government does not have the authority under the Constitution to determine the validity of State conferred rights. Water rights in the several appropriation States are property rights. They are determined by State law. Water rights either exist or they do not exist, and there is no provision for some sort of Federal validity test. Individuals do not have to apply to the Secretary for a certificate of validity nor is there any basis for the Secretary to on his own motion seek to challenge State water rights as valid or invalid. What the opening phrase seeks to do is insert the same type of validity determination into State water law as exists with respect to unpatented mining claims under Federal law. There is simply no basis for the Federal Government to claim that type of authority. Beyond the fact that this is an unconstitutional interference in State jurisdiction, the phrase is also silent as to the date for the validity determination.

The section refers to the date of enactment, but since the section is an amendment to the Federal Land Policy and Management Act, is the date 1974 or sometime in 1993? My final concern with this opening phrase is that there are no definitions or benchmarks for the determination of validity. Does it refer to State definitions? Is there some form of federal trust overlay? Is the test whether the use of the right furthers some particular objective of the Secretary? Does the term "valid" include junior rights which are not presently being exercised? Does it include or exclude water rights which have been filed—and which consequently would have an earlier priority date if granted—but which have not been granted as of the date of enactment? Does this language provide the Secretary the authority to declare invalid any rights which have not been finally decreed in a general stream adjudication? All of these questions and more should be asked in hearings in the committee of jurisdiction, not here on the Senate floor.

Going past the introductory phrase, the provision operates as a prohibition on the several States from granting any water rights "for grazing-related actions on public lands" except in the name of the United States. The sentence does not require the Bureau of Land Management to apply for water rights in accordance with State law when it wants to develop water on public lands to support grazing. The sentence prohibits the States from complying with their own statutory and constitutional provisions.

The provision is unclear in its reach because it does not say that water rights on public lands may not be granted. It says that water rights for grazing related actions on public lands may not be granted. The words "on public lands" modifies "grazing-related actions." What type of water rights are contemplated under this section? Certainly the section includes any water rights on public lands which a rancher may have sought to support a federal grazing allotment, but the language appears to be far more expansive. Many ranchers support their grazing activities both on their base property, on leased lands, and on federal lands with water rights obtained on their own base property. Those rights were in all likelihood "obtained for grazing-related actions on public lands." Moving further from a direct nexus, there are farmers who have obtained water rights specifically to grow feed crops for cattle grazing on the public lands—are those water rights "obtained for grazing-related actions?"

This is not just idle speculation. There was a time when I had grazing allotments. I got rid of them as fast as I could because they simply were not worth the aggravation of having to deal with the Federal Government. I used water rights, which were obtained under Wyoming law, on private land to support the cattle operation. There is no question in my mind that those water rights were used for "grazing-related actions on public lands" as long as I held the allotments.

What would have happened if this legislation had been enacted? Would those water rights revert to the private land owner or would the Federal Government continue to hold the rights? Since the rights are for grazing, would the Federal Government claim a right to use private land in order to get access to its water right? Would the private landowner be denied the right to use the water right on his own property because he no longer grazed on the public lands?

Both Secretary Babbitt and Senator REID say that all they are seeking to do is have the Federal Government rather than the rancher file for water rights on public lands necessary to support grazing activities on those public lands. Whether or not that makes sense could be debated, but the language in the legislation does not do what the Secretary says he intends. In fact, the Secretary does not need legislation to accomplish what he says he intends to do.

I do not doubt the sincerity of the Secretary in this matter. What I find troubling is that he continues to defend this language as innocuous. He should be outraged that whoever drafted the language was either illiterate or sloppy or had a different agenda. If the Secretary really intends to comply with State law, then he should be demanding that this language be stripped from the appropriation bill and referred to the authorizing committee. That has not happened and the potential scope of the language goes far beyond water rights on private lands.

Are the restaurants and businesses throughout the West that advertise for range fed beef at risk? Are the markets where the cattle go before they become range fed beef included in this prescription? Somewhere between the glass of water in the restaurant and the watering hole on the public lands lies the answer, and there will be a lot of litigation between here and the answer to that question.

The most fundamental problem, however, is that the provision is unconstitutional. The provision seeks to override the provisions in Western States' constitutions and statutes providing for the granting of water rights. It intrudes into fundamental aspects of State governance reserved to the States under the 10th amendment to the Federal Constitution and by prohibiting the granting of water rights, especially to the extent it applies on private land, violates both due process and equal protection.

To the extent that there is interference with vested property rights determined by beneficial use under State law by this new Federal validity determination, the takings clause is also implicated. I cannot overemphasize that water rights are property rights subject only to State law. Any attempt to interfere with those vested rights will trigger a takings argument. I would hope that the State of Wyoming will also view this assertion of Federal oversight as a taking of the ownership of water claimed in our constitution which was ratified by the Congress as part of our Admissions Act. The advocates of this provision claim that all they are doing is reversing current policy and requiring the BLM to apply for and obtain water rights much as the Forest Service does. The language does not do that. The language seeks to preempt authorities confirmed to the States upon their admission to the Union by prohibiting the States from disposing of water rights to anyone other than the United States.

In case anyone thinks that this provision is simply an inconvenience to the ranchers who will now be barred from obtaining water rights in support of grazing, but that this is a tempest in a teapot since the water will be available through the United States, you should read the second provision on water rights which is buried in subsection (i)(2). That provision requires the United States to exercise its water rights on public lands "to benefit the public lands and resources thereon." Does anyone think that the "Range Free in '93—Chairman Jim Baca" crowd plans to use any water rights for grazing? The combination of the two provisions is a carefully laid trap.

If the first provision in subsection (d) was not bad enough, the conference report outdid itself with a freestanding sentence buried in subsection (1)(2). That sentence reads in full: "The United States shall assert its claims and exercise its rights to water developed on public lands to benefit the public lands and resources thereon." That sentence flies directly in the face of the Supreme Court's holding in California Oregon Power Co. versus Beaver Portland Cement Co. which I referred to earlier. The sentence is a baldfaced assertion of claims and rights which were extinguished over a century ago.

The sentence speaks to "water developed on public lands." That statement covers not simply water rights obtained for grazing, but water developed in furtherance of unpatented mining claims, water developed under oil and gas leases, water developed under coal leases, all water developed to further activities on public lands. The sentence is more expansive, however, since it does not speak to water obtained for development on public lands, but rather to water developed on public lands. That includes all water developed for irrigation and reclamation, for municipal and industrial uses, for hospitals, schools, and homes. Simply put, the Federal Government has no claims to assert and no rights to exercise. The authority and jurisdiction over waters on the public lands was severed from the public lands and vested in the States.

This is little more than an attempt to resurrect the thoroughly discredited nonreserved water rights portion of the Krulitz opinion which was reserved during the Carter administration by Solicitor Martz. This bald assertion of rights to water developed on the public lands violates section 8 of the Reclamation Act and was rejected by the Supreme Court in *Ickes* v. *Fox* (300 U.S. 82) in 1937 and repudiated in *California* v. *United States* (438 U.S. 645) in 1978.

It is also not clear whether this language assumes that rights heretofore granted and vested under State laws are protected. Unlike the language in subsection (d) which protects those rights the Secretary determines to be valid, there is no such savings clause here. The language does not attempt to reserve all unappropriated appurtenant water on the public lands, but rather asserts a claim to water and a directive to exercise rights pursuant to Federal not State law.

Is this an attempt to reach back and claim those rights which people developed on the public lands as a condition of their homestead patents? My colleagues may forget, but an essential element of patent application under many laws was that the applicant had actually applied water to the lands in question. Is this an attempt to reach water for unpatented mining claims?

To the extent that this language attempts to resurrect some sort of nonreserved doctrine of Federal ownership of water developed on public lands, it simply seeks to overturn a century and a half of congressional deference to State law, the provisions in several State constitutions regarding the ownership of water—all of which Congress ratified as part of the admissions process for the States—an uninterrupted series of Supreme Court opinions rejecting claims by the executive branch to water rights in derogation of State law, and the rights reserved to the several States under the Federal Constitution. Not bad for a single sentence buried in an unrelated provision where no one would see it.

Just to make certain that my colleagues understand just how pernicious this sentence is, remember that it is not simply a claim to water rights, but a directive that those rights be exercised "to benefit the public lands and resources thereon." What happened to the restrictions on place of use, purpose of use, and point of diversion contained in every State water right permit? Apparently United States versus California will be overruled and the limitations contained in reclamation law rendered moot. Water rights obtained solely for irrigation or M&I purposes will now be used for other purposes notwithstanding State law and the rights of the project beneficiaries. Water rights for mining and mineral leasing will now be diverted pursuant to this sentence for unrelated activities. Colorado requires that all instream flows be held in the name of the State, but that provision is about to fall and the United States will determine what water will be used for.

If we were to assume for the sake of argument that this was not a covert attempt by the Secretary to resurrect the nonreserved water right theory which his Solicitor claims to have authored when he worked under Solicitor Krulitz, then this language should be even more troubling for there is only one species of water right actually held by the Federal Government which is a developed or developable right on public lands. Remember, we are not talking about national parks or forests and their reserved rights. The developed or developable rights could only be Winters rights for Indian tribes. The Federal Government certainly has the power to affect the exercise of Winters rights, and since most are developed off the public lands, they will now be exclusively for the public lands and the resources thereon. Boy that should make the Pyramid Lake and Fallon Paiute Tribes happy. Their delegation will strip them of any potential for use of their water rights—those that are left—solely for whatever the Secretary believes will benefit public lands.

The Mission Bands in California can forget their efforts with Coachella, since their rights will be available only for the public lands, perhaps the California desert. The senior Senator from Arizona is a principal sponsor of this legislation, so I assume he also intends to overturn the interrelated water settlements in Arizona which we have enacted over the past two Congresses.

Mr. President, no one knows what this language means. It clearly does not do what the sponsors have stated it does. It has the potential to do far more. There have been no hearings. There has been no committee consideration. We are faced with an uncertain future in light of a Solicitor who claims authorship of the nonreserved rights theory of the Krulitz opinion and a Secretary who has expressed glee at the opportunity he has to rewrite Western water law, beginning with the sacred scrolls of the law of the river.

The present Solicitor once wrote that:

> Congress' near-plenary power here deserves reiteration. It could, for example, instantly outlaw, at least prospectively, the application of State fish and game or water laws to activities on Federal lands. * * * Witness, for example, the near apoplectic character of a typical westerner's reaction to assertion of Federal water rights in derogation of State control over, or as it is mistakenly put, "ownership" of water.

Yes, I'm apoplectic. So would be most other westerners if they ever saw this language rather than just hearing the propaganda that this debate is only about grazing fees. If anyone thinks this is not serious, let me say that it takes an enormous assault on State authority to bring me and Justice William O. Douglas on the same side, but I want to conclude by quoting his lonely dissent on the Federal grab of water rights in the Pelton Dam case. In *FPC* v. *Oregon* (349 U.S. 435) in 1955, he wrote in dissent:

> Referring to 1910 legislation which authorized the President to withdraw lands for power sites, "[i]t was under this Act that some of the lands here involved were reserved for a power site. But the Act of June 25, 1910, by its very terms, did no more than withdraw these public lands "from settlement, location, sale, or entry." The Act did not purport to touch or change in any way the provision of the Desert Land Act that pertains to water rights. If the words of the 1910 Act are to control, water rights remained undisturbed. The lands remained "public lands," save only that settlers could not locate on them. I assume that the United States could have recalled its grant of jurisdiction over water rights, saving, of course, all vested rights. But the United States has not expressly done so; and we should not construe any law as achieving that result unless the purpose of Congress is clear.
>
> The reason is that the rule adopted by the Court profoundly affects the economy of many States, ten of whom are here in protest. In the West, the United States owns a vast amount of land—in some States, over 50 percent of all the land. If by mere Executive action the Federal lands may be reserved and all the water appurtenant to them returned to the United States, vast dislocations in the economies of the Western States may follow. * * * Federal officials have long sought that authority. It has been consistently denied them. We should deny again. Certainly the United States could not appropriate the water rights in defiance of Oregon law, if it built the dam. (349 U.S. 435 456–457).

Mr. President, these provisions should be struck and introduced by whoever wants to claim parentage and referred to the Committee on Energy and Natural Resources. This is why we should reject efforts by the Appropriations Committees to rewrite Federal law.

Mr. President, every water expert we could find has found no fault with the conclusions that have been drawn and have been presented.

I say to Senators from New York to California, there are water problems attendant with these 19 pages that must be resolved.

Mr. DOMENICI addressed the Chair.

Mr. WALLOP. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I know Senator BROWN has an amendment. I have been trying for a couple of hours to see if I could get the floor for a few minutes, and I wonder if he would indulge me if I asked consent that I be permitted to speak for up to 15 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, I would like to know the subject matter of the Senator's remarks.

Mr. DOMENICI. I was going to use about 3 minutes of it to talk about a failed meeting with the Secretary of the Interior, and the rest was going to be used complimenting the President on his health care package.

Mr. REID. I certainly support the 12 minutes. On the 3 minutes, I would ask equal time of the Senator from New Mexico and that of the Senator from Wyoming. I would ask for 5 minutes as if in morning business after the Senator from New Mexico completes his statement.

Mr. DOMENICI. I have no objection.

Mr. BROWN. Reserving the right to object——

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, the amendment I intend to offer is quite limited in scope and I think it can be completed within 2 or 3 minutes, obviously subject to the chairman's view on it. I merely mention it because it may involve a vote, and because the scheduling of this may have some impact I thought I would mention it to the chairman and ask for his guidance if he would like it right now or later.

Mr. MOYNIHAN. Yes; Mr. President, I see in the Chamber the—Senator DOMENICI had the floor. Senator REID would like 5 minutes. Is that the case?

I would like to say, if we could accommodate these two Senators, then we will go to the Senator from Colorado, and I at that point hereafter will object to any further unanimous consent measures having to do with morning business, save for the matters of California, if there are urgent dispatches. We must get on with this bill.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. In an effort to move along this legislation, perhaps it would be more expeditious to go ahead with the amendment, have a vote on it, and then when the vote is completed, Senator DOMENICI and I then have our 12 minutes.

Mr. MOYNIHAN. Fine. That would be great.

Mr. DOMENICI. Mr. President, I am not going to object to that, but let me say to my friend I really do not believe the Senator from New Mexico needed unanimous consent to speak. I have the floor. I think I could speak by starting out talking about this bill and part of my discussion could be on almost anything I want. I have never been called on that by the Senate. I thought I was offering an opportunity for everybody to know precisely what would be happening. I think I am right. So I really would like to get this done. We are not going to get a vote on that—

Mr. MOYNIHAN. I think we can wait. Go ahead. Do it now.

Mr. DOMENICI. I think the Senator objects.

Mr. REID. I have no objection.

Mr. DOMENICI. I thank the Chair. I thank the Senator from Nevada.

The PRESIDING OFFICER. Hearing no objections, the unanimous consent request of the Senator from New Mexico is ordered.

Mr. DOMENICI. I say to my friend from Colorado, I will try not to use the time I have obtained from the Chair.

First, let me just say very briefly and very succinctly, I think since we first started the prolonged debate on the Interior appropriations bill—and everybody knows it is not about the whole bill. It has to do with a big portion of it encapsulated in amendment No. 26—Senators have said to this Senator, who is leading that opposition to that amendment and thus to that bill, "Why not try to work something out?" Now, I do not think they were saying to me, "It has already been worked out; why not agree to it?"

I did not hear that. I heard Senators say, "Can't you agree to something?" In fact, those who supported this position—and there are many of them—have said, "We would like to see some real offer so that headway is being made because we think there ought to be a resolution of this issue."

Mr. President, let me suggest to my fellow Senators, and those who have supported the position of the Senator from New Mexico, we have no one to negotiate with.

This afternoon, at 12:30 p.m. in this Senator's office, five of us from both sides of the aisle on this issue—and we are kind of selected as those to put a package together if we can negotiate one—had a meeting. The Secretary of the Interior was supposed to there. It sort of came round about at his request.

Midmorning, I was told he could not do it. Then I was told not only he cannot do it, he does not want to do it because there is nothing to talk about.

So that is the end of my discourse on this subject. We will have another cloture tomorrow. We will vote on it. I am going to ask everybody who has helped on this cause to help us again because, sooner or later, the people of the West who are affected by this deserve to let their Senators representing them and their Governors who object to what is in this bill have an opportunity to sit down with the Secretary of the Interior and whoever the ghosts are, who are going to have to be made real, and see if we cannot work something out.

That is the way it is. It is not a question of interpreting anything. Some will stand up and say it has already been negotiated. Well, it had not been negotiated to the satisfaction of Western Governors including supporters of the President. It is obvious at this point to many Senators from the West—I do not know very many who support what has been done—if it is sort of an ultimatum, then we may be here a long time.

HEALTH CARE

Mr. DOMENICI. Mr. President, let me talk a minute about whether competition is working in health care.

I think there is a quiet revolution going on out there. I urge all of those who are going to be intimately involved in reform, reform of this health care system, to look carefully as soon as they can with some degree of precision at what I think is a quiet revolution that is transforming health care in many parts of the country.

Driven by escalating costs, employers and other large purchasers of health care are beginning to demand and are getting efficiency from this system.

In the "real world," health care reform is taking place without any help from the Federal Government.

In fact, in many cases we are hindering it. In fact, it is occurring precisely despite many Government policies that impede the private sector in their cost control efforts, such as cost shifting from Medicare and Medicaid programs.

These purchases are pushing this market clout to force organized managed health care plans to compete against each other based on their price and their quality.

There are no Government global budgets, price control caps on insurance premiums or other interventions to affect these costs. Rather, health care providers are squeezing out waste, cutting unnecessary costs, and increasing their productivity voluntarily because they have to stay competitive and attractive to the increasingly price and quality conscience customers.

We are starting to hear and read more and more of these quiet success stories. The Washington Post ran one this week on the successful decade-long effort by Bell Atlantic to enroll its employees in a tightly run managed care network, holding costs to growth of 5 percent in 1992, saving $125 million.

In Detroit, the Henry Ford and Mercy Health Systems in a partnership with Michigan Blue Cross/Blue Shield are offering a community-rated managed care plan to mid-size and large employers with a promise to hold premium growth at 5 percent in the second and third years of the contract.

In California, private health plans competing for business among State employees held health and premium increases to 6.1 percent in 1992 and, believe it or not, to 1.5 percent in 1993. If we could get anything like this across the system in America, we would have reformed the cost containment, we would reform the system and built-in cost containment beyond anything we every expected.

I would like to add Albuquerque to this growing list of quiet success stories to the private sector.

The Albuquerque health care market is dominated by four separate health care delivery systems: Lovelace, a multispecialty group—much like the Mayo Clinic—with its own hospital and HMO; Presbyterian Health Systems, a statewide hospital system that has organized a network of providers; St. Joseph's/FHP, a hospital system allied with an HMO; and the University Hospital, a large teaching hospital affiliated with the University of New Mexico.

Except for the University Hospital, each of these delivery systems is already offering, and I quote: "an accountable health plan" in the managed competition terminology; that is, a health insurance combined with a health delivery system.

These health plans compete vigorously with each other to get consumers that are satisfied with their competitive rates and quality.

Believe it or not, since 1986, there has been an 88 percent increase in HMO penetration in this market. In my home city of Albuquerque, half of everybody insured is under either an HMO or a PPO.

It costs 15 percent less for employees to enroll in an Albuquerque HMO than in a traditional fee-for-service indemnity plan.

Between 1981 and 1991, the number of days in a hospital dropped from 635 per 1,000 to 417, which is 53 percent lower than the national average.

It costs 17 percent less for hospital admission than the national average.

Some skeptics may point out that this kind of data, though impressive, does not tell the whole story because there could be other reasons that hospital and health care costs are slowing down.

Well, to those skeptics, I would like to point out a very interesting article that appeared over the weekend in the Albuquerque Journal, our major newspaper. It compared the Albuquerque experience with that of Lubbock, TX, a city of 200,000, just a few hundred miles away in west Texas, with a similar demographic profile.

Strangely, in Lubbock, TX, there is very little managed care, no health maintenance organizations, and no significant price competition. And their health care costs reflect it.

As the Albuquerque Journal reported, Lubbock hospitals charge 40 percent more for heart procedures than the Presbyterian Hospital in Albuquerque which I have just alluded to.

In 1991, the average charge for angioplasty was $17,400 at Lubbock's Methodist Hospital, about $4,000 more than in a good hospital in Albuquerque, NM.

While Albuquerque hospitals are trimming staff to become efficient, Lubbock's Methodist Hospital is in the middle of a $100 million building expansion program.

And to those who are still skeptical that that competition can work, I will just point out that the statement made by the executive of Lubbock's Methodist Hospital—and I paraphrase it from the papers—because there is little pressure by insurers to cut prices, the executive said his hospital can charge more for the services than the Albuquerque hospitals.

I do not know enough about the culture and history of the Texas city to know why competition has not taken hold there as it has in Albuquerque. But I know that we need to make sure that it is not only there, but across this land.

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes remaining.

Mr. DOMENICI. Mr. President, I have here—maybe it is the first time it has been shown on the Senate floor—the Health Security Act. This is it. This is what the President officially presented us with today. Obviously, it is a pretty thick volume with a lot of pages and with a lot of things in it. I would like to make a few brief observations about the President's Health Security Act that he presented to Congress today.

First, let me publicly thank the President for his remarks that I thought were kind to me at this morning's meeting.

Second, while we may from time to time disagree on the means to achieve our goal of economic security, I thank the President nonetheless for acknowledging that we both have the same goal in mind and that health care reform must be approached in a way that is not only good for us physically but is good for us fiscally and is fiscally responsible.

Third, and in a related way, we have just received this bill which I have alluded to and shown to the Senate. And I along with the Budget Committee staff will expend many hours reviewing and analyzing this document. And I might say, if we are given the information, we will examine every major package to see their comparable components and costs.

But I think it is clear from the brief amount of time that we have had to examine the bill—I say this to my friend, Senator MOYNIHAN, who will have significant jurisdiction—that this October 27 bill has some fundamental differences from the draft that was circulated on September 7 which he has heretofore alluded to, the Senator from New York. And almost all of those changes go to the issue of fiscal responsibility. How much does it cost? How effective are caps? How can we enforce and make sure it is fiscally sound?

If, over the next months of this debate we can make as much progress as we have made in the last month or month and a half on fiscal policy concerns in the health care debate, then I think there is reason to be optimistic that a fiscally responsible health care plan and reform bill will be produced.

When I speak of fiscal responsibility, I mean that we do not want a health care reform plan that causes severe unemployment, pushes back our competitiveness, and produces deficits that are growing out of control because of having solved one problem only to create a worse one.

So I say this not because I do not have concerns about this proposal—I do. I remain concerned about new mandates on business. I remain concerned about the role of the so-called National Health Board and the regional alliances that will be designated and what power or authorities they may yield or wield. I remain concerned that the opportunity for Federal deficit reduction along with health care reform seems to be vanishing, if not vanishing, gradually disappearing. But those concerns, while real and important, are tempered today because the President and his advisers, I believe now, at least recognize that their proposal has a tremendous potential for vastly increasing the public expenditures for health care.

Recognizing this fact, the President has now included in this bill various provisions that would cap Federal payments to the regional alliances. And while many questions remain, we will study these provisions. But it is an obvious effort to say that we understand we cannot create more uncontrollable expenditures—frequently called entitlements—without risking economic ruin. We will study how these caps work, while we are also achieving the President's stated goal of guaranteeing every American comprehensive health benefits that can "never be taken away." The last few words are quoted from the President.

How do you do that and not have uncontrollable expenditures that never go away? This is an important issue, and not only will I carefully review this bill, I have requested that the Congressional Budget Office analyze this bill. I have renewed my request for the Budget Committee hearings on this and other health care reform bills. I have asked the chairman if he would consider that. These are budget issues, and they are "budgetarily" important.

I am going to focus on the fiscal health of the country and what this and other bills mean for our country's economic future in an ever-increasingly competitive world.

I thank the Senate for giving me a few moments on these two subjects. I think competition is beginning to work out there. I know it does not solve all of the problems the way it is occurring, because we need to make sure that also small businesses get covered, and that they can get coverage even in cities like Albuquerque. With these HMO's, they are not getting an opportunity to buy insurance. I think something good is happening, and we want to keep it going.

Again, I compliment the President, because I think all movement in this bill has been in the right direction since September until this day. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

Mr. REID. Mr. President, there has been a lot of talk around here about those who want to protect the West. That is in the eyes of the beholder. I believe the amendment that is now before the Senate in the Interior Appropriations bill relating to grazing is something that protects the West. Ranchers, if they understood the amendment—and many do—would understand that this amendment is far better than the alternative.

The Reid compromise is far better than what Secretary Babbitt originally proposed. The grazing fee is less, and the administrative guidelines given by Secretary Babbitt are significantly more stringent. Secretary Babbitt can defend himself, but Secretary Babbitt has been meeting with Senators all day long here on Capitol Hill. So to say he refuses to meet with Senators is simply not factual.

Secretary Babbitt, I assume, has chosen which Senators he wants to meet with. I am confident that he understands my good friend from New Mexico stated in a meeting that was certainly not private that he was not looking for—I am paraphrasing this—a compromise in the sense that if he did not get his moratorium, he would not take anything else. He has lived up to that. Secretary Babbitt, I am sure, understands that and chose not to meet with Senator DOMENICI.

I think what we are talking about here is the concern of some of the people who have supported this filibuster. Why? Mr. President, when this started, there was an editorial here and there. Now I have a handful of editorials, newspaper editorials, supporting the Reid compromise. We have picked up two since yesterday. The Wichita Eagle says, among other things: "Fortunately, free enterprise and fiscal conservatism should win this fight."

Do you hear that? That is why the National Taxpayers' Union supports this amendment. It said that they want to "continue subsidizing western ranchers, when Kansas has one of the Nation's most efficient and protective livestock industries, an industry that does not get Government support." And it says other things in support of my amendment.

The Oregonian came out today, entitled Break Grazing Filibuster:

> Northwest Senators should vote to end the stalemate over fee increases. In a sense, the vote scheduled for Thursday on ending the filibuster is another test of whether Congress can muster the ability to make any change that affects a special interest status.

My friend from New Mexico stated that all he wants is a hearing; all he wants is for there to be some talk about this. We have had 10 years of talk about it, but the talk has accomplished nothing. That is why there were 376 hearings, congressional hearings, GAO reports, and studies from universities all over the country that indicate that it is time we move forward.

The only compromise suggested by my friend from New Mexico is extending the fees to 5 or 6 years, which will not happen. He wants to take away any administrative discretion of Secretary Babbitt; that is not going to happen. He wants to preclude the Secretary from any type of enforcement; it simply will not happen.

There is all this talk about water. But listen. Public law 94-579, passed October 21, 1976, which my amendment amends, states, among other things—and we did not amend this section; we amend the act, but not this section.

Section 701 states:

> Nothing in this Act, or in any amendment made by this Act, shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act.

Skipping down, it says:

> Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control.

It could not be more specific. The water argument, Mr. President, is as I indicated yesterday—Halloween a few days early, trying to throw a few spooks and goblins onto the Senate floor to frighten people. That time is long gone. The time has come, and will come tomorrow, and we will talk again about it tomorrow. People have to act responsibly.

The reason my friend from New Mexico is concerned is that this amendment is supported by the National Taxpayers' Union and all conservation groups—a rare union to say the least. It does not affect their States; it affects the taxpayers of their States. And this amendment would save money, and it would bring a semblance of order into the land management and grazing in the western United States as it relates to BLM. It is nothing radical or new. All it does is track what has been going on in the Forest Service for many years.

So it is time the people put the interests of this country ahead of special interests. Before returning the floor to the Senator from Colorado or the Senator from New York, I very much appreciate their understanding for allowing the Senator from New Mexico and I to go forward.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1086

(Purpose: To exclude individuals whose taxable income for 1992 exceeds $120,000 from eligibility for extended benefits)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Colorado [Mr. BROWN], for himself and Mr. COHEN, proposes an amendment numbered 1086.
>
> At the end of the bill insert the following new section:
>
> **SEC. . LIMITATION ON ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.**
>
> Notwithstanding any other provision of law, the amendments made by sections 2 and 8 of this Act shall not apply to any individual whose taxable income (as defined in section 63 of the Internal Revenue Code of 1986) for any taxable year ending in 1992 exceeds $120,000.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. BROWN. Mr. President, I did not ask unanimous consent that the amendment be considered as read because I wanted the Senators to hear for themselves how concise it is and how straightforward it is.

The amendment simply eliminates unemployment benefits for those with taxable incomes above $120,000 a year. It is quite limited in application. It applies only to the measure before us, which is all Federal money. So it does not apply to the joint State-Federal program that would perhaps impose Federal will on the State programs themselves. It applies only to the Federal money that is before us.

Why do it? Why limit unemployment insurance?

Mr. President, that question I think is easily answered by the over $4 trillion debt that this country has and the overwhelming deficit that we add to it each year. Every Member of this Chamber is conscious of the devastating impact this continuing deficit has on our children and grandchildren and on the economic future of this country. I believe every Member sincerely wishes for ways to reduce it.

For my part, I believe that we should look for ways to reduce it in everything that comes before this body. Subsidies to the wealthy, who do not need it, seem to me to be a reasonable place to trim spending. It is significant.

The Congressional Budget Office, emphasizing that these are estimates, not formal estimates but simply approximations, have indicated these figures. If this limitation of $120,000 a year taxable income had been in place on the entire unemployment compensation system, there would have been 21,700 recipients of unemployment insurance who would not have gotten those benefits in fiscal 1992. That would have saved our country over $82.6 million. Mr. President, that is worth saving.

The Congressional Budget Office's estimate—an approximate estimate, let me emphasize—for 1994 would have been 26,500 recipients for a saving of $71.3 million during that year.

Again, Mr. President, those are approximate estimates, and I ask unanimous consent that this communication from the Congressional Budget Office be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 21, 1993.

MEMORANDUM

To: Joe Rogers.
From: Bob Williams.
Subject: High-Income Recipients of Unemployment Compensation.

As you requested, we have estimated the number of tax units with taxable incomes above $120,000 that receive unemployment compensation. We have made two estimates, both based on tax return information from 1990. The first estimate is for 1992, derived from the 1990 data projected to 1992 estimates on the basis of Congressional Budget Office projections for the economy. The second estimate is similar but for 1994. Note that both estimates derive from sample data and are therefore subject to uncertainty, as indicated by the differences in values for the two years. The estimates are only approximations of actual values. Because they have not been subject to review, these figures are not official CBO estimates. Please give me a call at X6-2688 if you have questions.

1992

Tax units with taxable income of $120,000 or more, receiving unemployment compensation: 21,700.

Total unemployment compensation received by tax units with taxable income of $120,000 or more: $82.6 million.

Average unemployment compensation received by tax units with taxable income of $120,000 or more: $3,800.

1994

Tax units with taxable income of $120,000 or more, receiving unemployment compensation: 26,500.

Total unemployment compensation received by tax units with taxable income of $120,000 or more: $71.3 million.

Average unemployment compensation received by tax units with taxable income of $120,000 or more: $2,690.

Mr. BROWN. Mr. President, the next logical question is how much will this particular amendment save, since it is quite limited in scope and applies only to the Federal funds herein.

Again, the Congressional Budget Office in a memo to our office has come up with an approximate estimate, indicating that it would apply to save $2 million. So, while this is limited in scope, it still has a significant savings, and I ask unanimous consent that this memo be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 27, 1993.

MEMORANDUM

To: Roxie Burris.
From: Cory Oltman.
Subject: Proposed Amendment to H.R. 3167, the Unemployment Compensation Amendments of 1993.

As you requested, I have reviewed the proposed amendment and I estimate that it would save $2 million in fiscal year 1994 from H.R. 3167 as ordered reported by the Ways and Means Committee on September 29, 1993. This is a preliminary CBO staff estimate and has not been reviewed by the Director of the Congressional Budget Office. The savings would represent direct spending savings.

I understand your amendment would not allow any individual with taxable income in 1992 above $120,000 to collect the emergency unemployment benefits provided from October 2, 1993 through February 5, 1994 in H.R. 3167. CBO's estimate of the emergency unemployment benefit provisions in H.R. 3167 is approximately $1 billion in fiscal year 1994. The emergency unemployment compensation (EUC) estimate of $1 billion is 3.3 percent of total unemployment compensation for fiscal year 1994. In 1994, we estimate approximately $70 million in total unemployment compensation would be paid to individuals with taxable income of $120,000 or more. If the ratio of EUC to total unemployment compensation holds true for this group, then an estimated 3.3 percent of the $70 million of $2 million would be EUC benefits. This estimated $2 million in EUC benefits provided under H.R. 3167 to individuals with incomes of $120,000 or more would be saved if EUC benefits were denied to those individuals.

If you have further questions, please feel free to call me at 226-2820.

Mr. BROWN. Mr. President, this amendment is a way to save money. It is a way to eliminate a subsidy to those who do not need it. I believe it is just one of hundreds of things that we need to do to begin to bring the deficit into balance.

The majority leader spoke eloquently at the start of this debate about the urgent need to get assistance to those who were poor and in need. I believe all Members recall his words for he spoke of the urgency and the need to get this assistance passed quickly and to help those, as he put it, who are desperately in need.

Mr. President, those who have taxable income above $120,000 a year do not fit the majority leader's description. They are not ones who "desperately need it." They are people who may earn very high salaries who are unemployed for a period of time and take advantage of the system.

If we cannot save a few dollars here, where can we save it? If you cannot deny assistance benefits to those who are wealthy, where are you going to get the savings from?

I believe this is a reasonable place to start saving. These savings come from those who do not need these benefits.

The real question I think is this: Is it Government's responsibility to provide assistance to those who do not need it? We debate every day whether or not you should provide it to those who do need it, but this is a question of providing Government subsidies and assistance to those who do not need it. I believe this would be mistake. That is why I offer this amendment.

I have had a number of Members come to me and say, "Look, $120,000 a year is too high. After all when you talk about taxable income you have already taken out deductions and other exclusions—the real income is far above the $120,000." That is right. Mr. President, if it were up to me I would drop this number well below $120,000. I do not believe we have any business offering subsidies to those who do not need it in this area.

This is a modest amendment, but a step forward in this area. I think it will help this Congress to save money in a time we desperately need to look for opportunity in that area.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. Mr. President, I rise to make two points and really none other in response to the proposal by the distinguished Senator from Colorado.

The first is fundamental to our purposes here tonight and purposes which we have pursued for 6 decades since the enactment of the Social Security Act of 1935.

From the beginning it has been understood that unemployment compensation, as with old age insurance, as with disability insurance later, as with Medicare still later, these benefits should be, and I quote the Committee on Employment Security in January 1935 when the bill was introduced, speaking specifically of unemployment compensation: "Unemployment compensation should be a contractural right not dependent on any means test."

It is an insurance system. Workers pay in, in this case employers pay in for workers, and an insurance pool is created. Those who need the insurance, because they are involuntarily unemployed, get it as a matter of right, not of gift, not of largess.

This argument has been moving over to the question of retirement benefits under Social Security, with the argument being made that this individual has savings, has another retirement system, and the question is asked: "Does he or she need the benefits?"

That is not the point. There is a right to social insurance. It is a contractural right. It is a contributory insurance system. If we ever lose this principle, then 26 million Americans who are retired today, honorably retired after an honorable work life, will find themselves in the condition of persons receiving welfare and find that their right to their retirement benefits has become a grant that can be given or taken away. If we should ever lose this fundamental principle, we put the entire Social Security system in jeopardy. I do not know what more needs to be said to that point.

Mr. President, I make a second point. This legislation before us is only a 4-month extension, but 1 million persons will receive benefits under it.

In order to determine whether an individual is eligible, if we should adopt this amendment, the State unemployment agency would have to determine what the taxable income of the applicant was in 1992. They do not have that capacity. They do not have access to tax returns, which by law and sacred principle are kept separate from the rest of Government's files, the rest of Government's access and right to inquire. We would find that the costs to the State governments to follow a Federal mandate—we have heard a lot about Federal mandates today, which they cannot carry out—could effectively immobilize the entire program inasmuch as they will not know the taxable income of an applicant.

They will not be able to certify eligibility, and the entire program will cease. And the Federal Government will have imposed the most ludicrous and wrong mandate.

Yesterday, we had a group of mayors here in the Capitol, saying, "Will you stop imposing unpaid mandates on us?" And I think none of us could agree more that the time has come to do just that. And here we are at this hour of night proposing to add another one.

Mr. President, this is a deplorable proposal. I propose that it be rejected.

If it is agreeable to the Senator from Colorado, I ask, if he wishes a recorded vote, which he may well do, that it be put off and the vote be held at 9 o'clock.

I ask unanimous consent that the vote on or in relation to Senator BROWN's amendment occur at 9 o'clock this evening.

The PRESIDING OFFICER. Is there objection?

Mr. BROWN. Reserving the right to object, I will simply ask the standard request for the yeas and nays.

Mr. MOYNIHAN. Yes.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, I further ask that no second degree amendments be in order to the amendment of the Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I thank the distinguished chairman for his consideration of the amendment. I hope that my perseverance may in time change his mind.

But to that end, I wanted to make several quick points, because I know there are other amendments that we should consider.

In terms of the cost, this is a very simple guideline that can be accomplished without significant cost. It can be accomplished simply by making clear that these benefits are available to only people who have a taxable income of under $120,000. As a matter of fact, that can be included, as many other items are, in the forms that are completed right now. It is simply a matter of adding that to what is certified in applying for the benefits.

There need not be significant administrative costs. I think such costs are a reasonable thing to be concerned about and I appreciate the chairman looking at it.

But we considered this concern when this amendment was drafted and it was one of the things that Congressional Budget Office considered when they put up their estimate. Their estimate makes it clear that this amendment would be a savings, a multimillion dollar savings.

So it is a valid concern with regard to the cost, but I think it is one of those things that can be easily handled without significant additional costs and the concern was taken into account in the estimate.

The second point I would like to make is with regard to this program being enacted and the guidelines set in 1935. Indeed, it was considered in the mid-1930's. And I might simply observe that at that time we did not have a $4.400 trillion deficit. As a matter of fact, the deficit in 1935, when this was passed, was a minute fraction of what it is now. The fact is that what you can do without a debt is different than what you can do when you are $4.400 trillion in the red.

We do not have the money anymore. And, no, it is not pleasant to stand up here and propose things that save money, even if it is from the wealthy.

But, Mr. President, we better start doing it or we are not going to have a future for this Nation that all of us love and honor. We better start looking for ways to save money. To say that we did not do it in the past and that therefore means we cannot do it in the future is not good enough. Because if we do not change, if we do not find ways to save money, we are not going to have the future all of us hope for.

So I think it is this kind of change, even though it is a change from the past, that we have to face up to. It is a small step which I think is a responsible one.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, in brief, in six decades of the Social Security system, we have never imposed a means test on a contractual right.

If it is the desire of the Senate to do that, well, that surely calls for a week-long debate at the very least. This is not the hour nor the occasion on which to proceed.

I thank the Chair, and I thank my friend from Colorado.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1087

(Purpose: To reduce the discretionary spending caps for fiscal years 1995 through 1998 by the amount saved from the termination of the Superconducting Super Collider)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1087.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. MATHEWS). Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 16, strike "1994".''; and insert in lieu thereof the following: "1994".

"( ) DEDICATION OF SAVINGS TO DEFICIT REDUCTION.—Within 5 days of the enactment of this Act, the Director of the Office of Management and Budget shall reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1995 through 1998 by the following amounts:

"(1) For fiscal year 1995, $352,300,000 in new budget authority and $176,100,000 in outlays.

"(2) For fiscal year 1996, $450,000,000 in new budget authority and $365,900,000 in outlays.

"(3) For fiscal year 1997, $693,300,000 in new budget authority and $561,900,000 in outlays.

"(4) For fiscal year 1998, $711,900,000 in new budget authority and $678,300,000 in outlays.".

Mr. GRAMM. Mr. President, I have sent an amendment to the desk that is a very, very simple amendment. We had an extensive debate in the Senate on the superconducting super collider, the world's largest and most significant scientific research project to be undertaken anywhere on the planet in the last quarter of the 20th century. That project was sustained here in the Senate, though there was a strong argument that it should be killed in the name of deficit reduction. When the bill went to the House, the SSC was in fact killed.

When we put a conference agreement together and re-funded the SSC, that agreement was rejected in the House and, as we all know, the SSC has now been killed.

The argument that was made consistently for killing the SSC was that we needed to reduce the deficit. That creates a potential problem, Mr. President, because unless we go back and amend permanent law to reduce the allowable spending levels by the amount that we will save by killing the SSC, we will have killed the world's most important scientific project, but the money will be quickly spent on something else.

So I have sent to the desk a very simple amendment. What the amendment does is take the current services level that we would have spent on the SSC over the next 5 years, it takes the termination cost estimate given by the Department of Energy, and then it calculates the savings that will occur in both the authority to spend money and actual spending as a result of terminating the superconducting super collider.

The amendment then instructs the OMB Director exactly as Senator BUMPERS' amendment did regarding the space station. It instructs the OMB Director to reduce the spending caps in permanent law to assure that none of the money saved over the next 4 years from terminating the SSC can be used for any purpose other than deficit reduction.

Now, let me repeat this because it is a very simple concept and it is a very important one.

Many Members of the Senate and a large majority of the Members of the House said, "Kill the SSC and reduce the deficit." Unless we change the law to reduce the spending caps, every penny saved by killing the SSC is going to be spent on something else. So I view this amendment as a truth-in-debate amendment.

This amendment simply says, since Congress killed the SSC in the name of deficit reduction, we should be absolutely certain that the savings that accrue from killing the SSC are not spent on anything else.

I submit, Mr. President, that those Members of the Senate who were shooting with real bullets when they voted to kill the SSC in the name of deficit reduction will support this amendment. I think it is a very important amendment, and I think the whole debate about killing individual projects in the name of deficit reduction will cease to have any meaning whatsoever if we reject this amendment. Because what we will be saying is that the whole debate about deficit reduction was a phony debate, that Congress never intended to save the money, that what we did intend was simply to kill this science project, to kill an investment in the next generation, so we could spend money on other programs that would perhaps yield a higher rate of return in the next election.

So I am hopeful my colleagues will support this amendment. This is a concept that has been established in principle. Senator BUMPERS offered a similar amendment related to the space station. As it turned out, we did not kill the space station, but he established the principle. Senator DORGAN offered a similar amendment tonight with regard to killing the space station as a way of paying for repeal of retroactive taxes, and he established, again, a precedent of lowering the spending caps.

My point is this. We have killed the SSC. It is clear now that the House is not going to allow it to be built and, as unhappy as many people are about that, the net result of that decision is going to save $2.2 billion in spending authority and $1.782 billion of actual spending over the next 4 years.

What this amendment will do is guarantee that all the savings coming from killing the SSC will go to deficit reduction. So I hope my colleagues will support this amendment. I think it is a reasonable amendment, and I hope it might even be adopted by unanimous vote.

I yield the floor.

Mr. MOYNIHAN. Mr. President, may I note the Senator from Texas offered an amendment but did not ask for the yeas and nays. I am sure he intended to do it. I will do it for him in due course.

I believe our revered President pro tempore, the Senator from West Virginia, will wish to speak to the matter raised by Senator GRAMM which affects the appropriations process most emphatically and in ways I would imagine the chairman of the Committee on Appropriations, the President pro tempore, would not wish to see happen.

Mr. HELMS. If the Senator will yield, if the Senator will permit me, I will ask for the yeas and nays on the Gramm amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I oppose the amendment of the senior Senator from Texas [Mr. GRAMM]. If adopted, this amendment would reduce the discretionary spending caps for fiscal years 1995 through 1998 by a total of $2.2 billion in budget authority and by over $1.78 billion in outlays. The senior Senator from Texas states that these savings result from the termination of the superconducting super collider.

Mr. President, I have been unable to determine whether the figures contained in the amendment accurately reflect the savings that will result from the elimination of the superconducting super collider. I do know that termination costs will be substantial. Furthermore, it is my understanding that there is some interest in Congress in considering whether other worthwhile programs or activities could be undertaken in that part of Texas. This could counterbalance, to some extent, the economic dislocation that will otherwise occur. I do not know if any such worthwhile activities or programs exist, but the adoption of the Gramm amendment would surely eliminate any possibility of adding such programs or activities to the budget in the coming years.

Mr. President, my objection to the amendment is much deeper than whether or not we fund the superconducting super collider or whether or not we fund any other projects or activities for the State of Texas. Discretionary spending caps for fiscal years 1994 through 1998 were properly set in the context of the appropriate levels of revenues, entitlement spending, and the deficit during the debate on the Congressional Budget Resolution earlier this year. Those issues were thoroughly debated and decisions were made by this Senate and the House regarding the levels of discretionary spending, entitlement spending, revenues, and deficits for fiscal years 1994 through 1998.

During that debate it was obvious that in order to achieve substantial reductions of the triple-digit deficits that had become routine over the past dozen years, it would be necessary to achieve substantial reductions in spending—both entitlement and discretionary—and to increase revenues as well.

I personally would have preferred substantially higher caps on discretionary spending than were contained in the Congressional Budget Resolution, which now bind the Appropriations Committee for the next 5 years. We are bound like Lucifer in chains. For this year alone, fiscal year 1994, the conference report on the budget resolution set the discretionary spending allocation to the Appropriations Committee at $500,964,000,000 in budget authority and $538,757,000,000 in outlays. These levels are over $16 billion in budget authority and $8.7 billion in outlays below the fiscal year 1993 levels.

So we have less to work with than we had in the previous year by $16 billion in budget authority and $8.7 billion in outlays, less for fiscal year 1994 than we had in fiscal year 1993.

As Members of the Senate are aware, the Appropriations Committee has completed action on all 13 appropriation bills and conferences have been completed, as well, on all except the Department of Defense appropriations bill. So we have made the tough decisions to cut the necessary amounts in order to stay within the caps allowed in the budget resolution.

And we have never failed. In the 5 years that I have been chairman of the Appropriations Committee, we have yet to go once over the allocations that have been given to the Appropriations Committee by the congressional budget resolution.

In doing so, we had insufficient resources available to us to meet the needs for many important infrastructure programs and presidential and congressional initiatives. We had to reduce our appropriation levels below the President's budget request by $7.9 billion in budget authority and $6.6 billion in outlays.

We had to do it. We had no choice but to go that much below the President's requests, $7.9 billion in budget authority and $6.6 billion in outlays.

For fiscal years 1995 through 1998, there will be no relief under the caps established by the resolution. For example, the committee's allocation of budget authority, in the aggregate—in the aggregate—for fiscal years 1994 through 1998 totals $224.5 billion below inflation.

Let us say that again now, Mr. President, and I hope Senators, wherever they are, are listening.

Let me repeat that. The committee's allocation of budget authority, in the aggregate, for fiscal years 1994 through 1998 totals $224.5 billion below inflation—below inflation. That is the whole caboodle, the whole kit and caboodle. We are that much under inflation to work with in our appropriations committees for fiscal years 1994 through 1998.

Furthermore, the budget authority allocation totals $59.7 billion below President Clinton's April budget request for that same period of time, namely 1994 through 1998. For outlays, the committee's allocation for the period 1994 through 1998 totals $180.3 billion below inflation, $62 billion below President Clinton's April budget, and $14.9 billion below a hard freeze.

Now on the chart to my left, we will see the committee's allocation of budget authority in the aggregate for fiscal years 1994 through 1998, and the chart shows that figure is $224.5 billion below inflation for the 5 years 1994 through and including 1998.

Let me repeat again that the budget authority allocation totals $59.7 billion below President Clinton's April budget request for the same period of time, namely through 1998.

Now for outlays, the committee's allocation for the period 1994 through 1998 totals $180.3 billion below inflation; $62 billion below President Clinton's budget request; and $14.9 billion below a hard freeze. In other words, the Appropriations Committee over the next 5 years will have $14.9 billion less than a hard freeze. What is a hard freeze? A hard freeze means continuing at the 1993 dollar level for 5 years. That is a hard freeze. There is no thaw, no budge, not $1 additionally—a hard freeze.

Let us take a look at this on the line chart. On budget authority on the line chart to my left we have been talking about a hard freeze, the black line represents a hard freeze. So it stays exactly the same for 5 years. You get 1993 dollars, that is it. Now if we could have had 1993 dollars, plus inflation, we would follow the green line on the chart. That line represents the CBO March baseline. That includes inflation. That is adjusted for inflation.

If we take a look at the President's request, that is represented by the blue line on the chart. And we will see that with respect to the President's budget request it dips below a solid freeze a little in 1994. But then it ascends to a point above a hard freeze in 1995, and a little more in 1996, a little more in 1997, and a little more in 1998. Keep in mind once again the line that represents inflation.

So we can see that in 1994 we would be above where we were in spending 1993 dollars for a hard freeze, 1995 we would be up to above $540 billion; in 1996, we would be up above $560 billion, about $565 billion roughly; in 1997, if we followed inflation, if the Appropriations Committee were allocated by the budget resolution enacted by both Houses just enough money to meet last year's level plus inflation, that is where we would be in 1998, we would have somewhere between $590 and $600 billion, $590 billion and $600 billion.

But now let us look and see where we really are as represented by the red line. That is the budget resolution. We start out in 1993 with a little under $520 billion; in 1994, we go down to about $501 billion. So in marking up the appropriations bills this year for the next fiscal year, we had almost, well, roughly $20 billion less than we had, about $16 billion in fact, a little over $16 billion in 1994, less than we had in 1993. In 1995, we have about $506 billion; in 1996, we barely cross the hard freeze line, 2 years out, at which time we will have $519 billion. And then we overtake the hard freeze and we get down to 1997 and 1998, so that in 1998, 5 years away, we will have about $530 billion in budget authority, whereas if we were allowed enough to compensate for inflation, we would have almost $600 billion.

Now let us take the line chart on outlays. It is virtually the same story over again. The green line represents the CBO March baseline taking inflation into account. The blue line represents the President's request, which we will see is above the freeze line. And then the black line is the hard freeze, the same amount in outlays each year for the next 5 years, than we had last year.

But if we take a reality check, let us see where we really are in discretionary outlays. That would be represented by the red line. So in accordance with the budget resolution, which we have adopted, the Appropriations Committee has actually in 1994 something like $10 billion less for outlays than it had in 1993. In 1995, the Appropriations Committee is still below 1993, still below the hard freeze line for outlays. In 1996, the Appropriations Committee catches up with the freeze line, basic freeze. So in 1996, and in 1997, and in 1998, the Appropriations Committees will have for outlays the same amounts that were spent last year, which would be under $550 billion.

So we are talking Old Mother Hubbard's Cupboard. It is pretty bare. It is pretty bare.

So for fiscal years 1995 through 1998, there will be no relief under the caps established by the resolution.

The committee's allocation of budget authority, as I have already stated, in the aggregate for those fiscal years 1994 through 1998 totals $224.5 billion below inflation.

As I have already stated, we had to reduce our appropriations levels below the President's budget request, and we are living on hard times. So I will repeat once more. For outlays, the committee's allocation for the period 1994 through 1998 totals $180.3 billion below inflation, $62 billion below the President's April budget, and $14.9 billion below a hard freeze. So for the next 5 years, we have less than a hard freeze at fiscal year 1993 levels.

Against these extremely constrained—and I am telling you these are extremely constrained levels under which we are operating —we have a long list of unmet needs. We cannot meet them. We have been unable and will continue to be unable to fully fund authorization levels for critical programs in education, highway spending, mass transit, law enforcement, environmental cleanup, programs for women, infants and children, immunization and other health research and prevention programs that affect children and affect the elderly population. Furthermore, there are a number of new spending programs which many of my colleagues—perhaps all of my colleagues—are interested in authorizing and providing appropriations for.

Just watch the bills as they come to the floor. The authorization bills. Read them. They authorize new programs, more money for existing programs, and we do not have the money. Old Mother Hubbard's cupboard is bear.

High on that list, and soon to be considered by the Senate, is the crime bill,

S. 1488. That bill contains a large number of new discretionary spending programs and authorizes billions of dollars to attack the problem of crime throughout the Nation.

Who is to say that there is not a terrible problem of crime confronting this country? But where is the money? It is one thing to pass an authorization bill. We do not have the money.

I would like to be able to say to my colleagues that there will be plenty of funds available which can be appropriated to carry out these new and very important programs. Unfortunately, I am not able to do it. In the past, recognizing the critical law enforcement needs of our country, I have consistently supported high allocations for the Commerce, Justice Subcommittee, chaired by the able Senator from South Carolina, [Mr. HOLLINGS]. But despite increased allocation levels compared to the House, that subcommittee's allocation was $1.2 billion in outlays below President Clinton's request for fiscal year 1994 and $861 million in outlays below President Bush's fiscal year 1993 request. And, Mr. President, that same situation has existed for virtually every Appropriations Subcommittee.

Mr. President, imagine yourself as the chairman of the Appropriations Committee. You have 12 other subcommittee chairmen looking at you eyeball to eyeball, and you have to cut this little piece of pie up into 13 different portions. And they are rattling those cages. If that will not try your nerve, nothing else will. You face 13 hungry tigers. Not one of them is going to be satisfied with the allocation that is possible under the constrained circumstances—not one.

There have been inadequate resources to meet the needs of the many important programs in the jurisdictions of those 13 subcommittees, and there will continue to be inadequate resources to meet the needs.

Mr. President, I do not see my friend from Texas, Mr. GRAMM, on the floor. I did not vote to kill his superconducting super collider. Now he is going to vote to kill my committee by degrees. His superconducting super collider had met its death in one sudden stroke, and the pain was over. But he is now proposing to cut my Appropriations Committee and the 13 subcommittees by degrees. He is going to reduce the caps. I have already demonstrated the difficulties under which we are laboring and dealing with the caps that have been administered by this Senate and the House, and now the Senator from Texas proposes to reduce the caps. Whatever savings are to be had as a result of the demise of the superconducting super collider are not to be left with the Appropriations Committee.

Suppose there is a Galveston flood. Suppose there is a Galveston tidal wave. Suppose there is an earthquake in Texas. Where do we get the money? Where is the money to help those people in such a disaster? By lowering the caps, the belt is tightened just a little tighter around the Appropriations Committee's capability to respond to disasters.

I urge my colleagues to reject this amendment by voting not to waive the point of order that will be made against it. To do otherwise would further exacerbate the already extremely difficult tasks that lie ahead for the Appropriations Committee over the next 5 years. As I stated earlier, Congress debated the issues of revenues, entitlement spending, discretionary spending, and deficit reduction in connection with the budget resolution and reconciliation bills. Very difficult decisions were made at that time relating to all of these areas of the Federal budget. Discretionary spending took its fair share.

I did not get up here to demonstrate and shake my fists and beat my chest and say, "Look what you are doing to us." I felt that we all had to sacrifice. So we took ours like a man.

We took our fair share and probably more than our fair share of deficit reduction in those bills. This and all other amendments which would ask discretionary spending to take further hits should be defeated. There is a spate of this type of amendments that are coming to the floor.

I voted against the amendment to reduce the funding for the space station. Why? Because it would have done the same thing. It would have reduced the caps. Otherwise, I would have voted for that amendment and told Senator BUMPERS so. I say that with all respect.

But we are just getting more and more amendments of this nature that would reduce the caps.

I hope Senators will sober up and come to their senses. We do not have the money now to meet the needs of the country. We are constrained by the caps that were in the budget resolution, but we are trying to live with them, and we are managing to do it thus far. Senators who come to the floor and want to further restrain us and lower the caps simply either do not know what they are doing or they do not give a hoot.

Mr. President, the pending Gramm amendment affects the congressional budget process. That is what it does, and all of these amendments that propose to lower the caps do that exactly.

We have already determined what the budget process will be. We have already debated and voted on the budget resolution. We have had our day in court. We have had our say. Now, please stop coming out here and proposing to cut the caps further.

Do you not know what you are doing? Senators, of all people, ought to be responsible, and they ought to know what they are doing, and they ought to care about what they are doing.

Mr. President, I ask unanimous consent that two tables which are the basis for the remarks I have made be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

DISCRETIONARY OUTLAYS

[In billions of dollars]

	Fiscal year—						
	1993 est.	1994	1995	1996	1997	1998	1994–98
CBO March baseline	547.5	553.1	566.1	579.9	594.1	609.5	
President's request (CBO)	547.5	545.4	554.6	560.1	555.4	569.0	
Budget resolution	547.5	538.8	541.3	547.3	547.3	547.9	
Hard freeze	547.5	547.5	547.5	547.5	547.5	547.5	
Budget resolution compared to:							
CBO March baseline		−14.4	−24.9	−32.7	−46.7	−61.6	−180.3
President's request (CBO)		−6.6	−13.4	−12.8	−8.1	−21.1	−62.0
Hard freeze		−8.7	−6.2	−0.2	−0.1	+0.4	−14.9

DISCRETIONARY BUDGET AUTHORITY

[In billions of dollars]

	Fiscal year—						
	1993 est.	1994	1995	1996	1997	1998	1994–98
CBO March baseline	517.0	525.7	541.0	564.0	583.0	596.0	
President's request (CBO)	517.0	508.9	522.2	531.1	534.6	548.1	
Budget resolution	517.0	501.0	506.3	519.1	528.1	530.6	
Hard freeze	517.0	517.0	517.0	517.0	517.0	517.0	

DISCRETIONARY BUDGET AUTHORITY—Continued

[In billions of dollars]

	Fiscal year—						
	1993 est.	1994	1995	1996	1997	1998	1994–98
Budget resolution compared to:							
CBO March baseline		−24.7	−34.7	−44.9	−54.9	−65.3	−224.5
President's request (CBO)		−7.9	−15.9	−11.9	−6.5	−17.5	−59.7
Hard freeze		−16.0	−10.7	+2.1	+11.1	+13.6	+0.1

Mr. BYRD. Mr. President, specifically, the amendment affects the process by which Congress establishes a mandatory ceiling on appropriations, which is a matter within the jurisdiction of the Committee on the Budget under the standing order on the referral of budget process legislation.

As the underlying bill has not been reported by the Budget Committee or discharged from that committee, the amendment violates section 306 of the Congressional Budget Act of 1974, and I make that point of order against the amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senator from Texas [Mr. GRAMM], be recognized after the vote on the Brown amendment for the purpose of making a motion to waive the Budget Act for his amendment if that is his wish and that the vote occur on the motion at that time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, seeing no Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. Boxer). Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I ask unanimous consent that the pending amendments be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1088

(Purpose: To amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age)

Mr. MCCAIN. Madam President, I send an amendment to the desk on behalf of myself, Senators GORTON, COATS, REID, STEVENS, and HELMS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. GORTON, Mr. COATS, Mr. REID, Mr. STEVENS, and Mr. HELMS, proposes an amendment numbered 1088.

Mr. MCCAIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

TITLE —SOCIAL SECURITY EARNINGS TEST.

SECTION . SHORT TITLE.

This title may be cited as the "Older Americans' Freedom to Work Act of 1993."

SEC. . ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(l))";

(3) in subsection (f)(3), by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(l)";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(l)"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(l)".

SEC. . CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of such Act is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of such Act is repealed.

SEC. ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following : "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of such Act is amended—

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) CONTINUED APPLICATION OF RULE GOVERNING ENTITLEMENT OF BLIND BENEFICIARIES.—The second sentence of section 223(d)(4) of such Act is amended by inserting after "subparagraph (D) thereof" where it first appears the following: "(or would be applicable to such individuals but for the amendments made by the Older Americans' Freedom to Work Act of 1990)".

SEC. . EFFECTIVE DATE.

The amendments made by this Act shall apply only with respect to taxable years beginning after December 31, 1993.

Mr. MCCAIN. Madam President, I ask unanimous consent that there be 40 minutes on this amendment, to be equally divided between myself and the distinguished chairman of the Finance Committee, Senator MOYNIHAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that there be no second-degree amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Arizona is recognized for 20 minutes. The Senator from New York will be recognized for 20 minutes.

Mr. MCCAIN. I thank you, Madam President. I am aware that the hour is late. The Senator from New York and I have debated this issue on many occasions in the past. I am sure that, unfortunately for me, we will probably be forced to do so on several occasions in the future. We have an honest difference of opinion on this issue. I fully understand his views, as he understands mine.

As I mentioned, it will probably not be the last time that we will revisit this issue, because I think it is one of great importance, as does my friend from New York, the distinguished chairman, Senator MOYNIHAN.

Madam President, the amendment will repeal the Social Security earnings test and, in my view, end an injustice being perpetrated against one segment of our Nation's population—senior citizens who have to or want to work. As I mentioned, it is not a new issue. We have voted on this amendment before.

Let me remind my colleagues, and those who are new to this body in the 103d Congress that on November 12, 1991, the Senate adopted this measure as an amendment to the Older Americans Act reauthorization bill. I want to point out that, at that time, it was stated by the then floor manager of the Older Americans Act that this amendment would be addressed in the conference of the bill.

The Senate, went on record at that time as being in favor of repeal of the earnings test. I hope that we will keep that in mind as we continue to address this issue.

On July 28, 1992, the Senate reaffirmed its commitment to overturning the earnings test. On that date, the Senate voted for an amendment which said, in a sense-of-the-Senate resolution, that the Senate finds that the earnings test penalizes these recipients and reduces their incentive to work and that the Senate finds that this penalty and disincentive should be eased as quickly as possible.

Again, in fairness, that amendment was second-degreed by the Senator from New York, as I remember, designed so as not to impair the trust fund. And, of course, I did not oppose that second-degree amendment, because it is my view that, if we repeal this onerous and unfair tax that is only being laid on senior wage earners, not those who own stocks, not those who have trust funds set up, but only on wage earners, that you will find more and more seniors entering the work force and there will be more and more taxes paid into the Social Security Trust Fund rather than being pulled out.

One of the interesting aspects of this issue to me is the comments that I have had from people like those that own chain franchises, such as McDonald's, who have told me that their best workers are our senior citizens. Frankly, these business men and women cannot understand why we impose this onerous tax on senior citizens who work.

Mr. Eisner, who runs Disney Enterprises, told me personally that, at Disney World and Disneyland, seniors make his best employees and that, again, they feel that the Social Security earnings test is a disincentive to seniors to work and does not allow them to make use of this very talented, experienced, and knowledgeable pool of labor.

Additionally, I would like to point out that, in my view, this amendment does pay for itself. There are several studies upon which this fact is based.

Some will say on the floor that this will result in a reduction in the Social Security trust fund. Again, I would point out that when there is a strong disincentive for people not to work, they do not work. When that disincentive is removed, then people do work.

Tragically, as we all know, in our country today, Madam President, there are thousands upon thousands of senior citizens who find themselves in their later years facing health care costs, facing unanticipated costs that force them to reenter the workplace. These people, I believe, should not be penalized in the fashion that they currently are.

I would like to remind my colleagues that this Social Security earnings test was enacted many, many years ago when the lifespan and the working span of American working men and women was far less than it is today. It is outdated, it is outmoded, and, frankly, it is patently unfair.

One analysis of repealing the earnings test, by former Treasury Department economists, found that abolishing the earnings limit would result in a net increase of $140 million in Federal revenues.

Most people are amazed to find out that older Americans are actually penalized for their productivity. For every $3 earned by a retiree over the $10,560 limit, they lose $1 in Social Security benefits. And, due to this cap on earnings, our senior citizens, many of whom are forced to survive on low incomes, are effectively burdened with a 33.3-percent tax.

When that is combined with Federal, State, and other Social Security taxes, it will amount to a shocking 70 percent tax bite and sometimes even more. Federal tax, 15 percent; FICA, 15.3 percent; earnings test penalty, 33.3 percent; State and local taxes, 5 percent.

This is unquestionably an issue of fairness. No American should be discouraged from working. Unfortunately, as a result of the earnings test, Americans over the age of 65 are being punished for attempting to be productive.

Mr. President, the underlying bill would affect 7 to 8 million Americans who are unemployed. I understand the need to help those individuals. But, if we are going to talk about numbers, there are more than 40 million Americans age 60 or older who have over 1 billion years of cumulative work experience that are all going to waste. Three out of five of these people do not have any disability that would preclude them from working.

Furthermore, almost half a million elderly individuals who do work are limiting their annual incomes to within 10 percent of the earnings test. They are struggling to get ahead without hitting the limit. If it were not for the earnings test, many more would work, but the system is coercing them into retirement and idleness. Perhaps most important, the earnings cap is a serious threat to the welfare of low-income senior citizens.

Once the earnings cap has been met, a person with a job providing just $5 an hour would find the after-tax value of that wage dropping to only $2.20.

A person with no private pension or liquid investments—which, by the way, are not counted as earnings—from his or her working years may need to work in order to meet the most basic expenses, such as shelter and food.

Let me emphasize that point. Poor seniors who are forced to work to make ends meet are being penalized, while wealthy seniors with millions of dollars in liquid investments are paying no extra to taxes. Again, we are making it harder for the poor and easier for the wealthiest.

I say to my friend from New York, if we are going to be fair and not repeal the earnings test that applies to working seniors, many of whom are working at minimum wage, then why should we not apply the earnings test to those who are worth millions and have them in liquid assets and other funds that earn income for them without them having to work? I think that is really one of the fundamental unfair aspects of the Social Security earnings test.

If it were not for my visceral and emotional opposition to increasing taxes, I would propose that as an amendment, frankly.

The U.S. Chamber of Commerce, which strongly supports this legislation, has pointed out retraining older workers already is a priority in labor-intensive industries and will become even more critical as we approach the year 2000.

This legislation is strongly supported by several of our Nation's largest seniors organizations: National Committee to Preserve Social Security and Medicare, Seniors Coalition, National Alliance of Senior Citizens, Retired Officers Association, National Association of Retired Federal Employees, and many others.

Mr. President, let me quote some of our Nation's newspapers.

The New York Times says:

> * * * it is not wrong to encourage willing older adults to remain in the work force.

The Orange County Register says:

> Indeed, repealing the tax might actually increase revenues. More people would be

working, paying more taxes of all kinds, including the Social Security tax. If our government bureaucrats wants us to keep paying their salaries, the least they can do is make it possible to work in the first place.

The Houston Post says:

> Equity and common sense demand that this disincentive to work be scrapped.

The Cincinnati Enquirer says:

> No American should be discouraged from working, as long as he wants to and is physically able to do so.

The Indianapolis Star says:

> On the face of it, the game appears rigged in favor of those who stop working at 65 and against those who keep working, in favor of well-to-do retirees and against middle- and low-income retirees who need a part-time job to help with expenses.

Forbes:

> Moreover, people are living longer; the economy is hurt when artificial barriers block the full use of our most productive asset, people.

The Detroit News says:

> Work is important to many of the elderly, who are living longer. They shouldn't be faced with a confiscatory tax for remaining productive.

Chicago Tribune says:

> The skill and expertise of the elderly could be used to train future workers, while bringing in more tax dollars and helping America stay competitive in the 21st century.

From the Los Angeles Times:

> As the senior population expands and the younger population shrinks in the decades ahead, there will be an increasing need to encourage older workers to stay on the job to maintain the nation's productivity.

The Baltimore Sun says:

> The Social Security landscape is littered with a great irony: While the program is built on the strength of the work ethnic, its earning test actually provides a disincentive to work * * *. One consequence of this skewed policy is the emergence of a gray, underground economy—a cadre of senior citizens forced to work for extremely low wages or with no benefits in exchange for being paid under the table.

The Dallas Morning News says:

> Both individual citizens and society as a whole would benefit from a repeal of the law that limits what Social Security recipients may earn before their benefits are reduced.

The San Diego Tribune says:

> The benefit-reaction law made some economic sense when Social Security was established in the 1930s and the government wanted to encourage the elderly to leave the labor force and open up jobs for younger workers. But with declining birth rates and the nation's need for more, not fewer, experienced workers, the measure is bad for the nation as well as its older workers.

Practically every leading newspaper in America has editorialized in favor of the repeal of this onerous tax.

Again, many seniors are in the work force not because they want to be but because they have to be. For those who are low-income people, an onerous tax like this, that takes so much of their working income, reduces them well below the minimum wage. I think is an injustice that needs to be repealed and needs to be repealed soon.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Madam President, I rise in the spirit of openness to the thoughts that the Senator from Arizona has brought forth with singular civility and a sense of changes over time that require changes in policies.

A good case can be made for what the Senator now says. In the last Congress, I had a bill which very considerably—almost abolished the earnings test but compensated for it by a more realistic level of taxation of benefits. The idea that benefits should not be taxed was just a random decision in the Treasury Department in 1940, I believe, at a time when there were about 30 people in the country receiving retirement benefits.

I think the Senator is absolutely right that the earnings test has been there since 1935 and, almost certainly, it was intended to discourage work after retirement age. The notion was that unemployment was our central problem. This was, after all, legislation in 1935.

In the 1983 amendments, we did make changes here. We took the benefit reduction from $1 for every $2 earned above the limit to $1 for every $3. I would point out what is not always known, that this earnings test applies for 5 years after retirement: 65, 66, 67, 68, 69. After that, there is none, and after that, there is a bonus. There is an increase in the benefit for persons who had their benefits decreased during that 5-year period.

Pretty soon, now, that will represent an increase in what you receive of 8 percent per year of delayed retirement. It is actuarially a wash. In the end, recipients receive as much with the earnings test and the bonus as they would with no earnings test and no bonus.

I have an increasingly strong view, if not necessarily a sound one, which is, if people find something inexplicable, if it seems unjust, if it seems irrational, then do not do it. Even though the best actuaries, the theories of social insurance and so forth, may proclaim that this is a correct path.

We have two persons in Washington, still, who are very much involved in the founding of Social Security. It is rather amazing.

Robert Myers, who was the executive director of our 1983 commission, came from the University of Iowa to help Edwin Witte in 1934. He is still very active, very much involved. He would like to get rid of this. He may not have liked it in 1935. I do not know. I have not asked. Robert Ball, who was Social Security Commissioner for so many years, would like to keep it.

I must say that I think it is time to inquire into the matter. The Senator from Arizona makes a very good point that there are certain sort of low-stress jobs, such as he described, which retired persons will find agreeable and interesting and they get paid and they have that much more money. To say you get paid less now, but live on until you are 70 and you will be happy because you will get more then, well, that does not very much accord with the day-to-day experience we have: I would like to know what I get at the end of the week.

I would like to say right here now that I would be happy to have hearings on this. I have hoped against hope that we would see a revived Social Security Administration that would take on these subjects and give us views of its own, survey 10,000 employers and 100,000 recipients—42 million persons receive benefits—and give us some thoughts. We get no thoughts. The agency has been brain dead in a policy sense for 15 years. In 17 years, we have had 12 commissioners or acting commissioners. The job has just been empty for 1 year.

A majority of the nonretired Americans do not think they will get Social Security. More and more we hear talk about, I would even say without meaning to give offense, when you say that persons with high retirement incomes from private stock, private retirement plans, maybe they should be treated the same way or their taxes increased, but you do not like to increase taxes. Nobody does. We sometimes do. That goes up against the proposition that a retirement benefit is an earned right. You do not ever want to take away the fact that Social Security is an earned benefit from a contributory system. And if you ever start saying, "Well, you don't need it as much as that fellow, so you will not get as much," you are on your way to welfare.

One of the reasons Social Security is successful is that people say, "Well, I earned this; it's my money," and they are right.

For the first 40, 50 years, they were not quite right. They were getting a much higher return than their actual contributions would ordain. But that is the case with the early years of any social insurance system. Soon enough you are going to get back what you put in, but have the advantage of an insurance system. No small advantage.

It makes no actuarial difference whether we have this earnings test with a bonus that follows as against having neither. I am more than happy to say maybe it is time to reconsider this. I cannot but think it has its origins in the notion of keeping people out of the work force, which we have no interest in doing at this time.

I will hold those hearings, and I will ask the Senator to come. It is also time for dealing with the issue of the notch. We have a Commission which, again, the administration took a year—they still have not filled the Presidential appointments for the Notch Commission. They do not see this as urgent. There are 7 million people out there, the actuaries say to us, who are in no way disadvantaged, but who think they are. That is reality, and there are national organizations created to encourage that thought.

Mr. Myers suggested to us when he saw this notch develop, which came out of a miscalculation of the 1972 amendments, he tried to get someone in the Social Security Administration to pay attention to it in the early eighties and he could not. They were not paying enough attention to any of these things. I think we should address them all. We are not going to do it in this Congress. We surely can and should in the next.

But for the moment, it is my responsibility to tell you that your amendment would cost $26.4 billion. The adoption and enactment into law of the pending McCain amendment, Madam President, would provide for Social Security outlays by $26.4 billion in excess of the appropriate allocation of Social Security outlays to the Committee on Finance for the 5-year period of fiscal years 1994 through 1998 under the concurrent resolution on the budget.

Consequentially, consideration of the amendment violates section 302(f)(2) of the Congressional Budget Act of 1974. So, Madam President, I raise a point of order that the pending McCain amendment violates sections 302(f)(2) of the Congressional Budget Act of 1974.

Mr. MCCAIN. Point of order, is it not appropriate after the expiration of all time——

Mr. MOYNIHAN. That is correct. The Senator wants to speak further. Forgive me. He reserved some of his time.

Madam President, I withdraw the point of order I made.

The PRESIDING OFFICER. The Senator withdraws his point of order.

Mr. MCCAIN. Madam President, I thank my friend from New York. I am pleased to know of his commitment not only to address the earnings test issue, which I fully anticipate him moving a point of order against—and I will be asking for a motion to waive the point of order with the yeas and nays at the appropriate time—but I am pleased that he is supportive of hearings on this issue.

I am also pleased to note his support of the issue of the notch babies. Perception is reality, reality is perception, as he stated, and there are millions of seniors out in America today who are convinced that they are being deprived of their benefits. For all the rhetoric that he and I could have on this floor, you are not going to convince them otherwise. That is why I agree with the distinguished chairman that hearings must be held on this issue so that we can address the issue. I am not sure I know any answers, but I do not know any other way to address the issue except through hearings under the appropriate committee and, clearly, that is the Finance Committee and its able chairman, Senator MOYNIHAN.

Let me just point out to my friend from New York—and I know he knows this—that you can run a model that takes away the revenues that are now going into the Social Security trust fund by saying that the moneys now that are penalizing seniors when they work is not going to flow into the Treasury. That clearly does not take into account the hundreds of thousands, even millions, of seniors who want to work and feel constrained from doing so because of the present onerous task which is laid on them when they make over $10,000 a year.

Mr. MOYNIHAN. I would like to agree. We are a static model.

Mr. MCCAIN. Madam President, let me point out, one demonstration of the burden of the earnings test is that so many of the seniors are making roughly $10,000 a year because they stop working at the level where the earnings test penalty kicks in. It is readily apparent that seniors would be working much more often, and my evidence, although anecdotal, is widespread.

I have received thousands of letters—thousands of letters—from seniors who have seen me debate this issue in this Chamber who say, "I want to work, but I cannot work when I am making $2.20 an hour in real terms because of the earnings test." I hope these seniors will continue to contact me and their own Senators.

I am pleased the Senator from New York appreciates that someone who is aged 65 cannot just be told: "Look, just wait until you are 70 and then everything is going to be OK"—I am not at that age yet, but it is not clear to me that I will be around in order to enjoy those benefits, so I am glad he is appreciative of the less than salutary aspects of the bonus system that kicks in 5 years after you reach age 65.

So I will continue to press this issue and I am pleased that the Senator from New York recognizes that there is a problem in this area. I do not think we are that dramatically far apart. I hope we could address it as rapidly as possible.

Madam President, I would like to reserve the remainder of my time.

Mr. GORTON. Mr. President, today I rise in support of the amendment offered by my distinguished colleague from Arizona to repeal the Social Security earnings test for working seniors who have reached the age of 65.

This legislation is long overdue and is essential to bring a sense of fairness to the working seniors of our country. Currently, seniors who work are subject to benefit reductions if their wages exceed a certain limit. For 1993, this limit is set at $7,680 for those seniors under the age of 65 and $10,560 for those seniors aged 65 to 69. This limit will be slightly increased in 1994 to $8,040 for those under the age of 65 and $11,160 for those aged 65 to 69. Because of these limits, working seniors can lose $1 of benefits for every $3 they earn over the limit. This translates into a 33⅓ percent tax on benefits lumped on top of all the other taxes seniors pay. This tax treatment is preposterous.

Working seniors are among the most heavily taxed of all Americans. I have heard from countless seniors from my home State of Washington who have expressed their frustration with the earnings test. Seniors from Spokane to Seattle to Grays Harbor tell me that the Social Security earnings test unfairly discriminates against them and presents a disincentive to work.

Seniors should not be penalized simply because they choose to join America's work force. It is ironic that our country purports to encourage productivity, yet maintains a Social Security system which discourages seniors from working by taking away a disproportionate share of their benefits. No American should be deterred from working, especially when he or she can make a significant contribution to society.

Seniors are among the most highly trained and skilled workers in our economy. We can hardly afford to throw away their expertise and experience simply because of an unjust and unfair provision in our Social Security laws. The Social Security earnings test is bad public policy. This law must be changed and it must be changed now.

That is why I am cosponsoring this amendment. I urge my fellow Senators to vote for this amendment to bring some measure of equity to our working seniors.

Mr. MCCAIN. The Senator from Texas, I might say to my friend from New York, is in the Chamber to try to respond to comments to the amendment he has pending that was set aside. And so I would ask unanimous consent to set aside my amendment and allow him to speak for up to——

Mr. GRAMM. Five, 7, 9 minutes.

Mr. MCCAIN. Seven minutes. Is that agreeable to the Senator from New York?

Mr. MOYNIHAN. Surely. I think that will work.

Does the Senator from Arizona want to speak a little bit, continue on? We can just finish up our matter here, and then the Senator can have all the time he wants between now and——

Mr. MCCAIN. 9 o'clock.

Mr. MOYNIHAN. He uses 15 minute discourses, and you have to indulge that.

Madam President, does the Senator from Arizona yield back?

Mr. MCCAIN. Yes; I yield back the remainder of my time.

Mr. MOYNIHAN. I yield back the remainder of my time.

Having said that, Mr. President, adoption and enactment into law of the pending McCain amendment would provide for Social Security outlays by $26.4 billion in excess of the appropriate allocation of Social Security outlays to the Committee on Finance for the 5-year period of fiscal years 1994 through 1998 under the concurrent resolution on the budget. Consequently, consideration of the amendment violates section 302(f)(2) of the Congressional Budget Act of 1974.

Madam President, accordingly, I raise a point of order that the pending McCAIN amendment violates section 302(f)(2) of the Congressional Budget Act.

Mr. McCAIN. Madam President, I ask the appropriate section of the Budget Act be waived, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Madam President, I ask unanimous consent that the vote take place in order following the vote on the Gramm amendment as was agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. MOYNIHAN. After the disposition of the Gramm amendment. Yes.

Madam President, I yield the floor. May I just say to the Senator from Texas, it was in good humor that I suggested he had been trained in a 15-minute discourse, but there are 15 minutes remaining and assuming that no other Senator wishes the floor, I simply suggest he speak as long as he wishes; the hour of 9 will be the cutoff period.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The Senator from Texas.

Mr. GRAMM. I thank my dear colleague. I think it was 50 minutes on Monday, Wednesday, and Friday, and an hour and 15 minutes on Tuesday and Thursday, of course, referring to our old days as college professors when the students were smarter than those we teach today.

Madam President, Senator BYRD, the distinguished Senator from West Virginia, the chairman of the Appropriations Committee, spoke on my pending amendment, and I would like to go back to that amendment and try to redefine it, since it has to be confusing tonight to anybody trying to follow the debate, because we are debating three amendments at the same time. I would like to redefine the issue and then respond to the distinguished chairman of the Appropriations Committee, the Senator from West Virginia [Mr. BYRD].

Madam President, I offered an amendment to bank the money that was saved when the House of Representatives killed the superconducting super collider.

As my colleagues will recall, we had a very passionate, heated debate about the SSC. The SSC, of course, was the world's largest and most significant scientific project undertaken anywhere in the world in the last quarter of the 20th century. We had in fact paid for one-third of the project. Its construction was obviously well underway. But when Members of the Senate and in even greater numbers Members of the House rose to speak, they said we have a deficit problem and we should kill the SSC to reduce the deficit.

The distinguished Senator from West Virginia tonight talks about tight budgets, talks about the needs of other programs. But, Madam President, not one single Member of the House or Senate, when we debated the SSC, said kill the SSC to fund more social programs. Not one Member of the House or the Senate that I am aware of said kill the SSC in case we have a flood or a hurricane or an earthquake. Everybody who spoke against the SSC said kill the SSC so that we can reduce the deficit.

Now, Madam President, in the Senate we decided not to do that because we had built a third of it, and we basically made a collective decision it did not make any sense. The House decided to kill the SSC, and today for all practical purposes the project is dead.

According to the Department of Energy, we are looking at $1,170,000,000 to simply shut down the SSC, settle lawsuits with contractors, and settle a lawsuit with the State of Texas, which has put $500 million into this project, but the House of Representatives decided that it was worth paying penalties and shutdown costs of $1,170,000,000 to kill the SSC, all in the name of deficit reduction.

What I have done tonight is send an amendment to be considered which would do what every opponent of the SSC said they wanted to do. Every single opponent of the SSC said they wanted to kill the SSC to use the money to reduce the deficit.

I have taken what we were going to spend on the SSC over the next 4 years and have taken the Department of Energy estimates for the shutdown and termination costs and lawsuits. I have subtracted the shutdown cost from the projected spending and have sent an amendment forward asking us to bank $2.2 billion of deficit reduction by lowering the spending caps to assure that none of the money which would be left over after we have paid the termination costs on the SSC will be spent for any purpose other than deficit reduction.

Madam President, the distinguished Senator from West Virginia, perhaps the most respected Member of this body, has said tonight, well, we have tight budgets. He even posed the question: What if we had a hurricane or what if we had earthquakes in Texas?

Madam President, if we have hurricanes, we are going to do exactly what we did with the hurricane that occurred in South Carolina and the hurricane that occurred in Hawaii and the earthquake that occurred in California. We are going to declare it an emergency and waive the Budget Act.

The point is, unless we bank these savings, hard-won savings from the costs imposed on the American taxpayer and on science and on the future of America, unless we guarantee that the money saved from killing the SSC will go to deficit reduction, it will not be available for these other purposes anyway. It will be spent.

Madam President, the real issue on this amendment is, do our words mean anything? Does it mean anything when a Member of Congress stands up and says "let's kill a project to reduce the deficit." If we reject this amendment, their words are hollow. They mean absolutely nothing.

I remind my colleagues, these are not free savings. In order to save $2.2 billion, we are going to pay termination costs of over $1 billion. Now, if our colleagues had stood up and said let us pay termination costs of $1 billion so that we can spend $2 billion on social programs, my guess is not 20 Members of the Senate and not 100 Members of the House would have voted to kill the SSC. But that is not the argument they made.

The argument they made was: Let us kill the SSC to reduce the deficit. The Nation has a deficit problem, and by killing the SSC we can reduce the deficit.

Unless we go back and change the budget spending caps to assure that this money will not be spent on anything else, every penny of it will be spent on something else, and the deficit will not be one nickel lower than it would have been had we not killed the SSC.

Finally, Madam President, this is not a new concept. The Senator from Arkansas offered a similar provision when he offered an amendment to kill the space station. Senator DORGAN earlier tonight offered a similar provision as a way of banking savings that could then be used to pay for an elimination of the retroactive tax. This is a provision that we are all familiar with, and this is basically an honesty-in-debate provision. If we are going to reject this amendment on the argument that we may want to spend this money somewhere else, then the words we say in debate mean absolutely nothing.

I believed my colleagues in the House when they said they wanted to kill the SSC to reduce the deficit. I thought it made no sense given the project was one-third complete. But they made that decision; I did not make it. All I am trying to do is see that the Congress lives up to what it says.

So this amendment basically is an honesty-in-debate amendment, and it is a way of guaranteeing that when we said we were going to use the money for deficit reduction we meant it. We do have tight budgets. We also spend a lot of money. We killed a very important scientific project. We are going to pay $1 billion to simply pay off contractors and settle lawsuits. Will that mean anything unless we apply the savings to deficit reduction? I say no.

So I urge my colleagues to accept this amendment. A point of order will be made by the distinguished Senator from West Virginia. But I remind my colleagues that the point of order does not lie against this amendment because this amendment will bust the budget. In fact, this amendment will lower the deficit by $2 billion. The point of order lies against the amendment because we are changing the Budget Act without going through the Budget Committee.

I would argue, Madam President, that this is simply a matter of mechanism that when the SSC was killed, the American people had every right to expect that the money was going to go to deficit reduction. All this amendment does is assure that in fact that will be the case.

So I urge my colleagues to vote to waive the point of order that will be raised by our dear colleague from West Virginia so that we can say in all honesty that the debate about the SSC was a debate about deficit reduction; it was not a debate about reducing investment in the next generation so that we can invest in the next election.

If we kill the SSC and we do not bank the money and we do not reduce the deficit, what we have in fact done is killed science, killed an investment in the next generation to invest in some project that has a bigger return in the next election.

That is not what we said we would do. And I hope we will not do it.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. The distinguished Senator from Texas, the author of the amendment, says that the purpose of the amendment is to assure that Congress lives up to what it says. Is that about right?

Mr. GRAMM. That is exactly right.

Mr. BYRD. Madam President, that is exactly what I am interested in doing, precisely. I want Congress to live up to what it has said. And what has it said? When Congress enacted the budget resolution, here is what it said. It said that for 1994, Congress would have $501 billion in discretionary budget authority; for 1995, it would have $506.3 billion; for 1996, it would have $519.1 billion; for 1997, $528.1 billion, and for 1998, $530.6 billion.

We all voted on that. That resolution was debated. There were hearings held on it in the Budget Committee. There was a markup in the Budget Committee. It was brought to the floor. It was debated. We voted on it. The House voted on a budget resolution. And the two Houses came together, and these are the final figures. That is exactly what I want Congress to do. I want it to live up to what it says.

It gave the Appropriations Committees of the two Houses the figures that I have already enumerated here. And those figures include not just domestic discretionary spending, but under discretionary budget authority; that is defense, and it is foreign operations, as well as domestic. That is all we have. That is the whole kit and caboodle. We cannot have one additional dollar.

As I indicated earlier, that budget resolution which allows us the figures, the amounts that I have enumerated, are as compared to the CBO March baseline—in other words, as compared to what those figures would be if inflation were taken into account—$224.5 billion under inflation for the 5 years.

What we are allowed in budget authority under the budget resolution is $59.7 billion under the President's request, and for the 5 years, $100 million over a hard freeze for the entire 5 years.

So we are hurting, and we are hurting for moneys that are needed for justifiable programs for every State in the Union—education, forests, parks, roads, bridges, environmental needs, you name it. The Appropriations Committee has already been quartered and placed on the rack and hanged. That is all we have. Now my distinguished friend is trying to ratchet that figure down.

I say to my friend, I voted with him. I voted to continue this monstrosity. I plead guilty. So the Senator cannot look at this Senator and say, "Oh, you promised, you promised to put this money back in the budget." I did no such thing.

So, Madam President, the Senator has spoken the exact word by which we should be guided as we cast our votes; make Congress live up to what it says, what we all voted on, and what we agreed to in the budget resolution.

I thank the Chair and I thank the Senator.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Chair will remind Senators that the question occurs now on the motion to waive the Congressional Budget Act for consideration of the BROWN amendment No. 1086.

Mr. GRAMM. Madam President, I ask unanimous consent for 1 additional minute for each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Madam President, the distinguished chairman of the Appropriations Committee who is being stretched on the rack here by these tight budgets told us the facts when he said what numbers had been adopted in the budget resolution. But when we adopted that budget resolution, we had an ongoing project called the superconducting super collider. When we voted on that project and when it was killed in the Congress, those who voted against it did not say: Let us cut it to fund education. They did not say: Let us cut it to fund roads. They did not say: Let us cut it to fund bridges. They did not say: Let us cut it to fund environment. They said: Let us kill the SSC to reduce the deficit.

So what I am doing is simply offering an amendment to do exactly what we said we would do. Let me tell you why this is so critical. No amendment to kill any project or cut any project will have any meaning from this point forward if we reject this amendment.

There is one thing I will say about the Senator from Arkansas: In his amendment on the space station, he changed the spending caps. That is what I am trying to do here.

I thank the Chair.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I voted against the amendment offered by my able friend from Arkansas, Mr. BUMPERS, and I told him why. The reason is that he sought to reduce the caps. I would have voted to cut the space station funds if it had not had that tail tied on to it to reduce the caps. We are going to have more and more and more of these amendments. I hope the Senate will reject them more and more and more, each time.

I urge Senators to vote "no" on the motion to waive the point of order.

VOTE ON AMENDMENT NO. 1086

The PRESIDING OFFICER. The question now occurs on the Brown amendment, No. 1086.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Colorado [Mr. CAMPBELL], is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from New York [Mr. D'AMATO], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Vermont [Mr. JEFFORDS], are necessarily absent.

I further announce that, if present and voting, the Senator from New York [Mr. D'AMATO] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—52

Bennett
Bingaman
Boren
Brown
Bryan
Burns
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
Danforth
Dole
Domenici
Dorgan
Exon
Faircloth
Glenn
Gorton
Gramm
Grassley
Gregg

Hatch
Hatfield
Helms
Hutchison
Kassebaum
Kempthorne
Kerrey
Kohl
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Murkowski
Nickles
Packwood
Pressler
Reid
Sasser
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NAYS—43

Akaka
Baucus
Biden
Boxer
Bradley
Breaux
Bumpers
Byrd
Daschle
DeConcini
Dodd
Feingold
Feinstein
Ford
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mathews
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Riegle
Robb
Rockefeller
Roth
Sarbanes
Shelby
Wellstone
Wofford

NOT VOTING—5

Bond
Campbell
D'Amato
Durenberger
Jeffords

So the amendment (No. 1086) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROWN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

VOTE TO WAIVE BUDGET ACT ON AMENDMENT NO. 1087

Mr. GRAMM. Mr. President, I move to waive the appropriate sections of the Budget Act for consideration of my amendment numbered 1087, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act for consideration of amendment numbered 1087.

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Colorado [Mr. CAMPBELL] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Minnesota [Mr. DURENBERGER] are necessarily absent.

I further announce that, if present and voting, the Senator from New York [Mr. D'AMATO] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 58, nays 39, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—58

Baucus
Bennett
Bond
Bradley
Brown
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Conrad

Coverdell
Craig
Danforth
DeConcini
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Gorton
Graham
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Kerrey
Kohl
Lautenberg
Lott
Lugar
Mack
Mathews
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Robb
Roth
Sasser
Shelby
Simpson
Smith
Specter
Thurmond
Wallop
Warner
Wofford

NAYS—39

Akaka
Biden
Bingaman
Boren
Boxer
Breaux
Bryan
Byrd
Daschle
Dodd
Feinstein
Ford
Glenn
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Riegle
Rockefeller
Sarbanes
Simon
Stevens
Wellstone

NOT VOTING—3

Campbell
D'Amato
Durenberger

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained. The amendment falls.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE MOTION TO WAIVE THE BUDGET ACT ON AMENDMENT NO. 1088

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to waive the Congressional Budget Act for the consideration of the McCain amendment No. 1088.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Colorado [Mr. CAMPBELL] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Minnesota [Mr. DURENBERGER] are necessarily absent.

I further announce that, if present and voting, the Senator from New York [Mr. D'AMATO] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 51, as follows:

[Rollcall Vote No. 338 Leg.]

YEAS—46

Bennett
Bond
Brown
Bryan
Burns
Chafee
Coats
Cochran
Cohen
Craig
Danforth
DeConcini
Dole
Faircloth
Gorton
Gramm
Grassley
Gregg
Harkin
Hatch
Heflin

Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Shelby
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NAYS—51

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bumpers
Byrd
Conrad
Coverdell
Daschle
Dodd
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Hatfield
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Leahy
Levin
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Simpson
Wellstone

NOT VOTING—3

Campbell
D'Amato
Durenberger

The PRESIDING OFFICER (Mr. BRYAN). On this vote, the yeas are 46, and the nays are 51. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the amendment No. 1088 falls.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIGIOUS FREEDOM RESTORATION ACT

Mr. CHAFEE. I am pleased that the Senate today considers the Religious Freedom Restoration Act, introduced by my colleagues Senator KENNEDY and Senator HATCH. If approved, this important legislation will restore the standard by which laws that burden one's free exercise of religion are judged; and as a nation whose beginnings are founded in great part on the principle of religious liberty, that standard is important indeed.

The case before the Supreme Court that caused a disruption in the established jurisprudence on the exercise of religion was that of Employment Division, Oregon Department of Human Resources versus Smith et al. It involved two Oregon men, fired from their jobs for ingesting peyote as part of a Native

American religious ceremony, who sought to receive unemployment compensation but were disqualified on the grounds that under Oregon State law, their actions constituted misconduct. The question that eventually came before the Supreme Court was not so much the actions of these two men, but whether or not the Oregon law banning peyote regardless of use, violated the Constitution's free exercise of religion clause. Both Justice Scalia, who wrote the 1990 opinion, and Justice O'Connor, who wrote a partial dissent, found that the peyote ban did not violate the free exercise clause. However, the standards they used to reach the same conclusion were completely different; and that is what this proposed legislation addresses.

Justice Scalia argued that neutral and generally applicable laws—such as the Oregon law—that aren't specifically directed at acts taken while practicing a religion, and that just happen to burden the free exercise of religion in the course of their general application, do not violate the Free Exercise clause. According to Scalia, as long as the law meets the test of being neutral, and generally applicable, it may be safe from first amendment challenge. Only laws that specifically seek to ban religious acts would automatically be unconstitutional.

Justice O'Connor strongly disagreed with this analysis, saying that it "dramatically departs from well-settled First Amendment jurisprudence, appears unnecessary to resolve the question presented, and is incompatible with our Nation's fundamental commitment to individual liberty." O'Connor took issue with Scalia's contention that a law need only be neutral and "generally applicable" to be exempt from first amendment challenge. She argued that instead, the first amendment requires a case-by-case determination of the merits of each particular claim. O'Connor pointed out that the Court always has asked the government to demonstrate that not providing an exemption is "essential to accomplish an overriding governmental interest," or represents "the least restrictive means of achieving some compelling State interest."

The bill before the Senate today would, as O'Connor would say, restore the vitality of the first amendment by reinstating the "compelling government interest test" for laws that burden—willfully or inadvertently—religious acts.

This may sound dry and technical, but it is not. Ensuring that each American has the right to exercise his or her religious beliefs goes straight to the heart of what this Nation is all about, and as I mentioned, is one of the core principles upon which this Nation was founded. Without Congress acting to restore the compelling government interest standard, the neutral, generally applicable standard set by the 1990 Oregon case will continue to prevail. And that 1990 standard has caused considerable harm.

One case directly affected by the 1990 Oregon case took place in my State of Rhode Island, and involved the Yangs, a Hmong family in Providence. Neng Yang was admitted to RI Hospital for an unknown illness and died 1 week later. For religious reasons, the family asked that no autopsy be performed; and the doctors pledged that that request would be honored. I want to note that this request is of great important to those who are Hmong, for if Hmong cultural rites and traditions are not followed, the surviving family is believed to be cursed. But at the funeral home, when the Yangs went to carry out the traditional cultural dressing of the body, they were upset to find that an autopsy had in fact been performed.

The Yangs protested in court, and in January of 1990, U.S. District Court Judge Raymond Pettine ruled in their favor. In light of the Oregon case, however, in November Judge Pettine, with deep regret, recalled his original decision and reversed his ruling, agreeing with Justice Brennan that in the Oregon case, the Majority's decision "effectuates a wholesale overturning of settled law concerning the religion clauses of our Constitution."

Clearly the Yang family's religious beliefs were violated. But without congressional action to restore the pre-1990 standard, they and many, many others like them are and will remain helpless to prevent similar violations. If the 1990 standard stands untouched, Rhode Islanders and other Americans who are religious—be they Catholic, Moslem, Quaker, or Buddhist—may find themselves subject someday to apparently neutral government restrictions that nonetheless impair their ability to practice their religion.

Religious freedom has deep roots in my State, and in this Nation. It was to the members of the Touro Synagogue in Newport, R.I., that George Washington wrote his now-famous thank you letter, in which he affirmed that "happily, the Government of the United States * * * gives to bigotry no sanction [and] to persecution no assistance"—a direct reference to religious liberty, and at the time, words of reassurance to a Hebrew congregation uncertain of States' intentions on religious freedom.

And the ultimate pledge of protection from religious persecution was incorporated as part of the very first amendment to our Constitution: "Congress shall make no law respecting an establishment of religion, or the free exercise thereof * * *."

Mr. President, the legislation before the Senate today is critical to reaffirm this Nation's historical commitment to the religious freedom of its citizens. Similar legislation already has been approved by the House of Representatives; with decisive action today, the Senate can put this measure well on its way to becoming law. I urge our speedy action.

NATIONAL UNFUNDED MANDATES DAY

Mr. MACK. Mr. President, the arguments that are being made here today in opposition to unfunded Federal mandates need to be heard by all in Congress.

Our States and cities are being suffocated by these mandates. They not only force State and local tax increases on Americans increasingly unable to shoulder them, but they also limit local flexibility to respond to local priorities.

I have always been a strong supporter of both repealing mandates and stopping their proliferation. In fact, I sponsored the principal legislation in the previous Congress that would stop unfunded mandates.

I am therefore very pleased to see this effort here today—an effort that will indeed broaden the understanding of the detrimental effects of unfunded mandates. And I hope that we will have a chance to vote to limit unfunded Federal mandates before the year is out.

AMENDMENT NO. 1084, AS MODIFIED

Mr. MACK. Mr. President, I want to explain my vote against waiving the Budget Act for consideration of the amendment of the Senator from Arkansas.

This amendment would repeal the retroactive taxes passed in the recent reconciliation bill, and offset the revenue effects with elimination of the space station. I voted against waiving the Budget Act, which was, in effect, a vote against the amendment.

I did so despite my strong desire to get rid of the retroactive income and estate taxes. These taxes will not only punish the economy, they are fundamentally unfair. We ought to get rid of them just as soon as possible.

But trying to do so on this bill, and by tying it to elimination of the space station, both distorts the priorities of the American people and presents a false choice to them.

S. 578

Mr. HELMS. Mr. President, I believe my credentials are intact regarding my record of support for the religious liberties envisioned by our Founding Fathers. This Nation was created by men and women convinced that the right to observe one's faith, free from the heavy hand of Government, is the most cherished of individual freedoms.

Having said that, I am obliged to observe that the Religious Freedom Restoration Act (S. 578) purports to strengthen the religious protections afforded by the Constitution. In fact, with a name like the Religious Freedom Restoration Act how can anyone vote against it. Unfortunately, around this place you learn quickly that catchy names on bills do not tell what Paul Harvey calls "the rest of the story".

Mr. President, the Religious Freedom Restoration Act has less to do with our legal and historical notions of religious liberties than it does with the creation of new rights and employment opportunities for the Nation's lawyers. This legislation when enacted will make it easier for litigants with many different and singular religious beliefs to attack, virtually all State and Federal laws that somehow burden acts that individuals engage in as part of their religious practice.

Mark my words, once again the courthouse doors are about to fly open as thousands will demand protection for religious practices as varied as the use of hallucinogenic drugs and animal sacrifice. Senator SIMPSON said it well last night:

> We must always be mindful that we are not concerned in any way here with the Supreme Court ruling addressing restrictions or regulation of beliefs. We are talking about acts. That is the crucial distinction that was missed in the Judiciary Committee, and it was obviously missed on this floor in many other issues raised by this legislation.

I am particularly concerned that legislation designed to promote, the free exercise of religion, will create another series of legal rights to countermand generally applicable criminal law across the country and undermine otherwise reasonable restrictions on the behavior of those who are incarcerated in the Nation's prison systems.

Mr. President, earlier this year I received a package of information on this act from the North Carolina Department of Justice along with letters opposing this bill from three former directors of the Federal Bureau of Prisons, 20 state attorneys general and the directors of 48 State prison systems.

The North Carolina attorney general, summarizing the concerns of his colleagues on the front line of fighting crime, argues that the bill, as written, will have a detrimental impact on the administration of local, State, and Federal correctional facilities.

Last year 49,939 civil cases were brought by prisoners in the Federal prison system alone. More cases were filed by prisoners against the government than the government filed cases against criminals.

My reading of this legislation leads to the conclusion that inmates will be provided much greater latitude to assault legitimate prison authority, by masking disobedience under the guise of special privileges for religious observation. The recent tragedy in the Lucasville, OH, is a case in point. There, members of the Fruit of Islam, a radical Moslem group, demanded as a condition for hostage release, an exemption from regulations requiring testing for tuberculosis, asserting religious rights, even though such testing is required to prevent the spread of disease among the closely quartered prison population. Five people died as a result of that incident.

In other prisons, inmates associated with the Aryan Nations, Yaweh Ben Yaweh, the Klan, and Louis Farrakahn are suing to force authorities to distribute racist and anti-Semitic publications to the prison population in the name of free exercise of religion. Inmates are also suing for special clothing and eating privileges. As a result of a prisoner lawsuit, one State court has even recognized as a religion a group called the Church of the New Song which demands steak and wine for its religious practice every Friday.

Under S. 578, prison authorities would have a hard time justifying a refusal of such requests because prison regulations will now be placed under the compelling State interest test that permits courts to second guess prison administration in almost every area of prison discipline. The act as currently written would overrule the three-part test for evaluation of prison regulations which allegedly infringe on the constitutional rights of prisoners, established in *Turner* v. *Safley*, 482 U.S. 76 (1987), *O'Lone* v. *Estate of Shabazz*, 482 U.S. 340 (1987), and *Thornburgh* v. *Abbott*, 490 U.S. 401 (1989).

Under the test, prison regulations which impact on the exercise of first amendment rights pass muster if they are "reasonably related to legitimate penological interests." In an effort to balance the interests of prison safety and individual rights, the test requires a rational connection between prison regulation and the legitimate governmental interest. In other words does the individual assertion of first amendment rights have a detrimental impact on the prison staff, other inmates, and the allocation of prison resources.

Mr. President, I am not challenging the right to worship for those in the prison population. Nowhere is the need for religion more apparent than in the prisons. Religious freedom is important as long as you do not force the State and Federal systems to go bankrupt answering frivolous claims and accommodating phony religions.

Due to the closed and often dangerous nature of prison society, the reasonably related test seems appropriate to regulate prison religious practices. Civilian standards of justice and safety don't apply in the volatile prison setting and we should not be a party to the breakdown of order and discipline in the penal system, because too many lives are at stake.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following be the only first-degree amendments remaining in order to this bill, and that they be subject to relevant second-degree amendments, and that no motion to recommit be in order.

The amendments are an amendment by Senator COVERDELL regarding unfunded mandates; an amendment by Senator GRAMM of Texas regarding a Federal employment cap; an amendment by Senator GRAMM of Texas regarding national performance review; an amendment by Senator MURKOWSKI regarding worker profiling; an amendment by Senator NICKLES creating a point of order relating to retroactivity; an amendment by Senator LOTT that is relevant; an amendment by Senator DOLE that is relevant; an amendment by Senator METZENBAUM that is relevant; another amendment by Senator METZENBAUM that is relevant; an amendment by Senator MOYNIHAN that is relevant; an amendment by Senator MITCHELL that is relevant; and an amendment by Senator MACK regarding spending cuts.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1089

(Purpose: To prohibit the consideration of any retroactive tax increase unless three-fifths of all Senators duly chosen and sworn waive the prohibition by rollcall vote)

Mr. SIMPSON. Mr. President, on behalf of Senators NICKLES and SHELBY, I send to the desk the amendment which we will proceed to address tomorrow in accordance with the unanimous consent agreement, and I ask that it be read.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. NICKLES, for himself and Mr. SHELBY, proposes an amendment numbered 1089.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following:

SEC. . RETROACTIVE TAX INCREASES IN THE SENATE.

(a) GENERAL RULE.—It shall not be in order in the Senate to consider any material in any bill, joint resolution, amendment, motion, conference report, or amendment between the Houses that increases a tax retroactively.

(b) POINT OF ORDER.—Upon a point of order being made by any Senator against material in any bill or joint resolution, amendment, motion, conference report, or amendment between the Houses that increases a tax retroactively, and the point of order being sustained by the Chair, the part of such title or provision that increases a tax retroactively shall be deemed stricken from the measure and may not be offered as an amendment from the floor.

(c) TREATMENT OF CONFERENCE REPORT.—When the Senate is considering a conference report or an amendment between the Houses, upon—

(1) a point of order being made by any Senator against material that increases a tax retroactively; and

(2) such point of order being sustained,

such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for 2 hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(d) WAIVERS.—

(1) SUPER MAJORITY WAIVER.—Except as provided in paragraph (2), subsections (a), (b), and (c) may be waived only upon the affirmative vote of three-fifths of all Senators, duly chosen and sworn. Each part of a title or provision that increases a tax retroactively shall be subject to a point of order. No motion for a general waiver shall be entertained.

(2) WAIVER DURING TIME OF WAR OR MILITARY CONFLICT.—The Senate may waive the provisions of this section for any fiscal year in which a declaration of war is in effect. The provisions of this section may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House of Congress, which becomes law.

(e) DEFINITION.—For purposes of this section, the term "increases a tax retroactively" means a change in the Internal Revenue Code of 1986 that will result in an obligation to pay a larger tax and when such change is made effective prior to:

(1) the date when formal public notice is given regarding the effective date of such material by a committee or subcommittee of either House of Congress;

(2) the date of approval by either House of Congress; or

(3) the date of approval by a committee or subcommittee having jurisdiction over the material.

Mr. FORD. Mr. President, would the Senator yield for a question?

Mr. SIMPSON. Yes. Certainly.

Mr. FORD. This is an amendment that applies to the Rules Committee. I will be here to hopefully discuss this with my colleagues. I wonder. I have a hearing tomorrow. We have the nomination of the Public Printer, and we have three members of the Smithsonian Trustees. If I have to get somebody else or cancel the hearing, I will be glad to do it. But I want to alert my colleague that if there is some way we could work it out so I could hold my hearing and then debate this amendment, I want to do that. Otherwise, I want to alert my colleague to that.

Mr. SIMPSON. Mr. President, I am not aware of the nature or the substance of the debate, but certainly my friend from Kentucky, my colleague, the assistant leader—I am sure we will accommodate his schedule tomorrow to address this amendment. But I think in accordance with the leader's request, we got this before the body.

I thank my colleague.

PROGRAM

Mr. MITCHELL. Mr. President, I want to say for the information of all Senators that the Senate will remain in session tomorrow for as long as it takes to complete action on this bill. The Senate will not leave tomorrow, tomorrow night, Friday morning, whenever, until we complete action on this bill. All Senators should be aware of that. The Senate will remain in session continuously without interruption until final disposition of this bill tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE REFORM

Mr. GLENN. Mr. President, with President Clinton's transmittal to Congress of the Health Security Act of 1993 we begin the final push to develop a consensus on health care reform. And that is what this bill provides, an excellent concept, a starting place from which to build that consensus. Enactment of comprehensive legislation to ensure health coverage for all Americans will be an historic moment in our country. I predict it will happen during this 103d Congress thanks to the vision, leadership and hard work of President Bill Clinton and First Lady Hillary Rodham Clinton. I will continue to work with them and with my colleagues in the Senate to bring about much-needed reform of our health care system. Today, I am pleased to join as an original cosponsor of the President's Health Security Act.

During the past several years I have discussed healthcare with hundreds of people in my home State of Ohio and in Washington, DC. I have participated in formal hearings, visited health care facilities, and have heard from health care providers, consumers, insurers, and payers. These meetings have reinforced my view that the best medical care in the world is right here in our country, and that too many Americans cannot afford this care because they do not have health insurance or their insurance is inadequate. Workers who fear losing their health insurance, as well as the critical problem of over 37 million uninsured Americans, are a major driving force for health care reform.

I support President Clinton's efforts to ensure that all Americans have health insurance that is affordable, that covers a comprehensive set of benefits, and that cannot be lost when someone is ill or changes jobs. The Clinton plan would provide health security for all Americans by improving our current employment-based system of health insurance. Employers, the self-insured and unemployed individuals would join together in large regional purchasing groups called Health Alliances to buy insurance based on price and the quality of care provided by competing health plans. Federal subsidies would assist small employers with low-wage workers, and low-income individuals, purchase insurance.

Insurance laws would be changed so that all members of a Health Alliance would be charged the same price for the same health plan, no one could be denied insurance because of their health status, and no one could lose their insurance eligibility for any reason. And because each alliance would be required to offer several health plans, including health maintenance organizations [HMO's], provider networks and fee-for-service, consumers would have a wide choice of doctors and other providers. This would be an added benefit for many employees who currently have insurance but do not have a choice of health plans.

The Health Security Act also provides a new prescription drug benefit for Medicare beneficiaries, a home- and community-based care program for the elderly and disabled, and Federal assistance in providing retiree health benefits. As a member of the Senate Special Committee on Aging, I am well aware of the need for these important protections. Given our current Federal deficit, I will work to ensure that we have accurate information about the costs of these expanded Federal obligations and how we will pay for them.

Along with providing health insurance security for all Americans, the President's Health Security Act includes proposals to slow the growth in both public and private health expenditures. This would be done by ensuring that we pay only for the most appropriate, cost-effective care, with an emphasis on preventive care; and by eliminating unnecessary health spending due to administrative and paperwork burdens, our current malpractice, laws, and fraud and abuse. I look forward to a thorough examination of how best to develop and implement a national health budget without compromising the care health providers give to their patients or adversely impacting research and technology gains.

Even with successful cost containment, providing health care for all Americans and expanding benefits will be costly. Under the Health Security Act, individuals, families and employers would be asked to contribute to the cost of their health care through premiums, deductibles and copayments. Additional funding would come from savings in Medicare, Medicaid and other Federal programs, and from increased taxes on tobacco products.

There will be a great deal of debate about the cost of the President's Health Security Act, and I welcome this debate. I want to be sure we can pay for the benefits we are promising. However, I truly believe that what we cannot afford is to do nothing. That would be the biggest cost of all for our country. Health care today is one of the biggest taxes on our economy, and rising health care costs are a leading cause of our Nation's skyrocketing budget deficit. If we fail to act, health expenditures, estimated to be $930 billion, or 14 percent of gross domestic product [GDP], this year, will rise to $1.3 trillion, or 18.9 percent of GDP by the year 2000; and millions of Americans will still be uninsured or fearful of losing their health insurance.

President Clinton made health care reform a top priority in his administration, and he deserves a great deal of credit for presenting the Health Security Act as a detailed legislative proposal. I share his hope and his belief that future generations—our children and grandchildren—will find it inconceivable that in the past a person could be denied health care or could be bankrupted by an injury or illness because our Nation did not have a comprehensive health care system for all Americans.

I am committed to solving our Nation's health care crisis, and I look forward to the continuing debate on how best to provide and pay for health care for all Americans. The Health Security Act is an excellent starting point as we work together—the President, the Congress, the Governors, health care providers, insurers, employers, and the American people—to fashion a truly American system that will provide health security for all.

THE MANAGED COMPETITION ACT OF 1993

Mr. SIMPSON. Mr. President, the Conservative Democratic Forum [CDF] led by representatives JIM COOPER and MIKE ANDREWS introduced the Managed Competition Act of 1993 on October 6, 1993. This bill has bipartisan support in the House with 19 Republicans and 27 Democrats signed on as cosponsors. In addition, Senators JOHN BREAUX and DAVE DURENBERGER recently introduced the companion bill in the Senate These two bills contain many similarities with the Senate Republican bill and the administration's proposal.

For example, all of these plans would guarantee universal access to health insurance and subsidize individuals' purchases of coverage based on income. In addition, health plans would be required to offer coverage to everyone and would prohibit them from denying coverage for preexisting medical conditions.

The plans would promote competition among health plans by limiting the increases in health care spending and would establish a standardized benefits package to be offered by health plans. Regional purchasing groups would be established under all of these plans through which small businesses and individuals purchase insurance.

As is evident, the basis of all of these bills lies with managed competition. The area in which there is the most noted difference is in how the plans achieve cost savings within the health care system. The administration's plan uses Government control and regulation such as price controls while the CDF, Breaux, and GOP plans favor having the Government establish ground rules for allowing competition to exist among private health plans in the marketplace.

The basic idea surrounding increased competition in the marketplace is that health care remains a private market, but with enough Government intervention to create the kind of competition that will control costs and provide quality health care. Republicans and conservative Democrats believe that price controls and global budgets will make this much more difficult. We would rather focus on realigning incentives and reducing bureaucracy so that market competition can keep costs down.

A major difference between the Managed Competition Act and GOP plan is that the Managed Competition Act does not require an individual or an employer mandate to have or provide health care coverage. The GOP plan does contain a mandate on individuals that everyone must have health care coverage.

In addition, under the GOP plan, small businesses and individuals have the option to join purchasing groups—they are given cost incentives to join these groups, but they are not required to join to purchase health care coverage. Small businesses and individuals can still go outside of the purchasing group to obtain coverage. However, under the Managed Competition Act, all businesses with fewer than 100 employees must join a purchasing cooperative. States will have the flexibility to increase that number, as long as no more than half of all employees in a State purchase through the cooperative.

Another major difference between the GOP plan and the managed competition proposal is the issue of the tax cap. The CDF and Breaux/Durenberger bills only place the tax cap on the employer. The deductibility of health benefits for employers would be limited to the cost of the least expensive plan in the area offering the standard benefits plan. In addition, the President's plan only places a tax cap on the employer.

Under the GOP plan, a tax cap is placed on both employers and employees. Employers would only be able to deduct the cost of providing a certified health insurance premium up to the tax cap. Employer-provided health insurance premiums in excess of the tax cap would also be taxable to the employee as income. The tax cap is calculated as the average cost of the lowest priced one-third of the certified health plans offered in the purchasing cooperative area in which an individual lives or works.

The Senate Republican plan along with the CDF and Breaux-Durenberger proposals, despite their slight but notable differences, offer a good, solid, middle ground between creating a heavily regulated health care system and not making any changes to the system. These bills combine the best ideas found in Democratic and Republican initiatives and offer a rational place to start the negotiations surrounding health care reform.

We believe that the Republicans together with the conservative Democrats will be a formidable group in which to work with the Clinton administration. Our chief reform objective is not to throw out what is good in the system—while addressing the real problems confronting us. We are counting on this effort being a bipartisan—even a nonpartisan partnership for developing a health care reform plan that well give Americans security, savings, simplicity, choice, quality, and responsibility—all six principles set out by President Clinton.

JIM EISENREICH: A HERO IN LIFE AND BASEBALL

Mr. DURENBERGER. Mr. President, Ted Williams said that the most difficult feat in sport was to hit a round ball with a round bat. The people of St. Cloud, MN, are celebrating the World Series batting heroics of Stearns County native Jim Eisenreich of the Philadelphia Phillies. We are even more proud of the courage and determination he has shown overcoming Tourette's syndrome and establishing himself as one of baseball's premier hitters.

As his game-breaking home run cleared the right field fence in Toronto and landed almost 400 feet from home plate, it not only assured the Phillies victory in game 2 of the 1993 series. That homer showed the world that physical limitations are no match for the human spirit.

Like many people of few words, Jim Eisenreich makes his words and his deeds count. Sunday night he said, "I don't really like talking in front of everybody on TV. But I know I have a responsibility, so I'll get the message out." He then summed up his philosophy, which every one of us should take to heart: "Just do the best we can, while we can."

Whether it was St. Cloud's Beaudreau's Saints, or the National League Champion Phillies, Jim Eisenreich loves to play baseball. And that love, and the character which grew out of it, helped him persevere all the way back from near retirement to a place in World Series history.

No one cheered louder last Sunday night than the hundreds of kids with Tourette's syndrome whose lives have been personally touched by Jim Eisenreich. Millions more now know and understand Tourette's syndrome better than ever before.

Jim Eisenreich has given hope to many, and there is no greater gift a human being can give.

AMERICA'S SERVICE ACADEMIES: AN INVESTMENT IN AMERICA'S FUTURE

Mr. PRESSLER. Mr. President, as a member of the Board of Visitors of the U.S. Military Academy at West Point and the Coast Guard Academy, I recently have been very interested in reviewing faculty and curriculum issues at all of our service academies. While I do not serve now on the Board of Visitors to the Air Force Academy or the Naval Academy, I have served on them in the past. All of the academies face the same issues.

There is a movement at the academies to increase the number of civilian faculty members. This is nothing new to the Naval Academy, where civilians have comprised 50 percent of the faculty for a very long time. Even in the Naval Academy's earliest days, civilians were integrated into the education process. The Air Force Academy and West Point are in the early stages of phasing in civilian faculty to reach their goal of 25 percent civilians.

Civilianization of faculty allows more flexibility in hiring qualified teachers for our future military leaders. The pool of qualified military educators is somewhat limited, and there are many nonmilitary courses which can be taught more effectively by civilians. Since military instructors usually are rotated in and out in 3 to 4 years, civilian professors provide continuity in the educational program and provide a core of professional scholarship.

At the Naval Academy, there are currently 332 civilian faculty members and 285 military faculty. Nearly all of the civilians have Ph.D.'s, and almost all of the military faculty members who teach academic courses—about 180 in all—have masters' degrees. This healthy mix of civilians and military officers has resulted in an effective teaching system which uses each group's assets to provide a well-rounded education for midshipmen.

As I mentioned, West Point and the Air Force Academy are in the process of increasing their civilian faculty. They have recognized the merits of hiring well-qualified civilian professors, and have plans to phase in more civilian faculty over the next few years. In fact, S. 1298, the 1994 Defense authorization bill, would provide the military service academies the appropriate flexibility in managing increases in the size of their civilian faculties. This would give the Air Force Academy and West Point the same hiring flexibility already authorized for the Naval Academy.

Currently, West Point has 7 percent civilian faculty, which will increase to 25 percent by 2002. In 2002, the faculty will be 10 percent full-time military, 65 percent rotating military, 20 percent long-term civilian, and 5 percent rotating civilian. Of those, all civilians, and all permanent military will have Ph.D.'s. Additionally, the rotating military will include 46 Ph.D.'s. This will bring the total level of Ph.D.'s to nearly 50 percent of the total faculty.

The Air Force Academy has similar objectives; 6 percent of the faculty is civilian, with more hires planned over the next 6 years to bring the civilian faculty level to 26 percent by the year 2000. While nearly all of the current civilian faculty have Ph.D.'s, 35 percent of the military faculty have doctorates or professional terminal degrees. The rest have masters' degrees.

The Coast Guard Academy is in a different situation, since it is administered by the Department of Transportation and not the Department of Defense. The Coast Guard Academy currently has 120 faculty members, 60 of whom are rotating military, and serve terms of 3 to 4 years. The other 60 faculty members consist of 40 tenured civilians and 20 permanent military instructors. Of all the faculty, one-third have Ph.D.'s and two-thirds have masters' degrees. The permanent military faculty are required to obtain their Ph.D.'s while teaching at the Coast Guard Academy.

The curriculum of the academies has remained fairly constant over the years. One of the biggest changes at the academies has been the addition of an outcome based assessment approach to education. West Point, the Naval Academy, and the Air Force all follow this practice, and the Coast Guard Academy is in its fourth year of experimentation with an outcome based approach. This style of education approaches students with specific ends in mind. It makes clear to students what their education means in terms of a specific career in their branch of the service, and tailors their educational needs to what those careers demand. The result is graduates with a much better grasp of what it takes to achieve a successful military career. So far, the academies are very pleased with the success of this educational strategy.

Some specific examples of curriculum changes at the Academies include: changing the applied science major to a marine sciences major, and removing the foreign language majors at the Coast Guard Academy; removal of 32 electives and 8 fields of study at West Point; changing political science and natural science courses at the Air Force Academy to better prepare cadets for current and future real world situations.

The Coast Guard has scheduled an intensive curriculum review to begin this fall, and has started this process by appointing a review board.

All of the academies have maintained the traditional values of educational excellence and personal discipline. Their ability to change course content and address the needs of the military through their outcome based educational assessment strategies keeps them up to date with changing world conditions. This tradition, in conjunction with mixing civilian scholarship and standards of military excellence, keeps the academies near the top of higher education in the United States. How the academies adapt to changing security needs and limited financial resources will determine whether this success continues. Civilianization of a portion of the faculty is one way to do this, provided that the traditional military role is not threatened. As a member of their Boards of Visitors, I look forward to working with the Coast Guard Academy and the U.S. Military Academy at West Point to ensure the tradition of excellence continues at these national institutions.

HEALTH CARE REFORM

Mr. BURNS. Mr. President, this morning I listened as the President and Mrs. Clinton presented their proposal for health care reform to Congress. I want to commend them, first of all, for taking this task to heart. Though I thought the attempt to solve our health care ills within 100 days was optimistic, I am impressed with the rate at which they came up to speed. And here, 10 months after coming into office, we have a plan we can start working with.

It is a massive proposal. I can honestly say I don't think I've ever seen any piece of legislation this huge, other than the Budget Act. And though that worries me quite a bit, I look forward to reviewing the details. For some time now, we have had a draft proposal for discussion purposes and I have used it to solicit input from my Montana constituents. It has generated some terrific debates and with the bill nearing completion, I hope that will continue.

Mr. President, I obviously have not had the chance to read every page of this final proposal which we have just received. But as I am reviewing the details, I will be looking for a number of things.

First, I will look to see how it deals with rural areas. I met with the First Lady on a number of occasions and was with her when she visited Montana. She was very willing to work with me on incentives to recruit and retain rural health care providers, to expand services to underserved areas, and to encourage new technologies, specifically telemedicine, to increase access to quality health care to those who live in rural areas. The BasiCare bill, of which I am a cosponsor, does this, and I will be looking very closely at the Clinton's plan to make sure rural areas are treated equitably as well.

Second, I want to see if small businesses are protected from bearing the burden of more mandates. In Montana, Mr. President, 98 percent of our businesses are considered small businesses. And actually, 98 percent have fewer than 50 employees. I have heard from numerous businesses in my State, giving me example after example of the impact that payroll taxes would have on their livelihood. Its not just damaging, not just a sacrifice, in many cases, its devastating. From layoffs to company closures, payroll taxes would create havoc in Montana.

Third, with a large population of farmers and ranchers, all self-employed, I need to know that these folks are given equitable treatment in the financing of their health care insurance. Making health insurance universal and affordable means affordable for everyone. Increasing their tax deduction for health insurance from 25 to 100 percent, just like the business industry enjoys, will be crucial to making sure that universal health care is nondiscriminatory.

Fourth, I will be looking for the ability for Americans, and Montanans in particular, to maintain choice. Choice in health insurance packages, choice in providers, choice in services. Any plan that will limit a consumers choice will limit value. I need to know that my friends, my constituents and, yes, my family have the option to see whatever doctor they wish to see, at a reasonable cost. I want to be able to buy my prescriptions at my local pharmacy and not be forced to use a designated facility or pay more. In other words, I want the individual to be in control over the choices they make for health care. That's the way it is now, and the folks I hear from don't want any less.

Fifth, I want to know the cost, the bottom line cost, of this package. And, more importantly, who is going to pay for it? I cannot support any health care reform that will create an even greater entitlement program than we have now. No Government-run program has ever proven able to control costs. Medicare controls prices and yet costs increase exponentially. Medicaid is running our State budgets into the ground. And with the current tax revolt on in Montana, I will be looking very closely at the taxes that are imposed in order to pay for reforming our health care system.

Sixth, and last, in reviewing the details of this bill I will be looking for any signs that signal an increase in Government involvement. Any move to increase bureaucracy, instead of streamline, will be unacceptable. I want to be able to tell Montanans that they, not the bureaucrats in Washington, DC, will be making their decisions on where to spend their health care dollar. I want to be able to tell them that the system will be easier, not more convoluted. Forms will be simplified, payments will be quicker, health care transactions will be understandable. Access to services will not be troublesome—no delays, no big Government interference. If there is one thing we don't need, it is more government in our lives.

I am anxious to get into the meat of this plan, Mr. President, and to get down to business to make some positive changes in the way our system works. I have been involved in this for over 2 years now, and think there is enough interest, here in Congress as well as in our districts, and enough momentum, to make true progress. I look forward to continuing to work with the President and Mrs. Clinton to make sure these changes are fair and will not deteriorate the high quality health care we now enjoy.

Thank you, Mr. President. I yield the floor.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. **HELMS**. Mr. President, as of the close of business yesterday, October 26, the Federal debt stood at $4,413,051,004,954.02, meaning that on a per capita basis, every man, woman, and child in America owes $17,180.83 as his or her share of that debt.

TRIBUTE TO LOU RIGA

Mrs. **BOXER**. Mr. President, I rise to speak today about one of California's loyal members of the labor movement. Lou Riga, a first generation American, born of Italian immigrants in Oakland, CA on October 20, 1936, Riga recently retired as secretary-treasurer of Teamsters Local 576 in San Jose, CA, after nearly 40 years with the union. In 1991, he was a candidate for general president of the Teamsters.

After successfully completing high school, Lou went directly into the labor market as an employee of Montgomery Ward in Oakland. At the time, there was a Teamsters' organizing drive in progress, and Lou saw an opportunity to participate in a movement that would improve his and his fellow workers' positions in the workplace. He joined the Teamsters that November of 1953.

From these humble beginnings, Lou gradually worked his way up both in his work and within the Teamsters. He first gained a chance to contribute to the union by working in the hiring hall—first for local 853 and later for local 70, to which he transferred his membership in the summer of 1955. Lou was employed at UPS in 1958. By 1960 he was shop steward at Interlines Motor Express and in 1963 was elected to the same position after only 3 weeks at his new job at Pacific Motor Trucking.

In May of 1966, Lou was elected to the position of business agent for local 70, out of a field of 26 candidates. Over the next 3 years he continued to represent the Teamsters at trucking and carloading companies, and in the meantime furthered his education. His most important studies centered on the business aspects of labor law, which he studied at the University of California Extension in San Francisco under the tutelage of Teamsters labor Attorney Duane Beeson.

Lou continued to serve the Teamsters as business agent for local 70, being reelected easily in 1969. He also served the Western Conference of Teamsters' Agricultural Organizing Committee out of Salinas, CA, until budget restrictions forced the elimination of the position.

By 1974, Lou was appointed business agent, this time for local 576. Shortly thereafter he became vice president to the local's executive board, and the was elected secretary-treasurer in November 1976.

Lou is currently still serving as secretary-treasurer and principal officer of local 576, having now been a member of the teamsters' union for nearly 40 years. He is a regular participant in seminars held by the International Foundation of Employee Benefit Plans. He also chairs the board of the South Bay Teamsters' Health and Welfare Trust and is a trustee for the Santa Clara County Automotive Trades Trust; he has served in both of these capacities for 17 years.

Lou is a long-standing member of the Santa Clara Sheriff's Advisory Board, as well as the Mission Trails chapter of the Early Ford V8 Club of America. He and his wife of 32-years, Bianca, live in Saratoga, CA. They have four grown children, two sons and two daughters, and two grandchildren.

Lou retired on September 1, 1993, after 40 years of distinguished service to his community.

HAIL TO THE CAROLINA PANTHERS

Mr. HELMS. Mr. President, when Charles F. Richter, an American seismologist, was in the process of developing a reliable scale to measure the tremors caused by earthquakes, he could never have contemplated the vibrations that occurred all across the two Carolinas last evening.

Prior to last night, the highest Richter magnitude ever recorded was 8.9 and that was back in 1906.

At last reports, jubilant North and South Carolinians estimated that the Richter scale surely must be bouncing around at about 25, because a sizable percentage of Carolinians, and others around the country, were jumping up and down with joy. The long-awaited good news had finally come that the Carolina Panthers will henceforth be the stewards of one of the National Football League's two new expansion franchises.

Which will mean an adjustment in loyalties for a great many fans of professional football who have supported and cheered the Washington Redskins all these years—people like me who have bragged for years that Joe Gibbs was born in Mocksville, NC, and whose father was a North Carolina highway patrolman who was a terror to heavy-footed speeders on the highways in North Carolina's Piedmont.

There will always be a fondness for the Redskins and a great affection for Joe Gibbs, but the Carolinas are now joint possessors of an NFL franchise all their own.

I saw a jubilant Jerry Richardson on television last evening as he learned officially that his hard work, and that of thousands of others, had paid off—the NFL franchise had indeed come to the Carolinas.

So many people went all-out in working for the franchise that it is scarcely possible to know where to begin—except that it's a given that Jerry Richardson heads the list, with his son, Mark, right behind him.

But, there's also Hugh McColl who heads up America's third largest bank, NationsBank. Had it not been for Hugh McColl, it might have been a different story because Hugh was a key player in putting together the financial arrangements for the franchise, and for the stadium that must be built.

In any event, I believe it is appropriate to say that Carolinians, both North and South, are grateful to the owners of the NFL franchises for choosing the Carolinas to join their exclusive group.

Acquiring the franchise has involved an effort spanning several years. I recall flying to California to meet with the NFL owners and when I arrived I found the indefatigable STROM THURMOND arriving on another flight. That scenario was repeated several months later when Senator THURMOND and I went to Florida for another NFL meeting. Since that time, I have talked with and corresponded with many owners, coaches, managers and other officials of the NFL at various places, including meetings here in Washington. Still, my role was minimal but I did hear many words of encouragement. But everybody involved lived on a diet of fingernails because the hopes and dreams were not nailed down for sure until yesterday.

The NFL could not have chosen a better place, and I am certainly pleased and grateful that the Charlotte area of the two Carolinas was selected.

There will always be, I reiterate, a fondness for the Washington Redskins. But from this day on, the Carolina Panthers will be No. 1. As for Joe Gibbs, there are a lot of folks down home who are talking about how great it would be if Cousin Joe headed back to where he was born to become the first coach of the Carolina Panthers.

So I doff my Redskins cap to Jerry Richardson, Hugh McColl, and all the other Carolinians who put all of this together. And I bequeath my Redskins cap to the distinguished Senator from Virginia, JOHN WARNER. I will leave it on his desk. He will be needing it.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I hope the distinguished Senator from North Carolina will not leave the floor without allowing me to offer congratulations to the people of the Carolinas, but to urge them to stop jumping up and down. To have a Richter scale of 25, which does not even exist—we have natural disasters enough without self-induced ones.

Mr. HELMS. I doubt it was 25. It just felt like it was 25.

Mr. MOYNIHAN. It felt like it was 25.

NATIONAL UNFUNDED MANDATES DAY

Mr. COATS. Mr. President, today we recognize "National Unfunded Mandates Day" in an effort to raise awareness of the effects of such mandates on State and local governments. It is a wakeup call to Congress to end the practice of imposing rules and regulations on States and communities without providing the funds necessary to implement them.

Americans are tired of seeing their communities micromanaged by bureaucrats in Washington. Unfunded mandates force communities to shuffle budget priorities and shift resources away from other community needs. Local organizations from school boards to town councils are continually subject to Federal intervention. At the very least, we should make Washington pay for the regulations it places on people in the heartland.

I am pleased to be a cosponsor of the Federal Mandates Relief Act and the Community Regulatory Relief Act, both of which require the Federal Government to pay the direct cost of any statute or regulation it creates. It is my hope that by being required to pay for its mandates, Congress will think twice before imposing yet another burden on State and local governments.

Mr. BINGAMAN. Mr. President, today, I join the many elected officials expressing concerns about the many demands being placed by the Federal Government on State and local governments without providing additional assistance to meet these demands.

Our society has become increasingly complex. We all want to live in a safe environment, breathe clean air, drink healthy water, see our children receive an education that can prepare them for the future, and provide access to services to all our citizens. These are goals we all have.

Because we want these goals to be achieved, Federal legislation and regulatory requirements have become increasingly extensive and intrusive in recent years. These requirements have also imposed burdens on State and local governments forcing them to utilize their scarce resources to comply with Federal mandates. In some instances, State and local governments are being asked to use resources that do not exist. Moreover, in many instances, State and local governments are being asked to implement Federal priorities which are of lesser concern and potential risk than they have identified.

In short, many national requirements fail to recognize that States differ between and within themselves. What might be of most concern to one community due to its unique circumstances is relatively unimportant to another. However, Federal funding assistance that might be available is restricted to nationally perceived priorities, preventing more effective use of funds on greater local needs.

Federal legislative and regulatory requirements to protect the environment are among these unfunded mandates that have been increasing in recent years. I hear constantly from communities in New Mexico that they want to protect the environment, but they are strapped for funds or Federal funds which are available are limited to other problems of lower priority for them.

The time has come for the Nation to recognize that State and local governments are full partners in protecting the environment. They are knowledgeable about the problems within their jurisdictions. They want to use resources in as effective a manner as possible. And I believe that they should have the flexibility to allocate resources to highest environmental priorities.

For this reason, I will be introducing a bill that will give States the flexibility to integrate the various existing State grant programs that the Environmental Protection Agency administers and focus them on State identified priorities. This is one way, I believe, that we can begin to deal with the many unfunded mandates.

NATIONAL UNFUNDED MANDATES DAY

Mr. DURENBERGER. Mr. President, today I proudly join with the U.S. Conference of Mayors, the National Association of Counties, the National League of Cities, the International City/County Management Association and many of my colleagues in declaring this day "National Unfunded Mandates Day." I believe that it is vitally important to call attention to this mounting problem, and to commit to end the rising trend of the Federal Government to force mandates on State and local governments without providing funding to pay for these new burdens.

State and local governments are currently suffering financial hardship, as it is. A new study released from the Joint Economic Commission shows that this year's tax bill will heap $33.8 billion in additional State budget shortfalls over 5 years. I constantly hear from State and local officials across the State of Minnesota who find their budgets teetering on the edge of bankruptcy. They are forced to devote scarce resources to pay for Federal mandates that are imposed without regard for State needs or budgets. It is easy for Congress to create new programs when it can pass the buck and the bill to the States.

Kenneth Tischart, mayor of the city of Red Lake Falls, MN, has explained the impact on his city. He says:

> By ignoring other pressing local needs or priorities, Federal mandates take decision making powers out of the hands of local officials. Too often, federal rules and regulations are inflexible, impose unrealistic time frames, and specify procedures or facilities where less costly alternatives might be just as effective. It is time for a change.

Once upon a time, Federal mandates were imposed on State and local governments and were accompanied with funding through block grants and revenue sharing programs. Funding for these programs ended in the 1980's, while Federal mandates continued to proliferate. In fact, according to the Advisory Commission on Intergovernmental Affairs [ACIR], there were 100 new mandates forced on the States during the 1980's. Because of this lack of responsibility and accountability on the part of Congress, I have cosponsored S. 993, The Community Regulatory Relief Act of 1993, which would require that any Federal law that creates a Federal mandate shall only apply to a State or local government if the Federal Government assumes all of the direct compliance costs.

I have a long history of opposing Federal mandates. I have sponsored and promoted legislation to fund mandates, in spite of opposition from colleagues who do not to take this issue seriously. As a member of the board of advisors at ACIR, I have been a strong opponent of unfunded mandates and have worked to bring this issue to the attention of my colleagues. Earlier, during my service on the Government Affairs Committee, I promoted the interests of State and local governments in their quest to keep the Federal Government off their backs. Efforts to ease the Federal deficit are no justification for passing off the costs of programs to State and local governments who have similar or worse budget problems than we do. If a Federal program is important enough for the Congress to impose on States, the Congress must find a way to pay for it.

The most onerous of all of the unfunded Federal mandates is Medicaid. The law requires State governments to fund $51 billion, or 43 percent, of the Medicaid Program. Medicaid spending is rising at an average annual rate of 12 percent, and is expected to consume 25 percent of State budgets by 1994. Minnesota has one of the largest shares of non-Federal funds being spent on Medicaid. State Medicaid spending represents 13.9 percent of Minnesota's budget in fiscal year 1993.

Shortly I will introduce legislation which would remove this mandate from States by relieving them of the financial burden of Medicaid acute care. The bill simultaneously grants more control to States for public health needs and long-term care. This bill, the Responsible Federalism Act of 1993, attacks a big portion of the Federal mandate problem.

It is my hope that National Unfunded Mandate Day will force us to focus on the need to stop imposing unfunded Federal mandates on State and local governments. Mandates constrain the ability of our State and local authorities to provide basic services to their communities. Furthermore, State and local governments can best prioritize local revenues according to their unique needs. It is time for Congress to let them make these decisions without imposing unfunded mandates.

UNFUNDED MANDATE DAY

Mr. BOND. Mr. President, today has been designated "National Unfunded Mandate Day" by the U.S. Conference of Mayors. The title is not a grand one; on its face, the topic seems less than exciting.

It is, nonetheless, an issue of grave importance. Even the highly conservative estimates of the Congressional Budget Office reveal that new legislation adopted since 1983 has imposed cumulative, estimated costs of between $8.9 and $12.7 billion on States and localities, depending on the definition of mandates that is used. On an annual basis, these statutes imposed estimated costs of between $2.2 and $3.6 billion in fiscal year 1991.

As I read them now, these are just numbers—startlingly high numbers, but numbers just the same. To States and localities, though, unfunded mandates are much more. When the Federal Government mandates new and more costly programs for lower levels of government, without any increase in funding, it limits the ability of mayors, Governors, and legislators to govern as they see fit, in accordance with the wishes of those they were elected to serve. It tells those mayors, Governors, and legislators how they must spend their scarce resources, rather than allowing elected officials to allocate funds to areas where they are most desperately needed. As a former Governor, I know that this is just plain wrong. The Federal Government cannot be familiar with the myriad unique State and local situations all over this country; it is presumptuous for us to assume that we have better uses for the money than State or local officials have. It is equally preposterous for us to indicate to leaders of States and localities that we have a right to spend the money they have collected, and leave them to raise additional taxes in order to attend to their own priorities.

Columbus, OH, presents a stunning example of the costs the Federal Government unthinkingly imposes when it hands down unfunded mandates. In a landmark study conducted in 1991, the city found that its costs to comply with mandates—relating to environmental legislation alone—would amount to $1,088,484,880 over the next 10 years. That figure amounted to $850 per household per year—in a city with a total 1991 budget of $591 million.

Similarly, the mayor of Los Angeles reported that in this fiscal year alone, his city would spend $576 million to comply with Federal mandates. In addition, the mayor estimated that the Federal Government will by year's end have commandeered 4.5 million staff hours for these projects, and that the city would spend more than $6 billion over the next 5 years to stay in compliance. That's money siphoned off from works and projects of paramount local importance.

Yet without action here, in this body, nothing will change. Despite the hoopla surrounding Vice President GORE's National Performance Review, it does nothing with regard to the intricate statutes that drive agencies' regulatory agendas. And there is no reason to believe that the regulation-happy Clinton administration—or its

EPA or the other agencies—will resist the temptation to engage in regulatory activism that costs them nothing.

Local government bears heavy responsibilities—including providing fire and police protection, overseeing hospitals, parks, roads, et cetera. On top of all this, we saddle them with the obligation to fund our projects, like clean water, clean air, safe drinking water, solid and hazardous waste control, leaking underground storage tanks—not to mention asbestos. It simply isn't right. When we have the courage to pass a bill, we shouldn't be cowardly and pass the buck.

THE CITIZENS POLICE ACADEMY AMENDMENT TO THE CRIME BILL—S. 1488

Mr. WOFFORD. Mr. President, in the next few days this body will move to consider the Violent Crime Control and Law Enforcement Act of 1993, the crime bill. I am a supporter of the crime bill because I think it is past time that Congress acted to address an issue that resonates in every home, every community, every town across this Nation.

I do not need to cite the statistical evidence that points to the increase in the national rate of violent crime over the past 5 years. It is well known to my colleagues that in small and large cities in Pennsylvania and across the country, violent crime is threatening our freedom and making people prisoners in their own neighborhoods. What the statistics tell us, what our neighbors tell us, is that we must provide vital resources to assist State and local law enforcement and local communities in their fight against crime.

But while we have engaged in partisan debate over what the Federal approach to fighting crime should be, local communities, local citizens, and law enforcement have moved forward in creating programs that promote communication and coordination as the cornerstone of crime prevention. I am pleased to say that the crime bill recognizes the effectiveness of this approach by providing funds to community policing efforts that will put up to 50,000 new officers on the street over the next 5 years.

In the spirit of such citizen/police cooperation I offer today legislation entitled "the Citizens Police Academy amendment" to the crime bill. The Citizens Police Academy amendment would provide funds for local law enforcement agencies and communities to establish Citizens Policy Academies, to educate citizens about law enforcement and help them work together with police officers to make their streets safer. By teaching citizens about law enforcement, this program empowers people to take the steps necessary to ensure their own safety.

In Harrisburg, PA under the direction of Mayor Stephen R., Reed and Police Chief Richard S. Shaffer, the Citizen Police Academy has been successfully promoting community support for local law enforcement, increasing community awareness of crime, and training citizens in how they can assist the police in combating crime and violence. The success of the Citizens Police Academy in Harrisburg has led other Pennsylvania cities such as Erie and York to promote similar programs for the upcoming year. My amendment would provide small Federal grants to encourage other communities across the country to start similar programs.

My amendment adds no new money to the crime bill. Funding for citizens police academies will be taken from the Public Safety and Community Policing Grants Program of the crime bill. For fiscal year 1994 my amendment provides that $1 million be allocated for citizens police academies. At approximately $15,000 to $20,000 per program, the amendment will fund upwards of 60 programs by local law enforcement agencies or private nonprofit organizations.

Mr. President, the epidemic of violent crime calls for a new relationship between the policy and the people they serve, one which encourages communication and mutual understanding. I've visited community policing programs and participated in community crime watches across Pennsylvania, and I've seen how cooperation and interaction between the police and the community can help restore an sense of hope and stability to our neighborhoods. My legislation emphasizes the importance of promoting local initiatives in the fight against crime, and it will allow us to duplicate the success of citizens police academies like the one that is up and running in the capital of my home State.

Mr. President, I ask that my amendment to printed in the RECORD immediately following my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD as follows:

SEC. 101. SHORT TITLE.

This amendment may be cited as the "Citizens Police Academy Amendment."

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Violent Crime Control and Law Enforcement Act of 1993 recognizes that communication and cooperation between law enforcement and members of the community enhances public safety by significantly assisting in the prevention of crime and violence; and

(2) priority should be given to the funding of programs such as community-oriented policing ("cops on the beat") that expand and improve communication and cooperative efforts between law enforcement and members of the communities they protect and serve; and

(3) priority should also be given to funding programs that empower private citizens and community organizations to fight crime in their communities and work in cooperation with local law enforcement in such efforts.

(b) PURPOSE.—The purpose of this amendment is to—

(1) identify for funding a program that has proven effective in increasing communication and cooperation between law enforcement and members of the community in preventing crime and violence and thus enhancing public safety.

SEC. 103. Amendment to S. 1488, the Violent Crime Control and Law Enforcement Act of 1993. The bills S. 1488 is amended as follows:

On page 14, line 20, delete subsection (5) and insert the following in liew thereof: "(5) develop and implement innovative programs, such as the Citizens Police Academy, that train neighborhood watch participants and other members of the community to assist State and local law enforcement agencies in the prevention of crime in the community;"

SEC. 104. DEFINITION.

(1) For purposes of this subsection, the term "Citizens Police Academy" is defined as a program by local law enforcement agencies or private nonprofit organizations in which citizens, especially those who participate in neighborhood watch programs, are given training in police policy and procedure, criminal law, the legal system, crime awareness, personal safety measures, and ways of facilitating communication between the community and local law enforcement in the prevention of crime.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL.—

(1) There are authorized to be appropriated from the Public Safety and Community Policing Grants section of the Violent Crime Control and Law Enforcement Act of 1993 to carry out this amendment, $1,000,000.00 for fiscal year 1994. There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

STATE DEPARTMENT NEEDS TO IMPROVE PROCEDURES FOR RELEASE OF HISTORICAL RECORDS

Mr. PELL. Mr. President, 2 years ago, tomorrow, there came into law some important new provisions concerning the foreign relations of the U.S. historical series and the declassification of State Department records. I had the honor of sponsoring this legislation along with Senator HELMS, the ranking member on the Foreign Relations Committee, and Senators BOREN and COHEN, then the chairman and ranking member of the Intelligence Committee.

During the 2 years since this law came into force, there has been major progress in publishing the foreign relations history volumes within 30 years of the events that they document. This means we are now seeing historical documents on the early years of our involvement in Vietnam and other events of the 1960's. These volumes are of enormous interest to scholars and students, and it is good to see them released on a timely basis as required by the law.

There has also been good progress in establishing the Advisory Committee on Historical Diplomatic Documentation, the group of distinguished historians that assists the State Department and its Historical Office in assuring that the Foreign Relations Series meets the high standards of integrity and completeness set forth in the law—Public Law 102–138.

Progress has been less impressive, however, in implementing the section of the law dealing with the declassification of State Department records. This requirement is at the very heart of our legislation, and it also comes under the oversight of the Historical Advisory Committee.

Scholars in the field of American diplomatic history have told me of their high hopes that this legislation would, in effect, break the logjam of an outdated, costly, and inefficient declassification program dating back to the years of the cold war. There is disappointment now within the scholarly community at the lack of progress that has been made toward meeting the 30-year schedule set forth in the law.

Section 404 of the law gave the State Department flexibility of up to 2 years to comply with the requirement that records shall in general be declassified not later than 30 years after the document was prepared. The law recognizes exceptions for the continued classification of certain categories of sensitive records, but as I stated at the time this legislation was enacted in the Senate, it is hoped that these exceptions will be used sparingly.

The law further states that the declassified records of permanent historical value "shall be transferred to the National Archives and Records Administration, and shall be made available at the National Archives for public inspection and copying."

I regret that relatively little was done to achieve compliance with these provisions for the first year after the law was enacted. In July 1993, just 3 months before the end of the 2 year grace period provided in the law, the State Department issued an action plan that will not achieve full compliance until December 31, 1997.

As noted above, the same historians who were gratified by the approval of this law are disappointed at the slow pace that is contemplated to carry out its provisions. This is especially so in view of President Clinton's directive issued last April calling for increased openness in our Government and new efforts to release the large amounts of older material that remains classified.

While the foreign relations volumes are being completed at or ahead of the 30-year schedule, declassification of State Department records generally continues to lag. Most records from 1961, for example, are still not available to scholars at the National Archives.

From hearings we have held I know that senior State Department officials in this administration are in full agreement with the principles of openness, declassification, and availability to scholars provided for in this law. At the same time, it is my understanding that the procedures and personnel dealing with declassification have not changed significantly since the law was enacted.

These have been busy times for all of us as the events of our foreign policy continue at what seems to be an accelerating pace. That is all the more reason to assure that the historical record of our policy in a previous generation is made available to scholars on a timely basis, so we can learn from the past in charting our future.

I hope renewed attention will be given to the need to move forward on the declassification and release of State Department records in compliance with the 30-year schedule set forth in the law.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate go into executive session and that the Committee on Commerce, Science, and Transportation be discharged from further consideration of the nomination of Daniel Collins to be a member of the board of directors of the National Railroad Passenger Cooperation; that the Senate proceed to the nomination; that the nomination be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid on the table; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the nomination was considered and confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

THE NATIONAL AVIARY IN PITTSBURGH ACT OF 1993; JAMES RIVER BASIN FLOOD CONTROL

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of calendar Nos. 235 and 244; that the bills be deemed read the third time, passed, and the motion to reconsider laid upon the table, en bloc; further that the consideration of these items appear individually in the RECORD, and any statement relative to these calendar items appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bills (H.R. 927 and H.R. 2824) were deemed read the third time, and passed.

ORDER WITH RESPECT TO LUXURY TAXES VITIATED

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that the order of May 28, 1993, with respect to repeal of certain luxury taxes be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO VOTE ON A MOTION TO INSTRUCT THE SERGEANT AT ARMS

Mr. FORD. Mr. President, on behalf of the majority leader, I ask, notwithstanding provisions of rule XXII, unanimous consent that on Monday, November 1, at 12 noon, the Senate vote on a motion to instruct the Sergeant at Arms to request the presence of absent Senators, and that immediately upon the completion of that vote, the Senate turn to the consideration of Senate Resolution 153, a resolution to comply with the issuance of a subpoena.

I further ask unanimous consent that it be in order to request the yeas and nays on the motion to instruct at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, under the previous order, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1994 DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1993—CONFERENCE REPORT

Mr. FORD. Mr. President, I submit a report of the committee of conference on H.R. 2492 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2492) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 20, 1993.)

Mr. BURNS. Mr. President, I rise in reluctant support of this conference report.

I have learned a lot about the District and their considerable financial and quality of life problems during my tenure as this subcommittee's ranking member.

For a metropolitan area that leads the country in its citizens' tax burden, in my opinion, those citizens are not getting what they are paying for in terms of services.

As a part-time resident of this city this disturbs me. But mostly this disturbs me as an American. Our Capital City is in decay—physically and morally.

I hope this fiscal year 1994 conference report and its recommendations provide improvement to this situation. Next year, I will be vigilant in my review of promises and projections made by the city's leaders to make this a better place. I believe in them but I like results over ideas and promises.

On substance, I remain opposed to the deferral of $2 million in fiscal year 1994 retirement fund contributions to fiscal year 1995. I feel that we owe it to the District to deliver these funds when we promised them.

I am happy to say, though, that this bill is balanced. The revenues generated by the people of the District equal the local expenditures in this bill.

Overall, I believe that the Subcommittee's business is a sensitive task handled expertly by the chairman and the other members of the Subcommittee. I would like to thank Tim Leeth and Lula Joyce for their help this year. I look forward to working with the subcommittee chairman and the staff next year.

Mr. KOHL. Mr. President, I am pleased to present the conference report on H.R. 2492, the D.C. appropriations bill for fiscal year 1994, to the Senate. It represents a fair compromise with the House on the items of disagreement and deserves the support of the Senate.

Mr. President, last week the House of Representatives defeated the first conference report on the 1994 D.C. bill. As a result the conference met again to finalize an acceptable agreement with the House. The only change from the previous conference agreement is the inclusion of language clarifying the restrictions on abortion in the District of Columbia.

The agreement now includes a provision which restricts the use of any Federal funds in the bill to cases where the life of the mother is in danger or pregnancies resulting from rape or incest. It is the same language that is contained in the Labor-HHS appropriations bill applied to the city.

One of the items on which we agreed with our House colleagues is that we should provide the $17.3 million that was included in the House bill for the Federal contribution to the crime and youth initiative. This initiative has been one of the cornerstones of Mayor Kelly's efforts to curb violent crime in the District. This appropriation comes at a very timely moment with the President pledging the help of Federal agencies in combating crime in the District of Columbia. The funds will enable the Mayor to continue with her efforts to increase the number of police officers on foot patrols in the neighborhoods and communities of the city. It will also allow the police department to upgrade its communications system and training.

This initiative also provides for educational programs and health and family services to youth 10 to 14 years of age. This is done through policies such as the Turning Point Program, targeted at students at the junior high level. These funds will also increase the number of children served in the D.C. immunization program, and the number of pregnant women who will be served by substance abuse programs.

Mr. President, the city has sought several cost cutting measures that are contained in this conference agreement. The D.C. budget requires the elimination of 807 full-time equivalent positions in the D.C. government.

In addition, the city will be permitted to close engine company No. 3 on New Jersey Avenue Northwest. The city has proposed closing this firehouse three times in the past decade. This is the first time that the Congress has permitted the District of Columbia to implement this cost saving realignment.

I should add, Mr. President, that we have been assured by the D.C. Fire Department that the fire and ambulance service to the Capitol Building will not be diminished. The department has also promised to consult with the Architect of the Capitol to make sure that all fire personnel at the other fire stations near the Capitol are familiar with the necessary operating procedures prior to the closing of the fire station.

Mr. President, another cost saving measure proposed by the city, and included in the final conference agreement, is the closing of the police and fire clinic. The operations of the clinic will be contracted out at a savings to the D.C. taxpayers.

Mr. President, the conference agreement contains language which provides that the D.C. government will provide to the Congress, at the same time as the 1995 budget, a plan for how it proposes that we deal with financing the current and future capital needs of all of the hospitals in the city. This plan will contain specific recommendations on the authorized renovation project at George Washington University Hospital. The provision was inserted at the request of the Senator from Hawaii, Senator INOUYE, as a substitute for provisions contained in the Senate bill which provided for financing the Federal share of the project using a form of municipal bonds.

This is the first time a major renovation project has been proposed since home rule, prior to that the Federal Government paid half the cost to build all of the hospitals in the city. This is an issue that we will face over and over again until it is resolved. It will be better if a clear plan and procedure is in place before the other hospitals in the city undertake major renovation or reconstruction plans, as they certainly will.

Mr. President, the Senator from Hawaii has once again demonstrated his instinct for identifying the proper approach and his capacity to place the larger good above his personal preference. With the city's plan in hand, the Congress can move to form a cooperative alliance with the city on how these projects will be funded in the future.

Mr. President, in closing I want to express my appreciation to our House colleagues. Their conferees were led by Representative JULIAN DIXON, who was very cooperative and skillfully guided the conference to completion. Representative JIM WALSH, their ranking member, presented his views in a clear and concise manner and helped us reach a fair and reasonable agreement.

I also want to thank all of our conferees, in particular our ranking member, the Senator from Montana, for his attention and commonsense approach to our deliberations. And finally, we owe a debt of thanks to the distinguished chairman and ranking member of the Appropriations Committee, Senator BYRD and Senator HATFIELD for their support and guidance through this whole process.

Mr. President, I also want to recognize the fine work of the staff of both Houses. In the Senate Tim Leeth, Mark van der Water, Lula Joyce, and Dona Pate provided significant assistance to the subcommittee's deliberations. The full committee staff, led by Jim English and Mary Dewald gave their usual outstanding guidance to the whole process. On the House side Migo Miconi led their staff with customary distinction and professionalism. He was ably assisted by Mary Porter and Shelia Brown.

Mr. President, that completes my brief explanation of the conference report, and will be happy to yield to the Senator from Montana, our distinguished ranking member, for any comments he may wish to make.

Mr. President, I yield the floor.

Ms. MIKULSKI. Mr. President, I am voting today to pass the conference report for the District of Columbia appropriations. The conference report does two important things. First, it reaffirms the District of Columbia's right to home rule. Second, it allows the District of Columbia to choose to spend its own money to provide low-income women who are on Medicaid access to abortion services.

Since 1973, the District of Columbia Self-Government Act has given District residents the same right to make decisions about matters of public health as other States' residents.

For too long, we have tried to make this law a reality. For too long, factions in Congress and unwilling Presidents have stood in the way of giving District residents the rights to which they are entitled.

This Congress and this President will not repeat the mistakes of the past.

With their support, the District of Columbia can now create its own policy about matters of public health. District residents can choose to spend local funds to give poor women access to abortion services.

It is my hope that the District of Columbia will exercise its choice to allow poor women to exercise their choice—their constitutional right to privacy. I believe it is the right thing to do.

But this is not only my belief. Thirteen States to date have decided to provide low-income women on Medicaid access to abortion services.

This is the right decision because it upholds the Constitution, it treats the poor fairly, and it protects the health of women.

For this reason, I regret that some of our colleagues in the House have added language to the report that says Federal funds may not be used for Medicaid abortions except in cases of rape, incest, or threats to the life of the woman.

With all due respect, this language misses the issue: It is the use of District and not Federal funding that matters here.

Nonetheless, even if this Hyde-type language will not stop the District of Columbia from making a decision just like States do, it is still offensive—and I object to it.

What this language really does is to try to impose the morality and the choices of the far right on everyone else.

But the moral issue is not what is decided but who decides. The decision about what to do with an unplanned pregnancy is best left to a woman and her doctor—not to legislators.

I oppose this language for the same reasons that I have opposed Hyde-type restrictions in the past.

It tries to interfere in the poor woman's right to privacy in her decision that should be between a woman and her doctor.

It says it is acceptable to risk a poor woman's health for the sake of an ideology she may not share.

It would be wrong to approve language that finds it unacceptable to give constitutional protections to the affluent but not to the poor. Equal access to the constitutionally protected right to choose belongs to all women.

Mr. FORD. Mr. President, on behalf of the majority leader, I ask that the conference report be adopted; that upon disposition of the conference report, the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

Mr. FORD. I ask that the Senate then concur, en bloc, with the amendments of the House to the amendments of the Senate, and that the motions to reconsider be laid upon the table, en bloc, with all of the above occurring without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments of the House to the amendments of the Senate agreed to en bloc are as follows:

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 5, 26, and 38, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert "$87,293,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed in said amendment, insert

": *Provided further*, That in addition to the $892,156,000 appropriated under this heading, an additional $1,025,000 and 11 full-time equivalent positions shall be transferred from the Department of Administrative Services to the District of Columbia Court System for janitorial services, pest control, window washing, trash collection and removal, and landscaping".

On page 5, after line 7 of the House engrossed bill H.R. 2492 insert: *(including transfer of funds)* as a centerhead.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$306,264,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed in said amendment, insert:

D.C. GENERAL HOSPITAL DEFICIT PAYMENT

For the purpose of reimbursing the General Fund for costs incurred for the operation of the D.C. General Hospital pursuant to D.C. Law 1–134, the D.C. General Hospital Commission Act of 1977, $10,000,000

ENERGY ADJUSTMENTS

The Mayor shall reduce appropriations and expenditures for energy costs in the amount of $482,000 within one or several of the various appropriation headings in this Act.

COMMUNICATIONS ADJUSTMENTS

The Mayor shall reduce appropriations and expenditures for communications costs in the amount of $158,000 within one or several of the various appropriation headings in this Act.

CONTRACTUAL SERVICES ADJUSTMENTS

The Mayor shall reduce contractual services appropriations and expenditures within object class 40 in the amount of $1,500,000 within one or several of the various appropriation headings in this Act: Provided, That no reductions shall be made to agencies not under the direct control of the Mayor or to the Department of Human Services.

CASH RESERVE FUND

For the purpose of a cash reserve fund to replenish the consolidated cash balances of the District of Columbia, $3,957,000. On page 13 line 3 of the House engrossed bill, H.R. 2492, strike [$3,423,000] and insert: $3,323,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$7,889,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

Delete the sum stricken by said amendment and delete the sum inserted by said amendment and strike out line 10 through and including line 14 on page 13 of the House engrossed bill H.R. 2492, and on page 29, line 12 of the House engrossed bill H.R. 2492 strike out "1993" and insert in lieu thereof: "1994".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed in said amendment, insert ": *Provided further*, That the District of Columbia government shall transmit to the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, and the Senate Committee on Governmental Affairs, no later than April 15, 1994, a proposed plan providing for the financing of the capital rehabilitation and revitalization of the medical infrastructure within the District of Columbia: *Provided further*, That this plan shall include how the capital needs of all hospitals will be addressed: *Provided further*, That this plan shall specifically address the currently authorized George Washington University project as part of the overall plan".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert "137".

On page 33, line 11 of the House engrossed bill H.R. 2492 strike out "SEC. 137" and insert in lieu thereof "SEC. 135.".

On page 33, line 23 of the House engrossed bill H.R. 2492 Strike Out "SEC. 138" and insert in lieu thereof "SEC. 136.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert "$14,231,000".

On page 35, line 12 of the House engrossed bill H.R. 2492 strike out "$10,587,000" and insert in lieu thereof: "$10,242,000".

On page 37, line 4 of the House engrossed bill H.R. 2492 after "*Provided,*" insert "That $7,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*,

On page 37, line 11 of the House engrossed bill H.R. 2492 strike out "RESCISSION" and insert in lieu thereof: "INCLUDING RESCISSION".

On page 37, line 12 of the House engrossed bill H.R. 2492 strike out "of" and insert in lieu thereof: "For an additional amount for "Public works", $23,447,000: *Provided*, That of".

On page 37 line 16 of the House engrossed bill H.R. 2492 after "rescinded" insert for a net increase of "*$20,176,000*".

On page 44, after line 14 of the House engrossed bill H.R. 2492 insert:

SEC. 203. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1993.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Edwin R. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:56 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3116) making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. SABO, Mr. DIXON, Mr. VISCLOSKY, Mr. DARDEN, Mr. NATCHER, Mr. MCDADE, Mr. YOUNG of Florida, Mr. LIVINGSTON, Mr. LEWIS of California, and Mr. SKEEN as the managers of the conference on the part of the House.

ENROLLED BILL SIGNED

At 3:33 p.m., a message from the House of Representatives, delivered by Mr. Sullivan, an assistant parliamentarian, announced that the Speaker has signed the following enrolled bill:

H.R. 2403. An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 3:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 178. Joint Resolution designating October 1993 and October 1994 as "National Domestic Violence Awareness Month."

H.J. Res. 205. Joint Resolution designating the week beginning October 31, 1993, as "National Health Information Management Week."

The message also announced that the Speaker makes the following modifications in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2401) entitled "An Act to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes":

(1) At the end of the paragraph naming additional conferees from the Committee on Banking, Finance and Urban Affairs, insert the following proviso: *Provided*, That Mr. FRANK of Massachusetts is appointed in lieu of Mr. GONZALEZ and Mr. BEREUTER is appointed in lieu of Mr. RIDGE solely for the consideration of section 1087 of the Senate amendment.

(2) In the paragraph naming additional conferees from the Committee on Government Operations, add "2822," after "2821,".

At 6:12 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2492) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes; that it recedes from its disagreement to the amendments of the Senate numbered 5, 26, and 38, and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 6, 10, 19, 22, 23, 25, 29, 31, and 33 to the bill, and has agreed thereto, each with an amendment, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following measure was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 178. Joint Resolution designating October 1993 and October 1994 as "National Domestic Violence Awareness Month"; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1683. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual report on horse protection enforcement for fiscal year 1992; to the Committee on Agriculture, Nutrition and Forestry.

EC-1684. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to authorize the promotion of confirmed officers on a promotion list when the Senate has not given its advice and consent to the entire list, and for other purposes; to the Committee on Armed Services.

EC-1685. A communication from the Principal Deputy Comptroller, transmitting, pursuant to law, notice of the transfers of funds; to the Committee on Armed Services.

EC-1686. A communication from the Acting Assistant General Counsel, Department of Energy, transmitting, pursuant to law, a notice of a meeting relative to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-1687. A communication from the Acting Inspector General, Department of the Interior, transmitting, pursuant to law, a report entitled "Accounting for Fiscal Year 1992 Reimbursable Expenditures of Environmental Protection Agency Superfund Money, Bureau Reclamation"; to the Committee on Energy and Natural Resources.

EC-1688. A communication from the Deputy Inspector General, Department of Defense, transmitting, pursuant to law, report of the Superfund financial transactions for fiscal year 1992; to the Committee on Environment and Public Works.

EC-1689. A communication from the Vice President of the Farm Credit Bank of Springfield, Springfield Bank for Cooperatives, transmitting, pursuant to law, the report of the Group Retirement Plan for the Agricultural Credit Associations and the Farm Credit Banks for calendar year 1992; to the Committee on Governmental Affairs.

EC-1690. A communication from the Senior Vice President, Federal Intermediate Credit Bank of Jackson, transmitting, pursuant to law, report of the Fifth Farm Credit District Farm Credit Retirement Plan; to the Committee on Governmental Affairs.

EC-1691. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the report of the Office of Inspector General for fiscal year 1993; to the Committee on Governmental Affairs.

EC-1692. A communication from the Executive Director of the National Commission on Libraries and Information Science, transmitting, pursuant to law, the annual report on the system of internal accounting and financial controls in effect during fiscal year 1993; to the Committee on Governmental Affairs.

EC–1693. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1992 through March 31, 1993; to the Committee on Governmental Affairs.

EC–1694. A communication from the Acting Assistant Secretary (Special Education and Rehabilitative Services), Department of Education; to the Committee on Labor and Human Resources.

EC–1695. A communication from the Secretary of Education, transmitting, pursuant to law, a report of final regulations—Jacob K. Javits Fellowship Program; to the Committee on Labor and Human Resources.

EC–1696. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Hydrogen Fluoride Study"; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–310. A resolution adopted by the Iron County Board of Commissioners, Crystal Falls, MI, relative to the English language; to the Committee on Governmental Affairs.

POM–311. A resolution adopted by the city council of the city of Leander, TX, relative to Federal mandates; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments:

S. 404. A bill to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 to improve the effectiveness of administrative review of employment discrimination claims made by Federal employees, and for other purposes (Rept. No. 103–167).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Richard H. Stallings, of Idaho, to be Nuclear Waste Negotiator; and

Corlis Smith Moody, of Minnesota, to be Director of the Office of Minority Economic Impact, Department of Energy.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BAUCUS, from the Committee on Environment and Public Works:

Mary Dolores Nichols, of California, to be an Assistant Administrator of the Environmental Protection Agency; and

Jonathan Z. Cannon, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself and Mr. MACK):

S. 1590. A bill to provide a veterans bill of rights; to the Committee on Veterans' Affairs.

By Mr. DURENBERGER (for himself, Mr. INOUYE, and Mr. HATCH):

S. 1591. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of business meal and entertainment expenses which are deductible; to the Committee on Finance.

By Mr. DORGAN (for himself and Mr. DOMENICI):

S. 1592. A bill to improve Federal decision making by requiring a thorough evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments and the economic resources located in such State and local governments; to the Committee on Governmental Affairs.

By Mr. KENNEDY:

S. 1593. A bill to authorize the Secretary of the Navy to transfer, without regard to the required waiting period, an obsolete naval vessel to the United States Naval Shipbuilding Museum, Quincy, Massachusetts, upon making certain determinations; to the Committee on Armed Services.

By Mr. SHELBY (for himself and Mr. CRAIG):

S. 1594. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require a reduction in the discretionary spending limits in each fiscal year by an amount equal to the total of any reductions made in existing programs for the previous fiscal year; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. KENNEDY (for himself and Mrs. KASSEBAUM):

S. 1595. A bill to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMON (for himself, Mr. THURMOND, Mr. KENNEDY, Mr. SIMPSON, and Mr. LEAHY):

S. 1596. A bill to provide for application of the sentencing guidelines for certain nonviolent offenses in which a mandatory minimum term of imprisonment would otherwise be required; to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 1597. A bill to amend the Public Health Service Act to revise certain organ procurement and transplantation programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. AKAKA, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BREAUX, Mr. CHAFEE, Mr. COCHRAN, Mr. CRAIG, Mr. D'AMATO, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GLENN, Mr. GORTON, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. NICKLES, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. THURMOND, Mr. WALLOP, and Mr. WOFFORD):

S.J. Res. 147. A joint resolution designating October 23, 1993, through October 30, 1993, as "National Red Ribbon Week for a Drug-Free America"; to the Committee on the Judiciary.

By Mr. BROWN (for himself, Mr. BOND, Mr. BURNS, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GREGG, Mr. KEMPTHORNE, Mr. MCCAIN, Mr. SHELBY, and Mr. STEVENS):

S.J. Res. 148. A joint resolution proposing an amendment to the Constitution of the United States barring Federal unfunded mandates to the States; to the Committee on the Judiciary.

By Mr. SASSER:

S.J. Res. 149. A joint resolution designating the week beginning October 31, 1993, as "National Health Information Management Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NICKLES (for himself, Mr. MOYNIHAN, and Mr. PACKWOOD):

S. Res. 156. A resolution expressing the sense of the Senate with respect to future extensions of the emergency unemployment compensation program; considered and agreed to.

By Mr. GREGG (for himself, Mr. BENNETT, Mr. COVERDELL, Mr. FAIRCLOTH, Mrs. HUTCHISON, and Mr. KEMPTHORNE):

S. Res. 157. A resolution to amend the Standing Rules of the Senate to require a supermajority for committee approval of bills containing unfunded Federal mandates; to the Committee on Rules and Administration.

S. Res. 158. A resolution to amend the Standing Rules of the Senate to require a supermajority for Senate approval of the bills or amendments containing unfunded Federal mandates; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself and Mr. MACK):

S. 1590. A bill to provide a veterans bill of rights; to the Committee on Veterans' Affairs.

VETERANS BILL OF RIGHTS ACT

Mr. GRAHAM. Mr. President, I rise today with my colleague from Florida, Senator CONNIE MACK, to introduce legislation, the Veterans Bill of Rights Act, which is designed to ensure that all veterans have access to the same care and benefits regardless of race, ethnicity, sex, religion, age, or geographic location.

Under this bill, for example, a 100-percent service-connected disabled veteran living in Florida would be entitled to the same benefits as a 100-percent disabled veteran in any other State. This would include equal access to such services as VA medical facilities, treatment, and personnel, VA home loan guaranty assistance, job training assistance, the administrative claims process, the handling of claims for increased benefits, and the list goes on.

While equal access to these essential veterans benefits is implied, in reality, it is not always the case. My home State of Florida, for example, has the most 100-percent service-connected disabled veterans in the United States. It is also the home of the third largest overall veterans population. Consequently, the demand for services from the Department of Veterans Affairs is far greater than other States. Florida's veterans population, however, has less access to medical care and other benefits than nearly every other State. The same inequity holds true in many other States as well. That is not right, and it must be changed.

Our Government made a contract with the men and women who bravely served our country in times of need. The contract guaranteed that the Federal Government would provide for them in return for their service. Many who honored this contract were injured or disabled. The Federal Government must live up to its end of the contract by providing equitable treatment regardless of where the veteran lives.

Many States, like Florida, do not receive their fair share of benefits. The Veterans Bill of Rights Act corrects this inequity, and I strongly urge my colleagues to cosponsor this important legislation. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1590

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Bill of Rights Act".

SEC. 2. ADMINISTRATION OF RIGHTS AND BENEFITS.

The Secretary of Veterans Affairs shall take any action necessary to ensure that any rights and benefits provided under title 38, United States Code, to veterans who qualify for such rights and benefits—

(1) are made available to such veterans in any State or geographic location to the same extent that such rights and benefits are made available to such veterans in any other State or geographic location; and

(2) are not denied to any such veteran on the basis of the race, ethnicity, sex, religion, or geographic location of the veteran.

SEC. 3. DEFINITION.

For the purposes of this Act, the term "State" has the meaning given such term in section 101(20) of title 38, United States Code.

By Mr. DURENBERGER (for himself, Mr. INOUYE and Mr. HATCH):

S. 1591. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of business meal and entertainment expenses which are deductible; to the Committee on Finance.

BUSINESS MEAL AND ENTERTAINMENT EXPENSES LEGISLATION

Mr. DURENBERGER. Mr. President, the food service industry, which is the largest retail employer in the country, is expected to lose over 165,000 jobs as a result of the recent further reduction in the deductibility of business meal and entertainment expenses. In Minnesota alone, the anticipated $62 million dollar decline in the volume of restaurant sales will translate into nearly 3,000 jobs being lost. Although the time to reduce the soaring Federal deficit is long overdue, decimating an industry which is one of the largest employers of women and minorities and helps countless small business people market their ventures is counterproductive and will lead to a decrease in Federal revenue.

Today I am introducing legislation to undo the cutback in the deductibility of business meal and entertainment expenses which has occurred twice since 1986.

I want to thank my distinguished colleagues from Hawaii, Mr. INOUYE, and from Utah, Mr. HATCH, who have joined me as original sponsors of this bill.

Mr. President, in the 6 years following the 1986 reduction in the business meal and entertainment deduction, the foodservice industry experienced its worst performance in decades with a 6 percent decline in sales. According to research conducted by Malcolm Knapp, Inc., the 1993 Budget Reconciliation Act—which further reduces this deduction to 50 percent—will cause even greater harm to the industry by causing an 11 percent decline in sales.

As a result, the $15 billion in increased revenue which the Joint Committee on Taxation anticipates will be raised by decreasing this deduction will be more than offset by the tax losses and government spending increases it creates.

Restaurants will suffer a decline in the amount of taxable revenue they receive due to the decreased number of business meals which will be purchased in their establishments.

Restaurant employees who do not lose their jobs will see a decline in their taxable earnings due to a cutback in the business which is generated in their workplaces. Those thrown out of work will be entitled to unemployment compensation and other social welfare programs.

These results are not those which were sought, but they are the results we have seen in Minnesota and elsewhere around the country.

The change is unfair because it harms those for whom the deduction was intended to assist.

The nonabusive business travelers, including those in the trucking industry, who rely on this deduction simply to be able to afford to do their jobs, suffer disproportionately from this reduction.

Small business people account for 70 percent of all business meal deductions taken. They rely on face-to-face contact to sell their products and services. Their ability to market themselves will be limited due to the increased costs associated with hosting a meeting over a meal.

Finally, corporate sales people must travel extensively at home and abroad to maintain business. These corporations may choose to lay off a portion of their sales teams due to the increased costs associated with travel.

Lastly, Mr. President, I believe this diminution in the business meal and entertainment deduction is improper because the underlying basis for this deduction and others is the "net income" concept. This tax concept holds that if in an expense is conceptually necessary and proper for the purposes of understanding a firm's net income, it should be allowed, in whole, as a deduction. Business meal expenses are essential for conducting businesses, large and small, and, therefore, should be fully deductible.

We started down the slippery slope in 1986 and took the next step earlier this year. When will this end? With the total destruction of a legitimate credit and the complete devastation of a legitimate industry?

Mr. President, as Congress continues to address programs which impact our nation's workers, I would encourage my colleagues on both sides of the aisle to support this bill. Support this legislation not only because it will preserve jobs which already exist, but because it will create jobs in the hospitality industry even as it aids small business.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF LIMITATION ON DEDUCTION FOR BUSINESS MEAL AND ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Section 274 of the Internal Revenue Code of 1986 is amended by striking subsection (n) (relating to the limitation of the amount of meal and entertainment expenses allowed as deductions) and by redesignating subsection (o) as subsection (n).

(b) CONFORMING AMENDMENTS.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 are amended by striking "(determined without regard to section 274(n))":

(A) Section 3121(a)(11).

(B) Section 3306(b)(9).

(C) Section 3401(a)(15).

(2) Section 209(k) of the Social Security Act is amended by striking "(determined without regard to section 274(n) of such Code)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

By Mr. DORGAN (for himself and Mr. DOMENICI):

S. 1592. A bill to improve Federal decisionmaking by requiring a through evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments and the economic resources located in such State and local governments; to the Committee on Governmental Affairs.

FISCAL ACCOUNTABILITY AND INTERGOVERNMENTAL REFORM ACT

Mr. DORGAN. Mr. President, I am pleased to join with my colleague from New Mexico, Senator DOMENICI, in introducing the Fiscal Accountability and Intergovernmental Reform Act. We have dubbed this the FAIR Act because it will require the Federal Government to determine the cost to State and local governments and private businesses of unfunded mandates.

UNFUNDED MANDATES DAY

We introduce this bill to coincide with National Unfunded Mandates Day, October 27, 1993. This day calls attention to the growing, unacceptable problem of passing laws without including the money to implement them. It's a phenomena of passing the buck to State and local governments, as well as to the private sector.

We offer this legislation as a companion bill to H.R. 1295, which was introduced earlier this year by Congressmen JAMES MORAN and WILLIAM GOODLING. I applaud their leadership and note, for example, that Representative MORAN brings to this debate knowledge about unfunded mandates gained from his prior service as mayor of Alexandria, VA.

We all have found that requirements in Federal laws and rules unduly burden State and local governments. The mandates not only dry up limited local resources but disrupt those governments' ability to set and carry out their own priorities.

We have also discovered that private business compliance with unfunded mandates drains resources from improving productivity and enhancing international competitiveness. In other words, imposing these mandates can result in an inefficient use of economic resources and prevent us from achieving such economic goals as full employment and expanded exports.

THE FAIR REMEDY

In response, Senator DOMENICI and I propose that an economic impact statement accompany certain unfunded requirements in reported bills or in proposed or final agency rules.

I believe that this bill moves in the right direction. It requires that committees of Congress include an economic impact statement on unfunded mandates whenever a bill or resolution is reported. That statement, prepared in consultation with the Congressional Budget Office, must itemize the impact of new mandates on State and local governments, private businesses, and national economic growth and competitiveness.

The statement would be required whenever the estimated, unfunded cost of a bill to State and local governments and the private sector exceeds $50 million in the aggregate for the first 3 years and $100 million in the aggregate during the first 5 years.

The enforcement and mechanism in the bill is that a point of order can be raised against a measure that does not include the economic impact statement in its committee report. In other words, Congress may not consider bills that fail a truth in budgeting test.

Our bill further requires that any agency that notices rulemaking for a proposed rule or that promulgates a final rule must also prepare an intergovernmental and economic impact assessment or statement, respectively. The assessment or statement must be published in the Federal Register and otherwise be made available to the general public.

Let me emphasize that reports would not be required in cases that do not surpass the minimum thresholds for legislation. Nor would reports be required for treaties or Federal actions not encompassed by laws or rulemaking. Our goal is not to tie up the Government with more paperwork but to ensure that we treat local governments and businesses fairly and responsibly. Moreover, this legislation would apply only to bills introduced or rules published after the date of enactment of this act.

UNACCEPTABLE BURDENS

I understand that somebody has to pay the costs of government. But cost-shifting is not the answer. It should not be done through schemes cooked up by States to garner additional Federal aid, as with the so-called Medicaid provider tax. Nor should it be done through unfunded Federal mandates—what some mayors have called secret taxes.

I just want to ensure that the burden of government is shared in a fair and efficient manner. Knowing the cost of potentially unfunded mandates will check a propensity in the Federal Government to saddle others with the costs of our National Government.

I also recognize that this is not a new problem. In the 1980's Congress passed such laws as the Paperwork Reduction Act and the Regulatory Flexibility Act to reduce the burdens on the local and private sector. They have certainly eased regulatory burdens. However, as a report by the U.S. Advisory Commission on Intergovernmental Relations noted,

> The modest successes achieved during the 1980's * * * paled beside the increase in regulations. This record calls into question the effectiveness of the relief tools, as currently utilized.

During the last decade, in fact, Congress passed 27 statutes that imposed new regulatory burdens on State and local governments, compared with 22 such laws in the 1970's.

The costs in question are not trivial. Between 1983 and 1990, new regulations cost local and State governments between $9 billion and $13 billion, depending on the definition used. Price, Waterhouse just completed a study for the National Association of Counties which shows that the estimated cost of unfunded Federal mandates to counties is almost $5 billion in 1993. For the 5 years following, the total cost for counties alone surges to $34 billion.

Each individual county has to cope with these costs. For example, Trail County in North Dakota faces $11,000 in unfunded requirements for 1993. Next door, Pennington County in South Dakota must absorb $190,000 in unfunded costs. These seemingly small amounts create large burdens for countries with modest resources.

Mayors, too, have protested the growth of secret taxes that costs cities tens of billions of dollars each year. Not only are the madates costly, some are even absurd. For example, Mayor Richard Clay Dixon of Dayton, OH, complained that this city had to test pesticides, which are only used in Hawaii in pineapple plantations, in order to comply with Federal environmental regulations.

As the former tax commissioner of North Dakota, I can also testify that Federal regulations sometimes created fiscal and enforcement nightmares. The notoriously complicated and intractable Federal income tax forms are the notable case in point.

The major sources of unfunded costs include the Immigration Act, clean water standards, and the Fair Labor Standards Act. These are well-intentioned and necessary laws, but they burden counties, among others, with crushing costs.

Vice President AL GORE's "Report of the National Performance Review" underscores that the private sector also suffers from unfunded mandates. The reinventing government report estimates costs passed on to businesses amount to $430 billion per year. I agree with the Vice President's recommendation to stop passing unfunded requirements. But that means that we must get a better handle on the relevant costs of before we enact a law or impose a rule outside the beltway of Washington, DC.

In conclusion, I am reminded of the dictum of President Thomas Jefferson. Shortly before his death, he opined, "Were we directed from Washington when to sow and when to reap, we should soon want for bread."

Our cities, counties, State governments, and private businesses do want for bread when we impose unfunded mandates. I urge my colleagues to support the FAIR Act as a sound first step to end the unfair buckpassing of the Federal Government.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fiscal Accountability and Intergovernmental Reform Act" ("FAIR Act").

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Federal legislation and regulatory requirements impose burdens on State and local resources to implement federally mandated programs without fully evaluating the costs to State and local governments associated with compliance with those requirements and often times without provision of adequate Federal financial assistance. Such Federal legislative and regulatory initiatives—

(A) force State and local governments to utilize scarce public resources to comply with Federal mandates;

(B) prevent these resources from being available to meet local needs; and

(C) detract from the ability of State and local governments to establish local priorities for use of local public resources.

(2) Federal legislation and regulatory programs can result in inefficient utilization of economic resources, thereby reducing the pool of resources available—

(A) to enhance productivity, and increase the quantity and quality of goods and services produced by the American economy; and

(B) to enhance international competitiveness.

(3) In implementing Congressional policy, Federal agencies should, consistent with the requirements of Federal law, seek to implement statutory requirements, to the maximum extent feasible, in a manner that minimizes—

(A) the inefficient allocation of economic resources;

(B) the burden that such requirements impose on use of local public resources by State and local governments; and

(C) the adverse economic effects of such regulations on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services.

(b) PURPOSES.—The purposes of this Act are to—

(1) assist Congress in consideration of proposed legislation establishing or revising Federal programs so as to assure that, to the maximum extent practicable, legislation enacted by Congress will—

(A) minimize the burden of such legislation on expenditure of scarce local public resources by State and local governments;

(B) minimize inefficient allocation of economic resources; and

(C) reduce the adverse effect of such legislation—

(i) on the ability of State and local governmental entities to use local public resources to meet local needs and to establish local priorities for local public resources; and

(ii) on allocation of economic resources, productivity, economic growth, full employment, creation of productive jobs, and international competitiveness; and

(2) require Federal agencies to exercise discretionary authority and to implement statutory requirements in a manner that, consistent with fulfillment of each agency's mission and with the requirements of other laws, minimizes the impact regulations affecting the economy have on—

(A) the ability of State and local governmental entities to use local public resources to meet local needs; and

(B) the allocation of economic resources, productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services.

TITLE I—LEGISLATIVE REFORM

SEC. 101. REPORTS ON LEGISLATION.

(a) REPORT REQUIRED.—

(1) IN GENERAL.—Except as provided in paragraph (2), when a committee of the Senate or House of Representatives reports a bill or resolution of a public character (not including a resolution of ratification of a treaty) to its House that mandates unfunded requirements upon State or local governments or the private sector, the report accompanying the bill or resolution shall contain an analysis, prepared after consultation with the Director of the Congressional Budget Office, detailing the effect of the new requirements on—

(A) State and local government expenditures necessary to comply with Federal mandates;

(B) private businesses, including the economic resources required annually to comply with the legislation and implementing regulations; and

(C) economic growth and competitiveness.

(2) EXCEPTION.—Paragraph (1) shall not apply to any bill with respect to which the Director of the Congressional Budget Office certifies in writing to the chairman of the committee reporting the legislation that the estimated costs to State and local governments and the private sector of implementation of such legislation during the first 3 years will not exceed $50,000,000 in the aggregate and during the first 5 years will not exceed $100,000,000 in the aggregate.

(b) DUTIES AND FUNCTIONS OF CONGRESSIONAL BUDGET OFFICE.—The Director of the Congressional Budget Office shall prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or of the Senate, an economic analysis of the effects of the bill or resolution, satisfying the requirements of subsection (a). The analysis prepared by the Director of the Congressional Budget Office shall be included in the report accompanying such bill or resolution.

(c) LEGISLATION SUBJECT TO POINT OF ORDER.—A bill or resolution is subject to a point of order against consideration of the bill or resolution by the House of Representatives or the Senate (as the case may be) if the bill or resolution is reported for consideration by the House of Representatives or the Senate unaccompanied by the analysis required by this section.

SEC. 102. EXERCISE OF RULEMAKING POWERS.

The provisions of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 103. EFFECTIVE DATE.

This title shall apply to any bill or resolution introduced in the House of Representatives or the Senate after the date of enactment of this Act.

TITLE II—FEDERAL INTERGOVERNMENTAL RELATIONS

SEC. 201. INTERGOVERNMENTAL AND ECONOMIC IMPACT ASSESSMENT.

(a) REQUIREMENT.—When an agency publishes a general notice of proposed rulemaking for any proposed rule, the notice of proposed rulemaking shall be accompanied by an Intergovernmental and Economic Impact Assessment. Such Assessment shall be published in the Federal Register at the time of the publication of the general notice of proposed rulemaking for the rule.

(b) CONTENT.—Each Intergovernmental and Economic Impact Assessment required under this section shall contain—

(1) a description of the reasons why action by the agency is being considered;

(2) a succinct statement of the objective of, and legal basis for, the proposed rule;

(3) a good-faith estimate, based on data readily available to the agency, of the effect the proposed rule will have on the expenditure of State or local public resources by State and local governments; and

(4) a good-faith estimate, based on data readily available to the agency, or a description of the effect the proposed rule will have on—

(A) the allocation of economic resources; and

(B) productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services.

SEC. 202. INTERGOVERNMENTAL AND ECONOMIC IMPACT STATEMENT.

(a) REQUIREMENT.—When an agency promulgates a final rule, the agency shall prepare a Intergovernmental and Economic Impact Statement. The Intergovernmental and Economic Impact Statement shall contain—

(1) a succinct statement of the need for, and the objectives of, such rule;

(2) a summary of the issues raised by the public comments in response to the publication by the agency of the Intergovernmental and Economic Impact Assessment prepared for the rule, a summary of the agency's evaluation of such issues, and a statement of any changes made in the proposed rule as a result of such comments; and

(3) a good-faith estimate, based on information readily available to the agency, of

the effect the rule will have on the expenditure of State or local public resources by State and local governments; and

(4) a good-faith estimate, based on information readily available to the agency, or a description of the effect the rule will have on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services.

(b) AVAILABILITY.—The agency shall make copies of each Intergovernmental and Economic Impact Statement available to members of the public, and shall publish in the Federal Register at the time of publication of any final rule, a statement describing how the public may obtain copies of such Statement.

SEC. 203. EFFECT ON OTHER LAWS.

The requirements of this title shall not alter in any manner the substantive standards otherwise applicable to the implementation by an agency of statutory requirements or to the exercise by an agency of authority delegated by law.

SEC. 204. EFFECTIVE DATE.

This title shall apply to any rule proposed and any final rule promulgated by any agency after the date of the enactment of this Act.

SEC. 205. DEFINITION.

In this title, the term "agency" has the meaning stated in section 551(1) of title 5, United States Code.

Mr. DOMENICI. Mr. President. I am pleased to join my colleague from North Dakota, Senator DORGAN, in introduction of the Fiscal Accountability and Intergovernmental Reform Act, to be known as the FAIR Act.

This bipartisan effort is designed to improve Federal decisionmaking by requiring a thorough evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments, as well as requiring analyses of the impact on the allocation of economic resources, productivity, full employment, creation of productive jobs, and international competitiveness of American goods and services.

This measure is a companion bill to H.R. 1295, introduced on March 10, 1993, by Congressmen JAMES MORAN and WILLIAM GOODLING. This House bill has 189 cosponsors, an excellent testament to the importance our Congressional colleagues place on requiring fiscal accountability by the executive and legislative branches of Government. I applaud the foresight and efforts of Congressmen MORAN and GOODLING in drafting this timely piece of legislation.

Most of us in this chamber have debated, at one time or another, the extraordinary costs we may be passing on to our State and local governments, let alone to the American private sector.

As identified in Vice President GORE'S "Report of the National Performance Review," costs passed on to the private sector are approximately $430 billion annually. Some estimates raise this amount to over $800 billion when including indirect costs to the private sector and State and local governments. The Gore report—which estimates there are approximately 172 pieces of legislation now in place that require costly compliance by State and local governments—recommends that Congress refrain from passing on such unfunded mandates. I agree with this suggestion. At the same time, Congress and the Federal agencies need to have a reliable economic analysis or it will continue along the old path of legislating and crossing its fingers that some other entity can pay the bill.

Consequently, it is time we in Congress and the affected Federal departments and agencies assume responsibility for more systematically examining the costs we regularly mandate on our States, businesses, and citizens. As Congressman MORAN states so well, "Enacting new unfunded Federal mandates is not good Government; it's passing the buck to State and local governments and the private sector." As important, he is absolutely correct in stating, that only when we fully evaluate these impacts are "policymakers at all levels able to balance priorities for finite resources." From my years of work on the Senate Budget and Appropriations Committees, I know the conflicts and trade-offs that must be made. As we battle to keep the Federal budget under control and within the designated caps, we fail to worry enough about how our actions force the States' budgets out of control.

Over the past year, I have received a significant increase in appeals from small businesses, and State and local officials to reassess the costs passed onto them from the Federal level. For example, the New Mexico Department of Labor [DOL] Secretary wrote me a thoughtful and succinct letter about the ramifications of certain provisions of the National Voter Registration Act of 1993. He stated: "* * * no funds are available to carry out responsibilities under this legislation. We estimate that the requirements of this bill would cost $80,000 for staff in our State. * * * State budgets are tight everywhere. Unless other Federal funds are provided, this becomes another Federal 'unfunded mandate' on States." The New Mexico DOL Secretary was not opposed to the concept of the measure, but he had legitimate arguments that good intentions aside, implementation of this measure meant substantially higher costs to his department, the State, and ultimately the citizens of New Mexico.

As another example of growing discontent at the State and local level, I would like to have added in the RECORD a copy of a letter and enclosures I received from the mayor of the city of Las Vegas, NM. Listen to what Mayor Tony Martinez implores:

> We are writing on behalf of the citizens and taxpayers of our city to ask you to reduce the current unfunded Federal mandate burdens and to urge your action to force change in the way the Federal Government considers future mandates. * * * The cumulative impact of Federal legislative and regulatory requirements to perform duties without consideration of local circumstances, costs, or capacity, or be subject to civil and criminal penalties for noncompliance directly affects the citizens of our cities and towns. Federal mandates require compliance regardless of other pressing local needs and priorities affecting the health, welfare and safety of our citizens. This ultimately forces a combination of higher local taxes and reduced local services.

The city of Las Vegas, along with hundreds of other State and local governments across the country, have joined in a coalition declaring October 27, 1993, as "National Unfunded Mandates Day." This collective effort is an appeal to the Federal Government to recognize the burdens it passes onto the taxpayers and to also assume some responsibility for these costs. It is certainly fair to say that when all is said and done, the taxpayers are going to foot the bill one way or the other. However, the fact of the matter is that this payment can be hidden easier when it's not in the well-publicized Federal budget, but rather quietly transferred to the private sector and State and local governments to find the means to meet the compliance costs.

I believe this bill is a step in the right direction. One of the most important elements of this bill is the requirement that Congress understand the effects and impacts of its legislation. This measure will require that before a committee of either House reports a bill for consideration, the committee report will contain an analysis, prepared after consultation with the Director of the Congressional Budget Office, of the effects of the new requirements on the following: First, State and local government expenditures necessary to comply with Federal mandates; second private businesses, including the economic resources required annually to comply with the legislation and implementing regulations; and third, economic growth and competitiveness.

This bill provides Congress and the Federal agencies the critical economic impact information it needs to assess the direct and indirect costs that will be passed on to the American taxpayers. While it may ultimately be determined that legislation affecting the social good outweighs the costs, at least that decision will be based on some economic rationality.

With respect to this bill, there is one difference between the House and Senate versions that I would like to explain. The House version requires that in promulgating new rules or developing other Federal actions, an agency ensure there is a thorough evaluation of alternatives offered and that every effort be made to choose the alternative of least burden on State and local governments and businesses. We certainly support this concept. Since Senator DORGAN and I have some concerns regarding agency's resources to address each alternative and that we do not unleash thousands of litigants on every conceivable issue, we elected to modify this portion of the bill.

I want to reiterate, however, that we fully support the concept of the House version and are most hopeful this issue can be worked out during the hearing processes to accommodate the intent of the House version.

Our constituents are begging us to stop passing on millions and billions of dollars worth of Federal unfunded mandates. We are always very sympathetic, but we do not follow those words with action. If enacted, I believe this bill will give us the tools to stop doing this. It is time we know the potential and economic impacts before we act to further burden our State and local governments and the private sector. I hope my colleagues will lend their support to this measure, and that we will pass this much needed legislation at the earliest possible time.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAS VEGAS, NM, *October 15, 1993.*

Hon. PETE DOMENICI,
Washington, DC.

DEAR SENATOR DOMENICI: We are writing on behalf of the citizens and taxpayers of our city to ask you to reduce the current unfunded federal mandate burdens and to urge your action to force change in the way the federal government considers future mandates.

The cumulative impact of federal legislative and regulatory requirements to perform duties without consideration of local circumstances, costs, or capacity, or be subject to civil and criminal penalties for noncompliance directly affects the citizens of our cities and towns. Federal mandates require compliance regardless of other pressing local needs and priorities affecting the health, welfare and safety of our citizens. This ultimately forces a combination of higher local taxes and reduced local services.

Too often federal rules and regulations are inflexible: "one-size-fits-all" requirements that impose unrealistic time frames and specify procedures or facilities where less costly alternative might be just as effective are becoming the norm. It is time for that to change.

Today we are beginning a public education campaign in our city about what federal mandates are and what they mean to our mutual constituents. We intend to make clear the real costs that are passed on to the taxpaying citizens of our city.

We want to take a leadership role in turning back the tide. Enclosed is a copy of a resolution on federal mandates adopted by our governing body. We would like to report that Congress will act to reduce stormwater and drinking water mandates before this session adjourns. We would like to report that no future law or regulation will be imposed without close consultation with local leaders and without the federal government picking up its share of the costs.

We will make progress reports to our governing body and community about what you are doing to help us. So please join our campaign to end unfunded federal mandates and to reintroduce government as a partnership to serve our citizens.

Sincerely,

TONY MARTINEZ, Jr.,
Mayor.

CITY OF LAS VEGAS—RESOLUTION NO. 82-27

Whereas, unfunded mandates on state and local governments have increased significantly in recent year;

Whereas, federal mandates require cities and towns to perform duties without consideration of local circumstances, costs, or capacity, and subject municipalities to civil or criminal penalties for noncompliance;

Whereas, federal mandates require compliance regardless of other pressing local needs and priorities affecting the health, welfare, and safety of municipal citizens;

Whereas, excessive federal burdens on local government force some combination of higher local taxes and fees and/or reduced local services on citizens and local taxpayers;

Whereas, federal mandates are too often inflexible, one-size-fits-all requirements that impose unrealistic time frames and specify procedures or facilities where less costly alternatives might be just as effective;

Whereas, existing mandates impose harsh pressures on local budgets and the federal government has imposed a freeze upon funding to help compensate for any new mandates;

Whereas, the cumulative impact of these legislative and regulatory actions directly affect the citizens of our cities and towns; and

Whereas, the National League of Cities in conjunction with other state and local government representatives, has begun a national public education campaign to help citizens understand and then reduce the burden and inflexibility of unfunded mandates, beginning with a National Unfunded Mandates Day on October 27, 1993. Now, therefore, be it

Resolved That the City of Las Vegas endorses the efforts of the National League of Cities and supports working with National League of Cities to fully inform our citizens about the impact of federal mandates of our government and the pocketbooks of our citizens; Be it further

Resolved That the City of Las Vegas endorses organizing and participating in events to begin this process on October 27th and finally, Be it further

Resolved That the City of Las Vegas resolves to redouble our efforts to inform and work with members of our Congressional delegation to educate them about the impact of federal mandates and actions necessary to reduce their burden on our citizens.

By Mr. SHELBY (for himself and Mr. CRAIG):

S. 1594. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require a reduction in the discretionary spending limits in each fiscal year by an amount equal to the total of any reductions made in existing programs for the previous fiscal year; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

DEFICIT REDUCTION ASSURANCE ACT OF 1993

• Mr. SHELBY. Mr. President, we have heard a good deal of talk in recent weeks about the need to take credible action to reduce the deficit. Most of this discussion has revolved around the cutting or termination of a number of high budget science and technology projects. I applaud the efforts of my colleagues to force votes on the merits of many of these projects although I have not always necessarily agreed with them on the merit, or lack thereof, of the projects themselves. However, amid all of this tough talk about deficit reduction through cutting programs, the fact remains that not one dime will be saved through the termination or reduction of the appropriation for a given project without a change in our present budget law.

When the ASRM was terminated by the House last week, the conferees allocated the remaining funds after termination costs to the NSF and EPA. I am absolutely certain that next year, the 600 or so million dollars that would have gone to the super collider will be similarly spent in other parts of the budget, if not in the energy appropriations bill. Therefore, Mr. President, canceling a given program like the ASRM or the super collider will not save the taxpayers of this country any money, will not compel the Government to borrow less money and, therefore, will not reduce the deficit by any amount. This situation results from the fact that the discretionary spending caps enacted in the budget will not be reduced by any amount unless adjusted by law. As a result, no matter how many programs are eliminated or reduced under the mantle of deficit reduction, unless the discretionary spending caps are reduced by that amount, the amount of money that can be spent by law in the next fiscal year will remain unchanged. And we can be sure that those funds will be spent.

Mr. President, Senator CRAIG and I are introducing legislation that will amend current budget law to require the OMB to reduce the discretionary spending totals for a fiscal year based on scoring the aggregate amounts of funds actually reduced for a program from a previous year's appropriation. Therefore, if we cancel a project or slash its funding, then we can be certain that those funds will go to deficit reduction. I challenge all of my colleagues, no matter whether we agree or disagree on the merits of a given program, to cosponsor this legislation in order to secure the savings that we promise to the taxpayers when we attack such programs. We owe them nothing less than honest accounting to back up our rhetoric. Passage of this measure will close a large and sorely ignored loophole in our budget law and our discourse.•

• Mr. CRAIG. Mr. President, I offer my congratulations to the Senator from

Alabama [Mr. SHELBY] for his leadership and thoughtful legislating in today introducing S. 1594, the Deficit Reduction Assurance Act of 1993. I am proud to join my colleague in cosponsoring this bill.

The American people are quickly turning from being perplexed to being downright angry when they consider the Federal budget. Small wonder. When you try to explain how our budget procedures work, most Americans—and, certainly, most Idahoans—wonder what planet some of these ideas came from.

Few things are as frustrating as explaining how the caps on discretionary spending work. Time after time, my constituents ask, if you just eliminate program A, wouldn't that reduce the deficit? And I have to answer, no, that will just free up those dollars to be reallocated among programs B, C, and D.

The dialog continues:

Why?

Because the Budget Act creates a cap of about $550 billion, and Congress can—and will—spend up to that cap.

So, if you want a spending cut to be used for deficit education, why can't you just lower the overall cap by the same amount?

Because that would be subject to a point of order.

Mr. President, it's usually at this point that my constituents give me glazed looks. Like them, I find it hard to understand how this quirk in the law came to be. Of course, the answer is obvious—it was just some more of the fine print inserted in a 1,000-page bill.

I don't know whether this particular glitch in the process came about because of clever intent or is an example of the theory of unintended consequences. But I do know that it doesn't make sense to take a budget device—like a cap on spending—the clear purpose of which was to help reduce the deficit, and allow that device to be used to prevent deficit reduction.

Mr. President, not only should we be allowed to apply a specific spending cut to deficit reduction by tying it to a reduction in the total spending cap, that tie ought to be the rule, rather than the exception.

That's why the Deficit Reduction Assurance Act of 1993 is a straightforward, clear example of the kind of common sense that needs to be reflected in much more of our legislation.

The Shelby-Craig bill simply says that, when you cut a program, you cut total spending, it stays cut, and the deficit goes down.

The administration has been preparing a legislative package of policy changes based on its National Performance Review and some additional rescissions.

We all know the administration is doing this because it promised to propose spending cuts outside of the original budget resolution, reconciliation bill, and regular appropriation bills for fiscal year 1994.

And we all know the administration had to do this because of the overwhelming cry that the original budget package didn't achieve enough deficit reduction on the spending side of the budget equation.

It was widely assumed, and widely reported, that these new spending cuts would be applied to deficit reduction. But what are we hearing now? That most of these cuts will just make it easier to meet the discretionary caps that already are in the Budget Act and already have been counted toward deficit reduction.

The Shelby-Craig bill not only would make sure that spending cuts are used for deficit reduction, it would make sure that those spending cuts are preserved in future budget baselines and future spending caps.

I commend the Senator from Alabama and also note that his introduction of this bill today is consistent with his long history of commitment to promoting fiscal responsibility and balancing the budget.

Senator SHELBY and I are both cosponsors of the balanced budget amendment to the U.S. Constitution that we will be debating here on the floor of the Senate in mid-November. This commitment dates back to our days together in the other body, as well. Occasionally, we supporters of the balanced budget amendment are questioned, sometimes with a note of skepticism, about how we will balance the budget. The Shelby-Craig bill being introduced today is one more significant step in that direction.

I look forward to continuing to work with the Senator from Alabama on these efforts, and any others that protect the beleaguered taxpayer's pocketbook.●

By Mr. KENNEDY (for himself and Mrs. KASSEBAUM):

S. 1595. A bill to amend the Public Health Service Act to revise and extend the Bone Marrow Donor Program, and for other purposes; to the Committee on Labor and Human Resources.

BONE MARROW DONOR PROGRAM REAUTHORIZATION ACT OF 1993

Mr. KENNEDY. Mr. President, S. 1595 reauthorizes the National Bone Marrow Donor Registry. For persons suffering from leukemia, aplastic anemia, and related diseases, a bone marrow transplant can mean the difference between life and death.

But finding a suitable bone marrow donor is far more difficult than matching blood types. In the past, it was virtually impossible to find a suitable match if none was available in the patient's family. But all that has changed in recent years. In 1988, Congress passed the Health Omnibus Program Extension Act, requiring the Secretary of Health and Human Services to establish a national registry of volunteer bone marrow donors. Over 1 million potential donors are now listed on the registry, and the prospect of finding suitable matches has been dramatically increased.

This bill builds on that success. It will establish a program to recruit more bone marrow donors through the distribution of information and educational materials. The Secretary of HHS may award grants or contract with organizations to increase donations. Priority will be given to education and training for minorities and other populations who have the greatest difficulty in finding matches in the current registry. The number of minority donors on the registry has increased substantially in recent years, but a large disparity still exists.

To assist patients, families, and their physicians in seeking a donor, the Secretary will establish, by grant or contract, an office of patient advocacy and case management. The services provided by the office will include reviewing individual cases, tracking preliminary searches, informing patients and physicians of progress locating appropriate donors, and identifying and resolving individual search problems and concerns.

The tragic deaths of William Gold, Allison Atlas, and Joanne Johnson have reminded us again how important these services are. Dr. Gold testified before the House of Representatives this year, and eloquently urged us to do more to put the patient's interests first. Allison's father and Joanne's mother brought their concerns to the Senate Labor and Human Resources Committee in 1990 about the need to strengthen the donor program. We mourn their loss, and we hope this bill will accomplish its life-saving goal of improving the current system.

I particularly commend the leadership of Senator KASSEBAUM and Senator WOFFORD on this legislation. They have worked with great skill and dedication in developing this measure, and I look forward to early action by the Senate.

I ask unanimous consent that the full text be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bone Marrow Donor Program Reauthorization Act of 1993".

SEC. 2. REAUTHORIZATION.

Section 379 of the Public Health Service Act (42 U.S.C. 274k) is amended—

(1) in subsection (a), by adding at the end thereof the following: "With respect to the board of directors—

"(1) each member of the board shall serve for a term of 5 years, except that the terms of each member who is serving on the date of enactment of the Organ Transplant Program Reauthorization Act of 1993 shall expire at times determined by the Secretary, in consultation with the board;

"(2) a member of the board may continue to serve after the expiration of the term of such member until a successor is appointed; and

"(3) to ensure the continuity of the board, not more than one-fifth of the board shall be composed of newly appointed members each year.";

(2) in subsection (b)—

(A) in paragraph (2), by striking "establish" and all that follows through "directly assists" and inserting "cooperate with the patient advocacy and case management office established under subsection (j) and make available information on (A) the resources available through the National Bone Marrow Donor Program, (B) the comparative costs incurred by patients prior to transplant, and (C) the marrow donor registries that meet the standards described in subsection (c)(3) and (d)(1), to assist";

(B) in paragraph (5), to read as follows:

"(5) establish a program for the recruitment of bone marrow donors that includes the compilation and distribution of informational materials and processes to educate and update potential donors;";

(C) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(D) by inserting after paragraph (5), the following new paragraph:

"(6) regularly update the Registry to account for changes in potential donor status;";

(3) by redesignating subsection (j) as subsection (l);

(4) by inserting after subsection (i), the following new subsections:

"(j) Patient Advocacy and Case Management.—

"(1) Establishment.—The Secretary shall by grant or contract establish and maintain an office of patient advocacy and case management that meets the requirements of this subsection.

"(2) Provisions relating to grants and contracts.—

"(A) Application.—To be eligible for a grant or contract under this subsection an entity shall prepare and submit to the Secretary for approval an application that shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

"(B) Limitations.—A grant or contract under this subsection shall be for a period of 3 years. No grant or contract may exceed $500,000 for any such year.

"(3) Functions.—The office established under paragraph (1) shall—

"(A) be headed by a director who shall serve as an advocate on behalf of—

"(i) individuals who are registered with the Registry to search for a biologically unrelated bone marrow donor; and

"(ii) the physicians involved;

"(B) establish and maintain a system for patient advocacy that directly assists patients, their families, and their physicians in a search for an unrelated donor;

"(C) provide individual case management services to directly assist individuals and physicians referred to in subparagraph (A), including—

"(i) individualized case assessment, tracking of preliminary search through activation, and follow up when the search process is interrupted or discontinued;

"(ii) informing individuals and physicians of progress made in searching for appropriate donors; and

"(iii) identifying and resolving individual search problems or concerns;

"(D) collect and analyze data concerning the number and percentage of individuals proceeding from preliminary to formal search and the number and percentage of patients unable to complete the search process; and

"(E) survey patients to evaluate how well such patients are being served and make recommendations for streamlining the search process.

"(4) Evaluation.—

"(A) In general.—The Secretary shall evaluate the system established under paragraph (1) and make recommendations to Congress concerning the success or failure of such system in improving patient satisfaction, and any impact the system has had on assisting individuals in proceeding to transplant.

"(B) Report.—Not later than January 1, 1995, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report concerning the evaluation conducted under subparagraph (A), including the recommendations developed under such subparagraph.

"(k) Information and Education Program.—

"(1) In general.—The Secretary may award grants to, and enter into contracts with, public or nonprofit private entities for the purpose of increasing bone marrow donation by enabling such entities to—

"(A) plan and conduct programs to provide information and education to the public on the need for donations of bone marrow;

"(B) train individuals in requesting such donations; and

"(C) test and enroll marrow donors.

"(2) Enrollment.—Donors enrolled under this subsection with Federal Government funds must be enrolled with the Registry described in section 379. Such donors may be enrolled at other registries.

"(3) Priorities.—In awarding grants and contracts under paragraph (1), the Secretary shall give priority to carrying out the purposes described in such paragraph with respect to minority populations and other populations that donate at a rate lower than that of the general public."; and

(5) in subsection (l) (as so redesignated), by striking "1991" and all that follows and inserting "1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

By Mr. SIMON (for himself, Mr. Thurmond, Mr. Kennedy, Mr. Simpson, and Mr. Leahy):

S. 1596. A bill to provide for application of the sentencing guidelines for certain nonviolent offenses in which a mandatory minimum term of imprisonment would otherwise be required; to the Committee on the Judiciary.

SENTENCING IMPROVEMENT ACT OF 1993

Mr. SIMON. Mr. President. I am pleased to introduce the Sentencing Improvement Act of 1993. This bill represents the first step in what I hope will be a broader effort to bring some rationality to our criminal sentencing practices. I want to express my thanks to my colleagues Senators Kennedy, Thurmond, Simpson, and Leahy for their help in bringing this legislation to life.

The bill narrows the scope of mandatory minimum statutes in the Federal criminal code. For too long, Congress has responded to the rising tide of criminal activity by enacting more and more mandatory minimum sentences. Mandatory statutes sound tough, but they ultimately diminish public safety by overloading our prison systems with nonviolent criminals and diverting scarce resources from more effective law enforcement activities.

The fundamental problem with mandatory sentences is that they completely eliminate a Federal judge's discretion—forcing a judge to impose the same penalties on offenders who differ significantly in background and culpability. As a result, minor offenders often end up serving 5, 10, or 20 years in prison—wasting resources that might be used more effectively on other law enforcement activities.

According to the U.S. Sentencing Commission, 38 percent of those sentenced to a Federal mandatory prison term in 1992 were deemed less serious offenders, which means that they were first time offenders, did not use a weapon, and played no aggravating role in the offense.

Perhaps the worst part about mandatory statutes is that they are simply unnecessary at the Federal level; a better system of sentencing is already in place. Since the mid-1980's, Federal courts have sentenced offenders under the Federal Sentencing Guidelines. These guidelines compel courts—by law—to sentence criminals within a strict range of penalties. And the sentences are real time; the Federal sentencing guidelines do not permit early release on parole.

While the sentencing guidelines are extremely tough, they offer a smarter, more tailored, approach to meting out punishment, focusing our prison dollars on those offenders who are truly dangerous. They accomplish this feat simply by taking into account factors—such as the offender's crime, role in the offense, and past criminal record—that help to identify those criminals who pose a high risk to society.

Our proposal repeals the applicability of mandatory sentences for certain non-violent offenders. It is a very narrow repeal, applicable only to offenders who, among other things, had a negligible criminal record, did not carry a weapon, and did not use, threaten to use, or attempt to use violence. I hope this measure triggers additional efforts to reevaluate the use of mandatory minimum statutes in Federal court.

I ask unanimous consent that the full text of this bill appear in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sentencing Improvement Act of 1993".

SEC. 2. FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) EXCEPTION TO CERTAIN STATUTORY MINIMUM SENTENCING PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment for violating, attempting to violate, or conspiring to violate sections 401 or 404 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have more than 1 criminal history point under the sentencing guidelines;

"(C) the defendant did not cause, attempt to cause, or credibly threaten to cause the death of, or serious bodily injury to, any person during the course of the offense;

"(D) the defendant did not carry or otherwise possess a firearm or explosive during the course of the offense and did not direct another person to do so;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as determined under the sentencing guidelines) in the offense; and

"(F) the offense did not result in death or serious bodily injury as a result of—

"(i) the use of the controlled substance; or

"(ii) the act of any person which was reasonably foreseeable and for which the defendant is legally accountable.".

(b) CONFORMING AMENDMENTS.—(1) Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "or section 3553(f) of title 18, United States Code," after "420 of this title" the first time it appears.

(2) Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by striking the penultimate sentence and inserting the following: "A mandatory minimum sentence required by this section shall not apply in the case of a person subject to section 3553(f) of title 18, United States Code.".

(3) Section 1010(a) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)) is amended by inserting ", except as provided in section 3553(f) of title 18, United States Code" before the period.

(4) Section 411(a) of the Controlled Substances Act (21 U.S.C. 851(a)) is amended by adding at the end thereof the following new paragraph:

"(3) This section shall not apply to any determination of a defendant's criminal history under the sentencing guidelines, including any determination of criminal history that, under section 3553(f) of title 18, United States Code, disqualifies the defendant from consideration for a sentence below an otherwise applicable mandatory minimum.".

(c) HARMONIZATION.—The United States Sentencing Commission—

(1) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision;

(2) shall review the consideration of defendants' criminal histories under the guidelines and make such amendments to the sentencing guidelines and policy statements as the Commission determines necessary and appropriate to ensure that—

(A) defendants with significant criminal histories resulting from foreign convictions are sentenced commensurate with the seriousness of their prior criminal records to the extent that consideration of such foreign convictions is constitutional and practical;

(B) defendants with juvenile adjudications involving significant acts of misconduct are sentenced commensurate with the seriousness of such misconduct to the extent that consideration of such misconduct is practical and relevant to the purposes of sentencing; and

(C) the assignment to a defendant of a single criminal history point adequately reflects the seriousness of such a defendant's prior criminal conduct; and

(3) may promulgate any such amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271), as though the authority under that section had not expired.

(d) SENTENCING COMMISSION STUDY.—The United States Sentencing Commission shall monitor the operation of this Act and the amendments made by this Act and, not later that 18 months following the date of enactment of this Act, provide a report to Congress describing—

(1) sentences imposed under the Act;

(2) the findings pursuant to the review mandated by subsection (c)(2); and

(3) any recommendations for changes in the Act that the Commission believes are warranted.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) and any amendments to the sentencing guidelines and policy statements made by the United States Sentencing Commission pursuant to subsection (c) shall apply with respect to sentences imposed for offenses committed on or after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, I am pleased to join my colleagues in introducing the Sentencing Improvement Act of 1993. This legislation will remedy some of the worst injustices created by mandatory minimum sentencing statutes. It also reflects a growing recognition that mandatory minimum sentences are unnecessary and unhelpful now that we have a fully functioning sentencing guidelines system in the Federal courts.

The Sentencing Improvement Act will permit a small number of low-level, nonviolent defendants who would otherwise be subject to mandatory minimum laws to be sentenced under the guideline system instead. Basically, the defendants exempted from mandatory sentencing will be low-level drug trafficking defendants with very minimal criminal records who did not possess a firearm or cause death during the commission of the offense, and who did not have an aggravating role in the offense as defined by the guidelines.

The imposition of lengthy mandatory prison terms on relatively minor defendants has lead to an outcry of disapproval from judges, prosecutors, defense attorneys and other knowledgeable observers. These cases are clogging up our courts and our prisons. It is expensive, counterproductive and unjust to keep these small-time, nonviolent defendants in prison for 10 or 20 years, especially when some dangerous, career criminals are serving less time.

Mandatory minimum sentences cause these irrational results, and enactment of this legislation is a sensible initial response to the obvious flaws in current law. I would prefer more comprehensive reform of mandatory sentencing laws, but I have cosponsored this bill because I recognize that this may be as far as the current Congress is prepared to go. I hope my colleagues will join me in evaluating the effect of this law, and in reviewing the Sentencing Commission's recommendations for further action.

My opposition to mandatory sentencing is not based on the length or severity of current sentences. Rather, I oppose mandatory sentencing laws because they are counterproductive in the fight against crime and are flatly inconsistent with the sentencing guideline system that we enacted by passing the Sentencing Reform Act of 1984.

That act, the product of more than a decade of congressional debate, created the U.S. Sentencing Commission, established the guidelines system, abolished parole, and authorized appellate review of sentences. The Sentencing Reform Act provides the framework for a coherent Federal sentencing policy.

The Senator from South Carolina [Mr. THURMOND] and I worked together for many years to persuade our colleagues of the merits of sentencing reform. Our legislative strategy and our goals were bipartisan. We sought to eliminate unwarranted disparity, promote honesty in sentencing, and rationalize this stage of the Federal criminal justice system.

But mandatory minimum sentencing statutes have hampered the guidelines system and are becoming an increasingly serious obstacle to its success. Congress has persisted in enacting these statutes in recent years, despite the fact that mandatory minimums interfere with the Commission's effort to devise a rational sentencing system. Both mandatory penalties and guidelines limit judicial sentencing discretion, but the guidelines offer a far more sophisticated opportunity to channel judicial discretion.

Mandatory minimums inevitably lead to sentencing disparity because defendants with different degrees of guilt and different criminal records receive the same sentence. The guideline system permits the court to consider the aggravating and mitigating circumstances relevant to each offense and each offender, but mandatory minimums override such individualized sentencing.

Some advocates of mandatory sentencing believe that coerced uniformity is appropriate. But the mandatory statutes do not produce uniformity, they just transfer discretion from judges to prosecutors, who decide whether defendants will be charged with an offense carrying a mandatory penalty, and whether to insist on a plea to that count of the indictment. A guideline system makes judges accountable for the discretion they exercise, while mandatory sentencing laws impose no similar check on prosecutors.

The Attorney General, the Sentencing Commission, and the Judicial Conference have all criticized mandatory penalties. At a recent conference, Chief Justice Rehnquist noted that mandatory minimums "frustrate the careful calibration of sentences, from one end of the spectrum to the other, that the guidelines were intended to accomplish."

The act we are introducing today is a small but important step in the effort to recapture the goals of sentencing reform. We must begin to let the Sentencing Commission do the job we delegated to it.

Mr. SIMPSON. Mr. President, I am pleased to join my distinguished colleagues, Senator STROM THURMOND and Senator TED KENNEDY, together with Senators SIMON and LEAHY, in introducing this legislation. I commend them for their leadership and for their sensitivity in working to correct an unintended injustice in the sentencing guidelines for first time, nonviolent offenders.

Mr. President, the American people have been speaking clearly. They want Congress to enact tough criminal sanctions against those individuals who choose to prey on innocent people and who choose to terrorize our society with their lawlessness.

Congress reacted. Indeed, we continue to enact legislation imposing ever tougher sanctions against violent criminals. One unfortunate result of this effort, however, has been the implementation of minimum mandatory sentences against some who violate the law, but who do not directly endanger or threaten others with harm or violence.

These nonviolent first-time offenders are being sentenced to terms under the Federal system that, as a practical reality, even far exceed the terms served by some of the most violent criminals punished under other laws and guidelines. This legislation will correct that injustice.

This legislation will accomplish two important objectives. First, it directs the U.S. Sentencing Commission to reexamine the minimum mandatory sentencing rules for nonviolent, first time offenders to allow the individual to be judged and sentenced according to that person's unique circumstances.

This should help to restore justice to our system of justice.

But this legislation accomplishes another equally important objective. It sends a message to our judges that we do indeed, expect them to exercise their proper reason and discretion and it allows judges the flexibility to impose tough, but fair, sentences based on the facts of each individual case.

The judicial confirmation process is a highly charged and grueling thing, Mr. President. Nominees are thoroughly screened and interviewed, not only on their knowledge of the law, but on their temperament and their compassion. We demand the highest standards on all factors. Yet, Mr. President, once having demanded that a judge be able to judge fairly and compassionately, we enact some unfortunate minimum mandatory sentencing guidelines which prevent them from being both fair and just.

So, this legislation will restore a degree of fairness and justice in our sentencing guidelines. I am pleased to be an original cosponsor and I thank my five colleagues for their leadership on this issue.

By Mr. KENNEDY:

S. 1597. A bill to amend the Public Health Service Act to revise certain organ procurement and transplantation programs, and for other purposes; to the Committee on Labor and Human Resources.

ORGAN TRANSPLANT PROGRAM REAUTHORIZATION ACT OF 1993

Mr. KENNEDY. Mr. President, S. 1597 reauthorizes the organ transplant and procurement program.

Eleven years ago, Jamie Fiske of Massachusetts first focused the attention of the Nation on the need for national coordination of organ transplants. Her father's impassioned plea for a liver to save the life of his daughter was broadcast across the country and touched the hearts of Americans everywhere.

Since the passage of the National Organ Transplant Act in 1984, we have made substantial progress in finding donors for the large number of citizens who need transplants in order to survive. But problems still exist and improvements should be made.

The National Organ Transplant Program has resulted in a more systematic process for organ transplants, but problems still exist. One of the greatest difficulties we face is the limited supply of organs. In recent years the number of donations has leveled off. Congressional action alone cannot increase the number. What is needed is greater public recognition of the need for these life-saving gifts. At this very moment, over 30,000 Americans are waiting for an organ transplant, and 5 to 7 people die each day because an organ is not available. We can and should do better.

This bill enables the Secretary of the Department of Health and Human Services to make grants to organ procurement organizations and other public or nonprofit institutions for the purpose of increasing organ donation. The means to achieve the increase may include public education programs, training people to request organ donations, and providing technical assistance to organ-procuring organizations and hospitals.

Individuals who are members of minority groups have more difficulty than others in finding an organ match. Priority will be given to grant requests designed to alleviate organ shortages for minority and other populations where the shortages are most desperate.

In an effort to increase the rate of donations, organ procurement organizations will be required, each year, to evaluate their effectiveness in acquiring organs, especially among minority populations, to assess the variations in procurement among hospitals within their region, and to develop plans to increase procurement for minorities and other populations experiencing organ shortages.

This bill also calls for greater participation by transplant recipients and their families on the boards of organ procurement organizations and on the board of the Organ Procurement and Transplantation Network. Recipients, candidates, and donor families must comprise at least one-third of the network board.

In addition, the legislation will make the patient affairs committee a permanent committee of the network to address the needs of recipients and donors.

To protect patients from substantial price increases in the organ transplant program registration fees, the network will be required to submit any fee changes for the Secretary's review and approval.

Allocations of organs must be equitable. A patient waiting for an organ in one State should not have a substantially longer, or shorter, waiting time than a patient in similar condition in another State. Currently the median waiting times vary by more than a year across the country.

This bill does two things to help move toward a more equitable allocation process. First, all organ procurement organizations will be required to have a single list of transplant candidates for each type of organ throughout their service area, unless the network grants, and the Secretary approves, a waiver of this requirement.

Second, the network will be required by September 30, 1994, to develop a system to allocate organs, so that patients in one region will have an equal chance of receiving an organ as patients in other regions. After reporting their recommendations to the Secretary of the Department of Health and Human Services, the Network will implement this new allocation system by September 30, 1995.

To create a unified system for coordinating organ donation and prevent situations where hospitals are encouraged to shop around for better arrangements with different procurement organizations, this bill will require such organizations to have agreements with all hospitals in their designated service area, unless the Secretary grants a waiver of this requirement.

The General Accounting Office and the Office of Technology Assessment will be asked to study the numerous issues relating to organ procurement and allocation. The GAO study will analyze the prevalence and distribution of organ transplants to foreign nationals and nonresident aliens, consider equitable allocation systems for organs, and evaluate the board membership of organ procurement organizations and the Network.

The OTA study will evaluate performance standards for procurement organizations and recommend criteria for allowing hospitals to work with such organizations outside their service area.

Passage of this bill will greatly improve the current system by which urgently needed organs become available for transplantation. In a very real sense, this bill will save lives, and I urge my colleagues to join in expediting its consideration.

I ask unanimous consent to have the full text submitted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organ Transplant Program Reauthorization Act of 1993".

SEC. 2. ORGAN PROCUREMENT ORGANIZATIONS.

(a) IN GENERAL.—Subsection (a) of section 371 of the Public Health Service Act (42 U.S.C. 273(a)) is amended to read as follows:

"(a)(1) The Secretary may make grants for the consolidation and expansion of qualified organ procurement organizations described in subsection (b).

"(2) The Secretary may make grants to, and enter into cooperative agreements and contracts with, qualified organ procurement organizations described in subsection (b) and other public or nonprofit private entities for the purpose of increasing organ donation through—

"(A) the planning and conducting of programs to provide information and education to the public on the need for organ donations;

"(B) the training of individuals in requesting such donations; or

"(C) the provision of technical assistance to organ procurement organizations and other entities in the health care system.

"(3)(A) In making awards of grants, cooperative agreements and contracts under subparagraphs (A) and (B) of paragraph (2), the Secretary shall give priority to carrying out the purpose described in such paragraph with respect to minority or other populations for which there is a greater degree of organ shortages relative to the general population.

"(B) In making awards of grants, cooperative agreements and contracts under paragraph (2)(C), the Secretary shall give priority to carrying out the purpose described in such paragraph with respect to organ procurement organizations and hospitals with lower rates of procurement relative to other such organizations or hospitals.".

(b) QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.—Section 371(b) of such Act (42 U.S.C. 273(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "for which grants may be made under subsection (a)" and inserting "described in this section";

(B) by realigning the margin of subparagraph (E) so as to align with the margin of subparagraph (D); and

(C) in subparagraph (G)—

(i) in the matter preceding clause (i), by striking "directors or an advisory board" and inserting "directors (or an advisory board, in the case of a hospital-based organ procurement organization established prior to September 1, 1993)"; and

(ii) in clause (i)—

(I) by striking "composed of" in the matter preceding subclause (I) and inserting "composed of a reasonable balance of"; and

(II) by inserting before the comma in subclause (II) the following: ", including individuals who have received a transplant of an organ (or transplant candidates), and individuals who are part of the family of an individual who has donated an organ";

(2) by striking paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2);

(4) in paragraph (2) (as so redesignated)—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) with respect to each hospital or other entity in its service area that has facilities for organ donations, and except as provided in paragraph (3)—

"(i) have in effect an agreement with the entity under which the entity, for the purposes of allocation, identifies potential organ donors and notifies the organ procurement organization, and

"(ii) if such hospital or entity is dissatisfied with the service obtained from its designated organ procurement organization such hospital or entity may seek mediation under a process established by the Secretary within 60 days after the date of enactment of this subparagraph,";

(B) by redesignating subparagraphs (B) through (K) as subparagraphs (C) through (L), respectively,

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) conduct and participate in systematic efforts, including public education, to increase the number of potential donors,";

(D) by inserting before the comma in subparagraph (F) (as so redesignated) the following: ", which system shall, at a minimum, allocate each type of organ either on the basis of a single service area list, or an approved alternate local unit list (as defined in paragraph (4)), of individuals who have been medically referred to a transplant center in the service area of the organization in order to receive a transplant of the type of organ with respect to which the list is maintained";

(E) by striking subparagraph (I) (as so redesignated) and inserting the following new subparagraph:

"(I) be a member of and abide by the rules and requirements of the Organ Procurement and Transplantation Network established under section 372,";

(F) by striking subparagraph (K) (as so redesignated) and inserting the following new subparagraph:

"(K) evaluate annually, and report to the Organ Procurement and Transplantation Network established under section 372, on the effectiveness of the organization in acquiring potentially available organs, particularly among minority populations, and the variation of procurement across hospitals within the organ procurement organization region, and identify a plan to increase procurement, particularly among minority populations and other populations for which there is a greater degree of organ shortages relative to the general population, and at hospitals with low rates of procurement,"; and

(G) by adding at the end thereof the following flush sentence:

"Subparagraph (A) shall not be construed as precluding an organ procurement organization from requesting that the Secretary permit changes in their service area boundaries."; and

(5) by adding at the end thereof the following new paragraphs:

"(3)(A) The Secretary may waive the requirement that an organ procurement organization have an agreement of the type described in paragraph (2)(A) in effect if—

"(i)(I) the hospital or other entity within the service area of the organ procurement organization is or seeks to be a party to such an agreement with another organ procurement organization; and

"(II) the hospital and organ procurement organization can demonstrate to the satisfaction of the Secretary that their affiliation is based on an agreement or understanding between the organ procurement organization for the service area in which the hospital is located, and the organ procurement organization with which the hospital desires to affiliate, and such hospital;

"(ii) the hospital or other entity within the service area of the organ procurement organization is or seeks to be a party to such an agreement with another organ procurement organization and can document to the satisfaction of the Secretary, with input from the organ procurement organization for the area in which the hospital is located, that—

"(I) such hospital or entity has received inadequate service from the organ procurement organization for the service area in which the hospital is located; and

"(II) another organ procurement organization is willing and able to provide such hospital or entity adequate service; or

"(iii) in such other circumstances as described in regulations promulgated by the Secretary.

"(B) The relationship of a hospital or other entity within the service area of the organ procurement organization with other organ procurement organizations outside the service area that was in effect as of June 29, 1993, may continue in effect, pending a determination by the Secretary under the waiver process described in subparagraph (A). Not later than 3 months after the date of enactment of this paragraph, the hospital or other entity shall notify the Secretary in writing of its intent to proceed with such an existing relationship.

"(C)(i) The Office of Technology Assessment shall conduct a study for the purpose of defining—

"(I) the appropriate standards by which to judge the quality of performance of organ procurement organizations;

"(II) the proper criteria for a determination of inadequate service from an organ procurement organization; and

"(III) the process for allowing a hospital to work with an organ procurement organization outside its service area.

"(ii) Not later than 1 year after the date of enactment of this paragraph, the Office of Technology Assessment shall complete the study required under clause (i) and prepare and submit to the Committee on Labor and Human Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Secretary, a report describing the findings made as a result of the study.

"(4)(A) As used in paragraph (2)(F), the term 'alternative local unit' means—

"(i) a unit composed of two or more contiguous organ procurement organizations; or

"(ii) a subdivision of an organ procurement organization that operates as a distinct procurement and distribution unit as a result of special geographic or minority population concerns but that is not composed of any subunit of a metropolitan statistical area.

"(B) The Organ Procurement and Transplantation Network shall make recommendations to the Secretary concerning the approval or denial of alternative local unit. The Network shall assess whether the alternative local units will better promote organ donation and the equitable allocation of organs.

"(C) The Secretary shall approve or deny any alternative local unit principle or designation recommended by the Network. If the Secretary does not provide otherwise prior to the expiration of the 90-day period beginning on the date on which the application is submitted, the recommendations of the Network under subparagraph (B) with respect to the application of the alternative local unit shall go into effect.".

SEC. 3. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

Section 372(b) of the Public Health Service Act (42 U.S.C. 274(b)) is amended—

(1) in paragraph (1)(B)—

(A) in clause (i)—

(i) by striking "(including organizations that have received grants under section 371)"; and

(ii) by striking "and" at the end thereof and inserting "including both individuals who have received a transplant of an organ (or transplant candidates), and individuals who are part of the family of individuals who have donated an organ, the number of whom shall make up not less than 33 percent of the total number of board members"; and

(B) in clause (ii), by inserting "including a patient affairs committee" after "committees,";

(2) in paragraph (2)—

(A) by striking clause (A)(i) and inserting the following new clause:

"(i) with respect to each type of transplant, a national list of individuals who have been medically referred to receive a transplant of the type of organs with respect to which the list is maintained (which list shall include the names of all individuals included on lists in effect under section 371(b)(2)(F), and";

(B) in subparagraph (B), by inserting ", including requirements under section 371(b)," after "membership criteria";

(C) in subparagraph (D), to read as follows:

"(D) develop and report to the Secretary, not later than September 30, 1994, and implement not later than September 30, 1995, a system of allocating organs in order to ensure that patients in one region have an equivalent probability of receiving an organ as do patients with similar characteristics in another region,";

(D) by redesignating subparagraphs (E) through (L), as subparagraphs (F) through (M), respectively;

(E) by inserting after subparagraph (D), the following new subparagraph:

"(E) assist organ procurement organizations in the equitable distribution of organs among transplant patients,";

(F) in subparagraph (K) (as so redesignated), by striking "and" at the end thereof;

(G) in subparagraph (L) (as so redesignated), by striking the period and inserting ", including making recommendations to organ procurements organizations and the Secretary based on the annual reports required under section 371(b)(2)(K),";

(H) in subparagraph (M) (as so redesignated), by striking the period and inserting a comma; and

(I) by adding at the end thereof the following new subparagraphs:

"(N) submit to the Secretary for review and approval any change in the amount of fees imposed by the Network for the registration of individuals on the lists maintained under subparagraph (A)(i), such change to be considered as approved if the Secretary does not provide otherwise prior to the expiration of the 90-day period beginning on the date on which the change is submitted to the Secretary,

"(O) make available to the Secretary such information, books, and records regarding the Network as the Secretary may require,

"(P) submit to the Secretary, on an annual basis, a report on the clinical and scientific status of the organ transplantations, and

"(Q) meet such other criteria regarding compliance with this part as the Secretary may establish."; and

(3) by adding at the end thereof the following new paragraph:

"(3) In carrying out paragraph (2)(D), the Organ Procurement and Transplantation Network shall consult with experts in the area of organ allocation and organ donations and consider their recommendations regarding the establishment of regions in the country for the purpose of allocating organs.".

SEC. 4. STUDY BY GENERAL ACCOUNTING OFFICE.

Section 377 of the Public Health Service Act (42 U.S.C. 274f) is amended to read as follows:

"SEC. 377. STUDY BY GENERAL ACCOUNTING OFFICE.

"(a) In General.—The Comptroller General of the United States shall conduct a study for the purpose of determining and making recommendations concerning—

"(1) the composition of the boards of directors of organ procurement organizations and of the Organ Procurement and Transplantation Network on the date of enactment of this section, and the effect of the Organ Transplant Program Reauthorization Act of 1993 on the composition and functioning of such boards;

"(2)(A) the number and percentage of cadaveric organ transplants for foreign nationals categorized by organ procurement organization and by transplant center;

"(B) the number and percent of the organizations referred to in subparagraph (A) above the organ procurement transplant network guideline of 10 percent; and

"(C) any information on the current rate of organ donation by individuals other than United States citizens or legal residents;

"(3) the equitable allocation of organs nationwide, including an analysis of the relative probability of receiving an organ for patients with similar characteristics for each category of transplanted organ by organ procurement organization and the effect of the Organ Transplant Program Reauthorization Act of 1993 on improving the equitable allocation of organs nationwide.

"(b) Report.—Not later than 2 years after the date of enactment of the Organ Transplant Program Reauthorization Act of 1993, the Comptroller General of the United States shall complete the study required under subsection (a) and prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.".

SEC. 5. GENERAL PROVISIONS.

(a) Limitation.—Section 374(b) of the Public Health Service Act (42 U.S.C. 274b(b)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking "371(a)(3)" and inserting "371(a)(2)".

(b) Repeal.—Section 376 of the Public Health Service Act (42 U.S.C. 274d) is repealed.

(c) Transfer.—Section 378 of the Public Health Service Act (42 U.S.C. 274g) is amended—

(1) by transferring such section to part H of title III; and

(2) by inserting such section after section 377.

(d) Authorization of Appropriations.—Section 378 of the Public Health Service Act (42 U.S.C. 274g) is amended by striking "1991" and all that follows through the period and inserting "1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 6. EFFECTIVE DATES.

(a) In General.—Except as provided in subsection (b), the amendments made by this Act shall become effective on the date of enactment of this Act.

(b) Exception.—The amendments made by section 2(b)(4)(A) and 2(b)(4)(D) shall become effective 6 months after the date of enactment of this Act. Prior to such date, sections 371(b)(3)(A) and 371(b)(3)(E) of the Public Health Service Act, as in effect on the day before the date of the enactment of this Act, shall remain in effect.

By Mr. MURKOWSKI (for himself, Mr. Stevens, Mr. Akaka, Mr. Bingaman, Mr. Bond, Mr. Boren, Mr. Bradley, Mr. Breaux, Mr. Chafee, Mr. Cochran, Mr. Craig, Mr. D'Amato, Mr. DeConcini, Mr. Dodd, Mr. Dole, Mr. Domenici, Mr. Durenberger, Mr. Glenn, Mr. Gorton, Mr. Hatch, Mr. Heflin, Mr. Helms, Mr. Hollings, Mrs. Hutchison, Mr. Inouye, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. NICKLES, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. SARBANES, Mr. SASSER, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. THURMOND, Mr. WALLOP, and Mr. WOFFORD):

S.J. Res. 147. A joint resolution designating October 23, 1993, through October 30, 1993, as "National Red Ribbon Week for a Drug-Free America; to the Committee on the Judiciary.

NATIONAL RED RIBBON WEEK FOR A DRUG-FREE AMERICA

• Mr. MURKOWSKI. Mr. President, On behalf of myself, Senator STEVENS and 50 of our colleagues, I introduce a Senate resolution designating October 23, to October 30, 1993, as "National Red Ribbon Week for a Drug-Free America." I am proud to be the Senate's original sponsor of this sixth annual recognition of this week, and I invite my colleagues to support this important resolution.

Illegal and addictive drugs, Mr. President, are a scourge on our society and, if not stemmed, could virtually destroy our American way of life. The human misery and violence that surround the drug culture are among the most dangerous threats to a free society. I cannot—and know we will not—stand by and allow the cancer of drug addiction to imperil the future of this country.

The National Family Partnership is an important organization fighting drug abuse in our country. This group of volunteers is dedicated to freeing our Nation from dependence on illegal drugs. The Partnership orchestrates educational activities throughout American communities that are designed to promote broad public awareness on the perils of drug addiction. The campaign primarily targets school-age children—those most vulnerable to the dangers of drugs. Red Ribbon Week is as much a celebration of the success and effectiveness of the Family Partnership as it is a collective statement about the dangers of drug abuse.

Because of the dedication of voluntary groups like the National Family Partnership, society's war on drugs has not been fought in vain. We are steadily defeating this blight. According to the Index of Leading Cultural Indicators, illegal drug use has declined. Drug-related emergency room visits from 21 cities were down to 33,000, in 1990, after having climbed from 26,000 in 1985 to 40,000 in 1988. And the National Institute on Drug Abuse recently conducted a survey of high school seniors which also indicates a decline. In 1981, nearly two-thirds of all high school seniors had tried marijuana. By 1991, that percentage had been reduced by half; only a little more than one-third of the 1991 graduating class had tried marijuana. Finally, a significantly smaller percentage of 1991 high school seniors had tried cocaine and hallucinogens than high school seniors in 1975.

Mr. President, A Senate joint resolution on this vital topic lends both credence and seriousness to the purposes of Red Ribbon Week, a true national grassroots initiative. The measure I introduce today is a resolution already approved by the House of Representatives, House Joint Resolution 269, originally sponsored in the House by our colleague, Representative JAMES TALENT of Missouri.

Mr. President, I urge all my colleagues to join both Senators from Alaska and 50 of our colleagues in cosponsoring and swiftly passing this Senate joint resolution to commemorate Red Ribbon Week for a drug-free America.•

By Mr. BROWN (for himself, Mr. BOND, Mr. BURNS, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GREGG, Mr. KEMPTHORNE, Mr. MCCAIN, Mr. SHELBY, and Mr. STEVENS):

S.J. Res. 148. A joint resolution proposing an amendment to the Constitution of the United States barring Federal unfunded mandates to the States; to the Committee on the Judiciary.

FEDERAL UNFUNDED MANDATES JOINT RESOLUTION

• Mr. BROWN. Mr. President, I am introducing a joint resolution to amend the U.S. Constitution. This constitutional amendment would bar the Congress from passing unfunded Federal mandates except during times of financial emergency. Unfunded Federal mandates are laws which require State and local governments to take some action but fail to pay for those costs. This problem of legislating on State and local governments has led to an onerous budgetary problem for them. It also has usurped the power of the States and local governments to regulate areas of local concern.

The genius of our democracy is reflected in part by our system of powers separated among Federal, State, and local governments. Unfunded Federal mandates, however, infringe on our system of separation of powers. This infringement undermines the notion that the States operate as public policy laboratories on certain issues.

While Governor of Arkansas, President Clinton eloquently spoke out against unfunded Federal mandates. I agree with President Clinton on this issue. We have heard from Governors, State legislators, mayors and others who have seen the deleterious impact of unfunded Federal mandates. State and local policymakers request simple fairness: refrain from legislating on local governments or pay the cost of regulation.

There is no direct political accountability for unfunded Federal mandates. The Federal Government requires State and local governments to act and they in turn must raise revenue through taxation. The citizens blame the State and local governments even though the problem originated in Washington. This undermines the political process. Citizens are being taxed because of action taken by Federal politicians, but voters are less and less able to discern which politicians to hold accountable.

The time has come to respect the sovereignty of the States and to treat State and local governments with fairness. The proposed constitutional amendment would free State and local governments to find new ways to solve important social and fiscal policy problems facing them.

The time has come for Congress to adopt a straight forward spending policy. The proposed constitutional amendment would put an end to the unaccountable fiscal policy of shifting the cost of regulations to the State and local governments.•

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. SARBANES, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 327

At the request of Mr. MURKOWSKI, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to permit rollovers into individual retirement accounts of separation pay from the Armed Services.

S. 369

At the request of Mr. DURENBERGER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 369, a bill to suspend until January 1, 1995, the duty on certain ceramic ferrules and sleeves.

S. 370

At the request of Mr. DURENBERGER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 370, a bill to suspend until January 1, 1995, the duty on certain internally lighted ceramic and porcelain miniatures of cottages, houses, churches, and other buildings and associated accessories and figurines.

S. 531

At the request of Mr. DURENBERGER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 531, a bill to amend the Internal

Revenue Code of 1986 to increase the estate and gift tax exemption from $600,000 to $1,000,000.

S. 648

At the request of Mr. GORTON, his name was added as a cosponsor of S. 648, a bill to provide Federal payments for Federal mandates imposed upon State and local governments.

S. 867

At the request of Mr. COHEN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 867, a bill to amend title XI of the Social Security Act to extend the penalties for fraud and abuse assessed against providers under the Medicare Program and State health care programs to providers under all health care plans, and for other purposes.

S. 993

At the request of Mr. KEMPTHORNE, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from New York [Mr. D'AMATO], the Senator from Washington [Mr. GORTON], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Georgia [Mr. NUNN], the Senator from Delaware [Mr. ROTH], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 1054

At the request of Mr. GLENN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1054, a bill to impose sanctions against any foreign person or United States person that assists a foreign country in acquiring a nuclear explosive device or unsafeguarded nuclear material, and for other purposes.

S. 1087

At the request of Mr. KOHL, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1087, a bill to amend title 18, United States Code, to prohibit the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.

S. 1115

At the request of Mr. REID, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1115, a bill to amend the Fair Labor Standards Act of 1938 to ensure that minimum wage requirements do not apply to inmates with respect to work done for the incarcerating entity, and for other purposes.

S. 1118

At the request of Mr. HATFIELD, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1118, a bill to establish an additional National Education Goal relating to parental participation in both the formal and informal education of their children, and for other purposes.

S. 1171

At the request of Mr. BREAUX, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1171, a bill to amend the Internal Revenue Code of 1986 with respect to the taxation of certain sponsorship payments to tax-exempt organizations and certain amounts received by Olympic organizations.

S. 1180

At the request of Mr. GRASSLEY, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to encourage the production and use of wind energy.

S. 1308

At the request of Mr. DURENBERGER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1308, a bill to suspend until January 1, 1995, the duty on certain machinery used to recycle mercury.

S. 1406

At the request of Mr. KERREY, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1406, a bill to amend the Plant Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes.

S. 1443

At the request of Mr. EXON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1443, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on luxury passenger vehicles.

SENATE JOINT RESOLUTION 90

At the request of Mr. ROBB, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Joint Resolution 90, a joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

SENATE JOINT RESOLUTION 134

At the request of Mr. BIDEN, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Joint Resolution 134, a joint resolution to designate October 19, 1993, as "National Mammography Day."

SENATE JOINT RESOLUTION 141

At the request of Mr. SARBANES, the names of the Senator from Maine [Mr. COHEN] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 141, a joint resolution designating October 29, 1993, as "National Firefighters Day."

SENATE RESOLUTION 156—RELATIVE TO EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

Mr. NICKLES (for himself, Mr. MOYNIHAN, and Mr. PACKWOOD) submitted the following resolution; which was considered and agreed to:

S. RES. 156

Resolved, That it is the sense of the Senate that—

(1) based on current economic forecasts, the Senate does not anticipate the need for the enactment of a further extension of the emergency unemployment compensation program, and

(2) at the earliest possible date, the Administration should propose, and the Congress should enact, legislation to reform the current unemployment insurance system.

SENATE RESOLUTION 157—RELATIVE TO UNFUNDED FEDERAL MANDATES

Mr. GREGG (for himself, Mr. BENNETT, Mr. COVERDELL, Mr. FAIRCLOTH, Mrs. HUTCHISON, and Mr. KEMPTHORNE) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 157

Whereas, under our constitutional scheme of government, the Senate was intended, and historically served, as a protector of State interests from Federal encroachment;

Whereas, although unfunded Federal mandates result from Federal policy decisions, their costs are borne by State and local governments;

Whereas congressional imposition of unfunded Federal mandates has accelerated over the past decade;

Whereas, although each new unfunded Federal mandate may not have seemed to significantly burden State and local governments, their cumulative costs are having unintended consequences;

Whereas the costs of unfunded Federal mandates are consuming State and local budgets, to the extent that traditional State and local tax bases are being effectively Federalized, and the States' ability to carry out their traditional functions and services is being seriously undermined;

Whereas the results of Congress' continual imposition of unfunded Federal mandates has reached crisis proportions in many States; and

Whereas the Senate, to better serve its historical role as a protector of State interest, must amend its rules to respond to the crises confronting State and local governance caused by unfunded Federal mandates: Now, therefore, be it

Resolved, That (a) the Standing Rules of the Senate are amended by adding at the end thereof the following:

"RULE XLIII

"UNFUNDED FEDERAL MANDATES

"1. Any bill or resolution referred to a committee shall—

"(a) if it contains one or more unfunded Federal mandates, require an affirmative vote of two-thirds of the members of the committee to be reported out of committee; and

"(b) if so reported, be accompanied by an explanation of why the unfunded Federal mandate is important enough to be imposed upon State and local budgets without attendant Federal funding.

"2. It shall not be in order for the Senate to consider any bill that has not satisfied the requirements of paragraph 1. A vote of two-thirds of the Senate, duly chosen and sworn, is required to waive a point of order made pursuant to this paragraph.

"3. For purposes of this rule, a bill shall be considered to contain an unfunded Federal mandate if the bill—

"(a) contains one or more requirements to be imposed upon State or local governments, the compliance for which full Federal funding is not provided;

"(b) provides authority, or amends a statute that provides authority, to government departments or agencies to promulgate regulations, unless it also contains a mechanism through which State and local governments receive full Federal funding for compliance with requirements imposed upon State or local governments by such regulations;

"(c) eliminates (unless an associated Federal requirement is also eliminated), decreases, or imposes new conditions upon, the receipt by State or local governments of existing sources of Federal funding; or

"(d) imposes a Federal fee, or increases an existing Federal fee, upon State or local governments.".

(b) The rule added by this resolution shall take effect upon the convening of the 104th Congress.

SENATE RESOLUTION 158—RELATIVE TO UNFUNDED FEDERAL MANDATES

Mr. GREGG (for himself, Mr. BENNETT, Mr. COVERDELL, Mr. FAIRCLOTH, Mrs. HUTCHISON, and Mr. KEMPTHORNE) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 158

Whereas, under our constitutional scheme of government, the Senate was intended, and historically served, as a protector of State interests from Federal encroachment;

Whereas, although unfunded Federal mandates result from Federal policy decisions, their costs are borne by State and local governments;

Whereas congressional imposition of unfunded Federal mandates has accelerated over the past decade;

Whereas, although each new unfunded Federal mandate may not have seemed to significantly burden State and local governments, their cumulative costs are having unintended consequences;

Whereas the costs of unfunded Federal mandates are consuming State and local budgets, to the extent that traditional State and local tax bases are being effectively federalized, and the States' ability to carry out their traditional functions and services is being seriously undermined;

Whereas the results of Congress' continual imposition of unfunded Federal mandates has reached crisis proportions in many States; and

Whereas the Senate, to better serve its historical role as a protector of State interests, must amend its rules to respond to the crises confronting State and local governance caused by unfunded Federal mandates: Now, therefore, be it

Resolved, That (a) the Standing Rules of the Senate are amended by adding at the end thereof the following:

"RULE XLIII

"UNFUNDED FEDERAL MANDATES

"1. It shall not be in order in the Senate to consider any bill, joint resolution, conference report, amendment, or motion that contains one or more unfunded Federal mandates, unless the provisions containing unfunded Federal mandates are considered individually or en bloc, at the discretion of the Majority Leader or his designee. Such provisions shall require a two-thirds vote of approval by Senators duly chosen and sworn to remain part of the bill. A point of order made against a measure pursuant to this paragraph may be waived only by a two-thirds vote of the Senate, duly chosen and sworn.

"2. For purposes of this rule, a bill shall be considered to contain an unfunded Federal mandate if the bill—

"(a) contains one or more requirements to be imposed upon State or local governments, the compliance for which full Federal funding is not provided;

"(b) provides authority, or amends a statute that provides authority, to government departments or agencies to promulgate regulations, unless it also contains a mechanism through which State and local governments receive full Federal funding for compliance with requirements imposed upon State or local governments by such regulations;

"(c) eliminates (unless an associated Federal requirement is also eliminated), decreases, or imposes new conditions upon, the receipt by State or local governments of existing sources of Federal funding; or

"(d) imposes a Federal fee, or increases an existing Federal fee, upon State or local governments.".

(b) The rule added by this resolution shall take effect upon the convening of the 104th Congress.

Mr. GREGG. Mr. President, as Members of the Senate are aware, today, October 27, 1993, has been declared National Unfunded Federal Mandates Day by our Nation's Governors, State legislators, mayors, and town and county officials. A variety of activities have been planned to draw public attention to the extent to which unfunded Federal requirements are federalizing State and local tax bases, and undercutting the provision of traditional State and local services.

To complement these activities, I rise today to submit two resolutions designed to address a fundamental cause of the accelerated growth in unfunded Federal mandates. I am joined in this effort by Senators BENNETT, COVERDELL, FAIRCLOTH, HUTCHISON, and KEMPTHORNE.

The two resolutions would amend the Rules of the Senate to impose supermajority requirements on what I call mandate spending. The first resolution would require a two-thirds vote to report legislation containing an unfunded Federal mandate out of committee. The second would require a two-thirds vote to pass an unfunded Federal mandate on the floor.

Mr. President, I do not lightly propose amending the Rules of the Senate. The resolutions I am submitting, however, are based on the knowledge that to craft a true solution to the growing crisis confronting State and local governance provoked by the proliferation of unfunded Federal mandates, we must address the issue's basic causes. And, in my opinion, the accelerated enactment of unfunded Federal mandates fundamentally results from limits Congress has imposed on itself in other areas.

Let me explain, Mr. President. As our Federal budget deficits soared over the past decade, Congress built into its budget process a complex set of spending constraints. These constraints recognized, and attempted to limit, the Federal Government's habit of spending money it does not have. Exceeding these constraints—namely, the discretionary spending caps and the entitlement paygo process—requires a supermajority vote of the Senate.

As the spending of Federal funds was constrained, however, congressional activity was not. Habitual pressures simply found release into new outlets. Money that the Federal Government does not have is still being spent, Mr. President, but through the increased enactment of unfunded Federal mandates. The rules amendments I submit today would recognize this new expression of an old habit, and attempt to limit it as we have under the budget process—by imposing supermajority requirements for us to approve new mandate spending.

It is important to make the passage of mandate spending more difficult, Mr. President, because unfunded Federal mandates are wreaking havoc on the budgets of State and local governments. Widespread imposition of such mandates is a fairly recent occurrence, and results from a desire on the part of the Federal Government to bask in the political glow of passing certain laws, but not wanting to incur the political costs of financing those laws. If we feel strongly enough about an issue to enact new Federal requirements, then we should also be willing to incur the corresponding costs. Right now, it is far too easy to shift those costs on to the backs of State and local governments.

I urge the Senate to seriously consider the two resolutions I am submitting today. Mechanisms of this type must be included in any comprehensive solution to the problem of unfunded Federal mandates, a solution which I hope we will be developing in the months to come.

AMENDMENTS SUBMITTED

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

BUMPERS (AND OTHERS) AMENDMENT NO. 1084

Mr. BUMPERS (for himself, Mr. KERREY, Mr. DORGAN, Mr. SASSER, and

Mr. CONRAD) proposed an amendment to the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes; as follows:

Insert the following new sections at the end of the bill:

"SEC. 8. REPEAL OF RETROACTIVE APPLICATIONS OF INCOME, ESTATE, AND GIFT TAX RATE INCREASES.

(a) INCOME TAX RATES.—

(1) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR TAXABLE YEARS BEGINNING IN 1993.—In the case of taxable years beginning in calendar year 1993, each of the tables contained in subsections (a), (b), (c), (d), and (e) shall be applied—

"(1) by substituting '32.97 percent' for '36 percent',

"(2) by substituting '34.39 percent' for '39.6 percent', and

"(3) by substituting for the dollar amount of tax in the last rate bracket the dollar amount determined under such table by making the substitution described in paragraph (1).".

(2) CONFORMING AMENDMENTS.—

(A) Sections 531 and 541 of the Internal Revenue Code of 1986 are each amended by inserting "(34.39 percent in the case of taxable years beginning in calendar year 1993)" after "39.6 percent".

(B) Paragraph (1) of section 55(b) of such Code is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULES FOR 1993.—In the case of any taxable year beginning in the calendar year 1993, subparagraph (A)(i) shall be applied by substituting—

"(i) '24.79 percent' for '26 percent' in subclause (I), and

"(ii) '25.8 percent' for '28 percent' in subclause (II)."

(C) Section 13201 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking subsection (d).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(b) ESTATE AND GIFT TAX RATES.—

(1) IN GENERAL.—Subsection (c) of section 13208 of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "December 31, 1992" and inserting "August 10, 1993".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1993.

SEC. 9. TERMINATION OF THE SPACE STATION PROGRAM.

(a) PROHIBITION.—Effective 90 days after the date of enactment of this section, no appropriated funds shall be available to carry out the provisions of section 106 of the National Aeronautics and Space Administration Authorization Act of 1988 (42 U.S.C. 2451 note).

(b) EXCEPTION.—The provisions of subsection (a) shall not apply to any actions taken in terminating the United States International Space Station Freedom Program.

(c) UNEXPENDED FUNDS.—Subject to the provisions of subsection (b), any funds appropriated for use on the United States International Space Station Freedom Program that remain unexpended and unobligated 90 days after the date of enactment shall be credited to the general revenues of the United States Treasury."

DORGAN AMENDMENT NO. 1085

Mr. DORGAN proposed an amendment to amendment No. 1084 proposed by Mr. BUMPERS to the bill H.R. 3167, supra; as follows:

Insert the following at the end of the amendment:

SEC. 10. REDUCTION IN DISCRETIONARY BUDGET CAPS.

(a) REDUCTION IN CAPS.—The Director of the Office of Management and Budget shall, upon enactment of this section, reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1994 through 1998 as follows:

(1) For fiscal year 1994, for the discretionary category: $1,446,000,000 in new budget authority and $1,015,000,000 in outlays.

(2) For fiscal year 1995, for the discretionary category: $2,100,000,000 in new budget authority and $1,799,000,000 in outlays.

(3) For fiscal year 1996, for the discretionary category: $2,100,000,000 in new budget authority and $1,992,000,000 in outlays.

(4) For fiscal year 1997, for the discretionary category: $2,100,000,000 in new budget authority and $2,100,000,000 in outlays.

(5) For fiscal year 1998, for the discretionary category: $2,100,000,000 in new budget authority and $2,100,000,000 in outlays.

(b) COMMITTEE ALLOCATIONS.—The allocation of appropriate levels of total outlays and new budget authority for fiscal year 1994 to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate included in the joint explanatory statement accompanying the conference report on the concurrent resolution on the budget for fiscal year 1994 (H. Con. Res. 64) are reduced by $1,446,000,000 in new budget authority and $1,015,000,000 in outlays.

BROWN (AND COHEN) AMENDMENT NO. 1086

Mr. BROWN (for himself and Mr. COHEN) proposed an amendment to the bill H.R. 3167; as follows:

At the end of the bill insert the following new section:

SEC. . LIMITATION ON ELIGIBILITY FOR EMERGENCY UNEMPLOYMENT COMPENSATION.

Notwithstanding any other provision of law, the amendments made by sections 2 and 8 of this Act shall not apply to any individual whose taxable income (as defined in section 63 of the Internal Revenue Code of 1986) for any taxable year ending in 1992 exceeds $120,000.

GRAMM (AND OTHERS) AMENDMENT NO. 1087

Mr. GRAMM (for himself, Mrs. HUTCHISON, and Mr. MCCAIN) proposed an amendment to the bill H.R. 3167, supra; as follows:

On page 10, line 16, strike "1994". "; and insert in lieu thereof the following: "1994".

"( ) DEDICATION OF SAVINGS TO DEFICIT REDUCTION.—Within 5 days of the enactment of this Act, the Director of the Office of Management and Budget shall reduce the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for fiscal years 1995 through 1998 by the following amounts:

"(1) For fiscal year 1995, $352,300,000 in new budget authority and $176,100,000 in outlays.

"(2) For fiscal year 1996, $450,000,000 in new budget authority and $365,900,000 in outlays.

"(3) For fiscal year 1997, $693,300,000 in new budget authority and $561,900,000 in outlays.

"(4) For fiscal year 1998, $711,900,000 in new budget authority and $678,300,000 in outlays.".

McCAIN (AND OTHERS) AMENDMENT NO. 1088

Mr. MCCAIN (for himself, Mr. GORTON, Mr. COATS, Mr. REID, Mr. STEVENS, and Mr. HELMS) proposed an amendment to the bill H.R. 3167, supra; as follows:

At the appropriate place in the bill, add the following:

"Title —Social Security Earnings Test.

SECTION. . SHORT TITLE.

This title may be cited as the "Older Americans' Freedom to Work Act of 1993."

SEC. . ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(l))";

(3) in subsection (f)(3), by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(l))";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(l))"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(l))".

SEC. . CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of such Act is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of such Act is repealed.

SEC. . ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) Conforming Amendment to Provisions for Determining Amount of Increase on Account of Delayed Retirement.—Section 202(w)(2)(B)(ii) of such Act is amended—

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) Continued Application of Rule Governing Entitlement of Blind Beneficiaries.—The second sentence of section 223(d)(4) of such Act is amended by inserting after "subparagraph (D) thereof" where it first appears the following: "(or would be applicable to such individuals but for the amendments made by the Older Americans' Freedom to work Act of 1990)".

SEC. . EFFECTIVE DATE.

The amendments made by this Act shall apply only with respect to taxable years beginning after December 31, 1993.

NICKLES (AND SHELBY) AMENDMENT NO. 1089

Mr. SIMPSON (for Mr. Nickles for himself and Mr. Shelby) proposed an amendment to the bill H.R. 3167, supra; as follows:

At the end of the bill, insert the following:

SEC. ___. RETROACTIVE TAX INCREASES IN THE SENATE.

(a) General Rule.—It shall not be in order in the Senate to consider any material in any bill, joint resolution, amendment, motion, conference report, or amendment between the Houses that increases a tax retroactively.

(b) Point of Order.—Upon a point of order being made by any Senator against material in any bill or joint resolution, amendment, motion, conference report, or amendment between the Houses, that increases a tax retroactively, and the point of order being sustained by the Chair, the part of such title or provision that increases a tax retroactively shall be deemed stricken from the measure and may not be offered as an amendment from the floor.

(c) Treatment of Conference Report.—When the Senate is considering a conference report or an amendment between the Houses, upon—

(1) a point of order being made by any Senator against material that increases a tax retroactively; and

(2) such point of order being sustained,

such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for 2 hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(d) Waivers.—

(1) Super Majority Waiver.—Except as provided in paragraph (2), subsections (a), (b), and (c) may be waived only upon the affirmative vote of three-fifths of all Senators, duly chosen and sworn. Each part of a title or provision that increases a tax retroactively shall be subject to a point of order. No motion for a general waiver shall be entertained.

(2) Waiver During Time of War or Military Conflict.—The Senate may waive the provisions of this section for any fiscal year in which a declaration of war is in effect. The provisions of this section may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House of Congress, which becomes law.

(e) Definition.—For purposes of this section, the term "increases a tax retroactively" means a change in the Internal Revenue Code of 1986 that will result in an obligation to pay a larger tax and when such change is made effective prior to:

(1) the date when formal public notice is given regarding the effective date of such material by a committee or subcommittee of either House of Congress;

(2) the date of approval by either House of Congress; or

(3) the date of approval by a committee or subcommittee having jurisdiction over the material.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Tuesday, October 26, 1993, at 10 a.m. to conduct a hearing on S. 1527, the Fair Trade in Financial Services Act of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., October 27, 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, October 27.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, October 27, beginning at 9:30 a.m. to conduct a hearing on S. 1547, the Safe Drinking Water Act Amendments of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, October 27, 1993, at 10 a.m. to hold a hearing on bilateral tax treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, October 27, 1993, at 10 a.m. to hold a hearing on foreign policy implications of the North American Free-Trade Agreement [NAFTA] and legislative requirements for the side agreements.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, October 26, 1993, at 10 a.m. to hold a hearing on environmental and other treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to hear testimony on the subject of medical practice patterns and the appropriateness of care.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AND THE SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works and the Subcommittee on Clean Air and Nuclear Regulation be authorized to meet during the session of the Senate on Tuesday, October 27, beginning at 10 a.m. to conduct a joint hearing on the Clinton administration's National Action Plan on Global Climate Change.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES AND BUSINESS RIGHTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies and Business

Rights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, October 27, 1993, at 10 a.m., to hold a hearing on "Will Telecommunication Mega-Mergers Chill Competition and Inflate Prices."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. FORD. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on October 26, 1993, at 2:30 p.m. on S. 1517—the Technology Commercialization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY AND THE LAW

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Technology and the Law, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, October 27, 1993, at 9 a.m. to hold a hearing on high-technology privacy issues in health care.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., October 27, 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, October 27, 1993, to hold a hearing on abuses in Federal student grant programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

REFLECTIONS OF THE 21ST ANNIVERSARY OF THE ENACTMENT OF THE BROOKS ACT

• Mr. BREAUX. Mr. President, today, October 27, 1993, marks the 21st anniversary of the enactment of landmark legislation. It was on this day in 1972 that a law was signed establishing the Federal process for selection of contractors for Architecture, Engineering [A/E] and related services. Known in many circles as the "Brooks Act" in honor of its original author, Representative JACK BROOKS of Texas, this qualifications-based selection [QBS] law has itself withstood the test of time.

Traditionally, Government procurement procedures properly have emphasized awarding contracts to the lowest bidder, or using price as a dominant factor. For many goods which Government purchases—paper, office equipment, desks, even construction services—this process serves the Government and the taxpayer well. Specifications can be written, products can be inspected and tested, and safeguards can be built-in to assure saving money.

Sometimes, however, agencies mistakenly assume professional architecture, engineering, surveying and mapping services fall into this category.

Unfortunately, the assumption ignores the increase in costs to administer the preparation of detailed scopes of work and bid specifications, to evaluate numerous bids, and to remedy serious consequences of unprofessional A/E related services. Quality, therefore, should always be the primary focus in the competition for surveying and mapping procurement. Only after high-quality performance is ensured should the focus turn to the contract price.

That is exactly what QBS provides. Found in sections 541-544 of title 41, United States Code, the Brooks A/E Act ensures that specialized skills and technologies are evaluated properly and are not overlooked. In this manner, the Government benefits from direct control of both the quality of the services and the project's development.

The use of negotiated procedures directs the focus of procurement activity where it should be, on the quality of the professional A/E related services specifically suited to a given contract. All competitors must submit their qualifications to the procuring agency; the agency assesses the relative expertise of the competing firms; and the one most qualified firm is selected for the particular procurement. Such procedures produce a more cost effective design, map and related professional service than can be achieved under price bidding procedures.

The Federal competence and qualifications-based selection law was codified in 1972 to protect the interest of taxpayers. It is Federal law because over the life of a project, engineering-related services account for less than one-half of one percent of total costs. Yet, these important services play a major role in determining the other 99.5 percent on the project's "life cycle costs", such as construction, operation, and maintenance.

This process has been so successful at the Federal level that it is recommended by the American Bar Association in its model procurement code for State and local government. More than half the States have enacted their own competence and qualifications-based selection laws for architecture, engineering, surveying and mapping services. Others use it as a standard procedure. Today, no State has a specific law requiring bidding of these services.

I am proud to have played a part in advancing this law. As a member of the House and now in the Senate, my amendments have clarified the application of this process to surveying and mapping contracts of the civil works division of the corps of engineers in the 1986 Water Resources Act (section 918 of Public Law 99-662); for prime and subcontractor A/E services under the superfund law (section 119(F) of Public Law 99-499); as well as to recipients of grants of Federal funds in highway and mass transit programs in the 1987 Surface Transportation Act (sections 111 and 316 of Public Law 100-7); and, it now applies to airport fund recipients (section 511(a)(16) in Public Law 100-223).

This is a law that works. When the Senate looks at procurement reform and seeks to gain the best value for every tax dollar spent for goods and services, the qualifications-based selection process found in the Brooks act and the Breaux amendments is an example of a sound investment that gives the Government its money's worth long into the future.•

NAVAL AVIATION

• Mr. D'AMATO. Mr. President, last month I noted that, with the imminent demise of the A-6, naval aviation faces some hard truths.

The F/A-18 will be the primary, if not the only, bomb dropper on carrier decks for the next several decades.

The F/A-18C/D has range, payload, and night/all-weather attack limitations.

The baseline F/A-18E/F, as presently conceived, recaptures the range and payload lost during the evolution of the F/A-18, but does not improve upon the night/all-weather attack capability of the current F/A-18C/D.

Future adversaries will not limit their activities to daylight or clear nights for the convenience of the carrier airwings.

I stated that, in retiring the A-6, the strike arm of naval air must not lose the anytime, under any conditions capability it currently enjoys.

In order to guarantee that naval air retained its anytime, under any conditions capability, I indicated that the F/A-18E/F program must be restructured, now, early in development, to ensure that the baseline design is as capable a night/all-weather attack aircraft as the current A-6 Block 1A. I added that a robust preplanned product improvement plan should be in place prior to the start of F/A-18E/F production so that Hornet evolution could continue to exploit the latest in strike technology and stay ahead of future threats.

At that time, I had asked the Navy to identify potential opportunities to cannibalize A-6 components that could be integrated into the F/A-18 to improve its night/all-weather attack capability. I promised to share that analysis with my colleagues when it was completed. It has been completed.

The bottom line: A-6 systems and components can contribute nothing to the F/A-18. Other means will have to be found to improve the night/all weather attack capability of the F/A-18.

I ask that the Navy analysis on potential opportunities to integrate A-6 systems and components into the F/A-18 be printed in the RECORD.

The analysis follows:

DEPARTMENT OF DEFENSE INFORMATION PAPER

SEPTEMBER 24, 1993.

Service/Agency: Navy.
Appropriation Account:
Budget Activity:
Subject: F/A-18/A-6 comparison follow-up.

1. Question/Request: Can systems/components cannibalized from retiring A-6E SWIP aircraft be integrated into the F/A-18C/D to improve that aircraft's night/all-weather attack capability? If so, describe the most cost-effective approach for doing so.

Response: The heart of the A-6 night/all weather attack capability is the APQ-156 radar with its terrain clearance and target tracking modes. Installation of this radar in the F/A-18 is not practical because of its size and the lack of space in the F/A-18 to accommodate it. Additionally the APQ-156 is an air-to-ground only radar and not suitable for the F/A-18 which requires both air-to-air and air-to-ground capability.

2. Question/Request: Can systems/components currently being developed for the A-6E Block 1A be modified for integration into the F/A-18C/D and/or F/A-18E/F to improve the night/all weather attack capability of either, or both, the C/D and E/F? If so, describe the most cost-effective approach for doing so.

Response: Changes planned for A-6E Block 1A would not change the radar implementation in the A-6 aircraft nor make it more readily adaptable to the F/A-18. Many of the other functions of the Block 1A such as the multifunction display, 1553 data bus, and GPS have already been incorporated in the F/A-18.

3. Question/Request: Assuming the answer to either question one or two is yes, the limited growth potential of the F/A-18C/D is a hurdle. The F/A-18 Program Office undertook an aggressive weight reduction study some time ago, but its findings were not implemented. Reconcile possible upgrades with identified weight savings. Are meaningful trade-offs possible and cost effective?

Response: Incorporation of A-6 night/all weather systems in the F/A-18 is not considered feasible or cost effective.•

COMMUNITY REGULATORY RELIEF ACT

• Mr. LUGAR. Mr. President, from across Indiana, county boards, city and town councils and mayors have written to me expressing their support for S. 993, the Community Regulatory Relief Act. In recent weeks, both the Indiana Association of Cities and Towns and the Association of Indiana Counties have passed resolutions calling for an end to unfunded federal mandates.

Mr. President, I would like to quote from a letter I received from the Town Council of Owensville, IN:

> Federal mandates require compliance, regardless of other pressing local needs and priorities affecting the health, welfare, and safety of our citizens, forcing a combination of higher local taxes and fees and reduced local services.
>
> Too often federal rules and regulations are inflexible, one-size-fits-all requirements that impose unrealistic time frames and specify procedures or facilities where less costly alternatives might be just as effective. It is time for that to change.

Mr. President I agree. State and local officials understand best the burdens of unfunded mandates. Washington is setting the agenda for States, cities, towns, and counties and draining their budgets in the process. In doing so the Federal Government has greatly diminished the flexibility that State and local officials have to address problems that are specific to their locality. While cities and States scramble to satisfy Washington, local health, safety, and infrastructure needs suffer.

The urgent priorities facing Fort Wayne or Plymouth are not necessarily the same as the urgent priorities that confront Bloomington or Tipton. The mayors of all four of these Indiana cities are among the dozens who have written or called me to express their support for the elimination of unfunded mandates.

The Community Regulatory Relief Act offers hope for these local governments that Washington will pay for the direct compliance costs of any new Federal mandate imposed on a State or locality. Creativity and imagination in developing programs, no matter how worthy, must be accompanied by the responsibility to fund them.

As a former mayor of Indianapolis, I congratulate another former mayor, Senator DIRK KEMPTHORNE of Boise, for his leadership. He has eloquently framed this issue for the Congress and advanced the simple but vital concept that Congress must pay for the programs it creates.•

NATIONAL PASTORAL CARE WEEK

• Mr. COATS. Mr. President, across our great Nation thousands of dedicated, well-trained, and gifted pastoral care givers of all faiths labor around the clock in congregations and highly specialized settings, including correctional facilities, mental health systems, the military, and counseling centers. They bring spiritual healing resources to bear in the care of millions of Americans.

These competent clergy and lay persons will be honored in the celebration of National Pastoral Care Week, which will be celebrated October 25–31, 1993. The theme, "Pastoral Care: Stories of Partnership," lifts up the stories of healing within each faith tradition and speaks to the deep spiritual needs of persons; the discovery of deeper meaning in the fact of finitude; reconciliation with loves ones; and, on occasion, full and scientifically unexplainable cure.

The National Pastoral Care Week is an idea begun in 1984 by one of the National Association of Catholic Chaplains and has established the following objectives for its observance:

First, to celebrate the growing professional development of pastoral care and to affirm its mission and purpose within specialized settings;

Second, to interpret and promote pastoral care within specialized setting and in the wider society;

Third, to recognize professional chaplains, volunteer care givers, and persons in local congregations who provide pastoral care;

Fourth, to express appreciation to appropriate institutions and their staff for their support for pastoral care ministries;

Fifth, to publicize the work and certification procedures of pastoral care organizations affiliated with comiss;

Sixth, to provide continuing education for clergy, laity, and institutional employees.

A primary focus of National Pastoral Care Week, in light of the theme for 1993, is the stories of partnership that exist between pastoral care and others in the healing process, as well as with those who are served by pastoral caregivers. For some, especially those who have been certified by a pastoral care organization and endorsed by a religious body, highlighting partnership may mean telling the story about how they perform their day-to-day ministries, side-by-side with others. For others, National Pastoral Care Week also serve as a vehicle for informing their communities about how pastoral caregivers regularly work together in support of the institution's mission in simultaneously providing hands and feet for the healing mission of all faith groups.

The pastoral caregiver crosses institutional, economic, cultural, and ecclesiastical boundaries to present a God who demonstrates a desire for healing and wholeness in human life. Among other things, pastoral care demonstrates a dedication to human dignity, appreciation for individual differences, a balance of acceptance and accountability, a dedication to justice and mercy, and an incarnation of love and hope.

Nothing distinguishes institutions as much as the quality of their healing. Now is the time for pastoral care to celebrate its gifts and affirm the difference "Pastoral Care: Stories of Partnership" can make.•

RETIREMENT OF JANE A. MACKENZIE, PRESIDENT, RHODE ISLAND VISITING NURSE ASSOCIATION

• Mr. CHAFEE. Mr. President, I would like to take a moment today to pay tribute to a uniquely talented individual, Jane Mackenzie, who, after 16 years of sterling service, is retiring from her post as president of the Rhode Island Visiting Nurse Association [VNA].

With vision and leadership, Mrs. Mackenzie has guided the Rhode Island VNA through a period of tremendous growth and diversification, making the organization a home health care pioneer, both in Rhode Island and nationally. When Mrs. Mackenzie assumed her position in 1977, the Rhode Island VNA served a total of 3,286 patients per year. Today, VNA nurses provide a wide array of high quality home care services and programs to more than 8,000 Rhode Islanders.

Mrs. Mackenzie's career has been a distinguished one. She is a graduate of Columbia University and Harvard School of Public Health. In addition to the Rhode Island VNA, she has brought her talents to the University Hospitals of Cleveland, the Rochester Regional Medical Program, and the University of Rhode Island. She is a volunteer member of the faculty of Brown University's Department of Community Medicine and is a highly respected member of the public health community.

Jane Mackenzie's experience, ability, and compassion have been an enormous benefit to the VNA and to thousands of Rhode Islanders. As she begins her retirement, we in the State wish her the very best and extend our heartfelt thanks for her many years of service.•

NOMINATION OF JANET NAPOLITANO

• Mr. LOTT. Mr. President, the pending nomination of Janet Napolitano to be U.S. attorney in Arizona poses a fundamental conflict for the Senate. She has asserted the claim of attorney-client privilege to shield her from answering questions about her representation of Anita Hill. However, in doing so she withholds from the Senate pertinent information about her activities in this matter. Activities which from the public evidence raise legitimate questions in the minds of Senators on the Judiciary Committee.

Under the Constitution of the United States, the Senate is given the duty to advise and consent on certain appointments made by the President. To adequately fulfill this function for a U.S. Attorney nominee, we must know that there is no blemish on the nominee's record. Without such absolute knowledge, without all questions and concerns being resolved, it is impossible for the Senate to completely evaluate an individual.

I hope that my colleagues will carefully reflect on the two memoranda by Tom Jipping addressing this important constitutional question.

I ask that the two memoranda appear in the RECORD.

The memoranda follows:

NOMINATION OF JANET NAPOLITANO

President Clinton has nominated Janet Napolitano to be U.S. Attorney for Arizona. She has asserted attorney-client privilege to shield from the Senate information about her activities as Anita Hill's counsel in 1991 that may reveal or suggest that Napolitano committed a felony. Our memo of October 1, 1993, explained why Napolitano has no legal basis for asserting this privilege. The second memo explains why, whether or not her assertion of privilege is legitimate, the Senate should reject Napolitano's nomination.

Napolitano has been nominated to be Arizona's chief federal prosecutor. He lack of any criminal justice experience may not strongly qualify her for this post, but the information she is trying to shield from the Senate may absolutely disqualify her. That information relates to whether Napolitano may have committed a felony.

The Constitution gives to the President the power to nominate Napolitano to be U.S. Attorney. It gives the Senate the role of advice and consent before Napolitano can occupy that position. While the fine points have been debated for years, the Senate's constitutional duty necessarily includes determining whether nominees may be guilty of federal crimes. No one can argue that the Senate should confirm someone, especially to a prosecutorial position, who may have committed a felony.

There exists, then, a clear and necessary nexus between the information about Napolitano's activities during the 1991 Hill-Thomas matter and sworn duty of Senators as part of the confirmation process. As long as Napolitano continues to assert attorney-client privilege to shield that information, the Senate cannot complete its advice and consent function with respect to her nomination to be U.S. Attorney.

A nominee's assertion of attorney-client privilege cannot be allowed to trump the Senate's constitutional duty. In this case, Napolitano's assertion of privilege necessarily prevents the Senate from completing its necessary function in the selection process. Therefore, even without comment on either the legal basis for the privilege or her particular activities on behalf of Anita Hill, the Senate must conclude that Janet Napolitano is an inappropriate nominee and vote down her nomination. The vote should be 100-0.

CONSTITUTIONAL DUTY V. ASSERTED PRIVILEGE

(By Thomas L. Jipping, M.A.,J.D.)

President Clinton has nominated Phoenix attorney Janet Napolitano to be U.S. Attorney for Arizona. The Senate Judiciary Committee voted 12-6 on September 30, 1993, to approve her nomination.

Napolitano claims that a version of the attorney-client privilege prevents her from answering questions about her activities as Anita Hill's counsel during the 1991 controversy caused by Hill's allegations against then-Supreme Court nominee Clarence Thomas. Our memorandum of October 1, 1993, briefly explained why her claim is legally insupportable. Our memorandum of October 11, 1993 explained why the Senate should refuse to confirm a nominee when its constitutional duty of advice and consent is thwarted by the nominee's assertion of privilege over information which, as in this case, might be disqualifying. This memorandum provides a more extensive analysis of these conclusions.

I. FACTUAL BACKGROUND

Janet Napolitano was Anita Hill's counsel. On October 11, 1991, she attended an interview between Senate Judiciary Committee staff and Susan Hoerchner, the principal witness supposedly corroborating Hill's charge against Thomas. Hoerchner was asked when Hill supposedly told her of the harassment. According to a chronology of events provided by Senate Judiciary Committee Chairman Joseph Biden (D-DE), Hoerchner told Committee staff on September 18, 1991, that Hill confided in her about the harassment in the spring of 1981. During the October 1991 staff interview, Hoerchner could only "guess" at the specific time but did clearly state that it was "sometime before September 1981" when she moved from Washington to California. She repeated this several times in response to staff questions. This would have been before Hill worked for Thomas and months before, according to Hill's testimony, the harassment allegedly occurred.

At this point, during the discussion about when Hill supposedly confided in Hoerchner, Napolitano broke in and asked: "Can I meet with the witness? Can we talk for just a minute?" It is the discussion she then had with Hoerchner which Napolitano claims is privileged. When Hoerchner returned to the interview, she could not remember anything about the date of Hill's call, the general time frame within which it occurred, or the city in which she was living at the time. When she testified before the Judiciary Committee on October 13, 1991, Hoerchner was, on the one hand, entirely uncertain about when the Hill confided in her but was, on the other hand and for the very first time, very certain that it was after Hill began working for Thomas.

This series of events alone suggests that Napolitano may have advised Hoerchner to change her story because her initial statements conflicted with Hill's allegations. This would clearly disqualify her from serving as U.S. Attorney, the top federal prosecutor for Arizona. Since Hoerchner's statements during the Committee staff interview and before the Committee were covered by the False Statements Act.[1] Hoerchner may have committed a felony and Napolitano's counsel to that end might also subject her to criminal indictment. As such, Congress cannot complete its constitutional duty of "advice and consent" without accurate information about Napolitano's communication with Hoerchner.

II. ANALYSIS

A. Congress Need Not Recognize Even a Valid Assertion of Attorney-Client Privilege

1. The privilege does not bind Congress

Napolitano and her supporters appear simply to assume that an attorney-client privilege that would be valid in a courtroom necessarily binds Congress as well. They cite absolutely no authority of any kind to support this notion. Rather, the authorities she cited in written answers to questions by Judiciary committee members pertained solely to assertion of the privilege in a judicial proceeding, apparently assuming that those authorities control in the legislative arena.

This assumption is flatly false and does not indicate an ability to comprehensively analyze such questions by someone who wishes to be a U.S. Attorney. Congress does not have to recognize even a validly asserted privilege. As this analysis will explain infra, Napolitano's assertion is, in any event, legally insupportable.

Article I of the U.S. Constitution states that "[e]ach House may determine the Rules of its Proceedings." Since the Constitution, under Article VI, is the "supreme Law of the Land," only privileges found in the document itself necessarily qualify Congress' ability to operate according to its own rules.[2] As the Supreme Court,[3] recognized treatises,[4] and the Federal Rules of Evidence[5] all recognize, the attorney-client privilege is a common-law privilege clearly not secured by the Constitution.

The Congressional Research Service concluded in 1986 that extending this common-law privilege to Congress' proceedings would actually "permit the judiciary to determine congressional procedures." This would, of course, be "difficult to reconcile with the constitutional authority granted each House of Congress to determine its own rules."[6] The Constitution is clear. "Each House," and not the judiciary, "may determine the rules of its Proceedings."

In a memorandum to Rep. Stephen Solarz (D-NY) dated February 19, 1986, Professor Stephen Gillers of New York University School of Law addressed the question "Does the [attorney-client] privilege apply in Congress?" He explained:

> Congress is obligated to observe constitutional privileges, such as the privilege against self-incrimination. It is not obligated to honor subconstitutional privileges created by statute or common law . . . Congress has the power to defeat assertion of a statutory or common law privilege even though the privilege would be recognized in court.[7]

Professor Gillers' opinion is significant because Napolitano's supporters, particularly Senator Dennis DeConcini (D-AZ) who pushed for her nomination in the first place, offer a letter by Professor Gillers dated September 30, 1993, claiming that Napolitano's assertion of privilege is valid. This analysis will examine and refute that conclusion. Professor Gillers' letter, however, never mentions the more significant point that Congress need not recognize even a valid assertion of privilege at all.

A House of Representatives report concluded: "No statute, House rule, or [Committee] rule changes the English rule that attorney-client privilege does not have to be accepted in legislative proceedings; Congress has never decided to impose that restriction on its proceedings."[8] The general counsel of the House of Representatives concluded that "Congressional committees have felt enabled to reject the applicability of claims of attorney-client privilege."[9] Both the House and Senate have explicitly rejected proposals to incorporate the attorney-client privilege in their respective rules.[10]

There is no judicial authority undercutting Congress' plenary power to disregard assertions of attorney-client privilege during the course of its proceedings. As the Supreme Court has recognized, "only infrequently have witnesses appearing before congressional committees been afforded with procedural rights normally associated with an adjudicative proceeding."[11] The only directly relevant judicial authority specifically upheld Congress' decision to ignore the attorney-client privilege asserted during a hearing.[12]

2. The privilege should not bind Congress in this case

The Senate is not bound to recognize Napolitano's assertion of attorney-client privilege in any case and, indeed, has required production of information "where in the particular circumstances an investigation determines that the legislative need for the information outweighs the arguments against production,"[13] but there are compelling reasons not to do so in this case.

The Constitution gives to the President the power to nominate Napolitano to be U.S. Attorney.[14] The Constitution gives to the Senate the role of advice and consent before Napolitano can actually be appointed to that position.[15] If Congress can, as it often has done, refuse to honor the attorney-client privilege in situations, such as investigative or oversight hearings, where its role is discretionary, it should certainly do so in a situation where its role is constitutionally required.

a. The nature of the information

As the Supreme Court said of the office of U.S. Attorney: "The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all. * * * It is as much [her] duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."[16]

Evidence that Napolitano encouraged false or misleading testimony, even apart from whether doing so would expose her to any civil or criminal penalties, is obviously and directly inconsistent with the nature of the office to which she has been nominated. Columnist William Cheshire wrote in the Arizona Republic that "if * * * she coached Judge Hoerchner to change her testimony so that it would mesh with Anita Hill's, then she is guilty of serious ethical infractions and is demonstrably unfit for the job to which she has been nominated."[17]

b. The Senate's Constitutional duty

There can be no argument but that Napolitano would be disqualified from serving as U.S. Attorney if she counseled Hoerchner to change her statements to the Senate Judiciary Committee. She is, therefore, attempting to shield from the Senate information that might disqualify her. This makes the Senate's need to know this information absolute. Honoring Napolitano's assertion of privilege would be a clear dereliction of the Senate's duty of advice and consent and a violation of Senators' individual oaths to support and defend the Constitution. The Senate's duty under the Constitution must come before a nominee's assertion of privilege particularly when, as in this case, the information being shielded might be self-evidently disqualifying.

A nominee's assertion of attorney-client privilege cannot trump the Senate's constitutional duty. In this case, Napolitano's assertion of privilege necessarily prevents the Senate from completing its advice and consent role in the selection process. Therefore, without even commenting on whether the privilege is itself legally supportable, the Senate must conclude that Napolitano is an inappropriate nominee and vote down her nomination.

During consideration of the nomination of William Rehnquist to be Chief Justice and Antonin Scalia to be Associate Justice in 1986, some Senators requested documents relating to the nominees' respective tenure as Assistant Attorney General for the Office of Legal Counsel. The White House asserted executive privilege. An agreement was reached and some Judiciary Committee members stressed that their constitutional duty of advice and consent was more important than an assertion of privilege. During the hearing on the Scalia nomination, Senator Edward Kennedy (D-MA) said that the information was requested "on behalf of the American people, so that we could fulfill our function."[18] He called finally obtaining the information "a very substantial victory for the Constitution and for the constitutional process."[19]

B. Napolitano's Assertion of Attorney-Client Privilege Is Legally Insupportable

Since Napolitano was not Hoerchner's attorney, she is claiming a version of the attorney-client privilege known as the pooled information privilege. She cites the American Law Institute's Restatement of the Law Governing Lawyers §126, which states that if "two or more clients represented by separate lawyers share a common interest in a matter, the communications of each separately represented client" are privileged. She also cited Uniform Rule of Evidence 502(b)(3) which protects confidential communications by a client "or his representative or his lawyer or a representative of the lawyer to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest therein."

Even if the standards applicable in the courtroom applied to Congress—which they clearly do not—Napolitano has no legal basis for her assertion of privilege.

1. The privilege does not apply outside the litigation context

The Hill-Thomas matter was totally unrelated to litigation. The Judiciary Committee staff interviews were not legal proceedings. One of the very authorities Napolitano cited in support of her assertion of privilege admits that "[n]o American case has allowed a [pooled information] privilege * * * in a situation totally unrelated to litigation."[20]

A staff memorandum prepared for Senator Biden concludes that Napolitano's assertion of privilege is valid. The single case it cites as direct authority,[21] however, involved a pooled information privilege asserted not only in the context of litigation, but after litigation had already begun.[22] A majority of the sources cited by Napolitano and Senator's Biden's memorandum similarly undercut Napolitano on this point. Uniform Rule of Evidence 502(b)(3), for example, clearly states that the privilege applies only "in a pending action."

The memorandum by Professor Gillers, and another memorandum prepared by Professor Geoffrey Hazard of the University of Chicago School of Law which similarly supports Napolitano's assertion of privilege, fail to address this critical question.

2. There must be concerted action for the privilege to apply

The pooled information privilege protects only communication between a client and the lawyer of another that are "part of an on-going and joint effort to set up a common defense strategy."[23] In order to meet this test, "the party asserting the privilege must show that (1) the communications were made in the course of a joint defense effort, (2) the statements were designed to further the effort, and (3) the privilege has not been waived."[24] These elements presume a fourth requirement, "that the parties had agreed to pursue a joint defense strategy."[25] This formulation has been widely adopted.[26]

Napolitano has offered nothing suggesting, much less establishing, anything close to these requirements. When asked, Napolitano answered in writing that there existed no agreement between her, as counsel for Hill, and Ron Allen, Hoerchner's counsel. There exists no evidence that Hill and Hoerchner, as the respective clients, coordinated their testimony or otherwise developed or agreed upon a strategy. Even if there were such a strategy, Napolitano has offered nothing to suggest that her communication to Hoerchner during the Judiciary Committee staff interview on October 11, 1993, was designed to further that strategy.

Professor Hazard's suggestion, in his memorandum of September 28, 1993, that Allen and Napolitano may have "nodded or otherwise silently communicated with each other as Ms. Napolitano spoke" is sheer imaginative speculation. The relevant legal authority requires a "showing" and is not satisfied by a baseless hypothesis.

3. The privilege does not protect Napolitano's communication to Hoerchner in this case

The attorney-client privilege protects communication to an attorney, not communication from an attorney. Napolitano's communication to Hoerchner would only be protected if it "rest[ed] on confidential information obtained from the client."[27] The burden is on the claimant to "demonstrate with reasonable certainty that the lawyer's communication rested in significant and inseparable part on the client's confidential disclosure."[28]

Napolitano has not even attempted to suggest, much less "demonstrate with reasonable certainty," that disclosing her statements to Hoerchner would reveal a "significant and inseparable" connection with confidential communication from Hoerchner. There is no evidence that Napolitano—Anita Hill's counsel—received any communication from Hoerchner, confidential or otherwise, prior to the staff interview in question.

During her own confirmation hearing before the Judiciary Committee, Napolitano was asked if she had had any discussions with Hoerchner prior to Hoerchner's appearance before the Committee on October 13, 1991. She responded that the only conversation between her and Hoerchner took place on October 12, 1991, after the staff interview in question. If Napolitano told the Judiciary Committee the truth, her communication with Hoerchner during the October 11, 1991, staff interview could not have revealed any confidential communication from Hoerchner to Napolitano because no communication of any kind had taken place prior to that time.

The Biden, Gillers, and Hazard memoranda fail to address this issue.

4. The privilege must be narrowly construed

Because the attorney-client privilege interrupts the process of obtaining information, it should not be recognized simply because it is asserted. Rather, it "must be strictly construed and accepted 'only to the very limited extent that permitting a refusal to testify or excluding relevant evidence has a public good transcending the normally predominant principle of utilizing all rational means for ascertaining truth.'"[29] "'[I]t applies only where necessary to achieve its purpose.'"[30] As one treatise puts it: "Since the privilege is generally in derogation of the broad duty of witnesses to disclose the information in their possession, the privilege should ordinarily be confined within the narrowest possible limits consistent with its purposes."[31]

Napolitano has made no effort whatsoever to explain why the presumption in favor of disclosure should be trumped in her case. She has simply asserted the privilege and demands that it be honored. The privilege that she has asserted—in the congressional, rather than the judicial, setting and protecting her communication when there has been no client communication—is hardly narrowly construed. Her version of the privilege has virtually no limits rather than the "narrowest possible limits" required by relevant legal authority.

C. The Attorney-Client Privilege Does Not Protect Communication for Illegitimate Purposes

The attorney-client privilege does not protect communication "for the purpose of providing or receiving advice or assistance with respect to, in furtherance of, or to induce or to conceal the commission of a present, continuing, or future crime or fraud."[32] This includes where the wrongdoing is presentation of false testimony.[33] This so-called "crime-fraud" exception applies to the pooled information privilege.[34] One of the authorities Napolitano herself relies upon stresses that the crime-fraud exception should operate especially in this context because "the pooled-information rule may increase the risk of illegal collusion."[35] The *Restatement* concludes: "If the purpose of the participating members of the pool is to further future crimes or frauds, for example to present perjured testimony or other false evidence, the illegal-act exception to the privilege removes its protection entirely."[36]

The proper course would be for the Judiciary Committee to conduct a closed hearing to evaluate whether the crime-fraud exception defeats the pooled information privilege. The Supreme Court has held that the party seeking this *in camera* review "must present evidence sufficient to support a reasonable belief that in camera review may yield evidence that establishes the exception's applicability."[37] This threshold showing may be met by using "any relevant evidence"—even unprivileged evidence that is "not 'independent' of the contested communications."[38]

On the face of the relevant records, a reasonable person could believe that *in camera* review "may yield evidence" to determine whether the crime-fraud exception applies.

III. CONCLUSION

Janet Napolitano has asserted attorney-client privilege to shield from the Senate information which might wholly disqualify her nomination. The Senate simply cannot fulfill its constitutional duty of advice and consent as to this nomination as long as this privilege is honored. Even if Napolitano's assertion was legally supportable, such that a court of law would respect it, Congress is under no obligation to honor it. Indeed, Senate Democrats routinely declined to honor such a privilege over the last dozen years, attaching overriding importance to the Senate's role in the confirmation process. If Napolitano maintains her assertion of privilege, the Senate should deem her an inappropriate nominee and vote down her nomination. Doing so would simply be stating that the Senate's constitutional duty of advice and consent takes precedence over a nominee's assertion of privilege, especially when the nominee attempts to shield information that might be disqualifying.

In addition, Napolitano's assertion of privilege is legally insupportable so that, even if the rules pertaining to privilege that govern the judicial setting obtained in the proceedings of Congress, she should not be allowed to maintain it.

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[1] 18 U.S.C. §1001. The False Statements Act prohibits any false statement "in any matter within the jurisdiction of any department or agency of the United States." Congress has been held to be such a department or agency. See, e.g., *United States v. Poindexter*, 951 F.2d 369,386–88 (D.C.Cir. 1991).

[2] These include, for example, the Fifth Amendment's privilege against self-incrimination.

[3] See, e.g., *Upjohn Co. v. United States*, 449 U.S. 383,389 (1981).

[4] See, e.g., J. Weinstein & M. Berger, *Weinstein's Evidence*, 503[02] (1993), at 503–19.

[5] Federal Rule of Evidence 501 states that federal privilege rules are "governed by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience."

[6] Memorandum from Congressional Research Service to Clerk of the House of Representatives, February 19, 1986. See reprint in 132 *Congressional Record* H681 (daily edition February 27, 1986).

[7] Memorandum From Stephen Gillers to Rep. Stephen Solarz, February 19, 1986. See reprint in 132 *Congressional Record* H679 (daily edition February 27, 1986).

[8] House Committee on Foreign Affairs, Subcommittee on Asian and Pacific Affairs, H.R. Rep. No. 462, 99th Cong., 1st Sess. (1985). See reprint in 132 *Congressional Record* H666 (daily edition February 27, 1986), at H667.

[9] Memorandum Opinion of General Counsel to the Clerk of the House of Representatives on Attorney-Client Privilege, December 11, 1985. See reprint in 132 *Congressional Record* H674 (daily edition February 27, 1986).

[10] See, e.g., S. Rep. No. 2, 84th Cong., 1st Sess. (1954), at 27–28; H.R. Res. 178, 84th Cong., 1st Sess. (1954).

[11] *Hannah v. Larche*, 363 U.S. 420,445 (1960).

[12] See, e.g., *Stewart v. Blaine*, 8 D.C. (1 MacArth.) 453 (D.C.1874).

[13] H.R.Rep. No.462, *supra* note 8, reprint at H669.

[14] U.S. Constitution, Article I, §2.

[15] *Id.*

[16] *Berger v. United States*, 295 U.S. 78,88 (1935).

[17] Cheshire, "'Napolitano Gap' Raises Questions About U.S. Attorney Nominee," *The Arizona Republic*, September 16, 1993, at A16.

[18] *Nomination of Judge Antonin Scalia*, Hearings before the Committee on the Judiciary, United States Senate, 99th Cong., 2d Sess., Serial No. J–99–119, at 80 (emphasis added).

[19] *Id.*

[20] J. Weinstein & M. Berger, *supra* note 4, at 503–99, quoting Comment, "The Attorney-Client Privilege in Multi-Party Situations," 8 *Columbia Journal of Law & Social Problems* 179,187 (1972).

[21] *SMC Corp. v. Xerox Corp.*, 70 F.R.D. 508 (D. Conn.), *appeal dismissed*, 534 F.2d 1031 (2d Cir. 1976).

[22] Memorandum to Senator Biden From Nominations Staff Re Nomination of Janet Napolitano to be the U.S. Attorney for the District of Arizona, September 28, 1993, at 4.

[23] *Eisenberg v. Gagnon*, 766 F.2d 770,787 (3d Cir.), *cert. denied sub nom. Weinstein v. Eisenberg*, 474 U.S. 946 (1985).

[24] *Matter of Bevill, Bresler & Shulman Asset Management Corp.*, 805 F.2d 120,126 (3rd Cir. 1986).

[25] *Id.*

[26] See, e.g., *United States v. Bay State Ambulance & Hospital Rental Service*, 874 F.2d 20, 28–29 (1st Cir. 1989); *United States v. Schwimmer*, 892 F.2d 237,243 (2d Cir. 1989).

[27] *In re Sealed Case*, 734 F.2d 94,99 (D.C. Cir. 1984). See also *United States v. (Under Seal)*, 748 F.2d 871,874 (4th Cir. 1984) (privilege "may also be extended to protect communications by the lawyer to his client . . . if those communications reveal confidential client communications"); *Matter of Fischel*, 557 F.2d 209,211 (9th Cir. 1977) ("The privilege does not extend, however, beyond the substance of the client's confidential communications to the attorney").

[28] *In re Sealed Case*, 734 F.2d at 99.

[29] *Trammel v. United States*, 445 U.S. 40,50 (1980) (citation omitted).

[30] *United States v. Zolin*, 491 U.S. 554,562 (1989), quoting *Fisher v. United States, 425 U.S. 391,403 (1976).*

[31] M. Larkin, *Federal Testimonial Privileges*, §2.01 (1993), at 2–4 (emphasis added).

[32] *Id.* at §2.07[1], 2–138 to 139.

[33] See, e.g., *United States v. Townsley*, 843 F.2d 1070,1086 (8th Cir. 1988); *United States v. Gordon-Nikkar*, 518 F.2d 972,975 (5th Cir. 1975).

[34] See, e.g., *Haines v. Liggett Group, Inc.*, 975 F.2d 81,94–97 (3d Cir. 1992).

[35] *Restatement of the Law Governing Lawyers* §126, comment b.

[36] *Id.* (emphasis added).

[37] *Zolin*, 491 U.S. at 574–75 (emphasis added).

[38] *Id.* (emphasis added).●

ORDER OF BUSINESS

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, OCTOBER 28, 1993

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, October 28; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders reserved for their use later in the day, and that there then be a period for morning business, not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the time controlled as follows: 9 to 9:30 a.m., and 10 to 10:30 a.m., under the control of Senator BOND or his designee; the time from 9:30 to 10 a.m., and 10:30 to 11 a.m., under the control of Senator DASCHLE or his designee; that at 11 a.m., the Senate resume consideration of H.R. 3167; further that at 12:20 p.m., the Senate resume consideration of the motion to invoke cloture on the conference report accompanying the Interior appropriations bill, with 40 minutes for debate prior to the cloture vote, with the time equally divided and controlled between Senators REID and NICKLES or their designees; that at 1 p.m., without intervening action or debate, the Senate vote on the motion to invoke cloture on the conference report accompanying H.R. 2520, the Interior appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 10:21 p.m., recessed until tomorrow, Thursday, October 28, 1993, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 27, 1993:

DEPARTMENT OF JUSTICE

LORETTA COLLINS ARGRETT, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE SHIRLEY D. PETERSON, RESIGNED.

THE JUDICIARY

HARRY F. BARNES, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS VICE MORRIS S. ARNOLD, ELEVATED.

NANCY GERTNER, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS VICE A. DAVID MAZZONE, RETIRED.

REGINALD C. LINDSAY, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS VICE DAVID SUTHERLAND NELSON, RETIRED.

PATTI B. SARIS, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS, VICE WALTER JAY SKINNER, RETIRED.

ALLEN G. SCHWARTZ, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE VINCENT L. BRODERICK, RETIRED.

RICHARD G. STEARNS, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS VICE JOHN JOSEPH MCNAUGHT, RETIRED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

LOTTIE LEE SHACKELFORD, OF ARKANSAS, TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1995, VICE J. CARTER BEESE, JR., RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate October 27, 1993:

NATIONAL RAILROAD PASSENGER CORPORATION

DANIEL COLLINS, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL RAILROAD PASSENGER CORPORATION FOR A TERM OF 4 YEARS.

EXTENSIONS OF REMARKS

HIGHER EDUCATION TECHNICAL AMENDMENTS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. FORD of Michigan. Mr. Speaker, I am pleased to introduce today the Higher Education Technical Amendments of 1993. These amendments would make technical and clarifying changes to the Higher Education Act. The committee has been working for a year on compiling these amendments, necessitated by the reauthorization of the Higher Education Act in 1992, with input from the higher education community, Members of Congress and the Department of Education.

Changes to the Higher Education Act included in this legislation fall into one of two categories: First, corrections in punctuation, grammar, spelling, cross-references and typographical errors; or second, clarifications of the intent of Congress regarding the Higher Education Amendments of 1992. At the end of my remarks I will include a detailed section-by-section analysis of this legislation. However, I would like to draw to your attention a few of the clarifying changes that are included in this legislation.

Representative KLUG brought to the attention of the committee that while the Higher Education Amendments of 1992 authorized the Byrd scholarship recipients to receive 4-year awards, no provision was included for insufficient appropriations. This legislation includes Representative KLUG's correction of this oversight.

Representative DE LUGO suggested a clarifying amendment to prohibit the insular areas from consolidating Byrd funds with other funding and thereby not giving students their scholarships.

Representatives SCHROEDER and GOODLING requested a clarification of the loan limits for students attending institutions that require an associate or baccalaureate degree for admissions. I had engaged in a colloquy on the House floor with Representative SCHROEDER during consideration of the Higher Education Amendments of 1992 to clarify congressional intent. However, the Department of Education has determined that a technical amendment is necessary to achieve congressional intent.

At the request of the lending community and Representative FRANK, this legislation includes a provision clarifying the requirement of the Higher Education Amendments of 1992 that both the seller and purchaser of a loan must notify the borrower of the sale of the loan. This clarifying provision would allow a joint notification to the borrower.

Representative GUNDERSON, the Department of Education and the National Association of Student Financial Aid Administrators requested a clarifying amendment to the College Work Study program. This amendment would allow the institution of higher education and the community service agency to determine how the non-Federal share of the student's College Work Study award would be paid for those students using College Work Study for community service activities.

Representative ANDREWS (ME) asked for Secretarial waiver authority from the requirement that less than 50 percent of an institution's students be enrolled in correspondence courses for 2- and 4-year, degree-granting institutions. The Higher Education Amendments of 1992 already included an exemption from this requirement for vocational and trade schools.

The National Association of Student Financial Aid Administrators and the American Association of Universities requested that the definition of academic year be clarified with respect to the credit hour requirement of a full time graduate student.

Representatives GOODLING and KILDEE requested a clarification of the provision of the Higher Education Amendments of 1992 with respect to less-than-600-clock-hour institutions. I had engaged in a colloquy on the House floor with Representative GOODLING during consideration of the Higher Education Amendments of 1992 to clarify congressional intent. However, the Department of Education has determined that a technical amendment is necessary to achieve congressional intent.

At the request of the Department of Education, we included a 1-year waiver of a provision of the master calendar regarding the effective date of regulations published after December 1. This waiver would effect the integrity provisions in parts B, G, and H of title IV only. This would allow the numerous integrity provisions contained in the Higher Education Amendments of 1992 to go into effect prior to the 1995–96 award year. There has been some confusion as to the effect of this amendment on direct lending or the Omnibus Reconciliation Act of 1993. This amendment does not effect either direct loans or any of the provisions of that legislation. It simply avoids the unnecessary delay of the many important provisions included in the last Congress' reauthorization to address fraud and abuse in the student aid programs. Without this amendment the effective date of these provisions would be delayed by at least 1 year.

Representative BARRETT requested clarification that prepares of student financial aid applications who work for non-profit organizations are able to include employer identification instead of their own personal identification on student aid applications.

The American Dental Association, the American Speech-Learning-Hearing Association, the Liaison Committee on Medical Education and other membership organizations requested clarification of the requirement for accrediting bodies to be separate and independent from their accrediting associations. Statements made on the House floor during consideration of the Higher Education Amendments of 1992 clarified congressional intent. However, the Department of Education has determined that a technical amendment is necessary to achieve congressional intent.

The National Association of Independent Colleges and Universities and Representative WILLIAMS requested language clarifying the provision of the Higher Education Amendments of 1992 that an institution that has sufficient financial resources to meet its obligations, including student refunds, in the event of closing would not be required to post a letter of credit.

I have been contacted by Representatives SLATTERY and BALLENGER and the National Commission for Cooperative Education regarding the treatment of multi-year Title VIII Cooperative Education Administrative awards included in the Higher Education Amendments of 1992. The current law does not directly address how the Department of Education should treat grants made to institutions of higher education which have additional years remaining on their multiyear project grant. This bill requires the Secretary to reserve amounts for existing cooperative education programs under a multiyear project award, and also to continue these multiyear awards under the requirements of this section prior to the Higher Education Amendments of 1992.

I have been contacted by Representative POMEROY, WALSH, OLVER, CLEMENT, MACHTLEY, BROWN, MCCURDY and SHAW and the congressional sunbelt caucus, regarding a serious problem with the Title IX Patricia Roberts Harris Fellowship program. I have also been contacted by the American Council on Education, the Association of American Universities and the Council of Graduate Schools concerning this title IX problem.

In the Higher Education Amendments of 1992, several changes were made to the Title IX Patricia Roberts Harris Fellowship program. The current law does not directly address how the Department of Education should treat recipients of a Patricia Roberts Harris Fellowship who have received at least 1 year on their award. Seventy-seven institutions currently have Patricia Roberts Harris Fellowship recipients who have received 2 years on their award who have no way of paying for these students third and final year.

This bill provides that such students may be subject to the requirements of the fellowship program in effect prior to date of enactment of the Higher Education Amendments of 1992. This legislation also allows for 1994 appropriations to make continuation awards for those individuals who received at least 1 year on their award prior to the Higher Education Amendments of 1992.

Finally, Representatives KILDEE, MEYERS, SOLOMON and SPRATT requested a clarification that institutions that had been considered to be accredited pursuant to three other institutions accepting their credits for transfer prior to

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the Higher Education Amendments of 1992 would continue to be eligible for Federal student financial assistance if these institutions achieved accreditation within the next 2 years. Many of these institutions are in the process of becoming accredited.

The following is a detailed section-by-section analysis of the legislation:

TECHNICAL AMENDMENTS SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE; REFERENCES

Section 1(a)—States the title.

Section 1(b)—States that this bill references the Higher Education Act of 1965.

Section 1(c)—States the effective dates of the bill.

SECTION 2. TECHNICAL AMENDMENTS

Section 2(a)(1)—Corrects the indentation of five (5) subparagraphs.

Section 2(a)(2)—Conforms language to proper legislative form.

Section 2(a)(3)—Changes the word "service" to "science".

Section 2(a)(4)—Corrects grammatical error.

Section 2(a)(5)—Corrects grammatical error.

Section 2(a)(6)—Conforms language to proper legislative form.

Section 2(a)(7)—Corrects the indentation of three (3).

Section 2(a)(8)—Deletes a requirement that already exists in current law.

Section 2(a)(9)—Corrects the indentation of two (2) subparagraphs.

Section 2(a)(10)—Capitalizes the letter "A" in the word "an".

Section 2(b)(1)—Deletes a section that the Department of Education informs us is being used by institutions to keep off of the reimbursement method of Pell distribution (this method is only used on institutions who have demonstrated problems in the Pell program).

Section 2(b)(2)—Makes statute more uniform by referencing the new definition of award year.

Section 2(b)(3) and Section (2)(b)(4)—Corrects an oversight that excluded associate degree programs from provision that would allow two Pell grants in a single award year in unusual circumstances.

Section 2(b)(5)—Deletes the requirement that Secretary promulgate separate regulations on institutional allowances for books and supplies for the purposes of the Pell grant program (an allowance for books and supplies is already included in part F).

Section 2(b)(6)—Corrects an erroneous reference.

Section 2(b)(7)—Provides that the four-year grant requirement should not necessarily apply to the evaluation or staff development programs in TRIO.

Section 2(b)(8)—Clarifies that prior experience in TRIO awards should be counted as 15 percent of the total consideration for all TRIO programs.

Section 2(b)(9)—Provides that the rank order requirement should not necessarily apply to the evaluation or staff development programs in TRIO.

Section 2(b)(10)—Clarifies of the requirements for documentation of a low-income individual for the purposes of the TRIO programs.

Section 2(b)(11)—Makes a grammatical correction.

Section 2(b)(12)—Makes a grammatical correction.

Section 2(b)(13)—Makes a punctuation correction.

Section 2(b)(14)—Corrects erroneous cross-references.

Section 2(b)(15)—Makes a grammatical correction.

Section 2(b)(16)—Makes a grammatical correction.

Section 2(b)(17)—Corrects erroneous cross-references.

Section 2(b)(18)—Corrects erroneous cross-references.

Section 2(b)(19)—Clarifies that the National Early Intervention Scholarship and Partnership Program is for undergraduate students.

Section 2(b)(20)—Includes a grammatical correction.

Section 2(b)(21)—Clarifies that financial assistance in the early intervention program can cover more than tuition costs.

Section 2(b)(22)—Corrects a spelling error and an erroneous reference.

Section (2)(b)(23)—Corrects a spelling error.

Section (2)(b)(24)—Makes a grammatical correction.

Section (2)(b)(25)—Clarifies the Department is supposed to collect information on student financial assistance.

Section (2)(b)(26)—Makes a conforming change to the requirement that 5 percent of an institution's S.E.O.G. allocation be used for non-traditional students.

Section (2)(b)(27)—Makes a conforming change to the need analysis changes in the Higher Education Amendments of 1992, which removed a separate Pell Grant family size offset.

Section (2)(b)(28)—Corrects punctuation.

Section (2)(b)(29)—Amends Byrd scholarships to provide for a contingency plan if the appropriation for this subpart is not increased enough to allow all scholarship recipients to have four year awards.

Section (2)(b)(30)—prohibits insular areas from consolidating Byrd funds and thereby not giving students scholarships.

Section (2)(b)(31)—Clarifies that the small state minimum in the Byrd program should not cap D.C.'s and Puerto Rico's allotment.

Section (2)(c)(1)—Makes a punctuation correction.

Section (2)(c)(2)—Provides that the proration of loan limits for courses of more than one year in length should be determined by the length of the course and corrects punctuation.

Section (2)(c)(3)—Clarifies that if an institution requires an associate or baccalaureate degree for admissions, the loan limits should reflect this requirement.

Section (2)(c)(4)—Makes a grammatical correction.

Section (2)(c)(5)—Clarifies that the interest rate for new borrowers applies to borrowers who do not have an outstanding Stafford or unsubsidized loan.

Section (2)(c)(6)—Clarifies that windfall profits are given back to whoever is paying the interest (Federal Government or the student).

Section (2)(c)(7), (2)(c)(8), and (2)(c)(10)—Clarifies the method used in calculating windfall profits provision.

Section (2)(c)(9)—Corrects an erroneous cross-reference and clarifies that if borrower is delinquent or in default the Secretary receives the windfall profits.

Section (2)(c)(11)—Corrects punctuation.

Section (2)(c)(12)—Clarifies that unsubsidized loans can be used to offset expected family contribution.

Section (2)(c)(13)—Clarifies the unconsummated loan provision.

Section (2)(c)(14)—Provides that the proration of loan limits for courses of more than one year in length should be determined by the length of the course and clarifies that if an institution requires an associate or baccalaureate degree for admissions, the loan limits should reflect this requirement.

Section (2)(c)(15)—Deletes language that was repeated in law.

Section (2)(c)(16)—Includes clarifying language with respect to disbursement of loans to students.

Section (2)(c)(17)—Corrects punctuation.

Section (2)(c)(18)—Moves forbearance provisions to the section of the law where they belong.

Section (2)(c)(19)—Clarifies that buyer and seller of a loan can jointly notify the borrower of the sale of the loan.

Section (2)(c)(20), (2)(c)(21), and (2)(c)(22)—Provides that the buyer, not the seller, of a student loan notify the guaranty agency and institution of the sale of the loan, in order to confirm this provision to standard banking practices.

Section (2)(c)(23)—Consolidates the definition of repayment for unsubsidized, SLS, PLUS, and Consolidation loans.

Section (2)(c)(24)—Clarifies language with respect to disbursement of loans to students.

Section (2)(c)(25)—Clarifies a confusing sentence added by the Higher Education Amendments of 1992, which requires guaranty agencies to hold a student loan for at least 270 days but then to file a claim within 45 days of when the agency discharges the loan.

Section (2)(c)(26)—Clarifies the skip-tracing provision.

Section (2)(c)(27)—Moves forbearance provisions to the section of the law where they belong.

Section (2)(c)(28)—Makes a drafting correction.

Section (2)(c)(29)—Corrects punctuation.

Section (2)(c)(30)—Provides that the proration of loan limits for courses of more than one year in length should be determined by the length of the course in SLS.

Section (2)(c)(31)—Clarifies that if an institution requires an associate or baccalaureate degree for admissions, the loan limits should reflect this requirement.

Section (2)(c)(32)—Provides that students should exhaust eligibility for the unsubsidized program, as well as the Stafford program, before borrowing under SLS.

Section (2)(c)(33)—Makes a grammatical correction.

Section (2)(c)(34)—Clarifies where PLUS loan checks are sent.

Section (2)(c)(35)—Clarifies the ability of defaulted borrowers to consolidate in order to enter repayment.

Section (2)(c)(36)—Makes a conforming amendment to the provision that allows parents to consolidate PLUS loans.

Section (2)(c)(37)—Corrects an erroneous reference to the Public Health Service Act.

Section (2)(c)(38)—Corrects punctuation.

Section (2)(c)(39)—Makes a grammatical correction.

Section (2)(c)(40)—Corrects erroneous cross-references.

Section (2)(c)(41)—Corrects erroneous cross-references.

Section (2)(c)(42)—Provides that a defaulted borrower may only take advantage of the special rule that restores student aid eligibility once.

Section (2)(c)(43)—Clarifies who disburses the loan in the case of multiple disbursements.

Section (2)(c)(44)—Provides that the proration of loan limits should only apply to courses of less than one year in length in SLS also.

Section (2)(c)(45)—Moves the definition of repayment period for unsubsidized loans to the same section that repayment is defined for all other part B loans.

Section (2)(c)(46)—Corrects erroneous cross-reference.

Section (2)(c)(47)—Corrects drafting error.

Section (2)(c)(48)—Clarifies a cross-reference to the U.S. Code.

Section (2)(c)(49)—Makes a grammatical correction.

Section (2)(c)(50)—Clarifies the definition of volunteer.

Section (2)(c)(51)—Provides that cancellation applies for year of service, not academic year.

Section (2)(c)(52)—Makes a grammatical correction.

Section (2)(c)(53)—Provides that cancellation for service is on a first-come first-served basis and that borrowers will qualify for forbearance during year of service.

Section (2)(c)(54)—Corrects punctuation.

Section (2)(c)(55)—Provides for multiple common deferment forms to conform to different deferments for different programs under part B.

Section (2)(c)(56)—Changes the mandatory disclosure time line to provide for disclosure to SLS borrowers before they enter repayment.

Section (2)(c)(57)—Makes a grammatical correction.

Section (2)(c)(58)—Makes a grammatical correction.

Section (2)(c)(59)—Corrects the indentation.

Section (2)(c)(60)—Corrects erroneous cross-reference.

Section (2)(c)(61)—Includes unsubsidized loans in the calculation of cohort default rate.

Section (2)(c)(62)—Corrects drafting error.

Section (2)(c)(63)—Makes a grammatical correction and clarifies the intent of provision regarding loans discharged in bankruptcy.

Section (2)(c)(64)—Provides for the discharge of PLUS loans if a school closes.

Section (2)(c)(65)—Clarifies that a canceled loan should not be counted as income.

Section (2)(c)(66) and (2)(c)(68)—Strikes the specific authorization for the Debt Management Options/Income Contingent repayment program.

Section (2)(c)(67)—Corrects punctuation.

Section (2)(c)(69)—Corrects an erroneous cross-reference.

Section (2)(d)(1)—Makes a conforming change to the need analysis changes in the Higher Education Amendments of 1992, which removed a separate Pell Grant family size offset.

Section (2)(d)(2)—Conforms College Work Study to the other campus-based programs by providing that if an institution returns more than 10 percent of its allocation, its funding is reduced in subsequent years.

Section (2)(d)(3)—Makes a grammatical correction.

Section (2)(d)(4)—Clarifies the institution/community service organization match in the Federal College Work study program.

Section (2)(d)(5)—Clarifies the use of community service work-study jobs at proprietary institutions.

Section (2)(e)(1)—Makes a grammatical correction.

Section (2)(e)(2)—Makes a conforming change to the need analysis changes in the Higher Education Amendments of 1992, which removed a separate Pell Grant family size offset.

Sections (2)(e)(3) and (2)(e)(4)—Changes the indentation.

Section (2)(e)(5)—Makes a conforming amendment to the change in Perkins default rate calculation in the Higher Education Amendments of 1992.

Section (2)(e)(6)—Modifies the credit bureau reporting requirement to be annual reporting.

Section (2)(e)(7) and Section (2)(e)(8)—Moves two subsections that were erroneously added to the section on Perkins loan disclosures to the section on institutional agreements in the Perkins loan program.

Sections (2)(e)(9), (2)(e)(10), (2)(e)(11) and (2)(f)(12)—Makes spelling corrections.

Section (2)(e)(13)—Makes a grammatical correction.

Sections (2)(e)(14) and (2)(e)(15)—Changes the indentation.

Section (2)(f)(1)—Inserts a missing "$".

Section (2)(f)(2)—Makes a grammatical correction.

Section (2)(f)(3)—Inserts a missing parenthesis.

Section (2)(f)(4)—inserts a missing row in a chart.

Sections (2)(f)(5) and (2)(f)(6)—Includes two definitions in need analysis which were left out during merging of Pell and Part F need analysis during reauthorization.

Section (2)(f)(7)—Clarifies that base year used for updating need analysis tables.

Section (2)(f)(8)—Makes a spelling correction.

Section (2)(f)(9)—Makes a grammatical correction.

Section (2)(f)(10)—Clarifies Congressional intent that simplified needs test applies to students who are not required to file income tax returns.

Section (2)(f)(11)—Corrects computational error.

Section (2)(f)(12)—Makes a punctuation correction.

Section (2)(f)(13)—Clarifies references to the U.S. Code.

Section (2)(f)(14)—Clarifies that students who were wards of the court are considered independent students.

Section (2)(f)(15)—Includes three definitions in need analysis which were left out during merging of Pell and Part F need analysis during reauthorization.

Section (2)(g)(1)—Provides the Secretary with the ability to waive the requirement that less than 50 percent of an institution's students be enrolled in correspondence courses for two- and four-year institutions.

Section (2)(g)(2)—Makes grammatical correction and provides the Secretary with the ability to waive the 50 percent ability-to-benefit cap for institutions which need to exceed that cap because of the terms and conditions of another Federal, state, or local grant or contract.

Section (2)(g)(3)—Clarifies that if the corporate owner of an institution declares bankruptcy, the institution will be ineligible for Title IV.

Section (2)(g)(4)—Clarifies that semester hour, quarter hour and clock hour requirements apply to undergraduate students.

Section (2)(g)(5)—Clarifies the eligibility for institutions of less than clock hours.

Section (2)(g)(6)—Clarifies the definition of servicer to include servicers contracted by individuals.

Section (2)(g)(7)—For the 1994-95 academic year, allows regulations effecting parts B, G and H of title IV of the Higher Education Act to be published after December 1 and go into effect prior to the 1995-96 award year.

Section (2)(g)(8)—Corrects a cross-reference.

Section (2)(g)(9)—Clarifies that fee-forms cannot be used to collect data to complete a free-form.

Section (2)(g)(10)—Clarifies that if an institution or a state shares student financial aid data with another entity, the other entity is subject to the same requirements with respect to that data as the institution or the state.

Section (2)(g)(11)—Allows those who prepare student's financial aid forms to give employers i.d. numbers and addresses, instead of their own social security numbers and addresses.

Section (2)(g)(12)—Clarifies that students who are ineligible for social security numbers or unable to obtain them are eligible for Title IV assistance.

Section (2)(g)(13)—Clarifies an INS provision.

Section (2)(g)(14)—Requires students to apply for unsubsidized loans before receiving SLS loans.

Section (2)(g)(15)—Allows students who are taking remediation courses necessary for postsecondary education and are currently eligible for part B loans to be eligible for part D loans.

Section (2)(g)(16)—Requires 100% verification for student aid.

Section (2)(g)(17)—Corrects punctuation.

Section (2)(g)(18)—Makes a grammatical correction.

Section (2)(g)(19), (2)(g)(20), and (2)(g)(21)—Corrects erroneous cross-references and deletes a reference to a section which no longer exists.

Section (2)(g)(22)—Makes a grammatical correction.

Section (2)(g)(23)—Clarifies the student's ability to correct his/her social security number if submitted wrong.

Section (2)(g)(24)—Provides that income already earned by students under the work-study program need not be refunded to students.

Section (2)(g)(25)—Corrects an erroneous cross-reference.

Section (2)(g)(26)—Makes a grammatical correction.

Section (2)(g)(27)—Makes a punctuation correction.

Section (2)(g)(28)—Provides that income already earned by students under the work-study program need not be refunded to students.

Section (2)(g)(29)—Makes a punctuation correction.

Section (2)(g)(30) and Section (2)(g)(32)—Postpones effective reporting date of student-right-to-know data.

Section (2)(g)(31)—Makes a grammatical correction.

Section (2)(g)(33), (2)(g)(34), (2)(g)(35), and (2)(g)(36)—Includes direct loans in the national student loan data bank.

Section (2)(g)(37)—Deletes reference to a report that no longer exists.

Section (2)(g)(38)—Makes a grammatical correction.

Section (2)(g)(39)—Corrects an erroneous cross-reference.

Section (2)(g)(40)—Corrects an erroneous cross-reference.

Section (2)(h)(1)—Rewrites the state review section to provide that if an institution which has to undergo state review only because it is new to one of the Title IV programs, will not have to undergo this review for a second year if no problems were found in the first year.

Section (2)(h)(2)—Makes a grammatical correction.

Section (2)(h)(3)—Clarifies this clause pertains to accrediting organizations with institutional membership.

Section (2)(h)(4)—Clarifies that the separate and independent criteria should apply only to those accrediting bodies that accredit for the purposes of title IV.

Section (2)(h)(5)—Makes a punctuation correction and provides that accrediting agencies must examine tuition charges, clock hour/credit hour conversions, completion and placement rates, default rates and compliance with Federal student financial aid regulations only if they accredit institutions for the purposes of title IV assistance.

Section (2)(h)(6)—Clarifies that required operating procedures apply only to accrediting bodies that accredit institutions for the purposes of title IV.

Section (2)(h)(7)—Corrects spelling mistakes and clarifies that the limitation, suspension and termination provisions for accrediting bodies apply only to those bodies that accredit for the purposes of title IV.

Section (2)(h)(8)—Provides that the Secretary, at his or her discretion, can do site visits at member institutions as part of the accrediting body review.

Section (2)(h)(9)—Clarifies that the Secretary may consider institutions to meet the financial responsibility standards if they have sufficient resources to protect students and the Federal Government if the institution closes.

Section (2)(h)(10)—Allows the Secretary to establish priorities for site visits and to coordinate ED site visits with site visits by accrediting bodies and states.

Section (2)(h)(11)—Clarifies conditional certification provision.

Section (2)(h)(12)—Provides institutions under provisional certification with an appeal opportunity before their eligibility is withdrawn.

Section (2)(h)(13)—Clarifies change of ownership provision.

Section (2)(h)(14)—Clarifies death of an owner provision.

Section (2)(h)(15)—Clarifies branch campus provision.

Section (2)(h)(16)—Makes a punctuation correction.

Section (2)(i)(1)—Corrects punctuation.

Section (2)(i)(2)—Clarifies the waiver provision.

Section (2)(i)(3)—Clarifies time periods of when teacher shortage areas are designated and also an ED. Clarification of teacher categories for the shortage areas.

Section 2(i)(4)—Corrects grammar.

Section 2(i)(5)—Corrects grammar.

Section 2(i)(6)—Corrects grammar.

Section 2(i)(7)—Includes conforming language.

Section 2(i)(8)—Corrects section reference.

Section 2(i)(9)—Corrects word order.

Section 2(i)(10)—Deletes the letter (A).

Section 2(i)(11)—Deletes the letter (A).

Section 2(i)(12)—Corrects legislative form.

Section 2(i)(13)—Corrects numbering of paragraphs.

Section 2(i)(14)—Strikes the words "(a) IN GENERAL.—".

Section 2(i)(15)—Corrects the indentation of two (2) paragraphs; strikes "(1) STATE GRANTS.—" because there is only one paragraph; redesignates the subparagraphs.

Section 2(i)(16)—Adds an enforcement mechanism to Title VII Part B program.

Section 2(i)(17)—Corrects reference.

Section 2(i)(18)—Includes conforming language.

Section 2(i)(19)—Clarifies language.

Section 2(i)(20)—Includes conforming language.

Section 2(i)(21)—Removes comma.

Section 2(i)(22)—Pluralizes the word "student".

Section 2(i)(23)—Clarifies language that provides priority funding to currently funded multi-year project grants; provides that currently funded multi-funded project grants receive the Federal share that was in effect at the time of the original award.

Section 2(i)(24)—Strikes the word "data".

Section 2(i)(25)—Corrects grammar.

Section 2(i)(26)—Clarifies language.

Section 2(i)(27)—Clarifies the institutional payment schedule for Patricia Roberts Harris Fellowship Program.

Section 2(i)(28)—Clarifies language to provide an additional period of study for Patricia Roberts Harris Fellowship master degree recipients.

Section 2(i)(29)—Provides for an additional period of fellowship study under the Patricia Roberts Harris Fellowship doctoral degree program; clarifies Congressional intent that the institution's support shall come after the Federal predissertation support; removes the specification of when the doctoral student shall receive supervised training in instruction.

Section 2(i)(30)—Clarifies language to provide that Patricia Roberts Harris recipients who received fellowship support prior to enactment of the Higher Education Amendments of 1992 may be subject, at the discretion of the institution, to the requirements of this section that were in effect prior to the date of enactment of the Higher Education Amendments of 1992.

Section 2(i)(31)—Allows FY '94 appropriations to be used to make continuation awards to individuals who would have been eligible for awards in FY '93.

Section 2(i)(32)—Permits students pursuing a master's degree in those fields in which the master's degree is commonly accepted as the appropriate degree for a faculty position in a baccalaureate degree-granting institution to be eligible for these awards.

Section 2(i)(33)—Changes the word "doctoral" to "graduate".

Section 2(i)(34)—Changes the word "doctoral" to "graduate".

Section 2(i)(35)—Clarifies the institutional payment schedule in the Jacob K. Javits Fellowship program.

Section 2(i)(36)—Corrects grammar.

Section 2(i)(37)—Changes "or" to "and".

Section 2(i)(38)—Clarifies the treatment of institutional payments in the GAAN program.

Section 2(i)(39)—Clarifies the institutional payment schedule in the GAAN program.

Section 2(i)(40)—Includes Pacific Islanders as an underrepresented group for the Faculty Development Fellowship Program.

Section 2(i)(41)—Clarifies language.

Section 2(i)(42)—Clarifies language.

Section 2(i)(43)—Corrects section reference.

Section 2(i)(44)—Clarifies language.

Section 2(i)(45)—Provides missing word.

Section 2(i)(46)—Corrects section reference.

Section 2(i)(47)—Reauthorizes a section that was not reauthorized last year; deletes authorization of appropriation.

Section 2(i)(48)—Includes conforming amendment.

Section 2(i)(49)—Includes conforming amendment.

Section 2(i)(50)—Inserts complete legislative reference.

Section 2(i)(51)—Includes conforming amendments.

Section 2(i)(52)—Corrects grammar.

Section 2(i)(53)—Corrects section designation.

Section 2(i)(54)—Provides closed quotation marks.

Section (2)(j)(1)—Clarifies the exact location of an amendment.

Section (2)(j)(2)—Makes a grammatical correction.

Section (2)(j)(3)—Makes a grammatical correction.

Section (2)(j)(4)—Makes a grammatical correction.

Section (2)(j)(5)—Provides that the effective date of new PLUS deferments is for new borrowers after July 1, 1993.

Section (2)(j)(6)—Clarifies the intent that the provisions regarding less than 600 clock hour programs take effect when final regulations have been promulgated.

Section (2)(j)(7)—Eliminates a duplicate section.

Section (2)(j)(8)—Clarifies that the 50 percent limitation is removed from Perkins Chapter 1 cancellation.

Section (2)(j)(9)—Clarifies that provision regarding ability of students to receive College Work Study and Perkins loan funds for courses necessary for a certificate should be effective on December 1, 1987.

Section (2)(j)(10)—Corrects an erroneous cross-reference.

Section (2)(j)(11)—Clarifies the intent that the provisions regarding less than 600 clock hour programs take effect when final regulations have been promulgated.

Section (2)(j)(12)—Clarifies a cross-reference to the U.S. Code.

Section (2)(j)(13)—Makes a grammatical correction.

Section (2)(j)(14)—Makes a conforming correction.

Section (2)(j)(15)—Makes a grammatical correction.

Section (2)(j)(16)—Clarifies that the Peace Institute's authorization coincides with the authorization of the Higher Education Act.

Section (2)(k)—Makes a punctuation correction.

Section (2)(l)—Provides that institutions that had formerly been considered accredited pursuant to the transfer of credit rule will still be considered to be accredited as long as the institution applies for accreditation within 6 months of enactment of technicals and is in candidacy status or is accredited within 2 years of enactment of technicals.

CONGRATULATIONS TO ROBERT M. BLATT

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. MANN. Mr. Speaker and Members of the House, please join me in recognizing Robert M. Blatt as he is being presented with the Hebrew Union College-Jewish Institute of Religion Distinguished Leadership Award. He is being honored for his outstanding public service leadership and devotion to the Hebrew Union College. Mr. Blatt has been a tremendous influence in the Jewish community of the Queen City, especially in the areas of education, business, and the arts.

Mr. Blatt focused his career on real estate. He is the president of Community Management Corp. and was elected chair of both the Cincinnati Apartment Association and the Ohio Apartment Association. After earning his MBA degree at the University of Minnesota, Mr. Blatt begin his military tour of duty in Oklahoma where he taught marketing. Mr. Blatt was sent to Japan the following year where he received an award for placing first in a select officer training program. He was one of the youngest unit commanders in the Far East.

Mr. Blatt has been a long-time supporter of higher education. He cochairs Hebrew Union College's board of overseers and is a constituent of HUC's national board of governors. He is a three-term president, campaign chair, and governance committee chair of Jewish Federation of Cincinnati. He was also a former president of the American Jewish Committee. Other institutions that have benefited from Mr. Blatt's leadership are the Boy Scouts of America, Isaac M. Wise Temple, the Cincinnati Opera, Jewish Vocational Service, and the Cincinnati Art Museum.

Please join me in offering Mr. Blatt wholehearted congratulations on receiving the Hebrew College Jewish Institute of Religion Distinguished Leadership Award.

CUTTING GOVERNMENT SPENDING

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 20, 1993 into the CONGRESSIONAL RECORD:

CUTTING GOVERNMENT SPENDING

I am often contacted by constituents who are concerned about the deficit and suggest possible ways to cut government spending. I share their commitment to getting federal spending under control. Several steps have already been taken this year to help achieve this goal, and Congress will act on additional measures.

DEFICIT REDUCTION LAW

The deficit reduction law recently approved by Congress and President Clinton is estimated to cut the large projected federal budget deficits by about $500 billion over five years, reducing the deficit as a percentage of gross domestic product (GDP) from 4.3% to 2.5%.

The new law includes a hard freeze on discretionary spending—reducing discretionary spending by $102 billion over five years compared to a continuation of current policies. This freeze will reduce discretionary spending as a percentage of GDP to 7%, a decrease from the 9% level under President Bush and the 10% level under President Reagan.

The package also mandates $88 billion in net entitlement cutbacks in such programs as Medicare and Medicaid; curbs spending by another $65 billion through debt service savings and changes in debt management; and, unlike earlier deficit reduction proposals, identifies spending cuts in specific programs, such as peanut and sugar supports and retirement benefits for government workers. The plan also includes enforcement mechanisms to ensure that these savings will be achieved.

ADDITIONAL DEFICIT REDUCTION

The deficit reduction law moves us in the right direction, but additional steps can, and should, be taken. As part of the agreement on the new law, the President and the congressional leadership agreed to have votes later this year on as many as five separate pieces of deficit reduction legislation. First, the White House will submit a package of additional spending cuts. Second, the Senate Majority Leader has promised the Senate an opportunity to consider a constitutional amendment requiring a balanced federal budget. The House will consider the amendment if it is approved by the Senate. Third, Senate leaders have signaled they will allow the full Senate to debate a proposal to give the President a modified line-item veto. The House passed this proposal earlier in the year, but the measure has yet to be considered in the Senate. Fourth, Congress may again consider a measure to require the President to propose ways to reduce spending should total entitlement spending exceed specified targets. A similar proposal was approved earlier by the House, but rejected by the Senate. Fifth, Congress may vote on a procedure to require offsets for spending on disasters such as the Midwest flood. Currently, such funding can be added to the deficit if Congress and the President agree that it constitutes emergency spending.

Various commissions—both public and private—have studied government waste and have offered their recommendations on how to reduce it. Their recommendations should be seriously considered, and Congress has often acted on them. For instance, many of the Grace Commission's recommendations were adopted administratively, and others have been included as part of omnibus spending bills approved by Congress.

WHITE HOUSE AND CONGRESSIONAL SPENDING

The first place to start cutting spending is in the White House and Congress. We need to get our own houses in order, and we are taking steps to do so. President Clinton has announced his plans to cut the White House staff 25%, reduce the federal work force by 100,000 jobs, and cut administrative overhead by 14% over the next four years. I support these efforts, and voted earlier this year to reduce the federal workforce by 100,000.

In addition, on September 7 the President and Vice President announced their "reinventing government" initiative, a plan aimed at streamlining and improving the efficiency of government. Among other things, the initiative recommends reducing the federal workforce by 252,000 positions—152,000 over and above the 100,000 already promised by President Clinton.

Congress is cutting its budget as well. Since 1992, legislative branch spending has been falling, with reductions of several percentage points in 1993 and 1994, after adjusting for inflation. Further cutbacks are planned for the next several years. For instance, Congress recently approved a measure to eliminate some 1,500 legislative branch jobs by 1997 and reduce administrative overhead. In addition, Congress has already saved $100 million from the 1990 reforms in the House franking system, and these savings will continue to grow.

VOTES TO CUT SPENDING

Over the years I have consistently voted to reduce the size and cost of the federal government. That has included supporting amendments to cut each federal department's administrative overhead by several percentage points year after year to encourage efficiency and lessen the opportunity for waste.

I have cast votes this year to terminate several large federal programs—for example, voting to cancel the Superconducting Super Collider, the Space Station, the Advanced Liquid Metal Reactor, the Advanced Solid Rocket Motor, and the honey program. These votes would collectively save over $5 billion.

I have also voted to limit funding for former Presidents' staff to five years; cut funding across the board for the construction of courthouses; reform and cut funding for the Market Promotion Program by $47 million; cancel cost of living adjustments for members of Congress next year; increase grazing fees on public lands; reduce funding for fossil energy research and development; cut funding for the National Endowment for the Arts; and eliminate funding for the Pennsylvania Steamtown National Historic Site. I agreed with the majority of my House colleagues to provide funding for the wool and mohair program for this marketing year, but only after prohibiting funds from being used for the next marketing year and after being promised an opportunity to vote on eliminating the entire program later this year.

CONCLUSION

Going beyond the recently enacted deficit reduction law to make new, deep cuts in spending will not be easy. It will take not only the above steps but some tough decisions on popular entitlement programs, which is where most of the growth in federal spending has been in recent years. I will continue to work with my colleagues to further cut spending, and to ensure that discipline and restraint characterize our fiscal policy.

HONORING JOSEPH STERNSTEIN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. ACKERMAN Mr. Speaker, I rise today to join with my many constituents in honoring Rabbi Joseph P. Sternstein upon his receiving the Max Arzt Distinguished Rabbinic Service Award of the Jewish Theological Seminary of America. Rabbi Sternstein, an outstanding leader and a truly dedicated individual, has served the Roslyn community as Temple Beth Sholom's spiritual leader for 25 years. His contribution to the Jewish community over the past 45 years encompasses a variety of roles on a local, national, and international level that include teacher, author, communal service leader, and scholar.

Upon ordination from the seminary, Rabbi Sternstein applied his diverse talents as a scholar and earned a doctorate in medieval Jewish philosophy at the Jewish Theological Seminary and a doctorate in jurisprudence from St. John's University. He is also a charter fellow of the Herbert Lehman Institute of Talmudic Ethics. His scholarly works have been published in English, Hebrew, Yiddish, and French. Rabbi Sternsteins' works are numerous and a good deal of his writings have dealt with Zionist ideology and the relationship between American Jewry and Israel.

His deep commitment to Zionism and his unique leadership abilities led him to chair a group of major national and international organizations. He has served as president of the Jewish National Fund, the American Zionist Federation, and the Zionist Organization of America. At present, he chairs the American Zionist Youth Foundation and serves as vice chairman of the National Conference on Soviet Jewry. He is also a member of the world executive of the World Union of General Zionists.

On a local level, the community has benefited from his many talents in his role as chairman of Task Force on Cults and Missionaries of the New York Jewish Community Relations Council and chairman of the Bikur Cholim Coordinating Council of the UJA—Federation of New York. In addition, he is past president of Histadrut Ivrit, the Hebrew culture movement.

Mr. Speaker, our local neighborhood as well as the world community has been enhanced by the leadership and service provided by Rabbi Joseph P. Sternstein. I ask my colleagues here today to join together with me in paying tribute to Rabbi Sternstein for all he has accomplished and all he will yet achieve.

GOVERNMENT IS THE PROBLEM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. CRANE. Mr. Speaker, our Founding Fathers did not choose to defend the practices of the free market by whim, but rather because they understood that a laize-faire approach to the market would lead to economic prosperity. Since, then, history has demonstrated that free men and free markets have transformed the experiment of a few 18th century colonists to the most powerful economy in the world.

Unfortunately, Federal legislators have taken it upon themselves to attempt to create Government programs for nearly every ailment of America. In response to falling test scores in public schools, bureaucrats instinctively demand more taxpayer money and increased Federal regulation, rather than allowing parents to have more power to decide how to educate their children. When unemployment goes up, Congress wants to increase taxes on struggling businesses to create programs for the jobless, instead of freeing the private sector of burdensome taxes in order to create more employment opportunities.

In the October 1993 journal "Imprimis," Barry Asmus explains why the private sector contains the solutions to our problems. I commend the remarks of Mr. Asmus to the attention of my colleagues so that they may remember that American was built on the foundation of freedom.

[From Imprimis, October 1993]

PRIVATE-SECTOR SOLUTIONS TO PUBLIC SECTOR PROBLEMS

(By Barry Asmus, Senior Economist, National Center for Policy Analysis)

Let's play a "what if" game about public spending for a moment. What if our politicians had said back in 1965: "We won't spend a dime on welfare for the next three decades, but in the early 1990s, we will take the money we would have spent and buy every Fortune 500 company and every piece of farm land in America. Then we will deed these companies and farms over to the poor." That is exactly what politicians could have done with the money—about $3.5 trillion—that they have spent on welfare since 1965. If they had, what would the problem of poverty be like today? Would there be tens of thousands of Americans who are members of a "permanent underclass" and millions more who qualify as "working poor"?

What if our politicians had said back then: "Instead of spending 14 percent of the GDP—about $840 billion in 1992—on health care, much of it subsidized government spending, we will promote free market solutions," that is, health care costs paid by the consumer instead of government and other third parties. Would there by any support today for socialized medicine, for price controls on provider fees and charges, or for adopting what is basically a Third World model for U.S. health care?

What if they had also said: "Instead of spending more money than any nation on earth on centralized, government-run primary and secondary education—currently more than $200 billion a year or also $6,000 per pupil—we will strengthen the private, locally-supported schools that were once the backbone of education in the country." Would 40 percent of all high schoolers today be functionally illiterate or reading below the 8th grade level? Would one-quarter of them be dropping out?

This "game" has a very serious purpose: It shows how much our dependence on politicians and public sector solutions has cost us and how little it has achieved. Schemes of top-down economic coordination are a hopeless absurdity whether tried by the U.S. or the former Soviet Union.

THE ESSENCE OF MODERN POLITICS

The "public choice" school of economics explains why government solutions to economic problems inevitably fail. First, politicians don't spend our money as carefully as if it were their own. Second, in contrast to the private business firm, the public agency has no bottom line. Prices, wages, interest, profits are not a part of the government calculus. The politician has all sorts of incentives to spend more of our money to "do good" (there is no end to what do-gooders will do with other people's money). It is important that they "care" about a perceived public crisis and "bring home the bacon" to constituents, so as to increase their own political power and influence.

Finally, politicians are motivated to localize benefits and defuse costs. For instance, a few Congressmen can get together in committee and agree to award sugar beet farmers in their districts a whopping $1 or $2 billion in subsidies and price supports in exchange for electoral support, knowing full well that since it costs only a few dollar per taxpayer, no one will protest. Every Congressman has supporters who are quite willing to steal from the many to benefit themselves. The Congressman gets reelected and special interests vow their continued support.

Today, government at all levels is spending about $2.3 trillion of our money every year, in contrast to the $678 billion, adjusted for inflation, in 1965. Yet we still have the same problems and they are, if anything, worse. Why? It is not because politicians are spending too little. It is because there are inherent flaws in government as a delivery system. When the consumer "purchases" something from government, the good or service appears to be "free." The act of consumption is divorced from the tax payment and excess demand always results. In addition, efficiency suffers. The absence of a profit or loss calculation by government means services such as garbage collection, fire protection, prisons, city management services, and schools, for example, are invariably more expensive than when provided by private industry. Government does a rotten job of running nearly every enterprise it undertakes while simultaneously reducing personal freedom and choice.

DEJA VU ALL OVER AGAIN

The Clinton administration continues to stubbornly insist that government is not spending or regulating enough. Exploiting the politics of envy and class warfare, they suggest that the rich are not paying their "fair share" of taxes, though the top one percent of income earners paid 17 percent of the total federal tax burden in 1980 and 27.5 percent in 1990.

The essence of modern politics, Clinton seems to think, is to keep the populace envious and then to drag out more "experts" and public sector "solutions." That's certainly what is happening now. Health care is a good example. We are the world leader in health care. There is no place on the face of the earth that has a system as successful as ours or can deliver the quality of health care we have come to enjoy. Yet politicians tell us that the current system is falling apart and that only government can "fix things." Stirring the acids of envy, they portray doctors and drug companies as the enemies who need to be controlled when in fact it is government policy and the legal system that need changing. Hillary Clinton warns us that 37 million Americans are uninsured, even though 10 million of these earn more than $30,000 per year and fully one-half of the 37 million are without insurance for less than four months. To the extent that there is an uninsured problem, it is the result of government's larger role in health care markets—largely made "free" to the patient by Medicare and Medicaid—that has driven medical care costs upward, thereby forcing many individuals out of the market.

TAKING FROM PETER TO PAY PAUL

Politicians can't give us anything without depriving us of something else. Government is not a god. Every dime they spend must first be taken from someone else. Unfortunately, stealing money from Peter to give to Paul really makes Peter a "Paul-bearer." The last Republican administration signed off on nearly $300 billion in increased taxes and regulatory costs during its four years. The current Democratic administration wants to at least match that with its very first round of proposed tax hikes.

No wonder Washington, D.C. is so often described as 67 square miles surrounded by reality, an influence-peddling pleasure palace, a whorehouse where every four years we get to elect a new piano player. Politicians just don't seem to understand that taxes are a disincentive to people who work, save, and invest. High taxes actually reduce tax revenues from the rich, as they motivate individuals to reduce their taxable income and economic activity. And the problem is compounded by the fact that politicians spend at least $1.30 for every dollar collected in taxes. Tax rates have gone up and down over the years, but spending continues to rise.

THE WEALTH OF NATIONS

The good news is that despite what politicians are doing to damage our economy—and they are doing plenty—we are living in an age when the possibilities to create new wealth and expand the production of goods and services are greater than ever. In today's global marketplace all you need to start a business is a telephone and a fax machine. Labor and capital are more mobile than ever before, going where they are wanted and staying where they are well treated. Annual international capital flows are fifty times greater than all world trade, zooming along fiber optic cables and bouncing off satellites at the speed of thought rather than the speed of things. The earth has become a massive electronic highway.

The world economy is in an epochal transformation from the Machine Age to the Information Age. Brains are replacing BTUs.

The new source of wealth is not material, it is information. Here are two very modest everyday examples: Old-style carburetors used to allow automobiles to run 12 miles on a gallon of gasoline. Now, computerized fuel injectors allow them to run 22 miles on the same amount of fuel, thereby effectively increasing the world supply of gasoline by one-third. It used to take 165 pounds of aluminum to make one thousand cans. Now, it only takes 30 pounds. As we push further into the information age, matter will no longer matter. It is what the mind does with matter that counts. These technological advances, and thousands like them, are not the result of public spending; they are the result of free minds at work in a free market. It is for this reason, says Hillsdale College President George Roche, that "the wealth of nations lies not in material resources but in the minds and hearts of men."

Centralized command is over. Hierarchal, corporate bureaucracies are over. We are mowing from monolithic palace structures to a world of tents—fast, flexible, and immediate response to changing customer demands. "Reinventing government" is not going to work because government is the wrong mechanism to give people what they want. The information economy demands agility and the efficiency of market signals which government does not possess. The speed that Wal-Mart shows in responding to consumer preferences in its markets is simply not possible for the U.S. postal service or the top-heavy, monopolistic public school system. If Marriott believes it must contract out the hotel's parking, then what are the implications for municipally operated parking garages? As GM, IBM, Apple, GE, the Union Pacific, and EDS eliminate bureaucratic rule, decentralize, link their profit centers in partnership, and engage in a continuous process of self-education and assessment, what are the odds that the EPA, FDA, the Department of Agriculture, the Department of Education, and the Tennessee Valley Authority, to name a few, will do the same?

The answer is privatization wherever possible and then some. Public bureaucracies never plan their own demise. We must do it for them, arguing on the grounds that government ownership of property does not promote an efficient allocation of resources but that it actually prevents it.

THE MAINSPRING OF HUMAN PROGRESS

Others have said it over and over again: Freedom is the mainspring of human progress. But our politicians apparently choose to ignore this. They are not looking to maximize our freedom; they are bent on limiting it and on confiscating more of what we earn and save. The idea of imposing higher taxes and more regulation on an economy to help it grow is like breaking a man's leg to help him run faster. As with everything politicians do, their timing is awful. Around the world, centralization, industrial planning, and command economies are on the way out. Privitization around the globe continues to be the goal—in the United Kingdom, Mexico, Chile, New Zealand, China, parts of Africa, and in particular in Eastern Europe and the former Soviet Union. Most of these countries are lowering taxes, not raising them.

Ironically, in the midst of this revolution, Clinton's brain trust—in particular Secretary of Labor Robert Reich and intellectual guru Lester Thurow—offers the German "social economy" as a model to be emulated. (Note how they have now soured on Japan.) We are advised to copy Germany's apparent hardening of the arteries, even as Chancellor Helmut Kohl, recognizing his nation's folly, declares: "A successful industrial nation—which means a nation with a future—doesn't allow itself to be organized as a collective amusement park." Meager job growth in Germany has been mostly in the government sector. Labor unions and "codetermination" in industrial management have produced restrictive labor practices, discouraged new hiring, and limited productivity in German industry. The current German recession and the cost of reunification have simply accelerated the demise of the earlier "economic miracle." It appears that the social welfare state can no longer pay for its foolhardy promises.

It has taken all of the history of the world to reach its current gross world product—about $25 trillion—and that could very well double in the next 30 years because so many nations in Latin America, Eastern Europe, and Asia have finally begun to throw off the chains of socialism and embrace the free market. We can learn from them as we seek to rid ourselves of the creeping varieties of collectivism that have taken root here in the United States in the last sixty years:

Public sector problems will be resolved best through private sector solutions.

Individuals are the ultimate source of wealth, and economic growth can occur only if people are allowed to better themselves by taking chances.

It is entrepreneurial business that creates prosperity, not politicians. Government cannot create jobs. The miracle of a government summer employment grant is more than offset by the anti-miracle of higher taxes and the private businesses that fail to expand and hire.

The economy is not a machine; it is a living social organism. The beneficial outcomes generated by a spontaneous free market order cannot be known in advance. The self-regulating nature of a market economy is comparable to the interdependent qualities of the biologist's ecosystem, not the mathematical precision wished for by so many economists in their static systems and equations.

The market is not good because it works; it works because it is good. As one economic historian has noted, "It is a plain historical fact that the treatment of man by man became conspicuously more humane side by side with the rise of capitalism."

Freedom and capitalism are inseparable. Capitalism is. The market, like gravity, is.

And finally, freedom is a "virus" for which there is no antidote.

IN SUPPORT OF THE SLATTERY/BLILEY BILL REAUTHORIZING THE SAFE DRINKING WATER ACT

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. POMEROY. Mr. Speaker, I rise today urging support for the Safe Drinking Water Act [SDWA] legislation introduced by Representatives SLATTERY, BLILEY, myself, and others. I have visited with mayors and community leaders from across North Dakota who have told me they consider the reauthorization of SDWA to be one of their top priorities. If you've heard the same horror stories as I have, it is no real surprise that they place such a premium on this legislation. Small water systems with as few as 20 households can face a $10,000 bill for compliance and ongoing monitoring requirements under SDWA.

Small communities simply don't have the means to comply with the rules and regulations of our current drinking water laws. Many towns must willfully fail to comply with these laws because they cannot afford to meet the requirements. Ironically, by doing so, they open themselves up to the possibility of $10,000 per day in fines for noncompliance. In fiscal year 1991, over 16,500 community water systems violated drinking water regulations.

I know of cases where this has happened. One midwestern town with 600 residents was fined $12,000 for noncompliance in 1990. Unfortunately, the town only takes in $16,000 a year in property taxes. If we continue down this road, we will drive towns like these out of business in no time at all.

Of particular concern to me are the specific arbitrary numbers of contaminants that must be regulated—without regard to the risk they represent. Currently, communities just monitor for 83 contaminants and the EPA will require monitoring for 25 more contaminants every 3 years. Rather than allow communities to focus scarce resources on contaminants that pose a real health threat, they force communities to monitor for chemicals which may never be used in the region, or the State for that matter. For example, one of the 83 contaminants every State must monitor for is a pesticide which is used only on pineapples, which are grown only in Hawaii. This is absolutely ridiculous.

These concerns have led me to join my colleagues in introducing legislation to address the compliance problems facing small communities. Our bill allows for flexibility in setting standards, provides for State-tailored programs which allow communities to focus scarce resources on existing risks, and has a comprehensive variance section which allows water systems to use the best available affordable technology if they are unable to comply with the requirement that they use the best available technology.

Our bill takes into consideration the concerns of rural water systems, Governors, cities, towns, and townships. It will address irrelevant requirements and undue financial burdens, without forgetting the purpose of the legislation: safe drinking water.

In my short time here in Washington, I have found that Congress is all to quick to tell cities and States they must do something, without providing the necessary funds. Unfunded Federal mandates are exhausting resources in communities across this country. Our bill does not undermine the importance of the current drinking water laws. Rather, our SDWA legislation includes provisions which will ensure safe drinking water without bankrupting our communities.

I am hopeful that the legislation introduced by my colleagues and I will have broad support.

IN HONOR OF COUNCILMAN VINCENT LO RE, JR., THE SICILIAN CITIZEN'S CLUB MAN OF THE YEAR

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. MENENDEZ. Mr. Speaker, I rise today to offer my congratulations to Councilman Vincent Lo Re, Jr, of Bayonne, NJ, who has been selected by the Sicilian Citizen's Club as their Man of the Year for 1993. The award will be presented at the organization's 66th anniversary dinner dance, to be chaired by Philip Constantino and co-chaired by Michael Senerchia. The event will be held at Maddalena's Villa Nova in Bayonne on Friday evening, October 29, 1993.

Sicilian Citizen's Club president Frank Carine has declared that, "Councilman Lo Re was selected because of his many years of service to the community of Bayonne."

Vincent Lo Re, Jr., was born in Bayonne on February 16, 1947, and has been a lifelong resident, graduating from Bayonne High School, and continuing his education at Jersey City State College. He earned his B.A. degree in the social sciences in 1969, and went on to earn his M.B.A. from the Rutgers University Graduate School of Business.

Mr. Lo Re has been a member of the administration at Jersey City State College for 24 years, most recently serving as assistant to the vice president of administration and finance.

In addition to his service as an administrator, he has been an adjunct professor of business administration at Jersey City State College, Hudson County Community College, and Stevens Institute of Technology. His extensive public service in higher education includes service as a member of the planning commission and the board of trustees of the Hudson County Community College. He was also a Middle States Association evaluation team member.

Vincent Lo Re, Jr., participates widely in community activities and has been vice president of the Rotary Club of Bayonne, city chairman—Bayonne Columbus Committee, president of the Jersey City State College Alumni Association and a member of the executive board of the Bayonne council—Boy Scouts of America. He has also been a member of the Bayonne Visiting Nurse Association, the Occupational Center of Hudson County and the Bayonne Bicentennial Committee. In 1979 he was appointed by Governor Brendan Byrne as the State representative to the board of the Bayonne Housing Authority.

Vincent is currently a member of the Sicilian Citizens Club of Bayonne, the National Conference of Christians and Jews, and the Order—Sons of Italy in America. He is a communicant of St. Henry's Church where he served as a lector, commentator, and council member.

In May 1990, Vincent Lo Re, Jr., was elected to the municipal council in the city of Bayonne where he represents the city's third ward. On March 26, 1993, he received the Civic Award from the Bayonne branch, National Association for the Advancement of Colored People.

But most important of all, Vincent is a dedicated family man. He is married to the former Janice Kapec, an elementary school teacher at the Vroom Learning Center. They are the proud parents of one son, Vincent III.

Mr. Speaker, I want to wish Mr. Lo Re continued success and offer him my congratulations on this honor. I know my colleagues join me in celebrating his dedication to his community, and in looking forward to many more years of service to come.

COMMENDING SECRETARY CHRISTOPHER FOR PROMOTING DENUCLEARIZATION IN THE FORMER SOVIET UNION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. STARK. Mr. Speaker, Secretary of State Warren Christopher deserves credit for his efforts to promote denuclearization in the former Soviet Union. On his trip to the New Independent States of the former Soviet Union, Secretary Christopher gained assurances from Kazakhstan that it will accede to the Nuclear Non-Proliferation Treaty [NPT] and renewed pledges by Ukrainian President Leonid Kravchuk that Ukraine will also give up all of its nuclear weapons.

In return, the administration has pledged aid to both countries if they follow through, $140 million for Kazakhstan and at least $330 million for Ukraine, for weapons dismantlement, environmental cleanup, and economic assistance.

This policy is right on the mark. If Ukraine or Kazakhstan become full-fledged nuclear nations it will increase strategic instability in the former Soviet Union and undermine efforts to secure a lengthy extension of the NPT in 1995. We must continue to make nonproliferation a condition for full strategic and economic cooperation with these former Soviet Republics. But we must also hold out substantial carrots to encourage Ukraine and Kazakhstan to carry out their non-nuclear pledges. Some argue that the United States cannot afford to give these countries aid for nonproliferation. What we cannot afford is more countries having nuclear weapons, increasing the chances that terrorists will acquire nuclear know-how.

If anything, we should expand our current policy. Earlier this year, I introduced legislation providing up to $500 million in leftover Department of Energy funds to the former Soviet republics for environmental clean-up and nuclear safety assistance—but only if the republics joined the NPT. Ukraine recently announced it will continue operating its dangerous Chernobyl reactors, despite widespread antinuclear sentiment in the republic. The United States should propose enough aid to Ukraine to set up alternate energy sources—but only if Kiev gives up its nuclear weapons.

The administration deserves credit for its efforts on this important issue and Congress should show strong support.

REAUTHORIZATION FOR THE NEW JERSEY COASTAL HERITAGE TRAIL

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. HUGHES. Mr. Speaker, I rise today to introduce a simple funding reauthorization for the New Jersey Coastal Heritage Trail. This measure is similar to legislation introduced in the Senate by my colleague Senator BRADLEY.

The New Jersey Coastal Heritage Trail was established by an Act of Congress in October 1988, to highlight the many points of scenic and natural beauty along the New Jersey Coast, and to identify sites of historic and cultural interest. The trail starts in the North at Sandy Hook and extends South to Cape May, where it swings west into the Delaware Bay region.

The trail includes such resources as wildlife refuges, marine mammal sanctuaries, sailing and fishing communities, historic sites and lighthouses, forts and battlefields, national monuments, abandoned shipwrecks, scenic routes, such as Ocean Drive in Cape May County, and entire communities, such as Smithville, Salem, Bridgeton, Ocean Grove, and Cape May. Many of these sites are of significance not only to New Jersey, but are part of the national heritage of all Americans.

The trail does not require the acquisition, taking, or purchase of property. Its purpose is to identify the famous, as well as the little-known or underutilized attractions for the benefits of residents and visitors to the State of New Jersey. However, some funding is still needed to provide an operation base for the trail, to complete the comprehensive interpretive plan, and for other resources related to the trail's success.

The continued success of the New Jersey Coastal heritage trail will build greater public support for the identification and preservation of important cultural, historical, and ecological treasures throughout the country. I am certain that the small Federal expenditures to maintain this trail will be more than compensated by the return to the public.

I urge my colleagues to support this legislation.

HIGHER EDUCATION ACT TECHNICAL AMENDMENTS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. GOODLING. Mr. Speaker, today I join with Chairman FORD in introducing legislation making technical corrections to the Higher Education Act. Chairman FORD and I have gone to great lengths to insure that this bill is a purely technical bill making only grammatical corrections and clarifying original congressional intent.

I am especially pleased that this legislation clarifies what we sought to do in the 1992 Higher Education Act Amendments by ensuring that quality programs providing short-term education and training would retain eligibility for the Federal Family Education Loan Program [FFELP]. This was achieved by amending section 481(e) to require that programs of less than 600 clock hours would have to demonstrate verifiable completion and job placement rates of at least 70 percent. However, our intent, as reflected in a colloquy on the House floor last year, was to preserve eligibility of all short-term programs until regulations detailing these new requirements were promulgated. This bill clarifies that policy.

I am also glad that this legislation clarifies congressional intent with regard to different loan limits for students based upon the year in which they were enrolled in school. Since enactment of the 1992 Higher Education Act Amendments, questions have arisen as to whether undergraduate students who are enrolled in programs requiring an associate's degree for admission are entitled to third or first year loan limits. This bill clarifies that such students are and have been eligible to borrow as third year undergraduates for both Stafford and SLS loans if they have successfully completed 2 years of any postsecondary program and the prerequisities for admission to the new program include at least 2 years of prior postsecondary education. If the prerequisite is a baccalaureate degree, then the new program is considered a fifth year undergraduate program for guaranteed student loan purposes. This bill allows students enrolled at institutions which require an associate or baccalaureate degree to remain eligible for the higher loan limits.

I am pleased to join the chairman in cosponsoring this legislation so that provisions in the Higher Education Act amendments are clarified and corrected to ensure that congressional intent is clear. I look forward to enacting this legislation soon.

TRIBUTE TO AL GUTIERREZ

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. DOOLEY. Mr. Speaker, I rise today to recognize and honor Al Gutierrez of Bakersfield, CA, who served a distinguished 31 years with the Kern County Sheriff's Department.

Al recently retired as sheriff's chief deputy, a short title with a long list of responsibilities. He was in charge of 13 sheriff's substations and served as chief of the department's Volunteer Services Bureau, which includes the Sheriff's Reserves, search and rescue teams, rescue divers, Explorer Scouts, and the Citizen Service Program. Chief Deputy Gutierrez also advised the Kern County Sheriff's Foundation and was a consultant with the Kern County Hispanic Advisory Council.

Al has found time to be active in the Bakersfield community, as well. He is a past president of the Kern County Management Council and a member of the Caledonia Lodge No. 486 of the Masons, the Scottish Rite, the Kern County Shrine Club, Elks Lodge No. 266, the FBI National Academy Associates, the Hispanic Command Officers Association, and the International Footprint Association.

In addition, Al is an avid golfer who plays to a 10 handicap. He is in his third year as president of the Kern River Men's Golf Club and has been chairman of the security committee for three Ben Hogan satellite professional golf tournaments in Bakersfield.

Al is a devoted family man. He is married to Sally Anne, an executive secretary for an oil-field construction company, and is the father of three grown children who have presented him with four grandchildren.

Chief Deputy Gutierrez began his career with the Kern County Sheriff's Department on August 1, 1962, as a deputy sheriff. He served as an investigator I and II from 1967 to 1974; as a sergeant from 1974 to 1980; a lieutenant from 1980 to 1983; and commander from 1983 to 1986.

He was named chief deputy in 1986 and served as chief of detentions until 1990, when he was assigned as bureau chief of the department's substations and manager of the Volunteer Services Division.

Mr. Speaker and my colleagues, please join me in wishing Al Gutierrez, devoted husband, father, and grandfather and active community member, the best of luck during his retirement.

REMARKS OF DEPUTY SECRETARY WILLIAM J. PERRY

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. TANNER. Mr. Speaker, on Sunday, October 24, 1993, Deputy Secretary William J. Perry and I welcomed our men and women home from their duty in Somalia. His remarks at that time were important to our troops and I wanted to include those remarks for the benefit of my colleagues in the CONGRESSIONAL RECORD.

At this time I wish to insert in the RECORD the text of Deputy Secretary Perry's speech welcoming Task Force 160.

REMARKS BY DEPUTY SECRETARY PERRY WELCOMING OF TASK FORCE 160

Soldiers of the 160th Special Operations Aviation Regiment, Night Stalkers, 75th Ranger Regiment, and our hosts from the 101st.

It's a real privilege to speak for Senator Sasser, Congressman Tanner, General Sullivan, Secretary Aspin, and President Clinton, to welcome you back home and to thank you. I especially want to convey a heartfelt "thank you" from President and Mrs. Clinton, who are meeting this morning with your wounded comrades at Walter Reed Hospital.

Thank you for taking on a tough job. And thank you for performing it with great skill and courage.

I also want to express my thanks to the family members. You have endured the separation and the agonizing uncertainty of having loved ones on a hazardous mission in a far away land.

We went to Somalia last December to deliver humanitarian aid. At that time, innocent people were dying on a massive scale. The nation was ravaged by years of brutal civil war and famine. An estimated 1,000 people were dying a day, and 800,000 refugees were forced into exile.

In a few months, we were able to bring order to the country and relieve the famine. We saved untold thousands of lives.

Then, in June, the militia forces under Aideed began attacking U.N. forces in Mogadishu, killing 28 in a few days. All that we had accomplished at that point was in danger of being lost, since the U.N. forces in Mogadishu were unable to deal with the Guerrilla warfare that had begun. So our military commander in Mogadishu asked for help. The mission was a tough one, so we sent in the best—Night Stalkers and Rangers.

You went there to restore security to the city so that humanitarian aid could resume. And you succeeded, but at a heavy price.

That price was exacted when we lost a Blackhawk on 28 September, and again during the firefight in Mogadishu on October 3rd. That fight demonstrated the skill, discipline, and courage of the Night Stalkers and Rangers.

When two of your helicopters were shot down and the crews endangered, you never hesitated. You continued to fly into hostile fire. You gave effective fire support to the Rangers, who were vastly outnumbered.

From this day forward, no one will recite the Ranger's creed, "Never shall I fail my comrades", without thinking of your display of courage in Magadishu on October 3rd. That day you showed the world that "Night Stalkers don't quit".

And we saw your determination and professionalism in Michael Durant, who braved his captors and bore his wounds with quiet courage. As tough and resolute as Chief Durant was, I was equally impressed by the courage displayed by his wife. Her message on national television to remind her husband of NSDQ reminded us of the dedication and support at home. Her courage provided all of us courage.

Because of your skill, discipline, and courage, you stood firm with your comrades and, although you suffered significant casualties, you inflicted casualties on your attackers many times greater than what our troops suffered. In fact, your actions with the Rangers that day effectively disabled Aideed's militia and led directly to his willingness to call for a cease fire and negotiate a political settlement.

I came here today to pay tribute to your courage and to express my deep personal sense of loss at the death of your fellow soldiers. I especially want to extend my sympathy to the families of the soldiers who gave their lives.

Personal hardship is not a stranger to Fort Campbell, and the Nation joins with you once again in your suffering.

When General Sullivan presented the Purple Heart to Chief Durant last week, and told him that he was proud of him, the Chief replied, "I am proud to be an American". I can tell the Chief and the other Night Stalkers and Rangers, that all Americans are proud of you, and admire your professionalism and skill. And all Americans are grateful for your courage and your service to our country.

God bless you, and God bless America.

AMEND THE WAR POWERS RESOLUTION

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. DEFAZIO. Mr. Speaker, in March of this year, I wrote to Foreign Affairs Committee

Chairman LEE HAMILTON asking him to attempt to work with this administration to develop a revised War Powers Resolution that fulfills the intentions of the Framers of the Constitution. It seems now that Congress may be ready to engage in this debate. So today I am reintroducing legislation I have introduced in every Congress since my first term that restores Congress' constitutional power to declare war or otherwise introduce U.S. Armed Forces into foreign conflicts.

I have stood on the floor of this House many times during the last 7 years and called for Congress to live up to its responsibilities and obligations under the war powers clause of the U.S. Constitution. I have criticized and fought the lawless use of U.S. Armed Forces by two Republican Presidents. This year, I have also criticized a President of my own party for the same failure to comply with the War Powers Resolution and the Constitution.

The United States is now in the 43d year of a constitutional crisis. The crisis began when President Harry Truman introduced a large American military force into the Korean conflict without any congressional authorization whatsoever. His administration advanced the unheard-of theory that "the President, as Commander-in-Chief of the Armed Forces of the United States, has full control over the use thereof."

For the first time in American history, a President claimed the full share of the warmaking powers granted to Congress by the U.S. Constitution. Today, Mr. Speaker, another Democratic President seems to be making much the same claim.

This should not be a partisan issue, though many of my colleagues on the other side of the aisle are making it one. I am frankly amazed at the hypocrisy of those Members of Congress who defended the imperial Presidency when their party held the office, but cloak themselves in a concern for the Constitution when the President is a member of the opposing party.

My sole concern is to defend the integrity of the Constitution and the intent of the Framers when they assigned the power to declare war to Congress and Congress alone.

The Framers of the Constitution clearly intended that the power to initiate war, whether declared or undeclared, should reside in the legislative branch of Government. Not only did they give Congress the power "to declare war, and grant letters of marque and reprisal, and make rules concerning captures on land and water," they also gave Congress the power to "make rules for the Government and regulation of the land and naval forces," the power to "define and punish piracies and felonies committed on the high seas, and offenses against the law of nations," and the power to "raise and support armies * * * [and] a Navy."

If that were not enough, Congress is given perhaps the broadest grant of power in the Constitution, the power "to make all laws which shall be necessary and proper for carrying into execution the foregoing power, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

The President's vaunted power as Commander in Chief of the Armed Forces, according to Alexander Hamilton, who among the Framers was the champion for a strong Presidency, was limited to "nothing more than the supreme command and direction of the military and naval forces," as opposed to the British King, whose power included "the declaring of war and * * * the raising and regulation of fleets and armies."

The Framers sought to create a chief executive, not another King. The power to lead the Nation into a costly overseas military adventure was a power they explicitly denied to the President of the United States. James Madison spoke for all of his colleagues when he wrote, in a letter to Thomas Jefferson:

> The constitution supposes, what the history of all governments demonstrates, the Executive is the branch of power most interested in war and most prone to it. It has accordingly, with studied care, vested the question of war in the Legislature.

Presidents up until Harry Truman by and large honored the constitutional scheme. But since that time, the President has increasingly asserted the power to make war at the expense of the Constitution and the legitimate role of the U.S. Congress. What alarms me most of all is that Congress, the press, and the public seem to have accepted the Imperial Presidency.

The constitutional crisis came to a head with the Vietnam war and the Gulf of Tonkin Resolution. The Gulf of Tonkin Resolution was a loosely worded declaration supporting the President's actions to defend United States Armed Forces in Southeast Asia and deter aggression. Members of the Senate rose to make it clear that the resolution was not intended to authorize a wider war, but two U.S. Presidents read it differently.

Only two Members of Congress opposed the Gulf of Tonkin Resolution. One of them was Wayne Morse of Oregon, and in opposing this resolution today I am proud to echo his words on the floor of the Senate in 1964:

> I believe history will record that we have made a great mistake by subverting and circumventing the Constitution of the United States . . . by means of this resolution. As I argued earlier today . . . we are in effect giving the President warmaking powers in the absence of a declaration of war. I believe that to be a historic mistake.

History vindicated the Senator from Oregon.

The War Powers resolution, passed in 1973 over President Nixon's veto, was a response not only to the excesses of the Executive during the Vietnam war, but also to the near-total abdication of responsibility during that period by Congress. The resolution was intended to:

> Insure that the collective judgement of both the Congress and the President will apply to the introduction of United States Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

The resolution requires the President to report to Congress under section 4(a)(1) whenever he introduces U.S. Armed Forces into hostile situations. Congress must act within 60 days to authorize their continued presence, or they must be withdrawn. Unfortunately, Presidential compliance with the reporting and consulting requirements of the resolution has been nearly nonexistent.

The CONGRESSIONAL RECORD is equally dismal. In 1987, when President Reagan used the U.S. Navy to escort reflagged Kuwaiti tankers, both the House and Senate repeatedly ducked the war powers issue. Despite a major military build-up in the gulf—despite the fact that 37 U.S. seamen aboard the U.S.S. *Stark* were killed by an Iraqi missile, the fact that a number of vessels were damaged by mines, and the exchange of hostile fire between United States and Iranian forces, the President did not submit a report pursuant to section 4(a)(1) of the War Powers Resolution and Congress did not demand one.

It was left to a number of my colleagues and I to seek relief in the Federal courts. The courts judged the matter to be a nonjusticiable political question. Today we have arrived at the final and complete unravelling of the War Powers Resolution. The President has once again failed to properly comply with the law, and Congress has done little to fulfill its responsibilities.

I rise today to once again introduce legislation revising the War Powers Resolution to require advance congressional authorization for any use of U.S. troops in hostilities, except in a limited number of emergency situations.

Experience shows that Congress and the public are reluctant to undercut the President's command of U.S. troops once the bullets are flying. That is why the Framers of the Constitution gave Congress the sole power to declare war or otherwise initiate overseas hostilities. And that is what is wrong with the current War Powers Resolution; it implicitly grants the President the power to introduce troops into hostilities for up to 90 days. My bill restores Congress' constitutional prerogatives by requiring statutory authorization before U.S. troops are placed into hostilities, except in the case of clear threats to the territory and possessions of the United States, its troops or its citizens overseas.

As Congress begins the debate over the awesome power to make war, I hope we will not trade away the few remaining shreds of the powers entrusted to us by the Constitution in exchange for a promise by the executive branch to consult with a few congressional leaders. That would be a historic abdication of our responsibility and in my judgment a violation of our oath to protect and defend the Constitution of the United States.

HAITIAN HISTORY 101

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. CRANE. Mr. Speaker, in the not-too-distant past, an American President dedicated American peacekeeping forces to a humanitarian mission in a foreign country. This temporary deployment became an extended mission, as the American forces remained on foreign soil far longer than anyone intended. While this description might well describe President Kennedy in Vietnam, President Reagan in Lebanon, or President Clinton in

Somalia, it actually refers to President Woodrow Wilson's foray into Haiti in 1915.

U.S. Marines established control of Haiti beginning in 1915 and did not leave until 1934—19 years later. With American sentiment leaning away from foreign interventions and United States forces already struggling to escape the quagmire in Somalia, President Clinton would be well advised to read the following article, written by Raymond R. Coffey in the October 19, 1993, Chicago Sun-Times.

As a former history professor, I believe the President needs to bone up on his Haitian history and remember the most basic rule of history: Don't repeat the mistakes of the past. Hopefully he will not forget history and repeat Wilson's ill-advised intrusion. If he repeats that mistake, it seems likely that the American people will not repeat theirs.

Hard Haiti Lesson Already in Books

Woodrow Wilson sent the U.S. Marines into Haiti on July 28, 1915, upon the assassination of Jean Vilbrun Guillaume Sam, the sixth president of Haiti to meet violent death there in the space of only four years.

Wilson cited "humanitarian" concerns for his armed takeover of a country that had declared its independence as long ago as 1804.

The marines didn't get out of Haiti until Aug. 21, 1934. In all basic respects, the United States ran the place for nearly 20 tough years. And Haiti, now the poorest country in the western hemisphere, has been a disaster case ever since.

Just thought I'd mention the history, since President Clinton is talking tough again, sending U.S. Navy ships to blockade Haiti, deploying one company of infantry to Guantanamo, Cuba (which is on an entirely different island), to safeguard Americans in Haiti, and refusing to rule out the use of military force in Haiti itself.

All in the name of re-installing Jean-Bertrand Aristide—deposed in a military coup two years ago but alive in American exile—as president of Haiti and, presumptively, establishing democracy there.

Which I suppose is at least as "humanitarian" a motive as Wilson conjured up for sending in the Marines more than 75 years ago.

But did Clinton somehow, I wonder, make it all the way through Georgetown, Oxford and Yale law (while dodging his own generation's war in Vietnam) without ever having acquainted himself with the wisdom of the American philosopher George Santayana (1863–1952)?

"Those who cannot remember the past are condemned to repeat it," Santayana wrote in "The Life of Reason."

I'm sure Clinton wouldn't want American troops stuck in Haiti for 19 years—or even until the next New Hampshire primary.

But then I'm also reasonably confident that Wilson didn't expect either that his Marines would be there through World War I and well into the Great Depression.

Given the hard-learned lessons of our history in Haiti, not to mention our more recently hard-learned lessons in Somalia, wouldn't it be prudent for Clinton to figure how he's going to get out of Haiti before he goes in?

And aren't we as entitled to prudence from our commander in chief as to displays of bravado that serve only to make us look silly, inexperienced, ineffective and out of our league even against a gang of Haitian bully boys?"

A couple of weeks ago we had 18 American soldiers killed and more than 75 wounded while futilely chasing some alleged "warload" around Somalia—a "warlord" who days later performed in public at a TV press conference.

Only last weekend did Clinton's UN Ambassador Whatshername get around to informing us that, oops, we're not chasing him anymore.

Then last week, Clinton dispatched 200 U.S. soldiers to Haiti on a "nation building" exercise only to have to order them (and their ship) to turn around and turn tail.

Seems the troops were armed only with pistols, which made them no match for the organized hoodlums who refused to let them dock.

Pretty embarrassing with the whole world watching. Didn't it occur to anyone ahead of time that sending soldiers into a potential combat zone armed like cops on the beat was pretty dumb?

The White House was all worked up Monday over a Republican-led suggestion to require congressional authorization for Clinton to commit American troops to Haiti. The president could not accept any restriction eroding his constitutional authority as commander in chief, aides said.

Right, of course. But I have the feeling that a lot of Americans might agree with GOP Senate Minority Leader Bob Dole of Kansas that:

"I wouldn't risk any American lives to put Aristide back in power and try to force democracy on Haiti where there's no real record of democracy in the past—I don't know how long—way back in the 1930s or before."

History can be a hard teacher. But a useful one.

CONGRATULATIONS TO EDWIN ARMITAGE

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. MANN. Mr. Speaker, please join with me in recognizing Mr. Edwin Armitage who will be retiring after 25 years as Director of the Cincinnati Baptist Association's Baptist Family Services on December 31, 1993. The Baptist Family Services is the longest-continuing-in-service juvenile rehabilitation ministry in the Southern Baptist Convention. The Cincinnati Community owes a debt of gratitude to Edwin Armitage for helping to make family values a priority and a reality.

As director, Edwin has been credited with making the Baptist Family Services a more effective program. During the last year of service, Edwin attended the world missions conference, led the family and marriage enrichment conference at Memorial, and attended the home mission board task force in Birmingham, AL. He taught at 38 bible schools and visited 21 prisons in and around the area.

Edwin Armitage has dedicated his life to helping others. Many people around the country have been helped thanks to his hard work throughout the years. For example, he helped secure food, furniture, clothing, and shelter for those in need. He provided guidance and inspiration to youth organizations and helped to foster relations between prison inmates and their families.

Please join me in offering Mr. Edwin Armitage my whole hearted congratulations on his retirement after 25 years as director of the Baptist Family Services.

BRANDY BETH HUSE HONORED

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. POMEROY. Mr. Speaker, the Veterans of Foreign Wars of the United States [VFW] annually sponsors the Voice of Democracy Scriptwriters Contest. Ms. Brandy Beth Huse of Grand Forks, ND, was the North Dakota winner this year. The State of North Dakota is proud of its young, patriotic writers, and would like Ms. Huse to be recognized for her accomplishment.

Mr. Speaker, Ms. Huse's speech for the Record follows:

My Voice in America's Future

(By Brandy Huse)

The story of America is unlike any other in the history of the world. It's a tale of the men and women who came to a new world, courageous beings who faced hardships and the unknown just to carve a better life for themselves. It's a story of a people who envisioned a world of peace and unity and who secured a future for the United States by adopting the Constitution. Yet, the future has changed in many ways since the forefathers first landed on this continent. Men have landed on the moon, invented powerful weapons, reduced these weapons, and democracy has spread to almost every country imaginable. Amongst all of these changes, my views may seem to be drowned in a sea of a thousand powerful voices. Yet, my voice is America's future, a future that can be as bright and beautiful as our country's founders believed it would be.

In 1941, Henry Luce asked the timeless question, "What can we say and foresee about an American century? How shall it be created?" That same question can be asked in 1992. How will our future be, molded, sculpted, and formed so as to ensure that America will still be the shining star of democracy? And I find that the answer to that question lies with me. I have a responsibility as a youth today and leader tomorrow, to make my voice be heard. To let the United States know that I wish to see a future that holds no racial tensions, sees no young boys and girls handle drugs, and hands every American the opportunity to be whatever they wish to become.

How do I show America that I am serious about my responsibility to her? I can stand up tall and proud when the Stars and Stripes are flown before me. I can continue to be informed of what the U.S. is doing at home and abroad, and most of all I can shout to this great country and its leaders that I have made a difference, can make a difference and will continue to make one. Making a difference is not turning a cheek to adversity or closing eyes and ears to new changes. To do this would be to turn a back on the future. I will embrace any changes that will secure a brighter future for my generation and those after me. When new advances in technology approach America, I will not abandon them. When new medicines are developed, I will not turn up my nose at their usefulness. No matter what hardships these changes encounter, my voice will not waver.

In my early teens I had the wonderful experience of traveling to Europe and seeing landmarks that are even older than America itself. I felt a certain awe as the great Eiffel Tower loomed before me in Paris, France. And I felt a deep sadness when in Germany I saw a place where hideous acts against a people took place during World War II. Yet, in America we have no ancient landmarks. We do have a woman who welcomes hopeful citizens with a torch and a grin. A smile that says to immigrants, "Before you lies the land of the free, the home of the brave, take pride in her, cherish her uniqueness." We have fields of cotton in the South, rows of corn in the Midwest, and "amber waves of grain" in the North that causes the hearts of Americans to swell with pride. And I'm here to protect that pride. I'm part of a generation that must safekeep the respect in our land and in our people. My voice is a part of a vast number of voices that can rally to keep America strong and independent, hardworking and compassionate. For strongness is what built our country. Independence is what paves the way to a brighter future. Hard work is the quality that keeps America productive, and compassion is what prevents the moral fiber of America from snapping.

A large amount of pride for America comes from her diversity, and the ability to blend all different people and produce one United Nation. But, not only for that reason, I am proud of America because no other place in the world provides as much care for her citizens, no other country holds the lamp of democracy as America does, but most of all because I represent America. My voice is her future and laden with my gift of responsibility and pride to give to the Home of the Brave, I continue to learn from the past, live for the present, and head towards a wonderful future.

IN HONOR OF JERSEY CITY FIREFIGHTER WALTER MILNE, RECIPIENT OF THE SAINT BARNABAS BURN FOUNDATION VALOR AWARD

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize the bravery of Jersey City Firefighter Walter Milne, who will be honored on October 28 of this year at the Sixth Annual Valor Awards Dinner to benefit the Burn Center at Saint Barnabas Medical Center.

On January 9, 1993, at 7:06 p.m., Firefighter Milne's District 565 was called on a fire at 41–43 Van Rypen Street, a three-story rooming house. A fire had broken out on the second floor, and was already spreading into the hallway and up the stairs to the third floor.

Firefighter Milne entered the building and climbed the stairs, past the fire, to the third floor. In conditions of extreme heat and thick smoke, he found and rescued a male victim on the third floor. He tucked the victim's head into his turnout coat to protect him, and took him down the stairway to a waiting ambulance.

Firefighter Milne then reentered the building, once again passing the fire, to rescue a second victim. Milne entered the building a third time, this time with the assistance of Firefighter Scott Soriero, where they found a third victim, whom they helped to safety out a window where a ladder had been placed by Rescue Co. 1.

Firefighter Milne was recognized with a "Class C" award for his "heroic actions which were above and beyond the call of duty in the highest tradition of the Jersey City Fire Department." At this week's Valor Awards, the community bestows its honors.

For his bravery and his dedication to the safety of the people of Jersey City, I commend Firefighter Walter Milne to the U.S. House of Representatives, and ask that my colleagues join me today in honoring his service to the city.

GOVERNMENT GRIDLOCK

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 27, 1993, into the CONGRESSIONAL RECORD:

GOVERNMENT GRIDLOCK

Congress has been scrambling hard to improve its image as the capital of gridlock. It has passed a half dozen major bills and several more are on track for enactment by the end of the year.

Legislative accomplishments: One of the most significant measures approved by Congress has been a major deficit reduction package to reduce the projected budget deficit by some $500 billion over the next five years. It contains cutbacks in entitlements and a strict freeze on discretionary spending, which should bring the deficit as a share of Gross Domestic Product down from 4.3% to 2.5% by 1998.

A $6 billion emergency relief package was enacted for the flood-stricken Midwest, and Congress is working on an extension of unemployment compensation benefits and a measure to help U.S. industry bring advanced technology to the marketplace. New laws have been passed to guarantee workers up to ten weeks of unpaid leave for family and medical emergencies, to reform the student loan program, to liberalize voter registration, and to allow civil service and postal workers to participate more in political activities. Congress set up a national service program under which eventually an estimated 100,000 young people would qualify for education assistance of up to $9450 in exchange for two years of community service. agreement was reached on the question of allowing homosexuals to serve in the military, and with remarkable ease the Senate confirmed Judge Ginsburg for the Supreme Court. Congress has also approved a $2.5 billion package of assistance to Russia and the other former Soviet republics.

Congress will vote soon on the North American Free Trade Agreement. It has begun to overhaul the nation's health care system, but will not act on that until next year. Next year the Congress will also work on welfare reform and will soon consider a comprehensive anti-crime package.

Far reaching reform bills are on the verge of consideration if not enactment. A reform of the lobbying law would include new registration and disclosure rules for lobbyists and their activities. A bill to overhaul congressional campaign finance laws would curb contributions from special interest groups and set voluntary campaign spending limits. And a reform of congressional gift rules would strictly limit the acceptance of gifts from lobbyists. A measure giving the President a modified line-item veto has passed the House and is pending in the Senate. Congress is expected to vote early next year on a wide ranging package to reform the organization of Congress to make it work better. Included in the package could be measures to reform the committee system, improve the budget process, cut staff, improve congressional ethics procedures, and require congressional compliance with labor and civil rights laws that others must follow.

Gridlock may not have ended but at least bills are beginning to move. Congress knows that it has a reputation to redeem and that it must prove that it still knows how to legislate.

Single Party Control: It is clear, however, that single party control of Congress and the Presidency has not been a panacea. Many people expected that with single party control in Washington, legislation would breeze through. That has not been the case. It is not now easy, nor has it ever been easy, to pass legislation through Congress. Building a consensus behind a solution to our problems still remains a very difficult job, and longstanding institutional roadblocks to quick action include a complex committee system and the filibuster in the Senate. Many experts on Congress contend that the propensity for deadlock or the difficulty of getting legislation passed was designed as an essential, even desirable, part of the constitutional system of checks and balances. Members often find more compelling the relationships they have established with influential constituencies than their support for their current President, or may simply have basic policy differences with what the President has proposed. Even with a bill the President submits that Congress likes, Congress may still spend significant time adding its own flourishes to the proposal.

In retrospect it is clear the there were unrealistic expectations of a sweet harmony between the executive and legislative branches. There is probably less tension now between the White House and Capitol Hill than during the period of divided government, but not all the tensions have been removed by any means. At the same time, there has been increasing bitterness and partisan warfare within Congress. Even the House Minority Leader said the other day that the public just does not like to see all the political infighting and basically adopts the attitude of "a pox on both your houses".

But the fundamental point is that the business of leading a politically diverse, huge, and complex nation is formidable. With the intense glare of the media on Congress, the public is exposed more and more to the details of how Congress works and how they are governed, and what they see is neither easily grasped nor pretty. The result is that there simply is not much public enthusiasm for the legislative process. Divided government may have been a problem in the legislative process, but it was not the only problem.

Public Perceptions: I notice among my constituents a basic belief that gridlock has not been broken. They still have a skepticism which borders on contempt for the politicians in Washington.

I do find among my constituents a desire to see Congress improve its low status and show it has what it takes to work with the President and make the country work. Members of Congress are keenly aware that if the public perception of gridlock persists and if the public continues to believe that Congress is not dealing effectively with the problems that affect them the most, then all incumbents are subject to rejection by the voters.

The 1992 voter was angry because government was not making much progress on a series of important national problems. The vote wanted practical people to get the job done, and most Members of Congress understand that we had better get something done. After all, the measure of the work of Congress is how well the public is served.

VA HELPING THE HOMELESS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. MONTGOMERY. Mr. Speaker, to assist the vast number of homeless veterans, many of whom have mental health and substance abuse problems, the Department of Veterans Affairs [VA] has developed the largest integrated network of homeless treatment programs in the country, complete with extensive community-based outreach and an effective combination of medical treatment, social services, and employment and housing assistance.

Impressively led by Dr. Paul Errera of the West Haven, CT, VA Medical Center and Yale University School of Medicine, VA has distinguished itself in the field of mental health and behavioral sciences and with its initiatives to heighten the self-reliance and self-esteem of the Nation's homeless veterans.

I am pleased to share with my colleagues the observations and comments of Dr. Jonathan Sunshine, a health economist formerly with the VA, on VA's efforts in reaching out to and assisting homeless veterans and on homelessness in general. The following article was published in the October issue of VA Practitioner and explores in depth one of several VA programs aimed at helping homeless veterans:

[From the VA Practitioner, October 1993]

VA HELPS THE HOMELESS

(By Jonathan Sunshine, Ph.D.)

Homelessness is a major problem in the United States. According to one well-known estimate (estimates vary widely), there were 500,000 homeless persons in the nation in the late 1980s. About 40% of the homeless are veterans, which translates to 200,000 homeless veterans.

As a large-scale phenomenon, homelessness is relatively recent. Prior to the 1980s, one rarely encountered homeless people except in small numbers in "skid row" areas. I'd judge the number of homeless today to be larger by an order of magnitude—or even more—than it used to be.

WHY THE INCREASE?

Why has there been such an upsurge in homelessness? Ask the question, and you'll almost always get an answer focusing on the deinstitutionalization of the mentally ill. That's the answer I've been getting when I ask supposedly knowledgeable people. However, it can't be right for at least two reasons.

First, the statistics on state mental hospitals show that deinstitutionalization took place earlier than the period in question. Half the decline in the number of institutionalized patients occurred by 1970, and was virtually complete by 1980. With the growth in homelessness a post-1980 phenomenon, it would seem to have taken place too late to be a consequence of deinstitutionalization.

Second, many of the homeless—perhaps half—don't have serious mental illness and thus aren't people who would have been in mental hospitals in earlier decades. Quite apart from any timing issues, then, deinstitutionalization cannot account for large numbers of homeless people who are not suffering from serious mental illness.

I often raised these two objections to the deinstitutionalization theory, but was never able to get a plausible response until I talked with the staff members who direct and evaluate VA's programs for the homeless—namely, those at the Northeast Program Evaluation Center, located at VAMC, West Haven, Connecticut. Their thoughtful and relevant explanations are but one of the reasons they are a very interesting, perceptive, and effective group—a topic to which I'll return shortly.

Let me first offer my version of the staff members' views as to why homelessness has exploded. They cite factors such as:

Decreased availability of low-priced rental housing. (I suspect this is the other side of the coin of the large increase in home values seen in the United States over the past two decades.)

Reduced purchasing power of public support payments. The monthly amount of welfare payments failed to keep up with inflation.

Diminishing purchasing power of typical wages, particularly as high-paying manufacturing jobs (in the steel and automobile industries, for example) have shrunk in number. It's not that the homeless are working, but that relatives or friends who might shelter and support them have less financial ability to do so.

Actions by the Social Security Administration during the Reagan administration to throw large number of the mentally ill off the disability insurance (DI) rolls, which affected both Social Security DI and the disability component of the Supplemental Security Income (SSI) program. The timing of this change does coincide with the growth of homelessness.

Prompted by these thoughts, I'd add a few contributing factors of my own:

Increased unemployment. Twenty years ago, we considered a 5% unemployment rate to be a serious problem calling for major public action. Today, we'd view the reduction of the unemployment rate to 5% as a major accomplishment. A large percentage of the unemployed are not covered by unemployment insurance for lack of an adequate work history, and in any case, benefits run out after six or nine months. Thus, higher unemployment means more people with essentially no income.

Breakdown of families, as evidenced, for example, by greatly increased divorce rates. I think this breakdown probably also indicates substantially decreased willingness to take in relatives who have no income (and often are difficult to live with) rather than leave them to fend for themselves—possibly on the streets.

VA PROGRAMS FOR THE HOMELESS

VA has some of the most ambitious programs for the homeless of any government agency. This is largely the work of one person, Paul Errera, MD, who has served as chief of VA's mental health and behavioral sciences service for the past nine years. Many homeless veterans have mental health or substance abuse problems. According to one set of numbers from the Northeast Program Evaluation Center, more than half of homeless veterans have had serious mental health or substance abuse problems in the past six months, and five-sixths have had these problems in their lifetime.

Given the prominence of "his" patients among the homeless, Errera has striven to create programs to assist them. Perhaps more important, he has recognized that the government's drive to "do something" for the homeless (there was a homeless initiative under President Bush) presented a means of obtaining resources for some of the most needy veterans with mental health and substance abuse disorders.

The longest-running of VA's programs for homeless veterans is the homeless chronically mentally ill (HCMI) initiative, which has been functioning since the mid-1980s. As of 1991, the latest reported period, the HCMI program was operating at 45 of VA's 171 medical centers. As described in the Northeast Program Evaluation Center's report, the two emphases of the initiative are "outreach, to serve veterans who are not currently patients at VA medical centers, but who suffer from serious psychiatric and substance abuse disorders; and contracted community-based residential treatment, provided to rehabilitate veterans who require the structure of a residential program and who are motivated to break the cycle of homelessness."

The HCMI program typically involves two caseworkers at each service site plus contract funds for residential treatment in community-owned facilities. Because the HCMI concentrates on veterans in severe need who are not current VA patients, the caseworkers are directed to carry on their outreach in locations of literal homelessness (streets, shelters, soup kitchens) and to direct their efforts toward veterans with severe mental health or substance abuse problems. As a result, of the approximately 11,000 veterans screened by the program in 1991, the evaluation report indicates that:

More than three fourths were literally homeless, living in shelters or on the streets. The rest generally had only temporary housing arrangements or were at imminent risk of homelessness.

Almost two thirds were contacted through the HCMI teams' outreach efforts or through outreach by other agencies. About 25% had made their own way to VA facilities, including Vet Centers, and entered the program through those avenues.

Nearly half had received some treatment from a VA medical center in the preceding six months.

Eighty-eight percent were suffering from serious psychiatric or substance abuse disorders. Specifically, about half had psychiatric disorders, three fourths had substance abuse disorders, and about one third had both.

The HCMI program supported some 3,000 courses of residential treatment. Of those veterans admitted to residential treatment, 95% had serious psychiatric or substance abuse disorders.

Despite this burden of illness, almost 40% of the courses of resident treatment were deemed successful, with almost the same percentage of those undergoing treatment employed full-time or part-time by the time of discharge. Approximately 33% moved into their own housing. Improvements in substance abuse disorders were noted in almost two thirds of those with such problems, and the conditions of nearly 60% of those with psychiatric disorders showed improvement. These success rates are similar to the success rates recorded in other programs for the homeless in which persons with less severe problems are served.

PROGRAM MANAGEMENT

As impressive as these results are, I'm even more impressed with three other aspects of VA programs for the homeless: their management, the applied research that accompanies them, and the recent development of new initiatives.

To appreciate the achievements of the management of the HCMI program, it's necessary to reiterate how VA program management usually works. Caricaturing only a bit, I'd say that typical VA program management has three features. First, instructions consist of a bookcase-full of directives. Second, because VA Central Office sends the programs a zillion directives, none are followed very well. (If you want people to pay attention to what you tell them to do, you need to tell them only a few things on which to concentrate rather than give them endless instructions.)

Finally, Central Office has little idea of how individual facilities are doing. For example, when I worked at VA headquarters (about a decade ago), there was no information system that could tell which facilities were running well and which weren't. To get such information, one had to nose around among regional and district directors, and even then, the information had to be viewed as very tentative, for each director had his own way of looking at things. (Possibly the problem again arises from the lack of a few, clear priority objectives. Without clarifying what is most important, it is close to impossible to establish a reasonably sized set of useful indicators and a focused information system.)

In contrast, the HCMI program has a few, clear objectives. Indeed, I'd say there are really just two: That of reaching out to and serving the most needy, and that of achieving a fairly high success rate, as defined by veterans obtaining employment and stable housing and improving in their substance abuse and mental health disorders.

With this simple set of goals, clinicians in the program (that is, the outreach workers) know what they are to focus on, and the program obtains a few, simple measures that demonstrate how each facility is doing. (Some of these measures are listed above in the description of results for 1991.) Management functions largely through conference calls in which problems are addressed and through discussions with representatives of individual programs whose measures have strayed from the national average. That the overall program works well is particularly impressive in light of the tension between its two objectives. The goal of a high success rate creates an incentive to take in patients with relatively minor problems, whereas the goal of serving the most needy drives down the success rate.

As I've suggested, the management of the HCMI program seems radically better than that of most VA health programs. It may be harder to design a comparably small and measurable set of basic goals for VA's general health care program than it is for specialized programs such as the HCMI initiative, but I'd sure like to see it tried. Do any of you readers have suggestions for what the few basic goals of VA's general health care program should be, and how they should be measured. Write to me with your ideas at VA Practitioner, 249 West 17th St., NY, NY 10011. I'll reprint the best ideas. We can then jointly hope that VA's top management pays attention and gets out of the traditional "bookcase-full of directives" style of administration.

Next month I'll take up some of the interesting research the Northeast Program Evaluation Center is conducting and describe other programs for the homeless that VA has established in the past two to three years.

HONORING MARION HAMMER FOR THE NATIONAL SAFETY COUNCIL COMMUNITY SERVICE DIVISION NATIONAL AWARD FOR THE "EDDIE EAGLE" CHILD FIREARMS SAFETY PROGRAM

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mrs. THURMAN. Mr. Speaker, I rise today to call to the attention of my colleagues the National Safety Council's annual awards banquet held in Chicago, IL on Sunday, October 3. I am both delighted and proud to report that the National Safety Council presented its 1993 National Safety Council Community Service Division National Award to a fellow Floridian, and a good friend of mine, Marion Hammer.

Some of my colleagues know Marion is an upstanding citizen of Tallahassee, a grandmother several times over, and has been the executive director of the Unified Sportsmen of Florida since 1978. Notably, she is also the first woman to be elected an officer of the National Rifle Association. She serves as NRA's second vice president. The Community Service Award was presented to Marion for her instrumental leadership in developing the NRA's child firearms safety awareness program as "The Eddie Eagle Gun Safety Program."

Mr. Speaker, the NRA is the recognized leader in firearms education, marksmanship, and safety training in the world and should be congratulated for developing and administering this program. But, I would be remiss if I did not highlight the role that Marion has had in its creation and implementation, and offer my sincere thanks for the role the Eddie Eagle Program has played in preventing child-related firearms accidents.

In the late 1980's Marion recognized that the education and firearms safety training our young people have traditionally received from family members needed supplementing. Marion believed that there was a strong need to reinforce to children the basic message that firearms are not toys. It was her belief that many, if not most firearms accidents involving children could be prevented by making just that basic point. Marion's leadership was crucial in gathering a coalition of firearms safety experts, along with teachers, curriculum development specialists, urban safety experts, and clinical psychologists to develop a program to alert children to the dangers inherent in the unsecured firearm. Eddie Eagle was the result.

Relying on children's strong visual association with cartoon figures, Eddie Eagle teaches an easy to absorb, but effective, four-part message to children from preschool through sixth grade: "If you see a gun; Stop! Don't Touch. Leave the area. Tell an adult." The strength of the Eddie Eagle program is in the simplicity of its message, and the commitment by the NRA to reach every child in America with it.

Eddie Eagle's message has been brought to life through animated video, posters, activities, books, and personal appearances by Eddie Eagle. Instructors can teach the entire program in a single day, or use the lessons over a 5-day period. The flexibility of the program is such that it can, and has been presented in diverse settings from classrooms to summer camps, from community youth programs to day care centers. Since the inception of the Eddie Eagle program, over 4 million children have been reached by the safety message. In addition to the more than 400 law enforcement agencies and 1,250 schools and school systems that use this material, partnerships with the American Legion, Jaycees, 4–H and others have been implemented to expand the outreach.

Mr. Speaker, at a time when others merely stand around and wring their hands and bemoan the tragedy of preventable childhood accidents involving firearms, the NRA rolled up its sleeves and went to work to try to find a solution. I believe the Eddie Eagle program is reaching children with a message that can save lives. I ask each of my colleagues to join with me in extending our heartfelt congratulations to Marion, and to the NRA, for a job well done and the recognition of their continuing commitment to firearms safety. Keep up the good work.

COEUR D'ALENE, IDAHO HOSTS INTERNATIONAL HUMAN RIGHTS CONFERENCE

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. LAROCCO. Mr. Speaker, in 1987 when glasnost and peristroika were still viewed with considerable suspicion in the world, discussions began among international scholars on the future of human rights.

Later, Russian and American representatives met to develop a 10-year program of policy research to make the year 2000 the dawn of "A Human Rights Century." In 1990, the conference met in Moscow on issues of political and nationality rights, and in 1991 in New York.

This year the conference will be held in my district in Coeur d'Alene, ID, a beautiful city of 25,000 residents nationally recognized for its human rights record. Coeur d'Alene is the only community to receive the prestigious Raoul Wallenberg Civic Award, in recognition of protecting and defending human rights. And, it is the birthplace of a five-State Northwest Coalition Against Malicious Harassment.

This year's conference on "Empowering Women" will be held October 29–31. It will focus on women's rights to freedom from violence, the right to economic security, the right to self-determination, and the politics for change.

Mr. Speaker, I welcome the conference to Idaho and look forward to attending this weekend.

TRIBUTE TO RUSS SCHWANDT

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. MINGE. Mr. Speaker, a leader has left us. Russ Schwandt, founder of the Minnesota Agri-Growth Council, passed away at his farm near Sanborn, MN on the morning of July 30. This man lived his life for agriculture. It was in his blood to promote and expand agriculture and to see that agricultural producers were rewarded for their efforts.

Schwandt often stated that his politics were neither Democratic nor Republican; his politics were agriculture. While he ran for Congress in 1960 as a Democrat, he was close to Governors and Members of Congress in both parties. In 1964, he was appointed Minnesota Commissioner of Agriculture by a Democrat, and reappointed by a Republican in 1967.

In his lifetime, Russ Schwandt was a true leader. As a spokesman for agriculture and friend of the farmer, he left a legacy that few others have achieved.

TRIBUTE TO JUSTICE JUDITH A. HILLARY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. FISH. Mr. Speaker, I rise today to honor and pay tribute to the Honorable Justice Judith A. Hillary, of Dutchess County, NY, my constituent and longtime friend. Through hard work and talent, she has blazed an exemplary path in the Hudson Valley for other women to follow.

Judy's judicial experience began in 1975 when she became town justice for the town of Poughkeepsie. In 1979, she became the first woman to serve as a Dutchess County family court judge. After 4 years of service with the family court, Judy became the first woman to serve as a Dutchess County county court judge. Finally, in January 1992, she began her first term as a Justice of the Supreme Court of the State of New York, again, the first woman from Dutchess County to achieve such a position.

I ask my colleagues to join me in congratulating Judy on her years of tremendous work for Dutchess County, and wish her all the best in the many years to come. She is an inspiration to us all.

HONORING DR. GARY HAWKS RETIRING FROM MICHIGAN DEPARTMENT OF EDUCATION

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. FORD of Michigan. Mr. Speaker, I want to call my colleagues' attention to the departure of a respected administrator from the Michigan Department of Education. On November 2, educators, child advocates, business officials, and lawmakers throughout Michigan are honoring the career of Dr. Gary Hawks. Dr. Hawks has been with the Department for the past 11 years, serving twice, in 1987 and in 1991, as interim superintendent of public instruction for the State of Michigan.

Prior to joining the Michigan Department of Education, Dr. Hawks served at Eastern Michigan University in Ypsilanti, in my congressional district. From the position of director of personnel, he rose in 6 years to become vice president for university relations and secretary to the Board of Regents.

In 1982, when the Michigan Department of Education needed a sound, experienced leader to take over its higher education operation, Dr. Hawks was selected. He became a strong force in the department and an ambassador of compromise and goodwill to educators in K–12 and postsecondary institutions throughout the State.

Dr. Hawks set a high standard of constituent service and, during his interim superintendencies, Michigan was one of the leading States in the Nation in exemplary schools chosen by the U.S. Department of Education for special honors. His affable manner and thoughtful presence made a marked difference in the department.

I join all those honoring him in wishing him the best for the future. I know that he will continue to work for the young people of my home State of Michigan.

TRIBUTE TO HARRIET MILLER

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Ms. LONG. Mr. Speaker, I rise today to recognize the outstanding work on behalf of women and their families performed since 1975 by a woman from my congressional district. Harriet Miller, executive director of the Fort Wayne Women's Bureau, concluded her tenure as founder of the Fort Wayne Women's Bureau on October 15, 1993.

Since 1975, more than 100,000 women and their families have turned to the Fort Wayne Women's Bureau to help strengthen the fabric of their lives. Whether they needed the encouragement of peers, job training, help dealing with the effects of violence, or the strength to break free from destructive addictions, the team Harriet has assembled at the Fort Wayne Women's Bureau has quietly and efficiently provided a lifeline.

Thousands of women, men and children have been directly served by the strong net woven by Harriet Miller and the staff and volunteers of the Fort Wayne Women's Bureau: families who otherwise might have shattered after a rape; families who, instead of welfare, are now supported by the mother's new business; families making it day-by-day as a woman transforms herself from "crack addict" into "mother."

The clearly focused services provided by the Fort Wayne Women's Bureau under Harriet's leadership began with one woman, one family at a time, but reached throughout our community, and our Nation. In the same spirit of leadership in which the Fort Wayne Women's Bureau helped create groundbreaking workplace educational programs to combat discrimination and to empower women, it is now the lead agency in an exciting new Federally-funded pilot treatment program that is showing remarkable success at helping drug-addicted women break their addiction and learn to become responsible mothers.

Harriet and her team at Fort Wayne Women's Bureau have also given the Nation another cause for inspiration through their development of a national network of sports fundraisers called "run, jane, run." These events, which celebrate women's achievements in sports, are now conducted in eight cities from Texas to Maryland, uniting thousands of amateur women athletes in competition and celebration to raise funds for local women's centers and agencies serving women. It was the result of the recognition of the Fort Wayne "run, jane, run," for example, that the remarkable achievements of the Fort Wayne Daisies and other teams of the All-American Girls Professional Baseball League first came to the attention of filmmakers and the Baseball Hall of Fame.

Through her example and work, Harriet has made significant contributions to the well-being of all women and their families. Mr. Speaker, I am proud to honor this remarkable woman for her outstanding work.

RECOGNITION OF SGT. ROY SMITH OF THE 162d MILITARY POLICE FOR HAVING BEEN SELECTED AS THE NATIONAL GUARD'S SOLDIER OF THE YEAR

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. PARKER. Mr. Speaker, today I stand in the "people's chamber," the Halls of Congress, to honor an outstanding soldier and citizen from my district, Sgt. Roy Smith of Natchez, MS.

Sergeant Smith is a member of the 162d Military Police in Crystal Springs and was nominated as National Guard Soldier of the Year by his company, which last year had the Soldier of the Year for the 2d Army and in 1993, for the third consecutive year, the Mississippi Soldier of the Year. I commend this unit and the entire Mississippi National Guard for their pursuit of excellence.

Sergeant Smith began his quest last December as he won three different levels of competition in Mississippi. He advanced to Atlanta, GA, in March, where he defeated nominees from Alabama, Florida, Georgia, Kentucky, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Representing the Second Army, he then defeated six other nominees in the national competition in Washington to be named Soldier of the Year. To honor Sergeant Smith, his portrait will hand in the Pentagon this year.

I salute Sgt. Roy Smith for his dedication, positive attitude, and State pride. He is a fine example of the American soldier and the American spirit of competition, fair play, and pride. Sergeant Smith, I congratulate you on a job well done. We are proud of you.

THE NATIONAL PARTNERSHIP SYSTEM OF HERITAGE AREAS ACT

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. HINCHEY. Mr. Speaker, nearly all Americans today, regardless of party or ideology, would agree that the establishment of the great national parks, beginning with Yellowstone, was an act of farsighted wisdom. We acknowledge the importance of its mission in preserving and protecting majestic landscapes like Yosemite and the Grand Canyon and historic sites like Independence Hall and Gettysburg. We must recognize that the mission of our park system has always been and must always be one of foresight. It must protect not only the places we all treasure now, but the places we will all treasure in the next century. The story of the family heirlooms tossed out with the trash because no one knew their value at the time is a familiar one. It is our responsibility to see that the Nation's heirlooms aren't similarly discarded.

Any of us who have worked for inclusion of a historic site or a significant landscape that we value in the national park system know the barriers. In some cases, we are at fault: the places we love may not deserve to be called national treasures, they may not meet the properly high standards that have been set. But unfortunately, even the most worthy sites face practical barriers. The National Park Service does not have the funds for acquisition or management of many new properties. Even if it did, it would be impractical and even undesirable for the Park Service to take over ownership and management of some important sites, sites that don't fit the traditional definition of park properties.

Can we find a way to protect these places, just as Congress found a way to protect Yellowstone over a century ago? I believe we can, and I have introduced legislation to provide a framework for doing so: the National Partnership System of Heritage Areas Act.

There are two concepts behind my bill. Neither of them is new. The first is that it is not only the most sublime landscapes and the scenes of high historical drama that deserve our attention. Younger parks like Gateway, Golden Gate, and Cuyahoga Valley illustrate the intersection between landscape and history, people, and nature. The Lowell National Historic Park demonstrates that our history is not just a record of famous men and women and memorable dates. These parks are not just single buildings or blocks of land: they tie together several sites. It is the fabric that matters rather than just the individual threads.

The second concept is that protection need not mean ownership or even management. My bill relies on partnership—the National Parks Service working together with States, communities, multiple public, and private owners and managers, toward the shared goal of conserving our heritage. It is certainly a far less expensive approach for the Federal Government than acquisition and management, but that is not its only merit. Partnership brings a range of approaches and ideas to the tasks of protection and conservation. Partnership emphasizes cooperation: it does not require disruption of private land ownership, and it emphasizes working with State and local governments and not overriding them.

As I said, the idea of partnership is also not new. Several States, among them New York, Pennsylvania, and Massachusetts, have established heritage areas programs based on these principles. During my years in the New York State Assembly, I played a role in establishing and developing New York's system to urban cultural parks, and I am proud of what it has accomplished. The urban parks it includes, including sites in my district in Binghamton and Kingston, help to illustrate how those communities developed, what is unique about them, how their ordinary citizens lived and the contributions they made to the American experience. A number of similar projects and programs have been started around the country by grassroots community organizations, and many of those organizations in turn have joined together in the private National Heritage Areas Coalition to support this approach.

My bill would establish a new system of heritage areas within the National Park Service. It would establish a process for designating and managing units of this new system. States, local governments, or private organizations could submit grant proposals to the Interior Department for studies of heritage areas. Completed studies would be reviewed by a new Heritage Area Advisory Board, and the Secretary of the Interior would then recommend heritage areas or State systems to Congress for designation. Areas would be managed by States or local entities. The role of the National Park Service would be to provide general support, technical assistance, and help in interpreting the national value of the area.

I believe the establishment of this system will mark a renewed commitment to the Service's original mission, and that it will provide new opportunities for educating, inspiring, and delighting the public.

TRIBUTE TO CHILDREN'S HEART FUND VOLUNTEERS

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. RAMSTAD. Mr. Speaker, I rise today to pay special tribute to the Children's Heart Fund volunteers in Minnesota.

Last Monday, I was honored to be the keynote speaker at the annual meeting of this important group.

As I told the Children's Heart Fund volunteers, their spirit of volunteerism is truly an example for the rest of the country. There is no higher form of public service than their work to provide the gift of life to young children in need of corrective heart surgery.

We all know our country has big problems. That is why the work of the Children's Heart Fund is more important now than ever. We must work together to address the problems of children's health. Volunteers like these are truly leading the way.

Today, I would like to especially applaud those volunteers who were presented certificates of special congressional recognition at the annual meeting for their outstanding contributions to the Children's Heart Fund.

Rudy Luther has been especially instrumental in building the Children's Heart Fund over many years through his tenure on the board of directors and his continued financial support.

David Green and David LaCoursiere have organized several special fundraising events for the Children's Heart Fund over the last 3 years.

Dr. Bruce Merry and his staff have seen every single Children's Heart Fund patient who has come to Minneapolis since 1990, donating all of their time and service.

El Roy Nerness has served as treasurer for 1½ years and as the 1993 chair for the Children's Heart Fund golf invitational, which raised $30,000.

Sheila Olson has been a Children's Heart Fund volunteer for almost 20 years, giving tirelessly of her time and love.

Tonya Puckett has helped raise $300,000 over the past 2 years through her tireless efforts in developing and organizing the annual Kirby Puckett 8-Ball invitational.

Dr. Hugh Westgate has volunteered more than 579 hours of service as a regular part-time Children's Heart Fund staff member.

These distinguished Children Heart Fund volunteers represent the progress Minnesota has made and continues to make on behalf of our children, our future.

Mr. Speaker, I am extremely proud to represent a district which has such committed volunteers who are willing to donate their time and energy to better the lives of children. I heartily applaud them.

MARCH AFB—A GLORIOUS PAST—AND FUTURE

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. CALVERT. Mr. Speaker, on Saturday, October 30, March Air Force Base in Riverside, CA, will celebrate two significant anniversaries—the 75th anniversary of the base, and the 50th anniversary of the 15th Air Force.

The history of March Air Force Base has been the history of aviation and its role in the protection of a free nation. Officially opened on March 1, 1918, March was used initially to train World War I "Jenny" pilots, but has since served as a flying and antiaircraft training school, tactical bomber and pursuit training base, aircraft test base, and a key installation of the Strategic Air Command.

By 1931, March Field began to look like a permanent Army post, and by 1934 a number of buildings, including hangars and housing units, were completed for the growing number of personnel assigned to March Field. In 1938

March became the central base for West Coast bombing and gunnery training, and in 1940 the National Guard units from California and Illinois were assigned to March Field to train in antiaircraft protection, thus doubling the personnel strength to almost 4,000 officers and enlisted men.

Following World War II, March AFB retained its role as an operational fighter base until the Strategic Air Command—including the 15th Air Force—took over control in 1949. The 22d Bombardment Group arrived at March from Smokey Hill AFB, KS, flying B-29's, later converting to B-52's in 1963.

March AFB and the 15th Air Force both played a heavy role in the Southeast Asia conflict in the 1960's and early 1970's. March served as a staging area for bomber and tanker aircraft enroute to the Pacific, and the wing received five Air Force Outstanding Unit Awards during the 1967-1972 period.

The wing was redesignated an air refueling wing in October 1982 when the wing's B-52 bombers were retired, and the 22d Air Refueling Wing embarked on yet another era when it accepted delivery of the wide-bodied KC-10A Extender in August 1982. Still another milestone was marked in December 1989 when the wing's KC-135 squadron was inactivated and all of the KC-135A Stratotankers were transferred to other active and Reserve components throughout the Air Force for conversion to the KC-135E aircraft.

The year 1990 was another major chapter in wing history as the men and women of the 22d Air Refueling Wing set the standard during the Phase II Inspector General inspection and went on to answer every challenge of Operation Desert Shield as thousands of Marines staged through March in August, enroute to the Middle East. Wing members worked long hours giving the Marines everything from logistical support to preparing meals, and when it was the wing's turn to deploy maintenance and aircrews put in twice as many flying hours as in peacetime, and with half the people. The result—the wing won top honors again for the third straight year as the best air refueling wing in the 15th Air Force.

As a result of recent Base Realignment and Closure Commission recommendations, March AFB will soon be realigned to reserve status and the 15th will operate as a tanker command. In spite of these changes, one thing is for certain—the men and women of March Air Force Base and the 15th Air Force will continue to serve this Nation proudly.

In recognition of these special anniversaries, on behalf of a grateful Nation and the citizens of Riverside County, I would like to thank all of the men and women of March Air Force Base for their 75 years of defending freedom, and men and women of the 15th Air Force for 50 years of protecting the peace.

TRIBUTE TO EDNA D. PINCHAM

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. TRAFICANT. Mr. Speaker, I rise in honor of Ms. Edna D. Pincham, a woman whose outstanding public service in my 17th Congressional District in Ohio has earned her induction into the Ohio Women's Hall of Fame.

Mr. Speaker, Ms. Pincham was born and raised in a segregated society in rural southern Georgia, but her drive to help others has never wavered. Upon graduation from high school, Ms. Pincham headed to Youngstown, OH, where she attended Youngstown State University and earned her degree in applied science. She then worked with the Youngstown Hospital Association until marriage, when she and here husband founded the H.H. Pincham Moving Co., which is now in its 32d year of operation.

She devoted her life full-time to raising her children, Howard and Cynthia. But once they entered school, she embarked on that was to become a long, distinguished career of volunteerism and public service. She became president of the local parent-teacher association [PTA], then president of the Youngstown Area PTA, then vice president of the statewide PTA. During her term as vice president, the U.S. Department of Education took note of her good works, and named her to two national task forces: Excellence in Education and Absenteeism. She currently serves as the administrative assistant to Pat Ungaro, mayor of Youngstown.

Throughout her career, Ms. Pincham has logged countless hours volunteering on behalf of children and other community and church activities, including: Children's Services Board, Food Bank, Homeless Coalition, Crime and Violence Task Force, YWCA, United Way, Arts Council, Chemical Dependency Board, Third Baptist Church, American Baptist Conference—USA, and numerous others.

Mr. Speaker, Ms. Pincham's exemplary efforts have enriched my community. I join the citizens of my district in saluting Ms. Pincham for her tireless work and for her induction into the Ohio Women's Hall of Fame.

QUALITY AND VALUE DESERVE RECOGNITION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. GOODLING. Mr. Speaker, on behalf of my constituent, Mr. Thomas Bowman, legislative committee chairman of the Pennsylvania Society of Land Surveyors, I am pleased to submit the following statement:

> The Pennsylvania Society of Land Surveyors, a professional society of over one-thousand members, is proud to recognize the anniversary of the enactment of the Qualifications-Based Selection Procedures under the Brooks Architectural and Engineering Act. This quality-based method has guided the Federal procurement of Architectural and Engineering and related services, such as surveying and mapping, over the past twenty-one years.
>
> The negotiated Qualifications Based Selection (QBS) procedures have stood the test of time. In fact, use of QBS has been so successful at the Federal level, that 35 states have adopted mini-Brooks Acts or its QBS equivalent as an effective method of procuring its professional design services.
>
> This concept has been underscored in the National Performance Review in which recommendations have been based on the underlying principle of quality and value in government procurement. This principle is ably translated through the QBS procurement. QBS establishes a collaborative spirit between the design professional and the client to maximize the quality, value, cost effectiveness and usefulness of the final product.
>
> On this, the 21st anniversary of the QBS Brooks Architectural and Engineering Act, the QBS process and negotiated procurement procedures should be recognized as ensuring quality and cost savings. QBS and negotiated procedures direct the focus of procurement activity where it should be, on the quality of the professional design services specifically suited to a given contract. The government's emphasis on quality serves as inherent interest in economy and protection of the public health and safety when using QBS for professional design services. Quality-based government procurement procedures have demonstrated their effectiveness and deserve to be recognized for assuring the government and the taxpayer "quality and value" for the services rendered.

HONORING DAVID DAVIS FOR A DISTINGUISHED CAREER IN PUBLIC SERVICE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. STARK. Mr. Speaker, I rise today to call special attention to the career of David Davis, a constituent who retired recently after decades serving our friends and neighbors in Alameda County.

In 1963, David began as a group counselor with the County Probation Department and served from 1965 to 1974 as a probation officer. That year he began as a work experience teacher with the Alameda County Office of Education and continued his role as an educator on the County School Attendance Review Board and as a Child Welfare and Attendance Officer.

David served as coordinator and assistant director of the Juvenile Court and Community Schools for Alameda County from 1984 until his retirement on August 30, 1993. There he led a program that continues education for those youth in the greatest danger of dropping out of the system forever: the children caught up in the juvenile justice system.

Mr. Speaker, David Davis has earned a restful retirement and I proudly join his friends and colleagues who will gather on Thursday, October 28, to celebrate this occasion. I wish him well and offer sincere thanks for his dedication.

CONGRATULATIONS TO ARIZONA CALL-A-TEEN YOUTH RESOURCES, INC.

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. PASTOR. Mr. Speaker, I would like to congratulate Arizona CALL-A-TEEN Youth Resources, Inc. for being selected as one of 13 sites to participate in a national demonstration designed to create learning-rich summer work experiences for youths involved in the City of Phoenix JTPA summer program. The initiative, called "Summer Beginnings", emphasized work-based learning, in which young people learned reading, writing, and math skills while they designed and completed projects at the local hospitals in Phoenix. Learning was framed within the context of a real job and the challenges that workers experience. The young people also developed problem-solving, decision-making, communication and interpersonal skills as they worked as members of a focused team.

Forty-six teens and young adults were assigned to one of eight projects at Maricopa Medical Center and Phoenix Children's Hospital. Each project was intended to benefit the community as well as address a specific need at a hospital.

They included: Designing an interactive computer program to educate children about dental disease prevention; designing the interior of a mobile van for cervical cancer screening; creating a playground for the pediatric emergency unit at Maricopa Medical Center; redesigning the pediatric waiting room at Maricopa Medical Center; creating portable displays for community health fairs; creating a fotonovela—picture novel—for the Hispanic community on early detection of breast cancer; designing and implementing a filing system for literature on childhood diseases; and creating and implementing an inventory system for equipment and materials.

In addition to developing and using new skills, young people involved in the effort developed a sense of community, a feeling of pride in their work and a new perspective on learning and education. Programs such as these are essential in preparing the workforce of the 21st century.

LEGISLATION TO REPEAL THE TRADING WITH INDIANS ACT INTRODUCED

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. KYL. Mr. Speaker, I rise today with my colleague, KARAN ENGLISH of Arizona, to introduce legislation to repeal the Trading with Indians Act. This is a companion to S. 1501, which was introduced by Senators JOHN MCCAIN and PETE DOMENICI on September 29.

Mr. Speaker, the Trading with Indians Act was enacted in 1834 with a legitimate purpose, that is to protect Indians from being unduly influenced by Federal employees.

But it is an act that is out of place in 1993. It is wreaking havoc on hardworking employees and their families. It is bad for reservation economies.

The act establishes a virtually absolute prohibition against commercial trading with Indians by any Federal employee. The prohibition extends to transactions in which the Federal employee has an interest, either in his or her own name, or in the name of another person where the employee benefits or appears to benefit from such interest.

The penalties for violations are severe: a fine of not more than $5,000, or imprisonment of not more than 6 months, or both. The act further provides that any employee be terminated from Federal employment.

As Senator MCCAIN pointed out when he introduced S. 1501, the 1834 act's prohibition means that an employee of the Bureau of Indian Affairs or the Indian Health Service, for example, cannot even buy from or sell a car to an Indian. It means that an IHS employee, whose spouse operates a law firm on the Navajo Nation, could be fined, imprisoned, and/or fired. It means that a family member can't apply for a small business loan without jeopardizing the employee's job.

The protection that the Trading with Indians Act provided in 1834 can now be provided under the Standards of Ethical Conduct for Government Employees. The intent here to provide adequate safeguards against conflicts of interest, while not unreasonably denying individuals and their families the ability to live and work in their communities.

Interior Secretary Bruce Babbitt and Human Services Secretary Donna Shalala have been asked to promptly review this matter and suspend further enforcement until this bill can be enacted into law.

I urge my colleagues to join me in this effort, and I ask unanimous consent that the bill be reprinted in the RECORD at this point:

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL.

Section 437 of title 18, United States Code, is repealed.

TRIBUTES TO OUTSTANDING EDUCATORS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. GOODLING. Mr. Speaker, I am very pleased to have the opportunity to recognize several outstanding professionals in the field of education from the Commonwealth of Pennsylvania.

Mr. Richard K. Ocker, former principal of Mooreland Elementary School in the Carlisle School District, was recently elected president of the Pennsylvania Association of Elementary School Principals [PAESP]. Mr. Ocker will replace Dr. George Giovanis, principal of the Pottstown Middle School, Pottstown, PA.

Richard Ocker is a graduate of Shippensburg University and earned his administrative credentials from Western Maryland College. He was an elementary principal with the Carlisle School District for 24 years and very active in civic and community affairs. He is vice president of the Carlisle Borough Council, board member of the Carlisle Early Education Center, board member of the Cumberland County Extension Service and Cumberland County Solid Waste Authority and a member of the Governor's Council on Food and Nutrition and National League of Cities.

As a resident of Pennsylvania's 19th Congressional District, which I represent, Mr. Ocker has worked closely with me over the years in providing valuable insight into education policy and related legislation. I wish him much success in his new position.

In addition, I would like to congratulate Mr. William Heasley, principal of Grandview Elementary School in the Highlands School District, who was presented the 1993 Pennsylvania Distinguished Principal of the Year Award. The other principals I would like to recognize are: Rita Lane, principal with the Derry Township School District, who was honored as a runner-up in the Pennsylvania Distinguished Principal's Program and Richard Houseknecht, principal of Manor Elementary School in the Pennsbury School District, who was recently honored by the U.S. Department of Education and the National Association of Elementary School Principals Distinguished Principals Program. Congratulations are also extended to Mr. Frederick Brown, principal of the Boyertown Elementary School, who has been elected president of the National Elementary School Principals Association for 1993–94.

As the ranking member on the House Education and Labor Committee and a former principal, it is reassuring to know that these individuals will play an important role as our Nation faces the challenge of meeting the National Education Goals. The people of the Commonwealth of Pennsylvania can certainly be proud of these individuals who have dedicated much of their lives to assuring educational excellence for all.

HONORING DELBERT AND JEWELL LEWIS

HON. SAM COPPERSMITH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. COPPERSMITH. Mr. Speaker, I rise today to speak of two distinguished Arizonans, who will be honored this week at a testimonial dinner benefiting the Institute of Human Relations of the American-Jewish Committee, in Phoenix. I want to highlight some of the many accomplishments of Delbert and Jewell Lewis that led the institute to honor these two distinguished individuals

Jewell and Del are Arizona natives. They both graduated from the University of Arizona, and Jewell also received a doctorate from Arizona State University. Jewell also is the daughter of the late Ernest "Mac" McFarland, who compiled one of the most distinguished records of public service in American history, serving as Governor of Arizona, a Justice on the Arizona Supreme Court, and as U.S. Senator, where he served as the majority leader of the other body.

Jewell has dedicated herself to education. She taught second, third, and sixth grades in Florence and later served as the reading director for the Coolidge public schools. She has continued her interest in, and service to, education outside the classroom. Jewell currently serves on the national alumni board of the University of Arizona, as cochair of the Orpheum Theater Restoration, and works with numerous other charitable and education organizations.

Del Lewis helped found Media America Corp., a company of which he now serves as chief executive officer and general manager. Jewell serves as chairman of the board. The company, which owns a number of media properties in Arizona, including KTVK-TV, channel 3 in Phoenix, consistently has promoted literacy, recognized outstanding teachers, and honored voluntarism. Del also has dedicated himself to numerous charitable causes. He has served as a member of the advisory board of the McFarland Historical State Park for 17 years, a board member of Samaritan Health Services for 12 years, and on countless other boards and commissions.

Since they met as undergraduates at the University of Arizona, through today, Jewell and Del have been a team. Together they have, directly and indirectly, touched the lives of nearly everyone in Arizona. I am proud to know them and to salute their accomplishments.

TRIBUTE TO MARK BREWER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a good friend of mine, Mark Brewer. Mark is being honored at an awards dinner this evening in Clinton Township, MI.

Over the years our interests have paralleled one another in many ways. Mark started out as one of my first college interns when I was a freshman Member of Congress. As a life member of the Sierra club with a strong commitment to the environment, Mark has often helped me with my tree planting campaign. As members of the Interfaith Center for Racial Justice, we have worked together to promote equality and understanding. We have also done our best to support the backbone of America, Labor.

A life-long Michigan Democrat, Mark has served in executive positions in Macomb County Democratic Committee and the Clinton Township Democratic Club. He is now the chairperson of the 10th Congressional Democratic Committee. Mark is a great friend and I truly appreciate his political commitment and instincts. He has certainly made my job easier, and for this, I owe mark many thanks. I know there are many others as well who are indebted to him for his dedicated service.

Mark has accomplished much since that first summer as an intern in my Mount Clemens office. And, I know he will continue to do good work because his commitment to the community is tireless. Mark is truly dedicated to making the world a better place and his recognition at tonight's dinner is well-deserved. I applaud the Clinton Township Democratic Club for honoring Mark and I ask my colleagues to join me in saluting Mark Brewer. He is a true friend and serves our community with distinction.

TRIBUTE TO FELIX FONTANAROSA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. TRAFICANT. Mr. Speaker, I rise in honor of Mr. Fontanarosa, whose outstanding community service in my 17th Congressional District in Ohio has earned him recognition with his peers.

Mr. Speaker, Mr. Fontanarosa started his optical career at the early age of 16. He worked in downtown Youngstown, OH, until 1951 when he went to join the U.S. Army and serve in the Korean war. Using his optical knowledge he ground lenses and made eyeglasses for his fellow servicemen in the back of an Army truck. Upon returning from the service, Felix continued his work in the optical laboratories in downtown Youngstown.

In 1977 Felix started his own wholesale optical company, North East Optical, in the Wick Building in Youngstown. After continued success, Felix sold North East Optical and founded Central Optical of Youngstown in 1977 in the Erie Terminal Building. In 1990 Felix was forced to relocate by the sale of the Erie Terminal Building. Central Optical moved to its present location, 4521 Market St. in Boardman, where it remains today.

Of the six original optical companies that once served the Youngstown area since the forties, fifties, and sixties, only Felix Fontanarosa's Central Optical remains. In the course of his service to our community Felix has seen that glasses are given to those in need without any reimbursement or thought of personal reward. At the age of 68 Felix still works 7 days a week until late at night. He has taught many his optical knowledge and it is unlikely that there will even be another like him. Through his personal sacrifices, hard work, perseverance, and kindness, he has taught many the secret of success.

Mr. Speaker, Mr. Fontanarosa's tireless efforts have enriched my community. I join the citizens of my district in saluting Mr. Fontanarosa.

TWENTY-FIRST ANNIVERSARY OF THE BROOKS ACT

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. SPENCE. Mr. Speaker, Public Law 92-582, also known as the Brooks Act, which was enacted in 1972, amended the Federal Property and Administrative Services Act by codifying a practice that had been followed by the Federal Government for more than a century—that of negotiating Architect-Engineer [A-E] contracts on the basis of demonstrated competence and qualifications, at fair and reasonable prices, rather than based on proposals submitted in response to a Government solicitation. This practice is known as qualifications-based selection [QBS].

October 21, 1993, marks the 21st anniversary of the enactment of Federal QBS for A-E services. The QBS system was made permanent within the Department of Defense in 1981, through Public Law 97-214. Also, 35 States, including the State of South Carolina, have recognized the merits of QBS by adopting its requirements for their A-E procurements.

Mr. Speaker, QBS is so widely favored because it has consistently provided opportunities to firms of all sizes and backgrounds. It is competitive, effective, and produces superior products for the Federal Government.

QBS allows contracting officers to define the scope of a project and to match the qualifications of various firms with specialized requirements for each job. QBS also recognizes the need for a partnership between the Federal Government and design professionals to translate ideas and concepts into detailed plans and specifications for projects for the benefit of the public health and safety.

Twenty-one years after its codification in the Brooks Act, the Federal QBS system continues to serve as a model for the wise use of scarce taxpayer dollars. I was pleased to vote for the Brooks Act in 1972 and it is a pleasure for me to recognize its success today.

LOCAL COMMUNITIES AND BUSINESSES CANNOT AFFORD THE FEDERAL GOVERNMENT'S HELP

HON. STEPHEN E. BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. BUYER. Mr. Speaker, all across the United States, State and local governments are protesting and bringing attention to the ceaseless burden unfunded Federal mandates are placing on their ability to meet the needs of their communities. This is another case of the tail wagging the dog.

The costs of these unfunded Federal mandates, nearly $2,000 for every man, woman, and child in America, are outrageous. This year alone, Congress has passed four unfunded mandates and over 100 others have been introduced. I do not question the intent behind this legislation. I do, however, question the fact that many of these mandates are proposed without any reflection upon the effects they will have on State and local officials, businesses, and taxpayers.

The priorities and agendas of our local communities are now being set by the U.S. Congress. By shifting costs to local communities, unfunded Federal mandates breach the underlying principles of federalism which assumes a working partnership and shared responsibilities between the Federal, State, and local governments. Instead of being able to address the concerns and needs of their communities, State and local officials, as well as business owners, have become puppets of the Federal

Government. They are constantly compelled to comply with mandates, rules, and regulations which demand an increasing amount of time and resources. Local officials must utilize their staffs to fill out reports and monitor compliance issues rather than allow them to assist the public. Business owners and managers are forced to devote their time and additional employees to make sure they comply with Federal rules and regulations rather than assisting customers and promoting the growth and development of their businesses.

I have received resolutions from six counties, Benton, Blackford, Jasper, Marshall, Miami, and Wabash, as well as comments from several other counties in my district in Indiana, calling for relief from this type of overly burdensome legislation. I have also been contacted by public school systems describing, in detail, the amount of their time and money expended to meet Federal unfunded mandates. The Oak Hill United School Corporation, a school corporation in my district, has identified five major Federal mandates which will cost them more than $1.7 million this year. This figure represents more than 20 percent of their annual operating budget, of which approximately $54,000 is available to comply with these five mandates.

The headlines of newspapers often detail the budget problems of our large cities and States. I am here to further explain that small cities and towns are being hit the hardest by these mandates. Small cities and towns have a limited tax base and are being faced with the problem of finding ways to fund the mere basics, because of the costs of these mandates. They are being forced to raise taxes and find additional revenues just to fund maintenance projects. In my conversations with local government and school officials, it has become increasingly clear that the priorities and agenda are being set by the U.S. Government. The hands of these officials have been effectively tied in their efforts to address the concerns and needs of their communities.

Earlier this year, when the House was considering the National Voter Registration Act, or Motor-Voter, I contacted the circuit court clerks in each county in my district. Of the 20, 19 opposed this legislation due to the number of mandates, requirements, and costs this legislation imposed upon them. The Congressional Budget Office has estimated that it will cost $100 million for the next 5 years for the 25 States which do not currently have such a program, with Congress providing only $2 million in subsidies.

Congress is stifling the growth of our Nation's businesses. Inland Steel has announced its decision to close a coke plant and eliminate 499 jobs in northern Indiana because of the cost of compliance with the Clean Air Act. Federal regulations have forced this major steel producer to rely, in part, on foreign sources of coke, rather than its own resources.

Small businesses, the backbone of our Nation's economy, are being forced to make decisions based on Federal regulations rather than the market economy. They are faced with the same reporting and compliance requirements that large corporations are. The owner of a business in my district confessed to me that even though the growth of his business is such that he would be able to hire additional employees, he will manage with his current number of 46 employees. He explained that the Family Medical Leave Act, which affects businesses of greater than 50 employees, would place too many costs and burdens on his business, even though he has already instituted a policy allowing for employee leave.

Congress and the Federal Government have managed to supersede the jurisdiction of States and local governments in its efforts to micro manage their activities through unfunded mandates. We must act now and give State and local officials and business owners back their ability to address the needs of their communities and enterprises.

DEFICIT REDUCTION FRANKING ACT

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. STRICKLAND. Mr. Speaker, today I introduced the Deficit Reduction Franking Act, a bill to end the use of the frank by all Members of Congress to send unsolicited mass mailings. The franking privilege for mass mailings should be terminated for two reasons: First, it will save millions of taxpayer dollars, and second, it will increase fairness in the political process.

Under the current franking rules, Members of Congress are budgeted three districtwide mass mailings to their constituents during each session of Congress. A mass mailing is generally defined as any mailing totaling 500 pieces or more with substantially identical content.

Many of us elected to the 103d Congress were given a mandate by our constituents to reduce Federal spending. Stopping the franking privilege for unsolicited mass mailings is one modest way to reduce Federal spending. Not only would my bill lower the total amount appropriated for franking, but any savings in the franking appropriation would be returned to the Treasury for deficit reduction.

Further, this bill will make the political process more fair by leveling the playing field for nonincumbents. As we are all aware, campaign reform is expected to be considered during the 103d Congress. If the intent of that measure is to ensure that both the incumbent and nonincumbent candidates are given an equal chance to air their platforms, then eliminating unsolicited mass mailings should clearly be included in any campaign reform debate.

The number of mass mailings sent by Members have only come into check in recent years, when outside watchdog groups began to publish the names of Members who were overusing their franking privilege. With few exceptions, mass mailings contain self promotional materials. Even if a Member's picture, or his or her name is limited in size, the privilege of being able to send this to every constituent's household is without question unfair to the nonincumbent. The nonincumbent must pay for mass mailings out of campaign funds, while the incumbent may use taxpayer funded mailings to reach the same audience.

There have been several bills introduced to reduce or eliminate franked mass mailings, but my bill would go one step further by eliminating this privilege for the institution of Congress. My bill also provides several exclusions in order to protect essential mass mailings.

I would like to briefly address the bills introduced to limit or eliminate mass mailings, in order to demonstrate why the Deficit Reduction Franking Act would be the most appropriate bill to pass or enact this Congress. The legislation most similar to this measure would eliminate the franking privilege for all unsolicited mailings in the House of Representatives. My bill also prevents responses to unsolicited mail, but in both bodies of Congress.

Comparable bills would do the following: abolish the franking privilege entirely, but still allow mailing budgets using stamps; limit the use of a Member's name and picture size; give nonincumbent candidates the franking privilege; reduce the franking budget; eliminate mass mailing privileges only for newsletters; and, prohibit election year franked mass mailings for House Members. None of these bills comprehensively eliminate the mass mailing privilege for all Members of Congress.

Under the Deficit Reduction Franking Act, franked mass mailings would be allowed under several circumstances. First, Members could respond to all solicited mailings from constituents, and also send follow-up responses to these mailings. Second, mass mailings may be sent to other Members of Congress, or to Federal, State, or local government officials. Third, mass mailed news releases to the communications media may also be sent using the franking privilege. Fourth, franked mass mailings would be allowed for towns isolated from mass communications. Fifth, chairmen and chairwomen would be able to send mass mailings which relate to the normal and regular business of their respective organizations. Sixth, the oversight functions of both Chambers for mailings would remain in place. Last, my bill would eliminate the rule which prevents mass mailings 60 days before an election, because the only mass mailings allowed would be responses to solicited mail, and follow-up mailings.

Mr. Speaker, the Congress has begun to take steps in the right direction to begin reducing the deficit. We are also ready to begin debate on campaign reform. I believe elimination of franked mass mailings would provide real evidence of our willingness to continue to move down the path of Government reform.

We need to act on this measure soon, to ensure that we hold future congresses to this mandate. Again, I invite my colleagues to join with me in forwarding this bill, and to propel it to passage.

THE CVN-76 *NIMITZ*-CLASS AIRCRAFT CARRIER

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. SANTORUM. Mr. Speaker, today I rise in strong support of fiscal year 1994 funding for the CVN-76 *Nimitz*-class aircraft carrier.

In this postcold war era, we are no longer sure who and where our threats are. The Soviet Union has dissolved, Europe is changing, general uncertainly characterizes the Indian Ocean, Southern Africa is in a state of turbulence, and realignments are manifesting themselves in the Pacific Ocean. In the next several years, our overseas land-based presence will shrink significantly. It is more important than ever to maintain our mobility and the ability to project power where it is needed. More and more our carriers are being deployed on missions ranging from peacekeeping operations to humanitarian relief, crisis response, and regional stabilization. The CVN-76 is vital because of its flexibility in meeting these needs.

Secretary of Defense Les Aspin has already announced his support for a 12-carrier fleet in his "Bottom-Up" Review. The projected 12-carrier fleet will require construction of the CVN-76. The key question is not whether to build this next carrier, but when. By funding this carrier in fiscal year 1994 we will reduce procurement costs by at least $200 million and save at least 1,000 shipyard jobs and thousands more at the plants of 4,000 suppliers in 43 States. If we delay funding until fiscal year 1995 or beyond, the only shipyard capable of building an aircraft carrier would be forced to reduce its employment levels substantially. Once the skilled work force and key supplier networks are lost, it can only be reconstituted later, if at all, at exorbitant cost.

I am hopeful that when the House and Senate conferees meet, they will realize the urgent need for full long-lead funding of the CVN-76 in fiscal year 1994 and include this in the Department of Defense appropriations conference report. By delaying this funding, we are jeopardizing our Nation's security as well as our Nation's skilled work force.

SALUTE TO THE BROOKS ACT OF 1972

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1993

Mr. PICKLE. Mr. Speaker, on October 27, 1972, I voted in favor of legislation sponsored by my fellow Texan JACK BROOKS to codify a system of procuring architect and engineering [A-E] services on the basis of qualifications. This qualifications-based selection system has been so successful at the Federal level and in most States that it is recommended by the American Bar Association in its Model Procurement Code for State and local governments.

Indeed, Vice President GORE's "Reinventing Government" efforts recognize that best value procurement is a goal worth striving for throughout the range of Government purchases. It is a testimony to JACK BROOKS' foresight that he sought to have a best value system—qualifications-based selection of design services—enacted more than two decades ago.

Since that time, Congress has specified the use of QBS procurement in the Superfund law (Public Law 99-499), the Surface Transportation Act of 1987 (Public Law 100-17), and in Airport/Airway Programs (Public Law 100-223). In 1988, Congress addressed the need for a clarifying standard of the types of professional practices to which QBS is applicable by codifying a contemporary listing of such fields through Public Law 100-656 and Public Law 100-679.

Like most good ideas, QBS is straightforward and uncomplicated. All requirements for Federal A-E services are first advertised in the publication Commerce Business Daily. Firms seeking to be considered submit an application. A-E evaluation boards within the contracting agency then review and evaluate all firms based on several factors, including: Professional qualifications, specialized experience and technical competence, capacity to complete work on time, past performance in work for the Federal Government, familiarity with the location and type of project, and acceptability under other appropriate evaluation factors. The evaluation board then develops a preselection list of all qualified firms and that list is approved by the head of the construction agency. The agency then prepares an estimate of the cost of the job, and begins negotiations with the most qualified A-E firm to determine the scope of work and agree on a price which is fair and reasonable and not in excess of the estimate. If the Government gets the price it is seeking, a contract is awarded. If not, then negotiations are terminated and a proposal is requested from the next most-qualified A-E firm.

Through this process, the taxpayer is assured that the most qualified, cost-effective, design firm is selected to work on projects that promote the public welfare and protect the public health. I was proud to vote for the Brooks Act in 1972, and I'm pleased to congratulate my friend today.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 28, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 29

9:30 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee

To hold hearings on S. 1588, authorizing funds for fiscal years 1994, 1995, and 1996 for the Independent Safety Board.

SR-253

Judiciary
Courts and Administrative Practice Subcommittee

To hold hearings on H.R. 1102, to make permanent chapter 44 of title 28, United States Code, relating to arbitration.

SD-226

NOVEMBER 2

10:00 a.m.

Finance

To resume hearings on the Administration's proposed Health Security Act, to establish comprehensive health care for every American.

SD-215

Labor and Human Resources

To hold hearings to examine methods for meeting the health care needs of all Americans.

SD-430

Veterans' Affairs

To hold hearings to review research on the health effects of agent orange and other herbicides used in Vietnam.

SR-418

NOVEMBER 3

9:00 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

9:30 a.m.

Indian Affairs

To hold hearings on S. 720, to clean up open dumps on Indian lands.

SR-485

10:00 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To hold hearings on the effects of potential restructuring in the National Aeronautics and Space Administration (NASA).

SR-253

Labor and Human Resources

To hold hearings on the nomination of Harold Varmus, of California, to be Director of the National Institutes of Health, Department of Health and Human Services.

SD-430

2:00 p.m.

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 297, to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs, S. 455, to increase Federal payments to units of general local government for entitlement lands, S. 761, to revise the "unit of general local government" definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska, S. 1047, to convey certain real property in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and H.R. 1134, to provide for

the transfer of certain public lands located in Clear Creek County, Colorado, to the United States Forest Service, the State of Colorado, and certain local governments in the State of Colorado.
SD-366

3:00 p.m.
Conferees on H.R. 1268, to assist the development of tribal judicial systems.
EF-100, Capitol

NOVEMBER 4

9:00 a.m.
Office of Technology Assessment Board meeting, to consider pending business.
EF-100, Capitol

9:30 a.m.
Energy and Natural Resources
Mineral Resources Development and Production Subcommittee
To hold oversight hearings on ocean mining policy.
SD-366

Rules and Administration
Business meeting, to consider the nomination of Michael F. DiMario, of Maryland, to be Public Printer, Government Printing Office, S.J. Res. 143, providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution, S.J. Res. 144, providing for the appointment of Manuel Luis Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution, S. 716, to require that all Federal lithographic printing be performed using ink made from vegetable oil, H.R. 877, to authorize the establishment of the National African-American Museum within the Smithsonian Institution, and to consider other pending committee business.
SR-301

Indian Affairs
To hold hearings on S. 1526, to improve the management of Indian fish and wildlife and gathering resources.
SR-485

10:00 a.m.
Finance
To resume hearings on the Administration's proposed Health Security Act, to establish comprehensive health care for every American.
SD-215

Foreign Relations
To hold hearings to review foreign policy issues.
SD-419

NOVEMBER 9

9:30 a.m.
Energy and Natural Resources
To hold hearings on the use of risk analysis and cost-benefit analysis in setting environmental priorities.
SD-366

NOVEMBER 10

10:00 a.m.
Finance
To hold hearings to review the Uruguay Round of multilateral trade negotiations.
SD-215

NOVEMBER 16

9:30 a.m.
Indian Affairs
To hold hearings on S. 1146, to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona.
SR-485

Special on Aging
To hold hearings to examine health care reform issues, focusing on prescription drug price competition.
SD-G50

NOVEMBER 18

9:30 a.m.
Indian Affairs
To hold hearings on S. 1345, to provide land-grant status for tribally controlled community colleges, tribally controlled postsecondary vocational institutions, the Institute of American Indian and Alaska Native Culture and Arts Development, Southwest Indian Polytechnic Institute, and Haskell Indian Junior College.
SR-485

HOUSE OF REPRESENTATIVES—*Thursday, October 28, 1993*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Lift our thoughts, O God, above the ordinary to see more clearly the beauty of the day; raise our sights, O God, to see the needs of justice and the call to freedom; strengthen our faith, O God, so we can walk through the shadows of evil knowing You are with us; give us peace, O God, all our days and may Your blessing never depart from us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair recognizes the gentleman from North Carolina [Mr. BALLENGER] to lead us in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 927. An act to designate the Pittsburgh Aviary in Pittsburgh, PA, as the National Aviary in Pittsburgh; and

H.R. 2824. An act to modify the project for flood control, James River Basin, Richmond, VA.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2492) "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 6, 10, 19, 22, 23, 25, 29, 31, and 33 to the above-entitled bill.

PUT AMERICAN PEOPLE FIRST ON HEALTH CARE

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, yesterday President Clinton delivered on his pledge to provide Congress with the details of a comprehensive plan to boldly reform our country's health care system.

President Clinton has also challenged the Congress and the Nation to make his plan better with the caveat that any change would have to include provisions for health security, comprehensive benefits, cost control, simplification, improving quality, and increasing choice.

The President has put his cards on the table.

Now it is time for this body to rise to President Clinton's challenge. It is time for every Member to put partisanship aside and put the American people first.

Mr. Speaker, the people want health care that is always there. Now, let us follow President Clinton's lead and deliver a health care system that really works.

NEW JERSEY EXPERIENCE LINKED TO FAILED POLICIES OF BIG GOVERNMENT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, a politician promising not to place new taxes on middle-income workers. A promise broken. Taxes increased through legislative arm twisting. Spending increased faster than inflation. New spending programs invented. No rethinking of old failures.

What will happen?

Well, sadly we know what will happen. For the tragic situation I just outlined is what happened to citizens of New Jersey when Jim Florio brought his free spending and high tax policies from Washington and decided to treat the New Jersey taxpayer's money like it was Monopoly money—or with the contempt he treated the Federal taxpayer's money—$2.8 million in new taxes were heaped on the families of New Jersey, 280,000 jobs were lost. Since 1989, New Jersey has experienced a 7.5 percent jobs loss while the rest of the Nation grew jobs at 3 percent.

While the United States created 3.2 million new jobs, New Jersey has lost 277,000.

Higher taxes. Higher Government spending. More regulation. What will happen to us? Sadly, just what happened to New Jersey. I urge President Clinton to listen to the unemployed families of New Jersey and reject the false and failed policies of bigger Government.

PASS COMPREHENSIVE HEALTH CARE BILL

(Mr. KLEIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN. Mr. Speaker, earlier this month I was one of 700 people who attended the benefit dinner for one of my constituents whom I will call James, who came to this country some 30 years ago, worked hard all his life, raised a fine family, and represented everything that is good about our country. Then 3 months ago at age 56, he was stricken with leukemia. He faces hundreds of thousands of dollars in medical bills which his insurance does not cover and which he cannot afford. I am proud of my community which has rallied to his aid, but I am not proud that our great country doesn't provide him with adequate health care and the peace of mind that goes with it.

Yesterday President Clinton presented us with a health care plan that addresses this and other basic problems in our health care system, such as containing skyrocketing costs. We can amend it, improve it, or hone it, but in the end, for the sake of James and all Americans, we have a solemn duty to pass a comprehensive health care bill in this session of Congress.

CONGRESSIONAL REORGANIZATION

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, the Joint Committee on the Organization of Congress has become a caricature of much of what is wrong with this institution.

Not only have many of the joint committee members found it difficult to attend the committee's extensive and ambitious litany of hearings, they are also struggling to produce a final report by its legislative due date of December 31.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

It is no wonder that their attendance record is poor and their report delayed, when you consider that there are 266 committees and subcommittees in Congress meeting on a regular basis. Simple math tells us that for every two Members there is one committee or subcommittee.

Mr. Speaker, it is time for us to slash committees and subcommittees by at least 25 percent. It is time to ban proxy voting in committees and subcommittees. And, it is time for the Joint Committee on the Organization of Congress to issue its final report and dissolve itself.

HEALTH CARE REFORM—A NEW MOMENT IN HISTORY

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, I rise today to express my strong support for the historic health care reform effort that was launched yesterday by the formal introduction of the President's Health Security Act. After years of inaction on an issue that is central to the health of our economy as well as our population, health care reform is now underway.

The up-coming debate will be long and tortuous, but we must all agree, in the end, we will have a plan that will ensure every American the security of knowing their health needs will always be met—and they will be met at a reasonable cost and a high degree of quality.

The current system is complicated, inefficient, and costly. We must do better. A comprehensive plan that creates a system where all the parts work together in the same direction—rather than against each other—can increase the security, simplify the process, reduce the cost, and improve the quality of every American. Let us get started, and let us do it right.

REAL REFORM NEEDED IN HEALTH CARE

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, I rise today also to talk about health care. I think it is the issue that most of us are concerned about. But I come from Wyoming, and maybe it is because there are not too many of us, but we are pretty accustomed to saying the way it is. We are pretty accustomed to talking in terms of facts that folks can understand. And I think we owe it to ourselves to do that in this debate.

We need to be honest about where we are going and what we can do.

Let me tell you why this comes to mind. Mr. ROCKEFELLER yesterday said, "You had better be for real." And I agree with that. "Once Mr. Clinton has said it, you can bank on it."

The evidence of that is not very clear, when you talk about middle-class tax cuts and other kinds of things. But the fact is we do not need Hollywood hype, we do not need historic meetings to talk about all the things we are going to do in general. We need to be specific about what we are going to do for people at home, so they can hear it and say what does this mean to me? What does this mean to cost? What does this mean to coverage?

Most people do not have the faintest idea what we are talking about when we talk about all these fancy words that are there now. Let us get real. Let us talk about real facts and real reform in the health care program.

□ 1010

REPUBLICANS ON HEALTH CARE

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, for several weeks now, since Mrs. Clinton introduced the administration's health security plan, we have listened to our friends on the Republican side voice any number of criticisms of this plan.

I would remind the American people, it took Mrs. Clinton 9 months to come up with a plan, after Republican Presidents took 12 years to avoid coming to grips with our health care crisis.

And let me suggest to my colleagues that when we get embraced by all these businesses that are so pleased to hear us criticizing Hillary's health plan, remind them, perhaps, that 97.5 percent of their profits are being taken up by increased health insurance costs that cannot go into improving the employment picture, cannot go into increased productivity or international competitiveness, because we have failed to get this crisis under control.

THE PROXY VOTE

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, in my opinion the one reform that would have the most profound impact on the number of committees on which a Member of Congress serves is to ban the proxy vote. The most important, detail oriented, work on legislation is intended to happen at the committee level. However, if on any given day you were to check a committee for attendance you would notice that half, and sometimes fewer of the members on a committee are present for the work. Part of the reason is because they are trying to balance their other committee assignments. The proxy is a blessing and a crutch. While it allows Members to claim service on more committees than is humanly possible, it reduces their participation in committee. The result is too many lawmakers who fail to spend quality time on any one subject. A proxy ban would force Members to prioritize. They would be enabled to assume a quality role in their priority committee or committees. Part of the reason people are upset with Members of Congress is they feel we waste a lot of time with little to show for it. A ban of the proxy vote would make us more accountable to them and make our work and attendance in committee more evident. Who can tell perhaps the redirected attention would even produce better legislation.

SOMALIA

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, it has now become clear that the much ballyhooed truce in Somalia is not worth the paper it is printed on. Fighting between the two main rival clans broke out again this week in Mogadishu, raising the troubling specter of a return to all-out clan warfare.

The question is raised yet again, why are we in Somalia? We are not keeping peace. We are merely carrying water for the United Nations. Once again, our troops are sitting ducks, just waiting to be picked off by some well-armed clansmen looking for attention.

If we stay, how much longer before one of these clans trains its sights on our American soldiers in the hopes of forcing us to again take sides? Mr. Speaker, we were promised a vote on this issue on this House floor, but we know that is not going to happen. The leadership does not want us to debate and vote our continuing involvement in Somalia.

Mr. Speaker, our colleagues can force a vote if they will sign Discharge Petition No. 9, which would force House Resolution 227, introduced on July 27 by our colleague, the gentleman from Ohio [Mr. BROWN], force a vote on this issue.

I urge my colleagues, Mr. Speaker, to sign Discharge Petition No. 9, if they want us to fully debate the issue of how quickly and expeditiously we should remove our troops from that troubled land.

NAFTA

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, a just-released study by the congressional Joint Economic Committee found that

NAFTA will cost the United States 500,000 more lost jobs and further erode U.S. wages. The study concludes NAFTA's purported economic benefits are far outweighed by its social costs.

My State of Ohio has already lost over 100,000 jobs to Mexico, where wages are one-seventh of our own. Large multinational corporations have been exacting wage-and-benefit concessions from our workers, while pitting them against their lower-paid Mexican counterparts who are being exploited at average wages of $1.55 an hour. The days of sweetheart trade deals that benefit the few at the expense of the many should be over.

Defeating NAFTA is the first step. Our jobs, our future and democratic reform in this hemisphere hang in the balance.

CHOICE?

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, yesterday the President, amid great fanfare and in festival atmosphere, gave this Congress his final legislative language for his health bill. Or at least we thought he did. But as we have seen before, what the President says and what the White House delivers are often two unrelated things.

As it turns out, we will not get the actual language for another 10 days or so. We still do not have the true cost numbers. Remember way back in April, before the leaves were on the trees? That is when we were supposed to have this health care plan. Now the leaves are off the trees again, and we still do not have it.

Mr. Speaker, the President's commitment to health care reform is admirable. We applaud it. His commitment to Government-run health care is not. Having a national health board dictate to me how I choose my health care gives a whole new meaning to choice, a meaning I do not like and most Americans do not like.

HEALTH CARE REFORM

(Ms. LAMBERT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LAMBERT. Mr. Speaker, today I join my colleagues in answering a call that has gone unanswered for far too long. That is a call for access to affordable health care.

I have been extremely pleased by the Members of this body—both Democrats and Republicans—who have expressed a willingness to work together to create a health care plan that will take care of the American citizens without bankrupting our Federal coffers. The issue before us is controlling health care costs while giving all of us the assurance that we will have health care. Without reform, 1 in 4 people will lose health care coverage in the next 2 years. Right now, someone loses their coverage every 30 seconds.

In the First District of Arkansas, where I live, 16 rural hospitals have closed over the past year. So I will give special consideration to ensuring that our rural hospitals are preserved and their client bases are protected. I also would like to see incentives for general practitioners to move to rural areas. But our key focus must be on guaranteeing that everyone has access to affordable full coverage, quality care, and individual choice.

CAMPAIGN REFORM BEGINS AT HOME

(Mr. CALVERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALVERT. Mr. Speaker, during the last Presidential campaign, candidate Bill Clinton talked a lot about the issue of campaign finance reform.

Although this issue seems to have gotten lost in the shuffle of events in Somalia, Russia, and Haiti, the two-party system will not let it just fade away.

Republicans are offering a comprehensive campaign reform package, which I am proud to support.

Our bill contains several important reforms, but there is one in particular that I believe is essential to making candidates more responsible to the people who elect them.

That reform is a requirement that a candidate for Congress must raise a majority of his or her campaign funds from the people he seeks to represent.

In many campaigns for Congress today, candidates raise almost all of their campaign funds from sources outside their district.

Americans are tired of these outside special interests influencing elections.

They are tired of candidates raising more money from outsiders than from people in their own communities.

□ 1020

They believe that true campaign reform must begin at home.

I share this frustration of the American people. I believe that no campaign finance reform will work unless candidates for Congress are required to raise the majority of their campaign funds from the people they seek to represent.

JOINING WITH THE ADMINISTRATION IN HEALTH CARE REFORM

(Ms. LONG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LONG. Mr. Speaker, the President's health care reform proposal does more to address the health care crisis than ever before.

In 1992, we spent more public and private dollars on health care than on education, defense, prisons, farm subsidies, food stamps, and foreign aid. While combined spending has already nearly doubled since 1970 and will double again by the year 2000, the value and quality of that health care have not doubled. The President is very much on target with the principles of savings, security, personal choice, and quality.

We can deliver the same, or better, quality health care at less cost if we change the incentives, simplify the system, and increase information for both consumers and providers.

With health care reform, we must create a market where health care plans compete on the basis of costs and quality—a market that creates incentives for providers to keep quality high and cost low. Reform must include simplification of the system with a universal benefits package, use of a standard form, and the reduction of administrative burdens for small businesses and individuals in order to control skyrocketing health care spending.

I am pleased that there is so much commitment to President Clinton's proposals. I look forward to working with the administration and my colleagues on this important issue.

SMALL BUSINESS FORESEES BIG PROBLEMS IN HEALTH CARE PACKAGE

(Mr. COLLINS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Georgia. Mr. Speaker, the President's socialistic health care proposal is axing jobs before the jobs can be created.

Yesterday I received a call from a constituent in Newnan GA, who expressed her concern about the President's health care employer mandate.

The lady and her husband have been planning to open a new business. However, after juggling figures in every way possible, they cannot find a way to afford the cost of the health care mandate.

She said, "This is really going to hurt small business.

With this cost I cannot afford to lock myself into a 5-year lease on the shop space.

"My husband and I have juggled figures and we can't figure how we could pay for this. This really discourages people to open startup businesses.

"Clean up the waste in Government health care programs first."

Mr. Speaker, for the sake of jobs and small business, Congress must listen to the warnings of the people in the real world and ax this socialistic idea.

AMERICA NEEDS PENSION FUNDING REFORM

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, I call the attention of the Members to the recent collective bargaining agreement by General Motors [GM] and the United Auto Workers [UAW], which includes very generous pension benefit increases and early retirement subsidies. While many will think that this is all very wonderful, Members should be aware that the GM pension plans are currently underfunded by $19 billion, and with these new benefits, it is estimated that their underfunding may reach $25 billion. This massive underfunding represents about half of the pension underfunding in the Federal insured pension system, and is a significant contingent liability for the American taxpayer.

Today I am joining with Chairman ROSTENKOWSKI and Chairman FORD upon request, in introducing the administration's pension funding reform package. This is generally a good package, and the administration should be commended. However, as it is now drafted, it will not prevent companies from continuing to promise benefit increases in severely and chronically underfunded plans without paying for them. It is my hope that this shortcoming will be addressed before these important legislative reforms are finally enacted.

INTRODUCTION OF LEGISLATION TO PROVIDE A DAIRY SUPPLY MANAGEMENT PROGRAM

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, from one end of this country to the other, our family farmers are being driven off of the land.

In my own State of Vermont we had over 8,000 dairy farms in 1960, and today we're down to 2,200. In Vermont, because of the low milk prices that dairy farmers are receiving, young people are hesitant to follow their parents in farming. The same story is being played out in Wisconsin, Minnesota, and all over this country.

Mr. Speaker, when we destroy family farming in America, and centralize the production and distribution of food, we endanger the security and well-being of the entire Nation. Our country should not be dependent upon a handful of agribusiness corporations—or foreign nations—for the food that we require. We must maintain vigorous, decentralized agriculture based on the family farm.

This week I have introduced H.R. 3370—a two-tier, supply management program which will provide dairy farmers with a fair price for their product and, at the same time, allow the Government to purchase inexpensive dairy products to be used in our national nutrition programs. In my view, there is no so-called milk "surplus" in this country when 5 million children go hungry.

We must save the family farm; we must feed the hungry children; we must protect our rural way of life. H.R. 3370 does that.

THE FINE PRINT ON SOVEREIGNTY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, debate over the issue of sovereignty in the North American Free-Trade Agreement [NAFTA] is increasing, just as the debate over sovereignty in the trade agreements in the European Community is heating up. It is a valid debate. This is why the American people should make certain to read the fine print in this so-called trade/economic agreement.

The GAO report on NAFTA points out on page 87 that the dispute panels operate much like the courts they replace. In this instance, the GAO is referring to the U.S. courts. The model for the dispute panels in NAFTA is the Canadian Free-Trade Agreement [CFTA]. Those dispute panels under CFTA have in two-thirds of the panel decisions, reversed U.S. laws and regulations, including three International Trade Commission [ITC] decisions. What will happen with the Tri-national panels under NAFTA? Sovereignty is the ability to govern your country. How do we do that with international panels making decisions for us?

NAFTA REPRESENTS ANOTHER NEW BIG GOVERNMENT PROGRAM

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, the supporters of the North American Free-Trade Agreement are playing funny with the numbers again. This new math, this so-called NAFTA math, tells us that it only costs $2.5 billion to implement NAFTA, and they finally admitted that it costs $2.5 billion. As the Assistant Treasury Secretary, Jeffrey Shafer, said, "I regret to say the administration does not yet have a complete answer" on how to fund NAFTA.

What they will not talk about is that NAFTA is a $50 billion new Government program, $10 billion for Texas that the Governor of Texas has asked for, another $5 billion for Arizona, $5 billion for New Mexico, $10 billion or $15 billion for southern California, not to mention tens of billions of dollars for environmental cleanup on the border, not to mention several hundreds of millions of dollars, if not a couple of billion dollars, for worker retraining, not to mention money for Customs officials and all we need for the border.

The fact is, it is a $50 billion new program. The American people should write their Congressman and ask him, write their Congresswoman and ask her, where is the $50 billion? How are we going to pay for NAFTA?

It is a bad idea. It deserves to be defeated.

THE ADMINISTRATION'S HEALTH CARE PLAN, MORE LIKE CANADIAN SYSTEM THAN MANAGED COMPETITION

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I urge all of my colleagues to look at the Washington Post this morning, page A-16, where I think the best single sentence analysis of the Clinton health plan is as follows:

> "What they did was to take the form of managed competition and filled it up with content that looks a whole lot like a Canadian-style Government system," a Clinton adviser said this week, deviating from the official White House line.

□ 1030

Now I think that tells it all. Whatever the words are, the underlying substance is a Government-controlled, Government-dominated, Government-run system that translates your health premiums into taxes that has the Government compelling you to pay those taxes and that gives the Secretary of the Treasury the power to impose an employee payroll tax on a single State when he decides it is necessary. This is an extraordinary grant of power to the Federal Government.

The plan is fundamentally flawed, and I urge my colleagues to look at affordable health care now and other plans based on a more American system.

JUSTICE DEPARTMENT'S APPEAL OF THE MEINHOLD DECISION

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, I rise to express my dismay that the Justice Department has chosen to appeal the decision by U.S. District Court Judge Hatter in the Keith Meinhold case, declaring unconstitutional the discriminatory treatment of lesbians and gay men in the military under the so-called "Don't ask, don't tell" compromise.

Earlier this year, the President predicted that if the political branches did not take action to end the policy of discrimination, the courts would do so, because of its blatant unconstitutionality. The so-called compromise Congress adopted reaffirmed blatant and invidious discrimination as official policy. Can the administration possibly have convinced itself otherwise?

It is hard to understand why the Clinton Justice Department not only is appealing Judge Hatter's decision but has asked the Supreme Court to hear that appeal directly on an "emergency" basis. The Meinhold case gives the President the opportunity to see his principles vindicated.

I strongly urge the President to stick by his principles and direct that the appeal of the Meinhold decision be withdrawn.

SOUTHERN CALIFORNIA FIRES

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, having listened to my friends, Mr. BROWN and Mrs. BENTLEY, I would love to stand here and talk about the North American Free-Trade Agreement. But I am very saddened to have to refer to the tragedy that exists in my State.

Over the past several years California has suffered from devastating earthquakes, riots, and most recently a recession which has created an unemployment rate of between 9 percent and 10 percent. Now, within the past 48 hours we have all seen that there are around 15 fires continuing to burn in southern California, including the Pasadena area, which I am privileged to represent.

I have to say that I hope that President Clinton declares a national disaster for those who are affected in southern California.

I would also like to say that I have heard some courageous stories of people who have stepped forward and provided tremendous assistance—local officials, firefighters, and others. We have had some static accidents in the Altadena fire, but in two particular instances many volunteers stepped forward and helped 50 people evacuate a convalescent home, and at St. Luke Hospital 170 people were evacuated.

This is a real tragedy, and I hope that we will come together to provide necessary assistance to the largest State in the Union.

NATIONAL EMERGENCY IN SOUTHERN CALIFORNIA

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, as millions of people around the world watching television know, southern California has been hit with devastating fires. We have looked on with horror as thousands of people have been forced from their homes. These fires have raged near my own home, and we evacuated in the middle of the night.

Mr. Speaker, I urge President Clinton to accept Governor Wilson's declaration request for a Federal emergency. I urge the immediate appointment of a Federal coordination officer who can deal with California. I urge FEMA, the Federal Emergency Management Agency, to establish disaster application centers in each of our affected California counties. And I urge the heads of all of the Federal agencies who can help, the U.S. Forest Service, the Bureau of Land Management, the National Park Service, to give priority attention to this matter and give this fire emergency the attention it deserves.

Mr. Speaker, the tens of thousands of Californians who are bravely fighting these fires, which still continue, deserve our immediate attention, our compassion, and our help.

CONTINUED POLITICAL UPHEAVAL IN EL SALVADOR

(Mr. HAMBURG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMBURG. Mr. Speaker, Francisco Velis Castellanos, FMLN candidate for the National Assembly in El Salvador, was killed this week as he walked with his daughter to her nursery school. Gunmen opened fire at close range and shot him in the head.

The Los Angeles Times reported that, "The girl, about 2, ran from the scene covered with her father's blood, but was not hurt."

Velis' daughter, a few months older than the peace process in El Salvador, ran from the scene covered with blood. But El Salvador cannot run from the scene. El Salvador and the peace process remain covered with blood.

Last week the United Nations reported an increase in human rights violations with the approach of the elections scheduled for next March: the reappearance of death squads, arbitrary executions, and torture.

The House Foreign Operations Subcommittee temporarily froze disbursement of $70 million in aid to El Salvador to demonstrate concern over the slow pace of voter registration for the upcoming election.

The registration tide cannot be turned if political executions go unpunished. The credibility of the political and electoral process is throttled most effectively by perpetuation of an environment of fear.

We must continue to insist that the Salvadoran Government demonstrate real progress in registering voters and in maintaining an environment free of threat to the political process.

HIGHER TAXES EQUALS LESS JOBS

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, I keep hoping that one day the Democrats will learn the lesson I, and my Republican colleagues, have been preaching: The Government cannot tax its way to prosperity; higher taxes equals more Government spending and fewer jobs.

Right now the tax-and-spend policies that the Democrats are so famous for is being spotlighted in the State of New Jersey. Three years ago, Governor Florio increased taxes by $2.8 billion on the people of New Jersey, the largest tax increase in the history of that State. Before that tax increase, New Jersey had an unemployment rate that was 2 percent below the national average. Today, the unemployment rate is 2 percent above the national average. In fact, New Jersey now has the highest unemployment rate in the Nation among all industrialized States; 277,000 jobs have been lost since the 1991 tax increase.

Mr. Speaker, New Jersey is an example everyone should learn from: Raising taxes increases government spending, slows economic growth, and causes the American people to lose their jobs.

SPECIAL COMMISSION ON BREAST CANCER RECOMMENDATIONS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, this morning I opened up the Washington Post and read this headline: "Presidential Panel Calls Breast Cancer Research Underfunded." The Special Commission on Breast Cancer has reported that Federal agencies need to spend at least $500 million a year to make substantial progress against this killer disease.

Estimates are that nearly 500,000 American women will die of breast cancer in this decade while research projects are stalled for lack of funding. That's unforgivable. This study recommends that Congress needs to allocate at least $500 million more per year for critical breast cancer research. That would require an approximate increase of $100 million over what we currently authorize. It is an increase that we can and must commit to.

The commission also recommends:

Enactment of official standards for mammography examinations and an effort to promote use of the screening technique.

Development of treatment techniques that improve the quality of life for breast cancer patients.

Support for advocacy organizations to help ensure access to care for all women and expand breast cancer education.

It is fitting that the panel makes these recommendations during this, Breast Cancer Awareness Month. What this study means for those of us in Congress is that we can take an active role in finding a cure for this deadly disease. Millions of American women are counting on us.

□ 1040

SPENDING SPREES AND TAX HIKES: UNNATURAL DISASTERS

(Ms. PRYCE of Ohio, asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, the Founding Fathers foresaw the States as places for experiments in democracy—good ideas at the State level might be implemented by other States and might be sound policy at the national level.

Equally important, bad laws at the State level would be avoided by other States and questionable ideas might be tested locally before they were imposed on the Nation.

New Jersey has just performed a 4-year experiment of Clintonomics—that is, what happens when you massively increase taxes and let spending explode.

This was the experiment imposed on an unsuspecting New Jersey where taxes were raised $2.8 billion. Spending by the State grew 25 percent in 3 years—three times the rate of inflation.

What happened? New Jersey lost 280,000 jobs—10,000 jobs were lost in the last month alone.

The tax and spending spree of the current administration failed. Higher taxes killed jobs and businesses. Let us in the rest of the Nation bring the news to our own State legislatures that they might avoid such unnatural disasters. And certainly, let us learn in Washington that tax hikes kill jobs and opportunity.

NAFTA: BAD FOR U.S. WORKERS AND BAD FOR U.S. COMPANIES

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, the International Machinists Union recently sent members to Mexico who were arrested by the Mexican authorities at the request of Canadian- and American-owned businesses, detained for 3 hours and sent packing, only because they wanted to look and find out about labor practices in Mexico.

Agents of Mexico tried to extort $1 million from IBM so that they could get a Government contract. American and Canadian and Mexican industries are polluting the Rio Grande River with the absolute worst kind of chemicals, killing many thousands of babies. But that is okay; the supporters of the North American Free-Trade Agreement are now saying that President Salinas is going to change all that.

Ladies and gentlemen, autocratic rule does not change unless you change it; it gets worse.

The United States wants free trade with Mexico, underpriced tariff-free products at $7-a-day labor. Stop listening to special interests and start listening to the people.

A LOT MORE THAN A DAY LATE AND A DOLLAR SHORT

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, yesterday the President continued his striptease approach to revealing his long-awaited health care plan to Congress.

The good news is we got to see a little more of it. The bad news is that from what we got to see, it looks even more like another tax bill.

There are $160 billion worth of new taxes in the plan so far and that's before a Democrat Congress even gets its hands on it.

While the taxes are sure to go up, the promised deficit reduction has already started to come down.

Originally, the plan was to reduce the deficit by $91 billion; now the deficit reduction projection is down to $58 billion. And that's before reality gets its hands on it.

If you remember watching the President's budget plan then, you know what to expect from his health care plan now.

The taxes America pays will go up and the money the Government is supposed to save will go down.

The President with his health care plan has added new meaning to the phrase "a day late and a dollar short."

END OF AN ERA: COLEMAN YOUNG'S RETIREMENT

(Miss COLLINS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Miss COLLINS of Michigan. Mr. Speaker, today I pay tribute to one of the most important and history-making public servants of our time, Mayor Coleman Alexander Young of Detroit.

Mayor Young's retirement after serving almost 20 years will mark the end to one of the greatest periods in Detroit's history. When others forecast Detroit's demise, Coleman Young engineered its revival. Coleman Young dismantled the walls of exclusion brick by brick to become Detroit's first African-American Mayor, and conquered impossible odds to do it.

Mayor Young then made city hall accessible to people who were not welcome there before; African Americans, the working class, and women. For the first time, ability determined how far their careers would lead them, not race or gender.

Certainly, no mayor had a brighter vision for Detroit or worked harder to recapture the city's pride than Coleman Young. His courage and leadership will be engraved in history. Mayor Young's exemplary achievements have made him a legend in his own time.

NAFTA: GOOD FOR FLORIDA AND ALL AMERICAN WORKERS

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, last week some members of the Florida delegation gathered with certain interest groups to denounce the North American Free-Trade Agreement and its impact on Florida fruit and vegetables and to urge Members and Americans to buy American. They even sported hats, "Dump NAFTA." But there is just one problem: The hat is made in China.

Mr. Speaker, nothing so perfectly illustrates the dilemma the protectionists have today. They oppose open markets, but they use tools to fight it that are produced in other countries. Of course, that is the reality of today's world economy. We live in a global economy in which goods move freely across the borders.

Baseball caps are produced in China, computers are produced in the United States, vegetables are grown in Mexico and exported to America while other vegetables and soybeans are grown in the United States and exported to Mexico.

Last weekend I stood in the world's largest Wal-Mart in Mexico City and one entire shelf of the cooler was filled with Florida orange juice.

NAFTA will be good for Florida as it will be good for all American workers.

SOME LUDDITES AMONG US?

(Mr. BACHUS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACHUS of Alabama. Mr. Speaker, I fear there may be some Luddites among us. Who were the Luddites? Some of you may remember in the 19th century of England the Luddites led a highly emotional campaign against the use of machinery. Shortsightedly, they cried that machines will cost us our jobs, no machines in our factories.

Today many of our colleagues are sounding like Luddites, claiming that free trade, like machines and technology, will cost Americans their jobs. I disagree. If the Luddites had been successful in their campaign against machinery, the British economy would have remained stagnant while the rest of the world mechanized.

Likewise, if we listen to the opponents of NAFTA, the rest of the world will enter into beneficial trade agreements and leave us behind.

England mechanized and became the world's dominant economic force and prospered. Today we have the same choice. We must progress. We must pass NAFTA.

CLINTON REJECTS D.C.'S PLEA TO CALL UP THE NATIONAL GUARD

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, under the Constitution, the President has the authority to call out the National Guard to help stem the murder and violence in the District of Columbia.

This week he and the Attorney General rejected a plea for help by Mayor Kelly. These are the same administration officials who sent unprecedented Federal force into an armed religious compound.

This is the same President who sent dozens of our men to sacrifice their lives, far across distant oceans for ungrateful Somalis.

This the same President who has surrounded Haiti with a flotilla of United States naval warships.

President Johnson called out the National Guard in the District when only a score were killed.

Governor Chiles called out the Guard when several dozen died in a Florida natural disaster.

Governor Clinton called out the Guard in Arkansas when prisoners rioted.

But beyond the White House lawn, this President cannot hear the pleas of the Mayor nor the nightly screams of the 382 murder victims and their families.

The Congress will give the Mayor the right to act, so Mr. Speaker, the President can sleep tight.

□ 1050

MEXICO'S RECORD OF INJUSTICE RAISES DOUBTS ABOUT SUPPORT FOR NAFTA

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, I rise today to bring to the attention of this Chamber a matter of great injustice and inequity between the United States and Mexico. In May of this year gang members from southern California were involved in the senseless murder of a Mexican cardinal in Guadalajara, Mexico. It took little time for the Mexican Government to issue arrest warrants and request United States assistance in extraditing these criminals, at least two of which are United States citizens, to Mexico. Our Government is cooperating with that request, in accordance with normal U.S. policy.

But the Mexican Government has refused to help us in extraditing to the United States a Mexican citizen accused in the horrible kidnapping and rape of a 4-year-old girl in Riverside County, CA, in September 1992. Yes, Mr. Speaker, they have blatantly refused to cooperate in this extradition. This is normal Mexican policy.

I ask this body whether this is the kind of cooperation we can expect from Mexico in resolving serious disputes that are bound to arise under NAFTA? Certainly, U.S. citizens have the right to expect more, much more.

I have not decided how I will vote on NAFTA, but I can guarantee this body that issues such as this will definitely affect my decision.

"THE CHECK IS IN THE MAIL—I'M FROM THE GOVERNMENT AND I'M HERE TO HELP YOU"

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, I speak today about New Jersey, my wife's home State. What is happening there is very important to us and very real to our families.

You never want to hear the promise about the check being in the mail. But if you live in New Jersey, you have a special reason for running fast if you hear "I'm from the State government and I'm here to help."

In 1990, taxes were increased by $2.8 billion. This was the largest tax hike in any State to that point. The State government obligated to serve the people began to think the job of the people was to feed its endless appetite—New Jersey government truly demonstrated Ronald Reagan's observation that government is like a baby with an endless appetite at one end no sense of responsibility at the other.

Those jobs in New Jersey as a result of the tax increase did not simply disappear—they were destroyed. At the time when the Nation was creating 3.2 million new jobs, New Jersey lost 277,000 jobs. That is failure created by State misgovernment, by wasteful spending and destructive taxation.

Some 280,000 jobs killed. It is a bad joke. And no one in New Jersey is laughing.

SECRECY AT THE WHITE HOUSE

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, Some time ago a Federal judge instructed the White House Health Care Task Force chaired by Mrs. Clinton, to open its meetings to the public. The judge based his decision on sunshine laws passed by Congress to ensure there is oversight in every arm of Government.

Now, the White House is embroiled in yet another secrecy SNAFU; one that could find its way into the headlines and the courts again. Despite repeated queries from House Members, the Clinton administration has refused to provide a complete list of White House staff. To add insult to injury, the administration refuses to reveal the salaries paid to some of its known staffers.

For instance: Thomas (Mack) McLarty, chief of staff to the President—salary unknown; George Stephanopoulos, senior advisor for policy and strategy—salary unknown; Bruce Lindsey, assistant to the President and senior advisor—salary unknown; and even David Gergen, counselor to the President—salary unknown.

Mr. Speaker, the House and the American people want this information—now.

MISUNDERSTANDING A JOB WELL DONE

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I want to commend two individuals today. One is the gentleman from Florida, Mr. HARRY JOHNSTON, and professional basketball player Manute Bol.

As many people know, there is a famine and war going on in Sudan, and 1.2 million people have died.

Congressman JOHNSTON, who is chairman of the Foreign Affairs Committee's Africa Subcommittee, had a series of meetings last week to focus attention on the Sudan crisis where he brought the rebel leaders from southern Sudan together to try and work out a peace accord, in opposition to the Khartoum government.

At that meeting was Manute Bol, the basketball player from the Miami Heat, who is also from the Sudan.

Manute Bol stayed because he is a Dinka and he cares deeply about his people. As a result he missed two exhibition games and was fined by General Manager Louis Schaffel of the Miami Heat.

I would urge the general manager of the Miami Heat to give Manute Bol the benefit of the doubt and to revoke the fine, because the gentleman from Florida, Mr. HARRY JOHNSTON, and Manute Bol, who represents the basketball team in Florida, were doing their best to bring the sides together for reconciliation to save hundreds of thousands of lives in Sudan.

The gentleman from Florida, Mr. HARRY JOHNSTON, and Manute working together, I believe personally, have probably helped to save hundreds of thousands of women and children, and I would urge the Miami Heat first, to commend Congressman JOHNSTON; but second, to commend Manute Bol and revoke the $25,000 fine.

I submit for the RECORD a copy of a letter I have sent to the Miami Heat management:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 27, 1993.

Mr. LOUIS SCHAFFEL
General Manager, Miami Heat, Miami, FL.

DEAR MR. SCHAFFEL: I am writing to strongly urge you to drop Manute Bol's fine of $25,000 for missing two preseason games for attending the Congressional conference "Sudan: the Forgotten Tragedy."

Having been to Sudan three times and seen the death, robbing and slavery first-hand, I can only say that I applaud Manute's personal commitment to a crisis which he is almost alone in raising. As you may be aware, Manute has personally spent thousands of dollars to open the eyes of the United States to the decimation of his people in southern Sudan. I have heard him weep over the brutalities faced daily in southern Sudan, where Christian Africans are the targets of a genocidal campaign against them from the militant Islamic government in Khartoum. I have heard him tell of seeing the thousands of children who walk for miles across Sudan in search of food between scarce refugee camps. He reports that the weakest of these children are often left behind to be attacked and eaten by packs of wild animals with their friends too weak to bury them.

It was in this deeply burdened spirit that he attended the entire conference—the first of its kind—in Washington last week. He was unaware in making his plans that the second day of the conference would be postponed in order to wait for the arrival of the two rebel leaders fighting for the south. Because of the high-profile stance he has taken on Sudan, his absence would have been obvious and would have been a great detriment to the success of the conference. But he stayed in order to make his personal plea to the two leaders of the southern opposition—whose cooperation is a crucial first step in bringing needed relief to southern Sudan. He stayed to make his points passionately and well.

Enclosed you will find pictures of only a few of the literally millions of lives for whom Manute missed the preseason games. And you will find a recent article chronicling present-day slavery in Manute's native land.

Considering Manute's commitment in both time and money to the neglected cause of his suffering people, I ask you once again to revoke the unjust and heavy fine you gave him. I understand your actions, but am sharing the other side of the story in the hope that you will change your mind.

Sincerely,

FRANK R. WOLF,
Member of Congress.

WHERE IS THE CONGRESSIONAL REFORM BILL?

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, for my colleagues who are disappointed that reform week has been called—for lack of reforms—let me give you cause for some real disappointment: Last September was supposed to be congressional reform month.

Yes, you heard me right. The Joint Committee on the Organization of Congress, was supposed to bring a congressional reform bill to the floor of this House nearly 2 months ago. And now we are being told it is off until sometime next year.

Mr. Speaker, where is that bill? I am embarrassed to tell you as a member of that joint committee that I don't know where it is.

As near as I can tell, it is being filibustered to death in the Democratic caucus before it has even been written, let alone reported.

Mr. Speaker, I have held my peace until now when it comes to criticizing the joint committee. But when I hear that a few bulls and leaders in the Democrat Party are trying to dictate what this bipartisan, supposedly independent joint committee can and cannot put in its own bill, I begin to lose patience.

Now we are being told that we can not have any reforms in House committee procedures unless the Senate abolishes the filibuster. That is the goofiest, most illogical disconnect I have ever heard.

It's a little like telling your doctor you will not take your medicine until your neighbor stops having those noisy, all-night parties.

Come on Democrats, stop making excuses and start taking your medicine. Physicians, heal thyselves.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 283, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1994

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 287 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 287

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider in the House the joint resolution (H.J. Res. 283) making further continuing appropriations for the fiscal year 1994, and for other purposes. Debate on the joint resolution shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. TORRES). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS] pending which I yield myself such time as I may use. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 287 allows this body to consider House Joint Resolution 283, making further continuing appropriations for fiscal year 1994, in the House—any rule of the House to the contrary notwithstanding. The hour of debate time will be equally divided and controlled by the chairman and ranking minority member of the Appropriations Committee. The rule provides one motion to recommit.

House Joint Resolution 287 is a one-sentence joint resolution, simply changing the end date for the continuing resolution from October 28 to November 10.

Mr. Speaker, the situation is not hard to understand. Tonight, the short-term continuing resolution will run out. Congress has cleared 11 of the 13 appropriation bills: 5 bills have been signed into law; the other 6 are either on the President's desk awaiting his signature or on their way from Congress to the President's desk.

The two remaining bills are Interior and DOD. The House passed the Interior conference report and it is pending in the Senate. Yesterday we appointed conferees for the DOD appropriation bill. I have every confidence we can come to quick resolution on these measures.

Mr. Speaker, Congress should be able to clear the last two bills in the next few days. If this continuing resolution is in place, it will allow the President his constitutionally mandated 10 days to decide whether to sign or veto each of the appropriation bills without the threat of shutting down the Government.

I have described the rule and the continuing resolution. Now I want to address the concerns of those who would vote no.

Mr. Speaker, those in opposition are animated largely by nongermane issues, so I ask your indulgence if I should stray from the matter at hand.

The other side wants to waive the germaneness requirement in order to address their scorekeeping worries on health care reform proposals. How a permanent change in the scorekeeping rules would fit in a temporary continuing resolution, I do not understand. In my view the amendment proposed by the minority leader and the gentleman from Ohio [Mr. HOBSON] does not belong on the continuing resolution. It is both premature and dangerous.

The danger, Mr. Speaker, lies in what a House nongermane amendment would invite from the other body. We have been disciplined this year.

The continuing resolution is usually an attractive vehicle for nongermane amendments but Congress has so far this year been clean and simple on the continuing resolution. There is no telling what manner of mischief we invite if we in the House do not maintain the requirement of germaneness.

The amendment is also premature. It is an interesting and important debate about when to treat Federal mandates as Federal taxes. The Office of Management and Budget, the Congressional Budget Office, and the Joint Tax Committee are engaged in a serious discussion of the issue. It seems to me premature to gag those staffs, to direct the outcome of their debates.

We hire those people for their expertise in public finance and their independent judgment. Why should we preempt them? Why would be rob ourselves of the opportunity of hearing the full debate on the subject by directing them to keep score in a certain way? As a general principle, we ought to be suspicious of directed scorekeeping and especially before we even know the full arguments on both sides of the issue.

The second source of opposition comes from those who are upset about the demise of the principle of majority rule in the other body. There are some who would shut down the entire Federal Government, who want especially to close the national parks and museums, to make that point about Senate rules. If the House defeats the rule and the continuing resolution, attention will be drawn to problems in the House, perhaps to Congress' inadequacy as a whole, but not specifically to the Senate filibuster rule.

Finally, Mr. Speaker, some will vote no because they oppose continuing resolutions on principle. Mr. Speaker, I doubt there is a single Member who likes continuing resolutions, who thinks this is the way to do business. There is no secret strategy to delay the bills and use continuing resolutions to fund the Government.

The Appropriations Committee struggled mightily to get the bills done on time. No one has been louder in opposing the use of continuing resolutions than the chairman of the Appropriations Committee.

The fact is that we have been slowed down by some serious and important issues. If the most important thing was to get the bills done on time and avoid a continuing resolution, we could have skipped the debate on ASRM or the super collider. But these were important differences between the Senate and the House and the debate was certainly worthy of the time spent. If the Congress ought to have engaged in those debates, we must accept the delay, face the consequences, adopt this rule and pass this continuing resolution.

Mr. Speaker, the joint resolution before us is a simple, clean extension through November 10 of the most restrictive form of a continuing resolution: Providing the lowest amount among last year's level, the House-passed or the Senate-passed amount for each account.

House Resolution 283 is a fair rule and I urge its adoption.

□ 1100

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the distinguished chairman, the gentleman from Massachusetts [Mr. MOAKLEY], for yielding.

Mr. Speaker, I am sure most Americans know the expression "3 strikes and you're out." We just finished a very exciting World Series where strike-outs were strictly enforced. So today, as we take up continuing resolution No. 3, I wonder if the majority leadership is ready to concede they have struck out on getting our work done on time.

One week ago today, I stood here and reviewed the problems with our budget process and observed the growing opposition to so-called continuing resolutions. I also predicted I would be back today. CR's, as they are called, are essentially C.Y.A. measures that allow deadlines to slip. Despite the strong wishes and many efforts of the distinguished chairman of the Appropriations Committee, the gentleman from Kentucky [Mr. NATCHER], and ranking member, the gentleman from Pennsylvania [Mr. MCDADE], who have repeatedly exhorted this Congress to get its important work done on time, we are now going to grant ourselves until November 10 to do the work that we were supposed to have finished by October 1. That is an extra 41 days.

But have we used that grace period to put our shoulders to the wheel and get things done? Well, last week, upon passage of the second CR, the House leadership declared itself a 4-day weekend, instead of staying here to thrash out the remaining obstacles to completing our business.

Now the leadership is preparing for a 5-day long-weekend. No wonder people across the land question how serious we are about the Nation's urgent business. Regardless of how you dress this up, the conclusion is the same: Congress is failing to fulfill its obligations in a timely and responsible way, choosing to fall-back on one CR after another instead of putting in the time to do our jobs. Is anyone betting that when this third CR expires on November 10 that the work will be done? Despite how unsettling this CR, process is to fiscally responsible Americans, despite the fact that it erodes Congress' credibility, there is another very serious problem confronting us.

Mr. Speaker, we had testimony yesterday in the Committee on Rules about a very important measure designed to bolster that credibility. In the name of our minority leader, the gentleman from Illinois [BOB MICHEL], a prudent and reasonable proposal was offered to put an end to the deceitful numbers games for which the Federal Government is infamous—specifically, as we begin the complex task of reforming health care and figuring true costs the Michel proposal would ensure truth in accounting at the Congressional Budget Office, the Office of Management and Budget and the Joint Committee on Taxation as they begin analyzing health care legislation.

My colleague, the gentleman from Ohio [Mr. HOBSON], spokesman for the proposal, made it very clear that we cannot expect to achieve responsible reform when we are trying to compare apples and oranges. Especially when apples from the White House are still missing. We have all got to be working with the same numbers if we ever hope to make meaningful change. But the majority members of the Committee on Rules, operating under instructions from their leadership, refused to allow the minority leader an opportunity to bring this matter to the floor. In fairness, they argued for a clean CR—but this need for truth in numbers about health care far outweighs their arguments.

Mr. Speaker, I urge a "no" vote on this rule, but should it pass I hope my colleagues will join me in voting "no" on the CR, and I do intend to ask for a recorded vote. Judging by our $4-plus-trillion-and-rising national debt, I would say truth in budgeting is long overdue—and the "three strikes and you're out" rule is more than fair. Americans are ready to enforce it.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONGRESS

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	41	11	27	30	73

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Oct. 27, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONGRESS

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA	
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0 (D–0; R–0)	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

ROLLCALL VOTES IN THE RULES COMMITTEE ON MOTIONS ON THE RULE FOR HOUSE JOINT RESOLUTION 283—MAKING FURTHER CONTINUING APPROPRIATIONS

(Wednesday, October 27, 1993)

1. Michel amendment—To provide for budget scorekeeping which will show the true cost of proposed health care plans. Rejected: 4-6. Yeas: Solomon, Quillen, Dreier, and Goss. Nays: Moakley, Derrick, Beilenson, Frost, Hall, and Slaughter. Not voting: Bonior, Wheat, and Gordon.

2. Adoption of Rule—Adopted: 6-4. Yeas: Moakley, Derrick, Beilenson, Frost, Hall, and Slaughter. Nays: Solomon, Quillen, Dreier, and Goss. Not voting: Bonior, Wheat, and Gordon.

□ 1110

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I reluctantly rise in support of the rule on the continuing resolution.

I say reluctantly because this CR includes funding for the Department of the Interior—and it is included in the CR for one very simple reason: Because a minority of the U.S. Senate continues to defy the President, defy the Interior Secretary, defy two-thirds of this body, defy its own conferees, and to deny a majority of the Senate itself by filibustering the Interior appropriations bill.

I think the American people are fed up, and I know this House is fed up, with obstructionism and gridlock taking place in the Senate. To protect the subsidized interests of 18,000 holders of Federal grazing permits—nearly all of whom can afford to pay the increased fee the majority supports—that Senate minority is prepared to shut down a major department of this Government, the Department of the Interior.

So am I, and so is the Secretary, if that is what is necessary.

Because there is a critical principle at stake here:

Is the House, and are the American people, going to continue to let a minority of people in the Senate totally frustrate the operations of our Government? Here in the House, you get your day in court; you vote on the tough issues when they come to the floor, up or down.

In the Senate, a handful of people can ignore the will of the majority of that body and prevent a bill from being considered, even when their majority votes are in place on bipartisan basis to support and to pass that legislation, as is the situation with the Interior appropriations conference report.

So let me tell you what the result is going to be. Yes, the funds for the Department of the Interior will be continued now for another 10 days. But when the dollars run out, the Senate minority is going to shut down, they say, shut down, because they do not want to give the bad news to a few thousand special interest ranchers in a few States that the day of the federally taxpayer subsidized gravy train is over. That you are now going to have to pay a reasonable rate, a rate comparable to what is paid on State lands and private lands in your State to graze your cattle. The days of the deep pocket subsidy of Uncle Sam are over.

Here is what they are willing to shut down in that fight. They are willing to shut down the Washington Monument, the Smithsonian Institute, Independence Hall in Philadelphia, the Alamo, and the Statue of Liberty. All because they insist upon carrying on a fight and a filibuster to prevent the Senate from voting a bill where the majority of the Senate is prepared to vote and to pass that legislation. That is the bad news, that they can shut that down.

I think what is important and at stake here is to understand that should we resist this filibuster and should we stick to the House position, that the taxpayers of this country will get a reform that stops the drain on the Treasury, and those concerned about the environment will get a better stewardship of the public lands that are owned by the people of this country. That is what is at stake.

What we see is a band of Senators today berating Members of the House, the committees of the House, on a bipartisan basis. Nobody has withheld from their objections and their personal remarks about Members of this body, so that they can protect those few special interests.

This fight will not end today with the passage of the CR. The House will not change its position. The leadership will not change its position with respect to the House position. The Secretary of the Interior will not change his position, nor will the President of the United States.

I find it interesting that the Senators from Pennsylvania would threaten to shut down Independence Hall when a majority of their delegation, 17 of the 19 in the House, voted to increase the grazing fees. In the State of New York they say they will shut down the Statue of Liberty, where 30 out of 31 Members of this House on a bipartisan basis voted to increase the grazing fees. But the Senate would rather shut down the Statue of Liberty. The Everglades Park in Florida, where 20 out of 23 Members on a bipartisan basis of this House voted to increase the grazing fees and grazing reforms, the Senators from Florida say they would rather shut down the Everglades Park than to raise the grazing fees on a few special interests.

Time and again, overwhelmingly, on a State-by-State basis, the Members of this House have voted for these reforms, and yet we see Members from that same State suggesting that they are going to risk the enjoyment of their citizens, the benefit of their taxpayers, by shutting down the national parks, by shutting down the national monuments, and the historic sites, so that they continue to act as obstructionists, engage in gridlock, between their special interest grazers in the far West, rather than let the Senate vote.

We voted with over 319 votes on a strong bipartisan basis, as we have each and every year, for grazing reforms. We must now force that vote to take place in the Senate.

They have refused to engage in this issue for over a decade. The time has come now. And that is why I will reluctantly support this continuing resolution, because it does involve the Department of Defense and the District of Columbia. But at some point we are going to come down to this confrontation, and the Senate will have to decide whether it is going to represent the American people or a handful of special interests who are deep into the pockets of the American taxpayers.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TORRES). At this time the Chair would ask and caution Members to desist against references to the Senate and its Members.

Mr. MILLER of California. Mr. Speaker, I appreciate the position of the Chair. I would only say on a bipartisan basis Members of the House of Representatives have been characterized as prating about this one. Our Republican colleagues have been called shabby rascals. It goes on and on and on in the Senate about individual Members of this House who are engaged in trying to support this legislation. And I would hope at some point the leadership of the House would discuss this with the leadership of the Senate. It got so bad the other day that Senator BYRD had to take the floor to admonish Members of the Senate that they could not engage in that kind of debate.

Mr. GOSS. Mr. Speaker, I am privileged to yield such time as he may consume to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, normally on continuing resolutions, our inclination has been over any number of years to keep a continuing resolution just as clean as you possibly can, for obvious reasons. But today I have to express my regret that the Committee on Rules did not see fit to make in order our amendment, which is designed to ensure accurate and credible cost analysis of the various health care reform proposals.

There has been considerable concern expressed on both sides of the aisle, as well as by numerous economists and other experts, over the accuracy of the numbers in the President's health reform proposal. In fact, the President is proposing that we not even count as part of our budget calculations the increased payroll taxes and the increased Government spending these taxes are designed to finance.

How can we possibly determine the overall cost impact of the proposal if we do not include under the Federal budgetary framework all the Federal mandated receipts and expenditures.

Our amendment would rectify this problem by requiring the Office of Management and Budget, the Congressional Budget Office, and the Joint Committee on Taxation, in scoring health reform proposals, to treat any taxes or premiums imposed on employers or other individuals as Federal receipts, and any expenditures resulting from such receipts as Federal outlays.

The President himself said yesterday in Statuary Hall that he wants a true accounting of the costs of his proposal, and this amendment would accomplish that objective.

Mr. Speaker, we believe it is essential that this language be included in the continuing resolution because this is the last legislative vehicle available to us prior to the commencement of analyses by these agencies of the President's proposal and other proposals. As I indicated, that is my one reason for deviating from the generally time-honored procedure that has been around here to keep continuing resolutions as clean as possible. But we are getting up to the end of the session, and it is my understanding that some of the hearings on the health proposal of the administration may very well be taking place during the period when Congress is in adjournment.

If we meet our adjournment date, as I hope we will for this session, a few days before Thanksgiving, and there is the entire month of December for whatever hearings may or may not be scheduled, I think we ought to be honoring this principle that I have embodied in my amendment.

Congress needs to establish a framework for these analyses, because we are talking about proposed changes that affect one-seventh of our economy and impact on every American.

□ 1120

The manner in which the analyses take place will have a key impact on the overall health care debate and, thus, should not be merely left up to the bureaucracy to determine.

I thus urge that we defeat the rule so that the Committee on Rules can immediately bring back a rule making this amendment in order. We have an obligation to assure the American people that an accurate and straightforward cost analysis will in fact take place.

Mr. Speaker, I thank the distinguished gentleman from Florida for yielding time to me that we might make these remarks. Hopefully, they will be persuasive enough to provoke a negative vote on the rule.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the honorable gentleman from Minnesota [Mr. SABO], chairman of the Committee on the Budget.

Mr. SABO. Mr. Speaker, I thank the chairman of the Committee on Rules for yielding time to me.

I would just simply like to indicate that I think that the chairman of the Committee on Rules made a compelling argument, as he made his presentation of this rule and why we should not deal with the question of scoring of health care at this point.

Clearly, it is premature. The Congress, all the committees involved are going to have extensive hearings on health care legislation, how it is financed. The numbers will all be before us.

Mr. Speaker, I would go one step further and speak to the substance of the argument that is being made today. Somehow it is being argued that the health insurance premiums paid by private employers in this country should be counted as part of the Federal budget. I, frankly, think that is nuts. They pay health insurance premiums today. They will continue to pay health insurance premiums under the Clinton plan. Those are clearly private expenditures, not public expenditures.

There are certain portions of the health care plan that clearly are within the Federal budget. Those payments made to cost share with small business, to cost share with other people of low income so that they can have access to this health care plan clearly are public expenditures. They need to be clearly defined. They need to be clearly understood. And those clearly will be in the Federal budget. But to somehow suggest that those premiums which are fundamentally, today, paid by private employers will continue to be paid by private employers, is somehow part of the Federal budget, in my judgment, simply makes no sense.

I commend the chairman of the Committee on Rules for not dealing with that issue at this point. It clearly is premature, plus, I would add, I think also a suggestion that is simply wrong.

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON], the distinguished ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I do not support continuing resolutions and today is just one more vindication of my position. This is the third so-called CR we have had for fiscal year 1994, and this one will fund the Government through November 10—some 41 days into the new fiscal year.

The very term "continuing resolution" is a misnomer because CR's don't resolve anything. They should really be called continuing irresolutions since they are damning evidence of our lack of resolve to finish our work on time around here.

My colleagues will recall that a week ago, when we granted a second CR for 1 week, the House promptly adjourned for 4 days—hardly an action designed to keep the appropriators' noses to the grindstone.

And just as sure as I am standing here, that is what we will do again, as soon as the CR is passed—take another break—this time for 5 days—during which nothing will be done to complete our work.

Mr. Speaker, we have our own perverse version of Parkinson's Law around here. Instead of work expanding to fill the time allowed to complete it, here in Congress work is delayed for the amount of time extended to complete it.

The gentleman from Wisconsin [Mr. OBEY] testified before the Rules Committee and proposed that we omit one of the appropriations bills from coverage under the CR—a bill that is now the subject of some extended debate in the other body.

I would suggest that rather than selectively shutting down one department, we should just say no to another CR. Nothing focuses the attention of our two great bodies more than a government shutdown; nothing forces cloture faster than a threatened Government closure.

Mr. Speaker, I realize that the fix is probably in on this CR, and it will probably pass, notwithstanding my persuasive arguments to the contrary.

If that is the case, let us at least use this opportunity for the kind of constructive purpose recommended to the Rules Committee by our Republican leader, the gentleman from Illinois [Mr. MICHEL] and the gentleman from Ohio [Mr. HOBSON].

What they have proposed is a truth in budgeting amendment to the CR for the health care legislation submitted to us yesterday by the administration.

Under the Michel-Hobson amendment submitted to the Rules Committee, OMB, CBO, and the Joint Tax Committee would all be required to use the same scorekeeping respecting any health care proposal, such as the administration's Health Security Act.

The Michel-Hobson amendment would ensure that we deal with that reality up front as an actual matter of Government taxes and spending, which it is. Right now, everybody is throwing around different numbers and speaking in mixed, if not forked, tongues.

If we do not start talking the same language from the beginning, we will all soon find ourselves wandering around lost in fantasyland. That doesn't bode well for dealing with the real health care problems of the American people.

In conclusion, Mr. Speaker, I urge my colleagues to vote down this rule so that the Rules Committee can report back a truth-in-budgeting amendment for the health care plan. Failing that, I urge defeat of the CR.

That scorekeeping would specifically treat any obligations, payroll tax, assessment, premium, or fee required of an employer or other individual as a Federal receipt, and any related expenditure as a Federal outlay.

Mr. Speaker, that makes eminent good sense, especially when you consider that the administration is talking about keeping their entire health plan off budget to hide its true costs, and that means uncontrolled taxing and spending and regulating without Congress having anything to say about it all.

Putting it off budget is not going to make the real costs of the plan go away. It is like trying to hide an elephant under a peanut shell. You can pretend you do not see it and it is not really there. But eventually you are going to have to face up to its reality and deal with it.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. SABO], chairman of the Committee on the Budget.

Mr. SABO. Mr. Speaker, let us be clear about one thing: Direct Federal expenditures paid by the Federal Government to States, alliances, or whatever mechanism will be created to handle health care, are on the Federal budget. That is clear.

Private premiums are not. They are not today, and they should not be under the proposed health plan.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. SABO. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I have had extensive conversations with Members on both sides of the aisle. They are concerned that these new alliances are going to be given the right to borrow money without our approval, to raise fees without our approval. We cannot abdicate our responsibilities like that.

Mr. SABO. Mr. Speaker, I would suggest to the gentleman from New York that those are legitimate items to talk about, debate, but they are not Federal expenditures.

□ 1130

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I rise today to call on my colleagues to defeat this rule so that Congress can have the opportunity to vote on the health reform cost credibility amendment. This amendment ensures all Americans that Congress will not try to hide the taxes or penalties that are needed to make the President's plan work.

Congress received President Clinton's health plan yesterday. But before we begin consideration of the plan, it is essential that American families and businesses know that the debate will be on an open and honest basis.

Americans need health care reform. But Americans also need a true and honest accounting of the various health care proposals. Congress must pass an amendment that ensures that no accounting gimmicks or phony financing is used in the health care debate and thus, I ask my colleagues to defeat this rule.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. HOBSON], who was the spokesperson for this proposed amendment yesterday.

Mr. HOBSON. Mr. Speaker, I rise to express my opposition to the rule. Yesterday, I went before the Rules Committee and asked the panel to make in order an amendment to set guidelines for how the CBO and OMB would score the President's health care reform bill.

The amendment was rejected.

Yet we need to make sure that the cost of the Clinton health plan is accurately depicted to the American people. Without a clear and complete understanding of those costs, their uncertainty will dominate the health care debate, not the merits of health care reform.

This continuing resolution offers the last legislative vehicle available for requiring that the cost analysis of the President's health reform plan is performed in a fair and accurate manner.

Mr. Speaker, this health care debate is too important to the American people to have it sidetracked by questions of phony numbers.

Mr. SABO. Mr. Speaker, will the gentleman yield?

Mr. HOBSON. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Speaker, I would just like to indicate to the gentleman that I have no interest in phony numbers. I think the numbers have to be thoroughly analyzed. They need to be scrutinized. We have to make sure they are right.

A significant part of the funding of health care today is private premiums paid for health care. The biggest part of the payment for the new plan will continue to be private premiums paid for health coverage. Those are not Federal expenditures.

Mr. HOBSON. Mr. Speaker, I would say to the gentleman, we have changed the manner in which that is done.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ARMEY], the conference chairman of the Republican Party.

Mr. ARMEY. Mr. Speaker, what is at issue here is whether or not the minority party will be allowed to put in place for consideration an amendment to the proposed rule. The rules of this House under which a bill is taken under consideration are defined by the Committee on Rules, which has nine Democrats and four Republicans. As we all too well know, those nine Democrats can, by themselves, determine what the rule will be.

Mr. Speaker, what we are saying is let us offer here an amendment that clarifies the language by which we keep track of the Nation's business: Will a tax be called a tax, or will it be called something other? Will it be disclosed to the American people, or will it be hidden?

Especially, as this is taken in consideration of the pending legislation that may, if passed into law, create a new government-controlled health care plan that will be the largest entitlement plan in the history of this Nation, will we call expenditures under this expenditures, account for them in the budget? Will we call taxes levied to finance this taxes, counted in the budget, for will we not?

The President called on the Republicans yesterday for bipartisan participation. The Democrat leadership said they hoped there would be bipartisan participation. The Republicans are trying to participate. We are trying to get the nine-member panel dictators of the Committee on Rules from the Democrat side of the aisle to allow us to offer for consideration, for debate, and for a vote by the entire Congress of the United States this one amendment that will address this critical issue: Will the Congress of the United States deal honestly or deceptively, as they report to the American people what is the business of the American people conducted with the incomes of the American people?

Here is our chance. Do we vote for honesty, or do we vote for deceptive government practices?

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I have two problems with this rule and with this continuing resolution. The first problem is that we are dealing with a continuing resolution, period. The Democrats promised at the beginning of this session of Congress that, if given the majority in the House and the majority in the Senate and the White House, they would be able to govern. What we now find is that they cannot govern. There is no gridlock in this particular issue because of anything the minority party has caused. It is simply an inability of the Democrats to get their work done.

As a result, the legislative schedule is getting further and further behind. We are incapable of accomplishing the things we need to do as a Nation, and the Democrats seem incapable of even managing this place in a way that allows us to do the basic business.

Given that situation, we now have a whole new wave of legislation coming on the Hill called health care. Republicans are saying there are very few vehicles, given the Democrat mismanagement, on which we have a chance to assure that we get real numbers.

The chairman of the committee on the Senate side that will handle much of the health care package has called the President's numbers in his original proposal a fantasy. We have decided that the numbers that we operate under in the House ought not to be fantasyland figures. The only way we have to assure that we do not deal with fantasyland figures is to get an amendment such as that which the minority leader sought to offer.

All we asked the Committee on Rules to do in this particular bill was to give us the legislative vehicle to assure that, as the House begins consideration of health care, that we do not deal with fantasyland numbers. Instead, the Committee on Rules has come forward with a rule that will assure that we will have no such vehicle to deal with that issue, and that in the end, that we will be dealing with kind of Alice in Wonderland, fantasyland and all kinds of deceptive and phony numbers. We cannot afford to do that as a Nation.

If we want to assure that we both break the gridlock on continuing resolutions and deal with real numbers in health care, we ought to vote no on the rule.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the other great Commonwealth, the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, the budget is the process by which Congress and the President allocate scarce resources among competing public priorities. The administration's health care proposal will have the Federal Government reallocating hundreds of billions of dollars, or approximately 14 percent of the economy. If allowed to do so off-budget, Congress and the public will be deprived of the essential measurement of the fiscal and economic impact of these policy decisions.

This is a critical issue, because the administration's reform proposal calls the employer's payroll tax a nonfederal private transaction. Although universal coverage is popular, taxes are not, and so the administration is attempting to characterize a mandatory tax and a large Federal regulatory activity as private transactions.

I strongly disagree. When legislation invokes the sovereign power of the Government to compel the payment of funds, defines a class of beneficiaries, guarantees specific benefits, and establishes a Federal regulatory apparatus, that legislation has created a Federal activity financed by a Federal tax.

But rather than debate what is a tax or a Federal activity, let us look at legislation enacted last year under Senator ROCKEFELLER's leadership in the Senate Finance Committee, when Mr. Bentsen was the chairman. The law is the United Mine Workers of America [UMWA] health benefit plan, which addresses the financing of health benefits for UMWA retired coal workers.

To help compare the structure of the UMWA health benefit plan the alliance structure under the President's bill, we will use these two charts. First, the law mandates the coal operators make mandatory, annual premium contributions to the combined benefit fund, which is specifically characterized as a private plan. No premium contributions are ever transferred to the Federal Government. The combined fund is managed by a board of trustees made up exclusively of private individuals. The class of eligible individuals is specified in statute. The health care benefits are specified in statute. The first year premium is set in statute, and the law authorizes the Secretary of HHS to index the premium by the medical component of the CPI.

Now let us look briefly at the structural outlines of the administration's health care plan. We have federally mandated premium payments based on percentage of payroll. Additionally, we have Federal and State Medicaid and subsidy payments to the alliance. The alliance is managed by a State agency or nonprofit corporation. The class of eligible individuals will be specified in statute. The health care benefits will be specified in statute. The bill will set a method to determine the first year premium, and premiums are indexed by a consumer price index cap.

Now, in their key structural elements, the UMWA combined benefit fund and the administration's health reform proposal are indistinguishable.

Both bills attempt to characterize the premium contributions as a private transaction. Both have the transfer of moneys to the alliance rather than to the Federal Government. Both keep Federal officials off boards of trustees.

Since the combined benefit fund was enacted last year, there is one major difference—we do know how both CBO and OMB characterized it. And both CBO and OMB determined that since the statute invoked the sovereign power of the Federal Government to compel payments from coal operators, and since the statute defines benefits, the class of beneficiaries, and the premium levels, it is a Federal tax with both revenues and expenditures on-budget. This appears on P.1153 of the appendix of the Budget of the United States Government, fiscal year 1994. The Congressional Budget Office also characterizes the combined benefit fund as a tax, with both revenues and expenditures on-budget.

Clearly, the Congressional Budget Office and OMB will have no choice but to characterize the administration's payroll tax and bureaucracy as taxes and an on-budget Federal activity. To characterize the administration's proposal as off-budget would uphold a pretense that would lead to a serious erosion of fiscal discipline imposed by the budget and the budget process.

Mr. Speaker, can we distinguish any difference between the financing and operational processes of the coal miner's fund and the President's proposal? If the UMWA health benefits fund is on-budget as a tax, how can the employer payroll tax in the President's plan not be included in the Federal budget as a tax?

Mr. Speaker, I include for the RECORD a chart on the coal miner's fund and a comparison with the administration plan:

[Charts not reproducible in the RECORD.]

□ 1140

Mr. GOSS. Mr. Speaker, I yield 1 minute to my distinguished colleague and friend, the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I am just a little late in my response to the gentleman who spoke earlier about the grazing fees and the proposition that is going on in the Senate. I could not help but rise to comment on the hypocrisy of that.

We have chairmen in this place who wrote letters about the rules, who say we should not put legislation on appropriations. The rules in the Senate are such that they can have this kind of a process, and yet he complains about it. It seems to me that what we really had here was an addition of 19 pages of statute on an appropriation bill, and frankly, I hope that that does not continue. And I hope that they use the rules as we have all agreed to.

If the rules are not proper, we ought to change the rules. If the rule is improper for legislating on an appropriation, we ought not to do that.

It is a little hypocrisy when we say that is the rule and we do not want to do it, except if you like it. Then you do it. And I could not help but raise an objection to that kind of a concept. And I appreciate the gentleman yielding me the time.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, it is extremely important that we pass the Michel amendment and the rule that is being proposed will not allow it to take place. What does that mean to the American people?

It means that business can have their fees increased without any control. It is like a tax increase. Individuals can have fees increased, and they will not have any way of controlling it.

It is absolutely essential that we do this.

Let me give a little bit of historical background. When Medicare was passed in 1965 it was supposed to cost $9 billion, and yet in 1990 it was $106 billion. When Medicaid was passed in 1965 it was supposed to cost $1 billion, and last year it was $76 billion. Clinton's health care proposal is supposed to cost $331 billion. Now put a pencil to that and you will see how it will cost down the road. Maybe trillions of dollars.

We have to have some controls on spending and some accountability, and without the Michel amendment that will not be possible. And the Rules Committee should be taken to task for bringing us another closed rule. And that is one of the things that I have been fighting week in and week out, month in and month out.

Let us have some accountability. Let us have some fairness. Let the Republicans at least have a say.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank my distinguished colleague for yielding me the time.

Mr. Speaker, over 1 month ago we enacted our first continuing resolution—it was necessary, we said, to give the Congress a few extra weeks to finish up its business. Reluctantly, this body went along.

After the 3 weeks had run out, we came back last week with our second CR. Unfortunately, we said, we could not quite get our work done and we needed yet another week.

Now we are here again, a full month into the fiscal year, with another CR to extend the Government again for another 2 weeks.

Mr. Speaker, there is a lesson in this, and it is a very simple lesson—CR's are addictive. Once you take one, you're hooked—they're too easy, too painless. They remove the pain of public condemnation for this Government failing to do its work on time. They are easy to pass because all they do is continue the status quo.

But like most addictive things, CR's are also extremely destructive.

They are destructive of change. This CR, in particular, will allow the Senate to continue its filibuster on grazing fees—to continue to block the wishes of the American people, the President, and this body that an unjustified and unnecessary subsidy be terminated.

CR's are destructive to good government. They wholly undermine the ability of Government to plan in anything remotely resembling a long-range manner. With this CR, some agencies of Government will operate for one-tenth of an entire year on a temporary, contingent basis. They are stuck in a holding pattern. That is wrong, that is inherently contrary to the effort to reinvent Government—to encourage sensible longer range budgeting and planning.

Mr. Speaker, CR's are also destructive in a subtle way to this Government's status. We have come under unprecedented condemnation by the American people. Condemnation for our inefficiency, condemnation for promoting gridlock, condemnation for our basic sloppiness in running our own affairs. This CR reinforces that judgment—it lends fuel to the fire of public opinion that is rapidly destroying the faith of Americans in their institutions of government.

Finally, Mr. Speaker, this CR is destructive to the President himself and the goals he seeks to accomplish. And I would urge the majority party to reflect carefully on this thought.

Our President has many things that he wishes to do, and he has claimed no higher priority than health care reform. But consider for a moment what this CR—and the ones that have preceded it—have done to the prospects for his top priority.

First, his budget was very, very late. When Congress finally completed action on it, the appropriations bills were naturally delayed. Now, some appropriations bills are extremely late. The President has been forced to devote huge amounts of time and attention to the budget as it ran off track and off schedule. The result for him was that he had to divert resources and attention from his health care bill, and delay its introduction. He gave a speech on health care 1 month ago, but we did not get the bill until yesterday, and it is still filled with many unanswered questions. Now, as Halloween, Thanksgiving, and adjournment loom, it is clear that the budget process has eaten the calendar—there will be no action on health care this year. Dealing with it next year, in 1 year, will be difficult and perhaps impossible.

In sum, the President's own top priority has been undermined because the budget process was allowed to ignore the calendar—the law that says it shall be done on time.

Mr. Speaker, we should not allow this and we do not have to let it happen. For today, the answer is to defeat this CR. For next year, the President must take a leadership role. He must—as President Clinton did at my request—insist that he wants a budget resolution on time, a reconciliation bill on time, and 13 separate spending bills on time. He must hold this body's feet to the fire on this issue, and we must kick the habit and allow no more CR's in this administration.

This Mr. Speaker, is the essence of good government. It is the definition of our fundamental responsibility to the American people, and it is high time this body did something to demonstrate that we are, in fact, responsible.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from California [Mr. DREIER], a member of the Committee on Rules who is hardworking, and a brilliant spokesman for the cause.

Mr. DREIER. Mr. Speaker, I thank the extraordinarily adroit floor manager of this rule for yielding me this time, the very incisive gentleman from Sanibel.

As I look over here under the painting of Lafayette, I see the distinguished chairman of the Committee on Appropriations. And it is very sad that we have to proceed with a process that he strongly opposes.

As has been said, we are on the fourth continuing resolution. This is designed to go to November 10.

This is not the proper procedure. The gentleman from Kentucky [Mr. NATCHER] regularly says that he wants to see us proceed under the standard budget procedures of this House, but tragically, tragically we are not doing it with these continuing resolutions.

Now we have made a determination on our side that as we have looked at the fact that we are going ahead with a continuing resolution, we should seize this one opportunity to bring about a modicum of accountability into this process. And that is exactly what our distinguished Republican leader [Mr. MICHEL] and our colleague, the gentleman from Ohio [Mr. HOBSON] are trying to do by forcing us to account for what will be, as the gentleman from Virginia [Mr. BLILEY] said, 14 percent of the gross domestic product here. And that is this health care measure that is under consideration.

I say what we should do is defeat this rule. Let us come back with a package, if we are going to consider a continuing resolution, that at least allows the Republican leader to have his day in court so that this institution can finally be accountable to the people who sent us here.

Mr. GOSS. Mr. Speaker, I yield the balance of our time, 2 minutes, to the distinguished gentleman from Georgia [Mr. GINGRICH], the minority whip.

Mr. GINGRICH. Mr. Speaker, I thank my friend from Florida for yielding me the time. I rise to urge a no vote in order to make the point that the Michel-Hobson amendment should be made in order.

Every Member of our body and every American should understand what the purpose is of the Michel-Hobson amendment which is entitled "The Health Reform Cost Credibility Amendment."

□ 1150

Now, it is based on a very simple premise. If the Government requires you to pay it, if the Government is going to make you take it out of your wallet, if the Government is going to ensure that the money is gone from your choice, if the Government is going to control the expenditure of your money, that is called a tax.

And every time we have had a tax of that kind, we have called it a tax. There is a serious effort under way to disguise the way in which the Clinton health plan creates a massive tax on every working American. And I think it is very, very important that we adopt the Michel-Hobson amendment, which would require budget scorekeeping be honest about taxation. It says something very simple: "(1) any obligation, payroll tax, assessment, premium or fee required of an employer (which may be treated as an ordinary and necessary business expense) or of any other individual and which is to be paid to a particular entity and required to be established pursuant to federal law shall be treated as a federal receipt;"

Now, what that means in everyday ordinary language is if the Government is going to make you pay it, it is a tax, by definition.

There is a grave danger that if we leave this fall without having instructed these bodies to be honest and candid about this tax, that there will be an effort made in Washington to disguise for the American people what is being done.

So I urge my colleagues, vote "no;" give us a chance to offer the Michel-Hobson amendment. Let us be honest with the American people and let us have a health reform cost credibility amendment which makes clear when something is a tax it ought to be scored as a tax. I think it is vital that we pass this.

Mr. MOAKLEY. Mr. Speaker, to close debate for this side, I yield such time as he may consume to the gentleman from Minnesota [Mr. SABO], chairman of the Committee on the Budget.

Mr. SABO. I thank the chairman for yielding to me.

Mr. Speaker, let us be clear about a couple of things. The debate here, what we have before us, is a rule for the CR. Much of the debate is unrelated to that. I hope people will vote "yes" on that.

Let us deal with the side issue. Let us be clear: The issue is not about honesty and these other adjectives being used. Clearly, we are going to have full debate, full discussion on the merits, the demerits, of the President's health care program. We will have full debate on how it is paid for, between private premiums, between public expenditures, how we control costs, how we provide security to the American people, how we go about the process of providing for universal coverage in this country.

Clearly, that debate has to occur. Projections both for the current years and future years is part of the legitimate debate without being told that some of this is a dishonest plan.

It is an honest plan. We will now examine that through the congressional process. But what folks would like to do is all of a sudden change the description of a tax. All of a sudden, premiums paid by individuals or companies should be called a tax. That clearly is wrong. That are not tax today, they will not be a tax tomorrow.

Mr. GINGRICH. Mr. Speaker, will my friend yield?

Mr. SABO. I would be happy to yield to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding.

The only point I am making, I think Mr. MICHEL and Mr. HOBSON are making, is that if the Government requires you to pay it, it is no longer a voluntary private premium, and we think—I do not think this is a minor thing.

Mr. SABO. I would tell the gentleman in my State, my State requires me to have auto insurance. They do not call that a tax. It is a premium I pay for my auto insurance.

So I would just say to the gentleman from Georgia, I am sure he and I probably disagree on how we should deal with the question of health care reform in this country. That is appropriate. We can debate those conflicting philosophies and conflicting approaches. But let us not start by saying that things are dishonest. That is not the case. We need to debate the pros and cons of the various cost factors in the various programs, their impact on reducing health care cost growth in this country. Those are legitimate debates.

But this early start by saying things are dishonest does a disservice to honest debate on the issue. And somehow to say that we now should change the description of a tax in this country so that private premiums are considered taxes, I frankly think, is simply wrong.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. SABO. I would be glad to yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, this really is not a question of saying something is dishonest.

Mr. SABO. Well, I do not think so, but that is what I was hearing in the rhetoric this morning.

Mr. SOLOMON. It is a question of clarity. Even the Senator from my State, whom you all know, Senator MOYNIHAN, said those figures were all fantasy. So what we are looking for is clarity so the American people can understand and so you and I can understand, that is all.

Mr. SABO. I would respond to my friend from New York, his comments have nothing to do with the proposal that was before the Rules Committee. I think his concern was whether you could actually do Medicare, Medicaid cuts as proposed by the President. That is legitimate debate. It may or may not be. We will have hearings to find out whether those numbers are actual, can they actually be achieved.

Mr. SOLOMON. I would say to the gentleman that he is right, and that is the debate that we should have, but we are being deprived of it. The gentleman has talked about mandates on insurance in his State. That is a State mandate, not a Federal mandate. We are talking about Federal mandates.

Mr. SABO. I would say to the gentleman that the kind of debate on whether the numbers are accurate, those are legitimate debates. The administration begins with what they believe are honest numbers; clearly part of the legislative process is to examine those assumptions.

That process now starts. But that has nothing to do with all of a sudden changing it so that now we are going to say that private health insurance premiums are Federal taxes.

Mr. SOLOMON. The gentleman knows the bill is going to have some single taxpayer provision in there. We know that the second step after this foot-in-the-door is going to be a single-payer tax on all of the American people. That is why we have to be so careful with what we do right now. Let us have the debate on the floor, let us defeat the rule.

Mr. SABO. This is not the time to debate health care. That will occur. The numbers will be examined by a variety of committees. But changing the description of private health insurance premiums to a tax makes utterly no sense.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. TORRES). The question is on the resolution.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 170, not voting 11, as follows:

[Roll No. 535]

YEAS—252

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—170

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Berman
Cardin
Clinger
Cox
McCloskey
Royce
Smith (OR)
Tauzin
Thomas (WY)
Towns
Young (AK)

□ 1219

The Clerk announced the following pair:

On the vote:

Mr. Berman for, with Mr. Smith of Oregon against.

Mr. CHAPMAN changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1220

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of House Joint Resolution 283, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the gentleman from Kentucky?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1994

Mr. NATCHER. Mr. Speaker, pursuant to House Resolution 287, the rule just adopted, I call up the joint resolution (H.J. Res. 283) making further continuing appropriations for the fiscal year 1994, and for other purposes, and ask for its immediate consideration.

The Clerk read the joint resolution, as follows:

H.J. RES. 283

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106(c) of Public Law 103-88, as amended by Public Law 103-113, is further amended by striking out "October 28, 1993" and inserting in lieu thereof "November 10, 1993".

The SPEAKER pro tempore. Pursuant to House Resolution 287, the gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we bring to the House an extension of the continuing resolution.

Last week when we brought out a 1-week extension to the initial continuing resolution, just 2 of our 13 regular appropriations bills had been signed into law. Now nine have been enacted. Two others, energy and water development and the District of Columbia, have been cleared for the President. Interior is pending in the Senate. Both the Defense authorization and appropriation bills are in conference.

Mr. Speaker, we have made good progress. But for one reason or another, we need another extension of the continuing resolution. It is apparent that action on the remaining appropriation bills will not be completed by midnight tonight, the expiration date of the continuing resolution.

To provide time for the Senate to complete action and for the President to review the bills and for conference action to proceed on the Defense bill, this further extension of the continuing resolution is necessary.

The resolution before the House simply extends the present continuing resolution until midnight, November 10. No extraneous provisions are included. This is a clean continuing resolution.

Mr. Speaker, we have continued to work hard, trying to get our conference reports on our appropriation bills adopted. I want all Members in the House to know that our committee appreciates their cooperation and assistance. We have almost completed our task.

Mr. Speaker, as you and I and other Members know, when the budget is submitted, we divide that budget into 13 parts. They are not equal moneywise. The largest bill money-wise, of course, is Defense. Next we have Labor, Health and Human Services, and Education. Hearings are held, markup decisions are made, we bring bills to the floor and the process continues until conference action is concluded on all 13 bills.

Mr. Speaker, we will have completed action on all appropriation bills now as far as this continuing resolution is concerned by midnight tonight, with the exception of the Interior and Defense bills. Programs in these bills will be the only ones funded by this continuing resolution. We will continue to work hard to get our remaining conference reports on these two appropriation bills adopted.

Mr. Speaker, I want all Members to know that I appreciate their cooperation. We have almost completed our task. This extension is absolutely necessary, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. MCDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as stated by the chairman, the distinguished gentleman from Kentucky, whom I am privileged to call my friend, while we are close to completing our work on the 13 annual appropriations bills, we are not quite there.

On the House side, what remains to be done is the Defense appropriations conference. As the Members know, our ability to act on that is dependent upon the Defense authorization bill conference, where our colleagues are meeting as we speak.

On the Senate side, there also remains the Interior appropriations conference report, which continues to be tied up due to a filibuster. That is again something over which our committee has no control.

Given this situation, and the fact that the current continuing resolution expires at midnight tonight, we are faced with a choice—extend the CR to allow completion of these two matters, or let the CR expire, and let the chips fall where they may.

Given that choice, I come down on the side of extending the CR, which is not a pleasant or popular course of action, but, in the final analysis, from my point of view the only choice.

There are few things that make the Congress look worse than getting into a situation leading to the shutdown of parts of the Government.

Even if the President were to exercise emergency powers to keep essential parts of unfunded Departments going, there is always a major degree of confusion accompanying the exercise of those powers, as well as nagging legal questions on the propriety of those powers.

Furthermore, since one of the Departments in question is Defense, there's a certain amount of risk in some kind of partial shutdown.

I will say that if the suggestion I made last week on consideration of the second CR had been adopted, which was to have provided an extra week, through November 5, for Defense to finish, we would not necessarily be in this situation.

Nonetheless, because of the situation we find ourselves in, I will support this simple extension of the continuing resolution through November 10.

Mr. Speaker, I reserve the balance of my time.

Mr. NATCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I hope the continuing resolution is adopted. It is essential that no one who works for this Government or requires services in the Defense Department, the Interior Department, or elsewhere, be put in any jeopardy. It is important that we understand why we need a continuing resolution.

The gentleman from Pennsylvania [Mr. MCDADE] said earlier that he asked for an extra week for the Defense conference. Defense has been complicated by debates over some other issues. Unfortunately, even if we had done that, as the gentleman suggested, we would still have to be here.

Mr. Speaker, people should understand this, because there is a general interest in moving ahead. People do not like continuing resolutions. We have all resolved not to have them, and people should understand one of the reasons we have a continuing resolution is a filibuster in the Senate because people do not want to see higher grazing fees.

Mr. Speaker, that issue is not technically before us, but it is directly relevant to the issue of grazing fees. But it is relevant for people to understand that one reason we need a continuing resolution, and in fact we would have needed one even if we had acceded to the sensible suggestion of the gentleman from Pennsylvania [Mr. MCDADE], is that a minority of Members of the U.S. Senate believe that they have the right under the Senate rules to talk to death an effort to raise grazing fees.

Mr. Speaker, the majority in both Houses and the President of the United States are in favor of some increase in grazing fees. But under the rules that apply, if you do not get 60 of the 100 Senators to shut off debate, the bill cannot come to a vote. So we are here dealing with a continuing resolution in substantial part because the minority of Senators are using the filibuster rule on behalf of higher grazing fees.

□ 1230

I would hope that this is the last time that the Congress would be forced into a continuing resolution because of that. I would hope that we would see changes in procedures. It certainly is hardly radical to suggest that majority rule ought to be the ultimate guide in the Congress of the United States, but we are here today dealing with the Interior Department not because of any failure here in the House, not because the subcommittee chairmen and the committee chairmen, who do excellent work, did not do their jobs, not because the conference committee could not come to an agreement. They did. But despite the agreement of the conference committee, the support of the majority and the support of the President, we cannot get a conference report adopted because the minority is allowed to talk and talk and talk and to prevent that vote.

That is not a situation that should be allowed to continue. I would hope we will not for much longer have to see the will of the President of the United States and majorities in both Houses frustrated by this kind of tactic.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GLICKMAN). The Chair would remind Members of rule XIV of the House Rules on Decorum in Debate, that when Members discuss action or inaction of the other body relating to the pendency of a measure, it should be discussed in a factual way without characterizing the nature of those kinds of actions.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRANK of Massachusetts. Mr. Speaker, did anything in what I said violate that rule?

The SPEAKER pro tempore. When the gentleman referred to the other body, a few Members talking to death a proposal, the gentleman was characterizing, in the judgment of the Chair, the filibuster rules.

Mr. FRANK of Massachusetts. Mr. Speaker, further parliamentary inquiry, if I had said, if I had factually said, and I apologize for mentioning that the Senate was talking something to death, if I had simply said factually that a number of Senators, who happened to be in the minority, as a matter of fact, chose to talk and talk and talk with the purpose of preventing a vote, that would simply be factual. Would that be acceptable under the rules?

The SPEAKER pro tempore. The Chair does not have to rule hypothetically on the issue. The Chair wanted to bring the matter of the rule to Members' attention.

Mr. FRANK of Massachusetts. Mr. Speaker, I appreciate that the Chair need not rule hypothetically. I thought that the comment might have had something to do with what I said, but I will take into account the Chair's injunction. And when Senators are trying to talk and talk to prevent the bill from coming to a vote, because they would be outvoted, I will simply refer to that fact, and I will not characterize it according to any question about the principle of majority rule in the future.

The SPEAKER pro tempore. The Chair thanks the gentleman from Massachusetts for his understanding of the Chair's concern.

Mr. MCDADE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding time to me.

I would like to start by praising the chairman of the Committee on Appropriations and the ranking member. These are two men, in the few months I have been here in this Congress, who in my view have had in mind the idea that we need to pass our appropriations and we need to get them over to the Senate, to the White House and to get them done in a timely fashion.

Having said that, we still are passing, I guess, our third continuing resolution. By the time it is expired, we are going to be 6 weeks or so beyond the beginning of the fiscal year. It just introduces something that bothered me back before I came to Congress. And I think it bothers a lot of people in the United States of America, which is not really at fault here in the House of Representatives this year, which may be at fault in the Senate, may be at fault in the White House, but I think it is more at fault in the system which we use to go through our appropriation processes and our budget processes here in the Congress of the United States.

We seem to have no intention of being able to actually meet these deadlines or no definition that if that does not happen that it can bode ill to the United States of America.

We lack other processes I would like to see such as a balanced budget amendment, a line-item veto. I think it is very significant that we in this Congress of the United States concentrate on the fact that we are not passing our budget in time, that the continuing resolution is just that. It is not a final determination of what the expenditures are going to be.

We are already into the fiscal year. Decisions are being made. Planning cannot be carried out properly and appropriately. We have spent, I do not know what percentage of our time in this year on the appropriation and budget process, but it is a huge percentage of our time. Perhaps we can just take the whole schedule and move it up to an earlier time so that we can consider this in a timely fashion and, in the future, do what so many of the States and local governments do across the United States of America, make absolutely sure that when midnight tolls on the day a fiscal year begins that we have a budget in place.

We are soon going to have the opportunity to consider a reduction in the budget expenditures and even an amendment that will exceed that, which I hope will also be given full consideration by this body. If there is nothing else that we do in the course of a year, Mr. Speaker, I would hope that we develop a budget discipline and we develop a knowledge of what these programs are, what they mean to the United States of America, what they actually cost, how we reduce some of that cost and make the process of running this Federal Government more streamlined than it is today.

I agree with what I have heard today. We probably have no other choice to pass this. But I would hope in the future we will be able to avoid it.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. CASTLE. I yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, I appreciate the gentleman's point, and I am sure, as a Governor of a State that probably, if not always, had its budget passed on time, this may seem like an untidy process for him. But I did think it was important to point out that for the first time in many, many years, the outgoing President did not present the incoming President with a budget.

Now, even though their priorities may have differed on the margins, and we know when we are talking about budgets, it is always on the margins, we found that this President was required to build from the bottom up and, therefore, delay the introduction of his budget well beyond the February 1 deadline. I think that has contributed greatly to the delay that we are meeting today.

Mr. MCDADE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NATCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to House Resolution 287, the previous question is ordered on the joint resolution.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 157, not voting 20, as follows:

[Roll No. 536]

YEAS—256

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Carr
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Roemer
Rogers
Rose
Rostenkowski
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schiff
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wynn
Yates
Young (FL)

NAYS—157

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Costello
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Nussle
Packard
Paxon
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Ridge
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rush
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Smith (MI)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Zimmer

NOT VOTING—20

Berman
Cardin
Clay
Clinger
Cox
Hansen
Horn
Houghton
Kaptur
Machtley
Moran
Oxley
Peterson (MN)
Royce
Smith (OR)
Tauzin
Towns
Woolsey
Young (AK)
Zeliff

☐ 1255

The Clerk announced the following pair:

On this vote:

Mr. Berman for, with Mr. Smith of Oregon against.

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HOUGHTON. Mr. Speaker, I was unavoidably detained and did not vote on rollcall 536. Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Ms. WOOLSEY. Mr. Speaker, I was unavoidably detained in a committee hearing and missed rollcall vote 536, a vote on final passage for House Joint Resolution 283. Had I been present, I would have voted "aye."

LUMBEE RECOGNITION ACT

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 286 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 286

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 334) to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(2)(B) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule. Each section shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. GLICKMAN). The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time that is yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 286 is an open rule providing for the consideration of H.R. 334, the Lumbee Recognition Act. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. The rule also waives all points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(2)(B) of rule XI, requiring the report to include the total number of votes cast for and against when reporting a measure by rollcall. Mr. Speaker, this is a minor waiver to allow us to bring up the bill even though the rollcall was inadvertently omitted from the committee report.

Under the rule, the bill shall be considered for amendment under the 5-minute rule and each section shall be considered as having been read. Finally, the rule provides one motion to recommit.

Mr. Speaker, H.R. 334 is an important and long overdue bill which extends Federal recognition to the Lumbee Tribe of Cheraw Indians of North Carolina. Because the Lumbee Tribe has never received Federal recognition, the tribe and its members, are not eligible for services provided by the Bureau of Indian Affairs and the Indian Health Service. This bill simply provides that Federal laws and regulations generally applicable to Indian tribes will also apply to the Lumbee Tribe and its members. In addition, the Lumbee Tribe and its members will be eligible for the services and benefits provided to federally recognized tribes, when funds are specifically appropriated for this purpose.

Mr. Speaker, H.R. 334 is the result of hearings and many careful consultations. I am pleased that we have an open rule which was unanimously passed in the Rules Committee by a voice vote. I urge my colleagues to adopt it.

□ 1300

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Ohio [Mr. HALL] has ably explained the provisions of the rule, and I support this rule. I am also a strong supporter of the Lumbee Indian Recognition Act.

Mr. Speaker, these native Americans have been denied the opportunity to apply for tribal recognition through the Bureau of Indian Affairs Federal acknowledgment process because of a provision included in a 1956 law. Some will argue that we should remove this ban rather than have the Congress grant tribal recognition. Well, Mr. Speaker, the Lumbee Indians have been waiting almost 40 years and the ban has not been removed. I do not think they should have to wait any longer.

Under this open rule, Members who have concerns over the provisions of this bill will have the opportunity to fully participate in the amendment process.

The Lumbee Indians are a group of some 40,000 native Americans. Why do we not recognize them? Recognition is long overdue.

Mr. Speaker, I handled the rule on the floor of the House in the last session, and we passed this measure overwhelmingly. But the Senate did not take it up. We are back again. I hope the House will again pass this bill.

Mr. Speaker, I urge support of the rule.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	41	11	27	30	73

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Oct. 27, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date and reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA	
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0 (D–0; R–0)	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GLICKMAN). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 286 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 334.

The Chair designates the gentleman from Florida [Mr. PETERSON] as Chairman of the Committee on the Whole, and requests the gentleman from Florida [Mr. HASTINGS] to assume the chair temporarily.

□ 1302

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 334) to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes, with Mr. HASTINGS (chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

The gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 30 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 334 sponsored by Mr. ROSE of North Carolina extends Federal recognition to the Lumbee Band of Cheraw Indians. This recognition is a formal acknowledgment of a government-to-government relationship between the United States and an Indian tribal government.

In the history of this country, Congress has never enacted a law on how to recognize an Indian tribe. Instead, as we moved West, we entered into treaties with tribes and exchanged promises for land cessions.

However, as the 20th century draws to a close, we are looking at eastern tribes that existed before westward expansion. For survival reasons, these tribes took on the ways of non-Indians, but they maintained distinct Indian communities. Although the communities surrounding these tribes knew they were Indians, and generally the State governments recognized these groups as Indians, the Federal Government neglected to acknowledge these groups as Indian tribes.

Usually, the United States waits until these groups have some threat to hold over the Federal Government's head. For example, in the late 1970's, tribes in Maine who had not enjoyed a relationship with the Federal Government for over 100 years sued for two-thirds of Maine and won. Only then were these tribes granted a large monetary settlement and Federal recognition.

It is ironic that we only recognize Indian tribes when we need something from the tribe or we owe them something under a court order. The irony is these people have always been Indian, have suffered discrimination because their skin is dark, but they are not legally Indian until the Federal Government says they are.

The Lumbee Indians do not have a land claim, nor is there a court ordered settlement, nor do we need or want their land. So why are we seeking to extend Federal recognition today? For a reason that is unusual in this country but it is the best reason, because they are Indians.

The Lumbee have always had a distinct Indian community. The State of North Carolina acknowledged them as a tribe in 1885. In 1912, 1914, and 1933, the Interior Department concluded that the Lumbee were Indians, existing as a separate and independent community.

The Lumbee have tried to get recognized by Congress in the past. Unfortunately, at the end of the 19th century and the beginning of the 20th, congressional policy was to assimilate Indians into society and recognitions were difficult if not impossible. In the 1950's, when Congress was terminating Indian tribes, the Lumbee again sought Federal recognition. In 1956, the Lumbee recognition bill was passed by Congress but it was amended at the request of the Interior Department to prohibit Federal services to the Lumbee people. In a sense, the 1956 act recognized and terminated the Lumbee in the same legislation.

H.R. 334 corrects this historical wrong. It amends the 1956 act and grants full tribal status to the Lumbee Indians. However, under the bill the Lumbee must obtain appropriations separate from the outlays for other federally recognized tribes.

Congressional action is needed to recognize the Lumbee. The Interior Department's Solicitor concluded in 1989 that the tribe is not eligible to go through the Bureau of Indian Affairs Federal Acknowledgment Process because of the prohibitions in the 1956 act.

However, even if the Lumbee could go through the BIA's process, it would choose not to. The administrative recognition process is flawed. Over 120 requests for recognition sit at the BIA, and only 8 tribes have ever made it through the process. It has become so difficult to get through this system that it is doubtful that existing tribes could survive the BIA's recognition process.

But it should be noted that the administration has no objection to this bill and we intend to work with the Interior Department and the minority to improve the process.

We are all in agreement that we need to reform this Federal acknowledgement process. But today we have the opportunity to undo one injustice inflicted by the United States.

We can recognize these people for what they are and what they always have been—an Indian tribe. It is the duty of the Congress and the President to recognize this group and restore the government-to-government relationship.

Finally, Dr. William Sturtevant, a noted scholar and general editor of the Smithsonian Institution's "Handbook of North American Indians," has written the following:

> It is clear that the Lumbee have those characteristics that identify an Indian tribe. Certainly anthropologists who have looked into the case over the last century or so agree that they are an Indian tribe; no anthropologist has denied it.

Mr. Chairman, this is an Indian tribe. They have suffered discrimination because of being Indian. They have been denied recognition of their heritage by this Government. We must right this wrong.

I urge my colleagues to support this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong opposition, to H.R. 334 in its present form.

H.R. 334 presents this Congress with one of the most difficult public policy issues in Indian affairs: In which cases, if any, should we exercise our authority to extend Federal recognition to a group seeking formal acknowledgements as an Indian tribe outside the established administrative process? We have been asked repeatedly to consider the issue of recognition in one form or another of the Lumbee Indians of Robeson County, NC. So far, we have declined to exercise that authority in their regard. The proponents of this bill present no compelling justification why we should depart from that well-reasoned course now.

H.R. 334 would legislatively extend Federal recognition to the Lumbee Indians of North Carolina, thereby circumventing the established Bureau of Indian Affairs administrative procedure through which all other nonrecognized Indian groups must pass. This procedure—called the Federal acknowledgment process [FAP]—was established in 1978 at the request of the American Indian Policy Review Commission, the National Congress of American Indians, and Members of both the House and Senate, all of whom decried the arbitrary and excessively political approaches to tribal recognition then prevalent in Congress and the lack of systematic and uniform set of criteria in this body to determine tribal status. Under the FAP, tribes seeking Federal recognition must submit a detailed petition which is then evaluated by a team of Bureau of Indian Affairs [BIA] anthropologists, ethnohistorians, and other experts. The BIA subsequently establishes whether the petitioner meets seven criteria used to determine if the group is indeed an Indian tribe. This recognition of tribal status is a prerequisite to the tribe's and its members' receipt of the services offered by the BIA.

The Lumbee and their supporters, however, argue that they should be allowed to bypass these regulations and that Congress should recognize them legislatively. First, they contend that prior legislation—the 1956 Lumbee Act—both recognized the group and preclude them from applying for recognition under the FAP. Second, they maintain that they are justified in bypassing the FAP because the process is cumbersome and ineffective. Finally, they assert that passage of the bill is consistent with recent actions of Congress in enacting recognition legislation.

Their arguments, though, are tenuous at best, and actually militate against the bill and in favor of less precipitous legislative solutions. The 1956 Lumbee Act did not in any way extend Federal recognition to the Lumbee. Rather, it was merely a commemorative bill designating this group of Indians by a particular name. This interpretation is borne out by the wording of the act, itself, the legislative history, contemporary news reports, the Federal courts, and other authorities. While the act can be read as precluding the Lumbee from petitioning for recognition, the logical solution to that impediment—and one requested by past Solicitors at the Interior Department—is to amend the act to remove the bar rather than to bypass completely the FAP. I will be offering an amendment shortly to do just that.

The second argument, that the Lumbee should be allowed to bypass the FAP process because it is too cumbersome and backlogged, is equally specious. While the BIA recognition process is in need of repair, it is not as feckless as the majority would have us believe. There is only a backlog of—at most—8 petitions, not the 120 cases often cited; and while I concede that the process is imperfect, the most rational solution is to fix it. Continuously seeking to bypass the process only ignores the problem, undermines the role of the BIA, and is unfair to both the recognized and unrecognized tribes.

Finally, the Lumbee assert that approval of this bill is simply consistent with congressional precedent. The examples of legislation they cite to support this proposition, however, are either not recognition legislation or are easily distinguishable from the Lumbee case and therefore of no precedential value.

Mr. Chairman, so that the Members of the House can fully understand the magnitude of the issues presented by H.R. 334, a brief background on the importance of Federal recognition is in order. The question of whether a native American group constitutes an Indian tribe is one of immense significance in the field of Federal Indian law. Because Congress' power to legislate for the benefit of Indians is limited by the Constitution to Indian tribes, for most Federal purposes it is not enough that an individual simply be an Indian to receive the protections, services, and benefits offered to Indians; rather, the individual must also be a member of an Indian tribe. Though it might seem to the layperson that there is only one kind of Indian tribe, for purposes of American Indian law there are actually two—those that are recognized by the Federal Government and those that are not.

"Recognized" is more than a simple adjective; it is a legal term of art. It means that the Government acknowledges as a matter of law that a particular native American group is a tribe by conferring a specific legal status on that group, thus bringing it within Congress' legislative powers. This Federal recognition is no minor step. A formal, political act, it permanently establishes a government-to-government relationship between the United States and the recognized tribe as a "domestic dependent nation," and imposes on the Government a fiduciary trust relationship to the tribe and its members. Concomitantly, it institutionalizes the tribe's quasi-sovereign status, along with all the powers accompanying that status such as the power to tax, and to establish a separate judiciary. Finally, it imposes upon the Secretary of the interior specific obligations to provide a panoply of benefits and services to the tribe and its members. In other words, unequivocal Federal recognition of tribal status is a prerequisite to receiving the services provided by the Department of the Interior's Bureau of Indian Affairs [BIA], and establishes tribal status for all Federal purposes.

Prior to the 1930's Federal recognition of tribes took many forms: Congressionally sanctioned treaties, court cases, administrative decisions, and executive orders—and "was essentially sporadic, or, at best * * * plagued with all sorts of pitfalls and a lack of a systematic approach. * * *" Instead of a process based on a well-reasoned set of standardized criteria, the granting of recognition was, by all accounts, nothing better than arbitrary and excessively political. In 1871, Congress provided that no tribe could thereafter be recognized as an independent sovereign entity with which the Untied States Could conclude a treaty. Similarly, in 1919 Congress retired another method of recognizing an indigenous group as a tribe when it prohibited the President from creating reservations by Executive order. Thus, by the early 1900's, this curtailment of available avenues of dealing with the tribes, coupled with the growing involvement of the BIA in managing the daily affairs of the tribes, meant that Congress had effectively delegated—either explicitly or implicitly—much of its authority over Indian matters to the BIA.

Those agencies, however, continued to deal with the tribes in a somewhat desultory fashion. The early principles of administrative recognition were based on a Supreme Court decision which offered a rather vague guide to defining a tribe. In an effort to remedy this disorganization, in 1942 the Solicitor of the BIA, Felix Cohen, first proposed a workable set of criteria designed to provide a uniform framework for tribal recognition. The so-called Cohen criteria considered both the tribal character of the native group and any previous Federal actions treating it as a tribe. However, application of the criteria proved to be no less haphazard than the process they replaced. Besides the Cohen criteria, the BIA relied on a patchwork mixture of court opinions, limited statutory guidance, treaty law, and evolving departmental policy and practice. Thus by 1975, faced with a steadily increasing number of groups seeking recognition, the BIA held in abeyance further acknowledgement decisions pending the development of regulations for a systematic and uniform procedure to recognize Indian tribes.

About this same time the congressionally established American Indian Policy Review Commission [AIPRC] proposed the formation of a firm legal foundation for the establishment and recognition of tribal relationships with the United States, and the adoption of a "valid and consistent set of factors applied to every Indian tribal group. * * *" Joining the chorus for standardization was the National Congress of American Indians, which called for a "valid and consistent set of criteria applied to every group which petitions for recognition * * * based on ethnological, historical, legal, and political evidence." Senator James Abourezk, AIRPC's chairman, took the issue to the floor of the Senate, and introduced legislation calling for the establishment of an office in the BIA to handle recognition petitions in a uniform way.

In 1978, the Interior Department, after exhaustive consultations with Indian country, established procedures to provide a uniform approach to the recognition process. Called the Federal acknowledgement process [FAP], the regulations set forth seven criteria a petitioning group must meet to be deemed a "recognized" tribe. The BIA FAP office is staffed by two teams of professionals including historians, genealogists, ethnologists, and anthropologists. These teams do exhaustive research on the petitions they receive, and examine such factors as Indian identity and community, as well as political and cultural cohesiveness. Once a petition is received it is reviewed for any obvious deficiencies. These are noted for the tribe, which is given the opportunity to supply additional material to supplement its petition. The petitions are then placed on active consideration in the order received. Since 1978, 8 tribes have been administratively recognized, 14 have been denied recognition, 1 has had a proposed negative finding and another a proposed positive finding of tribal status. Several others, including the Lumbee, have filed petitions which are in various stages of movement through the FAP process.

H.R. 334 seeks to legislatively extend Federal recognition to a group of Indians in North Carolina, completely bypassing the established BIA FAP process. The bill's proponents take great pains to posit that the Lumbee meet all the criteria used by the BIA in determining tribal status. However, while the proponents' remarks on this bill, as well as the majority's report, focus extensively on their highly subjective judgments about whether the Lumbee people meet these criteria, I decline to engage in debate over this emotional topic since it is largely irrelevant in terms of my position on this legislation. I do not argue that the Lumbee people are not of Indian descent; moreover, I make no judgments on the question of their tribal status, or the adequacy of their recognition petition. Rather, I believe strongly that the Members of the House are in a position to make a rational and informed decision as to whether this group constitutes a federally recognizable tribe.

Mr. Chairman, I will not repeat in extenso the chronicle of the people now called the Lumbee; it is adequately set forth in previous committee reports and accompanying appendices. However, mindful that the intricacies and peculiarities of Indian law demand an appreciation of history, I feel constrained to point out a few salient historical facts with which the majority is either unfamiliar or which it chooses to gloss over in its headlong rush toward passage of this legislation.

Foremost among these: While neither side in this debate questions the group's Indian descent, the exact origin and tribal derivation of the Lumbee has been the subject of considerable dispute and uncertainty, and since the 19th century the Lumbee and their predecessors have sought an identifying link with some historic tribe. Unlike most other tribes, it is inaccurate to refer to a continuously existing tribe of Lumbee; that name is a modern creation which was only adopted in 1956, and is the most recent in a long line of appellations belonging to this group. It is important to bear this fact in mind because proponents of the bill, as well as some contemporary commentators, tend to obscure this fact and absorb the long and complex history of Robeson County Indians into a single, supposedly Lumbee, history.

The story of how the progenitors of the Lumbee came to live in this area of North Carolina is a multifarious one. In fact, there are almost as many theories as there are theorists. Up until the 1920's, the most persistent tradition among the Indians in Robeson County was that they were descended primarily from an Iroquoian group called the Croatans. This theory, though highly conjectural, is as follows. In 1585, Sir Walter Raleigh established an English colony under Gov. John White on Roanoke Island in what later became North Carolina. In August of that year, White departed for England for supplies, but was prevented from returning to Roanoke for 2 years by a variety of circumstances. When he finally arrived at the colony, however, he found the settlement deserted; no physical trace of the colonists was found.

The only clue to their whereabouts were the letters "C.R.O." and the word "Croatoan" carved in a tree. From this it was surmised that the colonists fled Roanoke for some reason, and removed to the nearby island of Croatoan which was inhabited by a friendly Indian tribe. There, according to the theory, they intermarried with the Indians, and the tribe eventually migrated to the southwest to the area of present-day Robeson County. The theory is lent some credence by reports of early 18th century settlers in the area of the Lumber River who noted finding a large group of Indians—some with marked Caucasian features such as grey-blue eyes—speaking English, tilling the soil, and practicing the arts of civilized life. In addition, many of the surnames of Indians resident in the county match those of Roanoke colonists.

This view was the most widely accepted among both the Indians and their neighbors for more than 100 years. It was even officially echoed by the Department of the Interior, which concluded:

> [T]he Indians originally settled in Robeson and adjoining counties * * * were an amalgamation of the Hatteras Indians with [Raleigh's] lost colony; the present Indians are their descendants with a further amalgamation with the early Scotch and Scotch-Irish settlers, such amalgamation continuing down to the present time, together with a small degree of amalgamation with other races.

The Lost Colony theory has, however, since fallen into disrepute. Since the late 1930's, the most generally accepted supposition is that the ancestors of the Lumbee—

> Had many different "tribal" affiliations, originally spoke several different Indian languages, and had one common goal—to find refuge from White-introduced diseases, wars, and the settlers who were sweeping through North and South Carolina. The swamps of what was to be Robeson County combined with the county's uncertain colonial status attracted people of Indian descent with a promise of protection.
>
> There were massive dislocations of Indian populations in areas to the north and south of Robeson County. In 1711, the Tuscarora War to the north could have driven some Indians to seek refuge in the southern swamps on the border between the Carolinas. Later, in the 1730's, a smallpox epidemic raged through South Carolina and may have sent those fleeing it northward into the swamps. That Robeson [County] provided a refuge for people—Indian, White and Black—who sought to avoid highly organized government is also likely.
>
> The county is located in a section of North Carolina that was, between 1712 and 1776, involved in a border dispute between the colonies of North and South Carolina. * * * Many White colonists would have hesitated to settle there because of the confusion about which colony would be legally responsible for the region, and therefore the area would provide an ideal refuge for those seeking to avoid large all-White settlements. The remnant groups who found safety in Robeson County intermarried, amalgamating into a single people that included some non-Indian[s]. * * *

This amalgamation, which consisted of several different Siouan coastal tribes, has been accepted by the present Lumbee as the beginnings of their group. For example, in 1955 a representative of the Lumbee stated that the group is "an admixture of seven different tribes of Indians including the Cherokee, Tuscarora, Hatteras, Pamlico, and Croatan—about seven tribes were mixed with them and intermarried with the first colonists."

This change in theories over the years has resulted in a series of official name changes for the Robeson County Indians as they sought to conform legislatively to whichever view was prevalent at the time. In 1885, the State of North Carolina designated a group of Indians in and around Robeson County—the ancestors of the present Lumbee—as "Croatan Indians." By 1911, however, the designation had been popularly shortened to "Cro" and was used by non-Indians as a racial pejorative which the Indians found extremely objectionable. In addition, the term was one not recognized by historians, ethnologists, or bureaucrats in the Federal Government; it had no historical precedent and was based on the name of a place, not the name of a people. Therefore in that year, at the group's request, the State legislature changed the group's name to "Indians of Robeson County." That change, however, pleased nobody and settled nothing, since in the opinion of many Lumbee it served only to obscure further the claimed origins of the group. Consequently, in 1913, again at the group's request and despite the vehement protests of the federally recognized Eastern Cherokee Tribe in the western part of the State, the name was changed to "Cherokee Indians of Robeson County."

From 1910 to the 1930's, supporters of the group introduced several bills in Congress to give them a Federal designation variously proposed as "Cherokee Indians of Robeson and adjoining counties," "Southeastern Cherokee," "Cheraw," and "Siouan Indians of the Lumber River." In 1953, they finally settled on adopting a derivation of the name of the Lumber (Lumbee) River, which flows through Robeson County, as their self-designation. In justification for the change, one of the group's leaders wrote:

> The first white settlers found a large tribe of Indians living on the Lumbee River in what is now Robeson County—a mixture of colonial blood with Indian blood, not only of [Raleigh's] colony; but, with other colonies following and with many tribes of Indians; hence, we haven't any right to be called any one of the various tribal names; but, should take the geographical name, which is Lumbee Indians, because we were discovered on the Lumbee River.

At no point over all these years, however, have State or Federal statutes even remotely referenced the Cheraw—note the absence of that name from the preceding list of progenitor tribes given by Dr. Lowery—but we are now told by the Lumbee, after more than 100 years of being informed otherwise, that this group is the principal historical tribe from which they really descend. However, a close examination of the issue calls this assumption into some question.

In 1914, at the direction of the Senate, the Secretary of the Interior sent Special Indian Agent O.M. McPherson to North Carolina to investigate "the condition and tribal rights of the Indians of Robeson and adjoining counties. * * *." Mr. McPherson returned his exhaustive report—including over 230 pages of exhibits—to the Senate in January 1915. The proponents of Lumbee recognition state that this report unequivocally concluded that the Lumbee are descended principally from the Cheraw Tribe. This characterization of McPherson's report, however, is not quite accurate. McPherson noted that the Cheraw, being subject to attacks from Iroquoian tribes, became incorporated with the Catawbas of South Carolina between 1726 and 1739. "The last historical notice of them was in 1768, when their remnant, reduced by war and disease, were still living with the Catawbas." These statements would seem to argue against an assumption that the report concludes that the Cheraw were the principal ancestors of the Lumbee. The closest McPherson came to establishing a Lumbee-Cheraw connection was the following: "It is not improbable, however, that there was some degree of amalgamation between the Indians residing on the Lumber River and the Cheraws, who were their nearest neighbors."

This subsummation of the Cheraw into the Catawba Nation in the early 1700's—which in my view greatly diminishes the force of the Lumbee Cheraw claim—is substantiated in a number of contemporaneous and modern sources. Among the former: James Adair, an Englishman who resided with the Catawba in 1743, stated that the Catawba consisted of up to twenty different constituent groups; among the eight tribes explicitly cited by Adair were the Cheraw. A map drawn on deerskin by a Catawba chief in 1724 shows the Charra as a group residing with the Catawba. Another map, drawn by the trader John Evans in 1756, shows the location of the Charraw town in the Catawba lands.

In addition, all of the modern treatments of the Catawbas with which I am familiar indicate that the Cheraw were one of the many tribes subsumed into the Catawba. For example, Dr. Jane Brown notes that "[o]f the twenty-two tribes which formed the Catawba Nation as early as 1743, the most important * * * were: The Catawbas proper * * * the Cheraws * * * the Sugaree * * * the Waxhaws * * * the Congarees, the Santees * * * the Pedees * * * the Waterees * * * and the Wateree-Chickanees * * *." These groups all merged with the Catawba, and "[a]s a result of these tribal mergers, the Catawba Nation became a melting pot of peoples * * *. Cheraws * * * and other migrants gradually lost their own identity and came to think of themselves as Catawbas." Secretary of the Interior Harold Ickes, citing a Smithsonian report, noted that the remnants of the Cheraw "became incorporated with the Catawbas of South Carolina" between 1726 and 1739.

I am not the first to question the validity of the Lumbee-Cheraw connection. In 1933, a bill introduced in the Senate would have provided for the enrollment of the group as Cheraw Indians. The Secretary of the Interior objected to the use of the term "Cheraw," however, and suggested that they be designated Siouan Indians instead. This change was prompted by a report from Dr. J.R. Swanton, a Smithsonian anthropologist, who concluded that the group is:

> Descended from a considerable number of small tribes, of which the Cheraw were only one, and since the greater part of these, like the Cheraw, belonged to what is called the Siouan linguistic family, it would be more nearly correct to designate them Siouan Indians of Lumber River, from this fact and the name of the stream about which the greater number of them are settled.

The bill was amended in committee to reflect that request.

The report by Swanton—often cited by the Lumbee as an authority on the subject—is instructive as to the true nature of the Lumbees' relationship of the Cheraw. It noted that the Lumbee are descended "from certain Siouan tribes of which the most prominent were the Cheraw and Keyauwee, but [] probably included as well remnants of the Eno, and Shakori, and very likely some of the coastal groups such as the Waccamaw and Cape Fear." Swanton went on to state that" [a]lthough there is some reason to think that the Keyauwee tribe actually contributed more blood to the Robeson County Indians than any other," he preferred the use of the term "Cheraw" simply because whereas the Keyauwee name was not widely known, "that of the Cheraw has been familiar to historians, geographers, and anthropologists in one form or another since the time of DeSoto * * *." In other words, the choice of the Cheraw was apparently made in large part for reasons of academic ease rather than historical reality.

In a later, seminal work, Swanton reiterated his belief that the Keyauwee, and not the Cheraw, were the main predecessors of the Robeson County Indians. He noted that between 1726 and 1739, the remnants of the Cheraw were incorporated into the Catawba Tribe, and that they still resided with the latter group as of 1768, by which time the Lumbee claim their ancestors were already established in North Carolina's Robeson County. He estimated their numbers at that time to be between 50 and 60 individuals. He went on to state that the Keyauwee, while also eventually setting with the Catawba, left descendants "among the Robeson County Indians."

In 1989, the head of the BIA's Bureau of Acknowledgement and Research questioned the adequacy of the Lumbees' proof underlying their assertion of Cheraw descent. He testified that

> [t]he Lumbee petition submitted to the BIA in 1987 claims to link the group to the Cheraw Indians. The documents presented in the petition do not support [this] theory * * *. These documents have been misinterpreted in the Lumbee petition. Their real meanings have more to do with the colonial history of North and South Carolina than with the existence of any specific tribal group in the area in which the modern Lumbee live.

Even the Lumbees' own consulting anthropologists have previously been somewhat lukewarm in their support for the proposition that the Lumbee are principally descended from the Cheraw. For example, one has stated that "the Cheraw are probable ancestors in the early 18th century. It does not really matter, however * * *." In fact, the case for Cheraw ancestry is not one of conclusion by proof, but of conclusion by supposition and process of elimination. All of these sources, from Adair onwards, cast a considerable pall over the Lumbee assertion that "the proof in this case [of descent from the Cheraw] is supported by the fact that no disconfirming evidence exists," and over their anthropologists statements that "[t]here is no evidence to the contrary."

Given the very small numbers of Cheraws left after the ravages of disease and the early colonial Indian wars, what seems to be the prevailing view that the group was subsumed into the Catawba Nation to the south, and the lack of concrete proof, I find it difficult to fathom how the Cheraw could have been the principal forbearers of the Lumbee. In addition, this change in the asserted origins of the Lumbee over the years has not been a minor one. Since the 1860's, the group has claimed "Croatan," then Cherokee, then Cheraw descent. This progression was not one from one correlate tribe to another, such as from Mohawk to Oneida to Onondaga. Rather, these tribes are not at all related. The Croatan were Algonquian, the Cherokee Iroquoian, and the Cheraw Siouan—three completely distinct linguistic groups.

In fairness, however, I note that two anthropologists have stated that it is possible that another band of Cheraw existed, and that they could have been one of the progenitors of the Lumbee. There are some facts from which this inference could plausibly be drawn. I do not necessarily rule out the theory of Cheraw descent; records from this period are sketchy at best and, as one early explorer noted:

> In tracing the origin of a people, where there are no records of any kind, either written, or engraved, who rely solely on oral tradition for the support of their ancient usages, and have lost great part of them * * * where we have not the light of history, or records, to guide us through the dark maze of antiquity, we must endeavor to find it out by probable arguments.

Moreover, I reiterate that I do not purport to judge the merits, or lack thereof, of the Lumbee petition. Rather, I think that the descent issue, among others, points out that this is not the open and shut case its proponents would have us believe, and underscores the need for its review by objective and neutral historians, anthropologists and other scientifically-trained personnel at the BIA. It is relatively immaterial to my position that the tribe has produced experts to testify before us regarding the validity of the Lumbee claims, or that an equal number of other experts has contradicted them; it may well be that the Lumbee have a perfectly valid claim. I am simply stating that we as a body are not adequately equipped to make that determination.

True, as the gentleman from California [Mr. MILLER] has previously pointed out, "[t]his is not about us being experts. It is about weighing the evidence that the experts have given us. That is our job on this and so many other subjects." However, the "experts" disagree on many issues, and there is not one Member of this House, nor of our staffs, with the specialized educational background necessary to make an informed decision in this area. Properly done, the process of recognition requires an evaluation of complex and often ambiguous data and issues of ethnohistory, cultural anthropology, and genealogy. Not only do we lack that expertise, but there are precious few Members of this body with any more than the most superficial knowledge on the subject at all. I seriously doubt that any Member of the majority, or of their staffs, has read even the multivolume Lumbee recognition petition, let alone any anthropological, ethnohistorical or sociological treaties on the group.

This lack of knowledge is especially troubling in the case of the Lumbee. Laypersons tend to have a single, conglomerate view of what constitutes an Indian tribe, a view usually on the Great Plains model. The Lumbee, however, bear very few if any characteristics in common with that view, a fact of which I would wager most if not all of the Members of the House are unaware. The Lumbee have an Indian ancestry, but have never had treaty relations with the United States, a reservation, or a claim before the Indian Claims Commission; they do not speak an Indian language; they have had no formal political organization until recently; and they possess no autochthonous "Indian" customs or cultural appurtenances such as dances, songs, or tribal religion. One of the group's consultant anthropologists, Dr. Jack Campisi, noted this lack of Indian cultural appurtenances in a hearing colloquy with then-Congressman Ben Nighthorse Campbell:

> Mr. CAMPBELL. * * * Do [the Lumbee] have a spoken language * * * ?
>
> Dr. CAMPISI. No.
>
> Mr. CAMPBELL. Do they have distinct cultural characteristics such as songs, dances, and religious beliefs and so on? * * * Do the Lumbees have that?
>
> Dr. CAMPISI. No. Those things were gone before the end of the 18th Century.

This absence of cultural appurtenances in part identifies the Lumbee as part of what sociologist Brewton Berry has termed the "marginal Indian groups." As Berry notes:

> These are communities that hold no reservation land, speak no Indian language, and observe no distinctive Indian customs. Although it is difficult to establish a firm historical Indian ancestry for them, their members often display physical features that are decidedly Indian. Because they bear no other historic tribal names, they often emphasize a Cherokee ancestry.

These characteristics do not, in my mind, necessarily preclude Federal recognition. They do, however, point out that this is a case replete with out-of-the-ordinary complexities which require more than just a simple one-page staff memo to understand fully. Needless to say, if those of us charged with the day-to-day oversight of Indian affairs do not have the necessary expertise—or even knowledge—in this area, how will the balance of our Members appropriately exercise those judgments as they will be called upon to do when this legislation reaches the floor?

Aside from our lack of expertise, other considerations militate against removing the recognition process from the BIA in this case. Foremost among these is the fact that recognition should be based on established principles free from the eddies and currents of partisan politics and influence—this was the reason the FAP criteria were established in the first place. Congress is by nature, however, a highly partisan institution. A single, powerful Member in the majority part is perfectly capable of moving a recognition bill through this body with little reference to its actual merits. As one attorney has noted:

> Neither this Committee [Interior] nor the Senate Committee [on Indian Affairs] has adopted any self-policing criteria [to use] to judge the petitions. If has to do with the nature of the arguments that are put forward before [the Committee], the proponents of the legislation bring their historians and anthropologists and say absolutely this is a tribe. The member or sponsor of the bill lobbies the members of the Committee on behalf of his [petitioning constituent and depending on whether he's persuasive or not perhaps he is successful. Some professional staff pointed out to me one day, what happens the day that Dan Rostenkowski[, Chairman of the House Ways and Means Committee,] goes to George Miller[, Chairman of the House Natural Resources Committee,] and says the Illini tribe are alive and living in downtown Chicago. That should not be the way the federal recognition is granted. There has to be some sort of criteria and I think that is the bottom line.

The Lumbee attorney has previously acknowledged the wisdom of this view by recognizing its obverse, and has argued against leaving the process up to Congress:

> [E]xperience in the last few Congresses has also taught us that the power of a single congressman who represents a single district who is opposed to the recognition of other tribes can be very influential. That person can block a particular bill and, for all practical purposes, prevent the recognition of a tribe that should be recognized. You can create a political donnybrook by bringing it [the FAP process] all back to Congress.

In other words, while we clearly have the power to recognize a tribe, that does not mean that the wisest use of that power is its exercise. In the absence of any discernible criteria by which we judge tribal status, and of any particularized background or knowledge, the Congress should leave the decision up to those best qualified to make it: the BIA.

Mr. Chairman, despite the fact that the BIA, and not this body, is best equipped to handle the issue, the Lumbees and their supporters argue that they should be allowed to bypass the established recognition process because theirs is a unique case requiring a legislative solution. First, they contend that prior legislation both recognized the group and precluded them from applying for recognition under the FAP. Second, they maintain that they are justified in bypassing the FAP because the process is cumbersome and ineffective. Finally, they assert that approval of the bill is consistent with recent actions of Congress in enacting recognition legislation. For the reasons set forth below, however, these contentions are without merit sufficient to warrant congressional recognition. Their arguments are tenuous at best, however, and actually mitigate against this legislation and in favor of less precipitous legislative solutions.

The Lumbees' principal contention is that the act of June 7, 1956, both served as a prior Federal recognition of the tribe and precludes their petitioning for recognition under the present regulatory scheme. As a result, they posit, they are entitled to congressional recognition. Such a position rests, however, on specious premises. The 1956 act did not in any way extend Federal recognition to the Lumbee; rather, it simply served as a formal affirmation of their status as an identifiable group named "Lumbee" descended from an admixture of Indian and other ethnic groups. Moreover, while the act may be read as precluding the Lumbee from petitioning for administrative recognition, the logical solution is to amend the act to remove the bar rather than to bypass the FAP altogether.

The proponents' position that the purpose of the 1956 Lumbee Act was the acknowledgment of the Lumbee as a federally recognized tribe is simply wrong. The purpose of the act is clear; it was merely a commemorative bill designating a group of Indians by a particular name to reflect a similar change in the group's self-designation made 3 years earlier at the State level. This is evident from the wording of the act itself, which states in pertinent part:

> That the Indians now residing in Robeson and adjoining counties of North Carolina, originally found by the first white settlers on the Lumbee River in Robeson County, and claiming joint descent from remnants of early American colonists and certain tribes of Indians originally inhabiting the coastal regions of North Carolina, shall, from and after the ratification of this Act, be known and designated as Lumbee Indians of North Carolina.

The 1956 act fails to include any of the typical indicators that would enable one properly to conclude that it is a recognition statute. In contrast to the 1956 act's language, when Congress has desired to grant Federal recognition to a tribe it has consistently done so by express and unambiguous language. For example, Public Law 95-281 states "[t]he Modoc Indian Tribe of Oklahoma is hereby recognized as a tribe * * *."; Public Law 95-195 states "recognition is hereby extended to the [Siletz] tribe * * *."; and Public Law 93-197 states "[f]ederal recognition is hereby extended to the Menominee Indian Tribe * * *." Even the majority must recognize that this is the correct formula to invoke recognition, since the bill before us—H.R. 334—contains identical language: "Federal recognition is hereby extended to the Lumbee tribe * * *." Furthermore, unlike the language in all other recognition acts—

> [t]he 1956 [Lumbee] legislation does not mention any political organization of the Lumbee or any governing body. It does not convey any land in trust, make any reference to whether state laws are to apply, or render Lumbees eligible for federal services. It, thus, would seem that there is little room for an argument that the statute was extending recognition * * *.

Moreover, the act passed with the following introductory clauses which, from the liberal use of the term "whereas," follow the usual litany of commemorative legislation:

> Whereas many Indians now living in Robeson and adjoining counties are descendants of that once large and prosperous tribe which occupied the lands along the Lumbee River at the time of the earliest white settlements in that section; and
>
> Whereas at the time of their first contacts with the colonists, these Indians were a well-established and distinctive people living in European-type houses in settled towns and communities, owning slaves and livestock, tilling the soil, and practicing many of the arts and crafts of European civilization; and
>
> Whereas by reason of tribal legend, coupled with a distinctive appearance and manner of speech and the frequent recurrence among them of family names such as Oxendine, Locklear, Chavis, Drinkwater, Bullard, Lowery, Sampson, and others found on the roster of the earliest English settlements, these Indians may, with considerable show of reason, trace their origin to an admixture of colonial blood with certain coastal tribes of Indians; and
>
> Whereas these people are naturally and understandably proud of their heritage, and desirous of establishing their social status and preserving their racial history * * *.

The last of these clauses is further evidence of the aim of the legislation: validating the "social status" of this group and preserving their "racial history." In the context of the 1956 legislation, this meant formal affirmation of them as an identifiable group descended from an admixture of Indian and other ethnic groups. This was not the first time that the Lumbee had sought a commemorative bill acknowledging their "Indian-ness." In 1932, members of the group sought passage of a bill to confer upon them the designation of "Cherokee Indians." The group's pro bono attorney at the time stated that

> [t]he chief desire of these Indians appears to be that Congress shall do something which will recognize affirmatively that they are Indians. Being myself from Georgia, I am able to appreciate the desire of these Indians for some status by which they would be, at least by their own thinking, clearly distinguished from [other ethnic groups in the area].

Even assuming arguendo that the wording of the 1956 Lumbee Act itself is somehow nebulous as to recognition, it is abundantly clear from the legislative history of the Act that it was not intended by Congress in any way to be a recognition bill. As noted by the American law Division of the Library of Congress, the committee reports accompanying the 1956 legislation indicate that the intent of the Act "was to designate a name for this group." To illustrate, House Report No. 84-1654 reads as follows: "If enacted, H.R. 4656 would permit about 4,000 Indians of mixed blood presently residing in Robeson and adjoining counties in North Carolina to become known and designated as the Lumbee Indians of North Carolina." Nowhere in the report does the term "recognition" appear; nor can a congressional desire to extend Federal recognition be inferred from the language of the report.

Additionally, the following colloquy between the sponsor of the 1956 act, Congressman Frank Carlyle, and another committee member confirms this view and belies the majority's assertion that the Lumbee understood the intent of the act to be recognition:

> Mr. CARLYLE. Now I should like for you to recall that there is nothing in this * * * that requests one penny of appropriations of any kind. There is nothing in this bill that would call for any upkeep or expenditure. It just relates to the name of these people of the county.
>
> Mr. ASPINALL. What benefits do they expect to get from this? Just purely the name "Lumbee Indian Tribe" does not appear to me to give too much importance to it, unless they expect to get some recognition later on as members of some authorized tribe, and then come before Congress asking for benefits that naturally go to recognized tribes.
>
> Mr. CARLYLE. No one has ever mentioned to me any interest in that, that they had any interest in becoming a part of a reservation or asking the federal government for anything. Their purpose in this legislation is to have a name that they think is appropriate to their group * * *.

Later, Congressman Carlyle continued:

> Mr. CARLYLE. As to any ulterior motive that might be suggested—that is, if they would come in and ask for benefits now or later—that is not in this picture at all.

Congressman Aspinall then asked this question of one of the Lumbee witnesses:

> Mr. ASPINALL. Do you or any members of your organization anticipate that, after you might receive this designation, you would come to Congress and ask for any benefits that otherwise go to Indian tribes?
>
> Rev. LOWERY. No Sir.

Finally, during consideration of the bill on the House floor, the following exchange took place:

> The SPEAKER. Is there objection to the present consideration of the bill?
>
> Mr. FORD. Mr. Speaker, reserving the right to object, I should like to ask the author of the bill, the gentleman from North Carolina [Mr. Carlyle], whether or not this bill, if enacted, would in any way whatsoever commit

> the federal government in the future to the furnishing of services or monetary sums?
>
> Mr. CARLYLE. Mr. Speaker, I am happy to say that the bill does not * * *.
>
> Mr. FORD. There is no obligation involved, as far as the Federal Government is concerned * * *?
>
> Mr. CARLYLE. None whatsoever.
>
> Mr. FORD. It simply provides for the change of name?
>
> Mr. CARLYLE. That is all.

Nowhere—in committee, on the floor, or in the act as passed—is there any statement from which one could logically construct a basis for recognition.

Not only is this position clearly supported by both the wording of the act and its legislative history, but contemporary news reports add strong evidence to the conclusion that the purpose of the 1956 act was simply to institutionalize the group's newly chosen name. For example, note the following from a North Carolina newspaper:

> Senator Kerr Scott reports this week that the Lumbee Indians of Southeastern North Carolina should now have their name made official as far as the Federal Government is concerned.
>
> "Last week the Senate Interior Committee's sub-committee on Indian affairs gave a quick okey to a bill that would make the name official. Final action will be routine," Scott said.
>
> The North Carolina state legislature has already passed legislation doing the same thing.

Another North Carolina article notes that the Senate "had approved a bill to permit Indians of Robeson County to be designated as the Lumbee Indians of North Carolina * * *. The House and the North Carolina Assembly have already approved the name for the people." Another states that a bill "to make the name of Robeson County Indians the 'Lumbee Indians' has passed yet another hurdle in the Senate * * *. Previously the Indians had voted 2,189 to 35 for the name change in 1951, and in 1953, the North Carolina General Assembly gave the tribe its designation as Lumbee Indians." An article from the New York Times notes that the Senate voted "unanimously that some 4,000 [sic] Indians around Robeson County, NC, should be known officially as the Lumbee Indians." Another, that the "bill to rename the Indians of 'Robeson County the Lumbee Indians of North Carolina struck a snag in Washington last week, but will probably be signed by the President this week." Finally, the local papers reported that "President Eisenhower has received a bill to allow Indians in and around Robeson County, NC, to be known as the Lumbee Indians of North Carolina."

Of all the available news articles concerning the bill, I was only able to uncover one which arguably supports the majority's previous assertions that the legislation "was widely reported as a recognition bill * * *." It reads:

> Senator W. Kerr Scott today asked a Senate sub-committee to give federal recognition to the Lumbee Indians of North Carolina. In testifying before a sub-committee of the Senate Interior Committee, Senator Scott said: "The State of North Carolina has already by state law recognized the Lumbee Indians under that tribal name." The North Carolina State Legislature gave official recognition to the Lumbee Indians while Scott was Governor of North Carolina. * * *

However, it is evident form the context of the article that the term "recognized" means cognitive, rather than jurisdictional, recognition, especially given that the article speaks in terms of the group being "recognized" by a specific name, and that the term "recognized" had not yet acquired its present legal meaning. The article's support for the majority's argument is thus highly questionable.

All the available authorities which have considered the question concur with my position that the bill is not recognition legislation. In Maynor versus Morton, the United States Court of Appeals for the District of Columbia Circuit—the highest Federal court to have addressed the issue—stated that "the limited purpose of the legislation appears to [be to] designate this group of Indians as 'Lumbee Indians.'" The court later reiterated this view, noting that the act was "a simple statute granting the name 'Lumbee Indian' to a group of Indians, which hitherto had not had such designation legally. * * *" Similarly, the American Indian Policy Review Commission agrees with this assessment of the act's intent. The Comptroller General has concluded that the Lumbee are not a federally recognized tribe, as has the Department of the Interior. In a 1988 opinion, the American Law Division of the Library of Congress concluded "that the 1956 statute does not provide recognition of Lumbee Indians as a political entity. * * *"

Even the Lumbee attorney has herself previously concluded that the act does not confer recognition on the tribe, but rather "was the culmination of many years of effort by the Lumbee Indians to be known by a name that reflected the group's unique ethno-history." Additionally, I note that nowhere in the Lumbee petition for recognition is any assertion made to the effect that the 1956 act constitutes recognition legislation. In fact, the petition makes no stronger assertion than that, in gaining passage of the act, "[t]he tribe had finally received some degree of Federal acceptance after 50 years of trying."

In its report on H.R. 1426—the identical predecessor to H.R. 334—the Democrats on the Interior Committee apparently agreed with my conclusion, explicitly stating that the purpose of the State legislation was to designate the group as "Lumbee Indians of North Carolina." Members of the Rules Committee have implicitly taken the view that the act did not serve to recognize the Lumbee; as has the Senate Committee on Indian Affairs. Perhaps more to the point, I pose the following query: If the 1956 Lumbee Act recognized the Lumbee as the majority suggests, then why do we now need H.R. 334 to accomplish that very same objective?

In spite of all this information, there are some who have argued that the State act changing the group's name to Lumbee was State recognition legislation, and that the 1956 act was meant to be identical recognition legislation on the Federal level. Others have said that the Lumbee understood the purpose of the 1956 act to be Federal recognition as we understand that term today. However, the sources I have previously cited, as well as the following chronology of article captions from the Robesonian, a local North Carolina paper, clearly belie these revisionist assertions and support the conclusion that both the State and Federal acts were both simply commemorative bills designating an existing Indian group by a new name:

> Apr. 05, 1951: "'Lumbee Indians' Designated in Bill Introduced by Watts."
>
> Apr. 12, 1951: "Indian Name Bill Hearing Attended by Both Factions."
>
> Aug. 17, 1951: "Robeson Indians Drive Toward Vote to Decide Official Name."
>
> Dec. 04, 1951: "Indians Can Have Election to Decide on Name of Tribe"
>
> Jan. 23, 1952: "Indians Voice Name Change Opinions"
>
> Feb. 01, 1952: "Robeson Indians Favor 'Lumbee' as Race Name"
>
> Feb. 05, 1952: "Indians Vote Name Change"
>
> Feb. 06, 1953: "Indian Asks for Teacher Support for Lumbee Name"
>
> Feb. 12, 1953: "Senate Gets Indian Bill"
>
> Sept. 30, 1953: "Copy of Lumbee Name Bill Presented to Indian Leader"
>
> July. 29, 1955: "Indian Name-Change Stands Little Chance of Passing This Session"
>
> Feb. 21, 1956: "[U.S.] House Passes Indian Name Bill"
>
> May 16, 1956: "Indian Bill Ok'd by Senate Group"
>
> May 22, 1956: "President Receives Lumbee Indian Bill"

The Robesonian article listed above and dated July 29, 1955, is particularly illustrative of my point:

> Congressman James A. Haley * * * of the House Indian Affairs subcommittee said today he plans for further sessions on the group before Congress adjourns. * * * But Haley added that he personally could see no objection to the proposal as long as it involves strictly a name change and not the question of federal benefits.
>
> The subcommittee had had assurance from the Rev. D.F. Lowery of Pembroke that the Indians do not want a reservation and do not want to become wards of the government. * * *
>
> He told the congressman that the Robeson area Indians "would leave the county before they would come under a reservation or (become) anything like wards of the government."
>
> Pending before the committee is a bill introduced by Rep. F. Ertel Carlyle of Lumberton to give the designation of Lumbee to the Indians living along the Lumbee River.

The following passage from the Lumbee petition, tracing the course of the groups' name changes, further substantiates my position that the act simply codified a new self-designation for the group previously enacted at the State level:

> [T]here was an absence of tranquility among our people on the whole [name] issue. Accordingly, a group of leaders among us joined in support of a name previously suggested—Lumbee—which would give us a well adapted legal name, geographically proper, and equally support the historical fact of our multiple tribal origins.
>
> * * * * *
>
> The result * * * was the completion and eventual approval of a change of name from Cherokee Indians of Robeson County to Lumbee Indians of the State of North Carolina * * *.
>
> Following the draft of the above legislation the Commissioners of Robeson County held a duly constituted referendum and the bill was approved by a vote of some 2,000 for and 30 against. The Commissioners then unanimously concurred in the referendum result, following which the [state] legislature enacted it into law. It was then submitted to the House and Senate of the United States, passed and signed by the President of the United States, with minor amendments, as national legislation.

This passage—tracing the flow of the legislation from concept to State legislation to Federal legislation—clearly contradicts the revisionist view now put forward by the bill's proponents that the State act was recognition legislation and the 1956 act simply a Federal adoption of that recognition.

Further contradicting the erroneous view of the purpose of the State, and thus the Federal, act are statements noting that the State of North Carolina recognized the Lumbee as a political entity in 1885, and has maintained an uninterrupted government-to-government relationship with them ever since from the chairman of the board of directors of the Lumbee Regional Development Association; a member of the House Rules Committee; the chairman of the Natural Resources Committee; the sponsor of H.R. 334; Senator Terry Sanford of North Carolina; the Senate Committee on Indian Affairs; the Lieutenant Governor of North Carolina; the secretary of administration, Office of the Governor of North Carolina; the chairman of the North Carolina Commission on Indian Affairs; the Lumbee attorney; the group's own position paper; and the anthropologist who authored the Lumbee recognition petition. Even the group's petition for recognition states that "[i]n 1885, the North Carolina General Assembly passed an act recognizing the Lumbee tribe * * *." In a case such as we have here where recognition has been legislatively extended to a group by a State, and that recognition has not been withdrawn, it makes little sense to argue that the State would reextend that same recognition in a later act.

This is not the first time in the group's history that Federal legislation has been introduced on its behalf to mirror a change in name designation by the State. In 1924, the Interior Committee favorably reported to the House, H.R. 8083, a bill to change the name of the group from Croatan to Cherokee. The committee report notes the purpose of the bill:

> By an act of the State of North Carolina these Indians have recently been designated as Cherokee Indians, and this legislation carries out this act and gives the Indians the same Federal status * * *.

Clearly, the 1956 act served the same purpose.

Mr. Chairman, all of this preceding information aside, the argument that the act somehow recognizes the Lumbees is especially disingenuous when examined in light of the prevailing congressional Indian policy at the time. Over the years, congressional dealings with the tribes have gone through several policy phases. Until 1887, the basic approach to dealing with the tribes was conquest and segregation to designated territories and reservations. Between 1887 and 1934, the Federal Government implemented a program directed at assimilating Indians into the dominant culture. In 1934, with the adoption of the Indian Reorganization Act, the Government began to encourage tribal sovereignty and self-governance. In 1953, Congress formally adopted a policy of "termination," its express aim being "as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens * * * and to end their status as wards of the United States. * * *" In other words, the new policy sought to force Indians into the mainstream culture by terminating their separate tribal status and the benefits they received from that status. Pursuant to this policy, during the 1950's Congress terminated the Federal recognition—and thereby the benefits—of some 110 tribes consisting of more than 13,000 individuals. They were than subject to State laws, and their lands were converted to private ownership and in most instances sold.

In the same year in which the 1956 Lumbee Act was passed, Congress terminated four tribes: the Lower Lake Ranacheria, the Wyandotte, the Peoria, and the Ottawa. To interpret the Lumbee Act as granting Federal recognition to the Lumbees during a period in which Congress was actually terminating recognized tribes is to indulge in historical revisionism at its worst and fabricates a result clearly contrary to the avowed policy and stated intent of Congress during this period.

In sum, it is clear from the wording of the 1956 act, as well as from its legislative history, that the act simply institutionalized on the Federal level a name for the group adopted by the State of North Carolina in 1953. Contemporary news reports support this conclusion, as do the opinions of the Federal courts, administrative agencies, and the Library of Congress Congressional Research Service.

The second portion of the argument regarding the 1956 Lumbee Act—that it precludes the Lumbee from petitioning for recognition—may have more merit. In response to concerns raised that the Act would somehow allow tribal members to avail themselves of Federal services even though not part of a recognized tribe, the following section was appended to the bill prior to passage to "clearly indicate that the Lumbee Indians w[ould] not be eligible for any services provided through the Bureau of Indian Affairs to other Indians":

> Nothing in this Act shall make such Indians eligible for any services performed by the United States for Indians because of their status as Indians, and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to the Lumbee Indians.

The Department of the Interior and others have concluded that this portion of the act essentially prohibits the Lumbee from petitioning for recognition under the FAP. While I do not necessarily agree with the accuracy of that conclusion, such agreement is essentially unimportant to this discussion since the present and binding position of the Bureau is that the 1956 act does constitute a bar to petitioning.

Given this stance, the logical solution is to amend the act to allow the Lumbee to petition—the solution proposed by an amendment in the nature of a substitute which I offered at subcommittee and full committee markup—and not simply to ignore the problem in the rush to circumvent the recognition process. The amendment would have directly addressed all of the Lumbee concerns. It would, inter alia, remove the 1956 Lumbee Act's statutory bar to the FAP process. In addition, it would directly remedy the most oft-cited flaw of the FAP—the time it takes to review a group's petition—by guaranteeing the Lumbee petition expedited consideration, and provide for Federal district court review of untimely or adverse determinations by the BIA without requiring resort to the administrative appeals process which any other group would have to exhaust prior to taking the matter to Federal court. I note that the Department of the Interior, which opposes H.R. 334, supports this alternative.

Mr. Chairman, the majority's next contention is that the Lumbee are justified in bypassing the FAP because the process is cumbersome and ineffective. The FAP has come under fire over the last few years. There are those who argue—correctly in some instances—that the process takes longer to complete than is provided for in the agency's regulations, costs each group financial resources they do not have, and is subject to the whims of the BIA staff. In limited defense, I point out that because the FAP establishes a permanent government-to-government relationship with a tribe, the BIA is very cautious about its determinations. This kind of exhaustive research takes a lot of time, as does the process of preliminary review, notification to the tribe of deficiencies, and waiting for the tribe to respond to these deficiencies with a supplemental petition. In addition, the FAP teams have been historically underfunded by this Congress and there have never been more than two. Still, the process clearly has its faults.

While I have always agreed that the FAP is in need of repair, it is not as broken down as the bill's proponents would have us believe. For example, I have repeatedly heard Members state that there is a backlog of 120 cases waiting to be processed, and that only 8 tribes have made it through the process since its inception. However, those numbers—oft-parroted as the premier example of why the FAP should be bypassed—are patently spurious and unsupported by the record. There were 40 petitions on hand when the FAP office organized in October 1978, and 96 petitions or related inquiries have been filed since then for a total of 136 cases. Of these, 8 groups have been recognized; 13 have been denied recognition; 1 was determined to be part of a recognized tribe; 1 had its status clarified by legislation at the BIA's request; 1 had its previously terminated recognition restored; 3 were legislatively acknowledged; 1 withdrew its petition and merged with another petitioner; and 7, including the Lumbee, require legislative action to permit processing. This means that a total of 35 cases, no 8 as others contend, have been resolved since 1978: 23 by the BIA, 4 by Congress, 1 of its own accord, and 7 because they are precluded from petitioning.

Of the 101 remaining cases, 19 are considered inactive because the groups have not responded to BIA inquiries or cannot be contacted; 47 have submitted only letters of intent to petition informing the BIA that at some unspecified time in the future they will submit their actual petitions; and 25 groups are in the process of responding to letters of obvious deficiency from the BIA and have not filed final petitions. In simple terms, 90 percent of the petitions pending in the FAP are awaiting tribal, not BIA, action. Of the remaining 10 cases, 3 are under active consideration; 1 has been resolved with a proposed negative finding; 1 has been resolved with a proposed negative finding but the comment period has been left open at the tribe's request; 1 has been resolved with a proposed positive finding; 3 are waiting to be placed on active consideration; and 1 is awaiting review for obvious deficiencies in its petition. Even a cursory examination of these numbers shows that although the majority has claimed there is a backlog of 120 cases, the actual backlog—even counting cases presently under active review—is at the very most only 7 cases.

In any event, just as the logical solution to the problems posed by the 1956 Lumbee Act is to amend it to correct any impediment to recognition, so too is correction the proper response to allegations that the FAP process is inefficacious. Several bills have been introduced over the past few years to overhaul and streamline the process, the most recent being H.R. 3430 introduced last session by Congressman John J. Rhodes III, the then-chairman of the Republican Task Force on Indian Affairs, and reintroduced this session by Delegate FALEOMAVAEGA. Despite the chorus of Democrat complaints about the process, though, the majority has never seriously pursued any of these bills in committee, seeming to prefer instead the introduction of a string of ad hoc recognition bills designed to circumvent the process entirely.

Bypassing the process not only ignores the problem, but is unfair to all of the recognized tribes. There exists a formal government-to-government relationship between the recognized tribes and the United States. If Congress creates tribes at will, without meaningful uniform criteria or substantial corroborated evidence that the group is indeed a tribe, then we dilute and weaken that relationship. A sizable majority of tribes have objected to H.R. 334 for just this reason. We have received resolutions that support the FAP process and a strict adherence to a systematic procedure from tribes in 12 States, from regional intertribal organizations representing all the tribes of the Pacific Northwest, Montana, and Wyoming, the United South and Eastern Tribes—representing all the tribes from Maine to Florida and west to Louisiana, all of the 10 southwestern Pueblo tribes, and 25 of the 26 tribes of Arizona.

Passage of H.R. 334 is also patently unfair to all of the other petitioning groups. If the process is so ineffectual that the Lumbee should be excused from it, then what of the other 100 tribes presently in the process? What of the other 10 groups in North Carolina who have petitioned, 6 of whom are precluded from petitioning by the same 1956 act of which the Lumbee complain? If the majority decides to recognize the Lumbee in whole or in part, because they deem the FAP process to be necrotic, does not equity require that we immediately put before the House, bills to provide for the recognition of all these other groups too? It is sadly ironic that the Lumbee have stated that the process is so flawed that they should be excused from it, but that no other group should be. Finally, what about those groups that have been denied recognition under this superfluous FAP process; do we now open our doors to them and allow them another bite of the recognition apple? It would be patently unfair to require some groups to be judged under the administrative standards and allow other groups to be judged in Congress under no discernible standards simply because they are able to avail themselves of a powerful and influential sponsor. Should the majority persist in moving this and other ad hoc recognition bills through the House based on this premise, then we will be happy to accede to their argument and introduce separate bills to legislatively recognize each of the 101 groups presently in the BIA process. While dramatic, I believe that such a move would expose the majority's FAP argument for what it is—merely a convenient canard.

Finally, passage of H.R. 334 would be unfair to those North Carolina Indian groups seeking recognition such as the Hatteras Tuscarora. The expansive Lumbee membership criteria, which would be effectively codified by passage of H.R. 334, make Lumbee the descendent of anyone identified as Indian in five North Carolina counties and two South Carolina counties in either the 1900 or 1910 Federal census. But note—these census returns do not differentiate among Indian individuals by tribal affiliation; the listings simply say "Indian"—not "Cheraw" or "Croatan" or "Lumbee." Thus, any person listed as Indian in either census—even if she were a Navajo, Shoshone, Catawba, Tuscarora, or Cherokee—is considered Lumbee under this bill. Of the 10 or so tribal petitioners in North Carolina, 5 are from Robeson or surrounding counties. The language of H.R. 334 thus subsumes these groups into the Lumbee. I am not convinced of the ultimate efficacy of provisions of that bill added ostensibly to address the concerns of these groups; and in its rush toward passage I note that the majority is apparently indifferent to their plight.

Aside from the obvious inequities to other native groups, I cannot help but consider the effects of a case in which we are wrong in our assessment of a group seeking legislative recognition. As I have repeatedly stressed, we are not equipped to make an informed decision in this area. It has been estimated by one authority that at least 15 percent of groups currently seeking recognition are essentially bogus Indian groups, or Indian descendent recruitment organizations, composed of predominately non-Indian persons. If we make a mistake, and recognize a group that should not have been accorded that status, then we sully the relationship with the tribes even further.

Moreover, legislative acknowledgement of the Lumbee in the absence of any established recognition criteria raises serious constitutional questions.

Despite our plenary power over Indians, Congress may not arbitrarily confer Federal recognition as an Indian tribe on any group claiming to be a tribe. If we act to recognize the Lumbee, or any other group, in the absence of any set guidelines, then it seems to me that we act ultra vires—outside the bounds of what is constitutionally permissible.

In conclusion, while the recognition process is in need of repair, it is not as crippled as the majority would have us believe. There is only a backlog of, at the most, 8 petitions, not the 120 cases often cited. While I concede that the process is imperfect, the most rational solution is to fix it. Continually seeking to bypass it only ignores the problem and forces us to address it over and over again. In addition, it undermines the role of the BIA, is unfair to both the recognized and unrecognized tribes, and raises constitutional concerns.

Finally, Mr. Chairman, the majority's last rhetorical refuge is to assert that approval of the bill is simply consistent with congressional precedent to enact recognition legislation. Were the principles of stare decisis somehow applicable here, I would remind the majority of the legal axiom that precedent is meant to be a guide, not a straitjacket. However, principles of precedent are not involved here since each of those examples cited by the proponents is easily distinguishable from the 1956 Lumbee Act. Since 1978, the year the BIA promulgated the FAP regulations, Congress has approved 17 acts pertaining to recognition of tribal groups. More than half of the cited acts were bills restoring Federal recognition to groups that had once been officially recognized, but were terminated by legislation—a status to which the Lumbee cannot lay claim. The rest involved unique circumstances not applicable to the Lumbee.

The principal stylobate upon which the majority rests its precedent argument is fatally flawed. Attempting to draw an analogy to the Lumbee, their report states:

> Since the promulgation in 1978 of the regulations governing administrative acknowledgement, the Congress has considered the status of 10 other Indian tribes also ineligible for the administrative process. In every case, Congress enacted recognition legislation.

Yet in the very next sentence in which are cited the bills purportedly supporting that thesis, the majority guts its own argument. The legislation cited is not recognition legislation at all, but restoration legislation—the word "restoration" appears in the title of each act cited. There is a clear legal distinction between a recognition bill, which establishes the government-to-government relationship between the United States and a tribe for the very first time, and a restoration bill, which simply reinstates a relationship which once existed but was terminated by statute or treaty. No amount of obfuscation can turn one into the other. These nine bills, therefore, cannot possibly serve as precedent for the Lumbee case.

Of the eight remaining acts, four were related to the recognition of tribes in the context of eastern land claims. In these bills, Congress extended recognition to several groups as part of settlements of the tribes' legal claims to land in Maine, Connecticut, and Massachusetts. Another act pertained to a tribe that had already been recognized as part of another tribal entity; one acknowledged a band as a subgroup of another recognized tribe; and one act involved a group that was aboriginally indigenous to Mexico and thus specifically excluded from the administrative regulations.

This leaves only one act, the slightly more analogous Texas Tiwa legislation. Often cited by the Lumbee as the best parallel to their situation, the Tiwa Act differs significantly from the 1956 Lumbee Act. In 1968, Congress transferred responsibility over the Tiwa Tribe, now known as the Ysleta del Sur Pueblo, and their lands to the State of Texas, thereby terminating any Federal relationship with the tribe. The act read, in pertinent part:

> Responsibility, if any, for the Tiwa Indians of Ysleta del Sur is hereby transferred to the State of Texas. Nothing in this act shall make such tribe or its members eligible for services performed by the United States for Indians because of their status as Indians * * * and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to [them].

Congress later reversed itself, thereby restoring recognition to the Tiwa, when informed by the State that the latter could not legally hold tribal land in trust for the tribe.

The differences between this and the 1956 Lumbee Act are readily apparent. First despite attempts to characterize the Tiwa Act as recognition legislation, it is not; the Tiwa Act was restoration legislation, a status set forth in the very name of the act itself. As I have previously noted, recognition and restoration are two completely different legal concepts, and consequently the TIWA Act—restoration—is not precedentially analogous to the Lumbee case—recognition. Furthermore, no similar transfer of responsibility has ever taken place between the United States and North Carolina with regard to the Lumbee, nor has the United States ever held land in trust for this group. Unlike the Tiwa case, there has never been any trust responsibility between the United States and the Lumbee. Moreover, the 1968 Tiwa Act specifically refers to the Tiwa as a tribe, a denomination noticeably lacking in the Lumbee Act.

In sum, the 1956 Lumbee Act did not in any way extend Federal recognition to the Lumbees. Rather, it merely designated this group of Indians by a particular name to reflect a similar designation made at the State level. This interpretation is borne out by the wording of the act itself, the legislative history, contemporary news reports, and Federal court rulings. While the act can be read as precluding the Lumbees from petitioning for recognition, the logical solution to that impediment is to amend the act to remove the bar.

Furthermore, the argument that the Lumbee should be allowed to bypass the process because it is too cumbersome and backlogged is equally specious. While the BIA recognition process is in need of repair, it is not as decrepit as the majority would have us believe. There is only a backlog of 9 petitions, not the 120 cases often cited; and while I concede that the process is imperfect, the most rational solution is to fix it. Bypassing the process only ignores the problem, undermines the role of the BIA, and is unfair to both the recognized and unrecognized tribes.

In turn, the Lumbee assertion that approval of this bill is simply consistent with congressional precedent rests upon a flawed rhetorical premise. The examples of legislation they cite to support this proposition are either not recognition legislation or are easily distinguishable from the Lumbee case and therefore are of no precedential value.

Mr. Chairman, before I close I must point out one glaring inaccuracy put forward by Members on the other side of the aisle today as a justification for passage of this bill. We have heard, and will hear I'm sure, several Members state that the Lumbee have been seeking Federal recognition since 1888. This is simply not true, and only supports my contention that most Members are woefully uninformed about the real facts of this case.

In 1888 and 1889, the Lumbee petitioned Congress not for Federal recognition as an Indian tribe, but only to have money appropriated to help pay for their school system. All congressional contacts from that time until approximately 1988 centered solely on name changes for the group, with occasional requests for monetary assistance. It was not until 1988 that a bill to recognize the Lumbee was introduced. To argue then that we should recognize the Lumbee because they have been waiting more than 100 years for recognition is completely inaccurate—they've been waiting one-twentieth of that time.

Mr. Chairman, the past two administrations opposed this bill. The BIA has always opposed this bill, and that opposition had not changed under the new administration until yesterday. A letter from the Department of the Interior dated May 3, 1993, outlines why they objected to the bill. However, as of yesterday the administration did a 180-degree about face and now does not object to passage. Since the substance of the bill has not changed between May 3 and today, I suspect that political motives are behind the Department's sudden change of heart.

In any event, Mr. Chairman, the overwhelming number of tribes in this country oppose this bill. I strongly urge the House to do the same.

Mr. Chairman, I submit the following documents to be included in the RECORD, and reserve the balance of my time.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, DC, May 3, 1993.

Hon. GEORGE MILLER,
Chairman, Committee on Natural Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for a report on H.R. 334, a bill "To provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes."

We oppose the bill because we believe that questions concerning the Indian ancestry and tribal affiliation of the Lumbees need to be resolved before the Department can support Federal recognition of the group. We also believe that the fairest and most expedient way to answer questions concerning Lumbee history would be for the Lumbees to go through the established administrative process (25 CFR 83) as other groups are required to do. Legislative recognition of any group avoids the rigorous and impartial standards upon which the acknowledgment process is based. It would also encourage other unacknowledged groups to avoid having to abide by those standards.

We would favor the introduction of legislation which would clarify the language of the Act of June 7, 1956 "Relating to the Lumbee Indians of North Carolina", (70 Stat. 254), so as to allow the group to petition through the acknowledgment process as any other unacknowledged group can.

We will submit very shortly a full report which sets out in detail our concerns about legislative acknowledgment of the Lumbee group.

Sincerely,

THOMAS THOMPSON,
Acting Assistant Secretary—Indian Affairs.

A MEMORIAL TO THE MEMBERS OF THE U.S. SENATE AND HOUSE OF REPRESENTATIVES ON H.R. 1426, LUMBEE RECOGNITION LEGISLATION

We, the undersigned elected officials of federally recognized Indian tribes from across the United States do hereby memorialize the House of Representatives and Senate of the United States to carefully consider our views on the legislation now pending before the Senate to grant federal recognition to the Lumbee Indians of North Carolina. It is our jointly held view that the Congress should not enact such legislation.

We join in the resolutions previously adopted by many individual tribes as well as by regional inter-tribal Indian organizations including, but not limited to, the Affiliated Tribes of Northwest Indians, the Montana-Wyoming Tribal Chairmen's Association, the Southern Pueblos Governors Council and the Eight Northern Pueblos, all of whom have opposed the enactment of this legislation and insisted that the Lumbees, together with other non-recognized groups of Indians seeking federal recognition, should go through the well established administrative process within the Interior Department known as the Federal Acknowledgement Process (FAP—25 CFR, Part 83). To allow the Lumbees to circumvent the FAP by attaining legislative recognition would be a mistake.

We feel that the FAP is the best available process whereby equitable criteria can be uniformly applied toward petitioning groups of Indians seeking federal recognition and we feel that the process of attaining recognition must be very deliberative, methodical and thorough. Federal recognition is the establishment of a permanent government-to-government relationship and that relationship is one we view as both pivotal and critical to the future well being of our tribes and citizens. The Congress of the United States has not adopted any criteria that it uses in determining the validity of a group's claim to be treated as a federally recognized tribe. If, absent a treaty, no criteria are used and the Congress simply legislatively establishes a federally-recognized tribe at will, the government-to-government relationship and the trust responsibility will be weakened for all tribes.

We feel that attempts to revise history by contending that the Lumbees were somehow previously partially recognized are disingenuous and misleading. We object to attempts to muddy the distinction between Restoration bills, which restore the federal relationship for those tribes that were unfortunately terminated; as opposed to Recognition bills, which, like HR 1426, proposed the establishment of the federal relationship for the first time. We support legislation to rectify any obstacles, such as the 1956 legislation, that would impede the processing of the Lumbees FAP petition.

We express our strong concern that HR 1426 would create the third largest tribe in the country (the Lumbees claim a membership of over 40,000 people including thousands in Detroit, Michigan and Baltimore, Maryland) which would completely over-burden existing underfunded BIA and IHS programs. While we do not object to federal services being provided to the Lumbees if they go through the FAP and meet criteria that other non-recognized have met, we strongly object to multi-million expenditures coming from federal tribal programs for a group who may not legitimately constitute a tribe.

We urge the Congress to examine the history of the FAP regulations and to realize that it was a process supported by tribes and the Congress to assure that an equitable, non-arbitrary process could be used in determining which Indian groups should be recognized. If the Congress determines that the FAP needs amending, we would support procedural amendments providing that the existing criteria are not weakened and that all groups seeking recognition be required to adhere to the FAP regulations.

We therefore urge the rejection of HR 1426 by the Senate and we ask the Members of the Senate to vote against the bill and against any attempts to invoke cloture intended to cut off debate on the bill.

COLORADO RIVER INDIAN TRIBES,
COLORADO RIVER INDIAN RESERVATION,
Parker, AZ, September 13, 1988.

Hon. DENNIS DECONCINI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DECONCINI: The Colorado River Indian Tribes is opposed to enactment of S. 2672 which would provide for federal recognition and services to the Lumbee Tribe of North Carolina. Federal recognition of an Indian tribe should involve a detailed inquiry into the sovereign status of the group requesting recognition. Such an inquiry should ensure that all pertinent information is available for review and that all tribes seeking federal recognition are treated in an equal manner. The Bureau of Indian Affairs has established a procedure for conducting a detailed inquiry and reviewing petitions for federal acknowledgment, 28 C.F.R. Part 83. Requiring tribes to follow this procedure ensures that all those who receive federal acknowledgment are entitled to such recognition and receive equal treatment in the review process. The tribe requests that you allow the administrative process to function by opposing S. 2672 and requiring the Lumbee Tribe to utilize the administrative process.

Sincerely yours,

ANTHONY DRARNAN, SR.
Chairman, Tribal Council.

RESOLUTION NO. 88-5

Whereas, the Southern Pueblos Governors Council is comprised of the Pueblos and Acoma, Cochiti, Isleta, Ysleta Del Sur, Jemez, San Felipe, Sandia, Santa Ana, Santo Domingo, Zia, and Zuni; and,

Whereas, these Pueblos have received information that S. 2672, proposes to circumvent the Federal Acknowledge Project and would confer federal recognition upon the Lumbee Indians of North Carolina; and,

Whereas, this proposed legislation presents too many complex, unresolved issues to be rushed through Congress at this last minute and that Indian Tribes across the nation should be afforded the courtesy of sufficient time to address thee issues; and,

Whereas, the Federal Acknowledgement Project (FAP) has established certain objective criteria that must be met and the Lumbee Tribe is obligated to provide satisfactory factual evidence and to wait their turn for other Tribes who have petitioned earlier for recognition; and,

Whereas, the Pueblos are concerned with the precedent that may be established by this bill and its unfairness to other Tribes awaiting their turn seeking recognition; and,

Whereas, the Congress, the Executive Branch, and the Federal Courts have recognized that the United States has a Government-to-Government relationship with Indian Tribes and a trust obligation to them. If Congress creates Indian Tribes at will, without meaningful criteria or substantial evidence that a group is in fact a Tribe within the normal meaning of that term than the Government-to-Government relationship and the trust responsibility will be enormously weakened: Now, therefore, be it

Resolved, the Southern Pueblos Governors Council is opposed to S. 2672 which would circumvent the Federal Acknowledge Project to the Lumbee Indians of North Carolina and that Congress seek an amendment to the 1956 Lumbee Act expressly to qualify the Lumbees for eligibility under the FAP process: Be it further

resolved, That:

1. Congress appropriate more funds under New Tribes Funding and that the Bureau of Indian Affairs be mandated to include funding and data on the program requirements of newly recognized tribes, rather than taking the funding from existing BIA Programs.

2. A further deadline be established by the Congress for Tribes seeking such recognition.

3. If the Lumbees, or any other group petitioning for recognition under FAP, can meet

the established standards, the Southern Pueblos Governors Council welcomes them into the community of soverign, federally recognized Tribes.

RESOLUTION NO. 89-16

Whereas: The Big Pine Tribal Council is the duly elected governing body of the Big Pine Band of Paiute/Shoshone Indians, and

Whereas: the Bureau of Indian Affairs has promulgated rules and regulations contained in 25 CFR Part 83, providing for specific procedures and criteria for Indian groups to petition for the Department of the Interior for Federal recognition, and

Whereas: a number of Indian groups have gone through the existing CFR process, of which some, having met the criteria, were recognized and others, not meeting the criteria were rejected, and

Whereas: legislation was pending in the 100th Congress, and is likely to be reintroduced in the 101st Congress, to legislatively grant federal recognition to the Lumbee Indians of North Caroline, and

Whereas: the proposed Lumbee legislation singles out one petitioning group for expeditious treatment without any true rational or unique reason for doing so and with the knowledge that several tribal groups with meritorious petitions for such recognition will be required to complete the CFR process, and

Whereas: the creation of one of the largest tribes in the United States and the concomitant fiscal outlay estimated at between $90 million to $120 million annually and the establishment of a fiduciary trust relationship with a tribe should not be made without the deliberate and careful consideration of ethnological, historical, legal and political evidence as required by the CFR process, now therefore be it

Resolved: That the Big Pine Tribal Council does hereby state it's position that groups of non-federally recognized Indians desiring federal recognition should go through the administrative process whereby a consistent set of criteria can be uniformly and deliberatively applied using ethnological, historical, legal and political evidence and does therefore call upon the Congress to reject legislation granting recognition to the Lumbee Indians of North Carolina.

Be It Further Resolved: That the Big Pine Tribal Council does hereby call on the Senate Select Committee on Indian Affairs, the House Interior and Insular Affairs Committee and the Interior Appropriations Sub-Committees to hold oversight hearings, including field hearings, in the 101st Congress, on the existing Bureau of Indian Affairs procedures (25 CFR, Part 83) including the adequacy and timeliness of the existing process as well as sufficiency of budget and staff at the Branch of Acknowledgement and Research and to make recommendations for changes to the existing process if so warranted.

Be it further resolved: That the Big Pine Tribal Council does support, at the least, the proposed $650,000 increase for FY 1990 for the Branch of Acknowledgement and Research to enable the Bureau to more expeditiously process the pending Lumbee and other Indian Groups petitioned.

RESOLUTION 89-10

Whereas, the Kaw Tribe of Oklahoma is federally recognized by the Secretary of the Interior by a Governing Resolution adopted and ratified on October 7, 1958, and

Whereas, the Kaw Tribal Business Committee is the governing body of the Kaw Tribe of Oklahoma, and

Whereas, legislation was pending in the 100th Congress, and it likely to be reintroduced in the 101st Congress, to legislatively grant federal recognition to the Lumbee Indians of North Carolina; and

Whereas, the American Indian Policy Review Commission, the Congress of United States and the National Congress of American Indians have all previously called for the establishment of a consistent set of criteria and a special office through which unrecognized groups of Indians could petition for federal recognition; and

Whereas, the Bureau of Indian Affairs has responded to such recommendations by promulgating rules and regulations contained in 25 CFR, Part 83, providing for specific procedures and criteria for Indian groups to petition the Department of the Interior for federal recognition; and

Whereas, a number of Indian groups have gone through the existing CFR process, of which some, having met the criteria, were recognized and others, not meeting the criteria were rejected; and

Whereas, the proposed Lumbee legislation singles out one petitioning group for expeditious treatment without any true rational or unique reason for doing so and with the knowledge that several tribal groups with meritorious petitions for such recognition will be required to complete the CFR process; and

Whereas, the creation of one of the largest tribes in the United States and the concomitant fiscal outlay estimated at between $90 million to $120 million annually and the establishment not be made without the deliberate and careful consideration of ethnological, historical, legal and political evidence as required by the CFR process;

Therefore be it resolved, with full authority and approval, a quorum being present, the Kaw Tribal Business Committee does hereby state its position that groups of non-federally recognized Indians desiring federal recognition should go through the administrative process whereby a consistent set of criteria can be uniformly and deliberatively applied using ethnological, historical, legal and political evidence and does therefore call upon the Congress to reject legislation granting recognition to the Lumbee Indians of North Carolina.

Be it further resolved, that the Kaw Tribal Business Committee does hereby call on the Senate Select Committee on Indian Affairs, the House Interior and Insular Affairs Committee and the Interior Appropriations Subcommittees to hold oversight hearings, including field hearings, in the 101st Congress, on the existing BIA procedures (25 CFR, Part 83) including the adequacy and timeliness of the existing process if so warranted.

Be it finally resolved that the Kaw Tribal Business Committee does support, at least, the proposed $650,000 increase for FY '90 for the Branch of Acknowledgement and Research to enable the Bureau to more expeditiously process the pending Lumbee and other Indian groups' petitions.

RALEIGH, NC,
August 17, 1988.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: The Tusacarora Indian Community of Eastern North Carolina would like to enlist your help concerning the Lumbee Recognition Act. We like other eastern Indian groups have petitions for recognition under the Federal Acknowledgement Procedure. Will we get the same treatment as the treatment and consideration as the Lumbees?

Secondly, the bill will seriously hurt our efforts for recognition because of it's wording. For years now we have been trying to get from under the 1956 Lumbee Indian Act which designated all the Indians of Robeson and surrounding Counties as Lumbee Indians. However there were and still is other Indian tribes in that specified area. They are recognized by the state of North Carolina as separate tribal entities. They are the Ocharia Indians and the Wassamaw-Souian Indians. Are they also Lumbees? By the 1956 Act, they are because they live in counties that surround Robeson County. What about our people who live in Maxton and adjoining townships of western Robeson County? Are we Lumbees? No. Yet we will all fall into the designation as Lumbees. We will never be Lumbee Indians. We would rather die then give up our tribal heritage.

So this new bill force us to deny our heritage. A heritage that is older and has more of a historical basises. We are a separate tribal entity. We are desirous of preserving and confirming our tribal heritage. We would like to ask you if you can get them to change the bill. So it will either recognize us as a separate tribal entity or put a clause in it making it not applicable to us. We would prefer the first named item. Any assistance you can give us will be deeply appreciated.

Sincerely yours,

A.J. AUSTIN.

THE SAULT STE. MARIE TRIBE
OF CHIPPEWA INDIANS,
Sault Ste. Marie, MI, February 20, 1989.

Senator DANIEL K. INOUYE,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR INOUYE: I am writing today to request that you act to insure the established criteria be followed in regards to the Lumbee recognition issue. We are very concerned with attempts by the Lumbee group to circumvent existing criteria.

It is the position of the Sault Ste. Marie Band of Chippewa Indians that all groups seeking federal recognition should follow the established guidelines for federal recognition. Furthermore should the existing guidelines need clarification all federally recognized tribes should have input into any changes in that criteria. Finally we oppose any circumvention of the existing criteria for federal recognition.

It is the position and opinion of the Sault Ste. Marie Tribe of Chippewa Indians that the existing criteria is sufficient for establishing recognition for an Indian group.

We feel the underlying reasons for the lengthy delays in the recognition process is the small operating budget the Bureau of Acknowledgement and Records has to services such claims. We feel the best way to correct the process would be more appropriations for the Bureau of Acknowledgement and Records.

We request you act to insure the established criteria is followed in the recognition of any Indian group. We ask that our views be acknowledge as part of the public input on this matter.

In closing Mr. Chairman and Distinguished Members, I would like to extend my appreciation for the opportunity to enlighten your committee on this matter.

Respectfully,

BERNARD BOUSCHOR,
Tribal Chairman.

RESOLUTION NO. B-88-193

Whereas, the United South and Eastern Tribe is an inter-tribal council composed of seventeen federally recognized tribes in the Eastern United States; and

Whereas, from time to time, various groups have approached the Board of Directors seeking support for their petitions for Federal recognition; and

Whereas, an established set of criteria exists within the Bureau of Indian Affairs to obtain said recognition.

Now, therefore, be it resolved that the Board of Directors of United South and Eastern Tribes hereby support any group that can successfully meet said criteria in their efforts to obtain Federal recognition.

RESOLUTION NO. 116

Whereas, a petition has been submitted to The United South and Eastern Tribes, Inc. (USET) for that Indian organization to support a request for recognition of the Lumbee as a Federal Indian tribe; and,

Whereas, both the Eastern Band of Cherokee Indians and USET has in the past opposed Federal recognition of the Lumbee on specific grounds; and,

Whereas, the Eastern Band memorialized its position on the Federal recognition of any Indian group by specific objective standards in resolution No. 216 (1974); and,

Whereas, the Eastern Band does not reaffirm its consistent policy in this regard and requests USET not to support a request for Federal recognition by Lumbee or any other Indian group until or unless they satisfy the previously established critiera.

Now, therefore, be it resolved, by the Tribal Council of the Eastern Band of Cherokee Indians, in Annual Council assembled, with a quorum present, that The United South and Eastern Tribes, Inc. is hereby requested not to support any request for Federal recognition for tribal status by Lumbee or any other group unless or until such group satisfies at least four of the following seven criteria for Indian tribal status:

(1) A history of entering treaties with the United States Government.

(2) Show enrollment with a Federally recognized Indian tribe.

(3) Inclusion in the most recent BIA census.

(4) Substantial evidence of Indian language, history, foods, technology and religion.

(5) Recognition by national Indian tribal organizations to be a member of the root race or aborigine.

(6) Have a claim settled by or before the United States Claims Commission.

(7) Be an offspring of sufficient blood quantum recognized by the tribe, with proof of parents qualified under any four of the above.

RESOLUTION OF THE MONTANA/WYOMING CHAIRMEN'S ASSOCIATION

Whereas, legislation has been introduced in the Congress of the United States to legislatively grant Federal recognition to the Lumbee Indians of North Carolina, and

Whereas, there exists in the Code of Federal Regulations (25 CFR Part 83) a specific procedure and criteria for Indian groups to petition the Department of the Interior for Federal recognition, and

Whereas, this section of the CFR was established pursuant to pressure on the Bureau of Indian Affairs (BIA) by tribes and Congress to establish a consistent set of criteria under which Indian groups should petition for recognition, and

Whereas, the NCAI resolution that led to the establishment of these regulations called for "A valid and consistent set of criteria applied to every group which petitions for recognition. The criteria applied to every group which petitions for recognition. The criteria must be based on ethnological, historical, legal, and political evidence, and

Whereas, a number of groups have gone through the existing CFR, some which have been successful and some who have not met the criteria, have been rejected for recognition, and

Whereas, a number of groups, including one in Montana, are presently in the midst of having their petitions reviewed, and

Whereas, there is no justifiable reason for the Lumbee to be allowed to circumvent the established process by instead seeking legislative recognition, and

Now, therefore be it resolved that the Montana/Wyoming Tribal Chairmen's Association meeting in Billings, Montana, on September 15, and 16, 1988, does hereby go on record in opposition to S. 2572 and H.R. 5042.

RESOLUTION NO. 88-219

Whereas, the above referenced legislation has been introduced in the Congress of the United States to legislatively grant federal recognition to the Lumbee Indians of North Carolina; and

Whereas, upon the recommendation of the National Congress of American Indians there were promulgated rules and regulations contained in 75 CFR, part 83 providing for specific procedures and criteria for Indian groups to petition the Department of Interior for federal recognition; and

Whereas, a number of Indian groups have gone through the existing CFR process, of which some, having met the criteria, were recognized and others not meeting the criteria were rejected; and

Whereas, the legislation singles out one Indian group for expeditious treatment in the face of a lack of any rational reason for doing so and with the knowledge that several tribal groups with meritorious petitions for such recognition, including the Little Shell Band of Montanas, will be required to complete the CFR process; and

Whereas, the creation of the second largest Indian tribe in the United States and the concomitant fiscal burden estimated in excess of One Hundred Million Dollars ($100,000,000.00) should not be made without the deliberate and careful consideration of ethnological, historical, legal and political evidence as required by the CFR process;

Now, therefore, be it resolved, that the Confederated Saliah and Kootanai Tribes of the Flathead Reservation, hereby records its opposition to the "Lumbee Recognition Act" and urges that the act be rejected, and that the Lumbee petition for recognition be allowed to take its course within the Department of Interior process set out in 25 CFR, part 83.

RESOLUTION NO. 88-58

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendents-rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and several States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the welfare of the Indian people, do hereby establish and submit the following resolution:

Whereas, the Affiliated Tribes of Northwest Indians (ATNI) are representatives of and advocates for national, regional, and specific tribal concerns; and

Whereas, the Affiliated Tribes of Northwest Indians is a regional organization comprised of American Indians in the states of Washington, Idaho, Montana, Oregon, Nevada, northern California, and Alaska; and

Whereas, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of Affiliated Tribes of Northwest Indians; and

Whereas, the existing tribes in the United States and the Bureau of Indian Affairs have established a Federal Acknowledgement process, known as the Bureau of Acknowledgement and Research (BAR), to review and determine the eligibility of a petitioning tribe to become a Federally Acknowledged Tribe; and

Whereas, this BAR process has established criteria that must be met to determine the validity of a petitioning tribe's status as a Federally Acknowledged tribe; and

Whereas, a number of unrecognized tribes in the United States have been denied Federal Acknowledgement through this process (BIA Bureau of Acknowledgment and Research); and

Whereas, many of these same tribes, as well as others, are attempting to become Federally Acknowledged through Congressional legislation as an alternative approach; and

Whereas, Federal Acknowledgement should be based on established research principles rather than political judgements; and

Whereas, ATNI does not believe that the Committees of Congress have the time, resources, expertise, or knowledge of this field to adequately or qualitively research the validity of the acknowledgement of a tribe and that to legislatively acknowledge a new tribe circumvents the existing Bureau of Acknowledgement and Research process; and

Whereas, ATNI is also deeply concerned that this BAR process has sufficient funding, staff, and resources to expeditiously and adequately process the number of petitions that have been submitted through this program; and

Whereas, ATNI is also concerned about the final judgement within the BAR process that makes the final determination of eligibility based on the submitted criteria and feels that the Bureau of Indian Affairs should review this step to determine if a more equitable approach could be incorporated in lieu of the existing procedural now

Therefore, be it resolved, that Affiliated Tribes of Northwest Indian does hereby urge the President, Congress, National Congress of American Indians, and other tribes in the United States to only acknowledge the existing process known as the BLA Bureau of Acknowledgement and Research as the appropriate process for an alleged Indian Tribe to become Federally Acknowledged; and

Be it further resolved, that due to the magnitude of petitions submitted through this process and the backlog that currently exists, ATNI encourages the Bureau of Indian Affairs and Congress to increase the funding, staff, and resources of the BAR program, as well as review the procedures and criteria of the process to increase the accuracy and effectiveness of the process, as well as determine the fairness of the criteria and the appropriateness of the final determination step.

RESOLUTION 3-1-89-1

Whereas: legislation was pending in the 100th Congress, and is likely to be reintroduced in the 101st Congress, to legislatively grant federal recognition to the Lumbee Indians of North Carolina; and

Whereas: the American Indian Policy Review Commission, the Congress of the United States and the National Congress of American Indians have all previously called for the establishment of a consistent set of criteria and a special office through which unrecognized groups of Indians could petition for federal recognition; and

Whereas: the Bureau of Indian Affairs has responded to such recommendations by promulgating rules and regulations contained in 25 CFR, Part 83, providing for specific procedures and criteria for Indian groups to petition the Department of the Interior for federal recognition; and

Whereas: a number of Indian groups have gone through the existing CFR process, of which some, having met the criteria, were recognized and others, not meeting the criteria were rejected; and

Whereas: the proposed Lumbee legislation singles out one petitioning group for expeditious treatment without any true rational or unique reason for doing so and with the knowledge that several tribal groups with meritorious petitions for such recognition will be required to complete the CFR process; and

Whereas: the creation of one of the largest tribes in the United States and the concomitant fiscal outlay estimated at between $90 million to $120 million annually and the establishment of a fiduciary trust relationship with a tribe should not be made without the deliberate and careful consideration of ethnological, historical, legal and political evidence as required by the CFR process;

Now therefore be it resolved that the Cabazon Band of Mission Indians does hereby state its position that groups of non-federally recognized Indians desiring federal recognition should go through an administrative process whereby a consistent set of criteria can be uniformly and deliberately applied using ethnological, historical, legal and political evidence and does therefore call upon the Congress to reject legislation granting recognition to the Lumbee Indians of North Carolina.

Be it further resolved that the Cabazon Band of Mission Indians does hereby call on the Senate Select Committee on Indian Affairs, the House Interior and Insular Affairs Committee and the Interior Appropriations Subcommittee to hold oversight hearings including field hearings, in the 101st Congress, on the existing BIA procedures (25 CFR, Part 83) including the adequacy and timeliness of the existing process as well as sufficiency of budget and staff at the Branch of Acknowledgement and Research and to make recommendations for changes to the existing process if so warranted.

Be it finally resolved that the Cabazon Band of Mission Indians does support, at the least, the proposed $650,000 increase for FY '90 for the Branch of Acknowledgement and Research to enable the Bureau to more expeditiously process the pending Lumbee and other Indian groups' petitions.

RESOLUTION NO. WR-62-89

Be it resolved by the Tribal Council of the Walker River Paiute Tribe that:

Whereas, the governing body of the Walker River Paiute Tribe is organized under the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat 984) as amended, to exercise certain rights of home rule and be responsible for the promotion of the economic and social welfare of its members, and

Whereas, legislation is now pending in the Congress to legislatively grant federal recognition to the Lumbee Indians of North Carolina and,

Whereas, the American Indian Policy Review Commission, the Congress of the United States and the National Congress of American Indians have all previously called for the establishment of a consistent set of criteria and a special office through which unrecognized groups of Indians could petition for federal recognition and,

Whereas, the Bureau of Indian Affairs has responded to such recommendations by promulgating rules and regulations contained in 25 CFR, Part 83, by providing for specific procedures and criteria for Indian groups to petition the Department of the Interior for federal recognition and,

Whereas, more than twenty Indian groups have gone through the existing CFR process, with those meeting the criteria being recognized and those not meeting the criteria being rejected and,

Whereas, the proposed Lumbee bill singles out one petitioning group for expeditious treatment without any true rationale or unique reason for doing so and with the knowledge that several tribal groups with meritorious petitions for such recognition will be required to complete the CFR process and,

Whereas, the creation of one of the largest tribes in the United States, with approximately 40,000 members and the expected fiscal outlay establishment of a fiduciary trust relationship with a tribe should not be made without the deliberate and careful consideration of ethnological, historical, legal and political evidence as required by the CFR process.

Now therefore, be it resolved, by the Tribal Council of the Walker River Paiute Tribe, that the Walker River Paiute Tribe does hereby state its position that groups of non-federally recognized Indians desiring federal recognition should go through an administrative process whereby a consistent set of criteria can be uniformly and deliberatively applied by historians and anthropologists using ethnological, historical, legal and political evidence, and the Walker River Paiute Tribe does therefore call upon the Congress to reject legislation that would grant recognition to the Lumbee Indians of North Carolina.

Be it further resolved, that the Walker River Paiute Tribe does support the proposed funding increase for FY '90 for the Branch of Acknowledgement and Research (BAR) to enable the Bureau to more expeditiously process pending petitions and does hereby call upon the Congress to support this and further increases in the BAR budget if needed.

Be it further resolved, that should the Interior Solicitor indicate that the 1956 Lumbee legislation creates an obstacle to processing the ruling on the Lumbee BAR petition, the Walker River Paiute Tribe would support an amendment to that Act clarifying that nothing in said Act should effect the ability of the BIA to process and rule on the merits of the pending Lumbee recognition petition.

Be it further resolved, that the Walker River Paiute Tribe does hereby support legislation similar to S. 912 as introduced by Senator John McCain to establish meaningful and realistic time frames for the BIA to process pending petitions for recognition and which also preserves the existing well established criteria as contained in 25 CFR, Part 78.

SUMMARY STATUS OF ACKNOWLEDGMENT CASES

Petitions pending: 35.

BAR's action items: 9.

Active consideration: 5.

Final determinations: 1—Mohegan.

Proposed findings: 4—Snoqualmie, United Houma Nation, Duwamish (under contract), Ramapough.

Waiting to be placed on active consideration: 3—Chinook Indian Tribe, Pokagon Potowatomi, MOWA Band of Choctaw.

Deficiency reviews: 1—Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan de Guadalupe.

Petitioner's action items: 26.

Commenting on proposed finding: 1—Snohomish.

Responding to deficiencies: 25.

Letters of intent to petition: 65.

Preparing petition/in contact with BAR: 46.

Inactive/does not respond to BAR inquiries: 19.

In litigation: 3—Samish (denied acknowledgment), San Juan Paiute (acknowledged), Ione (letter of intent to petition).

Cases resolved: 28.

By department: 23.

Through acknowledgment process:

Acknowledged: 8.

Denied acknowledgment: 13.

Determined part of recog'd tribe: 1—Texas Kickapoo.

Status clarified by legislation at department's request: 1—Lac Vieux Desert.

By Congress: 4.

Legislative restoration: 1—Confederated Tribes of Coos, Lower Umpqua & Siuslaw, OR.

Legislative recognition: 3—Cow Creek Band of Umpqua, Western (Mashantucket) Pequot, Aroostook Band of Micmacs.

By Other Means: 1—Merged with another petitioner: 1.

Cases requiring legislative action (Legislation required to permit processing under 25 CFR 83): 7—Lumbee Regional Development Assn., Hatteras Tuscarora Indians, Cherokees of Robeson & Adjoining Cos., Tuscaroras, Drowning Creek, Waccamaw Siouan Devlpmt Assn., Cherokees of Hoke Co., Tuscarora Nation of NC.

DETAILED STATUS OF ACKNOWLEDGMENT CASES

PETITIONS—35

Bar's action items—9

Under Active Consideration—5

Final Determination—1:

1032: Mohegan Indian Tribe, CT (#38) (A/C 11/3/87; pending, proposed neg finding pub'd 11/9/89; comments complete 3/1/91)

Proposed Findings—4:

425: Snoqualmie Indian Tribe, WA (#20) (A/C 5/21/90; Anthro section under contract)

17657: United Houma Nation, Inc., LA (#56) (A/C 5/20/91; proposed finding due 11/20/92)

356: Duwamish Indian Tribe, WA (#25) (A/C 5/1/92 under contract)

c2500: Ramapough Mountain Indians, Inc., NJ (#58) (A/C 7/14/92)

Waiting to be Placed on Active Consideration—3:

These petitions have been reviewed for obvious deficiencies in accordance with 25 CFR 83.9(b); petitioners have corrected deficiencies and/or have stated that their petition should be considered "ready" for active consideration.

Chinook Indian Tribe, Inc., WA (#57) (doc'n recv'd 6/12/81; CD ltr 3/8/82; rspns recv'd 7/23/87; 2nd CD ltr 11/1/88; complete, "ready" 8/13/92)

c2500: Pokagon Potawatomi Indians of Indiana & Michigan, IN (#75/78 (doc'n recv'd 11/2/88; CD ltr 2/22/90; rspns recv'd 6/13 & 9/18/91; complete, "ready" 9/18/91)

3250: MOWA Band of Choctaw, AL (#86) (doc'n recv'd 4/28/88; CD ltr 2/15/90; rspns recv'd 11/8/91; complete, "ready" 11/19/91)

Deficiency Reviews ("CD")—1:

These are documented petitions which are under staff review or awaiting review for obvious deficiencies under 25 CFR 83.9(b). (*—under review) Piro/Manso Tiwa Indian Tribe of the Pueblo of San Juan de Guadalupe (formerly Tiwa Indian Tribe), NM (#5) (doc'n recv'd 3/24/92)

Petitioner's action items—26:

Commenting on Proposed Finding—1:

836: Snohamish Tribe of Indians, WA (#12) (pending; proposed negative finding pub'd 4/11/83; edited staff notes provided 3/25/91; comment period reopened 12/1/91, extended to 4/3/93 at petitioner's request)

Responding to Deficiencies—25:

These petitions have been reviewed by staff in accordance with 25 CFR 83.9(b); although petitioners have been advised both orally and in writing of obvious deficiencies ("OD letter"), the petitioner has not officially responded to the deficiencies or has responded, but only in part.

Delawares of Idaho (#55) (doc'n recv'd 6/14/79; OD ltr 9/24/79; partial respnse 12/10/79)

Georgia Tribe of Eastern Cherokees, Inc. (aka Dahlonega), GA (#41) (doc'n recv'd 2/5/80; OD ltr 8/22/80)

Seminole Nation of FL (aka Traditional Seminole) (#89) (doc'n recv'd 11/10/82; OD ltr 10/5/83, lacks genealogy; partial rspns 12/7/83)

Jena Band of Choctaws, LA (#45) (doc'n recv'd 5/2/85; OD ltr 9/11/86; response 11/25/86; 2nd OD ltr 10/1/87)

Huron Potawatomi Band (#9) (doc'n recv'd 2/3/87; OD ltr 10/13/87)

Shasta Nation, CA (#83) (doc'n recv'd 7/24/84; OD ltr 5/30/85; response 6/8/86; 2nd OD ltr 10/22/87)

Little Shell Tribe of Chippewa Indians of MT ($31) (OD ltr 4/18/85; partial response 11/2/87, 10/26/89; "not ready" 8/17/90)

Steilacoom Tribe (#11) (doc'n recv'd 10/27/86; OD ltr 11/30/87)

Nipmuc Tribal Council of MA (#69) (doc'n recv'd 7/20/84; OD ltr 3/1/85; response 6/12/87; 2nd OD ltr 2/5/88)

Tolowa Nation, CA (#85) (doc'n recv'd 5/12/86; OD ltr 4/6/88)

American Indian Council of Mariposa County (aka Yosemite), CA (#82) (doc'n recv'd 4/19/84; OD ltr 5/1/85; rsp 12/12/86; 2nd OD ltr 4/11/88)

Yokayo, CA (#104) (doc'n recv'd 3/9/87; OD ltr 4/25/88)

Cowlitz Tribe of Indians, WA (#16) (doc'n recv'd 2/1/83; OD ltr 6/15/83; response 2/10/87; 2nd OD ltr 10/21/88)

Juaneno Band of Mission Indians, CA (#84) (doc'n recv'd 2/24/88; OD ltr 1/25/90)

Hayfork Band of Nor-El-Muk Wintu Indians, CA (#93) (doc'n recv'd 9/27/88; OD ltr 2/26/90)

Eastern Pequot Indians of Connecticut, CT (#35) (doc'n recv'd 5/5/89; OD ltr 3/13/90)

Haliwa-Saponi, NC (#63) (doc'n recv'd 10/19/89; OD ltr 4/20/90)

Oklewaha Band of Seminole Indians, FL (#117) (doc'n complete 2/12/90; OD ltr 4/24/90)

St. Francis/Sokoki Band of Abenakis of VT (#68) ("not ready" 9/18/90)

Mashpee Wampanoag, MA (#15) (doc'n recv'd 8/16/90; OD ltr 7/30/91)

Clifton Choctaw, LA (#30) (ltr/doc'n recv'd c.9/28/90; OD ltr 8/13/91)

Indian Canyon Band of Coastanoan/Mutsun Indians of CA (#112, 6/9/89) (doc'n recv'd 7/27/90; OD ltr 8/23/91)

North Fork Band of Mono Indians, CA (#90) (doc'n recv'd 5/15/90; OD ltr 10/28/91)

Snoqualmoo of Whidbey Island, WA (#108) (doc'n recv'd 4/16/91; OD Ltr 8/13/92)

Yuchi Tribal Organization, OK (#121) (doc'n recv'd 9/9/91; OD ltr 9/14/92)

LETTERS OF INTENT TO PETITION—65

These are typically undocumented letter petitions which state that the group is currently working on the petition and will submit the required documentation at a later date. No action can be taken by staff until a documented petition is received. Petitioners are grouped below by status based on the most recent information available.

Preparing Petition/In Contact with BAR—46:

Ione Band of Miwok Indians, CA (#2, 1916)

Shinnecock Tribe, NY (#4, 2/8/78)

Mono Lake Indian Community, CA (#21, 7/9/76)

Washoe/Paiute of Antelope Valley, CA (#22, 7/9/76)

Antalope Valley Paiute Tribe, CA (#22a, 7/9/76)

Maidu Nation, CA (#24, 1/6/77)

Piscataway-Concy Confederacy & Sub-Tribes, Inc., MD (#28, 2/22/78)

Florida Tribe of Eastern Creek Indians, FL (#32, 6/2/78)

Tsimshian Tribal Council, AK (#36, 7/2/78)

Choctaw-Apache Community of Ebarb, LA (#37, 7/2/78)

Nanticoke Indian Association, DE (#40, 8/8/78)

Cane Break Band of Eastern Cherokees, GA (#41a, 1/9/79)

Tuscola United Cherokee Tribe of FL & AL, Inc., FL (#43, 1/19/79)

Kern Valley Indian Community, CA (#27, 2/27/79)

Hattadare Indian Nation, NC (#49, 3/16/79)

Brotherton Indians of Wisconsin, WI (#67, 4/15/80)

Coharie Intra-Tribal Council, Inc., NC (#74, 3/13/81)

Schaghticoke Indian Tribe, CT (#79, 12/14/81)

Coastal Band of Chumash Indians, CA (#80, 3/25/82)

Golden Hill Paugussett Tribe, CT (#81, 4/13/82)

Dunlap Band of Mono Indians, CA (#92, 1/4/84)

San Luis Rey Band of Mission Indians, CA (#96, 10/18/84)

Wintu Indians of Central Valley, California, CA (#97, 10/26/84)

Northern Cherokee Tribe of Indians, MO (#100, 7/26/85)

Burt Lake Band of Ottawa & Chippewa Indians, Inc., MI (#101, 9/12/85)

Pahrump Band of Paiutes, NV (#105, 11/9/87)

Wukchumni Council, CA (#106, 2/22/88)

Choinumni Council, CA (#109, 7/14/88)

Coastanoan Band of Carmel Mission Indians, CA (#110, 9/16/88)

Ohlone/Coastanoan Muwekma Tribe, CA (#111, 5/9/89)

Paucatuck Eastern Pequot Indians of CT (#113, 6/20/89)

Canoncito Band of Navajos, NM (#114, 7/31/89)

Little Traverse Bay Bands of Odawa Indians, MI (#115, 9/27/89)

Salinan Nation, CA (#116, 10/10/89)

Revived Ouachita Indians of AR & America (#118, 4/25/90)

Meherrin Indian Tribe, NC (#119, 8/2/90)

Amah Band of Ohlone/Coastanoan Indians, CA (#120, 9/18/90)

Etowah Cherokee Nation, TN (#122, 1/2/91)

Upper Kispoko Band of the Shawnee Nation, IN (#123, 4/10/91)

Piqua Sept of Phio Shawnee Indians, OH (#124, 4/16/91)

Little River Band of Ottawa Indians, MI (#125, 6/4/91)

Chickamauga Cherokee Indian Nation of AR & MO (#100a, 9/5/91)

Lake Superior Chippewa of Marquette, Inc., MI (#126, 12/31/91)

Nanticoke Lenni-Lenape Indians, NJ (#127, 1/3/92)

Northern Cherokee Nation of Old Louisiana Terr, MO (#100b, 2/19/92) GunLake Village Band & Ottawa Colony Bard of Grand River Ottawa Indians, MI (#128, 6/24/92)

Inactive/Does not respond to BAR inquires—19:

Group has not responded to written inquires—(14):

Little Shell Band of North Dakota, ND (#18, 11/11/75)

Four Hole Indian Orgn/Edisto Tribe, SC (#23, 12/30/76)

Delaware-Muncie, KS (#33, 6/19/78)

Coree [formerly Faircloth] Indians, NC (#39, 8/5/78)

Shawnee Nation U.K.B., IN [formerly Shawnee Nation, United Remnant Band, OH] (#48, 3/13/79)

North Eastern U.S. Miami Inter-Tribal Council, OH (#50, 4/9/79)

Santee Tribe, White Oak Indian Community, SC (#53, 6/4/79)

Alleghenny Nation (Ohio Band), OH (#60, 11/3/79)

United Rappahannock Tribe, Inc., VA (#61 11/16/79)

Charokees of Jackson County, Alabama, AL (#77, 9/23/81)

Christian Pembina Chippewa Indians, ND (#94, 6/26/84)

Cherokee-Powhattan Indian Association, NC (#95, 9/7/84)

Wintoon Indians, CA (#98, 10/26/84)

Cherokees of SE Alabama, AL (#107, 5/27/88)

Efforts to contact have been unsuccessful—(5):

Cherokee Indians of Georgia, Inc., GA (#27, 8/8/77)

Kah-Bay-Kah-Nong (Warroad Chippewa), MN (#46, 2/12/79)

Upper Mattaponi Indian Tribal Association, Inc., VA (#62, 11/26/79)

Consolidated Bahwetig Ojibwas and Mackinac Tribe, MI (#64, 12/4/79)

Chuckchansi Yokotch Tribe, CA (#99, 5/9/85)

CASES IN LITIGATION—3

Samish (Denied Acknowledgment 5/6/87)

San Juan Paiute (Acknowledged 3/28/90)

Ione (Letter of Intent to Petition, 1916)

CASES RESOLVED—28

Resolved by Department—(23)

Acknowledged through 25 CFR 83—8:

297: Grand Traverse Band of Ottawa & Chippewa, MI (#3) (effective 5/27/80)

175: Jamestown Clallam Tribe, WA (#19) (eff. 2/10/81)

200: Tunica-Biloxi Indian Tribe, LA (#1) (eff. 9/25/81)

199: Death Valley Timbi-Sha Shoeshone Bank, CA (#51) (eff. 1/3/83)

1170: Narragansett Indian Tribe, RI (#59) (eff. 4/11/83)

1470: Poarch Band of Creeks, AL (#13) (eff. 8/10/84)

521: Wampanoag Tribal Council of Gay Head, MA (#76) (eff. 4/11/87)

188: San Juan Southern Paiute Tribe, AZ (#71) (eff. 3/28/90)

Denied acknowledgment through 25 CFR 83—13:

1041: Lower Muskogee Creek Tribe-East of the Mississippi, GA (#8) (effective 12/21/81)

2696: Creeks East of the Mississippi, FL (#10) (eff. 12/21/81)

34: Munsee—Thames River Delaware, CO (#26) (eff. 1/3/83)

1321: United Lumbee Nation of North Carolina and America, CA (#70) (eff. 7/2/85)

1530: Kaweah Indian Nation, CA (#70a) (eff. 6/10/85)

324: Principal Creek Indian Nation, AL (#7) (eff. 6/10/85)

823: Southeastern Cherokee Confederacy (SECC), GA (#29) (eff. 11/25/85)

609: Northwest Cherokee Wolf Band, SECC, OR (#29a) (eff. 11/25/85)

87: Red Clay Inter-tribal Indian Band, SECC, TN (#29b) (eff. 11/25/85)

304: Tchinouck Indians, OR (#52) (eff. 3/17/86)

590: Samish Indian Tribe, Inc., WA (#14) (eff. 5/6/87)

275: MaChis Lower AL Creek Indian Tribe, Al (#87) (eff. 8/22/88)

4381: Miami Nation of Indians of State of IN, Inc., IN (#66) (eff. 8/17/92)

Determined Part of Recognized Tribe—1

650: Texas Band of Traditional Kickapocs, TX (#54) (Determined part of recognized tribe 9/14/81; petition withdrawn)

Status Clarified by Legislation at Department's Request—1

c224: Lac Vieux Desert Band of Lake Superior Chippewa Indians, MI (#6) (legis clarification of recog'n status 9/8/88)

Resolved by Congress—(4)

Legislative Restoration—1

328: Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, OR (#17) (legis restoration 10/17/84)

Legislative Recognition—3

651: Cow Creek Band of Umpqua Indians, OR (#72) (legis recognition 12/29/82)

55: Western (Mashantucket) Pequot Tribe, CT (#42) (legis recog'n 10/18/83 in association with eastern land claims suit)

611: Aroostook Band of Micmacs, ME (#103) (legis recog'n 11/26/91)

Resolved by other means—(1)

Petition withdrawn (merged with another petition)—1:

Potawatomi Indians of IN & MI, Inc., MI (#75) and Potawatomi Indian Nation, Inc. (Pokagon), MI (#78) merged; now Pokagon (#75/78)

CASES REQUIRING LEGISLATIVE ACTION—7

Cases requiring legislation to permit processing under 25 CFR 83—7:

Lumbee Regional Development Association (LRDA/Lumbee) (#65)

Hatteras Tuscarora Indians, NC (#34)

Cherokee Indians of Robeson and Adjoining Counties, NC (#44)

Tuscarora Indian Tribe, Drowning Creek Res. NC (#73)

Waccamaw Siouan Development Association, Inc., NC (#88)

Cherokee Indians of Hoke County, Inc., NC (#91)

Tuscarora Nation of North Carolina, NC (#102)

Note

Petitioners on hand with Acknowledgment staff organized Oct. 1978: 40.

New petitioners since Oct. 1978: 95.

Total Petitions: 135.

135 total petitioners, includes 8 groups that initially petitioned as part of other groups, but have since split off to petition independently.

□ 1310

Mr. RICHARDSON. Mr. Chairman, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I stand to express my support for the passage of H.R. 334, the Lumbee Recognition Act.

The State of North Carolina formally recognized the Lumbee Indians in 1885. Under legislation passed in 1956, Congress lamely recognized them as an Indian tribe—in name only—but denied them services due all recognized Indians through the Bureau of Indian Affairs. They are an independent Indian community residing in eastern North Carolina, predominently in Robeson County, but spreading into surrounding counties, including Cumberland and Bladen Counties, which are in my congressional district. They host a membership of over 40,000. The Lumbees are proud people—proud of their heritage and of their community. They teach their children this heritage and raise them to be proud to be Lumbee and proud to be citizens of the United States.

This tribe has been seeking Federal recognition since 1899, yet the Department of the Interior has consistently denied them tribal status. Finally in 1956, Congress did recognize the Lumbee Tribe; however, precluding these people from the Federal services to which other Indian tribes are entitled. It is time to rectify this situation and make the Lumbees a nationally recognized tribe and treat them with the same respect other tribes across the Nation are treated.

It is a travesty that the Lumbee is being prevented from full recognition just because there are other tribes who fear their own Federal funding will be effected.

I oppose the amendment offered by Representative THOMAS of Wyoming. He would have the tribe go back through the Bureau of Indian Affairs when, in fact, this has been tried many times in the past. The tribe has been turned away in large part due to the population which officials in the Interior Department believe could restrict funding to other tribes. They should be recognized solely because they are a proven Indian tribe and should not be denied due to the fiscal situation of the Bureau of Indian Affairs.

Mr. Chairman, I include the following material on the Lumbee Recognition Act, H.R. 334:

OBJECTIONS AND RESPONSES—LUMBEE RECOGNITION ACT, H.R. 334

THERE IS ALREADY AN ADMINISTRATIVE PROCESS AT BIA, WHY AREN'T THE LUMBEE USING IT?

The Associate Solicitor at the Interior Department ruled in October of 1989, that the Lumbee Tribe was ineligible to proceed through the BIA process, due to a statutory bar in the 1956 Lumbee Act (copy of opinion is attached). The 1956 Lumbee Act recognized the Lumbees by name, but prohibited them from receiving any benefits or services from the federal government.

Aside from present ineligibility, the historic bias of the BIA against Lumbee will preclude any favorable administrative action. In 1991, BIA officials testified in opposition to the bill at a recent joint hearing with the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs. During that hearing, present Branch of Acknowledgement and Research personnel made it clear that they intend to deny the Lumbee petition under current regulations despite the recommendations of other academic scholars.

WHY NOT REPEAL THE 1956 LEGISLATION, THEN REQUIRE THE LUMBEES TO PROCEED THROUGH THE BIA PROCESS?

Congress has never required any Indian group to obtain both legislation and administrative action to become recognized. Over the fifteen years that the Department's acknowledgement process has been in place, Congress has considered the status of ten other tribes subject to statutes that barred them from the administrative process. In each case, Congress enacted comprehensive recognition legislation. One of these situations, that the Ysleta del Sur (formerly Tiwa) of Texas, is very similar to the Lumbee situation in that the tribe had no relationship with the federal government before the enactment of termination-type legislation that precluded administrative acknowledgment. The language in the Tiwa bill was modeled after the Lumbee bill and Congress has since restored their recognition rights. The Lumbee Tribe is simply asking Congress to follow through with its past practice in these situations.

HAS THE LUMBEES' NATIVE AMERICAN IDENTITY BEEN FIRMLY ESTABLISHED?

The Committee's hearing record contains testimony from leading anthropologists and historians, notably Dr. William Sturtevant of the Smithsonian Institution, who has concluded that the Lumbee Tribe meet all the criteria for federal recognition. The Lumbees were recognized by the State of North Carolina in 1885, and began seeking federal recognition in 1888. In response to federal bills, Congress asked the Interior Department to investigate the Tribe's history and condition. On three separate occasions, in 1912, 1915, and 1933, the Department concluded that the Lumbees were indeed Indians, existing as a separate and independent community. The most comprehensive study, done in 1914, traced their origin to Cheraw and other coastal tribes. This study far exceeds in length and detail these presently done by the BIA on petitions for recognition.

IF THE RECORD IS CLEAR, WHY HAVEN'T THEY ALREADY BEEN RECOGNIZED?

Each time a bill was introduced to recognize the Lumbee Tribe, the Department of the Interior testified in opposition, generally because of the size and consequent cost of recognizing the tribe. Recent history also reflects this concern on the part of the BIA. The Bureau's objections about the size of the Lumbee has come up repeatedly in off-the-record discussions between members of the Lumbee Tribe and some BIA officials. BIA officials often privately acknowledge that, had it not been for the size of the tribe, the Lumbee Tribe would have been recognized long ago. Secretary Babitt, of the Department of the Interior, supports H.R. 334 and the Administration has recently stated that they have no longer have any opposition to the bill.

IS THE TRIBE'S ENROLLMENT PROCESS LEGITIMATE SO THAT ONLY LUMBEE INDIANS ARE ENROLLED?

The Lumbee Tribe requires documentation to prove eligibility for every individual that applies. An applicant must be a descendant of an ancestor that appeared on the 1890 and 1900 census. Of the 40,000 enrolled members, approximately 90% reside in Robeson and adjoining counties. All of the members have proven Lumbee ancestry and maintain close ties to the tribe and community. In addition, H.R. 334 authorizes the Secretary of the Interior to verify the validity of the Lumbee roll.

WOULDN'T LUMBEE RECOGNITION OPEN THE FLOODGATES FOR OTHER TRIBES SEEKING RECOGNITION?

There will always be tribes who seek recognition legislatively, but most of these tribes are eligible for the BIA process. The '56 Act is the only remaining termination era statute that bars administrative action on tribal status according to the Department of Interior. Earlier this month, Congress passed a bill which finalized a land claims settlement as well as federal recognition for the Catawba Tribe in South Carolina. Therefore, Lumbee is the only remaining tribe to be dealt with. The Committee would be following precedent by recognizing the Lumbee legislatively and would not establish a precedent for any other tribe to do the same.

DO OTHER TRIBES SUPPORT THE LUMBEE BILL?

Most of the tribes that have been willing to meet with Lumbee leaders support the legislative efforts of the tribe. However, there are tribes, especially those in the western states who are not as familiar with Lumbee and their special eastern heritage. Other tribes mistakenly think the Lumbee would be receiving preferential treatment if they were recognized legislatively. There is some concern that they will receive fewer benefits if the Lumbees are brought into the picture. HR 334 addresses these concerns by stating that Lumbee is not eligible for services until additional funds are appropriated specifically for the tribe.

WHAT ABOUT THE BUDGETARY IMPACT OF LUMBEE RECOGNITION ON THE NEEDS OF OTHER TRIBES?

Several provisions are included to give the Appropriations Committee flexibility to address the needs of the Lumbee people, without threatening the budgets of other federally recognized tribes. This legislation requires that any BIA funding for the Lumbee must come through a separate appropriation, separate from outlays for other federally recognized tribes. This funding mechanism has been endorsed by a former Assistant Secretary for the Department of Interior during the Reagan Administration.

If H.R. 334 was passed, it would be three to four more years before the Department of Interior and the Department of Health and Human Services completed its evaluation of the Tribe's membership rolls and budgetary needs. The CBO has stated that this bill is not subject to pay-as-you-go procedures because it would not affect direct spending or receipts.

DO THE LUMBEE PLAN TO OPEN GAMING OPERATIONS OR CASINOS?

No. In fact, the current tribal government has passed a resolution which states that it is not their intention now or in the future to engage in Indian gaming activity.

Mr. RICHARDSON. Mr. Chairman, I yield 5 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Chairman, I want to first commend our subcommittee chairman, the gentleman from New Mexico [Mr. RICHARDSON] for his leadership and hard work, and whereby this bill is now before us for consideration. Also I want to thank our full committee chairman, GEORGE MILLER, for his guidance and support throughout the hearings process, and the approval of the members of the Committee on Natural Resources.

Mr. Chairman, I want to especially recognize the gentleman from North Carolina [Mr. ROSE] as the chief sponsor of H.R. 334—this bill simply will provide that the Lumbee Indian Tribe of North Carolina will be given Federal recognition.

Mr. Chairman, I have the highest regard for any colleague and friend from Wyoming [Mr. THOMAS], the ranking minority member on our Subcommittee on Indian Affairs. I respect his opinions and in some instances we have agreed on policies and legislation brought before the committee. I regret, however, that we have an honest disagreement concerning the provisions of this bill.

Our critics have emphasized the importance of process, that is, the recognition process that was established Federal regulations since 1978.

Mr. Chairman, the Lumbee Tribe went through the process—7 more years of haggling with the Federal bureaucracy and costing the tribe over $500,000 for the process.

Mr. Chairman, the Lumbee people have been subjected to 110 years of cruel and demeaning processes imposed upon them by our own national Government. And I submit, Mr. Speaker, this institution—the Congress of the United States—has to take full responsibility for this tragic episode of our dealings with native Americans.

Mr. Chairman, throughout the 110-year period these noble people have been subjected to several processes instituted by our own Federal Government. First, our national process was to exterminate the native Americans. Then, our next national policy was to forcibly remove the native Americans from their homelands, and as evidenced by trails of many tears and trails of broken treaties and promises. Our third national policy or process then was to assimilate native Americans into the mainstream of American life—make them all Americans—bury their culture and desecrate the graves of the millions who have passed on. Still yet, Mr. Chairman, our fourth national process toward native Americans was most of termination, that is, do not even call them tribes or Americans Indians anymore. Then under the circumstances, another national process that has evolved was to divide and divide again the native Americans, that is, have the tribes fight among themselves given the limited resources they have to live under most unfavorable living conditions.

Mr. Chairman, again I plead with my colleagues of the House. The Lumbees do not want handouts and they are not begging for Federal recognition. In the almost 5 years that to have served as a member of this committees that handles native American issues—the hearings and testimonies that I have listened to concerning the Lumbee Tribe of North Carolina, I have never witnessed a record as clear on how the Federal Government—and specifically this institution, the Congress of the United States, with a specific and clear mandate from the Federal Constitution—that we have failed miserably to provide the Lumbee Tribe proper recognition.

I commend the gentleman from Tennessee [Mr. QUILLEN], the ranking minority member of the Rules Committee for his support of this legislation.

Mr. Chairman, let us all do the right thing. I urge my colleagues to support H.R. 334.

□ 1320

Mr. RICHARDSON. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. ROSE], the author of the bill.

Mr. ROSE. Mr. Chairman, last year the House passed the Lumbee Recognition Act, and I am pleased that this body has an opportunity today to once again take the first step toward the recognition of a group of native Americans which I have been fortunate to represent during my time in Congress. The Lumbee Tribe of Cheraw Indians have maintained a distinct community in southeastern North Carolina for hundreds of years. This alone is impressive, considering early European settlement in this region and numerous attempts to drive these native Americans out of the area.

The Lumbee have been active and respected members of the national native American community for many years. The tribe was recognized by the State of North Carolina in 1885. In fact, it seems that the Federal Government is the only entity which has failed to recognize the Lumbee and its special heritage. On June 7, 1956, Congress passed a bill which left their status as recognized native Americans in limbo. Thirty-seven years have passed and the Lumbee's status is still unresolved.

Mr. Chairman, there are three important points that I would like to make so that Members can understand why the Lumbee's situation is unique and deserves special attention.

First, the Associate Solicitor of Indian Affairs for the Department of the Interior ruled in 1989 that the 1956 act precluded the tribe from proceeding through the administrative process for recognition. This ruling came 2 years after the tribe had submitted their painstakingly prepared petition to the

BIA. In fact, the tribe spent 10 years assembling documentation for its petition and raising funds for legal costs. Obviously, the Lumbee have made every effort to comply with the BIA's recognition process. That process has failed them, and now they are placed in a position where legislative action is not a choice, but a necessity.

Second, eight other tribes have also been ruled to be ineligible for the Federal acknowledgment process since 1980. The Catawba Tribe's situation was recently resolved through legislation, and that bill is expected to be signed into law in the near future. Ladies and gentlemen, the Lumbee is the last tribe to find itself in this predicament. Congress has dealt with the other ineligible tribes through legislation, and no other tribe has been asked to go through, back through the BIA process in order to be recognized. Congress has established a precedent, and it is only fair that it be applied equitably in this case as well.

Third, I am aware that some Members are frustrated with the Federal acknowledgment process and would like to see it changed. I certainly support the idea that the process needs to be reformed. But the Lumbee is the only remaining tribe with circumstances that set them apart from all others, and they should be dealt with first. This tribe has been studied by the Department of the Interior on three separate occasions, in 1912, 1915, and 1933, and it was concluded each time that the Lumbee were Indians with a separate and independent community. They do not need to be examined again by the BIA and the staff of the Bureau of Acknowledgment and Recognition. It is time for the Congress to right the injustice which it created in 1956.

Because of their status as a State recognized tribe, the tribe already receives some Federal services from the Office of Indian Education and the Administration for native Americans. The Indian Health Service allows Lumbee to receive scholarships but will not give medical services to the members of the tribe. Clearly, one hand of the Federal Government recognizes the tribe as Indian people while the other hand does not. This tribe deserves the same rights and privileges that other native Americans have across the land. The current system of federally recognized tribes versus non-federally-recognized tribes creates unnecessary friction amongst these people. It makes the non-federally-recognized people feel like second-class citizens.

Finally, there are other Indian groups in my congressional district that are adversely affected by the Lumbee Recognition Act of 1956. The 1956 act gave the Lumbee name to all Indians in Robeson and adjoining counties. However, there are Indians in this area who identify themselves as a separate group other than Lumbee. This bill would allow those groups to petition separately for recognition. Without this legislation, they are deemed ineligible for the same reason that the Lumbee are restricted.

Mr. Chairman, I urge the House to oppose the substitute which will be offered and pass the Lumbee Recognition Act so that the history books can be corrected and human dignity can be restored to these people and their culture.

Mr. RICHARDSON. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MILLER], the chairman of the Committee on Natural Resources.

Mr. MILLER of California. Mr. Chairman, Members of the House, I rise in strong support of this legislation. Unfortunately we are once again considering this legislation, a bill that has been around this Congress, as many have said already, in one form or another for the last 100 years.

I want to thank the subcommittee of the Committee on Natural Resources, its chairman, the gentleman from New Mexico [Mr. RICHARDSON], and the gentleman from Wyoming [Mr. THOMAS], for their work on this legislation. While we do not have complete agreement among the members of the committee, I do think we have a bill that addresses a very important problem, a problem that, again, has been highlighted for this committee, and for the House, and for this country by the gentleman from North Carolina [Mr. ROSE], who is insistent upon our committee meeting its obligations and reporting out this legislation.

Mr. Chairman, we have had numerous hearings on this legislation, have taken testimony and evidence. Our good colleague, the gentleman from American Samoa [Mr. FALEOMAVAEGA], has chaired these hearings, has listened to the witnesses, and I think we are in complete agreement that this bill gives us an opportunity to correct a very serious injustice in that nobody can deny that the Lumbee are Indians, and it is very clear that they do, in fact, deserve immediate recognition.

There are some who would like to believe that the Lumbee could go through the Federal administration recognition process, but at the same time all recognize that that process has broken down, it is not working, and in fact it may be more designed to prevent justified recognition than it is to help those tribes who can prove their case. I think it is clear that this bill provides the Lumbee what they should have, and that is government-to-government relations between the United States and the Lumbee, and the official recognition of the Indian heritage of the Lumbee people, and to forestall this legislation any longer would be to continue one of the longer running injustices in the long history of this Government's relationship with the Indian nations, with the Indian nations of this country.

I would hope that my colleagues would support this legislation, that we would pass it again, as we have in the past, and that the Senate would address this problem immediately, and we would have an opportunity to right this wrong, and again I want to thank our colleague, the gentleman from North Carolina [Mr. ROSE], for his help in working this issue to get it to the floor and to get our attention, and my thanks again to the subcommittee, and I ask for support of this legislation.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. TAYLOR].

Mr. TAYLOR of North Carolina. Mr. Chairman, I first want to take this opportunity to commend my colleague from North Carolina, Congressman ROSE, for his effort on behalf of the Indians of Robeson County and in all of North Carolina. However, I rise today to oppose this bill.

I represent a district which encompasses the area of the eastern band of the Cherokee Indians. In the early history of our Nation, Congress and the administration often abused the American Indians of this Nation. In my district, Andrew Jackson tried to move the entire Cherokee Nation to Oklahoma. Many died while walking the Trail of Tears, which many people have heard about. They are remembered in a drama on the Cherokee reservation by those that stayed—that is, those that evaded capture by the soldiers—and those that returned back to western North Carolina.

As we have heard before, the bulk of Indian tribes were established by treaty, many of them following wars in this country. What does it mean to be a federally recognized tribe? It is a formal act that establishes a government-to-government relationship between the United States and the recognized tribe. It institutionalizes the tribe's quasi-sovereign status, giving it the power to tax and to establish a judiciary and it gives the tribe the right to treatment as a sovereign nation.

This relationship is unique in the world. Tribes view it as almost sacred. Many American Indians died for this right. It must be taken seriously and protected.

The history of Federal recognition of Indian tribes has been plagued with pitfalls and perceived as arbitrary and excessively political. In 1978, the Interior Department, after exhaustive consultations with Indians, established procedures to provide a uniform approach to the recognition process. Called the Federal Acknowledgement Process [FAP], the regulations set forth seven criteria a petitioning group must meet to be deemed a recognized tribe, including a historical, genealogical and cultural background.

What we would be doing today with this bill is to replace that orderly process and again return to a method where recognition is granted for arbitrary and political reasons. This would be done contrary to the wishes of the majority of the American Indians.

Let there be no mistake about this vote. This is a vote against the American Indians, not for them. The Cherokee Nation, the Eastern band of which are located in my district, strongly opposes this bill. The Hatteras Tuscarora, located among the Lumbees in Robeson County, have stated that they oppose this bill. Under H.R. 334, they will be subsumed, but they want to apply for tribal recognition through the FAP process. I have received letters that support the FAP process and a strict adherence to a systemic recognition process from various tribes in Arizona, California, Nevada, North Carolina, Oklahoma, Michigan, Washington, Oregon, Idaho, Montana, California, Minnesota, New Mexico.

What I am saying to you is that the American Indian has an established process for tribal recognition. They want to keep this orderly process, and not return to a political logrolling process.

Do the Lumbees deserve Federal recognition? I cannot answer that question and Congress should not determine it. If we do this, what do we do with the numerous other groups across this Nation who want to be recognized? Do we immediately put bills before this body to consider these groups?

And what about those groups who were turned down through the FAP process? Can we say that those who were turned down should not be allowed to come back through the legislative process, and, if they can, find a legislator here with enough power that they become federally recognized as a tribe of American Indians?

Let me emphasize that what the American Indians and certainly the Cherokee in my district have expressed eloquently to me is that they do not object and question this bill based on whether or not there will be a financial loss to one tribe versus another tribe. They are not considering this from a monetary standpoint. We appropriate precious little now to support the tribes of this country. The tribes that I have met with have expressed to me their concern that we will dilute a very sacred recognition process, and they consider it most serious. They feel it will return tribal recognition to a political process that will depend more on political power rather than true Indian heritage.

I urge my colleagues to do the right thing. Support the American Indians of this country and vote against this bill.

□ 1330

Mr. RICHARDSON. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Chairman, I commend Chairman ROSE for bringing this important piece of legislation to the floor once again and Chairman RICHARDSON and the others who have worked so hard with Chairman ROSE to see that justice long denied is finally granted to the Lumbee Indians of North Carolina. Though most of those Indians live within the constituency of the gentleman from North Carolina [Mr. ROSE], a number of them live in my district, and I know them well. It has certainly been my pleasure to get to know the Lumbee Indians in my district and to learn of their long traditions and their proud and unique heritage.

Mr. Chairman, another thing that happens to have occurred in my district was the first English colony was established on the coast of North Carolina in my district. It disappeared from the face of the Earth, and is now known as the Lost Colony. An outstanding outdoor drama is presented each year on it. It is interesting to note that in the oral tradition of the Lumbee Indians, it is passed down through the years that it was the Lumbee Indians who befriended these English colonists. Who, when they fled the island off the coast of North Carolina, the Outer Banks, and went inland, they befriended them, took them under their wing and under their care, and ultimately absorbed them into their tribe.

Mr. Chairman, it is that kind of hospitality that one feels whenever they are with the Lumbee Indians, because they are a warm and hospitable people who do in fact deserve the recognition that this legislation would give.

They have maintained a strong oral tradition that carries back hundreds of years to their forbearers, that does reflect the kind of uniqueness as an Indian nation that should be required for recognition.

Mr. Chairman, I urge my colleagues to vote for this legislation and to reject weakening amendments, so that at long last the Lumbee Indians of North Carolina will receive the justice they so richly deserve.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I have colleagues on both sides of the aisle that stand up on every bill and try to cut $1 million for this or $1 million for that. This program, if enacted, would cost taxpayers $100 million per year forever, just for the Lumbees.

Mr. Chairman, you talk about a budget buster, $100 million per year, forever, just for this one tribe.

There is a normal process that one should go through to determine if they deserve that or note. This body should not be that place.

Those that are trying to prove that they are fiscally conservative need to take a look at just the cost of this process and make sure that the process is done properly, instead of us getting involved.

The other native Americans that deserve it, yes, if they are deserving, then let them go through the normal process that it takes.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we conclude this debate, let me just first of all state that my good friend, the gentleman from California [Mr. CUNNINGHAM], is not correct. This does not cost the taxpayers $100 million per year.

Let me be very precise. The Congressional Budget Office estimates that the Lumbee Tribe would cost the Government $80 to $100 million "only if the necessary funds are appropriated."

In other words, what we would have to have is line items specifically for the Lumbees in the pot of money that goes toward Indian tribes. I repeat, in the pot of money that goes to Indian tribes, there is no allocation for the Lumbees.

Let us say there is going to be a need for a special program relating to the needs of the Lumbee Tribe. There would have to be a line item. Because of the unique status the Lumbees will have, it is impossible to estimate the cost. The cost would be zero, zero, if the Appropriations Committee does not choose to provide funds to the Lumbees.

Mr. Chairman, the Lumbees choose this as a compromise. They did not want to take money from the family of tribes. They mainly want their heritage recognized.

This debate is not about money. There is no money in this bill. There has to be a specific line item.

Mr. FALEOMAVAEGA. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Chairman, I want to echo the sentiments expressed by the chairman of our subcommittee with reference to comments made earlier by our good friend, the gentleman from California [Mr. CUNNINGHAM], that at this point we are quantifying 40,000 Americans, of whom over 400 fought and died in our wars.

Mr. Chairman, we gave $5 billion to Iraq. Nobody seems to be paying any attention to that amount of money. Here we are talking about $100 million, if it ever comes to that amount, to Americans who fought and died for this country. Why are we putting money values on the lives of these people who have been asking for just recognition? And that is all this legislation provides.

Mr. Chairman, we are not talking about money. We are talking about giving these people what is rightfully theirs, full recognition. I think it is overdue.

Mr. RICHARDSON. Mr. Chairman, I yield 1 minute to my friend, the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I thank my good friend for yielding.

Mr. Chairman, my point is that, first of all, if the money is not there, then the other tribes will suffer. I think that is why some of the other tribes are maybe against this, if we do not get line items.

If this tribe wanted just recognition and would waive all the other rights, I would support it, just to recognize their heritage. But we are trying to eliminate welfare states. As a native American you qualify for special benefits. We are trying to do away with the welfare state in this country, instead of creating one.

Mr. Chairman, another thing, not in my district, but just outside, we have a real problem on the Barona Indian Reservation and some other reservations of gambling. We have 3,000 slot machines coming in. We have no idea concerning this. The sheriff cannot get involved with it. I just see the problem that could come out if we give full recognition and the rights that these tribes would have.

Mr. Chairman, if they want to have just recognition as a tribe and waive all the other rights, I will support the gentleman from New Mexico [Mr. RICHARDSON].

□ 1340

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I hope we tread very carefully on this issue. It is not just a matter of recognition. It is a matter of funds being appropriated. It is also a matter of whether this tribe can have a gaming casino.

There is a process to be followed. It is a process that requires one to go before the Bureau of Indian Affairs. There are seven criteria.

That is an effort to protect legitimate tribes, and it is also a recognition that when we recognize a tribe, it is not just full recognition. It means they have a right to a reservation. It means they have a right to sovereignty, a nation within a nation.

We cannot do this lightly. We have got to recognize that we have to have some process. If we set the precedent that we are doing today, I fear that we have just basically taken away the argument that tribes should go before the Bureau of Indian Affairs. And if we take that away, then every decision will be a political decision.

It will be, does the gentleman from North Carolina [Mr. ROSE] have the votes to get it through, because he is a powerful Member of Congress, or does someone else have the power. It becomes a matter of individuals and not a question of whether the merit justifies it.

Mr. ROSE. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Chairman, the Lumbees do not want, and I will never agree to, a separate reservation. They have specifically said that there is no land for a reservation. They want to live in their community, abide by the laws of North Carolina, abide by the local authority. And the tribal council has signed a very broad agreement that they will never ask for gaming rights.

Mr. Chairman, I thank the gentleman for yielding to me.

Mr. SHAYS. Mr. Chairman, I thank the gentleman for making those comments.

The bottom line is that they have the legal right to, if they are given full recognition. And that is what troubles me.

We know, for instance, in the State of Connecticut, there is a tribe that we think has a net profit of $400 million a year; $400 million a year can get people to decide to change what they thought was what they wanted in the past.

I have tremendous concern about the precedent we are establishing here. There is a criteria. We have the Bureau of Indian Affairs, and we are just circumventing that process.

I fear the day that we vote this out and Members then have an argument that is, maybe we should go before the Bureau of Indian Affairs, and the argument is, but we did not do it for the Lumbees or we did not do it for this group.

This is a big mistake. I urge my colleagues to support the amendment that will be brought forward by the gentleman from Wyoming [Mr. THOMAS] that will say, go before the Bureau of Indian Affairs. If they succeed in meeting those seven criteria, then they will have my full support without question.

Mr. RICHARDSON. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Chairman, I rise today in support of H.R. 334, the Lumbee Indian Recognition Act. This legislation marks the culmination of more than 100 years of effort by the Lumbee Indians to receive Federal recognition.

In the first part of this century, Congress directed the Department of the Interior to investigate the history and status of the Lumbee Indian tribe. Although these studies, and two consequent studies conducted by the Department of the Interior, concluded that the Lumbees met the qualifications for identification as a native American Indian tribe, the department continually opposed congressional attempts to recognize the Lumbees because of the tribe's relatively large size and the possible cost of Federal recognition.

Finally, in 1956 Congress passed the Lumbee Act, which confirmed the tribe's status as a legitimate Indian tribe. However, it did not provide Federal recognition. This was in keeping with the politics of the time, when the Federal Government severed relationships with native American Indian tribes which had been formally recognized.

In 1978, the Bureau of Indian Affairs [BIA] established a formal process by which a native American Indian tribe could petition for formal Federal recognition, and the Lumbee Indians submitted a petition to the BIA. In 1989, the associate solicitor of Indian Affairs for the Department of Interior ruled that the 1956 Lumbee Act precludes the tribe from proceeding through the administrative recognition process at BIA. As a result, the only recourse available to the Lumbee Indians is congressional action. Interior Secretary Babbitt supports this legislation and the Office of Management and Budget [OMB] has no objections to it.

Representative THOMAS has put forth a substitute measure which would amend the 1956 Lumbee Act to allow a Federal relationship with the Lumbee Indians and would provide expedited consideration for the Lumbee recognition petition before the BIA.

While I appreciate the intent of the substitute measure, I do not believe it is an effective way to deal with the Lumbee case. The Interior Department's 1989 ruling that administrative action by the BIA was not possible for the Lumbee has left congressional action the only recourse. Even if administrative action was a possibility, it is simply unrealistic to believe that a staff of 10 at the BIA could meet the deadlines for expedited review set forth by Representative THOMAS' amendment. The substitute measure also would be unfair to the other tribes which have submitted petitions to the BIA. Representative THOMAS' substitute would effectively put their applications on hold for 18 months while the full BIA staff was devoted to the Lumbee petition.

Mr. Chairman, the Lumbee Indians clearly meet the BIA criteria for Federal recognition. They have been working for such recognition since 1888, and it is simply unfair to ask these proud people to wait any longer. I urge my colleagues to support the Lumbee Indian Recognition Act and vote to defeat the substitute measure.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself the balance of my time.

Let me just comment on the remarks of the gentleman from North Carolina who indicated there is no alternative. There is an alternative, of course. They would be put at the first of the line. And to indicate that that would be unfair, it seems to me, is a little bit of a paradox when you are bringing them up over the others. If there is anything that is unfair, this is unfair.

In closing, Mr. Chairman, this House must decide if it will continue to support the utilization of an equitable and standardized method of determining which Indian groups should be recognized by the Federal Government, or if it will return us to the pre-1978 days of piecemeal and arbitrary recognition through individual bills such as H.R. 334. While it is clearly within our power to recognize Indian tribes, we have tried our hand at it before. Because we did it so badly and so politically, however, leaders from both parties on this committee and from throughout Indian country insisted on a better way—the administrative FAP process of the BIA. Passage of H.R. 334 in its present form is contrary to the recommendations of the American Indian Policy Review Commission, opposed by the Department of the Interior, opposed by the overwhelming majority of tribes, and contrary to logic. It can only serve to undermine further an already beleaguered recognition process, to encourage other groups to circumvent, that process, and to place recognition in an arena where emotional arguments, influential sponsors, and the partisan nature of Congress replace merit and fact. For these reasons, I join the Department of the Interior and the overwhelming majority of Indian tribes in strongly opposing H.R. 334.

Mr. Chairman, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in closing, let me just make the following points:

First, the administration, the Office of Management and Budget, has no objection to this bill. They support this bill.

Second, this is a bill that is identical to one that we passed in the last session of Congress.

Third, we intend to fix the Federal acknowledgement process. We are going to do that. There are some 135 tribes that have gone through the acknowledgement process. And because of bureaucracy and redtape and inefficiency, the BIA has not moved. And this is why we have this movement to do some of these acknowledgement bills through the Congress.

The new Assistant Secretary of BIA, Ada Deer, has said there are two ways one can get recognized: through the Federal acknowledgement process, which she acknowledges is flawed and needs to be revised, and through acts of Congress.

We have done acts of Congress before, extending recognition. The gentleman is correct. We need to revive and better the processes that exist.

What we need to do, though, because of the special status, because for 100 years we have asked the Lumbees to wait, when they are native Americans, we should pass this bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill shall be considered under the 5-minute rule by sections, and each section shall be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lumbee Recognition Act".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMAS OF WYOMING

Mr. THOMAS of Wyoming. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. THOMAS of Wyoming: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AUTHORITY TO PETITION FOR FEDERAL RECOGNITION.

(a) CONSIDERATION OF LUMBEE PETITION.—The Act of June 7, 1956 (70 Stat. 254), shall not be construed to constitute a bar to the consideration by the Secretary of the Interior of a petition of a group or organization representing the Lumbee Indians of Robeson and adjoining counties of North Carolina.

(b) CONSIDERATION OF OTHER PETITIONS.—The Act of June 7, 1956, shall not be construed to constitute a bar to the consideration by the Secretary of a petition of a group or organization representing any Indians in Robeson or any other county of North Carolina other than the Lumbee Indians.

(c) RECOGNIZED GROUPS.—The Act of June 7, 1956, shall not be construed to operate to deny any group or organization whose petition is approved by the Secretary on or after the date of the enactment of this Act any of the special programs or services provided by the United States to Indian tribes and their members because of their status as Indians.

SEC. 2. CONSIDERATION OF PETITION REQUIRING RECOGNITION AS AN INDIAN TRIBE.

(a) PROPOSED FINDING.—The Assistant Secretary of the Interior for Indian Affairs shall publish a proposed finding with respect to the petition for Federal recognition as an Indian tribe by the Secretary of the Interior pursuant to part 83 of title 25, Code of Federal Regulations, submitted by the Lumbee Regional Development Association on December 17, 1987, and subsequently supplemented, not later than 18 months after the date on which the petitioner has fully responded to the notice of obvious deficiencies regarding that petition.

(b) NUMBER OF MEMBERS NOT A FACTOR.—The number of persons listed on the membership roll contained in the petition referred to in subsection (a) shall not be taken into account in considering such petition except that the Assistant Secretary may review the eligibility of individual members or groups listed in such petition in accordance with the provisions of part 83 of title 25, Code of Federal Regulations.

(c) REVIEW.—(1) If the Assistant Secretary fails to publish the proposed finding referred to in subsection (a) within the 18-month period referred to in such subsection, the petitioner may treat such failure as final agency action refusing to recognize the petitioner as an Indian tribe and seek in federal district court a determination of whether the petitioner should be recognized as an Indian tribe in accordance with the criteria specified in section 83.7 of title 25, Code of Federal Regulations.

(2) If the Assistant Secretary publishes a final decision refusing to recognize the Indians seeking recognition under the petition referred to in subsection (a), the petitioner may, not later than one year after the date on which the final decision is published, seek in Federal district court a review of the decision, notwithstanding the availability of other administrative remedies.

SEC. 3. CRIMINAL AND CIVIL JURISDICTION.

(a) STATE.—In the event that an Indian tribe is recognized pursuant to the petition referred to in section 2(a), the State of North Carolina shall exercise jurisdiction over all criminal offenses that are committed and all civil causes of action that arise, on lands located within the State that are owned by, or held in trust by the United States for, such tribe or any member of such tribe, or on lands within any dependent community of such tribe, to the same extent that the State has jurisdiction over any such offense committed elsewhere in the State or over other civil causes of action.

(b) TRANSFER TO THE UNITED STATES.—The Secretary may accept on behalf of the United States, after consultation with the Attorney General of the United States, any transfer by the State of North Carolina to the United States of any portion of the jurisdiction of the State described in subsection (a).

SEC. 4. NO DELAY FOR PETITIONS AWAITING ACTIVE CONSIDERATION.

It is the sense of the Congress that the review of the petition referred to in section 2(a) should not unnecessarily delay the review of the pending full documented petitions for recognition as an Indian tribe awaiting active consideration as of the date of enactment of this Act.

Mr. THOMAS of Wyoming (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

□ 1350

Mr. THOMAS of Wyoming. Mr. Chairman, let me briefly outline the purpose of this amendment. It addresses each of the Lumbee concerns, short of recognition. It would remove the 1966 Lumbee Act statutory bar to the FAP process. In addition, it would directly remedy the most often-cited flaw of the FAP process, the time it takes to review a group's petition, by guaranteeing that the Lumbee petition will receive expedited consideration, and provide the Federal court review of untimely and adverse determinations by the BIA without requiring resort to the administrative appeals process, which any other group would have to exhaust prior to taking the matter to the Federal court.

I note that, again, prior to yesterday, the Department of Interior, which opposes the bill, had opposed the bill, supports this alternative.

Unfortunately, it appears the Lumbee and the bill's proponents want to have their cake and eat it, too. Rather than constructively addressing the issue, they prefer the bar to remain in place as justification for legislative recognition. This is highly troublesome for several reasons.

Principally, the same amendment was offered in the 101st Congress and was supported by then-Chairman Udall and a 3-to-1 majority of the committee members, both Democrats and Republicans. The full committee later voted to accept the substitute 25 to 8. However, in the last Congress the same amendment, when offered by a Republican, was defeated on a partisan vote of 26 to 18, even though none of the underlying facts had changed.

Another reason I find the offhand rejection of this substitute troubling is the effect it has on the Lumbee. The committee's hearing records describe in detail the numerous unsuccessful attempts the Lumbee have made since 1988, not 1888, to persuade either the executive branch or the Congress to extend Federal recognition to the group. In its present form, H.R. 3334 is, as was its immediate predecessor, unacceptable to the other body.

Given the ultimate legislative death we all know awaits the bill, it is highly regrettable that the bill's proponents are willing to stubbornly stick to their guns and let another Congress, another 2 years, elapse without passage of a bill; that, rather than join in a reasonable and workable compromise solution. It is especially ironic in light of the fact that the opponents of this amendment consistently urge its defeat on the grounds that it would delay a long-overdue recognition of the tribe.

Nothing will do more to assure that delay, however, than the passage of H.R. 334 in its present form. If the House had accepted this substitute 4 years ago, or even in the last Congress, the Lumbee would have been through the process already.

Mr. Chairman, this amendment provides a certainty for the Lumbee people. This bill provides, on the other hand, nothing but false hope, nothing but more delay. It also opens the door to a flood of legislative recognition requests, a path down which we should be very wary of treading.

Mr. Chairman, I urge adoption of the amendment in the nature of a substitute.

Mr. RICHARDSON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wyoming [Mr. THOMAS].

Mr. Chairman, let me just say that the gentleman from Wyoming has been extremely constructive throughout the entire proceedings of this Subcommittee on Native American Affairs of the Committee on Natural Resources, but this amendment would basically kill the bill. This amendment would allow the Lumbee tribe to go through the Federal acknowledgement process, which has been the problem; again, I repeat, over 150 applications, only 8 to 12 have been acted on; over 100 assays into red tape and bureaucracy and the maze of red tape known as the Bureau of Indian Affairs, without any action.

There are native Americans, Americans they went to war, sitting out there waiting for the bureaucracy to acknowledge that they are Indian tribes. The tribe does not want to go through this ordeal. The tribe deserves immediate recognition. They tried to go through the process in 1987. They supplied volumes of data supporting their claim, and they were declared ineligible to go through the process. This is a process that is fatally flawed. The gentleman from American Samoa [Mr. FALEOMAVAEGA] and the former Representative from Arizona, Mr. Rhodes, are trying to change the acknowledgement process. There are bills that we are going to take up to do this.

The new Assistant Secretary for Indian Affairs, Ada Deer, has said that the administration has a strong desire to fix the process. The Committee on Natural Resources, headed by the gentleman from California [Mr. MILLER], as well as our minority Members, recognize we have to improve the acknowledgement process.

The department is now recognizing that there are two ways to recognize a tribe. First, we do it through the Congress. Second is through the Federal acknowledgement process. Most tribes, a majority of tribes, have gone this route through congressional recognition.

The clearest statement that we are doing the right thing is the statement of administrative policy which says that the administration has no objection to this legislation. Today we can decide whether or not the Lumbees will get recognized during this Congress, or they will then, again, languish for another year, as they have for the last 100 years.

Mr. Speaker, we are the Subcommittee on Native American Affairs of the Committee on Natural Resources, the Indian subcommittee. This is an Indian tribe. They deserve this immediate recognition. There is no cost to this legislation. If they are going to get any funds, they have to get a line item appropriation.

Mr. Speaker, we promised to fix this process, but let us not delay the Lumbees from getting the due recognition as a Indian tribe that they deserve. Regrettably, the amendment of the gentleman from Wyoming [Mr. THOMAS] does not achieve that goal. In fact, it kills the bill.

Mr. ROSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief.

Mr. Chairman, the sponsors of this substitute say that the Lumbee should have to go through the BIA's acknowledgment process like other tribes seeking recognition. Well, let me assure my colleagues that the Lumbee have already tried to comply with this request.

In fact, the Lumbee spent 7 long years putting together a petition for the BIA, and submitted in to the Department in 1987. Two years later, they got a letter from the Associate Solicitor at Interior informing them that they had been ruled ineligible to participate in the Federal acknowledgment process. You know why? Because of a bill Congress had passed in 1956 which in effect said: "You are indeed native Americans but we don't want to treat you like native Americans." For anyone familiar with Government policy toward native Americans during the 1950's, this is no surprise. This was the period known as the "termination period" when the Federal Government was trying to distance itself from commitments made to native Americans.

Supporters of the substitute have also suggested that acknowledging the Lumbee legislatively would open the floodgates for other groups seeking recognition. Members of the House, the only new precedent which would be established here is a failure to recognize this tribe legislatively. The Lumbee are not the first tribe who have found themselves in this predicament over the years, but they are the last. Since 1980, eight tribes have been declared ineligible for the process because of prior legislation passed by Congress. In every case, Congress has resolved the matter with legislation. In fact, the Lumbee are the only tribe remaining which fall into this category.

Righting this injustice for the Lumbee does not set any new precedent. It is totally consistent with past congressional action, and to suggest otherwise is to withhold the fairness for the Lumbee which my colleagues seem to suggest is reserved for other tribes.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if the gentleman from New Mexico [Mr. RICHARDSON] would enter into a colloquy with me, I have a question for my friend.

To my knowledge, the members of this tribe are American citizens; is that correct?

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. That is correct.

Mr. CUNNINGHAM. Another gentleman mentioned that they have gone and fought in wars. They fought as American citizens when they went to war; is that correct?

Mr. RICHARDSON. If the gentleman will continue to yield, that is correct.

Mr. CUNNINGHAM. And they receive funds and benefits as American citizens, as any citizen would; is that correct?

Mr. RICHARDSON. That is correct.

Mr. CUNNINGHAM. Mr. Chairman, my point is that when we have a welfare state as expansive as it is, if this tribe wants recognition for their heritage, I will be more than happy to support the gentleman. My concern, and I do believe that there will be funds that we will have to come up with. If there are not line items in there, the gentleman knows how this Congress works. It will add funds, because there will not be enough for all the other native Americans.

I would say to the gentleman that these are American citizens. They went to war as American citizens. They have the rights and benefits as any American citizens, Irish, Indian, or whatever nationality or ethnic group.

Mr. RICHARDSON. If the gentleman will continue to yield, I want my friend to read section 3 of the bill. What that subsection does is conditions the eligibility of the Lumbee for any kind of services for tribal members, any kind of funds are conditioned specifically on an appropriation. In other words, they cannot go after the pot that exists for other native American tribes that the gentleman knows has been cut. The gentleman knows there is a special relationship between the Federal Government and the tribes based on treaty and sovereignty.

I would disagree with my friend, who has characterized the tribes as welfare states. I do not think that is the case. I know that is not the case. Perhaps the gentleman did not fully intend that.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, and I thank the gentleman for the clarification, however, I do know there would be special rights and services as a native American offered. That would be my concern in this thing.

No, I would say to the gentleman, I do not apply the term "welfare state" to all Indian tribes. However, this would cost additional money. The gentleman and I both know how this body operates when it comes to spending. When there needs to be more money appropriated for these types of special services, it will come, and it will come out of taxpayers' money. I would be willing to bet large sums of money that that would happen.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a member of the subcommittee with jurisdiction now over these matters, and as one who has been involved in supporting the request of the Lumbee people here in the Congress, I want to be certain that my colleagues understand the process.

□ 1400

Terminated tribes, of which the Lumbee are one, have to come to Congress to get recognition. They cannot go through the regular process. Not just the Lumbees cannot go through it, no tribe that has been terminated can go through the regular process. They have to do it the way we are doing it today.

What the gentleman's amendment would say is let us create a separate process for the Lumbee, even though they are a terminated tribe. Let us grant them under this act the right to go downtown and go through the normal process. That is different. What the gentleman's amendment would do is put the Lumbee again on a different track than other tribes have been required to entertain.

Having said that, let me just make a general statement. My colleagues notice of course that there are a lot of Members rising suddenly on an issue of native Americans, more than we have seen in a good many years. I have deep respect for all of my colleagues. I like this place. But the hard fact is that Americans, native Americans get scant attention until the time comes when money is involved, or out West at least water is involved. At that point the Congress begins to pay attention to the American Indian, because the American Indian once again becomes a threat.

How is money involved? Not necessarily because the Lumbees are asking for an appropriation here. In fact they are not. A lot of my colleagues are suddenly interested in native Americans because gambling on reservations has become an issue in their districts.

Now we welcome you all. We are glad that the House has suddenly and once again become aware that there are Indian people in America. I just encourage Members to all be aware of it all of the time, not just when Indians become a threat because of money or because they are making legitimate water claims.

Mr. TAYLOR of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I had hoped to have a chance to visit with my friend from Montana. The fact is this tribe has never been terminated because they have never been recognized, so that is not an accurate observation.

Mr. TAYLOR of North Carolina. The gentleman has spoken eloquently on the fact that we overlook the native Americans, American Indians. Let me just tell the gentleman that I am here speaking for the Eastern Band of the Cherokees. The chief was in my office this morning. The tribal council has met. They are very much opposed to this legislation. They are a recognized Indian tribe.

As I mentioned earlier, there are numerous tribes that oppose this legislation. These are native Americans, these are organized tribes.

The great list that is waiting to come in through the legislative process because they either will not come before the Federal process, or they cannot be approved that way, are not necessarily, and I say that restriction, they are not necessarily native Americans. They may be or they may not be. We do not know. Many people who will be making applications will be people who will not be able to show in any way that they are native Americans.

Now I think the Lumbees have a good, strong case. That is why I support the gentleman's amendment. This removes any of the impediments that the Lumbees have for applying through the Federal process, and I think that is what we need to do.

The gentleman from New Mexico I am sure is earnest in his desire to see that fair treatment is given to native Americans. But what criteria does the gentleman from New Mexico use for determining a tribe?

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I am glad to yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, first of all, historical documents, archaeological documents, words from noted scholars that the subcommittee has amassed, that the Bureau of Indian Affairs has amassed.

The gentleman stated something that I want to correct. In 1956 the tribe was recognized and derecognized in one act, was recognized and derecognized by the Interior Department in one act, so it has been recognized. It so happened that it was terminated in the same initiative, a very flawed process.

Mr. TAYLOR of North Carolina. Reclaiming my time, I would say that what Congress was doing in the 1950's does not come close to the process that we have today, a process which was created so that we could give fair, equitable treatment, stating the geological, historical, all of the records the gentleman mentioned. If the Lumbees have those records and can make that case, they can come through the proper process, especially if this amendment passes.

If we do not pass this amendment, if we do as we have done in many Congresses, we send this over to the Senate, and the Senate kills it, as it likely will, then 2 years from now they will be sitting here again making this case and not getting proper recognition for the Lumbees.

Mr. THOMAS of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of North Carolina. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Chairman, just one point. If the gentleman is correct, then this bill is wrong, because we would not be recognizing them then, we would be restoring, and that would be the legal term. So I question the historic benefit.

Mr. DE LUGO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to join my colleagues, the gentleman from North Carolina, in enthusiastic support for H.R. 334, the Lumbee Recognition Act of 1993.

Our colleague, Mr. ROSE, has worked tirelessly on this legislation for several years now and I pleased once again to join with him as one of the cosponsors of the bill.

As my colleagues well know, the Lumbee Indians have been recognized by the State of North Carolina since 1885, and have been seeking Federal recognition ever since then. The Department of the Interior has continuously opposed legislative efforts to recognize the Lumbee Tribe, either because recognition conflicted with prevailing Federal policies toward Indians or because of concern that providing services to the Lumbees would be too costly.

Because the Lumbee Tribe does not have Federal recognition, they receive some Federal services but they are ineligible for services provided to Indian Tribes by the Bureau of Indian Affairs and the Indian Health Service.

Mr. Chairman, it is time that we right this wrong that has been inflicted upon the Lumbee Tribe for over 100 years. I urge my colleagues to resist any amendments to the bill and pass it as it is presented today.

In conclusion, I want to take a moment to commend my colleague on the Natural Resources Committee, the chairman of the Subcommittee on Native American Affairs, BILL RICHARDSON, for his strong leadership on this issue and for bringing this bill to the floor today. I want to also thank the chairman of the full Natural Resources Committee, the gentleman from California [Mr. MILLER], for his support and leadership on this issue as well. And I urge my colleagues to vote "yes" on H.R. 334.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Wyoming [Mr. THOMAS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. THOMAS of Wyoming. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 178, noes 238, not voting 22, as follows:

[Roll No. 537]

AYES—178

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Collins (GA)
Combest
Crane
Crapo
Cunningham
DeLauro
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dreier
Duncan
Dunn
Edwards (CA)
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inhofe
Inslee
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
Menendez
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Orton
Oxley
Packard
Paxon
Petri
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Swift
Synar
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Torricelli
Upton
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOES—238

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Condit
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
Dellums
Derrick
Deutsch
Dicks
Dixon
Dooley
Durbin
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Jacobs
Jefferson
Johnson (GA)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McMillan
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price (NC)
Quillen
Rahall
Ravenel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Traficant
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—22

Bateman
Berman
Cardin
Clinger
Conyers
Cox
Dornan
Green
Inglis
Johnston
Kasich
McNulty
Penny
Rangel
Romero-Barcelo (PR)
Royce
Smith (OR)
Tauzin
Taylor (MS)
Towns
Vucanovich
Young (AK)

□ 1420

The Clerk announced the following pair:

On this vote:

Mr. Smith of Oregon for, with Mr. Rangel against.

Mrs. UNSOELD, Ms. SHEPHERD, Mr. KENNEDY, and Mr. OBEY changed their vote from "aye" to "no."

Mr. BLUTE, Mr. ENGLISH of Oklahoma, and Mrs. ROUKEMA changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

□ 1430

The CHAIRMAN. The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. PREAMBLE.

The preamble to the Act of June 7, 1956 (70 Stat. 254), is amended—

(1) by striking out "and" at the end of each of the first three clauses;

(2) by striking out ": Now therefore," at the end of the last clause and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new clauses:

"Whereas the Lumbee Indians of Robeson and adjoining counties in North Carolina are descendants of coastal North Carolina Indian tribes, principally Cheraw, and have remained a distinct Indian community since the time of contact with white settlers;

"Whereas the Lumbee Indians have been recognized by the State of North Carolina as an Indian tribe since 1885;

"Whereas the Lumbee Indians have sought Federal recognition as an Indian tribe since 1888; and

"Whereas the Lumbee Indians are entitled to Federal recognition of their status as an Indian tribe and the benefits, privileges, and immunities that accompany such status: Now, therefore,".

The CHAIRMAN. Are there amendments to section 2?

The Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. FEDERAL RECOGNITION.

The Act of June 7, 1956 (70 Stat. 254), is amended—

(1) by striking out the last sentence of the first section; and

(2) by striking out section 2 and inserting in lieu thereof the following:

"FEDERAL RECOGNITION; ACKNOWLEDGMENT

"SEC. 2. (a) Federal recognition is hereby extended to the Lumbee Tribe of Cheraw Indians of North Carolina. All laws and regulations of the United States of general application to Indians and Indian tribes shall apply to the Lumbee Tribe of Cheraw Indians of North Carolina and its members.

"(b) Notwithstanding the first section of this Act, any group of Indians in Robeson or adjoining counties whose members are not enrolled in the Lumbee Tribe of Cheraw Indians of North Carolina, as determined under section 4(b), may petition under part 83 of title 25 of the Code of Federal Regulations for acknowledgment of tribal existence.

"SERVICES

"SEC. 3. (a) The Lumbee Tribe of Cheraw Indians of North Carolina and its members shall be eligible for all services and benefits provided to Indians because of their status as federally recognized Indians, except that members of the tribe shall not be entitled to such services until the appropriation of funds for these purposes. For the purposes of the delivery of such services, those members of the tribe residing in Robeson and adjoining counties, North Carolina, shall be deemed to be resident on or near an Indian reservation.

"(b) Upon verification of a tribal roll under section 4 by the Secretary of the Interior, the Secretary of the Interior and the Secretary of Health and Human Services shall develop, in consultation with the Lumbee Tribe of Cheraw Indians of North Carolina, a determination of needs and a budget required to provide services to which the members of the tribe are eligible. The Secretary of the Interior and the Secretary of Health and Human Services shall each submit a written statement of such needs and budget with the first budget request submitted to the Congress after the fiscal year in which the tribal roll is verified.

"(c)(1) The Lumbee Tribe of Cheraw Indians of North Carolina is authorized to plan, conduct, consolidate, and administer programs, services, and functions authorized under the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452, et seq.), and the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), popularly known as the Snyder Act, pursuant to an annual written funding agreement among the Lumbee Tribe of Cheraw Indians of North Carolina, the Secretary of the Interior, and the Secretary of Health and Human Services, which shall specify—

"(A) the services to be provided, the functions to be performed, and the procedures to be used to reallocate funds or modify budget allocations, within any fiscal year; and

"(B) the responsibility of the Secretary of the Interior for, and the procedure to be used in, auditing the expenditures of the tribe.

"(2) The authority provided under this subsection shall be in lieu of the authority provided under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.).

"(3) Nothing in this subsection shall be construed as affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from lawsuit enjoyed by the Lumbee Tribe of Cheraw Indians of North Carolina or authorizing or requiring the termination of any trust responsibility of the United States with respect to the tribe.

"CONSTITUTION AND MEMBERSHIP

"SEC. 4. (a) The Lumbee Tribe of Cheraw Indians of North Carolina shall organize for its common welfare and adopt a constitution and bylaws. Any constitution, bylaws, or amendments to the constitution or bylaws that are adopted by the tribe must be consistent with the terms of this Act and shall take effect only after such documents are filed with the Secretary of the Interior. The Secretary shall assist the tribe in the drafting of a constitution and bylaws, the conduct of an election with respect to such constitution, and the reorganization of the government of the tribe under any such constitution and bylaws.

"(b)(1) Until the Lumbee Tribe of Cheraw Indians of North Carolina adopts a constitution and except as provided in paragraph (2), the membership of the tribe shall, subject to review by the Secretary, consist of every individual who is named in the tribal membership roll that is in effect on the date of enactment of this Act.

"(2)(A) Before adopting a constitution, the roll of the tribe shall be open for a 180-day period to allow the enrollment of any individual previously enrolled in another Indian group or tribe in Robeson or adjoining counties, North Carolina, who demonstrates that—

"(i) the individual is eligible for enrollment in the Lumbee Tribe of Cheraw Indians; and

"(ii) the individual has abandoned membership in any other Indian group or tribe.

"(B) The Lumbee Tribe of Cheraw Indians of North Carolina shall advertise in newspapers of general distribution in Robeson and adjoining counties, North Carolina, the opening of the tribal roll for the purposes of subparagraph (A). The advertisement shall specify the enrollment criteria and the deadline for enrollment.

"(3) The review of the tribal roll of the Lumbee Tribe of Cheraw Indians of North Carolina shall be limited to verification of compliance with the membership criteria of the tribe as stated in the Lumbee Petition for Federal Acknowledgment filed with the Secretary by the tribe on December 17, 1987. The Secretary shall complete his review and verification of the tribal roll within the 12-month period beginning on the date on which the tribal roll is closed under paragraph (2).

"JURISDICTION

"SEC. 5. (a)(1) The State of North Carolina shall exercise jurisdiction over—

"(A) all criminal offenses that are committed on, and

"(B) all civil actions that arise on, lands located within the State of North Carolina that are owned by, or held in trust by the United States for, the Lumbee Tribe of Cheraw Indians of North Carolina, any member of the Lumbee Tribe of Cheraw Indians of North Carolina, or any dependent Indian community of the Lumbee Tribe of Cheraw Indians of North Carolina.

"(2) The Secretary of the Interior is authorized to accept on behalf of the United States, after consulting with the Attorney General of the United States, any transfer by the State of North Carolina to the United States of any portion of the jurisdiction of the State of North Carolina described in paragraph (1) pursuant to an agreement between the Lumbee Tribe of Cheraw Indians and the State North Carolina. Such transfer of jurisdiction may not take effect until two years after the effective date of such agreement.

"(3) The provisions of this subsection shall not affect the application of section 109 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1919).

"(b) Section 5 of the Act of June 18, 1934 (Chapter 576; 25 U.S.C. 465), and the Act of April 11, 1970 (84 Stat. 120; 25 U.S.C. 488 et seq.), shall apply to the Lumbee Tribe of Cheraw Indians of North Carolina with respect to lands within the exterior boundaries of Robeson and adjoining counties, North Carolina.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. (a) There are authorized to be appropriated such funds as may be necessary to carry out this Act.

"(b) In the first fiscal year in which funds are appropriated under this Act, the tribe's proposals for expenditures of such funds shall be submitted to the Select Committees on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives 60 calendar days prior to any expenditure of such funds by the tribe.".

The CHAIRMAN. Are there further amendments to the bill?

Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. DURBIN] having assumed the chair, Mr. PETERSON of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 334) to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes, pursuant to House Resolution 286, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. RICHARDSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 184, not voting 21, as follows:

[Roll No. 538]

AYES—228

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Blute
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
Dellums
Derrick
Deutsch
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hochbrueckner
Holden
Horn
Hoyer
Jacobs
Jefferson
Johnson (GA)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Klein
Klink
Kopetski
Lambert
Lancaster
Lantos
LaRocco
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McMillan
Meehan
Meek
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price (NC)
Rahall
Rangel
Ravenel
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—184

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Collins (GA)
Combest
Condit
Crane
Crapo
Cunningham
DeLauro
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hoekstra
Hoke
Houghton
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inhofe
Inslee
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Kasich
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Laughlin
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McCurdy
McInnis
McKeon
Menendez
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Nussle
Oberstar
Orton
Oxley
Packard
Parker
Paxon
Penny
Petri
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Reed
Regula
Roberts
Rogers
Rohrabacher
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swift
Synar
Talent
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Vucanovich
Walker
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Berman
Brooks
Cardin
Clinger
Conyers
Cox
Green
Inglis
Johnston
Markey
McDade
McHugh
McNulty
Quillen
Ros-Lehtinen
Royce
Smith (OR)
Tauzin
Towns
Walsh
Young (AK)

☐ 1450

The Clerk announced the following pairs:

On this vote:

Mr. Johnston of Florida for, with Mr. Cox against.

Mr. Conyers for, with Mr. Smith of Oregon against.

Mr. MCCURDY changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CLINGER. Mr. Speaker, I was unavoidably absent on Thursday, October 28. Had I been present, I would have voted "no" on rollcall 535; "no" on rollcall 536; "yes" on rollcall 537; and "no" on rollcall 538.

GENERAL LEAVE

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 334, the bill just passed.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for one minute.)

Mr. MICHEL. Mr. Speaker, I have asked unanimous consent to speak for 1 moment in order that I might inquire of the distinguished majority leader the program for next week.

I yield to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I think the gentleman for yielding to me.

There will very likely be no more votes today. The only reason I do not state it unequivocally is that the other body still has to deal with the continuing resolution. We have no reason to believe that they will not pass the continuing resolution that was passed here earlier today, but I wanted Members to be aware that if for any reason that did not happen, we might have to take some further action today or tomorrow. So we are not anticipating votes later today or tomorrow.

On Monday, November 1, the House will meet at noon, but there will not be legislative business and there will not be votes.

Tuesday, November 2, the House will meet at noon to consider eight bills on suspension, but recorded votes on suspensions will be postponed until Wednesday, November 3, toward the end of the day. And the reason for that, of course, is that Tuesday, November 2, is an election day in a number of States.

We will be taking up the eight suspension bills on Tuesday that are noted on the schedule. However, again, the votes will be held until Wednesday.

On Wednesday, November 3, and the balance of the week, the House will meet at noon on Wednesday and at 10 a.m. on Thursday, and, if needed, on Friday. We will be taking up H.R. 2151, the Maritime Security and Competitiveness Act of 1993, subject to a rule.

There could be possible further action on H.R. 3167, the Unemployment Compensation Extension. We will be taking up H.R. 1036, to amend the Employee Retirement Income Security Act of 1974, subject to a rule, and H.R. 3116, the Defense Appropriations Conference Report, again, subject to a rule.

Conference reports can be brought up at any time and any further program will be announced later.

Mr. MICHEL. Mr. Speaker, would the gentleman venture a guess as to when those votes might begin on Wednesday? What hour of the day?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, I would say that there would not be any votes before 1 o'clock on that day.

Mr. MICHEL. Mr. Speaker, the gentleman and I have had little, informal conversations, looking toward Thanksgiving. From what I understand, we are still reaching for adjournment before Thanksgiving.

Mr. GEPHARDT. Mr. Speaker, still targeting it November 22, and we would reiterate to Members that it may be necessary, to reach that goal, to have votes through the weekend of November 19, 20, and 21.

Mr. UPTON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Michigan.

Mr. UPTON. Mr. Speaker, if I might just ask the gentleman, his staff has been very good about talking about votes for next week, particularly on Friday. I noted in the gentleman's remarks, he indicated that we would meet at 10 on Friday, if necessary.

Do we have a 60-percent chance, perhaps, of not having votes, 70 percent?

I know the gentleman does not want to give it away yet.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, the reason we are unable to be definitive is two things: One is the defense bill and, therefore, the continuing appropriation. We need to know if those two are moving properly, and it may be necessary to be here to deal with them on Friday. But we just cannot tell Members at this point.

Mr. UPTON. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman.

HOUR OF MEETING ON WEDNESDAY, NOVEMBER 3, 1993

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, November 2, 1993, it adjourn to meet at noon on Wednesday, November 3, 1993.

The SPEAKER pro tempore (Mr. ANDREWS of Maine). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT TO MONDAY, NOVEMBER 1, 1993

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS TO H.R. 796, THE FREEDOM OF ACCESS TO CLINIC ENTRANCES ACT OF 1993

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, the Rules Committee is planning on meeting the week of November 1, 1993, on H.R. 796, the Freedom of Access to Clinic Entrances Act of 1993.

In order to provide for an orderly process in the consideration of this matter, the Rules Committee is requesting that Members submit 55 copies of their amendments to the bill, together with a brief explanation of the amendment, to the Rules Committee office at H–312, the Capitol, by 5 p.m., Wednesday, November 3, 1993.

Copies of the text of the bill and the report are available in the House Document Room.

Again, the committee would urge Members to submit any amendments to the Rules Committee at the earliest possible time but in no case later than 5 p.m. on November 3, 1993. I thank the Members for their consideration on this matter.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2151, MARITIME SECURITY AND COMPETITIVENESS ACT OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–311) on the resolution (H. Res. 289) providing for consideration of the bill (H.R. 2151) to amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet Program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REMARKS OF PRESIDENT CLINTON

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, on September 23 President Clinton, who loves to campaign more than anything else, held a townhall meeting in Tampa, FL, to discuss his proposed healthcare plan.

In response to a woman who voiced her strong opposition to having her tax money fund abortions, the President completely ignored her concerns and said something so outrageous, so ignorant, that I had to get the transcript of that event to satisfy myself that I had not misunderstood him. I hadn't. It was as bad as I thought. Here is exactly what President Clinton said about the prolife movement:

> I believe we need an aggressive plan to promote adoptions in this country. If every prolife advocate in America adopted a child, this world would be a better place.

This statement is shocking and offensive in the extreme. Perhaps the President should do some research before he opens his mouth.

□ 1500

Every year there are 1,500,000 couples who want to adopt a child. Yet each year, while 1.6 million children are being killed by abortion, only 50,000 new children are available for adoption. This means that for every new adoptable child, 30 others are killed. For every couple that adopts, another 40 wait in line.

So what was he saying, with my new healthcare plan the Government will pay to kill your unborn children and hopefully the prolifers can adopt the few that manage to escape? Disgraceful.

Mr. Speaker, I include in the RECORD the excerpt of the Tampa townhall meeting which includes the Clinton remarks I quoted:

> The PRESIDENT: Well, let me ask you—we are also personally and morally improving preventive and primary health services, and we'll actually stop some abortions from occurring with the kind of preventive services that we're going to cover for the first time in the history of this country.
>
> This could be a subject for a whole other program. I have a difference of opinion from you about whether all abortions should be illegal. I do agree that there are way too many in the United States. I believe we need an aggressive plan to reduce teen pregnancy, to reduce unwanted pregnancies. One of the reasons I named the Surgeon General I did, my health department director, is because I'm committed to that. I believe we need an aggressive plan to promote adoptions in this country. If every prolife advocate in America adopted a child, this world would be a better place.
>
> I want this issue to be debated, and I haven't hedged with you. Most people will get this service covered because most private plans do it. And we propose for the first time ever to put Medicaid people in the big private plans to get the economies of scale. Not for the purpose of doing that, but basically to end this two-tiered system we've had. So most will be covered. But some won't if they choose to join plans that don't cover them. Most plans do today.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON HOUSE ADMINISTRATION

Mr. SPEAKER pro tempore (Mr. ANDREWS of Maine) laid before the House the following communication from the

Honorable CHARLIE ROSE, chairman of the Committee on House Administration:

COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC, October 26, 1993.
Hon. TOM S. FOLEY,
Speaker of the House, the Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that an employee of the Committee on House Administration has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,
CHARLIE ROSE,
Chairman.

COMMUNICATION FROM THE HONORABLE JANE HARMAN, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable JANE HARMAN, a Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 25, 1993.
Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to inform you, pursuant to Rule L (50) of the Rules of the House, that I have been served with a subpoena issued in a civil case pending in the Superior Court of Torrance, California.

After consultation with the General Counsel, I will make the determinations required by the rule.

Regards,
JANE HARMAN,
Member of Congress.

VACATING SPECIAL ORDER AND GRANTING SPECIAL ORDER

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. DREIER] be granted a 5-minute special order today, in lieu of the 60-minute special order previously agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

GENERAL LEAVE

Mr. SANDERS. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks, and to include extraneous material, on the special order of the gentleman from Michigan [Mr. FORD] today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Vermont?

There was no objection.

REALLOCATION OF SPECIAL ORDER TIME

Mr. SANDERS. Mr. Speaker, I ask unanimous consent that the special order of the gentleman from Michigan [Mr. BONIOR] on November 15, 1993, be allocated to the gentleman from Massachusetts [Mr. NEAL].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Vermont?

There was no objection.

A NEW PLAYGROUND FOR THE CHILDREN OF THE DISTRICT OF COLUMBIA

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, Henry David Thoreau said, "If you have built castles in the air, your work need not be lost; that is where they should be. Now put the foundations under them." For the last 2 years, some of us in Congress have been working on our dream of building castles—a playground—for the children of Washington, DC, and we now have finally put in the foundation and built that dream.

My colleagues, Representative ELEANOR HOLMES NORTON, Senator ORRIN HATCH, and then-Senator AL GORE, helped me in spearheading a joint project to build a playground for the children at the Montana Terrace housing development in the District of Columbia. Mayor Sharon Pratt Kelly and the D.C. government joined with other national and local officials to make this project happen. The children who live in this housing development designed the playground themselves with the help of volunteer architects from the American Institute of Architects, who translated the children's dreams and drawings into an elaborate design for a wooden volcano, a stepped pyramid, and a tower designed to resemble a tree house or fort. More than 100 Members of the Senate and House contributed personal cash donations, many businesses provided materials, and local residents and numerous volunteers from the community and Capitol Hill helped to build it.

Mr. Speaker, the District of Columbia is a second home for all of us, who commute between our congressional districts and our Nation's capital. Many of us have long felt the need to give something back to our second home. The freshman class of the 102d Congress felt that this project could help to do that in at least some small way, and many of those Members were very helpful and supportive of this project. I want to thank them and all of the other people and organizations who have helped to make the children of D.C.'s dream, become a reality.

First, the sponsoring organizations—The American Architectural Foundation, The American Institute of Architects, The Washington Chapter of the American Institute of Architects, and the D.C. Department of Public and Assisted Housing; second, my co-chairs in the House and Senate, Representative ELEANOR HOLMES NORTON, Senator ORRIN HATCH, and Vice President GORE; third, the Architecture Firms of Hellmuth, Obata and Kassabaum, PC, as well as Brenda Sanchez Architects; fourth, the construction coordinators Larry Pericolosi of Jefferson Millwork and Design, Valerie Warshaw of the D.C. Jewish Community Center Behrend Shelter Repair and Construction Program, Dom Vokic and Shirli Sensenbrenner of Lehman [Smith] Wiseman and Associates, and Chuck Lovett and Susan A. Retz of the American Institute of Architects; fifth, congressional spouse fundraisers Suzie Brewster and Linda Dooley; and sixth, corporate contributors the Hechinger Co., The American Institute of Architects, The American Consulting Engineers Council, Landscape Architects Daniel Castle Turner and Associates, Reprographic Technologies, Inc., Smoot Lumber Company, Safeway, National Capital Parks—Central, and Giant Food.

There are many others who deserve special credit for their tireless work over the last 2 years—Michele Booth, office of Representative ELEANOR HOLMES NORTON; Bryant and Bryant Architects; Representative DAVE CAMP; Eve Grossman, of my office; Representative DAVE HOBSON; Independent Church of God; Kay Atkinson King, my chief of staff; Jennifer Knott, Cannon Architects; Chris LaRocco, wife of Representative LARRY LAROCCO; Ann Looper, The American Institute of Architects; Martin Moeller, Washington Chapter of the American Institute of Architects; Steve Rentner, The American Institute of Architects; Susan A. Retz, AIA, Washington Chapter of the American Institute of Architects; Brenda Sanchez, Brenda Sanchez Architects; Suzette Voline, Hellmuth, Obata and Kassabaum, PC; Woody Woodrich, Executive Office of the Mayor, and the residents of Montana Terrace.

I also am grateful to those Members of Congress who gave their personal cash donations to build this playground:

INDIVIDUAL CONTRIBUTORS

Vice President Albert Gore, Jr., Treasury Secretary Lloyd Bentsen, Senator Brock Adams, Senator Robert Byrd, Senator Kent Conrad, Senator John Danforth, Senator Dennis DeConcini, Senator Bob Dole, Senator Wendell Ford, Senator Orrin Hatch, Senator Ernest F. Hollings, Senator James Jeffords, Senator Edward M. Kennedy, Senator John Kerry, Senator Herbert Kohl, Senator Carl Levin, Senator Richard Lugar, Senator Howard Metzenbaum, Senator Sam Nunn, Senator Charles Robb, Senator Terry Sanford, Senator Ted Stevens, Senator Strom Thurmond, Representative George

Allen, Representative Robert Andrews, Representative Thomas Andrews, Representative Jim Bacchus, Representative Cass Ballenger, Representative Bill Barrett.

Representative Lucien Blackwell, Representative John Boehner, Representative Bill Brewster, Representative Dave Camp, Representative Bill Clinger, Representative Barbara Rose Collins, Representative Antonio Colorado, Representative John Cox, Representative Bud Cramer, Representative Randy Duke Cunningham, Representative Rosa DeLauro, Representative Cal Dooley, Representative John Doolittle, Representative Thomas Ewing, Representative Barney Frank, Representative Wayne Gilchrest, Representative Pete Geren, Representative David Hobson, Representative Joan Kelly Horn, Representative Jay Inslee, Representative Bill Jefferson, Representative Sam Johnson, Representative Jim Jontz, Representative Joe Kennedy, Representative Herb Klein, Representative Mike Kopetski, Representative Larry LaRocco, Representative Tom Lantos.

Representative John Linder, Representative Tom Luken, Representative Buck McKeon, Representative David Minge, Representative Jim Moran, Representative Dick Nichols, Representative Eleanor Holmes Norton, Representative John Olver, Representative Bill Orton, Representative Ed Pastor, Representative L.F. Payne, Representative Collin Peterson, Representative Pete Peterson, Representative Earl Pomeroy, Representative Jim Ramstad, Representative Jack Reed, Representative Frank Riggs, Representative Tim Roemer, Representative George Sangmeister, Representative Nick Smith, Representative Dick Swett, AIA, Representative John Tanner, Representative Ray Thornton, Representative Maxine Waters, Representative Mel Watt, Representative Bill Zeliff, Ms. Ellen R. Shaffer, and anonymous contributors.

CONSUMER PRICE INDEX FOR GOVERNMENT USE

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SMITH of Michigan. Mr. Speaker, my son, Brad, called to my attention the other day a problem related to the Consumer Price Index that doesn't seem to make sense and costs billions of dollars.

Mr. Speaker, I rise today to call to the attention of my colleagues what I consider a bureaucratic absurdity. Let me ask you a question: Did you know that we increase Government payments to Social Security retirees, the physically impaired, and others, just because the cost of tobacco products increase, from taxes or anything else?

Today, I am introducing bipartisan legislation to remove tobacco products from the so-called "market basket of goods" used by the Department of Labor to determine the Consumer Price Index used to increase Government payments.

Currently, tobacco products make up about 2 percent of the consumer price index used to inflate Government benefits. The Government should not increase Government payments to individuals as a result of rising prices for a product that may be harmful, and is not used by most of those individuals having their benefits increased.

Specifically, I am concerned that the proposed 75 cent or $1 increase in the tax on cigarettes will inadvertently result in an increase in the CPI, and thus, substantially increase Government payments.

From my discussions with the U.S. Department of Labor, CBO, and CRS, it is estimated that an increase in the tax on cigarettes of 75 cents will increase the average price of a pack of cigarettes to $2.65 from the current average cost of $1.90. The cigarette tax increase alone will increase the CPI 7 percent, and thus increase Government outlays $4 billion, annually. Most every State is also considering increased taxes on tobacco, which could add additional billions of dollars of cost to the Federal Government. The cost to local and State government, because of increased payouts based on a CPI, skewed by tobacco, adds additional billions of dollars in cost to those governments.

Mr. Speaker, in order to keep Federal spending down, and not provide a windfall increase for recipients of Federal benefits, I am introducing legislation to create a separate consumer price index for Government use, the CPI–G. It is good legislation and I urge my colleagues to support this change.

FUNDING FOR THE CVN–76 AIRCRAFT CARRIER

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. CLAYTON. Mr. Speaker, there has been a great deal of debate over the issue of funding a new aircraft carrier. Despite the procedural and jurisdictional problems we have encountered here in Congress, this is an issue of great importance to our national security.

This matter was considered as a part of President Clinton's Bottom-Up Review of our Defense strategy. The conclusion of that study was that a new carrier needs to be built, and that funds for this purpose should be made available in the next budget submission. This carrier issue is not new to Congress, for it was only last year that the House and Senate authorized and appropriated $832 million to begin construction on a new carrier to replace one built in the 1950's. The question now before us is whether or not we will make final payment on the carrier. In the long run, estimates show that we can save the American taxpayers at least $200 million by efficiently beginning CVN–76 on the heels of the carrier now being completed.

Mr. Speaker, earlier this week, Chairman INOUYE made a statement on the floor of the other body making a powerful case for funding CVN–76 in this year's Defense appropriations bill. I ask unanimous consent that his remarks be printed in the RECORD at the conclusion of my remarks, and I implore my colleagues to read this powerful argument. I also ask that a brief executive summary of a recent study on the role of aircraft carriers in the 21st century by printed in the RECORD at the conclusion of my remarks.

Let's do the right thing and fund CVN–76.

[From the Congressional Record, Oct. 26, 1993]

AIRCRAFT CARRIER FUNDING

Mr. INOUYE. Mr. President, during the debate on the fiscal year 1994 Defense appropriations bill certain statements were made which gave an unfavorable characterization to the committee's decision to provide funding for a new aircraft carrier. I believe it would be useful to examine these comments in their proper context.

The committee-reported bill recommended $3.4 billion to complete—and here. I would underscore the word complete—the financing of the CVN–76, the next nuclear aircraft carrier. The House Appropriations Committee had recommended an appropriation of $1 billion to partially finance the remaining balance of the carrier. Specific authorization for this action was denied on the House floor, Nonetheless, the House-passed bill still provides $1 billion in undesignated shipbuilding funds, presumably, for this purpose.

Unfortunately, Mr. President, some have argued that the carrier is a new start which is both unauthorized and unrequested. Mr. President, I want the record to be clear. This is not a new start. The administration requested, and the Congress authorized and appropriated, $832 million in fiscal year 1993 to begin work on this aircraft carrier. These funds paid for the purchase of nuclear components for the ship. The Navy began spending these funds last fall. Work has already begun on the carrier. All of these funds have been obligated. So, regardless of what others may argue, through these actions, the Congress has already made the decision to buy the carrier; now the question is when should the remaining funds be provided.

My colleagues should understand that DOD planned to request funds to complete payment for the aircraft carrier in 1995. While this would allow for the carrier to be built with few perturbations in the shipyard work force, it is not the most cost effective method to purchase the carrier.

President Clinton's budget for fiscal year 1994 took no decisive action on the aircraft carrier. Instead, the decision to continue to purchase the carrier was to be reassessed in the Bottom-Up Review—in conjunction with an analysis and formulation of overall carrier force structure levels. The Bottom-Up Review process carried out this in-depth analysis of the requirement for aircraft carriers. The review determined that the Navy must have 12 aircraft carriers to meet force structure requirements. With that decision, the DOD validated the need to build the next carrier.

So, the question recurs: When should the carrier be funded? The Appropriations Committee reviewed this matter and determined it would be appropriate to finance the balance of the ship's costs in 1994. There are several budgetary reasons for this. First and foremost, by funding the carrier in 1994 instead of 1995, the Congress can save $200 million—6 percent of the remaining requirement. This is not a trivial sum.

Second, in conducting its review of the budget requirements for DOD the committee was able to identify sufficient funds to pay for the remaining balance in 1994.

With the conclusion of the Bottom-Up Review in August, many changes were made in the financial requirements for DOD programs. In most cases this information was not available to the authorizing committees until their review of program requirements had already been virtually completed. Because we came later in the process, the Senate Appropriations Committee was able to tailor its recommendations to these results.

The Bottom-Up Review also established several basic tenets for future defense requirements. The committee adopted many of the underlying premises of the Bottom-Up Review in making its adjustments. As a result, the committee's recommendations freed up $3.4 billion in budget authority and $170 million in outlays, sufficient funding to cover the costs of the aircraft carrier in 1994. For good and sufficient reasons, the committee chose to allocate these funds to complete—again, underscore complete—the purchase of the CVN-76.

Mr. President, reaching the budget targets in 1994 has not been easy. It should be made clear to all Senators that 1995 will be a more difficult budget year than 1994. The Appropriations Committee will be required to cut $24.7 billion below the CBO baseline in 1995. In addition, DOD has identified a short-fall of $13 billion in achieving its budgetary goals over the next 4 years. Providing $3.4 billion for the carrier in 1994, instead of 1995, helps alleviate these problems. And, as I noted, we also save $200 million in total costs for construction of the carrier.

Mr. President, it has been falsely suggested that the committee cut research and development funds in order to pay for the carrier. That is not correct and those who have made this unfounded charge should know better. The subcommittee reviewed research and development funding requested by the President and reduced the request based on the merit of individual programs. The savings identified helped the committee reach its overall outlay target. Coincidentally, it also freed up budget authority which could be allocated for the carrier.

In debate on the Senate floor it was said that the outlay impact from this decision to fund the carrier in fiscal year 1994 will exacerbate an assumed outlay shortfall in 1995. This is also incorrect. The outlay impact from financing the carrier in 1994 in $442 million in 1995. Had the committee spent the $3.4 billion on research programs, the outlay impact in 1995 from those programs would have been in excess of $1.15 billion—and the Congress would be faced with the unhappy prospect of providing $3.4 billion in budget authority in 1995 for the carrier. The committee's recommendation will actually lower outlays in 1995 by more than $870 million.

Mr. President, the decision to complete the financing of the CVN-76 in 1994 instead of 1995 makes good business sense. I would not want to be in the position of trying to explain to the American taxpayer that, when the Congress provided $832 million in fiscal year 1993 for advance procurement of items which can only be used in a nuclear carrier, it really had not authorized the new carrier. That does not make any sense to me and would not make any sense to the taxpayers.

I am prepared to explain the decision to complete financing of the carrier in fiscal year 1994. We will find it easier to stay on the path to a declining defense budget, if we finance the $3.4 billion in remaining costs this year. This decision reduces outlays in 1996 compared to spending the funds on research. And, best of all, it saves $200 million in the total cost of the ship. I hope all members now understand the committee's recommendations and support this approach and I urge the conferees on the Defense authorization bill to adopt it as well.

Aircraft Carriers and the Role of Naval Power in the 21st Century

(By Jacquelyn K. Davis)

The defining events of the 1990s—the end of the Cold War, the war in the Gulf, and the dismantling of the Soviet empire—have had a profound effect upon U.S. security planning. Reflected in the Defense Department's "Bottom-Up Review," the Clinton administration is undertaking a major reassessment of defense force structure and logistical support networks designed to meet the challenges of the post-Cold War world, while taking into account public sentiment for greater defense economies now that the Soviet threat has dissipated.

NEW RISKS

But the breakup of the Soviet Union does not mean that U.S. interests are free from risks. There have emerged new risks in the global security environment—risks that may require the employment of U.S. forces. As the one nation that remains uniquely capable of projecting substantial power beyond its shores—and, hence, having at least some impact on the shape of the post-Cold War world—the United States may find it necessary to deploy its forces to regions where vital U.S. interests may not be at stake, but in which broader humanitarian and democratic values are being challenged. Indeed, the deployment of U.S. contingents to such widely varied crisis settings as Somalia, Northern Iraq, Liberia, and recently Macedonia, has already demonstrated the importance of maintaining flexible forces able to respond to a variety of requirements. As peacekeeping and peace-making operations assume a greater priority in U.S. foreign policy planning, and missions of humanitarian relief and disaster assistance—both at home (as in the case of clean-up operations after Hurricanes Andrew and Iniki) and overseas as well—become the norm rather than the exception in the employment of U.S. forces, civilian and military planners will be compelled to find imaginative solutions to the problem of developing a range of force packages for use in multiple contingencies.

THE AIRCRAFT CARRIER'S ENABLING CAPABILITIES

Inevitably, the challenges of security in the 1990s will place greater emphasis on "jointness," both among the U.S. Services and in connection with allied and coalition planning. Because the aircraft carrier platform is large enough to integrate a mix of Marine, Army and Air Force assets with its own considerable striking power, it will be central to U.S. joint planning in the future—both for peacetime forward presence missions and wartime operations. By virtue of its geography, the United States is a maritime nation whose welfare and global role depends on unimpeded access to the world's sea lines of communication (SLOCs). Even though there may be relatively little direct threat to U.S. navigation on the open seas (now that the Soviet Union has been dismantled), the potential for conflict in key regional theaters is very real—conflicts that could escalate into open warfare either involving the engagement of U.S. forces, or posing a threat to U.S. (and allied) commercial and strategic interests, or both. With the proliferation of weapons technologies and the growing lethality of the forces of potential regional adversaries, the capability of the aircraft carrier battle group will provide to a joint commander or theater CINC an important enabling force of facilitate crisis response, sustained military operations, conflict escalation, and war termination.

In future theater contingencies—the primary planning focus of the new strategic guidance that is emerging from the Pentagon—there is likely to be a premium placed on those U.S. and allied forces that can:

deploy to a theater of operations in a timely fashion;

prevent minefields from being laid in the sea approaches to the area;

protect sea-lift assets en route and at the point of arrival and departure;

deliver firepower against an array of targets whose interdiction would give the adversary's leadership pause to reflect on utility of proceeding further with its warfare objectives; and,

offer a range of flexible options, in terms of strike planning, escalation control, and war termination.

Against any range of theater scenarios, the aircraft carrier and its associated systems' assets (including its battle-group combatants, but also its deployment of long-range precision-guided missiles and new generation sensor-fuzed munitions) contribute an unparalleled capability to meet any of these objectives, while providing a tangible demonstration of U.S. capability and will—thereby offering U.S. policymakers a unique crisis management and deterrent tool.

Pressured by defense budget cuts, which could be even more severe in the out years, the number of aircraft carrier platforms in the active inventory of the Navy is likely to be a subject of contentious debate. As a capability that could aptly be described as a moveable piece of "sovereign America," the aircraft carrier can steam to a crisis location without raising tensions in countries that are not involved. Operationally, it would also not be encumbered by the political debate that often accompanies requests for the overflight of national territory, or that is inherent in requests for access to local basing facilities. The aircraft carrier platform, moreover, can bring to the scene of a crisis tangible evidence of U.S. resolve, and provide the basis for coordinating joint and combined operations if a given situation warrants the use of military force.

CARRIER FORCE LEVELS

For all these reasons, it would be foolhardy for the United States to reduce its carrier force to a level that could not provide for a flexible forward presence policy. In view of the political-psychological mindset that forms a central aspect of national security decision-making, it may be more difficult to commit (and mobilize) U.S.-based forces for regional crisis deployment missions than it would be to put carrier-based assets already near or in the area in question on alert status. Planning a force structure to fight in two major regional contingencies "nearly simultaneously" (to use Secretary Aspin's recent formulation) requires a prudent planner to retain the Navy's preferred minimum number of twelve carriers in the force structure. Reducing the number of carriers in the U.S. fleet to ten would result in significant deployment gaps, increased time at sea for sailors, and an inability to react to crises with the flexibility that is necessary to ensure a timely and effective response. Even with a twelve-carrier force, key regions-notably the Mediterranean, Persian Gulf, and the Western Pacific-could only be covered about eighty percent of the time.

In its search to make prudent decisions about force structure (while recognizing the need to achieve some, reasonable defense economies), the Clinton administration needs to appreciate the risks associated with a decision to reduce the number of carrier platforms below twelve. The costs to the nation of doing so will in the long run far outweigh any near-term defense savings that some think can be so derived. By themselves the intangibles associated with the deployment of a credible forward presence posture centered around twelve carrier battle groups by far exceed (in value) the hoped-for defense economies of cutting the carrier program—and this includes the costs of building a new carrier, CVN-76, to being to nine the number of Nimitiz-class carriers.

DEFENSE INDUSTRIAL BASE ISSUES

CVN-76 construction carries profound and far-reaching implications for the ability of the United States to sustain a nuclear shipbuilding industry. Construction of a nuclear-powered aircraft carrier entails special skills and a comprehensive base of second- and third-tier suppliers—all of whom are not common to the construction of a nuclear-powered submarine. A decision not to fund the new carrier, or to push off its funding until after fiscal year 1995, will likely result in the disappearance of critical job skills that are crucial to the nuclear carrier shipbuilding industry. If new carrier construction were delayed, or stretched out—an alternative that is apparently being considered—the result is likely to be a far more expensive program, due to the need to accommodate the loss of key suppliers and to recreate and qualify skilled teams to do the work. Overhaul and refueling work on existing carriers simply would not provide enough work for major component suppliers in the industry to justify their staying in business. Thus, any decision delaying or canceling the construction of CVN-76 will have major implications for both the domestic economy and the defense industrial skill base. Moreover, such a step would affect adversely our ability to reconstitute and mobilize forces if confronted with a major global contingency or the need to fight in two theaters simultaneously.

One option that might be pursued is an incremental funding strategy for CVN-76. Under such an arrangement, the critical vendor base could be sustained through the authorization of funding on three or four "ship sets" of highly specialized equipment for the carrier (e.g., nuclear cores, special reactor pumps, and hydraulic plants). Such funding, in the form of another year of advanced procurement funding for CVN-76, would be a second-best means of preserving the vendor base; yet it would maintain the option to build the tenth nuclear carrier, and would moreover be consistent with the administration's domestic and global priorities.

BOTTOM-LINE ASSESSMENT

Viewed in this context, the carrier emerges as central to sustaining an adequate forward presence capability, and assuring a flexible maritime instrument for responding to the variety of potential local conflicts and crisis situations—ranging from humanitarian assistance to peacekeeping, conflict management, and war termination. Clearly, the preferred option would be maintaining twelve carriers in the Navy's force structure—with earlier rather than later investment in CVN-76 production and development. At the very least, it is necessary to secure and sustain a degree of incremental funding sufficient to maintain the vendor base critical to future U.S. carrier construction. If CVN-76 is not funded, the United States may be forfeiting its future ability to build aircraft carriers in a cost-effective and timely manner. The operational implications of failing to move ahead with CVN-76 will undermine the Navy's ability to maintain adequate global presence, and could well hamper any President's ability to respond to unfolding crises swiftly and in an appropriate manner.

THE FAMILY VIOLENCE PREVENTION ACT

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Ms. VELÁZQUEZ. Mr. Speaker, today I have the privilege of being joined by 27 of my colleagues in introducing the Family Violence Prevention Act, which provides family violence prevention services to underserved populations regardless of race, culture, language, or geography. The measure also establishes model programs to educate young people about domestic violence and violence against intimate partners. The bill will equally distribute family violence prevention services to all populations, and makes it possible for young people to learn about the atrocities of domestic violence at an early age.

Domestic violence is a major contributor to the escalating level of violence in America. It is the leading cause of injury to women aged 15 to 44, more common than muggings and car crashes combined. And children who live in abusive households are four times more likely to become juvenile delinquents than those raised in a violence-free environment. More than one in three Americans report witnessing an incident of domestic violence, and 14 percent of women admit that their husband or boyfriend has violently abused them. In a recent national survey conducted by the Family Violence Prevention Fund, 87 percent of those polled said that they would support legislation to increase funding for battered women's programs.

These figures paint a sad portrait of an America in turmoil. For far too many women and children in our society, the home is not a place of comfort, security, and shelter, but, instead, a den of despair and violence. Americans are in desperate need of family violence prevention services that promote prevention through education and instruction. In light of this, there is no reason why my colleagues should not support the Family Violence Prevention Act.

The act consists of two sections. Section 1 amends the Family Violence Prevention and Services Act to require that applications for State grants include a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity, or geographic isolation. This important provision will assure an equitable distribution of grants and grant funds within all populations in the State, and is crucial because poor communities and communities of color that are usually overlooked, will receive funds for education on family violence. In addition, upon completion of activities funded, the State grantee must file a performance report explaining the activities carried out together with an assessment of the effectiveness of such activities. This would be required from all grantees.

Section 2 amends the Family Violence Prevention and Services Act to direct the Secretary of Education to select, implement, and evaluate four model programs for the education of young people about domestic violence and violence among intimate partners, with one program for each of primary, middle, and secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in light of the comments of a multicultural panel of educational experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions, and resource centers. This section seeks $400,000 for these programs.

Mr. Speaker, I urge my colleagues to join my efforts to ensure that family violence prevention services and education on domestic violence is available to all Americans, regardless of their race, culture, ethnicity, or language. The patterns of violence that plague our country must be broken, and the only way to achieve this goal is by educating our young about the atrocities committed by those who resort to domestic violence.

The following is a text of my legislation and a list of original cosponsors.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Family Violence Prevention Act".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Family Violence Prevention and Services Act.

SEC. 2. GRANTEE REPORTING.

(a) PLAN TO SERVE UNDERSERVED POPULATIONS.—Section 303(a)(2)(C) (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" after "such State".

(b) PERFORMANCE REPORT.—Section 303(a) (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.".

SEC. 3. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 318. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

"(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate the Secretary's powers to the Secretary of Education (hereafter in this section referred to as the "Secretary"). The Secretary shall select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

"(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in the light of the comments of a multi-cultural panel of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of those groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

"(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $400,000 for fiscal year 1994.".

COSPONSORS OF THE FAMILY VIOLENCE PREVENTION ACT

Patsy Mink.
Louise McIntosh Slaughter.
Bob Filner.
Carrie Meek.
Cynthia McKinney.
Connie Morella.
Maxine Waters.
Eleanor Holmes Norton.
Jim McDermott.
Jolene Unsoeld.
Charles Rangel.
Luis Gutierrez.
Edolphus Towns.
Lucille Roybal-Allard.
George Miller.
Marcy Kaptur.
José Serrano.
Elizabeth Furse.
Sanford Bishop, Jr.
Patricia Schroeder.
Kweisi Mfume.
Xavier Becerra.
Karan English.
Bill Richardson.
Lynn Woolsey.
Carlos Romero-Barceló.
Barbara-Rose Collins.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES FOR FISCAL YEARS 1994–98

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. SABO] is recognized for 5 minutes.

Mr. SABO. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1994 and for the 5-year period fiscal year 1994 through fiscal year 1998.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, October 28, 1993.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting an updated status report on the current levels of on-budget spending and revenues for FY 1994 and for the 5-year period FY 1994 through FY 1998.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or cleared for the President as of October 26, 1993.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the overall limits set in H. Con. Res. 64, the concurrent resolution on the budget for FY 1994. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's overall limits. The table does not show budget authority and outlays for years after FY 1994 because appropriations for those years will not be considered until future sessions of Congress.

The second table compares the current levels of budget authority, outlays, and new entitlement authority for each direct spending committee with the "section 602(a)" allocations made under H. Con. Res. 64 for FY 1994 and for FY 1994 through FY 1998. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) allocation of new discretionary budget authority or new entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a). The section 602(a) allocations were printed in the CONGRESSIONAL RECORD for March 31, 1993 on pages H. 1784–87.

The third table compares the current levels of discretionary appropriations for FY 1994 with the revised "section 602(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, since the point of order under that section also applies to measures that would breach the applicable section 602(b) suballocation. The revised section 602(b) suballocations were filed by the Appropriations Committee on September 30, 1993 (H. Rept. 103–271).

Sincerely,
MARTIN OLAV SABO,
Chairman.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1994 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 64

REFLECTING ACTION COMPLETED AS OF OCTOBER 26, 1993

[On-budget amounts, in millions of dollars]

	Fiscal year 1994	Fiscal years 1994–1998
Appropriate level (as set by H. Con. Res. 64):		
Budget authority	1,223,400	6,744,900
Outlays	1,218,300	6,629,300
Revenues	905,500	5,153,400
Current level:		
Budget authority	1,210,171	(1)
Outlays	1,215,097	(1)
Revenues	905,579	5,106,141
Current level over(+)/under (−) appropriate level:		
Budget authority	−13,229	(1)
Outlays	−3,203	(1)
Revenues	+79	−47,259

[1] Not applicable because annual appropriations acts for fiscal years 1995 through 1998 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing more than $13,229 billion in new budget authority for FY 1994 (if not already included in the current level estimate) would cause FY 1994 budget authority to exceed the appropriate level set by H. Con. Res. 64.

OUTLAYS

Enactment of measures providing new budget or entitlement authority with FY 1994 outlay effects of more than $3,203 billion (if not already included in the current level estimate) would cause FY 1994 outlays to exceed the appropriate level set by H. Con. Res. 64.

REVENUES

Enactment of measures producing a revenue loss of more than $79 million in FY 1994 (if not already included in the current level estimate) would cause FY 1994 revenues to fall below the appropriate level set by H. Con. Res. 64.

Enactment of any measure producing any net revenue loss for the period FY 1994 through FY 1998 (if not already included in the current level estimate) would cause revenues for that period to fall below the appropriate level set by H. Con. Res. 64.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)

[Fiscal years, in millions of dollars]

	1994			1994–1998		
	Budget authority	Outlays	New entitlement authority	Budget authority	Outlays	New entitlement authority
House committee:						
Agriculture:						
Allocation	−65	−66	−60	−2,725	−2,727	888
Current level	−99	−106	−402	−2,216	−2,411	−3,559
Difference	−34	−40	−342	509	316	−4,447
Armed Services:						
Allocation	−128	−128	−128	−2,365	−2,357	−2,357
Current level	−176	−176	−180	−2,310	−2,310	−2,357
Difference	−48	−48	−52	55	47	0
Banking, Finance and Urban Affairs:						
Allocation	0	−338	0	0	−2,792	0
Current level	0	−498	0	0	−2,831	0
Difference	0	−160	0	0	−39	0
District of Columbia:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Education and Labor:						
Allocation	0	0	118	0	0	−4,048
Current level	−150	−158	−795	−150	−150	−5,180
Difference	−150	−158	−913	−150	−150	−1,132
Energy and Commerce:						
Allocation	0	−1,700	−180	−1,169	−8,369	−7,798
Current level	2	−2,398	42	−1,159	−11,359	−7,059
Difference	2	−698	222	10	−2,990	739
Foreign Affairs:						
Allocation	0	0	0	−5	−5	−5
Current level	−6	−6	−3	−75	−75	−60
Difference	−6	−6	−3	−70	−70	−55
Government Operations:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
House Administration:						
Allocation	0	0	0	0	0	0
Current level	1	1	0	8	8	0
Difference	1	1	0	8	8	0
Judiciary:						
Allocation	0	0	0	0	−472	0
Current level	0	0	0	0	−345	0
Difference	0	0	0	0	127	0
Merchant Marine and Fisheries:						
Allocation	0	0	0	−205	−205	−4
Current level	0	0	0	−205	−205	0
Difference	0	0	0	0	0	4
Natural Resources:						
Allocation	−117	−112	0	−709	−693	0
Current level	−74	−78	0	−478	−481	0
Difference	43	34	0	231	212	0
Post Office and Civil Service:						
Allocation	−66	−66	−77	−10,199	−10,547	−9,597
Current level	−266	−266	−266	−10,258	−10,606	−9,451
Difference	−200	−200	−189	−59	−59	146
Public Works and Transportation:						
Allocation	2,092	−13	0	37,458	−85	0
Current level	−13	−13	0	−85	−85	0
Difference	−2,105	0	0	−37,543	0	0
Science, Space, and Technology:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	−11	−11	70	−1,356	−1,352	3,447
Current level	−11	−11	−233	−1,356	−1,352	−1,880

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)—Continued

[Fiscal years, in millions of dollars]

	1994			1994–1998		
	Budget authority	Outlays	New entitlement authority	Budget authority	Outlays	New entitlement authority
Difference	0	0	−303	0	0	−5,327
Ways and Means:						
Allocation	−2,876	−2,054	−2,036	−29,669	−24,422	−12,596
Current level	−2,134	−1,742	−755	−41,279	−38,945	−34,917
Difference	742	312	1,281	−11,610	−14,523	−23,321
Permanent Select Committee on Intelligence:						
Allocation	0	0	0	0	0	0
Current level	7	7	7	15	15	15
Difference	7	7	7	15	15	15

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1994—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised filed 602(b) suballocations (Sept. 30, 1993)		Current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Agriculture, rural development	14,819	14,317	14,799	14,297	−20	−20
Commerce, State, Judiciary	23,119	23,231	22,838	23,221	−281	−10
Defense	240,446	255,465	232,363	255,668	−8,083	203
District of Columbia	700	698	677	677	−23	−21
Energy and water development	22,017	21,702	20,585	20,407	−1,432	−1,295
Foreign Operations	13,444	13,918	12,939	13,916	−505	−2
Interior	13,736	13,731	12,610	13,060	−1,126	−671
Labor, Health and Human Services, and Education	67,283	68,140	67,230	68,089	−53	−51
Legislative	2,270	2,267	2,270	2,267	0	0
Military construction	10,066	8,784	10,065	8,783	−1	1
Transportation	13,284	34,889	13,283	34,889	−1	0
Treasury-Postal Service	11,469	11,642	11,439	11,642	−30	0
VA–HUD–Independent agencies	68,311	69,973	68,303	69,973	−8	0
Grand total	500,964	538,757	489,401	536,889	−11,563	−1,868

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Wasshington, DC, October 27, 1993.

Hon. MARTIN O. SABO,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1994 in comparison with the appropriate levels for those items contained in the 1994 Concurrent Resolution on the Budget (H. Con. Res. 64), and is current October 26, 1993. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 64)	Current level +/− resolution
Budget authority	1,210,171	1,223,400	−13,229
Outlays	1,215,097	1,218,300	−3,203
Revenues			
1994	905,579	905,500	+79
1994–98	5,106,141	5,153,400	−47,259

Since my last report, dated September 22, 1993, the President has signed the National Service Trust Act (Public Law 103–82) and the following appropriation bills: Agriculture (Public Law 103–111), Foreign Operations (Public Law 103–87), Labor, HHS, Education (Public Law 103–112), Military Construction (Public Law 103–110) and the continuing resolution for fiscal year 1994 (Public Law 103–113). The Congress also cleared for the President's signature a bill extending most favored nation status to Romania (H.J. Res. 228), and appropriation bills for Commerce, Justice, State (H.R. 2519), Transportation (H.R. 2750), Treasury, Postal Service (H.R. 2403) and Veterans, Housing and Urban Development (H.R. 2491). These actions changed the current level of budget authority, outlays, and revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT 103D CONG., 1ST SESS.—HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS OCT. 26, 1993

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			878,100
Permanents and other spending legislation	740,893	699,501	
Appropriation legislation		241,770	
Offsetting receipts	(183,477)	(183,477)	
Total previously enacted	557,415	757,794	878,100
ACTION THIS SESSION SIGNED INTO LAW			
Appropriation legislation:			
1993 spring supplemental (Public Law 103–50)	10	(292)	
Agriculture (Public Law 103–111)	70,561	42,579	
Foreign operations (Public Law 103–87)	12,983	5,869	
Offsetting receipts	(44)	(44)	
Labor, HHS, Education (Public Law 103–112)	223,497	183,014	
Offsetting receipts	(46,061)	(46,061)	
Legislative branch (Public Law 103–69)	2,270	2,063	
Military construction (Public Law 103–110)	10,065	2,403	
Authorizing legislation:			
Authorize construction of World War II memorial (Public Law 103–32)	1	1	
CIA Voluntary Separation Incentive Act (Public Law 103–36)	7	7	
Unclaimed Deposit Amendments Act (Public Law 103–44)		17	
Transfer naval vessels to foreign countries (Public Law 103–54)	(3)	(3)	
Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66)[1]	(2,944)	(5,478)	27,489
Extending Chapter 12 of Bankruptcy Code (Public Law 103–65)			(1)
National Service Trust Act (Public Law 103–82)	20	12	
Total signed into law	270,360	184,086	27,488
PENDING SIGNATURE			
Appropriaton legislation:			
Commerce, Justice, State (H.R. 2519)	23,273	17,255	
Offsetting receipts	(146)	(146)	
Transportation (H.R. 2750)	13,884	12,636	
Treasury, Postal Service (H.R. 2403)	22,352	19,811	
Offsetting receipts	(7,063)	(7,063)	
Veterans, HUD (H.R. 2491)	87,035	47,961	
Authorizing legislation:			
Extending MFN status to Romania (H.J. Res.228)			(9)
Total pending signature	139,335	90,454	(9)
CONTINUING RESOLUTION			
Continuing appropriations for Defense, District of Columbia, Energy and Water, and Interior	266,061	181,892	
Total action this session	675,757	456,433	27,479
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted[2]	(23,001)	871	
Total current level[3][4]	1,210,171	1,215,097	905,579
Total budget resolution	1,223,400	1,218,300	905,500
Amount remaining:			
Under budget resolution	13,229	3,203	

PARLIAMENTARIAN STATUS REPORT 103D CONG., 1ST SESS.—HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS OCT. 26, 1993—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Over budget resolution			79

[1] Includes Budget Committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of Public Law 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not include $3,252 million in budget authority and $5,661 million in outlays in emergency funding.

[4] At the request of committee staff, current level does not include scoring of section 601 of Public Law 102–391.

Notes: Amounts in parentheses are negative. Detail may not add due to rounding.

POVERTY IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HINCHEY] is recognized for 5 minutes.

Mr. HINCHEY. Mr. Speaker, I do not think that there is a single day, probably not even a single house, when we here in Washington are not deluged with another desk full of statistics generated by commissions or researchers.

This is not a complaint, just an observation. Because those statistics contain the raw information we need to make informed decisions about where our country needs to go and how we can best serve our constituents.

But by themselves, those graphs and numbers rarely command more than a brief focus of attention unless they are particularly compelling to someone with the media's ear: either horrific, inspiring, or, most commonly, politically useful, because numbers, however logically compelling, do not seem to touch most people's lives.

Today I want to talk about some recent statistics that are all too immediate. All too real. All too easy to turn away from because they pose hard questions without easy answers, because they do not offer quick advantages for anyone.

Nearly 37 million Americans are living in poverty today. Not simply laboring to make ends meet, but struggling with nearly insurmountable barriers of need.

And if you exclude Government assistance in the form of Social Security, unemployment insurance and the like from the reckoning, the number would jump to more than 57 million poor: individuals making less than $7,143 a year, families of four surviving on less than $14,435.

Just another number, and, the Census Bureau adds, it is not even a statistically significant increase from last year's figures.

Yet more Americans are poor today than they have been since 1962. And 40 percent of them are children.

More than one in five American children lives in poverty, another statistic that has been firmly entrenched in yearly reports since the early 1980's.

These are not simply numbers. They are a searing indictment of the decisions and priorities we've adopted as business-as-usual practices in our Government and society.

Thirty-seven million Americans in poverty aren't numbers in an annual report. They are children whose futures are handcuffed to the limited horizons of violence and dependency.

They are families where there is no American dream, only a continuing daily struggle to survive. People are being forced into a permanent underclass on the edge of society.

These are numbers we cannot put aside when we go about the day-to-day considerations of Government and personal existence.

These are statistics we cannot accept as simple descriptions of a stabilizing social snapshot.

Because these are not numbers, but people—and so many of them are children unable to defend themselves from the assaults to their dignity, their hopes, and—all too often, their very lives, that poverty inflicts.

Here in Washington it can be all too easy to move on to the next report, focus on the constant stream of topics demanding our immediate attention.

Together, as a nation, we are facing an unparalleled series of social changes and tests. Our ability to retain and nurture America as a place where hope and opportunity are every citizen's birthright is in question.

The changing realities of the global political and economic map, coupled with the reordering of the workplace as the technological revolution rolls onward, present enormous challenge and opportunity.

As we consider how to shape our responses to health care, NAFTA and every other issue, we cannot ignore the 37 million Americans living in poverty.

We can't let that number remain statistically unchanged.

We must keep it burning so fiercely in our conscience that its light illuminates every decision we make. Or else the darkness of poverty will enfold all of our spirits as surely as it does the everyday lives of so many of our fellow Americans.

RETIREMENT PROTECTION ACT OF 1993

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. FORD] is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, I am very pleased to introduce, with my good friend and colleague, Chairman DAN ROSTENKOWSKI, the Retirement Protection Act of 1993. This bill is the administration's proposal to reform the Pension Benefit Guaranty Corporation [PBGC] to strengthen and insure the pension benefit security for millions of workers and retirees in underfunded defined benefit pension plans.

I applaud the administration, the Secretaries of Labor, Commerce and Treasury and their staffs for their efforts to produce this product. The Congress has expressed growing concern over the perceived risk to the PBGC of several large unfunded plans. The administration, on taking the reigns of government, asked for time to review pension benefit security and the long-term stability of the PBGC, to project the extent of its exposure, and to recommend a thoughtful solution if needed. The administration has met its timetable and the bill reflects several months of hard work by the interagency task force.

The proposal provides for a number of reforms to increase pension funding for certain underfunded plans, attaining full funding of nonforfeitable benefits within 15 years. It is expected that these reforms will stabilize the financial condition of the PBGC for the long run. The administration further projects that the PBGC's deficit will be eliminated within 10 years. The bill would also enhance the PBGC's compliance tools so as to assure that employers remain responsible for their plans. Of particular importance to workers and retirees is the requirement that participants in underfunded plans be given an annual, plain-language explanation of their plan's funding status as well as the limits on the PBGC's guarantee. I include at the conclusion of my remarks a brief explanatory statement prepared by the PBGC that outlines the bill's major provisions.

Mr. Speaker, while I introduced this bill by request, I want my colleagues to know that I am committed to ensuring the long-term financial soundness of this program. When we passed the Employee Retirement Income Security Act of 1974, we promised our workers that their pensions would be secure and available upon retirement. Securing the financial soundness of the PBGC will reaffirm that promise. We can do no less for our workers and retirees. I wish, as well, to express my hope that as we approach this very complicated area of the law that we proceed with great care to measure the effects that these funding requirements will have on particular sectors of our economy. Surely we do not want, in the name of reform, to destroy jobs or threaten the well being of whole industries. We need to proceed with caution and with the help of the companies that have underfunded plans. And we need always to remember our ERISA promise to our workers and retirees.

RETIREMENT PROTECTION ACT OF 1993

As a whole, the defined benefit pension system insured by the Pension Benefit Guaranty Corporation (PBGC) is strong and well-funded. There is, however, persistent pension underfunding in some single-employer plans. Underfunding in single-employer plans grew from $27 billion in 1987 to $38 billion in 1991 and is expected to grow much more for 1992. At the end of 1991, about $12 billion in underfunding was in plans sponsored by troubled companies. The PBGC is in no immediate danger and will be able to pay benefits well into the foreseeable future, but there are substantial long-term risks to participants, the PBGC, and the retirement plan system, which must be squarely addressed now.

Given the current funding rules, the level of underfunding in plans of troubled companies and the PBGC's $2.7 billion deficit in the single-employer program are likely to increase in the coming years.

The legislation has four major areas of reform: plan funding rules, compliance, premiums, and participant services.

Funding. The bill strengthens the funding requirements for underfunded plans. The deficit reduction contribution (DRC), which was enacted in 1987 to increase funding of underfunded plans, has not accomplished its goal. The DRC was flawed in several ways. The legislation will correct these flaws by: eliminating the double counting of gains that significantly weaken the DRC under current law; specifying interest and mortality assumptions and requiring IRS approval of changes in other assumptions in certain underfunded plans; and accelerating the DRC funding schedule. Under the accelerated funding schedule, new liability would be amortized at 30% per year if the plan's funding ratio is 60% or less (versus a 35% or less funding ratio under current law.) Plans that are fully funded for current benefit promises would not be affected by these rules.

Further, for plan years beginning after 1994, the bill requires sponsors to begin funding immediately for negotiated benefit increases that will become effective in the future.

As an extra safeguard, plans at risk of not being able to pay benefits in the short term, are required to have on hand enough liquid assets to cover three years' benefit payments. The provision is designed to reduce the possibility that these plans will run out of money.

The bill includes a transition rule to ease the impact of the new funding requirements. Under the transition rule, funding percentages would increase in a measured way by 2–3 percentage points per year for the first five years and slightly higher percentages in the next two years.

The bill also deals with three issues of concern to employers that want to fund their pension plans or that have well-funded plans. The bill repeals the quarterly contribution requirement for fully funded plans. The bill eliminates the current 10% excise tax on certain nondeductible contributions for combined contributions to a company's defined benefit and defined contribution plans that exceed 25% of payroll. It also eliminates the 10% excise tax on nondeductible contributions for plans with fewer than 100 participants that fully fund all benefit liabilities upon plan termination. (Plans with more than 100 participants may deduct this contribution under current law.) Deductibility rules would not change.

Compliance. Certain corporate transactions, such as break up of a controlled group, threaten funding of pension plans and increase the risk that participants in an underfunded plan will lose benefits. The only current remedy is for the PBGC to petition the court to terminate the plan before the transaction. Other remedies are needed because plan termination can have harsh effects on plan participants and their employers. The bill would enable PBGC to seek judicial relief short of plan termination, such as a court order requiring that departing controlled group members remain responsible for pension underfunding for a period of time or provide security for part of the pension liabilities. Controlled groups with over $50 million in their underfunded plans, outstanding liens for missed contributions, or outstanding funding waivers of more than $1 million would be required to give PBGC 30 days' advance notice of certain events.

Other compliance changes would require sponsors with over $50 million in underfunding (or outstanding liens or funding waivers) to provide PBGC with better actuarial and financial information; grant ongoing plans a claim for pension underfunding against liquidating sponsors or controlled group members; prohibit employers from increasing benefits in underfunded plans during bankruptcy proceedings; and give PBGC concurrent authority with the Department of Labor to enforce minimum funding requirements when missed contributions exceed $1 million.

Premiums. The bill increases for plans that pose the greatest risk by phasing out the $53 per participant cap on the variable rate premium. The premium cap will be phased out over three years, starting with plan years beginning on or after July 1, 1994—20% the first year, 60% the second year, and 100% the third year. Because of the cap, plans with the greatest amount of underfunding pay no additional premiums for increased underfunding. In fact, plans at the cap account for 80% of all single-employer plan underfunding, but pay only about 25% of PBGC's total premium revenues. The flat rate premium of $19 per participant paid by all plans is not changed.

Participant Protection. In addition to protections provided by the enhanced funding and compliance, the bill contains other important participant protections. Too often, workers and retirees do not know the risks to their benefits posed by underfunding until after their pension plan has been terminated. The bill requires employers to provide participants in underfunded plans a simplified, understandable explanation of the plan's underfunded status and the limits of PBGC's guarantee. The PBGC will provide a model notice for use by employers.

The bill also contains provisions to protect participants who are "missing" when their fully funded plans terminate. Employers would be required to transfer adequate assets to PBGC to pay for missing participants. PBGC would pay the benefit to the participant when the participant contacts PBGC or is otherwise located.

Other Changes. The bill specifies the interest rate and mortality assumptions that may be used to calculate a lump sum distribution, provides rounding rules for certain tax code cost-of-living increases that affect benefit plans, and eliminates "age-weighted" profit-sharing plans and similar cross-tested defined contribution plans.

Effect of Reforms. The Administration expects the reforms to eliminate PBGC's deficit within 10 years and, based on an initial analysis, to improve funding of underfunded plans from the current average of 55% to 90% of all benefits, and from an average of 60% to 100% of vested benefits, within 15 years. The legislative package is budget neutral.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise to announce introduction, by request, of the Retirement Protection Act of 1993. My colleague, the honorable WILLIAM FORD of Michigan, Chairman of the Committee on Education and Labor, and I have introduced this legislation at the request of the administration.

This bill reflects the administration's proposals to the Congress for reform of the significant and chronic underfunding of certain federally insured pension plans. These underfunded plans have a direct impact on the financial solvency of the Pension Benefit Guaranty Corporation [PBGC] as well as the security of millions of workers.

The issues surrounding underfunded defined-benefit pension plans have been the focus of a series of hearings before the Committee on Ways and Means over the past 2 years. During this time, the Committee has received reports from various governmental agencies and private entities on these issues. Those reports concluded that underfunding is a serious problem that will only worsen unless legislative reforms are enacted.

I think it is unfortunate that nearly 20 years after the passage of the Employee Retirement Income Security Act [ERISA], approximately 20 percent of all pension plans are still underfunded. Some of these underfunded plans have assets worth less than half of their current liabilities. In addition, some plans are underfunded by billions of dollars. To date, the unfunded liabilities insured by the PBGC exceed $50 billion. In such cases, the workers and retirees of these plans are at risk of losing benefits they have earned, and which they believe are guaranteed. In addition, underfunded pension plans pose great financial risk to the Government.

Mr. Speaker, I share the concerns of the administration and my colleagues on these issues, and believe that failure to act now will present us with greater problems in the future. If we enact legislative reforms now, we can prevent the need for the Federal Government to bail out the PBGC. If we delay, the bailout may be inevitable.

The legislation Chairman FORD and I are introducing for the administration today strengthens the funding rules for underfunded plans and increases the insurance premiums charged to severely underfunded plans. In addition, the bill increases PBGC's ability to enforce the minimum-funding requirements and to hold large groups of commonly controlled corporations accountable for the pension commitments of their corporate members. Finally, the bill requires that each participant in an underfunded plan receive a written explanation of the plan's financial condition and the limits of the PBGC's guarantee of their promised benefits.

Mr. Speaker, let me conclude by saying that I look forward to working with the administration and my colleagues on these issues. Many of my colleagues will agree that the bill before us is not perfect in every detail. Concerns about certain provisions contained in the bill have been brought to my attention. These concerns include the ability of significantly underfunded plans to continue to provide additional pension benefits. In addition, concerns may also be raised over some of the financing provisions contained in the bill. I would request that the administration remain open to working with the Congress to analyze the financing sources contained in the bill.

The legislation we are introducing today, by request, reflects some meaningful reform proposals. The financial security of many of our retired workers will remain at risk until we address these issues. It is my hope that the legislation will be taken up as soon as possible.

ISSUES THIS CONGRESS MUST ATTEND TO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont [Mr. SANDERS] is recognized for 5 minutes.

Mr. SANDERS. Mr. Speaker, as the only Independent in the House, my perspective on some of the issues of the day is a little bit different on occasion than my friends in the Democratic and

Republican Parties. What concerns me very much is that as we debate very, very important issues here on the floor of the House, sometimes we have a tendency to forget what are some of the most important issues facing our country. We slough over them. We do not debate them. We do not talk about the possible solutions.

Mr. Speaker, what I want to do now is just touch on some issues that I think do not get the attention they are due. The first point I want to make is, I wonder how many Americans today know that over a 20-year period, the United States of America went from No. 1 in the world in terms of the wages and benefits our workers receive, to No. 12 in the world. When we hear people up here saying, "We are the wealthiest country in the world," it isn't true anymore. It once was.

There is a reason why German companies are now coming to the United States of America to manufacture their products. That is, the German workers now make 25-percent higher wages than our manufacturing workers.

And if you look at other social indices, if you look at the health care situation in Europe or in Scandinavia, the parental leave situation, the unemployment compensation, pensions for the elderly, in many, many instances people of Europe and Scandinavia now do better than we do.

□ 1510

So my first thought is, we have got to examine how does that happen. How do we go from No. 1 in the world to No. 12 in the world? I think clearly one of the reasons has to do with the decline in manufacturing in America.

As it happens, I have many, many disagreements with Ross Perot, and I am offended that somebody who has billions of dollars can suddenly become a political leader because he has billions of dollars. But we must congratulate Mr. Perot in making a very important point, and that is if we continue to lose our manufacturing base, if we continue to convert our jobs from decent paying manufacturing jobs that pay workers $15, $10 an hour to flipping hamburgers at McDonald's for $4.25 or $5, we will continue to see a decline in our standard of living. And that is what is happening in a very, very rapid way, and that is what the NAFTA agreement is about.

Over the last 20 years the wages that our production workers have earned has declined by 20 percent. And it is even worse for the young workers. They are making nowhere near what young workers made 20 years ago. So we have to reverse that. We need a new industrial policy in America which rebuilds our manufacturing base. That is an issue that we are not discussing anywhere near enough, but we have got to pay attention to it.

The second point I want to make, which is talked about very, very rarely here on the floor of the House, is the growing gap between the rich and the poor and what we call class issues. There is a mythology that some people out there have that gee, we are a classless society, we are all in this thing together, and that is absolute nonsense. What has been going on over the last 12, 15 years is the gap between the rich and the poor has grown wider.

How many Americans know that the wealthiest 1 percent of our population now own more wealth than the bottom 90 percent? That is called, my friends, oligarchy. When we were kids in school we used to learn about that existing in Latin American countries. What do you think is happing in America today? The rich are getting much richer. The working people are seeing a decline in their standard of living and the poor are now sleeping out on the street. And we have 5 million children who are hungry.

Now, you do not hear this too often, but how do the American people feel about the fact that the chief executive officers of the largest corporations in America now earn 157 times what the workers in those corporations earn, 157 times? Their incomes are soaring. Last year the incomes of the top chief executive officers in America went up by 56 percent. Not too bad. For workers, we continue to see a decline in our standard of living.

Now how does this go on? Well, I will tell you how it goes on. What goes on is that ordinary American people are extremely frustrated at the two-party system, they are extremely frustrated with what is going on in terms of politics as usual, and they do not vote, they give up. In terms of NAFTA, we give up things where we should have hundreds and hundreds and thousands of people rising up and saying do not send our jobs to Mexico. We demand that American corporations reinvest in this country, not in Malaysia. The truth is we are not hearing that.

So what I would say is that if we are going to turn this country around, what I beg is that ordinary American working people, family farmers, those people who are working longer hours for less pay, those people who want to see their kids get a college education, that they begin to stand up and fight back, and demand that the U.S. Congress act for ordinary people and not just the wealthy and the powerful.

HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR. Mr. Speaker, I am here today once again to talk about an issue that all America is talking about today, an issue that touches the lives of more Americans in a more personal way than any other, and that issue of course is health care.

Mr. Speaker, 1 month ago yesterday the eyes of the Nation were focused on this Chamber as the President of the United States challenged Congress to take up the task of health care reform. He unveiled his plan to fix what is wrong with our health care system while preserving what is good, what is working, and what is right with it, a plan that builds upon and improves the system we have now to make it fairer, to make it better, and to make everyone responsible, and above all, above all, Mr. Speaker, a plan to guarantee each American comprehensive benefits that can never be taken away, never be taken away.

It has been nearly 50 years since Harry Truman first proposed comprehensive health care reform, 50 years. And yesterday an American President finally delivered on that promise. Yesterday the President presented his bill for health care reform to Congress in Statuary Hall, which is right in front of me. It is the old Chamber in which the House of Representatives used to meet.

What he presented is the most detailed, the most comprehensive, the most responsible health care reform plan ever introduced in the history of America. Working on this bill will likely be the highlight of each of our careers, because it will benefit Americans of all ages for generations to come.

Mr. Speaker, when Franklin Delano Roosevelt introduced Social Security back in 1935 he called it a sacred trust between the Government and its people that could never be broken, and that trust was symbolized by the Social Security card that we all have, and many of us probably carry it in our wallets and in our purses.

I think the same can be said about the President's health care plan. If you remember during the speech, the President held up this card, a health security card, a card that guarantees to each American a comprehensive package of benefits equal to, or better than, the benefits provided by the Fortune 500 companies. This card too represents a sacred trust between the Government and the people. And as the President said in his speech, with this card if you lose your job, or if you switch your job, you are covered. If you leave your job to start a small business, you are covered. If you retire early, you are covered. If you or someone in your family has a preexisting medical condition, you are covered. If you get sick, or a member of your family gets sick, even if it is a life-threatening illness, you are covered. And if an insurance company tries to drop you for any reason, you will still be covered, because that will be illegal.

The President's health care plan guarantees a comprehensive package of benefits, and with this card you will never leave home without it. That, Mr. Speaker, is the ultimate goal of health care reform, to give all Americans the peace of mind to know that no matter what happens, health care will always be there for them.

The First Lady, of course, joined us yesterday in the unveiling of this proposal, and she said not long ago, "I hope we can agree on one thing from the outset, that when our work is done, every American will receive a health security card guaranteeing a comprehensive package of benefits that can never be taken away under any circumstances," because we all know that is certainly not the case today. Every single month, every month in America, nearly 2 million people who work hard, who play by the rules, lose their coverage. And over the next 2 years one out of every four Americans is expected to be without health insurance at some point.

This problem is unraveling the social, and I might also add the economic fabric of our society. It is reducing productivity, it is affecting our competitiveness, it is draining our Federal and State budgets, it is driving down the wages and living standards of our work force. This problem affects all of us, and each of us, Independent, Democrat, Republican, have got to work together to solve it.

A national consensus for health care is forming now for the first time ever. Leaders in both the Republican and Democratic Parties have embraced comprehensive reform. But of course, now the hard work begins, really begins. The question we will spend the coming months trying to answer is simply this: What is the best way to get there from here?

□ 1520

It is not an easy question. As someone said, "Gravity isn't easy, but it's the law." Well, health care reform will not be easy, but it is the law that will most profoundly affect the future of America. We must all work together, Democrat, Independent, Republican, to make it happen.

We have a unique opportunity as people who have been given the privilege to serve our constituents in this great Nation to provide perhaps one of the most significant pieces of legislation in the entire history of this great Nation of ours.

In the coming months we in Congress are going to work with the White House and the public to hammer out all of the choices that confront us. But there are a lot of issues before us. It is not simple, it is not just a matter of one or two things. This involves a lot of issues that affect every segment of our society.

But I hope when we engage in this debate we can put aside our partisan and ideological differences and have a constructive debate in order to come up with a final plan that is fair, compassionate, and that works, a plan that remains wedded to the six basic principles, the principles of health care reform that the President outlined again yesterday morning.

And they are: security, simplicity, savings, choice, quality, and responsibility. And I think they bear repeating this afternoon.

I want to talk about them very briefly. First, security: To provide all Americans the security of knowing that, as I said, no matter what happens, whether you switch your job, you get laid off from your job, lose your job, you have a preexisting condition, you and your family will never lose your health care coverage.

Second, savings: To control the cost of health care that is crippling the American business community, hurting American families, and exploding our deficit, the plan will stop the escalating costs of health care premiums and provide discounts to small businesses so they can afford health care for their employees and their families.

Simplicity: to reduce the paperwork. We all have horror stories about having to fill out insurance forms. All our medical doctors and nurses know of the plethora of paperwork that encumbers an office trying to provide medical services. Cut the redtape, reduce the regulations that are keeping our doctors, our nurses, from giving you the health care you need. They should not be spending an inordinate amount of their time doing paperwork when they were trained to provide services to people that affect their medical health.

Today there are 1,500 insurance companies all with a form of their own. Under the President's plan, there will be only one form.

Fourth, choice: We have heard a lot about choice over the last several months. We want to preserve your right to choose your doctor and your health plan so that we can, above all, have a doctor that our family has confidence in and a plan that we have confidence in. And this plan that the President is proposing will give you your choice of the type of doctor you want or the type of plans you want, much more choice, I might add, than the American people have now.

Many of our people who work in our economy today and whose employer provides health insurance for them are limited in the scope in which they get to choose their doctor and their plan. This will broaden that considerably and give the consumer and the worker more choice.

Fifth, quality: To make what is best about America's health care system even better, the plan would provide free preventive care, invest in training more family doctors and make medical research a priority.

For seniors, it will preserve Medicare and cover prescription drugs and expanded long-term care for the first time. There is one issue that we have heard consistently from our senior constituents, and even our nonsenior constituents who have parents who are in that age bracket, they want to know what we are going to do about long-term care. They want to know what we are going to do about the escalating cost of prescription drugs which is eating away at the meager savings of many of our seniors today. It is not unusual to find many of our seniors taking one of the pills that they are ordered to take instead of the four because they cannot afford it. It is not unusual to find them paying 30 and 40 percent of their monthly incomes just on prescription drugs.

We will deal with those problems in this comprehensive reform bill. We will move in the long-term care to home health care where people will be able to get care in their homes when they are elderly.

We must also insure that America continues to have the best doctors and the most advanced treatment in the world.

Now, the sixth is responsibility: To make sure that everybody is in this together, everybody pays their part and contributes to health care.

Right now we all pay for those who do not take responsibility. Everybody knows the stories of the folks, the 2 million a month who lose insurance, or the permanents who do not have insurance or will not have insurance; when they get ill, they get cared for usually. They end up going to the emergency room, which is very inefficient. But that cost is passed on to the rest of us. And everybody knows that employers who do not provide health insurance for their employees, other employers have to pick up that added cost that is passed on to the insurance bills that those of us who have insurance have to pay.

That is why, often, when you get a bill from the hospital, you will see an exorbitant amount for an aspirin or for this or that; usually buried in that cost is the cost to service people who do not have health insurance.

Responsibility also means changing behavior that drives up our costs and causes suffering, like the violence from handguns in our society, smoking, excessive drinking. These issues we are beginning to address and to tackle in American society today. There is a raging debate, obviously, over violence in our communities all across America and what causes that violence. There has been a campaign against smoking that has raged now for a couple of decades in this country, and smoking is down considerably. Of course, there is education, more and more education about excessive alcohol intake.

We need to do more on preventive medicine, we need to do more about making sure that people take care of their own bodies, the temple of who they are, to make sure that costs do not continue to rise.

We need to restore the sense that we are all in this together, that behavior by one group or one segment of our society affects not only the health of others but the costs that we all pay to tackle this health care problem.

Mr. Speaker, through it all there will be those who will say we cannot afford change, that the present system, you know, is working fine, just tinker there and tinker there and that will take care of it, that the insurance companies and the drug companies will make changes on their own. Well, we cannot let the special interests dictate this debate. That is what you are getting on a lot of TV commercials running today, it is the special interest campaign to dictate this debate, to make you worry that your elected Representatives will not act in your best interests.

We have a system that is bankrupting this country today. We can fix it. If we do not fix it, it will drift, and the way it is continuing to drift, the cost of health care will rise to $14,000 a year for a family of four by the end of the decade. It is about $5,500 now: it was about $2,500 in 1980. It is out of control. It needs to be reined in, it needs to be tightened, it needs to be polished so the quality is better than ever, and we can do that.

Amerca has been at the mercy of some of the special interests too long. It is time we recognize in this country that health care is a right and not a privilege. If every other major industrial country in the world can provide health coverage for all of its people, we ought to be able to do it too. After all we have 200 years of existence as a Nation, and its seems to us it is about time we did it.

In the months to come we are going to hear a lot of statistics and numbers to dramatize the crisis in health care; but we have to remember that health care is more than just numbers and statistics and theory; it is the real lives of real people.

We have to be able to put ourselves into the stories of the people we hear from to give this debate real meaning, people like the man from my district whom I met who told me, "Congressman, I am in my late fifties, I worked 40 years in the plant, and I am now retired. I go to the mailbox every month to get my retirement check. I went last month and there was a check for $32, and a note that said, 'that's all you're going to get from now on because we are deducting from your retirement your accelerated and increasing health care costs' ", which was part of his contract.

□ 1530

A man's life and dreams shattered, 40 years, and this guy was not working in a soft job. It was a factory job, a job where he went in, did a hard day's work, came out, grimy from the work, his muscles tired and sore and all he wanted to do was go home and let some time drift by him as he relaxed. He did that for 40 years, felt he had a pension coming to him and then had it ripped off because of this escalating health care crisis in this country.

People like the women who visited me in my office who were working in nursing homes, I had five of them visit me. They said to me, "Congressman, we take care of your parents and your grandparents, yet we make $6 an hour and we don't even have health insurance ourselves."

This one woman almost broke down and cried. She told me, "I say a prayer every night that my son doesn't get sick, because I don't know what I would do."

Women who are working in nursing homes, taking care our own, and yet have no insurance for their own families.

Or like that man from Michigan who wrote to say that 14 years go he was diagnosed with Hodgkins disease. With the help of a strong will and some good doctors, he fought it and by 1985 he was pronounced cured, cured by everybody but his employer's insurance company who refused to cover him because it was a bad risk. So after 15 years on the job, his boss was forced to lay him off just because the insurance company would not cover him. Now he has no job. He and his wife and his two children have no health insurance.

Mr. Speaker, we have all heard these stories. There are tens of thousands of them out there. Each of us in our own constituencies goes home and hears them on a daily and weekly basis. They come from people who are frustrated, who are frightened, who are fed up with a system that makes no sense, that provides no coverage at crucial times when they expect it, when it is their right to have it, and that does nothing to protect them from price gouging and risk and the rising cost of health care.

They come from people whose very idea of security is being shattered, like the man I mentioned earlier, shattered right before their eyes.

It is time that we provide people with the security and the peace of mind to know that no matter where they go or when they go, their health care will always be there for them.

Our ultimate goal then is this: Health care security for all Americans, and the only way to get there is to keep what is right with our system, the best doctors, the best medical technologies, the best medical research, while fixing what is wrong, and there is a lot wrong.

Nothing we do in this Congress will be as important. Nothing we do will be as long lasting. Nothing we do will touch the lives of more people than health care reform.

The President's plan, Mr. Speaker, is before us. The hard work is just beginning.

The eyes of the Nation are watching us today. Health care reform has got to be our top priority. It will not be easy, but I hope we all have the courage in this Chamber to do what is right, because the future of our children and the future of our country depends upon it.

Mr. Speaker, this is a very, very tough debate we will enter into in the coming months. I just want also to add for my colleagues who may be listening, I hope we do not dilly and we do not dally. This debate has been going on for 50 years. We cannot in all good conscience suggest that it is just beginning. We cannot do that. This debate has been going on since Harry Truman called for it 50 years ago.

There have been peaks and there have been valleys in which it has raged. We are now at a peak and it is important for us to embrace it, to accept it and to do it. Just like the Nike ad says, "Just do it," and do it right. Consider it, have the proper hearings, the input from the American people, but do it, and not under the illusion that we will get it a hundred percent right on the first try.

All one has to do is look at Germany, England, and Canada, and all our other Western democratic neighbors who have national health care. The Germans have had it since 1870.

If you look every year at one of the major, if not the major, item in their legislative and parliamentary agenda, it is health care reform. They are constantly refining it, improving it, tinkering with it, making it work better for the people, because the society in which it functions changes. People change and times change. Technology changes. So we have to evolve and change with it.

We have got to develop the mainframe. We have got to develop the plan in which we encompass health care, because it is not something that once we do is going to go away. It will be with us constantly throughout our lives and certainly our political lives.

But let us first begin. Let us take the plunge to do something about a problem that has plagued this country and has not been properly addressed by this Nation.

I want to commend the President and Mrs. Clinton for having the courage to come forward, the first people since Harry Truman to come forward with a comprehensive plan to get this done. All the other Presidents, Republican and Democratic alike, failed to do that. The most advance we have made during that 50-year period was in 1964–65, 1965 specifically, when we did the Medicare reforms in this country, which provided Medicare for the elderly.

It was a big advance. There was Social Security in the midthirties. Medicare in the midsixties, and now we are going to wrap up health care in the early 1990's, another 30-year period.

But the country is ready. You can sense it. You can feel it, with the different players involved here, the doctors, the nurses, the people who are involved in the business side of medicine and the hospitals, even some of the interest groups are ready to come to the table and bargain and try to put together a plan that makes sense, not only for them but for their employees and the rest of American society.

So I am just very pleased that the President came. He spoke with emotion. If you listened to him yesterday, you heard him talk about the fact that we went through a wrenching 6 months in this Chamber of deficit reduction. We passed the deficit reduction bill of half a trillion, $500 billion in deficit reduction. We won it by one vote here, one vote in the U.S. Senate, and that vote was cast by the Vice President who broke the tie and it was signed by the President.

It was difficult because it encompassed everything we do in our Government today. It affected everybody's life in America, and it was tough because it involved raising some revenues, taxes if you will. Mostly 99 percent of that was on the very upper income people who make $140,000 a year or more; but nonetheless, we had to raise some revenues and we also had to cut a lot, but we need to be fiscally solvent.

One of the biggest parts of our budget problem is the rising health care costs. They are rising three and four times the rate of inflation. Medicaid, Medicare, VA health care, health care for our military personnel, all are rising at an astronomical rate.

We will have lost the budget battle, lost it entirely, all the blood, the sweat, the tears, the votes we cast over this past year to get that budget down, we will lose that if we do not supplement it with health care reform.

I might tell my fiscally conservative friends out there and colleagues, this health care reform package will be the biggest deficit reduction bill and budget package that you will pass probably in your entire history in the U.S. Congress. That is my guess, because it will restrict the amount of spending on programs that are out of control already in America today.

So Mr. Speaker, I just want to conclude by thanking my colleagues for attending the event yesterday and watching and listening intently to Mrs. Clinton, who has been just such a champion on this issue. She is knowledgeable. She is bright. She cares with a passion that is almost beyond belief about the health of this country. She is a tremendous asset to this administration and to the American people.

Then listening to the President outline his passion and the need, this will be the issue that we focus on more than anything else in the coming year.

We began yesterday with the presentation of the bill. I entered it into the RECORD this afternoon. Hearings will commence very shortly on the specifics of it, and then, of course, the debate begins again. It begins in earnest as we move forward to provide health care for all Americans.

□ 1540

GUN CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico [Mr. SCHIFF] is recognized for 60 minutes.

Mr. SCHIFF. Mr. Speaker, I ask unanimous consent to yield 10 minutes of my time to the gentleman from North Dakota [Mr. POMEROY].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

HEALTH CARE

Mr. POMEROY. Mr. Speaker, I thank the gentleman from New Mexico [Mr. SCHIFF]. I want to speak for a few minutes about the health care debate and, in particular, talk about problems that require Congress to take the action for enactment of meaningful reform and meaningful reform this session.

I say to my colleagues, You don't have to be a public policy genius to understand that dramatic changes are needed with our health care system. We have got a system that is broken. We have got problems that are bad and getting worse every single week.

Mr. Speaker, for me the most powerful indicators that I have seen about the deteriorating condition and the fatal problems in the present system have come to me from personal examples of family threatening problems called to my attention by individuals during the years I have been in public service to the citizens of North Dakota. Prior to being a Member of Congress, Mr. Speaker, I served for 8 years as a State insurance commissioner, and in the years as a State insurance commissioner and in the last several months as a Member of Congress I have had some truly heart-wrenching situations called to my attention.

For example, one evening at home I received a call while I was insurance commission. It was a gentleman who had been out in the field for an entire day putting in his crop. He came home, opened his mail and saw his Blue Cross/Blue Shield premium. It indicated a rate increase that, in fact, exceeded his ability to continue in place that needed coverage for his family.

Mr. Speaker, this individual asked me time and time again, "What am I going to do? I cannot afford this insurance rate increase, and Lord knows my family needs health insurance. What am I going to do?"

I was the State's insurance commissioner, but I did not have any advice for that farmer, and I expect that today he and his family are without the coverage they need to access health insurance services.

I traveled throughout North Dakota holding senior citizen forums, trying to address questions about health care and health insurance coverage issues. Sometimes to these forums some senior citizen constituents of mine will bring small boxes literally full of correspondence they have received from insurance companies or health care providers, billings, notices of payment, and goodness knows what all, but it is so indicative of the paperwork clogging our present system.

Third, Mr. Speaker, I had a circumstance where a young couple took me aside at a public event. I noticed the individual, the fellow, had a slight limp, and in fact, as they told their story to me, he had lost his leg in a work-related accident working for stockyards up in northwestern North Dakota. He was employed at the time of this accident, and the insurance covered his medical bills, but in fact the premiums paid by that small employer had risen 200 percent since that accident, and they were facing dropping of coverage even though he needed additional medical attention because they could not keep up with the premium increases.

And finally I have received calls over the years from people in stages of cancer treatment, people who barely have any hope left of being able to receive the medical care that they need, people whose only hope of beating this dreadful disease is a bone marrow transplant prescribed by their physician. In a couple of instances these individuals were unable to access the bone marrow treatment prescribed by their physician because their insurance company deemed this to be an experimental procedure, something they would not cover even though it was literally a matter of life and death to these people.

Now these are all problems that have a very personal character and represent, I think, in terribly personal ways problems we have with our present health care system.

For example, Mr. Speaker, the cost issue, the ongoing, unrelenting cost inflation we see in our system evidenced by the farmer who called me with his premium increase. We have a situation where national health care spending, the amount spent on health care in this country has doubled since 1985. It will nearly double in the next 7 years, by the turn of the century. We will have a situation where, without change, one dollar out of five goes for health care services.

The past statistics bear witness to what is taking place. Per capita we spent in this country on health care a little over $1,000 in 1980; by 1990, 2½ times that amount, a little over $2500; by 1993, a little over $3,000, and by the year 2000, if we do nothing, every man, woman, and child in this country will spend, on average, $6,000 on health care services. We cannot continue this per capita rate of increase.

The cost for individuals, as my colleagues know, is reflected in premium increases having gone from a hundred dollars a month from merely a few years ago to routinely over $500 a month. We have seen the cost of insurance represent a little less than the cost of one's car payment. Now it exceeds the cost of the mortgage, and there is no end in sight.

The cost for business is just as severe. It is a significant factor behind suppressed wage growth. It is a significant factor behind the reluctance of employers to hire more people back to work. It is a significant factor, in fact, in global competitiveness where we have $1,200 representing the sticker price of a United States-manufactured car compared to less than half that amount for a Japanese-manufactured automobile. How can we compete internationally when we carry a price tag on health benefits that is more than double our international competitors, and, as a percentage cost of the gross national product of this company, 9 percent of the gross national product in 1980 went to health care services, 14 percent in 1993, and we are heading for 19 percent by the year 2000, nearly one dollar out of five.

We have got to deal with cost. Health reform that does not deal with reining in cost is no meaningful health care reform at all. It is beyond what it is doing to families, beyond what it is doing to business. It is crippling the solvency of the Government itself. It is the biggest reason for the rising cost for Federal Government. The Federal Government spent $72 billion on health care services in 1980, $223 billion in 1991, $259 billion in 1992, heading for $600 billion in 10 years if we do nothing, and we cannot keep up with that kind of growth in Government. It is absolutely killing taxpayers across this country. We have got to do something about reining in costs.

For the individual with the amputated leg that found himself unable to obtain alternative coverage we see demonstrated a very sad aspect of what costs have done to insurance practices by some companies in my States.

□ 1550

Rather than take the steps necessary to contain medical costs, they have instead spent their energies trying to figure out how to uninsure those running up the bills for them and how to keep away from insuring those that most need it, the people with health conditions in this country. We have seen medical underwriting screen out anyone with the slightest hint of medical troubles. Even more insidiously, we have seen rating schemes, that in your group, if you have a health care problem, as your claims come in, your premiums go up. Insurance we think of as spreading the costs out over a large body. This is keeping costs right on the group itself, until the premiums get to a point where they have to drop the coverage. This type of insurance practice has left even those with insurance today with no security that they will actually have the coverage when they need it. Demonstrated by the senior citizens bringing their bills to these forums in box loads, we have a demonstration of a system of paperwork that is completely out of control. We are strangling in paperwork with our present system.

I am absolutely confident that we can cut down on this paperwork. How many of you have received billing notices from insurance companies, you open them up, and the thing reads, "This is not a bill"? If it is not a bill, why are they sending it out for heaven's sake? There is an expense involved in that. We can cut down costs by eliminating paperwork that is only confusing the public and adding expense, time, and bother to the medical providers of this country.

Mr. Speaker, I have tried in the last few minutes to point out the breadth of problems in our existing system of health care and to challenge this body to address these problems. This is a terribly difficult issue, and I am not sure I am for everything in the President's 1,600-page bill. I have certainly got more study before I conclude it. But I will give him credit for facing up to the issue and advancing a program that meaningfully addresses these problems. We have got to in our own response make sure we deal with costs, and make sure we deal with coverage, if we are to enact meaningful health care reform this session.

GUN CONTROL

Mr. SCHIFF. Mr. Speaker, I have not very often come out here to present a special order. Those few times that I have, have invariably been met by a few letters from around the country that basically say to me, and I am sure my colleagues have the same experience, "Why on Earth do you Members of the House of Representatives do these special orders? As anyone can see, the Chamber is virtually empty." It is not completely empty.

There are actually two reasons in my judgment for doing special orders. The first is we do communicate with our colleagues this way. During most of the day, during any portion of the session, all of us have televisions tuned to C-SPAN next to our desks. I have heard it argued that maybe C-SPAN was a bad idea in that sense because more Members of the House of Representatives and perhaps the other body, too, came to their Chambers to hear debates in person when there was no C-SPAN.

I cannot say for sure, except that I can say that Members do follow the debate in their office while they are doing other work.

Second, of all, however if C-SPAN has caused less Members to come to the House floor, whether it is now or earlier during the various debates, it has presented a wonderful opportunity to invite the public into the Chamber.

C-SPAN provides an unparalleled historic opportunity for the public in the United States not only to see the votes as they take place, but to see the different individuals, hear the different arguments, and make up their own minds.

So I believe that these special orders, even if no other Members are listening, achieve a great purpose and are presenting to the public various information and arguments that we think are not presented any other way.

Mr. Speaker, that is why I am out here today. I am out here to talk about the proposed Brady bill, the proposed waiting period and background check before an individual can purchase a handgun.

I want to say that I am taking this time somewhat reluctantly, because although I do not support this bill, for reasons which I will explain, neither is it some type of holy crusade on my part to see it defeated.

For example, if the Brady bill does pass, and I think the odds very much favor that at some point during this Congress, based on previous votes, that it will and if it, for example, were included in a larger crime bill and not by itself, I would not vote against an entire crime bill that I otherwise agreed with because this provision might be there.

Nevertheless, the reason that I am taking the floor today is that I am very concerned that information through the normal media channels about what is and what is not in this bill, I do not think, has been adequately presented, and I desire the time here today to make that kind of presentation.

Mr. Speaker, today in the Committee on the Judiciary we were supposed to take up the entire proposed administration's crime bill. Also introduced was another proposed alternative bill, generally from Republican members of the House on the Committee on the Judiciary, as well as another proposed bill from other Democratic members of the Committee on the Judiciary.

Our chairman decided, because there were a number of different bills, that most of the proposed crime legislation would be referred back to the subcommittees from the Committee on the Judiciary for further consideration. I understand that decision because the fact is there is nobody for crime. There is nobody out there arguing that we ought to have crime. But it is a very complex and difficult subject, and there is a variety of legitimate disagreement on how to approach the subject of crime.

Although perhaps we could have taken up more in the full Committee on the Judiciary without referring it to the subcommittee, I understand that there is significant debate that the chairman wished to have further pursued.

Well, I am also, in addition to being a member of the Committee on the Judiciary, a member of the Subcommittee on Crime and Criminal Justice. The chairman of our committee has called for a vote first thing tomorrow morning on the Brady bill. So we will have an independent vote in the Subcommittee on Crime and Criminal Justice tomorrow morning on that bill. It is important for that reason, the fact that we are having this vote tomorrow and the fact that I do not think there has been an adequate explanation of the bill, that I am here right now.

Now, when I say I do not think there has been an adequate explanation of the bill, what I mean is that its proponents, in my judgment deliberately, because they have been a great deal of headway with this, have said we have to pass the Brady bill because we have to teach a lesson to the National Rifle Association. And whenever I see various news commentaries, it is usually revolving around, if not directly, the National Rifle Association. Certainly those who say we should not have any kind of gun control or oppose generally gun control.

My feeling is that we should pass legislation that is good for the country and we should reject legislation that is bad for the country. We do that by looking at the specific legislation and examining how it is proposed to benefit, in this case, law enforcement, or how it might actually be counterproductive to law enforcement.

In my judgment, whether the National Rifle Association or any other organization supports a bill or objects to a bill, they are entitled to their input in our democracy, of course, but that is not a reason to pass or reject legislation. We should pass or reject legislation strictly on its merits.

I think that the use of "We are going to teach the National Rifle Association something," is a diversion in my opinion to keep from looking exactly at what is in this bill and what it hopes to provide and why it does not provide that.

To go into the bill now, the Brady bill contains three basic parts. The first is it contains a waiting period before one can purchase, in this case, a handgun. The waiting period is for the purpose of doing a background check by law enforcement on the proposed purchaser, to try to be certain that it is not illegal for the proposed purchaser to receive or possess a firearm under Federal law.

☐ 1600

There are various categories of individuals who are not permitted, under Federal law, to legally possess firearms. Probably the most significant in these terms are those who are convicted felons, but there is also others on the list, including those who have been adjudicated mentally incompetent and so forth. So the first provision in the Brady bill is, there is going to be a waiting period for the purpose of a background check.

The second provision is that the background check will be conducted, it is mandatory in the bill that it be conducted by local law enforcement. That is, the local sheriff or local chief of police from county to county and city to city will be required to perform this background check. And third and finally, the bill provides for adoption of a national instant check, computer check, for purchasers of handguns by utilizing a direct computer connection between retail firearms merchants and law enforcement agencies to get a quick yes or no, when someone applies for a firearm.

That bill has been presented before. It is now part and parcel of the Brady bill. In fact, the bill itself, the Brady bill says that once we have a national records check, once this is available for the entire Nation, then the waiting period and the background check go away. So actually, the national background, direct computer check will actually take the place of the waiting period at some day in the future.

Now, let me go back over those three parts. First of all, the background check, the waiting period for a background check.

The idea of a waiting period for a background check is that it gives law enforcement the time to check out the background of a purchaser to see if that purchaser is eligible, or not eligible, to possess a firearm, in this case, again, a handgun, and if not, to say, no, you cannot get that handgun. And the object behind it, because this is called, I believe, the Brady Violence Control Act, words to that effect, Handgun Violence Control Act, so clearly the reason here for all of these provisions is to have a system where the waiting period will deny a handgun to those who are about to use it to commit the next violent felony. That is the purpose here.

Just stopping there for a moment, is that likely to work? I submit that that is not the case.

I have a background in law enforcement. I was a criminal prosecutor, including an elected district attorney for 8 years, and a criminal prosecutor for a total of 14 years. For 2 additional years, I was also a defense attorney. So I have seen that side of the system. And I can say that those criminals who are going to commit the next felony are not expected to buy their firearms at a licensed, reputable dealer. I think it will be found that they buy them on the black market or, more likely, they just steal them from those licensed establishments. After all, if you are a thief, why do you buy anything? You just break in and take it with you. So I submit to my colleagues that there is no reason to think that; that the criminals we are talking about are the people who are purchasing firearms from legitimate gun dealers.

Now, the proponents cite those States which have State background checks right now, and they cite figures to prove their point. They will say that in various States that have a background check, in a certain number of cases, whatever number they can cite, during a year guns were denied to people who were not eligible to own those firearms. And they cite that as proof of the fact that these waiting periods and background checks actually accomplish what they are, in fact, supposed to accomplish, that they are supposed to keep guns out of the hands of criminals. And they say it is done.

But I think a closer look at the statistics that are presented, if you can get this information, which I have found it very difficult, if not impossible, to do, at least from the State I have dealt with, I think would not support that claim.

First of all, I suggest that on those persons who attempt to purchase who are rejected, they may, in fact, be rejected for legitimate reasons, but I suspect that at the same time they are not your next criminal. What I am talking about is, I suspect that in many cases, there was someone who convicted of a felony, perhaps an embezzlement 20 years ago, and today, now, they are interested in personal protection, as many people are. Well, it is still technically illegal for them to purchase a firearm, including a handgun, of course. Therefore, they are lawfully denied the right to buy this particular handgun.

But to suggest that these individuals are the same individuals who are getting a firearm for the purpose of robbing the next convenience store, I suggest, challenges the mind. I think further evidence of that is to take the terms that I have heard to the effect of, we kept, we being the waiting periods in the States, we kept so many criminals from getting firearms, that cannot be backed up no matter what the criminals were, no matter whether they were, as I have suggested, nonviolent criminals from years or decades ago who may not have even known that they could not buy a firearm, who even if they are the most violent criminal ready to commit the next crime, there is no evidence, no credible evidence that State background checks have actually kept firearms out of their hands.

I mean the potentially most violent people, if, in fact, that is who we are talking about. Here is how I come to that conclusion. Once again, the statistics out there are almost nonexistent in any State that I have been dealing with with respect to having waiting periods and background checks.

But the question is, What happens to those individuals who are not eligible to purchase a handgun and try to purchase a handgun, once they are rejected? Again, no matter what kind of former felons they are, there is very little evidence that those people are rapidly arrested and prosecuted. There is little evidence that the States and localities make a serious effort, once they know somebody has tried to purchase a firearm, to say, we have to go out and arrest that person. They have tried to illegally purchase a firearm, and we are afraid they are intent on robbing a store or committing another violent crime. We have to take them off the streets now.

That just does not happen. So what the best evidence shows is that those States with background checks today deny a certain number of purchases, but the individuals who are denied that purchase are free, free to then go down the street and try again or go to the black market or steal one and so forth. The only statistics I have seen on prosecution are based upon prosecutions that may have occurred anyway and elsewhere. There is nothing to indicate that there is, in all the States that do a background check, that there is an organized system to say, we are going to get these people off the street now. And if you do not get the person off the street, assuming this is the kind of person you want off the street, you have not stopped them from getting a handgun. You have only stopped them for that moment.

I would respectfully ask, to those who live in States where there is a background check right now of people who wish to purchase a handgun, ask your State government or ask your local government, what do you do? What do you do when somebody is turned down? What effort do you make to take them off the street immediately? See what kind of answer you get, especially over, say, the last 12 months.

But it is often suggested that if, despite its deficiencies, if a bill like this can prevent even one crime, is it not worth it? In other words, even if it is not perfect, even if it will not catch every crime, if a 5-day waiting period and a background check will, in fact, prevent a violent felony, is that not reason to proceed anyway? To put it another way, what is the harm?

The answer is, there is an argument on the other side. There is an argument, and I would have to concede that it is possible in some cases one could argue that the waiting period and the background check mean that a crime had been prevented. I cannot argue that it is impossible anywhere. Quite possibly, that is the case.

The idea that even at best it is any number that would make any noticeable difference in the crime rate, I think, is not supported. But why not do an act like this, if it could stop any number of violent crimes, even one? The answer is that it can be argued that a waiting period can also cause crime.

How can a waiting period cause crime?

□ 1610

There are two reasons. No. 1, we do know that most of the individuals who attempt to buy handguns at legitimate gun dealers are honest citizens. That is a given to everybody. We can argue about how many criminals are trying to buy that way and what kind of criminals they are, but the truth is most individuals who are trying to buy are honest citizens. Yet we are taking police officers or police personnel, but certainly police dollars, off of the street to check out numbers of buyers who are legitimate citizens.

One has to ask how many criminals could be taken off the street if we took the money that is devoted to investigating backgrounds of honest citizens and used that specifically to investigate and prosecute criminals. The argument can be made that the resources lost checking out honest citizens are permitting criminals to continue to commit crimes.

Second of all, waiting periods are a two-edged sword. A waiting period by itself is a waiting period. A waiting period can apply just as easily to an individual who is threatened by a criminal and wishes a firearm for personal protection.

I am well aware there are normally escape hatches in bills like this, and there is here, that allow the discretion to chiefs of police and so forth to allow the immediate purchase of a firearm for self-defense, but this requires somebody who believes they are a victim, a woman, for example, being stalked by an ex-boyfriend, to convince someone else, "I need to buy a firearm for self-defense." It at least raises a question that somebody has to make an evaluation for somebody else, whether they need to defend themselves and in what manner.

I think what this all comes down to is the fact that the people who are sponsoring this bill, H.R. 1025, by official name, have not, as of thus far, been willing to do the background check themselves, either through use of a Federal agency or through reimbursing the local government to do the check.

Mr. Speaker, I would point out again that the first part of H.R. 1025, the Brady bill, is a waiting period for the purpose of a background check. The second part is to require a background check by local law enforcement. There is no provision that the Federal Bureau of Investigation do the background check, although we have the power to mandate that, since they are a Federal law enforcement agency. There is no reimbursement for the localities to do it if we want to use them.

What is the reason for not having the Federal Bureau of Investigation do the background check? The proponents give this reason. They say that local police know their cities better than the FBI agents would know a city, and might know something about a potential purchaser that would come to mind faster than would come to mind with a Federal official.

First of all, I submit that that is not going to be true in any major metropolitan area. The person working in records in a city and the person working in the FBI office in the same metropolitan area probably know the same amount of personal information.

More significantly, though, that argument is only true as far as it goes. It is true that the local police or sheriff might have some local records that are not available anywhere else except in that local police or sheriff's office. It is also true that the local police and local sheriff might not know of any arrest, any arrest at all, that has occurred in the next State or even in the next county, because they do not necessarily keep those records.

I can say that any kind of reasonable check, background check by local or by FBI officials, requires at least two stops. It is absolutely necessary to check with the local police department. It is absolutely necessary to check with the FBI, because the FBI is the repository of our national records system.

There is absolutely no reason why local police officers can make these two checks better than an FBI agent can make these two checks. They can both do both checks equally. I submit that the real reason why there is not a provision in this bill to make the Federal Bureau of Investigation do the check, which I think would improve the bill from the point of view of the supporters, they are complaining that the reason we need a national bill is some States have background checks and some do not, and that is a hodgepodge. The bill on its face really does not improve that. It says, "local law enforcement agencies are required to make every reasonable effort at a check."

What does that mean? That is still going to mean a hodgepodge of how well the checks are done in some places versus other places. If the Federal Bureau of Investigation were used to do the check nationally, you would have a common quality standard on doing the checks.

It makes more sense from a supporter's point of view. I think the reason it is not here is that the Department of Justice, which has been appearing regularly testifying in favor of the Brady bill, would go crazy if they thought they had to actually use their manpower and their resources to do the background check. In other words, the Department of Justice today thinks that the Brady bill is a wonderful idea, provided only they do not have to do any work about it.

I think if we really made the decision, given the debate which is arguable on both sides, that a background check is a worthwhile use of law enforcement resources, we should use our own agency.

Tomorrow I intend to offer an amendment at the subcommittee that will say that. If that amendment fails, I intend to offer an amendment that would require the Federal Government to pay the local police officials for doing this check. If we insist that local police officials can do a better job than the FBI can of doing a background check, then it seems to me we ought to be willing to pay the local police officials to do this background check.

By the way, if that amendment fails, I am going to offer a third amendment that says the local police may do the check but are not required to do it. It seems to me that if we are not going to use a Federal police agency to do the check, if we are not willing to pay local law enforcement to do the check, I do not think we should make it mandatory on another agency.

I want to stress that I think that if any individual State wants to pass a waiting period and a background check, I am not here to object to it. What I am objecting to is Congress telling the local agencies, "We think this is such a great idea, you ought to do it." That is the law enforcement equivalent of "let's you and him fight." "We think it is a wonderful idea, but we are not going to touch it." I think that is what is chiefly wrong with the bill.

Mr. Speaker, I might add that another argument that has been made in favor of this bill, H.R. 1025, is the cooling-off period; that if a certain number of days existed between the desire to purchase a weapon and the actual receipt of that weapon, that would cause individuals who are bent on committing murder to not commit murder, because they would think about it and be dissuaded from the crime. This assumes, among other things, that they would not get mad 5 days later and go ahead and do it anyway. I suggest that anyone who is mad enough to commit murder right at a moment is going to find a way to commit murder.

However, I would point out that the third provision of the Brady bill, after the waiting period and after the requirement that law enforcement do the check, the third provision of the Brady bill is adoption of the national instant computer check as a substitute for the waiting period and background check. That means no waiting period. The waiting period goes away. That is what this bill says today. That is how it is written today. That is what we are going to vote on tomorrow.

For those who believe this cooling-off period would be beneficial in and of itself, without any reference to a background check, I would point out that the waiting period goes away under the bill, so that is not a particular reason to support it.

Mr. Speaker, I would like to take just a couple more minutes to just go into some of the things that I think should be done. I have stood here and criticized the proposal and given the reasons for it, and given the reasons that I think what I have said has not normally been reported, I think, in the conventional media, which is why I am here.

What would I propose? First of all, I am not adverse to gun control by that name. In other words, I am willing to consider any proposal on its merits, and vote for it or against it, depending on whether I think it is best for the country. In fact, I support the instant check system. That is the way the Brady bill says the Nation is going to go. I have to say that it has been 5 years since I was elected to Congress and left law enforcement, and the improvement in the record system around the country has been enormous in the last several years.

I personally credit Sara and Jim Brady, even though I have disagreed with their bill, for putting the emphasis on this issue that I think has led to the improvement of the records, because it was a real mess for a number of years, not just to determine who can purchase a firearm, but for such things as determining if you have a given defendant in a given case, do you have a first-time offender or do you have a multiple offender. We could not tell. We could not get what is called a rapid sheet from the Federal Bureau of Investigation, which is supposed to be a complete criminal history, and most likely it would show an arrest in a given State on a given date for a given offense, and no disposition.

□ 1620

So you then have to go to that State and ask them to search through their archives to determine whether this person was convicted of an offense say several years ago in another State. It was not a good system. It was improved dramatically, and I think to the credit of the Bradys. But I support the national instant check system.

Second of all, I want to point out that one of the most important anticrime laws on the books today is gun control. That is, the crime I have referred to that says it is a crime for a convicted felon to be in possession of a firearm. We are concerned that a convicted felon would have a propensity to use a firearm to commit the next offense. I think it is a legitimate concern in many cases. We already have a law against that. We already have a law that says it is against the law for a convicted felon to possess a firearm. It is Federal legislation today. It has been for many, many years.

I have tried to get statistics from the Justice Department for weeks on end about how much enforcement they are doing of that law, how many cases have they prosecuted, how many cases have they rejected, how many cases have they prosecuted where the individual has not yet committed another crime. In other words, using this law to prevent another crime rather than just using it as an added charge to someone who has committed a new crime and has a prior record. I have no objection to that use, but if we are talking about using laws to prevent crime, this is a major piece of legislation that could be used. Thus far the Department of Justice has not responded.

At such time as they do respond, I will in fairness make their response a part of the RECORD, but thus far they do not have those statistics. I assume they are compiling them now. From what I know of the situation in the last 2 years, there has been some improvement over the use of this law by the Department of Justice in a program called Trigger Lock initiated by the Bush administration and I think continued by the Clinton administration. But it seems inconsistent to me, and I think I am being kind in the use of that word, that the Justice Department testifies in favor of new gun control legislation, the Brady bill, that they do not have to enforce, while at the same time, at least up until now, they have not been able to show what they are doing in enforcing the Federal gun control statute they have at their disposal. It seems to me if they were not just being politically correct, and they really believed this was effective legislation, not only would they be willing to do the check themselves through the FBI, as I have indicated before, but in addition they would have immediately available to us here how many prosecutions of convicted felons in possession of a firearm that we have done already.

Now I think that tackling crime is going to be an extremely difficult issue. I think the causes of crime are very complex and the solutions will be complex. I would say that of all of the collective proposals, and I am not necessarily rejecting many different proposals, I would center on two ideas. If we are going to reduce violent crime in this country, we have to first keep young people from turning into violent criminals, and second, we have to do something about the violent criminals that regretfully we already have.

On the first, the Judiciary Committee today under the chairmanship of Chairman BROOKS is expected to pass several bills that deal with grants for the States that will help them try to dissuade young people from becoming violent criminals, and I support those bills. I regret to say, though, there is absolutely nothing on the horizon to do something about the here and now.

I believe the leading immediate cause of violent crime is the revolving door of violent criminals in our prisons where convicted violent criminals get a substantial portion off of their sentences from prison, and then are allowed back out on the street. And we all know what happens then. I regret to say that my own State of New Mexico is a leading offender, giving their violent criminals up to 50 percent off of their prison sentences.

Now I am not calling for specific sentences. That is up to a jury or a judge in accordance with the laws of the State. What I am calling for is truth in sentencing. I believe that when a convicted criminal is convicted through due process, and is sentenced by a jury or a judge, depending on that State's rules, to a prison term, that convicted criminal should serve at least 85 percent of their term as imposed before they can be released by good-time credit or parole or anything else. I am convinced that we can take any other action that we can envision on immediate law enforcement, including more police on the street, or passage of the Brady bill, and by itself it will not have any meaning if we cannot keep off of the street those violent criminals that are causing this mayhem in our society, and I think that ought to be our primary goal in terms of immediately assisting law enforcement.

Mr. Speaker, in conclusion, I want to say that the Republican members of the Judiciary Committee, under the leadership of my colleague, BILL MCCOLLUM from Florida, and under the Research Committee Task Force on Crime, of which I am chairman, will have a public hearing at 11 a.m. tomorrow, actually following the Brady bill vote, in which experts from the field of law enforcement will testify as to their ideas as to what should be in crime legislation. I want to stress that although this is a Republican-sponsored hearing I think crime is not a partisan issue. Crime prevention is not a partisan issue. And I look forward to taking the ideas we get from this hearing and joining with my Democratic and independent colleagues to pass the best legislation we can to protect the American people, because in the words of President Clinton, keeping people safe is the first responsibility of Government.

SOUTHERN CALIFORNIA FIRES

The SPEAKER pro tempore (Mr. ANDREWS of Maine). Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER. Mr. Speaker, under normal circumstances I would be taking this time to talk about what I clearly believe is the single most important domestic and international vote that we will cast in the 103d Congress, and I am referring to the urgent need to pass the North American Free-Trade Agreement. But because of the fact that I represent parts of Pasadena, CA, and other areas of southern California that have been devastated over the past 48 hours by the fires which we have all seen, I would like to take a few minutes to talk about that, and then I am going to yield the balance of my time to my very good friend from Selah, WA, Mr. INSLEE, who is going to carry the day on the North American Free-Trade Agreement.

We have all seen that over the past few days southern California has been devastated due to the Santa Ana winds which created the climate for these fires. Many people know that over the past several years California has suffered a very serious drought. And then last year we had tremendous rains, and those rains caused very lush growth. As we saw that take place, we saw great benefits to southern California.

But as we got toward late spring, and through the summer, things dried out, and it created the situation that developed within the past couple of days. And that is of course the climate which was very inducive to these tragic fires.

There are about 15 fires that have taken place from Ventura County all the way south to the Mexican border. And as the world knows, this is one of the most populous parts of the entire Nation and the entire world. Millions of people live in this area. And I happen to represent 18 cities or parts of cities in the eastern suburbs of Los Angeles County. I share the city of Pasadena with my good friend, Mr. MOORHEAD.

What has become known as the Altadena fire has had a particularly devastating effect on the area which Mr. MOORHEAD and I represent. Fifty to one hundred homes have been lost, and of course we do not have a final count yet because people are still working on it. There are between 8,000 and 10,000 acres that have been destroyed.

The northern portion of the city of Sierra Madre, a beautiful small city right at the base of the San Gabriel Mountains, the northern portion of it was evacuated last night. And I am very gratified at the fact that there was no structural damage in the city of Sierra Madre.

St. Luke Hospital, which is located in Pasadena, has seen, through some tremendous work by volunteers, local officials, Los Angeles County firefighters, the Forest Service, 170 people evacuated from St. Luke Hospital. The elderly in the Park Marino and Marlinda convalescent homes in Pasadena were also evacuated yesterday. Private and public schools in Pasadena and Sierra Madre were evacuated as well.

The Eaton Nature Center, which is operated by the Los Angeles County and located near Kinneloa, was destroyed by fire.

The Forest Service and the Pasadena, Sierra Madre, and Los Angeles County fire departments joined forces, and we have heard cases of great heroism that have come forward in this cause.

Other heroes included the Los Angeles County Fire Department, and included the helicopter pilots who flew into the very smoky areas that were affected next to the canyon walls to drop water and chemicals on the forest fire.

□ 1630

They also, I am very happy to report, were able to save some homes by dropping water on them. There were, as I said, other key assistants that came from neighboring communities who provide fire trucks and firefighters. Unfortunately, in the Eaton Canyon area, which I am privileged to represent, there were a number of homes that were lost. And due to the number of meetings here, I have been delayed, but the first thing tomorrow morning I will be going to southern California and I will be touring with local officials in this area.

I have underscored to those in the media with whom I have spoken that I am very sensitive to the fact that when those of us who are elected officials come into these areas, we do not want to in any way detract from those who are trying to provide immediate assistance to the victims. I am hoping by tomorrow afternoon, if it is convenient for the Fire Service in Los Angeles County and Pasadena and Sierra Madre city officials, I look forward to joining them in looking at this area.

I want to thank President Clinton for recognizing the need for designation of a natural disaster. This, of course, is one of the worst natural disasters to hit California. As I said at the opening of the session this morning here in the well, California has suffered greatly over the past several years.

I used to represent the city of Whittier, where we suffered a very devastating earthquake in 1987. We have had the Loma Prieta earthquake in 1989 and other earthquakes since which have taken place.

We all know in the wake of the Rodney King verdict we had fires and devastating riots that hit south central Los Angeles and other parts, including parts of the city of Pomona, which I represent.

Then, of course, we have seen over the past few years, due to cuts in the defense and aerospace industries, economic devastation which has hit the largest State in the Union; an unemployment rate that has hovered around 9 percent, in Los Angeles County double-digit, 10 percent; and just within the last couple of days these fires, which as I said extend from Ventura County all the way to the Mexican border.

My colleague, CHRIS COX, represents Laguna Beach. That city was evacuated. 310 homes at least were lost in that fire.

One of the things I think is very important for us to underscore is the fact that we want those who are responsible—and there is a wide range of reports that the Altadena fire reportedly came from a homeless person who started a fire to keep warm and that got out of control.

But in cases of arson, I think we need to look at the arson laws. I am told that the Federal penalty for arson is simply 5 years. I think it is important for us to intensify that because the tragic loss which has taken place in southern California can never be recouped for many of these people who have lost so much.

I hope that those who are responsible for these crimes are prosecuted to the full extent of the law, and I think that law should be toughened.

Mr. Speaker, I want to thank my colleagues, obviously not many of them here. I appreciate my friend, the gentleman from Washington [Mr. INSLEE], being here to listen to this. I will say that when I return next week I will be reporting to the House the findings that we have. Again I thank my colleagues here for understanding the necessity to deal with this very, very devastating natural disaster that has hit southern California.

At this point, Mr. Speaker, I would like to yield the balance of my time to my good friend, the gentleman from Selah, WA, Mr. INSLEE, who is going to talk about the issue which I wish I could discuss here, and will look forward to discussing as we approach that November 17 vote, and that is the North American Free-Trade Agreement.

I yield the balance of my time to Mr. INSLEE.

NORTH AMERICAN FREE-TRADE AGREEMENT

The SPEAKER pro tempore (Mr. ANDREWS of Maine). The Chair recognizes the gentleman from Washington [Mr. INSLEE].

Mr. INSLEE. I thank my friend from California, and I am sorry that he has to attend to that emergency. I hope things turn out.

Mr. Speaker, I would like to talk about the NAFTA agreement that is going to be before us in a few weeks. But before I do, I want to talk about something very nice which happened at our Capitol last weekend. It got me to thinking, what happened this last weekend, that we finally got the Statue of Freedom back up on top of the Capitol dome. As you know, we had taken it down by helicopter to refurbish it. It had taken a lot of bruises and lightning strikes since it went up in 1863—1985. We finally got it back up.

It got me to thinking about what it represents, and what it represents is the freedom which have been protected in this Chamber over the centuries of existence. I got to thinking about those freedoms.

One of them was the freedom of speech, which is difficult for people in Congress to defend sometimes because of the passions of the moment and people's instincts which sometimes indicate we should give up the freedom of speech.

I got to thinking about the freedom of religion, which is difficult sometimes to defend because of the passion of the moment and people's instincts that suggest that freedom should be abrogated.

Then I got to thinking about another freedom that America has historically tried to preserve, and that is the freedom of trade, the freedom of people to trade with one another across political boundaries free of governmental taxation, something that the NAFTA agreement, the North American Free-Trade Agreement, is designed to preserve and protect.

This is an agreement that at its heart is designed to preserve a freedom that America has historically tried to preserve. This is a freedom that I think is in jeopardy now because of the passions and perhaps the instincts driven by those passions, that we need to protect and defend the NAFTA agreement.

Let me tell you what I mean by that in the American tradition: Throughout history, the 20th-century history, there have been two driving forces in international economics. One is what I believe is the narrow-minded, shortsighted passion and instincts of protectionism. The other is the farsighted and, I believe, reasonable approach of free trade.

America historically has been the protector, the defender, the advocate for free trade internationally. But there was a time when we shirked that duty and that responsibility. We did that in the early 1930's. Those of us who may have lived through that time know what happened. We adopted, the people in this House voted for the instinct and the passion of the moment, and they adopted the Smoot-Hawley Tariff Protection Act designed to protect American workers, protect American jobs; "don't let our jobs go overseas." The same arguments that we have heard in the last few months in this Chamber were heard in the 1930's, that if we only adopted the Smoot-Hawley Act, we would preserve and protect American jobs.

What happened? We got the Depression, we got the loss of American jobs, because for the moment the people in this Chamber broke down and followed the herd instinct and passion of a shortsighted policy. Heaven help us if we adopt that instinct right now.

Let me tell you why I think that instinct is wrong and let me tell you why I think instinct can be wrong.

I was talking to another Member the other day, and he told me he believed NAFTA was going to create more jobs in this country; it was going to open up new markets in Mexico; it was going to give us an advantage in Mexico against Japan because we would have a free market in Mexico; and Japan would not be able to sell their products there. We would have a free market in Mexico and Germany would be shut out.

He told me he knew in his heart that this was going to be good for America because it helped create jobs. But he said that the instinct of some folks in his district was that it would cost jobs. Parenthetically I note instinct, you know—the hippopotamus has a good instinct, the zebra has good instinct, the ostrich has an instinct, and this leads to it sticking its head in the ground and trying to hide from problems.

For us, our responsibility in this Chamber is to exercise the common sense that says we should pass NAFTA. And I will tell you why. It is very, very simple.

What this Member told me he understood, and he told me he was still trying to decide whether he was going to vote for this, but what he understood was that Mexico has a 10 percent average tax on American workers. Mr. Speaker, most Americans do not know that. The Mexican Government imposes a 10-percent tax, a tariff on everything Americans make and ship to Mexico. It is a 10-foot-high wall we have to jump over in order to create a job in our country to ship to Mexico.

We only have a lousy 4-percent tariff in return. This is basically unfair to American workers. We have the short end of the stick, and common sense tells me, and told that Member, common sense is that if we knock down that trade barrier we even the playing field. We get rid of this unfair Mexican tax on our people that I represent, and we are going to be better off. We are simply going to be better off.

But having concluded that, the issue remains, can we come up with a better NAFTA? Can we come up with a better NAFTA that would force the things that we love, the freedoms that we enjoy now on Mexico, to force them to accept some of the things all of us would like them to have, better environmental protection, better protection for workers.

President Clinton, to his credit, has negotiated for the first time ever protection for people overseas, two side bar agreements, one which gives us a lever to force Mexico to abide by their own environmental regulations, the second a lever to force them to abide by their own labor regulations on minimum wage laws and child labor standard laws. We have never had that kind of lever in Mexico before.

But nonetheless, I have to tell the people that I represent that if I was the czar, if we abandoned democracy and I ran Mexico, the United States and Canada, I would have a different collective bargaining system in Mexico that was better and that was like ours.

But the question people ask is, why can we not do a better one? I asked someone who is very familiar with Mexican politics and he gave me the answer why. What he explained to me is that you have to look at the relationship between Mexico and America historically. Historically Mexican politicians got elected by bashing Yankee Imperialism. They got elected by saying, "Let's have protectionism. Let's throw up walls against American imports to protect Mexican jobs," and for 50, 60, 70 years they got elected doing that. For that reason, Mexico had high walls to keep our exports away from the Mexican workers; but in the last few years a new voice has emerged in Mexico. That voice has said, "Let's break with the past. Let's break with protection. Let's break with that old feudal system. Let's move towards the democratic tradition."

That is fairly bold in Mexican politics.

This person explained to me that if we reject NAFTA, this is what is going to happen. The people in Mexico are going to say, "You see what happens when you trust the Yankees? You see what happens when we reach an agreement with them to lower trade barriers? It doesn't work."

The forces in Mexico will emerge who believe in protectionism, who believe in segregating themselves from America, who believe in having less to do with America than more, who believe in the old style of Mexican politics.

History, Mr. Speaker, does not always go forward. It can go backwards. A rejection of NAFTA at this time means that the Mexican Democratic Congress that has been made in the last 6 years will go backward. NAFTA may be renegotiated, as I asked someone in Mexico sometime ago, but it will be in about 50 years.

We need to seize the moment right now where progress in Mexico has been made, where we can honor that progress and realize there is more progress to be made and recognize something that I think we have forgotten in America. When we mix with people, when we have a relationship with them, Americans rub off on other people. We have rubbed off on Russia. We have rubbed off on a lot of countries.

When they get exposed to us, our democracy is catching. It is a virus that no one has been able to stop unless we stop it ourselves.

Let us give Mexico the virus of democracy. Let us mix up with them. Let us trade with them.

I am convinced that when we pass NAFTA, we are going to do just that. We are going to do what is happening on the border where the opposition party has won races along the border because we trade with them along the border.

Mr. Speaker, I believe very strongly we are going to protect American jobs by passing NAFTA. If we refuse and kill NAFTA, we are going to cost American jobs.

In my district, my neighbors sell products to Mexico right now because we have lowered trade barriers. Those trade barriers are going to go back up if we reject NAFTA.

Let us strike a vote for more democracy. Let us strike a vote for more jobs. Let us strike a vote for keeping the jobs we have in this country, Mr. Speaker. Let us pass NAFTA and continue the American tradition of free trade and all the other freedoms we have always protected.

RECESS

The SPEAKER pro tempore (Mr. ANDREWS of Maine). The House is now awaiting action on the continuing resolution.

Pursuant to clause 12, rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 45 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1822

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 6 o'clock and 22 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title.

H.J. Res. 283. Joint resolution making further continuing appropriations for the fiscal year 1994, and for other purposes.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLINGER (at the request of Mr. MICHEL), for today, on account of attending a funeral.

Mr. ROYCE (at the request of Mr. MICHEL), for today, on account of illness.

Mr. ROMERO-BARCELÓ (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of official business.

Mr. MCNULTY (at the request of Mr. GEPHARDT), for today after 2 p.m.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. KOLBE), to revise and extend his remarks and include extraneous material:)

Mr. SCHIFF, for 60 minutes, today.

(The following Members (at the request of Mr. SANDERS) to revise and extend their remarks and include extraneous material:)

Mr. FORD of Michigan, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

Mr. UNDERWOOD, for 30 minutes, today.

Mr. LIPINSKI, for 60 minutes, each day, on November 10 and 15.

Mr. POSHARD, for 60 minutes, each day, on November 10 and 15.

Mr. SWETT, for 60 minutes, each day, on November 3 and 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BONIOR, and to include therein extraneous material, notwithstanding the fact that it exceeds 2 pages of the RECORD and is estimated by the Public Printer to cost $45,090.

(The following Members (at the request of Mr. KOLBE) and to include extraneous matter:)

Mr. CRANE in two instances.
Mr. ROTH.
Mr. GOODLING.
Mr. FIELDS of Texas.
Mrs. JOHNSON of Connecticut.
Mr. LEWIS of California.
Mr. WOLF of Virginia.
Mr. BATEMAN.

(The following Members (at the request of Mr. SANDERS) and to include extraneous matter:)

Ms. ROYBAL-ALLARD.
Mr. BONIOR in four instances.
Mr. CARDIN.
Mr. SYNAR.
Ms. LONG in two instances.
Mr. PETERSON of Florida.
Mr. HOAGLAND.
Mr. FINGERHUT.
Mr. PAYNE of New Jersey.

(The following Members (at the request of Mr. INSLEE) and to include extraneous matter:)

Mr. MFUME.
Mr. GEPHARDT.
Mr. NEAL of Massachusetts.
Ms. ESHOO.
Mr. WAXMAN.
Mrs. SCHROEDER.
Mr. GILLMOR.

Mr. SOLOMON.
Mrs. MORELLA.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 927. An act to designate the Pittsburgh Aviary in Pittsburgh, PA, as the National Aviary in Pittsburgh;

H.R. 2445. An act making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes;

H.R. 2492. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes;

H.R. 2824. An act to modify the project for flood control, James River Basin, Richmond, VA; and

H.J. Res. 283. Joint resolution making further continuing appropriations for the fiscal year 1994, and for other purposes.

ADJOURNMENT

Mr. ANDREWS of Maine. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 23 minutes p.m.) under its previous order, the House adjourned until Monday, November 1, 1993, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2064. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the Republic of Korea, pursuant to U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

2065. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–118, "John A. Wilson Designation Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

2066. A letter from the Secretary of Education, transmitting final regulations for the Jacob K. Javits Fellowship Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2067. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the progress of implementing the Breast and Cervical Cancer Mortality Prevention Act of 1990, pursuant to Public Law 101–354, section 2 (104 Stat. 415); to the Committee on Energy and Commerce.

2068. A letter from the Administrator, Environmental Protection Agency, transmitting a report on methane emissions associated with natural gas extraction, transportation, distribution, storage, and use, pursuant to Public Law 101–549, section 603(b)(1) (104 Stat. 2670); to the Committee on Energy and Commerce.

2069. A letter from the Administrator, Environmental Protection Agency, transmitting a report on methane emissions from countries other than the United States, pursuant to Public Law 101–549, section 603(c)(1) (104 Stat. 2671); to the Committee on Energy and Commerce.

2070. A letter from the Acting Director, Defense Security Assistance Agency, transmitting, notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Germany for defense articles and services (Transmittal No. 94–01), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2071. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 93–43: Presidential Waiver Furnishing Assistance to the United Nations to Support the Reestablishment of Police Forces in Somalia, pursuant to 22 U.S.C. 2348a(c)(2) and 2364(a)(1); to the Committee on Foreign Affairs.

2072. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the report of political contributions by Sandra L. Vogelesang of Ohio, to be Ambassador to the Kingdom of Nepal, and members of her family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2073. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the report of political contributions by M. Larry Lawrence of California, to be Ambassador to Switzerland, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2074. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by H.R. 2446, H.R. 2493, and H.R. 2518, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–578); to the Committee on Government Operations.

2075. A letter from the Deputy Executive Director, Office of Navajo and Hopi Indian Relocation, transmitting the fiscal year 1993 annual report as required by the Inspector General Act Amendments of 1988, pursuant to Public Law 95–452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

2076. A letter from the Executive Director, National Commission on Libraries and Information Science, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1993, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1257. A bill to reconstitute the Federal Insurance Administration as an independent agency within the executive branch, provide for minimum standards applicable to foreign insurers and reinsurers providing insurance in the United States, make liquidity assistance available to well-capitalized insurance companies, and provide for public access to information regarding the availability of insurance, and for other purposes; with amendments (Rept. 103–302, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 289. Resolution providing for consideration of the bill (H.R. 2151) to amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet Program, and for other purposes (Rept. 103–311). Referred to the House Calendar.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 3340. A bill to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, and for other purposes; with amendments (Rept. 103–312). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 3341. A bill to amend title 38, United States Code, to increase the rate of special pension payable to persons who have received the Congressional Medal of Honor (Rept. 103–313). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FORD of Michigan (for himself and Mr. ROSTENKOWSKI) (both by request):

H.R. 3396. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide security for workers, to improve pension plan funding, to limit growth in insurance exposure, to protect the single-employer plan termination insurance program, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. ANDREWS of New Jersey (for himself, Mr. HOYER, and Mr. WELDON):

H.R. 3397. A bill to direct the President to establish a Commission for making recommendations to improve the Federal emergency management system; jointly, to the Committees on Public Works and Transportation and Armed Services.

By Mr. BARRETT of Wisconsin (for himself and Mr. SCHUMER):

H.R. 3398. A bill to amend title 18, United States Code, to regulate the manufacture, importation, and sale of certain particularly dangerous bullets; to the Committee on the Judiciary.

By Mr. BORSKI:

H.R. 3399. A bill to improve the ability of the Federal Government to prepare for and respond to major disasters, and for other purposes; jointly, to the Committees on Public Works and Transportation and Armed Services.

By Mr. GEPHARDT:

H.R. 3400. A bill to provide a more effective, efficient, and responsive government; referred to the following committees for a period ending not later than November 15, 1993: Agriculture, Armed Services, Banking, Finance and Urban Affairs, Education and

Labor, Energy and Commerce, Foreign Affairs, Government Operations, House Administration, the Judiciary, Merchant Marine and Fisheries, Natural Resources, Intelligence (Permanent Select), Post Office and Civil Service, Public Works and Transportation, Science, Space, and Technology, Veterans' Affairs, and Ways and Means.

By Mr. COYNE:

H.R. 3401. A bill to amend section 105(a)(8) of the Housing and Community Development Act of 1974 to increase the percentage limitation on the amount of community development block grant assistance that may be expended for public services activities; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FIELDS of Texas:

H.R. 3402. A bill to establish a foundation darter captive propagation research program; to the Committee on Merchant Marine and Fisheries.

By Mr. GOODLING (for himself, Mr. GUNDERSON, and Mr. CASTLE):

H.R. 3403. A bill to appoint a Director of Educational Technology in the Department of Education and provide grants to States to improve the incorporation of technology in education; to the Committee on Education and Labor.

By Mr. GUTIERREZ (for himself, Mr. MCDERMOTT, Mr. ACKERMAN, and Mr. KENNEDY):

H.R. 3404. A bill to amend the Elementary and Secondary Education Act of 1965 to require the Secretary of Education to provide demonstration grants to local educational agencies for the purpose of providing instruction and training in cardiopulmonary resuscitation and first aid to secondary school students; to the Committee on Education and Labor.

By Mr. HAMILTON (for himself, Mr. GILMAN, Mr. LANTOS, Mr. BEREUTER, Mr. GEJDENSON, Mr. JOHNSTON of Florida, and Mr. DELLUMS):

H.R. 3405. A bill to establish a standing consultative group within the Congress to facilitate consultations between the Congress and the executive branch with respect to the use of U.S. military force abroad; to the Committee on Rules.

By Mr. HOAGLAND:

H.R. 3406. A bill to amend title 18, United States Code, to clarify the scope of the Gun-Free School Zones Act of 1990 and to prohibit the possession of a handgun or handgun ammunition by, or the private transfer of a handgun or handgun ammunition to, a juvenile; to the Committee on the Judiciary.

By Mr. HOAGLAND (for himself, Mrs. JOHNSON of Connecticut, Mr. LEWIS of Georgia, Mr. CRANE, Mr. MFUME, Mr. SANTORUM, and Mr. KOPETSKI):

H.R. 3407. A bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home; to the Committee on Ways and Means.

By Mr. JEFFERSON (for himself, Mr. FIELDS of Louisiana, Mr. HAYES, Mr. LIVINGSTON, and Mr. TAUZIN):

H.R. 3408. A bill to establish the New Orleans Jazz National Historical Park in the State of Louisiana, and for other purposes; to the Committee on Natural Resources.

By Ms. LONG (for herself, Mr. BARCA of Wisconsin, and Mr. JACOBS):

H.R. 3409. A bill to amend the Social Security Act to exclude the unemployment trust fund from the budget of the U.S. Government; jointly, to the Committees on Ways and Means, Government Operations, and Rules.

By Mr. OBEY:

H.R. 3410. A bill to amend the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, to terminate the program on December 31, 1996, and to prohibit bloc voting by cooperative associations of milk producers in connection with the program, and for other purposes; to the Committee on Agriculture.

H.R. 3411. A bill to amend the Dairy Production Stabilization Act of 1983 to require that members of the National Dairy Promotion and Research Board be elected by milk producers and to prohibit bloc voting by cooperative associations of milk producers in the election of the producers, and for other purposes; to the Committee on Agriculture.

By Mr. ROTH (for himself and Mr. OBERSTAR):

H.R. 3412. A bill to provide fundamental reform of the system and authority to regulate commercial exports, to enhance the effectiveness of export controls, to strengthen multilateral export control regimes, and to improve the efficiency of export regulation; jointly, to the Committees on Foreign Affairs, Ways and Means, and Rules.

By Mr. SANTORUM (for himself, Mr. KASICH, Mr. JACOBS, Mr. LEWIS of Florida, Mr. BUNNING, Mr. CAMP, Mr. HANCOCK, Mr. ZIMMER, Mr. GALLEGLY, Mr. ARMEY, Mr. HUNTER, Mr. DELAY, Mr. STUMP, Mr. TAYLOR of North Carolina, Mr. HASTERT, Mr. FIELDS of Texas, Mr. BOEHNER, Mrs. JOHNSON of Connecticut, Mr. PORTER, Mr. ROBERTS, Mr. BAKER of Louisiana, and Mr. SENSENBRENNER):

H.R. 3413. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for contributions to a medical savings account, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SAXTON:

H.R. 3414. A bill to amend title 39, United States Code, to grant State governments the discretion to assign mailing addresses to sites within their jurisdiction; to the Committee on Post Office and Civil Service.

By Ms. VELÁZQUEZ (for herself, Mrs. MINK, Ms. SLAUGHTER, Mr. FILNER, Mrs. MEEK, Ms. MCKINNEY, Mrs. MORELLA, Ms. WATERS, Ms. NORTON, Mr. MCDERMOTT, Mrs. UNSOELD, Mr. RANGEL, Mr. GUTIERREZ, Mr. TOWNS, Ms. ROYBAL-ALLARD, Mr. MILLER of California, Ms. KAPTUR, Mr. SERRANO, Ms. FURSE, Mr. BISHOP, Mrs. SCHROEDER, Mr. MFUME, Mr. BECERRA, Ms. ENGLISH of Arizona, Mr. RICHARDSON, Ms. WOOLSEY, Mr. ROMERO-BARCELÓ, and Miss COLLINS of Michigan):

H.R. 3415. A bill to amend the Family Violence Prevention and Services Act to require services for underserved populations, to require performance reporting by grantees, and to provide for the selection of model programs for education of young people about domestic violence and violence among intimate partners; to the Committee on Education and Labor.

By Mr. WOLF (for himself and Mr. BLILEY):

H.R. 3416. A bill to establish a commission to consider the closing and relocation of the Lorton Correctional Complex; jointly, to the Committees on the District of Columbia and the Judiciary.

By Mr. ALLARD:

H.R. 3417. A bill to provide for a voluntary national insurance program to protect the owners of domesticated cervidae against losses incurred as result of destroying animals or herds infected with, or exposed to, tuberculosis; to the Committee on Agriculture.

By Mr. VALENTINE (for himself, Mr. LEWIS of Florida, Mr. FRANKS of New Jersey, and Mr. MEEHAN):

H.J. Res. 285. Joint resolution to designate the week beginning March 13, 1994, as "National Manufacturing Week"; to the Committee on Post Office and Civil Service.

By Mr. JOHNSON of South Dakota (for himself, Mr. WILLIAMS, Mr. ROSE, Mr. SARPALIUS, Mr. COMBEST, Mr. EMERSON, Mr. ALLARD, Mr. MINGE, Mr. LAROCCO, Mr. SLATTERY, Mr. GLICKMAN, Mr. ENGLISH of Oklahoma, Mr. INSLEE, and Mr. POMEROY):

H. Con. Res. 172. Concurrent resolution to recognize the importance of promoting fair trade in wheat; to the Committee on Ways and Means.

By Mr. COOPER:

H. Res. 290. Resolution providing that the House may not adjourn to end this session of Congress until it receives the report of the Joint Committee on the Organization of the Congress and votes upon its recommendations; to the Committee on Rules.

By Mr. DOOLITTLE:

H. Res. 291. Resolution expressing the sense of the House of Representatives that a Presidential Commission should be established to investigate whether there has been any measurable depletion of stratospheric ozone beyond that caused by natural phenomena, whether it has been proven that the use of chloroflourocarbons damages stratospheric ozone, and whether the phaseout of chloroflourocarbons will have any effect on stratospheric ozone; to the Committee on Energy and Commerce.

MEMORIALS

Under clause 4 of rule XXII,

264. The SPEAKER presented a memorial of the House of Representatives of the State of Illinois, relative to designating the cemetery at Fort Sheridan a national cemetery for use by all veterans; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

By Ms. BYRNE:

H.R. 3418. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Sea Mistress;* which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3: Mr. JOHNSTON of Florida.

H.R. 68: Ms. BROWN of Florida.

H.R. 291: Mr. PARKER, Mr. SAXTON, Mr. OXLEY, Ms. LOWEY, Mr. WISE, Mr. REGULA, Mr. PALLONE, and Mr. BONIOR.

H.R. 302: Mr. GALLEGLY.

H.R. 303: Ms. PRYCE of Ohio and Ms. BROWN of Florida.

H.R. 322: Mr. NADLER and Mr. MCDERMOTT.

H.R. 349: Mr. Martinez and Mr. Costello.

H.R. 462: Mr. Calvert.

H.R. 466: Mr. Gallo and Mr. Sensenbrenner.

H.R. 558: Mr. Kreidler.

H.R. 702: Mr. Neal of North Carolina, Ms. Molinari, Mr. Baker of California, Mr. Edwards of Texas, Mr. Spence, Mr. Parker, Mr. Baker of Louisiana, and Mr. Williams.

H.R. 828: Mr. Hall of Ohio.

H.R. 830: Ms. Furse and Mr. Rowland.

H.R. 894: Mr. Gunderson.

H.R. 1168: Mr. Fields of Texas.

H.R. 1212: Mr. Underwood and Mr. Wilson.

H.R. 1295: Mr. Shays, Mr. Barrett of Wisconsin, Mr. Kolbe, Mr. Mica, Mr. Fawell, Mr. Fish, Mr. Upton, Mr. Kasich, Mr. Leach, Ms. Brown of Florida, Mrs. Lloyd, Mr. Pallone, and Mrs. Clayton.

H.R. 1442: Ms. Brown of Florida.

H.R. 1938: Mr. Blute.

H.R. 1952: Mr. Brown of Ohio, Mr. Conyers, Ms. Furse, Mr. Hughes, Mrs. Lloyd, Mr. McCurdy, and Mr. Farr.

H.R. 2012: Mr. McNulty, Mr. Neal of North Carolina, Mr. Wilson, Mr. Bateman, and Mr. McDermott.

H.R. 2042: Mr. Smith of Oregon and Mr. Bereuter.

H.R. 2066: Ms. Slaughter.

H.R. 2109: Mr. Scott, Mr. Frost, Mr. Thompson, Mr. Shays, Mr. Wynn, Mr. Lewis of Florida, and Mrs. Meek.

H.R. 2154: Mr. English of Oklahoma.

H.R. 2227: Mr. Jacobs, Mrs. Maloney, and Mr. Lipinski.

H.R. 2250: Ms. Eshoo and Mr. Frost.

H.R. 2308: Ms. Byrne, Mrs. Unsoeld, Mrs. Mink, Mrs. Morella, Mrs. Lloyd, and Mrs. Clayton.

H.R. 2394: Ms. Byrne, Mr. Neal of North Carolina, Mr. Lazio, Mr. Regula, Mr. Sawyer, and Mr. Evans.

H.R. 2395: Ms. Byrne, Mr. Neal of North Carolina, Mr. Lazio, Mr. Regula, Mr. Sawyer, and Mr. Evans.

H.R. 2444: Mr. Torkildsen.

H.R. 2556: Mr. Walsh.

H.R. 2591: Mr. Fish, Ms. Norton, and Mr. Synar.

H.R. 2602: Mr. Taylor of Mississippi.

H.R. 2787: Mr. Tucker and Mr. Martinez.

H.R. 2803: Mr. Bacchus of Florida, Mr. Dicks, Mr. Ackerman, Mr. Engel, and Mr. Manton.

H.R. 2826: Mrs. Lowey, Mr. Gekas, Mr. Frank of Massachusetts, Mr. Dellums, Mrs. Maloney, Mr. Fazio, Mr. Hoke, Mr. Manton, Mr. Bilirakis, Mr. McNulty, Ms. Snowe, Mr. Neal of North Carolina, Mr. Machtley, Mr. Andrews of New Jersey, Mr. Gilman, Mr. Gilchrest, Mr. Lipinski, Mr. Hughes, Mr. Torricelli, Mr. Knollenberg, Mr. Hastings, Mr. Pallone, Mr. Hutto, Mrs. Bentley, Mr. Visclosky, Mr. Clay, Mr. Stupak, Mr. Menendez, and Mr. Penny.

H.R. 2884: Mr. Ford of Tennessee.

H.R. 2921: Mr. Dellums.

H.R. 2957: Mr. Collins of Georgia, Mr. McKeon, and Mr. King.

H.R. 2983: Mr. Frank of Massachusetts.

H.R. 3030: Mr. Ballenger.

H.R. 3041: Mr. Neal of North Carolina.

H.R. 3080: Mr. Schiff.

H.R. 3087: Mr. Ramstad and Mr. Pickett.

H.R. 3146: Mr. Talent.

H.R. 3183: Mr. Weldon.

H.R. 3203: Mr. Hinchey and Mr. Evans.

H.R. 3224: Mr. Beilenson, Mr. Calvert, Mr. McKeon, Mr. Rohrabacher, Mr. Weldon, Mr. Moorhead, and Mr. Doolittle.

H.R. 3234: Mr. Klein and Ms. Velázquez.

H.R. 3261: Mr. Doolittle, Mr. Baker of California, and Mr. Barlow.

H.R. 3266: Mr. Armey, Mr. Bachus of Alabama, Mr. Baker of Louisiana, Mr. Baker of California, Mr. Bartlett of Maryland, Mr. Bilirakis, Mr. Blute, Mr. Boehner, Mr. Bonilla, Mr. Burton of Indiana, Mr. Buyer, Mr. Calvert, Mr. Canady, Mr. Castle, Mr. Collins of Georgia, Mr. Combest, Mr. Crane, Mr. Crapo, Mr. Duncan, Ms. Dunn, Mr. Emerson, Mr. Everett, Mr. Ewing, Mr. Fawell, Mrs. Fowler, Mr. Franks of Connecticut, Mr. Franks of New Jersey, Mr. Goodlatte, Mr. Goss, Mr. Greenwood, Mr. Gunderson, Mr. Hefley, Mr. Herger, Mr. Hoekstra, Mr. Horn, Mr. Houghton, Mr. Huffington, Mr. Hutchinson, Mr. Inglis of South Carolina, Mr. Inhofe, Mr. Istook, Mrs. Johnson of Connecticut, Mr. Kim, Mr. King, Mr. Kingston, Mr. Knollenberg, Mr. Linder, Mr. Machtley, Mr. Manzullo, Mr. McHugh, Mr. McInnis, Mr. McKeon, Mr. Mica, Mr. Miller of Florida, Mr. Paxon, Mr. Pombo, Mr. Porter, Ms. Pryce of Ohio, Mr. Quinn, Mr. Ramstad, Mr. Ridge, Mr. Royce, Mr. Shays, Mr. Smith of Michigan, Mr. Stearns, Mr. Solomon, Mr. Sundquist, Mr. Talent, Mr. Thomas of Wyoming, Mr. Torkildsen, Mr. Zimmer, Mr. Weldon, Mr. Hastert, Mr. Dornan, Mr. Brown of Ohio, Mr. Condit, Mr. Deutsch, Mr. Dooley, Mr. Fingerhut, Mr. Holden, Mrs. Maloney, Mr. McHale, Mr. Murphy, Mr. Penny, Mr. Poshard, Mr. Roemer, Mr. Swett, Mr. Cooper, and Mr. Portman.

H.R. 3283: Mr. Minge.

H.R. 3301: Mr. Deutsch, Mr. Bonior, and Ms. Pelosi.

H.R. 3320: Mr. Wilson.

H.R. 3340: Ms. Brown of Florida, Mr. Ridge, Mr. Hefner, Mr. Richardson, Mr. Stenholm, Mr. Payne of Virginia, Mr. Parker, and Mr. Ortiz.

H.R. 3341: Ms. Brown of Florida, Mr. Ridge, Mr. Hefner, Mr. Richardson, Mr. Stenholm, Mr. Payne of Virginia, and Mr. Parker.

H.R. 3348: Mr. Walsh and Mr. Manton.

H.R. 3365: Ms. Brown of Florida, Mr. Kleczka, Mr. Quinn, Mr. Markey, Mr. Regula, Mr. Gonzalez, Mr. Applegate, Mr. Poshard, and Mr. Barrett of Wisconsin.

H.R. 3366: Mr. Jefferson, Mr. Cramer, Mr. Dellums, and Mrs. Lloyd.

H.R. 3370: Miss Collins of Michigan.

H.R. 3372: Mr. Romero-Barceló, Mr. Towns, Mr. Young of Alaska, Mrs. Bentley, Mr. Blackwell, Mr. Miller of California, Mr. Montgomery, Mrs. Vucanovich, Mr. Tejeda, Mr. Hochbrueckner, Ms. Harman, Mr. Baesler, Mr. Pete Geren of Texas, Mr. Becerra, Mr. Menendez, Ms. Roybal-Allard, Mr. Edwards of Texas, Mr. Bonior, Mr. Diaz-Balart, Ms. Velázquez, Mr. Gutierrez, Mr. Darden, Mr. McHale, Mr. Tucker, Mr. Hinchey, Mr. Farr, Mr. Vento, Mr. Andrews of Maine, Mr. Camp, and Mr. Wynn.

H.R. 3385: Mr. Gonzalez.

H.R. 3389: Mr. Machtley.

H.R. 3392: Mr. Smith of Iowa, Mr. Yates, and Mr. Hoekstra.

H.J. Res. 79: Mr. Dellums, Mr. Pete Geren of Texas, Mr. Lightfoot, and Mrs. Lloyd.

H.J. Res. 106: Ms. Waters.

H.J. Res. 113: Mr. Stenholm, Mr. Paxon, and Mr. Fields of Texas.

H.J. Res 165: Mr. Torkildsen, Mr. Talent, Mr. Fields of Texas, Mr. Stearns, Mr. Hall of Texas, Mr. Jacobs, Mr. Leach, Mr. Grandy, Mr. Burton of Indiana, Mr. Sundquist, Mr. Buyer, Mr. Miller of Florida, Mr. Portman and, Ms. Pryce of Ohio.

H.J. Res. 212: Mr. Brown of California, Mr. Burton of Indiana, Mr. Hall of Ohio, Mr. Hayes, Mr. Leach, Mr. Rowland, Ms. English of Arizona, Mr. Bartlett of Maryland, Mr. Callahan, Mr. Ewing, Mr. Gillmor, Mr. Hansen, Mr. Lehman, Mr. McCrery, Mr. Upton, Mr. Wyden, Mr. Edwards of Texas, and Mr. Chapman.

H.J. Res. 226: Mr. Rahall, Mr. Washington, Mr. Peterson of Florida, Mr. Gekas, Mrs. Kennelly, Mr. Pickett, Mr. Beilenson, Mr. Blute, Mr. King, Mr. Bevill, Mr. Watt, Mr. Bateman, Mr. Brown of California, Mr. Dicks, Mr. Becerra, Mr. Crane, Mr. Carr, Mr. Oxley, Mr. Gonzalez, Mr. Filner, Mr. Hayes, Mr. Lewis of California, Mr. Dornan, Mr. Smith of Texas, Mr. Payne of Virginia, Ms. Woolsey, Mr. Brooks, Mr. Horn, Mr. Synar, Mr. Royce, Mr. Neal of North Carolina, Mr. English of Oklahoma, Mr. Swift, Mr. Hansen, Mr. Fields of Texas, Mr. Holden, Mr. Camp, Mr. Pete Geren of Texas, Mr. McHale, Mr. Klug, Mr. Browder, Mr. Gephardt, Mr. Hall of Ohio, Mr. Menendez, Mr. Stark, Mr. Sharp, Mr. Packard, Ms. DeLauro, Mr. Tejeda, Mrs. Unsoeld, Mr. Inhofe, Mrs. Collins of Illinois, Ms. Furse, Mr. Andrews of Texas, Mr. Whitten, Mr. Hinchey, and Mr. Gejdenson.

H.J. Res. 271: Mr. Applegate, Mr. Bacchus of Florida, Mr. Baker of Louisiana, Mr. Ballenger, Mr. Barca of Wisconsin, Mr. Becerra, Mr. Beilenson, Mr. Bevill, Mr. Bilbray, Mr. Bishop, Mr. Blackwell, Mr. Bonilla, Mr. Boucher, Mr. Brooks, Mr. Browder, Ms. Brown of Florida, Mr. Brown of California, Mr. Brown of Ohio, Mr. Bryant, Mr. Bunning, Mr. Burton of Indiana, Ms. Byrne, Ms. Cantwell, Mr. Carr, Mr. Clay, Mrs. Clayton, Mr. Coleman, Miss Collins of Michigan, Mrs. Collins of Illinois, Mr. Coppersmith, Mr. Costello, Mr. Cox, Mr. Coyne, Mr. Crane, Mr. Darden, Mr. Deutsch, Mr. Diaz-Balart, Mr. Dicks, Mr. Dixon, Mr. Dooley, Mr. Dornan, Mr. Dreier, Mr. Duncan, Mr. Edwards of California, Mr. Engel, Mr. Evans, Mr. Fields of Louisiana, Mr. Filner, Mr. Fingerhut, Mr. Fish, Mr. Flake, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Frank of Massachusetts, Mr. Gallegly, Mr. Gejdenson, Mr. Pete Geren of Texas, Mr. Gilman, Mr. Glickman, Mr. Gonzalez, Mr. Gene Green of Texas, Mr. Greenwood, Mr. Gunderson, Mr. Hall of Ohio, Mr. Hamilton, Mr. Hansen, Mr. Hastert, Mr. Hayes, Mr. Hefner, Mr. Hochbrueckner, Mr. Holden, Mr. Horn, Mr. Hoyer, Mr. Hyde, Mr. Inslee, Mr. Jacobs, Mr. Kasich, Mrs. Kennelly, Mr. Kim, Mr. Klink, Mr. Kolbe, Ms. Lambert, Mr. Lancaster, Mr. LaRocco, Mr. Laughlin, Mr. Lehman, Mr. Levin, Mr. Lewis of Georgia, Mr. Lightfoot, Mr. Livingston, Mrs. Lowey, Mr. McCloskey, Mr. McKeon, Ms. McKinney, Mr. McNulty, Mr. Manton, Mr. Markey, Mr. Martinez, Mr. Matsui, Mr. Mazzoli, Mrs. Meek, Mr. Menendez, Mrs. Meyers of Kansas, Mr. Mfume, Mr. Moakley, Mr. Montgomery, Mr. Moran, Mrs. Morella, Mr. Murphy, Mr. Myers of Indiana, Mr. Nadler, Mr. Neal of Massachusetts, Mr. Ortiz, Mr. Orton, Mr. Pallone, Mr. Payne of New Jersey, Mr. Payne of Virginia, Mr. Peterson of Florida, Mr. Pickle, Mr. Porter, Mr. Price of North Carolina, Mr. Rangel, Mr. Ravenel, Mr. Reed, Mr. Reynolds, Mr. Roberts, Mr. Roemer, Mr. Rogers, Mr. Rohrabacher, Mr. Sangmeister, Mr. Sarpalius, Mr. Scott, Mr. Serrano, Mr. Shays, Mr. Skelton, Mr. Slattery, Mr. Smith of New Jersey, Mr. Smith of Iowa, Mr. Solomon, Mr. Spence, Mr. Spratt, Mr. Stark, Mr. Stenholm, Mr. Studds, Mr. Swett, Mr. Tauzin, Mr. Taylor of Mississippi, Mr. Tejeda, Mr. Torres, Mr. Torricelli, Mr. Traficant, Mrs. Unsoeld, Mr. Vento, Mr. Visclosky, Mr. Volkmer, Mr. Washington, Ms. Waters, Mr. Watt, Mr.

WELDON, Mr. WHEAT, Mr. WHITTEN, Mr. WILSON, Mr. WISE, Mr. WOLF, Ms. WOOLSEY, Mr. WYDEN, Mr. WYNN, and Mr. YATES.

H.J. Res. 275: Mr. TRAFICANT, Mr. ROHRABACHER, Mr. SENSENBRENNER, Mr. STUMP, Mr. PETRI, Mr. GALLEGLY, Mr. ALLARD, Mr. SOLOMON, Mr. WALSH, Mr. LEVY, Mr. EWING, Mr. MANZULLO, Mr. GENE GREEN of Texas, and Mr. FIELDS of Texas.

H.J. Res. 278: Mr. BISHOP, Mr. MYERS of Indiana, Mrs. LLOYD, and Mr. WALSH.

H. Con. Res. 100: Mr. BISHOP and Mr. FORD of Tennessee.

H. Con. Res. 107: Mr. GENE GREEN of Texas, Mr. YATES, Mr. HOEKSTRA, Mr. GOSS, and Mr. SLATTERY.

H. Con. Res. 131: Mrs. MEYERS of Kansas, Mr. BEREUTER, Mr. HINCHEY, Mr. BLACKWELL, Mr. WATT, Mrs. MORELLA, Mr. COX, Mr. PORTER, Mr. MCNULTY, Ms. SLAUGHTER, Mr. WALSH, Mr. SCHIFF, Mr. HASTERT, Mr. SHAYS, Mr. HUGHES, Mr. KOPETSKI, Mr. PETERSON of Minnesota, Ms. NORTON, Mr. HOCHBRUECKNER, and Mr. CONYERS.

H. Res. 38: Mr. DELLUMS.

H. Res. 227: Mr. RAMSTAD.

H. Res. 237: Mr. HANSEN, Mrs. MORELLA, Mr. SMITH of Oregon, Mr. DUNCAN, Mr. GALLEGLY, and Mr. MCKEON.

H. Res. 285: Mr. DEAL, Mrs. KENNELLY, Ms. ROYBAL-ALLARD, Mrs. MEYERS of Kansas, Ms. BROWN of Florida, Ms. MOLINARI, Mr. ENGLISH of Oklahoma, Mr. STENHOLM, Mr. COPPERSMITH, Mr. TORRES, Ms. ESHOO, Mrs. MALONEY, Mrs. LOWEY, Mrs. ROUKEMA, Mrs. MINK, Mr. HAMBURG, Ms. BYRNE, Mr. SCHUMER, Mr. FORD of Michigan, Mr. FALEOMAVAEGA, Mr. BAESLER, Mr. SAWYER, Mr. FARR, Mr. MINGE, Ms. CANTWELL, Ms. MARGOLIES-MEZVINSKY, Mr. BORSKI, Mr. DURBIN, Mrs. MEEK, Ms. NORTON, Ms. SLAUGHTER, Ms. WATERS, Ms. SNOWE, Mrs. CLAYTON, Ms. MCKINNEY, Mrs. SCHROEDER, Mrs. COLLINS of Illinois, Ms. EDDIE BERNICE JOHNSON of Texas, Miss COLLINS of Michigan, Mr. MCNULTY, Mr. BARRETT of Wisconsin, Mr. CONYERS, Mr. NADLER, and Mr. HORN.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. SOLOMON on H.R. 493: Scott McInnis.

Petition 5 by Mr. STEARNS on House Resolution 156: Scott McInnis.

Petition 9 by Mr. WELDON on House Resolution 227: Sam Johnson, John T. Doolittle, Jon Kyl, Dan Schaefer, Stephen Horn, Wally Herger, Rob Portman, Thomas E. Petri, and Bill Paxon.

SENATE—*Thursday, October 28, 1993*

(Legislative day of Wednesday, October 13, 1993)

The Senate met at 9 a.m., on the expiration of recess, and was called to order by the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Let us have a moment of silence, remembering the Vice President's mother; Senator RIEGLE's 11-month-old grandson; Mrs. Koutsoumpas, who works at the doors; and Shirley Herath, who works in the reception room. All of them need a prayer for healing.

(Moment of silence.)

Our help is in the name of the Lord, who made heaven and earth.—Psalm 124:8.

Eternal God, this truth we desperately need to learn. Forgive us for our indifference to Your availability at any time, in any circumstance. You know us in the totality of our lives, in microscopic detail—past, present, and future. We have no secrets from You. Nothing is hidden from You. You know our thoughts before we think them, our words before we say them, our actions before we take them. It is delusion to believe we do not need You.

Sovereign Lord, help us to see that we are most independent as persons when we live in dependence on Thee. Give us grace to submit to You, to commit to You, to allow You to govern our lives, that we may walk in the wisdom and the strength of the Lord.

In the name of Him who is the Way, the Truth, and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 28, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DORGAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The time until 9:30 a.m. shall be under the control of the Senator from Missouri [Mr. BOND] or his designee.

Mr. BOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

HEALTH CARE

Mr. BOND. I thank the Chair, and I thank especially the majority leader, Senator MITCHELL, and Senator DOLE for permitting us to spend this time to discuss the vitally important issue of health care which is before this body, but is also very much on the minds of all of the people of America today.

To the extent required, I yield myself such time as required.

What we hope to do today, Mr. President, is to carry on and begin, in a full-blown fashion, the discussion begun yesterday by President Clinton and the First Lady, Mrs. Clinton, who has devoted so much time to the issue of health care.

President Clinton, as I understood it, yesterday said there were four main principles which he felt were essential. No. 1, assuring universal health care to every American; giving every American the security to know that health care cannot be taken away; changing a system of a blizzard of paperwork to electronic data filing, so that we may emphasize efficiencies in health care, as well as get better information on health care in terms of what works and what does not work. Finally, he laid the challenge before us to complete all of this by the end of this current legislative session, concluding next fall.

Mr. President, there are quite a few of us in this body, particularly on our side of the aisle, who would like to see all of those objectives accomplished.

We will be hearing today from a number of Members on our side, and then, from 9:30 to 10, from Members on the other side, who have worked long and hard on this health care issue.

I can tell you that it is not a simple one. We have spent, in a health task force established by the Republican leader, some 3 years working on health care and we have found it to be extremely complex. There are many, many different questions that need to be resolved and, frankly, there are no simple, single answers that are going to solve all problems.

We also are working on a bipartisan basis with Members on the other side of the aisle in this body and Members from both sides of the aisle in the House of Representatives, because we think that this measure is so important to the Nation's health and well-being, as well as to the individual health of our citizens, our constituents, the people of America, that we must carry out health care reform on a bipartisan basis.

Having said that, let me outline today to begin some of the principles that have been developed through the task force that are in the plan designated often as the Dole-Chafee-Bond plan or, more likely, the Dole-Chafee plan.

In any event, we realize that, even though we put a great deal of work into it, we still need to hear comments and views from people who are affected by health care, who have had problems with this system and who are involved in the system.

But let me outline for you today some of the basic principles that we think are needed in health care reform.

To set the stage, America has the finest health care system in the world today. Every day thousands of people all across the world vote with their feet—they come to America for health care. If you are sick, really sick, you want to come to the United States, because we not only have the finest technology, we have the finest health care providers—physicians, nurses, specialists, and hospital facilities—that can take care of the most pressing problems that any individual could face.

Having said that, however, we all recognize that there are problems with the system. There are problems that must be fixed.

Now, I think the first rule of health care is, first, do no harm. We could translate that into language that we use in our everyday work around here to say, If it ain't broke, don't fix it.

We do have a fine health care system. We need to focus on changing the things that are wrong, but we should not mess up the things that are good, the high quality health care that we receive.

The problems we face are several. There are some 37 million uninsured. The figure fluctuates and the composition of those uninsured change as people go into and out of the workplace, pick up health insurance, drop health insurance, get health insurance, or health coverage again.

These people who are not covered, very often they are healthy young people who think they do not need health care. But if they are struck by a bus or have a sudden illness and wind up with very expensive care or very expensive needs, they will probably get that care.

But too often they get that care too late in their illness or in their injury. They do not get good preventive care. As a result, they wind up sicker and they require much more expensive health care. And if they do not have the funds to pay for it, then those costs are shifted to private payers, and those of us who pay our health insurance premiums regularly have to pay additionally for the uncompensated care.

Now I have to be frank about it. The Federal Government has been one of the most guilty parties in this cost shifting. We have made savings or claimed savings in Medicare, particularly, and in Medicaid by simply ratcheting down the amount of money that we pay for health coverage for those who are covered under Federal health care plans.

I read an estimate recently that the cost of that health care shifted onto the private sector about $15 billion a year. We need to get everybody covered. We need to have everybody in the system so they get the proper care at the proper time which saves them in terms of human suffering and human capacity but also which avoids cost shifting.

Second, we have a paperwork blizzard. Most of us, as consumers, have to fill out very complicated forms every time we go to a doctor or go to a hospital. If your family is like mine, we usually make errors in the first submission. We send it in and get it back and have to fill it out again. The health care payers have to process all this paperwork. Estimates of cost range from $50 to $80 to $130 billion a year just shuffling paper. It is a 19th century quill-and-scroll type of processing when we have the means of electronic processing of data, of information, that is the 21st century technology. And we are not using it.

Malpractice litigation, excessive litigation, costs $15 billion a year plus, perhaps, much more in terms of defensive medicine—procedures undertaken by doctors, unnecessary tests just to make sure they can defend themselves if they are sued because of a bad outcome, not because of negligence.

Finally, we have spiraling costs of health care; 14 percent of our gross domestic product or $900 billion is spent this year on health care. The projections are it will go to 20 percent of our gross domestic product.

In addition, I ought to say that insurance practices developing in recent years—cherry picking—have caused many people in my State, and I am sure in every State in the Nation, tremendous problems and hardship. The offer of low-price health insurance premiums to healthy groups and when somebody gets sick they have their insurance canceled or their premiums jacked up—I know at least three cases in my State. A family with insurance coverage, they thought, has had the birth of a child with significant health care problems, birth defects or other substantial problems in the family, and the insurance got canceled because they got sick. The families have gone bankrupt. Each one of us who have listened to people from his or her home State could say the same problem has occurred. We need to deal with this cherry picking and make sure insurance plans or health plans share the risk, spread the risk, not avoid the risk. We commend President Clinton and Mrs. Clinton for beginning the debate on how we reform health care and what we do about it.

Under the plan, the Dole-Chafee plan I mentioned before, we believe we must have universal coverage with individual responsibility for each individual to get insurance, not an employer mandate. We believe there must be administrative electronic data reform, malpractice reform, antitrust reform, reform of the insurance market to stop cherry picking, and using the marketplace to get the best price and the best quality for health care, and to do that through voluntary purchasing co-ops.

We looked at an employer mandate. Some say a lot of people get their health insurance through their employer. Why do we not require everybody to do it?

There are a couple of problems with that.

No. 1, imposing a mandate on employers, particularly small businesses with low-paid workers, requiring them to provide an expensive benefit, will cost jobs. Economists may disagree whether it will cost 600,000 jobs or 3 million jobs. In any event, when we are trying to get people working and we are debating an unemployment bill today, we do not need to cause more unemployment. That is the ultimate catch-22 for a worker who has no health insurance, to say we are going to give that worker health insurance, but it will cost him or her a job.

We believe tax fairness, treating everybody equally, giving them full deductibility up to the cost of a standard benefit plan—but not allowing deductions for the provision of much more expensive plans—can get a lot of people back in. Making sure that you have 100 percent deductibility rather than 25 percent deductibility if you are a farmer, a rancher, or a truck driver, other self-employed people—that can get many people in the system.

We also want to have vouchers for the low-income poor, 100 percent vouchers, for the cost of the standard minimum benefit package for poor people who do not receive Medicaid. For people above 100 percent of poverty, up to 200 to 240 percent, we would phase in, as we make savings in health care, the plans for partial vouchers for those plans.

Impose the responsibility on the individual so we do not cost jobs, so we do not wind up with a jury-rigged system of partial subsidies with limits and caps so confusing that nobody can understand them. We believe that providing employer mandates merely hides the costs and shifts the costs to the private sector, shifting costs that the Federal Government has had or has pretended to assume the responsibility for. We do not think that is an honest approach to health care reform.

We believe with the standards included in the measure that I presented with the Senator from Michigan [Mr. RIEGLE], and a bipartisan group on the House, we can achieve electronic data information systems with standard language and standard requirements and strong requirements for privacy and confidentiality. These measures can allow us to save billions of dollars in administrative costs and also give us information on what works in health care and what does not. Administrative reform and electronic filing is an important part.

Insurance reform: We want to cut out cherry picking, limit preexisting condition exclusions, and stop the practice of canceling policies if you get sick. We say you have to pay the premiums or you are going to lose the coverage. Otherwise, we would invite people not to pay the premiums and force the plans to provide them coverage when they are cheating the system. We also believe malpractice reform is absolutely essential. And we feel this service can be provided through voluntary purchasing co-ops who have to compete on the basis of service to offer the plans to the small businesses and individuals who need health care coverage.

These are just the outlines of some of the things we want to provide and we believe can be very helpful in assurance of universal coverage in dealing with the problems I have outlined.

I will now yield 5 minutes to my distinguished colleague from Delaware, Senator ROTH.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized for 5 minutes.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 1598 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROTH. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

HEALTH CARE

Mr. BOND. Mr. President, I thank the Senator from Delaware. I wish to reclaim the time to continue the discussion of health care which we began earlier this hour. One of the key elements in health care reform is to realize some of the mistakes we have made in the past. We cannot promise what we cannot pay for. We have had problems in the past, Mr. President, estimating the costs of Government health care programs, which we have missed badly.

In the 1990 budget summit, we told everybody that we were going to achieve a $45 billion savings over 5 years in Medicare and Medicaid. It is only 3 years past that time and there have been some nine different technical readjustments. For people who may be watching, the best way to explain it is that is a Federal way of saying, "Oops, we missed it," but after nine technical readjustments, the cost of Medicare and Medicaid over this 5-year period is not going to be $45 billion less, it is going to be $120 billion more, a $165 billion swing in the costs of the program.

That is one of the reasons that, in the Dole-Chafee plan and the other plans which we have discussed and which have been put forward by people in the mainstream Democratic and Republican efforts, we ought to achieve savings first before we promise benefits. There are some who say, "Let us promise the benefits and then, if they are too generous, we can just take them away."

When, Mr. President, has this body ever shown the willingness to take away a benefit once it is provided? That has been the problem: We cannot say no. Once some program gets started, it keeps going and it is added to the deficit or, alternatively, it might increase taxes.

In any event, our ability to cut back on spending programs once instituted has not been good. We have found out that increased utilization comes about when you expand health care coverage. That is why there was an excellent article in the Washington Post of October 17, 1993. I want to share some excerpts with you from it.

They talk about the Clinton promise of health security, and many economists view a darker reality behind it, saying they are potential fiscal time bombs. They quote distinguished Members of this body, Democratic leaders, who commend President Clinton for trying to make an accurate cost estimate but saying, "I would still bet a dime to a dollar they're wrong."

An economist at Salomon Brothers says:

> Make no mistake about it, President Clinton is proposing an entitlement program and, if its substance survives, it will inevitably expand in budget and regulatory control.

Another Member on the opposite side of the aisle—a very thoughtful Member who has been concerned about curbing costs—said:

> It is hard to make the case that our Government can be entrusted with a new entitlement program when we have let the old ones get so far out of control.

Economists of both liberal and conservative stripe have raised questions that we should take to heart as we move into this process. For example, Henry Aaron, a health economist said:

> I don't know of any good numbers out there for estimating the cost on corporate subsidies.

Former Bush economic adviser Michael Boskin said:

> A lot of seeds are being planted here for programs almost certain to grow exponentially over time. I think the conclusion is that we'll just have to force up taxes in the future.

Barry Bosworth, an economist at the Brookings Institution said:

> This is about the most complicated piece of policy I've ever heard of.

He goes on to estimate the program could just as easily be understated by $300 billion as achieving a savings.

Probably my favorite quote from Mr. Bosworth is:

> I don't think we got a chance in hell of knowing how much we will end up spending on health care 7 years out.

For those reasons, Mr. President, I believe the approach we take in our measure to pay as you save makes far more sense. Let us not embark on a very gold-plated, expensive program, new entitlements, four new entitlements without knowing that we have the costs under control and that we are able and willing to demonstrate a reasonable ability to control those costs.

Mr. President, I believe the hour of 9:30 is approaching. At that time, the time is supposed to be under the control of the other side of the aisle. I will yield the floor. I note my colleague from Utah is prepared to speak, and in the absence of another speaker, I might suggest he ask unanimous consent to proceed.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. BENNETT. I ask unanimous consent that I be allowed to speak for 7 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Utah is recognized for 7 minutes.

Mr. BENNETT. I thank the Chair.

We are embarking, Mr. President, on a journey that has historic consequences as we address the issue of health care.

The comments made by the Senator from Missouri are appropriate in that they point out there are many pitfalls and difficulties ahead of us in this journey and we must proceed very carefully.

I do not rise to bash the President or Mrs. Clinton. Quite to the contrary. I think they have made a tremendous contribution to this debate. I have been impressed with Mrs. Clinton's ability to get her arms around the scope of this problem. My one concern is that as she does so, she may have a little more confidence in her ability to solve the problem than I think might be warranted under the circumstances.

There is a little bit of history that will help us. We have two medical programs already on the books, Medicare and Medicaid. They came in that order. Both of them were accompanied with forecasts of certain levels of expenditure. Both of them have so exceeded those forecasts that it is almost laughable to go back and look at what was told the Congress and what has happened in the Congress.

In each case, there was no bad faith. There was no attempt to deceive. There were no smoke and mirrors. There was the very best of faith and the best of efforts. But in each case reality caught up with the forecasts and left us in a circumstance that is now straining to break the budget.

Let us make no mistake; it is the entitlement programs that are breaking the budget and causing the budget deficit, and we are on the threshold of creating a new entitlement—indeed, the largest new entitlement in the history of the country.

This is what disturbs me as we go about this.

Secretary Shalala has been quoted in the popular press that in her testimony before the House she said in effect it does not really matter what the details of the plan are; the important thing is to get a plan in place, and then we can fix it later.

I would introduce Secretary Shalala to a previous Secretary of Health, Education, and Welfare, Mr. Joe Califano. Some people have referred to him as the father of Medicare and Medicaid, because he was on Lyndon Johnson's staff when Medicare was created and he was Secretary of HEW when Medicaid was created. He made the point that when Lyndon Johnson realized Medicare costs were going out of control and the program needed to be fixed, they could not fix it. They came to the Congress 2 years later. Things were locked in concrete at that point. People were satisfied with the entitlement that had been created and politically it was virtually impossible to fix it.

So the first message I hope we would adopt here as we start down this road is that it is more important to get it right than to get it now. I hope Mrs. Clinton and those who are embracing her program will recognize the past history which tells us the validity of that comment and would listen to Mr.

Califano, who says if you do not do it right the first time, you cannot change it, rather than adopt the attitude which Mrs. Shalala has adopted, which is, as I say, it does not really matter the details of the plan, just get one in place and we can fix it later. I consider that a very dangerous direction to go.

Second, I think we should understand we are talking about reengineering one-seventh of the total economy. We are talking about the greatest social reengineering enterprise in which this country has ever engaged. Not only should we do it right, but we should understand that a reengineering of this kind should not take place without a large and growing national consensus behind the way it is done. This is something that should not be done the way the budget was done, with 50 votes plus the Vice President breaking the tie. This is something we should have a large national consensus behind.

I salute Mrs. Clinton for reaching out to Republicans and others outside of her tight little group which put the health care plan together in the first place, to try to achieve that consensus. But as we proceed, perhaps we could understand the importance of building that consensus by slowing down a little and realizing a consensus can be gathered for a number of ideas that can be held together as we move to the more difficult ideas.

Let me give you an example the President himself has referred to, as he stood on the White House lawn and talked about the ancient rivals of Yitzhak Rabin and Yasser Arafat getting together and shaking hands, saying if these two can get together and solve these problems, surely the Republicans and Democrats in Congress can get together to solve the health care problem.

That is true, but Yitzhak Rabin and Yasser Arafat have not gotten together to solve their problems. The details of their agreement are that they have gotten together to agree to agree. They have created the framework of negotiation. They have not tried to tackle all of their problems at once because they realize how difficult those problems are. So they are putting the more difficult problems off as they work through the areas where they can agree.

Following up on the President's analogy, that is what we ought to do on health care, start with the areas where we can get 80, 90 votes in the Senate and say we will agree not to tackle the more contentious ones until we have built a consensus brick by brick, so that the more contentious issues of employer mandates and taxes can come after we have created a basis of agreement on the less contentious issues of, say, antitrust reform and common insurance practices.

Mr. President, I ask unanimous consent that I be allowed to continue for another 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENNETT. I thank the Chair.

I am talking, I would hope, about a sense of cooperation and consensus in the Senate and the House to solve this problem in such a way that we do not look back on it with the same sense some of us now look back on the creation of Medicare and Medicaid and say what kind of a mess did we make, but that we build the bricks very carefully and together, in such fashion that when it is over we do not say, gee, President Clinton had his way with a narrow victory or, gee, the Republicans succeeded in rolling President Clinton on their plan and picked up enough Democratic support to create a 51-vote majority to get their plan; that we look back on this in future years and say the Congress and the executive branch, working together carefully and perhaps slowly but very accurately over time built a health care reform system that enjoyed the support of 75, 80 Senators of both parties and all political persuasions.

Are there deal breakers as we go about this process? For me there are. I do not want to see health alliances that are monopolies that have regulatory powers. But I am willing to put that off while we deal with some of the other issues on which I think we can reach agreement.

Mr. President, I offer congratulations to the Clintons for their initiative in bringing this issue to us, and I hope they will, in the spirit that has marked the conversations up to this point, be willing to back away from a sense of great haste and urgency and come to the notion with which I began my comments, that it is far more important for us to do it right than it is to do it now.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Senator from Utah has suggested the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DODD. Mr. President, as on behalf of the majority leader, I ask unanimous consent that relative to the cloture vote at 1 p.m. today the mandatory live quorum be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, may I inquire as to whether or not the Senate is now in morning business.

The ACTING PRESIDENT pro tempore. The Senator is correct.

THE HEALTH SECURITY ACT

Mr. DODD. Mr. President, I would like to take a couple of minutes, if I could, to express my immediate thoughts on the historic announcement that occurred yesterday. The President of the United States and the First Lady presented to a significant number of Members of the House and Senate their national health reform effort, the Health Security Act, as it is called. I am very proud that I will be a cosponsor of the proposal.

I would like to take just a couple of minutes this morning to express my thoughts as we begin what I think will be one of the most historic debates in the 20th century. As we close out this century, we will address something that has plagued and defied previous Congresses and administrations going back to the earlier part of this century. We are on the brink, in this Congress, of achieving something that others have wrestled with for decades and have been unable to achieve.

I begin the process by believing we will achieve national health care reform. We will have a Health Security Act, after long-awaited efforts that will give people security about their health care and relieve their fear that health care will bankrupt their families. I believe this will become a reality before this Congress adjourns next year.

Mr. President, the bill will be as I said a moment ago one of the most important pieces of legislation considered by Congress in the 20th century. That is my firm view. It will appear alongside the Social Security legislation of the 1930's and the civil rights legislation of the 1960's on the pages of future American history books. It will appear alongside the great vehicles of social reform not only because of its monumental impact but also because of the principles of security and justice on which it is based. Like the Social Security Act, the Health Security Act will provide a new and desperately needed guarantee for Americans. Just as Americans now do not have to fear old age without a pension, they will no longer have to fear illness without treatment.

Like our civil rights laws, the Health Security Act will make our society more just and more equitable. Just as Americans no longer have to fear State sanctioned discrimination based on race, they will no longer have to fear health care discrimination based on health status or ability to pay.

We have arrived, Mr. President, at one of those unique junctures in American history when there is nearly universal agreement on the need for change. Not everyone, obviously, agrees on the form this change should take. There is a great deal of disagreement on this point. But I have yet to meet anyone in the halls of Congress or outside of this Chamber who feels that the status quo is preferable to real reform, and that we can continue down the road that we are now on, without change.

Republicans and Democrats, doctors and patients, small businesses and large corporations, consumers and insurance companies, all agree that reform is imperative. I hope we will seize this opportunity, Mr. President, to form a broad-based consensus about the shape of reform and give the American people what they deserve and have been asking for for decades: A health care system that works for everyone in this country, but does not bankrupt the Nation as well.

While the introduction of this bill has great significance for all of us, I know it has special significance for our colleague Senator KENNEDY of Massachusetts, who has been toiling away for health care reform for the last quarter of a century as a Member of this body. I want to commend, if I can, the distinguished chairman of the Labor and Human Resources Committee for his work in this area. He has been a champion of it for years.

The case for reform is clear and compelling. Our health care system is in desperate need of repair; it must be fixed. The system is too expensive, and it leaves far too many people without coverage. I see the President's plan as our best hope, and that is why I have become an original cosponsor of the Health Security Act.

I prefer President Clinton's proposal because it is based on six critical principles, which he articulated in a joint session of Congress a few weeks ago and reiterated again yesterday. Those six principles deserve being repeated over and over again, because they are the principles which Americans have talked about and cared about for such a long period of time.

The first is security; the second is savings; then quality, choice, simplicity, and finally, responsibility. Other plans, Mr. President, while they have merit and good points, fall short on one or another of these most important standards.

I am enthusiastic, Mr. President, about being part of this effort, because of the tone that the administration has set. The President and the First Lady have demonstrated, I think, a sincere willingness to listen to criticism and suggestions and to take them into account. The President has also sought to form a bipartisan coalition to support health care reform. I believe there have been more meetings and more consultations prior to yesterday's introduction than at any other time in my memory on almost any other piece of legislation—certainly any other piece of legislation of this significance. The President and the First Lady know that health care should not be a partisan cause, but an American cause; not an issue that divides us, but one that unites us; not a source of recrimination, but one of reconciliation.

Mr. President it would be naive to suggest that every part of a sweeping effort to reform one-seventh of our economy would be supported unanimously. There are certainly aspects of this health care plan that I would have written differently. I am sure that can be said of almost every single Member in this body. But we cannot allow specific objections to some parts of the plan to derail the entire effort. I am sure that will not occur.

The fact is that introduction of the Health Security Act represents not the end of this process, but rather the very beginning of this process. In the months ahead, we will be working together with those who have introduced other plans, with those who have other ideas, working together to shape this legislation, to make sure that it meets the needs of our constituents, and that it is consistent with the principles established by the President.

During this process, Mr. President, I plan to focus on preventive care and the unique needs of pregnant women and children. We can no longer afford to neglect prenatal care, and we can no longer afford to neglect child immunizations. We can no longer afford to neglect the health of adolescents. I want to work toward a reform plan that provides solid benefits in these areas and contains provisions to make sure the benefits reach those who need them.

Mr. President, I also want to make sure that the reform plan is friendly to small business, which contributes so much to job creation in this country. As the First Lady told me during her appearance before the Labor and Human Resources Committee in September, "It would be difficult to create a health care system more antibusiness than the one we currently have." I hope that the new system we design will achieve the goal of health security for all Americans, without burdening small business.

Some people might be surprised that a Senator from Connecticut, home of some of our Nation's major health insurance companies, is cosponsoring legislation to overhaul the health care system. There is a perception that all insurance companies are adamantly opposed to change and that they are conspiring to undermine the reform process. In fact, a Herblock cartoon in this morning's Washington Post lumps all of these industries together.

I suggest to my colleagues that nothing could be further from the truth. The insurance industry, of which we are very proud in my State, and which employs more than 50,000 people, is not a unified monolith that speaks in one voice. Many insurance companies strongly support reform. There has been much misinformation on these points.

For instance, last week, there was a flurry of media accounts about the Coalition for Health Insurance Choices, a group established largely by the Health Insurance Association of America, to weigh in on the health care debate. You may have seen their ads on television. The existence of this group was pointed out as evidence of a grand conspiracy on the part of all health insurance companies to derail reform.

What was left out of this discussion was the fact that the health insurance association of America does not represent the entire insurance industry. In fact, three of the largest health insurance companies in the United States located in Connecticut—Aetna Life and Casualty, Cigna, and the Travelers—do not belong to this organization and disassociate themselves from their media efforts and their propaganda.

These companies are all committed, I point out, to health care reform. Not only do they support many of the principles outlined by the President, but in a number of instances they have already achieved on a small scale what we hope to achieve nationwide through health care reform—namely, cost reduction and quality control.

Here is an example, Mr. President: Cigna Healthcare's Arizona health plan has developed an innovative way to manage pediatric asthma cases. It has improved diagnosis of the problem, implemented education programs, and provided medical equipment for children to use in their own homes. These steps have already saved $1.3 million and made treatment more comfortable for many children.

Cigna also developed a new biopsy procedure to detect breast cancer. This reliable procedure saves patients the inconvenience and discomfort of major surgery, and it costs only one-third the costs of traditional surgical biopsies.

Mr. President, we simply cannot allow this opportunity to reform the Nation's health care system to slip away. We must act now to provide the American people with the health care system they need and the health care system that they deserve. I commend the President and the First Lady for the efforts they have already undertaken in this regard. We would not be here today, we would not be at the point in our history, were it not for their efforts. As I mentioned, there are many fine ideas that have been presented by other Members of this body and other members of the other Chamber. At the end of the day, I suspect we are going to come together on a health care proposal that reflects the best ideas of all of these plans. But when that day arrives, let us not forget that if not for President Clinton and Mrs. Clinton, we would not have arrived at that moment.

In these years, 1993 and 1994, for the first time in decades, we are going to finally debate and have a health care proposal that gives people a sense of security, and a basic benefits package that would be available to all Americans. And on that point, I hope there is no disagreement in this body. A plan that is not comprehensive and does not cover all Americans does not deserve to be called health care reform. On that point, I think all of us ought to come together. I commend my colleagues for their efforts and look forward to working with them.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Massachusetts. But let the Chair advise the Senator there is 1 minute remaining in this 30-minute block scheduled for the majority side. The Chair will further advise Senators that during this 30-minute block the Senator from Missouri asked unanimous consent that the Senator from Utah, Mr. BENNETT, be allowed to speak. He consumed 10 minutes of his time because no one on the majority side was present.

Mr. KENNEDY. Obviously, I want to accommodate. I was on the floor when Senator BENNETT was making his comments. I would hope we might be able to be extended time—I know Senator BOXER and I want to speak briefly—and to ask whether we could use that 10 minutes and then go back to the earlier order.

Mr. BOND. Mr. President, this is a very important subject. Unfortunately, we have several speakers on our side who have markups and had planned to be here.

Senator CHAFEE agreed that we should extend 2 minutes of our time to the Senator from West Virginia. Then I would like to yield to him. I would also then like to yield to Senator CHAFEE so that he may go on to a markup.

I would note to the Chair that I did not yield to the Senator from Utah, a mere technicality. We want to have everybody heard. We have morning business until 10 o'clock.

Mr. CHAFEE. Mr. President, as far as I am concerned, if it is 10 minutes, fair enough, but I would hope they limit it to 10 minutes because each of us are waiting to get to committees. If that would be satisfactory, that is fine with me if they want to go.

The ACTING PRESIDENT pro tempore. That would have to be done by unanimous consent.

Mr. KENNEDY. Mr. President, if the Senator from Missouri has reservations about that then I would not offer it. But otherwise I ask unanimous consent we be able to have 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BOND. Mr. President, I would concur in that and am happy to agree to the unanimous-consent request that there be 10 additional minutes on that side to be controlled by Senator KENNEDY.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Republican time be extended 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. I thank the Chair.

I yield to the Senator from California briefly.

Mrs. BOXER. I thank my friend from Massachusetts and I thank my Republican colleagues for being so accommodating.

Mr. President, I planned to be here to speak about my support for the proposal by the President in terms of his health care plan, which is something this country is crying out for. But rather than do that, because of the time limitation the Senator from Massachusetts [Mr. KENNEDY] gave me permission to speak for about 1 minute or 2 to fill the Senate in on what is happening in California with our devastating fires.

FIRES IN CALIFORNIA

Mrs. BOXER. Mr. President, the devastation continues. The Santa Ana winds continue, fortunately at a little lesser speed than they were yesterday, but predictions are they will pick up tomorrow.

We have this window when our brave firefighting men and women can get out there and get some of these fires under control. We had as many as 14 fires. My understanding is that four have been put out. There are several counties, including Ventura, Los Angeles, and others, that have been declared emergencies, and the Governor is acting to ask the President for help.

Our President will be addressing the Nation at a press conference. I believe he is going to have a statement about the fires. I just wanted to report to the Senate—because I see here my colleagues who experienced these problems in their own States—that the head of FEMA, the new head of FEMA, James Witt has been just extraordinary. Usually I have had the experience of having to beg for information, having to beg to be informed. He was on the phone to both Senator FEINSTEIN and me. He said to the people of California, do not wait until it is too late. We want to help. We want to swing people into action, the Forest Service, the Department of Defense. We want to help.

So I just again thank my colleagues for this moment. Senator FEINSTEIN and I are going to act as a team. One of us is going to go to California. One of us will stay here to inform the Senate of what is happening and do the work that needs to be done.

I say to the people of California: Our hearts are with you. We are thousands of miles away but we see the devastation you are going through.

We are very grateful that there are no deaths, Mr. President, no deaths at all, although we have had at least 30,000 people who had to flee their homes, and estimates range from 50,000 to 80,000 acres burning.

So we will pray and we will swing into action, and we will be reporting to the Senate as the day goes on.

HEALTH CARE REFORM

Mrs. BOXER. Mr. President, I am proud to rise today as an original cosponsor of the administration's health care reform bill. Yesterday's unveiling of the Health Security Act was a historic moment. After years of political neglect and denial, years of watching the number of uninsured Americans skyrocket, and years of seeing our people pay more and get less, we finally have a comprehensive plan to reform our health care system.

The Health Security Act lives up to its title. This is a bill to give all Americans security and choice, improve the quality of care, reduce costs and paperwork and make everyone responsible for health care. This bill is good for America and good for California.

We need to look at the human faces behind this issue. We need to think about the millions of Americans who work hard, play by the rules, and are unable to afford even the most basic care for themselves and their families.

One of those Americans is Donald Greenberg of San Diego, CA. In a recent letter to me, he wrote:

> Something very terrible happened to my family today. Something that made me very angry. My ten year old son Benjamin was refused medical care by a physician because we don't have health insurance. * * * My son doesn't understand why dad, who works full-time at a very respectable company, can't get health insurance, and frankly neither do I.
>
> I had health insurance once, but when the company I was working for went under, I lost my insurance as well as my job. I haven't had insurance since 1990, even though I have [been] employed all along. * * * When I moved to San Diego in 1980 health insurance was $7 every two weeks, no deductible. Now they want $400 per month.

In the months ahead, we know it's going to be tough—change and leadership are never easy. We know we are going to be asked to make some difficult decisions. But, we need to look at this program in its entirety, examine its underlying objectives and then work to make them a reality.

1. SECURITY

The President's bill provides universal coverage and gives all Americans the health care security that they deserve. It guarantees all Americans insurance coverage for a comprehensive set of benefits whether they become sick, lose or change their jobs, or have a preexisting medical condition.

We know the statistics. In this, the greatest Nation in the world, we have the unfortunate distinction of being one of only two Western industrial countries who do not guarantee affordable health care for their citizens. The other nation? South Africa.

In this, the greatest Nation in the world, we have a situation where 37 million people live without health insurance. More than 85 percent of them are working people with families. Almost 6 million of them live in my home State of California.

In this, the greatest Nation in the world, we have a situation where an American loses his or her health insurance every 30 seconds, where 25 percent of our work force is afraid to change jobs because they fear they will lose their health insurance.

In this the greatest Nation in the world, we need to do better. The American people understand this and they elected us to get the job done. The Health Security Act guarantees all Americans insurance coverage for a comprehensive set of benefits.

None of the Republican alternative plans introduced in the Senate provide this type of security.

In fact, one plan hardly changes our current system. Senator GRAMM's bill doesn't include protections against insurance companies raising their rates or dropping individuals. And, Senator GRAMM's bill officially sanctions the current practice of raising rates for people with preexisting medical conditions by forcing them to pay 150 percent of the average premium.

2. SAVINGS

The President's plan will help businesses, consumers and our Nation by controlling our skyrocketing health care costs. Right now, we spend more money on health care than any other industrialized Nation that provides access to their citizens.

Consumers and businesses in California have been hit hard by out-of-control costs and understand the importance of these controls. In 1992, an average family living in Los Angeles, without employer provided health insurance, paid $7,296 for a health insurance plan.

During the last decade, a typical California family's health payments rose 6 percent faster than its wages. For California businesses, the current trends are equally poor. Between 1980 and 1991, spending by California businesses on health insurance increased 294 percent and reached $35 billion.

Right now, the rate of growth for our health care spending exceeds that of the overall economy. Right now, health care spending represents one in every seven dollars spent in our economy.

Unless we dramatically alter this course, within 7 years, health care costs will consume 20 percent of Federal dollars and more than 25 percent of State and local budgets. Our deficit will continue to soar, businesses will be hurt, and every American's pocketbook will suffer.

The Health Security Act establishes an overarching health care budget for the Nation, reforms workers compensation, caps the growth in health care premiums, and limits out-of-pocket costs for Americans.

It even eliminates copayments and deductibles for a critical set of preventive services, from prenatal care to immunizations and from pap smears to mammograms.

The emphasis on primary, preventive care is crucial. When our health care system fails to provide adequate primary care, we waste precious dollars treating preventable illnesses like measles and tuberculosis, which we thought we had conquered long ago. Alternative plans often fail to recognize this important point.

For example, with the medical savings account established by Senator GRAMM's bill, every time you see the doctor you pay for it out of your own savings. This would act as an incentive to avoid preventive care and to wait to seek medical attention until you are very sick, when care is more expensive.

3. SIMPLICITY

True savings are only possible when we cut the red-tape and reduce the administrative costs of health care. Every one of our health care dollars is precious.

But right now, 25 cents of every dollar goes to pay for bureaucracy and paperwork. According to Consumer Reports, Americans pay $163 billion a year for health care administrative costs. This means that we spend $447 million a day and $19 million an hour to feed an increasingly hungry bureaucracy. For our small businesses, the backbone of our economy, administrative costs consume 40 cents of every health care dollar.

Look around at the diseases claiming the lives of our people, young and old: AIDS, breast cancer, heart disease, and Alzheimers. With these tremendous challenges before us, our Nation, our businesses and our consumers cannot afford to waste one extra cent on bureaucratic redtape.

The President's bill reduces administrative costs and helps us put health care dollars where they belong.

It establishes a single insurance claim form, encourages automation, and reduces the paperwork that too often consumes our doctors and nurses and keeps them from doing the jobs they were trained to do.

4. CHOICE

The Clinton plan empowers our consumers by increasing choices. Health care is something that affects each and every one of us; it is something that everyone has a stake in—no matter where you live or how you live.

When it comes to health care, Americans know what they want. The President's bill recognizes this. It realizes that consumers make their most cost-effective choices when they understand their options and have enough knowledge to choose between them. This bill will give everyone a choice of health care plans and the option to choose their own doctor. And, everyone will have information comparing the health care plans and consumer satisfaction with them so that we can make informed choices.

5. QUALITY

The President understands the meaning of quality health care and his bill includes an expansive benefits package to guarantee it. What does quality care mean under the Clinton plan? It means that everyone will receive coverage for hospice, for home care, and for prescription drugs in the benefits package. It means that a new long-term care block grant program will provide expanded home and community-based services to all Americans, regardless of age. It means the expansion of public health and prevention programs and investments in health care training and education.

One alternative plan actually encourage bare bones coverage. Senator GRAMM's bill encourages individuals to purchase health insurance policies that cover only catastrophic health care costs. No coverage for preventive care, long-term care or prescription drugs.

Under the Clinton bill, quality care means that every retired person between the ages of 55 and 65 will receive coverage through the health alliances.

It means protection for those workers whose benefits have been cut back or terminated, and it means relief for our businesses who need to scramble to afford even the most basic retirement health plan. This is good news for California. This provision will offer a helping hand to California workers, like those at McDonnell Douglas, who have watched their health benefits altered or terminated this year.

Finally, if it is to mean anything at all, quality means comprehensive care for this Nation's women.

The President understands this and the benefits package in his plan includes the full range of family-planning and pregnancy-related services—including abortion.

When we talk about including abortion in our health care package, we need to be clear. We are not talking about providing women with a new benefit. We are not talking about providing them with additional coverage. We are talking about offering women the same coverage and benefits that they already receive from most private health insurers.

I am so proud to serve under a President who understands the meaning of reform, the meaning of fairness, and the meaning of quality care. This is a

President who understands that private health care decisions should be made in the doctor's office, not in the Halls of Congress. Because, when we infuse politics into our medical decisions, it is the health of the people that suffers.

I plan to fight with the President to make sure that Congress approves a health care plan that guarantees women the full range of reproductive services, a plan that doesn't leave half our population out in the cold.

6. RESPONSIBILITY

The President's bill asks everyone to contribute to and take responsibility for the choices and costs associated with health care. We need to take responsibility for our own health by using preventive health services, and for the health of our Nation by working to decrease violence.

The President asks everyone to contribute to health care—asks employers to pay 80 percent and employees to contribute 20 percent. But, it also establishes subsidies for small businesses and low-income individuals to make sure that these costs are not burdensome.

This plan is about all of us—from the uninsured single mother to the CEO of a large corporation. It's about coming together to make life better for all of our people.

As I said at the start, it is not going to be easy. All of us have concerns about the President's bill. I'm concerned about California continuing to get stuck with the bill for illegal immigrant emergency care. Although the administration has proposed a pool of $1 billion in fiscal year 1995 to pay for these services, the State of California estimates that such care currently costs the State's Medicaid program over $750 million in this fiscal year alone.

I am worried that new drug policies could curtail private investment for innovative research and development and hurt California's biotechnology industry, an industry that, over the past four years, has created 10 percent of the new jobs in California.

I want to examine how the cuts in Medicare and Medicaid will be administered to make sure that reform doesn't come at the price of decreasing vital services to our poor and elderly.

Finally, I have a few concerns about the treatment of women's health issues in the comprehensive benefits package. In the package, pap smears and pelvic exams are offered every 3 years and mammograms, beginning at age 50, are offered every 2 years. This is less treatment than the American Cancer Society recommends. In general, they suggest a pap smear and pelvic exam once a year and an annual mammogram for women beginning at age 40. I want to work with my colleagues to ensure that our coverage for women's health meets the highest medical standards.

So, yes, let's raise our concerns. But, let's raise them in the spirit of partnership, not of obstruction. Let us support the underlying themes of this critical plan and work with the President to revolutionize the way we think about and receive health care.

As the debate moves forward, we also need to remember the human faces behind this issue. Like many of my colleagues, I have received many letters from constituents on the need for health care reform, and I would like to conclude my remarks by sharing two more stories with you.

Flora Moshinsky of Covina, CA, wrote to me of her children, a son and daughter who are "not covered by their employer's insurance, because they don't have employers, and are trying to get by on whatever insurance is available to them."

Her son, at the age of 29, "returned home to further his education as he found that he was not making enough money at his job to live. He was one of those people the President referred to as one paycheck away from disaster."

When his kidneys failed, and he became sick, his health insurance would not pay for his treatment. Today, he is alive and well because her son finally qualified for Medicare.

And finally there is James Snyder of Carmichael, CA, who writes lovingly about his wife Janice who has breast cancer.

> In all, we consulted with six doctors regarding the appropriate treatment for Janice's condition.
>
> They were unanimous in recommending several standard chemotherapy sessions, followed by a very high dose chemotherapy treatment coupled with an autologous bone marrow transplant.
>
> My wife and I thought we had complete health care coverage. Then, the hospital advised us that—our health insurance—has issued a verbal denial for her treatment. They will not cover the bone marrow transplant.

These are the faces behind health care reform and the reason why we need to pass the Health Security Act.

I again thank so much my good friend from Massachusetts.

Mr. KENNEDY. I thank the Senator very much.

How much time remains?

The ACTING PRESIDENT pro tempore. The Senator has approximately 6 minutes remaining.

Mr. KENNEDY. Mr. President, I yield myself 2½ minutes. Then I yield the Senator from West Virginia 3 minutes.

Mr. CHAFEE. Mr. President, if the Senator wants to go until 10:15, that is fine by me.

Mr. KENNEDY. That is fine. I thank my friend and colleague. We rarely get people over to the floor to talk about health care, so it is welcome that we have a number of our colleagues who want to address it.

Mr. President, the President has proposed a bold plan to guarantee health security for every American and to curb the soaring cost of health care.

The legislation the President submitted yesterday is a plan that will work. It will guarantee every American family the coverage it needs at a price it can afford and put in place a comprehensive system to control cost. The cost control program is based on using market forces to achieve real competition in health care.

In addition, the budget and the firm premium controls will assure that savings are achieved if market forces do not work as quickly and effectively as we hope.

The principle we are following is called managed competition, and one of the major debates in Congress will be over the degree of management required.

The President's plan will also cut through the miles of red-tape which is strangling the current health system and frustrating patients and health providers.

The President's plan is preserving and expanding choices for the American family. Today people fortunate enough to have coverage are often unable to choose the coverage they prefer. Instead, their employer chooses it for them. The President's plan puts the choice where it belongs—with individuals and their families.

The President's plan preserves and improves the quality of care. For the first time, the American people will have access to report cards on doctors, hospitals and health plans. These reports will help them choose the plans that provide the best care and put pressure on all providers to improve their services.

Finally, the President's plan is based on the principle of shared responsibility. Everyone, workers and employers, the unemployed and self-employed, will contribute to the cost of care, as most Americans and most businesses do today. But, premium discounts will be granted to assure that care is affordable for low-income citizens and vulnerable small businesses.

The President's plan contains the greatest advantage for senior citizens. They have had guaranteed health insurance coverage since the passage of Medicare in 1965. But Medicare has serious gaps today—gaps that have become a greater and greater problem as medical costs have risen.

The President's plan provides desperately needed prescription drug coverage under Medicare.

The interesting fact is, in the debate in 1965 many of the doctors and the dentists resisted the coverage because they did not want to be included in the program. And now, most of the groups that excluded themselves want to be part of the system.

Any plan as broad and comprehensive as a Health Security Act will require adjustment and compromise as it moves through the legislative process. But the President's plan provides an excellent start and solid structure for reform as Congress now begins to address the legislation. I look forward to working with my colleagues to deal with it as effectively and expeditiously as possible.

I thank the Senator from Connecticut for his kind references to me. And I want to mention his special knowledge of, awareness, and energy about children as chairman of the Children Caucus. Senator DODD is one who had been a leader on children's issues in our Labor and Human Resources Committee. His contribution to this debate on issues affecting children who are, as we know, the ones who are left out and left behind, will be a very, very powerful incentive for support of this legislation.

I yield the remaining time to my friend, the Senator from West Virginia.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I will be very brief this morning. If anything is clear about the reform debate, it is that we can count on plenty of time to talk through all the issues over the next several months.

I come to the Senate floor to simply congratulate President Clinton and the First Lady.

Speaking more as an American, and not just as a Senator, I felt enormous gratitude yesterday as they delivered the President's Health Security Plan to the Congress yesterday morning. Finally, after all these years of handwringing, the American people have a President with the commitment and the capacity to lead our way through a solution to the health care crisis.

Mr. President, we have not just been handed a bill—the legislative language that suddenly took on such importance in the recent weeks—we have been handed the ball. The President has submitted a serious detailed, comprehensive plan for achieving health security for all Americans.

It is up to us to get it to the finish line.

Yesterday, the President spoke for the American people when he reminded us of the job ahead. He promised an open mind and an open door when it comes to working with us through the specifics. But he was the messenger of the people when he declared what cannot be compromised. No matter what we must produce a final product that will deliver what Americans have every right to expect—security savings, quality, choice, simplicity, and responsibility.

I have been immersed in the health care debate for years. I have watched colleague after colleague, expert after expert, interest group after interest group struggle over the best way to fix our broken-down health system. The temptation to avoid the tough decisions is almost irresistable. That's why we are still seeing health care bills that pledge the idea of universal coverage, and leave out completely the way to guarantee it. The discomfort with the hard choices involved is natural. And that's why we are still seeing health care plans that don't assign responsibility for a solution, and that will not change the rules that are leaving so many Americans out in the cold.

In his health security plan, the President doesn't punt, or dodge, or hide behind promises that can't be redeemed. And now, it's time for everyone to do their part.

I also want to point out this morning how many people deserve to be thanked for the position we're now in to enact health reform. I think of the people of my State who helped me to make this issue a priority. As I have listened to their burdens of rising health care costs, and their fears of losing coverage just when they need it most, I made the decision to devote myself to hammering out the solution to ease those burdens and those fears.

Americans everywhere have spoken out in the recent elections, and are saying in every way they know how that it's time for us to do something about the health crisis. It is their crisis.

The President and First Lady have drawn on a team of some of the most dedicated public servants—inside and outside the Government that this Nation will ever know.

I will finish here this morning. Again, I congratulate and thank the President and the First Lady, and everyone who helped us get this far.

Everyone in this body now has an opportunity to help chart the course to health security for every American. I hope we will surprise all the pessimists and the pundits. I hope and pray that we'll devote the courage and the conviction that it will take to get the job done.

Mr. President, I would simply note that the Senator from Massachusetts [Mr. KENNEDY], has been at this issue of health care now for 31 years. His efforts and his work diminish the efforts of all the rest of us, not in intensity but simply by comparison.

I also thank our Republican colleagues, the Senator from Missouri, with whom I work on health care issues with children, the Senator from Washington, whom I worked with on tort reform and many other tricky issues, and the Senator from Rhode Island, with whom I work on everything.

Mr. President, my point in coming to this floor this morning is very simple, I simply want to congratulate the President and First Lady.

Speaking frankly, more as an American than as a Senator, I feel enormous gratitude, and I felt it yesterday as strongly, as they delivered the President's health security plan to Congress. Finally, after all these years of handwringing, of talk, the American people have a President with the commitment and the capacity to lead our way to a solution to this vast health care crisis.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Missouri.

Mr. BOND. Mr. President, I thank my distinguished colleague from West Virginia, as well as my colleagues from Massachusetts and Connecticut. These three distinguished Senators—Senator ROCKEFELLER, Senator KENNEDY, and Senator DODD—all indicated they wish to work in a bipartisan spirit to achieve the goal that we all seek, and that is universal health care with security, with containment of costs. We thank them for their willingness and their expressed intent to work with us.

Now, it is my pleasure to yield 7 minutes to the Member on our side, the Senator from Rhode Island [Mr. CHAFEE], who has been the leader of our task force and a leader not just of the task force but a leader in developing health care proposals and insights into health care that we find absolutely essential.

Mr. CHAFEE. Mr. President, first, I wish to thank the distinguished floor manager here, the junior Senator from Missouri, for the kind comments he made.

Mr. President, I would like now to discuss some of the concerns that I have with the Clinton health care reform package that was presented yesterday.

First, I would like to start off by commending the President and Mrs. Clinton for their efforts in bringing the whole subject of health care reform to the front burner, making it one of the most prominent items for legislative action that this Congress will face. But for their actions, we would not have health care reform at the high visibility point that it is now. Certainly, both Mrs. Clinton and the President deserve a lot of credit for that.

Mr. President, these objectives of reforming health care are goals that I share, as do those 22 Senate Republicans who have joined with me on a plan we call the HEART plan.

Mr. President, as we start on health care reform, I think it is important to remember that we are embarking on one of the most significant legislative undertakings this body has considered. Much of it is uncharted waters we are heading into, with a potential for imposing enormous new costs on the system if we make the wrong choices.

Just consider for a moment the scope of health care reform. It will affect $1 out of every $7 spent in the United States of America. It will affect every citizen, from the youngest—and, indeed, the unborn, as we try to care properly for expectant mothers—right through to our oldest citizens in the Nation; and from our poorest citizens to our richest citizens. The plan will provide health security for tens of millions of our fellow Americans who never had health insurance or, if they have it, do not have adequate coverage presently. Current estimates indicate some 37 million Americans are at any one time uninsured and another 20 million underinsured.

What we do will affect the way doctors and nurses and other health care professionals practice their profession. It will affect new technologies, new drugs, new procedures. It will have a tremendous impact on Federal, State, and local government spending, as well as the private sector spending and household budgets across our country.

In short, Mr. President, health care reform will be the most significant change in our society in this half of the 20th century.

Bearing this in mind, I think it is terribly important that we proceed with care, indeed, with extraordinary care, and that we recognize our inability to precisely predict the future. We should take some steps and see what happens and then take the next step.

I would like to highlight just three aspects of the Clinton plan I believe would take us down the wrong path and which should be rejected.

I would start off by saying there is much in the Clinton plan that we, the sponsors of the HEART Plan, agree with. There are some 16 points of commonality. But there are some major differences, and I would like to just touch on three of these this morning.

First, the Clinton plan writes a very highly detailed, uniform benefit package into law. That is the first thing—very, very highly detailed.

Second, the Clinton plan expands universal coverage, coverage for everybody in America, at a very rapid pace without knowing the cost that this will entail.

Third, the Clinton plan embarks on new entitlement programs.

An entitlement program is a program in which there is no limitation on the funding. Anybody that is entitled to it gets it, regardless of whether there is money, regardless of the cost of it. The Clinton plan embarks on new entitlement programs without, in my judgment, proper calculation of the potential costs. These are giving new benefits that currently do not exist.

I think all of us would agree that health care quality and technology will change dramatically over just the next 10 years, never mind over the next two decades. Our struggle must be to ensure that we allow health plans to evolve over time and that we do not freeze them into perpetuity by writing overly detailed benefits into statute, as the Clinton plan would do.

To leave the design of the benefits package to the political process—indeed, the Congress would create a package that is way more than the Nation can afford.

Let me just give you a couple of illustrations. Medicare benefits are a complicated mix of statutory language and regulation. But they are very specific. In fact, they are so specific that almost every year since 1984 we have the incongruous situation of a Senator—in this instance, it has been me, and a Representative, Representative PETE STARK, and some others, ending up in a room in this Capitol at 2:45 in the morning to consider highly specific benefit provisions under the Medicare Program.

And, indeed, I clearly remember one time at 2:45 a.m., Congressman PETE STARK and I were arguing over which professional should be reimbursed for reading an EKG. This is ridiculous.

First of all, we do not know much about reading an EKG. And why should we, a Congressman and a Senator, be writing that into law?

Second, the Medicaid Program has been expanded since its inception to include long-term care for the elderly and disabled. That is fine. But the changes were specifically written into law. Unfortunately, these changes were based on what was the state of the art for long-term care 25 years ago, when you had 24-hour-a-day institutional care. But time is proceeding, and the cutting edge of care has changed. It has been discovered that it is more humane and more cost effective to have community-based programs, and to keep individuals out of institutions and in the home setting, if at all possible.

But the Medicaid program does not pay for that. As it is written into law, Medicaid only pays for the care of the individual in an institution, in the most expensive place you can care for an individual, instead of paying something, far less, toward the individual being cared for in his or her home. That is the law, and we do not seem to be able to change it because there are so many vested interests, including the hospitals and the long-term care institutions, there to fight us every step of the way.

By writing very specific benefit features into this bill, the Clintons, I believe, would invite this same problem.

The PRESIDING OFFICER. The Senator has spoken for 7 minutes.

Mr. CHAFEE. I wonder if I might have 3 more minutes?

Mr. BOND. I yield 3 additional minutes to the Senator from Rhode Island.

Mr. CHAFEE. This draft bill—here it is—this draft bill has 58 pages devoted to what is to be in the uniform benefit package. Here it is: Outpatient prescription drugs and biologicals described in section 1122, outpatient rehabilitation services described in section 1123; 58 detailed pages of what is to be in the uniform benefit package.

Mr. President, you know and I know when this bill comes to the floor of the Senate in this form, Senators will be popping up all over the floor making sure that their little group is taken care of that they are concerned about, whether it is chiropractors or podiatrists. If they are not already written into this bill, they will be. And when Congress is through, it will be the most expensive benefit package known to man. That is our concern. This is the ultimate form of congressional micromanagement and it should be avoided.

Under our plan we provide only minimal guidance to the national benefits commission comprised of experts who then develop and refine a uniform benefit package, taking into account the costs to the Nation. Is Congress involved? Yes, Congress is involved. But under our plan Congress can only vote up or down—just as we do in the base closure process now. We can say we want it or we do not want it. But we will not have the power to amend it. And that is very, very important. Keep Congress from amending the package or we all know it will be so large that the Nation will not be able to afford it.

Our guidance to the commission under the Senate Republicans' plan is to ensure basic coverage with an emphasis on preventive care. Beyond that, we leave it up to the commission.

As to universal coverage. I will just say we all seek that goal. Under the Republican plan we first cover those at 90 percent of poverty and see if the savings that we have set forth indeed do create the savings that we think should be there. If so, then we expand the coverage to those at 100 percent of poverty and below, and thus work our way upward until eventually we get to 240 percent of poverty. We do not cover the entire premium at that level, only a portion, on a sliding scale. But it is a pay-as-you-save proposal.

While I was relieved to see the Clinton draft bill establish a more realistic timetable for achieving universal coverage than the original outline—the plan still fails to tie the extension of coverage to actual savings. Instead, it relies upon an unspecified ceiling to prevent the subsidies from becoming an open-ended obligation for the Federal Government. If, and when, the ceiling is breached, Congress would be called upon to either cut the program or identify new funding sources—a decision most of us could predict today. Thus, the proposal amounts to an enormous new liability—one that we have no earthly way of estimating.

Finally, I want to speak to the issue of creating new entitlements in health care reform legislation. The growth in the Medicare and Medicaid programs, two of our most significant entitlements, is one of the most compelling reasons to reform our health care system. Despite our best efforts to control the cost of these programs over the past decade, both have grown by 10 to 15 percent annually.

We have to be very careful about adding new open-ended spending programs.

By their own estimates, the administration says adding the prescription drug benefit to Medicare will cost $66 billion over 6 years. Enhancing long-term care benefits, they estimate, will cost $65 billion over that same period. The Federal Government paying 80 percent of the retiree health premiums for many citizens who retire at age 55—an obligation normally borne by private industry—is another extremely costly obligation we cannot afford.

In closing, let me make one final observation. As a member of the Finance Committee who has been involved for many years in efforts to hold down the rate of increase in Federal health expenditures, the estimates we based our decisions on were always wrong—sometimes exponentially wrong. And I predict the assumptions we base our health care reform decisions upon over the next year will prove wrong, too. That's why we must proceed with caution.

Let us find what works and what doesn't work. We can achieve coverage of all Americans. Let us do it right.

Mr. BOND. Mr. President, the Senator from California is on the way out to her State to deal with the disaster there. She has asked for 2 minutes. I ask unanimous consent she be recognized for 2 minutes not to be charged against our time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the senior Senator from California.

CALIFORNIA FIRES

Mrs. FEINSTEIN. Thank you, Mr. President. I thank the Senator very much and beg the indulgence of the United States Senate in this regard.

It is my view that the situation in California is extraordinarily serious, and I believe the President will most likely declare a disaster very shortly. I believe, also, based on the fact that I have had a lot of disaster training, I can be helpful in California with FEMA. I would like to ask one thing of FEMA, that in five counties they immediately get their eligibility people working in those counties so they are available. Second, I think Senator BOXER will be joining me, and, quite possibly, the Secretary of the Interior, Bruce Babbitt.

It is my request of the leadership, if possible, to move up the cloture vote. We would like to get to California just as soon as we possibly can. The most serious fire is the Laguna fire, which has burned 8,000 acres, destroyed more than 300 homes, has 1,000 firefighters and 125 engines; 25,000 people have been evacuated. It is at about 30 percent containment with no control. That is the fire that was believed to have been started by an arsonist.

They are hopeful to be able to gain some containment on it. As you know, it has destroyed a school, it has approached the town. These are very large and very serious fires. And, with the Santa Ana winds blowing, it makes it even more serious.

I would like to say just one thing to the people in the fire area. That is, we are all Californians for one reason. We believe we can conquer things like this. Now is the time for all of us to come together, to stand together, and to be helpful to one another. I would be hopeful that there would be no looting and that no one would proceed in any way other than a helpful manner, to help one another. We can survive this and we will if we work together.

I yield the floor and thank the Senator very much for the time.

The PRESIDING OFFICER. The Senator from Missouri has approximately 17 minutes left from his half-hour.

Mr. BOND. I thank the Chair. Mr. President, our thoughts and sympathies and very best wishes go with our colleagues to California as they deal with these disasters. As one who has experienced this all of this summer and into the fall, we truly understand the problems they face.

HEALTH CARE REFORM

Mr. BOND. I wish to yield to my colleague from the State of Washington who has a very pressing engagement himself and has been a great leader in developing health care proposals. I yield 4 minutes to Senator GORTON.

The PRESIDING OFFICER. The Senator from Washington is recognized for 4 minutes.

Mr. GORTON. Mr. President, those Members on the other side of the aisle who just a few moments ago lauded the President, his administration, and Mrs. Clinton, for their proposal and for putting health care at the top of the agenda of the Congress of the United States, did so accurately and did so in a way in which this Senator would like to join. We are in this debate because of their interest in the subject. It is an important first step toward an accommodation, toward a melding of plans which will provide health care security for the people of the United States at a price which they can afford.

This Senator wishes to associate himself with the remarks of the Senator from Rhode Island on a number of the features of this bill, most particularly the attempt to create a basic health care plan by statute and to share his apprehensions that, if Congress places itself in the midst of that debate, this will not be a basic health care plan but the most expensive which could possibly be devised under any set of circumstances.

This Senator, representing the State of Washington, however, has some extremely serious concerns about other aspects of the President's plan. The legislature of the State of Washington in the spring of this year, at the insistence of our Governor, passed a comprehensive health care reform which was approved by a wide sector of the population of the State of Washington. At the time of its passage, our Governor came to Washington, DC, spoke to President and Mrs. Clinton, and was assured that the Washington State plan would be a pattern for the Federal plan and that the State would be able to implement what its legislature had decided to do.

This Senator got the same assurances in writing from the Secretary of Health and Human Services and from Mrs. Clinton. Reading the plan, however, those promises have not been kept. The State of Washington will not be able to implement its plan. Its legislature will have to meet and revamp it totally from the beginning. The plan which the President has is far more regulatory and far more centralized. It is far more expensive from the point of view of employers, both large and small in the State of Washington. The President's plan includes no ERISA waivers that are needed by Washington or by any other State requiring those waivers, and allows flexibility to the State only if the State becomes more regulatory than is the Federal system and goes directly to a single-payer plan.

This is not the flexibility which the people of the State of Washington were explicitly promised by the administration. It frustrates all of the work that they have done to bring people together and says that work has been wasted.

This is an extremely serious problem. Our citizens do not want and do not deserve to be taxed twice for the same set of services. They do deserve the flexibility to carry out their own desires in a way which is responsible, which provides health security for all of the people of the State, which covers everyone, which is universal in coverage and which will not inevitably end up being the tremendous Cadillac or Mercedes of a specific statutorily imposed plan that is inevitable with respect to the President's bill.

We do need to work together. We do need to come up with a proposal which the people of the United States can afford which guarantees health care security for all and which allows States which have acted responsibly in this area to enforce and to administer their own plans. I regret that at this stage, the President's plan does not do so. I trust that during the course of the debate, it will be modified very much in the direction of suggestions of the Senator from Rhode Island and others who are concerned with this issue and become a true health security plan for all Americans which all Americans can afford.

Mr. BOND. Mr. President, I thank the distinguished Senator from Washington. I think he has done an outstanding job in outlining concerns that many of us have about overregulation in the proposed health care plans.

Certainly, I can understand the view as a Senator from Washington he would have about the potential denial of flexibility for that State to determine its own health care programs and needs. Similarly, I believe that the comments by the Senator from Rhode Island [Mr. CHAFEE] outlined the real dangers in having the political process try to determine benefits.

Mr. President, I had the pleasure of serving as Governor of the State of Missouri for 8 years, and if ever there was a time when the old adage applied that, "If you like sausage and the law, don't watch either one of them being made," if it ever applied to the legislative process, it was during the debates on what had to be provided in terms of health insurance and health care coverage. That is the political process at its least charming, its least effective, and its most costly.

Mr. President, in the previous hour, I spoke about the HEART Program, the program that many of us on this side of the aisle are supporting. We said clearly that we believe under this program we do achieve universal access and coverage to all Americans. We provide them with the security of knowing there is health insurance or their health plan is not going to be canceled or the premiums jacked up when they get sick. If they move from job to job or into or out of the job market, they are not going to lose their insurance. They are going to have to pay the premiums, but they will either get tax deductions or, if they are poor, they will get vouchers to pay them, but they will have to pay.

We also believe that competition is working today where employers and other purchasers have come together and they have used information, electronically developed information to find out which hospitals and doctors and plans provide the best health care.

We believe that can assure competition and will drive the provision of health care services to the most effective and least costly.

We have spoken already, and I have addressed the question of why we did not go for employer mandates. Very simply, they cost jobs, particularly low-wage jobs. Also, I talked about the budgetary dangers of promising a gold-plated plan. We could not only destroy the health care services in this country, but we could bankrupt the Federal Government if we continue to provide more and more expensive plans without paying for them.

I want to spend just 2 minutes to talk about why we believe voluntary co-operatives are necessary for purchasing. Voluntary entities are working now—they were established in California and other States—they are working without being established by the State but by individual business groups in Cincinnati, Minneapolis-St. Paul, and in other areas. They have to work well if they are voluntary and not mandated. They have to provide good service.

I was a little bit concerned as I flipped through the Health Security Act. I apologize; I have not read it all yet and may not, but I went through to see what these mandatory alliances that everybody would have to acquire their health insurance for would do. They are not just purchasing cooperatives. They would monitor premiums to ensure they stay below 120 percent of the weighted average; they would establish a fee schedule for fee-for-service plans; they would update rates of fee schedules; they would monitor the budget, and if it turns out that spending more than the National Health Board, the Federal Government says is appropriate, they would reduce payments to meet the budget. People are going to get their health care rationed by these mandatory health alliances.

The alliances would be required to ensure the enrollment of all eligibles. Where there is oversubscription, if too many people are on a fee-for-service plan, then they engage in random selection. If you go to an alliance, you might not get the plan you want because they have to live under a budget and that limits them.

They would approve or disapprove marketing promotional materials provided by the health plans and they would require health plans to serve designated community service providers.

These are regulatory activities that I do not believe are the proper mandate of Government or supposedly a voluntary purchasing cooperative.

We want to work together with the Members on both sides of the aisle to ensure universal access and coverage for health benefits that cannot be taken away if you get sick and cost containment through competition.

Mr. President, I yield the remainder of my time to the Senator from Texas [Mr. GRAMM].

The PRESIDING OFFICER. The Senator from Texas has approximately 6 minutes.

Mr. GRAMM. Mr. President, I thank our dear colleague from Missouri for yielding.

As we all know, yesterday we finally got a copy of the President's bill, and the most striking thing to me about the President's Health Security Act is that with all the discussion about universal coverage, with all the discussion about guaranteeing that Americans get health insurance and keep it, when I look at this bill, I find that 19 pages of this bill have to do with universal coverage and 1,323 pages of this bill have to do basically with the Government taking over and running the health care system of America.

The President said yesterday that he was willing to compromise on health care and so are we. We think we can work with the President to help Americans get a good insurance policy and to help Americans keep that insurance policy. If they change jobs, we want to change the system so they do not lose their insurance. If they get sick, we want to change the system to ensure they do not lose their insurance. But where there is going to be a major difference—a difference in philosophy, a difference in values, a difference in belief about how markets work and how Government does not work—is not about the 19 pages having to do with universal coverage; it is about the 1,323 pages that have to do with the Government taking over the health care system.

The real debate is not going to be about helping Americans get covered. The real debate is whether or not we can control cost by trying to promote price sensitivity and price competition, which is the basic Republican approach and, quite frankly, the American approach. We do not have efficiency in providing food to the American people because of the Government. We do not have efficiency in terms of producing automobiles because of the Government. We do not have efficiency in providing housing because of the Government. We have efficiency in those areas because of price competition, and we want to bring that price competition to medicine.

That is what the debate is about: Shall we deal with costs by having the Government run the health care system? Is there anybody who can believe that by having the Government take over the health care system that we are going to reduce costs, that we are going to reduce paperwork, that we are going to reduce bureaucracy?

I sometimes wonder, Mr. President, if this is a joke or a debate.

I wish to share one little interesting thing with my colleagues this morning which I think is a perfect example of the doublespeak of this bill on a fundamentally important subject.

Let me begin on page 15. On page 15 of the President's bill, we have a subheading that everybody is going to love to see. It says:

> Protection of Consumer Choice.

The President is very sensitive because he knows his bill limits consumer choice, but he does not want the American people to know it. So he has a subheading:

> Protection of Consumer Choice.

Then he says:

> Nothing in this Act shall be construed as prohibiting the following:

And the big item is:

> An individual who is not an eligible individual from purchasing health insurance (other than through a regional alliance).

In other words, if you are ineligible for this plan, you can go out and buy private health insurance. It sounds good. But then you look back to page 14. You find out who is eligible:

> A citizen or national of the United States; an alien permanently residing in the United States; a long-term nonimmigrant.

Who is eligible to buy private health insurance under the President's plan? It looks to me like an illegal alien. Nobody else would qualify for this consumer choice. The real story on this issue, Mr. President, is over on page 239. And when the American people understand this provision, the President's plan to have the Government take over the health care system is going to die a quick and deserved death. Let me read it:

> No health plan, insurer, or any other person may offer to any eligible individual—

That is everybody in America but illegal immigrants—

> a supplemental health benefit policy that duplicates any coverage provided in the comprehensive benefit package.

That provision on page 239 cancels the private insurance policy of virtually every person living in the United States of America. Now, what happens if somebody tries to sell you a private insurance policy, remembering that this is the United States of America we are talking about. What happens is, and this is on page 241:

> An entity that knowingly and willfully violates any provision of this section with respect to the offering of a supplemental health benefit policy to any individual shall be subject to a civil monetary penalty (not to exceed $10,000) for each such violation.

In other words, under the President's plan, if you work for a normal company with 200 employees, your health insurance is going to be canceled. You are going to have to buy health insurance and health care through a government collective. Anybody who tries to sell you private health insurance can be fined $10,000 for trying to do it. Is that consumer choice, when you cannot go out and buy a private health insurance policy from Blue Cross-Blue Shield? Is this a free country? That is the relevant question.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. There is 30 minutes under the control of the majority.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that I proceed for 15 minutes under that 30-minute order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from South Carolina for 15 minutes.

NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. HOLLINGS. Mr. President, with respect to the North American Free-Trade Agreement, I am very saddened to see the attack strategy of our administration, the dissembling, and outright fraud they have resorted to in their campaign to sell this agreement—an agreement that is clearly to the detriment of U.S. economic interests.

The President earlier this week touted his White House tent display of products the United States exports to Mexico. He pushed the theme. "Why Can't We?" And he was very passionate about the United States: "Don't tell me we can't compete with little Mexico."

That is a complete misstatement of what is at issue with NAFTA. It is not the worker of the United States failing to compete with the worker of Mexico. It is the President of the United States failing to compete with the President of Mexico. The President of the United States is a democratically elected executive whose power is checked, generally speaking, by the power of the Congress. It is the President and the Congress that have burdened U.S. industry with huge, mandated costs of production. We come in, Republican and Democrat, President and Congress, and we require that businesses foot the bill for Social Security, health care, safe working place, safe machinery, plant closing notice, parental leave, clean air, clean water, and so on. And every one of these mandated costs increases the cost of U.S. production. In contrast, the President of Mexico, virtually a dictator, assures that regulation of industry exists on paper only—is not enforced—and that independent labor unions are strangled in the cradle.

So we face a totally incongruous situation of free United States markets and free United States labor competing with controlled Mexican markets and controlled Mexican labor. This is a sure-lose situation for the United States. Look at what has happened in a similarly incongruous trade relationship with China. In a 5-year period, we have gone to a $23 billion annual deficit in the balance of trade with China. And if they think this is the model for proceeding now with Mexico, they are crazy. If so, why not get a free trade agreement with China, which has prison labor and strict control by the Communist government?

Do not dare question the ability of the U.S. worker to compete. The Christian Science Monitor recently ran an article titled "U.S. Still Leads the Pack on Productivity." The article confirmed that, with respect to national output per capita, with respect to labor productivity, with respect to manufacturing productivity the American worker is No. 1 by far. Japan and Europe trail way behind.

We are No. 1, yet we have cut back our real wages in the United States. Our take-home pay has been going down the last 20 years and we are still the most productive. So do not preen at the White House with these tents and toys. And do not portray this cross-border competition as some kind of sports show by saying, yes, we can compete with little Mexico. It is he, the President, we, the Government, who are not competing with the Government down there.

The next dissembling point, of course, is to plead that, well, the United States is going to lose jobs to Mexico anyway. Mr. President, I have a personal experience in this light. I have been championing now for 27 years the adoption of a textile bill. It was passed five times, vetoed four times, but passed in this Senate five times. Each time I have been in intimate association with the executives and labor leaders of the textile industry.

One of the things we have been fearful of for the last 7 years is the General Agreement on Tariffs and Trade—GATT—the Uruguay round. GATT includes a proposal that would phase out our multifiber arrangement regarding textiles.

Interestingly, the Bush administration U.S. Trade Representative produced a study showing that GATT's phaseout of the multifiber arrangement would lose over a million U.S. jobs. Carla Hills deep-sixed that particular report. This was followed by a study by the Wharton School of Business showing we would lose 1,300,000 jobs and the U.S. textile and apparel industries would be devastated.

Now comes NAFTA. The textile industry stands to lose a million jobs, but many executives in the industry do not care about it. I quote one leading voice, a distinguished citizen of my own State and chairman of the board of Springs Industry. He says:

> We will always lose the lowest paying, least productive firms in any industry. That is the free market system.

That is Mr. Walter Elijah. Now, this is what disturbs this particular Senator. As their representative, the textile industry wants me to say, "Oh, no, we cannot lose a million jobs because of GATT, but let us endorse NAFTA, it is OK to lose a million jobs."

By the way, do not construe my opposition to NAFTA as blanket opposition to free trade. I supported and voted for the Canadian Free-Trade Agreement because our two countries have similar standards of living and the same free press, free markets, clean judiciary, and so on.

But Mexico is a very different story, with its one-party State, corrupt judiciary, Government-manipulated trade unions, and so on.

Mr. President, after months of denying that NAFTA will cost U.S. jobs, the administration has now moved to create a $3 billion fund to provide relief to communities that will be devastated by NAFTA. This morning's Washington Post reports a proposed new $3 billion North American Development Bank to help clean up the job-loss wreckage that NAFTA will inflict.

Well, that is good news to this Senator from South Carolina because, having myself carpetbagged in the Northeast 30 years ago, now Mexico is carpetbagging in my own backyard in South Carolina.

As companies now based in South Carolina depart for Mexico, now I will have a source of compensation for thousands of South Carolinians who will lose their jobs.

It is too bad we do not have a development bank for South Carolinians who have already lost their jobs to Mexico—unemployed workers from Cummins Engine in Charleston, Pratt Read in Liberty, Kyocera in Conway, United Technologies in Bennettsville, Rotron in Orangeburg. I visited the new Kyocera plant in Mexico 2 weeks ago. Kyocera laid off 681 in Myrtle Beach and another 153 in Conway.

So I am going to call up the folks down in Horry County and tell them we will have welfare now for the 834 jobs lost there.

Mr. President, let me address the matter of Lee Iacocca's TV ads in support of NAFTA. I know Iacocca well, having worked with him a decade ago to extend a $1.5 billion loan guarantee to bail out Chrysler.

I will ask Lee Iacocca to withdraw his ad because it is absolutely false, an absolute fraud, and he knows it. He says:

> Let us not twist the facts. We are worried about the wrong thing at the time and the wrong place. NAFTA opens up Mexico to our machine tools, computers, cars, trucks, electronics—

But Business Week exposes the real game, which is to export to Mexico not products but investment and factories, which will then be used to produce for the United States market. Quoting from a March 16, 1992, article in Business Week:

> Even if negotiations for a NAFTA bog down, Big Three executives expect the Mexican auto industry to double by the year 2000 to 2 million vehicles. And with an agreement, says Ford Motor de Mexico President Victor Barreiro, "We could be making 3 million units a year here, or more."

The same article quotes one Big Three executive in Mexico City: "We would put a lot more plants in Mexico if it were not for the UAW."

That tells the story. The UAW is trying to maintain standard of living, health care, and jobs.

> We would put a lot more plants in Mexico if it were not for the UAW.

Of course, we well understand Mr. Iacocca's enthusiasm for Mexico and NAFTA. As chairman at Chrysler, he built an engine plant in Rames Arizpe; expanded his Toluca, Mexico, plant by $100 million, and built a new truck plant at Alargo Roberto with a capacity of 150,000 vehicles.

Incidentally, Chrysler pays the 25 percent on the trucks they import from Mexico. With NAFTA, that tariff is reduced to 12.5 percent immediately, then phased to zero in 5 years.

It is not just the Big Three. Nissan is investing $1 billion in a new plant in Mexico. Volkswagen has announced a $1 billion investment in their plant in Mexico. Those cars will be produced not for the Mexican market, but for the United States market.

The sucking sound is not only caused by investment and jobs leaving the United States for Mexico. The sucking sound is caused by investment from Asia and from Europe locating in Mexico as a duty-free export platform for flooding the United States consumer market. That is the big game under chapter 11 of NAFTA. European and Asian investors get security that they cannot get from the Mexican dictatorship government right now without NAFTA's safeguards.

Along comes the Special Trade Representative, Ambassador Kantor last week, and he parroted the same line. I quote again from Iacocca's pro-NAFTA ad.

> Now the Japanese and Europeans think NAFTA is a bad deal. Why? Because it is good for us and it is bad for them. It puts them on the outside looking in on the biggest market in the world.

It puts them on the outside, shipping into the biggest market in the world. Who is kidding whom? I asked Mickey Kantor. I said, "Mr. Ambassador, you show me one article that says folks are against NAFTA in Asia. Show me one article that says folks are against NAFTA in Europe." On the contrary, Europe and Asia are gung-ho for NAFTA for their own selfish reasons.

I recently returned from the British-American Parliamentary Union in Edinburgh. There were Senators there, and 13 British parliamentarians. The British were constantly chattering: "NAFTA, you go ahead with NAFTA."

It got so oppressive that I finally said, "Wait a minute. What about Turkey and the Common Market? You don't mind Turkey in NATO, where they are fighting and dying for you, but you don't want the Turks to trade with you within the Common Market?"

He said, "That is insulting."

I said, "That is the fact. You support NAFTA because you plan to set up plants there with the Asians in order to export duty free into the richest market in the entire world."

Look at this headline from the Japanesse press: "Bank of Tokyo Bullish on Mexico."

I quote from the article:

> Manufacturers and exporters to the United States market would obviously benefit by locating in Mexico where their products crossing the border north would not be subject to tariffs.

I quote further:

> Mr. Hayama said, "Some Japanese companies may have bad memories of the Mexican Government's attempts to enforce policies on foreign ownership and industrial strategy. But I believe that once Mexico is part of NAFTA, its government will find it more difficult to change policy at its own convenience. Moreover, since Mexico will be concerned about being overwhelmed by the gigantic United States economy, it likely will want substantial Japanese investment as a counterbalance."

Let me cite an article from the Journal of Commerce titled, "U.S.-Mexican Firms Join to Provide Real Estate Services."

In the article, Frank Binswanger is quoted saying:

> There has been a tremendous amount of movement by European, American, and Japanese companies into Mexico to take advantage of NAFTA.

A 1992 headline in the Daily News Record reads: "NAFTA No Barrier to Apparel From Asia."

The Journal of Commerce reports that Chinese textile companies are negotiating joint ventures to move production behind the trade barriers into their No. 1 market, the United States. The Journal quotes an Asian businessman saying, "Let there be no doubt. Exemption from quotas and duties is the main motive for the venture." The article notes that the Shanghai Textile Bureau bought 100,000 square feet of land in the Mexican trade zone for a textile factory.

Rho Tae Woo, the President of South Korea, said in the Journal of Commerce that the proposed North American Free-Trade Accord would boost Korean investments in Mexico.

Mr. President, who is kidding whom about the Asians being afraid of NAFTA? This is another strawman in the NAFTA debate. That is the whole fraud. And they do not want to have any debate here in the U.S. Senate. They put on these tent shows, orchestrate articles in the press, and buy these double page pro-NAFTA ads. Iacocca says support for NAFTA is a "no brainer." Mark Twain said, "The truth is such a precious thing it should be used very sparingly." That is the Iacocca philosophy.

"So let us not build a wall around ourselves just when they are coming down all over the world," says Iacocca.

Break down a wall? We are trying to break down the wall of one-party rule and corruption down there in Mexico. We want to open it up with a common market approach, to build democracy, and build the economic strength of both countries. We are for Mexico. We are for the Common Market approach. But we are not going to be sold this bill of goods on NAFTA which is going to inflict very real harm on the economy of the United States.

I thank the distinguished leader for the extra time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, as I understand it, a certain amount of time has been designated to the majority for morning business purposes.

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. DASCHLE. Mr. President, I ask unanimous consent that that 15 minutes be extended 5 minutes, to make it 20 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE HEALTH SECURITY ACT

Mr. DASCHLE. I yield myself 10 minutes at this time.

I rise to join many of my colleagues this morning in congratulating the President and the First Lady for the presentation of the Health Security Act yesterday in Statuary Hall. I commend them not only for making the presentation but for the specificity with which they have now addressed comprehensive health care reform in this country.

The President, in elaborate detail, outlined exactly what his intentions are. He committed himself a month ago to six very important principles when he enunciated his goals for health care reform. Yesterday, we had the opportunity to hear exactly what he has in mind as he addressed each and every one of those principles. I hope over the next several months, as we examine the worthiness of each of those principles, we also ensure that we define those principles exactly.

There is a big difference, for example, Mr. President, in talking about the need for universal coverage when some of the competing plans also talk about something universal—but it is not coverage, it is access. The President outlines his strategy for providing universal coverage to every single American. That is what we are talking about when we talk about security—security for every American regardless of his or her circumstance. But there is a difference between providing universal coverage and, as many of the other plans do, providing some degree of additional access. I think that is a very important distinction.

The President has also indicated exactly how he intends to acquire savings, another principle he announced, along with simplicity, choice, quality, and responsibility. The President specifies in elaborate detail how he fulfills each of these principles, and his method for achieving these goals will be the subject of intense scrutiny over the next several months, as it should be. So I commend the President and this administration for their leadership in bringing us to this point.

Let me also commend the large number of cosponsors who have indicated they, too, want to be part of the increasing momentum for health care reform, led by the President. They are: the Presiding Officer, Senator AKAKA; Senator BAUCUS; Senator BOXER; Senator BUMPERS; Senator NIGHTHORSE CAMPBELL; Senator CONRAD; Senator DODD; Senator FEINSTEIN; Senator GLENN; Senator GRAHAM; Senator HARKIN; Senator INOUYE; Senator JEFFORDS; Senator KENNEDY; Senator LEAHY; Senator LEVIN; Senator MATHEWS; Senator METZENBAUM; Senator MIKULSKI; Senator MITCHELL; Senator MOSELEY-BRAUN; Senator MOYNIHAN; Senator MURRAY; Senator PELL; Senator PRYOR; Senator REID; Senator RIEGLE; Senator ROCKEFELLER; Senator SIMON; and Senator WOFFORD.

Mr. President, already 31 Senators have committed themselves to the passage of the Health Security Act. We have 20 more to go, and I am convinced that over a period of time that is exactly what we will have.

This is a historic opportunity. It is an opportunity for us to address, in a comprehensible way, a problem that has been undermining the economy, and the fabric of our society for too long. It is an opportunity not only to address one of the most perplexing and complex domestic issues facing our country, but I believe it is an opportunity for us to prove to the American people that we have the capacity to address and solve a problem as consequential as this. We need to be able to tell the American people when this day is done that we have, in a constructive, bipartisan way, led the country to a new day in providing health security and savings to all citizens. We must be able to assure all children they have the opportunity to receive health care for their entire lives. We must be able to tell workers that they no longer have to worry about whether they work for an employer who provides insurance or an employer who does not, because that worker will always have coverage. That is the kind of leadership our people want from this Congress. This is our opportunity to demonstrate that we can lead, that we can provide innovative approaches to solving the problems this country faces.

There is a good deal of cynicism about that, Mr. President, about whether we have it within ourselves to put partisanship aside, to put all of the special interests outside of this Congress where they belong as we begin to grapple with this problem.

Americans are saying: Show me. If you want my respect and support, then show me that you can take a problem as important as this and solve it. Show me. Prove to me that my cynicism is not warranted.

Well, I hope that as we begin this debate, we can deal with what I consider to be the single biggest obstacle facing us. That obstacle, Mr. President, is misinformation. It is perpetrated by special interests who do not want this legislation passed. It is perpetrated by people even within this body who do not feel the need to pass comprehensive health care reform. There will be a good deal of misinformation, and it is up to us to sort it all out.

I am concerned about the degree of hyperbole that I have already heard about socialized medicine and all of the old rhetoric that we have heard for years and years that has kept us from passing comprehensive health care reform. So let us beware that we are going to hear misinformation and hyperbole, and it is important that we filter it out.

In that regard, I do hope that we hold all health reform plans to the same standard of scrutiny to which we hold the President's plan. I do hope that as we analyze the Health Security Act, we put all of the plans side by side and evaluate just what they do. I must say that I have had that opportunity, and in so many of the categories that we agree are important, the competing plans fall miserably short. Many do not provide universal coverage. Many do not provide a plan for savings. Many do not provide a comprehensive financing scheme. Many do not require personal responsibility on the part of the American people.

So if, indeed, we are going to analyze all the plans and look at their strengths and weaknesses, let us compare them in an honest way.

In that regard, I must say I am very disappointed at today's edition of the Washington Post for the cursory manner with which it tried to compare various health reform plans. The chart they printed is a real disappointment. I believe they can do better than this. For example, when I look at the financing category, the chart says the way that Senator CHAFEE intends to finance his plan is to limit deductions on premiums and reduce Medicare and Medicaid spending. Is that the entire financing mechanism? For the Clinton plan, they list several financing sources: an employer payroll premium, an employee contribution, a 75-cent cigarette tax, and a 1-percent payroll tax on large employers. They have quite a bit of detail when it comes to the Health Security Act. But when they discuss the Chafee, Cooper, Michel or Gramm plans, they do not have nearly the same level of detail. For the Gramm plan, for example, all it lists is a cut in Medicare and Medicaid. Does this imply that a cut in Medicare and Medicaid is going to finance the entire health care system?

Let us be more thorough and honest as we analyze these plans.

I think it is important as we look at these proposals that we analyze them correctly, in a way that gives us the best information, in a way that compares apples to apples and oranges to oranges.

There was an article this morning in the Wall Street Journal that I feel does merit mention in the RECORD, Mr. President. The article discussed the effect that the Health Security Act will have on small businesses. It contains a chart that describes in very elaborate detail what your responsibility will be if you have a certain wage and if you work in a certain firm. That, of course, is determined in part by the size of the firm and also the level of wages.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT SMALL-BUSINESS OWNERS FACE UNDER HEALTH PLAN

(By Eugene Carlson)

WASHINGTON.—On the morning after the official unveiling of President Clinton's massive health-care legislation, small-business owners will be facing a single question: What do I do?

The simple answer: nothing, for now, but stay tuned.

The plan naturally is subject to great change, or even defeat, in Congress. In any event, the administration says it will take three years of groundwork to provide health coverage under the new plan for even the first 15% of the U.S. population. While the program could begin in some states as early as 1996, coverage for all Americans isn't expected until Jan. 1, 1998. And with congressional debate over the plan likely to last for months, the start-up in many states could take even longer.

While the final form of any new health-care plan is uncertain. Mr. Clinton's Health Security Act is likely to form the framework for a policy that will affect every small employer and self-employed person in the nation. The bill that the White House presented yesterday is the most detailed and definitive version of the plan yet.

Here are the basics of how it would work:

All employers would be required to pay at least 80% of a basic health insurance package for full-time employees. Workers would pay up to the remaining 20% through payroll deductions. Part-time workers would be covered by smaller employer contributions.

Low-wage businesses with 75 or fewer employees would receive substantial subsidies on the price of insurance, depending on the size of the company and the average wage. That is a change from earlier versions of the plan, which had said the financial assistance would apply only to firms with 50 or fewer workers.

A White House briefing paper accompanying the bill says, "For the smallest firms that pay the lowest wages—such as restaurants—the percent of payroll devoted to health care may be as low as 3.5%. That amounts to $350 a year [per worker] for a company with average wages of $10,000—or less than $1 a day per employee."

To get the plan rolling, every employer would be required to submit employee names, Social Security numbers, family status and wages. The information would be collected by a health alliance in the employer's state.

Alliances would be the engines that drive the Clinton health plan. They would negotiate the terms of health coverage by insurers and bill companies for their contributions. Each state would have at least one alliance, and populous states might have several. Alliances would bill employers monthly or quarterly, and the bill would be adjusted for changes in employment levels and hours worked.

The White House says it has tried to simplify bookkeeping for employers by requiring alliances to levy a fixed contribution for each employee category: single person, couple, single parent and two-parent family with children. "There will be one employer price for family policies, regardless of whether both spouses work, or how many children they have," the Clinton briefing paper says. (In cases of two-income couples, both employers will pay the price.)

Here are two examples provided by the White House illustrating how the Clinton plan would affect small employers.

FLOWER SHOP

Mr. and Mrs. Jones, who have two children, own a flower shop. They have three employees—Matt, Jane, and Scott. Matt is a 16-year-old high school student who works part-time after school. Jane and Scott work full time. The shop's average payroll, which includes the Joneses' salary, is $17,000 per year per worker.

Without figuring in subsidies, the flower shop would pay the employer share of $1,546 each for Scott and Jane for a single-person policy, and $2,479 each for Mr. and Mrs. Jones for a two-parent policy—a total of $8,050.

But subsidies for small business would limit the shop's contribution for each employee to 5.3% of the average payroll. The shop would pay no more than $901 a year for each worker. For all four workers and their dependents, the cost would total no more than $3,604 a year.

Because Matt would be covered under his parent's policy, the flower shop wouldn't contribute toward his health insurance.

In addition to what they pay as owners of the shop, Mr. and Mrs. Jones would pay the employee share of their family policy—$872 a year if they enrolled in an average-priced plan. Totaling the employee share and the employer share, Mr. and Mrs. Jones would have family coverage for $2,674 a year.

The total insurance bill: $4,476, consisting of $2,674 for the Jones family coverage and $901 each for Jane and Scott.

SELF-EMPLOYED CONSULTANT

Susan Addington is a single parent living in Virginia. She is self-employed with an income of $40,000 a year. For the family share of her premium, for an average-priced plan, Susan would pay 20% of the $3,893 annual premium for a single parent family, or $779 a year.

She would also pay the employer share for a single parent, or $2,479, for a total of $3,258 a year or $272 a month. And she would be able to deduct 100% of the premium from her taxable income. Currently, self-employed persons can only deduct 25% of their health costs.

The final requirement will depend on what, if any, bill eventually emerges from Congress. Alternative bills proposed by the Republicans and some moderate Democrats wouldn't require companies to provide health coverage for employees.

CURBING THE COST

[Revised cap on small-company payments for health-care coverage as a percentage of payroll]

Average annual wage (in thousands)	Firm size		
	Less than 25	25–50	50–75
Less than $12	3.5%	4.4%	5.3%
$12 to $15	4.4%	5.3%	6.2%
$15 to $18	5.3%	6.2%	7.1%
$18 to $21	6.2%	7.1%	7.9%
$21 to $24	7.1%	7.9%	7.9%
More than $24	7.9%	7.9%	7.9%

Source: White House.

Mr. DASCHLE. Mr. President, I will close simply by saying that yesterday was an important moment. It was the second in a series of stages that we will see over the next several months, the third being the formal introduction of the President's bill, perhaps within the next couple of weeks. With formal introduction comes the official consideration of the plan. Let that consideration begin. Let us analyze these bills. Let us develop in a bipartisan way the very best bill we can, but let us make sure we all have the same facts.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania, [Mr. WOFFORD].

Mr. DASCHLE. Mr. President, will the Senator yield for a moment for me to make a unanimous consent request?

Mr. WOFFORD. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. DASCHLE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate resumes consideration of H.R. 3167, the unemployment bill, there be a time limit of 40 minutes for debate on the Nickles amendment No. 1089, with no second degree amendments in order; that the time be equally divided and controlled in the usual form; that when the time is used or yielded back, the Senate vote on or in relation to the Nickles amendment; that upon disposition of the Nickles amendment, the Senate then resume consideration of the motion to invoke cloture on the conference report accompanying H.R. 2520, the Interior appropriations bill; that there be 25 minutes of debate, with 15 minutes under the control of Senator WALLOP and 10 minutes under the control of Senator REID; that when the time is used or yielded back, without any intervening action or debate, the Senate vote on the motion to invoke cloture.

This has been cleared by the Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I thank the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

HEALTH SECURITY ACT

Mr. WOFFORD. Mr. President, yesterday we did indeed reach another milestone, a milestone in the work that Pennsylvanians sent me down here to do. Nearly half a century ago Harry Truman first proposed national health insurance and he was beaten, but now, after decades of false starts and gridlock, Washington is finally responding to the self-evident truth that quality, affordable health care is a right of all Americans not a privilege for the use of the few.

Everyone has now, I think, got the message Pennsylvanians sent in 1991 that American families and companies cannot afford the growing insecurity, the skyrocketing costs, the loss of choice of doctors and plans, the out-of-control paperwork and red tape of our current system.

During that debate 2 years ago the question was whether to reform our health care system. Now we won that debate. The question is how.

The President's proposals, I am happy to say, are in line with the bill that Senator DASCHLE and I introduced last year. But what is more remarkable is the amount of common ground so many Democrats and Republicans now share, common ground that did not exist 2 years ago. The challenge for us in Congress in the months ahead is to build on that bipartisan common ground and craft a uniquely American plan to change what is wrong and preserve what is right with our health care system in this country.

I believe the President's Health Security Act provides the best single blueprint for action. No one believes that any one plan is perfect, and there is plenty of finetuning to do. Some improvements were made in the President's plan in the last 2, 3, or 4 weeks.

No one side has all the answers. There are a number of alternative health care plans now on the table. Up to now almost all the debate has focused on the preliminary draft of the President's plan. Now we have the full details and full weight of the President's proposal and we will examine them closely in public hearings.

We must also apply that same standard of critical, skeptical scrutiny to the other main alternatives. I am convinced that nothing will do more to build support for the Health Security Act than a full discussion with the American people about what the alternatives are and how they fall short.

Some are arguing that we should only take a few steps at this time and enact partial solutions, that the status quo is not all that bad. But reforming a $900 billion, going on to $1 trillion health care industry is like crossing a canyon, a deep canyon. We have to reach the fixed goals on the other side of universal coverage and cost control. As Wile E. Coyote always found out chasing the road runner, you cannot get across the abyss in two jumps. Getting only half way there leaves you in midair, heading for a long, painful fall. To do the job right—and we have the historic opportunity now to do the job right—we must make it all the way across that deep canyon to the other side and get to health care that is always there and that we can afford.

To varying degrees each of the other alternatives before us fails to get us there. They fail the fundamental test of real health care reform that I have been working for and so many Members of this body have been working for since they came to this body. Those alternatives do not guarantee comprehensive coverage for everyone, and they do not control the out-of-control costs, the inflation in our health care system.

That is why I have, with due respective, called the Chafee, Cooper, and Gramm proposals, respectively, a tourniquet, a Band-Aid and snake oil. One has some strong insurance reform that will provide only partial help. Another bandages part of the wound. I told Representative COOPER yesterday, a Band-Aid is not bad, it can help, but it offers no cure. And the last, Senator GRAMM's plan, is really just a placebo. More medi-spend, spend your life saving than medi-save.

Mr. President, I will just add a few words now about the third alternative, because both the Cooper and Chafee plans contain a number of similarities to the Health Security Act, and I believe that in the months ahead through debate and analysis the logic of the facts will help us expand those areas of agreement and find the ways to come together on the areas of disagreement. I look forward to that.

As for Senator GRAMM's plan, it does almost nothing to reform a health care system in which costs are out of control and millions of Americans are losing their coverage and millions more are worried every day about losing it. It does not even accept the idea that coverage ought to be guaranteed for everyone, that benefits ought to be comprehensive, or that costs must be controlled. It leaves consumers to go it alone and sink or swim in a ocean of insurance redtape that is leaving Bambi to deal with Godzilla.

The President's Health Security Act, which so many of us are now cosponsoring, guarantees coverage for everyone throughout their lives no matter where they live or work. It guarantees cost controls for both the private and public sector. It does not push the balloon of public sector down only to have it pop up in the private sector on families and companies. It assures that health care benefits will be truly comprehensive with no lifetime limits; that there will be preventive care for all; that there will be consumer choice of health plan and of doctors more than people now have, as they are losing that choice under the cost pressures from their companies and there will be simplicity through the health security card, single claims form and electronic billing.

Now, we have a President who has put a serious proposal on the table that has been the result of months of hard work and bipartisan consultation. Now Congress must take the ball and run with it. The people want action on health care, not more gridlock; they want hard results, not easy answers. We have come too far and worked too hard and the problem is mounting too high for us to turn back or slow down. We have to get across the canyon and deliver the goods.

I yield the floor, Mr. President.

The PRESIDING OFFICER. There is 1 minute 20 seconds remaining in morning business.

The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I yield back the remainder of that time.

RAUL WALLACH

Mr. REID. Mr. President, from time to time, as public servants, we receive correspondence of the most vicious type. I am particularly disturbed when I receive, as I am sure most of us have, letters and materials aimed at trying to prove that the Nazi holocaust never occurred.

Recently our Nation lost a national treasure; a man who by his very existence refuted the claims of those whom Theodore Roosevelt first called the lunatic fringe.

I first met Raul Wallach when I was the best man at his cousin's wedding. I had heard stories about him for years, he seemed a man who was larger than life until I met him. Raul lived up to everything I had heard.

In 1941, when he was still a teenager, the Germans invaded Russian-occupied Poland where Raul lived with his parents, his five brothers and sister. Shortly thereafter, Raul was kidnapped by the Gestapo and turned over to the SS for slave labor. He stole a machinegun and returned to the ghetto where he found his younger brother. Together they escaped to the woods where they joined a Jewish partisan unit.

Raul fought the Germans for the next 4 years. He became a demolitions expert and a partisan leader. After the war he rescued Jewish children and helped smuggle them to what was then Palestine. Unfortunately, except for his younger brother Moishe, Raul's family was not among the survivors. His mother, father, sister and three other younger brothers were murdered by the Nazis at Auschwitz. Raul spoke with eyewitnesses to that murder.

While leading a group of Czech children on a perilous trip to Palestine, Raul was captured crossing the German border. He was interned in an American-run displaced persons camp. Eventually, American cousins serving in the Army of Occupation managed to get Raul and Moishe out of the camp. Raul eventually became a professional motorcyclist and soccer player in Munich.

In 1952 Raul emigrated to Cuba. He spoke seven languages at the time, but Spanish was not among them. On his first day off, while wandering in a Havana casino, Raul met a little old Jewish man with whom he could speak Yiddish. That man was Meyer Lansky. Raul also knew Fidel Castro and Che Guevara during those days in Cuba, but when the Communists took power he fled the country and moved to Mexico. He had had enough of living under totalitarian regimes.

Eventually Raul and his brother built up a large family steel business. Raul had a beautiful home in Guadalajara and it was in that city that he met the young American woman whom he eventually married.

Raul and Susan were married for over 25 years and were blessed with three children. One of the proudest and happiest moments of Raul's life was when he lived to see his son Ari bar mitzvahed.

Mr. President, Raul Wallach died last week. His family's loss was ours. There is one fewer just man to stand and tell the truth. One fewer just man to bear witness. We who are living must remember him and what by living he taught us. We must, we shall, never forget.

THE AUDIOVISUAL INDUSTRY

Mrs. FEINSTEIN. Mr. President, I rise today to draw attention to an issue that is important to my State of California and important to our Nation's economy—the free trade of audiovisual products.

American movies, television programs, and home video materials, aside from being the best in the world, are also of great value to America's economy. The industry accounts for a balance of trade surplus of over $4 billion a year, up from $3.5 billion in 1991. As a commodity, audiovisual products rank among the top surplus trade items for the United States.

Our trading partners push for access to America's markets, but also attempt to protect their own domestic markets by arguing for a cultural exemption for audiovisual goods. This is plainly unfair and as I told the President, I expect the United States to reject any agreement which includes such as exemption.

Last week both the Los Angeles Times and the Washington Post ran editorials calling for a free market in audiovisual products. I ask unanimous consent that those editorials be printed in the RECORD immediately following my remarks.

I also want to commend the President for his strong statement in support of the inclusion of the audiovisual services in the upcoming GATT accord. I ask unanimous consent that a copy of the President's statement be printed in the RECORD immediately following my remarks. I also applaud the bipartisan leadership of the Senate Finance Committee who have expressed their concern on this important matter.

Mr. President, this industry is more than mere entertainment. It is one of the most dynamic and important industries in my State and in this Nation. I expect that our trade negotiators will not allow our trading partners to exclude the audiovisual industry from the upcoming GATT agreement or any future trade agreement.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Oct. 24, 1993]

LIGHTS, CAMERA, QUOTAS!

French films have charmed, entertained and inspired over the years. But do they deserve the special protection that France provides by limiting the importation of movies and other audiovisual products? The French say oui, for the sake of culture. Au contraire, counters Hollywood, which wants unfettered access for its films, TV programs, videos and sound recordings. Who's right?

Open markets best serve consumers and industry. Protectionism, even when it's veiled in the glamour of French stars like Catherine Deneuve and General Depardieu, is a bad script for both box office receipts and cultural relations.

In Geneva, the French are trying mightily to exempt all audiovisual products from a new world trade agreement on services being negotiated under the auspices of the General Agreement on Tariffs and Trade. France and other European Community nations already have quotas on foreign broadcasting materials and films. An exemption would allow import restrictions to continue.

U.S. filmmakers Steven Spielberg and Martin Scorsese recently made the unusual move of issuing statements decrying any restrictions or quotas on audiovisual materials. President Clinton has said that audiovisuals must not be singled out for restrictions.

The American film, television and home video industries generate $18 billion in foreign sales yearly. That is $4 billion more than U.S. purchases of foreign audiovisuals. Without quotas in Western Europe, the market would be even greater.

France and its fellow EC members maintain that limits are needed for the sake of cultural preservation. The French—concerned that opening markets would mean the end of its small, government-subsidized film industry—say works of art should not be subject to crass commercial competition like mere commodities.

The issue isn't French culture or even subsidies. In the case of audiovisuals, French subsidies are not subverting free trade. The issue is import restrictions. Let French audiences decide for themselves what's good, bad or ugly.

[From the Washington Post, Oct. 24, 1993]

FRENCH FILM FIGHT

One of the more colorful subfights to the huge GATT trade negotiation is the one being waged between American movie and TV producers and their European counterparts, mainly in France, on whether "cultural products" such as movies should be exempted from the promised lifting of most trade barriers under the treaty. The combination of strong European emotions on the cultural-patrimony front—especially from the French—and a serious financial irritant to American TV and film producers has fueled a debate being conducted at full rhetorical force and with such supporting characters as Martin Scorsese, a French coal-mining epic and the dinosaurs from Steven Spielberg's "Jurassic Park." Some French commentators have gone so far as to criticize the un-Frenchness of those who flocked to the opening weekend of the hugely popular dinosaur movie, not to mention local media outlets that have given it a tidal wave of hype.

Despite the cultural hoopla, the driving issue here is financial. If the current "cultural exemption" to GATT is refused—the result the U.S. entertainment industry is pushing hard for, with the Clinton administration's support—European Community countries would have to lift a variety of cultural protection mechanisms they have created for their own products against the much larger and stubbornly successful American ones. In all likelihood, for instance, they would have to drop the year-old EC rule that 40 percent of all material broadcast on a country's TV channels be produced in that country, a direct hit at the cheap, plentiful and easy-to-dub American series that those channels are known to buy up when given the choice. Not coincidentally, foreign resale rights have become a larger proportion of American TV companies' profits over the past few years as the U.S. TV market gets tighter.

Running alongside the money question is the old issue that French intellectuals like to call *"Coca-Colonisation,"* the fact, irritating beyond measure to European governments, that American movies and TV programs enjoy huge and continuing international popularity. The French, in particular, like to point out that the American products are so successful not just because of whatever appeal they may hold for viewers—surely not that!—but because of the benefits of a giant, English-speaking home market that eliminates any need for the huge national subsidies most European countries give cultural products. The U.S. contingent doesn't contest those subsidies—only the subsequent protection of the not necessarily popular products produced with their help. Filmmaker Martin Scorsese is quoted in lobbying materials noting that "closing the borders would not guarantee a rise in creativity in the local countries or even a rise of interest on the part of local audiences." Galling as this may be to certain Europeans, he's right.

THE WHITE HOUSE,
October 14, 1993.

STATEMENT BY THE PRESIDENT

Audiovisual services must be included in any GATT accord. The United States does not want any special favors for American audiovisual creative works, but we also cannot accept that audio-products be singled out for unacceptable restrictions. The United States is ready to sign a GATT accord that is fair and just for all. But let me make it clear that fairness and justice must apply to audiovisual works as well as other elements in a final GATT deal. This is a vital jobs issue as well as a fairness issue for America.

Finally, let me say once again that the Uruguay Round is very important to the restoration of global growth, and that is why it is essential that we finish this agreement by December 15. That deadline is firm, and our trading partners must be prepared to settle with us on the many outstanding issues if we are to succeed.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3167, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Simpson (for Nickles/Shelby) amendment No. 1089, to prohibit the consideration of any retroactive tax increase unless three-fifths of all Senators duly chosen and sworn waive the prohibition by roll call vote.

AMENDMENT NO. 1089

The PRESIDING OFFICER. There will be now 40 minutes of debate on the Nickles amendment, equally divided.

Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma, [Mr. NICKLES] is recognized.

Mr. NICKLES. Mr. President, on behalf of myself and Senator SHELBY, we have an amendment at the desk that we will be voting on, I am guessing, right at 12 o'clock. We have 40 minutes of debate, equally divided. We have reduced the time to try to accommodate some Senators who have other pending business which is very important.

Mr. President, I ask unanimous consent that Senator HUTCHISON, Senator LOTT, Senator MACK, Senator COATS, Senator COVERDELL, Senator HATCH, and Senator BURNS be added as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President this amendment is an attempt to make it more difficult to pass retroactive tax increases.

I think many of us in this Chamber have a real concern about retroactive tax increases, and we have seen already on this bill a couple of votes. I know my friend and colleague from Texas, Senator HUTCHISON, had an amendment to repeal the retroactive tax increase passed earlier this year. She received 50 votes, but needed 60 votes to waive the point of order.

I notice my friend and colleague from Arkansas had an amendment to repeal the retroactive tax increase and was not successful. But I think, again, it shared a lot of concern over the unfairness of retroactive tax increases. I share that concern.

Some colleagues have even introduced legislation to make it unconstitutional to pass any retroactive tax increases. My amendment does not go as far as either of those proposals. It says prospectively we should make it more difficult to pass a retroactive tax increase.

So what this would do is allow a point of order to be raised against a retroactive tax increase proposed in the future, and that point of order could only be waived if there are 60 votes in favor of waiving it. So it does not eliminate any retroactive tax increase. It just basically says it makes it more difficult—and I believe we should make it more difficult—to raise taxes retroactively. So that is the essence of our amendment.

I have modified the amendment, to some extent, to take care of some of the concerns that were raised by members of the Finance Committee, and that is the definition of a retroactive tax increase. We state that no point of order would lie against any retroactive tax increase if the change was made effective prior to the date formal public notice was given regarding the effective date of such material by a committee or subcommittee of either House of Congress.

This would allow the members on the Finance Committee or the chairs of the Finance Committee to have a formal notice that they are planning on passing legislation that would have an effective date and they could announce that effective date. So, if they are going to close a loophole or something like that, they have the ability to do so. This is trying to accommodate some of the legitimate concerns that have been raised by people on the Finance Committee about "what if," and we tried to accommodate that.

But we also tried to say we still believe it should be more difficult to pass a retroactive tax increase if a Senator makes a point of order. It may be that everybody agrees that a retroactive increase is called for. And, if no one makes the point of order, that could happen. So this amendment does not totally, completely prohibit any retroactive tax increase. It just makes it more difficult to do it.

Again, it does not affect the tax increase that passed earlier this year that did have a retroactive tax increase on individuals and on States. My guess is, if we had an up-or-down vote on that in the Senate, it would not have passed and certainly would not have passed on the States. That is my guess.

But we do not touch that. We just say, in the future, Congress, do not do it; but, if you do it, do it so a point of order could lie against it and, if the proponents of that had 60 votes, they could waive the point of order. Again, there is no requirement that a point of order be made. It just allows a point of order to be made.

So I do not think that this proposal is extreme in any way, shape, or form.

I hope it will be supported in a bipartisan fashion by all of my colleagues. I think it is a good step in the right direction to try to protect against unfair retroactive tax increases. And, in many cases—in most cases, I believe—retroactive tax increases are unfair.

Mr. President I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader, Mr. MITCHELL, is recognized.

Mr. MITCHELL. Mr. President, I strongly urge my colleagues to reject this amendment. This is precisely the way in which laws should not be written and especially tax laws should not be written. There have been no hearings, no opportunity for anyone to examine this amendment or this subject. There is no definition of what any of the phrases mean.

This is merely an attempt to score a few political points, to seize upon what appears to be a currently popular issue and, in the process, to create further confusion and ambiguity and difficulty in the tax law.

This amendment says that the Parliamentarian would have to become a tax judge to decide what the words "will result in an obligation to pay a larger tax" mean. What does that mean?

I ask the Senator from Oklahoma, if a person makes an investment based on a particular tax law and that law is changed in a way that makes the investment less valuable, is that a retroactive tax under this amendment?

If a person makes an investment based upon what he or she and his or her tax lawyer understands the law to be and later legislation clarifies the meaning of the law so as to result in a higher tax burden, is that a retroactive tax increase?

When Congress passed the 1986 tax law and limited the ability of investors on previous investments to take passive losses on their investments, which meant they paid a higher tax obligation, was that retroactive?

The tax-writing committees are now considering legislation to make technical corrections to prior tax legislation. Will that be retroactive?

What if a court makes a ruling that interprets a law in such a way that an enormous new loophole is created? Does that mean that Congress cannot correct that?

Mr. President, this is put forward as something to protect ordinary Americans. But we all know who the only beneficiaries of this are going to be. They are the beneficiaries of most of these types of amendments. They are tax lawyers, tax accountants, and those persons with sufficient means to employ them.

How many working Americans have full-time tax lawyers and tax accountants? How many working Americans will be affected by this? The answer is none.

The fact of the matter is, this is just another effort to score a few political points in a way that will provide the worst possible meaning of tax law.

I have asked these questions. I wish the Senator from Oklahoma would come to the floor and answer them. He is the sponsor of the amendment.

Let me cite another amendment. In the early 1980's a technique for reducing taxes by a few individuals by setting up multiple trusts was in fashion. In one publicized case, an individual spread his assets over 200 trusts. A provision that shut down this multiple trust scheme was enacted in 1984. The 1984 act was enacted on July 18, but the multiple trust provision was made effective on March 1, the date that the chairman of the House Ways and Means Committee presented the proposal to the committee.

We do not know if, under this proposal, that would have been covered. How many working Americans have 200 trusts set up and distribute their assets among 200 trusts?

In the Tax Reform Act of 1986, to give just another example, Congress specifically allowed Alaska Native corporations to sell their net operating losses in order to generate cash from their operations. This was intended to give a small boost to these corporations. But it was used in a way not intended and there was a loss of revenue of $1 billion in the first year of operation. To correct that obvious error, Congress terminated the provision in the Tax and Miscellaneous Revenue Act of 1988. The act was enacted on November 10, but that provision was made retroactive to April 26, the date the repeal was first announced in the House of Representatives. That would be prevented by this amendment.

I could go on and on. The time does not permit it. There are literally hundreds of examples of tax abuses that this amendment would insulate and protect. No hearings, no discussion, no explanation, no definition, no answers—yet to score a few political points this is being put forward and Senators are being asked to vote on it.

It is not surprising the Congress falls into disrepute with the American people when this is the way we write laws and write tax legislation. This ought to be considered by the committee. There ought to be hearings. People who have some knowledge and experience in this field ought to come in and testify so the Senate can make a mature, reasoned, considered judgment, instead of just trying to pile this onto an unemployment insurance bill, to which it has no relation, merely for this purpose.

Mr. President, I wish time permitted me to go through this long list of all of the potential problems that could arise under this amendment but I know time is limited and I therefore reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield my cosponsor, Senator SHELBY—how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes and 40 seconds.

Mr. NICKLES. I yield the Senator 5 minutes.

The PRESIDING OFFICER. Senator SHELBY is recognized.

Mr. SHELBY. Mr. President, just a few months ago, this body not only gave the thumbs up to imposing a quarter of a trillion dollars in new taxes on the American people—it also said it was OK to raise some of these revenues retroactively. Today, Senator NICKLES and I are here to make it more difficult to retroactively raise taxes again.

This legislation is necessary and important to regain the public trust, Mr. President. It is not enough that we tell the American people that retroactive taxes are a bad idea or that we agree that they are unfair—it is enough only if we take definitive steps to prevent it from happening again or make it difficult to happen again.

I believe this legislation is one such definitive step.

The resolution we are offering today would create a presumption against retroactive tax increases. It would change the standing rules of the Senate by making retroactive tax proposals subject to a point of order. Thus, the only way that the Senate could pass another retroactive tax would be if three-fifths of all Senators agree to waive the point of order in a rollcall vote.

I believe, it should be difficult to raise revenues through retroactive taxes. I know it has been done before. But is that right? That is the question. While the Supreme Court has ruled that retroactive taxes are not unconstitutional, they have not spoken to the wisdom of them—that is our job. And while there is no question that Congress has imposed retroactive tax increases on the American people in the past—that does not say anything about their propriety today. Again, that is this Congress' job.

This is about principles, as I see it, not taxes. If we are going to ask American taxpayers to take on greater individual burdens, we should do so honestly and fairly. We should give them fair notice at the very least. Practical, financial reasons require it. Taxpayers need to be able to plan their finances and budget their income without the threat of taxes on money they have already spent, already saved or already invested. I submit that the American taxpayer deserves no less.

Again, this resolution does not prevent this body from raising taxes retroactively—it only makes it more difficult. And it should be difficult. If backdoor taxes are so required by necessity or emergency, this body can effectuate them. But, the general rule will be that they are not in order.

It seems to me that is a pretty good balance. Our resolution therefore, reinforces to the American people that raising taxes retroactively is a last resort and ensures that Congress will only use this tactic when it is absolutely necessary.

I believe this is a reasonable measure and one that I hope all my colleagues will support.

The PRESIDING OFFICER. Who yields time? The majority leader is recognized.

Mr. MITCHELL. Mr. President, let us make clear that only 1 percent of all American taxpayers were affected by the provisions to which our colleagues object, 1 percent—the wealthiest 1 percent whose incomes averaged $300,000 a year.

Someday I would like to see some of our colleagues come in here and express some compassion for the other 99 percent, the 99 percent of taxpayers who were not affected by the provisions, those whose incomes were not $300,000 a year on average. That would really be something new in the Senate, to see concern expressed for average Americans, Americans who work in factories, and nurses, and school teachers, who do not have tax shelters, who do not have trust investments spread out all over the country.

I ask my colleagues, think about that. Surprise us all someday, come in with an amendment that will express concern for the 99 percent of Americans.

Mr. President, I yield 4 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky, [Mr. FORD] is recognized for 4 minutes.

Mr. FORD. Mr. President, I hear this "what if"—"what if"—even the Senator from Oklahoma said "what if?"

We have not studied it. We do not understand what the grave consequences of this amendment might be. I share the majority leader's concern. Also, the Parliamentarian—why should we make an accountant or CPA out of the Parliamentarian, to make a decision whether this is retroactive or not?

For 12 years I have been listening to the other side try to tell me how to do the budget. I never heard one peep out of the Senators and those who are supporting this amendment about the retroactive taxes that we voted in 1981—August 13, 1981, back to January 1, 1981. I did not hear a peep from these Senators when we had the Tax Equity and Financial Responsibility Act of 1982. I did not hear anything from the distinguished Senator from Oklahoma when we had the Deficit Reduction Act of 1984. And just to name three—all of them were signed into law, retroactive, by President Reagan.

There is the fellow we have looked at, he got the country turned around, did all these good things, and my colleagues supported all of the retroactive taxes that he proposed. Now when we have a Democrat in the White House they are saying, Oh, you cannot do this. You cannot do this.

What are the implications? No one has told me. We finally came in here today and they have changed the amendment again. It has been changed three or four times since it was first introduced. This proposal would make, in my opinion, a significant change in the manner the Senate conducts its business.

Its implications have not been subjected to committee scrutiny and analysis. Mr. President, this proposal should be referred to the Rules Committee where hearings could be held, where all interested parties, mainly the 1 percent—mainly the 1 percent—all the interested parties could present their views and the implications of the proposal could be studied and made available to the full Senate

This proposal also affects bills that are within the jurisdiction of the Finance Committee. I know that committee wanted an opportunity to study this proposal. They have not had the opportunity.

Mr. President, we should be looking at ways to prevent and eliminate gridlock in the legislative process, not always to expand it. Under present rules, a compromise measure must survive a 60-vote test under cloture. Under this proposal, every—I want you to listen to this now—under this proposal, every single provision of a compromise, even that is a retroactive tax increase, would have to survive a vote separately. So every one of them would have to survive a vote separately.

If I have ever seen a proposal that guaranteed to produce legislative gridlock, this is it. We need a chance to study it. So, as our majority leader has said, that we are protecting now and helping that 1 percent, we need something to help the other 99 percent. I will guarantee you, the American people knew what was in the budget. I know the fight about the budget, the retroactive tax was in the budget. There was no hidden agenda there, and so we had to vote in the Senate as it related to that budget, and retroactive taxes were in there.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FORD. Mr. President, this is a bad, bad amendment. We need to study it and try not to bind ourselves again by an emotional item that might be good for the moment.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, I yield to the Senator from Alabama 3 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I do not know of any better place to ventilate an issue like this than in the Chamber of the U.S. Senate, not in a committee where it probably will never see the light of day, but in the Senate where the world is looking at us.

Why do we need hearings to consider the retroactivity of taxes?

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. SHELBY. It is my time. You got your own time.

Mr. FORD. I just want to ask a question. Twenty minutes is an awfully short time to let the world hear it.

Mr. SHELBY. I hope my time is not charged.

Why do we need hearings to consider the retroactivity of taxes, Mr. President, when we basically and the American people believe it is wrong? We do not. We already know that. I know that the American people think they are wrong. We have seen that. The resolution simply makes it more difficult in the future to pass retroactive taxes.

This is not about the top 1 percent. This is a prospective rule, in the future. It is about ensuring that this body does not so quickly impose taxes retroactively on the remaining people in the Nation that the majority leader refers to, the 99 percent.

The amendment does not change the tax law. It only makes it more difficult for the Senate to change the tax law retroactively. That is the gist of this whole argument.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, the reason we need hearings is because none of the sponsors have answered any of the questions that are asked. The Senator from Alabama spoke twice and has not answered any of the questions. I ask—

Mr. NICKLES. Will the Senator yield?

Mr. MITCHELL. What is a retroactive tax? If an investment is made based on a particular tax law and the law is later changed which makes the investment less valuable, does that fall within the definition of an obligation to pay a larger tax?

Mr. NICKLES. Will the Senator yield?

Mr. MITCHELL. Let me finish my questions. I would like to get some answers to them. I have several more questions.

How would the Senate close existing loopholes, including loopholes that were created by recently passed legislation and were clearly unintended?

How would the Senate make technical corrections which have to be retroactive, by definition, to carry out Congress' original intent?

How would the Senate make changes in the tax laws desired by taxpayers themselves if this amendment is adopted, if one taxpayer's liability is increased? One taxpayer in the country, the amendment would be subject to a point of order.

Almost every single tax law change would adversely affect someone's investment, and every tax law passed could be construed as retroactive in some respect. And there is no definition in this amendment. No definition at all. That is why we need hearings, to have definition. That is why we have hearings on anything else.

If we accept the argument of the Senator from Alabama, we would abolish committees, we would abolish hearings and we would just come out here, have everybody offer an amendment, not hear from anyone as to what does this mean, what does that mean—talk about a mishmash, that is where we would be.

So, Mr. President, I just feel that we do not have any answers to questions. There has been no debate, no discussion, no thought given to this. This is a political gesture to score a few political points, and I hope the Senate rejects it.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. How much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 9 minutes and 5 seconds.

Mr. NICKLES. How much time remains on the other side?

The PRESIDING OFFICER. Five minutes and 30 seconds.

Mr. NICKLES. Mr. President, I do not want to spend all of my time trying to answer hypothetical questions.

I ask unanimous consent to add Senator MCCAIN as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, let me just try to answer a few of the questions generically. My colleague from Maine mentioned, what if we found some abuses and we need to stop those abuses? That has happened. We have seen cases in the Tax Code where some people were getting $3 of deduction for every dollar they put in. That is an abuse and, frankly, we stopped it, and we can do that.

You can even do it retroactively under this amendment. You would have to have 60 votes if somebody made a point of order. I might mention, there are a lot of things my colleague from Maine mentioned that I doubt anyone would raise a point of order on. This would allow someone to raise a point of order if it was a retroactive tax increase and if 60 Senators wish to waive that point of order that can happen.

We have points of order right now on budgets, for example. I raised a point of order on the underlying bill because it violated the Budget Act. There is no question it violated the Budget Act. It increases the deficit, according to the Congressional Budget Office by $1 billion in 1994. I raised a point of order. Sixty-one Senators actually voted to waive the budget and they have that right to do so.

Likewise, there would be nothing to prohibit this body from passing retroactive taxes. It would just make it more difficult to do so. They would just have to have 60 votes. I think we ought to make it more difficult to pass retroactive tax increases because I think on the whole they are unfair.

My colleague from Maine mentioned, what about the 99 percent of the taxpayers? He said this was just an effort to protect the 1 percent. That is not the case. As a matter of fact, this is introduced prospectively. It does not touch last year's tax increase in any way, shape or form, but it does say in the future we should have a supermajority before we sock it to the population with higher taxes.

I think the middle-income class people better look out because there are a lot of proposals that are going to be very expensive, they are going to cost a lot of money—like health care and so on—that I am afraid are overpromised and underfinanced and they are going to be looking for more money. Some people will be looking for retroactive ways to raise that money. I hope that is not the case. If it is the case, if we are successful in adopting this, it would take at least a 60-vote point of order. I hope my colleagues support this amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

Mr. FORD. And that it be equally charged.

The PRESIDING OFFICER. Without objection, the quorum call will be equally charged. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, this amendment would pose numerous administrative problems and really is intended to benefit that very small portion of taxpayers who employ tax accountants, tax attorneys, and are aggressive with respect to tax loopholes. From one standpoint or another, virtually any change in the tax law can be considered to have a retroactive effect.

This amendment would require the Senate to consider such arguments in dealing with every provision in every bill. The lobbyists promoting special interests would love to have the opportunity to stop legislation that can be argued in some way, however arcane or remote, to be retroactive.

We have not had any time to consider this amendment, but there are many serious problems that it raises. I have asked a whole list of questions and neither of the sponsors will answer the questions. They have had plenty of time, and they will not answer the questions.

Mr. President, how would the Senate close existing loopholes, including those created by recently passed legislation and which were clearly unintended?

How would the Senate make technical corrections which have to be retroactive by definition to carry out the original intent of Congress?

Mr. NICKLES. Will the Senator yield?

Mr. MITCHELL. On the Senator's time.

How will the Senate make changes in the tax laws if this amendment passes? If a single taxpayer's liability is increased? Could not every tax law change be considered retroactive? How would the Senate be able to pass any change in tax rates at all? All tax increases during the middle of any taxpayer's taxable year would arguably have a retroactive effect. Not all taxpayers are on a calendar year so every tax increase would require at least some taxpayers to close their books and file additional returns.

For example, even if the increase were effective on January 1 of a given year, any taxpayer that uses a fiscal year would have to close its books and file an extra return. This would create an incredible new burden on taxpayers.

The language and the scope of this amendment are unclear and vague. Why is the date of the committee action the appropriate cutoff date? Why not administration proposals? Why not the committee chairman's mark? Why not bills introduced by the chairmen of the tax writing committees? How is anyone going to measure the tax increase? Who will be the arbiter of whether or not it is retroactive? Will it be the Parliamentarian? Is the Parliamentarian going to have the Joint Committee on Taxation compute everyone's liability in order to determine whether a point of order lies?

Mr. President, this is a purely political amendment. It has no substantive merit. It will cause serious problems. I strongly urge my colleagues to defeat it. I yield the rest of my time to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. MITCHELL. How long do we have?

The PRESIDING OFFICER. The Senator from Maine has 1 minute.

Mr. MITCHELL. Then I will yield 3 minutes of my leader time to the Senator.

Mr. MOYNIHAN. I thank the majority leader.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I say to the Senate that we have been holding our first hearing on the national health care proposal which the President sent to us yesterday. Secretary Shalala is before the Finance Committee, and so I have not been here until now.

Mr. President, I rise with a sense of urgency to plead with the Senate not to commence this extraordinary rule change which, in the judgment of the Department of the Treasury, would be disastrous to our whole internal revenue system. This amendment would reward the worst behavior, punish the best behavior, make legislation impossible, make rules incomprehensible, invite evasion, and invite derision.

This amendment says that the normal practices of the Congress, which have been in place for many decades in terms of revenue measures, will no longer pertain. And it puts in place a system that specifically rewards those taxpayers who have the most aggressive lawyers, the most aggressive accountants, and wish to avoid taxation. It, correspondingly, punishes those who think they can play by the rules and expect the Government to be fair-minded with them. It states that a provision that increases a tax retroactively will be subject to a 60-vote point of order.

This amendment is filled with ambiguity and uncertainty of an order that brings disarray to the entire Internal Revenue Code. There is a very rare measure we will adopt on the Senate floor reported from the Finance Committee and the House Committee on Ways and Means which will not have some prospective and some retroactive measure to mix and mingle and set dates.

And particularly, as the majority leader said, as we establish the date in which a measure takes place, if we approve the measure, it will be the date on which it was first proposed by the President, by the committee on legislation, or whatever, so that aggressive tax accountants and lawyers will rush in to take advantage of a window such as this measure would create.

Mr. President, it would be offensive to the House of Representatives should we so change our procedures. It would be confounding to the Treasury. It has no business of any kind on a modest measure to extend unemployment compensation benefits for 4 months.

We are changing the rules of the Senate, and there is a mode for that. There are not too many rules. But, we should change them with great deliberation; not without care and not as an amendment at the last hour to an unemployment extension bill.

I plead with Members on both sides of the aisle—and I surely speak for the majority of the Finance Committee—do not do this.

My time has expired, Mr. President.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN. Mr. President, before I leave, may I ask unanimous consent that there be placed in the RECORD a 2-page letter from our esteemed former colleague, Lloyd Bentsen, now Secretary of the Treasury, saying Senators do not do this.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, October 27, 1993.
Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Administration opposes the Nickles amendment, which would add new rule XLIII of the Senate relating to "retroactive tax increases." The amendment would reward taxpayers who exploit loopholes in the tax law, would result in significant complexity for the legislative process and the tax law, and would inhibit Congress in its efforts to reduce the Federal budget deficit.

The Nickles amendment would severely limit the ability of the Congress and the executive branch to prevent tax avoidance. Unless the point of order that the Nickles amendment would create were waived by a supermajority, tax loopholes would remain open until a bill was signed by the President. This would be true even if Congress or the executive branch had previously identified the loophole and proposed its elimination. The effect of the provision would be to invite exploitation of loopholes to the greatest extent possible prior to the date of enactment of legislation. As a result, the amendment would reward the most aggressive taxpayers, to the detriment of the public at large, who would bear the burden of paying for the revenue loss attributable to the loophole. Moreover, while tax loopholes could be closed on a prospective basis only, provisions benefitting special classes of taxpayers (*i.e.*, targeted tax expenditures) could be passed with a simple majority vote, even if retroactive.

The Nickles amendment would also greatly complicate the consideration and passage of the legislation and would add complexity to the tax laws. Many issues would arise concerning the application of the rule in the Senate. For example, would the Senate be required to obtain a supermajority to pass a technical corrections bill that clarified taxpayers' obligations under previous legislation? Would a supermajority be required in the case of "blended rates," under which fiscal-year taxpayers may pay a rate that is a blend of an old and a new rate, or calendar-year taxpayers would pay a blended rate in case of a tax rate that changed in the middle of the year? The literature on retroactive tax changes is extensive and complex. The great number of issues raised in that literature could potentially become the subject of Senate floor debate if the Nickles amendment is passed. Similarly, drafting tax legislation to avoid any theoretical possibility of retroactivity could greatly add to the complexity of legislation that is passed.

Finally, the Nickles amendment would create impediments to the executive branch's and Congress's ability to address the Federal budget deficit. The President is required to present the Administration's budget at the beginning of the calendar year. Few executive branch actions receive greater publicity than the Administration's submission of the budget. Nevertheless, even if the President proposes tax changes in the budget, those changes could not become effective until legislation is passed, resulting in a loss of revenues, and a resulting increase in the deficit, for a year or more.

The Nickles amendment appears to be motivated by concerns relating to the tax rate changes for high-income taxpayers in the recently enacted budget legislation. These rate changes were, however, a major issue in the Presidential campaign in 1992. As a result, tax advisors recommended that high-income taxpayers accelerate income into 1992 or defer deductions until later years, and Treasury data indicate that many taxpayers heeded that advice. The changes were officially announced in February of this year by the Administration, with a January 1, 1993 effective date at the time of announcement.

In view of these facts, it would be inaccurate to say that taxpayers did not have fair notice of the changes, which is the essence of legitimate concerns about retroactivity. Nevertheless, the legislation ultimately passed provides that individuals may elect to pay any additional taxes that are due to the rate increases in three annual installments, without interest. We do not believe that this set of events warrants creating new procedural impediments to Senate consideration of tax legislation. Rather, we believe that the Senate should be allowed to consider tax legislation on its merits, including any concerns about retroactivity.

In summary, the Administration believes that the Nickles amendment would unnecessarily limit the Senate's ability to consider legislation in a manner that is consistent with both good policy and fairness to all taxpayers. I urge that it be rejected.

Sincerely,

LLOYD BENTSEN.

The PRESIDING OFFICER. The Senator from Oklahoma has 4 minutes and 25 seconds.

Mr. NICKLES. Mr. President, I take it from the remarks of my colleagues from Maine and New York that they are slightly inclined to vote "no" on this amendment.

Mr. President, I ask unanimous consent that Senator ROTH be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I oppose the retroactive income tax increases that were contained in August's reconciliation package. Earlier this week, I voted to these retroactive increases by cutting overhead in the Federal budget. While that approach failed, I continue to believe these retroactive increases were simply not fair and I will continue to look for ways to address that unfairness.

This amendment requires any future retroactive tax increases to be passed by a three-fifths majority. I have two problems with this approach. First, it does not address the unfairness of the retroactive taxes imposed in August. And second, this amendment fails to recognize that sometimes we need to be able to correct serious loopholes and opportunities for abuse in the Tax Code. To protect the U.S. taxpayer, we need to be able to reach back and close those loopholes as of the day the President or Congress announce their intention to change the tax law, so those who are enjoying the benefits of the loopholes cannot rush to evade the next taxes before Congress actually passes them and the President signs them. This bill would make such reasonable retroactivity as difficult to exact as the unreasonable retroactivity I want to stop.

Once we discover loopholes, or realize we need to make a technical correction in a tax bill, we need the flexibility to remedy these errors. I am fearful that the sponsors of this amendment—without meaning to do so—may make it tougher for us to get at these technical errors or, worse still, loopholes that lead to abuses of the Tax Code.

Mr. President, I am voting against this amendment. However, I continue to hope that we will find a reasonable way to address the unfairness of retroactive tax increases.

Mr. BAUCUS. Mr. President, I rise today in opposition to the amendment offered by Senators NICKLES and SHELBY. On the surface, this amendment has great populist appeal. However, we must look below the surface to what this amendment would actually do.

If enacted, this amendment has the potential to reduce the authority of the Finance Committee and increase the complexity that accompanies any legislation containing changes to the Internal Revenue Code. Further, this amendment proposes a major change to the Senate rules that has no relevance to a bill that extends emergency unemployment benefits for 4 months.

The proponents of this amendment have offered it under the guise that it protects all American taxpayers from the sting of retroactive tax increases. However, the amendment makes no attempt to define such retroactive tax increases and is likely to serve primarily as a protection for wealthy taxpayers benefiting from loopholes uncovered by high-priced tax lawyers and accountants.

This amendment also raises a myriad of administrative issues for Congress, taxpayers, and the IRS. The amendment would effectively make the Parliamentarian the final arbiter of what constitutes a retroactive tax increase. When considered in conjunction with the Budget Act the amendment would further complicate the budget reconciliation and revenue estimation processes. Further, the fate of technical corrections legislation, which is by definition retroactive, would be jeopardized.

Approval of this amendment will add to the difficulties taxpayers have in accurately filing their Federal income tax returns on a timely basis. For example, if the effective date of legislation to repeal a deduction is July 1, in order for such legislation to not be considered a retroactive tax increase, taxpayers would have to split their tax year in two. Taxable income from January 1 to June 30 would have to be calculated with the deduction, and income from July to December 31 without it.

The IRS would have to work closely with the Joint Committee on Taxation in determining whether a particular change would result in a retroactive tax increase to any taxpayer. In addition, the technical steps necessary to comply with the amendment would compound the difficulties associated with the IRS audit process.

Mr. President, an amendment of this magnitude should be the subject of hearings and extensive debate before a decision is made as to whether it should become a rule of the Senate. Unfortunately, Members of this body have not been given the opportunity to adequately reflect on the consequences of this amendment. I have no choice but to vote against this amendment. I urge my colleagues to do the same.

Mr. NICKLES. Mr. President, I am becoming more concerned about Treasury all the time, and I am becoming more concerned about this Congress all the time because I was not aware that there is such a great effort to pass retroactive tax increases. I would like to think this is not necessary. As a matter of fact, I put in the amendment a definition of what is retroactive. Using some guidance from the Finance Committee, we exclude anything—we define retroactive. If a committee or subcommittee issues a formal notice on the effective date, then it would not be retroactive.

So they can close loopholes, I tell my friend and colleague from Maine. And if there are loopholes, you can close them anyway, because I am sure we can get 60 votes.

Then I hear my colleagues say, well, wait a minute. This is just to benefit the upper 1 percent. I will admit the retroactive tax increases in last year's bill hit primarily upper incomes.

But I will also tell my colleagues, if you have be out in the States, you will find out that it also hits a lot of people that you would not classify as upper income. I am thinking of farmers, ranchers, and others who found that their State taxes went up dramatically as a result of the tax bill we passed this year. We did not get to vote on the retroactive aspects of the estate tax increase. I think that was unfair.

But what about for the future? This amendment is really a fairly reasonable measure. It is not a constitutional amendment. It is not a repealing of retroactivity on past law changes. This is prospective. It says, if we are going to have retroactive tax increases in the future, a point of order may lie against it. It takes 60 votes to waive that point of order. It would still happen if most of us agree that is the right thing to do.

I think that is the right thing to do. We are giving latitude to the committees of jurisdiction. If they issue a notice, they can do so.

What concerns me now is that Treasury is so opposed to this. Are they planning a big retroactive tax increase on America? I do not know where they are coming from. Why would they want to do that? Retroactive tax increases by their nature are unfair. We should not be doing them except under the most unusual circumstances. And we should be voting on it.

So that is the reason this amendment is here. My colleague from Maine said this is just for political points. That is not the case. That is not the case. As a matter of fact, I am interested in seeing this become law and trying to implement whatever we can do to make sure that we would make it more difficult, but not impossible, to pass retroactive tax increases in the future; not to score political points, but to make sure that we make positive public policy in the future that does not lean toward retroactive, unfair tax increases.

Mr. President, I yield the remainder of our time.

The PRESIDING OFFICER (Mr. MATHEWS). All time has been yielded. The question occurs on the amendment of the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nevada [Mr. BRYAN] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Utah [Mr. HATCH] are necessarily absent.

I further announce that the Senator from Kentucky [Mr. MCCONNELL] is absent due to an illness in the family.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 56, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—40

Bennett
Bond
Boren
Brown
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatfield
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Pressler
Roth
Shelby
Simpson
Smith
Specter
Thurmond
Wallop
Warner

NAYS—56

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bumpers
Byrd
Campbell
Conrad
Danforth
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Stevens
Wellstone
Wofford

NOT VOTING—4

Bryan
Durenberger
Hatch
McConnell

So the amendment (No. 1089) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I make the point of order the Senate is not in order.

The PRESIDING OFFICER. Will Senators please take their seats or please take their conversations outside the Chamber?

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1994—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the conference report on H.R. 2520, the Interior appropriations bill, which the clerk will report.

The legislative clerk read as follows:

Conference report to accompany H.R. 2520, an act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

The Senate resumed the consideration of the conference report.

CLOTURE MOTION

The PRESIDING OFFICER. There will now be 25 minutes of debate on the motion to invoke cloture with 15 minutes under the control of the Senator from Wyoming [Mr. WALLOP] and 10 minutes under the control of the Senator from Nevada [Mr. REID].

Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. REID. I think it is OK with the Senator from Wyoming and the Senator from New Mexico as to the agreement previously entered to have the time cut to 12 minutes for them and 10 for us.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, I do not object, but I do not accept the clock to begin running until order is in the Senate.

The PRESIDING OFFICER. Will the Senate please be in order? Will Senators please take their seats or take the conversations outside the Chamber.

The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield 4 minutes to the Senator from Colorado [Mr. CAMPBELL].

The PRESIDING OFFICER. The Senator from Colorado [Mr. CAMPBELL] is recognized.

Mr. CAMPBELL. Mr. President, I thank the Senator from Wyoming.

Mr. WALLOP. Mr. President, may we have order before the clock begins?

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, we have been debating the Interior appropriations bill, and sections that conferees inserted in that bill that many of us believe will dramatically change western economies—with drastic results.

I have reiterated my concerns with setting policy in an appropriations bill, I have told you of my State's Governor's objections to changes in water policy that will impact heavily on the West, and I have told my colleagues how this bill could rob the family farmers in the West of their future.

At this point in the debate, however, I would like to focus on a part of this picture that bodes well for the future of the West. I will be the first to admit that the West is changing. But I will also argue that we must move carefully and thoughtfully to see that those changes are best for the most people.

Mr. President, the Rocky Mountain West still conjures up images that touch the independent spirit and longing for the wide open spaces that burns in all Americans. But the people who live today in the West, and in rural communities throughout our land, are not living the American myth embodied by John Wayne in the old westerns or recalled in haunting western songs accompanied by harmonica.

The life we live is often a struggle that some may not recognize as a modern life. There are thousands of families who are still trying to wrest their livelihoods from the public lands, supporting their families, and building communities in places that can be naturally inhospitable. We aren't complaining, the rewards are many.

We simply want other Americans—from the East, the South and the urban areas of our country—to understand our way of life, a culture that is both glorified and assailed by our fellow citizens. We are trying to maintain that culture and way of life.

We do not want special breaks that other Americans do not get. We do not want to be coddled or subsidized. We simply want to be able to make a living and raise our children—and preserve these special places.

We are not the environmental monsters some would make us out to be. We care about this land—why else would we stay here, when so many have fled economic hardships for the promises of the city?

In fact, in my State of Colorado, the diversity that makes up our rural communities is stunning. Living side-by-side are many new arrivals, who have fled the cities to find a quieter or less hurried lifestyle, and third and fourth generation representatives of pioneer stock.

Those making their living off the public lands today can be running a ski lift, running cows in the high country, or running the rapids. They can be finding valuable ore in a mine seam, finding inspirational scenes to shoot for calendars or finding valuable tourist dollars in a bed-and-breakfast business.

In some places, the diversity we see spells divisiveness. In others, cooperation is replacing conflict. In areas of my State, the newcomers and oldtimers are coming together to preserve the quality of life and the natural resources by which we all—directly or indirectly—sustain ourselves.

Small businesses that earn their living from the tourist trade, cattle ranchers, timber concerns, and tree huggers are really more closely aligned in the 1990's than some of us ever thought they could be. Local environmental groups in forward-thinking communities in my State know that if the ranchers and farmers can not make a go of it, their land will be subdivided for condos and the wide open spaces will become crowded and polluted.

Most of us can agree that if we cut down all the trees, we summarily fell the recreation and tourism trade, but that without modern management of the forests, disease and fire will take what mankind could have put to good use. We know that proper grazing of livestock creates forage for wildlife and that everything depends on a dependable water supply.

We know our city cousins do not really want a rural America devoid of people or filled with ghost towns. We simply ask them to consider our culture and needs as we all strive to preserve the environment and build the economy. These are not necessarily mutually exclusive concepts, and in Colorado, communities are coming together to demonstrate this.

All we ask is that these far-reaching proposals be delayed until we can study them. I am ready to proceed with legislation in the subcommittee I serve on—the Subcommittee on Public Lands, National Parks and Forests to raise grazing fees.

My colleagues will get an opportunity to vote on higher grazing fees, and on sweeping land use reform. After all, this body did approve a bill to reform the mining law of 1872, but with the consent of the Senators whose States will be impacted. Now my constituents want to be heard on how land management reforms will affect them. That's the fair and that's the best way to accomplish these reforms and to integrate what's known as the old West and the new West into the whole West—with respect for the past, ready for the future.

Therefore, I ask that my colleagues continue to support us by voting no on the cloture motion.

Mr. President, I have spoken numerous times in opposition to this conference report and will not belabor it.

I sat in my office this morning trying to think of one final plea in opposition. Perhaps the best words came from one of the Senate's most thoughtful Members himself, and so I have borrowed a few of his words and his considerable logic, if not his vote, in this matter.

Just less than an hour ago in opposing the Nickles point of order, the majority leader of this Senate, a Senator for whom I have great respect and admiration for both his wisdom and leadership, opposed the point of order for the following reasons:

> There were no hearings. There was no debate. There is no definition of terms. It is attempt to seize on a popular issue and score political points. There is no explanation. It creates further ambiguity. It would create numerous administrative problems. It will cause serious problems.

I submit, Mr. President, that we in the West deserve the same standard both procedurally and from the standpoint of basic fairness, and in borrowing the words of the Senator from Maine to support our position, I think that we adequately rest our case.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. WALLOP. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WALLOP. Mr. President, last night the Senator from Nevada repeated his assertion that the concern which every State engineer in the Western States, every attorney general in the Western States, and every western Governor——

Mr. President, may we please have order before the clock runs? It is not fair on an issue of such importance to the West.

The PRESIDING OFFICER. The Senate will be in order.

Mr. WALLOP. Mr. President, last night the Senator from Nevada repeated his assertion that the concern which every State engineer in the Western States, every attorney general in the Western States, and every Western Governor has over the water language in his amendment is simply ghosts and goblins of an early Halloween. He went on to say that the savings clause in the Federal Land Policy and Management Act should reassure us since it was not being amended and that all he was doing was conforming BLM to the practices of the Forest Service.

Personally, I have more faith in our State engineer and our attorney general and our Governor. Endorsement from environmental groups who have opposed State jurisdiction over water resources doesn't reassure me either. But it is time to lay out how misleading the statements really are. The Senator does not amend the savings clause in FLPMA. That is true. He emasculates it. Neither does his language conform BLM to the Forest Service.

The Forest Service applies to the State for water rights on forest lands for grazing where that is necessary. The Forest Service submits to State jurisdiction and is bound by the terms and conditions attached to the water right permit if granted. The language in this amendment does not require the BLM to apply to the State for water rights nor to comply with the procedural and substantive requirements of State law. The amendment seeks to prohibit the States from issuing any water rights for grazing related activities on public lands except in the name of the United States. There is no such abrogation of State authority in the Forest Service.

Furthermore, the language in the amendment sponsored by the Senator from Nevada does not refer to water rights on public lands, but to water rights for grazing related activities on public lands. As I mentioned yesterday in my remarks, I once had grazing allotments which I supported with water rights on my own private land. Under the amendment proposed by the Senator from Nevada, the State of Wyoming would have been required to issue that water right on private land only in the name of the United States despite the fact that only the owner of the property could apply for the right. That is an unbelievable interference with private property rights and State jurisdiction and is not the policy or the practice of the Forest Service.

If that is not the intent of the Senator from Nevada, then I submit that he has been hoodwinked by whoever drafted this language. Rather than continuing to defend this language, he ought to be outraged. That is the reason why we have authorizing committees, so that we can have hearings and make certain that the language which is reported to the Senate accurately reflects the intent. In seeking to end run the authorizing committee, the Senator simply opened himself up to either sloppy drafting or someone with a different agenda who thought they could slip something through.

I also want to point out that there is a free standing sentence buried at the end of the new section 406(i)(2) which has nothing at all to do with grazing, but which is also at variance with both the Forest Service and BLM policy. That sentence states that the Secretary will exercise rights to water developed on public lands for the benefit of the public lands and the resources thereon. Both the Forest Service and the BLM exercise any State-granted water rights for the purposes and subject to the requirements contained in the water right permit. A water right for grazing may not be used for other purposes. A water right for irrigation may not be used for other purposes. A water right obtained for a reclamation project is subject to the requirements of State law absent a clear congressional directive as the Supreme Court held in US versus California. The sentence has nothing to do with grazing and nothing whatever to do with compliance with State law.

This is the type of language which would have been laughed out of committee when we considered FLPMA. This is the same type of expansive assertion of Federal supremacy which the executive branch, especially the Justice Department, has repeatedly claimed and which the Supreme Court has repeatedly rejected. I do not dispute what the Senator thinks he agreed to. I submit that the language does not do what he says. This is not the policy of the Forest Service nor was it the policy of the BLM prior to 1982. The Senator was hoodwinked. The State engineers are right. The western attorneys general are right. The western Governors are right. His colleagues from Colorado and New Mexico and North Dakota and Oregon and Idaho are right.

Mr. President, these concerns are not goblins and ghosts. They are real. This is not a debate on fees. Senator CAMPBELL and I have legislation pending in the Energy Committee which would raise fees and we are prepared to have that legislation move forward and let the Senate work its will. This debate is over what the language in the amendment by the Senator from Nevada means. This is not a debate over what he intends or what he thinks he agreed to. This is a debate over language cobbled together in a back room which was never subjected to hearings and which was never run past the Governors, attorneys general, State engineers, or the water users and private property owners who will be affected. There is a reason for that and the Holloween analogy is apt. The reason is that like the vampire, this language can not stand the clear light of day. What we need to do is drive a stake through its heart.

So let us hear no more about how all this language does is return the BLM to a pre-1982 policy and conform it to the Forest Service. That is simply false. The western Governors know it, the western attorneys general know it, the State engineers know it, and Secretary Babbitt should know it.

I yield 2 minutes to the Senator from Pennsylvania for the purpose of directing an inquiry to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my colleague from Wyoming.

Mr. President, when this bill was originally before the Senate, I voted in opposition to the position articulated by my colleague, Senator DOMENICI, but I have since been concerned about the provisions included in the conference report.

I have discussed these matters with the distinguished Senator from Nevada [Senator REID] and I have met with the Secretary of the Interior, Secretary Babbitt, in an effort to understand these matters more fully. I have conferred with the distinguished chairman of the Appropriations Committee, Senator BYRD, and understand the concerns that Senator BYRD has on getting a bill. This is his subcommittee, in fact, and I serve on the full committee.

But my questions go to whether the conference report, as I understand it, contains items which were added that have not had hearings, such as improvements to public lands, which, according to the conference report, will be changed to be the sole ownership of the Federal Government. I am concerned as to whether that may constitute a taking by the Federal Government of improvements without compensation.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SPECTER. Further, I raise a question as to whether my understanding is correct that the conference report makes the Federal Government the sole owner of water rights, and in so doing, makes a change to existing law which has provided a preemption of State laws. I question whether the conference report has a change to eliminate the grazing advisory councils, and whether there is a change on restrictions and surcharges on subleases.

The PRESIDING OFFICER. I remind the Senator that his time has expired.

Mr. SPECTER. I ask my colleague for 1 additional minute.

Mr. WALLOP. I yield 1 additional minute.

Mr. President, I ask unanimous consent that the time during which we were trying to establish order in the Senate not be charged against the Senator from Wyoming's time. It is an important thing for those of us in the West, even if the rest of the Senate does not wish to listen.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. I yield 1 additional minute to the Senator from Pennsylvania.

Mr. SPECTER. May I add to the statement by my distinguished colleague from Wyoming that it is an important thing to others, as well.

Mr. WALLOP. It is, indeed.

Mr. SPECTER. At least, that the West is fairly treated.

"I do not have a dog in this race," as Senator Baker used to say, but I want to see that we do it right, and that is why I have taken the time to make the inquiries which I have. I think we owe that to the country.

And I was coming to the last point, that there are restrictions and surcharges on subleases. The significance of these matters warrant thorough consideration by Congress, not just the administration.

I have discussed this with my colleague, Senator REID from Nevada. What I seek to find out, as someone who has to vote on the cloture issue, is whether, in fact, it is true that these changes have been made and whether or not they are substantial matters. When I listened to Senator DOMENICI speak at length on this subject a few weeks ago, I saw his emotional level, suggesting that they were.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. REID. Mr. President, I ask the chairman of the Appropriations Committee, the manager of this bill, if I could have 1 minute to respond.

Mr. BYRD. Absolutely.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say to my friend from Pennsylvania, the changes made are comparable to the Forest Service; no radical change. The Forest Service has been doing most of these things since the turn of the century.

The chairman of the Appropriations Committee will read a letter that will set forth in some detail what Secretary Babbitt will do with these regulations.

I would also state that the water issue is something that was changed by Secretary Watt. I have a letter dated August 10, 1982, from the—could we have order, Mr. President?

The PRESIDING OFFICER. Could we have order in the Senate? The Senate will be in order.

Mr. REID. The letter is from the State water engineer of the State of Utah, who basically says that he does not understand why Watt changed the rule. He says—and I will make this part of the RECORD—"I would encourage you to maintain the old policy since it would seem to have very little impact on the leases if the Bureau of Land Management was the actual owner of the water right."

In effect, these changes only take it back to the way it used to be prior to Secretary Watt being the Secretary of the Interior.

Mr. WALLOP. Mr. President, I yield myself 30 seconds to say, that is completely untrue. The Forest Service does operate under State law. This will not put the BLM under State law. It completely changes the relationship. And that is the purpose for which hearings should have been held. And the ability to modify it should have been available. They will not be if this were to pass. The States involved will have been severely affected by this.

I yield 2 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. I thank the Senator from Wyoming.

Mr. President, the distinguished Senator from Nevada has been, I think, a thoughtful, sincere advocate in this exchange.

One of the things that he mentioned was to list specifically the provisions of section 701 of the Federal Policy Management Act, indicating that the exemptions and the respect for private property there and the protections against unreasonable elimination of permits would provide protection in certain circumstances.

Mr. President, I wish that were true. I must say that if that were true, we would solve many of the problems, not all of the problems, here.

But, Mr. President, the facts are these: We raised that issue specifically with the Forest Service, and the Forest Service has specifically said that section 701 of FLPMA does not apply. In other words, Mr. President, the arguments raised by those who advocate this new legislation of a dramatic change and say it provides exemptions are ones specifically rejected by this administration.

Mr. President, this is not an idle matter. This affects not just reservoirs, it affects gas lines, oil lines, highways, reservoirs, and it affects them throughout the Nation, whether in West Virginia or in California or in Nevada. It has the potential of shutting down these.

Now some would say, "Surely, no one would come along and shut down reservoirs or vital pipe lines." Mr. President, they are doing it right now to 11,000 families in Colorado.

I ask unanimous consent to have printed in the RECORD at this point a letter that we sent to Secretary Madigan; an article from the Greeley Tribune; a letter from many Democratic and Republican legislators of Colorado on the interim water and State land issues committee; editorials from the Denver Post and Rocky Mountain News; and a letter from a water expert, a legal attorney in Colorado, who has written on this subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 12, 1992.

Hon. EDWARD R. MADIGAN,
Secretary, Department of Agriculture, Washington, DC.

DEAR ED: The Arapaho/Roosevelt National Forest is located in Colorado and Wyoming. Many cities depend upon water diversion, storage, and treatment structure in the Arapaho/Roosevelt National Forest to maintain secure municipal water supplies. These facilities are operated and maintained under Forest Service special use permits issued under the Federal Land Policy and Management Act of 1976 ("FLPMA") or prior federal right-of-way grants. Some of the facilities are quite old and were even constructed prior to the reservation of the National Forest, nearly 100 years ago.

We have been informed that the Forest Supervisor for the Arapaho/Roosevelt National Forest takes the position that the Forest Service has the authority to impose bypass flow requirements as a condition of the renewal of the special use permits or approvals of the maintenance and rehabilitation of municipal water diversion and storage facilities located on the Forest. If implemented, these requirements would result in the loss of the historic yields relied upon by these water providers. This position violates the law, injures vested property rights, destroys established management practices, and would result in the implementation of environmentally damaging alternatives by the cities which would be forced to replace these supplies from other sources.

The Forest Supervisor relies upon the FLPMA and the National Forest Management Act ("NFMA") as authority for the bypass flow program. Neither of these acts, however, compel, or even authorize, the Forest Service to restrict the yield of pre-existing water rights. To the contrary, a primary purpose for the establishment and management of the National Forests, including the Arapaho/Roosevelt National Forest, is to supply western communities with water under state established and administered water rights.

Moreover, the environmental goals of the Forest can be achieved under existing law without taking private property and overturning a century of federal deference to state water allocation and administration systems. Water rights can be obtained for instream purposes under state law, and if additional water is needed, it can be purchased and transferred to instream flow uses.

The water rights held by these cities are critically important. Many western communities store water on the national forests during the spring snow melt for release and use downstream during low flow periods over the remainder of the year. Other communities, because of the location of their service areas, rely on direct diversions from streams which flow through the national forests. Such water management practices actually provide environmental and recreational benefits, rather than impair or destroy fish and wildlife. A cooperative system of water management, for example, in the Upper Poudre River Basin, has evolved since before the turn of the century. The policy of the Arapaho/Roosevelt National Forest should be designed to continue fostering these practices, not to destroy or diminish the value of these important assets.

The value of an acre-foot of developed water in Colorado's Front Range varies from $2,500 to $11,500 per acre-foot of yield, averaging approximately $7,500 an acre-foot. Moreover, many communities have invested millions of dollars in capital facilities such as pipelines, reservoirs and water treatment plants. These expenditures will be lost or diminished in value, and significant new investment will be required if the bypass flow program is implemented. The Forest Service does not propose to compensate any of the communities for loss of water yield or their capital expenses. The present and future well-being of these communities depends upon continued exercise of their existing rights or, if they are to be deprived of any portion of their water yield, being provided with the necessary funds and governmental approvals required to replace the lost yield and facilities.

We cannot overemphasize the importance of this issue. If the Forest Service is allowed to proceed in this manner, this administration will have taken private property rights, interfered with the development and use of state and interstate water allocations, and replaced state water administration systems with a federal permit system.

In 1984, Mr. Douglas W. MacCleery, Deputy Assistant Secretary of the U.S. Department of Agriculture testified on behalf of the Department of Agriculture regarding the position of the Department on related FLPMA issues. He stated that: "I want to make it clear that there is no intention to jeopardize water rights or other rights held by the permittee at the time of renewal." This position should not be changed. We are certain that neither you nor the President intend such a result, and request that you immediately adopt a policy which confirms that the special use permitting authority of the United States will be exercised in a manner which is consistent with the preservation of private property rights, assists States in the development of important water resources, and does not usurp state primacy over water allocation and administration.

We would like to meet with you to discuss this matter at your earliest convenience after the conclusion of the August recess.

Sincerely,
Malcolm Wallop, Alan Simpson, Hank Brown, Conrad Burns, Orrin Hatch, Pete V. Domenici, Larry E. Craig, Steve Symms, Jake Garn, Wayne Allard, Ben Nighthorse Campbell

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[From the Greeley (CO) Tribune, Oct. 22, 1993]

GREELEY RESERVOIRS A HABITAT HAZARD?

(By Bob Kretschman)

Two of Greeley's high-mountain reservoirs that are subjects of a permit dispute with the federal government adversely affect the habitat of threatened and endangered species in Nebraska, according to a draft study by the U.S. Fish and Wildlife Service.

The wildlife service has issued biological opinions on the environmental effects of seven water projects whose permits to operate in the Arapaho and Roosevelt national forests are up for renewal. Federal officials want to require owners of those permits, including the city of Greeley, to offset the water facilities' adverse effects on wildlife. Permit holders say their projects do not harm wildlife.

Biological opinions by the Fish and Wildlife Service are required by the Endangered Species Act before the permits can be renewed, and the agency has determined in the draft opinions that Barnes Meadow Reservoir and Peterson Lake, two reservoirs owned by the city of Greeley in the upper Cache in Poudre river basin, affect the habitat of endangered species in Nebraska.

However, the city hired an environmental consultant earlier this year to study the reservoirs' effects on wildlife, and the city's studies determined the reservoirs had no effect on streamflow in Nebraska, and John Gauthiere, Greeley's water operations manager.

"It's a long stretch of the imagination that we do have any effect in Nebraska," he said.

Lee Carlson, Colorado field supervisor for the USFWS, said water depletions in the South Platte River basin affect whooping cranes, least ferns, piping plovers, and pallaid sturgeons. The three bird species and one type of fish are dependent on Platte River streamflows, and Greeley's two reservoirs contribute to depletion of the river's water, he said.

Water is lost from Barnes Meadow Reservoir and Peterson Lake, as well as the other five permitted projects, through evaporation and consumptive use. The reservoirs store water during peak flows of the spring, which also creates habitat problems for wildlife in Nebraska, Carlson said.

The opinions issued this week are in draft form and will not be final until the USFWS and the U.S. Forest Service—which will decide in January which conditions to attach to renewal of the permits—attempt to work out differences with permit holders, officials said.

"We'll be working with all the applicants trying to resolve issues," Carlson said.

The draft opinions present two alternatives to reduce what the agency says are adverse impacts of the water projects.

The first alternative is for the permit holders to replace water that is being lost from their projects. Carlson said that in a separate case, a water entity bought water from the Riverside Irrigation District to replace the flow lost by an upstream water project. But he said there may not be enough water available for sale in the lower South Platte basin to replace the water from all seven projects.

Another alternative is for permit holders to provide funding or other support for habitat restoration along the South Platte, and to participate in an organization dedicated to recovery of species in the Platte River basin. Such an organization already exists in the Colomdo River basin, he said, and water users there pay a surcharge on their water use to improve wildlife habitat.

Gauthiere said city officials received the biological studies on Barnes Meadow Reservoir and Peterson Lake Thursday and were beginning to review them.

"These are drafts, and I hope we can have a meaningful negotiation with (the federal agencies)," Gauthiere said. "It looks like they want water."

GENERAL ASSEMBLY,
STATE OF COLORADO,
Denver, October 27, 1993.

Hon. BILL CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: The Interim Committee on Water and State Lands Issues of the General Assembly of Colorado is strongly opposed to the Reid Amendment to the fiscal year 1994 Interior Appropriations bill. Our Committee supports and agrees with Governor Roy Romer, Attorney General Gale Norton, Senator Hank Brown and Senator Ben Nighthorse Campbell, that it is essential that this legislation not proceed in its current form.

The Reid Amendment is not merely an increase in the rate lessees are currently charged by the federal government to graze livestock on public lands. The Reid Amendment is an overhaul of rangeland management and an attempt to overturn state water law without the benefit of public comment.

There is no doubt that the provisions in the Reid Amendment are poorly drafted and subject to incorrect interpretations that would seriously encroach on the water laws of the State of Colorado. The Reid proposal would have the following impacts:

Preempt state law by prohibiting water rights from being obtained for grazing related activities on public lands.

Provide the federal government with a right to control water, a right that under U.S. water law vests the states with the power to create and administer water rights.

Require the Secretary of Interior to develop standards and guidelines that would provide for the restoration and protection of riparian values. This is a major shift from existing law. No current law requires restoration of riparian values.

Limit the exercise of water rights on private lands that are used in "conjunction with grazing-related activities" on public lands.

Given the critical importance of these issues, we believe that it would be irresponsible and undemocratic for the legislation to proceed without any public hearing on the intent of this legislation regarding the water resources of the State of Colorado. The future of our nation depends on the cooperation between state and federal governments. A unilateral and purposely secretive change of important state/federal relations will only increase the public distrust and suspicion of Congress and the Federal government and government in general.

Very truly yours,
Senator Don Ament, Chairman, Interim Committee on Water and State School Lands Issues; Representative Bill Jerke, Vice Chairman, Interim Committee on Water and State School Lands Issues; Senator Tilman Bishop; Senator Tom Blickensderfer; Senator Joan Johnson, Senator Bob Pastore; Senator Linda Powers; Senator Dave Wattenberg, Representative Bob Eisenach; Representative Michelle Lawrence; Representative Jeannie Reeser; Representative Mike Salaz; Representative Bob Shoemaker; Representative Jack Taylor.

[From the Denver Post, Oct. 28, 1993]

GRAZING REFORMS SHOULDN'T TRAMPLE ON WATER RIGHTS

The Clinton administration's plan to tighten the reins on livestock grazing on federal lands has been sidetracked in the Senate by a dispute over its possible effect on water rights.

The disagreement, which has helped stall action on the measure for more than a week, was triggered by a section some Westerners fear could let federal agencies disrupt water flows to locally owned reservoirs or irrigation canals.

As Gov. Roy Romer put it in a letter to Senate leaders this week, the provision "could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well."

Interior Secretary Bruce Babbitt promptly denied that the bill would make any change in traditional water law, and he labeled such concerns a "red herring."

But as the former Arizona governor must recognize this is a morass in which advocates of reform can't afford to get trapped. A similar fight over water language, it's worth noting, delayed passage of the latest Colorado wilderness bill for years.

The provision dealing with water rights on rangelands should be clarified to ensure that it won't upend state-run allocation systems or unduly restrict the operation of water projects unrelated to grazing.

It's important to protect riparian areas along streambeds from damage caused by overgrazing or unwarranted water diversions. But the needs and rights of other water users, including cities that depend on the rivers flowing into and out of federal lands, shouldn't be trampled in the process.

[From the Rocky Mountain News, Oct. 28, 1993]

WASHINGTON'S WATER GRAB

While we have a hard time believing it possible, there may be a few of our readers who remain oblivious to the Clinton administration's tendency to push for greater federal control over the economy. The latest example is its support of legislation that would give Washington far greater authority over Western rivers and water rights.

This water grab is part of the dispute over grazing fee increases, currently being filibustered in the Senate. Water is, quite probably, even more important than the grazing dispute, though grazing fee increases have drawn most of the attention. Perhaps this is not by accident. A Department of the Interior memo, written to Interior Secretary Bruce Babbitt and leaked to the office of Wyoming Sen. Malcolm Wallop, explains why: "We realize you want to use price increases as a straw man to draw attention from management issues"—management issues that include turning elements of current water law on its head.

Not everyone is fooled. On Monday, Gov. Roy Romer joined Rep. Scott McInnis and state Sen. Don Ament in raising concerns about the water grab. Any grazing increases, Romer said, have "got to be pursuant to our water law" in order to gain the governor's support. But according to a detailed study of the legislation by the Denver law firm of Hobbs, Trout & Raley, state control of water will be all but washed away if the legislation passes.

"We have concluded that the bill, if adopted, would constitute a radical departure from the principles of federalism and respect for state water law by imposing a national riparian water law for public lands," lawyers in the firm recently wrote Sens. Hank Brown and Ben Campbell. Among other things, passage of the legislation would give the federal government control over water "which flows into, arises upon, or runs through federally owned lands." In Colorado, where the federal government owns about one-third of the land, the impact would be enormous.

As it now stands, the states determine water allocation laws and the rights created under those laws, which the Clinton administration hopes to pre-empt. The result: a flood of problems for Coloradans.

Hobbs et al. sum up the damage this way: "Water rights holders throughout the West will surely be faced with at least a decade of administrative proceedings and litigation brought by regulatory agencies and the Justice Department to establish federal riparian rights on rivers throughout the West. The citizens, in turn, will be forced to initiate expensive defensive proceedings and litigation to protect their water rights, including takings litigation."

Sen. Ament agrees, noting that the legislation requires Babbitt "to develop standards and guidelines that would provide for the restoration and protection of riparian values. This a major shift from existing law"—and "riparian values" themselves are subject to considerable debate.

The Interior memo also touches on this subject: "Our own statistics can be used to show the range is in better shape than at any point in this century. With that in mind, we must make deliberate and public attempts to prove how bad the conditions are in many riparian zones."

Babbitt says he'll institute "reforms" with or without congressional backing. The administration must be made to realize that belligerence on this issue will cost it support on policies dearer to its heart.

HOBBS, TROUT & RALEY, P.C.,
ATTORNEYS AT LAW,
Denver, CO, October 26, 1993.

Re your letter to Senate Leadership regarding H.R. 2520.

Hon. ROY ROMER,
State Capitol,
Denver, CO.

DEAR GOVERNOR ROMER: Your letter of October 25, 1993, to Senators Mitchell and Dole concerning H.R. 2520 was timely and well-done.

We have reviewed Secretary Babbitt's October 26, 1993, response to you. Taking the Secretary at his word about the intent of the bill, it certainly should be possible and advisable to amend the bill to clarify its intent. Otherwise, I am quite certain that ambiguities in the language will lead to prolonged and expensive controversy and litigation.

Secretary Babbitt cites the savings provision of the Act of October 21, 1976, annotated in the notes to 43 U.S.C. 1701(g), for the proposition that federal-state changes in water law will not be interpreted to occur as a result of H.R. 2520.

However, two prevailing propositions of law can and will be argued to the contrary, in our opinion, if H.R. 2520 is adopted. First, specific provisions control over general provisions. Second, subsequent enactments of Congress can impliedly repeal or amend former Acts of Congress when a conflict in provisions arises.

H.R. 2520 contains specific, heretofore unprecedented amendments to FLPMA which provide that FLPMA permits and leases shall be utilized to restore, maintain and protect riparian values and that the United States shall assert its claims and exercise its rights to all water developed on federal land to benefit the public lands and resources thereon.

The explicit language regarding "riparian values" juxtaposed with "United States * * * claims and rights to water developed on the public lands" is entirely new to FLPMA and Courts will be called upon and required to give it effect. As a long-time practicing water lawyer I cannot counsel the State or any of my clients to contemplate such legislation becoming law in light of very recent experience with how such language—and a lot less specific administrative authority—can be applied in administrative and judicial proceedings.

We have recently encountered in Colorado very costly litigation and demands for water in the name of United States based on much less than the language in H.R. 2520. The recent reserved rights litigation, which the Division 1 Water court decided against the Government, was brought on the theory that "favorable conditions of water flow" in the 1897 Organic Act established reserved channel maintenance flows. The litigation is estimated to have cost citizens of the United States and the State of Colorado approximately $10 million dollars.

Presently, the Forest Service and the Fish and Wildlife Service are utilizing FLPMA and the Endangered Species Act, in the FLPMA renewal process for Greeley, Fort Collins, Boulder, and the Water Supply and Storage Company, to demand the by-pass or release of water from perfected, historically-utilized water rights, as a condition of continued access across Federal lands.

These actions by the Government are 1) freezing in place what was emerging as an active water market in transfer of existing water rights instead of building new water storage projects and 2) critically threaten co-operative efforts between farmers and Colorado Front Range cities to extend the benefit of already-developed water supplies. No agricultural ditch company or city facing the possibility of losing part of its already-developed water yield because of FLPMA requirements is going to part with water it may need for dry years or in the future. Whatever reserve or excess supplies may have gone to the water market are being jealously guarded because of the insecurity being caused by these administrative actions and pending legislation such as H.R. 2520.

It may well be that the rush of drafting these FLPMA amendments led to general or careless language. If the water provisions of H.R. 2520 are intended to apply only to grazing-related activities on the public lands, and State water law and water rights are intended to be protected, amendments to H.R. 2520 are surely in order.

In the meantime, let me tell you that your efforts on behalf of Coloradans and their water rights have been magnificent and, in no way, was your letter to the leadership wrong or ill-advised.

Best regards.

GREGORY J. HOBBS, Jr.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. BYRD. Mr. President, I have a letter from the Secretary of the Department of the Interior which I ask unanimous consent to have printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE INTERIOR,
Washington, October 28, 1993.

Hon. ROBERT C. BYRD,
U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: As consideration of the grazing reform compromise adopted by the Conference Committee continues, I would like to clarify certain provisions included in that compromise. These clarifications pertain to four important issues addressed in the legislation: grazing-related water rights; range improvements; subleasing; and prohibited acts.

Water Rights—Opponents of the Conference Committee compromise grossly mischaracterize the provisions relating to water rights. A detailed response is contained in the attached letter to Governor Romer. I would highlight these points: First, the policy change would be prospective only and would not affect existing property rights. Second, it simply aligns the BLM position on this issue with existing Forest Service policy. Third, these provisions affect only range-related water rights on BLM public lands used for grazing. Therefore they have no application outside the Western public lands states. The language and context of these amendments makes that unmistakably clear; it is simply unreasonable to construe them otherwise.

Range Improvements—New section 406(i) addresses the issue of range improvement ownership. The Conference Committee compromise provides that the United States would have title to all permanent range improvements constructed in the future on public lands. Title to temporary range improvements used primarily for livestock handling or water hauling would be retained by the permittee or lessee. The Conference Committee compromise would not change the agreements currently in effect or affect the ownership of existing range improvements. Here too, in other words, the policy change would be prospective only and would not affect existing property rights. A permittee's interest for contributed funds, labor, and materials would be documented for proper credit in the event the land is disposed of or the permit or lease is subsequently issued to a different party. The proposal is similar to existing Forest Service policy with respect to range improvements. It applies only to range improvements on public lands administered by the BLM for grazing purposes; it does not affect hydroelectric developments, electric power lines, natural gas pipelines, or other permanent improvements unrelated to grazing, nor to improvements on Forest Service lands. Again, the language and context of these amendments makes that unmistakably clear; it is simply unreasonable to construe them otherwise.

Subleasing—New section 406(e) imposes a leasing surcharge for authorized leasing of base property to which public land grazing preference is attached or authorized grazing of livestock owned by persons other than the permittee or lessee. I will construe this provision to recognize and leave unchanged the current Bureau of Land Management practice which allows subleasing to family members when they are operating within the family operation or are assuming control of the family operation.

Prohibited Acts—New section 406(1) requires the Secretary to promulgate regulations to make violation of the Wild Horse and Burro Act, the Endangered Species Act, and federal and state laws concerning "conservation, protection of natural or cultural resources, and protection of environmental quality" prohibited acts. Upon expiration of appeal or review periods following a conviction for violation or administrative finding of violation of these laws, the authorized officer may consider cancellation or suspension of the permits or leases where the violation has occurred on public land or is related to authorized grazing of public land. The proposal would adopt language that existed in the BLM's regulations prior to 1984, and is compatible with existing Forest Service policy. It deserves emphasis that the Conference Committee compromise ensures that no suspension or cancellation of a permit or lease can occur until there has been a full opportunity for appeal of the finding of a violation or a conviction. Finally, convictions and violations unrelated to these environmental and land use issues are not "prohibited acts" as used in the statute.

It also seems appropriate to clarify the Department's intentions with regard to public hearings on the new regulations required by the grazing reforms contained in the Conference Committee compromise legislation. The Department is committed to conducting public hearings in every Western grazing state prior to the implementation of any regulations. Moreover, the Department would welcome the opportunity to participate in any Congressional oversight hearings reviewing the Department's implementation of the grazing reform provisions of the compromise.

Finally, as I discussed with Senator Hatfield yesterday morning, most of the administrative authority which the Department has over grazing is entirely outside of, and unaffected by, the Conference Committee compromise. For example, the promulgation of standards and guidelines which govern stocking numbers, length of grazing seasons, use of riparian areas and the like, is a matter still within my administrative discretion with regard to which I remain ready and willing to discuss and negotiate with interested Senators. Likewise, the role of grazing permittees in the all important Resource Advisory Councils is a matter that I am ready and willing to discuss at any time.

I hope these clarifications regarding the Department's interpretation and intention with respect to implementing these provisions are of assistance in the Senate's consideration of the Conference Committee's grazing reform compromise. So there is no misunderstanding, I want to make clear that my interpretation of these provisions does not in any way bind my decisions regarding the Rangeland Reform '94 rulemaking which the Department would proceed to undertake should Congress decline to enact the grazing reform compromise.

Sincerely,

BRUCE BABBITT.

THE SECRETARY OF THE INTERIOR,
Washington, October 26, 1993.

Hon. ROY ROMER,
Governor, State of Colorado, Denver, CO.

DEAR GOVERNOR ROMER: In your letter dated yesterday to Senators Mitchell and Dole you express particular concerns about certain provisions of Senator Reid's compromise public lands grazing reform (the Reid compromise) being debated as part of the FY 1994 Interior Appropriations bill. I must respectfully disagree with your characterization that these provisions would "inject such ambiguity and confusion into the process for allocating water in the West that litigation and uncertainty would prevail for years to come."

My staff and I have carefully examined the provisions in question. In my judgment as a former Western State Attorney General, Governor, and private practitioner in water law, these charges simply cannot be sustained. Those parts of the Reid compromise that relate to water are in fact in the mainstream of water law as applied in the western states.

For example, nothing in new section 406(d) changes the traditional practice of acquiring water rights for livestock grazing on public lands under state law. It only ensures that, subject to valid existing rights, such water rights be obtained in the name of the United States. This has long been the practice on the national forests, as well as state law in many western states, including my home state, one of the most arid in the country.

Your letter expresses specific concern that the Reid compromise "could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well." Apparently you are referring to language in the last sentence of section 406(i)(2). But this sentence does not address federal/state relations in water law. It simply confirms the common sense principle that federal claims and rights to water "developed on public lands [shall be exercised] to benefit the public lands and resources thereon." Moreover, the sentence is part of a subsection addressing grazing-related water rights; more specifically, cooperative range improvement agreements. (It is captioned "Range Improvement Ownership.") There is simply no way a court could read this innocuous language to create broad new categories of federal water rights, whether for grazing or non-grazing purposes, in denigration of state water law.

You have also raised concerns about section 406(o), which directs the development of standards and guidelines that "establish minimum conditions for the protection of rangeland ecological health," and which shall include, among other things, "restoration and protection of riparian values, such as healthy wildlife and fish habitat and diverse vegetation." Nothing in this section addresses water rights or state-federal relationships in the area of water; rather, it merely furnishes direction for the Department in the implementation of existing law. That law (the Federal Land Policy and Management Act, or FLPMA) has for nearly two decades required BLM lands to be managed for "multiple use" and "sustained yield," and defines these terms to require accounting for, among other things, "the long-term needs of future generations for renewable and nonrenewable resources, including recreation * * * watershed, wildlife and fish, and natural scenic [and] scientific * * * values." 43 U.S.C. 1702(c).

Each of the provisions is the Reid compromise about which you have concerns is an amendment of FLPMA. That Act's general disclaimer on water rights (Section 701 (g), 43 U.S.C. 1701 Note) remains intact. No court has ever interpreted FLPMA as changing state-federal relations in water law. The experience under it has been exactly the contrary.

You have my assurance that the Department of the Interior will, if these provisions are enacted into law, interpret and apply them in conformance with their intent—not to make drastic changes in state-federal relations in water law, but rather to ensure that water rights obtained under state law for grazing-related purposes on public lands serve federal grazing-related needs, and that the ecological health of federal rangelands is secured.

As a native Westerner I know the sensitivity of water rights issues and the legitimacy of states' concerns that their water law systems be protected. I also know a red herring when I see one. The attempt to portray the water provisions of the Reid compromise as a massive federal water grab is just that. I hope this clarifies the matter.

Sincerely,

BRUCE BABBITT.

Mr. BYRD. Mr. President, at the moment, I will read only three sentences therefrom. Two sentences deal with water rights.

> Opponents of the Conference Committee compromise grossly mischaracterize the provisions relating to water rights. A detailed response is contained in the attached letter to Governor Romer.

Another sentence from the Secretary's letter:

> The department is committed to conducting public hearings in every Western grazing State prior to the implementation of any regulations.

Mr. President, there has been much discussion about this grazing issue and what will happen with the Interior appropriations conference report. This issue has consumed a great deal of the Senate's time already. I know this issue is important to many people in the West. However, we have to move forward and let the Senate work its will on this bill.

The way to do this is to invoke cloture and allow the Senate to vote on the conference report and then turn to the amendments in disagreement. Any Senator has the opportunity to offer an amendment to an amendment in disagreement if he or she desires to do so. What do the opponents fear in allowing the Senate to work its will?

Is it that they fear they do not have the votes? Mr. President, I think the answer is clear. The opponents of this proposal do not know what they want. They know what they do not want—they do not want any change. But what do they want? I have heard a lot of talk about compromise, but no specific proposal has been offered. Continuation of the moratorium is no compromise.

It has been suggested that the Secretary of the Interior or the Members who support the compromise reached in conference are unwilling to negotiate or further compromise. This is simply not the case. Let us review the facts—Secretary Babbitt announced his proposed fee increase and range management reforms in early August. That was nearly 3 months ago. The proposal contained in this conference agreement represents a compromise from that position—it involves a lower fee and proposes fewer reforms than initially proposed by Secretary Babbitt. So, it seems to me that Mr. Babbitt has compromised. I repeat—the proposal in the conference agreement contains a lower fee and fewer range reforms than originally proposed by the Secretary. How can one suggest that this is not compromise?

Mr. President, the responsibility is on the Senate to act on this issue and move this appropriations bill forward. Continuing the current stalemate does not help to resolve this issue. If the Senate desires further compromise, it should consider a proposal and vote on it. The solution to this issue may be to remove everything having to do with grazing from this bill—just take it all out. That means no fee increase. It means no range management reforms. But it also means no moratorium. I repeat—no moratorium, no fee, no reform. This would leave the issue subject to current law, and allow Secretary Babbitt to proceed with the higher fee and greater reforms he proposed back in August. Is this what Senators want? Those are the choices as I see them. We have to finish this bill. This issue has consumed time on the Interior appropriations bill every year since 1976, and I am sick and tired of it. Why does this have to be on an appropriations bill? Why does the authorizing committee, on which these western Senators sit—why does it not act? This subject confronts us on this Interior appropriations bill every year.

The time has come to put this to an end.

On Tuesday, I discussed several possible scenarios that could affect the Interior bill agencies if the Senate perpetuates this stalemate and refuses to invoke cloture on this conference report. I did not advocate any one of those alternatives. I am not interested in shutting down these agencies. I am not interested in freezing their operations at the fiscal year 1993 level for an entire year. I am interested in approving this conference report and getting on with the amendments in disagreement; these agencies need to receive the funding recommended in this conference report.

My point is simply this—if the Senate fails to take action on this conference report, some decisions will have to be made affecting these 40 agencies. Those decisions will have to be made by the House, the Senate, and the President. Will there be a shutdown? Will there be another short-term continuing resolution? Will there be a full-year CR for the Interior agencies that would maintain the fiscal year 1993 level? The way to avoid these choices is to invoke cloture, or at least agree to vote on the conference report, and then go to the amendments in disagreement. If we do not move forward today, I am not prepared to continue to engage the Senate's time on this issue.

There have been inferences made by certain Senators that I have somehow threatened their projects or programs by my statements that a full-year continuing resolution at the 1993 levels could be required if we cannot get over this impasse on grazing fees.

I did not threaten anyone. I did not state any threats. I stated facts. And they are not the only Senators, those Senators whom I mentioned, or rather whose projects and programs I mentioned—we all will suffer, including this Senator. But I am not willing to continue down this road.

I am not cowed by the comments of those Senators. In fact, let me make another possibility clear. If we cannot overcome this impasse and if this bill is recommitted to conference, I can assure all Senators that I have no control over the position of the House conferees regarding not just the grazing fee issue but also every item in the conference. What I am saying is that it could well be that the House conferees may take the position, if that happens, that we start all over, all over with a clean bill, and renegotiate every amendment that is in the conference report—we just wipe everything clean, start all over again.

I have worked to include items in this conference report for other Senators on both sides of the aisle.

Anyone may take that statement as a threat, if anyone wants to. That would jeopardize every item that was successfully included in the conference agreement at the request of Senators.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. REID. I ask unanimous consent the time be extended for the Senator from West Virginia, and the other side, an additional 3 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, as I say, anyone may take my statement as a threat if anyone wants to, but I can assure Senators that this is a distinct possibility, and could occur if we are required to reconference this bill.

I am not going to ask for another vote on cloture after today unless something breaks, or until the last day set forth in a continuing resolution. I am not interested in taking this Senate's time every 2 days on another cloture vote. So if we do not get cloture today, unless something breaks, as far as I am concerned, we will not have another cloture vote. We will not take up the time of the Senate with another cloture vote until the last day of the continuing resolution.

I have about had it up to my ears. All the years I have been chairman of this Interior appropriations subcommittee, we have had this, this item of grazing fees; in one way or another—on many occasions, it had to be dropped—since 1976. These Senators who are opposing this conference report, many of them sit on the authorizing committee. That is where the action ought to be taken. We hear so many complaints about the Appropriations Committee taking over the work of the authorizing committees. And here is one reason why. Here we have grazing fees stuck on this bill every year. I am tired of it. Let us settle it once and for all.

So if some Senators do not want to vote for cloture today, there will not be another opportunity until the last day of the continuing resolution, unless something breaks in the meantime. It seems to me that the Secretary has gone a long way toward compromise. Senator REID has been a very diligent member of the committee. He does much of the work on the whole bill in the committee. He holds many of the hearings at my request. He is an honorable man; he has done his best; he has been fair. And I hope that Senators will sober up.

I do not expect this cloture motion to be invoked today, but I will say to Senators, you are not going to have another chance until the last day of the continuing resolution. And if it is not invoked, then I will not ask for cloture until the last day of the final CR. So we had better get busy. There has to be some give.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, I yield the remainder of the time to the control of the Senator from New Mexico [Mr. DOMENICI].

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I yield to Senator BURNS 30 seconds to address the issue.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I rise today to present my thoughts on the proposal by the administration to raise grazing fees and change the policy for managing the public lands. The focus has been on grazing fees instead of changing policy and principles for public land management.

The proposed increase in grazing fees are the tip of the iceberg. Fee increases are proposed for hardrock mining, timber, recreation, and irrigation. I have not figured out how anyone can justify raising public land user fees in order to balance the budget. The numbers just do not add up.

The administration expects to raise $82 million by raising grazing fees. At the same time, operating expenses have more than doubled, and an $800 million per year industry in my State of Montana is brought to their knees. The current tax base is killed. I believe someone with some experience needs to think this out.

The same philosophy holds true for the timber and mining industries. In Montana, we have several billion board feet of manageable timber in the timber base. This is timber located on acreage suitable for management. Millions of dollars are being thrown away because the Federal Government is incapable of managing commodities for the benefit to the schools, tax base, Government amenities, and people.

Mining is essential to the economy of Montana. The industry employs about 3,500 people in Montana alone, with a payroll of about $150 million annually. About $29 million in taxes are paid annually by mines and their employees. Over $574 million was generated in Montana in 1990.

Nearly 5,000 ranches will be placed to economic risk if we go forth with drastic public land management changes. Rural America will be severely eroded as the tax base is destroyed.

In 1992, the Secretaries of Interior and Agriculture reported to Congress in "Grazing Fee Review and Evaluation: Update of the 1986 Final Report," that their costs for administering the grazing programs were $2.18 and $2.40 per AUM. The weighted average is $2.26 per AUM.

The Reid-Babbitt compromise would codify a fee 53 percent higher than the reported cost of administration. Using the Secretary of Interior's own data, the $3.45 grazing fees would exceed the full costs of the entire multiple use programs by 23 cents per AUM. Thus, the rancher would subsidize all the other users, like wildlife, of Federal lands.

A 1993 scientific report to the BLM and Secretary of the Interior, "The Federal Grazing Fee: 1993," on test plots for nutrients and grass availability in Wyoming, Idaho, and New Mexico, indicated that the average value of Federal forage was about 13 cents per AUM. The Federal forage fee that year was $1.92, or $1.79 per AUM more than the grass was worth. Why? Because there was no alternative.

State and private fees aside, Federal lands are not as productive as State and private lands. If the U.S. Forest Service and BLM are trying to charge for trespass, user fees, stewardship, a method should be devised to be fair and honest to denote cost equalization. Even then, the grazing fee for an AUM would be about $0.89 per AUM.

This issue is increasingly complicated. In fact, cost comparisons for U.S. Forest Service allotments for sheep indicate negative forage values. In many cases, ranchers are paying more for public grazing leases because they have no alternative. Public land ranchers are paying full market value for grazing public lands when higher nonfee grazing costs and investments in leases on the public lands are considered.

RECOGNITION OF CORRESPONDENCE SUPPORTING WESTERN SENATORS DEBATING H.R. 2520

Mr. BURNS. Mr. President, I rise today to request unanimous consent to include in the RECORD, the report on file in numerous western Senators' and the Secretaries of the Interior and Agriculture offices entitled "Report to Congress and to the Secretaries of Interior and Agriculture, A Comparative Analysis of the Economic, Financial, and Competitive Conditions of Montana Ranches Using Federal Forage and Montana Ranches Without Federal Grazing Allotments, Pepperdine University, July, 1993."

In addition, I request unanimous consent to include for the RECORD, a reference to the files in my office containing the compilation of letters from individuals, State organizations, banks, and other pertinent correspondence of interest parties supporting the position of the western Senators in opposing the Reid-Babbitt grazing reform proposal.

The theme of these documents, representing hundreds of thousands of people in the West, is an acute opposition, deep concern, and fear that the Federal Government is succeeding in taking water rights, range improvements, and private property from the people of the West.

From all appearance, the livelihood of western America is on the line and folks are ready to make a stand for what they believe in. This information is requested to be part of the RECORD and I thank you.

Mr. DOMENICI. How much time does the Senator from New Mexico have?

The PRESIDING OFFICER. The Senator from New Mexico has 4 minutes and 40 seconds.

Mr. DOMENICI. Mr. President, let me remind my good friend from West Virginia, he said get busy; there has to be some give. That is exactly what I say. I am sure when he gets up in rebuttal he will say "over there," on our side.

The point is, we do not have any place to give or anybody that is receptive to anything that we might give.

I want the Senate to know that yesterday afternoon, five of us—two from the Democratic side, three from our side—had a meeting set with the Secretary to talk about getting busy and giving, and guess what happened? The Secretary canceled it. He said there is nothing to talk about.

There is something to talk about, and it is very, very simple. What do we want, said my good friend from West Virginia. We want simple fairness. We want 1 year to have hearings on matters of grave import to thousands of our constituents on subjects that there have been no hearings on.

If we are accused of gridlock, let me suggest that the only issue we have had in years past are grazing fees. My friend from West Virginia says it comes up every year. There have not been issues on water rights, who owns them; improvements, who owns them; what are your rights on appeal; what will it do to the family ownership of a ranch. They have not been before anyone yet, and they are pushed right into an appropriations bill.

I could say to my good friend from West Virginia, what are they doing in an appropriations bill? They do not belong there. It denies the people of the West a hearing. To say the Secretary is going to have hearings is to deny us an opportunity to write some law that might be reasonable on the subject.

Do we think we should turn over the destiny of our people to the Secretary of the Interior? I think he is a nice man. He has a great academic background. I think he went to Notre Dame. That means he is pretty good, I guess—and he is. But I am not willing to say, "It is in your hands, Mr. Secretary." I will tell you that for sure.

Now who is stonewalling? Some people say we are stonewalling. We cannot do any better than to say we will sit down with the Secretary, we will sit down with Senator BYRD, we will sit down with HARRY REID, but not—not—with a gun that says, "It is our way or no way."

What kind of negotiating is that? What kind of fairness is that? For those who wonder about filibuster and here we are pushing Interior right to the wall, let me say to anybody listening, we do not have any other way to do it. This happens to be the system. We are operating under the rules.

My friend, the chairman of the Appropriations Committee, has said, "Operate within the rules," and he said, "I compliment you when you are operating within the rules." We are. We have no other way to get fairness and justice for our people, and if we have to stay here another 5 or 6 days, somebody is going to give and it is not going to be just us. How about some give on the other side?

I understand the House is saying the President supports our position full speed ahead, as they debate a continuing resolution. So I say, it is going to be us against them, and if we lose, we are going to go down with every rule of this Senate having been used by us to protect our people. Nothing less is right. And I know there are a lot of people wondering about the Interior appropriations items. I am worried about them, too. But I am more worried about determining, once and for all, in a bill that has had no hearings, the destiny of the ranchers of the West, their families and rural communities across this land. That is it.

If anybody wonders whether it is complicated, who is doing what to whom, I cannot make it any clearer. Nineteen pages of new law in an appropriations bill. There are not three members of that committee who voted who know what is in it, know what it does—and I compliment them all for being very dedicated Senators—but they do not know because this deal was not made in that committee. This deal was made with the Secretary of the Interior, who now cannot deal with us. His staff wrote all this. We saw three different versions. This was not prepared in a last-minute little effort on an appropriations bill.

So I say our message is very simple. I yield the floor and stand on simple justice and fairness.

Mr. BYRD. How much time do I have?

The PRESIDING OFFICER. Senator BYRD has 19 seconds.

Mr. BYRD. How much time?

The PRESIDING OFFICER. Nineteen seconds.

Mr. BUMPERS. Will the Senator yield that 19 seconds to me?

Mr. BYRD. Yes, I yield.

Mr. BUMPERS. I would like to say to the Senator from New Mexico, how about fairness and justice for the other 250 million taxpayers of this country?

Mr. BYRD. Mr. President, I ask unanimous consent for 1 minute additional on each side.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what started this? The Senator from New Mexico knows I have the greatest of respect for him. He was behind the moratorium. That is what started it. That opened the door, and the House has amended his moratorium amendment.

Now, the distinguished Senator from New Mexico may break all the desks here, if he wishes, and bruise his knuckles; it does not intimidate anybody that I know of. The Senator was behind the moratorium. Let us wipe it all off, all of it. Take out the moratorium, too. But we need to get the amendments in disagreement.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, in answer to my friend, Senator BUMPERS, the taxpayers of the country will lose more money. While they pick up $19 million in fees, the taxes collected by the American Government will go down more than that and we come out with the taxpayers losing.

Second, with reference to the moratorium, it is one thing to have one line in the bill that says you have a year to debate, have hearings and another to come back with 19 pages of new law written into this bill. I think they are very different. I started what I thought was fair. We end up with absolute unfairness and unwillingness to move even 1 inch.

Mr. HATCH. Mr. President, I, along with many of my colleagues, have already addressed the many respects in which the Reid-Babbitt compromise is unfair and is bad policy. I would now like to focus briefly on some of the serious constitutional defects in the amendment—specifically, the problems raised under the takings clause and the due process clause of the fifth amendment.

Let me begin with the fact that range rights owned by ranchers—including water rights, grazing rights, and rights in improvements—clearly constitute property for purposes of the fifth amendment. Among other things, these rights are transferable by the same deed that transfers a rancher's private land and improvements; they are subject to an estate tax; and the military, when it takes a Federal range for military use, is required to pay the ranchers for their interest in the Federal range. [Hage, Storm Over Rangelands, at 4.]

Now let me address some of the ways in which the Reid-Babbitt language tramples these property rights:

Section 406(d) fails to protect existing water rights recognized under State law. That section provides: "Subject to valid water rights existing on the date of enactment, no water rights shall be obtained for grazing-related actions on public lands except in the name of the United States." The problem with this sentence is that the phrase "valid water rights" is not defined with respect to applicable State law. Thus, a Federal agency could make a Federal validity determination under which water rights recognized under State law would not be "valid" under section 406(d). The consequence would be the unconstitutional taking by extinction, without just compensation, of the private property in water rights.

This section also raises a serious 10th amendment issue. Under the Desert Land Act, Congress severed water from the Federal lands and vested plenary justification in the several States. The constitutions of several Western States claim the ownership of all water and those provisions were confirmed as a part of their Admissions Acts. The adoption of a Federal validity determination in subsection (d) would place an impermissible test on property rights created and vested solely by reference to State law. The assertion of a Federal claim and right to exercise water rights contained in subsection (i)(2) under these circumstances violates the 10th amendment.

Under section 406(i)(1), an owner of existing range improvements would not even be able to use or maintain these improvements—much less modify them or install new ones—without obtaining a permit from the Federal Government. Moreover, whether or not to issue the permit would rest entirely in the arbitrary and unguided discretion of a bureaucrat. This provision is doubly offensive to the Constitution. At the very core of the right to property are the rights to use that property and to maintain it? What does it mean to possess property if you cannot use it? Section 406(i)(1) would take away these vested property rights, and would do so without providing compensation. This would clearly be an unconstitutional taking.

Section 406(i)(1) would also violate the fifth amendment requirement that Government not take property without due process of law. Due process requires that a property owner have clear notice of the procedures and standards to which his property will be subjected. Section 406(i)(1) provides no notice whatsoever. It vests completely unconstrained and standardless discretion in a bureaucrat to deny a person all use of his or her property in range improvements.

The mandatory qualifications for renewing a grazing permit or lease are also unconstitutionally vague. Under section 406(j)(2), any applicant "must be determined by the authorizing officer"—the Government bureaucrat—"to have a satisfactory record of performance." What does the phrase "satisfactory record of performance" mean? What does it even refer to? It is clear from section 406(j) that the phrase means something other than, and in addition to, compliance with the terms and conditions of the existing permit or lease, since subsection 406(j)(3) separately makes such compliance a mandatory qualification. Here again, the Reid-Babbitt compromise would simply place completely arbitrary and unguided discretion in the hands of a bureaucrat, and would subject the rights of ranchers to this arbitrary discretion. This is a mockery of due process.

As these examples illustrate, the Reid amendment/Babbitt compromise would trample the legitimate constitutional rights of ranchers. For these reasons, and for the policy reasons that I and others have already voiced, I continue to oppose adoption of the Reid-Babbitt language to the Interior appropriations bill and urge my colleagues not to invoke cloture.

The PRESIDING OFFICER. Without objection, all time will be considered as having been yielded back.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report accompanying H.R. 2520, the Interior appropriations bill, 1993:

Patty Murray, Dianne Feinstein, Harry Reid, Harris Wofford, D. Inouye, Wendell Ford, Carol Moseley-Braun, Russell D. Feingold, Dale Bumpers, Robert C. Byrd, Claiborne Pell, Edward M. Kennedy, Paul Simon, Barbara Boxer, Howard Metzenbaum, Harlan Mathews.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the conference report accompanying H.R. 2520, the Interior appropriations bill, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

I further announce that the Senator from Kentucky [Mr. MCCONNELL] is absent due to an illness in the family.

The PRESIDING OFFICER (Mr. CAMPBELL). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 54, nays 44, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—54

Akaka
Biden
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Daschle
DeConcini
Dodd
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wofford

NAYS—44

Baucus
Bennett
Bingaman
Bond
Brown
Burns
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Dorgan
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Packwood
Pressler
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NOT VOTING—2

Durenberger
McConnell

The PRESIDING OFFICER. On this vote, the yeas are 54, and the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. PRYOR] is recognized.

Mr. PRYOR. Mr. President, may I inquire? What is the pending business before the Senate?

The PRESIDING OFFICER. The pending bill is H.R. 3167, the Unemployment Compensation Amendments of 1993.

NAFTA: GOOD FOR ARKANSAS, GOOD FOR AMERICA

Mr. PRYOR. Mr. President, not seeing the managers of the pending business in the Senate Chamber at the moment, it gives me great pleasure to rise and announce my support for a plan to keep America ahead in a world undergoing monumental change.

Today we see mind-boggling change in technology, strategic change in Government and industry, and extraordinary political change in foreign capitals all over the world.

The times we live in are very uncertain. They are even frightening. And I think America now has two choices: We can lead and benefit from world change, or we can hold back and lose as change passes us by.

Nowhere, I think, Mr. President, is that choice more clear than in international trade. And nowhere is the choice on trade more clear than in the North American Free-Trade Agreement, or NAFTA.

Mr. President, I have heard from hundreds of Arkansans from all walks of life about NAFTA. I have studied it as it impacts Arkansas and American business, and as it impacts Arkansas and American farmers.

As a supporter of American workers, as an advocate for a cleaner environment, and as one who has fought against unfair foreign trade practices, I today announce my support for this agreement.

My conclusion is that NAFTA on the whole is good for our State. It is good for our country. I believe NAFTA will create thousands of jobs in the long run. It will open vast markets to farmers and to businesses. And it will allow America to be more competitive in the global economy.

Accordingly, I intend to vigorously support NAFTA.

Let me say that NAFTA is not perfect. I believe NAFTA, as negotiated by the previous administration, did not go far enough on labor and environmental issues. The current White House negotiated with the Mexicans and the Canadians and got significant further protections for the environment and the American workers.

These so-called supplemental agreements on labor and environment are major factors in my support for NAFTA.

Also, Mr. President, I believe that while NAFTA will cause an overall increase in American jobs, there may be and could be a net loss of jobs in certain companies or localities, especially in the short run. I think we should discuss and face that fact.

For these dislocated workers, Labor Secretary Reich has put forward a comprehensive safety net program that keys off of the proven unemployed worker programs.

Ultimately, what has convinced me of NAFTA's worth at this time are the comments and the analysis I have received from and about the State of Arkansas.

Yes, there are those in our State who oppose NAFTA, but I think today a majority of—if I am not mistaken—of the many letters and comments that I have received in recent weeks have basically supported the agreement.

There are some real life examples of Arkansans who will benefit from NAFTA. Let us take the 600 employees in Rogers, AR, and the employees of the Daisy Manufacturing Corp. Their main product is the world famous Daisy air rifle—the BB gun. It is far superior to and price competitive with any air rifle made in Mexico. However, according to the Daisy people, the company currently sells nothing directly to Mexico due to market access problems.

Mexico is Daisy's biggest potential market, but it is off limits today for this particular company.

Under NAFTA, Daisy should be able to pursue that market aggressively, and it expects significant new sales. That should mean jobs and growth in Rogers, AR.

Next, take the case of the Arkansas rice farmers. Currently, rice exports to Mexico from the United States are hit by a 20-percent tariff on milled rice and a 10-percent tariff on rough rice. With NAFTA, these tariffs will be phased out over a 10-year period.

Last year alone, the United States exported an amazing 200,000 metric tons of rice to Mexico. Clearly, Mexicans recognize the quality of this rice, 40 percent of which is grown in our home State of Arkansas—a plus for America and Arkansas rice farmers.

Eliminate that 10 to 20 percent import duty on American rice, and it is not hard to see how American rice farmers will benefit from the level playing field between them and Mexico's 87 million consumers.

What about poultry, Mr. President? This is a major Arkansas product. Currently it gets a 20 percent import duty in Mexico. Let me repeat: On all of our poultry shipped to Mexico, there is a 20 percent duty imposed. NAFTA would totally eliminate that Mexican poultry tariff, opening the gates for the high-quality, efficient American poultry industry to penetrate the large Mexican market. That will mean jobs for Americans and economic stimulation and growth in our State of Arkansas.

In fact, Mr. President, almost all of the major agriculture commodity groups in our State of Arkansas have now endorsed this trade agreement.

A somewhat different example is the Arkansas retail giant which is based in Arkansas known as Wal-Mart. Given the chance, Wal-Mart can out-compete just about anyone. They have shown that in the past. But in Mexico, duties on United States goods that are generally 2½ times that of United States duties on Mexican products, and other Mexican trade barriers, stifle Wal-Mart's southward expansion.

I assume that the aggressive businessmen and women of Wal-Mart will take advantage of an open Mexican economy if NAFTA is agreed to. That means jobs for Wal-Mart workers and economic growth for Wal-Mart and its hundreds and thousands of American suppliers, not only all across the United States but across the world.

The stories of Arkansas employers and employees who say NAFTA will help them and benefit our State are numerous, impressive and, I add, they are persuasive. I am persuaded now that our State of Arkansas will eventually become a major winner as a result of the passage of the NAFTA agreement.

I am encouraged also as to environmental concerns, by the recent endorsements of NAFTA by such well-known environmental groups as the Audubon Society, the National Wildlife Federation, the World Wildlife Federation, and the Environmental Defense Fund.

Finally, I want to refute two very misleading things being said today about Arkansans, about NAFTA. The first says that NAFTA will allow unlicensed Mexican truck drivers to drive our highways in old, unsafe truck rigs that do not meet United States safety standards. Nothing could be further from the truth.

Under NAFTA, all Mexican and Canadian trucks and truckers will continue to be required to comply with all United States safety and environmental standards.

The second red herring says that NAFTA will permit poorly trained Mexican medical personnel to invade the American health care system.

Again, Mr. President, this is totally wrong. It is false. There is no truth to it. Under NAFTA, Mexican doctors, or any professional for that matter, must be licensed in and observe the standards of whatever State they seek to practice in. In addition, all Mexican professionals must obtain the appropriate United States visa before they enter the United States.

Mr. President, these are what I call scare tactic arguments against NAFTA that can lower the debate to the level of a brawl, based upon emotions and fear, rather than a thoughtful deliberation based upon fact and clear thinking. I hope that in the coming weeks, our NAFTA debate in the U.S. Senate, and in the House of Representatives, will rise to a level befitting a subject of such great national import.

I want to state my strong support for NAFTA. I think it is right for my home State; I think it is right for America, and I think it is right for the changing times that we face throughout the world.

Finally, I ask unanimous consent that a document entitled "Arkansas NAFTA Facts" and a list of several Arkansas organizations and companies that support NAFTA be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARKANSAS NAFTA FACTS

JOBS

Arkansas jobs supported by trade with Mexico and Canada—22,200.

EXPORTS

Arkansas exports to Mexico and Canada reached $540 million in 1992.

Arkansas was one of 17 states which ranked Mexico among their top three markets. Canada, our other NAFTA partner, was Arkansas' top export market; Mexico was third largest.

4,900 jobs in Arkansas in 1992 were supported by exports to Mexico. Over 50 percent of those jobs were created in the past five years, since Mexico began liberalizing its import regime.

Arkansas' merchandise exports to Mexico rose from $38 million to $118 million from 1987 to 1992.

By more than tripling its exports in 1992, Arkansas ranked among the top half of all 50 states for the percentage change in state exports.

Arkansas' exports to Mexico grew 214 percent from 1987 to 1992, 97 percentage points faster than the state's export growth to the rest of the world.

Arkansas' exports to Mexico in 1992 were broad-based, led by: transportation equipment ($40 million), food products ($17 million), agricultural corps ($15 million), chemical products ($9 million), industrial machinery & computers ($7 million), and primary metal industries ($6 million).

Arkansas boosted exports of a range of goods to Mexico over the five year period. Included were transportation equipment (from $1 million to $40 million), furniture & fixtures (from $0 to $1.5 million), and lumber & wood products (from $25,000 to $1 million).

In 1992, Arkansas' exports to Canada totalled $421 million. Arkansas' exports to Canada more than doubled over the past five years, during which the U.S.-Canada Free Trade Agreement was implemented (January 1, 1989).

ARKANSAS SUPPORTERS OF NAFTA

AT&G Company, Inc., AZ Industries, Inc., Aermotor Pumps, Inc., Allen Engineering Corporation, Alliance Rubber Company, Alumax Aluminum Corporation, Aluminum Company of America, Amoco Foam Products Company, Anthony-Higgs Lumber Company, Arkansas Best Corporation, Arkansas Bus Exchange, Arkansas Eastman Division, Arkansas Farm Bureau Federation.

Arkansas Power & Light Company, Arkansas State Chamber of Commerce, Aromatique, Inc., Associated Industries of Arkansas, Inc., Baird Manufacturing, Inc., Baker Car & Truck Rental, Baldor Electric Company, Bancroft Cap Company, Belden Wire, Bemis Company, Inc., Benton Veneer Company, Best Foods, Division of CPC International.

Bibler Brothers, Inc., Boston Industrial Products Division DANA, Branscum Harness Lumber Company, Carco Transportation Systems, Carlson Company, Inc., Central Moloney Transformer Division, Century Tube Corporation, Colson Caster Corporation, Cooper Tire & Rubber Company, Cope Plastics, Inc., Delta Consolidated Industries, Inc., Earle Industries, Inc., Firestone Tube Company.

FPEC Corporation, Garreco, Inc., George Koch Sons, Inc., Georgia-Pacific Corporation, Global Manufacturing, Inc., Great Lakes Chemical Corporation, Halstead Metal Products, Hitech, Inc., Hot Springs Packing, Hudson Foods, Inc., Innovation Industries, Inc., International Paper Company.

Jason International, Inc., J.B. Hunt Transport, Inc., L.A. Darling Company, Magnetek, Inc., Mazander Engineered Equipment, Mid-South Engineering Company, Moll PlastiCrafters, Moore Forest Products, Inc., National Filtration Corporation, Morac Company, Inc., Nucor Yamato Steel, Okla Homer Smith Furniture Mfg. Company, Orbit Valve Company.

Phelps Industries, Inc., Phillips Litho Company, Inc., Polyvend, Inc., Potlatch Corporation, Power Technology, Inc., Producers Rice Mill, Quest Corporation, Riviana Foods, Inc., Rose Law Firm—Charles Baker, Southwestern Bell Corporation, Speciality Rice Market, Strong Systems, Inc.

Sugar Hill Partners, The Alan White Company, Tri-State Iron & Metal Company, Tyson Foods, Inc., Union Camp Corporation, Weldon, Williams & Lick, Inc., Weyerhauser Corporation, Whirlpool Corporation, Winrock Enterprises, Inc.

Mr. BRADLEY. Mr. President, I would like to say how significant I believe the speech that we have just heard is for the prospects for NAFTA. The distinguished Senator from Arkansas is known as someone who carefully reviews the issues and all of the facts and arrives at a considered judgment. His view really does influence people far beyond this Chamber. I thank him very much for his statement.

Mr. PRYOR. I thank my friend from New Jersey, my colleague who I was privileged to enter the Senate with in 1979.

Mr. BRADLEY. Mr. President, nearly 2 months ago, I came to the Senate floor to raise an alarm about the way we spend taxpayer money. At that time, we were all making it very plain that this summer's budget package did not go far enough to cut Federal spending. "More cuts," we said; "less spending," we said—a sentiment with which I agreed.

I knew, though, that making real cuts would not be possible unless we could agree on some kind of guideline that would steer our spending decisions. Without a larger definition or principle, we could argue forever about the essential value of each individual program, making it appear as if every dollar in the Federal budget were absolutely indispensable.

So, early in September I suggested that the remaining appropriations bills before the Senate be considered in the light of two specific principles: One, does the proposed spending provide something that is in the general interest and is essential in American public life, and two is taxpayer funding the only and most cost-effective way that the proposal can be financed?

We have almost finished our work on appropriations bills. We are not, Mr. President, flush with savings generated by successfully applied principles—mine or anyone else's. We have instead dutifully responded to our unique Pavlovian bell, the one that rings "business as usual." We have enacted routine appropriations bills, routinely passing the buck to the next generation because we would not live up to the tough choices of our own generation.

In the course of the last 2 months, I offered several amendments that I felt would help steer us toward a more rational stewardship of our constituents' money. I proposed that we cut funding for wasteful coal liquefaction research and Federal timber subsidies; for unrequested Army Corps of Engineers projects; for the gas turbine-modular helium reactor, a nuclear reactor whose construction is opposed by the National Academy of Sciences; for unspecified Army National Guard aircraft; and that we eliminate the Selective Service System, a dinosaur in the post-Soviet world.

Slightly more than $500 million in cuts, $500 million in taxpayer money that failed the test of principles I had established, $500 million in taxpayer money I was—and am—sure would be better used to reduce our massive deficit.

With one exception, these amendments failed. There were arguments against each, to be sure, and interests that felt threatened. But these amendments did not fail because they were actually in the general interest or because taxpayers were the only source of financing; they failed because business as usual is easier than good business, tough choices, and sound fiscal policy.

Several other Senators offered spending cut amendments as well. I was not the only one. There were proposals to reduce funding for the space station, the Market Promotion Program, *Seawolf* submarine procurement, and so on. A conservative estimate shows that amendments totaling $5.8 billion in real cuts in fiscal year 1994 were offered to the appropriations measures. I supported 90 percent of the cut votes, amounting to $5.2 billion of the $5.8 billion total.

Most of those amendments offered by other Senators to cut the budget were defeated as well. Of the $5.8 billion in cut amendments offered to the 13 regular appropriations bills, we succeeded in striking only 60 million dollars' worth of spending. In other words, we only passed 1 percent of the spending cuts that were proposed in the Senate on appropriations bills—only 1 percent.

More cuts, we said. Less spending, we said. More spending, we voted. Less cuts, we voted. And while no one is faultless, the record shows very plainly that Democratic Senators supported more spending cuts than Republican Senators.

And yet, despite my disappointment, I have found that it is not so easy to stop spending taxpayer money. The appropriations process, like Plato's cave, presents us with little more than shadows at which to take aim. Most of the spending occurs behind closed doors, and by the time the decisions emerge, opportunities to make real cuts are more illusory than real.

Before an appropriations bill gets to the floor, about the only chance a noncommittee Senator has to impact the process is during consideration of the budget resolution. But what kind of impact is this?

A Senator can offer an amendment to lower broad aggregates of spending, claiming elimination of honey subsidies or the space station or anything. You reduce the nondefense discretionary aggregate and say, well—what I mean to imply by that is that I am after the honey subsidy. But it does not really matter what you say because no funds are spent pursuant to the budget resolution. The best we can get is a lowered set of aggregates. You cannot cut a specific program, however wasteful, at a budget resolution level. You are simply reducing the overall aggregate.

The real decisions and the real tradeoffs come when the 602(b) allocations are made to the appropriations subcommittees. At that point anything could happen—and the decisions might or might not be based on a rigorous comparison of priorities, the assumptions of the budget resolution, or directions offered by the President's budget.

If you do not sit on the Appropriations Committee you just do not know how or why this program or that program got a 602(b) allocation or a 302(b) allocation; you do not know.

Finally, the appropriations bills come to the floor in a form, shaped by the Appropriations Committee. An outsider might think this is where the action can really begin. When it comes to the floor, you can stand up like many of us did over the last several months and propose to eliminate that wasteful program. But the outsider who assumed that would be wrong. First, you have to decipher the various codes used to identify programs and decide which lack merit. It is not always easy in an appropriations bill to tell which programs are which. Even if you are able to do that, however, there is really no way to cut these programs, no way.

You are locked into a vicious circle. If your amendment eliminates a specific program account, your opponents claim that unless you reduce the 602(b) allocation as well, your proposed reduction can just be siphoned off into other programs under the subcommittee jurisdiction. In other words, you can come out here and vote to cut honey subsidies or whatever, but that does not mean that you are going to eliminate the honey program. It just means the money is then available for the subcommittee to allocate in another way, maybe even to that program.

So you try to lower the 602(b) allocation and reduce the discretionary caps. You are then greeted with a point of order, demanding 60 votes as payment for trying to alter the allocations that unless you are on the Appropriations Committee you never voted on in the first place. A real catch 22. Or, given the way we spend money around here, a real catch 22 billion.

Perhaps it should be no surprise then that we could only cut $60 million from the regular appropriations bills. And lest we count that savings too fast, we should not forget that it could reappear in conference reports.

As long as the House conferees wield a larger allocation than you do in the Senate you cannot be sure that the cuts that you have made and approved will even stick. I even found cases this year where the Senate zeroed out programs and the conference came out with funding levels higher than the House figures.

Let me repeat that. The Senate zeroed out a program and the conference committee came out with a number higher than the amount that the House even approved.

In this U.S. Senate, in this Congress you can zero out a program and you can come back with more money than even the one body that approved the spending requested.

This is not a happy sequel to this summer's tough talk about spending cuts. Each year about this time we make a tally and see how we did. We have been failing for a long time. We have failed again.

Perhaps we have one more chance. We will soon consider a package of rescissions offered by the President. Several Members of the Senate, myself included, are anxious to work on this package. Although it would be better to tackle the spending headon than to pound on the barn door with a rescission package after the spending horse has already galloped away, this effort is welcome.

I am hopeful, but not optimistic, for the prospects in this rescission bill. There is simply too much evidence of our willingness to look the other way. We have looked the other way and accepted failure too many times for me to expect new resolve and stronger will now.

The experience of the last 2 months tells me that the time has come for a new wave of budget reform. We need to vote on national priorities and budget resolutions, but we also need to be able to take meaningful votes on individual programs.

Right now, the budget process, the appropriations process, and the authorizing committees work at cross purposes, always tending toward higher spending, business as usual, and meaningless votes. We need to get them working together, toward our common purpose of reducing the deficit and building economic security for all Americans.

Mr. President, last, we have to keep in mind that discretionary appropriations are just a small part of that total picture—a $1.5 trillion budget, $750 billion for entitlements, $300 billion for defense, $200 billion for interest, and you end up with a little under $250 billion for discretionary.

Mandatory spending programs—entitlements—now account for roughly half of all Federal spending, and tax loopholes add tens of billions more to the deficit every year. We all know that we have to come to grips with entitlements. That means Medicare, it means Medicaid, it means Social Security, it means civil service and military pensions, and it means special interest tax breaks in the Tax Code. Everything, Mr. President, has to be on the table if we are going to cut spending.

You cannot simply say we will just do appropriations or we will just do entitlements. You also have to say we will also do that spending we do in the tax committees for example by collecting less tax from you if you rent tuxedos and get rapid depreciation.

But before we lower health care subsidies for seniors, ask more of our civilian and military retirees, or ask for restraint in tax expenditures, we have to show the American people that we can eliminate wasteful, inefficient, and obsolete spending in the appropriations process.

How high does our national debt have to go before we are willing to succeed in cutting spending? Well, if that debt goes much higher, Mr. President, we will have to live with our failures for generations to come.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. EXON] is recognized.

Mr. EXON. Mr. President, I want to compliment my friend from New Jersey for his outstanding remarks. He comes right to the point, as he usually does.

I would simply say to the Senator from New Jersey that he has been talking about the evils that have been evident in the system for a number of years and that is how much legislation and how much spending is agreed to frequently in conference between the House and Senate. Laws are written there that never passed either body, appropriations are approved there that never come from either body.

It was a great Senator from the State of Nebraska, George Norris, who many, many years ago fought the battle for reform. He always felt that one of the biggest problems that we had in this body was just what the Senator from New Jersey is talking about, and that is the conference committees working their own will in sometimes strange and unusual ways, maybe sometimes for the good rather than the bad. But he thought that was an evil in our system.

I do not know how we are going to correct it, because I am not sure we want to change things dramatically. But the Senator's point is well taken.

In fact, former Senator George Norris, of Nebraska, felt so strongly about this that he was the father of the one-house system in Nebraska. In Nebraska, we are the only State in the Union that has a single house legislature. And the reason that George Norris created that, among other reasons, was to eliminate the evils that he saw taking place in the conference between the House and the Senate many, many, many years ago.

I thank the Senator for bringing it up.

UNAUTHORIZED DISCLOSURES

Mr. EXON. Mr. President, I rise on the floor of the U.S. Senate to discuss a very important and sensitive matter—the unauthorized release of national security information by someone in our Government.

This morning's Washington Post contained a column by Mr. D. Robert Novak, entitled "Allegations About Aristide."

Mr. President, I ask unanimous consent that the article be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. EXON. Mr. President, I am in an awkward position because I cannot, and will not, confirm, deny, or verify one single word in this column. Suffice to say, not a sentence, word or punctuation in that article came from me in any form and I had no staff present at the meeting described.

Nevertheless, it appears that an unauthorized leak of possibly highly classified national security information may have taken place. For the record I emphasize again that I was not the source of any information which led to this column or any other report in the news media about the classified CIA briefing held here in the Senate last week. I never have, and never will, reveal classified information.

As chairman of the Senate Subcommittee on Nuclear Deterrence, Arms Control and Defense Intelligence, I have been privy through the years to most of our Nation's most closely held secrets. I feel distressed making a statement ensuring everyone that I was not the source of a classified leak; however, the average reader of this morning's Washington Post column might have the impression that I was the source and I feel compelled to dispel any such notion.

Mr. President, the Standing Rules of the Senate provide very specifically for the protection of classified and confidential information. I quote from rule 29, paragraph 5 of the Standing Rules of the Senate:

> Any Senator, officer, or employee of the Senate who shall disclose the secret or confidential business or proceedings of the Senate, including the business and proceedings of the committees, subcommittees, and offices of the Senate, shall be liable, if a Senator, to suffer expulsion from the body, and if an officer or employee, to dismissal from the service of the Senate, and to punishment for contempt.

Since I do not know exactly what was leaked—whether classified information itself was leaked or simply the impressions of those present or a list of Senators present, it is hard to know how severe this episode was. The disclosure of classified information is covered not only by the Senate rules but also by Federal statutes, namely United States Code, title 18, section 798. The leak of actual classified information is an offense for which there is no ambiguity regarding whether or not laws and rules were violated.

Nevertheless, even if classified information, per se, was not leaked, I believe that the Senate rules still prohibit what may have happened. The Senate rule that I cited earlier, was amended just 1 year ago to further tighten the Senate's procedures against the disclosure of confidential business or proceedings of the Senate so as to include all business and proceedings of the Senate, including briefings such as the one given on Haiti. In this sense, the word confidential does not necessarily correspond to the standard levels of classification in the national security sense as we know them—namely confidential, secret, and top secret.

Rather, confidential in the sense of Senate rule 29, paragraph 5, can refer to information which simply should not be disclosed whether or not it falls under the strict classification guidelines as enunciated by the Department of Defense.

Either way, the disclosure of information from last week's briefing in my view constitutes a violation one way or the other of at least the Senate rules.

Mr. President, something very unethical and in violation of the Senate rules has taken place with regard to the leak by some person or persons which led to not only to this morning's Washington Post column but also other occurrences during the intervening period between the CIA briefing and today.

I received several calls from reporters questioning me about what took place during the CIA briefing. Several of these calls were from reporters I did not know and some I have not yet come to know and, for the most part, had not even heard of before. It is obvious to me that some sort of concerted effort was undertaken by some person or persons to not only alert the media to what went on during the CIA briefing but also to advertise the names of the Senators who attended.

As U.S. Senators, we have taken an oath and have a solemn responsibility to work in concert with whatever administration is in power in order to pursue the national security objectives of the United States. We are given a trust. Congress and the executive branch each have responsibilities in this area. While the President and the executive branch execute our foreign and defense policy, the Congress under our Constitution has a collaborative role to play.

During the 1970's, the rules of the game were changed to involve Congress more intimately in the execution of our national security policy following disclosures of intelligence activities run amok during an earlier time. Congress insisted and passed laws to involve itself further in these areas as a check and balance against a potential runaway President and administration. With that increased involvement, and the trust placed in us, comes a responsibility. That responsibility is to safeguard the classified information which we ourselves have insisted we receive in order to become a fuller partner in these policies.

Mr. President, all of this background I have provided is a preface to my main reason for coming to the Senate floor today. I do not know for sure who leaked information about last week's CIA briefing. I do not even know for sure if the leaker was a member of the legislative or executive branch of our government.

But I want to say here and now, very loud and very clear, that this practice of disclosing classified information must stop and must stop now. The reasons for any such leaks do not interest me in the slightest. Apparently some people leak in order to further their own side of a policy argument. Others may leak to exonerate themselves for whatever reason, possibly including publicity seeking.

In short, the reason makes no difference. The act of leaking is the problem and it must stop.

I ask the Senate leadership to initiate whatever steps may be necessary in an effort to determine who caused this leak of classified national security information. In doing so, I recognize that our Government's record of tracking down and punishing leakers have been very poor, primarily because the act of leaking is a clandestine one and also because the media insist on protecting its sources. And I can understand that.

Nevertheless, I believe the leadership of the Senate should launch an appropriate investigation to attempt to find out who violated Senate rules in this regard. Even if we are not successful, hopefully the enforcement of Senate rules will act as a deterrent to future such violations.

Again, Mr. President, this is a very serious matter and I believe that it is important for us to get to the bottom of it, if we can.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Oct. 28, 1993]

ALLEGATIONS ABOUT ARISTIDE

(By Robert D. Novak)

Hearing shocking allegations about Jean-Bertrand Aristide during a CIA briefing of 13 U.S. senators, Sen. James Exon of Nebraska was so exercised that he asked: Have President Clinton and Secretary of State Warren Christopher been told that the exiled Haitian president's past predicts a violent future?

Administration officials present Oct. 20 said they did not know. Exon, one of three Democrats present, sent Wendy Sherman, assistant secretary of state for legislative affairs, to find out. She returned shortly to say yes, Clinton and Christopher had heard it all, but added there was a "dissenting" view to what the senators had just been told.

CIA briefer Brian Latell, a 30-year career officer, bristled. "There is no dissenting view within the intelligence community," he said, rejecting claims that the Defense Intelligence Agency takes a friendlier view of Aristide.

Latell's certitude generated unease in the Democratic cloakroom. The senators' opinion of Aristide has been so changed that willingness to send U.S. troops to Haiti to restore him is radically reduced. There is also concern about Bill Clinton's continuing blank-check endorsement of Aristide in the face of his own intelligence community's damning assessment.

The extraordinary briefing was insisted on by Sen. Jesse Helms, senior Republican on the Foreign Relations Committee. The majority and minority leaders, George Mitchell and Robert Dole, agreed to call the CIA. The small turnout (not including Mitchell) is partly explained by the fact that senators were notified at 5:30 p.m. that the event was starting immediately in secure room S-407 at the Capitol.

Latell began by documenting the case that Aristide, a defrocked Catholic priest, has psychological disorders and has used 13 kinds of medication. He next gave details of how Aristide, in seven months as president, incited mobs to "necklace" enemies—put burning rubber tires around their necks. He then listed the chain of command, starting with Aristide, that ordered the jail-cell murder of political foe Roger LaFontant on the night of the military coup that deposed the president of Haiti.

But what was most stunning was Latell's projection for the future. The CIA briefer is reported by one participant as predicting this about an Aristide restoration: "He will rule with violence. He will settle scores."

Exon and Republican Sen. Larry Pressler, political centrists, expressed outrage over the U.S. government putting its power behind such a man. But nobody seemed as affected as Democratic Sen. John Kerry of Massachusetts, who came into the Senate eight years ago as a Vietnam War combat-veteran-turned-dissenter and has become a thoughtful student of foreign policy.

When Kerry first heard Latell talking about Aristide's alleged psychological disorders, the senator looked unimpressed. But as the allegations rolled on, the smile left his face. On the record, he told me that "legitimate questions were raised" about U.S. policy.

Senators of both parties worry why Clinton did not react more like John Kerry. On his morning jog Saturday, Clinton said Aristide is fit to govern Haiti—a view he said was backed by "everyone else in the administration working with him." The president then went on to denigrate CIA information as "not always accurate." The next morning on national television, Vice President Al Gore extolled Aristide as "reliable" and "very thoughtful."

That contrasts with the State Department position, in both the Bush and Clinton administrations, that Aristide is violence-prone and certainly no democrat but should be restored for the sake of democracy. Alexander Watson, the newly installed assistant secretary for Latin America, during the Oct. 20 briefing defended backing Aristide because he was "duly elected" and "has to be supported."

The State Department formulation is subject to legitimate debate. The president's open-ended endorsement of Aristide, sounding like a political backslap of an errant White House aide, is not.

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. KOHL] is recognized.

THE YOUTH HANDGUN SAFETY ACT

Mr. KOHL. Mr. President, I rise today for two reasons: First, to discuss a tragedy of epidemic proportions, namely the explosion of handgun violence, especially among our youth; and second, to tell the Senate that last week the Juvenile Justice Subcommittee took a step toward curbing this bloodshed by endorsing the Youth Handgun Safety Act.

From Wisconsin to Washington and from Miami to Marin, we are witnessing an eruption in the number of children killing people—and being killed—with handguns. We need only to open a newspaper any day to find the terrible proof: A 15-year-old Madison girl shooting her teenage boyfriend; the drive-by shooting of a 12-year-old Milwaukee boy; an Anacostia student shooting his 13-year-old classmate in the locker room of their junior high; a 4-year-old D.C. girl killed in the crossfire of a brutal gang shootout. The list goes on and on.

The national statistics on youth violence are equally disheartening. In 1984, a total of 1134 juveniles were arrested for murder. But by last year, that number had gone up 2½ times to 2829. According to the Justice Department, the vast majority of these murders were committed with firearms, and most were committed with handguns.

The numbers for juvenile weapons arrests are equally discouraging. In 1982, 21,122 juveniles were arrested on weapons charges nationally. But by last year, that number has spiraled to more than 46,000. Again, guns were involved in the vast majority of these arrests, and handguns in most of them.

Wisconsin's increases in these categories were even worse: My State went from 12 juvenile murder arrests in 1982 to 94 in 1992. That is not only unacceptable, Mr. President, it is unconscionable.

It is not the kind of world that our children deserve. It is no the kind of world we ought to give them.

But we can begin to change that world. Not easily. Not quickly. Not painlessly. Not with a single simple solution. But we can begin to change it.

To start, we need new laws, stronger as well as enforceable, to restrict the flow of handguns in our communities and to our children. To that end, my subcommittee last week took a step in that direction: It favorably reported the "Youth Handgun Safety Act." Our bill would make it a Federal crime to sell or give a handgun to minors under the age of 18, and for a minor to possess a handgun under most circumstances. I plan to offer it as an amendment to the anti-crime legislation that we will begin to debate next week. The measure is supported by the President, the Attorney General, police organizations, and gun control advocates. Even the NRA is supportive.

We know that the proposal by itself will not end youth violence.

How can it when so many of our children come from broken homes? When so many are raised in front of TV sets, which teach them that violence is a normal, natural, appropriate way to act? When guns and crime and violence are seen, by some, as the only way to get ahead? When some parents can not or do not discharge their primary responsibility of supervising their children.

We know there are many causes for this problem. And we need many different initiatives to address it.

But our Juvenile Justice Subcommittee held hearings on kids and guns in Washington, Wisconsin, and Arizona. It heard from a wide array of witnesses: teachers, doctors, ministers, police, victims, and teens. And, Mr. President, the verdict was unanimous: kids and handguns do not mix.

Even some gun manufacturers agree. The NRA told my subcommittee that it is "generally supportive of the [bill's] approach." And the retired president of Browning Arms, Harmon G. Williams of Utah, went further: he now supports a ban on handguns for juveniles.

Let me read from an article in the October 14 New York Times:

> For most of his life [Williams] said, he viewed such measures as "absolutely unnecessary," but now supports outlawing handguns for minors. "All of a sudden," he said, "we're looking around at what's happening—all this terrible violence—and thinking, things have gotten out of hand. Something has got to be done."

Mr. President, Mr. Williams was absolutely right. Something has got to be done. That something—or at least a start—is the enactment of the Youth Handgun Safety Act.

Because unless we act now, the future we are creating is one that too many of our children will not live to see. And it will also be a future we will not want to live in.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from Arizona.

Mr. DECONCINI. Madam President, I want to say to the Senator from Nebraska, having read the article he pointed out, that it is most discouraging that someone, indeed, has obviously leaked that information. I went to that briefing that he was at. I think it was 4 o'clock at first, then 4:30. They postponed it, and then when they finally had it, I could not go.

I witnessed the same briefing as the Senator did on the same subject matter. So I know the significance of the information that was given. I also know from working with the Senator from Nebraska, there is nobody in this body who would ever even suggest that he would take any impropriety toward any information.

The article in the paper that you point out, certainly might be construed otherwise. I think it is most unfortunate, first of all, that anybody—staff or Member—would disclose the information that was given in that briefing, or any other briefing, and then to be quoting the Senator who did not even talk to the writer of the article is very, very disturbing. I know where the Senator stands on such issues.

GRAZING

Mr. DECONCINI. Madam President, I want to spend a few minutes regarding the vote that we just had on the conference report. Where we tried to end debate and impose cloture. I rise today to set the record straight on a few things that have been said over the days and weeks of this debate.

It is apparent that many of my colleagues have not taken the time to read and fully understand this legislation; that is, the grazing reform part of the legislation. My friend from Wyoming, Mr. WALLOP, has referred to the opposition of State water engineers.

I am going to have printed in the RECORD a letter from the director of the Arizona Department of Water Resources, Ms. Rita Pearson, and my response to it. The letter does, indeed, raise some very fundamental questions that deserve response. It is unfortunate that those who sought an opinion from Ms. Pearson chose only to provide portions of H.R. 2520.

I must guess that her response would have been very different if the entire bill and relevant portions of the legislation, as amended, and the Federal Land Policy and Management Act, as amended, would also have been provided to her. I know her. She is a very competent lawyer in water, as well as other issues, and she is very thorough. In this case, she did not have all the information. She only had part of it.

The first question raised is if rangeland reform applies exclusively to BLM land and if "public land" refers only to BLM lands.

The amendment contained in H.R. 2520 applies only to the Department of the Interior. Page 62, section 317 of the conference report specifically directs that:

> Title IV of the Federal Land Policy and Management Act of 1976 is amended by adding the following sections;

Title IV, of FLPMA deals with grazing exclusively. In addition, section 406 of the conference report—entitled "Rangeland Reform"—specifically directs the Secretary of the Interior to promulgate regulations. It is without doubt that the rangeland reform only applies to the Department of the Interior, Bureau of Land Management. The

Secretary cannot direct and promulgate regulations for other Cabinet and other agencies.

I would like also to respond to another very important question raised in this letter: Does public land refer only to BLM land?

The Federal Land Policy and Management Act of 1976 provides a definition of public land.

> Section 103(e): The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership.

The answer is clear: This reform applies only to BLM land and public lands are clearly defined as those managed by the Bureau of Land Management.

A second question that deserves an answer is: Does the law need to be clarified so that the water rights currently existing or to be developed in association with BLM land must be established pursuant to State law?

Good question, and I have a good answer.

Once again, if all the appropriate records and laws pertaining to the issues are examined, it is clear that the Federal Land Policy and Management Act of 1976, Public Law 94-579, provides specific directions.

Title VII of FLPMA, "Effects on Existing Rights," provides specific language to address the Federal responsibility as it pertains to water on the public lands managed by the BLM.

Section 701(g) provides that:

> Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States, or (2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests or rights in water resources development or control;
>
> (3) as displacing, superseding, limiting or modifying any interstate compact or the jurisdictional responsibility of any legally established joint or common agency of two or more States or of two or more States in the Federal Government.

Madam President, under this compromise action concerning water rights, which will be before us when this conference report returns to the floor, future actions on water rights will be taken in concert with State laws. That is so clearly stated in FLPMA. Secretary Babbitt has provided a letter to that effect, also, which has been included in the RECORD, and I will include another copy which I would like to have attached to my remarks.

The Federal Land Policy and Management Act provides legal recognition of the State's responsibility and jurisdiction over water issues. Period. Paragraph.

I share the concerns expressed over water issues in the West. This Senator has fought long and hard for Arizona's water rights. It is fair and responsible for the State water agencies in the West to be concerned about our water rights. It is especially so given that it appears that incomplete information has been provided for their review.

The definitions and the specific language contained in H.R. 2520 and in the Federal Land Policy and Management Act of 1976 clearly define that the reform applies only to public lands managed by the Bureau of Land Management.

In addition, State water rights and State water law will be adhered to by the Secretary of the Interior. For the information of my colleagues, FLPMA addresses the multiple use of public lands. It has sections dealing with rights of way, water rights, grazing, and a host of other multiple-use issues. Any one line of one of these sections taken out of context could be construed as having serious effects on other multiple-use activities. We who are lawyers, as well as those who are not, and those who write laws, know that the whole context of a law must be taken into consideration.

Additionally, FLPMA has been the law of the land since 1976. With the exception of title IV—range management—the law will not change.

I am chagrined at the misrepresentation of the facts of this compromise. And, I would encourage my colleagues to examine the Reid compromise closely, but also look at what the compromise amends. You cannot accurately assess the effects of this compromise without understanding the very basic facts I have laid out.

Scare tactics and partial information are creating an inaccurate perception of this compromise. There is a lot of apprehension based on uninformed assumptions, and I am sorry to see the seeds of fear being planted in my constituents and other Western citizens. I would have hoped that opponents of this compromise would have looked at the whole picture when such an important issue as grazing reform and the whole Interior and related agencies appropriations bill are in jeopardy.

Mr. President, I represent my whole State: Ranchers, Federal employees whose jobs depend on passage of this appropriations measure, and others who use or enjoy the public land in ways other than grazing. The best thing that we can do for all of our constituents is to support this compromise and vote for passage of this conference report.

Finally, Madam President, I ask unanimous consent to have printed in the RECORD a letter from Peterson Zah, President of the Navajo Nation, describing the importance to the Nation of the passage of this appropriations measure and encouraging Senators to vote for cloture.

I represent my whole State, Madam President, ranchers, Federal employees, native Americans, and others who benefit from this bill, and it is a bill which ought to be passed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARIZONA DEPARTMENT
OF WATER RESOURCES,
Phoenix, AZ, October 25, 1993.

Re: H.R. 2520; Interior appropriations.

Senator DENNIS DECONCINI,
Washington, DC.

DEAR SENATOR DECONCINI: I recently obtained a copy of that portion of HR 2520, the Bureau of Land Management (BLM) Grazing Bill, containing language affecting water rights on BLM lands. The water rights language raises several issues I hope will be addressed prior to action on this bill.

First, it is not clear from the portions of the bill I reviewed that the rangeland reforms apply exclusively to BLM lands. These provisions do not apply to state public lands and an ambiguity should not be created regarding this application. If it is not already clear from a provision defining "public lands", it should be clarified that "public land" referred to in section 406(d) and 406(i)(2) refers only to BLM lands.

Second, it should be clarified that the water rights currently existing or to be developed in association with BLM lands must be established pursuant to state law. Any doubt should be eliminated regarding the continuing application of state law to water rights on BLM lands.

Third, the term "grazing-related actions" needs to be defined and the location of these actions should be limited to "on public lands".

To accommodate these concerns, I suggest changes indicated below. Deletions are indicated by brackets and new language by italic.

SEC. 406(d) WATER RIGHTS.—Subject to [valid] water rights *established pursuant to state law* existing on the date of enactment, [no] water rights *on public lands* shall be obtained *pursuant to state law* for grazing-related action on *such* [public] lands [except] in the name of the United States.

Section 406(i)(2) The permittee or lessees may hold the title . . . to protect the public interests for multiple use of rangeland ecosystems. *For water rights developed pursuant to Section 406(d)* the United States shall assert its claims and exercise its rights to wager developed on public lands *pursuant to state law* to benefit the public lands and resources thereon.

Finally, while these comments are limited to concerns about the language used in water-related provisions of H.R. 2520, I believe they are indicative of a general concern that additional review and comment by western states is necessary before this legislation is formally adopted. I would like to offer my assistance to you, or your staff, in any efforts to consider the effects of this proposed legislation on our state, and encourage you to support current efforts to stop this legislation until it is properly amended.

Thank you for your consideration of this matter.

Sincerely,

RITA P. PEARSON,
Director.

U.S. SENATE,
Washington, DC, October 27, 1993.

Ms. RITA PEARSON,
Director, Arizona Department of Water Resources, Phoenix, AZ.

DEAR RITA: Thank you for your letter of October 25, 1993 concerning the conference report on H.R. 2520, the Fiscal Year 1994 Interior and Related Agencies Appropriations bill.

Your letter raises several questions concerning the possible impacts of provisions known as the "Reid compromise" on grazing reform contained in the bill. From the questions you raise in your letter, I can only conclude that you were not furnished the complete set of records on the subject.

On page sixty-two of the Conference Report accompanying H.R. 2520, there is an amendment to the Federal Land Policy and Management Act of 1976 (FLPMA), PL 94-579. The amendment specifically amends Title IV—Range Management of FLPMA. In addition, FLPMA contains language (Section 103) which further defines that the Act applies only to public land. The definition of public lands contained in FLPMA, is as follows:

Section 103. (e) The term "public lands" means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership.

As you can see, both the "Reid compromise" and the FLPMA clearly limit action on grazing reform to the BLM and to public lands administered by the BLM.

The other question you posed is whether the water rights currently existing or to be developed in association with BLM lands must be established pursuant to state law. Title VII of FLPMA—Effects on Existing Rights—provides specific language to address the federal responsibility as it pertains to water on the public lands managed by the BLM. Specifically, Section 701 (g) of FLPMA, provides that:

Section 701. (g) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States—

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two or more States and the Federal Government;

When FLPMA was passed in 1976, water rights were a major issue throughout the West. The questions concerning Federal and State water law were addressed through the inclusion of Section 701(g).

Secretary Babbitt, in response to a letter from Governor Roy Romer of Colorado, also addresses the issue of water rights, including Section 701(g) of FLPMA. I have enclosed the Secretary's letter.

I appreciate your input on this issue. Unfortunately, the questions you raised have not been adequately addressed in the debate on this compromise and I am pleased to have the opportunity to correct some of the misunderstandings surrounding this amendment. I am confident that given all the information on the proposed changes you will conclude that valid existing water rights in Arizona are not in jeopardy.

As you know, water is very important to Arizona as is the multiple-use of our public lands. Please feel free to contact me if you have any additional questions or need further information.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

THE SECRETARY OF THE INTERIOR,
Washington, October 28, 1993.
Hon. ROBERT C. BYRD,
U.S. Senate, Washington, DC.

DEAR SENATOR BYRD: As consideration of the grazing reform compromise adopted by the Conference Committee continues, I would like to clarify certain provisions included in that compromise. These clarifications pertain to four important issues addressed in the legislation: grazing-related water rights; range improvements; subleasing; and prohibited acts.

Water Rights.—Opponents of the Conference Committee compromise grossly mischaracterizes the provisions relating to water rights. A detailed response is contained in the attached letter to Governor Romer. I would highlight these points: First, the policy change would be prospective only and would not affect existing property rights. Second, it simply aligns the BLM position on this issue with existing Forest Service policy. Third, these provisions affect only range-related water rights on BLM public lands used for grazing. Therefore they have no application outside the Western public lands states. The language and context of those amendments makes that unmistakably clear; it is simply unreasonable to construe them otherwise.

Range Improvements.—New section 406(1) addresses the issue of range improvement ownership. The Conference Committee compromise provides that the United States would have title to all permanent range improvements constructed in the future on public lands. Title to temporary range improvements used primarily for livestock handling or water hauling would be retained by the permittee or lessee. The Conference Committee compromise would not change the agreements currently in effect or affect the ownership of existing range improvements. Here too, in other words, the policy change would be prospective only and would not affect existing property rights. A permittee's interest for contributed funds, labor, and materials would be documented for proper credit in the event the land is disposed of or the permit or lease is subsequently issued to a different party. The proposal is similar to existing Forest Service policy with respect to range improvements. It applies only to range improvements on public lands administered by the BLM for grazing purposes; it does not affect hydroelectric developments, electric power lines, natural gas pipelines, or other permanent improvements unrelated to grazing, nor to improvements on Forest Service lands. Again, the language and context of these amendments make that unmistakably clear, it is simply unreasonable to construe them otherwise.

Subleasing—New section 406(a) imposes a leasing surcharge for authorized leasing of base property to which public land grazing preference is attached or authorized grazing of livestock owned by persons other than the permittees or lessee. I will construe this provision to recognize and leave unchanged the current Bureau of Land Management practice which allows subleasing to family members when they are operating within the family operation or are assuming control of the family operation.

Prohibited Acts—New section 406(1) requires the Secretary to promulgate regulations to make violation of the Wild Horse and Burro Act, the Endangered Species Act, and federal and state laws concerning "conservation, protection of natural or cultural resources, and protection of environmental quality" prohibited acts. Upon expiration of appeal or review periods following a conviction for violation or administrative finding of violation of these laws, the authorized officer may consider cancellation or suspension of the permits or leases where the violation has occurred on public land or is related to authorized grazing of public land. The proposal would adopt language that existed in the BLM's regulations prior to 1984, and is compatible with existing Forest Service policy. It deserves emphasis that the Conference Committee compromise ensures that no suspension or cancellation of a permit or lease can occur until there has been a full opportunity for appeal of the finding of a violation or a conviction. Finally, convictions and violations unrelated to these environmental and land use issues are not "prohibited acts" as used in the statute.

It also seems appropriate to clarify the Department's intentions with regard to public hearings on the new regulations required by the grazing reforms contained in the Conference Committee compromise legislation. The Department is committed to conducting public hearings in every Western grazing state prior to the implementation of any regulations. Moreover, the Department would welcome the opportunity to participate in any Congressional oversight hearings reviewing the Department's implementation of the grazing reform provisions of the compromise.

Finally, as I discussed with Senator Hatfield yesterday morning, most of the administrative authority which the Department has over grazing is entirely outside of, and unaffected by, the Conference Committee compromise. For example, the promulgation of standards and guidelines which govern stocking numbers, length of grazing seasons, use of riparian areas and the like, is a matter still within my administrative discretion with regard to which I remain ready and willing to discuss and negotiate with interested Senators. Likewise, the role of grazing permittees in the all important Resource Advisory Councils is a matter that I am ready and willing to discuss at any time.

I hope those clarifications regarding the Department's interpretation and intention with respect to implementing these provisions are of assistance in the Senate's consideration of the Conference Committee's grazing reform compromise. So there is no misunderstanding, I want to make clear that my interpretation of these provisions does not in any way bind my decisions regarding the Rangeland Reform '94 rulemaking which the Department would proceed to undertake should Congress decline to enact the grazing reform compromise.

Sincerely,

BRUCE BABBITT.

THE SECRETARY OF THE INTERIOR,
Washington, DC, October 26, 1993.
Hon. ROY ROMER,
Governor, State of Colorado, Denver, CO.

DEAR GOVERNOR ROMER: In your letter dated yesterday to Senators Mitchell and Dole you express particular concerns about certain provisions of Senator Reid's compromise public lands grazing reform (the Reid compromise) being debated as part of the FY 1994 Interior Appropriations bill. I must respectfully disagree with your characterization that these provisions would "inject such ambiguity and confusion into the process for allocating water in the West that litigation and uncertainty would prevail for years to come."

My staff and I have carefully examined the provisions in question. In my judgment as a former Western State Attorney General, Governor, and private practitioner in water law, these charges simply cannot be sustained. Those parts of the Reid compromise that relate to water are in fact in the mainstream of water law as applied in the western states.

For example, nothing in new section 406(d) changes the traditional practice of acquiring water rights for livestock grazing on public lands under state law. It only ensures that, subject to valid existing rights, such water rights be obtained in the name of the United States. This has long been the practice on the national forests, as well as state law in many western states, including my home state, one of the most arid in the country.

Your letter expresses specific concern that the Reid compromise "could be construed to reserve a federal water right on federal lands not only for grazing but for any other purpose as well." Apparently you are referring to language in the last sentence of section 406(i)(2). But this sentence does not address federal/state relations in water law. It simply confirms the common sense principle that federal claims and rights to water "developed on public lands [shall be exercised] to benefit the public lands and resources thereon." Moreover, the sentence is part of a subsection addressing grazing-related water rights; more specifically, cooperative range improvement agreements. (It is captioned "Range Improvement Ownership.") There is simply no way a court could read this innocuous language to create broad new categories of federal water rights, whether for grazing or non-grazing purposes, in denigration of state water law.

You have also raised concerns about section 406(o), which directs the development of standards and guidelines that "establish minimum conditions for the protection of rangeland ecological health," and which shall include, among other things, "restoration and protection of riparian values, such as healthy wildlife and fish habitat and diverse vegetation." Nothing in this section addresses water rights or state-federal relationships in the area of water; rather, it merely furnishes direction for the Department in the implementation of existing law. That law (the Federal Land Policy and Management Act, or FLPMA) has for nearly two decades required BLM lands to be managed for "multiple use" and "sustained yield," and defines these terms to require accounting for, among other things, "the long-term needs of future generations for renewable and nonrenewable resources, including . . . watershed, wildlife and fish, and natural scenic [and] scientific . . . values." 43 U.S.C. 1702(c).

Each of the provisions in the Reid compromise about which you have concerns is an amendment of FLPMA. That Act's general disclaimer on water rights (Section 701(g), 43 U.S.C. 1701 Note) remains intact. No court has ever interpreted FLPMA as changing state-federal relations in water law. The experience under it has been exactly the contrary.

You have my assurance that the Department of the Interior will, if these provisions are enacted into law, interpret and apply them in conformance with their intent—not to make drastic changes in state-federal relations in water law, but rather to ensure that water rights obtained under state law for grazing-related purposes on public lands serve federal grazing-related needs, and that the ecological health of federal rangelands is secured.

As a native Westerner I know the sensitivity of water rights issues and the legitimacy of states' concerns that their water law systems be protected. I also know a red herring when I see one. The attempt to portray the water provisions of the Reid compromise as a massive federal water grab is just that. I hope this clarifies the matter.

Sincerely,

BRUCE BABBITT.

THE NAVAJO NATION,
Window Rock, AZ, October 26, 1993.

Re: Fiscal Year 1994 Interior Appropriations
Hon. DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: I am very disturbed about the action on the Fiscal Year (FY) 1994 Interior Appropriations (H.R. 2520). I have learned that a second cloture vote to end debate has been defeated today and that a third cloture vote has been filed. I understand that if the third cloture vote is defeated again, and knowing that the extension for consideration of appropriation measures expires October 28, 1993, the Interior Appropriations stand to remain at the FY 1993 level. This means that a substantial gain in report language and funding for Navajo projects is at stake.

With your help and support, we have worked very hard to include a report language and funding for Navajo projects, including $1,450,000 for former Bennett Freeze area housing improvement, $25,700,000 for the Navajo Indian Irrigation Project (NIP), $250,000 for Navajo Community College (NCC) and other priorities for the Navajo people. Should the FY 1993 funding level remain the same for the upcoming fiscal year, Indian Health Service (IHS) would lose $23 million in Arizona alone and $121 million in operations nationally, with a $150 million decrease in the Bureau of Indian Affairs (BIA). Under BIA, decreases of $55 million in education, $20 million in tribal allocations and $65 million in settlements are expected if FY 1993 levels remain. Schools and tribal colleges will be hit very hard including NCC and our BIA-funded schools. Further, if the FY 1993 funding level remains, it gives discretion to the Interior Department since Senate and House report language is no longer applicable.

I realize that the grazing fee issue is of importance to you, but the FY 1994 Interior Appropriations measure should not be defeated at the expense of funding for much needed projects for the Navajo Nation and Indian Country. The vast majority of programs funded by the Department of Interior go toward natural resources, land and water, except for the "people programs" of the BIA. We stand to lose all of this by a handful of grazing permitees who in number hardly compare to the needs of the Navajo people and members of other tribes.

With your help, we have worked hard to improve the deplorable status of the Navajo people where 56 percent live below the poverty line and the unemployment rate is as high as 50 percent depending on the season. We cannot now reverse the progress we have made for this one issue.

I respectfully urge your vote for the third cloture and ask for your continued support to fund our important Navajo projects. If you have any questions, please call my office at 602-871-6355 or Faith Roessel of our Washington office at 202-775-0393.

Sincerely,

THE NAVAJO NATION
Peterson Zah, President.

INTELLIGENCE AUTHORIZATION

Mr. DECONCINI. Madam President, yesterday, I apprised the Senate of the unfortunate situation we are in regarding the fiscal year 1994 intelligence authorization bill. To briefly recapitulate, several Republican Senators on the Armed Services Committee have placed a hold on the bill solely because the CIA has been unable to locate a particular document that is alleged to exist relating to the nomination of Morton Halperin. His nomination is pending before the Armed Services Committee, not the Intelligence Committee, and it is opposed by Senators on that committee.

I respect their opposition to Mr. Halperin. I respect their desire to get information regarding this nominee. What is disturbing to me is that they have elected to put a hold on a bill that is irrelevant to the nomination of Mr. Halperin.

My good friend and colleague, Senator WARNER, came to the floor yesterday and explained his participation in that hold, and I respect the two hats that he must wear, one as the second-ranking member on the Armed Services Committee, and the ranking member and vice chairman of the Select Committee on Intelligence. He stated yesterday that he now has new information which may help locate the document in question, which the CIA claims they are not able to find. Senator WARNER said he does not intend to lift the hold on the intelligence bill until the CIA has completed another file search.

He has every right to do that, and I respect his right to do that. I only hope he and the other Republican Senators on the Armed Services Committee will seriously consider finding some other vehicle, if they must continue to hold up a piece of legislation.

I am disappointed that the hold is now tied to an entirely new search of CIA files. I was led to believe last week that once the CIA had conducted its search in response to the original October 4 request and the Director of the CIA had provided assurances that requested documents could not be located, the hold would be lifted. Nevertheless, I am delighted to hear that new information has come to light which may help locate the documents. Maybe we can still do this before the Appropriations Committee finishes its conference.

In fact, the CIA last week repeatedly asked for any such information that might exist which would help in its record search and help bring this to a conclusion, and none could be provided. Now that additional information is available, we can have another search. Perhaps after that, there will be a request for another search. Every Senator has the right to make such a request. They have the right to put holds on legislation.

This Senator, in a short time, is going to ask the leadership to bring the intelligence bill up and let those Senators who want to use this bill to stop the nomination of Mr. Halperin filibuster it, if that is what they want to do. In the meantime, I presume the hold on the intelligence bill will not be lifted. Quite frankly, that is most disturbing to me.

I must say, in candor, I am genuinely disappointed to find myself in this situation. I work very well with Senator WARNER, I respect him and understand that he is in a very difficult situation being on both committees. He is a strong supporter of the intelligence community, and he and I have worked amicably together to establish what I think has been a worthwhile agenda and a worthwhile authorization bill. The bill is literally noncontroversial.

There will be an amendment from the distinguished Senator from Ohio [Mr. METZENBAUM], which we will debate, but he has been most gracious in agreeing to a time limit.

Why is it so important? As chairman of the Select Committee on Intelligence, I cannot stand idly by while the authorization is held hostage because of some nomination in another committee. I reiterate what I said yesterday. There are plenty of alternatives available rather than placing a hold on this bill. These Senators already have a hold on the Halperin nomination, so the nomination is going no place.

So what is gained by holding up this bill? It is clearly not going anywhere until their requests for information are satisfied. I understand that, and I respect their right to obtain the information requested. I would welcome an explanation as to why a hold on a nomination is not sufficient.

In the meantime, the efforts of the Intelligence Committee over the last year are effectively being stymied. The plans we have carefully worked out to provide for an appropriate satellite capability to take us into the next generation are on hold. The funds we have provided to protect this country against new incidents of terrorism are on hold; to counter the proliferation of weapons of mass destruction around the world are on hold; to detect the shipment of narcotics coming to our borders are on hold; to provide information needed by the U.S. military forces to defend themselves and put our awesome military capability to its maximum use are on hold.

Madam President, there has been an intelligence authorization bill passed by the Congress every year since 1977. We are in danger of not having a bill for the first time in the history of the committee, not because the bill is controversial, not because there is any disagreement about the bill, except for the one amendment I mentioned, but because a few Senators see it as a way to force the CIA to produce a single document about a nominee they oppose. A document that the CIA cannot find. A document which, I should point out, has never been seen or read, to my knowledge, by any Senator or staff person.

I urge these Senators to please consider the necessity to let this bill pass so that the Defense appropriations subcommittee that is now in conference—and I serve on that as well—will have an authorization guideline of what money should be spent in the intelligence area.

Madam President, I truly hope Senators will work on this for the best of the country and the institution. It is important that we have an appropriation for the intelligence community that is realistic and one that is properly done in a manner in which this institution is supposed to operate.

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFORM OF THE NATION'S HEALTH CARE SYSTEM

Mr. FEINGOLD. Madam President, let me, first of all, join with the many other Senators who have come to the floor today to express our congratulations to and admiration for the President and First Lady in their continuing effort to reform our country's health care system.

When all is said and done and the bill is signed, as I believe it will be, these two individuals will have to get the greatest share of credit for the power and the strength that they have put behind the effort to change our system. Their efforts have made it possible for me to stand in the Chamber of this Senate and have it be very relevant for the first time to talk about one particular aspect of health care reform.

And that is the issue of long-term care reform as a part of health care reform.

As I had a chance to note earlier, long-term care reform in my view is essential if we are going to talk about true health care reform. But we need to not just offer long-term care benefits in the health care reform package. We also need to make fundamental reforms to our long-term care system if we are going to really be able to call it part of the reform.

At the core of this, this means emphasizing community- and home-based flexible services that respond to individual consumer choice and preference all the way from the initial assessment of the individual right on through to ongoing services involving case managers and others who regularly consult with the consumer and also involving family members to be sure their needs are being met in a satisfactory manner.

Madam President, beyond creating such a system, we also need to ensure that these services are actually accessible to people. This means not only providing adequate service capacity, but we also have to remove some of the system related barriers that exist today. In particular, it means integrating our acute care system with the long-term care services that we hope to provide.

Madam President, this integration is vital. It is especially important in the area that I want to talk about today. That is in the area of hospital discharge. Hospital discharges is a major source of new long-term care consumer.

Unfortunately, individuals being discharged from a hospital who may need some long-term care services all too often end up in a nursing home, not back in their own home or in a community center. But they end up in a nursing home placing a financial burden on families and taxpayers, and limiting consumer choice of long-term care services.

As we strive to build a new long-term care system centered around home and community-based services we have to remove this barrier and establish and enhance the linkage between hospital and other acute care settings and home and community-based long-term care.

The long-term care structure that has evolved since Medicaid began in the mid-1960's has strong systemic incentives for institutional care that is too often to the exclusion of community-based alternatives. Services for long-term care consumers who wish to remain in their homes represent only a fraction of the long-term care budget, and waiting lists for these services are the norm. In my own State of Wisconsin, it is not unusual to find people waiting for these community- or home-based services for as much as 2 years. And some of these people are already in their nineties.

Madam President, one feature of this structural bias is most visible in trying to discharge patients from hospitals, not to the nursing home but to get them back into their own homes where they can have some managed long-term care.

The population most in need of long-term care uses the hospital and acute care facilities of course at a disproportionate rate. In my own State, for example, in a study published by our Wisconsin Department of Health and Social Services, patients aged 65 and older account for nearly one-third of all people who are discharged in hospitals. Indeed, a large number of people over 65 spend some time in a hospital. Nearly 32 people in every 100 over the age of 65 were discharged from a hospital. Looking at older groups, we get to an even more dramatic level. For those aged 75–84, the rate was 38 out of 100; and for those over 85, who are the biggest users of the long-term care services, the rate of this discharge was 45 out of 100.

So what it means is once their acute-care needs are met they do not go back home, usually. They far too often are sent to nursing homes. That is how the system is set up.

A recent survey done in Milwaukee County shows that more than 70 percent of the older adults discharged from hospitals never return home. It is their last stop. They never get to go back home. Rather, those individuals in need of managed long-term care all too frequently end up in a nursing home.

The single greatest source of admissions into nursing homes now is often the hospital.

In Wisconsin, according to a 1990 report, Wisconsin Nursing Home Utilization, 70 percent of all nursing home admissions are from the hospital—four times the number of nursing home admissions from private homes.

The reasons for this lopsided statistic are really straightforward.

As I mentioned earlier, grossly inadequate funding for community- and home-based long-term care alternatives have resulted in long waiting lists. Even individuals fortunate enough not to be languishing on one of these waiting lists must often wait for some days or weeks before overburdened community case managers are able to perform the necessary screening to make sure they are appropriate for the home care and case planning.

The Medicare DRG and prospective payment system have put a lot of pressures on hospitals, as we all know, to discharge more quickly so they can keep the hospital stay as short as possible. As a result, the uncertain of community- and home-based services, especially when they are contrasted with the pretty easy alternative of an accessible nursing home bed that may be available, makes the choice for the discharge planner very easy. That choice is usually not to have the person go back to the community.

In addition, hospitals and local agencies administering the community- and home-based care program each have their own sets of rules and procedures. Because the community options are relatively new, there has been little time for these two different systems to interact and sort of become familiar with each other. So discharge planners often find it difficult to identify patients who might well be served by community care programs, and thus frequently fail to give these local individuals working in the community enough lead time to effectively react and provide for home- or community-based care in timely fashion.

In sharp contrast, the nursing homes and the hospitals have learned to interact with each other very, very well. There are few if any bureaucratic barriers to discharging a patient from a hospital into a nursing home. Having learned about this as chair of the Wisconsin State Senate Committee on Aging, I became aware of this problem through a series of hearings in 1988, that there might be a way to deal with this problem. So we offered a small provision that was included in the State budget that initiated a pilot program to explore ways to enhance linkages, not between hospitals and nursing homes, but between hospitals and community-based care and home-based care.

I am happy to say that this pilot program has been a success. The primary goal of decreasing nursing home placements from hospital discharges was achieved. On top of those expected results though the pilot program also produced some unexpected additional benefits as the average in-patient cost of participating hospitals dropped as did the average length of stay. For one of the hospitals participating in our pilot program there was a 23-percent drop in the discharge rate to nursing homes, while the average in-patient costs at the hospital dropped by an average of nearly $2,250. At the same time, the average length of stay for the patient population participating in the pilot program dropped by over 2 days.

The hospital also reported improvements in the quality of discharge planning for its most complicated and problematic cases.

Madam President, there are a number of examples that chronicle the success. But let me just give two examples that make it a little more real, a little more human.

First of all, a 65-year-old woman had a medical history that included diabetes mellitus, hypertension, Bell's palsy, chronic obstructive pulmonary disease, congestive heart failure, hypertensive heart disease, atherosclerosis, obesity, cerebral vascular accident, and degenerative dementia. A lifelong introvert, she had dementia that compounded her problems and caused her to fear people with whom she was not familiar.

Without this program, this individual is pretty clearly headed from the hospital to a nursing home. As a participant in the Wisconsin Hospital Link Program she was discharged from the hospital back to her home, and is now cared for by her spouse and grown children, supported by one person who was hired to help care for her.

The other example, a 92-year-old widowed woman named Daisy was hospitalized for a large, deep ulcer on her lower back. Grieving the death of her son a year before, she was receiving less daily contact, and spent long lengths of time lying in bed.

This situation was recognized and this program came to help her and her family. Her grandson and his wife opted to move in with her to act as caregivers in her home, but they each had to work full time and their young daughters attended school.

Needing assistance for dressing changes toward wound care, plus hygiene, ambulating, and transfers, she was discharged with home health aide support Monday through Friday while her family works. Several pieces of durable medical equipment were delivered to her home, most notably an alternating pressure pad positional bed. An RN makes regular assessment of her wound's slow healing process. The family has adapted with great comfort to the aides assigned and Daisy describes herself as doing well.

So again, this is someone who almost surely would have been in a nursing home but was able to stay in the community because of this pilot program.

Madam President, under these scenarios, every party involved in the program, State, county government, Hospitals, and former patients, benefited. As discharge planners have noted, a particularly valuable benefit was the ability of the case managers to monitor the discharge plan in the patient's home.

Often, patients, older patients especially, looked different at home than they did in the hospital. Having a case manager who can monitor the changing conditions and needs is a critical asset for planners and for this program to work.

So, by every measure, this pilot program is beneficial. As a result, in January, on the first day we could introduce bills, knowing that this President and First Lady were going to lead on health care, I took the opportunity to introduce S. 52, which would establish and enhance the very kind of linkages I have mentioned in this talk that we created in Wisconsin and that I think we can replicate throughout the country.

Just as it is vital to include long-term care in an overall health care reform program, so, too, is it essential that we take care to establish and enhance linkages between acute care providers and home- and community-based long-term care as a part of reforming the entire long-term care system. If we are to achieve long-term reform, then we must reform our long-term care system. If we are to succeed in reforming long-term care, then we must ensure that the barriers that currently exist to using home- and community-based services are finally overcome.

To summarize, I encourage those committees that will be working on health care reform legislation to very seriously consider the issue of acute care/long-term care links, and to include, in the legislation they report out, adequate provision to address the system-related barriers that cause an individual who could still be in our community to go to a nursing home instead of to his or her own home after a hospital stay. I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Madam President, did the distinguished majority leader wish to speak?

Mr. MITCHELL. No.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1090

(Purpose: To reduce Federal employment to the levels proposed in the Vice President's Report of the National Performance Review)

Mr. GRAMM. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1090.

Mr. GRAMM. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 16, strike "1994".''; and insert in lieu thereof the following: "1994".

SEC. . REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(a) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,095,182 during fiscal year 1994;

(2) 2,044,100 during fiscal year 1995;

(3) 2,003,846 during fiscal year 1996;

(4) 1,963,593 during fiscal year 1997;

(5) 1,923,339 during fiscal year 1998; and

(6) 1,883,086 during fiscal year 1999.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

Mr. GRAMM. Madam President, the amendment before us is, I believe, a very important amendment, because it seeks to achieve a national goal that I believe is supported by the Congress and a national goal which has been set for the Nation by the President. As I am sure all of my colleagues will remember, the President and the Vice President, on the lawn of the White House, with two forklifts behind them holding all of the paperwork related to various forms of regulation, talked about reinventing Government. They presented to the Nation a document—which, as it turned out, we paid twice as much to print than if we had followed the prescription of the document and done it by competitive bidding.

The National Performance Review by the Vice President states two basic objectives. The first objective is contained on page 3 of the preface, and that objective is to reduce the number of jobs in the Federal bureaucracy over the next 5 years by 252,000. That is the stated objective of the administration. I have offered an amendment today for myself; for the distinguished Senator from Iowa [Mr. GRASSLEY]; and for the Senator from Arizona [Mr. MCCAIN], which seeks to strengthen the President's position in achieving this objective and seeks to put the Congress and the Government on record in setting out a procedure to assure that we achieve this goal.

Let me explain how the procedure would work. Basically, we take the President's actual figures for Federal employment for 1994 and 1995, which were set out in the President's budget submission, we take the remaining reduction of 150,000 personnel slots, and on a proportional basis, we reduce the number of full-time-equivalent positions in the executive branch of Government each year to guarantee that, when achieved, these targets would fully implement the President's goal of reducing the number of employees in the Federal bureaucracy by 252,000 between fiscal years 1993 and 1999.

How the process would work is quite simple: We would set out in law, as outlined in the amendment, employment caps for fiscal years 1994, 1995, 1996, 1997, 1998, and 1999. Employment caps for 1994 at a level set by the President as his objective; in 1995 as set by the President as his objective. And the objectives for 1996 through 1999 would simply take the target and assume an equal reduction over the 4-year period.

So we would set in law an employment cap for the executive branch of the Federal Government. We would then give the OMB Director the responsibility for reporting quarterly to the President and to the Congress what the actual full-time employment level of the Federal Government is, and whether or not we are violating the totals that we have set out in law. If, in fact, the actual employment level exceeds the target for that fiscal year, then the OMB Director, on that basis, would report to the President and report to the Congress, and there would be an automatic hiring freeze in the Federal Government until the OMB Director can certify to the President and to the Congress that these actual targets, which the President has set out as a national priority to reinvent Government, have been achieved.

In essence, what we are doing by law is committing ourselves to the President's goal, setting into place by law the requirement that this goal be met, setting up a procedure to assure that if the goal is not met, that we have a hiring freeze that will stay in effect until we have come into compliance.

Let me explain why this is so very important. Quite beyond the objectives of the President to achieve this overall level of reduction in the size of the Federal bureaucracy, let me tell you why it is not going to work, unless we set out in law this objective and unless we have an enforcement mechanism.

I just want to refer back to one vote last night because it is so indicative of the problem we have. When the House voted to kill the SSC, when we had an extensive debate in the Senate where every person who argued against the SSC argued that it should be killed in the name of deficit reduction. The assumption was that by killing the SSC and paying $1 billion of termination costs and lawsuits attendant to that decision, we were actually going to reduce the deficit. Last night, we voted on an amendment that would have guaranteed that the savings from the SSC would have gone to deficit reduction, and that amendment failed.

So, in essence, our entire rhetoric in the debate turned out to be hollow because, as a result of last night's action, we now are not going to see one penny that could have been saved had we taken the savings from the termination of the SSC and applied them to deficit reduction by lowering the overall targets for spending.

Now, here is why we need these caps to help the President achieve this result which the Nation supports. Let us say that as part of the President's objective in reinventing Government, he comes to Texas and says we have to shut down these county offices of these various departments within the Department of Agriculture. We have too many offices, the President says, or the Secretary of Agriculture says, in

Texas, and we are going to consolidate those offices.

I submit that virtually every Member of the Senate, especially those of us from big farm States, is going to be looking at exactly this kind of problem. This is why this amendment is so vitally important.

If I know that the targets have to be met by law, if I know we have set out in law that there is a 252,000 reduction in Federal employment that we have committed ourselves to, and that there is hiring freeze when these targets are not met, I can judge these proposals on their merits. I can support them or oppose them. But one thing I will know for sure, and that is that we are not going to shut down a farm credit office in Texas and open up some other office in Iowa or in Massachusetts. I know that if, in fact, we engage in this consolidation, as painful and unpleasant as it may be, at least we are not shifting around personnel slots; at least I know that the sacrifice that we make would not end up being an addition of new personnel slots somewhere else.

Let me also hasten to add here that what we are doing is simply allowing natural attrition to occur, and, as the President has made clear, in any consolidation, a maximum effort would be made to see that people who are in positions that are eliminated have the first crack at any other position within the Government.

So, basically, what this amendment does is it locks into law a steady achievement of the President's objective in his reinventing Government initiative. It has an enforcement mechanism so that if we violate it, we are notified, the President is notified, and there is an overall freeze on hiring in the executive branch of the Federal Government which stays in effect until the OMB Director certifies that the objective has been met.

The great strength of this process is that we do then have a benchmark to measure success; we have an enforcement mechanism to discipline both the Congress and the executive branch. And each of us knows, as individual sacrifices occur in our own States, as offices are consolidated in our own States, as our own people are forced to adjust to the changing reality in terms of reinventing Government, we can then know that we simply are not making a sacrifice in Texas so that we can expand an office in Arkansas.

I think, in order to make this work, as difficult as it is going to be, we need some kind of guarantee. And short of that kind of guarantee, it is going to be very difficult or impossible to achieve the President's objectives. That is why I have offered this amendment, as part of a bipartisan effort, to see that we achieve the goal that the President stated and that I strongly support, and that I believe the vast majority of Republicans in the Senate support the objective of reinventing Government, of making the Government smaller. I decided to start today, in conjunction with my cosponsors, by focusing in on the part of the President's plan which is easiest to understand; and that is, the President, in looking at his objectives, believes that he can reduce employment by 252,000. He has set it out as a goal. I say, let us make it our goal. Let us make it the Nation's goal. And let us achieve it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, first of all, I commend my colleague from Texas for his initiative in bringing this concept to the floor and doing it through this very specific amendment and, of course, as he said, I am joining him in offering it, and I am pleased to do that.

This is a real opportunity, Madam President, for Members of this body to make sure that decisionmaking in Government and the carrying out of that decisionmaking, that performance, is commensurate with the rhetoric of the policy.

I think too often we are not put to tests often enough about statements we make and policies we adopt—whether it be in the legislative branch of Government or the executive branch of Government—as to whether or not we follow through and carry out.

Through this amendment, I think that we are putting all of us to the test; not just the Vice President, because he is leading the charge on reinventing Government; not just the President, because he is the Chief Executive and he is working and supporting the Vice President; but those of us in the Congress, as well. Because if jobs are said to be saved, the implication is money is going to be saved, and we tell the public that it seems to me that we ought to make sure to the best of our ability that happens.

So it is from that standpoint that I see this Gramm-Grassley amendment as a constructive approach. I am one who, of course, has often spoken on the floor of this body in support of the administration's National Performance Review, in support of its general thrust, if not in all of its details. And I have even questioned to some extent its limited scope. But it is a start, a very good start, and we ought to help it along and even expand upon it.

This amendment is not an expansion upon the National Performance Review. It is just a motion made by this body, hopefully taken by this body, that is going to see that what limited review we have thus far is carried out.

I hope that this is only a first step to real, fundamental changes in our Government as a result of the National Performance Review. I have commended the President and the Vice President for their leadership and for their positive beginning in reinventing Government.

To me, this amendment can be characterized in two ways: First, it is the teeth that ensures that we get the reforms desired by the President and the Vice President. Second, it puts the pressure on the Congress to follow through. Congress has a very clear choice. We can either become the harbingers or the resisters of reform.

Madam President, I view this effort as an extension—as I have said before, when I think I have spoken out on the NPR—I consider it an extension of my work to reform defense management; in a sense, to reinvent defense.

I started my efforts to reform defense in 1983, when some challenged the feasibility of even a freeze of the defense budget. It became clear to me from that early time that true reform needed teeth. And there were two ways to bring this about.

First, the level of funding would have to be lowered by an amount commensurate with the reform. If it were not, the targeted activity would grow right back again, and absorb the original budget level. You would then have the same level of inefficiency as you started with.

Second, those employees once performing the functions that are reformed away in defense must also be reformed away. That is the only way to ensure the integrity of the decision to reform or kill a program.

Now let me mention an important point here. What do I mean by "reforming away those employees?"

The President has set forth a credible program for early retirement and buyouts. Only as a last resort would the RIF process be used.

If we in Congress cap the overall level, it is important that we give the President the tools he needs to accomplish the reduction. We should be willing to trade off caps for the flexibility for the President to do the job effectively.

This Gramm-Grassley amendment would provide the second of these two sets of teeth; that is, lowering the number of workers to match the reform. We will address the first set of teeth another day, that dealing with funding.

What this amendment does is it ensures the integrity of the reforms put forth by the President and the Vice President. And again, I must stress my support for what they are trying to accomplish overall through the National Performance Review.

The real question, in my view, is whether the Congress has the stomach to swallow reform. And it cannot swallow reform without teeth. Rhetoric aside, this amendment is where the rubber meets the road.

Many of my colleagues clamor for reform or speak in support of reform. The American people can hear us, but they will not believe us until they see the whites of our "pearly whites." They want to see reform with teeth. And not false teeth—real teeth. This amendment gives us a chance to vote for real reform, not false reform.

Madam President, Senator GRAMM, has done an eloquent job of explaining what our amendment would accomplish. I cannot add to what he has said. Let me just reiterate that I am pleased to join with my colleague from Texas. Our purpose is to help ensure that the reforms requested by the administration are enacted exactly as envisioned, and that Congress support—and not impede—accomplishment of those reforms.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, we are prepared to accept the amendment.

Mr. GRAMM. If the distinguished majority leader will yield, we would be delighted with that, but we would like to have a rollcall vote.

Mr. MITCHELL. The Senator is entitled to that. I simply say to him that it is my practice, as majority leader, to minimize unnecessary rollcall votes when Senators are absent due to important other business. Two Republican Senators, Senators DURENBERGER and MCCONNELL, are necessarily absent. Two Democratic Senators, Senators FEINSTEIN and BOXER, have left a short while ago to go to California, where there is a serious, as you know, national tragedy occurring with the fires there.

I see no reason to punish them by having a vote that is not necessary. But that is the Senator's right, and if he wants to have a vote, we will have a vote.

Mr. GRAMM. If the distinguished majority leader will yield further, let me have a moment to think about it.

Mr. MITCHELL. Fine.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I understand from a check in our cloakroom that we will have a recorded vote later today on final passage of the unemployment extension bill. And so on that basis, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senate majority leader.

Mr. MITCHELL. Mr. President, I simply want the RECORD to note—and I, of course, have supported the request for rollcall vote—that I have made it a practice when Senators are necessarily absent not to have rollcall votes that are not necessary. The Senator from Iowa has always been very concerned about rollcall votes and I have tried to accommodate him and the Senator from Texas and others.

It is true that there will be another vote but those four Senators are missing a vote here that I believe is unnecessary. But the Senator has a right to request a vote and, therefore, I support his request.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Ms. BOXER], and the Senator from California [Mrs. FEINSTEIN], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

I further announce that the Senator from Kentucky [MCCONNELL] is absent due to an illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 82, nays 14, as follows:

[Rollcall Vote No. 341 Leg.]

YEAS—82

Baucus
Bennett
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Dorgan
Exon
Faircloth
Feingold
Ford
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Packwood
Pell
Pressler
Reid
Robb
Rockefeller
Roth
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NAYS—14

Akaka
Byrd
Domenici
Glenn
Kennedy
Kerry
Metzenbaum
Mikulski
Nunn
Pryor
Riegle
Sarbanes
Simon
Wellstone

NOT VOTING—4

Boxer
Durenberger
Feinstein
McConnell

The amendment (No. 1090) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. KASSEBAUM. Mr. President, we are about to extend for a fifth time Federal unemployment benefits for displaced workers. These benefits are important to many families, and I believe we should extend them. But we also should pay for them—as the law requires that we do—rather than passing the buck to our children in the form of more national debt.

CBO estimates this extension will cost roughly $1.1 billion in fiscal year 1994. The bill before us purports to offset that cost through two cost-saving reforms spread out over 5 years. In other words, we will once again spend money today and promise to pay for it by cutting spending in the future.

Moreover, one of the offsetting provisions, the requirement that States profile all new claimants for benefits, may well be nothing more than smoke and mirrors. This provision is supposed to offset about $800 million of the cost of this extension; however, CBO estimates that implementing the proposal will cost almost $900 million. We may well lose money on this spending cut.

Mr. President, we simply cannot afford any longer to play budget games and gamble on future savings. If we are going to extend unemployment benefits, we should pay for them—we should pay for them today, and we should pay for them with real cuts in other spending.

These unemployment benefits are very important to many Americans including many in my home State of Kansas. For that reason, I initially cast my vote yesterday to extend them, despite the fact that they are financed by running up the debt.

But as I spoke with my colleagues during that debate, it became clear to me that many in both political parties share my deep concern about paying for these benefits. There was a sense of optimism among some that we could reach agreement on real cuts to pay for this new spending. Because of the tight vote margin, I had hoped I was in a position to encourage negotiation. For that reason, I switched my vote in the hope that we could reach a financing agreement.

Since yesterday's vote, I have raised this matter with a number of Senators, including the distinguished chairman of the Finance Committee, and it is now clear to me that no such agreement is possible. I deeply regret that we will be allowed only two options: Support unfunded benefits, or support no benefits at all.

Given that choice, I will today cast my vote to extend unemployment benefits—the immediate human cost for many families is simply too high to do otherwise.

But I want to make clear my belief that we should not be facing this difficult choice. There are many real spending cuts that could have been included to pay for this package. For example, Vice President GORE has included a number of proposed reforms in his National Performance Review that we could have considered. Indeed, some of these proposals would fall within the jurisdiction of the Finance Committee—the same committee that sent us the debatable financing mechanisms included in the bill. For example, the Vice President has proposed:

Amending the Health Care Financing Administration's contracting authority to allow for competitive contracting: 5-year savings—$985 million.

Providing electronic intergovernmental tax filing, reporting, and payments processing. A similar proposal by the Grace Commission would have saved roughly $2.1 billion over 3 years.

Consolidating 55 categorical grant programs into 6 broad flexible grants—in job training, education, water quality, defense conversion, environmental management, and motor carrier safety. A similar proposal by the Grace Commission would have saved roughly $1 billion over 3 years.

Improving Social Security Administration disability claims processing to reduce backlogs and avoid paying benefits to individuals who are no longer disabled: 5-year savings—$4 billion.

Mr. President, I am not passing judgment on the merits or demerits of these individual proposals—I merely point out that they are strongly advocated by the Vice President.

I also recognize that these programs involve multiyear savings. But surely there is some combination of proposals such as this that could have yielded sufficient savings in fiscal year 1994 to offset the unemployment benefits extension.

Today marks the fifth time we have extended these benefits, and each time we have had to waive the Budget Act to do so. That is simply irresponsible. I am deeply concerned that we are on the road to transforming unemployment benefits into a new entitlement program and that, like our existing entitlements, it will continue to grow unchecked.

By our vote today, we will charge at least another $800 million to the national debt. I will vote in favor of the extension because these benefits are so very important to those who have lost their jobs. But I want to make very clear my displeasure that we have not anted-up to pay the bill.

Mr. President, there is no doubt that the passage of the emergency unemployment benefits will be very important to many families. I believe it should be extended and I will vote to do so.

I was very disappointed that in many ways our only two options were to support unfunded benefits or to support no benefits at all.

Just briefly I will say why I think this is troubling.

Over the last 2 years we have extended emergency supplemental unemployment benefits to the tune of $24.5 billion just in the last 2 years. This was an additional $1.1 billion for this fiscal year 1994.

It troubles me, Mr. President, that we are really starting down the path of a new entitlement for Federal emergency unemployment insurance. I think that this should trouble us all.

There was not time to work out an agreement on funding for this additional $1.1 billion. But I would hope that we would take a look at recommendations that the Vice President has proposed for reorganization of Government and before we have to again support expanding unemployment benefits or any other emergency funding, we look at these proposals and see if we cannot indeed enact them and find the savings that the Vice President has projected just, for example, amending the Health Care Financing Administration contracting authority to allow for competitive contracting, provide electronic intergovernmental tax filing, reporting and payments processing, consolidating 55 categorical grant programs into 6 broad flexible grants, and job training, education, water quality, defense conversion, environmental management, and motor carrier safety.

This is a proposal that has estimated a savings of $1 billion over 3 years, and is just eminently, I think, sound and sensible as far as effective and better accountable Government program improving Social Security Administration disability claims processing, to reduce backlogs and avoid paying benefits to individuals who are no longer disabled.

Mr. President, these are just some suggestions which I believe have merit which I know many here would like to see thoughtfully considered and not really just continually spoken to but action taken to the relevant committees.

So, just to conclude, these were the things that I think troubled many of us who did believe that unemployment benefits should be extended but also worry about a path that we have started down that has become very different from the initial emergency support program that we were providing States for unemployment insurance. If we are not to take some concerted action now, we are going to face being in a similar situation, I am afraid, in the future.

I yield the floor.

INDIAN TRIBAL GOVERNMENTS AND EMPLOYEES

Mr. DURENBERGER. Mr. President, I had planned to offer as an amendment to the pending legislation the text of S. 391, sponsored by Mr. McCAIN and which Mr. CAMPBELL and I have cosponsored. That legislation would address the serious problems faced by Indian tribal governments and their employees with respect to the State-Federal unemployment compensation system by providing for uniform treatment of Indian tribal governments and their wholly owned subsidiaries on a par with States, localities, and nonprofit entities.

Mr. President, one would think that Indian tribal governments would be covered under the same unemployment compensation rules as States, municipalities, and nonprofit organizations. In fact, Indian tribal governments are significantly disadvantaged in comparison to those entities. Although practices vary around the country—some Indian tribal governments are considered by the States to be completely exempt from the UC system at the State level, some tribal governments are permitted to elect reimburser status, as if they were governments, and some tribal governments have chosen not to be covered—under Federal law, Indian tribal governments are required to be treated for unemployment tax purposes, if they are covered at all, as if they were profit-making entities. This treatment is, in my view, inconsistent with their responsibilities and status under Federal law.

There have been some questions raised regarding the implementation of a policy putting tribal governments on a par with States and local governments for FUTA purposes that need to be considered. I appreciate the cooperation of the Senator from New York and the staff of the Committee on Finance in this regard. But because of the pending assessment situation in Minnesota—and the possibility that assessments could be made against other tribes—those questions ought to be addressed with reasonable speed.

Accordingly, Mr. President, I would ask the Senator from New York whether he can expect to address these issues at an early date.

Mr. MOYNIHAN. Mr. President, the Senator has raised some important questions, and I can understand his special interest in the situation that has arisen in his State.

The matters he has just addressed affect policies under the jurisdiction of the Treasury and Labor Departments and we have begun discussions with them. The agencies have raised concerns about changing the status of tribal governments for FUTA purposes. These concerns, and the views of other Indian tribes and the several States, must be carefully considered. Nevertheless, I would hope that we could reach some consensus on an appropriate way to address the issues raised by the Senator.

Mr. WELLSTONE. I, too, want to express my continued strong interest in changing the treatment of Indian tribes under the Federal unemployment compensation program to put them on par with States and local governments. I have worked with Congressman PETERSON and Senator DURENBERGER on this issue for some time.

Early this year, I wrote to the Treasury and Labor Departments asking for their views on this legislation. Several weeks ago, I again asked representatives from both departments to come to my office to explain their views on the bill introduced by Senator MCCAIN, and other alternative solutions, in greater detail. Frankly, I had hoped that we would have been able to address this problem earlier this year. I requested at that meeting formal written expressions of their views on this issue, which I have not yet received.

The special status of Indian tribal governments must be taken into account as potential solutions to the problems are developed to ensure the fair treatment of such organizations under the act. I agree with Senator DURENBERGER that the treatment of tribal governments should be similar to that of States, localities, and nonprofit entities. It is my view that a permanent solution can be developed which ensures coverage for employees of Indian tribal organizations while meeting the concerns expressed by the Department of the Treasury, the Department of Labor, and various States about its fair implementation.

I will continue to work closely with you, Mr. Chairman, and with my distinguished colleague from Minnesota, Senator DURENBERGER, toward that end. I hope we can develop such a permanent solution, and that it would then be considered by the Finance Committee very soon.

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993—H.R. 3167

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that a description of the Unemployment Compensation Amendments of 1993, H.R. 3167, as passed by the House of Representatives be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESCRIPTION OF THE UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993, H.R 3167

I. EMERGENCY UNEMPLOYMENT COMPENSATION [EUC] PROGRAM

Present Law.—The Federal Emergency Unemployment Compensation (EUC) program was first enacted in November 1991 and extended most recently by P.L. 103-6 on March 4, 1993. The EUC program, which expired on October 2, provides workers who have exhausted their regular State unemployment benefits (and who began receiving EUC benefits on or before October 2) with 15 weeks of benefits in States with the highest unemployment and 10 weeks of benefits in all other States. States with adjusted insured unemployment rates (the average of the current week and the preceding 12 weeks) of at least 5 percent, or total unemployment rates (6-month moving average) of at least 9 percent, are eligible to pay the higher number of weeks of benefits. At present, only four States (Alaska, California, Rhode Island, and West Virginia) are eligible to provide 15 weeks of benefits.

The statute provides for a decline to 13 and 7 weeks of benefits if the national unemployment rate falls below 6.8 percent for two consecutive months. The rate for the months of August and September was 6.7 percent.

The EUC program expired on October 2. Unless the program is extended, workers who exhaust their regular State benefits after that date will be ineligible for EUC benefits. Workers who began receiving EUC benefits on or before October 2 will be entitled to the full number of weeks of benefits for which they were found eligible. However, no benefits are payable after January 15, 1994.

Individuals who have exhausted their rights to regular State benefits either because their benefit year has expired or because they have received all of the benefits to which they are entitled, may elect to receive either EUC benefits or regular State benefits under any new benefit year that has been established.

Proposed Change.—The EUC program is extended through February 5, 1994. Workers who exhaust their regular State benefits after October 2 will be eligible for up to 13 weeks of benefits in States with the highest unemployment. In all other States they will be eligible for up to 7 weeks of benefits. Workers who exhaust their regular State benefits after February 5 will not be eligible for EUC benefits. Workers who begin receiving EUC benefits before that date will be entitled to the full number of weeks of benefits for which they were found eligible. However, no EUC benefits will be payable after April 30, 1994.

The provision giving individuals the option to choose between EUC benefits and regular state benefits is repealed. After the date of enactment, no new EUC options will be exercised. However, individuals who began or continued EUC based on an option exercised before October 2, 1993, may continue to receive EUC until exhaustion of their EUC account.

II. ADDITIONAL UNEMPLOYMENT COMPENSATION FOR RAILROAD WORKERS

Present Law.—Workers in the railroad industry are eligible for a separate unemployment compensation program that provides benefits basically equivalent to those provided under regular State unemployment compensation programs. Railroad workers with under 10 years of railroad service are not eligible for extended benefits. The UC law temporarily provides extended benefits to railroad workers with under 10 years of service and additional weeks of extended benefits to other qualifying railroad workers in order to maintain comparability with the EUC benefits provided to workers in other industries.

Proposed Change.—Eligible railroad workers will continue to receive the additional benefits provided under the EUC law for other workers.

III. WORKER PROFILING AND REEMPLOYMENT ASSISTANCE

Present Law.—P.L. 103-6, enacted March 4, 1993, directs the Secretary of Labor to establish a program for encouraging the adoption and implementation of State systems of profiling all new claimants for regular unemployment compensation. These systems are to be used to determine which claimants might be most likely to exhaust their regular unemployment compensation benefits and might need reemployment assistance services to make a successful transition to new employment.

Proposed Change.—Each State's unemployment agency is required to establish a profiling system as described above, and to refer claimants identified as needing services to reemployment services available under any State or Federal law. The State agency is also required to collect follow-up information relating to the services received by claimants and the employment outcomes for such claimants subsequent to receiving services, and to use this information in making identifications under the profiling system. States that fail to comply substantially with these requirements may be subject to withholding of administrative funds until the Secretary is satisfied that there is no longer an such failure.

In addition, the bill provides that as a condition of eligibility for unemployment compensation benefits, a claimant who has been referred to reemployment services pursuant to the profiling system must participate in these or similar services unless the State agency determines that the claimant has completed such services, or there is justifiable cause for failure to participate.

Reemployment services will include job search assistance and job placement services, such as counseling, testing, occupational and labor market information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

The Secretary of Labor is directed to provide technical assistance and advice to assist the States in implementing the profiling system, including the development and identification of model profiling systems.

Not later than three years after the date of enactment, the Secretary of Labor is required to report to the Congress on the operation and effectiveness of the profiling system and the participation requirement, with such recommendations as the Secretary determines to be appropriate.

Effective Date.—The profiling requirement is effective one year after the date of enactment.

IV. TECHNICAL AMENDMENT TO UNEMPLOYMENT TRUST FUND

The bill restores language in section 905(b)(1) of the Social Security Act that was inadvertently changed by P.L. 102-318. This section provides for the transfer of funds to the State administration accounts.

V. EXTENSION OF REPORTING DATE FOR ADVISORY COUNCIL

Present Law.—P.L. 102-164, the Emergency Unemployment Compensation Amendments of 1991, provided for the establishment of a quadrennial advisory council on unemployment compensation to examine the purpose, goals, and functioning of the unemployment compensation system, and to make recommendations for improvement. The first report is due by February 1, 1994.

Proposed Change.—The due date for the first report would be delayed for one year. Subsequent reports would be due the third year following the establishment of the council, rather than the second year.

VI. INCREASE IN SPONSORSHIP PERIOD FOR ALIENS UNDER THE SUPPLEMENTAL SECURITY INCOME [SSI] PROGRAM

Present Law.—The SSI program provides Federal benefits to aged, blind, and disabled individuals whose income and resources are below specified amounts. To be eligible, an individual must be either a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Under current law, the income and resources of an alien's sponsor are considered in determining the alien's eligibility for SSI benefits. A sponsor is an individual who has signed an affidavit of support as a condition of the alien's admission for permanent residence in the United States. This "deeming" of income and resources applies for 3 years after the alien's entry into the United States. After 3 years, the alien's eligibility for SSI is determined without regard to the income and resources of the sponsor. The "deeming" requirement does not apply with respect to an individual who becomes disabled after entering the United States.

Proposed Change.—The period during which the sponsor's income and resources would be "deemed" to the alien would be extended from 3 to 5 years.

Effective Date.—The provision would be effective January 1, 1994 through fiscal year 1996. The provision would not apply in the case of individuals who are eligible for SSI for December 1993 (or whose eligibility is suspended but not terminated) and whose 3-year deeming period ended prior to January 1994. Thus, individuals who apply for SSI benefits on or after January 1, 1994, and individuals on the SSI rolls (because their sponsors' deemed income and resources do not make them ineligible) whose 3-year deeming period has not ended by January 1, 1994, would come under the 5-year rule.

VII. COST ESTIMATE

The Congressional Budget Office [CBO] estimates the cost of the EUC benefit extension at $1,070 million in fiscal year 1994. The profiling provision is estimated to reduce unemployment benefits by $764 million over the 4-year period 1995–1998. The provision relating to aliens receiving SSI benefits is estimated to reduce SSI and Medicaid outlays by $330 million over the 3-year period 1994–1996.

Mr. BYRD. Mr. President, for 2½ years now, the American economy has been, technically speaking, in an economic recovery. Yet, unemployment is hardly any lower today than it was in March of 1991 when the last recession officially ended. Despite some improvement in recent months, unemployment remains stubbornly high. Nowhere is this more true than in the State of West Virginia. Unemployment there continues to hover near double-digit levels, standing at 9.6 percent in August—the highest unemployment rate in the Nation.

The problem, however, is not just the fact that the overall rate of unemployment remains unacceptably high; it is that the number of long-term unemployed is so high. Of the 8.5 million Americans unemployed today, more than 1.7 million—one of every five—have been out of work for 27 weeks or more.

As a result, we find ourselves with little choice but to enact yet another extension of emergency unemployment benefits. When we enacted the first such bill in November of 1991, the number of long-term unemployed stood at just under 1.4 million. To repeat, today that number stands at 1.7 million. Although we all know that an unemployment check is no substitute for a paycheck, now is not the time to cut off assistance to those who continue to bear the heavy burdens associated with long-term unemployment.

To those in West Virginia who might exhaust their regular State unemployment benefits between October 2, 1993, and February 5, 1994, the bill before the Senate, H.R. 3167, will provide 13 weeks of emergency unemployment compensation benefits. The same will be true in other high unemployment States. For those in States not suffering from such high unemployment, 7 weeks of additional benefits will be made available.

The additional benefits provided under this bill are paid for by reductions in spending elsewhere. As a result, enactment of this bill will not result in an increase in Federal spending, nor will it cause our deficit to grow. This legislation thus represents a fiscally responsible effort to assist those in desperate need of a helping hand, and I am pleased to support this important measure.

SOME QUESTIONS ABOUT THE LEGISLATION

Mr. RIEGLE. Mr. President, I would like to raise some questions about this legislation with the distinguished chairman of the Finance Committee.

Mr. MOYNIHAN. I would be glad to discuss this legislation with my colleague from Michigan.

Mr. RIEGLE. When emergency unemployment compensation expired on October 2, the rate of Michigan workers filing for emergency unemployment compensation benefits was 2,500 per week. The past few weeks have been understanding frightening for the families of the estimated 7,500 Michigan workers who could no longer file for emergency unemployment compensation—not knowing when, or if, the Government would act to extend this critically needed program. I think that we can all agree that the compromise reached was a different one; the heated debate and lengthy legislative action in the other body bears testimony to that fact. I think that we can also agree that finding adequate funding for the 4 month extension was an arduous challenge for the administration.

I have some concerns about the new profiling proposal included in this measure. I have the utmost confidence in the Secretary of Labor and fully realize that the structure of the profiling program will be developed further under his guidance. I would like to raise a few of the issues that will deserve his attention.

In the area of worker compliance with profiling requirements, the bill specifically recognizes a State's right to exempt claimants where there is justifiable cause for the claimant's failure to participate. To prevent a patchwork quilt of varying State justifiable cause criteria, some reasonable standard exemptions would be useful. While there is a compelling interest in complete participation in the profiling program, many claimants are understandably concerned that certain circumstances, such as State work search waivers, will not be recognized as justifiable cause under this new program.

Another provision which will be especially helpful to those of us whose States have experienced consistently high unemployment is the Secretary's reporting provision. Secretary Reich has been such a strong advocate on employment issues that I suspect he may choose to go beyond what this bill requires, and provide Congress with detailed data regarding demographic and industry-specific claimant impact and reemployment. I hope that the Secretary will take advantage of this opportunity to explore the real-life results of our new profiling system, to help those of us in Congress ensure that this program is fair and equitable to all claimants.

In order for any profiling program to work, we must require that claimants participate as much as possible. It may take a little time for claimants to adjust to this completely new system, and there may be some who will temporarily fail to participate in the profiling requirements. I hope that the Department of Labor will extend a second chance to those claimants who have initial misunderstandings about this new program, and its technical requirements, and welcome them back into the system. By reaching out and establishing the profiling process as a true partnership between Government and workers, the Department may exceed even their own expectations for the program.

I am confident that these concerns can be effectively addressed by Secretary Reich during the next few weeks, and I look forward to working with him on these matters.

Mr. MOYNIHAN. I appreciate the Senator's concerns in this area. He raises issues fully deserving of the Secretary's attention.

WE CAN DO BETTER; WE SHOULD DO BETTER

Mr. DOLE. Mr. President, here we go again. For the second time this year, the Senate is debating an extension of unemployment benefits that is not paid for.

Since November 1991, Congress has acted to extend unemployment benefits four times, with the most recent extension coming in March 1993. The first three extensions, under President Bush, were paid for each year consistent with the budget law. But, the first extension under President Clinton was declared an emergency and added $5.7 billion to the deficit. I voted against that extension of benefits.

THE FACTS ABOUT H.R. 3167

The Congressional Budget Office—the President's own hand-picked budget scorekeeper—says that all of the new spending in H.R. 3167—a total of $1.07 billion—would occur in 1994, but the bill will not be paid for until 1998. CBO projects that in fiscal year 1994, this bill would increase the deficit by more than $1 billion.

As if that were not bad enough, the major offset contained in this bill is a gimmick. Essentially, the bill claims entitlement program savings from a discretionary spending increase that appropriators must finance in future years under the discretionary spending cap.

The new profiling system created in this bill is effectively an unfunded Federal mandate on the States. The bill requires States to establish a new worker-profiling system which will cost the States an estimated $897 million over 5 years to administer. The problem is that, in reality, these administrative costs are only covered in the first year. In the future, States will have to seek appropriations to cover the administrative costs of this new program.

Back in September, OMB Director Panetta said—and I quote—

> We're not going to submit [a proposal to extend unemployment benefits] * * *, unless it's paid for.

OMB Director Panetta was one of the authors of the original pay-as-you-go requirements. He knows what they mean. Perhaps, that is why the administration never submitted a formal proposal to extend these benefits.

Mr. President, Senator NICKLES and I worked in good faith with the chairman, the majority leader, and representatives of the administration to try to find a solution. We were unable to find a mutually acceptable way to pay for the bill, but we were able to make a positive contribution to this debate. We crafted a sense of the Senate resolution that puts the Senator on record on two important points: The first is that, based on current economic forecasts, we believe this will be the last extension of the Emergency Unemployment Compensation Program. Second, we believe the administration should come forward with a proposal to reform the Unemployment Compensation Program at the earliest possible date. This resolution was adopted with bipartisan support and the support of the administration.

The final point I would make is this: We will never get the deficit under control until we are willing to control entitlement spending. It is no secret that this bill has the votes to pass, but it is important to establish a record. We hear a lot of tough talk about the deficit, but actions speak louder than words.

Mr. President, we can do better. We should do better. The least we should be able to do is prevent this spending increase from adding to the deficit.

Mr. BIDEN. Mr. President, I am relieved that we are finally about to pass an extension of long-term unemployment benefits.

In my own State of Delaware, we know how important this legislation is. In recent years, we have been more fortunate than many other States, having an unemployment rate that remains below the national average. Nevertheless, we have not been immune to the forces at work throughout our country's economy.

In fact, in recent weeks, Delaware's unemployment rate rose substantially, to the highest point this year, 5.4 percent. This amounts to a 4-percent increase in the number of Delawareans out of work.

These unhappy statistics are just more proof that our Nation's economy is undergoing fundamental changes, changes that challenge the assumptions and policies of the postwar era. Among these changes, Mr. President, it is particularly frustrating that we continue to see layoffs by our country's major corporations even as falling interest rates and healthy corporate profits give us reason to believe that we are entering a period of stronger growth.

For every two steps forward our economy takes, these continuing layoffs force us one step back.

And, Mr. President, for each of those impersonal numbers we read every week, there are hundreds of thousands of Americans whose families are thrown into the tragic circumstances of unemployment. More than at any other time, Americans find themselves unemployed for prolonged periods.

That is why this bill is so necessary, and why I opposed amendments that would only slow down the assistance unemployed Americans so desperately need.

But now, Mr. President, two important tasks remain. The first is to overhaul our Unemployment Insurance Program to assure that we no longer must drag out this process through a continuing series of temporary fixes. One benefit of this most recent debate has been the recognition of this need.

The second, and more important task, is to overhaul the economic policies of the postwar period—and the assumptions behind them—that are now so obviously out of date. To restore our economy to the healthy levels of growth we need will require more imagination, and more fundamental choices, than extending the funding for unemployment programs.

THE UNEMPLOYMENT COMPENSATION EXTENSION BILL

Mr. MACK. Regrettably, I must vote against the bill in the form it has been presented to the Senate. It is unfortunate because I support the extension of emergency benefits. There are many needy Americans who desperately need this unemployment assistance.

However, the problem with the legislation in front of the Senate today is the way which it pretends to pay for cost of this relief. In fact, this legislation requires State governments to create new reemployment services at substantial costs to State taxpayers. It's just wrong to add new unfunded mandates on States.

It is clear the majority and the administration could pay for this legislation if they chose to do so. If this legislation is a priority—and I think it should be—then there ought to be lower priority spending which could be eliminated to pay for it. In fact, just yesterday, the administration sent to the Congress a package of reforms, including cost cutting measures, which could have easily paid for this legislation.

If Congress wants to help Americans in a responsible manner, we should stop deficit spending.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. WELLSTONE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mrs. BOXER], and the Senator from California [Mrs. FEINSTEIN], are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mrs. FEINSTEIN], would vote "Aye."

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], is necessarily absent.

I further announce that the Senator from Kentucky [Mr. MCCONNELL], is absent due to an illness in the family.

The result was announced—yeas 76, nays 20, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—76

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
D'Amato
Daschle
DeConcini
Dodd
Domenici
Dorgan
Feingold
Ford
Glenn
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy

Levin
Lieberman
Lott
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—20

Brown
Coats
Coverdell
Craig
Danforth
Dole
Exon
Faircloth
Gramm
Gregg
Helms
Kempthorne
Kerrey
Lugar
Mack
McCain
Nickles
Pressler
Smith
Wallop

NOT VOTING—4

Boxer
Durenberger
Feinstein
McConnell

So the bill (H.R. 3167), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. MOYNIHAN, Mr. BAUCUS, and Mr. PACKWOOD conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation in completing action on this important measure. Unfortunately, it took a lot longer than should have been the case. In any event, we have completed action.

Rollcall votes remain possible today, as there are other measures upon which action must be taken before we recess for the day. I repeat, so that Senators are on notice and fully aware, that rollcall votes remain possible today, as we will have to take action on other measures before recessing for the day.

(At the request of Mr. MITCHELL, the following statement was printed in the RECORD.)

• Mrs. FEINSTEIN. Mr. President, for the vote on final passage of H.R. 3167 I was en route to California to lend my assistance with the Federal response to the catastrophic fires in southern California. Had I been present, I would have voted "aye" on passage of the unemployment benefits extension bill.•

EXPRESSING THE SENSE OF THE SENATE THAT THE DEPARTMENT OF LABOR SHOULD PROVIDE RESOURCES TO COVER CERTAIN COSTS

Mr. MITCHELL. I now ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 159, submitted earlier today by Senators COVERDELL and KEMPTHORNE, that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 159) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 159

Resolution expressing the sense of the Senate that the Department of Labor should provide adequate resources to the States to cover the costs of developing and implementing the worker profiling system and should provide the Governors with adequate flexibility to ensure that the funds appropriated will be made available to provide reemployment services for profiled claimants.

Whereas Federal regulation of State and local governments has become increasingly extensive and intrusive in recent years;

Whereas such regulation has, in many instances, adversely affected the ability of State and local governments to achieve their independent responsibilities and meet their established priorities;

Whereas such regulation has forced State and local governments to use existing revenue sources or generate new property tax revenues to enable them to adhere to Federal mandates;

Whereas the resulting excessive fiscal burdens on State and local governments also undermine the ability of State and local governments to attain the goals of Federal regulations;

Whereas over 1,000 mayors through the United States Conference of Mayors recognized October 27, 1993, as National Unfunded Federal Mandates Day to call the attention of Congress to the fiscal emergency facing local governments as a result of the onslaught of Federal unfunded mandates;

Whereas support was given to the National Unfunded Federal Mandates Day by the National Association of Counties, the International City and County Management Association, the National Governors' Association, the National Conference of State Legislatures, and the Council of State Governments;

Whereas the report of the National Performance Review, issued September 7, 1993, states that "the President should issue a directive limiting the use of unfunded mandates by the Administration," and recommends that "Congress refrain from this practice"; and

Whereas the States must have adequate resources to implement effectively any new requirements placed on them by Federal laws and regulations: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Department of Labor should provide adequate resources to the States to cover the costs of developing and implementing the worker profiling system and should provide the Governors with adequate flexibility to ensure that the funds appropriated will be made available to provide reemployment services for profiled claimants.

Mr. COVERDELL. Mr. President, this Senate resolution states that the U.S. Department of Labor shall provide adequate resources to the States to cover the costs of development and implementation of the worker profiling program and provides that the Governors have adequate flexibility to ensure that the Federal money appropriated will be made available to provide the reemployment services to which profiled claimants are referred.

There is a certain irony that as we recognize National Unfunded Federal Mandate Day 1993 and the burdens mandates placed on States and local communities, the Senate would be debating a measure that could add a mandate or greater burden on our States and local communities.

Today, rallies and press conferences have been held throughout the Nation to call the attention of Congress to the fiscal emergency facing local governments as a result of the onslaught of Federal unfunded mandates.

On the surface it is easy to see how the Federal Government got into this mess of unfunded mandates. Congress and the Federal Government have spent every dime they have, and over $4 trillion they don't have, to carry out their unending desire to spend, spend, and spend. Now Congress has turned to local communities and has begun a full scale raid on property taxes in their hunt for more dollars.

The result is that States and local communities have less control over their own resources and must dig deeper and deeper to pay for Federal regulations the Federal Government won't pay for itself.

Mandates, however, cost more than money. They cost jobs.

It is time for Congress to take fiscal responsibility for the measures it passes. If we truly believe a worker profiling system should be established, then we must pay for it. We cannot continue to pass measures while passing the costs of implementation on to others. We are in the process of bankrupting our States and local governments.

This resolution is a start at bringing discipline to our spending habits.

Mr. KEMPTHORNE. Yesterday, all across the Nation, mayors, city council members, county commissioners, and State officials demonstrated in their local communities. They demonstrated to educate their citizenry on the intolerable practice of this Congress of imposing unfunded Federal mandates on local governments.

On Tuesday, this week, I met with a bipartisan delegation of mayors and county officials, including Mayor Richard Daley of Chicago and Mayor Jerry Abramson of Louisville, who have expressed support for my bill, S. 993, the Community Regulatory Relief Act of 1993. Their message of support for S. 993, the Community Regulatory Relief Act of 1993. Their message of support for S. 993, mirrored by local officials across the country on National Unfunded Mandates Day, was very simple. Congress is breaking the backs of American cities by imposing a hidden 12-percent tax on local governments.

The Congress of the United States has the right to decide that, in the national interest, national standards and national priorities dictate the imposition of mandates. I recognize this need. However, I reject the reasoning that because the U.S. Treasury is broke, we can rob from the treasuries of local communities and States to fulfill our promises. I reject the premise that Congress should require States and local communities to ignore the critical needs in their own communities to pay for Federal dictates. I reject the invisible hand of the Federal Government reaching into the pockets of the American taxpayers under the guise of local property or sales taxes.

I believe that there is a rising tide in America. A fresh current of revolt which is changing the political landscape and shaping the debate of the nineties. A rebuking of unfunded Federal mandates has crept into the language of Congress. You hear it every day on the floor of the Senate and House Legislators decry the imposition of unfunded mandates and vigorously oppose the label on legislation they offer. And yet, some still don't get it. Those of us committed to educating the mandate makers on the Hill must continue to scrutinize legislation to make sure that the burden on local government is reduced.

That is why I want to congratulate my colleague, Senator PAUL COVERDELL, for his leadership and partnership on this resolution.

As written, H.R. 3167 would make mandatory to States, without funding provided in the bill, a system of worker profiling designed to identify claimants who will need assistance services. This is, by any definition, an unfunded Federal mandate. The resolution is clear. It expresses the sense of the Senate that the Department of Labor provide to the States the moneys necessary to cover the costs of developing and implementing the worker-profiling system.

The requirement contained in this sense-of-the-Senate resolution is not opposed by the Department of Labor. Funding for this provision was suggested in a letter by Secretary of Labor Reich on October 5, 1993. But the issue, the critical issue, is, that no one thought to provide for that funding in the bill. If the funds are identified, if an agreement has been reached, why can we not go the next step and provide the funds needed so we do not further burden the American taxpayer?

There is only one American taxpayer. There is not a Federal taxpayer and a State taxpayer and a local taxpayer. There is just one packet. And this Congress must have the courage, if we are to impose new standards on the people, to own up to the cost of that standard. If its purpose is so pressing and just, we must lead the people to see its rationale. But just the same we must stop imposing mandates and begin a national debate of our national priorities and stop ignoring the impact of our acts on those who must carry out our legislation.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,415,934,724,518.77 as of the close of business yesterday, Wednesday, October 27. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,192.06.

SENATOR ROBERT PACKWOOD

Mr. BRYAN. Mr. President, the Senate Ethics Committee is asking the Senate to vote to proceed to U.S. district court to enforce compliance with a subpoena for documents from Senator ROBERT PACKWOOD.

On February 4 of this year, the Ethics Committee announced it was conducting a preliminary inquiry of Senator PACKWOOD concerning allegations of sexual misconduct, attempts to intimidate and discredit the alleged victims, and misuse of official staff in efforts to intimidate and discredit. Since that time, the committee has been conducting a thorough inquiry. The committee had announced that it anticipated completing the preliminary inquiry by the end of October. Regretfully, the committee has encountered a roadblock to its efforts, and has been forced to come to the Senate.

A subpoena was issued by the Ethics Committee and signed by the chair and vice chair on Wednesday evening, October 20. The subpoena was made necessary when Senator PACKWOOD halted the ongoing review of his diaries to which he had earlier agreed.

Let me recount the events leading to this point. On March 29, the committee issued a document request to the Senator seeking documents relevant to the committee's preliminary inquiry. As the inquiry progressed, the committee needed additional materials, and a second document request was issued on July 16. In response to these two requests, the committee did not receive any pages or material from the diaries. The committee was aware of the possibility of the existence of the diaries; however, the committee assumed in good faith that Senator PACKWOOD would comply with the two document requests and provide information from the diaries if there was relevant information. The committee did not receive such diary material, and had no cause at that time to believe the diaries contained relevant information, since they had not been provided under the document requests.

On October 5 and 6, the Ethics Committee counsel conducted a deposition of Senator PACKWOOD. During the questioning, Senator PACKWOOD under oath testified that information relevant to the committee's inquiry was contained in the diaries. Senator PACKWOOD also said he might one day use the diaries to write a book. The committee realized that Senator PACKWOOD, by not turning over the diaries earlier, had not complied with the document requests. The deposition was halted. The Ethics Committee concluded it needed the diaries before it could complete the deposition of Senator PACKWOOD. Negotiations began between committee counsel and Senator PACKWOOD's counsel as the committee sought access to the diaries.

To respect the private nature of certain information in the diaries, the committee offered to allow the Senator's attorneys to mask with tape portions of the diaries dealing with attorney-client privilege, physician-patient privilege, and personal and private family matters. The Senator's attorneys would judge what information fell into each category. They would then deliver the masked diaries to the committee counsel. The committee staff would, in the presence of the Senator's attorneys, then review each volume. The committee staff would not take notes or make copies. Committee staff would mark pages of each volume which they wanted copied. The attorneys for Senator PACKWOOD would then take the diaries back to their office to copy the marked pages. At no point in this process would the committee retain physical possession of the diaries.

This process was agreed upon by Senator PACKWOOD himself, as well as his attorneys. From October 12 to 16, the committee reviewed some 5,000 pages of the diaries covering a period of 20 years.

On Sunday, October 17, while reviewing the diaries under the original agreement, the committee counsel came across information indicating possible misconduct by Senator PACKWOOD unrelated to the current inquiry. This information raised questions about a possible violation of one or more laws, including criminal laws. Committee counsel brought this information to the attention of the chair and vice chair.

On Monday morning, October 18, Senator PACKWOOD'S attorneys expressed concern that the Ethics Committee might consider additional potential violations. Late Monday afternoon, his attorneys informed the committee that no copies would be made of the material seen the day before, and that no more diaries would be delivered for committee review until additional material was masked, thus breaking the original agreement.

The committee refused to agree to this change in the agreement, and did not agree to the Senator's counsel's request to not pursue the information reviewed on October 17 which raised questions of other possible violations outside the ongoing inquiry.

The committee then proposed that a hearing examiner be brought into the process. Under the proposal, Senator PACKWOOD would turn over the remaining diaries to the examiner. The examiner would ensure that the only masked material would be material related to the three categories in the original agreement—attorney-client and physician-patient privilege and personal and private family matters—and would then allow the committee counsel to review the unmasked material. The diaries would be returned to the examiner for safekeeping.

Senator PACKWOOD'S counsel rejected the committee's proposal, and again refused the turn over copies of the material reviewed on October 17 and the remaining unreviewed diaries. Let me point out here that information supplied to the Senate and to the media by Senator PACKWOOD'S attorneys seems to indicate that Senator PACKWOOD'S attorneys were willing to turn the diaries over to a hearing examiner. What has not been made clear is that Senator PACKWOOD'S attorneys stipulated that neither the hearing examiner nor the committee would receive those portions of the diaries that would raise questions of other possible misconduct, and that they would mask additional material. In addition, they were not willing to provide any diary material unless the committee agreed not to pursue as part of this inquiry evidence of other possible misconduct reflected in the diaries.

The committee told Senator PACKWOOD that the committee could not agree to this limitation on its responsibility, and that the diaries must be produced under the original agreement or the committee would take steps to subpoena the documents.

On the evening of October 20, the committee issued a subpoena for the diaries. The subpoena required that the diaries from January 1, 1989, to the present be provided immediately to a hearing examiner. At approximately 9:30 a.m. on October 21, the subpoena was served on Senator PACKWOOD and his attorneys. Senator PACKWOOD'S attorneys were told that if the documents were not produced, the committee intended to meet later in the day to consider a resolution to the Senate to compel compliance with its subpoena.

After discussion during the day failed to convince Senator PACKWOOD to produce the diaries, the committee met at 5 p.m. on October 21, and voted unanimously to seek a Senate resolution to go to court if the documents in question were not produced by 7:30 p.m. Senator PACKWOOD'S attorneys were so informed. When the documents had not been produced by 7:30 p.m., the chair and vice chair prepared to go forward, and the resolution was introduced.

Since then, a statement has been issued by Senator PACKWOOD'S attorneys which is misleading. In addition, Senator PACKWOOD made a statement on the Senate floor which included inaccurate information.

Let me recount the events leading to this point:

Senator PACKWOOD relied on material from his diaries as part of his deposition. The Ethics Committee then asked for access to the diaries.

The committee reached an agreement with Senator PACKWOOD which allowed the committee to review the diaries with attorney-client, physician-patient, and personal and private family matters taped over, in order to respect the private nature of that material. The committee reviewed some 5,000 pages, covering a period of 20 years.

There was no agreement, as one of Senator PACKWOOD'S attorneys has erroneously claimed, that if the Ethics Committee saw information which could indicate possible violations of rules or laws outside the inquiry underway, the committee would not pursue such material. Quite the opposite. Ethics Committee counsel specifically informed the Senator's attorneys that if the committee saw information related to possible other misconduct, the committee would be compelled to pursue that material.

Senator PACKWOOD'S attorneys broke off the committee review of the diaries only after committee counsel found information which may—and I emphasize may—indicate possible misconduct unrelated to the inquiry underway and which raised questions about possible violations of criminal laws. Committee counsel brought this information to the attention of myself and Senator MCCONNELL, and we took it to the full committee.

The Ethics Committee is not interested in the personal, consensual sexual relationships of any other Senator or Member of the House. The new information which the committee is attempting to pursue is related to actions by Senator PACKWOOD. No committee counsel removed tape, as the Senator charged on the Senate floor, so the counsel could see the name of a Democratic official written about in the diaries. Senator PACKWOOD later corrected this misstatement in the official version of the CONGRESSIONAL RECORD. However, the committee counsel is owed an apology for this untruthful charge, which was widely played in the media.

Senator PACKWOOD'S diaries were maintained in his Senate office, and for many years were transcribed by his Senate-employed secretary. They are not strictly personal, handwritten diaries. Senator PACKWOOD told the committee that he was considering using the diaries to write a book.

The question before the Senate is, Will the Senate of the United States back up its own Ethics Committee, which voted unanimously to ask the Senate to enforce its subpoena of documents from Senator PACKWOOD. The committee seeks these diaries for two reasons: Because the committee knows they contain information relevant to an ongoing preliminary inquiry, and information which suggests other possible violations of rules and/or laws. The Ethics Committee and the Senate cannot permit a Senator to withhold information related to possible violations and misconduct. Nor can it permit the Senator to determine what is relevant under these circumstances.

There is no constitutional right being violated. There is no witchhunt or fishing expedition underway. The Ethics Committee has no interest in pursuing information related to the private lives of Members of Congress.

It would have been far easier on the members of the Ethics Committee to have taken another course. However, we chose to do what we believe is our duty, and we stand united behind that action. The Ethics Committee is simply doing its job of conducting a thorough and creditable inquiry. The Senate and the public should settle for no less.

The Ethics Committee voted unanimously to ask the Senate to go to court to enforce the committee subpoena to obtain documents from a Member of the Senate. I regret we are in this position, but we cannot look the other way. It is essential for the Senate to support the Ethics Committee to preserve the integrity of the institution and the ethics process.

THE PRESIDENT'S HEALTH CARE REFORM PLAN: THE HEALTH SECURITY ACT OF 1993

Mr. PRYOR. Mr. President, late last month, President Clinton described for the Congress and the American people his plan to reform our Nation's ailing health care system. And this week, he has presented the Health Security Act of 1993 to the Congress. The President and the First Lady have worked tirelessly to produce an impressive health care reform proposal. Finally, we have a President who has shown the leadership needed to fix our flawed health care system. Finally, all people will have the security of guaranteed, comprehensive benefits. The presentation of the bill is a first step toward tackling a complex problem, and I applaud the President's goal of making our health care system work—not just for some Americans, but for all Americans.

Just last week I received a letter from Andrea Mann, a young woman from Benton, AR. She is unemployed, and her husband works for a small business. Even if they could afford it, she cannot find an insurance company that will provide her with insurance because of some previous medical problems. Mrs. Mann is eager to start a family—but not without health insurance—so she wanted to see when the President's plan would pass. She wrote, "I am literally waiting on a family while Washington argues this issue." I am hopeful that the Congress will take swift action on health reform so that Andrea Mann, and many like her across the country, will not have to wait any longer to start their families, or get that checkup they have been putting off, or the surgery they need but cannot afford.

The unveiling of the President's bill marks the beginning of what is sure to be a lengthy, yet productive, process. Some are saying this plan goes too far, and others are saying that it does not go far enough. However, I believe nearly everyone agrees that the health security plan is a strong start in the right direction which strives to fix what is broken in our system and preserve what is best about American health care.

This health care reform initiative once and for all gives us an opportunity to provide health security for all Americans. I look forward to achieving this goal and plan to work with all interested parties—not only the administration and my colleagues in Congress, but also consumers, older Americans, hospitals, doctors, nurses, pharmaceutical manufacturers, the States, and many others. And in the development of this legislation, you can be sure that I will work to balance the needs and concerns of all involved while working to guarantee health security for all Americans. In the wake of many divisive national debates, I am hopeful that this one will bring our Nation together and make our democracy a stronger one.

Mr. President, the cost of doing nothing far outweighs the cost of the proposed plan—both in financial and human terms. Recognizing that, certainly some aspects of the plan need additional review. My statement today is an effort to comment on just a few aspects of the President's plan.

PRESCRIPTION DRUG COVERAGE

I am pleased to see that the President's plan would expand prescription drug coverage to the some 72 million Americans—including millions of older Americans—that do not have any way to pay for the drugs that keep them healthy and alive. Prescription drugs are one of the most cost-effective medical tools that we have at our disposal, yet because of the lack of public and private insurance coverage and skyrocketing medication prices, too many Americans have had to make the unfortunate choice between buying drugs and food.

The proposed Medicare prescription drug benefit would certainly help a 68-year-old woman with cancer from Russellville, AR, who recently wrote to me. She wrote that her medication bills sometimes force her to go without food because such a large part of her monthly check goes to pay for drugs. The Medicare drug benefit will also help an elderly couple in North Carolina—both of whom are very ill and cannot afford all the medications that they need. Their daughter wrote to me, "My parents often do without their medications. They have worked all their lives, have raised seven children, and they do the best with what they have * * *" This Medicare drug benefit will put an end to these heartbreaking stories.

While I applaud the plan for recognizing that pharmaceutical cost containment is long overdue, I am not convinced that the plan goes far enough. For example, the plan does not propose any meaningful pharmaceutical price restraint during the period of transition to the new system, when millions of older Americans will still be very vulnerable to significant prescription medication costs. While the establishment of an Advisory Council on Breakthrough Drugs to review new drug prices is a step in the right direction, it does not appear that the Council has any real power. The plan, however, does incorporate meaningful pharmaceutical cost containment principles into the Medicare drug program. That is only fair, since Medicare will be the largest prescription drug program in the Nation.

I am pleased that the plan increases Federal support for research and development of new pharmaceuticals and treatments for the medical challenges that we face today, such as Alzheimer's cardiovascular diseases, and AIDS. The plan will also help to cover the cost of clinical trials, which is often the most expensive part of the new research and development process. In summary, the plan does a good job on expanding drug coverage, but falls short on the cost containment side. I will work to see that reasonable mechanisms are included in the final legislation to assure that research and development incentives are preserved, while the prices that Americans pay for these drugs are fair.

THE PRESIDENT'S PLAN AND THE ELDERLY

The President's plan will benefit our Nation's elderly in many different ways. Just like all citizens, they stand to benefit significantly from overall reductions in the cost of care expected to result from efficiencies in the new system. These efficiencies will likely translate into slower increases in Medicare premiums and copayments. His plan also includes the two things that senior citizens in this country need the most—prescription drugs and long-term care.

As far as Medicare is concerned, the elderly will see little difference initially in where, how, or from whom they receive their health care. Although Medicare will remain a separate program, there will be additional choices and options available to both beneficiaries and States. For example, once a State's system is established, it will have the option to include everyone, including Medicare beneficiaries, under one system. If a State chooses to do this, the coverage it provides must be greater than or equal to Medicare, at no additional cost to the Medicare program or the Medicare beneficiary. In addition, those older people who become newly eligible for Medicare will have the option to remain in their health plan provided through the alliance, or enroll in the Medicare Program.

Our Nation's elderly and disabled and their families will rest easier knowing that the President's plan also includes long-term care. Currently, millions of people go without needed support and services in the home and community because little or none are available. And once their physical and financial resources are nearly exhausted, they must further impoverish themselves to become eligible for Medicaid nursing home coverage. This desperate situation was articulated again and again by witnesses of all ages and walks of life at a hearing held by the Special Committee on Aging this past spring. No one made the point more eloquently than Walter Dawson, age 10, who because of his father's Alzheimer's disease, knew more about home care and nursing homes and Medicaid and the terrible toll that this disease takes on families than any of us would ever wish to know.

The President's plan emphasizes home and community-based care, including a broad array of services such as home health care, adult day care, and respite services. These services would be available to those who meet certain disability requirements, with some cost-sharing based on income.

The Medicaid Program for nursing home residents will remain the same, with some long-needed improvements. The plan gives States an option to allow nursing home residents to keep $12,000 in assets before they spend-down to Medicaid eligibility, compared to $2,000 currently. And, once they are eligible for Medicaid, residents are permitted to have $70 each month for their personal needs, as compared to $30 each month currently. There will also be significant improvements to the private long-term care insurance market, providing consumer protections with tax clarification to encourage employers to offer this type of insurance to their workers.

The plan also requires all States to have what is called a medically needy program for Medicaid nursing home care. This basically means that anyone whose income is insufficient to pay for nursing home care will be eligible for Medicaid. Recently, my office heard from Mrs. Ann Clem of Little Rock whose mother, a nursing home resident, made $1 over the Medicaid income eligibility limit. However, she was still about $400 short of having enough to pay her nursing home bill. If Arkansas had a medically needy program, Mrs. Clem and her siblings, who have families and responsibilities of their own, would not have to scramble every month to come up with the extra money her mother needs to stay in the nursing home.

This country's elderly and disabled have gone for too long without an affordable, broad-based long-term care program. I am very pleased that the President included those critically needed benefits in his health reform plan. Earlier this year, young Walter Dawson began writing letters to people all over the country to let them know not only about his personal situation, but also to educate them about the plight of millions of families just like his. We all need to follow Walter's example—it is our duty to educate one another on the great need for these services.

The new long-term care and prescription drug programs will be paid for by savings achieved by slowing the growth of the Medicare Program as well as beneficiary premiums and copayments and deductibles. I am hopeful we can achieve savings in the Medicare Program without cost-shifting or reducing access to care. We also need to ferret out fraud, waste, and abuse, reducing the administrative burdens currently on providers and beneficiaries, and identifying those components of the Medicare Program that could operate more efficiently. I do believe that Medicare beneficiaries and the providers who serve them will benefit from a reformed health care system.

The Health Security Act will assist early retirees, as well. Millions of retired Americans are at risk of losing their health benefits as companies are cutting back benefits to control their rising health care costs. Those persons retiring between ages 55–65, at which age they become eligible for Medicare, and who have worked for at least 10 years, will be subsidized for their employers' share of their premiums. If employers elect to provide retiree health benefits, they will pay the employee's share of the premiums. Relieving employers of this burden will greatly lower their early retiree health care costs.

HEALTH CARE IN RURAL AREAS

Mr. President, our Nation's rural residents will also benefit under the reforms planned for our health care system. Many people living in rural areas struggle on a routine basis to find basic medical care. Doctors are scarce in rural areas. Only 13 percent of our Nation's doctors are set up in rural practices. Critical shortages exist as well in the number of nurses, dentists, psychologists, and other health professionals in rural practice.

The President's plan will provide a number of incentives to draw providers into rural practice and improve access to health care in rural areas. The plan will include tax incentives for health care providers, retraining and scholarships, increased reimbursement for services, and loan forgiveness programs.

The plan will strengthen the infrastructure for care in rural areas by strengthening the public health system. Public health departments provide a great deal of care to those who might otherwise be denied access to the health care system. We anticipate that the plan will significantly increase the size of the National Health Service Corps, sending more corps doctors and nurses into rural communities where they are so desperately needed.

Through these and other measures, the Health Security Act will make a positive contribution to the health care available to rural Americans.

NEEDED REFORMS TO THE INSURANCE MARKET

Last year I received a letter that has stayed in my mind. The man—who wished to remain anonymous—wrote: "Dear Senator Pryor: I am embarrassed to write you this letter. For the first time in my life, I have recommended that a child of mine lie." This man's note tells about his 35-year-old daughter from Jonesboro, AR. Because of a previous medical condition she had in her 20's, she was repeatedly denied health insurance because of medical underwriting by insurance companies. Out of desperation for this child to have insurance, this man felt he had no other option but to tell her to engage in a falsehood.

I believe that no person should be made to feel like a criminal in order to get health insurance. Under the President's plan, people would no longer be denied health insurance because of a so-called pre-existing condition. No longer will insurance companies get to pick and choose whom they cover. Other important insurance market reforms in the President's plan include: Community rating, where premiums may only vary by family size and geographic area; Guaranteed issuance of coverage, where everyone is guaranteed coverage that can't be canceled or curtailed; and, Guaranteed renewability, where people can drop their insurers, but insurers cannot drop them.

No longer will health plans be able to deny coverage to a person based on his or her health, employment status, or financial status. Consumers will not be charged more because of their age, employment status, medical condition, or risk. Employees who develop a serious illness cannot lose coverage as a result, nor will health care coverage for their coworkers be threatened.

SMALL BUSINESS UNDER THE PRESIDENT'S PLAN

Today, our health care system is stacked against small business. Insurance companies charge small businesses as much as 35 percent more than the big ones. The President's plan will bring significant relief to small businesses who have been straining under the burden of ever-rising health care costs. In fact, the Wall Street Journal said the plan will provide "an unexpected windfall" for small business.

Recently I heard from a small business owner in Little Rock. She told me that she spends hours upon hours each year searching and negotiating for the best health insurance plan for her employees. Under this plan, this type of administrative burden will be eliminated. In Arkansas, where the majority of our businesses have fewer than 25 employees, the President's plan will bring greatly needed relief.

Insurance practices which lead to discriminatory and higher costs for small business will end—no more cherry-picking. Also, the Health Security Plan provides for a permanent 100-percent tax deduction for the self-employed. The President's plan will ensure that small businesses don't get hit with premiums they can't afford.

Contributions from small business will be eligible for caps varying from 3.5 percent to 7.9 percent of payroll, depending on the employer's average wage. Today, many employers are paying over 10 percent of payroll for their health insurance. Having said that, Mr. President, this remains an area that I intend to closely monitor to minimize any negative impact the plan might have on small business. This issue is one that we will take a long, hard look at in the coming months.

There are many additional areas of this plan that will be thoroughly debated in the coming months. I believe it will be particularly important to carefully examine the financing and cost elements of the package to ensure that they cover the cost of the provisions and accurately reflect the policy.

It is my hope that this debate continues from this point on in a constructive, bipartisan manner. I look forward to working with all of my colleagues to ensure passage of a health care reform bill that makes our system work for all Americans.

NATIONAL ARTS AND HUMANITIES MONTH

Mr. GRAHAM. Mr. President, the month of October 1993, has been designated as "National Arts and Humanities Month." I would like to offer my support for this occasion by taking a few minutes to comment on the special role that arts and humanities play in our lives.

Support of the Nation's cultural institutions maintains and augments America's cultural traditions while presenting the past and exploring the future. Investment in the arts can foster a greater sense of community by engaging the public in and through the arts.

The arts provides our children with important educational benefits such as a sense of American civilization and the other civilizations that have contributed to it. The arts foster reasoning skills, creativity, effective communication and assistance in making wise choices among the products of the arts.

In addition to their educational and culture roles, arts and humanities hold great economic value. The arts benefits individuals as well as communities through tangible and intangible resources invested in attending performances, exhibitions, art classes, and other activities.

From the panhandle to Miami, arts organizations in my home State of Florida reflect its large multicultural populations. Thriving urban centers and rural areas are all served by traditional as well as contemporary artistic expressions.

The Florida Division of Cultural Affairs and local arts agencies assist artists, strengthen arts organizations, and provide cultural opportunities enjoyed by the people throughout Florida. These investments in our artistic resources enhance and transmit the richness of our Nation's cultural legacy for the benefit and enrichment of present and future generations.

I would like to take this opportunity to mention some of the exciting cultural activities currently taking place in Florida. Directed by Edward Villella, Miami City Ballet is the newest and fastest growing classical dance company in America. Since its inaugural performance in October 1986, the company has presented nearly 70 ballets, including more than 25 world premieres.

The company has been invited to perform throughout the United States as well as Europe, England, Israel, and Central and South America. Notable engagements include the Lyon, France Biennale de la Danse, Wolf Trap Farm Park Festival, the Ravinia Festival, Jacob's Pillow Dance Festival, Dance Aspen, the Chautaugua Festival, The Madison Festival of the Lakes, ArtPark, and the Brooklyn Center for the Performing Arts.

In south Florida, the company claims four home cities—Miami, Fort Lauderdale, Palm Beach, and Naples, on the west coast. Over 15,000 season subscribers see the company in regular series throughout the season. Special series of "DanceTalks" and "Ballet for Young People" as well as exclusive performances for schools are presented, where the physical, human vocabulary of the dance is described and demonstrated. I am pleased to announce that the company will be performing at the Kennedy Center here in Washington in April 1995.

The Museum of African-American Art, located in Tampa, is one of America's newest public art museums and is committed to honoring the continuing growth of African-American history and culture. The opening of this institution marked the 50th anniversary of the Barnett-Aden African-American Art Collection—one of the Nation's oldest chartered collections of African-American art. The installation of the Barnett-Aden collection in this new museum provides a formal and permanent facility to house the treasures of this unique and valuable collection.

It is significant that part of the land upon which the museum is now located was owned by African-Americans in the early 1920's and housed the first black public library for the Tampa community.

The Hispanic Cultural Arts Festival in West Palm Beach, the American Stage Co. of St. Petersburg, and the Philharmonic Orchestra in Ft. Lauderdale, are just a few of the many participants in Florida's flourishing arts community. The number of performing arts companies, museums, arts centers, and other arts organizations has grown to over 5,000 over the past 27 years, with no end in sight. Florida continues to be a cultural dynamo reflected by vibrant arts centers across the State.

Mr. President, I appreciate this opportunity to recognize the importance of arts and humanities in our lives. Through their educational, economic, and cultural manifestations, arts and humanities impact both present and future generations of Americans.

WELCOMING OF TASK FORCE 160

Mr. SASSER. Mr. President, last Sunday, the 24th of October, I was very honored to attend the homecoming of elements from the 160th Special Operations Aviation Regiment, and the 75th Ranger Regiment. They have just returned from Somalia, where they displayed unsurpassed tenacity and valor in combat. Deputy Secretary of Defense Perry aptly described their heroism during Sunday's homecoming ceremony at Fort Campbell, and I ask unanimous consent that Dr. Perry's remarks be included in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY DEPUTY SECRETARY PERRY WELCOMING OF TASK FORCE 160, OCTOBER 24, 1993

Soldiers of the 160th Special Operations Aviation Regiment, night stalkers, 75th Ranger Regiment, and our hosts from the 101st.

It's a real privilege to speak for Senator SASSER, Congressman TANNER, General Sullivan, Secretary Aspin, and President Clinton, to welcome you back home and to thank you. I especially want to convey a heartfelt thank you from President and Mrs. Clinton, who are meeting this morning with your wounded comrades at Walter Reed Hospital.

Thank you for taking on a tough job. And thank you for performing it with great skill and courage.

I also want to express my thanks to the family members. You have endured the separation and the agonizing uncertainty of having loved ones on a hazardous mission in a far away land.

We went to Somalia last December to deliver humanitarian aid. At that time, innocent people were dying on a massive scale. The nation was ravaged by years of brutal civil war and famine. An estimated 1,000 people were dying a day, and 800,000 refugees were forced into exile.

In a few months, we were able to bring order to the country and relieve the famine. We saved untold thousands of lives.

Then, in June, the militia forces under Aideed began attacking U.N. forces in Mogadishu, killing 28 in a few days. All that we had accomplished at that point was in danger of being lost, since the U.N. forces in Mogadishu were unable to deal with the guerrilla warfare that had begun. So our military commander in Mogadishu asked for help. The mission was a tough one, so we sent in the best—Night stalkers and rangers.

You went there to restore security to the city so that Humanitarian aid could resume. And you succeeded—but at a heavy price.

That price was exacted when we lost a Blackhawk on September 28, and again during the firefight in Mogadishu on October 3. That fight demonstrated the skill, discipline, and courage of the night stalkers and rangers.

When two of your helicopters were shot down and the crew endangered, you never hesitated. You continued to fly into the hostile fire. You ran effective fire support to the rangers, who were vastly outnumbered.

From this day forward, no one will recite the rangers creed, "Never shall I fail my comrades," without thinking of your display of courage in Mogadishu on October 3. That day you showed the world that "Night stalkers don't quit".

And we saw your determination and professionalism in Michael Durant, who braved his captors and bore his wounds with quiet courage. As tough and resolute as Chief Durant was, I was equally impressed by the courage displayed by his wife. Her message on national television to remind her husband of NSDQ reminded us of the dedication and support at home. Her courage provided all of us courage.

Because of your skill, discipline, and courage, you stood firm with your comrades and, although you suffered significant casualties, you inflicted casualties on your attackers many times greater than what our troops suffered. In fact, your actions with the rangers that day effectively disabled Aideed's militia and led directly to his willingness to call for a cease fire and negotiate a political settlement.

I came here today to pay tribute to your courage and to express my deep personal sense of loss at the death of your fellow soldiers. I especially want to extend my sympathy to the families of the soldiers who gave their lives.

Personal hardship is not a stranger to Fort Campbell, and the Nation joins with you once again in your suffering.

When General Sullivan presented the Purple Heart to Chief Durant last week, and told him that he was proud of him, the chief replied, "I am proud to be an American". I can tell the chief and the other night stalkers and rangers, that all Americans are proud of you, and admire your professionalism and skill and all Americans are grateful for your courage and your service to our country.

God Bless you, and God Bless America.

PASSAGE OF EMERGENCY UNEMPLOYMENT BENEFITS

Mr. PELL. Mr. President, I am pleased the Senate has approved legislation to extend the emergency unemployment benefits program that will provide emergency benefits to those suffering from long-term unemployment.

Since the beginning of this month, my Providence office has been inundated with calls from Rhode Islanders who are terribly worried about if and when Congress would approve this very important legislation. I am sure they will sleep just a bit easier tonight.

My home State of Rhode Island has been beset by alarmingly high unemployment. I have a chart in my office that tracks both the national and State unemployment rates. That chart begins in December 1989 and this past July is the first time Rhode Island unemployment has been below the national rate. Unfortunately, August saw the rate again go up above the national average.

Over the span of that chart, Rhode Island's unemployment has been over 9 percent for months on end. In that regard, the long-term unemployed in Rhode Island share the dubious distinction, along with those in Alaska, California, West Virginia, and Puerto Rico, of being eligible for 13 weeks of additional benefits under this legislation. While I am pleased this bill acknowledges the special circumstances in which we find ourselves, I would much prefer a lower unemployment rate.

In conclusion, I was pleased to vote for this bill and I urge the President to sign it into law as soon as possible.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

LEAVE OF ABSENCE

Mr. BYRD. Mr. President, I make this request on behalf of Mr. HATFIELD.

Mr. President, pursuant to rule 6, paragraph 2 of the standing rules of the Senate, I ask unanimous consent that I be excused from attending the remaining session of the Senate this afternoon and the day of Friday, October 29, 1993, so that I might attend the remembrance ceremony for my friend who passed away, Bill Healy, founder and former President of Mt. Bachelor Ski Area in Bend, OR.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-MEXICO TRADE AGREEMENT

Mr. DORGAN. Mr. President, I rise today to discuss briefly the subject of the North American Free Trade Agreement, more commonly known as the United States-Mexico trade agreement. I decided it would be instructive to bring to the floor of the Senate a copy of NAFTA because my guess is no one in this body has read it. Probably very few have seen it and most will be surprised to understand its sheer volume.

This is the agreement, and I will not lift it all up, but we have volume 1, volume 2, and annex 3022, some of which is written in Spanish, and 3X322 schedule of Mexico versus the schedule of the United States. Third is a tariff schedule of Canada.

So when you talk about the treaty with Mexico, the trade treaty, that is so controversial it is not a 8½ by 11 sheet of paper on which they negotiated the specifics of trade between our countries. It represents these volumes of specific trade agreements in which a trade negotiator for our country went behind closed doors and negotiated with someone else specific rules under which trade will take place between us and Mexico.

Yesterday or the day before there was in the Washington Post an advertising supplement called Ag for NAFTA. The Ag for NAFTA folks bought a big piece of the Washington Post and put a lot of information in it.

Of course, they would have you believe that these are farmers for NAFTA. It could not be farther from the truth. These are large food processing companies that have gathered under an umbrella called ag and pretended that the family farmers in this country support NAFTA.

The family farmers I represent do not support NAFTA by and large, because they know deep in the bowels of these volumes our trade negotiators lost. I am going to explain the specifics of that in just a moment.

So, Ag for NAFTA, big food processing companies, want NAFTA. Is that a surprise that they do? They would like to access the Mexico market to hire the $1 an hour labor and make money. That is Ag for NAFTA.

NAFTA is a slick idea for those who support the Mexico trade agreement or NAFTA because they have a lot of money. At its heart is the agenda of U.S. corporations to access cheap labor in foreign markets and sell back into the U.S. marketplace. It is about money, money for big economic interests.

Part of this campaign, which again those who are able to wage it can well afford, is illustrated here in an advertisement published in Newsweek Magazine, the New York Times, and other places, by Mobil Oil, and I wanted to just show my colleagues what Mobil Oil said in this long ad. Mobil tells us why the United States-Mexican trade agreement is a wonderful deal.

They say, "Setting aside for a moment the specifics of the agreement itself." Let me say that again. "Setting aside for a moment the specifics of the agreement itself," then they go on to make that case. They would like for us to set aside the specifics of the agreement. They want, some broad theoretical discussion of trade philosophy. After all, at its root this agreement is a series of books like this that on page after page define the rules, and the fact is we lost. We will lose jobs. We will have lost access to markets, and we will have created unfair conditions at least for a decade for many of our producers, including farmers I represent. Let me give you some examples.

Let us just take a look at the United States-Mexican trade agreement through the eye of a french-fried potato, a traveling potato, one that goes from the United States to Mexico, a potato that runs from North to South, and then a Mexican french-fried potato that goes from South to North. And let us ask ourselves how did these negotiators do, the ones who wore the American jerseys when they sat down and got tough on behalf of our interests? How did they do on the french-fried potato? Did the farmers out in my part of the country who raise potatoes do pretty well? Let us look.

Now, when the United States sends french-fried potatoes to Mexico, there is now required an import license and a 20-percent tariff. Under NAFTA, when the United States sends french-fried potatoes to Mexico, we will have a quota and 20 percent tariff over the quota. When Mexico now sends french-fried potatoes to the United States they have a 10-percent duty. Under NAFTA, however, they will have no quota, and the tariff will be terminated in 5 years.

I would ask our negotiator, whoever he or she might be, why did you lose on behalf of our potato growers?

How could you lose that negotiation on french fries? I do not know who they are. They may be working for the Mexicans at the moment.

We have dozens of people who used to work on our trade issues that are now on another payroll working for other folks that want this United States-Mexican trade agreement passed.

Mr. FORD. Will the Senator yield for just a question or comment?

Mr. DORGAN. I am happy to yield.

I just want to say to my colleagues, though, that I am going to come to the good stuff. I am going to go to potatoes and I want to go to barley and finally to beans, because beans is really where the story of the Mexican trade agreement is.

(Ms. MOSELEY-BRAUN assumed the Chair.)

Mr. FORD. Madam President, I want the Senator to know that my farmers are having a tough time with tobacco, and he understands that.

Right now, the tariff for taking tobacco into Mexico is 20 percent of the value of the product. Under NAFTA, guess what? It is increased to 50 percent of the product.

Do you think we are going to sell anything down there? Why, no.

So we have to look at the fine print. The Senator said "in the bowels of the NAFTA agreement." I agree with him.

Mr. DORGAN. I appreciate the comment and question from the Senator from Kentucky.

Let me go on to potatoes. I mentioned french-fried potatoes. Let us take the whole potato. How about the whole potato trade between the United States and Mexico? Same old deal.

I do not know whether it was the same negotiator. The fact is, that person sat down to negotiate and that person lost. We used to be shrewd Yankee traders. I have not found a trade agreement yet that we won in the last 2 decades. Every trade agreement we negotiate, somehow our producers come out on the short end and the largest corporations in the world end up making more money.

Let me talk about potatoes just for a second.

Mexican potatoes to the United States, right now, small tariff. After NAFTA, no quota, 5-year phase out of the tariff.

Potatoes from us to Mexico, a quota. And for all potatoes beyond the quota, a 250-percent tariff.

Who lost on potatoes? Well, perhaps the same person that lost on barley.

We make a lot of things out of barley. We make cereal out of barley. We make some beer out of barley.

So whoever sat down and negotiated barley, here is how well they did.

Right now, if we send barley to Mexico, we have import licenses we confront. We send a certain amount. Under NAFTA, we will be limited to 25.5 million bushels, well below what we now sell in Mexico. So they say you are going to be able to sell less in Mexico, and, if you sell anything over that, a 128-percent tariff will apply. That is right, 128 percent.

Now what about Mexico, if they raise some barley and send it to us? No restrictions; no quota.

So whoever sat down and negotiated barley could not have gotten much sleep the night before.

So, United States farmers got a trade deal on barley that says Mexico to the United States, no quota, no restrictions, no problem. United States barley to Mexico, take what you used to send them, restrict it a fair amount, and then add 128-percent tariff above it.

I do not know what school this negotiator went to, and I do not know what grade this negotiator completed. But I would say, if we can find out who it is, we certainly do not want that person negotiating future trade treaties on behalf of this country.

Beans—navy beans, kidney beans, you name it; dry, edible beans. Plenty of them in this country. We raise plenty of them in North Dakota.

Beans to Mexico. It has been a pretty good market for us. But, under NAFTA, we will have a stiff quota for beans going to Mexico, Navy beans, kidney beans, pinto beans. For beans that we now sell to Mexico over the recent years, NAFTA will impose a 139-percent tariff on all shipments above the quota. However, for Mexican beans coming north, no restrictions, no quota.

Must have been a blood brother or at least a close partner of the fellow that negotiated barley. Same story.

We do not know who they are, but I guarantee you their fingerprints are here in the middle pages someplace.

Now, I have been standing here talking for weeks about what this trade agreement means in terms of jobs. At its roots, NAFTA is: Let us take American corporations to Mexico, buy dollar-an-hour labor and sell the product back into the United States and make more money. That is what the agreement is at its roots.

But Mobil Oil said, let us set aside specifics.

Let me put that chart back up because that is what the supporters of NAFTA want us to do. "Setting aside for a moment the specifics of the agreement itself." That is what they want us to do.

But I will not set aside the specifics. Yes, I will continue to talk about job loss and plant flight and movement of United States manufacturing operations to Mexico, because I think that is a serious problem in this agreement.

But, in the end, and in the final analysis, this agreement is nothing more than thousands of pages of specifics. And deep in these pages are agreements by which we decide what quantity of beans will we sell to Mexico and what quantity of french fried potatoes will they sell in the United States. And that is the basis on which our trade negotiators win or lose.

I would ask President George Bush, were he here, why his administration spent 4 years telling us in this Congress and telling the American people that he steadfastly opposes an industrial policy in America because an industrial policy would amount to the Government picking winners and losers. Why would one be opposed to an industrial policy because it picks winners and losers and then send your folks over to negotiate a trade agreement that in 2,000 pages picks page after page of winners and losers and in which, all too often, those who work for a living in this country, those who get their hands dirty because they get up early and work late raising beans and potatoes and barley, why, when they negotiated winners and losers did they negotiate so many American producers as losers?

This is, after all, a debate about the specifics. No matter how much those corporate interests and those slick advertisers and all those money folks that are trying to stuff NAFTA down the American people's throats, no matter how much they want us to believe that we ought to set aside specifics, we need continually to keep coming to this floor on behalf of the American producers and ask the question: What is in those books? What are the specifics? How did our negotiators perform on behalf of our producers? I am sad to say, Madam President, that our negotiators did not do well.

Let me make one final point, because I know that my friend from Tennessee is waiting to speak today.

We will, in the coming weeks, make a decision about this trade agreement. Most people do not know much about what NAFTA means. But NAFTA means this: NAFTA means jobs; NAFTA means opportunity.

This is a continuation of failed trade policy in which this country has said to the rest of the world, we open our markets to you and we are willing to accept restricted access for us.

We are dismissed, all of us who oppose NAFTA, routinely and continually dismissed as a bunch of uninformed, xenophobic isolationists, protectionists who know nothing and cannot quite see over the horizon. That is the way we are dismissed.

I am sick and tired of being called a protectionist. I do not believe we should put up barriers around this country. I do not believe we should restrict access of goods coming into our country. I do not believe American consumers should be denied access of goods produced anywhere in the world.

I do believe, when we negotiate on behalf of American producers a trade amendment, that we ought to insist that the rest of the world—Japan, China, and, yes, Mexico—in any trade agreements, play by agreements that are fair.

No longer should we accept trade agreements that tie our producers' hands behind their backs, and send our jobs elsewhere in search of dollar-an-hour wages. That does not strengthen this country. That weakens this country.

Is the main question of NAFTA, as Mobil Oil and all the others would have us believe, an ethereal debate about the doctrine of comparative advantage in economics? Is that what it is really about? Or is it about who wins and who loses, because our trade policies have been bankrupt? This is not about whether the United States can compete. We can compete anywhere in the world. We have some of the best men and women working, some of the best men and women managing. We have some of the strongest and best enterprises in the world. But we cannot compete and cannot succeed unless the trade rules are fair. This trade agreement is flawed. I will not vote for this trade agreement, and I hope sufficient numbers of my colleagues are willing to stand up and say "no," to force this administration to take the product of the Bush administration's negotiation and decide to do it over and do it right.

Canada and Mexico are good neighbors. We want a good relationship with them. But if the lessons from the Canadian agreement are instruction for us, we ought to understand that the free trade agreements can be terribly harmful and hurtful to our producers, and once in law, very difficult to change.

I sat on the House Ways and Means Committee for 10 years. When the United States-Canada trade agreement was presented to us, the vote was 34 to 1. Guess who was the only person on the U.S. House Ways and Means Committee to vote against it? And guess what happened immediately afterwards?

I raised objections about how unfair this was to our grain producers. I got letters from President Reagan, I got letters from the trade ambassador, and I got promises in writing from both the President and trade ambassador. Do you know what? They were not worth the paper they were written on. They were promises never kept, promises forgotten immediately. The result of it was, at least with respect to the United States-Canada trade agreement, immediately after the agreement we began seeing a flood of unfairly subsidized grain coming across the border taking tens of millions of dollars out of the pockets of our farmers. For 4 years I fought to try to deal with it and have not yet been successful.

The instruction in all of that is this: It is very difficult to correct a trade agreement that is bad for this country. The best approach to deal with that trade agreement is to send it back and say, "Renegotiate it, do it over, do it right, and do it so it works for the best interests of this country."

Madam President, I hope in the coming weeks, as we deal with this issue, we will not, as some would have us believe, set aside the specifics. We will, instead, look at the specifics. I have only mentioned four commodities or products here. I would like to look at the specifics over a whole range of areas and decide what do they do and what is our response to it. My response is to say this country deserves better. This country deserves more. Our workers, our businesses, our producers, the American people deserve better than NAFTA.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Tennessee.

Mr. MATHEWS. Madam President, if I could digress for just a moment, I would like to take an opportunity to congratulate the people of North Dakota on the selection they made when they chose BYRON DORGAN as Senator. I have come to respect him greatly in the time that I have been here, and while I differed with him on the question of whether NAFTA is going to be good or bad for this country, I know of no one who can better present the facts about the treaty, no one who can make it possible for the people of this country to better understand the choices we will be making, and that they will be making, than the Senator from North Dakota. I want to congratulate him on that presentation.

Madam President, if I could have permission to speak this afternoon as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH SECURITY ACT OF 1993

Mr. MATHEWS. Madam President, what I would like to do is to talk about President Clinton's Health Security Act.

I rise today as one of the original cosponsors of President Clinton's Health Security Act of 1993.

President Clinton and his administration have delivered—literally delivered—one of the most sweeping and monumental pieces of legislation to any Congress since the Social Security Act.

It is a mammoth bill, both in weight and in weight of its repercussions, for health care is a matter that eventually touches every American.

The goals of this legislation are clear: To guarantee lifetime health care for every American—to constrain runaway costs that threaten to bankrupt every budget—the Federal budget included—to bring coherence to an unwieldy Medicare and Medicaid system buckling beneath its own paperwork—and to preserve the choice and quality of care that make American health care the world's best.

The legislation inaugurating these goals builds upon our current health care system. But it spreads the responsibility just as it widens access and coverage.

It asks employers and employees to share proper responsibility for providing health insurance and for consuming it wisely.

It summons insurance companies to a higher involvement with the public good while reducing legal constraints that prevent doing so.

It reduces the need for physicians and providers to practice defensive medicine. It magnifies the degree of competition and the degree of control in the present system.

It gives States the important prerogative of assuring that their citizens have access to appropriate, affordable coverage and care.

Finally, this new approach recognizes the special needs of the elderly, the disabled, and other groups with singular demands for health care.

And at the same time, this measure also expands support for those who make a special contribution through medical research, teaching, and primary and secondary care.

Despite the merits—even the marvels—of our current health care system, we all know that the United States cannot continue with it in an unchanged form.

Health spending at the current rate will bankrupt us.

We cannot be fiscally prudent, economically competitive, and socially just when some of us pay nothing for the care we receive, when health costs constitute the No. 1 priority in middle-income-family budgets, and when persons in the lower income strata—millions of our fellow citizens—must decide between their medication or their groceries.

We as a Congress know this.

But because we know these things, we also know that the obverse of universal coverage must be universal participation.

We know that those who have profited by their place in the system must expand the system so more have a place in it.

And we know that some American businesses and households may have to shoulder a carefully considered burden in order to assure a greater public good.

That said, however, let us also be fully aware of what we as a Congress are about to do. We owe it to the American people to tell them the system we are about to create is going to do some things differently.

We are about to create a framework that will surround American life for generations—possibly a framework that will exist for the life of the Republic.

We are about to create an eternal obligation that we as a Nation owe ourselves as a people.

When we proclaim that every American has a right to irrevocable lifetime health care, we are creating an entitlement program that is breathtaking in magnitude.

So we have to get this right when we do.

We have to assure that this program is fully and fairly and realistically funded.

We have to assure we are not merely swapping a private sector bureaucracy for a public sector bureaucracy.

The bill we produce has to be decisive and fair and inclusive—no maybes, no favorites, no loopholes, no exceptions.

I am certain the Senate's debate and participation will make that so.

When President Clinton spoke to the Congress, he outlined the principles on which his speech is based. He stirred our imagination and our resolve, and as a cosponsor of this measure I am committed to the kind of comprehensive plan he has proposed.

However, I am not committed to every single aspect of the plan. I realize that we stand only at the beginning of a worthy effort.

I'm sure the coming debate will raise questions and new proposals. Alternative proposals are already on the table. All of them must be considered, and many will deserve being included in the final bill.

I welcome that coming dimension in this process. For as I said, we have to get this right.

Getting things right will be a Herculean-task, but no less so than the effort that brought us this far. The Health Security Act of 1993 is a credible and deserving beginning toward filling the need we know is there.

The President and Mrs. Clinton and their team have done their best to do what is right and necessary. The proposal is a good beginning.

Now Congress must do the same.

I know we can, and I know we will—because we must.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

APOLOGY TO MR. BAIRD

Mr. PACKWOOD. I thank the Chair.

Madam President, the other day in speaking on the situation involving the Ethics Committee and the charges against me, I made reference to a Member of Congress and a Senator and sexual affairs they had had.

Obviously—and the way I phrased it—it was my fault because the story has come out that I was threatening to reveal these names if the Senate voted to subpoena my diaries.

I did not mean it in that sense, and if I left that impression, I apologize. Everything that was in the statement put out by my attorneys involving two affairs—the Senator and the House Member—were things that the Ethics Committee had already demanded that we produce, things they had seen in going through my diaries, and we were using them as examples of the kinds of things that the Ethics Committee was asking us for.

So it was not intended to be, "Well, if I have to produce these, I will reveal this." It was meant to be that the Ethics Committee has asked for these things and insist upon their production.

Now I would like to read a statement and then make an apology to Victor Baird, the chief counsel of the committee. This is a statement that was put out by Senator BRYAN today: "The Ethics Committee"—this is part of a statement; I am reading one paragraph.

> The Ethics Committee is not interested in any of the personal, consensual sexual relationships of any other Senator or Member of the House. The new information which the committee is attempting to pursue is related to actions by Senator PACKWOOD. No committee counsel removed tape, as the Senator charged on the Senate floor, so the counsel could see the name of a Democratic official written about in the diaries. Senator PACKWOOD later corrected this misstatement in the official version of the CONGRESSIONAL RECORD. However, the committee counsel is owed an apology for this untruthful charge, which was widely played in the media.

I do apologize for my misstatement, and I corrected the RECORD to accurately reflect what happened. But I would like to again state it, and I am going to read from a memo from one of the attorneys at Arnold & Porter, my attorneys, to me involving this particular issue involving the Member of the House of Representatives to which this referred.

In it will appear the name Victor Baird who is the chief counsel and will appear the word "redacting" which is a lawyer's word meaning they take a piece of tape and cover up something they think they are entitled to cover or do not want to be seen.

This memorandum is from Michael Korens to me.

> This memorandum memorializes my recollections regarding the page from your diary selected by the Ethics Committee staff which refers to the affairs of a Member of the House Democratic leadership.
>
> The identity of the person was masked with a single-line redacting tape. Victor Baird asked me why the particular lines were masked. I then reviewed the document by removing and reapplying the tape. I told Victor that, consistent with our practice at that time of single-line masking embarrassing references to public figures, we had masked this reference since it related to a prominent Member of the House Democratic leadership. I told Victor that I would remove the tape if he wished. He said that would not be necessary. When we received, from the Ethics Committee, the pages of the diary they wanted copied, that passage was marked as "relevant" for purposes of copying.
>
> That page is now in the possession of the Ethics Committee.

I might indicate how the practice of going through the diaries was being operated at that time.

A member of the Ethics Committee staff and my lawyers would be sitting side by side turning pages of the diary. And the Ethics Committee would note what they might want. We had possession of the diary. At night, we would have the notes and copies of the pages that they wanted copied and we would copy them.

Without waiving any rights, we were going to argue later whether these were relevant or not. We did not waive any rights as to producing them. We gave to the Ethics Committee the page that they wanted.

I hope I have accurately reflected—I was not there—how this happened. I have since read the page. I did not read it then.

To me, although you might have to be active in politics to understand it, even with the name of a person covered up, the references in the paragraph very clearly from the standpoint of politics would indicate who the person was even if you could not see the name.

I am not here in any way charging the Ethics Committee or Victor Baird of having lifted the tape. I was in error when I said that. My attorney lifted the tape, told the counsel, the chief counsel of the Ethics Committee it was a significant—I want to say just what he said—"a prominent Member of the House Democratic leadership."

Later that evening, when we received a list of the pages that the Ethics Committee wanted us to produce for them, that was one of the pages. And they had marked that passage as relevant and wanted it produced. So it is in their possession.

To ease the minds—another subject—to ease the minds, perhaps, of any Senators that may be concerned about the reference to "a Senator"—and I might emphasize that the Ethics Committee has also marked this passage as relevant—but this now falls into the contested area of the time period, and we have not given any documents, but they have seen it and they have asked for it. It is not a sitting Senator. It is somebody who was in this body some time ago but is no longer a sitting Senator.

But I emphasize again, in my lawyer's statement several days ago, he made reference to a variety of items—these being two of them—but other items, and in every instance, they were references to items that the Ethics Committee had already asked us to produce and, therefore, we had to presume at least they thought were relevant to the charges.

I apologize to Mr. Baird for having misstated myself. I did correct the RECORD so that it accurately reflected what happened. But I hope now—and I will ask unanimous consent that this memo from my lawyer to me explaining how this happened be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

OCTOBER 26, 1993.

From: Michael E. Korens.
To: Senator Packwood.
Subject: Diary issue.

This memorandum memorializes my recollections regarding the page from your diary selected by the Ethics Committee staff which refers to the affairs of a member of the House Democratic leadership.

The identity of the person was masked with single-line redacting tape. Victor Baird asked me why the particular lines were masked. I then reviewed the document by removing and reapplying the tape. I told Victor that, consistent with our practice at that time of single-line masking embarrassing references to public figures, we had masked this reference since it related to a prominent member of the House Democratic leadership. I told Victor that I would remove the tape if he wished. He said that would not be necessary. When we received, from the Ethics Committee, the pages of the diary they wanted copied, that passage was marked as "relevant" for purposes of copying.

That page is now in the possession of the Ethics Committee.

Mr. PACKWOOD. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Tennessee, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is permitted to speak for up to 10 minutes.

HEALTH CARE

Mr. DOLE. Mr. President, during the Finance Committee hearing this morning, we were told by the Health Secretary, Donna Shalala, that the extra costs for health care would range from $100 to $500 a year —I am talking about individual increased costs—a small price to pay for the additional benefits and security these people would have.

It was also indicated that maybe 40 percent of the American people would pay more under the Clinton proposal—40 percent of Americans would pay more—60 percent would pay less.

Now, again, these are estimates. The Federal Government always tries to low-ball the estimates. Maybe it is 40 percent who will pay more, maybe it is 50 percent, maybe it is 60 percent who will pay more. And maybe it is 40 percent or 30 percent or 20 percent who will pay less.

It seems to me, as a member of the Finance Committee, if this is the testimony—I do not quarrel with it—I just suggest it is the very reason we need to stop all the hype— everybody is going to get something for nothing; everybody is going to be covered; everybody is going to like the health care plan—and get down to the serious business of looking at the health care proposal of President Clinton and of all the other proposals, Republican as well as Democratic proposals, page-by-page, line-by-line, word-by-word, so that we can get information on how much will it cost. As I said yesterday, with the President, Mrs. Clinton, and others, who wins, who gains, who loses, and how much it is going to cost.

Well, today we have an idea; 40 percent will lose, 60 percent will gain and it is going to cost who knows how much.

I am certain in any other plans some people are going to pay more and some are going to pay less. But this is the kind of information the American people need to have before Congress makes any judgment on any health care plan, whether it is one proposed by the President, one proposed by Republicans. There is a bipartisan agreement with Democrats and Republicans. There is a Republican House plan. There are different Democratic plans. There are a lot of good ideas in all of these plans, the President's included.

So those of us who are on the committees that have responsibility in the jurisdiction over health care—and the Finance Committee in the Senate will have a great deal to do with this—I think have a special obligation to the American people to start that page-by-page, line-by-line, word-by-word review because one thing that concerns the American people is the costs, are they going to lose, are they going to gain. And another thing that concerns the American people is whether or not we want to turn over one-seventh of the total economy, 900 billion some odd dollars for the cost of health care under the President's plan and almost that much under some of the other plans to the Federal Government. Most Americans cannot recall any recent Federal program they would like to duplicate and, not only duplicate, increase to one-seventh of the total economy.

So this may be startling to some but it is the kind of information we need to make a judgment. This is just the beginning. There has still been no bill introduced. I understand it may not be introduced for another 2 weeks. We may not have a bill introduced before Congress adjourns this year.

So there will be a lot of time to talk about health care and to get down to the nitty-gritty. I think this is the first indication of how this—this is going to upset people who happen to hear it on television, read it in the paper, hear it on the radio, that 40 percent of Americans'—that is about 100 million—costs are going to go up, because they have been led to believe, or a lot of people have, everybody is going to be better off, it is not going to cost any more, we are going to get better benefits for it.

Mr. President, I yield the floor. I thank my colleague from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Kansas, [Mr. DOLE].

CELEBRATING THE CAPITOL'S 200TH ANNIVERSARY

Mr. BYRD. Mr. President, last Saturday, October 23, the Nation witnessed the dramatic reinstallation of the Statue of Freedom on her pedestal atop the Capitol dome. That stirring event was followed by a program, conducted on the building's lower west terrace, celebrating the Capitol's two-hundredth anniversary. This ceremony, broadcast by C-SPAN to millions of Americans nationwide, featured brief addresses by the President, the Vice President, the Senior Associate Justice of the Supreme Court, the joint congressional leadership, and a specially commissioned poem offered by the Poet Laureate of the United States. Inspiring music enhanced the day's festivities, with performances by the U.S. Navy Band, the Howard University Choir, and vocalist Liza Minnelli. The noted historian David McCullough presided as keynote speaker and master of ceremonies.

As I listened to the richly inspiring speeches and poetry, I concluded that they should be made available in written form to the widest possible audience. Accordingly, I ask unanimous consent that a transcript of the proceedings of last Saturday's event be published in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

A COMMEMORATION OF THE BICENTENNIAL OF THE UNITED STATES CAPITOL, 1793–1993, SATURDAY, OCTOBER 23, 1993, THE WEST FRONT OF THE CAPITOL

DAVID MCCULLOUGH. Ladies and gentlemen, the Chaplain of the United States House of Representatives, The Reverend Dr. James David Ford.

Dr. FORD. As we stand in this hallowed place surrounded by the signs and symbols of democracy, we solemnize this occasion in a prayer of thanksgiving for days past and petition for the days ahead.

Oh, gracious God, whose creation brought us forth and gave us life and true liberty, and whose providence has blessed our nation with gifts both great and small, we pray that as we lift our eyes to this Capitol with its symbols of freedom, we will be moved with reverence for the sacrifice of those who have gone before and who now stand in the shadows of history and encourage us in the paths of liberty.

May this sanctuary of freedom be consecrated by those who have been entrusted with its care and be alive with deeds of honor and acts of goodwill, that in all things, "justice will flow down as waters and righteousness like an everflowing stream."

This is our earnest prayer. Amen.

DAVID McCULLOUGH. Mr. President. Ladies and gentlemen. My name is David McCullough. On this magnificent morning, at this historic place, here at latitude 38 degrees, 53 minutes north; longitude 77 degrees west, on a hill above the Potomac, we are gathered to celebrate the bicentennial of the best known, most important, and most revered structure in our nation. The United States Capitol.

We are Americans. And for us, this is a proud day. For this great building holds a place in our hearts and in our way of life like no other. It is a shrine on a hill, and it is the national stage upon which are enacted the difficult tasks and continuing drama of representative government. The bedrock of our faith in the land of the free.

Freedom is why we are here. Freedom is why America. And at the summit of the Dome, now there in sunshine, the emblem of freedom is again in her place. Older by a generation than the Statue of Liberty, she has stood on high since the year 1863. Since the autumn of Abraham Lincoln's *Gettysburg Address*. She has weathered civil war. World war. She has seen the deaths of presidents. The Great Depression. The sky turned dark by prairie dust blown from half a continent away. She has been pelted by sleet and snow, and struck by lightning. And, she has seen triumphant times. Good times. Lots of good times. Never has she looked better than today, October 23, 1993. [Applause]

All newly, thoroughly refurbished. Ready for another two hundred years, or more. And never—ever—has our Capitol looked better than today. Not ever before in all of its days.

Ladies and gentleman, a hundred years ago in this very place the nation celebrated the Capitol's first century. The President of the United States, leaders of Congress, and justices of the Supreme Court addressed another vast audience. On this equally festive occasion a century later, we will now hear from the successors of those leaders who represented our government's three branches.

We begin with the leadership of the Senate. To offer his observations about our government as it existed two hundred years ago when the Capitol cornerstone was put in place, here is the Majority Leader of the United States Senate, the Honorable George Mitchell. [Applause]

Senator MITCHELL. Mr. President. Mr. Vice President. Friends. Much has changed in the two hundred years since the cornerstone of this Capitol was laid. Then there were 5 million Americans, 15 states, with 30 senators, and 106 representatives. Now, of course, there are 250 million Americans, 50 states, 100 senators, 435 members of the House. But more striking than the change is that so much is the same.

In 1793 the government faced a serious national debt. In 1993, it still does. In 1793 umbrella makers in Philadelphia petitioned Congress for protection against imported French umbrellas. We still get such petitions.

But the most important thing that hasn't changed is the American commitment to liberty. The crowning achievement of the early American government was the Bill of Rights, the first ten amendments to the Constitution. They remain today, as they have been for two centuries, the most concise and eloquent statement ever written by human beings of the fundamental rights of free men and women against the power of government.

The Bill of Rights is the defining act of American history. The Constitution was ratified, and this nation was launched on the bedrock principle of individual liberty. That is, as expressed in the Bill of Rights, both uniquely American and universal in its reach. It is that spirit which we celebrate today.

This building, the United States Capitol, is the preeminent physical symbol of freedom in the world. But more important even than this great structure is the spirit which led to its construction and which inhabits it today. We are fortunate and very proud to be Americans. Citizens of the most free, the most open, the most just society in all of history. That is our benefit. With that benefit comes the responsibility to act so that two hundred years from today Americans and people all over the world will still admire this building. And Americans will still live in freedom protected by an unchanged and an unchangeable Bill of Rights. On this brilliant day it's obvious that God is smiling on America. May it always be so. [Applause]

DAVID McCULLOUGH: The United States has had three capitols since 1789. Here to tell us about them is the Republican Leader of the United States Senate, the Honorable Bob Dole. [Applause]

Senator DOLE: Mr. President. Mr. Vice President. My colleagues. Distinguished guests. We gather this morning on the grounds of the third Capitol of the United States. When the First Congress convened in 1789 it met in New York City occupying the former city hall. That location was only temporary, however, as the recently ratified Constitution provided for the establishment of a permanent capital city. A location for that city was selected in 1790 when Congress passed the Residence Act directing by the year 1800 that the government should occupy a new Federal district along the Potomac River.

While the new capital city was under construction, Congress moved from New York to Philadelphia where they carried on the task of building a democracy. At the same time, hundreds of workmen were building a new Federal city on the Potomac. In his plan for the city, Pierre Charles L'Enfant placed the Capitol on the crest of what was then known as Jenkins Hill, a site that he described as a "pedestal waiting for a monument."

On September 18, 1793, a large and boisterous crowd gathered here to watch an elaborate Masonic ceremony highlighted by placing the Capitol cornerstone by President George Washington. As many of you know, my colleague Senator Strom Thurmond who was here on that day [laughter] refuses to reveal just exactly where the cornerstone is.

The *Alexandria Gazette* reported that the ceremony concluded with fifteen salutes from the artillery, and then "the whole company retired to an extensive booth where an ox of five hundred pounds * * * was barbecued." History will note this is the first time—but certainly not the last—that someone's ox was gored in the United States Capitol. [Laughter] [Applause]

DAVID McCULLOUGH: To give a certain inimitable slant and perspective on today's proceedings, relating them both to ancient times and modern usage, here is the President Pro Tempore of the United States Senate, the Honorable Robert C. Byrd.

Senator BYRD: Mr. President. Mr. Speaker. Mr. Justice Blackmun. My fellow Americans. The United States Capitol building is a visible symbol of America's link to ancient Rome. Of all that made Rome great, nothing was more basic than Rome's noble attachment to a mixed constitution of checks and balances and separation of powers that lifted her from the lowest beginnings to that radiant summit of splendor and magnificence that has never ceased to attract the admiration and the wonder of the world.

But when that devotion to a mixed constitution was lost, the short sword of the Roman legions and the wooden galleys that plied the Adriatic could no longer save her, and the ancient empress of the classical world sank into a hopeless impotence and eventual obscurity as a military power and territorial empire.

Two hundred years ago, our Forefathers laid the cornerstone for this building, within which is domiciled the branch of government that springs directly from the people and from whom it derives its constant renewal, and which, only a few years before, had been set in place by the Framers of the Constitution, the cornerstone of this republic.

As we today commemorate with pride the cornerstone-laying of this temple that houses the "people's branch," let us renew afresh our fealty to the American constitutional system, the foundation upon which this republic rests. We received it from our fathers. Let us as surely hand it on to our sons and daughters and their children who will stand in our place a hundred years from now—a system of government under a mixed constitution that raised this American republic to a summit more glorious than ancient Rome ever saw. [Applause]

Now, ladies and gentlemen, I have the distinct pleasure and the high privilege of presenting to you the Vice President of the United States. [Applause]

The VICE PRESIDENT: Thank you, Senator Byrd. Mr. President. Distinguished members of the Congress. Ladies and gentlemen. Of all the symbols of our republic, none moves our hearts the way *this* Capitol building moves our hearts. We have heard about the history of this structure, and I would like to add only a brief description of some small moments in the recent history of this structure.

As President of the Senate, I still have the privilege—sometimes—of greeting visitors who are seeing this structure for the first time. And for the past seventeen years, I've had the privilege of sometimes greeting school children who come from all over the United States to stand in front of this building and look up at the Capitol Dome. It has *never* ceased to stir me, white against the sky with the Statue of Freedom at the top. The reaction of those children who still come—almost every day—to see this site is testament to the living history of this building.

It was startling these last few months to look up and see scaffolding there. And it's wonderful to see the Statue of Freedom back this morning. Our country is very different now than that first day when she was hoisted into place in 1863, but it is a comfortable feeling to see this old friend back securely in place ready to look out over Washington for another 130 years and more. A reminder to all of us that as we look ahead to the future we must never forget the legacy of our past. [Applause]

DAVID McCULLOUGH: Ladies and gentlemen, representing the Judicial Branch of our government, here is the Senior Associate Justice of the United States Supreme Court, the Honorable Harry A. Blackmun.

Mr. Justice BLACKMUN: Mr. Chairman. Mr. President. Mr. Vice President. Distinguished participants. Ladies and gentlemen. Your Supreme Court of the United States has very substantial roots in this building. Although the Judiciary is one of three branches of our government, for the first 145 years of its existence the court had no home of its own. In a building sense, during that period of almost a century and a half, it distinctly was an orphan.

The Court first convened in February 1790, at the Royal Exchange in New York City, then the seat of government. But the following year, the seat was in Philadelphia; and the court assembled there. First, at Independence Hall; and then, at the City Hall. It arrived in Washington in 1801; and, until 1809, sat in various, small, and rather inadequate rooms in the Capitol building. This building.

Somewhat more acceptable quarters outside the building were found for the 1809 term. But the Court returned here in 1810. It then was allowed to use the original Senate Chamber when the Senate moved upstairs to larger quarters. And that chamber, now beautifully restored and available for visiting, was its courtroom for fifty years except for the period of unpleasantness during the War of 1812, when the building was burned by the British with official court papers used as tinder. It is in *that* room here in *this* building that Chief Justice Marshall and Chief Justice Taney successively presided. And it is there that Daniel Webster argued the *Dartmouth College* case, and the *Dred Scott* case was argued and announced.

Once again, however, in December 1860, the Court followed the Senate and inherited its chamber upstairs when that body moved into the Capitol's North Wing it presently occupies. The Court used the second Senate chamber for seventy-five years, from 1860 to 1935, when it moved into its present building. I think one may say—fairly—that the Court's own edifice came into being primarily due to the influence of Chief Justice William Howard Taft, who had been President of these United States.

The site on which today's Supreme Court stands has its historical interest, too, related to this building. It is there that the so-called Brick Capitol stood. The Brick Capitol was used by Congress from 1815 to 1819, while this one was being repaired. And it is there that Henry Clay presided as Speaker of the House. And it is there that Chief Justice Marshall administered the oath of office to President James Monroe in 1817. And on that site was located the capitol prison during the War Between the States. Incarcerated there were Belle Boyd, the noted confederate; and Captain Henry Wirz of the Confederacy's own Andersonville prison.

Thus, despite the physical separation of the court's present building from the Capitol building, the Court has deep roots here in *this* building. It feels that it has been a distinct part of the edifice. It knows that long was this building its original home, and it is honored to participate in this celebration today.

The Statue of Freedom is again in place. And, again, it faces east. Does she look over to the Court as the symbol of the judiciary with the expectation and the challenge that its decisions be wise and neutral and correct? I like to think so. And I also like to think that the judiciary always will maintain its proper role in the government of this country which, despite its warts and despite its defects, we all so dearly love.

The Statue of Freedom is on its pedestal and rightly demands the best from all of us. May we fulfill that very precious promise. [Applause]

DAVID MCCULLOUGH: For a musical interlude, here is the United States Navy Band and Senior Chief Musician Chuck Yates, for their performance of *The Capitol*.

[Musical interlude.]

DAVID MCCULLOUGH: President Clinton has designated the month of October as National Arts and Humanities Month. In that spirit, we present our next speaker, reading from her specially prepared poem, *Lady Freedom Among Us*, the Poet Laureate of the United States, Rita Dove.

RITA DOVE: Mr. President. Mr. Vice President. Distinguished guests and friends, I offer this poem written for the glory of this day.

LADY FREEDOM AMONG US

Don't lower your eyes
Or stare straight ahead to where
You think you ought to be going

Don't mutter *oh no*
Not another one
Get a job fly a kite
Go bury a bone

With her oldfashioned sandals
With her leaden skirts
With her stained cheeks and whiskers and heaped up trinkets

She has risen among us in blunt reproach
She has fitted her hair under a hand-me-down cap
And spruced it up with feathers and stars
Slung over one shoulder she bears
The rainbowed layers of charity and murmurs
All of you even the least of you

Don't cross to the other side of the square
Don't think *another item to fit on a tourist's agenda*

Consider her drenched gaze her shining brow
She who has brought mercy back into the streets
And will not retire politely to the potter's field

Having assumed the thick skin of this town
Its gritted exhaust its sunscorch and blear
She rests in her weathered plumage
Bigboned resolute

Don't think you can ever forget her
Don't even try
She's not going to budge

No choice but to grant her space
Crown her with sky
For she is one of the many
and she is each of us

DAVID MCCULLOUGH: On four separate occasions between 1793 and 1958 ceremonial events have marked the placement of Capitol cornerstones. Here to tell us about one of the most significant of those occasions is the first of our three House leaders, the Republican Leader, the Honorable Robert H. Michel.

REPRESENTATIVE MICHEL: Mr. President. Mr. Vice President. Mr. Speaker. My colleagues and fellow Americans. It's a very great honor for all of us to be part of this historic ceremony. I'd like to devote my brief remarks this morning to the cornerstone of 1851, which began the enlargement of the Capitol Building.

The enlargement was necessary because, as has been mentioned by the distinguished Majority Leader, between 1793 and 1850, the number of states in the Union had more than doubled; and as the nation grew, so did the Congress.

It was evident that the Capitol building would have to be enlarged, and a plan for the North and South Wings was devised.

And so, on the Fourth of July, 1851, with church bells ringing and artillery salutes from various spots in the city, the cornerstone ceremony took place.

The principal address on that occasion was given by the great orator, Daniel Webster.

He spoke brilliantly for two, solid hours. This was, of course, before the age of the thirty-second sound bite; and, thank heaven, none of our participants today has been prone to emulate Webster.

Webster deposited in the cornerstone a sheet of paper on which he wrote to posterity the following:

"* * * the Union of the United States of America stands firm, that their Constitution still exists unimpaired * * * growing every day stronger and stronger in the affections of the great body of the American people, and attracting more and more the admiration of the world * * *"

It seems to me that the 1851 cornerstone says something very wonderful about our country.

We Americans have never seen *permanence* and *change* as contradictory terms but, rather, as complimentary parts of our national vision.

The new addition to the Capitol Building in 1851 certainly changed this building! But in doing so, it helped to keep it a permanent part of our national life.

We Americans retain the permanent things in our national life only when we are willing to strengthen them through change.

And, in Webster's words, "growing stronger and stronger every day."

This is the great paradox—and the great blessing—of American freedom and progress.

The 1851 cornerstone symbolizes that blessing, and I am glad we can all honor it here today. [Applause]

DAVID MCCULLOUGH: Ladies and gentlemen, today we have witnessed the return of Freedom to her summit. This, it would seem to me, would make a wonderful opportunity right now to express our appreciation and our admiration to the poise and the skill of the pilots and the technicians who made that thrilling event possible. [Extended applause]

So much of what we see, so much of what we are told is history somehow, and often for good reason, seems unreal. What we saw happen this morning was *real*.

For an account of the statue's early history, here is the Chairman of the Committee on House Administration, the Honorable Charlie Rose.

Representative ROSE: Mr. President. Mr. Vice President. Mr. Speaker. Mr. Justice Blackmun. Distinguished colleagues of the Senate and the House: It was less than two weeks after President Lincoln's *Gettysburg Address*, with its emphasis on binding up the nation's wounds and moving forward in brotherhood and unity, that the Statue of Freedom was first elevated to her place of inspiration atop the Capitol Dome.

Today, as our nation embarks on a new journey of regeneration and healing, it is fitting that the statue is restored, refreshed and reconsecrated. This symbolic ceremony comes at a time when the American people, our President, and our Congress are dedicated to the renewal of our beloved United States.

The crest of an eagle's head crowning the Statue is an ancient symbol of human aspiration toward universal good, of being reborn, through enlightenment, with higher awareness. Let this statue inspire our efforts.

When he left this country and returned to France at the end of our Revolution, General Lafayette said, "Freedom has found a home, and it is in this country of the United States."

Thomas Jefferson envisioned this capitol two hundred years ago, when it was dedicated, as a living shrine of democracy. It would demonstrate the principles of self-government to *all* humanity and inspire emulation throughout the world.

The Statue we honor today, a feminine figure, suggests the female role of healing; her sword depicting the defense of our values. There is no woman speaker on our program today; but the statue herself speaks louder than words.

The Holy Bible refers to a city on the hill. As we regard this statue towering above our Capitol Building, briefly recall that we are enjoined to let our light shine forth before all that they may see our good works. Standing on her own two feet, as Americans strive to do, the statue suggests that we move with individualism and autonomy to build together a better American community for the future, a society based upon reconciliation, on sharing, caring, and love for one another.

As we look above, we gather strength and courage from our past, as the spirit of freedom guides us toward a future that fulfills the dreams of those who dedicated this Capitol Building 200 years ago.

Welcome home, Lady Freedom. It's good to have you back on the dome and in our hearts. Thank you. [Applause.]

DAVID MCCULLOUGH: Our final congressional speaker will discuss the Capitol as a symbol of representative democracy. It is my great privilege to introduce the Speaker of the United States House of Representatives, the Honorable Thomas S. Foley.

The SPEAKER: Thank you, Mr. McCullough. Two centuries ago the first president of the United States, George Washington, came to this site to lay the cornerstone of the Capitol. We are deeply honored that the forty-second president of the United States has returned to help us celebrate.

And to you, Mr. President, and to the Vice President, and to the Joint Congressional leadership, and to Justice Blackmun, and the Architect of the Capitol, and to all the architects, workers, and engineers, and to the wonderful crew of the helicopter and all who placed Freedom back on her perch today, and to Rita Dove, and to all the citizens who contributed by the purchase of their commemorative coins to the elevation of Freedom today, we thank you for coming to make this a celebration of America. [Applause.]

This Capitol, this majestic architectural metaphor for the growth of a nation, adorned by the Statue of Freedom, is a symbol of an extraordinary experiment in representative democracy, and a beacon to people around the world who seek equal rights, justice, and freedom.

Today, the 103rd Congress meets here, and I have the honor to be the forty-ninth Speaker of the House. But, in November of 1800, Theodore Sedgwick of Massachusetts, the seventh Speaker, came with representatives from the sixteen United States to a wilderness town of woodland, swamp, and half-finished buildings to convene the Sixth Congress in the new Capitol where masons were still working on the first sections of the building.

As I stand here and look westward, I can see what Speaker Sedgwick could only imagine—a vista of the two hundred years of democracy—the monuments and museums that trace the political and cultural history of this nation stretched out before us. When Speaker Sedgwick looked westward in 1800, he could see only the plans of Pierre L'Enfant beginning to take shape from the forest, and the White House in the distance.

When he convened the Sixth Congress, only one wing of the original Capitol was finished, but its majesty and all that it represents were already set in stone. American democracy was in its infancy. This building was in progress, and both have sometimes gracefully, and sometimes not so gracefully, adjusted to the changing tides of history. The Capitol has survived war and destruction. It has survived restoration, reconstruction, and redesign. It is, in fact, an amalgamation of many buildings, fashioned from many materials—from limestone to cast iron, sandstone to steel, marble, and brick.

In so many ways the Capitol, with the Statue of Freedom on its dome, symbolizes not just who we are as a people, but what we are as a nation: a diverse people unified under one lasting principle that today we have raised above everything else: "Freedom."

Under the watchful eye of Freedom, in this temple of democracy, echo the voices of history—voices that rose to the challenges of war and peace, slavery and freedom, and for the preservation of the Union itself—voices of courage, dedication, sacrifice, and honor that shaped this Nation.

Speaker Theodore Sedgwick could never have imagined today's vision from Capitol Hill—the National Gallery, the Museum of American History, the Lincoln Memorial, the Air and Space Museum * * *. And, above all, the Capitol itself, the importance of which was most dramatically felt in 1865 when delegations representing the governments of the United States and the Confederacy met on shipboard at Hampton Roads to discuss the end of the Civil War.

At that historic moment, the first thing former Senator Hunter of Virginia, who represented the Confederacy, said to Secretary of State William Seward was, "How is the Capitol? Is it finished?"

Like democracy this Capitol will *never* be finished. It is a work in progress—a moving picture of a dynamic government. In the new book, *The United States Capitol*, by Fred and Suzy Maroon, published this year to commemorate the bicentennial, is this quote:

"Over the course of its two hundred year history the United States Capitol has grown, sometimes fitfully and sometimes gracefully, from being the mere symbol of an idea * * * to being a cherished monument that embodies the nation's rich remembrance of the past, and high hopes for the future. In that respect, it is timeless."

I now have the honor to present a special edition and bound version of that book to our most distinguished speaker and our most distinguished guest. It is my high honor and great privilege to present to you the President of the United States. [Sustained applause.]

THE PRESIDENT: Thank you. Thank you, Mr. Speaker. Mr. Vice President. Distinguished leaders of the House and Senate. Mr. Justice Blackmun. My fellow Americans.

We come here today to celebrate the two-hundredth birthday of this great building, the cornerstone of our republic. We come here to watch our Capitol made whole 130 years after the beautiful Statue of Freedom was first raised above this Capitol.

This is a moment of unity in this great city of ours so often known for its conflicts. In this moment, we all agree, we know in our minds and feel in our hearts the words that Thomas Jefferson spoke in the first inaugural address ever given on these grounds. He said that people of little faith were doubtful about America's future, but he believed our government was the world's best hope.

What was that hope? The hope that still endures that in this country every man and woman without regard to race or region or station in life would have the freedom to live up to the fullest of his or her God-given potential; the hope that every citizen would get from government not a guarantee but the promise of an opportunity; to do one's best; to have an equal chance; for the most humble and the most well born, to do what God meant for them to be able to do.

That hope was almost dashed in the great Civil War—when the Statue of Freedom was raised. Many people questioned whether Abraham Lincoln should permit this work to go on. But he said during the war, when so many thought our country would come to an end that, if people see the Capitol going on, it is a sign we intend the Union to go on.

In 1865 Abraham Lincoln gave the first inaugural address ever given under the Statue of Freedom. And he said,

"With malice toward none, with charity for all, with firmness in right as God gives us to see the right, let us strive on to finish the work we are in * * *."

And in that, the greatest of all presidential inaugural addresses, Abraham Lincoln gave us our charge for today. For the work of keeping the hope of America alive never finishes.

It is not enough for us to be mere stewards of our inheritance. We must always be the architects of its renewal. The Capitol is here after two-hundred years, this beautiful Statue of Freedom can be raised, renewed after 130 years, because our forbearers never stopped thinking about tomorrow.

We require the freedom to preserve what is best and the freedom to change, the freedom to explore, the freedom to build, the freedom to grow. My fellow Americans, I tell you that perhaps the biggest of our problems today is that too many of our people no longer believe the future can be better than the past. And too many others, most of them young, have no connection to the future whatever because the present is so chaotic. But the *future*, the future, has a claim on all of us.

We have, because of our birthright as Americans, a moral obligation to face the day's challenges and to make tomorrow better than today. All we really owe to this great country after 200 years is to make sure that 200 years from now this building will still be here and our grandchildren many generations in the future will be here to celebrate it anew.

Thank you, and God bless you all. [Applause.]

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The presence of a quorum having been questioned, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). Without objection, it is so ordered.

Mr. DOMENICI. Madam President, parliamentary inquiry. Are we open for matters as if in morning business?

The PRESIDING OFFICER. That is correct.

PROHIBITION OF FUNDS FOR LOBBYING

Mr. DOMENICI. Madam President, I have a number of responsibilities here. One of my new ones is to be the ranking Republican member of Appropriations Subcommittee on Commerce, Justice, State, and Judiciary and related agencies. Within the purview of that subcommittee lies the Small Business Administration as well as the Department of Commerce. The entire Department gets its funding through that subcommittee's appropriations bill.

In that light, I have a statement that I would like to make so that the Senate will know what I have requested of the Secretary of Commerce and the Small Business Administration.

Yesterday, the President presented to the Congress his legislative proposal for health care reform. There will be a lot of debate on this issue in the coming year in the Congress, on the airwaves, and in the print media. It is a very complex issue, and we will be looking to many people for information on it, and analysis of it. The President's health care plan will be part of that as will other health plans.

I am concerned, however, that the administration may be using funds that were appropriated to Department of Commerce and the Small Business Administration to indirectly lobby in favor of this plan which I think may very, very well be a violation of the provision of law that prohibits the use of such funds for lobbying activities. I hope the administration will look into this. I make no accusations as to why they did it or whether some might not even have known that the law existed. But I think the facts are pretty clear, and so is the law.

Section 1913 of title XVIII of the United States Code states:

> No part of the money appropriated by any enactment of Congress shall be used directly or indirectly to pay for any printed or written material or other device intended or designed to influence any Member of Congress, to favor or oppose by vote or otherwise any legislation or appropriation by Congress whether before or after the introduction of any bill proposing such legislation or appropriation.

Last month the Small Business Administration and the Department of Commerce prepared and published a brochure entitled "The Health Security Act: Benefits for Business." This brochure is not a general description of existing health care plans, their impact on small businessmen and women. It is not an informational brochure discussing various options for health care for the future. It is purely and simply a publication advocating the President's health care plan, a plan I might add which was not submitted to the Congress until yesterday. The brochure includes numerous references to the Health Security Act and clearly is intended to be part of the effort to generate political support for the President's health care legislation.

At the beginning of this brochure, a letter from the President is included which states in part,

> The battle for health care reform will be fierce. Special interests who benefit from the current system will try to drown out your voice and keep us on a road that will only increase your costs and decrease America's competitiveness.

The clear implication is that those who oppose the President's health care plan in whole or in part are part of these special interests. The SBA is also establishing a toll-free number to provide information not on health care in general, but on the Health Security Act in particular. A memorandum sent by the agency to staff of the Appropriations Committee states, "We are planning to provide interested small businesses preliminary estimates of health care costs and coverage under the Health Security Act through a 1-800 information line."

Again, Madam President, this is an explicit effort to generate support for the President's Health Security Act with the use of appropriated funds. In some ways this is a minor matter. The amount of direct Federal funds involved in printing and distributing this material probably does not exceed $100,000. However, it is troubling that this administration has attempted to use this brochure to influence the public debate and indirectly lobby for its legislative package by using the scarce resources of the Small Business Administration that many of us I am sure would think could be better used for other purposes.

It is interesting to note that 10,000 of these brochures were provided to the Democratic National Committee for distribution and dissemination. Clearly, the SBA and the Commerce Department intend that these brochures be used for political purposes.

This administration took office professing to believe in high ethical standards for public officials. And I do not know, frankly, whether this incident illustrates mere incompetence. It may very well be that. Or is it an attempt to influence the political debate and thereby the Congress? In either case, I ask that Secretary Brown and Small Business Administrator Erskine Bowles to repudiate this effort and to take immediate steps to cease using appropriated funds to print and distribute this brochure.

Madam President, Republicans are interested in a bipartisan, cooperative effort to reach a compromise on health care reform. I think I heard that said by both Democrats and Republicans yesterday. I think I heard it said unequivocally by our President. Efforts by the administration to make this a partisan political debate, and turn it into that, do not help us reach that end.

I ask unanimous consent that two letters I sent to Secretary Brown and Administrator Bowles be printed in the RECORD at this point, as well as a memorandum from the SBA on the costs and distribution of this brochure, the pages of the brochure, and the memo from the Small Business Administration to John Shank, the Republican clerk.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 27, 1993.

Hon. RON BROWN,
Secretary of Commerce, Department of Commerce, Washington, DC.

DEAR MR. SECRETARY: I am writing to bring to your attention a possible problem involving material being printed and distributed jointly by the Department of Commerce and the Small Business Administration.

The two agencies have prepared a brochure entitled "The Health Security Act", a copy of which is enclosed. The brochure is a description of the President's health care plan, which as you know has just been formally transmitted to the Congress.

I am concerned that the publication and distribution of this brochure with appropriated funds may violate the provisions of 18 U.S.C. 1913, which stats that "(n)o part of the money appropriated by any enactment of Congress shall . . . be used directly or indirectly to pay for any . . . printed or written material, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress".

I am writing to ask you to review this matter immediately and, if you determine the above provision of law is being violated: (1) take action to identify those individuals who may have been involved in said violation; and (2) cease further publication and distribution of this brochure.

Thank you for your attention to this matter.

Sincerely,

PETE V. DOMENICI,
Ranking Minority Member, Subcommittee on Commerce, Justice, and State, the Judiciary and related agencies.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 27, 1993.

Hon. ERSKINE B. BOWLES,
Administrator, Small Business Administration, Washington, DC

DEAR ADMINISTRATOR BOWLES: I am writing to bring to your attention a possible problem involving material being printed and distributed jointly by the Department of Commerce and the Small Business Administration.

The two agencies have prepared a brochure entitled "The Health Security Act", a copy of which is enclosed. The brochure is a description of the President's health care plan, which as you know has just been formally transmitted to the Congress.

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Thank you for your attention to this matter.

Sincerely,

PETE V. DOMENICI,

Ranking Minority Member Subcommittee on Commerce, Justice, and State, the Judiciary and related agencies.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, October 8, 1993.

To: John Shank
From: Kris Swedin
Re: Questions on Brochure.

This is in response to your inquiry on a brochure "The Health Security Act—Benefits to Business." This publication was created jointly by the Small Business Administration and the Department of Commerce to educate the business community, and small firms in particular, about the proposed Health Security Act and its estimated effect on their businesses.

Our initial publication order was for 150,000 copies which were produced between Sept. 27–29 and delivered to SBA offices and the Department of Commerce and other organizations committed to distributing them, for informational purposes, to small business owners (see enclosure). We have not yet received the Government Printing Office bill for this order but they estimate it to be $67,000. The Department of Commerce has agreed to reimburse SBA for their portion of the order, about 25,000 copies.

The demand for this information brochure has been very high from our field offices and we have ordered a second printing of 50,000 copies which we expect to receive soon at an estimated cost of $15,000. We are also making the brochure available for reading and downloading through SBA's On-Line electronic bulletin board. This E-mail service represents no additional cost to the Agency beyond the initial set-up work, which was handled by SBA staff.

In addition we are planning to provide to interested small businesses preliminary estimates of health care costs and coverage under the Health Security Act through a "1–800" information line similar to SBA's existing Answer Desk. To date, we have outfitted a room for this information service with on-hand computers and miscellaneous purchases of related devices such as telephones and a FAX server. All of this equipment will be used within SBA at the conclusion of this information service project.

As you know, health care reform is a complex issue which will have significant effects on small business. I believe it is incumbent on SBA to provide our customers with the most current, accurate and objective information available to us. The Health Security Act brochure, our 1–800 information service, and the efforts of our staff in working on this issue are intended to do just that.

Distribution of brochure—The Health Security Act: Benefits for Business

Department of Commerce	23,800
Congressional Offices (with Commerce)	5,000
SBA Regional Offices	10,000
SBA District Offices	53,000
SBA Branch Offices	6,300
Portland, OR (town hall meeting)	350
Cleveland, OH (town hall meeting)	350
Des Moines, IA District Office	400
New York District Office	400
Houston, TX District Office	500
Houston, TX (town hall meeting)	350
U.S. Coast Guard	400
Other Executive Departments/Agencies	300
SBA Congressional Office	6,100
White House Office of Communications	1,000
White House Office of Public Liaison	4,000
Democratic National Committee	10,000
Mailing to SCORE, SBDCs and WBOs	15,200
(Service Corps of Retired Executives, Small Business Development Centers, Women's Business Organizations) Mailings to miscellaneous small business trade associations	1,200

Costs incurred to date:	
Printing (from GPO estimates)	$82,000
Telephone and headsets	[1]5,000
FAX server	[1]4,000
FAX lines	400
Phone lines and cabling	[1]2,000
FAX machines (2)	[1]7,000

[1] Equipment will be retained for SBA use.

THE HEALTH SECURITY ACT—BENEFITS FOR BUSINESS

The Health Security Act preserves our employer-based, privately-financed system of health care. It will control the costs that are hurting American businesses' ability to compete. And it will help small business owners provide affordable insurance for themselves, their employees, and their families.—PRESIDENT BILL CLINTON.

MY FELLOW AMERICANS: Every American must have the security of, comprehensive health care benefits that can never be taken away. That's what our health security plan is all about.

America's private sector is known for its ability to create permanent, productive, private-sector jobs, and offers many benefits, including health care coverage, to workers. But that ability has been threatened in recent years by rising health care costs.

The Health Security Act reaffirms an American principle: that our high-quality health care system should be rooted in the private sector and should respond to market forces.

The Health Security Act preserves our employer-based, privately financed system of health care. It will control the costs that are hurting American businesses' ability to compete. And it will help small business owners provide affordable insurance for themselves, their employees, and their families.

This brochure explains what our health security plan will provide and why we think it is so important.

The battle for health care reform will be fierce. The special interests who benefit from the current system will try to drown out your voice and keep us on a road that will only increase your costs and decrease America's competitiveness.

If you speak out and together we accept the challenge and responsibility, I am convinced that we can provide affordable health care to every American.

BILL CLINTON.

THE AMERICAN HEALTH CARE CRISIS

The crisis

Coverage

One out of four Americans—63 million people—will lose their health insurance for some period during the next two years. Today, more than 2 million Americans lose their insurance each month.

Losing or changing a job often means losing your health insurance, and becoming ill or living with a chronic medical condition can mean not being able to buy insurance at all.

No civilized society can justify this.

Cost

Left unchecked, by the end of the decade, rising health care costs will consume nearly 60 percent of all businesses' pre-tax profit. This spiraling growth in costs robs workers of wages, fuels the federal deficit and puts affordable health care out of reach for millions of Americans.

Complexity

The excessive paperwork now required by the system confuses and frustrates doctors, nurses, patients, hospitals and employers. Bureaucracy drives up costs and takes time away from direct patient care. So it is not surprising that the number of health care administrators is growing four times more quickly than the number of doctors in the U.S.

The response

Security

The Health Security Act provides all Americans with a guaranteed comprehensive benefits package of medical services delivered in hospitals, clinics, professional offices, and community health centers. The Health Security Act provides employers and employees with health care they can afford, regardless of their circumstances.

Savings

Health care costs are rising faster than other sectors of the economy. That rate of growth in health care costs robs workers of wages, reduces business investment capital, fuels the federal budget deficit, and puts affordable care out of reach for millions of Americans.

Simplicity

With a uniform, comprehensive benefits package offered to all Americans, businesses and consumers will no longer be faced with a confusing array of policies and forms. Employers will be relieved of the administrative responsibility for wading through health care plans, negotiating competitive premiums and administering claims. A simple billing format that converts the current paper-based claims process to a computerized, electronic system will cut costs and time.

Examples

Today: Charles, an electronic equipment manufacturer, pays $420,000 a year for health insurance. He has 130 employees and pays an average annual salary of $28,600.

Reform: Charles' premium cost will be, at most, $293,722 (7.9 percent of his payroll), saving him $126,278. And his employees will have rock-solid, comprehensive health care.

Today: Danita and her husband have a small construction company and they pay $6,000 a year for health insurance. She and her husband receive an annual salary of $12,500 each.

Reform: Their premium costs will be at most $1,100 (4.4 percent of payroll), saving them $4,900. In fact, Danita could provide insurance for 4 additional employees and their families for what it costs her to insure her family today.

The problem

All Americans, those who have health insurance and those who do not, understand that serious problems exist in the health care system:

Thirty-seven million Americans have no insurance at all. Another 22 million have inadequate coverage.

One out of four—or 63 million—Americans will lose health insurance for some period during the next two years.

Losing or changing a job often means losing insurance. Becoming ill or living with a chronic medical condition can mean losing insurance coverage or not being able to obtain it at all.

Health care costs are rising faster than other sectors of the economy. Left unchecked, rising health care costs will consume almost two-thirds of the increase in the gross domestic product (GDP) for each American for the rest of the decade. Costs are projected to grow from 14 percent of the GDP to 19 percent, even without any expansion of coverage to insure all Americans.

Bureuacracy now overwhelms employers and health providers and drives up costs. Studies show that a significant amount of the cost of running a typical doctor's office or a hospital is administrative.

Quality is uneven. Because no clear standards define best medical practice, lack of information and inadequate attention to prevention make the quality of health care across America uneven. Employers and consumers have no reliable information with which to measure the quality of their health care.

Coverage for long-term care is inadequate. Many elderly and disabled Americans enter extended care facilities when they would prefer to remain at home. Families exhaust their resources trying to provide care for relatives.

Many Americans cannot obtain quality care. In many rural and inner-city areas, shortages of doctors, clinics and hospitals prevent Americans from obtaining quality health care.

Fraud and abuse cheat everyone. Exorbitant charges, fraud and abuse undermine both quality and access to care, and cost $80 billion each year—nearly 10 cents of every dollar spent on health care.

Everything that is wrong with the American health care system is threatening everything that is right with the system. We must fix the system, while preserving every American's right to choose a doctor and obtain high-quality care, before the system self-destructs.

Small businesses face higher administrative costs

As much as 40 cents of every dollar which small businesses spend on health insurance is consumed by administrative costs.

Firm size and Administrative costs as a percentage of claims by firm size:

1 to 4, 40 percent; 20 to 49, 25 percent; 100 to 499, 16 percent; more than 10,000 5.5 percent.

WHAT IS THE HEALTH SECURITY ACT?

Overview

The Health Security Act will guarantee comprehensive health coverage for all Americans and legal residents, regardless of health or employment status. Health coverage will continue without interruption whether Americans change or lose their jobs, move, become ill or confront a family crisis. An employer's ability to afford premiums for all their employees is not dependent on the health status of a single employee.

The Health Security Act builds on our current employer-based system and asks all Americans and their employers to take responsibility for their health coverage. In return, they will have the security of knowing that they will always be covered.

The Health Security Act organizes the private market for health insurance to create incentives for health plans to compete on the basis of quality, service and price.

How It Works

The Act builds on our employer-based, privately financed system of health care. Employers and consumers will band together in large purchasing pools to strengthen their bargaining power in the marketplace. Health providers will be forced to compete for business, leading to lower prices and improved quality. This will shift the power of the marketplace in favor of employers and their employees.

Everybody's Role

Implementation will be managed at the local level by employers, employees and the states. This will create flexibility at the state level for employers and employees to design and control the local health care system. An independent National Health Board acts as the board of directors for the health care system, setting national standards for comprehensive benefits, quality and cost. Health plans must meet national standards on coverage, quality, and access to care, communities will tailor the new system to local needs and conditions, opening the way for local innovation within a national framework.

How Will the Cost of Health Premiums Be Paid?

Employers

Under reform, employers contribute 80 percent of the insurance premiums, calculated on the weighted average premiums among health plans in their area.

Under the Health Security Act, employer contributions for insurance premiums are capped at 7.9 percent of payroll. The cost of providing health coverage declines for most firms that currently provide insurance. Smaller businesses (those with fewer than 50 employees) with low wages will receive discounts of between 30 percent to 80 percent compared to what the average big business pays.

Employees

Employees pay the difference between the employer contribution and the premium of their chosen health plan. If they choose a plan that charges an average premium, they may pay up to 20 percent, unless their employer chooses to make a higher contribution.

How Employees Participate

Every employee will receive their own Health Security Card which will provide access to high quality, comprehensive health care that can never be taken away.

Caps on employer contributions

[Average wage in thousands of dollars]

	Percent
$0 to $12	3.5
$12 to $15	4.4
$15 to $18	5.3
$18 to $21	6.2
$21 to $24	7.1
$24 plus	7.9

Small Firms (fewer than 50 workers): Caps are placed on their premium contribution ranging from 3.5 percent of payroll to no more than 7.9 percent, depending on the average wage of that firm.

Large Firms (more than 50 workers): Not required to pay more than 7.9 percent of payroll for their employee's premiums.

Employer contributions are limited to a percent of their payroll costs, depending on their size and average wage. Government subsidies cover the remainder.

BENEFITS FOR BUSINESS

Reduces the cost of insurance for employers

The Health Security Act will reduce most employers' direct out-of-pocket costs, because it:

Guarantees that no employer in a regional alliance will pay more than 7.9 percent of payroll (in many cases, employers' actual premium costs will be below 7.9 percent of payroll and the cap will act only as a ceiling on costs);

Offers greater discounts (30% to 80%) to the smallest businesses and to low wage employees;

Increases the buying clout of small- and medium-sized companies through their participation in health alliances;

Ends insurance abuse: no more occupational redlining, restrictions on pre-existing conditions, or discrimination against small businesses;

Allows larger employers to continue to manage their own health care insurance programs;

Reduces the burden of early retiree health care costs by supporting the employer's share of early retiree premiums; and

Reduces the health care premiums for workers' compensation.

Increases consumer awareness of the cost and quality of health-care.

Reduces the administrative burden on businesses

Today, businesses face an avalanche of forms and a bewildering array of rules and reviews. Little wonder, then, that the number of health care administrators is growing four times more quickly than the number of doctors in this country.

The Health Security Act will eliminate much of the administrative burden of providing health care coverage, because it:

Provides a single, comprehensive benefits package, eliminating the need for time-consuming annual reviews of benefits packages;

Establishes regional alliances which will enjoy tremendous economies of scale and which will assume much of the administrative burden currently borne by businesses;

Consolidates reimbursement and claims submissions into a simple, easy-to-use format; and

Includes the health care portions of workers' compensation and auto personal injury.

Finances the new system responsibly and fairly

The present system is inequitable and unfairly penalizes companies currently providing health insurance to their employees. The Health Security Act seeks to lift that burden.

The Health Security Act injects fairness into the system, shifting power in the marketplace in favor of employers and their employees:

Today, employers who insure their employees bear a large "cost shift," amounting to $25 billion, from the uninsured. Under reform, that burden is lifted.

Today, in many cases, one employer pays the entire insurance bill for a family, while the employer of a worker's spouse pays nothing at all. Under reform, the costs for families are spread over all firms.

As in the private sector, the growth in major government programs, including Medicare and Medicaid, will be restrained.

If the savings attained through effective competition, reductions in administrative costs, and controls on public spending don't achieve the spending goals, there will be, as a backstop, a limit on the rate of increase in premiums. This brings to health care spending the kind of cost discipline which is commonplace in business.

Maintains the Best Features of the Current System

While the current patchwork of health care coverage is expensive and cumbersome, portions of the current system do provide important benefits to the business community and ought to be retained.

The Health Security Act recognizes the value of important features of the current system. The act:

Offers consumers a choice of at least three types of health plans, one of which must enable employees to choose their own doctors;

Continues to make employer premium payments tax-deductible to employers;

Continues to exclude employer premium payments from an employee's taxable income; and

Allows employers with 5,000 or more employees who self-insure to continue to manage their own plans.

Increases a Company's Ability to Attract and Retain Quality Employees

Under the Health Security Act, businesses of all sizes will enjoy all the benefits of an insured work force; less absenteeism, decreased turnover, fewer errors and a reduced need for training. Each of these elements translates into reduced costs.

By offering comprehensive health care benefits, smaller businesses will be better able to compete for qualified workers.

ADDITIONAL BENEFITS FOR SMALL BUSINESS

The plan is phased in over a period of years as the cost of health care is brought down.

The plan provides caps and discounts to hold down the cost of health insurance so that small businesses can afford to provide their employees with comprehensive, real insurance coverage. In most cases, employers' actual premium costs will be well below the caps, which serve only as a ceiling on premiums.

The plan calls for a significant percentage of the cost of insurance to be paid by the employee so that the employee has the same incentive to hold down the cost of health care as does the employer.

The plan calls for employees to pay more if they choose more expensive health plans so that the employee has a strong incentive to choose economical provider groups.

The plan is combined with the health portion of workers' compensation and brings this skyrocketing expense under control.

The plan enables the self-employed to deduct 100 percent of the cost of health care coverage from their taxes.

The plan removes all the hassle that small business now has to go through in dealing with insurance companies, and frees up valuable time for the small business owner to manage and grow their business.

The plan removes all of the abuses that are currently so rampant in the health insurance marketplace. If one worker in a small business, or a worker's dependent, becomes seriously ill, the business will no longer see astronomical rate increases or lose coverage for the sick employee or dependent.

The plan controls the future rate of growth of health care costs so that the rate of increase of health insurance costs in the future will increase by approximately the rate of growth of wages, as opposed to the skyrocketing costs that small businesses have incurred in the past.

Most importantly, small businesses get rock-solid comprehensive coverage and a guarantee that they will never be in danger of losing insurance again.

And each small business will have a happier, healthier, more productive work force.

QUESTIONS AND ANSWERS

Q. My company already offers health insurance that provides low cost, affordable care. Will it be able to continue and will I be able to remain outside of the health alliance?

A. As long as they adhere to national standards for choice, quality, and comprehensive affordable care, companies with more than 5,000 employees will be able to act as their own health alliances. As the regional alliances prove their ability to reduce costs and provide high-quality health care, larger companies will have the opportunity to join the regional alliances.

Q. I provide a generous health care plan today. Won't this plan require me to provide my employees with reduced benefits?

A. No. Your employees will have a choice among plans which offer the nationally guaranteed benefits package, and you will be able to provide your employees with whatever additional health care benefits you would like.

Q. This plan sounds complicated. Isn't it really going to drive up my administrative costs?

A. No. Health care is admittedly a complicated subject. But today's health care system is vastly more complex than this plan. Administrative costs now consume a large portion of what all businesses pay for health care. One of the goals of this plan is to reduce this burden. The plan achieves significant administrative simplification by using:

one comprehensive benefits package,

a single, standard form for insurance reimbursement claims submission; and

economies of scale for businesses pooled in the alliance.

Q. Doesn't this plan eliminate the tax benefits which I have today?

A. No. Health care premium payments will continue to be tax-deductible for employers and will not be included in your employees' taxable income. If you offer your employees more generous benefits than in the nationally guaranteed benefit package, your premium contributions will continue to be tax-deductible for 10 years, as long as that plan was in force at the beginning of 1993.

Q. I'm afraid that the new system will not really control costs—how can I know that it will?

A. In the last five years, health care costs for employers have risen almost 15 percent every year. Small business costs have risen even more rapidly. That's why a tough approach to controlling costs is a cornerstone of the Health Security Act. Providing health care and a comprehensive benefits package to every American will cut the cost of uncompensated care. Stimulating competition, increasing consumer awareness of the cost and quality of health care, streamlining administration, and changing workers' compensation and auto-insurance health coverage will dramatically reduce costs nationwide. In addition, premium increases in the whole system—including Medicare and Medicaid—will be limited as a backstop to contain costs. This will bring to health care the kind of discipline which is commonplace in business.

Q. My company operates in a number of different states. Today, I provide health benefits for my employees through one system. Under reform, will I have to change the way my employees get coverage?

A. No. Large employers will be free to operate as their own alliances, as long as they adhere to national standards for choice, quality, and comprehensive, affordable care. Small groups of employees in distant locations, however, will have the opportunity to receive health care through the local regional alliances if that is more convenient and cost-effective.

Q. Can we be confident that this plan had been analyzed rigorously and that the financing is reliable?

A. Yes. At the very beginning of this process, the President brought together some of the best minds in the country to help design a financing package for health care reform. The numbers and analyses that underline the President's proposed plan for health security represent months of rigorous work by experts from various federal agencies for the first time. An outside group of economists and actuaries audited the work that was done, and examined and validated the costs and savings projections. These cost and savings projections are solid, credible and conservative.

Q. My company is a large manufacturer experiencing very difficult international competition. Won't this plan add to my costs and make us even less competitive?

A. In fact, just the opposite is true. Today, many U.S. companies operate at a disadvantage in global competition, in part because of the costs of their health insurance. This plan is designed to get costs under control by increasing competition among health providers, increasing consumer incentives to reduce costs, reducing administrative waste, and imposing discipline on both private and public health care spending. Without this disciplined approach to cost control, your health care costs will continue to spiral out of control and make your competitive position even worse. The plan also lifts the burden of early retirees from your company. Generally, the plan was specifically designed to help control your costs and compete globally.

Q. I have heard that health care reform will drive thousands of small companies like mine out of business. How will my business be protected?

A. The Health Security Act was designed specifically to protect small businesses and help them make the transition to a system that guarantees their families and employees the health security they deserve. Businesses will pay no more than 7.9 percent of their payroll for health care. Most businesses' actual premium costs will be less than the 7.9 percent cap, which serves only as a ceiling on premium payments. Smaller businesses (those with fewer than 50 employees) with low wages will receive discounts of between 30 percent to 80 percent compared to what the average big business pays. Most businesses that provide insurance today will enjoy significant cost decreases. Businesses with insurance today will enjoy affordable health insurance for the first time ever, costing as little as a dollar per day for low-wage employers.

Q. I am a small business owner who now buys insurance for my family and my employees. What will this reform do for me?

A. Health care reform will lower costs for most small businesses that now provide insurance to their employees. Today, you pay 35 percent more for your insurance than the big companies do and your premiums increase at a rate more than 50 percent greater than theirs do. After reform, small businesses with low wages will pay between 30 percent and 80 percent less than the average big business. The Health Security Act will control costs, cut the administrative waste and paperwork that drive your premiums up, and make insuring your employees easier and more affordable. Small employers and others will join together in a health alliance to get the same bargaining power in dealing with health plans that large companies enjoy today. In addition, you and your family will gain the security of knowing that you will never lose your insurance coverage.

Q. I own a small business and can't afford to give my employees health insurance. What will this plan do for me?

A. Small business owners already risk enough; they shouldn't have to go without health insurance coverage, endangering their families' health security. Most small businesses today provide their employees with health coverage. Most of the rest would like to provide that benefit but find it impossible in a health insurance system that discriminates against them. The Health Security Act will help small businesses provide insurance to employees at affordable prices through these steps: controlling costs and making insurance more affordable; regulating insurance companies and prohibiting discriminatory pricing against small firms; and offering discounts to small companies and their employees. In the future, many small business owners could be able to provide health insurance for themselves and their employees for less than they pay for their family premiums today.

Q. I am self-employed. Will I start to have the same tax advantages as big companies?

A. Yes. Today, the self-employed can deduct only 25 percent of the cost of their health care premium from their taxes while other employers can deduct 100 percent. In the future, self-employed people will be treated fairly and be able to deduct 100 percent.

Q. Won't I continue to be at a disadvantage to larger companies in the purchase and administration of my health care?

A. No. By pooling with other employers in the regional alliance, you will enjoy the economies of scale in the purchase and administration of health care that only the largest employers have today. You also will be able to provide your employees with a health plan equivalent to what the biggest corporations offer today without being excluded for pre-existing conditions. You also may enjoy the benefit of discounts for both you and your employees which will not be available to the corporate alliances.

Q. I employ lots of part-time workers. Will I be required to pay for all of their health care?

A. No. Businesses will be required only to pay a prorated share of the employer portion of the health care premium for part-time workers. Businesses will be required to pay nothing for the health care of part-time workers who are full-time students and who are under the age of 23.

Q. My company hires independent contractors to perform many services for us. Will I be required to pay all the costs of their health care?

A. No. Truly independent contractors are considered self-employed and will be responsible for all the costs of their own health care, i.e., both the employer and the employee portions.

Q. How will my workers' compensation costs be affected?

A. Medical treatment for workers' compensation claims will be provided through the alliances and will enjoy the alliances' cost benefits. As a result, premium rates, fraud and excessive utilization all will be dramatically reduced.

For more information

Contact: U.S. Department of Commerce, 14th and Constitution, Washington, DC 20230. Attn: Health Security Act or the U.S. Small Business Administration, 409 Third St., SW., Washington, DC 20416. Attn: Health Security Act.

Mr. **DOMENICI**. Madam President, the SBA was very forthright. We asked them for that information, and they gave it to us. I am not trying to get the information. I have it. I have the brochure.

I thank the Chair. I yield the floor.

Mr. **SHELBY**. Madam President, are we in morning business?

The **PRESIDING OFFICER**. That is correct.

GULF WAR SYNDROME

Mr. **SHELBY**. I rise today to report to the Senate a startling development concerning the health of veterans who served in the Persian Gulf theater of operations.

As chairman of the Senate Armed Services Subcommittee on Force Requirements and Personnel, I have been closely following the deteriorating condition of the health of thousands of U.S. citizens who served in the Persian Gulf conflict. I held a hearing on June 30 in the Senate during which both active duty and members of our reserve forces testified about what has come to be known as the gulf war syndrome. At that hearing, two reservists testified that they believe they were subject to some sort of chemical attack in the early days of the war with Iraq.

I followed up on this hearing with extensive talks with the Department of Defense and was briefed by officials of the Joint Chiefs of Staff and the Army on the allegations of possible chemical attack. They contended then, and continue to argue now, that our forces were not subject to any type of chemical or biological warfare during the Desert Storm and Desert Shield campaigns. They also dismissed assertions by the Czech Defense Agency that that organization detected low-level chemical radiation during the gulf war.

Madam President, however, a memorandum written by an environmental physician at the Department of Veterans Affairs Hospital in Tuskegee, AL, may refute all assertions of the Department of Defense. Yesterday, October 27, Mr. William Kay, a member of the Naval Reserve Construction Battalion 24, who has been sick since his return from the gulf, visited Dr. C. Jackson at the Tuskegee VA medical facility to receive instructions to the VA claims office for his disability claim. Dr. Jackson has seen a large number of gulf war vets in the region.

I have a copy of this memorandum. I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Department of Veterans Affairs, Oct. 27, 1993]

MEMORANDUM

From: C. Jackson, M.D., Environmental Physician, V.A. Tuskegee, Ala.

Subject: Disability Claim—Persian Gulf.

To: V.A. Claims office.

Mr. William Kay, ss# [redacted] has been followed by the V.A. Hospital in Tuskegee since his return from the Persian Gulf. He has experienced shortness of breath, excessive fatigue, diarrhea (intermittent), night sweats, memory problems and joint pains since the Gulf War. He was a member of the Construction Battalion 24 which was stationed at Al Jubayl in the Gulf. We have given him the diagnosis of Persian Gulf Syndrome and Chemical-Biological warfare exposure. He had none of these symptoms prior to the Gulf.

If we can be of further service, please notify.

C. JACKSON, M.D.

Mr. **SHELBY**. Madam President, I want to read from this memorandum. It states:

Mr. William Kay, ss# [redacted] has been followed by the V.A. Hospital in Tuskegee since his return from the Persian Gulf. He has experienced shortness of breath, excessive fatigue, diarrhea (intermittent), night sweats, memory problems and joint pains since the Gulf War. He was a member of the Construction Battalion 24 which was stationed at Al Jubayl in the Gulf. We have given him the diagnosis of Persian Gulf War Syndrome and Chemical-Biological warfare exposure.

I repeat, "chemical-biological warfare exposure." He had none of these symptoms prior to the Gulf.

Madam President, from the beginning I have tried to look at this entire situation as other Members of the Senate have, rationally and logically. I have met with Jesse Brown, Secretary of the Department of Veterans Affairs, and with numerous officials at the Department of Defense. I have worked with my good friend, Senator RIEGLE of Michigan, on an amendment to the Department of Defense authorization bill that would provide $5.7 million to research the gulf war syndrome. I want to continue to work with the executive branch on this vital issue.

However, the statement made in the memorandum I have just had printed in the RECORD cannot be ignored. We have a qualified medical physician making a diagnosis that a Persian Gulf veteran suffers from chemical-biological warfare exposure. I have contacted the Department of Defense and the Department of Veterans Affairs and will be meeting with them next week to receive their views on this issue. I will state now that the VA and the Department of Defense had better not reject this diagnosis out of hand. I recall similar statements concerning Agent Orange during the Vietnam era and thereafter.

Madam President, I mentioned earlier that the Czech Defense Ministry had reported the detection of chemical agents during the gulf war. It is my understanding that the Czech's have sent the Department of Defense a written report on their findings. I have been informed that, based on preliminary findings, the Department believes that there is little likelihood of a connection between the Czech readings and the gulf war illnesses because of low concentrations of readings, the locations of the agents and the prevailing winds.

I have asked the Department of Defense for a copy of this report that I will share with the Senate. They are in the process of reviewing the data and expect to make it available in the near future. Again, I take this opportunity here in the Senate this afternoon, to suggest to Secretary Aspin that the quicker the Department of Defense makes this information available the better. After the Senate recesses this year, I intend to meet with Czech officials personally in Prague and others. In the meantime, I expect a full accounting of these issues from the Department of Defense and the Department of Veterans Affairs to the Senate of the United States.

The PRESIDING OFFICER. Who yields time?

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ETHICS COMMITTEE RELEASE

Mr. DOLE. Madam President, I have a release in my hand, a very troubling release, because it is an indication by the chairman of the Senate Ethics Committee and the release says: "The Senate Ethics Committee discovered information in Senator BOB PACKWOOD's diaries, questions about possible criminal violations," the panel chairman said today.

This all gets into the question of information diaries, what is protected, what is relevant, and it goes on to say later in the story, "BRYAN said the diaries raise questions about possible violations of criminal laws."

I know we are going to debate this on Monday. I think it is very unfortunate statement of the chairman of the committee to make. We have one of our colleagues who has been charged with certain matters before the Ethics Committee. It is under review. It is under investigation. The investigation was nearing completion. Then according to so-called committee rules they sought additional information from diaries that had no relationship to the original ethics charges.

There is a serious question whether Members of the U. S. Congress, in this case Senators, are entitled to any protection at all. Can you just rummage through anybody's files or diaries and say: "Well, this might be relevant later. If anything falls off here, it might be relevant."

That is what we hope to discuss next week. Now the chairman has already said there are questions about possible violations of criminal law.

I think that is very unfortunate. I wish such a statement had not been made. I have the highest respect for the Ethics Committee. It is a tough job. Nobody wants to be on the Ethics Committee. Nobody wants to judge their peers. But this is almost a prejudgment here. It seems to me that now the question has been raised publicly it ought to be followed up by a charge or it ought to be retracted.

It is too late to withdraw. It has already been made. This is the kind of news a lot of people like. Nail somebody, particularly a Senator. So it is too late to retract it. It should not have been made. But if it is going to stand, then there ought to be a charge. They ought to convene the committee, and they ought to say: "OK. There are additional allegations. We are going to broaden the inquiry."

If they are not going to do that, then someone ought to say, "Well, maybe I misspoke."

Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Madam President, are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

SALUTE TO THE DOLE FOUNDATION

Mr. STEVENS. Madam President, I take this opportunity to congratulate our Republican leader, BOB DOLE, on his work to improve employment opportunities for disabled Americans.

Last night an organization that BOB DOLE founded, the Dole Foundation for Employment of People With Disabilities, celebrated its 10th anniversary. In that short time, this small, nonprofit, nonpolitical organization has awarded more than 230 grants in 40 States, totaling more than $5 million.

In my home State of Alaska, a Dole Foundation grant helped Reach, Inc., of Juneau establish a silk-screening and printing business for disabled youths.

To date, Dole Foundation grants have helped thousands of disabled people across this Nation find good-paying, high-quality jobs.

BOB DOLE's foundation is making a difference, but we still have 8 million disabled Americans who are unemployed and who could work, if they were given the chance. Today, disabled Americans of working age have an unemployment rate over 62 percent.

Madam President, my father was blind. So I know a little bit about disabilities and how a helping hand—rather than a handout—can make a difference. That is the philosophy of the Dole Foundation: to give disabled Americans the opportunity to chart their own future.

I came to the floor to congratulate BOB DOLE for his leadership, not only in the Senate, but in his work to improve the lives of America's 43 million citizens with disabilities.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILD PORNOGRAPHY

Mr. ROTH. Madam President, I rise today to add my voice to the growing protest against a Supreme Court brief filed recently by the Department of Justice in the child pornography case of Knox versus United States.

I believe this case will go down in history as the Bob Jones case of the Clinton Justice Department. My colleagues will recall the Bob Jones case. In that case the Reagan Justice Department was roundly, widely, and repeatedly criticized in the press for changing the Department's previous position that IRS denial of a tax exemption to an allegedly racially segregated school was proper. Well, in the Knox case, the Clinton Justice Department has done precisely the same kind of legal flip-flop, this time on behalf of child pornographers and pedophiles.

In September, the Justice Department filed a brief that repudiated the Government's lower court victories under the Child Protection Act of 1984. The Justice Department asked the Supreme Court to set aside a judgment upholding the conviction of a man who had already previously been convicted under the Federal child pornography laws. The Clinton Justice Department told the Supreme Court that the appeals court has used "an impermissibly broad standard" to interpret and apply the law. The Clinton administration maintained that the appeals court should be ordered to reconsider the case under a narrower standard. In a reversal of its previous interpretation of the Federal child pornography statute, the Justice Department argued that this narrower standard meant nudity or visibility of genitals is required for conviction; and that the material "must depict a child lasciviously engaging in sexual conduct," as opposed to lasciviousness on the part of the photographer or consumer.

This new definition, invented by the Justice Department out of whole cloth, is disturbing. Many children who are exploited for child pornography are too young to understand what they are doing, much less understand what lascivious behavior or even what sex is. Furthermore, child pornographers sometimes use images of sleeping children. Under this new interpretation, such terrible exploitation of innocent young children could become legal. If the Clinton Justice Department flip-flop prevails, I hope the administration will be willing to accept responsibility—responsibility for having opened the floodgates to a new wave of child pornography and sexual exploitation of children that is likely to ensue.

Why do I call this outrageous Department of Justice action a flip-flop? Because in March 1993 the acting Solicitor General filed a brief in the Knox case arguing that the third circuit had properly upheld the convictions and that the legislative history supported that court's decision. But in September 1993 the new Solicitor General filed a brief arguing precisely the opposite. Interestingly, the second brief makes no reference to the first brief's different view and does not acknowledge the flip-flop. But I hope the Supreme Court will notice and that the Justices will not be fooled.

The key holding of the third circuit is that, under Federal law, "clothed exhibitions of the genitalia are proscribed" when "a photographer unnaturally focuses on a minor child's clothed genital area with the obvious intent to produce an image sexually arousing to pedophiles." That is exactly what the facts show happened in this case.

This is how the video tapes involved in this case were described by the Justice Department in its first brief:

> The tapes showed various females between the ages of 10 and 17 dressed in bathing suits, leotards, underwear and other similar attire. The children struck provocative poses, apparently at the direction of someone off-camera. The camera would typically zoom in on the children's pubic and genital areas and display a closeup of that area for an extended time. The tapes themselves and the promotional materials * * * showed that the tapes were designed to pander to pedophiles.

An advertising catalog for these tapes included the breathless description of—I am quoting—"bathing suits on girls as young as 15 that are so revealing it's almost like seeing them naked (some say even better)."

Mr. President, I am, like the vast majority of Americans, outraged by child pornography. I was one of the original Senate sponsors of antichild-pornography legislation with some of my efforts dating back to 1977. I took an active role in the passage of the 1984 Child Protection Act. In 1986, after a 2-year probe, which I directed, the Permanent Subcommittee on Investigations issued a report on the relationship between child pornography and the sexual abuse of children. The key findings of the investigation were that child pornography plays a central role in child molestations by pedophiles. Child pornography is used by pedophiles to justify their own conduct, to assist them in seducing their child victims, and sometimes as a means to blackmail the children they have molested in order to prevent exposure. One pedophile testified before our subcommittee that he used child pornography to overcome the resistance of his child victims and that he traded photographs of his child victims with other pedophiles. As a result of these hearings, I introduced, and the Congress passed, legislation to outlaw advertising of child pornography.

I know what Congress meant when we passed antichild-pornography legislation. We meant to stamp out the business of child pornography in this country and to stop the sexual exploitation of our children by pornographers and pedophiles. The legislation and enforcement efforts have been remarkably successful. But now the Clinton Justice Department's brief represents a major setback to these efforts.

The Justice Department brief is an outrage. I am deeply disappointed that Attorney General Reno, who has expressed such concern for the welfare of children, would allow her Department to file such a brief—a brief that will, in effect, legalize a substantial amount of child pornography in this country. Is this what the Clinton campaign meant by change? I certainly hope not.

I intend to do whatever is necessary to reverse the Department's position in this case and to ensure that the Department's arguments do not prevail.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, parliamentary inquiry, are we in morning business?

The PRESIDING OFFICER. That is correct.

Mr. BIDEN. Need I seek unanimous consent to speak in morning business for 10 minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

MORTON HALPERIN

Mr. BIDEN. Madam President, it would appear that the thaw in cold-war thinking and cold-war rhetoric has not yet reached the floor of the U.S. Senate.

I am at a loss to explain otherwise the criticism directed at the nomination of Morton H. Halperin as Assistant Secretary of Defense for Democracy and Peacekeeping.

Mort Halperin has served the national security of this country with great distinction for 30 years; he is widely and justly admired as a principled, patriotic public servant and it is hard to believe that in this instance he is serving as anything other than a target of convenience for critics who do not know, or do not wish to admit, that the cold war is over.

With the disunion of the Soviet Union and the collapse of the Communist movement, we cannot serve the national interest of the United States today if we remain mired in a slush of cold-war paranoia and resentment.

We cannot promote peace and the progress of democracy around the world if we permit the nomination of a man who has dedicated his life to those values to be held hostage to past policy differences among those for whom the national security has been a common lifelong concern.

The United States of America was conceived as a nation where citizens could differ significantly but with dignity, where differences of opinion could be aired safely within a framework of civility and where the resolution of those differences could not be subjected to ex post facto judgments.

And it is no exaggeration to say that it has been in large measure, our character as such a nation that has enabled us to survive and prevail over the Communist threat.

To depart from that tradition today, to impeach our own character as a Senate and as a nation that embodies the very values the world most admires and wishes to emulate, would pose a very real and present threat to the national security Dr. Halperin's critics profess to protect.

It would be hard to imagine a nominee better qualified than Mort Halperin to serve as Assistant Secretary of Defense for Democracy and Peacekeeping.

As head of the Washington office of the American Civil Liberties Union for a number of years and more recently as a senior associate at the Carnegie Endowment for International Peace and Baker professor at the Elliot School of International Affairs at George Washington University, he has been noted for the vigor and the effectiveness of his commitment to those values this Nation stands for.

He has been for more than 20 years a highly valued contributor to national security policy, having served in the Pentagon and the National Security Council under both Republican and Democratic administrations.

And it is a mark of both his patriotism and the professional quality of his work that his nomination has gained the bipartisan endorsement of former Secretaries of Defense and Directors of Central Intelligence who have known him well, not to mention the endorsement of Henry Kissinger, whom he sued successfully for wiretapping his phone.

Let me repeat that. Remember the celebrated case where Dr. Kissinger was sued as Secretary of State and as National Security Adviser for having ordered the wiretapping of the phone of Dr. Halperin? The very man who was sued, Dr. Kissinger, the Secretary of

State, endorses Mort Halperin for this post along with Republican and Democratic Secretarys of Defense and Directors of Central Intelligence.

Dr. Kissinger, obviously, sees Mort Halperin's nomination not as an occasion for controversy but as an opportunity to advance American national interests in the post-cold-war world.

Precisely, Mr. President as I believe the Senate should view the Halperin nomination.

The Senate does nothing to fulfill its responsibility to advise and consent on Presidential nominations, and does nothing to enhance its reputation as the world's greatest deliberative body by entertaining a long and disagreeable litany of past policy disagreements nor by entertaining anonymous and probably false allegations, such as the rumor, and Mr. President it is no better than that, that Dr. Halperin shared in overruling the military request for tanks in Somalia only recently.

Not only has Dr. Halperin denied that rumor, but Secretary Aspin has also denied it.

In fact, as the Secretary informs me by letter, an investigation of the allegation has found that Dr. Halperin not only played no role in making the decision, but was in fact not even aware that anyone had requested the tanks.

But, Madam President, as the Washington Post said in a recent editorial:

> The charges against the nominee are not worth dignifying by restatement. Each fresh one crumbles under the scrutiny of the record.

Morton Halperin's record of distinguished public service and scrupulous stewardship over our national security has been unblemished for three turbulent decades. As I said of him in this Chamber last year when he joined the Carnegie Endowment and George Washington University, I would like to say again and I quote from that statement:

> He is that truly rare creature, especially in Washington, perhaps, but certainly not only in Washington—he is one of those rare people for whom there is never any conflict between principle and practice. He has never sacrificed his principles and he has left the political air fresher everywhere he has passed.

That is the Mort Halperin that I know, and that I think all the Senators who have worked with him over the years know. His nomination to a vitally important post for which he is magnificently well-qualified should not be sullied in this body by an urge—an urge—to lick old wounds that should have been healed long since in the brighter light and before the increasing challenges of the post-cold war world.

Madam President, I ask unanimous consent that the Secretary's letter that I referred to be printed in the RECORD, as well as the Washington Post editorial and my remarks from last year be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, October 27, 1993.

Hon. JOSEPH BIDEN,
Russell Senate Office Building, Washington DC.

DEAR SENATOR BIDEN: Thank you for your October 27 letter concerning the alleged participation of Dr. Morton H. Halperin in decisions related to General Montgomery's request for additional support for U.S. military forces in Somalia. This is a serious allegation which must be answered fully and forthrightly.

I can tell you directly that I have had no discussions whatsoever with Dr. Halperin concerning General Montgomery's request for additional support and he sent me no memoranda or other documents related to this matter.

To answer your question about whether Dr. Halperin gave anyone else in the Pentagon advice on this matter, I asked a senior officer to interview others who had knowledge of the Montgomery request. Without exception, they all have stated that they had no discussions on this matter with Dr. Halperin. Indeed, there is no evidence that Dr. Halperin had any knowledge of the request. Accordingly, there are no documents, transcripts, or notes relating to any discussion of Dr. Halperin's involvement in this issue.

Dr. Halperin made a similar statement that he had no knowledge of the request from General Montgomery before the press reports; that accordingly he played no role and had nothing to do with this matter; and therefore there are no related documents or notes.

I hope you find this response helpful and that we can put this unfounded allegation to rest. Dr. Halperin is a very talented and patriotic American who I want to be on my team at Defense. I hope the Senate will be able to move ahead promptly with favorable consideration of his nomination.

Sincerely,

LES ASPIN.

[From the Washington Post, Oct. 11, 1993]

THE HALPERIN NOMINATION

The Attack on Morton Halperin's Pentagon nomination keeps getting nastier. From selective and distorted citations of his past statements and positions, the pack has now moved on to the recent American deaths in Somalia. A nameless source accuses Mr. Halperin, the designated assistant secretary of defense for democracy and peace-keeping, of helping overrule the military on the question of whether tanks should have been sent to American peace-keepers a month ago. No evidence is presented for this charge. Mr. Halperin says it is false. But Sen. Storm Thurmond, leader of a partisan hit squad, is pursuing the matter with thunder and bile.

From the bolts of character assassination being hurled at Mr. Halperin, you would think he is coming from deep left field. In fact, he is coming from previous posts in the Pentagon and the National Security Council in the service of both Republican and Democratic administrations. From the very beginning of a notable 30-year career, he has gained regard for his contributions to national security policy. For some years he headed up the Washington office of the ACLU. This is presumable the service for which one critic darkly said he was running an organization "dedicated * * * to ensuring that U.S. intelligence agencies operated within the framework of the Constitution." A bipartisan clutch of former secretaries of defense and directors of central intelligence, not to speak of Henry Kissinger, whom he served and then sued for wiretaps, now provide the sort of lavish character references for which the average nominee would kill.

It is idle to try to imagine what may be on the minds of Sen. Thurmond and others who are baying after Mr. Halperin. If they are stirred by anything more than a nostalgia for the good old days of witch hunting, it is well hidden. The charges against the nominee are not worth dignifying by restatement: Each fresh one crumbles under scrutiny of the record.

The post to which President Clinton has nominated Mr. Halperin is focused on the post-Cold War tasks of planning peace-keeping operations, conducting military-to-military contacts to convey democratic practices, fighting the anti-drug war and providing disaster relief. In the absence of serious and proven charges against him, the Senate Armed Services Committee has no good reason not to confirm his nomination and let him get on with the job.

[From the CONGRESSIONAL RECORD, Sept. 30, 1992]

TRIBUTE TO MORTON H. HALPERIN

Mr. BIDEN. Mr. President, at the end of this month the American Civil Liberties Union will be saying goodbye to an outstanding American with a distinguished record of service to this country's great tradition of protecting civil rights and civil liberties of all individuals. At that time, Morton H. Halperin will leave the ACLU to accept a position with the Carnegie Endowment for International Peace, as well as a position as Baker professor in the Elliot School of International Affairs at George Washington University.

I am sure that we have not seen the last of Mort Halperin here in the Congress—he will remain as dedicated and as passionate in his championing of the causes of civil rights and individual liberties in his new position as he has been in the past—but this transition makes a highly suitable time to note his tremendous contributions to those causes.

Mort Halperin has made an indelible impression on the lives of many, including myself. He is that truly rare creature—especially rare in Washington, perhaps, but certainly not only here—for whom there is never any conflict between principle and practice.

This is not because he is ever prepared to sacrifice his principles, but because he is never prepared to hold his principles aloof from the hurly-burly that so often surrounds civil rights. He is never content with principles as a pose, but only content with a principled and practical conclusion to any negotiation in which he participates.

Fortunately, for him and for us, he has a reflexive, instinctive ability to reach that kind of conclusion, time after time, to some of the knottiest controversies any of us ever encountered. And he does it without falling into the habits that too often snare those who take up civil liberties as moral trophy-hunters—

He is never content to be simply a cheerleader working the crowd from the sidelines without taking any risks himself;

He is never satisfied to simply bloody the other side with a blunt instrument without gaining any ground;

And he always wants something more than to leave the other guy guilt-ridden but still in possession of the field.

When the chips are down, what works is what Mort does—as long, of course, as what works is right. And how he gets things done is as unusual in this town as what he gets done. In a place where shouts often substitute for arguments, Mort never raises his voice, and while it is obvious he has an absolute passion for civil liberties, when he speaks it is always with the voice of reason.

He would rather persuade you than overwhelm you—not least, of course, because he understands very well that when you have come round to his point of view, you will be mightily impressed with the originality of your own thinking, and you will defend that idea as vigorously as you would defend anything else that belongs to you.

Given his abilities and his achievements among us, I used to wonder why Mort has not become a lawyer.

But I realized, finally, that he is a bit like the famous Professor Kittridge of Harvard. When a student asked Kittridge why he had never taken a Ph.D. in his field of English literature, the professor simply smiled and said, "But who would have examined me?"

None of us, certainly, would relish trying to examine the Halperin intellect or its command of civil-rights law. But there's nothing pointy-headed about the way Mort pursues his work. There's nobody in Washington smarter than he is, but there is equally nobody more down to earth in pursuing a goal, and he has all the tools for that kind of work.

He is, very simply, a man of good judgment, about both principles and people, and he has a first-rate command of the political process that aims at blending those two elements into results that are both desirable and workable.

He knows all the angles, and he plays them all, but he plays them straight. None of us has ever known a more honest man—but neither has any of us ever known a man more clearly focused on his goals or more clever at achieving them.

For Mort is, above all, a master tactician of the moral realm, and his preeminent skill is winning the big battles, outflanking and outmaneuvering the apparently unbeatable foe at the head of small, ragtag, apparently hopeless armies—for, as we have all learned, that "apparently" can be a formidable weapon in the highly skilled hands of a Mort Halperin.

I have no doubt there are people all over this town who are still trying to figure out how they lost a fight against such "apparently" insignificant opposition.

It is simply beyond imagination that anyone could have done more than Mort for civil liberties. It has been our good fortune, as well as the great good luck of the American people, to have had Mort Halperin as our "Horatio at the Bridge" for civil liberties.

It has been our good fortune to have found in Mort Halperin the Humanitarian, but supremely practical, man once described by the writer Aldous Huxley—

"A man may have strong humanitarian and democratic principles," Huxley said, "But if he happens to have been brought up as a bath-taking, shirtchanging lover of fresh air, he will have to overcome certain physical repugnances before he can bring himself to put these principles into practice."

I have no doubt that Mort has had to wrinkle his nose more than once as he has made his way through the political stockyards here in Washington, but he never avoided the occasion, no matter how aromatic he may have found it; he never hesitated to get his hands dirty, even as he never sacrificed his principles; and he has left the political air forever fresher everywhere he has passed.

He has been my friend, and he has been the best friend to civil liberties in our time.

And so, I am sure, he will remain.

Mr. BIDEN. I thank the distinguished occupant of the chair for listening. I thank her for the time. I yield the floor. I see one of my colleagues wishes to speak, so I will not suggest the absence of a quorum.

Mr. CRAIG. Madam President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MANAGEMENT OF PUBLIC LAND

Mr. CRAIG. Madam President, today we had once again a very significant vote that is being used to attempt to establish a new public policy in this country as it relates to this Government's management of public land resources and the relationship this Government has with its citizenry. I am talking about the cloture vote on the Interior Appropriations Committee conference report as relates to the funding of that agency.

Those who have watched and participated in this discussion and debate have called it the grazing fee fight. I would like for a few moments this evening to broaden that argument just beyond grazing fees to what is really a good deal more important and why I mention that it is really the discussion of, or an attempt by some, to significantly change the relationship that our Government has had in the management of public lands with the citizens of our country in primarily 14 Western States where a great deal of the lands of those States are still retained in the ownership of the Federal Government. My State of Idaho happens to be one of those.

What kind of a relationship am I talking about? Our Founding Fathers were wise in many ways, but one of the things they said very clearly was that the Federal Government ought to be limited and all other nonenumerated rights would reside with the States. And for well over a century, this body and the other one defended in a strong way that concept.

Starting in 1913, no longer were Senators appointed by State legislatures but, in fact, elected by the populace through a change in our Constitution, we began to see a significant change in the relationship that the legislative body of our Government and, therefore, our Government through the policies crafted by the legislative bodies of our Government, had with State governments. Slowly but surely we saw the Federal Government beginning to say, "State governments, you will, you shall," instead of, "You may," or instead of, more importantly, requesting from them their advice. Because up until that time, and as it relates to public land policy, whether it was the Taylor Grazing Act or whether it was NEPA of decades of separation, there still remained a belief that State governments, even though they were speaking to or about public land held by the Federal Government, had a great deal of authority in how it ought to be managed. And, therefore, out of the Taylor Grazing Act that established the BLM and gave some control to the management of the nontimbered lands of our Nation came a principle that citizens ought to participate.

One of those ways of participating was to establish what was known as advisory boards. They had only the effect of advising. They did not have the power of law, but they could advise district directors of BLM. We had for a time small groups that advised supervisors of national forests as to relationships between State and the Federal entity. All of that was part of the process.

Did it give considerable control to the States? No, not really. The laws were specific. This body controlled the public policy that governed our Federal lands. But those citizens out there who were directly affected by those policies had some say in suggesting how all of that was to come about.

But as policy changed and, as I say, through the decades of the sixties and seventies, the National Environmental Policy Act—a variety of others—we saw progressively the pulling, if you will, of that relationship that once was stronger with the States away from the States toward a central Federal Government. All of the laws of the seventies and the eighties clearly show that.

So what I believe, based on those 17½ to 18 pages of substantive law change that are embodied in the REID amendment to the Senate appropriations bill is, once again, an argument about that relationship. Should it be dictated down from the Federal Government or should there be a cooperative relationship on how States and their citizens react to and with the Federal Government on the management of these resources in large public land States. I am one of those who believes that State relationship remains very important.

That is why today and over the last several days you have seen Western Senators on this floor who represent those public land States, loudly, and sometimes with an element of anger in their voice, or at least frustration, trying to express why this legislation should not pass. You have heard time and time again, it is not the fee that we are worried about, and that is absolutely true. The fee only establishes how much it cost to have a relationship with the Federal Government over their public land. It does not define the relationship.

But what those other 17 pages or 18 pages do is define the relationship. For example, it says where there used to be tenure, and that is a term that says if you have leased the public land for grazing and you have maintained it properly, then you have a right to renew the lease, and because that right has been ongoing now for well over 50 years, those who held the right to renew the lease could take it to their local bank and it became an economic entity. It became a part of a financial relationship. In fact, the IRS said, yes, it has value and it has value to the holder of the lease, and if you sell it or if you sell your ranch, there is value in a State taxation.

So even the IRS recognized that relationship. The Secretary of the Interior, Bruce Babbitt, said that relationship ought to be discontinued. And that, if it is to become law, if that is to become the new public policy of this country about that relationship between a citizen who held a lease and his Government or her Government on the use of the resource, it would significantly change the economics of the West. Let me give you an example.

Let us say I am a rancher and I run 500 head of cows. I own 640 acres of property, fee simple property, deeded property, but I lease this Federal ground around me to graze these cattle.

Now, today, a 500-head cow operation, as we call it out West, if you were to put it on the market and sell it, would probably be worth $750,000. Is the 640 acres deeded, fee simple property worth $750,000?

No. It is probably worth less than $100,000. But that 640 acres tied with the right to graze creates an economic unit known as a cattle ranch, and that tied together has value. That value has been established by an ongoing policy of our Federal Government since the days of the Taylor Grazing Act.

Now, if the Government or if the Senate or if the Congress or if the Secretary of Interior says no longer does tenure exist, and therefore every 3 years that right is terminated and you have to go into the open market and bid against anybody else who wishes to bid, the value of that ranch on the books for $750,000, on the books of your bank for $750,000, money owed, borrowed against the value and the cash flow performance of that economic unit that we have just called a cow ranch, all of a sudden drops precipitously to maybe less than $100,000 in land value.

That is what the debate is about here. That is part of what is embodied inside that 17 pages, and it becomes increasingly valuable for this Senate to understand that. That is part of the reason for the energy, if you will, that has gone on into the debate and the effort here.

Now, I do not know what our Secretary of Interior is attempting to do. He said that a small band of Senators was holding the entire Interior Department hostage. If you believe what I have just explained, it might be arguable that the Secretary of Interior has just threatened the well-being and the financial lives of over 40,000 permittees, ranching families, across these public lands States in which this relationship develops. But nobody has said that. Certainly the Secretary does not feel that.

While that small band of Senators is holding the Department of Interior hostage, according to Secretary Bruce Babbitt, he and a small band of his underlings have been here on the Hill the last several days lobbying to break the vote down that you saw cast in the Chamber earlier in the day.

Why? Because they do want to change the relationship between the Central Government and the States and the citizens and that public land resource.

Today, as we debated the grazing issue here on this floor, in the other body they were marking up a mining law bill that could well be, if passed, the death knell of the mining industry as we know it—once again a public land resource issue.

So it is a Western grazing issue. It is a Western mining issue.

I guess I have to ask this question in closing: Mr. Secretary, what is wrong with coming before the appropriate authorizing committees, and, if my definition of the significance of what you are proposing is real, at least allowing public hearings and allowing all of the parties affected to come in and testify as to the kind of impact these potential policy changes could have on the lives of the families that ranch or the families that mine and the communities that provide the support base and the States that will be dramatically affected if this kind of public policy is to come about? Is it politics?

Well, there is an article in "Campaigns and Elections," October and November of this year, talking about the new urban West politics and how the Democrats are working very hard to gain the urban West and to divorce it from the rural West. But the urban West moves and becomes a part of the urban West to the West because it likes the rural West. It is that unique environment of the open spaces and the rangeland and the cattle ranch and the mining property that has drawn attention and brought people to the West because they like the climate and the culture and the environment and the people that is a product of a continuation of this uniqueness we call the West.

What we do here in the course of the next several weeks could significantly change the face of the Western United States for all time to come.

I will tell you, Madam President, it is not in the name of the environment that this is done. It is in the name of changing the power structure, changing the way we have done business, changing the way public laws have directed us in the past from the Taylor Grazing Act through to the National Environmental Policy Act.

I am not going to argue at this moment whether it is right or whether it is wrong, but I do represent one of those Western States, and I find it incumbent upon myself to continue to defend as best I can that unique and important relationship that Western States have had with their Federal Government over time, and that is that we could under wise and proper public policy responsibly utilize the public land resources for the purpose of maintaining western economies, for the purpose of maintaining the general value of those resources, and supporting the overall economics and well-being of this country.

Madam President, in closing, let me say I believe that is good public policy. A central run policy muted to the importance of the input of western citizens would be a public policy very, very damaging to the West.

I yield back the remainder of my time.

The PRESIDING OFFICER. The majority leader is recognized.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Madam President, I ask unanimous consent to proceed in executive session to consider the following nominations en bloc:

Calendar No. 411: Alan Blinken to be Ambassador to Belgium;

Calendar No. 413: Toby Gati to be an Assistant Secretary of State;

Calendar No. 414: Swanee Hunt to be Ambassador to Austria;

Calendar No. 415: Thomas Loftus to be Ambassador to Norway, and

Calendar No. 420: Daniel Spiegel to be U.S. Representative to the European Office of the United Nations.

I further ask unanimous consent that during the en bloc consideration, it be in order for me to present a duly signed cloture motion on each nominee; that these cloture motions be voted on en bloc; that the cloture vote occur at 2:15 p.m. on Tuesday, November 2, 1993, with the mandatory quorum under rule XXII being waived.

I further ask unanimous consent that if cloture is invoked, there be 90 minutes, equally divided between Senators PELL and MCCONNELL or their designees; and that following the conclusion or yielding back of time, the Senate proceed to vote, without any intervening action, on the confirmation of the above-mentioned nominations ad seriatim; that the motions to reconsider be laid upon the table; that the President be notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I now send up the five cloture motions, and I ask that each be stated.

The PRESIDING OFFICER. The cloture motions having been presented under rule XXII, the Chair directs the clerk to read the motions.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 411, Alan John Blinken to be Ambassador Extraordinary and Plenipotentiary of the United States to Belgium:

Bob Kerrey, Daniel K. Akaka, Daniel Inouye, Wendell Ford, Tom Harkin, Bill Bradley, Paul Simon, Joseph Lieberman, Jay Rockefeller, Dale Bumpers, Harlan Mathews, Patrick Leahy, Christopher Dodd, John F. Kerry, Patty Murray, Claiborne Pell, Frank R. Lautenberg.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 413, Tobi Trister Gati to be an Assistant Secretary of State:

Bob Kerrey, Daniel K. Akaka, Daniel Inouye, Wendell Ford, Tom Harkin, Paul Simon, Joseph Lieberman, Jay Rockefeller, Dale Bumpers, Harlan Mathews, Patrick Leahy, Christopher Dodd, John F. Kerry, Patty Murray, Claiborne Pell, Frank R. Lautenberg.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 414, Swanee Grace Hunt to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Austria:

Bob Kerrey, Daniel K. Akaka, Daniel Inouye, Wendell Ford, Tom Harkin, Paul Simon, Joseph Lieberman, Jay Rockefeller, Harlan Mathews, Dale Bumpers, Patrick Leahy, Christopher Dodd, John F. Kerry, Patty Murray, Claiborne Pell, Frank R. Lautenberg.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 415, Thomas A. Loftus to be Ambassador Extraordinary and Plenipotentiary of the United States to Norway:

Bob Kerrey, Daniel K. Akaka, Daniel Inouye, Wendell Ford, Tom Harkin, Bill Bradley, Paul Simon, Joseph Lieberman, Jay Rockefeller, Dale Bumpers, Harlan Mathews, Pat Leahy, Christopher Dodd, John F. Kerry, Patty Murray, Claiborne Pell, Frank R. Lautenberg.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 420, Daniel L. Spiegel to be Representative of the United States to the European Office of the United Nations, with the rank of Ambassador:

Bob Kerrey, Daniel K. Akaka, Daniel Inouye, Wendell Ford, Tom Harkin, Bill Bradley, Paul Simon, Joseph Lieberman, Jay Rockefeller, Dale Bumpers, Harlan Mathews, Pat Leahy, Christopher Dodd, John F. Kerry, Patty Murray, Claiborne Pell, Frank R. Lautenberg.

LEGISLATIVE SESSION

Mr. MITCHELL. Madam President, I now ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLANATION OF ACTION

Mr. MITCHELL. Madam President, I would like to make a comment for the information of Senators about what we have just gone through and what I believe to be a most regrettable circumstance.

On October 5, the Foreign Relations Committee unanimously approved and sent to the Senate five nominations. Three are of Ambassadors, one to Belgium, one to Austria, one to Norway; a fourth is an Assistant Secretary of State; and a fifth is the U.S. Representative to the European Office of the United Nations.

There was no opposition expressed to these nominees. The vote in the committee was unanimous, and the nominees therefore appropriately believed and expected that their nominations would receive prompt approval in the Senate. There was no reason for anyone to believe otherwise.

Accordingly, the nominees sold or rented their homes. They had their personal effects packed and ready to ship. Some of their spouses have terminated their employment. Some of them have school-age children who are to transfer to other schools and have been awaiting approval so that they can make the transfer.

But the nominees have not been approved. Here we are 3½ weeks later, and they are in limbo. Why is that?

The reason is that we have been unable to gain approval of Republican Senators to permit us to proceed to consideration of these nominees, not because of any problem with the nominees— no one has questioned the experience, the qualifications, the fitness of any of these nominees—but for what I am told is a completely unrelated matter—a dispute between a Republican Senator and the Secretary of State on a completely unrelated matter—these nominees have been held up.

The remarks I just made about homes sold or rented, personal effects packed ready to ship, spouses ending employment, school-age children anxious to transfer to schools, I am very familiar with because I know my friend and colleague, Senator DOLE, made the same comments several times in the past 2 years when nominees of a Republican President were held up and he talked about the adverse effects on these individuals.

This is not unique or limited to these people. And I emphasize that these are not nominees about whom there was any question or dispute, who in that circumstance would prudently have waited before they took these actions.

So I have been trying for the past 3 weeks to be able to proceed to get these nominees approved since there is no dispute over the nominees, and I have been unable to do so.

Several of the nominees have called me. Their spouses have called. Members of their families have called unable to understand how it can be that a nominee who has no opposition still cannot be approved.

The reason is, of course, the nominations have entered the extraordinary circumstance of having to be confirmed by the Senate under the rules of the Senate. Under the rules of the Senate, any Senator can speak for as long as he or she wants and can delay or obstruct or prevent action by the Senate. As I have said on many occasions, for most of our Nation's history, and until very recently in our Nation's history, that power known popularly as the filibuster was rarely used from 1919 for more than a half century into the 1970's—1919 having been the year at which a change was made in the rule. But for more than a half-century there was an average of fewer than one filibuster a year; fewer than one a year.

Indeed, in many Congresses over a 2-year period there were no filibusters, none. But now we have reached the extraordinary situation where in the last Congress, the 102d Congress, in that 2-year period, there were filed 48 motions to end filibusters here. That does not mean there were 48 filibusters because we have to often file more than one motion for a filibuster. But here we are in the situation now where we confront a filibuster. We have been told point blank these nominees will not be approved. There will be a filibuster. And so we have to file motions to end filibusters, delay these people for several more days, leave them in anxiety and limbo, even though, I repeat and emphasize, there has been no opposition to the nominees. Nobody ever challenged a single qualification. If that were the case, we obviously should come out here and debate them. So because we have a completely unrelated dispute, these nominees have been held up in a most unfortunate way, and it is most regrettable for them. Although I have been the principal advocate of trying to have these nominees approved on behalf of the Senate, I apologize to the nominees for what they have experienced. Many others have experienced it before. That does not make this right.

Madam President, I hope that when the Senate votes on Tuesday at 2:15, the Senators will vote to invoke cloture and to permit these nominees to be confirmed. I am perfectly happy to have a debate on the qualifications of these nominees, to go ahead, and if someone wants to stand up and say this person is not qualified, they ought not to be in that position, we will vote on that basis. But I think it is very regrettable when these people are held up over this long period of time. I know how anxious they have been. They have been following this closely, obviously. Their careers and livelihoods are involved. I just say to them that we are going to persist, and we are now proceeding under the rules. We know there is a filibuster, and now we filed a motion to end the filibuster. We will have a vote on Tuesday, and I hope we will be able to get more than the 60 Senators necessary to end these filibusters and permit the Senate to vote on these nominations on Tuesday.

Madam President, I yield the floor.

Mr. CRAIG. Madam President, I think it is regrettable that the Senator who has had the hold on these nominations is not here this evening. He just arrived home and is on the ground and is now at the side of his mother who is in her hospital bed where she has had a very difficult and sudden illness occur. But I think it is important, and certainly the leader has represented, and appropriately and rightfully so, the circumstances that the Senator who brought the hold was within the rules of the Senate and exercised them responsibly. And that it was not extraordinary.

There is a very important issue here that I believe the Senator was in search of an answer to, as to the integrity of the files of the State Department, and how they may or may not be used appropriately or inappropriately. Certainly, the leader has just, within the rules, done what he feels he must do.

And so while it can be cast or described in any way as one would choose, I think the record shows that both entities here are within the rules of the Senate, and the rules are put here for us to use when necessary, to make what we believe to be responsible and important points, and to cause certain things to happen when it is possible to do so. But I know that if the Senator from Kentucky were here at this moment, he could speak with a good deal more detail to the issue than can I. I think it is important that the RECORD show he was clearly within the rules of the Senate and his prerogative as a Senator.

Mr. MITCHELL. Madam President, I, of course, did not assert and do not represent that anything that occurred has been outside the rules. The problem is with the rules and with the increasing absence of self-restraint by Senators to exploit the rules to the full maximum potential—a very recent development in the history of this country and of the Senate. I think it is something that creates real problems for the Senate now and will in the future.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1994, AND FOR OTHER PURPOSES

Mr. MITCHELL. Madam President, I now ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 283, the joint resolution making continuing appropriations for the Departments of the Interior and Defense; that the joint resolution be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 283) was deemed read three times and passed.

ORDER TO PROCEED TO CONSIDER S. 656

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 11 a.m., Friday, October 29, the Senate proceed to the consideration of Calendar No. 242, S. 656, the Indoor Air Quality Act of 1993; that there be a total time limitation of 30 minutes for debate on the bill and amendments thereto, with the time equally divided and controlled in the usual form; that the only amendment in order, other than the committee reported substitute, be a Brown amendment to strike subsection 5 of section 7 on page 96; that upon disposition of the Brown amendment, and the yielding back of any remaining time, the committee substitute, as amended, if amended, be agreed to, and the bill, as amended, then be advanced to third reading, and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. on Friday, October 29; that following the prayer, the Journal of the proceedings be deemed approved to date; the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 11 a.m., with Senator HOLLINGS recognized to speak during the period allotted for morning business, and that upon disposition of S. 656, Senator MURKOWSKI be recognized for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, there will be no further rollcall votes this evening. On Monday at noon, there will be a vote on a motion to request the presence of Senators and immediately following that vote, the Senate will proceed to the consideration of the resolution recorded and filed by the Ethics Committee regarding Senator PACKWOOD. There is no time limitation on that. It is possible that votes will occur during the day on Monday after that matter is brought up.

I also want to hereby announce that I will not agree to any committee meetings on Monday. I believe that the matter before the Senate is a serious one, and that Senator PACKWOOD and the committee are entitled to have Senators present on the Senate floor to listen to the debate. Therefore, I hereby notify all committees that no committee meetings will be permitted on Monday, or during the time that the Senate is considering that matter on Monday.

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:12 a.m., a message from the House of Representatives, delivered by Mr. Dendy, an assistant to the clerk, announced that the Speaker has signed the following enrolled bill:

H.R. 2445. An act making appropriations for energy and water development for the fiscal year ending September 30, 1994, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 2:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 283. Joint resolution making further continuing appropriations for the fiscal year 1994, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 927. An act to designate the Pittsburgh Aviary in Pittsburgh, PA, as the National Aviary in Pittsburgh.

H.R. 2492. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1994, and for other purposes.

H.R. 2824. An act to modify the project for flood control, James River Basin, Richmond, VA.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 6:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 283. Joint resolution making further continuing appropriations for the fiscal year 1994, and for other purposes.

The joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 540. A bill to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes (Rept. No. 103–168).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1275. A bill to facilitate the establishment of community development financial institutions (Rept. No. 103–169).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 75. A joint resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week".

S.J. Res. 115. A joint resolution designating November 22, 1993, as "National Military Families Recognition Day".

S.J. Res. 119. A joint resolution to designate the month of March 1994 as "Irish-American Heritage Month".

S.J. Res. 122. A joint resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month".

S.J. Res. 131. A joint resolution designating the week beginning November 14, 1993, and the week beginning November 13, 1994, each as "Geography Awareness Week".

S.J. Res. 139. A joint resolution to designate the third Sunday in November of 1993 as "National Children's Day".

S.J. Res. 142. A joint resolution designating the week beginning November 7, 1993, as "National Women Veterans Recognition Week".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Joseph Swerdzewski, of Colorado, to be General Counsel of the Federal Labor Relations Authority for a term of 5 years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Nora Margaret Manella, of California, to be U.S. attorney for the Central District of California for the term of 4 years.

Frances Cuthbert Hulin, of Illinois, to be U.S. attorney for the Central District of Illinois for the term of 4 years.

Carl Kimmel Kirkpatrick, of Tennessee, to be U.S. attorney for the Eastern District of Tennessee for the term of 4 years.

Jo Ann Harris, of New York, to be an Assistant Attorney General.

Eduardo Gonzalez, of Florida, to be Director of the U.S. Marshals Service.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH (for himself, Mr. COHEN, and Mr. GRASSLEY):

S. 1598. A bill to amend title 10, United States Code, to modernize Department of Defense acquisition procedures, and for other purposes; to the Committee on Armed Services.

By Mr. DECONCINI (for himself, Mr. D'AMATO, and Mr. HATCH):

S. 1599. A bill to establish a Missing and Exploited Children Task Force; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. DOLE, Mr. SIMPSON, and Mr. DURENBERGER):

S. 1600. A bill to amend the Social Security Act to establish long-term-care assistance programs for the elderly, and for other programs; to the Committee on Finance.

By Mr. BRADLEY (for himself and Mr. LEAHY):

S. 1601. A bill to amend chapter 4 of title 39, United States Code, to grant State governments the discretion to assign mailing addresses to sites within their jurisdiction; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COVERDELL (for himself and Mr. KEMPTHORNE):

S. Res. 159. A resolution expressing the sense of the Senate that the Department of Labor should provide adequate resources to the States to cover the costs of developing and implementing the worker profiling system and should provide the Governors with adequate flexibility to ensure that the funds appropriated will be made available to provide re-employment services for profiled claimants; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH (for himself, Mr. COHEN, and Mr. GRASSLEY):

S. 1598. A bill to amend title 10, United States Code, to modernize Department of Defense acquisition procedures, and for other purposes; to the Committee on Armed Services.

ACQUISITION MANAGEMENT REFORM ACT OF 1993

Mr. ROTH. Mr. President, I am gratified by this year's activities in Congress and in the administration to bring change to the Federal Government's acquisition system. This is an issue that I have been working on for over a decade and the payoff from a comprehensive reform is significant. In this Congress, the House has made progress on its Federal Acquisition Act of 1993. The Federal Acquisition Improvement Act of 1993 with President Clinton's endorsement has been introduced this week here in the Senate. The national performance review has also promised personnel reform legislation. All of these efforts attempt to fix specific problems identified in the buying system. However, there is no vision or direction as to where the buying system should be going. Mr. President, for this reason, I rise today to introduce legislation which provides a vision to stimulate and guide these reforms.

The Defense Department has become increasingly unable to produce the best technology in an affordable manner, when it's needed. While the current system is able to produce good weapons, it is wasteful, inefficient, and takes too long to field needed technologies. Mr. President, in many cases the issue of affordability is not even addressed when defining the requirements for a weapon system. As a result, many analysts have noted that much time and money is wasted trying to achieve an extra 1 percent of capability that is rarely realized. In fact, the vast majority of weapon acquisition programs are experiencing serious cost and schedule problems. For example, the C–17 transport's cost and schedule overruns have seriously delayed its availability. After spending $10.4 billion and over 20 years developing the C–17, the Air Force is considering buying commercial aircraft in its place.

In all the services, we can find such horror stories. Acquisition costs for Navy major weapon systems are over budget by as much as 179 percent, Air Force systems by as much as 158 percent, and Army systems by as much as 220 percent, even after accounting for the effects of inflation and quantity. The GAO reported that program cost increases on the order of 20 to 40 percent are common. This year's report of the Acquisition Law Streamlining Task Force, also known as the section 800 panel, noted that the Defense Department takes four times as long as the private sector to field similar high-tech items. A July 1993 Defense Science Board found that: "without fundamental reform, DOD will be unable to afford the weapons, equipment, and services it needs to provide for our national security."

Two years ago, when I introduced an earlier version of this bill, I highlighted how inefficient the Defense Department's management practices were then. Mr. President, that has not changed. A Defense Department program manager still has to follow over

840 steps in order to get a weapon system concept into production.

The Army's fiber optic guided missile is an example of the buying system's inability to perform. The program was initiated in the early seventies and by 1989, 40 prototype missiles had been successfully tested. The program was then put under DOD's standard acquisition management structure and subsequently, in 1991, canceled for cost and schedule overruns. The best estimates indicate that the system is still 10 years away from an operational capability. While the Defense Department was holding briefings and managements reviews, the rest of the world was developing this capability. The Defense Intelligence Agency reported that Japan and Europe will field a fiber-optic guided missile by 1996 and that the Third World will have those missiles before 2000. It's disconcerting that other global powers will beat us in fielding such an important weapon, or worse yet may sell it to our adversaries before we have a comparable capability.

For many years, I have worked for reform of the Government's buying system and over the years, my conclusion has not changed: without major cultural and structural reform, the Pentagon cannot make major reductions in the cost and time it takes to field a technology. In December 1992, GAO reported that: "the fundamental problem of the acquisition process is a prevailing culture that is dependent on generating and supporting new weapons acquisition." Until the buying system is changed, the results will not change. Cost and schedule overruns will continue. Mr. President, there are three root causes that must be addressed.

One, the defense acquisition process is too cumbersome, takes too long, and does not produce desired results. The buying process has become more important than producing usable weapon systems. The DOD 5000 series of documents and its consensus based management process must be abandoned in favor of a results oriented process.

Two, incentives are wrong. They reward program managers and contractors for increasing the size of their program and their budget. There is no incentive for a job well done. Managers who do not spend their budget are subject to more ridicule that those who overspend their budgets.

Three, the organization is too large. It is a bureaucracy with layer upon layer of management and dozens of buying commands and subcommands spread across the four military services. Many of the bureaucratic layers exist solely to satisfy the needs of the bureaucracy. They provide no value added toward weapon system development. The current organization mistakes the continuation of the program in favor of meeting customer needs. When the Packard Commission recommended streamlining this bureaucracy to three layers and a handful of commands, the military departments added the three-tier structure to their old organization structures. As a result, the American taxpayer is now paying for two bureaucracies in each of the military departments.

Mr. President, my proposal contains six parts to reform DOD acquisition management and the relationship between Government and industry. It incorporates the principles of unity of command, lean management structure, fast processes, and pay for performance for both Government workers and contractors.

First, the bill establishes performance goals. On average, programs must be within 90 percent their cost and schedule goals. In addition, the bill requires DOD to reduce by 50 percent the time it takes to field emerging technologies. It also requires the Joint Chiefs of Staff to approve the cost and schedule goals for programs to ensure weapons reach the field when they are needed.

Second, my legislation would require the Secretary of Defense to streamline the acquisition process. Program managers will be given the authority and accountability for achieving results. My proposal also requires a commitment of full funding for each phase of the development cycle which will remove the major source of program instability.

Third, my proposal streamlines, the defense acquisition organization and its interface with operational users. The bill reorganizes the Defense Department research, development, and acquisition bureaucracies into a single DOD-wide agency. Authority for executing programs would be returned to the program manager. Program executives would be organized according to mission areas, such as Strategic Lift, to ensure responsiveness to those who use the weapons on the battlefield. Additionally, those who use weapons will regain responsibility for determining what is bought.

Fourth, the bill re-emphasizes the commitment of Congress to a professional acquisition work force and establishes the incentive structure toward program performance. My proposal will allow acquisition managers to be promoted based on the performance of the programs that they manage.

Fifth, the legislation creates an efficient contracting process. My proposal will change the culture of contracting to take advantage of time and money-saving ideas, while preserving competition and protecting the interests of the American taxpayer. The bill includes the requirement that the contracting officials support the program managers and the overall agency wide acquisition goals while maintaining the integrity of the contracting officer. The bill is consistent with the Federal Acquisition Streamlining Act of 1993, which raises the small purchase threshold to $100,000 and supports other section 800 panel recommendations.

Sixth, the Defense Department will be able to manage its contractors on the basis of performance, rather than to rely on continuous audit and the threat of penalties. In my concept of performance-based contract administration, contractors would act ethically and efficiently because it would be in their financial interest to do so. Under the concept that I am proposing, contractor profit would be tied to achievement of quantifiable performance measures. Hence, contractors would be awarded for good performance and penalized for cost growth.

Mr. President, large savings can be realized from the comprehensive reforms I am proposing. I anticipate that my approach will reduce acquisition management personnel by as much as 25 to 30 percent through reductions in duplicative headquarters staffs. CBO and the Pentagon Comptroller's Office estimated that $4.2 to $4.5 billion could be saved from this organizational streamlining. Defense systems management college professors believe that if DOD could reduce the time of the contracting process by 1 year, a savings of approximately $6 billion would result. Still, the largest dollar gains would come from comprehensive reform. The Defense Science Board Task Force on Defense Acquisition Reform in July 1993 reported that a comprehensive reform along the lines I am proposing would save $20 billion per year.

In summary, there is both a need and an opportunity for reforming Defense acquisition. Multibillion-dollar cost overruns; programs that are years or even a decade behind schedule; incentives that encourage spending rather than savings; and top-heavy bureaucratic agencies that replace good judgment with detailed regulations are the features of the current DOD buying system that must be changed. But, Mr. President, I must point out that bureaucracies are inherently unable to reform themselves. The time has come for us to make some very hard and difficult decisions which have far-reaching impact on the future of our country. Change must be brought about by those of us who are concerned about maintaining a strong defense within today's budget constraints.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 1599. A bill to establish a Missing and Exploited Children Task Force; to the Committee on the Judiciary.

THE MISSING AND EXPLOITED CHILDREN TASK FORCE ACT OF 1993

• Mr. DECONCINI. Mr. President, on September 30, 1993, around 10:30 at night, 12-year-old Polly Klaas and two of her girlfriends had just settled down for a late night card game at a spur-of-the-moment Friday night slumber party. Not more than an hour later, Polly's mother was awakened by one of the girls who stood by her bedside, wide-eyed and terrified, and related a story of how a man, armed with a knife, had broken into the Petaluma, CA, home, forced the girls to lie on the bed, covered their heads with pillowcases, tied their wrists behind their backs, and then fled the house with Polly.

Only a month before, on the other side of the country in a small town in New York, another 12-year-old girl disappeared while biking the mile-long trip between her home and the church where her father is pastor. Police found Sara Anne Wood's pink-and-white mountain bike abandoned in a nearby ditch, along with some papers she had been carrying.

Polly Klaas and Sara Anne Wood are just two of the thousands of children abducted each year by nonfamily members. Neither of the girls was more than a mile away from their small-town homes when the abductions occurred, and, in both instances, their small communities mobilized immediately to assist local law enforcement in the investigations. Merchants from both areas immediately donated space and resources including phones, fax machines, copy machines, and supplies, while townspeople from all over took vacation time to donate endless hours stuffing envelopes, making phone calls, posting signs, and knocking on doors. In spite of these efforts, helpful leads in both cases have been few and far between, and resources and manpower are slowly diminishing.

Mr. President, the victimization of children in our Nation has reached epidemic and terrifying proportions. The most recent Department of Justice figures show that, in one year, 4,600 children were abducted by nonfamily members, two-thirds of these nonfamily abductions involved sexual assault, more than 354,000 children were abducted by family members, and over 450,000 children ran away. It is painfully clear that the time has come to increase and unite our efforts to solve and prevent such savage crimes against our children.

It is for that reason that I rise today with my distinguished colleague, Senator D'AMATO, to introduce a bill that will assist in the resolution of such crimes against our Nation's children and, ultimately, aid in the prevention of future and repeated crimes. The Missing and Exploited Children Task Force Act of 1993 would create a team of active Federal agents who would work with the National Center for Missing and Exploited Children [NCMEC] in assisting State and local law enforcement agents in their most difficult missing and exploited child cases.

The task force would be headed by a representative from the Federal Bureau of Investigation and would be comprised of two representatives from each of the following Federal agencies: the Federal Bureau of Investigation, the Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the U.S. Customs Service, the Postal Inspection Service, the U.S. Marshals Service, and the Drug Enforcement Administration.

Each participating agency would nominate agents who possess some area of specialized expertise, including behavioral sciences, crimes against children, sex offenses, forensics, international investigative experience, and other areas that would be of particular value, to investigations of this nature. Each member would serve a 1-year term, with an option to extend for a year, and would be compensated by their respective agencies. Most importantly, task force members would retain full authority, be on active duty status, and retain access to appropriate databases.

Coordinating and pooling the resources and expertise of several Federal law enforcement agencies to tackle a compelling problem has been successful in the past. One example is the Organized Crime Drug Enforcement Task Force [OCDETF] program, established in 1983. The OCDETF program consists of a nationwide structure of 13 regional task forces which utilize the combined resources and expertise of its member Federal agencies in cooperation with State and local investigators and prosecutors to target and destroy major narcotic trafficking and money laundering organizations. Since its implementation, the program has experienced immense success.

Last year, Senator D'AMATO and I worked to secure funding for a program entitled "Project Alert," which enlists retired law enforcement officials to volunteer their expertise to State and local police officers for some of their toughest missing children cases. Project Alert volunteers are certified through the NCMEC and have already proven to be extremely valuable in assisting active law officers in evaluating leads, investigating longstanding, unsolved cases, promoting community awareness and prevention programs, and using the latest in scientific technology to help track the swelling ranks of missing children. Members of the Missing and Exploited Children Task Force would have similar responsibilities.

Task force members would use their expertise, data access, and official authority to work on cases chosen and updated by NCMEC as their most difficult cases. Members would also be available to go on location to assist local or State investigators, but only after a full prior consultation with the lead investigator on the case, local, State, or Federal.

While local and State law enforcement agencies are to be commended for their efforts in such cases, missing children investigations would benefit highly from a coordinated Federal law enforcement effort. By supplementing our Nation's 17,000 police departments—a majority of which have 10 or fewer officers—with task force members and resources, we can unite our Nation's best in the fight against such reprehensible crimes and increase the chances of our Nation's missing children being returned to their homes and families.

I urge my colleagues to join me in support of this legislation. I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Missing and Exploited Children Task Force Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the victimization of children in our Nation has reached epidemic proportions; recent Department of Justice figures show that—

(A) 4,600 children were abducted by non-family members;

(B) two-thirds of the abductions of children by non-family members involve sexual assault;

(C) more than 354,000 children were abducted by family members; and

(D) 451,000 children ran away;

(2) while some local law enforcement officials have been successful in the investigation and resolution of such crimes, most local agencies lack the personnel and resources necessary to give this problem the full attention it requires;

(3) a majority of the Nation's 17,000 police departments have 10 or fewer officers; and

(4) locating missing children requires a coordinated law enforcement effort; supplementing local law enforcement agencies with a team of assigned active Federal agents will allow Federal agents to pool their resources and expertise in order to assist local agents in the investigation of the Nation's most difficult cases involving missing children.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a task force comprised of law enforcement officers from pertinent Federal agencies to work with the National Center for Missing and Exploited Children (referred to as the "Center") and coordinate the provision of Federal law enforcement resources to assist State and local authorities in investigating the most difficult cases of missing and exploited children.

SEC. 4. ESTABLISHMENT OF TASK FORCE.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) by redesignating sections 407 and 408 as sections 408 and 409, respectively; and

(2) by inserting after section 406 the following new section:

"TASK FORCE

"SEC. 407. (a) ESTABLISHMENT.—There is established a Missing and Exploited Children's Task Force (referred to as the "Task Force").

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Task Force shall include at least 2 members from each of—

"(A) the Federal Bureau of Investigation;

"(B) the Secret Service;

"(C) the Bureau of Alcohol, Tobacco and Firearms;

"(D) the United States Customs Service;

"(E) the Postal Inspection Service;

"(F) the United States Marshals Service; and

"(G) the Drug Enforcement Administration.

"(2) CHIEF.—A representative of the Federal Bureau of Investigation (in addition to the members of the Task Force selected under paragraph (1)(A)) shall act as chief of the Task Force.

"(3) SELECTION.—(A) The Director of the Federal Bureau of Investigation shall select the chief of the Task Force.

"(B) The heads of the agencies described in paragraph (1) shall submit to the chief of the Task Force a list of at least 5 prospective Task Force members, and the chief shall select 2, or such greater number as may be agreeable to an agency head, as Task Force members.

"(4) PROFESSIONAL QUALIFICATIONS.—The members of the Task Force shall be law enforcement personnel selected for their expertise that would enable them to assist in the investigation of cases of missing and exploited children.

"(5) STATUS.—A member of the Task Force shall remain an employee of his or her respective agency for all purposes (including the purpose of performance review), and his or her service on the Task Force shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis.

"(6) PERIOD OF SERVICE.—(A) Subject to subparagraph (B), a member shall serve on the Task Force for a period of 1 year, and may be selected to a renewal of service for 1 additional year.

"(B) The chief of the Task Force may at any time request the head of an agency described in paragraph (1) to submit a list of 5 prospective Task Force members to replace a member of the Task Force, for the purpose of maintaining a Task Force membership that will be able to meet the demands of its caseload.

"(c) SUPPORT.—

"(1) IN GENERAL.—The Administrator of the General Services Administration, in coordination with the heads of the agencies described in subsection (b)(1), shall provide the Task Force office space and administrative and support services, such office space to be in close proximity to the office of the Center, so as to enable the Task Force to coordinate its activities with that of the Center on a day-to-day basis.

"(2) LEGAL GUIDANCE.—The Attorney General shall assign a United States Attorney to provide legal guidance, as needed, to members of the Task Force.

"(d) PURPOSE.—

"(1) IN GENERAL.—(A) The purpose of the Task Force shall be to make available the combined resources and expertise of the agencies described in paragraph (1) to assist State and local governments in the most difficult missing and exploited child cases nationwide, as identified by the chief of the Task Force from time to time, in consultation with the Center, and as many additional cases as resources permit, including the provision of assistance to State and local investigators on location in the field.

"(B) TECHNICAL ASSISTANCE.—The role of the Task Force in any investigation shall be to provide advice and technical assistance and to make available the resources of the agencies described in subsection (b)(1); the Task Force shall not take a leadership role in any such investigation.

"(e) TRAINING.—Members of the Task Force shall receive a course of training, provided by the Center, in matters relating to cases of missing and exploited children.

"(f) CROSS-DESIGNATION OF TASK FORCE MEMBERS.—The Attorney General shall cross-designate the members of the Task Force with jurisdiction to enforce Federal law related to child abduction to the extent necessary to accomplish the purposes of this section.".●

By Mr. PACKWOOD (for himself, Mr. DOLE, Mr. SIMPSON, and Mr. DURENBERGER):

S. 1600. A bill to amend the Social Security Act to establish long-term-care assistance programs for the elderly, and for other programs; to the Committee on Finance.

SECURE CHOICE ACT OF 1993

Mr. PACKWOOD. Mr. President, elderly Americans are this country's fastest growing age group. The elderly population in the United States has doubled over the past 30 years, swelling from 16 million in 1960 to 32 million last year. By the year 2030, there will be more than 66 million people over 65. And the number of people age 85 and older is expected to triple.

As the elderly population skyrockets, and the need for long-term-care grows, our society will face tough decisions about how to make long-term-care more affordable.

I have worked with the Republican leader, Senator DOLE, for almost 2 years to revise our long-term-care bill introduced in the 102d Congress. That is why I am proud to introduce today legislation called Secure Choice—a comprehensive three-part legislative plan which tackles the explosive demand for affordable long-term-care services. This bill confronts the challenge of providing long-term-care services to our Nation's senior citizens and individuals who become disabled. I am committed to this legislation, and to finding adequate financing for its implementation.

Several objectives guided the development of this legislation. All have been achieved. First, the legislation provides services to our neediest individuals. Second, it builds on a public-private partnership that will make long-term-care more affordable. Third, tax barriers hindering the development of the private long-term-care insurance market are removed. Fourth, the legislation encourages the kind of long-term-care services Americans want—care provided in the home and in the community. Finally, the legislation is fiscally responsible in today's world of limited resources.

Secure Choice recognizes that not everyone's needs are the same. That's why we have structured the legislation to provide Americans with choices so they get the long-term-care services they need and prefer. Some may be able to stay at home with the assistance of a homemaker aide. Others may want the services provided in an assisted living facility. Still others may need more intensive services provided in nursing homes.

Secure Choice also recognizes that individual financial capacities' differ. That is why we structured the legislation to provide a public program for the most needy; a public-private partnership for people with moderate incomes, to help them purchase qualified long-term-care insurance policies; and tax clarifications for individuals and businesses wishing to purchase private long-term-care insurance.

Secure Choice recognizes that resources are limited and calls on all sectors of American society to help meet the challenge of providing long-term-care. This free market approach is the most responsible way to expand the availability of long-term-care services.

NEW PROGRAM FOR LOW-INCOME INDIVIDUALS

Many elderly Oregonians have told me they want to stay in their homes, but need help taking care of themselves. Secure Choice is designed to help them to do just that.

The bill provides nursing home care and expanded home and community-based care to individuals with incomes below the Federal poverty level—$6,970 in 1993—through a new title of the Social Security Act. long-term-care services now provided through Medicaid would be moved to this new title XXI. Eligibility would be broadened and simplified, and the need for Medicaid waivers would be eliminated. This means States could provide more home care services without the hassles associated with obtaining a waiver.

States would be required to cover eligible individuals with income up to 100 percent of the Federal poverty level. Like the medically needy option under Medicaid, individuals with incomes above the poverty level could count out-of-pocket expenses for long-term-care against their income to qualify.

BUILDING ON A PUBLIC-PRIVATE PARTNERSHIP

Secure Choice creates a public-private partnership to help Americans with moderate incomes—less than 3 times the Federal poverty level, about $21,000—purchase long-term-care insurance. One of the barriers to the development of a large private insurance market is the high cost of insurance premiums. Secure Choice helps make policies more affordable because the Federal and State governments will join together to pay part of the cost of long-term-care services when they are needed through a benefit subsidy.

Policies must offer case management, nursing home services and an array of home and community-based services. Policies must offer benefit coverage equal to $60,000—approximately the cost of 2 years in a nursing home. This coverage could be used for any combination of nursing home, home-based, or community-based services.

I asked the actuarial firm, William M. Mercer, Inc., to estimate premiums for qualified policies under Secure Choice. They have reviewed my legislation and calculated that unsubsidized premiums for qualified policies would be comparable to premiums for long-term-care policies available on the market today. Furthermore, Mercer estimates that the benefit subsidy makes Secure Choice premiums more affordable for individuals with low or moderate income. For example, the Secure Choice premium for an individual at age 65 could be as low as $286 per year. That is approximately $23.83 per month for a state-of-the-art policy.

TAX CLARIFICATION

Finally, Secure Choice clears up the uncertainty about the tax treatment of long-term-care expenses and insurance by clarifying that long-term-care expenses and qualified long-term-care insurance are treated the same as medical expenses and medical insurance under the tax law. Under our bill:

First, out-of-pocket long-term-care expenses and the cost of qualified long-term-care insurance will be tax deductible—above 7.5 percent of adjusted gross income;

Second, payments for insured long-term-care services under qualified long-term-care insurance policies will not be taxable;

Third, employer-paid long-term-care services and qualified long-term-care insurance would be a tax-free employee fringe benefit; and

Fourth, insurance company reserves set aside to pay benefits under qualified long-term-care insurance policies would be tax deductible.

Mr. President, I believe Secure Choice is a sensible approach to solving this Nation's long-term-care needs. The legislation helps protect consumers by guaranteeing policy renewability and portability, and by requiring policies to meet certain consumer protection standards developed by the National Association of Insurance Commissioners.

Mr. President, my home State of Oregon has been on the cutting edge of finding innovative ways to provide long-term-care in the home and in the community. Secure Choice builds on the knowledge and expertise developed in my State. Many organizations in my State helped me pull together the ideas in the bill. These organizations include the Oregon Department of Human Resources [DHR], especially the Oregon Senior and Disabled Services [OSDS] Division of DHR; the Governor's Task Force on long-term-care and the Governor's Commission on Senior Services.

Mr. President, many other national organizations have worked with me to refine and improve the bill. These organizations include: the National Association of Insurance Commissioners; the National Association of Home Care; the American Health Care Association; the American Association of Homes for the Aging; the National Governors Association; the American Public Welfare Association; and representatives of insurance companies.

I would also like to thank the staff of the Congressional Research Service, the Congressional Budget Office, and the Senate Legislative Counsel for their hours of assistance in making this bill a reality.

Secure Choice reflects a collective effort. I have listened to affected organizations, the States, insurance companies, and individuals. I believe Senator DOLE and I have crafted a bill that responds to real needs in a responsible way.

Mr. DOLE. Mr. President, over the next several months, Congress will likely make historical decisions regarding health care in the United States. However, these effort will be incomplete unless the long-term-care needs of America's seniors and individuals who become disabled are adequately addressed. This, perhaps, will be the greatest challenge of health care reform.

All across America, millions of elderly and disabled men and women ask what type of long-term-care is available to them, and if they are able to afford it. Middle-aged and younger adults have also shared their concerns on this issue—will their parents get the high quality care they deserve—will a system be in place which will care for them as they grow older?

Mr. President, it used to be that when we talked about long-term-care, we really were referring to nursing home care. Today, that is no longer the case. long-term-care consists of a wide range of services, which include nursing home care, but also home care, personal care, and community-based care, such as adult day care.

For over 2 years, Senators PACKWOOD, SIMPSON, DURENBERGER, and I have worked together to craft comprehensive legislation, Secure Choice, which addresses the concerns we hear so often. We believe this bill is a responsible, three-step approach to the long-term-care issue.

The first step, Mr. President, involves providing a wider range of long-term-care services, such as home and community-based services, than are currently available to low income elderly and disabled Americans under Medicaid.

Part two of our legislation recognizes that the only responsible solution to long-term-care is one that calls upon the initiative of private enterprise, as well as Government. Through Government subsidies, Secure Choice would create a public/private partnership which would encourage lower income persons to purchase long-term-care insurance. This will put long-term-care insurance within the financial reach of a greater number of Americans.

The third part of Secure Choice, Mr. President, is a clarification of the Tax Code, which encourages individuals to buy long-term-care insurance, and which provides incentives for business to provide such insurance to their employees. Through this legislation, all long-term-care expenses would be treated the same as medical expenses. In addition, consumer protection standards are defined.

Mr. President, we strongly believe that this free market approach is the most responsible way to provide long-term-care services to America's seniors and disabled citizens.

long-term-care is a national problem, requiring a national solution. And Secure Choice calls on all sectors of American society—Federal and State government, private employers, insurance companies, and families and individuals to join together in ensuring that our seniors, and those with disabilities, can live with dignity.

Mr. President, we have a duty to assist those who have given so much to our country. Secure Choice fulfills that duty by offering a comprehensive approach that will result in security for Americans facing the prospect of long-term-care.

During the coming months, as we, in Congress, continue to debate health care reform, we must keep in mind that there is no true reform without long-term-care reform.

We certainly realize that Secure Choice is not the only solution that has been offered. There are others out there. But, one thing on which we can all agree is that we must do something. We simply cannot wring our hands and wish the problem away.

I am committed to this legislation, and to finding adequate financing for its implementation.

Mr. President, I ask unanimous consent to submit for the RECORD a copy of a summary of our bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

Individuals and their families are fundamentally responsible for planning and providing for their own future long-term-care needs. Government should limit its role to providing assistance to individuals who have low income and assets either because of their economic situation or because of catastrophic long-term-care expenses. However, efforts must also be made to make long-term-care both more accessible and more affordable. This bill establishes a three-pronged approach to accomplish these goals.

A. SECURE CHOICE PROGRAM

First, the bill establishes a new Title (XXI) of the Social Security Act for long-term-care services for functionally impaired, low-income individuals. long-term-care services now provided to these individuals through the Medicaid program would be moved to Title XXI. However, the link to cash welfare assistance would be served, and eligibility would be broadened and simplified.

Under Title XXI, states would be required to cover persons who:

1. need substantial human assistance in performing a specified number of Activities of Daily Living (ADLs);
2. have income below 100 percent of the Federal poverty level (FPL); and,
3. have assets no greater than $2,000 (if they are in a nursing facility— or $5,000 (if they are receiving home and community-based care).

States would also have to cover individuals with income above 100 percent of the FPL and who contribute enough of their income toward the cost of their care (the "medically needy" program under existing Medicaid law).

Similar to Medicaid current law, states would be required to cover nursing facility services and a mix of home and community-based services. However, a waiver would not be required to provide home and community-based services. States could also cover other services (e.g., respiratory therapy) at their option.

B. SECURE CHOICE INSURANCE PARTNERSHIP

Part of Title XXI would require states to participate in a public-private partnership to assist individuals with income below 300 percent of the FPL purchase private long-term-care insurance. Under this program States must subsidize individuals with income below 300 percent of the FPL who purchase a qualified long-term-care insurance policy.

Individuals who are able to purchase private long-term-care insurance would be encouraged to purchase a "qualified" policy. The state and Federal governments would subsidize benefits under qualified policies, depending on the individual's income. The government subsidy would make qualified insurance policies more affordable for individuals with income between below 300 percent of the FPL. Qualified policies would also guarantee, for all who purchase them, enhanced asset protection above that permitted under Title XXI.

Qualified policies would provide coverage for nursing facility services and a mix of home and community-based services. Services would be limited to those appropriate to meet the person's ADL-related needs as determined by a qualified case manager.

C. TAX CLARIFICATION

Finally, this bill clarifies that all long-term-care services (medical care and personal care) are treated as medical expenses under the tax law. This means that:

1. long-term-care expenses and insurance premiums would be tax deductible (above 7.5 percent of AGI);
2. Payments under long-term-care insurance policies would not be taxable when received; and,
3. Employer-paid long-term-care insurance would be a tax-free employee fringe benefit.

The bill also clarifies that insurance companies can deduct their reserves set aside to pay benefits under long-term-care policies.

Finally, the bill specifies consumer protection standards for long-term-care insurance policies. Policies that do not meet these standards would be denied the favorable tax treatment described above.

By Mr. BRADLEY (for himself and Mr. LEAHY):

S. 1601. A bill to amend chapter 4 of title 39, United States Code, to grant State governments the discretion to assign mailing addresses to sites within their jurisdiction; to the Committee on Governmental Affairs.

STATE ADDRESS DESIGNATION ACT

Mr. BRADLEY. Mr. President, I rise today to introduce with Mr. LEAHY the State Address Designation Act, which would permit States to establish consistent mailing addresses for municipalities. Identical legislation has been introduced in the House by Congressman SAXTON. This legislation will improve emergency services in many small townships in my State and around the country.

Under current law, the Postal Service has taken responsibility for determining mailing addresses. The postal address, which is based on postal delivery routes and the location of nearby post officer, is often vague and confusing. It may have nothing to do with the community in which an individual or family actually lives. This creates many problems for communities, particularly those in rural areas. In particular, it has delayed the implementation of 911 emergency services in those areas.

There have already been cases where emergency personnel were delayed in arriving on the scene of a serious accident because an insufficient home address—a postal address—was the only address available to the rescue squad. For example, a constituent of mine in Southhampton Township, NJ, who was badly burned in an accident did not receive prompt medical attention because emergency personnel had trouble finding the man's home. The postal address was insufficient for the rescue squad to rapidly respond to the call for help. Some communities have been unable to complete the implementation of a 911 system until they can address the problem of potentially incorrect addresses.

The current system sacrifices community identity for the sake of the bureaucratic efficiency of ZIP Codes. In areas where a small town is served by another town's post office, the name of the larger municipality may serve as the smaller town's town name on its mailing address. Many municipalities in New Jersey suffer from this identity crisis. An example, Mr. President, is Little Egg Harbor Township, which is losing its identity because the entire township has a mailing address of Tuckerton—simply because they are served by a post office in Tuckerton Borough. The South Jersey community of Westhampton is served by five larger neighboring towns; imagine, a town of 6,000 has five different town names for mail delivery purposes. Confusion abounds. Residents of Springfield in Burlington County, NJ, think of themselves as living in Springfield, but for post office purposes, they live in Jobstown, or Juliustown, or Mount Holly, or Pemberton, or Wrightstown, or Columbus, or Burlington, or Bordentown. But not Springfield.

Every home should have a single address. That address should serve the Postal Service, emergency services, the census, and the purpose of local identity. There should be nothing controversial about this idea. The Postal Service has an important mandate, which is to deliver mail to every home at the lowest cost, but local emergency services also have an important mandate, as does the Census Bureau. There must be one authority that designates a municipal address, and it could be the municipality itself, or it could be the State. In this bill, it is the State.

This legislation is similar to a bill that Congressman SAXTON and I have introduced in past Congresses, but the previous bill would have allowed municipalities to designate their own boundaries. This bill requires the Postal Service to acknowledge municipal boundaries designated and recognized by the State. This would address concerns expressed by the Postal Service that any cluster of homes might declare itself a municipality and force the Postal Service to adjust its sorting equipment. More importantly, it responds to the situation in New Jersey, where a State pilot project establishing a single address for every home in Burlington County has been thwarted by the Postal Service's insistence on conducting long and costly surveys of customer preference before acknowledging that the township of Springfield is, in fact, the township of Springfield.

Mr. President, some have argued that this legislation would wreak havoc with the Nation's post offices. I disagree. This legislation does not require the establishment of separate post offices or changes in mail delivery routes. It would not require any zip codes to change or post offices to relocate. It simply puts the authority to designate town addresses in the hands of a single political unit—the State. I would like to thank Senator LEAHY, whose State has experienced many of the same problems, for joining me in introducing this legislation, and I urge my colleagues, including those whose constituents may not yet have encountered the problems that postal addressing can cause, to give consideration to this small but important piece of legislation.

ADDITIONAL COSPONSORS

S. 455

At the request of Mr. HATFIELD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 455, a bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 732

At the request of Mr. KENNEDY, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 732, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 973

At the request of Mr. DORGAN, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 973, a bill to require the Federal Communications Commission to evaluate and publicly report on the violence contained in television programs, and for other purposes.

S. 1087

At the request of Mr. KOHL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1087, a bill to amend title 18, United States Code, to prohibit the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile.

S. 1118

At the request of Mr. HATFIELD, the names of the Senator from Washington [Mr. GORTON] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1118, a bill to establish an additional National Education Goal relating to parental participation in both the formal and informal education of their children, and for other purposes.

S. 1256

At the request of Mr. DOLE, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1256, a bill to amend the Foreign Assistance Act of 1961 to examine the status of the human rights of people with disabilities worldwide.

S. 1329

At the request of Mr. D'AMATO, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Wyoming [Mr. WALLOP], the Senator from New York [Mr. MOYNIHAN], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

S. 1333

At the request of Mr. KENNEDY, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1333, a bill to improve the admissions process at airports and other ports of entry and to strengthen criminal sanctions for alien smuggling investigatory authority of the Immigration and Naturalization Service.

S. 1350

At the request of Mr. INOUYE, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1350, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1356

At the request of Mr. HATCH, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1356, a bill to restore order, deter crime, and make our neighborhoods and communities safer and more secure places in which to live and work.

S. 1408

At the request of Mr. LOTT, the names of the Senator from Mississippi [Mr. COCHRAN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1408, a bill to repeal the increase in tax on Social Security benefits.

S. 1439

At the request of Mr. LIEBERMAN, the names of the Senator from California [Mrs. FEINSTEIN], and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 1439, a bill to provide for the application of certain employment protection laws to the Congress, and for other purposes.

S. 1447

At the request of Mr. BRYAN, the names of the Senator from Missouri [Mr. DANFORTH], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1447, a bill to modify the disclosures required in radio advertisements for consumer leases, loans and savings accounts.

S. 1469

At the request of Mr. DORGAN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1469, a bill to require air carriers to provide 90 days' notice to the Secretary of Transportation, the appropriate State agencies, and affected communities prior to the termination, suspension, or significant reduction of air service.

S. 1500

At the request of Mr. LIEBERMAN, the names of the Senator from California [Mrs. BOXER], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1500, a bill to amend the Job Training Partnership Act to establish a program to assist discharged members of the Armed Forces in obtaining training and employment as managers and employees with public housing authorities and management companies.

S. 1522

At the request of Mrs. FEINSTEIN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1522, a bill to direct the United States Sentencing Commission to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for hate crimes.

S. 1589

At the request of Mrs. BOXER, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 1589, a bill to amend title 18, United States Code, to prohibit any State motor vehicle department from disclosing certain personal information about a person doing business with such department.

SENATE JOINT RESOLUTION 52

At the request of Mr. PACKWOOD, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution to designate the month of November 1993 and 1994 as "National Hospice Month."

SENATE CONCURRENT RESOLUTION 20

At the request of Mr. LIEBERMAN, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Concurrent Resolution 20, a concurrent resolution relative to Taiwan's Membership in the United Nations.

AMENDMENT NO. 1089

At the request of Mr. NICKLES the names of the Senator from Texas [Mrs. HUTCHISON], the Senator from Mississippi [Mr. LOTT], the Senator from Florida [Mr. MACK], the Senator from Indiana [Mr. COATS], the Senator from Georgia [Mr. COVERDELL], the Senator from Utah [Mr. HATCH], the Senator from Montana [Mr. BURNS], the Senator from Arizona [Mr. MCCAIN], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Amendment No. 1089 proposed to H.R. 3167, a bill to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes.

SENATE RESOLUTION 159—RELATIVE TO THE DEPARTMENT OF LABOR

Mr. COVERDELL (for himself, Mr. KEMPTHORNE, Mrs. HUTCHISON, and Mr. NICKLES) submitted the following resolution; which was considered and agreed to:

S. RES. 159

Whereas Federal regulation of State and local governments has become increasingly extensive and intrusive in recent years;

Whereas such regulation has, in many instances, adversely affected the ability of State and local governments to achieve their independent responsibilities and meet their established priorities;

Whereas such regulation has forced State and local governments to use existing revenue sources or generate new property tax revenues to enable them to adhere to Federal mandates;

Whereas the resulting excessive fiscal burdens on State and local governments also undermine the ability of State and local governments to attain the goals of Federal regulations;

Whereas over 1,000 mayors through the United States Conference of Mayors recognized October 27, 1993, as National Unfunded Federal Mandates Day to call the attention of Congress to the fiscal emergency facing local governments as a result of the onslaught of Federal unfunded mandates;

Whereas support was given to the National Unfunded Federal Mandates Day by the National Association of Counties, the International City and County Management Association, the National Governors' Association, the National Conference of State Legislatures, and the Council of State Governments;

Whereas the report of The National Performance Review, issued September 7, 1993, states that "the President should issue a directive limiting the use of unfunded mandates by the Administration," and recommends that "Congress refrain from this practice"; and

Whereas the States must have adequate resources to implement effectively any new requirements placed on them by Federal laws and regulations: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Department of Labor should provide adequate resources to the States to cover the costs of developing and implementing the worker profiling system and should provide the Governors with adequate flexibility to ensure that the funds appropriated will be made available to provide reemployment services for profiled claimants.

AMENDMENTS SUBMITTED

UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

GRAMM (AND OTHERS) AMENDMENT NO. 1090

Mr. GRAMM (for himself, Mr. GRASSLEY, Mr. MCCAIN, and Mrs. HUTCHISON) proposed an amendment to the bill (H.R. 3167) to extend the emergency unemployment compensation program, to establish a system of worker profiling, and for other purposes; as follows:

On page 10, line 16, strike "1994"."; and insert in lieu thereof the following: "1994".

SEC. . REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS.

(A) DEFINITION.—For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, but does not include the General Accounting Office.

(b) LIMITATIONS OF FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,095,182 during fiscal year 1994;

(2) 2,044,100 during fiscal year 1995;

(3) 2,003,846 during fiscal year 1996;

(4) 1,963,593 during fiscal year 1997;

(5) 1,923,339 during fiscal year 1998; and

(6) 1,883,086 during fiscal year 1999.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—Any provision of this section may be waived upon—

(1) a determination by the President of the existence of war or a national security requirement; or

(2) the enactment of a joint resolution upon an affirmative vote of three-fifths of the Members of each House of the Congress duly chosen and sworn.

PENSION ANNUITANTS PROTECTION ACT OF 1993

METZENBAUM (AND KASSEBAUM) AMENDMENT NO. 1091

Mr. MITCHELL (for Mr. METZENBAUM, for himself and Mrs. KASSEBAUM) proposed an amendment to the bill (S. 1312) to amend the Employee Retirement Income Security Act of 1974 in order to provide for the availability of remedies for certain former pension plan participants and beneficiaries; as follows:

On page 2, line 1, before the word "semicolon" and ""or" after the".

On page 2, line 7, delete "(A)".

On page 2, line 19, after "vided" add "or to be provided".

On page 3, lines 8–9, delete "other than the relief authorized in section 2 of this Act".

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will be holding an oversight hearing on Thursday, October 28, 1993, beginning at 9:30 a.m. in 485 Russell Senate Office Building on Public Law 101–630, the Indian Child Protection and Family Violence Prevention Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Wednesday, November 3, 1993, at 9:30 a.m. in room 366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from Martha Krebs, nominee to be Director of the Department of Energy's Office of Energy Research.

For further information, please contact Rebecca Murphy at (202) 224-7562.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 6:30 p.m. on Wednesday, October 27, 1993, in closed session, to discuss matters relating to the conference on H.R. 2401, the National Defense Authorization Act for fiscal year 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, October 28, 1993, at 12 p.m. in closed session, to discuss the shipbuilding initiative related to conference with the House on H.R. 2401, the National Defense Authorization Act for fiscal year 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Thursday, October 28, 1993, at 10 a.m. to mark up S. 783, the Consumer Reporting Reform Act of 1993; and S. 1405, the National Flood Insurance Reform Act of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on October 28, 1993, at 10 a.m. on the nomination of Jane M. Wales of Virginia, Robert T. Watson of California, and M.R.C. Greenwood of California to be Associate Directors of the Office of Science and Technology Policy [OSTP].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., October 28, 1993, to receive testimony on nuclear safety assistance to Russia and Eastern Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., October 28, 1993, to receive testimony concerning the administration's national action plan to reduce greenhouse gases.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to hear testimony from Secretary of Health and Human Services Donna Shalala on the administration's health care proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, October 28, 1993, at 10 a.m. to hold a nomination hearing on John Holum, to be Director of the U.S. Arms Control and Disarmament Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent on behalf of the Government Affairs Committee for authority to meet for markup on Thursday, October 28, on the nomination of: Joseph Swerdzewski, to be General Counsel, Federal Labor Relations Authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Indian Affair be authorized to meet on Thursday, October 28, 1993, beginning at 9:30 a.m., in 485 Russell Senate Office Building on Public Law 101-630, the Indian Child Protection and Family Violence Prevention Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, October 28, 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, October 28, 1993, at 9:30 a.m., to hold a hearing on the nomination of Michael F. DiMario, of Maryland, to be Public Printer. This confirmation hearing will be followed by a hearing on Senate Joint Resolution 143 and Senate Joint Resolution 144, providing for the appointments of Frank Anderson Shrontz and Manuel Luis Ibanez, respectively, as citizen regents of the Smithsonian Institution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on pending legislation, followed immediately by a hearing on the nominations of Eugene A. Brickhouse to be Assistant Secretary for Human Resources and Administration, and Kathy Elena Jurado to be Assistant Secretary for Public and Intergovernmental Affairs. The markup and the hearing will be held in room 418 of the Russell Senate Office Building at 2 p.m. on Thursday, October 28, 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, October 28, 1993, at 3 p.m. to hold an open hearing on NAFTA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism, Committee on Labor and Human Resources, be authorized to meet for a hearing on "Witness to Domestic Violence: Protecting Our Kids," October 28, 10 a.m.

In addition, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on "S. 1115: Implications of the Fair Labor Standards Act for Inmates, Correctional Institutions, Private Industry and Labor," October 28, 2:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR REGULATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air and Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, October 28, beginning at 10 a.m., to conduct a markup of S. 1162, a bill to authorize the Nuclear Regulatory Commission [NRC] for fiscal years 1994 and 1995, and S. 1165 and S. 1166, bills concerning the NRC's legislative authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science and Transportation be authorized to meet on October 28, 1993, at 10:30 a.m. on NASA's relevance to the economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, October 28, 1993, to hold a hearing on abuses in Federal student grant programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMUNITY COMES TOGETHER TO FIND LOST GIRLS

• Ms. MIKULSKI. Mr. President, I rise today to recognize an incredible outpouring of support and community spirit in my State's Garrett and Allegany Counties. Late Monday afternoon, October 18, two young girls, 8 and 9 years old, wandered away from a children's home in eastern Garrett County. These young girls wandered into the nearby woods and became lost. The reason I rise today is to tell a good story, a story with a happy ending, where members of the community came together and gave of themselves to find these two lost girls.

Upon realization of the lost girls, members of the Maryland State Police and Maryland Rangers immediately began a search covering a massive geographic area. This search went all through the night, and by the time it had concluded, scores of local agencies and citizens were involved. Search parties were formed. Local business people closed their shops to help. The massive search included: the Maryland Department of Resources Police from the Billmeyer Work Center, Rangers from New Germany State Park, Deep Creek Lake State Park, Savage River State Forest, Potomac Garrett State Forest and Herrington Manor State Forest, the Maryland State Police including members of the McHenry Barracks, the Cumberland Barracks, the K9-1 Unit from Jessup, and the Aviation Division in Cumberland, the Mt. Nebo Forestry Service, the Cumberland Forestry service, the Western Maryland Crime Search Team, the Northern Garrett County Rescue Squad, the Frostburg Ambulance Service, volunteers from local fire companies including Grantsville, Eastern Garrett/Finzel, Accident, Bittinger, Swanton, Deer Park, Oakland, Lonaconing, Frostburg, Clarysville, and Corrigansville. Even the local Grantsville Subway Shop got involved by sending doughnuts and subs to feed the volunteers.

Mr. President, thanks to the tireless efforts of a community bound together, determined to help, the young girls were found in the woods unharmed the next afternoon. I honor and commend the people of Garrett and Allegany Counties for their commitment to their fellow citizens, and their commitment to the lives of two young Marylanders with much more to give to this world.

Particular thanks goes to Rangers John Frank, Rick Lewis, and Joe Stevens, DNR Public Communications Officer Gary Yoder, State Police Maj. W. Raymond Presley and Lt. Charles Hinnant, Troopers Rodeheaver and Tindal, and the Medivac Helicopter Team. These Marylanders went above and beyond the call of duty to help their fellow citizens.•

REMARKS BY ENERGY SECRETARY O'LEARY

• Mr. JOHNSTON. Mr. President, on October 25 the Associated Press carried a report from London on remarks by Energy Secretary Hazel O'Leary during her attendance at an annual conference on oil and money.

That wire service account unfortunately generated a great deal of confusion and concern with regard to the administration's policy toward domestic oil and gas production. Subsequently I discussed this matter with Secretary O'Leary and am satisfied that her remarks were, indeed, misrepresented.

I am reassured by the statement of clarification issued by the Secretary on October 26. I ask that her statement be reprinted in the RECORD and commend it to the attention of my colleagues.

The statement follows:

[From DOE News, Oct. 26, 1993]

The following is a response from Secretary of Energy Hazel R. O'Leary to an October 26 Associated Press wire service news story by Dirk Beveridge:

"This statement will clarify this Department's and Administration's policy toward the domestic energy industry. As one of the Secretaries of Energy with an extensive knowledge of and background in domestic gas and oil matters, I clearly recognize that independent producers are responsible for the production of more than 60 percent of the gas in this country and more than 37 percent of its oil. Natural gas is a critical element in the President's energy strategy, and independents are a major source for new supplies, comprising more than 80 percent of all new oil and gas discoveries in the United States. Since taking office in January of this year, the Department has launched several initiatives aimed at creating markets for the domestic industry.

I have also proposed to dramatically increase the Department's research and development efforts for gas and oil to levels far in excess of any other Administration in order to make gas and oil exploration and production more economic. The domestic natural gas and oil industry is a high tech, high wage business that we will attempt to encourage in order to take full advantage of our domestic resources and of export markets for exploration and production technology and equipment.

"Next month, the Administration will release its domestic natural gas and oil initiative. I launched this initiative before the Louisiana State Legislature in April and stated the urgency to create a climate which would encourage increased domestic exploration and production. Most importantly, I have stated many times previously, and did so again yesterday, that it is this Secretary's obligation to educate the American public of the critical importance of this industry to the Nation's economic and national security. We have learned many times that the Congress and the public will not support policies which benefit producers and the Nation until they believe it is in the Nation's interest to do so. In partnership with the industry, it is my job to educate the American public of the vital importance of this industry so as to implement beneficial policies.

I have met with many of my colleagues from the independent community several times since taking office to discuss ideas which will benefit the industry and the public, most recently in Oklahoma two weeks ago. I look forward to continuing this dialogue with my colleagues in the independent community to develop policies which create an economic climate that allows these business leaders the opportunity to make rational investment decisions which will increase product and jobs."•

NOMINATION OF JANET NAPOLITANO

• Mr. LOTT. Mr. President, the nomination of Janet Napolitano to be U.S. attorney from Arizona fundamentally challenges the Senate to consider carefully our constitutional responsibilities. Article II, section 2 gives to the Senate the duty of advice and consent to nominations which may be made by the President. To make a judgment on any nominee requires that the Senate know that the person be of high moral character and competence. To make a decision without all of the pertinent information available would be to shirk our constitutional responsibility.

In the nomination of Janet Napolitano, we are faced with a situation which does not allow us to answer all of the questions, and to determine absolutely that there is no problem in her background. She has asserted attorney-client privilege in the matter of her representation of Anita Hill. This claim is subject to question on technical grounds. The memorandum which follows ought to be read by every Senator before any action is taken on this nomination. It details why the assertion made by Ms. Napolitano is questionable.

It also reviews the responsibility of the Senate to require information on which to judge a candidate before advice and consent are given to appointive office. During the consideration of the nominations of Chief Justice Rehnquist and Justice Scalia in 1986, a claim of executive privilege withholding information on the nominees' tenure in the executive branch was exerted by the White House. In that case an agreement was made to give the Judiciary Committee the information that they needed. The Senate made the point that the duty of advice and consent was more important than the claim of executive privilege. Senator KENNEDY noted that the information was needed to fulfill Senate responsibilities. He said the agreement was "a very substantial victory for the Constitution and the constitutional process." I hope we are able to realize a similar victory for the Constitution in this case.

I ask that the following memorandum be included in the RECORD at this point.

The memorandum follows:

MEMORANDUM

In response to questions about her conduct during an October 11, 1991 interview of Judge Susan Hoerchner by lawyers for the Senate Judiciary Committee, Janet Napolitano has invoked on behalf of Judge Hoerchner the so-called "pooled information" or "joint defense" extension of the attorney-client privilege. Ms. Napolitano thus seeks confirmation as United States Attorney for the District of Arizona—the highest ranking federal law enforcement official in the State—despite significant unresolved charges that she suborned false or misleading testimony before the Committee. Neither law nor reason compels the Senate to accept this claim of privilege, and thus abdicate its advice and consent responsibilities, without further investigation.

I. THE ATTORNEY-CLIENT PRIVILEGE DOES NOT APPLY TO CONFIRMATION HEARINGS FOR A PROSPECTIVE UNITED STATES ATTORNEY

A. Congress may reject claims of attorney-client privilege at its discretion

"Attorney-client privilege can not be claimed as a matter of right before a congressional committee." Memorandum Opinion of General Counsel to the Clerk of the House of Representatives on Attorney-Client Privilege (Dec. 11, 1985), *reprinted* in 132 Cong. Rec. H674 (daily ed. Feb. 27, 1986) [hereinafter General Counsel Memorandum]. Older than the Republic itself, this rule finds support in the text of the Constitution; in literally hundreds of years of settled precedent, both legislative and judicial; and in a 1986 memorandum prepared for Congress by Professor Stephen Gillers, who now contends that the Judiciary Committee must accept the claim of attorney-client privilege asserted by Ms. Napolitano.

The Constitution provides explicitly that "Each House may determine the rules of its Proceedings." U.S. Const. Art. I, §5, cl. 2. This grant of authority is qualified by certain constitutional privileges, such as the right against Self-Incrimination. The attorney-client privilege, however, is not secured by the Constitution, but is developed by the judiciary through the common law method. *See, e.g.*, Fed. R. Evid. 501 (federal privilege rules are "governed by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience"); *Upjohn Co. v.*

United States, 449 U.S. 383, 389 (1981) (attorney-client is a common-law privilege); J. Weinstein & M. Berger, *Weinstein's Evidence* ¶ 503[02], at 503–19 (1993) (same). As the Congressional Research Service has explained, to extend such a common-law privilege to congressional investigations "would, in effect, permit the judiciary to determine congressional procedures and is therefore difficult to reconcile with the constitutional authority granted each House of Congress to determine its own rules." Memorandum From Congressional Research Service to Clerk of the House of Representatives (Feb. 19, 1986), *reprinted in* 132 Cong. Rec. H681 (daily ed. Feb. 27, 1986) [hereinafter CRS Memorandum].

At common law, the courts were bound by the attorney-client privilege, but the Parliament was not. As one distinguished English treatise explains: "A witness is . . . bound to answer all questions which the committee sees fit to put to him, and cannot excuse himself, for example, . . . because the matter was a privileged communication to him, as where a solicitor is called upon to disclose the secrets of his client . . . some of which would be sufficient grounds of excuse in a court of law." E. May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament* 746–47 (20th ed. 1983). The historical practice in England thus confirms the plain meaning of the Rules of Proceedings Clause: that "Each House" of Congress—not the judiciary—has plenary authority to "determine the rules of its Proceedings."

Professor Gillers himself has endorsed this traditional understanding in prior congressional testimony. In addressing the question "Does the [attorney-client] privilege apply in Congress?," Professor Gillers explained:

"Congress is obligated to observe constitutional privileges, such as the privilege against self-incrimination. It is not obligated to honor subconstitutional privileges created by statute or common law. While it has been suggested that in criminal prosecutions the attorney-client privilege may to some extent be of constitutional dimension, this is not a criminal prosecution. . . .

"Congress has the power to defeat assertion of a statutory or common law privilege even though the privilege would be recognized in court." Memorandum From Stephen Gillers to Rep. Stephen Solarz (Feb. 19, 1986), *reprinted in*, 132 Cong. Rec. H679 (daily ed. Feb. 27, 1986).

The Congress has enacted no rules or statutes recognizing the attorney-client privilege in congressional hearings. As the Subcommittee on Asian and Pacific Affairs on the House Committee on Foreign Relations has explained, "[n]o statute, House rule, or [Committee] rule changes the English rule that attorney-client privilege does not have to be accepted in legislative proceedings; Congress has never decided to impose that restriction on its proceedings." H.R. Rep. No. 462, 99th Cong., 1st Sess. (1985), *reprinted in*, 132 Cong. Rec. H666, at H670 (daily ed. Feb. 27, 1986). "Consistently, Congressional committees have felt enabled to reject the applicability of claims of attorney-client privilege." General Counsel Memorandum, *supra*, at H675. This willingness has been apparent throughout American history.

In the late 19th Century, the House conducted an investigation into financing practices of the Union Pacific Railroad. During hearings, Joseph B. Stewart, counsel for Union Pacific, declined to answer certain questions on the ground of attorney-client privilege. "Unimpressed, the House locked him up" for contempt. T. Taylor, *Grand Inquest: The Story of Congressional Investigations* 45 (1955). The Supreme Court for the District of Columbia upheld the sanction, notwithstanding Stewart's assertion of the privilege. *See Stewart* v. *Blaine*, 8 D.C. (1 MacArth.) 453 (D.C. 1874).

In 1934, the Senate conducted an investigation into the contracting practices of the Postmaster General. During hearings, attorney William P. MacCracken, Jr. resisted a subpoena to produce certain documents on the ground of attorney-client privilege. The Senate ordered MacCraken to produce the documents notwithstanding his assertion of the privilege. *See Jurney* v. *MacCracken*, 294 U.S. 125, 146 (1935). In ensuring litigation, MacCraken abandoned his contention that the privilege applied to congressional hearings, and the Supreme Court noted in passing that the Senate "had authority to require the production of papers as a necessary incident of the power of legislation." *Id.* at 144.

In 1954, both the Senate and the House explicitly rejected proposals to incorporate the attorney-client privilege in their respective Rules. *See* S. Rep. No. 2, 84th Cong., 1st Sess. 27–28 (1954); H.R. Res. 178, 84th Cong., 1st Sess. (1954).

In the late 1970s and early 1980s, the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce repeatedly rejected claims of attorney-client privilege. *See* Attorney-Client Privilege: Memoranda Opinions of the American Law Division, Library of Congress, Committee Print 98–I (98th Cong. June 1983); Hearings on the International Uranium Cartel Before the Subcomm. on Oversight and Investigation of the House Comm. on Interstate and Foreign Commerce, 95th Cong., 1st Sess. Vol. 1 (1977). Committee and Subcommittee Chairman John Dingell explained.

"[T]here is ample support for the view that the availability of the attorney-client privilege is a matter of discretion with the Subcommittee based on analogous judicial authority, coupled with the full investigative prerogatives of Congressional committees acting within their jurisdiction for a valid legislative purpose, the custom, practice and precedents of both Houses of the Congress and the British Parliament, and the consistent practice of the Subcommittee * * *."

In 1986, the Subcommittee on Asian and Pacific Affairs of the House Committee on Foreign Relations conducted an investigation into the real estate holdings of deposed Philippine President Ferdinand Marcos. The Subcommittee rejected claims of attorney-client privilege in part on the "independent" ground that Congress is not bound by the privilege. *See* H.R. Rep. No. 462, *supra*, 132 Cong. Rec. at H669. The Subcommittee noted that *Congress* makes the privilege determinations applicable to legislative proceedings (except for constitutional privileges), and warned that the wholesale application of judicially recognized common-law privileges "would bring key congressional inquires to a halt" Id. at H670.

No judicial decision has questioned Congress's authority to determine the constitutional privilege rules applicable to its own proceedings. On the contrary, the Supreme Court has recognized that "only infrequently have witnesses appearing before congressional committees been afforded the procedural rights normally associated with an adjudicative proceeding." *Hannah* v. *Larche*, 363 U.S. 420, 445 (1960). *See also United States v. Fort*, 443 F.2d 670, 678–82 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 932 (1971). Indeed, the only judicial decision squarely on point upheld the power of Congress to disregard the attorney-client privilege in its own hearings. *See Stewart v. Blaine*, 8 D.C. (1 MacArth.) 453 (D.C. 1874); CRS Memorandum, *supra*, at H681 ("[N]o court has ever questioned the assertion of the prerogative. . . ."). States v. Fort, 443 F.2d 670, 678–82 (D.C. Cir. 1970), *cert. denied*, 403 U.S. 932 (1971). Indeed, the only judicial decision squarely on point upheld the power of Congress to disregard the attorney-client privilege in its own hearings. *See Stewart v. Blaine*, 8 D.C. (1 MacArth.) 453 (D.C. 1874); CRS Memorandum, *supra*, at H681 ("[N]o court has ever questioned the assertion of the prerogative. . . .").

Finally, rejection of the attorney-client privilege in this context reflects sound policy judgments. On the one hand, "the necessity to protect the individual interest in the adversary process is far less compelling in an investigative setting where a legislative committee is not empowered to adjudicate the liberty or property interests of a witness." *Id.* at H682. On the other hand, "complete, untempered importation of the privileges and procedures of the judicial forum is likely to have a paralyzing effect on the investigatory process of the legislature." *Id.*; *see also* H.R. Rep. No. 462, *supra*, 132 Cong. Rec. at H670 (similar).

Neither Ms. Napolitano nor her advocates cite any contrary authority, congressional or judicial. Remarkably, Ms. Napolitano does not even acknowledge, much less attempt to overcome, the grave difficulties of her assertion of attorney-client privilege in the context of a *congressional* proceeding. Instead, she cites decisions governing application of the privilege in *judicial* proceedings and then analyzes her privilege claim as if those decisions were controlling. *See* Answers of Janet Napolitano to Questions Submitted by Senators Simpson and Thurmond, at 1 (Sept. 23, 1993) [hereinafter Napolitano Answers]. At best, her response indicates rather cavalier legal preparation for someone who would become a United States Attorney. The privilege analyses of Professors Hazard and Gillers, which likewise fail to address this issue entirely, are similarly deficient.

For all of these reasons, the Senate is not obligated to accept Ms. Napolitano's claim of attorney-client privilege even if a court, under similar circumstances, would.

B. The Senate should reject claims of attorney-client privilege asserted in the context of confirmation hearings for a prospective United States attorney.

Although congressional committees have discretion to entertain individual claims of attorney-client privilege, the Congress generally has been reluctant to do so, as the above discussion suggests. "[W]here in the particular circumstances an investigation determines that the legislative need for the information outweighs the arguments against production, such production has been required." H.R. Rep. No. 462, *supra*, 132 Cong. Rec. at H669. This is clearly such a case.

The Constitution requires the Senate to provide "Advice and Consent" to appointments by the President of "Officers of the United States." U.S. Const. Art. II, §2, cl. 2. In this context, the "legislative need for the information" is unusually strong. In the *Stewart*, *MacCracken* and Marcos cases, for example, Congress compelled testimony pursuant to its investigations of railroad financing, government contracting, and the acquisition of real estate by foreign potentates—even though the attorney-client privilege would have protected that same testimony from compelled disclosure in court. The Constitution authorizes, but does not compel, Congress to act in each of these areas. Faced with difficulties in gathering information, Congress might decide to leave problems in these areas for resolution in executive, administrative, judicial, or private fora. The advice-and-consent context is different, however. Only the Senate can perform that function, and it obviously needs all relevant information about a nominee to do so properly.

The importance of the office to which Ms. Napolitano has been nominated only heightens the Senate's need to complete and accurate information about her background and professional integrity:

"The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. . . . He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."

Berger v. *United States*, 295 U.S. 78, 88 (1935). As Attorney General (later Justice) Jackson explained, a prosecutor must maintain "a detached and impartial view" of all citizens, lest "the real crime" become "that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself." R. Jackson, The Federal Prosecutor, Address Delivered at the Second Annual Conference of United States Attorneys (April 1, 1940). In order to fulfill its advice and consent responsibilities, the Senate must have unimpeded access to all information bearing on whether a prospective United States Attorney will refrain from the "improper methods" condemned in *Berger*, or the partiality decried by Justice Jackson. Evidence that a nominee encouraged false or misleading testimony while in private practice is obviously and highly relevant to this inquiry.

The interests of the witness and the attorney are relatively narrow in the context of confirmation proceedings in general, and this confirmation proceeding in particular. As the Congressional Research Service has explained, "the necessity to protect the individual interest in the adversary process is far less compelling in an investigative setting where a legislative committee is not empowered to adjudicate the liberty or property interests of a witness." CRS Memorandum, *supra*, at H682. The issue here is not whether Ms. Napolitano (or Judge Hoerchner) should be civilly or criminally liable for any wrongdoing that they might have undertaken, but only whether Ms. Napolitano should be confirmed as a United States Attorney. The congressional hearings in this case clearly do not portend any criminal investigation or civil enforcement proceeding—a special context in which Congress has, on occasion, permitted claims of attorney-client privilege. *Compare* N.Y. Times, July 10, 1987, at A8, col. 4 (noting assertion of attorney-client privilege in congressional hearings by Brendon Sullivan on behalf of Oliver North).

In sum, because the Senate's need for all relevant information about Ms. Napolitano's background (if she wishes to proceed with her nomination) clearly outweighs Ms. Napolitano's and Judge Hoerchner's interests against production, the Senate should require Ms. Napolitano to answer its questions notwithstanding her misplaced assertion of attorney-client privilege on behalf of Judge Hoerchner.

II. THE "POOLED INFORMATION" PRIVILEGE ASSERTED BY MS. NAPOLITANO WOULD NOT APPLY EVEN UNDER THE STANDARDS THAT GOVERN JUDICIAL PROCEEDINGS

Ms. Napolitano has asserted that her communications to Judge Hoerchner during the October 11, 1991 Judiciary Committee interview are protected against disclosure by the so-called "pooled information" or "joint defense" extension of the attorney-client privilege. The attorney-client privilege itself is clearly inapposite, because Ms. Napolitano makes no contention that she has ever represented Judge Hoerchner. *See* Napolitano Answers, *supra*, at 2. For several reasons, however, the "pooled information" privilege would not protect Ms. Napolitano against compelled disclosure even assuming (contrary to law) that the standards applicable to judicial proceedings also govern confirmation proceedings.

A. Testimonial privileges must be narrowly construed

Testimonial privileges "contravene the fundamental principle that '"the public has a right to every man's evidence."'" *Trammel v. United States*, 445 U.S. 40, 50 (1980) (citation omitted). Therefore, "they must be strictly construed and accepted 'only to the very limited extent that permitting a refusal to testify or excluding relevant evidence has a public good transcending the normally predominant principle of utilizing all rational means for ascertaining truth.'" *Id.* (citation omitted).

Addressing the attorney-client privilege specifically, the Supreme Court has repeatedly instructed that "'since the privilege has the effect of withholding relevant information from the factfinder, it applies only where necessary to achieve its purpose.'" *United States v. Zolin*, 491 U.S.C. 554, 562 (1989), quoting *Fisher v. United States*, 425 U.S. 391, 403 (1976). As Judge Becker has explained, "[b]ecause the attorney-client privilege obstructs the truth-finding process, it is construed narrowly." *Westinghouse v. Republic of the Philippines*, 951 F.2d 1414, 1423 (3d Cir. 1991). *See also* M. Larkin, *Federal Testimonial Privileges*, §2.01, at 2-4 (1993) ("Since the privilege is generally in derogation of the broad duty of witnesses to disclose the information in their possession, the privilege should ordinarily be confined within the *narrowest possible limits* consistent with its purpose." (emphasis added)). And if the attorney-client privilege itself must be narrowly construed, then, clearly, so too must be the "pooled information" extension of that privilege.

Ms. Napolitano, however, asserts a "pooled information" privilege that is unprecedently broad in three critical respects. Any one of these is enough to defeat her claim of privilege.

B. The "pooled information" privilege requires concerted action not present here

The "pooled information" privilege does not cover any communication between a client and the lawyer of another. Rather, it protects only those communications that are "part of an on-going and joint effort to set up a common defense strategy." *Eisenberg v. Gagnon*, 766 F.2d 770, 787 (3d Cir.), *cert. denied sub nom. Weinstein v. Eisenberg*, 474 U.S. 946 (1985). In *Matter of Bevill, Bresler & Schulman Asset Management Corp.*, 805 F.2d 120 (3d Cir. 1986), the Third Circuit specified the elements of the "pooled information" or "joint defense" privilege:

"In order to establish the existence of a joint defense privilege, the party asserting the privilege must show that (1) the communications were made in the course of a joint defense effort, (2) the statements were designed to further the effort, and (3) the privilege has not been waived."

Id. at 126. *Bevill* thus squarely places the burden of proof on the party invoking the privilege (consistent with privilege law generally), and its three requirements subsume a subsidiary fourth requirement—"that the parties had agreed to pursue a joint defense strategy." *Id.*

Bevill has been widely adopted by the Courts of Appeals. In *United States v. Bay State Ambulance & Hospital Rental Service*, 874 F.2d 20, 28-29 (1st Cir. 1989), the First Circuit quoted *Bevill* verbatim and then rejected a claimed joint defense privilege because its proponent had failed to prove that the relevant communication "was prepared as part of a joint defense." In *United States v. Schwimmer*, 892 F.2d 237, 243 (2d Cir. 1989), the Second Circuit, citing *Bevill*, defined the privilege as applicable "where a joint defense effort or strategy has been decided upon and undertaken by the parties and their respective counsel."

In this case, Ms. Napolitano has not established the necessary agreements among the respective attorneys and clients. There was clearly no agreement between the counsel for Professor Hill and Ron Allen, who served as counsel for Judge Hoerchner. Ms. Napolitano was asked: "Was there any agreement among such counsel?" She responded without qualification: "There was no written agreement among counsel"—a response more charitably read as asserting the absence of any agreement among counsel, written or oral, then as attempting to mislead the Committee (by only partial responsiveness) about the existence of an oral agreement. *See* Napolitano Answers, *supra*, at 3. Moreover, Ms. Napolitano has not alleged that the relevant *clients*, Professor Hill and Judge Hoerchner, agreed upon a "joint defense effort or strategy." Instead, she described Judge Hoerchner only as one of three "corroborating witnesses Professor Hill invited to testify in support of her position." *Id.* That description, however, falls far short of alleging, much less proving, that Professor Hill and Judge Hoerchner had agreed to coordinate their testimony and strategy during the confirmation hearings of Justice Thomas. Finally, even assuming the existence of some agreements between Ms. Napolitano and Mr. Allen, and between Professor Hill and Judge Hoerchner, Ms. Napolitano has not alleged that her communications to Judge Hoerchner during the October 11, 1991 interview were "designed to further" the joint effort.

Professor Geoffrey Hazard speculates that although the transcript of the October 11, 1991 interview "does not indicate one way the other, * * * it may have been that the Attorneys Allen and Napolitano nodded or otherwise silently communicated with each other before Ms. Napolitano spoke." Letter From Professor Geoffrey Hazard to Senator Dennis DeConcini, at 6 (Sept. 28, 1993) [hereinafter Hazard Letter]. That freewheeling speculation, to the extent it is offered to satisfy the *Bevill* elements, is plainly inadequate. The law requires the proponent of the privilege to "show" that the predicate elements do obtain, not to guess how they might.

C. The "pooled information" privilege does not apply outside the context of pending of imminent litigation

Rather than construing the "pooled information" or "joint defense" privilege narrowly, as settled law requires, Ms. Napolitano seeks to establish an unprecedented extension of that privilege outside the context of actual or imminent litigation. She makes no attempt to justify this extension, however—another example of her rather cavalier invocation of the privilege.

A memorandum prepared for Senator Biden, which endorses Ms. Napolitano's invocation of the privilege, identifies in support of the necessary extension exactly three sentences from a single district court opinion decided over 17 years ago, *SMC Corp. v. Xerox Corp.*, 70 F.R.D. 508 (D. Conn.), *appeal dismissed and mandamus denied*, 534 F.2d 1031 (2d Cir. 1976). But *SMC* involved a joint defense privilege asserted *after* litigation had in fact begun, and the Biden Memorandum properly identifies the relevant language from the case as dicta. *See* Memorandum to Senator Biden From Nominations Staff Re. Nomination of Janet Napolitano To Be the U.S. Attorney For the District of Arizona, at 4 (Sept. 28, 1993) [hereinafter Biden Memorandum].

Ms. Napolitano and the Biden Memorandum cite various secondary sources. But to the limited extent that they address the question whether the "pooled information" privilege applies outside the context of actual or imminent litigation, a majority of those sources undercut the position asserted by Ms. Napolitano. *Compare* Revised Uniform Rules of Evidence Rule 502(b)(3) (1974) (privilege applies to a communication by a client "to a lawyer or a representative of a lawyer representing another party *in a pending action* and concerning a matter of common interest therein" (emphasis added)) *and* 2 J. Weinstein, *Weinstein's Evidence* §503(b) [06], at 503–99 (1993) ("'No American case has allowed a [pooled information] privilege . . . in a situation totally unrelated to litigation.'" (citation omitted)) *with* Restatement of the Law Governing Lawyers §126 reporter's note, at 194 (Tentative Draft No. 2) (1989) (proposing to extend privilege beyond the litigation context) [hereinafter Restatement].

The memoranda prepared by Professor Hazard and Professor Gillers, which support Ms. Napolitano's invocation of the privilege, do not even address this issue.

D. No privilege applies because statements by Ms. Napolitano will not reveal privileged communications made by Judge Hoerchner

As classically formulated, the attorney-client privilege extends only to communications from the client to the attorney. *See, e.g., United States v. United Shoe Machinery Corp.*, 89 F. Supp. 357, 358–59 (D. Mass. 1950) (Wyzanski, J.); 8 J. Wigmore, *Evidence* §2292 (McNaughton rev. 1961); *see also* Biden Memorandum, *supra*, at 2. Therefore, communications from the attorney to the client are shielded only if they "rest on confidential information obtained from the client." *In re Sealed Case*, 737 F.2d 94, 99 (D.C. Cir. 1984). But because a claimant must always "present to the court sufficient facts to establish the privilege," as Justice Ginsburg has noted, a claimant in this context "must demonstrate with *reasonable certainty* that the lawyer's communication rested in *significant and inseparable part* on the client's confidential disclosure." *Id.* (emphases added and citation omitted). *See, e.g., American Standard, Inc. v. Pfizer Inc.*, 828 F.2d 734, 745 (Fed. Cir. 1987) (privilege applies to "lawyer-to-client communications that reveal, directly or indirectly, the substance of a confidential communication by the client"); *United States v. (Under Seal)*, 748 F.2d 871, 874 (4th Cir. 1984) (privilege "may also be extended to protect communications by the lawyer to his client . . . if those communications reveal confidential client communications"); *Matter of Fischel*, 557 F.2d 209, 211 (9th Cir. 1977) ("The privilege does not extend, however, beyond the substance of the client's confidential communications to the attorney."); M. Larkin, *supra*, at 2–57 to -58 ("The privilege also protects the legal advice provided by the attorney to the client, but generally only to the extent that disclosure would reveal the substance of the client's confidential communication.").

In this case, Ms. Napolitano has alleged nothing to suggest, much less "demonstrate with reasonable certainty," that the disclosure of statements made by Ms. Napolitano to Judge Hoerchner would also reveal the content of confidential statements made by Judge Hoerchner, on whose behalf she has invoked the privilege, to Ms. Napolitano. Indeed, Ms. Napolitano has not indicated that she had received *any* communication from Judge Hoerchner between October 9, 1991, when she agreed to represent professor Hill, and October 11, 1991, when Ms. Napolitano made the allegedly privileged statements to Judge Hoerchner during the Judiciary Committee interview. On the contrary, a careful reading of Ms. Napolitano's assertions suggests that no such communication took place.

When Ms. Napolitano asked to confer with Judge Hoerchner and her counsel off the record, Judge Hoerchner was testifying about the date of a particular phone call between herself and Professor Hill. In the current confirmation proceedings, the Committee asked Ms. Napolitano: "Prior to and during Hoerchner's testimony before the Judiciary Committee [on October 13, 1991], did you have any discussions with Hoerchner or her representatives about the timing of Hill's call?" Ms. Napolitano answered: "I did have at least one discussion with Judge Hoerchner *after* the interview and prior to her Committee appearance. The conversation took place in a room in the Capitol and, to the best of my recollection, was on Saturday, October 12, 1991." Napolitano Answers, *supra*, at 7–8 (emphasis added). If that response is truthful, then the October 11 statements from Ms. Napolitano to Judge Hoerchner would have *no* possibility to reveal the contents of confidential statements made by Judge Hoerchner to Ms. Napolitano, because no prior conversations between them had occurred.

The Biden, Hazard and Gillers memoranda all fail to address this issue.

III. EVEN IF A "POOLED INFORMATION" PRIVILEGE WERE OTHERWISE AVAILABLE, THE DISPUTED STATEMENTS WOULD BE SUBJECT TO IN CAMERA REVIEW TO DETERMINE WHETHER THE CRIME-FRAUD EXCEPTION SHOULD APPLY

It is hornbook law that the attorney-client privilege "'ceas[es] to operate at a certain point, namely, where the desired advice refers *not to prior wrongdoing*, but to *future wrongdoing*.'" *Zolin*, 491 U.S. at 562–63, quoting 8 J. Wigmore, *supra*, §2298, at 573 (emphasis in Wigmore). *See also* M. Larkin, *supra*, §2.07[1], at 2-138 to -139 ("The privilege does not protect communications made by either the client or the attorney for the purpose of providing or receiving advice or assistance with respect to, in furtherance of, or to induce or to conceal the commission of a present, continuing, or future crime or fraud. . . ."). The crime-fraud exception is fully applicable where the future wrongdoing involves the presentation of false testimony. *See e.g., United States v. Townsley*, 843 F.2d 1070, 1086 (8th Cir. 1988); *United States v. Soudan*, 812 F.2d 920, 925 (5th Cir. 1986), *cert. denied*, 107 S. Ct. 2187 (1987); *United States v. Gordon-Nikkar*, 518 F.2d 972, 975 (5th Cir. 1975).

The crime-fraud exception applies not only to the attorney-client privilege, but to the "pooled information" extension of the privilege. *See, e.g., Haines v. Liggett Group, Inc.*, 975 F.2d 81, 94–97 (3d Cir. 1992). Indeed, the draft Restatement on which Ms. Napolitano principally relies stresses the importance of the crime-fraud exception in this contest, precisely because "the pooled-information rule may increase the risk of illegal collusion." Restatement, *supra*, §126 comment b. The Restatement argues that "the rule does not lead to significantly increased collusion," because it "protects pooling arrangements only for legitimate purpose." *Id.* Thus,

"If the purpose of the participating members of the pool is to further future crimes or frauds, for example to present perjured testimony or other false evidence, the illegal-act exception to the privilege removes its protection entirely." *Id.*

In *Zolin*, the Supreme Court developed three standards for evaluating claims that the crime-fraud exception is applicable. First, the Court held that "*in camera* review may be used to determine whether allegedly privileged attorney-client communications fall within the crime-fraud exception." 491 U.S. at 574. The Court noted that the absence of such review would produce the "absurd result" that crime-fraud claims could almost never be proven. *Id.* at 566. Second, the Court held that the party seeking to establish the crime-fraud exception, in order to obtain an *in camera* review, "must present evidence sufficient to support a *reasonable* belief that *in camera* review *may* yield evidence that establishes the exception's applicability." *Id.* at 574–75 (emphases added). The Court stressed that because "a lesser evidentiary showing is needed to trigger *in camera* review than is required ultimately to overcome the privilege," the applicable standard "need not be a stringent one." *Id.* at 572. Third, the Court held that the threshold showing to obtain *in camera* review may by met by using "*any* relevant evidence"—even unprivileged evidence that is "not 'independent' of the contested communications." *Id.* at 574–75 (emphasis added).

In this case, there is more than enough evidence to meet the low *Zolin* threshold for triggering *in camera* review. According to Judiciary Committee records, the staff "received one phone call from [Judge Hoerchner]—on September 18—who explained that she had one conversation with Professor Hill [in which Professor Hill alleged that she was being sexually harassed]—*in the spring of 1981*." Chronology Released By Senator Biden, *reprinted in* D. Brock, *The Real Anita Hill* 211 (1993) (emphasis added). During the October 11 interview by Judiciary Committee lawyers, moreover, Judge Hoerchner testified that "I remember mainly one telephone call, and I have only been able to guess at the time—sometime before September 1981. That was a time when we spoke fairly regularly by telephone." Transcript of Hoerchner Interview (Oct. 11, 1991), *reprinted in* D. Brock, *supra*, at 212. (In September 1981, Judge Hoerchner moved from Washington, D.C. to California, after which time, according to her own testimony, she enjoyed only "less than sporadic" contact with Professor Hill.) Based on this evidence, Justice Thomas could not have been the person about whom Professor Hill was then complaining to Judge Hoerchner, because Professor Hill did not even begin working for Thomas until Fall 1981, and does not allege that any harassment occurred during the first three months of her employment.

During the October 11, 1991 interview of Judge Hoerchner, a GOP Staffer apparently recognized the significance of the dates specified by Judge Hoerchner, and began to press her on this point:

Q: And, in an attempt to try to pin down the date a little bit more specifically as to your first phone conversation about the sexual harassment issue in 1981, the year you mentioned, you said the first time you moved out of Washington was September of 1981; is that correct?

A: Right.

Q: Okay. Were you living in Washington at the time you two had this phone conversation?

A: Yes.

Q: So it was prior to September of 1981?

A: Oh, I see what you are saying.

Q: I am just trying for the benefit of everybody to get to the truth, to pin down the——

A: I think I was. Yes. I'm sorry. That isn't something that I can——

Q: Okay.

A: I was living in Washington prior to that time. I'm not sure that was the time of the phone call, but I really think it was.

Q: Okay. You were or were not living in Washington when you think you had this—do you think you were living in Washington or not?

A: I think I was.

Q: So that would make it prior to September of 1981?

A: Yes, if my memory——

Id., reprinted in Napolitano Answers, *Supra*, Exhibit A, at 2. Before Judge Hoerchner could continue with her testimony, Ms. Napolitano interjected: "Can I meet with the witness? Can we talk for just a minute?" *Id.*

After Ms. Napolitano spoke to Judge Hoerchner—the communication that she now asserts to be privileged—Judge Hoerchner claimed not to remember when the relevant conversation with Professor Hill had occurred or where she was living when it did occur. Two days later, Judge Hoerchner testified before the Committee. She again claimed uncertainty about the date of her conversation with Professor Hill, but she asserted confidently, although for the first time, that the alleged harassment occurred *after* Professor Hill had started working for Justice Thomas—by which time Judge Hoerchner had moved to California and ceased to have any regular contact with Professor Hill. Moreover, she positively identified Justice Thomas, which she had declined to do during her October 11 interview, as the alleged harasser:

"I remember, in particular, one conversation I had with Anita. I should say, before telling you about this conversation, that I cannot pin down its date with certainty. I am sure that it was after she started working with Clarence Thomas, because in that conversation, she referred to him as her boss, Clarence."

Testimony of Judge Hoerchner to Senate Judiciary Committee (Oct. 13, 1991), *reprinted in* D. Brock, *supra*, at 215. *Compare* Transcript of Hoerchner Interview (Oct. 11, 1991) *(reprinted in* D. Brock, *supra*, at 209) ("Q: [D]id Anita Hill mention Clarence Thomas' name during that telephone call? A: I *think* she referred to him as Clarence." (emphasis added)).

Based on this sequence of events, a reasonable person could believe that *in camera* review "may yield evidence" to establish the applicability of the crime-fraud exception. *Zolin*, 491 U.S. at 574–75. One reasonable explanation of these events is that Ms. Napolitano interrupted the October 11 interview to warn Judge Hoerchner that her testimony was gravely undermining the allegations of Professor Hill, and to thus encourage changes in that testimony.

Ms. Napolitano responds that her conduct cannot support an inference of improper behavior because "[a]t no point during the questioning was [Judge Hoerchner] able to date with conviction or precision a telephone call which had occurred ten years earlier." Napolitano Answers, *supra*, at 7. That explanation appears doubly misleading, however. First, it fails to account for the fact that Judge Hoerchner did state that the telephone conversation occurred in Spring 1981, without apparent hesitation, during her September 18, 1991 conversation with Judiciary Committee staff. Second, even in her October 11 interview, Judge Hoerchner stated with apparent "conviction" (before speaking with Ms. Napolitano) that the conversation had occurred "sometime before September 1981"—a highly relevant interval that Judge Hoerchner articulated with apparent "conviction" not because she could date a particular conversation with "precision," but because she remembered where she was living ("That was a time when we spoke fairly regularly") when it occurred.

Professor Hazard speculates that Ms. Napolitano might have interrupted the October 11 interview "to help the witness avoid giving inaccurate testimony" by counseling her to state "that she cannot precisely remember, if that is the situation." Hazard Letter, *supra*, at 6. The factual basis for this speculation appears to be that Ms. Napolitano, like Judge Hoerchner, recognized that the "previous dating" of the conversation by Judge Hoerchner "was erroneous if the conversation had occurred while Ms. Hoerchner was still living in Washington." *Id.* at 5. That proposition is simply mistaken. At the point when Ms. Napolitano interrupted the October 11 proceedings, Judge Hoerchner had previously stated that her conversation with Professor Hill had occurred either in the "spring of 1981" (in her September 18 conversation with the judiciary Committee staff) or "sometime before September 1981" (earlier during the October 11 interview itself). Neither of these "previous dating[s]" would be "erroneous if the conversation had occurred while Ms. Hoerchner was still living in Washington."

Perhaps there are innocent explanations of Ms. Napolitano's actions as well, but the purpose of the sufficiency determination under *Zolin* is not to establish conclusively that the crime-fraud exception applies, but only to decide whether a more careful investigation is warranted. Here, that low threshold standard is easily met.

Unless the Senate conducts further investigation, *in camera* or otherwise, the American people will probably never know whether Janet Napolitano intended to encourage false testimony on October 11, 1991, or whether a prospective United States Attorney with the power to prosecute ordinary citizens for aiding and abetting perjury is herself guilty of the same offense. That doubt is unfair to the people of Arizona and, if she is in fact above reproach, unfair to Ms. Napolitano herself. No privilege law prevents the Senate from attempting to resolve it.

IV. JUDGE HOERCHNER'S ASSERTION OF ATTORNEY-CLIENT PRIVILEGE DOES NOT EXCUSE MS. NAPOLITANO FROM ANSWERING QUESTIONS ABOUT HER COMMUNICATIONS WITH WITNESSES OTHER THAN JUDGE HOERCHNER

Members of the Judiciary Committee questioned Ms. Napolitano about her role in advising not only Judge Hoerchner, but also Professor Hill and two other witnesses, Ellen Wells and John Carr. Ms. Napolitano declined to answer questions involving her communications with *any* of these individuals, even though she identifies Judge Hoerchner as the *only* client who has asserted any privilege. Even a proper invocation of privilege by Judge Hoerchner, however, at most would protect communications between *her* and Ms. Napolitano.

Question 12 asked Ms. Napolitano about her discussions with Professor Hill. Ms. Napolitano responded that "[t]he few conversations I had with Professor Hill are covered by the attorney-client privilege; and, therefore, I am precluded from answering these questions." Napolitano Answers, *supra*, at 12. But Judge Hoerchner has no privilege in *these* conversations, and Ms. Napolitano has not asserted any privilege on behalf of Professor Hill. To the contrary, by failing to mention any assertion of privilege by her own client, Ms. Napolitano has implied that Professor Hill is *not* asserting any privilege. Therefore, the Senate certainly should require Ms. Napolitano to answer Question 12.

Questions 13, 15 and 16 likewise asked Ms. Napolitano about her discussions with Professor Hill, Ms. Wells and Mr. Carr. In refusing to answer pertinent portions of these questions, Ms. Napolitano stated that "[i]f the questions are meant to reveal discussions or advice given in meetings with the corroborating witness, the privilege has been asserted and I am bound by the privilege" (Question 13) and that "[a]ny advice I may have given to them is subject to the attorney-client privilege and I am bound by the privilege" (Question 15). Napolitano Answers, *supra*, at 12–13. (Ms. Napolitano asserted no independent justification for her failure to answer pertinent portions of Question 16.) Again, however, the only person Ms. Napolitano has identified as asserting a privilege is Judge Hoerchner, and Ms. Napolitano has not alleged that Judge Hoerchner was involved in any way in her conversations with these other individuals. Therefore, the Senate should require Ms. Napolitano to answer these questions to the extent they relate to her dealings with Professor Hill, Ms. Wells, and Mr. Carr.

Ms. Napolitano's invocation of attorney-client privilege with respect to her communications with Ms. Wells is improper for yet another reason as well. According to Ms. Napolitano herself, "Ellen Wells had no separate representation." Napolitano Answers, *supra*, at 3. The law is clear, however, that "[a] person who is not represented by a lawyer cannot participate as a member of a pooled-information arrangement." Restatement, *supra*, at §126 comment d. *See also, e.g., Government of Virgin Islands v. Joseph*, 685 F.2d 857, 862 (3d Cir. 1982); Biden Memorandum, *supra*, at 5 n.6. On this additional ground, the Senate should require Ms. Napolitano to answer all questions about her communications with Ms. Wells.●

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Calendar Nos. 252, 253, 254,

255, 256, 257, and 258; that the resolutions each be deemed read a third time, passed, the preambles be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, and any statements relative to the passage of these items appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL LAW ENFORCEMENT TRAINING WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 75) designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, the preamble are as follows:

S.J. RES. 75

Joint resolution designating January 2, 1994, through January 8, 1994, as "National Law Enforcement Training Week".

Whereas law enforcement training and the sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal property, and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of this Nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and the sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to understand the significance of law enforcement training in the law enforcement profession and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training; and

Whereas it is in the national interest to make the youth of this Nation aware of career options available in law enforcement and disciplines related to law enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 2, 1994, through January 8, 1994, is designated as "National Law Enforcement Training Week".

NATIONAL MILITARY FAMILIES RECOGNITION DAY

The Senate proceeded to consider the joint resolution (S.J. Res. 115) designating November 22, 1993, as "National Military Families Recognition Day," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 115

Whereas the Congress recognizes and supports the Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas, in times of war and military action, military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of the United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 74 percent of officers and 55 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses and children) comprise more than one-half of the active duty community of the Armed Forces, and spouses and children of members of the reserve component of the Armed Forces in paid status comprise more than one-half of the individuals constituting the reserve component of the Armed Forces community;

Whereas hundreds of thousands of spouses, children, and other dependents living abroad with members of the Armed Forces face financial hardship and feelings of cultural isolation;

Whereas the significantly reduced global military tensions following the end of the Cold War have resulted in a downsizing of the national defense and a refocusing of national priorities on strengthening the American economy and increasing competitiveness in the global marketplace;

Whereas the Congress is grateful for the sacrifices of military families and is committed to assisting the service members and their families who undergo the transition from active duty to civilian life; and

Whereas military families are devoted to the overall mission of the Department of Defense and have supported the role of the United States as the military leader and protector of the Free World: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 22, 1993 is designated as "National Military Families Recognition Day" in appreciation of the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

IRISH-AMERICAN HERITAGE MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 119) to designate the month of March 1994 as "Irish-American Heritage Month," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, the preamble are as follows:

S.J. RES. 119

Joint resolution to designate the month of March 1994 as "Irish-American Heritage Month".

Whereas the first Irish emigrants arrived in America as early as 1621;

Whereas 9 of the generals who served in the Continental Army during the American Revolution were Irish born;

Whereas Commodore John Barry of County Wexford, Ireland, served brilliantly in the Continental Navy and is widely regarded as the father of the American Navy;

Whereas James Smith, George Taylor, Matthew Thornton, and Charles Thomson, 4 of the individuals who signed the Declaration of Independence, were Irish born and 9 other signers were of Irish ancestry;

Whereas the contributions of the Irish to America's victory in the American Revolution led Lord Mountjoy to exclaim in the British Parliament that "America was lost by the Irish emigrants";

Whereas beginning at the time of the potato blight and famine in Ireland in 1845, over 700,000 Irish immigrants came to the United States during the 1840's, 900,000 during the 1850's, and over 300,000 in each decade through 1910;

Whereas Irish Americans participated heavily in the industrial and economic development of America during the nineteenth century, building our cities and canals and the railroads that expanded the Nation to the West;

Whereas even today, it is said that under every railroad tie an Irishman is buried;

Whereas the Irish contributed greatly to the development of the labor movement in the United States, including the establishment of the American Miners Association in 1861;

Whereas nearly 150,000 natives of Ireland served in the Union forces during the Civil War;

Whereas more than 500 members of the Irish Brigade were killed while fighting for the Union in the Battle of Antietam on September 17, 1862, a date that has been called the bloodiest day in American history;

Whereas the Irish Brigade fought courageously in several other Civil War battles including Fredericksburg, Chancellorsville, Yorktown, Fair Oaks, Gaines Mill, Allen's Farm, Savage Station, White Oak Bridge, Glendale, Malvern Hill, Gettysburg, and Bristow Station;

Whereas in 1892, Annie Moore from County Cork, Ireland, at age 15 became the first immigrant to pass through Ellis Island;

Whereas Irish Americans have made numerous contributions to the arts and to sports, as exemplified by the achievements F. Scott Fitzgerald, Eugene O'Neill, Helen Hayes, Georgia O'Keefe, John L. Sullivan, and Connie Mack;

Whereas the first woman to serve as the organizer of the American Federation of Labor was Mary Kennedy O'Sullivan;

Whereas at the beginning of the twentieth century, many of the school teachers in America's largest cities were Irish American women;

Whereas President John F. Kennedy was the first American President to visit Ireland during his term in office;

Whereas Irish Americans, including Kathryn Sullivan, the first American woman to walk in space, and Christa Corrigan McAuliffe, America's first school teacher in space who perished on the Challenger mission, have bravely served as America's pioneers in space;

Whereas more than 200 Irish Americans have been awarded the Congressional Medal of Honor;

Whereas President William Jefferson Clinton is the nineteenth American President of Irish ancestry;

Whereas 37 United States governors and mayors designated March 1993 as "Irish-American Heritage Month"; and

Whereas 44 million Americans are of Irish ancestry: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of March 1994 is designated as "Irish-American Heritage Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this month with appropriate ceremonies and activities.

NATIONAL DRUNK AND DRUGGED DRIVING PREVENTION MONTH

The Senate proceeded to consider the joint resolution (S.J. Res. 122) designating December 1993 as "National Drunk and Drugged Driving Prevention Month," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 122

Whereas impaired driving is the most frequently committed violent crime in the United States;

Whereas last year 45 percent of those who died on our Nation's highways were the result of alcohol involved crashes;

Whereas last year nearly eighteen thousand people were killed and one million two hundred thousand were injured in crashes involving alcohol;

Whereas impaired driving continues to cost society some $46,000,000,000 each year in direct costs;

Whereas medical costs associated with impaired driving run approximately $5,500,000,000 a year;

Whereas injury and property damage resulting from impaired driving cause physical, emotional, and economic hardship for hundreds of thousands of adults and young people;

Whereas the ongoing work of citizen activists groups such as Mothers Against Drunk Driving (MADD), Students Against Driving Drunk (SADD), Remove Intoxicated Drivers (RID), and the National Commission Against Drunk Driving continue to promote good prevention efforts which have contributed to a 30 percent reduction in alcohol-related traffic deaths over the past decade;

Whereas a decade of intense public education effort has proved that alcohol-related highway crashes are not accidents and can be prevented;

Whereas comprehensive community-based strategies to further reduce and prevent impaired driving tragedies are known to be effective;

Whereas an increased public awareness of the gravity of the problem of drunk and drugged driving may help to sustain efforts to develop comprehensive solutions at the State and local levels;

Whereas more than seventy public and private sector organizations have joined together to carry out a nationwide public information, education, and enforcement campaign during the December holiday season;

Whereas the Secretary of Transportation has set a goal by the year 1997 to reduce alcohol-related fatalities to 43 percent and MADD has set a goal by the year 2000 to reduce alcohol-related traffic fatalities to 40 percent;

Whereas the Secretary of Health and Human Services has set a goal by the year 2000 for all fifty States to prohibit any allowable blood-alcohol concentration tolerance level for drivers younger than age twenty-one; and

Whereas December is a month of many holidays and celebrations, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of December, 1993 is designated as "National Drunk and Drugged Driving Prevention Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate activities.

GEOGRAPHY AWARENESS WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 131) designating the week beginning November 14, 1993, and the week beginning November 13, 1994, each as "Geography Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, the preamble are as follows:

S.J. RES. 131

Joint resolution designating the week beginning November 14, 1993, and the week beginning November 13, 1994, each as "Geography Awareness Week".

Whereas geography is the study of people and their planet, offering a framework for understanding ourselves, our interdependence with other peoples, our relationship to the Earth, and world events;

Whereas the United States has both worldwide involvements and influence that demand an understanding of geography, different cultures, and foreign languages;

Whereas a thorough knowledge of geography, different cultures, and foreign languages is essential to maintain the Nation's stature in the international community in matters of business, politics, the environment, and global events;

Whereas a geographic perspective is needed to understand the relationship between human activity and the condition of our planet in this time of increasing environmental problems;

Whereas our Nation's Governors, in the National Education Goals, explicitly identified geography along with English, mathematics, science, and history as the 5 core subjects in which American students should demonstrate competency;

Whereas world standards are being developed as benchmarks for student performance in each of the core subjects identified in the National Education Goals; and

Whereas a knowledge of world geography is essential for citizens of the United States to assume a responsible role in the future of an increasingly interconnected and interdependent world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 14, 1993, and the week beginning November 13, 1994, each be designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate ceremonies and activities.

NATIONAL CHILDREN'S DAY

The Senate proceeded to consider the joint resolution (S.J. Res. 139) to designate the third Sunday in November of 1993 as "National Children's Day," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble are as follows:

S.J. RES. 139

Joint Resolution to designate the third Sunday in November of 1993 as "National Children's Day".

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third Sunday in November of 1993 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

NATIONAL WOMEN VETERANS WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 142) designating the week beginning November 7, 1993, as "National Women Veterans Recognition Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 142

Joint resolution designating the week beginning November 7, 1993, as "National Women Veterans Recognition Week".

Whereas there are more than 1,200,000 women veterans in the United States representing 4.6 percent of the total veteran population;

Whereas the number of women serving in the United States Armed Forces and the number of women veterans continue to increase;

Whereas women veterans have contributed greatly to the security of the United States through honorable military service, often involving great hardship and danger;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas the lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled; and

Whereas designating a week to recognize women veterans will help both to promote important gains made by women veterans and to focus attention on the special needs of women veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 7, 1993, is designated as "National Women Veterans Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

NATIONAL HEALTH INFORMATION MANAGEMENT WEEK

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 205, designating National Health Information Management Week, just received from the House; that the resolution be deemed read a third time, passed, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relative to the passage of this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 205) was deemed read a third time and passed.

The preamble was agreed to.

THE SCHEDULE

Mr. MITCHELL. Madam President, as I indicated and as has previously been agreed to by the Senate, the Senate will on Monday take up the matter relating to the resolution by the Ethics Committee regarding Senator PACKWOOD. The Senate will consider that matter for as long as debate continues.

On Tuesday, in accordance with the order just obtained, there will be a cloture vote at 2:15 on the five nominations to which I referred and, if cloture is invoked, there will be 90 minutes of debate on those nominees, and then votes on each of them at the conclusion of the 90 minutes.

It is my intention to proceed to other legislation, including the crime bill, education, and other matters which may be appropriate for consideration following the disposition of the Ethics Committee resolution and the nominations to which I have just referred.

It is also my intention to proceed as soon as possible thereafter to consideration of the rescission and spending cut package and the balanced budget amendment, and that will occur in the near future, following consideration of some of the measures to which I have referred.

I do not intend to make this an exclusive list or be bound with respect to the order of the days but so that Senators can be alert to what is coming. I wanted to make that clear.

Madam President, I now ask unanimous consent that Senators GORTON, SIMPSON, and SARBANES be recognized to address the Senate and that at the conclusion of their remarks the Senate then stand in recess as previously ordered.

Mr. SARBANES. Madam President, I just want to put a couple questions to the majority leader, if I might.

Mr. MITCHELL. I will yield for a question.

Mr. SARBANES. As I understand it, we are going to have another cloture vote on Tuesday; is that correct?

Mr. MITCHELL. That is correct. At 2:15 on Tuesday there will be a cloture vote.

Mr. SARBANES. I listened to the exchange, which is what brought me to the floor, and it was asserted that people who require us to go to cloture votes in order to do business are operating within the rules of the Senate.

I simply want to make the point that they may be operating within the letter of the rules of the Senate but, in my judgment, they are not operating within the spirit of the rules of the Senate, as witnessed by the majority leader's statement about how rarely the filibuster was used in most Congresses since that technique has been available and how frequently it is now being used, almost as a standard course of business.

Of course, what it is doing is thwarting the ability of the institution to come substantively to grips with the issues that are before it.

In this instance, it has even reached the point of holding up nominees for some totally unrelated matter, but it is happening on a whole range of issues that are coming before the Senate that are preventing us from action.

I am frank to tell the majority leader, as to this committee on which I serve that is looking into the procedures of the institution and how we function, one of the things we need to come to grips with is the use of this filibuster. Otherwise, I do not see how the Senate as an institution is going to be able to do the Nation's business.

We are prevented from acting on measures up or down by the use of this filibuster and the requirement of an extraordinary majority.

What has happened now, at least in my perception, is that Members are filibustering and holding up action on particular measures for reasons totally unrelated to that particular issue that is before the Senate. They get angry at some department because they will not take an administrative action they want them to take, and they come out here and slap a hold on an item and then proceed to use a filibuster in order to keep the Senate from acting.

In the end what it does is prevent a majority of the institution from working its will on important legislation.

I do not know how many times in the last Congress a cloture motion had to be filed in order to try to do the job.

I heard one of my colleagues say—"Well, this is all within the rules of the Senate." I just want to make the point. Technically that is correct. But, in effect, what has happened is the rules of the Senate, which allow for a certain course of conduct, in my judgment, are not being used but abused, and they are being abused repeatedly preventing the Senate from doing its business.

The immediate way to get around it is to vote cloture, but my own view is we have to try to address a more fundamental change than that. It is really not fair to the institution. It is certainly not fair to the American people. Of course, the more it is used the more people resort to its use.

I have seen it happen in the course of my service in the Senate. Filibustering has gone from being an extraordinary thing to being a standard weapon and a standard technique. It was never intended to be that. The use of the filibuster in that fashion, in my judgment, is an abuse of the spirit of the rules. It is like any rule or like most rules which require a certain amount of self-restraint in their use. If you do not exercise that self-restraint and you carry it out to the limits, it becomes an abuse, and then you have to try to revise the rules somehow in order to limit the abuse.

I am frank to say I think the Senate has reached that point on this matter.

I thank the majority leader for yielding.

Mr. MITCHELL. Mr. President, I thank my colleague for his comments.

Mr. President, I renew my request.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. MITCHELL. I modify my request.

I gather the Senator from Maryland is not going to wish to speak.

Mr. SARBANES. The Senator is correct.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the request be modified that it be just Senators GORTON and SIMPSON be recognized and at the conclusion of their remarks the Senate stand in recess, as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, if I might, in response to my friend from Maryland, because I listened to that with whimsical humor. It overtook me, actually, because it is like the old phrase you never discuss the noose in the house of the hangman. I remember so well what happened with many, many of the nominations of President George Bush and President Ronald Reagan, the especially spirited number of hearings conducted by the Senator from Maryland with regard to the issue of contributions and ambassadorships, and things as mundane as that, which were spirited.

But let the Record show that Senator MITCH MCCONNELL, who has been referred to here, at least obliquely and perhaps personally, is at the bedside of his mother. That is where he is today. She is critically ill. He had a hold on these.

It is perfectly appropriate for this leader to bring this forward. But it is also perfectly appropriate to know what the situation is and why. There is always a reason for things in here, and then there is a real reason.

The real reason is because during the past administration there was a great folderol in the State Department as to who did what to whom and who leaked what during the campaign. Then we found the same set of circumstances, except a different administration in place, which was offensive to many, and there this was an instrument. It has nothing to do with the five people on there. It was an instrument to bring it to the attention of this body that you cannot talk out of both sides of one's mouth.

That is how we got here. And now it is going to be resolved. I will vote to invoke cloture. Cloture is a very important tool and it works very well, and it works especially well if you are a member of the minority. And it works especially well if the President is of the other party.

We have not used it much. This Senate gets a great deal done, thanks to the majority leader and the minority leader. We do a ton of business and we do it in a good atmosphere.

So it is fascinating to me that, when one little bump comes up, suddenly I am reminded and refreshed of how it really was for a lot of years when someone else was on the other side. It is a fascinating business.

Mr. MITCHELL. Mr. President, I, of course, as do all Senators, regret that Senator MCCONNELL's mother is ill and that has necessitated his absence. I did not bring up that fact in the discussion.

The reality is that we have been working on this for a few weeks now. After the delay of that period, I made a commitment to these nominees that I would bring this matter forward this week. I communicated, both to staff and directly with the Republican leader, that I made a commitment and I felt that I must honor that commitment that we proceed to try to bring this to a conclusion.

Most unfortunately, Senator MCCONNELL had to leave today because of the illness of his mother, and that is understandable.

The solution that we have reached, of course, means that we will not take these up and get to the debate until next Tuesday afternoon, which thereby permits me to honor the commitment I made to the nominees that we would bring this matter up this week and also permit time for Senator MCCONNELL to return and to be present during the debate.

So, I just wanted to make that point clear, that I am, of course, conscious of his circumstance and join all Senators in expressing our deepest sympathy and regret. I believe that this resolution permits both to occur; that the commitment to bring it up is honored, and time is permitted for him to return, and that time will be possible anyway under the cloture rules.

Mr. President, before I yield to the Senator from Maryland, I have one further unanimous-consent request that I would like to make.

PENSION ANNUITANTS PROTECTION ACT OF 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 1312, the Pension Annuitants Protection Act of 1993, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:.

A bill (S. 1312) to amend the Employee Retirement Income Security Act of 1974 in order to provide for the availability of remedies for certain former pension plan participants and beneficiaries.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1091

Mr. MITCHELL. Mr. President, on behalf of Senators METZENBAUM and KASSEBAUM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. METZENBAUM, for himself and Mrs. KASSEBAUM, proposes an amendment numbered 1091.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 2, line 1, before the word "semicolon" add ""or" after the".

On page 2, line 7, delete "(A)".

On page 2, line 19, after "vided" add "or to be provided".

On page 3, lines 8–9, delete "other than the relief authorized in section 2 of this Act".

The PRESIDING OFFICER. Is there debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1091) was agreed to.

• Mr. DURENBERGER. Before the Senate considers S. 1312, I would like to ask a point of clarification from the sponsor of the bill, my colleague from Ohio, Senator METZENBAUM. As you know, S. 1312 seeks to make clear that parties bringing suit under ERISA for fiduciary breach in the purchase of insurance annuities, including the Department of Labor, may seek and recover appropriate relief. Is it your intention or the intention of this bill to specify the type of remedies to be awarded by a court?

Mr. METZENBAUM. No that is not my intention. The purpose of this bill is to make clear that the Department of Labor and private parties may seek appropriate relief for violations of ERISA. This bill does not seek to tell plaintiffs what type of relief they should seek or to approve or disapprove of particular remedies that have been sought. It is my hope that private parties will seek and courts will fashion remedies appropriate to undo whatever harm has been caused by a violation of the law.

Mr. DURENBERGER. I thank my colleague for his explanation. I would also like to express my view that under this legislation courts should use their powers and discretion to tailor remedies in ways that fully protect workers and retirees but do not unduly burden employers.•

The PRESIDING OFFICER. If there is no further debate, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pension Annuitants Protection Act of 1993".

SEC. 2. CIVIL ENFORCEMENT OF ERISA.

Section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended—

(1) by striking the "or" after the semicolon at the end of paragraph (5),

(2) by striking the period at the end of paragraph (6) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(7) in the event that the purchase of an insurance contract or insurance annuity in connection with termination of an individual's status as a participant covered under a pension plan with respect to all or any portion of the participant's pension benefit under such plan constitutes a violation of part 4 of this title or the terms of the plan, by the Secretary, by any individual who was a participant or beneficiary at the time of the alleged violation, or by a fiduciary, to obtain appropriate relief, including the posting of security if necessary, to assure receipt by the participant or beneficiary of the amounts provided or to be provided by such insurance contract or annuity, plus reasonable prejudgment interest on such amounts.".

SEC. 3. WAIVER OR REDUCTION OF CIVIL PENALTY.

Section 502(l)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)(3)(B)) is amended by inserting "(or to provide the relief ordered pursuant to subsection (a)(7))" after "to restore all losses to the plan".

SEC. 4. EFFECT ON OTHER PROVISIONS.

Nothing in this Act shall be construed to limit the legal standing of individuals to bring a civil action as participants or beneficiaries under section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)), and nothing in this Act shall affect the responsibilities, obligations, or duties imposed upon fiduciaries by title I of the Employee Retirement Income Security Act of 1974.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to any legal proceeding pending, or brought, on or after May 31, 1993.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE FILIBUSTER PROBLEM

Mr. SARBANES. Mr. President, I simply say to my good friend, the distinguished Senator from Wyoming, that I came to the floor to speak on the filibuster problem, not particularly as it related to the specific issue of these nominees—and I am certainly sympathetic to the situation in which Senator MCCONNELL finds himself—but I really came over upon hearing a colleague on the other side who said, "Well, look, the use of the filibuster is within the rules and people who use the filibuster"—as they are continuously doing it—"are simply functioning within the rules."

The point I want to make is that, while that is technically within the letter of the rules, I think it is outside the spirit of the rules.

What has happened is that the filibuster—and the Senator himself just said it is a very effective use by the minority—in effect, what the minority does by consistently using it, as they have done in this Congress on virtually every measure of major consequence, is they prevent the institution from coming to grips with these issues unless they can produce a supermajority.

That is exactly what happened to the President's jobs stimulus program. We were never able to vote on it because the filibuster rule was used in order to thwart the ability of the majority to move forward with it.

When the distinguished Senator's father served in the Senate, the filibuster was hardly ever used. Members were prepared, in the end, to allow these issues to go to a vote and be voted up or down and let the majority of the institution prevail. That is no longer being allowed.

The filibuster is being used virtually as a standard technique on any measure of consequence that has any controversy associated with it.

It is my very strongly held view that this is not a use of the rules, this is an abuse of the rules. What it is doing is, in effect, undercutting the ability of the U.S. Senate to act as an institution that can come face to face with issues that are before the country.

One only has to look at the number of times that the filibuster has been used and cloture has had to be invoked in recent years.

What happens, of course, is that, in the end, if the filibuster is going to be used, every Member starts using it.

I am interested to hear the Senator's statement, because the filibuster traditionally was never used as sort of a standard technique by the minority party to thwart the ability of the Senate to come to grips with issues. But that is now what is happening.

I think we all need to step back from this and take a look at what is occurring. If you have any concern for the Senate as an institution in this democracy, with an ability, to substantively act on measures and come to grips with them, I think you have to recognize that the filibuster now has become a major stumbling block to the effective functioning of the Senate. I think we are going to have to start considering what to do about it.

The traditional argument that is made for its use is it prevents hasty action. And that is not an argument without some merit. But what is happening here is it is not only preventing hasty action, it is preventing any action at all.

The question then really arises as to whether we ought not to consider reforming this rule in such a way that it allows for some delay in considering matters. But, in the end, you cannot be thwarted from considering the matter. I think that is a matter that we are going to have to come to grips with at some point if this rule continues to be abused in the manner in which it has been taking place in recent times.

Mr. SIMPSON. Mr. President, I do enjoy my colleague from Maryland. He is one of the brightest people in this Chamber and speaks with great passion.

But, as I say, I get a whimsical, almost wry response and feeling when I remember how it was when the President of the United States was in the other party.

But I think the record will show that this Congress has been very, very productive. One need only to look at what we have dealt with and what we have passed.

Simply because there are still some lingering emotions about a singular time when we stiffed the other side of the aisle with regard to the activity that the Senator referred to is no reason at all to believe that that is the way that this place works.

The record does not disclose anything more than that this has been a very productive session, because of the Senator from Maine, the majority leader, and the Senator from Kansas, the minority leader, who understand each other perfectly, who work in an arena of trust and partisanship. And that is the way it works.

But what has happened, and the reason the filibuster is a little more applied in these latter days is because in committee, with all the horses, the Republicans will put in an amendment and suddenly, with no debate or cursory debate, suddenly—whammo. That is it. School is out. We are not going to deal with your amendment in committee. And there has been a lot of that stiffing going on in this session.

So if you want to talk about real life, that is part of it.

So you stiff the minority in committee, and you know what they are going to do. We all know what they are going to do. They are going to come here to the floor of the U.S. Senate, where they have an opportunity to put in their amendment.

So they put in an amendment that no one wanted to deal with in committee because it was too hot, and put the old tootsies right up to the fire. And the majority leader has no other option but to file a cloture motion because nobody wants to deal with that amendment because it might pass.

So let us look at all of it, keep it in perspective and know that this minority, this beleaguered 44, will help this President and have helped him with Somalia; have and will help him with regard to Russian aid while others on the other side of the aisle seem to drag their feet; and will be the vanguard of NAFTA, which is one of the most important things facing the country, and most of the votes will come from the Republicans.

We are here to work. We know why the hold was put on. If we just dealt honestly with things here the American public would understand it more clearly. The hold was put on by the Senator from Kentucky because, during the last administration and during the campaign it was determined that some rascals with the Republicans in the State Department were going through the files to find out personnel issues about people, real people in America, including the candidate for President.

The reason this hold was placed is because the IG had made a report that has to do with the administration looking into the files of personnel in the State Department to find out things about Bush appointees. So let us get it all out there, shovel it out here where we can see it. The IG made his report and we want the report made public as to why the administration was looking into the personnel files of the State Department with regard to Bush appointees. It is called the wheel coming full cycle.

I could quit but my colleague has run off for some more material, I think. I am going to wait. If the Senator from Maryland has any response I will certainly stay and address that. But that is the honest reason as to why this came up. The hold was placed simply because of the hypocrisy of one group saying you can go through the files when you are a Republican and it is no good but if you do it as a Democrat it is all right. That is how we got here.

I will certainly do anything I can to hold the RECORD open and session open, and I will stay so the Senator from Maryland can respond. I think under the order I will go to the Senator from Washington, if the Chair concurs.

The PRESIDING OFFICER. Under the previous order the distinguished Senator from Washington is recognized.

NAFTA AND THE AIRLINES

Mr. GORTON. Mr. President, last spring, with great fanfare, the administration announced the formation of the National Airline Commission. The administration rightly recognized that the aviation industry which had lost tens of thousands of jobs and suffered financial losses totaling over $10 billion during the last 3 years needed a thorough review. A distinguished panel deliberated for 3 months and issued a comprehensive set of recommendations. Unfortunately, since then, these recommendations have either been ignored or repudiated by this administration. This does not serve the aviation industry well and it does not serve this country well.

One of the major findings of the Airline Commission was that the present tax require on airlines defies common sense and good public policy. The Commission pointed out that the industry now pays more than $5 billion a year in Federal user fees and taxes. The Commission recommended that many of these taxes be reduced and that new taxes not be imposed on the industry. Yet before the print was even dry on this fine report, the President signed a bill imposing $1.5 billion in new transportation fuel taxes on the airlines over the next 5 years. Now again, as if this industry has not already borne a heavy enough financial burden, the administration proposes to impose more new fees to pay for NAFTA.

Initially, the administration proposed that in order to pay for revenue that will be lost by reduced tariffs under NAFTA we should double the existing $5 airline customs fee and impose a new $10 fee on passengers traveling to the Caribbean, Mexico, and Canada. These new fees were designed to raise $326 million a year.

Now the administration through a USTR spokeswoman claims that it never really proposed a new $5 fee, but just floated this idea to "see how Congress would react. We wanted some input and we got it." The administration got the input but has not yet got the message—a $5 increase, a $2.50 increase, or now a proposed $1.50 increase are all nonstarters and just not acceptable.

Last week, I received a letter from Ray Vecci, the president of Alaska Airlines—a company that enjoyed 19 years of consecutive profits until last year, when it went into the red. Mr. Vecci's letter explained why any new increases in fees must be rejected. Alaska Airlines currently serves four Mexican cities, Guadalajara, Los Cabos, Mazatlan, and Puerto Vallarta. An additional $10 for every ticket from these cities is more than the entire profit per passenger on these routes. That fee will mean less travel between the United States and Mexico, and more pain for a United States airline that expects to lose money this year.

Two weeks ago, I called our U.S. Trade Representative, Mickey Kantor and spoke with him again last week when the Senate Commerce Committee held a hearing on NAFTA implementing legislation. I told him that while I am a strong supporter of NAFTA, this new tax is entirely inappropriate and is the last thing our beleaguered airline industry can absorb. Many of my colleagues in the House also contacted the President and told him that it would be difficult for them to support any new taxes to pay for NAFTA. While I am encouraged that this message may be having an effect as we are beginning to see some signs of flexibility and reason coming from some administration officials, I am still concerned about the persistence of the airline passenger fee idea, that even now we are being told that we will not know if the administration will propose a new fee until the legislation is written this weekend or early next week.

It is ironic that the administration is considering placing a tax on the airlines for NAFTA since the adoption of NAFTA will have no direct impact on air transportation between the United States, Canada, and Mexico. Unique among industries, air service between the United States and foreign countries depends upon individually negotiated bilaterals. The administration's proposal would place us in the position of violating many of our bilaterals because most of our agreements require that any charges imposed on air carriers be related to airport or air traffic control costs. Clearly, this new fee would be completely unrelated to the present customs user fee which is imposed to pay for international inspectors and equipment.

In a further ironic twist, this new fee which supposedly would pay for worker retraining caused by NAFTA implementation, would likely result in further job losses in the airline industry.

One of my largest constituents in Washington State, the Boeing Co., has felt the pain of our airline industry. When airlines struggle, they stop buying planes, begin deferring orders, and often seek the best possible Government financing, which frequently now comes from Europe. All of these factors combined have caused huge job losses in the aviation manufacturing industry. Thousands of my constituents have lost their jobs.

Yet, the Boeing Co. supports NAFTA and was like the rest of the industry surprised when the administration decided to float a new airline fee. Boeing sees the overall agreement as a way of dismantling trade barriers, and of applying international rules to trade in services and investment. It expects Mexico's aircraft market to grow 25 percent to $10 billion between now and the year 2010. Perhaps most importantly, it sees NAFTA as a crucial precedent for our Nation's trade policy.Without its success, an Uruguay round that lowers tariffs around the world and limits foreign aircraft manufacturing subsidies will be nearly impossible. NAFTA is one Government initiative that our aerospace industry truly does need.

Now, for all of its talk about helping our aerospace industry, the administration is considering a tax that would cost that industry jobs while defeating an initiative that would offer it some relief. I strongly urge the administration to find another means of financing these lost tariffs, so that I and many others can enthusiastically vote for this agreement, and see it pass.

Mr. SARBANES and Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The acting Republican leader.

Mr. SIMPSON. Mr. President, under the unanimous-consent agreement, I believe I have the floor and I will yield to the Senator from Maryland. The Senator from Montana has a moment of recognition.

But let me say this, and the Senator from Maryland will correct it in his own way or do whatever he wishes. As I spoke about the real reason why we are enmeshed here—and I wish Senator McCONNELL were here as he could explain it so very much more clearly, but it is my understanding, and I said, the inspector general had made a report and we wanted it to be public to see what this administration was doing looking into the Bush personnel in the State Department.

It is my understanding that Senator McCONNELL has been anxiously awaiting the inspector general's report and wants to make it public, to find out just exactly what did go on before these nominees went through. The nominees were, unfortunately, held hostage. I know the Senator from Maryland knows how well we do that on both sides of the aisle here in all administrations.

One of these fine people is well known to me, an Ambassador, and I have talked to the Senator's staff and asked why that person could not go forward. Now that person will go forward because I will vote for cloture on Tuesday, and we will move forward.

But you want to understand, Mr. President, that Senator McCONNELL will continue his quest and the purpose of the quest, that when this report becomes available—and it is apparently not currently available—that, indeed, this Senator, Senator McCONNELL, and I am sure others on our side of the aisle, will want to know what happened with it and will want it to be fully public so that we do not have any hypocrisy in the treatment of people in the State Department under different administrations.

I wish to get that clearly in the RECORD.

Mr. SARBANES. Will the Senator yield on that point?

Mr. SIMPSON. Yes, indeed.

Mr. SARBANES. I deferred earlier responding to the Senator when he made the statement, because I wanted to be certain of the accuracy. So I went to make a couple of telephone calls.

The Senator from Wyoming stated that the inspector general had made his report and that access to the report, or knowledge about the contents of that report was being denied. I did not think that was correct, but I was not certain of that. I have made a phone call, and what I have been informed is the inspector general has not completed his inquiry or investigation.

Now, of course, the inspector general operates with a degree of independence from the administration and, indeed, from the Congress, as he ought to.

So as I understand it—this is not an issue that I have been involved in, but as I understand it, that report has not been completed. The inspector general is still conducting his investigation. So you do not have a situation in which the inquiry has been completed and the report has been made and information about the findings of the report is being denied to people.

I further understand, I think as a matter of procedure, that if in fact the report turns up matters in which the Justice Department then takes an interest in a criminal sense, then you may have an ongoing problem about access since you would be interfering with a criminal investigation. But, of course, we do not even have the inspector general's report completed, which, as I understood it, from what the Senator said earlier, had been completed but that information about its findings was being denied to us. I do not think that is where we are.

I understand that is the Senator's understanding as I listened to his last statement. And I deferred earlier responding to him in saying what I have just said because I wanted to be certain that that was the case.

Mr. SIMPSON. Mr. President, that is essentially the case. As I expressed to the Senator from Maryland privately before this last colloquy, indeed, I wanted to correct that record, which I did. I think that that record is now correct.

But I would ask unanimous consent to be printed in the RECORD a letter from the Republican leader and Senator McCONNELL to the Honorable Warren Christopher with regard to the issue of requesting information because of the media commentary that a State Department person from the White House Liaison Office had searched the records of 160 former political appointees and the protected contents of at least two of those files were publicly disclosed. I think it is rather extraordinary.

Subsequently, Department officials "insisting on anonymity" claimed the file search was "inadvertent."

It is difficult almost to determine what an inadvertent file search is. But since there had been such high old fun with a member of the State Department during the campaign, Senator McCONNELL particularly wanted some answers to the questions of whether the search was requested or authorized by officials at the State Department acting alone or at the direction of the White House. These were questions asked of Secretary Christopher:

> What was the intended use of the documents? Other than reporters at the Washington Post, who received information from these files. Is the individual involved still working at the Department of State?

The letter said:

> These questions go to the heart of your administration of the Department of State. We believe they must be answered.

They were not answered, and therefore Senator McCONNELL, as is his perfect right, placed a hold on these persons, and therefore that hold will now come up for a vote on cloture.

It is unfortunate but many Democrats, during the last administration, put holds on various nominees of the President of the United States, Ronald Reagan and George Bush, not because the nominees were not qualified but because they wanted the administration's attention or they wanted response to a special project or something that was totally unrelated to the nominee's qualifications or abilities.

That is what has happened here. That is what holds are used for. That is why it was a necessity for the leader to go to a cloture motion.

So those are realities just as real as the things the Senator from Maryland has previously discussed.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> U.S. SENATE,
> *Washington, DC, September 9, 1993.*
> Hon. WARREN CHRISTOPHER,
> *Secretary, Department of State, Washington, DC.*
>
> DEAR SECRETARY CHRISTOPHER: We are writing to request your response to news reports alleging a former Clinton campaign official serving in the White House Liaison Office at the State Department searched the records of 160 former political appointees. The protected contents of at least two of these files were publicly disclosed.
>
> Subsequently, Department officials "insisting on anonymity" claimed the file search was "inadvertent." Nonetheless, the Assistant Secretary for Administration was concerned enough to seal the documentary evidence and forward the matter to the Inspector General. Senior officials in your Department are obviously aware of and publicizing their interpretation of the events in this case.
>
> This situation could reflect the misconduct of an individual former campaign worker or represent evidence of far reaching, politically motivated, illegal activity. We believe it is important that you offer answers to the following questions:
>
> 1. Was the search suggested, requested or authorized by officials at the State Department acting alone or at the direction of the

White House, Democratic Party or any other entity?

2. What was the intended use of these documents?

3. Other than reporters at the Washington Post, who received information from these files?

4. Is the individual involved still working at the Department of State?

These questions go to the heart of your administration of the Department of State. We believe they must be answered prior to proceeding with further consideration of the State Department's authorization or appropriations bills. We look forward to your prompt reply.

Sincerely,

ROBERT DOLE,
Republican Leader.
MITCH MCCONNELL,
U.S. Senator.

Mr. SARBANES. I am not suggesting that the filibuster has not been used on both sides. I am suggesting that it is now being abused, and we need to step back and take a look at it and see what we can do so it does not continue to thwart the ability of the institution to do business.

Mr. SIMPSON. I hear my friend. I hear my friend.

Mr. SARBANES. I would strongly make the case, if we could absent ourselves from this back and forth about who hit whom first—we can develop that back—it has now reached the point with where this tactic is really undercutting the ability of the Senate to function as a strong institution in our Democratic system.

Mr. SIMPSON. Mr. President, I would never want to see the Senate get in that position and the public record and the record of this fine session shows that that is not the case. We have moved a tremendous amount of legislation, a tremendous amount.

So it cannot be quite as oblique as portrayed.

Mr. SARBANES. That is for another debate because we can go through the measures and how the filibuster was used and how it thwarted the Senate. But increasingly there is a growing perception across the country that this technique is really preventing the Senate from coming to grips with the Nation's problems and constitutes a form of gridlock which I think undercuts the standing of the Senate as an institution which can respond to the problems of the American people. I think all of us, all 100 of us need to really think this through carefully in an institutional way.

In other words, we have to take ourselves out of a partisan context and be prepared to really confront how the institution ought to operate and whether the repeated use of this tactic, which in effect prevents a majority from finally taking action on measures, is good for the health of the Senate and good for the health of the country.

Mr. SIMPSON. Mr. President, I will join with the Senator from Maryland to dampen our partisan pursuits in that endeavor because he and I both enjoy that aspect of public life. He is very good at it. So am I. And if the Senator from Maryland wants to join in a bipartisan way to do things that make the Senate work better than it has, he and I will, and I shall look forward to that opportunity.

Let me then ask unanimous consent if the Senator from Montana could speak for 1 minute to introduce a remark about a deceased friend. Then I will proceed under the unanimous-consent request with a statement wholly unrelated to this item.

The PRESIDING OFFICER. The unanimous-consent request is granted. The Chair, in his capacity as a Senator from West Virginia, would observe that the preceding conversation between the two Senators has been thoughtful.

The Senator from Montana.

Mr. BURNS. I thank the Chair.

A TRIBUTE TO FRANK DUNKLE

Mr. BURNS. Mr. President, Frank H. Dunkle, former director of the U.S. Fish and Wildlife died in Denver last Saturday. He was aged 69.

He was appointed by President Reagan in 1986 and had a stormy tour of duty as he was the target of environmental groups and congressional critics who said the agency under his leadership paid more attention to politics than protecting the Nation's natural resources. But the record does not bear that out.

According to an Associated Press story out of Helena, MT, he was credited with helping to create the Nation's first national recreational fisheries policy while heading the Federal wildlife agency. He implemented a North American waterfowl management plan and negotiated an agreement with Canada and Mexico to improve conservation of migratory birds and wetland habitats.

He was a native of Oakmont, PA, and served in the U.S. Navy in World War II and Korea. He was a Montana game warden and Yellowstone National Park ranger while working toward bachelor's and master's degrees in wildlife management at Montana State University. He was appointed to the Montana Fish and Game Department in 1963 and played an important role in enacting the State's stream preservation law and began Montana's program of acquiring land for winter game ranges, waterfowl habitat and fishing access.

In 1970, Frank convened the first national grizzly bear conference of State and Federal officials and researchers, the forerunner of the present Grizzly Bear Task Force.

If there ever was a man dedicated to the commonsense approach to our Nation's wildlife and environment, it was Frank Dunkle. I knew him and respected his judgment in such matters. Sure he was a person of controversy but who wasn't in those days of change. He stood his ground when criticism came from all directions and never lost or was swayed from his own judgment. I thank him for his service to my home State of Montana and this United States.

Mr. SIMPSON. Mr. President, I look forward to working with the Senator from Maryland on issues because I do enjoy him as a friend.

THE AARP

Mr. SIMPSON. Mr. President, I rise with some acknowledged trepidation, Mr. President—and on this I shall not extend—in order to express some very deep concerns regarding the activities of the AARP—I can almost feel the Chamber crumbling on my head—the American Association of Retired Persons, the AARP, one of the most enormously influential organizations in our society.

I am most assuredly well aware of the political hazards that one risks when offering up even the mildest criticisms of this mammoth organization. However, I believe my concerns are honest and valid ones, and I would take this opportunity to share them with my Senate colleagues and my fellow Americans.

Perhaps a very good place to start would be with the AARP propaganda machine, as I call it. First note that I am a member of the AARP. I have sent in my $8. I could not resist the blandishments which came to me in the mail when I came to the age of 55. Now the age of admission is 50. All you have to be is 50 to be in the American Association of Retired Persons. So imagine the membership net that they throw out across America.

I recently reviewed the September 1993 issue of the AARP Bulletin—I read these faithfully—the monthly newsletter which the AARP sends to its 34 million members, all paying $8 apiece dues. Figure that up. Big time.

I was immediately intrigued by the front-page headline which said, "AARP Set to Fight Curbs on Benefits." The first sentence of the article reads as follows. "Despite taking a major hit in last month's budget deal, America's elderly are now being targeted for even deeper benefit cuts this fall." What then follows is a lengthy dissertation that makes it sound as if America's senior citizens will be bearing all of the burden of the budget package recently signed into law by the President—and furthermore, that the Congress is getting ready to inflict more pain on older Americans. This is truly a preposterous and phony claim. Not the first time that this organization has espoused such doggerel.

The article then goes dramatically on to quote John Rother, the AARP legislative director, and there is quite a staff there—that will be the subject of subsequent remarks here on the floor—and their salaries.

He is saying, listen to this, "The situation is grave. * * * Our members should be very concerned and they should be very active." Read that "politically active." Then the gentle readers are directed to a column on the next page where they are urged to write and express their views to their Senators and Representatives.

I have always prided myself on communicating with my Wyoming constituents. I very much appreciate and enjoy reading letters and having phone calls from them. I represent a small State with a small population; indeed, the smallest. So to me it is a person-to-person exercise—so I think it is most unfortunate when these communications suddenly come to me which are prompted solely by inaccurate and deceptive information.

Even though I opposed the President's budget package, I do not believe for 1 minute it has singled out seniors for unfair treatment or a major hit. It troubles me greatly that there are 34 million Americans who are being fed false and misleading information on matters of such critical import for their own understanding.

It is no wonder why so many Americans have such a deep and abiding suspicion and distrust with Congress and their Federal Government. Based upon information that is provided by the AARP Bulletin, one could easily conjecture that Congress was solely made up of evil, uncaring, insensitive, and cruel people; and that seniors are being treated as second-class citizens in this country.

The reality however, as every thoughtful citizen knows, is that we are a very generous and compassionate Nation when it comes to taking care of our senior citizens. That is why we have a national debt of approaching $4.37 trillion—$4,370,000,000,000—and an annual deficit of $300 billion.

So just to set the record straight, let us review the so-called major hit—those are the AARP's words—that the budget package supposedly laid on these senior citizens.

First of all, the growth of Medicare spending was reduced by $55.8 billion over the next 5 years. Those are not cuts. That is the phoniest type of argument.

Do not let the AARP or the media sell you a bill of goods on that. The fiscal year 1992 increase in Medicare spending was 13 percent. The fiscal year 1993 increase is estimated to be 10.9 percent. They are not cuts. We are simply not going to allow the programs to go up as fast as they have in recent years.

When a 13-percent increase is described as a "cut" someone is not telling the truth. And with the exception of $7.8 billion, all of the $55.8 billion in savings are achieved at the expense of health care providers and hospitals. Services and benefits are not reduced in any way. No. None.

The only cost borne by Medicare beneficiaries—the $7.8 billion I just referred to comes from maintaining part B premiums at 25 percent of the cost of the program in fiscal years 1996 through 1998. And all this does is extend the current policies through 1998. There is nothing new about this.

We will hear from the AARP when we should very much consider raising the part B premium participation to 100 percent, because you see right now those who pay part B premiums are paying 25 percent of that premium regardless of their net worth or their income. So Joe Six-Pack is paying the premium, 75 percent of the premium, for someone who is extraordinarily well off. That is wrong. It is silly.

And wait until we try to change it. They will be dropping out of the trees like mayflies in May right onto the water where the trout can leap out. That is their constituency.

So that is something we want to recall with regard to part B premiums. We are going to have to say that those who earn over $100,000 in retirement are going to have to pay all of their part B premium, which will be about $136 a month. They will shriek like a gut shot panther, and these people will probably help them. Remember, right now they are paying about $36 a month for part B premiums. We are going to say, we are going to quadruple that. They are going to pay all of it, which will be about $140, and only if they have about $100,000 in retirement. We will hear from everyone on that. I know we will.

And we will just have to suck up and try to do it right, which will be very difficult because this organization—it will depend on whether they are aboard or not—this organization has the power to destroy the President's health care proposal, or Senator CHAFEE's health care proposal, or Senator BREAUX's health care proposal, or the Democratic proposal, or the Republican proposal.

Now with regard to Social Security, the budget package required that the individual seniors making more than $34,000 a year—this is in retirement—couples making more than $44,000 a year, will now have 85 percent of their Social Security benefits made subject to taxation. That does not mean they will be taxed at 85 percent. Some even write and tell me about that. I do not know where they get that information. It means that 85 percent of their Social Security is exposed to taxes. If they are in the 18 percent bracket, that is not a punitive tax, especially if they are making over $44,000 a year as a couple in retirement. This change in the law will generate $24 billion in revenues over 5 years.

If you were to combine this $24 billion with the $7.8 billion that results from adjusting part B premiums, you then have a total of $31.8 billion that Social Security and Medicare beneficiaries are contributing to deficit reduction. That is what they are coughing up. This may seem like a substantial amount, and it surely is. But it still accounts for only slightly more than 6 percent of the total deficit reduction package, and that, according to the AARP is a major hit on the seniors of America. Bosh.

I think it becomes very clear that the AARP believes that seniors should be largely excluded from participating in any efforts to reduce the Federal budget deficit. Be assured that they always say that they are "very willing to help" do this, and they are willing to help do "their share" and "bear their portion of the burden." Yet, the propaganda they feed out to their vast membership suggests otherwise.

If 6 percent is too much for seniors to contribute toward deficit reduction, then just what is acceptable to the AARP? I think we can find an answer to that question in carefully reviewing the AARP's public policy agenda. This is the AARP's official wish list. Do not miss it. It is 510 pages long. They probably send it to any Member. You can get a copy. This outlines everything the AARP would like the Federal Government to do for senior citizens. And just for starters, they would provide all seniors with expanded health care benefits under Medicare—long-term care coverage and prescription drug coverage—regardless of the person's net worth or income. Seniors of high income status would get these new benefits right along with those who truly cannot afford them.

The AARP would also demand that the Government expand upon housing programs for low-income seniors, energy assistance, food and nutrition assistance, transportation services, counseling, worker training, legal services, and the list goes on and on. Certainly, many of these services are obviously worthwhile, but they would break this Nation financially. The National Taxpayers Union has estimated the cost of these new services, and benefits would exceed $300 billion in this fiscal year alone. I really do believe and think many AARP members would be truly shocked—and even embarrassed—if they knew this broad agenda, this back-breaking agenda, was being proposed in their name and with their dues. By the end of the decade, the costs of these benefits would exceed $600 billion per year—in addition to the cost of everything else we already do for seniors.

As a member of the Senate Special Committee on Aging, I would like to make my colleagues aware of a report that the committee publishes annually. Here it is. It is entitled "Developments in Aging," and it consists of two volumes. Here they are. This report outlines all of the legislative activities that have taken place in the previous year with respect to aging issues. It also includes comprehensive information on all of the programs, benefits, services, and grants that are available to senior citizens of this country through the Federal Government. It is a marvelous document—heavy, too. I commend it to everyone's attention, "Developments in Aging," a report of the Special Committee, chaired by a wonderful person, Senator DAVID PRYOR, a lovely friend, and the ranking member, BILL COHEN—two very able United States Senators.

So I ask you if you might take a look at that.

In addition, I ask unanimous consent that a separate list of services to seniors compiled by my staff be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FEDERAL PROGRAMS TARGETED TO SENIORS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

1. Emergency Community Services for the Homeless (93.034), Office of Community Services, Administration for Children and Families, Department of Health and Human Services.
2. Special Programs for the Aging—Title III, Part B—Grants for Supportive Services and Senior Citizens (93.633), Administration on Aging, Office of the Secretary, Department of Health and Human Services.
3. Social Security—Research and Demonstration (SSA Research and Demonstration) (93.812), Social Security Administration, Department of Health and Human Services.
4. Social Security—Retirement Insurance (93.803), Social Security Administration, Department of Health and Human Services.
5. Social Security—Special Benefits for Persons Aged 72 and Over (93.804), Social Security Administration, Department of Health and Human Services.
6. Social Security—Survivors Insurance (93.805), Social Security Administration, Department of Health and Human Services.
7. Special Programs for the Aging—Title VI, Part A—Indian Programs—Grants to Indian Tribes and Part B, Grants to Native Hawaiians (93.655), Administration for Children and Families, Department of Health and Human Services.
8. Supplemental Security Income (93.807), Social Security Administration, Department of Health and Human Services.
9. Special Programs for the Aging—Title IV—Training, Research and Discretionary Projects and Programs (93.668), Administration on Aging, Office of the Secretary, Department of Health and Human Services.
10. Aging Research (93.866), National Institutes of Health, Public Health Service, Department of Health and Human Services.
11. Health Care Financing Research, Demonstrations and Evaluations (HCFA Research) (93.779), Health Care Financing Administration, Department of Health and Human Services.
12. Medicare—Hospital Insurance (Medicare) (93.773), Health Care Financing Administration, Department of Health and Human Services.
13. Medicare—Supplementary Medical Insurance (Medicare) (93.774), Health Care Financing Administration, Department of Health and Human Services.
14. Special Programs for the Aging—Title III, Part A—Long-Term Care Ombudsman Services for Older Individuals (State Grants for Aging Ombudsman Activities) (93.533), Administration on Aging, Office of the Secretary, Department of Health and Human Services.
15. Special Programs for the Aging—Title III, Part D—In-Home Services for Frail Older Individuals (In-Home Services for Frail Older Individuals) (93.641), Administration on Aging, Office of the Secretary, Department of Health and Human Services.
16. Special Programs for the Aging—Title III, Part F—Preventive Health Services (93.555), Administration on Aging, Office of the Secretary, Department of Health and Human Services.)
17. Special Programs for the Aging—Title III, Part G—Prevention of Abuse, Neglect, and Exploitation of Older Individuals (State Grants for Elder Abuse) (93.552), Administration on Aging, Office of the Secretary, Department of Health and Human Services.
18. Low-Income Home Energy Assistance (93.028), Administration for Children and Families, Department of Health and Human Services.
19. Special Programs for the Aging—Title III, Part C—Nutrition Services (93.635), Administration on Aging, Office of the Secretary, Department of Health and Human Services.

DEPARTMENT OF EDUCATION

1. Rehabilitation Services—Independent Living Services for Older Blind Individuals (84.77), Office of Special Education and Rehabilitation Services, Department of Education.

DEPARTMENT OF LABOR

1. Senior Community Services Employment Program (SCSEP) (Older Worker Program) (17.235), Employment and Training Administration, Department of Labor.

ENVIRONMENTAL PROTECTION AGENCY

1. Senior Environmental Employment Program, Office of Research and Development, Environmental Protection Agency.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

1. Home Equity Conversion Mortgages (14.183), Housing, Department of Housing and Urban Development.
2. Housing for the Elderly or Handicapped (202) (14.157), Housing, Department of Housing and Urban Development.
3. Congregate Housing Services Program (CHSP) (14.170), Housing, Department of Housing and Urban Development.
4. Mortgage Insurance—Nursing Homes, Intermediate Care Facilities and Board and Care Homes (232 Nursing Homes) (14.129), Housing, Department of Housing and Urban Development.
5. Mortgage Insurance—Rental and Cooperative Housing for Moderate Income Families and Elderly, Market Interest Rate (221)(D)) (3) and (4) Multifamily—Market Rate Housing) (14.135), Housing, Department of Housing and Urban Development.
6. Mortgage Insurance—Rental Housing for the Elderly (231) (14.138), Housing, Department of Housing and Urban Development.

DEPARTMENT OF AGRICULTURE

1. Nutrition Program for the Elderly (Commodities) (NPE) (10.570), Food and Nutrition Service, Department of Agriculture.

DEPARTMENT OF TRANSPORTATION

1. Capital Assistance Program for Elderly Persons and Persons with Disabilities (Elderly and Disabled, Section 16 (B)) (20.513), Federal Transit Administration, Department of Transportation.

VOLUNTEER PROGRAMS

1. Foster Grandparent Program (FGP) (72.001), Action.
2. Retired Senior Volunteer Program (RSVP) (72.002), Action.
3. Senior Companion Program (SCP) (72.008), Action.
4. Service Corps of Retired Executives Association (SCORE) (59.026), Small Business Administration.
5. Tax Counseling for the Elderly (21.006), Internal Revenue Service, Department of the Treasury.

(Mr. WOFFORD assumed the chair.)

Mr. SIMPSON. I think it is also vitally important to acknowledge that the AARP is not just some outfit that is set to look out for the poor and the destitute and disadvantaged, because despite its claim to be a nonprofit organization—and it has been referred to as a money machine in one article—the AARP is an extraordinary, wealthy, and profitable enterprise.

In 1992, the AARP had revenues totaling $386 million—$386 million. Included in this figure is the $102 million that came from membership dues—and that was before they raised their annual dues from $5 to $8. The AARP—I really want to look into this one—also receives $80 million in Federal grants and millions more in postal subsidies, all compliments of the U.S. taxpayers.

In addition, they reported interest income exceeding $37 million in 1992. Interest income. Imagine then, if the yield that is generated here is 6 or 8 percent—and it probably is—then the principal would be $500 million or $600 million. In what? Well, whatever it is, it is called principal in the real world, and you get interest off principal. And if you are getting a yield of $37 million—which I think has been adjusted up to $40 million, and I will have those figures—then imagine what the principal is. I will be exploring those issues in greater detail in weeks ahead—at my political detriment.

Finally, the balance of the AARP's revenues are derived largely from what is described in publications as an $8 billion to $10 billion cash flow—an empire that includes big, big businesses involving health, life, and auto insurance, travel services, mutual funds, a mail order pharmacy, and publications that bring in tens of millions of dollars in advertising revenues—almost $40 million in advertising revenue to this nonprofit organization in the year 1992 alone.

And then the AARP also receives 4 percent of every premium dollar paid to the Prudential Life Insurance Co. on their advertised insurance through AARP. In their magazine, they are even placing their ads for the things they do next to the paid advertisers, and there is an entirely separate examination of that going on by me.

None of this is inherently wrong. After all, this is America. But I think it is a most curious thing that such a prosperous money making machine has a nonprofit designation. More importantly, I think it is terribly wrong that this organization is communicating false and deceptive information to a large segment of the population. And no one is ever challenging them on their facts. This must stop. Nobody wants to take them on. I can assure you I will pay dearly for this, but I have done a little dragon slaying in my life, and I must say that the hot breath of the dragon has often seared the rest of the hair off this bald dome. I am not going to sit still and watch this continued distortion take place. We in Congress have an obligation to confront the AARP when they stray from the truth. It is not always easy to do that, and it is certainly not politically correct, especially when you are talking about an organization that openly and brazenly boasts about its clout and the millions of votes they represent.

I am encouraged, as is always the case, by a few sturdy souls in my State of Wyoming who have written to me saying "Don't be intimidated by the AARP." I believe that most thoughtful seniors, American citizens, when presented with honest and truthful information and facts, would reject the full blast of propaganda from the AARP. I am also hopeful that the young people in this Nation, and, boy, they better be listening—they will be out picking grit with the chickens in the year 2030, if you leave the AARP to set the national agenda—I am hopeful that the young people in this country are becoming more and more aware and much more politically astute, because they are the ones who will be picking up the tab for the excesses of the AARP agenda.

Let me conclude in emphasizing that my concerns about the AARP—and this will not appear anywhere, but I am saying it because I hope it will—and the manner in which they conduct their business, has nothing at all to do with bashing of senior citizens. I had a 95-year-old father who just died in June. I have a 93-year-old mother. My wife's mother is 93. We are blessed and we take care of them ourselves. One of them is quite able to do that. And yet there are millions or at least hundreds of thousands of people in this country who when their parents or their relatives become aged they suddenly say, "I think we better put the farm in Tommy's name because it just seems like it is important to do that now," and then put that person on title 19. That happens all the time in America.

There is lots of stuff out there, but I am not a basher of senior citizens nor am I trying to diminish the good that is accomplished by AARP. I think it is most admirable that over 400,000 AARP volunteers are involved in community service programs nationwide. I also know that many seniors sincerely benefit from the AARP's driving retraining program. People are frightened at that age, puzzled by driver training, and they help them, as well as consumer affairs information and legal services that the AARP provides in many areas.

These are very worthwhile services, and I will not belittle them in any way, and that is not what I am doing. But I can now hear the hew and cry and see the cartoons, emaciated, gaunt, bald, and slouched "Ichabod Crane" type cartoons like me make remarkable targets for the cartoonist pen.

No, that is not what I am up to. The AARP has every valid right as an organization of American citizens to promote the interests of our Nation's elderly, but they need to be much more careful about their facts and tactics.

I would wish that the AARP would play a more constructive role in the future. With their enormous audience and membership, they have the potential to be ever so helpful to us, especially in this area of health care reform. If they decide to turn, they can be the most destructive force to the President, to the Democrats, to the Republicans, to the House, and to the Senate.

So I hope they will communicate honestly and factually with their membership. I, for one, will continue to observe them very closely, and I am doing some serious research, and I will have much more to say on some of their other activities in the coming weeks.

I thank the Chair and I thank the staff because I have been a bit long, but I do not usually transgress upon the Chamber in that fashion.

RECESS UNTIL TOMORROW AT 10:30 A.M.

The PRESIDING OFFICER. Under the previous order the Senate stands in recess until 10:30 a.m., Friday, October 29.

Thereupon, the Senate, at 7:14 p.m., recessed until tomorrow, Friday, October 29, 1993, at 10:30 a.m.

EXTENSIONS OF REMARKS

HEALTH SECURITY ACT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. BONIOR. Mr. Speaker, I submit for the benefit of all Members and the American people, the President's health security plan, which I strongly support:

HEALTH SECURITY ACT

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF TITLES AND SUBTITLES.

(a) SHORT TITLE.—This Act may be cited as the "Health Security Act".

(b) TABLE OF TITLES AND SUBTITLES IN ACT.—The following are the titles and subtitles contained in this Act:

TITLE I—HEALTH CARE SECURITY

Subtitle A—Universal Coverage and Individual Responsibility
Subtitle B—Benefits
Subtitle C—State Responsibilities
Subtitle D—Health Alliances
Subtitle E—Health Plans
Subtitle F—Federal Responsibilities
Subtitle G—Employer Responsiblities
[Subtitle H—Reserved]
[Subtitle I—Reserved]
Subtitle J—General Definitions; Miscellaneous Provisions

TITLE II—NEW BENEFITS

Subtitle A—Medicare Outpatient Prescription Drug Benefit
Subtitle B—Long-Term Care

TITLE III—PUBLIC HEALTH INITIATIVES

Subtitle A—Workforce Priorities Under Federal Payments
Subtitle B—Academic Health Centers
Subtitle C—Health Research Initiatives
Subtitle D—Core Functions of Public Health Programs; National Initiatives Regarding Preventive Health
Subtitle E—Health Services for Medically Underserved Populations
Subtitle F—Mental Health; Substance Abuse
Subtitle G—Comprehensive School Health Education; School-Related Health Services
Subtitle H—Public Health Service Initiatives Fund
Subtitle I—Coordination With COBRA Continuation Coverage

TITLE IV—MEDICARE AND MEDICAID

Subtitle A—Medicare and the Alliance System
Subtitle B—Savings in Medicare Program
Subtitle C—Medicaid
Subtitle D—Increase in SSI Personal Needs Allowance

TITLE V—QUALITY AND CONSUMER PROTECTION

Subtitle A—Quality Management and Improvement
Subtitle B—Information Systems, Privacy, and Administrative Simplification
Subtitle C—Remedies and Enforcement
Subtitle D—Medical Malpractice
Subtitle E—Fraud and Abuse
Subtitle F—McCarran-Ferguson Reform

TITLE VI—PREMIUM CAPS; PREMIUM-BASED FINANCING; AND PLAN PAYMENTS

Subtitle A—Premium Caps
Subtitle B—Premium-Related Financings
Subtitle C—Payments to Regional Alliance Health Plans

TITLE VII—REVENUE PROVISIONS

Subtitle A—Financing Provisions
Subtitle B—Tax Treatment of Employer-Provided Health Care
Subtitle C—Employment Status Provisions
Subtitle D—Tax Treatment of Funding of Retiree Health Benefits
Subtitle E—Coordination With COBRA Continuing Care Provisions
Subtitle F—Tax Treatment of Organizations Providing Health Care Services and Related Organizations
Subtitle G—Tax Treatment of Long-term Care Insurance and Services
Subtitle H—Tax Incentives for Health Services Providers
Subtitle I—Miscellaneous Provisions

TITLE VIII—HEALTH AND HEALTH-RELATED PROGRAMS OF THE FEDERAL GOVERNMENT

Subtitle A—Military Health Care Reform
Subtitle B—Department of Veterans Affairs
Subtitle C—Federal Employees Health Benefits Program
Subtitle D—Indian Health Service
Subtitle E—Amendments to the Employee Retirement Income Security Act of 1974
Subtitle F—Special Fund for WIC Program

TITLE IX—AGGREGATE GOVERNMENT PAYMENTS TO REGIONAL ALLIANCES

Subtitle A—Aggregate State Payments
Subtitle B—Aggregate Federal Alliance Payments
Subtitle C—Borrowing Authority to Cover Cash-Flow Shortfalls

TITLE X—COORDINATION OF MEDICAL PORTION OF WORKERS COMPENSATION AND AUTOMOBILE INSURANCE

Subtitle A—Workers Compensation Insurance
Subtitle B—Automobile Insurance
Subtitle C—Commission on Integration of Health Benefits
Subtitle D—Federal Employees' Compensation Act
Subtitle E—Davis-Bacon Act and Service Contract Act
Subtitle F—Effective Dates

TITLE XI—TRANSITIONAL INSURANCE REFORM

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Under the current health care system in the United States—

(A) individuals risk losing their health care coverage when they move, when they lose or change jobs, when they become seriously ill, or when the coverage becomes unaffordable;

(B) continued escalation of health care costs threatens the economy of the United States, undermines the international competitiveness of the Nation, and strains Federal, State, and local budgets;

(C) an excessive burden of forms, paperwork, and bureaucratic procedures confuses consumers and overwhelms health care providers;

(D) fraud and abuse sap the strength of the health care system; and

(E) health care is a critical part of the economy of the United States and interstate commerce, consumes a significant percentage of public and private spending, and affects all industries and individuals in the United States.

(2) Under any reform of the health care system—

(A) health insurance and high quality health care should be secure, uninterrupted, and affordable for all individuals in the United States;

(B) comprehensive health care benefits that meet the full range of health needs, including primary, preventive, and specialized care, should be available to all individuals in the United States;

(C) the current high quality of health care in the United States should be maintained;

(D) individuals in the United States should be afforded a meaningful opportunity to choose among a range of health plans, health care providers, and treatments;

(E) regulatory and administrative burdens should be reduced;

(F) the rapidly escalating costs of health care should be contained without sacrificing high quality or impeding technological improvements;

(G) competition in the health care industry should ensure that health plans and health care providers are efficient and charge reasonable prices;

(H) a partnership between the Federal Government and each State should allow the State and its local communities to design an effective, high-quality system of care that serves the residents of the State;

(I) all individuals should have a responsibility to pay their fair share of the costs of health care coverage;

(J) a health care system should build on the strength of the employment-based coverage arrangements that now exist in the United States;

(K) the penalties for fraud and abuse should be swift and severe; and

(L) an individual's medical information should remain confidential and should be protected from unauthorized disclosure and use.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To guarantee comprehensive and secure health care coverage.

(2) To simplify the health care system for consumers and health care professionals.

(3) To control the cost of health care for employers, employees, and others who pay for health care coverage.

(4) To promote individual choice among health plans and health care providers.

(5) To ensure high quality health care.

(6) To encourage all individuals to take responsibility for their health care coverage.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TITLE I—HEALTH CARE SECURITY

TABLE OF CONTENTS OF TITLE

Subtitle A—Universal Coverage and Individual Responsibility

PART 1—UNIVERSAL COVERAGE

Sec. 1001. Entitlement to health benefits.
Sec. 1002. Individual responsibilities.
Sec. 1003. Protection of consumer choice.
Sec. 1004. Applicable health plan providing coverage.
Sec. 1005. Treatment of other non-immigrants.
Sec. 1006. Effective date of entitlement.

PART 2—TREATMENT OF FAMILIES AND SPECIAL RULES

Sec. 1011. General rule of enrollment of family in same health plan.
Sec. 1012. Treatment of certain families.
Sec. 1013. Multiple employment situations.
Sec. 1014. Treatment of residents of States with Statewide single-payer systems.

Subtitle B—Benefits

PART 1—COMPREHENSIVE BENEFIT PACKAGE

Sec. 1101. Provision of comprehensive benefits by plans.

PART 2—DESCRIPTION OF ITEMS AND SERVICES COVERED

Sec. 1111. Hospital services.
Sec. 1112. Services of health professionals.
Sec. 1113. Emergency and ambulatory medical and surgical services.
Sec. 1114. Clinical preventive services.
Sec. 1115. Mental health and substance abuse services.
Sec. 1116. Family planning services and services for pregnant women.
Sec. 1117. Hospice care.
Sec. 1118. Home health care.
Sec. 1119. Extended care services.
Sec. 1120. Ambulance services.
Sec. 1121. Outpatient laboratory, radiology, and diagnostic services.
Sec. 1122. Outpatient prescription drugs and biologicals.
Sec. 1123. Outpatient rehabilitation services.
Sec. 1124. Durable medical equipment and prosthetic and orthotic devices.
Sec. 1125. Vision care.
Sec. 1126. Dental care.
Sec. 1127. Health education classes.
Sec. 1128. Investigational treatments.

PART 3—COST SHARING

Sec. 1131. Cost sharing.
Sec. 1132. Lower cost sharing.
Sec. 1133. Higher cost sharing.
Sec. 1134. Combination cost sharing.
Sec. 1135. Table of copayments and coinsurance.
Sec. 1136. Indexing dollar amounts relating to cost sharing.

PART 4—EXCLUSIONS

Sec. 1141. Exclusions.

PART 5—ROLE OF THE NATIONAL HEALTH BOARD

Sec. 1151. Definition of benefits.
Sec. 1152. Acceleration of expanded benefits.
Sec. 1153. Authority with respect to clinical preventive services.
Sec. 1154. Establishment of standards regarding medical necessity.

PART 6—ADDITIONAL PROVISIONS RELATING TO HEALTH CARE PROVIDERS

Sec. 1161. Override of restrictive State practice laws.
Sec. 1162. Provision of items or services contrary to religious belief or moral conviction.

Subtitle C—State Responsibilities

Sec. 1200. Participating State.

PART 1—GENERAL STATE RESPONSIBILITIES

Sec. 1201. General State responsibilities.
Sec. 1202. State responsibilities with respect to alliances.
Sec. 1203. State responsibilities relating to health plans.
Sec. 1204. Financial solvency; fiscal oversight; guaranty fund.
Sec. 1205. Restrictions on funding of additional benefits.

PART 2—REQUIREMENTS FOR STATE SINGLE-PAYER SYSTEMS

Sec. 1221. Single-payer system described.
Sec. 1222. General requirements for single-payer systems.
Sec. 1223. Special rules for States operating Statewide single-payer system.
Sec. 1224. Special rules for alliance-specific single-payer systems.

Subtitle D—Health Alliances

Sec. 1300. Health alliance defined.

PART 1—ESTABLISHMENT OF REGIONAL AND CORPORATE ALLIANCES

SUBPART A—REGIONAL ALLIANCES

Sec. 1301. Regional alliance defined.
Sec. 1302. Board of directors.
Sec. 1303. Provider advisory boards for regional alliances.

SUBPART B—CORPORATE ALLIANCES

Sec. 1311. Corporate alliance defined; individuals eligible for coverage through corporate alliances; additional definitions.
Sec. 1312. Timing of elections.
Sec. 1313. Termination of alliance election.

PART 2—GENERAL RESPONSIBILITIES AND AUTHORITIES OF REGIONAL ALLIANCES

Sec. 1321. Contracts with health plans.
Sec. 1322. Offering choice of health plans for enrollment; establishment of fee-for-service schedule.
Sec. 1323. Enrollment rules and procedures.
Sec. 1324. Issuance of health security cards.
Sec. 1325. Consumer information and marketing.
Sec. 1326. Ombudsman.
Sec. 1327. Data collection; quality.
Sec. 1328. Additional duties.
Sec. 1329. Additional authorities for regional alliances to address needs in areas with inadequate health services; prohibition of insurance role.
Sec. 1330. Prohibition against self-dealing and conflicts of interest.

PART 3—AUTHORITIES AND RESPONSIBILITIES RELATING TO FINANCING AND INCOME DETERMINATIONS

SUBPART A—COLLECTION OF FUNDS

Sec. 1341. Information and negotiation and acceptance of bids.
Sec. 1342. Amount of premiums charged.
Sec. 1343. Determination of family obligation for family share and alliance credit amount.
Sec. 1344. Notice of family payments due.
Sec. 1345. Collection of premium payments.
Sec. 1346. Coordination among regional alliances.

SUBPART B—PAYMENTS

Sec. 1351. Payment to regional alliance health plans.
Sec. 1352. Alliance administrative allowance percentage.
Sec. 1353. Payments for graduate medical education and academic health centers.

SUBPART C—FINANCIAL MANAGEMENT

Sec. 1361. Management of finances and records.

SUBPART D—REDUCTIONS IN COST SHARING; INCOME DETERMINATIONS

Sec. 1371. Reduction in cost sharing for low-income families.
Sec. 1372. Application process for cost sharing reductions.
Sec. 1373. Application for premium reductions and reduction in liability to alliance.
Sec. 1374. General provisions relating to application process.
Sec. 1375. End-of-year reconciliation for premium discount and repayment reduction with actual income.

PART 4—RESPONSIBILITIES AND AUTHORITIES OF CORPORATE ALLIANCES

Sec. 1381. Contracts with health plans.
Sec. 1382. Offering choice of health plans for enrollment.
Sec. 1383. Enrollment; issuance of health security card.
Sec. 1384. Community-rated premiums within premium areas.
Sec. 1385. Assistance for low-wage families.
Sec. 1386. Consumer information and marketing; consumer assistance; data collection and quality; additional duties.
Sec. 1387. Plan and information requirements.
Sec. 1388. Management of funds; relations with employees.
Sec. 1389. Cost control.
Sec. 1390. Payments by corporate alliance employers to corporate alliances.
Sec. 1391. Coordination of payments.
Sec. 1392. Applicability of ERISA enforcement mechanisms for enforcement of certain requirements.
Sec. 1393. Applicability of certain ERISA protections to covered individuals.
Sec. 1394. Disclosure and reserve requirements.
Sec. 1395. Trusteeship by the Secretary of insolvent corporate alliance health plans.
Sec. 1396. Guaranteed benefits under trusteeship of the secretary.
Sec. 1397. Imposition and collection of periodic assessments on self-insured corporate alliance plans.

Subtitle E—Health Plans

Sec. 1400. Health plan defined.

PART 1—REQUIREMENTS RELATING TO COMPREHENSIVE BENEFIT PACKAGE

Sec. 1401. Application of requirements.
Sec. 1402. Requirements relating to enrollment and coverage.
Sec. 1403. Community rating.
Sec. 1404. Marketing of health plans; information.
Sec. 1405. Grievance procedure.
Sec. 1406. Health plan arrangements with providers.
Sec. 1407. Preemption of certain State laws relating to health plans.
Sec. 1408. Financial solvency.
Sec. 1409. Requirement for offering cost sharing policy.
Sec. 1410. Quality assurance.
Sec. 1411. Provider verification.
Sec. 1412. Consumer disclosures of utilization management protocols.
Sec. 1413. Confidentiality, data management, and reporting.
Sec. 1414. Participation in reinsurance system.

PART 2—REQUIREMENTS RELATING TO SUPPLEMENTAL INSURANCE

Sec. 1421. Imposition of requirements on supplemental insurance.

Sec. 1422. Standards for supplemental health benefit policies.
Sec. 1423. Standards for cost sharing policies.

PART 3—REQUIREMENTS RELATING TO ESSENTIAL COMMUNITY PROVIDERS

Sec. 1431. Health plan requirement.
Sec. 1432. Sunset of requirement.

PART 4—REQUIREMENTS RELATING TO WORKERS' COMPENSATION AND AUTOMOBILE MEDICAL LIABILITY COVERAGE

Sec. 1441. Reference to requirements relating to workers compensation services.
Sec. 1442. Reference to requirements relating to automobile medical liability services.

Subtitle F—Federal Responsibilities

PART 1—NATIONAL HEALTH BOARD

SUBPART A—ESTABLISHMENT OF NATIONAL HEALTH BOARD

Sec. 1501. Creation of National Health Board; membership.
Sec. 1502. Qualifications of board members.
Sec. 1503. General duties and responsibilities.
Sec. 1504. Annual report.
Sec. 1505. Powers.
Sec. 1506. Funding.

SUBPART B—RESPONSIBILITIES RELATING TO REVIEW AND APPROVAL OF STATE SYSTEMS

Sec. 1511. Federal review and action on State systems.
Sec. 1512. Failure of participating States to meet conditions for compliance.
Sec. 1513. Reduction in payments for health programs by secretary of health and human services.
Sec. 1514. Review of Federal determinations.
Sec. 1515. Federal support for State implementation.

SUBPART C—RESPONSIBILITIES IN ABSENCE OF STATE SYSTEMS

Sec. 1521. Application of subpart.
Sec. 1522. Federal assumption of responsibilities in non-participating States.
Sec. 1523. Imposition of surcharge on premiums under federally-operated system.
Sec. 1524. Return to State operation.

SUBPART D—ESTABLISHMENT OF CLASS FACTORS FOR CHARGING PREMIUMS

Sec. 1531. Premium class factors.

SUBPART E—RISK ADJUSTMENT AND REINSURANCE METHODOLOGY FOR PAYMENT OF PLANS

Sec. 1541. Development of a risk adjustment and reinsurance methodology.
Sec. 1542. Incentives to enroll disadvantaged groups.
Sec. 1543. Advisory committee.
Sec. 1544. Research and demonstrations.
Sec. 1545. Technical assistance to States and alliances.

SUBPART F—RESPONSIBILITIES FOR FINANCIAL REQUIREMENTS

Sec. 1551. Capital standards for regional alliance health plan.
Sec. 1552. Standard for guaranty funds.

PART 2—RESPONSIBILITIES OF DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBPART A—GENERAL RESPONSIBILITIES

Sec. 1571. General responsibilities of Secretary of Health and Human Services.
Sec. 1572. Establishment of breakthrough drug committee.

SUBPART B—CERTIFICATION OF ESSENTIAL COMMUNITY PROVIDERS

Sec. 1581. Certification.
Sec. 1582. Categories of providers automatically certified.
Sec. 1583. Standards for additional providers.
Sec. 1584. Certification process; review; termination of certifications.
Sec. 1585. Notification of health alliances and participating States.

PART 3—SPECIFIC RESPONSIBILITIES OF SECRETARY OF LABOR.

Sec. 1591. Responsibilities of Secretary of Labor.

Subtitle G—Employer Responsiblities

Sec. 1601. Payment requirement.
Sec. 1602. Requirement for information reporting.
Sec. 1603. Requirements relating to new employees.
Sec. 1604. Auditing of records.
Sec. 1605. Prohibition of certain employer discrimination.
Sec. 1606. Obligation relating to retiree health benefits.
Sec. 1607. Prohibition on self-funding of cost sharing benefits by regional alliance employers.

[Subtitle H—Reserved]

[Subtitle I—Reserved]

Subtitle J—General Definitions; Miscellaneous Provisions

PART 1—GENERAL DEFINITIONS

Sec. 1901. Definitions relating to employment and income.
Sec. 1902. Other general definitions.

PART 2—MISCELLANEOUS PROVISIONS

Sec. 1911. Use of interim, final regulations.

TITLE I—HEALTH CARE SECURITY

Subtitle A—Universal Coverage and Individual Responsibility

PART 1—UNIVERSAL COVERAGE

SEC. 1001. ENTITLEMENT TO HEALTH BENEFITS.

(a) IN GENERAL.—In accordance with this part, each eligible individual is entitled to the comprehensive benefit package under subtitle B through the applicable health plan in which the individual is enrolled consistent with this title.

(b) HEALTH SECURITY CARD.—Each eligible individual is entitled to a health security card to be issued by the alliance or other entity that offers the applicable health plan in which the individual is enrolled.

(c) ELIGIBLE INDIVIDUAL DEFINED.—In this Act, the term "eligible individual" means an individual who is residing in the United States and who is—

(1) a citizen or national of the United States;

(2) an alien permanently residing in the United States under color of law (as defined in section 1902(1)); or

(3) a long-term nonimmigrant (as defined in section 1902(19)).

(d) TREATMENT OF MEDICARE-ELIGIBLE INDIVIDUALS.—Subject to section 1012(a), a medicare-eligible individual is entitled to health benefits under the medicare program instead of the entitlement under subsection (a).

(e) TREATMENT OF PRISONERS.—A prisoner (as defined in section 1902(26)) is entitled to health care services provided by the authority responsible for the prisoner instead of the entitlement under subsection (a).

SEC. 1002. INDIVIDUAL RESPONSIBILITIES.

(a) IN GENERAL.—In accordance with this Act, each eligible individual (other than a medicare-eligible individual)—

(1) must enroll in an applicable health plan for the individual, and

(2) must pay any premium required, consistent with this Act, with respect to such enrollment.

(b) LIMITATION ON DISENROLLMENT.—No eligible individual shall be disenrolled from an applicable health plan until the individual—

(1) is enrolled under another applicable health plan, or

(2) becomes a medicare-eligible individual.

SEC. 1003. PROTECTION OF CONSUMER CHOICE.

Nothing in this Act shall be construed as prohibiting the following:

(1) An individual from purchasing any health care services.

(2) An individual from purchasing supplemental insurance (offered consistent with this Act) to cover health care services not included within the comprehensive benefit package.

(3) An individual who is not an eligible individual from purchasing health insurance (other than through a regional alliance).

(4) Employers from providing coverage for benefits in addition to the comprehensive benefit package (subject to part 2 of subtitle E).

SEC. 1004. APPLICABLE HEALTH PLAN PROVIDING COVERAGE.

(a) SPECIFICATION OF APPLICABLE HEALTH PLAN.—Except as otherwise provided:

(1) GENERAL RULE: REGIONAL ALLIANCE HEALTH PLANS.—The applicable health plan for a family is a regional alliance health plan for the alliance area in which the family resides.

(2) CORPORATE ALLIANCE HEALTH PLANS.—In the case of a family member that is eligible to enroll in a corporate alliance health plan under section 1311(c), the applicable health plan for the family is such a corporate alliance health plan.

(b) CHOICE OF PLANS FOR CERTAIN GROUPS.—

(1) MILITARY PERSONNEL AND FAMILIES.—For military personnel and families who elect a Uniformed Services Health Plan of the Department of Defense under section 1073a(d) of title 10, United States Code, as inserted by section 8001(a) of this Act, that plan shall be the applicable health plan.

(2) VETERANS.—For veterans and families who elect to enroll in a veterans health plan under section 1801 of title 38, United States Code, as inserted by section 8101(a) of this Act, that plan shall be the applicable health plan.

(3) INDIANS.—For those individuals who are eligible to enroll, and who elect to enroll, in a health program of the Indian Health Service under section 8302(b), that program shall be the applicable health plan.

SEC. 1005. TREATMENT OF OTHER NON-IMMIGRANTS.

(a) UNDOCUMENTED ALIENS INELIGIBLE FOR BENEFITS.—An undocumented alien is not eligible to obtain the comprehensive benefit package through enrollment in a health plan pursuant to this Act.

(b) DIPLOMATS AND OTHER FOREIGN GOVERNMENT OFFICIALS.—Subject to conditions established by the National Health Board in consultation with the Secretary of State, a nonimmigrant under subparagraph (A) or (G) of section 101(a)(15) of the Immigration and Nationality Act may obtain the comprehensive benefit package through enrollment in the regional alliance health plan for the alliance area in which the nonimmigrant resides.

(c) RECIPROCAL TREATMENT OF OTHER NONIMMIGRANTS.—With respect to those classes of individuals who are lawful nonimmigrants but who are not long-term nonimmigrants (as defined in section 1902(19)) or described in subsection (b), such individuals may obtain such benefits through enrollment with regional alliance health plans only in accordance with such reciprocal agreements between the United States and foreign states as may be entered into.

SEC. 1006. EFFECTIVE DATE OF ENTITLEMENT.

(a) REGIONAL ALLIANCE ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—In the case of regional alliance eligible individuals residing in a State, the entitlement under this part (and requirements under section 1002) shall not take effect until the State becomes a participating State (as defined in section 1200).

(2) TRANSITIONAL RULE FOR CORPORATE ALLIANCES.—

(A) IN GENERAL.—In the case of a State that becomes a participating State before the general effective date (as defined in subsection (c)) and for periods before such date, under rules established by the Board, an individual who is covered under an employee benefit plan (described in subparagraph (C)) based on the individual (or the individual's spouse) being a qualifying employee of a qualifying employer, the individual shall not be treated under this Act as a regional alliance eligible individual.

(B) QUALIFYING EMPLOYER DEFINED.—In subparagraph (A), the term "qualifying employer" means an employer that—

(i) is described in section 1311(b)(1)(A), or is participating in a multiemployer plan described in section 1311(b)(1)(B) or arrangement described in section 1311(b)(1)(C), and

(ii) provides such notice to the regional alliance involved as the Board specifies.

(C) BENEFITS PLAN DESCRIBED.—A plan described in this subparagraph is an employee benefit plan that—

(i) provides (through insurance or otherwise) the comprehensive benefit package, and

(ii) provides an employer contribution of at least 80 percent of the premium (or premium equivalent) for coverage

(b) CORPORATE ALLIANCE ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—In the case of corporate alliance eligible individuals, the entitlement under this part shall not take effect until the general effective date.

(2) TRANSITION.—For purposes of this Act and before the general effective date, in the case of an eligible individual who resides in a participating State, the individual is deemed a regional alliance eligible individual until the individual becomes a corporate alliance eligible individual, unless paragraph (2)(A) applies to the individual.

(c) GENERAL EFFECTIVE DATE DEFINED.—In this Act, the term "general effective date" means January 1, 1998.

PART 2—TREATMENT OF FAMILIES AND SPECIAL RULES

SEC. 1011. GENERAL RULE OF ENROLLMENT OF FAMILY IN SAME HEALTH PLAN.

(a) IN GENERAL.—Except as provided in this part or otherwise, all members of the same family (as defined in subsection (b)) shall be enrolled in the same applicable health plan.

(b) FAMILY DEFINED.—In this Act, unless otherwise provided, the term "family"—

(1) means, with respect to an eligible individual who is not a child (as defined in subsection (c)), the individual; and

(2) includes the following persons (if any):

(A) The individual's spouse if the spouse is an eligible individual.

(B) The individual's children (and, if applicable, the children of the individual's spouse) if they are eligible individuals.

(c) CLASSES OF FAMILY ENROLLMENT; TERMINOLOGY.—

(1) IN GENERAL.—In this Act, each of the following is a separate class of family enrollment under this Act:

(A) Coverage only of an individual (referred to in this Act as the "individual" class of enrollment).

(B) Coverage of a married couple without children (referred to in this Act as the "couple-only" class of enrollment).

(C) Coverage of an unmarried individual and one or more children (referred to in this Act as the "single parent" class of enrollment).

(D) Coverage of a married couple and one or more children (referred to in this Act as the "dual parent" class of enrollment).

(2) REFERENCES TO FAMILY AND COUPLE CLASSES OF ENROLLMENT.—In this Act:

(A) FAMILY.—The term "family", with respect to a class of enrollment, refers to enrollment in a class of enrollment described in subparagraph (B), (C), or (D) of paragraph (1).

(B) COUPLE.—The term "couple", with respect to a class of enrollment, refers to enrollment in a class of enrollment described in subparagraph (B) or (D) of paragraph (1).

(d) SPOUSE; MARRIED; COUPLE.—

(1) IN GENERAL.—In this Act, the terms "spouse" and "married" mean, with respect to a person, another individual who is the spouse of the person or married to the person, as determined under applicable State law.

(2) COUPLE.—The term "couple" means an individual and the individual's spouse.

(e) CHILD DEFINED.—

(1) IN GENERAL.—In this Act, except as otherwise provided, the term "child" means an eligible individual who (consistent with paragraph (3))—

(A) is under 18 years of age (or under 24 years of age in the case of a full-time student), and

(B) is a dependent of an eligible individual.

(2) APPLICATION OF STATE LAW.—Subject to paragraph (3), determinations of whether a person is the child of another person shall be made in accordance with applicable State law.

(3) NATIONAL RULES.—The National Health Board may establish such national rules respecting individuals who will be treated as children as the Board determines to be necessary. Such rules shall be consistent with the following principles:

(A) STEP AND FOSTER CHILD.—A child includes a step child or foster child who is an eligible individual living with an adult in a regular parent-child relationship.

(B) DISABLED CHILD.—A child includes an unmarried dependent eligible individual regardless of age who is incapable of self-support because of mental or physical disability which existed before age 21.

(C) CERTAIN 3-GENERATION FAMILIES.—A child includes the grandchild of an individual, if the parent of the grandchild is a child and the parent and grandchild are living with the grandparent.

(D) TREATMENT OF EMANCIPATED MINORS AND MARRIED INDIVIDUALS.—An emancipated minor or married individual shall not be treated as a child.

(f) ADDITIONAL RULES.—The Board shall provide for such additional exceptions and special rules, including rules relating to—

(1) families in which members are not residing in the same area,

(2) the treatment of individuals who are under 19 years of age and who are not a dependent of an eligible individual, and

(3) changes in family composition occurring during a year,

as the Board finds appropriate.

SEC. 1012. TREATMENT OF CERTAIN FAMILIES.

(a) TREATMENT OF MEDICARE-ELIGIBLE INDIVIDUALS WHO ARE QUALIFIED EMPLOYEES OR SPOUSES OF QUALIFIED EMPLOYEES.—

(1) IN GENERAL.—Except as specifically provided, in the case of an individual who is an individual described in paragraph (2) with respect to 2 consecutive months in a year (and it is anticipated would be in the following month), the individual shall not be treated as a medicare-eligible individual under this Act during the following month and the remainder of the year.

(2) INDIVIDUAL DESCRIBED.—An individual described in this paragraph with respect to a month is a medicare-eligible individual (determined without regard to paragraph (1)) who is a qualifying employee or the spouse or family member of a qualifying employee in the month.

(3) EXCEPTION.—Paragraph (1) shall not apply, in the case of an individual, if the individual described in paragraph (2) terminates qualifying employment in the month preceding the first month in which paragraph (1) applies. The previous sentence shall apply until with respect to qualifying employment occurring before such first month.

(b) SEPARATE TREATMENT FOR CERTAIN GROUPS OF INDIVIDUALS.—In the case of a family that includes one or more individuals in a group described in subsection (c)—

(1) all the individuals in each such group within the family shall be treated as a separate family, and

(2) all the individuals not described in any such group shall be treated collectively as a separate family.

(c) GROUPS OF INDIVIDUALS DESCRIBED.—Each of the following is a group of individuals described in this subsection:

(1) AFDC recipients (as defined in section 1902(3)).

(2) Disabled SSI recipients (as defined in section 1902(13)).

(3) SSI recipients who are not disabled SSI recipients.

(4) Electing veterans (as defined in subsection (d)(1)).

(5) Active duty military personnel (as defined in subsection (d)(2)).

(6) Electing Indians (as defined in subsection (d)(3)).

(7) Prisoners (as defined in section 1902(26)).

(d) SPECIAL RULES.—In this Act:

(1) ELECTING VETERANS.—

(A) DEFINED.—Subject to subparagraph (B), the term "electing veteran" means a veteran who makes an election to enroll with a health plan of the Department of Veterans Affairs under chapter 18 of title 38, United States Code.

(B) FAMILY EXCEPTION.—Subparagraph (A) shall not apply with respect to coverage under a health plan referred to in such subparagraph if, for the area in which the electing veteran resides, such health plan offers coverage to family members of an electing veteran and the veteran elects family enrollment under such plan (instead of individual enrollment).

(2) ACTIVE DUTY MILITARY PERSONNEL.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "active duty military personnel" means an individual on active duty in the Uniformed Services of the United States.

(B) EXCEPTION.—If an individual described in subparagraph (A) elects family coverage under section 1073a(d)(1) of title 10, United States Code, then paragraph (5) of subsection (c) shall not apply with respect to such coverage.

(3) ELECTING INDIANS.—

(A) IN GENERAL.—Subject to subparagraph (B), the term "electing Indian" means an eligible individual who makes an election under section 8302(b) of this Act.

(B) FAMILY ELECTION FOR ALL INDIVIDUALS ELIGIBLE TO ELECT.—No such election shall be made with respect to an individual in a family (as defined without regard to this section) unless such election is made for all eligible individuals (described in section 8302(a)) who are family members of the family.

(4) MULTIPLE CHOICE.—Eligible individuals who are permitted to elect coverage under more than one health plan or program referred to in this subsection may elect which of such plans or programs will be the applicable health plan under this Act.

(e) QUALIFYING STUDENTS.—

(1) IN GENERAL.—In the case of a qualifying student (described in paragraph (2)), the individual may elect to enroll in a regional alliance health plan offered by the regional alliance for the area in which the school is located.

(2) QUALIFYING STUDENT.—In paragraph (1), the term "qualifying student" means an individual who—

(A) but for this subsection would receive coverage under a health plan as a child of another person, and

(B) is a full-time student at a school in an alliance area that is different from the alliance area (or, in the case of a corporate alliance, such coverage area as the Board may specify) providing the coverage described in subparagraph (A).

(3) PAYMENT RULES.—

(A) CONTINUED TREATMENT AS FAMILY.—Except as provided in subparagraph (B), nothing in this subsection shall be construed as affecting the payment liabilities between families and health alliances or between health alliances and health plans.

(B) TRANSFER PAYMENT.—In the case of an election under paragraph (1), the health plan described in paragraph (2)(A) shall make payment to the health plan referred to in paragraph (1) in accordance with rules specified by the Board.

(f) SPOUSES LIVING IN DIFFERENT ALLIANCE AREAS.—The Board shall provide for such special rules in applying this Act in the case of a couple in which the spouses reside in different alliance areas as the Board finds appropriate.

SEC. 1013. MULTIPLE EMPLOYMENT SITUATIONS.

(a) MULTIPLE EMPLOYMENT OF AN INDIVIDUAL.—In the case of an individual who—

(1)(A) is not married or (B) is married and whose spouse is not a qualifying employee (as defined in section 6121(c)(1)),

(2) is not a child, and

(3) who is a qualifying employee both of a regional alliance employer and of a corporate alliance employer (or of 2 corporate alliance employers),

the individual may elect the applicable health plan to be either a regional alliance health plan (for the alliance area in which the individual resides) or a corporate alliance health plan (for an employer employing the individual).

(b) MULTIPLE EMPLOYMENT WITHIN A FAMILY.—

(1) MARRIED COUPLE WITH EMPLOYMENT WITH A REGIONAL ALLIANCE EMPLOYER AND WITH A CORPORATE ALLIANCE EMPLOYER.—In the case of a married individual—

(A) who is a qualifying employee of a regional alliance employer and whose spouse is an qualifying employee of a corporate alliance employer, or

(B) who is a qualifying employee of a corporate alliance employer and whose spouse is an qualifying employee of a regional alliance employer,

the individual and the individual's spouse may elect the applicable health plan to be either a regional alliance health plan (for the alliance area in which the couple resides) or a corporate alliance health plan (for an employer employing the individual or the spouse).

(2) MARRIED COUPLE WITH DIFFERENT CORPORATE ALLIANCE EMPLOYERS.—In the case of a married individual—

(A) who is a qualifying employee of a corporate alliance employer, and

(B) whose spouse is a qualifying employee of a different corporate alliance employer,

the individual and the individual's spouse may elect the applicable health plan to be a corporate alliance health plan for an employer employing either the individual or the spouse.

SEC. 1014. TREATMENT OF RESIDENTS OF STATES WITH STATEWIDE SINGLE-PAYER SYSTEMS.

(a) UNIVERSAL COVERAGE.—Notwithstanding the previous provisions of this title, except as provided in part 2 of subtitle C, in the case of an individual who resides in a State that has a Statewide single-payer system under section 1223, universal coverage shall be provided consistent with section 1222(3).

(b) INDIVIDUAL RESPONSIBILITIES.—In the case of an individual who resides in a single-payer State, the responsibilities of such individual under such system shall supersede the obligations of the individual under section 1002.

Subtitle B—Benefits

PART 1—COMPREHENSIVE BENEFIT PACKAGE

SEC. 1101. PROVISION OF COMPREHENSIVE BENEFITS BY PLANS.

(a) IN GENERAL.—The comprehensive benefit package shall consist of the following items and services (as described in part 2), subject to the cost sharing requirements described in part 3, the exclusions described in part 4, and the duties and authority of the National Health Board described in part 5:

(1) Hospital services (described in section 1111).

(2) Services of health professionals (described in section 1112).

(3) Emergency and ambulatory medical and surgical services (described in section 1113).

(4) Clinical preventive services (described in section 1114).

(5) Mental health and substance abuse services (described in section 1115).

(6) Family planning services and services for pregnant women (described in section 1116).

(7) Hospice care (described in section 1117).

(8) Home health care (described in section 1118).

(9) Extended care services (described in section 1119).

(10) Ambulance services (described in section 1120).

(11) Outpatient laboratory, radiology, and diagnostic services (described in section 1121).

(12) Outpatient prescription drugs and biologicals (described in section 1122).

(13) Outpatient rehabilitation services (described in section 1123).

(14) Durable medical equipment and prosthetic and orthotic devices (described in section 1124).

(15) Vision care (described in section 1125).

(16) Dental care (described in section 1126).

(17) Health education classes (described in section 1127).

(18) Investigational treatments (described in section 1128).

(b) NO OTHER LIMITATIONS OR COST SHARING.—The items and services in the comprehensive benefit package shall not be subject to any duration or scope limitation or any deductible, copayment, or coinsurance amount that is not required or authorized under this Act.

(c) HEALTH PLAN.—Unless otherwise provided in this subtitle, for purposes of this subtitle, the term "health plan" has the meaning given such term in section 1400.

PART 2—DESCRIPTION OF ITEMS AND SERVICES COVERED

SEC. 1111. HOSPITAL SERVICES.

(a) COVERAGE.—The hospital services described in this section are the following items and services:

(1) Inpatient hospital services.

(2) Outpatient hospital services.

(3) 24-hour a day hospital emergency services.

(b) LIMITATION.—The hospital services described in this section do not include hospital services provided for the treatment of a mental or substance abuse disorder (which are subject to section 1115), except for medical detoxification as required for the management of medical conditions associated with withdrawal from alcohol or drugs (which is not covered under such section).

(c) DEFINITIONS.—For purposes of this subtitle:

(1) HOSPITAL.—The term "hospital" has the meaning given such term in section 1861(e) of the Social Security Act, except that such term shall include—

(A) in the case of an item or service provided to an individual whose applicable health plan is specified pursuant to section 1004(b)(1), a facility of the uniformed services under title 10, United States Code, that is primarily engaged in providing services to inpatients that are equivalent to the services provided by a hospital defined in section 1861(e);

(B) in the case of an item or service provided to an individual whose applicable health plan is specified pursuant to section 1004(b)(2), a facility operated by the Department of Veterans Affairs that is primarily engaged in providing services to inpatients that are equivalent to the services provided by a hospital defined in section 1861(e); and

(C) in the case of an item or service provided to an individual whose applicable health plan is specified pursuant to section 1004(b)(3), a facility operated by the Indian Health Service that is primarily engaged in providing services to inpatients that are equivalent to the services provided by a hospital defined in section 1861(e).

(2) INPATIENT HOSPITAL SERVICES.—The term "inpatient hospital services" means items and services described in paragraphs (1) through (3) of section 1861(b) of the Social Security Act when provided to an inpatient of a hospital. The National Health Board shall specify those health professional services described in section 1112 that shall be treated as inpatient hospital services when provided to an inpatient of a hospital.

SEC. 1112. SERVICES OF HEALTH PROFESSIONALS.

(a) COVERAGE.—The items and services described in this section are—

(1) inpatient and outpatient health professional services, including consultations, that are provided in—

(A) a home, office, or other ambulatory care setting; or

(B) an institutional setting; and

(2) services and supplies (including drugs and biologicals which cannot be self-administered) furnished as an incident to such health professional services, of kinds which are commonly furnished in the office of a health professional and are commonly either rendered without charge or included in the bill of such professional.

(b) LIMITATION.—The items and services described in this section do not include items or services that are described in any other section of this part. An item or service that is described in section 1114 but is not provided consistent with a periodicity schedule for such item or service specified in such section or under section 1153 may be covered under this section if the item or service otherwise meets the requirements of this section.

(c) DEFINITIONS.—Unless otherwise provided in this Act, for purposes of this Act:

(1) HEALTH PROFESSIONAL.—The term "health professional" means an individual who provides health professional services.

(2) HEALTH PROFESSIONAL SERVICES.—The term "health professional services" means professional services that—

(A) are lawfully provided by a physician; or

(B) would be described in subparagraph (A) if provided by a physician, but are provided by another person who is legally authorized to provide such services in the State in which the services are provided.

SEC. 1113. EMERGENCY AND AMBULATORY MEDICAL AND SURGICAL SERVICES.

The emergency and ambulatory medical and surgical services described in this section are the following items and services provided by a health facility that is not a hospital and that is legally authorized to provide the services in the State in which they are provided:

(1) 24-hour a day emergency services.

(2) Ambulatory medical and surgical services.

SEC. 1114. CLINICAL PREVENTIVE SERVICES.

(a) COVERAGE.—The clinical preventive services described in this section are—

(1) an item or service for high risk populations (as defined by the National Health Board) that is specified and defined by the Board under section 1153, but only when the item or service is provided consistent with any periodicity schedule for the item or service promulgated by the Board;

(2) except as modified by the National Health Board under section 1153, an age-appropriate immunization, test, or clinician visit specified in one of subsections (b) through (h) that is provided consistent with any periodicity schedule for the item or service specified in the applicable subsection or by the National Health Board under section 1153; and

(3) an immunization, test, or clinician visit that is provided to an individual during an age range other than the age range for such immunization, test, or clinician visit that is specified in one of subsections (b) through (h), but only when provided consistent with any requirements for such immunizations, tests, and clinician visits established by the National Health Board under section 1153.

(b) INDIVIDUALS UNDER 3.—For an individual under 3 years of age:

(1) IMMUNIZATIONS.—The immunizations specified in this subsection are age-appropriate immunizations for the following illnesses:

(A) Diphtheria.

(B) Tetanus.

(C) Pertussis.

(D) Polio.

(E) Haemophilus influenzae type B.

(F) Measles.

(G) Mumps.

(H) Rubella.

(I) Hepatitis B.

(2) TESTS.—The tests specified in this subsection are as follows:

(A) 1 hematocrit.

(B) 2 blood tests to screen for blood lead levels for individuals who are at risk for lead exposure.

(3) CLINICIAN VISITS.—The clinician visits specified in this subsection are 1 clinician visit for an individual who is newborn and 7 other clinician visits.

(c) INDIVIDUALS AGE 3 TO 5.—For an individual at least 3 years of age, but less than 6 years of age:

(1) IMMUNIZATIONS.—The immunizations specified in this subsection are age-appropriate immunizations for the following illnesses:

(A) Diphtheria.

(B) Tetanus.

(C) Pertussis.

(D) Polio.

(E) Measles.

(F) Mumps.

(G) Rubella.

(2) TESTS.—The tests specified in this subsection are 1 urinalysis.

(3) CLINICIAN VISITS.—The clinician visits specified in this subsection are 3 clinician visits.

(d) INDIVIDUALS AGE 6 TO 19.—For an individual at least 6 years of age, but less than 20 years of age:

(1) IMMUNIZATIONS.—The immunizations specified in this subsection are age-appropriate immunizations for the following illnesses:

(A) Tetanus.

(B) Diphtheria.

(2) TESTS.—The tests specified in this subsection are as follows:

(A) Papanicolaou smears and pelvic exams for females who have reached childbearing age and are at risk for cervical cancer every 3 years, but—

(i) annually until 3 consecutive negative smears have been obtained; and

(ii) annually for females who are at risk for fertility related infectious illnesses.

(B) Annual screening for chlamydia and gonorrhea for females who have reached childbearing age and are at risk for fertility related infectious illnesses.

(3) CLINICIAN VISITS.—The clinician visits specified in this subsection are 5 clinician visits.

(e) INDIVIDUALS AGE 20 TO 39.—For an individual at least 20 years of age, but less than 40 years of age:

(1) IMMUNIZATIONS.—The immunizations specified in this subsection are booster immunizations against tetanus and diphtheria every 10 years.

(2) TESTS.—The tests specified in this subsection are as follows:

(A) Papanicolaou smears and pelvic exams for females every 3 years, but—

(i) annually if an abnormal smear has been obtained, until 3 consecutive negative smears have been obtained; and

(ii) annually for females who are at risk for fertility related infectious illnesses.

(B) Annual screening for chlamydia and gonorrhea for females who are at risk for fertility related infectious illnesses.

(C) Cholesterol every 5 years.

(3) CLINICIAN VISITS.—The clinician visits specified in this subsection are 1 clinician visit every 3 years.

(f) INDIVIDUALS AGE 40 TO 49.—For an individual at least 40 years of age, but less than 50 years of age:

(1) IMMUNIZATIONS.—The immunizations specified in this subsection are booster immunizations against tetanus and diphtheria every 10 years.

(2) TESTS.—The tests specified in this subsection are as follows:

(A) Papanicolaou smears and pelvic exams for females every 2 years, but—

(i) annually if an abnormal smear has been obtained, until 3 consecutive negative smears have been obtained; and

(ii) annually for females who are at risk for fertility related infectious illnesses.

(B) Annual screening for chlamydia and gonorrhea for females who are at risk for fertility related infectious illnesses.

(C) Cholesterol every 5 years.

(3) CLINICIAN VISITS.—The clinician visits specified in this subsection are 1 clinician visit every 2 years.

(g) INDIVIDUALS AGE 50 TO 65.—For an individual at least 50 years of age, but less than 65 years of age:

(1) IMMUNIZATIONS.—The immunizations specified in this subsection are booster immunizations against tetanus and diphtheria every 10 years.

(2) TESTS.—The tests specified in this subsection are as follows:

(A) Papanicolaou smears and pelvic exams for females every 2 years.

(B) Mammograms for females every 2 years.

(C) Cholesterol every 5 years.

(3) CLINICIAN VISITS.—The clinician visits specified in this subsection are 1 clinician visit every 2 years.

(h) INDIVIDUALS AGE 65 OR OLDER.—For an individual at least 65 years of age who is enrolled under a health plan:

(1) IMMUNIZATIONS.—The immunizations specified in this subsection are as follows:

(A) Booster immunizations against tetanus and diphtheria every 10 years.

(B) Age-appropriate immunizations for the following illnesses:

(i) Influenza.

(ii) Pneumococcal invasive disease.

(2) TESTS.—The tests specified in this subsection are as follows:

(A) Papanicolaou smears and pelvic exams for females who are at risk for cervical cancer every 2 years.

(B) Mammograms for females every 2 years.

(C) Cholesterol every 5 years.

(3) CLINICIAN VISITS.—The clinician visits specified in this subsection are 1 clinician visit every year.

(i) CLINICIAN VISIT.—For purposes of this section, the term "clinician visit" includes the following health professional services (as defined in section 1112(c)):

(1) A complete medical history.

(2) An appropriate physical examination.

(3) Risk assessment.

(4) Targeted health advice and counseling, including nutrition counseling.

(5) The administration of age-appropriate immunizations and tests specified in subsections (b) through (h).

(j) IMMUNIZATIONS AND TESTS NOT ADMINISTERED DURING CLINICIAN VISIT.—Notwithstanding subsection (i)(5), the clinical preventive services described in this section include an immunization or test described in this section that is administered to an individual consistent with any periodicity schedule for the immunization or test during the age range specified for the immunization or test, and any administration fee for such immunization or test, even if the immunization or test is not administered during a clinician visit.

SEC. 1115. MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.

(a) Coverage.—The mental health and substance abuse services that are described in this section are the following items and services for eligible individuals, as defined in section 1001(c), who satisfy the eligibility requirements in subsection (b):

(1) Inpatient and residential mental health and substance abuse treatment.

(2) Intensive nonresidential mental health and substance abuse treatment.

(3) Outpatient mental health and substance abuse treatment, including case management, screening and assessment, crisis services, and collateral services.

(b) Eligibility.—The eligibility requirements referred to in subsection (a) are as follows:

(1) Inpatient, residential, nonresidential, and outpatient treatment.—An eligible individual is eligible to receive coverage for inpatient and residential mental health and substance abuse treatment, intensive nonresidential mental health and substance abuse treatment, or outpatient mental health and substance abuse treatment (except case management and collateral services) if the individual—

(A) has, or has had during the 1-year period preceding the date of such treatment, a diagnosable mental or substance abuse disorder; and

(B) is experiencing, or is at significant risk of experiencing, functional impairment in family, work, school, or community activities.

For purposes of this paragraph, an individual who has a diagnosable mental or substance abuse disorder, is receiving treatment for such disorder, but does not satisfy the functional impairment criterion in subparagraph (B) shall be treated as satisfying such criterion if the individual would satisfy such criterion without such treatment.

(2) Case management.—An eligible individual is eligible to receive coverage for case management if—

(A) the health plan in which the individual is enrolled has elected to offer case management and determines that the individual should receive such services; and

(B) the individual is eligible to receive coverage for, and is receiving, outpatient mental health and substance abuse treatment.

(3) Screening and assessment and crisis services.—All eligible individuals enrolled under a health plan are eligible to receive coverage for outpatient mental health and substance abuse treatment consisting of screening and assessment and crisis services.

(4) Collateral services.—An eligible individual is eligible to receive coverage for outpatient mental health and substance abuse treatment consisting of collateral services if the individual is a family member (as defined in section 1011(b)) of an individual who is receiving inpatient and residential mental health and substance abuse treatment, intensive nonresidential mental health and substance abuse treatment, or outpatient mental health and substance abuse treatment.

(c) Inpatient and Residential Treatment.—

(1) Definition.—For purposes of this subtitle, the term "inpatient and residential mental health and substance abuse treatment" means the items and services described in paragraphs (1) through (3) of section 1861(b) of the Social Security Act when provided with respect to a diagnosable mental or substance abuse disorder to—

(A) an inpatient of a hospital, psychiatric hospital, residential treatment center, residential detoxification center, crisis residential program, or mental health residential treatment program; or

(B) a resident of a therapeutic family or group treatment home or community residential treatment and recovery center for substance abuse.

The National Health Board shall specify those health professional services described in section 1112 that shall be treated as inpatient and residential mental health and substance abuse treatment when provided to such an inpatient or resident.

(2) Limitations.—Coverage for inpatient and residential mental health and substance abuse treatment is subject to the following limitations:

(A) Least restrictive setting.—Such treatment is covered only when—

(i) provided to an individual in the least restrictive inpatient or residential setting that is effective and appropriate for the individual; and

(ii) less restrictive intensive nonresidential or outpatient treatment would be ineffective or inappropriate.

(B) Licensed facility.—Such treatment is only covered when provided by a facility described in paragraph (1) that is legally authorized to provide the treatment in the State in which the facility is located.

(C) Day limits.—Subject to subparagraph (D), such treatment is covered for each period beginning on the date an episode of inpatient or residential treatment begins and ending on the date the episode ends, except that, prior to January 1, 2001, such treatment is not covered after such an episode exceeds 30 days unless the individual receiving treatment poses a threat to their own life or the life of another individual. Whether such a threat exists shall be determined by a health professional designated by the health plan in which the individual receiving treatment is enrolled. For purposes of this subtitle, an episode of inpatient and residential mental health and substance abuse treatment shall be considered to begin on the date an individual is admitted to a facility for such treatment and to end on the date the individual is discharged from the facility.

(D) Annual limit.—Prior to January 1, 2001, such treatment in all settings is subject to an aggregate annual limit of 60 days.

(E) Inpatient hospital treatment for substance abuse.—Substance abuse treatment, when provided to an inpatient of a hospital or psychiatric hospital, is covered under this section only for medical detoxification associated with withdrawal from alcohol or drugs.

(d) Intensive Nonresidential Treatment.—

(1) Definition.—For purposes of this subtitle, the term "intensive nonresidential mental health and substance abuse treatment" means diagnostic or therapeutic items or services provided with respect to a diagnosable mental or substance abuse disorder to an individual—

(A) participating in a partial hospitalization program, a day treatment program, a psychiatric rehabilitation program, or an ambulatory detoxification program; or

(B) receiving home-based mental health services or behavioral aide mental health services.

The National Health Board shall specify those health professional services described in section 1112 that shall be treated as intensive nonresidential mental health and substance abuse treatment when provided to such an individual.

(2) Limitations.—Coverage for intensive nonresidential mental health and substance abuse treatment is subject to the following limitations:

(A) Discretion of plan.—A health plan may cover intensive nonresidential mental health and substance abuse treatment at its discretion.

(B) Treatment purposes.—Such treatment is covered only when provided—

(i) to avert the need for, or as an alternative to, treatment in residential or inpatient settings;

(ii) to facilitate the earlier discharge of an individual receiving inpatient or residential care;

(iii) to restore the functioning of an individual with a diagnosable mental health or substance abuse disorder; or

(iv) to assist the individual to develop the skills and gain access to the support services the individual needs to achieve the maximum level of functioning of the individual within the community.

(C) Annual limit.—

(i) In general.—Prior to January 1, 2001, such treatment in all settings is subject to an aggregate annual limit of 120 days.

(ii) Relationship to other annual limits.—For each 2 days of intensive nonresidential mental health and substance abuse treatment provided to an individual, the number of treatment days available to the individual before the annual aggregate limit on inpatient and residential mental health and substance abuse treatment described in subsection (c)(2)(D) is exceeded shall be reduced by 1 day. The preceding sentence shall not apply after an individual has received 60 days of intensive nonresidential mental health and substance abuse treatment in a year.

(iii) Additional days.—A maximum of 60 additional days of intensive nonresidential mental health and substance abuse treatment may be provided to an individual if a health professional designated by the health plan in which the individual receiving treatment is enrolled determines that such additional treatment is medically necessary or appropriate.

(D) Out-of-pocket maximum.—Prior to January 1, 2001, expenses for intensive nonresidential mental health and substance abuse treatment that an individual incurs prior to satisfying a deductible applicable to such treatment, and copayments and coinsurance paid by or on behalf of the individual for such treatment, that substitute for inpatient and residential mental health and substance abuse treatment (up to 60 days) may be applied toward the annual out-of-pocket limit on cost sharing under any cost sharing schedule described in part 3 of this subtitle.

(e) Outpatient Treatment.—

(1) Definition.—For purposes of this subtitle, the term "outpatient mental health and substance abuse treatment" means the following services provided with respect to a diagnosable mental or substance abuse disorder in an outpatient setting:

(A) Screening and assessment.

(B) Diagnosis.

(C) Medical management.

(D) Substance abuse counseling and relapse prevention.

(E) Crisis services.

(F) Somatic treatment services.

(G) Psychotherapy.

(H) Case management.

(I) Collateral services.

(2) Limitations.—Coverage for outpatient mental health and substance abuse treatment is subject to the following limitations:

(A) HEALTH PROFESSIONAL SERVICES.—Such treatment is covered only when it constitutes health professional services (as defined in section 1112(c)(2)).

(B) SUBSTANCE ABUSE COUNSELING.—Substance abuse counseling and relapse prevention is covered only when provided by a substance abuse treatment provider who—

(i) is legally authorized to provide such services in the State in which the services are provided; and

(ii) provides no items or services other than substance abuse counseling and relapse prevention, medical management, or laboratory and diagnostic tests for individuals with substance abuse disorders.

(C) ANNUAL LIMITS.—

(i) PYCHOTHERAPY AND COLLATERAL SERVICES.—Prior to January 1, 2001, psychotherapy and collateral services are subject to annual limits of 30 visits for each type of service. Additional visits may be covered, at the discretion of the health plan in which the individual receiving treatment is enrolled, to prevent hospitalization or to facilitate earlier hospital release, for which the annual aggregate limit on inpatient and residential mental health and substance abuse treatment described in subsection (c)(2)(D) shall be reduced by 1 day for each 4 visits.

(ii) SUBSTANCE ABUSE.—At the discretion of the health plan in which an individual receiving outpatient substance abuse treatment is enrolled, the annual aggregate limit on inpatient and residential mental health and substance abuse treatment described in subsection (c)(2)(D) may be reduced by 1 day for each 4 outpatient visits. Within 12 months after inpatient and residential treatment or intensive nonresidential treatment, 30 visits in group therapy shall be covered for substance abuse counseling and relapse prevention. For individuals who were not initially treated in an inpatient, residential, or intensive nonresidential setting, additional visits shall be covered for which the annual aggregate limit on inpatient and residential mental health and substance abuse treatment described in subsection (c)(2)(D) shall be reduced by 1 day for each 4 visits.

(D) OUT-OF-POCKET MAXIMUM.—Prior to January 1, 2001, expenses for outpatient mental health and substance abuse treatment that an individual incurs prior to satisfying a deductible applicable to such treatment, and copayments and coinsurance paid by or on behalf of the individual for such treatment, may not be applied toward any annual out-of-pocket limit on cost sharing under any cost sharing schedule described in part 3 of this subtitle.

(E) DETOXIFICATION.—Outpatient detoxification shall be provided only in the context of a treatment program. If the first detoxification treatment is unsuccessful, subsequent treatments are covered if a health professional designated by the health plan in which the individual receiving treatment is enrolled determines that there is a substantial chance of success.

(f) OTHER DEFINITIONS.—For purposes of this subtitle:

(1) CASE MANAGEMENT.—The term "case management" means services that assist individuals in gaining access to needed medical, social, educational, and other services.

(2) DIAGNOSABLE MENTAL OR SUBSTANCE ABUSE DISORDER.—The term "diagnosable mental or substance abuse disorder" means a disorder that is listed in any authoritative text specifying diagnostic criteria for mental or substance abuse disorders that is identified by the National Health Board.

(3) PSYCHIATRIC HOSPITAL.—The term "psychiatric hospital" has the meaning given such term in section 1861(f) of the Social Security Act, except that such term shall include—

(A) in the case of an item or service provided to an individual whose applicable health plan is specified pursuant to section 1004(b)(1), a facility of the uniformed services under title 10, United States Code, that is engaged in providing services to inpatients that are equivalent to the services provided by a psychiatric hospital;

(B) in the case of an item or service provided to an individual whose applicable health plan is specified pursuant to section 1004(b)(2), a facility operated by the Department of Veterans Affairs that is engaged in providing services to inpatients that are equivalent to the services provided by a psychiatric hospital; and

(C) in the case of an item or service provided to an individual whose applicable health plan is specified pursuant to section 1004(b)(3), a facility operated by the Indian Health Service that is engaged in providing services to inpatients that are equivalent to the services provided by a psychiatric hospital.

SEC. 1116. FAMILY PLANNING SERVICES AND SERVICES FOR PREGNANT WOMEN.

The services described in this section are the following items and services:

(1) Voluntary family planning services.

(2) Contraceptive devices that—

(A) may only be dispensed upon prescription; and

(B) are subject to approval by the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act.

(3) Services for pregnant women.

SEC. 1117. HOSPICE CARE.

The hospice care described in this section is the items and services described in paragraph (1) of section 1861(dd) of the Social Security Act, as defined in paragraphs (2), (3), and (4)(A) of such section (with the exception of paragraph (2)(A)(iii)), except that all references to the Secretary of Health and Human Services in such paragraphs shall be treated as references to the National Health Board.

SEC. 1118. HOME HEALTH CARE.

(a) COVERAGE.—The home health care described in this section is—

(1) the items and services described in section 1861(m) of the Social Security Act; and

(2) home infusion drug therapy services described in section 1861(ll) of the Social Security Act (as added by section 2006).

(b) LIMITATIONS.—Coverage for home health care is subject to the following limitations:

(1) INPATIENT TREATMENT ALTERNATIVE.—Such care is covered only as an alternative to inpatient treatment in a hospital, skilled nursing facility, or rehabilitation facility after an illness or injury.

(2) REEVALUATION.—At the end of each 60-day period of home health care, the need for continued care shall be reevaluated by the person who is primarily responsible for providing the home health care. Additional periods of care are covered only if such person determines that the requirement in paragraph (1) is satisfied.

SEC. 1119. EXTENDED CARE SERVICES.

(a) COVERAGE.—The extended care services described in this section are the items and services described in section 1861(h) of the Social Security Act when provided to an inpatient of a skilled nursing facility or a rehabilitation facility.

(b) LIMITATIONS.—Coverage for extended care services is subject to the following limitations:

(1) HOSPITAL ALTERNATIVE.—Such services are covered only as an alternative to inpatient treatment in a hospital after an illness or injury.

(2) ANNUAL LIMIT.—Such services are subject to an aggregate annual limit of 100 days.

(c) DEFINITIONS.—For purposes of this subtitle:

(1) REHABILITATION FACILITY.—The term "rehabilitation facility" means an institution (or a distinct part of an institution) which is established and operated for the purpose of providing diagnostic, therapeutic, and rehabilitation services to individuals for rehabilitation from illness or injury.

(2) SKILLED NURSING FACILITY.—The term "skilled nursing facility" means an institution (or a distinct part of an institution) which is primarily engaged in providing to residents—

(A) skilled nursing care and related services for residents who require medical or nursing care; or

(B) rehabilitation services to residents for rehabilitation from illness or injury.

SEC. 1120. AMBULANCE SERVICES.

(a) COVERAGE.—The ambulance services described in this section are the following items and services:

(1) Ground transportation by ambulance.

(2) Air transportation by an aircraft equipped for transporting an injured or sick individual.

(3) Water transportation by a vessel equipped for transporting an injured or sick individual.

(b) LIMITATIONS.—Coverage for ambulance services is subject to the following limitations:

(1) MEDICAL INDICATION.—Ambulance services are covered only in cases in which the use of an ambulance is indicated by the medical condition of the individual concerned.

(2) AIR TRANSPORT.—Air transportation is covered only in cases in which there is no other method of transportation or where the use of another method of transportation is contra-indicated by the medical condition of the individual concerned.

(3) WATER TRANSPORT.—Water transportation is covered only in cases in which there is no other method of transportation or where the use of another method of transportation is contra-indicated by the medical condition of the individual concerned.

SEC. 1121. OUTPATIENT LABORATORY, RADIOLOGY, AND DIAGNOSTIC SERVICES.

The items and services described in this section are laboratory, radiology, and diagnostic services provided upon prescription to individuals who are not inpatients of a hospital, hospice, skilled nursing facility, or rehabilitation facility.

SEC. 1122. OUTPATIENT PRESCRIPTION DRUGS AND BIOLOGICALS.

(a) COVERAGE.—The items described in this section are the following:

(1) Covered outpatient drugs described in section 1861(t) of the Social Security Act (as amended by section 2001(b))—

(A) except that, for purposes of this section, a medically accepted indication with respect to the use of a covered outpatient drug includes any use which has been approved by the Food and Drug Administration for the drug, and includes another use of the drug if—

(i) the drug has been approved by the Food and Drug Administration; and

(ii) such use is supported by one or more citations which are included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, the United States Pharmacopoeia-Drug Information, and other authoritative compendia as identified by the National Health Board, unless the Board has determined that the use is not medically appropriate or the use is identified as not indicated in one or more such compendia; or

(iii) such use is medically accepted based on supportive clinical evidence in peer reviewed medical literature appearing in publications which have been identified for purposes of this clause by the Board; and

(B) notwithstanding any exclusion from coverage that may be made with respect to such a drug under title XVIII of such Act pursuant to section 1862(a)(18) of such Act.

(2) Blood clotting factors when provided on an outpatient basis.

(b) Revision of Compendia List.—The National Health Board may revise the list of compendia in subsection (a)(1)(A)(ii) designated as appropriate for identifying medically accepted indications for drugs.

(c) Blood clotting factors.—For purposes of this subtitle, the term "blood clotting factors" has the meaning given such term in section 1861(s)(2)(I) of the Social Security Act.

SEC. 1123. OUTPATIENT REHABILITATION SERVICES.

(a) Coverage.—The outpatient rehabilitation services described in this section are—

(1) outpatient occupational therapy;

(2) outpatient physical therapy; and

(3) outpatient speech pathology services for the purpose of attaining or restoring speech.

(b) Limitations.—Coverage for outpatient rehabilitation services is subject to the following limitations:

(1) Restoration of capacity or minimization of limitations.—Such services include only items or services used to restore functional capacity or minimize limitations on physical and cognitive functions as a result of an illness or injury.

(2) Reevaluation.—At the end of each 60-day period of outpatient rehabilitation services, the need for continued services shall be reevaluated by the person who is primarily responsible for providing the services. Additional periods of services are covered only if such person determines that functioning is improving.

SEC. 1124. DURABLE MEDICAL EQUIPMENT AND PROSTHETIC AND ORTHOTIC DEVICES.

(a) Coverage.—The items and services described in this section are—

(1) durable medical equipment, including accessories and supplies necessary for repair and maintenance of such equipment;

(2) prosthetic devices (other than dental) which replace all or part of the function of an internal body organ (including colostomy bags and supplies directly related to colostomy care), including replacement of such devices;

(3) accessories and supplies which are used directly with a prosthetic device to achieve the therapeutic benefits of the prosthesis or to assure the proper functioning of the device;

(4) leg, arm, back, and neck braces;

(5) artificial legs, arms, and eyes, including replacements if required because of a change in the patient's physical condition; and

(6) fitting and training for use of the items described in paragraphs (1) through (5).

(b) Limitation.—An item or service described in this section is covered only if it improves functional ability or prevents further deterioration in function.

(c) Durable Medical Equipment.—For purposes of this subtitle, the term "durable medical equipment" has the meaning given such term in section 1861(n) of the Social Security Act.

SEC. 1125. VISION CARE.

(a) Coverage.—The vision care described in this section is diagnosis and treatment for defects in vision.

(b) Limitation.—Eyeglasses and contact lenses are covered only for individuals less than 18 years of age.

SEC. 1126. DENTAL CARE.

(a) Coverage.—The dental care described in this section is the following:

(1) Emergency dental treatment, including simple extractions, for acute infections, bleeding, and injuries to natural teeth and oral structures for conditions requiring immediate attention to prevent risks to life or significant medical complications, as specified by the National Health Board.

(2) Prevention and diagnosis of dental disease, including oral dental examinations, radiographs, dental sealants, fluoride application, and dental prophylaxis.

(3) Treatment of dental disease, including routine fillings, prosthetics for genetic defects, periodontal maintenance, and endodontic services.

(4) Space maintenance procedures to prevent orthodontic complications.

(5) Interceptive orthodontic treatment to prevent severe malocclusion.

(b) Limitations.—Coverage for dental care is subject to the following limitations:

(1) Prevention and diagnosis.—Prior to January 1, 2001, the items and services described in subsection (a)(2) are covered only for individuals less than 18 years of age. On or after such date, such items and services are covered for all eligible individuals enrolled under a health plan, except that dental sealants are not covered for individuals 18 years of age or older.

(2) Treatment of dental disease.—Prior to January 1, 2001, the items and services described in subsection (a)(3) are covered only for individuals less than 18 years of age. On or after such date, such items and services are covered for all eligible individuals enrolled under a health plan, except that endodontic services are not covered for individuals 18 years of age or older.

(3) Space maintenance.—The items and services described in subsection (a)(4) are covered only for individuals at least 3 years of age, but less than 13 years of age and—

(A) are limited to posterior teeth;

(B) involve maintenance of a space or spaces for permanent posterior teeth that would otherwise be prevented from normal eruption if the space were not maintained; and

(C) do not include a space maintainer that is placed within 6 months of the expected eruption of the permanent posterior tooth concerned.

(4) Interceptive orthodontic treatment.—Prior to January 1, 2001, the items and services described in subsection (a)(5) are not covered. On or after such date, such items and services are covered only for individuals at least 6 years of age, but less than 12 years of age.

SEC. 1127. HEALTH EDUCATION CLASSES.

(a) Coverage.—Subject to subsection (b), the items and services described in this section are health education and training classes to encourage the reduction of behavioral risk factors and to promote healthy activities. Such education and training classes may include smoking cessation, nutrition counseling, stress management, support groups, and physical training classes.

(b) Discretion of Plan.—A health plan may offer education and training classes at its discretion.

(c) Construction.—This section shall not be construed to include or limit education or training that is provided in the course of the delivery of health professional services (as defined in section 1112(c)).

SEC. 1128. INVESTIGATIONAL TREATMENTS.

(a) Coverage.—Subject to subsection (b), the items and services described in this subsection are qualifying investigational treatments that are administered for a life-threatening disease, disorder, or other health condition (as defined by the National Health Board).

(b) Discretion of Plan.—A health plan may cover an investigational treatment described in subsection (a) at its discretion.

(c) Routine Care During Investigational Treatments.—The comprehensive benefit package includes an item or service described in any other section of this part, subject to the limitations and cost sharing requirements applicable to the item or service, when the item or service is provided to an individual in the course of an investigational treatment, if—

(1) the treatment is a qualifying investigational treatment; and

(2) the item or service would have been provided to the individual even if the individual were not receiving the investigational treatment.

(d) Definitions.—For purposes of this subtitle:

(1) Qualifying investigational treatment.—The term "qualifying investigational treatment" means a treatment—

(A) the effectiveness of which has not been determined; and

(B) that is under clinical investigation as part of an approved research trial.

(2) Approved research trial.—The term "approved research trial" means—

(A) a research trial approved by the Secretary of Health and Human Services, the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, the Secretary of Veterans Affairs, the Secretary of Defense, or a qualified nongovernmental research entity as defined in guidelines of the National Institutes of Health; or

(B) a peer-reviewed and approved research program, as defined by the Secretary of Health and Human Services, conducted for the primary purpose of determining whether or not a treatment is safe, efficacious, or having any other characteristic of a treatment which must be demonstrated in order for the treatment to be medically necessary or appropriate.

PART 3—COST SHARING

SEC. 1131. COST SHARING.

(a) In General.—Each health plan shall offer to individuals enrolled under the plan one of the following cost sharing schedules, which schedule shall be offered to all such enrollees:

(1) lower cost sharing (described in section 1132);

(2) higher cost sharing (described in section 1133); or

(3) combination cost sharing (described in section 1134).

(b) Cost Sharing for Low-Income Families.—For provisions relating to reducing cost sharing for certain low-income families, see section 1371.

(c) Deductibles, Cost Sharing, and Out-of-Pocket Limits on Cost Sharing.—

(1) Application on an annual basis.—The deductibles and out-of-pocket limits on cost

sharing for a year under the schedules referred to in subsection (a) shall be applied based upon expenses incurred for items and services furnished in the year.

(2) INDIVIDUAL AND FAMILY GENERAL DEDUCTIBLES.—

(A) INDIVIDUAL.—Subject to subparagraph (B), with respect to an individual enrolled under a health plan (regardless of the class of enrollment), any individual general deductible in the cost sharing schedule offered by the plan represents the amount of countable expenses (as defined in subparagraph (C)) that the individual may be required to incur in a year before the plan incurs liability for expenses for such items and services furnished to the individual.

(B) FAMILY.—In the case of an individual enrolled under a health plan under a family class of enrollment (as defined in section 1011(c)(2)(A)), the individual general deductible under subparagraph (A) shall not apply to countable expenses incurred by any member of the individual's family in a year at such time as the family has incurred, in the aggregate, countable expenses in the amount of the family general deductible for the year.

(C) COUNTABLE EXPENSE.—In this paragraph, the term "countable expense" means, with respect to an individual for a year, an expense for an item or service covered by the comprehensive benefit package that is subject to the general deductible and for which, but for such deductible and other cost sharing under this subtitle, a health plan is liable for payment. The amount of countable expenses for an individual for a year under this paragraph shall not exceed the individual general deductible for the year.

(3) COINSURANCE AND COPAYMENTS.—After a general or separate deductible that applies to an item or service covered by the comprehensive benefit package has been satisfied for a year, subject to paragraph (4), coinsurance and copayments are amounts that an individual may be required to pay with respect to the item or service.

(4) INDIVIDUAL AND FAMILY LIMITS ON COST SHARING.—

(A) INDIVIDUAL.—Subject to subparagraph (B), with respect to an individual enrolled under a health plan (regardless of the class of enrollment), the individual out-of-pocket limit on cost sharing in the cost sharing schedule offered by the plan represents the amount of expenses that the individual may be required to incur under the plan in a year because of a general deductible, separate deductibles, copayments, and coinsurance before the plan may no longer impose any cost sharing with respect to items or services covered by the comprehensive benefit package that are provided to the individual, except as provided in subsections (d)(2)(D) and (e)(2)(D) of section 1115.

(B) FAMILY.—In the case of an individual enrolled under a health plan under a family class of enrollment (as defined in section 1011(c)(2)(A)), the family out-of-pocket limit on cost sharing in the cost sharing schedule offered by the plan represents the amount of expenses that members of the individual's family, in the aggregate, may be required to incur under the plan in a year because of a general deductible, separate deductibles, copayments, and coinsurance before the plan may no longer impose any cost sharing with respect to items or services covered by the comprehensive benefit package that are provided to any member of the individual's family, except as provided in subsections (d)(2)(D) and (e)(2)(D) of section 1115.

SEC. 1132. LOWER COST SHARING.

(a) IN GENERAL.—The lower cost sharing schedule referred to in section 1131 that is offered by a health plan—

(1) may not include a deductible;

(2) shall have—

(A) an annual individual out-of-pocket limit on cost sharing of $1500; and

(B) an annual family out-of-pocket limit on cost sharing of $3000;

(3) except as provided in paragraph (4)—

(A) shall prohibit payment of any coinsurance; and

(B) subject to section 1152, shall require payment of the copayment for an item or service (if any) that is specified for the item or service in the table under section 1135; and

(4) shall require payment of coinsurance for an out-of-network item or service (as defined in section 1402(f)) in an amount that is a percentage (determined under subsection (b)) of the applicable payment rate for the item or service established under section 1322(c), but only if the item or service is subject to coinsurance under the higher cost sharing schedule described in section 1133.

(b) OUT-OF-NETWORK COINSURANCE PERCENTAGE.—

(1) IN GENERAL.—The National Health Board shall determine a percentage referred to in subsection (a)(4). The percentage—

(A) may not be less than 20 percent; and

(B) shall be the same with respect to all out-of-network items and services that are subject to coinsurance, except as provided in paragraph (2).

(2) EXCEPTION.—The National Health Board may provide for a percentage that is greater than a percentage determined under paragraph (1) in the case of an out-of-network item or service for which the coinsurance is greater than 20 percent of the applicable payment rate under the higher cost sharing schedule described in section 1133.

SEC. 1133. HIGHER COST SHARING.

The higher cost sharing schedule referred to in section 1131 that is offered by a health plan—

(1) shall have an annual individual general deductible of $200 and an annual family general deductible of $400 that apply with respect to expenses incurred for all items and services in the comprehensive benefit package except—

(A) an item or service with respect to which a separate individual deductible applies under paragraph (2), (3), or (4); or

(B) an item or service described in paragraph (5), (6), or (7) with respect to which a deductible does not apply;

(2) shall require an individual to incur expenses during each episode of inpatient and residential mental health and substance abuse treatment (described in section 1115) equal to the cost of one day of such treatment before the plan provides benefits for such treatment to the individual;

(3) shall require an individual to incur expenses in a year for outpatient prescription drugs and biologicals (described in section 1122) equal to $250 before the plan provides benefits for such items to the individual;

(4) shall require an individual to incur expenses in a year for dental care described in section 1126, except the items and services for prevention and diagnosis of dental disease described in section 1126(a)(2), equal to $50 before the plan provides benefits for such care to the individual;

(5) may not require any deductible for clinical preventive services (described in section 1114);

(6) may not require any deductible for clinician visits and associated services related to prenatal care or 1 post-partum visit under section 1116;

(7) may not require any deductible for the items and services for prevention and diagnosis of dental disease described in section 1126(a)(2);

(8) shall have—

(A) an annual individual out-of-pocket limit on cost sharing of $1500; and

(B) an annual family out-of-pocket limit on cost sharing of $3000;

(9) shall prohibit payment of any copayment; and

(10) subject to section 1152, shall require payment of the coinsurance for an item or service (if any) that is specified for the item or service in the table under section 1135.

SEC. 1134. COMBINATION COST SHARING.

(a) IN GENERAL.—The combination cost sharing schedule referred to in section 1131 that is offered by a health plan—

(1) shall have—

(A) an annual individual out-of-pocket limit on cost sharing of $1500; and

(B) an annual family out-of-pocket limit on cost sharing of $3000; and

(2) otherwise shall require different cost sharing for in-network items and services than for out-of-network items and services.

(b) IN-NETWORK ITEMS AND SERVICES.—With respect to an in-network item or service (as defined in section 1402(f)(1)), the combination cost sharing schedule that is offered by a health plan—

(1) may not apply a deductible;

(2) shall prohibit payment of any coinsurance; and

(3) shall require payment of a copayment in accordance with the lower cost sharing schedule described in section 1132.

(c) OUT-OF-NETWORK ITEMS AND SERVICES.—With respect to an out-of-network item or service (as defined in section 1402(f)(2)), the combination cost sharing schedule that is offered by a health plan—

(1) shall require an individual and a family to incur expenses before the plan provides benefits for the item or service in accordance with the deductibles under the higher cost sharing schedule described in section 1133;

(2) shall prohibit payment of any copayment; and

(3) shall require payment of coinsurance in accordance with such schedule.

SEC. 1135. TABLE OF COPAYMENTS AND COINSURANCE.

(a) IN GENERAL.—The following table specifies, for different items and services, the copayments and coinsurance referred to in sections 1132 and 1133:

Copayments and Coinsurance for Items and Services

Benefit	Section	Lower Cost Sharing Schedule	Higher Cost Sharing Schedule
Inpatient hospital services	1111	No copayment	20 percent of applicable payment rate

Copayments and Coinsurance for Items and Services—Continued

Benefit	Section	Lower Cost Sharing Schedule	Higher Cost Sharing Schedule
Outpatient hospital services	1111	$10 per visit	20 percent of applicable payment rate
Hospital emergency room services	1111	$25 per visit (unless patient has an emergency medical condition as defined in section 1867(e)(1) of the Social Security Act)	20 percent of applicable payment rate
Services of health professionals	1112	$10 per visit	20 percent of applicable payment rate
Emergency services other than hospital emergency room services	1113	$25 per visit (unless patient has an emergency medical condition as defined in section 1867(e)(1) of the Social Security Act)	20 percent of applicable payment rate
Ambulatory medical and surgical services	1113	$10 per visit	20 percent of applicable payment rate
Clinical preventive services	1114	No copayment	No coinsurance
Inpatient and residential mental health and substance abuse treatment	1115	No copayment	20 percent of applicable payment rate
Intensive nonresidential mental health and substance abuse treatment	1115	No copayment	20 percent of applicable payment rate
Outpatient mental health and substance abuse treatment (except psychotherapy, collateral services, and case management)	1115	$10 per visit	20 percent of applicable payment rate
Outpatient psychotherapy and collateral services	1115	$25 per visit until January 1, 2001, and $10 per visit thereafter	50 percent of applicable payment rate until January 1, 2001, and 20 percent thereafter
Case management	1115	No copayment	No coinsurance
Family planning and services for pregnant women (except clinician visits and associated services related to prenatal care and 1 post-partum visit)	1116	$10 per visit	20 percent of applicable payment rate
Clinician visits and associated services related to prenatal care and 1 post-partum visit	1116	No copayment	No coinsurance
Hospice care	1117	No copayment	20 percent of applicable payment rate
Home health care	1118	No copayment	20 percent of applicable payment rate
Extended care services	1119	No copayment	20 percent of applicable payment rate
Ambulance services	1120	No copayment	20 percent of applicable payment rate
Outpatient laboratory, radiology, and diagnostic services	1121	No copayment	20 percent of applicable payment rate
Outpatient prescription drugs and biologicals	1122	$5 per prescription	20 percent of applicable payment rate
Outpatient rehabilitation services	1123	$10 per visit	20 percent of applicable payment rate
Durable medical equipment and prosthetic and orthotic devices	1124	No copayment	20 percent of applicable payment rate
Vision care	1125	$10 per visit (No additional charge for 1 set of necessary eyeglasses for an individual less than 18 years of age)	20 percent of applicable payment rate
Dental care (except space maintenance procedures and interceptive orthodontic treatment)	1126	$10 per visit	20 percent of applicable payment rate
Space maintenance procedures and interceptive orthodontic treatment	1126	$20 per visit	40 percent of applicable payment rate
Health education classes	1127	All cost sharing rules determined by plans	All cost sharing rules determined by plans
Investigational treatment for life-threatening condition	1128	All cost sharing rules determined by plans	All cost sharing rules determined by plans

(b) APPLICABLE PAYMENT RATE.—For purposes of this section, the term "applicable payment rate", when used with respect to an item or service, means the applicable payment rate for the item or service established under section 1322(c).

SEC. 1136. INDEXING DOLLAR AMOUNTS RELATING TO COST SHARING.

(a) IN GENERAL.—Any deductible, copayment, out-of-pocket limit on cost sharing, or other amount expressed in dollars in this subtitle for items or services provided in a year after 1994 shall be such amount increased by the percentage specified in subsection (b) for the year.

(b) PERCENTAGE.—The percentage specified in this subsection for a year is equal to the product of the factors described in subsection (d) for the year and for each previous year after 1994.

(c) ROUNDING.—Any increase (or decrease) under subsection (a) shall be rounded, in the case of an amount specified in this subtitle of—

(1) $200 or less, to the nearest multiple of $1,

(2) more than $200, but less $500, to the nearest multiple of $5, or

(3) $500 or more, to the nearest multiple of $10.

(d) FACTOR.—

(1) IN GENERAL.—The factor described in this subsection for a year is 1 plus the general health care inflation factor (as specified in section 6001(a)(3) and determined under paragraph (2)) for the year.

(2) DETERMINATION.—In computing such factor for a year, the percentage increase in the CPI for a year (referred to in section 6001(b)) shall be determined based upon the percentage increase in the average of the CPI for the 12-month period ending with August 31 of the previous year over such average for the preceding 12-month period.

PART 4—EXCLUSIONS

SEC. 1141. EXCLUSIONS.

(a) MEDICAL NECESSITY.—The comprehensive benefit package does not include—

(1) an item or service (other than services referred to in paragraph (2)) that is not medically necessary or appropriate; or

(2) an item or service that the National Health Board may determine is not medically necessary or appropriate in a regulation promulgated under section 1154.

(b) ADDITIONAL EXCLUSIONS.—The comprehensive benefit package does not include the following items and services:

(1) Custodial care, except in the case of hospice care under section 1117.

(2) Surgery and other procedures performed solely for cosmetic purposes and hospital or other services incident thereto, unless—

(A) required to correct a congenital anomaly; or

(B) required to restore or correct a part of the body that has been altered as a result of—

(i) accidental injury;

(ii) disease; or

(iii) surgery that is otherwise covered under this subtitle.

(3) Hearing aids.

(4) Eyeglasses and contact lenses for individuals at least 18 years of age.

(5) In vitro fertilization services.

(6) Sex change surgery and related services.

(7) Private duty nursing.

(8) Personal comfort items, except in the case of hospice care under section 1117.

(9) Any dental procedures involving orthodontic care, inlays, gold or platinum fillings, bridges, crowns, pin/post retention, dental implants, surgical periodontal procedures, or the preparation of the mouth for the fitting or continued use of dentures, except as specifically described in section 1126.

PART 5—ROLE OF THE NATIONAL HEALTH BOARD

SEC. 1151. DEFINITION OF BENEFITS.

(a) IN GENERAL.—The National Health Board may promulgate such regulations or establish such guidelines as may be necessary to assure uniformity in the application of the comprehensive benefit package across all health plans.

(b) FLEXIBILITY IN DELIVERY.—The regulations or guidelines under subsection (a) shall permit a health plan to deliver covered items and services to individuals enrolled under the plan using the providers and methods that the plan determines to be appropriate.

SEC. 1152. ACCELERATION OF EXPANDED BENEFITS.

(a) IN GENERAL.—Subject to subsection (b), at any time prior to January 1, 2001, the National Health Board, in its discretion, may by regulation expand the comprehensive benefit package by—

(1) adding any item or service that is added to the package as of January 1, 2001; and

(2) requiring that a cost sharing schedule described in part 3 of this subtitle reflect (wholly or in part) any of the cost sharing requirements that apply to the schedule as of January 1, 2001.

No such expansion shall be effective except as of January 1 of a year.

(b) CONDITION.—The Board may not expand the benefit package under subsection (a) which is to become effective with respect to a year, by adding any item or service or altering any cost sharing schedule, unless the Board estimates that the additional increase in per capita health care expenditures resulting from the addition or alteration, for each regional alliance for the year, will not cause any regional alliance to exceed its per capita target (as determined under section 6003(a)).

SEC. 1153. AUTHORITY WITH RESPECT TO CLINICAL PREVENTIVE SERVICES.

(a) IN GENERAL.—With respect to clinical preventive services described in section 1114, the National Health Board—

(1) shall specify and define specific items and services as clinical preventive services for high risk populations and shall establish and update a periodicity schedule for such items and services;

(2) shall update the periodicity schedules for the age-appropriate immunizations, tests, and clinician visits specified in subsections (b) through (h) of such section;

(3) shall establish rules with respect to coverage for an immunization, test, or clinician visit that is not provided to an individual during the age range for such immunization, test, or clinician visit that is specified in one of subsections (b) through (h) of such section; and

(4) may otherwise modify the items and services described in such section, taking into account age and other risk factors, but may not modify the cost sharing for any such item or service.

(b) CONSULTATION.—In performing the functions described in subsection (a), the National Health Board shall consult with experts in clinical preventive services.

SEC. 1154. ESTABLISHMENT OF STANDARDS REGARDING MEDICAL NECESSITY.

The National Health Board may promulgate such regulations as may be necessary to carry out section 1141(a)(2) (relating to the exclusion of certain services that are not medically necessary or appropriate).

PART 6—ADDITIONAL PROVISIONS RELATING TO HEALTH CARE PROVIDERS

SEC. 1161. OVERRIDE OF RESTRICTIVE STATE PRACTICE LAWS.

No State may, through licensure or otherwise, restrict the practice of any class of health professionals beyond what is justified by the skills and training of such professionals.

SEC. 1162. PROVISION OF ITEMS OR SERVICES CONTRARY TO RELIGIOUS BELIEF OR MORAL CONVICTION.

A health professional or a health facility may not be required to provide an item or service in the comprehensive benefit package if the professional or facility objects to doing so on the basis of a religious belief or moral conviction.

Subtitle C—State Responsibilities

SEC. 1200. PARTICIPATING STATE.

(a) IN GENERAL.—For purposes of the approval of a State health care system by the Board under section 1511, a State is a "participating State" if the State meets the applicable requirements of this subtitle.

(b) SUBMISSION OF SYSTEM DOCUMENT.—

(1) IN GENERAL.—In order to be approved as a participating State under section 1511, a State shall submit to the National Health Board a document (in a form and manner specified by the Board) that describes the State health care system that the State is establishing (or has established).

(2) DEADLINE.—If a State is not a participating State with a State health care system in operation by January 1, 1998, the provisions of subpart B of part 2 of subtitle F (relating to Federal operation of a State health care system) shall take effect.

(3) SUBMISSION OF INFORMATION SUBSEQUENT TO APPROVAL.—A State approved as a participating State under section 1511 shall submit to the Board an annual update to the State health care system not later than February 15 of each year following the first year for which the State is a participating State that contains—

(A) such information as the Board may require to determine that the system shall meet the applicable requirements of subtitle C for the succeeding year; and

(B) such information as the Board may require to determine that the State operated the system during the previous year in accordance with the Board's approval of the system for such previous year.

PART 1—GENERAL STATE RESPONSIBILITIES

SEC. 1201. GENERAL STATE RESPONSIBILITIES.

The responsibilities for a participating State are as follows:

(1) REGIONAL ALLIANCES.—Establishing one or more regional alliances (in accordance with section 1202).

(2) HEALTH PLANS.—Certifying health plans (in accordance with section 1203).

(3) FINANCIAL SOLVENCY OF PLANS.—Assuring the financial solvency of health plans (in accordance with section 1204).

(4) ADMINISTRATION.—Designating an agency or official charged with coordinating the State responsibilities under Federal law.

(5) WORKERS COMPENSATION AND AUTOMOBILE INSURANCE.—Conforming State laws to meet the requirements of title X (relating to medical benefits under workers compensation and automobile insurance).

(6) OTHER RESPONSIBILITIES.—Carrying out other responsibilities of participating States specified under this Act.

SEC. 1202. STATE RESPONSIBILITIES WITH RESPECT TO ALLIANCES.

(a) ESTABLISHMENT OF ALLIANCES.—

(1) IN GENERAL.—A participating State shall—

(A) establish and maintain one or more regional alliances in accordance with this section and subtitle D, and ensure that such alliances meet the requirements of this Act; and

(B) designate alliance areas in accordance with subsection (b).

(2) DEADLINE.—A State may not be a participating State for a year unless the State has established such alliances by March 1 of the previous year.

(b) ALLIANCE AREAS.—

(1) IN GENERAL.—In accordance with this subsection, each State shall designate a geographic area assigned to each regional alliance. Each such area is referred to in this Act as an "alliance area".

(2) POPULATION REQUIRED.—

(A) IN GENERAL.—Each alliance area shall encompass a population large enough to ensure that the alliance has adequate market share to negotiate effectively with health plans providing the comprehensive benefit package to eligible individuals who reside in the area.

(B) TREATMENT OF CONSOLIDATED METROPOLITAN STATISTICAL AREAS.—An alliance area that includes a Consolidated Metropolitan Statistical Area within a State is presumed to meet the requirements of subparagraph (A).

(3) SINGLE ALLIANCE IN EACH AREA.—No geographic area may be assigned to more than one regional alliance.

(4) BOUNDARIES.—In establishing boundaries for alliance areas, the State may not discriminate on the basis of or otherwise take into account race, ethnicity, language, religion, national origin, socio-economic status, disability, or perceived health status.

(5) TREATMENT OF METROPOLITAN AREAS.—The entire portion of a metropolitan statistical area located in a State shall be included in the same alliance area.

(6) NO PORTIONS OF STATE PERMITTED TO BE OUTSIDE ALLIANCE AREA.—Each portion of the State shall be assigned to a regional alliance under this subsection.

(c) STATE COORDINATION OF REGIONAL ALLIANCES.—One or more States may allow or require two or more regional alliances to coordinate their operations, whether such alliances are in the same or different States. Such coordination may include adoption of joint operating rules, contracting with health plans, enforcement activities, and establishment of fee schedules for health providers.

(d) ASSISTANCE IN COLLECTION OF AMOUNTS OWED TO ALLIANCES.—Each State shall assure that the amounts owed to regional alliances in the State are collected and paid to such alliances.

(e) ASSISTANCE IN ELIGIBILITY VERIFICATIONS.—

(1) IN GENERAL.—Each State shall assure that the determinations of eligibility for cost sharing assistance (and premium discounts and cost sharing reductions for families) are made by regional alliances in the State on the basis of the best information available to the alliances and the State.

(2) PROVISION OF INFORMATION.—Each State shall use the information available to the State under section 6103(l)(7)(D)(x) of the Internal Revenue Code of 1986 to assist regional alliances in verifying such eligibility status.

(f) SPECIAL REQUIREMENTS FOR ALLIANCES WITH SINGLE-PAYER SYSTEM.—If the State operates an alliance-specific single-payer system (as described in part 2), the State shall assure that the regional alliance in which the system is operated meets the requirements for such an alliance described in section 1224(b).

(g) PAYMENT OF SHORTFALLS FOR CERTAIN ADMINISTRATIVE ERRORS.—Each participating State is financially responsible, under section 9201(c)(2), for administrative errors described in section 9201(e)(2).

SEC. 1203. STATE RESPONSIBILITIES RELATING TO HEALTH PLANS.

(a) CRITERIA FOR CERTIFICATION.—

(1) IN GENERAL.—For purposes of this section, a participating State shall establish and publish the criteria that are used in the certification of health plans under this section.

(2) REQUIREMENTS.—Such criteria shall be established with respect to—

(A) the quality of the plan,

(B) the financial stability of the plan,

(C) the plan's capacity to deliver the comprehensive benefit package in the designated service area,

(D) other applicable requirements for health plans under parts 1, 3, and 4 of subtitle E, and

(E) other requirements imposed by the State consistent with this part.

(b) CERTIFICATION OF HEALTH PLANS.—A participating State shall certify each plan as a regional alliance health plan that it determines meet the criteria for certification established and published under subsection (a).

(c) MONITORING.—A participating State shall monitor the performance of each State-certified regional alliance health plan to ensure that it continues to meet the criteria for certification.

(d) LIMITATIONS ON AUTHORITY.—A participating State may not—

(1) discriminate against a plan based on the domicile of the entity offering of the plan; and

(2) regulate premium rates charged by health plans, except as may be required under title VI (relating to the enforcement of cost containment rules for plans in the State) or as may be necessary to ensure that plans meet financial solvency requirements under section 1408.

(e) ASSURING ADEQUATE ACCESS TO A CHOICE OF HEALTH PLANS.—

(1) GENERAL ACCESS.—

(A) IN GENERAL.—Each participating State shall ensure that—

(i) each regional alliance eligible family has adequate access to enroll in a choice of regional alliance health plans providing services in the area in which the individual resides, including (to the maximum extent practicable) adequate access to a plan whose premium is at or below the weighted average premium for plans in the regional alliance, and

(ii) each such family that is eligible for a premium discount under section 6104(b) is provided a discount in accordance with such section (including an increase in such discount described in section 6104(b)(2)).

(B) AUTHORITY.—In order to carry out its responsibility under subparagraph (A), a participating State may require, as a condition of entering into a contract with a regional alliance under section 1321, that one or more certified regional alliance health plans cover all (or selected portions) of the alliance area.

(2) ACCESS TO PLANS USING CENTERS OF EXCELLENCE.—Each participating State may require, as a condition of entering into a contract with a regional alliance under section 1321, that one or more certified health plans provide access (through reimbursement, contracts, or otherwise) of enrolled individuals to services of centers of excellence (as designated by the State in accordance with rules promulgated by the Secretary).

(3) USE OF INCENTIVES TO ENROLL AND SERVE DISADVANTAGED GROUPS.—A State may provide—

(A) for an adjustment to the risk-adjustment methodology under section 1542(c) and other financial incentives to regional alliance health plans to ensure that such plans enroll individuals who are members of disadvantaged groups, and

(B) for appropriate extra services, such as outreach to encourage enrollment and transportation and interpreting services to ensure access to care, for certain population groups that face barriers to access because of geographic location, income levels, or racial or cultural differences.

(f) COORDINATION OF WORKERS' COMPENSATION SERVICES AND AUTOMOBILE INSURANCE.—Each participating State shall comply with the responsibilities regarding workers' compensation and automobile insurance specified in title X.

(g) IMPLEMENTATION OF MANDATORY REINSURANCE SYSTEM.—If the risk adjustment and reinsurance methodology developed under section 1541 includes a mandatory reinsurance system, each participating State shall establish a reinsurance program consistent with such methodology and any additional standards established by the Board.

(h) REQUIREMENTS FOR PLANS OFFERING SUPPLEMENTAL INSURANCE.—Notwithstanding any other provision of this Act a State may not certify a regional alliance health plan under this section if—

(1) the plan (or any entity with which the plan is affiliated under such rules as the Board may establish) offers a supplemental health benefit policy (as defined in section 1421(a)(1)) that fails to meet the applicable requirements for such a policy under part 2 of subtitle E (without regard to the State in which the policy is offered); or

(2) the plan offers a cost sharing policy (as defined in section 1421(a)(2)) that fails to meet the applicable requirements for such a policy under part 2 of subtitle E.

SEC. 1204. FINANCIAL SOLVENCY; FISCAL OVERSIGHT; GUARANTY FUND.

(a) CAPITAL STANDARDS.—A participating State shall establish capital standards for health plans that meet minimum Federal requirements established by the National Health Board under section 1505(i).

(b) REPORTING AND AUDITING REQUIREMENTS.—Each participating State shall define financial reporting and auditing requirements and requirements for fund reserves adequate to monitor the financial status of plans.

(c) GUARANTY FUND.—

(1) ESTABLISHMENT.—Each participating State shall ensure that there is a guaranty fund that meets the requirements established by the Board under section 1505(j)(2), in order to provide financial protection to health care providers and others in the case of a failure of a regional alliance health plan.

(2) ASSESSMENTS TO PROVIDE FUNDS.—In the case of a failure of one or more regional alliance health plans, the State may require each regional alliance health plan within the State to pay an assessment to the State in an amount not to exceed 2 percent of the premiums of such plans paid by or on behalf of regional alliance eligible individuals during a year for so long as necessary to generate sufficient revenue to cover any outstanding claims against the failed plan.

(d) PROCEDURES IN EVENT OF PLAN FAILURE.—

(1) IN GENERAL.—A participating State shall assure that, in the event of the failure of a regional alliance health plan in the State, eligible individuals enrolled in the plan will be assured continuity of coverage for the comprehensive benefit package.

(2) DESIGNATION OF STATE AGENCY.—A participating State shall designate an agency of State government that supervises or assumes control of the operation of a regional alliance health plan in the case of the failure of the plan.

(3) PROTECTIONS FOR HEALTH CARE PROVIDERS AND ENROLLEES.—Each participating State shall assure that in the case of a plan failure—

(A) the guaranty fund shall pay health care providers for items and services covered under the comprehensive benefit package for enrollees of the plan for which the plan is otherwise obligated to make payment;

(B) after making all payments required to be made to providers under subparagraph (A), the guaranty fund shall make payments for the operational, administrative, and other costs and debts of the plan (in accordance with requirements imposed by the State based on rules promulgated by the Board);

(C) such health care providers have no legal right to seek payment from eligible individuals enrolled in the plan for any such covered items or services (other than the enrollees' obligations under cost sharing arrangements); and

(D) health care providers are required to continue caring for such eligible individuals until such individuals are enrolled in a new health plan.

(4) PLAN FAILURE.—For purposes of this section, the failure of a health plan means the current or imminent inability to pay claims.

SEC. 1205. RESTRICTIONS ON FUNDING OF ADDITIONAL BENEFITS.

If a participating State provides benefits (either directly or through regional alliance health plans or otherwise) in addition to those covered under the comprehensive benefit package, the State may not provide for payment for such benefits through funds provided under this Act.

PART 2—REQUIREMENTS FOR STATE SINGLE-PAYER SYSTEMS

SEC. 1221. SINGLE-PAYER SYSTEM DESCRIBED.

The Board shall approve the application of a State to operate a single-payer system if the Board finds that the system—

(1) meets the requirements of section 1222;

(2) meets the requirements for a Statewide single-payer system under section 1223, in the case of a system offered throughout a State; and

(3) meets the requirements for an alliance-specific single-payer system under section 1224, in the case of a system offered in a single alliance of a State.

SEC. 1222. GENERAL REQUIREMENTS FOR SINGLE-PAYER SYSTEMS.

Each single-payer system shall meet the following requirements:

(1) ESTABLISHMENT BY STATE.—The system is established under State law, and State law provides for mechanisms to enforce the requirements of the plan.

(2) OPERATION BY STATE.—The system is operated by the State or a designated agency of the State.

(3) ENROLLMENT OF ELIGIBLE INDIVIDUALS.—

(A) MANDATORY ENROLLMENT OF ALL REGIONAL ALLIANCE INDIVIDUALS.—The system provides for the enrollment of all eligible individuals residing in the State (or, in the case of an alliance-specific single-payer system, in the alliance area) for whom the applicable health plan would otherwise be a regional alliance health plan.

(B) OPTIONAL ENROLLMENT OF MEDICARE-ELIGIBLE INDIVIDUALS.—At the option of the State, the system may provide for the enrollment of medicare-individuals residing in the State (or, in the case of an alliance-specific single-payer system, in the alliance area) if the Secretary of Health and Human Services has approved an application submitted by the State under section 1893 of the Social Security Act (as added by section 4001(a)) for the integration of medicare beneficiaries into plans of the State. Nothing in this subparagraph shall be construed as requiring that a State have a single-payer system in order to provide for such integration.

(C) OPTIONAL ENROLLMENT OF CORPORATE ALLIANCE INDIVIDUALS IN STATEWIDE PLANS.—At the option of the State, a Statewide single-payer system may provide for the enrollment of individuals residing in the State who are otherwise eligible to enroll in a corporate alliance health plan under section 1311.

(D) OPTIONS INCLUDED IN STATE SYSTEM DOCUMENT.—A State may not exercise any of the options described in subparagraphs (A) or (B) for a year unless the State included a description of the option in the submission of its system document to the Board for the year under section 1200(b).

(E) EXCLUSION OF CERTAIN INDIVIDUALS.—A single-payer system may not require the enrollment of electing veterans, active duty military personnel, and electing Indians (as defined in 1012(d)).

(4) DIRECT PAYMENT TO PROVIDERS.—

(A) IN GENERAL.—With respect to providers who furnish items and services included in the comprehensive benefit package to individuals enrolled in the system, the State shall make payments directly to such providers and assume (subject to subparagraph (B)) all financial risk associated with making such payments.

(B) CAPITATED PAYMENTS PERMITTED.—Nothing in subparagraph (A) shall be construed to prohibit providers furnishing items and services under the system from receiving payments from the plan on a capitated, at-risk basis based on prospectively determined rates.

(5) PROVISION OF COMPREHENSIVE BENEFIT PACKAGE.—

(A) IN GENERAL.—The system shall provide for coverage of the comprehensive benefit package, including the cost sharing provided under the package (subject to subparagraph (B)), to all individuals enrolled in the system.

(B) IMPOSITION OF REDUCED COST SHARING.—The system may decrease the cost sharing otherwise provided in the comprehensive benefit package with respect to any class of individuals enrolled in the system or any class of services included in the package, so long as the system does not increase the cost sharing otherwise imposed with respect to any other class of individuals or services.

(6) COST CONTAINMENT.—The system shall provide for mechanisms to ensure, in a manner satisfactory to the Board, that—

(A) per capita expenditures for items and services in the comprehensive benefit package under the system for a year (beginning with the first year) do not exceed an amount equivalent to the regional alliance per capita premium target that is determined under section 6003 (based on the State being a single regional alliance) for the year;

(B) the per capita expenditures described in subparagraph (A) are computed and effectively monitored; and

(C) automatic, mandatory, nondiscretionary reductions in payments to health care providers will be imposed to the extent required to assure that such per capita expenditures do not exceed in the applicable target referred to in subparagraph (A).

(7) REQUIREMENTS GENERALLY APPLICABLE TO HEALTH PLANS.—The system shall meet the requirements applicable to a health plan under section 1400(a), except that—

(A) the system does not have the authority provided to health plans under section 1402(a)(2) (relating to permissible limitations on the enrollment of eligible individuals on the basis of limits on the plan's capacity);

(B) the system is not required to meet the requirements of section 1404(a) (relating to restrictions on the marketing of plan materials); and

(C) the system is not required to meet the requirements of section 1408 (relating to plan solvency).

SEC. 1223. SPECIAL RULES FOR STATES OPERATING STATEWIDE SINGLE-PAYER SYSTEM.

(a) IN GENERAL.—In the case of a State operating a Statewide single-payer system—

(1) the State shall operate the system throughout the State through a single alliance;

(2) except as provided in subsection (b), the State shall meet the requirements for participating States under part 1; and

(3) the State shall assume the functions described in subsection (c) that are otherwise required to be performed by regional alliances in participating States that do not operate a Statewide single-payer system.

(b) EXCEPTIONS TO CERTAIN REQUIREMENTS FOR PARTICIPATING STATES.—In the case of a State operating a Statewide single-payer system, the State is not required to meet the following requirements otherwise applicable to participating States under part 1:

(1) ESTABLISHMENT OF ALLIANCES.—The requirements of section 1202 (relating to the establishment of alliances).

(2) HEALTH PLANS.—The requirements of section 1203 (relating to health plans), other than the requirement of subsection (f) of such section (relating to coordination of workers' compensation services and automobile liability insurance).

(3) FINANCIAL SOLVENCY.—The requirements of section 1204 (relating to the financial solvency of health plans in the State).

(c) ASSUMPTION BY STATE OF CERTAIN REQUIREMENTS APPLICABLE TO REGIONAL ALLIANCES.—A State operating a Statewide single-payer system shall be subject to the following requirements otherwise applicable to regional alliances in other participating States:

(1) ENROLLMENT; ISSUANCE OF HEALTH SECURITY CARDS.—The requirements of subsections (a) and (c) of section 1323 and section 1324 shall apply to the State, eligible individuals residing in the State, and the single-payer system operated by the State in the same manner as such requirements apply to a regional alliance, alliance eligible individuals, and regional alliance plans.

(2) REDUCTIONS IN COST SHARING FOR LOW-INCOME INDIVIDUALS.—The requirement of section 1371 shall apply to the State in the same manner as such requirement applies to a regional alliance.

(3) DATA COLLECTION; QUALITY.—The requirements of section 1327(a) shall apply to the State and the single-payer system operated by the State in the same manner as such requirement applies to a regional alliance and health plans offered through a regional alliance.

(4) ANTI-DISCRIMINATION; COORDINATION.—The requirements of section 1328 shall apply to the State in the same manner as such requirements apply with respect to a regional alliance.

(d) FINANCING.—

(1) IN GENERAL.—A State operating a Statewide single-payer system shall provide for the financing of the system using, at least in part, a payroll-based financing system that requires employers to pay at least the amount that the employers would be required to pay if the employers were subject to the requirements of subtitle B of title VI.

(2) USE OF FINANCING METHODS.—Such a State may use, consistent with paragraph (1), any other method of financing.

(e) SINGLE-PAYER STATE DEFINED.—In this Act, the term "single-payer State" means a State with a Statewide single-payer system in effect that has been approved by the Board in accordance with this part.

SEC. 1224. SPECIAL RULES FOR ALLIANCE-SPECIFIC SINGLE-PAYER SYSTEMS.

(a) IN GENERAL.—In the case of a State operating an alliance-specific single-payer system—

(1) the State shall meet the requirements for participating States under part 1, except that in establishing the regional alliance through which the system is offered, the requirement of section 1202(a)(1)(A) shall not apply to the extent necessary for the alliance to meet the requirements of section 1242; and

(2) the regional alliance in which the system is operated shall meet the requirements of subsection (b).

(b) REQUIREMENTS FOR ALLIANCE IN WHICH SYSTEM OPERATES.—A regional alliance in which an alliance-specific single payer system is operated shall meet the requirements applicable to regional alliances under subtitle D, except that the alliance is not required to meet the following requirements of such subtitle:

(1) CONTRACTS WITH HEALTH PLANS.—The requirements of section 1321 (relating to contracts with health plans).

(2) CHOICE OF HEALTH PLANS OFFERED.—The requirements of subsections (a) or (b) of section 1322 (relating to offering a choice of health plans to eligible enrollees).

(4) ESTABLISHMENT OF PROCESS FOR CONSUMER COMPLAINTS.—The requirements of section 1326(a) (relating to the establishment of a process for the hearing and resolution of consumer complaints against plans offered through the alliance).

(5) ADDRESSING NEEDS OF AREAS WITH INADEQUATE HEALTH SERVICES.—The regional alliance does not have any of the authorities described in subsections (a) and (b) of section 1329 (relating to adjusting payments to plans and encouraging the establishment of new plans).

Subtitle D—Health Alliances

SEC. 1300. HEALTH ALLIANCE DEFINED.

In this Act, the term "health alliance" means a regional alliance (as defined in section 1301) and a corporate alliance (as defined in section 1311).

PART 1—ESTABLISHMENT OF REGIONAL AND CORPORATE ALLIANCES

Subpart A—Regional Alliances

SEC. 1301. REGIONAL ALLIANCE DEFINED.

In this Act, the term "regional alliance" means a non-profit organization, an independent state agency, or an agency of the State which—

(1) meets the applicable organizational requirements of this subpart, and

(2) is carrying out activities consistent with part 2.

SEC. 1302. BOARD OF DIRECTORS.

(a) IN GENERAL.—A regional alliance must be governed by a Board of Directors appointed consistent with the provisions of this title. All powers vested in a regional alliance under this Act shall be vested in the Board of Directors.

(b) MEMBERSHIP.—

(1) IN GENERAL.—Such a Board of Directors shall consist of—

(A) members who represent employers whose employees purchase health coverage through the alliance, including self-employed individuals who purchase such coverage; and

(B) members who represent individuals who purchase such coverage, including employees who purchase such coverage.

(2) EQUAL REPRESENTATION OF EMPLOYERS AND CONSUMERS.—The number of members of the Board described under subparagraph (A) of paragraph (1) shall be the same as the number of members described in subparagraph (B) of such paragraph.

(c) NO CONFLICT OF INTEREST PERMITTED.—An individual may not serve as a member of the Board of Directors if the individual is one of the following (or an immediate family member of one of the following):

(1) A health care provider.

(2) An individual who is an employee or member of the Board of Directors of, has a substantial ownership in, or derives substantial income from, a health care provider, health plan, pharmaceutical company, or a supplier of medical equipment, devices, or services.

(3) A person who derives substantial income from the provision of health care.

(4)(A) A member or employee of an association, law firm, or other institution or organization that represents the interests of one or more health care providers, health plans or others involved in the health care field, or (B) an individual who practices as a professional in an area involving health care.

SEC. 1303. PROVIDER ADVISORY BOARDS FOR REGIONAL ALLIANCES.

Each regional alliance must establish a provider advisory board consisting of representatives of health care providers and professionals who provide covered services through health plans offered by the alliance.

Subpart B—Corporate Alliances

SEC. 1311. CORPORATE ALLIANCE DEFINED; INDIVIDUALS ELIGIBLE FOR COVERAGE THROUGH CORPORATE ALLIANCES; ADDITIONAL DEFINITIONS.

(a) CORPORATE ALLIANCE DEFINED.—In this Act, the term "corporate alliance" means an eligible sponsor (as defined in subsection (b)) if—

(1) the sponsor elects, in a form and manner specified by the Secretary of Labor consistent with this subpart, to be treated as a corporate alliance under this title and such election has not been terminated under section 1313; and

(2) the sponsor has filed with the Secretary of Labor a document describing how the sponsor shall carry out activities as such an alliance consistent with part 3.

(b) ELIGIBLE SPONSORS.—

(1) IN GENERAL.—In this subpart, each of the following is an eligible sponsor of a corporate alliance:

(A) LARGE EMPLOYER.—An employer that—

(i) is a large employer (as defined in subsection (e)(3)) as of the date of an election under subsection (a)(1), and

(ii) is not an excluded employer described in paragraph (2).

(B) PLAN SPONSOR OF A MULTIEMPLOYER PLAN.—A plan sponsor described in section 3(16)(B)(iii) of Employee Retirement Income Security Act of 1974, but only with respect to a group health plan that is a multiemployer plan (as defined in subsection (e)(4)) maintained by the sponsor and only if—

(i) such plan offered health benefits as of September 1, 1993, and

(ii) as of both September 1, 1993, and January 1, 1996, such plan has more than 5,000 active participants in the United States, or the plan is affiliated with a national labor agreement covering more than 5,000 employees.

(C) RURAL ELECTRIC COOPERATIVE AND RURAL TELEPHONE COOPERATIVE ASSOCIATION.—A rural electric cooperative or a rural telephone cooperative association, but only with respect to a group health plan that is maintained by such cooperative or association (or members of such cooperative or association) and only if such plan—

(i) offered health benefits as of September 1, 1993, and

(ii) as of both September 1, 1993, and January 1, 1996, has more than 5,000 full-time employees in the United States entitled to health benefits under the plan.

(2) EXCLUDED EMPLOYERS.—For purposes of paragraph (1)(A), any of the following are excluded employers described in this paragraph:

(A) An employer whose primary business is employee leasing.

(B) The Federal government (other than the United States Postal Service).

(C) A State government, a unit of local government, and an agency or instrumentality of government, including any special purpose unit of government.

(c) INDIVIDUALS ELIGIBLE TO ENROLL IN CORPORATE ALLIANCE HEALTH PLANS.—For purposes of part 1 of subtitle A, subject to subsection (d)—

(1) LARGE EMPLOYER ALLIANCES.—

(A) FULL-TIME EMPLOYEES.—Each eligible individual who is a full-time employee of a large employer that has an election in effect as a corporate alliance is eligible to enroll in a corporate alliance health plan offered by such corporate alliance.

(B) ONE-TIME OPTION TO EXEMPT EMPLOYEES IN SMALL ESTABLISHMENTS.—At the time of making an election to become a corporate alliance under this subpart, a large employer may exercise an option to make ineligible for enrollment all full-time employees of the employer employed in any establishment of the employer which has (at the time of the election) fewer than 100 full-time employees. The option under this subparagraph may be exercised separately with respect to each establishment of the employer.

(2) MULTIEMPLOYER ALLIANCES.—

(A) PARTICIPANTS.—Each participant and beneficiary (as defined in subparagraph (B)) under a multiemployer plan, with respect to which an eligible sponsor of the plan described in subsection (b)(1)(B) has an election in effect as a corporate alliance, is eligible to enroll in a corporate alliance health plan offered by such corporate alliance.

(B) PARTICIPANT AND BENEFICIARY DEFINED.—In subparagraph (A), the terms "participant" and "beneficiary" have the meaning given such terms in section 3 of the Employee Retirement Income Security Act of 1974.

(3) FULL-TIME EMPLOYEES OF RURAL COOPERATIVE ALLIANCES.—Each full-time employee of a rural electric cooperative or rural telephone cooperative association (or of a member of such a cooperative or association) which has an election in effect as a corporate alliance is eligible to enroll in a corporate alliance health plan offered by such corporate alliance.

(4) INELIGIBLE TO ENROLL IN REGIONAL ALLIANCE HEALTH PLAN.—Except as provided in section 1013(b), a corporate alliance eligible individual is not eligible to enroll under a regional alliance health plan.

(d) EXCLUSION OF CERTAIN INDIVIDUALS.—In accordance with rules of the Board, the following individuals shall not be treated as corporate alliance eligible individuals:

(1) AFDC recipients.

(2) SSI recipients.

(3) Individuals who are described in section 1004(b) (relating to veterans, military personnel, and Indians) and who elect an applicable health plan described in such section.

(4) Employees who are seasonal or temporary workers (as defined by the Board), other than such workers who are treated as corporate alliance eligible individuals pursuant to a collective bargaining agreement (as defined by the Secretary of Labor).

(e) DEFINITIONS RELATING TO CORPORATE ALLIANCES.—In this subtitle, except as otherwise provided:

(1) ESTABLISHMENT.—The term "establishment" shall be defined by the Secretary of Labor.

(2) GROUP HEALTH PLAN.—The term "group health plan" means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974) providing medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) to participants or beneficiaries (as defined in section 3 of the Employee Retirement Income Security Act of 1974) directly or through insurance, reimbursement, or otherwise.

(3) LARGE EMPLOYER.—The term "large employer" means an employer that has more than 5,000 full-time employees in the United

States, not including (subject to section 1312(a)(3)) any employee located at an establishment for which the option described in subsection (c)(1)(B) is in effect. Such term includes the United States Postal Service.

(4) MULTIEMPLOYER PLAN.—The term "multiemployer plan" has the meaning given such term in section 3(37) of the Employee Retirement Income Security Act of 1974, and includes any plan that is treated as such a plan under title I of such Act.

(5) RURAL ELECTRIC COOPERATIVE.—The term "rural electric cooperative" has the meaning given such term in section 3(40)(A)(iv) of the Employee Retirement Income Security Act of 1974.

(6) RURAL TELEPHONE COOPERATIVE ASSOCIATIONS.—The term "rural telephone cooperative association" has the meaning given such term in section 3(40)(A)(v) of the Employee Retirement Income Security Act of 1974.

SEC. 1312. TIMING OF ELECTIONS.

(a) FOR LARGE EMPLOYERS.—

(1) CURRENT LARGE EMPLOYERS.—

(A) IN GENERAL.—In the case of an employer that is an eligible sponsor described in section 1311(b)(1)(A) as of the most recent January 1 prior to the general effective date, the sponsor's election to be a corporate alliance under such section must be made and filed with the Secretary of Labor not later than the date specified in subparagraph (B).

(B) DEADLINE FOR NOTICE.—The date specified in this subparagraph is January 1 of the second year preceding the general effective date or, in the case of a State that elects to become a participating State before the general effective date, not later than one month later than the date specified for States to provide notice of their intent under section 1202(a)(2).

(2) NEW LARGE EMPLOYERS.—In the case of an employer that is not an eligible sponsor described in section 1311(b)(1)(A) as of the most recent January 1 prior to the general effective date, but first becomes such a sponsor as of a subsequent date, the election to be a corporate alliance under such section must be made and filed with the Secretary of Labor not later than March 1 of the year following the year in such report is submitted.

(3) APPLICATION OF OPTION.—The Secretary of Labor shall promulgate rules regarding how the option described in section 1311(c)(1)(B) will be applied to the determination of whether an employer is a large employer before an election is made under section 1311.

(b) FOR MULTIEMPLOYER PLANS AND RURAL COOPERATIVES.—In the case of an eligible sponsor described in section 1311(b)(1)(B) or (C), the sponsor's election to be a corporate alliance under such section must be made and filed with the Secretary of Labor not later than the second most recent March 1 prior to the general effective date.

(c) EFFECTIVE DATE OF ELECTION.—An election made under subsection (a) or (b) shall be effective for coverage provided under health plans on and after January 1 of the year following the year in which the election is made.

(d) ONE-TIME ELECTION.—If an eligible sponsor fails to make the election on a timely manner under subsection (a) or (b), the sponsor may not make such election at any other time.

SEC. 1313. TERMINATION OF ALLIANCE ELECTION.

(a) TERMINATION FOR INSUFFICIENT NUMBER OF FULL-TIME EMPLOYEES OR PARTICIPANTS.—If a corporate alliance reports under section 1387(c), that there were fewer than 4,800 full-time employees (or, active participants, in the case of one or more plans offered by a corporate alliance which is an eligible sponsor described in section 1311(b)(1)(B)) who are enrolled in a health plan through the alliance, the election under this part with respect to the alliance shall terminate.

(b) TERMINATION FOR FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Secretary of Labor finds that a corporate alliance has failed substantially to meet the applicable requirements of this subtitle, the Secretary shall terminate the election under this part with respect to the alliance

(2) EXCESS INCREASE IN PREMIUM EQUIVALENT.—If the Secretary of Labor finds that the alliance is in violation of the requirements of section 6022 (relating to prohibition against excess increase in premium expenditures), the Secretary shall terminate the alliance in accordance with such section.

(c) ELECTIVE TERMINATION.—A corporate alliance may terminate an election under this part by filing with the National Health Board and the Secretary of Labor a notice of intent to terminate.

(d) EFFECTIVE DATE OF TERMINATION.—In the case of a termination of an election under this section, in accordance with rules established by the Secretary of Labor—

(1) the termination shall take effect as of the effective date of enrollments in regional alliance health plans made during the next open enrollment period (as provided in section 1323(d)), and

(2) the enrollment of eligible individuals in corporate alliance health plans of the corporate alliance shall be terminated as of such date and such individuals shall be enrolled in other applicable health plans effective on such date.

(e) NOTICE TO BOARD.—If an election with respect to a corporate alliance is terminated pursuant to subsection (a) or subsection (b), the Secretary of Labor shall notify the National Health Board of the termination of the election.

PART 2—GENERAL RESPONSIBILITIES AND AUTHORITIES OF REGIONAL ALLIANCES

SEC. 1321. CONTRACTS WITH HEALTH PLANS.

(a) CONTRACTS WITH PLANS.—

(1) IN GENERAL.—In order to assure the availability of the comprehensive benefit package to eligible individuals residing in the alliance area in a cost-effective manner, except as provided in this section, each regional alliance shall negotiate with any willing State-certified health plan to enter into a contract with the alliance for the enrollment under the plan of eligible individuals in the alliance area. Subject to paragraph (2), a regional alliance shall not enter into any such contract with a health plan that is not a State-certified health plan.

(2) TREATMENT OF CERTAIN PLANS.—Each regional alliance shall enter into a contract under this section with any veterans health plan of the Department of Veterans Affairs and with a Uniformed Services Health Plan of the Department of Defense, that offers the comprehensive benefit package to eligible individuals residing in the alliance area if the appropriate official requests to enter into such a contract.

(b) GENERAL CONDITIONS FOR DENIAL OF CONTRACT BY A REGIONAL ALLIANCE.—A regional alliance is not required under this section to offer a contract with a health plan if—

(1) the alliance finds that the proposed premium exceeds 120 percent of the weighted-average premium within the alliance; or

(2) the plan has failed to comply with requirements under prior contracts with the alliance, including failing to offer coverage for all the services in the comprehensive benefit package in the entire service area of the plan.

SEC. 1322. OFFERING CHOICE OF HEALTH PLANS FOR ENROLLMENT; ESTABLISHMENT OF FEE-FOR-SERVICE SCHEDULE.

(a) IN GENERAL.—Each health alliance must provide to each eligible enrollee with respect to the alliance a choice of health plans among the plans which have contracts in effect with the alliance under section 1321 (in the case of a regional alliance) or section 1341 (in the case of a corporate alliance).

(b) OFFERING OF PLANS BY ALLIANCES.—

(1) IN GENERAL.—Each regional alliance shall include among its health plan offerings at least one fee-for-service plan (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE PLAN DEFINED.—

(A) IN GENERAL.—For purposes of this Act, the term "fee-for-service plan" means a health plan that—

(i) provides coverage for all items and services included in the comprehensive benefit package that are furnished by any lawful health care provider of the enrollee's choice, subject to reasonable restrictions (described in subparagraph (B)), and

(ii) makes payment to such a provider without regard to whether or not there is a contractual arrangement between the plan and the provider.

(B) REASONABLE RESTRICTIONS DESCRIBED.—The reasonable restrictions on coverage permitted under a fee-for-service plan (as specified by the National Health Board) are as follows:

(i) Utilization review.

(ii) Prior approval for specified services.

(iii) Exclusion of providers on the basis of poor quality of care, based on evidence obtainable by the plan.

Clause (ii) shall not be construed as permitting a plan to require prior approval for nonprimary health care services through a gatekeeper or other process.

(c) ESTABLISHMENT OF FEE-FOR-SERVICE SCHEDULE.—

(1) IN GENERAL.—Except in the case of regional alliances of a State that has established a Statewide fee schedule under paragraph (3), each regional alliance shall establish a fee schedule setting forth the payment rates applicable to services furnished during a year to individuals enrolled in fee-for-service plans (or to services furnished under the fee-for-service component of any regional alliance health plan) for use by regional alliance health plans under section 1406(c) and corporate alliance health plans providing services subject to the schedule in the regional alliance area.

(2) NEGOTIATION WITH PROVIDERS.—The fee schedule under paragraph (1) shall be established after negotiations with providers, and (subject to paragraphs (5) and (6)) providers may collectively negotiate the fee schedule with the regional alliance.

(3) USE OF STATEWIDE SCHEDULE.—At the option of a State, the State may establish its own statewide fee schedule which shall apply to all fee-for-service plans offered by regional alliances and corporate alliances in the State instead of alliance-specific schedules established under paragraph (1).

(4) ANNUAL REVISION.—A regional alliance or State (as the case may be) shall annually update the payment rates provided under the fee schedule established pursuant to paragraph (1) or paragraph (3).

(5) ACTIVITIES TREATED AS STATE ACTION OR EFFORTS INTENDED TO INFLUENCE GOVERNMENT

Action.—The establishment of a fee schedule under this subsection by a regional alliance of a State shall be considered to be pursuant to a clearly articulated and affirmatively expressed State policy to displace competition and actively supervised by the State, and conduct by providers respecting the establishment of the fee schedule, including collective negotiations by providers with the regional alliance (or the State) pursuant to paragraph (2), shall be considered as efforts intended to influence governmental action.

(6) No boycott permitted.—Nothing in this subsection shall be construed to permit providers to threaten or engage in any boycott.

(7) Negotiations defined.—In this subsection, "negotiations" are the process by which providers collectively and jointly meet, confer, consult, discuss, share information, among and between themselves in order to agree on information to be provided, presentations to be made, and other such activities with respect to regional alliances (or States) relating to the establishment of the fee schedule (but not including any activity that constitutes engaging in or threatening to engage in a boycott), as well as any and all collective and joint meetings, discussions, presentations, conferences, and consultations between or among providers and any regional alliance (or State) for the purpose of establishing the fee schedule described in this subsection.

(d) Prospective Budgeting of Fee-for-Service.—

(1) In general.—The fee schedule established by a regional alliance or a State under subsection (c) may be based on prospective budgeting described in paragraph (2).

(2) Prospective budgeting described.—Under prospective budgeting—

(A) the regional alliance or State (as the case may be) shall negotiate with health providers annually to develop a budget for the designated fee-for-service plan;

(B) the negotiated budget shall establish spending targets for each sector of health expenditures made by the plan; and

(C) if the regional alliance or State (as the case may be) determines that the utilization of services under the plan is at a level that will result in expenditures under the plan exceeding the negotiated budget, the plan shall reduce the amount of payments otherwise made to providers (through a withhold or delay in payments or adjustments) in such a manner and by such amounts as necessary to assure that expenditures will not exceed the budget.

(3) Use of prospective budgeting exclusive.—If a regional alliance or State establishes the fee schedule for fee-for-service plans on the basis of prospective budgeting under this subsection, payment for all services provided by fee-for-service plans in the alliance or State shall be determined on such basis.

SEC. 1323. ENROLLMENT RULES AND PROCEDURES.

(a) In General.—Each regional alliance shall assure that each regional alliance eligible individual who resides in the alliance area is enrolled in a regional alliance health plan and shall establish and maintain methods and procedures, consistent with this section, sufficient to assure such enrollment. Such methods and procedures shall assure the enrollment of alliance eligible individuals at the time they first become eligible enrollees in the alliance area, including individuals at the time of birth, at the time they move into the alliance area, and at the time of reaching the age of individual eligibility as an eligible enrollee (and not merely as a family member). Each regional alliance shall establish procedures, consistent with subtitle A, for the selection of a single health plan in which all members of a family are enrolled.

(b) Point of Service Enrollment Mechanism.—

(1) In general.—Each regional alliance shall establish a point-of-service enrollment mechanism (meeting the requirements of this subsection) for enrolling eligible individuals who are not enrolled in a health plan of the alliance when the individual seeks health services.

(2) Requirements of mechanism.—Under such a mechanism, if an eligible individual seeks to receive services (included in the comprehensive benefit package) from a provider in an alliance area and does not present evidence of enrollment under any applicable health plan, or if the provider has no evidence of the individual's enrollment under any such plan, the following rules shall apply:

(A) Notice to alliance.—The provider—

(i) shall provide the regional alliance with information relating to the identity of the eligible individual, and

(ii) may request payment from the regional alliance for the furnishing of such services.

(B) Initial determination of eligibility and enrollment status.—The regional alliance shall determine—

(i) if the individual is an alliance eligible individual for the alliance, and

(ii) if the individual is enrolled under an applicable health plan (including a corporate alliance health plan).

(C) Treatment of alliance eligible individuals.—If the regional alliance determines that the individual is an alliance eligible individual with respect to the alliance and—

(i) is enrolled under a regional alliance health plan of the alliance, the alliance shall forward the claim to the health plan involved and shall notify the provider (and the individual) of the fact of such enrollment and the forwarding of such claim (and the plan shall make payment to the provider for the services furnished to the individual as described in paragraph (3)(C));

(ii) is not enrolled under a regional alliance health plan of the alliance but is required to be so enrolled in a specific health plan as a family member under section 1021, the alliance shall record the individual's enrollment under such specific plan, shall forward the claim to such plan, and shall notify the provider (and the individual) of the fact of such enrollment and the forwarding of such claim (and the plan shall make payment to the provider for the services furnished to the individual as described in paragraph (3)(C)); or

(iii) is not enrolled under such a plan and is not described in clause (ii), the point-of-service enrollment procedures described in paragraph (3) shall apply.

(D) Treatment of individuals enrolled under health plans of other alliances.—If the regional alliance determines that the individual is not an alliance eligible individual with respect to the alliance but the individual is enrolled—

(i) under a regional alliance health plan of another alliance, the alliance shall forward the claim to the other regional alliance and shall notify the provider (and the individual) of the fact of such enrollment and the forwarding of such claim (and the plan shall make payment to the provider for the services furnished to the individual as described in paragraph (3)(C)); or

(ii) under a corporate alliance health plan, the alliance shall forward the claim to the corporate alliance involved and shall notify the provider (and the individual) of the fact of such enrollment and the forwarding of such claim (and the plan shall make payment to the provider for the services furnished to the individual as described in section 1383(b)(2)(B)).

(E) Treatment of other alliance eligible individuals not enrolled in health plan.—If the regional alliance determines that the individual is not an alliance eligible individual with respect to the alliance and the individual is an alliance eligible individual with respect to another health alliance but is not enrolled in a health plan of such alliance, the regional alliance shall forward the claim to the other alliance involved and shall notify the provider (and the individual) of the forwarding of such claim and the requirement for prompt enrollment of the individual under an applicable health plan of such alliance pursuant to the procedures described in paragraph (3) (in the case of a regional alliance) or in section 1383(b) (in the case of a corporate alliance).

(F) Treatment of all other individuals.—The National Board shall promulgate rules regarding the responsibilities of regional alliances relating to individuals whose applicable health plan is not an alliance plan and other individuals the alliance is unable to identify as eligible individuals.

(3) Point-of-service enrollment procedures described.—The point-of-service enrollment procedures under this paragraph are as follows:

(A) Not later than 10 days after the date an alliance is notified of the receipt of services by an unenrolled individual, the alliance provides the individual with materials describing health plans offered through the alliance.

(B) The individual shall be provided a period of 30 days in which to enroll in a health plan of the individual's choice. If the individual fails to so enroll during such period, the alliance shall enroll the individual in a health plan of the alliance selected on a random basis.

(C) Using the fee-for-service schedule adopted by the alliance under section, the health plan in which the individual is enrolled under this subparagraph shall reimburse the provider who provided the services referred to in subparagraph (A) to the same extent as if the individual had been enrolled under the plan at the time of provision of the services.

(c) Enrollment of New Residents.—

(1) In general.—Each regional alliance shall establish procedures for enrolling regional alliance eligible individuals who move into the alliance area.

(2) Long-term residents.—Such procedures shall assure that regional alliance eligible individuals who intend to reside in the alliance area for longer than 6 months shall register with the regional alliance for the area and shall enroll in a regional alliance health plan offered by the alliance.

(3) Short-term residents.—Such procedures shall permit eligible individuals who intend to reside in the alliance area for more than 3 months but less than 6 months to choose among the following options:

(A) To continue coverage through the health plan in which such individual is previously enrolled, in which case coverage for care in the area of temporary residence may be limited to emergency services and urgent care.

(B) To register with the regional alliance and enroll in a regional alliance health plan offered by the alliance.

(C) To change enrollment in the previous alliance area to enrollment in a health plan of such alliance that provides for coverage on a fee-for-service basis of services provided outside the area of that alliance.

(d) CHANGES IN ENROLLMENT.—

(1) ANNUAL OPEN ENROLLMENT PERIOD TO CHANGE PLAN ENROLLMENT.—Each regional alliance shall hold an annual open enrollment period during which each eligible enrollee in the alliance has the opportunity to choose among health plans offered through the alliance, according to rules to be promulgated by the National Health Board.

(2) DISENROLLMENT FOR CAUSE.—In addition to the annual open enrollment period held under paragraph (1), each regional alliance shall establish procedures under which alliance eligible individuals enrolled in a plan may disenroll from the plan for good cause at any time during a year and enroll in another plan of the alliance. Such procedures shall be implemented in a manner that ensures continuity of coverage for the comprehensive benefit package for such individuals during the year.

(e) ENROLLMENT OF FAMILY MEMBERS.—Each regional alliance shall provide for the enrollment of all family members in the same plan, consistent with part 2 of subtitle A.

(f) OVERSUBSCRIPTION OF PLANS.—

(1) IN GENERAL.—Each regional alliance shall establish a method for establishing enrollment priorities in the case of a health plan that does not have sufficient capacity to enroll all eligible individuals seeking enrollment.

(2) PREFERENCE FOR CURRENT MEMBERS.—Such method shall provide that in the case of such an oversubscribed plan—

(A) individuals already enrolled in the plan are given priority in continuing enrollment in the plan, and

(B) other individuals who seek enrollment during an applicable enrollment period are permitted to enroll in accordance with a random selection method, up to the enrollment capacity of the plan.

(g) TERMINATION OF ENROLLMENT.—

(1) IN GENERAL.—Each regional alliance shall establish special enrollment procedures to permit alliance eligible individuals to change the plan in which they are enrolled in the case of the termination of coverage under a plan, in a manner that ensures the individuals' continuation of coverage for the comprehensive benefit package.

(2) FAILURE OF A CORPORATE ALLIANCE.—Each regional alliance shall establish special enrollment procedures to permit individuals, who become alliance eligible individuals as a result of the failure of a corporate alliance, to enroll promptly in regional alliance health plans in a manner that ensures the individuals' continuation of coverage for the comprehensive benefit package.

(h) LIMITATION ON OFFERING OF COVERAGE TO INELIGIBLE INDIVIDUALS.—A regional alliance may not knowingly offer coverage under a regional alliance health plan or other health insurance or health benefits to an individual who is not an eligible individual. Nothing in this section shall be construed as affecting the ability of a regional alliance health plan or other health plan to offer coverage to such individuals without any financial payment by a regional alliance.

(i) ENFORCEMENT OF ENROLLMENT REQUIREMENT.—In the case of a regional alliance eligible individual who fails to enroll in an applicable health plan as required under section 1002(a)—

(1) the applicable regional alliance shall enroll the individual in a regional alliance health plan (selected by the alliance consistent with this Act and with any rules established by the Board), and

(2) such alliance shall require the payment of twice the amount of the family share of premiums that would have been payable under subtitle B of title VI if the individual had enrolled on a timely basis in the plan, unless the individual has established to the satisfaction of the alliance good cause for the failure to enroll on a timely basis.

SEC. 1324. ISSUANCE OF HEALTH SECURITY CARDS.

A regional alliance is responsible for the issuance of health security cards to regional alliance eligible individuals under section 1001(b).

SEC. 1325. CONSUMER INFORMATION AND MARKETING.

(a) CONSUMER INFORMATION.—

(1) IN GENERAL.—Each regional alliance shall make available to eligible enrollees information, in an easily understood and useful form, that allows such enrollees (and other alliance eligible individuals) to make valid comparisons among health plans offered by the alliance. Such information shall be made available in a brochure, published not less often than annually.

(2) INFORMATION TO BE INCLUDED.—Such information must include, in the same format for each plan, such information as the National Health Board shall require, including at least the following:

(A) The cost of the plan, including premiums and average out-of-pocket expenses.

(B) The characteristics and availability of health care professionals and institutions participating in the plan.

(C) Any restrictions on access to providers and services under the plan.

(D) A summary of the annual quality performance report, established pursuant to section 5005(d)(1), which contains measures of quality presented in a standard format.

(b) MARKETING.—Each regional alliance shall review and approve or disapprove the distribution of any materials used to market health plans offered through the alliance.

SEC. 1326. OMBUDSMAN.

(a) ESTABLISHMENT.—Each regional alliance must establish and maintain an office of an ombudsman to assist consumers in dealing with problems that arise with health plans and the alliance.

(b) OPTIONAL FINANCING THROUGH VOLUNTARY CONTRIBUTION.—At the option of State in which a regional alliance is located, the alliance—

(1) shall permit alliance eligible individuals to designate that one dollar of the premium paid for enrollment in the individual's regional alliance health plan for the operation of the office of the alliance's ombudsman; and

(2) shall apply any such amounts towards the establishment and operation of such office.

SEC. 1327. DATA COLLECTION; QUALITY.

Each regional alliance shall comply with requirements of subtitles A and B of title V (relating to quality, information systems, and privacy), and shall take appropriate steps to ensure that health plans offered through the alliance comply with such requirements.

SEC. 1328. ADDITIONAL DUTIES.

(a) ANTI-DISCRIMINATION.—In carrying out its activities under this part, a health alliance may not discriminate against health plans on the basis of race, gender, ethnicity, religion, mix of health professionals, location of the plan's headquarters, or (except as specifically provided in this part) organizational arrangement.

(b) COORDINATION OF ENROLLMENT ACTIVITIES.—Each regional alliance shall coordinate, in a manner specified by the National Health Board, with other health alliances its activities, including enrollment and disenrollment activities, in a manner that ensures continuous, nonduplicative coverage of alliance eligible individuals in health plans and that minimizes administrative procedures and paperwork.

SEC. 1329. ADDITIONAL AUTHORITIES FOR REGIONAL ALLIANCES TO ADDRESS NEEDS IN AREAS WITH INADEQUATE HEALTH SERVICES; PROHIBITION OF INSURANCE ROLE.

(a) PAYMENT ADJUSTMENT.—In order to ensure that plans are available to all eligible individuals residing in all portions of the alliance area, a regional alliance may adjust payments to plans or use other financial incentives to encourage health plans to expand into areas that have inadequate health services.

(b) ENCOURAGING NEW PLANS.—Subject to subsection (c), in order to encourage the establishment of a new health plan in an area that has inadequate health services, an alliance may—

(1) organize health providers to create such a plan in such an area a new health plan targeted at such an area,

(2) provide assistance with setting up and administering such a plan, and

(3) arrange favorable financing for such a plan.

(c) PROHIBITION OF REGIONAL ALLIANCES BEARING RISK.—A regional alliance may not bear insurance risk.

SEC. 1330. PROHIBITION AGAINST SELF-DEALING AND CONFLICTS OF INTEREST.

(a) PROMULGATION OF STANDARDS.—The Board shall promulgate standards of conduct in accordance with subsection (b) for any administrator, officer, trustee, fiduciary, custodian, counsel, agent, or employee of any regional alliance.

(b) REQUIREMENTS FOR STANDARDS.—The standards of conduct shall referred to in subsection (a) shall set forth—

(1) the types of investment interests, ownership interests, affiliations or other employment that would be improper for an individual described in subsection (a) to hold during the time of the individual's service or employment with an alliance; and

(2) the circumstances that will constitute impermissible conflicts of interest or self-dealing by such employees in performing their official duties and functions for any regional alliance.

(c) CIVIL MONETARY PENALTY.—Any individual who engages in an activity that the individual knows or has reason to know is in violation of the regulations and standards promulgated by the Board pursuant to paragraphs (a) and (b) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $10,000 for each such violation.

PART 3—AUTHORITIES AND RESPONSIBILITIES RELATING TO FINANCING AND INCOME DETERMINATIONS

Subpart A—Collection of Funds

SEC. 1341. INFORMATION AND NEGOTIATION AND ACCEPTANCE OF BIDS.

(a) INFORMATION PROVIDED TO PLANS BEFORE SOLICITING BIDS.—

(1) IN GENERAL.—Each regional alliance shall make available, by April 1 of each year, to each plan that indicates an interest in

submitting a premium bid under section 6004 in the year, information (including information described in paragraph (2)) that the Board specifies as being necessary to enable a plan to estimate, based upon an accepted bid, the amounts payable to such a plan under section 1351.

(2) INFORMATION TO BE INCLUDED.—Such information shall include the following:

(A) The demographic and other characteristics of regional alliance eligible individuals for the regional alliance.

(B) The uniform per capita conversion factor for the regional alliance (established under subsection (b)).

(C) The premium class factors (established by the Board under section 1531).

(D) The regional alliance inflation factor (determined under section 6001(a)).

(E) The risk-adjustment factors and reinsurance methodology and payment amounts (published under subsection (c)) to be used by the regional alliance in computing blended plan per capita rates (in accordance with section 6201).

(F) The plan bid proportion, the AFDC proportion, the SSI proportion, the AFDC per capita premium amount, and the SSI per capita premium amount, for the year, as computed under subtitle D of title VI.

(G) The alliance administrative allowance percentage, computed under section 1352(b).

(b) DETERMINATION OF UNIFORM PER CAPITA CONVERSION FACTOR.—Each regional alliance shall specify, not later than April 1 of each year (beginning with the year before the first year) a uniform per capita conversion factor to be used under section 6102(a)(2) in converting the accepted bid for each plan for the year into the premium for an individual enrollment for such plan for the year. SSI or AFDC recipients shall not be included for purposes of computing the conversion factor.

(c) DETERMINATION OF RISK-ADJUSTMENT FACTORS AND REINSURANCE PAYMENT AMOUNTS.—Each regional alliance shall compute and publish the risk-adjustment factors and reinsurance payment amounts to be used by the regional alliance in computing blended plan per capita rates under section 6201.

(d) SOLICITATION OF BIDS.—Each regional alliance shall solicit and negotiate, consistent with section 6004, with each regional alliance health plan a bid for the payment rate on a per capita basis for the comprehensive benefit package for all alliance eligible individuals in the alliance area.

SEC. 1342. CALCULATION AND PUBLICATION OF GENERAL FAMILY SHARE AND GENERAL EMPLOYER PREMIUM AMOUNTS.

(a) CALCULATION OF COMPONENTS IN GENERAL FAMILY SHARE AND GENERAL EMPLOYER PREMIUMS.—

(1) FAMILY SHARE.—Each regional alliance shall compute the following components of the general family share of premiums:

(A) PLAN PREMIUMS.—For each plan offered, the premium for the plan for each class of family enrollment (including the amount of any family collection shortfall).

(B) ALLIANCE CREDIT.—The alliance credit amount for each class of family enrollment, under section 6103.

(C) EXCESS PREMIUM CREDIT.—The amount of any excess premium credit provided under section 6105 for each class of family enrollment.

(D) CORPORATE ALLIANCE OPT-IN CREDIT.—The amount of any corporate alliance opt-in credit provided under section 6106 for each class of family enrollment.

(2) EMPLOYER PREMIUMS.—Each regional alliance shall compute the following components of the general employer premium payment:

(A) BASE EMPLOYER MONTHLY PREMIUM PER WORKER.—The base employer monthly premium determined under section 6122 for each class of family enrollment.

(B) EMPLOYER COLLECTION SHORTFALL ADD-ON.—The employer collection shortfall add-on computed under section 6125(b).

(b) PUBLICATION.—

(1) FAMILY SHARE.—

(A) IN GENERAL.—Each regional alliance shall publish, before the open enrollment period in each year, the general family share of the premium (as defined in subparagraph (B)) for each class of family enrollment for each regional alliance health plan to be offered by the alliance in the following year.

(B) GENERAL FAMILY SHARE OF PREMIUM DEFINED.—In this subpart, the term "general family share of premium" means the family share of premium under section 6101 computed without regard to section 6104 and without regard to section 6101(b)(2)(C)(v).

(2) EMPLOYER PREMIUM.—

(A) IN GENERAL.—Each regional alliance shall publish, in December before each year (beginning with December before the first year) the general employer premium payment amount (as defined in subparagraph (B)) for each class of family enrollment for the following year.

(B) GENERAL EMPLOYER PREMIUM PAYMENT AMOUNT DEFINED.—In this subpart, the term "general employer premium payment amount" means the employer premium payment under section 6121 computed, as an amount per full-time equivalent worker, without regard to sections 6124, 6125, 6126.

SEC. 1343. DETERMINATION OF FAMILY SHARE FOR FAMILIES.

(a) AMOUNT OF FAMILY SHARE.—The amount charged by a regional alliance to a family for a class of family enrollment (specified under section 1011(c)) under a regional alliance health plan is equal to the family share of premium established under section 6101(a) for the family. Based upon the information described in this section, each regional alliance shall determine the amount required to be paid under section 6101 and under section 6111 for each year for families enrolling in regional alliance health plans.

(b) FAMILY SHARE AMOUNT.—The amount required to be paid under section 6101, with respect to each family, takes into account—

(1) the general family share of premium (as defined in section 1342(b)(1)(B)) for the class of enrollment involved;

(2) any income-related discount provided under section 6104(a)(1) for the family; and

(3) whether or not the family is an SSI or AFDC family.

(c) ALLIANCE CREDIT AMOUNT.—The amount of the alliance credit under section 6111, with respect to each family, takes into account the following:

(1) The number of months of enrollment, and class of enrollment, in regional alliance health plans, used in determining the amount of the alliance credit under section 6103 for the family.

(2) Reductions in liability under section 6111(b) based on employer premium payments based on net earnings from self-employment for the family.

(3) Reductions in liability under section 6112 based on months of employment for the family.

(4) Limitations in liability under section 6113 on the basis of the adjusted family income for the family.

(5) The elimination of liability in the case of certain retirees and qualified spouses and children under section 6114.

(6) The elimination of liability in the case of certain working medicare beneficiaries under section 6115.

(d) ACCESS TO NECESSARY INFORMATION TO MAKE DETERMINATION.—Information required for an alliance to make the determination under subsection (a) shall be based on information obtained or maintained by the alliance in the conduct of its business, including the following:

(1) Information required for income-related determinations shall be obtained under subpart B.

(2) Information on SSI and AFDC recipients under subsection (e).

(3) Information submitted on a monthly and annual basis by employers under section 1602.

(4) Information submitted by self-employed individuals on net earnings from self-employment under section 1602(d).

(5) Applications for premium reductions under section 6114.

(6) Information concerning medicare-eligible individuals under subsection (f).

(7) Any income-related discount provided under section 6104(a)(1) for the family.

(8) Whether or not the family is an SSI or AFDC family.

(e) INFORMATION CONCERNING CASH ASSISTANCE STATUS.—Each participating State and the Secretary shall make available (in a time and manner specified by the Secretary) to each regional alliance such information as may be necessary to determine and verify whether an individual is an AFDC or SSI recipient for a month in a year.

(f) INFORMATION CONCERNING MEDICARE-ELIGIBLE INDIVIDUALS.—

(1) INFORMATION TO REGIONAL ALLIANCES.—The Secretary shall make available to regional alliances (through regional information centers or otherwise) information necessary to determine—

(A) whether an individual is a medicare-eligible individual,

(B) the eligibility of individuals for the special treatment under section 6115,

(C) if medicare-eligible individuals are described in section 1012(a), and

(D) the amounts of payments owed the alliance under section 1895 of the Social Security Act.

(2) INFORMATION TO SECRETARY.—Each regional alliance shall make available to the Secretary (through the national information system under section 5101 or otherwise) information relating to the enrollment of individuals who would be medicare-eligible individuals but for section 1012(a).

(g) ALLIANCE ACCOUNTING SYSTEM.—

(1) IN GENERAL.—Each regional alliance shall establish an accounting system that meets standards established by the Secretary.

(2) SPECIFICS.—Such system shall collect information, on a timely basis for each individual enrolled (and, to the extent required by the Secretary, identified and required to be enrolled) in a regional alliance health plan regarding—

(A) the applicable premium for such enrollment,

(B) family members covered under such enrollment,

(C) the premium payments made by (or on behalf of) the individual for such enrollment,

(D) employer premium payments made respecting the employment of the individual and other employer contributions made respecting such enrollment, and

(E) any government contributions made with respect to such enrollment (including contributions for electing veterans and active duty military personnel).

(3) END-OF-YEAR REPORTING.—Such system shall provide for a report, at the end of each year, regarding the total premiums imposed, and total amounts collected, for individuals enrolled under regional health alliance plans, in such manner as identifies net amounts that may be owed to the regional alliance.

SEC. 1344. NOTICE OF FAMILY PAYMENTS DUE.

(a) FAMILY STATEMENTS.—

(1) NOTICE OF NO AMOUNT OWED.—If the regional alliance determines under section 1343 that a family has paid any family share required under section 6101 and is not required to repay any amount under section 6111 for a year, the alliance shall mail notice of such determination to the family. Such notice shall include a prominent statement that the family is not required to make any additional payment and is not required to file any additional information with the regional alliance.

(2) NOTICE OF AMOUNT OWED.—

(A) IN GENERAL.—If the regional alliance determines that a family has not paid the entire family share required under section 6101 or is required to repay an amount under section 6111 for a year, the alliance shall mail to the family a notice of such determination.

(B) INFORMATION ON AMOUNT DUE.—Such notice shall include detailed information regarding the amount owed, the basis for the computation (including the amount of any reductions that have been made in the family's liability under subtitle B of title VI), and the date the amount is due and the manner in which such amount is payable.

(C) INFORMATION ON DISCOUNTS AND REDUCTIONS AVAILABLE.—Such notice shall include—

(i) information regarding the discounts and reductions available (under sections 6104, 6112, 6113, 6114, and 6115) to reduce or eliminate any liability, and

(ii) a worksheet which may be used to calculate reductions in liability based on income under sections 6104 and 6113.

(3) INCLUSION OF INCOME RECONCILIATION FORM FOR FAMILIES PROVIDED PREMIUM DISCOUNTS.—

(A) IN GENERAL.—A notice under this subsection shall include, in the case of a family that has been provided a premium discount under section 6103 (or section 6113) for the previous year, an income verification statement (described in section 1375) to be completed and returned to the regional alliance (along with any additional amounts owed) by the deadline specified in subsection (b). Such form shall require the submission of such information as Secretary specifies to establish or verify eligiblility for such premium discount.

(B) OTHER FAMILIES.—Any family which has not been provided such a discount but may be eligible for such a discount may submit such an income verification form and, if eligible, receive a rebate of the amount of excess family share paid for the previous year.

(C) ADDITIONAL INFORMATION.—The alliance shall permit a family to provide additional information relating to the amount of such reductions or the income of the family (insofar as it may relate to a premium discount or reduction in liability under section 6104 or 6113).

(4) TIMING OF NOTICE.—Notices under this subsection shall be mailed to each family at least 45 days before the deadline specified in subsection (b).

(b) DEADLINE FOR PAYMENT.—The deadline specified in this subsection for amounts owed for a year is such date as the Secretary may specify, taking into account the dates when the information specified in section 1343 becomes available to compute the amounts owed and the information required to file income reconcilation statements under section 1375. Amounts not paid by such deadline are subject to interest and penalty.

(c) CHANGE IN REGIONAL ALLIANCE.—In the case of a family that during a year changes the regional alliance through which the family obtains coverage under a regional alliance health plan, the Secretary shall establish rules which provide that the regional alliance in which the family last obtained such coverage in a year—

(1) is responsible for recovering amounts due under this subpart for the year (whether or not attributable to periods of coverage obtained through that alliance);

(2) shall obtain such information, through the health information system implemented under section 5201, as the alliance may require in order to compute the amount of any liability owed under this subpart (taking into account any reduction in such amount under this section), and

(3) shall provide for the payment to other regional alliances of such amounts collected as may be attributable to amounts owed for periods of coverage obtained through such alliances.

(d) NO LOSS OF COVERAGE.—In no case shall the failure to pay amounts owed under this subsection result in an individual's or family's loss of coverage under this Act.

(e) DISPUTE RESOLUTION.—Each regional alliance shall establish a fair hearing mechanism for the resolution of disputes concerning amounts owed the alliance under this subpart.

SEC. 1345. COLLECTIONS.

(a) IN GENERAL.—Each regional alliance is responsible for the collection of all amounts owed the alliance (whether by individuals, employers, or others and whether on the basis of premiums owed, incorrect amounts of discounts or premium, cost sharing, or other reductions made, or otherwise), and no amounts are payable by the Federal Government under this Act (including section 9102) with respect to the failure to collect any such amounts. Each regional alliance shall use credit and collection procedures, including the imposition of interest charges and late fees for failure to make timely payment, as may be necessary to collect amounts owed to the alliance. States assist regional alliances in such collection process under section 1202(d).

(b) COLLECTION OF FAMILY SHARE.—

(1) WITHHOLDING.—

(A) IN GENERAL.—In the case of a family that includes a qualifying employee of an employer, the employer shall deduct from the wages of the qualifying employee (in a manner consistent with any rules of the Secretary of Labor) the amount of the family share of the premium for the plan in which the family is enrolled.

(B) MULTIPLE EMPLOYMENT.—In the case of a family that includes more than one qualifying employee, the family shall choose the employer to which subparagraph (A) will apply.

(C) PAYMENT.—Amounts withheld under this paragraph shall be maintained in a manner consistent with standards established by the Secretary of Labor and paid to the regional alliance involved in a manner consistent with the payment of employer premiums under subsection (c).

(D) SATISFACTION OF LIABILITY.—An amount deducted from wages of a qualifying employee by an employer is deemed to have been paid by the employee and to have satisfied the employee's obligation under subsection (a) to the extent of such amount.

(2) OTHER METHODS.—In the case of a family that does not include a qualifying employee, the regional alliance shall require payment to be made prospectively and such payment may be required to be made not less frequently than monthly. The Secretary may issue regulations in order to assure the timely and accurate collection of the family share due.

(c) TIMING AND METHOD OF PAYMENT OF EMPLOYER PREMIUMS.—

(1) FREQUENCY OF PAYMENT.—Payment of employer premiums under section 6121 for a month shall be made not less frequently than monthly (or quarterly in the case of such payments made by virtue of section 6126). The Secretary of Labor may establish a method under which employers that pay wages on a weekly or biweekly basis are permitted to make such employer payments on such a weekly or biweekly basis.

(2) ELECTRONIC TRANSFER.—A regional alliance may require those employers that have the capacity to make payments by electronic transfer to make payments under this section by electronic transfer.

(d) ASSISTANCE.—

(1) EMPLOYER COLLECTIONS.—The Secretary of Labor shall provide regional alliances with such technical and other assistance as may promote the efficient collection of all amounts owed such alliances under this Act by employers. Such assistance may include the assessment of civil monetary penalties, not to exceed $5,000 or three times the amount of the liability owed, whichever is greater, in the case of repeated failure to pay (as specified in rules of the Secretary of Labor).

(2) FAMILY COLLECTIONS.—Except as provided in paragraph (1), the Secretary shall provide regional alliances with such technical and other assistance as may promote the efficient collection of other amounts owed such alliances under this Act. Such assistance may include the assessment of civil monetary penalties, not to exceed $5,000 or three times the amount of the liability owed, whichever is greater, in the case of repeated failure to pay (as specified in rules of the Secretary).

(e) RECEIPT OF MISCELLANEOUS AMOUNTS.—For payments to regional alliances by—

(1) States, see subtitle A of title IX, and

(2) the Federal Government, see subtitle B of such title and section 1895 of the Social Security Act (as added by section 4003).

SEC. 1346. COORDINATION AMONG REGIONAL ALLIANCES.

(a) IN GENERAL.—The regional alliance which offers the regional alliance health plan in which a family is enrolled in December of each year (in this section referred to as the "final alliance") is responsible for the collection of any amounts owed under this subpart, without regard to whether the family resided in the alliance area during the entire year.

(b) PROVISION OF INFORMATION IN THE CASE OF CHANGE OF RESIDENCE.—In the case of a family that moves from one alliance area to another alliance area during a year, each regional alliance (other than the final alliance) is responsible for providing to the final alliance (through the national information system under section 5101 or otherwise) such information as the final alliance may require in order to determine the liability (and reductions in liability under section 6112) attributable to alliance credits provided by such regional alliance.

(c) Distribution of Proceeds.—In accordance with rules established by the Secretary, in consultation with the Secretary of Labor, the final alliance shall provide for the distribution of amounts collected under this subpart with respect to families in a year in an equitable manner among the regional alliances that provided health plan coverage to the families in the year.

(d) Expediting Process.—In order to reduce paperwork and promote efficiency in the collection of amounts owed regional alliances under this subpart, the Secretary may require or permit regional alliances to share such information (through the national information system under section 5101 or otherwise) as the Secretary determines to be cost-effective, subject to such confidentiality restrictions as may otherwise apply.

(e) Students.—In the case of a qualifying student who makes an election described in section 1012(e)(2)) (relating to certain full-time students who are covered under the plan of a parent but enrolled in a health plan offered by a different regional alliance from the one in which the parent is enrolled), the regional alliance that offered the plan to the parent shall provide for transfers of an appropriate portion of the premium (determined in accordance with procedures specified by the Board) to the other regional alliance in order to compensate that alliance for the provision of such coverage.

(f) Payments of Certain Amounts to Corporate Alliances.—In the case of a married couple in which one spouse is a qualifying employee of a regional alliance employer and the other spouse is a qualifying employee of a corporate alliance employer, if the couple is enrolled with a corporate alliance health plan the regional alliance (which receives employer premium payments from such regional alliance employer with respect to such employee) shall pay to the corporate alliance the amounts so paid (or would be payable by the employer if section 6123 did not apply).

Subpart B—Payments

SEC. 1351. PAYMENT TO REGIONAL ALLIANCE HEALTH PLANS.

(a) Computation of Blended Plan Per Capita Payment Amount.—For purposes of making payments to plans under this section, each regional alliance shall compute, under section 6201(a), a blended plan per capita payment amount for each regional alliance health plan for enrollment in the alliance for a year.

(b) Amount of Payment to Plans.—

(1) In general.—Subject to subsection (e) and section 6121(b)(5)(B), each regional alliance shall provide for payment to each regional alliance health plan, in which an alliance eligible individual is enrolled, an amount equal to the net blended rate (described in paragraph (2)) adjusted (consistent with subsection (c)) to take into account the relative actuarial risk associated with the coverage with respect to the individual.

(2) Net blended rate.—The net blended rate described in this paragraph is the blended plan per capita payment amount (determined under section 6201(a)), reduced by—

(A) the consolidated set aside percentage specified under subsection (d), and

(B) any plan payment reduction imposed under section 6011 for the plan for the year.

(c) Application of Risk Adjustment and Reinsurance Methodology.—Each regional alliance shall use the risk adjustment methodology developed under section 1541 in making payments to regional alliance health plans under this section, except as provided in section 1542.

(d) Consolidated Set Aside Percentage.—The consolidated set aside percentage, for a regional alliance for a year, is the sum of—

(1) the administrative allowance percentage for the regional alliance, computed by the alliance under section 1352(b); and

(2) 1.5 percentage points.

Amounts attributable to paragraph (2) are paid to the Federal Government (for academic health centers and graduate medical education) under section 1353.

(e) Treatment of Veterans, Military, and Indian Health Plans and Programs.—

(1) Veterans health plan.—In applying this subtitle (and title VI) in the case of a regional alliance health plan that is a veterans health plan of the Department of Veterans Affairs, the following rules apply:

(A) For purposes of applying subtitle A of title VI, families enrolled under the plan shall not be taken into account.

(B) The provisions of subtitle A of title VI shall not apply to the plan, other than such provisions as require the plan to submit a per capita amount for each regional alliance area on a timely basis, which amount shall be treated as the final accepted bid of the plan for the area for purposes of subtitle B of such title and this section. This amount shall not be subject to negotiation and not subject to reduction under section 6011.

(C) For purposes of computing the blended plan per capita payment amount under this section, the AFDC and SSI proportions (under section 6202(a)) are deemed to be 0 percent.

(2) Uniformed services health plan.—In applying this subtitle (and title VI) in the case of a regional alliance health plan that is a Uniformed Services Health Plan of the Department of Defense, the following rules apply:

(A) For purposes of applying subtitle A of title VI, families enrolled under the plan shall not be taken into account.

(B) The provisions of subtitle A of title VI shall not apply to the plan, other than such provisions as require the plan to submit a per capita amount on a timely basis, which amount shall be treated as the final accepted bid of the plan for the area involved for purposes of subtitle B of such title and this section. This amount shall not be subject to negotiation and not subject to reduction under section 6011. The Board, in consultation with the Secretary of Defense, shall establish rules relating to the area (or areas) in which such a bid shall apply.

(C) For purposes of computing the blended plan per capita payment amount under this section, the AFDC and SSI proportions (under section 6202(a)) are deemed to be 0 percent.

(3) Indian health programs.—In applying this subtitle (and title VI) in the case of a health program of the Indian Health Service, the following rules apply:

(A) Except as provided in this paragraph, the plan shall not be considered or treated to be a regional alliance health plan and for purposes of applying title VI, families enrolled under the program shall not be taken into account.

(B) In accordance with rules established by the Secretary, regional alliances shall act as agents for the collection of employer premium payments (including payments of corporate alliance employers) required under subtitle B of title VI with respect to qualifying employees who are enrolled under a health program of the Indian Health Service. The Secretary shall permit such alliances to retain a nominal fee to compensate them for such collection activities. In applying this subparagraph, the family share of premium for such employees is deemed to be zero for electing Indians (as defined in section 1012(d)(3)) and for other employees is the amount of the premium established under section 8306(b)(4)(A), employees are deemed to be residing in the area of residence (or area of employment), as specified under rules of the Secretary, and the class of enrollment shall be such class (or classes) as specified under rules of the Secretary.

SEC. 1352. ALLIANCE ADMINISTRATIVE ALLOWANCE PERCENTAGE.

(a) Specification by Alliance.—Before obtaining bids under 6004 from health plans for a year, each regional alliance shall establish the administrative allowance for the operation of regional alliance in the year.

(b) Administrative Allowance Percentage.—Subject to subsection (c), the regional alliance shall compute an administrative allowance percentage for each year equal to—

(1) the administrative allowance determined under subsection (a) for the year, divided by

(2) the total of the amounts payable to regional alliance health plans under section 1343 (as estimated by the alliance and determined without regard to section 1343(d)).

(c) Limitation to 2½ percent.—In no case shall an administrative allowance percentage exceed 2.5 percent.

SEC. 1353. PAYMENTS TO THE FEDERAL GOVERNMENT FOR ACADEMIC HEALTH CENTERS AND GRADUATE MEDICAL EDUCATION.

Each regional alliance shall make payment to the Secretary each year of an amount equal to the reduction in payments by the alliance to regional alliance health plans resulting from the consolidated set aside percentage under section 1351(d) including the 1.5 percentage points under paragraph (2) of such section.

Subpart C—Financial Management

SEC. 1361. MANAGEMENT OF FINANCES AND RECORDS.

(a) In General.—Each regional alliance shall comply with standards established under section 1571(b) (relating to the management of finances, maintenance of records, accounting practices, auditing procedures, and financial reporting) and under section 1591(d) (relating to employer payments).

(b) Specific Provisions.—In accordance with such standards—

(1) Financial statements.—

(A) In general.—Each regional alliance shall publish periodic audited financial statements.

(B) Annual financial audit.—

(i) In general.—Each regional alliance shall have an annual financial audit conducted by an independent auditor in accordance with generally accepted auditing standards.

(ii) Publication.—A report on each such audit shall be made available to the public at nominal cost.

(iii) Required actions for deficiencies.—If the report from such an audit does not bear an unqualified opinion, the alliance shall take such steps on a timely basis as may be necessary to correct any material deficiency identified in the report.

(C) Eligibility error rates.—Each regional alliance shall make eligibility determinations for premium discounts, liability reductions, and cost sharing reductions under sections 6104 and 6123, section 6113, and section 1371, respectively, in a manner that maintains the error rates below an applicable maximum permissible error rate specified by the Secretary (or the Secretary of

Labor with respect to section 6123). In specifying such a rate, the Secretary shall take into account maximum permissible error rates recognized by the Federal Government under comparable State-administered programs.

(2) Safeguarding of funds.—Each regional alliance shall safeguard family, employer, State, and Federal government payments to the alliance in accordance with fiduciary standards and shall hold such payments in financial institutions and instruments that meet standards recognized or established by the Secretary, in consultation with the Secretaries of Labor and the Treasury and taking into account current Federal laws and regulations relating to fiduciary responsibilities and financial management of public funds.

(3) Contingencies.—Each regional alliance shall provide that any surplus of funds resulting from an estimation discrepancy described in section 9201(b)(1)(D), up to a reasonable amount specified by the Secretary, shall be held in a contingency fund established by the alliance and used to fund any future shortfalls resulting from such a discrepancy.

(4) Auditing of employer payments.—

(A) In general.—Each regional alliance is responsible for auditing the records of regional alliance employers to assure that employer payments (including the payment of amounts withheld) were made in the appropriate amount as provided under subpart A of part 2 of subtitle B of title VI.

(B) Employers with employees residing in different alliance areas.—In the case of a regional alliance employer which has employees who reside in more than one alliance area, the Secretary of Labor, in consultation with the Secretary, shall establish a process for the coordination of regional alliance auditing activities among the regional alliances involved.

(C) Appeal.—In the case of an audit conducted by a regional alliance on an employer under this paragraph, an employer or other regional alliance that is aggrieved by the determination in the audit is entitled to review of such audit by the Secretary of Labor in a manner to be provided by such Secretary.

Subpart D—Reductions in Cost Sharing; Income Determinations

SEC. 1371. REDUCTION IN COST SHARING FOR LOW-INCOME FAMILIES.

(a) Reduction.—

(1) In general.—Subject to subsection (b), in the case of a family that is enrolled in a regional alliance health plan and that is either (A) an AFDC or SSI family or (B) is determined under this subpart to have family adjusted income below 150 percent of the applicable poverty level, the family is entitled to a reduction in cost sharing in accordance with this section.

(2) Timing of reduction.—The reduction in cost sharing shall only apply to items and services furnished after the date the application for such reduction is approved under section 1372(c) and before the date of termination of the reduction under this subpart, or, in the case of an AFDC or SSI family, during the period in which the family is such a family.

(3) Information to providers and plans.—Each regional alliance shall provide, through electronic means and otherwise, health care providers and regional alliance health plans with access to such information as may be necessary in order to provide for the cost sharing reductions under this section.

(b) Limitation.—No reduction in cost sharing shall be available for families residing in an alliance area if the regional alliance for the area determines that there are sufficient low-cost plans (as defined in section 6104(b)(3)) that are lower or combination cost sharing plans available in the alliance area to enroll AFDC and SSI families and families with family adjusted income below 150 percent of the applicable poverty level.

(c) Amount of Cost Sharing Reduction.—

(1) In general.—Subject to paragraph (2), the reduction in cost sharing under this section shall be such reduction as will reduce cost sharing to the level of a lower or combination cost sharing plan.

(2) Additional reduction for AFDC and SSI families.—In the case of an AFDC or SSI family, in applying paragraph (1) (other than with respect to hospital emergency room services for which there is no emergency medical condition, as defined in section 1867(e)(1) of the Social Security Act) there shall be substituted, for $5, $10, $20, and $25 in the table in section 1135(a), 20 percent of such respective amounts. The dollar amounts substituted by the previous sentence shall be subject to adjustment in the same manner under section 1136 as the dollar amounts otherwise specified in such section.

(d) Administration.—

(1) In general.—In the case of an approved family (as defined in section 1372(b)(3)) enrolled in a regional alliance health plan, the regional alliance shall pay the plan for cost sharing reductions (other than cost sharing reductions under subsection (c)(2)) provided under this section and included in payments made by the plan to its providers.

(2) Estimated payments, subject to reconciliation.—Such payment shall be made initially on the basis of reasonable estimates of cost sharing reductions incurred by such a plan with respect to approved families and shall be reconciled not less often than quarterly based on actual claims for items and services provided.

(e) No Cost Sharing for Indians and Certain Veterans and Military Personnel.—The provisions of section 6104(a)(3) shall apply to cost sharing reductions under this section in the same manner as such provisions apply to premium discounts under section 6104.

SEC. 1372. APPLICATION PROCESS FOR COST SHARING REDUCTIONS.

(a) Application.—

(1) In general.—A regional alliance eligible family may apply for a determination of the family adjusted income of the family, for the purpose of establishing eligibility for cost sharing reductions under section 1371.

(2) Form.—An application under this section shall include such information as may be determined by the regional alliance (consistent with rules developed by the Secretary) and shall include at least information about the family's employment status and income.

(b) Timing.—

(1) In general.—An application under this section may be filed at such times as the Secretary may provide, including during any open enrollment period, at the time of a move, or after a change in life circumstances (such as unemployment or divorce) affecting class of enrollment or amount of family share or repayment amount.

(2) Consideration.—Each regional alliance shall approve or disapprove an application under this section, and notify the applicant of such decision, within such period (specified by the Secretary) after the date of the filing of the application.

(3) Approved family defined.—In this section and section 1371, the term "approved family" means a family for which an application under this section is approved, until the date of termination of such approval under this section.

(c) Approval of Application.—

(1) In general.—A regional alliance shall approve an application of a family under this section filed in a month if the application demonstrates that that family adjusted income of the family (as defined in subsection (d) and determined under paragraph (2)) is (or is expected to be) less than 150 percent of the applicable poverty level.

(2) Use of current income.—In making the determination under paragraph (1), a regional alliance shall take into account the income for the previous 3-month period and current wages from employment (if any), consistent with rules specified by the Secretary.

(d) Family Adjusted Income.—

(1) In general.—Except as provided in paragraph (4), in this Act the term "family adjusted income" means, with respect to a family, the sum of the adjusted incomes (as defined in paragraph (2)) for all members of the family (determined without regard to section 1012).

(2) Adjusted income.—In paragraph (1), the term "adjusted income" means, with respect to an individual, adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986)—

(A) determined without regard to sections 135, 162(l), 911, 931, and 933 of such Code, and

(B) increased by the amount of interest received or accrued by the individual which is exempt from tax.

(3) Presence of additional dependents.—At the option of an individual, a family may include (and not be required to separate out) the income of other individuals who are claimed as dependents of the family for income tax purposes, but such individuals shall not be counted as part of the family for purposes of determining the size of the family.

(e) Requirement for Periodic Confirmation and Verification and Notices.—

(1) Confirmation and verification requirement.—The continued eligibility of a family for cost sharing reductions under this section is conditioned upon the family's eligibility being—

(A) confirmed periodically by the regional alliance, and

(B) verified (through the filing of a new application under this section) by the regional alliance at the time income reconciliation statements are required to be filed under section 1375.

(2) Rules.—The Secretary shall issue rules related to the manner in which alliances confirm and verify eligibility under this section.

(3) Notices of changes in income and employment status.—

(A) In general.—Each approved family shall promptly notify the regional alliance of any material increase in the family adjusted income (as defined by the Secretary).

(B) Response.—If a regional alliance receives notice under subparagraph (A) (or from an employer under section 1602(b)(3)(A)(i)) or otherwise receives information indicating a potential significant change in the family's employment status or increase in adjusted family income, the regional alliance shall promptly take steps necessary to reconfirm the family's eligibility.

(f) Termination of Cost Sharing Reduction.—The regional alliance shall, after notice to the family, terminate the reduction of cost sharing under this subpart for an approved family if the family fails to provide for confirmation or verification or notice required under subsection (c) on a timely basis or the alliance otherwise determines that the family is no longer eligible for such reduction. The previous sentence shall not prevent the family from subsequently reapplying for cost sharing reduction under this section.

(g) TREATMENT OF AFDC AND SSI RECIPIENTS.—

(1) NO APPLICATION REQUIRED.—AFDC and SSI families are not required to make an application under this section.

(2) NOTICE REQUIREMENT.—Each State (and the Secretary) shall notify each regional alliance, in a manner specified by the Secretary, of the identity (and period of eligibility under the AFDC or SSI programs) of each AFDC and SSI recipient, unless such a recipient elects (in a manner specified by the Secretary) not to accept the reduction of cost sharing under this section.

SEC. 1373. APPLICATION FOR PREMIUM REDUCTIONS AND REDUCTION IN LIABILITIES TO ALLIANCES.

(a) IN GENERAL.—Any regional alliance eligible family may apply for a determination of the family adjusted income of the family, for the purpose of establishing eligibility for a premium discount under section 6104 or a reduction in liability under section 6113.

(b) TIMING.—Such an application may be filed at such times as an application for a cost sharing reduction may be filed under section 1372(b) and also may be filed after the end of the year to obtain a rebate for excess premium payments made during a year.

(c) APPROVAL OF APPLICATION.—

(1) IN GENERAL.—A regional alliance shall approve an application of a family under this section filed in a month—

(A) for a premium discount under section 6104, if the application demonstrates that family adjusted income of the family (as determined under paragraph (2)) is (or is expected to be) less than 150 percent of the applicable poverty level, or

(B) for a reduction in liability under section 6113, if the application demonstrates that the wage-adjusted income (as defined in subsection 6113(d)) of the family (as determined under paragraph (2)) is (or is expected to be) less than 250 percent of the applicable poverty level.

(2) USE OF CURRENT INCOME.—In making the determination under paragraph (1), a regional alliance shall take into account the income for the previous 3-month period and current wages from employment (if any) and the statement of estimated income for the year (filed under section 1374(c)), consistent with rules specified by the Secretary.

(d) REQUIREMENT FOR PERIODIC CONFIRMATION AND VERIFICATION AND NOTICES.—The provisions of section (e) of section 1372 shall apply under this section in the same manner as it applies under such section, except that any reference to family adjusted income is deemed a reference to wage-adjusted income.

SEC. 1374. GENERAL PROVISIONS RELATING TO APPLICATION PROCESS.

(a) DISTRIBUTION OF APPLICATIONS.—Each regional alliance shall distribute applications under this subpart directly to consumers and through employers, banks, and designated public agencies.

(b) TO WHOM APPLICATION MADE.—Applications under this subpart shall be filed, by person or mail, with a regional alliance or an agency designated by the State for this purpose. The application may be submitted with an application to enroll with a health plan under this subtitle or separately.

(c) INCOME STATEMENT.—Each application shall include a declaration of estimated annual income for the year involved.

(d) FORM AND CONTENTS.—An application for a discount or reduction under this subpart shall be in a form and manner specified by the Secretary and shall require the provision of information necessary to make the determinations required under this subpart.

(e) FREQUENCY OF APPLICATIONS.—

(1) IN GENERAL.—An application under this subpart may be filed at any time during the year (including, in the case of section 1373, during the reconciliation process).

(2) CORRECTION OF INCOME.—Nothing in paragraph (1) shall be construed as preventing an individual or family from, at any time, submitting an application to reduce the amount of premium reduction or reduction of liability under this subpart based upon an increase in income from that stated in the previous application.

(e) TIMING OF REDUCTIONS AND DISCOUNTS.—

(1) IN GENERAL.—Subject to reconciliation under section 1375, premium discounts and cost sharing reductions under this subpart shall be applied to premium payments required (and for expenses incurred) after the date of approval of the application under this subpart.

(2) AFDC AND SSI RECIPIENTS.—In the case of an AFDC or SSI family, in applying paragraph (1), the date of approval of benefits under the AFDC or SSI program shall be considered the date of approval of an application under this subpart.

(f) VERIFICATION.—The Secretary shall provide for verification, on a sample basis or other basis, of the information supplied in applications under this part. This verification shall be separate from the reconciliation provided under section 1375.

(g) HELP IN COMPLETING APPLICATIONS.—Each regional alliance shall assist individuals in the filing of applications and income reconciliation statements under this subpart.

(h) PENALTIES FOR INACCURATE INFORMATION.—

(1) INTEREST FOR UNDERSTATEMENTS.—Each individual who knowingly understates income reported in an application to a regional alliance under this subpart or otherwise makes a material misrepresentation of information in such an application shall be liable to the alliance for excess payments made based on such understatement or misrepresentation, and for interest on such excess payments at a rate specified by the Secretary.

(2) PENALTIES FOR MISREPRESENTATION.—In addition to the liability established under paragraph (1), each individual who knowingly misrepresents material information in an application under this subpart to a regional alliance shall be liable to the State in which the alliance is located for $2,000 or, if greater, three times the excess payments made based on such misrepresentation. The State shall provide for the transfer of a significant portion of such amount to the regional alliance involved.

SEC. 1375. END-OF-YEAR RECONCILIATION FOR PREMIUM DISCOUNT AND REPAYMENT REDUCTION WITH ACTUAL INCOME.

(a) IN GENERAL.—In the case of a family whose application for a premium discount or reduction of liability for a year has been approved before the end of the year under this subpart, the family shall, subject to subsection (c) and by the deadline specified in section 1344(b) file with the regional alliance an income reconciliation statement to verify the family's adjusted income or wage-adjusted income, as the case may be, for the previous year. Such a statement shall contain such information as the Secretary may specify. Each regional alliance shall coordinate the submission of such statements with the notice and payment of family payments due under section 1344.

(b) RECONCILIATION OF PREMIUM PREMIUM DISCOUNT AND LIABILITY ASSISTANCE BASED ON ACTUAL INCOME.—Based on and using the income reported in the reconciliation statement filed under subsection (a) with respect to a family, the regional alliance shall compute the amount of premium discount or reduction in liability that should have been provided under section 6104 or section 6113 with respect for the family for the year involved. If the amount of such discount or liability reduction computed is—

(1) greater than the amount that has been provided, the family is liable to the regional alliance to pay (directly or through an increase in future family share of premiums or other payments) a total amount equal to the amount of the excess payment, or

(2) less than the amount that has been provided, the regional alliance shall pay to the family (directly or through a reduction in future family share of premiums or other payments) a total amount equal to the amount of the deficit.

(c) NO RECONCILIATION FOR AFDC AND SSI FAMILIES; NO RECONCILIATION FOR COST SHARING REDUCTIONS.—No reconciliation statement is required under this section—

(1) with respect to cost sharing reductions provided under section 1372, or

(2) for a family that only claims a premium discount or liability reduction under this subpart on the basis of being an AFDC or SSI family.

(d) DISQUALIFICATION FOR FAILURE TO FILE.—In the case of any family that is required to file a statement under this section in a year and that fails to file such a statement by the deadline specified, members of the family shall not be eligible for premium reductions under section 6104 or reductions in liability under section 6113 until such statement is filed. A regional alliance, using rules established by the Secretary, shall waive the application of this subsection if the family establishes, to the satisfaction of the alliance under such rules, good cause for the failure to file the statement on a timely basis.

(e) PENALTIES FOR FALSE INFORMATION.—Any individual that provides false information in a statement under subsection (a) is subject to the same liabilities as are provided under section 1374(h) for a misrepresentation of material fact described in such section.

(f) NOTICE OF REQUIREMENT.—Each regional alliance (directly or in coordination with other regional alliances) shall provide for written notice, at the end of each year, of the requirement of this section to each family which had received premium discount or reduction in liability under this subpart in any month during the preceding year and to which such requirement applies.

(g) TRANSMITTAL OF INFORMATION; VERIFICATION.—

(1) IN GENERAL.—Each participating State shall transmit annually to the Secretary such information relating to the income of families for the previous year as the Secretary may require to verify such income under this subpart.

(2) VERIFICATION.—Each participating State may use such information as it has available to it to assist regional alliances in verifying income of families with applications filed under this subpart. The Secretary of the Treasury may, consistent with section 6103 of the Internal Revenue Code of 1986,

permit return information to be disclosed and used by a participating State in verifying such income but only in accordance with such section and only if the information is not directly disclosed to a regional alliance.

(h) Construction.—Nothing in this section shall be construed as authorizing reconciliation of any cost sharing reduction provided under this subpart.

PART 4—RESPONSIBILITIES AND AUTHORITIES OF CORPORATE ALLIANCES

SEC. 1381. CONTRACTS WITH HEALTH PLANS.

(a) Contracts with Plans.—Subject to section 1382, each corporate alliance may—

(1) offer to individuals eligible to enroll under section 1311(c) coverage under an appropriate self-insured health plan (as defined in section 1400(b)), or

(2) negotiate with a State-certified health plan to enter into a contract with the plan for the enrollment of such individuals under the plan,

or do both.

(b) Terms of Contracts with State-Certified Health Plans.—Contracts under this section between a corporate alliance and a State-certified health plan may contain such provisions (not inconsistent with the requirements of this title) as the alliance and plan may provide, except that in no case does such contract remove the obligation of the sponsor of the corporate alliance to provide for health benefits to corporate alliance eligible individuals consistent with this part.

SEC. 1382. OFFERING CHOICE OF HEALTH PLANS FOR ENROLLMENT.

(a) In General.—Each corporate alliance must provide to each eligible enrollee with respect to the alliance a choice of health plans among the plans which have contracts with the alliance under section 1381.

(b) Offering of Plans by Alliances.—A corporate alliance shall include among its health plan offerings for any eligible enrollee at least 3 health plans to enrollees, of which the alliance must offer—

(1) at least one fee-for-service plan (as defined in section 1322(b)(3)); and

(2) at least two health plans that are not fee-for-service plans.

SEC. 1383. ENROLLMENT; ISSUANCE OF HEALTH SECURITY CARD.

(a) In General.—

(1) Enrollment of alliance eligible individuals.—Each corporate alliance shall assure that each alliance eligible individual with respect to the alliance is enrolled in a corporate alliance health plan offered by the alliance, and shall establish and maintain methods and procedures consistent with this section sufficient to assure such enrollment. Such methods and procedures shall assure the enrollment of such individuals at the time they first become alliance eligible individuals with respect to the alliance.

(2) Issuance of health security cards.—A corporate alliance is responsible for the issuance of health security cards to corporate alliance eligible individuals under section 1001(b).

(b) Response to Point-of-Service Notices.—If a corporate alliance is notified under section 1323(b)(2) regarding an individual who has received services and appears to be an alliance eligible individual—

(1) the alliance shall promptly ascertain the individual's eligibility as an alliance eligible individual; and

(2) if the alliance determines that the individual is an alliance eligible individual—

(A) the alliance shall promptly provide for the enrollment of the individual in a health plan offered by the alliance (and notify the Secretary of Labor of such enrollment), and

(B) the alliance shall forward the claim for payment for the services to the health plan in which the individual is so enrolled and the plan shall make payment to the provider for such claim (in a manner consistent with requirements of the Secretary of Labor).

(c) Annual Open Enrollment; Enrollment of Family Members; Oversubscription of Plans.—The provisions of subsections (d) through (f) of section 1323 shall apply to a corporate alliance in the same manner as such provisions apply to a regional alliance.

(d) Termination.—

(1) In general.—The provisions of section 1323(g)(1) shall apply to a corporate alliance in the same manner as such provisions apply to a regional alliance.

(2) Failure to pay premiums.—If a corporate alliance fails to make premium payments to a health plan, the plan, after reasonable written notice to the alliance and the Secretary of Labor, may terminate coverage (and any contract with the alliance under this subpart). If such coverage is terminated the corporate alliance is responsible for the prompt enrollment of alliance eligible individuals whose coverage is terminated in another corporate alliance health plan.

(e) Corporate Alliance Transition.—Each corporate alliance must provide coverage—

(1) as of the first day of any month in which an individual first becomes a corporate alliance eligible individual, and

(2) through the end of the month in the case of a corporate alliance eligible individual who loses such eligibility during the month.

SEC. 1384. COMMUNITY-RATED PREMIUMS WITHIN PREMIUM AREAS.

(a) Application of Community-Rated Premiums.—The premiums charged by a corporate alliance for enrollment in a corporate alliance health plan (not taking into account any employer premium payment required under section 6131) shall vary only by class of family enrollment (specified in section 1011(c)) and by premium area.

(b) Designation of Premium Areas.—

(1) Designation.—Each corporate alliance shall designate premium areas to be used for the imposition of premiums (and calculation of employer premium payments) under this Act.

(2) Conditions.—The boundaries of such areas shall reasonably reflect labor market areas or health care delivery areas and shall be consistent with rules the Secretary of Labor establishes (consistent with paragraph (3)) so that within such areas there are not substantial differences in average per capita health care expenditures.

(3) Anti-redlining.—The provisions of paragraphs (4) and (5) of section 1202(b) (relating to redlining and metropolitan statistical areas) shall apply to the establishment of premium areas in the same manner as they apply to the establishment of the boundaries of regional alliance areas.

(c) Applications of Classes of Enrollment.—

(1) In general.—The premiums shall be applied under this section based on class of family enrollment and shall vary based on such class in accordance with factors specified by the corporate alliance.

(2) Basis for factors.—Such factors shall be the same in each premium and shall take into account such appropriate considerations (including the considerations the Board takes into account in the establishment of premium class factors under section 1531 and the costs of regional alliance health plans providing the comprehensive benefit package for families enrolled in the different classes) as the alliance considers appropriate, consistent with rules the Secretary of Labor establishes.

(d) Special Treatment of Multiemployer Alliances.—The Secretary of Labor shall provide for such exceptions to the requirements of this section in the case of a corporate alliance with a sponsor described in section 1311(b)(1)(B) as may be appropriate to reflect the unique and historical relationship between the employers and employees under such alliances.

SEC. 1385. ASSISTANCE FOR LOW-WAGE FAMILIES.

Each corporate alliance shall make an additional contribution towards the enrollment in health plans of the alliance by certain low-wage families in accordance with section 6131(b)(2).

SEC. 1386. CONSUMER INFORMATION AND MARKETING; DATA COLLECTION AND QUALITY; ADDITIONAL DUTIES.

The provisions of sections 1325(a), 1327(a), 1328(a), and 1328(b) shall apply to a corporate alliance in the same manner as such provisions apply to a regional alliance.

SEC. 1387. PLAN AND INFORMATION REQUIREMENTS.

(a) In General.—A corporate alliance shall provide a written submission to the Secretary of Labor (in such form as the Secretary may require) detailing how the corporate alliance will carry out its activities under this part.

(b) Annual Information.—A corporate alliance shall provide to the Secretary of Labor each year, in such form and manner as the Secretary may require, such information as the Secretary may require in order to monitor the compliance of the alliance with the requirements of this part.

(c) Annual Notice of Employees or Participants.—

(1) Corporate alliance.—Each corporate alliance shall submit to the Secretary of Labor, by not later than March 1 of each year, information on the number of full-time employees or participants obtaining coverage through the alliance as of January 1 of that year.

(2) Employers that become large employers.—Each employer that is not a corporate alliance but employs 5,000 full-time employees as of January 1 of a year, shall submit to the Secretary of Labor, by not later than March 1 of the year, information on the number of such employees.

SEC. 1388. MANAGEMENT OF FUNDS; RELATIONS WITH EMPLOYEES.

(a) Management of Funds.—The management of funds by a corporate alliance shall be subject to the applicable fiduciary requirements of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, together with the applicable enforcement provisions of part 5 of subtitle B of title I of such Act.

(b) Management of Finances and Records; Accounting System.—Each corporate alliance shall comply with standards relating to the management of finances and records and accounting systems as the Secretary of Labor shall specify.

SEC. 1389. COST CONTROL.

Each corporate alliance shall control covered expenditures in a manner that meets the requirements of part 2 of subtitle A of title VI.

SEC. 1390. PAYMENTS BY CORPORATE ALLIANCE EMPLOYERS TO CORPORATE ALLIANCES.

(a) Large Employer Alliances.—In the case of a corporate alliance with a sponsor described in section 1311(b)(1)(A), the sponsor shall provide for the funding of benefits, through insurance or otherwise, consistent with section 6131, the applicable solvency requirements of sections 1395 and 1396, and any rules established by the Secretary of Labor.

(b) OTHER ALLIANCES.—In the case of a corporate alliance with a sponsor described in subparagraph (B) or (C) of section 1311(b)(1), a corporate alliance employer shall make payment of the employer premiums required under section 6131 under rules established by the corporate alliance, which rules shall be consistent with rules established by the Secretary of Labor.

SEC. 1391. COORDINATION OF PAYMENTS.

(a) PAYMENTS OF CERTAIN AMOUNTS TO REGIONAL ALLIANCES.—In the case of a married couple in which one spouse is a qualifying employee of a regional alliance employer and the other spouse is a qualifying employee of a corporate alliance employer, if the couple is enrolled with a regional alliance health plan the corporate alliance (which receives employer premium payments from such corporate alliance employer with respect to such employee) shall pay to the regional alliance the amounts so paid.

(b) PAYMENTS OF CERTAIN AMOUNTS TO CORPORATE ALLIANCES.—In the case of a married couple in which one spouse is a qualifying employee of a corporate alliance employer and the other spouse is a qualifying employee of another corporate alliance employer, the corporate alliance of the corporate alliance health plan in which the couple is not enrolled shall pay to the corporate alliance of the plan in which the couple is enrolled any employer premium payments received from such corporate alliance employer with respect to such employee.

SEC. 1392. APPLICABILITY OF ERISA ENFORCEMENT MECHANISMS FOR ENFORCEMENT OF CERTAIN REQUIREMENTS.

The provisions of sections 502 (relating to civil enforcement) and 504 (relating to investigative authority) of the Employee Retirement Income Security Act of 1974 shall apply to enforcement by the Secretary of Labor of this part in the same manner and to same extent as such provisions apply to enforcement of title I of such Act.

SEC. 1393. APPLICABILITY OF CERTAIN ERISA PROTECTIONS TO ENROLLED INDIVIDUALS.

The provisions of sections 510 (relating to interference with rights protected under Act) and 511 (relating to coercive interference) of the Employee Retirement Income Security Act of 1974 shall apply, in relation to the provisions of this Act, with respect to individuals enrolled under corporate alliance health plans in the same manner and to the same extent as such provisions apply, in relation to the provisions of the Employee Retirement Income Security Act of 1974, with respect to participants and beneficiaries under employee welfare benefit plans covered by title I of such Act.

SEC. 1394. DISCLOSURE AND RESERVE REQUIREMENTS.

(a) IN GENERAL.—The Secretary of Labor shall ensure that each corporate alliance health plan which is a self-insured plan maintains plan assets in trust as provided in section 403 of the Employee Retirement Income Security Act of 1974—

(1) without any exemption under section 403(b)(4) of such Act, and

(2) in amounts which the Secretary determines are sufficient to provide at any time for payment to health care providers of all outstanding balances owed by the plan at such time.

The requirements of the preceding sentence may be met through letters of credit, bonds, or other appropriate security to the extent provided in regulations of the Secretary.

(b) DISCLOSURE.—Each self-insured corporate alliance health plan shall notify the Secretary at such time as the financial reserve requirements of this section are not being met. The Secretary may assess a civil money penalty of not more than $100,000 against any corporate alliance for any failure to provide such notification in such form and manner and within such time periods as the Secretary may prescribe by regulation.

SEC. 1395. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT CORPORATE ALLIANCE HEALTH PLANS.

(d) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary of Labor determines that a corporate alliance health plan which is a self-insured plan will be unable to provide benefits when due or is otherwise in a financially hazardous condition as defined in regulations of the Secretary, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint the Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the covered individuals or health care providers or to avoid any unreasonable deterioration of the financial condition of the plan or any unreasonable increase in the liability of the Corporate Alliance Insolvency Fund. The trusteeship of the Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

(b) POWERS AS TRUSTEE.—The Secretary of Labor, upon appointment as trustee under subsection (a), shall have the power—

(1) to do any act authorized by the plan, this Act, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan,

(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee,

(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations of the Secretary, and applicable provisions of law,

(4) to do such other acts as the Secretary deems necessary to continue operation of the plan without increasing the potential liability of the Corporate Alliance Insolvency Fund, if such acts may be done under the provisions of the plan,

(5) to require the corporate alliance, the plan administrator, any contributing employer, and any employee organization representing covered individuals to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan,

(6) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship,

(7) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan,

(8) to issue, publish, or file such notices, statements, and reports as may be required under regulations of the Secretary or by any order of the court,

(9) to terminate the plan and liquidate the plan assets in accordance with applicable provisions of this Act and other provisions of law, to restore the plan to the responsibility of the corporate alliance, or to continue the trusteeship,

(10) to provide for the enrollment of individuals covered under the plan in an appropriate regional alliance health plan, and

(11) to do such other acts as may be necessary to comply with this Act or any order of the court and to protect the interests of enrolled individuals and health care providers.

(b) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

(1) the plan administrator,

(2) each enrolled individual,

(3) each employer who may be liable for contributions to the plan, and

(4) each employee organization which, for purposes of collective bargaining, represents enrolled individuals.

(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this Act or part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or as may be otherwise ordered by the court, the Secretary of Labor, upon appointment as trustee under this subsection, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of such part 4.

(e) OTHER PROCEEDINGS.—An application by the Secretary of Labor under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

(f) JURISDICTION OF COURT.—

(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this subsection, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this subsection, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under paragraph (1) such court shall stay, and upon appointment by it of the Secretary of Labor as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsoring alliance, or property of such plan or alliance, and any other suit against any receiver, conservator, or trustee of the plan, the sponsoring alliance, or property of the plan or alliance. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsoring alliance or any other suit against the plan or the alliance.

(2) VENUE.—An action under this subsection may be brought in the judicial district where the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

(g) PERSONNEL.—In accordance with regulations of the Secretary of Labor, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this subsection.

SEC. 1396. GUARANTEED BENEFITS UNDER TRUSTEESHIP OF THE SECRETARY.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall guarantee the payment of all benefits under a corporate alliance health plan which is a self-insured plan while such plan is under the Secretary's trusteeship under section 1396.

(b) LIMITATIONS.—Any increase in the amount of benefits under the plan resulting from a plan amendment which was made, or became effective, whichever is later, within 180 days (or such other reasonable time as may be prescribed in regulations of the Secretary of Labor) before the date of the Secretary's appointment as trustee of the plan shall be disregarded for purposes of determining the guarantee under this section.

(c) CORPORATE ALLIANCE HEALTH PLAN INSOLVENCY FUND.—

(1) ESTABLISHMENT.—The Secretary of Labor shall establish a Corporate Alliance Health Plan Insolvency Fund (hereinafter in this section referred to as the "Fund") from which the Secretary shall make payment of all guaranteed benefits under this section.

(2) RECEIPTS AND DISBURSEMENTS.—

(A) RECEIPTS.—The Fund shall be credited with—

(i) funds borrowed under paragraph (4),

(ii) assessments collected under section 1397, and

(iii) earnings on investment of the fund.

(B) DISBURSEMENTS.—The Fund shall be available—

(i) for making such payments as the Secretary determines are necessary to pay benefits guaranteed under this section,

(ii) to repay the Secretary of the Treasury such sums as may be borrowed (together with interest thereon) under paragraph (4), and

(iii) to pay the operational and administrative expenses of the Fund.

(3) BORROWING AUTHORITY.—At the direction of the Secretary of Labor, the Fund may, to the extent necessary to carry out the purposes of paragraph (1), issue to the Secretary of the Treasury notes or other obligations, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations by the Fund. The Secretary of the Treasury shall purchase any notes or other obligations issued by the Fund under this paragraph, and for that purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by such Secretary under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(4) INVESTMENT AUTHORITY.—Whenever the Secretary of Labor determines that the moneys of the Fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States, but, until all borrowings under paragraph (4) have been repaid, the obligations in which such excess moneys are invested may not yield a rate of return in excess of the rate of interest payable on such borrowings.

SEC. 1397. IMPOSITION AND COLLECTION OF PERIODIC ASSESSMENTS ON SELF-INSURED CORPORATE ALLIANCE PLANS.

(a) IMPOSITION OF ASSESSMENTS.—Upon a determination that additional receipts to the Fund are necessary in order to enable the Fund to repay amounts borrowed by the Fund under section 1396(c)(3) while maintaining a balance sufficient to ensure the solvency of the Fund, the Secretary may impose assessments under this section. The Secretary shall prescribe from time to time such schedules of assessment rates and bases for the application of such rates as may be necessary to provide for such repayments.

(b) UNIFORMITY OF ASSESSMENTS.—The assessment rates prescribed by the Secretary for any period shall be uniform for all plans, except that the Secretary may vary the amount of such assessments by category, or waive the application of such assessments by category, taking into account differences in the financial solvency of, and financial reserves maintained by, plans in each category.

(c) LIMITATION ON AMOUNT OF ASSESSMENT.—The total amount assessed against a corporate alliance health plan under this section during a year may not exceed 2 percent of the total premiums paid to the plan with respect to corporate alliance eligible individuals enrolled with the plan during the year.

(d) PAYMENT OF ASSESSMENTS.—

(1) OBLIGATION TO PAY.—The designated payor of each plan shall pay the assessments imposed by the Secretary of Labor under this section with respect to that plan when they are due. Assessments under this section are payable at the time, and on an estimated, advance, or other basis, as determined by the Secretary. Assessments shall continue to accrue until the plan's assets are distributed pursuant to a termination procedure or the Secretary is appointed to serve as trustee of the plan under section 1395.

(2) LATE PAYMENT CHARGES AND INTEREST.—

(A) LATE PAYMENT CHARGES.—If any assessment is not paid when it is due, the Secretary may assess a late payment charge of not more than 100 percent of the assessment payment which was not timely paid.

(B) WAIVERS.—Subparagraph (A) shall not apply to any assessment payment made within 60 days after the date on which payment is due, if before such date, the designated payor obtains a waiver from the Secretary of Labor based upon a showing of substantial hardship arising from the timely payment of the assessment. The Secretary may grant a waiver under this subparagraph upon application made by the designated payor, but the Secretary may not grant a waiver if it appears that the designated payor will be unable to pay the assessment within 60 days after the date on which it is due.

(C) INTEREST.—If any assessment is not paid by the last date prescribed for a payment, interest on the amount of such assessment at the rate imposed under section 6601(a) of the Internal Revenue Code of 1986 shall be paid for the period from such last date to the date paid.

(e) CIVIL ACTION UPON NONPAYMENT.—If any designated payor fails to pay an assessment when due, the Secretary of Labor may bring a civil action in any district court of the United States within the jurisdiction of which the plan assets are located, the plan is administered, or in which a defendant resides or is found, for the recovery of the amount of the unpaid assessment, any late payment charge, and interest, and process may be served in any other district. The district courts of the United States shall have jurisdiction over actions brought under this subsection by the Secretary without regard to the amount in controversy.

(f) GUARANTEE HELD HARMLESS.—The Secretary of Labor shall not cease to guarantee benefits on account of the failure of a designated payor to pay any assessment when due.

(g) DESIGNATED PAYOR DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "designated payor" means—

(A) the employer or plan administrator in any case in which the eligible sponsor of the corporate alliance health plan is described in subparagraph (A) or (D) of section 1311(b)(1); and

(B) the contributing employers or the plan administrator in any case in which the eligible sponsor of the corporate alliance health plan is described in subparagraph (B) or (C) of section 1311(b)(1).

(2) CONTROLLED GROUPS.—If an employer is a member of a controlled group, each member of such group shall be jointly and severally liable for any assessments required to be paid by such employer. For purposes of the preceding sentence, the term "controlled group" means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

Subtitle E—Health Plans

SEC. 1400. HEALTH PLAN DEFINED.

(a) IN GENERAL.—In this Act, the term "health plan" means a plan that provides the comprehensive benefit package and meets the requirements of parts 1, 3, and 4.

(b) APPROPRIATE SELF-INSURED HEALTH PLAN.—In this Act, the term "appropriate self-insured health plan" means a group health plan (as defined in section 3(42) of the Employee Retirement Income Security Act of 1974) with respect to which the applicable requirements of title I of the Employee Retirement Income Security Act of 1974 are met and which is a self-insured plan.

(c) STATE-CERTIFIED HEALTH PLAN.—In this Act, the term "State-certified health plan" means a health plan that has been certified by a State under section 1203(a) (or, in the case in which the Board is exercising certification authority under section 1522(e), that has been certified by the Board).

(d) APPLICABLE REGULATORY AUTHORITY DEFINED.—In this subtitle, the term "applicable regulatory authority" means—

(1) with respect to a self-insured health plan, the Secretary of Labor, or

(2) with respect to a State-certified health plan, the State authority responsible for certification of the plan.

PART 1—REQUIREMENTS RELATING TO COMPREHENSIVE BENEFIT PACKAGE

SEC. 1401. APPLICATION OF REQUIREMENTS.

No plan shall be treated under this Act as a health plan—

(1) unless the plan is a self-insured plan or a State-certified plan; or

(2) on and after the effective date of a finding by the applicable regulatory authority that the plan has failed to comply with such applicable requirements.

SEC. 1402. REQUIREMENTS RELATING TO ENROLLMENT AND COVERAGE.

(a) NO UNDERWRITING.—

(1) IN GENERAL.—Subject to paragraph (2), each health plan offered by a regional alliance or a corporate alliance must accept for enrollment every alliance eligible individual who seeks such enrollment. No plan may engage in any practice that has the effect of attracting or limiting enrollees on the basis of personal characteristics, such as health status, anticipated need for health care, age, occupation, or affiliation with any person or entity.

(2) CAPACITY LIMITATIONS.—With the approval of the applicable regulatory authority, a health plan may limit enrollment because of the plan's capacity to deliver services or to maintain financial stability. If such a limitation is imposed, the limitation may not be imposed on a basis referred to in paragraph (1).

(b) NO LIMITS ON COVERAGE; NO PRE-EXISTING CONDITION LIMITS.—A health plan may not—

(1) terminate, restrict, or limit coverage for the comprehensive benefit package in any portion of the plan's service area for any reason, including nonpayment of premiums;

(2) cancel coverage for any alliance eligible individual until that individual is enrolled in another applicable health plan;

(3) exclude coverage of an alliance eligible individual because of existing medical conditions;

(4) impose waiting periods before coverage begins; or

(5) impose a rider that serves to exclude coverage of particular eligible individuals.

(c) ANTI-DISCRIMINATION.—

(1) IN GENERAL.—No health plan may engage (directly or through contractual arrangements) in any activity, including the selection of a service area, that has the effect of discriminating against an individual on the basis of race, national origin, gender, income, health status, or anticipated need for health services.

(2) SELECTION OF PROVIDERS FOR PLAN NETWORK.—In selecting among providers of health services for membership in a provider network, or in establishing the terms and conditions of such membership, a health plan may not engage in any practice that has the effect of discriminating against a provider—

(A) based on the race, national origin, or gender of the provider; or

(B) based on the income, health status, or anticipated need for health services of a patient of the provider.

(3) NORMAL OPERATION OF HEALTH PLAN.—Except in the case of intentional discrimination, it shall not be a violation of this subsection, or of any regulation issued under this subsection, for any person to take any action otherwise prohibited under this subsection, if the action is necessary to the normal operation of the health plan.

(4) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue regulations in an accessible form to carry out this subsection.

(d) REQUIREMENTS FOR PLANS OFFERING LOWER COST SHARING.—Each health plan that offers enrollees the lower cost sharing schedule referred to in section 1131—

(1) shall apply such schedule to all items and services in the comprehensive benefit package;

(2) shall offer enrollees the opportunity to obtain coverage for out-of-network items and services (as described in subsection (f)(2)); and

(3) notwithstanding section 1403, in the case of an enrollee who obtains coverage for such items and services, may charge an alternative premium to take into account such coverage.

(e) TREATMENT OF COST SHARING.—Each health plan, in providing benefits in the comprehensive benefit package—

(1) shall include in its payments to providers, such additional reimbursement as may be necessary to reflect cost sharing reductions to which individuals are entitled under section 1371, and

(2) shall maintain such claims or encounter records as may be necessary to audit the amount of such additional reimbursements and the individuals for which such reimbursement is provided.

(f) IN-NETWORK AND OUT-OF-NETWORK ITEMS AND SERVICES DEFINED.—

(1) IN-NETWORK ITEMS AND SERVICES.—For purposes of this Act, the term "in-network", when used with respect to items or services described in this subtitle, means items or services provided to an individual enrolled under a health plan by a health care provider who is a member of a provider network of the plan (as defined in paragraph (3)).

(2) OUT-OF-NETWORK ITEMS AND SERVICES.—For purposes of this Act, the term "out-of network", when used with respect to items or services described in this subtitle, means items or services provided to an individual enrolled under a health plan by a health care provider who is not a member of a provider network of the plan (as defined in paragraph (3)).

(3) PROVIDER NETWORK DEFINED.—A "provider network" means, with respect to a health plan, providers who have entered into an agreement with the plan under which such providers are obligated to provide items and services in the comprehensive benefit package to individuals enrolled in the plan, or have an agreement to provide services on a fee-for-service basis.

(g) RELATION TO DETENTION.—A health plan is not required to provide any reimbursement to any detention facility for services performed in that facility for detainees in the facility.

SEC. 1403. COMMUNITY RATING.

(a) REGIONAL ALLIANCE HEALTH PLANS.—Each regional alliance health plan may not vary the premium imposed with respect to residents of an alliance area, except as may be required under section 6102(a) with respect to different types of individual and family coverage under the plan.

(b) CORPORATE ALLIANCE HEALTH PLANS.—Each corporate alliance health plan may not vary the premium imposed with respect to individuals enrolled in the plan, except as may be required under section 1364 with respect to different types of individual and family coverage under the plan.

SEC. 1404. MARKETING OF HEALTH PLANS; INFORMATION.

(a) REGIONAL ALLIANCE MARKETING RESTRICTIONS.—

(1) IN GENERAL.—The contract entered into between a regional alliance and a regional alliance health plan shall prohibit the distribution by the health plan of marketing materials within the regional alliance that contain false or materially misleading information and shall provide for prior approval by the regional alliance of any marketing materials to be distributed by the plan.

(2) ENTIRE MARKET.—A health plan offered by a health alliance may not distribute marketing materials to an area smaller than the entire area served by the plan.

(3) PROHIBITION OF TIE-INS.—A regional alliance health plan, and any agency of such a plan, may not seek to influence an individual's choice of plans in conjunction with the sale of any other insurance.

(b) INFORMATION AVAILABLE.—

(1) IN GENERAL.—Each regional alliance health plan must provide to the regional alliance and make available to alliance eligible individuals and health care professionals complete and timely information concerning the following:

(A) Costs.

(B) The identity, locations, qualifications, and availability of participating providers.

(C) Procedures used to control utilization of services and expenditures.

(D) Procedures for assuring and improving the quality of care.

(E) Rights and responsibilities of enrollees.

(F) Information on the number of plan members who disenroll from the plan.

(2) PROHIBITION AGAINST CERTIFICATION OF PLANS PROVIDING INACCURATE INFORMATION.—No regional alliance health plan may be a State-certified health plan under this title if the State determines that the plan submitted materially inaccurate information under paragraph (1).

(c) ADVANCE DIRECTIVES.—Each self-insured health plan and each State-certified health plan shall meet the requirement of section 1866(f) of the Social Security Act (relating to maintaining written policies and procedures respecting advance directives) in the same manner as such requirement relates to organizations with contracts under section 1876 of such Act.

SEC. 1405. GRIEVANCE PROCEDURE.

(a) IN GENERAL.—Each health plan must establish a grievance procedure for enrollees to use in pursuing complaints. Such procedure shall be consistent with subtitle C of title V.

(b) ADDITIONAL REMEDIES.—If the grievance procedure fails to resolve an enrollee's complaint—

(1) in the case of an enrollee of a regional alliance health plan, the enrollee has the option of seeking assistance from the office of the ombudsman for the regional alliance established under section 1326(a), and

(2) the enrollee may pursue additional legal remedies, including those provided under subtitle C of title V.

SEC. 1406. HEALTH PLAN ARRANGEMENTS WITH PROVIDERS.

(a) REQUIREMENT.—Each health plan must enter into such agreements with health care providers or have such other arrangements as may be necessary to assure the provision of all services covered by the comprehensive benefit package to eligible individuals enrolled with the plan.

(b) EMERGENCY AND URGENT CARE SERVICES.—

(1) IN GENERAL.—Each health plan must cover emergency and urgent care services provided to enrollees, without regard to whether or not the provider furnishing such services has a contractual (or other) arrangement with the plan to provide items or services to enrollees of the plan.

(2) PAYMENT AMOUNTS.—In the case of emergency and urgent care provided to an enrollee outside of a health plan's service area, the payment amounts of the plan shall be based on the fee for service rate schedule established by the regional alliance for the alliance area where the services were provided.

(c) APPLICATION OF FEE SCHEDULE.—

(1) IN GENERAL.—Subject to paragraph (2), each regional alliance health plan or corporate alliance health plan that provides for payment for services on a fee-for-service basis shall make such payment in the

amounts provided under the fee schedule established by the regional alliance under section 1322(c) (or, in the case of a plan offered in a State that has established a Statewide fee schedule under section 1322(c)(3), under such Statewide fee schedule).

(2) REDUCTION FOR PROVIDERS VOLUNTARILY REDUCING CHARGES.—If a provider under a health plan voluntarily agrees to reduce the amount charged to an individual enrolled under the plan, the plan shall reduce the amount otherwise determined under the fee schedule applicable under paragraph (1) by the proportion of the reduction in such amount charged.

(3) REDUCTION FOR NONCOMPLYING PLAN.—Each regional alliance health plan that is a noncomplying plan shall provide for reductions in payments under the fee schedule to providers that are not participating providers in accordance with section 6012(b).

(d) Prohibition Against Balance Billing; Requirement of Direct Billing.—

(1) PROHIBITION OF BALANCE BILLING.—A provider may not charge or collect from an enrollee a fee in excess of the applicable payment amount under the applicable fee schedule under subsection (c), and the health plan and its enrollees are not legally responsible for payment of any amount in excess of such applicable payment amount for items and services covered under the comprehensive benefits package.

(2) DIRECT BILLING.—A provider may not charge or collect from an enrollee amounts that are payable by the health plan (including any cost sharing reduction assistance payable by the plan) and shall submit charges to such plan in accordance with any applicable requirements of part 1 of subtitle B of title V (relating to health information systems).

(3) COVERAGE UNDER AGREEMENTS WITH PLANS.—The agreements or other arrangements entered into under subsection (a) between a health plan and the health care providers providing the comprehensive benefit package to individuals enrolled with the plan shall prohibit a provider from engaging in balance billing described in paragraph (1).

(e) Imposition of Participating Provider Assessment in Case of a Noncomplying Plan.—Each health plan shall provide that if the plan is a noncomplying plan for a year under section 6012, payments to participating providers shall be reduced by the applicable network reduction percentage under such section.

SEC. 1407. PREEMPTION OF CERTAIN STATE LAWS RELATING TO HEALTH PLANS.

(a) Laws Restricting Plans Other Than Fee-for-Service Plans.—Except as may otherwise be provided in this section, no State law shall apply to any services provided under a health plan that is not a fee-for-service plan (or a fee-for-service component of a plan) if such law has the effect of prohibiting or otherwise restricting plans from—

(1) except as provided in section 1203, limiting the number and type of health care providers who participate in the plan;

(2) requiring enrollees to obtain health services (other than emergency services) from participating providers or from providers authorized by the plan;

(3) requiring enrollees to obtain a referral for treatment by a specialized physician or health institution;

(4) establishing different payment rates for participating providers and providers outside the plan;

(5) creating incentives to encourage the use of participating providers; or

(6) requiring the use single-source suppliers for pharmacy, medical equipment, and other health products and services.

(b) Preemption of State Corporate Practice Acts.—Any State law related to the corporate practice of medicine and to provider ownership of health plans or other providers shall not apply to arrangements between health plans that are not fee-for-service plans and their participating providers.

(c) Participating Provider Defined.—In this title, a "participating provider" means, with respect to a health plan, a provider of health care services who is a member of a provider network of the plan (as described in section 1402(f)(3)).

SEC. 1408. FINANCIAL SOLVENCY.

Each regional alliance health plan must—

(1) meet or exceed minimum capital requirements established by States under section 1204(a);

(2) in the case of a plan operating in a State, must participate in the guaranty fund established by the State under section 1204(c); and

(3) meet such other requirements relating to fiscal soundness as the State may establish (subject to the establishment of any alternative standards by the Board).

SEC. 1409. REQUIREMENT FOR OFFERING COST SHARING POLICY.

Each regional alliance health plan shall offer a cost sharing policy (as defined in section 1421(b)(2)) to each eligible family enrolled under the plan.

SEC. 1410. QUALITY ASSURANCE.

Each health plan shall comply with such quality assurance requirements as are imposed under subtitle A of title V with respect to such a plan.

SEC. 1411. PROVIDER VERIFICATION.

Each health plan shall—

(1) verify the credentials of practitioners and facilities;

(2) ensure that all providers participating in the plan meet applicable State licensing and certification standards;

(3) oversee the quality and performance of participating providers, consistent with section 1410; and

(4) investigate and resolve consumer complaints against participating providers.

SEC. 1412. CONSUMER DISCLOSURES OF UTILIZATION MANAGEMENT PROTOCOLS.

Each health plan shall disclose to enrollees (and prospective enrollees) the protocols used by the plan for controlling utilization and costs.

SEC. 1413. CONFIDENTIALITY, DATA MANAGEMENT, AND REPORTING.

(a) In General.—Each health plan shall comply with the confidentiality, data management, and reporting requirements imposed under subtitle B of title V.

(b) Treatment of Electronic Information.—

(1) ACCURACY AND RELIABILITY.—Each health plan shall take such measures as may be necessary to ensure that health care information in electronic form that the plan, or a member of a provider network of the plan, collects for or transmits to the Board under subtitle B of title V is accurate and reliable.

(2) PRIVACY AND SECURITY.—Each health plan shall take such measures as may be necessary to ensure that health care information described in paragraph (1) is not distributed to any individual or entity in violation of a standard promulgated by the Board under part 2 of subtitle B of title V.

SEC. 1414. PARTICIPATION IN REINSURANCE SYSTEM.

Each regional alliance health plan of a State that has established a reinsurance system under section 1203(g) shall participate in the system in the manner specified by the State.

PART 2—REQUIREMENTS RELATING TO SUPPLEMENTAL INSURANCE

SEC. 1421. IMPOSITION OF REQUIREMENTS ON SUPPLEMENTAL INSURANCE.

(a) In General.—An entity may offer a supplemental insurance policy but only if—

(1) in the case of a supplemental health benefit policy (as defined in subsection (b)(1)), the entity and the policy meet the requirements of section 1422; and

(2) in the case of a cost sharing policy (as defined in subsection (b)(2)), the entity and the policy meet the requirements of section 1423.

(b) Policies Defined.—

(1) SUPPLEMENTAL HEALTH BENEFIT POLICY.—

(A) IN GENERAL.—In this part, the term "supplemental health benefit policy" means a health insurance policy or health benefit plan offered to an alliance-eligible individual which provides—

(i) coverage for services and items not included in the comprehensive benefit package, or

(ii) coverage for items and services included in such package but not covered because of a limitation in amount, duration, or scope provided under such title,

or both.

(B) EXCLUSIONS.—Such term does not include the following:

(i) A cost sharing policy (as defined in paragraph (2)).

(ii) A long-term care insurance policy (as defined in section 2304(10)).

(iii) Insurance that limits benefits with respect to specific diseases (or conditions).

(iv) Hospital or nursing home indemnity insurance.

(v) A medicare supplemental policy (as defined in section 1882(g) of the Social Security Act).

(vi) Insurance with respect to accidents.

(2) COST SHARING POLICY.—In this part, the term "cost sharing policy" means a health insurance policy or health benefit plan offered to an alliance-eligible individual which provides coverage for deductibles, coinsurance, and copayments imposed as part of the comprehensive benefit package under title II, whether imposed under a higher cost sharing plan or with respect to out-of-network providers.

SEC. 1422. STANDARDS FOR SUPPLEMENTAL HEALTH BENEFIT POLICIES.

(a) Prohibiting Duplication of Coverage.—

(1) IN GENERAL.—No health plan, insurer, or any other person may offer—

(A) to any eligible individual a supplemental health benefit policy that duplicates any coverage provided in the comprehensive benefit package; or

(B) to any medicare-eligible individual a supplemental health benefit policy that duplicates any coverage provided under part B of the medicare program.

(2) EXCEPTION FOR MEDICARE-ELIGIBLE INDIVIDUALS.—For purposes of this subsection, for the period in which an individual is a medicare-eligible individual and also is an alliance-eligible individual (and is enrolled under a regional alliance or corporate alliance health plan), paragraph (1)(A) (and not paragraph (1)(B)) shall apply.

(b) No Limitation on Individuals Offered Policy.—

(1) IN GENERAL.—Except as provided in paragraph (2), each entity offering a supplemental health benefit policy must accept for

enrollment every individual who seeks such enrollment, subject to capacity and financial limits.

(2) Exception for certain offerors.—Paragraph (1) shall not apply to any supplemental health benefit policy offered to an individual only on the basis of—

(A) the individual's employment (in the case of a policy offered by the individual's employer); or

(B) the individual's membership or enrollment in a fraternal, religious, professional, educational, or other similar organization.

(c) Restrictions on Marketing Abuses.—Not later than January 1, 1996, the Board shall develop (in consultation with the States) minimum standards that prohibit marketing practices by entities offering supplemental health benefit policies that involve:

(1) Providing monetary incentives for or tying or otherwise conditioning the sale of the policy to enrollment in a regional alliance health plan of the entity.

(2) Using or disclosing to any party information about the health status or claims experience of participants in a regional alliance health plan for the purpose of marketing such a policy.

(d) Civil Monetary Penalty.—An entity that knowingly and willfully violates any provision of this section with respect to the offering of a supplemental health benefit policy to any individual shall be subject to a civil monetary penalty (not to exceed $10,000) for each such violation.

SEC. 1423. STANDARDS FOR COST SHARING POLICIES.

(a) Rules for Offering of Policies.—Subject to subsection (f), a cost sharing policy may be offered to an individual only if—

(1) the policy is offered by the regional alliance health plan in which the individual is enrolled;

(2) the regional alliance health plan offers the policy to all individuals enrolled in the plan;

(3) the plan offers each such individual a choice of a policy that provides standard coverage and a policy that provides maximum coverage (in accordance with standards established by the Board); and

(4) the policy is offered only during the annual open enrollment period for regional alliance health plans (described in section 1323(d)(1)).

(b) Prohibition of Coverage of Copayments.—Each cost sharing policy may not provide any benefits relating to any copayments established under the schedule of copayments and coinsurance under section 1135.

(c) Equivalent Coverage for All Services.—Each cost sharing policy must provide coverage for items and services in the comprehensive benefit package to the same extent as the policy provides coverage for all items and services in the package.

(d) Requirements for Pricing.—

(1) In general.—The price of any cost sharing policy shall—

(A) be the same for each individual to whom the policy is offered;

(B) take into account any expected increase in utilization resulting from the purchase of the policy by individuals enrolled in the regional alliance health plan; and

(C) not result in a loss-ratio of less than 90 percent.

(2) Loss-ratio defined.—In paragraph (1)(C), a "loss-ratio" is the ratio of the premium returned to the consumer in payout relative to the total premium collected.

(e) Loss of State Certification for Regional Alliance Health Plans Failing to Meet Standards.—A State may not certify a regional alliance health plan that offers a cost sharing policy unless the plan and the policy meet the standards described in this section.

(f) Special Rules for FEHBP Supplemental Plans.—Subsection (a) shall not apply to an FEHBP supplemental plan described in section 8203(f)(1), but only if the plan meets the following requirements:

(1) The plan must be offered to all individuals to whom such a plan is required to be offered under section 8204.

(2) The plan must offer each such individual a choice of a policy that provides standard coverage and a policy that provides maximum coverage (in accordance with standards established by the Board under subsection (a)(3)).

(3) The plan is offered only during the annual open enrollment period for regional alliance health plans (described in section 1323(d)(1)).

(4)(A) The price of the plan shall include an amount, established in accordance with rules established by the Board in consultation with the Office of Personnel Management, that takes into account any expected increase in utilization of the items and services in the comprehensive benefit package resulting from the purchase of the plan by individuals enrolled in a regional alliance health plan.

(B) The plan provides for payment, in a manner specified by the Board in the case of an individual enrolled in the plan and in a regional alliance health plan, to the regional alliance health plan of an amount equivalent to the additional amount described in subparagraph (A).

PART 3—REQUIREMENTS RELATING TO ESSENTIAL COMMUNITY PROVIDERS

SEC. 1431. HEALTH PLAN REQUIREMENT.

(a) In General.—Subject to section 1432, each health plan shall, with respect to each electing essential community provider (as defined in subsection (d), other than a provider of school health services) located within the plan's service area, either—

(1) enter into a written provider participation agreement (described in subsection (b)) with the provider, or

(2) enter into a written agreement under which the plan shall make payment to the provider in accordance with subsection (c).

(b) Participation Agreement.—A participation agreement between a health plan and an electing essential community provider under this subsection shall provide that the health plan agrees to treat the provider in accordance with terms and conditions at least as favorable as those that are applicable to other providers participating in the health plan with respect to each of the following:

(1) The scope of services for which payment is made by the plan to the provider.

(2) The rate of payment for covered care and services.

(3) The availability of financial incentives to participating providers.

(4) Limitations on financial risk provided to other participating providers.

(5) Assignment of enrollees to participating providers.

(6) Access by the provider's patients to providers in medical specialties or subspecialties participating in the plan.

(c) Payments for Providers Without Participation Agreements.—

(1) In general.—Payment in accordance with this subsection is payment based, as elected by the electing essential community provider, either—

(A) on the fee schedule developed by the applicable health alliance (or the State) under section 1322(c), or

(B) on payment methodologies and rates used under the applicable Medicare payment methodology and rates (or the most closely applicable methodology under such program as the Secretary of Health and Human Services specifies in regulations).

(2) No application of gate-keeper limitations.—Payment in accordance with this subsection may be subject to utilization review, but may not be subject to otherwise applicable gate-keeper requirements under the plan.

(d) Election.—

(1) In general.—In this part, the term "electing essential community provider" means, with respect to a health plan, an essential community provider that elects this subpart to apply to the health plan.

(2) Form of election.—An election under this subsection shall be made in a form and manner specified by the Secretary, and shall include notice to the health plan involved. Such an election may be made annually with respect to a health plan, except that the plan and provider may agree to make such an election on a more frequent basis.

(e) Special Rule for Providers of School Health Services.—A health plan shall pay, to each provider of school health services located in the plan's service area an amount determined by the Secretary for such services furnished to enrollees of the plan.

SEC. 1432. SUNSET OF REQUIREMENT.

(a) In General.—Subject to subsection (d), the requirement of section 1431 shall only apply to health plans offered by a health alliance during the 5-year period beginning with the first year in which any regional alliance health plan is offered by the alliance.

(b) Studies.—In order to prepare recommendations under subsection (c), the Secretary shall conduct studies regarding essential community providers, including studies that assess—

(1) the definition of essential community provider,

(2) the sufficiency of the funding levels for providers, for both covered and uncovered benefits under this Act,

(3) the effects of contracting requirements relating to such providers on such providers, health plans, and enrollees,

(4) the impact of the payment rules for such providers, and

(5) the impact of national health reform on such providers.

(c) Recommendations to Congress.—The Secretary shall submit to Congress, by not later than March 1, 2001, specific recommendations respecting whether, and to what extent, section 1431 should continue to apply to some or all essential community providers. Such recommendations may include a description of the particular types of such providers and circumstances under which such section should continue to apply.

(d) Congressional Consideration.—

(1) In general.—Recommendations submitted under subsection (c) shall apply under this part (and may supersede the provisions of subsection (a)) unless a joint resolution (described in paragraph (2)) disapproving such recommendations is enacted, in accordance with the provisions of paragraph (3), before the end of the 60-day period beginning on the date on which such recommendations were submitted. For purposes of applying the preceding sentence and paragraphs (2) and

(3), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(2) JOINT RESOLUTION OF DISAPPROVAL.—A joint resolution described in this paragraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the Secretary submits recommendations under subsection (c) and—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Secretary of Health and Human Services concerning the continued application of certain essential community provider requirements under section 1431 of the Health Security Act, as submitted by the Secretary on ________.", the blank space being filled in with the appropriate date; and

(C) the title of which is as follows: "Joint resolution disapproving recommendations of the Secretary of Health and Human Services concerning the continued application of certain essential community provider requirements under section 1431 of the Health Security Act, as submitted by the Secretary on ________.", the blank space being filled in with the appropriate date.

(3) PROCEDURES FOR CONSIDERATION OF RESOLUTION OF APPROVAL.—Subject to paragraph (4), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in paragraph (2) in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(4) SPECIAL RULES.—For purposes of applying paragraph (3) with respect to such provisions—

(A) any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to an appropriate Committee of the House of Representatives (specified by the Speaker of the House of Representatives at the time of submission of recommendations under subsection (c)) and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to an appropriate Committee of the House of Representatives (specified by the Majority Leader of the Senate at the time of submission of recommendations under subsection (c)); and

(B) any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the Secretary submits recommendations under subsection (c).

PART 4—REQUIREMENTS RELATING TO WORKERS' COMPENSATION AND AUTOMOBILE MEDICAL LIABILITY COVERAGE

SEC. 1441. REFERENCE TO REQUIREMENTS RELATING TO WORKERS COMPENSATION SERVICES.

Each health plan shall meet the applicable requirements of part 2 of subtitle A of title VIII (relating to provision of workers compensation services to enrollees).

SEC. 1442. REFERENCE TO REQUIREMENTS RELATING TO AUTOMOBILE MEDICAL LIABILITY SERVICES.

Each health plan shall meet the applicable requirements of part 2 of subtitle B of title VIII (relating to provision of automobile medical liability services to enrollees).

Subtitle F—Federal Responsibilities

PART 1—NATIONAL HEALTH BOARD

Subpart A—Establishment of National Health Board

SEC. 1501. CREATION OF NATIONAL HEALTH BOARD; MEMBERSHIP.

(a) IN GENERAL.—There is hereby created in the Executive Branch a National Health Board.

(b) COMPOSITION.—The Board is composed of 7 members appointed by the President, by and with the advice and consent of the Senate.

(c) CHAIR.—The President shall designate one of the members as chair. The chair serves a term concurrent with that of the President. The chair may serve a maximum of 3 terms. The chair shall serve as the chief executive officer of the Board.

(d) TERMS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), the term of each member of the Board, except the chair, is 4 years and begins when the term of the predecessor of that member ends.

(2) INITIAL TERMS.—The initial terms of the members of the Board (other than the chair) first taking office after the date of the enactment of this Act, shall expire as designated by the President, two at the end of one year, two at the end of two years, and two at the end of three years.

(3) REAPPOINTMENT.—A member (other than the chair) may be reappointed for one additional term.

(4) CONTINUATION IN OFFICE.—Upon the expiration of a term of office, a member shall continue to serve until a successor is appointed and qualified.

(e) VACANCIES.—

(1) IN GENERAL.—Whenever a vacancy shall occur, other than by expiration of term, a successor shall be appointed by the President as provided above, by and with the consent of the Senate, to fill such vacancy, and is appointed for the remainder of the term of the predecessor.

(2) NO IMPAIRMENT OF FUNCTION.—A vacancy in the membership of the Board does not impair the right of the remaining members to exercise all of the powers of the Board.

(3) ACTING CHAIR.—The Board may designate a Member to Act as chair during any period in which there is no chair designated by the President.

(f) MEETINGS; QUORUM.—

(1) MEETINGS.—At meetings of the Board the chair shall preside, and in the absence of the chair, the Board shall elect a member to act as chair pro tempore.

(2) QUORUM.—Four members of the Board shall constitute a quorum thereof.

SEC. 1502. QUALIFICATIONS OF BOARD MEMBERS.

(a) CITIZENSHIP.—Each member of the Board shall be a citizen of the United States.

(b) BASIS OF SELECTION.—Board members will be selected on the basis of their experience and expertise in relevant subjects, including the practice of medicine, health care financing and delivery, state health systems, consumer protection, business, law, and delivery of care to vulnerable populations.

(c) EXCLUSIVE EMPLOYMENT.—During the term of appointment, Board members shall serve as employees of the Federal Government and shall hold no other employment.

(d) PROHIBITION OF CONFLICT OF INTEREST.—A member of the Board may not have a pecuniary interest in or hold an official relation to any health care plan, health care provider, insurance company, pharmaceutical company, medical equipment company, or other affected industry. Before entering upon the duties as a member of the Board, the member shall certify under oath compliance with this requirement.

(e) POST-EMPLOYMENT RESTRICTIONS.—After leaving the Board, former members are subject to post-employment restrictions applicable to comparable Federal employees.

(f) COMPENSATION OF BOARD MEMBERS.—Each member of the Board (other than the chair) shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule. The chair of the Board, during the period of service as chair, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule.

SEC. 1503. GENERAL DUTIES AND RESPONSIBILITIES.

(a) COMPREHENSIVE BENEFIT PACKAGE.—

(1) INTERPRETATION.—The Board shall interpret the comprehensive benefit package, adjust the delivery of preventive services under section 1153, and take such steps as may be necessary to assure that the comprehensive benefit package is available on a uniform national basis to all eligible individuals.

(2) RECOMMENDATIONS.—The Board may recommend to the President and the Congress appropriate revisions to such package. Such recommendations may reflect changes in technology, health care needs, health care costs, and methods of service delivery.

(b) ADMINISTRATION OF COST CONTAINMENT PROVISIONS.—The Board shall oversee the cost containment requirements of subtitle A of title VI and certify compliance with such requirements.

(c) COVERAGE AND FAMILIES.—The Board shall develop and implement standards relating to the eligibility of individuals for coverage in applicable health plans under subtitle A of title I and may provide such additional exceptions and special rules relating to the treatment of family members under section 1012 as the Board finds appropriate.

(d) QUALITY MANAGEMENT AND IMPROVEMENT.—The Board shall establish and have ultimate responsibility for a performance-based system of quality management and improvement as required by section 5001.

(e) INFORMATION STANDARDS.—The Board shall develop and implement standards to establish national health information system to measure quality as required by section 5101.

(f) PARTICIPATING STATE REQUIREMENTS.—Consistent with the provisions of subtitle C, the Board shall—

(1) establish requirements for participating States,

(2) monitor State compliance with those requirements,

(3) provide technical assistance,

in a manner that ensures access to the comprehensive benefit package for all eligible individuals.

(g) DEVELOPMENT OF PREMIUM CLASS FACTORS.—The Board shall establish premium class factors under subpart D of this part.

(h) DEVELOPMENT OF RISK-ADJUSTMENT METHODOLOGY.—The Board shall develop a methodology for the risk-adjustment of premium payments to regional alliance health plans in accordance with part 3 of this subtitle.

(i) ENCOURAGING THE REASONABLE PRICING OF BREAKTHROUGH DRUGS.—The Board shall establish the Breakthrough Drug Committee in accordance with subpart F of this part.

(j) FINANCIAL REQUIREMENTS.—The Board shall establish minimum capital requirements and requirements for guaranty funds under subpart G of this part.

(k) Standards for Health Plan Grievance Procedures.—The Board shall establish standards for health plan grievance procedures that are used by enrollees in pursuing complaints.

SEC. 1504. ANNUAL REPORT.

(a) In General.—The Board shall prepare and send to the President and Congress an annual report addressing the overall implementation of the new health care system.

(b) Matters to be Included.—The Board shall include in each annual report under this section the following:

(1) Information on Federal and State implementation.

(2) Data related to quality improvement.

(3) Recommendations or changes in the administration, regulation and laws related to health care and coverage.

(4) A full account of all actions taken during the previous year.

SEC. 1505. POWERS.

(a) Staff; Contract Authority.—The Board shall have authority, subject to the provisions of the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, United States Code, to appoint such officers and employees as are necessary to carry out its functions. To the extent provided in advance in appropriations Acts, the Board may contract with any person (including an agency of the Federal Government) for studies and analysis as required to execute its functions. Any employee of the Executive Branch may be detailed to the Board to assist the Board in carrying out its duties.

(b) Establishment of Advisory Committees.—The Board may establish advisory committees.

(c) Access to Information.—The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out its functions, to the extent such information is otherwise available to a department or agency of the United States. Upon request of the chair, the head of that department or agency shall furnish that information to the Board.

(d) Delegation of Authority.—Except as otherwise provided in this Act, the Board may delegate any function to such officers and employees as the Board may designate and may authorize such successive redelegations of such functions with the Board as the Board deems to be necessary or appropriate. No delegation of functions by the Board shall relieve the Board of responsibility for the administration of such functions.

(e) Rulemaking.—The National Health Board is authorized to establish such rules as may be necessary to carry out this Act.

SEC. 1506. FUNDING.

(a) Authorization of Appropriations.—There are authorized to be appropriated to the Board such sums as may be necessary for fiscal years 1994, 1995, 1996, 1997, and 1998.

(b) Submission of Budget.—Under the procedures of chapter 11 of title 31, United States Code, the budget for the Board for a fiscal year shall be reviewed by the Director of the Office of Management and Budget and submitted to the Congress as part of the President's submission of the Budget of the United States for the fiscal year.

Subpart B—Responsibilities Relating to Review and Approval of State Systems

SEC. 1511. FEDERAL REVIEW AND ACTION ON STATE SYSTEMS.

(a) Approval of State Systems by National Board.—

(1) In general.—The National Health Board shall approve a State health care system for which a document is submitted under section 1200(a) unless the Board finds that the system (as set forth in the document) does not (or will not) provide for the State meeting the responsibilities for participating States under this Act.

(2) Regulations.—The Board shall issue regulations, not later than July 1, 1995, prescribing the requirements for State health care systems under parts 2 and 3 of subtitle C, except that in the case of a document submitted under section 1201(a) before the date of issuance of such regulations, the Board shall take action on such document notwithstanding the fact that such regulations have not been issued.

(3) No approval permitted for years prior to 1996.—The Board may not approve a State health care system under this part for any year prior to 1996.

(b) Review of Completeness of Documents.—

(1) In general.—If a State submits a document under subsection (a)(1), the Board shall notify the State, not later than 7 working days after the date of submission, whether or not the document is complete and provides the Board with sufficient information to approve or disapprove the document.

(2) Additional information on incomplete document.—If the Board notifies a State that the State's document is not complete, the State shall be provided such additional period (not to exceed 45 days) as the Board may by regulation establish in which to submit such additional information as the Board may require. Not later than 7 working days after the State submits the additional information, the Board shall notify the State respecting the completeness of the document.

(c) Action on Completed Documents.—

(1) In general.—The Board shall make a determination (and notify the State) on whether the State's document provides for implementation of a State system that meets the applicable requirements of subtitle C—

(A) in the case of a State that did not require the additional period described in subsection (b)(2) to file a complete document, not later than 90 days after notifying a State under subsection (b) that the State's document is complete, or

(B) in the case of a State that required the additional period described in subsection (b)(2) to file a complete document, not later than 90 days after notifying a State under subsection (b) that the State's document is complete.

(2) Plans deemed approved.—If the Board does not meet the applicable deadline for making a determination and providing notice established under paragraph (1) with respect to a State's document, the Board shall be deemed to have approved the State's document for purposes of this Act.

(d) Opportunity to Respond to Rejected Document.—

(1) In general.—If (within the applicable deadline under subsection (c)(1)) the Board notifies a State that its document does not provide for implementation of a State system that meets the applicable requirements of subtitle C, the Board shall provide the State with a period of 30 days in which to submit such additional information and assurances as the Board may require.

(2) Deadline for response.—Not later than 30 days after receiving such additional information and assurances, the Board shall make a determination (and notify the State) on whether the State's document provides for implementation of a State system that meets the applicable requirements of subtitle C.

(3) Plan deemed approved.—If the Board does not meet the deadline established under paragraph (2) with respect to a State, the Board shall be deemed to have approved the State's document for purposes of this Act.

(e) Approval of Previously Terminated States.—If the Board has approved a State system under this part for a year but subsequently terminated the approval of the system under section 1513, the Board shall approve the system for a succeeding year if the State—

(1) demonstrates to the satisfaction of the Board that the failure that formed the basis for the termination no longer exists, and

(2) provides reasonable assurances that the types of actions (or inactions) which formed the basis for such termination will not recur.

(f) Revisions to State System.—

(1) Submission.—A State may revise a system approved for a year under this section, except that such revision shall not take effect unless the State has submitted to the Board a document describing such revision and the Board has approved such revision.

(2) Actions on amendments.—Not later than 60 days after a document is submitted under paragraph (1), the Board shall make a determination (and notify the State) on whether the implementation of the State system, as proposed to be revised, meets the applicable requirements of subtitle C. If the Board fails to meet the requirement of the preceding sentence, the Board shall be deemed to have approved the implementation of the State system as proposed to be revised.

(3) Rejection of amendments.—Subsection (d) shall apply to an amendment submitted under this subsection in the same manner as it applies to a completed document submitted under subsection (b).

(g) Notification of Non-Participating States.—If a State fails to submit a document for a State system by the deadline referred to in section 1200, or such a document is not approved under subsection (c), the Board shall immediately notify the Secretary of Health and Human Services and the Secretary of the Treasury of the State's failure for purposes of applying subpart B in that State.

SEC. 1512. FAILURE OF PARTICIPATING STATES TO MEET CONDITIONS FOR COMPLIANCE.

(a) In General.—In the case of a participating State, if the Board determines that the operation of the State system under subtitle C fails to meet the applicable requirements of this Act, sanctions shall apply against the State in accordance with subsection (b).

(b) Type of Sanction Applicable.—The sanctions applicable under this part are as follows:

(1) If the Board determines that the State's failure does not substantially jeopardize the ability of eligible individuals in the State to obtain coverage for the comprehensive benefit package—

(A) the Board may order a regional alliance in the State to comply with applicable requirements of this Act and take such additional measures to assure compliance with such requirements as the Board may impose, if the Board determines that the State's failure relates to a requirement applicable to a regional alliance in the State, or

(B) if the Board does not take the action described in subparagraph (A) (or if the Board takes the action and determines that the action has not remedied the violation that led to the imposition of the sanction), the Board shall notify the Secretary of

Health and Human Services, who shall reduce payments with respect to the State in accordance with section 1513.

(2) If the Board determines that the failure substantially jeopardizes the ability of eligible individuals in the State to obtain coverage for the comprehensive benefit package—

(A) the Board shall terminate its approval of the State system; and

(B) the Board shall notify the Secretary of Health and Human Services, who shall assume the responsibilities described in section 1522.

(c) TERMINATION OF SANCTION.—

(1) COMPLIANCE BY STATE.—A State against which a sanction is imposed may submit information at any time to the Board to demonstrate that the failure that led to the imposition of the sanction has been corrected.

(2) TERMINATION OF SANCTION.—If the Board determines that the failure that led to the imposition of a sanction has been corrected—

(A) in the case of the sanction described in subsection (b)(1)(A), the Board shall notify the regional alliance against which the sanction is imposed; or

(B) in the case of any other sanction described in subsection (b), the Board shall notify the Secretary of Health and Human Services.

(d) PROTECTION OF ACCESS TO BENEFITS.—The Board and the Secretary of Health and Human Services shall exercise authority to take actions under this section with respect to a State only in a manner that assures the continuous coverage of eligible individuals under regional alliance health plans.

SEC. 1513. REDUCTION IN PAYMENTS FOR HEALTH PROGRAMS BY SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) IN GENERAL.—Upon receiving notice from the Board under section 1512(b)(1)(B), the Secretary of Health and Human Services shall reduce the amount of any of the payments described in subsection (b) that would otherwise be made to individuals and entities in the State by such amount as the Secretary determines to be appropriate.

(b) PAYMENTS DESCRIBED.—The payments described in this subsection are as follows:

(1) Payments to academic health centers in the State under subtitle B of title III for medical education training programs funds.

(2) Payments to individuals and entities in the State for health research activities under section 301 and title IV of the Public Health Service Act.

(3) Payments to hospitals in the State under part 4 of subtitle E of title III (relating to payments to hospitals serving vulnerable populations)

SEC. 1514. REVIEW OF FEDERAL DETERMINATIONS.

Any State or alliance affected by a determination by the Board under this subpart may appeal such determination in accordance with section 5231.

SEC. 1515. FEDERAL SUPPORT FOR STATE IMPLEMENTATION.

(a) PLANNING GRANTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall make available to each State a planning grant to assist a State in the development of a health care system to become a participating State under subtitle C.

(2) FORMULA.—The Secretary shall establish a formula for the distribution of funds made available under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 in each of fiscal years 1995 and 1996.

(b) GRANTS FOR START-UP SUPPORT.—

(1) IN GENERAL.—The Secretary shall make available to States, upon their enacting of enabling legislation to become participating States, grants to assist in the establishment of regional alliances.

(2) FORMULA.—The Secretary shall establish a formula for the distribution of funds made available under this subsection.

(3) STATE MATCHING FUNDS REQUIRED.—Funds are payable to a State under this subsection only if the State provides assurances, satisfactory to the Secretary, that amounts of State funds (at least equal to the amount made available under this subsection) are expended for the purposes described in paragraph (1).

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $313,000,000 for fiscal year 1996, $625,000,000 for fiscal year 1997, and $313,000,000 for fiscal year 1998.

(c) FORMULA.—

(1) IN GENERAL.—The Board shall develop a formula for the distribution of

Subpart C—Responsibilities in Absence of State Systems

SEC. 1521. APPLICATION OF SUBPART.

(a) INITIAL APPLICATION.—This subpart shall apply with respect to a State as of January 1, 1998, unless—

(1) the State submits a document for a State system under section 1511(a)(1) by July 1, 1997, and

(2) the Board determines under section 1511 that such system meets the requirements of part 1 of subtitle C.

(b) TERMINATION OF APPROVAL OF SYSTEM OF PARTICIPATING STATE.—In the case of a participating State for which the Board terminates approval of the State system under section 1512(2), this subpart shall apply with respect to the State as of such date as is appropriate to assure the continuity of coverage for the comprehensive benefit package for eligible individuals in the State.

SEC. 1522. FEDERAL ASSUMPTION OF RESPONSIBILITIES IN NON-PARTICIPATING STATES.

(a) NOTICE.—When the Board determines that this subpart will apply to a State for a calendar year, the Board shall notify the Secretary of Health and Human Services.

(b) ESTABLISHMENT OF REGIONAL ALLIANCE SYSTEM.—Upon receiving notice under subsection (a), the Secretary shall take such steps, including the establishment of regional alliances, and compliance with other requirements applicable to participating States under subtitle C, as are necessary to ensure that the comprehensive benefit package is provided to eligible individuals in the State during the year.

(c) REQUIREMENTS FOR ALLIANCES.—Subject to section 1523, any regional alliance established by the Secretary pursuant to this section must meet all the requirements applicable under subtitle D to a regional alliance established and operated by a participating State, and the Secretary shall have the authority to fulfill all the functions of such an alliance.

(d) ESTABLISHMENT OF GUARANTY FUND.—

(1) ESTABLISHMENT.—The Secretary must ensure that there is a guaranty fund that meets the requirements established by the Board under section 1562, in order to provide financial protection to health care providers and others in the case of a failure of a regional alliance health plan under a regional alliance established and operated by the Secretary under this section.

(2) ASSESSMENTS TO PROVIDE GUARANTY FUNDS.—In the case of a failure of one or more regional alliance health plans under a regional alliance established and operated by the Secretary under this section, the Secretary may require each regional alliance health plan under the alliance to pay an assessment to the Secretary in an amount not to exceed 2 percent of the premiums of such plans paid by or on behalf of regional alliance eligible individuals during a year for so long as necessary to generate sufficient revenue to cover any outstanding claims against the failed plan.

SEC. 1523. IMPOSITION OF SURCHARGE ON PREMIUMS UNDER FEDERALLY-OPERATED SYSTEM.

(a) IN GENERAL.—If this subpart applies to a State for a calendar year, the premiums charged under the regional alliance established and operated by the Secretary in the State shall be equal to premiums that would otherwise be charged under a regional alliance established and operated by the State, increased by 15 percent. Such 15 percent increase shall be used to reimburse the Secretary for any administrative or other expenses incurred as a result of establishing and operating the system.

(b) TREATMENT OF SURCHARGE AS PART OF PREMIUM.—For purposes of determining the compliance of a State for which this subpart applies in a year with the requirements for budgeting under subtitle A of title VI for the year, the 15 percent increase described in subsection (a) shall be treated as part of the premium for payment to a regional alliance.

SEC. 1524. RETURN TO STATE OPERATION.

(a) APPLICATION PROCESS.—After the establishment and operation of an alliance system by the Secretary in a State under section 1522, the State may at any time apply to the Board for the approval of a State system in accordance with the procedures described in section 1511.

(b) TIMING.—If the Board approves the system of a State for which the Secretary has operated an alliance system during a year, the Secretary shall terminate the operation of the system, and the State shall establish and operate its approved system, as of January 1 of the first year beginning after the Board approves the State system. The termination of the Secretary's system and the operation of the State's system shall be conducted in a manner that assures the continuous coverage of eligible individuals in the State under regional alliance health plans.

Subpart D—Establishment of Class Factors for Charging Premiums

SEC. 1531. PREMIUM CLASS FACTORS.

(a) IN GENERAL.—For each of the classes of family enrollment (as specified in section 1011(c)), for purposes of title VI, the Board shall establish a premium class factor that reflects, subject to subsection (b), the relative actuarial value of the comprehensive benefit package of the class of family enrollment compared to such value of such package for individual enrollment.

(b) CONDITIONS.—In establishing such factors, the factor for the class of individual enrollment shall be 1 and the factor for the class of family enrollment of coverage of a married couple without children shall be 2.

Subpart E—Risk Adjustment and Reinsurance Methodology for Payment of Plans

SEC. 1541. DEVELOPMENT OF A RISK ADJUSTMENT AND REINSURANCE METHODOLOGY.

(a) DEVELOPMENT.—

(1) INITIAL DEVELOPMENT.—Not later than April 1, 1995, the Board shall develop a risk adjustment and reinsurance methodology in accordance with this subpart.

(2) IMPROVEMENTS.—The Board shall make such improvements in such methodology as may be appropriate to achieve the purposes described in subsection (b)(1).

(b) METHODOLOGY.—

(1) PURPOSES.—Such methodology shall provide for the adjustment of payments to regional alliance health plans for the purposes of—

(A) assuring that payments to such plans reflect the expected relative utilization and expenditures for such services by each plan's enrollees compared to the average utilization and expenditures for regional alliance eligible individuals, and

(B) protecting health plans that enroll a disproportionate share of regional alliance eligible individuals with respect to whom expected utilization of health care services (included in the comprehensive benefit package) and expected health care expenditures for such services are greater than the average level of such utilization and expenditures for regional alliance eligible individuals.

(2) FACTORS TO BE CONSIDERED.—In developing such methodology, the Board shall take into account the following factors:

(A) Demographic characteristics.

(B) Health status.

(C) Geographic area of residence.

(D) Socio-economic status.

(E) Subject to paragraph (5), (i) the proportion of enrollees who are SSI recipients and (ii) the proportion of enrollees who are AFDC recipients.

(F) Any other factors determined by the Board to be material to the purposes described in paragraph (1).

(3) ZERO SUM.—The methodology shall assure that the total payments to health plans by the regional alliance after application of the methodology are the same as the amount of payments that would have been made without application of the methodology.

(4) PROSPECTIVE ADJUSTMENT OF PAYMENTS.—The methodology, to the extent possible and except in the case of a mandatory reinsurance system described in subsection (b), shall be applied in manner that provides for the prospective adjustment of payments to health plans.

(5) TREATMENT OF SSI/AFDC ADJUSTMENT.—The Board is not required to apply the factor described in clause (i) or (ii) of paragraph (2)(E) if the Board determines that the application of the other risk adjustment factors described in paragraph (2) is sufficient to adjust premiums to take into account the enrollment in plans of AFDC recipients and SSI recipients.

(6) SPECIAL CONSIDERATION FOR MENTAL ILLNESS.—In developing the methodology under this section, the Board shall give consideration to the unique problems of adjusting payments to health plans with respect to individuals with mental illness.

(7) SPECIAL CONSIDERATION FOR VETERANS, MILITARY, AND INDIAN HEALTH PLANS.—In developing the methodology under this section, the Board shall give consideration to the special enrollment and funding provisions relating to plans described in section 1004(b).

(8) ADJUSTMENT TO ACCOUNT FOR USE OF ESTIMATES.—Subject to section 1346(b)(3) (relating to establishment of regional alliance reserve funds), if the total payments made by a regional alliance to all regional alliance health plans in a year under section 1324(c) exceeds, or is less than, the total of such payments estimated by the alliance in the application of the methodology under this subsection, because of a difference between—

(A) the alliance's estimate of the distribution of enrolled families in different risk categories (assumed in the application of risk factors under this subsection in making payments to regional alliance health plans), and

(B) the actual distribution of such enrolled families in such categories,

the methodology under this subsection shall provide for an adjustment in the application of such methodology in the second succeeding year in a manner that would reduce, or increase, respectively, by the amount of such excess (or deficit) the total of such payments made by the alliance to all such plans.

(b) MANDATORY REINSURANCE.—

(1) IN GENERAL.—The methodology developed under this section may include a system of mandatory reinsurance, but may not include a system of voluntary reinsurance.

(2) REQUIREMENT IN CERTAIN CASES.—If the Board determines that an adequate system of prospective adjustment of payments to health plans to account for the health status of individuals enrolled by regional alliance health plans cannot be developed (and ready for implementation) by the date specified in subsection (a)(1), the Board shall include a mandatory reinsurance system as a component of the methodology. The Board may thereafter reduce or eliminate such a system at such time as the Board determines that an adequate prospective payment adjustment for health status has been developed and is ready for implementation.

(3) REINSURANCE SYSTEM.—The Board, in developing the methodology for a mandatory reinsurance system under this subsection, shall—

(A) provide for health plans to make payments to state-established reinsurance programs for the purpose of reinsuring part or all of the health care expenses for items and services included in the comprehensive benefit package for specified classes of high-cost enrollees or specified high-cost treatments or diagnoses; and

(B) specify the manner of creation, structure, and operation of the system in each State, including—

(i) the manner (which may be prospective or retrospective) in which health plans make payments to the system, and

(ii) the type and level of reinsurance coverage provided by the system.

(c) CONFIDENTIALITY OF INFORMATION.—The methodology shall be developed in a manner consistent with privacy standards promulgated under section 5102(a). In developing such standards, the Board shall take into account any potential need of alliances for certain individually identifiable health information in order to carry out risk-adjustment and reinsurance activities under this Act, but only to the minimum extent necessary to carry out such activities and with protections provided to minimize the identification of the individuals to whom the information relates.

SEC. 1542. INCENTIVES TO ENROLL DISADVANTAGED GROUPS.

The Board shall establish standards under which States may provide (under section 1203(e)(3)) for an adjustment in the risk-adjustment methodology developed under section 1541 in order to provide a financial incentive for regional alliance health plans to enroll individuals who are members of disadvantaged groups.

SEC. 1543. ADVISORY COMMITTEE.

(a) IN GENERAL.—The Board shall establish an advisory committee to provide technical advice and recommendations regarding the development and modification of the risk adjustment and reinsurance methodology developed under this part.

(b) COMPOSITION.—Such advisory committee shall consist of 15 individuals and shall include individuals who are representative of health plans, regional alliances, consumers, experts, employers, and health providers.

SEC. 1544. RESEARCH AND DEMONSTRATIONS.

The Secretary shall conduct and support research and demonstration projects to develop and improve, on a continuing basis, the risk adjustment and reinsurance methodology under this subpart.

SEC. 1545. TECHNICAL ASSISTANCE TO STATES AND ALLIANCES.

The Board shall provide technical assistance to States and regional alliances in implementing the methodology developed under this subpart.

Subpart F—Responsibilities for Financial Requirements

SEC. 1551. CAPITAL STANDARDS FOR REGIONAL ALLIANCE HEALTH PLAN.

(a) IN GENERAL.—The Board shall establish, in consultation with the States, minimum capital requirements for regional alliance health plans, for purposes of section 1203(c).

(b) $500,000 MINIMUM.—Subject to paragraph (3), under such requirements there shall be not less than $500,000 of capital maintained for each plan offered in each alliance area, regardless of whether or not the same sponsor offered more than one of such plans.

(c) ADDITIONAL CAPITAL REQUIREMENTS.—The Board may require additional capital for factors likely to affect the financial stability of health plans, including the following:

(1) Projected plan enrollment and number of providers participating in the plan.

(2) Market share and strength of competition.

(3) Extent and nature of risk-sharing with participating providers and the financial stability of risk-sharing providers.

(4) Prior performance of the plan, risk history, and liquidity of assets.

(d) DEVELOPMENT OF STANDARDS BY NAIC.—The Board may request the National Association of Insurance Commissioners to develop model standards for the additional capital requirements described in subsection (c) and to present such standards to the Board not later than July 1, 1995. The Board may accept such standards as the standards to be applied under subsection (c) or modify the standards in any manner it finds appropriate.

SEC. 1552. STANDARD FOR GUARANTY FUNDS.

(a) IN GENERAL.—In consultation with the States, the Board shall establish standards for guaranty funds established by States under section 1204(c).

(b) GUARANTY FUND STANDARDS.—The standards established under subsection (a) for a guaranty fund shall include the following:

(1) Each fund must have a method to generate sufficient resources to pay health providers and others in the case of a failure of a health plan (as described in section 1204(d)(4)) in order to meet obligations with respect to—

(A) services rendered by the health plan for the comprehensive benefit package, including any supplemental coverage for cost sharing provided by the health plan, and

(B) services rendered prior to health plan insolvency and services to patients after the insolvency but prior to their enrollment in other health plans.

(2) The fund is liable for all claims against the plan by health care providers with respect to their provision of items and services covered under the comprehensive benefit package to enrollees of the failed plan. Such claims, in full, shall take priority over all

other claims. The fund also is liable, to the extent and in the manner provided in accordance with rules established by the Board, for other claims, including other claims of such providers and the claims of contractors, employees, governments, or any other claimants.

(3) The fund stands as a creditor for any payments owed the plan to the extent of the payments made by the fund for obligations of the plan.

(4) The fund has authority to borrow against future assessments (payable under section 1204(c)(2)) in order to meet the obligations of failed plans participating in the fund.

PART 2—RESPONSIBILITIES OF DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subpart A—General Responsibilities

SEC. 1571. GENERAL RESPONSIBILITIES OF SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) IN GENERAL.—Except as otherwise specifically provided under this Act (or with respect to administration of provisions in the Internal Revenue Code of 1986 or in the Employee Retirement Income Security Act of 1974), the Secretary of Health and Human Services shall administer and implement all of the provisions of this Act, except those duties delegated to the National Health Board, any other executive agency, or to any State.

(b) FINANCIAL MANAGEMENT STANDARDS.—The Secretary, in consultation with the Secretaries of Labor and the Treasury, shall establish, for purposes of section 1361, standards relating to the management of finances, maintenance of records, accounting practices, auditing procedures, and financial reporting for health alliances. Such standards shall take into account current Federal laws and regulations relating to fiduciary responsibilities and financial management of funds.

(c) AUDITING REGIONAL ALLIANCE PERFORMANCE.—The Secretary shall perform periodic financial and other audits of regional alliances to assure that such alliances are carrying out their responsibilities under this Act consistent with this Act. Such audits shall include audits of alliance performance in the areas of—

(1) assuring enrollment of all regional alliance eligible individuals in health plans,

(2) management of premium and cost sharing discounts and reductions provided; and

(3) financial management of the alliance, including allocation of collection shortfalls.

SEC. 1572. ADVISORY COUNCIL ON BREAKTHROUGH DRUGS.

(a) IN GENERAL.—The Secretary shall appoint an Advisory Council on Breakthrough Drugs (in this section referred to as the "Council") that will examine the reasonableness of launch prices of new drugs that represent a breakthrough or significant advance over existing therapies.

(b) DUTIES.—(1) At the request of the Secretary, or a member of the Council, the Council shall make a determination regarding the reasonableness of launch prices of a breakthrough drug. Such a determination shall be based on:

(A) prices of other drugs in the same therapeutic class;

(B) cost information supplied by the manufacturer;

(C) prices of the drug in countries specified in section 302(b)(4)(A) of the Federal Food, Drug, and Cosmetic Act; and

(D) projected prescription volume, economies of scale, product stability, special manufacturing requirements and research costs.

(2) The Secretary shall review the determinations of the Council and publish the results of such review along with the Council's determination (including minority opinions) as a notice in the Federal Register.

(c) MEMBERSHIP.—The Council shall consist of a chair and 12 other persons, appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The Council shall include a representative from the pharmaceutical industry, consumer organizations, physician organizations, the hospital industry, and the managed care industry. Other individuals appointed by the Secretary shall be recognized experts in the fields of health care economics, pharmacology, pharmacy and prescription drug reimbursement. Only one member of the Council may have direct or indirect financial ties to the pharmaceutical industry.

(d) TERM OF APPOINTMENTS.—Appointments shall be for a term of 3 years, except that the Secretary may provide initially for such shorter terms as will ensure that the terms of not more than 5 members expire in any one year.

(e) COMPENSATION.—Members of the Council shall be entitled to receive reimbursement of expenses and per diem in lieu of subsistence in the same manner as other members of advisory councils appointed by the Secretary are provided such reimbursements under the Social Security Act.

(f) NO TERMINATION.—Notwithstanding the provisions of the Federal Advisory Committee Act, the Council shall continue in existence until otherwise specified in law.

Subpart B—Certification of Essential Community Providers

SEC. 1581. CERTIFICATION.

(a) IN GENERAL.—For purposes of this Act, the Secretary shall certify as an "essential community provider" any health care provider or organization that—

(1) is within any of the categories of providers and organizations specified in section 1582(a), or

(2) meets the standards for certification under section 1583(a).

(b) TIMELY ESTABLISHMENT OF PROCESS.—The Secretary shall take such actions as may be necessary to permit health care providers and organizations to be certified as essential community providers in a State before the beginning of the first year for the State.

SEC. 1582. CATEGORIES OF PROVIDERS AUTOMATICALLY CERTIFIED.

(a) IN GENERAL.—The categories of providers and organizations described in this subsection are as follows:

(1) MIGRANT HEALTH CENTERS.—A recipient or subrecipient of a grant under section 329 of the Public Health Service Act.

(2) COMMUNITY HEALTH CENTERS.—A recipient or subrecipient of a grant under section 330 of the Public Health Service Act.

(3) HOMELESS PROGRAM PROVIDERS.—A recipient or subrecipient of a grant under section 340 of the Public Health Service Act.

(4) PUBLIC HOUSING PROVIDERS.—A recipient or subrecipient of a grant under section 340A of the Public Health Service Act.

(5) FAMILY PLANNING CLINICS.—A recipient or subrecipient of a grant under title X of the Public Health Service Act.

(6) INDIAN HEALTH PROGRAMS.—A service unit of the Indian Health Service, a tribal organization, or an urban Indian program, as defined in the Indian Health Care Improvement Act.

(7) AIDS PROVIDERS UNDER RYAN WHITE ACT.—A public or private nonprofit health care provider that is a recipient or subrecipient of a grant under title XXIII of the Public Health Service Act.

(8) MATERNAL AND CHILD HEALTH PROVIDERS.—A public or private nonprofit entity that provides prenatal care, pediatric care, or ambulatory services to children, including children with special health care needs, and that receives funding for such care or services under title V of the Social Security Act.

(9) FEDERALLY QUALIFIED HEALTH CENTER; RURAL HEALTH CLINIC.—A Federally-qualified health center or a rural health clinic (as such terms are defined in section 1861(aa) of the Social Security Act.

(10) PROVIDER OF SCHOOL HEALTH SERVICES.—A provider of school health services that receives funding for such services under subtitle G of title III.

(11) COMMUNITY PRACTICE NETWORK.—A community practice networking receiving development funds under subtitle E of title III.

(b) SUBRECIPIENT DEFINED.—In this subpart, the term "subrecipient" means, with respect to a recipient of a grant under a particular authority, an entity that—

(1) is receiving funding from such a grant under a contract with the principal recipient of such a grant, and

(2) meets the requirements established to be a recipient of such a grant.

(c) HEALTH PROFESSIONAL DEFINED.—In this subpart, the term "health professional" means a physician, nurse, nurse practitioner, certified nurse midwife, physician assistant, psychologist, dentist, pharmacist, and other health care professional recognized by the Secretary.

SEC. 1583. STANDARDS FOR ADDITIONAL PROVIDERS.

(a) STANDARDS.—The Secretary shall publish standards for the certification of additional categories of health care providers and organizations as essential community providers, including the categories described in subsection (b). Such a health care provider or organization shall not be certified unless the Secretary determines, under such standards, that health plans operating in the area served by the applicant would not be able to assure adequate access to items and services included in the comprehensive benefit package.

(b) CATEGORIES TO BE INCLUDED.—The categories described in this subsection are as follows:

(1) HEALTH PROFESSIONALS.—Health professionals—

(A) located in an area designated as a health professional shortage area (under section 332 of the Public Health Service Act), or

(B) providing a substantial amount of health services (as determined in accordance with standards established by the Secretary) to a medically underserved population (as designated under section 330 of such Act).

(2) INSTITUTIONAL PROVIDERS.—Public and private nonprofit hospitals and other institutional health care providers located in such an area or providing health services to such a population.

(3) OTHER PROVIDERS.—Other public and private nonprofit agencies and organizations that—

(A) are located in such an area or providing health services to such a population, and

(B) provide health care and services essential to residents of such an area or such populations.

SEC. 1584. CERTIFICATION PROCESS; REVIEW; TERMINATION OF CERTIFICATIONS.

(a) CERTIFICATION PROCESS.—

(1) PUBLICATION OF PROCEDURES.—The Secretary shall publish, not later than 6 months

after the date of the enactment of this Act, the procedures to be used by health care professionals, providers, agencies, and organizations seeking certification under this subpart, including the form and manner in which an application for such certification is to be made.

(2) TIMELY DETERMINATION.—The Secretary shall make a determination upon such an application not later than 60 days (or 15 days in the case of a certification for an entity described in section 1582) after the date the complete application has been submitted. The determination on an application for certification of an entity described in section 1582 shall only involve the verification that the entity is an entity described in such section.

(b) REVIEW OF CERTIFICATIONS.—The Secretary shall periodically review whether professionals, providers, agencies, and organizations certified under this subpart continue to meet the requirements for such certification.

(c) TERMINATION OR DENIAL OF CERTIFICATION.—

(1) PRELIMINARY FINDING.—If the Secretary preliminarily finds that an entity seeking certification under this section does not meet the requirements for such certification or such an entity certified under this subpart fails to continue to meet the requirements for such certification, the Secretary shall notify the entity of such preliminary finding and permit the entity an opportunity, under subtitle E of title V, to rebut such findings.

(2) FINAL DETERMINATION.—If, after such opportunity, the Secretary continues to find that such an entity continues to fail to meet such requirements, the Secretary shall terminate the certification and shall notify the entity, regional alliances, and corporate alliances of such termination and the effective date of the termination.

SEC. 1585. NOTIFICATION OF HEALTH ALLIANCES AND PARTICIPATING STATES.

(a) IN GENERAL.—Not less often than annually the Secretary shall notify each participating State and each health alliance of essential community providers that have been certified under this subpart.

(b) CONTENTS.—Such notice shall include sufficient information to permit each health alliance to notify health plans of the identity of each entity certified as an essential community provider, including—

(1) the location of the provider within each plan's service area,

(2) the health services furnished by the provider, and

(3) other information necessary for health plans to carry out part 3 of subtitle E.

PART 3—SPECIFIC RESPONSIBILITIES OF SECRETARY OF LABOR.

SEC. 1591. RESPONSIBILITIES OF SECRETARY OF LABOR.

(a) IN GENERAL.—The Secretary of Labor is responsible—

(1) under subtitle D of title I, for the enforcement of requirements applicable to employers under regional health alliances (including requirements relating to payment of premiums) and the administration of corporate health alliances;

(2) under subtitle E of title I, with respect to elections by eligible sponsors to become corporate alliances and the termination of such elections;

(3) under section 1395, for the temporary assumption of the operation of self-insured corporate alliance health plans that are insolvent;

(4) under section 1396, for the establishment and administration of Corporate Alliance Health Plan Insolvency Fund;

(5) for carrying out any other responsibilities assigned to the Secretary under this Act; and

(6) for administering title I of the Employee Retirement Income Security Act of 1974 as it relates to group health plans maintained by corporate alliances.

(b) AGREEMENTS WITH STATES.—The Secretary of Labor may enter into agreements with States in order to enforce responsibilities of employers and corporate alliances, and requirements of corporate alliance health plans, under subtitle B of title I of the Employee Retirement Income Security Act of 1974.

(c) CONSULTATION WITH BOARD.—In carrying out activities under this Act with respect to corporate alliances, corporate alliance health plans, and employers, the Secretary of Labor shall consult with the National Health Board.

(d) EMPLOYER-RELATED REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary, shall be responsible for assuring that employers—

(A) make payments of any employer premiums (and withhold and make payment of the family share of premiums with respect to qualifying employees) as required under this Act, including auditing of regional alliance collection activities with respect to such payments,

(B) submit timely reports as required under this Act, and

(C) otherwise comply with requirements imposed on employers under this Act.

(2) AUDIT AND SIMILAR AUTHORITIES.—The Secretary of Labor—

(A) may carry out such audits (directly or through contract) and such investigations of employers and health alliances,

(B) may exercise such authorities under section 504 of Employee Retirement Income Security Act of 1974 (in relation to activities under this Act),

(C) may, with the permission of the Board, provide (through contract or otherwise) for such collection activities (in relation to amounts owed to regional alliances and for the benefit of such alliances), and

(D) may impose such civil penalties under section 1347(c),

as may be necessary to carry out such Secretary's responsibilities under this section.

(e) AUTHORITY.—The Secretary of Labor is authorized to issue such regulations as may be necessary to carry out responsibilities of the Secretary under this Act.

Subtitle G—Employer Responsibilities

SEC. 1601. PAYMENT REQUIREMENT.

(a) IN GENERAL.—Each employer shall provide for payments required under section 6121 or 6131 in accordance with the applicable provisions of this Act.

(b) EMPLOYERS IN SINGLE-PAYER STATES.—In the case of an employer with respect to employees who reside in a single-payer State, the responsibilities of such employer under such system shall supersede the obligations of the employer under subsection (a), except as the Board may provide.

SEC. 1602. REQUIREMENT FOR INFORMATION REPORTING.

(a) REPORTING OF END-OF-YEAR INFORMATION TO QUALIFYING EMPLOYEES.—

(1) IN GENERAL.—Each employer shall provide to each individual who was a qualifying employee of the employer during any month in the previous year information described in paragraph (2) with respect to the employee.

(2) INFORMATION TO BE SUPPLIED.—The information described in this paragraph, with respect to a qualifying employee, is the following (as specified by the Secretary):

(A) REGIONAL ALLIANCE INFORMATION.—With respect to each regional alliance through which the individual obtained health coverage:

(i) The total number of months of full-time equivalent employment (as determined for purposes of section 6121(d)) for each class of enrollment.

(ii) The amount of wages attributable to qualified employment and the amount of covered wages (as defined in paragraph (4)).

(iii) The total amount deducted from wages and paid for the family share of the premium.

(iv) Such other information as the Secretary of Labor may specify.

(B) CORPORATE ALLIANCE INFORMATION.—With respect to a qualifying employee who obtains coverage through a corporate alliance health plan:

(i) The total number of months of full-time equivalent employees (as determined under section 1901(b)(2)) for each class of enrollment.

(ii) Such other information as the Secretary of Labor may specify.

(3) ALLIANCE SPECIFIC INFORMATION.—In the case of a qualifying employee with respect to whom an employer made employer premium payments during the year to more than one regional alliance, the information under this subsection shall be reported separately with respect to each such alliance.

(4) COVERED WAGES DEFINED.—In this section, the term "covered wages" means wages paid an employee of an employer during a month in which the employee was a qualifying employee of the employer.

(b) REPORTING OF INFORMATION FOR USE OF REGIONAL ALLIANCES.—

(1) IN GENERAL.—Each employer (including corporate alliance employers) shall provide under subsection (f) on behalf of each regional alliance information described in paragraph (2) on an annual basis, information described in paragraph (3) on a monthly basis, and information described in paragraph (4) on a one-time basis, with respect to the employment of qualified employees in each year, month, or other time, respectively.

(2) INFORMATION TO BE SUPPLIED ON AN ANNUAL BASIS.—The information described in this paragraph, with respect to an employer, is the following (as specified by the Secretary of Labor).

(A) REGIONAL ALLIANCE INFORMATION.—With respect to each regional alliance to which employer premium payments were payable in the year:

(i) For each qualifying employee in the year—

(I) The total number of months of full-time equivalent employment (as determined for purposes of section 6121(d)) for the employee for each class of enrollment.

(II) The total amount deducted from wages and paid for the family share of the premium of the qualifying employee.

(ii) The total employer premium payment made under section 6121 for the year with respect to the employment of all qualifying employees residing in the alliance area and, in the case of an employer that has obtained (or seeks to obtain) a premium discount under section 6123, the total employer premium payment that would have been owed for such employment for the year but for such section.

(iii) The number of full-time equivalent employees (determined under section 6121(d)) for each class of family enrollment in the year (and for each month in the year in the case of an employer that has obtained or is seeking a premium discount under section 6123).

(iv) In the case of an employer to which section 6124 applies in a year, such additional information as the Secretary of Labor may require for purposes of that section.

(v) The amounts paid (and payable) pursuant to section 6125.

(vi) The amount of covered wages for each qualified employee.

(3) INFORMATION ON A MONTHLY BASIS.—

(A) IN GENERAL.—The information described in this paragraph for a month for an employer is such information as the Secretary of Labor may specify regarding—

(i) the identity of each eligible individual who changed qualifying employee status with respect to the employer in the month; and

(ii) in the case of such an individual described in subparagraph (B)(i)—

(I) the regional alliance for the alliance area in which the individual resides, and

(II) the individual's class of family enrollment.

(B) CHANGES IN QUALIFYING EMPLOYEE STATUS DESCRIBED.—For purposes of subparagraph (A), an individual is considered to have changed qualifying employee status in a month if the individual either (i) is a qualifying employee of the employer in the month and was not a qualifying employee of the employer in the previous month, or (ii) is not a qualifying employee of the employer in the month but was a qualifying employee of the employer in the previous month.

(4) INITIAL INFORMATION.—Each employer, at such time before the first year in which qualifying employees of the employer are enrolled in regional alliance health plans as the Board may specify, shall provide for the reporting of such information relating to employment of eligible individuals as the Board may specify.

(c) RECONCILIATION OF EMPLOYER PREMIUM PAYMENTS.—

(1) PROVISION OF INFORMATION.—Each employer (whether or not the employer claimed (or claims) an employer premium discount under section 6123 for a year) that is liable for employer premium payments to a regional alliance for any month in a year shall provide the alliance with such information as the alliance may require (consistent with rules of the Secretary of Labor) to determine the appropriate amount of employer premium payments that should have been made for all months in the year (taking into account any employer premium discount under section 6123 for the employer).

(2) DEADLINE.—Such information shall be provided not later than the beginning of February of the following year with the payment to be made for that month.

(3) RECONCILIATION.—

(A) CONTINUING EMPLOYERS.—Based on such information, the employer shall adjust the amount of employer premium payment made in the month in which the information is provided to reflect the amount by which the payments in the previous year were greater or less than the amount of payments that should have been made.

(B) DISCONTINUING EMPLOYERS.—In the case of a person that ceases to be an employer in a year, such adjustment shall be made in the form of a payment to, or from, the alliance involved.

(4) SPECIAL TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—Except as the Secretary of Labor may provide, individuals who are employers only be virtue of the operation of section 6126 shall have employer premium payments attributable to such section reconciled (in the manner previously described in this subsection) under the process for the collection of the family share of premiums under section 1344 rather than under this subsection.

(d) SPECIAL RULES FOR SELF-EMPLOYED.—

(1) IN GENERAL.—In the case of an individual who is treated as an employer under section 6126, the individual shall provide, under subsection (f) on behalf of each regional alliance, information described in paragraph (2) with respect to net earnings from self-employment income of the individual in each year.

(2) INFORMATION TO BE SUPPLIED.—The information described in this paragraph, with respect to an individual, is such information as may be necessary to compute the amount payable under section 6131 by virtue of section 6126.

(e) FORM.—Information shall be provided under this subsection in such electronic or other form as the Secretary specifies. Such specifications shall be done in a manner that, to the maximum extent practicable, simplifies administration for small employers.

(f) INFORMATION CLEARINGHOUSE FUNCTIONS.—

(1) DESIGNATION.—The Board shall provide for the use of the regional centers (which are part of the electronic data network under section 5103) to perform information clearinghouse functions under this section with respect to employers and regional and corporate alliances.

(2) FUNCTIONS.—The functions referred to in paragraph (1) shall include—

(A) receipt of information submitted by employers under subsection (b) on an annual (or one-time) basis,

(B) from the information received, transmittal of information required to regional alliances,

(C) such other functions as the Board specifies.

(g) DEADLINE.—Information required to be provided by an employer for a year under this section—

(1) to a qualifying employee shall be provided not later than the date the employer is required under law to provide for statements under section 6051 of the Internal Revenue Code of 1986 for that year, or

(2) to a health alliance (through a regional center) shall be provided not later than the date by which information is required to be filed with the Secretary pursuant to agreements under section 232 of the Social Security Act for that year.

(h) NOTICE TO CERTAIN INDIVIDUALS WHO ARE NOT EMPLOYEES.—

(1) IN GENERAL.—A person that carries on a trade or business shall notify in writing each individual described in paragraph (2) that the person is not obligated to make any employer health care premium payment (under section 6121) in relation to the services performed by the individual for the person.

(2) INDIVIDUAL DESCRIBED.—An individual described in this paragraph, with respect to a person, is an individual who normally performs services for the person in the person's trade or business for more than 40 hours per month but who is not an employee of the person (within the meaning of section 1901(a)).

(3) TIMING; EFFECTIVE DATE.—Such notice shall be provided within a reasonable time after the individual begins performing services for the person, except that in no event is such a notice required to be provided with respect to services performed before January 1, 1998.

(4) EXCEPTIONS.—The Secretary shall issue regulations providing exceptions to the notice requirement of paragraph (1) with respect to individuals performing services on an irregular, incidental, or casual basis.

(5) MODEL NOTICE.—The Secretary shall publish a model notice that is easily understood by the average reader and that persons may use to satisfy the requirements of paragraph (1).

SEC. 1603. REQUIREMENTS RELATING TO NEW EMPLOYEES.

(a) COMPLETION OF ENROLLMENT INFORMATION FORM.—At the time an individual is hired as a qualifying employee of a regional alliance employer, the employer shall obtain from the individual the following information (pursuant to rules established by the Secretary of Labor):

(1) The identity of the individual.

(2) The individual's alliance area of residence and whether the individual has moved from another alliance area.

(3) The class of family enrollment applicable to the individual.

(4) The health plan (and health alliance) in which the individual is enrolled at that time.

(5) If the individual has moved from another alliance area, whether the individual intends to enroll in a regional alliance health plan.

(b) TRANSMITTAL OF INFORMATION TO ALLIANCE.—

(1) IN GENERAL.—Each employer shall transmit the information obtained under subsection (a) to the regional alliance for the alliance area in which the qualifying employee resides (or will reside at the time of initial employment).

(2) DEADLINE.—Such information shall be transmitted within 30 days of the date of hiring of the employee.

(3) FORM.—Information under this section may be forwarded in electronic form to a regional alliance.

(c) PROVISION OF ENROLLMENT FORM AND INFORMATION.—In the case of an individual described in subsection (a)(5), the employer shall provide the individual, at the time of hiring, with—

(1) such information regarding the choice of, and enrollment in, regional alliance health plans, and

(2) such enrollment form,

as the regional alliance provides to the employer.

SEC. 1604. AUDITING OF RECORDS.

Each regional alliance employer shall maintain such records, and provide the regional alliance for the area in which the employer maintains the principal place of employment (as specified by the Secretary of Labor) with access to such records, as may be necessary to verify and audit the information reported under this subtitle.

SEC. 1605. PROHIBITION OF CERTAIN EMPLOYER DISCRIMINATION.

No employer may discriminate with respect to an employee on the basis of the family status of the employee or on the basis of the class of family enrollment selected with respect to the employee.

SEC. 1606. PROHIBITION ON SELF-FUNDING OF COST SHARING BENEFITS BY REGIONAL ALLIANCE EMPLOYERS.

(a) PROHIBITION.—A regional alliance employer (and a corporate alliance employer with respect to employees who are regional alliance eligible individuals) may provide benefits to employees that consist of the benefits included in a cost sharing policy (as defined in section 1421(b)(2)) only through a contribution toward the purchase of a cost sharing policy which is funded primarily through insurance.

(b) Individual and Employer Responsibilities.—In the case of an individual who resides in a single-payer State and an employer with respect to employees who reside in such a State, the responsibilities of such individual and employer under such system shall supersede the obligations of the individual and employer under part 2 of this subtitle.

SEC. 1607. EQUAL VOLUNTARY CONTRIBUTION REQUIREMENT.

(a) In General.—An employer may not discriminate in the wages or compensation paid, or other terms or conditions of employment, with respect to an employee based on the health plan (or premium of such a plan) in which the employee is enrolled.

(b) Rebate Required in Certain Cases.—

(1) In general.—Subject to paragraph (3), if—

(A) an employer makes available a voluntary premium payment on behalf of an employee towards the enrollment of the employee in a health plan, and

(B) the premium for the plan selected is less than the sum of the amounts of the employer premium payment (required under part 3) and the voluntary premium payment,

the employer must rebate to the employee an amount equal to the difference described in subparagraph (B).

(2) Rebates.—

(A) In general.—Any rebate provided under paragraph (1) shall be treated, for purposes of the Internal Revenue Code of 1986, as wages described in section 3121(a) of such Act.

(B) Treatment of multiple full-time employment in a family.—In the case of—

(i) an individual who is an employee of more than one employer, or

(ii) a couple for which both spouses are employees,

if more than one employer provides for voluntary premium payments, the individual or couple may elect to have paragraph (1) applied with respect to all employment.

(c) Exception for Collective Bargaining Agreement.—Subsections (a) and (b) shall not apply with respect to voluntary employer contributions made pursuant to a bona fide collective bargaining agreement.

(d) Construction.—

(1) Subsection (a) shall not be construed as preventing variations in net wages of an employee to reflect the family share of premiums for the health plan selected, so long as any excess employer payments (as defined in paragraph (2)) are added to the pay of the employee involved.

(2) In paragraph (1), the term "excess employer payments" means, with respect to an employee, the amount by which the voluntary employer contribution toward health care expenses exceeds the family share of premium under section 6101(b) for such enrollment.

(e) Voluntary Employer Contribution Defined.—In this section, the term "voluntary employer contribution" means any payment designed to be used exclusively (or primarily) towards the cost of the family share of premiums for a health plan. Such term does not include any employer premiums required to be paid under part 3 of subtitle B of title VI.

SEC. 1608. ENFORCEMENT.

In the case of a person that violates a requirement of this subtitle, the Secretary of Labor may impose a civil money penalty, in an amount not to exceed $10,000, for each violation with respect to each individual.

[Subtitle H—Reserved]

[Subtitle I—Reserved]

Subtitle J—General Definitions; Miscellaneous Provisions

PART 1—GENERAL DEFINITIONS

SEC. 1901. DEFINITIONS RELATING TO EMPLOYMENT AND INCOME.

(a) In General.—Except as otherwise specifically provided, in this Act the following definitions and rules apply:

(1) Employer, employee, employment, and wages defined.—Except as provided in this section—

(A) the terms "wages" and "employment" have the meanings given such terms under section 3121 of the Internal Revenue Code of 1986,

(B) the term "employee" has the meaning given such term under subtitle C of such Code, and

(C) the term "employer" has the same meaning as the term "employer" as used in such section.

(2) Exceptions.—For purposes of paragraph (1)—

(A) Employment.—

(i) Employment included.—Paragraphs (1), (2), (5), (7) (other than clauses (i) through (iv) of subparagraph (C) and clauses (i) through (v) of subparagraph (F)), (8), (9), (10), (11), (13), (15), (18), and (19) of section 3121(b) of the Internal Revenue Code of 1986 shall not apply.

(ii) Exclusion of inmates as employees.—Employment shall not include services performed in a penal institution by an inmate thereof or in a hospital or other health care institution by a patient thereof.

(B) Wages.—

(i) In general.—Paragraph (1) of section 3121(a) of the Internal Revenue Code of 1986 shall not apply.

(ii) Tips not included.—The term "wages" does not include cash tips.

(C) Exclusion of employees outside the United States.—The term "employee" does not include an individual who does not reside in the United States.

(D) Exclusion of foreign employment.—The term "employee" does not include an individual—

(i) with respect to service, if the individual is not a citizen or resident of the United States and the service is performed outside the United States, or

(ii) with respect to service, if the individual is a citizen or resident of the United States and the service is performed outside the United States for an employer other than an American employer (as defined in section 3121(h) of the Internal Revenue Code of 1986).

(3) Aggregation rules for employers.—For purposes of this Act—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer, and

(B) under regulations of the Secretary of Labor, all employees of organizations which are under common control with one or more organizations which are exempt from income tax under subtitle A of the Internal Revenue Code of 1986 shall be treated as employed by a single employer.

The regulations prescribed under subparagraph (B) shall be based on principles similar to the principles which apply to taxable organizations under subparagraph (A).

(4) Employer premium.—The term "employer premium" refers to the premium established and imposed under part 2 of subtitle B of title VI.

(b) Qualifying Employee; Full-Time Employment.—

(1) Qualifying employee.—

(A) In general.—In this Act, the term "qualifying employee" means, with respect to an employer for a month, an employee (other than a covered child, as defined in subparagraph (C)) who is employed by the employer for at least 40 hours (as determined under paragraph (3)) in the month.

(B) No special treatment of medicare beneficiaries, SSI recipients, AFDC recipients, and others.—Subparagraph (A) shall apply regardless of whether or not the qualifying employee is a medicare-eligible individual, an SSI recipient, an AFDC recipient, an individual described in section 1004(b), an eligible individual or is authorized to be so employed.

(C) Covered child defined.—In subparagraph (A), the term "covered child" means an eligible individual who is a child and is enrolled under a health plan as a family member described in section 1011(b)(2)(B).

(2) Full-time equivalent employees; part-time employees.—

(A) In general.—For purposes of this Act, a qualifying employee who is employed by an employer—

(i) for at least 120 hours in a month, is counted as 1 full-time equivalent employee for the month and shall be deemed to be employed on a full-time basis, or

(ii) for at least 40 hours, but less than 120 hours, in a month, is counted as a fraction of a full-time equivalent employee in the month equal to the full-time employment ratio (as defined in subparagraph (B)) for the employee and shall be deemed to be employed on a part-time basis.

(B) Full-time employment ratio defined.—For purposes of this Act, the term "full-time employment ratio" means, with respect to a qualifying employee of an employer in a month, the lesser of 1 or the ratio of—

(i) the number of hours of employment such employee is employed by such employer for the month (as determined under paragraph (3)), to

(ii) 120 hours.

(C) Full-time employee.—For purposes of this Act, the term "full-time employee" means, with respect to an employer, an employee who is employed on a full-time basis (as specified in subparagraph (A)) by the employer.

(3) Hours of employment.—

(A) In general.—For purposes of this Act, the Board shall specify the method for computing hours of employment for employees of an employer consistent with this paragraph. The Board shall take into account rules used for purposes of applying the Fair Labor Standards Act.

(B) Hourly wage earners.—In the case of an individual who receives compensation (in the form of hourly wages or compensation) for the performance of services, the individual is considered to be "employed" by an employer for an hour if compensation is payable with respect to that hour of employment, without regard to whether or not the employee is actually performing services during such hours.

(4) Treatment of salaried employees and employee paid on contingent or bonus arrangements.—In the case of an employee who receives compensation on a salaried basis or on the basis of a commission (or other contigent or bonus basis), rather than an hourly, the Board shall establish rules for the conversion of the compensation to hours of employment, taking into account the minimum monthly compensation levels for

workers employed on a full-time basis under the Fair Labor Standards Act and other factors the Board considers relevant.

(c) Definitions Relating to Self-Employment.—In this Act:

(1) Net earnings from self-employment.—The term "net earnings from self-employment" has the meaning given such term under section 1402(a) of the Internal Revenue Code of 1986.

(2) Self-employed individual.—The term "self-employed individual" means, for a year, an individual who has net earnings from self-employment for the year.

SEC. 1902. OTHER GENERAL DEFINITIONS.

Except as otherwise specifically provided, in this Act the following definitions apply:

(1) Alien permanently residing in the United States under color of law.—The term "alien permanently residing in the United States under color of law" means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(19) of the Immigration and Nationality Act), and includes any of the following:

(A) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

(B) An alien who is granted asylum under section 208 of such Act.

(C) An alien whose deportation is withheld under section 243(h) of such Act.

(D) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

(E) An alien who has been paroled into the United States under section 212(d)(5) of such Act for an indefinite period or who has been granted extended voluntary departure as a member of a nationality group.

(F) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent residence is pending.

(G) An alien within such other classification of permanent resident aliens as the National Health Board may establish by regulation.

(2) AFDC family.—The term "AFDC family" means a family composed entirely of one or more AFDC recipients.

(3) AFDC recipient.—The term "AFDC recipient" means an individual who is receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV, of the Social Security Act.

(4) Alliance area.—The term "alliance area" means the area served by a regional alliance and specified under section 1202(b).

(5) Alliance eligible individual.—The term "alliance eligible individual" means, with respect to a health alliance, an eligible individual with respect to whom the applicable health plan is a health plan offered by or through such alliance and does not include a prisoner.

(6) Applicable health plan.—The term "applicable health plan" means, with respect to an eligible individual, the health plan specified pursuant to section 1004 and part 2 of subtitle A.

(7) Combination cost sharing plan.—The term "combination cost sharing plan" means a health plan that provides combination cost sharing schedule (consistent with section 1134).

(8) Comprehensive benefit package.—The term "comprehensive benefit package" means the package of health benefits provided under subtitle B of title II.

(9) Consumer price index; CPI.—The terms consumer price index" and "CPI" mean the Consumer Price Index for all urban consumers (U.S. city average), as published by the Bureau of Labor Statistics.

(10) Corporate alliance eligible individual.—The term "corporate alliance eligible individual" means, with respect to a corporate alliance, an eligible individual with respect to whom the corporate alliance is the applicable health plan.

(11) Corporate alliance employer.—The term "corporate alliance employer" means, with respect to a corporate alliance, an employer of an individual who is a participant in a corporate alliance health plan of that alliance.

(12) Corporate alliance health plan.—The term "corporate alliance health plan" means a health plan offered by a corporate alliance under part 2 of subtitle E.

(13) Disabled SSI recipient.—The term "disabled SSI recipient" means an individual who—

(A) is an SSI recipient, and

(B) has been determined to be disabled for purposes of the supplemental security income program (under title XVI of the Social Security Act).

(14) Eligible enrollee.—The term "eligible enrollee" means, with respect to an health plan offered by a health alliance, an alliance eligible individual, but does not include such an individual if the individual is enrolled under such a plan as the family member of another alliance eligible individual.

(15) Essential community provider.—The term "essential community provider" means an entity certified as such a provider under subpart B of part 2 of subtitle F.

(16) Fee-for-service plan.—The term "fee-for-service plan" means a health plan described in section 1322(b)(2)(A).

(17) First year.—The term "first year" means, with respect to—

(A) a State that is a participating State in a year before 1998, the year in which the State first is a participating State, or

(B) any other State, 1998.

(18) Higher cost sharing plan.—The term "higher cost sharing plan" means a health plan that provides a high cost sharing schedule (consistent with section 1133).

(19) Long-term nonimmigrant.—The term "long-term nonimmigrant" means a nonimmigrant described in subparagraph (E), (H), (I), (J), (K), (L), (M), (N), (O), (Q), or (R) of section 101(a)(15) of the Immigration and Nationality Act or an alien within such other classification of nonimmigrant as the National Health Board may establish by regulation.

(20) Lower cost sharing plan.—The term "lower cost sharing plan" means a health plan that provides a lower cost sharing schedule (consistent with section 1132).

(21) Medicare program.—The term "medicare program" means the health insurance program under title XVIII of the Social Security Act.

(22) Medicare-eligible individual.—The term "medicare-eligible individual" means, subject to section 1012(a), an individual who is entitled to benefits under part A of the medicare program.

(23) Move.—The term "move" means, respect to an individual, a change of residence of the individual from one alliance area to another alliance area.

(24) National health board; board.—The terms "National Health Board" and "Board" mean the National Health Board established under part 1 of subtitle F of title I.

(25) Poverty level.—

(A) In general.—The term "applicable poverty level" means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved (as determined under subparagraph (B)) for 1994 adjusted by the percentage increase or decrease described in subparagraph (C) for the year involved.

(B) Family size.—In applying the applicable poverty level to—

(i) an individual enrollment, the family size is deemed to be one person;

(ii) a couple-only enrollment, the family size is deemed to be two persons;

(iii) a single parent enrollment, the family size is deemed to be three persons; or

(iv) a dual parent, the family size is deemed to be four persons.

(C) Percentage adjustment.—The percentage increase or decrease described in this subparagraph for a year is the percentage increase or decrease by which the average CPI for the 12-month-period ending with August 31 of the preceding year exceeds such average for the 12-month period ending with August 31, 1993.

(D) Rounding.—Any adjustment made under subparagraph (A) for a year shall be rounded to the nearest multiple of $100.

(26) Prisoner.—The term "prisoner" means, as specified by the Board, an eligible individual during a period of imprisonment under Federal, State, or local authority after conviction as an adult.

(27) Regional alliance eligible individual.—The term "regional alliance eligible individual" means an eligible individual with respect to whom a regional alliance health plan is an applicable health plan.

(28) Regional alliance employer.—The term "regional alliance employer" means an employer that is meeting the requirement of section 1003 other than through an agreement with one or more health alliances.

(29) Regional alliance health plan.—The term "regional alliance health plan" means a health plan offered by a regional alliance under part 1 of subtitle E of title I.

(30) Reside.—

(A) An individual is considered to reside in the location in which the individual maintains a primary residence (as established under rules of the National Health Board).

(B) Under such rules and subject to section 1323(c), in the case of an individual who maintains more than one residence, the primary residence of the individual shall be determined taking into account the proportion of time spent at each residence.

(C) In the case of a couple only one spouse of which is a qualifying employee, except as the Board may provide, the residence of the employee shall be the residence of the couple.

(31) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(32) SSI family.—The term "SSI family" means a family composed entirely of one or more SSI recipients.

(33) SSI recipient.—The term "SSI recipient" means an individual—

(A) with respect to whom supplemental security income benefits are being paid under title XVI of the Social Security Act,

(B) who receiving a supplementary payment under section 1616 of such Act or under section 212 of Public Law 93-66; or

(C) who receiving monthly benefits under section 1619(a) of such Act (whether or not pursuant to section 1616(c)(3) of such Act).

(34) STATE.—The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(35) STATE MEDICAID PLAN.—The term "State medicaid plan" means a plan of medical assistance of a State approved under title XIX of the Social Security Act.

(36) UNDOCUMENTED ALIEN.—The term "undocumented alien" means an alien who is not a long-term nonimmigrant, a diplomat, or described in section 1004(c).

(37) UNITED STATES.—The term "United States" means the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and Northern Mariana Islands.

PART 2—MISCELLANEOUS PROVISIONS

SEC. 1911. USE OF INTERIM, FINAL REGULATIONS.

In order to permit the timely implementation of the provisions of this Act, the National Health Board, the Secretary of Health and Human Services, the Secretary of Labor are each authorized to issue regulations under this Act on an interim basis that become final on the date of publication, subject to change based on subsequent public comment.

SEC. 1912. SOCIAL SECURITY ACT REFERENCES.

Except as may otherwise be provided, any reference in this title, or in title V or VI, to the Social Security Act shall be to the Social Security Act as in effect on the date of the enactment of this Act.

TITLE II—NEW BENEFITS

TABLE OF CONTENTS OF TITLE

Subtitle A—Medicare Outpatient Prescription Drug Benefit

Sec. 2001. Coverage of outpatient prescription drugs.
Sec. 2002. Payment rules and related requirements for outpatient drugs.
Sec. 2003. Medicare rebates for covered outpatient drugs.
Sec. 2004. Counseling by participating pharmacies.
Sec. 2005. Extension of 25 percent rule for portion of premium attributable to covered outpatient drugs.
Sec. 2006. Coverage of home infusion drug therapy services.
Sec. 2007. Civil money penalties for excessive charges.
Sec. 2008. Conforming amendments to medicaid program.
Sec. 2009. Effective date.

Subtitle B—Long-Term Care

PART 1—STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES

Sec. 2101. State programs for home and community-based services for individuals with disabilities.
Sec. 2102. State plans.
Sec. 2103. Individuals with disabilities defined.
Sec. 2104. Home and community-based services covered under State plan.
Sec. 2105. Cost sharing.
Sec. 2106. Quality assurance and safeguards.
Sec. 2107. Advisory groups.
Sec. 2108. Payments to States.
Sec. 2109. Total Federal budget; allotments to States.

PART 2—MEDICAID NURSING HOME IMPROVEMENTS

Sec. 2201. Reference to amendments.

PART 3—PRIVATE LONG-TERM CARE INSURANCE

SUBPART A—GENERAL PROVISIONS

Sec. 2301. Federal regulations; prior application or certain requirements.
Sec. 2302. National Long-term Care Insurance Advisory Council.
Sec. 2303. Relation to State law.
Sec. 2304. Definitions.

SUBPART B—FEDERAL STANDARDS AND REQUIREMENTS

Sec. 2321. Requirements to facilitate understanding and comparison of benefits.
Sec. 2322. Requirements relating to coverage.
Sec. 2323. Requirements relating to premiums.
Sec. 2324. Requirements relating to sales practices.
Sec. 2325. Continuation, renewal, replacement, conversion, and cancellation of policies.
Sec. 2326. Requirements relating to payment of benefits.

SUBPART C—ENFORCEMENT

Sec. 2341. State programs for enforcement of standards.
Sec. 2342. Authorization of appropriations for State programs.
Sec. 2343. Allotments to States.
Sec. 2344. Payments to States.
Sec. 2345. Federal oversight of State enforcement.
Sec. 2346. Effect of failure to have approved State program.

SUBPART D—CONSUMER EDUCATION GRANTS

Sec. 2361. Grants for consumer education.

PART 4—TAX TREATMENT OF LONG-TERM CARE INSURANCE AND SERVICES

Sec. 2401. Reference to tax provisions.

PART 5—TAX INCENTIVES FOR INDIVIDUALS WITH DISABILITIES WHO WORK

Sec. 2501. Reference to tax provision.

PART 6—DEMONSTRATION AND EVALUATION

Sec. 2601. Demonstration on acute and long-term care integration.
Sec. 2602. Performance review of the long-term care programs.

Subtitle A—Medicare Outpatient Prescription Drug Benefit

SEC. 2001. COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS.

(a) COVERED OUTPATIENT DRUGS AS MEDICAL AND OTHER HEALTH SERVICES.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is amended to read as follows:

"(J) covered outpatient drugs;".

(b) DEFINITION OF COVERED OUTPATIENT DRUG.—Section 1861(t) of such Act (42 U.S.C. 1395x(t)), as amended by section 13553(b) of the Omnibus Budget Reconciliation Act of 1993 (hereafter in this subtitle referred to as "OBRA-1993"), is amended—

(1) in the heading, by adding at the end the following: "; Covered Outpatient Drugs";

(2) in paragraph (1), by striking "paragraph (2)" and inserting "the succeeding paragraphs of this subsection"; and

(3) by striking paragraph (2) and inserting the following:

"(2) Except as otherwise provided in paragraph (3), the term 'covered outpatient drug' means any of the following products used for a medically accepted indication (as described in paragraph (4)):

"(A) A drug which may be dispensed only upon prescription and—

"(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling;

"(B) A biological product which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product; and

"(C) Insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3) The term 'covered outpatient drug' does not include any product which is intravenously administered in a home setting unless it is a covered home infusion drug (as described in paragraph (5)).

"(4) For purposes of paragraph (2), the term 'medically accepted indication', with respect to the use of an outpatient drug, includes any use which has been approved by the Food and Drug Administration for the drug, and includes another use of the drug if—

"(A) the drug has been approved by the Food and Drug Administration; and

"(B)(i) such use is supported by one or more citations which are included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, the United States Pharmacopoeia-Drug Information, and other authoritative compendia as identified by the Secretary, unless the Secretary has determined that the use is not medically appropriate or the use is identified as not indicated in one or more such compendia, or

"(ii) the carrier involved determines, based upon guidance provided by the Secretary to carriers for determining accepted uses of drugs, that such use is medically accepted based on supportive clinical evidence in peer reviewed medical literature appearing in publications which have been identified for purposes of this clause by the Secretary.

The Secretary may revise the list of compendia in paragraph (B)(i) designated as appropriate for identifying medically accepted indications for drugs.

"(5)(A) For purposes of paragraph (3), the term 'covered home infusion drug' means a covered outpatient drug dispensed to an individual that—

"(i) is administered intravenously, subcutaneously, epidurally, or through other means determined by the Secretary, using an access device that is inserted in to the body and an infusion device to control the rate of flow of the drug,

"(ii) is administered in the individual's home (including an institution used as his home, other than a hospital under subsection (e) or a skilled nursing facility that meets the requirements of section 1819(a)), and

"(iii)(I) is an antibiotic drug and the Secretary has not determined, for the specific drug or the indication to which the drug is applied, that the drug cannot generally be administered safely and effectively in a home setting, or

"(II) is not an antibiotic drug and the Secretary has determined, for the specific drug or the indication to which the drug is applied, that the drug can generally be administered safely and effectively in a home setting.

"(B) Not later than January 1, 1996, (and periodically thereafter), the Secretary shall publish a list of the drugs, and indications for such drugs, that are covered home infusion drugs, with respect to which home infusion drug therapy may be provided under this title.".

(c) Exceptions; Exclusions From Coverage.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)), as amended by sections 4034(b)(4) and 4118(b), is amended—

(1) by striking "and" at the end of paragraph (15),

(2) by striking the period at the end of paragraph (16) and inserting "; or", and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) A covered outpatient drug (as described in section 1861(t))—

"(A) when furnished as part of, or as incident to, any other item or service for which payment may be made under this title, or

"(B) which is listed under paragraph (2) of section 1927(d) (other than subparagraph (I) or (J) of such paragraph) as a drug which may be excluded from coverage under a State plan under title XIX and which the Secretary elects to exclude from coverage under this part.

(d) Other Conforming Amendments.—(1) Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(A) in subsection (s)(2), as amended by section 13553 of OBRA–1993—

(i) by striking subparagraphs (O) and (Q),

(ii) by adding "and" at the end of subparagraph (N),

(iii) by striking "; and" at the end of subparagraph (P) and inserting a period, and

(iv) by redesignating subparagraph (P) as subparagraph (O); and

(B) by striking the subsection (jj) added by section 4156(a)(2) of the Omnibus Budget Reconciliation Act of 1990.

(2) Section 1881(b)(1)(C) of such Act (42 U.S.C. 1395rr(b)(1)(C)), as amended by section 13566(a) of OBRA–1993, is amended by striking "section 1861(s)(2)(P)" and inserting "section 1861(s)(2)(O)".

SEC. 2002. PAYMENT RULES AND RELATED REQUIREMENTS FOR COVERED OUTPATIENT DRUGS.

(a) In General.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) Payment for and Certain Requirements Concerning Covered Outpatient Drugs.—

"(1) Deductible.—

"(A) In general.—Payment shall be made under paragraph (2) only for expenses incurred by an individual for a covered outpatient drug during a calendar year after the individual has incurred expenses in the year for such drugs (during a period in which the individual is entitled to benefits under this part) equal to the deductible amount for that year.

"(B) Deductible amount.—

"(i) For purposes of subparagraph (A), the deductible amount is—

"(I) for 1996, $250, and

"(II) for any succeeding year, the amount (rounded to the nearest dollar) that the Secretary estimates will ensure that the percentage of the average number of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in section 1833(a)(1)(A)) during the year who will incur expenses for covered outpatient drugs equal to or greater than such amount will be the same as the percentage for the previous year.

"(ii) The Secretary shall promulgate the deductible amount for 1997 and each succeeding year during September of the previous year.

"(C) Special rule for determination of expenses incurred.—In determining the amount of expenses incurred by an individual for covered outpatient drugs during a year for purposes of subparagraph (A), there shall not be included any expenses incurred with respect to a drug to the extent such expenses exceed the payment basis for such drug under paragraph (3).

"(2) Payment amount.—

"(A) In general.—Subject to the deductible established under paragraph (1), the amount payable under this part for a covered outpatient drug furnished to an individual during a calendar year shall be equal to—

"(i) 80 percent of the payment basis described in paragraph (3), in the case of an individual who has not incurred expenses for covered outpatient drugs during the year (including the deductible imposed under paragraph (1)) in excess of the out-of-pocket limit for the year under subparagraph (B); and

"(ii) 100 percent of the payment basis described in paragraph (3), in the case of any other individual.

"(B) Out-of-pocket limit described.—

"(i) For purposes of subparagraph (A), the out-of-pocket limit for a year is equal to—

"(I) for 1996, $1000, and

"(II) for any succeeding year, the amount (rounded to the nearest dollar) that the Secretary estimates will ensure that the percentage of the average number of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in section 1833(a)(1)(A)) during the year who will incur expenses for covered outpatient drugs equal to or greater than such amount will be the same as the percentage for the previous year.

"(ii) The Secretary shall promulgate the out-of-pocket limit for 1997 and each succeeding year during September of the previous year.

"(C) Special rule for determination of expenses incurred.—In determining the amount of expenses incurred by an individual for covered outpatient drugs during a year for purposes of subparagraph (A), there shall not be included any expenses incurred with respect to a drug to the extent such expenses exceed the payment basis for such drug under paragraph (3).

"(3) Payment basis.—For purposes of paragraph (2), the payment basis is the lesser of—

"(A) the actual charge for a covered outpatient drug, or

"(B) the applicable payment limit established under paragraph (4).

"(4) Payment limits.—

"(A) Payment limit for single source drugs and multiple source drugs with restrictive prescriptions.—In the case of a covered outpatient drug that is a multiple source drug which has a restrictive prescription, or that is single source drug, the payment limit for a payment calculation period is equal to—

"(i) for drugs furnished after 1996, the 90th percentile of the actual charges (computed on the geographic basis specified by the Secretary) for the drug product for the second previous payment calculation period, or

"(ii) the amount of the administrative allowance (established under paragraph (5)) plus the product of the number of dosage units dispensed and the per unit estimated acquisition cost for the drug product (determined under subparagraph (C)) for the period,

whichever is less.

"(B) Payment limit for multiple source drugs without restrictive prescriptions.—In the case of a drug that is a multiple source drug which does not have a restrictive prescription, the payment limit for a payment calculation period is equal to the amount of the administrative allowance (established under paragraph (5)) plus the product of the number of dosage units dispensed and the unweighted median of the unit estimated acquisition cost (determined under subparagraph (C)) for the drug products for the period.

"(C) Determination of unit price.—

"(i) In general.—The Secretary shall determine, for the dispensing of a covered outpatient drug product in a payment calculation period, the estimated acquisition cost for the drug product. With respect to any covered outpatient drug product, such cost may not exceed 93 percent of the average manufacturer non-retail price for the drug (as defined in section 1850(f)(2)) during the period.

"(ii) Compliance with request for information.—If a wholesaler or direct seller of a covered outpatient drug refuses, after being requested by the Secretary, to provide price information requested to carry out clause (i), or deliberately provides information that is false, the Secretary may impose a civil money penalty of not to exceed $10,000 for each such refusal or provision of false information. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under the previous sentence in the same manner as they apply to a penalty or proceeding under section 1128A(a). Information gathered pursuant to clause (i) shall not be disclosed except as the Secretary determines to be necessary to carry out the purposes of this part.

"(5) Administrative allowance for purposes of payment limit.—

"(A) In general.—Except as provided in subparagraph (B), the administrative allowance under paragraph (4) is—

"(i) for 1996, $5, and

"(ii) for each succeeding year, the amount for the previous year adjusted by the percentage change in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that previous year.

"(B) REDUCTION FOR MAIL ORDER PHARMACIES.—The Secretary may, after consulting with representatives of pharmacists, individuals enrolled under this part, and of private insurers, reduce the administrative allowances established under subparagraph (A) for any covered outpatient drug dispensed by a mail order pharmacy, based on differences between such pharmacies and other pharmacies with respect to operating costs and other economies.

"(6) ASSURING APPROPRIATE PRESCRIBING AND DISPENSING PRACTICES.—

"(A) IN GENERAL.—The Secretary shall establish a program to identify (and to educate physicians and pharmacists concerning)—

"(i) instances or patterns of unnecessary or inappropriate prescribing or dispensing practices for covered outpatient drugs,

"(ii) instances or patterns of substandard care with respect to such drugs,

"(iii) potential adverse reactions, and

"(iv) appropriate use of generic products.

"(B) STANDARDS.—In carrying out the program under subparagraph (A), the Secretary shall establish for each covered outpatient drug standards for the prescribing of the drug which are based on accepted medical practice. In establishing such standards, the Secretary shall incorporate standards from such current authoritative compendia as the Secretary may select, except that the Secretary may modify such a standard by regulation on the basis of scientific and medical information that such standard is not consistent with the safe and effective use of the drug.

"(C) DRUG USE REVIEW.—The Secretary may provide for a drug use review program with respect to covered outpatient drugs dispensed to individuals eligible for benefits under this part. Such program may include such elements as the Secretary determines to be necessary to assure that prescriptions (i) are appropriate, (ii) are medically necessary, and (iii) are not likely to result in adverse medical results, including any elements of the State drug use review programs required under section 1927(g) that the Secretary determines to be appropriate.

"(7) ADMINISTRATIVE IMPROVEMENTS.—The Secretary shall develop, in consultation with representatives of pharmacies and of other interested persons, a standard claims form for covered outpatient drugs in accordance with title V of the Health Security Act.

"(8) DEFINITIONS.—In this subsection:

"(A) MULTIPLE AND SINGLE SOURCE DRUGS.—The terms 'multiple source drug' and 'single source drug' have the meanings of those terms under section 1927(k)(7).

"(B) RESTRICTIVE PRESCRIPTION.—A drug has a 'restrictive prescription' only if—

"(i) in the case of a written prescription, the prescription for the drug indicates, in the handwriting of the physician or other person prescribing the drug and with an appropriate phrase (such as 'brand medically necessary') recognized by the Secretary, that a particular drug product must be dispensed, or

"(ii) in the case of a prescription issued by telephone—

"(I) the physician or other person prescribing the drug (through use of such an appropriate phrase) states that a particular drug product must be dispensed, and

"(II) the physician or other person submits to the pharmacy involved, within 30 days after the date of the telephone prescription, a written confirmation which is in the handwriting of the physician or other person prescribing the drug and which indicates with such appropriate phrase that the particular drug product was required to have been dispensed.

"(C) PAYMENT CALCULATION PERIOD.—The term 'payment calculation period' means the 6-month period beginning with January of each year and the 6-month period beginning with July of each year.".

(b) SUBMISSION OF CLAIMS BY PHARMACIES.—Section 1848(g)(4) of such Act (42 U.S.C. 1395w-4(g)(4)) is amended—

(1) in the heading—

(A) by striking "PHYSICIAN", and

(B) by inserting "BY PHYSICIANS AND SUPPLIERS" after "CLAIMS",

(2) in the matter in subparagraph (A) preceding clause (i)—

(A) by striking "For services furnished on or after September 1, 1990, within 1 year" and inserting "Within 1 year (90 days in the case of covered outpatient drugs)",

(B) by striking "a service" and inserting "an item or service", and

(C) by inserting "or of providing a covered outpatient drug," after "basis," and

(3) in subparagraph (A)(i), by inserting "item or" before "service.

(c) SPECIAL RULES FOR CARRIERS.—

(1) USE OF REGIONAL CARRIERS.—Section 1842(b)(2) of such Act (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following:

"(D) With respect to activities related to covered outpatient drugs, the Secretary may enter into contracts with carriers under this section to perform the activities on a regional basis.".

(2) PAYMENT ON OTHER THAN A COST BASIS.—Section 1842(c)(1)(A) of such Act (42 U.S.C. 1395u(c)(1)(A)) is amended—

(A) by inserting "(i)" after "(c)(1)(A)",

(B) in the first sentence, by inserting ", except as otherwise provided in clause (ii)," after "under this part, and", and

(C) by adding at the end the following:

"(ii) To the extent that a contract under this section provides for activities related to covered outpatient drugs, the Secretary may provide for payment for those activities based on any method of payment determined by the Secretary to be appropriate.".

(3) USE OF OTHER ENTITIES FOR COVERED OUTPATIENT DRUGS.—Section 1842(f) of such Act (42 U.S.C. 1395u(f)) is amended—

(A) by striking "and" at the end of paragraph (1),

(B) by substituting "; and" for the period at the end of paragraph (2), and,

(C) by adding at the end the following:

"(3) with respect to activities related to covered outpatient drugs, any other private entity which the Secretary determines is qualified to conduct such activities.".

(4) DESIGNATED CARRIERS TO PROCESS CLAIMS OF RAILROAD RETIREES.—Section 1842(g) of such Act (42 U.S.C. 1395u(g)) is amended by inserting "(other than functions related to covered outpatient drugs)" after "functions".

(d) CONTRACTS FOR AUTOMATIC DATA PROCESSING EQUIPMENT.—Actions taken before 1995 that affect contracts related to the processing of claims for covered outpatient drugs (as defined in section 1861(t) of the Social Security Act) shall not be subject to section 111 of the Federal Property and Administrative Services Act of 1949, and shall not be subject to administrative or judicial review.

(e) CONFORMING AMENDMENTS.—

(1)(A) Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)), as amended by section 13544(b)(2) of OBRA–1993, is amended—

(i) by striking "and" at the end of clause (O), and

(ii) by inserting before the semicolon at the end the following: ", and (Q) with respect to covered outpatient drugs, the amounts paid shall be as prescribed by section 1834(d)".

(B) Section 1833(a)(2) of such Act (42 U.S.C. 1395l(a)(2)) is amended in the matter preceding subparagraph (A) by inserting ", except for covered outpatient drugs," after "and (I) of such section".

(2) Section 1833(b)(2) of such Act (42 U.S.C. 1395l(b)(2)) is amended by inserting "or with respect to covered outpatient drugs" before the comma.

(3) The first sentence of section 1842(h)(2) of such Act (42 U.S.C. 1395u(h)(2)) is amended by inserting "(other than a carrier described in subsection (f)(3))" after "Each carrier".

(4) The first sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended—

(A) in clause (i), by inserting "section 1834(d), after "section 1833(b),", and

(B) in clause (ii), by inserting ", other than for covered outpatient drugs," after "provider)".

SEC. 2003. MEDICARE REBATES FOR COVERED OUTPATIENT DRUGS.

(a) IN GENERAL.—Part B of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"REBATES FOR COVERED OUTPATIENT DRUGS

"Sec. 1850. (a) REQUIREMENT FOR REBATE AGREEMENT.—In order for payment to be available under this part for covered outpatient drugs of a manufacturer dispensed on or after January 1, 1996, the manufacturer must have entered into and have in effect a rebate agreement with the Secretary meeting the requirements of subsection (b), and an agreement to give equal access to discounts in accordance with subsection (e).

"(b) TERMS, IMPLEMENTATION, AND ENFORCEMENT OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—

"(A) IN GENERAL.—A rebate agreement under this section shall require the manufacturer to pay to the Secretary for each calendar quarter, not later than 30 days after the date of receipt of the information described in paragraph (2) for such quarter, a rebate in an amount determined under subsection (c) for all covered outpatient drugs of the manufacturer described in subparagraph (B).

"(B) DRUGS INCLUDED IN QUARTERLY REBATE CALCULATION.—Drugs subject to rebate with respect to a calendar quarter are drugs which are either—

"(i) dispensed by participating pharmacies during such quarter to individuals (other than individuals enrolled with an eligible organization with a contract under section 1876) eligible for benefits under this part, as reported by such pharmacies to the Secretary, or

"(ii) dispensed by nonparticipating pharmacies to such individuals and included in claims for payment of benefits received by the Secretary during such quarter.

"(2) INFORMATION FURNISHED TO MANUFACTURERS.—

"(A) IN GENERAL.—The Secretary shall report to each manufacturer, not later than 60 days after the end of each calendar quarter, information on the total number, for each covered outpatient drug, of units of each dosage form, strength, and package size dispensed under the plan during the quarter, on the basis of the data reported to the Secretary described in paragraph (1)(B).

"(B) AUDIT.—The Comptroller General may audit the records of the Secretary to the extent necessary to determine the accuracy of reports by the Secretary pursuant to subparagraph (A). Adjustments to rebates shall be made to the extent determined necessary by the audit to reflect actual units of drugs dispensed.

"(3) PROVISION OF PRICE INFORMATION BY MANUFACTURER.—

"(A) QUARTERLY PRICING INFORMATION.—Each manufacturer with an agreement in effect under this section shall report to the Secretary, not later than 30 days after the last day of each calendar quarter, on the average manufacturer retail price and the average manufacturer non-retail price for each dosage form and strength of each covered outpatient drug for the quarter.

"(B) BASE QUARTER PRICES.—Each manufacturer of a covered outpatient drug with an agreement under this section shall report to the Secretary, by not later than 30 days after the effective date of such agreement (or, if later, 30 days after the end of the base quarter), the average manufacturer retail price, for such base quarter, for each dosage form and strength of each such covered drug.

"(C) VERIFICATION OF AVERAGE MANUFACTURER PRICE.—The Secretary may inspect the records of manufacturers, and survey wholesalers, pharmacies, and institutional purchasers of drugs, as necessary to verify prices reported under subparagraph (A).

"(D) PENALTIES.—

"(i) CIVIL MONEY PENALTIES.—The Secretary may impose a civil money penalty on a manufacturer with an agreement under this section—

"(I) for failure to provide information required under subparagraph (A) on a timely basis, in an amount up to $10,000 per day of delay;

"(II) for refusal to provide information about charges or prices requested by the Secretary for purposes of verification pursuant to subparagraph (C), in an amount up to $100,000; and

"(III) for provision, pursuant to subparagraph (A) or (B), of information that the manufacturer knows or should know is false, in an amount up to $100,000 per item of information.

Such civil money penalties are in addition to any other penalties prescribed by law. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(ii) TERMINATION OF AGREEMENT.—If a manufacturer with an agreement under this section has not provided information required under subparagraph (A) or (B) within 90 days of the deadline imposed, the Secretary may suspend the agreement with respect to covered outpatient drugs dispensed after the end of such 90-day period and until the date such information is reported (but in no case shall a suspension be for less than 30 days).

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of not less than one year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall afford a manufacturer an opportunity for a hearing concerning such termination, but such hearing shall not delay the effective date of the termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVE DATE OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO PHARMACIES.—In the case of a termination under this subparagraph, the Secretary shall notify pharmacies that are participating suppliers under this part and physician organizations not less than 30 days before the effective date of such termination.

"(c) AMOUNT OF REBATE.—

"(1) BASIC REBATE.—Each manufacturer shall remit a basic rebate to the Secretary for each calendar quarter in an amount, with respect to each dosage form and strength of a covered drug (except as provided under paragraph (4)), equal to the product of—

"(A) the total number of units subject to rebate for such quarter, as described in subsection (b)(1)(B); and

"(B) the greater of—

"(i) the difference between the average manufacturer retail price and the average manufacturer non-retail price,

"(ii) 17 percent of the average manufacturer retail price, or

"(iii) the amount determined pursuant to paragraph (4).

"(2) ADDITIONAL REBATE.—Each manufacturer shall remit to the Secretary, for each calendar quarter, an additional rebate for each dosage form and strength of a covered drug (except as provided under paragraph (4)), in an amount equal to—

"(A) the total number of units subject to rebate for such quarter, as described in subsection (b)(1)(B), multiplied by

"(B) the amount, if any, by which the average manufacturer retail price for covered drugs of the manufacturer exceeds the average manufacturer retail price for the base quarter, increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. average) from the end of such base quarter to the month before the beginning of such calendar quarter.

"(3) NEGOTIATED REBATE AMOUNT FOR NEW DRUGS.—

"(A) IN GENERAL.—The Secretary may negotiate with the manufacturer a per-unit rebate amount, in accordance with this paragraph, for any covered outpatient drug (except as provided under paragraph (4)) first marketed after June 30, 1993—

"(i) which is not marketed in any country specified in section 802(b)(4)(A) of the Federal Food, Drug, and Cosmetic Act and for which the Secretary believes the average manufacturer's retail price may be excessive, or

"(ii) which is marketed in one or more of such countries, at prices significantly lower than the average manufacturer retail price.

"(B) MAXIMUM REBATE AMOUNT FOR DRUGS MARKETED IN CERTAIN COUNTRIES.—The rebate negotiated pursuant to this paragraph for a drug described in subparagraph (A)(ii) may be an amount up to the difference between the average manufacturer retail price and any price at which the drug is available to wholesalers in a country specified in such section 802(b)(4)(A).

"(C) FACTORS TO BE CONSIDERED.—In making determinations with respect to the prices of a covered drug described in subparagraph (A) and in negotiating a rebate amount pursuant to this paragraph, the Secretary shall take into consideration, as applicable and appropriate, the prices of other drugs in the same therapeutic class, cost information requested by the Secretary and supplied by the manufacturer or estimated by the Secretary, prescription volumes, economies of scale, product stability, special manufacturing requirements, prices of the drug in countries specified in subparagraph (A)(i) (in the case of a drug described in such subparagraph), and other relevant factors.

"(D) OPTION TO EXCLUDE COVERAGE.—If the Secretary is unable to negotiate with the manufacturer an acceptable rebate amount with respect to a covered outpatient drug pursuant to this paragraph, the Secretary may exclude such drug from coverage under this part.

"(E) EFFECTIVE DATE OF EXCLUSION FROM COVERAGE.—An exclusion of a drug from coverage pursuant to subparagraph (D) shall be effective on and after—

"(i) the date 6 months after the effective date of marketing approval of such drug by the Food and Drug Administration, or

"(ii) (if earlier) the date the manufacturer terminates negotiations with the Secretary concerning the rebate amount.

"(4) NO REBATE REQUIRED FOR GENERIC DRUGS.—Paragraphs (1) through (3) shall not apply with respect to a covered outpatient drug that is not a single source drug or an innovator multiple source drug (as such terms are defined in section 1927(k)).

"(5) DEPOSIT OF REBATES.—The Secretary shall deposit rebates under this section in the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

"(d) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by a manufacturer under this section is confidential and shall not be disclosed by the Secretary, except—

"(A) as the Secretary determines to be necessary to carry out this section,

"(B) to permit the Comptroller General to review the information provided, and

"(C) to permit the Director of the Congressional Budget Office to review the information provided.

"(e) AGREEMENT TO GIVE EQUAL ACCESS TO DISCOUNTS.—An agreement under this subsection by a manufacturer of covered outpatient drugs shall guarantee that the manufacturer will offer, to each wholesaler or retailer (or other purchaser representing a group of such wholesalers or retailers) that purchases such drugs on substantially the same terms (including such terms as prompt payment, cash payment, volume purchase, single-site delivery, the use of formularies by purchasers, and any other terms effectively reducing the manufacturer's costs) as any other purchaser (including any institutional purchaser) the same price for such drugs as is offered to such other purchaser. In determining a manufacturer's compliance with the previous sentence, there shall not be taken into account terms offered to the Department of Veterans Affairs, the Department of Defense, or any public program.

"(f) DEFINITIONS.—For purposes of this section—

"(1) AVERAGE MANUFACTURER RETAIL PRICE.—The term 'average manufacturer retail price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the average price (inclusive of discounts for cash payment, prompt payment, volume purchases, and rebates (other than rebates under this section), but exclusive of nominal prices) paid to the manufacturer for the drug in the United States for drugs distributed to the retail pharmacy class of trade.

"(2) AVERAGE MANUFACTURER NON-RETAIL PRICE.—The term 'average manufacturer non-retail price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the weighted average price (inclusive of discounts for cash payment, prompt payment, volume purchases, and rebates (other than rebates under this section), but exclusive of nominal prices) paid to the manufacturer for the drug in the United States by hospitals and other institutional purchasers that purchase drugs for institutional use and not for resale.

"(3) BASE QUARTER.—The term 'base quarter' means, with respect to a covered outpatient drug of a manufacturer, the calendar quarter beginning April 1, 1993, or (if later) the first full calendar quarter during which the drug was marketed in the United States.

"(4) COVERED DRUG.—The term 'covered drug' includes each innovator multiple source drug and single source drug, as those terms are defined in section 1927(k)(7).

"(5) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug—

"(A) the entity whose National Drug Code number (as issued pursuant to section 510(e) of the Federal Food, Drug, and Cosmetic Act) appears on the labeling of the drug; or

"(B) if the number described in subparagraph (A) does not appear on the labeling of the drug, the person named as the applicant in a human drug application (in the case of a new drug) or the product license application (in the case of a biological product) for such drug approved by the Food and Drug Administration.".

(b) CONFORMING AMENDMENT RELATING TO EXCLUSIONS FROM COVERAGE.—Section 1862(a)(18) of such Act (42 U.S.C. 1395y(a)), as added by section 2001(c), is amended—

(A) by striking "or" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", or", and

(C) by adding at the end the following new subparagraphs:

"(C) furnished during a year for which the drug's manufacturer does not have in effect a rebate agreement with the Secretary that meets the requirements of section 1850 for the year, or

"(D) excluded from coverage during the year by the Secretary pursuant to section 1850(c)(3)(D) (relating to negotiated rebate amounts for certain new drugs).".

SEC. 2004. COUNSELING BY PARTICIPATING PHARMACIES.

Section 1842(h) of the Social Security Act (42 U.S.C. 1395u(h)) is amended by adding at the end the following:

"(8) A pharmacy that is a participating supplier under this part shall agree to answer questions of individuals enrolled under this part who receive a covered outpatient drug from the pharmacy regarding the appropriate use of the drug, potential interactions between the drug and other drugs dispensed to the individual, and other matters relating to the dispensing of such drugs.".

SEC. 2005. EXTENSION OF 25 PERCENT RULE FOR PORTION OF PREMIUM ATTRIBUTABLE TO COVERED OUTPATIENT DRUGS.

Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)) is amended by adding at the end the following:

"(3) Notwithstanding the provisions of subsection (a), the portion of the monthly premium for each individual enrolled under this part for each month after December 1998 that is attributable to covered outpatient drugs shall be an amount equal to 50 percent of the portion of the monthly actuarial rate for enrollees age 65 and over, as determined under subsection (a)(1) and applicable to such month, that is attributable to covered outpatient drugs.".

SEC. 2006. COVERAGE OF HOME INFUSION DRUG THERAPY SERVICES.

(a) IN GENERAL.—Section 1832(a)(2)(A) of the Social Security Act (42 U.S.C. 1395k(a)(2)(A)) is amended by inserting "and home infusion drug therapy services" before the semicolon.

(b) HOME INFUSION DRUG THERAPY SERVICES DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by redesignating the subsection (jj) inserted by section 4156(a)(2) of the Omnibus Budget Reconciliation Act of 1990 as subsection (kk); and

(2) by inserting after such subsection the following new subsection:

"Home Infusion Drug Therapy Services

"(ll)(1) The term 'home infusion drug therapy services' means the items and services described in paragraph (2) furnished to an individual who is under the care of a physician—

"(A) in a place of residence used as the individual's home,

"(B) by a qualified home infusion drug therapy provider (as defined in paragraph (3)) or by others under arrangements with them made by that provider, and

"(C) under a plan established and periodically reviewed by a physician.

"(2) The items and services described in this paragraph are such nursing, pharmacy, and related services (including medical supplies, intravenous fluids, delivery, and equipment) as are necessary to conduct safely and effectively a drug regimen through use of a covered home infusion drug (as defined in subsection (t)(5)), but do not include such covered outpatient drugs.

"(3) The term 'qualified home infusion drug therapy provider' means any entity that the secretary determines meets the following requirements:

"(A) The entity is capable of providing or arranging for the items and services described in paragraph (2) and covered home infusion drugs.

"(B) The entity maintains clinical records on all patients.

"(C) The entity adheres to written protocols and policies with respect to the provision of items and services.

"(D) The entity makes services available (as needed) seven days a week on a 24-hour basis.

"(E) The entity coordinates all service with the patient's physician.

"(F) The entity conducts a quality assessment and assurance program, including drug regimen review and coordination of patient care.

"(G) The entity assures that only trained personnel provide covered home infusion drugs (and any other service for which training is required to provide the service safely).

"(H) The entity assumes responsibility for the quality of services provided by others under arrangements with the entity.

"(I) In the case of an entity in any State in which State or applicable local law provides for the licensing of entities of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing entities of this nature, as meeting the standards established for such licensing.

"(J) The entity meets such other requirements as the Secretary may determine are necessary to assure the safe and effective provision of home infusion drug therapy services and the efficient administration of the home infusion drug therapy benefit.".

(c) PAYMENT.—

(1) IN GENERAL.—Section 1833 of such Act (42 U.S.C. 1395l) is amended—

(A) in subsection (a)(2)(B), by striking "or (E)" and inserting "(E), or (F)",

(B) in subsection (a)(2)(D), by striking "and" at the end,

(C) in subsection (a)(2)(E), by striking the semicolon and inserting "; and",

(D) by inserting after subsection (a)(2)(E) the following new subparagraph:

"(F) with resect to home infusion drug therapy services, the amounts described in section 1834(j);",

(E) in the first sentence of subsection (b), by striking "services, (3)" and inserting "services and home infusion drug therapy services, (3)".

(2) AMOUNT DESCRIBED.—Section 1834 of such Act, as amended by section 13544(b)(i) of OBRA–1993, is amended by adding at the end the following new subsection:

"(j) HOME INFUSION DRUG THERAPY SERVICES.—

"(1) IN GENERAL.—With respect to home infusion drug therapy services, payment under this part shall be made in an amount equal to the lesser of the actual charges for such services or the fee schedule established under paragraph (2).

"(2) ESTABLISHMENT OF FEE SCHEDULE.—The Secretary shall establish by regulation before the beginning of 1996 and each succeeding year a fee schedule for home infusion drug therapy services for which payment is made under this part. A fee schedule established under this subsection shall be on a per diem basis.".

(3) PROHIBITION ON CERTAIN REFERRALS.—Section 1877(h)(6) of such Act (42 U.S.C. 1395nn(h)(6)), as amended by section 13562(a) of OBRA–1993, is amended by adding at the end the following:

"(L) Home infusion drug therapy services.".

(d) CERTIFICATION.—Section 1835(a)(2) of such Act (42 U.S.C. 1395n(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (E),

(2) by striking the period at the end of subparagraph (F) and inserting "; and", and

(3) by inserting after subparagraph (F) the following:

"(G) in the case of home infusion drug therapy services, (i) such services are or were required because the individual needed such services for the administration of a covered home infusion drug, (ii) a plan for furnishing such services has been established and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(e) CERTIFICATION OF HOME INFUSION DRUG THERAPY PROVIDERS; INTERMEDIATE SANCTIONS FOR NONCOMPLIANCE.—

(1) TREATMENT AS PROVIDER OF SERVICES.—Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended by inserting "home infusion drug therapy provider," after "hospice program,".

(2) CONSULTATION WITH STATE AGENCIES AND OTHER ORGANIZATIONS.—Section 1863 of such Act (42 U.S.C. 1395z) is amended by striking "and (dd)(2)" and inserting "(dd)(2), and (ll)(3)".

(3) USE OF STATE AGENCIES IN DETERMINING COMPLIANCE.—Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended—

(A) in the first sentence, by striking "an agency is a hospice program" and inserting "an agency or entity is a hospice program or a home infusion drug therapy provider," after "home health agency, or whether"; and

(B) in the second sentence—

(i) by striking "institution or agency" and inserting "institution, agency, or entity", and

(ii) by striking "or hospice program" and inserting "hospice program, or home infusion drug therapy provider".

(4) APPLICATION OF INTERMEDIATE SANCTIONS.—Section 1846 of such Act (42 U.S.C. 1395w-2) is amended—

(A) in the heading, by adding "AND FOR QUALIFIED HOME INFUSION DRUG THERAPY PROVIDERS" at the end,

(B) in subsection (a), by inserting "or that a qualified home infusion drug therapy provider that is certified for participation under this title no longer substantially meets the requirements of section 1861(ll)(3)" after "under this part", and

(C) in subsection (b)(2)(A)(iv), by inserting "or home infusion drug therapy services" after "clinical diagnostic laboratory tests".

(f) USE OF REGIONAL INTERMEDIARIES IN ADMINISTRATION OF BENEFIT.—Section 1816 of such Act (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(k) With respect to carrying out functions relating to payment for home infusion drug therapy services and covered home infusion drugs, the Secretary may enter into contracts with agencies or organizations under this section to perform such functions on a regional basis.".

SEC. 2007. CIVIL MONEY PENALTIES FOR EXCESSIVE CHARGES.

Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by sections 4041(a)(1), 4043(a)(1), and 4043(c), is amended—

(1) by striking ",or" at the end of paragraph (5) and adding a semicolon,

(3) by adding "or" at the end of paragraph (6), and

(4) by inserting after paragraph (6) the following:

"(7) in the case of a pharmacy, presents or causes to be presented to any person a request for payment for covered outpatient drugs (as defined in section 1861(t)) dispensed to an individual enrolled under part B of title XVIII and for which the amount charged by the pharmacy is greater than the amount the pharmacy charges the general public (as determined by the Secretary);".

SEC. 2008. CONFORMING AMENDMENTS TO MEDICAID PROGRAM.

(a) IN GENERAL.—

(1) REQUIRING MEDICARE REBATE AS CONDITION OF COVERAGE.—The first sentence of section 1927(a)(1) of the Social Security Act (42 U.S.C. 1396r-8(a)(1)) is amended—

(A) in the first sentence of paragraph (1), by striking "and paragraph (6)" and inserting ", paragraph (6), and (for calendar quarters beginning on or after January 1, 1996) paragraph (7)"; and

(B) by adding at the end the following new paragraph:

"(7) REQUIREMENT RELATING TO REBATE AGREEMENTS FOR COVERED OUTPATIENT DRUGS UNDER MEDICARE PROGRAM.—A manufacturer meets the requirements of this paragraph for quarters in a year if the manufacturer has in effect an agreement with the Secretary under section 1850 for providing rebates for covered outpatient drugs furnished to individuals under title XVIII during the year.".

(2) NON-DUPLICATION OF REBATES.—Section 1927(b)(1) of the Social Security Act (42 U.S.C. 1396r-8(b)(1)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C), and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) NON-DUPLICATION OF MEDICARE REBATE.—Covered drugs furnished to an individual eligible for benefits under both part B of title XVIII and a State plan under this title shall not be included in the determination of units of covered outpatient drugs subject to rebate under this section.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to quarters beginning on or after January 1, 1996.

SEC. 2009. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to items and services furnished on or after January 1, 1996.

Subtitle B—Long-Term Care

PART 1—STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 2101. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for the home and community-based services to individuals with disabilities submitted to and approved by the Secretary under section 2102(b) is entitled to payment in accordance with section 2108.

(b) NO INDIVIDUAL ENTITLEMENT ESTABLISHED.—Nothing in this part shall be construed to create an entitlement in individuals or a requirement that a State with such an approved plan expend the entire amount of funds to which it is entitled in any year.

(c) STATE DEFINED.—In this subpart, the term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

SEC. 2102. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements (except to the extent provided in subsection (b)(2), relating to phase-in period):

(1) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State (and under section 2108) for such program, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 2103(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of individuals who appear to have some reasonable likelihood of being an individual with disabilities.

(C) RESTRICTIONS.—The plan may not limit the eligibility of individuals with disabilities based on—

(i) income,

(ii) age,

(iii) geography,

(iv) nature, severity, or category of disability,

(v) residential setting (other than an institutional setting), or

(vi) other grounds specified by the Secretary.

(D) MAINTENANCE OF EFFORT.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State medicaid plan as of the date of the enactment of this Act, the State will continue to make available (either under this plan, under the State medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(2) SERVICES.—

(A) SPECIFICATION.—Consistent with section 2104, the plan shall specify—

(i) the services made available under the State plan,

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities, and

(iii) the manner in which services under the State plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

Subject to section 2104(e)(1)(B), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(B) ALLOCATION.—The State plan—

(i) shall specify how it will allocate services under the plan, during and after the 7-fiscal-year phase-in period beginning with fiscal year 1996, among covered individuals with disabilities, and

(ii) may not allocate such services based on the income or other financial resources of such individuals.

(C) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements which the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(D) CONSUMER CHOICE.—To the extent possible, the choice of an individual with disabilities (and that individual's family) regarding which covered services to receive and the providers who will provide such services shall be followed.

(E) REQUIREMENT TO SERVE LOW-INCOME INDIVIDUALS.—The State plan shall assure that—

(i) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than

(ii) the proportion of the population of the State that represents individuals who are low-income individuals.

(3) COST SHARING.—The plan shall impose cost sharing with respect to covered services only in accordance with section 2105.

(4) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers, and

(B) any requirements for participation applicable to each type of service provider.

(5) BUDGET.—The plan shall specify how the State will manage Federal and State funds available under the plan during each 5-fiscal-year period (with the first such period beginning with fiscal year 1996) to serve all categories of individuals with disabilities

and meet the requirements of this subsection.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of the use of cash or vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax provisions.

(B) PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set payment rates for services furnished under the plan (including rates for cash payments or vouchers to individuals with disabilities).

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B)) and any cost sharing permitted or provided for under section 2105 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 2106.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 2107(b), and

(B) include the documentation prepared by the group under section 2107(b)(4)..

(9) ADMINISTRATION.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2003, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(C) COORDINATION.—The plan shall specify how the plan—

(i) will be integrated with the State medicaid plan, titles V and XX of the Social Security Act, programs under the Older Americans Act of 1965, programs under the Developmental Disabilities Assistance and Bill of Rights Act, the Individuals with Disabilities Education Act, and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities, and

(ii) will be coordinated with health plans.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subpart, including the processing of claims under the plan, and

(B) such data and information as the Secretary may require in order to carry out the Secretary's responsibilities.

(11) USE OF STATE FUNDS FOR MATCHING.—

(A) IN GENERAL.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subpart.

(B) INCORPORATION OF DISQUALIFICATION FOR CERTAIN PROVIDER-RELATED DONATIONS AND HEALTH RELATED TAXES.—The Secretary shall apply the provisions of section 1903(w) of the Social Security Act to plans and payment under this title in a manner similar to the manner in which such section applies to plans and payment under title XIX of such Act.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after consultation with individuals with disabilities and representatives of groups of such individuals, and

(2) meets the requirements of subsection (a).

(c) MONITORING.—The Secretary shall monitor the compliance of State plans with the eligibility requirements of section 2103 and may monitor the compliance of such plans with other requirements of this subpart.

(d) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subpart on a timely basis.

SEC. 2103. INDIVIDUALS WITH DISABILITIES DEFINED.

(a) IN GENERAL.—In this subpart, the term "individual with disabilities" means any individual within one or more of the following 4 categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (c)), and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 100 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living,

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies, or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) which create a need for supervision to prevent harm to self or others, and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 100 days.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) SEVERELY DISABLED CHILDREN.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition,

(B) but for receiving personal assistance services or any of the services described in section 2104(d)(1), would require institutionalization in a hospital, nursing facility, or intermediate care facility for the mentally retarded, and

(C) is expected to have such disability or condition and require such services over a period of at least 100 days.

(b) DETERMINATION.—

(1) IN GENERAL.—The determination of whether an individual is an individual with disabilities shall be made, by persons or entities specified under the State plan, using a uniform protocol consisting of an initial screening and assessment specified by the Secretary. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 2104(b) or for other purposes. The State shall establish a fair hearing process for appeals of such determinations.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 12 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ACTIVITY OF DAILY LIVING DEFINED.—In this subpart, the term "activity of daily living" means any of the following: eating, toileting, dressing, bathing, and transferring in and out of bed.

SEC. 2104. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subpart shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals), and

(B) any limits with respect to such services.

(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—The services shall be specified in a manner that permits sufficient flexibility for providers to meet the needs of individuals with disabilities in a cost effective manner. Subject to subsection (e)(1)(B), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if—

(A) a comprehensive assessment of the individual's need for home and community-based services (regardless of whether all needed services are available under the plan) has been made,

(B) an individualized plan of care based on such assessment is developed, and

(C) such services are provided consistent with such plan of care.

(2) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under paragraph (1)(B) for an individual with disabilities shall—

(A) be developed by qualified individuals (specified under the State plan),

(B) be developed and implemented in close consultation with the individual and the individual's family,

(C) be approved by the individual (or the individual's representative), and

(D) be reviewed and updated not less often than every 6 months.

(3) PLAN OF CARE.—The plan of care under paragraph (1)(B) shall—

(A) specify which services specified under the individual plan will be provided under the State plan under this subpart,

(B) identify (to the extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan, and

(C) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual.

The State shall make reasonable efforts to identify and arrange for services described in subparagraph (B). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(c) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (g)).

(d) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (e), services available under a State plan under this subpart shall include any (or all) of the following:

(A) Case management.

(B) Homemaker and chore assistance.

(C) Home modifications.

(D) Respite services.

(E) Assistive devices.

(F) Adult day services.

(G) Habilitation and rehabilitation.

(H) Supported employment.

(I) Home health services.

(J) Any other care or assistive services (approved by the Secretary) that the State determines will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State plan shall specify—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities, and

(B) how the types, and the amount, duration, and scope, of services specified meet the needs of individuals within each of the 4 categories of individuals with disabilities.

(e) EXCLUSIONS AND LIMITATIONS.—

(1) IN GENERAL.—A State plan may not provide for coverage of—

(A) room and board,

(B) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary,

(C) items and services to the extent coverage is provided for the individual under a health plan or the medicare program.

(2) TAKING INTO ACCOUNT INFORMAL CARE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disability, the availability of informal care.

(f) PAYMENT FOR SERVICES.—A State plan may provide for the use of—

(1) vouchers,

(2) cash payments directly to individuals with disabilities,

(3) capitation payments to health plans, and

(4) payment to providers,

to pay for covered services.

(g) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—In this section, the term "personal assistance services" means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, and cueing with activities of daily living, whether agency-administered or consumer-directed (as defined in paragraph (2)).

(2) CONSUMER-DIRECTED; AGENCY-ADMINISTERED.—In this part:

(A) The term "consumer-directed" means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the individual's option, trained) by the individual receiving the services.

(B) The term "agency-administered" means, with respect to such services, services that are not consumer-directed.

SEC. 2105. COST SHARING.

(a) NO OR NOMINAL COST SHARING FOR POOREST.—The State plan may not impose any cost sharing (other than nominal cost sharing) for individuals with income (as determined under subsection (c)) less than 150 percent of the poverty level (as defined in section 1902(25)) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(1) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 250 percent, of the poverty level applicable to a family of the size involved;

(2) at a rate of 25 percent for such individuals with income not less than 250 percent, and less than 400 percent, of the poverty level applicable to a family of the size involved; and

(3) at a rate of 40 percent for such individuals with income equal to at least 400 percent of the poverty level applicable to a family of the size involved.

(c) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such process shall be consistent with standards specified by the Secretary.

SEC. 2106. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(1) safeguarding the health and safety of individuals with disabilities,

(2) the minimum standards for agency providers and how such standards will be enforced,

(3) the minimum competency requirements for agency provider employees who provide direct services under this subpart and how the competency of such employees will be enforced,

(4) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services,

(5) participation in quality assurance activities, and

(6) specifying the role of the long-term care ombudsman (under the Older Americans Act of 1965) and the Protection and Advocacy Agency (under the Developmental Disabilities Assistance and Bill of Rights Act) in assuring quality of services and protecting the rights of individuals with disabilities.

(b) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards which restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan (including performance reviews under section 2602).

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities).

SEC. 2107. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this subpart.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies and a majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subpart.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies and a majority of its members shall be individuals with disabilities and their representatives.

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan,

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan,

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable,

(D) document any differences between the group's recommendations and the plan,

(E) document specifically the degree to which the plan is consumer-directed, and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 2108. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 2102(a)(9)(B) (relating to limitation on payment for administrative costs), the Secretary shall pay to each State with a plan approved under this subpart, for each quarter, from its allotment under section 2109(b), an amount equal to—

(1) the Federal matching percentage (as defined in subsection (b)) of amount demonstrated by State claims to have been expended during the quarter for home and community-based services under the plan for individuals with disabilities; plus

(2) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(3) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2003, 75 percent) of the amount expended during the

quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(4) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) Federal Matching Percentage.—

(1) In general.—In subsection (a), the term "Federal matching percentage" means, with respect to a State, the reference percentage specified in paragraph (2) increased by 28 percentage points, except that the Federal matching percentage shall in no case be less than 75 percent or more than 95 percent.

(2) Reference percentage.—

(A) In general.—The reference percentage specified in this paragraph is 100 percent less the State percentage specified in subparagraph (B), except that—

(i) the percentage under this paragraph shall in no case be less than 50 percent or more than 83 percent, and

(ii) the percentage for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 50 percent.

(B) State percentage.—The State percentage specified in this subparagraph is that percentage which bears the same ratio to 45 percent as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii.

(c) Payments on Estimates with Retrospective Adjustments.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid.

(d) Application of Rules Regarding Limitations on Provider-Related Donations and Health Care Related Taxes.—The provisions of section 1903(w) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 1903(a) of such Act .

SEC. 2109. TOTAL FEDERAL BUDGET; ALLOTMENTS TO STATES.

(a) Total Federal Budget.—

(1) Fiscal years 1996 through 2003.—For purposes of this subpart, the total Federal budget for State plans under this subpart for each of fiscal years 1996 through 2003 is the following:

(A) For fiscal year 1996, 4.5 billion.

(B) For fiscal year 1997, 7.8 billion.

(C) For fiscal year 1998, 11.0 billion.

(D) For fiscal year 1999, 14.7 billion.

(E) For fiscal year 2000, 18.7 billion. [$56 to 2000]

(F) For fiscal year 2001, 26.7 billion. [48-56 for out years]

(G) For fiscal year 2002, 35.5 billion.

(H) For fiscal year 2003, 38.3 billion.

(2) Subsequent fiscal years.—For purposes of this subpart, the total Federal budget for State plans under this subpart for each fiscal year after fiscal year 2003 is the total Federal budget under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the CPI for the fiscal year, and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI increase factor.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year, to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) Disabled population factor.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D).

[review:] (5) Additional funds due to medicaid offsets.—

(A) In general.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided under this title, that would have been paid for under the State medicaid plan but for the provision of similar services under the program under this title.

(B) Reports.—Each State with a program under this title shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A).

(C) Compliance.—The Secretary shall review such reports. The Secretary shall increase the total Federal budget for State plans under subsection (a)(1) by the amount of any reduction in Federal expenditures for medical assistance under the State medicaid plan for home and community based services.

(D) No duplicate payment.—No paymet may be made to a State under this section for any services to the extent that the State received payment for such services under section 1903(a) of the Social Security Act.

(b) Allotments to States.—

(1) In general.—The Secretary shall allot to each State for each fiscal year an amount that bears the same ratio to the total Federal budget for the fiscal year (specified under paragraph (1) or (2) of subsection (a)) as the State allotment factor (under paragraph (2) for the State for the fiscal year) bears to the sum of such factors for all States for that fiscal year.

(2) State allotment factor.—

(A) In general.—For each State for each fiscal year, the Secretary shall compute a State allotment factor equal to the sum of—

(i) the base allotment factor (specified in subparagraph (B)), and

(ii) the low income allotment factor (specified in subparagraph (C)),

for the State for the fiscal year.

(B) Base allotment factor.—The base allotment factor, specified in this subparagraph, for a State for a fiscal year is equal to the product of the following:

(i) Number of individuals with disabilities.—The number of individuals with disabilities in the State (determined under paragraph (3)) for the fiscal year.

(ii) 80 percent of the national per capita budget.—80 percent of the national average per capita budget amount (determined under paragraph (4)) for the fiscal year.

(iii) Wage adjustment factor.—The wage adjustment factor (determined under paragraph (5)) for the State for the fiscal year.

(iv) Federal matching rate.—The Federal matching rate (determined under section 2108(b)) for the fiscal year.

(C) Low income allotment factor.—The low income allotment factor, specified in this subparagraph, for a State for a fiscal year is equal to the product of the following:

(i) Number of individuals with disabilities.—The number of individuals with disabilities in the State (determined under paragraph (3)) for the fiscal year.

(ii) 10 percent of the national per capita budget.—10 percent of the national average per capita budget amount (determined under paragraph (4)) for the fiscal year.

(iii) Wage adjustment factor.—The wage adjustment factor (determined under paragraph (5)) for the State for the fiscal year.

(iv) Federal matching rate.—The Federal matching rate (determined under section 2108(b)) for the fiscal year.

(v) Low income index.—The low income index (determined under paragraph (6)) for the State for the preceding fiscal year.

(3) Number of individuals with disabilities.—The number of individuals with disabilities in a State for a fiscal year shall be determined as follows:

(A) Base.—The Secretary shall determine the number of individuals in the State by age, sex, and income category, based on the 1990 decennial census, adjusted (as appropriate) by the March 1994 current population survey.

(B) Disability prevalence level by population category.—The Secretary shall determine, for each such age, sex, and income category, the national average proportion of the population of such category that represents individuals with disabilities. The Secretary may conduct periodic surveys in order to determine such proportions.

(C) Base disabled population in a State.—The number of individuals with disabilities in a State in 1994 is equal to the sum of the products, for such each age, sex, and income category, of—

(i) the population of individuals in the State in the category (determined under subparagraph (A)), and

(ii) the national average proportion for such category (determined under subparagraph (B)).

(D) Update.—The Secretary shall determine the number of individuals with disabilities in a State in a fiscal year equal to the number determined under subparagraph (C) for the State increased (or decreased) by the percentage increase (or decrease) in the disabled population of the State as determined under the current population survey from 1994 to the year before the fiscal year involved.

(4) National per capita budget amount.—The national average per capita budget amount, for a fiscal year, is—

(A) the total Federal budget specified under subsection (a) for the fiscal year; divided by

(B) the sum, for the fiscal year, of the numbers of individuals with disabilities (determined under paragraph (3)) for all the States for the fiscal year.

(5) Wage adjustment factor.—The wage adjustment factor, for a State for a fiscal year, is equal to the ratio of—

(A) the average hourly wages for service workers (other than household or protective services) in the State, to

(B) the national average hourly wages for service workers (other than household or protective services).

The hourly wages shall be determined under this paragraph based on data from the most recent decennial census for which such data are available.

(6) LOW INCOME INDEX.—The low income index for each State for a fiscal year is the ratio, determined for the preceding fiscal year, of—

(A) the percentage of the State's population that has income below 150 percent of the poverty level, to

(B) the percentage of the population of the United States that has income below 150 percent of the poverty level.

Such percentages shall be based on data from the most recent decennial census for which such data are available, adjusted by data from the most recent current population survey as determined appropriate by the Secretary.

(c) STATE ENTITLEMENT.—This subpart constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in section 2109(a).

PART 2—MEDICAID NURSING HOME IMPROVEMENTS

SEC. 2201. REFERENCE TO AMENDMENTS.

For amendments to the medicaid program under title XIX of the Social Security Act to improvement nursing home benefits under such program, see part 2 of subtitle C of title IV.

PART 3—PRIVATE LONG-TERM CARE INSURANCE

Subpart A—General Provisions

SEC. 2301. FEDERAL REGULATIONS; PRIOR APPLICATION OR CERTAIN REQUIREMENTS.

(a) IN GENERAL.—The Secretary, with the advice and assistance of the Advisory Council, as appropriate, shall promulgate regulations as necessary to implement the provisions of this part, in accordance with the timetable specified in subsection (b).

(b) TIMETABLE FOR PUBLICATION OF REGULATIONS.—

(1) FEDERAL REGISTER NOTICE.—Within 120 days after the date a majority of the members are first appointed to the Advisory Council pursuant to section 2302, the Secretary shall publish in the Federal Register a notice setting forth the projected timetable for promulgation of regulations required under this part. Such timetable shall indicate which regulations are proposed to be published by the end of the first, second, and third years after appointment of the Advisory Council.

(2) FINAL DEADLINE.—All regulations required under this part shall be published by the end of the third year after appointment of the Advisory Council.

(c) PROVISIONS EFFECTIVE WITHOUT REGARD TO PROMULGATION OF REGULATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of this part, insurers shall be required, not later than 6 months after the enactment of this Act, regardless of whether final implementing regulations have been promulgated by the Secretary, to comply with the following provisions of this part:

(A) Section 2321(c) (standard outline of coverage);

(B) Section 2321(d) (reporting to State insurance commissioners);

(C) Section 2322(b) (preexisting condition exclusions);

(D) Section 2322(c) (limiting conditions on benefits);

(E) Section 2322(d) (inflation protection);

(F) Section 2324 (sales practices);

(G) Section 2325 (continuation, renewal, replacement, conversion, and cancellation of policies); and

(H) Section 2326 (payment of benefits).

(2) INTERIM REQUIREMENTS.—Before the effective date of applicable regulations promulgated by the Secretary implementing requirements of this part as specified below, such requirements will be considered to be met—

(A) in the case of section 2321(c) (requiring a standard outline of coverage), if the long-term care insurance policy meets the requirements of section 6.G.(2) of the NAIC Model Act and of section 24 of the NAIC Model Regulation;

(B) in the case of section 2321(d) (requiring reporting to the State insurance commissioner), if the insurer meets the requirements of section 14 of the NAIC Model Regulation;

(C) in the case of section 2322(c)(1) (general requirements concerning limiting conditions on benefits), if such policy meets the requirements of section 6.D. of the NAIC Model Act;

(D) in the case of section 2322(c)(2) (limiting conditions on home health care or community-based services) if such policy meets the requirements of section 11 of the NAIC Model Regulations;

(E) in the case of section 2322(d) (concerning inflation protection), if the insurer meets the requirements of section 12 of the NAIC Model Regulation;

(F) in the case of section 2324(b) (concerning applications for the purchase of insurance), if the insurer meets the requirements of section 10 of the NAIC Model Regulation;

(G) in the case of section 2324(d) (concerning compensation for the sale of policies), if the insurer meets the requirements of the optional regulation entitled "Permitted Compensation Arrangements" included in the NAIC Model Regulation;

(H) in the case of section 2324(g) (concerning sales through employers or membership organizations), if the insurer and the membership organization meet the requirements of section 21.C. of the NAIC Model Regulation;

(I) in the case of section 2324(h) (concerning interstate sales of group policies), if the insurer and the policy meet the requirements of section 5 of the NAIC Model Act; and

(J) in the case of section 2325(f) (concerning continuation, renewal, replacement, and conversion of policies), if the insurer and the policy meet the requirements of section 7 of the NAIC Model Regulation.

SEC. 2302. NATIONAL LONG-TERM CARE INSURANCE ADVISORY COUNCIL.

(a) APPOINTMENT.—The Secretary shall appoint an advisory board to be known as the National Long-Term Care Insurance Advisory Council.

(b) COMPOSITION.—

(1) NUMBER AND QUALIFICATIONS OF MEMBERS.—The Advisory Council shall consist of 5 members, each of whom has substantial expertise in matters relating to the provision and regulation of long-term care insurance. At least one member shall have experience as a State insurance commissioner or legislator with expertise in policy development with respect to, and regulation of, long-term care insurance.

(2) TERMS OF OFFICE.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, members shall be appointed for terms of office of 5 years.

(B) INITIAL MEMBERS.—Of the initial members of the Council, one shall be appointed for a term of 5 years, one for 4 years, one for 3 years, one for 2 years, and one for 1 year.

(C) TWO-TERM LIMIT.—No member shall be eligible to serve in excess of two consecutive terms, but may continue to serve until such member's successor is appointed.

(3) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term of such member's predecessor shall be appointed for the remainder of such term.

(4) REMOVAL.—No member may be removed during the member's term of office except for just and sufficient cause.

(c) CHAIRPERSON.—The Secretary shall appoint a Chairperson from among the members.

(d) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), members of the Advisory Council, while serving on business of the Advisory Council, shall be entitled to receive compensation at a rate not to exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) TRAVEL.—Except as provided in paragraph (3), members of the Advisory Council, while serving on business of the Advisory Council away from their homes or regular places of business, may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(3) RESTRICTION.—A member of the Advisory Council may not be compensated under this section if the member is receiving compensation or travel expenses from another source while serving on business of the Advisory Council.

(e) MEETINGS.—The Advisory Council shall meet not less often than 2 times a year at the direction of the Chairperson.

(f) STAFF AND SUPPORT.—

(1) IN GENERAL.—The Advisory Council shall have a salaried executive director appointed by the Chairperson, and staff appointed by the executive director with the approval of the Chairperson.

(2) FEDERAL ENTITIES.—The head of each Federal department and agency shall make available to the Advisory Council such information and other assistance as it may require to carry out its responsibilities.

(g) GENERAL RESPONSIBILITIES.—The Advisory Council shall—

(1) provide advice, recommendations, and assistance to the Secretary on matters relating to long-term care insurance as specified in this part and as otherwise required by the Secretary;

(2) collect, analyze, and disseminate information relating to long-term care insurance in order to increase the understanding of insurers, providers, consumers, and regulatory bodies of the issues relating to, and to facilitate improvements in, such insurance;

(3) develop for the Secretary's consideration proposed models, standards, requirements, and procedures relating to long-term care insurance, as appropriate, with respect to the content and format of insurance policies, agent and insurer practices concerning the sale and servicing of such policies, and regulatory activities; and

(4) monitor the development of the long-term care insurance market (including policies, marketing practices, pricing, eligibility and benefit preconditions, and claims payment procedures) and advise the Secretary concerning the need for regulatory changes.

(h) SPECIFIC MATTERS FOR CONSIDERATION.—The Advisory Council shall consider, and provide views and recommendations to the Secretary concerning, the following matters relating to long-term care insurance:

(1) UNIFORM TERMS, DEFINITIONS, AND FORMATS.—The Advisory Council shall develop and propose to the Secretary uniform terminology, definitions, and formats for use in long-term care insurance policies.

(2) STANDARD OUTLINE OF COVERAGE.—The Advisory Council shall develop and propose to the Secretary a standard format for use by all insurers offering long-term care policies for the outline of coverage required pursuant to section 2321(c).

(3) PREMIUMS.—

(A) CONSIDERATION OF FEDERAL REQUIREMENTS.—The Advisory Council shall consider, and make recommendations to the Secretary concerning—

(i) whether Federal standards should be established governing the amounts of and rates of increase in premiums in long-term care policies, and

(ii) if so, what factors should be taken into account (and whether such factors should include the age of the insured, actuarial information, cost of care, lapse rates, financial reserve requirements, insurer solvency, and tax treatment of premiums, and benefits.

(4) UPGRADES OF COVERAGE.—The Advisory Council shall consider, and make recommendations to the Secretary concerning, whether Federal standards are needed governing the terms and conditions insurers may place on insured individuals' eligibility to obtain improved coverage (including any restrictions considered advisable with respect to premium increases, agent commissions, medical underwriting, and age rating).

(5) THRESHOLD CONDITIONS FOR PAYMENT OF BENEFITS.—The Advisory Council shall—

(A) consider, and make recommendations to the Secretary concerning, the advisability of establishing standardized sets of threshold conditions (based on degrees of functional or cognitive impairment or on other conditions) for payment of covered benefits;

(B) to the extent found appropriate, recommend to the Secretary specific sets of threshold conditions to be used for such purpose;

(C) develop and propose to the Secretary, with respect to assessments of insured individuals' levels of need for purposes of receipt of covered benefits—

(i) professional qualification standards applicable to individuals making such determinations; and

(ii) uniform procedures and formats for use in performing and documenting such assessments.

(6) DISPUTE RESOLUTION.—The Advisory Council shall consider, and make recommendations to the Secretary concerning, procedures that insurers and States should be required to implement to afford insured individuals a reasonable opportunity to dispute denial of benefits under a long-term care insurance policy.

(7) SALES AND SERVICING OF POLICIES.—The Advisory Council shall consider, and make recommendations to the Secretary concerning—

(A) training and certification to be required of agents involved in selling or servicing long-term care insurance policies;

(B) appropriate limits on commissions or other compensation paid to agents for the sale or servicing of such policies;

(C) sales practices that should be prohibited or limited with respect to such policies (including any financial limits that should be applied concerning the individuals to whom such policies may be sold); and

(D) appropriate standards and requirements with respect to sales of such policies by or through employers and other entities, to employees, members, or affiliates of such entities.

(8) CONTINUING CARE RETIREMENT COMMUNITIES.—The Advisory Council shall consider, and make recommendations to the Secretary concerning, the extent to which the long-term care insurance aspects of continuing care retirement community arrangements should be subject to regulation under this part (and the Secretary, in consultation with the Secretary of the Treasury, shall consider such recommendations and promulgate appropriate regulations).

(i) ACTIVITIES.—In order to carry out its responsibilities under this part, the Advisory Council is authorized to—

(1) consult individuals and public and private entities with experience and expertise in matters relating to long-term care insurance (and shall consult the National Association of Insurance Commissioners);

(2) conduct meetings and hold hearings;

(3) conduct research (either directly or under grant or contract);

(4) collect, analyze, publish, and disseminate data and information (either directly or under grant or contract); and

(5) develop model formats and procedures for insurance policies and marketing materials; and develop proposed standards, rules, and procedures for regulatory programs.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for activities of the Advisory Council, $1,500,000 for fiscal year 1995, and $2,000,000 for each succeeding fiscal year.

SEC. 2303. RELATION TO STATE LAW.

Nothing in this part shall be construed as preventing a State from applying standards that provide greater protection to insured individuals under long-term care insurance policies than the standards promulgated under this part, except that such State standards may not be inconsistent with any of the requirements of this part or of regulations hereunder.

SEC. 2304. DEFINITIONS.

For purposes of this part:

(1) ACTIVITY OF DAILY LIVING.—The term "activity of daily living" means any of the following: eating, toileting, dressing, bathing, and transferring in and out of bed.

(2) ADULT DAY CARE.—The term "adult day care" means a program providing social and health-related services during the day to six or more adults with disabilities (or such smaller number as the Secretary may specify in regulations) in a community group setting outside the home.

(3) ADVISORY COUNCIL.—The term "Advisory Council" means the National Long-Term Care Insurance Advisory Council established pursuant to section 2302.

(4) CERTIFICATE.—The term "certificate" means a document issued to an individual as evidence of such individual's coverage under a group insurance policy.

(5) CONTINUING CARE RETIREMENT COMMUNITY.—The term "continuing care retirement community" means a residential community operated by a private entity that enters into contractual agreements with residents under which such entity guarantees, in consideration for residents' purchase of or periodic payment for membership in the community, to provide for such residents' future long-term care needs.

(6) DESIGNATED REPRESENTATIVE.—The term "designated representative" means the person designated by an insured individual (or, if such individual is incapacitated, pursuant to an appropriate administrative or judicial procedure) to communicate with the insurer on behalf of such individual in the event of such individual's incapacitation.

(7) HOME HEALTH CARE.—The term "home health care" means medical and nonmedical services including such services as homemaker services, assistance with activities of daily living, and respite care provided to individuals in their residences.

(8) INSURED INDIVIDUAL.—The term "insured individual" means, with respect to a long-term care insurance policy, any individual who has coverage of benefits under such policy.

(9) INSURER.—The term "insurer" means any person that offers or sells an individual or group long-term care insurance policy under which such person is at risk for all or part of the cost of benefits under the policy, and includes any agent of such person.

(10) LONG-TERM CARE INSURANCE POLICY.—The term "long-term care insurance policy" has the meaning given that term in section 4 of the NAIC Model Act, except that the last sentence of such section shall not apply.

(11) NAIC MODEL ACT.—The term "NAIC Model Act" means the Long-Term Care Insurance Model Act published by the NAIC, as amended through January 1993.

(12) NAIC model regulation.—The term "NAIC Model Regulation" means the Long-Term Care Insurance Model Regulation published by the NAIC, as amended through January 1993.

(13) NURSING FACILITY.—The term "nursing facility" means a facility licensed by the State to provide to residents—

(A) skilled nursing care and related services for residents who require medical or nursing care;

(B) rehabilitation services for the rehabilitation of injured, disabled, or sick individuals, or

(C) on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities.

(14) POLICYHOLDER.—The term "policyholder" means the entity which is the holder of record of a group long-term care insurance policy.

(15) RESIDENTIAL CARE FACILITY.—The term "residential care facility" means a facility (including a nursing facility) that—

(A) provides to residents medical or personal care services (including at a minimum assistance with activities of daily living) in a setting other than an individual or single-family home, and

(B) does not provide services of a higher level than can be provided by a nursing facility.

(16) RESPITE CARE.—The term "respite care" means the temporary provision of care (including assistance with activities of daily living) to an individual, in the individual's home or another setting in the community, for the purpose of affording such individual's unpaid caregiver a respite from the responsibilities of such care.

(17) STATE INSURANCE COMMISSIONER.—The term "State insurance commissioner" means the State official bearing such title, or, in the case of a jurisdiction where such title is not used, the State official with primary responsibility for the regulation of insurance.

Subpart B—Federal Standards and Requirements

SEC. 2321. REQUIREMENTS TO FACILITATE UNDERSTANDING AND COMPARISON OF BENEFITS.

(a) In General.—The Secretary, after considering (where appropriate) recommendations of the Advisory Council, shall promulgate regulations designed to standardize formats and terminology used in long-term care insurance policies, to require insurers to provide to customers and beneficiaries information on the range of public and private long-term care coverage available, and to establish such other requirements as may be appropriate to promote consumer understanding and facilitate comparison of benefits, which shall include at a minimum the requirements specified in this section.

(b) Uniform Terms, Definitions, and Formats.—Insurers shall be required to use, in long-term care insurance policies, uniform terminology, definitions of terms, and formats, in accordance with regulations promulgated by the Secretary, after considering recommendations of the Advisory Council.

(c) Standard Outline of Coverage.—

(1) In general.—Insurers shall be required to develop for each long-term care insurance policy offered or sold, to include as a part of each such policy, and to make available to each potential purchaser and furnish to each insured individual and policyholder, an outline of coverage under such policy that—

(A) includes the elements specified in paragraph (2),

(B) is in a uniform format (as prescribed by Secretary on the basis of recommendations by the Advisory Council),

(C) accurately and clearly reflects the contents of the policy, and

(D) is updated periodically on such timetable as may be required by the Secretary (or more frequently as necessary to reflect significant changes in outlined information).

(2) Contents of outline.—The outline of coverage for each long-term care insurance policy shall include at least the following:

(A) Benefits.—A description of—

(i) the principal benefits covered, including the extent of—

(I) benefits for services furnished in residential care facilities, and

(II) other benefits,

(ii) the principal exclusions from and limitations on coverage,

(iii) the terms and conditions, if any, upon which the insured individual may obtain upgraded benefits, and

(iv) the threshold conditions for entitlement to receive benefits.

(B) Continuation, renewal, and conversion.—A statement of the terms under which a policy may be—

(i) returned (and premium refunded) during an initial examination period,

(ii) continued in force or renewed,

(iii) converted to an individual policy (in the case of coverage under a group policy),

(C) Cancellation.—A statement of the circumstances in which a policy may be terminated, and the refund or nonforfeitures benefits (if any) applicable in each such circumstance, including—

(i) death of the insured individual,

(ii) nonpayment of premiums,

(iii) election by the insured individual not to renew,

(iv) any other circumstance.

(D) Premium.—A statement of—

(i) the total annual premium, and the portion of such premium attributable to each covered benefit,

(ii) any reservation by the insurer of a right to change premiums,

(iii) any limit on annual premium increases,

(iv) any expected premium increases associated with automatic or optional benefit increases (including inflation protection), and

(v) any circumstances under which payment of premium is waived.

(E) Declaration concerning summary.—A statement, in bold face type on the face of the document in language understandable to the average individual, that the outline of coverage is a summary only, not a contract of insurance, and that the policy contains the contractual provisions that govern.

(F) Cost/value comparison.—

(i) Information on average costs (and variation in such costs) for nursing facility care (and such other care as the Secretary may specify) and information on the value of benefits relative to such costs.

(ii) A comparison of benefits, over a period of at least 20 years, for policies with and without inflation protection.

(iii) A declaration as to whether the amount of benefits will increase over time, and, if so, a statement of the type and amount of, any limitations on, and any premium increases for, such benefit increases.

(G) Tax treatment.—A statement of the Federal income tax treatment of premiums and benefits under the policy, as determined by the Secretary of the Treasury.

(H) Other.—Such other information as the Secretary may require.

(d) Reporting to State Insurance Commissioner.—Each insurer shall be required to report at least annually, to the State insurance commissioner of each State in which any long-term care insurance policy of the insurer is sold, such information, in such format, as the Secretary may specify with respect to each such policy, including—

(1) the standard outline of coverage required pursuant to subsection (c);

(2) lapse rates and replacement rates for such policies;

(3) the ratio of premiums collected to benefits paid;

(4) reserves;

(5) written materials used in sale or promotion of such policy; and

(6) any other information the Secretary may require.

(e) Comparison of Long-Term Care Coverage Alternatives.—Each insurer shall be required to furnish to each individual before a long-term care insurance policy of the insurer is sold to the individual information on the conditions of eligibility for, and benefits under, each of the following:

(1) Policies offered by the insurer.—The standard outline of coverage, and such other information as the Secretary may specify, with respect to each long-term care insurance policy offered by the insurer.

(2) Comparison to other available private insurance.—Information, in such format as may be required under this part, on—

(A) benefits offered under long-term care insurance policies of the insurer (and the threshold conditions for receipt by an insured individual of each such benefit); and

(B) additional benefits available under policies offered by other private insurers (to the extent such information is made available by the State insurance commissioner).

(3) Public programs; regional alliances.—Information furnished to the insurer, pursuant to section 2342(b)(2), by the State in which such individual resides, on conditions of eligibility for, and long-term care benefits (or the lack of such benefits) under—

(A) each public long-term care program administered by the State,

(B) the Medicare programs under title XVIII of the Social Security Act; and

(C) each regional alliance operating in the State.

SEC. 2322. REQUIREMENTS RELATING TO COVERAGE.

(a) In General.—The Secretary, after considering (where appropriate) recommendations of the Advisory Council, shall promulgate regulations establishing requirements with respect to the terms of and benefits under long-term care insurance policies, which shall include at a minimum the requirements specified in this section.

(b) Limitations on Preexisting Condition Exclusions.—

(1) Initial policies.—A long-term care insurance policy may not exclude or limit coverage for any service or benefit, the need for which is the result of a medical condition or disability because an insured individual received medical treatment for, or was diagnosed as having, such condition before the issuance of the policy, unless—

(A) the insurer, prior to issuance of the policy, determines and documents (with evidence including written evidence that such condition has been treated or diagnosed by a qualified health care professional) that the insured individual had such condition during the 6-month period (or such longer period as the Secretary may specify) ending on the effective date of the policy; and

(B) the need or such service or benefit begins within 6 months (or such longer period as the Secretary may specify) following the effective date of the policy.

(2) Replacement policies.—Solely for purposes of the requirements of paragraph (1), with respect to an insured individual, the effective date of a long-term care insurance policy issued to replace a previous policy, with respect to benefits which are the same as or substantially equivalent to benefits under such previous policy, shall be considered to be the effective date of such previous policy with respect to such individual.

(c) Limiting Conditions on Benefits.—

(1) In general.—A long-term care insurance policy may not—

(A) condition eligibility for benefits for a type of service on the need for or receipt of any other type of service (such as prior hospitalization or institutionalization, or a higher level of care than the care for which benefits are covered);

(B) condition eligibility for any benefit (where the need for such benefit has been established by an independent assessment of impairment) on any particular medical diagnosis (including any acute condition) or on one of a group of diagnoses;

(C) condition eligibility for benefits furnished by licensed or certified providers on compliance by such providers with conditions not required under Federal or State law; or

(D) condition coverage of any service on provision of such service by a provider, or in a setting, providing a higher level of care than that required by an insured individual.

(2) Home care or community-based services.—A long-term care insurance policy that provides benefits for any home care or community-based services provided in a setting other than a residential care facility—

(A) may not limit such benefits to services provided by registered nurses or licensed practical nurses;

(B) may not limit such benefits to services furnished by persons or entities participating in programs under titles XVIII and XIX of the Social Security Act and in part 1 of this subtitle; and

(C) must provide, at a minimum, benefits for personal assistance with activities of daily living, home health care, adult day care, and respite care.

(3) Nursing facility services.—A long-term care insurance policy that provides benefits for any nursing facility services—

(A) must provide benefits for such services provided by all types of nursing facilities licensed by the State, and

(B) may provide benefits for care in other residential facilities.

(4) Prohibition on discrimination by diagnosis.—A long-term care insurance policy may not provide for treatment of—

(A) Alzheimer's disease or any other progressive degenerative dementia of an organic origin,

(B) any organic or inorganic mental illness,

(C) mental retardation or any other cognitive or mental impairment, or

(D) HIV infection or AIDS,

different from the treatment of any other medical condition for purposes of determining whether threshold conditions for the receipt of benefits have been met, or the amount of benefits under the policy.

(d) Inflation Protection.—

(1) Requirement to offer.—An insurer offering for sale any long-term care insurance policy shall be required to afford the purchaser the option to obtain coverage under such policy (upon payment of increased premiums) of annual increases in benefits at rates in accordance with paragraph (2).

(2) Rate increase in benefits.—For purposes of paragraph (1), the benefits under a policy for each year shall be increased by a percentage of the full value of benefits under the policy for the previous year, which shall be not less than 5 percent of such value (or such other rate of increase as may be determined by the Secretary to be adequate to offset increases in the costs of long-term care services for which coverage is provided under the policy).

(3) Requirement of written rejection.—Inflation protection in accordance with paragraph (1) may be excluded from the coverage under a policy only if the insured individual (or, if different, the person responsible for payment of premiums has rejected in writing the option to obtain such coverage.

SEC. 2323. REQUIREMENTS RELATING TO PREMIUMS.

(a) In General.—The Secretary, after considering (where appropriate) recommendations of the Advisory Council, shall promulgate regulations establishing requirements applicable to premiums for long-term care insurance policies, which shall include at a minimum the requirements specified in this section.

(b) Limitations on Rates and Increases.—The Secretary, after considering recommendations of the Advisory Council, may establish by regulation such standards and requirements as may be determined appropriate with respect to—

(1) mandatory or optional State procedures for review and approval of premium rates and rate increases or decreases;

(2) limitations on the amount of initial premiums, or on the rate or amount of premium increases;

(3) the factors to be taken into consideration by an insurer in proposing, and by a State in approving or disapproving, premium rates and increases; and

(4) the extent to which consumers should be entitled to participate or be represented in the rate-setting process and to have access to actuarial and other information relied on in setting rates.

SEC. 2324. REQUIREMENTS RELATING TO SALES PRACTICES.

(a) In General.—The Secretary, after considering (where appropriate) recommendations of the Advisory Council, shall promulgate regulations establishing requirements applicable to the sale or offering for sale of long-term care insurance policies, which shall include at a minimum the requirements specified in this section.

(b) Applications.—Any insurer that offers any long-term care insurance policy (including any group policy) shall be required to meet such requirements with respect to the content, format, and use of application forms for long-term care insurance as the Secretary may require by regulation.

(c) Agent Training and Certification.—An insurer may not sell or offer for sale a long-term care insurance policy through an agent who does not comply with minimum standards with respect to training and certification established by the Secretary after consideration of recommendations by the Advisory Council.

(d) Compensation for Sale of Policies.—Compensation by an insurer to an agent or agents for the sale of an original long-term care insurance policy, or for servicing or renewing such a policy, may not exceed amounts (or percentage shares of premiums or other reference amounts) specified by the Secretary in regulations, after considering recommendations of the Advisory Council.

(e) Prohibited Sales Practices.—The following practices by insurers shall be prohibited with respect to the sale or offer for sale of long-term care insurance policies:

(1) False and misleading representations.—Making any statement or representation—

(A) which the insurer knows or should know is false or misleading (including the inaccurate, incomplete, or misleading comparison of long-term care insurance policies or insurers), and

(B) which is intended, or would be likely, to induce any person to purchase, retain, terminate, forfeit, permit to lapse, pledge, assign, borrow against, convert, or effect a change with respect to, any long-term care insurance policy.

(2) Inaccurate completion of medical history.—Making or causing to be made (by any means including failure to inquire about or to record information relating to preexisting conditions) statements or omissions, in records detailing the medical history of an applicant for insurance, which the insurer knows or should know render such records false, incomplete, or misleading in any way material to such applicant's eligibility for or coverage under a long-term care insurance policy.

(3) Undue pressure.—Employing force, fright, threat, or other undue pressure, whether explicit or implicit, which is intended, or would be likely, to induce the purchase of a long-term care insurance policy.

(4) Cold lead advertising.—Using, directly or indirectly, any method of contacting consumers (including any method designed to induce consumers to contact the insurer or agent) for the purpose of inducing the purchase of long-term care insurance (regardless of whether such purpose is the sole or primary purpose of the contact) without conspicuously disclosing such purpose.

(f) Prohibition on Sale of Duplicate Benefits.—An insurer or agent may not sell or issue to an individual a long-term care insurance policy that the insurer or agent knows or should know provides for coverage that duplicates coverage already provided in another long-term care insurance policy held by such individual (unless the policy is intended to replace such other policy).

(g) Sales Through Employers or Membership Organizations.—

(1) Requirements concerning such arrangements.—In any case where an employer, organization, association, or other entity (referred to as a "membership entity") endorses a long-term care insurance policy to, or such policy is marketed or sold through such membership entity to, employees, members, or other individuals affiliated with such membership entity—

(A) the insurer offering such policy shall not permit its marketing or sale through such entity unless the requirements of this subsection are met; and

(B) a membership entity that receives any compensation for such sale, marketing, or endorsement of such policy shall be considered the agent of the insurer for purposes of this part.

(2) Disclosure and information requirements.—A membership entity that endorses a long-term care insurance policy, or through which such policy is sold, to individuals affiliated with such entity, shall—

(A) disclose prominently, in a form and manner designed to ensure that each such individual who receives information concerning any such policy through such entity is aware of and understands such disclosure—

(i) the manner in which the insurer and policy were selected;

(ii) the extent (if any) to which a person independent of the insurer with expertise in long-term care insurance analyzed the advantages and disadvantages of such policy from the standpoint of such individuals (including such matters as the merits of the policy compared to other available benefit packages, and the financial stability of the insurer), and the results of any such analysis;

(iii) any organizational or financial ties between the entity (or a related entity) and the insurer (or a related entity);

(iv) the nature of compensation arrangements (if any) and the amount of compensation (including all fees, commissions, and other forms of financial support) for the endorsement or sale of such policy; and

(B) make available to such individuals, either directly or through referrals, appropriate counseling to assist such individuals to make educated and informed decisions concerning the purchase of such policies.

SEC. 2325. CONTINUATION, RENEWAL, REPLACEMENT, CONVERSION, AND CANCELLATION OF POLICIES.

(a) In General.—The Secretary, after considering (where appropriate) recommendations of the Advisory Council, shall promulgate regulations establishing requirements applicable to the renewal, replacement, conversion, and cancellation of long-term care insurance policies, which shall include at a minimum the requirements specified in this section.

(b) Insured's Right to Cancel During Examination Period.—Each individual insured (or, if different, each individual liable for payment of premiums) under a long-term care insurance policy shall have the unconditional right to return the policy within 30 days after the date of its issuance and delivery, and to obtain a full refund of any premium paid.

(c) Insurer's Right to Cancel (or Deny Benefits) Based on Fraud or Nondisclosure.—An insurer shall have the right to cancel a long-term care insurance policy, or to refuse to pay a claim for benefits, based on evidence that the insured falsely represented or failed to disclose information material to the determination of eligibility to purchase such insurance, but only if—

(1) the insurer presents written documentation, developed at the time the insured applied for such insurance, of the insurer's request for the information thus withheld or misrepresented, and the insured individual's response to such request;

(2) the insurer presents medical records or other evidence showing that the insured individual knew or should have known that such response was false, incomplete, or misleading;

(3) notice of cancellation is furnished to the insured individual before the date 3 years after the effective date of the policy (or such earlier date as the Secretary may specify in regulations); and

(4) the insured individual is afforded the opportunity to review and refute the evidence presented by the insurer pursuant to paragraphs (1) and (2).

(d) Insurer's Right to Cancel for Nonpayment of Premiums.—

(1) In general.—Insurers shall have the right to cancel long-term care insurance policies for nonpayment of premiums, subject to the provisions of this subsection and subsection (e) (relating to nonforfeiture).

(2) Notice and acknowledgement.—

(A) In general.—The insurer may not cancel coverage of an insured individual until—

(i) the insurer, not earlier than the date when such payment is 30 days past due, has given written notice to the insured individual (by registered letter or the equivalent) of such intent, and

(ii) 30 days have elapsed since the insurer obtained written acknowledgment of receipt of such notice from the insured individual (or the designated representative, at the insured individual's option or in the case of an insured individual determined to be incapacitated in accordance with paragraph (4)).

(B) Additional Requirement for Group Policies.—In the case of a group long-term care insurance policy, the notice and acknowledgement requirements of subparagraph (A) apply with respect to the policyholder and to each insured individual.

(3) Reinstatement of coverage of incapacitated individuals.—In any case where the coverage of an individual under a long-term care insurance policy has been canceled pursuant to paragraph (2), the insurer shall be required to reinstate full coverage of such individual under such policy, retroactive to the effective date of cancellation, if the insurer receives from such individual (or the designated representative of such individual), within 5 months after such date—

(A) evidence of a determination of such individual's incapacitation in accordance with paragraph (4) (whether made before or after such date), and

(B) payment of all premiums due and past due, and all charges for late payment.

(4) Determination of incapacitation.—For purposes of this subsection, the term "determination of incapacitation" means a determination by a qualified health professional (in accordance with such requirements as the Secretary may specify), that an insured individual has suffered a cognitive impairment or loss of functional capacity which could reasonably be expected to render the individual permanently or temporarily unable to deal with business or financial matters. The standard used to make such determination shall not be more stringent than the threshold conditions for the receipt of covered benefits.

(5) Designation of representative.—The insurer shall be required—

(A) to require the insured individual, at the time of sale or issuance of a long-term care insurance policy—

(i) to designate a representative for purposes of communication with the insurer concerning premium payments in the event the insured individual cannot be located or is incapacitated, or

(ii) to complete a signed and dated statement declining to designate a representative, and

(B) to obtain from the insured individual, at the time of each premium payment (but in no event less often than once in each 12-month period) reconfirmation or revision of such designation or declination.

(e) Nonforfeiture.—

(1) In general.—The Secretary, after consideration of recommendations by the Advisory Council, shall by regulation require appropriate nonforfeiture benefits with respect to each long-term care insurance policy that lapses for any reason (including nonpayment of premiums, cancellation, or failure to renew, but excluding lapses due to death) after remaining in effect beyond a specified minimum period.

(2) Nonforfeiture benefits.—The standards established under this subsection shall require that the amount or percentage of nonforfeiture benefits shall increase proportionally with the amount of premiums paid by a policyholder.

(f) Continuation, Renewal, Replacement, and Conversion of Policies.—

(1) In general.—Insurers shall not be permitted to cancel, or refuse to renew (or replace with a substantial equivalent), any long-term care insurance policy for any reason other than for fraud or material misrepresentation (as provided in subsection (c)) or for nonpayment of premium (as provided in subsection (d)).

(2) Duration and renewal of policies.—Each long-term care insurance policy shall contain a provision that clearly states—

(A) the duration of the policy,

(B) the right of the insured individual (or policyholder) to renewal (or to replacement with a substantial equivalent),

(C) the date by which, and the manner in which, the option to renew must be exercised, and

(D) any applicable restrictions or limitations (which may not be inconsistent with the requirements of this part).

(3) Replacement of policies.—

(A) In general.—Except as provided in subparagraph (B), an insurer shall not be permitted to sell any long-term care insurance policy as a replacement for another such policy unless coverage under such replacement policy is available to an individual insured for benefits covered under the previous policy to the same extent as under such previous policy (including every individual insured under a group policy) on the date of termination of such previous policy, without exclusions or limitations that did not apply under such previous policy.

(B) Insured's option to reduce coverage.—In any case where an insured individual covered under a long-term care insurance policy knowingly and voluntarily elects to substitute for such policy a policy that provides less coverage, substitute policy shall be considered a replacement policy for purposes of this part.

(3) Continuation and conversion rights with respect to group policies.—

(A) In general.—Insurers shall be required to include in each group long-term care insurance policy, a provision affording to each insured individual, when such policy would otherwise terminate, the opportunity (at the insurer's option, subject to approval of the State insurance commissioner) either to continue or to convert coverage under such policy in accordance with this paragraph.

(B) Rights of related individuals.—In the case of any insured individual whose eligibility for coverage under a group policy is based on relationship to another individual, the insurer shall be required to continue such coverage upon termination of the relationship due to divorce or death.

(C) Continuation of coverage.—A group policy shall be considered to meet the requirements of this paragraph with respect to rights of an insured individual to continuation of coverage if coverage of the same (or substantially equivalent) benefits for such individual under such policy is maintained, subject only to timely payment of premiums.

(D) Conversion of coverage.—A group policy shall be considered to meet the requirements of this paragraph with respect to conversion if it entitles each individual who has been continuously covered under the policy for at least 6 months before the date of the termination to issuance of a replacement policy providing benefits identical to, substantially equivalent to, or in excess of, the benefits under such terminated group policy—

(i) without requiring evidence of insurability with respect to benefits covered under such previous policy, and

(ii) at premium rates no higher than would apply if the insured individual had initially obtained coverage under such replacement policy on the date such insured individual initially obtained coverage under such group policy.

(4) Treatment of substantial equivalence.—

(A) Under secretary's guidelines.—The Secretary, after considering recommendations by the Advisory Council, shall develop guidelines for comparing long-term care insurance policies for the purpose of determining whether benefits under such policies are substantially equivalent.

(B) Before effective date of secretary's guidelines.—During the period prior to the effective date of guidelines published by the Secretary under this paragraph, insurers shall comply with standards for determinations of substantial equivalence established by State insurance commissioners.

(5) Additional requirements.—Insurers shall comply with such other requirements relating to continuation, renewal, replacement, and conversion of long-term care insurance policies as the Secretary may establish.

SEC. 2326. REQUIREMENTS RELATING TO PAYMENT OF BENEFITS.

(a) In General.—The Secretary, after considering (where appropriate) recommendations of the Advisory Council, shall promulgate regulations establishing requirements with respect to claims for and payment of benefits under long-term care insurance policies, which shall include at a minimum the requirements specified in this section.

(b) Standards Relating to Threshold Conditions for Receipt of Covered Benefits.—Each long-term care insurance policy shall meet the following requirements with respect to identification of, and determination of whether an insured individual meets, the threshold conditions for receipt of benefits covered under such policy:

(1) Declaration of threshold conditions.—

(A) In general.—The policy shall specify the level (or levels) of functional or cognitive mental impairment (or combination of impairments) required as a threshold condition of entitlement to receive benefits under the policy (which threshold condition or conditions shall be consistent with any regulations promulgated by the Secretary pursuant to subsection (B)).

(B) SECRETARIAL RESPONSIBILITY.—The Secretary (after considering the views of the Advisory Council on current practices of insurers concerning, and the appropriateness of standardizing, threshold conditions) may promulgate such regulations as the Secretary finds appropriate establishing standardized thresholds to be used under such policies as preconditions for varying levels of benefits.

(2) INDEPENDENT PROFESSIONAL ASSESSMENT.—The policy shall provide for a procedure for determining whether the threshold conditions specified under paragraph (1) have been met with respect to an insured individual which—

(A) applies such uniform assessment standards, procedures, and formats as the Secretary may specify, after consideration of recommendations by the Advisory Council;

(B) permits an initial evaluation (or, if the initial evaluation was performed by a qualified independent assessor selected by the insurer, a reevaluation) to be made by a qualified independent assessor selected by the insured individual (or designated representative) as to whether the threshold conditions for receipt of benefits have been met;

(C) permits the insurer the option to obtain a reevaluation by a qualified independent assessor selected and reimbursed by the insurer;

(D) provides that the insurer will consider that the threshold conditions have been met in any case where—

(i) the assessment under subparagraph (B) concluded that such conditions had been met, and the insurer declined the option under subparagraph (C), or

(ii) assessments under both subparagraphs (B) and (C) concluded that such conditions had been met; and

(E) provides for final resolution of the question by a State agency or other impartial third party in any case where assessments under subparagraphs (B) and (C) reach inconsistent conclusions.

(3) QUALIFIED INDEPENDENT ASSESSOR.—For purposes of paragraph (2), the term "qualified independent assessor" means a licensed or certified professional, as appropriate, who—

(A) meets such standards with respect to professional qualifications as may be established by the Secretary, after consulting with the Secretary of the Treasury, and

(B) has no significant or controlling financial interest in, is not an employee of, and does not derive more than 5 percent of gross income from, the insurer (or any provider of services for which benefits are available under the policy and in which the insurer has a significant or controlling financial interest).

(c) REQUIREMENTS RELATING TO CLAIMS FOR BENEFITS.—Insurers shall be required—

(1) to promptly pay or deny claims for benefits submitted by (or on behalf of) insured individuals who have been determined pursuant to subsection (b) to meet the threshold conditions for payment of benefits;

(2) to provide an explanation in writing of the reasons for payment, partial payment, or denial of each such claim; and

(3) to provide an administrative procedure under which an insured individual may appeal the denial of any claim.

Subpart C—Enforcement

SEC. 2342. STATE PROGRAMS FOR ENFORCEMENT OF STANDARDS.

(a) REQUIREMENT FOR STATE PROGRAMS IMPLEMENTING FEDERAL STANDARDS.—In order for a State to be eligible for grants under this subpart, the State must have in effect a program (including such laws and procedures as may be necessary) for the regulation of long-term care insurance which the Secretary has determined—

(1) includes the elements required under this subpart, and

(2) is designed to ensure the compliance of long-term care insurance policies sold in the State, and insurers offering such policies and their agents, with the requirements established pursuant to subpart B.

(b) ACTIVITIES UNDER STATE PROGRAM.—A State program approved under this subpart shall provide for the following procedures and activities:

(1) MONITORING OF INSURERS AND POLICIES.—Procedures for ongoing monitoring of the compliance of insurers doing business in the State, and of long-term care insurance policies sold in the State, with requirements under this part, including at least the following:

(A) POLICY REVIEW AND CERTIFICATION.—A program for review and certification (and annual recertification) of each such policy sold in the State.

(B) REPORTING BY INSURERS.—Requirements of annual reporting by insurers selling or servicing long-term care insurance policies in the State, in such form and containing such information as the State may require to determine whether the insurer (and policies) are in compliance with requirements under this part.

(C) DATA COLLECTION.—Procedures for collection, from insurers, service providers, insured individuals, and others, of information required by the State for purposes of carrying out its responsibilities under this part (including authority to compel compliance of insurers with requests for such information).

(D) MARKETING OVERSIGHT.—Procedures for monitoring (through sampling or other appropriate procedures) the sales practices of insurers and agents, including review of marketing literature.

(E) OVERSIGHT OF ADMINISTRATION OF BENEFITS.—Procedures for monitoring (through sampling or other appropriate procedures) insurers' administration of benefits, including monitoring of—

(i) determinations of insured individuals' eligibility to receive benefits, and

(ii) disposition of claims for payment.

(2) INFORMATION TO INSURERS.—Procedures for furnishing, to insurers selling or servicing any long-term care insurance policies in the State, information on conditions of eligibility for, and benefits under, each public long-term care program administered by the State, in order to enable them to comply with the requirement under section 2321(e)(3).

(3) CONSUMER COMPLAINTS AND DISPUTE RESOLUTION.—Administrative procedures for the investigation and resolution of complaints by consumers, and disputes between consumers and insurers, with respect to long-term care insurance, including—

(A) procedures for the filing, investigation, and adjudication of consumer complaints with respect to the compliance of insurers and policies with requirements under this part, or other requirements under State law; and

(B) procedures for resolution of disputes between insured individuals and insurers concerning eligibility for, or the amount of, benefits payable under such policies, and other issues with respect to the rights and responsibilities of insurers and insured individuals under such policies.

(4) TECHNICAL ASSISTANCE TO INSURERS.—Provision of technical assistance to insurers to help them to understand and comply with the requirements of this part, and other State laws, concerning long-term care insurance policies and business practices.

(c) STATE ENFORCEMENT AUTHORITIES.—A State program meeting the requirements of this subpart shall ensure that the State insurance commissioner (or other appropriate official or agency) has the following authority with respect to long-term care insurers and policies:

(1) PROHIBITION OF SALE.—Authority to prohibit the sale, or offering for sale, of any long-term care insurance policy that fails to comply with all applicable requirements under this part.

(2) PLANS OF CORRECTION.—Authority, in cases where the business practices of an insurer are determined not to comply with requirements under this part, to require the insurer to develop, submit for State approval, and implement a plan of correction which must be fulfilled within the shortest period possible (not to exceed a year) as a condition of continuing to do business in the State.

(3) CORRECTIVE ACTION ORDERS.—Authority, in cases where an insurer is determined to have failed to comply with requirements of this part, or with the terms of a policy, with respect to a consumer or insured individual, to direct the insurer (subject to appropriate due process) to eliminate such noncompliance within 30 days.

(4) CIVIL MONEY PENALTIES.—Authority to assess civil money penalties, in amounts for each violative act up to the greater of $10,000 or three times the amount of any commission involved—

(A) for violations of subsections (d) (concerning compensation or sale of policies), (e) (concerning prohibited sales practices), and (f) (prohibition on sale of duplicate benefits) of section 2324,

(B) for such other violative acts as the Secretary may specify in regulations, and

(C) in such other cases as the State finds appropriate.

(5) OTHER AUTHORITIES.—Such other authorities as the State finds necessary or appropriate to enforce requirements under this part.

(d) RECORDS, REPORTS, AND AUDITS.—As a condition of approval of its program under this part, a State must agree to maintain such records, make such reports (including expenditure reports), and cooperate with such audits, as the Secretary finds necessary to determine the compliance of such State program (and insurers and policies regulated under such program) with the requirements of this part.

(e) SECRETARIAL RESPONSIBILITIES.—

(1) APPROVAL OF STATE PROGRAMS.—The Secretary shall approve a State program meeting the requirements of this part.

(2) INFORMATION ON MEDICARE BENEFITS.—The Secretary shall furnish, to the official in each State with chief responsibility for the regulation of long-term care insurance, a description of the Medicare programs under title XVIII of the Social Security Act which makes clear the unavailability of long-term benefits under such programs, for distribution by such State official to insurers selling long-term care insurance in the State, in accordance with subsection (b)(2).

SEC. 2342. AUTHORIZATION OF APPROPRIATIONS FOR STATE PROGRAMS.

There are authorized to be appropriated $10,000,000 for fiscal year 1996, $10,000,000 for fiscal year 1997, $7,500,000 for fiscal year 1998, and $5,000,000 for fiscal year 1999 and each succeeding fiscal year, for grants to States with programs meeting the requirements of this part, to remain available until expended.

SEC. 2343. ALLOTMENTS TO STATES.

The allotment for any fiscal year to a State with a program approved under this part shall be an amount determined by the Secretary, taking into account the numbers of long-term care insurance policies sold, and of elderly individuals residing, in the State, and such other factors as the Secretary finds appropriate.

SEC. 2344. PAYMENTS TO STATES.

(a) IN GENERAL.—Each State with a program approved under this part shall be entitled to payment under this title for each fiscal year in an amount equal to its allotment for such fiscal year, for expenditure by such State for up to 50 percent of the cost of activities under such program.

(b) STATE SHARE OF PROGRAM EXPENDITURES.—No Federal funds from any source may be used as any part of the non-Federal share of expenditures under the State program under this subpart.

(c) TRANSFER AND DEPOSIT REQUIREMENTS.—The Secretary shall make payments under this section in accordance with section 6503 of title 31, United States Code.

SEC. 2345. FEDERAL OVERSIGHT OF STATE ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall periodically review State regulatory programs approved under section 2341 to determine whether they continue to comply with the requirements of this part.

(b) NOTICE OF DETERMINATION OF NONCOMPLIANCE.—The Secretary shall promptly notify the State of a determination that a State program fails to comply with this part, specifying the requirement or requirements not met and the elements of the State program requiring correction.

(c) OPPORTUNITY FOR CORRECTION.—

(1) IN GENERAL.—The Secretary shall afford a State notified of noncompliance pursuant to subsection (b) a reasonable opportunity to eliminate such noncompliance.

(2) CORRECTION PLANS.—In a case where substantial corrections are needed to eliminate noncompliance of a State program, the Secretary may—

(A) permit the State a reasonable time after the date of the notice pursuant to subsection (b) to develop and obtain the Secretary's approval of a correction plan, and

(B) permit the State a reasonable time after the date of approval of such plan to eliminate the noncompliance.

(d) WITHDRAWAL OF PROGRAM APPROVAL.—In the case of a State that fails to eliminate noncompliance with requirements under this part by the date specified by the Secretary pursuant to subsection (c), the Secretary shall withdraw the approval of the State program pursuant to section 2341(e).

SEC. 2346. EFFECT OF FAILURE TO HAVE APPROVED STATE PROGRAM.

(a) RESTRICTION ON SALE OF LONG-TERM CARE INSURANCE.—

(1) IN GENERAL.—No insurer may sell or offer for sale any long-term care insurance policy, on or after the date specified in subsection (c), in a State that does not have in effect a regulatory program approved under section 2341(e).

(2) APPLICATION OF PROHIBITION.—For purposes of paragraph (1), an insurance policy shall not be considered to be sold or offered for sale in a State solely because it is sold or offered to a resident of such State.

(b) CIVIL MONEY PENALTY.—

(1) IN GENERAL.—An insurer shall be subject to a civil money penalty, in an amount up to the greater of $10,000 or three times any commission involved, for each incident in which the insurer sells, or offers to sell, an insurance policy to an individual in violation of subsection (a).

(2) ENFORCEMENT PROCEDURE.—The Secretary shall enforce the provisions of this subsection in accordance with the procedures provided under section 5412 of this Act.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The date specified in this subsection, for purposes of subsection (a), with respect to any requirement under this part, is the date one year after the date the Secretary first promulgates regulations with respect to such requirement.

(2) EXCEPTION.—To the extent that a State demonstrates to the Secretary that State legislation is required to meet any such requirement, the State shall not be regarded as failing to have in effect a program in compliance with this part solely on the basis of its failure to comply with such requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the promulgation of the regulation imposing such requirement. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Subpart D—Consumer Education Grants

SEC. 2361. GRANTS FOR CONSUMER EDUCATION.

(a) GRANT PROGRAM AUTHORIZED.—The Secretary is authorized to make grants—

(1) to States,

(2) to regional alliances (at the option of States within which such Alliances are located), and

(3) to national organizations representing insurance consumers, long-term care providers, and insurers,

for the development and implementation of long-term care information, counseling, and other programs.

(b) APPLICATIONS.—

(1) IN GENERAL.—Each State or organization seeking a grant under this section shall submit to the Secretary an application, in such format and containing such information as the Secretary may require.

(2) GOALS.—Programs under this section shall be directed at the goals of increasing consumers' understanding and awareness of options available to them with respect to long-term care insurance (and alternatives, such as public long-term care programs), including—

(A) the risk of needing long-term care;

(B) the costs associated with long-term care services;

(C) the lack of long-term care coverage under the Medicare program, Medicare supplemental (Medigap) policies, and standard private health insurance;

(D) the limitations on (and conditions of eligibility for) long-term care coverage under State programs;

(E) the availability, and variations in coverage and cost, of private long-term care insurance;

(F) features common to many private long-term care insurance policies; and

(G) pitfalls to avoid when purchasing a long-term care insurance policy.

(3) ACTIVITIES.—An application for a grant under this section shall indicate the activities the State or organization would carry out under such grant, which activities may include—

(A) coordination of the activities of State agencies and private entities as necessary to carry out the State's program under this section;

(B) collection, analysis, publication, and dissemination of information,

(C) conducting or sponsoring of consumer education, outreach, and information programs,

(D) providing (directly or through referral) counseling and consultation services to consumers to assist them in choosing long-term care insurance coverage appropriate to their circumstances, and

(E) other appropriate activities.

(4) PRIORITY FOR INNOVATION.—In awarding grants under this section, the Secretary shall give priority to applications proposing to use innovative approaches to providing information, counseling, and other assistance to individuals who might benefit from, or are considering the purchase of, long-term care insurance.

(c) PERIOD OF GRANTS.—Grants under this section shall be for not longer than 3 years.

(d) EVALUATIONS AND REPORTS.—

(1) BY GRANTEES TO THE SECRETARY.—Each recipient of a grant under this section shall annually evaluate the effectiveness of its program under such grant, and report its conclusions to the Secretary.

(2) BY THE SECRETARY TO THE CONGRESS.—The Secretary shall annually evaluate, and report to the Congress on, the effectiveness of programs under this section, on the basis of reports received under paragraph (1) and such independent evaluation as the Secretary finds necessary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for grants under this section—

(1) $10,000,000 for each of fiscal years 1995 through 1997 for grants to States, and

(2) $1,000,000 for each of fiscal years 1995 through 1997,

for grants to eligible organizations.

PART 4—TAX TREATMENT OF LONG-TERM CARE INSURANCE AND SERVICES

SEC. 2401. REFERENCE TO TAX PROVISIONS.

For amendments to the Internal Revenue Code of 1986 relating to the treatment of long-term care insurance and services, see subtitle G of title VII.

PART 5—TAX INCENTIVES FOR INDIVIDUALS WITH DISABILITIES WHO WORK

SEC. 2501. REFERENCE TO TAX PROVISION.

For amendment to the Internal Revenue Code of 1986 providing for a tax credit for cost of personal assistance services required by employed individuals, see section 7901.

PART 6—DEMONSTRATION AND EVALUATION

SEC. 2601. DEMONSTRATION ON ACUTE AND LONG-TERM CARE INTEGRATION.

(a) PROGRAM AUTHORIZED.—The Secretary of Health and Human Services shall conduct a demonstration program to test the effectiveness of various approaches to financing and providing integrated acute and long-term care services described in subsection (b) for the chronically ill and disabled who meet eligibility criteria under subsection (c).

(b) SERVICES AND BENEFITS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the following services and benefits shall be provided under each demonstration approved under this section:

(A) COMPREHENSIVE BENEFIT PACKAGE.—All benefits included in the comprehensive benefit package under title I of this Act.

(B) TRANSITIONAL BENEFITS.—Specialized benefits relating to the transition from acute to long-term care, including—

(i) assessment and consultation,

(ii) inpatient transitional care,

(iii) medical rehabilitation,

(iv) home health care and home care,

(v) caregiver support, and

(vi) self-help technology.

(C) LONG-TERM CARE BENEFITS.—Long-term care benefits, including—

(i) adult day care,

(ii) personal assistance services,

(iii) homemaker services and chore services;

(iv) home-delivered meals;

(v) respite services;

(vi) nursing facility services in specialized care units;

(vii) services in other residential settings including community supported living arrangements and assisted living facilities; and

(viii) assistive devices and environmental modifications.

(D) HABILITATION SERVICES.—Specialized habilitation services for participants with developmental disabilities.

(2) VARIATIONS IN MINIMUM BENEFITS.—

(A) IN GENERAL.—Subject to the requirement of subparagraph (B), demonstrations may omit specified services listed under subparagraphs (C) and (D) of paragraph (1), or provide additional services, as found appropriate by the Secretary in the case of a particular demonstration, taking into consideration factors such as—

(i) the needs of a specialized group of eligible beneficiaries;

(ii) the availability of the omitted benefits under other programs in the service area; and

(iii) the geographic availability of service providers.

(B) BREADTH REQUIREMENT.—In approving variant demonstrations pursuant to subparagraph (A), the Secretary shall ensure that demonstrations under this section, taken as a group; adequately test financing and delivery models covering the entire array of services and benefits described in paragraph (1).

(c) ELIGIBILITY CRITERIA.—The Secretary shall establish eligibility criteria for individuals who may receive services under demonstrations under this section. Under such criteria, any of the following may be found to be eligible populations for such demonstrations:

(1) Individuals with disabilities who are entitled to services and benefits under a State program under part 1 of this subtitle.

(2) Individuals who are entitled to benefits under parts A and B of title XVIII of the Social Security Act.

(3) Individuals who are entitled to medical assistance under a State plan under title XIX of the Social Security Act, and are also—

(A) individuals described in paragraph (2), or

(B) individuals eligible for supplemental security income under title XVI of that Act.

(d) APPLICATION.—

(1) IN GENERAL.—Each entity seeking to participate in a demonstration under this section shall submit an application, in such format and containing such information as the Secretary may require, including the information specified in this subsection.

(2) SERVICE DELIVERY.—The application shall state the services to be provided under the demonstration (either directly by the applicant or under other arrangements approved by the Secretary), which shall include services specified pursuant to subsection (b) and—

(A) enrollment services;

(B) client assessment and care planning;

(C) simplified access to needed services;

(D) integrated management of acute and chronic care, including measures to ensure continuity of care across settings and services;

(E) quality assurance, grievance, and appeals mechanisms; and

(F) such other services as the Secretary may require.

(3) CONSUMER PROTECTION AND PARTICIPATION.—The applicant shall provide evidence of consumer participation—

(A) in the planning of the demonstration (including a showing of support from community agencies or consumer interest groups); and

(B) in the conduct of the demonstration, including descriptions of methods and procedures to be used—

(i) to make available to individuals enrolled in the demonstration information on self-help, health promotion and disability prevention practices, and enrollees' contributions to the costs of care;

(ii) to ensure participation by such enrollees (or their designated representatives, where appropriate) in care planning and in decisions concerning treatment;

(iii) to handle and resolve client grievances and appeals;

(iv) to take enrollee views into account in quality assurance and provider contracting procedures; and

(v) to evaluate enrollee satisfaction with the program.

(4) APPLICANT QUALIFICATIONS.—Applicants for grants under this section shall meet eligibility criteria established by the Secretary, including requirements relating to—

(A) adequate financial controls to monitor administrative and service costs,

(B) demonstrated commitment of the Board of Directors or comparable governing body to the goals of demonstration,

(C) information systems adequate to pay service providers, to collect required utilization and cost data, and to provide data adequate to permit evaluation of program performance, and

(D) compliance with applicable State laws.

(e) PAYMENTS TO PARTICIPANTS.—An entity conducting a demonstration under this section shall be entitled to receive, with respect to each enrollee, for the period during which it is providing to such enrollee services under a demonstration under this section, such amounts as the Secretary shall provide, which amounts—

(1) may include risk-based payments and non-risk based payments by governmental programs, by third parties, or by project enrollees, or any combination of such payments, and

(2) may vary by project and by enrollee. .

(f) NUMBER AND DURATION OF DEMONSTRATION PROJECTS.—

(1) REQUEST FOR APPLICATIONS.—The Secretary shall publish a request for applications under this section not later than one year after enactment of this Act.

(2) NUMBER AND DURATION.—The Secretary shall authorize not more than 25 demonstrations under this section, each of which shall run for 7 years from the date of the award.

(g) EVALUATION AND REPORTS.—The Secretary shall evaluate the demonstration projects under this section, and shall submit to the Congress—

(1) an interim report, by three years after enactment, describing the status of the demonstration and characteristics of the approved projects; and

(2) a final report, by one year after completion of such demonstration projects, evaluating their effectiveness (including cost-effectiveness), and discussing the advisability of including some or all of the integrated models tested in the demonstration as a benefit under the comprehensive benefit package under title I of this Act, or under the programs under title XVIII of the Social Security Act.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) FOR SECRETARIAL RESPONSIBILITIES.—

(A) IN GENERAL.—There are authorized to be appropriated $7,000,000 for fiscal year 1996, and $4,500,000 for each of the 6 succeeding fiscal years, for payment of costs of the Secretary in carrying out this section (including costs for technical assistance to potential service providers, and research and evaluation), which amounts shall remain available until expended.

(B) SET-ASIDE FOR FEASIBILITY STUDIES.—Of the total amount authorized to be appropriated under subparagraph (A), not less than $1,000,000 shall be available for studies of the feasibility of systems to provide integrated care for nonaged populations (including physically disabled children and adults, the chronically mentally ill, and individuals with disabilities, and combinations of these groups).

(2) FOR COVERED BENEFITS.—There are authorized to be appropriated $50,000,000 for the first fiscal year for which grants are awarded under this section, and for each of the four succeeding fiscal years, for payment of costs of benefits for which no public or private program or entity is legally obligated to pay.

SEC. 2602. PERFORMANCE REVIEW OF THE LONG-TERM CARE PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall prepare and submit to the Congress—

(1) an interim report, not later than the end of the seventh full calendar year beginning after the date of the enactment of this Act, and

(2) a final report, not later than two years after the date of the interim report,

evaluating the effectiveness of the programs established and amendments made by this subtitle (and including at a minimum the elements specified in subsection (b)).

(b) ELEMENTS OF ASSESSMENT.—The evaluations to be made, and included in the reports required pursuant to subsection (a), include at least the following:

(1) STATE SERVICE DELIVERY PROGRAMS.—An evaluation of States' effectiveness in meeting the needs for home and community-based services (including personal assistance services) of individuals with disabilities (including individuals who do, and who do not, meet the eligibility criteria for the service program under part 1, individuals of different ages, type and degree of disability, and income levels, members of minority groups, and individuals residing in rural areas).

(2) SERVICE ACCESS.—An evaluation of the degree of (and obstacles to) access of individuals with disabilities to needed home and community-based services and to inpatient services.

(3) QUALITY.—An evaluation of the quality of long-term care services available.

(4) PRIVATE INSURANCE.—An evaluation of the performance of the private sector in offering affordable long-term care insurance that provides adequate protection against the costs of long-term care, and of the effectiveness of Federal standards and State enforcement, pursuant to part 3, in adequately protecting long-term care insurance consumers.

(5) COST ISSUES.—An evaluation of the effectiveness of amendments made by this subtitle in containing the costs of long-term care, and in limiting the share of such costs borne by individuals with lower incomes.

(6) SERVICE COORDINATION AND INTEGRATION.—An evaluation of the effectiveness of the programs established or amended under this subtitle in achieving coordination and integration of long-term care services, and of such services with acute care services and social services, and in ensuring provision of services in the least restrictive setting possible.

TITLE III—PUBLIC HEALTH INITIATIVES

TABLE OF CONTENTS OF TITLE

Subtitle A—Workforce Priorities Under Federal Payments

PART 1—INSTITUTIONAL COSTS OF GRADUATE MEDICAL EDUCATION; WORKFORCE PRIORITIES

SUBPART A—NATIONAL COUNCIL REGARDING WORKFORCE PRIORITIES

Sec. 3001. National Council on Graduate Medical Education.

SUBPART B—AUTHORIZED POSITIONS IN SPECIALTY TRAINING

Sec. 3011. Cooperation of approved physician training programs.
Sec. 3012. Annual authorization of number of specialty positions; requirements regarding primary health care.
Sec. 3013. Allocations among specialities and programs.

SUBPART C—INSTITUTIONAL COSTS OF GRADUATE MEDICAL EDUCATION

Sec. 3031. Federal formula payments to approved physician training programs.
Sec. 3032. Application for payments.
Sec. 3033. Availability of funds for payments; annual amount of payments.
Sec. 3034. Additional funding provisions.

SUBPART D—GENERAL PROVISIONS

Sec. 3041. Definitions.

SUBPART E—TRANSITIONAL PROVISIONS

Sec. 3051. Transitional payments to institutions.

PART 2—RELATED PROGRAMS

Sec. 3061. Additional funding for certain workforce programs.
Sec. 3062. Programs of the Secretary of Health and Human Services.
Sec. 3063. Programs of the Secretary of Labor.
Sec. 3064. National Institute for Health Care Workforce Development.

Subtitle B—Academic Health Centers

PART 1—FORMULA PAYMENTS

Sec. 3101. Federal formula payments to academic health centers.
Sec. 3102. Request for payments.
Sec. 3103. Availability of funds for payments; annual amount of payments.
Sec. 3104. Additional funding provisions.

PART 2—ACCESS OF PATIENTS TO ACADEMIC HEALTH CENTERS

Sec. 3131. Contracts for ensuring access to centers.
Sec. 3132. Discretionary grants regarding access to centers.

Subtitle C—Health Research Initiatives

PART 1—PROGRAMS FOR CERTAIN AGENCIES

Sec. 3201. Biomedical and behavioral research on health promotion and disease prevention.
Sec. 3202. Health services research.

PART 2—FUNDING FOR PROGRAMS

Sec. 3211. Authorizations regarding Public Health Service Initiatives Fund.

Subtitle D—Core Functions of Public Health Programs; National Initiatives Regarding Preventive Health

PART 1—FUNDING

Sec. 3301. Authorizations regarding Public Health Service Initiatives Fund.

PART 2—CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS

Sec. 3311. Purposes.
Sec. 3312. Grants to States for core health functions.
Sec. 3313. Submission of information.
Sec. 3314. Reports.
Sec. 3315. Application for grant.
Sec. 3316. General provisions.
Sec. 3317. Allocations for certain activities.
Sec. 3318. Definitions.

PART 3—NATIONAL INITIATIVES REGARDING HEALTH PROMOTION AND DISEASE PREVENTION

Sec. 3331. Grants for national prevention initiatives.
Sec. 3332. Priorities.
Sec. 3333. Submission of information.
Sec. 3334. Application for grant.

Subtitle E—Health Services for Medically Underserved Populations

PART 1—COMMUNITY AND MIGRANT HEALTH CENTERS

Sec. 3401. Authorizations regarding Public Health Service Initiatives Fund.
Sec. 3402. Use of funds.

PART 2—INITIATIVES FOR ACCESS TO HEALTH CARE

SUBPART A—PURPOSES; FUNDING

Sec. 3411. Purposes.
Sec. 3412. Authorizations regarding Public Health Service Initiatives Fund.

SUBPART B—DEVELOPMENT OF QUALIFIED COMMUNITY HEALTH PLANS AND PRACTICE NETWORKS

Sec. 3421. Grants and contracts for development of plans and networks.
Sec. 3422. Preferences in making awards of assistance.
Sec. 3423. Certain uses of awards.
Sec. 3424. Accessibility of services.
Sec. 3425. Additional agreements.
Sec. 3426. Submission of certain information.
Sec. 3427. Reports; audits.
Sec. 3428. Application for assistance.
Sec. 3429. General provisions.

SUBPART C—CAPITAL COST OF DEVELOPMENT OF QUALIFIED COMMUNITY HEALTH PLANS AND PRACTICE NETWORKS

Sec. 3441. Loans and loan guarantees regarding plans and networks.
Sec. 3442. Certain requirements.
Sec. 3443. Defaults; right of recovery.
Sec. 3444. Provisions regarding construction or expansion of facilities.
Sec. 3445. Application for assistance.
Sec. 3446. Administration of programs.

SUBPART D—ENABLING SERVICES

Sec. 3461. Grants and contracts for enabling services.
Sec. 3462. Authorizations regarding Public Health Service Initiatives Fund.

PART 3—NATIONAL HEALTH SERVICE CORPS

Sec. 3471. Authorizations regarding Public Health Service Initiatives Fund.
Sec. 3472. Allocation for participation of nurses in scholarship and loan repayment programs.

PART 4—PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS

Sec. 3481. Payments to hospitals.
Sec. 3482. Identification of eligible hospitals.
Sec. 3483. Amount of payments.
Sec. 3484. Base year.

Subtitle F—Mental Health; Substance Abuse

PART 1—FINANCIAL ASSISTANCE

Sec. 3501. Authorizations regarding Public Health Service Initiatives Fund.
Sec. 3502. Supplemental formula grants for States regarding activities under part B of title XIX of Public Health Service Act.
Sec. 3503. Capital costs of development of certain centers and clinics.

PART 2—AUTHORITIES REGARDING PARTICIPATING STATES

SUBPART A—REPORTS

Sec. 3511. Report on integration of mental health systems.

SUBPART B—PILOT PROGRAM

Sec. 3521. Pilot program.

Subtitle G—Comprehensive School Health Education; School-Related Health Services

PART 1—GENERAL PROVISIONS

Sec. 3601. Purposes.
Sec. 3602. Definitions.

PART 2—SCHOOL HEALTH EDUCATION; GENERAL PROVISIONS

Sec. 3611. Authorizations regarding Public Health Service Initiatives Fund.
Sec. 3612. Waivers of statutory and regulatory requirements.

PART 3—SCHOOL HEALTH EDUCATION; GRANTS TO STATES

SUBPART A—PLANNING GRANTS FOR STATES

Sec. 3621. Application for grant.
Sec. 3622. Approval of Secretary.
Sec. 3623. Amount of grant.
Sec. 3624. Authorized activities.

SUBPART B—IMPLEMENTATION GRANTS FOR STATES

Sec. 3631. Application for grant.
Sec. 3632. Selection of grantees.
Sec. 3633. Amount of grant.
Sec. 3634. Authorized activities; limitation on administrative costs.
Sec. 3635. Subgrants to local educational agencies.

SUBPART C—STATE AND LOCAL REPORTS

Sec. 3641. State and local reports.

PART 4—SCHOOL HEALTH EDUCATION; GRANTS TO CERTAIN LOCAL EDUCATIONAL AGENCIES

SUBPART A—ELIGIBILITY

Sec. 3651. Substantial need of area served by agency.

SUBPART B—PLANNING GRANTS FOR LOCAL EDUCATION AGENCIES

Sec. 3661. Application for grant.
Sec. 3662. Selection of grantees.
Sec. 3663. Amount of grant.
Sec. 3664. Authorized activities.

SUBPART C—IMPLEMENTATION GRANTS FOR LOCAL EDUCATIONAL AGENCIES

Sec. 3671. Application for grant.
Sec. 3672. Selection of grantees.
Sec. 3673. Amount of grant.
Sec. 3674. Authorized activities.
Sec. 3675. Reports.

PART 5—SCHOOL-RELATED HEALTH SERVICES

SUBPART A—DEVELOPMENT AND OPERATION OF PROJECTS

Sec. 3681. Authorizations regarding Public Health Service Initiatives Fund.

Sec. 3682. Eligibility for development and operation grants.
Sec. 3683. Preferences.
Sec. 3684. Grants for development of projects.
Sec. 3685. Grants for operation of projects.
Sec. 3686. Federal administrative costs.

SUBPART B—CAPITAL COSTS OF DEVELOPING PROJECTS

Sec. 3691. Loans and loan guarantees regarding projects.
Sec. 3692. Funding.

Subtitle H—Public Health Service Initiative

Sec. 3701. Public Health Service Initiative.

Subtitle I—Coordination With Cobra Continuation Coverage

Sec. 3801. Public Health Service Act; coordination with COBRA continuation coverage.

Subtitle A—Workforce Priorities Under Federal Payments

PART 1—INSTITUTIONAL COSTS OF GRADUATE MEDICAL EDUCATION; WORKFORCE PRIORITIES

Subpart A—National Council Regarding Workforce Priorities

SEC. 3001. NATIONAL COUNCIL ON GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—There is established within the Department of Health and Human Services a council to be known as the National Council on Graduate Medical Education.

(b) DUTIES.—The Secretary shall carry out subpart B acting through the National Council.

(c) COMPOSITION.—

(1) IN GENERAL.—The membership of the National Council shall include individuals who are appointed to the Council from among individuals who are not officers or employees of the United States. Such individuals shall be appointed by the Secretary, and shall include individuals from each of the following categories:

(A) Consumers of health care services.

(B) Physicians who are faculty members of medical schools.

(C) Physicians in private practice who are not physicians described in subparagraph (B).

(D) Officers or employees of regional and corporate health alliances.

(E) Officers or employees of health care plans that participate in such alliances.

(F) Such other individuals as the Secretary determines to be appropriate.

(2) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the National Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary or other Federal officers who are appointed by the President with the advice and consent of the Senate.

(d) CHAIR.—The Secretary shall, from among members of the National Council appointed under subsection (a)(1), designate an individual to serve as the Chair of the Council.

(e) DEFINITIONS.—For purposes of this subtitle:

(1) The term "medical school" means a school of medicine (as defined in section 799 of the Public Health Service Act) or a school of osteopathic medicine (as defined in such section).

(2) The term "National Council" means the council established in subsection (a).

Subpart B—Authorized Positions in Specialty Training

SEC. 3011. COOPERATION OF APPROVED PHYSICIAN TRAINING PROGRAMS.

(a) IN GENERAL.—With respect to an approved physician training program in a medical specialty, a funding agreement for payments under section 3031 for a calendar year is that the program will ensure that the number of individuals enrolled in the program in the subsequent academic year is in accordance with this subpart.

(b) DEFINITIONS.—

(1) APPROVED PROGRAM.—

(A) For purposes of this subtitle, the term "approved physician training program", with respect to the medical speciality involved, means a residency or other postgraduate program that trains physicians and meets the following conditions:

(i) Participation in the program may be counted toward certification in the medical specialty.

(ii) The program is accredited by the Accreditation Council on Graduate Medical Education, or approved by the Council on Postgraduate Training of the American Osteopathic Association.

(B) For purposes of this subtitle, the term "approved physician training program" includes any postgraduate program described in subparagraph (A) that provides health services in an ambulatory setting, without regard to whether the program provides inpatient hospital services.

(2) ELIGIBLE PROGRAM; SUBPART DEFINITION.—For purposes of this subpart, the term "eligible program", with respect to an academic year, means an approved physician training program that receives payments under subpart C for the calendar year in which the academic year begins.

(3) OTHER DEFINITIONS.—For purposes of this subtitle:

(A)(i) The term "academic year" means the 1-year period beginning on July 1. The academic year beginning July 1, 1993, is academic year 1993-94.

(ii) With respect to the funding agreement described in subsection (a), the term "subsequent academic year" means the academic year beginning July 1 of the calendar year for which payments are to be made under the agreement.

(B) The term "funding agreement", with respect to payments under section 3031 to an approved physician training program, means that the Secretary may make the payments only if the program makes the agreement involved.

(C) The term "medical specialty" includes subspecialties.

SEC. 3012. ANNUAL AUTHORIZATION OF NUMBER OF SPECIALTY POSITIONS; REQUIREMENTS REGARDING PRIMARY HEALTH CARE.

(a) ANNUAL AUTHORIZATION OF NUMBER OF POSITIONS.—In the case of each medical specialty, the National Council shall designate for each academic year the number of individuals nationwide who under section 3011 are authorized to be enrolled in eligible programs. The preceding sentence is subject to subsection (c)(2).

(b) PRIMARY HEALTH CARE.—

(1) IN GENERAL.—Subject to paragraph (2), in carrying out subsection (a) for an academic year, the National Council shall ensure that, of the class of training participants entering eligible programs for academic year 2002-03 or any subsequent academic year, the percentage of such class that completes eligible programs in primary health care is not less than 55 percent (without regard to the academic year in which the members of the class complete the programs).

(2) RULE OF CONSTRUCTION.—The requirement of paragraph (1) regarding a percentage applies in the aggregate to training participants entering eligible programs for the academic year involved, and not individually to any eligible program.

(c) DESIGNATIONS REGARDING 3-YEAR PERIODS.—

(1) DESIGNATION PERIODS.—For each medical specialty, the National Council shall make the annual designations under subsection (a) for periods of 3 academic years.

(2) INITIAL PERIOD.—The first designation period established by the National Council after the date of the enactment of this Act shall be the academic years 1998-99 through 2000-01.

(d) CERTAIN CONSIDERATIONS IN DESIGNATING ANNUAL NUMBERS.—

(1) IN GENERAL.—Factors considered by the National Council in designating the annual number of specialty positions for an academic year for a medical specialty shall include the extent to which there is a need for additional practitioners in the speciality, as indicated by the following:

(A) The incidence and prevalence (in the general population and in various other populations) of the diseases, disorders, or other health conditions with which the specialty is concerned.

(B) The number of physicians who will be practicing in the specialty in the academic year.

(C) The number of physicians who will be practicing in the specialty at the end of the 5-year period beginning on the first day of the academic year.

(2) RECOMMENDATIONS OF PRIVATE ORGANIZATIONS.—In designating the annual number of specialty positions for an academic year for a medical specialty, the National Council shall consider the recommendations of organizations representing physicians in the specialty and the recommendations of organizations representing consumers of the services of such physicians.

(3) MINIMUM TOTAL OF RESPECTIVE ANNUAL NUMBERS.—

(A) Subject to subparagraph (B), for academic year 2003-04 and subsequent academic years, the National Council shall ensure that the total of the respective annual numbers designated under subsection (a) for an academic year is a total that—

(i) bears a relationship to the number of individuals who graduated from medical schools in the United States in the preceding academic year; and

(ii) is consistent with the purposes of this subpart.

(B) For each of the academic years 2003-04 through 2007-08, the total determined under subparagraph (A) shall be reduced by a percentage determined by the National Council.

(e) DEFINITIONS.—For purposes of this subtitle:

(1) The term "annual number of specialty positions", with respect to a medical specialty, means the number designated by the National Council under subsection (a) for eligible programs for the academic year involved.

(2) The term "designation period" means a 3-year period under subsection (c)(1) for which designations under subsection (a) are made by the National Council.

(3) The term "primary health care" means the following medical specialties: Family medicine, general internal medicine, general pediatrics, and obstetrics and gynecology.

(4) The term "specialty position", with respect to a medical specialty, means a position (designated under subsection (a)) as one of the individuals who may be a training participant in an eligible program.

(5) The term "training participant" means an individual who is enrolled in an approved physician training program.

SEC. 3013. ALLOCATIONS AMONG SPECIALITIES AND PROGRAMS.

(a) IN GENERAL.—For each academic year, the National Council shall for each medical specialty make allocations among eligible programs of the annual number of specialty positions that the Council has designated for such year. The preceding sentence is subject to subsection (b)(3).

(b) ALLOCATIONS REGARDING 3-YEAR PERIOD.—

(1) IN GENERAL.—For each medical specialty, the National Council shall make the annual allocations under subsection (a) for periods of 3 academic years.

(2) ADVANCE NOTICE TO PROGRAMS.—With respect to the first academic year of an allocation period established by the National Council, the National Council shall, not later than July 1 of the preceding academic year, notify each eligible program of the allocations made for the program for each of the academic years of the period.

(3) INITIAL PERIOD.—The first allocation period established by the National Council after the date of the enactment of this Act shall be the academic years 1998-99 through 2000-01.

(c) CERTAIN CONSIDERATIONS.—

(1) GEOGRAPHIC AREAS; QUALITY OF RESIDENCY PROGRAMS.—In making allocations under subsection (a) for eligible programs of the various geographic areas, the National Council shall include among the factors considered the historical distribution among the areas of approved physician training programs, and the quality of each of the programs.

(2) UNDERREPRESENTATION OF MINORITY GROUPS.—In making an allocation under subsection (a) for an eligible program, the National Council shall include among the factors considered the following:

(A) The extent to which the population of training participants in the program includes training participants who are members of racial or ethnic minority groups.

(B) With respect to a racial or ethnic group represented among the training participants, the extent to which the group is underrepresented in the field of medicine generally and in the various medical specialities.

(3) RECOMMENDATIONS OF PRIVATE ORGANIZATIONS.—In making allocations under subsection (a) for eligible programs, the National Council shall consider the recommendations of organizations representing physicians in the medical specialties and the recommendations of organizations representing consumers of the services of such physicians.

(d) DEFINITIONS.—For purposes of this subtitle, the term "allocation period" means a 3-year period under subsection (b)(1) for which allocations under subsection (a) are made by the National Council.

Subpart C—Institutional Costs of Graduate Medical Education

SEC. 3031. FEDERAL FORMULA PAYMENTS TO APPROVED PHYSICIAN TRAINING PROGRAMS.

(a) IN GENERAL.—

(1) FORMULA PAYMENTS.—Subject to paragraph (2), in the case of any approved physician training program that submits to the Secretary an application for a calendar year in accordance with section 3032, the Secretary shall make payments for such year to the program for the purpose specified in subsection (b). The Secretary shall make the payments in an amount determined in accordance with section 3033, and may administer the payments as a contract, grant, or cooperative agreement.

(2) APPLICABLE YEARS.—Payments under paragraph (1) may not be made before calendar year 1998, except that the Secretary may make such payments before such year to eligible programs in any State that has become a participating State under title I.

(b) PAYMENTS FOR OPERATION OF APPROVED PHYSICIAN TRAINING PROGRAMS.—The purpose of payments under subsection (a) is to assist an eligible program with the costs of operation. A funding agreement for such payments is that the program will expend the payments only for such purpose.

(c) ELIGIBLE PROGRAM; SUBPART DEFINITION.—For purposes of this subpart, the term "eligible program", with respect to the calendar year involved, means an approved physician training program that submits to the Secretary an application for such year in accordance with section 3032.

SEC. 3032. APPLICATION FOR PAYMENTS.

(a) IN GENERAL.—For purposes of section 3031, an application for payments under such section is in accordance with this section if—

(1) the approved physician training program involved submits the application not later than the date specified by the Secretary;

(2) the condition described in subsection (b) is met with respect to the program;

(3) the application contains each funding agreement described in this part and the application provides assurances of compliance with such agreements that are satisfactory to the Secretary; and

(4) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(b) CERTAIN CONDITIONS.—An approved physician training program meets the condition described in this subsection for receiving payments under section 3031 for a calendar year if the institution within which the program operates agrees that such payments will be made by the Secretary directly to the program (and such agreement is included in the application under subsection (a)), and the Secretary shall ensure that such institution is permitted to participate as a provider in a regional or corporate alliance health plan during such year only if each of the approved physician training programs of the institution meets the requirements for receiving payments under such section for such year.

SEC. 3033. AVAILABILITY OF FUNDS FOR PAYMENTS; ANNUAL AMOUNT OF PAYMENTS.

(a) DETERMINATION BY SECRETARY OF FUNDS AVAILABLE FOR PAYMENTS.—

(1) ANNUAL HEALTH PROFESSIONS WORKFORCE ACCOUNT.—Subject to paragraph (2) and section 3034, the Secretary shall determine for each calendar year the amount to be made available for the purpose of making payments under section 3031 (and under section 3051, as applicable) for the year. In determining such amount, the Secretary shall consider the amount necessary for making payments in the amounts determined under subsection (b) (and the amounts necessary for making payments in the amounts determined under section 3051(e) for institutions, in the case of calendar years 1998 through 2001).

(2) LIMITATION.—The amount determined by the Secretary for a calendar year under paragraph (1) may not exceed the following amount, as applicable to the calendar year:

(A) In the case of calendar year 1996, $3,200,000,000.

(B) In the case of calendar year 1997, $3,500,000,000.

(C) In the case of calendar year 1998, $4,800,000,000.

(D) In the case of each of the calendar years 1999 and 2000, $5,800,000,000.

(E) In the case of each subsequent calendar year, the amount specified in subparagraph (D) increased by the product of such amount and the general health care inflation factor for such year (as defined in subsection (c)).

(b) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE PROGRAMS.—

(1) IN GENERAL.—Subject to the annual health professions workforce account determined by the Secretary under subsection (a) for the calendar year involved, the amount of payments required in section 3031 to be made to an eligible program for the calendar year is an amount equal to the product of—

(A) the number of full-time equivalent training participants in the program; and

(B) the national average of the costs of such programs in training an individual, as determined by consideration of the following factors (and as adjusted under paragraph (2)(B)):

(i) The national average salary of training participants.

(ii) The national average costs of such programs in providing for faculty supervision of training participants and for related activities.

(2) ADDITIONAL PROVISIONS REGARDING NATIONAL AVERAGE COST.—

(A) The Secretary shall in accordance with paragraph (1)(B) determine, for academic year 1992-93, an amount equal to the national average described in such paragraph with respect to training an individual. The national average applicable under such paragraph for a calendar year is, subject to subparagraph (B), the amount determined under the preceding sentence increased by an amount necessary to offset the effects of health care inflation occurring since academic year 1992-93, as determined through use of the general health care inflation factors for such years (or if there is no such factor for a calendar year, the consumer price index for the year).

(B) The national average determined under subparagraph (A) and applicable to a calendar year shall, in the case of the eligible program involved, be adjusted by a factor to reflect regional differences in the applicable wage and wage-related costs.

(c) DEFINITIONS.—For purposes of this subtitle:

(1) The term "annual health professions workforce account", with respect to a calendar year, means the amount determined under subsection (a) for such year.

(2) The term "consumer price index" has the meaning given such term in section 1902.

(3) The term "general health care inflation factor", with respect to a year, has the meaning given such term in section 6001(a)(3) for such year.

SEC. 3034. ADDITIONAL FUNDING PROVISIONS.

(a) SOURCES OF FUNDS FOR ANNUAL HEALTH PROFESSIONS WORKFORCE ACCOUNT.—The annual health professions workforce account under section 3033(a) for a calendar year shall be derived from the sources specified in subsection (b).

(b) CONTRIBUTIONS FROM MEDICARE TRUST FUNDS, REGIONAL ALLIANCES, AND CORPORATE ALLIANCES.—For purposes of subsection (a), the sources specified in this subsection for a calendar year are the following:

(1) Transfers made by the Secretary under section 4051.

(2) Payments made by regional alliances under section 1353 and transferred in an amount equal to the aggregate regional alliance portion determined under subsection (c)(2)(A).

(3) The transfer made under section (d)(1).

(c) CONTRIBUTIONS FROM REGIONAL AND CORPORATE ALLIANCES.—

(1) DETERMINATION OF AGGREGATE REGIONAL AND CORPORATE ALLIANCE AMOUNT.—For purposes regarding the provision of funds for the annual health professions workforce account for a calendar year, the Secretary shall determine an aggregate regional and corporate alliance amount, which amount is to be paid by such alliances pursuant to paragraphs (2) and (3) of subsection (b), respectively, and which amount shall be equal to the difference between—

(A) the annual health professions workforce account for such year; and

(B) the amount transferred under section 4051 for the year.

(2) ALLOCATION OF AMOUNT AMONG REGIONAL AND CORPORATE ALLIANCES.—With respect to the aggregate regional and corporate alliance amount determined under paragraph (1) for a calendar year—

(A) the aggregate regional alliance portion of such amount is the product of such amount and the percentage constituted by the ratio of the total plan payments of regional alliances to the combined total plan payments of regional alliances and corporate alliances; and

(B) the aggregate corporate alliance portion of such amount is the product of such amount and the percentage constituted by the ratio of the total plan payments of corporate alliances to such combined total plan payments.

(d) COMPLIANCE REGARDING CORPORATE ALLIANCES.—

(1) IN GENERAL.—Effective January 15 of each calendar year, there is hereby transferred to the Secretary, out of any money in the Treasury not otherwise appropriated, an amount equal to the aggregate corporate alliance portion determined under subsection (c)(2)(B) for such year.

(2) MANNER OF COMPLIANCE.—The payment by corporate alliances of the tax imposed under section 3461 of the Internal Revenue Code of 1986 (as added by section 7121 of this Act), together with the transfer made in paragraph (1) for the calendar year involved, is deemed to be the payment required pursuant to subsection (c)(1) for corporate alliances for such year.

(e) DEFINITIONS.—For purposes of this subtitle, the term "plan payments" with respect to a regional or corporate alliance, means the amount paid to health plans by the alliance.

Subpart D—General Provisions

SEC. 3041. DEFINITIONS.

For purposes of this subtitle:

(1) The term "academic year" has the meaning given such term in section 3011(b).

(2) The term "allocation period" has the meaning given such term in section 3013(d).

(3) The term "annual health professions workforce account" has the meaning given such term in section 3033(c).

(4) The term "annual number of specialty positions" has the meaning given such term in section 3012(e).

(5) The term "approved physician training program" has the meaning given such term in section 3011(b).

(6) The term "consumer price index" has the meaning given such term in section 3033(c).

(7) The term "designation period" has the meaning given such term in section 3012(e).

(8) The term "eligible program" has the meaning given such term in section 3011(b), in the case of subpart B; and has the meaning given such term in section 3031(c), in the case of subpart C.

(9) The term "funding agreement" has the meaning given such term in section 3011(b).

(10) The term "general health care inflation factor" has the meaning given such term in section 3033(c).

(11) The term "medical school" has the meaning given such term in section 3001(e).

(12) The term "medical specialty" has the meaning given such term in section 3011(b).

(13) The term "National Council" has the meaning given such term in section 3001(e).

(14) The term "plan payments" has the meaning given such term in section 3034(e).

(15) The term "primary health care" has the meaning given such term in section 3012(e).

(16) The term "specialty position" has the meaning given such term in section 3012(e).

(17) The term "training participant" has the meaning given such term in section 3012(e).

Subpart E—Transitional Provisions

SEC. 3051. TRANSITIONAL PAYMENTS TO INSTITUTIONS.

(a) PAYMENTS REGARDING EFFECTS OF SUBPART B ALLOCATIONS.—

(1) IN GENERAL.—For each of the calendar years 1998 through 2001, in the case of any eligible institution that submits to the Secretary an application for the year involved in accordance with subsection (d), the Secretary shall make payments for such year to the institution for the purpose specified in subsection (c). The Secretary shall make the payments in an amount determined in accordance with subsection (e), and may administer the payments as a contract, grant, or cooperative agreement.

(2) APPLICABLE YEARS.—Payments under paragraph (1) may not be made before calendar year 1998, except that the Secretary may make such payments before such year to eligible institutions in any State that has become a participating State under title I.

(b) ELIGIBLE INSTITUTION.—For purposes of this section, the term "eligible institution", with respect to a calendar year, means an institution—

(1) in which there are one or more programs that—

(A) are approved physician training programs; and

(B) are receiving payments under section 3031 for such year; and

(2) whose number of speciality positions (in the medical specialities with respect to which such payments are made) is below the number of such positions at the institution for academic year 1993-94 as a result of allocations under subpart B.

(c) PURPOSE OF PAYMENTS.—The purpose of payments under subsection (a) is to assist an eligible institution with the costs of operation. A funding agreement for such payments is that the institution will expend the payments only for such purpose.

(d) APPLICATION FOR PAYMENTS.—For purposes of subsection (a), an application for payments under such subsection is in accordance with this subsection if the institution involved submits the application not later than the date specified by the Secretary; the institution has cooperated with the approved physician training programs of the institution in meeting the condition described in section 3032(b); the application contains each funding agreement described in this section and provides assurances of compliance with such agreements satisfactory to the Secretary; and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) AMOUNT OF PAYMENTS.—

(1) IN GENERAL.—Subject to the annual health professions workforce account determined by the Secretary under section 3033(a) for the calendar year involved, the amount of payments required in subsection (a) to be made to an eligible institution for the calendar year is the product of the amount determined under paragraph (2) and the applicable percentage specified in paragraph (3).

(2) NUMBER OF SPECIALTY POSITIONS LOST; NATIONAL AVERAGE SALARY.—For purposes of paragraph (1), the amount determined under this paragraph for an eligible institution for the calendar year involved is the product of—

(A) an amount equal to the number of full-time equivalent specialty positions lost; and

(B) the national average salary of training participants.

(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for a calendar year is the following, as applicable to such year:

(A) For calendar year 1998, 100 percent.

(B) For calendar year 1999, 75 percent.

(C) For calendar year 2000, 50 percent.

(D) For calendar year 2001, 25 percent.

(4) DETERMINATION OF SPECIALTY POSITIONS LOST.—

(A) For purposes of this section, the number of specialty positions lost, with respect to a calendar year, is the difference between—

(i) the number of specialty positions described in subparagraph (B) that are estimated for the institution involved for the academic year beginning in such calendar year; and

(ii) the number of such specialty positions at the institution for academic year 1993-94.

(B) For purposes of subparagraph (A), the specialty positions described in this subparagraph are specialty positions in the medical specialities with respect to which payments under section 3031 are made to programs of the institution involved.

(5) ADDITIONAL PROVISION REGARDING NATIONAL AVERAGE SALARY.—

(A) The Secretary shall determine, for academic year 1992-93, an amount equal to the national average described in paragraph (2)(B). The national average applicable under such paragraph for a calendar year is, subject to subparagraph (B), the amount determined under the preceding sentence increased by an amount necessary to offset the effects of health care inflation occurring since academic year 1992-93, as determined through use of the general health care inflation factors for such years (or if there is no such factor for a year, the consumer price index for the year).

(B) The national average determined under subparagraph (A) and applicable to a calendar year shall, in the case of the eligible institution involved, be adjusted by a factor to reflect regional differences in the applicable wage and wage-related costs.

PART 2—RELATED PROGRAMS

SEC. 3061. ADDITIONAL FUNDING FOR CERTAIN WORKFORCE PROGRAMS.

(a) IN GENERAL.—For purpose of carrying out the programs described in sections 3062 and 3063, there is authorized to be appropriated $200,000,000 for fiscal year 1994 and each subsequent fiscal year (in addition to amounts that may otherwise be authorized to be appropriated for carrying out the programs).

(b) ALLOCATIONS.—With respect to the amount appropriated under subsection (a) for a fiscal year, the Secretary of Health and Human Services and the Secretary of Labor shall enter into an agreement specifying the aggregate portion of such amount to be made available for the programs described in section 3062 and the aggregate portion to be made available for the programs described in section 3063.

SEC. 3062. PROGRAMS OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) IN GENERAL.—The programs described in this section and carried out with amounts made available under section 3061 shall be carried out by the Secretary of Health and Human Services.

(b) PRIMARY CARE PHYSICIAN AND PHYSICIAN ASSISTANT TRAINING.—For purposes of section 3061, the programs described in this section include programs to support projects to train additional numbers of primary care physicians and physician assistants, including projects to enhance community-based generalist training for medical students, residents, and practicing physicians; to retrain mid-career physicians previously certified in a nonprimary care medical specialty; to expand the supply of physicians with special training to serve in rural and inner-city medically underserved areas; to support expansion of service-linked educational networks that train a range of primary care providers in community settings; to provide for training in managed care, cost-effective practice management, and continuous quality improvement; and to develop additional information on primary care workforce issues as required to meet future needs in health care.

(b) TRAINING OF UNDERREPRESENTED MINORITIES AND DISADVANTAGED PERSONS.—For purposes of section 3061, the programs described in this section include a program to support projects to increase the number of underrepresented minority and disadvantaged persons in medicine, osteopathy, dentistry, nursing, public health, and other health professions, including projects to provide continuing financial assistance for such persons entering health professions training programs; to increase support for recruitment and retention of such persons in the health professions; to maintain efforts to foster interest in health careers among such persons at the preprofessional level; and to increase the number of minority health professions faculty.

(c) NURSE TRAINING.—For purposes of section 3061, the programs described in this section include the following:

(1) A program to support projects to support midlevel provider training and address priority nursing workforce needs, including projects to train additional nurse practitioners and nurse midwives; to support baccalaureate-level nurse training programs providing preparation for careers in teaching, community health service, and specialized clinical care; to train additional nurse clinicians and nurse anesthetists; to support interdisciplinary school-based community nursing programs; and to promote research on nursing workforce issues.

(2) A program to develop and encourage the adoption of model professional practice statutes for advanced practice nurses and physician assistants, and to otherwise support efforts to remove inappropriate barriers to practice by such nurses and such physician assistants.

(d) OTHER PROGRAMS.—For purposes of section 3061, the programs described in this section include a program to train health professionals and administrators in managed care, cost-effective practice management, continuous quality improvement practices, and provision of culturally sensitive care.

(e) RELATIONSHIP TO EXISTING PROGRAMS.—This section may be carried out through programs established in title VII or VIII of the Public Health Service Act, as appropriate and as consistent with the purposes of such programs.

SEC. 3063. PROGRAMS OF THE SECRETARY OF LABOR.

(a) IN GENERAL.—The programs described in this section and carried out with amounts made available under section 3061 shall be carried out by the Secretary of Labor (in this section referred to as the "Secretary").

(b) RETRAINING PROGRAMS; ADVANCED CAREER POSITIONS; JOB BANKS.—

(1) IN GENERAL.—For purposes of section 3061, the programs described in this section are the following:

(A) A program to retrain administrative and clerical workers for positions as technicians, nurses, and physician assistants.

(B) A demonstration program to assist workers in health care institutions in obtaining advanced career positions.

(C) A program to support development of health-worker job banks in local employment services agencies.

(D) A program for skills upgrading, occupational retraining, and quality improvement.

(E) A program to facilitate the comprehensive workforce adjustment initiative.

(2) USE OF FUNDS.—Amounts made available under section 3061 for carrying out this section may be expended for program support, faculty development, trainee support, workforce analysis, and dissemination of information, as necessary to produce required performance outcomes, and for establishing and operating the Institute authorized in section 3064.

(c) CERTAIN REQUIREMENTS FOR PROGRAMS.—In carrying out the programs described in subsection (b), the Secretary shall, with respect to the organizations and employment positions involved, provide for the following:

(1) Explicit, clearly defined skill requirements developed for all the positions and projections of the number of openings for each position.

(2) Opportunities for internal career movement.

(3) Opportunities to work while training or completing and educational program.

(4) Evaluation and dissemination.

(5) Training opportunities in several forms, as appropriate.

(d) ADMINISTRATIVE REQUIREMENTS.—In carrying out the programs described in subsection (b), the Secretary shall, with respect to the organizations and employment positions involved, provide for the following:

(1) Implementation and administration jointly by management and employees and their representatives.

(2) Discussion with employees as to training needs for career advancement.

(3) Commitment to a policy of internal hirings and promotion.

(4) Provision of support services.

(5) Consultations with employers and with organized labor.

SEC. 3064. NATIONAL INSTITUTE FOR HEALTH CARE WORKFORCE DEVELOPMENT.

(a) ESTABLISHMENT OF INSTITUTE.—The Secretary of Health and Human Services and the Secretary of Labor may jointly establish an office to be known as the National Institute for Health Care Workforce Development. The subsequent provisions of this section apply to any such Institute.

(b) DIRECTOR.—The Institute shall be headed by a director, who shall be appointed jointly by the Secretaries.

(c) DUTIES.—

(1) IN GENERAL.—The Director of the Institute shall make recommendations to the Secretaries regarding—

(A) the supply of health care workers needed for the system of regional and corporate alliance health plans established under title I; and

(B) the impact of such system on health care workers and the needs of such workers with respect to the system, including needs regarding education, training, and other matters relating to career development.

(2) ADMINISTRATION OF PROGRAMS REGARDING RETRAINING, ADVANCED CAREER POSITIONS, AND JOB BANKS.—The Secretary of Labor may carry out section 3063 acting through the Director of the Institute.

(d) ADVISORY BOARD.—

(1) IN GENERAL.—The Secretaries shall establish an advisory board to assist in the development of recommendations under subsection (c).

(2) COMPOSITION.—The Advisory Board shall be composed of—

(A) the Secretary of Labor;

(B) the Secretary of Health and Human Services;

(C) representatives of health care workers in organized labor;

(D) representatives of health care institutions;

(E) representatives of health care education organizations;

(F) representatives of consumer organizations; and

(G) such other individuals as the Secretaries determine to be appropriate.

(e) STAFF, QUARTERS, AND OTHER ASSISTANCE.—The Secretaries shall provide the Institute and the Advisory Board with such staff, quarters, and other administrative assistance as may be necessary for the Institute and the Advisory Board to carry out this section.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "Advisory Board" means the advisory board established under subsection (c).

(2) The term "Institute" means an Institute established under subsection (a).

(3) The term "Secretaries" means the Secretary of Health and Human Services and the Secretary of Labor.

(g) SUNSET.—Effective upon the end of calendar year 2000, this section is repealed.

Subtitle B—Academic Health Centers

PART 1—FORMULA PAYMENTS

SEC. 3101. FEDERAL FORMULA PAYMENTS TO ACADEMIC HEALTH CENTERS.

(a) IN GENERAL.—

(1) FORMULA PAYMENTS.—In the case of any academic health center that submits to the Secretary a written request for a calendar year in accordance with section 3102, the Secretary shall make payments for such year to the center for the purpose specified in subsection (b). The Secretary shall make the payments in an amount determined in accordance with section 3103, and shall administer the payments as a contract, grant, or cooperative agreement.

(2) APPLICABLE YEARS.—Payments under paragraph (1) may not be made before calendar year 1998, except that the Secretary may make such payments before such year to eligible programs in any State that has become a participating State under title I.

(b) PAYMENTS FOR COSTS ATTRIBUTABLE TO ACADEMIC NATURE OF CENTERS.—The purpose of payments under subsection (a) is to assist academic health centers with costs that are not routinely incurred by other entities in providing health services, but are incurred by such centers in providing health services by virtue of the academic nature of such centers.

(c) ACADEMIC HEALTH CENTERS.—For purposes of this subtitle, the term "academic health center" means an entity that operates a teaching hospital that carries out an approved physician training program (as defined in section 3011(b)).

SEC. 3102. REQUEST FOR PAYMENTS.

(a) IN GENERAL.—For purposes of section 3101, a written request for payments under such section is in accordance with this section if the academic health center involved submits the request not later than the date specified by the Secretary; the request is accompanied by each funding agreement described in this part; and the request is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(b) CONTINUED STATUS AS ACADEMIC HEALTH CENTER.—A funding agreement for payments under section 3101 is that the entity involved will maintain status as an academic health center. For purposes of this subtitle, the term "funding agreement", with respect to payments under section 3101 to an entity, means that the Secretary may make the payments only if the entity makes the agreement involved.

SEC. 3103. AVAILABILITY OF FUNDS FOR PAYMENTS; ANNUAL AMOUNT OF PAYMENTS.

(a) DETERMINATION BY SECRETARY OF FUNDS AVAILABLE FOR PAYMENTS.—

(1) ANNUAL ACADEMIC HEALTH CENTER ACCOUNT.—Subject to paragraph (2) and section 3104, the Secretary shall determine for each calendar year the amount to be made available for the purpose of making payments under section 3101 for the year to eligible centers. In determining such amount, the Secretary shall consider the need of eligible centers for assistance with the costs described in section 3101(b).

(2) LIMITATION.—The amount determined by the Secretary for a calendar year under paragraph (1) may not exceed the following amount, as applicable to the calendar year:

(A) In the case of calendar year 1996, $3,100,000,000.

(B) In the case of each of the calendar years 1997 and 1998, $3,200,000,000.

(C) In the case of calendar year 1999, $3,700,000,000.

(D) In the case of calendar year 2000, $3,800,000,000.

(E) In the case of each subsequent calendar year, the amount specified in subparagraph (C) increased by the product of such amount and the general health care inflation factor (as defined in subsection (c)).

(b) AMOUNT OF PAYMENTS FOR INDIVIDUAL ELIGIBLE CENTERS.—The amount of payments required in section 3101 to be made to an eligible center for a calendar year is an amount equal to the product of—

(1) the annual academic health center account determined by the Secretary under subsection (a) for the calendar year; and

(2) the percentage constituted by the ratio of—

(A) an amount equal to product of—

(i) the portion of the gross receipts of the center for the preceding calendar year that was derived from providing services to patients (both inpatients and outpatients); and

(ii) the indirect teaching adjustment factor determined under section 1886(d)(5)(B)(ii) of the Social Security Act (as in effect before January 1, 1998) and applicable to patients discharged from the center in such preceding year (or, in the case of patients discharged from the center on or after January 1, 1998, applicable to patients discharged in calendar year 1997); to

(B) the sum of the respective amounts determined under subparagraph (A) for eligible centers.

(c) REPORT REGARDING MODIFICATIONS IN FORMULA.—Not later than July 1, 1996, the Secretary shall submit to the Congress a report containing any recommendations of the Secretary regarding policies for allocating amounts under subsection (a) among eligible centers.

(d) DEFINITION.—For purposes of this subtitle:

(1) The term "eligible center", with respect to the calendar year involved, means an academic health center that submits to the Secretary a written request for such year in accordance with section 3102.

(2) The term "annual academic health center account", with respect to a calendar year, means the amount determined under subsection (a) for such year.

(2) The term "general health care inflation factor", with respect to a year, has the meaning given such term in section 6001(a)(3) for such year.

SEC. 3104. ADDITIONAL FUNDING PROVISIONS.

(a) SOURCES OF FUNDS FOR ANNUAL ACADEMIC HEALTH CENTER.—The annual academic health center account under section 3103(a) for a calendar year shall be derived from the sources specified in subsection (b).

(b) CONTRIBUTIONS FROM MEDICARE TRUST FUNDS, REGIONAL ALLIANCES, AND CORPORATE ALLIANCES.—For purposes of subsection (a), the sources specified in this subsection for a calendar year are the following:

(1) Transfers made by the Secretary under section 4052.

(2) Payments made by regional alliances under section 1353 and transferred in an amount equal to the aggregate regional alliance portion determined under subsection (c)(2)(A).

(3) The transfer made under section (d)(1).

(c) CONTRIBUTIONS FROM REGIONAL AND CORPORATE ALLIANCES.—

(1) DETERMINATION OF AGGREGATE REGIONAL AND CORPORATE ALLIANCE AMOUNT.—For purposes regarding the provision of funds for the annual academic health center account for a calendar year, the Secretary shall determine an aggregate regional and corporate alliance amount, which amount is to be paid by such alliances pursuant to paragraphs (2) and (3) of subsection (b), respectively, and which amount shall be equal to the difference between—

(A) the annual academic health center account for such year; and

(B) the amount transferred under section 4052 for the year.

(2) ALLOCATION OF AMOUNT AMONG REGIONAL AND CORPORATE ALLIANCES.—With respect to the aggregate regional and corporate alliance amount determined under paragraph (1) for a calendar year—

(A) the aggregate regional alliance portion of such amount is the product of such amount and the percentage constituted by the ratio of the total plan payments of regional alliances to the combined total plan payments of regional alliances and corporate alliances; and

(B) the aggregate corporate alliance portion of such amount is the product of such amount and the percentage constituted by the ratio of the total plan payments of corporate alliances to such combined total plan payments.

(d) COMPLIANCE REGARDING CORPORATE ALLIANCES.—

(1) IN GENERAL.—Effective January 15 of each calendar year, there is hereby transferred to the Secretary, out of any money in the Treasury not otherwise appropriated, an amount equal to the aggregate corporate alliance portion determined under subsection (c)(2)(B) for such year.

(2) MANNER OF COMPLIANCE.—The payment by corporate alliances of the tax imposed under section 3461 of the Internal Revenue Code of 1986 (as added by section 7121 of this Act), together with the transfer made in paragraph (1) for the calendar year involved, is deemed to be the payment required pursuant to subsection (c)(1) for corporate alliances for such year..

(e) DEFINITIONS.—For purposes of this subtitle, the term "plan payments" with respect to a regional or corporate alliance, means the amount paid to health plans by the alliance.

PART 2—ACCESS OF PATIENTS TO ACADEMIC HEALTH CENTERS

SEC. 3131. CONTRACTS FOR ENSURING ACCESS TO CENTERS.

(a) CONTRACTS WITH HEALTH PLANS.—Regional and corporate health alliances under this Act shall ensure that, in accordance with subsection (b), the health plans of the alliances enter into sufficient contracts with eligible centers to ensure that enrollees in regional or corporate alliance health plans, as appropriate, receive the specialized treatment expertise of such centers, subject to such exceptions as the Secretary may provide.

(b) UTILIZATION OF SPECIALIZED TREATMENT EXPERTISE OF CENTERS.—Contracts under subsection (a) between eligible centers and health plans are in accordance with this subsection if the contracts provide that, with respect to health conditions within the specialized treatment expertise of the centers, health plans will refer medical cases involving such conditions to the centers.

(c) SPECIALIZED TREATMENT EXPERTISE.—For purposes of this subtitle, the term "specialized treatment expertise", with respect to treatment of a health condition by an academic health center, means expertise in treating rare diseases, treating unusually severe conditions, and providing other specialized health care.

SEC. 3132. DISCRETIONARY GRANTS REGARDING ACCESS TO CENTERS.

(a) RURAL INFORMATION AND REFERRAL SYSTEMS.—The Secretary may make grants to eligible centers for the establishment and operation of information and referral systems to provide the services of such centers to rural regional and corporate health alliance health plans.

(b) OTHER PURPOSES REGARDING URBAN AND RURAL AREAS.—The Secretary may make grants to eligible centers to carry out activities (other than activities carried out under subsection (a)) for the purpose of providing the services of eligible centers to residents of rural or urban communities who otherwise would not have adequate access to such services.

Subtitle C—Health Research Initiatives

PART 1—PROGRAMS FOR CERTAIN AGENCIES

SEC. 3201. BIOMEDICAL AND BEHAVIORAL RESEARCH ON HEALTH PROMOTION AND DISEASE PREVENTION.

Section 402(f) of the Public Health Service Act (42 U.S.C. 282(f)), as amended by section 201 of Public Law 103-43 (107 Stat. 144), is amended—

(1) in paragraph (3), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(3) by inserting "(1)" after "(f)"; and

(4) by adding at the end the following paragraph:

"(2)(A) The Director of NIH, in collaboration with the Associate Director for Prevention and with the heads of the agencies of the National Institutes of Health, shall ensure that such Institutes conduct and support biomedical and behavioral research on promoting health and preventing diseases, disorders, and other health conditions (including Alzheimer's disease, breast cancer, heart disease, and stroke).

"(B) In carrying out subparagraph (A), the Director of NIH shall give priority to conducting and supporting research on child and adolescent health (including birth defects), chronic and recurrent health conditions, reproductive health, mental health, elderly health, substance abuse, infectious diseases, health and wellness promotion, and environmental health, and to resource development related to such research.".

SEC. 3202. HEALTH SERVICES RESEARCH.

Section 902 of the Public Health Service Act (42 U.S.C. 299a), as amended by section 2(b) of Public Law 102-410 (106 Stat. 2094), is amended by adding at the end the following subsection:

"(f) RESEARCH ON HEALTH CARE REFORM.—

"(1) IN GENERAL.—In carrying out section 901(b), the Administrator shall conduct and support research on the reform of the health care system of the United States, as directed by the National Board.

"(2) PRIORITIES.—In carrying out paragraph (1), the Administrator shall give priority to the following:

"(A) Conducting and supporting research on the appropriateness and effectiveness of alternative clinical strategies; the quality and outcomes of care; and administrative simplification.

"(B) Conducting and supporting research on consumer choice and information resources; the effects of health care reform on health delivery systems; workplace injury and illness prevention; methods for risk adjustment; factors influencing access to health care for underserved populations; and primary care.

"(C) The development of clinical practice guidelines consistent with section 913, the dissemination of such guidelines consistent with section 903, and the assessment of the effectiveness of such guidelines.".

PART 2—FUNDING FOR PROGRAMS

SEC. 3211. AUTHORIZATIONS REGARDING PUBLIC HEALTH SERVICE INITIATIVES FUND.

(a) BIOMEDICAL AND BEHAVIORAL RESEARCH ON HEALTH PROMOTION AND DISEASE PREVENTION.—For the purpose of carrying out activities pursuant to the amendments made by section 3201, there are authorized to be appropriated from the Public Health Service Initiatives Fund (established in section 3701) $400,000,000 for fiscal year 1995, and $500,000,000 for each of the fiscal years 1996 through 2000.

(b) HEALTH SERVICES RESEARCH.—For the purpose of carrying out activities pursuant to the amendments made by section 3202, there are authorized to be appropriated from the Public Health Service Initiatives Fund $150,000,000 for fiscal year 1995, $400,000,000 for fiscal year 1996, $500,000,000 for fiscal year 1997, and $600,000,000 for each of the fiscal years 1998 through 2000.

(c) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsections (a) and (b) are in addition to any other authorizations of appropriations that are available for the purposes described in such subsections.

Subtitle D—Core Functions of Public Health Programs; National Initiatives Regarding Preventive Health

PART 1—FUNDING

SEC. 3301. AUTHORIZATIONS REGARDING PUBLIC HEALTH SERVICE INITIATIVES FUND.

(a) CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS.—For the purpose of carrying out part 2, there are authorized to be appropriated from the Public Health Service Initiatives Fund (established in section 3701) $12,000,000 for fiscal year 1995, $325,000,000 for fiscal year 1996, $450,000,000 for fiscal year 1997, $550,000,000 for fiscal year 1998, $650,000,000 for fiscal year 1999, and $750,000,000 for fiscal year 2000.

(b) NATIONAL INITIATIVES REGARDING HEALTH PROMOTION AND DISEASE PREVENTION.—For the purpose of carrying out part 3, there are authorized to be appropriated from the Public Health Service Initiatives Fund (established in section 3701) $175,000,000 for fiscal year 1996, and $200,000,000 for each of the fiscal years 1997 through 2000.

(c) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsections (a) and (b) are in addition to any other authorizations of appropriations that are available for the purposes described in such subsections.

PART 2—CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS

SEC. 3311. PURPOSES.

Subject to the subsequent provisions of this subtitle, the purposes of this part are to strengthen the capacity of State and local public health agencies to carry out the following functions:

(1) To monitor and protect the health of communities against communicable diseases and exposure to toxic environmental pollutants, occupational hazards, harmful products, and poor quality health care.

(2) To identify and control outbreaks of infectious disease and patterns of chronic disease and injury.

(3) To inform and educate health care consumers and providers about their roles in preventing and controlling disease and the appropriate use of medical services.

(4) To develop and test new prevention and public health control interventions.

SEC. 3312. GRANTS TO STATES FOR CORE HEALTH FUNCTIONS.

(a) IN GENERAL.—The Secretary may make grants to States for the purpose of carrying out one or more of the functions described in subsection (b).

(b) CORE FUNCTIONS OF PUBLIC HEALTH PROGRAMS.—For purposes of subsection (a), the functions described in this subsection are, subject to subsection (c), as follows:

(1) Data collection, activities related to population health measurement and outcomes monitoring, including the regular collection and analysis of public health data, vital statistics, and personal health services data and analysis for planning and needs assessment purposes of data collected from health plans through the information system under title V of this Act.

(2) Activities to protect the environment and to assure the safety of housing, workplaces, food and water, including the following activities:

(A) Monitoring the overall public health quality and safety of communities.

(B) Assessing exposure to high lead levels and water contamination.

(C) Monitoring sewage and solid waste disposal, radiation exposure, radon exposure, and noise levels.

(D) Abatement of lead-related hazards.

(E) Assuring recreation and worker safety.

(F) Enforcing public health safety and sanitary codes.

(G) Other activities relating to promoting the public health of communities.

(3) Investigation and control of adverse health conditions, including improvements in emergency treatment preparedness, cooperative activities to reduce violence levels in communities, activities to control the outbreak of disease, exposure related conditions and other threats to the health status of individuals.

(4) Public information and education programs to reduce risks to health such as use of tobacco, alcohol and other drugs, sexual activities that increase the risk to HIV transmission and sexually transmitted diseases, poor diet, physical inactivity, and low childhood immunization levels.

(5) Accountability and quality assurance activities, including monitoring the quality of personal health services furnished by health plans and providers of medical and health services in a manner consistent with the overall quality of care monitoring activities undertaken under title V, and monitoring communities' overall access to health services.

(6) Provision of public health laboratory services to complement private clinical laboratory services and that screen for diseases and conditions such as metabolic diseases in newborns, provide toxicology assessments of blood lead levels and other environmental toxins, diagnose sexually transmitted diseases, tuberculosis and other diseases requiring partner notification, test for infectious and food-borne diseases, and monitor the safety of water and food supplies.

(7) Training and education to assure provision of care by all health professionals, with special emphasis placed on the training of public health professions including epidemiologists, biostatisticians, health educators, public health administrators, sanitarians and laboratory technicians.

(8) Leadership, policy development and administration activities, including needs assessment, the setting of public health standards, the development of community public health policies, and the development of community public health coalitions.

(c) RESTRICTIONS ON USE OF GRANT.—

(1) IN GENERAL.—A funding agreement for a grant under subsection (a) for a State is that the grant will not be expended—

(A) to provide inpatient services;

(B) to make cash payments to intended recipients of health services;

(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

(E) to provide financial assistance to any entity other than a public or nonprofit private entity.

(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—A funding agreement for a grant under subsection (a) is that the State involved will not expend more than 10 percent of the grant for administrative expenses with respect to the grant.

(d) MAINTENANCE OF EFFORT.—A funding agreement for a grant under subsection (a) is that the State involved will maintain expenditures of non-Federal amounts for core health functions at a level that is not less than the level of such expenditures maintained by the State for the fiscal year preceding the first fiscal year for which the State receives such a grant.

SEC. 3313. SUBMISSION OF INFORMATION.

The Secretary may make a grant under section 3312 only if the State involved submits to the Secretary the following information:

(1) A description of existing deficiencies in the State's public health system (at the State level and the local level), using standards of sufficiency developed by the Secretary.

(2) A description of health status measures to be improved within the State (at the State level and the local level) through expanded public health functions.

(3) Measurable outcomes and process objectives for improving health status and core health functions for which the grant is to be expended.

(4) Information regarding each such function, which—

(A) identifies the amount of State and local funding expended on each such function for the fiscal year preceding the fiscal year for which the grant is sought; and

(B) provides a detailed description of how additional Federal funding will improve each such function by both the State and local public health agencies.

(5) A description of the core health functions to be carried out at the local level, and a specification for each such function of—

(A) the communities in which the function will be carried out; and

(B) the amount of the grant to be expended for the function in each community so specified.

SEC. 3314. REPORTS.

A funding agreement for a grant under section 3312 is that the States involved will, not later than the date specified by the Secretary, submit to the Secretary a report describing—

(1) the purposes for which the grant was expended; and

(2) describing the extent of progress made by the State in achieving measurable outcomes and process objectives described in section 3313(3).

SEC. 3315. APPLICATION FOR GRANT.

The Secretary may make a grant under section 3312 only if an application for the grant is submitted to the Secretary, the application contains each agreement described in this part, the application contains the information required in section 3314, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

SEC. 3316. GENERAL PROVISIONS.

(a) UNIFORM DATA SETS.—The Secretary, in consultation with the States, shall develop uniform sets of data for the purpose of monitoring the core health functions carried out with grants under section 3312.

(b) DURATION OF GRANT.—The period during which payments are made to a State from a grant under section 3312 may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments. This subsection may not be construed as establishing a limitation on the number of grants under such section that may be made to the State.

SEC. 3317. ALLOCATIONS FOR CERTAIN ACTIVITIES.

Of the amounts made available under section 3301 for a fiscal year for carrying out this part, the Secretary may reserve not more than 5 percent for carrying out the following activities:

(1) Technical assistance with respect to planning, development, and operation of core health functions carried out under section 3312, including provision of biostatistical and epidemiological expertise and provision of laboratory expertise.

(2) Development and operation of a national information network among State and local health agencies.

(3) Program monitoring and evaluation of core health functions carried out under section 3312.

(4) Development of a unified electronic reporting mechanism to improve the efficiency of administrative management requirements regarding the provision of Federal grants to State public health agencies.

SEC. 3318. DEFINITIONS.

For purposes of this part:

(1) The term "funding agreement", with respect to a grant under section 3312 to a State, means that the Secretary may make the grant only if the State makes the agreement involved.

(2) The term "core health functions", with respect to a State, means the functions described in section 3312(b).

PART 3—NATIONAL INITIATIVES REGARDING HEALTH PROMOTION AND DISEASE PREVENTION

SEC. 3331. GRANTS FOR NATIONAL PREVENTION INITIATIVES.

(a) IN GENERAL.—The Secretary may make grants to entities described in subsection (b) for the purpose of carrying out projects to develop and implement innovative community-based strategies to provide for health promotion and disease prevention activities for which there is a significant need, as identified under section 1701 of the Public Health Service Act.

(b) ELIGIBLE ENTITIES.—The entities referred to in subsection (a) are agencies of State or local government, private nonprofit organizations (including research institutions), and coalitions that link two or more of these groups.

(c) CERTAIN ACTIVITIES.—The Secretary shall ensure that projects carried out under subsection (a)—

(1) reflect approaches that take into account the special needs and concerns of the affected populations;

(2) are targeted to the most needy and vulnerable population groups and geographic areas of the Nation;

(3) examine links between various high priority preventable health problems and the potential community-based remedial actions; and

(4) establish or strengthen the links between the activities of agencies engaged in public health activities with those of health alliances, health care providers, and other entities involved in the personal health care delivery system described in title I.

SEC. 3332. PRIORITIES.

(a) ESTABLISHMENT.—

(1) ANNUAL STATEMENT.—After consultation with the advisory board established in section 3335, the Secretary shall for each fiscal year develop a statement of proposed priorities for grants under section 3331 for the fiscal year.

(2) ALLOCATIONS AMONG PRIORITIES.—With respect to the amounts available under section 3301 for the fiscal year for carrying out this part, each statement under paragraph (1) for a fiscal year shall include a specification of the percentage of the amount to be devoted to projects addressing each of the proposed priorities established in the statement.

(3) PROCESS FOR ESTABLISHING PRIORITIES.—Not later than January 1 of each fiscal year, the Secretary shall publish a statement under paragraph (1) in the Federal Register. A period of 60 days shall be allowed for the submission of public comments and suggestions concerning the proposed priorities. After analyzing and considering comments on the proposed priorities, the Secretary shall publish in the Federal Register final priorities (and associated reservations of funds) for approval of projects for the following fiscal year.

(b) APPLICABILITY TO MAKING OF GRANTS.—

(1) IN GENERAL.—Subject to paragraph (3), the Secretary may make grants under section 3331 for projects that the Secretary determines—

(A) are consistent with the applicable final statement of priorities and otherwise meets the objectives described in subsection (a); and

(B) will assist in meeting a health need or concern of a population served by a health plan or health alliance established under title I.

(2) SPECIAL CONSIDERATION FOR CERTAIN PROJECTS.—In making grants under section 3331, the Secretary shall, subject to paragraph (3), give special consideration to applicants that will carry out projects that, in addition to being consistent with the applicable published priorities under subsection (a) and otherwise meeting the requirements of this part, have the potential for replication in other communities.

SEC. 3333. SUBMISSION OF INFORMATION.

The Secretary may make a grant under section 3331 only if the applicant involved submits to the Secretary the following information:

(1) A description of the activities to be conducted, and the manner in which the activities are expected to contribute to meeting one or more of the priority health needs specified under section 3332 for the fiscal year for which the grant is initially sought.

(2) A description of the total amount of Federal funding requested, the geographic area and populations to be served, and the evaluation procedures to be followed.

(3) Such other information as the Secretary determines to be appropriate.

SEC. 3334. APPLICATION FOR GRANT.

The Secretary may make a grant under section 3331 only if an application for the grant is submitted to the Secretary, the application contains each agreement described in this part, the application contains the information required in section 3333, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

Subtitle E—Health Services for Medically Underserved Populations

PART 1—COMMUNITY AND MIGRANT HEALTH CENTERS

SEC. 3401. AUTHORIZATIONS REGARDING PUBLIC HEALTH SERVICE INITIATIVES FUND.

(a) GRANTS TO COMMUNITY AND MIGRANT HEALTH CENTERS.—The Secretary shall make grants in accordance with this part to migrant health centers and community health centers.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated from the Public Health Service Initiatives Fund (established in section 3701) $100,000,000 for each of the fiscal years 1995 through 2000.

(c) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (b) for the purpose described in such subsection are in addition to any other authorizations of appropriations that are available for such purpose.

(d) DEFINITIONS.—For purposes of this subtitle, the terms "migrant health center" and "community health center" have the meanings given such terms in sections 329(a)(1) and 330(a) of the Public Health Service Act, respectively.

SEC. 3402. USE OF FUNDS.

(a) DEVELOPMENT, OPERATION, AND OTHER PURPOSES REGARDING CENTERS.—Subject to subsection (b), grants under section 3401 to migrant health centers and community health centers may be made only in accordance with the conditions upon which grants are made under sections 329 and 330 of the Public Health Service Act, respectively.

(b) REQUIRED FINANCIAL RESERVES.—The Secretary may authorize migrant health centers and community health centers to expend a grant under section 3401 to establish and maintain the financial reserves required under title I for providers of health services.

PART 2—INITIATIVES FOR ACCESS TO HEALTH CARE

Subpart A—Purposes; Funding

SEC. 3411. PURPOSES.

Subject to the provisions of subparts B through D, the purposes of this part are as follows:

(1) To improve access to health services for urban and rural medically-underserved populations through a program of flexible grants, contracts, and loans.

(2) To facilitate transition to a system in which medically-underserved populations have an adequate choice of community-oriented providers and health plans.

(3) To promote the development of community practice networks and community health plans that integrate health professionals and health care organizations supported through public funding with other providers in medically underserved areas.

(4) To support linkages between providers of health care for medically-underserved populations and regional and corporate alliance health plans.

(5) To expand the capacity of community practice networks and community health plans in underserved areas by increasing the number of practice sites and by renovating and converting substandard inpatient and outpatient facilities.

(6) To link providers in underserved areas with each other and with regional health care institutions and academic health centers through information systems and telecommunications.

(7) To support activities that enable medically underserved populations to gain access to the health care system and use it effectively.

SEC. 3412. AUTHORIZATIONS REGARDING PUBLIC HEALTH SERVICE INITIATIVES FUND.

(a) DEVELOPMENT OF QUALIFIED COMMUNITY HEALTH PLANS AND PRACTICE GROUPS.—For the purpose of carrying out subparts B and C, there are authorized to be appropriated from the Public Health Service Initiatives Fund (established in section 3701) $200,000,000 for fiscal year 1995, $500,000,000 for fiscal year 1996, $600,000,000 for fiscal year 1997, $700,000,000 for fiscal year 1998, $500,000,000 for fiscal year 1999, and $200,000,000 for fiscal year 2000.

(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

(c) RELATIONSHIP TO PROGRAM REGARDING SCHOOL-RELATED HEALTH SERVICES.—This section is subject to section 3692.

Subpart B—Development of Qualified Community Health Plans and Practice Networks

SEC. 3421. GRANTS AND CONTRACTS FOR DEVELOPMENT OF PLANS AND NETWORKS.

(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with consortia of public or private health care providers for the development of qualified community health plans and qualified community practice networks. For purposes of this subtitle, the term "qualified community health group" means such a health plan or such a practice network.

(b) QUALIFIED COMMUNITY HEALTH PLANS.—For purposes of this subtitle, the term "qualified community health plan" means a health plan that meets the following conditions:

(1) The health plan is a public or nonprofit private entity whose principal purpose is, with respect to the items and services included in the comprehensive benefit package under title I, to provide each of such items and services in one or more health professional shortage areas or to provide such items and services to a significant number of individuals who are members of a medically underserved population.

(2) The health plan is a participant in one or more health alliances.

(3) Two or more of the categories specified in subsection (d) are represented among the entities providing health services through the health plan.

(c) QUALIFIED COMMUNITY PRACTICE NETWORKS.—For purposes of this subtitle, the term "qualified community practice network" means a consortium of health care providers meeting the following conditions:

(1) The consortium is a public or nonprofit private entity whose principal purpose is the purpose described in subsection (b)(1).

(2) The consortium has an agreement with one or more health plans that are participating in one or more health alliances.

(3) The participation of health care providers in the consortium is governed by a written agreement to which each of the participating providers is a party.

(4) Two or more of the categories described in subsection (d) are represented among the entities participating in the consortium.

(d) RELEVANT CATEGORIES OF ENTITIES.—For purposes of subsections (b)(3) and (c)(4), the categories described in this subsection are the following categories of entities:

(1) Physicians, other health professionals, or health care institutions that provide health services in one or more health professional shortage areas or provide such services to a significant number of individuals who are members of a medically underserved population, and that do not provide health services under any of the programs specified in paragraphs (2) through (7) or as employees of public entities.

(2) Entities providing health services under grants under sections 329 and 330 of the Public Health Service Act.

(3) Entities providing health services under grants under sections 340 and 340A of such Act.

(4) Entities providing health services under grants under section 1001 or title XXIII of such Act.

(5) Entities providing health services under title V of the Social Security Act.

(6) Entities providing health services through rural health clinics and other federally qualified health centers.

(7) Entities providing health services in urban areas through programs under title V of the Indian Health Care Improvement Act, and entities providing outpatient health services through programs under the Indian Self-Determination Act.

(8) Programs providing personal health services and operating through State or local public health agencies.

(e) RULE OF CONSTRUCTION.—The consortia to which the Secretary may make an award of financial assistance under subsection (a) for the development of qualified community practice networks include any health plan that participates in one or more health alliances, without regard to whether the health plan is a qualified community health plan.

(f) SERVICE AREA.—In making an award of financial assistance under subsection (a), the Secretary shall designate the geographic area with respect to which the qualified community health group involved is to provide health services. A funding agreement for such an award is that the qualified community health group involved will provide such services in the area so designated.

(g) DEFINITIONS.—For purposes of this subtitle:

(1) The term "health professional shortage areas" means health professional shortage areas designated under section 332 of the Public Health Service Act.

(2) The term "medically underserved population" means a medically underserved population designated under section 330 of the Public Health Service Act.

(3) The term "rural health clinic" has the meaning given such term in section 1861(aa)(2) of the Social Security Act.

(4) The term "federally qualified health centers" has the meaning given such term in section 1861(aa)(4) of the Social Security Act.

(5) The term "service area", with respect to a qualified community health group, means the geographic area designated under subsection (g).

(6) The term "funding agreement", with respect to an award of financial assistance under this section, means that the Secretary may make the award only if the applicant for the award makes the agreement involved.

(7) The term "financial assistance", with respect to awards under subsection (a), means a grant or contract.

SEC. 3422. PREFERENCES IN MAKING AWARDS OF ASSISTANCE.

In making awards of financial assistance under section 3421, the Secretary shall give preference to applicants in accordance with the following:

(1) The Secretary shall give preference if 3 or more of the categories described in subsection (d) of such section will be represented in the qualified community health group involved (pursuant to subsection (b)(3) or (c)(4), as the case may be).

(2) Of applicants receiving preference under paragraph (1), the Secretary shall give a greater degree of preference according to the extent to which a greater number of categories are represented.

(3) Of applicants receiving preference under paragraph (1), the Secretary shall give a greater degree of preference if one of the categories represented is the category described in subsection (d)(1) of such section.

SEC. 3423. CERTAIN USES OF AWARDS.

(a) IN GENERAL.—Subject to subsection (b), the purposes for which an award of financial assistance under section 3421 may be expended in developing a qualified community health group include the following:

(1) Planning such group, including entering into contracts between the recipient of the award and health care providers who are to participate in the group.

(2) Recruitment, compensation, and training of health professionals and administrative staff.

(3) Acquisition, expansion, modernization, and conversion of facilities, including for purposes of providing for sites at which health services are to be provided through such group.

(4) Acquisition and development of information systems (exclusive of systems that the Secretary determines are information highways).

(5) Such other expenditures as the Secretary determines to be appropriate.

(b) TWENTY-YEAR OBLIGATION REGARDING SIGNIFICANT CAPITAL EXPENDITURES; RIGHT OF RECOVERY.—

(1) IN GENERAL.—With respect to a facility for which substantial capital costs are to be paid from an award of financial assistance under section 3421, the Secretary may make the award only if the applicant involved agrees that the applicant will be liable to the United States for the amount of the award expended for such costs, together with an amount representing interest, if at any time during the 20-year period beginning on the date of completion of the activities involved, the facility—

(A) ceases to be a facility utilized by a qualified community health group, or by another public or nonprofit private entity that provides health services in one or more health professional shortage areas or that provides such services to a significant number of individuals who are members of a medically underserved population; or

(B) is sold or transferred to any entity other than an entity that is—

(i) a qualified community health group or other entity described in subparagraph (A); and

(ii) approved by the Secretary as a purchaser or transferee regarding the facility.

(2) SUBORDINATION; WAIVERS.—The Secretary may subordinate or waive the right of recovery under paragraph (1), and any other Federal interest that may be derived by virtue of an award of financial assistance under section 3421 from which substantial capital costs are to paid from an award, if the Secretary determines that subordination or waiver will further the objectives of this part.

SEC. 3424. ACCESSIBILITY OF SERVICES.

(a) SERVICES FOR CERTAIN INDIVIDUALS.—A funding agreement for an award of financial assistance under section 3421 is that the qualified community health group involved will ensure that the services of the group will be accessible directly or through formal contractual arrangements with its participating providers regardless of whether individuals who seek care from the applicant are eligible persons under title I.

(b) USE OF THIRD-PARTY PAYORS.—A funding agreement for an award of financial assistance under section 3421 is that the qualified community health group involved will ensure that the health care providers of the group are all approved by the Secretary as providers under title XVIII of the Social Security Act and by the appropriate State agency as providers under title XIX of the Social Security Act, and the applicant has made or will make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to individuals who are entitled to health benefits under title I of this Act, insurance benefits under title XVIII of the Social Security Act, medical assistance under a State plan approved under title XIX of the Social Security Act, or to assistance for medical expenses under any other public assistance program or private health insurance program.

(c) SCHEDULE OF FEES.—A funding agreement for an award of financial assistance under section 3421 is that the qualified community health group involved will—

(1) prepare a schedule of fees or payments for the provision of health services not covered by title I that is consistent with locally prevailing rates or charges and designed to cover its reasonable costs of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments (or payments of cost sharing amounts owed in the case of covered benefits) which discounts are applied on the basis of the patient's ability to pay; and

(2) make every reasonable effort to secure from patients payment in accordance with such schedules, and to collect reimbursement for services to persons entitled to public or private insurance benefits or other medical assistance on the basis of full fees without application of discounts, except that the applicant will ensure that no person is denied service based on the person's inability to pay therefor.

(d) BARRIERS WITHIN SERVICE AREA.—A funding agreement for an award of financial assistance under section 3421 is that the qualified community health group involved will ensure that the following conditions are met:

(1) In the service area of the group, the group will ensure that—

(A) the services of the group are accessible to all residents; and

(B) to the maximum extent possible, barriers to access to the services of the group are eliminated, including barriers resulting from the area's physical characteristics, its residential patterns, its economic, social and cultural groupings, and available transportation.

(2) The group will periodically conduct reviews within the service area of the group to determine whether the conditions described in paragraph (1) are being met.

(e) LIMITED ABILITY TO SPEAK ENGLISH LANGUAGE.—A funding agreement for an award of financial assistance under section 3421 is that, if the service area of the qualified community health group involved serves a substantial number of individuals who have a limited ability to speak the English language, the applicant will—

(1) maintain arrangements responsive to the needs of such individuals for providing services to the extent practicable in the language and cultural context most appropriate to such individuals; and

(2) maintain a sufficient number of staff members who are fluent in both English and the languages spoken by such individuals, and will ensure that the responsibilities of the employees include providing guidance and assistance to such individuals and to other staff members of the group.

SEC. 3425. ADDITIONAL AGREEMENTS.

(a) REQUIRED SERVICES.—A funding agreement for an award of financial assistance under section 3421 is that the qualified community health group involved will provide enabling services (as defined in section 3461(g)) and all of the items and services identified by the Secretary in rules regarding qualified community health plans and practice networks.

(b) QUALITY CONTROL SYSTEM.—A funding agreement for an award of financial assistance under section 3421 is that the qualified community health group involved will maintain a community-oriented, patient responsive, quality control system under which the group, in accordance with regulations prescribed by the Secretary—

(1) conducts an ongoing quality assurance program for the health services delivered by participating provider entities;

(2) maintains a continuous community health status improvement process; and

(3) maintains a system for development, compilation, evaluation and reporting of information to the public regarding the costs of operation, service utilization patterns, availability, accessibility and acceptability of services, developments in the health status of the populations served, uniform health and clinical performance measures and financial performance of the network or plan.

(c) USE OF EXISTING RESOURCES.—A funding agreement for an award of financial assistance under section 3421 is that the applicant will, in developing the qualified community health group involved, utilize existing resources to the maximum extent practicable.

SEC. 3426. SUBMISSION OF CERTAIN INFORMATION.

(a) ASSESSMENT OF NEED.—The Secretary may make an award of financial assistance under section 3421 only if the applicant involved submits to the Secretary an assessment of the need that the medically underserved population or populations proposed to be served by the applicant have for health services and for enabling services (as defined in section 3461(g)).

(b) DESCRIPTION OF INTENDED EXPENDITURES; RELATED INFORMATION.—The Secretary may make an award of financial assistance under section 3421 only if the applicant involved submits to the Secretary the following information:

(1) A description of how the applicant will design the proposed quality community health plan or practice network (including the service sites involved) for such populations based on the assessment of need.

(2) A description of efforts to secure, within the proposed service area of such health plan or practice network (including the service sites involved), financial and professional assistance and support for the project.

(3) Evidence of significant community involvement in the initiation, development and ongoing operation of the project.

SEC. 3427. REPORTS; AUDITS.

A funding agreement for an award of financial assistance under section 3421 is that the applicant involved will—

(1) provide such reports and information on activities carried out under this section in a

manner and form required by the Secretary; and

(2) provide an annual organization-wide audit that meets applicable standards of the Secretary.

SEC. 3428. APPLICATION FOR ASSISTANCE.

The Secretary may make an award of financial assistance under section 3421 only if an application for the award is submitted to the Secretary, the application contains each funding agreement described in this subpart, the application contains the information required in section 3426, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

SEC. 3429. GENERAL PROVISIONS.

(a) LIMITATION ON NUMBER OF AWARDS.—The Secretary may not make more than two awards of financial assistance under section 3421 for the same project.

(b) AMOUNT.—The amount of any award of financial assistance under section 3421 for any project shall be determined by the Secretary.

Subpart C—Capital Cost of Development of Qualified Community Health Plans and Practice Networks

SEC. 3441. LOANS AND LOAN GUARANTEES REGARDING PLANS AND NETWORKS.

(a) IN GENERAL.—The Secretary may make loans to, and guarantee the payment of principal and interest to Federal and non-Federal lenders on behalf of, public and private entities for the capital costs of developing qualified community health groups (as defined in section 3421(a)).

(b) PREFERENCES; ACCESSIBILITY OF SERVICES; CERTAIN OTHER PROVISIONS.—The provisions of subpart B apply to loans and loan guarantees under subsection (a) to the same extent and in the same manner as such provisions apply to awards of grants and contracts under section 3421.

(c) USE OF ASSISTANCE.—

(1) IN GENERAL.—With respect to the development of qualified community health groups, the capital costs for which loans made pursuant to subsection (a) may be expended are, subject to paragraphs (2) and (3), the following:

(A) The acquisition, modernization, expansion or construction of facilities, or the conversion of unneeded hospital facilities to facilities that will assure or enhance the provision and accessibility of health care and enabling services to medically underserved populations.

(B) The purchase of major equipment, including equipment necessary for the support of external and internal information systems.

(C) The establishment of reserves required for furnishing services on a prepaid basis.

(D) Such other capital costs as the Secretary may determine are necessary to achieve the objectives of this section.

(2) PRIORITIES REGARDING USE OF FUNDS.—In providing loans or loan guarantees under subsection (a) for an entity, the Secretary shall give priority to authorizing the use of amounts for projects for the renovation and modernization of medical facilities necessary to prevent or eliminate safety hazards, avoid noncompliance with licensure or accreditation standards, or projects to replace obsolete facilities.

(3) LIMITATION.—The Secretary may authorize the use of amounts under subsection (a) for the construction of new buildings only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, expanding or converting existing buildings, or that construction of new buildings will cost less.

(d) AMOUNT OF ASSISTANCE.—The principal amount of loans or loan guarantees under subsection (a) may, when added to any other assistance under this section, cover up to 100 percent of the costs involved.

SEC. 3442. CERTAIN REQUIREMENTS.

(a) LOANS.—

(1) IN GENERAL.—The Secretary may approve a loan under section 3441 only if—

(A) the Secretary is reasonably satisfied that the applicant for the project for which the loan would be made will be able to make payments of principal and interest thereon when due; and

(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

(2) TERMS AND CONDITIONS.—Any loan made under section 3441 shall meet such terms and conditions (including provisions for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of such section while adequately protecting the financial interests of the United States. Terms and conditions for such loans shall include provisions regarding the following:

(A) Security.

(B) Maturity date.

(C) Amount and frequency of installments.

(D) Rate of interest, which shall be at a rate comparable to the rate of interest prevailing on the date the loan is made.

(b) LOAN GUARANTEES.—The Secretary may not approve a loan guarantee under section 3441 unless the Secretary determines that the terms, conditions, security (if any), schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable. Such loan guarantees shall be subject to such further terms and conditions as the Secretary determines to be necessary to ensure that the purposes of this section will be achieved.

(c) USE OF EXISTING RESOURCES.—The Secretary may provide a loan or loan guarantee under section 3441 only if the applicant involved agrees that, in developing the qualified community health group involved, the applicant will utilize existing resources to the maximum extent practicable.

SEC. 3443. DEFAULTS; RIGHT OF RECOVERY.

(a) DEFAULTS.—

(1) IN GENERAL.—The Secretary may take such action as may be necessary to prevent a default on loans or loan guarantees under section 3441, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes.

(2) FORECLOSURE.—The Secretary may take such action, consistent with State law respecting foreclosure procedures, as the Secretary deems appropriate to protect the interest of the United States in the event of a default on a loan made pursuant to section 3441, including selling real property pledged as security for such a loan or loan guarantee and for a reasonable period of time taking possession of, holding, and using real property pledged as security for such a loan or loan guarantee.

(3) WAIVERS.—The Secretary may, for good cause, but with due regard to the financial interests of the United States, waive any right of recovery which the Secretary has by reasons of the failure of a borrower to make payments of principal of and interest on a loan made pursuant to section 3441, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

(b) TWENTY-YEAR OBLIGATION; RIGHT OF RECOVERY.—

(1) IN GENERAL.—With respect to a facility for which a loan is to be made pursuant to section 3441, the Secretary may provide the loan or loan guarantee only if the applicant involved agrees that the applicant will be liable to the United States for the amount of the loan or loan guarantee, together with an amount representing interest, if at any time during the 20-period beginning on the date of completion of the activities involved, the facility—

(A) ceases to be a facility utilized by a qualified community health group, or by another public or nonprofit private entity that provides health services in one or more health professional shortage areas or that provides such services to a significant number of individuals who are members of a medically underserved population; or

(B) is sold or transferred to any entity other than an entity that is—

(i) a qualified community health group or other entity described in subparagraph (A); and

(ii) approved by the Secretary as a purchaser or transferee regarding the facility.

(2) SUBORDINATION; WAIVERS.—The Secretary may subordinate or waive the right of recovery under paragraph (1), and any other Federal interest that may be derived by virtue of a loan or loan guarantee under subsection (a), if the Secretary determines that subordination or waiver will further the objectives of this part.

SEC. 3444. PROVISIONS REGARDING CONSTRUCTION OR EXPANSION OF FACILITIES.

(a) SUBMISSION OF INFORMATION.—In the case of a project for construction, conversion, expansion or modernization of a facility, the Secretary may provide loans or loan guarantees under section 3441 only if the applicant submits to the Secretary the following:

(1) A description of the site.

(2) Plans and specifications which meet requirements prescribed by the Secretary.

(3) Information reasonably demonstrating that title to such site is vested in one or more of the entities filing the application (unless the agreement described in subsection (b)(1) is made).

(4) A specification of the type of assistance being requested under section 3441.

(b) AGREEMENTS.—In the case of a project for construction, conversion, expansion or modernization of a facility, the Secretary may provide loans or loan guarantees under section 3441 only if the applicant makes the following agreements:

(1) Title to such site will be vested in one or more of the entities filing the application (unless the assurance described in subsection (a)(3) has been submitted under such subsection).

(2) Adequate financial support will be available for completion of the project and for its maintenance and operation when completed.

(3) All laborers and mechanics employed by contractors or subcontractors in the performance of work on a project will be paid wages at rates not less than those prevailing

on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a et seq; commonly known as the Davis-Bacon Act), and the Secretary of Labor shall have with respect to such labor standards the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176; 5 U.S.C. Appendix) and section 276c of title 40.

(4) The facility will be made available to all persons seeking service regardless of their ability to pay.

SEC. 3445. APPLICATION FOR ASSISTANCE.

The Secretary may provide loans or loan guarantees under section 3441 only if an application for such assistance is submitted to the Secretary, the application contains each agreement described in this subpart, the application contains the information required in section 3444(a), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

SEC. 3446. ADMINISTRATION OF PROGRAMS.

This subpart, and any other program of the Secretary that provides loans or loan guarantees, shall be carried out by a centralized loan unit established within the Department of Health and Human Services.

Subpart D—Enabling Services

SEC. 3461. GRANTS AND CONTRACTS FOR ENABLING SERVICES.

(a) IN GENERAL.—

(1) GRANTS AND CONTRACTS.—The Secretary may make grants to and enter into contracts with entities described in paragraph (2) to assist such entities in providing the services described in subsection (b) for the purpose of increasing the capacity of individuals to utilize the items and services included in the comprehensive benefits package under title I.

(2) RELEVANT ENTITIES.—For purposes of paragraph (1), the entities described in this paragraph are qualified community health groups (as defined in section 3421(a)), and other public or nonprofit private entities, that—

(A) provide health services in one or more health professional shortage areas or that provide such services to a significant number of individuals who are members of a medically underserved population; and

(B) are experienced in providing services to increase the capacity of individuals to utilize health services.

(b) ENABLING SERVICES.—The services referred to in subsection (a)(1) are transportation, community and patient outreach, patient education, translation services, and such other services as the Secretary determines to be appropriate in carrying out the purpose described in such subsection.

(c) CERTAIN REQUIREMENTS REGARDING PROJECT AREA.—The Secretary may make an award of a grant or contract under subsection (a) only if the applicant involved—

(1) submits to the Secretary—

(A) information demonstrating that the medically underserved populations in the community to be served under the award have a need for enabling services; and

(B) a proposed budget for providing such services; and

(2) the applicant for the award agrees that the residents of the community will be significantly involved in the project carried out with the award.

(d) IMPOSITION OF FEES.—The Secretary may make an award of a grant or contract under subsection (a) only if the applicant involved agrees that, in the project carried out under such subsection, enabling services will be provided without charge to the recipients of the services.

(e) USE OF EXISTING RESOURCES.—The Secretary may make an award of a grant or contract under subsection (a) only if the applicant involved agrees that, in carrying out the project under such subsection, the applicant will utilize existing resources to the maximum extent practicable.

(f) APPLICATION FOR AWARDS OF ASSISTANCE.—The Secretary may make an award of a grant or contract under subsection (a) only if an application for the award is submitted to the Secretary, the application contains each agreement described in this subpart, the application contains the information required in subsection (d)(1), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(g) DEFINITION.—For purposes of this section, the term "enabling services" means services described in subsection (b) that are provided for the purpose described in subsection (a)(1).

SEC. 3462. AUTHORIZATIONS REGARDING PUBLIC HEALTH SERVICE INITIATIVES FUND.

(a) ENABLING SERVICES.—For the purpose of carrying out section 3461, there are authorized to be appropriated from the Public Health Service Initiatives Fund (established in section 3701) $200,000,000 for fiscal year 1996, $300,000,000 for each of the fiscal years 1997 through 1999, and $100,000,000 for fiscal year 2000.

(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

PART 3—NATIONAL HEALTH SERVICE CORPS

SEC. 3471. AUTHORIZATIONS REGARDING PUBLIC HEALTH SERVICE INITIATIVES FUND.

(a) ADDITIONAL FUNDING; GENERAL CORPS PROGRAM; ALLOCATIONS REGARDING NURSES.—For the purpose of carrying out subpart II of part D of title III of the Public Health Service Act, and for the purpose of carrying out section 3472, there are authorized to be appropriated from the Public Health Service Initiatives Fund (established in section 3701) $50,000,000 for fiscal year 1995, $100,000,000 for fiscal year 1996, and $200,000,000 for each of the fiscal years 1997 through 2000.

(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

(c) AVAILABILITY OF FUNDS.—An appropriation under this section for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under subsection (a) for another fiscal year; but no funds may be made available from any appropriation under this section for obligation under sections 331 through 335, section 336A, and section 337 before the fiscal year involved.

SEC. 3472. ALLOCATION FOR PARTICIPATION OF NURSES IN SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.

Of the amounts appropriated under section 3471, the Secretary shall reserve such amounts as may be necessary to ensure that, of the aggregate number of individuals who are participants in the Scholarship Program under section 338A of the Public Health Service Act, or in the Loan Repayment Program under section 338B of such Act, the total number who are being educated as nurses or are serving as nurses, respectively, is increased to 20 percent.

PART 4—PAYMENTS TO HOSPITALS SERVING VULNERABLE POPULATIONS

SEC. 3481. PAYMENTS TO HOSPITALS.

(a) ENTITLEMENT STATUS.—The Secretary shall make payments in accordance with this part to eligible hospitals described in section 3482. The preceding sentence—

(1) is an entitlement in the Secretary on behalf of such eligible hospitals (but is not an entitlement in the State in which any such hospital is located or in any individual receiving services from any such hospital); and

(2) constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide funding for such payments in the amounts, and for the fiscal years, specified in subsection (b).

(b) AMOUNT OF ENTITLEMENT.—

(1) IN GENERAL.—For purposes of subsection (a)(2), the amounts and fiscal years specified in this subsection are (in the aggregate for all eligible hospitals) $800,000,000 for the fiscal year in which the general effective date occurs and for each subsequent fiscal year.

(2) SPECIAL RULE FOR YEARS BEFORE GENERAL EFFECTIVE DATE.—

(A) IN GENERAL.—For any fiscal year that begins prior to the general effective date, the amount specified in this subsection for purposes of subsection (a)(2) shall be equal to the aggregate DSH percentage of the amount otherwise determined under paragraph (1).

(B) AGGREGATE DSH PERCENTAGE DEFINED.—In subparagraph (A), the "aggregate DSH percentage" for a year is the amount (expressed as a percentage) equal to—

(i) the total amount of payment made by the Secretary under section 1903(a) of the Social Security Act during the base year with respect to payment adjustments made under section 1923(c) of such Act for hospitals in the States in which eligible hospitals for the year are located; divided by

(ii) the total amount of payment made by the Secretary under section 1903(a) of such Act during the base year with respect to payment adjustments made under section 1923(c) of such Act for hospitals in all States.

(c) PERIOD OF PAYMENT.—An eligible hospital shall receive a payment under this section for a period of 5 years, without regard to the year for which the hospital first receives a payment.

(d) PAYMENTS MADE ON QUARTERLY BASIS.—Payments to an eligible hospital under this section for a year shall be made on a quarterly basis during the year.

SEC. 3482. IDENTIFICATION OF ELIGIBLE HOSPITALS.

(a) HOSPITALS IN PARTICIPATING STATES.—In order to be an eligible hospital under this part, a hospital must be located in a State that is a participating State under this Act, except that an eligible hospital remains eligible to receive a payment under this part notwithstanding that, during the 5-year period for which the payment is to be made, the State in which it is located no longer meets the requirements for participating States under this Act.

(b) STATE IDENTIFICATION.—In accordance with the criteria described in subsection (c) and such procedures as the Secretary may require, each State shall identify the hospitals in the State that meet such criteria and provide the Secretary with a list of such hospitals.

(c) CRITERIA FOR ELIGIBILITY.—A hospital meets the criteria described in this subsection if the hospital's low-income utilization rate for the base year under section 1923(b)(3) of the Social Security Act (as such section is in effect on the day before the date of the enactment of this Act) is not less than 25 percent.

SEC. 3483. AMOUNT OF PAYMENTS.

(a) DISTRIBUTION OF ALLOCATION FOR LOW-INCOME ASSISTANCE.—

(1) ALLOCATION FROM TOTAL AMOUNT.—Of the total amount available for payments under this section in a year, 75 percent shall be allocated to hospitals for low-income assistance in accordance with this subsection.

(2) DETERMINATION OF HOSPITAL PAYMENT AMOUNT.—The amount of payment to an eligible hospital from the allocation made under paragraph (1) during a year shall be the equal to the hospital's low-income percentage of the allocation for the year.

(b) DISTRIBUTION OF ALLOCATION FOR ASSISTANCE FOR UNCOVERED SERVICES.—

(1) ALLOCATION FROM TOTAL AMOUNT; DETERMINATION OF STATE-SPECIFIC PORTION OF ALLOCATION.—Of the total amount available for payments under this section in a year, 25 percent shall be allocated to hospitals for assistance in furnishing inpatient hospital services that are not covered services under title I (in accordance with regulations of the Secretary) in accordance with this subsection. The amount available for payments to eligible hospitals in a State shall be equal to an amount determined in accordance with a methodology specified by the Secretary.

(2) DETERMINATION OF HOSPITAL PAYMENT AMOUNT.—The amount of payment to an eligible hospital in a State from the amount available for payments to eligible hospitals in the State under paragraph (1) during a year shall be the equal to the hospital's low-income percentage of such amount for the year.

(c) LOW-INCOME PERCENTAGE DEFINED.—

(1) IN GENERAL.—In this subsection, an eligible hospital's "low-income percentage" for a year is equal to the amount (expressed as a percentage) of the total low-income days for all eligible hospitals for the year that are attributable to the hospital.

(2) LOW-INCOME DAYS DESCRIBED.—For purposes of paragraph (1), an eligible hospital's low-income days for a year shall be equal to the product of—

(A) the total number of inpatient days for the hospital for the year (as reported to the Secretary by the State in which the hospital is located, in accordance with a reporting schedule and procedures established by the Secretary); and

(B) the hospital's low-income utilization rate for the base year under section 1923(b)(3) of the Social Security Act (as such section is in effect on the day before the date of the enactment of this Act).

SEC. 3484. BASE YEAR.

In this part, the "base year" is, with respect to a State and hospitals in a State, the year immediately prior to the year in which the general effective date occurs.

Subtitle F—Mental Health; Substance Abuse

PART 1—FINANCIAL ASSISTANCE

SEC. 3501. AUTHORIZATIONS REGARDING PUBLIC HEALTH SERVICE INITIATIVES FUND.

(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated from the Public Health Service Initiatives Fund (established in section 3701) $100,000,000 for fiscal year 1995, $150,000,000 for fiscal year 1996, and $250,000,000 for each of the fiscal years 1997 through 2000.

(b) ALLOCATION AMONG PROGRAMS.—Of the amounts made available under subsection (a) for a fiscal year—

(1) the Secretary may reserve for carrying out section 3503 such amounts as the Secretary determines to be appropriate; and

(2) the Secretary shall, of the remaining amounts, reserve 50 percent for carrying out subsection (a) of section 3502 and 50 percent for carrying out subsection (b) of such section.

(c) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

SEC. 3502. SUPPLEMENTAL FORMULA GRANTS FOR STATES REGARDING ACTIVITIES UNDER PART B OF TITLE XIX OF PUBLIC HEALTH SERVICE ACT.

(a) MENTAL HEALTH.—

(1) IN GENERAL.—In the case of any State that submits to the Secretary an application in accordance with subsection (e) for a fiscal year with respect to mental health, the Secretary shall make a grant to the State for the purposes authorized in subsection (c) with respect to mental health. The grant shall consist of the allotment determined under paragraph (2) for the State for such year.

(2) DETERMINATION OF ALLOTMENT.—For purposes of paragraph (1), the allotment under this paragraph for a State for a fiscal year shall be determined as follows: With respect to the amount reserved under section 3501(c)(2) for carrying out this subsection, section 1918 of the Public Health Service Act shall be applied to such amount to the same extent and in the same manner as such section 1918 is applied to the amount determined under section 1918(a)(2) of such Act.

(b) SUBSTANCE ABUSE.—

(1) IN GENERAL.—In the case of any State that submits to the Secretary an application in accordance with subsection (e) for a fiscal year with respect to substance abuse, the Secretary shall make a grant to the State for the purposes authorized in subsection (c) with respect to substance abuse. The grant shall consist of the allotment determined under paragraph (2) for the State for such year.

(2) DETERMINATION OF ALLOTMENT.—For purposes of paragraph (1), the allotment under this paragraph for a State for a fiscal year shall be determined as follows: With respect to the amount reserved under section 3501(c)(2) for carrying out this subsection, section 1933 of the Public Health Service Act shall be applied to such amount to the same extent and in the same manner as such section 1933 is applied to the amount determined pursuant to sections 1933(a)(1)(B)(i) and 1918(a)(2)(A) of such Act.

(c) USE OF GRANTS.—

(1) IN GENERAL.—With respect to the expenditure of a grant to a State under subsection (a) or (b), the Secretary—

(A) shall designate as authorized expenditures such of the activities described in paragraph (2) with respect to mental health and substance abuse, respectively, as the Secretary determines to be appropriate; and

(B) may make the grant only if the State agrees to expend the grant in accordance with the activities so designated.

(2) DESCRIPTION OF ACTIVITIES.—The activities referred to in paragraph (1) are (as applicable to the grant involved) the following:

(A) For the purpose of increasing the access of individuals to services relating to mental health and substance abuse, the following services: Transportation, community and patient outreach, patient education, translation services, and such other services as the Secretary determines to be appropriate regarding such purpose.

(B) Improving the capacity of State and local service systems to coordinate and monitor mental health and substance abuse services, including improvement of management information systems, and establishment of linkages between providers of mental health and substance abuse services and primary care providers and health plans.

(C) Providing incentives to integrate public and private systems for the treatment of mental health and substance abuse disorders.

(D) Any activity for which a grant under section 1911 or section 1921 of the Public Health Service Act is authorized to be expended.

(d) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—With respect to the activities for which a grant under subsection (a) or (b) is to be made, the Secretary may make the grant only if the State involved agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the State for the fiscal year preceding the first fiscal year for which the State receives such a grant.

(2) WAIVER.—The Secretary may waive all or part of the requirement established for a State under paragraph (1) if—

(A) the State agrees that the amounts that otherwise would have been subject to such requirement will be expended for the purpose of developing community-based systems of care to promote the eventual integration of the public and private systems for treatment of mental health, or substance abuse, as applicable to the grant;

(B) the State submits to the Secretary a request for the waiver and a description of the manner in which the State will carry out such purpose; and

(C) the Secretary approves the waiver.

(e) APPLICATION FOR GRANT.—For purposes of subsection (a)(1) and (b)(1), an application for a grant under this section regarding mental health or substance abuse, respectively, is in accordance with this subsection if the State involved submits the application not later than the date specified by the Secretary, the application contains each applicable agreement described in this section, and the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purpose involved.

SEC. 3503. CAPITAL COSTS OF DEVELOPMENT OF CERTAIN CENTERS AND CLINICS.

(a) IN GENERAL.—The Secretary may make loans to, and guarantee the payment of principal and interest to Federal and non-Federal lenders on behalf of, public and private entities for the capital costs to be incurred by the entities in the development of non-acute, residential treatment centers and community-based ambulatory clinics.

(b) PRIORITIES REGARDING USE OF FUNDS.—In providing loans or loan guarantees under subsection (a), the Secretary shall give priority to authorizing the use of amounts for projects in health professional shortage areas or in geographic areas in which there resides a significant number of individuals who are members of a medically underserved population.

(c) APPLICABILITY OF CERTAIN PROVISIONS.—The Secretary may provide loans or loan guarantees under subsection (a) only if the applicant involved agrees that, except to the extent inconsistent with the purpose described in subsection (a), subpart C of part 2 of subtitle E applies to such assistance to the same extent and in the same manner as such subpart applies to loans and loan guarantees under section 3441.

PART 2—AUTHORITIES REGARDING PARTICIPATING STATES

Subpart A—Report

SEC. 3511. REPORT ON INTEGRATION OF MENTAL HEALTH SYSTEMS.

(a) IN GENERAL.—As a condition of being a participating State under title I, each State shall, not later than October 1, 1998, submit to the Secretary a plan to achieve the integration of the mental health and substance abuse services of the State and its political subdivisions with the mental health and substance abuse services that are included in the comprehensive benefit package under title I.

(b) REQUIRED CONTENTS.—With respect to the provision of items and services relating to mental health and substance abuse, the report of a State under subsection (a) shall, at a minimum, contain the following information:

(1) Information on the number of individuals served by or through mental health and substance abuse programs administered by State and local agencies and the proportion who are eligible persons under title I.

(2) The following information on services furnished to eligible persons:

(A) Each type of benefit furnished.

(B) The mental health diagnoses for which each type of benefit is covered, the amount, duration and scope of coverage for each covered benefit, and any applicable limits on benefits.

(C) Cost sharing rules that apply.

(3) Information on the extent to which each health provider furnishing mental health and substance abuse services under a State program participates in one or more regional or corporate alliance health plans, and, in the case of providers that do not so participate, the reasons for the lack of participation.

(4) The amount of revenues from health plans received by mental health and substance abuse providers that are participating in such health plans and are funded under one or more State programs.

(5) With respect to the two years preceding the year in which the State becomes a participating State under title I—

(A) the amount of funds expended by the State and its political subdivisions for each of such years for items and services that are included in the comprehensive benefit package under such title;

(B) the amount of funds expended for medically necessary and appropriate items and services not included in such benefit package, including medical care, other health care, and supportive services related to the provision of health care.

(6) An estimate of the amount that the State will expend to furnish items and services not included in such package once the expansion of coverage for mental health and substance abuse services is implemented in the year 2001.

(7) A description of how the State will assure that all individuals served by mental health and substance abuse programs funded by the State will be enrolled in a health plan and how mental health and substance abuse services not covered under the benefit package will continue to be furnished to such enrollees.

(8) A description of the conditions under which the integration of mental health and substance abuse providers into regional and corporate alliances can be achieved, and an identification of changes in participation and certification requirements that are needed to achieve the integration of such programs and providers into health plans.

(9) If the integration of mental health and substance abuse programs operated by the State into one or more health plans is not medically appropriate or feasible for one or more groups of individuals treated under State programs, a description of the reasons that integration is not feasible or appropriate and a plan for assuring the coordination for such individuals of the care and services covered under the comprehensive benefit package with the additional items and services furnished by such programs.

(c) GENERAL PROVISIONS.—Reports under subsection (a) shall be provided at the time and in the manner prescribed by the Secretary.

Subpart B—Pilot Program

SEC. 3521. PILOT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a pilot program to demonstrate model methods of achieving the integration of the mental health and substance abuse services of the States with the mental health and substance abuse services that are included in the comprehensive benefit package under title I.

(b) CERTAIN CONSIDERATIONS.—With respect to the provision of items and services relating to mental health and substance abuse, the Secretary, in carrying out subsection (a), shall consider the following:

(1) The types of items and services needed in addition to the items and services included in the comprehensive benefits package under title I.

(2) The optimal methods of treatment for individuals with long-term conditions.

(3) The capacity of alliance health plans to furnish such treatment.

(4) The modifications that should be made in the items and services furnished by such health plans.

(5) The role of publicly-funded health providers in the integration of acute and long-term treatment.

Subtitle G—Comprehensive School Health Education; School-Related Health Services

PART 1—GENERAL PROVISIONS

SEC. 3601. PURPOSES.

Subject to the subsequent provisions of this subtitle, the purposes of this subtitle are as follows:

(1) To support the provision in kindergarten through grade 12 of sequential, age-appropriate, comprehensive health education programs that address locally relevant priorities.

(2) To establish a national framework within which States can create comprehensive school health education programs that—

(A) target the health risk behaviors accounting for the majority of the morbidity and mortality among youth and adults, including the following: Tobacco use; alcohol and other drug abuse; sexual behaviors resulting in infection with the human immunodeficiency virus, in other sexually transmitted diseases or in unintended pregnancy; behaviors resulting in intentional and unintentional injuries; dietary patterns resulting in disease; and sedentary lifestyles; and

(B) are integrated with plans and programs in the State, if any, under title III of the Goals 2000: Educate America Act and those targeting health promotion and disease prevention goals related to the national health objectives set forth in Healthy People 2000.

(3) To pay the initial costs of planning and establishing Statewide comprehensive school health education programs that will be implemented and maintained with local, State, and other Federal resources.

(4) To support Federal activities such as research and demonstrations, evaluations, and training and technical assistance regarding comprehensive school health education.

(5) To motivate youth, especially low-achieving youth, to stay in school, avoid teen pregnancy, and strive for success by providing intensive, high-quality health education programs that include peer-teaching, family, and community involvement.

(6) To improve the knowledge and skills of children and youth by integrating academic and experiential learning in health education with other elements of a comprehensive school health program.

(7) To further the National Education Goals set forth in title I of the Goals 2000: Educate America Act and the national health objectives set forth in Healthy People 2000.

(8) With respect to health services, to make awards of financial assistance to eligible State health agencies and local community partnerships to provide for the development and operation of projects to coordinate and deliver comprehensive health services to children or youth in school-based, school-linked, or community-based locations.

SEC. 3602. DEFINITIONS.

(a) COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.—For purposes of this subtitle, the term "comprehensive school health education program" means a program that addresses locally relevant priorities and meets the following conditions:

(1) The program is sequential, and age and developmentally appropriate.

(2) The program is provided, in the area served by the program, every year for all students from kindergarten through grade 12.

(3) The program provides comprehensive health education, including the following components:

(A) Community health.

(B) Environmental health.

(C) Personal health.

(D) Family life.

(E) Growth and development.

(F) Nutritional health.

(G) Prevention and control of disease and disorders.

(I) Safety and prevention of injuries.

(J) Substance abuse, including tobacco and alcohol use.

(K) Consumer health, including education to ensure that students understand the benefits and appropriate use of medical services, including immunizations and other clinical preventive services.

(4) The program promotes personal responsibility for a healthy lifestyle and provides the knowledge and skills necessary to adopt a healthy lifestyle, including teaching the legal, social, and health consequences of behaviors that pose health risks.

(5) The program is sensitive to cultural and ethnic issues in the content of instructional materials and approaches.

(6) The program includes activities that support instruction.

(7) The program includes activities to promote involvement by parents, families, community organizations, and other appropriate entities.

(8) The program is coordinated with other Federal, State, and local health education and prevention programs and with other Federal, State and local education programs, including those carried out under title I of the Elementary and Secondary Education Act of 1965.

(9) The program focuses on the particular health concerns of the students in the State, school district, or school, as the case may be.

(b) OTHER DEFINITIONS.—For purposes of this subtitle:

(1) The term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(2) The term "State educational agency" has the meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965.

PART 2—SCHOOL HEALTH EDUCATION; GENERAL PROVISIONS

SEC. 3611. AUTHORIZATIONS REGARDING PUBLIC HEALTH SERVICE INITIATIVES FUND.

(a) FUNDING FOR SCHOOL HEALTH EDUCATION.—For the purpose of carrying out parts 3 and 4, there are authorized to be appropriated from the Public Health Service Initiatives Fund (established in section 3701) $50,000,000 for each of the fiscal year 1995 through 2000.

(b) ALLOCATIONS.—Of the amounts appropriated under subsection (a) for a fiscal year—

(1) the Secretary may reserve not more than $13,000,000 for carrying out part 4;

(2) the Secretary may reserve not more than $5,000,000 to support national leadership activities, such as research and demonstration, evaluation, and training and technical assistance in comprehensive school health education; and

(3) the Secretary may reserve not more than 5 percent for administrative expenses regarding parts 3 and 4.

(c) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

SEC. 3612. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) IN GENERAL.—

(1) WAIVERS.—Except as provided in subsection (c), upon the request of an entity receiving funds under part 3 or part 4 and under a program specified in paragraph (2), the Secretary of Health and Human Services or the Secretary of Education (as the case may be, according to which Secretary administers the program so specified) may grant to the entity a waiver of any requirement of such program regarding the use of funds, or of the regulations issued for the program by the Secretary involved, if the following conditions are met with respect to such program:

(A) The Secretary involved determines that the requirement of such program impedes the ability of the State educational agency or other recipient to achieve more effectively the purposes of part 3 or 4.

(B) The Secretary involved determines that, with respect to the use of funds under such program, the requested use of the funds by the entity would be consistent with the purposes of part 3 or 4.

(C) In the case of a request for a waiver submitted by a State educational agency, the State educational agency—

(i) provides all interested local educational agencies in the State with notice and an opportunity to comment on the proposal; and

(ii) submits the comments to the Secretary involved.

(D) In the case of a request for a waiver submitted by a local educational agency or other agency, institution, or organization that receives funds under part 3 from the State educational agency, such request has been reviewed by the State educational agency and is accompanied by the comments, if any, of such agency.

(2) RELEVANT PROGRAMS.—For purposes of paragraph (1), the programs specified in this paragraph are as follows:

(A) In the case of programs administered by the Secretary of Health and Human Services, the following:

(i) The program known as the Prevention, Treatment, and Rehabilitation Model Projects for High Risk Youth, carried out under section 517 of the Public Health Service Act.

(ii) The program known as the State and Local Comprehensive School Health Programs to Prevent Important Health Problems and Improve Educational Outcomes, carried out under such Act.

(B) In the case of programs administered by the Secretary of Education, any program carried out under part B of the Drug-Free Schools and Communities Act of 1986.

(b) WAIVER PERIOD.—

(1) IN GENERAL.—A waiver under this section shall be for a period not to exceed three years.

(2) EXTENSIONS.—The Secretary involved under subsection (a) may extend such period if the Secretary determines that—

(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which it was requested and has contributed to improved performance; and

(B) such extension is in the public interest.

(c) WAIVERS NOT AUTHORIZED.—The Secretary involved under subsection (a) may not waive, under this section, any statutory or regulatory requirement relating to—

(1) comparability of services;

(2) maintenance of effort;

(3) the equitable participation of students attending private schools;

(4) parental participation and involvement;

(5) the distribution of funds to States or to local educational agencies or other recipients of funds under the programs specified in subsection (a)(2);

(6) maintenance of records;

(7) applicable civil rights requirements; or

(8) the requirements of sections 438 and 439 of the General Education Provisions Act.

(d) TERMINATION OF WAIVER.—The Secretary involved under subsection (a) shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if it is no longer necessary to achieve its original purposes.

PART 3—SCHOOL HEALTH EDUCATION; GRANTS TO STATES

Subpart A—Planning Grants for States

SEC. 3621. APPLICATION FOR GRANT.

(a) IN GENERAL.—Any State educational agency that wishes to receive a planning grant under this subpart shall submit an application to the Secretary of Health and Human Services, at such time and in such manner as the Secretary may require.

(b) APPLICATION; JOINT DEVELOPMENT; CONTENTS.—An application under subsection (a) shall be jointly developed by the State educational agency and the State health agencies of the State involved, and shall contain the following:

(1) An assessment of the State's need for comprehensive school health education, using goals established by the Department of Health and Human Services and the Department of Education and goals established under Goals 2000: Educate America Act.

(2) A description of how the State educational agency will collaborate with the State health agency in the planning and development of a comprehensive school health education program in the State, including coordination of existing health education programs and resources.

(3) A plan to build capacity at the State and local levels to provide staff development and technical assistance to local educational agency and local health agency personnel involved with comprehensive school health education.

(4) A preliminary plan for evaluating comprehensive school health education activities.

(5) Information demonstrating that the State has established a State-level advisory council whose membership includes representatives of the State agencies with principal responsibilities for programs regarding health, education, and mental health.

(6) A timetable and proposed budget for the planning process.

(7) Such other information and assurances as the Secretary may require.

(c) NUMBER OF GRANTS.—States may receive one planning grant annually and no more than two planning grants may be awarded to any one State.

SEC. 3622. APPROVAL OF SECRETARY.

The Secretary may approve the application of a State under section 3621 if the Secretary determines that—

(1) the application meets the requirements of this subpart; and

(2) there is a substantial likelihood that the State will be able to develop and implement a comprehensive school health education plan that complies with the requirements of subpart B.

SEC. 3623. AMOUNT OF GRANT.

For any fiscal year, the minimum grant to any State under this subpart is an amount determined by the Secretary to be necessary to enable the State to conduct the planning process, and the maximum such grant is $500,000.

SEC. 3624. AUTHORIZED ACTIVITIES.

A State may use funds received under this subpart only for the following:

(1) To establish and carry out the State planning process.

(2) To conduct Statewide or sub-State regional coordination and collaboration activities for local educational agencies, local health agencies, and other agencies and organizations, as appropriate.

(3) To conduct activities to build capacity to provide staff development and technical assistance services to local educational agency and local health agency personnel involved with comprehensive school health education.

(4) To develop student learning objectives and assessment instruments.

(5) To work with State and local health agencies and State and local educational agencies to reduce barriers to the implementation of comprehensive school health education programs in schools.

(6) To prepare the plan required to receive an implementation grant under subpart B.

(7) To adopt, validate, and disseminate curriculum models and program strategies, if the Secretary determines that such activities are necessary to achieving the objectives of the State's program.

Subpart B—Implementation Grants for States

SEC. 3631. APPLICATION FOR GRANT.

(a) In General.—Any State that wishes to receive an implementation grant under this subpart shall submit an application to the Secretary of Health and Human Services, at such time, in such manner, and containing such information and assurances as the Secretary may require.

(b) Application and State Plan; Joint Development; Contents.—An application under subsection (a) shall be jointly developed by the State educational agency and the State health agencies of the State involved, and shall include a State plan for comprehensive school health education programs (as defined in section 3602) that describes the following:

(1) The State's goals and objectives for those programs.

(2) How the State will allocate funds, if any, to local educational agencies in accordance with section 3634.

(3) How the State will coordinate programs under this subpart with other local, State and Federal health education programs.

(4) How comprehensive school health education programs will be coordinated with other local, State and Federal education programs, such as programs under title I of the Elementary and Secondary Education Act of 1965, with the State's school improvement plan, if any, under title III of the Goals 2000: Educate America Act, and with any similar programs.

(5) How the State has worked with State and local education agencies and with State and local health agencies to reduce barriers to implementing comprehensive school health education programs.

(6) How the State will monitor the implementation of such programs by local educational agencies.

(7) How the State will build capacity for professional development of health educators.

(8) How the State will provide staff development and technical assistance to local educational agencies.

(9) The respective roles of the State educational agency, local educational agencies, the State health agency, and the local health agencies in developing and implementing such school health education programs.

(10) How such school health education programs will be tailored to the extent practicable to be culturally and linguistically sensitive and responsive to the various needs of the students served, including individuals with disabilities, and individuals from disadvantaged backgrounds (including racial and ethnic minorities).

(11) How the State will evaluate and report on the State's progress toward attaining the goals and objectives described in paragraph (1).

SEC. 3632. SELECTION OF GRANTEES.

(a) Selection of Grantees.—The Secretary shall establish criteria for the competitive selection of grantees under this subpart.

(b) Opportunity for Planning Grant.—If the Secretary does not approve a State's application under this subpart and determines that the State could benefit from a planning grant under subpart A, the Secretary shall inform the State of any planning grant funds that may be available to it under subpart A, subject to section 3621(c).

SEC. 3633. AMOUNT OF GRANT.

(a) In General.—For any fiscal year, the minimum grant to any State under this subpart is an amount determined by the Secretary to be necessary to enable the State to conduct the implementation process.

(b) Criteria.—In determining the amount of any such grant, the Secretary may consider such factors as the number of children enrolled in schools in the State, the number of school-aged children living in poverty in the State, and the scope and quality of the State's plan.

SEC. 3634. AUTHORIZED ACTIVITIES; LIMITATION ON ADMINISTRATIVE COSTS.

(a) Subgrants to Local Educational Agencies.—Each State that receives funds under this subpart for any fiscal year shall retain not more than 75 percent of those funds in the first year, 50 percent of those funds in the second and third years, and 25 percent of those funds in each succeeding year. Those funds not retained by the State shall be used to make grants to local educational agencies in accordance with section 3635.

(b) State-level Activities.—Each State shall use retained funds for any fiscal year for the following purposes:

(1) To conduct Statewide or sub-State regional coordination and collaboration activities.

(2) To adapt, validate, or disseminate program models or strategies for comprehensive school health education.

(3) To build capacity to deliver staff development and technical assistance services to local educational agencies, and State and local health agencies.

(4) To promote program activities involving families and coordinating program activities with community groups and agencies.

(5) To evaluate and report to the Secretary on the progress made toward attaining the goals and objectives described in section 3621(b)(1).

(6) To conduct such other activities to achieve the objectives of this subpart as the Secretary may by regulation authorize.

(c) State Administration.—Of the amounts received by a State for a fiscal year under this subpart and remaining after any grants to local educational agencies made from such amounts, the State may use up to 10 percent for the costs of administering such amounts, including the activities of the State advisory council and monitoring the performance of local educational agencies.

SEC. 3635. SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) Application for Grant.—Any local educational agency that wishes to receive a grant under this subpart shall submit an application to the State, containing such information and assurances as the State may require, including a description of the following:

(1) The local educational agency's goals and objectives for comprehensive school health education programs.

(2) How the local educational agency will concentrate funds in high-need schools and provide sufficient funds to targeted schools to ensure the implementation of comprehensive programs.

(3) How the local educational agency will monitor the implementation of these programs.

(4) How the local educational agency will ensure that school health education programs are tailored to the extent practicable to be culturally and linguistically sensitive and responsive to the various needs of the students served, including individuals with disabilities, and individuals from disadvantaged backgrounds (including racial and ethnic minorities).

(5) How the local educational agency, in consultation with the local health agency, will evaluate and report on its progress toward attaining the goals and objectives described in paragraph (1).

(b) Selection of Subgrantees.—Each State shall give priority to applications from local educational agencies serving areas with high needs, as indicated by criteria developed by the State, which shall include, but need not be limited to, high rates of any of the following:

(1) Poverty among school-aged youth.

(2) Births to adolescents.

(3) Sexually transmitted diseases among school-aged youth.

(4) Drug and alcohol use among school-aged youth.

(5) Violence among school-aged youth.

(c) Authorized Activities.—Each local educational agency that receives a grant under this subpart shall use the grant funds to implement comprehensive school health education programs, as defined in section 3602.

Subpart C—State and Local Reports

SEC. 3641. STATE AND LOCAL REPORTS.

(a) State Reports.—Each State that receives a grant under this part shall collect and submit to the Secretary such data and other information on State and local programs as the Secretary may require.

(b) In General.— Each local educational agency that receives a grant under subpart B shall collect and report to the State such data and other information as the Secretary may require.

PART 4—SCHOOL HEALTH EDUCATION; GRANTS TO CERTAIN LOCAL EDUCATIONAL AGENCIES

Subpart A—Eligibility

SEC. 3651. SUBSTANTIAL NEED OF AREA SERVED BY AGENCY.

Any local educational agency is eligible for a grant under this part for any fiscal year if—

(1) the agency enrolls at least 25,000 students; and

(2) the geographic area served by the agency has a substantial need for such a grant, relative to other geographic areas in the United States.

Subpart B—Planning Grants for Local Education Agencies

SEC. 3661. APPLICATION FOR GRANT.

(a) In General.—Any local educational agency that wishes to receive a planning grant under this subpart shall submit an application to the Secretary of Health and Human Services at such time and in such manner as the Secretary may require.

(b) State Educational Agency Review.—Each such local educational agency, before submitting its application to the Secretary, shall submit the application to the State educational agency for comment by such agency and by the State health agencies of the State.

(c) Contents of Applications.—Each such application shall contain the following:

(1) An assessment of the local educational agency's need for comprehensive school health education, using goals established by the Department of Health and Human Services and the Department of Education, as well as local health and education strategies,

such as State school improvement plans, if any, under title III of the Goals 2000: Educate America Act.

(2) Information demonstrating that the local educational agency has established or selected a community-level advisory council, which shall include representatives of relevant community agencies such as those that administer education, child nutrition, health, and mental health programs.

(3) A description of how the local educational agency will collaborate with the State educational agency, the State health agency, and the local health agency in the planning and development of a comprehensive school health education program in the local educational agency, including coordination of existing health education programs and resources.

(4) A plan to build capacity at the local educational agency to provide staff development and technical assistance to local educational agency and local health agency personnel involved with comprehensive school health education.

(5) A preliminary plan for evaluating comprehensive school health education activities.

(6) A timetable and proposed budget for the planning process.

(7) Such other information and assurances as the Secretary may require.

(d) NUMBER OF GRANTS.—Local educational agencies may receive at a maximum two annual planning grants.

SEC. 3662. SELECTION OF GRANTEES.

(a) SELECTION CRITERIA.—The Secretary shall establish criteria for the competitive selection of grantees under this part.

(b) LIMITATION.—The Secretary shall not approve an application from a local educational agency in a State that has an approved plan under subpart A or B of part 3 of this subtitle unless the Secretary determines, after consultation with the State that the local application is consistent with the State plan, if one exists.

SEC. 3663. AMOUNT OF GRANT.

For any fiscal year, the minimum grant to any local educational agency under this subpart is an amount determined by the Secretary to be necessary to enable the local educational agency to conduct the planning process, and the maximum such grant is $500,000.

SEC. 3664. AUTHORIZED ACTIVITIES.

A local educational agency may use funds received under this subpart only for the following:

(1) To establish and carry out the local educational agency planning process.

(2) To undertake joint training, staffing, administration, and other coordination and collaboration activities for local educational agencies, local health agencies, and other agencies and organizations, as appropriate.

(3) To conduct activities to build capacity to provide staff development and technical assistance services to local educational agency and local health agency personnel involved with comprehensive school health education.

(4) To develop student learning objectives and assessment instruments.

(5) To work with State and local health agencies and State educational agencies to reduce barriers to the implementation of comprehensive school health education programs in schools, by, for example, ensuring that adequate time is available during the school day for such programs.

(6) To prepare the plan required to receive an implementation grant under subpart C.

Subpart C—Implementation Grants for Local Educational Agencies

SEC. 3671. APPLICATION FOR GRANT.

(a) IN GENERAL.—Any local educational agency that wishes to receive an implementation grant under this subpart shall submit an application to the Secretary of Health and Human Services, at such time, in such manner, and containing such information and assurances as the Secretary may require.

(b) STATE EDUCATIONAL AGENCY REVIEW.—Each such local educational agency shall submit its application to the State educational agency for comment before submitting it to the Secretary.

(c) LOCAL EDUCATIONAL AGENCY PLAN.—Each such application shall include a local educational agency plan for comprehensive school health education programs (as defined in section 3602) that describes the following:

(1) The local educational agency's goals and objectives for those programs.

(2) How the local educational agency will coordinate programs under this subpart with other local, State and Federal health education programs.

(3) How comprehensive school health education programs will be coordinated with other local, State and Federal education programs, such as programs under title I of the Elementary and Secondary Education Act of 1965, and with State's school improvement plan, if any, under title III of the Goals 2000: Educate America Act.

(4) How the local educational agency has worked with State educational agencies and with State and local health agencies to reduce barriers to implementing comprehensive school health education programs.

(5) How local educational agencies will monitor the implementation of such programs.

(6) How the local educational agency, in consultation with the State educational agency and State and local health agencies and in conjunction with other local professional development activities, will build capacity for professional development of health educators.

(7) How the local educational agency, in consultation with the State educational agency and State and local health agencies, will provide staff development and technical assistance.

(8) The respective roles of the State educational agency, local educational agencies, the State health agency, and the local health agencies in developing and implementing such school health education programs.

(9) How such school health education programs will be tailored to the extent practicable to be culturally and linguistically sensitive and responsive to the various needs of the students served, including individuals with disabilities, and individuals from disadvantaged backgrounds (including racial and ethnic minorities).

(10) How the local educational agency, in consultation with the local health agency, will evaluate and report on the local educational agency's progress toward attaining the goals and objectives described in paragraph (1).

SEC. 3672. SELECTION OF GRANTEES.

(a) SELECTION OF GRANTEES.—The Secretary shall establish criteria for the competitive selection of grantees under this subpart.

(b) LIMITATION.—The Secretary shall not approve an application from a local educational agency in a State that has an approved plan under subpart A or B of part 3 unless the Secretary determines, after consultation with the State that the local application is consistent with such State plan.

(c) OPPORTUNITY FOR PLANNING GRANT.—If the Secretary does not approve a local educational agency's application under this subpart and determines that the local educational agency could benefit from a planning grant under subpart B, the Secretary shall inform the local educational agency of any planning grant funds that may be available to it under subpart B, subject to section 3661(d).

SEC. 3673. AMOUNT OF GRANT.

(a) IN GENERAL.—For any fiscal year, the minimum grant to any local educational agency under this subpart is an amount determined by the Secretary to be necessary to enable the local educational agency to conduct the implementation process.

(b) CRITERIA.—In determining the amount of any such grant, the Secretary may consider such factors as the number of children enrolled in schools in the local educational agency, the number of school-aged children living in poverty in the local educational agency, and the scope and quality of the local educational agency's plan.

SEC. 3674. AUTHORIZED ACTIVITIES.

Each local educational agency that receives a grant under this subpart shall use the grant funds as follows:

(1) To implement comprehensive school health education programs, as defined in section 3602.

(2) To conduct local or regional coordination and collaboration activities.

(3) To provide staff development and technical assistance to schools, local health agencies, and other community agencies involved in providing comprehensive school health education programs.

(4) To administer the program and monitor program implementation at the local level.

(5) To evaluate and report to the Secretary on the local educational agency's progress toward attaining the goals and objectives described in section 3671(c)(1).

(6) To conduct such other activities as the Secretary may by regulation authorize.

SEC. 3675. REPORTS.

Each local educational agency that receives a grant under this subpart shall collect and report to the Secretary and the State such data and other information as the Secretary may require.

PART 5—SCHOOL-RELATED HEALTH SERVICES

Subpart A—Development and Operation of Projects

SEC. 3681. AUTHORIZATIONS REGARDING PUBLIC HEALTH SERVICE INITIATIVES FUND.

(a) FUNDING FOR SCHOOL-RELATED HEALTH SERVICES.—For the purpose of carrying out this subpart, there are authorized to be appropriated from the Public Health Service Initiatives Fund (established in section 3701) $100,000,000 for fiscal year 1996, $275,000,000 for fiscal year 1997, $350,000,000 for fiscal year 1998, and $400,000,000 for each of the fiscal years 1999 and 2000.

(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purpose described in such subsection.

SEC. 3682. ELIGIBILITY FOR DEVELOPMENT AND OPERATION GRANTS.

(a) IN GENERAL.—Entities eligible to apply for and receive grants under section 3484 or 3485 are:

(1) State health agencies that apply on behalf of local community partnerships and

other communities in need of adolescent health services within the State.

(2) Local community partnerships in States in which health agencies have not applied.

(b) LOCAL COMMUNITY PARTNERSHIPS.—

(1) IN GENERAL.—A local community partnership under subsection (a)(2) is an entity that, at a minimum, includes—

(A) a local health care provider with experience in delivering services to adolescents;

(B) one or more local public schools; and

(C) at least one community based organization located in the community to be served that has a history of providing services to at-risk youth in the community.

(2) PARTICIPATION.—A partnership described in paragraph (1) shall, to the maximum extent feasible, involve broad based community participation from parents and youth to be served, health and social service providers (including regional alliance health plans and corporate alliance health plans in which families in the community are enrolled), teachers and other public school and school board personnel, the regional health alliance in which the schools participating in the partnership are located, youth development and service organizations, and interested business leaders. Such participation may be evidenced through an expanded partnership, or an advisory board to such partnership.

SEC. 3683. PREFERENCES

(a) IN GENERAL.—In making grants under sections 3484 and 3485, the Secretary shall give preference to applicants whose communities to be served show the most substantial level of need for such services among individuals who are between the ages of 10 and 19 (inclusive), as measured by indicators of community health including the following:

(1) High levels of poverty.

(2) The presence of a medically underserved area or population (as defined under section 330(a) of the Public Health Service Act).

(3) A health professional shortage area, as designated under section 332 of the Public Health Service Act.

(4) High rates of indicators of health risk among children and youth, including a high proportion of children receiving services through the Individuals with Disabilities Education Act, adolescent pregnancy, sexually transmitted disease (including infection with the human immunodeficiency virus), preventable disease, communicable disease, intentional and unintentional injuries among children and youth, community and gang violence, youth unemployment, juvenile justice involvement, and high rates of drug and alcohol exposure.

(b) LINKAGE TO QUALIFIED COMMUNITY HEALTH GROUPS.—In making grants under sections 3484 and 3485, the Secretary shall give preference to applicants that demonstrate a linkage to qualified community health groups (as defined in section 3421(a)).

SEC. 3684. GRANTS FOR DEVELOPMENT OF PROJECTS.

(a) IN GENERAL.—The Secretary may make grants to State health agencies or to local community partnerships to develop school health service sites.

(b) USE OF FUNDS.—A project for which a grant may be made under subsection (a) may include but not be limited to the cost of the following:

(1) Planning for the provision of school health services.

(2) Recruitment, compensation, and training of health and administrative staff.

(3) The development of agreements with regional and corporate alliance health plans and the acquisition and development of equipment and information services necessary to support information exchange between school health service sites and health plans, health providers, and other entities authorized to collect information under this Act.

(4) In the case of communities described in subsection (d)(2)(B), funds to aid in the establishment of local community partnerships.

(5) Other activities necessary to assume operational status.

(c) AUTHORITY REGARDING QUALIFIED COMMUNITY HEALTH GROUPS.—A project under subsection (a) may require that, in order to receive services from the project, an individual be enrolled in a health plan of a qualified community health group (as defined in section 3421(a)).

(d) APPLICATION FOR GRANT.—

(1) IN GENERAL.—Applicants shall submit applications in a form and manner prescribed by the Secretary.

(2) APPLICATIONS BY STATE HEALTH AGENCIES.—

(A) In the case of applicants that are State health agencies, the application shall contain assurances that the State health agency is applying for funds—

(i) on behalf of at least one local community partnership; and

(ii) on behalf of at least one other community identified by the State as in need of the services funded under this part but without a local community partnership.

(B) In the case of communities identified in applications submitted by State health agencies that do not yet have local community partnerships, the State shall describe the steps that will be taken to aid the community in developing a local community partnership.

(C) A State applying on behalf of local community partnerships and other communities may retain not more than 10 percent of grants awarded under this part for administrative costs.

(e) CONTENTS OF APPLICATION.—In order to receive a grant under this section, an applicant must include in the application the following information:

(1) An assessment of the need for school health services in the communities to be served, using the latest available health data and health goals and objectives established by the Secretary.

(2) A description of how the applicant will design the proposed school health services to reach the maximum number of school-aged children and youth at risk for poor health outcome.

(3) An explanation of how the applicant will integrate its services with those of other health and social service programs within the community.

(4) An explanation of how the applicant will link its activities to the regional and corporate alliance health plans serving the communities in which the applicant's program is to be located.

(5) Evidence of linkages with regional and corporate health alliances in whose areas the applicant's program is to be located.

(6) A description of a quality assurance program which complies with standards that the Secretary may prescribe.

(f) NUMBER OF GRANTS.—Not more than two planning grants may be made to a single applicant.

SEC. 3685. GRANTS FOR OPERATION OF PROJECTS.

(a) IN GENERAL.—The Secretary may make grants to State health agencies or to local community partnerships for the cost of operating school health service sites

(b) USE OF GRANT.—The costs for which a grant may be made under this section include but are not limited to the following:

(1) The cost of furnishing health services that are not covered under title I of this Act or by any other public or private insurer.

(2) The cost of furnishing enabling services, as defined in section 3461(h).

(3) Training, recruitment and compensation of health professionals and other staff.

(4) Outreach services to at-risk youth and to parents.

(5) Linkage of individuals to health plans, community health services and social services.

(6) Other activities deemed necessary by the Secretary.

(c) APPLICATION FOR GRANT.—Applicants shall submit applications in a form and manner prescribed by the Secretary. In order to receive a grant under this section, an applicant must include in the application the following information:

(1) A description of the services to be furnished by the applicant.

(2) The amounts and sources of funding that the applicant will expend, including estimates of the amount of payments the applicant will received from alliance health plans and from other sources.

(3) Such other information as the Secretary determines to be appropriate.

(d) ADDITIONAL CONTENTS OF APPLICATION.—In order to receive a grant under this section, an applicant must meet the following conditions:

(1) The applicant furnishes the following services:

(A) Diagnosis and treatment of simple illnesses and minor injuries.

(B) Preventive health services, including health screenings.

(C) Enabling services, as defined in section 3461(h).

(D) Referrals and followups in situations involving illness or injury.

(E) Health and social services, counseling services, and necessary referrals, including referrals regarding mental health and substance abuse.

(F) Such other services as the Secretary determines to be appropriate.

(2) The applicant maintains agreements with all regional and corporate alliance health plans offering services in the applicant's service area.

(3) The applicant is a participating provider in the State's program for medical assistance under title XIX of the Social Security Act.

(4) The applicant does not impose charges on students or their families for services (including collection of any cost-sharing for services under the comprehensive benefit package that otherwise would be required).

(5) The applicant has reviewed and will periodically review the needs of the population served by the applicant in order to ensure that its services are accessible to the maximum number of school age children and youth in the area, and that, to the maximum extent possible, barriers to access to services of the applicant are removed (including barriers resulting from the area's physical characteristics, its economic, social and cultural grouping, the health care utilization patterns of children and youth, and available transportation).

(6) In the case of an applicant which serves a population that includes a substantial proportion of individuals of limited English speaking ability, the applicant has developed

a plan to meet the needs of such population to the extent practicable in the language and cultural context most appropriate to such individuals.

(7) The applicant will provide non-Federal contributions toward the cost of the project in an amount determined by the Secretary.

(8) The applicant will operate a quality assurance program consistent with section 3684(e)(6).

(e) DURATION OF GRANT.—A grant under this section shall be for a period determined by the Secretary.

(f) REPORTS.—A recipient of funding under this section shall provide such reports and information as are required in regulations of the Secretary.

SEC. 3686. FEDERAL ADMINISTRATIVE COSTS.

Of the amounts made available under section 3681, the Secretary may reserve not more than 5 percent for administrative expenses regarding this subpart.

Subpart B—Capital Costs of Developing Projects

SEC. 3691. LOANS AND LOAN GUARANTEES REGARDING PROJECTS.

(a) IN GENERAL.—The Secretary may make loans to, and guarantee the payment of principal and interest to Federal and non-Federal lenders on behalf of, State health agencies and local community partnerships for the capital costs of developing projects in accordance with subpart A.

(b) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of subpart A apply to loans and loan guarantees under subsection (a) to the same extent and in the same manner as such provisions apply to grants under subpart A. Except for any provision inconsistent with the purpose described in subsection (a), the provisions of subpart C of part 2 of subtitle E apply to loans and loan guarantees under subsection (a) to the same extent and in the same manner as such provisions apply to loans and loan guarantees under section 3441.

SEC. 3692. FUNDING.

Amounts available to the Secretary under section 3412 for the purpose of carrying out subparts B and C of part 2 of subtitle E are, in addition to such purpose, available to the Secretary for the purpose of carrying out this subpart.

Subtitle H—Public Health Service Initiative

SEC. 3701. PUBLIC HEALTH SERVICE INITIATIVE.

(a) IN GENERAL.—There is established pursuant to this title a Public Health Service Initiative consisting of the total amounts authorized and described in subsection (b). The Initiative includes all the programs authorized under the previous provisions of this title.

(b) TOTAL OF THE AMOUNTS AUTHORIZED TO BE APPROPRIATED.—The following is the total of the amounts authorized to be appropriated for the Initiative under the previous subtitles of this title:

(1) For fiscal year 1995, $1,125,000,000.
(2) For fiscal year 1996, $2,984,000,000.
(3) For fiscal year 1997, $3,830,000,000.
(4) For fiscal year 1998, $4,205,000,000.
(5) For fiscal year 1999, $4,055,000,000.
(6) For fiscal year 2000, $3,655,000,000.

(c) USE OF AMOUNTS; AVAILABILITY.—

(1) USE; ANNUAL APPROPRIATIONS.—Amounts appropriated to carry out the Initiative, including subtitles A through F of this title, are available to carry out the specific programs for which the amounts are appropriated.

(2) AVAILABILITY OF APPROPRIATED AMOUNTS.—Amounts appropriated for programs in the Initiative are available until expended.

Subtitle I—Coordination With Cobra Continuation Coverage

SEC. 3801. PUBLIC HEALTH SERVICE ACT; COORDINATION WITH COBRA CONTINUATION COVERAGE.

(a) PERIOD OF COVERAGE.—Subparagraph (D) of section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2(2)) is amended—

(1) by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end the following new clause:

"(iii) eligible for comprehensive health coverage described in section 1101 of the Health Security Act.", and

(2) by striking "OR MEDICARE ENTITLEMENT" in the heading and inserting ", MEDICARE ENTITLEMENT, OR HEALTH SECURITY ACT ELIGIBILITY".

(b) QUALIFIED BENEFICIARY.—Section 2208(3) of such Act (42 U.S.C. 300bb-8(3)) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR INDIVIDUALS COVERED BY HEALTH SECURITY ACT.—The term 'qualified beneficiary' shall not include any individual who, upon termination of coverage under a group health plan, is eligible for comprehensive health coverage described in section 1101 of the Health Security Act.".

(c) REPEAL UPON IMPLEMENTATION OF HEALTH SECURITY ACT.—

(1) IN GENERAL.—Title XXII of such Act (42 U.S.C. 300bb-1 et seq.) is hereby repealed.

(2) CONFORMING AMENDMENT.—The table of contents of such Act is amended by striking the item relating to title XXII.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the earlier of—

(A) January 1, 1998, or

(B) the first day of the first calendar year following the calendar year in which all States have in effect plans under which individuals are eligible for comprehensive health coverage described in section 1101 of this Act.

TITLE IV—MEDICARE AND MEDICAID

TABLE OF CONTENTS OF TITLE

Sec. 4000. References in title.

Subtitle A—Medicare and the Alliance System

PART 1—ENROLLMENT OF MEDICARE BENEFICIARIES IN REGIONAL ALLIANCE PLANS

Sec. 4001. Optional State integration of medicare beneficiaries into regional alliance plans.
Sec. 4002. Individual election to remain in certain health plans.
Sec. 4003. Treatment of certain medicare beneficiaries.
Sec. 4004. Prohibiting employers from taking into account status as medicare beneficiary on any grounds.

PART 2—ENCOURAGING MANAGED CARE UNDER MEDICARE PROGRAM; COORDINATION WITH MEDIGAP PLANS

Sec. 4011. Enrollment and termination of enrollment.
Sec. 4012. Uniform informational materials.
Sec. 4013. Outlier payments.
Sec. 4014. Point of service option.

PART 3—MEDICARE COVERAGE EXPANSIONS

Sec. 4021. Reference to coverage of outpatient prescription drugs.
Sec. 4022. Coverage of services of advanced practice nurses.

PART 4—COORDINATION WITH ADMINISTRATIVE SIMPLIFICATION AND QUALITY MANAGEMENT INITIATIVES

Sec. 4031. Repeal of separate medicare peer review program.
Sec. 4032. Mandatory assignment for all part B services.
Sec. 4033. Elimination of complexities caused by dual funding sources and rules for payment of claims.
Sec. 4034. Repeal of PRO precertification requirement for certain surgical procedures.
Sec. 4035. Requirements for changes in billing procedures.

PART 5—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS

Sec. 4041. Anti-kickback provisions.
Sec. 4042. Revisions to limitations on physician self-referral.
Sec. 4043. Civil monetary penalties.
Sec. 4044. Exclusions from program participation.
Sec. 4045. Sanctions against practitioners and persons for failure to comply with statutory obligations relating to quality of care.
Sec. 4046. Effective date.

PART 6—FUNDING OF GRADUATE MEDICAL EDUCATION AND ACADEMIC HEALTH CENTERS

Sec. 4051. Transfers from medicare trust funds for graduate medical education.
Sec. 4052. Transfers from hospital insurance trust fund for academic health centers.

PART 7—COVERAGE OF SERVICES PROVIDED BY FACILITIES AND PLANS OF DEPARTMENTS OF DEFENSE AND VETERANS AFFAIRS

Sec. 4061. Treatment of uniformed services health plan as eligible organization under medicare.
Sec. 4062. Coverage of services provided to medicare beneficiaries by plans and facilities of Department of Veterans Affairs.
Sec. 4063. Conforming amendments.

Subtitle B—Savings in Medicare Program

PART 1—SAVINGS RELATING TO PART A

Sec. 4101. Reduction in update for inpatient hospital services.
Sec. 4102. Reduction in adjustment for indirect medical education.
Sec. 4103. Reduction in payments for capital-related costs for inpatient hospital services.
Sec. 4104. Revisions to payment adjustments for disproportionate share hospitals in participating States.
Sec. 4105. Moratorium on designation of additional long-term care hospitals.
Sec. 4106. Extension of freeze on updates to routine service costs of skilled nursing facilities.

PART 2—SAVINGS RELATING TO PART B

Sec. 4111. Establishment of cumulative expenditure goals for physician services.
Sec. 4112. Use of real GDP to adjust for volume and intensity; repeal of restriction on maximum reduction permitted in default update.
Sec. 4113. Reduction in conversion factor for physician fee schedule for 1995.
Sec. 4114. Limitations on payment for physicians' services furnished by high-cost hospital medical staffs.
Sec. 4115. Medicare incentives for physicians to provide primary care.

Sec. 4116. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 4117. Imposition of coinsurance on laboratory services.
Sec. 4118. Application of competitive bidding process for Part B items and services.
Sec. 4119. Application of competitive acquisition procedures for laboratory services.

PART 3—SAVINGS RELATING TO PARTS A AND B

Sec. 4131. Medicare secondary payer changes.
Sec. 4132. Payment limits for HMOs and CMPs with risk-sharing contracts.
Sec. 4133. Reduction in routine cost limits for home health services.
Sec. 4134. Imposition of copayment for certain home health visits.
Sec. 4135. Expansion of centers of excellence.

PART 4—PART B PREMIUM

Sec. 4141. General Part B premium.

Subtitle C—Medicaid

PART 1—COMPREHENSIVE BENEFIT PACKAGE

Sec. 4201. Limiting coverage under medicaid of items and services covered under comprehensive benefit package.

PART 2—EXPANDING ELIGIBILITY FOR NURSING FACILITY SERVICES; LONG-TERM CARE INTEGRATION OPTION

Sec. 4211. Spenddown eligibility for nursing facility residents.
Sec. 4212. Increased income and resource disregards for nursing facility residents.
Sec. 4213. New State long-term care integration option.
Sec. 4214. Informing nursing home residents about availability of assistance for home and community-based services.

PART 3—OTHER BENEFITS

Sec. 4221. Treatment of items and services not covered under the comprehensive benefit package.
Sec. 4222. Establishment of program for poverty-level children with special needs.

PART 4—DISCONTINUATION OF CERTAIN PAYMENT POLICIES

Sec. 4231. Discontinuation of medicaid DSH payments.
Sec. 4232. Discontinuation of reimbursement standards for inpatient hospital services.

PART 5—COORDINATION WITH ADMINISTRATIVE SIMPLIFICATION AND QUALITY MANAGEMENT INITIATIVES

Sec. 4241. Requirements for changes in billing procedures.

PART 6—MEDICAID COMMISSION

Sec. 4251. Medicaid commission.

Subtitle D—Increase in SSI Personal Needs Allowance

Sec. 4301. Increase in SSI personal needs allowance.

TITLE IV—MEDICARE AND MEDICAID

SEC. 4000. REFERENCES IN TITLE.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66), respectively.

Subtitle A—Medicare and the Alliance System

PART 1—ENROLLMENT OF MEDICARE BENEFICIARIES IN REGIONAL ALLIANCE PLANS

SEC. 4001. OPTIONAL STATE INTEGRATION OF MEDICARE BENEFICIARIES INTO REGIONAL ALLIANCE PLANS.

Title XVIII is amended by adding at the end the following:

"INTEGRATION OF MEDICARE INTO STATE HEALTH SECURITY PROGRAMS

"SEC. 1893. (a) PAYMENT TO STATES.—The Secretary shall pay a participating State that has submitted an application, as specified by subsection (b) which the Secretary has approved under subsection (c), the amount specified by subsection (d) for the period specified by subsection (e) for covered medicare beneficiaries. This section shall apply without regard to whether or not a State is a single-payer State.

"(b) APPLICATION BY STATE.—An application submitted by a participating State shall contain the following assurances:

"(1) DESIGNATION OF CLASSES COVERED.—

"(A) DESIGNATION OF CLASSES OF MEDICARE BENEFICIARIES COVERED.—In the application the State shall designate which of the following classes of medicare beneficiaries are to be covered:

"(i) Individuals who are 65 years of age or older.

"(ii) Individuals who are eligible for benefits under part A by reason of section 226(b) or section 1818A (relating to disabled individuals).

"(iii) Individuals who are eligible for benefits under part A only by reason of section 226A (relating to individuals with end stage renal disease).

A State may not restrict the individuals within such a class who are to be covered under this section.

"(B) LIMITATION.—An individual may not be covered under the application unless the individual is entitled to benefits under part A and is enrolled under part B.

"(2) ENROLLMENT IN AND SELECTION OF HEALTH PLANS.—

"(A) ENROLLMENT.—Each medicare-eligible individual (within a class of medicare beneficiaries covered under the application) who is a resident of the State will be enrolled in a regional alliance health plan serving the area in which the individual resides (or, in the case of an individual who is a resident of a single-payer State, in the Statewide single-payer system operated under part 2 of subtitle C of title I of the Health Security Act).

"(B) SELECTION.—Each such individual will have the same choice among applicable health plans as other individuals in the State who are eligible individuals under the Health Security Act.

"(C) OFFER OF FEE-FOR-SERVICE PLAN.—Each such individual shall be offered enrollment in at least one health plan that is a fee-for-service plan (or, in the case of an indivdiual who is a resident of a single-payer State, the Statewide single-payer system under part 2 of subtitle B of title I of the Health Security Act) that meets the following requirements:

"(i) The plan's premium rate, and the actuarial value of the plan's deductibles, coinsurance, and copayments, charged to the individual do not exceed the actuarial value of the premium rate, coinsurance, and deductibles that would be applicable on the average to such individuals if this section did not apply to those individuals.

"(ii) The plan's payment rates for hospital services, post-hospital extended care services, home health services, home intravenous drug therapy services, comprehensive outpatient rehabilitation facility services, hospice care, dialysis services for individuals with end stage renal disease, and facility services furnished in connection with ambulatory surgical procedures are accepted as payment in full.

"(iii) The plan's payment rates for physicians' services are no less a percentage of the amounts accepted as payment in full than are the payment rates for physicians' services under part B.

"(3) COVERAGE OF FULL MEDICARE BENEFITS.—For each health plan providing coverage under this section—

"(A) the plan shall cover at least the items and services for which payment would otherwise be made under this title, and

"(B) coverage determinations under the plan are made under rules that are no more restrictive than otherwise applicable under this title.

"(4) PREMIUM.—During the period for which payments are made to a State under this section, the requirements of the Health Security Act relating to premiums that are otherwise applicable with respect to individuals enrolled in health plans in a State shall not apply with respect to medicare-eligible individuals in the State who are covered under the State's application under this section. Nothing in the previous sentence shall operate to permit a State or health plans in a State to charge different premiums among medicare-eligible individuals within the same premium class under the Health Security Act.

"(5) QUALITY ASSURANCE.—For each health plan providing coverage under this section there are quality assurance mechanisms for covered medicare individuals that equal, or exceed, such mechanisms otherwise applicable under this title.

"(6) REVIEW RIGHTS.—Covered medicare individuals have review, reconsideration, and appeal rights (including appeals to courts of the State) that equal or exceed such rights otherwise applicable under this title.

"(7) DATA REPORTING AND ACCESS TO DOCUMENTS.—The State will—

"(A) provide such utilization and statistical data as the Secretary determines are needed for purposes of the programs established under this title, and

"(B) the State will ensure access by the Secretary or the Comptroller General to relevant documents.

"(8) USE OF PAYMENTS.—Payments made to the State under subsection (a) will be used only to carry out the purposes of this section.

"(c) APPROVAL BY SECRETARY.—The Secretary shall approve an application under subsection (b) if the Secretary finds—

"(1) that the individuals covered under the State's application shall receive at least the benefits provided under this title (including cost sharing);

"(2) that the amount of expenditures that will be made under this title will not exceed the amount of expenditures that will be made if the State's application is not accepted; and

"(3) that the State is able and willing to carry out the assurances provided in its application.

"(d) AMOUNT AND SOURCE OF PAYMENT.—

"(1) AMOUNT OF PAYMENT.—For purposes of subsection (a), the amount of payments to a State—

"(A) for the first year for which payments are made to the State under this section shall be determined by the applicable rate specified in section 1876(a)(1)(C) (but at 100 percent, rather than 95 percent, of the applicable amount) for each medicare-eligible individual who is a resident of the State (but without regard to any reduction based on payments to be made under section 1876(a)(1)(G)), and

"(B) for each succeeding year, shall be determined by the applicable rate determined under subparagraph (A) or this subparagraph for the preceding year for each such individual, adjusted by the regional alliance inflation factor applicable to regional alliances in the State (as determined in accordance with subtitle A of title VI of the Health Security Act) for the year.

"(2) SOURCE OF PAYMENT.—Payment shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund as provided under paragraph (5) of section 1876(a) (other than as provided under subparagraph (B) of that paragraph).

"(e) PERIOD FOR WHICH PAYMENT MADE.—The period for which payment may be made under subsection (a) to a State—

"(1) begins with January 1 of the first calendar year for which the Secretary approves under subsection (c) the application of the State; and

"(2) ends—

"(A) on December 31 of the year in which the State notifies the Secretary (before April of that year) that the State no longer intends to receive payments under this section, or

"(B) if the Secretary finds that the State is no longer in substantial compliance with the requirements under paragraphs (2) or (3) of subsection (c), at the time specified by the Secretary.

No termination is effective under paragraph (2) unless notice has been provided to medicare covered individuals, health providers, and health plans affected by the termination.

"(f) PAYMENTS UNDER THIS SECTION AS SOLE MEDICARE BENEFITS.—Payments to a State under subsection (a) shall be instead of the amounts that would otherwise be payable, pursuant to sections 1814(b) and 1833(a), for services furnished to medicare-eligible residents of the State covered under the application.

"(g) EVALUATION.—The Secretary shall evaluate on an ongoing basis the compliance of a State with the requirements of this section.

"(h) DEFINITIONS.—In this section the terms 'applicable health plan', 'fee-for-service plan', 'health care budget', 'health plan', 'medicare-eligible individual', 'participating State', 'single-payer State', and 'Statewide single-payer system' have the meanings of those terms in the Health Security Act.".

SEC. 4002. INDIVIDUAL ELECTION TO REMAIN IN CERTAIN HEALTH PLANS.

(a) IN GENERAL.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Notwithstanding any other provision of this section, each eligible organization with a risk-sharing contract that is the sponsor of a health plan under subtitle E of title I of the Health Security Act shall provide each individual who meets the requirements of paragraph (2) with the opportunity to elect (by submitting an application at such time and in such manner as specified by the Secretary) to continue enrollment in such plan and to have payments made by the Secretary to the plan on the individual's behalf in accordance with paragraph (3).

"(2) An individual meets the requirements of this paragraph if the individual is—

"(A) enrolled in the health plan of an eligible organization in a month in which the individual is either not entitled to benefits under part A, or is an eligible employee (as defined in the Health Security Act) or the spouse of an eligible employee,

"(B) entitled to benefits under part A and enrolled under part B in the succeeding month,

"(C) an eligible individual under the Health Security Act in that succeeding month, and

"(D) not an eligible employee (as defined in the Health Security Act) or the spouse of an eligible employee in that succeeding month.

"(3) The Secretary shall make a payment to an eligible organization on behalf of each individual enrolled with the organization for whom an election is in effect under this subsection in an amount determined by the rate specified by subsection (a)(1)(C). Such payment shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund as provided under subsection (a)(5) (other than as provided under subparagraph (B) of that paragraph).

"(4) The period for which payment may be made under paragraph (3)—

"(A) begins with the first month for which the individual meets the requirements of paragraph (2) (or a later month, in the case of a late application, as may be specified by the Secretary); and

"(B) ends with the earliest of—

"(i) the month following the month—

"(I) in which the individual notifies the Secretary that the individual no longer wishes to be enrolled in the health plan of the eligible organization and to have payment made on the individual's behalf under this subsection; and

"(II) which is a month specified by the Secretary as a uniform open enrollment period under subsection (c)(3)(A)(i), or

"(ii) the month in which the individual ceases to meet the requirements of paragraph (2).

"(5) Notwithstanding any other provision of this title, payments to a health plan under this subsection on behalf of an individual shall be the sole payments made with respect to items and services furnished to the individual during the period for which the indivdual's election under this subsection is in effect.".

(b) CONFORMING AMENDMENT.—Section 1838(b) (42 U.S.C. 1395q(b)) is amended by inserting after "section 1843(e)" the following: ", 1876(c)(3)(B), 1876(k)(4)(B), or 1890(j)(1)(B)(iv)".

SEC. 4003. TREATMENT OF CERTAIN MEDICARE BENEFICIARIES.

Title XVIII, as amended by section 4001, is further amended by adding at the end the following new section:

"TREATMENT OF CERTAIN MEDICARE-ELIGIBLE INDIVIDUALS UNDER HEALTH SECURITY ACT

"SEC. 1894. (a) NO MEDICARE COVERAGE FOR CERTAIN MEDICARE-ELIGIBLE INDIVIDUALS.—Notwithstanding any other provision of this title or title II, an individual is not entitled to receive payment or have payment made on the individual's behalf under this title for items and services furnished during a year if the individual is not treated as a medicare-eligible individual under the Health Security Act during the year through the application of section 1012(a) of such Act.

"(b) TRANSFERS TO REGIONAL ALLIANCES.—The Secretary shall provide for a transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, in appropriate proportions, to each regional alliance in each year of the amount of the reductions in liability owed to the alliance in the year resulting from the application of section 6115 of the Health Security Act.".

SEC. 4004. PROHIBITING EMPLOYERS FROM TAKING INTO ACCOUNT STATUS AS MEDICARE BENEFICIARY ON ANY GROUNDS.

(a) EXTENSION OF PROTECTIONS FOR WORKING AGED TO GROUP HEALTH PLANS OF ALL EMPLOYERS.—Section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)) is amended by striking clauses (ii) and (iii).

(b) EXTENSION OF PROTECTIONS FOR DISABLED ACTIVE INDIVIDUALS TO ALL GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)), as amended by section 13561(e) of OBRA–1993, is amended—

(A) in clause (i)—

(i) by striking "large group health plan (as defined in clause (iv)(II))" and inserting "group health plan (as defined in subparagraph (A)(v))", and

(ii) by striking "clause (iv)(I)" and inserting "clause (iv)"; and

(B) by striking clause (iv).

(2) CONFORMING AMENDMENT.—Section 1862(b)(1)(A)(v) (42 U.S.C. 1395y(b)(1)(A)(v)) is amended by striking "this subparagraph, and subparagraph (C)" and inserting "this paragraph".

(c) REPEAL OF LIMITATION ON PERIOD OF PROTECTION FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.—

(1) IN GENERAL.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)), as amended by section 13561(c) of OBRA–1993, is amended—

(A) in clause (i), by striking "during the 12-month period" and all that follows through "such benefits";

(B) in clause (ii), by striking the semicolon at the end and inserting a period; and

(C) by striking the matter following clause (ii).

(2) CONFORMING AMENDMENT.—Section 1862(b)(1) is amended—

(A) in subparagraph (A), by striking clause (iv); and

(B) in subparagraph (B), by striking clause (ii).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medicare-eligible individuals residing in a participating State as of January 1 of the first year for which the State is a participating State.

PART 2—ENCOURAGING MANAGED CARE UNDER MEDICARE PROGRAM; COORDINATION WITH MEDIGAP PLANS

SEC. 4011. ENROLLMENT AND TERMINATION OF ENROLLMENT.

(a) UNIFORM OPEN ENROLLMENT PERIODS.—

(1) FOR CAPITATED PLANS.—The first sentence of section 1876(c)(3)(A)(i) (42 U.S.C. 1395mm(c)(3)(A)(i)) is amended by inserting "(which may be specified by the Secretary)" after "open enrollment period".

(2) FOR MEDIGAP PLANS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(A) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "paragraph (1), (2), or (3)",

(B) by redesignating paragraph (3) as paragraph (4), and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) Each issuer of a medicare supplemental policy shall have an open enrollment period (which may be specified by the Secretary), of at least 30 days duration every year, during which the issuer may not deny or condition the issuance or effectiveness of a medicare supplemental policy, or discriminate in the pricing of the policy, because of age, health status, claims experience, receipt of health care, or medical condition. The policy may not provide any time period applicable to pre-existing conditions, waiting periods, elimination periods, and probationary periods (except as provided by paragraph (2)(B)). The Secretary may require enrollment through a third party.".

(b) ENROLLMENTS FOR NEW MEDICARE BENEFICIARIES AND THOSE WHO MOVE.—Section 1876(c)(3)(A) (42 U.S.C. 1395mm(c)(3)(A)) is amended—

(1) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) through (iv)", and

(2) by adding at the end the following:

"(iii) Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (d) during any enrollment period specified by section 1837 that applies to that individual. Enrollment under this clause shall be effective as specified by section 1838.

"(iv) Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (d) who has previously resided outside the geographic area which the organization serves. The enrollment period shall begin with the beginning of the month that precedes the month in which the individual becomes a resident of that geographic area and shall end at the end of the following month. Enrollment under this clause shall be effective as of the first of the month following the month in which the individual enrolls.".

(c) ENROLLMENT THROUGH THIRD PARTY; UNIFORM TERMINATION OF ENROLLMENT.—The first sentence of section 1876(c)(3)(B) (42 U.S.C. 1395mm(c)(3)(B)) is amended—

(1) by inserting "(including enrollment through a third party)" after "regulations", and

(2) by striking everything after "with the eligible organization" and inserting "during an annual period as prescribed by the Secretary, and as specified by the Secretary in the case of financial insolvency of the organization, if the individual moves from the geographic area served by the organization, or in other special circumstances that the Secretary may prescribe.".

(d) EFFECTIVE DATE.—The amendments made by the previous subsections apply to enrollments and terminations of enrollments occurring after 1995 (but only after the Secretary of Health and Human Services has prescribed the relevant annual period), except that the amendments made by subsection (a)(2) apply to enrollments for a medicare supplemental policy made after 1995.

SEC. 4012. UNIFORM INFORMATIONAL MATERIALS.

(a) FOR CAPITATION PLANS.—Section 1876(c)(3)(C) (42 U.S.C. 1395mm(c)(3)(C)) is amended by adding at the end the following: "In addition, the Secretary shall develop and distribute comparative materials about all eligible organizations. Each eligible organization shall reimburse the Secretary for its pro rata share (as determined by the Secretary) of the costs incurred by the Secretary in carrying out the requirements of the preceding sentence and other enrollment activities.".

(b) FOR MEDIGAP PLANS.—Paragraph (1) of section 1882(f) (42 U.S.C. 1395ss(f)) is amended to read as follows:

"(f)(1) The Secretary shall develop and distribute comparative materials about all medicare supplemental policies issued in a State. Each issuer of such a policy shall reimburse the Secretary for its pro rata share (as determined by the Secretary) of the costs incurred by the Secretary in carrying out the requirements of the preceding sentence and other enrollment activities, or the issuer shall no longer be considered as meeting the requirements of this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to materials for enrollment in years after 1995.

SEC. 4013. OUTLIER PAYMENTS.

(a) GENERAL RULE.—Section 1876(a)(1) (42 U.S.C. 1395mm(a)(1)) is amended by adding at the end the following:

"(G)(i) In the case of an eligible organization with a risk-sharing contract, the Secretary may make additional payments to the organization equal to not more than 50 percent of the imputed reasonable cost (or, if so requested by the organization, the reasonable cost) above the threshold amount of services covered under parts A and B and provided (or paid for) in a year by the organization to any individual enrolled with the organization under this section.

"(ii) For purposes of clause (i), the 'imputed reasonable cost' is an amount determined by the Secretary on a national, regional, or other basis that is related to the reasonable cost of services.

"(iii) For purposes of clause (i), the 'threshold amount' is an amount determined by the Secretary from time to time, adjusted by the geographic factor utilized in determining payments to the organization under subparagraph (C) and rounded to the nearest multiple of $100, such that the total amount to be paid under this subparagraph for a year is estimated to be 5 percent or less of the total amount to be paid under risk-sharing contracts for services furnished for that year.

"(iv) An eligible organization shall submit a claim for additional payments under subsection (i) within such time as the Secretary may specify.".

(b) CONFORMING AMENDMENT.—Section 1876(a)(1)(C) (42 U.S.C. 1395mm(a)(1)(C)), as amended by section 4122(a), is further amended by inserting ", and reduced (by a uniform percentage) determined by the Secretary so that the total reduction is estimated to equal the amount to be paid under subparagraph (G) for a particular year" before the period.

(c) EFFECTIVE DATE.—The amendments made by the preceding subsections apply to services furnished after 1994.

SEC. 4014. POINT OF SERVICE OPTION.

(a) POINT OF SERVICE CONTRACTS.—Part C of title XVIII is amended by inserting after section 1889 the following:

"POINT OF SERVICE OPTION

"SEC. 1890. (a) ESTABLISHMENT OF PROGRAM.—Not later than July 1, 1995, the Secretary shall promulgate regulations establishing a point-of-service program under which individuals entitled to benefits under this title may enroll in a point-of-service network that meets such criteria as the Secretary may establish and may obtain such benefits through providers and suppliers who are members of the network.

"(b) CRITERIA FOR NETWORKS.—In establishing criteria for point-of-service networks under the program under this section, the Secretary shall—

"(1) designate appropriate geographic service areas for such networks to ensure that each network has a sufficient number of participating members to provide items and services under this title to beneficiaries;

"(2) establish qualifications relating to the business structure and ownership of networks;

"(3) establish requirements for participating members;

"(4) establish a schedule of payments for services furnished by networks, including a schedule of bundled payment arrangements for selected medical and surgical procedures;

"(5) delineate permissible incentive arrangements to encourage physicians and other suppliers to join the network;

"(6) specify the rules under which carriers under section 1842 may administer the program;

"(7) identify certain illnesses and conditions for which the use of case management by the network will result in savings;

"(8) standards for the processing and payment of claims for payment for services furnished by the network, including standards for the apportionment of payments among the Trust Funds established under this title; and

"(9) such other criteria as the Secretary considers appropriate.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(A) by striking "and" at the end of paragraph (3),

(B) by substituting "; and" for the period at the end of paragraph (4), and

(C) by adding at the end the following:

"(5) such additional items and services furnished by a provider of services to an individual subject to case management as may be specified under a point-of-service network arrangement under section 1890.".

(2)(A) Section 1814(b) (42 U.S.C. 1395f(b)) is amended—

(i) in paragraph (1), by inserting "or (4)" after "paragraph (3)",

(ii) by striking "or" at the end of paragraph (2),

(iii) by substituting "; and" for the period at the end of paragraph (3), and

(iv) by inserting after paragraph (3) the following:

"(4) in the case of items and services furnished through a point of service network (as described in section 1890), the payment basis specified under the arrangement established for such network, plus any bonus payments as determined under subsection (i) of that section.".

(B) The matter in section 1886(d)(1)(A) (42 U.S.C. 1395ww(d)(1)(A)) preceding clause (i) is amended by inserting "(other than paragraph (4))" after "1814(b)".

(3) Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I),

(B) by substituting "; and" for the period at the end of subparagraph (J), and

(C) by adding at the end the following:

"(K) such additional items and services (other than inpatient services furnished by providers of services) as may be specified in an arrangement for a point-of-service network under section 1890.".

(4) Section 1833 (42 U.S.C. 1395l), as amended by section 4032, is amended by adding at the end the following new subsection:

"(u) In the case of items and services furnished through a point of service network (as described in section 1890), there shall be paid (subject to subsection (b)) amounts equal to 80 percent of the payment basis specified in an agreement entered into pursuant to that section, plus any bonus payments as determined under subsection (i) of that section.".

(5) Section 1862(a)(1)(B) (42 U.S.C. 1395y(a)(1)(B)) is amended by inserting "or section 1890(h)" after "section 1861(s)(10)".

(6) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by sections 4034(b)(4), 4118(b), and 2001(c), is further amended—

(A) in paragraph (7), by striking "or under paragraph (1)(F)" and inserting ", under paragraph (1)(F), or under a contract under section 1890",

(B) by striking "or" at the end of paragraph (16),

(C) by striking the period at the end of paragraph (17) and inserting "; or", and

(D) by inserting after paragraph (17) the following new paragraph:

"(18) which are furnished to an individual and related to a health condition with respect to which he is subject to case management through a point-of-service network under section 1890 but which are not included in the plan of care developed for such individual and agreed to by him and the case manager.".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall take effect January 1, 1996.

PART 3—MEDICARE COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS

SEC. 4021. REFERENCE TO COVERAGE OF OUTPATIENT PRESCRIPTION DRUGS.

For provisions adding a new outpatient prescription drug benefit to the medicare program, see subtitle A of title II.

SEC. 4022. COVERAGE OF SERVICES OF ADVANCED PRACTICE NURSES.

(a) COVERAGE.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv), by striking "(i) or (ii)" and inserting "(i), (ii), or (iv)";

(3) by redesignating clause (iv) as clause (v); and

(4) by inserting after clause (iii) the following new clause:

"(iv) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by an advanced practice nurse (as defined in subsection (aa)(5)) working in collaboration (as defined in subsection (aa)(6)) with such a physician which the advanced practice nurse is legally authorized to perform by the State in which the services are performed, and".

(b) APPLICATION OF PAYMENT RULES AND METHODOLOGY USED FOR SERVICES OF NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS IN RURAL AREAS.—

(1) DIRECT PAYMENT.—Section 1832(a)(2)(B)(iii) (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended by striking "1861(s)(2)(K)(i)," and inserting "1861(s)(2)(K)(i) or section 1861(s)(2)(K)(iv),".

(2) AMOUNT OF PAYMENT.—Section 1833(a)(1)(O) (42 U.S.C. 1395l(a)(1)(M)), as amended by section 13544(b)(2)(B) of OBRA-1993, is amended by striking "rural area)," and inserting "rural area) or section 1861(s)(2)(K)(iv) (relating to services of advanced practice nurses),".

(3) MANDATORY ASSIGNMENT.—The section 1833(r) added by section 4155(b)(3) of OBRA-1990 is amended—

(1) in paragraph (1)—

(A) by striking "rural area)," and inserting "rural area) or section 1861(s)(2)(K)(iv) (relating to services of advanced practice nurses),", and

(B) by striking "nurse practitioner or clinical nurse specialist" each place it appears and inserting "nurse practitioner, clinical nurse specialist, or advanced practice nurse"; and

(2) by inserting "or section 1861(s)(2)(K)(iv)" after "section 1861(s)(2)(K)(iii)" each place it appears.

(c) SERVICES DEFINED.—Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended—

(1) by striking "and the term 'clinical nurse specialist'" and inserting ", the term 'clinical nurse specialist', and the term 'advanced practice nurse'"; and

(2) by striking "or clinical nurse specialist" and inserting "clinical nurse specialist, or advanced practice nurse".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1995.

PART 4—COORDINATION WITH ADMINISTRATIVE SIMPLIFICATION AND QUALITY MANAGEMENT INITIATIVES

SEC. 4031. REPEAL OF SEPARATE MEDICARE PEER REVIEW PROGRAM.

Part B of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"TERMINATION

"SEC. 1165. The provisions of this part shall terminate effective upon the adoption of the National Quality Management Program under subtitle A of title V of the Health Security Act. Any reference to this part or any section in this part shall not be effective after such date.".

SEC. 4032. MANDATORY ASSIGNMENT FOR ALL PART B SERVICES.

Section 1833 (42 U.S.C. 1395l) is amended—

(1) by redesignating the subsection (r) added by section 4206(b)(2) of OBRA-1990 as subsection (s); and

(2) by adding at the end the following new subsection:

"(t)(1) Notwithstanding any other provision of this part, payment under this part for any item or service furnished on or after January 1, 1996, may only be made on an assignment-related basis.

"(2) Except for deductible, coinsurance, or copayment amounts applicable under this part, no physician, supplier, or other person may bill or collect any amount from an individual enrolled under this part a bill for an item or service for which payment may be made under this part. No such individual is liable for payment of any amounts billed in violation of the previous sentence.

"(3) If a physician, supplier, or other person knowingly and willfully bills or collects an amount in violation of paragraph (2), the Secretary may apply sanctions against such physician, supplier, or other person in accordance with section 1842(j)(2). Paragraph (4) of section 1842(j) shall apply in this paragraph in the same manner as such paragraph applies to such section.".

SEC. 4033. ELIMINATION OF COMPLEXITIES CAUSED BY DUAL FUNDING SOURCES AND RULES FOR PAYMENT OF CLAIMS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall take such steps as may be necessary to consolidate the administration (including processing systems) of parts A and B of the medicare program (under title XVIII of the Social Security Act).

(b) COMBINATION OF INTERMEDIARY AND CARRIER FUNCTIONS.—In taking such steps, the Secretary shall contract with a single entity that combines the fiscal intermediary and carrier functions in each area except where the Secretary finds that special regional or national contracts are appropriate.

(c) SUPERSEDING CONFLICTING REQUIREMENTS.—The provisions of sections 1816 and 1842 of the Social Security Act (including provider nominating provisions in such section 1816) are superseded to the extent required to carry out this section.

SEC. 4034. REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.

(a) IN GENERAL.—Section 1164 (42 U.S.C. 1320c–13) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 1154 (42 U.S.C. 1320c–3) is amended—

(A) in subsection (a), by striking paragraph (12), and

(B) in subsection (d), by striking "(and except as provided in section 1164)".

(2) Section 1833 (42 U.S.C. 1395l) is amended—

(A) in subsection (a)(1)(D)(i), by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(B) in subsection (a)(1), by striking clause (G);

(C) in subsection (a)(2)(A), by striking ", to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),";

(D) in subsection (a)(2)(D)(i)—

(i) by striking "basis," and inserting "basis or", and

(ii) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(E) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)"; and

(F) in the first sentence of subsection (b), by striking "(4)" and all that follows through "and (5)" and inserting and "(4)".

(3) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)".

(4) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by adding "or" at the end of paragraph (14),

(B) by striking "; or" at the end of paragraph (15) and inserting a period, and

(C) by striking paragraph (16).

(5) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services provided on or after the date of the enactment of this Act.

SEC. 4035. REQUIREMENTS FOR CHANGES IN BILLING PROCEDURES.

(a) LIMITATION ON FREQUENCY OF SYSTEM CHANGES.—The Secretary of Health and Human Services may not implement any change in the system used for the billing and processing of claims for payment for items and services furnished under title XVIII of the Social Security Act within 6 months of implementing any previous change in such system.

(b) ADVANCE NOTIFICATION TO PROVIDERS AS REQUIREMENT FOR CARRIERS AND FISCAL INTERMEDIARIES.—

(1) FISCAL INTERMEDIARIES.—Section 1816(c) (42 U.S.C. 1395h(c)) is amended by adding at the end the following new paragraph:

"(4) Each agreement with an agency or organization under this section shall provide that the agency or organization shall notify providers of services of any major change in the procedures for billing for services furnished under this part at least 120 days before such change is to take effect.".

(2) CARRIERS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (G) and the end of subparagraph (H); and

(B) by inserting after subparagraph (H) the following new subparagraph:

"(I) will notify individuals and entities furnishing items and services for which payment may be made under this part of any major change in the procedures for billing for such items and services at least 120 days before such change is to take effect; and".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to agreements with fiscal intermediaries under section 1816 of the Social Security Act and to contracts with carriers under section 1842 of such Act for years beginning after the expiration of the 9-month period beginning on the date of the enactment of this Act.

PART 5—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS

SEC. 4041. ANTI-KICKBACK PROVISIONS.

(a) REVISION TO PENALTIES.—

(1) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "or" at the end of paragraphs (1) and (2);

(B) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) carries out any activity in violation of paragraph (1) or (2) of section 1128B(b);".

(2) DESCRIPTION OF CIVIL MONETARY PENALTY APPLICABLE.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "given)." at the end of the first sentence and inserting the following: "given or, in cases under paragraph (4), $50,000 for each such violation)."; and

(B) by striking "claim." at the end of the second sentence and inserting the following: "claim (or, in cases under paragraph (4), an assessment of not more than three times the total amount of remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid solicited, or received for a lawful purpose).".

(3) INCREASE IN CRIMINAL PENALTY.—Paragraphs (1) and (2) of section 1128B(b) (42 U.S.C. 1320a–7b(b)) are each amended—

(A) by striking "$25,000" and inserting "$50,000"; and

(B) by striking the period at the end and inserting the following: ", and shall be subject to an assessment of not more than three times the total remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid solicited, or received for a lawful purpose.".

(4) CIVIL REMEDY.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following new paragraph:

"(4) Any person who carries out any activity in violation of paragraph (1) or (2) shall be subject to a penalty of not more than $50,000 for each such violation, and shall be subject to an assessment of not more than three times the total remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose.".

(b) REVISIONS TO EXCEPTIONS.—

(1) EXCEPTION FOR DISCOUNTS.—Section 1128B(b)(3)(A) (42 U.S.C. 1320a-7b(b)(3)(A)) is amended by striking "program;" and inserting "program and is not—

"(i) for the furnishing of one item or service without charge or at a reduced charge in exchange for any agreement to buy a different item or service;

"(ii) applicable to one payor but not to providers of services or other entities under title XVIII or a State health care program; or

"(iii) in the form of a cash payment;".

(2) EXCEPTION FOR PAYMENTS TO EMPLOYEES.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by inserting at the end "if the amount of remuneration under the arrangement is consistent with the fair market value of the services and is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals, except that such employees can be paid remuneration in the form of a productivity bonus based on services personally performed by the employee.

(3) EXCEPTION FOR WAIVER OF COINSURANCE BY CERTAIN PROVIDERS.—Section 1128B(b)(3)(D) (42 U.S.C. 1320a-7b(b)(3)(D)) is amended to read as follows:

"(D) a waiver or reduction of any coinsurance or other copayment—

"(i) if the waiver or reduction is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply to certain individuals, or

"(ii) under part B of title XVIII by any person if the person does not routinely waive coinsurance or deductible amounts and the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is indigent;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary.".

(4) NEW EXCEPTION FOR CERTAIN PROVIDERS.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(F) any remuneration obtained by or given to an individual or entity who is obligated as a matter of law to waive or reduce coinsurance or other copayment for certain individuals pursuant to a public schedule of discounts, if the remuneration is pursuant to a written arrangement for the use or procurement of space, equipment, goods or services or for the referral of patients if—

"(i) the arrangement does not result in private inurement to any current employee, officer, member of the Board of Directors, or agent of the recipient or any other person involved in recommending or negotiating the arrangement; and

"(ii) the arrangement does not preclude the referral of patients to other providers of service of the patient's own choosing and does not interfere with the ability of health professionals to refer patients to providers of services they believe are the most appropriate, except to the extent such choices or referrals are limited by the terms of a health plan in which the patient has enrolled or the terms of the Federal grant or cooperative agreement.".

(5) NEW EXCEPTION FOR CAPITATED PAYMENTS.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)), as amended by paragraph (4), is further amended—

(A) by striking "and" at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(C) by adding at the end the following new subparagraph—

"(G) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider of services for items or services furnished to an individual, or any discount or reduction in price given by the provider for such items or services, if the individual is enrolled with and such items and services are covered under any of the following:

"(i) A health plan which is furnishing items or services under title XVIII or a State health care program to individuals on an at-risk, prepaid, capitated basis pursuant to a written agreement with the Secretary or a State health care program.

"(ii) An organization receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972.

"(iii) Any other plan or insurer under which a participating provider is paid wholly on an at-risk, prepaid, capitated basis for such items or services pursuant to a written arrangement between the plan and the provider.".

(c) CLARIFICATION OF COVERAGE OF EMPLOYERS AND EMPLOYEES.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)), as amended by subsection (a)(4), is further amended by adding at the end the following new paragraph:

"(5) In this subsection, the term 'referral' includes the referral by an employee to his or her employer of any item or service for which payment may be made in whole or in part under title XVIII or a State health care program."

(d) AUTHORIZATION FOR THE SECRETARY TO ISSUE REGULATIONS.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)), as amended by subsections (a)(4) and (c), is further amended by adding at the end the following new paragraph—

"(6) The Secretary is authorized to impose by regulation such other requirements as needed to protect against program or patient abuse with respect to any of the exceptions described in paragraph (3).".

(e) CLARIFICATION OF OTHER ELEMENTS OF OFFENSE.—Section 1128B(b) (42 U.S.C. 1320a–7b(b)) is amended—

(1) in paragraph (1) in the matter preceding subparagraph (A), by striking "kind—" and

inserting "kind with intent to be influenced—";

(2) in paragraph (1)(A), by striking "in return for referring" and inserting "to refer";

(3) in paragraph (1)(B), by striking "in return for purchasing, leasing, ordering, or arranging for or recommending" and inserting "to purchase, lease, order, or arrange for or recommend"; and

(4) in paragraph (2) in the matter preceding subparagraph (A), by striking "to induce such person" and inserting "with intent to influence such person".

SEC. 4042. REVISIONS TO LIMITATIONS ON PHYSICIAN SELF-REFERRAL.

(a) CLARIFICATION OF PAYMENT BAN.—Section 1877(a)(1)(B) (42 U.S.C. 1395nn(a)(1)(B)) is amended to read as follows:

"(B) no physician or entity may present or cause to be presented a claim under this title or bill to any third party payor or other entity for designated health services furnished pursuant to a referral prohibited under subparagraph (A).".

(b) CLARIFICATION OF COVERAGE OF HOLDING COMPANY TYPE ARRANGEMENTS AND LOANS.—The last sentence of section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by striking "an interest in an entity that holds an ownership or investment interest in any entity providing the designated health service" and inserting the following: "a loan from the entity, and an interest held indirectly through means such as (but not limited to) having a family member hold such investment interest or holding a legal or beneficial interest in another entity (such as a trust or holding company) that holds such investment interest".

(c) REVISIONS TO GENERAL EXCEPTIONS TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS.—

(1) REPEAL OF EXCEPTION FOR PHYSICIANS' SERVICES.—Section 1877(b) (42 U.S.C. 1395nn(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs paragraphs (1) and (2).

(2) REVISION TO IN-OFFICE ANCILLARY SERVICES EXCEPTION.—Section 1877(b)(1) (42 U.S.C. 1395nn(b)(1)), as redesignated by paragraph (1), is amended—

(A) in the matter preceding subparagraph (A), by striking "services (other than durable medical equipment (excluding infusion pumps) and parenteral and enteral nutrients, equipment, and supplies)" and inserting "clinical laboratory services, x-ray and ultrasound services that are provided at low-cost (as determined in accordance with regulations of the Secretary)"; and

(B) in subparagraph (A)—

(i) in clause (ii)(I), by striking "(or another physician who is a member of the same group practice)",

(ii) in clause (ii)(II) by inserting "the same or" before "another building", and

(iii) in clause (ii)(II)(bb), by inserting "all of" after "centralized provision of".

(3) REVISION TO PREPAID PLAN EXCEPTION.—Section 1877(b)(2), (42 U.S.C. 1395nn(b)(2)), as redesignated by paragraph (1), is amended to read as follows:

"(2) PREPAID PLANS.—In the case of services furnished by an organization—

"(A) with a risk sharing contract under section 1876(g) to an individual enrolled with the organization,

"(B) receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972, to an individual enrolled with the organization, or

"(C) that is a qualified health maintenance organization (within the meaning of section 1310(d) of the Public Health Service Act) to an individual enrolled with the organization.".

(4) NEW EXCEPTION FOR CAPITATED PAYMENTS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by paragraph (1), is amended by inserting after paragraph (2) the following new paragraph:

"(3) CAPITATED PAYMENTS.—In the case of a designated health service, if the designated health service is included in the services for which a physician or physician group is paid wholly on an at-risk, prepaid, capitated basis by a health plan or insurer pursuant to a written arrangement between the plan or insurer and the physician or physician group.".

(d) REVISION TO PUBLICLY TRADED SECURITIES EXCEPTION.—Section 1877(c)(1) (42 U.S.C. 1395nn(c)(1)) is amended by inserting "at the time acquired by the physician" after "which may be purchased on terms generally available to the public".

(e) REVISION TO RURAL PROVIDER EXCEPTION.—Section 1877(d)(2) (42 U.S.C. 1395nn(d)(2)) is amended by striking "substantially all" and inserting "not less than 85 percent (as determined in accordance with regulations of the Secretary)".

(f) REVISIONS TO EXCEPTIONS RELATING TO OTHER COMPENSATION ARRANGEMENTS.—

(1) EXCEPTION FOR PERSONAL SERVICES ARRANGEMENTS.—(A) Section 1877(e)(3)(B)(i)(II) (42 U.S.C. 1395nn(e)(3)(B)(i)(II)) is amended to read as follows:

"(II) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary pursuant to section 1876(i)(8)(A)(ii)), for services not provided by the physician, the entity complies with the provisions of subclauses (I) and (II) of section 1876(i)(8)(A)(ii).";

(B) Section 1877(e)(3)(B)(ii), 42 U.S.C. 1395nn(e)(3)(B)(ii) is amended by striking "may directly or indirectly have the effect of" and inserting "has the purpose of".

(2) REPEAL OF EXCEPTION FOR REMUNERATION UNRELATED TO THE PROVISION OF DESIGNATED HEALTH SERVICES.—Section 1877(e) (42 U.S.C. 1395nn(e)) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (4), (5), (6), and (7).

(3) EXCEPTION FOR CERTAIN PHYSICIAN RECRUITMENT.—Section 1877(e)(4) (42 U.S.C. 1395nn(e)(4)), as redesignated by paragraph (2), is amended to read as follows:

"(4) PHYSICIAN RECRUITMENT.—In the case of remuneration which is provided by an entity located in a rural area (as defined in section 1886(d)(2)(D)) or a health professional shortage areas (designated under section 332 of the Public Health Service Act), or an entity that serves a significant number of individuals who are members of a medically underserved population (designated under section 330 of the Public Health Service Act), in order to induce a physician who has been practicing within the physician's current specialty for less than one year to establish staff privileges at the entity, or to induce any other physician to relocate his or her primary place of practice to the geographic area served by the entity, if the following standards are met:

"(A) The arrangement is set forth in a written agreement that specifies the benefits provided by the entity to the physician, the terms under which the benefits are to be provided, and the obligations of each party.

"(B) If a physician is leaving an established practice, the physical location of the new primary place of practice must be not less than 100 miles from the location of the established primary place of practice and at least 85 percent of the revenues of the physician's new practice must be generated from new patients for whom the physician did not previously provide services at the former practice.

"(C) The benefits are provided by the entity for a period not in excess of 3 years, and the terms of the agreement are not renegotiated during this 3-year period in any substantial aspect, unless the physician's new primary place of practice is designated as a health professional shortage area (pursuant to section 332 of the Public Health Service Act) for the physician's specialty category during the entire duration of the relationship between the physician and the entity.

"(D) There is no requirement that the physician make referrals to, be in a position to make or influence referrals to, or otherwise generate business for the entity as a condition for receiving the benefits.

"(E) The physician is not restricted from establishing staff privileges at, referring any service to, or otherwise generating any business for any other entity of the physician's choosing.

"(F) The amount or value of the benefits provided by the entity may not vary (or be adjusted or renegotiated) in any manner based on the volume or value of any expected referrals to or business otherwise generated for the entity by the physician for which payment may be made in whole or in part under this title or a State health care program (as defined in section 1128(h)).

"(G) The physician agrees to treat patients entitled to benefits under this title or enrolled in a State plan for medical assistance under title XIX.".

(4) EXCEPTION FOR ISOLATED TRANSACTIONS.—Section 1877(e)(5) (42 U.S.C. 1395nn(e)(6)), as redesignated by paragraph (2), is amended—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by striking "and" at the end of subparagraph (A); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) there is no financing of the sale between the parties, and".

(5) EXCEPTION FOR PAYMENTS BY A PHYSICIAN.—Section 1877(e)(7) (42 U.S.C. 1395nn(e)(7)), as redesignated by paragraph (2), is amended to read as follows:

"(7) PAYMENTS BY A PHYSICIAN FOR ITEMS AND SERVICES.—Payments made by a physician to a laboratory in exchange for the provision of clinical laboratory services furnished at a price that is consistent with fair market value.".

(6) ADDITIONAL EXCEPTION FOR DISCOUNTS OR OTHER REDUCTIONS IN PRICE.—Section 1877(e) (42 U.S.C. 1395nn(e)), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

"(8) DISCOUNTS OR OTHER REDUCTIONS IN PRICE.—Discounts or other reductions in price between a physician and an entity for items or services for which payment may be made under this title so long as the discount or other reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the physician or entity under this title and is not—

"(A) for the furnishing of one item or service without charge or at a reduced charge in exchange for any agreement to buy a different item or service,

"(B) applicable to one or more payers but not to all individuals and entities providing services for which payment may be made under this title, or

"(C) in the form of a cash payment.".

(g) Clarification of Sanction Authority.—Section 1877(g)(4) (42 U.S.C. 1395nn(g)(4)) is amended by striking "Any physician" and all that follows through "to such entity," and inserting the following: "Any physician or other entity that enters into an arrangement or scheme (such as a cross-referral arrangement or an arrangement with multiple leases overlapping in time for the same or similar rental space or equipment) which the physician or entity knows or should know has a principal purpose of inducing referrals to another entity, which referrals, if made directly by the physician or entity to such other entity,".

(h) Clarification of Definition of Remuneration.—Section 1877(h)(1)(B) (42 U.S.C. 1395nn(h)(1)(B)) is amended to read as follows:

"(B) The term 'remuneration' includes any payment, discount or other reduction in price, forgiveness of debt or other benefit made directly or indirectly, overtly or covertly, in cash or in kind.".

(i) Revision to Definition of Group Practice.—Section 1877(h)(4) (42 U.S.C. 1395nn(h)(4)) is amended—

(1) in subparagraph (A)(vi), by striking the period at the end and inserting the following: ", including a requirement for the physical grouping of physician practices as may be reasonably required to prevent the abuse of any exceptions provided to group practices under this section."; and

(2) in subparagraph (B)(i), by striking "or services incident to such personally performed services".

(j) Revision of Definition of Referral; Referring Physician.—

(1) In general.—Section 1877(h)(5) (42 U.S.C. 1395nn(h)(5)) is amended by striking subparagraph (C).

(2) Conforming amendments.—Section 1877(h)(5) (42 U.S.C. 1395nn(h)(5)) is amended—

(A) in subparagraph (A), by striking "Except as provided in subparagraph (C), in" and inserting "In"; and

(B) in subparagraph (B), by striking "Except as provided in subparagraph (C), the" and inserting "The".

(k) Expansion to Cover Additional Items and Services.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)), as amended by section 2006(c)(3), is amended—

(1) in subparagraph (D), by striking "or other"; and

(2) by adding at the end the following new subparagraphs:

"(M) Diagnostic services.

"(N) Any other item or service not rendered by the physician personally or by a person under the physician's direct supervision.".

(l) Authorization for the Secretary to Issue Regulations.—Section 1877 (42 U.S.C. 1395nn) is amended by adding the following new subsection:

"(i) Additional Requirements.—The Secretary is authorized to impose by regulation such other requirements as needed to protect against program or patient abuse with respect to any of the exceptions under this section.".

(m) Incorporation of Amendments Made Under OBRA-1993.—In this section, any reference to section 1877 of the Social Security Act shall be considered a reference to such section as amended by section 13562(a) of OBRA-1993.

SEC. 4043. CIVIL MONETARY PENALTIES.

(a) Prohibition Against Offering Inducements to Individuals Enrolled Under Plans.—

(1) Offer of remuneration.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) (as amended by section 4041(a)(1)) is amended—

(A) by striking "; or" at the end of paragraph (3) and inserting a semicolon;

(B) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) offers, pays, or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) Remuneration defined.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value, except that such term does not include the waiver of coinsurance or deductible amounts by a person or entity, if—

"(A) the waiver is not offered as part of any advertisement or solicitation;

"(B) the person does not routinely waive coinsurance or deductible amounts; and

"(C) the person—

"(i) waives the coinsurance and deductible amounts after determining in good faith that the individual is indigent;

"(ii) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(iii) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary.".

(b) Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A), by striking "claimed," and inserting the following: "claimed, including any person who presents or causes to be presented a claim for an item or service which includes a procedure or diagnosis code that the person knows or should know will result in a greater payment to the person than the code applicable to the item or service actually provided or actual patient medical condition,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or".

(c) Excluded Individual Retaining Ownership or Control Interest in Participating Entity.—Section 1128A(a) of such Act, as amended by section 4041(a)(1) and subsection (a)(1), is further amended—

(1) by striking "or" at the end of paragraph (4);

(2) by striking the semicolon at the end of paragraph (5) and inserting "; or"; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) in the case of a person who is not an organization, agency, or other entity, who is excluded from participating in a program under title XVIII or a State health care program in accordance with this section, section 1128, or section 1156 and who, during the period of exclusion, retains either a direct or indirect ownership or control interest of 5 percent or more in, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(d) Additional Offenses Relating to Alliance System.—Section 1128A(a) of such Act, as amended by section 4041(a)(1) and subsections (a)(1) and (c), is further amended—

(1) by striking "or" at the end of paragraph (5);

(2) by striking the semicolon at the end of paragraph (6) and inserting "; or"; and

(3) by inserting after paragraph (6) the following new paragraphs:

"(7) engages in a practice that circumvents a payment methodology intended to reimburse for two or more discreet medical items or services at a single or fixed amount, including but not limited to, multiple admissions or readmission to hospitals and other institutions reimbursed on a diagnosis reimbursement grouping basis;

"(8) engages in a practice which has the effect of limiting or discouraging (as compared to other plan enrollees) the utilization of health care services covered by law or under the service contract by title XIX or other publicly subsidized patients, including but not limited to differential standards for the location and hours of service offered by providers participating in the plan;

"(9) substantially fails to cooperate with a quality assurance program or a utilization review activity;

"(10) fails substantially to provide or authorize medically necessary items and services that are required to be provided to an individual covered under a health plan or public program for the delivery of or payment for health care items or services, if the failure has adversely affected (or had a substantial likelihood of adversely affecting) the individual;

"(11) employs or contracts with any individual or entity who is excluded from participating in a program under title XVIII or a State health care program in accordance with this section, section 1128, or section 1156, for the provision of any services (including but not limited to health care, utilization review, medical social work, or administrative), or employs or contracts with any entity for the direct or indirect provision of such services, through such an excluded individual or entity; or

"(12) submits false or fraudulent statements, data or information or claims to the National Health Board established under part 1 of subtitle F of title I of the Health Security Act, any other federal agency, a state health care agency, a health alliance, or any other Federal, state or local agency charged with implementation or oversight of the plan that the person knows or should know is fraudulent;".

(e) Modifications of Amounts of Penalties and Assessments.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by section 4041(a), subsection (a)(1), subsection (c), and subsection (d), is amended in the matter following paragraph (6)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting after "under paragraph (4), $50,000 for each such violation" the following: "; in cases under paragraph (5), $10,000

for each such offer of transfer; in cases under paragraph (6), $10,000 for each day the prohibited relationship occurs; in cases under paragraphs (7) through (12), an amount not to exceed $50,000 for each such determination by the Secretary"; and

(3) by striking "twice the amount" and inserting "three times the amount".

(f) INTEREST ON PENALTIES.—Section 1128A(f) (42 U.S.C. 1320a-7a(f)) is amended by adding after the first sentence the following: "Interest shall accrue on the penalties and assessments (as defined in subsection (g)) imposed by a final determination of the Secretary in accordance with an annual rate established by the Secretary under the Federal Claims Collection Act. The rate of interest charged shall be the rate in effect on the date the determination becomes final and shall remain fixed at that rate until the entire amount due is paid. In addition, the Secretary is authorized to recover the costs of collection in any case where the penalties and assessments are not paid within 30 days after the determination becomes final, or in the case of a compromised amount, where payments are more than 90 days past due. In lieu of actual costs, the Secretary is authorized to impose a charge of up to 10 percent of the amount of penalties and assessments owed to cover the costs of collection.".

(g) AUTHORIZATION TO ACT.—

(1) IN GENERAL.—The first sentence of section 1128A(c)(1) (42 U.S.C. 1320a-7a(c)(1)) is amended by striking all that follows "(b)" and inserting the following: "unless, within one year after the date the Secretary presents a case to the Attorney General for consideration, the Attorney General brings an action in a district court of the United States.".

(2) EFFECTIVE DATE.—The amendment made by this paragraph (1) shall apply to cases presented by the Secretary of Health and Human Services for consideration on or after the date of the enactment of this Act.

(h) DEPOSIT OF PENALTIES COLLECTED INTO ALL-PAYER TRUST FUND.—Section 1128A(f)(3) (42 U.S.C. 1320a–7a(f)(3)) is amended by striking "as miscellaneous receipts of the Treasury of the United States" and inserting "in the All-Payer Health Care Fraud and Abuse Control Trust Fund established under section 5402 of the Health Security Act".

(i) CLARIFICATION OF PENALTY IMPOSED ON EXCLUDED PROVIDER FURNISHING SERVICES.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a–7a(a)(1)(D)) is amended by inserting "who furnished the service" after "in which the person was".

SEC. 4044. EXCLUSIONS FROM PROGRAM PARTICIPATION.

(a) MANDATORY EXCLUSION FOR INDIVIDUAL CONVICTED OF CRIMINAL OFFENSE RELATED TO HEALTH CARE FRAUD.—Section 1128 (42 U.S.C. 1320a-7) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) CONVICTIONS OF PROGRAM-RELATED CRIMES AND HEALTH CARE FRAUD.—

"(A) Any individual or entity that has been convicted of a criminal offense related to the delivery of an item or service under title XVIII or under any State health care program; or

"(B) Any individual or entity that has been convicted, under Federal or State law, in connection with the delivery of a health care item or service of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct."; and

(2) in subsection (b)(1), by striking "in connection with the delivery of a health care item or service or".

(b) ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.—Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraphs (1), (2), or (3) of subsection (b), the period of exclusion shall be a minimum of 3 years, unless the Secretary determines that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under paragraph (4) or (5) of subsection (b), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

(c) REVISION TO EXCLUSION FOR DEFAULT ON HEALTH EDUCATION LOAN OR SCHOLARSHIP OBLIGATIONS.—Section 1128(b)(14) (42 U.S.C. 1320a–7(b)(14)) is amended by striking "all reasonable steps" and inserting "reasonable steps".

(d) PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.—Section 1128(b) (42 U.S.C. 1320a-7(b)), is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(B) against which a civil monetary penalty has been assessed under section 1128A; or

"(C) that has been excluded from participation under a program under title XVIII or under a State health care program.".

(e) EXCLUSIONS BASED ON ACTIONS UNDER ALLIANCE SYSTEM.—Section 1128(b) (42 U.S.C. 1320a–7(b)), as amended by subsections (a) and (d), is amended—

(1) in paragraph (1), by striking "XVIII or under a State health care program" and inserting "XVIII, a State health care program, or under an applicable health plan (as defined in section 1902(6) of the Health Security Act)";

(2) in paragraph (7), by striking the period at the end and inserting ", or in section 5412 of the Health Security Act.";

(3) in paragraph (8)(B)—

(A) in clause (ii), by striking "1128A" and inserting "1128A or under section 5412 of the Health Security Act", and

(B) in clause (iii), by striking "XVIII or under a State health care program" and inserting "XVIII, a State health care program, or under an applicable health plan (as defined in section 1902(6) of the Health Security Act)";

(4) in paragraph (9), by striking the period at the end and inserting ", or any information requested by the Inspector General of the Department of Health and Human Services to carry out the All-Payer Health Care Fraud and Abuse Control Program established under section 5401 of the Health Security Act.";

(5) in paragraph (11)—

(A) by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or an applicable health plan (as defined in section 1902(6) of the Health Security Act)",

(B) by striking "Secretary or the appropriate State agency" and inserting "Secretary, the appropriate State agency, or plan sponsor", and

(C) by striking "Secretary or that agency" and inserting "Secretary, that agency, or that sponsor";

(6) in paragraph (12), by adding at the end the following new subparagraph:

"(E) Any entity authorized by law to (i) conduct on-site health, safety or patient care reviews and surveys or (ii) to investigate whether any actions have occurred that would subject an individual or entity to the imposition of any sanctions under this section, section 1128A, section 1128B, or part 2 of subtitle E of title V of the Health Security Act."; and

(7) in paragraph (15)—

(A) in subparagraph (B), by striking "1128A" and inserting "1128A or section 54.. of the Health Security Act", and

(B) in subparagraph (C), by striking "title XVIII or under a State health care program" and inserting "title XVIII, a State health care program, or an applicable health plan (as defined in section 1902(6) of the Health Security Act".

(f) APPEAL OF EXCLUSIONS TO COURT OF APPEALS.—Section 1128(f)(1) (42 U.S.C. 1320a–7(f)(1)) is amended by striking the period at the end and inserting the following: ", except that any action brought to appeal such decision shall be brought in the United States Court of Appeals for the judicial circuit in which the individual or entity resides or has a principal place of business (or, if the individual or entity does not reside or have a principal place of business within any such judicial circuit, in the United States Court of Appeals for the District of Columbia Circuit).".

SEC. 4045. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS RELATING TO QUALITY OF CARE.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than one year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations," and

(2) by striking the third sentence.

(c) AMOUNT OF CIVIL MONEY PENALTY.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "$50,000 for each instance".

SEC. 4046. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, 1995.

PART 6—FUNDING OF GRADUATE MEDICAL EDUCATION AND ACADEMIC HEALTH CENTERS

SEC. 4051. TRANSFERS FROM MEDICARE TRUST FUNDS FOR GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—For purposes of complying with section 3034(a), there shall be transferred to the Secretary from the Federal Hospital Insurance Trust Fund (established under section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established under section 1841 of such Act) the following amount (in the aggregate), as applicable to a calendar year:

(1) In the case of a calendar year prior to 1998, the proportion of the amounts expended from such Trust Funds during the most recent fiscal year ending before the first day of such calendar year for payments for the direct costs of graduate medical education under section 1886(h) of such Act that is attributable to payments to hospitals located in the States that are participating States for the calendar year.

(2) In the case of calendar year 1998, the amount expended from such Trust Funds during fiscal year 1997 for payments for such direct costs of graduate medical education.

(3) In the case of each subsequent calendar year, the amount specified in paragraph (2) increased by the product of such amount and the general health care inflation factor (as defined in section 6001(a)(3), except that for purposes of this subparagraph the increases provided for in subparagraphs (A) through (C) of such section shall not be made).

(b) ALLOCATION OF AMOUNT AMONG FUNDS.—With respect to the amount required under subsection (a) to be transferred for an academic year from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall determine an equitable allocation of such amount among the funds.

(c) TERMINATION OF GRADUATE MEDICAL EDUCATION PAYMENTS UNDER MEDICARE.—

(1) IN GENERAL.— Section 1886(h) (42 U.S.C. 1395ww(h)) is amended by adding at the end the following new paragraph:

"(6) TERMINATION OF PAYMENTS ATTRIBUTABLE TO COSTS OF TRAINING PHYSICIANS.—Notwithstanding any other provision of this section or section 1861(v), no payment may be made under this title for direct graduate medical education costs attributable to an approved medical residency training program for any cost reporting period (or portion thereof) beginning on or after January 1, 1998 (or, in the case of costs of a program operating in a State that is a participating State under the Health Security Act for a year prior to 1998, on or after January 1 of the first year for which the State is such a participating State).".

(2) PROHIBITION AGAINST RECOGNITION OF COSTS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) Such regulations shall not include any provision for specific recognition of the costs of graduate medical education for hospitals for any cost reporting period (or portion thereof) beginning on or after January 1, 1998 (or, in the case of a hospital located in a State that is a participating State under the Health Security Act for a year prior to 1998, ending on or before December 31 of the year prior to the first year for which the State is such a participating State). Nothing in the previous sentence shall be construed to affect in any way payments to hospitals for the costs of any approved educational activities that are not described in such sentence.".

SEC. 4052. TRANSFERS FROM HOSPITAL INSURANCE TRUST FUND FOR ACADEMIC HEALTH CENTERS.

(a) IN GENERAL.—For purposes of complying with section 3104(a), there shall be transferred to the Secretary from the Federal Hospital Insurance Trust Fund (established under section 1817 of the Social Security Act) the following amount (in the aggregate), as applicable to a calendar year:

(1) In the case of a calendar year prior to 1998, the proportion of the amounts expended from such Trust Fund during the most recent fiscal year ending before the first day of such calendar year for payments for the indirect costs of medical education under section 1886(d)(5)(B) of such Act that is attributable to discharges of hospitals located in the States that are participating States for the calendar year.

(2) In the case of calendar year 1998, the amount expended from such Trust Fund during fiscal year 1997 for payments for such indirect costs of medical education.

(3) In the case of each subsequent calendar year, the amount specified in paragraph (2) increased by the product of such amount and the general health care inflation factor (as defined in section 6001(a)(3), except that for purposes of this subparagraph the increases provided for in subparagraphs (A) through (C) of such section shall not be made).

(b) TERMINATION OF PAYMENTS UNDER MEDICARE.—

(1) IN GENERAL.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended in the matter preceding clause (i) by striking "The Secretary" and inserting "For discharges occurring before January 1, 1998 (or, in the case of discharges of a hospital located in a State that is a participating State under the Health Security Act for a year prior to 1998, before January 1 of the first year for which the State is such a participating State), the Secretary".

(2) ADJUSTMENT TO STANDARDIZED AMOUNTS.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "excluding" and inserting "for discharges occurring before January 1, 1998, (or, in the case of discharges of a hospital located in a State that is a participating State under the Health Security Act for a year prior to 1998, before January 1 of the first year for which the State is such a participating State) excluding".

PART 7—COVERAGE OF SERVICES PROVIDED BY FACILITIES AND PLANS OF DEPARTMENTS OF DEFENSE AND VETERANS AFFAIRS

SEC. 4061. TREATMENT OF UNIFORMED SERVICES HEALTH PLAN AS ELIGIBLE ORGANIZATION UNDER MEDICARE.

(a) IN GENERAL.—Section 1876 (42 U.S.C. 1395mm), as amended by section 4002(a), is further amended by adding at the end the following new subsection:

"(l) Notwithstanding any other provision of this section, a Uniformed Services Health Plan of the Department of Defense under chapter 55 of title 10, United States Code, shall be considered an eligible organization under this section, and the Secretary shall make payments to such Plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled with such a Plan during the year in such amounts and under such terms and conditions as may be imposed under an agreement between the Secretary and the Secretary of Defense.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished under title XVIII of the Social Security Act on or after January 1, 1998.

SEC. 4062. COVERAGE OF SERVICES PROVIDED TO MEDICARE BENEFICIARIES BY PLANS AND FACILITIES OF DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Title XVIII, as amended by sections 4001 and 4003, is further amended by adding at the end the following new section:

"TREATMENT OF PLANS AND FACILITIES OF DEPARTMENT OF VETERANS AFFAIRS AS PROVIDERS

"SEC. 1895. (a) IN GENERAL.—Notwithstanding any other provision of this title—

"(1) a VA health plan (as defined in section 1801(2) of title 38, United States Code) shall be considered an eligible organization for purposes of section 1876; and

"(2) a health care facility of the Department of Veterans Affairs shall be considered a provider of services under section 1861(u).

"(b) ELIGIBILITY FOR PAYMENTS.—

"(1) VA HEALTH PLANS.—The Secretary shall make payments to a VA health plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled with such a plan during the year in the same amounts and under the same terms and conditions under which the Secretary makes payments to eligible organizations with a risk-sharing contract under section 1876.

"(2) HEALTH CARE FACILITIES.—The Secretary shall make payments to a health care facility of the Department of Veterans Affairs for services provided to an individual entitled to benefits under this title in the same amounts and under the same terms and conditions under which the Secretary makes payments to provider of services under this title.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished under title XVIII of the Social Security Act on or after January 1, 1998.

SEC. 4063. CONFORMING AMENDMENTS.

(a) PART A.—Section 1814 (42 U.S.C. 1395f) is amended by striking subsection (c).

(b) PART B.—Section 1835 (42 U.S.C. 1395n) is amended by striking subsection (d).

(c) ADDITIONAL CONFORMING AMENDMENT.—Section 1880(a) (42 U.S.C. 1395qq(a)) is amended by striking ", notwithstanding sections 1814(c) and 1835(d),".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1998.

Subtitle B—Savings in Medicare Program

PART 1—SAVINGS RELATING TO PART A

SEC. 4101. REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)), as amended by section 13501(a)(1) of OBRA–1993, is amended—

(1) in subclause (XII)—

(A) by striking "fiscal year 1997" and inserting "for each of the fiscal years 1997 through 2000", and

(B) by striking "0.5 percentage point" and inserting "2.0 percentage points"; and

(2) in subclause (XIII), by striking "fiscal year 1998" and inserting "fiscal year 2001".

SEC. 4102. REDUCTION IN ADJUSTMENT FOR INDIRECT MEDICAL EDUCATION.

Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c * (((1+r) to the nth power) - 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

"(I) May 1, 1986, and before October 1, 1994, 'c' is equal to 1.89,

"(II) October 1, 1994, and before October 1, 1995, 'c' is equal to 1.395, and

"(III) October 1, 1995, 'c' is equal to 0.74.".

SEC. 4103. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—

(1) REDUCTION IN BASE PAYMENT RATES.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)), as amended by section 13501(a)(3) of OBRA–1993, is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, the Secretary shall reduce by 7.31 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Health Security Act) and shall reduce by 10.41 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on the date of the enactment of the Health Security Act).".

(2) REDUCTION IN UPDATE.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(A) in subparagraph (B)(i)—

(i) by striking "and (II)" and inserting "(II)", and

(ii) by striking the semicolon at the end and inserting the following: ", and (III) an annual update factor established for the prospective payment rates applicable to discharges in a fiscal year which (subject to reduction under subparagraph (C)) will be based upon such factor as the Secretary determines appropriate to take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality;";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C)(i) With respect to payments attributable to portions of cost reporting periods or discharges occurring during each of the fiscal years 1996 through 2000, the Secretary shall include a reduction in the annual update factor established under subparagraph (B)(i)(III) for discharges in the year equal to the applicable update reduction described in clause (ii) to adjust for excessive increases in capital costs per discharge for fiscal years prior to fiscal year 1992 (but in no event may such reduction result in an annual update factor less than zero).

"(ii) In clause (i), the term 'applicable update reduction' means, with respect to the update factor for a fiscal year—

"(I) 4.9 percentage points; or

"(II) if the annual update factor for the previous fiscal year was less than the applicable update reduction for the previous year, the sum of 4.9 percentage points and the difference between the annual update factor for the previous year and the applicable update reduction for the previous year.".

(b) PPS-EXEMPT HOSPITALS.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 4051(c)(2), is further amended by adding at the end the following new subparagraph:

"(U) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal years 1996 through 2000.".

SEC. 4104. REVISIONS TO PAYMENT ADJUSTMENTS FOR DISPROPORTIONATE SHARE HOSPITALS IN PARTICIPATING STATES.

(a) APPLICATION OF ALTERNATIVE ADJUSTMENTS.—Section 1886(d)(5) (42 U.S.C. 1395ww(d)(5)) is amended—

(1) by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H)(i) In accordance with this subparagraph, the Secretary shall provide for an additional payment for each subsection (d) hospital that is located in a participating State under subtitle C of title I of the Health Security Act during a cost reporting period and that meets the eligibility requirements described in clause (iii).

"(ii) The amount of the additional payment made under clause (i) for each discharge shall be determined by multiplying—

"(I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and the amount paid to the hospital under subparagraph (A) for the discharge, by

"(II) the SSI adjustment percentage for the cost reporting period in which the discharge occurs (as defined in clause (iv)).

"(iii) A hospital meets the eligibility requirements described in this clause with respect to a cost reporting period if—

"(I) in the case of a hospital that is located in an urban area and that has more than 100 beds, the hospital's SSI patient percentage (as defined in clause (v)) for the cost reporting period is not less than 5 percent;

"(II) in the case of a hospital that is located in an urban area and that has less than 100 beds, the hospital's SSI patient percentage is not less than 17 percent;

"(III) in the case of a hospital that is classified as a rural referral center under subparagraph (C) or a sole community hospital under subparagraph (D), the hospital's SSI patient percentage for the cost reporting period is not less than 23 percent; and

"(IV) in the case of any other hospital, the hospital's SSI patient percentage is not less than 23 percent.

"(iv) For purposes of clause (ii), the 'SSI adjustment percentage' applicable to a hospital for a cost reporting period is equal to—

"(I) in the case of a hospital described in clause (iii)(I), the percentage determined in accordance with the following formula: e to the nth power, where 'e' is the natural antilog of 1 and where 'n' is equal to (.5642 * (the hospital's SSI patient percentage for the cost reporting period - .055)) - 1;

"(II) in the case of a hospital described in clause (iii)(II) or clause (iii)(IV), 2 percent; and

"(III) in the case of a hospital described in clause (iii)(III), the sum of 2 percent and .30 percent of the difference between the hospital's SSI patient percentage for the cost reporting period and 23 percent.

"(v) In this subparagraph, a hospital's 'SSI patient percentage' with respect to a cost reporting period is equal to the fraction (expressed as a percentage)—

"(I) the numerator of which is the number of the hospital's patient days for such period which were made up of patients who (for such days) were entitled to benefits under part A and were entitled to supplementary security income benefits (excluding State supplementation) under title XVI; and

"(II) the denominator of which is the number of the hospital's patient days for such period which were made up of patients who (for such days) were entitled to benefits under part A.".

(b) NO STANDARDIZATION RESULTING FROM REDUCTION.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended—

(1) by striking "exclude additional payments" and inserting "adjust such estimate for changes in payments";

(2) by striking "1989 or" and inserting "1989,"; and

(3) by striking the period at the end and inserting the following: ", or the enactment of section 4104 of the Health Security Act.".

(c) CONFORMING AMENDMENT.—Section 1886(d)(5)(F)(i) (42 U.S.C. 1395ww(d)(5)(F)(i)) is amended in the matter preceding subclause (I) by inserting after "hospital" the following: "that is not located in a State that is a participating State under subtitle C of title I of the Health Security Act".

SEC. 4105. MORATORIUM ON DESIGNATION OF ADDITIONAL LONG-TERM CARE HOSPITALS.

Notwithstanding clause (iv) of section 1886(d)(1)(B) of the Social Security Act, a hospital which has an average inpatient length of stay (as determined by the Secretary of Health and Human Services) of greater than 25 days shall not be treated as a hospital described in such clause for purposes of title XVIII of such Act unless the hospital was treated as a hospital described in such clause for purposes of such title as of the date of the enactment of this Act.

SEC. 4106. EXTENSION OF FREEZE ON UPDATES TO ROUTINE SERVICE COSTS OF SKILLED NURSING FACILITIES.

(a) PAYMENTS BASED ON COST LIMITS.—Section 1888(a) (42 U.S.C. 1395yy(a)) is amended by striking "112 percent" each place it appears and inserting "100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13503(a)(1) of the Omnibus Budget Reconciliation Act of 1993)".

(b) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Section 1888(d)(2)(B) (42 U.S.C. 1395yy(d)(2)(B)) is amended by striking "105 percent" and inserting "100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13503(b) of the Omnibus Budget Reconciliation Act of 1993)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and(b) shall apply to cost reporting periods beginning on or after October 1, 1995.

PART 2—SAVINGS RELATING TO PART B

SEC. 4111. ESTABLISHMENT OF CUMULATIVE EXPENDITURE GOALS FOR PHYSICIAN SERVICES.

(a) USE OF CUMULATIVE PERFORMANCE STANDARD.—Section 1848(f)(2) (42 U.S.C. 1395w–4(f)(2)) is amended—

(1) in subparagraph (A)—

(A) in the heading, by striking "IN GENERAL" and inserting "FISCAL YEARS 1991 THROUGH 1993.—",

(B) in the matter preceding clause (i), by striking "a fiscal year (beginning with fiscal year 1991)" and inserting "fiscal years 1991, 1992, and 1993", and

(C) in the matter following clause (iv), by striking "subparagraph (B)" and inserting "subparagraph (C)";

(2) in subparagraph (B), by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)";

(3) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D); and

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) FISCAL YEARS BEGINNING WITH FISCAL YEAR 1994.—Unless Congress otherwise provides, the performance standard rate of increase, for all physicians' services and for each category of physicians's services, for a fiscal year beginning with fiscal year 1994 shall be equal to the performance standard rate of increase determined under this paragraph for the previous fiscal year, increased by the product of—

"(i) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians' services or for the category of physicians' services, respectively, under this part for portions of calendar years included in the fiscal year involved,

"(ii) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in the average number of individuals enrolled under this part (other than HMO enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the average annual percentage growth (divided by 100) in volume and intensity of all physicians' services or of the category of physicians' services, respectively, under this part for the 5-fiscal-year period ending with the preceding fiscal year (based upon information contained in the most recent annual report made pursuant to section 1841(b)(2)), and

"(iv) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in expenditures for all physicians' services or of the category of physicians' services, respectively, in the fiscal year (compared with the previous fiscal year) which are estimated to result from changes in law or regulations affecting the percentage increase described in clause (i) and which is not taken into account in the percentage increase described in clause (i),

minus 1, multiplied by 100, and reduced by the performance standard factor (specified in subparagraph (C)).".

(b) TREATMENT OF DEFAULT UPDATE.—

(1) IN GENERAL.—Section 1848(d)(3)(B) (42 U.S.C. 1395w–4(d)(3)(B)) is amended—

(A) in clause (i)—

(i) in the heading, by striking "IN GENERAL" and inserting "1992 THROUGH 1995", and

(ii) by striking "for a year" and inserting "for 1992, 1993, 1994, and 1995"; and

(B) by adding after clause (ii) the following new clause:

"(iii) YEARS BEGINNING WITH 1996.—

"(I) IN GENERAL.—The update for a category of physicians' services for a year beginning with 1996 provided under subparagraph (A) shall be increased or decreased by the same percentage by which the cumulative percentage increase in actual expenditures for such category of physicians' services for such year was less or greater, respectively, than the performance standard rate of increase (established under subsection (f)) for such category of services for such year.

"(II) CUMULATIVE PERCENTAGE INCREASE DEFINED.—In subclause (I), the 'cumulative percentage increase in actual expenditures' for a year shall be equal to the product of the adjusted increases for each year beginning with 1994 up to and including the year involved, minus 1 and multiplied by 100. In the previous sentence, the 'adjusted increase' for a year is equal to 1 plus the percentage increase in actual expenditures for the year.".

(2) CONFORMING AMENDMENT.—Section 1848(d)(3)(A)(i) (42 U.S.C. 1395w–4(d)(3)(A)(i)) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

SEC. 4112. USE OF REAL GDP TO ADJUST FOR VOLUME AND INTENSITY; REPEAL OF RESTRICTION ON MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.

(a) USE OF REAL GDP TO ADJUST FOR VOLUME AND INTENSITY.—Section 1848(f)(2)(B)(iii) (42 U.S.C. 1395w–4(f)(2)(B)(iii)), as added by section 4111(a), is amended to read as follows:

"(iii) 1 plus the average per capita growth in the real gross domestic product (divided by 100) for the 5-fiscal-year period ending with the previous fiscal year (increased by 1.5 percentage points for the category of services consisting of primary care services), and".

(b) REPEAL OF RESTRICTION ON MAXIMUM REDUCTION.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w–4(d)(3)(B)(ii)), as amended by section 13512(b) of OBRA–1993, is amended—

(1) in the heading, by inserting "IN CERTAIN YEARS" after "ADJUSTMENT";

(2) in the matter preceding subclause (I), by striking "for a year";

(3) in subclause (I), by adding "and" at the end;

(4) in subclause (II), by striking ", and" and inserting a period; and

(5) by striking subclause (III).

SEC. 4113. REDUCTION IN CONVERSION FACTOR FOR PHYSICIAN FEE SCHEDULE FOR 1995.

Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—

(1) in subparagraph (A), by inserting after "subparagraph (B)" the following: ", and, in the case of 1995, specified in subparagraph (C)";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL PROVISION FOR 1995.—For purposes of subparagraph (A), the conversion factor specified in this subparagraph for 1995 is—

"(i) in the case of physicians' services included in the category of primary care services (as defined in subsection (j)(1)), the conversion factor established under this subsection for 1994 adjusted by the update established under paragraph (3) for 1995; and

"(ii) in the case of any other physicians' services, the conversion factor established under this subsection for 1994 reduced by 3 percentage points.".

SEC. 4114. LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES FURNISHED BY HIGH-COST HOSPITAL MEDICAL STAFFS.

(a) IN GENERAL.—

(1) LIMITATIONS DESCRIBED.—Part B of title XVIII, as amended by section 2003(a), is amended by inserting after section 1848 the following new section:

"LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES FURNISHED BY HIGH-COST HOSPITAL MEDICAL STAFFS

"SEC. 1849. (a) SERVICES SUBJECT TO REDUCTION.—

"(1) DETERMINATION OF HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1997), the Secretary shall determine for each hospital—

"(A) the hospital-specific per admission relative value under subsection (b)(2) for the following year; and

"(B)(i) whether such hospital-specific relative value is projected to exceed the allowable average per admission relative value applicable to the hospital for the following year under subsection (b)(1), and, if so, (ii) the hospital's projected excess relative value for the year under subsection (b)(3).

"(2) REDUCTION FOR SERVICES AT HOSPITALS EXCEEDING ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—If the Secretary determines (under paragraph (1)) that a medical staff's hospital-specific per admission relative value for a year (beginning with 1998) is projected to exceed the allowable average per admission relative value applicable to the medical staff for the year, the Secretary shall reduce (in accordance with subsection (c)) the amount of payment otherwise determined under this part for each physicians' service furnished during the year to an inpatient of the hospital by an individual who is a member of the hospital's medical staff.

"(3) TIMING OF DETERMINATION; NOTICE TO HOSPITALS AND CARRIERS.—Not later than October 1 of each year (beginning with 1997), the Secretary shall notify the medical executive committee of each hospital (as set forth in the Standards of the Joint Commission on the Accreditation of Health Organizations) of the determinations made with respect to the medical staff under paragraph (1).

"(b) DETERMINATION OF ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE AND HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUES.—

"(1) ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—

"(A) URBAN HOSPITALS.—In the case of a hospital located in an urban area, the allowable average per admission relative value established under this subsection—

"(i) for 1998 and 1999, is equal to 125 percent of the median of the 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs; and

"(ii) for 2000 and each succeeding year, is equal to 120 percent of the median of such relative values for all hospital medical staffs.

"(B) RURAL HOSPITALS.—In the case of a hospital located in a rural area, the allowable average per admission relative value established under this subsection for 1998 and each succeeding year, is equal to 140 percent of the median of the 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

"(2) HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—

"(A) IN GENERAL.—The hospital-specific per admission relative value for a hospital (other than a teaching hospital), shall be equal to the average per admission relative value (as determined under section 1848(c)(2)) for each physician's service furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during 1996, adjusted for variations in case-mix and disproportionate share status among hospitals (as determined by the Secretary under subparagraph (C)).

"(B) SPECIAL RULE FOR TEACHING HOSPITALS.—The hospital-specific relative value for a teaching hospital shall be equal to the sum of—

"(i) the average per admission relative value (as determined under section 1848(c)(2)) for each physician's service furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during 1996, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under subparagraph (C)); and

"(ii) the equivalent per admission relative value (as determined under section 1848(c)(2)) for each physician's service furnished to inpatients of the hospital by interns and residents of the hospital during 1996, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under subparagraph (C)). The Secretary shall determine such equivalent relative value unit per admission for interns and residents based on the best available data for teaching hospitals and may make such adjustment in the aggregate.

"(C) ADJUSTMENT FOR TEACHING AND DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall adjust the allowable per admission relative values otherwise determined under this paragraph to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5). The adjustment for teaching status or disproportionate share shall not be less than zero.

"(3) PROJECTED EXCESS RELATIVE VALUE DEFINED.—The 'projected excess relative value' with respect to a hospital's medical staff for a year means the number of percentage points by which the Secretary determines (under subsection (a)(1)(B)) that the medical staff's hospital-specific per admission relative value (determined under paragraph (2)) will exceed the allowable average per admission relative value applicable to the hospital medical staff for the year (as determined under paragraph (1)).

"(c) AMOUNT OF REDUCTION.—The amount of payment otherwise made under this part for a physician's service that is subject to a reduction under subsection (a) during a year shall be reduced 15 percent, in the case of a service furnished by a member of the medical staff of a hospital for which the Secretary determines under subsection (a)(1) that the hospital medical staff's projected relative value per admission exceeds the allowable average per admission relative value.

"(d) RECONCILIATION OF REDUCTIONS BASED ON HOSPITAL-SPECIFIC RELATIVE VALUE PER ADMISSION WITH ACTUAL RELATIVE VALUES.—

"(1) DETERMINATION OF ACTUAL AVERAGE PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1999), the Secretary shall determine the actual average per admission relative value (as determined pursuant to section 1848(c)(2)) for the physicians' services furnished by members of a hospital's medical staff to inpatients of the hospital during the previous year, on the basis of claims for payment for such services that are submitted to the Secretary not later than 90 days after the last day of such previous year. The actual average per admission shall be adjusted by the appropriate case-mix, disproportionate share factor, and teaching factor for the hospital medical staff (as determined by the Secretary under subsection (b)(2)(C)).

"(2) RECONCILIATION WITH REDUCTIONS TAKEN.—In the case of a hospital for which the payment amounts for physicians' services furnished by members of the hospital's medical staff to inpatients of the hospital were reduced under this section for a year—

"(A) if the actual average per admission relative value for such hospital's medical staff during the year (as determined by the Secretary under paragraph (1)) did not exceed the allowable average per admission relative value applicable to the hospital's medical staff under subsection (b)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff by the amount by which payments for such services were reduced for the year under subsection (c);

"(B) if the actual average per admission relative value for such hospital's medical staff during the year is less than 10 percentage points above the allowable average per admission relative value applicable to the hospital's medical staff under subsection (b)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff, as a percent of the total allowed charges for physicians' services performed in such hospital (prior to the withhold), the difference between 10 percentage points and the actual number of percentage points that the staff exceeds the limit;

"(C) if the actual average per admission relative value for such hospital's medical staff during the year exceeded the allowable average per admission relative value applicable to the hospital's medical staff by 10 percentage points or more, none of the withhold is paid to the fiduciary agent for the medical staff.

"(3) MEDICAL EXECUTIVE COMMITTEE OF A HOSPITAL.—Each medical executive committee of a hospital whose medical staff is projected to exceed the allowable relative value per admission for a year, shall have one year from the date of notification that such medical staff is projected to exceed the allowable relative value per admission to designate a fiduciary agent for the medical staff to receive and disburse any appropriate withhold amount made by the carrier.

"(4) ALTERNATIVE REIMBURSEMENT TO MEMBERS OF STAFF.—At the request of a fiduciary agent for the medical staff, if the fiduciary agent for the medical staff is owed the reimbursement described in paragraph (2)(B) for excess reductions in payments during a year, the Secretary shall make such reimbursement to the members of the hospital's medical staff.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) MEDICAL STAFF.—An individual furnishing a physician's service is considered to be on the medical staff of a hospital—

"(A) if (in accordance with requirements for hospitals established by the Joint Commission on Accreditation of Health Organizations)—

"(i) the individual is subject to bylaws, rules, and regulations established by the hospital to provide a framework for the self-governance of medical staff activities;

"(ii) subject to such bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body; and

"(iii) under such clinical privileges, the individual may provide physicians' services independently within the scope of the individual's clinical privileges, or

"(B) if such physician provides at least one service to a Medicare beneficiary in such hospital.

"(2) RURAL AREA; URBAN AREA.—The terms 'rural area' and 'urban area' have the meaning given such terms under section 1886(d)(2)(D).

"(3) TEACHING HOSPITAL.—The term 'teaching hospital' means a hospital which has a teaching program approved as specified in section 1861(b)(6).".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(a)(1)(N) (42 U.S.C. 1395l(a)(1)(N)) is amended by inserting "(subject to reduction under section 1849)" after "1848(a)(1)".

(B) Section 1848(a)(1)(B) (42 U.S.C. 1395w-4(a)(1)(B)) is amended by striking "this subsection," and inserting "this subsection and section 1849,".

(b) REQUIRING PHYSICIANS TO IDENTIFY HOSPITAL AT WHICH SERVICE FURNISHED.—Section 1848(g)(4)(A)(i) (42 U.S.C. 1395w-4(g)(4)(A)(i)) is amended by striking "beneficiary," and inserting "beneficiary (and, in the case of a service furnished to an inpatient of a hospital, report the hospital identification number on such claim form),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 4115. MEDICARE INCENTIVES FOR PHYSICIANS TO PROVIDE PRIMARY CARE.

(a) RESOURCE-BASED PRACTICE EXPENSE RELATIVE VALUE UNITS.—

(1) INCREASE IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)), as amended by sections 13513 and 13514 of OBRA-93, is amended by adding at the end the following new subparagraph:

"(G) INCREASE IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.—The Secretary shall increase the practice expense relative value units applied in primary care services, as defined in section 1842(i)(4), by 10 percent, beginning with 1996.".

(2) ASSURING BUDGET NEUTRALITY.—Section 1842(c)(2)(F) (42 U.S.C. 1395u(c)(2)(F)), as added by section 13513 and amended by section 13514 of OBRA-93, is amended by adding at the end the following new clause:

"(iii) shall reduce the relative values for all services (other than anesthesia services and primary care services, as defined in section 1842(i)(4)) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the amendment made by section 4115(a)(1) of the Health Security Act would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(3) STUDY.—The Secretary of Health and Human Services shall—

(A) develop a methodology for implementing in 1997 a resource-based system for determining practice expense relative values unit for each physician's service, and

(B) transmit a report by June 30, 1996, on the methodology developed under paragraph (1) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of the data utilized in developing the methodology and an explanation of the methodology.

(b) OFFICE VISIT PRE- AND POST-TIME.—

(1) INCREASE IN WORK RELATIVE VALUE UNITS FOR OFFICE VISITS.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraph:

"(H) INCREASE IN WORK RELATIVE VALUE UNITS FOR CERTAIN SERVICES.—The Secretary shall increase the work relative value units applied to office visits by 10 percent, beginning with 1996.".

(2) ASSURING BUDGET NEUTRALITY.—Section 1842(c)(2)(F)(iii) is amended by striking "section 4115(a)" and substituting "sections 4115(a)(1) and (b)(1)".

(c) OFFICE CONSULTATIONS.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraph:

"(1) AMENDMENT IN RELATIVE VALUES FOR OFFICE CONSULTATIONS.—The Secretary shall reduce the work, practice expense and malpractice relative value components of office consultations to be equal to the work, practice expense and malpractice relative value components for comparable office visits beginning with 1996. In making such adjustment, the Secretary shall apply the savings from such reduction to increase each of the relative value components for office visits in a manner that would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(d) OUTLIER INTENSITY RELATIVE VALUE ADJUSTMENTS.—

(1) ADJUSTMENT OF OUTLIER INTENSITY OF RELATIVE VALUES.—Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraph:

"(J) ADJUSTMENT OF OUTLIER INTENSITY OF RELATIVE VALUES.—Beginning with 1996, the Secretary shall reduce the work relative value components of procedures, or classes of procedures, where the intensity exceeds thresholds established by the Secretary. In the previous sentence, intensity shall mean the work relative value units for the procedure divided by the time for the procedure. The Secretary shall apply the savings from such reductions to increase the work relative value components of primary care services, as defined in section 1842(i)(4), such that the changes made by this subsection would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(e) CHANGES IN UNDERSERVED AREA BONUS PAYMENTS.—

(1) Section 1833(m) (42 U.S.C. 1395l(m)) is amended by—

(A) striking "10 percent" and inserting "a percent",

(B) striking "service" the last time it appears and inserting "services", and

(C) adding the following new sentence: "The percent referred to in the previous sentence is 20 percent in the case of primary care services, as defined in section 1842(i)(4), and 10 percent for services other than primary care services furnished in health professional shortage areas located in rural areas as defined in section 1886(d).".

(2) The amendments made by subparagraph (A) are effective for services furnished on or after January 1, 1996.

SEC. 4116. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after July 1, 1994.

SEC. 4117. IMPOSITION OF COINSURANCE ON LABORATORY SERVICES.

(a) IN GENERAL.—Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended—

(1) by striking "(or 100 percent" and all that follows through "the first opinion))"; and

(2) by striking "100 percent of such negotiated rate" and inserting "80 percent of such negotiated rate".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to tests furnished on or after January 1, 1995.

SEC. 4118. APPLICATION OF COMPETITIVE BIDDING PROCESS FOR PART B ITEMS AND SERVICES.

(a) GENERAL RULE.—Part B of title XVIII of the Social Security Act is amended by inserting after section 1846 the following:

"COMPETITION ACQUISITION FOR ITEMS AND SERVICES

"SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—

"(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1995. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

"(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall—

"(A) initially be, or be within, metropolitan statistical areas; and

"(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area.

"(b) AWARDING OF CONTRACTS IN AREAS.—

"(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

"(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity—

"(A) meets quality standards specified by the Secretary for the furnishing of such item or service; and

"(B) offers to furnish a total quantity of such item or service that is sufficient to meet the expected need within the competitive acquisition area.

"(3) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

"(A) the quantity of items and services the entity shall provide; and

"(B) such other terms and conditions as the Secretary may require.

"(c) SERVICES DESCRIBED.—The items and services to which the provisions of this section shall apply are as follows:

"(1) Magnetic resonance imaging tests and computerized axial tomography scans, including a physician's interpretation of the results of such tests and scans.

"(2) Oxygen and oxygen equipment.

"(3) Enteral and parenteral nutrients, supplies, and equipment.

"(4) Such other items and services for which the Secretary determines that the use of competitive acquisition under this section will be appropriate and cost-effective.".

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 4034(b)(4), is amended—

(1) by striking "or" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting "; or"; and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.".

(c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section does not result in a reduction of at least 10 percent in the payment amount under part B during a year for any such item or service from the payment amount for the previous year, the Secretary shall reduce the payment amount by such percentage as the Secretary determines necessary to result in such a reduction.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished under part B of title XVIII of the Social Security Act on or after January 1, 1995.

SEC. 4119. APPLICATION OF COMPETITIVE ACQUISITION PROCEDURES FOR LABORATORY SERVICES.

(a) IN GENERAL.—Section 1847(c), as added by section 4117(a), is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) Clinical diagnostic laboratory tests.".

(b) REDUCTION IN FEE SCHEDULE AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE SAVINGS.—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following new paragraph:

"(7) Notwithstanding any other provision of this subsection, if the Secretary applies the authority provided under section 1847 to establish competitive acquisition areas for the furnishing of clinical diagnostic laboratory tests in a year and the application of such authority does not result in a reduction of at least 10 percent in the fee schedules and negotiated rates established under this subsection for such tests under this part during the year from the fee schedules and rates for the previous year, the Secretary shall reduce each payment amount otherwise determined under the fee schedules and negotiated rates established under this subsection by such percentage as the Secretary determines necessary to result in such a reduction.".

PART 3—SAVINGS RELATING TO PARTS A AND B

SEC. 4131. MEDICARE SECONDARY PAYER CHANGES.

(a) EXTENSION OF DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) Repeal of Sunset on Application to Disabled Employees of Employers with More than 20 Employees.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)), as amended by section 13561(b) of OBRA–1993, is amended—

(1) in the heading, by striking "Sunset" and inserting "Effective date"; and

(2) by striking ", and October 1, 1998".

(c) Extension of Period for End Stage Renal Disease Beneficiaries.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)), as amended by section 13561(c) of OBRA–1993, is amended in the second sentence by striking "and on or before October 1, 1998,".

SEC. 4132. PAYMENT LIMITS FOR HMOS AND CMPS WITH RISK-SHARING CONTRACTS.

(a) In General.—Section 1876(a)(1)(C) (42 U.S.C. 1395mm(a)(1)(C)) is amended—

(1) by inserting ", subject to adjustment to take into account the provisions of the succeeding clauses" before the period,

(2) by striking "(C)" and inserting "(C)(i)", and

(3) by adding at the end the following new clauses:

"(ii) The portion of the annual per capita rate of payment for each such class attributable to payments made from the Federal Supplementary Medical Insurance Trust Fund may not exceed 95 percent of the following amount (unless the portion of the annual per capita rate of payment for each such class attributable to payments made from the Federal Hospital Insurance Trust Fund is less than 95 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from the Federal Hospital Insurance Trust Fund):

"(I) For 1995, 150 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund, plus 80 percent of the amount by which (if any) the adjusted average per capita cost for that class exceeds 150 percent of that weighted national average.

"(II) For 1996, 150 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund, plus 60 percent of the amount by which (if any) the adjusted average per capita cost for that class exceeds 150 percent of that weighted national average.

"(III) For 1997, 150 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund, plus 40 percent of the amount by which (if any) the adjusted average per capita cost for that class exceeds 150 percent of that weighted national average.

"(IV) For 1998, 150 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund, plus 20 percent of the amount by which (if any) the adjusted average per capita cost for that class exceeds 150 percent of that weighted national average.

"(V) For 1999 and each succeeding year (subject to the establishment by the Secretary of alternative limits under clause (vi)), 150 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund.

"(iii) The portion of the annual per capita rate of payment for each such class attributable to payments made from the Federal Hospital Insurance Trust Fund may not exceed 95 percent of the following amount (unless the portion of the annual per capita rate of payment for each such class attributable to payments made from the Federal Supplementary Medical Insurance Trust Fund is less than 95 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from the Federal Supplementary Medical Insurance Trust Fund):

"(I) For 1995, 170 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund, plus 80 percent of the amount by which (if any) the adjusted average per capita cost for that class exceeds 170 percent of that weighted national average.

"(II) For 1996, 170 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund, plus 60 percent of the amount by which (if any) the adjusted average per capita cost for that class exceeds 170 percent of that weighted national average.

"(III) For 1997, 170 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund, plus 40 percent of the amount by which (if any) the adjusted average per capita cost for that class exceeds 170 percent of that weighted national average.

"(IV) For 1998, 170 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund, plus 20 percent of the amount by which (if any) the adjusted average per capita cost for that class exceeds 170 percent of that weighted national average.

"(V) For 1999 and each succeeding year (subject to the establishment by the Secretary of alternative limits under clause (vi)), 170 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund.

"(iv) The portion of the annual per capita rate of payment for each such class attributable to payments made from the Federal Supplementary Medical Insurance Trust Fund may not be less than 80 percent of 95 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund, unless the portion of the annual per capita rate of payment for each such class attributable to payments made from the Federal Hospital Insurance Trust Fund is greater than 95 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from the Federal Hospital Insurance Trust Fund.

"(v) The portion of the annual per capita rate of payment for each such class attributable to payments made from the Federal Hospital Insurance Trust Fund may not be less than 80 percent of 95 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from such Trust Fund, unless the portion of the annual per capita rate of payment for each such class attributable to payments made from the Federal Supplementary Medical Insurance Trust Fund is greater than 95 percent of the weighted national average of all adjusted average per capita costs determined under paragraph (4) for that class that are attributable to payments made from the Federal Supplementary Medical Insurance Trust Fund.

"(vi) For 2000 and succeeding years, the Secretary may revise any of the percentages otherwise applicable during a year under the preceding clauses (other than clause (i)), but only if the aggregate payments made under this title to eligible organizations under risk-sharing contracts during the year is not greater than the aggregate payments that would have been made under this title to such organizations during the year if the Secretary had not revised the percentages.".

(b) Conforming Amendment.—Section 1876(a)(5)(A) (42 U.S.C. 1395mm(a)(5)(A)) is amended by inserting ", adjusted to take into account the limitations imposed by clauses (ii) through (vi) of paragraph (1)(C)" before the period.

SEC. 4133. REDUCTION IN ROUTINE COST LIMITS FOR HOME HEALTH SERVICES.

(a) Reduction in Update to Maintain Freeze in 1996.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in subclause (II), by striking "or" at the end;

(2) in subclause (III), by striking "112 percent," and inserting "and before July 1, 1996, 112 percent, or"; and

(3) by inserting after subclause (III) the following new subclause:

"(IV) July 1, 1996, 100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13564(a)(1) of the Omnibus Budget Reconciliation Act of 1993),".

(b) Basing Limits in Subsequent Years on Median of Costs.—

(1) In general.—Section 1861(v)(1)(L)(i) (U.S.C. 1395x(v)(1)(L)(i)), as amended by subsection (a), is amended in the matter following subclause (IV) by striking "the mean" and inserting "the median".

(2) Effective date.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1997.

SEC. 4134. IMPOSITION OF COPAYMENT FOR CERTAIN HOME HEALTH VISITS.

(a) In General.—

(1) Part A.—Section 1813(a) (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

"(5) The amount payable for home health services furnished to an individual under this part shall be reduced by a copayment amount equal to 10 percent of the average of all per visit costs for home health services furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year), unless such services were furnished to the individual during the 30-day period that begins on the date the individual is discharged as an inpatient from a hospital.".

(2) Part B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(A) in subparagraph (A), by striking "to home health services," and by striking the comma after "opinion)";

(B) in subparagraph (D), by striking "and" at the end;

(C) in subparagraph (E), by striking the semicolon at the end and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(F) with respect to home health services—

"(i) the lesser of —

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A),

"(ii) if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2), or

"(iii) if (and for so long as) the conditions described in section 1814(b)(3) are met, the amounts determined under the reimbursement system described in such section,

less a copayment amount equal to 10 percent of the average of all per visit costs for home health services furnished under this title determined under section 1861(v)(1)(L) (as determined by the Secretary on a prospective basis for services furnished during a calendar year), unless such services were furnished to the individual during the 30-day period that begins on the date the individual is discharged as an inpatient from a hospital;".

(3) PROVIDER CHARGES.—Section 1866(a)(2)(A)(i) (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(A) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(B) by striking "or (a)(4)" and inserting "(a)(4), or (a)(5)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to home health services furnished on or after July 1, 1995.

SEC. 4135. EXPANSION OF CENTERS OF EXCELLENCE.

(a) IN GENERAL.—The Secretary of Health and Human Services shall use a competitive process to contract with centers of excellence for cataract surgery and such other services as the Secretary determines to be appropriate. Payment under title XVIII of the Social Security Act will be made for services subject to such contracts on the basis of negotiated or all-inclusive rates as follows:

(1) The center shall cover services provided in an urban area (as defined in section 1886(d)(2)(D) of the Social Security Act) for years beginning with fiscal year 1995.

(2) The amount of payment made by the Secretary to the center under title XVIII of the Social Security Act for services covered under the project shall be less than the aggregate amount of the payments that the Secretary would have made to the center for such services had the project not been in effect.

(3) The Secretary shall make payments to the center on such a basis for the following services furnished to individuals entitled to benefits under such title:

(A) Facility, professional, and related services relating to cataract surgery.

(B) Coronary artery bypass surgery and related services.

(C) Such other services as the Secretary and the center may agree to cover under the agreement.

(b) REBATE OF PORTION OF SAVINGS.—In the case of any services provided under a demonstration project conducted under subsection (a), the Secretary shall make a payment to each individual to whom such services are furnished (at such time and in such manner as the Secretary may provide) in an amount equal to 10 percent of the amount by which—

(1) the amount of payment that would have been made by the Secretary under title XVIII of the Social Security Act to the center for such services if the services had not been provided under the project, exceeds

(2) the amount of payment made by the Secretary under such title to the center for such services.

PART 4—PART B PREMIUM

SEC. 4141. GENERAL PART B PREMIUM.

Section 1839(e) (42 U.S.C. 1395r(e)), as amended by section 13571 of OBRA-1993, is amended—

(1) in paragraph (1)(A), by striking "and prior to January 1999"; and

(2) in paragraph (2), by striking "prior to January 1998".

Subtitle C—Medicaid

PART 1—COMPREHENSIVE BENEFIT PACKAGE

SEC. 4201. LIMITING COVERAGE UNDER MEDICAID OF ITEMS AND SERVICES COVERED UNDER COMPREHENSIVE BENEFIT PACKAGE.

(a) REMOVAL OF COMPREHENSIVE BENEFITS PACKAGE FROM STATE PLAN.—Title XIX is amended by redesignating section 1931 as section 1932 and by inserting after section 1930 the following new section:

"TREATMENT OF COMPREHENSIVE BENEFIT PACKAGE UNDER HEALTH SECURITY ACT

"SEC. 1931. (a) ITEMS AND SERVICES COVERED UNDER COMPREHENSIVE BENEFIT PACKAGE.—If a State plan for medical assistance under this title provides for payment in accordance with section 1902(a)(63) for a year, notwithstanding any other provision of this title, the State plan under this title is not required to provide medical assistance consisting of payment for items and services in the comprehensive benefit package under subtitle B of title I of the Health Security Act for alliance eligible individuals (as defined in section 1902(5) of such Act).

"(b) CONSTRUCTION.—(1) Payment under section 1902(a)(63) shall not constitute medical assistance for purposes of section 1903(a).

"(2) This section shall not be construed as affecting the provision of medical assistance under this title for items and services included in the comprehensive benefit package for—

"(A) medicare-eligible individuals, or

"(B) certain emergency services to certain aliens under section 1903(v)(2).".

(b) SUBSTITUTE REQUIREMENT OF STATE PAYMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61),

(2) by striking the period at the end of paragraph (62) and inserting "; and", and

(3) by inserting after paragraph (62) the following new paragraph:

"(63) provide for payment to regional alliances of the amounts required under part 1 of subtitle C of title VI of such Act.".

(c) NO FEDERAL FINANCIAL PARTICIPATION.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) with respect to items and services covered under the comprehensive benefit package under subtitle B of title I of the Health Security Act for alliance eligible individuals (as defined in section 1902(5) of such Act).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to items or services furnished in a State on or after January 1 of the first year (as defined in section 1902(17)) for the State.

PART 2—EXPANDING ELIGIBILITY FOR NURSING FACILITY SERVICES; LONG-TERM CARE INTEGRATION OPTION

SEC. 4211. SPENDDOWN ELIGIBILITY FOR NURSING FACILITY RESIDENTS.

(a) IN GENERAL.—Section 1902(a)(10)(A)(i) (42 U.S.C. 1396a(a)(10)(A)(i)) is amended—

(1) by striking "or" at the end of subclause (VI);

(2) by striking the semicolon at the end of subclause (VII) and inserting ", or"; and

(3) by inserting after subclause (VII) the following new subclause:

"(VIII) who are individuals who would meet the income and resource requirements of the appropriate State plan described in subclause (I) or the supplemental security income program (as the case may be), if incurred expenses for medical care as recognized under State law were deducted from income;".

(b) LIMITATION TO BENEFITS FOR NURSING FACILITY SERVICES.—Section 1902(a)(10)(A) of such Act (42 U.S.C. 1396a(a)(10)(A)), as amended by section 13603(c)(1) of OBRA-1993, is amended in the matter following subparagraph (F)—

(1) by striking "and (XIII)" and inserting "(XIII)"; and

(2) by inserting before the semicolon at the end the following: ", and (XIV) the medical assistance made available to an individual described in subparagraph (A)(i)(VIII) shall be limited to medical assistance for nursing facility services, except to the extent that assistance is provided in accordance with the option described in section 1932 in the case of a State exercising such option".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to a State as of January 1, 1996.

SEC. 4212. INCREASED INCOME AND RESOURCE DISREGARDS FOR NURSING FACILITY RESIDENTS.

(a) INCREASED DISREGARDS FOR PERSONAL NEEDS ALLOWANCE; RESOURCES.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(1)) is amended—

(1) by striking "and" at the end of paragraph (F); and

(2) by adding at the end the following new paragraph:

"(G) that, in determining the eligibility of any individual who is an inpatient in a nursing facility or intermediate care facility for the mentally retarded—

"(i) the first $70 of income for each month shall be disregarded; and

"(ii) in the case of an unmarried individual, the first $12,000 of resources may, at the option of the State, be disregarded;".

(b) CONFORMING SSI PERSONAL NEEDS ALLOWANCE.—For provision increasing SSI personal needs allowance, see section 4301.

(c) FEDERAL REIMBURSEMENT FOR REDUCTIONS IN STATE FUNDS ATTRIBUTABLE TO INCREASED DISREGARD.—Section 1903(a) (42 U.S.C. 1396b(a)) is amended—

(1) by striking "plus" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; plus"; and

(3) by adding at the end the following new paragraph:

"(8) an amount equal to 100 percent of the difference between the amount of expenditures made by the State for nursing facility services and services in an intermediate care facility for the mentally retarded during the quarter and the amount of expenditures that would have been made by the State for such services during the quarter if the amendment made by subsection (a) had not taken effect (as estimated by the Secretary).".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to months beginning with January 1996.

SEC. 4213. NEW STATE LONG-TERM CARE INTEGRATION OPTION.

Title XIX, as amended by section 4201(a), is amended by redesignating section 1932 as section 1933 and by inserting after section 1931 the following new section:

"STATE LONG-TERM CARE OPTION

"SEC. 1932. (a) IN GENERAL.—A State under this title may make an election under and subject to the succeeding provisions of this section. Under such an election instead of being entitled to receive payment under section 1903(a) for medical assistance for nursing facility services and intermediate care facilities for the mentally retarded, for one or more defined populations, the State is entitled to receive, subject to subsection (e), payment under section 1903(a) for long-term care services described in subsection (b)(2) for such populations under this section.

"(b) PLAN AMENDMENT REQUIRED.—A State making an election under subsection (a) shall submit a State plan amendment describing—

"(1) the category (or categories) of defined populations (otherwise eligible for medical assistance with respect to nursing facility services or home and community-based services or described in subsection (d)) with respect to whom this section shall apply;

"(2) the long-term care services (within the range of services described in subsection (c)(1)) for which medical assistance is available under the State plan for eligible individuals within each such category of individuals;

"(3) how the provision of such services, and expenditures under this section, will be coordinated with the provision of services and expenditures under part 1 of subtitle B of title II of the Health Security Act (relating to State programs for home and community-based services for individuals with disabilities); and

"(4) such other information as the Secretary determines as necessary to carry out this section.

"(c) CARE AND SERVICES.—

"(1) CONTINUUM OF CARE REQUIRED.—The services described in this paragraph shall represent a continuum of long-term care, and shall include (as appropriate based upon a plan of care described in paragraph (2))—

"(A) nursing facility services and other services described in section 1905(a),

"(B) home and community-based services described in section 1915(c) or 1915(d),

"(C) home and community care for functionally disabled elderly individuals described in section 1929, and

"(D) community supported living arrangements services (as defined in section 1930(a)).

"(2) PLAN OF CARE AND SERVICE EVALUATION.—A plan of care described in this paragraph shall—

"(A) be developed in consultation with the individual or, in the case of an individual incapable of participating in the development of the plan of care, the individual's family members or guardian;

"(C) be based on a comprehensive assessment of the individual's need for the continuum of services described in paragraph (1), and

"(D) be periodically updated based upon the individual's needs (but in no event less frequently than every 6 months).

"(3) INTAKE AND ASSESSMENT PROCESS.—A State shall use an intake and assessment process meeting standards established by the Secretary to develop the plan of care required under paragraph (2).

"(4) DISSEMINATION OF INFORMATION.—The State shall provide information about the availability of services under this section, and how to obtain them, in a manner that ensures that such information is widely disseminated to all eligible providers, agencies, and organizations providing services to the population of individuals receiving assistance under this section.

"(d) ADDITIONAL ELIGIBLE POPULATIONS.—

"(1) IN GENERAL.—A State may provide medical assistance under this section, in addition to individuals otherwise eligible for medical assistance, to individuals who would be so eligible but for—

"(A) failure to meet the disability criteria otherwise applicable, or

"(B) subject to paragraph (2), failure to meet income or resource requirements otherwise applicable.

"(2) LIMITATION ON INCOME.—A State may not provide under this subsection medical assistance to an individual whose income (as determined under section 1612 for purposes of the supplemental security income program) exceeds the greater of—

"(A) the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981), or

"(B) the maximum level of State supplementary payment under section 1616 (or under section 212 of Public Law 93–66).

"(e) RULES RELATING TO FEDERAL FINANCIAL PARTICIPATION.—

"(1) IN GENERAL.—With respect to medical assistance provided under this section for a category of individuals (specified under subsection (b)(1))—

"(A) the amount of medical assistance that may otherwise be taken into account in making payment under section 1903(a)(1) shall not exceed the amount specified in paragraph (2) for the category;

"(B) the amount of State expenditures (other than for medical assistance) that may otherwise be taken into account in making payment under section 1903(a) (other than paragraph (1)) shall not exceed the amount specified in paragraph (3) for the category; and

"(C) a State may include (as expenditures for medical assistance under the State plan) expenditures for room and board and other community-assisted residential services furnished in settings that meet standards established by the Secretary and that otherwise may not qualify as settings for which Federal financial participation is available under this title.

"(2) LIMIT ON MEDICAL ASSISTANCE.—The amount specified in this paragraph (for a calendar quarter or other period) is as follows:

"(A) BASE MEDICAL ASSISTANCE.—The total medical assistance provided under the State plan for the services described in subsection (c)(1) for the category of individuals in the base period (specified by the Secretary).

"(B) UPDATE.—The amount determined under subparagraph (A) shall be updated (to the calendar quarter or other period involved)—

"(i) for periods through fiscal year 2002, by the rate of growth (estimated by the Secretary) in the medical assistance described in subparagraph (A) under the State plan if the election in subsection (a) had not been made, and

"(ii) beginning in fiscal year 2003, by a factor (for each such fiscal year) equivalent to the product of the factors described in subparagraph (A) and (B) of section 2109(a)(2) of the Health Security Act for the fiscal year.

"(3) LIMIT ON ADMINISTRATION.—The amount specified in this paragraph is such amount as the State establishes, to the satisfaction of the Secretary, does not exceed the amount of expenditures that would have been made for administrative expenditures with respect to services covered under this section if the election in subsection (a) had not been made.

"(4) EFFECT ON ENTITLEMENT.—In the case of a State that has made an election under subsection (a), notwithstanding any other provision of this title, no individual is entitled to medical assistance under the State plan for nursing facility services and intermediate care facilities for the mentally retarded except as the State provides under this section.

"(f) OTHER REQUIREMENTS.—

"(1) SAFEGUARDS.—The State must establish necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under this section and to assure financial accountability of funds. Nothing in this section shall be construed as waiving requirements otherwise applicable under this title with respect to providers of covered services.

"(2) FINANCIAL COORDINATION.—The State must provide for the financial coordination of expenditures for medical assistance under this section with expenditures under any State program for home and community-based services for individuals with disabilities under part 1 of subtitle B of title II of the Health Security Act.".

SEC. 4214. INFORMING NURSING HOME RESIDENTS ABOUT AVAILABILITY OF ASSISTANCE FOR HOME AND COMMUNITY-BASED SERVICES.

(a) IN GENERAL.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61),

(2) by striking the period at the end of paragraph (62) and inserting "; and", and

(3) by inserting after paragraph (62) the following new paragraph:

"(63) provide, in the case of an individual who is a resident (or who is applying to become a resident) of a nursing facility or intermediate care facility for the mentally retarded, at the time of application for medical assistance and periodically thereafter, the individual (or a designated representative) with information on the range of home and community-based services for which assistance is available in the State either under the plan under this title, under the program under part 1 of subtitle B of title II of the Health Security Act, or any other public program.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to quarters beginning on or after January 1, 1996.

PART 3—OTHER BENEFITS

SEC. 4221. TREATMENT OF ITEMS AND SERVICES NOT COVERED UNDER THE COMPREHENSIVE BENEFIT PACKAGE.

(a) CONTINUATION OF ELIGIBILITY FOR ASSISTANCE FOR AFDC AND SSI RECIPIENTS.—With respect to an individual who is described in section 1933(b) of the Social Security Act (as added by subsection (b)(1)), nothing in this Act shall be construed as—

(1) changing the eligibility of the individual for medical assistance under title XIX of the Social Security Act for items and services not covered under the comprehensive benefit package, or

(2) subject to the amendments made by this subtitle, changing the amount, duration, or scope of medical assistance required (or permitted) to be provided to the individual under such title.

(b) LIMITATION ON SCOPE OF ASSISTANCE FOR OTHER MEDICAID BENEFICIARIES.—

(1) IN GENERAL.—Title XIX, as amended by sections 4201 and 4213, is amended by redesignating section 1933 as section 1934 and by inserting after section 1932 the following new section:

"LIMITATION ON SCOPE OF ASSISTANCE FOR MOST NON-CASH BENEFICIARIES

"SEC 1933. (a) LIMITATION.—Notwithstanding any other provision of this title, the medical assistance made available under section 1902(a) to an individual not described in subsection (b) shall be limited to medical assistance for—

"(1) long-term care services (as defined in subsection (c)); and

"(2) medicare cost-sharing (as defined in section 1905(p)(3)), in accordance with the requirements of section 1902(a)(10)(E).

"(b) INDIVIDUALS EXEMPT FROM LIMITATION.—The individuals described in this subsection are the following:

"(1) AFDC recipients (as defined in section 1902(3) of the Health Security Act) 18 years of age or older.

"(2) SSI recipients (as defined in section 1902(33) of the Health Security Act) 18 years of age or older.

"(3) Individuals entitled to benefits under title XVIII.

"(c) LONG-TERM CARE SERVICES DEFINED.—In subsection (a), the term 'long-term care services' means the following items and services, but only to the extent they are not included as an item or service under the comprehensive benefit package under the Health Security Act:

"(1) Nursing facility services and intermediate care facility services for the mentally retarded (including items and services that may be included in such services pursuant to regulations in effect as of October 26, 1993).

"(2) Personal care services.

"(3) Home or community-based services provided under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(4) Home and community care provided to functionally disabled elderly individuals under section 1929.

"(5) Community supported living arrangements services provided under section 1930.

"(6) Case-management services (as described in section 1915(g)(2)).

"(7) Home health care services, clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that qualifies the individual to receive any of the services described in paragraphs (1) through (6).

"(8) Hospice care.".

(2) CONFORMING AMENDMENT.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)), as amended by section 13603(c)(1) of OBRA-1993 and section 4211(b), is amended in the matter following subparagraph (G) (as inserted by section 4212(a))—

(A) by striking "and (XIV)" and inserting "(XIV)"; and

(B) by inserting before the semicolon at the end the following: ", and (XV) the medical assistance made available to an individual who is not described in section 1933(b) shall be limited in accordance with section 1933".

(c) CONFORMING AMENDMENTS RELATING TO SECONDARY PAYER.—(1) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)), as amended by section 13622(a) of OBRA-1993, is amended by inserting "health plans (as defined in section 1400 of the Health Security Act)," after "of 1974),".

(2) Section 1903(o) (42 U.S.C. 1396b(o)), as so amended, is amended by inserting "and a health plan (as defined in section 1400 of the Health Security Act)" after "of 1974)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished in a State on or after January 1 of the first year for which the State is a participating State under the Health Security Act.

SEC. 4222. ESTABLISHMENT OF PROGRAM FOR POVERTY-LEVEL CHILDREN WITH SPECIAL NEEDS.

(a) ESTABLISHMENT OF PROGRAM.—Title XIX, as amended by sections 4201 and 4213 and by subsection (b), is amended by redesignating section 1934 as section 1935 and by inserting after section 1933 the following new section:

"SERVICES FOR POVERTY-LEVEL CHILDREN WITH SPECIAL NEEDS

"SEC 1934. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established a program under which the Secretary shall make payments on behalf of each qualified child (as defined in subsection (b)) during a year for all medically necessary items and services described in section 1905(a) (including items and services described in section 1905(r) but excluding long-term care services described in section 1933(c)) that are not included in the comprehensive benefit package under subtitle B of title I of the Health Security Act.

"(b) QUALIFIED CHILD DEFINED.—

"(1) IN GENERAL.—In this section, a 'qualified child' is an eligible individual (as defined in section 1001(c)) who—

"(A) for years prior to 1998, is a resident of a participating State under the Health Security Act;

"(B) is under the age of 18; and

"(C) meets the requirements relating to financial eligibility described in paragraph (2).for kids over 6, is 100%: missing date; at 100% (vo. 133%); also excluded children eligible by virtue of medcailly needy;

"(2) REQUIREMENTS RELATING TO FINANCIAL ELIGIBILITY.—An individual meets the requirements of this paragraph if—

"(A) the individual is an AFDC recipient or an SSI recipient (as such terms are defined in section 1902 of the Health Security Act);

"(B) the individual is eligible to receive medical assistance under the State plan under section 1902(a)(10)(C); or

"(C) the individual is—

"(i) under one year of age and has adjusted family income at or below 133 percent of the applicable poverty level (as defined in section 1902(25)(A) of the Health Security Act) (or, in the case of a State that established an income level greater than 133 percent for individuals under 1 year of age for purposes of section 1902(l)(2)(A) as of October 1, 1993, an income level which is a percentage of such level not greater than 185 percent),

"(ii) the individual has attained 1 year of age but is under 6 years of age and has adjusted family income at or below 133 percent of the applicable poverty level (as defined in section 1902(25)(A) of the Health Security Act), or

"(iii) the individual was born after September 30, 1983, has attained 6 years of age, and has adjusted family income at or below 100 percent of the applicable poverty level (as defined in section 1902(25)(A) of the Health Security Act).

"(3) ENROLLMENT PROCEDURES.—

"(A) IN GENERAL.—Not later than July 1, 1995, the Secretary shall establish procedures for the enrollment of qualified children in the program under this section under which—

"(i) essential community providers certified by the Secretary under subpart B of part 2 of subtitle F of title I of the Health Security Act serve as enrollment sites for the program; and

"(ii) any forms used for enrollment purposes are designed to make the enrollment as simple as practicable.

"(B) INDIVIDUALS UNDER ALLIANCE PLANS AUTOMATICALLY ENROLLED.—The Secretary shall establish a process under which an individual who is a qualified child under paragraph (1) and is enrolled in an alliance health plan (as defined in section 1300 of the Health Security Act) shall automatically be deemed to have met any enrollment requirements established under paragraph (1).

"(c) ADDITIONAL RESPONSIBILITIES OF SECRETARY.—Not later than July 1, 1995, the Secretary shall promulgate such regulations as are necessary to establish and operate the program under this section, including regulations with respect to the following:

"(1) The benefits to be provided and the circumstances under which such benefits shall be considered medically necessary.

"(2) Procedures for the periodic redetermination of an individual's eligibility for benefits.

"(3) Qualification criteria for providers participating in the program.

"(4) Payment amounts for services provided under the program, the methodology used to determine such payment amounts, and the procedures for making payments to providers.

"(5) Standards to ensure the quality of services and the coordination of services under the program with services under the comprehensive benefit package, as well as services under parts B and H of the Individuals With Disabilities Education Act, title V, and any other program providing health care, remedial, educational, and social services to qualified children as the Secretary may identify.

"(6) Hearing and appeals for individuals adversely affected by any determination by the Secretary under the program.

"(7) Such other requirements as the Secretary determines to be necessary for the proper and efficient administration of the program.

"(d) FEDERAL PAYMENT FOR PROGRAM.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall pay 100 percent of the costs of providing benefits under this program in a year, including all administrative expenses.

"(2) ANNUAL LIMIT ON EXPENDITURES.—The total amount of Federal expenditures that may be made under this section in a year may not exceed—

"(A) for a year prior to 1998, an amount equal to the percentage of total expenditures for medical assistance under State plans under this title during fiscal year 1993 for services described in subsection (a) furnished to qualified children that is attributable to States in which the program is in operation during the year (adjusted to take into account the operation of the program under this section on a calendar year basis)—

"(i) adjusted to take into account any increases or decreases in the number of qualified children under the most recent decennial census, as adjusted by the most recent current population survey for the year in question, and

"(ii) adjusted by the applicable percentage applied to the State non-cash baseline amount for the year under section 9003(a) of the Health Security Act; and

"(B) for 1998, the total expenditures for medical assistance under State plans under this title during 1993 for services described in subsection (a) furnished to qualified children (adjusted to take into account the operation of the program under this section on a calendar year basis)—

"(i) adjusted to take into account any increases or decreases in the number of qualified children under the most recent decennial census, as adjusted by the most recent current population survey for the year in question, and

"(ii) adjusted by the update applied to the State non-cash baseline amount for the year under section 9003(b) of the Health Security Act; and

"(C) for each succeeding year, the limit established under this paragraph for the previous year (adjusted to take into account the operation of the program under this section on a calendar year basis), adjusted by the update applied to the State non-cash baseline amount for the year under section 9003(b) of the Health Security Act.".

(b) REPEAL OF ALTERNATIVE ELIGIBILITY STANDARDS FOR CHILDREN IN PARTICIPATING STATES.—Section 1902(r)(2) (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following new subparagraph:

"(C) Subparagraph (A) shall not apply with respect to the determination of income and resources for children under age 18 under the State plan of a State (other than under the State plan of a State that utilized an alternative methodology pursuant to such subparagraph as of October 1, 1993)—

"(i) in the case of a State that is a participating State under the Health Security Act for a year prior to 1998, for quarters beginning on or after January 1 of the first year for which the State is such a participating State; and

"(ii) in the case of any State not described in clause (i), for quarters beginning on or after January 1, 1998.".

PART 4—DISCONTINUATION OF CERTAIN PAYMENT POLICIES

SEC. 4231. DISCONTINUATION OF MEDICAID DSH PAYMENTS.

(a) ELIMINATION OF SPECIFIC OBLIGATION.—Section 1923(a) (42 U.S.C. 1396r-4(a)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of this title, the requirement of this subsection shall not apply—

"(A) with respect to a State for any portion of a fiscal year during which the State is a participating State within the meaning of section 1200 of the Health Security Act; or

"(B) with respect to any State for any months beginning on or after January 1, 1997.".

(b) ELIMINATION OF STATE PLAN REQUIREMENT.—Section 1902(a)(13)(A) (42 U.S.C. 1396a(a)(13)(A)) is amended by inserting after "special needs" the following: "(but only with respect to a quarters during which the State is not a participating State within the meaning of section 1200 of the Health Security Act or with respect to any quarters ending on or before December 31, 1996)".

(c) ELIMINATION OF STATE DSH ALLOTMENTS AND FEDERAL FINANCIAL PARTICIPATION.—Section 1923(f) (42 U.S.C. 1396r-4(f)) is amended—

(1) in paragraph (2), by inserting "and paragraph (5)" after "subparagraph (B)", and

(2) by adding at the end the following new paragraph:

"(5) ELIMINATION OF ALLOTMENTS FOR PARTICIPATING STATES AND SUNSET FOR ALL STATES.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, the State DSH allotment shall be zero with respect to—

"(i) any participating State within the meaning of section 1200 of the Health Security Act; and

"(ii) any State for any portion of a fiscal year that occurs on or after January 1, 1997.

"(B) NO REDISTRIBUTION OF REDUCTIONS.—In the computation of State supplemental amounts under paragraph (3), the State DSH allotments shall be determined under subparagraph (A)(ii) of such paragraph as if this paragraph did not apply.".

SEC. 4232. DISCONTINUATION OF REIMBURSEMENT STANDARDS FOR INPATIENT HOSPITAL SERVICES.

Section 1902(a)(13)(A) (42 U.S.C. 1396a(a)(13)(A)), as amended by section 4231(b), is amended by inserting "(in the case of services other than hospital services in a State that is a participating State under the Health Security Act)" before "are reasonable and adequate".

PART 5—COORDINATION WITH ADMINISTRATIVE SIMPLIFICATION AND QUALITY MANAGEMENT INITIATIVES

SEC. 4241. REQUIREMENTS FOR CHANGES IN BILLING PROCEDURES.

(a) LIMITATION ON FREQUENCY OF SYSTEM CHANGES; ADVANCE NOTIFICATION TO PROVIDERS.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 4213, is amended—

(1) by striking "and" at the end of paragraph (62),

(2) by striking the period at the end of paragraph (63) and inserting "; and", and

(3) by inserting after paragraph (63) the following new paragraph:

"(64) provide that the State—

"(A) will not implement any change in the system used for the billing and processing of claims for payment for items and services furnished under the State plan within 6 months of implementing any previous change in such system; and

"(B) shall notify individuals and entities providing medical assistance under the State plan of any major change in the procedures for billing for services furnished under the plan at least 120 days before such change is to take effect.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to a State as of January 1 of the first year for which the State is a participating State.

PART 6—MEDICAID COMMISSION

SEC. 4251. MEDICAID COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Medicaid Commission" (in this section referred to as the "Commission").

(b) MEMBERSHIP.—(1) The Commission shall be composed of 15 members appointed by the Secretary for the life of the Commission.

(2) Members shall include representatives of the Federal Government and State Governments.

(3) The Administrator of the Health Care Financing Administration shall be an ex officio member of the Commission.

(4) Individuals, while serving as members of the Commission, shall not be entitled to compensation, other than travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) STUDY.—The Commission shall study options with respect to each of the following in relation to the medicaid program under title XIX of the Social Security Act:

(1) USE OF BLOCK GRANT.—Whether, and (if so) how, to convert payments for services not covered in the comprehensive benefit package (for all recipients, including AFDC and SSI recipients defined in section 1902 of the Health Security Act) into new financing mechanisms that give the States greater flexibility in targeting and delivering needed services.

(2) INTEGRATION OF ACUTE AND LONG-TERM CARE SERVICES FOR HEALTH PLANS.—Whether, and (if so) how, to integrate long-term care services and the home and community-based services program under part 1 of subtitle B of title II with the services covered under the comprehensive benefit package offered by health plans.

(3) CONSOLIDATING INSTITUTIONAL AND HOME AND COMMUNITY-BASED LONG-TERM CARE.—Whether, and (if so) how, to offer States an option to combine together expenditures under the home and community-based services program (under part 1 of subtitle B of title II) with continuing home and community-based services and institutional care under the medicaid program into a global budget for long-term care services, and how such a combined program could be implemented.

(d) REPORT AND RECOMMENDATIONS.—The Commission shall submit to the Secretary and the National Health Board, not later than 1 year after the date of the enactment of this Act, a report on its study under subsection (c). The Commission shall include in such report such recommendations for changes in the medicaid program, and the programs under this Act, as it deems appropriate.

(e) OPERATIONS.—(1) The Commission shall appoint a chair from among its members.

(2) Upon request of the Chair of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission.

(4) Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(e) TERMINATION.—The Commission shall terminate 90 days after the date of submission of its report under subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriate such sums as may be necessary to carry out this section.

Subtitle D—Increase in SSI Personal Needs Allowance

SEC. 4301. INCREASE IN SSI PERSONAL NEEDS ALLOWANCE.

(a) IN GENERAL.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended—

(1) in clauses (i) and (ii)(I), by striking "$360" and inserting "$840"; and

(2) in clause (iii), by striking "$720" and inserting "$1,680".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to months beginning with January 1996.

TITLE V—QUALITY AND CONSUMER PROTECTION

TABLE OF CONTENTS OF TITLE

Subtitle A—Quality Management and Improvement

Sec. 5001. National Quality Management Program.
Sec. 5002. National Quality Management Council.
Sec. 5003. National measures of quality performance.
Sec. 5004. Consumer surveys.
Sec. 5005. Evaluation and reporting of quality performance.
Sec. 5006. Development and dissemination of practice guidelines.
Sec. 5007. Research on health care quality.
Sec. 5008. Regional professional foundations.
Sec. 5009. National Quality Consortium.
Sec. 5010. Eliminating CLIA requirement for certificate of waiver for simple laboratory examinations and procedures.
Sec. 5012. Role of alliances in quality assurance.
Sec. 5013. Role of health plans in quality management.

Subtitle B—Information Systems, Privacy, and Administrative Simplification

PART 1—HEALTH INFORMATION SYSTEMS

Sec. 5101. Establishment of health information system.
Sec. 5102. Additional requirements for health information system.
Sec. 5103. Electronic data network.
Sec. 5104. Unique identifier numbers.
Sec. 5105. Health security cards.
Sec. 5106. Technical assistance in the establishment of health information systems.

PART 2—PRIVACY OF INFORMATION

Sec. 5120. Health information system privacy standards.
Sec. 5121. Other duties with respect to privacy.
Sec. 5122. Comprehensive health information privacy protection act.
Sec. 5123. Definitions.

PART 3—INTERIM REQUIREMENTS FOR ADMINISTRATIVE SIMPLIFICATION

Sec. 5130. Standard benefit forms.

PART 4—GENERAL PROVISIONS

Sec. 5140. National Privacy and Health Data Advisory Council.
Sec. 5141. Civil money penalties.
Sec. 5142. Relationship to other laws.

Subtitle C—Remedies and Enforcement

PART 1—REVIEW OF BENEFIT DETERMINATIONS FOR ENROLLED INDIVIDUALS

SUBPART A—GENERAL RULES

Sec. 5201. Health plan claims procedure.
Sec. 5202. Review in regional alliance complaint review offices of grievances based on acts or practices by health plans.
Sec. 5203. Initial proceedings in complaint review offices.
Sec. 5204. Hearings before hearing officers in complaint review offices.
Sec. 5205. Review by Federal Health Plan Review Board.
Sec. 5206. Civil money penalties.

SUBPART B—EARLY RESOLUTION PROGRAMS

Sec. 5211. Establishment of early resolution programs in complaint review offices.
Sec. 5212. Initiation of participation in mediation proceedings.
Sec. 5213. Mediation proceedings.
Sec. 5214. Legal effect of participation in mediation proceedings.
Sec. 5215. Enforcement of settlement agreements.

PART 2—ADDITIONAL REMEDIES AND ENFORCEMENT PROVISIONS

Sec. 5231. Judicial review of Federal action on State systems.
Sec. 5232. Administrative and judicial review relating to cost containment.
Sec. 5233. Civil enforcement.
Sec. 5234. Priority of certain bankruptcy claims.
Sec. 5235. Private right to enforce State responsibilities.
Sec. 5236. Private right to enforce Federal responsibilities in operating a system in a State.
Sec. 5237. Private right to enforce responsibilities of alliances.
Sec. 5238. Discrimination claims.
Sec. 5239. Nondiscrimination in federally assisted programs.
Sec. 5240. Civil action by essential community provider.
Sec. 5241. Facial constitutional challenges.
Sec. 5242. Treatment of plans as parties in civil actions.
Sec. 5243. General nonpreemption of existing rights and remedies.

Subtitle D—Medical Malpractice

PART 1—LIABILITY REFORM

Sec. 5301. Federal tort reform.
Sec. 5302. Plan-based alternative dispute resolution mechanisms.
Sec. 5303. Requirement for certificate of merit.
Sec. 5304. Limitation on amount of attorney's contingency fees.
Sec. 5305. Reduction of awards for recovery from collateral sources.
Sec. 5306. Periodic payment of awards.

PART 2—OTHER PROVISIONS RELATING TO MEDICAL MALPRACTICE LIABILITY

Sec. 5311. Enterprise liability demonstration project.
Sec. 5312. Pilot program applying practice guidelines to medical malpractice liability actions.

Subtitle E—Fraud and Abuse

PART 1—ESTABLISHMENT OF ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM

Sec. 5401. All-Payer Health Care Fraud and Abuse Control Program.
Sec. 5402. Establishment of All-Payer Health Care Fraud and Abuse Control Account.
Sec. 5403. Use of funds by Inspector General.

PART 2—APPLICATION OF FRAUD AND ABUSE AUTHORITIES UNDER THE SOCIAL SECURITY ACT TO ALL PAYERS

Sec. 5411. Exclusion from participation.
Sec. 5412. Civil monetary penalties.
Sec. 5413. Limitations on physician self-referral.
Sec. 5414. Construction of Social Security Act references.

PART 3—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS UNDER THE SOCIAL SECURITY ACT

Sec. 5421. Reference to amendments.

PART 4—AMENDMENTS TO CRIMINAL LAW

Sec. 5431. Health care fraud.
Sec. 5432. Forfeitures for violations of fraud statutes.
Sec. 5433. False statements.
Sec. 5434. Bribery and graft.
Sec. 5435. Injunctive relief relating to health care offenses.
Sec. 5436. Grand jury disclosure.
Sec. 5437. Theft or embezzlement.
Sec. 5438. Misuse of health security card or unique identifier.

PART 5—AMENDMENTS TO CIVIL FALSE CLAIMS ACT

Sec. 5441. Amendments to Civil False Claims Act.

Subtitle F—McCarran-Ferguson Reform

Sec. 5501. Repeal of exemption for health insurance.

Subtitle A—Quality Management and Improvement

SEC. 5001. NATIONAL QUALITY MANAGEMENT PROGRAM.

Not later than 1 year after the date of the enactment of this Act, the National Health Board shall establish and oversee a performance-based program of quality management and improvement designed to enhance the quality, appropriateness, and effectiveness of health care services and access to such services. The program shall be known as the National Quality Management Program and shall be administered by the National Quality Management Council established under section 5002.

SEC. 5002. NATIONAL QUALITY MANAGEMENT COUNCIL.

(a) ESTABLISHMENT.—There is established a council to be known as the National Quality Management Council.

(b) DUTIES.—The Council shall—

(1) administer the National Quality Management Program;

(2) perform any other duty specified as a duty of the Council in this subtitle; and

(3) advise the National Health Board with respect to its duties under this subtitle.

(c) NUMBER AND APPOINTMENT.—The Council shall be composed of 15 members appointed by the President. The Council shall consist of members who are broadly representative of the population of the United States and shall include—

(1) individuals representing the interests of governmental and corporate purchasers of health care;

(2) individuals representing the interests of health plans;

(3) individuals representing the interests of States;

(4) individuals representing the interests of health care providers and academic health centers (as defined in section 3101(c)); and

(5) individuals distinguished in the fields of public health, health care quality, and related fields of health services research.

(d) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Council shall serve for a term of 3 years.

(2) STAGGERED ROTATION.—Of the members first appointed to the Council under subsection (c), the President shall appoint 5 members to serve for a term of 3 years, 5 members to serve for a term of 2 years, and 5 members to serve for a term of 1 year.

(3) SERVICE BEYOND TERM.—A member of the Council may continue to serve after the

expiration of the term of the member until a successor is appointed.

(e) VACANCIES.—If a member of the Council does not serve the full term applicable under subsection (d), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(f) CHAIR.—The President shall designate an individual to serve as the chair of the Council.

(g) MEETINGS.—The Council shall meet not less than once during each discrete 4-month period and shall otherwise meet at the call of the President or the chair.

(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Council shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Council. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) STAFF.—The National Health Board shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

(j) HEALTH CARE PROVIDER.—For purposes of this subtitle, the term "health care provider" means an individual who, or entity that, provides an item or service to an individual that is covered under the health plan (as defined in section 1400) in which the individual is enrolled.

SEC. 5003. NATIONAL MEASURES OF QUALITY PERFORMANCE.

(a) IN GENERAL.—The National Quality Management Council shall develop a set of national measures of quality performance, which shall be used to assess the provision of health care services and access to such services.

(b) SUBJECT OF MEASURES.—National measures of quality performance shall be selected in a manner that provides information on the following subjects:

(1) Access to health care services by consumers.

(2) Appropriateness of health care services provided to consumers.

(3) Outcomes of health care services and procedures.

(4) Health promotion.

(5) Prevention of diseases, disorders, and other health conditions.

(6) Consumer satisfaction with care.

(c) SELECTION OF MEASURES.—

(1) CONSULTATION.—In developing and selecting the national measures of quality performance, the National Quality Management Council shall consult with appropriate interested parties, including—

(A) States;

(B) health plans;

(C) employers and individuals purchasing health care through regional and corporate alliances;

(D) health care providers;

(E) the National Quality Consortium established under section 5009;

(F) individuals distinguished in the fields of law, medicine, economics, public health, and health services research;

(G) the Administrator for Health Care Policy and Research;

(H) the Director of the National Institutes of Health; and

(I) the Administrator of the Health Care Financing Administration.

(2) CRITERIA.—The following criteria shall be used in developing and selecting national measures of quality performance:

(A) SIGNIFICANCE.—When a measure relates to a specific disease, disorder, or other health condition, the disease, disorder, or condition shall be of significance in terms of prevalence, morbidity, mortality, or the costs associated with the prevention, diagnosis, treatment, or clinical management of the disease, disorder, or condition.

(B) RANGE OF SERVICES.—The set of measures, taken as a whole, shall be representative of the range of services provided to consumers of health care by the individuals and entities described in subsection (a).

(C) RELIABILITY AND VALIDITY.—The measures shall be reliable and valid.

(D) UNDUE BURDEN.—The data needed to calculate the measures shall be obtained without undue burden on the entity or individual providing the data.

(E) VARIATION.—Performance with respect to measures that are applicable to each category of individual or entity described in subsection (a) shall be expected to vary widely among individuals or entities in the category.

(F) LINKAGE TO HEALTH OUTCOME.—When a measure is a rate of a process of care, the process shall be linked to a health outcome based upon the best available scientific evidence.

(G) PROVIDER CONTROL AND RISK ADJUSTMENT.—When a measure is an outcome of the provision of care, the outcome shall be within the control of the provider and one with respect to which an adequate risk adjustment can be made.

(H) PUBLIC HEALTH.—The measures may incorporate standards identified by the Secretary of Health and Human Services for meeting public health objectives.

(d) UPDATING.—The National Quality Management Council shall review and update the set of national measures of quality performance annually to reflect changing goals for quality improvement. The Board shall establish and maintain a priority list of performance measures that within a 5-year period it intends to consider for inclusion within the set through the updating process.

SEC. 5004. CONSUMER SURVEYS.

(a) IN GENERAL.—The National Quality Management Council shall conduct periodic surveys of health care consumers to gather information concerning access to care, use of health services, health outcomes, and patient satisfaction. The surveys shall monitor consumer reaction to the implementation of this Act and be designed to assess the impact of this Act on the general population of the United States and potentially vulnerable populations.

(b) SURVEY ADMINISTRATION.—The National Quality Management Council shall develop and approve a standard design for the surveys, which shall be administered by the Administrator for Health Care Policy and Research on a plan-by-plan and State-by-State basis. A State may add survey questions on quality measures of local interest to surveys conducted in the State.

(c) SAMPLING STRATEGIES.—The National Quality Management Council shall develop sampling strategies that ensure that survey samples adequately measure populations that are considered to be at risk of receiving inadequate health care and may be difficult to reach through consumer-sampling methods, including individuals who—

(1) fail to enroll in a health plan;

(2) resign from a plan; or

(3) are members of a vulnerable population.

SEC. 5005. EVALUATION AND REPORTING OF QUALITY PERFORMANCE.

(a) NATIONAL GOALS.—In subject matter areas with respect to which the National Quality Management Council determines that sufficient information and consensus exist, the Council will recommend to the Board that it establish goals for performance by health plans and health care providers on a subset of the set of national measures of quality performance.

(b) IMPACT OF REFORM.—The National Quality Management Council shall evaluate the impact of the implementation of this Act on the quality of health care services in the United States and the access of consumers to such services.

(c) PERFORMANCE REPORTS.—

(1) ALLIANCE AND HEALTH PLAN REPORTS.—Each health alliance annually shall publish and make available to the public a performance report outlining in a standard format the performance of each health plan offered in the alliance on the set of national measures of quality performance. The report shall include the results of a smaller number of such measures for health care providers who are members of provider networks of such plans (as defined in section 1402(f)), if the available information is statistically meaningful. The report also shall include the results of consumer surveys described in section 5004 that were conducted in the alliance during the year that is the subject of the report.

(2) NATIONAL QUALITY REPORTS.—The National Quality Management Council annually shall provide to the Congress and to each health alliance a report that—

(A) outlines in a standard format the performance of each regional alliance, corporate alliance, and health plan;

(B) discusses State-level and national trends relating to health care quality; and

(C) presents data for each health alliance from consumer surveys described in section 5004 that were conducted during the year that is the subject of the report.

SEC. 5006. DEVELOPMENT AND DISSEMINATION OF PRACTICE GUIDELINES.

(a) DEVELOPMENT OF GUIDELINES.—

(1) IN GENERAL.—The National Quality Management Council shall direct the Administrator for Health Care Policy and Research to develop and periodically review and update clinically relevant guidelines that may be used by health care providers to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

(2) CERTAIN REQUIREMENTS.—Guidelines under paragraph (1) shall—

(A) be based on the best available research and professional judgment regarding the effectiveness and appropriateness of health care services and procedures;

(B) be presented in formats appropriate for use by health care providers, medical educators, medical review organizations, and consumers of health care;

(C) include treatment-specific or condition-specific practice guidelines for clinical treatments and conditions in forms appropriate for use in clinical practice, for use in educational programs, and for use in reviewing quality and appropriateness of medical care;

(D) include information on risks and benefits of alternative strategies for prevention, diagnosis, treatment, and management of a given disease, disorder, or other health condition;

(E) include information on the costs of alternative strategies for the prevention, diagnosis, treatment, and management of a given disease, disorder, or other health condition, where cost information is available and reliable; and

(F) be developed in accordance with priorities that shall be established by the National Quality Management Council based on the research priorities that are established under section 5007(b) and the 5-year priority list of performance measures described in section 5003(d).

(3) HEALTH SERVICE UTILIZATION PROTOCOLS.—The National Quality Management Council shall establish standards and procedures for evaluating the clinical appropriateness of protocols used to manage health service utilization.

(4) USE IN MEDICAL MALPRACTICE LIABILITY PILOT PROGRAM.—Guidelines developed under this subsection may be used by the Secretary of Health and Human Services in the pilot program applying practice guidelines to medical malpractice liability under section 5312.

(b) EVALUATION AND CERTIFICATION OF OTHER GUIDELINES.—

(1) METHODOLOGY.—The National Quality Management Council shall direct the Administrator for Health Care Policy and Research to develop and publish standards relating to methodologies for developing the types of guidelines described in subsection (a)(1).

(2) EVALUATION AND CERTIFICATION.—The National Quality Management Council shall direct the Administrator for Health Care Policy and Research to establish a procedure by which individuals and entities may submit guidelines of the type described in subsection (a)(1) to the Council for evaluation and certification by the Council using the standards developed under paragraph (1).

(3) USE IN MEDICAL MALPRACTICE LIABILITY PILOT PROGRAM.—Guidelines certified under paragraph (2) may be used by the Secretary of Health and Human Services in the pilot program applying practice guidelines to medical malpractice liability under section 5312.

(c) GUIDELINE CLEARINGHOUSE.—The National Quality Management Council shall direct the Administrator for Health Care Policy and Research to establish and oversee a clearinghouse and dissemination program for practice guidelines that are developed or certified under this section.

(d) DISSEMINATION OF INFORMATION ON INEFFECTIVE TREATMENTS.—The National Quality Management Council shall disseminate information documenting clinically ineffective treatments and procedures.

SEC. 5007. RESEARCH ON HEALTH CARE QUALITY.

(a) RESEARCH SUPPORT.—The National Quality Management Council shall direct the Administrator for Health Care Policy and Research to support research directly related to the 5-year priority list of performance measures described in section 5003(d), including research with respect to—

(1) outcomes of health care services and procedures;

(2) effective and efficient dissemination of information, standards, and guidelines;

(3) methods of measuring quality and shared decisionmaking; and

(4) design and organization of quality of care components of automated health information systems.

(b) RESEARCH PRIORITIES.—The National Quality Management Council shall establish priorities for research with respect to the quality, appropriateness, and effectiveness of health care and make recommendations concerning research projects. In establishing the priorities, the National Quality Management Council shall emphasize research involving diseases, disorders, and health conditions as to which—

(1) there is the highest level of uncertainty concerning treatment;

(2) there is the widest variation in practice patterns;

(3) the costs associated with prevention, diagnosis, treatment, or clinical management are significant; and

(4) the rate of incidence or prevalence is high for the population as a whole or for particular subpopulations.

SEC. 5008. REGIONAL PROFESSIONAL FOUNDATIONS.

(a) ESTABLISHMENT.—The National Health Board shall establish and oversee regional professional foundations to perform the duties specified in subsection (c).

(b) STRUCTURE AND MEMBERSHIP.—

(1) IN GENERAL.—The National Quality Consortium established under section 5009 shall oversee the establishment of regional professional foundations, the membership requirements for each foundation, and any other requirement for the internal operation of each foundation.

(2) ENTITIES ELIGIBLE FOR MEMBERSHIP.—Each regional professional foundation shall include at least one academic health center (as defined in section 3101(c)). The following entities also shall be eligible to serve as members of the regional professional foundation for the region in which the entity is located:

(A) Schools of public health (as defined in section 799 of the Public Health Service Act).

(B) Other schools and programs defined in such section.

(C) Health plans.

(D) Regional alliances.

(E) Corporate alliances.

(F) Health care providers.

(c) DUTIES.—A regional professional foundation shall carry out the following duties for the region in which the foundation is located (such region to be demarcated by the National Health Board with the advice of the National Quality Consortium established under section 5009):

(1) Developing programs in lifetime learning for health professionals (as defined in section 1112(c)(1)) to ensure the delivery of quality health care.

(2) Fostering collaboration among health plans and health care providers to improve the quality of primary and specialized health care.

(3) Disseminating information about successful quality improvement programs, practice guidelines, and research findings.

(4) Disseminating information on innovative uses of health professionals.

(5) Developing innovative patient education systems that enhance patient involvement in decisions relating their health care.

(6) Applying for and conducting research described in section 5007.

(d) PROGRAMS IN LIFETIME LEARNING.—The programs described in subsection (c)(1) shall ensure that health professionals remain abreast of new knowledge, acquire new skills, and adopt new roles as technology and societal demands change.

SEC. 5009. NATIONAL QUALITY CONSORTIUM.

(a) ESTABLISHMENT.—The National Health Board shall establish a consortium to be known as the National Quality Consortium.

(b) DUTIES.—The Consortium shall—

(1) establish programs for continuing education for health professionals;

(2) advise the National Quality Management Council and the Administrator for Health Care Policy and Research on research priorities;

(3) oversee the development of the regional professional foundations established under section 5008;

(4) advise the National Quality Management Council with respect to the funding of proposals to establish such foundations;

(5) consult with the National Quality Management Council regarding the selection of national measures of quality performance under section 5003(c); and

(6) advise the National Health Board and the National Quality Management Council with respect to any other duty of the Board or the Council under this subtitle.

(c) MEMBERSHIP.—The Consortium shall be composed of 11 members appointed by the National Health Board. The members of the Consortium shall include—

(1) 5 individuals representing the interests of academic health centers; and

(2) 6 other individuals representing the interests of one of the following persons:

(A) Schools of public health.

(B) Other schools and programs defined in section 799 of the Public Health Service Act (including medical schools, nursing schools, and allied health professional schools).

(d) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Consortium shall serve for a term of 3 years.

(2) STAGGERED ROTATION.—Of the members first appointed to the Consortium under subsection (c), the National Health Board shall appoint 4 members to serve for a term of 3 years, 3 members to serve for a term of 2 years, and 4 members to serve for a term of 1 year.

(e) CHAIR.—The National Health Board shall designate an individual to serve as the chair of the Consortium.

SEC. 5010. ELIMINATING CLIA REQUIREMENT FOR CERTIFICATE OF WAIVER FOR SIMPLE LABORATORY EXAMINATIONS AND PROCEDURES.

(a) IN GENERAL.—Section 353 of the Public Health Service Act (42 U.S.C. 263a) is amended—

(1) in subsection (b), by inserting before the period at the end the following: "or unless the laboratory is exempt from the certificate requirement under subsection (d)(2)";

(2) by amending paragraph (2) of subsection (d) to read as follows:

"(2) EXEMPTION FROM CERTIFICATE REQUIREMENT FOR LABORATORIES PERFORMING ONLY SIMPLE EXAMINATIONS AND PROCEDURES.—A laboratory which performs only laboratory examinations and procedures described in paragraph (3) is not required to have in effect a certificate under this section."; and

(3) by striking paragraph (4) of subsection (d).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning after the date of the enactment of this Act.

SEC. 5012. ROLE OF ALLIANCES IN QUALITY ASSURANCE.

Each regional alliance and each corporate alliance shall—

(1) disseminate to consumers information related to quality and access to aid in their selection of plans in accordance with section 1325;

(2) disseminate information on the quality of health plans and health care providers contained in reports of the National Quality Management Council section 5005(d);

(3) ensure through negotiations with health plans that performance and quality standards are continually improved; and

(4) conduct educational programs in cooperation with regional quality foundations to assist consumers in using quality and other information in choosing health plans.

SEC. 5013. ROLE OF HEALTH PLANS IN QUALITY MANAGEMENT.

Each health plan shall—

(1) measure and disclose performance on quality measures used by—

(A) participating States in which the plan does business;

(B) regional alliances and corporate alliances that offer the plan; and

(C) the National Quality Management Council;

(2) furnish information required under subtitle B of this title and provide such other reports and information on the quality of care delivered by health care providers who are members of a provider network of the plan (as defined in section 1402(f)) as may be required under this Act; and

(3) maintain quality management systems that—

(A) use the national measures of quality performance developed by the National Quality Management Council under section 5003; and

(B) measure the quality of health care furnished to enrollees under the plan by all health care providers who are members of a provider network of the plan.

Subtitle B—Information Systems, Privacy, and Administrative Simplification

PART 1—HEALTH INFORMATION SYSTEMS

SEC. 5101. ESTABLISHMENT OF HEALTH INFORMATION SYSTEM.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the National Health Board shall develop and implement a health information system by which the Board shall collect, report, and regulate the collection and dissemination of the health care information described in subsection (e) pursuant to standards promulgated by the Board and (if applicable) consistent with policies established as part of the National Information Infrastructure Act of 1993.

(b) PRIVACY.—The health information system shall be developed and implemented in a manner that is consistent with the privacy and security standards established under section 5120.

(c) REDUCTION IN ADMINISTRATIVE COSTS.—The health information system shall be developed and implemented in a manner that is consistent with the objectives of reducing wherever practicable and appropriate—

(1) the costs of providing and paying for health care;

(2) the time, effort, and financial resources expended by persons to provide information to States and the Federal Government.

(d) USES OF INFORMATION.—The health care information described in subsection (e) shall be collected and reported in a manner that facilitates its use for the following purposes:

(1) Health care planning, policy development, policy evaluation, and research by Federal, State, and local governments and regional and corporate alliances.

(2) Establishing and monitoring payments for health services by the Federal Government, States, regional alliances, and corporate alliances.

(3) Assessing and improving the quality of health care.

(4) Measuring and optimizing access to health care.

(5) Evaluating the cost of specific clinical or administrative functions.

(6) Supporting public health functions and objectives.

(7) Improving the ability of health plans, health care providers, and consumers to coordinate, improve, and make choices about health care.

(8) Managing and containing costs at the alliance and plan levels.

(e) HEALTH CARE INFORMATION.—The health care information referred to in subsection (a) shall include data on—

(1) enrollment and disenrollment in health plans;

(2) clinical encounters and other items and services provided by health care providers;

(3) administrative and financial transactions and activities of participating States, regional alliances, corporate alliances, health plans, health care providers, employers, and individuals that are necessary to determine compliance with this Act or an Act amended by this Act;

(4) the characteristics of regional alliances, including the number, and demographic characteristics of eligible individuals residing in each alliance area;

(5) the characteristics of corporate alliances, including the number, and demographic characteristics of individuals who are eligible to be enrolled in each corporate alliance health plan and individuals with respect to whom a large employer has exercised an option under section 1311 to make ineligible for such enrollment;

(6) terms of agreement between health plans and the health care providers who are members of provider networks of the plans (as defined in section 1402(f));

(7) payment of benefits in cases in which benefits may be payable under a health plan and any other insurance policy or health program;

(8) utilization management by health plans and health care providers;

(9) the information collected and reported by the Board or disseminated by other individuals or entities as part of the National Quality Management Program under subtitle A;

(10) grievances filed against regional alliances, corporate alliances, and health plans and the resolutions of such grievances; and

(11) any other fact that may be necessary to determine whether a health plan or a health care provider has complied with a Federal statute pertaining to fraud or misrepresentation in the provision or purchasing of health care or in the submission of a claim for benefits or payment under a health plan.

SEC. 5102. ADDITIONAL REQUIREMENTS FOR HEALTH INFORMATION SYSTEM.

(a) CONSULTATION.—The health information system shall be developed in consultation with—

(1) Federal agencies that—

(A) collect health care information;

(B) oversee the collection of information or records management by other Federal agencies;

(C) directly provide health care services;

(D) provide for payments for health care services; or

(E) enforce a provision of this Act or any Act amended by this Act;

(2) the National Quality Management Council established under section 5002;

(3) participating States;

(4) regional alliances and corporate alliances;

(5) health plans;

(6) representatives of health care providers;

(7) representatives of employers;

(8) representatives of consumers of health care;

(9) experts in public health and health care information and technology; and

(10) representatives of organizations furnishing health care supplies, services, and equipment.

(b) COLLECTION AND TRANSMISSION REQUIREMENTS.—In establishing standards under section 5101, the National Health Board shall specify the form and manner in which individuals and entities are required to collect or transmit health care information for or to the Board. The Board also shall specify the frequency with which individuals and entities are required to transmit such information to the Board. Such specifications shall include, to the extent practicable—

(1) requirements for use of uniform paper forms containing standard data elements, definitions, and instructions for completion in cases where the collection or transmission of data in electronic form is not specified by the Board;

(2) requirements for use of uniform health data sets with common definitions to standardize the collection and transmission of data in electronic form;

(3) uniform presentation requirements for data in electronic form; and

(4) electronic data interchange requirements for the exchange of data among automated health information systems.

(c) PREEMPTION OF STATE "PEN & QUILL" LAWS.—A standard established by the National Health Board relating to the form in which medical or health plan records are required to be maintained shall supercede any contrary provision of State law, except where the Board determines that the provision is necessary to prevent fraud and abuse, with respect to controlled substances, or for other purposes.

SEC. 5103. ELECTRONIC DATA NETWORK.

(a) IN GENERAL.—As part of the health information system, the National Health Board shall oversee the establishment of an electronic data network consisting of regional centers that collect, compile, and transmit information.

(b) CONSULTATION.—The electronic data network shall be developed in consultation with—

(1) Federal agencies that—

(A) collect health care information;

(B) oversee the collection of information or records management by other Federal agencies;

(C) directly provide health care services;

(D) provide for payments for health care services; or

(E) enforce a provision of this Act or any Act amended by this Act;

(2) the National Quality Management Council established under section 5002;

(3) participating States;

(4) regional alliances and corporate alliances; and

(5) health plans.

(c) DEMONSTRATION PROJECTS.—The electronic data network shall be tested prior to full implementation through the establishment of demonstration projects.

(d) DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE INFORMATION.—The electronic data network may be used to disclose individually identifiable health information (as defined in section 5123(3)) to any individual or entity only in accordance with the health information system privacy standards promulgated by the National Health Board under section 5120.

SEC. 5104. UNIQUE IDENTIFIER NUMBERS.

(a) IN GENERAL.—As part of the health information system, the Board shall establish a system to provide for a unique identifier number for each—

(1) eligible individual;

(2) employer;

(3) health plan; and

(4) health care provider.

(b) Impermissible Data Links.—In establishing the system under subsection (a), the National Health Board shall ensure that a unique identifier number may not be used to connect individually identifiable health information (as defined in section 5123(3)) that is collected as part of the health information system or that otherwise may be accessed through the number with individually identifiable information from any other source, except in cases where the National Health Board determines that such connection is necessary to carry out a duty imposed on any individual or entity under this Act.

(c) Permissible Uses of Identifier.—The National Health Board shall by regulation establish the purposes for which a unique identifier number provided pursuant to this section may be used.

SEC. 5105. HEALTH SECURITY CARDS.

(a) Permissible Uses of Card.—A health security card that is issued to an eligible individual under section 1001(b) may be used by an individual or entity, in accordance with regulations promulgated by the Board, only for the purpose of providing or assisting the eligible individual in obtaining an item or service that is covered under—

(1) the applicable health plan in which the individual is enrolled (as defined in section 1902);

(2) a policy consisting of a supplemental health benefit policy (described in part 2 of subtitle E of title I), a cost sharing policy (described in such part), or both;

(3) a FEHBP supplemental plan (described in subtitle C of title VIII);

(4) a FEHBP medicare supplemental plan (described in such subtitle); or

(5) such other programs as the Board may specify.

(b) Form of Card and Encoded Information.—The National Health Board shall establish standards respecting the form of health security cards and the information to be encoded in electronic form on the cards. Such information shall include—

(1) the identity of the individual to whom the card is issued;

(2) the applicable health plan in which the individual is enrolled;

(3) any policy described in paragraph (2), (3), or (4) of subsection (a) in which the individual is enrolled; and

(4) any other information that the National Health Board determines to be necessary in order for the card to serve the purpose described in subsection (a).

(c) Unique Identifier Numbers.—The unique identifier number system developed by the National Health Board under section 5104 shall be used in encoding the information described in subsection (b).

(d) Registration of Card.—The Board shall take appropriate steps to register the card, the name of the card, and other indicia relating to the card as a trademark or service mark (as appropriate) under the Trademark Act of 1946. For purposes of this subsection, the "Trademark Act of 1946" refers to the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. et seq.).

(e) Reference to Crime.—For a provision relating to criminal penalties for misuse of a health security card or a unique identifier number, see section 5438.

SEC. 5106. TECHNICAL ASSISTANCE IN THE ESTABLISHMENT OF HEALTH INFORMATION SYSTEMS.

The National Health Board shall provide information and technical assistance to participating States, regional alliances, corporate alliances, health plans, and health care providers with respect to the establishment and operation of automated health information systems. Such assistance shall focus on—

(1) the promotion of community-based health information systems; and

(2) the promotion of patient care information systems that collect data at the point of care or as a by-product of the delivery of care.

PART 2—PRIVACY OF INFORMATION

SEC. 5120. HEALTH INFORMATION SYSTEM PRIVACY STANDARDS.

(a) Health Information System Standards.—Not later than 2 years after the date of the enactment of this Act, the National Health Board shall promulgate standards respecting the privacy of individually identifiable health information that is in the health information system described in part 1 of this subtitle. Such standards shall include standards concerning safeguards for the security of such information. The Board shall develop and periodically revise the standards in consultation with—

(1) Federal agencies that—

(A) collect health care information;

(B) oversee the collection of information or records management by other Federal agencies;

(C) directly provide health care services;

(D) provide for payments for health care services; or

(E) enforce a provision of this Act or any Act amended by this Act;

(2) the National Quality Management Council established under section 5002;

(3) participating States;

(4) regional alliances and corporate alliances;

(5) health plans; and

(6) representatives of consumers of health care.

(b) Information Covered.—The standards established under subsection (a) shall apply to individually identifiable health information collected for or by, reported to or by, or the dissemination of which is regulated by, the National Health Board under section 5101.

(c) Principles.—The standards established under subsection (a) shall incorporate the following principles:

(1) Unauthorized Disclosure.—All disclosures of individually identifiable health information by an individual or entity shall be unauthorized unless—

(A) the disclosure is by the enrollee identified in the information or whose identity can be associated with the information;

(B) the disclosure is authorized by such enrollee in writing in a manner prescribed by the Board;

(C) the disclosure is to Federal, State, or local law enforcement agencies for the purpose of enforcing this Act or an Act amended by this Act; or

(D) the disclosure otherwise is consistent with this Act and specific criteria governing disclosure established by the Board.

(2) Minimal disclosure.—All disclosures of individually identifiable health information shall be restricted to the minimum amount of information necessary to accomplish the purpose for which the information is being disclosed.

(3) Risk adjustment.—No individually identifiable health information may be provided by a health plan to a regional alliance or a corporate alliance for the purpose of setting premiums based on risk adjustment factors.

(4) Required safeguards.—Any individual or entity who maintains, uses, or disseminates individually identifiable health information shall implement administrative, technical, and physical safeguards for the security of such information.

(5) Right to know.—An enrollee (or an enrollee representative of the enrollee) has the right to know—

(A) whether any individual or entity uses or maintains individually identifiable health information concerning the enrollee; and

(B) for what purposes the information may be used or maintained.

(6) Right to access.—Subject to appropriate procedures, an enrollee (or an enrollee representative of the enrollee) has the right, with respect to individually identifiable health information concerning the enrollee that is recorded in any form or medium—

(A) to see such information;

(B) to copy such information; and

(C) to have a notation made with or in such information of any amendment or correction of such information requested by the enrollee or enrollee representative.

(7) Right to notice.—An enrollee and an enrollee representative have the right to receive a written statement concerning—

(A) the purposes for which individually identifiable health information provided to a health care provider, a health plan, a regional alliance, a corporate alliance, or the National Health Board may be used or disclosed by, or disclosed to, any individual or entity; and

(B) the right of access described in paragraph (6).

(8) Use of Unique Identifier.—When individually identifiable health information concerning an enrollee is required to accomplish the purpose for which information is being transmitted between or among the National Health Board, regional and corporate alliances, health plans, and health care providers, the transmissions shall use the unique identifier number provided to the enrollee pursuant to section 5104 in lieu of the name of the enrollee.

(9) Use for Employment Decisions.—Individually identifiable health care information may not be used in making employment decisions.

SEC. 5121. OTHER DUTIES WITH RESPECT TO PRIVACY.

(a) Research and Technical Support.—The National Health Board may sponsor—

(1) research relating to the privacy and security of individually identifiable health information;

(2) the development of consent forms governing disclosure of such information; and

(3) the development of technology to implement standards regarding such information.

(c) Education.—The National Health Board shall establish education and awareness programs—

(1) to foster adequate security practices by States, regional alliances, corporate alliances, health plans, and health care providers;

(2) to train personnel of public and private entities who have access to individually identifiable health information respecting the duties of such personnel with respect to such information; and

(3) to inform individuals and employers who purchase health care respecting their rights with respect to such information.

SEC. 5122. COMPREHENSIVE HEALTH INFORMATION PRIVACY PROTECTION ACT.

(a) In General.—Not later than 3 years after the date of the enactment of this Act, the National Health Board shall submit to the President and the Congress a detailed proposal for legislation to provide a comprehensive scheme of Federal privacy protection for individually identifiable health information.

(b) CODE OF FAIR INFORMATION PRACTICES.—The proposal shall include a Code of Fair Information Practices to be used to advise enrollees to whom individually identifiable health information pertains of their rights with respect to such information in an easily understood and useful form.

(c) ENFORCEMENT.—The proposal shall include provisions to enforce effectively the rights and duties that would be created by the legislation.

SEC. 5123. DEFINITIONS.

For purposes of this part:

(1) ENROLLEE.—The term "enrollee" means an individual who enrolls or has enrolled under a health plan. The term includes a deceased individual who was enrolled under a health plan.

(2) ENROLLEE REPRESENTATIVE.—The term "enrollee representative" means any individual legally empowered to make decisions concerning the provision of health care to an enrollee or the administrator or executor of the estate of a deceased enrollee.

(3) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term "individually identifiable health information" means any information, whether oral or recorded in any form or medium, that—

(A) identifies or can readily be associated with the identity of an enrollee; and

(B) relates to—

(i) the past, present, or future physical or mental health of the enrollee;

(ii) the provision of health care to the enrollee; or

(iii) payment for the provision of health care to the enrollee.

PART 3—INTERIM REQUIREMENTS FOR ADMINISTRATIVE SIMPLIFICATION

SEC. 5130. STANDARD BENEFIT FORMS.

(a) DEVELOPMENT.—Not later than 1 year after the date of the enactment of this Act, the National Health Board shall develop, promulgate, and publish in the Federal Register the following standard health care benefit forms:

(1) An enrollment and disenrollment form to be used to record enrollment and disenrollment in a health benefit plan.

(2) A clinical encounter record to be used by health benefit plans and health service providers.

(3) A claim form to be used in the submission of claims for benefits or payment under a health benefit plan.

(b) INSTRUCTIONS, DEFINITIONS, AND CODES.—Each standard form developed under subsection (a) shall include instructions for completing the form that—

(1) specifically define, to the extent practicable, the data elements contained in the form; and

(2) standardize any codes or data sets to be used in completing the form.

(c) REQUIREMENTS FOR ADOPTION OF FORMS.—

(1) HEALTH SERVICE PROVIDERS.—On or after the date that is 270 days after the publication of the standard forms developed under subsection (a), a health service provider that furnishes items or services in the United States for which payment may be made under a health benefit plan may not—

(A) maintain records of clinical encounters involving such items or services that are required to be maintained by the National Health Board in a paper form that is not the clinical encounter record promulgated by the Board; or

(B) submit any claim for benefits or payment for such services to such plan in a paper form that is not the claim form promulgated by the National Health Board.

(2) HEALTH BENEFIT PLANS.—On or after the date that is 270 days after the publication of the standard forms developed under subsection (a), a health benefit plan may not—

(A) record enrollment and disenrollment in a paper form that is not the enrollment and disenrollment form promulgated by the National Health Board;

(B) maintain records of clinical encounters that are required to be maintained by the National Health Board in a paper form that is not the clinical encounter record promulgated by the Board; or

(C) reject a claim for benefits or payment under the plan on the basis of the form or manner in which the claim is submitted if—

(i) the claim is submitted on the claim form promulgated by the National Health Board; and

(ii) the plan accepts claims submitted in paper form.

(d) DEFINITIONS.—For purposes of this subtitle:

(1) HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "health benefit plan" means, except as provided in subparagraphs (B) through (D), any public or private entity or program that provides for payments for health care services, including—

(i) a group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986); and

(ii) any other health insurance arrangement, including any arrangement consisting of a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract.

(B) PLANS EXCLUDED.—Such term does not include—

(i) accident-only, credit, or disability income insurance;

(ii) coverage issued as a supplement to liability insurance;

(iii) an individual making payment on the individual's own behalf (or on behalf of a relative or other individual) for deductibles, coinsurance, or services not covered under a health benefit plan; and

(iv) such other plans as the National Health Board may determine, because of the limitation of benefits to a single type or kind of health care, such as dental services or hospital indemnity plans, or other reasons should not be subject to the requirements of this section.

(C) PLANS INCLUDED.—Such term includes—

(i) workers compensation or similar insurance insofar as it relates to workers compensation medical benefits (as defined in section 10000(3)) provided by or through health plans; and

(ii) automobile medical insurance insofar as it relates to automobile insurance medical benefits (as defined in section 10100(2)) provided by or through health plans.

(D) TREATMENT OF DIRECT PROVISION OF SERVICES.—Such term does not include a Federal or State program that provides directly for the provision of health services to beneficiaries.

(2) HEALTH SERVICE PROVIDER.—The term "health service provider" includes a provider of services (as defined in section 1861(u) of the Social Security Act), physician, supplier, and other person furnishing health care services. Such term includes a Federal or State program that provides directly for the provision of health services to beneficiaries.

(e) INTERIM NATURE OF REQUIREMENTS.—The National Health Board may modify, update, or supercede any standard form or requirement developed, promulgated, or imposed under this section through the establishment of a standard under section 5101.

PART 4—GENERAL PROVISIONS

SEC. 5140. NATIONAL PRIVACY AND HEALTH DATA ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established an advisory council to be known as the National Privacy and Health Data Advisory Council.

(b) DUTIES.—The Council shall advise the National Health Board with respect its duties under this subtitle.

(c) NUMBER AND APPOINTMENT.—The Council shall be composed of 15 members appointed by the National Health Board. The members of the Council shall include—

(1) individuals representing the interests of consumers, employers, and other purchasers of health care;

(2) individuals representing the interests of health plans, health care providers, corporate alliances, regional alliances, public health agencies, and participating States; and

(3) individuals distinguished in the fields of data collection, data protection and privacy, law, ethics, medical and health services research, public health, and civil liberties and patient advocacy.

(d) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Council shall serve for a term of 3 years.

(2) STAGGERED ROTATION.—Of the members first appointed to the Council under subsection (c), the National Health Board shall appoint 5 members to serve for a term of 3 years, 5 members to serve for a term of 2 years, and 5 members to serve for a term of 1 year.

(3) SERVICE BEYOND TERM.—A member of the Council may continue to serve after the expiration of the term of the member until a successor is appointed.

(e) VACANCIES.—If a member of the Council does not serve the full term applicable under subsection (d), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(f) CHAIR.—The National Health Board shall designate an individual to serve as the chair of the Council.

(g) MEETINGS.—The Council shall meet not less than once during each discrete 4-month period and shall otherwise meet at the call of the National Health Board or the chair.

(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Council shall receive compensation for each day (including travel time) engaged in carrying out the duties of the Council. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) STAFF.—The National Health Board shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

(j) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, the Council shall continue in existence until otherwise provided by law.

SEC. 5141. CIVIL MONEY PENALTIES.

(a) VIOLATION OF HEALTH INFORMATION SYSTEM STANDARDS.—Any person who the Secretary of Health and Human Services determines—

(1) is required, but has substantially failed, to comply with a standard established by the National Health Board under section 5101 or 5120;

(2) has required the display of, has required the use of, or has used a health security card for any purpose other than a purpose described in section 5105(a); or

(3) has required the disclosure of, has required the use of, or has used a unique identifier number provided pursuant to section 5104 for any purpose that is not authorized by the National Health Board pursuant to such section

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $10,000 for each such violation.

(b) Standard Benefit Forms.—Any health service provider or health benefit plan that the Secretary of Health and Human Services determines is required, but has substantially failed, to comply with section 5130(c) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $10,000 for each such violation.

(c) Process.—The process for the imposition of a civil money penalty under the All-Payer Health Care Fraud and Abuse Control Program under part 1 of subtitle E of this title shall apply to a civil money penalty under this section in the same manner as such process applies to a penalty or proceeding under such program.

SEC. 5142. RELATIONSHIP TO OTHER LAWS.

(a) Court Orders.—Nothing in this title shall be construed to invalidate or limit the power or authority of any court of competent jurisdiction with respect to health care information.

(b) Public Health Reporting.—Nothing in this title shall be construed to invalidate or limit the authorities, powers, or procedures established under any law that provides for the reporting of disease, child abuse, birth, or death.

Subtitle C—Remedies and Enforcement

PART 1—REVIEW OF BENEFIT DETERMINATIONS FOR ENROLLED INDIVIDUALS

Subpart A—General Rules

SEC. 5201. HEALTH PLAN CLAIMS PROCEDURE.

(a) Definitions.—For purposes of this section—

(1) Claim.—The term "claim" means a claim for payment or provision of benefits under a health plan or a request for preauthorization of items or services which is submitted to a health plan prior to receipt of the items or services.

(2) Individual claimant.—The term "individual claimant" with respect to a claim means any individual who submits the claim to a health plan in connection with the individual's enrollment under the plan, or on whose behalf the claim is submitted to the plan by a provider.

(3) Provider claimant.—The term "provider claimant" with respect to a claim means any provider who submits the claim to a health plan with respect to items or services provided to an individual enrolled under the plan.

(b) General Rules Governing Treatment of Claims.—

(1) Adequate notice of disposition of claim.—In any case in which a claim is submitted in complete form to a health plan, the plan shall provide to the individual claimant and any provider claimant with respect to the claim a written notice of the plan's approval or denial of the claim within 30 days after the date of the submission of the claim. The notice to the individual claimant shall be written in language calculated to be understood by the typical individual enrolled under the plan and in a form which takes into account accessibility to the information by individuals whose primary language is not English. In the case of a denial of the claim, the notice shall be provided within 5 days after the date of the determination to deny the claim, and shall set forth the specific reasons for the denial. The notice of a denial shall include notice of the right to appeal the denial under paragraph (2). Failure by any plan to comply with the requirements of this paragraph with respect to any claim submitted to the plan shall be treated as approval by the plan of the claim.

(2) Plan's duty to review denials upon timely request.—The plan shall review its denial of the claim if an individual claimant or provider claimant with respect to the claim submits to the plan a written request for reconsideration of the claim after receipt of written notice from the plan of the denial. The plan shall allow any such claimant not less than 60 days, after receipt of written notice from the plan of the denial, to submit the claimant's request for reconsideration of the claim.

(3) Time limit for review.—The plan shall complete any review required under paragraph (2), and shall provide the individual claimant and any provider claimant with respect to the claim written notice of the plan's decision on the claim after reconsideration pursuant to the review, within 30 days after the date of the receipt of the request for reconsideration.

(4) De novo reviews.—Any review required under paragraph (2)—

(A) shall be de novo,

(B) shall be conducted by an individual who did not make the initial decision denying the claim and who is authorized to approve the claim, and

(C) shall include review by a qualified physician if the resolution of any issues involved requires medical expertise.

(c) Treatment of Urgent Requests to Plans for Preauthorization.—

(1) In general.—This subsection applies in the case of any claim submitted by an individual claimant or a provider claimant consisting of a request for preauthorization of items or services which is accompanied by an attestation that—

(A) failure to immediately provide the items or services could reasonably be expected to result in—

(i) placing the health of the individual claimant (or, with respect to an individual claimant who is a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

(ii) serious impairment to bodily functions, or

(iii) serious dysfunction of any bodily organ or part,

or

(B) immediate provision of the items or services is necessary because the individual claimant has made or is at serious risk of making an attempt to harm such individual claimant or another individual.

(2) Shortened time limit for consideration of requests for preauthorization.—Notwithstanding subsection (b)(1), a health plan shall approve or deny any claim described in paragraph (1) within 24 hours after submission of the claim to the plan. Failure by the plan to comply with the requirements of this paragraph with respect to the claim shall be treated as approval by the plan of the claim.

(3) Expedited exhaustion of plan remedies.—Any claim described in paragraph (1) which is denied by the plan shall be treated as a claim with respect to which all remedies under the plan provided pursuant to this section are exhausted, irrespective of any review provided under subsection (b)(2).

(4) Denial of previously authorized claims not permitted.—In any case in which a health plan approves a claim described in paragraph (1)—

(A) the plan may not subsequently deny payment or provision of benefits pursuant to the claim, unless the plan makes a showing of an intentional misrepresentation of a material fact by the individual claimant, and

(B) in the case of a violation of subparagraph (A) in connection with the claim, all remedies under the plan provided pursuant to this section with respect to the claim shall be treated as exhausted.

(d) Time Limit for Determination of Incompleteness of Claim.—For purposes of this section—

(1) any claim submitted by an individual claimant and accepted by a provider serving under contract with a health plan and any claim described in subsection (b)(1) shall be treated with respect to the individual claimant as submitted in complete form, and

(2) any other claim for benefits under the plan shall be treated as filed in complete form as of 10 days after the date of the submission of the claim, unless the plan provides to the individual claimant and any provider claimant, within such period, a written notice of any required matter remaining to be filed in order to complete the claim.

Any filing by the individual claimant or the provider claimant of additional matter requested by the plan pursuant to paragraph (2) shall be treated for purposes of this section as an initial filing of the claim.

(e) Additional Notice and Disclosure Requirements for Health Plans.—In the case of a denial of a claim for benefits under a health plan, the plan shall include, together with the specific reasons provided to the individual claimant and any provider claimant under subsection (b)(1)—

(1) if the denial is based in whole or in part on a determination that the claim is for an item or service which is not covered by the comprehensive benefit package or exceeds payment rates under the applicable alliance or State fee schedule, the factual basis for the determination,

(2) if the denial is based in whole or in part on exclusion of coverage with respect to services because the services are determined to comprise an experimental treatment or investigatory procedure, the medical basis for the determination and a description of the process used in making the determination, and

(3) if the denial is based in whole or in part on a determination that the treatment is not medically necessary or appropriate or is inconsistent with the plan's practice guidelines, the medical basis for the determination, the guidelines used in making the determination, and a description of the process used in making the determination.

(f) Waiver of Rights Prohibited.—A health plan may not require any party to waive any right under the plan or this Act as a condition for approval of any claim under the plan, except to the extent otherwise specified in a formal settlement agreement.

SEC. 5202. REVIEW IN REGIONAL ALLIANCE COMPLAINT REVIEW OFFICES OF GRIEVANCES BASED ON ACTS OR PRACTICES BY HEALTH PLANS.

(a) COMPLAINT REVIEW OFFICES.—

(1) IN GENERAL.—In accordance with rules which shall be prescribed by the Secretary of Labor, each State shall establish and maintain a complaint review office for each regional alliance established by such State. According to designations which shall be made by each State under regulations of the Secretary of Labor, the complaint review office for a regional alliance established by such State shall also serve as the complaint review office for corporate alliances operating in the State with respect to individuals who are enrolled under corporate alliance health plans maintained by such corporate alliances and who reside within the area of the regional alliance.

(2) REGIONAL ALLIANCES NOT ESTABLISHED BY STATES.—In the case of any regional alliance established in any State by the Secretary of Health and Human Services, the Secretary of Health and Human Services shall assume all duties and obligations of such State under this part in accordance with the applicable regulations of the Secretary of Labor under this part.

(b) FILINGS OF COMPLAINTS BY AGGRIEVED PERSONS.—In the case of any person who is aggrieved by—

(1) any act or practice engaged in by any health plan which consists of or results in denial of payment or provision of benefits under the plan or delay in the payment or provision of benefits, or

(2) any act or practice engaged in by any other plan maintained by a regional alliance or a corporate alliance which consists of or results in denial of payment or provision of benefits under a cost sharing policy described in section 1421(b)(2) or delay in the payment or provision of the benefits,

if the denial or delay consists of a failure to comply with the terms of the plan (including the provision of benefits in full when due in accordance with the terms of the plan), or with the applicable requirements of this Act, such person may file a complaint with the appropriate complaint review office.

(c) EXHAUSTION OF PLAN REMEDIES.—Any complaint including a claim to which section 5201 applies may not be filed until the complainant has exhausted all remedies provided under the plan with respect to the claim in accordance with such section.

(d) EXCLUSIVE MEANS OF REVIEW FOR PLANS MAINTAINED BY CORPORATE ALLIANCES.—Proceedings under sections 5203 and 5204 pursuant to complaints filed under subsection (b), and review under section 5205 of determinations made under section 5204, shall be the exclusive means of review of acts or practices described in subsection (b) which are engaged in by a corporate alliance health plan or by any plan maintained by a corporate alliance with respect to benefits under a cost sharing policy described in section 1421(b)(2).

(e) FORM OF COMPLAINT.—The complaint shall be in writing under oath or affirmation, shall set forth the complaint in a manner calculated to give notice of the nature of the complaint, and shall contain such information as may be prescribed in regulations of the Secretary of Labor.

(f) NOTICE OF FILING.—The complaint review office shall serve by certified mail a notice of the complaint (including the date, place, and circumstances of the alleged violation) on the person or persons alleged in the complaint to have committed the violation within 10 days after the filing of the complaint.

(g) TIME LIMITATION.—Complaints may not be brought under this section with respect to any violation later than one year after the date on which the violation occurs. This subsection shall not prevent the subsequent amending of a complaint.

SEC. 5203. INITIAL PROCEEDINGS IN COMPLAINT REVIEW OFFICES.

(a) ELECTIONS.—Whenever a complaint is brought to the complaint review office under section 5202(b), the complaint review office shall provide the complainant with an opportunity, in such form and manner as shall be prescribed in regulations of the Secretary of Labor, to elect one of the following:

(1) to forego further proceedings in the complaint review office and rely on remedies available in a court of competent jurisdiction, except with respect to any matter in the complaint with respect to which proceedings under this section and section 5204, and review under section 5205, are not under section 5202(d) the exclusive means of review,

(2) to submit the complaint as a dispute under the Early Resolution Program established under subpart B and thereby suspend further review proceedings under this section pending termination of proceedings under the Program, or

(3) in any case in which an election under paragraph (2) is not made, or such an election was made but resolution of all matters in the complaint was not obtained upon termination of proceedings pursuant to the election by settlement agreement or otherwise, to proceed with the complaint to a hearing in the complaint review office under section 5204 regarding the unresolved matters.

(b) EFFECT OF PARTICIPATION IN EARLY RESOLUTION PROGRAM.—Any matter in a complaint brought to the complaint review office which is included in a dispute which is timely submitted to the Early Resolution Program established under subpart B shall not be assigned to a hearing under this section unless the proceedings under the Program with respect to the dispute are terminated without settlement or resolution of the dispute with respect to such matter. Upon termination of any proceedings regarding a dispute submitted to the Program, the applicability of this section to any matter in a complaint which was included in the dispute shall not be affected by participation in the proceedings, except to the extent otherwise required under the terms of any settlement agreement or other formal resolution obtained in the proceedings.

SEC. 5204. HEARINGS BEFORE HEARING OFFICERS IN COMPLAINT REVIEW OFFICES.

(a) HEARING PROCESS.—

(1) ASSIGNMENT OF COMPLAINTS TO HEARING OFFICERS AND NOTICE TO PARTIES.—

(A) IN GENERAL.—In the case of an election under section 5203(a)(3)—

(i) the complaint review office shall assign the complaint, and each motion in connection with the complaint, to a hearing officer employed by the State in the office; and

(ii) the hearing officer shall have the power to issue and cause to be served upon the plan named in the complaint a copy of the complaint and a notice of hearing before the hearing officer at a place fixed in the notice, not less than 5 days after the serving of the complaint.

(B) QUALIFICATIONS FOR HEARING OFFICERS.—No individual may serve in a complaint review office as a hearing officer unless the individual meets standards which shall be prescribed by the Secretary of Labor. Such standards shall include experience, training, affiliations, diligence, actual or potential conflicts of interest, and other qualifications deemed relevant by the Secretary of Labor. At no time shall a hearing officer have any official, financial, or personal conflict of interest with respect to issues in controversy before the hearing officer.

(2) AMENDMENT OF COMPLAINTS.—Any such complaint may be amended by the hearing officer conducting the hearing, upon the motion of the complainant, in the hearing officer's discretion at any time prior to the issuance of an order based thereon.

(3) ANSWERS.—The party against whom the complaint is filed shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint.

(b) ADDITIONAL PARTIES.—In the discretion of the hearing officer conducting the hearing, any other person may be allowed to intervene in the proceeding and to present testimony.

(c) HEARINGS.—

(1) DE NOVO HEARING.—Each hearing officer shall hear complaints and motions de novo.

(2) TESTIMONY.—The testimony taken by the hearing officer shall be reduced to writing. Thereafter, the hearing officer, in his or her discretion, upon notice may provide for the taking of further testimony or hear argument.

(3) AUTHORITY OF HEARING OFFICERS.—The hearing officer may compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the hearing officer, an appropriate district court may issue an order requiring compliance with the subpoena and any failure to obey the order may be punished by the court as a contempt thereof. The hearing officer may also seek enforcement of the subpoena in a State court of competent jurisdiction.

(4) EXPEDITED HEARINGS.—Notwithstanding section 5203 and the preceding provisions of this section, upon receipt of a complaint containing a claim described in section 5201(c)(1), the complaint review office shall promptly provide the complainant with the opportunity to make an election under section 5203(a)(3) and assignment to a hearing on the complaint before a hearing officer. The complaint review office shall ensure that such a hearing commences not later than 24 hours after receipt of the complaint by the complaint hearing office.

(d) DECISION OF HEARING OFFICER.—

(1) IN GENERAL.—The hearing officer shall decide upon the preponderance of the evidence whether to decide in favor of the complainant with respect to each alleged act or practice. Each such decision—

(A) shall include the hearing officer's findings of fact, and

(B) shall constitute the hearing officer's final disposition of the proceedings.

(2) DECISIONS FINDING IN FAVOR OF COMPLAINANT.—

(A) IN GENERAL.—If the hearing officer's decision includes a determination that any party named in the complaint has engaged in or is engaged in an act or practice described in section 5202(b), the hearing officer shall issue and cause to be served on such party an order which requires such party—

(i) to cease and desist from such act or practice,

(ii) to provide the benefits due under the terms of the plan and to otherwise comply with the terms of the plan and the applicable requirements of this Act,

(iii) to pay to the complainant prejudgment interest on the actual costs incurred in obtaining the items and services at issue in the complaint, and

(iv) to pay to the prevailing complainant a reasonable attorney's fee, reasonable expert witness fees, and other reasonable costs relating to the hearing on the charges on which the complainant prevails.

(3) DECISIONS NOT IN FAVOR OF COMPLAINANT.—If the hearing officer's decision includes a determination that the party named in the complaint has not engaged in or is not engaged in an act or practice referred to in section 5202(b), the hearing officer—

(A) shall include in the decision a dismissal of the charge in the complaint relating to the act or practice, and

(B) upon a finding that such charge is frivolous, shall issue and cause to be served on the complainant an order which requires the complainant to pay to such party a reasonable attorney's fee, reasonable expert witness fees, and other reasonable costs relating to the proceedings on such charge.

(4) SUBMISSION AND SERVICE OF DECISIONS.—The hearing officer shall submit each decision to the complaint review office at the conclusion of the proceedings and the office shall cause a copy of the decision to be served on the parties to the proceedings.

(e) REVIEW.—

(1) IN GENERAL.—The decision of the hearing officer shall be final and binding upon all parties. Except as provided in paragraph (2), any party to the complaint may, within 30 days after service of the decision by the complaint review office, file an appeal of the decision with the Federal Health Plan Review Board under section 5205 in such form and manner as may be prescribed by such Board.

(2) EXCEPTION.—The decision in the case of an expedited hearing under subsection (c)(4) shall not be subject to review.

(f) COURT ENFORCEMENT OF ORDERS.—

(1) IN GENERAL.—If a decision of the hearing officer in favor of the complainant is not appealed under section 5205, the complainant may petition any court of competent jurisdiction for enforcement of the order. In any such proceeding, the order of the hearing officer shall not be subject to review.

(2) AWARDING OF COSTS.—In any action for court enforcement under this subsection, a prevailing complainant shall be entitled to a reasonable attorney's fee, reasonable expert witness fees, and other reasonable costs relating to such action.

SEC. 5205. REVIEW BY FEDERAL HEALTH PLAN REVIEW BOARD.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Secretary of Labor shall establish by regulation a Federal Health Plan Review Board (hereinafter in this subtitle referred to as the "Review Board"). The Review Board shall be composed of 5 members appointed by the Secretary of Labor from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Review Board under this subtitle. The Secretary of Labor shall prescribe such rules as are necessary for the orderly transaction of proceedings by the Review Board. Every official act of the Review Board shall be entered of record, and its hearings and records shall be open to the public.

(b) REVIEW PROCESS.—The Review Board shall ensure, in accordance with rules prescribed by the Secretary of Labor, that reasonable notice is provided for each appeal before the Review Board of a hearing officer's decision under section 5304, and shall provide for the orderly consideration of arguments by any party to the hearing upon which the hearing officer's decision is based. In the discretion of the Review Board, any other person may be allowed to intervene in the proceeding and to present written argument. The National Health Board may intervene in the proceeding as a matter of right.

(c) SCOPE OF REVIEW.—The Review Board shall review the decision of the hearing officer from which the appeal is made, except that the review shall be only for the purposes of determining—

(1) whether the determination is supported by substantial evidence on the record considered as a whole,

(2) in the case of any interpretation by the hearing officer of contractual terms (irrespective of the extent to which extrinsic evidence was considered), whether the determination is supported by a preponderance of the evidence,

(3) whether the determination is in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right, or

(4) whether the determination is without observance of procedure required by law.

(d) DECISION OF REVIEW BOARD.—The decision of the hearing officer as affirmed or modified by the Review Board (or any reversal by the Review Board of the hearing officer's final disposition of the proceedings) shall become the final order of the Review Board and binding on all parties, subject to review under subsection (e). The Review Board shall cause a copy of its decision to be served on the parties to the proceedings not later than 5 days after the date of the proceeding.

(e) REVIEW OF FINAL ORDERS.—

(1) IN GENERAL.—Not later than 60 days after the entry of the final order, any person aggrieved by any such final order under which the amount or value in controversy exceeds $10,000 may seek a review of the order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the complainant resides.

(2) FURTHER REVIEW.—Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that the judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(3) ENFORCEMENT DECREE IN ORIGINAL REVIEW.—If, upon appeal of an order under paragraph (1), the United States court of appeals does not reverse the order, the court shall have the jurisdiction to make and enter a decree enforcing the order of the Review Board.

(f) DETERMINATIONS.—Determinations made under this section shall be in accordance with the provisions of this Act, the comprehensive benefit package as provided by this Act, the rules and regulations of the National Health Board prescribed under this Act, and decisions of the National Health Board published under this Act.

(g) AWARDING OF ATTORNEYS' FEES AND OTHER COSTS AND EXPENSES.—In any proceeding before the Review Board under this section or any judicial proceeding under subsection (e), the Review Board or the court (as the case may be) shall award to a prevailing complainant reasonable costs and expenses (including a reasonable attorney's fee) on the causes on which the complainant prevails.

SEC. 5206. CIVIL MONEY PENALTIES.

(a) DENIAL OR DELAY IN PAYMENT OR PROVISION OF BENEFITS.—

(1) IN GENERAL.—The Secretary of Labor may assess a civil penalty against any health plan, or against any other plan in connection with benefits provided thereunder under a cost sharing policy described in section 1421(b)(2), for unreasonable denial or delay in the payment or provision of benefits thereunder, in an amount not to exceed—

(A) $25,000 per violation, or $75,000 per violation in the case of a finding of bad faith on the part of the plan, and

(B) in the case of a finding of a pattern or practice of such violations engaged in by the plan, $1,000,000 in addition to the total amount of penalties assessed under subparagraph (A) with respect to such violations.

For purposes of subparagraph (A), each violation with respect to any single individual shall be treated as a separate violation.

(2) CIVIL ACTION TO ENFORCE CIVIL PENALTY.—The Secretary of Labor may commence a civil action in any court of competent jurisdiction to enforce a civil penalty assessed under subsection (a).

(b) CIVIL PENALTIES FOR CERTAIN OTHER ACTIONS.—The Secretary of Labor may assess a civil penalty described in section 5412(b)(1) against any corporate alliance health plan, or against any other plan sponsored by a corporate alliance in connection with benefits provided thereunder under a cost sharing policy described in section 1421(b)(2), for any action described in section 5412(a). The Secretary of Labor may initiate proceedings to impose such penalty in the same manner as the Secretary of Health and Human Services may initiate proceedings under section 5412 with respect to actions described in section 5412(a).

Subpart B—Early Resolution Programs

SEC. 5211. ESTABLISHMENT OF EARLY RESOLUTION PROGRAMS IN COMPLAINT REVIEW OFFICES.

(a) ESTABLISHMENT OF PROGRAMS.—Each State shall establish and maintain an Early Resolution Program in each complaint review office in such State. The Program shall include—

(1) the establishment and maintenance of forums for mediation of disputes in accordance with this subpart, and

(2) the establishment and maintenance of such forums for other forms of alternative dispute resolution (including binding arbitration) as may be prescribed in regulations of the Secretary of Labor.

Each State shall ensure that the standards applied in Early Resolution Programs administered in such State which apply to any form of alternative dispute resolution described in paragraph (2) and which relate to time requirements, qualifications of facilitators, arbitrators, or other mediators, and confidentiality are at least equivalent to the standards which apply to mediation proceedings under this subpart.

(b) DUTIES OF COMPLAINT REVIEW OFFICES.—Each complaint review office in a State—

(1) shall administer its Early Resolution Program in accordance with regulations of the Secretary of Labor,

(2) shall, pursuant to subsection (a)(1)—

(A) recruit and train individuals to serve as facilitators for mediation proceedings under the Early Resolution Program from attorneys who have the requisite expertise for such service, which shall be specified in regulations of the Secretary of Labor,

(B) provide meeting sites, maintain records, and provide facilitators with administrative support staff, and

(C) establish and maintain attorney referral panels,

(3) shall ensure that, upon the filing of a complaint with the office, the complainant is adequately apprised of the complainant's options for review under this part, and

(4) shall monitor and evaluate the Program on an ongoing basis.

SEC. 5212. INITIATION OF PARTICIPATION IN MEDIATION PROCEEDINGS.

(a) Eligibility of Cases for Submission to Early Resolution Program.—A dispute may be submitted to the Early Resolution Program only if the following requirements are met with respect to the dispute:

(1) Nature of dispute.—The dispute consists of an assertion by an individual enrolled under a health plan of one or more claims against the health plan for payment or provision of benefits, or against any other plan maintained by the regional alliance or corporate alliance sponsoring the health plan with respect to benefits provided under a cost sharing policy described in section 1421(b)(2), based on alleged coverage under the plan, and a denial of the claims, or a denial of appropriate reimbursement based on the claims, by the plan.

(2) Nature of disputed claim.—Each claim consists of—

(A) a claim for payment or provision of benefits under the plan; or

(B) a request for information or documents the disclosure of which is required under this Act (including claims of entitlement to disclosure based on colorable claims to rights to benefits under the plan).

(b) Filing of Election.—A complainant with a dispute which is eligible for submission to the Early Resolution Program may make the election under section 5203(a)(2) to submit the dispute to mediation proceedings under the Program not later than 15 days after the date the complaint is filed with the complaint review office under subpart A.

(c) Agreement to Participate.—

(1) Election by claimant.—A complainant may elect participation in the mediation proceedings only by entering into a written agreement (including an agreement to comply with the rules of the Program and consent for the complaint review office to contact the health plan regarding the agreement), and by releasing plan records to the Program for the exclusive use of the facilitator assigned to the dispute.

(2) Participation by plans or health benefits contractors.—Each party whose participation in the mediation proceedings has been elected by a claimant pursuant to paragraph (1) shall participate in, and cooperate fully with, the proceedings. The claims review office shall provide such party with a copy of the participation agreement described in paragraph (1), together with a written description of the Program. Such party shall submit the copy of the agreement, together with its authorized signature signifying receipt of notice of the agreement, to the claims review office, and shall include in the submission to the claims review office a copy of the written record of the plan claims procedure completed pursuant to section 5201 with respect to the dispute and all relevant plan documents. The relevant documents shall include all documents under which the health plan is or was administered or operated, including copies of any insurance contracts under which benefits are or were provided and any fee or reimbursement schedules for health care providers.

SEC. 5213. MEDIATION PROCEEDINGS.

(a) Role of Facilitator.—In the course of mediation proceedings under the Early Resolution Program, the facilitator assigned to the dispute shall prepare the parties for a conference regarding the dispute and serve as a neutral mediator at such conference, with the goal of achieving settlement of the dispute.

(b) Preparations for Conference.—In advance of convening the conference, after identifying the necessary parties and confirming that the case is eligible for the Program, the facilitator shall analyze the record of the claims procedure conducted pursuant to section 5201 and any position papers submitted by the parties to determine if further case development is needed to clarify the legal and factual issues in dispute, and whether there is any need for additional information and documents.

(c) Conference.—Upon convening the conference, the facilitator shall assist the parties in identifying undisputed issues and exploring settlement. If settlement is reached, the facilitator shall assist in the preparation of a written settlement agreement. If no settlement is reached, the facilitator shall present the facilitator's evaluation, including an assessment of the parties' positions, the likely outcome of further administrative action or litigation, and suggestions for narrowing the issues in dispute.

(d) Time Limit.—The facilitator shall ensure that mediation proceedings with respect to any dispute under the Early Resolution Program shall be completed within 120 days after the election to participate. The parties may agree to one extension of the proceedings by not more than 30 days if the proceedings are suspended to obtain an agency ruling or to reconvene the conference in a subsequent session.

(e) Inapplicability of Formal Rules.—Formal rules of evidence shall not apply to mediation proceedings under the Early Resolution Program. All statements made and evidence presented in the proceedings shall be admissible in the proceedings. The facilitator shall be the sole judge of the proper weight to be afforded to each submission. The parties to mediation proceedings under the Program shall not be required to make statements or present evidence under oath.

(f) Representation.—Parties may participate pro se or be represented by attorneys throughout the proceedings of the Early Resolution Program.

(g) Confidentiality.—

(1) In general.—Under regulations of the Secretary of Labor, rules similar to the rules under section 574 of title 5, United States Code (relating to confidentiality in dispute resolution proceedings) shall apply to the mediation proceedings under the Early Resolution Program.

(2) Civil remedies.—The Secretary of Labor may assess a civil penalty against any person who discloses information in violation of the regulations prescribed pursuant to subsection (a) in the amount of three times the amount of the claim involved. The Secretary of Labor may bring a civil action to enforce such civil penalty in any court of competent jurisdiction.

SEC. 5214. LEGAL EFFECT OF PARTICIPATION IN MEDIATION PROCEEDINGS.

(a) Process Nonbinding.—Findings and conclusions made in the mediation proceedings of the Early Resolution Program shall be treated as advisory in nature and nonbinding. Except as provided in subsection (b), the rights of the parties under subpart A shall not be affected by participation in the Program.

(b) Resolution Through Settlement Agreement.—If a case is settled through participation in mediation proceedings under the Program, the facilitator shall assist the parties in drawing up an agreement which shall constitute, upon signature of the parties, a binding contract between the parties, which shall be enforceable under section 5215.

(c) Preservation of Rights of Non-Parties.—The settlement agreement shall not have the effect of waiving or otherwise affecting any rights to review under subpart A, or any other right under this Act or the plan, with respect to any person who is not a party to the settlement agreement.

SEC. 5215. ENFORCEMENT OF SETTLEMENT AGREEMENTS.

(a) Enforcement.—Any party to a settlement agreement entered pursuant to mediation proceedings under this subpart may petition any court of competent jurisdiction for the enforcement of the agreement, by filing in the court a written petition praying that the agreement be enforced. In such a proceeding, the order of the hearing officer shall not be subject to review.

(b) Court Review.—It shall be the duty of the court to advance on the docket and to expedite to the greatest possible extent the disposition of any petition filed under this section, with due deference to the role of settlement agreements under this part in achieving prompt resolution of disputes involving health plans.

(d) Awarding of Attorney's Fees and Other Costs and Expenses.—In any action by an individual enrolled under a health plan for court enforcement under this section, a prevailing plaintiff shall be entitled to reasonable costs and expenses (including a reasonable attorney's fee and reasonable expert witness fees) on the charges on which the plaintiff prevails.

PART 2—ADDITIONAL REMEDIES AND ENFORCEMENT PROVISIONS

SEC. 5231. JUDICIAL REVIEW OF FEDERAL ACTION ON STATE SYSTEMS.

(a) In General.—Any State or an alliance that is aggrieved by a determination by the National Health Board under subpart B of part 1 of subtitle F of title I shall be entitled to judicial review of such determination in accordance with this section.

(b) Judicial Review.—

(1) Jurisdiction.—The courts of appeals of the United States (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction to review a determination described in subsection (a), to affirm the determination, or to set it aside, in whole or in part. A judgment of a court of appeals in such an action shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(2) Petition for review.—A State or an alliance that desires judicial review of a determination described in subsection (a) shall, within 30 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State or alliance is located a petition for review of such determination. A copy of the petition shall be transmitted by the clerk of the court to the National Health Board, and the Board shall file in the court the record of the proceedings on which the determination or action was based, as provided in section 2112 of title 28, United States Code.

(3) Scope of review.—The findings of fact of the National Health Board, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Board to take further evidence, and the Board may make new or

modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

SEC. 5232. ADMINISTRATIVE AND JUDICIAL REVIEW RELATING TO COST CONTAINMENT.

There shall be no administrative or judicial review of any determination by the National Health Board respecting any matter under subtitle A of title VI.

SEC. 5233. CIVIL ENFORCEMENT.

Unless otherwise provided in this Act, the district courts of the United States shall have jurisdiction of civil actions brought by—

(1) the Secretary of Labor to enforce any final order of such Secretary or to collect any civil monetary penalty assessed by such Secretary under this Act; and

(2) the Secretary of Health and Human Services to enforce any final order of such Secretary or to collect any civil monetary penalty assessed by such Secretary under this Act.

SEC. 5234. PRIORITY OF CERTAIN BANKRUPTCY CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended to read as follows:

"(8) Eighth, allowed unsecured claims—

"(A) based upon any commitment by the debtor to the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Director of the Office of Thrift Supervision, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution;

"(B) for payments under subtitle B of title IV of the Health Security Act owed to a regional alliance (as defined in section 1301 of such Act);

"(C) for payments owed to a corporate alliance health plan under trusteeship of the Secretary of Labor under section 1395 of the Health Security Act; or

"(D) for assessments and related amounts owed to the Secretary of Labor under section 1397 of the Health Security Act.".

SEC. 5235. PRIVATE RIGHT TO ENFORCE STATE RESPONSIBILITIES.

The failure of a participating State to carry out a responsibility applicable to participating States under this Act constitutes a deprivation of rights secured by this Act for the purposes of section 1977 of the Revised Statutes of the United States (42 U.S.C. 1983). In an action brought under such section, the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law.

SEC. 5236. PRIVATE RIGHT TO ENFORCE FEDERAL RESPONSIBILITIES IN OPERATING A SYSTEM IN A STATE.

(a) IN GENERAL.—The failure of the Secretary of Health and Human Services to carry out a responsibility under section 1522 (relating to operation of an alliance system in a State) confers an enforceable right of action on any person who is aggrieved by such failure. Such a person may commence a civil action against the Secretary in an appropriate State court or district court of the United States.

(b) EXHAUSTION OF REMEDIES.—In an action under subsection (a), the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law.

(c) RELIEF.—In an action under subsection (a), if the court finds that a failure described in such subsection has occurred, the aggrieved person may recover compensatory and punitive damages and the court may order any other appropriate relief.

(d) ATTORNEY'S FEES.—In an action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

SEC. 5237. PRIVATE RIGHT TO ENFORCE RESPONSIBILITIES OF ALLIANCES.

(a) IN GENERAL.—The failure of a regional alliance or a corporate alliance to carry out a responsibility applicable to the alliance under this Act confers an enforceable right of action on any person who is aggrieved by such failure. Such a person may commence a civil action against the alliance in an appropriate State court or district court of the United States.

(b) EXHAUSTION OF REMEDIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), in an action under subsection (a) the court may not exercise jurisdiction until the aggrieved person has exhausted any administrative remedies that may be provided by law.

(2) NO EXHAUSTION REQUIRED.—In an action under subsection (a), the court shall exercise jurisdiction without regard to whether the aggrieved person has exhausted any administrative or other remedies that may be provided by law if the action relates to—

(A) whether the person is an eligible individual within the meaning of section 1001(c);

(B) whether the person is eligible for a premium discount under subpart A of part 1 of subtitle B of title VI;

(C) whether the person is eligible for a reduction in cost sharing under subpart D of part 3 of subtitle D of title I; or

(D) enrollment or disenrollment in a health plan.

(c) RELIEF.—In an action under subsection (a), if the court finds that a failure described in such subsection has occurred, the aggrieved person may recover compensatory and punitive damages and the court may order any other appropriate relief.

(d) ATTORNEY'S FEES.—In any action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

SEC. 5238. DISCRIMINATION CLAIMS.

(a) CIVIL ACTION BY AGGRIEVED PERSON.—

(1) IN GENERAL.—Any person who is aggrieved by the failure of a health plan to comply with section 1402(c) may commence a civil action against the plan in an appropriate State court or district court of the United States.

(2) STANDARDS.—The standards used to determine whether a violation has occurred in a complaint alleging discrimination under section 1402(c) shall be the standards applied under the Age Discrimination Act of 1973 (42 U.S.C. 6102 et seq.) and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(3) RELIEF.—In an action under paragraph (1), if the court finds that the health plan has failed to comply with section 1402(c), the aggrieved person may recover compensatory and punitive damages and the court may order any other appropriate relief.

(4) ATTORNEY'S FEES.—In any action under paragraph (1), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

(c) ACTION BY SECRETARY.—Whenever the Secretary of Health and Human Services finds that the health plan has failed to comply with section 1402(c), or with an applicable regulation issued under such section, the Secretary shall notify the plan. If within a reasonable period of time the health plan fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) terminate the participation of the health plan in an alliance; or

(3) take such other action as may be provided by law.

(d) ACTION BY ATTORNEY GENERAL.—When a matter is referred to the Attorney General under subsection (c)(1), the Attorney General may bring a civil action in a district court of the United States for such relief as may be appropriate, including injunctive relief. In a civil action under this section, the court—

(1) may grant any equitable relief that the court considers to be appropriate;

(2) may award such other relief as the court considers to be appropriate, including compensatory and punitive damages; and

(3) may, to vindicate the public interest when requested by the Attorney General, assess a civil money penalty against the health plan in an amount—

(A) not exceeding $50,000 for a first violation; and

(B) not exceeding $100,000 for any subsequent violation.

SEC. 5239. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS.

Federal payments to regional alliances under part 2 of subtitle C of title VI shall be treated as Federal financial assistance for purposes of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), section 303 of the Age Discrimination Act of 1975 (42 U.S.C. 6102), and section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

SEC. 5240. CIVIL ACTION BY ESSENTIAL COMMUNITY PROVIDER.

(a) IN GENERAL.—An electing essential community provider (as defined in section 1431(d)) who is aggrieved by the failure of a health plan to fulfill a duty imposed on the plan by section 1431 may commence a civil action against the plan in an appropriate State court or district court of the United States.

(b) RELIEF.—In an action under subsection (a), if the court finds that the health plan has failed to fulfill a duty imposed on the plan by section 1431, the electing essential community provider may recover compensatory damages and the court may order any other appropriate relief.

(c) ATTORNEY'S FEES.—In any action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee (including expert fees) as part of the costs, and the United States shall be liable for costs the same as a private person.

SEC. 5241. FACIAL CONSTITUTIONAL CHALLENGES.

(a) JURISDICTION.—The United States District Court for the District of Columbia shall have original and exclusive jurisdiction of any civil action brought to invalidate this Act or a provision of this Act on the ground of its being repugnant to the Constitution of the United States on its face and for every purpose. In any action described in this subsection, the district court may not grant any temporary order or preliminary injunction restraining the enforcement, operation, or execution of this Act or any provision of this Act.

(b) STATUTE OF LIMITATIONS.—An action described in subsection (a) shall be commenced not later than 1 year after the date of the enactment of this Act.

(c) CONVENING OF THREE-JUDGE COURT.—An action described in subsection (a) shall be heard and determined by a district court of three judges in accordance with section 2284 of title 28, United States Code.

(d) CONSOLIDATION.—When actions described in subsection (a) involving a common question of law or fact are pending before a district court, the court shall order all the actions consolidated.

(e) DIRECT APPEAL TO SUPREME COURT.—In any action described in subsection (a), an appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order in which the district court—

(1) holds this Act or any provision of this Act invalid; and

(2) makes a determination that its holding will materially undermine the application of the Act as whole.

(f) CONSTRUCTION.—This section does not limit—

(1) the right of any person—

(A) to a litigation concerning the Act or any portion of the Act; or

(B) to petition the Supreme Court for review of any holding of a district court by writ of certiorari at any time before the rendition of judgment in a court of appeals; or

(2) the authority of the Supreme Court to grant a writ of certiorari for the review described in paragraph (1)(B).

SEC. 5242. TREATMENT OF PLANS AS PARTIES IN CIVIL ACTIONS.

(a) IN GENERAL.—A health plan may sue or be sued under this Act as an entity. Service of summons, subpoena, or other legal process of a court or hearing officer upon a trustee or an administrator of any such plan in his capacity as such shall constitute service upon the plan. In a case where a plan has not designated in applicable plan documents an individual as agent for the service of legal process, service upon the Secretary of Health and Human Services (in the case of a regional alliance health plan) or the Secretary of Labor (in the case of a corporate alliance health plan) shall constitute such service. The Secretary, not later than 15 days after receipt of service under the preceding sentence, shall notify the administrator or any trustee of the plan of receipt of such service.

(b) OTHER PARTIES.—Any money judgment under this Act against a plan referred to in subsection (b) shall be enforceable only against the plan as an entity and shall not be enforceable against any other person unless liability against such person is established in his individual capacity under this Act.

SEC. 5243. GENERAL NONPREEMPTION OF EXISTING RIGHTS AND REMEDIES.

Nothing in this title shall be construed to deny, impair, or otherwise adversely affect a right or remedy available under law to any person on the date of the enactment of this Act or thereafter, except to the extent the right or remedy is inconsistent with this title.

Subtitle D—Medical Malpractice

PART 1—LIABILITY REFORM

SEC. 5301. FEDERAL TORT REFORM.

(a) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in section 5302, this part shall apply with respect to any medical malpractice liability action brought in any State or Federal court, except that this part shall not apply to a claim or action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the claim or action.

(2) PREEMPTION.—The provisions of this part shall preempt any State law to the extent such law is inconsistent with the limitations contained in such provisions. The provisions of this part shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle, places greater limitations on the amount of attorneys' fees that can be collected, or otherwise imposes greater restrictions than those provided in this part.

(3) EFFECT ON SOVEREIGN IMMUNITY AND CHOICE OF LAW OR VENUE.—Nothing in paragraph (2) shall be construed to—

(A) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(B) waive or affect any defense of sovereign immunity asserted by the United States;

(C) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(D) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(E) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(4) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this part shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

(b) DEFINITIONS.—In this subtitle, the following definitions apply:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of medical malpractice claims in a manner other than through medical malpractice liability actions.

(2) CLAIMANT.—The term "claimant" means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(4) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(5) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice liability action or a medical malpractice claim.

(6) MEDICAL MALPRACTICE LIABILITY ACTION.—The term "medical malpractice liability action" means a civil action brought in a State or Federal court against a health care provider or health care professional (regardless of the theory of liability on which the claim is based) in which the plaintiff alleges a medical malpractice claim.

(7) MEDICAL MALPRACTICE CLAIM.—The term "medical malpractice claim" means a claim in a civil action brought against a health care provider or health care professional in which a claimant alleges that injury was caused by the provision of (or the failure to provide) health care services, except that such term does not include—

(A) any claim based on an allegation of an intentional tort; or

(B) any claim based on an allegation that a product is defective that is brought against any individual or entity that is not a health care professional or health care provider.

SEC. 5302. PLAN-BASED ALTERNATIVE DISPUTE RESOLUTION MECHANISMS.

(a) APPLICATION TO MALPRACTICE CLAIMS UNDER PLANS.—In the case of any medical malpractice claim arising from the provision of (or failure to provide) health care services to an individual enrolled in a regional alliance plan or a corporate alliance plan, no medical malpractice liability action may be brought with respect to such claim until the final resolution of the claim under the alternative dispute resolution system adopted by the plan under subsection (b).

(b) ADOPTION OF MECHANISM BY PLANS.—Each regional alliance plan and corporate alliance plan shall—

(1) adopt at least one of the alternative dispute resolution methods specified under subsection (c) for the resolution of medical malpractice claims arising from the provision of health care services to individuals enrolled in the plan; and

(2) disclose to enrollees (and potential enrollees), in a manner specified by the regional alliance or the corporate alliance, the availability and procedures for consumer grievances under the plan, including the alternative dispute resolution method or methods adopted under this subsection.

(c) SPECIFICATION OF PERMISSIBLE ALTERNATIVE DISPUTE RESOLUTION METHODS.—

(1) IN GENERAL.—The National Health Board shall, by regulation, develop alternative dispute resolution methods for the use by regional alliance and corporate alliance plans in resolving medical malpractice claims under subsection (a). Such methods shall include at least the following:

(A) ARBITRATION.—The use of arbitration.

(B) MEDIATION.—The use of required mediation.

(C) EARLY OFFERS OF SETTLEMENT.—The use of a process under which parties are required to make early offers of settlement.

(2) STANDARDS FOR ESTABLISHING METHODS.—In developing alternative dispute resolution methods under paragraph (1), the National Health Board shall assure that the methods promote the resolution of medical malpractice claims in a manner that—

(A) is affordable for the parties involved;

(B) provides for timely resolution of claims;

(C) provides for the consistent and fair resolution of claims; and

(D) provides for reasonably convenient access to dispute resolution for individuals enrolled in plans.

(d) FURTHER REDRESS.—A plan enrollee dissatisfied with the determination reached as a result of an alternative dispute resolution method applied under this section may, after the final resolution of the enrollee's claim under the method, bring a cause of action to seek damages or other redress with respect to the claim to the extent otherwise permitted under State law.

SEC. 5303. REQUIREMENT FOR CERTIFICATE OF MERIT.

(a) REQUIRING SUBMISSION WITH COMPLAINT.—No medical malpractice liability action may be brought by any individual unless, at the time the individual brings the action (except as provided in subsection (b)(2)), the individual submits an affidavit—

(1) declaring that the individual (or the individual's attorney) has consulted and reviewed the facts of the action with a qualified medical specialist (as defined in subsection (c));

(2) including a written report by a qualified medical specialist that clearly identifies the individual and that includes the medical specialist's determination that, after a review of the medical record and other relevant material, there is a reasonable and meritorious cause for the filing of the action against the defendant; and

(3) on the basis of the qualified medical specialist's review and consultation, that the individual (or the individual's attorney) has concluded that there is a reasonable and meritorious cause for the filing of the action.

(b) EXTENSION IN CERTAIN INSTANCES.—

(1) IN GENERAL.—Subject to paragraph (2), subsection (a) shall not apply with respect to an individual who brings a medical malpractice liability action without submitting an affidavit described in such subsection if—

(A) the individual is unable to obtain the affidavit before the expiration of the applicable statute of limitations; or

(B) at the time the individual brings the action, the individual has been unable to obtain medical records or other information necessary to prepare the affidavit requested pursuant to any applicable law.

(2) DEADLINE FOR SUBMISSION WHERE EXTENSION APPLIES.—In the case of an individual who brings an action for which paragraph (1) applies, the action shall be dismissed unless the individual submits the affidavit described in subsection (a) not later than—

(A) in the case of an action for which subparagraph (A) of paragraph (1) applies, 90 days after bringing the action; or

(B) in the case of an action for which subparagraph (B) of paragraph (1) applies, 90 days after obtaining the information described in such subparagraph.

(c) QUALIFIED MEDICAL SPECIALIST DEFINED.—In subsection (a), a "qualified medical specialist" means, with respect to a defendant to a medical malpractice liability action, a health care professional who—

(1) is knowledgeable of, and has expertise in, the same specialty area of medical practice that is the subject of the action; and

(2) is reasonably believed by the individual bringing the action (or the individual's attorney)—

(A) to be knowledgeable in the relevant issues involved in the particular action,

(B) to practice (or to have practiced within the preceding 6 years) or to teach (or to have taught within the preceding 6 years) in the same area of health care or medicine that is at issue in the action, and

(C) to be qualified by experience or demonstrated competence in the subject of the case.

(d) SANCTIONS FOR SUBMITTING FALSE ALLEGATIONS.—Upon the motion of any party or its own initiative, the court in a medical malpractice liability action may impose a sanction on a party or the party's attorney (or both), including a requirement that the party reimburse the other party to the action for costs and reasonable attorney's fees, if any information contained in an affidavit described in subsection (a) is submitted without reasonable cause and is found to be untrue.

SEC. 5304. LIMITATION ON AMOUNT OF ATTORNEY'S CONTINGENCY FEES.

(a) IN GENERAL.—An attorney who represents, on a contingency fee basis, a plaintiff in a medical malpractice liability action may not charge, demand, receive, or collect for services rendered in connection with such action (including the resolution of the claim that is the subject of the action under any alternative dispute resolution) in excess of 33⅓ of the total amount recovered by judgment or settlement in such action.

(b) CALCULATION OF PERIODIC PAYMENTS.—In the event that a judgment or settlement includes periodic or future payments of damages, the amount recovered for purposes of computing the limitation on the contingency fee under subsection (a) shall be based on the cost of the annuity or trust established to make the payments. In any case in which an annuity or trust is not established to make such payments, such amount shall be based on the present value of the payments.

(c) CONTINGENCY FEE DEFINED.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 5305. REDUCTION OF AWARDS FOR RECOVERY FROM COLLATERAL SOURCES.

The total amount of damages recovered by a plaintiff in a medical malpractice liability action shall be reduced by the amount of any past or future payment which the claimant has received or for which the claimant is eligible on account of the same injury for which the damages are awarded, including payment under—

(1) Federal or State disability or sickness programs;

(2) Federal, State, or private health insurance programs;

(3) private disability insurance programs;

(4) employer wage continuation programs; and

(5) any other program, if the payment is intended to compensate the claimant for the same injury for which damages are awarded.

SEC. 5306. PERIODIC PAYMENT OF AWARDS.

At the request of any party to a medical malpractice liability action, the defendant shall not be required to pay damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on such schedule as the court considers appropriate, taking into account the periods for which the injured party will need medical and other services.

PART 2—OTHER PROVISIONS RELATING TO MEDICAL MALPRACTICE LIABILITY

SEC. 5311. ENTERPRISE LIABILITY DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—Not later than January 1, 1996, the Secretary of Health and Human Services shall establish a demonstration project under which the Secretary shall provide funds (in such amount as the Secretary considers appropriate) to one or more eligible States to demonstrate whether substituting liability for medical malpractice on the part of the health plan in which a physician participates for the personal liability of the physician will result in improvements in the quality of care provided under the plan, reductions in defensive medical practices, and better risk management.

(b) ELIGIBILITY OF STATE.—A State is eligible to participate in the demonstration project established under subsection (a) if the State submits an application to the Secretary (at such time and in such form as the Secretary may require) containing such information and assurances as the Secretary may require, including assurances that the State—

(1) has entered into an agreement with a health plan (other than a fee-for-service plan) operating in the State under which the plan assumes legal liability with respect to any medical malpractice claim arising from the provision of (or failure to provide) services under the plan by any physician participating in the plan;

(2) has provided that, under the law of the State, a physician participating in a plan that has entered into an agreement with the State under paragraph (1) may not be liable in damages or otherwise for such a claim and the plan may not require such physician to indemnify the plan for any such liability; and

(3) will provide the Secretary with such reports on the operation of the project as the Secretary may require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out demonstration projects under this section.

SEC. 5312. PILOT PROGRAM APPLYING PRACTICE GUIDELINES TO MEDICAL MALPRACTICE LIABILITY ACTIONS.

(a) ESTABLISHMENT.—Not later than 1 year after the Secretary of Health and Human Services determines that appropriate practice guidelines are available, the Secretary shall establish a pilot program under which the Secretary shall provide funds (in such amount as the Secretary considers appropriate) to one or more eligible States to determine the effect of applying practice guidelines in the resolution of medical malpractice liability actions.

(b) ELIGIBILITY OF STATE.—A State is eligible to participate in the pilot program established under subsection (a) if the State submits an application to the Secretary (at such time and in such form as the Secretary may require) containing—

(1) assurances that, under the law of the State, in the resolution of any medical malpractice liability action, it shall be a complete defense to any allegation that a party against whom the action is filed was negligent that, in the provision of (or the failure to provide) the services that are the subject of the action, the party followed the appropriate practice guideline established by the National Quality Management Program under subtitle A; and

(2) such other information and assurances as the Secretary may require.

(c) REPORTS TO CONGRESS.—Not later than 3 months after each year for which the pilot program established under subsection (a) is in effect, the Secretary shall submit a report to Congress describing the operation of the program during the previous year and containing such recommendations as the Secretary considers appropriate, including recommendations relating to revisions to the laws governing medical malpractice liability.

Subtitle E—Fraud and Abuse

PART 1—ESTABLISHMENT OF ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM

SEC. 5401. ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL PROGRAM.

(a) IN GENERAL.—Not later than January 1, 1996, the Secretary of Health and Human

Services (acting through the Office of the Inspector General of the Department of Health and Human Services) and the Attorney General shall establish a program—

(1) to coordinate the functions of the Attorney General, the Secretary, and other organizations with respect to the prevention, detection, and control of health care fraud and abuse,

(2) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States, and

(3) to facilitate the enforcement of this subtitle and other statutes applicable to health care fraud and abuse.

(b) COORDINATION WITH LAW ENFORCEMENT AGENCIES.—In carrying out the program under subsection (a), the Secretary and Attorney General shall consult with, and arrange for the sharing of data and resources with Federal, State and local law enforcement agencies, State Medicaid Fraud Control Units, and State agencies responsible for the licensing and certification of health care providers.

(c) COORDINATION WITH HEALTH ALLIANCES AND HEALTH PLANS.—In carrying out the program under subsection (a), the Secretary and Attorney General shall consult with, and arrange for the sharing of data with representatives of health alliances and health plans.

(d) AUTHORITIES OF ATTORNEY GENERAL, SECRETARY, AND INSPECTOR GENERAL.—In carrying out duties established under subsection (a), the Attorney General, the Secretary, and the Inspector General are authorized—

(1) to conduct, supervise, and coordinate audits, civil and criminal investigations, inspections, and evaluations relating to the program established under such subsection; and

(2) to have access (including on-line access as requested and available) to all records available to health alliances and health plans that relate to ongoing investigations or the imposition of sanctions under such program (subject to restrictions based on the confidentiality of certain information under subtitle B).

(e) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information or communications to the Secretary or Attorney General in conjunction with their performance of duties under this section, in the same manner as such section applies to information provided to organizations with a contract under part B of title XI of such Act.

(f) AUTHORIZATIONS OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary and the Attorney General for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated such additional amounts as may be necessary to enable the Secretary and the Attorney General to conduct investigations, audits, evaluations, and inspections of allegations of health care fraud and abuse and otherwise carry out the program established under subsection (a) in a fiscal year.

(g) USE OF POWERS UNDER INSPECTOR GENERAL ACT OF 1978.—In carrying out duties and responsibilities under the program established under subsection (a), the Inspector General is authorized to exercise all powers granted under the Inspector General Act of 1978 to the same manner and extent as provided in that Act.

(h) DEFINITIONS.—In this part and part 2—

(1) the term "Inspector General" means the Inspector General of the Department of Health and Human Services; and

(2) the term "Secretary" means Secretary of Health and Human Services.

SEC. 5402. ESTABLISHMENT OF ALL-PAYER HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States an account to be known as the "All-Payer Health Care Fraud and Abuse Control Account" (in this section referred to as the "Anti-Fraud Account "). The Anti-Fraud Account shall consist of such gifts and bequests as may be made as provided in paragraph (2) and such amounts as may be deposited in such Anti-Fraud Account as provided in subsection (b)(4) and title XI of the Social Security Act. It shall also include the following:

(A) All criminal fines imposed in cases involving a Federal health care offense (as defined in subsection (e)).

(B) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution).

(C) Administrative penalties and assessments imposed under titles XI, XVIII and XIX of the Social Security Act and section 5412 (except as otherwise provided by law).

(D) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

Any such funds received on or after the date of the enactment of this Act shall be deposited in the Anti-Fraud Account.

(2) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account, or any activity financed through the Anti-Fraud Account.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available without appropriation and until expended to assist the Secretary and Attorney General in carrying out the All-Payer Health Care Fraud and Abuse Control Program established under section 5401 (including the administration of the Program), and may be used to cover costs incurred in operating the Program, including—

(A) costs of prosecuting health care matters (through criminal, civil and administrative proceedings);

(B) costs of investigations (including equipment, salaries, administratively uncontrollable work, travel and training of law enforcement personnel);

(C) costs of financial and performance audits of health care programs and operations;

(D) costs of inspections and other evaluations.

(2) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(c) ANNUAL REPORT.—The Secretary and the Attorney General shall submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(d) FEDERAL HEALTH CARE OFFENSE DEFINED.—The term "Federal health care offense" means a violation of, or a criminal conspiracy to violate—

(1) sections 226, 668, 1033, or 1347 of title 18, United States Code;

(2) section 1128B of the Social Security Act;

(3) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of title 18, United States Code, if the violation or conspiracy relates to health care fraud;

(4) sections 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud;

(5) sections 301, 303(a)(2), or 303(b) or (e) of the Federal Food Drug and Cosmetic Act, if the violation or conspiracy relates to health care fraud.

SEC. 5403. USE OF FUNDS BY INSPECTOR GENERAL.

(a) REIMBURSEMENTS FOR INVESTIGATIONS.—

(1) IN GENERAL.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payor, or otherwise.

(2) CREDITING.—Funds received by such Office as reimbursement for costs of conducting investigations shall be deposited to the credit of such Office appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 365 days from the date of their deposit.

(3) EXCEPTION FOR FORFEITURES.—This subsection does not apply to investigative costs paid to such Office from the Health Care Asset Forfeiture Fund, which monies shall be deposited and expended in accordance with subsection (b).

(b) HHS OFFICE OF INSPECTOR GENERAL ASSET FORFEITURE PROCEEDS FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States the "HHS Office of Inspector General Asset Forfeiture Proceeds Fund," to be administered by the Inspector General, which shall be available to such Office without fiscal year limitation for expenses relating to the investigation of matters within the jurisdiction of such Office.

(2) DEPOSITS.—There shall be deposited in the Fund all proceeds from forfeitures that have been transferred to the Office of Inspector General from the Department of Justice Asset Forfeiture Fund under section 524(d)(1) of title 28, United States Code.

PART 2—APPLICATION OF FRAUD AND ABUSE AUTHORITIES UNDER THE SOCIAL SECURITY ACT TO ALL PAYERS

SEC. 5411. EXCLUSION FROM PARTICIPATION.

(a) MANDATORY EXCLUSION.—The Secretary shall exclude an individual or entity from participation in any applicable health plan if the individual or entity is described in section 1128(a) of the Social Security Act (relating to individuals and entities convicted of health care-related crimes or patient abuse).

(b) PERMISSIVE EXCLUSION.—The Secretary may exclude an individual or entity from participation in any applicable health plan if the individual or entity is described in section 1128(b) of the Social Security Act (other than paragraphs (6)(A), (6)(C), (6)(D), (10), or (13) of such section).

(c) NOTICE, EFFECTIVE DATE, AND PERIOD OF EXCLUSION.— (1) An exclusion under this section or section 5412(b)(3) shall be effective at such time and upon such reasonable notice to the public and to the individual or entity excluded as may be specified in regulations consistent with paragraph (2).

(2) Such an exclusion shall be effective with respect to services furnished to an individual on or after the effective date of the exclusion.

(3)(A) The Secretary shall specify, in the notice of exclusion under paragraph (1) and the written notice under section 5412 of this Act, the minimum period (or, in the case of an exclusion of an individual described in section 1128(b)(12) of the Social Security Act, the period) of the exclusion.

(B) In the case of a mandatory exclusion under subsection (a), the minimum period of exclusion shall be not less than 5 years.

(C) In the case of an exclusion of an individual described in paragraph (1), (2), or (3) of section 1128(b) of the Social Security Act, the period of exclusion shall be a minimum of 3 years, unless the Secretary determines that a longer period is necessary because of aggravating circumstances.

(D) In the case of an exclusion of an individual or entity described in paragraph (4) or (5) of sections 1128(b) of the Social Security Act, the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

(E) In the case of an exclusion of an individual or entity described in paragraph (6)(B) of section 1128(b) of the Social Security Act, the period of the exclusion shall be not less than 1 year.

(F) In the case of an exclusion of an individual described in paragraph (12) of section 1128(b) of the Social Security Act, the period of the exclusion shall be equal to the sum of—

(i) the length of the period in which the individual failed to grant the immediate access described in that paragraph, and

(ii) an additional period, not to exceed 90 days, set by the Secretary.

(d) NOTICE TO ENTITIES ADMINISTERING PUBLIC PROGRAMS FOR THE DELIVERY OF OR PAYMENT FOR HEALTH CARE ITEMS OR SERVICES.—(1) The Secretary shall exercise the authority under this section in a manner that results in an individual's or entity's exclusion from all applicable health plans for the delivery of or payment for health care items or services.

(2) The Secretary shall promptly notify each sponsor of an applicable health plan and each entity that administers a State health care program described in section 1128(h) of the Social Security Act of the fact and circumstances of each exclusion effected against an individual or entity under this section or under section 5412.

(e) NOTICE TO STATE LICENSING AGENCIES.—The provisions of section 1128(e) of the Social Security Act shall apply to this section in the same manner as such provisions apply to sections 1128 and 1128A of such Act.

(f) NOTICE, HEARING, AND JUDICIAL REVIEW.—(1) Subject to paragraph (2), any individual or entity that is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b) of the Social Security Act, and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g) of such Act, except that such action shall be brought in the Court of Appeals of the United States for the judicial circuit in which the individual or entity resides, or has a principal place of business, or, if the individual or entity does not reside or have a principal place of business within any such judicial circuit, in the United States Court of Appeals for the District of Columbia Circuit.

(2) Unless the Secretary determines that the health or safety of individuals receiving services warrants the exclusion taking effect earlier, any individual or entity that is the subject of an adverse determination based on paragraphs (3), (4), (5), (6), (7), (8), (9), or (14) of section 1128(b) of the Social Security Act, shall be entitled to a hearing by an administrative law judge (as provided under section 205(b) of the Social Security Act) on the determination before any exclusion based upon the determination takes effect. If a hearing is requested, the exclusion shall be effective upon the issuance of an order by the administrative law judge upholding the determination of the Secretary to exclude.

(3) The provisions of section 205(h) of the Social Security Act shall apply with respect to this section to the same extent as such provisions apply with respect to title II of such Act.

(g) APPLICATION FOR TERMINATION OF EXCLUSION.—(1) An individual or entity excluded (or directed to be excluded) from participation under this section or section 5412(b)(3) may apply to the Secretary, in the manner specified by the Secretary in regulations and at the end of the minimum period of exclusion (or, in the case of an individual or entity described in section 1128(b)(8), the period of exclusion) provided under this section and a such other times as the Secretary may provide, for termination of the exclusion.

(2) The Secretary may terminate the exclusion if the Secretary determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Secretary at the time of the exclusion, that—

(A) there is no basis under this section or section 5412(b)(3) for a continuation of the exclusion, and

(B) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

(3) The Secretary shall promptly notify each sponsor of an applicable health plan entity that administers a State health care program described in section 1128(h) of the Social Security Act of each termination of exclusion made under this subsection.

(h) CONVICTED DEFINED.—In this section, the term "convicted" has the meaning given such term in section 1128(i) of the Social Security Act.

(i) REQUEST FOR EXCLUSION.—The sponsor of any applicable health plan (including a State in the case of a regional alliance health plan and the Secretary of Labor in the case of a corporate alliance health plan) may request that the Secretary of Health and Human Services exclude an individual or entity with respect to actions under such a plan in accordance with this section.

SEC. 5412. CIVIL MONETARY PENALTIES.

(a) ACTIONS SUBJECT TO PENALTY.—Any person who is determined by the Secretary to have committed any of the following actions with respect to an applicable health plan shall be subject to a penalty in accordance with subsection (b):

(1) ACTIONS SUBJECT TO PENALTY UNDER MEDICARE, MEDICAID, AND OTHER SOCIAL SECURITY HEALTH PROGRAMS.—Any action that would subject the person to a penalty under paragraphs (1) through (12) of section 1128A of the Social Security Act if the action was taken with respect to title V, XVIII, XIX or XX of such Act.

(2) TERMINATION OF ENROLLMENT.—The termination of an individual's enrollment (including the refusal to re-enroll an individual) in violation of subtitle E of title I or State law.

(3) DISCRIMINATING ON BASIS OF MEDICAL CONDITION.—The engagement in any practice that would reasonably be expected to have the effect of denying or discouraging the initial or continued enrollment in a health plan by individuals whose medical condition or history indicates a need for substantial future medical services.

(4) INDUCING ENROLLMENT ON FALSE PRETENSES.—The engagement in any practice to induce enrollment in an applicable health plan through representations to individuals which the person knows or should know are false or fraudulent.

(5) PROVIDING INCENTIVES TO ENROLL.—The offer or payment of remuneration to any individual eligible to enroll in an applicable health plan that such person knows or should know is likely to influence such individual to enroll in a particular plan.

(b) PENALTIES DESCRIBED.—

(1) GENERAL RULE.—Any person who the Secretary determines has committed an action described in paragraphs (2) through (6) of subsection (a) shall be subject to a civil monetary penalty in an amount not to exceed $50,000 for each such determination.

(2) ACTIONS SUBJECT TO PENALTIES UNDER SOCIAL SECURITY ACT.—In the case of a person who the Secretary determines has committed an action described in paragraph (1) of subsection (a), the person shall be subject to the civil monetary penalty (together with any additional assessment) to which the person would be subject under section 1128A of the Social Security Act if the action on which the determination is based had been committed with respect to title V, XVIII, XIX or XX of such Act.

(3) DETERMINATIONS TO EXCLUDE PERMITTED.—In addition to any civil monetary penalty imposed under this subsection, the Secretary may make a determination in the same proceeding to exclude the person from participation in all applicable health plans for the delivery of or payment for health care items or services (in accordance with section 5411(c)).

(c) PROCEDURES FOR IMPOSITION OF PENALTIES.—

(1) APPLICABILITY OF PROCEDURES UNDER SOCIAL SECURITY ACT.—Except as otherwise provided in paragraphs (2) and (3), the provisions of subsections (c), (d), (e), (g), (j), (k), and (l) of section 1128A of the Social Security Act shall apply with respect to the imposition of penalties under this section in the same manner as such provisions apply with respect to the imposition of civil monetary penalties under section 1128A of such Act.

(2) LIMITATION ON TIME FOR ATTORNEY GENERAL TO ACT.—The first sentence of section 1128A(c) of the Social Security Act shall be applied with respect to civil monetary penalties under this section as if the reference in such section to "one year" was a reference to "60 days".

(3) AUTHORITY OF STATES TO IMPOSE PENALTIES.—If no proceeding to impose a civil monetary penalty under this section with respect to actions relating to a regional alliance health plan has been initiated (by either the Attorney General or the Secretary) within 120 days after the Secretary presents a case to the Attorney General for consideration of the imposition of such a penalty, the State in which the alliance is located may initiate proceedings to impose a civil monetary penalty under this section with respect

to the action in the same manner as the Secretary may initiate such proceedings.

(d) TREATMENT OF AMOUNTS RECOVERED.—Any amounts recovered under this section shall be paid to the Secretary and disposed of as follows:

(1) Such portions of the amounts recovered as is determined to have been improperly paid from an applicable health plan for the delivery of or payment for health care items or services shall be repaid to such plan.

(2) The remainder of the amounts recovered shall be deposited in the All-Payer Health Care Fraud and Abuse Control Account established under section 5402.

(e) NOTIFICATION OF LICENSING AUTHORITIES.—Whenever the Secretary's determination to impose a penalty, assessment, or exclusion under this section becomes final, the Secretary shall notify the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33) of the Social Security Act) that such a penalty, assessment, or exclusion has become final and the reasons therefor.

SEC. 5413. LIMITATIONS ON PHYSICIAN SELF-REFERRAL.

The provisions of section 1877 of the Social Security Act shall apply—

(1) to items and services (and payments and claims for payment for such items and services) furnished under any applicable health plan in the same manner as such provisions apply to designated health services (and payments and claims for payment for such services) under title XVIII of the Social Security Act; and

(2) to a State (with respect to an item or service furnished or payment made under a regional alliance health plan) and to the Secretary of Labor (with respect to a an item or service furnished or payment made under a corporate alliance health plan) in the same manner as such provisions apply to the Secretary.

SEC. 5414. CONSTRUCTION OF SOCIAL SECURITY ACT REFERENCES.

(a) INCORPORATION OF OTHER AMENDMENTS.—Any reference in this part to a provision of the Social Security Act shall be considered a reference to the provision as amended under title IV.

(b) EFFECT OF SUBSEQUENT AMENDMENTS.—Except as provided in subsection (a), any reference to a provision of the Social Security Act in this part shall be deemed to be a reference to such provision as in effect on the date of the enactment of this Act, and (except as Congress may otherwise provide) any amendments made to such provisions after such date shall not be taken into account in determining the applicability of such provisions to individuals and entities under this Act.

PART 3—AMENDMENTS TO ANTI-FRAUD AND ABUSE PROVISIONS UNDER THE SOCIAL SECURITY ACT

SEC. 5421. REFERENCE TO AMENDMENTS.

For provisions amending the anti-fraud and abuse provisions existing under the Social Security Act, see part 5 of subtitle A of title IV.

PART 4—AMENDMENTS TO CRIMINAL LAW

SEC. 5431. HEALTH CARE FRAUD.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health alliance, health plan, or other person, in connection with the delivery of or payment for health care benefits, items, or services;

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health alliance, health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title) such person shall be imprisoned for life or any term of years.

"(b) As used in this section, the terms 'health alliance' and 'health plan' have the meanings given those terms in title I of the Health Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 5432. FORFEITURES FOR VIOLATIONS OF FRAUD STATUTES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by inserting after paragraph (5) the following:

"(6) If the court determines that a Federal health care offense (as defined in section 5402(e) of the Health Security Act) is of a type that poses a serious threat to the health of any person or has a significant detrimental impact on the health care system, the court, in imposing sentence on a person convicted of that offense, shall order that person to forfeit property, real or personal, that—

"(A)(i) is used in the commission of the offense; or

"(ii) constitutes or is derived from proceeds traceable to the commission of the offense; and

"(B) is of a value proportionate to the seriousness of the offense.".

(b) PROCEEDS OF HEALTH CARE FRAUD FORFEITURES.—Section 524(c)(4)(A) of title 28, United States Code, is amended by inserting "all proceeds of forfeitures relating to Federal health care offenses (as defined in section 5402(e) of the Health Security Act), and" after "except".

SEC. 5433. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1033. False statements relating to health care matters

"(a) Whoever, in any matter involving a health alliance or health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the terms 'health alliance' and 'health plan' have the meanings given those terms in title I of the Health Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"1033. False statements relating to health care matters.".

SEC. 5434. BRIBERY AND GRAFT.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"§ 226. Bribery and graft in connection with health care

"(a) Whoever—

"(1) directly or indirectly, corruptly gives, offers, or promises anything of value to a health care official, or offers or promises a health care official to give anything of value to any other person, with intent—

"(A) to influence, or for or because of, any of the health care official's actions, decisions, or duties relating to a health alliance or health plan;

"(B) to influence such an official to commit or aid in the committing, or collude in or allow, any fraud, or make opportunity for the commission of any fraud, on a health alliance or health plan, or for or because of any such conduct on the part of such an official; or

"(C) to induce such an official to engage in any conduct in violation of the lawful duty of such official, or for or because of such conduct; or

"(2) being a health care official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to accept anything of value personally or for any other person or entity, the giving of which violates paragraph (1) of this subsection.

"(b) As used in this section—

"(1) the term 'health care official' means—

"(A) an administrator, officer, trustee, fiduciary, custodian, counsel, agent, or employee of any health care alliance or health plan;

"(B) an officer, counsel, agent, or employee, of an organization that provides services under contract to any health alliance or health plan;

"(C) an official or employee of a State agency having regulatory authority over any health alliance or health plan;

"(D) an officer, counsel, agent, or employee of a health care sponsor; and

"(2) the term 'health care sponsor' means any individual or entity serving as the sponsor of a health alliance or health plan for purposes of the Health Security Act, and includes the joint board of trustees or other similar body used by two or more employers to administer a health alliance or health plan for purposes of such Act.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"226. Bribery and graft in connection with health care.".

SEC. 5435. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense (as defined in section 5402(e) of the Health Security Act);".

SEC. 5436. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) A person who is privy to grand jury information concerning a health law violation—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any civil proceeding related to a Federal health care offense (as defined in section 5402(e) of the Health Security Act), or for use in connection with civil forfeiture under section 981(a)(1)(C) of this title.".

SEC. 5437. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"§ 668. Theft or embezzlement in connection with health care

"(a) Whoever embezzles, steals, willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, securities, premiums, credits, property, or other assets of a health alliance, health plan, or of any fund connected with such an alliance or plan, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) As used in this section, the terms 'health alliance' and 'health plan' have the meanings given those terms under title I of the Health Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"668. Theft or embezzlement in connection with health care.".

SEC. 5438. MISUSE OF HEALTH SECURITY CARD OR UNIQUE IDENTIFIER.

(a) IN GENERAL.—Chapter 33 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 716. Misuse of health security card or unique identifier

"Whoever—

"(1) requires the display of, requires the use of, or uses a health security card that is issued under section 1001(b) of the American Health Security Act for any purpose other than a purpose described in section 5105(a) of such Act; or

"(2) requires the disclosure of, requires the use of, or uses a unique identifier number provided pursuant to section 5104 of such Act for any purpose that is not authorized by the National Health Board pursuant to such section;

shall be fined under this title or imprisoned not more than 2 years, or both.".

(b) CLERICAL AMENDMENTS TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 33, United States Code, is amended—

(1) by amending the catchline to read as follows:

"CHAPTER 33—EMBLEMS, INSIGNIA, IDENTIFIERS, AND NAMES";

and

(2) by adding at the end the following new item:

"716. Misuse of health security card or unique identifier.".

(c) CLERICAL AMENDMENT TO TABLE OF CHAPTERS.—The item relating to chapter 33 in the table of chapters at the beginning of part 1 of title 18, United States Code, is amended to read as follows:

"33. Emblems, insignia, identifiers, and names .... **701".**

PART 5—AMENDMENTS TO CIVIL FALSE CLAIMS ACT

SEC. 5441. AMENDMENTS TO CIVIL FALSE CLAIMS ACT.

Section 3729 of title 31, United States Code, is amended—

(1) in subsection (a)(7), by inserting "or to a health plan," after "property to the Government,";

(2) in the matter following subsection (a)(7), by inserting "or health plan" before "sustains because of the act of that person,";

(3) at the end of the first sentence of subsection (a), by inserting "or health plan" before "sustains because of the act of the person.";

(4) in subsection (c)—

(A) by inserting "the term" after "section,"; and

(B) by adding at the end the following: "The term also includes any request or demand, whether under contract of otherwise, for money or property which is made or presented to a health plan." ; and

(5) by adding at the end the following:

"(f) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' has the meaning given such term under section 1400 of the Health Security Act.".

Subtitle F—McCarran-Ferguson Reform

SEC. 5501. REPEAL OF EXEMPTION FOR HEALTH INSURANCE.

(a) IN GENERAL.—Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013), known as the McCarran-Ferguson Act, is amended by adding at the end the following:

"(c) Notwithstanding that the business of insurance is regulated by State law, nothing in this Act shall limit the applicability of the following Acts to the business of insurance to the extent that such business relates to the provision of health benefits:

"(1) The Sherman Act (15 U.S.C. 1 et seq.).

"(2) The Clayton Act (15 U.S.C. 12 et seq.).

"(3) Federal Trade Commission Act (15 U.S.C. 41 et seq.).

"(4) The Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 21a et seq.), known as the Robinson-Patman Antidiscrimination Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the sixth month beginning after the date of the enactment of this Act.

TITLE VI—PREMIUM CAPS; PREMIUM-BASED FINANCING; AND PLAN PAYMENTS

TABLE OF CONTENTS OF TITLE

Sec. 6000. General definitions.

Subtitle A—Premium Caps

PART 1—REGIONAL ALLIANCE HEALTH EXPENDITURES

SUBPART A—COMPUTATION OF TARGETS AND ACCEPTED BIDS

Sec. 6001. Computation of regional alliance inflation factors.
Sec. 6002. Board determination of national per capita baseline premium target.
Sec. 6003. Determination of alliance per capita premium targets.
Sec. 6004. Alliance initial bidding and negotiation process.
Sec. 6005. State financial incentives.
Sec. 6006. Recommendations to eliminate regional variations in alliance targets due to variation in practice patterns; congressional consideration.
Sec. 6007. Reference to limitation on administrative and judicial review of certain determinations.

SUBPART B—PLAN AND PROVIDER PAYMENT REDUCTIONS TO MAINTAIN EXPENDITURES WITHIN TARGETS

Sec. 6011. Plan payment reduction.
Sec. 6012. Provider payment reduction.

PART 2—CORPORATE ALLIANCES HEALTH EXPENDITURES

Sec. 6021. Calculation of premium equivalents.
Sec. 6022. Termination of corporate alliance for excess increase in expenditures.

PART 3—TREATMENT OF SINGLE-PAYER STATES

Sec. 6031. Special rules for single-payer States.

PART 4—TRANSITION PROVISIONS

Sec. 6041. Monitoring prices and expenditures.

Subtitle B—Premium-Related Financing

PART 1—FAMILY PREMIUM PAYMENTS

SUBPART A—FAMILY SHARE

Sec. 6101. Family share of premium.
Sec. 6102. Amount of premium.
Sec. 6103. Alliance credit.
Sec. 6104. Premium discount based on income.
Sec. 6105. Excess premium credit.
Sec. 6106. Corporate alliance opt-in credit.
Sec. 6107. Family collection shortfall add-on.

SUBPART B—REPAYMENT OF ALLIANCE CREDIT BY CERTAIN FAMILIES

Sec. 6111. Repayment of alliance credit by certain families.
Sec. 6112. No liability for families employed full-time; reduction in liability for part-time employment.
Sec. 6113. Limitation of liability based on income.
Sec. 6114. Special treatment of certain retirees and qualified spouses and children.
Sec. 6115. Special treatment of certain medicare beneficiaries.

PART 2—EMPLOYER PREMIUM PAYMENTS

SUBPART A—REGIONAL ALLIANCE EMPLOYERS

Sec. 6121. Employer premium payment required.
Sec. 6122. Computation of base employment monthly premium.
Sec. 6123. Premium discount for certain employers.
Sec. 6124. Payment adjustment for large employers electing coverage in a regional alliance.
Sec. 6125. Employer collection shortfall add-on.
Sec. 6126. Application to self-employed individuals.

SUBPART B—CORPORATE ALLIANCE EMPLOYERS

Sec. 6131. Employer premium payment required.

Subtitle C—Payments to Regional Alliance Health Plans

Sec. 6201. Computation of blended plan per capita payment amount.
Sec. 6202. Computation of plan bid, AFDC, and SSI proportions.

SEC. 6000. GENERAL DEFINITIONS.

(a) DEFINITIONS RELATING TO BIDS.—In this title:

(1) ACCEPTED BID.—The term "accepted bid" means the bid which is agreed to between a regional alliance health plan and a regional alliance for coverage of the comprehensive benefit package in the alliance area under part 1.

(2) FINAL ACCEPTED BID.—The term "final accepted bid" means the accepted bid, taking into account any voluntary reduction in such bid made under section 6004(e).

(3) WEIGHTED AVERAGE ACCEPTED BID.—The term "weighted average accepted bid" means, for a regional alliance for a year, the average of the accepted bids for all regional alliance health plans offered by such alliance, weighted to reflect the relative enrollment of regional alliance eligible individuals among such plans.

(4) REDUCED WEIGHTED AVERAGE ACCEPTED BID.—The term "reduced weighted average accepted bid", for a health plan offered by a regional alliance for a year, is the lesser of—

(A) the weighted average accepted bid for the regional alliance for the year (determined using the final accepted bids as the accepted bids), or

(B) the regional alliance per capita target for the year.

(b) WEIGHTED AVERAGE PREMIUM.—In this title, the term "weighted average premium" means, for a class of family enrollment and with respect to a regional alliance for a year, the product of—

(1) reduced weighted average accepted bid (as defined in subsection (a)(4));

(2) the uniform per capita conversion factor (established under section 1341(b)) for the alliance; and

(3) the premium class factor established by the Board for that class under section 1531.

(c) INCORPORATION OF OTHER DEFINITIONS.—Except as otherwise provided in this title, the definitions of terms in subtitle J of title I of this Act shall apply to this title.

Subtitle A—Premium Caps

PART 1—REGIONAL ALLIANCE HEALTH EXPENDITURES

Subpart A—Computation of Targets and Accepted Bids

SEC. 6001. COMPUTATION OF REGIONAL ALLIANCE INFLATION FACTORS.

(a) COMPUTATION.—

(1) IN GENERAL.—This section provides for the computation of a factors that limit the growth of premiums for the comprehensive benefit package in regional alliance health plans. The Board shall compute and publish, not later than March 1 of each year (beginning with 1995) the regional alliance inflation factor (as defined in paragraph (2)) for each regional alliance for the following year.

(2) REGIONAL ALLIANCE INFLATION FACTOR.—In this part, the term "regional alliance inflation factor" means, for a year for a regional alliance—

(A) the general health care inflation factor for the year (as defined in paragraph (2));

(B) adjusted under subsection (c) (to take into account material changes in the demographic and socio-economic characteristics of the population of alliance eligible individuals);

(C) decreased by the percentage adjustment (if any) provided with respect to the regional alliance under subsection (d) (relating to adjustment for previous excess expenditures); and

(D) in the case of the year 2001, increased by a factor that the Board determines to reflect the ratio of (i) the actuarial value of the increase in benefits provided in that year under the comprehensive benefit package to (ii) the actuarial value of the benefits that would have been in such package in the year without regard to the increase.

(3) GENERAL HEALTH CARE INFLATION FACTOR.—

(A) 1996 THROUGH 1999 of this part, the term "general health care inflation factor", for a year, means the percentage increase in the CPI (as specified under subsection (b)) for the year plus the following:

(i) For 1996, 1.5 percentage points.

(ii) For 1997, 1.0 percentage points.

(iii) For 1998, 0.5 percentage points.

(iv) For 1999, 0 percentage points.

(B) YEARS AFTER 1999.—

(i) RECOMMENDATION TO CONGRESS.—In 1998, the Board shall submit to Congress recommendations on what the general health care inflation factor should be for years beginning with 2000.

(ii) FAILURE OF CONGRESS TO ACT.—If the Congress fails to enact a law specifying the general health care inflation factor for a year after 1999, the Board, in January of the year before the year involved, shall compute such factor for the year involved. Such factor shall be the product of the factors described in subparagraph (C) for that fiscal year.

(C) FACTOR.—The factor described in this subparagraph for a year is 1 plus the following:

(i) CPI.—The percentage change in the CPI for the year, determined based upon the percentage change in the average of the CPI for the 12-month period ending with August 31 of the previous fiscal year over such average for the preceding 12-month period.

(ii) POPULATION.—The average annual percentage change in the population of the United States during the 3-year period ending in the calendar year, determined by the Board based on data supplied by the Bureau of the Census.

(iii) REAL GDP PER CAPITA.—The average annual percentage change in the real, per capita gross domestic product of the United States during the 3-year period ending in the preceding calendar year, determined by the Board based on data supplied by the Department of Commerce.

(b) PROJECTION OF INCREASE IN CPI.—

(1) IN GENERAL.—For purposes of this section, the Board shall specify, as of the time of publication, the annual percentage increase in the CPI (as defined in section 1902(9)) for the following year.

(2) DATA TO BE USED.—Such increase shall be the projection of the CPI contained in the budget of the United States transmitted by the President to the Congress in the year.

(c) SPECIAL ADJUSTMENT FOR MATERIAL CHANGES IN DEMOGRAPHIC CHARACTERISTICS OF POPULATION.—

(1) ADJUSTMENT FOR CORPORATE ALLIANCE OPT-IN.—

(A) IN GENERAL.—The Board shall develop a method for adjusting the regional alliance inflator factor for each regional alliance in order to reflect material changes in the demographic characteristics of regional alliance eligible individuals residing in the alliance area (in comparison with such characteristics for the previous year) as a result of one or more corporate alliances terminating an election under section 1313.

(B) BASIS FOR ADJUSTMENTS.—Adjustments under this paragraph (whether an increase or decrease) shall be based on the characteristics and factors used for making adjustments in payments under section 6124.

(2) ADJUSTMENT FOR REGIONAL TREND COMPARED TO NATIONAL TREND.—

(A) IN GENERAL.—The Board shall develop a method for adjusting the regional alliance inflator factor for each regional alliance in order to reflect material changes in the demographic characteristics (including at least age, gender, and socio-economic status) and health status of regional alliance eligible individuals residing in the alliance area in comparison with the average change in such characteristics for such individuals residing in the United States. The adjustment under this paragraph shall be for changes not taken into account in the adjustment under paragraph (1).

(B) NEUTRAL ADJUSTMENT.—Such method (and any annual adjustment under this paragraph) shall be designed to result in the adjustment effected under this paragraph for a year not changing the weighted average of the regional alliance inflation factors.

(3) APPLICATION.—The Board shall provide, on an annual basis, for an adjustment of regional alliance inflation factors under this subsection using such method.

(d) ADJUSTMENT FOR PREVIOUS EXCESS RATE OF INCREASE IN EXPENDITURES.—

(1) IN GENERAL.—If actual weighted average accepted bid for a regional alliance for a year (as determined by the Board based on actual enrollment in the first month of the year) exceeds the regional alliance per capita premium target (determined under section 6003(a)) for the year, then the regional alliance inflation factor—

(A) for the succeeding year shall be reduced by the product of—

(i) ½ of the excess percentage (described in paragraph (3)) for the previous year, and

(ii) the adjustment factor (described in paragraph (2)(A)) for such succeeding year; and

(B) in the second succeeding year shall be reduced by the product of—

(i) ½ of such excess percentage, and

(ii) the adjustment factor (described in paragraph (2)(B)) for such second succeeding year.

(2) ADJUSTMENT FACTORS.—

(A) SUCCEEDING YEAR.—With respect to a succeeding year, the adjustment factor described in this subparagraph is 1 plus the regional alliance inflation factor for such year.

(B) SECOND SUCCEEDING YEAR.—With respect to a second succeeding year, the adjustment factor described in this subparagraph is the product of—

(i) 1 plus the regional alliance inflation factor for such year, and

(ii) 1 plus the regional alliance inflation factor for the previous year.

(C) NO ADJUSTMENT IN FACTOR CONSIDERED.—For purposes of subparagraphs (A) and (B), the regional alliance inflation factor for a year shall not take into account any adjustment under this subsection.

(3) EXCESS PERCENTAGE.—The excess percentage described in this paragraph for a year is the percentage by which—

(A) actual weighted average accepted bid (referred to in paragraph (1)) for a regional alliance for the year, exceeds

(B) the regional alliance per capita premium target (determined under section 6003(a)) for the year.

(e) CONSULTATION PROCESS.—The Board shall have a process for consulting with representatives of States and regional alliances before establishing the regional alliance inflation factors for each year under this section.

SEC. 6002. BOARD DETERMINATION OF NATIONAL PER CAPITA BASELINE PREMIUM TARGET.

(a) IN GENERAL.—Not later than January 1, 1995, the Board shall determine a national per capita baseline premium target. Such target is equal to—

(1) the national average per capita current coverage health expenditures (determined under subsection (b)),

(2) updated under subsection (c).

(b) DETERMINATION OF NATIONAL AVERAGE PER CAPITA CURRENT COVERAGE HEALTH EXPENDITURES.—

(1) IN GENERAL.—The Board shall determine the national average per capita current coverage health expenditures equal to—

(A) total covered current health care expenditures (described in paragraph (2)), divided by

(B) the estimated population in the United States of regional alliance eligible individuals (as determined by the Board as of the 1993 under subsection (c)(3)) for whom such expenditures were determined.

The population under subparagraph (B) shall not include SSI recipients or AFDC recipients.

(2) CURRENT HEALTH CARE EXPENDITURES.—For purposes of paragraph (1)(A), the Board shall determine current health care expenditures as follows:

(A) DETERMINATION OF TOTAL EXPENDITURES.—The Board shall first determine the amount of total payments made for items and services included in the comprehensive benefit package (determined without regard to cost sharing) in the United States in 1993.

(B) REMOVAL OF CERTAIN EXPENDITURES NOT TO BE COVERED THROUGH REGIONAL ALLIANCES.—The amount so determined shall be decreased by the proportion of such amount that is attributable to any of the following:

(i) Medicare beneficiaries (other than such beneficiaries who are regional alliance eligible individuals).

(ii) AFDC recipients or SSI recipients.

(iii) Expenditures which are paid for through workers' compensation or automobile or other liability insurance.

(iv) Expenditures by parties (including the Federal Government) that the Board determines will not be payable by regional alliance health plans for coverage of the comprehensive benefit package under this Act.

(C) ADDITION OF PROJECTED EXPENDITURES FOR UNINSURED AND UNDERINSURED INDIVIDUALS.—The amount so determined and adjusted shall be increased to take into account increased utilization of, and expenditures for, items and services covered under the comprehensive benefit package likely to occur, as a result of coverage under a regional alliance health plan of individuals who, as of 1993 were uninsured or underinsured with respect to the comprehensive benefit package. In making such determination, such expenditures shall be based on the estimated average cost for such services in 1993 (and not on private payment rates established for such services). In making such determination, the estimated amount of uncompensated care in 1993 shall be removed.

(D) ADDITION OF HEALTH PLAN AND ALLIANCE COSTS OF ADMINISTRATION.—

(i) IN GENERAL.—The amount so determined and adjusted shall be increased by an estimated percentage (determined by the Board, but no more than 15 percent) that reflects the proportion of premiums that are required for health plan and regional alliance administration (including regional alliance costs for administration of income-related premium discounts and cost sharing reductions) and for State premium taxes (which taxes shall be limited to such amounts in 1993 as are attributable to the health benefits to be included in the comprehensive benefit package).

(E) DECREASE FOR COST SHARING.—The amount so determined and adjusted shall be decreased by a percentage that reflects (i) the estimated average percentage of total amounts payable for items and services covered under the comprehensive benefit package that will be payments in the form of cost sharing under a high cost sharing plan, and (ii) the percentage reduction in utilization estimated to result from the application of high cost sharing.

(3) SPECIAL RULES.—

(A) BENEFITS USED.—The determinations under this section shall be based on the comprehensive benefit package as in effect in 1996.

(B) ASSUMING NO CHANGE IN EXPENDITURE PATTERN.—The determination under paragraph (2) shall be made without regard to any change in the pattern of expenditures that may result from the enrollment of AFDC recipients and SSI recipients in regional alliance health plans.

(C) ELIGIBLE INDIVIDUALS.—In this subsection, the determination of who are regional alliance eligible individuals under this subsection shall be made as though this Act was fully in effect in each State as of 1993.

(c) UPDATING.—

(1) IN GENERAL.—Subject to paragraph (3), the Board shall update the amount determined under subsection (b)(1) for each of 1994, 1995, and 1996 by the appropriate update factor described in paragraph (2) for the year.

(2) APPROPRIATE UPDATE FACTOR.—In paragraph (1), the appropriate update factor for a year is 1 plus the annual percentage increase for the year (as determined by the Administrator of the Health Care Financing Administration, based on actual or projected information) in private sector health care spending for items and services included in the comprehensive benefit package (as of 1996).

(3) LIMIT.—The total, cumulative update under this subsection shall not exceed 15 percent.

SEC. 6003. DETERMINATION OF ALLIANCE PER CAPITA PREMIUM TARGETS.

(a) INITIAL DETERMINATION.—Not later than January 1, 1995, the Board shall determine, for each regional alliance for 1996, a regional alliance per capita premium target. Such target shall equal—

(1) the national per capita baseline premium target (determined by the Board under section 6002),

(2) updated by the regional alliance inflation factor (as determined under section 6001(a)(2)) for 1996, and

(3) adjusted by the adjustment factor for the regional alliance (determined under subsection (c)).

(b) SUBSEQUENT DETERMINATIONS.—

(1) DETERMINATION.—Not later than March 1 of each year (beginning with 1996) the Board shall determine, for each regional alliance for the succeeding year a regional alliance per capita premium target.

(2) GENERAL RULE.—Subject to paragraph (3), such target shall equal—

(A) the regional alliance per capita target determined under this section for the regional alliance for the previous year, and

(B) updated by the regional alliance inflation factor (as determined in section 6001(a)) for the year.

(c) ADJUSTMENT FACTORS FOR REGIONAL ALLIANCES FOR INITIAL DETERMINATION.—

(1) IN GENERAL.—The Board shall establish an adjustment factor for each regional alliance in a manner consistent with this subsection.

(2) CONSIDERATIONS.—In establishing the factor for each regional alliance, the Board shall consider, using information of the type described in paragraph (3), the difference between the national average of the factors taken into account in determining the national per capita baseline premium target and such factors for the regional alliance, including variations in health care expenditures and in rates of uninsurance and underinsurance in the different alliance areas and including variations in the proportion of expenditures for services provided by academic health centers in the different alliance areas.

(3) TYPES OF INFORMATION.—The type of information described in this paragraph is—

(A) information on variations in premiums across States and across alliance areas within a State (based on surveys and other data);

(B) information on variations in per capita health spending by State, as measured by the Health Care Financing Administration;

(C) information on variations across States in per capita spending under the medicare program and in such spending among alliance areas within a State under such program; and

(D) area rating factors commonly used by actuaries.

(4) APPLICATION OF FACTORS IN NEUTRAL MANNER.—The application of the adjustment factors under this subsection for 1996 shall be done in a manner so that the weighted average of the regional alliance per capita premium targets for 1996 is equal to the national per capita baseline premium target determined under section 6002. Such weighted average shall be based on the Board's estimate of the expected distribution of alliance eligible individuals (taken into account under section 6002) among the regional alliances.

(5) CONSULTATION PROCESS.—The Board shall have a process for consulting with representatives of States and regional alliances before establishing the adjustment for regional alliances under this subsection.

(d) TREATMENT OF CERTAIN STATES.—

(1) NON-ALLIANCE STATES.—In the case of a State that is not a participating State or otherwise has not established regional alliances, the entire State shall be treated under the provisions of this part as composing a single regional alliance.

(2) CHANGES IN ALLIANCE BOUNDARIES.—In the case of a State that changes the boundaries of its regional alliances (including the establishment of such alliances after 1996), the Board shall provide a method for computing a regional alliance per capita premium target for each regional alliance affected by such change in a manner that—

(A) reflects the factors taken into account in establishing the adjustment factors for regional alliances under subsection (c), and

(B) results in the weighted average of the newly computed regional targets for the regional alliances affected by the change equal to the weighted average of the regional targets for the regional alliances as previously established.

SEC. 6004. ALLIANCE INITIAL BIDDING AND NEGOTIATION PROCESS.

(a) BIDDING PROCESS.—

(1) OBTAINING BIDS.—

(A) IN GENERAL.—Not later than July 1 before the first year, and not later than August 1 of each succeeding year, the regional alliance shall have obtained premium bids from each plan seeking to participate as a regional alliance health plan with respect to the alliance in the following year.

(B) DISCLOSURE.—In obtaining such bids, a regional alliance may determine to disclose (or not to disclose) the regional alliance per capita premium target for the regional alliance (determined under section 6003) for the year involved.

(C) CONDITION.—Each bid submitted by a plan under this subsection shall be conditioned upon the plan's agreement to accept any premium payment reduction that may be imposed under section 6011.

(2) NEGOTIATION PROCESS.—Following the bidding process under paragraph (1), a State may provide for negotiations with health plans relating to the premiums to be charged by such plans. Such negotiations may result in the resubmission of bids, but in no case shall a health plan resubmit a bid that exceeds its prior bid.

(3) LEGALLY BINDING BIDS.—All bids submitted under this subsection must be legally binding with respect to the plans involved.

(4) ACCEPTANCE.—The final bid submitted by a plan under this subsection shall be considered to be the accepted bid, except as provided in subsection (e).

(5) ASSISTANCE.—The Board shall provide regional alliances with such information and technical assistance as may assist such alliances in the bidding process under this subsection.

(b) SUBMISSION OF INFORMATION TO BOARD.—By not later than September 1 of each year for which bids are obtained under subsection (a), each regional alliance shall submit to the Board a report that discloses—

(1) information regarding the final bids obtained under subsection (a) by the different plans;

(2)(A) for the first year, any information the Board may request concerning an estimation of the enrollment likely in each such plan of alliance eligible individuals who will be offered enrollment in a health plan by alliance in the first year, or

(B) for a succeeding year, the actual distribution of enrollment of alliance eligible individuals in regional alliance health plans in the year in which the report is transmitted; and

(3) limitations on capacity of regional alliance health plans.

(c) COMPUTATION OF WEIGHTED AVERAGE ACCEPTED BID.—

(1) IN GENERAL.—For each regional alliance the Board shall determine a weighted average accepted bid for each year for which bids are obtained under subsection (a). Such determination shall be based on information on accepted bids for the year, submitted under subsection (b)(1), and shall take into account, subject to paragraph (2), the information on enrollment distribution submitted under subsection (b)(2).

(2) ENROLLMENT DISTRIBUTION RULES.—In making the determination under paragraph (1) for a regional alliance, the Board shall establish rules respecting the treatment of enrollment in plans that are discontinued or are newly offered.

(d) NOTICE TO CERTAIN ALLIANCES.—

(1) IN GENERAL.—By not later than October 1 of each year for which bids are obtained, the Board shall notify a regional alliance—

(A) if the weighted average accepted bid (determined under subsection (c)) for the alliance is greater than the regional alliance per capita premium target for the alliance (determined under section 6002) for the year, and

(B) the reduced weighted average accepted bid for the alliance.

(2) NOTICE OF PREMIUM REDUCTIONS.—If notice is provided to a regional alliance under paragraph (1), the Board shall notify the regional alliance and each noncomplying plan of any plan payment reduction computed under section 6011 for such a plan and the opportunity to voluntarily reduce the accepted bid under subsection (e) in order to avoid such a reduction.

(e) VOLUNTARY REDUCTION OF ACCEPTED BID (FINAL ACCEPTED BID).—After the Board has determined under subsection (c) the weighted average accepted bid for a regional alliance and the Board has determined preliminary plan payment reductions, before such date as the Board may specify (in order to provide for an open enrollment period), a noncomplying plan has the opportunity to voluntarily reduce its accepted bid by the amount of the plan payment reduction that would otherwise apply to the plan. Such reduction shall not affect the amount of the plan payment reduction for any other plan for that year.

SEC. 6005. STATE FINANCIAL INCENTIVES.

(a) ELECTION.—Any participating State may elect to assume responsibility for containment of health care expenditures in the State consistent with this part. Such responsibility shall include submitting annual reports to the Board on any activities undertaken by the State to contain such expenditures.

(b) FINANCIAL INCENTIVE.—In the case of a State that has made an election under subsection (a), if Board determines for a particular year (beginning with the first year) that the statewide weighted average of the reduced weighted average accepted bids (based on actual average enrollment for the year), for regional alliances in the State, is less than the statewide weighted average of the regional alliance per capita premium targets (based upon such enrollment) for such alliances for the year, then the amount of the State maintenance-of-effort payment under section 9001(b), for the following year, shall be reduced by ½ of the product of—

(1)(A) the amount by which the amount of such target exceeds the amount of such premium, divided by (B) the amount of such target; and

(2) the total of the amount of the Federal payments made in that particular year to regional alliances in the State under subtitle B of title IX.

SEC. 6006. RECOMMENDATIONS TO ELIMINATE REGIONAL VARIATIONS IN ALLIANCE TARGETS DUE TO VARIATION IN PRACTICE PATTERNS; CONGRESSIONAL CONSIDERATION.

(a) ESTABLISHMENT OF ADVISORY COMMISSION ON REGIONAL VARIATIONS IN HEALTH EXPENDITURES.—The chair of the Board shall establish, by not later than 60 days after the date of appointment of the first chair, an advisory commission on regional variations in health expenditures.

(b) COMPOSITION.—The advisory commission shall be composed of consumers, employers, providers, representatives of health plans, States, regional alliances, individuals with expertise in the financing of health care, individuals with expertise in the economics of health care, and representatives of diverse geographic areas.

(c) REGIONAL VARIATIONS.—

(1) INFORMATION.—The advisory commission shall provide the Board, States, and regional alliances with information about regional differences in health care costs and practice patterns.

(2) METHODS FOR ELIMINATION OF REGIONAL VARIATION DUE TO PRACTICE PATTERN.—The advisory commission shall examine methods of eliminating variation in regional alliance per capita premium targets due to variation in practice patterns, not due to other factors (such as health care input prices and demographic factors), by 2002.

(3) METHODS FOR REDUCING REGIONAL VARIATION IN PREMIUM PAYMENTS FOR AFDC AND SSI RECIPIENTS DUE TO HISTORICAL VARIATION IN CHARACTERISTICS OF STATE MEDICAID PLANS.—The advisory commission shall examine methods of reducing the variation in Federal and State payments under sections 9011 and 9101. In addition to the factors considered in paragraph (2), the commission shall examine methods of reducing variation due to historical differences in the rates of reimbursement to providers and in the amount, duration, and scope of benefits covered under State medicaid plans.

(4) METHODS FOR REDUCTION OF REGIONAL VARIATION IN STATE MAINTENANCE-OF-EFFORT PAYMENTS FOR NON-CASH ASSISTANCE RECIPIENTS.—The advisory commission shall study the reasons for variation among States in the level of maintenance of effort payments for non-cash assistance recipients and shall examine methods of reducing variation across States in the level of maintenance of effort payments compared to the population of the State. The commission shall link consideration of the variation in premium targets under paragraph (2) with the variation in State and Federal payments described in this paragraph.

(5) OTHER FACTORS.—The advisory commission shall examine methods of reducing variations in spending among States for health care services that are attributable to historical differences.

(d) RECOMMENDATIONS TO BOARD.—The advisory commission shall submit to the Board a report that specifies—

(1) one or more methods for eliminating the variation described in subsection (c)(2), and

(2) one or more methods for reducing variations described in subsection (c)(4) across States.

(e) REPORT TO CONGRESS.—

(1) IN GENERAL.—The Board shall submit to Congress, by not later than July 1, 1995, detailed recommendations respecting the specific method to be used to achieve each of the following:

(A) The elimination of the variation in the regional alliance per capita premium (as described in subsection (b)(2)) by 2002.

(B) Reducing the variation in State payments under sections 9001 and 9011 (taking into account any interaction between these payments), in a manner that is budget neutral with respect to total government payments and payments by the Federal Government.

In making recommendations in subparagraph (B), the Board shall consider the fiscal capacity of the States.

(2) SUBSEQUENT REPORT.—If a joint resolution described in subsection (f) does not become law, the Board shall submit to Congress revised detailed recommendations respecting the specific method to be used to achieve the elimination of such variation by 2002. Such recommendations shall be submitted not later than 90 days after the date such resolution is disapproved by either House (or vetoed by the President) or, if earlier, 150 days after the date of submission of the recommendations under paragraph (1).

(f) CONGRESSIONAL CONSIDERATION.—

(1) IN GENERAL.—Detailed recommendations submitted under paragraph (1)(A) or (1)(B) or (2) of subsection (e) shall apply under this subtitle only if a joint resolution (described in paragraph (2)) approving such recommendations is enacted, in accordance with the provisions of paragraph (3), before the end of the 60-day period beginning on the date on which such recommendations were submitted. For purposes of applying the preceding sentence and paragraphs (2) and (3), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(2) JOINT RESOLUTION OF APPROVAL.—A joint resolution described in this paragraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the Board submits recommendations under paragraph (1)(A), (1)(B), or (2) of subsection (e) and—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is either of the following 2 clauses:

(i) For recommendations under paragraph (1)(A): "That Congress approves the recommendations of the National Health Board concerning elimination of regional variation in regional alliance per capita premium targets under subtitle A of title VI of the Health Security Act, as submitted by the Board on ______.", the blank space being filled in with the appropriate date; or

(ii) For recommendations under paragraph (1)(B): "That Congress approves the recommendations of the National Health Board concerning reducing the variation in State payments under sections 9001 and 9011 of the Health Security Act, as submitted by the Board on ______.", the blank space being filled in with the appropriate date; and

(C) the title of which, respectively, is either of the following:

(i) For recommendations under paragraph (1)(A): "Joint resolution approving recommendations of the National Health Board concerning elimination of regional variation in regional alliance per capita premium targets under subtitle A of title VI of the Health Security Act, as submitted by the Board on ______.", the blank space being filled in with the appropriate date; or

(ii) For recommendations under paragraph (1)(B): "Joint resolution approving recommendations of the National Health Board concerning reducing the variation in State payments under sections 9001 and 9011 of the Health Security Act, as submitted by the Board on ______.", the blank space being filled in with the appropriate date.

(3) PROCEDURES FOR CONSIDERATION OF RESOLUTION OF APPROVAL.—Subject to paragraph (4), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in paragraph (2) in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(4) SPECIAL RULES.—For purposes of applying paragraph (3) with respect to such provisions—

(A) any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to an appropriate Committee of the House of Representatives (specified by the Speaker of the House of Representatives at the time of submission of recommendations under subsection (e)) and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to an appropriate Committee of the House of Representatives (specified by the Majority Leader of the Senate at the time of submission of recommendations under subsection (e)); and

(B) any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the Board submits a recommendation under paragraph (1)(A), (1)(B), or (2) of subsection (e).

SEC. 6007. REFERENCE TO LIMITATION ON ADMINISTRATIVE AND JUDICIAL REVIEW OF CERTAIN DETERMINATIONS.

For limitation on administrative and judicial review of certain determinations under this part, see section 5232.

Subpart B—Plan and Provider Payment Reductions to Maintain Expenditures within Targets

SEC. 6011. PLAN PAYMENT REDUCTION.

(a) PLAN PAYMENT REDUCTION.—In order to assure that payments to regional alliance health plans by a regional alliance are consistent with the applicable regional alliance per capita target for the alliance (computed under this subtitle), each noncomplying plan (as defined in subsection (b)(2)) for a year is subject to a reduction in plan payment (under section 1351) by the amount equal to plan payment reduction specified in subsection (c) for the year.

(b) NONCOMPLYING ALLIANCE AND NONCOMPLYING PLAN DEFINED.—In this part:

(1) NONCOMPLYING ALLIANCE.—The term "noncomplying alliance" means, for a year, a regional alliance for which the weighted average accepted bid (computed under section 6004(c)) exceeds the regional alliance per capita target for the year.

(2) NONCOMPLYING PLAN.—The term "noncomplying plan" means, for a year, a regional alliance health plan offered through a noncomplying alliance if the final accepted bid for the year exceeds the maximum complying bid (as defined in subsection (d)) for the year. No plan shall be a noncomplying plan for a year before the first year in which the plan is offered by a regional alliance.

(c) AMOUNT OF PLAN PAYMENT REDUCTION.—

(1) IN GENERAL.—The amount of the plan payment reduction, for a noncomplying plan offered by an alliance, is the alliance-wide reduction percentage (as defined in paragraph (2)) of the excess bid amount (as defined in paragraph (3)).

(2) ALLIANCE-WIDE REDUCTION PERCENTAGE.—

(A) IN GENERAL.—In paragraph (1), the term "alliance-wide reduction percentage" means, for a noncomplying plan offered by an alliance for a year—

(i) the amount by which (I) the weighted average accepted bid (computed under section 6004(c)(1)) for the alliance for the year, exceeds the regional alliance per capita target for the alliance for the year; divided by

(ii) the sum, for noncomplying plans offered by the alliance, of the plan proportions of alliance excess bid amount (described in subparagraph (B)(i)) for the year.

(B) PLAN PROPORTION OF ALLIANCE EXCESS BID AMOUNT DESCRIBED.—

(i) IN GENERAL.—The "plan proportion of alliance excess bid amount" described in this clause, for a noncomplying plan, is the product of—

(I) the excess bid amount (as defined in paragraph (4)) for the plan, and

(II) the plan enrollment proportion (as defined in clause (ii)) for the plan.

(ii) PLAN ENROLLMENT PROPORTION.—In clause (i)(II), the term "plan enrollment proportion" means, with respect to a health plan offered by a regional alliance, the total enrollment of alliance eligible individuals enrolled in such plan expressed as a percentage of the total enrollment of alliance eligible individuals in all regional alliance plans offered by the alliance. Such proportion shall be computed based on the information used in computing the weighted average accepted bid for the alliance under section 6004(c)(1).

(3) EXCESS BID AMOUNT.—In this subsection, the "excess bid amount", with respect to a noncomplying plan for a year, is the amount by which—

(i) the accepted bid for the year (not taking into account any voluntary reduction under section 6004(e)), exceeds

(ii) the maximum complying bid (as defined in subsection (d)) for the plan for the year.

(d) MAXIMUM COMPLYING BID.—

(1) FIRST YEAR.—In this part, subject to paragraph (3), for the first year, the "maximum complying bid" for each plan offered by a regional alliance, is the regional alliance per capita premium target for the alliance (determined under section 6002) for the year.

(2) SUBSEQUENT YEARS.—In this part, subject to paragraph (3), for a subsequent year, the "maximum complying bid", for a plan offered by an alliance for a year, is the sum of the following:

(A) NET PREVIOUS YEAR ACCEPTED BID FOR PLAN.—The accepted bid for the previous year (not taking into account any voluntary reduction under section 6004(e)), minus the amount of any plan payment reduction for the plan for that year.

(B) ALLIANCE-WIDE INFLATION ALLOWANCE.—The amount by which—

(i) regional alliance per capita premium target for the year, exceeds

(ii) such target for the previous year, or, if less, the weighted average accepted bid (computed under section 6004(c)(1)) for such year.

(3) SPECIAL RULES FOR NEW PLANS.—

(A) IN GENERAL.—Subject to subparagraph (B), in the case of a plan that is first offered by a regional alliance in a year after the first year the maximum complying bid shall be the regional alliance per capita premium target for the year.

(B) AUTHORITY.—The Board or a State may establish rules to modify the application of subparagraph (A) for regional alliance health plans in the State in order—

(i) to prevent abusive premium practices by entities previously offering plans, or

(ii) to encourage the availability of all types of plans in the State and to permit establishment of new plans.

SEC. 6012. PROVIDER PAYMENT REDUCTION.

(a) PARTICIPATING PROVIDERS.—

(1) IN GENERAL.—Each regional alliance health plan, as part of its contract under section 1406(e) with any participating provider (as defined in section 1407(c), or group of participating providers) shall—

(A) include a provision that provides that if the plan is a noncomplying plan for a year, payments to the provider (or group) shall be reduced by the applicable network reduction percentage (described in paragraph (2)) for the year, and

(B) not include any provision which the State determines otherwise varies the payments to such providers (or group) because of, or in relation to, a plan payment reduction under section 6011 or otherwise is intended to nullify the effect of subparagraph (A).

The Board may issue regulations relating to the requirements of this paragraph.

(2) APPLICABLE NETWORK REDUCTION PERCENTAGE.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the "adjusted plan reduction percentage", with respect to network providers of a noncomplying plan for a year is—

(i) the plan payment reduction amount for the plan for the year (as determined under section 6011(c)), divided by

(ii) the final accepted bid for the plan for the year,

adjusted under subparagraph (B).

(B) INDUCED VOLUME OFFSET.—The Board shall provide for an appropriate increase of the percentage reduction computed under subparagraph (A) to take into account any estimated increase in volume of services provided that may reasonably be anticipated as a consequence of applying a reduction in payment under this subsection. The Board may compute and apply such increase differently for different classes of providers or services or different types of health plans (as the Board may define).

(b) OTHER PROVIDERS.—

(1) IN GENERAL.—Each regional alliance health plan that is a noncomplying plan in a

year shall provide for a reduction in the amount of payments to providers (or groups of providers) that are not participating providers under the applicable alliance fee schedule under section 1406(c)(3) by the applicable nonnetwork reduction percentage (described in paragraph (2)) for the year.

(2) Applicable nonnetwork reduction percentage.—

(A) In general.—Subject to subparagraph (B), the "adjusted plan reduction percentage", with respect to nonnetwork providers of a noncomplying plan for a year is—

(i) the plan payment reduction amount for the plan for the year (as determined under section 6011(c)), divided by

(ii) the final accepted bid for the plan for the year,

adjusted under subparagraph (B).

(B) Induced volume offset.—The Board shall provide for an appropriate adjustment of the percentage reduction computed under subparagraph (A) to take into account any estimated increase in volume of services provided that may reasonably be anticipated as a consequence of applying a reduction in payment under this subsection.

(c) Application to Cost Sharing and to Balance Billing Restrictions.—For purposes of applying section 1406(d) (relating to balance billing limitations) and part 3 of subtitle B of title I (relating to computation of cost sharing), the payment basis otherwise used for computing any limitation on billing or cost sharing shall be such payment basis as adjusted by any reductions effected under this section.

PART 2—CORPORATE ALLIANCES HEALTH EXPENDITURES

SEC. 6021. CALCULATION OF PREMIUM EQUIVALENTS.

(a) In General.—By January 1, 1997, the Board shall develop a methodology for calculating an annual per capita expenditure equivalent for amounts paid for coverage for the comprehensive benefit package within a corporate alliance.

(b) Adjustment Permitted.—Such methodology shall permit a corporate alliance to petition the Secretary of Labor for an adjustment of the inflation adjustment that would otherwise apply to compensate for material changes in the demographic characteristics of the eligible individuals receiving coverage through the alliance.

(c) Reporting.—In 2000 and each subsequent year, each corporate alliance shall report to the Secretary of Labor, in a form and manner specified by the Secretary, the average of the annual per capita expenditure equivalent for the previous 3-year period.

SEC. 6022. TERMINATION OF CORPORATE ALLIANCE FOR EXCESS INCREASE IN EXPENDITURES.

(a) Termination.—

(1) In general.—If a corporate alliance has two excess years (as defined in subsection (b)) in a 3-year-period, then, effective beginning with the second year following the second excess year in such period—

(A) the Secretary of Labor shall terminate the corporate alliance, and

(B) employers that were corporate alliance employers with respect to such corporate alliance shall become regional alliance employers (unless, in the case of a corporate alliance with a plan sponsor described in subparagraph (B) or (C) of section 1311(b)(1), the employers become corporate alliance employers of another such corporate alliance).

(2) Initial 3-year-period.—Paragraph (1) shall first apply to the 3-year-period beginning with 1997.

(3) Special subsequent treatment for large employers.—In the case of corporate alliance employers described in paragraph (1)(B) that are large employers, the employer premium payments under section 6121 are subject to adjustment under section 6124.

(4) No further election.—If a corporate alliance of a large employer is terminated under this subsection, no employer that is a corporate alliance employer for that alliance is eligible to be a sponsor of a corporate alliance.

(b) Excess Year.—

(1) In general.—In subsection (a), the term "excess year" means, for a corporate alliance, a year (beginning on or after 2000) for which—

(A) the rate of increase for the corporate alliance (specified in paragraph (2)) for the year, exceeds

(B) the national corporate inflation factor (specified in paragraph (3)) for the year.

(2) Rate of increase for corporate alliance.—The rate of increase for a corporate alliance for a year, specified in this paragraph, is the percentage by which—

(A) the average of the annual per capita expenditure equivalent for the corporate alliance (reported under section 6021(c)) for the 3-year period ending with such year, exceeds

(B) the average of the annual per capita expenditure equivalent for the corporate alliance (reported under such subsection) for the 3-year period ending with the previous year.

(3) National corporate inflation factor.—The national corporate inflation factor for a year, specified in this paragraph, is the average of the general health care inflation factors (as defined in section 6001(a)(3)) for each of the 3 years ending with such year.

PART 3—TREATMENT OF SINGLE-PAYER STATES

SEC. 6031. SPECIAL RULES FOR SINGLE-PAYER STATES.

In the case of a Statewide single-payer State, for purposes of section 1222(6), the Board shall compute a Statewide per capita premium target for each year in the same manner as a regional alliance per capita premium target is determined under section 6003.

PART 4—TRANSITION PROVISIONS

SEC. 6041. MONITORING PRICES AND EXPENDITURES.

(a) In General.—The Secretary shall establish a program to monitor prices and expenditures in the health care system in the Unites States.

(b) Reports.—The Secretary shall periodically report to the President on—

(1) the rate of increase in expenditures in each sector of the health care system, and

(2) how such rates compare with rate of overall increase in health care spending and rate of increase in the consumer price index.

(c) Access to Information.—

(1) In general.—The Secretary may obtain, through surveys or otherwise, information on prices and expenditures for health care services. The Secretary may compel health care providers and third party payers to disclose such information as is necessary to carry out the program under this section.

(2) Confidentiality.—Non-public information obtained under this subsection with respect to individual patients is confidential.

(d) Periodic Reports.—The Secretary shall periodically issue public reports on the matters described in subsection (b).

Subtitle B—Premium-Related Financings

PART 1—FAMILY PREMIUM PAYMENTS

Subpart A—Family Share

SEC. 6101. FAMILY SHARE OF PREMIUM.

(a) Requirement.—Each family enrolled in a regional alliance health plan or in a corporate alliance health plan in a class of family enrollment is responsible for payment of the family share of premium payable respecting such enrollment. Such premium may be paid by an employer or other person on behalf of such a family.

(b) Family Share of Premium Defined.—

(1) In general.—In this subtitle, the term "family share of premium" means, with respect to enrollment of a family—

(A) in a regional alliance health plan, the amount specified in paragraph (2) for the class, or

(B) in a corporate alliance health plan, the amount specified in paragraph (3) for the class.

(2) Regional alliance.—

(A) In general.—The amount specified in this paragraph for a health plan based on a class of family enrollment is the sum of the base amounts described in subparagraph (B) reduced (but not below zero) by the sum of the amounts described in subparagraph (C).

(B) Base.—The base amounts described in this subparagraph (for a plan for a class of enrollment) are as follows:

(i) Regional alliance premium.—The premium specified in section 6102(a) with respect to such class of enrollment.

(ii) Family collection shortfall.—20 percent of the family collection shortfall add-on (computed under section 6107 for such class).

(C) Credits and discounts.—The amounts described in this subparagraph (for a plan for a class of enrollment) are as follows:

(i) Alliance credit.—The amount of the alliance credit under section 6103(a).

(ii) Income related discount.—The amount of any income-related discount provided under section 6104(a)(1).

(iii) Excess premium credit.—The amount of any excess premium credit provided under section 6105.

(iv) Corporate alliance opt-in credit.—The amount of any corporate alliance opt-in credit provided under section 6106.

(v) Additional credit for SSI and AFDC recipients.—In the case of an SSI or AFDC family or for whom the amount described in clause (ii) is equal to the amount described in section 6104(b)(1)(A), the amount described in subparagraph (B)(ii).

(D) Limit on miscellaneous credits.—In no case shall the family share, due to credits under subparagraph (C), be less than zero.

(3) Corporate alliance.—

(A) In general.—The amount specified in this paragraph for a health plan based on a class of family enrollment is the sum of the premium described in subparagraph (B) reduced (but not below zero) by the sum of the amounts described in subparagraph (C).

(B) Premium.—The premium described in this subparagraph (for a plan for a class of enrollment) is premium specified under section 1364 with respect to the plan and class of enrollment involved.

(C) Credits and discounts.—The amounts described in this subparagraph (for a plan for a class of enrollment) are as follows:

(i) Alliance credit.—The amount of the alliance credit under section 6103(b).

(ii) Income related discount.—The amount of any income-related discount provided under section 6104(a)(2).

SEC. 6102. AMOUNT OF PREMIUM.

(a) Regional Alliance.—The amount of the premium charged by a regional alliance for all families in a class of family enrollment under a regional alliance health plan offered by the alliance is equal to the product of—

(1) the final accepted bid for the plan (as defined in section 6000(a)(2)),

(2) the uniform per capita conversion factor (established under section 1341(b)) for the alliance; and

(3) the premium class factor established by the Board for that class under section 1531.

(b) REFERENCE TO CORPORATE ALLIANCE PREMIUM PROVISIONS.—The amount of the premium charged by a corporate alliance for all families in a class of family enrollment under a corporate alliance health plan offered by the alliance is specified under section 1364.

(c) SPECIAL RULES FOR DIVIDED FAMILIES.—In the case of an individual who is a qualifying employee of an employer and the individual has a spouse or child who is not treated as part of the individual's family because of section 1012—

(1) the combined premium for both families under this section shall be computed as though such section had not applied,

(2) the regional alliance shall divide such premium between the families proportionally (consistent with rules established by the Board), and

(3) credits and other amounts shall be prorated in a manner consistent with rules established by the Board.

SEC. 6103. ALLIANCE CREDIT.

(a) REGIONAL ALLIANCES.—The credit provided under this section for a family enrolled in a regional alliance health plan through a regional alliance for a class of family enrollment is equal to 80 percent of the weighted average premium (as defined in section 6000(c)) for health plans offered by the alliance for the class.

(b) CORPORATE ALLIANCES.—The credit provided under this section for a family enrolled in a health corporate alliance health plan for a class of family enrollment is equal to the minimum employer premium payment required under section 6131 with respect to the family.

SEC. 6104. PREMIUM DISCOUNT BASED ON INCOME.

(a) IN GENERAL.—

(1) ENROLLEES IN REGIONAL ALLIANCE HEALTH PLANS.—Each family enrolled with a regional alliance health plan is entitled to a premium discount under this section, in the amount specified in subsection (b), if the family—

(A) is an AFDC or SSI family,

(B) is determined, under subpart B of part 2 of subtitle B of title D of title I, to have family adjusted income below 150 percent of the applicable poverty level, or

(C) is a family described in subsection (c)(3) for which the family obligation amount under this subsection for the year would otherwise exceed a specified percent of family adjusted income described in such subsection.

(2) ENROLLEES IN CORPORATE ALLIANCE HEALTH PLANS.—

(A) IN GENERAL.—Subject to subparagraph (B), each family enrolled with a corporate alliance health plan in a class of family enrollment by virtue of the full-time employment of a low-wage employee (as defined in subparagraph (B)) is entitled to a premium discount under this section in the amount (if any) by which—

(i) 95 percent of the premium (specified in section 1364) for the least expensive corporate alliance health plan that is offered to the employee and that is a low or combination cost sharing plan (as defined in section 1903( )) for that class, exceeds

(ii) the alliance credit under section 6103 for that class.

(B) LOW-WAGE EMPLOYEE DEFINED.—

(i) IN GENERAL.—In this paragraph, the term "low-wage employee" means, with respect to an employer, an employee who is employed on a full-time basis and who is receiving wages (as defined in section 1902( )) for employment for the employer, as determined under clause (ii), at an annual rate of less than $15,000 (as adjusted under clause (ii)).

(ii) INDEXING.—For a year after 1994, the dollar amount specified in clause (i) shall be increased or decreased by the same percentage as the percentage increase or decrease by which the average CPI (described in section 1902( )) for the 12-month-period ending with August 31 of the preceding year exceeds such average for the 12-month period ending with August 31, 1993.

(C) TIMING OF DETERMINATION.—

(i) IN GENERAL.—The determination of whether or not an employee is a low-wage employee shall be made, in accordance with rules of the Secretary of Labor, at the time of initial enrollment and shall also be made at the time of each subsequent open enrollment period, on the basis of the wages payable by the employer at that time.

(ii) EFFECTIVE DATE.—Such determination shall apply as of the effective date of the initial enrollment, or, in the case of an open enrollment period, as of the effective date of changes in enrollment during such period.

(3) NO LIABILITY FOR INDIANS AND CERTAIN VETERANS AND MILITARY PERSONNEL.—

(A) IN GENERAL.—In the case of an individual described in subparagraph (B), because the applicable health plan does not impose any premium for such an individual, the individual is not eligible for any premium discount under this section.

(B) INDIVIDUALS DESCRIBED.—An individual described in this subparagraph is—

(i) an electing veteran (as defined in section 1012(d)(1)) who is enrolled under a health plan of the Department of Veterans Affairs and who, under the laws and rules as in effect as of December 31, 1994, has a service-connected disability or who is unable to defray the expenses of necessary care as determined under section 1722(a) of title 38, United States Code,

(ii) active duty military personnel (as defined in section 1012(d)(2)), and

(iii) an electing Indian (described in section 1012(d)(3)).

(b) AMOUNT OF PREMIUM DISCOUNT FOR REGIONAL ALLIANCE HEALTH PLANS.—

(1) IN GENERAL.—Subject to the succeeding paragraphs of this subsection, the amount of premium discount under this subsection for a family enrolled in a regional alliance health plan under a class of family enrollment is equal to—

(A) 20 percent of the weighted average premium for regional alliance health plans offered by the regional alliance for that class of enrollment, increased by any amount provided under paragraph (2); reduced (but not below zero) by

(B) the sum of—

(i) the family obligation amount described in subsection (c), and

(ii) the amount of any employer payment (not required under part 2) towards the family share of premiums for covered members of the family.

(2) INCREASE TO ASSURE ENROLLMENT IN LOWER-THAN-AVERAGE-COST PLAN.—If a regional alliance determines that a family eligible for a discount under this section is unable to enroll in a lower-than-average-cost plan (as defined in paragraph (3)) that serves the area in which the family resides, the amount of the premium discount under this subsection is increased but only to such amount as will permit the family to enroll in a regional alliance health plan without the need to pay a family share of premium under this part in excess of the sum described in paragraph (1)(B).

(3) LOWER-THAN-AVERAGE-COST PLAN DEFINED.—In this section, the term "lower-than-average-cost plan" means a regional alliance health plan the premium for which does not exceed, for the class of family enrollment involved, the weighted average premium for the regional alliance.

(c) FAMILY OBLIGATION AMOUNT.—

(1) DETERMINATION.—Subject to paragraphs (2) and (3), the family obligation amount under this subsection is determined as follows:

(A) NO OBLIGATION IF INCOME BELOW INCOME THRESHOLD AMOUNT OR IF AFDC OR SSI FAMILY.—If the family adjusted income (as determined under section 1332(a)) of the family is less than the income threshold amount (specified in paragraph (4)) or if the family is an AFDC or SSI family, the family obligation amount is zero.

(B) INCOME ABOVE INCOME THRESHOLD AMOUNT.—If such income is at least such income threshold amount and the family is not an AFDC or SSI family, the family obligation amount is the sum of the following:

(i) FOR INCOME (ABOVE INCOME THRESHOLD AMOUNT) UP TO THE POVERTY LEVEL.—The product of the initial marginal rate (specified in paragraph (2)(A)) and the amount by which—

(I) the family adjusted income (not including any portion that exceeds the applicable poverty level for the class of family involved), exceeds

(II) such income threshold amount.

(ii) GRADUATED PHASE OUT OF DISCOUNT UP TO 150 PERCENT OF POVERTY LEVEL.—The product of the final marginal rate (specified in paragraph (2)(B)) and the amount by which the family adjusted income exceeds 100 percent (but is less than 150 percent) of the applicable poverty level.

(2) MARGINAL RATES.—In paragraph (1)—

(A) INDIVIDUAL MARGINAL RATES.—For a year for an individual class of enrollment—

(i) INITIAL MARGINAL RATE.—The initial marginal rate is the ratio of—

(I) 3 percent of the applicable poverty level for the individual class of enrollment for the year, to

(II) the amount by which such poverty level exceeds such income threshold amount.

(ii) FINAL MARGINAL RATE.—The final marginal rate is the ratio of—

(I) the amount by which the general family share (as defined in subparagraph (C)) for an individual class of enrollment exceeds 3 percent of the applicable poverty level (for an individual class of enrollment for the year); to

(ii) 50 percent of such poverty level.

(B) FAMILY MARGINAL RATES.—For a year for a family class of enrollment (as defined in section 1011(c)(2)(A))—

(i) INITIAL MARGINAL RATE.—The initial marginal rate is the ratio of—

(I) 3 percent of the applicable poverty level for a dual parent class of enrollment for the year, to

(II) the amount by which such poverty level exceeds such income threshold amount.

(ii) FINAL MARGINAL RATE.—The final marginal rate is the ratio of—

(I) the amount by which the general family share (as defined in subparagraph (C)) for a dual parent class of enrollment exceeds 3 percent of the applicable poverty level (for such a class for the year); to

(ii) 50 percent of such poverty level.

(C) GENERAL FAMILY SHARE.—In subparagraphs (A) and (B), the term "general family share" means, for a class, the weighted average premium for the class minus the alliance credit (determined without regard to this section).

(3) LIMITATION TO 3.9 PERCENT FOR ALL FAMILIES.—

(A) IN GENERAL.—In the case of a family with family adjusted income of less than $40,000 (adjusted under subparagraph (B)) for a year, in no case shall the family obligation amount under this subsection for the year exceed 3.9 percent (adjusted under subparagraph (C)) of the amount of such adjusted income.

(B) INDEXING OF DOLLAR AMOUNTS.—

(i) IN GENERAL.—For a year after 1994, the dollar amounts specified in subparagraph (A) and in section 6113(d)(1)(B) shall be increased or decreased by the same percentage as the percentage increase or decrease by which the average CPI (described in section 1902( )) for the 12-month-period ending with August 31 of the preceding year exceeds such average for the 12-month period ending with August 31, 1993.

(ii) ROUNDING.—The dollar amounts adjusted under this subparagraph shall be rounded each year to the nearest multiple of $100.

(C) INDEXING OF PERCENTAGE.—

(i) IN GENERAL.—The percentage specified in subparagraph (A) shall be adjusted for any year after 1994 so that the percentage for the year bears the same ratio to the percentage so specified as the ratio of—

(I) 1 plus general health care inflation factor (as defined in section 6001(a)(3)) for the year, bears to

(II) 1 plus the percentage increase or decrease specified in section 1136(b) (relating to indexing of dollar amounts related to cost sharing) for the year.

(ii) ROUNDING.—Any adjustment under clause (i) for a year shall be rounded to the nearest multiple of 1/10 of 1 percentage point.

(4) INCOME THRESHOLD AMOUNT.—

(A) IN GENERAL.—For purposes of this subtitle, the income threshold amount specified in this paragraph is $1,000 (adjusted under subparagraph (B)) .

(B) INDEXING.—For a year after 1994, the income threshold amount specified in subparagraph (A) shall be increased or decreased by the same percentage as the percentage increase or decrease by which the average CPI (described in section 1902( )) for the 12-month-period ending with August 31 of the preceding year exceeds such average for the 12-month period ending with August 31, 1993.

(C) ROUNDING.—Any increase or decrease under subparagraph (B) for a year shall be rounded to the nearest multiple of $10.

SEC. 6105. EXCESS PREMIUM CREDIT.

(a) IN GENERAL.—If plan payment reductions are made for one or more regional alliance health plans offered by a regional alliance for plan payments in a year under section 6021, the alliance shall provide for a credit under this section, in the amount described in subsection (b), in the case of each family enrolled in a regional alliance health plan offered by the alliance for premiums in the year.

(b) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Subject to paragraph (2), the amount of the credit under this subsection, for a family enrolled in a class of family enrollment for a regional alliance for a year, is the amount that would be the weighted average premium for such alliance, class, and year, if the per capita excess premium amount (determined under subsection (c)) for the alliance for the year were substituted for the reduced weighted average accepted bid for the regional alliance for the year.

(2) ADJUSTMENT TO ACCOUNT FOR USE OF ESTIMATES.—Subject to section 1361(b)(3), if the total payments made by a regional alliance to all regional alliance health plans in a year under section 1351(b) exceeds (or is less than) the total of such payments estimated by the alliance (based on the reduced weighted average accepted bid under subsection (c)(1)), because of a difference between—

(A) the alliance's estimate of the distribution of enrolled families between excess premium plans and other plans, and

(B) the actual distribution of such enrolled families among such plans,

the amount of the credit under this section in the second succeeding year shall be reduced (or increased, respectively) by the amount of such excess (or deficit) in the total of such payments made by the alliance to all such plans.

(c) PER CAPITA EXCESS PREMIUM AMOUNT.—The per capita excess premium amount, for a regional alliance for a year, is the amount by which—

(1) the reduced weighted average accepted bid for the alliance for the year, exceeds

(2) the regional alliance per capita target for the alliance for the year.

SEC. 6106. CORPORATE ALLIANCE OPT-IN CREDIT.

(a) IN GENERAL.—If a regional alliance is owed a payment adjustment under section 6124 for a year, then the alliance shall provide for a credit under this section, equal to 20 percent of the amount described in subsection (b), in the case of each family enrolled in a regional alliance plan offered by the alliance.

(b) AMOUNT OF CREDIT.—The amount described in this subsection, for a family enrolled in a class of family enrollment for a regional alliance for a year, is the amount that would be the weighted average premium for such alliance, class, and year, if the per capita corporate alliance opt-in amount (determined under subsection (c)) for the alliance for the year were substituted for the reduced weighted average accepted bid for the regional alliance for the year.

(c) PER CAPITA CORPORATE ALLIANCE OPT-IN AMOUNT.—The per capita corporate alliance opt-in amount, for a regional alliance for a year, is—

(1) the total amount of the payment adjustments owed for the year under section 6124, divided by

(2) the estimated average number of regional alliance eligible individuals in the regional alliance during the year (reduced by the average number of such individuals whose family share of premiums, determined without regard to this section and section 6107, is zero).

SEC. 6107. FAMILY COLLECTION SHORTFALL ADD-ON.

(a) IN GENERAL.—The family collection shortfall add-on, for a regional alliance for a class of enrollment for a year, is the amount that would be the weighted average premium for such alliance, class, and year, if the per capita collection shortfall amount (determined under subsection (b)) for the alliance for the year were substituted for the reduced weighted average accepted bid for the regional alliance for the year.

(b) COMPUTATION OF PER CAPITA ADJUSTMENT FOR COLLECTION SHORTFALLS.—

(1) PER CAPITA COLLECTION SHORTFALL AMOUNT .—The per capita collection shortfall amount, for a regional alliance for a year, under this subsection is equal to—

(A) the amount estimated under paragraph (2)(A) for the year, divided by

(B) the estimated average number of regional alliance eligible individuals in the regional alliance during the year (reduced by the average number of such individuals whose family share of premiums, determined without regard to this section and section 6106, is zero).

(2) AGGREGATE COLLECTION SHORTFALL.—

(A) IN GENERAL.—Each regional alliance shall estimate, for each year (beginning with the first year) the total amount of payments which the alliance can reasonably identify as owed to the alliance under this Act (taking into account any premium reduction or discount under this subtitle and including amounts owed under subpart B and not taking into account any penalties) for the year and not likely to be collected (after making collection efforts described in section 1345) during a period specified by the Secretary beginning on the first day of the year.

(B) EXCLUSION OF GOVERNMENT DEBTS.—The amount under subparagraph (A) shall not include any payments owed to a regional alliance by the Federal, State, or local governments.

(C) ADJUSTMENT FOR PREVIOUS SHORTFALL ESTIMATION DISCREPANCY.—Subject to section 1361(b)(3), the amount estimated under this paragraph for a year shall be adjusted to reflect over (or under) estimations in the amounts so computed under this paragraph for previous years (based on actual collections), taking into account interest payable based upon borrowings (or savings) attributable to such over or under estimations.

Subpart B—Repayment of Alliance Credit by Certain Families

SEC. 6111. REPAYMENT OF ALLIANCE CREDIT BY CERTAIN FAMILIES.

(a) IN GENERAL.—Subject to the succeeding provisions of this subpart, each family which is provided an alliance credit under section 6103 for a class of enrollment is liable to the regional alliance for repayment of the amount of such credit in accordance with section 1343.

(b) REDUCTION FOR SELF-EMPLOYMENT PAYMENTS.—The liability of a family under this section for a year shall be reduced (but not below zero) by the amount of any employer payments made in the year under section 6126 based on the net earnings from self-employment of a family member.

SEC. 6112. NO LIABILITY FOR FAMILIES EMPLOYED FULL-TIME; REDUCTION IN LIABILITY FOR PART-TIME EMPLOYMENT.

(a) IN GENERAL.—The amount of any liability under section 6111 shall be reduced, in accordance with rules established by the National Health Board consistent with this section, based on employer premiums payable, under section 6121, with respect to the employment of a family member who is a qualifying employee or with respect to a family member. In no case shall the reduction under this section result in any payment owing to a family.

(b) CREDIT FOR FULL-TIME AND PART-TIME EMPLOYMENT.—

(1) IN GENERAL.—Under such rules, in the case of a family enrolled under a class of family enrollment, if a family member is a qualifying employee for a month and the employer is liable for payment under section 6121 based on such employment—

(A) FULL-TIME EMPLOYMENT CREDIT.—If the employment is on a full-time basis (as defined in section 1902(b)(2)) the liability under section 6111 shall be reduced by the credit amount described in subparagraph (C).

(B) PART-TIME EMPLOYMENT CREDIT.—If the employment is on a part-time basis (as defined in section 6121(d)) the liability under section 6111 shall be reduced by the employment ratio (as defined in section 6121(d)) of the credit amount described in subparagraph (C).

(C) FULL-TIME MONTHLY CREDIT.—The amount of the credit under this subparagraph, with respect to employment by an employer in a month, is $\frac{1}{12}$ (or, if applicable, the fraction described in paragraph (2)) the amount owed under section 6111, based on the class of enrollment, for the year.

(2) COVERAGE DURING ONLY PART OF A YEAR.—In the case of a family that is not enrolled in a regional alliance health plan for all the months in a year, the fraction described in this paragraph is 1 divided by the number of months in the year in which the family was enrolled in such a plan.

(3) AGGREGATION OF CREDITS.—

(A) INDIVIDUALS.—In the case of an individual who is a qualifying employee of more than one employer in a month, the credit for the month shall equal the sum of the credits earned with respect to employment by each employer. Such sum may exceed the credit amount described in paragraph (1)(C).

(B) COUPLES.—In the case of a couple each spouse of which is a qualifying employee in a month, the credit for the month shall equal the sum of the credits earned with respect to employment by each spouse. Such sum may exceed the credit amount described in paragraph (1)(C).

(c) TREATMENT OF CHANGE OF ENROLLMENT STATUS.—In the case of a family for which the class of family enrollment changes during a year, the Board shall establish rules for appropriate conversion and allocation of the credit amounts under the previous provisions of this section in a manner that reflects the relative values of the base employment monthly premiums (as determined under section 6122) among the different classes of family enrollment.

SEC. 6113. LIMITATION OF LIABILITY BASED ON INCOME.

(a) IN GENERAL.—In the case of an eligible family described in subsection (b), the repayment amount required under this subpart (after taking into account any work credit earned under section 6112) with respect to a year shall not exceed the amount of liability described in subsection (c) for the year.

(b) ELIGIBLE FAMILY DESCRIBED.—An eligible family described in this subsection is a family which is determined, under subpart B of part 2 of subtitle D of title I by the regional alliance for the alliance area in which the family resides, to have wage-adjusted income (as defined in subsection (d)) below 250 percent of the applicable poverty level.

(c) AMOUNT OF LIABILITY.—

(1) DETERMINATION.—Subject to paragraph (2), in the case of a family enrolled in a class of enrollment with wage-adjusted income (as defined in subsection (d)), the amount of liability under this subsection is determined as follows:

(A) NO OBLIGATION IF INCOME BELOW INCOME THRESHOLD AMOUNT OR IF AFDC OR SSI FAMILY.—If such income is than the income threshold amount (specified in section 6104(c)(4)) or if the family is an AFDC or SSI family, the amount of liability is zero.

(B) INCOME ABOVE INCOME THRESHOLD AMOUNT.—If such income is at least such income threshold amount and the family is not an AFDC or SSI family, the amount of liability is the sum of the following:

(i) 5.5 PERCENT OF INCOME (ABOVE INCOME THRESHOLD AMOUNT) UP TO THE POVERTY LEVEL.—The initial marginal rate (specified in paragraph (2)(A)) of the amount by which—

(I) the wage-adjusted income (not including any portion that exceeds the applicable poverty level for the class of family involved), exceeds

(II) such income threshold amount.

(ii) GRADUATED PHASE OUT OF DISCOUNT UP TO 250 PERCENT OF POVERTY LEVEL.—The final marginal rate (specified in paragraph (2)(B)) of the amount by which the wage-adjusted income exceeds 100 percent of the applicable poverty level.

(2) MARGINAL RATES.—In paragraph (1)—

(A) INITIAL MARGINAL RATE.—The initial marginal rate, for a year for a class of enrollment, is the ratio of—

(i) 5.5 percent of the applicable poverty level for the class of enrollment for the year, to

(ii) the amount by which such poverty level exceeds such income threshold amount.

(B) FINAL MARGINAL RATE.—The final marginal rate, for a year for a class of enrollment, is the ratio of—

(i) the amount by which (I) the amount of the alliance credit exceeds (II) 5.5 percent of the applicable poverty (for the class and year); to

(ii) 150 percent of such poverty level.

(C) APPLICATION FOR FAMILY ENROLLMENT BASED ON DUAL PARENT ENROLLMENT.—The marginal rates under this paragraph for any family class of enrollment shall be determined based on the applicable poverty level for a dual parent class of enrollment.

(d) WAGE-ADJUSTED INCOME DEFINED.—In this subtitle, the term "wage-adjusted income" means, for a family, family adjusted income of the family (as defined in section 1372(d)(1)), reduced by the sum of the following:

(1)(A) Subject to subparagraph (B), the amount of any wages included in such family's income that is received for employment which is taken into account in the computation of the amount of employer premiums under section 6121 (without consideration of section 6126).

(B) The reduction under subparagraph (A) shall not exceed for a year $5,000 (adjusted under section 6104(c)(3)(B)) multiplied by the number of months (including portions of months) of employment with respect to which employer premiums were payable under section 6121 (determined in a manner consistent with section 6121(e)).

(2) The amount of net earnings from self employment of the family taken into account under section 6126).

(3) The amount of unemployment compensation included in income under section 85 of the Internal Revenue Code of 1986.

(e) DETERMINATIONS.—A family's wage-adjusted income and the amount of liability under subsection (c) shall be determined by the applicable regional alliance upon application by a family under under subpart B of part 2 of subtitle D of title I.

(f) NO LIABILITY FOR INDIANS AND CERTAIN VETERANS AND MILITARY PERSONNEL.—The provisions of paragraph (3) of section 6104(a) shall apply to the reduction in liability under this section in the same manner as such paragraph applies to the premium discount under section 6104.

SEC. 6114. SPECIAL TREATMENT OF CERTAIN RETIREES AND QUALIFIED SPOUSES AND CHILDREN.

(a) TREATMENT AS FULL-TIME EMPLOYEE.—Subject to subsection (d), an individual who is an eligible retiree (as defined in subsection (b)) or a qualified spouse or child (as defined in subsection (c)) for a month in a year (beginning with 1998) is considered, for purposes of section 6112, to be a full-time employee described in such section in such month.

(b) ELIGIBLE RETIREE DEFINED.—In subsection (a), the term "eligible retiree" means, for a month, an individual who establishes to the satisfaction of the regional alliance (for the alliance area in which the individual resides), pursuant to rules of the Secretary, that the individual, as of the first day of the month—

(1) is at least 55, but less than 65, years of age,

(2) is not employed on a full-time basis (as defined in section 6121(d)(1)(A)),

(3) would be eligible (under section 226(a) of the Social Security Act) for hospital insurance benefits under part A of title XVIII of such Act if the individual were 65 years of age based only on the employment of the individual, and

(4) is not a medicare-eligible individual.

(c) QUALIFIED SPOUSE OR CHILD DEFINED.—In subsection (a), the term "qualified spouse or child" means, in relation to an eligible retiree for a month, an individual who establishes to the satisfaction of the regional alliance (for the alliance area in which the individual resides) under rules of the Secretary that the requirements in one of the following paragraphs is met with respect to the individual:

(1) The individual (A) is under 65 years of age and is (and has been for a period of at least one year) married to an eligible retiree or (B) is a child of the eligible retiree.

(2) In the case of a person who was an eligible retiree at the time of the person's death—

(A) the individual was (and had for a period of at least one year been) married to the retiree at the time of the person's death,

(B) the individual is under 65 years of age,

(C) the individual is not employed on a full-time basis (as defined in section 6121(d)(1)(A)),

(D) the individual is not remarried, and

(E) the deceased spouse would still be an eligible retiree in the month if such spouse had not died.

(3) The individual is a child of an individual described in paragraph (2).

(d) INDIVIDUALS DISQUALIFIED.—Subsection (a) shall not apply to an individual for a month in a year if the individual would be subject to section 59B of the Internal Revenue Code of 1986 as a taxpayer in the year if the individual were covered under Medicare part B for any month during the year.

(e) APPLICATION.—An individual may not be determined to be an eligible retiree or qualified spouse or child unless an application has been filed with the regional alliance. Such application shall contain such information as the Secretary may require to establish such status and verify information in the application. Any material misrepresentation in the application is subject to a penalty in the same manner as a misrepresentation described in section 1374(h)(2).

SEC. 6115. SPECIAL TREATMENT OF CERTAIN MEDICARE BENEFICIARIES.

In the case of an individual who would be a medicare-eligible individual in a month but for the application of section 1012(a) on the basis of employment (in the month or a previous month) of the individual or the individual's spouse, the individual (or spouse, as the case may be) so employed is considered, for purposes of section 6112, to be a full-time employee described in such section in such month.

PART 2—EMPLOYER PREMIUM PAYMENTS

Subpart A—Regional Alliance Employers

SEC. 6121. EMPLOYER PREMIUM PAYMENT REQUIRED.

(a) REQUIREMENT.—

(1) IN GENERAL.—Each regional alliance employer described in paragraph (2) for a month shall pay to the regional alliance that provides health coverage to a qualifying employee of the employer an employer premium in a amount at least equal to the amount specified in subsection (b). Such payments shall be made in accordance with section 1345.

(2) EMPLOYER DESCRIBED.—An employer described in this paragraph for a month, is an employer that in the month employs one or more qualifying employees (as defined in section 1902(b)(1)).

(3) TREATMENT OF CERTAIN EMPLOYMENT BY CORPORATE ALLIANCE EMPLOYERS.—A corporate alliance employer shall be deemed, for purposes of this subpart, to be a regional alliance employer with respect to qualifying employees who are not corporate alliance eligible individuals.

(b) PREMIUM PAYMENT AMOUNT.—

(1) IN GENERAL.—Except as provided in section 6123 (relating to a discount for certain employers), section 6124 (relating to large employers electing coverage in a regional alliance), and section 6125 (relating to the employer collection shortfall add-on), the amount of the employer premium payment, for a month for qualifying employees of the employer who reside in an alliance area, is the sum of the payment amounts computed under paragraph (2) for each class of family enrollment with respect to such employees in such area.

(2) PAYMENT AMOUNT FOR ALL EMPLOYEES IN A CLASS OF FAMILY ENROLLMENT.—Subject to paragraph (3), the payment amount under this paragraph, for an employer for a class of family enrollment for a month for qualifying employees residing in an alliance area, is the product of—

(A) the base employer monthly premium determined under section 6122 for the class of family enrollment for the previous month for the regional alliance, and

(B) the number of full-time equivalent employees (determined under section 1901(b)(2)) enrolled in that class of family enrollment for the previous month and residing in the alliance area.

(3) TREATMENT OF CERTAIN EMPLOYEES.—In applying this subpart in the case of a qualifying employee (other than a medicare-eligible individual) who is not enrolled in any alliance health plan—

(A) the employee is deemed enrolled in a regional alliance health plan (for the alliance area in which the individual resides) in the dual parent class of enrollment, and

(B) if the employee's residence is not known, the employee is deemed to reside in the alliance area in which the employee principally is employed for the employer.

(4) TRANSITIONAL RULES FOR FIRST MONTH IN FIRST YEAR FOR A STATE.—In the case of an employer for a State in the first month of the State's first year—

(A) the premium amount for such month shall be computed by substituting "month" for "previous month" in paragraph (2);

(B) payment for such month shall be made on the first of the month based on an estimate of the payment for such month;

(C) an adjustment shall be made to the payment in the following month to reflect the difference between the payment in the first month and the payment in the following month (calculated without regard to the adjustment under this subparagraph); and

(D) the reconciliation of premiums for such first month under section 1602(c) shall be included in the reconciliation of premiums for the following 12 months.

(5) SPECIAL RULES FOR DIVIDED FAMILIES.—In the case of an individual who is a qualifying employee of an employer and the individual has a spouse or child who is not treated as part of the individual's family because of section 1012—

(A) the employer premium payment under this section shall be computed as though such section had not applied, and

(B) the regional alliance shall make proportional payments (consistent with rules established by the Secretary) to the health plans (if different) of the qualifying employee and of the employee's spouse and children.

(c) APPLICATION DURING TRANSITION PERIOD.—

(1) IN GENERAL.—For purposes of applying this subpart in the case of an employer described in paragraph (3), there shall only be taken into account qualifying employees (and wages of such employees) who reside in a participating State.

(2) EXCEPTION.—Paragraph (1) shall not apply in determining the average number of full-time equivalent employees or whether an employer is a small employer.

(3) EMPLOYER DESCRIBED.—An employer described in this paragraph is an employer that employs one or more qualifying employees in a participating State and one or more qualifying employees in a State that is not a participating State.

SEC. 6122. COMPUTATION OF BASE EMPLOYMENT MONTHLY PREMIUM.

(a) IN GENERAL.—Each regional alliance shall provide for the computation for each year (beginning with the first year) of a base employment monthly premium for each class of family enrollment equal to 1/12 of 80 percent of—

(1) the weighted average premium for such regional alliance and class of enrollment, reduced by the amount described in section 6106(b), divided by

(2)(A) in the case of a class of enrollment that does not include a couple, 1, or

(B) in the case of a couple class of enrollment, the average number of premium payments per family, as determined under subsection (b), for families receiving coverage within such class from regional alliance health plans offered by the regional alliance.

(b) DETERMINATION OF AVERAGE EMPLOYER PREMIUM PAYMENTS PER FAMILY FOR COUPLES CLASSES.—

(1) IN GENERAL.—Subject to paragraph (4), the regional alliance shall determine, for each couple class of family enrollment and in a manner specified by the Board, an average, annual, estimated number of premium payments per family equal to—

(A) the alliance-wide monthly average number of premium payments (as determined under paragraph (2)) for covered families (as defined in paragraph (3)) within such class of enrollment, divided by

(B) the monthly average number of covered families receiving coverage through regional alliance health plans within such class of employment.

(2) COMPUTATION OF ALLIANCE-WIDE MONTHLY AVERAGE NUMBER.—

(A) IN GENERAL.—In determining the alliance-wide monthly average number of premium payments under paragraph (1)(A), a covered family shall count for a month as 1, or, if greater, the number computed under subparagraph (B) (but in no case greater than 2).

(B) COUNTING OF FAMILIES IN WHICH BOTH SPOUSES ARE QUALIFYING EMPLOYEES.—The number computed under this subparagraph over all families within a couple class of enrollment in which both spouses are qualifying employees, is determined on an alliance-wide basis based on the following:

(i) For such a spouse, determine, using the rules under section 1902(b)(2)(A), how many full-time equivalent employees the spouse is counted as, but not to exceed 1 for either spouse.

(ii) Add the 2 numbers determined under clause (i) for spouses in such families.

(3) COVERED FAMILY DEFINED.—In this subsection, the term "covered family" means a family other than—

(A) an SSI family or AFDC family,

(B) a family in which a spouse is a medicare-eligible individual, or

(C) a family that is enrolled in a health plan other than a regional alliance health plan.

(4) ADJUSTMENT TO ACCOUNT FOR USE OF ESTIMATES.—Subject to section 1361(b)(3), if the total receipts of a regional alliance to all regional alliance health plans in a year under this subpart exceeds, or is less than, the total of such receipts estimated by the alliance (based on the base employment monthly premium under subsection (a)), because of a difference between—

(A) the alliance's estimate of the average, annual, estimated number of premium payments per family for the alliance, and

(B) the actual number of premium payments per family for the alliance,

the average, annual, estimated number of premium payments per family to be applied under this section in the second succeeding year shall be reduced, or increased, respectively, in a manner that results in total receipts of the alliance under this subpart in such succeeding year being increased or decreased by the amount of such excess (or deficit).

(c) BASIS FOR DETERMINATIONS.—

(1) PREMIUMS.—The determinations of premiums and families under plans under this section shall be made in a manner determined by the Board and based on the premiums and families used by the Board in carrying out subtitle A (relating to cost containment) and shall be based on estimates on an annualized basis.

(2) EMPLOYMENT.—

(A) FOR FIRST YEAR.—The determinations of employment under this section for the first year for a State shall be based on estimates of employment established by the regional alliance in accordance with standards promulgated by the Secretary of Labor in consultation with the National Health Board.

(B) FOR SUBSEQUENT YEARS.—The determinations of employment under this section for a year after the first year for a State shall be based on estimates of employment established by the regional alliance in accordance with standards promulgated by the Secretary of Labor in consultation with the National Health Board.

(3) REPORTS.—In accordance with rules established by the Secretary of Labor in consultation with the National Health Board, a regional alliance may require regional alliance employers to submit such periodic information on employment as may be necessary to monitor the determinations made under subsections (a) and (c), including months and extent of employment.

(d) TIMING OF DETERMINATION.—Determinations under this section for a year shall be made by not later than December 1, or such other date as the Board may specify, before the beginning of the year.

SEC. 6123. PREMIUM DISCOUNT FOR CERTAIN EMPLOYERS.

(a) EMPLOYER DISCOUNT.—

(1) IN GENERAL.—Subject to section 6124(c) (relating to phase in for certain large corporate alliance employers) and section 6125 (relating to the employer collection shortfall add-on), the amount of the employer premium payment required under this part for a regional alliance employer for any year shall not exceed the limiting percentage (as defined in subsection (b)) of the employer's wages for that year.

(2) EXCLUSION OF GOVERNMENTAL EMPLOYERS AND CERTAIN CORPORATE ALLIANCE EMPLOYERS.—Paragraph (1) shall not apply to—

(A) the Federal Government, a State government, or a unit of local government, or a unit or instrumentality of such government, before 2002; and

(B) a corporate alliance employer which is treated as a regional alliance employer under section 6131(a)(2).

(b) LIMITING PERCENTAGE DEFINED.—In subsection (a)—

(1) ANY EMPLOYER.—For an employer that is not a small employer (as defined in subsection (c)), the limiting percentage is 7.9 percent.

(2) SMALL EMPLOYERS.—For an employer that is a small employer and that has an average number of full-time equivalent employees and average annual wages per full-time equivalent employee (as determined under subsection (d)), the limiting percentage is the applicable percentage determined based on following table:

Limiting Percentage

Average number of full-time equivalent employees	Employer's average annual wages per full-time equivalent employee are:				
	$0–$12,000	$12,001–$15,000	$15,001–$18,000	$18,001–$21,000	$21,001–$24,000
Fewer than 25	3.5%	4.4%	5.3%	6.2%	7.1%
25 but fewer than 50	4.4%	5.3%	6.2%	7.1%	7.9%
50 but fewer than 75	5.3%	6.2%	7.1%	7.9%	7.9%

(c) SMALL EMPLOYER DEFINED.—

(1) IN GENERAL.—In this section—

(A) the term "small employer" means an employer that does not employ, on average, more than 75 full-time equivalent employees; and

(B) subject to subsection (b)(3)(C)(i), the average number of full-time equivalent employees shall be determined by averaging the number of full-time equivalent employees employed by the employer in each countable month during the year.

(2) COUNTABLE MONTH.—In paragraph (1), the term "countable month" means, for an employer, a month in which the employer employs any qualifying employee.

(3) DETERMINATIONS.—The number of full-time equivalent employees shall be determined using the rules under section 1902(b)(2).

(d) AVERAGE ANNUAL WAGES DEFINED.—

(1) IN GENERAL.—In this section, the term "average annual wages" means, for an employer for a year—

(A) the total wages paid in the year to individuals who, at the time of payment of the wages, are qualifying employees of the employer; divided by

(B) the number of full-time equivalent employees of the employer in the year.

(2) DETERMINATION.—The Board may establish rules relating to the computation of the average annual wages for employers.

(e) DETERMINATIONS.—For purposes of this section, the number of employees and average wages shall be determined on an annual basis.

(f) TREATMENT OF CERTAIN SELF-EMPLOYED INDIVIDUALS.—In the case of an individual who is a partner in a partnership, is a 2-percent shareholder in an S corporation (within the meaning of section 1372 of the Internal Revenue Code of 1986), or is any other individual who carries on a trade or business as a sole proprietorship, for purposes of this section—

(1) the individual is deemed to be an employee of the partnership, S corporation, or proprietorship, and

(2) the individual's net earnings from self employment attributable to the partnership, S corporation, or sole proprietorship are deemed to be wages from the partnership, S corporation, or proprietorship.

(g) APPLICATION TO EMPLOYERS.—An employer that claims that this section applies—

(1) shall provide notice to the regional alliance involved of the claim at the time of making payments under this part; and

(2) shall make available such information (and provide access to such information) as the regional alliance may require (in accordance with regulations of the Secretary of Labor) to audit the determination of—

(A) whether the employer is a small employer, and, if so, the average number of full-time equivalent employees and average annual wages of the employer; and

(B) the total wages paid by the employer for qualifying employees.

SEC. 6124. PAYMENT ADJUSTMENT FOR LARGE EMPLOYERS ELECTING COVERAGE IN A REGIONAL ALLIANCE.

(a) APPLICATION OF SECTION.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to the employer premium payments for full-time employees in a State of an employer if—

(A)(i) the employer is an eligible sponsor described in section 1311(b)(1)(A), (ii) the employer elected to be a corporate alliance under section 1312(a)(1), and (iii) the election is terminated under section 1313;

(B)(i) the employer is such an eligible sponsor as of the first day of the first year of the State, and (ii) the employer did not provide the notice required under section 1312(a)(1) (with respect to an election to become a corporate alliance); or

(C) the employer is such an eligible sponsor, (ii) the employer subsequently became a large employer and elected to be a corporate alliance under section 1312(a)(2), and (iii) the election was terminated under section 1313.

(2) EFFECTIVE DATE.—In the case of an employer described in—

(A) paragraph (1)(A) or (1)(C), this section shall first apply on the effective date of the termination of the election under section 1313, or

(B) paragraph (1)(B), this section shall first apply as of January 1, 1996 (or, if later with respect to a State, the first day of the first year for the State).

(3) TREATMENT OF EMPLOYEES IN SMALL ESTABLISHMENTS.—This section shall not apply to the payment of premiums for full-time employees of an employer described in paragraph (1)(A) or (1)(C), if the employees are employed at an establishment with respect to which the option described in section 1311(b)(1)(C) was exercised.

(4) SUNSET.—This section shall cease applying to an employer with respect to employment in a State after the 7th year in which this section applies to the employer in the State.

(5) LARGE EMPLOYER DEFINED.—In this section, the term "large employer" has the meaning given such term in section 1311(d)(3).

(b) ADDITIONAL AMOUNT.—

(1) IN GENERAL.—If an employer subject to this section for a year has an excess risk percentage (as defined in paragraph (3)) of greater than zero with respect to an alliance area, then the employer shall provide, on a monthly basis, for payment to the regional alliance for such area of an amount equal to 1/12 of the excess amount described in paragraph (2) for the year.

(2) EXCESS AMOUNT.—The excess amount described in this paragraph, for an employer for a year with respect to an alliance area, is equal to the product of the following:

(A) The reduced weighted average accepted bid for the regional alliance for the area for the year.

(B) The total average number of alliance eligible individuals who—

(i) were full-time employees (or family members of such employees) of the employer, and

(ii) residing in the regional alliance area,

in the year before the first year in which this section applies to the employer.

(C) The extra risk proportion (specified in paragraph (3)) for the employer for such area.

(D) The phase-down percentage (specified in paragraph (4)) for the year.

(3) EXTRA RISK PROPORTION.—

(A) IN GENERAL.—The "extra risk proportion", specified in this paragraph, with respect to an employer and an alliance area, is a percentage that reflects, for the year before the first year in which this section applies to the employer, the amount by which—

(i) the average demographic risk for employees (and family members) described in paragraph (2)(B) residing in the alliance area, exceeds

(ii) the average demographic risk for all regional alliance eligible individuals residing in the area.

(B) MEASUREMENT OF DEMOGRAPHIC RISK.—

(i) IN GENERAL.—Demographic risk under subparagraph (A) shall be measured, in a manner specified by the Board, based on the demographic characteristics described in section 6001(c)(1)(A), that relate to the actuarial value of the comprehensive benefit package.

(ii) PROVISION OF INFORMATION.—Each employer to which this section applies shall submit, to each regional alliance for which an additional payment is required under this section, such information (and at such time) as the Board may require in order to determine the demographic risk referred to in subparagraph (A)(i).

(4) PHASE-DOWN PERCENTAGE.—The phase down percentage, specified in this paragraph for an employer for—

(A) each of the first 4 years to which this section applies to the employer, is 100 percent,

(B) the fifth such year, is 75 percent,

(C) the sixth such year, is 50 percent, and

(D) the seventh such year, is 25 percent.

(c) PHASE IN OF EMPLOYER PREMIUM DISCOUNT.—For—

(1) each of the first 4 years in which this section applies to such employer, section 6123 shall not apply to the employer;

(2) the fifth such year, section 6123 shall apply to the employer but the reduction in premium payment effected by such section shall be 25 percent of the reduction that would otherwise apply (but for this subsection);

(3) the sixth such year, section 6123 shall apply to the employer but the reduction in premium payment effected by such section shall be 50 percent of the reduction that would otherwise apply (but for this subsection);

(4) the seventh such year, section 6123 shall apply to the employer but the reduction in premium payment effected by such section shall be 75 percent of the reduction that would otherwise apply (but for this subsection); or

(5) a subsequent year, section 6123 shall apply to the employer without any reduction under this subsection.

SEC. 6125. EMPLOYER COLLECTION SHORTFALL ADD-ON.

(a) IN GENERAL.—The amount payable by an employer under this subpart shall be increased by the amount computed under subsection (b).

(b) AMOUNT.—The amount under this subsection for an employer is equal to the premium payment amount that would be computed under section 6121(b)(2) if the per capita collection shortfall amount (computed under section 6107(b)(1)) for the year were substituted for the reduced weighted average accepted bid for the year.

(c) DISCOUNT NOT APPLICABLE.—Section 6123 shall not apply to the increase in the amount payable by virtue of this section.

SEC. 6126. APPLICATION TO SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—A self-employed individual (as defined in section 1901(6)) shall be considered, for purposes of this subpart to be an employer of himself or herself and to pay wages to himself or herself equal to the amount of net earnings from self-employment (as defined in section 1901(c)(1)).

(b) CREDIT FOR EMPLOYER PREMIUMS.—

(1) IN GENERAL.—In the case of a self-employed individual, the amount of any employer premium payable by virtue of subsection (a) in a year shall be reduced (but not below zero) by the sum of the following:

(A) Subject to paragraph (2), the amount of any employer premiums payable under this subpart (determined not taking into account any adjustment in the premium amounts under section 6123 or 6124) with respect to the employment of that individual in the year.

(B) The product of (i) the number of months in the year the individual was employed on a full-time basis by a corporate alliance employer, and (ii) the employer premium that would have been payable for such months under this subpart (determined not taking into account any adjustment in the premium amounts under section 6123 or 6124) for the class of enrollment if such employer had been a regional alliance employer.

(2) SPECIAL RULE FOR CERTAIN CLOSELY-HELD BUSINESSES.—

(A) IN GENERAL.—In the case of an individual who—

(i) has wage-adjusted income (as defined in section 6113(d), determined without regard to paragraphs (1)(B) and (2) thereof) that exceeds 250 percent (or such higher percentage as the Board may establish) of the applicable poverty level, and

(ii) is both a substantial owner and an employee of a closely held business,

the amount of any reduction under paragraph (1)(A) that is attributable to the individual's employment by that business shall be appropriately reduced in accordance with rules prescribed by the Board, in order to prevent individuals from avoiding payment of the full amount owed through sham or secondary employment arrangements.

(B) CLOSELY HELD BUSINESS.—For purposes of subparagraph (A), a business is "closely held" if it is an employer that meets the requirements of section 542(a)(2) of the Internal Revenue Code of 1986 or similar requirements as appropriate in the case of a partnership or other entity.

Subpart B—Corporate Alliance Employers

SEC. 6131. EMPLOYER PREMIUM PAYMENT REQUIRED.

(a) PER EMPLOYEE PREMIUM PAYMENT.—Subject to section 6124, each corporate alliance employer of a corporate alliance that in a month in a year employs a qualifying employee who is—

(1) enrolled in a corporate alliance health plan offered by the alliance, shall provide for a payment toward the premium for the plan in an amount at least equal to the corporate employer premium specified in subsection (b); or

(2) is not so enrolled, shall make employer premium payments with respect to such employment under subpart A in the same manner as if the employer were a regional alliance employer (except as otherwise provided in such subpart).

(b) CORPORATE EMPLOYER PREMIUM.—

(1) AMOUNT.—

(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the corporate employer premium for a month in a year for a class of family enrollment for a family residing in a premium area (established under section 1364(b)) is 80 percent of the weighted average monthly premium of the corporate alliance health plans offered by the corporate alliance for that class of enrollment for families residing in that area.

(B) APPLICATION TO SELF-INSURED PLANS.—In applying this paragraph in the case of one or more corporate alliance health plans that are self-insured plans—

(i) the "premium" for the plan is the actuarial equivalent of such premium, based upon the methodology (or such other consistent methodology) used under section 6021(a) (relating to application of cost containment to corporate alliance health plans), and

(ii) the premium amount, for different classes and, if applicable, for different premium areas, shall be computed in a manner based on such factors as may bear a reasonable relationship to costs for the provision of the comprehensive benefit package to the different classes in such areas.

The Secretary of Labor shall establish rules to carry out this subparagraph.

(2) LOW-WAGE EMPLOYEES.—In the case of a low-wage employee entitled to a premium discount under section 6104(a)(2), the amount of the employer premium payment for a month in a year for a class of family enrollment shall be increased by the amount of such premium discount.

(c) DETERMINATIONS.—

(1) BASIS.—Determinations under this section shall be made based on such information as the Secretary of Labor shall specify.

(2) TIMING.—Determinations of the monthly premiums under this section for months in a year shall be made not later than December 1 of the previous year.

Subtitle C—Payments to Regional Alliance Health Plans

SEC. 6201. COMPUTATION OF BLENDED PLAN PER CAPITA PAYMENT AMOUNT.

(a) IN GENERAL.—For purposes of section 1342, the blended plan per capita payment amount for a regional alliance health plan for enrollments in an alliance for a year is equal to the sum of the 3 components described in subsection (b), multiplied by any adjustment factor applied for the year under subsection (d).

(b) SUM OF PRODUCTS.—The 3 components described in this subsection are:

(1) PLAN BID COMPONENT FOR THAT PLAN.—The product of—

(A) the final accepted bid for plan (as defined in section 6000(a)(2)) for the year, and

(B) the plan bid proportion determined under section 6202(a)(1) for the year.

(2) AFDC COMPONENT FOR ALLIANCE.—The product of—

(A) the AFDC per capita premium amount for the regional alliance for the year (determined under section 9012), and

(B) the AFDC proportion determined under section 6202(a)(2) for the year.

(3) SSI COMPONENT FOR ALLIANCE.—The product of—

(A) the SSI per capita premium amount for the regional alliance for the year (determined under section 9013) for the year, and

(B) the SSI proportion determined under section 6202(a)(3) for the year.

SEC. 6202. COMPUTATION OF PLAN BID, AFDC, AND SSI PROPORTIONS.

(a) IN GENERAL.—For purposes of this subtitle:

(1) PLAN BID PROPORTION.—The "plan bid proportion" is, for a type of enrollment, 1 minus the sum of (A) the AFDC proportion, and (B) the SSI proportion.

(2) AFDC PROPORTION.—The "AFDC proportion" is, for a class of family enrollment for a year, the ratio of—

(A) the average of the number of AFDC recipients (as determined under subsection (c)) enrolled in regional alliance health plans in that class of enrollment for the year, to

(B) the average of the total number of individuals enrolled in regional alliance health plans in that class of enrollment for the year.

(3) SSI PROPORTION.—The "SSI proportion" is, for a class of family enrollment for a year, the ratio of—

(A) the average of the number of SSI recipients (as determined under subsection (c)) enrolled in regional alliance health plans in that class of enrollment for the year, to

(B) the average described in paragraph (2)(B).

(b) COMPUTATION.—

(1) PROJECTIONS.—The proportions described in subsection (a) shall be determined and applied by the State, based upon the best available data, at least 1 month before the date bids are submitted under section 6004 before the beginning of the calendar year involved.

(2) Actual.—For purposes of making adjustments under subsection (d), the regional alliance shall determine, after the end of each year, the actual proportions described in subsection (a).

(c) Counting of AFDC and SSI Recipients.—For purposes of subsections (a)(2)(A) and (a)(3)(A), the terms "SSI recipient" and "AFDC recipient" do not include a medicare-eligible individual.

(d) Adjustments For Discrepancies In Estimations.—

(1) In general.—If the actual AFDC proportion or SSI proportion (as determined under subsection (a)) for a year (in this subsection referred to as the "reference year"), determined after the end of the year based upon actual number of AFDC recipients and SSI recipients in the year, is different from the projected AFDC and SSI proportions (as determined under subsection (b)(1)) used in computing the blended plan payment amount for the year, then, subject to section 1361(b)(3), the regional alliance shall adjust the blended plan payment amount in the second succeeding year (in this subsection referred to as the "applicable year") in the manner described in paragraph (2). By regulation the Secretary may apply the adjustment, based on estimated amounts, in the year before the applicable year, with final adjustment in the applicable year.

(2) Adjustment described.—

(A) Positive cash flow.—If the cash flow difference (as defined in paragraph (3)(A)) for the reference year is positive, then in the applicable year the blended plan payment amount shall be increased by the adjustment percentage described in paragraph (4).

(B) Negative cash flow.—If the cash flow difference (as defined in paragraph (3)(A)) for the reference year is negative, then in the applicable year the blended plan payment amount shall be reduced by the adjustment percentage described in paragraph (4).

(3) Cash flow difference defined.—In this subsection:

(A) In general.—The term "cash flow difference" means, for a regional alliance for a reference year, the amount by which—

(i) the actual cash flow (as defined in subparagraph (B)) for the alliance for the year, exceeds

(ii) the reconciled cash flow (as defined in subparagraph (C)) for the alliance for the year.

(B) Actual cash flow.—The term "actual cash flow" means, for a regional alliance for a reference year, the total amount paid by the regional alliance to the regional alliance health plans in the year based on the blended plan payment amount (computed on the basis of projected AFDC and SSI proportions determined under subsection (b)(1).

(C) Reconciled cash flow.—The term "reconciled cash flow" means, for a regional alliance for a reference year, the total amount that would have been paid to regional alliance health plans in the year if such payments had been made based on the blended plan payment amount computed on the basis of the actual AFDC and SSI proportions for the year (determined under subsection (b)(2), rather than based on such payment amount computed on the basis of the projected AFDC and SSI proportions for the year (determined under subsection (b)(1)).

(4) Percentage adjustment.—The percentage adjustment described in this paragraph for a regional alliance for an applicable year is the ratio (expressed as a percentage) of—

(A) the cash flow difference for the reference year, to

(B) the total payments estimated by the regional alliance to be paid to regional alliance health plans under this subtitle in the applicable year (determined without regard to any adjustment under this subsection).

TITLE VII—REVENUE PROVISIONS

TABLE OF CONTENTS OF TITLE

Sec. 7001. Amendment of 1986 Code.

Subtitle A—Financing Provisions

Part 1—Increase in Tax on Tobacco Products

Sec. 7111. Increase in excise taxes on tobacco products.
Sec. 7112. Modifications of certain tobacco tax provisions.
Sec. 7113. Imposition of excise tax on manufacture or importation of roll-your-own tobacco.

Part 2—Health Related Assessment

Sec. 7121. Assessment on corporate alliance employers.

Part 3—Recapture of Certain Health Care Subsidies

Sec. 7131. Recapture of certain health care subsidies received by high-income individuals.

Part 4—Other Provisions

Sec. 7141. Modification to self-employment tax treatment of certain S corporation shareholders and partners.
Sec. 7142. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.

Subtitle B—Tax Treatment of Employer-Provided Health Care

Sec. 7201. Limitation on exclusion for employer-provided health benefits.
Sec. 7202. Health benefits may not be provided under cafeteria plans.
Sec. 7203. Increase in deduction for health insurance costs of self-employed individuals.
Sec. 7204. Limitation on prepayment of medical insurance premiums.

Subtitle C—Employment Status Provisions

Sec. 7301. Definition of employee.
Sec. 7302. Increase in services reporting penalties.
Sec. 7303. Revision of section 530 safe harbor rules.

Subtitle D—Tax Treatment of Funding of Retiree Health Benefits

Sec. 7401. Post-retirement medical and life insurance reserves.
Sec. 7402. Health benefits accounts maintained by pension plans.

Subtitle E—Coordination With COBRA Continuing Care Provisions

Sec. 7501. Coordination with COBRA continuing care provisions.

Subtitle F—Tax Treatment of Organizations Providing Health Care Services and Related Organizations

Sec. 7601. Treatment of nonprofit health care organizations.
Sec. 7602. Tax treatment of taxable organizations providing health insurance and other prepaid health care services.
Sec. 7603. Exemption from income tax for regional alliances.

Subtitle G—Tax Treatment of Long-term Care Insurance and Services

Sec. 7701. Qualified long-term care services treated as medical care.
Sec. 7702. Treatment of long-term care insurance.
Sec. 7703. Tax treatment of accelerated death benefits under life insurance contracts.
Sec. 7704. Tax treatment of companies issuing qualified accelerated death benefit riders.

Subtitle H—Tax Incentives for Health Services Providers

Sec. 7801. Nonrefundable credit for certain primary health services providers.
Sec. 7802. Expensing of medical equipment.

Subtitle I—Miscellaneous Provisions

Sec. 7901. Credit for cost of personal assistance services required by employed individuals.
Sec. 7902. Denial of tax-exempt status for borrowings of health care-related entities.
Sec. 7903. Disclosure of return information for administration of certain programs under the Health Security Act.

SEC. 7001. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Financing Provisions

PART 1—INCREASE IN TAX ON TOBACCO PRODUCTS

SEC. 7111. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) Cigarettes.—Subsection (b) of section 5701 is amended—

(1) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (1) and inserting "$49.50 per thousand", and

(2) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (2) and inserting "$103.95 per thousand".

(b) Cigars.—Subsection (a) of section 5701 is amended—

(1) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)" in paragraph (1) and inserting "$38.62½ per thousand", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to 52.594 percent of the price for which sold but not more than $123.75 per thousand."

(c) Cigarette Papers.—Subsection (c) of section 5701 is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "3.09 cents".

(d) Cigarette Tubes.—Subsection (d) of section 5701 is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "6.19 cents".

(e) Smokeless Tobacco.—Subsection (e) of section 5701 is amended—

(1) by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" in paragraph (1) and inserting "$12.86", and

(2) by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" in paragraph (2) and inserting "$12.62".

(f) Pipe Tobacco.—Subsection (f) of section 5701 is amended by striking "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)" and inserting "$13.17½".

(g) Effective Date.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after September 30, 1994.

(h) Floor Stocks Taxes.—

(1) Imposition of tax.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States

which are removed before October 1, 1994, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 or 7652 of such Code on such article.

(2) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on October 1, 1994, by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the $500 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on October 1, 1994, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before December 31, 1994.

(5) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on October 1, 1994, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

(6) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section, and such term shall include articles first subject to the tax imposed by section 5701 of such Code by reason of the amendments made by this Act.

(B) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(7) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

SEC. 7112. MODIFICATIONS OF CERTAIN TOBACCO TAX PROVISIONS.

(a) EXEMPTION FOR EXPORTED TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TO APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

(1) Subsection (b) of section 5704 is amended by adding at the end thereof the following new sentence: "Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe."

(2) Section 5761 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES FOR EXPORT.—Except as provided in subsections (b) and (d) of section 5704—

"(1) every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation under this chapter,

"(2) every person who sells or receives such relanded tobacco products or cigarette papers or tubes, and

"(3) every person who aids or abets in such selling, relanding, or receiving,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of $1,000 or 5 times the amount of the tax imposed by this chapter. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States, and all vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States."

(3) Subsection (a) of section 5761 is amended by striking "subsection (b)" and inserting "subsection (b) or (c)".

(4) Subsection (d) of section 5761, as redesignated by paragraph (2), is amended by striking "The penalty imposed by subsection (b)" and inserting "The penalties imposed by subsections (b) and (c)".

(5)(A) Subpart F of chapter 52 is amended by adding at the end thereof the following new section:

"SEC. 5754. RESTRICTION ON IMPORTATION OF PREVIOUSLY EXPORTED TOBACCO PRODUCTS.

"(a) IN GENERAL.—Tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d).

"(b) CROSS REFERENCE.—

"For penalty for the sale of cigarettes in the United States which are labeled for export, see section 5761(d)."

(B) The table of sections for subpart F of chapter 52 is amended by adding at the end thereof the following new item:

"Sec. 5754. Restriction on importation of previously exported tobacco products."

(b) IMPORTERS REQUIRED TO BE QUALIFIED.—

(1) Sections 5712, 5713(a), 5721, 5722, 5762(a)(1), and 5763(b) and (c) are each amended by inserting "or importer" after "manufacturer".

(2) The heading of subsection (b) of section 5763 is amended by inserting "QUALIFIED IMPORTERS," after "MANUFACTURERS,".

(3) The heading for subchapter B of chapter 52 is amended by inserting "and Importers" after "**Manufacturers**".

(4) The item relating to subchapter B in the table of subchapters for chapter 52 is amended by inserting "and importers" after "manufacturers".

(c) REPEAL OF TAX-EXEMPT SALES TO EMPLOYEES OF CIGARETTE MANUFACTURERS.—

(1) Subsection (a) of section 5704 is amended—

(A) by striking "EMPLOYEE USE OR" in the heading, and

(B) by striking "for use or consumption by employees or" in the text.

(2) Subsection (e) of section 5723 is amended by striking "for use or consumption by their employees, or for experimental purposes" and inserting "for experimental purposes".

(d) REPEAL OF TAX-EXEMPT SALES TO UNITED STATES.—Subsection (b) of section 5704 is amended by striking "and manufacturers may similarly remove such articles for use of the United States;".

(e) BOOKS OF 25 OR FEWER CIGARETTE PAPERS SUBJECT TO TAX.—Subsection (c) of section 5701 is amended by striking "On each book or set of cigarette papers containing more than 25 papers," and inserting "On cigarette papers,".

(f) STORAGE OF TOBACCO PRODUCTS.—Subsection (k) of section 5702 is amended by inserting "under section 5704" after "internal revenue bond".

(g) AUTHORITY TO PRESCRIBE MINIMUM MANUFACTURING ACTIVITY REQUIREMENTS.—Section 5712 is amended by striking "or" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe, or".

(h) LIMITATION ON COVER OVER OF TAX ON TOBACCO PRODUCTS.—Section 7652 is amended by adding at the end thereof the following new subsection:

"(h) LIMITATION ON COVER OVER OF TAX ON TOBACCO PRODUCTS.—For purposes of this section, with respect to taxes imposed under section 5701 or this section on any tobacco product or cigarette paper or tube, the amount covered into the treasuries of Puerto Rico and the Virgin Islands shall not exceed the rate of tax under section 5701 in effect on the article on the day before the date of the enactment of the Health Security Act."

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after September 30, 1994.

SEC. 7113. IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.

(a) IN GENERAL.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $12.50 per pound (and a proportionate tax at the like rate on all fractional parts of a pound)."

(b) ROLL-YOUR-OWN TOBACCO.—Section 5702 (relating to definitions) is amended by adding at the end thereof the following new subsection :

"(p) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 5702 is amended by striking "and pipe tobacco" and inserting "pipe tobacco, and roll-your-own tobacco".

(2) Subsection (d) of section 5702 is amended—

(A) in the material preceding paragraph (1), by striking "or pipe tobacco" and inserting "pipe tobacco, or roll-your-own tobacco", and

(B) by striking paragraph (1) and inserting the following new paragraph:

"(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for his own personal consumption or use, and".

(3) The chapter heading for chapter 52 is amended to read as follows:

"CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(4) The table of chapters for subtitle E is amended by striking the item relating to chapter 52 and inserting the following new item:

"Chapter 52. Tobacco products and cigarette papers and tubes."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to roll-your-own tobacco removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this Act) after September 30, 1994.

(2) TRANSITIONAL RULE.—Any person who—

(A) on the date of the enactment of this Act is engaged in business as a manufacturer of roll-your-own tobacco or as an importer of tobacco products or cigarette papers and tubes, and

(B) before October 1, 1994, submits an application under subchapter B of chapter 52 of such Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of such chapter 52 shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit under such chapter 52 to engage in such business.

PART 2—HEALTH RELATED ASSESSMENT

SEC. 7121. ASSESSMENT ON CORPORATE ALLIANCE EMPLOYERS.

(a) IN GENERAL.—Subtitle C (relating to employment taxes) is amended by inserting after chapter 24 the following new chapter:

"CHAPTER 24A—ASSESSMENT ON CORPORATE ALLIANCE EMPLOYERS

"Sec. 3461. Assessment on corporate alliance employers.

"SEC. 3461. ASSESSMENT ON CORPORATE ALLIANCE EMPLOYERS.

"(a) IMPOSITION OF ASSESSMENT.—Every corporate alliance employer shall pay (in addition to any other amount imposed by this subtitle) for each calendar year an assessment equal to 1 percent of the payroll of such employer.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CORPORATE ALLIANCE EMPLOYER.—The term 'corporate alliance employer' means any employer if any individual, by reason of being an employee of such employer, is provided with health coverage through any corporate alliance described in section 1311 of the Health Security Act.

"(2) PAYROLL.—The term 'payroll' means the sum of—

"(A) the wages (as defined in section 3121(a) without regard to paragraph (1) thereof) paid by the employer during the calendar year, plus

"(B)(i) in the case of a sole proprietorship, the net earnings from self-employment of the proprietor from such trade or business for the taxable year ending with or within the calendar year,

"(ii) in the case of a partnership, the aggregate of the net earnings from self-employment of each partner which is attributable to such partnership for the taxable year of such partnership ending with or within the calendar year, and

"(ii) in the case of an S corporation, the aggregate of the net earnings from self-employment of each shareholder which is attributable to such corporation for the taxable year of such corporation ending with or within the calendar year.

"(3) NET EARNINGS FROM SELF-EMPLOYMENT.—The term 'net earnings from self-employment' has the meaning given such term by section 1402; except that the amount thereof—

"(A) may never be less than zero, and

"(B) shall be determined without regard to any deduction for an assessment under this section.

"(4) EMPLOYER.—

"(A) IN GENERAL.—The term 'employer' means any person for whom an individual performs services, of whatever nature, as an employee (as defined in section 3401(c)).

"(B) SPECIAL RULES.—

"(i) An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer.

"(ii) A partnership shall be treated as the employer of each partner who is an employee within the meaning of section 401(c)(1).

"(iii) An S corporation shall be treated as the employer of each shareholder who is an employee within the meaning of section 401(c)(1).

"(c) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT OF CERTAIN EMPLOYERS.—In the case of an employer who is a corporate alliance employer solely by reason of employees who are provided with health coverage through a corporate alliance the eligible sponsor of which is a multiemployer plan described in section 1311(b)(1)(B) of the Health Security Act, the payroll of such employer shall be determined by taking into account only such employees.

"(2) CONTROLLED GROUP RULES.—All persons treated as a single employer under section 1901 of the Health Security Act (relating to employer premiums for comprehensive health care) shall be treated as a single employer.

"(3) APPLICATION OF ASSESSMENT BEGINNING IN 1996.—

"(A) IN GENERAL.—Every employer eligible to elect to be an eligible sponsor under section 1311 of the Health Security Act shall be treated as a corporate alliance employer as of January 1, 1996, unless the employer waives such employer's rights ever to be treated as such a sponsor. The waiver under this subparagraph shall be irrevocable.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any employer referred to in paragraph (1).

"(4) TREATMENT OF FEDERAL GOVERNMENT.—Nothing in any provision of law shall be construed to exempt any agency or instrumentality of the United States from the assessment under this section.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) PAYMENT.—The assessment under this section shall be paid at the same time and manner as the tax imposed by chapter 21.

"(2) COLLECTION, ETC.—For purposes of subtitle F, the assessment under this section shall be treated as if it were a tax imposed by this subtitle."

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle C is amended by inserting after the item relating to chapter 24 the following new item:

"Chapter 24A. Assessment on corporate alliance employers."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

PART 3—RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES

SEC. 7131. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 is amended by adding at the end thereof the following new part:

"PART VIII—CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS

"Sec. 59B. Recapture of certain health care subsidies.

"SEC. 59B. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES.

"(a) IMPOSITION OF RECAPTURE AMOUNT.—In the case of an individual, if the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount, such taxpayer shall pay (in addition to any other amount imposed by this subtitle) a recapture amount for such taxable year equal to the sum of—

"(1) the aggregate of the Medicare part B recapture amounts (if any) for months during such year that a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part, and

"(2) the aggregate reductions (if any) in the individual's liability for periods after December 31, 1999, under section 6111 of the Health Security Act (relating to repayment of alliance credit by certain families) pursuant to section 6114 of such Act (relating to special treatment of certain retirees and qualified spouses and children) for months during such year.

"(b) MEDICARE PART B PREMIUM RECAPTURE AMOUNT FOR MONTH.—For purposes of this section, the Medicare part B premium recapture amount for any month is the amount equal to the excess of—

"(1) 150 percent of the monthly actuarial rate for enrollees age 65 and over determined for that calendar year under section 1839(b) of the Social Security Act, over

"(2) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(c) PHASEIN OF RECAPTURE AMOUNT.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $10,000, the recapture amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the recapture amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $10,000.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $90,000, "(B) $115,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married (as determined under section 7703) but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 135, 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) JOINT RETURNS.—In the case of a joint return—

"(A) the recapture amount under subsection (a) shall be the sum of the recapture amounts determined separately for each spouse, and

"(B) subsections (a) and (c) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) TREATED AS TAX FOR SUBTITLE F.—For purposes of subtitle F, the recapture amount imposed by this section shall be treated as if it were a tax imposed by section 1.

"(B) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The recapture amount imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this chapter, or

"(ii) the amount of the minimum tax under section 55."

(b) TRANSFERS TO SUPPLEMENTAL MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Supplemental Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of section 59B(a)(1) of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Supplemental Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the recapture amounts referred to in such section 59B(a)(1) for such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1)(A) Paragraph (1) of section 6050F(a) (relating to returns relating to social security benefits) is amended by striking "and" at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

"(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and".

(B) Paragraph (2) of section 6050F(b) is amended to read as follows:

"(2) the information required to be shown on such return with respect to such individual."

(C) Subparagraph (A) of section 6050F(c)(1) is amended by inserting before the comma "and in the case of the information specified in subsection (a)(1)(D)".

(D) The heading for section 6050F is amended by inserting "and medicare part b coverage" before the period.

(E) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting "and Medicare part B coverage" before the period.

(2)(A) Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050Q. RETURNS RELATING TO CERTAIN RETIREE HEALTH CARE SUBSIDIES.

"(a) IN GENERAL.—Every alliance (as defined in section 1301 of the Health Security Act) that reduces an individual's liability under section 6111 of such Act (relating to repayment of alliance credit by certain families) pursuant to section 6114 of such Act (relating to special treatment of certain retirees and qualified spouses and children) shall make a return (according to the forms and regulations prescribed by the Secretary) setting forth—

"(1) the aggregate amount of such reductions by such alliance with respect to any individual during such calendar year, and

"(2) the name and address of such individual.

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE REPORTED.—Every alliance required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of such alliance, and

"(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished to the individual as soon as practicable after the close of the calendar year for which the return under subsection (a) was made."

(B) Subparagraph (B) of section 6724(d)(1) is amended by inserting after clause (viii) the following new clause (and by redesignating the following clauses accordingly):

"(ix) section 6050Q (relating to returns relating to certain retiree health care subsidies),".

(C) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to returns relating to certain retiree health care subsidies),".

(D) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050Q. Returns relating to certain retiree health care subsidies."

(d) WAIVER OF ESTIMATED TAX PENALTIES FOR 1996.—No addition to tax shall be imposed under section 6654 of the Internal Revenue Code of 1986 (relating to failure to pay estimated income tax) for any period before—

(1) April 16, 1997, with respect to any underpayment to the extent that such underpayment resulted from section 59B(a)(1) of the Internal Revenue Code of 1986, as added by this section, and

(2) April 16, 2001, with respect to any underpayment to the extent that such underpayment resulted from section 59B(a)(2) of such Code, as added by this section.

(e) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Part VIII. Certain health care subsidies received by high-income individuals."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1995, in taxable years ending after such date.

PART 4—OTHER PROVISIONS

SEC. 7141. MODIFICATION TO SELF-EMPLOYMENT TAX TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS AND PARTNERS.

(a) TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS.—

(1) AMENDMENT TO INTERNAL REVENUE CODE.—Section 1402 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(k) TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS.—

"(1) IN GENERAL.—In the case of any individual—

"(A) who is a 2-percent shareholder (as defined in section 1372(b)) of an S corporation for any taxable year of such corporation, and

"(B) who materially participates in the activities of such S corporation during such taxable year,

such shareholder's net earnings from self-employment for such shareholder's taxable year in which the taxable year of the S corporation ends shall include such shareholder's pro rata share (as determined under section 1366(a)) of the taxable income or loss of such corporation from service-related businesses carried on by such corporation.

"(2) CERTAIN EXCEPTIONS TO APPLY.—In determining the amount to be taken into account under paragraph (1), the exceptions provided in subsection (a) shall apply, except that, in the case of the exceptions provided in subsection (a)(5), the rules of subparagraph (B) thereof shall apply to shareholders in S corporations.

"(3) SERVICE-RELATED BUSINESS.—For purposes of this subsection, the term 'service-related business' means any trade or business described in subparagraph (A) of section 1202(e)(3)."

(2) AMENDMENT TO SOCIAL SECURITY ACT.—Section 211 of the Social Security Act is amended by adding at the end the following new subsection:

"Treatment of Certain S Corporation Shareholders

"(k)(1) In the case of any individual—

"(A) who is a 2-percent shareholder (as defined in section 1372(b) of the Internal Revenue Code of 1986) of an S corporation for any taxable year of such corporation, and

"(B) who materially participates in the activities of such S corporation during such taxable year,

such shareholder's net earnings from self-employment for such shareholder's taxable year in which the taxable year of the S corporation ends shall include such shareholder's pro rata share (as determined under section 1366(a) of such Code) of the taxable income or loss of such corporation from service-related businesses (as defined in section 1402(k)(3) of such Code) carried on by such corporation.

"(2) In determining the amount to be taken into account under paragraph (1), the exceptions provided in subsection (a) shall apply, except that, in the case of the exceptions provided in subsection (a)(5), the rules of subparagraph (B) thereof shall apply to shareholders in S corporations.".

(b) TREATMENT OF CERTAIN LIMITED PARTNERS.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (13) of section 1402(a) is amended by striking "limited partner, as such" and inserting "limited partner who does not materially participate in the activities of the partnership".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—Paragraph (12) of section 211(a) of the Social Security Act is amended by striking "limited partner, as such" and inserting "limited partner who does not materially participate in the activities of the partnership".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of individuals beginning after December 31, 1995, and to taxable years of S corporations and partnerships ending with or within such taxable years of individuals.

SEC. 7142. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after September 30, 1995.

(b) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning October 1, 1995, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before October 1, 1995, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with October 1995.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) is amended by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),".

(2) Subparagraph (B) of section 210(p)(1) of the Social Security Act (42 U.S.C. 410(p)(1)) is amended by striking "paragraphs (2) and (3)." and inserting "paragraph (2)."

(3) Section 218 of the Social Security Act (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after September 30, 1995.

Subtitle B—Tax Treatment of Employer-Provided Health Care

SEC. 7201. LIMITATION ON EXCLUSION FOR EMPLOYER-PROVIDED HEALTH BENEFITS.

(a) GENERAL RULE.—Section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) INCLUSION OF CERTAIN BENEFITS NOT PART OF COMPREHENSIVE BENEFIT PACKAGE.—

"(1) IN GENERAL.—Effective on and after January 1, 2003, gross income of an employee shall include employer-provided coverage under any accident or health plan except to the extent that—

"(A) such coverage consists of comprehensive health coverage described in section 1101 of the Health Security Act, or

"(B) such coverage consists of permitted coverage.

"(2) PERMITTED COVERAGE.—For purposes of this subsection, the term 'permitted coverage' means—

"(A) any coverage providing wages or payments in lieu of wages for any period during which the employee is absent from work on account of sickness or injury,

"(B) any coverage providing for payments referred to in section 105(c),

"(C) any coverage provided to an employee or former employee after such employee has attained age 65, unless such coverage is provided by reason of the current employment of the individual (within the meaning of section 1862(b)(1)(A)(i)(I) of the Social Security Act) with the employer providing the coverage,

"(D) any coverage under a qualified long-term care insurance policy (as defined in section 7702B),

"(E) any coverage provided under Federal law to any individual (or spouse or dependent thereof) by reason of such individual being—

"(i) a member of the Armed Forces of the United States, or

"(ii) a veteran, and

"(F) any other coverage to the extent that the Secretary determines that the continuation of an exclusion for such coverage is not inconsistent with the purposes of this subsection.

"(3) SPECIAL RULES FOR FLEXIBLE SPENDING ARRANGEMENTS.—

"(A) IN GENERAL.—To the extent that any employer-provided coverage is provided through a flexible spending or similar arrangement, paragraph (1) shall be applied by substituting 'January 1, 1997,' for 'January 1, 2003'.

"(B) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this paragraph, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(i) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(ii) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 200 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.

"(c) SPECIAL RULES FOR DETERMINING AMOUNT OF INCLUSION.—

"(1) IN GENERAL.—For purposes of this section, the value of any coverage shall be determined on the basis of the average cost of providing such coverage to the beneficiaries receiving such coverage.

"(2) SPECIAL RULE.—To the extent provided by the Secretary, cost determinations under paragraph (1) may be made on the basis of reasonable estimates.

"(d) POTENTIAL CASH PAYMENT NOT TO AFFECT EXCLUSION.—No amount shall be included in the gross income of an employee solely because the employee may select coverage under an accident or health plan which results in a cash payment referred to in section 1607 of the Health Security Act."

(b) EMPLOYMENT TAX TREATMENT.—

(1) SOCIAL SECURITY TAX.—

(A) Subsection (a) of section 3121 is amended by inserting after paragraph (21) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(B) Subsection (a) of section 209 of the Social Security Act is amended by inserting after paragraph (21) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b) of the Internal Revenue Code of 1986."

(2) RAILROAD RETIREMENT TAX.—Paragraph (1) of section 3231(e) is amended by adding at the end thereof the following new sentence:

"Nothing in clause (i) of the second sentence of this paragraph shall exclude from the term 'compensation' any amount which is required to be included in gross income under section 106(b)."

(3) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by inserting after paragraph (16) the following new sentence:

"Nothing in paragraph (2) shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(4) WAGE WITHHOLDING.—Subsection (a) of section 3401 is amended by adding at the end thereof the following new sentence:

"Nothing in the preceding provisions of this subsection shall exclude from the term 'wages' any amount which is required to be included in gross income under section 106(b)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 7202. HEALTH BENEFITS MAY NOT BE PROVIDED UNDER CAFETERIA PLANS.

(a) GENERAL RULE.—Subsection (f) of section 125 (defining qualified benefits) is amended by adding at the end thereof the following new sentence: "Such term shall not include any benefits or coverage (other than coverage described in section 106(b)(2)(A)) under an accident or health plan."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 125 is amended by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 7203. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) PROVISION MADE PERMANENT.—

(1) IN GENERAL.—Subsection (l) of section 162 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1993.

(b) DEDUCTION LIMITED TO BASIC COVERAGE PURCHASED FROM HEALTH ALLIANCE.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 162(l) are amended to read as follows:

"(1) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c), there shall be allowed as a deduction under this section an amount equal to 100 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents; but only to the extent such insurance is comprehensive health coverage described in section 1101 of the Health Security Act purchased from a qualified alliance described in section 1311 of such Act.

"(2) LIMITATIONS.—

"(A) LOWER PERCENTAGE IN CERTAIN CASES.—If—

"(i) the taxpayer has 1 or more employees in a trade or business with respect to which such taxpayer is treated as an employee within the meaning of section 401(c), and

"(ii) the taxpayer does not pay at least 100 percent of the weighted average premium applicable under the Health Security Act for each of such employees, paragraph (1) shall be applied by substituting for '100 percent' the lowest percentage of such weighted average premium paid by the taxpayer for any of such employees.

"(B) DEDUCTION LIMITED TO EARNED INCOME.—No deduction shall be allowed under paragraph (1) to the extent that the amount of such deduction exceeds the taxpayer's earned income (within the meaning of section 401(c)).

"(C) OTHER COVERAGE.—Paragraph (1) shall not apply to amounts paid for coverage for any individual for any calendar month if such individual is employed on a full-time basis (within the meaning of section 1901 of the Health Security Act) by an employer during such month."

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 162(l)(5) is amended by striking "shall be treated as such individual's earned income" and inserting "shall be included in such individual's earned income".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the earlier of—

(A) January 1, 1997, or

(B) the first day on which the taxpayer could purchase comprehensive health coverage from a qualified alliance.

SEC. 7204. LIMITATION ON PREPAYMENT OF MEDICAL INSURANCE PREMIUMS.

(a) GENERAL RULE.—Subsection (d) of section 213 is amended by adding at the end thereof the following new paragraph:

"(10) LIMITATION ON PREPAYMENTS.—If the taxpayer pays a premium or other amount which constitutes medical care under paragraph (1), to the extent such premium or other amount is properly allocable to insurance coverage or care to be provided during periods more than 12 months after the month in which such payment is made, such premium shall be treated as paid ratably over the period during which such insurance coverage or care is to be provided. The preceding sentence shall not apply to any premium to which paragraph (7) applies nor to any premium paid under a qualified long-term care insurance policy."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid after December 31, 1996.

Subtitle C—Employment Status Provisions

SEC. 7301. DEFINITION OF EMPLOYEE.

(a) GENERAL RULE.—Chapter 25 (relating to general provisions applicable to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. DEFINITION OF EMPLOYEE.

"(a) REGULATIONS.—The Secretary shall prescribe regulations setting forth rules for determining whether an individual is an employee for purposes of—

"(1) the employment taxes imposed under this subtitle, and

"(2) to the extent provided in such regulations, subtitle A.

"(b) OVERRIDE OF CURRENT RULES.—To the extent provided in the regulations prescribed in subsection (a), such regulations shall be in lieu of the rules (statutory or otherwise) otherwise applicable for the determination referred to in subsection (a). Nothing in such regulations shall override the provisions of section 3511."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3510. Definition of employee."

SEC. 7302. INCREASE IN SERVICES REPORTING PENALTIES.

(a) INCREASE IN PENALTY.—Section 6721(a) (relating to imposition of penalty) is amended by adding at the end the following new paragraph:

"(3) INCREASED PENALTY FOR RETURNS INVOLVING PAYMENTS FOR SERVICES.—

"(A) IN GENERAL.—Subject to the overall limitation of paragraph (1), the amount of the penalty under paragraph (1) for any failure with respect to any applicable return shall be equal to the greater of $50 or 5 percent of the amount required to be reported correctly but not so reported.

"(B) EXCEPTION WHERE SUBSTANTIAL COMPLIANCE.—Subparagraph (A) shall not apply to failures with respect to applicable returns required to be filed by a person during any calendar year if the aggregate amount which is timely and correctly reported on applicable returns filed by the person for the calendar year is at least 97 percent of the aggregate amount which is required to be reported on applicable returns by the person for the calendar year.

"(C) APPLICABLE RETURN.—For purposes of this paragraph, the term 'applicable return' means any information return required to be filed under—

"(i) section 6041(a) which relates to payments to any person for services performed by such person (other than as an employee), or

"(ii) section 6041A(a)."

(b) CONFORMING AMENDMENT.—Section 6721(a)(1) is amended by striking "In" and inserting "Except as provided in paragraph (3), in".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (without regard to extensions) is more than 30 days after the date of the enactment of this Act.

SEC. 7303. REVISION OF SECTION 530 SAFE HARBOR RULES.

(a) GENERAL RULE.—Chapter 25 (relating to general provisions applicable to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3511. PROTECTION AGAINST RETROACTIVE EMPLOYMENT TAX RECLASSIFICATIONS.

"(a) GENERAL RULE.—If—

"(1) for purposes of employment taxes, the taxpayer treats an individual as not being an employee for any period,

"(2) for such period, the taxpayer meets—

"(A) the consistency requirements of subsection (b),

"(B) the return filing requirements of subsection (c), and

"(C) the safe harbor requirement of subsection (d), and

"(3) the Secretary has not notified the taxpayer in writing before the beginning of such period that the Secretary has determined that the taxpayer should treat such individual (or any individual holding a substantially similar position) as an employee,

then, for purposes of applying this subtitle for such period, the individual shall be deemed not to be an employee of the taxpayer.

"(b) CONSISTENCY REQUIREMENTS.—A taxpayer meets the consistency requirements of this subsection with respect to any individual for any period if the taxpayer treats such individual (and all other individuals holding substantially similar positions) as not being an employee for purposes of the employment taxes for such period and all prior periods.

"(c) RETURN FILING REQUIREMENTS.—

"(1) IN GENERAL.—The taxpayer meets the return filing requirements of this subsection with respect to any individual for any period if all Federal tax returns (including information returns) required to be filed by the taxpayer for such period with respect to such individual (and all other individuals holding substantially similar positions) are timely filed on a basis consistent with the taxpayer's treatment of such individuals as not being employees.

"(2) SPECIAL RULES.—For purposes of paragraph (1)—

"(A) any return filed for which the penalty under section 6721(a) is reduced or waived pursuant to subsection (b) or (c) of section 6721 shall be considered timely filed, and

"(B) a taxpayer shall not be considered as failing to meet the requirements of paragraph (1) solely because the taxpayer failed to timely file accurate information returns in respect of payments to individuals holding substantially similar positions if the taxpayer satisfies the requirements of section 6721(a)(3)(B) for such period.

"(d) SAFE HARBORS.—

"(1) IN GENERAL.—The taxpayer meets the safe harbor requirement of this subsection with respect to any individual for any period if the taxpayer's treatment of such individual as not being an employee for such period was—

"(A) in reasonable reliance on a written determination (as defined in section 6110(b)(1)) issued to or in respect of the taxpayer that addressed the employment status of the individual or an individual holding a substantially similar position;

"(B) in reasonable reliance on a concluded Internal Revenue Service audit of the taxpayer—

"(i) which was for a period in which the rules for determining employment status were the same as for the period in question, and

"(ii) in which the employment status of the individual or any individual holding a substantially similar position was examined without change to any such individual's status;

"(C) in reasonable reliance on a longstanding recognized practice of a significant segment of the industry in which the individual is engaged; or

"(D) supported by substantial authority.

For purposes of subparagraph (D), the term 'substantial authority' has the same meaning as when used in section 6662(d)(2)(B)(i); except that such term shall not include any private letter ruling issued to a person other than the taxpayer.

"(2) SPECIAL RULES.—

"(A) SUBSEQUENT AUTHORITY.—The taxpayer shall not be considered to meet the safe harbor requirement of paragraph (1)(B) with respect to any individual for any period if the treatment of such individual as not being an employee is inconsistent with any regulation, Revenue Ruling, Revenue Procedure, or other authority published by the Secretary before the beginning of such period and after the conclusion of the audit referred to in paragraph (1)(B).

"(B) TERMINATION OF INDUSTRY PRACTICE SAFE HARBOR.—The taxpayer shall not be considered to meet the safe harbor requirement of paragraph (1)(C) with respect to any individual for—

"(i) any period beginning after the date on which the Secretary prescribes regulations pursuant to section 3510, or

"(ii) any period if the treatment of such individual as not being an employee is inconsistent with any regulation, Revenue Ruling, Revenue Procedure, or other authority published by the Secretary before the beginning of such period.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EMPLOYMENT TAX.—The term 'employment tax' means any tax imposed by this subtitle.

"(2) TAXPAYER.—The term 'taxpayer' includes any person or entity (including a governmental entity) which is (or would be but for this section) liable for any employment tax. Such term includes any predecessor or successor to the taxpayer.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section."

(b) RULES TO APPLY FOR INCOME TAX PURPOSES.—Part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 69. DETERMINATION OF EMPLOYMENT STATUS.

"For purposes of this subtitle, an individual shall be treated as a self-employed individual with respect to any services performed by such individual for another person if, under the rules of section 3511, such individual is treated as not being an employee of such other person with respect to such services."

(c) CONFORMING AMENDMENT.—Section 530 of the Revenue Act of 1978 is hereby repealed.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3511. Protection against retroactive employment tax reclassifications."

(2) The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 69. Determination of employment status."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to all periods beginning after December 31, 1995.

(2) REPEAL OF LIMITATIONS ON REGULATIONS AND RULINGS.—The repeal made by subsection (c), insofar as it relates to section 530(b) of the Revenue Act of 1978, shall take effect on the date of the enactment of this Act.

Subtitle D—Tax Treatment of Funding of Retiree Health Benefits

SEC. 7401. POST-RETIREMENT MEDICAL AND LIFE INSURANCE RESERVES.

(a) MINIMUM PERIOD FOR WORKING LIVES.—Section 419A(c)(2) (relating to additional reserves for post-retirement medical and life insurance benefits) is amended by inserting "(but not less than 10 years)" after "working lives of the covered employees".

(b) SEPARATE ACCOUNTING.—

(1) REQUIREMENT.—Section 419A(c)(2) is amended by adding at the end the following new flush sentence:

"Such reserve shall be maintained as a separate account."

(2) USE OF RESERVE FOR OTHER PURPOSES.—Paragraph (1) of section 4976(b) (defining disqualified benefit) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) any payment to which subparagraph (C) does not apply which is out of an account described in section 419A(c)(2) and which is not used to provide a post-retirement medical benefit or life insurance benefit."

(c) SPECIAL LIMITATIONS.—Section 419A(e) (relating to special limitations on reserves) is amended by adding at the end the following new paragraph:

"(3) BENEFITS MUST BE EXCLUDABLE.—Post-retirement medical benefits and life insurance benefits shall not be taken into account under subsection (c)(2) to the extent it may be reasonably anticipated that such benefits will be required to be included in gross income when provided."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions paid or accrued after December 31, 1994, in taxable years ending after such date.

(2) SEPARATE ACCOUNTING.—The amendments made by subsection (b) shall apply to contributions paid or accrued after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 7402. HEALTH BENEFITS ACCOUNTS MAINTAINED BY PENSION PLANS.

(a) TERMINATION OF ACCOUNTS.—

(1) IN GENERAL.—Section 401(h) (relating to medical, etc., benefits for retired employees and their spouses and dependents) is amended by adding at the end the following new paragraph:

"(2) TERMINATION.—

"(A) IN GENERAL.—In the case of a pension or annuity plan to which paragraph (1) applies—

"(i) no contributions may be made to the separate account described in paragraph (1)(C) other than allowable contributions, and

"(ii) such plan may pay benefits described in paragraph (1) only from funds attributable to allowable contributions and earnings allocable to such contributions.

"(B) ALLOWABLE CONTRIBUTION.—For purposes of subparagraph (A), the term 'allowable contribution' means—

"(i) any contribution made before January 1, 1995,

"(ii) in the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employees ratified on or before October 29, 1993, any contribution under such plan made before the earlier of—

"(I) the date on which the last of such agreements terminates (determined without regard to any extension after October 29, 1993), or, if later, January 1, 1995, or

"(II) January 1, 1998, or

"(iii) any qualified transfer under section 420."

(2) CONFORMING AMENDMENTS.—Section 401(h) is amended—

(A) by striking "Under" and inserting:

"(1) IN GENERAL.—Under",

(B) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively,

(C) by striking "paragraph (6)" and inserting "subparagraph (F)", and

(D) by striking "paragraph (1)" and inserting "subparagraph (A)".

(b) MINIMUM COST REQUIREMENTS OF EMPLOYER.—Paragraph (3) of section 420(c) (relating to minimum cost requirements) is amended by adding at the end the following new subparagraph:

"(E) ADJUSTMENT FOR COST SAVINGS UNDER HEALTH SECURITY ACT.—To the extent provided by the Secretary, a plan shall not be treated as failing to meet the requirements of this section to the extent such failure is attributable to a reduction in qualified current retiree health liabilities by reason of the enactment of the Health Security Act."

Subtitle E—Coordination With COBRA Continuing Care Provisions

SEC. 7501. COORDINATION WITH COBRA CONTINUING CARE PROVISIONS.

(a) PERIOD OF COVERAGE.—Clause (iv) of section 4980B(f)(2)(B) (defining period of coverage) is amended—

(1) by striking "or" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", or", and by adding at the end the following new subclause:

"(III) eligible for comprehensive health coverage described in section 1101 of the Health Security Act.", and

(2) by striking "OR MEDICARE ENTITLEMENT" in the heading and inserting ", MEDICARE ENTITLEMENT, OR HEALTH SECURITY ACT ELIGIBILITY".

(b) QUALIFIED BENEFICIARY.—Section 4980B(g)(1) (defining qualified beneficiary) is amended by adding at the end the following new subparagraph:

"(E) SPECIAL RULE FOR INDIVIDUALS COVERED BY HEALTH SECURITY ACT.—The term 'qualified beneficiary' shall not include any individual who, upon termination of coverage under a group health plan, is eligible for comprehensive health coverage described in section 1101 of the Health Security Act."

(c) REPEAL UPON IMPLEMENTATION OF HEALTH SECURITY ACT.—

(1) IN GENERAL.—Section 4980B (relating to failure to satisfy continuation coverage requirements of group health care plans) is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 414(n)(3)(C) is amended by striking "505, and 4980B" and inserting "and 505".

(B) Section 414(t)(2) is amended by striking "505, or 4980B" and inserting "or 505".

(C) The table of sections for chapter 43 is amended by striking the item relating to section 4980B.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the earlier of—

(A) January 1, 1998, or

(B) the first day of the first calendar year following the calendar year in which all States have in effect plans under which individuals are eligible for comprehensive health coverage described in section 1101 of this Act.

Such amendments shall not apply in determining the amount of any tax under section 4980B of the Internal Revenue Code of 1986 with respect to any failure occurring before the date determined under the preceding sentence.

Subtitle F—Tax Treatment of Organizations Providing Health Care Services and Related Organizations

SEC. 7601. TREATMENT OF NONPROFIT HEALTH CARE ORGANIZATIONS.

(a) TREATMENT OF HOSPITALS AND OTHER ENTITIES PROVIDING HEALTH CARE SERVICES.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) QUALIFICATION OF ORGANIZATIONS PROVIDING HEALTH CARE SERVICES AS CHARITABLE ORGANIZATIONS.—For purposes of subsection (c)(3), the provision of health care services shall not be treated as an activity that accomplishes a charitable purpose unless the organization providing such services, on a periodic basis (no less frequently than annually), and with the participation of community representatives—

"(1) assesses the health care needs of its community, and

"(2) develops a plan to meet those needs.

In the case of a health maintenance organization, the provision of health care services shall not be treated as an activity that accomplishes a charitable purpose for purposes of subsection (c)(3) unless, in addition to meeting the requirement of the preceding sentence, such services are provided as described in subsection (m)(3)(B)(i)."

(b) TREATMENT OF HEALTH MAINTENANCE ORGANIZATIONS.—Section 501(m) is amended by adding at the end thereof the following new paragraph:

"(6) INSURANCE PROVIDED BY HEALTH MAINTENANCE ORGANIZATIONS.—

"(A) CERTAIN INSURANCE NOT TREATED AS COMMERCIAL-TYPE INSURANCE.—Health insurance provided by a health maintenance organization shall not be treated as commercial-type insurance if such insurance relates to care provided other than pursuant to a pre-existing arrangement with such organization. In applying the preceding sentence, care described in subparagraph (B)(iv) shall not be taken into account.

"(B) CERTAIN INSURANCE TREATED AS COMMERCIAL-TYPE INSURANCE.—Health insurance provided by a health maintenance organization shall be treated as commercial-type insurance if it relates to—

"(i) care provided by such organization to its members at its own facilities through health care professionals who do not provide substantial health care services other than on behalf of such organization,

"(ii) primary care provided by a health care professional to a member of such organization on a basis under which the amount paid to such professional does not vary with the amount of care provided to such member,

"(iii) services other than primary care provided pursuant to a pre-existing arrangement with such organization, or

"(iv) emergency care provided to a member of such organization at a location outside such member's area of residence."

(c) TREATMENT OF PARENT ORGANIZATIONS OF HEALTH CARE PROVIDERS.—Section 509(a) (defining private foundation) is amended by striking "and" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) an organization which is organized and operated for the benefit of, and which directly or indirectly controls, an organization described in section 170(b)(1)(A)(iii), and".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1995.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall take effect on the date of the enactment of this Act.

SEC. 7602. TAX TREATMENT OF TAXABLE ORGANIZATIONS PROVIDING HEALTH INSURANCE AND OTHER PREPAID HEALTH CARE SERVICES.

(a) GENERAL RULE.—Section 833 is amended to read as follows:

"SEC. 833. TREATMENT OF ORGANIZATIONS PROVIDING HEALTH INSURANCE AND OTHER PREPAID HEALTH CARE SERVICES.

"(a) GENERAL RULE.—Any organization to which this section applies shall be taxable under this part in the same manner as if it were an insurance company other than a life insurance company.

"(b) ORGANIZATIONS TO WHICH SECTION APPLIES.—This section shall apply to any organization—

"(1) which is not exempt from taxation under this subtitle, and

"(2) the primary and predominant business activity of which during the taxable year consists of 1 or more of the following:

"(A) Issuing accident and health insurance contracts or the reinsuring of risks undertaken by other insurance companies under such contracts.

"(B) Operating as a health maintenance organization.

"(C) Entering into arrangements under which—

"(i) fixed payments or premiums are received as consideration for the organization's agreement to provide or arrange for the provision of health care services, regardless of how the health care services are provided or arranged to be provided, and

"(ii) such fixed payments or premiums do not vary depending on the amount of health care services provided."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 56 is amended by striking paragraph (3).

(2) The table of sections for part II of subchapter L of chapter 1 is amended by striking the item relating to section 833 and inserting the following:

"Sec. 833. Treatment of organizations providing health insurance and other prepaid health care services."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1996.

(2) TRANSITION RULES FOR BLUE CROSS AND BLUE SHIELD ORGANIZATIONS.—

(A) PRIOR FRESH START PRESERVED.—The adjusted basis of any asset determined under section 1012(c)(3)(A)(ii) of the Tax Reform Act of 1986 shall not be affected by the amendments made by this section nor by reason of any failure to qualify in taxable years beginning after December 31, 1996, as an existing Blue Cross or Blue Shield organization (as defined in section 833(c)(2) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act).

(B) RECOUPMENT OF PRIOR RESERVE BENEFIT.—In the case of any organization entitled to the benefits of section 833(a)(3) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) for such organization's last taxable year beginning before January 1, 1997, the amount determined under paragraph (4) of section 832(b) of such Code for each of such organization's first 6 taxable years beginning after December 31, 1996, shall be increased by an amount equal to 3 ⅓ percent of its unearned premiums on outstanding business as of the close of such organization's last taxable year beginning before January 1, 1997.

(C) PHASE-OUT OF SPECIAL DEDUCTION FOR CERTAIN ORGANIZATIONS.—

(i) IN GENERAL.—In the case of an organization which meets the requirements of clause (ii)—

(I) such organization shall continue to be entitled to the deduction provided under section 833(b) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) for its first 2 taxable years beginning after December 31, 1996, except that

(II) the amount of such deduction for such organization's taxable year beginning in 1997 shall be 67 percent of the amount which would have been determined under such section 833(b) as so in effect, and the amount of such deduction for organization's taxable year beginning in 1998 shall be 33 percent of the amount which would have been so determined.

Notwithstanding the amendment made by subsection (b)(1), any deduction under the preceding sentence shall not be allowable in computing alternative minimum taxable income.

(ii) REQUIREMENTS.—An organization meets the requirements of this clause if, for each of its taxable years beginning in 1995 and 1996, such organization—

(I) was an organization to which section 833 of such Code (as so in effect) applied, and

(II) met the requirements of subparagraph (A) of section 833(c)(3) of such Code (as so in effect).

(3) TRANSITIONAL RULES FOR OTHER COMPANIES.—

(A) ORGANIZATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any organization to which section 833 of the Internal Revenue Code of 1986 (as amended by subsection (a)) applies for such organization's first taxable year beginning after December 31, 1996; except that this paragraph shall not apply if such organization treated itself as an insurance company taxable under part II of subchapter L of chapter 1 of such Code on its original Federal income tax return for its taxable year beginning in 1992 and for all of its taxable years thereafter beginning before January 1, 1997.

(B) TREATMENT OF CURRENTLY TAXABLE COMPANIES.—Except as provided in subparagraph (C), in the case of any organization to which this paragraph applies—

(i) the amendments made by this section shall be treated as a change in the method of accounting, and

(ii) all adjustments required to be taken into account under section 481 of the Internal Revenue Code of 1986, shall be taken into account for such company's first taxable year beginning after December 31, 1996.

(C) TREATMENT OF CURRENTLY TAX EXEMPT COMPANIES.—In the case of any organization to which this paragraph applies and which was exempt from tax under chapter 1 of the Internal Revenue Code of 1986 for such organization's last taxable year beginning before January 1, 1997—

(i) no adjustment shall be made under section 481 (or any other provision) of such Code on account of a change in its method of accounting required by this section for its first taxable year beginning after December 31, 1996, and

(ii) for purposes of determining gain or loss, the adjusted basis of any asset held by such organization on the first day of such taxable year shall be treated as equal to its fair market value as of such day.

SEC. 7603. EXEMPTION FROM INCOME TAX FOR REGIONAL ALLIANCES.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by adding at the end thereof the following new paragraph:

"(26) Any regional alliance described in section 1301 of the Health Security Act. Such an alliance shall be treated as not described in any other paragraph of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle G—Tax Treatment of Long-term Care Insurance and Services

SEC. 7701. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in subsection (g)), or".

(b) QUALIFIED LONG-TERM CARE SERVICES DEFINED.—Section 213 (relating to the deduction for medical, dental, etc., expenses) is amended by adding at the end thereof the following new subsection:

"(g) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, curing, mitigating, treating, preventive, therapeutic, and rehabilitative services, and maintenance and personal care services (whether performed in a residential or nonresidential setting) which—

"(A) are required by an individual during any period the individual is an incapacitated individual (as defined in paragraph (2)),

"(B) have as their primary purpose—

"(i) the provision of needed assistance with 1 or more activities of daily living (as defined in paragraph (3)), or

"(ii) protection from threats to health and safety due to severe cognitive impairment, and

"(C) are provided pursuant to a continuing plan of care prescribed by a licensed professional (as defined in paragraph (4)).

"(2) INCAPACITATED INDIVIDUAL.—The term 'incapacitated individual' means any individual who—

"(A) is unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), at least 2 activities of daily living as defined in paragraph (3), or

"(B) has severe cognitive impairment as defined by the Secretary in consultation with the Secretary of Health and Human Services.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless a licensed professional within the preceding 12-month period has certified that such individual meets such requirements.

"(3) ACTIVITIES OF DAILY LIVING.—Each of the following is an activity of daily living:

"(A) Eating.

"(B) Toileting.

"(C) Transferring.

"(D) Bathing.

"(E) Dressing.

"(4) LICENSED PROFESSIONAL.—The term 'licensed professional' means—

"(A) a physician or registered professional nurse, or

"(B) any other individual who meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

"(5) CERTAIN SERVICES NOT INCLUDED.—The term 'qualified long-term care services' shall not include any services provided to an individual—

"(A) by a relative (directly or through a partnership, corporation, or other entity) unless the relative is a licensed professional with respect to such services, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in paragraphs (1) through (8) of section 152(a)."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended to read as follows:

"(D) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged) covering medical care referred to in—

"(i) subparagraphs (A) and (B), or

"(ii) subparagraph (C), but only if such insurance is provided under a qualified long-term care insurance policy (as defined in section 7702B(b)) and the amount paid for such insurance is not disallowed under section 7702B(d)(4)."

(2) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7702. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF LONG-TERM CARE INSURANCE.

"(a) IN GENERAL.—For purposes of this title—

"(1) a qualified long-term care insurance policy (as defined in subsection (b)) shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends (as defined in section 808) or premium refunds) received under a qualified long-term care insurance policy shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance policy shall be treated as an accident and health plan with respect to such coverage,

"(4) amounts paid for a qualified long-term care insurance policy providing the benefits described in subsection (b)(6)(B) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance policy shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE POLICY.—For purposes of this title—

"(1) IN GENERAL.—The term 'qualified long-term care insurance policy' means any long-term care insurance policy (as defined in section 2304 of the Health Security Act) that—

"(A) satisfies the requirements of subpart B of part 3 of subtitle B of title II of the Health Security Act,

"(B) limits benefits under such policy to individuals who are certified by a licensed professional (as defined in section 213(g)(4)) within the preceding 12-month period as being unable to perform, without substantial assistance from another individual (including assistance involving cueing or substantial supervision), 2 or more activities of daily living (as defined in section 213(g)(3)), or who have a severe cognitive impairment (as defined in section 213(g)(2)(B)), and

"(C) satisfies the requirements of paragraphs (2), (3), (4), (5), and (6).

"(2) PREMIUM REQUIREMENTS.—The requirements of this paragraph are met with respect to a policy if such policy provides that premium payments may not be made earlier than the date such payments would have been made if the contract provided for level annual payments over the life expectancy of the insured or 20 years, whichever is shorter. A policy shall not be treated as failing to meet the requirements of the preceding sentence solely by reason of a provision in the policy providing for a waiver of premiums if the insured becomes an individual certified in accordance with paragraph (1)(B).

"(3) PROHIBITION OF CASH VALUE.—The requirements of this paragraph are met if the policy does not provide for a cash value or other money that can be paid, assigned, pledged as collateral for a loan, or borrowed, other than as provided in paragraph (4).

"(4) REFUNDS OF PREMIUMS AND DIVIDENDS.—The requirements of this paragraph are met with respect to a policy if such policy provides that—

"(A) policyholder dividends are required to be applied as a reduction in future premiums or, to the extent permitted under paragraph (6), to increase benefits described in subsection (a)(2), and

"(B) refunds of premiums upon a partial surrender or a partial cancellation are required to be applied as a reduction in future premiums, and

"(C) any refund on the death of the insured, or on a complete surrender or cancellation of the policy, cannot exceed the aggregate premiums paid under the contract.

Any refund on a complete surrender or cancellation of the policy shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(5) COORDINATION WITH OTHER ENTITLEMENTS.—The requirements of this paragraph are met with respect to a policy if such policy does not cover expenses incurred to the extent that such expenses are also covered under title XVIII of the Social Security Act or are covered under comprehensive health coverage described in section 1101 of the Health Security Act.

"(6) MAXIMUM BENEFIT.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the benefits payable under the policy for any period (whether on a periodic basis or otherwise) shall not exceed the dollar amount in effect for such period.

"(B) NONREIMBURSEMENT PAYMENTS PERMITTED.—Benefits shall include all payments described in subsection (a)(2) to or on behalf of an insured individual without regard to the expenses incurred during the period to which the payments relate. For purposes of section 213(a), such payments shall be treated as compensation for expenses paid for medical care.

"(C) DOLLAR AMOUNT.—The dollar amount in effect under this paragraph shall be $150 per day (or the equivalent amount within the calendar year in the case of payments on other than a per diem basis).

"(D) ADJUSTMENTS FOR INCREASED COSTS.—

"(i) IN GENERAL.—In the case of any calendar year after 1996, the dollar amount in effect under subparagraph (C) for any period or portion thereof occurring during such calendar year shall be equal to the sum of—

"(I) the amount in effect under subparagraph (C) for the preceding calendar year (after application of this subparagraph), plus

"(II) the product of the amount referred to in subclause (I) multiplied by the cost-of-living adjustment for the calendar year of the amount under subclause (I).

"(ii) COST-OF-LIVING ADJUSTMENT.—For purposes of clause (i), the cost-of-living adjustment for any calendar year is the percentage (if any) by which the cost index under clause (iii) for the preceding calendar year exceeds such index for the second preceding calendar year.

"(iii) COST INDEX.—The Secretary, in consultation with the Secretary of Health and Human Services, shall before January 1, 1997, establish a cost index to measure increases in costs of nursing home and similar facilities. The Secretary may from time to time revise such index to the extent necessary to accurately measure increases or decreases in such costs.

"(iv) SPECIAL RULE FOR CALENDAR YEAR 1997.—Notwithstanding clause (ii), for purposes of clause (i), the cost-of-living adjustment for calendar year 1997 is the sum of 1 ½ percent plus the percentage by which the CPI for calendar year 1996 (as defined in section 1(f)(4)) exceeds the CPI for calendar year 1995 (as so defined).

"(E) PERIOD.—For purposes of this paragraph, a period begins on the date that an individual has a condition which would qualify for certification under subsection (b)(1)(B) and ends on the earlier of the date upon which—

"(i) such individual has not been so certified within the preceding 12-months, or

"(ii) the individual's condition ceases to be such as to qualify for certification under subsection (b)(1)(B).

"(F) AGGREGATION RULE.—For purposes of this paragraph, all policies issued with respect to the same insured shall be treated as one policy.

"(c) TREATMENT OF LONG-TERM CARE INSURANCE POLICIES.—For purposes of this title, any amount received or coverage provided under a long-term care insurance policy that is not a qualified long-term care insurance policy shall not be treated as an amount received for personal injuries or sickness or provided under an accident and health plan and shall not be treated as excludible from gross income under any provision of this title.

"(d) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by rider on a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract or policy.

"(2) PREMIUMS AND CHARGES FOR LONG-TERM CARE COVERAGE.—Premium payments for coverage under a long-term care insurance policy and charges against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage shall be treated as premiums for purposes of subsection (b)(2).

"(3) APPLICATION OF 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) described in paragraph (2) made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(4) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the coverage provided by the rider is a qualified long-term care insurance policy under subsection (b).

For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a long-term care insurance policy.

"(e) PROHIBITION OF DISCRIMINATION.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(3), any plan of an employer providing coverage under a qualified long-term care insurance policy shall qualify as an accident and health plan with respect to such coverage only if—

"(A) the plan allows all employees, except as provided in paragraph (2), to participate, and

"(B) the benefits provided under the plan are identical for all employees that choose to participate.

"(2) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of paragraph (1), there may be excluded from consideration—

"(A) employees who have not completed 3 years of service;

"(B) employees who have not attained age 25;

"(C) part-time or seasonal employees; and

"(D) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the requirements of this section, including regulations to prevent the avoidance of this section by providing long-term care insurance coverage under a life insurance contract and to provide for the proper allocation of amounts between the long-term care and life insurance portions of a contract.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of long-term care insurance.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to policies issued after December 31, 1995. Solely for purposes of the preceding sentence, a policy issued prior to January 1, 1996, that satisfies the requirements of a qualified long-term care insurance policy as set forth in section 7702B(b) shall, on and after January 1, 1996, be treated as being issued after December 31, 1995.

(2) TRANSITION RULE.—If, after the date of enactment of this Act and before January 1, 1996, a policy providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance policy (as defined in section 7702B(b)), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance policy, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a policy providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance policy within 60 days thereafter shall be treated as an exchange.

(3) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of determining whether section 7702 or 7702A of the Internal Revenue Code of 1986 applies to any contract, the issuance, whether before, on, or after December 31, 1995, of a rider on a life insurance contract providing long-term care insurance coverage shall not be treated as a modification or material change of such contract.

SEC. 7703. TAX TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

(a) GENERAL RULE.—Section 101 (relating to certain death benefits) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, any amount distributed to an individual under a life insurance contract on the life of an insured who is a terminally ill individual (as defined in paragraph (3)) shall be treated as an amount paid by reason of the death of such insured.

"(2) NECESSARY CONDITIONS.—

"(A) Paragraph (1) shall not apply to any distribution unless—

"(i) the distribution is not less than the present value (determined under subparagraph (B)) of the reduction in the death benefit otherwise payable in the event of the death of the insured, and

"(ii) the percentage derived from dividing the cash surrender value of the contract, if any, immediately after the distribution by the cash surrender value of the contract immediately before the distribution is equal to or greater than the percentage derived by dividing the death benefit immediately after the distribution by the death benefit immediately before the distribution.

"(B) The present value of the reduction in the death benefit occurring on the distribution must be determined by—

"(i) using as the discount rate a rate not to exceed the highest rate set forth in subparagraph (C), and

"(ii) assuming that the death benefit (or the portion thereof) would have been paid at the end of a period that is no more than the insured's life expectancy from the date of the distribution or 12 months, whichever is shorter.

"(C) RATES.—The rates set forth in this subparagraph are the following:

"(i) the 90-day Treasury bill yield,

"(ii) the rate described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto for the calendar month ending 2 months before the date on which the rate is determined,

"(iii) the rate used to compute the cash surrender values under the contract during the applicable period plus 1 percent per annum, and

"(iv) the maximum permissible interest rate applicable to policy loans under the contract.

"(3) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who the insurer has determined, after receipt of an acceptable certification by a licensed physician, has an illness or physical condition which can reasonably be expected to result in death within 12 months of the date of certification.

"(4) APPLICATION OF SECTION 72(e)(10).—For purposes of section 72(e)(10) (relating to the treatment of modified endowment contracts), section 72(e)(4)(A)(i) shall not apply to distributions described in paragraph (1).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1993.

SEC. 7704. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract which provides for a distribution to an individual upon the insured becoming a terminally ill individual (as defined in section 101(g)(3)).

(b) DEFINITIONS OF LIFE INSURANCE AND MODIFIED ENDOWMENT CONTRACTS.—Paragraph (5)(A) of section 7702(f) is amended by striking "or" at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

"(v) any qualified accelerated death benefit rider (as defined in section 818(g)), or".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after December 31, 1993.

(2) TRANSITIONAL RULE.—For purposes of determining whether section 7702 or 7702A of the Internal Revenue Code of 1986 applies to any contract, the issuance, whether before, on, or after December 31, 1993, of a rider on a life insurance contract permitting the acceleration of death benefits (as described in section 101(g) of such Code) shall not be treated as a modification or material change of such contract.

Subtitle H—Tax Incentives for Health Services Providers

SEC. 7801. NONREFUNDABLE CREDIT FOR CERTAIN PRIMARY HEALTH SERVICES PROVIDERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. PRIMARY HEALTH SERVICES PROVIDERS.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

"(1) the number of months during such taxable year—

"(A) during which the taxpayer is a qualified primary health services provider, and

"(B) which are within the taxpayer's mandatory service period, and

"(2) $1,000 ($500 in the case of a qualified practitioner who is not a physician).

"(b) QUALIFIED PRIMARY HEALTH SERVICES PROVIDER.—For purposes of this section, the term 'qualified primary health services provider' means, with respect to any month, any qualified practitioner who—

"(1) has in effect a certification by the Bureau as a provider of primary health services and such certification is, when issued, for a health professional shortage area in which the qualified practitioner is commencing the providing of primary health services,

"(2) is providing primary health services full time in the health professional shortage area identified in such certification, and

"(3) has not received a scholarship under the National Health Service Corps Scholarship Program or any loan repayments under the National Health Service Corps Loan Repayment Program.

For purposes of paragraph (2), a provider shall be treated as providing services in a health professional shortage area when such area ceases to be such an area if it was such an area when the provider commenced providing services in the area.

"(c) MANDATORY SERVICE PERIOD.—For purposes of this section, the term 'mandatory service period' means the period of 60 consecutive calendar months beginning with the first month the taxpayer is a qualified primary health services provider. A taxpayer shall not have more than 1 mandatory service period.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BUREAU.—The term 'Bureau' means the Bureau of Primary Health Care, Health Resources and Services Administration of the United States Public Health Service.

"(2) QUALIFIED PRACTITIONER.—The term 'qualified practitioner' means a physician, a physician assistant, a nurse practitioner, or a certified nurse-midwife.

"(3) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act.

"(4) PHYSICIAN ASSISTANT; NURSE PRACTITIONER.—The terms 'physician assistant' and 'nurse practitioner' have the meanings given to such terms by section 1861(aa)(5) of the Social Security Act.

"(5) CERTIFIED NURSE-MIDWIFE.—The term 'certified nurse-midwife' has the meaning given to such term by section 1861(gg)(2) of the Social Security Act.

"(6) PRIMARY HEALTH SERVICES.—The term 'primary health services' has the meaning given such term by section 330(b)(1) of the Public Health Service Act.

"(7) HEALTH PROFESSIONAL SHORTAGE AREA.—The term 'health professional shortage area' has the meaning given such term by section 332(a)(1)(A) of the Public Health Service Act.

"(e) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If there is a recapture event during any taxable year, then—

"(A) no credit shall be allowed under subsection (a) for such taxable year and any succeeding taxable year, and

"(B) the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(i) the applicable percentage, and

"(ii) the aggregate unrecaptured credits allowed to such taxpayer under this section for all prior taxable years.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs during:	The applicable recapture percentage is:
Months 1–24	100
Months 25–36	75
Months 37–48	50
Months 49–60	25
Months 61 and thereafter	0.

"(B) TIMING.—For purposes of subparagraph (A), month 1 shall begin on the first day of the mandatory service period.

"(3) RECAPTURE EVENT DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'recapture event' means the failure of the taxpayer to be a qualified primary health services provider for any month during the taxpayer's mandatory service period.

"(B) CESSATION OF DESIGNATION.—The cessation of the designation of any area as a health professional shortage area after the beginning of the mandatory service period for any taxpayer shall not constitute a recapture event.

"(C) SECRETARIAL WAIVER.—The Secretary, in consultation with the Secretary of Health and Human Services, may waive any recapture event caused by extraordinary circumstances.

"(4) NO CREDITS AGAINST TAX; MINIMUM TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part or for purposes of section 55."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Primary health services providers."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 7802. EXPENSING OF MEDICAL EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 179(b) (relating to dollar limitation on expensing of certain depreciable business assets) is amended to read as follows:

"(1) DOLLAR LIMITATION.—

"(A) GENERAL RULE.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $17,500.

"(B) HEALTH CARE PROPERTY.—The aggregate cost which may be taken into account under subsection (a) shall be increased by the lesser of—

"(i) the cost of section 179 property which is health care property placed in service during the taxable year, or

"(ii) $10,000."

(b) DEFINITION.—Section 179(d) (relating to definitions) is amended by adding at the end the following new paragraph:

"(11) HEALTH CARE PROPERTY.—For purposes of this section, the term 'health care property' means section 179 property—

"(A) which is medical equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment,

"(B) which is owned (directly or indirectly) and used by a physician (as defined in section 1861(r) of the Social Security Act) in the active conduct of such physician's full-time trade or business of providing primary health services (as defined in section 330(b)(1) of the Public Health Service Act) in a health professional shortage area (as defined in section 332(a)(1)(A) of the Public Health Service Act), and

"(C) substantially all the use of which is in such area."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1994.

Subtitle I—Miscellaneous Provisions

SEC. 7901. CREDIT FOR COST OF PERSONAL ASSISTANCE SERVICES REQUIRED BY EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

"SEC. 24. COST OF PERSONAL ASSISTANCE SERVICES REQUIRED BY EMPLOYED INDIVIDUALS.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the personal assistance expenses paid or incurred by the taxpayer during such taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below zero) by 10 percentage points for each $5,000 by which the modified adjusted gross income (as defined in section 59B(d)(2)) of the taxpayer for the taxable year exceeds $45,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting '$2,500' for '$5,000' and '$22,500' for '$45,000'.

"(b) LIMITATION.—The amount of personal assistance expenses incurred for the benefit of an individual which may be taken into account under subsection (a) for the taxable year shall not exceed the lesser of—

"(1) $15,000, or

"(2) such individual's earned income (as defined in section 32(c)(2)) for the taxable year. In the case of a joint return, the amount under the preceding sentence shall be determined separately for each spouse.

"(c) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual (other than a nonresident alien) who, by reason of any medically determinable physical impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, is unable to engage in any substantial gainful activity without personal assistance services appropriate to carry out activities of daily living. An individual shall not be treated as an eligible individual unless such individual furnishes such proof thereof (in such form and manner, and at such times) as the Secretary may require.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) PERSONAL ASSISTANCE EXPENSES.—The term 'personal assistance expenses' means expenses for—

"(A) personal assistance services appropriate to carry out activities of daily living in or outside the home,

"(B) homemaker/chore services incidental to the provision of such personal assistance services,

"(C) in the case of an individual with a cognitive impairment, assistance with life skills,

"(D) communication services,

"(E) work-related support services,

"(F) coordination of services described in this paragraph,

"(G) assistive technology and devises, including assessment of the need for particular technology and devices and training of family members, and

"(H) modifications to the principal place of abode of the individual to the extent the expenses for such modifications would (but for subsection (e)(2)) be expenses for medical care (as defined by section 213) of such individual.

"(2) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' means the activities referred to in section 213(g)(3).

"(e) SPECIAL RULES.—

"(1) PAYMENTS TO RELATED PERSONS.—No credit shall be allowed under this section for any amount paid by the taxpayer to any person who is related (within the meaning of section 267 or 707(b)) to the taxpayer.

"(2) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—Any amount taken into account in determining the credit under this section shall not be taken into account in determining the amount of the deduction under section 213.

"(3) BASIS REDUCTION.—For purposes of this subtitle, if a credit is allowed under this section for any expense with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expense shall be reduced by the amount of the credit so allowed.

"(f) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after 1996, the $45,000 and $22,500 amounts in subsection (a)(2) and the $15,000 amount in subsection (b) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $1,000, such increase shall be rounded to the nearest multiple of $1,000."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) in the case of any property with respect to which a credit has been allowed under section 23, to the extent provided in section 23(e)(3)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Cost of personal assistance services required by employed individuals."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7902. DENIAL OF TAX-EXEMPT STATUS FOR BORROWINGS OF HEALTH CARE-RELATED ENTITIES.

(a) IN GENERAL.—Paragraph (6) of section 141(b) (relating to private business use) is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN HEALTH CARE-RELATED ENTITIES.—Use by—

"(i) any regional alliance described in section 1301 of the Heath Security Act,

"(ii) any corporate alliance described in section 1311 of such Act, and

"(iii) any guaranty fund described in section 1204 of such Act,

shall be treated as private business use by an organization that is not a 501(c)(3) organization."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 7903. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN PROGRAMS UNDER THE HEALTH SECURITY ACT.

(a) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "and" at the end of clause (viii), by striking the period at the end of clause (ix) and inserting "; and", and by inserting after clause (ix) the following new clause:

"(x) assistance provided under the Health Security Act."

(b) INFORMATION NOT AVAILABLE TO LOCAL AGENCIES.—Subparagraph (D) of section 6103(l)(7) is amended by adding at the end thereof the following new sentence: "Subparagraphs (A) and (B) shall be applied without regard to any reference to any local agency with respect to the program referred to in clause (x)."

TITLE VIII—HEALTH AND HEALTH-RELATED PROGRAMS OF THE FEDERAL GOVERNMENT

TABLE OF CONTENTS OF TITLE

Subtitle A—Military Health Care Reform

Sec. 8001. Uniformed services health plans.

Subtitle B—Department of Veterans Affairs

Sec. 8101. Benefits and eligibility through Department of Veterans Affairs Medical System.
Sec. 8102. Organization of Department of Veterans Affairs facilities as health plans.

Subtitle C—Federal Employees Health Benefits Program

Sec. 8201. Definitions.
Sec. 8202. FEHBP termination.
Sec. 8203. Treatment of Federal employees, annuitants, and other individuals (who would otherwise have been eligible for fehbp) under health plans.
Sec. 8204. Treatment of individuals residing abroad.
Sec. 8205. Transition and savings provisions.
Sec. 8206. Regulations.
Sec. 8207. Technical and conforming amendments.

Subtitle D—Indian Health Service

Sec. 8301. Definitions.
Sec. 8302. Eligibility and health service coverage of Indians.
Sec. 8303. Supplemental Indian health care benefits.
Sec. 8304. Health plan and health alliance requirements.
Sec. 8305. Exemption of tribal governments and tribal organizations from employer payments.
Sec. 8306. Provision of health services to non-enrollees and non-Indians.
Sec. 8307. Payment by other payors.
Sec. 8308. Contracting authority.
Sec. 8309. Consultation.
Sec. 8310. Infrastructure.
Sec. 8311. Financing.
Sec. 8312. Rule of construction.
Sec. 8313. Authorizations regarding Public Health Service Initiatives fund.

Subtitle E—Amendments to the Employee Retirement Income Security Act of 1974

Sec. 8401. Group health plan defined.
Sec. 8402. Limitation on coverage of group health plans under title I of ERISA.
Sec. 8403. Amendments relating to continuation coverage.
Sec. 8404. Additional amendments relating to group health plans.
Sec. 8405. Plan claims procedures.
Sec. 8406. Effective dates.

Subtitle F—Special Fund for WIC Program

Sec. 8501. Additional funding for special supplemental food program for women, infants, and children (WIC).

Subtitle A—Military Health Care Reform

SEC. 8001. UNIFORMED SERVICES HEALTH PLANS.

(a) ESTABLISHMENT OF PLANS.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1073 the following new section:

"§ 1073a. Uniformed Services Health Plans: establishment and coordination with national health care reform

"(a) ESTABLISHMENT AUTHORIZED.—(1) The Secretary of Defense, in consultation with the other administering Secretaries, may establish one or more Uniformed Services Health Plans pursuant to this section in order to provide health care services to members of the uniformed services on active duty for a period of more than 30 days and persons described in subsection (e)(2).

"(2) The establishment and operation of a Uniformed Services Health Plan shall be carried out in accordance with regulations prescribed by the Secretary of Defense, in consultation with the other administering Secretaries. The Secretary shall assure that such regulations conform, to the maximum extent practicable, to the requirements for health plans set forth in the Health Security Act.

"(b) USE OF UNIFORMED SERVICES FACILITIES AND OTHER HEALTH CARE PROVIDERS.—(1) A Uniformed Services Health Plan may rely upon the use of facilities of the uniformed services for the provision of health care services to persons enrolled in the plan, supplemented by the use of civilian health care providers or health plans under agreements entered into by the Secretary of Defense.

"(2) An agreement with a civilian health care provider or a health plan under paragraph (1) may be entered into without regard to provisions of law requiring the use of competitive procedures. An agreement with a health plan may provide for the sharing of resources with the health plan that is a party to the agreement.

"(c) HEALTH CARE SERVICES UNDER A PLAN.—(1) Subject to paragraph (2), a Uniformed Services Health Plan shall provide to persons enrolled in the plan the items and services in the comprehensive benefit package under the Health Security Act.

"(2)(A) In addition, a Uniformed Services Health Plan shall guarantee to each person described in subparagraph (B) who is enrolled in the plan those health care services that the person would be entitled to receive under this chapter in the absence of this section. In the case of a person described in subparagraph (B) who is a covered beneficiary, such health care services shall consist of the types of health care services described in section 1079(a) of this title.

"(B) A person referred to in subparagraph (A) is a member of the uniformed services on active duty for a period of more than 30 days as of December 31, 1994, or any person who is a covered beneficiary as of that date, who is (or afterwards becomes) enrolled in a Uniformed Services Health Plan.

"(d) PREEMPTION OF CONFLICTING STATE REQUIREMENTS.—In carrying out responsibilities under the Health Security Act, a State (or State-established entity)—

"(1) may not impose any standard or requirement on a Uniformed Services Health Plan that is inconsistent with this section or any regulation prescribed under this section or other Federal law regarding the operation of this section; and

"(2) may not deny certification of a Uniformed Services Health Plan as a health plan under the Health Security Act on the basis of a conflict between a rule of a State or health alliance and this section or any regulation prescribed under this section or other Federal law regarding the operation of this section.

"(e) ENROLLMENT.—(1) Except as authorized by the administering Secretary concerned, each member of a uniformed service on active duty for a period of more than 30 days shall be required to enroll in a Uniformed Services Health Plan available to the member.

"(2) After enrolling members described in paragraph (1), opportunities for further enrollment in a Uniformed Services Health Plan shall be offered by the administering Secretaries to covered beneficiaries in the following order of priority:

"(A) Spouses and children of members of the uniformed services who are on active duty for a period of more than 30 days.

"(B) Persons described in subsection (c) of section 1086 of this title. The administering Secretary concerned may disregard the exclusion set forth in subsection (d)(1) of such section in the case of a person described in subsection (c) of such section who is enrolled in the supplementary medical insurance program under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.).

"(3) With respect to a member described in paragraph (1) or a covered beneficiary described in paragraph (2) who enrolls in a Uniformed Services Health Plan, participation in such a plan shall be the exclusive source of health care services available to the member or person under this chapter.

"(f) EFFECT OF FAILURE TO ENROLL.—(1) Except as provided in paragraph (2), if a person described in subsection (e)(2) declines the opportunity offered by the administering Secretaries to enroll in a Uniformed Services Health Plan, the person shall not be entitled or eligible for health care services in facilities of the uniformed services or pursuant to a contract entered into under this chapter. However, nothing in this paragraph shall be construed to effect the right of a person to a premium payment by the Secretary of Defense if the person is enrolled in another health plan under the Health Security Act and is otherwise entitled to such a payment under subsection (h).

"(2) A person described in subsection (e)(2) who is enrolled with a health plan that is not a Uniformed Services Health Plan may receive the items and services in the comprehensive benefit package in a facility of the uniformed services only if—

"(A) the Secretary of Defense authorizes the provision of a particular item or service in the package to the person;

"(B) the Secretary determines that the provision of the item or service involved will not interfere with the provision of health care services to members of the uniformed services or persons enrolled in a Uniformed Services Health Plan; and

"(C) the health plan in which the person is enrolled agrees to pay the actual and full cost of the items and services in the package actually provided to the person.

"(3) The administering Secretaries shall assure that all rights and entitlements under this chapter of any person described in subsection (e)(2) are fully preserved if the person—

"(A) is not offered the opportunity to enroll in a Uniformed Services Health Plan; and

"(B) is not otherwise enrolled in a health plan provided through a health alliance under the Health Security Act.

"(g) SPECIAL RULE FOR OTHER PAYERS.—(1)(A) In the case of a person who is enrolled in the supplementary medical insurance program under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) and who is also enrolled in a Uniformed Services Health Plan, Medicare shall be responsible for making a premium payment on behalf of the person. The Secretary of Defense and the Secretary of Health and Human Services shall enter into an agreement specifying the payment responsibilities of Medicare under this paragraph, except that the amount of the premium payment may not exceed the expected per capita costs that Medicare would bear for the person if the person remained in the Medicare program. A premium payment by Medicare under this paragraph shall be the person's exclusive benefit under Medicare.

"(B) In this paragraph, the term 'Medicare' means any plan administered under title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

"(2) Nothing in this section shall affect the payment of the retiree discount under the Health Security Act on behalf of a person who is enrolled in a Uniformed Services Health Plan if the person is otherwise eligible for the retiree discount.

"(h) PAYMENT RESPONSIBILITIES OF THE SECRETARY.—(1) In the case of a person described in subsection (e)(2) who is not enrolled in a Uniformed Services Health Plan, the Secretary may make a premium payment for the person's enrollment through a health alliance in another health plan. In determining the amount of the payment, the Secretary shall consider the amount of any retiree discount payable under the Health Security Act on behalf of the person and the amount of any premium credits attributable to employer payments with respect to employment of the person.

"(2) The Secretary shall not make a payment pursuant to this subsection in connection with any person enrolled in a health plan of the Department of Veterans Affairs or a health program of the Indian Health Service.

"(i) PAYMENT RESPONSIBILITIES OF PERSONS ENROLLED IN A UNIFORMED SERVICES HEALTH PLAN.—(1) In the case of an active duty member who is enrolled in a Uniformed Services Health Plan, the administering Secretaries may not impose or collect from the member a cost-share charge of any kind (whether a premium, copayment, deductible, coinsurance charge, or other charge) other than subsistence charges authorized under section 1075 of this title.

"(2) Subject to paragraph (3), persons described in subsection (e)(2) who are enrolled in a Uniformed Services Health Plan shall be required to pay a family share under section 1342 of a premium and cost sharing. Payment obligations established under this paragraph may not exceed those obligations otherwise required under the national standards for health plans established pursuant to the Health Security Act.

"(3)(A) Persons described in subsection (e)(2) who enroll in a Uniformed Services Health Plan and who (in the absence of this section) would be covered beneficiaries under section 1079 or 1086 of this title continuously since December 31, 1994, shall have, as a group, out-of-pocket costs in 1995 no greater than the lesser of—

"(i) the out-of-pocket costs in effect for such beneficiaries under section 1075, 1078, 1079(b), or 1086(b) of this title (whichever applies) on December 31, 1994; and

"(ii) those obligations otherwise required under the national standards for health plans established pursuant to the Health Security Act.

"(B) Members of the uniformed services on active duty as of December 31, 1994, who afterward become covered beneficiaries under section 1079 or 1086 of this title (or would become covered beneficiaries in the absence of this section) without a break in eligibility for health care services under this chapter shall have, as a group, out-of-pocket costs as covered beneficiaries no higher than the out-of-pocket costs in effect for similarly situated covered beneficiaries described in subparagraph (A).

"(C) The limitation on out-of-pocket costs established pursuant to subparagraph (A) may be adjusted for years after 1995 by an appropriate economic index, as determined by the Secretary of Defense.

"(4) The Secretary of Defense shall establish the payment requirements under paragraph (2), and enforce the limitations on such requirements specified in paragraph (3), in regulations prescribed pursuant to subsection (a).

"(j) FINANCIAL ACCOUNT.—There is hereby established in the Department of Defense a financial account to which shall be credited all premium payments and other receipts from other payers and beneficiaries made in connection with any person enrolled in a Uniformed Services Health Plan. The account shall be administered by the Secretary of Defense, and funds in the account may be used by the Secretary for any purpose directly related to the delivery and financing of health care services under this chapter, including operations, maintenance, personnel, procurement, contributions toward construction projects, and related costs. Funds in the account shall remain available until expended.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1073 the following new item:

"1073a. Uniformed Services Health Plans: establishment and coordination with national health care reform.".

(b) DEFINITION.—Section 1072 of such title is amended by adding at the end the following new paragraph:

"(6) The term 'Uniformed Services Health Plan' means a plan established by the Secretary of Defense under section 1073a(a) of this title in order to provide health care services to members of the uniformed services on active duty and other covered beneficiaries under this chapter.".

(c) REPORT ON ESTABLISHMENT.—If the Secretary of Defense determines to establish any Uniformed Services Health Plan under section 1073a of title 10, United States Code, as added by subsection (a), the Secretary shall submit to Congress a report describing the Plans proposed to be initially offered under such section. The report required by this subsection shall be submitted not later than 30 days before the date on which the Secretary first issues proposed rules under subsection (a) of such section to establish any such Plan.

Subtitle B—Department of Veterans Affairs

SEC. 8101. BENEFITS AND ELIGIBILITY THROUGH DEPARTMENT OF VETERANS AFFAIRS MEDICAL SYSTEM.

(a) DVA AS A PARTICIPANT IN HEALTH CARE REFORM.—

(1) IN GENERAL.—Title 38, United States Code, is amended by inserting after chapter 17 the following new chapter:

"CHAPTER 18—ELIGIBILITY AND BENEFITS UNDER HEALTH SECURITY ACT

"SUBCHAPTER I—GENERAL

"1801. Definitions.

"SUBCHAPTER II—ENROLLMENT

"1811. Enrollment: veterans.
"1812. Enrollment: CHAMPVA eligibles.
"1813. Enrollment: family members.

"SUBCHAPTER III—BENEFITS

"1821. Benefits for VA enrollees.
"1822. Chapter 17 benefits described.
"1823. Entitlement to chapter 17 benefits for certain veterans.
"1824. Supplemental benefits packages and policies.
"1825. Limitation regarding veterans enrolled with health plans outside Department.

"SUBCHAPTER IV—FINANCIAL MATTERS

"1831. Premiums, copayments, etc..
"1832. Medicare coverage and reimbursement.
"1833. Recovery of cost of certain care and services.
"1834. Health Plan Funds.

"SUBCHAPTER I—GENERAL

"§ 1801. Definitions

"For purposes of this chapter:

"(1) The term 'health plan' means an entity that has been certified under the Health Security Act as a health plan.

"(2) The term 'VA health plan' means a health plan that is operated by the Secretary under section 7341 of this title.

"(3) The term 'VA enrollee' means an individual enrolled under the Health Security Act in a VA health plan.

"SUBCHAPTER II—ENROLLMENT

"§ 1811. Enrollment: veterans

"Each veteran who is an eligible individual within the meaning of section 1001 of the Health Security Act may enroll with a VA health plan. A veteran who wants to receive the comprehensive benefit package through the Department shall enroll with a VA health plan.

"§ 1812. Enrollment: CHAMPVA eligibles

"An individual who is eligible for benefits under section 1713 of this title and who is eligible to enroll in a health plan pursuant to section 1001 of the Health Security Act may enroll under that Act with a VA health plan in the same manner as a veteran.

"§ 1813. Enrollment: family members

"(a) The Secretary may authorize a VA health plan to enroll members of the family of an enrollee under section 1811 or 1812 of this title, subject to payment of premiums, deductibles, copayments, and coinsurance as required under the Health Security Act.

"(b) For purposes of subsection (a), an enrollee's family is those individuals (other than the enrollee) included within the term 'family' as defined in section 1011(b) of the Health Security Act.

"SUBCHAPTER III—BENEFITS

"§ 1821. Benefits for VA enrollees

"The Secretary shall ensure that each VA health plan provides to each individual enrolled with it the items and services in the comprehensive benefit package under the Health Security Act.

"§ 1822. Chapter 17 benefits described

"The Secretary shall provide to each veteran described in section 1823(a) of this title the care and services that are authorized to be provided under chapter 17 of this title in accordance with the terms and conditions applicable to that care under such chapter, notwithstanding that such care and services are not included in the comprehensive benefit package.

"§ 1823. Entitlement to chapter 17 benefits for certain veterans

"(a) The following veterans are eligible for additional care and services as described in section 1822 of this title:

"(1) Any veteran with a service-connected disability.

"(2) Any veteran whose discharge or release from the active military, naval or air service was for a disability incurred or aggravated in the line of duty.

"(3) Any veteran who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such a veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section.

"(4) Any veteran who is a former prisoner of war.

"(5) Any veteran of the Mexican border period or World War I.

"(6) Any veteran who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(b) In the case of a veteran who is eligible to receive care or services under section 1710(a)(1)(G) of this title for a disability which may be associated with exposure to a toxic substance, radiation, or environmental hazard, the Secretary shall furnish such care or services to that veteran.

"(c) A veteran covered by subsection (a) or (b)—

"(1) is eligible for care and services described in that subsection whether or not such veteran is a VA enrollee; and

"(2) shall not be subject to any charge or any other cost for such care and services.

"§ 1824. Supplemental benefits packages and policies

"(a)(1) In order to meet the special needs of veterans, the Secretary may offer to veterans supplemental health benefits packages for health care services not included in the comprehensive benefit package. A veteran eligible under section 1823 of this title to receive the health care services described in section 1822 of this title may not be offered a supplemental health benefits package under this subsection. The supplemental health benefits packages offered under this subsection may consist of any or all of the benefits that the Secretary may provide under chapter 17 of this title that are not included in the comprehensive benefit package.

"(2) The Secretary shall charge a premium for a supplemental health benefits package under this subsection. The amount of such premium shall be established so as to cover the actual and full costs of such care.

"(b) A VA health plan may offer supplemental health benefits policies for health care services not provided under chapter 17 of this title and cost sharing policies consistent with the requirements of part 2 of subtitle E of title I of the Health Security Act.

"§1825. Limitation regarding veterans enrolled with health plans outside Department

"A veteran who is residing in a regional alliance area in which the Department operates a health plan and who is enrolled in a health plan that is not operated by the Department may be provided the items and services in the comprehensive benefit package by a VA health plan only if the plan is reimbursed for the actual and full cost of the care provided.

"SUBCHAPTER IV—FINANCIAL MATTERS

"§ 1831. Premiums, copayments, etc.

"(a) In the case of a veteran described in section 1823(a) of this title who is a VA enrollee, the Secretary may not impose or collect from the veteran a cost-share charge of any kind (whether a premium, copayment, deductible, coinsurance charge, or other charge). The Secretary shall make such arrangements as necessary with health alliances in order to carry out this subsection.

"(b) For other VA enrollees, the Secretary shall charge premiums and establish copayments, deductibles, and coinsurance amounts. The premium rate, and the rates for deductibles and copayments, for each VA health plan shall be established by that health plan based on rules established by the health alliance under which it is operating.

"§ 1832. Medicare coverage and reimbursement

"(a) For purposes of any program administered by the Secretary of Health and Human Services under title XVIII of the Social Security Act, a VA health plan or Department facility shall be deemed to be a Medicare provider.

"(b)(1) The Secretary of Health and Human Services shall enter into an agreement with a VA health plan or Department health-care facility to treat such plan or facility as a Medicare HMO in any case in which that health plan or facility seeks to enter into such an agreement.

"(2) For purposes of this section, the term 'Medicare HMO' means an eligible organization under section 1876 of the Social Security Act.

"(c) In the case of care provided to a veteran other than a veteran described in section 1823(a) of this title who is eligible for benefits under the Medicare program under title XVIII of the Social Security Act, the Secretary of Health and Human Services shall reimburse a VA health plan or Department health-care facility providing services as a Medicare provider or Medicare HMO on the same basis as that Secretary reimburses other Medicare providers or Medicare HMOs, respectively. The Secretary of Health and Human Services shall include with each such reimbursement a Medicare explanation of benefits.

"(d) When the Secretary provides care to a veteran for which the Secretary receives reimbursement under this section, the Secretary shall require the veteran to pay to the Department any applicable deductible or copayment that is not covered by Medicare.

"§ 1833. Recovery of cost of certain care and services

"(a) In the case of an individual provided care or services through a VA health plan who has coverage under a supplemental health insurance policy pursuant to part 2 of subtitle E of title I of the Health Security Act or under any other provision of law, or who has coverage under a Medicare supplemental health insurance plan (as defined in the Health Security Act) or under any other provision of law, the Secretary has the right to recover or collect charges for care or services (as determined by the Secretary, but not including care or services for a service-connected disability) from the party providing that coverage to the extent that the individual (or the provider of the care or services) would be eligible to receive payment for such care or services from such party if the care or services had not been furnished by a department or agency of the United States.

"(b) The provisions of subsections (b) through (f) of section 1729 of this title shall apply with respect to claims by the United States under subsection (a) in the same manner as they apply to claims under subsection (a) of that section.

"§ 1834. Health Plan Funds

"(a) The Secretary shall establish for each VA health plan a separate revolving fund.

"(b) Any amount received by the Department by reason of the furnishing of health care by a VA health plan or the enrollment of an individual with a VA health plan (including amounts received as premiums, premium discount payments, copayments or coinsurance, and deductibles, amounts received as third-party reimbursements, and amounts received as reimbursements from another health plan for care furnished to one of its enrollees) shall be credited to the revolving fund of that health plan.

"(c) Notwithstanding subsection (b), a VA health plan may not retain amounts received for care furnished to a VA enrollee in a case in which the costs of such care have been covered by appropriations. Such amounts shall be deposited in the General Fund of the Treasury.

"(d) Each revolving fund for a health plan shall be managed by that health plan.

"(e) Amounts in a revolving fund for a health plan are hereby made available for the expenses of the delivery of the items and services in the comprehensive benefit package by the health plan.".

(2) The table of chapters at the beginning of part II of title 38, United States Code, is amended by inserting after the item relating to chapter 17 the following new item:

"18. Benefits and Eligibility Under
Health Security Act .... 1801.".

(b) PRESERVATION OF EXISTING BENEFITS FOR FACILITIES NOT OPERATING AS HEALTH PLANS.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new section:

"§ 1705. Facilities not operating within health plans; veterans not eligible to enroll in health plans

"The provisions of this chapter shall apply with respect to the furnishing of care and services—

"(1) by any facility of the Department that is not operating as or within a health plan certified as a health plan under the Health Security Act; and

"(2) to any veteran who is an eligible individual with the meaning of section 1001 of the Health Security Act.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1704 the following new item:

"1705. Facilities not operating within health
plans; veterans not eligible to
enroll in health plans.".

SEC. 8102. ORGANIZATION OF DEPARTMENT OF VETERANS AFFAIRS FACILITIES AS HEALTH PLANS.

(a) IN GENERAL.—Chapter 73 of title 38, United States Code, is amended—

(1) by redesignating subchapter IV as subchapter V; and

(2) by inserting after subchapter III the following new subchapter:

"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM

"§ 7341. Organization of health care facilities as health plans

"(a) The Secretary shall organize health plans and operate Department facilities as or within health plans under the Health Security Act. The Secretary shall prescribe regulations establishing standards for the operation of Department health care facilities as or within health plans under that Act. In prescribing those standards, the Secretary shall assure that they conform, to the maximum extent practicable, to the requirements for health plans generally set forth in part 1 of subtitle E of title I of the Health Security Act.

"(b) Within a geographic area or region, health care facilities of the Department located within that area or region may be organized to operate as a single health plan encompassing all Department facilities within that area or region or may be organized to operate as several health plans.

"(c) In carrying out responsibilities under the Health Security Act, a State (or a State-established entity)—

"(1) may not impose any standard or requirement on a VA health plan that is inconsistent with this section or any regulation prescribed under this section or other Federal laws regarding the operation of this section; and

"(2) may not deny certification of a VA health plan under the Health Security Act on the basis of a conflict between a rule of a State or health alliance and this section or regulations prescribed under this section or other Federal laws regarding the operation of this section.

"§ 7342. Contract authority for facilities operating as or within health plans

"The Secretary may enter into a contract (without regard to provisions of law requiring the use of competitive procedures) for the provision of services by a VA health plan in any case in which the Secretary determines that such contracting is more cost-effective than providing such services directly through Department facilities or when such contracting is necessary because of geographic inaccessibility.

"§ 7343. Resource sharing authority: facilities operating as or within health plans

"The Secretary may enter into agreements under section 8153 of this title with other health care plans, with health care providers, and with other health industry organizations, and with individuals, for the sharing of resources of the Department through facilities of the Department operating as or within health plans.

"§ 7344. Administrative and personnel flexibility

"(a) In order to carry out this subchapter, the Secretary may—

"(1) carry out administrative reorganizations of the Department without regard to those provisions of section 510 of this title following subsection (a) of that section; and

"(2) enter into contracts for the performance of services previously performed by employees of the Department without regard to section 8110(c) of this title.

"(b) The Secretary may establish alternative personnel systems or procedures for personnel at facilities operating as or with health plans under the Health Security Act whenever the Secretary considers such action necessary in order to carry out the terms of that Act.

"(c) Subject to the provisions of section 1404 of the Health Security Act, the Secretary may carry out appropriate promotional, advertising, and marketing activities to inform individuals of the availability of facilities of the Department operating as or within health plans. Such activities may only be carried out using nonappropriated funds.

"§ 7345. Funding provisions: grants and other sources of assistance

"The Secretary may apply for and accept, if awarded, any grant or other source of funding that is intended to meet the needs of special populations and that but for this section is unavailable to facilities of the Department or to health plans operated by the Government if funds obtained through the grant or other source of funding will be used through a facility of the Department operating as or within a health plan.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by striking out the item relating to the heading for subchapter IV and inserting in lieu thereof the following:

"SUBCHAPTER IV—PARTICIPATION AS PART OF NATIONAL HEALTH CARE REFORM

"7341. Organization of health care facilities as health plans.
"7342. Contract authority for facilities operating as or within health plans.
"7343. Resource sharing authority: facilities operating as or within health plans.
"7344. Administrative and personnel flexibility.
"7345. Funding provisions: grants and other sources of assistance.

"SUBCHAPTER V—RESEARCH CORPORATIONS".

Subtitle C—Federal Employees Health Benefits Program

SEC. 8201. DEFINITIONS.

Except as otherwise specifically provided, in this subtitle:

(1) ABROAD.—The term "abroad" means outside the United States.

(2) ANNUITANT, ETC.—The terms "annuitant", "employee", and "Government", have the same respective meanings as are given such terms by section 8901 of title 5, United States Code.

(3) EMPLOYEES HEALTH BENEFITS FUND.—The term "Employees Health Benefits Fund" means the fund under section 8909 of title 5, United States Code.

(4) FEHBP.—The term "FEHBP" means the health insurance program under chapter 89 of title 5, United States Code.

(5) FEHBP PLAN.—The term "FEHBP plan" has the same meaning as is given the term "health benefits plan" by section 8901(6) of title 5, United States Code.

(6) FEHBP TERMINATION DATE.—The term "FEHBP termination date" means the date (specified in section 8202) after which FEHBP ceases to be in effect.

(7) RETIRED EMPLOYEES HEALTH BENEFITS FUND.—The term "Retired Employees Health Benefits Fund" means the fund under section 8 of the Retired Federal Employees Health Benefits Act (Public Law 86-724; 74 Stat. 851).

(8) RFEHBP.—The term "RFEHBP" means the health insurance program under the Retired Federal Employees Health Benefits Act.

SEC. 8202. FEHBP TERMINATION.

Chapter 89 of title 5, United States Code, is repealed effective as of December 31, 1997, and all contracts under such chapter shall terminate not later than such date.

SEC. 8203. TREATMENT OF FEDERAL EMPLOYEES, ANNUITANTS, AND OTHER INDIVIDUALS (WHO WOULD OTHERWISE HAVE BEEN ELIGIBLE FOR FEHBP) UNDER HEALTH PLANS.

(a) APPLICABILITY.—This section sets forth rules applicable, after the FEHBP termination date, with respect to individuals who—

(1) are eligible individuals under section 1001; and

(2) but for this subtitle, would be eligible to enroll in a FEHBP plan.

(b) FEDERAL EMPLOYEES.—

(1) SAME TREATMENT AS NON-FEDERAL EMPLOYEES.—A Federal employee shall be treated in the same way, for purposes of provisions of this Act outside of this subtitle, as if that individual were a non-Federal employee, including for purposes of any requirements relating to enrollment, individual or family premium payments, and employer premium payments.

(2) EMPLOYER PREMIUM PAYMENTS.—Any employer premium payment required with respect to the employment of a Federal employee shall be payable from the appropriation or fund from which any Government contribution on behalf of such employee would have been payable under FEHBP.

(3) OPTIONAL OFFER OF FEHBP SUPPLEMENTAL PLANS.—The Federal Government may, but is not required to—

(A) offer to Federal employees one or more FEHBP supplemental plans developed under subsection (f)(1); and

(B) make a Government contribution with respect to the premium for such a plan.

Any Government contribution under subparagraph (B) shall be payable from the same appropriation or fund as would a Government contribution under paragraph (2) on behalf of the Federal employee involved.

(4) DEFINITIONS.—In this subsection:

(A) FEDERAL EMPLOYEE.—The term "Federal employee" means an "employee" as defined by section 8201.

(B) NON-FEDERAL EMPLOYEE.—The term "non-Federal employee" means an "employee" as defined by section 1901.

(c) ANNUITANTS.—

(1) HEALTH PLAN.—

(A) AUTHORITY TO MAKE CERTAIN WITHHOLDINGS FROM ANNUITIES.—The Office of Personnel Management may, on the request of an annuitant enrolled in a health plan, withhold from the annuity of such annuitant any premiums required for such enrollment. The Office shall forward any amounts so withheld to the appropriate fund or as otherwise indicated in the request. A request under this subparagraph shall contain such information, and otherwise be made in such form and manner, as the Office shall by regulation prescribe.

(B) PAYMENT OF ALLIANCE CREDIT LIABILITY FOR ANNUITANTS BELOW AGE 55.—In the case of an annuitant who does not satisfy the eligibility requirements under section 6115, a Government contribution shall be made equal to such amount as is necessary to reduce the employee's liability under section 6111 to zero.

(2) FEHBP SUPPLEMENTAL PLAN.—

(A) CURRENT ANNUITANTS.—

(i) IN GENERAL.—Each current annuitant—

(I) shall be eligible to enroll in FEHBP supplemental plans developed under subsection (f)(1); and

(II) shall be eligible for the Government contribution amount described in clause (ii) toward the premium for such a plan.

(ii) GOVERNMENT CONTRIBUTION AMOUNT.—The Office of Personnel Management shall specify a level of Government contribution under this paragraph for a FEHBP supplemental plan. Such level—

(I) shall reasonably reflect the portion of the Government contributions (last provided under FEHBP) attributable to the portion of FEHBP benefits which the plan is designed to replace; and

(II) shall be applied toward premiums for such a plan.

(B) FUTURE ANNUITANTS.—In the case of a future annuitant, the Federal Government may, but is not required—

(i) to offer to such an annuitant one or more FEHBP supplemental plans developed under subsection (f)(1); and

(ii) to make a Government contribution with respect to the premium for such a plan.

(C) DEFINITIONS.—In this paragraph:

(i) CURRENT ANNUITANT.—The term "current annuitant" means an individual who is residing in a State on January 1, 1998, and, on the day before such date, was—

(I) enrolled in a FEHBP plan as an annuitant; or

(II) covered under a FEHBP plan as a family member (but only if such individual would otherwise have been eligible to enroll in a FEHBP plan as an annuitant).

(ii) FUTURE ANNUITANT.—The term "future annuitant" means an annuitant who is not a current annuitant.

(d) INDIVIDUALS WHO WOULD NOT BE ELIGIBLE FOR A GOVERNMENT CONTRIBUTION UNDER FEHBP.—

(1) IN GENERAL.—In the case of an individual described in paragraph (2)—

(A) the Federal Government may, but is not required to, offer one or more FEHBP supplemental plans developed under subsection (f)(1); and

(B) no Government contribution shall be payable with respect to the premium for such a plan.

(2) APPLICABILITY.—This subsection shall apply with respect to any individual who (but for this subtitle) would be eligible to enroll in a FEHBP plan, but would not be eligible for a Government contribution toward any such plan.

(e) MEDICARE-ELIGIBLE INDIVIDUALS.—

(1) CURRENT MEDICARE-ELIGIBLE INDIVIDUALS.—

(A) IN GENERAL.—Each current medicare-eligible individual—

(i) shall be eligible to enroll in medicare supplemental plans developed under subsection (f)(2); and

(ii) if such individual would (but for this subtitle) have been eligible for a Government contribution under FEHBP (assuming such individual were then enrolled thereunder), shall be eligible for the Government medicare contribution amount described in subparagraph (B) toward the premium for such a plan or toward the premium of a medicare select plan (as defined in paragraph (3)).

(B) MEDICARE CONTRIBUTION AMOUNT.—The Office of Personnel Management shall specify a level of Government contribution under this paragraph for a FEHBP medicare supplemental plan. Such level—

(i) shall reasonably reflect the portion of the Government contributions (last provided under FEHBP) attributable to the portion of FEHBP benefits which the plan is designed to replace; and

(ii) except as otherwise provided in paragraph (3), shall be applied toward premiums for such a plan.

(2) FUTURE MEDICARE-ELIGIBLE INDIVIDUALS.—In the case of a future medicare-eligible individual, the Federal Government may, but is not required to—

(A) offer to such a medicare-eligible individual one or more FEHBP medicare supplemental plans developed under subsection (f)(2); and

(B) make a Government contribution with respect to the premium for such a plan.

(3) APPLICATION OF CONTRIBUTION TOWARD MEDICARE HMO OPTION.—

(A) ELECTION.—A medicare-eligible individual may elect to have the amount of the Government contribution described in paragraph (1)(B) or referred to in paragraph (2)(B) applied toward premiums for enrollment with an eligible organization under a risk-sharing contract under section 1876 of the Social Security Act.

(B) LEVEL CONTRIBUTION RULE.—The level of such Government contribution on behalf of an individual shall be determined without taking into account any election under subparagraph (A).

(4) DEFINITIONS.—In this subsection:

(A) CURRENT MEDICARE-ELIGIBLE INDIVIDUAL.—The term "current medicare-eligible individual" means an individual who is residing in a State on January 1, 1998, and, on the day before such date, was a medicare-eligible individual.

(B) FUTURE MEDICARE-ELIGIBLE INDIVIDUAL.—The term "future medicare-eligible individual" means a medicare-eligible individual who is not a current medicare-eligible individual.

(5) INAPPLICABILITY.—Subsections (b) through (d) shall not apply with respect to a medicare-eligible individual.

(f) DEVELOPMENT OF SUPPLEMENTAL PLANS.—

(1) FEHBP SUPPLEMENTAL PLANS.—The Office of Personnel Management shall develop one or more FEHBP supplemental plans which are supplemental health benefit policies or cost sharing policies (as defined in section 1421(b)). Each such plan shall—

(A) be consistent with the applicable requirements of part 2 of subtitle E of title I (including the requirements under section 1423(f)); and

(B) reflect (taking into consideration the benefits in the comprehensive benefit package) the overall level of benefits generally afforded under FEHBP (as last in effect).

(2) FEHBP MEDICARE SUPPLEMENTAL PLANS.—The Office of Personnel Management shall develop one or more medicare supplemental plans. Each such plan shall—

(A) offer benefits which shall include the core group of basic benefits identified under section 1882(p)(2) of the Social Security Act; and

(B) reflect (taking into consideration the benefits provided under the medicare program) the overall level of benefits generally afforded under FEHBP (as last in effect).

(g) AUTHORIZATION OF APPROPRIATIONS.—The Government contributions authorized by this section on behalf of an annuitant (including an annuitant who is a medicare-eligible individual) shall be paid from annual appropriations which are authorized to be made for that purpose and which may be made available until expended.

(h) FUND.—

(1) ESTABLISHMENT.—There shall be established in the Treasury of the United States a fund into which shall be paid all contributions relating to any—

(A) FEHBP supplemental plan developed under subsection (f)(1);

(B) FEHBP medicare supplemental plan developed under subsection (f)(2); or

(C) health insurance program established under section 8204.

(2) ADMINISTRATION AND USE.—The fund shall be administered by the Office of Personnel Management, and any monies in the fund shall be available for purposes of the plan or program (referred to in paragraph (1)) to which they are attributable.

SEC. 8204. TREATMENT OF INDIVIDUALS RESIDING ABROAD.

(a) IN GENERAL.—After the FEHBP termination date, individuals residing abroad who (but for this subtitle) would be eligible to enroll in a FEHBP plan shall be eligible for health insurance under a program which the Office of Personnel Management shall by regulation establish.

(b) REQUIREMENT.—To the extent practicable, coverage and benefits provided to individuals under such program shall be equal to the coverage and benefits which would be available to them if they were residing in the United States.

(c) GOVERNMENT CONTRIBUTIONS.—Any Government contribution payable under such program shall be made from the appropriation or fund from which any Government contribution would have been payable under FEHBP (if any) on behalf of the individual involved, except that, in the case of an annuitant, any such contribution shall be payable from amounts appropriated pursuant to section 8203(g).

SEC. 8205. TRANSITION AND SAVINGS PROVISIONS.

(a) EMPLOYEES HEALTH BENEFITS FUND.—

(1) TEMPORARY CONTINUED AVAILABILITY.—Notwithstanding section 8202, the Employees Health Benefits Fund shall be maintained, and amounts in such Fund shall remain available, after the FEHBP termination date, for such period of time as the Office of Personnel Management considers necessary in order to satisfy any outstanding claims.

(2) FINAL DISBURSEMENT.—After the end of the period referred to in paragraph (1), any amounts remaining in the Fund shall be disbursed (between the Government and former participants in FEHBP) in accordance with a plan which the Office shall prepare, consistent with the cost-sharing ratio between the Government and plan enrollees during the final contract term. The details of any such plan shall be submitted to the President and the Congress at least 1 year before the date of its proposed implementation.

(b) PROCEEDINGS.—After the FEHBP termination date, chapter 89 of title 5, United States Code (as last in effect) shall be considered to have remained in effect for purposes of any suit, action, or other proceeding with respect to any liability incurred or violation which occurred on or before such date.

(c) RFEHBA.—

(1) REPEAL.—The Retired Federal Employees Health Benefits Act (Public Law 86-724; 74 Stat. 849) is repealed effective as of the FEHBP termination date.

(2) RELATED PROVISIONS.—After the FEHBP termination date—

(A) the Retired Employees Health Benefits Fund shall temporarily remain available, and amounts in that fund shall subsequently be disbursed, in a manner comparable to that provided for under subsection (a); and

(B) retired employees who, but for this subtitle, would be eligible for coverage under the Retired Federal Employees Health Benefits Act shall be treated, for purposes of this subtitle, as if they were annuitants (subject to any differences in the overall level of coverage or benefits generally afforded them under FEHBP and RFEHBP, respectively, as last in effect).

(3) REGULATIONS.—Regulations prescribed under section 8206 to carry out this subsection shall include any necessary provisions relating to individuals residing abroad.

SEC. 8206. REGULATIONS.

The Office of Personnel Management shall prescribe any regulations which may be necessary to carry out this subtitle.

SEC. 8207. TECHNICAL AND CONFORMING AMENDMENTS.

(a) OPM'S ANNUAL REPORT ON FEHBP.—Subsection (c) of section 1308 of title 5, United States Code, is repealed.

(b) OTHER REFERENCES TO FEHBP.—Any reference in any provision of law to the health insurance program under chapter 89 of title 5, United States Code (or any aspect of such program) shall be considered to be a reference to the health insurance program under subtitle C of title VIII of the Health Security Act (or corresponding aspect), subject to such clarification as may be provided, or except as may otherwise be provided, in regulations prescribed by the agency or other authority responsible for the administration of such provision.

(c) OMNIBUS BUDGET RECONCILIATION ACT OF 1993.—Effective as of the date of the enactment of this Act, section 11101(b)(3) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 413) is amended by striking "September 30, 1998" and inserting "December 31, 1997".

(d) EFFECTIVE DATE.—Except as provided in subsection (c), this section and the amendments made by this section shall take effect on the day after the FEHBP termination date.

Subtitle D—Indian Health Service

SEC. 8301. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "health program of the Indian Health Service" means a program which provides health services under this Act through a facility of the Indian Health Service, a tribal organization under the authority of the Indian Self-Determination Act or a self-governance compact, or an urban Indian program;

(2) the term "reservation" means the reservation of any federally recognized Indian tribe, former Indian reservations in Oklahoma, and lands held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(3) the term "urban Indian program" means any program operated pursuant to title V of the Indian Health Care Improvement Act; and

(4) the terms "Indian", "Indian tribe", "tribal organization", "urban Indian", "urban Indian organization", and "service unit" have the same meaning as when used in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

SEC. 8302. ELIGIBILITY AND HEALTH SERVICE COVERAGE OF INDIANS.

(a) ELIGIBILITY.—An eligible individual, as defined in section 1001(c), is eligible to enroll in a health program of the Indian Health Service if the individual is—

(1) an Indian, or a descendent of a member of an Indian tribe who belongs to and is regarded as an Indian by the Indian community in which the individual lives, who resides on or near an Indian reservation or in a geographical area designated by statute as meeting the requirements of being on or near an Indian reservation notwithstanding the lack of an Indian reservation;

(2) an urban Indian; or

(3) an Indian described in section 809(b) of the Indian Health Care Improvement Act (25 U.S.C. 1679(b)).

(b) ELECTION.—An individual described in subsection (a) may elect a health program of the Indian Health Service instead of a health plan.

(c) ENROLLMENT FOR BENEFITS.—An individual who elects a health program of the Indian Health Service under subsection (b) shall enroll in such program through a service unit, tribal organization, or urban Indian program. An individual who enrolls in such program is not subject to any charge for health insurance premiums, deductibles, copayments, coinsurance, or any other cost for health services provided under such program.

(d) PAYMENTS BY INDIVIDUALS WHO DO NOT ENROLL.—If an individual described in subsection (a) does not enroll in a health program of the Indian Health Service, no payment shall be made by the Indian Health Service to the individual (or on behalf of the individual) with respect to premiums charged for enrollment in an applicable health plan or any other cost of health services under the applicable health plan which the individual is required to pay.

SEC. 8303. SUPPLEMENTAL INDIAN HEALTH CARE BENEFITS.

(a) IN GENERAL.—All individuals described in sections 8302(a) remain eligible for such benefits under the laws administered by the Indian Health Service as supplement the comprehensive benefit package. The individual shall not be subject to any charge or any other cost for such benefits.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated to carry out this section $180,000,000 for fiscal year 1995, $200,000,000 for each of the fiscal years 1996 through 1999, and such sums as may be necessary for fiscal year 2000 and each fiscal year thereafter.

SEC. 8304. HEALTH PLAN AND HEALTH ALLIANCE REQUIREMENTS.

(a) COMPREHENSIVE BENEFIT PACKAGE.—The Secretary shall ensure that the comprehensive benefit package is provided by all health programs of the Indian Health Service effective January 1, 1999, notwithstanding section 1001(a).

(b) APPLICABLE REQUIREMENTS OF HEALTH PLANS.—In addition to subsection (a), the Secretary shall determine which other requirements relating to health plans apply to health programs of the Indian Health Service.

(c) CERTIFICATION.—Effective January 1, 1999, all health programs of the Indian Health Service must meet the certification requirements for health plans, as required by the Secretary under this section, as certified from time to time by the Secretary. Before January 1, 1999, all such health programs shall, to the extent practicable, meet such certification requirements.

(d) HEALTH ALLIANCE REQUIREMENTS.—The Secretary shall determine which requirements relating to health alliances apply to the Indian Health Service.

SEC. 8305. EXEMPTION OF TRIBAL GOVERNMENTS AND TRIBAL ORGANIZATIONS FROM EMPLOYER PAYMENTS.

A tribal government and a tribal organization under the Indian Self-Determination and Educational Assistance Act or a self-governance compact shall be exempt from making employer premium payments as an employer under section 6121.

SEC. 8306. PROVISION OF HEALTH SERVICES TO NON-ENROLLEES AND NON-INDIANS.

(a) CONTRACTS WITH HEALTH PLANS.—

(1) IN GENERAL.—A health program of the Indian Health Service, a service unit, a tribal organization, or an urban Indian organization operating within a health program may enter into a contract with a health plan for the provision of health care services to individuals enrolled in such health plan if the program, unit, or organization determines that the provision of such health services will not result in a denial or diminution of health services to any individual described in section 8302(a) who is enrolled for health services provided by such program, unit, or organization.

(2) REIMBURSEMENT.—Any contract entered into pursuant to paragraph (1) shall provide for reimbursement to such program, unit, or organization in accordance with the essential community provider provisions of section 1431(c), as determined by the Secretary.

(b) FAMILY TREATMENT.—

(1) DETERMINATION TO OPEN ENROLLMENT.—A health program of the Indian Health Service may open enrollment to family members of individuals described in section 8302(a).

(2) ELECTION.—If a health program of the Indian Health Service opens enrollment to family members of individuals described in section 8302(a), an individual described in that section may elect family enrollment in the health program instead of in a health plan.

(3) ENROLLMENT.—

(A) IN GENERAL.—An individual who elects family enrollment under paragraph (2) in a health program of the Indian Health Service shall enroll in such program.

(B) APPLICABLE INDIVIDUAL CHARGES.—The individual who enrolls in such program under subparagraph (A) is not subject to any charge for health insurance premiums, deductibles, copayments, coinsurance, or any other cost for health services provided under such program attributable to the individual, but the family members who are not eligible for a health program of the Indian Health Service under section 8302(a) are subject to all such charges.

(C) APPLICABLE EMPLOYER CHARGES.—Employers, other than tribal governments and tribal organizations exempt under section 8305, are liable for making employer premium payments as an employer under section 6121 in the case of any family member enrolled under this subsection who is not eligible for a health program of the Indian Health Service under section 8302(a).

(4) PREMIUM.—

(A) ESTABLISHMENT AND COLLECTION.—The Secretary shall establish a premium for all family members enrolled in a health program of the Indian Health Service under this paragraph who are not eligible for a health program of the Indian Health Service under section 8302(a). The Secretary shall collect each premium payment owed under this paragraph.

(B) REDUCTION.—The Secretary shall provide for a process for premium reduction which is the same as the process, and uses the same standards, used by regional alliances for the areas in which individuals described in subparagraph (A), except that in computing the family share of the premiums the Secretary shall use the lower of the premium quoted or the reduced weighted average accepted bid for the reference regional alliance.

(C) PAYMENT BY SECRETARY.—The Secretary shall pay to each health program of the Indian Health Service, in the same manner as payments under section 6201, amounts equivalent to the amount of payments that would have been made to a regional alliance if the individuals described in subparagraph (A) were enrolled in a regional alliance health plan (with a final accepted bid equal to the reduced weighted average accepted bid premium for the regional alliance).

(c) ESSENTIAL COMMUNITY PROVIDER.—

(1) HEALTH SERVICES.—If a health program of the Indian Health Service, a service unit, a tribal organization, or an urban Indian organization operating within a health program elects to be an essential community provider under section 1431, an individual described in paragraph (2) enrolled in a health plan other than a health program of the Indian Health Service may receive health services from that essential community provider.

(2) INDIVIDUAL COVERED.—An individual referred to in paragraph (1) is an individual who—

(A) is described in section 8303(a)(1); or

(B) is a family member described in subsection (b) who does not enroll in a health program of the Indian Health Service.

SEC. 8307. PAYMENT BY OTHER PAYORS.

(a) PAYMENT FOR SERVICES PROVIDED BY INDIAN HEALTH SERVICE PROGRAMS.—Nothing in this subtitle shall be construed as amending section 206, 401, or 402 of the Indian Health Care Improvement Act (relating to payments on behalf of Indians for health services from other Federal programs or from other third party payors).

(b) PAYMENT FOR SERVICES PROVIDED BY CONTRACTORS.—Nothing in this subtitle shall be construed as affecting any other provision of law, regulation, or judicial or administrative interpretation of law or policy concerning the status of the Indian Health Service as the payor of last resort for Indians eligible for contract health services under a health program of the Indian Health Service.

SEC. 8308. CONTRACTING AUTHORITY.

Section 601(d)(1)(B) of the Indian Health Care Improvement Act (25 U.S.C. 1661(d)(1)(B)) is amended by inserting "(including personal services for the provision of direct health care services)" after "goods and services".

SEC. 8309. CONSULTATION.

The Secretary shall consult with representatives of Indian tribes, tribal organizations, and urban Indian organizations annually concerning health care reform initiatives that affect Indian communities.

SEC. 8310. INFRASTRUCTURE.

(a) FACILITIES.—The Secretary, acting through the Indian Health Service, may expend amounts appropriated pursuant to section 8313 for the construction and renovation of hospitals, health centers, health stations, and other facilities for the purpose of improving and expanding such facilities to enable the delivery of the full array of items and services guaranteed in the comprehensive benefit package.

(b) CAPITAL FINANCING.—There is established in the Indian Health Service a revolving loan program. Under the program, the Secretary, acting through the Indian Health Service, shall provide guaranteed loans under such terms and conditions as the Secretary may prescribe to providers within the Indian Health System to improve and expand health care facilities to enable the delivery of the full array of items and services guaranteed in the comprehensive benefit package.

SEC. 8311. FINANCING.

(a) ESTABLISHMENT OF FUND.—Each health program of the Indian Health Service shall establish a comprehensive benefit package fund (hereafter in this section referred to as the "fund").

(b) DEPOSITS.—There shall be deposited into the fund the following:

(1) All amounts received as employer premium payments pursuant to section 1351(e)(3).

(2) All amounts received as family premium payments and premium discount payments pursuant to section 8306(b)(4).

(3) All amounts appropriated for the fund for the purpose of providing the comprehensive benefit package to individuals enrolled in a health program of the Indian Health Service.

(4) Any other amount received with respect to health services for the comprehensive benefit package.

(c) ADMINISTRATION AND EXPENDITURES.—

(1) MANAGEMENT.—The fund shall be managed by the health program of the Indian Health Service.

(2) EXPENDITURES.—Expenditures may be made from the fund to provide for the delivery of the items and services of the comprehensive benefit package under the health program of the Indian Health Service.

(3) AVAILABILITY OF FUNDS.—Amounts in the fund established by a service unit of the Indian Health Service under this section shall be available without further appropriation and shall remain available until expended for payments for the delivery of the items and services in the comprehensive benefit package.

SEC. 8312. RULE OF CONSTRUCTION.

Unless otherwise provided by this Act, no part of this Act shall be construed to rescind or otherwise modify any obligations, findings, or purposes contained in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) and in the Indian Self-Determination and Education Assistance Act.

SEC. 8313. AUTHORIZATIONS REGARDING PUBLIC HEALTH SERVICE INITIATIVES FUND.

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subtitle, there are authorized to be appropriated from the Public Health Service Initiatives Fund (established in section 3701) $40,000,000 for fiscal year 1995, $180,000,000 for fiscal year 1996, and $200,000,000 for each of the fiscal years 1997 through 2000.

(b) RELATION TO OTHER FUNDS.—The authorizations of appropriations established in subsection (a) are in addition to any other authorizations of appropriations that are available for the purposes described in such subsection.

Subtitle E—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 8401. GROUP HEALTH PLAN DEFINED.

Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(42) The term 'group health plan' means an employee welfare benefit plan which provides medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) to participants or beneficiaries directly or through insurance, reimbursement, or otherwise.".

SEC. 8402. LIMITATION ON COVERAGE OF GROUP HEALTH PLANS UNDER TITLE I OF ERISA.

(a) IN GENERAL.—Section 4 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1003) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(2) in subsection (b), by striking "The provisions" and inserting "Except as provided in subsection (c), the provisions"; and

(3) by adding at the end the following new subsection:

"(c) COVERAGE OF GROUP HEALTH PLANS.—

"(1) LIMITED INCLUSION.—This title shall apply to a group health plan only to the extent provided in this subsection.

"(2) COVERAGE UNDER CERTAIN PROVISIONS WITH RESPECT TO CERTAIN PLANS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), parts 1 and 4 of subtitle B shall apply to—

"(i) a group health plan which is maintained by—

"(I) a corporate alliance (as defined in section 1311(a) of the Health Security Act), or

"(II) a member of a corporate alliance (as so defined) whose eligible sponsor is described in section 1311(b)(1)(C) (relating to rural electric cooperatives and rural telephone cooperative associations), and

"(ii) a group health plan not described in subparagraph (A) which provides benefits which are permitted under paragraph (4) of section 1003 of the Health Security Act.

"(B) INAPPLICABILITY WITH RESPECT TO STATE-CERTIFIED HEALTH PLANS.—Subparagraph (A) shall not apply with respect to any plan or portion thereof which consists of a State-certified health plan (as defined in section 1400(c) of the Health Security Act). The Secretary shall provide by regulation for treatment as a separate group health plan of any arrangement which would otherwise be treated under this title as part of a group health plan to the extent necessary to carry out the purposes of this title.

"(3) CIVIL ACTIONS BY CORPORATE ALLIANCE PARTICIPANTS, BENEFICIARIES, AND FIDUCIARIES AND BY THE SECRETARY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a group health plan to which parts 1 and 4 of subtitle B apply under paragraph (2), section 502 shall apply with respect to a civil action described in such section brought—

"(i) by a participant, beneficiary, or fiduciary under such plan, or

"(ii) by the Secretary.

"(B) EXCEPTION WHERE REVIEW IS OTHERWISE AVAILABLE UNDER HEALTH SECURITY ACT.—Subparagraph (A) shall not apply with respect to any cause of action for which, under section 5202(d) of the Health Security Act, proceedings under sections 5203 and 5204 of such Act pursuant to complaints filed under section 5202(b) of such Act, and review under section 5205 of such Act of determinations made under such section 5204, are the exclusive means of review.

"(4) DEFINITIONS AND ENFORCEMENT PROVISIONS.—Sections 3, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, and 511 and the preceding provisions of this section shall apply to a group health plan to the extent necessary to effectively carry out, and enforce the requirements under, the provisions of this title as they apply pursuant to this subsection.

"(5) APPLICABILITY OF PREEMPTION RULES.—Section 514 shall apply in the case of any group health plan to which parts 1 and 4 of subtitle B apply under paragraph (2).".

(b) REPORTING AND DISCLOSURE REQUIREMENTS APPLICABLE TO GROUP HEALTH PLANS.—

(1) IN GENERAL.—Part 1 of subtitle B of title I of such Act is amended—

(A) in the heading for section 110, by adding "BY PENSION PLANS" at the end;

(B) by redesignating section 111 as section 112; and

(C) by inserting after section 110 the following new section:

"SPECIAL RULES FOR GROUP HEALTH PLANS

"SEC. 111. IN GENERAL.—The Secretary may by regulation provide special rules for the application of this part to group health plans which are consistent with the purposes of this title and the Health Security Act and which take into account the special needs of participants, beneficiaries, and health care providers under such plans.

"(b) EXPEDITIOUS REPORTING AND DISCLOSURE.—Such special rules may include rules providing for—

"(1) reductions in the periods of time referred to in this part,

"(2) increases in the frequency of reports and disclosures required under this part, and

"(3) such other changes in the provisions of this part as may result in more expeditious reporting and disclosure of plan terms and changes in such terms to the Secretary and to plan participants and beneficiaries.

to the extent that the Secretary determines that the rules described in this subsection are necessary to ensure timely reporting and disclosure of information consistent with the purposes of this part and the Health Security Act as they relate to group health plans.

"(c) ADDITIONAL REQUIREMENTS.—Such special rules may include rules providing for reporting and disclosure to the Secretary and to participants and beneficiaries of additional information or at additional times with respect to group health plans to which this part applies under section 4(c)(2), if such reporting and disclosure would be comparable to and consistent with similar requirements applicable under the Health Security Act with respect to plans maintained by regional alliances (as defined in such section 1301 of such Act) and applicable regulations of the Secretary of Health and Human Services prescribed thereunder.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the items relating to sections 110 and 111 and inserting the following new items:

"Sec. 110. Alternative methods of compliance by pension plans.
"Sec. 111. Special rules for group health plans.
"Sec. 112. Repeal and effective date.".

(d) EXCLUSION OF PLANS MAINTAINED BY REGIONAL ALLIANCES FROM TREATMENT AS MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—Section 3(40)(A) of such Act (29 U.S.C. 1002(40)(A)) is amended—

(1) in clause (ii), by striking "or";

(2) in clause (iii), by striking the period and inserting ", or"; and

(3) by adding after clause (iii) the following new clause:

"(iv) by a regional alliance (as defined in section 1301 of the Health Security Act).".

SEC. 8403. AMENDMENTS RELATING TO CONTINUATION COVERAGE.

(a) PERIOD OF COVERAGE.—Subparagraph (D) of section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161(2)) is amended—

(1) by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end the following new clause:

"(iii) eligible for coverage under a comprehensive benefit package described in section 1101 of the Health Security Act.", and

(2) by striking "OR MEDICARE ENTITLEMENT" in the heading and inserting ", MEDICARE ENTITLEMENT, OR HEALTH SECURITY ACT ELIGIBILITY".

(b) QUALIFIED BENEFICIARY.—Section 607(3) of such Act (29 U.S.C. 1167(2)) is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR INDIVIDUALS COVERED BY HEALTH SECURITY ACT.—The term 'qualified beneficiary' shall not include any individual who, upon termination of coverage under a group health plan, is eligible for coverage under a comprehensive benefit package described in section 1101 of the Health Security Act."

(c) REPEAL UPON IMPLEMENTATION OF HEALTH SECURITY ACT.—

(1) IN GENERAL.—Part 6 of subtitle B of title I of such Act (29 U.S.C. 601 et seq.) is amended by striking sections 601 through 608 and by redesignating section 609 as section 601.

(2) CONFORMING AMENDMENTS.—

(A) Section 502(a)(7) of such Act (29 U.S.C. 1132(a)(7)) is amended by striking "609(a)(2)(A)" and inserting "601(a)(2)(A)".

(B) Section 502(c)(1) is amended by striking "paragraph (1) or (4) of section 606".

(C) Section 514 of such Act (29 U.S.C. 1144) is amended by striking "609" each place it appears in subsections (b)(7) and (b)(8) and inserting "601".

(D) The table of contents in section 1 of such Act is amended by striking the items relating to sections 601 through 609 and inserting the following new item:

"Sec. 601. Additional standards for group health plans."

(d) EFFECTIVE DATE.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on the earlier of—

(A) January 1, 1998, or

(B) the first day of the first calendar year following the calendar year in which all States have in effect plans under which individuals are eligible for coverage under a comprehensive benefit package described in section 1101 of this Act.

SEC. 8404. ADDITIONAL AMENDMENTS RELATING TO GROUP HEALTH PLANS.

(a) REGULATIONS OF THE NATIONAL HEALTH BOARD REGARDING CASES OF ADOPTION.—Section 601(c) of such Act (as redesignated by section 8403) is amended by adding at the end the following new subsection:

"(4) REGULATIONS BY NATIONAL HEALTH BOARD.—The preceding provisions of this subsection shall apply except to the extent otherwise provided in regulations of the National Health Board under the Health Security Act.".

(b) COVERAGE OF PEDIATRIC VACCINES.—Section 601(d) of such Act (as redesignated by section 8403) is amended by adding at the end the following new sentence: "The preceding sentence shall cease to apply to a group health plan upon becoming a corporate alliance health plan pursuant to an effective election of the plan sponsor to be a corporate alliance under section 1311 of the Health Security Act.".

(c) TECHNICAL CORRECTIONS.—

(1) Subsection (a)(2)(B)(ii) of section 601 of such Act (as redesignated by section 8403) is amended by striking "section 13822" and inserting "section 13623".

(2) Subsection (a)(4) of such section 601 is amended by striking "section 13822" and inserting "section 13623".

(3) Subsection (d) of such section 601 is amended by striking "section 13830" and inserting "section 13631".

SEC. 8405. PLAN CLAIMS PROCEDURES.

Section 503 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 503."; and

(2) by adding at the end the following new subsection:

"(b) GROUP HEALTH PLANS.—In addition to the requirements of subsection (a), a group health plan to which parts 1 and 4 apply under section 4(c)(2) shall comply with the requirements of section 5201 of the Health Security Act (relating to health plan claims procedure).".

SEC. 8406. EFFECTIVE DATES.

Except as otherwise provided in this subtitle, the amendments made by this subtitle shall take effect on the earlier of—

(1) January 1, 1998, or

(2) such date or dates as may be prescribed in regulations of the National Health Board in connection with plans whose participants or beneficiaries reside in any State which becomes a participating State under the Health Security Act before January 1, 1998.

Subtitle F—Special Fund for WIC Program

SEC. 8501. ADDITIONAL FUNDING FOR SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).

(a) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There is hereby authorized to be appropriated for the special supplemental food program for women, infants, and children (WIC) under section 17 of the Child Nutrition Act of 1966, in addition to amounts otherwise authorized to be appropriated for such program, such amounts as are necessary for the Secretary of the Treasury to fulfill the requirements of subsection (b).

(b) WIC FUND.—

(1) CREDIT.—For each of fiscal years 1996 through 2000, the Secretary of the Treasury shall credit to a special fund of the Treasury an amount equal to—

(A) $254,000,000 for fiscal year 1996,
(B) $407,000,000 for fiscal year 1997,
(C) $384,000,000 for fiscal year 1998,
(D) $398,000,000 for fiscal year 1999, and
(E) $411,000,000 for fiscal year 2000.

(2) AVAILABILITY.—Subject to paragraph (3), amounts in such fund—

(A) shall be available only for the program authorized under section 17 of the Child Nutrition Act of 1966, exclusive of activities authorized under section 17(m) of such Act, and

(B) shall be paid to the Secretary of Agriculture for such purposes.

(3) LIMITATION.—For a fiscal year specified in paragraph (1), the amount credited to such fund for the fiscal year shall be available for use in such program only if appropriations Acts for the fiscal year, without the addition of amounts provided under subsection (a) for the fund, provide new budget authority for the program of no less than—

(A) $3,660,000,000 for fiscal year 1996,
(B) $3,759,000,000 for fiscal year 1997,
(C) $3,861,000,000 for fiscal year 1998,
(D) $3,996,000,000 for fiscal year 1999, and
(E) $4,126,000,000 for fiscal year 2000.

TITLE IX—AGGREGATE GOVERNMENT PAYMENTS

TABLE OF CONTENTS OF TITLE

Subtitle A—Aggregate State Payments

PART 1—STATE MAINTENANCE OF EFFORT PAYMENT

Sec. 9001. State maintenance-of-effort payment relating to non-cash assistance recipients.
Sec. 9002. Non-cash baseline amounts.
Sec. 9003. Updating of baseline amounts.
Sec. 9004. Non-cash assistance child and adult defined.

PART 2—STATE PREMIUM PAYMENTS

Sec. 9011. State premium payment relating to cash assistance recipients.
Sec. 9012. Determination of AFDC per capita premium amount for regional alliances.
Sec. 9013. Determination of SSI per capita premium amount for regional alliances.
Sec. 9014. Determination of number of AFDC and SSI recipients.
Sec. 9015. Regional alliance adjustment factors.

PART 3—GENERAL AND MISCELLANEOUS PROVISIONS

Sec. 9021. Timing and manner of payments.
Sec. 9022. Review of payment level.
Sec. 9023. Special rules for Puerto Rico and other territories.

Subtitle B—Aggregate Federal Alliance Payments

Sec. 9101. Federal premium payments for cash assistance recipients.
Sec. 9102. Capped Federal alliance payments.

Subtitle C—Borrowing Authority to Cover Cash-flow Shortfalls

Sec. 9201. Borrowing authority to cover cash-flow shortfalls.

Subtitle A—Aggregate State Payments

PART 1—STATE MAINTENANCE OF EFFORT PAYMENT

SEC. 9001. STATE MAINTENANCE-OF-EFFORT PAYMENT RELATING TO NON-CASH ASSISTANCE RECIPIENTS.

(a) PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), each participating State shall provide for each year (beginning with State's first year) for payment to regional alliances in the State in the amounts specified in subsection (b).

(2) EXCEPTION.—The amounts specified in subsection (b) that are attributable to the element of the non-cash, non-DSH baseline amount described in section 9002(a)(1)(C) shall be paid to the Federal Government.

(b) AMOUNT.—Subject to sections 6005, 9023, and 9201(c)(2), the total amount of such payment for a year shall be equal to the following:

(1) FIRST YEAR.—In the case of the first year for a State, the sum of—

(A) the State non-cash, non-DSH baseline amount for the State, determined under section 9002(a)(1) and updated under section 9003(a)(1), and

(B) the State non-cash, DSH baseline amount for the State, determined under section 9002(a)(2) and updated under section 9003(a)(2).

(2) SUBSEQUENT YEAR.—In the case of any succeeding year, the sum computed under paragraph (1) for the first year updated to the year involved under section 9003(b) .

(c) DIVISION AMONG REGIONAL ALLIANCES.—In the case of a State with more than one regional alliance, the payment required to be made under this section shall be distributed among the regional alliances in an equitable manner (determined by the State) that takes into account, for each regional alliance, the proportion of the non-cash baseline amount (described in section 9002) that is attributable to individuals who resided in the alliance area of the regional alliance.

SEC. 9002. NON-CASH BASELINE AMOUNTS.

(a) BASELINE AMOUNTS.—

(1) NON-DSH AMOUNT.—The Secretary shall determine a non-cash, non-DSH baseline amount which is equal to the sum of the following:

(A) EXPENDITURES FOR COMPREHENSIVE BENEFIT PACKAGE FOR NON-CASH ASSISTANCE CHILDREN.—The aggregate State medicaid expenditures in fiscal year 1993 (as defined in subsection (b)(1)) for the comprehensive benefit package for non-cash assistance children (as defined in section 9004(a)).

(B) EXPENDITURES FOR COMPREHENSIVE BENEFIT PACKAGE FOR NON-CASH ASSISTANCE ADULTS.—The aggregate State medicaid expenditures in fiscal year 1993 for the comprehensive benefit package for non-cash assistance adults (as defined in section 9004(b)).

(C) EXPENDITURES FOR ADDITIONAL BENEFITS FOR CERTAIN CHILDREN.—The aggregate medicaid expenditures in fiscal year 1993 for all medically necessary items and services described in section 1905(a) (including items and services described in section 1905(r) but excluding long-term care services described in section 1933(c)) for qualified children described in section 1934(b)(1).

(2) DSH AMOUNT.—The Secretary shall determine a non-cash, DSH baseline amount which is equal to the DSH expenditures in fiscal year 1993 (as defined in subsection (b)(2)).

(b) STATE MEDICAID EXPENDITURES AND DSH EXPENDITURES DEFINED.—

(1) AGGREGATE STATE MEDICAID EXPENDITURES.—

(A) IN GENERAL.—In this section, the term "aggregate State medicaid expenditures" means, with respect to specified individuals and a State in fiscal year 1993, the amount of payments under the State medicaid plan with respect to medical assistance furnished for such individuals for calendar quarters in fiscal year 1993, less the amount of Federal financial participation paid to the State with respect to such assistance, and not including any DSH expenditures.

(B) LIMITED TO PAYMENTS FOR SERVICES.—In applying subparagraph (A), payments under the State medicaid plan shall not be included unless Federal financial participation is provided with respect to such payments under section 1903(a)(1) of the Social Security Act and such payments shall not include payments for medicare cost-sharing (as defined in section 1905(p)(3) of the Social Security Act).

(2) DSH EXPENDITURES.—In this section, the term "DSH expenditures" means, with respect to fiscal year 1993, payments made under section 1923 of the Social Security Act in fiscal year 1993 multiplied by proportion of payments for medical assistance for hospital services (including psychiatric hospital services) under the State medicaid plan in fiscal year 1993 that is attributable to non-cash assistance adults and non-cash asssistance children.

(3) ADJUSTMENT AUTHORIZED TO TAKE INTO ACCOUNT CASH FLOW VARIATIONS.—If the Secretary finds that a State took an action that had the effect of shifting the timing of medical assistance payments under the State medicaid plan between quarters or fiscal years in a manner so that the payments made in fiscal year 1993 do not accurately reflect the value of the medical assistance provided with respect to items and services furnished in that fiscal year, the Secretary may provide for such adjustment in the amounts computed under this subsection as may be necessary so that the non-cash baseline amounts determined under this section accurately reflects such value.

(4) TREATMENT OF DISALLOWANCES.—The amounts determined under this subsection shall take into account amounts (or an estimate of amounts) disallowed.

(c) APPLICATION TO PARTICULAR ITEMS AND SERVICES IN COMPREHENSIVE BENEFIT PACKAGE.—For purposes of subsection (a)(1), in determining the aggregate State medicaid expenditures for a category of items and services (within the comprehensive benefit package) furnished in a State, there shall be counted only that proportion of such expenditures that were attributable to items and services included in the comprehensive benefit package (taking into account any limitation on amount, duration, or scope of items and services included in such package).

SEC. 9003. UPDATING OF BASELINE AMOUNTS.

(a) INITIAL UPDATE THROUGH THE FIRST YEAR.—

(1) NON-CASH, NON-DSH BASELINE AMOUNT.—The Secretary shall update the non-cash, non-DSH baseline amount determined under section 9002(a)(1) for each State from fiscal year 1993 through the first year, by the following percentage:

(A) If such first year is 1996, the applicable percentage is 56.6 percent.

(B) If such first year is 1997, the applicable percentage is 78.1 percent.

(C) If such first year is 1998, the applicable percentage is 102.2 percent.

(2) NON-CASH, DSH BASELINE AMOUNT.—The Secretary shall update the non-cash, DSH baseline amount determined under section 9002(a)(2) for each State from fiscal year 1993 through the first year, by the following percentage:

(A) If such first year is 1996, the applicable percentage is 45.9 percent.

(B) If such first year is 1997, the applicable percentage is 61.8 percent.

(C) If such first year is 1998, the applicable percentage is 79.0 percent.

(3) ADJUSTMENT AUTHORIZED TO TAKE INTO ACCOUNT CASH FLOW VARIATIONS.—In determining the updates under paragraphs (1) and (2), the Secretary may provide for an adjustment in a manner similar to the adjustment permitted under section 9002(b)(3).

(b) UPDATE FOR SUBSEQUENT YEARS.—For each State for each year after the first year, the Board shall update the non-cash baseline amount (as previously updated under this subsection) by the product of—

(1) 1 plus the general health care inflation factor (as defined in section 6001(a)(3)) for the year, and

(2) 1 plus the annual percentage increase in the population of the United States of individuals who are under 65 years of age (as estimated by the Board based on projections made by the Bureau of Labor Statistics of the Department of Labor) for the year.

SEC. 9004. NON-CASH ASSISTANCE CHILD AND ADULT DEFINED.

(a) NON-CASH ASSISTANCE CHILD.—In this part, the term "non-cash assistance child" means a child described in section 1934(b)(1) of the Social Security Act (as inserted by section 4221(c)) who is not a medicare-eligible individual.

(b) NON-CASH ASSISTANCE ADULT.—In this part, the term "non-cash assistance adult" means an individual who is—

(1) over 21 years,

(2) is a citizen or national of the United States or an alien who is lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, and

(3) is not an AFDC or SSI recipient or a medicare-eligible individual.

PART 2—STATE PREMIUM PAYMENTS

SEC. 9011. STATE PREMIUM PAYMENT RELATING TO CASH ASSISTANCE RECIPIENTS.

(a) IN GENERAL.—Each participating State shall provide in each year (beginning with the State's first year) for payment to each regional alliance in the State of an amount equal to the State medical assistance percentage (as defined in subsection (b)) of 95 percent of the sum of the following products:

(1) AFDC PORTION.—The product of—

(A) the AFDC per capita premium amount for the regional alliance for the year (determined under section 9012(a)), and

(B) the number of AFDC recipients residing in the alliance area in the year (as determined under section 9014(b)(1)).

(2) SSI PORTION.—The product of—

(A) the SSI per capita premium amount for the regional alliance for the year (determined under section 9013), and

(B) the number of SSI recipients residing in the alliance area in the year (as determined under section 9014(b)(1)).

(b) STATE MEDICAL ASSISTANCE PERCENTAGE DEFINED.—In subsection (a), the term "State medical assistance percentage" means, for a State for a quarter in a fiscal year, 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) for the State for the fiscal year.

SEC. 9012. DETERMINATION OF AFDC PER CAPITA PREMIUM AMOUNT FOR REGIONAL ALLIANCES.

(a) IN GENERAL.—For each regional alliance in a State for each year, the Secretary shall determine an AFDC per capita premium amount in accordance with this section. Such amount is equal to—

(1) the per capita State medicaid expenditures for the comprehensive benefit package for AFDC recipients for the State for the year (as determined under subsection (b)), multiplied by

(2) the adjustment factor (determined under section 9015) for the year for the regional alliance.

(b) PER CAPITA STATE MEDICAID EXPENDITURES DEFINED.—The "per capita State medicaid expenditures for the comprehensive benefit package for AFDC recipients" for a State for a year is equal to the base per capita expenditures (described in subsection (c)), updated to the year involved under subsection (d)).

(c) BASE PER CAPITA EXPENDITURES.—The "base per capita expenditures" described in this subsection, for a State for a year, is—

(1) the baseline medicaid expenditures (as defined in subsection (e)) for the State, divided by

(2) the number of AFDC recipients enrolled in the State medicaid plan in fiscal year 1993, as determined under section 9014(a).

(d) UPDATING.—

(1) INITIAL UPDATE THROUGH YEAR BEFORE FIRST YEAR.—

(A) IN GENERAL.—The Secretary shall update the base per capita expenditures described in subsection (c) for each State from fiscal year 1993 through the year before first year, by the applicable percentage specified in paragraph (2).

(B) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage specified in this paragraph, in the case of a State in which the first year is—

(i) 1996 is 32.2 percent,

(ii) 1997 is 46.6 percent, or

(iii) 1998 is 62.1 percent.

(C) ADJUSTMENT AUTHORIZED TO TAKE INTO ACCOUNT CASH FLOW VARIATIONS.—In determining the update under paragraph (1), the Secretary may provide for an adjustment in a manner similar to the adjustment permitted under section 9002(b)(3).

(2) UPDATE FOR SUBSEQUENT YEARS.—For each State for the first year and for each year after the first year, the Board shall update the base per capita expenditures described in subsection (c) (as previously updated under this subsection) by a factor equal to 1 plus the general health care inflation factor (as defined in section 6001(a)(3)) for the year.

(e) DETERMINATION OF BASELINE MEDICAID EXPENDITURES.—

(1) IN GENERAL.—For purposes of subsection (c)(1), the "baseline medicaid expenditures" for a State is the gross amount of payments under the State medicaid plan with respect to medical assistance furnished, for items and services included in the comprehensive benefit package, for AFDC recipients for calendar quarters in fiscal year 1993, but does not include such expenditures for which no Federal financial participation is provided under such plan.

(2) DISPROPORTIONATE SHARE PAYMENTS NOT INCLUDED.—In applying paragraph (1), payments made under section 1923 of the Social Security Act shall not be counted in the gross amount of payments.

(3) TREATMENT OF DISALLOWANCES.—The amount determined under this subsection shall take into account amounts (or an estimate of amounts) disallowed.

(f) APPLICATION TO PARTICULAR ITEMS AND SERVICES IN COMPREHENSIVE BENEFIT PACKAGE.—For purposes of this section, in determining the per capita State medicaid expenditures for a category of items and services (within the comprehensive benefit package) furnished in a State, there shall be counted only that proportion of such expenditures (determined only with respect to medical assistance furnished to AFDC recipients) that were attributable to items and services included in the comprehensive benefit package (taking into account any limitation on amount, duration, or scope of items and services included in such package).

SEC. 9013. DETERMINATION OF SSI PER CAPITA PREMIUM AMOUNT FOR REGIONAL ALLIANCES.

For each regional alliance in a State for each year, the Secretary shall determine an SSI per capita premium amount for each regional alliance in accordance with this section. Such amount shall be determined in the same manner as the AFDC per capita premium amount for the regional alliance is determined under section 9012 except that, for purposes of this section—

(1) any reference in such section (or in sections referred to in such section) to an "AFDC recipient" is deemed a reference to an "SSI recipient", and

(2) the following percents shall be substituted for the percents specified in section 9012(d)(1)(B):

(A) For 1996, 29.4 percent.

(B) For 1997, 43.7 percent.

(C) For 1998, 58.8 percent.

SEC. 9014. DETERMINATION OF NUMBER OF AFDC AND SSI RECIPIENTS.

(a) BASELINE.—For purposes of section 9012 and section 9013, the number of AFDC recipients and SSI recipients for a State for fiscal year 1993 shall be determined based on actual reports submitted by the State to the Secretary. In the case of individuals who were not recipients for the entire fiscal year, the number shall take into account only the portion of the year in which they were such recipients. The Secretary may audit such reports.

(b) SUBSEQUENT YEARS.—

(1) PAYMENTS.—For purposes of section 9011(b), the number of AFDC and SSI recipients enrolled in regional alliance health plans for a regional alliance shall be determined on a monthly basis based on actual enrollment.

(2) COMPUTATION OF REGIONAL ADJUSTMENT FACTORS AND BLENDED PLAN PAYMENT RATES.—For purposes of computing regional alliance adjustment factors under section 9015 and the AFDC and SSI proportions under section 6202, the number of AFDC and SSI recipients for a regional alliance in a State for a year (beginning with 1997) shall be determined by the State before the date the State is required to compute AFDC and SSI proportions under section 6202 based on the best available estimate of such proportion in the previous year.

SEC. 9015. REGIONAL ALLIANCE ADJUSTMENT FACTORS.

(a) IN GENERAL.—If a State—

(1) has more than one regional alliance operating in the State for a year, the State shall compute under this section a regional alliance adjustment factor for each such regional alliance for the year in accordance with subsection (b), or

(2) has only one regional alliance for a year, the regional alliance adjustment factor under this section is 1.

(b) RULES.—The adjustment factors under subsection (a)(1) for a year shall be computed in a manner so that—

(1) such factors for the different regional alliances reflect—

(A) the variation in regional alliance per capita premium targets (determined under section 6003), and

(B) the variation in baseline per capita medicaid expenditures across regional alliances; and

(2) the weighted average of such factors is 1.

(c) USE OF SAME DATA.—The weighted average under subsection (b)(2) shall be determined based on the number of AFDC recipients or SSI recipients (as the case may be) enrolled in each regional alliance in a State (as determined for each regional alliance under section 9014(b)(2)).

(d) CLARIFICATION OF SEPARATE COMPUTATIONS.—Determinations of adjustment factors under this section shall be made separately for AFDC recipients and for SSI recipients.

PART 3—GENERAL AND MISCELLANEOUS PROVISIONS

SEC. 9021. TIMING AND MANNER OF PAYMENTS.

The provisions of paragraphs (1) and (2) of section 9101(b) apply to payments by a State under this subtitle in the same manner as they apply to payments by the Secretary under section 9101, and any reference in such provisions to the Secretary is deemed a reference to the State.

SEC. 9022. REVIEW OF PAYMENT LEVEL.

(a) IN GENERAL.—The National Health Board shall review from time to time the appropriateness of the levels of payments required of States under this subtitle.

(b) REPORT.—The Board may report to the Congress on such adjustments as should be made to assure an equitable distribution of State payments under this Act, taking into account the revenue base in each of the States.

(c) LIMIT ON AUTHORITY.—Nothing in this subtitle shall be construed as permitting the Board to change the amount of the payments required by States under the the previous sections in this subtitle.

SEC. 9023. SPECIAL RULES FOR PUERTO RICO AND OTHER TERRITORIES.

(a) WAIVER AUTHORITY.—Notwithstanding any other requirement of this title or title VI, the Secretary may waive or modify any requirement of this title or title VI (other than financial contribution and subsidy requirements) with respect to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands, consistent with this section, to accommodate their unique geographic and social conditions and features of their health care systems.

(b) TERRITORIAL MAINTENANCE OF EFFORT AND DIVISION OF FINANCIAL RESPONSIBILITY.—

(1) IN GENERAL.—In the case of such a territory, the Secretary shall determine an appropriate allocation of the payments described in paragraph (2) based on—

(A) payments that qualify for Federal financial participation under the medicaid program,

(B) payments would qualify for such participation in the absence of section 1108(c) of the Social Security Act, and

(C) other factors that the Secretary may consider.

(2) PAYMENTS DESCRIBED.—The payments described in this paragraph are—

(A) State cash assistance payments under section 9011;

(B) State maintenance of effort payments under section 9001;

(C) Federal payments under section 9101; and

(D) Federal payments under section 9111.

(3) CASH ASSISTANCE RECIPIENTS.—With respect to such territories, in this Act, the term "SSI recipient" means an individual receiving aid under a territorial program for the aged, blind, or disabled under the Social Security Act.

Subtitle B—Aggregate Federal Alliance Payments

SEC. 9101. FEDERAL PREMIUM PAYMENTS FOR CASH ASSISTANCE RECIPIENTS.

(a) AMOUNT.—

(1) IN GENERAL.—The Secretary shall provide each year (beginning with a State's first year) for payment to each regional alliance of an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of 95 percent of the sum of the products described in section 9011(a) for that State for that fiscal year.

(2) SPECIAL RULES FOR SINGLE-PAYER STATES.—In determining the products referred to in paragraph (1) in the case of a single-payer State, the State is deemed to be a single regional alliance and the regional alliance adjustment factor (under section 9015) is deemed to be 1.

(b) TIMING AND MANNER OF PAYMENT.—

(1) IN GENERAL.—Amounts required to be paid under this section shall be paid on a periodic basis that reflects the cash flow requirements of regional alliances for payments under this section in order to meet obligations established under this Act.

(2) PERIODIC PROVISION OF INFORMATION.—Each regional alliance shall periodically transmit to the Secretary such information as the Secretary may require to make such payments.

(3) RECONCILIATION.—

(A) PRELIMINARY.—At such time after the end of each year as the Secretary shall specify, the State shall submit to the Secretary such information as the Secretary may require to do a preliminary reconciliation of the amounts paid under this section and the amounts due.

(B) FINAL.—No later than June 30 of each year, the Secretary shall provide for a final reconciliation for such payments for quarters in the previous year. Amounts subsequently payable are subject to adjustment to reflect the results of such reconciliation.

(C) AUDIT.—Payments under this section are subject to audits by the Secretary in accordance with rules established by the Secretary.

SEC. 9102. CAPPED FEDERAL ALLIANCE PAYMENTS.

(a) CAPPED ENTITLEMENT.—

(1) PAYMENT.—The Secretary shall provide for each calendar quarter (beginning on or after January 1, 1996) for payment to each regional alliance of an amount equal to the capped Federal alliance payment amount (as defined in subsection (b)(1)) for the regional alliance for the quarter.

(2) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to regional alliances of the capped Federal alliance payment under this section.

(b) CAPPED FEDERAL ALLIANCE PAYMENT AMOUNT.—

(1) IN GENERAL.—In this section, the term "capped Federal alliance payment amount" means, for a regional alliance for a calendar quarter in a year and subject to subsection (e), the amount by which—

(A) ¼ of the total payment obligation (described in paragraph (2)) for the alliance for the year, exceeds

(B) ¼ of the total amounts receivable (described in paragraph (3)) by the alliance for the year.

(2) TOTAL PAYMENT OBLIGATION.—The total payment obligation described in this paragraph for an alliance for a year is the total amount payable by the alliance for the following:

(A) PLAN PAYMENTS (AND CERTAIN COST SHARING REDUCTIONS).—Payments to regional alliance health plans under section 1351 (including amounts attributable to cost sharing reductions under section 1371, not including a reduction under subsection (c)(2) thereof) not otherwise counted.

(B) ALLIANCE ADMINISTRATIVE EXPENSES.—Payments retained by the regional alliance for administration (in accordance with section 1352).

(3) TOTAL AMOUNTS RECEIVABLE.—The total amounts receivable by a regional alliance for a year is the sum of the following:

(A) PREMIUMS.—The amount payable to the regional alliance for the family share of premiums, employer premiums, and liabilities owed the alliance under subpart B of part 1, not taking into account any failure to make or collect such payments.

(B) OTHER GOVERNMENT PAYMENTS.—The amounts payable to the regional alliance under sections 9001, 9011, and 9101, and payable under section 1895 of the Social Security Act during the year.

(4) NO PAYMENT FOR CERTAIN AMOUNTS.—

(A) UNCOLLECTED ALLIANCE PREMIUMS.—Each regional alliance is responsible, under section 1345(a), for the collection of all amounts owed the alliance (whether by individuals, employers, or others and whether on the basis of premiums owed, incorrect amounts of discounts or premium, cost sharing, or other reductions made, or otherwise), and no amounts are payable by the Federal Goverment under this section with respect to the failure to collect any such amounts.

(B) ADMINISTRATIVE ERRORS.—

(i) IN GENERAL.—Each participating State is responsible, under section 1202(g), for the payment to regional alliances in the State of amounts attributable to administrative errors (described in clause (ii)).

(ii) ADMINISTRATIVE ERRORS DESCRIBED.—The administrative errors described in this clause include the following:

(I) An eligibility error rate for premium discounts, liability reductions, and cost sharing reductions under sections 6104 and 6123, section 6113, and section 1371, respectively, to the extent the applicable error rate exceeds the maximum permissible error rate, specified by the applicable Secretary under section 1361(b)(1)(C), with respect to the section involved.

(II) Misappropriations or other regional alliance expenditures that the Secretary finds are attributable to malfeasance or misfeasance by the regional alliance or the State.

(5) SPECIAL RULES FOR SINGLE-PAYER STATES.—In applying this subsection in the case of a single-payer State, the Secretary shall develop and apply a methodology for computing an amount of payment (with respect to each calendar quarter) that is equivalent to the amount of payment that would have been made to all regional alliances in the State for the quarter if the State were not a single-payer State.

(c) DETERMINATION OF CAPPED FEDERAL ALLIANCE PAYMENT AMOUNTS.—

(1) REPORTS.—At such time as the Secretary may require before the beginning of each fiscal year, each regional alliance shall submit to the Secretary such information as the Secretary may require to estimate the capped Federal alliance payment amount under this section for the succeeding calendar year (and the portion of such year that falls in such fiscal year).

(2) ESTIMATION.—Before the beginning of each year, the Secretary shall estimate for each regional alliance the capped Federal alliance payment amount for calendar quarters in such year. Such estimate shall be based on factors including prior financial experience in the alliance, future estimates of income, wages, and employment, and other characteristics of the area found relevant by the Secretary. The Secretary shall transmit to Congress, on a timely basis consistent with the timely appropriation of funds under this section, a report that specifies an estimate of the total capped Federal alliance payment amounts owed to States under this section for the fiscal and calendar year involved.

(d) PAYMENTS TO REGIONAL ALLIANCES.—Subject to subsection (e), the provisions of section 9101(b) apply to payments under this section in the same manner as they apply to payments under section 9101.

(e) CAP ON PAYMENTS.—

(1) IN GENERAL.—The total amount of the capped Federal alliance payments made under this section for quarters in a fiscal year may not exceed the cap specified under paragraph (2) for the fiscal year.

(2) CAP.—Subject to paragraphs (4) and (6)—

(A) FISCAL YEARS 1996 THROUGH 2000.—The cap under this paragraph—

(i) for fiscal year 1996, is $10.3 billion,

(ii) for fiscal year 1997, is $28.3 billion,

(iii) for fiscal year 1998, is $75.6 billion,

(iv) for fiscal year 1999, is $78.9 billion, and

(v) for fiscal year 2000, is $81.0 billion.

(B) SUBSEQUENT FISCAL YEAR.—The cap under this paragraph for a fiscal year after fiscal year 2000 is the cap under this paragraph for the previous fiscal year (not taking into account paragraph (4)) multiplied by the product of the factors described in subparagraph (C) for that fiscal year and for each previous year after fiscal year 2000.

(C) FACTOR.—The factor described in this subparagraph for a fiscal year is 1 plus the following:

(i) CPI.—The percentage change in the CPI for the fiscal year, determined based upon the percentage change in the average of the CPI for the 12-month period ending with May 31 of the previous fiscal year over such average for the preceding 12-month period.

(ii) POPULATION.—The average annual percentage change in the population of the United States during the 3-year period ending in the preceding calendar year, determined by the Board based on data supplied by the Bureau of the Census.

(iii) REAL GDP PER CAPITA.—The average annual percentage change in the real, per capita gross domestic product of the United States during the 3-year period ending in the preceding calendar year, determined by the Board based on data supplied by the Department of Commerce.

(3) CARRYFORWARD.—If the total of the capped Federal alliance payment amounts for all regional alliances for all calendar quarters in a fiscal year is less than the cap specified in paragraph (2) for the fiscal year, then the amount of such surplus shall be accumulated and will be available in the case of a year in which the cap would otherwise be breached.

(4) NOTIFICATION.—

(A) IN GENERAL.—If the Secretary anticipates that the amount of the cap, plus any carryforward from a previous year accumulated under paragraph (3), will not be sufficient for a fiscal year, the Secretary shall notify the President, the Congress, and each regional alliance. Such notification shall include information about the anticipated amount of the shortfall and the anticipated time when the shortfall will first occur.

(B) REQUIRED ACTION.—Within 30 days after receiving such a notice, the President shall submit to Congress a report containing specific legislative recommendations for actions which would eliminate the shortfall.

(5) CONGRESSIONAL CONSIDERATION.—

(A) EXPEDITED CONSIDERATION.—If a joint resolution the substance of which approves the specific recommendations submitted under paragraph (4)(A) is introduced, subject to subparagraph (B), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of the joint resolution in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(B) SPECIAL RULES.—For purposes of applying subparagraph (A) with respect to such provisions, any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to an appropriate Committee of the House of Representatives (specified by the Speaker of the House of Representatives at the time of submission of recommendations under paragraph (4)) and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to an appropriate Committee of the House of Representatives (specified by the Majority Leader of the Senate at the time of submission of such recommendations).

(6) METHOD FOR ADJUSTING THE CAP FOR CHANGES IN INFLATION.—If the inflation rate, as measured by the percentage increase in the CPI, is projected to be significantly different from the inflation rate projected by the Council of Economic Advisors to the President as of October 1993, the Secretary may adjust the caps under paragraph (2) so as to reflect such deviation from the projection.

Subtitle C—Borrowing Authority to Cover Cash-flow Shortfalls

SEC. 9201. BORROWING AUTHORITY TO COVER CASH-FLOW SHORTFALLS.

(a) IN GENERAL.—The Secretary shall make available loans to regional alliances in order to cover any period of temporary cash-flow shortfall attributable to any of the following:

(1) Any estimation discrepancy (including those described in subsection (e)(1)).

(2) A period of temporary cash-flow shortfall attributable to an administrative error (described in subsection (e)(2)).

(3) A period of temporary cash-flow shortfall relating to the relative timing during the year in which amounts are received and payments are required to be made.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Loans shall be made under this section under terms and conditions, consistent with this subsection, specified by the Secretary, in consultation with the Secretary of the Treasury and taking into account Treasury cash management rules.

(2) PERIOD.—Loans under this section shall be repayable with interest over a period of not to exceed 2 years.

(3) INTEREST RATE.—The rate of interest on such loans shall be at a rate, determined by the Secretary of the Treasury taking into consideration the current average rate on outstanding marketable obligations of the United States.

(4) APPROPRIATE PAYMENT ADJUSTMENTS.—As a condition of providing a loan under subsection (a)(1), the Secretary shall require the regional alliance to make such adjustments under the appropriate estimation adjustment provision (described in subsection (f)) in order to assure the repayment of the amount so borrowed.

(c) REPAYMENT.—

(1) ESTIMATION DISCREPANCIES AND TIMING.—Loans made under paragraphs (1) and (3) of subsection (a) shall be repaid through a reduction in the payment amounts otherwise required to be made under section 9102 to the regional alliance.

(2) ADMINISTRATIVE ERROR.—Loans made under subsection (a)(2) shall be repaid through a temporary increase in the amount of the State maintenance-of-effort payment required under section 9001.

(d) REPORTS.—The Secretary shall annually report to Congress on the loans made (and loan amounts repaid) under this section.

(e) SOURCES OF ERROR DESCRIBED.—

(1) ESTIMATION DISCREPANCIES.—The estimation discrepancies described in this paragraph are discrepancies in estimating the following:

(A) The average premium payments per family under section 6122(b).

(B) The AFDC and SSI proportions under section 6202.

(C) The distribution of enrolled families in different risk categories for purposes of under section 1343(b)(2).

(D) The distribution of enrollment in excess premium plans (for purposes of calculating and applying the reduced weighted average accepted bid under section 6105(c)(1)).

(E) The collection shortfalls (used in computing the family collection shortfall add-on under section 6107).

(2) ADMINISTRATIVE ERRORS.—The administrative errors described in this paragraph include the following:

(A) An eligibility error rate for premium discounts and liability reductions under sections 6104 and 6113, to the extent such rate exceeds the maximum permissible error rate established for the alliance under subpart B of part 3 of subtitle D of title I.

(B) Misappropriations or other regional alliance expenditures that are determined to be attributable to malfeasance or misfeasance by the regional alliance or the State.

(f) ESTIMATION ADJUSTMENT PROVISIONS DESCRIBED.—The estimation adjustment provisions, referred to in subsection (b)(3)) are the following adjustments (corresponding to the respective estimation discrepancies specified in subsection (d)(1)):

(1) Adjustments for average premium payments per family under section 6122(b) under section 6122(b)(4).

(2) Adjustments in the AFDC and SSI proportions under section 6202(d).

(3) Adjustments pursuant to methodology described in section 1541(b)(8).

(4) Adjustments in excess premium credit pursuant to section 6105(b)(2).

(5) Adjustment in the collection shortfall add-on under section 6017(b)(2)(C)).

TITLE X—COORDINATION OF MEDICAL PORTION OF WORKERS COMPENSATION AND AUTOMOBILE INSURANCE

TABLE OF CONTENTS OF TITLE

Subtitle A—Workers Compensation Insurance
Sec. 10000. Definitions.

PART 1—HEALTH PLAN REQUIREMENTS RELATING TO WORKERS COMPENSATION
Sec. 10001. Provision of workers compensation services.
Sec. 10002. Payment by workers compensation carrier.

PART 2—REQUIREMENTS OF PARTICIPATING STATES
Sec. 10011. Coordination of specialized workers compensation providers.
Sec. 10012. Preemption of State laws restricting delivery of workers compensation medical benefits.
Sec. 10013. Development of supplemental schedule.
Sec. 10014. Construction.

PART 3—APPLICATION OF INFORMATION REQUIREMENTS; REPORT ON PREMIUM REDUCTIONS
Sec. 10021. Application of information requirements.
Sec. 10022. Report on reduction in workers compensation premiums.

PART 4—DEMONSTRATION PROJECTS
Sec. 10031. Authorization.
Sec. 10032. Development of work-related protocols.
Sec. 10033. Development of capitation payment models.

Subtitle B—Automobile Insurance
Sec. 10100. Definitions.

PART 1—HEALTH PLAN REQUIREMENTS RELATING TO AUTOMOBILE INSURANCE
Sec. 10101. Provision of automobile insurance medical benefits through health plans.
Sec. 10102. Payment by automobile insurance carrier.

PART 2—REQUIREMENT OF PARTICIPATING STATES
Sec. 10111. Development of supplemental schedule.
Sec. 10112. Construction.

PART 3—APPLICATION OF INFORMATION REQUIREMENTS.
Sec. 10121. Application of information requirements.

Subtitle C—COMMISSION ON INTEGRATION OF HEALTH BENEFITS
Sec. 10201. Commission.

Subtitle D—Federal Employees' Compensation Act
Sec. 10301. Application of policy.

Subtitle E—Davis-Bacon Act and Service Contract Act
Sec. 10401. Coverage of benefits under Health Security Act.

Subtitle F—Effective Dates
Sec. 10501. Regional alliances.
Sec. 10502. Corporate alliances.
Sec. 10503. Federal requirements.

Subtitle A—Workers Compensation Insurance

SEC. 10000. DEFINITIONS.

In this subtitle:

(1) INJURED WORKER.—The term "injured worker" means, with respect to a health plan, an individual enrolled under the plan who has a work-related injury or illness for which workers compensation medical benefits are available under State law.

(2) SPECIALIZED WORKERS COMPENSATION PROVIDER.—The term "specialized workers compensation provider" means a health care provider that specializes in the provision of treatment relating to work-related injuries or illness, and includes specialists in industrial medicine, specialists in occupational therapy, and centers of excellence in industrial medicine and occupational therapy.

(3) WORKERS COMPENSATION MEDICAL BENEFITS.—The term "workers compensation medical benefits" means, with respect to an enrollee who is an employee subject to the workers compensation laws of a State, the comprehensive medical benefits for work-related injuries and illnesses provided for under such laws with respect to such an employee.

(4) WORKERS COMPENSATION CARRIER.—The term "workers compensation carrier" means an insurance company that underwrites workers compensation medical benefits with respect to one or more employers and includes an employer or fund that is financially at risk for the provision of workers compensation medical benefits.

(5) WORKERS COMPENSATION SERVICES.—The term "workers compensation services" means items and services included in workers compensation medical benefits and includes items and services (including rehabilitation services and long-term care services) commonly used for treatment of work-related injuries and illnesses.

PART 1—HEALTH PLAN REQUIREMENTS RELATING TO WORKERS COMPENSATION

SEC. 10001. PROVISION OF WORKERS COMPENSATION SERVICES.

(a) PROVISION OF BENEFITS.—Subject to subsection (b)—

(1) REQUIREMENT FOR CERTAIN HEALTH PLANS.—

(A) IN GENERAL.—Each health plan that provides services to enrollees through participating providers shall enter into such contracts and arrangements as are necessary (in accordance with subparagraph (B)) to provide or arrange for the provision of workers compensation services to such enrollees, in return for payment from the workers compensation carrier under section 10002.

(B) PROVISION OF SERVICES.—For purposes of this paragraph, a health plan provides (or arranges for the provision of) workers compensation services with respect to an enrollee if the services are provided by—

(i) a participating provider in the plan,

(ii) any other provider with whom the plan has entered into an agreement for the provision of such services, or

(iii) a specialized workers compensation provider (designated by the State under 10011), whether or not the provider is a provider described in clause (i) or (ii).

(2) INDIVIDUAL REQUIREMENT.—An individual entitled to workers compensation medical benefits and enrolled in a health plan (whether or not the plan is described in paragraph (1)(A)) shall receive workers compensation services through the provision (or arrangement for the provision) of such services by the health plan.

(3) EXCEPTIONS.—

(A) EMERGENCY SERVICES.—Paragraphs (1) and (2) shall not apply in the case of emergency services.

(B) ELECTING VETERANS, MILITARY PERSONNEL, INDIANS, AND PRISONERS.—Paragraphs (1) and (2) shall not apply in the case of an individual described in section 1004(b) and making an election described in such section.

(4) USE OF SPECIALIZED WORKERS COMPENSATION PROVIDERS.—If a participating State has designated under section 10011 specialized workers compensation providers with respect to one or more types of injuries or illnesses for a geographic area, either a health plan or an injured worker who has an injury or illness of such type may elect to provide or receive the benefits under this subsection through such a provider.

(b) ALTERNATIVE PERMITTED.—Subsection (a) shall not be construed as preventing an injured worker and a workers compensation carrier from agreeing that workers compensation services shall be provided other than by or through the health plan in which the worker is enrolled.

(c) COORDINATION.—

(1) DESIGNATION OF CASE MANAGER.—Each health plan shall employ or contract with one or more individuals, such as occupational nurses, with experience in the treatment of occupational illness and injury to provide case management services with respect to workers compensation services provided through the plan under this section.

(2) FUNCTIONS OF CASE MANAGER.—The health plan (through the case manager described in paragraph (1)) is responsible for ensuring that—

(A) there is plan of treatment (when appropriate) for each enrollee who is an injured worker designed to assure appropriate treatment and facilitate return to work;

(B) the plan of treatment is coordinated with the workers compensation carrier, the employer, or both;

(C) the health plan (and its providers) comply with legal duties and requirements under State workers compensation law; and

(D) if the health plan is unable to provide a workers compensation service needed to treat a work-related injury or illness, that the injured worker is referred (in consultation with the workers compensation carrier) to an appropriate provider.

SEC. 10002. PAYMENT BY WORKERS COMPENSATION CARRIER.

(a) PAYMENT.—

(1) IN GENERAL.—Except as provided in subsection (b), each workers compensation carrier that is liable for payment for workers compensation services furnished by or through a health plan, regardless of whether or not the services are included in the comprehensive benefit package, shall make payment for such services.

(2) USE OF REGIONAL ALLIANCE FEE SCHEDULE.—Such payment shall be made in accordance with the applicable fee schedule established under section 1322(c) or section 10013.

(b) ALTERNATIVE PAYMENT METHODOLOGIES.—Subsection (a) shall not apply—

(1) in the case of a regional alliance or participating State that establishes an alternative payment methodology (such as payment on a negotiated fee for each case) for payment for workers compensation services; or

(2) in the case in which a workers compensation carrier and the health plan negotiate alternative payment arrangements.

(c) LIMITATION OF LIABILITY OF INJURED WORKER.—Nothing in this subpart shall be construed as requiring an injured worker to make any payment (including payment of any cost sharing or any amount in excess of the applicable fee schedule) to any health plan or health care provider for the receipt of workers compensation services.

PART 2—REQUIREMENTS OF PARTICIPATING STATES

SEC. 10011. COORDINATION OF SPECIALIZED WORKERS COMPENSATION PROVIDERS.

(a) IN GENERAL.—Each participating State shall coordinate access to specialized workers compensation providers on behalf of health plans, providing coverage to individuals residing in the State, under part 1.

(b) OPTIONAL DESIGNATION OF SPECIALIZED WORKERS COMPENSATION PROVIDERS.—A participating State may designate such specialized workers compensation providers, as the State determines to be appropriate, to provide under part 1 workers compensation services that—

(1) are not included in the comprehensive benefit package, or

(2) are so included but are specialized services that are typically provided (as determined by the State) by specialists in occupational or rehabilitative medicine.

Injured workers and health plans may elect to use such providers under section 10001(a)(4).

SEC. 10012. PREEMPTION OF STATE LAWS RESTRICTING DELIVERY OF WORKERS COMPENSATION MEDICAL BENEFITS.

(a) IN GENERAL.—Subject to section 10011(b), no State law shall have any effect that restricts the choice, or payment, of providers that may provide workers compensation services for individuals enrolled in a health plan.

(b) DISPUTE RESOLUTION.—A State law may provide for a method for resolving disputes among parties related to—

(1) an individual's entitlement to workers compensation medical benefits under State law,

(2) the necessity and appropriateness of workers compensation services provided to an injured worker, and

(3) subject to section 10002, the reasonableness of charges or fees charged for workers compensation services.

SEC. 10013. DEVELOPMENT OF SUPPLEMENTAL SCHEDULE.

Each participating State shall develop a fee schedule applicable to payment for workers compensation services for which a fee is not included in the applicable fee schedule established under section 1322(c).

SEC. 10014. CONSTRUCTION.

(a) IN GENERAL.—Nothing in this subtitle shall be construed as altering—

(1) the effect of a State workers compensation law as the exclusive remedy for work-related injuries or illnesses,

(2) the determination of whether or not a person is an injured worker and entitled to workers compensation medical benefits under State law,

(3) the scope of items and services available to injured workers entitled to workers compensation medical benefits under State law, or

(4) the eligibility of any individual or class of individuals for workers compensation medical benefits under State law.

(b) EARLY INTEGRATION.—Nothing in this subtitle shall prevent a State from integrating or otherwise coordinating the payment for workers compensation medical benefits with payment for benefits under health insurance or health benefit plans before the date the Commission submits its report under section 10201(e).

PART 3—APPLICATION OF INFORMATION REQUIREMENTS; REPORT ON PREMIUM REDUCTIONS

SEC. 10021. APPLICATION OF INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The provisions of—

(1) part 3 of subtitle B of title V (relating to use of standard forms), and

(2) section 5101(e)(9) (relating to provision of data on quality),

apply to the provision of workers compensation services in the same manner as such provisions apply with respect to the provision of services included in the comprehensive benefit package.

(b) RULES.—The Secretary of Labor shall promulgate rules to clarify the responsibilities of health plans and workers compensation carriers in carrying out the provisions referred to in subsection (a).

SEC. 10022. REPORT ON REDUCTION IN WORKERS COMPENSATION PREMIUMS.

(a) STUDY AND REPORT.—

(1) STUDY.—The Secretary of Labor shall provide for a study of the impact of the provisions of this subtitle on the premium rates charged to employers for workers compensation insurance. Such study shall use information supplied by States relating to workers compensation premiums and such other information as such Secretary finds appropriate.

(2) REPORT.—Such Secretary shall submit to the Congress, by not later than 2 years after the date that this subtitle applies in all States, a report on the findings of the study.

(b) WORKERS COMPENSATION CARRIER FILINGS.—

(1) IN GENERAL.—Within six months after the date this subtitle is effective in a participating State, each workers compensation carrier (other than a self-funded employer) providing workers compensation insurance in the State shall make a filing with an agency designated by the State. Such filing shall describe the manner in which such carrier has modified (or intends to modify) its premium rates for workers compensation insurance provided in the State to reflect the changes brought about by the provisions in this subtitle. The filing shall include such actuarial projections and assumptions as necessary to support the modifications of such rates.

(2) REPORT TO SECRETARY.—Each participating State shall provide to the Secretary of Labor such information on filings made under paragraph (1) as such Secretary may specify.

PART 4—DEMONSTRATION PROJECTS

SEC. 10031. AUTHORIZATION.

The Secretary of Health and Human Services and the Secretary of Labor are authorized to conduct demonstration projects under this part in one or more States with respect to treatment of work-related injuries and illnesses.

SEC. 10032. DEVELOPMENT OF WORK-RELATED PROTOCOLS.

(a) IN GENERAL.—Under this part, the Secretaries, in consultation with States and such experts on work-related injuries and illnesses as the Secretaries find appropriate, shall develop protocols for the appropriate treatment of work-related conditions.

(b) TESTING OF PROTOCOLS.—The Secretaries shall enter into contracts with one or more health alliances to test the validity of the protocols developed under subsection (a).

SEC. 10033. DEVELOPMENT OF CAPITATION PAYMENT MODELS.

Under this part, the Secretaries shall develop, using protocols developed under section 10032 if possible, methods of providing for payment by workers compensation carriers to health plans on a per case, capitated payment for the treatment of specified work-related injuries and illnesses.

Subtitle B—Automobile Insurance

SEC. 10100. DEFINITIONS.

In this subtitle:

(1) INJURED INDIVIDUAL.—The term "injured individual" means, with respect to a health plan, an individual enrolled under the plan who has an injury or illness sustained in an automobile accident for which automobile insurance medical benefits are available.

(2) AUTOMOBILE INSURANCE MEDICAL BENEFITS.—The term "automobile insurance medical benefits" means, with respect to an enrollee, the comprehensive medical benefits for injuries or illnesses sustained in automobile accidents.

(3) AUTOMOBILE INSURANCE CARRIER.—The term "automobile insurance carrier" means an insurance company that underwrites automobile insurance medical benefits and includes an employer or fund that is financially at risk for the provision of automobile insurance medical benefits.

(4) AUTOMOBILE INSURANCE MEDICAL SERVICES.—The term "automobile insurance medical services" means items and services included in automobile insurance medical benefits and includes items and services (such as rehabilitation services and long-term care services) commonly used for treatment of injuries and illnesses sustained in automobile accidents.

PART 1—HEALTH PLAN REQUIREMENTS RELATING TO AUTOMOBILE INSURANCE

SEC. 10101. PROVISION OF AUTOMOBILE INSURANCE MEDICAL BENEFITS THROUGH HEALTH PLANS.

(a) IN GENERAL.—An individual entitled to automobile insurance medical benefits and enrolled in a health plan shall receive automobile insurance medical services through the provision (or arrangement for the provision) of such services by the health plan.

(b) REFERRAL FOR SPECIALIZED SERVICES.—Each health plan shall provide for such referral for automobile insurance medical services as may be necessary to assure appropriate treatment of injured individuals.

(c) EXCEPTIONS.—Subsections (a) and (b) shall not apply in the case of an individual described in section 1004(b) and making an election described in such section.

(d) ALTERNATIVE PERMITTED.—Subsection (a) shall not be construed as preventing an injured individual and an automobile insurance carrier from agreeing that automobile insurance medical services shall be provided other than by or through the health plan in which the individual is enrolled.

SEC. 10102. PAYMENT BY AUTOMOBILE INSURANCE CARRIER.

(a) PAYMENT.—

(1) IN GENERAL.—Except as provided in subsection (b), each automobile insurance carrier that is liable for payment for automobile insurance medical services furnished by or through a health plan, regardless of whether or not the services are included in the comprehensive benefit package, shall make payment for such services.

(2) USE OF REGIONAL ALLIANCE FEE SCHEDULE.—Such payment shall be made in accordance with the applicable fee schedule established under section 1322(c) or section 10111.

(b) ALTERNATIVE PAYMENT METHODOLOGIES.—Subsection (a) shall not apply—

(1) in the case of a regional alliance or participating State that establishes an alternative payment methodology (such as payment on a negotiated fee for each case) for payment for automobile insurance medical services; or

(2) in the case in which a automobile insurance carrier and the health plan negotiate alternative payment arrangements.

(c) LIMITATION OF LIABILITY OF INJURED INDIVIDUAL.—Nothing in this part shall be construed as requiring an injured individual to make any payment (including payment of any cost sharing or any amount in excess of the applicable fee schedule) to any health plan or health care provider for the receipt of automobile insurance medical services.

PART 2—REQUIREMENT OF PARTICIPATING STATES

SEC. 10111. DEVELOPMENT OF SUPPLEMENTAL SCHEDULE.

Each participating State shall develop a fee schedule applicable to payment for automobile insurance medical services for which a fee is not included in the applicable fee schedule established under section 1322(c).

SEC. 10112. CONSTRUCTION.

Nothing in this subtitle shall be construed as altering—

(1) the determination of whether or not a person is an injured individual and entitled to automobile insurance medical benefits under State law, or

(2) the scope of items and services available to injured individuals entitled to automobile insurance medical benefits under State law.

PART 3—APPLICATION OF INFORMATION REQUIREMENTS.

SEC. 10121. APPLICATION OF INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The provisions of—

(1) part 3 of subtitle B of title V (relating to use of standard forms), and

(2) section 5101(e)(9) (relating to provision of data on quality),

apply to the provision of automobile insurance medical services in the same manner as such provisions apply with respect to the provision of services included in the comprehensive benefit package.

(b) RULES.—The Secretary of Labor shall promulgate rules to clarify the responsibilities of health plans and automobile insurance carriers in carrying out the provisions referred to in subsection (a).

Subtitle C—COMMISSION ON INTEGRATION OF HEALTH BENEFITS

SEC. 10201. COMMISSION.

(a) ESTABLISHMENT.—There is hereby created a Commission on Integration of Health Benefits (in this section referred to as the "Commission").

(b) COMPOSITION.—

(1) IN GENERAL.—The Commission shall consist of 15 members appointed jointly by the Secretaries of Health and Human Services and the Secretary of Labor.

(2) NO COMPENSATION EXCEPT TRAVEL EXPENSES.—Members of the Commission shall serve without compensation, but the Secretaries shall provide that each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) DUTIES.—The Commission shall study the feasibility and appropriateness of transferring financial responsibility for all medical benefits (including those currently covered under workers compensation and automobile insurance) to health plans.

(d) STAFF SUPPORT.—The Secretaries shall provide staff support for the Commission.

(e) REPORT.—The Commission shall submit a report to the President by not later than July 1, 1995. If such report recommends the integration of financial responsibility for all medical benefits in health plans, such report shall provide for a detailed plan as to how (and when) such an integration should be effected under this Act.

(f) TERMINATION.—The Commission shall terminate 90 days after the date of submission of its report under subsection (e).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle D—Federal Employees' Compensation Act

SEC. 10301. APPLICATION OF POLICY.

(a) IN GENERAL.—Chapter 81 of title 5, United States Code, known as the Federal Employees' Compensation Act shall be interpreted and administered consistent with the provisions of subtitle A.

(b) CONSTRUCTION.—In applying subsection (a), subtitle A shall be applied as if the following modifications had been made in subtitle A:

(1) Any reference in section 10000, section 10001(c)(2)(C), section 10012(b), or section 10014 to a State law is deemed to include a reference to chapter 81 of title 5, United States Code.

(2) The term "workers compensation carrier" includes the Employees Compensation Fund (established under section 8147 of title 5, United States Code).

Subtitle E—Davis-Bacon Act and Service Contract Act

SEC. 10401. COVERAGE OF BENEFITS UNDER HEALTH SECURITY ACT.

(a) DAVIS-BACON ACT.—Section 1(b)(2) of the Davis Bacon Act (40 U.S.C. 276a(b)(2)) is amended in the matter following subparagraph (B) by inserting after "local law" the following: "(other than benefits provided pursuant to the Health Security Act)".

(b) SERVICE CONTRACT ACT OF 1965.—The second sentence of section 2(a)(2) of the Service Contract Act of 1965 (41 U.S.C. 351(a)(2)) is amended by inserting after "local law" the following: "(other than benefits provided pursuant to the Health Security Act)".

Subtitle F—Effective Dates

SEC. 10501. REGIONAL ALLIANCES.

The provisions of subtitles A and B of this title apply to regional alliances, and regional alliance health plans, in a State 2 years after the State's first year (as defined in section 1902(17)).

SEC. 10502. CORPORATE ALLIANCES.

The provisions of subtitles A and B of this title apply to corporate alliances, and corporate alliance health plans, on January 1, 1998.

SEC. 10503. FEDERAL REQUIREMENTS.

The provisions of subtitle D of this title shall take effect on January 1, 1998.

TITLE XI—TRANSITIONAL INSURANCE REFORM

TABLE OF CONTENTS OF TITLE

Sec. 11001. Imposition of requirements.
Sec. 11002. Enforcement.
Sec. 11003. Requirements relating to preserving current coverage.
Sec. 11004. Restrictions on premium increases during transition.
Sec. 11005. Requirements relating to portability.
Sec. 11006. Requirements limiting reduction of benefits.
Sec. 11007. National transitional health insurance risk pool.
Sec. 11008. Definitions.
Sec. 11009. Termination.

SEC. 11001. IMPOSITION OF REQUIREMENTS.

(a) IN GENERAL.—The Secretary and the Secretary of Labor shall apply the provisions of this title to assure, to the extent possible, the maintenance of current health care coverage and benefits during the period between the enactment of the Health Security Act and the dates its provisions are implemented in the various States.

(b) ENFORCEMENT.—

(1) HEALTH INSURANCE PLANS.—The Secretary shall enforce the requirements of this title with respect to health insurance plans. The Secretary shall promulgate regulations to carry out the requirements under this title health insurance plans. The Secretary shall promulgate regulations with respect to section 11004 within 90 days after the date of the enactment of this Act.

(2) SELF-INSURED PLANS.—The Secretary of Labor shall enforce the requirements of this title with respect to self-insured plans. Such Secretary shall promulgate regulations to carry out the requirements under this title as they relate to self-funded plans.

(3) ARRANGEMENTS WITH STATES.—The Secretary and the Secretary of Labor may enter into arrangements with a State to enforce the requirements of this title with respect to health insurance plans and self-insured plans issued or sold, or established and maintained, in the State.

(c) PREEMPTION.—The requirements of this title do not preempt any State law unless State law directly conflicts with such requirements. The provision of additional protections under State law shall not be considered to directly conflict with such requirements. The Secretary (or, in the case of a self-insured plan, the Secretary of Labor) may issue letter determinations with respect to whether this Act preempts a provision of State law.

(d) INTERIM FINAL REGULATIONS.—Section 1911 shall apply to regulations issued to carry out this title. The Secretary may consult with States and the National Association of Insurance Commissioners in issuing regulations and guidelines under this title.

(e) CONSTRUCTION.—The provisions of this title shall be construed in a manner that assures, to the greatest extent practicable, continuity of health benefits under health benefit plans in effect on the effective date of this Act.

(f) SPECIAL RULES FOR ACQUISITIONS AND TRANSFERS.—The Secretary may issue regulations regarding the application of this title in the case of health insurance plans (or groups of such plans) which are transferred from one insurer to another insurer through assumption, acquisition, or otherwise.

SEC. 11002. ENFORCEMENT.

(a) IN GENERAL.—Any health insurer or health benefit plan sponsor that violates a requirement of this title shall be subject to civil money penalties of not more than $25,000 for each such violation. The provisions of section 1128A of the Social Security Act (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a) of such Act.

(b) EQUITABLE REMEDIES.—

(1) IN GENERAL.—A civil action may be brought by the applicable Secretary—

(A) to enjoin any act or practice which violates any provision of this title, or

(B) to obtain other appropriate equitable relief (i) to redress such violations, or (ii) to enforce any provision of this title, including, in the case of a wrongful termination of (or refusal to renew) coverage, reinstating coverage effective as of the date of the violation.

SEC. 11003. REQUIREMENTS RELATING TO PRESERVING CURRENT COVERAGE.

(a) PROHIBITION OF TERMINATION.—

(1) GROUP HEALTH INSURANCE PLANS.—Each health insurer that provides a group health insurance plan may not terminate (or fail to renew) coverage for any covered employee if the employer of the employee continues the plan, except in the case of—

(A) nonpayment of required premiums,

(B) fraud, or

(C) misrepresentation of a material fact relating to an application for coverage or claim for benefits.

(2) INDIVIDUAL HEALTH INSURANCE PLANS.—Each health insurer that provides coverage to a covered individual under an individual health insurance plan may not terminate (or fail to renew) coverage for such individual (or a covered dependent), except in the case of—

(A) nonpayment of required premiums,

(B) fraud, or

(C) misrepresentation of a material fact relating to an application for coverage or claim for benefits.

(2) EFFECTIVE DATE OF TITLE.—

(A) IN GENERAL.—This subsection shall take effect on the effective date of this title and shall apply to coverage on or after such date.

(B) DEFINITION.—Except as otherwise provided, in this title the term "effective date of this title" means the date of the enactment of this Act.

(b) ACCEPTANCE OF NEW MEMBERS IN A GROUP HEALTH INSURANCE PLAN.—

(1) IN GENERAL.—In the case of a health insurer that provides a group health insurance plan that is in effect on the effective date of this title, the insurer is required—

(A) to accept all individuals, and their eligible dependents, who become full-time employees (as defined in section 1901(b)(2)(C)) of an employer covered after such effective date;

(B) to establish and apply premium rates that are consistent with section 11004(b); and

(C) to limit the application of pre-existing condition restrictions in accordance with section 11005.

(2) CONSISTENT APPLICATION OF RULES RELATING TO DEPENDENTS AND WAITING PERIODS.—In this subsection, the term "eligible dependent", with respect to a group health insurance plan, has the meaning provided under the plan as of the date of introduction of the Health Security Act or, in the case of a plan not established as of such date, as of the date of establishment of the plan.

SEC. 11004. RESTRICTIONS ON PREMIUM INCREASES DURING TRANSITION.

(a) DIVISION OF HEALTH INSURANCE PLANS BY SECTOR.—For purposes of this section, each health insurer shall divide its health insurance business into the following 3 sectors:

(1) Health insurance for groups with at least 100 covered lives (in this section referred to as the "large group sector")

(2) Health insurance for groups with fewer than 100 covered lives (in this section referred as the "small group sector").

(3) Health insurance for individuals, and not for groups (in this section referred to as the "individual sector").

(b) PREMIUM CHANGES TO REFLECT CHANGES IN GROUP OR INDIVIDUAL CHARACTERISTICS OR TERMS OF COVERAGE.—

(1) APPLICATION.—The provisions of this subsection shall apply to changes in premiums that reflect—

(A) changes in the number of individuals covered under a plan;

(B) changes in the group or individual characteristics (including age, gender, family composition or geographic area but not including health status, claims experience or duration of coverage under the plan) of individuals covered under a plan;

(C) changes in the level of benefits (including changes to in cost-sharing) under the plan; and

(D) changes in any material terms and conditions of the health insurance plan (other than factors related to health status, claims experience and duration).

(2) SPECIFICATION OF REFERENCE RATE FOR EACH SECTOR.—Each health insurer shall calculate a reference rate for each such sector. The reference rate for a sector shall be calculated so that, if it were applied using the rate factors specified under paragraph (3), the average premium rate for individuals

and groups in that sector would approximate the average premium rate charged individuals and groups in the sector as of the effective date of this title.

(3) SINGLE SET OF RATE FACTORS WITHIN EACH SECTOR.—

(A) IN GENERAL.—Each health insurer shall develop for each sector a single set of rate factors which will be used to calculate any changes in premium that relate to the reasons described in subparagraphs (B) through (D) of paragraph (1).

(B) STANDARDS.—Such rate factors—

(i) shall relate to reasonable and objective differences in demographic characteristics, in the design and in levels of coverage, and in other terms and conditions of a contract,

(ii) shall not relate to expected health status, claims experience, or duration of coverage of the one or more groups or individuals, and

(iii) shall comply with regulations established under subsection (f).

(4) COMPUTATION OF PREMIUM CHANGES.—

(A) IN GENERAL.—Changes in premium rates that relate to the reasons described in paragraph (1) shall be calculated using the rate factors developed pursuant to paragraph (3).

(B) APPLICATION TO CHANGES IN NUMBER OF COVERED INDIVIDUALS.—In the case of a change in premium rates related to the reason described in paragraph (1)(A), the change in premium rates shall be calculated to reflect, with respect to the enrollees who enroll or disenroll in a health insurance plan, the sum of the products, for such individuals, of the reference rate (determined under paragraph (2)) and the rate factors (specified under paragraph (3)) applicable to such enrollees.

(C) APPLICATION OF OTHER FACTORS.—

(i) IN GENERAL.—In the case of a change in premium rates related to a reason described in subparagraph (B), (C), or (D) of paragraph (1), the change in premium rates with respect to each health insurance plan in each sector shall reflect the rate factors specified under paragraph (3) applicable to the reason as applied to the current premium charged for the health insurance plan. Such rate factors shall be applied in a manner so that the resulting adjustment, to the extent possible, reflects the premium that would have been charged under the plan if the reason for the change in premium had existed at the time that the current premium rate was calculated.

(ii) NO REFLECTION OF CHANGE IN HEALTH STATUS.—In applying the rate factors under this subparagraph, the adjustment shall not reflect any change in the health status, claims experience or duration of coverage with respect to any employer or individual covered under the plan.

(5) LIMITATION ON APPLICATION.—This subsection shall only apply—

(A) to changes in premiums occurring on or after the date of the enactment of this Act to groups and individuals covered as of such date, and

(B) with respect to groups and individuals subsequently covered, to changes in premiums subsequent to such coverage.

(6) APPLICATION TO COMMUNITY-RATED PLANS.—Nothing in this subsection shall require the application of rate factors related to individual or group characteristics with respect to community-rated plans.

(c) LIMITATIONS ON CHANGES IN PREMIUMS RELATED TO INCREASES IN HEALTH CARE COSTS AND UTILIZATION.—

(1) APPLICATION.—The provisions of this subsection shall apply to changes in premiums that reflect increases in health care costs and utilization.

(2) EQUAL INCREASE FOR ALL PLANS IN ALL SECTORS.—

(A) IN GENERAL.—Subject to subparagraph (B), the annual percentage increase in premiums by a health insurer for health insurance plans in the individual sector, small group sector, and large group sector, to the extent such increase reflect increases in health care costs and utilization, shall be the same for all such plans in those sectors.

(B) SPECIAL RULE FOR LARGE GROUP SECTOR.—The annual percentage increase in premiums by a health insurer for health insurance plans in the large group sector may vary among such plans based on the claims experience of such employer (to the extent the experience is credible), so long as the weighted average of such increases for all such plans in the sector complies with the requirement of subparagraph (A).

(C) GEOGRAPHIC APPLICATION.—Subparagraphs (A) and (B)—

(i) may be applied on a national level, or

(ii) may vary based on geographic area, but only if (I) such areas are sufficiently large to provide credible data on which to calculate the variation and (II) the variation is due to reasonable factors related to the objective differences among such areas in costs and utilization of health services.

(D) EXCEPTIONS TO ACCOMMODATE STATE RATE REFORM EFFORTS.—Subparagraphs (A) and (B) shall not apply, in accordance with guidelines of the Secretary, to the extent necessary to permit a State to narrow the variations in premiums among health insurance plans offered by health insurers to similarly situated groups or individuals within a sector.

(E) EXCEPTION FOR RATES SUBJECT TO PRIOR APPROVAL.—Subparagraphs (A) and (B) shall not apply to premiums that are subject to prior approval by a State insurance commissioner (or similar official) and are approved by such official.

(F) OTHER REASONS SPECIFIED BY THE SECRETARY.—The Secretary may specify through regulations such other exceptions to the provisions of this subsection as the Secretary determines are required to enhance stability of the health insurance market and continued availability of coverage.

(3) EVEN APPLICATION THROUGHOUT A YEAR.—In applying the provisions of this subsection to health insurance plans that are renewed in different months of a year, the annual percentage increase shall be applied in a consistent, even manner so that any variations in the rate of increase applied in consecutive months are even and continuous during the year.

(4) PETITION FOR EXCEPTION.—A health insurer may petition the Secretary (or a State acting under a contract with the Secretary under section 11001(b)(3)) for an exception from the application of the provisions of this subsection. The Secretary may approve such an exception if—

(A) the health insurer demonstrates that the application of this subsection would threaten the financial viability of the insurer, and

(B) the health insurer offers an alternative method for increasing premiums that is not substantially discriminatory to any sector or to any group or individual covered by a health insurance plan offered by the insurer.

(d) PRIOR APPROVAL FOR CERTAIN RATE INCREASES.—

(1) IN GENERAL.—If the percentage increase in the premium rate for the individual and small group sector exceeds a percentage specified by the Secretary under paragraph (2), annualized over any 12-month period, the increase shall not take effect unless the Secretary (or a State acting under a contract with the Secretary under section 11001(b)(3)) has approved the increase.

(2) PERCENTAGE.—The Secretary shall specify, for each 12-month period beginning after the date of the enactment of this Act, a percentage that will apply under paragraph (1). Such percentage shall be determined taking into consideration the rate of increase in health care costs and utilization, previous trends in health insurance premiums, and the conditions in the health insurance market. Within 30 days after the date of the enactment of this Act, the Secretary shall first specify a percentage under this paragraph.

(e) DOCUMENTATION OF COMPLIANCE.—

(1) PERIOD FOR CONFORMANCE.—Effective 1 year after the date of the enactment of this Act, the premium for each policy shall be conformed in a manner that complies with the provisions of this section.

(2) METHODOLOGY.—Each health insurer shall document the methodology used in applying subsections (b) and (c) with respect to each sector (and each applicable health plan). Such documentation shall be sufficient to permit the auditing of the application of such methodology to determine if such application was consistent with such subsections.

(3) CERTIFICATION.—For each 6-month period in which this section is effective, each health insurer shall file a certification with the Secretary (or with a State with which the Secretary has entered into an arrangement under section 11001(b)(3)) that the insurer is in compliance with such requirements.

(f) REGULATIONS.—The Secretary shall establish regulations to carry out this section. Such regulations may include guidelines relating to the permissible variation that results from the use of demographic or other characteristics in the development of rate factors. Such guidelines may be based on the guidelines currently used by States in applying rate limitations under State insurance regulations.

(g) EFFECTIVE PERIOD.—This section shall apply to premium increases occurring during the period beginning on the date of the enactment of this Act and ending, for a health insurance plan provided in a State, on the first day of the State's first year.

SEC. 11005. REQUIREMENTS RELATING TO PORTABILITY.

(a) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health benefit plan may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months. The exclusion of coverage shall not apply to services furnished to newborns or in the case of a plan that did not apply such exclusions as of the effective date of this title.

(2) CREDITING OF PREVIOUS COVERAGE.—

(A) IN GENERAL.—A group health benefit plan shall provide that if an individual covered under such plan is in a period of continuous coverage (as defined in subparagraph (B)(i)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

(B) DEFINITIONS.—As used in this paragraph:

(i) PERIOD OF CONTINUOUS COVERAGE.—The term "period of continuous coverage" means, with respect to particular services, the period beginning on the date an individual is enrolled under a group or individual health benefit plan, self-insured plan, the medicare program, a State medicaid plan, or other health benefit arrangement which provides benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

(ii) PREEXISTING CONDITION.—The term "preexisting condition" means, with respect to coverage under a health benefits plan, a condition which has been diagnosed or treated during the 6-month period ending on the day before the first date of such coverage (without regard to any waiting period).

(b) WAITING PERIODS.—A self-insured plan, and an employer with respect to a group health insurance plan, may not discriminate among employees in the establishment of a waiting period before making health insurance coverage available based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of the employee or the employee's dependents.

SEC. 11006. REQUIREMENTS LIMITING REDUCTION OF BENEFITS.

(a) IN GENERAL.—A self-insured sponsor may not make a modification of benefits described in subsection (b).

(b) MODIFICATION OF BENEFITS DESCRIBED.—

(1) IN GENERAL.—A modification of benefits described in this subsection is any reduction or limitation in coverage, effected on or after the effective date of this title, with respect to any medical condition or course of treatment for which the anticipated cost is likely to exceed $5,000 in any 12-month period.

(2) TREATMENT OF TERMINATION.—A modification of benefits includes the termination of a plan if the sponsor, within a period establishes a substitute plan that reflects the reduction or limitation described in paragraph (1).

(c) REMEDY.—Any modification made in violation of this section shall not be effective and the self-insured sponsor shall continue to provide benefits as though the modification (described in subsection (b)) had not occurred.

SEC. 11007. NATIONAL TRANSITIONAL HEALTH INSURANCE RISK POOL.

(a) ESTABLISHMENT.—In order to assure access to health insurance during the transition, the Secretary is authorized to establish a National Transitional Health Insurance Risk Pool (in this section referred to as the "national risk pool") in accordance with this section.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary may administer the national risk pool through contracts with—

(A) one or more existing State health insurance risk pools,

(B) one or more private health insurers, or

(C) such other contracts as the Secretary deems appropriate.

(2) COORDINATION WITH STATE RISK POOLS.—The Secretary may enter into such arrangements with existing State health insurance risk pools to coordinate the coverage under such pools with the coverage under the national risk pool. Such coordination may address eligibility and funding of coverage for individuals currently covered under State risk pools.

(c) ELIGIBILITY FOR COVERAGE.—The national risk pool shall provide health insurance coverage to individuals who are unable to secure health insurance coverage from private health insurers because of their health status or condition (as determined in accordance with rules and procedures specified by the Secretary).

(d) BENEFITS.—

(1) IN GENERAL.—Benefits and terms of coverage provided through the national risk pool shall include items and services, conditions of coverage, and cost sharing (subject to out-of-pocket limits on cost sharing) comparable to the benefits and terms of coverage available in State health insurance risk pools.

(2) PAYMENT RATES.—Payments under the national risk pool for covered items and services shall be made at rates (specified by the Secretary) based on payment rates for comparable items and services under the medicare program. Providers who accept payment from the national risk pool shall accept such payment as payment in full for the service, other than for cost sharing provided under the national risk pool.

(e) PREMIUMS.—

(1) IN GENERAL.—Premiums for coverage in the national risk pool shall be set in a manner specified by the Secretary.

(2) VARIATION.—Such premiums shall vary based upon age, place of residence, and other traditional underwriting factors other than on the basis of health status or claims experience.

(3) LIMITATION.—The premiums charged individuals shall be set at a level that is no less than 150 percent of the premiums that the Secretary estimates would be charged to a population of average risk for the covered benefits.

(f) TREATMENT OF SHORTFALLS.—

(1) ESTIMATES.—The Secretary shall estimate each year the extent to which the total premiums collected under subsection (c) in the year are insufficient to cover the expenses of the national risk pool with respect to the year.

(2) TEMPORARY BORROWING AUTHORITY.—The Secretary of the Treasury is authorized to advance to the Secretary amounts sufficient to cover the amount estimated under paragraph (1) during the year before assessments are collected under paragraph (3). The Secretary shall repay such amounts, with interest at a rate specified by the Secretary of the Treasury, from the assessments under paragraph (3).

(3) ASSESSMENTS.—

(A) IN GENERAL.—Each health benefit plan sponsor shall be liable for an assessment in the amount specified in subparagraph (C).

(B) AMOUNT.—For each year for which amounts are advanced under paragraph (2), the Secretary shall—

(i) estimate the total amount of premiums (and premium equivalents) for health benefits under health benefit plans for the succeeding year, and

(ii) calculate a percentage equal to (I) the total amounts repayable by the Secretary to the Secretary of the Treasury under paragraph (2) for the year, divided by the amount determined under clause (i).

(C) ASSESSMENT AMOUNT.—The amount of an assessment for a sponsor of a health benefit plan for a year shall be equal to the percentage calculated under subparagraph (B)(ii) (or, if less, ½ of 1 percent) of the total amount of premiums (and premium equivalents) for health benefits under the plan for the previous year.

(D) SELF-INSURED PLANS.—The amount of premiums (and premium equivalents) under this paragraph shall be estimated—

(i) by the Secretary for health insurance plans, and

(ii) by the Secretary of Labor for self-insured plans.

Such estimates may be based on a methodology that requires plans liable for assessment to file information with the applicable Secretary.

SEC. 11008. DEFINITIONS.

In this title:

(1) APPLICABLE SECRETARY.—The term "applicable Secretary" means—

(A) the Secretary with respect to health insurance plans and insurers, or

(B) the Secretary of labor with respect to self-insured plans and self-insured plan sponsors.

(2) COVERED EMPLOYEE.—The term "covered employee" means an employee (or dependent of such an employee) covered under a group health benefits plan.

(3) COVERED INDIVIDUAL.—The "covered individual" means, with respect to a health benefit plan, an individual insured, enrolled, eligible for benefits, or otherwise covered under the plan.

(4) GROUP HEALTH BENEFITS PLAN.—The term "group health benefits plan" means a group health insurance plan and a self-insured plan.

(5) GROUP HEALTH INSURANCE PLAN.—

(A) IN GENERAL.—The term "group health insurance plan" means a health insurance plan offered primarily to employers for the purpose of providing health insurance to the employees (and dependents) of the employer.

(B) INCLUSION OF ASSOCIATION PLANS AND MEWAS.—Such term includes—

(i) any arrangement in which coverage for health benefits is offered to employers through an association, trust, or other arrangement, and

(ii) a multiple employer welfare arrangement (as defined in section 3(40) of the Employee Retirement Income Security Act of 1974), whether funded through insurance or otherwise.

(6) HEALTH BENEFITS PLAN.—The term "health benefits plan" means health insurance plan and a self-insured health benefit plan.

(7) HEALTH BENEFIT PLAN SPONSOR.—The term "health benefit plan sponsor" means, with respect to a health insurance plan or self-insured plan, the insurer offering the plan or the self-insured sponsor for the plan, respectively.

(8) HEALTH INSURANCE PLAN.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "health insurance plan" means any contract of health insurance, including any hospital or medical service policy or certificate, any major medical policy or certificate, any hospital or medical service plan contract, or health maintenance organization subscriber contract offered by an insurer.

(B) EXCEPTION.—Such term does not include any of the following—

(i) coverage only for accident, dental, vision, disability income, or long-term care insurance, or any combination thereof,

(ii) medicare supplemental health insurance,

(iii) coverage issued as a supplement to liability insurance,

(iv) worker's compensation or similar insurance, or

(v) automobile medical-payment insurance,

or any combination thereof.

(C) STOP LOSS INSURANCE NOT COVERED.—Such term does not include any aggregate or specific stop-loss insurance or similar coverage applicable to a self-insured plan. The Secretary may develop rules determining the applicability of this subparagraph with respect to minimum premium plans or other partially insured plans.

(9) HEALTH INSURER.—The term "health insurer" means a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, or other entity providing a plan of health insurance or health benefits with respect to which the State insurance laws are not preempted under section 514 of the Employee Retirement Income Security Act of 1974.

(10) INDIVIDUAL HEALTH INSURANCE PLAN.—

(A) IN GENERAL.—The term "individual health insurance plan" means any health insurance plan directly purchased by an individual or offered primarily to individuals (including families) for the purpose of permitting individuals (without regard to an employer contribution) to purchase health insurance coverage.

(B) INCLUSION OF ASSOCIATION PLANS.—Such term includes any arrangement in which coverage for health benefits is offered to individuals through an association, trust, list-billing arrangement, or other arrangement in which the individual purchaser is primarily responsible for the payment of any premium associated with the contract.

(C) TREATMENT OF CERTAIN ASSOCIATION PLANS.—In the case of a health insurance plan sponsored by an association, trust, or other arrangement that provides health insurance coverage both to employers and to individuals, the plan shall be treated as—

(i) a group health insurance plan with respect to such employers, and

(ii) an individual health insurance plan with respect to such individuals.

(11) SELF-INSURED PLAN.—The term "self-insured plan" means an employee welfare benefit plan or other arrangement insofar as the plan or arrangement provides benefits with respect to some or all of the items and services included in the comprehensive benefit package (as in effect as of January 1, 1995) that is funded in a manner other than through the purchase of one or more health insurance plans. such term shall not include a group health insurance plan (as defined in paragraph (5)(B)(ii)).

(12) SELF-INSURED SPONSOR.—The term "self-insured sponsor" includes, with respect to a self-insured plan, any entity which establishes or maintains the plan.

(13) STATE COMMISSIONER OF INSURANCE.—The term "State commissioner of insurance" includes a State superintendent of insurance.

SEC. 11009. TERMINATION.

(a) HEALTH INSURANCE PLANS.—The provisions of this title shall not apply to a health insurance plan provided in a State on and after the first day of the first year for the State.

(b) SELF-INSURED PLANS.—The provisions of this title shall not apply to a self-insured plan that—

(1) is sponsored by a sponsor that is an eligible sponsor of a corporate alliance (described in section 1311(b)(1)), as of the effective date of the election under section 1312(c).

(2) is sponsored by a sponsor that is not such an eligible sponsor, with respect to individuals or groups in a State on and after the first day of the first year for the State.

TITLE XII—TEMPORARY ASSESSMENT ON EMPLOYERS WITH RETIREE HEALTH BENEFIT COSTS

TABLE OF CONTENTS OF TITLE

Sec. 1201. Temporary assessment on employers with retiree health benefit costs.
Sec. 1202. Recapture of retiree subsidy beginning in 1998.

SEC. 1201. TEMPORARY ASSESSMENT ON EMPLOYERS WITH RETIREE HEALTH BENEFIT COSTS.

(a) IN GENERAL.—Subtitle C (relating to employment taxes) is amended by inserting after chapter 24A the following new chapter:

"CHAPTER 24B—TEMPORARY ASSESSMENT ON EMPLOYERS WITH RETIREE HEALTH BENEFIT COSTS

"Subchapter A. Temporary assessment.
"Subchapter B. Definitions and administrative provisions.

"Subchapter A—Temporary Assessment

"Sec. 3463. Temporary assessment on employers with retiree health benefit costs.

"SEC. 3463. TEMPORARY ASSESSMENT ON EMPLOYERS WITH RETIREE HEALTH BENEFIT COSTS.

"(a) IMPOSITION OF ASSESSMENT.—Every employer with base period retiree health costs shall pay (in addition to any other amount imposed by this subtitle) for each calendar year to which this section applies an assessment equal to the amount determined under subsection (b).

"(b) AMOUNT OF ASSESSMENT.—For purposes of subsection (a), the amount determined under this subsection with respect to any employer for any calendar year is 50 percent of the greater of—

"(1) the adjusted base period retiree health costs of such employer for such calendar year, or

"(2) the amount (determined in the manner prescribed by the Secretary) by which such employer's applicable retiree health costs for such calendar year were reduced by reason of the enactment of the Health Security Act.

"(c) DEFINITIONS.—For purposes of this section—

"(1) BASE PERIOD RETIREE HEALTH COSTS.—The term 'base period retiree health costs' means the average of the applicable retiree health costs of the employer for calendar years 1991, 1992, and 1993.

"(2) ADJUSTED BASE PERIOD RETIREE HEALTH COSTS.—

"(A) IN GENERAL.—The term 'adjusted base period retiree health costs' means, with respect to any employer for any calendar year, the base period retiree health costs of the employer adjusted in the manner prescribed by the Secretary to reflect increases in the medical care component of the Consumer Price Index during the period after 1992 and before such calendar year.

"(B) ADJUSTMENTS FOR ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply to acquisitions and dispositions after December 31, 1993.

"(3) APPLICABLE RETIREE HEALTH COSTS.—

"(A) IN GENERAL.—The term 'applicable retiree health costs' means, with respect to any employer for any calendar year, the aggregate cost (including administrative costs) of the health benefits or coverage provided during such calendar year (whether directly by the employer or through a plan described in section 401(h) or a welfare benefit fund as defined in section 419(e)) to individuals who are entitled to receive such benefits or coverage by reason of being retired employees of such employer (or by reason of being a spouse or other beneficiary of such an employee).

"(B) ONLY BENEFITS AND COVERAGE AFTER AGE 55 AND BEFORE AGE 65 TAKEN INTO ACCOUNT.—In applying subparagraph (A), there shall be taken into account only health benefits and coverage provided after the date the retired employee attained age 55 and before the date such employee attained (or, but for the death of such employee, would have attained) age 65.

"(d) YEARS TO WHICH ASSESSMENT APPLIES.—This section shall apply to calendar years 1998, 1999, and 2000.

"Subchapter B—Definitions and Administrative Provisions

"SEC. 3464. DEFINITIONS AND ADMINISTRATIVE PROVISIONS

"(a) EMPLOYER.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'employer' means any person or governmental entity for whom an individual performs services, of whatever nature, as an employee (as defined in section 3401(c)).

"(2) SPECIAL RULES.—

"(A) An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer.

"(B) A partnership shall be treated as the employer of each partner who is an employee within the meaning of section 401(c)(1).

"(C) An S corporation shall be treated as the employer of each shareholder who is an employee within the meaning of section 401(c)(1).

"(b) ASSESSMENT TO APPLY TO GOVERNMENTAL AND OTHER TAX-EXEMPT ENTITIES.—Notwithstanding any other provision of law or rule of law, none of the following shall be exempt from the assessment imposed by this chapter:

"(1) The United States, any State or political subdivision thereof, the District of Columbia, and any agency or instrumentality of any of the foregoing.

"(2) Any other entity otherwise exempt from tax under chapter 1.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) PAYMENT.—Any assessment under section 3463 for any calendar year shall be paid on or before March 15 of the following calendar year; except that the Secretary may require quarterly estimated payments of such assessment in a manner similar to the requirements of section 6655.

"(2) COLLECTION, ETC.—For purposes of subtitle F, any assessment under this subchapter shall be treated as if it were a tax imposed by this subtitle."

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle C is amended by inserting after the item relating to chapter 24A the following new item:

"Chapter 24B. Temporary Assessment on Employers With Retiree Health Benefit Costs."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1998.

SEC. 1202. RECAPTURE OF RETIREE SUBSIDY BEGINNING IN 1998.

(a) IN GENERAL.—Paragraph (2) of section 59B(a) (relating to recapture of certain health care subsidies), as added by title VII of this Act, is amended by striking "December 31, 1999" and inserting "December 31, 1997".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7131(d) of this Act is amended by striking "December 31, 2001" and inserting "December 31, 1999".

THE COMMISSION ON CLOSURE AND RELOCATION OF THE LORTON CORRECTIONAL COMPLEX

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. WOLF. Mr. Speaker, yesterday the Washington Post reported that D.C. Mayor Sharon Pratt Kelly wants to build an additional maximum-security prison in Lorton, VA. The District of Columbia is plagued by violent crime and a comprehensive approach to corrections can be part of the solution.

Merely adding more beds at Lorton will not help the crime problem in the District. That is why today I am reintroducing legislation I introduced in the 102d Congress which would establish a commission to consider the closing and relocation of the Lorton Correctional Complex.

In 1908, President Theodore Roosevelt established a commission to study overcrowding at the District jail and to make recommendations to correct overcrowding at the District jail.

In providing Congress with the results of that commission's work in 1909, President Roosevelt wrote:

> The report sets forth vividly the really outrageous conditions in the workhouse and jail. The overcrowding is great in the workhouse, and greater still in the jail where, of the six hundred inmates, five hundred are serving sentences in absolute idleness, with no employment and no exercise * * * It is no longer a question as to what shall be done, but only a question whether something shall be done, for it is quite impossible that the existing condition should continue. The present antiquated and unsatisfactory plan ought not to be considered for a moment.

The parallels between the present situation and those described by President Roosevelt in 1908 are remarkable. Today, more than 80 years later, District prisoners still serve their sentences in absolute idleness and many of the concerns that led to the establishment of Lorton 80 years ago still exist. We need a comprehensive approach to deal with the crime epidemic in the District. I believe the District needs a state-of-the-art facility which will aid in rehabilitating criminals and humanely incarcerating them instead of releasing individuals who become even more violent while imprisoned.

The Lorton Correctional Complex is a graduate school for criminals. It is a finishing school from which inmates depart unprepared to deal with life in society, but highly trained to commit crime.

The victims of this system are residents of the District of Columbia who are terrorized by the crime that has swept this city for the past few years. Ironically, it is these same District residents whose tax dollars are being spent to arrest, convict, and incarcerate these individuals.

Serious crimes are being committed at record levels in Washington. Andcertainly while not every crime in D.C. is being committed by people who have previously served at Lorton, a substantial and troubling number are.

Columnist Jack Anderson has commented that Lorton is a "graduate school for Washington drug merchants." "They may go in with a high school education in crime, but they come out with a doctorate."

A 1986 U.S. General Accounting Office [GAO] report supports his contention. The report found that nearly 7 of 10—68 percent—of adult inmates at Lorton at the time of the study has previously been convicted of a felony offense in the District of Columbia and incarcerated at Lorton. About one-third of the adult inmates had been previously convicted and incarcerated at Lorton more than once.

In simple terms these individuals are committing serious crimes, serving time at Lorton, leaving Lorton and returning to the District of Columbia to commit more crimes. A comprehensive examination of Lorton's housing, drug treatment programs, education programs, vocational training programs, and work programs is required to stop the revolving door of criminals who pass in and out of the gates of Lorton daily.

There is general agreement among experts the field of corrections that there are serious problems at Lorton.

Numerous reports have cited problems including: cronic overcrowding; inmate idleness; widespread drug use among inmates; poor inmate living conditions; aging facilities and housing sometimes inappropriate for dangerous inmates; inadequate education and training programs; insufficient work programs; and frequent violence aimed at fellow inmates and guards.

Each of these problems play on the others. For example, the problem of overcrowding increases the likelihood of violence among inmates as does drug use among inmates. Limited educational and rehabilitation programs mean that inmates leave the institution unprepared for life in society and often fall back into lives of crime which in turn worsens the problem of overcrowding.

The problems at Lorton are not unique among similar institutions nationwide. Because of the number of factors—for example, high incarceration rates, aging facilities, etc.—the problems at Lorton are sometimes of greater magnitude than other institutions.

I believe that the D.C. Department of Corrections has done a good job with limited resources and my remarks today are not meant in any way to criticize them. I believe that nothing short of radical reform is required, and am prepared to work with the Mayor on embarking on an ambitious plan to stop the revolving crime door at Lorton.

In his second annual message to the Nation, President Roosevelt wrote:

> The correctional system of the district should receive consideration at the hands of Congress to the end that they may embody the results of the most advanced thought in the fields.

I agree with President Roosevelt. To that end, the legislation I am introducing would establish a commission to develop a plan for the establishment of a new "model" prison facilities to be located at sites within the District of Columbia and for the closure of Lorton.

The commission would have 21 members, 9 appointed by Mayor Kelly, 9 appointed by the Fairfax County Board of Supervisors, and 3 appointed by the President.

The commission will have three responsibilities:

First, developing a plan for new model prison facilities located in the District of Columbia: The Commission will also be charged with developing a plan for establishing a new model prison in the District of Columbia to replace Lorton.

The commission will inventory existing potential sites in the District, perhaps Bolling Air Force Base, St. Elizabeths Hospital, or some other area, and select appropriate sites for the new prison facilities.

The new prison should be a model prison. It should incorporate the most advanced, progressive, and imaginative ideas in the field of corrections in both design and operation. It should be an example from which other prison systems across the country can draw new ideas and solutions and should be an institution which others throughout the country, seek to emulate.

Model programs in alcohol and drug abuse treatment, education, vocational training and rehabilitation must be included in the new facilities. The newest thinking in the area of prison industries should also be incorporated so that inmates develop skills that will enable them to secure jobs upon leaving prison.

Second, developing a plan for closing Lorton: The Commission will be charged with developing a comprehensive plan for closing the Lorton Correctional Complex by the year 2010 and in the plan shall identify and recommend options for the use of the land on which the complex is located such as a community park.

Third, steps for improving operations at Lorton: Last, the commission should identify and recommend appropriate strategies for improving the effectiveness of operations of Lorton until a new D.C. facility is built.

Clearly, these are big ideas. Closing and building prisons are not easy tasks. But a new prison in the District of Columbia will make a difference.

A new model prison will allow for the development of academic and vocational training programs to help inmates develop basic life skills and a trade that can be used upon release to avoid a future life of crime. Crowded conditions could be relieved. Living conditions could be improved. Security conditions could be strengthened within the prison.

It is in the interest of Fairfax County, the Commonwealth of Virginia, the District of Columbia, and the Federal Government to work together in resolving the problems at Lorton. As partners, contributing to the establishment of a new prison, these goals can be accomplished.

Mr. Speaker, President William Howard Taft, who succeeded Theodore Roosevelt as President, commented on the D.C. jail in 1909:

> It is a reproach to the National Government that almost under the shadow of the Capitol Dome prisoners should be confined in a building destitute of the ordinary decent appliances requisite to cleanliness and sanitary conditions.

That condition, and worse, still exists today at Lorton. Establishment of this commission will be the first step in the process, and I am committed to working with District officials toward that end.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission on Closure and Relocation of the Lorton Correctional Complex Act".

SEC. 2. ESTABLISHMENT

There is established a commission to be known as the Commission on Closure and Relocation of the Lorton Correctional Complex (in this Act referred to as the "Commission").

SEC. 3. DUTIES OF COMMISSION.

The Commission shall carry out the following:

(1) COMPREHENSIVE PLAN FOR CLOSING THE LORTON CORRECTIONAL COMPLEX BY 2010.—Because of the serious operational and safety problems at the Lorton Correctional Complex which adversely affect the inmates of the complex, employees of the District of Columbia Department of Corrections, and residents of the District of Columbia and Fairfax County, Virginia, the Commission shall develop a comprehensive plan for closing the Lorton Correctional Complex by the year 2010 and in the plan shall identify and recommend options for the use of the land on which the complex is located.

(2) PLAN FOR NEW PRISON FACILITIES LOCATED WITHIN THE DISTRICT OF COLUMBIA.—The Commission shall develop a comprehensive plan for the establishment of new model prison facilities within the District of Columbia to replace the Lorton Correctional Complex when it is closed in accordance with the plan developed under paragraph (1). The plan shall identify and recommend—

(A) appropriate sites for the new prison facilities,

(B) strategies for financing, including Federal funding for, the new facilities,

(C) plans for expeditiously phasing in the operations of the new facilities, and

(D) plans for ensuring that the new facilities will be models in education, vocational training, and rehabilitation of the inmates of the facilities.

(3) STEPS FOR IMPROVING OPERATIONS AT THE LORTON CORRECTIONAL COMPLEX.—The Commission, using existing knowledge, resources and experience, shall identify and recommend appropriate strategies for improving the effectiveness and safety of operations at the Lorton Correctional Complex before it is closed under the plan developed under paragraph (1) and the new facilities are established under the plan developed under paragraph (2).

SEC. 4. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 21 members appointed as follows:

(1) The Fairfax County Board of Supervisors shall appoint 9 members.

(2) The Mayor of the District of Columbia shall appoint 9 members.

(3) The President shall appoint 3 members.

(b) REQUIREMENTS FOR CERTAIN MEMBERS.—

(1) MEMBERS APPOINTED BY THE FAIRFAX COUNTY BOARD OF SUPERVISORS.—Of the members of the Commission appointed under subsection (a)(1)—

(A) at least one member shall be an individual who is a member of a local civic association in northern Virginia,

(B) at least one member shall be an employee of the Virginia Department of Corrections who is knowledgeable about the establishment of new prison facilities,

(C) at least one member shall be a member of the Fairfax County Board of Supervisors,

(D) at least one member shall be a member of a chamber of commerce in northern Virginia,

(E) at least one member shall be an employee of the Fairfax County Sheriff's Department, and

(F) at least one member shall be an employee of the Fairfax County Police Department.

(2) MEMBERS APPOINTED BY THE MAYOR OF THE DISTRICT OF COLUMBIA.—Of the members of the Commission appointed under subsection (a)(2)—

(A) at least one member shall be a member of a local civic association in the District of Columbia.

(B) at least one member shall be an employee of the District of Columbia Department of Corrections who is knowledgeable about the establishment of new prison facilities.

(C) at least one member shall be either the Mayor of the District of Columbia or a member of the District of Columbia City Council,

(D) at least one member shall be a member of a chamber of commerce in the District of Columbia or the Washington Board of Trade, and

(E) at least 2 members shall be employees of the District of Columbia Metropolitan Police Department.

(3) MEMBERS APPOINTED BY THE PRESIDENT.—Of the members of the Commission appointed under subsection (a)(3)—

(A) one member shall be the Director of the Bureau of Prisons, and

(B) one member shall be the Director of the National Institute of Corrections.

(c) CONTINUATION OF MEMBERSHIP.—

(1) GENERAL RULE.—Except as provided in paragraph (2), if a member was appointed to the Commission because the member was an officer or employee of any government or if member is appointed to the Commission and later becomes an officer or employee of a government, that member may continue as a member for not longer than the 30-day period beginning on the date that member ceases to be such an officer or employee of becomes such an officer or employee, as the case may be.

(2) EXCEPTION.—Service as a member of the Commission shall not be discontinued because of paragraph (1) if an individual has served as a member of the Commission for not less than 3 months.

(d) TERMS.—Each member of the Commission shall be appointed for the life of the Commission.

(e) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(f) COMPENSATION.—Members of the Commission may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

(g) QUORUM.—11 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(h) CHAIRPERSON; VICE CHAIRPERSON.—The Chairperson and Vice Chairperson of the Commission shall be elected by a majority of the members of the Commission.

SEC. 5. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Commission and paid at the rate of basic pay payable for level III of the Executive Schedule.

(b) APPOINTMENT AND PAY OF STAFF.—The Commission may appoint personnel as it considers appropriate without regard to the provisions of title 5, United States Code, governing appointment to the competitive service. Such personnel shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon request the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under section 3.

SEC. 6. POWER OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out section 3. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission to the extent otherwise permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

SEC. 7. REPORTS.

(a) INTERIM REPORTS.—The Commission shall submit to the Fairfax County Board of Supervisors, the Mayor of the District of Columbia, and appropriate Committees of Congress interim reports. Such reports shall be submitted at the end of the 6th and 12th month after the date of the enactment of this Act.

(b) FINAL REPORT.—The Commission shall transmit a final report to the Fairfax County Board of Supervisors, the Mayor of the District of Columbia, the President, and appropriate committees of the Congress not later than 18 months after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislation or administrative actions it considers appropriate.

SEC. 8. TERMINATION.

The Commission shall terminate 90 days after submitting its final report pursuant to section 7.

SEC. 9. AUTHORIZATION.

To carry out this Act there is authorized to be appropriated an amount not to exceed $1,000,000.

STONE RIDGE SCHOOL OF THE SACRED HEART IN BETHESDA, MD, HONORED

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mrs. MORELLA. Mr. Speaker, I rise to congratulate the teachers, students, and parents of Stone Ridge School of the Sacred Heart in Bethesda, MD, on winning the Blue Ribbon Excellence in Education Award from the Department of Education school recognition program.

According to Sister Anne Dyer, headmistress of the school, part of Stone Ridge's success this year in winning the award is attributable to the school's marked improvement in math and science. Sister Anne also cites several other factors that contributed to Stone Ridge's success; nearly 50 percent of this year's senior class earned commended status or better in the National Merit Scholarship Qualifying Test; 42 percent of the faculty members hold advanced degrees, including 7 at the doctorate level; and students may choose from 12 advanced placement courses in 9 different subjects.

As a former teacher, I am delighted that Stone Ridge is receiving the recognition that it deserves. Mr. Speaker, it is a proud moment for me to pay tribute to the students, the devoted faculty, and supportive parents of this outstanding school for their commitment and responsiveness. I congratulate Stone Ridge School of the Sacred Heart on receiving national recognition from the Department of Education, and I wish the winning combination of faculty, students, and parents at the school's continued success in achieving excellence in education.

TRIBUTE TO MAJOR GENERAL DAVID W. EINSEL, JR.

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. GILLMOR. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing Maj. Gen. David W. Einsel, Jr., of Tiffin, OH, on the occasion of his induction into the U.S. Army Chemical Corps Hall of Fame.

The Chemical Corps Hall of Fame in McClellan, AL, honors individuals who have made significant contributions to the corps and who have abetted national security in important ways.

General Einsel was recognized for his more than 40 years of service to the Nation. During this time he had impact on all aspects of the Nation's nuclear, biological, and chemical offensive and defensive capabilities. He is the 19th person and the 10th general officer to be inducted in to the Hall of Fame.

Although General Einsel is now retired from the U.S. Army, he continues to seek out ways to serve his country. Each fall, General Einsel volunteers his time to serve as a member of my district academy advisory board in support of my nominations selection process for the U.S. service academies.

Since 1989, the general has also served as a consultant on nuclear, biological, and chemical matters to the Director of Central Intelligence.

Mr. Speaker, I ask my colleagues to join me in congratulating General Einsel for his continuing outstanding service to our country.

CHICKEN LITTLE?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. CRANE. Mr. Speaker, Vice President AL GORE has clearly demonstrated that he believes that the world is in serious peril from so-called greenhouse gases. The theory which the Vice President propagates claims that, as a result of an abundance of gases which trap the Sun's heat, the average temperature of the Earth will climb, resulting in disaster of the global ecosystem. That is the prediction, not the reality.

In reality, although satellites and computers have greatly aided in weather prediction, scientists cannot accurately predict the possibility of rain next week. Vice President GORE, and others attempts to predict the weather patterns of the next century. Based on these predictions, the White House will mandate a shift away from fossil fuels to environmentally safe fuels and from cars to mass transit systems. The costs of these ideas to taxpayers will be $1.9 billion for the Department of Energy to ride roughshod over fuel conversion and more than $68 billion to the private sector for new technologies. Given the uncertainty of the aforementioned doom and gloom predictions, these federally mandated expenditures can certainly be better spent elsewhere.

In the October 22, 1993 Wall Street Journal, Kent Jeffreys thoroughly explains the facts and fallacies of the Vice President's plans. I would like to commend this article to Member's attention so that they may understand what the White House means when it says change.

The article follows:

[From the Wall Street Journal, Oct. 22, 1993]

MORE HOT AIR ON GREENHOUSE GASES

(By Kent Jeffreys)

It's been said that no scientific theory gains public acceptance until it has been thoroughly discredited. Nowhere is that notion better illustrated than in the debate over so-called greenhouse gas emissions, which was given new life on Tuesday by the Clinton administration's announcement of its plan to reduce these emissions. While the plan has been treated to uncritical press coverage, few have questioned its foundation and the massive costs its will impose on the American public.

Vice President Al Gore's speech announcing the plan declared that "climate change is the highest-risk environmental problem the world faces today." This dire assessment is the driving force behind the plan, which seeks to reduce the emission of greenhouse gases to 1990 levels. To achieve this mighty goal, the administration has proposed about 50 specific policy proposals to reduce energy and material use and increase reliance and politically correct energy sources.

The seeming harmlessness of the proposals helps explain why the administration's plan has so far been given a free ride. But a bigger factor in how the plan has been received stems from the administration's promise that most of what it is suggesting is strictly "voluntary." Notwithstanding that this assertion is a classic Clintonian half-truth, one might ask of the administration, if such policies are truly necessary to avert a climate catastrophe, why are they presented as voluntary?

The reality, however, is that the American public will be in for a rude shock when it finds out that due to previous agreements signed by President Bush it will have to comply with a number of restrictive environmental policies. President Bush signed the United Nations Framework Convention on Climate Change at the Rio environmental summit in 1992.

This treaty is expected to become fully effective sometime early next year (36 of the required 50 nations have signed the treaty) and would require signatories to adopt binding national policies to reduce greenhouse gas emissions. In other words, the "voluntary" nature of the Clinton plan will soon become mandatory, regardless of the wishes of businesses or voters. Katie McGinty, director of the White House Office of Environmental Policy, has indicated that if the plan does not produce the desired results, other measures will be considered.

Perhaps the reasons for the "voluntary" nature of the White House plan is its huge price tag. Mr. Clinton wants the private sector to put up most of the money, in this case about $68 billion for investments in new technologies. While some of these would occur without the administration's push, it simply reflects the degree to which government has become a partner in business ventures. The direct costs to the federal government are estimated at a "mere" $1.9 billion. The Energy Department alone expects to spend $200 million annually to encourage fuel switching and energy efficiency.

Indeed, the largely "voluntary" nature of the plan masks some significant mandatory features. One of the most costly aspects will be the move to encourage mass transit. As usual, the disappointing performance of publicly owned mass transit systems is blamed on a lack of sufficient funding and the "subsidy" given to workers in the form of "free" parking. The tax code will be altered to treat parking spaces as personal income, to the tune of $2.2 billion in new federal revenues.

Although not stressed in the initial coverage, household appliances will be required to achieve higher levels of energy efficiency, raising the price of home air conditioners, water heaters, stoves and even television sets.

Why is the administration pushing this plan when many higher priority issues remain unaddressed? To give them the benefit of the doubt, the predictions of global warming have been pretty scary and, if true, warrant some sort of reaction. But are they true?

Despite its complexity, the global warming scare can be boiled down to a few essential points. There is no debate over the simple observation that certain gases in the atmosphere are incrementally increasing due to human activities such as fossil fuel burning, deforestation and agricultural practices. Scientists also agree that increases in these gases (primarily carbon dioxide, the gas we all exhale with every breath) will cause a very slight increase in the global average temperature. There really is no dispute up to this point: The Earth is expected to warm one or two degrees in average temperature over the next century or so due to the direct emissions of anthropogenic (or human generated gases.

After this point, tempers go up even if temperatures do not. Some scientists argue that feedback mechanisms in the climate system (primarily water vapor and clouds) will greatly magnify this marginal rise in temperature, resulting in catastrophically rapid warming. Those assertions are based on computer programs called general circulation models, or GCMs. GCMs are notoriously bad at predicting the weather for the next month, yet they are being used to forecast the climate of the next century. Little wonder that many researchers dispute the apocalyptic claims of radical environmentalists.

In fact, the data strongly support those who reject the doom-and-gloom scenarios. Precise satellite measurements of the entire globe indicate no net warming over the past 15 years. Of the total warming estimated for the past century (about one degree Fahrenheit), most of it occurred prior to significant emissions of greenhouse gases by mankind. Yet despite the lack of any real threat to the planet's climate, major reductions in greenhouse gases are demanded.

Interestingly, in the mid-1970s, there was a similar debate raging over climate. At that time, the fear was of an impending ice age, rather than an inferno. This might be an amusing footnote of little historical interest but for one thing. The policies proposed to save us from ice were identical to those now being proposed to save us from fire. The predictions have changed but the prescriptions have not: Government must grow so that energy consumption will shrink.

TRIBUTE TO THE CHALDEAN FEDERATION OF AMERICA

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to the Chaldean Federation of American [CFA] on the event of its first annual awards banquet. An umbrella organization of five Chaldean churches and seven civic organizations, the Chaldean Federation represents more than 65,000 Chaldean-Americans in metro Detroit.

The Chaldean Federation of America devotes the majority of its efforts to promoting education. The Federation encourages Chaldean youth not only to remain in school, but to strive for academic excellence and achievement. In pursuit of this goal, the CFA raises funds to host a commencement program and scholarship awards banquet. During this year's banquet held on June 9, 1993, they recognized over 250 high school and college graduates. Because of their success, the Chaldean community, Michigan and the United States will all benefit.

In addition to recognizing students and awarding scholarships, the Federation encourages volunteerism and provides numerous social services. The CFA sponsors language classes and develops educational materials that promote cross-cultural understanding. They assist in the citizenship applications of newly arrived Chaldean-Americans and sponsor an annual food drive during the Christmas holiday season. In the Mosaic that is America, the Chaldean Federation works hard to build bridges between our many ethnic and religious communities.

Today's gala will be attended by over 500 merchants, professionals, and civic and religious leaders. It represents the high point of cultural, social and fund raising activities in the Chaldean community. I commend the Chaldean Federation for its contributions to America and I urge my colleagues to join me in saluting the CFA on the event of their first annual awards banquet.

LEGISLATION TO PROTECT UNEMPLOYMENT TRUST FUND

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Ms. LONG. Mr. Speaker, today Congressman BARCIA, Congressman JACOBS, and I are introducing legislation to move the Unemployment Trust Fund [UTF] from the unified budget. While the House passed legislation to reform the Unemployment Compensation Program last year, the final version of the bill lacked one crucial element—the provision to remove the UTF from the Federal unified budget and deficit calculations.

Currently, funds to pay for the administration of the unemployment program are counted against the discretionary spending caps. Our legislation would exempt disbursements from the UTF and correspondingly reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974. We believe that there are several compelling reasons to take this important step in reforming the unemployment compensation system.

The UTF has three distinctive characteristics making it unique in the Federal budget and justifying special budgetary treatment. First of all, the UTF is the only part of the Federal budget which includes State tax revenues and expenditures. Since the UTF contains revenue from the States, we believe that it is deceitful to count the UTF in the Federal budget. Our legislation would assure that State revenues are not counted in the Federal budget.

Second, the UTF is self-financed with dedicated revenue. State and Federal tax revenue used for the administration of the unemployment program build up in the UTF. While there may be money in the UTF to pay for costs associated with administering the program, these funds are scored as discretionary spending and subject to the spending caps. Furthermore, any legislation affecting the Unemployment Compensation Program is subject to the pay-go rules imposed by the rules of the Budget Enforcement Act of 1990. This act makes no distinction between programs financed with general revenues and programs financed with dedicated revenue, such as the Unemployment Compensation Program. Our legislation would make this important distinction.

In the past, many States experienced severe shortfalls in attempting to administer their unemployment compensation programs, thereby delaying the delivery of benefits for weeks. For example, in 1990, when unemployment was increasing and the economy was in recession, Indiana was forced to close 41 unemployment offices. These closings delayed the delivery of unemployment compensation and caused severe hardships on many of my constituents. Our legislation would remove any temptation to underfund the administrative costs of the unemployment program.

Third, the Unemployment Compensation Program is designed, in part, to counter the adverse economic impact during a recessionary downturn. When economic growth falters and unemployment increases, the Unemployment Compensation Program is designed to provide a safety net to unemployed individuals while stimulating the economy by injecting resources into the economy, thereby stimulating demand and economic growth. The UTF should be allowed to serve its macroeconomic function by spending down its reserves during a recession. Our legislation would allow the unemployment compensation system to pump money into the economy during times of recession without running into procedural difficulties posed by various Budget Acts.

We believe it is time to remove the only activity in the Federal budget that includes State tax revenues. Taking this step would help bring integrity to the budget process while protecting the Unemployment Compensation Program from funding shortfalls.

GOVERNMENT REFORM ACT OF 1993 INTRODUCED

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. GEPHARDT. Mr. Speaker, today, I am pleased to introduce the Government Reform Act of 1993. This legislation is the first installment of the National Performance Review recommendations offered by Vice President GORE'S Reinventing Government Task Force. This package will achieve $9.1 billion in savings by consolidating and streamlining agency operations, eliminating unnecessary programs and unneeded subsidies, improving financial management and debt collection, reducing the burdens resulting from statutory reporting requirements, and improving the dissemination of Government information.

While individual Members may not unanimously agree on each specific recommendation, surely we all agree that something must be done to improve the efficiency of our Government.

Reinventing Government represents the will of the American people—achieving a Government that works better and costs less. The Government Reform Act will put us on the path to a more effective Government that performs better for its customers. I look forward to working with President Clinton, Vice President GORE and my colleagues in the Congress, on both sides of the aisle, to achieve this laudable goal.

TRIBUTE TO EARL "COACH" BANKS

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. MFUME. Mr. Speaker, a leader has left us. Earl Banks, a football Hall of Famer and former coach of Morgan State University's Bears, passed away in Baltimore, MD, on the morning of October 27. I rise today to celebrate the life of Earl Banks. Not just a coach, but a leader of men.

Earl was a motivator, an institution, a man with a heart as big as the football field he often stood upon. It was in his blood to promote and expand the minds and abilities of young people. Morgan State's Coach Banks is in the College Football Hall of Fame with one of the highest winning percentages in college football. His competitive coaching style gave him a record of 95 wins, 30 losses, and 2 ties. Earl Banks instilled the belief in his players not only could they play but they could compete. And that not only could they compete, but they could win. And they did.

Not only could his players compete and win on the collegiate level—no fewer than 40 of his players went on to succeed in the National Football League. Running back Leroy Kelly, former Colt tight end Raymond Chester and Pro Football Hall of Fame linebacker Willie Lanier were Banks' young proteges at Morgan.

But Earl was also more than a coach. In times such as these where it appears that all collegiate athletics demand of its coaches every-increasing numbers in the win column, it can seem anachronistic for a coach to take a personal interest in his players. But Earl Banks did.

Alumni, both players and fans, recall fondly how coach Banks helped players make it through tough times, both personally and financially. Perhaps it's because he knew hard times himself. Banks grew up in the projects of Chicago, without a father, and worked his way through the city's public school system before he fought his way to a guard position for the University of Iowa football team.

Earl made his mark in Iowa—he left an All-American, and played for the New York Yankees of that era's All-American Football Conference. Like many players, knee injuries cut short Earl Banks' promising professional career.

Undaunted by this temporary obstacle, his love of football took him to the Eastern Shore, where at Maryland State University, he taught them how to win. After 8½ years, Banks moved to Morgan to take over from retiring Coach Eddie Hurt and take the Golden Bears to another level.

Through his example and work, Earl has made significant contributions to this Nation. Mr. Speaker, Coach Earl Banks died this week, and something will not be the same. He was more than a teacher, he was a builder. He built the bodies and minds of the men who may now call themselves his legacy. He was a leader of men, and from those men he has been honored with the simplest and most elegant of titles: the right to be called their coach.

TRIBUTE TO JULIE RAE MEYER

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Ms. LONG. Mr. Speaker, I rise today to congratulate a constituent of the Fourth Congressional District of Indiana, Julie Rae Meyer, on winning the Veterans of Foreign Wars Voice of Democracy scriptwriting contest. In addition to being named as the State winner for Indiana, she will receive a $1,000 scholarship to the college of her choice.

After graduating from college, Julie plans on a career as a teacher. Like me, Julie believes that a strong educational system will be the key to our Nation's success. In her script, she speaks about what drives her to be a future educator, and how she plans to use motivation to teach her students. She will motivate her students to: seek further education; to improve their communities through voluntarism; to respect others regardless of race or creed; and to believe in themselves and in their country.

I am proud that Julie is a constituent of mine and proud that she will be entering such a noble profession that is invaluable to our country's future.

MUTUAL FUNDS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, today, I am introducing legislation that addresses a particular concern of mine, mutual fund sales. In the last few months, banks have increased their sale of mutual funds. For the first time in history, assets of mutual funds have exceeded assets of deposits. More than one-third of all banks are now in the business of selling mutual funds.

This legislation would require financial institutions to disclose in writing information about mutual funds. More specifically, the disclosure should explain that mutual funds are not covered by the Federal deposit insurance system. Many depositors are unaware of what is covered by the Federal deposit insurance system.

In the last few years, there were several bank failures particularly in the New England area. I heard from numerous constituents who had more than $100,000 in their accounts. Several of these constituents were not aware of the $100,000 limit. This leads me to believe many depositors are not clear on which types of deposits are covered by Federal deposit insurance.

The Federal Deposit Insurance Corporation [FDIC] released a statement on the sale of mutual funds. The FDIC is concerned depositors may confuse mutual funds with certificates of deposit. Certificates of deposit are protected by Federal deposit insurance. Currently, mutual funds are sold without any disclosure that addresses deposit insurance. The sale of mutual funds is conducted in the same manner as accounts covered by deposit insurance. The FDIC believes banks should establish procedures that address these concerns.

Recently, several banks have voluntarily let customers know mutual funds are not covered by deposit insurance. This is an important step. However, I believe there should be legislation that requires institutions to let customers know in writing mutual funds are not covered by the Federal deposit insurance system. Advertising material and promotional material must include notice that these funds are not covered by Federal deposit insurance. This legislation would protect depositors and eliminate the confusion surrounding the sale of mutual funds by banks.

I urge you to protect depositors by joining me as cosponsors of the Depository Institution Mutual Fund Sales Act.

TRIBUTE TO JACK SPRINGER

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to take this opportunity to pay tribute to Jack Springer of Sandusky, OH, for his 50 years of service as a member of the Firelands Community Hospital board of trustees.

As we debate reforms to our system of health care in this body, it is crucial we recognize those individuals who have ensured that Americans enjoy the highest quality medical care in the world. Jack Springer is one of these people.

In the 1940's, Jack provided the leadership that assured the financial stability of Erie County's largest health care provider. Joining the Good Samaritan Hospital board of trustees at that time, Jack quickly became involved on hospital committees, including the chairmanship of both the board's public health center committee and the committee on organization. As a member of the hospital's fund board of trustees, Jack served as secretary of the corporation for a number of years.

With one of the longest board tenures at Firelands Community Hospital, Jack currently holds membership on the Firelands Community Hospital Corp. board of trustees, maintaining trustee emeritus status on the hospital's Decatur Street facility and Hayes Avenue facility boards of trustees.

In addition to his commitment to health care, Jack's exemplary community service has earned recognition from a number of organizations, including most recently the Red Triangle Award from the Sandusky Area YMCA, and the Distinguished Citizen Award from the Firelands Chapter of the Boy Scouts of America.

Mr. Speaker, I ask my colleagues to join me in congratulating Jack Springer on his achievements, and encouraging him to continue to hold himself to the high standards of integrity that the citizens of Erie County have come to expect.

TRIBUTE TO IMAGING TECHNOLOGY BRANCH AT NASA AMES RESEARCH CENTER

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Ms. ESHOO. Mr. Speaker, I rise today in recognition of and to pay tribute to the Imaging Technology Branch at NASA Ames Research Center, Moffett Field, CA. The Department of Energy recently announced the bestowal of their 1993 Federal Energy Water Conservation Award to this prestigious program which is in recognition of outstanding contributions made in increased energy efficiency and conservation in the Federal sector.

I would like to specifically praise the efforts of Ms. Patryce Farrel and Mr. Jorge Rios who will accept this award for NASA Ames tonight. They succeeded in implementing an online water recycling system that has provided for the reuse of 60 percent of the photographic washwater in their laboratory. In addition, they have helped the research center avoid the discharge of 300,000 gallons of contaminated wastewater while processing over 200,000 feet of film.

By treating and reusing water rather than discharging it into the sewer system, the employees at the Imaging Technology Branch have demonstrated that organizations can find solutions to environmental hazards through their own ingenuity. I salute the innovation they have displayed and congratulate everyone involved in bringing this great award to the Imaging Technology Branch at NASA Ames.

THANKS TO DONALD N. TRELOAR FOR THREE DECADES OF SERVICE TO THE COMMUNITY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to bring to the attention of my colleagues, the service of a man who likens his community service career to that of a politician who is a priest—a great combination when you're working in the interest of others. This man is Donald N. Treloar. Don is director of contributions for the Prudential Insurance Co. On Monday, November 1, he will retire with 30 years of service.

Don Treloar is a man whose life has been the lives of others since June 7, 1971, when he joined the community affairs department after a stint with Prudential's group annuity department. He was instrumental the development and implementation of many programs that benefited the citizens of New Jersey, particularly Newark, NJ.

He developed and assisted educational programs that ranged from finding a home for School Within a School; establishing a tutoring/enrichment program at Prudential's headquarters for students of an alternative school; introducing College in the company, a program that brought college courses to company facilities in an effort to encourage employees to continue their education toward a baccalaureate to having Newark selected as the 1994 site of the U.S. Academic Decathlon, a 10 event academic competition among high school students within all 50 States.

He has also been actively involved in employment issues. Don introduced a program dubbed Senior Citizens Workshops which gave seniors an opportunity to have part-time temporary employment in the private sector which would supplement this income but not affect their social security; helped create the Essex County Urban League ULTRA program, a job training program for youth and other people who need retraining; and created a program to help small businesses employ youth from their local neighborhoods over the summer.

Believing in the power of voluntarism, Don initiated and organized the first ever volunteer fair at Prudential where 50 agencies set up boots to describe their volunteer opportunities to Prudential employees. Over 300 employees signed on with Newark agencies. Prudential's office of volunteers was an outgrowth of this effort.

Don's legacy to serving New Jersey's communities will be felt for many years through the work of the Partnership in Philanthropy Program he created. This program selects struggling nonprofits from around the State and matchs them with professional development people who analyze the agency, create a tailormade development program and together with the agency implement their new fund raising program.

Mr. Speaker, Donald N. Treloar's three decades of service demonstrate his strong commitment to youth, education, volunteers, older citizens, and nonprofits serving New Jersey's communities. I am pleased to recognize this commitment for the annals of U.S. history. I am sure my colleagues will want to join me as I extend my best wishes to Don and his wife, Nancy, whom I had the pleasure of working with, as they plan Don's next career which I am sure will be as successful.

TRIBUTE TO SCREEN ACTORS GUILD FOUNDATION

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in saluting the Screen Actors Guild Foundation, which received the distinguished U.S. Commission on Libraries and Information Science's 1993 Recognition Award on October 16, 1993 at the historic central library in Los Angeles.

The Screen Actors Guild Foundation received this prestigious award in recognition of its renowned national in-school reading program, "Book PALS"—Performing Artists for Literacy in Schools—and in appreciation of the program's volunteer readers.

Charles Reid, Chair Emeritus of the U.S. National Commission on Libraries and Information Science, presented the award to Barbara Bain, national chair of Book PALS, and Philip Sterling, president of the Screen Actors Guild Foundation.

The Screen Actors Guild Foundation also received a certificate of appreciation and commendation from State librarian Gary Strong, which was presented by Los Angeles city librarian Elizabeth Martinez. In addition, the Foundation was presented a commendation on behalf of Mayor Richard Riordan by Julia Wu, Commissioner of the U.S. Commission on Libraries and Information Science.

Other distinguished guests included Janice Sands, executive director of the Screen Actors Guild Foundation; Norma Connolly, a member of its board of directors; Godfrey Cooper-Smith, its program director; and Barbara Neder with the Community Literacy Program.

Please join me in congratulating the Screen Actors Guild Foundation for this great honor and in wishing its members continued success with this valuable program.

TRIBUTE TO AN OUTSTANDING PUBLIC DEFENDER: WILBUR FORREST LITTLEFIELD

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today to pay tribute to the outstanding service Wilbur F. Littlefield has given to Los Angeles County during his long and illustrious legal career. He is retiring after 36 years with the office of the public defender of Los Angeles County. For 17 of those years he has been head of the department.

In the public defender's office, Mr. Littlefield has distinguished himself as a dedicated and skillful trial attorney. He defended some of the most notorious and difficult cases in the history of Los Angeles. During his years of leadership the office has become the largest of its kind in the country and is recognized as among the finest indigent service providers in the world.

His legal career began after his military service during World War II. A war hero, he fought with distinction in the Pacific. After the war, Mr. Littlefield worked his way through Hastings College of the Law as a longshoreman.

Throughout his career, Mr. Littlefield has made outstanding contributions to his profession and his community. He has been involved in numerous organizations and has received recognition on the national, State, and local levels. He has also distinguished himself as a teacher. For many years he has been a clinical professor of psychiatry and behavioral science in the School of Medicine at the University of Southern California.

Above all else, Wilbur F. Littlefield will always be respected and admired by those who know him, both personally and professionally, for his honesty, his integrity and work ethic, his unending commitment to providing equal justice for all, and his genuine compassion for humankind.

MARITIME DECLINE DOCUMENTED IN CONROE COURIER SERIES

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. FIELDS of Texas. Mr. Speaker, those of us familiar with the decline of America's maritime industry have long been frustrated by congressional, and executive, inaction to reverse that decline. During Democratic and Republican administrations, and for many Congresses, the American maritime industry has continued its uninterrupted decline which, if allowed to continue, could deny the United States—the world's only remaining military and economic superpower—the sea lift power our Nation would need in time of war or national emergency. It would be ironic if we, the world's only remaining superpower, allowed our maritime industry to decline to Third-World status.

We must not allow this decline to continue. As the ranking member of the House Merchant Marine and Fisheries Committee, I've enjoyed the opportunity to work with Chairman GERRY STUDDS and the other members of the Merchant Marine and Fisheries Committee to devise policies to halt, and then reverse, the dangerous decline of our Nation's merchant marine.

Mr. Speaker, Nancy Darnell, a reporter at the Conroe Courier newspapers in my congressional district, recently prepared an outstanding series that documents the decline of America's maritime industry and suggests solutions to the problem.

Over the next 3 days, I intend to submit Ms. Darnell's three-part series in the RECORD to give you, and my colleagues, the opportunity to better understand the seriousness of the problem—and the serious ramifications for our country if we permit our maritime industry to continue to spiral downward. I commend Nancy Darnell for her excellent series on this issue, and I hope my colleagues will take time from their schedules to read her articles and consider whether we as a Nation can afford to allow our domestic maritime industry to continue to decline. For my part, I say we cannot.

FIELDS ISSUES WARNING ON U.S. FLEET'S DECLINE

(By Nancy Darnell)

U.S. Rep. Jack Fields has embarked on a course designed to put a fresh breeze in the sails of this country's declining commercial sea power.

As the senior GOP member of a congressional panel, Fields is a key player in the first maritime reform legislation in 23 years.

Fields, who only this year began representing Montgomery County in Washington, likes the assignment because Houston is a port city. As the port goes, so goes part of the Houston-area economy.

Montgomery County is connected to the maritime industry by businesses located here which export and import goods and county residents who work in the maritime and related industries, such as energy and oil and gas exploration.

County residents with family members serving in the U.S. military also have a silent interest in the U.S. commercial fleet, because the bulk of military supplies—more than 90 percent during Desert Storm—travel overseas aboard merchant ships.

The goal is to reverse what Field's office describes as "the dangerous decline in the domestic merchant marine industry" and to "ensure that the United States has the sea lift power it would need in time of war or national emergency."

The immediacy of the objective is shaped by the continued cutbacks throughout the fleet, both in commercial and Navy ships. The merchant fleet is being reduced by attrition as aging ships are retired, and as American companies reflag their vessels, placing them under foreign flags.

The Navy cutback is the result of slashes in the Department of Defense budget. Both the size of the Navy fleet and manpower are being reduced as the Clinton administration carries out plans to cut $127 billion in defense funding over the next five years.

The Navy, which once had targeted having a fleet of 600 ships, is shrinking its fleet by half now that the former Soviet Union—particularly Russia—for the moment appears not to be a military threat to the U.S.

In order to have enough ships afloat in times of national emergency—or merely to tend to one of the skirmishes erupting in pockets around the world—Fields believes a commercial fleet is required.

In previous times of conflict, ships have come from both the commercial fleet and the Navy.

"If we have another crisis, moving U.S. troops may be much more difficult than it has been in the past," said a member of Field's staff.

The commercial fleet has been in steady decline for decades, after peaking at the end of World War II. An observer of the industry in this area said right after the war, the Maritime Administration was still granting construction subsidies and operating subsidies to U.S. flag ships.

The trend for U.S. companies to foreign flag vessels grew in the 1950s, as shipping magnates trying to cut costs turned to countries where the U.S. maintained control of the registries. In the industry, they were called "flags of convenience".

Foreign flag operators started chipping away at the U.S. commercial fleet as costs to American companies continued to mount. U.S. wages climbed steeply and the costs of union wage increases were passed along to the companies.

Passenger traffic across the Atlantic disappeared. Air traffic took over not only passengers, but also delivered the goods.

Industry observers agree there never has been a clear White House maritime policy, and by the 1980s the lack of that clear policy was taking its toll.

A former shipping company executive estimates the industry still would have thrived as late as the 1980s, had the federal government increased the operating differential by as little as five percent, at the most ten percent.

Instead, the growth of the industry fostered by President Roosevelt in the 1940s, and supported by President Eisenhower in the 1950s, was over by the 1980s.

Not a single president in recent times has defined the shipping industry in terms of the national defense of the United States, although some—such as President Clinton and President Bush—have had staff members allude to the need to establish maritime priorities.

This administrative failure to define the nation's needs on the oceans can be seen as the current administration tries to reinvent government. The military wants to have its own sea lift vessels, instead of calling on the merchant fleet, but the cost difference to the taxpayer is remarkable.

Instead of spending in the millions each year on a merchant ship, the Navy plan would require spending billions of dollars yearly, according to an industry observer.

Under this concept, the Navy would obtain only a handful of ships, built in a foreign shipyard, while nearly idle American shipyards campaign overseas for more work here.

The military would like to have the roll-on roll-off vessels Gen. Colin Powell, chairman of the Joint Chiefs of Staff, found so successful in action in the Persian Gulf.

These, to be operated by the Navy, would cost $2 billion to build in a foreign shipyard, according to industry estimates. Five new "RO/ROs," as they are called, would hardly complete the team for delivery of the massive amount of military supplies needed in a military crisis.

Fields is using as his vehicle for change his seat on the House Merchant Marine and Fisheries Committee which has passed the reform legislation designed to save American jobs in the maritime and ship-building industries.

The House Appropriations Committee earlier this year told the Pentagon to switch $200 million from defense to commercial ship-building.

"This bill is the cornerstone of the effort mounted by our committee to preserve and revitalize the American maritime industry," Fields said.

"This legislation will ensure that our children and grandchildren see the 'stars and stripes' flying from the stern of merchant vessels. And it will allow them to treasure the grand heritage of American merchant seamen and American shipyard workers, just as we do."

THE INDIA EARTHQUAKE

HON. ERIC FINGERHUT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. FINGERHUT. Mr. Speaker, on September 30, 1993, the worst earthquake to hit India since 1935 struck southcentral India at 3:56 a.m. local time. The earthquake measured 6.4 on the Richter scale. It has killed an estimated 10,000 people, 15,566 are reported injured and over 150,000 have been affected by the disaster.

India has historically not requested assistance to cope with natural disasters. However, the magnitude of this disaster prompted the Government of India to seek assistance for the initially 50,000 presumed dead. Within 48 hours after the earthquake the U.S. Government deployed Raymond Flynn, the U.S. Ambassador to the Vatican, along with $1.7 million worth of shelter material and other emergency assistance.

This disaster reminds us of the natural disasters that have occurred in the United States recently. Hurricanes Hugo and Andrew, the San Francisco bay earthquake, and most recently the floods of the Midwest. We are reminded of how quickly these catastrophes occur and how extensive the damage can be.

We have all been proud to watch rescue teams save lives and to see the generosity of our neighbors pour into the devastated communities. Although we cannot prevent natural disasters from occurring, we must work together as a nation to alleviate the pain and suffering caused from all these tragedies.

I would urge us to take this moment to remember those who have suffered from the earthquake in India. As the people of India rebuild and restore their lives, let us be reminded and take example of how a quick and efficient response can help lessen the tremendous blow natural disasters cause.

TRIBUTE TO COUNCILMAN RICHARD M. CURLEY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a truly outstanding citizen, Councilman Richard M. Curley of Marysville, MI. He will be recognized at a retirement dinner in his honor after 36 years of dedicated public service.

Councilman Curley's father served on the Marysville City Council for 11 years and his mother served as treasurer for 10 years, so the choice to run for public office seemed natural. In 1956, Councilman Curley ran for and won election to the Marysville City Council, thus beginning a dedicated career of civic participation. However, during these 36 years, his contributions to the community have not been limited to his service on the council. He has served on numerous committees including the city planning commission, as well as the historical commission where his time and effort are immeasurable.

As councilman and community leader, Councilman Curley has shown a special interest in educating the youth of Marysville. He has served on numerous school improvement and millage renewal committees. However, he is best known in the Marysville school system for Government Day. He began Government Day by going into classrooms and explaining the purpose, responsibilities, and benefits of city government. His colleague, Marysville Mayor Deem Boldyreff, likes to say that Councilman Curley has a lifetime appointment as director of Government Day because he has helped it become a annual event in Marysville schools.

Fortunately, for the city of Marysville, Councilman Curley is not retiring completely from civil service. Though his distinguished career as city councilman is drawing to a close, he intends to stay an active member of both the planning and historical commissions. Jean, his wife of 50 years, his four sons and three daughters share with us our great pride in his hard work and dedication.

So, Mr. Speaker, I ask my colleagues to join me in not only saluting Councilman Richard M. Curley, but also in thanking him for his 36 years of unselfish service.

GOOD COUNSEL HIGH SCHOOL IN WHEATON, MD, HONORED

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mrs. MORELLA. Mr. Speaker, I rise to congratulate the teachers, students, and parents of Good Counsel High School in Wheaton, MD, on winning the Blue Ribbon Excellence in Education Award from the Department of Education school recognition program.

Good Counsel attributes its success to the outstanding teachers at this small school. Under the leadership of the principal, Michael Murphy, the faculty goes beyond fulfilling its duties in the classroom. Teachers give freely of their time and energy outside the classroom to assist students at the junior retreat, which is a requirement for students to graduate. These retreats take place during the school week, giving the students and faculty members time to explore the issues of relationships with self, parents, and God.

Good Counsel also puts emphasis on advanced technology in order to prepare the students for the 21st century. Two computer labs provide students with the equipment, both hardware and software, that is found in today's business settings.

As a former teacher, I am delighted that Good Counsel High School is receiving the recognition that it deserves. Mr. Speaker, it is a proud moment for me to pay tribute to the students, the devoted faculty, and supportive parents of this outstanding school for their commitment and their responsiveness. I congratulate Good Counsel on receiving national recognition from the Department of Education, and I wish the winning combination of faculty, students, and parents at the Good Counsel continued success in achieving excellence in education.

THE TECHNOLOGY FOR EXCELLENCE IN EDUCATION ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. GOODLING. Mr. Speaker, today I am pleased to introduce, with my colleagues, Representative STEVE GUNDERSON and Representative MIKE CASTLE, legislation, the Technology for Excellence in Education Act, to address the growing need for a coordinated approach to the use of technology in our Nation's schools.

No one will doubt the growing impact and importance of technology of all kinds—computers, video, audio, distance learning—on education at all levels. A recent survey found that computers are already installed in about 52 percent of classrooms today. That percentage will certainly grow as will society's and the business world's demand for people who are technology friendly.

Despite these trends, there is little coordination and planning for the changes that technology is bringing about and most conclude that we are not doing an adequate job in training our teachers to teach with technology.

The Federal role in this effort is already deceptively large. A recent study indicated that during the 1992–93 school year almost 50 percent of all funds used to purchase software, integrated learning systems, and hardware were Federal dollars. For the same school year, the study noted, $350 million of Federal chapter 1 funds—the education for the disadvantaged program—and $125 to $150 million of Federal chapter 2 funds, were spent for technology purposes. Despite this, there is no centralized coordination of the Federal effort within the Department of Education.

We have introduced this legislation as a benchmark for the presently on-going renewal of the Elementary and Secondary Education Act. While some have concluded that a separate program on educational technology within the new act is necessary, we see many opportunities within current programs and statutes to establish a Federal effort in this area. We also believe the Federal response to educational technology must be primarily targeted on planning and coordination—with an eye toward acquisition, training and research issues—without spreading its wings too widely to the multitude aspects of education technology.

Our proposal includes four primary focuses. First, it directs the Secretary of Education to appoint a director of Educational Technology within the Department of Education to coordinate the Federal effort. Second, it establishes one-time State planning grants which require participating States to establish comprehensive technology in education plans for their States within a year.

Tied to that State planning effort are local challenge grants for States which have completed their plans. Local school districts can be awarded 3-year grants to implement various technology systems and strategies outlined in the State plan. Finally, our legislation amends numerous current Federal education statutes to make the acquisition of and training in technology an explicitly permissible use for school districts.

As the Committee on Education and Labor, and the House and Senate, continue efforts to rewrite the Nation's elementary and secondary laws and programs, we intend to promote the concepts and ideas presented in the Technology for Excellence in Education Act.

THE ILLINOIS HOUSE SUPPORTS FORT SHERIDAN CEMETERY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. CRANE. Mr. Speaker, years after the decision was made to close the gates of Fort Sheridan, just outside Chicago, there still is no finalized plan for disposing of the land. While there has been much debate over the relative merits of golf courses, condominiums, and public parks, recent discussion has ignored what I believe to be the best use for a portion of the land—as a veterans cemetery to honor Illinois veterans.

Since the Pentagon has recently stated that it is no longer interested in trading land at Fort Sheridan for an Arlington, VA, site to be used as an Army museum, I believe we must reopen discussion over the veterans cemetery. I am inserting for the RECORD a copy of a resolution passed by the Illinois House of Representatives which calls for the Federal Government to create a cemetery at Fort Sheridan.

The Department of Veterans Affairs has stated that the Chicago area is in need of a new cemetery, and has identified Fort Sheridan as the optimal site. State government in Illinois supports the creation of a cemetery on this historic site. Chicago-area veterans groups strongly support Fort Sheridan as the location for a new cemetery. It is time that Washington listened to those who will be most affected by this decision, and dedicate a new veterans cemetery at Fort Sheridan.

HOUSE RESOLUTION No. 1415

(Offered by Representative Kubik)

Whereas, The Congress of the United States enacted Public Law 93-43 on June 18, 1973, which provides that "the remains of (any veteran, and certain others) may be buried in any open national cemetery in the National Cemetery System"; and

Whereas, Through this Public Law, all veterans, by virtue of their service to their country, have a right to be interred in a national cemetery; and

Whereas, It has been reported that the national cemeteries in Illinois have the following numbers of spaces available: Alton, 10; Camp Butler, 6,712; Danville, 8,209; Mound City, 1,201; Quincy, 70; and Rock Island, 2,168; and

Whereas, There are millions of Illinois veterans who have the right to interment in a national cemetery; and

Whereas, After the remaining 18,000 cemetery spaces in Illinois are used, the families of Illinois veterans will have to go out of the State to find space in a national cemetery; and

Whereas, When a deceased veteran is interred a long distance from home, the veteran's family will face additional hardship in reaching the burial site and may be unable to visit the grave and show their respect; and

Whereas, The families of veterans in the State of Illinois are aggrieved that there is no national cemetery near the Chicago area, where millions of veterans live with their families; and

Whereas, There is an existing army cemetery at Fort Sheridan which would accommodate the needs of the veterans who are desirous of a national cemetery in the Chicago area; therefore be it

Resolved, by the House of Representatives of the Eighty-Eighth General Assembly of the State of Illinois, that we respectfully urge our federal government leaders to work together to designate the cemetery at Fort Sheridan a national cemetery for use by all veterans; and be it further

Resolved, That suitable copies of this preamble and resolution be forwarded to President Bill Clinton and to each member of the Illinois congressional delegation.

REDLAND MIDDLE SCHOOL IN ROCKVILLE, MD, HONORED

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mrs. MORELLA. Mr. Speaker, I rise to congratulate the teachers, students, and parents of Redland Middle School in Rockville, MD, on winning the Blue Ribbon Excellence in Education Award from the Department of Education school recognition program.

Redland Middle School's success for every student program is designed to provide students with a spirited, demanding curriculum suited to individual needs and abilities. These goals are accomplished through broad course offerings and ongoing teacher support of the individual student. The school has several other programs that were designed to help students. Student support programs include mentoring by staff members, a support room program, guidance programs, peer mediation, and peer tutoring. In addition to these, there are several after-school activities such as clubs, homework help, and intramural sports. There are also several programs, like the computer genius club and C.A.R.E., that include community partnerships with local business.

As a former teacher, I am delighted that Redland Middle School is receiving the recognition that it deserves. Mr. Speaker, it is a proud moment for me to pay tribute to the devoted faculty and supportive parents of this outstanding school for their commitment and their responsiveness in providing a quality education. I congratulate Redland Middle School on receiving national recognition from the Department of Education, and I wish the winning combination of faculty, students, and parents at the school continued success in achieving excellence in education.

TRIBUTE TO POLISH HOME CLUB

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. CARDIN. Mr. Speaker, today I rise to pay special tribute to the Polish Home Club in Baltimore on its 75th anniversary. Located on Broadway, in the heart of Baltimore's Polish community, the Polish Home Club is a social and cultural landmark. It has hosted thousands of meetings, banquets, weddings, and celebrations and is an important part of Baltimore's thriving Polish community.

The Polish Home Association was first organized in 1906 by Wladyslaw Urbanski. It took the Polish community many years to raise the funds necessary to purchase the club and make the needed repairs on the structure. In 1918—75 years ago—the Polish Home Club officially opened its doors to the community.

Since then, the Polish Home Club has provided help to the needy, support to new immigrants, and has become a social outlet and a community meeting place. The club has been, and still remains, a fixture within the Polish community in Baltimore. It has provided the needed cohesiveness to keep this community strong, and it also has provided an opportunity for non-Poles to participate in events within the Polish community.

Mr. Speaker, I urge all my colleagues will join me in recognizing the important contribution the Polish Home Club has made and continues to make in Baltimore.

IN HONOR OF A MEMORIAL VIGIL COMMEMORATING THE 244 MEMBERS OF THE 101ST AIRBORNE WHO DIED IN SERVICE TO THEIR COUNTRY AT GANDER, NEWFOUNDLAND, ON DECEMBER 12, 1985

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is with great pride that I rise to pay tribute to the 244 courageous peacekeepers of the 101st Airborne Division who were unexpectedly taken from the line of duty in a tragic plane crash at Gander, Newfoundland, on December 12, 1985. A memorial vigil, held by the Connecticut Yankee All-Airborne Chapter of the 82d Airborne Association, Inc., will take place in Hartford, CT, on the east steps of the State capitol, 1 p.m. on Sunday, December 12, 1993.

Since colonial times, American men and women have served with honor and distinction, protecting the basic freedoms that are conferred upon all citizens from the moment of birth. This has been at the core of American values since our forefathers landed in Plymouth, MA, in 1620. Since that time, this Nation and its Armed Forces have fought around the world in the hope that one day freedom and democracy might ring for all to hear. In fulfilling this dream, members of the 101st Airborne died in service to our Nation. For this, they forever deserve our sincere gratitude and respect.

On the occasion of this memorial vigil, there will still be people who are unable to enjoy the freedoms of democracy. Accordingly, I ask that we all take a moment to give thanks to those who have risked their lives so that people all over the world may live under a system as open and free as our own.

I would also like to take this opportunity to express my appreciation to all the families of these service men and women who demonstrated great strength in their loss. Indeed, this memorial vigil is as much a tribute to their courage as it is to those who have served in uniform. It is my hope that these men and women will forever serve as an inspiration to us all.

END GLOBAL OCEAN DUMPING OF RADIOACTIVE WASTES

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. SYNAR. Mr. Speaker, I rise today to urge the Clinton administration to seize an important opportunity for global environmental leadership. At the upcoming meeting of parties of the London Dumping Convention the important issue of ocean dumping of radioactive waste will be addressed.

The dumping of high-level radioactive waste has been prohibited since the adoption of the London Convention in 1972. I urge the administration to support a similar ban on the dumping of low-level radioactive waste and to encourage the 70 other countries who are party to this treaty to do likewise.

Mr. Speaker, we are all aware of the recent incident involving the dumping of low-level radioactive waste into the Sea of Japan by the Russian Federation. In late August, it was my privilege to serve as a member of the U.S. delegation to a meeting of GLOBE, the Global Legislators Organization for a Balanced Environment, in Tokyo. At the GLOBE meeting we received a dramatic report from our Russian colleagues regarding the dumping of radioactive waste by the former Soviet Union into the Sea of Japan, the Arctic Ocean, and the Atlantic and Pacific Oceans over the past three decades. Responsible political leaders cannot allow this practice to continue.

Dispersing these wastes into the environment in an uncontrolled and irretrievable fashion, as is the case with ocean dumping, simply does not make sense. It is time to bring international law into conformity with U.S. policy in this area.

I urge the administration to seize this rare and important opportunity to achieve important environmental foreign policy benefits and demonstrate leadership on the protection of the global marine environment. The dumping of radioactive wastes into the sea must end. The U.S. position in the upcoming London meetings should lead the world toward that objective.

TRIBUTE TO SAM YONO

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to my friend Sam Yono. Sam is chairman of the Chaldean Federation of America, an umbrella organization of 5 Chaldean churches and 7 civic organizations, which represents more than 65,000 Chaldean-Americans in the Metropolitan Detroit area.

The Chaldean Federation of America's primary goal is to encourage Chaldean youths to stay in school and strive for academic excellence and achievement. The federation, under Sam's leadership, also encourages volunteerism and provides numerous social services. This evening, the federation is holding its first annual awards banquet. Sam helped organize this event which will be attended by 500 merchants, professionals, and civic and religious leaders. Most recently, Sam has been working with me to dramatize the plight of Chaldean refugees in the Middle East.

Sam has been active in both the Chaldean and the larger metropolitan Detroit community for many years. As a businessman and entrepreneur, Sam has donated his time and talents to numerous civic and governmental agencies. As a member of their Ethnic Community Response Network, Sam's insights have benefited the Detroit Police Department. He has also served as a member of the Governor's Advisory Committee for Southeastern Michigan to the Michigan Department of Agriculture. Currently, Sam is a member of the Wayne County Executive's Arab Advisory Committee. Sam also serves as a board member for Oakland Community College, the college's foundation, the Southeast Michigan Coalition of Governments [SEMCOG] and New Detroit.

Sam's tireless commitment to the community is an inspiration to us all. And so, on the occasion of the Chaldean Federation of America's First Annual Dinner Banquet, I ask my colleagues to join me in saluting Sam Yono.

TRIBUTE TO NANCY NORRIS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of Nancy Norris of Encino, CA. Nancy will be recognized for her civic and charitable involvement, her contributions to business, and her role as a supportive wife and mother at a celebration in her honor on November 6.

Nancy Norris is truly a renaissance woman. As the sole proprietor of Nancy Orman Interiors for 17 years, she has played an integral role in the business community. In 1986, she was selected as the winner of the ELAN Award of Merit and in 1990, Nancy received the MIRM Award for best interior design.

Her contributions to our community are well known. She is a lifetime member of Hadassah and has been actively involved in numerous activities in several chapters. She is the founder and president of the South Valley chapter, the founder and president of the Shirim chapter, the current treasurer of the Greater Valleys chapter, the program vice president of the Pacific Coast region and the chapter member of the Valley Coordinating Cabinet. In addition, she was the local office coordinator for the National Hadassah Convention held earlier this year.

Nancy has also been greatly involved in charitable work and civic affairs. She is the president and founder of the Baldy View Auxiliary of BIA, the life director of the NAHB Auxiliary, and spends time giving to others as a volunteer at the Chaparral School and at Kadima Hebrew Academy. In addition, Nancy enjoys memberships with the NAHB Auxiliary, the NAHB Capitol Club, the Los Angeles County Museum of Art, and the Los Angeles Zoo.

Mr. Speaker, I ask that you join me, our colleagues, Nancy's husband Ira, and their four children in recognizing the vast and diverse contributions of this wonderful woman. Her dedication to our community and her many contributions to business are certainly worthy of our admiration and respect. It is fitting that the House pay tribute to Nancy Norris today.

HEBREW ACADEMY OF GREATER WASHINGTON IN SILVER SPRING, MD HONORED

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mrs. MORELLA. Mr. Speaker, I rise to congratulate the teachers, students, and parents of the Hebrew Academy of Greater Washington in Silver Spring, MD, on winning the Blue Ribbon Excellence in Education Award from the Department of Education School Recognition Program. The Hebrew Academy is in fact two different schools, a middle school and a high school. Both have won the award this year for their excellence in education.

The Academy attributes its success to the outstanding teachers at this small school. Under the able auspices of Miss Deena Levine, principal of the high school, the faculty goes beyond fulfilling the duties of the classroom. The dedicated teachers at the Hebrew Academy spend extra hours coaching the mock trial team, which made the semi-finals in Montgomery County's mock trial competition. The hard work of students and faculty on the newspaper and yearbook has brought recognition from Columbia University for excellence in high school publications.

As a former teacher, I am delighted that the Hebrew Academy of Greater Washington is receiving the recognition that it deserves. Mr. Speaker, it is a proud moment for me to pay tribute to the devoted faculty and supportive parents of this outstanding school for their commitment and their responsiveness in providing a quality education. I congratulate the Hebrew Academy of Greater Washington on receiving national recognition from the Department of Education, and I wish the winning combination of faculty, students, and parents at the academy continued success in achieving excellence in education.

HOME OFFICE DEDUCTION ACT INTRODUCED

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. HOAGLAND. Mr. Speaker, together with a bipartisan group of my colleagues, I am introducing the Home Office Deduction Act today. This initiative will clarify the tax status of America's home-based businesses.

The legislation has the support of the Small Business Legislative Council, the National Association of the Self-Employed, the American

Institute of Certified Public Accountants, the National Society of Public Accountants, the National Association of the Remodeling Industry, the National Association of Small Business Investment Companies, the Direct Selling Association, the Specialty Advertising Association International, and the Illinois Women's Economic Development Summit.

Home-based business mean opportunity and job creation. The livelihoods of many working families in my State and across the country depend on home-based business. For many entrepreneurs, it is the American dream. Home-based businesses make sense from a variety of perspectives.

For startup small businesses as well as people reentering the work force after a job loss, the very viability of a new enterprise can depend on whether or not it can be started up as a home-based business.

For many people with historically poor access to capital, like women and minorities, and for many people for whom traditional office environments or commuting pose problems, such as the elderly and the disabled, the home-based business can be an important road to economic independence.

For parents with young children to supervise, the home-based business helps avoid the loss of a second income.

Modern telecommunications equipment like faxes, modems, and computer networks allow businesses which have traditionally required an office setting to operate from the home.

The Supreme Court's recent decision in Commissioner versus Soliman substantially narrowed the availability of the home office deduction. Previously, home office expenses were deductible if: First, the space in the home was devoted to the "sole and exclusive use" of the office; second, the taxpayer used no other office for the business; and third, the business generated enough income to cover the deduction.

The Supreme Court in effect added two additional conditions to the eligibility of most taxpayers for the home office deduction: (4) the customers of the home-based business must physically visit the home office; and (5) that the business revenue must be produced within the home office itself.

As a result of the Soliman decision, certain expenses which are deductible for other business will not be deductible for home-based businesses. A business owner who rents a storefront is not required to have customers visit it or generate all the business revenue within its four walls in order to claim the storefront as a deduction.

Many entrepreneurs who run their business from their home have been thrown into confusion about the implications of the Soliman case. Entire categories of home-based businesses will lose their deduction under this case. These range from independent sales representatives to rural veterinarians to home remodelers and plumbers—small businesses that must sell their products and services outside the home office because of the nature of the business or because of competitive pressures. Many other home-based businesses cannot bring customers into their homes for a variety of reasons, such as local zoning ordinances or security considerations. For many small enterprises, the loss of this deduction may mean the difference between growth or retrenchment, the difference between job creation or bankruptcy.

The Home Office Deduction Act keeps intact the three previous criteria for the deduction, while making clear that essential administrative and management activities—such as tax preparation, bookkeeping and billing, and soliciting business—are legitimate uses of business time and office space for the purpose of deducting the expenses of a home office.

We want to make the law clear and simple to allow entrepreneurs who operate in the home the ability to deduct the same expenses that they would be allowed to deduct if they rent space. That's only fair. However, we do not want to open up the Tax Code to abuse. It is very difficult to find the right balance between these two objectives in an area that is as fact-sensitive as home offices. But the recent Supreme Court decision clearly does not strike a correct balance by requiring that customers of a home-based business must physically visit the home office or that business revenue must be produced within the home office itself to be deductible. I think this bill is a good start in restoring balance. Before the legislative process is all over, I am sure we will have added many refinements and clarified any ambiguities, and in the process I hope we can devise a workable policy that treats people who operate home offices fairly.

For example, I am concerned about some reservations expressed about whether the requirement that the office be used "regularly and systematically" may not be a fair standard for individuals whose business travel is not of a predictable pattern, and therefore whose time spent in a home office may not fall within a common sense definition of systematic, but whose business nevertheless requires the use of office space in the home. This is only one example of the tensions we face in attempting to draw a line between legitimate uses of home office space as opposed to simple tax avoidance.

I am sensitive to the impact this legislation will have on Federal revenues. However, I believe we must first try to make a sensible decision about the proper policy to which home-based businesses should be subjected and then consider the fiscal impact. To do otherwise is putting the cart before the horse.

PUERTO RICAN STATEHOOD

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. SOLOMON. Mr. Speaker, I rise today to call the attention of this body to what is shaping up to be an American Constitutional crisis. On November 14, 1993, the people of Puerto Rico will cast a vote on the status of the island. They will be asked to choose statehood, independence, or to maintain their current status as a Commonwealth. What the Puerto Rican people are being told during this campaign bears no relation to the facts. The campaign's rhetoric defies all historic precedent.

First, there are people telling Puerto Rico that statehood would still allow them to function as virtually an independent nation—complete with their own flag and national anthem. Any review of our history would note that Texas was an independent nation prior to its joining the union. But while my friends in Texas have stayed independent in many ways, the American flag flies above all others there.

Second, there are people telling Puerto Rico that statehood would not affect the use of Spanish in Puerto Rico. Again, a review of American history shows that Louisiana was a French-speaking colony before it joined our Union. However, Louisiana now prints its laws and conducts its government business in the same language used in the rest of the United States—English.

Should Puerto Rico opt for statehood, I fear that the troubles Canada confronts with French-speaking Quebec will seem tame. After all, until this year, Puerto Rico had only one official language—Spanish. When Puerto Rico's statehood party decided to make English a second official language this year, they provoked a near riot. According to the New York Times, "tens of thousands of Puerto Ricans opposing the language bill took part in a march on the Capitol" This group, estimated at 80,000 to 100,000, chanted "Ingles, no!"

As Puerto Rico will follow the same procedure as every other nation has in the pursuit of statehood, I firmly believe that these people will not be pleased with reality. In our English-speaking union, life is vastly different than that being portrayed by some in Puerto Rico. English has always been America's de facto official language. And, if H.R. 739 is passed, English will be America's de jure official language as well. I am a proud cosponsor of that bill. Nearly all Americans support making English our official language. When this bill passes, it will apply just as strictly to the State of Puerto Rico as it would to the State of New York.

Third, some members of the Puerto Rican society are claiming that under a State of Puerto Rico citizens will pay less in taxes. In 1917, Congress gave Puerto Ricans American citizenship. In 1952, Puerto Ricans voted to become a Commonwealth and the United States and Puerto Rico entered into a compact which defined the Commonwealth status. Under this status, Puerto Rico, although not a State, has limited access to our welfare programs but is exempt from paying Federal taxes. Statehood would take away this fortunate exemption. Puerto Ricans would pay the same Federal income taxes, gas taxes, and estate taxes as every other citizen of every other State in America.

Furthermore, Puerto Rican's per capita income is less than half that of Mississippi, the poorest State in our union. Statehood would also remove all caps Congress has placed on Federal welfare payments to Puerto Rico. The New York Times has estimated this removal would cost the U.S. Treasury a minimum of an additional $3 billion annually. As a State, the Puerto Rican citizenry will have to pay their share of these added Government costs. Taxes will not decrease; in fact, it is highly probable that they will increase as all of Government entities, both local and Federal, scramble to finance these added fiscal burdens.

Statehood is a permanent thing. The United States has already fought one civil war over that matter. Statehood means equal treatment for all States. Yes, it grants benefits, but more importantly it bestows responsibility. Those who tell Puerto Rico things will be different for them are telling the voters a pleasant fairy tale. I fear a rude awakening for both the United States and Puerto Rico should the statehood process proceed in this manner.

TRIBUTE TO J. BARRIE MUNROE

HON. DOUGLAS "PETE" PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. PETERSON of Florida. Mr. Speaker, it is my sincere pleasure to have this opportunity to pay a special tribute to an outstanding individual from Florida's Second Congressional District who is retiring from the Occidental Chemical Corp. after 21 years of exceptional service. Mr. J. Barrie Munroe has not only risen to the level of vice president of manufacturing and technology during his tenure at Oxy, along the way he has served his country admirably in the armed services, as a world-class track athlete, as an environmentalist, community leader, and perhaps most importantly, as an outstanding family man.

A native of Florida, Mr. Munroe left his home to serve in the U.S. Army where he earned a distinguished record and rose to the rank of staff sergeant. It was during this period that he represented the U.S. Armed Forces in the 1955 European Track Championships, where his time of 10.7 seconds in the 100 meter dash brought him within fractions of a second of setting a world record. Since that time he has continued his interest in the sport and has competed in a number of well-known marathons.

Upon returning to Florida after his military service, Mr. Munroe pursued an education at the University of Florida. Giving his academic studies the same dedication that has steadfastly accompanied him through all his endeavors, he was ranked fourth in his class when he graduated with a Bachelor of Science Degree in Chemical Engineering.

With his diploma in hand, he embarked on an impressive career within the field of chemical process technology and manufacturing. Management positions with Proctor & Gamble Co. and Lonza, Inc., led him to becoming a corporate officer at Occidental Chemical Corp., where he stayed for a very productive 21 years.

Occidental has certainly been blessed by having the foresight to engage Mr. Munroe's talents. He was instrumental in opening the doors for Occidental sales to the former Soviet Union and was very active as a leader of the Florida Phosphate Council. Under his leadership, Oxy has mined 42 million tons of phosphate rock, resulting in the production of 15 million tons of fertilizer and 4 million tons of animal feed supplement. That high level of production made Occidental one of the largest employers in north Florida, with 2,000 individuals on the payroll.

During this period of amazing growth, Barrie Munroe never lost sight of the need to protect the environment. He successfully oversaw the reclamation of over 5,000 acres of previously mined lands, which included 1,600 acres of sensitive wetlands in Hamilton County. These areas are now beautiful pineforests, meadows, and recreation tracts preserved for generations to come.

Along those same lines, he created the North Florida Environmental Advisory Committee. Through this organization he has established an atmosphere of cooperation between industry interests and concerns of environmental groups, which has resulted in positive environmental enhancements for the region.

Never losing sight of assisting those in need, Mr. Munroe was one of the principal organizers of Oxy's efforts for the United Way. It was with his inspiration and leadership that Oxy has regularly provided approximately 50 percent of all contributions received by the United Way in Suwannee, Hamilton, and Columbia Counties.

He has also been extremely active with educators on a variety of levels. Within that arena, he has made Oxy's Adopt a School Program a top priority for the company in Hamilton County. This program has enriched the county's six schools by providing financial and human resource support for facility improvements and strengthening recreational activities. For example, when the middle-school was in need of new goal posts for a playing field, it was through this program that Occidental provided the funding assistance necessary to purchase the posts and the skilled labor needed to erect them.

As an active alumni, he has served for a number of years as the president of the University of Florida's Advisory Committee for the Department of Chemical Engineering. Within that capacity he has acted as a good-will ambassador on behalf of the university and has been of invaluable assistance in recruiting and advising prospective students.

In spite of all these demanding enterprises, Barrie was always there for his family. He and his lovely wife of 36 years, Myrna Turner Munroe, have raised four beautiful children, Dallas, Brad, Barrie Suzanne, and Brian, all of whom are clearly destined to contribute to their professions and communities in much the same way as their father.

In view of his many outstanding contributions, it was with mixed feelings that I learned of Mr. Munroe's plans to retire from Occidental at the end of this year. However, although he will be deeply missed by the residents of Hamilton County and its surrounding areas, no one can begrudge his desire to retire to St. Petersburg Beach so that he and Myrna might pursue the enviable activities of boating, golfing, and flying.

Barrie Munroe is leaving behind a legacy of hard work, innovative thinking, and aggressive accomplishment of the many and varied tasks he has undertaken. A finer and more upstanding individual is rarely seen. As he retires, I join the men and women of Occidental Chemical Corp. as well as the citizens of north Florida in extending our fondest gratitude and our sincere wishes of a long and prosperous future.

CONGRATULATIONS TO THE DENVER RTD

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mrs. SCHROEDER. Mr. Speaker, I rise today to congratulate the Denver Regional Transportation District [RTD], which provides public transportation services in a six county area. At its recent annual meeting, the American Public Transit Association presented RTD with its prestigious Public Transportation System Outstanding Achievement Award. We in Colorado have long been proud of RTD's many contributions to improving public mobility and enhancing our quality of life. To be named the No. 1 public transportation agency in the United States is a crowning achievement for the Regional Transportation District. Three cheers for the RTD Board and to each one of the nearly 2,000 full and part-time employees.

RTD operates one of the largest transit districts in the Nation covering 6 counties and 39 municipalities over a 2,300 square-mile district. It operates a bus fleet of 800 vehicles with an on-time performance record of 88 percent and is presently constructing a new 5.3 mile light rail line financed wholly with local resources and slated to enter into revenue operation next fall. A new downtown express bus/high occupancy vehicle lane will also open at that time. RTD is one of the only transit agencies in the Nation with nearly 100 percent wheelchair accessible buses. Moreover, RTD operates both curb-to-curb transportation service for the districts 30,000 disabled citizens and an access-a-ride program providing demand-responsive service to eligible riders.

Similarly, RTD is in the forefront among transit agencies in testing state-of-the-art air pollution control measures, including operating buses with particulate traps, methanol, and compressed natural gas. RTD also developed the world's only EPA certified heavy duty engine high altitude emissions research center.

In making the award, APTA cited RTD's increased ridership, human resources development, fiscal responsibility, air quality research, advancement of minorities and women, rapid transit development, and total quality management. Notably, RTD has experienced ridership growth at a time when many transit agencies are witnessing slipping or stagnate ridership numbers. Its proactive marketing strategies have attracted more than 60 million passengers onto RTD a year.

RTD is one of the most fiscally stable and cost effective public transportation agencies in the Nation. This is evidenced by RTD's recently upgraded bond rating, and its recognition by the Government Finance Officers Association of the United States and Canada for its current fiscal year budget. The award presented by this prestigious organization is the highest form of recognition in governmental budgeting.

RTD is one of our State's most progressive employers. In 1991, it was awarded Minority Enterprises Incorporated's Corporation of the Year Award. Illustrative of this commitment, RTD boasts an impressive 67 percent minorities and women among its transportation division managers.

Mr. Speaker, the heart of a transit agency's operation is the service it provides. RTD has offered the public many nationally recognized programs. Its Eco Pass program allows employers to provide workers with discounted transit passes. RTD operates discounted services for University of Colorado students, special shuttle bus service to professional football and baseball events, an inexpensive service to tour 21 cultural and historical sites throughout Denver, special services for senior citizens, and a night stop program that allows passengers be dropped-off closer to their homes or in safer, well-lit areas.

Mr. Speaker, I applaud the Nation's No. 1 transit agency: the Denver RTD!

COMMERICAL EXPORT ADMINISTRATION ACT OF 1993

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 28, 1993

Mr. ROTH. Mr. Speaker, today, I am introducing the first comprehensive revision of our nation's export control laws since 1979—nearly 15 years ago. This bill has broad support in America's high technology industries, and it will gain wide support in Congress. Congressman JAMES OBERSTAR has joined me as the lead co-sponsor of this bill, and he is playing a key role in this effort to revise export control policy.

The Subcommittee on Economic Policy, Trade and Environment, on which I am the ranking Republican, will mark-up export control legislation early next year, and this bill will form the basis for much of what we bring to the full House for a vote. In our hearings this year, the need for this legislation has been made crystal clear.

Export controls date from the beginning of the cold war and they are completely out of synch.

The current export control system has become a major obstacle for American high technology exports, and it undercuts American leadership in these industries.

High technology is the key to our economic future, and unless we replace the current system, that growth will be stunted. Under the current law, we are still conducting economic warfare against cold war adversaries that either no longer exist, or which are now essential partners for us in trade and global security.

On the one hand, we are sending billions to support Boris Yeltsin and build Russia's economy.

But as Yeltsin complained to President Clinton at the Vancouver Summit, Export controls still are targeted against Russia.

We want China's help in dealing with North Korea's nuclear weapons, program, but why should the Chinese cooperate when they are still the targets of export controls.

Some argue that with a little fine-tuning, the current system can be re-directed to controlling weapons proliferation. But look at what has happened with Iran.

For almost a year, the United States has tried to target Iran with export controls, but even our closest allies will not go along.

The United States and Germany are now criticizing each other in the world press, with no impact on Iran at all.

A third problem with the current export control system is its bias toward unilateral action by the United States—when all else fails, we impose export sanctions by ourselves.

That's what we did with China 2 months ago. We shut off satellite exports because we don't like China's arms transfers to Pakistan. And what has been the result?

Within a week of the sanctions, representatives of German andFrench competitors were in Beijing, offering the same technology that the United States has blocked.

The United States company has lost over $1 billion in sales to China, with no effect on China at all.

We made the same mistake with India. For 2 years, the United States denied the sale of a supercomputer to India.

As a result, India went out and developed their own model, and has sold 14 units around the world, taking those sales away from our own company and creating a new competitor for American exports.

These examples show that export controls are very effective in interfering with American exports, but virtually irrelevant in controlling proliferation, or as a diplomatic lever.

According to testimony before our subcommittee, we are losing $10 to $20 billion in exports every year because of this outmoded law.

That translates into 200,000 jobs which can be gained by freeing American companies from the outmoded burden of export controls. President Clinton agrees that our export controls must be changed, and he has taken some administrative actions to reduce controls on computers and telecommunications.

But we need an entirely new approach, and that requires legislation.

Both Secretary Brown and Secretary Christopher have told our committee that the administration will send up legislation on export controls—but that legislation is not drafted yet. I believe our bill is an approach that the President can and should support, and I will ask for his endorsement.

This bill reflects the recommendations of a task force of experts from our Nation's premier high-technology companies in computers, electronics, aerospace, machine tools, and telecommunications. They worked for some 18 months, analyzing the problems with the current system.

They consulted with leaders of these industries, with scholars and with key Government officials.

Mr. Howard Lewis, vice president of the National Association of Manufacturers, guided the work of the task force, which was chaired by Mr. Christopher Padilla of AT&T.

America's high-technology industries are indebted to Howard and Chris, to N.A.M. president Jerry Jasinowski, and to the task force members for this breakthrough.

This bill also incorporates recommendations that our subcommittee has received in the four hearings that we have held over the past 5 months.

Our subcommittee chairman, SAM GEJDENSON, is leading the congressional effort to rewrite export controls, and I am working with him on a bipartisan basis on this issue. The result of the task force and our hearings is this legislation, which ends the cold war basis for export controls; establishes a new policy that export controls for proliferation goals must be multilateral; sharply restricts the use of unilateral controls; ends the fruitless use of export controls for diplomatic leverage; and which streamlines the export control system, focusing on a much smaller list of items that are in reality controllable in the real world—and that have a direct role in dangerous weapons systems.

With introduction of this bill, we will enter the next stage of our work. Together, I, Congressman OBERSTAR, and our high-technology executives will contact Members of Congress to sign up sponsors. I will discuss this with the President and seek his support as his people begin writing their bill. And when we come to mark up next February, we will see major elements of this bill incorporated in our subcommittee's legislation.

By next June, we will see most of this bill become law. And we will have done something truly important for our high-technology industries, and for our national security.

SENATE—*Friday, October 29, 1993*

(Legislative day of Wednesday, October 13, 1993)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Love suffereth long, and is kind; love envieth not; love vaunteth not itself, is not puffed up; Doth not behave itself unseemly, seeketh not her own, is not easily provoked, thinketh not evil; Rejoiceth not in iniquity, but rejoiceth in the truth; Beareth all things, believeth all things, hopeth all things, endureth all things.—I Corinthians 13:4–7

Gracious Father in Heaven, perfect in love, help us to learn the power of love. Help us to learn to love God, our families, our neighbors, even our enemies. Help us understand that love is more volitional than it is emotional, that it prevails when all else fails.

We thank You for the words of Teilhard de Chardin: "Someday, after conquering the winds, the waves, the tides and gravity, men and women will harness the awesome power of love for the Creator; then, for the second time in history, mankind will have discovered fire!"

This weekend, Father, help us especially to love our families who often are low in our priorities.

We pray in His name who is Love Incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 29, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senate majority leader.

MODIFICATION OF ORDER FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order regarding morning business be modified to provide that the Senator from Washington be recognized for 4 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, before we proceed to morning business, I want to set out the schedule for the information of Senators.

This morning, at 11 a.m., we will take up the Indoor Air Quality Act, and I hope we will complete action on that bill today.

At noon on Monday, there will be a vote in the Senate. That will be followed by consideration of the Ethics Committee resolution regarding Senator PACKWOOD. There is no time limitation on debate on that resolution, so Senators can expect to be in session Monday for several hours. I do not know whether we will complete action on that resolution Monday. That is possible. It is also possible it could go over to Tuesday, depending on how many Senators wish to speak.

Including next Monday, there will be 16 legislative days left prior to Thanksgiving, and that includes Saturday, November 20, and the Wednesday before Thanksgiving. There are a large number of measures to be acted on, including, but not limited to, the North American Free-Trade Agreement, the Education 2000 bill, the crime bills, the balanced budget amendment, the rescission and spending cut measure, the independent counsel measure, the two remaining appropriations bills—Defense and Interior—and, since I am speaking here without notes and from memory, probably one or two others which do not immediately come to mind.

I have been the principal advocate of the Senate adjourning by Thanksgiving. And for that, I have received—and I am grateful for it—the encouragement and private applause of almost all of my colleagues, almost all of whom then, however,say that we ought not to have a session on Monday or Friday or Thursday or Tuesday.

I just want to say that if we are to complete our work by Thanksgiving, it will be necessary to be in session each of those 16 days for lengthy sessions, with votes possible at any time and with the cooperation by Senators. Any one Senator can thwart the will of the Senate. We all know that. Any one Senator can prevent, delay, obstruct at any time.

I will simply say to the Members of the Senate, I have made it clear from the outset that completing action and adjourning by Thanksgiving is contingent upon finishing the important legislation that we have before us.

Our highest and primary responsibility is to the people we represent and to complete action on those measures that are necessary. And we are only going to leave at Thanksgiving if we have completed action on those measures. If we have not, then we are going to stay in session until Christmas, if necessary, to do that.

I just thought of another one that I had forgotten and, of course, that is final action on the unemployment compensation bill, which the Senate completed action on yesterday and which now will go to conference with the House.

So I ask of my colleagues their cooperation and their patience in these matters. I know there are disagreements on the substance of bills. That is understandable. That is part of our process. And I do not mean in any way to suggest that we not have a vigorous debate. But we can have vigorous debate without delaying tactics and if we stay here and put our minds and efforts to completing action on these measures. I hope very much that we will do so.

I will, in the near future, meet with the Republican leader to go over a final list.

I repeat, the list I have set forth this morning is not intended to be exclusive or exhaustive. I am speaking here without notes and from memory and I may not have included one or more measures we want to complete action on. It is illustrative only to indicate how much we have to do in this short time.

I repeat, the 16 legislative days includes Saturday, November 20, and the following Wednesday, which is the day before Thanksgiving. So Senators should be prepared to be here on that Saturday and on that Wednesday, if necessary.

● **This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.**

Mr. President, I thank my colleagues. I thank the Senator from South Carolina for yielding time to the Senator from Washington. I now yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m.

Mr. GORTON addressed the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. HOLLINGS. Will the distinguished Senator yield?

Mr. GORTON. Yes.

Mr. HOLLINGS. Can we amend that? Because morning business would have to go beyond 11 a.m.

Can I go, after the distinguished Senator from Washington, for 40 minutes? I have 30.

Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from Washington, I be recognized for a period of 40 minutes.

The ACTING PRESIDENT pro tempore. Hearing no objection, that will be the order.

The Senator from Washington is recognized.

NATIONAL CONSUMERS' WEEK

Mr. GORTON. Mr. President, this week marks the 12th annual National Consumers' Week and is being observed by hundreds of consumer organizations across the country. It is an opportune time to look back and draw attention to the successes of America's consumer protection movement, and to look forward and highlight the areas in which consumer protection will continue to be a concern.

Looking back over the years, increased attention to consumer education, safety, and protection has given American consumers greater access to information about the products they purchase and greater assurance that the products on which they spend their hard-earned dollars will live up to their manufacturers' and salesmen's claims.

Since I began my tenure as ranking Republican of the Consumer Subcommittee, Congress has taken a number of remarkably bold steps on behalf of American consumers. I am proud to have played a role in these achievements, most particularly in the area of auto safety. As we deliberated the Intermodal Surface Transportation Efficiency Act, Congress answered our call for mandatory airbags in all passenger cars, and eventually in all light trucks. Although manufacturers are not required to install airbags until 1997, many have already done so. This provision is estimated to result in saving 12,000 lives per year and thousands of severe head injuries.

We were also successful in including rulemakings on head injury, rollover protection, multipurpose passenger vehicle side impact protection, child booster seat safety, improved seatbelt design, and antilock brake systems for automobiles. Each provision is vital to improving the safety of automobiles in the United States, and in combination, they will assuredly improve our safety record and significantly reduce the number of tragic automobile accidents each year.

My constituents in my State of Washington should also be applauded for bringing an important consumer issue to the attention of Congress. Truckers in Yakima decided in 1990 that they could no longer allow the public unknowingly to purchase food products that had been carried in tank trucks that had just hauled toxic, nonfood loads. They came forward, at great professional risk, and blew the whistle on this unconscionable and dangerous practice—known in the trucking industry as backhauling. As a result of their actions, I introduced legislation which would put an end to backhauling. The measure was signed into law in November 1990.

Looking to the future, it is clear that consumers still have hills to climb. Although we tend to think of consumer issues as those that affect us only at our local stores, it is important to recognize that the majority of today's most pressing issues will have an impact on American consumers. If we think of consumer issues as those that affect the range of choices in goods and services, their price, or their safety, everything from NAFTA to health care is a consumer issue.

It is easiest to see how the issue of cost is affected by Congress' actions. As we consider new taxes on different industries, we must remember that those industries must devise a plan to come up with the funds to pay those additional costs. If they do not do it by cutting their labor costs, they are likely to raise the prices of their products—passing the additional costs on to consumers.

Our actions on health care will also have a tremendous impact on consumers, not only with respect to cost, but also the issue of choice. The final product of our debate on this issue may affect the prices of everything from prescription drugs to major surgery. It may limit, or expand, the choices of doctors, and procedures currently available to America's health care consumers.

Our action, or inaction, on the National Airline Commission recommendations may have a dramatic impact on the choices available to airline consumers. If this industry continues to decline, and airlines continue to file for bankruptcy, the broad range of air carrier choices that consumers enjoy today will be limited.

The Senate Consumer Subcommittee is considering several pieces of legislation to enhance product safety. I have introduced a bill that will provide parents with more effective warnings about toys with small parts that present choking hazards to small children. This legislation also sets up safety standards for children's bike helmets. Senator EXON, Senator PRESSLER, and I are also working on the issue of used car fraud, which involves both salvage and lemon vehicles. This type of fraud not only affects consumer safety, but it also causes consumers across the country to get ripped off when they buy certain used cars.

We are also working on legislation to combat telemarketing fraud. This legislation will provide enhanced law enforcement by giving the Federal Trade Commission the tools it needs to crack down on telemarketing scam artists.

And so as "National Consumers' Week" comes to a close, I encourage my colleagues to look back at past successes, but also to look forward and consider the impact of our future actions on the American consumer. As $2 out of every $3 in this economy are spent in the marketplace by individual consumers, we cannot allow our deliberations to neglect the evolving needs of the American consumer.

I thank the graciousness of my colleague from South Carolina who is, of course, the chairman of the parent committee through which all of this legislation goes, and who has strongly supported all the efforts of both Senator BRYAN and myself in that regard.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from South Carolina [Mr. HOLLINGS] is recognized for up to 40 minutes.

NAFTA AND HUMAN RIGHTS IN MEXICO

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Washington. The debate over NAFTA has degenerated into almost a ping-pong game of back and forth, will it lose jobs or gain jobs, increase exports, accelerate immigration, and so on. For the layman, it is extremely difficult to sort out the truth.

It makes me nostalgic for the days of Senator Arthur Vandenburg after World War II, when the Senate had a thoughtful authority on foreign relations. Similarly, when I came to the U.S. Senate in the mid-1960's, we had a thoughtful authority in Senator William Fulbright. Today, we have many thoughtful Senators and experts in the foreign policy field, including our own distinguished chairman of the Foreign Relations Committee, Senator PELL, and over on the House side Mr. HAMILTON of the Foreign Affairs Committee.

Nonetheless, today, there is no bipartisanly accepted authority in the foreign affairs arena, neither in the executive branch nor in the legislative branch. Accordingly, there is no senior statesman who can speak with authority and credibility on the subject of NAFTA, Mexico, free trade and democracy.

I note that the Clinton administration's approach to foreign policy has been one of extraordinary continuity—continuation of the Bush policy in every key foreign policy area. This continuity was especially striking at the outset of the Clinton administration. When it came to domestic policy, whether it was education, deficit reduction, crime, the environment, you name it, the theme was change, change, change. It was a constant singsong of change. But with respect to foreign policy the theme of the Clinton administration has been one of continuity and status quo. We have seen continuity of the Bush policy in Haiti, the Bush policy vis-a-vis Yeltsin and Russia, the Bush policy on Iraq, the Bush policy with respect to Bosnia, and, yes, the Bush policy toward Mexico and NAFTA.

On NAFTA, the President has resorted to fog and finesse—most recently with his tent show on the White House lawn, attempting to highlight exports to Mexico. The White House has tried desperately to portray their support of NAFTA as a token of change and reform, and not giving the Good Housekeeping seal of approval to the corrupt political status quo in Mexico.

As I noted in floor remarks yesterday, the President has given pep talks reassuring Americans that, yes, they can compete successfully with little Mexico. But that is not the point. Of course, the U.S. worker is extraordinarily competitive and productive. Every study demonstrates that the United States worker is far and away the most productive in the world—significantly more so than the Japanese or German worker, for instance.

The American worker is competing. It is this Government in Washington that is not competing. The administration is engaged in the folly—inherited from President Bush—of entering into a free-trade agreement with a country that has neither a free government nor a free economy.

It was to avoid exactly this kind of incongruous mixing of unequal economies that Europe organized into the European Common Market. The Common Market put in place a massive development fund to boost the economies of Ireland, Spain, Portugal, and Greece prior to their admittance to the Common Market. It took 23 years for Spain to have free elections and then be admitted. It took $5.7 billion for Greece and Portugal to build up their economies so as to gain entry to the Common Market.

As Lester Thurow of MIT says, free-trade agreements don't work, but common markets do—common markets premised on roughly comparable levels of political and economic development. Members of Congress understand this. That is why my bill to create a Common Market for the Americas has gained so much support—especially among Members who genuinely want to improve our relations with Mexico, who want to have free trade with Mexico.

We have tried for decades to boost our neighbors to the south. We pursued the Good Neighbor Policy under Roosevelt; Operation Pan America, under Dwight Eisenhower; the Alianza para Progreso, or Alliance for Progress, under John Kennedy; the Caribbean basin initiative under Ronald Reagan.

In each case, the grand idea was to give aid to the impoverished masses, to develop them into a middle class and, thereby, to make possible free elections and democracy. In practice, these policies have failed. It has been like delivering lettuce by way of a rabbit. The money has not gotten to the hungry poor. It has gone to the generals and the oligarchies, into Geneva bank accounts. And this has been particularly true with respect to Mexico, where the ruling party the PRI, has enforced iron control of the economy and political system for more than six decades.

So we have tried these approaches and we have seen them fail. I have urged the President to adopt the common market approach. But he has said no, opting to continue the Bush policy. President Clinton has married his fate to a failed and flawed agreement, one terribly to the detriment of the economic and security interests of the United States.

In his ongoing campaign to sell NAFTA under false pretenses, we find this morning the President of the United States up at Harvard at the dedication of the Kennedy Museum. I quote from a morning newswire story:

> It is an opportunity for the President of the United States to highlight John F. Kennedy's role in world events and his commitment to democracy, Press secretary, Dee Dee Myers, said:
>
> In his museum speech, Clinton will discuss the Kennedy legacy of engagement in the world, his commitment to democracy and America's tying that to NAFTA.

Nothing could be more misleading than to put John F. Kennedy on the side of NAFTA. Indeed, he would have rejected NAFTA's narrow economic and trade focus. He would have been aghast at NAFTA's total neglect of political and human rights reform. As evidence, I would cite President Kennedy's own words in promoting his Alliance for Progress in 1961. In a letter to then President Kubitschek of Brazil, JFK wrote:

> No program which is restricted to the technicalities of economic development can fully answer the needs of the Americas. Only an approach to economic progress and social justice which is based on a wide acceptance of the fundamental ideals of political democracy and human dignity can hope to conquer the many ills of our hemisphere and respond fully to the aspirations of our people.

Heavens above, look again at that remarkable statement. It says, "No program which is restricted to the technicalities of economic development"—and that is exactly what NAFTA is. You cannot find in the 2,000 pages of the NAFTA agreement the one simple word "democracy." You will not find it. And I can assure you that President John F. Kennedy would have had no use whatsoever for this narrow NAFTA agreement. He understood the imperative of human rights, the imperative of democratic commitment. He understood the folly of a free-trade agreement with countries that lack free economies and free political systems.

On this same score, I would quote the distinguished Secretary of State, Warren Christopher. In the Carter administration, when he was the Deputy Secretary of State back in 1980, he said, and I quote:

> There has been vigorous criticism of our human rights policy on the ground that it smacks of a fuzzy-headed idealism that is unrelated to the pursuit of our basic national interest. Some critics have suggested that human rights are a millstone around the neck of U.S. foreign policy; that it is injected into our diplomacy and an interventionist element that can only weaken our position in the world and even destabilize other governments.

Deputy Secretary Christopher, after 3½ years of deep involvement in human rights issues during the Carter administration, went on to say, and I quote:

> I'm more convinced than ever that this point of view is simply and starkly wrong. I will go further. To abandon the pursuit of human rights would not only damage the hopes of millions abroad but also the foreign policy and long-term security of the United States.

Then Christopher goes on to assert the elements of our foreign policy and he says first, and I quote then Deputy Secretary Christopher:

> Our human rights policy directly serves our long-term interest in peace and stability. The misleading quiet of oppression too often turns out to be the calm before a violent revolutionary storm.

That is exactly the feeling of the Senator from South Carolina, and others. I have been to Mexico recently. If you think there is unanimous approval and joy regarding NAFTA in Mexico, I can tell you the opposite is true. You can go to the region of greatest opportunity, the maquiladora zone just south of the U.S. border. Administration officials in testimony before my Commerce Committee last week said that Mexicans in the maquiladora areas have more freedoms because of the stronger economy.

But the Mexicans themselves do not think so. The truth of the matter is, Mexican workers stay an average of only 18 months in the maquiladoras. According to the Johns Hopkins study and the Harvard Business Review, the experience of maquiladora workers is not one of joy, prosperity, and opportunity. On the contrary, they leave at the earliest opportunity. They keep going up to California. And why is that? You only have go to Tijuana or Juarez to see for yourself the terrible living conditions there—condoned and exploited by U.S. companies that have set up operations there.

The crowd sponsoring NAFTA is the same rich business elite that put beautiful maquiladora plants in Mexico with fine mowed lawns and handsome flags. But right beside the plant is desperate depravity, filthy living conditions, tens of thousands of exploited and oppressed Mexican workers.

So NAFTA supporters, who claim that NAFTA, like the maquiladoras, would pump money into the working class in Mexico, should go down there and talk to people in Juarez, in Tijuana, in Matamoros. You will see the pollution, the dump sites, the grinding poverty of the working poor.

This is the most damning indictment of NAFTA. It will lock in the status quo in Mexico. It will bolster the oligarchy. It will legitimize the oppression. NAFTA fails to offer change.

To bring this issue into focus, I ask rhetorically, why not a free trade agreement with the People's Republic of China? You can use the same statistical analyses about the vast consumer market that we will gain access to. We can gain access to a market there of 1.2 billion people. But we say no to the People's Republic of China. Indeed, we threaten to deny China most-favored-nation status in trade as punishment for their political repression. Senators run all over the floor expressing horror about Tiananmen Square, but when it comes to Mexico, they avert their eyes from the same evil. They do not want to look at the record.

Indeed, Mexico's record is worse. I know it would be an oxymoron to talk about an honest dictatorship and a dishonest dictatorship, but that is the way this Senator sees it.

You have to give backhanded respect to an honest dictatorship. You knew what you were dealing with under Stalin and Mao Tse-tung; they made no bones about their totalitarianism. But Salinas and the Mexican oligarchy try to hide their authoritarian control. It is an insidious thing. In the words of the famous Peruvian novelist, Mario Vargas Llosa, Mexico is "the perfect dictatorship." I quote from Vargas Llosa:

> The perfect dictatorship is not communism, not the Soviet Union, not Cuba, but Mexico, because it is a camouflaged dictatorship. It may not seem to be a dictatorship, but it has all the characteristics of dictatorship: the perpetuation, not of one person but of an irremovable party, a party that allows sufficient space for criticism, provided such criticism serves to maintain the appearance of a democratic party, but which suppresses by all means, including the worst, whatever criticism may threaten its perpetuation in power.

The London Economist, in its February 13, 1993 issue, addressed the issue of whether things have changed under Salinas. And I quote:

> The ugly truth is that Salinas and his band of bright technocrats, adored though they are by the great and the good on the international conference circuit, wield power courtesy of PRI fixes and worse in the countryside. Mexican politics is not without its violent side. The left wing opposition Party of the Democratic Revolution claims that, up to last September, 164 of its members have been murdered since 1988.

If that is not bracing enough, let me cite Morton Kondracke in Roll Call on October 25—this past Monday. I quote from Mr. Kondracke:

> Mexico is far from being a democracy. The Institutional Revolutionary Party has been in power continuously since 1929 and historically has maintained its rule by bribery, rigged elections, intimidation and violence. Police tend to be brutal. Drug lords rule some states. And 100 people have been killed in election-related violence since 1988. In 1988, most independent observers believed Salinas lost the Presidential election to leftist Cuauhtemoc Cardenas, but was awarded a 50.4 percent victory by Government.

Can I repeat that. This must be heard.

> In 1988, most independent observers believed Salinas lost the Presidential election.

So Salinas comes in as a fix. What do I mean by a fix? I mean just exactly what Vargas described as a perfect dictatorship. I call it a dishonest dictatorship—as opposed to an honest dictatorship—because it has all the patina of constitutional rights, with all the illusion, with all the accouterments of democracy and yet no genuine democracy.

Yes, they have a Constitution, and we have a Constitution, but we have had 26 amendments across two centuries. Mexico has had more than 400 amendments. They will amend the Constitution this afternoon to get rid of me. I can tell you that right now. Anything they do not like they just amend the Constitution. They have a President and a legislature, but that is a fix.

Now, NAFTA supporters talk about free elections in Mexico. Let me just say that back in 1990 Salinas put in the Federal code of election procedures and put in a Federal Electoral Institute. But the Federal Electoral Institute is not independent and it is stacked with the members of the PRI. In addition to being the final arbiter of elections, it is controlled by Patrocinio Gonzales Garrido, former Governor of the state of Chiapas. And, of course, it is widely recognized, Mr. President, that his term as Governor was marked by widespread electoral fraud, the imprisonment of Indians, teachers, and the Catholic priests who dared to challenge the ruling party.

The oligarchy remains fully in command. Even the privatization in Mexico chiefly meant selling off corporations to the well-placed cronies and elites connected to the PRI. Salinas may not have built up the Mexican middle class, but he has produced 22 billionaires at a time when the real income of Mexican workers has plummeted.

Morton Kondracke writes about the corrupt process by which a Mexican president raises money. I quote from the October 25 Roll Call:

> Despite his current 80 percent popularity rating and the near certain election of the successor he picks, Salinas earlier this year hit up major industrialists for $750 million in campaign contributions—at one dinner!

Now, how do you like that? Great Lord have mercy. Consider the Salinas crony who was given the television rights. He gave $25 million at that fundraising dinner, and he said it was peanuts. He said he would have been glad to give three times that amount in gratitude for the fortune he made out of the privatized state TV.

Freedom of the press is also a sham in Mexico. There have been some, according to the New York Times, 58 journalists killed in the last 10 years—26 of them since Salinas became president. Let me quote from the Human Rights Watch World Report for 1993:

> In mid-July, 1992, Carlos Menendez Navarrete, director of the independent Diario de Yucatan, was the target of two attacks following his newspaper's critical coverage of the Government's handling of the UCD demonstrations led by Severino Salizar Castellanos. Earlier, on July 21, unidentified persons pelted Menendez's house with stones, attempted to force open the front door, and damaged two automobiles. The following week, a bomb was found on the premises of the Diario de Yucatan. Police have released no information about the progress of their investigation.

I quote further from the same Human Rights Watch report:

> In response to petitions from journalist associations, the federal government's human rights office, CNDH, undertook to investigate 5 attacks on journalists. By late 1992, recommendations were issued in 15 of the cases but, according to the CNDH, none of the recommendations has been implemented in full.

I would cite another disturbing incident regarding the government's campaign against critical journalists. I quote from the Minnesota Advocates for Human Rights, December 1992:

> The climate of tension among human activists in Mexico has been raised even further by the killing of journalist Ignacio Castillo Mendoza on November 13, 1992. Mr. Castillo had long been a critic of corruption within the Government of Quintana Roo, the judicial system, and the Federal Judicial Police. The case is particularly disturbing for human rights activists because Castillo Mendoza, who had received death threats, was given personal assurances of his safety from President Salinas and representatives of CNDH earlier on the day he was killed.

There you go. I ask unanimous consent to have the entire article from the

Minnesota Advocates for Human Rights printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[Minnesota Advocates for Human Rights, December 1992]

NO DOUBLE STANDARDS IN INTERNATIONAL LAW

Linkage of NAFTA with hemispheric system of human rights enforcement is needed—Canada, Mexico & the United States must become full partners in the Inter-American System of Human Rights.

The North American Free Trade Agreement (NAFTA) creates new opportunities for hemispheric cooperation, including a new commitment to the existing hemispheric system of human rights enforcement. Minnesota Advocates for Human Rights[1] calls on Canada, Mexico and the United States to link the new international trade agreement with an agreement to enforce international human rights law.

A hemispheric international human rights enforcement mechanism is already in place: the inter-American system of human rights of the Organization of American States ("OAS"). In conjunction with the approval of NAFTA, Minnesota Advocates for Human Rights urges all three countries to insist on the full participation of each party in the inter-American system of human rights enforcement.[2]

Minnesota Advocates for Human Rights takes no position on the trade portions of NAFTA, but it is our view that any trade agreement must take place in a hemisphere in which international human rights are enforced. This report is not intended to be for or against a trade agreement—trade need not be incompatible with the protection of human rights. Warren Christopher as Deputy Secretary of State under President Carter pointed out that "[r]espect for human rights creates an atmosphere for stability in which business and investment can flourish."[3]

As an organization that has monitored human rights conditions in North America over the past several years, Minnesota Advocates for Human Rights finds that human rights abuses in North America have all too often inhibited political participation and chilled the atmosphere for the discussion of pressing social and political concerns. Furthermore, those abused have limited opportunities to seek redress through domestic courts.

This report sets out recent examples of such abuses in the United States and Mexico: violence against migrants on the Mexico-United States border by agents of the United States Immigration & Naturalization Service (INS); the lack of domestic remedies for such abuses in United States courts, and the failure of the United States judiciary to fully incorporate international human rights into United States law; ongoing electoral fraud in Mexico, police abuses and corruption within Mexico's judicial system, and the intimidation and abuse of Mexican human rights, labor, and environmental rights activists. The purpose of this report is not to catalogue all human rights abuses in North America. Rather, it is to demonstrate the link between human rights violations and the capacity of citizens in each country to respond to NAFTA through the political and judicial process.[4]

LINK BETWEEN NAFTA AND PROTECTION OF HUMAN RIGHTS

The NAFTA draft released by the Bush Administration on September 6, 1992, makes no provision for the enforcement of international human rights under the new regional system. Although United States "fast-track" legislation requires this draft of the agreement to be presented to Congress for a yes-or-no vote, President-elect Clinton has promised that he "will not sign legislation implementing the North American Free Trade Agreement until we have reached additional agreements to protect America's vital interests."[5] In particular, Clinton suggested the establishment of commissions to set minimum environmental and labor standards to be enforced in each country, and a "supplemental agreement which would require each country to enforce its own environmental and worker standards."[6] To assure the protection of citizen participation, Clinton added that "we ought to make sure tha NAFTA, the trade agreement, doesn't override the democratic process."[7]

Mexican President Carlos Salinas de Gortari has endorsed the idea of establishing commissions to address problems that arise under NAFTA, including environmental issues. He added that such commissions must also examine other Mexican concerns, such as restrictions on the entry of Mexicans into the United States and better protection of Mexicans against abuse by United States authorities in the border region. President Salinas also asked for assurances that the United States not kidnap criminal suspects in Mexico for trial in the United States, as this is a violation of international law and an affront to Mexican sovereignty.[9] Finally, President Salinas reiterated the promisehe made in his recent State of the Union Address to ensure free elections through changes in Mexico's electoral laws.[10]

These promises by President-elect Clinton and President Salinas are important, but they can only be fulfilled by a new commitment to enforce international human rights law. Labor rights, environmental rights, the rights of migrant workers, and the many other pressing issues raised by NAFTA in all three countries cannot be examined in isolation. A guarantee of impartial and effective judicial process in each country is also essential, so that redress is available to any person whose internationally recognized human rights are violated under the new hemispheric system.

As NAFTA establishes common policies that affect labor, the environment, and a wide range of living conditions in each country, there is also a growing inter-relation of human rights conditions from country to country.[11] The need for a common human rights enforcement policy is a reflection of the growing global inter-relation of countries on every level—economic, political, social, and legal. NAFTA significantly speeds up this process and the need for full partnership in the inter-American system of human rights becomes ever more pressing.

NAFTA, as it is now proposed, creates a binding enforcement mechanism for violations of the new international trade law.[12] The agreement of Canada, Mexico and the United States to such binding enforcement mechanisms under NAFTA makes clear that enforcement of international law will be supported when governments have the political will to do so.

Canada, Mexico and the United States must now adopt a mechanism to enforce their international human rights obligations. To do otherwise would be to legislate a double standard within international law—violators of trade law would be sanctioned, violators of human rights law would not. In order to demonstrate a commitment to the enforcement of human rights, the North American partners should agree to the binding enforcement of international human rights law.

THE INTER-AMERICAN SYSTEM OF HUMAN RIGHTS

There is no substitute for the enforcement of international human rights through domestic courts. Where domestic courts have failed to provide for redress of abuses, however, an international mechanism can provide the independent oversight needed to assure the consistent enforcement of international law. The inter-American system serves that need.

The cornerstone of the inter-American system is the American Convention on Human Rights, which guarantees the right of people in each country to "participate in public affairs, directly and through freely elected representatives."[13] The American Convention also guarantees a full range of civil and political rights, along with the independent and effective system of judicial recourse for the violation of those rights.[14]

In addition to guaranteeing international human rights, the inter-American system creates a mechanism to enforce them. Canada and the United States must first ratify the American Convention to participate in this system of enforcement.[15] All three governments should then unconditionally accept the power of the Inter-American Commission on Human Rights to conduct on-site human rights investigations without restrictions within each country.[16] Finally, each country should submit to the mandatory jurisdiction of the Inter-American Court, which will have the authority to issue binding decisions enforcing international law for the protection of human rights in the American hemisphere.[17]

THE RECORD: UNITED STATES

International human rights abuses occur within the borders of the United States. While domestic courts provide some relief for these abuses, adherence to the hemisphere-wide human rights enforcement mechanism would provide additional protection. The need for United States participation in the hemisphere-wide enforcement mechanism is illustrated by a case currently before the Inter-American Commission concerning human rights abuses against undocumented migratory laborers in the United States-Mexico border region.

Lack of domestic remedies for victims of border violence

Over the last four years, abuses by agents of the INS and the United States Border Patrol have been well documented by human rights groups in the United States and Mexico, including arbitrary detention, beatings, sexual abuse, and the use of excessive force in interrogations, which in some cases lead to death.[18] According to official United States statistics, sixteenMexicans were killed by United States law enforcement officials from 1988 to 1990. Reports of beating and sexual assault are widespread, but these abuses are thought to be significantly underreported by undocumented individuals who fear deportation.[20]

In August 1992, the Center for Human Rights and Constitutional Law filed a petition before the Inter-American Commission on behalf of victims of border violence.[21] The petition alleges that the United States Government has "tolerated and thereby encouraged shootings, improper use of firearms and

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Footnotes at end of article.

other weapons, beatings, physical abuse and racially motivated verbal abuse of immigrants, refugees and United States citizens travelling across or in close proximity to the United States-Mexico border." [22]

The Petition contains a disturbing litany of alleged abuses. It alleges, for example, that a Border Patrol agent restrained a pregnant Mexican woman by stepping on her stomach. Having done so, the agent then shot her husband twice when he attempted to protect her. The second shot hit the husband in the back while he was running away.[23] It further alleges that Border Patrol agents, after subduing a United States citizen who appeared to be Mexican, continued to strike him while he was on the ground, causing him to suffer serious permanent injuries.[24] It also alleges that INS agents failed to administer even rudimentary first-aid to a female Mexican detainee who displayed clear signs of physical and emotional distress, "manifested by difficulty in breathing, spitting up, loss of vision, incoherence, profuse sweating, and comments from her that she was dying." [25] Ten minutes later, the detainee went into cardiac arrest and died.[26]

As the petition describes, Mexican nationals who seek redress for human rights violations in United States courts are confronted by a multitude of impediments. Many victims are deterred from filing complaints or seeking redress through United States courts for fear of deportation (by the very INS agents who have abused them).[27] Others are unable to afford the high cost of litigation in United States courts.[28] If they pursue their claim, petitioners soon learn that INS and Border Patrol agents enjoy numerous statutory and judge-made "immunities" to liability for their acts.[29] Cumulatively, these impediments establish a virtually insurmountable obstacle to human rights protection for Mexican nationals via United States court action.

Unfortunately, even if the Inter-American Commission finds that the United States has violated its treaty obligations in this case, the Commission is not able to issue binding decisions. Since the United States has not ratified the American Convention and submitted itself to the mandatory jurisdiction of the Inter-American Court, that body, which does have the capacity to bind the parties before it, has no authority to rule on this case.

Failure to integrate international human rights law into US jurisprudence: the Alvarez-Machain case

Many of the victims of abuse at the Mexico-United States border fear the United States legal system because of the danger that they will be repatriated if they attempt to take action against their abusers. But even if these claimants sought relief through the United States courts, the effectiveness of international human rights protections those courts will provide is debatable. The need for a new enforcement mechanism for international law is underscored by inadequate enforcement of international human rights law in United States Courts.

While the United States Constitution provides that international treaties are the "supreme law of the land," [30] a recent decision by the United States Supreme Court, *United States* v. *Alvarez-Machain*,[31] severely limits the protections available in United States courts for individual rights protected by international human rights treaties. The decision also upholds a United States policy of abducting criminal suspects abroad for trial in United States courts. The government of Mexico lodged a formal protest to the Alvarez-Machain decision as an affront to its sovereignty and a violation of international law. President Salinas has demanded a guarantee against future abductions of this kind.[32]

The Alvarez-Machain case arises out of the abduction in Mexico of Dr. Humberto Alvarez Machain by agents of the United States Drug Enforcement Agency (DEA) so that he could be tried in United States courts for his alleged involvement in the killing of a DEA agent. The Ninth Circuit Court of Appeals found that United States Courts lacked the jurisdiction to try the defendant because his abduction violated a United States-Mexico extradition treaty. The Government of Mexico protested the abduction as a violation of the treaty and an intrusion upon Mexico's sovereignty. The United States Supreme Court overturned the Ninth Circuit decision, finding that the abduction did not violate the extradition treaty because such actions were not specifically prohibited within the treaty.

In July 1992 the Permanent Council of the Organization of American States asked the Inter-American Juridical Committee to review the Alvarez-Machain decision.[33] The Inter-American Juridical Committee found that the "kidnapping [of Dr. Alvarez-Machain] constitutes a serious violation of international public law, because it constitutes a violation of Mexican territorial sovereignty." [34] As a result, the United States should not tryDr. Alvarez-Machain in United States courts, but is "obligated to repatriate" him. The Inter-American Committee also found that the United States Supreme Court's reading of the extradition treaty "disregards the precept according to which treaties are to be interpreted pursuant to their objective and purpose and in relation to the applicable rules and principles of international law." [35] By adopting the principle that any action is permissible so long as it is not specifically prohibited by a treaty, the United States Supreme Court seriously limited the protections available to individuals under international human rights law. The Committee found that if the principles invoked by the Supreme Court were taken to their logical extreme, "the international legal order would irremediably break down. . . ." [36]

In its Amicus Curiae brief to the United States Supreme Court in Alvarez-Machain, Minnesota Advocates for Human Rights warned that "the breakdown of respect for the rule of law has resulted in kidnapping, torture, death and other suffering for thousands of innocent persons" throughout the hemisphere.[37] By failing to respect international human rights law in United States courts, the United States contributes to degradation of the law in the United States and throughout the hemisphere. The new United States administration can reverse this decline by ensuring that United States protection of human rights will be subject to review by the Inter-American court.

THE RECORD: MEXICO

The link between human rights protection and Mexico's participation in NAFTA is particularly clear, because human rights abuses in Mexico are closely linked with the functioning of the country's political process. Mexico's participation in the inter-American system of human rights enforcement would help ensure a more accessible political process within Mexico.

Electoral Fraud

Years of electoral fraud have limited participation by opponents of official government policies in the political system at the local, state, and federal levels. Since the outcry in Mexico over electoral fraud in the 1988 elections, the Partido Revolucionario Institutional (PRI) promised reforms.[38] In 1990, the Mexican government adopted a new federal election code ("COFIPE") and established a new Federal Electoral Institute (FEI) to monitor the electoral process.[39] At the same time the government created the Comisión Nacional de Derechos Humanos (CNDH) to address alleged abuses of human rights in Mexico.[40] However, issues of electoral fraud and labor unrest were specifically excluded from the areas over which the CNDH has jurisdiction.[41]

Since the electoral reform, the National Action Party (PAN) has won elections for governor in three of thirty-one states in Mexico (the first time in the last sixty years that any gubernatorial election has been won by a non-PRI candidate).[42] Evidence from recent elections, however, demonstrates that the new law's effectiveness in reducing fraud has been limited. Independent electoral observers in Mexico have recently released reports documenting electoral fraud in the July and August 1992 elections in Michoacán[43] and in Veracruz.[44] In just over a year, five governors and governors-elect in Mexico have resigned after electoral fraud was alleged.[45]

The ongoing problem of electoral fraud is illustrated by the events during and after the summer 1992 gubernatorial election in Michoacán, in which PRI candidate Eduardo Villaseñor was challenged by Cristóbal Arias of the Revolutionary Democratic Party (PRD). The elections were monitored by Convergencia, a non-partisan coalition of Mexican groups which observed slightly more than 10% (375 of 3600) of the polling places.[46] According to Convergencia's report, the right to a secret ballot was violated in more than a quarter of voting booths, and coercion to vote for the PRI took place in 18% of the polling places observed.[47] There were fewer ballots than voters in 33.5% of polling places, and more ballots than voters in 17%. The Michoacán report also documented extensive violations of COFIPE before and after voting, including the use of state and federal resources to induce voters to choose the PRI candidate.[48]

PRI candidate Villaseñor was declared the winner of the election, with the official tally showing that he received 418,000 votes to 290,000 for Arias.[49] Villaseñor was sworn in September 15, 1992 but was never able to enter the Governmental Palace due to the presence of crowds protesting the validity of his election. On October 6, 1992, the governor-elect stepped down for what he said would be a one year absence. PRI officials have not admitted any wrongdoing, and the State Congress named PRI member Ausencio Chaves as interim governor. Indeed, the President of the PRI's National Executive Committee, Genaro Borrega Estrada, released a statement that Villaseñor and the PRI won an "overwhelming victory in the gubernatorial elections, the people know that, and the [PRD party] also knows that." [50]

The Government of Mexico has disregarded findings by the Inter-American Commission on Human Rights that its electoral laws violate the American Convention. In 1989–91, the National Action Party (PAN) brought a series of cases before the Inter-American Commission alleging electoral fraud.[51] The Commission found that the 1987 electoral law of Nuevo Leon "does not fully and effectively protect the exercise of political rights and does not provide for simple, swift, and effective recourse to independent tribunals. Hence, it must be adjusted to conform to the requirements under the Convention."[52] Despite the unequivocal findings of the Inter-American Commission, elections under Nuevo Leon's Electoral Law were not voided and corrections of the law were not made. As one observer noted, "[s]ince the electoral law of Nuevo León is essentially identical to every other electoral law in the country, including the federal law enacted by President Carlos Salinas in 1990, the decision was in effect a judgment on Mexico's electoral system. Not surprisingly, Mexico lobbied vigorously to have the cases dismissed. Having lost, it refused to honor either judgment."[53] Indeed, the Mexican government refused to recognize the competency of the Inter-American Commission to examine petitions regarding "collective rights" such as the Convention's Article 23 guarantee of public participation and free elections under the American Convention.[54]

In his annual State of the Union address on November 1, 1992, President Carlos Salinas de Gortari once again promised new electoral reforms to "guarantee the impartiality of the electoral process."[55] The government of Mexico could make good on Salinas' guarantee by bringing Mexico into full participation in the inter-American human rights system, including recognition of the competence of the Inter-American Commission to examine the enforcement of Article 23 of the American Convention.

Mexico now has an opportunity to adopt this new policy. The PRD has challenged the outcome of the July 1992 Michoacán elections in a case before the Inter-American Commission.[56] Minnesota Advocates for Human Rights calls on the government of Mexico to recognize the competence of the Inter-American Commission to conduct a full review of the Michoacán elections under Article 23 of the American Convention.

Chilling Effect of Human Rights Abuses

In addition to limiting citizen participation through the ballot box, the existence of serious human rights abuses against individual government critics—including political killings, arbitrary detention, disappearances, torture, and forced confessions[57]—creates a chilling effect on all citizen participation in matters of public concern.

Many of these abuses stem from harsh government responses to those protesting electoral fraud.[58] The opposition party PRD charges that 162 of its leaders and activists have been murdered since July 1988 and that the rate of attacks in the last six months is almost double that of last year.[59] The CNDH has initiated investigations into 140 alleged abuses against PRD members, including 90 cases of murder, 17 cases of rape, and 12 cases of illegal arrest.[60] The CNDH has issued recommendations in 22 cases,[61] but according to the PRD, only two of the CNDH recommendations have actually been executed.[62]

Over the past five years, Minnesota Advocates for Human Rights has monitored Mexico's criminal justice system, with a particular focus on systems of investigating serious human rights abuses. This is particularly important because thorough investigation and proper prosecution of human rights abuses signal the commitment of the government to root out further human rights abuses.

In its 1990 review of the Mexican Criminal Justice system, Minnesota Advocates found that "police abuse of the average citizen was the most pervasive and chronic form of human rights abuse in Mexico. Arbitrary detentions and torture by local, state, and federal security forces were so widespread as almost to go unremarked."[63] These abuses are all the more disturbing, since they are systematically incorporated into the system of criminal investigation. Police routinely collect evidence through unofficial agents known as madrinas, who pay no heed to the constitutional rights or human rights of the individuals they are assigned to investigate or intimidate. Torture is used by the police to extract confessions and the use of confessions as evidence at trial is commonplace.[64]

Mexican law regarding the use of confessions has recently been amended to provide that a confession is admissible only if it is obtained in the presence of the presiding judge and a defense attorney, family member of friend of the defendant.[65] The lack of effective judicial review of police abuses of the investigative process, however, creates an incentive for continued corruption.

Despite these problems, many critics of the government remain outspoken and large numbers of independent human rights organizations do exist. Yet such activity clearly occurs at great personal risk to the individuals involved.

On May 21, 1990, the President of the Sinaloa Human Rights Commission, attorney Norma Corona Sapién, was assassinated.[66] The former commander of the Federal Judicial Police, Mario Alberto Gonzalez Treviño, was charged with masterminding her murder. As Treviño's trial is pending, three key witnesses have been killed, including one in the Mexico City East Prison. According to Jorge Madrazo of CNDH, the case against Treviño now hinges on the testimony of one remaining witness, one of the alleged gunmen, who is being held in a secret location by the Mexican government.[67] Minnesota Advocates has written to Attorney General Morales Lechuga asking that the trial against Treviño proceed in accordance with strict international standards of due process.[68]

On July 3, 1991, Dr. Víctor Manuel Oropeza, a journalist and outspoken critic of police abuse and electoral fraud, was also killed.[69] Minnesota Advocates conducted an in-depth inquiry into the investigation of Oropeza's killing which reveals how the judicial system's tolerance for abuse fails to assure accountability for wrongdoers. Sergio Aguirre Torres and Marco Arturo Salas Sánches, two young men, were detained and charged with murder based upon little evidence other than their confessions. Minnesota Advocates found that relevant medicolegal evidence in the case was not properly collected, and was therefore lost; Aguirre Torres and Salas Sánches were denied access to counsel; and the confessions of Aguirre Torres and Salas Sánches, which both defendants recanted, were coerced.[70] Following the release of Minnesota Advocates' report, Aguirre Torres and Salas Sánches were exonerated. Charges of abuse of authority were brought against Special Prosecutor Rafael Aguilar Garcia, who conducted the original investigation of Oropeza's killing. On May 29, 1992 a federal judge in Juarez denied an order of arrest against Aguilar Garcia based on lack of "facts and documentation."[71] According to the CNDH, an order of arrest for Aguilar Garcia on charges of abuse of authority and torture are expected before the end of 1992.[72] Minnesota Advocates will continue to monitor this case closely to determine whether the investigation and prosecution proceed impartially and thoroughly. To date, however, no one has been charged with Dr. Oropeza's killing.

In October, November and December 1992, respected human rights attorney María Teresa Jardí received a series of death threats.[73] The first threat came two days after an announcement that Jardí would head the new Human Rights Department of the Archdiocese of Mexico.[74] At least one of the threats attacked Jardí for her role in the investigation of the murder of Dr. Oropeza. Although a high level investigation was initiated in October, the perpetrator of the death threats has still not been found, and Ms. Jardí is forced to live under 24-hour guard.[75]

The climate of tension among human rights activists in Mexico has been raised even further by the killing of journalist Ignacio Castillo Mendoza on November 13, 1992.[76] Mr. Castillo Mendoza had long been a critic of corruption within the government of Quintana Roo, the judicial system, and the Federal Judicial Police.[77] The case is particularly disturbing for human rights activists, because Castillo Mendoza, who had received death threats, was given personal assurances of his safety from President Salinas and representatives of CNDH earlier on the day he was killed.[78]

The evidence of abuse against human rights workers, and the failure of the government to root out this abuse does not bode well for the rights of environmental activists, independent labor leaders, and others who may oppose government policies under NAFTA. Individuals advocating better protection of environmental laws are reported to have been subject to threats and harassment by the government.[79] Unions are heavily regulated in Mexico, and the major ones are closely linked with the ruling PRI party, substantially limiting their independence.[80] Official labor union leaders have often been accused by Mexican workers of acting more in the interests of foreign corporations than of their Mexican employees.[81] There have also been repeated allegations that legitimate labor activists have been subjected to arbitrary detention and violence by police agents.[82]

The need for public debate free from intimidation and human rights abuses is illustrated in the series of recent events concerning the state-owned Petroleos Mexicanos (PEMEX). Following the PEMEX disaster in April 1992,[83] the Salinas administration ordered a restructuring of PEMEX, including a layoff of some 15,000 workers this summer.[84] The plan to restructure PEMEX, an enormous and inefficient government monopoly, had been considered for some time.[85] Within the oil industry, the restructuring is widely thought to be the only way the company can remain competitive with United States oil companies under NAFTA.[86]

The PEMEX restructuring, along with other moves toward economic liberalization, was accompanied by a summer of labor unrest in Mexico. Seven thousand current and former PEMEX workers conducted a 38 day sit-in at the National Palace in Mexico City to oppose further job cuts and demand better severance benefits.[87] They were joined by fishermen and farmers protesting the pollution of fishing areas and farmland by PEMEX.[88] In addition, former PEMEX workers staged protests at the PEMEX headquarters in Mexico City.

On October 21, 1992, twenty days after the demonstrations in Mexico city, police arrested two labor lawyers, Guadalupe Marín Sandoval and Julio Guillén Solís, who had been representing the PEMEX workers in the Mexico City protest. According to the National Association of Democratic Lawyers, the charges against Sandoval and Solís dated back to 1989 and were initiated following a complaint issued by PEMEX officials, suggesting that the timing of the arrest was an act of retaliation for their efforts to assist workers at the PEMEX plant.[89] In addition to the arrests of Sandoval and Solís, there have been reports that PEMEX workers involved in the protest were detained by the police without charge and were beaten and abused while in custody.[90]

According to Jose Lavanderos, an attorney representing Sandoval and Solís, the two were held for longer than three days without being allowed to present a defense regarding the judicial finding of probable cause, in violation of article 19 of the Mexican Constitution; they were not informed of the charges against them and the facts supporting those charges, in violation of articles 14 and 20; and they were held without bail, in violation of article 20.[91] Only after Sandoval and Solís initiated a hunger strike on November 21, 1992 were they released on bail with the charges still pending against them.[92]

The controversy over PEMEX illustrates the need for Mexican participation in the inter-American system of human rights enforcement. The rule of law must be established so that concerned citizens may engage in public debate without fear. Partnership in the inter-American system would not excuse Mexico from the need to bring its domestic courts and criminal justice system into line with international standards, but it would help to ensure a mechanism of redress for those abused that is independent of domestic political forces.

Conclusions and Recommendations

As this report describes, a new commitment to the inter-American system of human rights enforcement is needed. Ongoing violations are particularly disturbing because so many of the human rights violations have been well documented over the last decade. If Canada, Mexico and the United States are truly committed to international human rights, they must bind themselves to the enforcement of international human rights law.

Minnesota Advocates for Human Rights calls on the North American partners to link their commitment to free trade to a new commitment to the inter-American system of human rights enforcement. The three trade partners must become full partners in the inter-American system for the enforcement of human rights. To do so, the following steps must be taken:

1. Canada and the United States must ratify the American Convention for Human Rights;
2. Canada, Mexico and the United States must ratify the American Convention without limitations of the authority of the Inter-American Commission to conduct human rights fact-finding investigations in each country or to review domestic laws under the American Convention (including each country's electoral law);
3. Canada, Mexico and the United States must accept mandatory jurisdiction of the Inter-American Court under article 62 of the American Convention.

The adoption of these recommendations by all parties to the NAFTA would express a commitment to enforce international human rights law in North America as fully as trade law is to be enforced under the accord. Important as it is to participate in the inter-American system, however, there is no substitute for the enforcement of domestic and international human rights protections through the courts of all three countries, as well. Full participation in the inter-American system of human rights is but the beginning of a renewed commitment to international human rights protection at all levels by the governments of Canada, the United States and Mexico.

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FOOTNOTES

[1] Minnesota Advocates for Human Rights, founded in 1983, is a nongovernmental organization of 1,000 members that works to promote and protect international human rights. The organization advocates against individual human rights abuses, works to strengthen institutions and laws that protect human rights, researches and investigates human rights conditions in the United States and other countries, and educates the public about human rights issues. Minnesota Advocates has published reports about human rights conditions in over fifteen countries including three previous reports on Mexico: *Conquest Continued: Disregard for Human and Indigenous Rights in the Mexican State of Chiapas*, 1992; *The Homicide of Dr. Victor Manuel Oropeza Contreras: A Case Study of Failed Human Rights Reforms in Mexico*, 1991; and *Paper Protection: Human Rights Violations and the Mexican Criminal Justice System*, 1990.

[2] Full partnership includes: ratification of the American Convention for Human Rights, agreement to the unrestricted power of the Inter-American Commission to conduct human rights fact-finding missions in each state, and acceptance of mandatory jurisdiction of the Inter-American Court. The Inter-American system is described further in notes 15 to 17 and accompanying text.

[3] Warren Christopher, *Human Rights and the National Interest*, Department of State, Bureau of the Public Affairs, Current Policy No. 206 (1980), cited in Frank Newman & David Weissbrodt, *International Human Rights: Law, Policy & Process*, 503 (1990).

[4] This report does not mention human rights abuses in Canada or a host of other serious abuses in the United States and Mexico. The emphasis of this report is in part a reflection of the fact that Minnesota Advocates for Human Rights has for the past five years closely monitored human rights conditions in Mexico. Yet human rights abuses take place in all three countries, and with NAFTA these human rights violations become more inter-related.

[5] Governor Bill Clinton, *Expanding Trade and Creating American Jobs*, remarks, North Carolina State University, Raleigh, NC, October 4, 1992.

[6] *Id.*

[7] *Id.* Clinton suggested that the supplemental "agreement should contain a wide variety of procedural safeguards and remedies" to assure "access to the courts, public hearings, the right to present evidence, streamlined procedures and effective remedies."

[8] Tim Golden, Mexican President Seeks to Address Clinton's Concerns, New York Times, A1, November 21, 1992.

[9] Id. at A1–2. In 1991, the U.S. Supreme Court in *U.S. v. Alvarez-Machain*,—U.S.—, 112 S.Ct. 2188, 119 L.Ed. 2d 441 (1992), upheld such a kidnapping in Mexico. This case is discussed below at note 29, and accompanying text.

[10] *Id.* at A2. Time Golden, *Mexico's Leader Cautiously Backs Some Big Changes*, New York Times, A3, November 2, 1992.

[11] In anticipation of such closer relationship between human rights conditions in Canada, the United States and Mexico under a new trade accord, human rights organizations in all three countries have already started working together to map out common strategies for the defense of human rights in North America. Human rights groups met in Reynosa, Mexico on September 11–13, 1992 to identify common human rights concerns and will continue this discussion under the rubric of the "Trinational Exchange on Human Rights." Interview with Mariclaire Acosta, Director, Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, December 1, 1992.

[12] NAFTA, Chapter 20, "Institutional Arrangements and Dispute Settlement Procedures" (September 6, 1992 draft). There are a number of different dispute resolution mechanisms under the current NAFTA draft which would allow for the imposition of countervailing duties or fines for violations of the NAFTA trade law.

[13] American Convention on Human Rights, art. 23(a).

[14] *Id.* The Convention guarantees an effective system of accountability to protect the rights guaranteed in the treaty as well as the right to a fair trial and due process for those accused (*see* articles 1, 8, and 25).

[15] As members of the Organization of American States (OSA), Canada, the U.S., and Mexico have all ratified the OAS Charter and are already part of the inter-American system in a limited way. The OAS Charter provides a legal framework for the Inter-American Commission to promote the observance and protection of international human rights. OAS Charter, art. 112. OAS members accept the American Declaration on the Rights and Duties of Man as a normative standard by which the Commission will adjudge the activities of all OAS member states. The American Convention binds States Parties to further international human rights standards and creates additional mechanisms for their enforcement. It grants greater powers to the Inter-American Commission to deal with private and inter-state complaints, and it allows States to submit to the jurisdiction of the Inter-American Court. *See* Thomas Buergenthal, *The Inter-American System for the Protection of Human Rights, in Human Rights in International Law: Legal & Policy Issues*, 439 (Theodor Meron, ed. 1984).

[16] Articles 43 and 48 of the American Convention on Human Rights confer power on the Commission to carry out investigations within each State Party to the Convention. It is essential for the effective functioning of the Commission that States ratifying the Convention not make reservations limiting the authority granted to the Commission under these articles. Under article 43, States Parties "undertake to provide the Commission with such information as it may request of them as to the manner in which their domestic law ensures the effective application of any provisions of this Convention." As article 48(d) provides, States Parties agree to furnish "all necessary facilities" to allow the Commission to "verify the facts" alleged in petitions or communications to the Commission.

[17] Article 62(1) of the American Convention allows States Parties to "recognize as binding, *ipso facto*, and not requiring any special agreement, the jurisdiction of the Court on all matters relating to the interpretation or application of the Convention."

[18] *See. e.g.*, Americas Watch, *Brutality Unchecked: Human Rights Abuses Along the U.S. Border with Mexico* (May 1992) (hereinafter Americas Watch (1992)); Mexican National Human Rights Commission, *Report on Human Rights Violations of Mexican Migratory Workers on Route to the Northern Border, crossing the Border and upon entering the Southern United States Border Strip* (1991) (hereinafter CNDH (1991)).

[19] CNDH (1991) at 56. As the CNDH noted, inadequate files in half these cases made it impossible to document the exact details surrounding these killings. In some cases, Mexicans were killed who appeared to be engaging in criminal acts or carrying firearms. In other cases, excessive force by Border Patrol agents and the lack of prompt response by U.S. authorities has been documented. *Id.* at 56—58. The undercover Border Crime Prevention Unit. which was involved in 19 killings between 1984 and 1989, was abolished after an incident in which two handcuffed men were shot. Americas Watch (1992) at 9.

[20] *Id.* at 35.

[21] Petition to the Inter-American Commission on Human Rights of the Organization of American States (OAS Petition on Border Violence), August 12, 1992.

[22] *Id.* at 3.

[23] *Id.* at 6.

[24] *Id.* at 8.

[25] *Id.* at 12–13.

[26] *Id.*

[27] *Id.* at 21

[28] *Id.* at 19. The Inter-American court has issued an advisory opinion unanimously holding that, if indigence prevents a petitioner from "invoking the domestic remedies necessary to protect a right guaranteed by the American Convention, he is not required to exhaust such remedies." Advisory Opinion No. OC–11/90, *Exceptions to the Exhaustion of Domestic Remedies in Cases of Indigence or Inability to Obtain Legal Representation Because of Generalized Fear Within the Legal Community* (August 10, 1990).

[29] *Id.* at 20.

[30] U.S. Const. Art. VI, ¶2.

[31] — U.S. —, 112 S.Ct. 2188, 119 L.Ed.2d 441 (1992).

[32] Tim Golden, *Mexican President Seeks to Address Clinton's Concerns*, New York Times, A1, November 21, 1992.

[33] CP/RES. 586 (909/92), July 15, 1992.

[34] Inter-American Juridical Committee, "Legal Opinion Regarding the Decision of the Supreme Court of the United States of America," August 15, 1992.

[35] *Id.* (emphasis added).

[36] *Id.*

[37] Brief of *Amicus Curiae* Minnesota Lawyers International Human Rights Committee in Support of Respondent, at 3, U.S. v. *Alvarez-Machain, — U.S. —, 112 S.Ct. 2188, 119 L.Ed.2d (1992).*

[38] Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C., *Elecciones en Mexico: La Sociedad Civil y la Defensa de los Derechos Humanos*, 12 (1992) (hereinafter CMDPDH (1992)); Department of State (1990), at 694.

[39] CMDPDH (1992) at 13.

[40] Ley Orgánica de la Comisión Nacional de Derechos Humanos (1990).

[41] *Id.* at art. 16.

[42] David Clark Scott, *Mexican President Backs Economic Over Political Reform*, Christian Science Monitor, 6, November 4, 1992.

[43] *Convergencia*, A Civil Organization for Democracy, *Report on the Electoral Observation, Michoacán* (July, 1992).

[44] *Convergencia*, A Civil Organization for Democracy, the Citizens Movement for Democracy, the Juvenile Movement for Democracy, and the Union of Residents of Veracruz, *Report on the Observation of the Electoral Process, District of Xalapa, Veracruz* (August, 1992).

[45] Damian Fraser, *Mexican ruling party pushed towards reform*, Financial Times, 3, October 15, 1992.

[46] The number of polling places observed by *Convergencia* was reportedly limited by the fact that, in 15 percent of the installations, electoral observers were not allowed to enter the facility. *Id.* at 19. Findings of electoral fraud were confirmed by a 14 person international delegation, including Professor Robert W. Benson of the Loyola Law School. Robert Benson, *Michoacan Elections*, Letter to the Editor, Los Angeles times, B7, October 17, 1992.

[47] *Id.*

[48] According to *Convergencia*, PRI agents offered voters construction and home improvement materials, corn grinders, milk, work permits, and cash on the condition that they sign a PRI voting member list and promise to vote for PRI. Those who refused to sign were threatened with having their *credeciales de elector* (voter registration) taken away or losing the union affiliation. *Id* at 15. (Altogether, the PRI is reported to have spent $20 million on the campaign, 50 times that spent by the PRD. David Clark Scott, *Mexican President Backs Economic Over Political Reform*, Christian Science Monitor 6, November 4, 1992.

[49] UPI, *Mexican Governor Steps Down Amid Protests*, October 6, 1992.

[50] *Id.*

[51] *See* cases No. 9768, 9780, and 9828, Inter-Am. C.H.R. 1989–90 (May 17, 1990); Case No. 10.180, Inter-Am. C.H.R. 1990–91 (February 22, 1991).

[52] Case No. 10.1891 at 250.

[53] Andrew Reding, *Bolstering Democracy in the Americas*, World Policy Journal 407 (Summer 1992).

[54] Secretary of Foreign Relations and the General Direction of Human Rights of the Secretary of Government, *Boletin de Prensa*, May 19, 1990; See discussion in Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C, *Informe Sobre los Derechos Humanos*, 18 & n.3 (September, 1992).

[55] *Mexico's Leader Cautiously Backs Some Big Changes*, New York Times, A3, November 2, 1992. President Salinas specified that he would support changes in the electoral law "making the source of party financing transparent, placing limits on the cost of election campaigns, and working on the communications media and procedures that guarantee the impartiality of the electoral process." *Id.*

[56] Case No. 10.979, Inter-Am. C.H.R. (September 1, 1992).

[57] See Minnesota Advocates for Human Rights, *Conquest Continued: Disregard for Human and Indigenous rights in the Mexican State of Chiapas* (October 1992) (hereinafter Minnesota Advocates (1992)); U.S. Department of State, *Country Reports on Human Rights Practices for 1991*, 664 (1992); Human Rights Watch *World Report* 1992, 277 (1992); Amnesty International, *Mexico: Torture with Impunity* (1991).

[58] The opposition party PRD reports that "[m]ost of the repression has been generated as a result of the attempts by the PRD to 'defend the vote' after electoral fraud has occurred," Human Rights Commission of the PRD, *The Political Violence in Mexico: A Human Rights Affair* viii (1992), *cited in*, Minnesota Advocates, 29 (1992).

[59] From May to November, 1992, PRD alleges that 26 of its activists have been killed, compared to 23 in 1991. According to Isabel Molina Warner, the reason for this sharp increase is that 1992 is an election year. In the last election year, 1990, PRD alleges that 66 of its activists were killed, also a sharp increase over the previous non-election year rate of 27 in 1989. Molina Warner interview.

[60] As Jorge Madrazo of the CNDH told Minnesota Advocates, the disparity in PRD and CNDH figures is in part explained by the fact that the CNDH does not have competence to review cases that are currently pending in court and before the judge has issued a final decision. Interview with Jorge Madrazo, CNDH, December 1, 1992 (hereinafter Madrazo Interview); See also *Human Rights Commission to investigate Killings of PRD Activists*, Notimex Mexican News Service, September 1, 1992.

[61] Id.

[62] According to the PRD, both of these involved recommendations to reinvestigate due to "miscarriage of justice." None of the CNDH recommendations have resulted in criminal charges or convictions. Molina Warner Interview.

[63] Minnesota Lawyers International Human Rights Committee, *Paper Protection: Human Rights Violations and the Mexican Criminal Justice System*, ii (July, 1990) (hereinafter Minnesota Advocates (1990))

[64] *Id.* at 22.

[65] Federal Code of Criminal Procedure, art. 287, as amended (1990).

[66] Minnesota Advocates (1990) at 35. "At the time of her death, she was investigating the torture and murder of a Mexican lawyer and three Venezuelans. Her death followed the killing of the co-founder and former president of the Commission, Lic. Jesús Michel Jacobo, who was gunned down on 16 December 1987." *Id.*

[67] Interview with Jorge Madrazo, Visitador, CNDH, December 1, 1992.

[68] Letter from Barbara Frey to Attorney General Morales Lechuga November 1, 1992.

[69] Minnesota Lawyers International Human Rights Committee, *The Homicide of Dr. Victor Manuel Oropeza Contreras: A Case Study of Failed Human Rights Reforms in Mexico*, 5, December 1991 (the "*Oropeza report.*")

[70] *Id.* at 14.

[71] Madrazo Interview. Minnesota Advocates has received conflicting information about the exact reasons for the judge's refusal to order the request and is investigating this matter further.

[72] Madrazo Interview.

[73] Interview with Maria Teresa Jardí, director of the Human Rights Department, Archdiocese of Mexico (November 28, 1992) (hereinafter Jardí Interview).; *see also* Amnesty International Urgent Action UA 336/92, October 29, 1992.

[74] Notimex Mexican News Service, *Human Rights Leader Receives Third Death Threat*, October 29, 1992.

[75] Jardí Interview; Interview with Alicia Ely-Yamin, assistant to Ms. Jardí (December 6, 1992).

[76] Interview with Amalia Zavala, assistant to the director of the CMDPDH. Tim Golden, *Slaying in Mexico Spotlights Press*, New York Times, A12, December 1, 1992.

[77] Marjorie Miller, *Killing, Threats Cause Concern in Mexico* 17, November 1992.

[78] *Id.* Mexico City police have arrested one suspect, Salvador Zarazua Ortega, who the police say owed Castillo Mendoza a personal debt and had no political motivation for the killing. Since Zarazua's arrest, the Mexico City Attorney General's Office is reported to have completely ruled out any political motive for the killing. Notimex Mexican News Service, November 30, 1992; Madrazo Interview.

[79] Human Rights Watch and Natural Resources Defense Council, *Mexico: Cutting Through the Haze in Defending the Earth: Abuses of Human Rights and the Environment* 65–76 (June, 1992).

[80] U.S. Department of State, *Country Reports on Human Rights Practices for 1991*, 675 (1992).

[81] At the Volkswagen plant in Puebla, for example, workers went on strike on July 21, 1992 after the company announced that it would lay off 14,200 workers. The official labor union did not support the strike, and workers accused the union leaders of collaborating with Volkswagen by accepting employment terms for the rest of the work force far below what the strikers demanded. Without support from the union, the Mexican Federal Conciliation and Arbitration Board found that the strike was illegal and constituted "force majeure" by the workers, justifying a lock-out by company authorities. *Mexico: Mending the People's Car*, The Economist 43, August 22, 1992; Damian Fraser, *NAFTA Sets Mexico on the Path to Industrial Unrest* 6, August 19, 1992; Interview with Manuel Fuentes, National Association of Democratic Lawyers, December 1, 1992.

[82] In the lockout at the Volkswagen plant, described in note 81, police are reported to have used dogs and clubs against striking workers. *Id.* On June 25, 1992, a peaceful demonstration by the *Union Campesina Democratica* (UCD) before the National Palace in Mérida, Yucatán was violently disrupted by counter-demonstrators from a government sponsored union. Police arrested only members of the UCD. UCD leader Severino Salazar Castellanos was reportedly beaten by police in the presence of the crowd and arrested. Francisco López Vargas, *Ataque de fuezas públicas en Mérida*, Proceso 28, July 6, 1992; Javier Aguillar, *Salazar Held by Politicians*, 70(6) Los Angeles Loyolan, September 30, 1992. To date, Salazar Castellonos has been held without bail. The CNDH will be issuing a recommendation on this case by January 1993. Madrazo Interview. In 1991, the brother of a labor union protester, Braulio Aguilar Reyes, was arbitrarily detained and beaten by agents of the Federal Judicial Police. According to the Lawyers Committee for Human Rights, there is "evidence of police attempts to cover up the incident, and to coerce individuals into confessing to the crime." Lawyers Committee for Human Rights, *Critique* 226 (July 1992). *See* also discussion of the detention of labor lawyers Guadalupe Marín Sandoval and Julio Guillén Solís, in text accompanying notes 89–92.

[83] An explosion at a PEMEX oil refinery in Guadalajara on April 22, 1992, wounded 1,400 and killed 200 people. The explosion was traced to gas leaks that had permeated the city's sewer system. A report by the Federal Attorney General of Mexico, Ignacio Morales Lechuga, blamed the explosion on a pattern of failure to enforce environmental laws governing the oil industry, as well as negligence by PEMEX officials who did not respond to reports of people who smelled the gas leaks. Since the incident, similar gas leaks were located in pipelines throughout Mexico. On November 29, 1992, Morales Lechuga announced that the PEMEX investigation was complete and that there would be no further charges brought as a result of the explosion. Agence France Press, *Pemex facilities in dangerous state of disrepair*, May 5, 1992; Bureau of National Affairs, *Fallout from the Guadalajara Explosions Expected to Impact Industry, Politics*, Environment Daily, May 5, 1992; The News (Mexico City), Nov. 29, 1992 at 1.

[84] Lucy Conger, *The PEMEX Paradox*, Institutional Investor, 99, (September 1992) (hereinafter Conger (1992)).

[85] Jane Baird, *Mexico's oil revolution: drastic restructuring, labor conflicts, and pressing cash needs are*

changing PEMEX, considered Mexico's "petroleum cow" and guardian of the nation's oil wealth, Houston Chronicle, Business Section, 1, September 7, 1992.

[86] Conger (1992); Stephen Baker, *Free Trade Isn't Painless*, Business Week, 28, August 31, 1992; Damian Fraser, North American Free Trade Agreement: *Pemex Open Wider But Not For Sale*, Financial Times, 3, August 13, 1992.

[87] David Clark Scott, *Clearing Protest Off Capital's Central Plaza*, Christian Science Monitor, 3, September 8, 1992.

[88] *Id.*; Notimex Mexican News Service, *Protest Encampment Ends as Accord Reached with PEMEX*, September 7, 1992.

[89] Interview with Manuel Fuentes, National Association of Democratic Lawyers (Dec. 1, 1992).

[90] Report of Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C., June 11, 1992 (on file with Minnesota Advocates for Human Rights); Statement of Braulio Aguilar Reyes, April 29, 1991 (on file with Minnesota Advocates for Human Rights).

[91] Interview with Jose Lavanderos (Dec. 1, 1992).

[92] *Id.*

Mr. HOLLINGS. Mr. President, I also ask unanimous consent to have printed in the RECORD an article from the March 8, 1993, Christian Science Monitor by Richard Seid titled, "Mexico: Much Press, Little Real Freedom."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MEXICO: MUCH PRESS, LITTLE REAL FREEDOM

(By Richard Seid)

What does freedom of the press mean in Mexico? Neither the government nor the media moguls in Mexico want to talk about it. Neither understands or admits to understanding the necessity of a free press to the functioning of a democracy. As Mexico approaches full partnership in free trade with the United States and Canada, there is no real guarantee of the public's right to hear all sides of political issues, so that informed choices can be made at the polls. Canada and the US may have fully discussed the ramifications of border and tariff changes, but the Mexican public has not.

In retrospect, freedom of political expression has never existed in modern Mexico. For decades, there have been practically no openly discussed political issues. The Institutional Revolutionary Party (PRI), which has been in power since 1929, is more than just the "ruling" political party. It has been virtually synonymous with the government itself. Without real political competition, how and why would freedom of the press become an issue at all?

Times are changing, but slowly. The financial crisis of the 1980s saw the rise of real political competition in some Mexican states, which culminated in the hotly contested 1988 federal election. It is creditably alleged that only election fraud kept the opposition left-center Democratic Revolutionary Party (PRD) from winning the presidency.

Moreover, the challenging parties had virtually no access to television, which is controlled by the PRI. During its decades in power the PRI has secured almost complete control over the rest of the media as well. This is done mainly through payments. Sometimes the process is sophisticated, but more often the payments are blatant gifts or cash given to underpaid reporters and editors, with the complete acquiescence of their employers. There has been a slight improvement: As of last month, by presidential order, government payments to the media are to be accounted for. But there has been no effort to restrain them.

The newspapers themselves are sponsored not only by advertising, but also by government-paid articles. There are more than 20 daily newspapers in Mexico City. What looks like a vigorous press is actually heavily dependent on governmental money. It is doubtful that more than a handful would survive under a freely competitive system without government contributions. Thus indebted to the government for their existence, many papers are readily disposed to print the party line. The reason the government keeps all these newspapers going is so that no paper will become dominant.

Until last year, the government held the monopoly on the newsprint supply. Paper supplies could be cut off to a nonconforming publication. The paper supply has been privatized, but now if a newspaper becomes too critical, they are subject to repeated financial audits.

La Jornada, a daily known for its independence as an intellectual left-center newspaper underwent multiple audits last year until it partially buckled under by reducing its criticism. Consequently, it lost some of its best writers.

Worse than these pressures is self-censorship. Last November the only English-language daily, The News, clumsily fired a reporter for critical but accurate reporting. The owner of the paper, a staunch supporter of the PRI, was protecting his political friends. Fortunately, the firing was highly publicized. The Mexican government, trying to convince the US Congress of its commitment to a free press, was embarrassed, and it reduced its subsidy to the owner.

But self-censorship is most extreme in television journalism, from which nearly 90 percent of Mexicans get their news. The huge radio and TV conglomerate, Televisa, which has an overwhelming audience share, is the worst offender. The bias in newscast editing is especially notorious. Televisa's boss, Emilio Azcárraga, claims that since he is running a private enterprise, he can support whichever candidates he chooses. It just so happens, however, that Televisa favors any nominee of the governing PRI—to the extent that opposition candidates are rarely seen and never heard on any Televisa station.

For its complete loyalty to the PRI, the government allows Televisa to maintain and expand its vertical and horizontal hold on practically the entire Mexican entertainment industry. In addition, Televisa pays no Mexican taxes on its enormous income. In exchange for what would be owed, the government is given TV and radio time for "messages," which at times are indistinguishable from political commercials. The government has never addressed Televisa's unfair business practices or its evident abuse of the public trust. There is an implied governmental position that it cannot interfere in the conduct of private enterprise. Of course it does exactly this every day.

As the borders of Canada, the US, and Mexico become more porous, and as the policies and passions of free trade more tightly intermesh, the rights of all North American citizens should be equalized. Opposing abuses of freedom of expression is just as important as regulating businesses that contaminate the air we breathe. Televisa is just one example. But by denying free speech to opposing political groups, it pollutes the air as much as any smokestack.

Most important is the promise from Mexican President Carlos Salinas de Gortari that his country is on the road to full democracy. Without the guarantee of the basic freedoms of speech and press that a democracy needs, Mexicans are hardly full partners in the politics and policies of the approaching years.

TELEVISA'S MEDIA REALM KEEPS GROWING

Televisa, technically an independent company, is big and getting bigger. It is widely thought to be attempting to expand its Mexico City television channels and going national through existing affiliations with local channels within the states of the Mexican Republic. Televisa's radio station XEW is the oldest and most dominant in the country and the cornerstone of its other extensive radio holdings.

In addition, Televisa controls the following: Telegula, the equivalent of the United States TV Guide; approximately 100 other magazines; the newspaper, Ovaciones; its own chain of theaters (which, of course, get free TV advertising unavailable to their competitors); 1,750 Videocentro video rental outlets (which are just now starting to face competition from the first 30 Blockbuster Video stores in the country); all the major dubbing facilities with the exception of Walt Disney studios; as well as night clubs, and its own talent school and agency.

Televisa has reentered the U.S. market by obtaining a minority interest in Univision, the Spanish-language network it had previously been forced to divest after losing a 1986 antitrust action. Although approved by the Federal Communications Commission, this recent purchase was hotly opposed by many Hispanics in the U.S. who feel that Televisa's allegedly mediocre programming will now be imposed on American audiences.

Mr. HOLLINGS. I thank the distinguished Chair.

Last week, Mr. President, we were given our evidence on a silver platter regarding the absence of true freedom of the press in Mexico. I have tried a lot of law cases, but I have never had the other side come up and hand deliver such devastating evidence against their own side.

We had arranged a public hearing on NAFTA in the Committee on Commerce, Science, and Transportation, with a live satellite hookup to five witnesses, authorities down in Mexico City. Just prior to the hookup, the witnesses objected to their having to testify in a studio from which local press had been excluded by the Government. Their own Mexican press was being kept out by the Government.

I said, "Well, that is funny, because there is Mexican press up here in the committee room, here in Washington. So at least we have them covered up here." They said, "Yes, but that is the Government press up there. They will not be allowed to report independently on what we say. We want to be covered by independent journalists here in Mexico."

Nonetheless, we proceeded with the hearing via satellite. The witnesses presented a balanced and objective picture of the situation in Mexico. But right in the middle of the testimony, the Mexican station, Televisa, pulled the plug. You talk about free press. I am an expert witness that they do not have a free press in Mexico. They pulled the plug right in the middle of the hearing. We had agreed that, even if the time ran out, we could keep up the telephone lines and have audio. But they pulled the plug on the telephone connection, too.

Mr. President, let us turn to labor conditions in Mexico.

I went down to Tijuana and was shocked. They have a plastic coat hanger factory that had moved from Santa Ana, CA, 3 years ago. Earlier this year, there was a terrible flood in the Tijuana area, washing away many houses and shanties. And under the factory rules, if you lose a day, you are docked 3 days. So they lost a day due to that heavy rain. They could not even get to the factory. So they were docked not 3 days but 4. Later in the spring, a worker lost an eye in a factory accident. These incidents drove the workers to consider forming a union. The final straw came when a respected supervisor, a young lady who was expecting at the time, became sick and asked for time off that afternoon. The bosses said, "You have to continue to work." She miscarried.

That really put them all together. They said, "We are going up to get a California lawyer, and we are going to get a union." Do you know what, Mr. President? They found out they already had a union. The company had bought the union. You can go to the Government and buy yourself a union.

Yes, the Mexican Constitution speaks eloquently about labor rights. I am talking about the facts of life. The company had bought the union, and the workers had never seen in 3 years the representative; they never knew who he was. But Mexican law says that if a union already exists in a plant, it is illegal to try to organize another one, so the organizers were fired and out of a job.

Regarding the labor situation in Mexico, let me quote from the April 19, 1993 Business Week:

> Salinas established the new rules for labor last summer in what became a battle for the country's industrial future. While Salinas has never hesitated to hammer union bosses who crossed him politically, the President drew a new economic line with a strike at Volkswagen de Mexico. The battle erupted when the government-controlled union at VW, based in Puebla, signed on to a massive restructuring plan to raise productivity. VW management insisted that the new agreement was vital for global competitiveness. This was hardly idle talk, since VW supplies the entire North American market from Puebla. But a group of dissidents, fearing layoffs, opposed the plan. After weeks of a bitter strike, Salinas gave VW permission to rip up the union contract. The company promptly fired 14,000 workers and rehired all of them, minus some 300 dissidents, under a new contract.

There you go. That is Salinas, the hero. You do not want to hurt his feelings. If you do, he will not approve NAFTA.

Read not just Business Week, but also Rolling Stone and the brilliant reporting of William Greider, one of America's most respected journalists. I quote from the October 28, 1993 issue of Rolling Stone:

> At Ford's plant in Cuautitlan, where Mercury Cougars are assembled, long-running conflicts between workers and the company led to bloody confrontations in early 1990. A group of 30 thugs, many reported to be out-of-uniform police officers, attacked and beat several local leaders. Six workers were either kidnapped or arrested, then released. Three days later, workers found 200 or 300 armed men inside the plant. In the battle that ensued, 12 workers were wounded by gunfire. One later died. The police did not appear. The workers claimed that the goons were from CTM, the National Labor Federation that is closely allied with Salinas, and the PRI, the political party that has held uninterrupted power in Mexico since the 1920's.

Mr. President, let us face the truth about Mexico. They do not have a free press. They do not have an independent labor union. They do not have the right, really, to organization. They do not have meaningful environmental controls. GAO last year looked at eight blue-chip U.S. corporations based in Mexico and found them all in violation of environmental laws. You can cite all the environmental rules and agreements you want, Mexico has them. But they do not have any idea of enforcing them.

Similarly, they claim they do not have child labor in Mexico.

Mr. President, I ask unanimous consent to have printed in the RECORD two tables from the National Institute of Statistics, Geography and Informatics, sent to me from Mexico City by the official labor body there. In this there are statistics on unemployment; it includes statistics on the population 12 years of age and over that did not have a job the week before the survey, and have been looking for a job.

They have the 12-year-olds included.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

HISTORICAL SERIES

Period	Unemployment rate in urban areas[1]			Other employment and unemployment indicators in urban areas						
	General	Men	Women	AVR[2]	ROB[3]	NEUR[4]	EAP[5]	EIP[6]	Employed population[7]	Employed population that earn more than the minimum salary
1987	3.9	3.4	4.9	6.0	7.4	7.9	51.1	48.9	96.1	65.1
1988	3.6	3.0	4.7	5.3	7.1	7.5	51.6	48.4	96.4	73.3
1989	3.0	2.6	3.8	4.4	5.8	6.8	51.8	48.2	97.0	76.7
1990	2.8	2.6	3.1	4.4	5.1	6.1	51.8	48.2	97.2	80.3
1991	2.6	2.5	2.9	4.2	4.8	6.1	53.3	46.8	97.4	82.2
SHORT-RUN INDICATORS										
1990:										
January	2.6	2.2	3.1				51.4	48.6	97.4	79.1
February	2.4	2.4	2.6				51.6	48.4	97.6	82.1
March	2.4	2.2	2.9	4.0	4.6	5.8	50.7	49.3	97.6	79.0
April	2.7	2.8	2.6				50.6	49.4	97.3	84.1
May	2.7	2.6	2.8				51.6	48.4	97.3	83.0
June	3.0	2.9	3.1	4.1	5.1	6.2	51.6	48.4	97.0	83.6
July	3.6	3.6	3.6				52.6	47.4	96.4	81.0
August	3.0	2.7	3.7				53.3	46.7	97.0	80.1
September	2.8	2.5	3.3	5.0	5.7	6.4	51.5	48.6	97.2	82.3
October	3.3	3.2	3.6				52.4	47.6	96.7	82.0
November	2.3	2.1	2.8	4.4	5.0	5.6	53.1	46.9	97.7	81.4
December							51.1	47.8	97.9	79.8
1991:										
January	2.8	2.7	2.8				52.2	47.8	97.2	83.4
February	2.5	2.4	2.8				53.0	47.0	97.5	80.5
March	2.9	2.7	3.3	4.4	4.8	6.0	52.2	47.8	97.1	86.3
April	2.6	2.4	3.0				52.6	47.4	97.4	85.6
May	2.3	2.4	2.1				53.1	46.9	97.7	85.6
June	2.1	2.2	2.0	3.8	4.0	5.6	52.8	47.2	97.9	86.7
July	2.7	2.6	2.8				53.8	46.2	97.3	86.2
August	3.2	3.1	3.2				54.5	45.5	96.9	85.4
September	3.1	2.6	4.0	4.4	5.4	6.5	53.8	46.2	96.9	86.6
October	3.2	3.0	3.5				54.2	45.8	96.8	86.0
November	2.7	2.5	3.1				54.3	45.7	97.3	86.7
December	2.2	1.8	2.8	4.1	4.9	6.4	54.3	45.7	97.8	87.4
1992:										
January	2.5	2.8	2.7				53.7	46.3	97.2	84.5
February	3.3	3.1	3.7				54.0	46.0	96.7	85.4

HISTORICAL SERIES—Continued

Period	Unemployment rate in urban areas[1]			Other employment and unemployment indicators in urban areas						
	General	Men	Women	AVR[2]	ROB[3]	NEUR[4]	EAP[5]	EIP[6]	Employed population[7]	Employed population that earn more than the minimum salary
March	2.6	2.4	3.0	4.5	5.3	6.8	54.7	45.3	97.4	85.5
April	2.8	2.6	3.2	....	....	....	54.1	45.9	97.2	87.4

[1] It includes population of 12 years and over that didn't have a job the week before the survey and have been looking for it.

[2] Alternative unemployment rate, it considered: the employed and the people who have stopped looking for a job thinking that there is no job available for them.

[3] Rate of overall pressure: it registers the percentage of the unemployed population and the occupied looking for a job.

[4] Partial employment and unemployment rate: proportion of unemployed or employed that work less than 15 hours a week.

[5] Economically active population, percentage with respect to the population of 12 years and over.

[6] Economically inactive population, percentage with respect to the population of 12 years and over.

[7] Percentage respect the economically active population.

Source: National Statistics, Geography and Informatics. "National Urban Employment Survey".

Mr. HOLLINGS. I also asked unanimous consent to have printed in the RECORD an article from the April 8, 1991, Wall Street Journal titled, "Working Children: Underage Laborers Fill Mexican Factories, Stir U.S. Trade Debate." This article tells the story of 12-year-old Vicente Guerrero.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WORKING CHILDREN: UNDERAGE LABORERS FILL MEXICAN FACTORIES, STIR U.S. TRADE DEBATE

(By Matt Moffett)

LEON, MEXICO.—When Vicente Guerrero reported for work at the shoe factory, he had to leave his yo-yo with the guard at the door. Then Vicente who had just turned 12 years old, was led to his post on the assembly line: a tall vertical lever attached to a press that bonds the soles of sneakers to the uppers.

The lever was set so high that Vicente had to shinny up the press and throw all his 90 pounds backward to yank the stiff steel bar downward. It reminded him of some playground contraption.

For Vicente this would have to pass for recreation from now on. A recent graduate of the six grade, he joined a dozen other children working full time in the factory. Once the best orator in his school and a good student, he now learned the wisdom of silence: even opening his mouth in this poorly ventilated plant meant breathing poisonous fumes.

Vicente's journey from the front-row desk of his schoolroom to the factory assembly line was charted by adults: impoverished parents, a heedless employer, hapless regulators, and impotent educators. "I figure work must be good for me, because many older people have helped put me here," says Vicente, shaking his hair out of his big, dark eyes. "And in the factory I get to meet lots of other boys."

Half of Mexico's 85 million people are below the age of 18, and this generation has been robbed of its childhood by a decade of debt crisis. It's illegal in Mexico to hire children under 14, but the Mexico City Assembly recently estimated that anywhere from five million to 10 million children are employed illegally, and often in hazardous jobs. "Economic necessity is stronger than a theoretical prohibition," says Alfredo Farit Rodriguez, Mexico's Attorney General in Defense of Labor, a kind of workers' ombudsman.

Child labor is one of several concerns about standards in the Mexican workplace clouding the prospects for a proposed U.S. Mexico free trade agreement. It is being seized upon, for example, by U.S. labor unions, which oppose free trade and fear competition from Mexican workers.

Recently, Democratic Sen. Lloyd Bentsen of Texas, the chairman of the Senate Finance Committee, and House Ways and Means Committee chairman Dan Rostenkowski of Illinois warned President Bush in a letter of the major hangup: "the disparity between the two countries in . . . enforcement of environmental standards, health and safety standards and worker rights." Mr. Bush yesterday reiterated his support for the trade pact.

Free-trade advocates argue that investments flowing into Mexico would ameliorate the economic misery that currently pushes Mexican children into the work force. Partisans of free trade also point to the aggressiveness Mexican President Carlos Salinas de Gortari has lately shown in fighting lawbreaking industries: Mexico added 50 inspectors to regulate foreign plants operating along the U.S.-Mexico border and shut down a heavily polluting refinery in Mexico City.

LITTLE FOXES

Young Vicente Guerrero's life exemplifies both the poverty that forces children to seek work and the porous regulatory system that makes it all too easy for them to find jobs. In the shantytown where Vicente lives and throughout the central Mexico state of Guanajuato, it is customary for small and medium-sized factories to employ boy shoemakers known as zorritas, or little foxes.

"My father says I was lucky to have so many years to be lazy before I went to work," says Vicente. His father, Patricio Guerrero, entered the shoe factories of Guanajuato at the age of seven. Three decades of hard work later, Mr. Guerrero lives in a tumbledown brick shell about the size and shape of a baseball dugout. It is home to 25 people, maybe 26. Mr. Guerrero himself isn't sure how many relatives and family friends are currently lodged with him, his wife and six children. Vicente, to get some privacy in the bedroom he shares with eight other children, occasionally rigs a crude tent from the laundry on the clothesline crisscrossing the hut.

School was the one place Vicente had no problem settling himself apart from other kids. Classmates, awed by his math skills, called him "the wizard." Nearly as adept in other subjects, Vicente finished first among 105 sixth-graders in a general-knowledge exam.

Vicente's academic career reached its zenith during a speaking contest he won last June on the last day of school. The principal was so moved by the patriotic poem he recited that she called him into her office to repeat it just for her. That night, Vicente told his family the whole story. He spoke of how nervous he had been on the speaker's platform and how proud he was to sit on the principal's big stuffed chair.

After he finished, there was a strained silence. "Well," his father finally said, "it seems that you've learned everything you can in school." Mr. Guerrero then laid his plans for Vicente's next lesson in life. In a few weeks, there would be an opening for Vicente at Deportes Nike, the athletic shoe factory where Mr. Guerrero himself had just been hired. Vicente would earn 100,000 pesos a week, about $34.

At the time, money was tighter than usual for the Guerreros: Two members of the household had been laid off, and a cousin in the U.S. had stopped sending money home.

After his father's talk, Vicente stowed his schoolbooks under a junk heap in a corner of the hut. It would be too painful, he thought, to leave them out where he could see them.

Last August Vicente was introduced to the Deportes Nike assembly line. About a dozen of the 50 workers were underage boys, many of whom toiled alongside their fathers. One youth, his cheek bulging with sharp tacks, hammered at some baseball shoes. A tiny 10-year-old was napping in a crate that he should have been filling with shoe molds. A bigger boy was running a stamping machine he had decorated with decals of Mickey Mouse and Tinker Bell. The bandage wrapped around the stamper's hand gave Vicente an uneasy feeling.

Showing Vicente the ropes was the plant superintendent's 13-year-old son, Francisco Guerrero, a cousin of Vicente's who was a toughened veteran, with three years' experience in shoemaking.

When a teacher came by the factory to chide school dropouts, Francisco rebuked here. "I'm earning 180,000 pesos a week," he said. "What do you make?" The teacher, whose weekly salary is 120,000 pesos, could say nothing.

Vicente's favorite part of his new job is running the clanking press, though that usually occupies a small fraction of his eight-hour workday. He spends most of his time on dirtier work: smearing glue onto the soles of shoes with his hands. The can of glue he dips his fingers into is marked "toxic substances . . . prolonged or repeated inhalation causes grave health damage: do not leave in the reach of minors." All the boys ignore the warning.

Impossible to ignore is the sharp, sickening odor of the glue. The only ventilation in the factory is from slits in the wall where bricks were removed and from a window near Vicente that opens only halfway. Just a matter of weeks after he started working, Vicente was home in bed with a cough, burning eyes and nausea.

What provoked Vicente's illness, according to the doctor he saw at the public hospital, was the glue fumes. Ingredients aren't listed on the label, but the glue's manufacturer, Simon S.A. of Mexico City, says it contains toluene, a petroleum extract linked to liver, lung and central nervous system damage. The maximum exposure to toluene permitted under Mexican environmental law is twice the level recommended by recently tightened U.S. standards. And in any event, Deportes Nike's superintendent doesn't recall a government health inspector coming around in the nine years the plant has been open.

When Vicente felt well enough to return to work a few days later, a fan was installed near his machine. "The smell still makes you choke," Vicente says, "but el patron says I'll get used to it."

El patron, the factory owner, is Alfredo Hidalgo. "These kinds of problems will help make a man of him," Mr. Hidalgo says. "It's a tradition here that boys grow up quickly." Upholding tradition has been good for Mr. Hidalgo's business: Vicente and the other zorritas generally are paid less than adult workers.

Mr. Hidalgo doesn't see that as exploitation. "If it were bad for Vicente, he wouldn't have come back after the first day of work," he says. "None of the boys would, and my company wouldn't be able to survive."

"The system makes protecting the zorritas very, very difficult," says Teresa Sanchez, a federal labor official in Guanajuato state. The national labor code gives the federal government jurisdiction over only a limited number of industries that make up just 3% of businesses in the state. "The important industries, like shoes," she says, "are regulated by the states, and the states . . ." She completes the sentence by rolling her eyes.

At the state labor ministry, five child labor inspectors oversee 22,000 businesses. The staff has been halved in the decade since Mexico's economic crisis erupted, says Gabriel Eugenio Gallo, a sub-secretary. The five regulators make a monthly total of 100 inspections. At that rate it would take them more than two decades to visit all of the enterprises under state jurisdiction. Because child labor violations weren't even punishable by fines until very recently, state regulators say they have a hard time getting the tradition-bound employers they do visit to take them seriously. "Ultimately, the schools must be responsible for these kids," Mr. Gallo concludes.

Located just four blocks from where Vicente Guerrero labors, the Emperador Cuauhtemoc school employs two social workers to reclaim dropouts. (Children are required by law to stay in school through the sixth grade.) One-third of the students at Cuauhtemoc never finish the Mexican equivalent of junior high. With their huge caseloads, the two social workers certainly have never heard of Vicente Guerrero. "Ultimately, it's the boy's own responsibility to see to it that he gets an education," says Lourdes Romo, one of the counselors.

Vicente is still getting an education, but it's a different sort than he would be getting in school. On a factory break, the superintendent puts a zorrita in a headlock to act out the brutal murder of a member of a local youth gang. This pantomime is presented to Vicente and a rapt group of boys as a cautionary tale. "Boys who don't work in the factory die this way on the street," the superintendent warns.

Vicente hasn't missed work again, though he always has a runny nose and red eyes. "One gets accustomed to things," he says. It's lucky for him that he is adaptable. The plant was expanded recently and Vicente's window, once his source of fresh air, now swings open onto a sewing room where several new boys labor.

The zorrita tradition is unlikely to fade any time soon. "We eat better now that Vicente works," says Patricio Guerrero, watching his wife stir a skillet of chicken in sweet mole sauce. "And Vicente has few pesos left over so he can enjoy being a boy."

But Vicente doesn't have the time. Even though he's the captain, he recently missed an important Saturday match of his soccer team. A rush order of soccer shoes had to be filled at Deportes Nike. His friends tell him that "I stink as bad as the patch on a bicycle tire," he says. "But I know that's just the smell of work."

Mr. HOLLINGS. Mr. President, I also ask unanimous consent that relevant pages from our own State Department's report on human rights in Mexico be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

STATE DEPARTMENT HUMAN RIGHTS REPORT: MEXICO

Mexico is a federal republic with a President, a bicameral legislature and a constitutionally independent judiciary. The Institutional Revolutionary Party (PRI) has dominated the Government since its founding in 1929. Following political reforms in recent years, the opposition expanded its stake in the political system. Opposition parties currently hold a significant number of seats in the Chamber of Deputies, three major governorships, and numerous mayoralties, reflecting progress achieved by the Salinas Administration toward a fairer electoral process. Nevertheless, the PRI maintains predominant political control through a combination of voting strength, organizational power, access to governmental resources not enjoyed by other political parties, and—according to credible charges from the principal opposition parties and other observers—electoral irregularities.

In 1992 elections were held for 11 governorships, as well as many state legislatures and municipal governments. Despite opposition gains, including winning the governorship of Chihuahua and control of the state's Congress, many respected nonpartisan observers, both domestic and international, cited a variety of actions, including electoral fraud, by election authorities and PRI supporters in several states that they charged had distorted the electoral process. The election proceedings were seriously contested in four states. In the races for governor in Durango, Tamaulipas, and Sinaloa, electoral tribunals rejected opposition complaints that the elections were unfair, and the PRI candidates took office. In Michoacan, which has traditionally been plagued by violence on both sides, protests continued long after the elections, and the elected PRI governor eventually requested a year's leave of absence, which was tantamount to resignation.

Mexican security forces include Federal and State Judicial Police, specialized forces such as Mexico City's Traffic Police, the Federal Highway Police, local police, and the military. Mexican military expenditures represent a small share of the overall national budget. According to the U.S. Arms Control and Disarmament Agency, total military expenditures for 1989 were $875 million. Despite an increasing role in counternarcotics operations for the military, the defense budget has remained at the same level. Although the Salinas Administration has made some progress in controlling abuses, members of the Federal and State Judicial Police continue to be responsible for many human rights abuses.

Mexico has a mixed economy that combines domestic market capitalism with some state ownership of major industries. The Government's economic reform program has been very successful in reducing inflation, promoting growth, and restoring economic confidence. Negotiations were concluded for a free trade agreement with Canada and the United States that is awaiting legislative approval. Growing confidence in Mexico has led to increased foreign investment.

A wide range of individual freedoms is provided for by the Mexican Constitution and honored in practice, but there continue to be human rights abuses in Mexico, many of which go unpunished, owing to the culture of impunity that has traditionally surrounded human rights violators. These violations include the use of torture and other abuses by elements of the security forces, instances of extrajudicial killing, and credible charges by opposition parties, civic groups, and outside observers that there are flaws in the electoral process. Police brutality is widespread in Mexico. According to the National Human Rights Commission (CNDH), however, as well as state and local human rights advocates, allegations of such abuse declined in 1992. This decline reflects the work of government and nongovernmental human rights agencies and a commitment by the Salinas Administration to prosecute offenders. The Mexican Government established the CNDH in 1990 to investigate human rights violations, and the Salinas Administration has given substantial support to it. Through November 1992, 588 police and other public employees had been disciplined as a result of CNDH investigations into human rights-related complaints. Of these, criminal charges were brought against 246 employees, and investigations were still pending in 141 cases. The CNDH was also largely responsible for the Government's early release of 500 indigenous people from prisons during 1992.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from

a. Political and Other Extrajudicial Killing.—Several political and human rights activists were killed in 1992. As in previous years, the identifies and motives of the perpetrators often have not been established conclusively, but a number of the killings may have been politically motivated. The most notable was the November slaying in Mexico City of Quintana Roo journalist Ignacio Mendoza Castillo. Mendoza was slain the day after he had visited the CNDH to denounce threats against himself and other Quintana Roo journalists. While a police investigation concluded on November 29 that Mendoza had been shot by one of his private business debtors, whom he was threatening to foreclose, the CNDH is also investigating the Mendoza slaying. The Commission reported on December 15 that, while preliminary review suggested the Mendoza killer had been identified, it would not close its investigation until it had finished examining the Attorney General's report.

Most public attention in 1992, however, remained focused on murders that occurred in earlier years, including the 1991 murder of physician and journalist Victor Manuel Oropeza and the 1990 killing of lawyer and prominent human rights worker Norma Corona. Former Mexican Federal Judicial Police (MFJP) Commander Mario Alberto Gonzalez Trevino, accused of planning the 1990 murder of Corona, remains under arrest, and the trial against him is proceeding. On July 14, 1992, Miguel Angel Rico Urrea, a principal witness for the prosecution, was fatally shot in prison, and there is strong evidence linking his murder to Gonzalez Trevino. He is the fourth prosecution witness killed in the Corona case.

In another earlier case involving police, the CNDH concluded its investigation into the deaths of three Quijano brothers at the hands of police in January 1990. Its report was sharply critical of the Attorney General's investigation of the case, noting that the evidence implicated several MFJP agents, and hinting that the physical evidence suggested attempts at a coverup. Arrest warrants were issued against five MFJP agents involved, but only one had been served as of December 1992. Investigations also continue into the death of Victor Oropeza and the 1988 killings of the two aides to Party of the Democratic Revolution (PRD) leader Cuauhtemoc Cardenas. New special prosecutors were appointed in both cases but, as of December 1992, had not resolved either.

Five PRD supporters in Michoacan were killed by persons unknown in violence related to the July 12 election. Complaints have been filed with the NDH in theseand other cases denounced by the PRD as politically motivated killings and investigations continue into the killings.

There continue to be cases of extrajudicial killing by police. There are also repeated allegations of involvement by judicial police agents in narcotics-related killings. At least one judicial policeman has been charged with providing protection to drug traffickers involved in a November shootout in Puerto Vallarta that left at least six persons dead. In September nine persons were kidnapped in Mexico City, tortured and killed. While their murders were attributed to a conflict between drug gangs, the murders have not been identified. In addition, "madrinas"—civilians unofficially recruited by police—continue to be accused by human rights monitors of human rights abuses.

In Mexico's rural states, violent disputes over land sometimes result in extrajudicial killings. Paramilitary bands, "madrinas," and local police controlled by political bosses and landowners have threatened and sometimes killed peasant activities. In one instance, a local policeman in Trinidad Yaveo was charged with homicide and is now a fugitive after he killed a man in the course of a police-led eviction of a group from a parcel of land, the title to which was contested.

On July 12, the leader of Mexico City's AIDS movement and two homosexual men were tortured and murdered. At least four other antigay murders took place in Mexico City during the year, and a number were reported in the state of Chiapas. Gay groups accused the police of releasing inflammatory information to the press and of failing to investigate these murders vigorously. At year's end, no one had been arrested and the police reported that they had no suspects.

The U.S. government formally protested and sought investigations of two instances when U.S. citizens died while in police custody, allegedly by suicide.

With the establishment of the CNDH as an independent entity under the Constitution, and with the formation of official Human Rights Commissions in each state, there has been increased attention paid to human rights at both the state and federal levels. However, many of the CNDH recommendations have been implemented only partially.

b. Disappearance.—Unlike previous years, there was no evidence in 1992 that human rights workers, journalists, or political activists disappeared for political motives.

In 1992 the CNDH opened 53 new investigations of reported disappearances and continued working on the more than 270 investigations already under way. During calendar year 1992, the CNDH concluded 20 cases. Of the 20, 12 were found not to be genuine disappearances. The remaining 8 involved murders, and CNDH investigations continue in 6 of these cases. There is a suspect in one murder case, and in another the murderer has been convicted. None of the resolved murders were found to be motivated by political considerations.

With the 20 cases resolved in 1992, the CNDH concluded 60 disappearance cases. Many of these were undertaken as part of a joint program with the Mexican Office of the Attorney General (PGR) to resolve all of the cases in Mexico listed by the U.N. Working Group on Involuntary or Forced Disappearances. (The U.N. list contains a total of more than 200 persons who reportedly disappeared in Mexico over the last 22 years. Mexican independent human rights groups continue to claim that approximately 500 persons disappeared in Mexico over the same period.) The joint CNDH/PGR program ended on June 1, 1992; CNDH officials will continue investigating the remaining cases on their own.

While some nongovernmental human rights activists assert that there were political motives behind many disappearances, the Commission found evidence of a political motive in only one of the disappearance cases it investigated, that of Jose Ramon Gracia Gomez, a political activist who disappeared in Morelos in 1988. The Commission issued two recommendations in the case. Several suspects in Grazia Gomez' disappearance, including former police officials, were arrested on criminal charges while another, the former state police chief, is being sought. "Amparos" (judicial orders that quashed the arrest warrants) were issued, and the prosecution was forced to appeal in at least two cases.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.—Torture is prohibited by the Constitution. However police agents continue to employ psychological and physical torture. The most commonly used methods of torture include threats, beatings, asphyxiation, and electric shock. In its first two years, the CNDH received 736 complaints of torture. According to the CNDH, torture complaints declined sharply during 1992, both in number and as a percentage of all complaints. The Commission received 292 such complaints from December 1991 to December 1992, compared with 422 in the previous year. As a result of the CNDH recommendations issued up to December for complaints concerning torture, the Government brought criminal charges against 16 public officials. Although this represents an improvement, it continues a pattern of failure to try, convict, and sentence to prison police officials guilty of abusing detainees. Despite the decline in torture complaints to the Commission, some nongovernmental human rights monitors assert that there has been little decline in the number of such complaints which they receive.

Through the beginning of September, 41 U.S. citizens complained of police abuse, a decline of 19 from the same period in 1991, and of 56 from that period in 1990. In the 30 cases where victims were able to identify those involved, Federal Judicial Police agents were implicated in less than one-third, down from earlier years, while state local, and other federal agency officials accounted for the rest. By year's end, the U.S. Government had formally protested 16 cases of torture or other mistreatment through diplomatic channels, down from 27 such protests during 1991 and 43 in 1990.

According to the Mexican Attorney General's reports, PGR investigations undertaken in response to U.S. protests in 1992 resulted in 2 dismissals, 49 suspensions, 26 reprimands, and two other unspecified punishments of officials found to have been involved in the mistreatment of U.S. citizens. In response to CNDH recommendations and investigations, the Government continued efforts begun in 1990 to reduce the incidence of torture and similar abuse by officials.

The federal rules of evidence were amended in February 1991, in response to frequent criticism that confessions are coerced in the period before defendants appear before a judge and are assigned a lawyer. Confessions are now inadmissible unless given before a judge or a Public Ministry official and in the presence of defense counsel or a person in whom the accused has confidence. Similar changes were adopted by several states. Although the new rule is credited by the CNDH and independent human rights activists as partly responsible for the apparent decline in the incidence of torture in 1992, some human rights groups argued that torture is still widespread and that the new rule does not go far enough. They asserted that only confessions before judges should be accepted and that the safeguards in the current law are inadequate.

Most prisons in Mexico are overcrowded and lack adequate facilities for the prisoners. Overcrowding remains a problem despite an early release program pushed by the CNDH and legal reforms reducing the number of crimes that carry mandatory prison sentences. In addition, an entrenched system of corruption has undermined prison authority and led to abuses. Frequently prisoners exercise authority within the prison, displacing prison officials. One particularly egregious case involved a prison in Nayarit whose warden was fired after a long string of abuses at the prison ended in the unexplained death of a prisoner who reportedly had been summoned to the warden's office. Conflicts between rival prison groups, often involved in drug-trafficking, continued to spark violent confrontations. While prison officials have been prosecuted for abusing prisoners, they usually were charged with only minor offenses and have avoided serious punishment. The CNDH and Government have embarked on a major prison building program designed to reduce the overcrowding, lack of security, and the mixing of male and female prisoners and of accused and sentenced criminals that have added greatly to prison violence.

d. Arbitrary Arrest, Detention, or Exile.—The Constitution requires that those arrested be brought before an officer of the court as soon as possible, generally accepted as within 24 hours of their arrest. That person takes their statement and informs them of the charges against them. A prisoner must be arraigned before a judge and found by that judge to have probably committed a crime, if the prisoner is to be held more than 72 hours from the time when he was charged by an officer of the court. Failure to observe the deadline is a violation of the law and prisoners can file an "amparo" petition (similar to filing for habeas corpus) requesting immediate release if the time limits are not met. However, police and judges often fail to meet these constitutional and procedural deadlines.

Incidents of arbitrary arrest and imprisonment occur frequently: CNDH figures show that illegal deprivation of liberty is the most common complaint among its human rights cases. From June 1990 to June 1992, out of 10,244 complaints received by the CNDH, 826 alleged arbitrary detention. In one case, a young PRD political activist, Morelos Madrigal Lachino, was kidnaped by unknown persons dressed as policemen, held incommunicado for more than 3 days, and beaten before being released.

Generally, arrests may be made only upon authority of a judicially issued warrant. The law permits suspects caught in the act of committing a crime to be arrested without a warrant. It has been frequent police practice to arrest a suspect without a warrant even when not caught in the act and for judges to overlook the irregularity. That practice has only recently begun to abate with the dismissal of several cases based on improper arrests. In order for the protection against arbitraryarrest to be given full effect, human rights advocates assert that defense counsel must regularly raise the issue and judges must be prepared to recognize it.

Frequent credible reports continue to be made of human rights violations, including forced expulsions and unlawful arrests, in connection with conflicts in rural areas. These incidents often involve indigenous people evicted by landowners with local police and government support. In September 1991, a group of indigenous protesters and a Catholic priest were arrested by police during a protest in Palenque, Chiapas. After reportedly suffering beatings and other hardships, most were not charged and were released within several days. Several others were held for more than a month, and one for more than three months, before being released on suspended charges, the equivalent of receiving a pardon.

Exile of Mexican citizens is not normally practiced.

e. Denial of Fair Public Trial.—The Mexican judicial system is divided into federal and state court systems, with the federal courts having jurisdiction over most civil cases and those involving major felonies, including drug trafficking. The political opposition and many credible, independent analysts charge that, because judges' appointments must be renewed once before they are given tenure, the judiciary is overly dependent on the executive branch. The Government, in turn, denies that political beliefs have any bearing on the impartial administration of justice. Factors such as low pay and high caseloads contribute to continued corruption within the judicial system.

The Constitution requires that the court must hand down a verdict within 4 months of arrest for crimes that carry a maximum sentence of 2 years or less, and within a year for those with longer maximum sentences. The trial itself, sentencing, and appeals can delay the imposition of a criminal sentence for significant periods of time, sometimes adding a year or more to the entire process. Trial is by a judge, not a jury, in nearly all criminal cases. Defendants have a right to counsel, and public defenders are available. Other rights include protection against self-incrimination, the right to confront one's accusers, the right to a translator if one's native language is not Spanish, and the right to a public trial. Such protections are not always observed in practice. More attention has been paid to ensuring prompt arraignments of current suspects, although unlawful detention remains a widespread problem. The long trial process is one of the major causes of overcrowding in the prison system, as those who do not qualify for or cannot make bail swell the prison population.

A coalition of nongovernmental human rights groups called for an amnesty for many indigenous prisoners who, it is charged, are political prisoners denied access to fair trials because of language and cultural barriers, as well as poverty. The CNDH launched a program to seek early release for prisoners, including indigenous people, and to improve compliance by federal and state officials with legal requirements that indigenous people be represented fairly. The Government denies charges by human rights groups that many indigenous people are wrongly imprisoned, but it has released more than 500 in 1992 as part of the CNDH-sponsored early release program.

After disputed November elections in the state of Tamaulipas ended in protests, several opposition leaders were imprisoned and charged with committing acts of violence. Most were released, and charges against them were dismissed within 3 weeks of their arrests, but charges remained pending against several at year's end. The opposition claims that these leaders were falsely arrested for political reasons. While the National Front Against Repression (FNCR) stopped keeping a log of those it considers political prisoners, some observers continue to assert that there are political prisoners in Mexico, though the number continues to decline from the 33 reported by the FNCR in 1989. Historically, the FNCR claimed that most political prisoners in Mexico were peasants and peasant activists arrested in land disputes. The Government disputes the appellation "political prisoner," charging that most of those whom human rights groups claim to be political prisoners have been guilty of crimes such as terrorism, criminal association, and damage to property.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—Privacy and freedom from intrusion by the Government into homes, family, and correspondences are rights protected under Article 16 of the Constitution. Although search warrants are required by law, unlawful searches occur frequently in Mexico. Wiretaps placed in violation of the law were found in a meeting room in Morelia, Michoacan, that was to be used by the opposition Nacional Action Party (PAN) central committee. No convictions resulted from the ensuing investigation, and the Government denied any official involvement. Shortly afterward, however, the local representative of the Mexican National Security Agency stepped down, a move interpreted by opposition leaders as a result of the investigation of the incident.

Peasants and urban squatters involved in conflicts over land charged that local landowners, with the compliance of local political leaders and often accompanied by police or bands of civilian thugs, evicted them from their homes without appropriate judicial orders, often with violence. In Chiapas, according to the CNDH and other credible reports, local village leaders expelled from their villages indigenous people who converted from their traditional religion to evangelical faiths. Efforts by the state government supported by the Catholic hierarchy have not been successful in ending the expulsions, largely because the Catholic hierarchy has little influence in some nominally Catholic Indian communities, and because the Government found it difficult to force reintegration into small communities of people who have been ostracized for their beliefs.

Section 2. Respect for Civil Liberties, Including

a. Freedom of Speech and Press.—Freedom of speech and of the press are provided for by the Constitution. Opposition leaders freely voice their criticism of the Government, and there are a large number of newspapers and magazines with a wide range of editorial views. However, there are significant restrictions on these freedoms.

The Government's control of a significant advertising budget and its ability to reward favored journalists by providing them access enabled it to use that leverage to discourage unfavorable reports. Also, a number of journalists depend upon receipt of under-the-table payments from the often public entities they cover to supplement low wages. But at least one newspaper revised its wage and advertising revenue distribution policies to reduce or eliminate abuses. Recently, the Government announced that it would no longer cover expenses incurred by reporters accompanying the President on his travels abroad. Plans to privatize two of three remaining government-owned television stations and the government-owned newspaper El Nacional had not been carried out by December. After the planned sales are completed, the Government would retain control of an educational television station and another, cultural station will continue to be run with government funding by an independent board headed by leading intellectuals.

The Federal Electoral Code provides opposition parties during an electoral campaign with 15 minutes per month of television time and additional time in proportion to their electoral strength. Despite that provision, the opposition asserts that media coverage is unbalanced and argues that campaign media spending should be controlled. Opposition political parties and independent observers charge that Mexico's two principal television networks, one government owned and the other privately owned, accord the government party inordinate news coverage, particularly at election time.

Violence and threats against journalists continued to be a serious problem in 1992. In the Yucatan, unidentified persons vandalized the offices of a publisher of a newspaper; he received a package bomb shortly after calling for an investigation into the violent eviction by police of protesters from the main town square. The police identified no suspects. As already noted, the death in July 1991 of physician and columnist, Victor Manuel Oropeza Contreras remains unresolved. Two suspects charged with the murder were released in 1992 in compliance with a recommendation from CNDH, and charges are now pending against several police officials accused of fabricating a case against the two. A new prosecutor was named to lead the case in September.

The first stage of a CNDH study of attacks on journalists concluded in 1992, and a second was begun. In response to a complaint by the Union of Democratic Journalists, the Commission began an inquiry in 1990 into 55 cases of alleged denial of human rights to journalists. In December 1992, the CNDH updated its report on that first stage and announced that it had embarked on a second stage, investigating 22 new cases. Of the 55 original cases, 40 were concluded and police investigations pursuant to Commission recommendations continue in the remaining 15. Of those 40 concluded, 12 were dropped from the study as not involving journalists or after a finding that the incident involved a private dispute. The murderers have been convicted in 10 cases, trials are pending against private suspects in 3 cases (including the murders of Manual Buendia and Javier Juarez Vazquez), and suspects have been identified in 2 others. Five were dismissed after findings of not guilty, two private citizens accused of murder were acquitted for acting in self-defense, six cases were achieved for lack of evidence, and one policeman was convicted of battery. In none of the cases did the CNDH establish evidence of a political motive. One of the cases, that of Hector Felix, was closed after two men (not public servants) were convicted of murdering him and sentenced to terms of 25 and 27 years. Later, the case was reopened to consider new evidence that others were involved. Six killers involved in the 1986 murder of PAN journalist Linda Bejarano were sentenced to 25- to 27-year terms.

b. Freedom of Peaceful Assembly and Association.—The Constitution grants the right of peaceful assembly for any lawful purpose. A government permit is generally required for major demonstrations. The Government, with few exceptions, permits demonstrations by a broad range of political groups.

c. Freedom of Religion.—The Constitution permits persons to practice the religion of their choice. In January a constitutional amendment was adopted that transformed the legal relationship between church and state in Mexico. Applicable to all faiths, the amendment permits religious entities to acquire legal standing and authorizes them to own property and to run private schools. It permits clergy to vote and wear religious garb in public. These had been illegal since the passing of antichurch laws in the late 1920's but tolerated in practice. The clergy remain barred from holding public office and advocating partisan political positions. Legislation implementing the constitutional change restricts the rights of churches to own businesses and communications media and sets rules for acquiring legal status as a religious association. Individual clergy may be political candidates, but only after a period of separation from their religious roles.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.—Movement within and outside the country is unrestricted. The Government has customarily admitted persons recognized as refugees by the U.N. High Commissioner for Refugees. Approximately 43,000 Guatemalan refugees reside in camps and resettlement areas in three southern Mexican states. Since 1990 they have been permitted to accept work outside their camps and may travel freely in the five-state area of Chiapas, Campeche, Quintana Roo, Tabasco, and Yucatan. The Government estimates that an additional 400,000 Central Americans, mostly Guatemalans and Salvadorans, are living and working in Mexico. These pre-1990 undocumented Central Americans lead a precarious existence, are subject to deportation when caught, and are often exploited as a source of cheap labor. Changes in the 1991 Mexican law governing refugee status did not have a measurable impact on the pre-1990 population of Central American immigrants in Mexico.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Since 1929, Mexico's Government has been controlled by the PRI, which has won every presidential race and every gubernatorial race except the 1989 Baja California Norte election and the 1992 Chihuahua election. (The third opposition governnorship, that of Guanajuato, was in interim appointment by President Salinas in 1991.) To maintain power, the PRI has relied on extensive public patronage, the use of government and party organizational resources, and, according to respected independent observers, electoral fraud.

Eleven governors were selected in 1992, and elections were held for several state legislatures and numerous municipal governments. The most hotly contested races were in the states of Chihuahua and Michoacan. In Chihuahua, the national Action Party candidate won the election in a tight, but apparently clean, election that contrasted sharply with elections in the state 6 years ago when the PAN claimed that its victory was stolen. The Government was responsive to opposition complaints of irregularities before the election, replacing PRI candidates who did not fulfill residency requirements and arresting two government officials who were caught illegally possessing voting credentials. The PAN candidate's clear victory was accepted by the PRI the day after the election.

In contrast to the election in Chihuahua, the Michaocan gubernatorial and state Congress election was dominated by controversy and by allegations of fraud, some of which were credible. Even before election day, the PRD accused the PRI and the government of massive, unfair campaign spending; denying PRD sympathizers the right to vote by removing their names from the official list of voters or not providing them voter credentials; and stacking the election oversight organs with PRI supporters. After the PRI was declared the winner in the gubernatorial and 17 of 18 congressional races, the opposition filed dozens of formal complaints with the state election tribunal, challenging the results from over a third of the voting precincts. However, the state electoral tribunal dismissed all the complaints in a pro forma manner. Moreover, the state electoral college convened secretly—without inviting PRD congressmen—to ratify the PRI candidate's gubernatorial victory, and the congressional electoral college ratified the legislative elections despite lacking a quorum as stipulated by the state electoral law. Because their demands were not met through the legal review process, the PRD took their complaints to the street, resulting in extensive public demonstrations throughout the state. Under continued opposition pressure, PRI governor Eduardo Villasenor announced he was taking a 1-year'sleave of absence, effectively stepping down, and an interim governor was appointed. PRD and PRI negotiators then agreed on ground rules for the December municipal elections designed to avoid a repetition of the gubernatorial race protests. The plan included choosing local election officials by agreement, equal access to the media, and spending restraints. Nonetheless, the PRD also lodged protests in the aftermath of the December 6 municipal elections in Michoacan, claiming irregularities occurred in over 24 municipalities.

Credible allegations of election fraud were also made in several other state elections notably in Durango, Veracruz, and Tamaulipas. In Durango, the PAN complained of illegal pressure on voters to support the PRI. In Veracruz, the PRD said the PRI padded its victory margin, and in Tamaulipas, the opposition coalition candidate denounced the failure of electoral review panels to consider opposition objections. Most observers agreed that such irregularities did not affect the outcomes in these elections.

The electoral process is still heavily weighted in favor of the PRI; nevertheless, in recent years there have been improvements in the federal electoral law, COFIPE. Passed in 1990, COFIPE introduced several changes into the electoral process, including the complete renovation of the official list of voters and distribution of over 36 million voting credentials to eligible voters. COFIPE also strengthened opposition political party representation at the Federal Electoral Institute, which supervises federal elections, and created a Federal Electoral Tribunal (TFE), an autonomous oversight commission that rules on electoral-related disputes.

Many Mexicans do not have confidence that government electoral oversight and review organs will act impartially. Consequently, nongovernmental human rights organizations and civic and academic groups have taken it upon themselves to serve as independent electoral watchdogs. For example, during the Chihuahua gubernatorial elections, the Council for Democracy, a loosely aligned group of academics, journalists, and politicians, organized a "quick count" of the vote results in the state; its results mirrored the official results. Teams of citizen observer groups also fanned out into several states during the year to serve as independent election monitors.

Despite improvements, the opposition and independent observers continued to assert that the laws do not ensure fair elections. The opposition's strongest criticism continued to be the charge that the official lists of state voters were manipulated by inflating the number of PRI voters, removing the names of opposition supporters, or not delivering voting credentials to them. Opposition allegations of electoral errors were bolstered by the Government's failure to report election results on time and its inability to deliver credentials to everyone who met the registration requirements. The Government responded to opposition pressure by agreeing to discard the existing official voter list, which was only used in one federal election, to compile a new official list of voters, and to issue new voter credentials which for the first time will have a photograph of the holder. These credentials will be used in the 1994 presidential election.

Opposition and independent observers also lodged credible complaints that the Government used public resources to support campaigns of PRI candidates and frequently used patronage, particularly in the form of the Government's social services and development program—the National Solidarity Program (PRONASOL)—for partisan political advantage. In hotly contested elections during the past year, the PRI spent millions of dollars on the campaign, sometimes outspending the opposition by as much as 30 to 1. While this is not illegal in Mexico—Mexico does not have laws regulating campaign spending—critics charge that this imbalance has worked against growing democratic pluralism. President Salinas announced in his November 1 State of the Union speech an initiative to limit campaign spending, advance the impartiality of electoral authorities, ensure separation between the government and the parties, and ensure equal access to the media. The PRI has already begun to obtain alternative financing through public fundraising, but it remains to be seen how fully these initiatives will be implemented.

Under Mexican law, indigenous peoples have the same political rights as all other Mexican citizens. They do not live on independently governed reservations, although many indigenous communities continue to exercise considerable local control over economic and social issues. These communities continue to apply their traditional law to resolve a variety of disputes, including allegations of crimes.

While there is no separate indigenous political party in Mexico, in many states—particularly Chiapas, Oaxaca, and Guerrero—indigenous voters make up an important percentage of the populations. Traditionally, indigenous voters strongly backed the ruling PRI. In return for this support, in many areas the Government permitted the local autonomy noted above. Opposition politicians and human rights advocates stepped up their criticism of elections in indigenous areas, arguing that the reportedresults often reflect distortion of the voting process and not a genuine consensus to support the PRI.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government permits both domestic and international human rights groups to operate in Mexico without restrictions or harassment. However, human rights monitors continued to be subject to threats, which must be taken seriously since activists in past years were subjected to violence and in some cases killed. In October and November, well-known human rights advocate Teresa Jardi received five death threat letters, urging her to leave Mexico. She met with President Salinas, who lauded her work, denounced the threats, and set in train an investigation into the threats. Together with the killing of Quintana Roo journalist Ignacio Mendoza (mentioned above), the Jardi threats were the most serious attack on human rights monitors in 1992.

Ranking Mexican officials routinely meet with domestic and international human rights activists to discuss rights problems. In June 1990, President Salinas established the semiautonomous National Commission on Human Rights and appointed respected jurist Jorge Carpizo Macgregor as its president. In January 1992, constitutional reforms took effect making the CNDH legally independent. The Commission's advisory council is composed of respected human rights leaders, and Dr. Carpizo has received strong support from President Salinas for CNDH efforts.

The Commission's mandate, however, does not provide it jurisdiction over labor or electoral matters, nor does it have prosecutorial powers. The CNDH, which calls itself an ombudsman, must rely upon the pressure of public opinion and the accuracy of its investigations to induce compliance with its recommendations to state and federal authorities to investigate and prosecute transgressors. Since announcing in June 1992 that too many of its recommendations had been only partially completed, the CNDH has pursued an aggressive campaign to force compliance. In its reports for 1992, the Commission noted that of the 412 recommendations it has issued since it began work in June 1990, 160 have been accepted and fully complied with, 228 accepted but not yet fully implemented (106 of which were issued in the last 6 months), and only 8 had not been accepted by the authorities to which they were addressed. Human rights activists claim that the Government of Mexico should take concrete steps to ensure that public officials who are accused of human rights violations are prosecuted and not transferred to another jurisdiction, or dismissed in one and then rehired in another. The Government has publicly recognized this problem and has announced its plans to develop a national register of police to confront it.

There are more than 90 nongovernmental human rights organizations active in Mexico. In addition to assisting individual victims of human rights abuse, such organizations have become increasingly active in monitoring elections. Recognizing the advances by the CNDH in the protection of human rights, they decry its lack of jurisdiction in electoral matters and have moved to fill that gap. Their leaders assert that ensuring fair and free elections is the best way to improve the administration of justice and to ensure that human rights violators are prosecuted. Under the constitutional change making the CNDH independent, state human rights commissions will be created by legislation in all 31 states. These entities will handle matters arising under state law, although the National Commission will continue to have review authority.

Section 5. Discrimination Based on Race, Sex, Religion, Language, or Social Status

Mexico takes pride in its Spanish and indigenous origins and in the success the country has achieved in fostering a climate of racial harmony. Indigenous groups, many of which do not speak Spanish, are encouraged to participate in political life, and the Government is respectful of their desire to retain elements of their traditional lifestyle. However, these groups remain largely outside the country's political and economic mainstream, a result not of overt governmental discrimination but rather of longstanding patterns of economic and social development. Reform this year of the Mexican Constitution's provision on agriculture, which resulted in the announcement that there is no remaining open land free to be distributed to peasants through government expropriation or grant, may make it more difficult for Indian groups to acquire new land and may increase pressure on those with good lands to sell. As noted earlier, human rights groups continue to complain with some justification that indigenous defendants in criminal cases are not treated fairly, despite the 1991 amendment to federal law requiring an interpreter at every stage of a criminal proceeding for indigenous peoples not fluent in Spanish.

Historically, women in Mexico have played a subordinate role, economically, politically, and socially. Women are becoming increasingly active economically and politically; one woman is a member of President Salinas' Cabinet, another holds the number two position in the PRI, and others are key congressional and union leaders. Legally, women are equal to men. They have the right to file for separation and divorce and to own property in their own name. The Constitution provides for equal pay for equal work and for maternity leave.

Domestic assault is a crime, but in practice—largely due to social tradition—women are often reluctant to file reports of abuse or to press charges. Police are reluctant to intervene in what is often considered a domestic affair. The CNDH has included programs and publications on women's rights in its training and education campaign, and the Center Against Violence Toward Women (COVAC) has worked to encourage rape victims to come forward and report sexual crimes. Encouraged by the 1991 changes in the law defining rape, stiffening sentences for offenders, and guaranteeing reparations for victims, women's groups are now seeking legislative reform of the family and civil codes regarding domestic violence and sexual harassment at the workplace.

Section 6. Worker Rights

a. The Right of Association.—The Constitution and specific provisions of the current Federal Labor Law (FLL) give all workers the right to form and join trade unions of their own choosing. Unions must register with the labor secretariat or equivalent state government authorities. In theory registration requirements are not onerous, involving the submission of basic information about the union in order to give it legal status. There have been repeated allegations by labor activists, however, that the federal and state labor authorities improperly use this administrative procedure to withhold registration from groups considered disruptive to government policies. Privately, trade unionists supportive of the Government and even employers say this occurs.

About 30 to 35 percent of the total Mexican work force is organized in trade unions, most of which are members of several large union confederations, known as labor centrals. Mexican unions may join together freely in labor centrals without the Government's prior approval but require registration in order to have legal status. As with union registration, there is evidence this requirement can be misapplied to function as a restriction. It took from early 1990 until September 4, 1992 for one new labor central whose members were all well established, registered trade unions, to obtain its registration. In this case, although the new central's member unions were all Labor Congress (CT) members, they had been outspokenly critical of traditional leadership of the Congress.

The largest Mexican trade union organization is the Confederation of Mexican Workers (CTM), organizationally a major supporter of the PRI. All PRI-affiliated federations, such as the CTM, and a number of autonomous unions (a total of 37 organizations) belong to the CT, a trade union coordinating body which represents approximately 85 percent of Mexico's organized workers.

The tradition of a significant presence of union officers in the Government, especially in elected positions, and the continued union influence in the nominating process for PRI candidates at all levels of government, perpetuates a symbiotic relationship that limits the freedom of action of unions. For example, union officers, support government economic policies and PRI political candidates in return for having a voice in policy formation. When systemic reforms were instituted in the late 1980's, however, the mainstream labor organizations began to lose strength within the ruling PRI. After the August 1991 federal legislative elections, in which fewer than usual PRI labor candidates participated, the percentage of CT senators and deputies in the federal congress fell to less than 10 percent. In 1992, only one labor leader was named as a PRI gubernatorial candidate. This, and the reality of privatization and economic restructuring of the economy, have prompted a debate within the CT about how best to adjust to changing circumstances.

Mexican law grants workers the right to strike. The FLL requires as a first step that a 6- to 10-day strike notice be filed, followed by a brief, government-sponsored medication effort. If a strike is ruled illegal, employees must return to work within 24 hours or face dismissal for cause. On the other hand, once a legally recognized strike occurs, by law the company (or its subunit) that is the strike target must shut down totally. Even management officials may not enter the premises until the strike is resolved.

The FLL also permits strikes by public sector employees, although this rarely occurs. Strike figures for 1992 are expected to be higher than for 1990 or 1991, mainly due to prolonged strikes within the cotton textile industry and at a large Volkswagen plant. During 1991, strike activity was low; 7,006 notices of intent to strikewere filed with the Federal Board of Conciliation and Arbitration (JFCA), and 136 actual strikes occurred. The comparable figures for 1990 were 6,395 strike notices and 149 strikes.

Labor leader Agapito Gonzalez Cavazos was arrested in January 1992 in Matamoros. He was accused of tax fraud but, since his union had just instituted legal strikes against a number of "maquiladora" (in-bond export) plants with expired labor contracts, his supporters charged harassment. Mexican government officials denied this. Due to his advanced age and health problems, Agapito Gonzalez was kept under a loose form of house arrest in a private hospital in Mexico City while government prosecutors and his own lawyers worked on his case. He was released on bond in mid-October 1992 and resumed his union activities in Matamoros.

Unions and labor centrals are free to join or affiliate with international labor organizations and do so actively.

b. The Right to Organize and Bargain Collectively.—The FLL strongly upholds the right to organize and to bargain collectively. On the basis of only a small showing of interest by employees, an employer must recognize the union concerned and make arrangements either for a union recognition election or proceed immediately to negotiate a collective bargaining agreement, and such agreements are commonplace. According to the employers, FLL bias on this point is so pronounced that it has led many of them to encourage company unionism as an alternative to organization by national or local unions affiliated with the dominant labor centrals. Union representation elections are traditionally open (not secret), and votes are recorded by name. Management as well as competing trade union officials are with the presiding JFCA official when each and every worker votes.

The public sector is almost totally organized. The degree of private sector organization varies widely by states. While most traditional industrial areas are heavily organized, states with a small industrial base usually have few unions. Workers are protected by law from antiunion discrimination, but this law is unevenly enforced, especially in states with a low degree of unionization.

The rate of unionization of maquiladora industries varies by area, but is comparatively low. The Attorney General for Human Rights of Baja California attributes the low rate of unionization of maquiladoras in his state to the fact that the relatively good wage and benefit packages of the large maquiladoras reduce the incentives to unionize. However, other observers report abject working conditions and inadequate wages in these industries and allege government as well as employer efforts to suppress unionization. There is, however no credible evidence that the central Government has suppressed the unionization of maquiladoras. There are indicators that some state and local government figures and business leaders have discouraged unionization in their respective areas. Critics correctly point out that it is difficult to explain the low level of unionization in some states, given the ease of unionization under the law, yet the trade unions have not instituted any complaints either with the Government or with the International Labor Organization (ILO).

c. Prohibition of Forced or Compulsory Labor.—The Constitution prohibits forced labor. There have been no credible reports of forced labor for many years.

d. Minimum Age for Employment of Children.—The FLL sets fourteen as the minimum age for employment by children. Children from 14 to 15 may work a maximum of 6 hours, may not work overtime or at night, and may not be employed in jobs deemed hazardous. In the formal sector, enforcement is reasonably adequate for large and medium-size companies; it is less certain for small companies. As with employee safety and health, the worst enforcement problem is with the many very small companies. Eighty-five percent of all registered Mexican companies have 15 or less employees, and 80 percent have 5 or less employees, indicating the vast scope of the enforcement challenge just within the formal economy.

Illegal child labor is largely found in the informal economy, which includes significant numbers of underage street venders, employees in very small businesses, and workers in rural areas. The ILO reports that approximately 18 percent of Mexican children age 12 to 14 work. Often such children work for their parents or other close relatives. In addition, small-scale employers prepared to disregard company registration, social security, health, safety, and tax laws are often equally prepared to violate child labor laws.

In 1992 the Mexican Government increased from six to nine the minimum number of years that children must attend school. The move was part of a major educational reform effort designed, in large part, to upgrade the skills of the Mexican labor force. The Government recognizes as a long-term goal the need to continue increasing educational opportunities for youth.

e. Acceptable Conditions of Work.—The Constitution and the FLL provide for a minimum wage for workers, which is set by the tripartite National Minimum Wage Commission (government, labor, employers). In December 1987, the major labor centralsand unions, along with employers, agreed to a temporary tripartite accord with the Government to limit price and wage increases to compensate for purchasing power losses caused by inflation. The accord has since been renewed annually. By 1991 annual inflation was reduced to 19 percent and was expected to be about 12 percent for 1992. Wages set by collective bargaining agreements and white-collar salaries in the private sector generally kept pace with inflation even though the minimum wage has not. Since the financial collapse of 1982, the minimum wage ceased being adequate. Recent data on urban areas indicate that 14 percent of urban workers earn less than one minimum wage, 41 percent earn between one and two minimum wages, and 32 percent earn between two and five minimum wages.

The FLL sets 48 hours as the standard legal workweek. The FLL provides that workers who are asked to exceed 3 hours of overtime per day or work any overtime on 3 consecutive days must be paid triple the normal wage. For most industrial workers, especially unionized ones, the real workweek has declined to about 42 hours, although they are paid for a full 48 hours. (This is why unions jealously defend the legal ban on hourly wages in favor of daily wages.)

Mexico's legislation and rules regarding employee health and safety are relatively advanced. All employers are bound by law to observe the "General Regulations on Safety and Health in the Workplace" issued jointly by the Secretariat of Labor and Social Welfare (STPS) and the Mexican Institute of Social Security (IMSS). In addition, in late 1991 the maquiladora associations in northern border states agreed to cooperate in a special program with STPS and IMSS health and safety experts to help their member companies overcome any deficiencies in their compliance.

The focal point of standard setting and enforcement in the workplace is in FLL-mandated bipartite (management and labor) safety and health committees in the plants and offices of every company. These meet at least monthly to consider workplace safety and health needs and file copies of their minutes with federal or state labor inspectors. Government labor inspectors schedule their own activities largely in response to the findings of these workplace committees. Individual employees may also complain directly to the Office of Labor Inspection or the General Directorate of Medicine and Safety in the Workplace. Workers may remove themselves from hazardous situations without jeopardizing their employment. Complaints may be brought before the Federal Board of Conciliation and Arbitration at no cost to the plaintiff. Mexican labor and social security officials report that compliance is reasonably good by most large companies, both foreign-owned and domestic. Most compliance difficulties occur with small businesses, few of which export any goods or services.

Mr. HOLLINGS. I am making this presentation today so that this Congress can open up its eyes. Finally, I cite the June 1993 report by Amnesty International titled, "Mexico: The Persistence of Torture and Impunity." I ask unanimous consent that this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD as follows:

[From Amnesty International, June 1993]

MEXICO: THE PERSISTENCE OF TORTURE AND IMPUNITY

INTRODUCTION

In September 1991 Amnesty International published Mexico: Torture with impunity, (AI Index: AMR 41/04/91), which summarized the organization's concerns about the extensive practice of torture and ill-treatment by Mexican law-enforcement agents. The publication also included a series of recommendations to the Mexican authorities to help end such abuses. The report launched an Amnesty International campaign against torture and impunity in Mexico.

Since the publication of the report the Mexican Government has adopted legislative and administrative measures which, if effectively implemented, would satisfy some of the recommendations which concluded AI's report. Such measures have included the Law of the National Human Rights Commission (Ley de la Comisión Nacional de Derechos Humanos); enacted in June 1992, which provides for the office's Constitutional status and formal independence, and for the creation, within a year, of similar commissions in every Mexican state, and also the reforms to the Ley Federal para Prevenir y Sancionar la Tortura, Federal Law to Prevent and Punish Torture. Also, the Mexican authorities, including President Carlos Salinas de Gortari, have continued to make public statements vowing to curb the practice of torture and to end the impunity benefiting the perpetrators.

However, despite these positive measures, the widespread use of torture and ill-treatment by law-enforcement agents has continued to be reported in Mexico.

These continuing violations led to strong criticism of Mexico's human rights record by the United Nations Committee Against Torture (CAT) during its November 1992 meeting, when Mexico presented its first periodic report before that body and described the measures it had adopted to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Although the Committee welcomed certain measures adopted by Mexico—including the creation of the National Human Rights Commission—it noted that torture and impunity appeared to be extended in Mexico. The Committee called on the government to take effective steps to enforce the reforms which had been adopted.

Amnesty International has also continued to receive evidence of widespread torture in Mexico. Since the publication of Mexico: Torture with impunity, the organization has continued to monitor the human rights situation there very closely and has sent two delegations, in February and in August 1992, to look into continuing allegations of torture and other human rights violations. The delegates who visited Mexico in February 1992 travelled to remote rural areas to investigate reports about torture and other abuses against peasants and members of indigenous communities. The second delegation carried out research into reports of torture and other violations in the context of the administration of justice, and visited several prisons in the country. Both delegations found evidence confirming reports of continuing torture and ill-treatment in Mexico, and the frequent lack of accountability of those responsible.

REFORMS ADOPTED TO REINFORCE THE PROHIBITION OF TORTURE IN THE MEXICAN CRIMINAL JUSTICE SYSTEM

Increasing complaints about the apparent ineffectiveness of the 1986 Federal Law to Prevent and Punish Torture (see page 28 of Mexico: Torture with impunity) led to its modification in December 1991. No government official had apparently ever been sentenced under that law despite hundreds of complaints of torture presented to the authorities since its enactment. The reforms, enacted in January 1992, have incorporated new safeguards to protect criminal defendants from torture or other forms of coercion during criminal investigations; have increased the penalties for the crime of torture to up to 12 years' imprisonment, and include provisions for the payment of compensation to the victim's by the culprit/s. Together with reforms to the Código Penal Federal, Federal Code of Penal Proceedings and to the Código Penal del Distrito Federal, Federal District Code of Penal Proceedings, enacted in 1991 (which, among other things, provide for interpreters for non-Spanish speaking criminal defendants), these legislative measures adopted by the Mexican Government to curb human rights violations have expanded the Constitutional safeguards against torture.

LIMITATION OF THE REFORMS

Amnesty International has welcomed the legal and administrative reforms announced by the Mexican Government but the organization remains deeply concerned that torture is still widespread and torturers are rarely held accountable for their actions.

Abuses by law enforcement agents

Most of the reports of torture and other human rights violations received by Amnesty International have continued to occur in the context of the administration of justice, principally during the investigative and prosecutorial phases of criminal proceedings (see page 37 of Mexico: Torture with impunity). The early stages of criminal investigations in Mexico continue to be under the exclusive responsibility of the Ministerio Público, district attorney or public ministry, an office which depends on the federal or state general attorney's office (procuraduría de justicia). Therefore, theministerio Público. which is responsible for the judicial police, has a monopoly over criminal prosecutions in Mexico: the office is in charge of investigating and prosecuting crimes under its jurisdiction; procuring, evaluating and presenting evidence before the courts: requesting that sentences be imposed, and ensuring that the legal rights and guarantees of defendants. including the right to due process, are fully respected. The office is also responsible for criminal investigations of human rights violations, including those committed by the police under its responsibility, something which reportedly precludes the objectivity of such investigations.

According to continuing reports received by Amnesty International, torture, ill-treatment and other forms of coercion are still used during the early stages of criminal investigations as a means of obtaining confessions. According to human rights monitors, torture and ill-treatment are still frequently practised by members of the judicial police in charge of an investigation. The most frequently reported methods of torture include beatings and kicks; forcible introduction of carbonated water into the victim's nostrils (Tehuacanazo); semi-asphyxiation with plastic bags (la bolsita), forcible submersion (pozole), and intimidation of the victim with death threats. Other methods reported to Amnesty International include electric shocks with electric prods; suspension from the wrists for prolonged periods and food deprivation.

Many of the victims are reportedly further coerced by the police, under threats of torture, to confirm and sign their forced confession already given before the Ministerio Público. In many cases known to Amnesty International, the district attorney in the Ministerio Público has turned a blind eye to these practices and, on some occasions, has reportedly been present while detainees were being tortured. This practice has been confirmed to Amnesty International by members of the federal judicial police, the Federal District judicial police and the state police interviewed by the organization's delegates who visited the country in August 1992. Therefore, the organization reiterates its recommendations to the Mexican authorities in this regard, included in page 49 of its report Mexico: Torture with impunity, under the sub-title: "Separate the authorities responsible for detention and interrogation".

Abuses in the administration of justice

Despite the legislative and administrative reforms adopted by the Mexican government to prevent the use of forced confessions in criminal proceedings, such illegally obtained statements continue to be admitted as evidence by most of the courts involved in such proceedings. Mexican jurisprudence, which gives priority to the initial confessions of a detainee regardless of the circumstances under which they are obtained, has still not been modified in this regard. In many cases reported to Amnesty International, the courts have failed to review statements reportedly obtained under duress, even when the defendant's claims of torture have been substantiated by medical certificates of the injuries.

For example, Pablo María Jonathan Molinet Aguilar, 18 a student and poet, was arrested on 24 March 1992 in Salamanca, Guanajuato, without warrant by members of the state's judicial police. He remained in incommunicado detention for several hours during which he was tortured with beatings, blows to the ears and death threats, and was forced to sign a blank statement. The Ministerio Público, who witnessed his arbitrary arrest, dismissed Pablo Molinet's complaints of torture and, based on his forced confession, presented the defendant to the courts, accusing him of murder. The Ministerio Público failed to respect the maximum period of pre-judicial detention, which should not exceed 24 hours: Pablo Molinet was presented to court on 26 March. 45 hours after his arrest. Pablo Molinet complained to the judge that he had been held incommunicado and tortured. He told the judge that he had been forced to sign a blank statement under torture (which was documented by two independent medical examinations.) Despite the well documented and serious irregularities surrounding Pablo Molinet's arrest and pre-judicial detention including incommunicado detention and torture and the lack of evidence other than his forced confession to substantiate the charges against him, he was remanded in custody in the local prison awaiting trial,

At the time of writing, Pablo Molinet Aguilar remains in prison awaiting sentence. Despite complaints presented to the state and national authorities, those responsible for his torture have not been brought to justice. A complaint on his behalf was also presented before the National Human Rights Commission in March 1992. On 5 April 1993, more than a year after the incident, the Commission issued a recommendation to the Guanajuato State authorities calling for an investigation into Pablo Molinet's arbitrary arrest and torture. To Amnesty International's knowledge the recommendation has not been complied with.

Other reforms, same abuses

Other reforms of Mexican legislation purportedly adopted to reinforce the protection of defendant's rights, particularly those intended to prevent arrests without warrants; to provide legal counsel from the moment of arrest and interpreters for non-Spanish speaking defendants; to provide for medical examinations of detainees, and to dismiss confessions as the sole evidence in criminal proceedings are frequently flouted.

For example, Amnesty International has continued to receive reports about non-Spanish speaking indigenous defendants who have had no access to an interpreter during their questioning by the police during their declarations before the Ministerio Público, nor during subsequent court hearings, but who have nevertheless been remanded in custody based on their supposed confessions.

Musician Manuel Manríqyez San Agustín, a member of the Otomí indigenous community of Ranchería Piedra Blanca, Tutotepec, in the State of Hidalgo, was arrested without warrant by the Federal District's judicial police in the city of Mexico on 2 June 1990. Manuel Manríquez, who spoke no Spanish at the time, remained incommunicado for four days under police custody and was brutally tortured with beatings, near asphyxiation, burns and electric shocks, and was forced to "sign" papers he could not understand. He was accused of murder and brought before a judge who, based on the defendant's "signed confession" remanded Manuel Manríquez San Agustín to the Reclusorio Preventivo Norte, a prison in Mexico City, on charges of murder. Despite the illegality of his detention and the clear signs of torture, which were later certified by a prison doctor, and the lack of evidence other than his signed statements without an interpreter to support the charges, Manuel Manríquez San Agustín was sentenced, in July 1991, to 24 years' imprisonment. The sentence was confirmed on appeal on February 1992, despite the lack of any further evidence. His case too was presented before the National Human Rights Commission which has not issued a statement on his behalf. Since his arrest, Manuel Manríquez has learnt to speak and read Spanish and, in September 1991, co-founded a human rights organization with other indigenous prisoners: the Comisión de Defensa Campesina e Indígena del Comité Ricardo López Juárez, which has actively campaigned on behalf of the rights of Indians and peasants imprisoned in the Reclusorio Preventive Norte and other prisons in Mexico.

Since his imprisonment, Manuel Manríquez has become increasingly involved in campaigning for an end of torture and other human rights violations in Mexico. For example, on the first of April 1993 he joined a huger strike carried out in several Mexican prisons by more than 50 prisoners. The detainees were calling for an end to torture, and for fair and prompt trials in the Mexican criminal justice system.

Human rights violations against members of indigenous communities

The victims of torture in Mexico come from most walks of life, but are usually from the poorest sectors of the population. Amnesty International has continued to receive reports of torture and other human rights violations against peasants and members of indigenous communities who often lack the power, knowledge or counselling to defend their individual right against abusive officials. They are the most frequent victims of the ineffectiveness of the reforms adopted by the Mexican Government to prevent such abuses.

For example, on 29 March 1993 thirteen members of the Tzotzil indigenous community of San Isidro el Ocotal, municipality of San Cristóbal de las Casas, Chiapas, were arbitrarily arrested by members of the Mexican Army who claimed the Indians were responsible for the murder of two army officers on 20 March 1993. The detainees remained incommunicado in military custody until their transfer to the headquarters of the Ministerio Público, district attorney, in San Cristóbal de las Casas on 30 March, where they remained in detention.

According to a report issued by the VII Mexican Army Region on 29 March, before the detainees had been presented to the prosecuting authority, they had "confessed" to their participation in the abduction, killing and disposal of the bodies of two army corporals who had allegedly discovered an illegal saw-mill, close to San Isidro el Ocotal, in an area where woodcutting is forbidden.

But according to the detainees and to reports from members of the community of San Isidro el Ocotal; from local human rights organizations, and from Samuel Ruiz García, Bishop of San Cristóbal de las Casas, a renowned campaigner for human rights, the thirteen Indians detained by the Army had been forced to confess, under torture and without an interpreter, to their participation of the killings.

San Isidro el Ocotal is a peasant community inhabited by 46 Tzotzil families. On the days following the abduction and killing of the two army officers, the community was reportedly besieged by an army unit which carried out arrests, raided houses without warrants and tortured several members of the community to obtain confessions of guilt of the murders. According to reports, torture included beatings and kicks, mock executions in front of relatives and threats of rape.

Following a campaign by local human rights activists on their behalf the thirteen Tzotzil detainees were released on 31 March for lack of evidence linking them to the murder they had been accused of by the army. According to reports, most of the detainees displayed injuries consistent with their allegations of torture. To Amnesty International's knowledge, those responsible for their illegal arrest, torture and ill-treatment have not been brought to justice, nor have the victims received any form of compensation, despite complaints on their behalf presented to local and national authorities.

Ineffectiveness of the recurso de amparo

The recurso de amparo, similar to a writ of habeas corpus (see page 45 of Mexico: Torture with impunity), has continued to be reported as ineffective in protecting detainees from torture during the initial or early stages of detention—reportedly as a result of the inherent delays in court proceedings. It has also proved to be an ineffective method to challenge court decisions based on forced confessions. For example, in the case of Manuel Manríquez San Agustín discussed above, the victim presented a recurso de amparo in February 1992 against the decision of the Appeal Court confirming his sentence. At the time of writing there is still no decision concerning his recurso de amparo at the time of writing. Manuel Manríquez San Agustín remains in prison in Mexico City and those responsible for his illegal detention and well documented torture have never been brought to justice, nor have they been removed from their posts.

In the case of Pablo Molinet Aguilar, also discussed above, a recurso de amparo was presented on his behalf before the judge on 20 April 1992. The judge ruled favorably on 3 August 1992 and recommended Pablo Molinet's unconditional release. The decision was based on the fact that he had been arrested without a warrant and that he had been coerced by the police to produce a statement of guilt. Despite this favorable ruling, the court in charge of Pablo Molinet's case decided against his release and ordered the trial to continue.

Finally, the recurso de amparo also continues to be largely inaccessible to vast sectors of the population who lack the resources and the legal counselling to pursue this legal remedy.

Torture in Mexican prisons

Amnesty International has also continued to receive reports about torture and ill-treatment in Mexican prisons. For example, on 28 June 1992 Pablo Rodríguez Santoy, 36, and Francisco Cejudo Pandilla, 27, two inmates at the state prison of San Luis Potosí, accused of preparing a prison escape, were tortured with beatings, kicks and threats of "disappearance" by the prison's director. The director allegedly accused the two of preparing a prison escape, although he never presented a criminal complaint against them. Instead, he ordered their confinement in punishment cells ("tapadas"), with no food, no sanitary facilities and no medical care. They remained in such condition for three days during which they allegedly suffered beatings by prison warders. The prisoners' condition was made known as a result of an enquiry requested on 2 July by a relative. Both men were then returned to their cells but continued to suffer harassment by prison officials, including members of the prison's psychology department, apparently interested in stopping their complaints. Following the public outcry about the case, the prison director was removed from his post. Also, the National Human Rights Commission issued a recommendation (97/1991) on behalf of the two inmates, calling for full investigations and the prosecution of the culprits. However, to Amnesty International's knowledge, neither the prison director nor other prison officials, who reportedly also participated in the torture and ill-treatment of prison inmates, have been brought to justice.

Mexican law prohibits the use of punishment cells, in any prison establishment or detention facility, although Amnesty International has received several reports of their continuing existence and use in a number of prisons in Mexico. For example, the existence of the punishment cells in the prison of San Luis Potosí where Pablo Santoy and Francisco Pandilla were confined had been reportedly denied by prison officials in the past. Their existence was officially acknowledged only after the public scandal which emerged as a result of the Santoy-Pandilla case. At the time of Amnesty International's visit to the prison in August 1992, when the delegates interviewed Pablo Santoy and Francisco Pandilla, the tapadas had been recently painted, and the prison officials interviewed denied their use as punishment cells.

IMMUNITY FROM PROSECUTION

Amnesty International continues to believe that the principal reason for the continuing practice of torture and ill-treatment in Mexico is the effective immunity from prosecution commonly enjoyed by law enforcement agents torture. The Mexican authorities, including the National Human Rights Commission, have stated only fully documented complaints of torture would be investigated, thereby failing to comply with their obligation to fully investigate all complaints of torture, as required under international human rights instruments signed and ratified by Mexico. Moreover, impunity has continued to benefit those responsible for some cases where fully documented complaints presented before the Ministerio Público have been supported by corresponding recommendations made by the governmental National Human Rights Commission.

For example, Amir Aboud Sattar was arrested without warrant on 14 June 1991 at his home in San Luis Potosí by federal judicial police officers and a delegate of the Procuraduría General de la República, Republic Attorney General's Office. During his transfer to prison he was tortured with beatings and kicks and was sexually abused. He remained in prison until 27 June, the first four days incommunicado and in a punishment cell. Following widespread complaints about Amir Aboud Sattar's illegal arrest and torture, a delegation of the Republic Attorney General's Office visited San Luis Potosí on 19 June to look into the case. The delegation interviewed the prisoner and ordered medical examinations, which found injuries consistent with the prisoner's allegations that he had been tortured. The delegation recommended the prisoner's immediate release and the prosecution of those responsible for his torture. In August 1991 Amir Aboud Sattar presented a complaint about his case to the National Human Rights Commission, which issued a recommendation (39/92) in March 1992, calling for those responsible to be brought to justice.

Despite the criminal complaints presented against those allegedly responsible for Amir Aboud Sattar's torture, and two official reports confirming the complainant's allegations, those responsible for Amir Aboud Sattar's illegal arrest and torture have not been brought to justice. Furthermore, on 8 July 1992 the Republic Attorney General's Office made a public statement contradicting its initial report on the case of Amir Aboud Sattar, which had been based on forensic findings and several testimonies. The new statement denied the victim's complaints of torture, claiming that these had been based on his "sexual fantasies" (fantasí as sexuales), and announced that the office would not prosecute those allegedly responsible. The next day, the National Human Rights Commission publicly rejected the Republic Attorney General's Office statements and called for the investigations to continue. To Amnesty International's knowledge, those responsible have remained at large.

Amir Aboud Sattar has now become a renowned human rights campaigner in San Luis Potosí, where he has helped to found the Centro Potosino de Derechos Humanos, the Potosí Centre for Human Rights, a non-governmental organization.

On 25 January 1992, the Mixe and Zapotec indigenous community of Trinidad in Yaveo, in the state of Oaxaca, was raided by several members of the state judicial police who arrested six people, threatened several others including children, and arbitrarily killed Tomás Diego García (See Mexico: Human Rights violations against members of the Mixe and Zapotec indigenous community of La Trinidad Yaveo, Oaxaca, AI Index: AMR 41/01/92). Those arrested were tortured, forced to sign confessions and all except one were remanded in custody on charges of murder. As a result of growing public outcry about the case, the state authorities released those in detention, but have thus far failed to bring to justice those responsible for the torture of members of the community, and for the arbitrary killing of Tomás Diego García.

On 26 March 1992 the National Human Rights Commission published recommendation 52/92 to the Oaxaca state authorities, calling for full investigations into the case, and for those responsible to be brought to justice. In a report published in June 1992, the National Human Rights Commission claimed that the authorities had partially complied with recommendation 52/92, although there was no indication that any official had been brought to justice in connection with the torture or the killing. In October 1992 the Commission informed Amnesty International that the state authorities had not prosecuted those responsible for the crimes in La Trinidad Yaveo because the victims and their relatives had failed to present criminal complaints. This explanation was apparently considered satisfactory by the Commission, despite Mexico's obligations under the international human rights instruments it has signed and ratified—including the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—to investigate every case of suspected torture and homicide by government officials, irrespective of any complaint.

Amnesty International—which had recommended to the Mexican authorities in its report Mexico: Torture with impunity that the absence of a complaint should not deter a criminal investigation into alleged human rights violations—is deeply concerned about the lack of criminal procedures against those responsible for the brutal torture of six members of the indigenous community of La Trinidad Yaveo, and for the arbitrary killing of Tomás Diego García. The organization is also concerned about the lack of compensation for the victims and the relatives of the deceased in this indigenous community.

Amnesty International continues to be deeply concerned about the effective impunity which benefits many of those responsible for gross human rights violations in Mexico. Despite recent announcements by the Mexican authorities that several members of the security forces, particularly the federal judicial police, had been dismissed and prosecuted for criminal offenses including torture and other human rights violations, at the time of writing in late May 1993 many officials under criminal investigation remain at large and to Amnesty International's knowledge no official has yet been convicted for torture in Mexico.

In its report Mexico: Torture with impunity Amnesty International also recommended that any law enforcement agent charged in connection with the crime of torture should be immediately suspended from duties directly related to arresting, guarding or interrogating detainees. In August 1992 the Director General de Prevención y Readaptación Social, General Director for Prevention and Social Re-Adaptation, told Amnesty International's delegates that there was no effective mechanism within the Mexican security forces to ensure that officers who are dismissed for human rights violations are not re-employed and given similar duties, particularly in relation to detainees. The organization is deeply concerned about the continuing failure to effectively dismiss many of those officials responsible for torture and other human rights violations, and to effectively prevent their re-employment by other governmental security agencies.

LACK OF EFFECTIVE COMPENSATION FOR VICTIMS

Despite legal reforms enshrined in the federal law to prevent and punish torture, which provide for compensation for victims, Amnesty International knows of only one case where a victim of torture and gross miscarriage of justice has received satisfactory official redress: that of Joaquín Gallegos, also know as Joaquín Capetillo Santana, who had been arrested in the town of Villahermosa by the police in May 1986, when he was 13 years old. Following his arrest Joaquín was brutally tortured and detained under false charges based on his forced confessions (see page 7 of Mexico: Torture with impunity). Joaquín was never sentenced but remained in an adult's prison until his release in November 1991, following growing public outcry against his detention and torture. The organization has welcomed the Tabasco state authorities' decision to release Joaquín free of charges, and provide him with compensation, but the organization is still deeply concerned that those officials responsible for Joaquín's torture and for gross abuse of internationally recognized standards for the administration of justice, including the International Covenant on Civil and Political Rights, have not been brought to trial.

Accordingly to several human rights monitors and government officials interviewed by Amnesty International's delegates in Mexico, the organization's campaign against torture had helped to ensure Joaquín's release and compensation, which consisted of a sum of money to ensure adequate treatment for the injuries and psycological trauma he had suffered during so many years of unjustified detention. Joaquín is presently working on behalf of children's rights in Mexico.

Meanwhile, scores of victims of torture in Mexico have not received any form of compensation even after their torture and ill-treatment has been acknowledged by the authorities.

For example, Guadalupe López Juárez was brutally tortured with her son Ricardo López Juárez in June 1990 by members of the Federal District judicial police and a special attorney. Ricardo died on 24 June 1990 as a consequence of injuries sustained under torture (see page 14 of Mexico: Torture with impunity). Three policemen and the attorney were arrested and tried for Ricardo's murder, but despite the official acknowledgement of Guadalupe's abduction and torture by the police, nobody has been sentenced for her torture; she has not received compensation, nor has the family received any official reparatory measure for Ricardo's brutal killing.

In November 1990 Guadalupe López Juárez was awarded a medal by her municipal council for her continuing struggle for justice on behalf of her son and against human rights violations in Mexico. In 1990 a group of prison inmates in the Reclusorio Preventivo Norte, the prison in Mexico City where Ricardo had been detained, founded a human rights commission which they named in his honour. However, such public sympathy for the victims did not prevent further harassment of Guadalupe's family. In July 1992 another son Julio Octavio, 14, was reportedly abducted in the streets of Mexico City by unknown men, who questioned him under threats about her mother's activities on behalf of Ricardo. Nobody was brought to justice for this incident. Since August 1992 the family has reportedly not received any threats or harassment.

THE NATIONAL HUMAN RIGHTS COMMISSION

Amnesty International has welcomed the Mexican Government's decision to grant Constitutional status to the National Human Rights Commission and to create similar offices in each and every state. The government has also provided the commission with substantial resources which include more than 400 staff and a modern building in the outskirts of Mexico City.

Nevertheless, Amnesty International remains deeply concerned about the repeated failure of the Mexican authorities to fully comply with the Commissions' recommendations. For example, in the first two years after its creation, the National Human Rights Commission received 10,244 complaints of alleged human rights violations and issued 269 recommendations based on 235 cases. In its report published in June 1992 the Commission expressed its concerns that 136 of its recommendations had not been fully complied with. These concerns were again made public by the Commission in a report published in September 1992.

Also, although Amnesty International welcomes the Commission's statements calling for full compliance with its recommendations, the organization is concerned that in a number of instances the Commission has reported that recommendations have been fulfilled despite indications to the contrary. For example, in the case of Ricardo López Juárez (see above), the National Human Rights Commission issued recommendation 15/91, calling for full investigations to bring all those responsible to jsutice, including the director of the prison establishment where Ricardo López Juárez had been detained and the forensic doctor/s who falsified his death certificate. Although Amnesty International has welcomed the investigation into the case which helped to confirm Ricardo López Juárez' death under torture, the organization remains deeply concerned that several of those allegedly responsible have never been brought to justice. According to reports, the prison director allegedly responsible for allowing the torture of Ricardo López Juárez was never brought to justice, and was instead promoted in the second half of 1992 to the post of Deputy Commander of the Federal District's judicial police.

In the case of the possible extra-judicial executions of the three brothers Erik Dante, Jaime Mauro and Héctor Ignacio Quijano Santoyo, and the torture of the latter, by members of the federal judicial police in Mexico City on 14 January 1990, the National Human Rights Commission issued two recommendations (3/1991 and 50/1992) to the General Attorney's Office calling for full investigations and for those responsible to be brought to justice. To Amnesty International's knowledge, no official has been arrested in connection with this case.

Forensic evidence of the human rights violations suffered by the three brothers first emerged in Amnesty International's report Mexico: Torture with impunity, which summarized the findings of a forensic analysis carried out by an expert, commissioned by the organization, on the autopsy reports and photographs of victim's bodies. Amnesty International's findings, which provided evidence supporting claims that Héctor had suffered torture before his killing, were forwarded on request to the National Human Rights Commission. The findings were confirmed by a second independent forensic examination ordered in 1992 by the Mexican authorities. Despite such supportive evidence of gross human rights violations, those responsible for the torture of Héctor and killings of the three brothers have not been brought to justice at the time of writing. Their victim's father, Francisco Quijano García "disappeared" from his home in Mexico City on 21 June 1991. His body was found in the same city in March 1992. Despite reports that he had been seen in detention in the Attorney General's Office after his "disappearance", the authorities maintained that his abduction and murder had been carried out by a former business partner over money, and further investigations were closed.

In another case, a federal judicial police commander allegedly responsible for the illegal arrest and torture of Salomón Mendoza Barajas and others in the town of Aguililla, in May 1990 (page 11 of Mexico: Torture with impunity); and for the death under torture of Pedro Yescas Martínez in the town of Durango, in October 1990 (page 20 of Mexico: Torture with impunity), has reportedly remained at large despite repeated recommendations made by the National Human Rights Commission. In a special report issued in September 1991 the National Human Rights Commission said that the officer had been dismissed in connection with the killing of Pedro Yescas Martínez. Nevertheless, on 11 February 1992 the Republic Attorney General's Office said that he had in fact been transferred and promoted, together with another officer also allegedly involved in gross human rights violations.

Amnesty International believes that unless the Mexican government fully abides by its commitment to effectively bring all those responsible for torture and other human rights violations in Mexico to justice, torture will continue to be widespread.

MEASURES TO BRING AN EFFECTIVE END TO TORTURE AND OTHER GROSS HUMAN RIGHTS VIOLATIONS IN MEXICO

As illustrated by the above discussion, the measures adopted in recent years by the Mexican Government, albeit welcome steps towards the prevention of human rights violations, have been insufficient to significantly curtail and much less to stop such abuses in the country. Their persistence, and the impunity from which most of the perpetrators continue to benefit, should call into question the effectiveness of the measures implemented so far.

Amnesty International therefore urgently appeals to the Mexican Government to adopt and effectively implement the following recommendations. The majority of these have been included in previous reports which Amnesty International has presented to the government, in particular those contained in the document Mexico: Torture with impunity, and are relevant with respect to other human rights violations apart from torture and ill-treatment about which Amnesty International has continued to express its concerns, including "disappearances" and extra-judicial executions.

RECOMMENDATIONS

1. Prevention of arbitrary arrest

Arrests should only be authorized in the case of flagrante delicto or where a judicial warrant exists; authorization in the absence of these conditions should not be granted on the pretext that no judge was available.

All arrests should be carried out under strict judicial control and only by authorized personnel.

Law enforcement officials should adequately identify themselves and present arrest warrants at the time of arrest.

Everyone should be informed, at the time of arrest, of the specific reasons for their arrest.

All detainees should also receive an oral and written explanation, in a language they understand, of how to avail themselves of their legal rights, including the right to lodge complaints of ill-treatment.

The armed forces should be prohibited from arresting, holding in custody or interrogating civilian detainees.

Failure to adhere to these safeguards should lead to the disciplining or bringing to justice of those responsible.

2. Prevention of incommunicado detention

All detainees should be brought before a judge promptly after arrest, and within the period stipulated by law.

The government should oversee the effective elimination of the use of so-called "punishment cells" and other cruel, inhuman and degrading treatment in all the country's prisons.

All detainees should have access to relatives and lawyers promptly after arrest and regularly throughout their detention or imprisonment.

The government should provide free legal assistance to defendants without resources. In addition, interpreters should be provided for non-Spanish speaking defendants, without exception.

Relatives should be informed immediately of any arrest and should be kept informed of the detainee's whereabouts at all times.

Rulings which result from a petition of recurso de amparo in cases of detention, including unacknowledged, irregular or arbitrary detention, should be effectively enforceable throughout Mexico.

Detainees and prisoners should be held only in official, known detention centres, a list of which should be widely publicized.

Every detention centre should be required to keep a detailed up-to-date record, bound with numbered pages, of the time of arrest and the identities of those who carried out the arrest, as well as the time the detainee appeared before the Public Ministry Agent and before the judicial authority.

3. Strict controls over interrogation procedures

Interrogation should take place in the presence of a lawyer to ensure that statements taken in evidence from a detainee are given freely and not as a result of coercion.

In addition to a lawyer, a female officer should be present during interrogation of women detainees.

Children should only be questioned in the presence of a parent or next of kin.

The date, time and duration of each period of interrogation should clearly be recorded, as well as the names of all those present during interrogation. These records should be open to judicial scrutiny and to inspection by lawyers and relatives of detainees.

The government should publish current guidelines of interrogation procedures and periodically review both procedures and practices, inviting submissions and recommendations from civil rights groups, defence lawyers, bar associations and other interested parties.

4. Separation of the authorities responsible for detention and interrogation

There should be a clear and complete separation between the authorities responsible for detention and those responsible for the interrogation of detainees. This would allow an agency not involved in interrogation to supervise the welfare and physical security of detainees.

The role of the Public Ministry, which is currently responsible for detention, interrogation and prosecution in criminal proceedings, should therefore be revised.

5. Prohibition of the use of confessions extracted under torture

Confessions obtained as a result of torture of other ill-treatment should never be admitted in legal proceedings, except as evidence against the perpetrators.

Defendants who were convicted on the basis of coerced confessions should have their convictions promptly reviewed.

6. Implementation of judicial safeguards

The government should initiate effective reforms to the administration of justice, with regard to the codes of procedure, the provision for appeal mechanisms and the selection, training and supervision of appropriate personnel.

Respect for the presumption of the detainee's innocence shall be demanded throughout the judicial proceedings.

Judges should be vigorous in examining the legality of detention and the physical condition of defendants, and in investigating all claims of torture.

International standards pertaining to the judiciary, including those contained in the UN Basic Principles on the Independence of Judiciary, should be incorporated in Mexican law and legal practice in the interests of a genuinely independent and impartial judiciary.

7. Implementation of judicial supervision of detention

Any form of detention or imprisonment and all measures affecting the human rights of a detainee or prisoner should be subject to the effective control of a judicial authority.

The government should take particular care to ensure that detainees who are vulnerable for reasons of age or gender are not tortured, ill-treated or harassed.

The confinement of children in prisons for adults should be strictly prohibited.

All detention centres should be visited and inspected regularly be representatives of an independent body. These inspectors should conduct their visits without advance warning.

Any detainee or prisoner should have the right to communicate freely and in full confidentiality with the inspectors. The inspectors should have unrestricted access to all relevant records and should be authorized to receive and deal with detainees' complaints.

The inspection body should prepare detailed reports on the findings of each visit, and should ensure that appropriate action is taken to remedy all shortcomings relating to the treatment of detainees and prisoners.

The inspection body should also make recommendations for improving conditions of detention in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners.

8. Adequate medical safeguards

An independent medical examiner's office should be established, with administrative autonomy, to provide forensic expertise at a national level.

Medical examinations should be provided to detainees and prisoners on a regular basis and should be performed by independent professionals under the supervision of a professional association, in accordance with the following principles:

A medical examination should be carried out on each detainee promptly after arrest and before interrogation.

Detainees should be medically examined every 24 hours during the period of interrogation; on a frequent and regular basis throughout detention and imprisonment; and immediately before transfer or release.

These examinations should be performed personally by the authorized doctor, who should explain to the detainee the importance of having a full and contemporary record or his or her condition.

Detainees should be informed in the importance of these medical examinations in verbal and written notice of their rights.

Examinations should be carried out in private, exclusively by medical personnel. Special care should be taken to ensure that examinations of women prisoners is carried out in an acceptable manner.

Each detainee should have access to a medical officer at any time on the basis of a reasonable request.

Detailed medical records on detainees should be kept including: weight, state of nutrition, visible marks on the body, psychological state and complaints about health or treatment received.

These records should be confidential but should be communicated, at the request of the detainee, to a legal advisor, his or her family, or the authorities charged with investigating the treatment of prisoners.

Each detainee should be entitled to private examinations by his or her own doctor at the request of the detainee or the detainee's lawyer or family.

The medical examination of alleged victims of human rights abuses should only be conducted in the presence of independent witnesses: a health professional designated by the family, the legal representative of the victim or a professional designated by an independent medical association.

Forensic doctors should be provided with the training and resources necessary for the diagnosis of all forms of torture and ill-treatment.

In all cases of deaths in custody, forensic investigation should conform to international standards including the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

9. Investigation of all reports of torture

All reports of suspected torture or ill-treatment should be promptly, thoroughly and impartially investigated.

In cases where detainees allege that their confessions were extracted under torture, the burden should be on the detaining and interrogating authorities to prove that the confession was voluntary and that torture and ill-treatment did not occur.

The investigating authority should have the power to obtain all information necessary to the inquiry; adequate financial and technical resources for effective investigation; and the authority to oblige those accused of torture to appear and testify.

Any government official who suspects that torture has been committed should report it to the relevant authorities, which should fully investigate all such reports.

The absence of a complaint by the victim or relatives should not deter investigation.

The involvement or complicity of health professionals in the torture and ill-treatment of detainees should be thoroughly and impartially investigated. Disciplinary proceedings should be instituted against medical personnel found to have breached the UN Principles of Medical Ethics.

10. Bringing torturers to justice

Any law enforcement agent or person acting under the direction of law enforcement agents who is responsible for torture, or for ordering, encouraging or condoning the practice of torture, should be brought to justice.

Any law enforcement agent charged in connection with the crime of torture should be immediately suspended from duties directly related to arresting, guarding or interrogating detainees. If convicted, he/she should be automatically dismissed from duty, in addition to whatever other punishment is imposed by the court.

The crime of torture should not be subject to any statute of limitations.

Any decision to suspend or dismiss state officials accused or convicted of human rights violations should be made public.

An effective information system should be set up to prevent state officials dismissed for human rights violations from being reassigned to similar posts in other jurisdictions or departments.

11. Protection of victims and witnesses

The government should ensure that all necessary measures are taken to prevent attacks on or threats against victims of torture and their relatives, witnesses to human rights violations and human rights activists; and that all those responsible for such actions be brought to justice.

12. Compensation for victims of torture

All victims of torture should receive medical treatment and rehabilitation where necessary, and financial compensation commensurate with the abuse inflicted.

In cases where a detainee's death is shown to be the result of torture or ill-treatment the deceased's relatives should receive compensatory and exemplary damages.

13. Promoting respect for human rights

An absolute prohibition of torture and ill-treatment as crimes under domestic law should be visibly displayed in every detention centre in the country.

The government should adopt and publish a code of conduct for all law enforcement agents who exercise powers of detention and arrest. This code should conform to the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

In addition to categorically prohibiting the use of torture and ill-treatment, the Mexican penal code should specify that law enforcement agents must oppose the use of torture or ill-treatment, if necessary by refusing to carry out orders to inflict such treatment on detainees, and report any such abuses of authority to their superior officers and, where necessary, to the authorities vested with review or remedial powers.

Breaches of the code should result in specified disciplinary sanctions and criminal prosecution of the agents involved.

The government should ensure that all law enforcement agents and members of the armed forces receive adequate training on human rights standards, both domestic and international, and on the means for their protection.

14. Compliance with international law

Domestic law and practice should fully conform with international human rights instruments including human rights conventions ratified by Mexico, as well as the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

15. Recognition of international procedures for human rights protection

The government should ratify the (First) Optional Protocol of the International Covenant on Civil and Political Rights, which allows individuals who have exhausted all domestic legal remedies to submit a written complaint to the UN Human Rights Committee alleging that their rights under the Covenant have been violated.

The government should declare, under Article 22 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, that it recognizes the full competence of the UN Committee against Torture to investigate complaints of human rights violations lodged by individuals who have exhausted all domestic legal remedies.

The government should recognize the jurisdiction of the Inter-American court of Human Rights over all matters relating to the interpretation or application of human rights safeguards contained in the American Convention.

16. Effective investigations into the "detained-disappeared"

The government should press ahead with investigations under way into cases of forced "disappearance" where the victims are still "disappeared", with the aim of bringing to justice those responsible and clarifying the fate of the victims.

17. Protection of the rights of migrants and refugees

The government should create effective mechanisms to guarantee that persons seeking refugee status are adequately and fairly assessed and categorized.

The authorities should create effective control mechanisms in detention centres for illegal immigrants in order to prevent the use of cruel, inhuman and degrading treatment against them.

Mr. HOLLINGS. Mr. President, we have been supporting dictatorships in Mexico for too long. Where there is no

freedom, how can we have a free trade agreement? Mexicans are disillusioned. I have talked to the councilmen of Tijuana and the workers in Mexico and the professors at the university. I have talked to civic leaders. I can tell you they are unanimously opposed to NAFTA because it gives the Good Housekeeping seal of approval to the corrupt and intolerable status quo in Mexico. NAFTA is not change. If you want change, let us vote down NAFTA and turn instead to a European-style common market arrangement that encompasses democracy and human rights. We have already offered the bill to make this possible. But you will not get political reform from NAFTA. The 2,000 page text of NAFTA does not even once mention the world democracy.

We must work to build democracy south of the border, as John F. Kennedy intended. We must not allow guests at the Kennedy Museum today to be misled with the false notion that President Kennedy would have condoned this flawed NAFTA agreement. I can tell you categorically that JFK would have opposed it because it does not represent change or democracy.

I thank the Chair and yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. DASCHLE). Morning business is now closed.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE INDOOR AIR QUALITY ACT OF 1993

The PRESIDING OFFICER. The clerk will state the bill, S. 656, by title.

The assistant legislative clerk read as follows:

A bill (S. 656) to provide for indoor air pollution abatement, including indoor radon abatement, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indoor Air Quality Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.
Sec. 5. Indoor air quality research.
Sec. 6. Management practices, voluntary partnership programs, and ventilation standards.
Sec. 7. Indoor air contaminant health advisories.
Sec. 8. National indoor air quality response plan.
Sec. 9. Federal building response plan and demonstration program.
Sec. 10. State and local indoor air quality programs.
Sec. 11. Office of Radiation and Indoor Air.
Sec. 12. Council on Indoor Air Quality.
Sec. 13. Indoor air quality information clearinghouse.
Sec. 14. Building assessment demonstration.
Sec. 15. State and Federal authority.
Sec. 16. Authorization of appropriations.

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans spend up to 90 percent of a day indoors and, as a result, have a significant potential for exposure to contaminants in the air indoors;

(2) exposure to indoor air contamination occurs in workplaces, schools, public buildings, residences, and transportation vehicles;

(3) recent scientific studies indicate that pollutants in the indoor air include radon, asbestos, volatile organic chemicals (including formaldehyde and benzene), combustion byproducts (including carbon monoxide and nitrogen oxides), metals and gases (including lead, chlorine, and ozone), respirable particles, biological contaminants, microorganisms, and other contaminants;

(4) a number of contaminants found in both ambient air and indoor air may occur at higher concentrations in indoor air than in outdoor air;

(5) indoor air pollutants pose serious threats to public health (including cancer, respiratory illness, multiple chemical sensitivities, skin and eye irritation, and related effects);

(6) up to 15 percent of the population of the United States may have heightened sensitivity to chemicals and related substances found in the air indoors;

(7) radon is among the most harmful indoor air pollutants and is estimated to cause between 5,000 and 20,000 lung cancer deaths each year;

(8) other selected indoor air pollutants are estimated to cause between 3,500 and 6,500 additional cancer cases per year;

(9) indoor air contamination is estimated to cause significant increases in medical costs and declines in work productivity;

(10) as many as 20 percent of office workers may be exposed to environmental conditions manifested as "sick building syndrome";

(11) sources of indoor air pollution include conventional ambient air pollution sources, building materials, consumer and commercial products, combustion appliances, indoor application of pesticides, and other sources;

(12) there is not an adequate effort by Federal agencies to conduct research on the seriousness and extent of indoor air contamination, to identify the health effects of indoor air contamination, and to develop control technologies, education programs, and other methods of reducing human exposure to the contamination;

(13) there is not an adequate effort by Federal agencies to develop response plans to reduce human exposure to indoor air contaminants and there is a need for improved coordination of the activities of these agencies;

(14) there is not an adequate effort by Federal agencies to develop methods, techniques, and protocols for assessment of indoor air contamination in non-residential, non-industrial buildings and to provide guidance on measures to respond to contamination; and

(15) State governments can make significant contributions to the effective reduction of human exposure to indoor air contaminants and the Federal Government should assist States in development of programs to reduce exposures to the contaminants.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) develop and coordinate through the Environmental Protection Agency and at other departments and agencies of the United States a comprehensive program of research and development that addresses the seriousness and extent of indoor air contamination, the human health effects of indoor air contaminants, and the technological and other methods of reducing human exposure to the contaminants;

(2) establish a process under which the existing authorities of Federal laws will be directed and focused to ensure the full and effective application of the authorities to reduce human exposure to indoor air contaminants where appropriate;

(3) provide support to State governments to demonstrate and develop indoor air quality management strategies, assessments, and response programs; and

(4) authorize activities to ensure the general coordination of indoor air quality-related activity, provide for reports on indoor air quality to Congress, provide for assessments of indoor air contamination in specific buildings by the National Institute for Occupational Safety and Health, ensure that data and information on indoor air quality issues is available to interested parties, provide training, education, information, and technical assistance to the public and private sector, and for other purposes.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADMINISTRATION.—The term "Administration" means the Occupational Safety and Health Administration.

(3) AGENCY.—The term "Agency" means the Environmental Protection Agency.

(4) DIRECTOR.—The term "Director" means the Director of the National Institute of Occupational Safety and Health.

(5) FEDERAL AGENCY.—The term "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government or government corporation.

(6) FEDERAL BUILDING.—The term "Federal building" means any building that is used primarily as an office building, school, hospital, or residence that is owned, leased, or operated by any Federal agency and is over 10,000 square feet in area, any building occupied by the Library of Congress, the White House, or the Vice Presidential residence, and any building that is included in the definition of Capitol Buildings under section 193m(1) of title 40, United States Code.

(7) INDOOR.—The term "indoor" means the enclosed portions of buildings, including nonindustrial workplaces, public buildings, Federal buildings, schools, commercial buildings, and residences, and the occupied portions of vehicles.

(8) INDOOR AIR CONTAMINANT.—The term "indoor air contaminant" means any solid, liquid, semisolid, dissolved solid, biological organism, aerosol, or gaseous material, including combinations or mixtures of substances, known to occur in indoor air that may reasonably be anticipated to have an adverse effect on human health.

(9) LOCAL AIR POLLUTION CONTROL AGENCY.—The term "local air pollution control agency"

means any city, county, or other local government authority charged with the responsibility for implementing programs or enforcing laws or ordinances relating to the prevention and control of air pollution, including indoor air pollution.

(10) LOCAL EDUCATION AGENCY.—The term "local education agency" means any educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381).

SEC. 5. INDOOR AIR QUALITY RESEARCH.

(a) AUTHORITY.—

(1) IN GENERAL.—The Administrator shall, in coordination with other appropriate Federal agencies, establish a national research, development, and demonstration program to ensure the quality of air indoors. As part of the program, the Administrator shall promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, sources, effects, extent, prevention, detection, and correction of contamination of indoor air.

(2) DUTIES OF ADMINISTRATOR.—In carrying out this section, the Administrator is authorized, subject to the availability of appropriations, to—

(A) collect and make available to the public, through publications and other appropriate means, the results of research, development, and demonstration activities conducted pursuant to this section;

(B) conduct research, development, and demonstration activities and cooperate with other Federal agencies, State and local government entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions and organizations, and other persons in the preparation and conduct of the research, development, and demonstration activities;

(C) make grants to States or local government entities, other public agencies and authorities, nonprofit institutions and organizations, and other persons;

(D) enter into contracts or cooperative agreements with public agencies and authorities, nonprofit institutions and organizations, and other persons;

(E) conduct studies, including epidemiological studies, of the effects of indoor air contaminants or potential contaminants on mortality and morbidity and clinical and laboratory studies on the immunologic, biochemical, physiological, and toxicological effects (including the carcinogenic, teratogenic, mutagenic, cardiovascular, and neurotoxic effects) of indoor air contaminants or potential contaminants;

(F) develop and disseminate information documents on indoor air contaminants describing the nature and characteristics of the contaminants in various concentrations;

(G) develop effective and practical processes, protocols, methods, and techniques for the prevention, detection, and correction of indoor air contamination and work with the private sector, other governmental entities, and schools and universities to encourage the development of innovative techniques to improve indoor air quality;

(H) construct such facilities, employ such staff, and provide such equipment as are necessary to carry out this section;

(I) call conferences concerning the potential or actual contamination of indoor air giving opportunity for interested persons to be heard and present papers at the conferences;

(J) utilize, on a reimbursable basis, facilities and personnel of existing Federal scientific laboratories and research centers;

(K) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, equipment and facilities, and other property rights, by purchase, license, lease, or donation, and if the Administrator expects or intends that research conducted pursuant to this subsection will primarily affect worker safety and health, the Administrator shall consult with the Assistant Secretary of Occupational Safety and Health and the Director; and

(L) conduct research, development, and demonstration activities through nonprofit institutions on the use of indoor foliage as a method to reduce indoor air pollution.

(b) PROGRAM REQUIREMENTS.—The Administrator, in coordination with other appropriate Federal agencies, shall conduct, assist, or facilitate research, investigations, studies, surveys, or demonstrations with respect to the following:

(1) The effects on human health of contaminants or combinations of contaminants (whether natural or anthropogenic) at various levels including additive, cumulative, and synergistic effects on populations both with and without heightened sensitivity that are found or are likely to be found in indoor air.

(2) The exposure of persons to contaminants that are found in indoor air (including exposure to the substances from sources other than indoor air contamination, including drinking water, diet, or other exposures).

(3) The identification of populations at increased risk of illness from exposure to indoor air contaminants and assessment of the extent and characteristics of the exposure.

(4) The exposure of persons to contaminants in buildings of different classes or types, and in vehicles, and assessment of the association of particular contaminants and particular building classes or types and vehicles.

(5) The identification of building classes or types and design features or characteristics that increase the likelihood of exposure to indoor air contaminants.

(6) The identification of the sources of indoor air contaminants, including association of contaminants with outdoor sources, building or vehicle design, classes or types of products, building management practices, equipment operation practices, building materials, and related factors.

(7) The assessment of relationships between contaminant concentration levels in ambient air and the contaminant concentration levels in the indoor air.

(8) The development of methods and techniques for characterizing and modeling indoor air movement and flow within buildings or vehicles, including the transport and dispersion of contaminants in the indoor air.

(9) The assessment of the fate, including degradation and transformation, of particular contaminants in indoor air.

(10) The development of methods and techniques to characterize the association of contaminants, the levels of contaminants, and the potential for contamination of new construction with climate, building location, seasonal change, soil and geologic formations, and related factors.

(11) The assessment of indoor air quality in facilities of local education agencies and buildings used as child care facilities and development of measures and techniques for control of indoor air contamination in the buildings.

(12) The development of protocols, methods, techniques, and instruments for sampling indoor air to determine the presence and level of contaminants, including sample collection and the storage of samples before analysis and development of methods to improve the efficiency and reduce the cost of analysis.

(13) The development of air quality sampling methods and instruments that are inexpensive and easy to use and may be used by the general public.

(14) The development of control technologies, building design criteria, and management practices to prevent the entrance of contaminants into buildings or vehicles (such as air intake protection, sealing, and related measures) and to reduce the concentrations of contaminants indoor (such as control of emissions from internal sources of contamination, improved air exchange and ventilation, filtration, and related measures).

(15) The development of materials and products that may be used as alternatives to materials or products that are now in use and that contribute to indoor air contamination.

(16) Research, to be carried out principally by the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, for the purpose of assessing—

(A) the exposure of workers to indoor air contaminants, including an assessment of resulting health effects; and

(B) the costs of declines in productivity, sick time use, increased use of employer-paid health insurance, and worker compensation claims.

(17) Research, to be carried out in conjunction with the Secretary of Housing and Urban Development, and the Secretary of the Department of Energy for the purpose of developing methods for assessing the potential for indoor air contamination of new construction and design measures to avoid indoor air contamination.

(18) Research, to be carried out in conjunction with the Secretary of Transportation, for the purposes of—

(A) assessing the potential for indoor air contamination in public and private transportation; and

(B) designing measures to avoid the indoor air contamination.

(19) Research, to be carried out in consultation with the Administrator for the National Aeronautics and Space Administration, for the purpose of assessing the use of indoor foliage as a means to reduce indoor air contamination, including demonstration projects to determine the level of pollutants reduced by indoor plants in buildings.

(c) TECHNOLOGY DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Administrator may enter into cooperative agreements or contracts with, or provide financial assistance in the form of grants to, public agencies and authorities, nonprofit institutions and organizations, employee advocate organizations, local educational institutions, or other appropriate entities or persons to demonstrate practices, methods, technologies, or processes that may be effective in controlling sources or potential sources of indoor air contamination, preventing the occurrence of indoor air contamination, and reducing exposures to indoor air contamination.

(2) REQUIREMENTS FOR ASSISTANCE.—The Administrator may assist a demonstration activity under paragraph (1) only if—

(A) the demonstration activity will serve to demonstrate a new or significantly improved practice, method, technology, or process or the feasibility and cost effectiveness of an existing, but unproven, practice, method, technology, or process and will not duplicate other Federal, State, local, or commercial efforts to demonstrate the practice, method, technology, or process;

(B) the demonstration activity meets the requirements of this section and serves the purposes of this Act;

(C) the demonstration of the practice, technology, or process will comply with all other laws and regulations for the protection of human health, welfare, and the environment; and

(D) in the case of a contract or cooperative agreement, the practice, method, technology, or process—

(i) would not be adequately demonstrated by State, local, or private persons, or in the case of

an application for financial assistance, by a grant; and

(ii) is not likely to receive adequate financial assistance from other sources.

(3) SOLICITATIONS.—The demonstration program established by this subsection shall include solicitations for demonstration projects, selection of suitable demonstration projects from among the proposed demonstration projects, supervision of the demonstration projects, evaluation and publication of the results of demonstration projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, technologies, and processes that are proven to be effective.

(4) PUBLISHED SOLICITATIONS.—Not later than 180 days after the date of enactment of this Act, and not less often than every 12 months thereafter, the Administrator shall publish a solicitation for proposals to demonstrate, prototype or at full-scale, practices, methods, technologies, and processes that are (or may be) effective in controlling sources or potential sources of indoor air contaminants. The solicitation notice shall prescribe the information to be included in the proposal, including technical and economic information derived from the research and development efforts of the applicant, and other information sufficient to permit the Administrator to assess the potential effectiveness and feasibility of the practice, method, technology, or process proposed to be demonstrated.

(5) APPLICATIONS.—Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitations required by paragraph (4). The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

(6) REVIEW.—In selecting practices, methods, technologies, or processes to be demonstrated, the Administrator shall fully review the applications submitted and shall evaluate each project according to the following criteria:

(A) The potential for the proposed practice, method, technology, or process to effectively control sources or potential sources of contaminants that present risks to human health.

(B) The consistency of the proposal with the recommendations provided pursuant to section 8(d)(8).

(C) The capability of the person or persons proposing the project to successfully complete the demonstration as described in the application.

(D) The likelihood that the demonstrated practice, method, technique, or process could be applied in other locations and circumstances to control sources or potential sources of contaminants, including considerations of cost, effectiveness, and technological feasibility.

(E) The extent of financial support from other persons to accomplish the demonstration as described in the application.

(F) The capability of the person or persons proposing the project to disseminate the results of the demonstration or otherwise make the benefits of the practice, method, or technology widely available to the public in a timely manner.

(7) SELECTION OF PROJECTS.—The Administrator shall select or refuse to select a project for demonstration under this subsection in an expeditious manner. In the case of a refusal to select a project, the Administrator shall notify the applicant of the reasons for the refusal.

(8) PERFORMANCE OF PROJECTS.—Each demonstration project under this section shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project.

(9) AGREEMENTS.—The Administrator shall enter into agreements, if practicable and desirable, to provide for monitoring testing procedures, quality control, and such other measurements as are necessary to evaluate the results of demonstration projects or facilities intended to control sources or potential sources of contaminants.

(10) SCHEDULES.—Each demonstration project under this section shall be completed within such time as is established in the demonstration plan. The Administrator may extend any deadline established under this subsection by mutual agreement with the applicant concerned.

(11) FEDERAL FUNDS.—The total amount of Federal funds for any demonstration project under this section shall not exceed 75 percent of the total cost of the project. If the Administrator determines that research under this section is of a basic nature that would not otherwise be undertaken, or the applicant is a local educational agency, the Administrator may approve a grant under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(12) REPORTS.—The Administrator shall, from time to time, publish general reports describing the findings of demonstration projects conducted pursuant to this section. The reports shall be provided to the indoor air quality information clearinghouse provided for in section 13.

(d) STUDY OF SCHOOLS AND CHILD CARE FACILITIES.—

(1) IN GENERAL.—The Administrator shall conduct a national study of the seriousness and extent of indoor air contamination in buildings owned by local educational agencies and child care facilities.

(2) ADVISORY GROUP.—The Administrator shall establish an advisory group composed of representatives of school administrators, teachers, child care organizations, parents and service employees and other interested parties, including scientific and technical experts familiar with indoor air pollution exposures, effects, and controls, to provide guidance and direction in the development of the national study.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall provide a report to Congress of the results of the national study. The report required by this paragraph shall provide such recommendations for activities or programs to reduce and avoid indoor air contamination in buildings owned by local educational agencies and in child care facilities as the Administrator determines appropriate.

(e) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall prepare and submit to Congress a report reviewing and assessing issues related to chemical sensitivity disorders, including multiple chemical sensitivities. The Advisory Committee established pursuant to section 7(c) shall review and comment on the report prior to submittal to Congress.

(f) HEALTHY BUILDINGS BASELINE ASSESSMENT.—

(1) IN GENERAL.—The Administrator and the Director shall conduct research on indoor air quality in commercial buildings to develop baseline information on indoor air quality in the buildings.

(2) REQUIREMENTS OF RESEARCH.—Research carried out under this subsection shall comply with generally accepted principles of the proper design, maintenance, and operation of ventilation, filtration, and other building systems.

(3) PERSONS THAT MAY CONDUCT RESEARCH.—The Administrator and the Director may arrange to have all or a portion of the research to be carried out by appropriate private persons and academic institutions.

(4) CONTENTS OF STUDY.—The study shall include—

(A) monitoring of respirable particulate matter, volatile compounds, biological contaminants, and other contaminants of interest; and

(B) identification of the sources of indoor air contaminants.

(g) CLARIFICATION OF AUTHORITY.—Title IV of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note) is repealed.

SEC. 6. MANAGEMENT PRACTICES, VOLUNTARY PARTNERSHIP PROGRAMS, AND VENTILATION STANDARDS.

(a) TECHNOLOGY AND MANAGEMENT PRACTICE ASSESSMENT BULLETINS.—

(1) IN GENERAL.—The Administrator shall publish bulletins providing an assessment of technologies and management practices for the control and measurement of contaminants in the air indoors.

(2) BULLETINS.—The bulletins published pursuant to this subsection shall, at a minimum—

(A) describe the control or measurement technology or practice;

(B) describe the effectiveness of the technology or practice in control or measurement of indoor air contaminants and, to the extent feasible, the resulting reduction in risk to human health;

(C) assess the feasibility of the application of the technology or practice in buildings of different types, sizes, ages, and designs;

(D) assess the cost of the application of the technology or practice in buildings of different types, sizes, ages, and designs, including capital and operational costs; and

(E) assess any risks to human health that the technology or practice may create.

(3) FORMAT.—The Administrator shall establish and utilize a standard format for presentation of the technology and management practice assessment bulletins. The format shall be designed to facilitate assessment of technologies or practices by interested parties, including homeowners and building owners and managers.

(4) SCHEDULE OF PUBLICATION.—The Administrator shall provide that, to the extent practicable, bulletins published pursuant to this subsection shall be published on a schedule consistent with the publication of health advisories pursuant to section 7(b).

(5) PUBLIC REVIEW.—In developing bulletins pursuant to this subsection, the Administrator shall provide for public review and shall consider public comment prior to the publication of bulletins. If the technology or management practice is expected to have significant implications for worker safety or health, the Administrator shall consult with the Director prior to seeking review and comment.

(6) DISTRIBUTION.—The bulletins published pursuant to this subsection shall be provided to the indoor air quality information clearinghouse established under section 13 and, to the extent practicable, shall be made available to architecture, design, and engineering firms, building owners and managers, and organizations representing the parties.

(b) VOLUNTARY PARTNERSHIP PROGRAMS.—

(1) IN GENERAL.—The Administrator shall develop a voluntary partnership program in cooperation with corporations and other entities that own, operate, or occupy buildings.

(2) PARTNERSHIPS.—The Administrator shall enter into the voluntary partnerships as an incentive to promote the implementation of pollution prevention, problem mitigation, and energy-wise technology strategies in exchange for indoor air quality technical support and recognition of the Agency.

(3) RECOGNITION.—The Administrator may award recognition to corporations or other persons that comply with management practices that are necessary to improve air quality.

(c) MODEL BUILDING MANAGEMENT PRACTICES TRAINING.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director of the National Institute of Occupational Safety and Health, in cooperation with the Administrator of the General Services Administration and the Administrator, shall develop an indoor air training course providing training with respect to—

(A) principles, methods, and techniques related to ventilation system operation and maintenance, including applicable ventilation guidelines and standards;

(B) the maintenance of records concerning indoor air quality, including maintenance of ventilation systems, complaints of indoor air quality, and actions taken to address indoor air quality problems;

(C) health threats posed by indoor air contaminants, including a knowledge of health advisories published pursuant to this Act and other information concerning contaminant levels;

(D) identification of potential indoor air contaminant sources and options for reducing exposures to contaminants;

(E) special measures that may be necessary to reduce indoor air contaminant exposures in new buildings and in portions of buildings that have been renovated or substantially refurbished within the 6-month period preceding the measures; and

(F) special measures that may be necessary to reduce exposures to contaminants associated with pesticide applications, installation of products, furnishings, or equipment, and cleaning operations.

(2) TRAINING COURSES.—Not later than 2 years after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health shall provide, or contract for the provision of, training courses pursuant to paragraph (1) sufficient, at a minimum, to ensure training on a schedule consistent with the requirements of section 9(f)(2).

(3) FEES.—The Director of the National Institute of Occupational Safety and Health, or firms or organizations operating under contract with the Administrator of the General Services Administration, are authorized to establish a fee for training pursuant to this subsection. The fees shall be in an amount not to exceed the amount necessary to defray the costs of the training program.

(4) REPORT.—Not later than 4 years after the date of enactment of this Act, the Director of the National Institute of Occupational Safety and Health, in consultation with the Administrator of the General Services Administration, and the Administrator, shall prepare a report to Congress assessing the training program under this subsection and making recommendations concerning the application of training requirements to classes and types of buildings not covered under this subsection.

(d) VENTILATION PROGRAM.—

(1) IN GENERAL.—The Administrator, in coordination with other Federal agencies, shall conduct a program to analyze the adequacy of ventilation standards and guidelines to protect the public and workers from indoor air contaminants.

(2) DUTIES OF ADMINISTRATOR.—The Administrator shall—

(A) identify and describe ventilation standards adopted by State and local governments and professional organizations, including the American Society of Heating, Refrigerating and Air Conditioning Engineers;

(B) determine the adequacy of the standards for protecting public health and promoting worker productivity;

(C) assess the costs of compliance with the standards;

(D) determine the degree to which the standards are being adopted and enforced;

(E) identify the extent to which buildings are being operated in a manner that achieves the standards; and

(F) assess the potential for the standards to complement controls over specific sources of contaminants in reducing indoor air contamination.

SEC. 7. INDOOR AIR CONTAMINANT HEALTH ADVISORIES.

(a) LIST OF CONTAMINANTS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall prepare and publish in the Federal Register a list of indoor air contaminants (referred to in this section as "listed contaminants"). The list may include combinations or mixtures of contaminants and may refer to the combinations or mixtures by a common name.

(2) REVIEW OF LIST.—The Administrator shall from time to time and as necessary to carry out this Act, but not less often than biennially, review and revise the list by adding other contaminants pursuant to this Act.

(3) CONTENTS OF LIST.—The list provided for in paragraph (1) shall include, at a minimum, benzene, biological contaminants, carbon monoxide, formaldehyde, lead, methylene chloride, nitrogen oxide, particulate matter, asbestos, polycyclic aromatic hydrocarbons (PAHs), and radon.

(4) CONSULTATION AND PUBLIC REVIEW.—In developing the list provided for in paragraph (1) or in revising the list pursuant to paragraph (2), the Administrator shall consult with the advisory panel provided for in subsection (c), provide for public review, and consider public comment prior to the issuance of a final list.

(5) JUDICIAL INTERPRETATION.—The listing of contaminants under this subsection shall not be considered an agency rulemaking. In considering objections raised in any judicial or related action, the decision of the Administrator to list a particular contaminant shall be upheld unless the objecting party demonstrates that the decision was arbitrary or capricious or otherwise not in accordance with the law. The list of contaminants prepared in accordance with this subsection is not intended to indicate that those contaminants not listed are safe for human exposure or without adverse health effect.

(b) CONTAMINANT HEALTH ADVISORIES.—

(1) IN GENERAL.—The Administrator shall, in consultation with the advisory panel, provided for in subsection (c), and after providing for public review and comment pursuant to paragraph (6), publish advisory materials addressing the adverse human health effects of listed contaminants.

(2) CONTENTS OF MATERIALS.—The advisory materials shall, at a minimum, describe—

(A) the physical, chemical, biological, and radiological properties of the contaminant;

(B) the adverse human health effects of the contaminant in various indoor environments and in various concentrations, including the health threat to subpopulations that may be especially sensitive to exposure to the contaminant;

(C) the extent to which the contaminant, or a mixture of contaminants, is associated with a particular substance of material and emissions rates that are expected to result in varying levels of contaminant concentration in indoor air;

(D) any Technology and Management Practice Assessment Bulletin that is applicable to the contaminant and any actions that are identified for the contaminant in the National Indoor Air Quality Response Plan prepared pursuant to this Act; and

(E) any indoor air contaminant standards or related action levels that are in effect under any authority of a Federal law or regulation, the authority of State laws or regulations, the authority of any local government, or the authority of another country, including standards or action levels suggested by appropriate international organizations.

(3) STATUTORY CONSTRUCTION.—Health advisories published pursuant to his section shall in no way limit or restrict the application of requirements or standards established under any other Federal law.

(4) FORMAT.—The Administrator shall establish and utilize a standard format of presentation of indoor air contaminant health advisories. The format shall be designed to facilitate public understanding of the range of risks of exposure to indoor air contaminants and shall include a summary of the research and information concerning the contaminant that is understandable to public health professionals and to individuals who lack training in toxicology.

(5) SCHEDULE OF PUBLICATION.—The Administrator shall publish health advisories for listed contaminants as expeditiously as practicable. At a minimum, the Administrator shall publish not less than 6 advisories not later than 24 months after the date of enactment of this Act and shall publish an additional 6 advisories not later than 36 months after the date of enactment of this Act.

(6) SCIENTIFIC INFORMATION.—Health advisories shall be based on sound scientific information that has undergone peer review.

(7) REVIEW AND REVISION.—Health advisories shall be reviewed, revised, and republished to reflect new scientific information on a periodic basis but not less frequently than every 5 years.

(8) REVIEW AND COMMENT.—In developing and revising health advisories pursuant to this subsection, the Administrator shall provide for public review and comment, including providing notice in the Federal Register of the intent to publish a health advisory not later than 90 days prior to publication, and shall consider public comment prior to issuance of an advisory.

(c) ADVISORY PANEL.—The Indoor Air Quality and Total Human Exposure Committee of the Environmental Protection Agency Science Advisory Board shall advise the Administrator with respect to the implementation of this section, including the listing of contaminants, the contaminants for which advisories should be published, the order in which advisories should be published, the content, quality, and format of advisory documents, and the revision of the documents. The Administrator shall provide that a representative of each of the Agency for Toxic Substances and Disease Registry, the Office of Health and Environmental Research of the Department of Energy, the National Institute for Occupational Safety and Health, and the National Institute for Environmental Health Sciences shall participate in the work of the Advisory Panel as ex officio members.

SEC. 8. NATIONAL INDOOR AIR QUALITY RESPONSE PLAN.

(a) AUTHORITY.—The Administrator shall, in coordination with other appropriate Federal agencies, develop and publish a national indoor air quality response plan. The response plan shall provide for the implementation of a range of response actions identified in subsections (b) and (c) that will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a) and the attainment, to the fullest extent practicable, of indoor air contaminant levels that are protective of human health.

(b) EXISTING AUTHORITY.—The Administrator, in coordination with other appropriate Federal

agencies, shall include in the plans provided for in subsection (a) a description of specific response actions to be implemented based on existing authorities provided in—

(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) the Toxic Substances Control Act (15 U.S.C. 201 et seq.);

(3) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(4) title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.);

(5) the authorities of the Consumer Product Safety Commission;

(6) the authorities of the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health; and

(7) other regulatory and related authorities provided under any other Federal law.

In implementing response actions pursuant to paragraph (6), the Assistant Secretary for Occupational Safety and Health shall consult with representatives and employees of State and local governments with respect to States over which the Occupational Safety and Health Administration lacks jurisdiction over State and local employees.

(c) SUPPORTING ACTIONS.—The Administrator, in coordination with the heads of other appropriate Federal agencies, shall include in the plans provided for in subsection (a) a description of specific supporting actions, including, but not limited to—

(1) programs to disseminate technical information to public health, design, and construction professionals concerning the risks of exposure to indoor air contaminants and methods and programs for reducing exposure to the contaminants;

(2) the development of guidance documents addressing individual contaminants, groups of contaminants, sources of contaminants, or types of buildings or structures and providing information on measures to reduce exposure to contaminants, including—

(A) the estimated cost of the measures;

(B) the technologic feasibility of the measures; and

(C) the effectiveness and efficiency of the measures;

(3) education programs for the general public concerning the health threats posed by indoor air contaminants and appropriate individual response actions;

(4) technical assistance, including the design and implementation of training seminars for State and local officials, private and professional firms, and labor organizations dealing with indoor air pollution and addressing topics such as monitoring, analysis, mitigation, building management practices, ventilation, health effects, public information, and program design;

(5) the development of model building codes, including ventilation rates, for various types of buildings designed to reduce levels of indoor air contaminants;

(6) the identification of contaminants, or circumstances of contamination for which immediate action to protect public and worker health is necessary and appropriate and a description of the actions needed;

(7) the identification of contaminants, or circumstances of contamination, in cases in which regulatory or statutory authority is not adequate to address an identified contaminant or circumstance of contamination and recommendation of legislation to provide needed authority;

(8) the identification of contaminants, or circumstances of contamination, in cases in which the continued reduction of contamination requires development of technology or technological mechanisms; and

(9) the identification of remedies to the "sick building syndrome", including proper design and maintenance of ventilation systems, building construction and remodeling practices, and safe practices for the application of pesticides, herbicides, and disinfectants, and a standardized protocol for investigating and solving indoor air quality problems in sick buildings.

(d) CONTENTS OF PLAN.—In describing specific actions to be taken under subsections (b) and (c), the Administrator, in coordination with the heads of other appropriate Federal agencies, shall—

(1) identify the health effects, and any contaminant or contaminants thought to cause health effects to be addressed by a particular action and to the fullest extent feasible, the relative contribution to indoor air contamination from all sources of contamination;

(2) identify the statutory basis for the action;

(3) identify the schedule and process for implementation of the action;

(4) identify the Federal agency with jurisdiction for the specific action that will implement the action; and

(5) identify the financial resources needed to implement the specific action and the source of the resources.

(e) SCHEDULE.—Response plans provided for in subsection (a) shall be submitted to Congress not later than 2 years after the date of enactment of this Act, and biennially thereafter.

(f) REVIEW.—

(1) IN GENERAL.—The Administrator shall provide for public review and comment on the response plan provided for in this section, including provision of notice in the Federal Register for public review and comment not later than 90 days prior to submission to Congress. The Administrator shall include in the response plan a summary of public comments.

(2) REVIEW BY COUNCIL.—The Administrator shall provide for the review and comment on the response plan by the Council on Indoor Air Quality provided for under section 12.

(g) REPORTS IN PLAN.—

(1) MONITORING AND MITIGATION SERVICES.—In the first plan published pursuant to this section shall include an assessment and report on indoor air monitoring and mitigation services provided by private firms and other organizations, including the range of the services, the reliability and accuracy of the services, and the relative costs of the services. The assessment shall include a review and analysis of options for oversight of indoor air monitoring and mitigation firms and organizations, including registration, licensing, and certification of the firms and organizations and options for imposing a user fee on the firms and organizations.

(2) VENTILATION PROGRAM.—The first plan published pursuant to this section shall include an assessment and report on the ventilation program carried out under this Act, including recommendations concerning—

(A) the establishment of ventilation standards that protect public health and worker health and take into account comfort and energy conservation goals; and

(B) ensuring that adequate ventilation standards are being adopted and that buildings are being operated in a manner that achieves standards.

(3) INDOOR PLANTS.—The first plan published pursuant to this section shall include an assessment and report on the research program authorized under section 5(b)(20). In preparing the report, the Administrator shall consult with the Administrator of the National Aeronautics and Space Administration.

SEC. 9. FEDERAL BUILDING RESPONSE PLAN AND DEMONSTRATION PROGRAM.

(a) AUTHORITY.—The Administrator and the Administrator of the General Services Administration shall develop and implement a program to respond to and reduce indoor air contamination in Federal buildings and to demonstrate methods of reducing indoor air contamination in new Federal buildings.

(b) FEDERAL BUILDING RESPONSE PLAN.—

(1) IN GENERAL.—The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, the Director, and the heads of affected Federal departments or agencies shall prepare response plans addressing indoor air quality in Federal buildings. The plans shall, to the fullest extent practicable, be developed in conjunction with response plans developed pursuant to section 8.

(2) CONTENTS OF RESPONSE PLAN.—The response plan shall provide for the implementation of a range of response actions that will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a), and the attainment, to the fullest extent practicable, of indoor air contaminant concentration levels that are protective of public and worker health.

(3) REQUIREMENTS FOR RESPONSE PLAN.—Each Federal building response plan provided for in paragraph (1) shall include—

(A) a list of all Federal buildings;

(B) a description and schedule of general response actions, including general building management practices, product purchase guidelines, air quality problem identification practices and methods, personnel training programs, and other actions to be implemented to reduce exposures to indoor air contaminants in the buildings listed pursuant to subparagraph (A);

(C) a list of individual Federal buildings listed pursuant to subparagraph (A) for which there is sufficient evidence of indoor air contamination or related employee health effects to warrant assessment of the building pursuant to section 14 and a schedule for the development and submittal of building assessment proposals pursuant to section 14(d);

(D) a description and schedule of specific response actions to be implemented in each specific building identified in subparagraph (C) and assessed pursuant to section 14;

(E) an identification of the Federal agency responsible for the funding and implementation of each response action identified in subparagraphs (B) and (D); and

(F) an identification of the estimated costs of each response action identified in subparagraphs (B) and (D) and the source of resources to cover the costs.

(4) REQUIREMENT FOR RESPONSE PLAN.—The response plan provided for in this subsection shall address each Federal building identified in paragraph (3)(A), except that a specific building may be exempted from coverage under this subsection. A building may be exempted on the grounds of—

(A) national security;

(B) the anticipated demolition or termination of Federal ownership not later than 3 years after the exemption; and

(C) a specialized use of a building that precludes necessary actions to reduce indoor air contamination.

(5) SUBMISSION TO CONGRESS.—The plan provided for in this subsection shall be submitted to Congress not later than 2 years after the date of enactment of this Act, and biennially thereafter.

(6) PUBLIC REVIEW AND COMMENT.—The Administrator of the General Services Administration shall provide for public review and comment on the response plan provided for in this section, including the provision of notice in the Federal Register, not later than 90 days prior to the submission to Congress of the plan.

(7) PUBLIC COMMENTS.—The response plan shall include a summary of public comments. The Council on Indoor Air Quality provided for

under section 12 shall review and comment on the plan.

(c) INDOOR AIR QUALITY RESERVE.—

(1) IN GENERAL.—The Administrator of the General Services Administration shall reserve 0.5 percent of any funds used for the construction of new Federal buildings for the design and construction of measures to reduce indoor air contaminant concentrations within the buildings.

(2) MEASURES THAT MAY BE FUNDED.—The measures that may be funded with the reserve provided for in this subsection include—

(A) the development and implementation of general design principles intended to avoid or prevent contamination of indoor air;

(B) the design and construction of improved ventilation techniques or equipment;

(C) the development and implementation of product purchasing guidelines;

(D) the design and construction of contaminant detection and response systems;

(E) the development of building management guidelines and practices; and

(F) training in building and systems operations for building management and maintenance personnel.

(3) REPORT.—On completion of construction of each Federal building covered by this section, the Administrator of the General Services Administration shall file with the Administrator, the clearinghouse established under section 13, and the Council established under section 12, a report describing the uses made of the reserve provided for in this subsection. The report shall be in sufficient detail to provide design and construction professionals with models and general plans of various indoor air contaminant reduction measures adequate to assess the appropriateness of the measures for application in other buildings.

(4) EXEMPTIONS.—The Administrator of the General Services Administration, with the concurrence of the Administrator, may exempt a planned Federal building from the requirements of this subsection if the Administrator of the General Services Administration finds that the exemption is required on the grounds of national security or that the intended use of the building is not compatible with this section.

(d) NEW ENVIRONMENTAL PROTECTION AGENCY BUILDINGS.—Any new building constructed for use by the Agency as headquarters shall be designed, constructed, maintained, and operated as a model to demonstrate principles and practices for the protection of indoor air quality.

(e) BUILDING COMMENTS.—

(1) IN GENERAL.—The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, and the Director, shall provide, by regulation, a method and format for filing and responding to comments and complaints concerning indoor air quality in Federal buildings by workers in the buildings and by the public. The procedure for filing and responding to worker complaints shall supplement and not diminish or supplant existing practices or procedures established under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and executive orders pertaining to health and safety for Federal employees.

(2) LISTING OF FILINGS.—A listing of each filing and an analysis of the filing shall be included in each response plan prepared pursuant to this section. The listing shall preserve the confidentiality of individuals making filings under this section.

(3) REGULATIONS.—The regulations implementing this subsection shall be issued at the earliest practicable date, but not later than 2 years after the date of enactment of this Act.

(f) BUILDING VENTILATION AND MANAGEMENT TRAINING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the General Services Administration shall designate, or require that a lessee designate, an Indoor Air Quality Coordinator for each Federal building that is owned or leased by the General Services Administration.

(2) SCHEDULE FOR COMPLETION OF TRAINING COURSES.—Not later than 4 years after the date of enactment of this Act, each Indoor Air Quality Coordinator shall complete the indoor air training course operated pursuant to section 6(b). Beginning on the date that is 3 years after the date of enactment of this Act, each newly designated Indoor Air Quality Coordinator shall complete the indoor air training course not later than 1 year after designation.

(3) FAILURE TO DESIGNATE AN INDOOR AIR QUALITY COORDINATOR.—If the Administrator of the General Services Administration finds that a lessee has failed to designate and train an Indoor Air Quality Coordinator pursuant to the requirements of this Act, the Administrator of the General Services Administration may not reestablish a lease for the building.

SEC. 10. STATE AND LOCAL INDOOR AIR QUALITY PROGRAMS.

(a) MANAGEMENT AND ASSESSMENT STRATEGY DEMONSTRATION.—

(1) IN GENERAL.—The Governor of a State may apply to the Administrator for a grant to support demonstration of the development and implementation of a management strategy and assessment with respect to indoor air quality within the State.

(2) STRATEGIES.—Each State indoor air quality management strategy shall—

(A) identify a lead agency and provide an institutional framework for protection of indoor air quality;

(B) identify and describe existing programs, controls, or related activities concerning indoor air quality within State agencies, including regulations, educational programs, assessment programs, or other activities;

(C) identify and describe existing programs, controls, or related activities concerning indoor air quality of local and other sub-State agencies and ensure coordination among local, State, and Federal agencies involved in indoor air quality activities in the State; and

(D) ensure the coordination of indoor air quality programs with ambient air quality programs and related activities.

(3) ASSESSMENT PROGRAMS.—Each State indoor air quality assessment program shall—

(A) identify indoor air contaminants of concern and, to the extent practicable, assess the seriousness and the extent of indoor air contamination by contaminants listed in section 7(a);

(B) identify the classes or types of buildings or other indoor environments in which indoor air contaminants pose the most serious threat to human health;

(C) if applicable, identify geographic areas in the State where there is a reasonable likelihood of indoor air contamination as a result of the presence of contaminants in the ambient air or the existence of sources of a contaminant;

(D) identify methods and procedures for indoor air contaminant assessment and monitoring;

(E) provide for periodic assessments of indoor air quality and identification of indoor air quality changes and trends; and

(F) establish methods to provide information concerning indoor air contamination to the public and to educate the public and interested groups, including building owners and design and engineering professionals, about indoor air contamination.

(4) STATE AUTHORITY.—As part of a management strategy and assessment under this subsection, the applicant may develop contaminant action levels, guidance, or standards and may draw on health advisories developed pursuant to section 7.

(5) REQUIREMENTS FOR STATES.—Each State that is selected to demonstrate the development of management and assessment strategies shall provide to the Administrator a management strategy and assessment pursuant to paragraphs (2) and (3) not later than 3 years after the date of selection and shall certify to the Administrator that the strategy and assessment meet the requirements of this Act.

(6) PUBLIC REVIEW AND COMMENT.—Each State referred to in paragraph (5) shall provide for public review and comment on the management strategy and assessment prior to submission of the strategy and assessment to the Administrator.

(b) RESPONSE PROGRAMS.—

(1) IN GENERAL.—A Governor of a State or the executive officer of a local air pollution control agency may apply to the Administrator for grant assistance to develop a response program designed to reduce human exposure to an indoor air contaminant or contaminants in the State, a specific class or type of building in that State, or a specific geographic area of that State.

(2) REQUIREMENTS FOR RESPONSE PROGRAM.—A response program shall—

(A) address a contaminant or contaminants listed pursuant to section 7(a);

(B) identify existing data and information concerning the contaminant or contaminants to be addressed, the class or type of building to be addressed, and the specific geographic area to be addressed;

(C) describe and schedule the specific actions to be taken to reduce human exposure to the identified contaminant or contaminants, including the adoption and enforcement of any ventilation standards;

(D) identify the State or local agency or public organization that will implement the response actions;

(E) identify the Federal, State, and local financial resources to be used to implement the response program; and

(F) provide for the assessment of the effectiveness of the response program.

(3) STATE AUTHORITY.—As part of a response program pursuant to this subsection, an applicant may develop contaminant action levels, guidance, or standards based on health advisories developed pursuant to section 7.

(4) VENTILATION RATES.—As part of a response program established pursuant to this subsection, an applicant may develop a standard establishing 1 or more ventilation rates for a class or classes of buildings. The standard shall include development of the assessment and compliance programs needed to implement the standard.

(5) RESPONSE PLANS.—As part of a response program established pursuant to this subsection, an applicant may develop a response plan addressing indoor air quality in State and local government buildings. The plan shall, to the fullest extent practicable, be consistent with response plans developed pursuant to section 9.

(c) GRANT MANAGEMENT.—

(1) AMOUNT.—The amount of each grant made under subsection (a)(1) shall not be less than $75,000 for each fiscal year.

(2) SELECTION CRITERIA.—In selecting States for the demonstration and implementation of management strategies and assessments under subsection (a)(1), the Administrator shall consider—

(A) the previous experience of a State in addressing indoor air quality issues;

(B) the seriousness of the indoor air quality issues identified by the State; and

(C) the potential for demonstration of innovative management or assessment measures that may be of use to other States.

(3) FOCUS OF RESOURCES.—In selecting States for the demonstration of management strategies and assessments under subsection (a)(1), the Administrator shall focus resources to ensure that sufficient funds are available to selected States to provide for the development of comprehensive and thorough management strategies and assessments in each selected State and to adequately demonstrate the implementation of the strategies and assessments.

(4) AMOUNT.—The amount of each grant made under subsection (b)(1) shall not exceed $250,000 for each fiscal year and shall be available to the State for a period of not to exceed 3 years.

(5) SELECTION CRITERIA.—In selecting response programs developed under subsection (b) for grant assistance, the Administrator shall consider—

(A) the potential for the response program to bring about reductions in indoor air contaminant levels;

(B) the contaminants to be addressed, giving priority to contaminants for which health advisories have been developed pursuant to section 207;

(C) the type of building to be addressed, giving priority to building types in which substantial human exposures to indoor air contaminants occur;

(D) the potential for development of innovative response measures or methods that may be of use to other States or local air pollution control agencies; and

(E) the State indoor air quality management strategy and assessment, giving priority to States with complete indoor air management strategies and assessments.

(6) FEDERAL SHARE.—The Federal share of each grant made under subsections (a) and (b) shall not exceed 75 per cent of the costs incurred in the demonstration and implementation of the activities and shall be made on the condition that the non-Federal share is provided from non-Federal funds.

(7) AVAILABILITY OF FUNDS.—Funds awarded as a grant pursuant to subsections (a) and (b) for a fiscal year shall remain available for obligation for the next fiscal year following the fiscal year in which the funds are obligated and for the next following fiscal year.

(8) RESTRICTION.—No grant shall be made under this section for any fiscal year to a State or local air pollution control agency that in the preceding year received a grant under this section unless the Administrator determines that the agency satisfactorily implemented the grant activities in the preceding fiscal year.

(9) INFORMATION.—States and air pollution control agencies shall provide such information in applications for grant assistance and pertaining to grant funded activities as the Administrator requires.

SEC. 11. OFFICE OF RADIATION AND INDOOR AIR.

(a) ESTABLISHMENT.—The Administrator shall establish an Office of Radiation and Indoor Air within the Office of Air and Radiation of the Agency.

(b) RESPONSIBILITIES.—The Office of Radiation and Indoor Air shall—

(1) list indoor air contaminants and develop health advisories pursuant to section 7;

(2) develop national indoor air quality response plans as provided for in section 8;

(3) manage Federal grant assistance provided to air pollution control agencies under section 10;

(4) ensure the coordination of Federal laws and programs administered by the Agency relating to indoor air quality and reduce duplication or inconsistencies among the programs;

(5) work with other Federal agencies, including the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, to ensure the effective coordination of programs related to indoor air quality; and

(6) work with public interest groups, labor organizations, and the private sector in development of information related to indoor air quality, including the health threats of human exposure to indoor air contaminants, the development of technologies and methods to control the contaminants, and the development of programs to reduce contaminant concentrations.

SEC. 12. COUNCIL ON INDOOR AIR QUALITY.

(a) AUTHORITY.—There is established a Council on Indoor Air Quality.

(b) RESPONSIBILITIES.—The Council on Indoor Air Quality shall—

(1) provide for the full and effective coordination of Federal agency activities relating to indoor air quality;

(2) provide a forum for the resolution of conflicts or inconsistencies in policies or programs related to indoor air quality;

(3) review and comment on the national indoor air quality response program developed pursuant to section 8 and the Federal building response plans developed pursuant to section 9(b); and

(4) prepare a report to Congress pursuant to subsection (d).

(c) ORGANIZATION.—

(1) IN GENERAL.—The Council on Indoor Air Quality shall include a senior representative of each Federal agency involved in indoor air quality programs, including—

(A) the Agency;

(B) the Occupational Safety and Health Administration;

(C) the National Institute of Occupational Safety and Health;

(D) the Department of Health and Human Services;

(E) the Department of Housing and Urban Development;

(F) the Department of Energy;

(G) the Department of Transportation;

(H) the Consumer Product Safety Commission; and

(I) the General Services Administration.

(2) CHAIRPERSON.—The representative of the Agency shall serve as the Chairperson of the Council.

(3) STAFF.—The Council shall be served by a staff that shall include an Executive Director and not less than 3 full-time equivalent employees who shall be employees of the Agency.

SEC. 13. INDOOR AIR QUALITY INFORMATION CLEARINGHOUSE.

(a) NATIONAL INDOOR AIR QUALITY CLEARINGHOUSE.—The Administrator shall establish a national indoor air quality clearinghouse to be used to disseminate indoor air quality information to other Federal agencies, State, and local governments, and private organizations and individuals.

(b) FUNCTIONS.—The clearinghouse shall be a repository for reliable indoor air quality related information to be collected from and made available to government agencies and private organizations and individuals. At a minimum, the clearinghouse established by this section shall make available reports, programs, and materials developed pursuant to this Act.

(c) HOTLINE.—The clearinghouse shall operate a toll-free hotline on indoor air quality that shall be available to provide to the public general information about indoor air quality and general guidance concerning response to indoor air quality problems.

(d) CONTRACTUAL AGREEMENT.—The Administrator may provide for the design, development, and implementation of the clearinghouse through a contractual agreement.

SEC. 14. BUILDING ASSESSMENT DEMONSTRATION.

(a) AUTHORITY.—

(1) IN GENERAL.—The Director of the National Institute for Occupational Safety and Health shall, in consultation with the Administrator, implement a Building Assessment Demonstration Program to support the development of methods, techniques, and protocols for the assessment of indoor air quality in nonresidential, nonindustrial buildings and to provide assistance and guidance to building owners and occupants on measures to improve air quality.

(2) ONSITE ASSESSMENTS.—In implementing this section, the Director shall have the authority to conduct onsite assessments of individual buildings, including Federal, State, and municipal buildings.

(3) STATUTORY CONSTRUCTION.—Nothing in this section shall in any way limit or constrain existing authorities under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) ASSESSMENT ELEMENTS.—Assessments of individuals buildings conducted pursuant to this section shall, at a minimum, provide—

(1) an identification of suspected building conditions or contaminants (or both) and the magnitude of the conditions or contaminants;

(2) an assessment of the probable sources of contaminants in the air in the building;

(3) a review of the nature and extent of health concerns and symptoms identified by building occupants;

(4) an assessment of the probable association of indoor air contaminants with the health and related concerns of building occupants, including an assessment of occupational and environmental factors that may relate to the health concerns;

(5) an identification of appropriate measures to control contaminants in the air in the building, to reduce the concentration levels of contaminants, and to reduce exposure to contaminants; and

(6) an evaluation of the effectiveness of response measures in the control and reduction of contaminants and contaminant levels, the change in occupant health concerns and symptoms, the approximate costs of the measures, and any additional response measures that may reduce health concerns of occupants.

(c) ASSESSMENT REPORTS.—

(1) IN GENERAL.—The Director shall prepare—

(A) a preliminary report of each building assessment that shall document findings concerning assessment elements in paragraphs (1) through (5) of subsection (b); and

(B) a final report that shall provide an overall summary of the building assessment, including information on the effectiveness and cost of response measures, and the potential for application of response measures to other buildings.

(2) SCHEDULE OF REPORTS.—Each preliminary assessment report shall be prepared not later than 180 days after the selection of a building for assessment. A final assessment report shall be prepared not later than 180 days after completion of a preliminary report.

(3) AVAILABILITY OF REPORTS.—Preliminary and final reports shall be made available to building owners, occupants, and the authorized representatives of occupants.

(d) BUILDING ASSESSMENT PROPOSAL.—

(1) IN GENERAL.—The Director shall consider individual buildings for assessment under this section in response to a proposal identifying a building and the building owner and providing preliminary, background information about the nature of the indoor air contamination, previous response to air contamination problems, and the characteristics, occupancy, and uses of the building.

(2) BUILDING ASSESSMENT PROPOSALS.—A Building assessment proposal may be submitted by a building owner or occupants or the authorized representatives of building occupants, including the authorized representatives of employees working in a building.

(e) BUILDING ASSESSMENT SELECTION.—

(1) IN GENERAL.—In selecting buildings to be assessed under this section, the Director shall consider—

(A) the seriousness and extent of apparent indoor air contamination and human health effects of the contamination;

(B) the proposal for a building assessment submitted pursuant to subsection (d);

(C) the views and comments of the building owners;

(D) the potential for the building assessment to expand knowledge of building assessment methods, including identification of contaminants and other relevant building conditions, assessment of sources, and development of response measures; and

(E) the listing of a building pursuant to section 9(b)(3)(C).

(2) PRELIMINARY RESPONSE.—The Director shall provide a preliminary response and review of building assessment proposals to applicants and the applicable building owner not later than 60 days after receipt of a proposal and, to the extent practicable, shall provide a final decision concerning selection of a proposal not later than 120 days after the submittal of the proposal.

(f) BUILDING ASSESSMENT SUPPORT.—

(1) IN GENERAL.—The Director may enter into agreements with private individuals, firms, State and local governments, or academic institutions for services and related assistance in conduct of assessments under this section.

(2) OTHER FEDERAL AGENCIES.—The Director may enter into agreements with any other Federal agency for the assignment of Federal employees to a specific building assessment project for a period of not to exceed 180 days.

(g) SUMMARY REPORT.—

(1) IN GENERAL.—The Director shall provide, on an annual basis, a report on the implementation of this section to the Administrator and to the Council on Indoor Air Quality established pursuant to section 12.

(2) GENERAL REPORTS.—The Director shall, from time to time and in consultation with the Administrator, publish general reports containing materials, information, and general conclusions concerning assessments conducted pursuant to this section. The reports may address concerns related to the remediation of indoor air contamination problems, the assessment of health related concerns and the prevention of the problems through improved design, materials, product specifications, and management practices.

(3) AVAILABILITY OF REPORTS.—The reports prepared pursuant to this subsection and subsection (c) shall be provided to the indoor air quality information clearinghouse provided for in section 13 and, to the extent practicable, the reports shall be made available to architectural, design, and engineering firms and to organizations representing the firms.

SEC. 15. STATE AND FEDERAL AUTHORITY.

(a) GENERAL AUTHORITY.—Nothing in this Act shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common law, or any local ordinance.

(b) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this title, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

(a) SECTIONS 5 THROUGH 7.—There are authorized to be appropriated $20,000,000 for each of fiscal years 1994 through 1998. Of such sums as are appropriated pursuant to this subsection, for each of fiscal years 1994 through 1998, 1/5 shall be reserved for the implementation of section 7, 1/4 shall be reserved for the implementation of section 5(c), and $1,000,000 shall be reserved for the implementation of section 6(c).

(b) SECTIONS 8, 9, 11, AND 13.—There are authorized to be appropriated $10,000,000 for each for fiscal years 1994 through 1998, to carry out sections 8, 9, 11, and 13. Of such sums as are appropriated pursuant to this subsection, 1/5 shall be reserved for implementation of section 9 and 1/5 shall be reserved for implementation of section 13.

(c) SECTION 10.—There are authorized to be appropriated $12,000,000 for each of fiscal years 1994 through 1998, to carry out section 10. Of such sums that are appropriated pursuant to this section, 1/3 shall be reserved for the purpose of carrying out section 10(b).

(d) SECTION 12.—There are authorized to be appropriated $1,500,000 for each of fiscal years 1994 through 1998, to carry out section 12.

(e) SECTION 14.—There are authorized to be appropriated $5,000,000 for each of fiscal years 1994 through 1998 to carry out section 14.

Mr. BAUCUS. Mr. President, in a few moments, the Senate will pass and send to the House of Representatives important legislation to protect indoor air quality.

I want to commend Senator MITCHELL, the sponsor of this legislation, for his commitment to addressing the indoor air pollution problem and his determined effort to assure the enactment of this bill.

I also want to thank Senator CHAFEE, who worked closely with Senator MITCHELL in developing this bill, and Senator LIEBERMAN, the chairman of the subcommittee of jurisdiction, for their important contributions to this legislation.

When I became chairman of the Environment and Public Works Committee earlier this year, I organized a series of hearings I called "the taking stock hearings." I wanted to hear from nationally recognized scientists, the academic community, and interested organizations, on how to identify the most pressing environmental and public health issues and how best to respond to them.

One important conclusion from those hearings was that, with our fiscal limitations, the Federal Government cannot solve every problem. We cannot draw endlessly on the Federal Treasury. We must be smarter about which problems we address. And we must assure that we spend our limited resources where they will do the greatest good for the environment and public health.

With these goals in mind, the Environment and Public Works Committee has reported four major bills so far this year.

We have reported my legislation to provide incentives for the development of innovative environmental technologies. This bill will help assure that we have the most effective and efficient technologies for pollution prevention, treatment, and cleanup.

We have reported Senator REID's bill to reduce the serious public health problems cased by human exposure to lead, including special attention to the health effects of lead on children.

We have reported Senator LAUTENBERG's bill to expand the national program to reduce the estimated 13,000 lung cancer deaths each year attributed to exposure to radon gas.

And, finally, we reported the indoor air quality legislation we are considering today.

Together, these bills represent a significant step toward addressing several of the most serious threats to public health faced by Americans. In the coming months, I expect that the committee also will be acting on other important issues.

These include legislation cosponsored by Senator CHAFEE and myself to revise the Clean Water Act, a bill I have introduced to reform the Safe Drinking Water Act, and legislation to be developed next year to reauthorize the Superfund.

Why should indoor air pollution be treated as one of our most pressing public health problems? And why does it consistently rank among the top environmental risks to public health in comparative risk assessment studies?

A key reason is that, today, most Americans spend up to 90 percent of their day indoors. Most of the air we breathe is indoor air.

In addition, as our buildings are designed to be more energy efficient, the air we breathe is more likely to have harmful levels of contaminants.

These contaminants range from a naturally occurring substance like radon gas, to combustion byproducts, biological contaminants, and fumes from furnishings.

The costs of indoor air pollution can be measured at several levels.

The most basic level is simple physical discomfort, including skin and eye irritation and respiratory illness.

But indoor air contaminants can also cause lung cancer, reduce heart function, and developmental effects resulting in serious illnesses and deaths each year.

EPA estimates the annual medical costs of indoor air pollution at over $1 billion.

At another level, illness and sick leave, caused by indoor air pollution is a drain on national productivity. For example, EPA estimates that "productivity losses may be on the order of tens of billions of dollars each year," again, as a consequence of indoor air pollution.

Mr. President, it is time that we recognize the seriousness of this problem and direct the Federal Government to take the lead in developing a coordinated effort to clean up indoor air.

The Indoor Air Quality Act is a solid and responsible answer to the clear scientific evidence of the health threats posed by indoor air pollution.

There are many important provisions of the bill, but I want to mention three that I consider especially constructive.

Section 5 of the bill provides general authority for research by the Environmental Protection Agency on indoor air quality problems. A more thorough understanding of the science of indoor air pollution is necessary if we are to design the best possible response efforts. This bill directs the Agency to study the causes and the extent of indoor air pollution and the technologies and practices needed to correct the problems.

Second, the bill calls on the EPA to take the lead in coordinating the efforts of the many Federal agencies with an interest in indoor air quality. One reason for the slow progress in recognizing indoor air pollution is that our efforts are scattered among at least half a dozen major Federal agencies and departments.

Under this bill, EPA will work with these agencies to develop a national response plan to reduce indoor air pollution. The plan is intended to draw on existing authorities and capabilities within Federal agencies and focus these resources on the most critical indoor air problems. I point out to my colleagues that the bill does not confer any new regulatory authority.

Finally, the bill reaches out to State and local governments to involve them in this effort. States are eligible for grants to develop strategies to identify and respond to indoor air problems. In addition, States or local governments can apply for grant assistance for innovative programs to address a specific indoor air contaminant or a specific class of buildings. This voluntary program will allow those State and local governments most interested in indoor air quality, to demonstrate what works well and what does not.

In closing, Mr. President, I express my high hope that this legislation will be signed into law early next year. We have passed similar legislation before in the Senate and the House has not responded. This year, however, the bill has the endorsement of the administration, and it is advancing in the House.

This is important public health legislation and it is worthy of my colleagues' support, and I urge my colleagues to strongly support this legislation.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. BAUCUS. Mr. President, I see the majority leader on the floor. As I understand it, he would like to give a statement at this time. I wonder if the Senator from Virginia will yield.

Mr. WARNER. Of course. I join in presentation of the bill. I am happy to yield to the majority leader.

Mr. MITCHELL. Mr. President, I thank the chairman and Senator WARNER very much.

Mr. President, I rise in support of the Indoor Air Quality Act of 1993. This legislation, which I introduced earlier this year, is an important step toward reducing the threats to human health posed by exposure to contaminants in the air indoors.

I am very pleased that Senator CHAFEE, the ranking Republican member of the Environment and Public Works Committee, and Senator LIEBERMAN, the chairman of the subcommittee with jurisdiction over this legislation, have joined me in supporting this bill.

I am also grateful to Senator BAUCUS, the chairman of the full committee, and Senator WARNER, the acting ranking Republican member today, for their support.

I also express my appreciation to Environmental Protection Agency Administrator Carol Browner for her strong support of this important legislation and her constructive assistance in revising the bill.

Mr. President, most Americans spend up to 90 percent of the day indoors. There is growing evidence that exposure to contaminants in the air indoors is a deadly serious problem.

Indoor air quality is an especially serious problem in my home State of Maine. Lung cancer rates in Maine are 23 percent above the national average and chronic obstructive pulmonary disease rates are 35 percent above the national average.

A single indoor air pollutant, radon gas, is estimated by researchers at the University of Maine to cause up to 70 lung cancer deaths in Maine each year. Thirty percent of Maine homes have radon above the level at which EPA recommends action be taken. This is the eighth highest rate of the 42 States surveyed.

In addition, indoor air quality problems have occurred in buildings throughout Maine, ranging from Bridgton Elementary School in Bridgton, ME, to State office buildings in Caribou and Augusta, ME, to the new county courthouse in Bath, ME.

The Environment and Public Works Committee has held half a dozen hearings on indoor air quality problems over the past several years. A number of important points of agreement have emerged from these hearings.

We know that exposure to air pollutants occurs indoors—in residences, workplaces, schools, public buildings, and transportation vehicles—as well as outdoors.

We know that indoor air pollutants include radon, asbestos, volatile organic compounds; for example, formaldehyde, benzene—combustion byproducts; for example, carbon monoxide, carbon dioxide—metals and gases; for example, lead, chlorine, ozone, and respirable particles.

We know that radon is the most harmful indoor air pollutant. The Environmental Protection Agency [EPA] estimates that radon causes an estimated 14,000 lung cancer deaths each year. The EPA estimates that a selected group of other indoor air pollutants causes thousands of additional cancers each year.

We know that sources of these pollutants include commercial products, building materials, combustion appliances, indoor application of pesticides, and outdoor sources.

The medical community reports other health effects of indoor air contaminants, including skin and eye irritation, respiratory function impairment, allergic and infectious diseases, neurotoxicity, immune effects, liver and kidney effects, and developmental effects.

We have clear evidence that the health effects of indoor air pollutants result in substantial costs to society in the form of reduced productivity, sick time, health care costs, and disability costs estimated to be in the tens of billions of dollars.

Much of our information about the indoor air pollution problem is relatively recent. The foundation for our understanding of indoor air pollution problems is a series of Environmental Protection Agency [EPA] research projects that offer compelling documentation of the serious health threats posed by indoor air contaminants.

In September 1989, in response to section 403(e) of the Superfund amendments and Reauthorization Act of 1986, EPA published a major assessment of indoor air quality.

The report indicates the seriousness of indoor air pollution, stating:

> Indoor air pollution represents a major portion of the public's exposure to air pollution and may pose serious acute and chronic health risks. This evidence warrants an expanded effort to characterize and mitigate this exposure.

The report further states:

> The information available suggests that exposure to indoor air pollutants poses a significant health threat to the domestic population.

The report also documents the wide range of indoor contaminant health effects and states:

> Health effects from indoor air pollution cover the range of acute and chronic effects and include eye, nose, and throat irritation, respiratory effects, neurotoxicity, kidney and liver effects, heart functions, allergic and infectious disease, developmental effects, mutagenicity, and carcinogenicity.

The EPA report provides data on the lethal effects of several specific, carcinogenic contaminants. Human exposure to radon gas is cited as causing between 5,000 and 20,000 lung cancer deaths each year. The EPA later revised this estimate to be approximately 14,000 deaths per year.

The report cites studies estimating that between 1,000 and 5,000 lung cancer deaths each year are due to indoor exposure and 6 specific volatile organic chemicals.

The report reviews the issues associated with sick building syndrome and multiple chemical sensitivities. The report concludes:

> Building sickness, such as sick building syndrome, building related illness, and multiple chemical sensitivity are issues of potentially great significance but are poorly understood.

Illnesses caused by indoor air contaminants take a toll in death, suffering, and discomfort. These illnesses, however, also have a cost to society in the form of increased medical expenses, increased sick leave, and declines in worker productivity.

The EPA report includes new assessments of the costs of indoor air contamination. The annual national costs of medical care resulting from indoor air pollution are estimated at over $1 billion.

The report, however qualifies this statement, noting:

> These estimates do not include the costs of many potential illnesses and indoor air pollutants * * * due to limited quantification of health impacts for these pollutants * * *.

The report also cites the costs associated with employee sick days and reduced productivity due to indoor air illness. Using the same conservative assumptions used to calculated direct medical costs, the report estimates costs of reduced productivity at between $4.4 and $5.4 billion annually.

Citing more comprehensive studies of productivity declines, the report states:

> If these results were applied to the nation's white collar labor force, the economic cost to the nation would be on the order of $60 billion annually. While this cannot be regarded as a reliable estimate, it suggests quite strongly that productivity losses may be on the order of tens of billions of dollars per year.

In summarizing the overall costs of indoor air pollution, the EPA report concludes:

> Many costs of indoor air pollution have not been calculated. Nevertheless, because of the large number of people and buildings potentially affected, as well as the wide range of effects for which there is a cost component, it is reasonable to conclude that the aggregate costs of indoor air pollution amount to tens of billions of dollars per year.

The report proposes a detailed research agenda for the next 5 years, including exposure assessment, and research on health effects, control techniques, and building systems. The estimated cost of this research over the 5-year period is $99.15 million.

Other studies corroborate these findings. In December 1989, EPA published the results of studies of environmental priority setting in three regions of the country where indoor air pollution was recognized as a serious problem. The Agency concluded:

> * * * risk associated with most environmental problems does not differ much across the [geographic] areas studied. For example, indoor air pollution consistently causes greater health risks than hazardous waste sites whether one is concerned with New England, the Middle Atlantic region, or the Pacific Northwest. Such consistent findings should play an important role in setting national environmental priorities.

In September 1988, EPA issued a major report on indoor air quality in public buildings. The summary of the report states:

> VOC's (volatile organic chemicals) are ubiquitous indoors. * * * About 500 different chemicals were identified in just four buildings. * * * Almost every pollutant was at higher levels indoors than out. * * * New buildings had levels of some chemicals that were 100 times higher than outdoor levels.

In 1987, EPA published a comprehensive, four volume, multiyear study of total exposure to air pollutants which concluded that exposure to indoor air pollutants is significant relative to exposure to air pollutants in the ambient air. The report states:

> The major finding of this study is the observation that personal and indoor exposures to these toxic and carcinogenic chemicals are nearly always greater—often much greater—than outdoor concentrations. We are led to the conclusion that indoor air in the home and at work far outweighs outdoor air as a route of exposure to these chemicals.

Despite all the evidence of the health effects and economic costs of indoor air pollution, the Federal Government still lacks a coordinated and comprehensive response to this problem.

The Indoor Air Quality Act—S. 656—which I introduced earlier this year with Chairman LIEBERMAN and others, establishes a national program to reduce the threat to health posed by exposure to contaminants in the air indoors. Similar legislation was passed by the Senate in the 101st and 102d Congresses.

In developing this legislation, we had five basic principles in mind.

First, we placed a strong emphasis on expanding and strengthening indoor air research.

Second, we sought to improve understanding of specific indoor air pollutants through development of health advisories on indoor air contaminants.

Third, we wanted to foster more effective use of existing authority for controlling indoor air contaminants rather than creating new regulatory authority. The bill provides that existing authorities are to be focused and directed in a national response plan.

Fourth, we provide for grant assistance to States and local governments to demonstrate effective controls over indoor air pollution.

Finally, we sought to create an institutional base for indoor air programs at the Environmental Protection Agency and assure coordination of related efforts throughout the Federal Government.

I will provide some additional explanation of the major elements of this legislation.

The bill expands research of indoor air pollution by providing the EPA and other agencies with authority to conduct general research on indoor air contamination and research on specific problem areas.

New authority is provided to demonstrate various technologies which may contribute to the reduction of indoor air contamination. The bill also calls for the issuance of technical and management practice bulletins providing assessments of technologies for controlling and measuring indoor air contaminants.

An important provision of the bill provides for a report to Congress on the subject of chemical sensitivity disorders, including multiple chemical sensitivities. The study is to address the underlying causes of chemical sensitivity disorders, identify the prevalence of these disorders, and make recommendations for actions to prevent and respond to such illnesses.

The bill also provides for the Director of the National Institute for Occupational Health and Safety, in consultation with the Administrator, to develop an indoor air quality training course for managers of Federal and other buildings. Training courses are to address building management methods for reducing indoor air contamination.

The Administrator is to conduct a program to analyze the adequacy of existing ventilation standards and guidelines to protect public health and report on it to the Congress within 36 months.

The bill provides that the EPA will develop a list of indoor air contaminants and health advisory documents for the contaminants.

Health advisory documents are to include descriptions of the characteristics of each contaminant and the health threats posed at various concentrations.

A key section of the bill directs the EPA to develop a national response plan identifying actions to be taken to reduce contaminants in indoor air. The plan is to identify and schedule needed actions by EPA and other Federal agencies under the authority in existing statutes. The plan also will outline Federal agency activities related to indoor air information, education, and technical assistance. The response plan is to be submitted to Congress within 24 months of enactment of this act and biennially thereafter.

The section of the bill providing for the national response plan does not confer new or additional regulatory authority over indoor air contaminants to the EPA, Occupational Safety and Health Administration, or other Federal agencies. It provides for a coordinated research and assessment effort which may be used by Federal or State agencies during consideration of appropriate responses to indoor air pollution, including new regulations.

The Federal Government must play a leadership role in developing effective responses to indoor air pollution problems. The bill provides for a Federal building response plan to address air quality in Federal buildings.

The plan is to identify general management practices for improving indoor air. Buildings with identified indoor air quality problems are to be considered for assessment under the sick building section of the act. The plan is to be submitted to Congress 24 months after enactment of the act and biennially thereafter.

Another key objective of the bill is to demonstrate very basic indoor air quality management strategies and assessments at the State level.

States have proven to be essential partners in implementing many of our environmental programs and I hope that this provision of the bill will foster an improved understanding of the role of State governments in responding to indoor air quality problems.

The bill provides grants to States for demonstrating indoor air quality management and assessment strategies. Each State is to identify a lead agency for protecting indoor air quality, describe existing programs at the State and substate levels, and assure coordination with programs addressing ambient air quality.

State assessment programs are to identify contaminants of concern by geographic areas experiencing problems and provide for periodic assessments of indoor air conditions and trends.

States or other air pollution control agencies also may develop response programs to address a particular indoor air contaminant, class of buildings, or buildings in a specific geographic area.

Several provisions of the bill expand the institutional base for attention to indoor air pollution.

An Office of Radiation and Indoor Air Quality is established within the EPA to manage indoor air quality activities and to work with other Federal agencies.

The bill also addresses the problem of coordination of indoor air quality activities among Federal agencies. The nature of indoor air pollution problems requires that a wide range of Federal agencies participate in assessment and control efforts. The bill establishes a Council on Indoor Air Quality to oversee the indoor air activities of various Federal agencies.

Agencies represented on the Council include EPA, the Occupational Safety and Health Administration, the National Institute of Occupational Safety and Health, the Department of Housing and Urban Development, the Department of Transportation, the Department of Energy, the Consumer Product Safety Commission, and the General Services Administration.

The bill also addresses the problem of sick buildings. The Director of the National Institute of Occupational Safety and Health [NIOSH] is to carry out a program to demonstrate methods of assessment and mitigation of indoor air contamination in sick buildings.

This expanded effort will help develop the most effective measures to identify the causes of sick building syndrome and the most effective measures to mitigate these problems. This provision establishes a process for the assessments and is based on an existing NIOSH effort.

The bill authorizes total funding of $48.5 million for each fiscal year from 1994 to 1998 including: $20 million for research and health advisories; $10 million for EPA operations; $12 million for State management and response grants; $1.5 million for the National Indoor Air Quality Council; and $5 million for the sick building assessment program.

Mr. President, each year the evidence of the health threats and economic costs of indoor air pollution grows and grows. My legislation is intended to recognize the importance of indoor air pollution and get the Federal Government and the States actively involved in solving the problem.

I urge all my colleagues to join me in supporting this important legislation. With your support, we can assure that Americans have clean, safe air to breathe indoors as well as outdoors.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to compliment the distinguished majority leader and the chairman of the committee, on which I am privileged to serve, and Senator CHAFEE, the ranking member, for bringing this piece of very badly needed legislation to us today here on a fast track in the Senate.

I say to my distinguished leader, why did we not think of this two decades ago when we started on the clean air legislation? When you stop to think of it, the object of the legislation is so essential to our daily life, we should have thought of it yesterday and the day before and the day before.

I am privileged to join, Mr. President, as an original cosponsor of this legislation.

Mr. MITCHELL. I thank my colleague for his kind comments and for his constructive assistance in the committee in getting this bill written and approved.

Mr. WARNER. I thank the leader.

Mr. CHAFEE. Mr. President, I am pleased to join the majority leader, Senator MITCHELL, in bringing S. 656, the Indoor Air Quality Act of 1993 to the floor for consideration by the full Senate. This legislation will result in significantly improving the quality of the air we breathe indoors. Before I describe the bill and its importance in protecting human health, I want to note that similar legislation was approved by the Senate during the 102d Congress by a vote of 88 to 7.

The Indoor Air Quality Act of 1993 establishes a national program to reduce the threat to human life posed by exposure to contaminants in the air indoors. The bill will provide for a substantial research and development initiative to uncover harmful pollutants in our indoor environment, and will focus the efforts of the Federal Government to address this problem.

By directing our efforts at providing clean indoor air, we will make strides toward preventing health problems before they occur. Our Nation spends billions of dollars each year on health care, unfortunately often after the fact. Many of the illnesses we experience, however, are preventable. In terms of public health, this bill will provide us with a much-needed ounce of prevention, and help us to avoid the costly pound of cure in treating respiratory illnesses.

Over the last decade we have made considerable progress in abating some of the most harmful pollutants of our outdoor environment. Emissions from cars are no longer as injurious to air quality, and, under the Clean Air Act, auto emissions will be reduced even more. Leaded gasoline, known to cause health serious negative effects in children, is being phased out. Once unsightly rivers are now returning to a state where they are fishable and swimmable.

Yet for all this progress, we have not turned our attention in a significant way to the environment where Americans spend an average of 90 percent of their time: Indoors. Much is known about the effects of some indoor contaminants, such as radon, asbestos, and tobacco smoke. However, there are several other contaminants prevalent in the indoor environment about which very little is known. These include formaldehyde, volatile organic chemicals, and combustion byproducts.

The threat from these contaminants may be heightened by the fact that many of us live and work in virtually airtight buildings. Soaring energy costs over the past two decades have spurred conservation efforts which led to the construction of office buildings in which you cannot open the windows. These well insulated, energy efficient buildings often seal in potentially hazardous substances while reducing the amount of fresh air available to breathe.

To date, relatively little attention has been given to the quality and potential health effects of the air inside our homes and offices. But there is mounting evidence that the air we breathe indoors may be at least as polluted with cigarette smoke, radioactive radon gas, and formaldehyde as the smog outside.

In a significant development, EPA now concludes that the risk to human health from indoor air contaminants may be at least as great as those from the outdoor environment. In a report on indoor air contamination, EPA notes that:

> Sufficient evidence exists to conclude that indoor air pollution represents a major portion of the public's exposure to air pollution and may pose serious acute and chronic health risks. This evidence warrants an expanded effort to characterize and mitigate this exposure.

This statement represents a major step forward in the Agency's thinking about what needs to be done to address indoor air pollution.

At a hearing on the health effects of indoor air pollution before the Committee on Environment and Public Works, it became painfully clear that there is not an adequate effort by Federal agencies or States to conduct research on indoor air contaminants. This bill will direct the various agencies responsible for indoor air quality to coordinate their response plans to address these contaminants. The bill will place the Environmental Protection Agency squarely in the lead in developing the Federal response to indoor air contamination.

Let me describe the key elements of this legislation.

First, the bill establishes a research program for indoor air. This is an appropriate Federal role, to identify the risk posed by our indoor environment. Information developed by this searchmust be shared with the States and the private sector.

Second, the legislation will require EPA to establish health advisories. These advisories must be written in plain English, and must make it clear to the average citizen how he can best minimize exposure and adverse health effects from indoor contaminants.

Third, the measure also provides for limited grant assistance to States for development of management strategies and response programs.

Fourth, the bill will authorize the National Institute of Occupational Safety and Health [NIOSH] to conduct assessments of sick buildings. Estimates of lost worker productivity due to symptoms attributable to sick buildings is in the billions of dollars.

Also, I have added a provision to the legislation requiring EPA to conduct an assessment of the seriousness and extent of indoor air contamination in schools. As with radon, children may be at greater risk from harmful chemicals due to a higher respiratory rate, and the fact that their internal organs are still developing.

I would like to make it clear that this legislation does not place the Federal Government in the living rooms of Americans. The bill does not provide authority to regulate indoor air contaminants, but rather takes an informational approach. The health advisories, for example, will indicate the health risks at various concentration levels, and inform homeowners of ways to reduce and minimize the risk from various contaminants.

The best defense we have against an unhealthy indoor environment is an informed consumer. For example, homeowners need to be made aware of the health risks associated with using certain chemicals in the home. If this information can be communicated effectively, the marketplace will send a strong signal to manufacturers: Consumers demand safe products for home use.

Americans need to know how to ensure that the quality of the air inside their homes and offices is healthy. We must begin to address the health threat posed by contaminants of the air indoors. S. 656, the Indoor Air Quality Act of 1993 is a major step in this direction. I urge my colleagues to support the bill.

Mr. WARNER. Mr. President, I am pleased to join Chairman BAUCUS, the majority leader, Senator MITCHELL, and Senator CHAFEE in bringing S. 656, the Indoor Air Quality Act of 1993 to the floor for consideration by the full Senate. This legislation will result in significantly improving the quality of the air we breath indoors. Before I describe the bill and its importance in protecting human health, I want to note that similar legislation was approved by the Senate during the 102d Congress by a vote of 88 to 7.

By directing our efforts at providing clean indoor air, we will make strides toward preventing health problems before they occur. Our Nation spends billions of dollars each year on health care, unfortunately often after the fact. Many of the illnesses we experience, however, are preventable. In terms of public health, this bill will provide us with a much-needed ounce of prevention, and help us to avoid the costly pound of cure in treating respiratory illnesses.

I am most supportive of a provision in this legislation requiring EPA to conduct an assessment of the seriousness and extent of indoor air contamination in schools. Our children are our most important treasure. As with radon, children may be at greater risk from harmful chemicals due to their fragile respiratory systems, and the fact that their internal organs are still developing.

To date we have no information on the quality of air that children are exposed to in their schools—a place where they spend a significant portion of time in their formative years. The information collected as a result of this legislation will allow us to take steps if necessary to improve the quality of the air our children breathe.

The best defense we have against an unhealthy indoor environment is an informed consumer.

Americans need to know how to ensure that the quality of the air inside their homes and offices is healthy. We must begin to address the health threat posed by contaminants of the air indoors. S. 656, the Indoor Air Quality Act of 1993 is a major step in this direction.

AMENDMENT NO. 1092

(Purpose: To provide for application of the Administrative Procedures Act and judicial review to the designation of indoor air contaminants)

Mr. WARNER. Mr. President, on behalf of Senator BROWN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Virginia [Mr. WARNER], for Mr. BROWN, proposes an amendment numbered 1092.
>
> On page 96, strike line 1 through line 12.

The PRESIDING OFFICER. Is there any debate on the amendment?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we have examined this amendment offered on behalf of the Senator from Colorado. It makes a small change in the rulemaking procedures. The amendment is acceptable to the managers of the bill.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment offered by the Senator from Virginia on behalf of the Senator from Colorado, Mr. BROWN.

The amendment (No. 1092) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the bill?

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise today to associate myself with the Senators from Montana and Virginia and the distinguished majority leader in strong support of the Indoor Air Quality Act of 1993.

I am proud to be an original cosponsor of this legislation, along with the majority leader, and equally proud to serve as the Chairman of the Subcommittee of the Environment and Public Works Committee which considered it.

I do want to say in this regard that the Senator from Maine is the majority leader, the leader of this Chamber, and that gives him the responsibility for keeping this sometimes unruly group moving in a positive and productive direction. But, besides that leadership, he is also a great leader on substantive matters and none more important than environmental protection. He has been way out front in many areas, including this one, of the problems posed to public health and economic health by indoor air pollution.

In fact, this bill or something quite like it, passed the Senate twice by wide margins. I am confident that in this Congress, with the support of this President, we are going to see these good ideas for protecting people from indoor air pollution finally enacted into law.

Mr. President, in this time of scarce resources—both public and private—it is critically important that we not add layers to our law books without very just and compelling cause. I think this provision meets those tests.

Clearly, the high cost of health care is a priority concern of the American people. I think, therefore, it is particularly fitting to view this legislation in that context, because it not only addresses one of the most serious environmental threats today, it addresses a threat that has vast consequences for health care costs throughout our system.

EPA estimates that the costs to society from indoor air pollution are literally in the tens of billions of dollars per year; that includes medical costs, increased sick leave, and reduced productivity.

The good news is that most of those costs can be avoided and they will be avoided, at least the effort to avoid them will begin with this very sound legislation and sensible behavior in response to it by the American people.

EPA and its Science Advisory Board have consistently ranked indoor air pollution as one of the top four environmental risks to public health. The truth is, when most people think about air pollution, they tend to think of smokestacks belching fumes that turn blue skies into gray or black skies.

But the reality is that Americans spend about 90 percent of our time indoors these days and that pollutants exist indoors at levels two to five times higher than outdoor levels. And the consequences of that are severe—as the majority leader and others have documented—real health problems.

At the May 25 hearing this year before our subcommittee, Deputy Administrator Sussman of the EPA testified:

> We know enough about the problem to conclude that the risks, both acute and chronic, are significant and warrant the coordinated and intensive Federal response.

Let me cite a few powerful statistics—unsettling facts. The most significant health effect of indoor air pollution is lung cancer, and that is for real. EPA reports that radon causes about 14,000 lung cancer deaths each year and that passive smoking causes 3,000 lung cancer deaths each year. EPA also cites studies that show that between 1,000 and 5,000 lung cancer deaths each year are due to indoor exposure to 6 volatile organic compounds. Exposure to tobacco smoke is in fact responsible, according to EPA, for 3,000 lung cancer deaths in nonsmoking adults and impairs the respiratory health of hundreds of thousands of children.

So it is time that the law take the lead in presenting a response and some protection for the American people.

This legislation is a very measured response to what, as I have described it, is a deadly serious problem. This legislation will provide consumers with more information to enable them to protect themselves against indoor air pollution and it will streamline existing authorities to provide a coordinated response to the problem.

During the committee process of considering this legislation, the only significant concern we heard about the legislation was a desire to ensure that the health advisories which EPA will develop be based on sound, scientific information that has undergone peer review. That was an appropriate and sensible suggestion and the committee, agreeing with the concern, has modified the original language of the bill to include just that altered language.

Again, and finally, I thank the majority leader, the Senator from Montana, the Senator from Virginia, the Senator from Rhode Island, and all members of our committee for their leadership in this area in producing this bill which will protect the health of millions of Americans and save our economy and health care system billions of dollars in the process. I urge my colleagues to vote in favor of S. 656.

I yield the floor.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (S. 656), as amended, was passed, as follows:

S. 656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indoor Air Quality Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.
Sec. 5. Indoor air quality research.
Sec. 6. Management practices, voluntary partnership programs, and ventilation standards.
Sec. 7. Indoor air contaminant health advisories.
Sec. 8. National indoor air quality response plan.
Sec. 9. Federal building response plan and demonstration program.
Sec. 10. State and local indoor air quality programs.
Sec. 11. Office of Radiation and Indoor Air.
Sec. 12. Council on Indoor Air Quality.
Sec. 13. Indoor air quality information clearinghouse.
Sec. 14. Building assessment demonstration.
Sec. 15. State and Federal authority.
Sec. 16. Authorization of appropriations.

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans spend up to 90 percent of a day indoors and, as a result, have a significant potential for exposure to contaminants in the air indoors;

(2) exposure to indoor air contamination occurs in workplaces, schools, public buildings, residences, and transportation vehicles;

(3) recent scientific studies indicate that pollutants in the indoor air include radon, asbestos, volatile organic chemicals (including formaldehyde and benzene), combustion byproducts (including carbon monoxide and nitrogen oxides), metals and gases (including lead, chlorine, and ozone), respirable particles, biological contaminants, microorganisms, and other contaminants;

(4) a number of contaminants found in both ambient air and indoor air may occur at higher concentrations in indoor air than in outdoor air;

(5) indoor air pollutants pose serious threats to public health (including cancer, respiratory illness, multiple chemical sensitivities, skin and eye irritation, and related effects);

(6) up to 15 percent of the population of the United States may have heightened sensitivity to chemicals and related substances found in the air indoors;

(7) radon is among the most harmful indoor air pollutants and is estimated to cause between 5,000 and 20,000 lung cancer deaths each year;

(8) other selected indoor air pollutants are estimated to cause between 3,500 and 6,500 additional cancer cases per year;

(9) indoor air contamination is estimated to cause significant increases in medical costs and declines in work productivity;

(10) as many as 20 percent of office workers may be exposed to environmental conditions manifested as "sick building syndrome";

(11) sources of indoor air pollution include conventional ambient air pollution sources, building materials, consumer and commercial products, combustion appliances, indoor application of pesticides, and other sources;

(12) there is not an adequate effort by Federal agencies to conduct research on the seriousness and extent of indoor air contamination, to identify the health effects of indoor air contamination, and to develop control technologies, education programs, and other methods of reducing human exposure to the contamination;

(13) there is not an adequate effort by Federal agencies to develop response plans to reduce human exposure to indoor air contaminants and there is a need for improved coordination of the activities of these agencies;

(14) there is not an adequate effort by Federal agencies to develop methods, techniques, and protocols for assessment of indoor air contamination in non-residential, non-industrial buildings and to provide guidance on measures to respond to contamination; and

(15) State governments can make significant contributions to the effective reduction of human exposure to indoor air contaminants and the Federal Government should assist States in development of programs to reduce exposures to the contaminants.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) develop and coordinate through the Environmental Protection Agency and at other departments and agencies of the United States a comprehensive program of research and development that addresses the seriousness and extent of indoor air contamination, the human health effects of indoor air contaminants, and the technological and other methods of reducing human exposure to the contaminants;

(2) establish a process under which the existing authorities of Federal laws will be directed and focused to ensure the full and effective application of the authorities to reduce human exposure to indoor air contaminants where appropriate;

(3) provide support to State governments to demonstrate and develop indoor air quality management strategies, assessments, and response programs; and

(4) authorize activities to ensure the general coordination of indoor air quality-related activity, provide for reports on indoor air quality to Congress, provide for assessments of indoor air contamination in specific buildings by the National Institute for Occupational Safety and Health, ensure that data and information on indoor air quality issues is available to interested parties, provide training, education, information, and technical assistance to the public and private sector, and for other purposes.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Administration.—The term "Administration" means the Occupational Safety and Health Administration.

(3) Agency.—The term "Agency" means the Environmental Protection Agency.

(4) Director.—The term "Director" means the Director of the National Institute of Occupational Safety and Health.

(5) Federal agency.—The term "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government or government corporation.

(6) Federal building.—The term "Federal building" means any building that is used primarily as an office building, school, hospital, or residence that is owned, leased, or operated by any Federal agency and is over 10,000 square feet in area, any building occupied by the Library of Congress, the White House, or the Vice Presidential residence, and any building that is included in the definition of Capitol Buildings under section 193m(1) of title 40, United States Code.

(7) Indoor.—The term "indoor" means the enclosed portions of buildings, including nonindustrial workplaces, public buildings, Federal buildings, schools, commercial buildings, and residences, and the occupied portions of vehicles.

(8) Indoor air contaminant.—The term "indoor air contaminant" means any solid, liquid, semisolid, dissolved solid, biological organism, aerosol, or gaseous material, including combinations or mixtures of substances, known to occur in indoor air that may reasonably be anticipated to have an adverse effect on human health.

(9) Local air pollution control agency.—The term "local air pollution control agency" means any city, county, or other local government authority charged with the responsibility for implementing programs or enforcing laws or ordinances relating to the prevention and control of air pollution, including indoor air pollution.

(10) Local education agency.—The term "local education agency" means any educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381).

SEC. 5. INDOOR AIR QUALITY RESEARCH.

(a) Authority.—

(1) In general.—The Administrator shall, in coordination with other appropriate Federal agencies, establish a national research, development, and demonstration program to ensure the quality of air indoors. As part of the program, the Administrator shall promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, sources, effects, extent, prevention, detection, and correction of contamination of indoor air.

(2) Duties of administrator.—In carrying out this section, the Administrator is authorized, subject to the availability of appropriations, to—

(A) collect and make available to the public, through publications and other appropriate means, the results of research, development, and demonstration activities conducted pursuant to this section;

(B) conduct research, development, and demonstration activities and cooperate with other Federal agencies, State and local government entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions and organizations, and other persons in the preparation and conduct of the research, development, and demonstration activities;

(C) make grants to States or local government entities, other public agencies and authorities, nonprofit institutions and organizations, and other persons;

(D) enter into contracts or cooperative agreements with public agencies and authorities, nonprofit institutions and organizations, and other persons;

(E) conduct studies, including epidemiological studies, of the effects of indoor air contaminants or potential contaminants on mortality and morbidity and clinical and laboratory studies on the immunologic, biochemical, physiological, and toxicological effects (including the carcinogenic, teratogenic, mutagenic, cardiovascular, and neurotoxic effects) of indoor air contaminants or potential contaminants;

(F) develop and disseminate information documents on indoor air contaminants describing the nature and characteristics of the contaminants in various concentrations;

(G) develop effective and practical processes, protocols, methods, and techniques for the prevention, detection, and correction of indoor air contamination and work with the private sector, other governmental entities, and schools and universities to encourage the development of innovative techniques to improve indoor air quality;

(H) construct such facilities, employ such staff, and provide such equipment as are necessary to carry out this section;

(I) call conferences concerning the potential or actual contamination of indoor air giving opportunity for interested persons to be heard and present papers at the conferences;

(J) utilize, on a reimbursable basis, facilities and personnel of existing Federal scientific laboratories and research centers;

(K) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, equipment and facilities, and other property rights, by purchase, license, lease, or donation, and if the Administrator expects or intends that research conducted pursuant to this subsection will primarily affect worker safety and health, the Administrator shall consult with the Assistant Secretary of Occupational Safety and Health and the Director; and

(L) conduct research, development, and demonstration activities through nonprofit institutions on the use of indoor foliage as a method to reduce indoor air pollution.

(b) Program Requirements.—The Administrator, in coordination with other appropriate Federal agencies, shall conduct, assist, or facilitate research, investigations, studies, surveys, or demonstrations with respect to the following:

(1) The effects on human health of contaminants or combinations of contaminants (whether natural or anthropogenic) at various levels including additive, cumulative, and synergistic effects on populations both with and without heightened sensitivity that are found or are likely to be found in indoor air.

(2) The exposure of persons to contaminants that are found in indoor air (including exposure to the substances from sources other than indoor air contamination, including drinking water, diet, or other exposures).

(3) The identification of populations at increased risk of illness from exposure to indoor air contaminants and assessment of the extent and characteristics of the exposure.

(4) The exposure of persons to contaminants in buildings of different classes or types, and in vehicles, and assessment of the association of particular contaminants and particular building classes or types and vehicles.

(5) The identification of building classes or types and design features or characteristics that increase the likelihood of exposure to indoor air contaminants.

(6) The identification of the sources of indoor air contaminants, including association of contaminants with outdoor sources, building or vehicle design, classes or types of products, building management practices, equipment operation practices, building materials, and related factors.

(7) The assessment of relationships between contaminant concentration levels in ambient air and the contaminant concentration levels in the indoor air.

(8) The development of methods and techniques for characterizing and modeling indoor air movement and flow within buildings or vehicles, including the transport and dispersion of contaminants in the indoor air.

(9) The assessment of the fate, including degradation and transformation, of particular contaminants in indoor air.

(10) The development of methods and techniques to characterize the association of contaminants, the levels of contaminants, and the potential for contamination of new construction with climate, building location, seasonal change, soil and geologic formations, and related factors.

(11) The assessment of indoor air quality in facilities of local education agencies and buildings used as child care facilities and development of measures and techniques for control of indoor air contamination in the buildings.

(12) The development of protocols, methods, techniques, and instruments for sampling indoor air to determine the presence and level of contaminants, including sample collection and the storage of samples before

analysis and development of methods to improve the efficiency and reduce the cost of analysis.

(13) The development of air quality sampling methods and instruments that are inexpensive and easy to use and may be used by the general public.

(14) The development of control technologies, building design criteria, and management practices to prevent the entrance of contaminants into buildings or vehicles (such as air intake protection, sealing, and related measures) and to reduce the concentrations of contaminants indoor (such as control of emissions from internal sources of contamination, improved air exchange and ventilation, filtration, and related measures).

(15) The development of materials and products that may be used as alternatives to materials or products that are now in use and that contribute to indoor air contamination.

(16) Research, to be carried out principally by the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, for the purpose of assessing—

(A) the exposure of workers to indoor air contaminants, including an assessment of resulting health effects; and

(B) the costs of declines in productivity, sick time use, increased use of employer-paid health insurance, and worker compensation claims.

(17) Research, to be carried out in conjunction with the Secretary of Housing and Urban Development, and the Secretary of the Department of Energy for the purpose of developing methods for assessing the potential for indoor air contamination of new construction and design measures to avoid indoor air contamination.

(18) Research, to be carried out in conjunction with the Secretary of Transportation, for the purposes of—

(A) assessing the potential for indoor air contamination in public and private transportation; and

(B) designing measures to avoid the indoor air contamination.

(19) Research, to be carried out in consultation with the Administrator for the National Aeronautics and Space Administration, for the purpose of assessing the use of indoor foliage as a means to reduce indoor air contamination, including demonstration projects to determine the level of pollutants reduced by indoor plants in buildings.

(c) TECHNOLOGY DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Administrator may enter into cooperative agreements or contracts with, or provide financial assistance in the form of grants to, public agencies and authorities, nonprofit institutions and organizations, employee advocate organizations, local educational institutions, or other appropriate entities or persons to demonstrate practices, methods, technologies, or processes that may be effective in controlling sources or potential sources of indoor air contamination, preventing the occurrence of indoor air contamination, and reducing exposures to indoor air contamination.

(2) REQUIREMENTS FOR ASSISTANCE.—The Administrator may assist a demonstration activity under paragraph (1) only if—

(A) the demonstration activity will serve to demonstrate a new or significantly improved practice, method, technology, or process or the feasibility and cost effectiveness of an existing, but unproven, practice, method, technology, or process and will not duplicate other Federal, State, local, or commercial efforts to demonstrate the practice, method, technology, or process;

(B) the demonstration activity meets the requirements of this section and serves the purposes of this Act;

(C) the demonstration of the practice, technology, or process will comply with all other laws and regulations for the protection of human health, welfare, and the environment; and

(D) in the case of a contract or cooperative agreement, the practice, method, technology, or process—

(i) would not be adequately demonstrated by State, local, or private persons, or in the case of an application for financial assistance, by a grant; and

(ii) is not likely to receive adequate financial assistance from other sources.

(3) SOLICITATIONS.—The demonstration program established by this subsection shall include solicitations for demonstration projects, selection of suitable demonstration projects from among the proposed demonstration projects, supervision of the demonstration projects, evaluation and publication of the results of demonstration projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, technologies, and processes that are proven to be effective.

(4) PUBLISHED SOLICITATIONS.—Not later than 180 days after the date of enactment of this Act, and not less often than every 12 months thereafter, the Administrator shall publish a solicitation for proposals to demonstrate, prototype or at full-scale, practices, methods, technologies, and processes that are (or may be) effective in controlling sources or potential sources of indoor air contaminants. The solicitation notice shall prescribe the information to be included in the proposal, including technical and economic information derived from the research and development efforts of the applicant, and other information sufficient to permit the Administrator to assess the potential effectiveness and feasibility of the practice, method, technology, or process proposed to be demonstrated.

(5) APPLICATIONS.—Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitations required by paragraph (4). The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

(6) REVIEW.—In selecting practices, methods, technologies, or processes to be demonstrated, the Administrator shall fully review the applications submitted and shall evaluate each project according to the following criteria:

(A) The potential for the proposed practice, method, technology, or process to effectively control sources or potential sources of contaminants that present risks to human health.

(B) The consistency of the proposal with the recommendations provided pursuant to section 8(d)(8).

(C) The capability of the person or persons proposing the project to successfully complete the demonstration as described in the application.

(D) The likelihood that the demonstrated practice, method, technique, or process could be applied in other locations and circumstances to control sources or potential sources of contaminants, including considerations of cost, effectiveness, and technological feasibility.

(E) The extent of financial support from other persons to accomplish the demonstration as described in the application.

(F) The capability of the person or persons proposing the project to disseminate the results of the demonstration or otherwise make the benefits of the practice, method, or technology widely available to the public in a timely manner.

(7) SELECTION OF PROJECTS.—The Administrator shall select or refuse to select a project for demonstration under this subsection in an expeditious manner. In the case of a refusal to select a project, the Administrator shall notify the applicant of the reasons for the refusal.

(8) PERFORMANCE OF PROJECTS.—Each demonstration project under this section shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project.

(9) AGREEMENTS.—The Administrator shall enter into agreements, if practicable and desirable, to provide for monitoring testing procedures, quality control, and such other measurements as are necessary to evaluate the results of demonstration projects or facilities intended to control sources or potential sources of contaminants.

(10) SCHEDULES.—Each demonstration project under this section shall be completed within such time as is established in the demonstration plan. The Administrator may extend any deadline established under this subsection by mutual agreement with the applicant concerned.

(11) FEDERAL FUNDS.—The total amount of Federal funds for any demonstration project under this section shall not exceed 75 percent of the total cost of the project. If the Administrator determines that research under this section is of a basic nature that would not otherwise be undertaken, or the applicant is a local educational agency, the Administrator may approve a grant under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(12) REPORTS.—The Administrator shall, from time to time, publish general reports describing the findings of demonstration projects conducted pursuant to this section. The reports shall be provided to the indoor air quality information clearinghouse provided for in section 13.

(d) STUDY OF SCHOOLS AND CHILD CARE FACILITIES.—

(1) IN GENERAL.—The Administrator shall conduct a national study of the seriousness and extent of indoor air contamination in buildings owned by local educational agencies and child care facilities.

(2) ADVISORY GROUP.—The Administrator shall establish an advisory group composed of representatives of school administrators, teachers, child care organizations, parents and service employees and other interested parties, including scientific and technical experts familiar with indoor air pollution exposures, effects, and controls, to provide guidance and direction in the development of the national study.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall provide a report to Congress of the results of the national study. The report required by this paragraph shall

provide such recommendations for activities or programs to reduce and avoid indoor air contamination in buildings owned by local educational agencies and in child care facilities as the Administrator determines appropriate.

(e) Report to Congress.—Not later than 2 years after the date of enactment of this Act, the Administrator shall prepare and submit to Congress a report reviewing and assessing issues related to chemical sensitivity disorders, including multiple chemical sensitivities. The Advisory Committee established pursuant to section 7(c) shall review and comment on the report prior to submittal to Congress.

(f) Healthy Buildings Baseline Assessment.—

(1) In general.—The Administrator and the Director shall conduct research on indoor air quality in commercial buildings to develop baseline information on indoor air quality in the buildings.

(2) Requirements of research.—Research carried out under this subsection shall comply with generally accepted principles of the proper design, maintenance, and operation of ventilation, filtration, and other building systems.

(3) Persons that may conduct research.—The Administrator and the Director may arrange to have all or a portion of the research to be carried out by appropriate private persons and academic institutions.

(4) Contents of study.—The study shall include—

(A) monitoring of respirable particulate matter, volatile compounds, biological contaminants, and other contaminants of interest; and

(B) identification of the sources of indoor air contaminants.

(g) Clarification of Authority.—Title IV of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note) is repealed.

SEC. 6. MANAGEMENT PRACTICES, VOLUNTARY PARTNERSHIP PROGRAMS, AND VENTILATION STANDARDS.

(a) Technology and Management Practice Assessment Bulletins.—

(1) In general.—The Administrator shall publish bulletins providing an assessment of technologies and management practices for the control and measurement of contaminants in the air indoors.

(2) Bulletins.—The bulletins published pursuant to this subsection shall, at a minimum—

(A) describe the control or measurement technology or practice;

(B) describe the effectiveness of the technology or practice in control or measurement of indoor air contaminants and, to the extent feasible, the resulting reduction in risk to human health;

(C) assess the feasibility of the application of the technology or practice in buildings of different types, sizes, ages, and designs;

(D) assess the cost of the application of the technology or practice in buildings of different types, sizes, ages, and designs, including capital and operational costs; and

(E) assess any risks to human health that the technology or practice may create.

(3) Format.—The Administrator shall establish and utilize a standard format for presentation of the technology and management practice assessment bulletins. The format shall be designed to facilitate assessment of technologies or practices by interested parties, including homeowners and building owners and managers.

(4) Schedule of publication.—The Administrator shall provide that, to the extent practicable, bulletins published pursuant to this subsection shall be published on a schedule consistent with the publication of health advisories pursuant to section 7(b).

(5) Public review.—In developing bulletins pursuant to this subsection, the Administrator shall provide for public review and shall consider public comment prior to the publication of bulletins. If the technology or management practice is expected to have significant implications for worker safety or health, the Administrator shall consult with the Director prior to seeking review and comment.

(6) Distribution.—The bulletins published pursuant to this subsection shall be provided to the indoor air quality information clearinghouse established under section 13 and, to the extent practicable, shall be made available to architecture, design, and engineering firms, building owners and managers, and organizations representing the parties.

(b) Voluntary Partnership Programs.—

(1) In general.—The Administrator shall develop a voluntary partnership program in cooperation with corporations and other entities that own, operate, or occupy buildings.

(2) Partnerships.—The Administrator shall enter into the voluntary partnerships as an incentive to promote the implementation of pollution prevention, problem mitigation, and energy-wise technology strategies in exchange for indoor air quality technical support and recognition of the Agency.

(3) Recognition.—The Administrator may award recognition to corporations or other persons that comply with management practices that are necessary to improve air quality.

(c) Model Building Management Practices Training.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Director of the National Institute of Occupational Safety and Health, in cooperation with the Administrator of the General Services Administration and the Administrator, shall develop an indoor air training course providing training with respect to—

(A) principles, methods, and techniques related to ventilation system operation and maintenance, including applicable ventilation guidelines and standards;

(B) the maintenance of records concerning indoor air quality, including maintenance of ventilation systems, complaints of indoor air quality, and actions taken to address indoor air quality problems;

(C) health threats posed by indoor air contaminants, including a knowledge of health advisories published pursuant to this Act and other information concerning contaminant levels;

(D) identification of potential indoor air contaminant sources and options for reducing exposures to contaminants;

(E) special measures that may be necessary to reduce indoor air contaminant exposures in new buildings and in portions of buildings that have been renovated or substantially refurbished within the 6-month period preceding the measures; and

(F) special measures that may be necessary to reduce exposures to contaminants associated with pesticide applications, installation of products, furnishings, or equipment, and cleaning operations.

(2) Training courses.—Not later than 2 years after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health shall provide, or contract for the provision of, training courses pursuant to paragraph (1) sufficient, at a minimum, to ensure training on a schedule consistent with the requirements of section 9(f)(2).

(3) Fees.—The Director of the National Institute of Occupational Safety and Health, or firms or organizations operating under contract with the Administrator of the General Services Administration, are authorized to establish a fee for training pursuant to this subsection. The fees shall be in an amount not to exceed the amount necessary to defray the costs of the training program.

(4) Report.—Not later than 4 years after the date of enactment of this Act, the Director of the National Institute of Occupational Safety and Health, in consultation with the Administrator of the General Services Administration, and the Administrator, shall prepare a report to Congress assessing the training program under this subsection and making recommendations concerning the application of training requirements to classes and types of buildings not covered under this subsection.

(d) Ventilation Program.—

(1) In general.—The Administrator, in coordination with other Federal agencies, shall conduct a program to analyze the adequacy of ventilation standards and guidelines to protect the public and workers from indoor air contaminants.

(2) Duties of administrator.—The Administrator shall—

(A) identify and describe ventilation standards adopted by State and local governments and professional organizations, including the American Society of Heating, Refrigerating and Air Conditioning Engineers;

(B) determine the adequacy of the standards for protecting public health and promoting worker productivity;

(C) assess the costs of compliance with the standards;

(D) determine the degree to which the standards are being adopted and enforced;

(E) identify the extent to which buildings are being operated in a manner that achieves the standards; and

(F) assess the potential for the standards to complement controls over specific sources of contaminants in reducing indoor air contamination.

SEC. 7. INDOOR AIR CONTAMINANT HEALTH ADVISORIES.

(a) List of Contaminants.—

(1) In general.—Not later than 18 months after the date of enactment of this Act, the Administrator shall prepare and publish in the Federal Register a list of indoor air contaminants (referred to in this section as "listed contaminants"). The list may include combinations or mixtures of contaminants and may refer to the combinations or mixtures by a common name.

(2) Review of list.—The Administrator shall from time to time and as necessary to carry out this Act, but not less often than biennially, review and revise the list by adding other contaminants pursuant to this Act.

(3) Contents of list.—The list provided for in paragraph (1) shall include, at a minimum, benzene, biological contaminants, carbon monoxide, formaldehyde, lead, methylene chloride, nitrogen oxide, particulate matter, asbestos, polycyclic aromatic hydrocarbons (PAHs), and radon.

(4) Consultation and public review.—In developing the list provided for in paragraph (1) or in revising the list pursuant to paragraph (2), the Administrator shall consult with the advisory panel provided for in subsection (c), provide for public review, and consider public comment prior to the issuance of a final list.

(b) Contaminant Health Advisories.—

(1) IN GENERAL.—The Administrator shall, in consultation with the advisory panel, provided for in subsection (c), and after providing for public review and comment pursuant to paragraph (6), publish advisory materials addressing the adverse human health effects of listed contaminants.

(2) CONTENTS OF MATERIALS.—The advisory materials shall, at a minimum, describe—

(A) the physical, chemical, biological, and radiological properties of the contaminant;

(B) the adverse human health effects of the contaminant in various indoor environments and in various concentrations, including the health threat to subpopulations that may be especially sensitive to exposure to the contaminant;

(C) the extent to which the contaminant, or a mixture of contaminants, is associated with a particular substance of material and emissions rates that are expected to result in varying levels of contaminant concentration in indoor air;

(D) any Technology and Management Practice Assessment Bulletin that is applicable to the contaminant and any actions that are identified for the contaminant in the National Indoor Air Quality Response Plan prepared pursuant to this Act; and

(E) any indoor air contaminant standards or related action levels that are in effect under any authority of a Federal law or regulation, the authority of State laws or regulations, the authority of any local government, or the authority of another country, including standards or action levels suggested by appropriate international organizations.

(3) STATUTORY CONSTRUCTION.—Health advisories published pursuant to his section shall in no way limit or restrict the application of requirements or standards established under any other Federal law.

(4) FORMAT.—The Administrator shall establish and utilize a standard format of presentation of indoor air contaminant health advisories. The format shall be designed to facilitate public understanding of the range of risks of exposure to indoor air contaminants and shall include a summary of the research and information concerning the contaminant that is understandable to public health professionals and to individuals who lack training in toxicology.

(5) SCHEDULE OF PUBLICATION.—The Administrator shall publish health advisories for listed contaminants as expeditiously as practicable. At a minimum, the Administrator shall publish not less than 6 advisories not later than 24 months after the date of enactment of this Act and shall publish an additional 6 advisories not later than 36 months after the date of enactment of this Act.

(6) SCIENTIFIC INFORMATION.—Health advisories shall be based on sound scientific information that has undergone peer review.

(7) REVIEW AND REVISION.—Health advisories shall be reviewed, revised, and republished to reflect new scientific information on a periodic basis but not less frequently than every 5 years.

(8) REVIEW AND COMMENT.—In developing and revising health advisories pursuant to this subsection, the Administrator shall provide for public review and comment, including providing notice in the Federal Register of the intent to publish a health advisory not later than 90 days prior to publication, and shall consider public comment prior to issuance of an advisory.

(c) ADVISORY PANEL.—The Indoor Air Quality and Total Human Exposure Committee of the Environmental Protection Agency Science Advisory Board shall advise the Administrator with respect to the implementation of this section, including the listing of contaminants, the contaminants for which advisories should be published, the order in which advisories should be published, the content, quality, and format of advisory documents, and the revision of the documents. The Administrator shall provide that a representative of each of the Agency for Toxic Substances and Disease Registry, the Office of Health and Environmental Research of the Department of Energy, the National Institute for Occupational Safety and Health, and the National Institute for Environmental Health Sciences shall participate in the work of the Advisory Panel as ex officio members.

SEC. 8. NATIONAL INDOOR AIR QUALITY RESPONSE PLAN.

(a) AUTHORITY.—The Administrator shall, in coordination with other appropriate Federal agencies, develop and publish a national indoor air quality response plan. The response plan shall provide for the implementation of a range of response actions identified in subsections (b) and (c) that will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a) and the attainment, to the fullest extent practicable, of indoor air contaminant levels that are protective of human health.

(b) EXISTING AUTHORITY.—The Administrator, in coordination with other appropriate Federal agencies, shall include in the plans provided for in subsection (a) a description of specific response actions to be implemented based on existing authorities provided in—

(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) the Toxic Substances Control Act (15 U.S.C. 201 et seq.);

(3) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(4) title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.);

(5) the authorities of the Consumer Product Safety Commission;

(6) the authorities of the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health; and

(7) other regulatory and related authorities provided under any other Federal law.

In implementing response actions pursuant to paragraph (6), the Assistant Secretary for Occupational Safety and Health shall consult with representatives and employees of State and local governments with respect to States over which the Occupational Safety and Health Administration lacks jurisdiction over State and local employees.

(c) SUPPORTING ACTIONS.—The Administrator, in coordination with the heads of other appropriate Federal agencies, shall include in the plans provided for in subsection (a) a description of specific supporting actions, including, but not limited to—

(1) programs to disseminate technical information to public health, design, and construction professionals concerning the risks of exposure to indoor air contaminants and methods and programs for reducing exposure to the contaminants;

(2) the development of guidance documents addressing individual contaminants, groups of contaminants, sources of contaminants, or types of buildings or structures and providing information on measures to reduce exposure to contaminants, including—

(A) the estimated cost of the measures;

(B) the technologic feasibility of the measures; and

(C) the effectiveness and efficiency of the measures;

(3) education programs for the general public concerning the health threats posed by indoor air contaminants and appropriate individual response actions;

(4) technical assistance, including the design and implementation of training seminars for State and local officials, private and professional firms, and labor organizations dealing with indoor air pollution and addressing topics such as monitoring, analysis, mitigation, building management practices, ventilation, health effects, public information, and program design;

(5) the development of model building codes, including ventilation rates, for various types of buildings designed to reduce levels of indoor air contaminants;

(6) the identification of contaminants, or circumstances of contamination for which immediate action to protect public and worker health is necessary and appropriate and a description of the actions needed;

(7) the identification of contaminants, or circumstances of contamination, in cases in which regulatory or statutory authority is not adequate to address an identified contaminant or circumstance of contamination and recommendation of legislation to provide needed authority;

(8) the identification of contaminants, or circumstances of contamination, in cases in which the continued reduction of contamination requires development of technology or technological mechanisms; and

(9) the identification of remedies to the "sick building syndrome", including proper design and maintenance of ventilation systems, building construction and remodeling practices, and safe practices for the application of pesticides, herbicides, and disinfectants, and a standardized protocol for investigating and solving indoor air quality problems in sick buildings.

(d) CONTENTS OF PLAN.—In describing specific actions to be taken under subsections (b) and (c), the Administrator, in coordination with the heads of other appropriate Federal agencies, shall—

(1) identify the health effects, and any contaminant or contaminants thought to cause health effects to be addressed by a particular action and to the fullest extent feasible, the relative contribution to indoor air contamination from all sources of contamination;

(2) identify the statutory basis for the action;

(3) identify the schedule and process for implementation of the action;

(4) identify the Federal agency with jurisdiction for the specific action that will implement the action; and

(5) identify the financial resources needed to implement the specific action and the source of the resources.

(e) SCHEDULE.—Response plans provided for in subsection (a) shall be submitted to Congress not later than 2 years after the date of enactment of this Act, and biennially thereafter.

(f) REVIEW.—

(1) IN GENERAL.—The Administrator shall provide for public review and comment on the response plan provided for in this section, including provision of notice in the Federal Register for public review and comment not later than 90 days prior to submission to Congress. The Administrator shall include in the response plan a summary of public comments.

(2) REVIEW BY COUNCIL.—The Administrator shall provide for the review and comment on the response plan by the Council on Indoor Air Quality provided for under section 12.

(g) REPORTS IN PLAN.—

(1) MONITORING AND MITIGATION SERVICES.—In the first plan published pursuant to this section shall include an assessment and report on indoor air monitoring and mitigation services provided by private firms and other organizations, including the range of the services, the reliability and accuracy of the services, and the relative costs of the services. The assessment shall include a review and analysis of options for oversight of indoor air monitoring and mitigation firms and organizations, including registration, licensing, and certification of the firms and organizations and options for imposing a user fee on the firms and organizations.

(2) VENTILATION PROGRAM.—The first plan published pursuant to this section shall include an assessment and report on the ventilation program carried out under this Act, including recommendations concerning—

(A) the establishment of ventilation standards that protect public health and worker health and take into account comfort and energy conservation goals; and

(B) ensuring that adequate ventilation standards are being adopted and that buildings are being operated in a manner that achieves standards.

(3) INDOOR PLANTS.—The first plan published pursuant to this section shall include an assessment and report on the research program authorized under section 5(b)(20). In preparing the report, the Administrator shall consult with the Administrator of the National Aeronautics and Space Administration.

SEC. 9. FEDERAL BUILDING RESPONSE PLAN AND DEMONSTRATION PROGRAM.

(a) AUTHORITY.—The Administrator and the Administrator of the General Services Administration shall develop and implement a program to respond to and reduce indoor air contamination in Federal buildings and to demonstrate methods of reducing indoor air contamination in new Federal buildings.

(b) FEDERAL BUILDING RESPONSE PLAN.—

(1) IN GENERAL.—The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, the Director, and the heads of affected Federal departments or agencies shall prepare response plans addressing indoor air quality in Federal buildings. The plans shall, to the fullest extent practicable, be developed in conjunction with response plans developed pursuant to section 8.

(2) CONTENTS OF RESPONSE PLAN.—The response plan shall provide for the implementation of a range of response actions that will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a), and the attainment, to the fullest extent practicable, of indoor air contaminant concentration levels that are protective of public and worker health.

(3) REQUIREMENTS FOR RESPONSE PLAN.—Each Federal building response plan provided for in paragraph (1) shall include—

(A) a list of all Federal buildings;

(B) a description and schedule of general response actions, including general building management practices, product purchase guidelines, air quality problem identification practices and methods, personnel training programs, and other actions to be implemented to reduce exposures to indoor air contaminants in the buildings listed pursuant to subparagraph (A);

(C) a list of individual Federal buildings listed pursuant to subparagraph (A) for which there is sufficient evidence of indoor air contamination or related employee health effects to warrant assessment of the building pursuant to section 14 and a schedule for the development and submittal of building assessment proposals pursuant to section 14(d);

(D) a description and schedule of specific response actions to be implemented in each specific building identified in subparagraph (C) and assessed pursuant to section 14;

(E) an identification of the Federal agency responsible for the funding and implementation of each response action identified in subparagraphs (B) and (D); and

(F) an identification of the estimated costs of each response action identified in subparagraphs (B) and (D) and the source of resources to cover the costs.

(4) REQUIREMENT FOR RESPONSE PLAN.—The response plan provided for in this subsection shall address each Federal building identified in paragraph (3)(A), except that a specific building may be exempted from coverage under this subsection. A building may be exempted on the grounds of—

(A) national security;

(B) the anticipated demolition or termination of Federal ownership not later than 3 years after the exemption; and

(C) a specialized use of a building that precludes necessary actions to reduce indoor air contamination.

(5) SUBMISSION TO CONGRESS.—The plan provided for in this subsection shall be submitted to Congress not later than 2 years after the date of enactment of this Act, and biennially thereafter.

(6) PUBLIC REVIEW AND COMMENT.—The Administrator of the General Services Administration shall provide for public review and comment on the response plan provided for in this section, including the provision of notice in the Federal Register, not later than 90 days prior to the submission to Congress of the plan.

(7) PUBLIC COMMENTS.—The response plan shall include a summary of public comments. The Council on Indoor Air Quality provided for under section 12 shall review and comment on the plan.

(c) INDOOR AIR QUALITY RESERVE.—

(1) IN GENERAL.—The Administrator of the General Services Administration shall reserve 0.5 percent of any funds used for the construction of new Federal buildings for the design and construction of measures to reduce indoor air contaminant concentrations within the buildings.

(2) MEASURES THAT MAY BE FUNDED.—The measures that may be funded with the reserve provided for in this subsection include—

(A) the development and implementation of general design principles intended to avoid or prevent contamination of indoor air;

(B) the design and construction of improved ventilation techniques or equipment;

(C) the development and implementation of product purchasing guidelines;

(D) the design and construction of contaminant detection and response systems;

(E) the development of building management guidelines and practices; and

(F) training in building and systems operations for building management and maintenance personnel.

(3) REPORT.—On completion of construction of each Federal building covered by this section, the Administrator of the General Services Administration shall file with the Administrator, the clearinghouse established under section 13, and the Council established under section 12, a report describing the uses made of the reserve provided for in this section. The report shall be in sufficient detail to provide design and construction professionals with models and general plans of various indoor air contaminant reduction measures adequate to assess the appropriateness of the measures for application in other buildings.

(4) EXEMPTIONS.—The Administrator of the General Services Administration, with the concurrence of the Administrator, may exempt a planned Federal building from the requirements of this subsection if the Administrator of the General Services Administration finds that the exemption is required on the grounds of national security or that the intended use of the building is not compatible with this section.

(d) NEW ENVIRONMENTAL PROTECTION AGENCY BUILDINGS.—Any new building constructed for use by the Agency as headquarters shall be designed, constructed, maintained, and operated as a model to demonstrate principles and practices for the protection of indoor air quality.

(e) BUILDING COMMENTS.—

(1) IN GENERAL.—The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, and the Director, shall provide, by regulation, a method and format for filing and responding to comments and complaints concerning indoor air quality in Federal buildings by workers in the buildings and by the public. The procedure for filing and responding to worker complaints shall supplement and not diminish or supplant existing practices or procedures established under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and executive orders pertaining to health and safety for Federal employees.

(2) LISTING OF FILINGS.—A listing of each filing and an analysis of the filing shall be included in each response plan prepared pursuant to this section. The listing shall preserve the confidentiality of individuals making filings under this section.

(3) REGULATIONS.—The regulations implementing this subsection shall be issued at the earliest practicable date, but not later than 2 years after the date of enactment of this Act.

(f) BUILDING VENTILATION AND MANAGEMENT TRAINING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the General Services Administration shall designate, or require that a lessee designate, an Indoor Air Quality Coordinator for each Federal building that is owned or leased by the General Services Administration.

(2) SCHEDULE FOR COMPLETION OF TRAINING COURSES.—Not later than 4 years after the date of enactment of this Act, each Indoor Air Quality Coordinator shall complete the indoor air training course operated pursuant to section 6(b). Beginning on the date that is 3 years after the date of enactment of this Act, each newly designated Indoor Air Quality Coordinator shall complete the indoor air training course not later than 1 year after designation.

(3) FAILURE TO DESIGNATE AN INDOOR AIR QUALITY COORDINATOR.—If the Administrator of the General Services Administration finds that a lessee has failed to designate and train an Indoor Air Quality Coordinator pursuant to the requirements of this Act, the Administrator of the General Services Administration may not reestablish a lease for the building.

SEC. 10. STATE AND LOCAL INDOOR AIR QUALITY PROGRAMS.

(a) MANAGEMENT AND ASSESSMENT STRATEGY DEMONSTRATION.—

(1) IN GENERAL.—The Governor of a State may apply to the Administrator for a grant to support demonstration of the development and implementation of a management strategy and assessment with respect to indoor air quality within the State.

(2) STRATEGIES.—Each State indoor air quality management strategy shall—

(A) identify a lead agency and provide an institutional framework for protection of indoor air quality;

(B) identify and describe existing programs, controls, or related activities concerning indoor air quality within State agencies, including regulations, educational programs, assessment programs, or other activities;

(C) identify and describe existing programs, controls, or related activities concerning indoor air quality of local and other sub-State agencies and ensure coordination among local, State, and Federal agencies involved in indoor air quality activities in the State; and

(D) ensure the coordination of indoor air quality programs with ambient air quality programs and related activities.

(3) ASSESSMENT PROGRAMS.—Each State indoor air quality assessment program shall—

(A) identify indoor air contaminants of concern and, to the extent practicable, assess the seriousness and the extent of indoor air contamination by contaminants listed in section 7(a);

(B) identify the classes or types of buildings or other indoor environments in which indoor air contaminants pose the most serious threat to human health;

(C) if applicable, identify geographic areas in the State where there is a reasonable likelihood of indoor air contamination as a result of the presence of contaminants in the ambient air or the existence of sources of a contaminant;

(D) identify methods and procedures for indoor air contaminant assessment and monitoring;

(E) provide for periodic assessments of indoor air quality and identification of indoor air quality changes and trends; and

(F) establish methods to provide information concerning indoor air contamination to the public and to educate the public and interested groups, including building owners and design and engineering professionals, about indoor air contamination.

(4) STATE AUTHORITY.—As part of a management strategy and assessment under this subsection, the applicant may develop contaminant action levels, guidance, or standards and may draw on health advisories developed pursuant to section 7.

(5) REQUIREMENTS FOR STATES.—Each State that is selected to demonstrate the development of management and assessment strategies shall provide to the Administrator a management strategy and assessment pursuant to paragraphs (2) and (3) not later than 3 years after the date of selection and shall certify to the Administrator that the strategy and assessment meet the requirements of this Act.

(6) PUBLIC REVIEW AND COMMENT.—Each State referred to in paragraph (5) shall provide for public review and comment on the management strategy and assessment prior to submission of the strategy and assessment to the Administrator.

(b) RESPONSE PROGRAMS.—

(1) IN GENERAL.—A Governor of a State or the executive officer of a local air pollution control agency may apply to the Administrator for grant assistance to develop a response program designed to reduce human exposure to an indoor air contaminant or contaminants in the State, a specific class or type of building in that State, or a specific geographic area of that State.

(2) REQUIREMENTS FOR RESPONSE PROGRAM.—A response program shall—

(A) address a contaminant or contaminants listed pursuant to section 7(a);

(B) identify existing data and information concerning the contaminant or contaminants to be addressed, the class or type of building to be addressed, and the specific geographic area to be addressed;

(C) describe and schedule the specific actions to be taken to reduce human exposure to the identified contaminant or contaminants, including the adoption and enforcement of any ventilation standards;

(D) identify the State or local agency or public organization that will implement the response actions;

(E) identify the Federal, State, and local financial resources to be used to implement the response program; and

(F) provide for the assessment of the effectiveness of the response program.

(3) STATE AUTHORITY.—As part of a response program pursuant to this subsection, an applicant may develop contaminant action levels, guidance, or standards based on health advisories developed pursuant to section 7.

(4) VENTILATION RATES.—As part of a response program established pursuant to this subsection, an applicant may develop a standard establishing 1 or more ventilation rates for a class or classes of buildings. The standard shall include development of the assessment and compliance programs needed to implement the standard.

(5) RESPONSE PLANS.—As part of a response program established pursuant to this subsection, an applicant may develop a response plan addressing indoor air quality in State and local government buildings. The plan shall, to the fullest extent practicable, be consistent with response plans developed pursuant to section 9.

(c) GRANT MANAGEMENT.—

(1) AMOUNT.—The amount of each grant made under subsection (a)(1) shall not be less than $75,000 for each fiscal year.

(2) SELECTION CRITERIA.—In selecting States for the demonstration and implementation of management strategies and assessments under subsection (a)(1), the Administrator shall consider—

(A) the previous experience of a State in addressing indoor air quality issues;

(B) the seriousness of the indoor air quality issues identified by the State; and

(C) the potential for demonstration of innovative management or assessment measures that may be of use to other States.

(3) FOCUS OF RESOURCES.—In selecting States for the demonstration of management strategies and assessments under subsection (a)(1), the Administrator shall focus resources to ensure that sufficient funds are available to selected States to provide for the development of comprehensive and thorough management strategies and assessments in each selected State and to adequately demonstrate the implementation of the strategies and assessments.

(4) AMOUNT.—The amount of each grant made under subsection (b)(1) shall not exceed $250,000 for each fiscal year and shall be available to the State for a period of not to exceed 3 years.

(5) SELECTION CRITERIA.—In selecting response programs developed under subsection (b) for grant assistance, the Administrator shall consider—

(A) the potential for the response program to bring about reductions in indoor air contaminant levels;

(B) the contaminants to be addressed, giving priority to contaminants for which health advisories have been developed pursuant to section 207;

(C) the type of building to be addressed, giving priority to building types in which substantial human exposures to indoor air contaminants occur;

(D) the potential for development of innovative response measures or methods that may be of use to other States or local air pollution control agencies; and

(E) the State indoor air quality management strategy and assessment, giving priority to States with complete indoor air management strategies and assessments.

(6) FEDERAL SHARE.—The Federal share of each grant made under subsections (a) and (b) shall not exceed 75 per cent of the costs incurred in the demonstration and implementation of the activities and shall be made on the condition that the non-Federal share is provided from non-Federal funds.

(7) AVAILABILITY OF FUNDS.—Funds awarded as a grant pursuant to subsections (a) and (b) for a fiscal year shall remain available for obligation for the next fiscal year following the fiscal year in which the funds are obligated and for the next following fiscal year.

(8) RESTRICTION.—No grant shall be made under this section for any fiscal year to a State or local air pollution control agency that in the preceding year received a grant under this section unless the Administrator determines that the agency satisfactorily implemented the grant activities in the preceding fiscal year.

(9) INFORMATION.—States and air pollution control agencies shall provide such information in applications for grant assistance and pertaining to grant funded activities as the Administrator requires.

SEC. 11. OFFICE OF RADIATION AND INDOOR AIR.

(a) ESTABLISHMENT.—The Administrator shall establish an Office of Radiation and Indoor Air within the Office of Air and Radiation of the Agency.

(b) RESPONSIBILITIES.—The Office of Radiation and Indoor Air shall—

(1) list indoor air contaminants and develop health advisories pursuant to section 7;

(2) develop national indoor air quality response plans as provided for in section 8;

(3) manage Federal grant assistance provided to air pollution control agencies under section 10;

(4) ensure the coordination of Federal laws and programs administered by the Agency relating to indoor air quality and reduce duplication or inconsistencies among the programs;

(5) work with other Federal agencies, including the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, to ensure the effective coordination of programs related to indoor air quality; and

(6) work with public interest groups, labor organizations, and the private sector in development of information related to indoor air quality, including the health threats of human exposure to indoor air contaminants, the development of technologies and methods to control the contaminants, and the development of programs to reduce contaminant concentrations.

SEC. 12. COUNCIL ON INDOOR AIR QUALITY.

(a) AUTHORITY.—There is established a Council on Indoor Air Quality.

(b) RESPONSIBILITIES.—The Council on Indoor Air Quality shall—

(1) provide for the full and effective coordination of Federal agency activities relating to indoor air quality;

(2) provide a forum for the resolution of conflicts or inconsistencies in policies or programs related to indoor air quality;

(3) review and comment on the national indoor air quality response program developed pursuant to section 8 and the Federal building response plans developed pursuant to section 9(b); and

(4) prepare a report to Congress pursuant to subsection (d).

(c) ORGANIZATION.—

(1) IN GENERAL.—The Council on Indoor Air Quality shall include a senior representative of each Federal agency involved in indoor air quality programs, including—

(A) the Agency;

(B) the Occupational Safety and Health Administration;

(C) the National Institute of Occupational Safety and Health;

(D) the Department of Health and Human Services;

(E) the Department of Housing and Urban Development;

(F) the Department of Energy;

(G) the Department of Transportation;

(H) the Consumer Product Safety Commission; and

(I) the General Services Administration.

(2) CHAIRPERSON.—The representative of the Agency shall serve as the Chairperson of the Council.

(3) STAFF.—The Council shall be served by a staff that shall include an Executive Director and not less than 3 full-time equivalent employees who shall be employees of the Agency.

SEC. 13. INDOOR AIR QUALITY INFORMATION CLEARINGHOUSE.

(a) NATIONAL INDOOR AIR QUALITY CLEARINGHOUSE.—The Administrator shall establish a national indoor air quality clearinghouse to be used to disseminate indoor air quality information to other Federal agencies, State, and local governments, and private organizations and individuals.

(b) FUNCTIONS.—The clearinghouse shall be a repository for reliable indoor air quality related information to be collected from and made available to government agencies and private organizations and individuals. At a minimum, the clearinghouse established by this section shall make available reports, programs, and materials developed pursuant to this Act.

(c) HOTLINE.—The clearinghouse shall operate a toll-free hotline on indoor air quality that shall be available to provide to the public general information about indoor air quality and general guidance concerning response to indoor air quality problems.

(d) CONTRACTUAL AGREEMENT.—The Administrator may provide for the design, development, and implementation of the clearinghouse through a contractual agreement.

SEC. 14. BUILDING ASSESSMENT DEMONSTRATION.

(a) AUTHORITY.—

(1) IN GENERAL.—The Director of the National Institute for Occupational Safety and Health shall, in consultation with the Administrator, implement a Building Assessment Demonstration Program to support the development of methods, techniques, and protocols for the assessment of indoor air quality in nonresidential, nonindustrial buildings and to provide assistance and guidance to building owners and occupants on measures to improve air quality.

(2) ONSITE ASSESSMENTS.—In implementing this section, the Director shall have the authority to conduct onsite assessments of individual buildings, including Federal, State, and municipal buildings.

(3) STATUTORY CONSTRUCTION.—Nothing in this section shall in any way limit or constrain existing authorities under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) ASSESSMENT ELEMENTS.—Assessments of individuals buildings conducted pursuant to this section shall, at a minimum, provide—

(1) an identification of suspected building conditions or contaminants (or both) and the magnitude of the conditions or contaminants;

(2) an assessment of the probable sources of contaminants in the air in the building;

(3) a review of the nature and extent of health concerns and symptoms identified by building occupants;

(4) an assessment of the probable association of indoor air contaminants with the health and related concerns of building occupants, including an assessment of occupational and environmental factors that may relate to the health concerns;

(5) an identification of appropriate measures to control contaminants in the air in the building, to reduce the concentration levels of contaminants, and to reduce exposure to contaminants; and

(6) an evaluation of the effectiveness of response measures in the control and reduction of contaminants and contaminant levels, the change in occupant health concerns and symptoms, the approximate costs of the measures, and any additional response measures that may reduce health concerns of occupants.

(c) ASSESSMENT REPORTS.—

(1) IN GENERAL.—The Director shall prepare—

(A) a preliminary report of each building assessment that shall document findings concerning assessment elements in paragraphs (1) through (5) of subsection (b); and

(B) a final report that shall provide an overall summary of the building assessment, including information on the effectiveness and cost of response measures, and the potential for application of response measures to other buildings.

(2) SCHEDULE OF REPORTS.—Each preliminary assessment report shall be prepared not later than 180 days after the selection of a building for assessment. A final assessment report shall be prepared not later than 180 days after completion of a preliminary report.

(3) AVAILABILITY OF REPORTS.—Preliminary and final reports shall be made available to building owners, occupants, and the authorized representatives of occupants.

(d) BUILDING ASSESSMENT PROPOSAL.—

(1) IN GENERAL.—The Director shall consider individual buildings for assessment under this section in response to a proposal identifying a building and the building owner and providing preliminary, background information about the nature of the indoor air contamination, previous response to air contamination problems, and the characteristics, occupancy, and uses of the building.

(2) BUILDING ASSESSMENT PROPOSALS.—A Building assessment proposal may be submitted by a building owner or occupants or the authorized representatives of building occupants, including the authorized representatives of employees working in a building.

(e) BUILDING ASSESSMENT SELECTION.—

(1) IN GENERAL.—In selecting buildings to be assessed under this section, the Director shall consider—

(A) the seriousness and extent of apparent indoor air contamination and human health effects of the contamination;

(B) the proposal for a building assessment submitted pursuant to subsection (d);

(C) the views and comments of the building owners;

(D) the potential for the building assessment to expand knowledge of building assessment methods, including identification of contaminants and other relevant building conditions, assessment of sources, and development of response measures; and

(E) the listing of a building pursuant to section 9(b)(3)(C).

(2) PRELIMINARY RESPONSE.—The Director shall provide a preliminary response and review of building assessment proposals to applicants and the applicable building owner not later than 60 days after receipt of a proposal and, to the extent practicable, shall provide a final decision concerning selection of a proposal not later than 120 days after the submittal of the proposal.

(f) BUILDING ASSESSMENT SUPPORT.—

(1) IN GENERAL.—The Director may enter into agreements with private individuals, firms, State and local governments, or academic institutions for services and related assistance in conduct of assessments under this section.

(2) OTHER FEDERAL AGENCIES.—The Director may enter into agreements with any other Federal agency for the assignment of Federal employees to a specific building assessment project for a period of not to exceed 180 days.

(g) SUMMARY REPORT.—

(1) IN GENERAL.—The Director shall provide, on an annual basis, a report on the implementation of this section to the Administrator and to the Council on Indoor Air Quality established pursuant to section 12.

(2) GENERAL REPORTS.—The Director shall, from time to time and in consultation with the Administrator, publish general reports containing materials, information, and general conclusions concerning assessments conducted pursuant to this section. The reports may address concerns related to the remediation of indoor air contamination problems, the assessment of health related concerns and the prevention of the problems through improved design, materials, product specifications, and management practices.

(3) AVAILABILITY OF REPORTS.—The reports prepared pursuant to this subsection and subsection (c) shall be provided to the indoor air quality information clearinghouse provided for in section 13 and, to the extent practicable, the reports shall be made available to architectural, design, and engineering firms and to organizations representing the firms.

SEC. 15. STATE AND FEDERAL AUTHORITY.

(a) GENERAL AUTHORITY.—Nothing in this Act shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common law, or any local ordinance.

(b) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this title, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

(a) SECTIONS 5 THROUGH 7.—There are authorized to be appropriated $20,000,000 for each of fiscal years 1994 through 1998. Of such sums as are appropriated pursuant to this subsection, for each of fiscal years 1994 through 1998, ⅕ shall be reserved for the implementation of section 7, ¼ shall be reserved for the implementation of section 5(c), and $1,000,000 shall be reserved for the implementation of section 6(c).

(b) SECTIONS 8, 9, 11, AND 13.—There are authorized to be appropriated $10,000,000 for each for fiscal years 1994 through 1998, to carry out sections 8, 9, 11, and 13. Of such sums as are appropriated pursuant to this subsection, ⅕ shall be reserved for implementation of section 9 and ⅕ shall be reserved for implementation of section 13.

(c) SECTION 10.—There are authorized to be appropriated $12,000,000 for each of fiscal years 1994 through 1998, to carry out section 10. Of such sums that are appropriated pursuant to this section, ⅓ shall be reserved for the purpose of carrying out section 10(b).

(d) SECTION 12.—There are authorized to be appropriated $1,500,000 for each of fiscal years 1994 through 1998, to carry out section 12.

(e) SECTION 14.—There are authorized to be appropriated $5,000,000 for each of fiscal years 1994 through 1998 to carry out section 14.

The PRESIDING OFFICER. Under the previous order the motion to reconsider the vote is laid upon the table.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, parliamentary inquiry. Would it be appropriate at this time to speak as in morning business?

The PRESIDING OFFICER. The Senator is correct.

THE NOMINATION OF MORTON HALPERIN

Mr. WARNER. Mr. President, I wish to briefly address the Senate with respect to the pending nomination of Morton Halperin to be an Assistant Secretary of Defense, for Democracy and Peacekeeping, in the Department of Defense. I think it is important to keep the Senate informed on the various steps being taken by the Armed Services Committee in connection with that nomination—I repeat, the Armed Services Committee, because somewhere along the line the misimpression resulted that the Intelligence Committee was brought into this. The chairman of the Armed Services Committee, the chairman of the Intelligence Committee, and I, as the vice chairman of the Intelligence Committee, understand and agree that the Intelligence Committee has no jurisdiction over this nomination, which was referred to the Armed Services Committee. Under the leadership of Chairman NUNN and ranking Republican THURMOND, the Armed Services has the full and exclusive authority to work with this nomination.

The distinguished chairman of the Intelligence Committee, Senator DECONCINI, at my personal request, was prepared to assist other members of the Armed Services Committee and me, with the appreciation of all concerned, in setting up a meeting with the Director of Central Intelligence that ultimately did not occur. But all inquiries on this nomination have been handled within the framework of the committee of jurisdiction, namely, the Armed Services Committee.

I should like to indicate I have had the opportunity to meet with Director Woolsey and speak with him in connection with this nomination on several occasions. Indeed, yesterday, during the course of a routine meeting that the Director of Central Intelligence had with the chairman of the Intelligence Committee and me, as the Intelligence Committee's vice chairman, I took the opportunity to draw to his attention that certain correspondence would be directed to the executive branch of Government and, hopefully, would come to his attention at the earliest possible time, which contained a specific request by myself and other members of the Armed Services Committee for a further search for information that could be in the possession of the CIA. We feel this information, if it exists and can be found, is very pertinent to a careful, fair, and objective assessment by the U.S. Senate of this nomination if, indeed, it comes to pass that the full Senate considers that nomination.

Yesterday, Armed Services Committee Chairman NUNN and the ranking member, Mr. THURMOND, myself, and others had a meeting with respect to the nomination. Having worked as ranking member of this Armed Services Committee for many years, this nomination, like all others, is being handled, by the chairman and the ranking member with joint preparation to the extent possible. There are certain areas in which a cooperative spirit inthis nomination, as in all others, is beneficial, particularly in keeping both the chairman and the ranking member fully informed with respect to certain procedures that are being followed, the initiation of certain correspondence being forwarded, and the timing of possible consideration by the full committee of the nomination.

The chairman and ranking member can best speak for themselves, but it appeared to me, at the conclusion of that very successful meeting, that it would be the hope of the chairman and ranking member to go forward with a hearing on the nomination, again, if it turns out that the committee must consider that nomination. That hearing would occur following the conclusion of the committee's work with the first priority, namely, the conclusion of the conference between the House and Senate on the annual Defense authorization bill.

I have approached this nomination, as I have all other nominations, with an open and fair mind. I still maintain an open and fair mind. But it seems to me it is timely for the President and the Secretary of Defense to take a second look, and a very careful look, at this nomination. This is a piece of constructive advice from one who has been deeply involved in Department of Defense Presidential nominations for 20 years—15 in the Senate and 5 in the Navy Secretariat. There seems to be a case, which at this point in time is not yet complete in preparation, but it is a strong case, indicating that this individual in all probability is not suited to assume this heavy responsibility. His career of controversy has showed that he possesses a strong intellect but has applied it to advance philosophies that are inconsistent with becoming one of the trustees of the Nation's security. The trail of unanswered questions grows longer.

Yesterday, a second letter to the Director of Central Intelligence seeking information relevant to the nomination was sent under the signature of the ranking member, Mr. THURMOND, to supplement the letter sent on October 4, 1993. This second letter sent at my request to the executive branch requested that the Central Intelligence Agency go back and examine certain areas of its filing system to determine the existence or absence of certain information. I urge the Director to act as expeditiously as possible on that search.

At the request of this Senator, by the earlier letter of October 4, 1993, forwarded through the ranking member, Mr. THURMOND, a search was conducted and, as the chairman of the Intelligence Committee advised the Senate just a day or so ago on the floor, the Senate received a communication back from the executive branch to the effect that the first search for this material did not show the evidence was in existence.

Having just received information from certain witnesses when the communication from the executive branch arrived, I gave the information to the ranking member of the Armed Services Committee and indicated that this additional information could help the Director of Central Intelligence and his subordinates in going back to look into other files with the hope of ascertaining the existence or absence of the information sought. The ranking member then sent yesterday's letter to the Director of Central Intelligence requesting a file search, to which I referred earlier.

I noted from press reports today that a distinguished member of the majority side of the Senate Armed Services Committee has now joined with the Republicans in expressing some deep concerns about the advisability, and I say the suitability, of this individual in assuming this important post.

I joined with other members of our committee in placing a hold on the Senate proceeding to consider the intelligence authorization bill for fiscal year 1994 (S. 1301). I intend to continue to maintain that hold until the second letter, yesterday's letter, has been answered by the executive branch, presumably based on the Director of the Central Intelligence's having carefully surveyed the files to determine whether or not the information sought exists.

I hope that is done in as expeditious a manner as possible. The main purpose for my addressing the Senate this morning is to give this Senator's impression that the Republicans are proceeding in what I view as a fair manner, a diligent manner, and proceeding because, quite aside from the issue of the particular item for which CIA is searching, based on yesterday's request, information is coming to us which, in my judgment, justifiably puts in our minds the question of whether or not this individual is suitable to take on this very important responsibility.

I assure the Senate of my full cooperation in moving this nomination, if it is to go ahead, in an expeditious and fair manner for the consideration of the Armed Services Committee and the Senate. But again, I urge the President and Secretary of Defense to reexamine the advisability of this nomination in light of a considerable amount of information which is coming to the attention of the committee as a whole.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. DECONCINI). Under the previous order, the Senator from Alaska [Mr. MURKOWSKI] is now recognized to speak for not to exceed 15 minutes.

MARKET ACCESS IN JAPAN

Mr. MURKOWSKI. Mr. President, I rise today to communicate with my colleagues a significant event that has occurred as a result of our ongoing negotiations with Japan on the issue of market access, an issue that this Senator has been working on for some time.

I think a short chronology would be in order to set the scene for the extraordinary timespan associated with the efforts of many, both of the previous administration and of the current administration, to encourage Japan to open up its construction market to U.S. architectural, engineering, and design construction firms in a manner similar to which Japan has enjoyed access into our market.

Mr. President, as you know, on November 1, the United States Trade Representative was scheduled to announce whether or not we would impose sanctions on the Government of Japan for discrimination against American firms in the construction sector. Under threat of sanctions on Tuesday, we were very pleased to note that the Government of Japan came forward and announced an action plan, an action plan to reform its public sector construction market. A market that, for all practical purposes, U.S. firms, or for that matter any foreign firms, have been excluded from participating.

Mr. President, this was covered in an article in the New York Times discussing Japan's plan.

I ask unanimous consent that the article from the October 27 New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 27, 1993]

UNITED STATES CANCELS A PLAN TO BEGIN SANCTIONS AFTER JAPAN ACTS

(By Keith Bradsher)

WASHINGTON, Oct. 26.—The Clinton Administration today canceled plans to impose trade sanctions next Monday against Japan after Tokyo agreed to open its public sector construction market to international competition.

Mickey Kantor, the United States trade representative, announced this morning that the Administration would not proceed with the sanctions, at least for now, because the Japanese Government had promised to eliminate the practice of restricting the bidding on construction contracts to a few companies. The sanctions would have barred Japanese companies from bidding on some Federal construction projects.

The century-old Japanese restrictions have long been a sore point with American construction companies. Irritation over them has intensified in the last decade, as Japan embarked on an extensive program to build better roads, airports and other public works. Ending the restrictions would eliminate a persistent source of friction between the two countries.

A HISTORIC MOVE

"This move today by the Japanese Government is welcome; it is important; it is significant, and it's historic," Mr. Kantor said.

The Japanese plan to end restrictions had only a few details today. Mr. Kantor said that the Administration was still prepared to impose sanctions if the Japanese Government did not provide further details of its plan and carry it out by Jan. 20. But he played down this possibility, saying that the Japanese plan, "indicates for the first time that the Government of Japan is determined to bring about the important reforms in its public sector construction market, including improved access for all foreign firms."

The Japanese decisions to change the Government contracting procedures is more the result of domestic political changes in Japan than any response to the threat of American sanctions, said Seiichiro Noboru, the top economics official at the Japanese Embassy here.

Bribery of Japanese Government officials by local construction companies contributed to the downfall of the Liberal Democratic Party this summer and its replacement by a coalition of seven parties championing deregulation and other changes. Prime Minister Morihiro Hosokawa has set up a special council of senior politicians to draft by late December a detailed overhaul of Government construction contracting practices

By moving the American deadline to January, Mr. Kantor accommodated the Japanese schedule.

Tokyo has agreed to provide further details at next month's meeting in Seattle, where President Clinton is scheduled to discuss trade and investment issues with Mr. Hosokawa and a dozen other heads of state from countries with Pacific Ocean coastlines, Mr. Kantor said.

The Japanese plan accepted by Mr. Kantor today also called for Tokyo to bar bids by companies convicted of bribery, improve enforcement of its anti-monopoly law and establish objective, published standards for bidding and contracting procedures. All of these steps could limit the discretion of the powerful bureaucrats at the Japanese Construction Ministry, who have successfully resisted previous American efforts to open the Japanese construction market.

SENATOR BACKS PLAN

Senator Frank H. Murkowski, the Alaska Republican who has pushed successive administrations for seven years to open the Japanese construction market, said today that the Japanese plan was vague in some places but still ambitious enough to justify the postponement of sanctions. "I think they've accomplished something," he said.

Mr. Murkowski said his concerns centered on the Japanese pledge to apply the changes to all contracts above a certain value, without specifying a value. The value must be set low enough to cover contracts for American architectural and engineering companies, and not just big contracts that include a lot of earthmoving and other work performed locally in Japan, the Senator said.

Charles E. Hawkins, a senior vice president for Associated Builders and Contractors, an American industry group based in Washington, said he was cautiously optimistic that the Japanese offer would make a difference, but wanted to see the details. A Japanese agreement in the late 1980's to open the bidding for the construction of the Kansai International Airport at Osaka initially seemed like a big concession to the United States, but the fine print of that deal later prevented American companies from winning more than a tiny fraction of the contracts for the project, he said.

American companies are interested in Japan because, "you look around the world and it's the one area where there's a lot of construction going on," said Kenneth H. Fraelich, the executive vice president of marketing and strategic business development at AEG Westinghouse Transportation Systems Inc., which tried unsuccessfully to sell a mass-transit system to the Kansai airport project.

"Our business there we couldn't double or triple right now because it's zero," he said, adding that the latest Japanese offer, "is a very encouraging announcement if they do what they say."

SIZE OF PROBLEM DEBATED

For years, the United States and Japan have been unable to agree even on the size of the problem. According to Japanese Embassy figures, American companies won $330 million of public sector contracts in Japan last year, while Japanese companies won $325 million in contracts in the United States. But Commerce Department figures show that American companies won only $189 million of a $700 billion Japanese market last year, while Japanese companies took $1.5 billion of the $425 billion American markets.

Some American construction industry executives contend that even the Commerce Department figures understate the disparity because Japanese companies have bought large stakes in many American construction businesses, while American companies have had trouble investing in their Japanese rivals.

Mr. MURKOWSKI. Mr. President, this came as a welcome announcement because the Japanese Government committed itself to trashing its closed, corrupt designated bidder system in favor of an open and competitive bidding system. That designated bidder system, Mr. President, known as the dango system, meant there was no competitive bid. There was an agreement among the various contractors as to whose turn it was to get the bid. This extraordinary process came at great cost to the Japanese taxpayer, but it was an established system.

Surprisingly enough, it also moved into the political arena in Japan. Members of the Japanese Diet depended on the construction companies' funding, to a large degree, for their reelection effort. But the new Japanese Government, under the direction of a new Prime Minister, has made a pledge to change that system and to open it up in favor of competitive bidding.

But as usual, Mr. President, the devil is in the details, and we have to look at those details now. I am pleased to support the position of the current administration and the manner in which they have handled this. The USTR postponed the implementation of the sanctions until January 20. Between now and January 20, however, Japan will provide the details of its action plan, and I am committed to continue to work with the administration and with the United States industry to ensure that the final details of the plan legitimately meet United States business concerns.

I want to call on the U.S. industry to pull together to discuss with the administration what details are going to have to be in the plan to make it acceptable and to make it workable so U.S. firms can legitimately and realistically compete.

Yesterday, I sent out a letter to several United States construction firms asking that they work in cooperation with the effort to examine these details in a Japanese proposal, which we understand will be forthcoming as early as November, because we want to evaluate the details of the Japanese plan.

I ask unanimous consent that a copy of that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 28, 1993.

Mr. FREDRIC BERGER,
Vice President, Louis Berger International, Washington, DC.

DEAR FREDRIC: The Government of Japan's recent announcement of an "action plan" to reform its public sector construction market indicates that some real progress has been made in opening up the Japanese Construction Market (attached New York Times, October 27, 1993). As usual, however, the devil is in the details, and we are going to have to follow the agreement closely to ensure that the U.S. interest in Architecture, Engineering and Design, among other issues, is protected when the final action plan is presented.

We intend to work with the Administration before the January 20 deadline for implementation of sanctions to ensure that the agreement is worthwhile. We need to hear from each of you with specific recommendations concerning your firm's ability to do business in Japan under the pending agreement.

Let us hear from you now—contact Deanna Okun of my staff at (202) 224-9320.

Also, a thank you to our trade negotiators is in order: Ambassador Mondale, Secretary Brown, Ambassador Kantor and the others who have stood tall including Majority Searing from the Department of Commerce and Wendy Silberman from the USTR.

I look forward to your reply.

Sincerely,

FRANK H. MURKOWSKI,
U.S. Senator.

Mr. MURKOWSKI. Mr. President, there are specific areas, such as establishing a threshold level for participation, that have been left without any detail in the Japanese proposal to date. We do not want to see smaller companies, architectural, engineering and design firms, excluded as a consequence of an unrealistic threshold. The threshold levels need to be spelled out to our satisfaction.

Further, the Japanese did not offer to establish any mutually agreed-upon terms for evaluating foreign access. There has been talk from time to time about trying to come up with some agreeable interpretation of terms so that we could both understand that we were talking about the same term. For example, comparing the dollar value of contracts awarded. Nor did Japan say what they would do about current joint venture requirements.

Industry-administration-congressional coordination is more important than ever now because the history of our negotiations over opening Japan's construction market is long on rhetoric and spotty on accomplishments.

Let me refer to a chart because I think it capsulizes, if you will, the lack of progress in comparison to the efforts made during this timeframe.

It started back in 1986 with hearings in the East Asia Subcommittee, of which, at that time, I was chairman. Then, in 1987, I teamed with a House Member, JACK BROOKS, in passing an amendment that prohibited countries that discriminated against U.S. firms from bidding on federally funded construction projects. That amendment resulted in the cancellation of a Japanese contract in Washington, DC, on the subway system.

Then we moved into 1988, with the Trade Policy Review Group voting unanimously to initiate a sanction on unfair trade practices against Japan over the construction issue.

Throughout 1988, United States-Japan construction negotiations continued. The Economic Planning Council made a decision to table recommendations for a 301 action and instead directed our negotiators to agree on some kind of an access agreement. So the negotiators came up with the Major Projects Agreement [MPA]. The MPA identified projects, 14 major construction projects, that U.S. firms could participate in. But then U.S. companies were advised that they had to have licenses. To get licenses, they had to have experience. How can you get experience without a license? So U.S. firms were caught in the conventional catch-22.

In response to continued discrimination, there was congressional language placed on the Omnibus Trade Bill requiring that USTR initiate a section 302 investigation of barriers to U.S. firms in the construction business.

Also in 1988, I, along with trade associations, testified before the 301 committee that American firms had not been awarded a single major construction contract in Japan since 1965. Mr. President, for the entire time between 1965 and 1988, no major construction contract was awarded to a U.S. firm.

In 1989, the USTR decided not to include any country on a list of those who denied market opportunities, but noted that Japan may be added—may be added. Then, Carla Hills, our trade negotiator, held talks with the Japanese regarding a 301 case. In November 1989, USTR officially ruled that Japan was in violation of section 301, but deemed retaliation inappropriate because of expressed willingness of the Government of Japan to rectify the situation. I communicated to Carla Hills my concerns about that decision.

And then we are on the next chart, Mr. President:

A United States-Japan construction conference was held in 1990. I hosted that in Washington. After that conference, I added an amendment to the Department of Transportation appropriations bill prohibiting U.S. funds for public works to foreign countries which the USTR had listed under Section 301 as discriminating against U.S. firms, also added an amendment to the Energy and Water appropriations bill requiring the USTR to determine by May 1 whether any foreign country denied market opportunities to U.S. firms.

Here we are in 1991. USTR announced its intention to restrict Japanese construction services because the Major Projects Agreement review had not been successful.

Then, the Government of Japan conceded to greater transparency; to conflict resolution; and to extend the Major Projects list, and the USTR decided not to include Japan on a list of countries that block foreign participation in their markets.

In May of 1991, the Bush administration approved sanctions against Japan's construction market. The Major Projects Agreement was revised again, and USTR announced that no action should be taken because of the agreement.

In 1992, numerous violations were reported in the Major Projects Agreement.

In 1993, in January, IECIC, the major trade association of construction firms, issued a press release voicing concern over the lack of progress in the Major Projects Agreement review talks.

In March of 1993, the Kanemaru construction scandal broke in Japan.

In April 1993, USTR cited Japan in Title VII violations for denying United States firms access to the Japanese construction market. And that leads us up to the present situation.

So that is the chronology, Mr. President, a long, long effort to try and break into the Japanese construction market.

I think a quick examination of two additional charts illustrates the lack of progress in gaining access into the Japanese construction market. The first chart shows the United States market share in the Japanese construction and design market. Our participation in Japanese construction and design has increased from $123 million in 1988 gradually to $189 million. Japan's participation in our construction and design market went from $2 billion in 1988, up to $3 billion in 1990. There has been a gradual decline, but clearly the comparison of their participation in our market and our participation in their market shows our inability to penetrate the Japanese construction market in design, architecture and engineering. The size of the Japanese market in public works shows that there is a significant area of business potential for United States firms.

It is interesting to note, Mr. President, that the U.S. share of all international construction contracts, all foreign contracts is 45.4 percent. So we successfully compete all over the world in construction, architecture, engineering and design, yet in Japan it is two-tenths of 1 percent—two-tenths of 1 percent compared with 45 percent internationally.

So, Mr. President, my goal, and I believe the goal of the United States negotiators, is total access for Japanese firms. This has not been accomplished, but I think there is reason to believe that the Japanese announcement the other day will lead us to total market access.

I think for the first time we have established, if you will, an understanding that the United States simply wants equity; we want market access under the same terms and conditions that the Japanese firms have enjoyed in our market. But Mr. President, it is going to take consistency from our negotiators, from United States industry, and from us in Congress to ensure that we have a workable compromise from the Government of Japan by January 20.

Mr. President, I also want to take this time to thank our trade negotiators: Ambassador Mondale, Ambassador Kantor, Secretary Brown, and the other negotiators who have stood tall, including Marjory Searing at the Department of Commerce and Wendy Silberman from the USTR.

OFFSET LOST REVENUE IN RE: NAFTA

Mr. MURKOWSKI. Mr. President, yesterday the Senate Finance Committee tentatively approved an administration plan to offset lost revenue from forced removal of tariffs if NAFTA is enacted.

Mr. President, the proposal would raise approximately $2.8 billion over 5 years from the following: It would increase customs-related air travel fees and charges on passenger fares from cruise lines. For cruise lines, it would impose an increase of $1.50 from current fees (which are $5), to a new figure of $6.50. However, and this is an important consideration, it would remove an exemption that is currently prevailing for Canada, Mexico, and the Caribbean. Thus, the fee for cruise passengers traveling in those areas would go effectively from 0 to $6.50. The proposal is supposed to raise a little over $1 billion over 5 years.

The administration considers this a gentle increase, in fact, it backed down from an original proposal to simply double the fee—from $5 to $10.

It is interesting to note the airlines currently pay over $5 billion per year in user fees. The cruise industry already pays Government about $6.5 billion in taxes and fees.

Let us take a look at the cruise ships. A dollar-fifty or even $6.50 does not sound like a major increase. But remember what happened as a consequence of action taken to impose a luxury tax on yachts a few years ago. We were told it would only affect the rich, would only cost a little bit, and would have no effect on various producers. But the yacht-building industry in this country felt it. It was only a 10 percent increase on the vessel costs over $100,000, but it virtually killed the yacht-building industry in the United States. It cost us jobs in our shipyards, jobs associated with the crafts persons who built yachts, and jobs for people who sold them, maintained them, and so on.

For the bulk of America's cruise passengers this increase is not a small step from $5 to $6.50, it is a giant step from 0 to $6.50 because the largest part of the trade is on ships that go into the Caribbean and Mexico, and travel to Alaska from Vancouver.

The cruise ship trade in Alaska alone carries over half a million people—almost the population of our State —per year, virtually all of them sailing from Canada.

This proposal would require the Alaska industry alone suddenly to start coughing up an additional $32.5 million per year. That will indeed have an effect, I assure you, on the industry.

The cruise industry is already paying its fair share of taxes and fees. It is estimated that, even without this increase, the cruise industry will be paying the Government $8.2 billion a year by 1996.

Is it not curious, Mr. President, as we address NAFTA and the enthusiasm of pressure surrounding it, that now suddenly we are told we must have new taxes to pay for it? The fact is, Mr. President, new taxes are not our only choice. Instead of raising taxes on our airline and ship passengers, we have another alternative. Clearly we do. It is to cut spending.

Where are we headed with all the folderol associated with promises to cut spending? We have our Vice President suggesting in his "Reinventing Government" documentation that reforms and cuts are going to save us $108 billion. The President sent the Congress a $10 billion savings plan based on the Gore report. In the House a bipartisan group has presented a plan to cut spending by over $100 billion. there is noise, noise, noise, about cut, cut, cut.

That sounds good. Clearly if we are going to do something associated with reducing tariffs, it should generate more prosperity and give us a broader overall tax base. But now we are told we are going to have to raise taxes on a segment of our industry to pay for it.

Clearly, Mr. President, there are other ways that money can be saved. Why do we have to raise taxes? It is a recurring theme in this administration. But I do not think the public is ready to buy it continually. Did we not learn a lesson from the poorly thought-out luxury tax? Apparently not. Now we are looking at new taxes.

Mr. President, we are going to lose revenue by discouraging economic activity. The justification for it simply is not there. We should be looking at U.S. jobs. The administration says we have to create more jobs. But where are they going to come from? The administration has not identified that source.

But I can tell you where they are going to be lost. They are going to be lost in the cruise industry. Core cruise industry U.S. employment is 63,000; its supply sector provides another 71,000 jobs; and it crates another 315,000 related jobs. Four hundred and fifty thousand U.S. jobs are dependent on a cruise industry that sails from ports in the United States to foreign nations or sails from foreign nations into the United States, such as we have in Alaska.

Finally, Mr. President, I have one more item here that I would like to bring up today.

PUERTO RICO

Mr. MURKOWSKI. Mr. President, on November 14, the people of Puerto Rico will vote on whether Puerto Rico should become a State, remain in their present status, or become an independent nation. It will be only the second such plebiscite since the United States annexed the island in 1898.

From 1989 to 1991, the Senate Energy and Natural Resources Committee, on which I sit, worked on legislation that would have provided for a congressional authorized plebiscite. I opposed such legislation at that time because I believed that the initiative for a change in political status must come from Puerto Rico, not Congress. Thus, I am pleased to see that the Puerto Rican people have decided to take action on determining their status preference.

I do not feel it would be appropriate for me to come out in support of any one of the three status options. I will say that I believe that the United States should respond to this act of self-determination in a serious and purposeful way. I believe it is incumbent on the U.S. Congress to address the results of the plebiscite in Puerto Rico this November in a forthright and serious manner. It is essential that both the people of Puerto Rico and the people of the 50 United States proceed with a clear understanding of the process and possible outcomes.

As Senator from Alaska, the 49th State to be admitted to the Union, I want to assure the people of Puerto Rico that I am well aware of the magnitude of the decision they face in the November plebiscite. Their choice will affect every aspect of social, cultural, and economic life on the island. The vote will have a very real impact on the people of Puerto Rico for many years to come.

There should be no false illusions if the residents of Puerto Rico choose to alter their present political status. The struggle for statehood for Alaska was long and difficult. Many of us remember that effort. The first Alaska statehood bill was introduced in Congress in 1916 by Alaska's voteless delegate James Wickersham. But this bill did not go far because the delegate was kept busy trying to preserve what little self-government Congress had granted Alaska in The Organic Act of 1912. With only minor changes, this organic act remained in effect until Congress finally approved statehood in 1958.

The Alaska statehood movement was reinstated in 1946 when a referendum was held in the Territory with 9,630 votes for statehood, and 6,822 against. The will of the people and an increasing receptiveness in Congress led the Territorial legislature in 1949 to create the Alaska Statehood Committee, with an initial appropriation of $80,000 to promote statehood. The Alaska Statehood Committee, comprised of a bipartisan group of private citizens, Governor Gruening and Delegate Bartlett worked effectively against great odds both in Congress and in the Territory for the statehood goal.

The struggle in Congress shifted from one House to the other with outside opposition trying every desperate tactic to slow down Alaska's gaining momentum. Moves to make Alaska a Commonwealth on the order of Puerto Rico or to partition the Territory were defeated.

In Alaska, the Territorial Governor called a constitutional convention in 1955. The voters approved the constitution in 1956 along with an Alaska—Tennessee plan ordinance allowing for the election of two provisional Senators and one provisional Representative to assist the nonvoting delegate in the congressional fight for statehood.

Finally, in 1958 the hard work and conviction of Alaskans began to pay off. With support from the people of Alaska, the efforts of the Territorial delegate and the Tennessee plan delegation, and endorsements from the administration, the major political parties, and national opinion polls, the House passed the Alaska statehood bill (H.R. 7999) in May 1958 by a vote of 208 to 166. It took a strong bipartisan effort to persuade the Senate to ignore its own bill (S. 50) and to accept the House bill without amendments. After 6 days of debate, the opposition was overcome and the Senate passed the bill on June 30 by a vote of 64 to 20. President Eisenhower signed the bill on July 1, 1958.

Once Congress had passed the Statehood Act the action returned to Alaska. On August 26, 1958, Alaskans ratified the Statehood Act in a referendum election by a vote of 40,452 votes for acceptance, and 8,010 against. Alaska officially became a State with the signing of a Presidential Proclamation on January 3, 1959.

Mr. President, like Alaskans, Puerto Ricans must determine their conviction for statehood and impress that conviction upon the Congress. Just like Alaska's statehood compact, statehood for Puerto Rico will be embodied in a contract between the United States and the citizens of Puerto Rico. Like all contracts, it will reflect many compromises. The terms and conditions of statehood will be determined by Congress after much debate. Political issues like official language designation will receive careful attention. Questions about special tax treatment and new Federal assistance will have to be negotiated and are likely to reflect current budget realities, the interests of the other 50 States, and the interests of the people of Puerto Rico.

The Civil War has taught us that admission to the Union of States is for all intentions final. As much as some who have been disappointed by aspects of statehood in my State of Alaska would like to secede from the Union, succession is not a realistic possibility. We have learned in Alaska that once a part of the United States we must work within the U.S. Constitution to address our grievances. This is why Alaska has recently turned to the Federal courts to seek compensation for statehood promises which have been eroded and gone unfulfilled by the Federal Government.

Because of the permanency of statehood, Congress must deal seriously with the results of the November plebiscite in Puerto Rico. As a member of the Senate committee of jurisdiction, I await the results of the Puerto Rico plebiscite with great interest. I will continue to work with the representatives of Puerto Rico to address the outcome of the plebiscite within the U.S. Congress, as well as any other issues that face Puerto Rico.

STREAMLINING AND CODIFYING ACQUISITION LAW

Mr. SMITH. Mr. President, in section 800 of the Defense Authorization Act for fiscal year 1991, Congress required the Defense Department to establish a Government Industry Advisory Panel on streamlining and codifying acquisition law. The motivation for creating this panel was the belief on the part of Senator BINGAMAN, the provision's original cosponsor, that the only way to achieve meaningful reform of the defense procurement process was to charter a group of experts to review all of the current statutes concerning the procurement and to make recommendations in regard to streamlining these laws. In this way, we could have a comprehensive approach to reform, backed by a thorough analysis, and we can avoid the futile piecemeal approach to this issue which Congress has pursued since the early 1980's.

I concur fully with Senator BINGAMAN that that was the correct way to go. It took considerable prodding from Senators BINGAMAN and COATS to get the advisory panel established in 1991 after the law was passed. Nevertheless, the panelists who were assembled at the Defense Systems Management College at Fort Belvoir represented some of the foremost legal scholars, government contract specialists, and acquisition managers in the United States.

These 12 members, under the very able leadership of Rear Admiral Vincent, the Commandant of the college, dedicated hundreds of hours over a year and a half out of their busy professional careers to review these laws and to make recommendations. The report was written by the panel members with staff support—not the other way around. That is a little unusual around here.

The product of this labor is a reflection of the expertise and thoroughness of the panel members. Divided into 8 chapters, the report exceeds over 1,800 pages and provides detailed legislative and regulatory histories of the major laws driving the acquisition process. It is one of the most comprehensive documents of its type that Congress has ever received. This was not meant by us to be another lengthy report to sit on a shelf somewhere.

Shortly after this report was transmitted to Congress, in January, we instructed our staffs to begin reviewing it and to transform the substance of the recommendations into draft legislation which, after all, is why we wanted the report in the first place.

We all agreed up front that true reform of the acquisition process is so difficult that our effort could only succeed if it were totally bipartisan, and if it applied all reforms of governmentwide. I am pleased to commend Senators GLENN, LEVIN, NUNN, BINGAMAN, and BUMPERS for bringing the full resources of the Senate Governmental Affairs, Armed Services, and Small Business Committees to bear on this project, and for their willingness to work side by side with the committee Republican ranking members.

The draft legislation that emerged from this process was a significant step in the process of reform. The legislation would raise the small purchase threshold from $25,000 to $100,000, as well as the threshold for the application of a number of laws.

This action would bring administrative savings and reduce the cost of doing business for small business—something that is certainly welcome. In addition, the bill had a number of provisions that would have the effect of increasing the preference for the use of commercial products by Federal agencies. Such actions would eliminate such research and development costs, allow the Government to benefit from market pricing, and reduce costs associated with testing and specifications.

Other areas addressed by the bill include: Consolidation and streamlining of the bid process, as well as addressing frivolous or bad faith protests before the General Services Board of Contract Abuse. The legislation would also streamline and consolidate procurement ethics, so that similar standards could be applied across all Federal agencies.

Finally, the bill would change current statutes to ensure that there exists a uniform procurement system for both theDepartment of Defense and the civilian agencies.

One of the more frustrating experiences that we have heard about is the different requirements in the buying rules for DOD and other agencies.

Mr. President, we had a good bill, a very good bill. We all worked hard on it. I had hoped to be able to stand here today as a cosponsor of this legislation introduced by Senator GLENN and the other majority cosponsors earlier this week. In fact, I even gave a speech earlier this week to a group in which I indicated that I would be here on the floor saying I would cosponsor this bill.

Unfortunately, that cannot be the case because of the partisan approach that the administration has taken in dealing with the Senate, culminating in the demand by the administration that we delete two very important section 800 recommendations in the draft as a prerequisite for the Vice President's support. Our staffs were informed over the weekend that the administration had demanded that provisions raising the Davis-Bacon and the Service Contract Act threshold from $2,000 to $2,500 respectively to $100,000 be deleted, and this demand had been acceded to by the majority Senators.

As in their other dealings on this legislation, the administration made absolutely no attempt to consult with either Republican members or our staffs before issuing this ultimatum—and that is what it was. It was presented as a fait accompli, and we were asked to play along for the sake of preserving the appearance of bipartisanship.

I will not do that.

I am deeply disappointed in this action, because it effectively removes the threshold increases, both of which were recommended by the section 800 advisory panel in a bipartisan recommendation, I might add, from further consideration before we can even assess the issues on their merits.

The administration's retreat is all the more objectionable since I note that on page 30 of the Vice President's recent National Performance Review—which has gotten a lot of fanfare these days—the administration recommends increasing the threshold for Davis-Bacon to $100,000. That is what we did and, yet, the administration took it out.

So if it seems confusing, like it is going in two directions, it is.

Thus, the administration is vetoing the same provision in our legislation that they endorse in the National Performance Review. I think somebody in the administration ought to do some explaining on this matter. I say to my colleagues that it sends a pretty bad signal to other special interests waiting out there to derail reform, and to the American people, that we are not at all serious about this effort.

Let me make clear that this Senator is very committed to meaningful acquisition reform. It is necessary and it is needed, which is why all of us, in a bipartisan manner, staff and Senators and members of the industry as well, worked so hard to put this thing together. I have worked hard to advance the process, as have others, and I was prepared to swallow some bitter medicine in there, some reforms that I did not particularly want to see happen. But we felt that if we put all of the reforms in there and did not make exceptions and did not try to cut here and there or add here and add there to please somebody, we could get a meaningful piece of legislation passed. But by taking certain issues off of the table before we even submit the initial draft, we are allowing special interest politics again to undermine the spirit of bipartisanship that is essential to success. When we are criticized around here for that kind of nonsense, it is justified.

The truth is that when we directed our staffs to begin preparing legislation to implement the section 800 recommendations, we knew we were going to take heat—we knew it. Senator BINGAMAN, Senator COATS and I knew it, and others knew we were going to take heat for seeking to change the status quo. You always do, because the status quo dies very hard. We were going to challenge these "sacred cows" in this legislation, and we did.

We also recognized that now more than ever the effort was necessary to better cope with declining defense budgets that cry out for more efficient use. We have a moral obligation to the troops in the field to spend every nickel wisely. We should not be wasting it in the procurement process or anywhere else.

(Mr. KOHL assumed the chair.)

Mr. SMITH. Mr. President, no one in this bill was going to be immune. Both Democrats and Republicans would have to sacrifice and compromise over the course of the legislative process.

I certainly did not start this process believing that we would pass each and every one of the advisory panel recommendations, nor did anyone else. Clearly, there will be some that lack support, and that is what the amendment process is all about. As we go through the process of a bill becoming law, and in other cases, we may very well go beyond the specific recommendation and be cutback for some issues like Davis-Bacon. The Service Contract Act inclusion in the acquisition reform package is only the way to force a new assessment of the public benefits and cost. It is the only way to circumvent the special interest.

Despite evidence that a change in these acts could produce significant savings and paperwork reduction for small business, which again I would emphasize was exactly what Vice President GORE said in the National Performance Review, even though it was recognized, concerted special interests have effectively derailed the whole thing and derailed any action for years.

With both of those provisions now out of the package, it is highly improbable to me that these section 800 advisory panel recommendations will be seriously considered in this body, though I intend to work hard to restore them in the final bill.

Even though I have the greatest respect for my colleagues on the other side of the aisle whom I worked with very closely on this bill, I was disappointed, frankly, that they introduced it under those kinds of guidelines. Three committees jointly adopted a bipartisan approach for the review and drafting of the panel. By dealing with only the Senators in the President's party, the administration abandoned that approach. It will not work this way. It cannot work this way.

Though the potential for the reform of the Federal acquisition process is greater than it has been for many years, a look at recent history indicates that only a bipartisan consensus will ever sustain the effort required to achieve success to overrule the special interest and for a change around here do what is good for the country. I still stand ready to work with my colleagues on the other side of the aisle to make this happen, but it is a two-way street.

NOMINATION OF MORTON HALPERIN

Mr. SMITH. Mr. President, I would like to move briefly to another matter before yielding the floor, and that matter is the nomination of Morton Halperin.

Mr. President, I rise today to alert my colleagues to what I believe to be a very dangerous and a very disturbing nomination to the Defense Department of the United States of America.

I do not stand up here very often against a nominee. I happen to be on the Armed Services Committee, and I take very seriously nominations. It is not easy for me to have to come up here and speak out against a nominee no matter what political party he or she is in or what administration they serve to represent. I think about it carefully. I read and I study as much as I can. I regret that I have come to the conclusion that this nomination is dangerous and disturbing to the Defense Department. Those words are very carefully selected. But I must speak out on this nomination.

On August 6, President Clinton formally submitted the nomination of Morton Halperin to be the Assistant Secretary of Defense for Democracy and Peacekeeping. Mr. Halperin is no stranger to Washington, and he is not a stealth nominee either. Indeed, he has a very long and sordid track record dating back to his involvement in the Pentagon papers affair a long time ago and continuing up until last year as the Director of the American Civil Liberties Union's Washington office.

In fact, throughout his career, Mr. Halperin has been quite prolific. But his vast writings, his positions on issues, his activities, and the causes he has embraced reflect a man, in my opinion, who is ideologically committed to and actively involvedin an agenda that the overwhelming majority of American people find objectionable, outrageous, and dangerous.

Again, I choose those words very carefully and deliberately—objectionable, outrageous, and dangerous.

Upon reviewing his background, I have no doubt that the U.S. Senate likewise will find this nominee highly objectionable, dangerous, outrageous, and unsuited to the position for which he has been nominated.

Mr. President, for the benefit of my colleagues, I will very briefly outline some of the more notable and, in my view, disqualifying features of Mr. Halperin's background. Rather than recite my own personal opinions, I want to quote Mr. Halperin directly and summarize some of his countless radical positions on national security issues—and I emphasize I am going to quote Mr. Halperin. I am not going to necessarily use my opinions. I will quote him.

First of all, Mr. Halperin is violently opposed to covert military operations, and his oral and written statements clearly demonstrate this. For instance, Mr. Halperin has stated that secrecy does not serve national security—secrecy does not serve national security. And that Covert operations are incompatible with constitutional government and should be abolished.

Further, Mr. Halperin has stated, and I quote:

> Covert intervention, whether through the CIA or any other agency, should be absolutely prohibited * * * covert action violates international law * * * covert actions involve breaking the laws of other nations, and those who conduct them come to believe that they can also break U.S. law and get away with it.

Mr. President, this is a rather unique assessment of our intelligence community. We have all had our problems with it, including this Senator. But it is a rather unique assessment of our intelligence community and its activities, and I daresay that those dedicated professionals who serve our Nation in the national security field would beg to differ with Mr. Halperin's portrayal of them. And there are many others around the world, as we speak, with their lives on the line on behalf of the national security interests of the United States of America.

This man who would be serving in the Defense Department of this administration would have statements on the record like that about those individuals—that is outrageous. I used the term outrageous before and I think now you see why.

Similarly, with respect to classification now of sensitive information, Mr. Halperin advocates a radical and, frankly, absurd viewpoint. Under the guise of first amendment rights, he has consistently defended the right of citizens to disclose the identities of U.S. covert operatives. Let me repeat that. He has consistently defended the right of citizens to disclose the identities of U.S. covert operatives, and the right to seek to impede or impair the functions of any Federal agency, whether it is the FTC or the CIA. According to Mr. Halperin, secrecy has been used more to disguise Government policy from American citizens than to protect information from the prying eyes of the KGB.

The intelligence community is not perfect, that may be the case sometimes. But, more important, it is interesting when you go back and look at this statement: "Under the guise of first amendment rights, he has consistently defended the right of citizens to disclose the identities of U.S. covert operatives."

If he said I think we ought to stop covert operations, hehas a right to say that, and he has a right to believe that. Does he have a right while those operatives are working with their lives on the line to say that we ought to compromise them? That goes against every tenet—every tenet—you can possibly think of of national security in the United States of America today.

We, as Senators, see classified materials. We, as Senators, have rules in terms of where we can see it, how much we can see it, what level what staff could see it. And this man who wants to serve in the Defense Department can say we can compromise those who are out there working with this information.

Mr. Halperin's perverse view on this issue led him to travel to England and testify in defense of Philip Agee, the former CIA employee whose exposition of the identities of CIA agents overseas led to the murder of our CIA station chief in Athens. According to the Supreme Court in an opinion dated June 29, 1981,

> Not only has Agee jeopardized the security of the United States, but he has endangered the interests of countries other than the United States—thereby creating serious problems for American foreign relations and foreign policy. Agee recruits collaborators and trains them in clandestine techniques designed to expose the cover of CIA employees and sources. Agee and his collaborators have repeatedly and publicly identified individuals and organizations located in foreign countries.

I would ask my colleagues a very simple question: How is it that Mr. Halperin could possibly defend such heinous activities? Is this a kind of person that we want in a senior position within the Pentagon with access to the highest levels of national security, with access to the names and identities and locations of people who are working in clandestine operations for the CIA and/or intelligence communities around the world?

Mr. President, these are but a few of literally dozens of issues where Mr. Halperin's ideology and activities are well outside of the acceptable mainstream and which I believe disqualify him for the office to which he has been nominated. I will not elaborate at length on the dozens of other areas, but let me summarize a few of them briefly.

First—and I would ask my colleagues to read the RECORD on this carefully—Mr. Halperin does not believe the United States should ever intervene militarily unless specifically invited to do so by a foreign government.

Well, we would wait a long time for Saddam Hussein to invite us to move him around a little bit in Iraq.

He believes the United States should explicitly surrender the right to intervene unilaterally in what he considers the internal affairs of other countries.

So if we have U.S. citizens there and they are exposing our people to danger, I suppose we have to conduct a survey and get an invitation to see if we could come in and save our people from certain harm or death.

And this man would be in a prominent position in the Defense Department of the United States? I do not know what it says about the President to nominate such a person, I really do not. I am very concerned.

During the gulf war, Mr. Halperin encouraged Defense Department employees to exercise their first amendment rights to leak classified information, even though such action could compromise our military operations and thereby the safety of every single man and woman who served in the U.S. forces in the Persian Gulf—every single one of them.

Mr. Halperin believes that the Federal Bureau of Investigation should be prohibited from conducting counter-intelligence investigations.

Mr. Halperin believes that it is a violation of the Constitution to bar American citizens from acting as agents seeking to advance the agenda of terrorist organizations.

If you have not heard enough, how about a little more?

In 1974, Mr. Halperin testified before Congress that sensitive defense information should be declassified, including American troop deployments, nuclear weapons locations, combat advisors, military assistance, and sensitive research and development programs.

And this man would be nominated to a sensitive position in the national defense of this country by the President of the United States of America?

Mr. President, if you are listening out there, reconsider this nomination. Pull this nomination.

Mr. Halperin was directly involved in compiling the Pentagon papers and, either directly or indirectly, played a role in the unauthorized release of these materials. According to Mr. Halperin, and I quote:

> Having had administrative responsibility for the production of the Pentagon papers, I knew they contained nothing which would cause serious injury to national security.

Well, let me just say this: That is not what the Department of Defense said then and it is not what the Justice Department said either. In fact, then National Security Adviser Henry Kissinger had Mr. Halperin's telephone wiretapped due to the concerns he had about him leaking classified information. And that was a Republican administration.

Mr. President, even a cursory review of Morton Halperin's background leaves one with a very distinct and unfavorable impression. But, in particular, two conclusions can be drawn. First, Mr. Halperin exudes an extreme arrogance toward authority and national security considerations. Second, he has consistently demonstrated extremely bad judgment in his professional activities and behavior.

To say that Mr. Halperin falls outside of the mainstream on national security issues is the understatement of the year.

I would ask the American people, after having heard in Mr. Halperin's own words on some of his positions, where you stand in terms of these issues and how you stand in regard to his positions? Because maybe your son, maybe your daughter may be serving; or your brother, or your dad, or your mother may be serving somewhere out there in the intelligence community or in the U.S. military with this man in the Defense Department of the United States of America. If that bothers you, you ought to write to the President and tell him that it bothers you.

And do not believe what I say, check it out. Check it out for yourself so you will be satisfied. We have the documentation and we will provide it to you if you want it.

Mr. Halperin is an extreme radical whose ideology, background, and writings are in direct conflict with the national security requirements of the United States of America.

That is a strong statement and I support it and I will back it up.

Recently, however, Mr. Halperin and his supporters have sought to portray him—on the floor of this Senate, by the way—as a misunderstood libertarian.

No, I do not misunderstand him. I understand him. That is the point.

What we are seeing now from Mr. Halperin is a patented, obvious case of "confirmation conversion." Suddenly he is trying to distance himself from 20 years worth of radical statements, radical actions and radical writings. And the Clinton administration is lining up all kinds of supporters to proclaim his brilliance and attempt to downplay his controversial background.

Let me caution my colleagues. Do not be fooled by this slick repackaging. Do not be fooled by it. The national security of this country very well may be at stake.

Morton Halperin is not misunderstood. He is understood all right. His writings, his professional activities, and his radical views are clear and well documented. He is clearly and appropriately understood in my opinion as a security risk to the United States of America.

Mr. President, the Senate Armed Services Committee will soon convene hearings on this controversial nomination. And I am glad I am a member, because I am going to have the opportunity to question Mr. Halperin very carefully. I urge my colleagues in the Senate to carefully monitor these deliberations. But it is my sincere hope that it never comes to that, that the President will pull this nomination so that it will not even be brought to the committee.

As Assistant Secretary of Defense, Mr. Halperin would have substantial influence on a variety of critical areas including democracy assistance, human rights, peacekeeping and peacekeeping affairs and counternarcotics policy, to name a few. He would have a major say—and this is very important—he would have a major say in when and where—when and where—U.S. forces may be stationed or may intervene militarily someplace around the world.

Given his paper trail and very controversial positions in these areas it is essential that the Senate carefully evaluate his qualifications and suitability for this position.

I have done so. I have carefully reviewed Mr. Halperin's writings, his professional activities, and his public statements. And, as we speak, I am pursuing more of them and I am going to continue to pursue more information on Mr. Halperin right up until the day of the vote.

I find him ill-suited and incompatible with this position. In fact, in all my years in the House and the Senate I have never seen a more dangerous and inappropriate nomination in either political party for any position, let alone a sensitive national security position in our Government. Never before have I spoken out on the floor in the House or the Senate with the intensity I am speaking about against this nomination. And I am not alone. Some very prominent people who have been around here a long time have done the same thing.

Nor have I ever seen an individual who relishes controversy and strife more than Morton Halperin. That is the exact opposite of what you need in a sensitive defense position, in a sensitive area where you are dealing with classified information. Any of my colleagues, anyone who has dealt with intelligence community people know they are low key. It is very difficult to get information out of them. Lord knows I have had my trouble trying to get my information out of the intelligence community over the years.

Reasonable people can disagree over politics and policy. But Mr. Halperin is not reasonable on these issues. He is radical and no amount of political polishing or repackaging is going to change that. Nothing is going to change that. Do not be fooled. His record speaks for itself. Halperin is absolutely the wrong person to serve our Nation as the Assistant Secretary of Defense. Let me say it again: Mr. President, please pull this nomination.

I urge my colleagues to examine this nomination closely. We have a constitutional obligation to do so. That is secondary now. We have a moral responsibility to do it. We have a national security responsibility to do it. The stakes are high and the dangers are great. They are too high and too great to allow this individual to implement his radical agenda within our Defense Department.

With the Clinton administration's foreign policy already in complete disarray according to some, the last thing in the world this country needs now is Morton Halperin determining when and where our U.S. military forces are going to be intervening throughout the world, and when and where they may be located anywhere throughout the world—not to mention our intelligence community agents around the world.

How would you like to be an intelligence agent somewhere in the world serving in a clandestine operation and know that Morton Halperin is sitting there, saying he is willing to tell everybody where you are and who you are? How would you like to be that individual?

We need leadership on this nomination. We need leadership. I urge my colleagues to come forth and exercise it and defeat this nomination.

The PRESIDING OFFICER. The Chair will ask the Senator from Arkansas to withhold for one moment.

The Chair would notify the galleries that any expression is prohibited under Senate rules. Anyone who will engage in expression of sentiment, either in favor or in opposition to what a speaker might say, would be removed by the Sergeant at Arms and subject to legal penalty. I want to advise the Chamber it is inappropriate to have any expression while the Senate is deliberating.

PREMIUMS UNDER HEALTH SECURITY ACT

Mr. MITCHELL. Mr. President, yesterday during her testimony at the Senate Finance Committee hearing on the administration's health care plan, Secretary of Health and Human Services, Donna Shalala, used a chart which indicated that under the President's proposal approximately 60 percent of those persons currently insured would pay the same or less and approximately 40 percent would pay more.

I believe it is important to understand why this is the case and also important to understand the breakdown of the 40 percent group whose premiums may increase under the President's plan.

First, of the 40 percent whose premiums may increase, more than half, or about 25 percent, of the total will receive more comprehensive benefits, so while they will be paying a little more they will be getting a lot more in benefits.

Currently, health care benefits vary widely, from the so-called barebones policies that offer little protection or peace of mind, to the comprehensive so-called Cadillac plans offered by some large American companies. Under health care reform, all persons will have a comprehensive benefit package with no lifetime limit on the amount that can be paid in benefits.

Very few existing health policies now have no lifetime limits. That is to say, most of them have a limit on the total amount that can be paid out for a person, and when that limit is reached the person's insurance coverage ends. I have personally talked to people who have run up against the limit and effectively their insurance no longer exists. This will be a huge and important improvement for most Americans, to have a comprehensive benefits package better than they now have with no lifetime limit.

Second, the remainder of the 40 percent whose premiums will rise—and that is about 15 percent of the total—are mostly young, healthy people who, because of current insurance underwriting policies, have relatively low premiums.

It is important to understand that it is largely the impact of what is called community rating practices that would result in higher premiums for anyone in this category of young and healthy workers.

The Health Security Act proposed by President Clinton will outlaw discriminatory insurance practices that now prevent millions of Americans from obtaining any health insurance coverage today. The proposal also returns the concept of health insurance to its basic roots. And that is offering protection to everyone, whether they are healthy or sick, young or old. It will put an end to the practice of insurance companies searching for only the healthiest people to insure, and they tend mostly to be young people.

This is the primary reason why some people will have higher premiums under the President's proposal, but they are a minority of those involved.

Because the President's plan includes strong cost containment provisions, the increase in premiums for those persons will be less in future years than would otherwise be paid without such measures. That is to say, the amount of increase will be at its maximum at the beginning before the cost containment measures take effect and bring the overall cost down for everyone.

It is also very important to note—and this has not been noted by anyone in the press commenting on Dr. Shalala's testimony—that a number of the alternative health care plans which have been presented by Senate Republicans, by Representative COOPER, by Representative MCDERMOTT in the House of Representatives, also include community rating provisions. While each plan's community rating provision is not identical, they all eliminate the medical underwriting that exists in today's health insurance market.

Therefore, these alternative proposals, that offered by Senator CHAFEE in behalf of Senate Republicans, by Representative COOPER and Representative MCDERMOTT would also result in some premium increases for certain young, healthy people, although the specific rates would differ from the administration's since there are technical differences between these plans.

In some of the alternative proposals, strong costs contained in the provisions are not proposed to hold down future increases in premiums. Therefore such increases will be significantly less restrained in the future under the alternative plans than under the President's plan.

Insurance market reforms, including a move toward community rating, is a critical component of comprehensive health care reform. Indeed, insurance market reform is one of the issues upon which most Democrats and Republicans agree. We agree that it must be part of any meaningful reform bill, and it is an issue which Senator CHAFEE, our Republican colleague, has always included in his list of "Common Points," issues upon which there is fundamental agreement between Democrats and Republicans in health care reform. And to repeat, insurance market reform and, specifically an end to medical underwriting and the adoption of community rating, is the primary reason for any increase in premiums for anyone.

Clearly, as we work to reform the Nation's health care system we must assure that all citizens, young and old, male and female, those who work in high-risk occupations or work at a desk, all have access to affordable health care. The young, healthy people who now enjoy low insurance premiums must remember that they too will grow old and need health insurance when they reach 50 or 60 or older.

The President's plan assures that everyone, those young, those middle age, and those elderly, will have access to good quality care that is affordable.

It is a significant, a huge improvement over current practices for the overwhelming majority of Americans. I hope it will be adopted.

I wanted to especially explain this because it has gotten so much attention in the last day, attention not in context and not in comparison with any other plan.

Mr. President, I thank my colleagues. I yield the floor.

MORNING BUSINESS

Mr. PRYOR. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

KIDS AND GUNS

Mr. PRYOR. Mr. President, today I rise to cosponsor Senate bill 1087, the Youth Handgun Safety Act of 1993.

This important piece of legislation was introduced by my good friend, and I must say the Senate's good friend, the senior Senator from Wisconsin, Senator KOHL. Senator KOHL has been a leader in the area of juvenile justice, as the distinguished Presiding Officer knows, and as all Members of the Senate are aware. I want to applaud his real leadership in crafting this commonsense bill that I take great pleasure in cosponsoring today.

The 1992 FBI Uniform Crime Report contains some disturbing trends and statistics that play directly into this debate over our children and guns. In the last decade, the rate of violent juvenile crime grew by more than 25 percent, the number of juveniles committing homicides with firearms has seen a 79-percent increase, and the number of juvenile weapons arrests has more than doubled. In 1992 alone, 2,829 juveniles were arrested in the United States for murder, and 46,256 juveniles were arrested for weapons violations. It is also said that each day, 130,000 students take guns to school.

You can, unfortunately, pick up the newspaper almost every day in communities large and small across our country and see a story about another murder committed by children. This tragedy is not limited to big cities. It is a plight that pervades American communities both large and small, rural and urban, east and west, north and south.

In 1992, Little Rock, my home State's capital, had one of the Nation's highest homicide rates—about 34 homicides per 100,000 residents, compared to 27 homicides for every 100,000 New York City residents. In 1992, 38 of the 61 homicides in Pulaski County, where Little Rock is located, were against persons 24 years old or younger.

Mr. President, I ask unanimous consent that a list of those victims of homicide be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRYOR. Mr. President, this bill is certainly not a panacea to the problem of juvenile violence. There is no silver bullet or magic answer to solve the erosion of our Nation's social fabric—success will be incremental, and most often difficult to measure and quantify.

Mr. President, this bill is needed because it plugs loopholes in the current Federal gun laws—the loophole that allows nonlicensed gun sellers to sell handguns to minors without it being a criminal offense, and the loophole that does not prohibit the possession of a handgun, regardless of where it came from, by a minor. The Kohl bill would prohibit a minor under 18 possessing a handgun, period.

We think it is time to pass this legislation. We think that moment is now.

Hopefully during the next several days, as we begin to debate the crime bill and the awful statistics of crime in the United States of America—hopefully, before this session ends, we will at least see this measure be made a part of the law of this land.

Mr. President, this bill is important; it sends a message that I wholeheartedly support: Kids and handguns do not mix.

I look forward to working with the Senator from Wisconsin and others interested in this legislation to see that it is included in the upcoming crime bill or any other appropriate legislative vehicle. We need to get behind Senator KOHL and this message and make it become the law of the land.

EXHIBIT 1

PULASKI COUNTY—1992 HOMICIDES AGES 13 TO 24

Name	Race/sex	Age
1. Lameshia Barton	B/F	14
2. Robert Lee Holmes	B/M	16
3. Kevin Gaddy	B/M	17
4. Andre Waters	B/M	17
5. Sedrick Fowler	B/M	18
6. David Fudge	B/M	18
7. Nathaniel Merriwhether	B/M	18
8. Alicia Blackman	B/F	20
9. Rhonda Estes	B/F	20
10. Sheronda Abdullah	B/F	21
11. Marcus Talley	B/M	21
12. Cyrus Lee	B/M	21
13. Yvette Ibrra	B/F	22
14. Ronald Givens	B/M	22
15. Marcus Johnson	B/M	23
16. Philip Cordova	W/M	23
17. Sabrina Earl	B/F	23
18. Curtis Mingo	W/M	24
19. Phillip Burts	B/M	24
20. Cedrick Luckadoo	B/M	24
21. Billy Starks	B/M	21
22. Eric Horton	B/M	20
23. Kenneth Wells	B/M	14
24. Johnny Bryant	B/M	21
25. Lewis Allen	B/M	14
26. Bryan Sampson	B/M	19
27. Tony Brooks	B/M	21
28. David Eskridge	B/M	21
29. Phillip Theis	W/M	20
30. Sammy Ford	B/M	17
31. Anthony Hughes	B/M	19
32. Eric Hill	B/M	20
33. Edward Perkins	B/M	23
34. William Guydon III	B/M	23
35. Sederick Martin	B/M	14
36. Mark Trice	B/M	24
37. Kevin Cohen	B/M	19
38. Michael Storay	B/M	14

TRIBUTE TO J. MICHAEL HALL

Mr. HARKIN. Mr. President, I rise to pay tribute to Mike Hall, who is retiring after a distinguished career in the executive and legislative branches of the Federal Government.

Mike began his career at the White House Budget Office, now called the Office of Management and Budget, in 1971. Until 1975, he served as budget and program analyst for activities of the Department of Commerce and Small Business Administration.

His educational background prepared him well for Budget Office work, as well as for his future specialty in Congress. Mike graduated from the University of Illinois in 1967 majoring in economics and received an MBA in 1970, concentrating in finance. For the last 18 years, Mike has been a professional staff member of the Senate Appropriations Committee. During that time, he has served as staff director of four domestic subcommittees, and probably knows as much about the operations of Government, certainly the Congress, as anyone around. On behalf of all the members and staff of the committee, we wish to express our sincere appreciation for his dedicated service.

On a personal note, let me just say Mike was one of the best at putting complicated hearings together on very short notice. Since I became chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee in 1989, I tested him plenty. Mike, time and time again, exhibited a real talent for organizing complex tasks, so that hearings, markups, and floor action were efficiently and effectively accomplished. This is a huge subcommittee, with annual appropriations exceeding $260 billion, and more than 800 programs. Of course, Mike didn't do all the work alone; he managed a subcommittee staff of seven and, as a unit, they always seemed to have the right answers at the right time.

Before he came to the Labor, Health and Human Services, and Education Subcommittee, Mike was the minority staff director of the Transportation Appropriations Subcommittee from 1981 to 1987. During that time, he also served as transportation legislative assistant and Budget Committee transportation senior analyst for Senator Chiles, who is now Governor of Florida.

From 1977 to 1981, Mike was staff director of the Treasury, Postal Service, and General Government Appropriations Subcommittee. His first staff director assignment was the District of Columbia Appropriations Subcommittee from 1975 to 1977. In addition to Lawton Chiles, he worked closely with Chairman LEAHY, the senior Senator from Vermont, at this juncture.

Appropriations staff work is very demanding, requiring good judgment, the ability to function well under pressure, and great accuracy and technical skills. All these attributes will serve Mike well in his future endeavors.

Even though Mike's jobs have always been demanding, he still found time to be active in community service. He has served as a board member of the Arlington Retirement Housing Corp., chairman of the Arlington County Planning Commission, treasurer of the Arlington County Democratic Party, president of the South Arlington Civic Association, and on numerous county advisory committees and task forces. He has been chairman of the board of trustees of his local 600-member church with a quarter million dollar budget and previously led volunteer activities of the nine-member board. As a Peace Corps volunteer, he taught in a provincial high school in Thailand and organized and taught evening classes for adults.

Let me also express my thanks to Mike's family, his wife Natalie, and children Sarah, age 18; Kate, age 16; and Matthew, age 14. Over the years, they have tolerated the unpredictable working hours of Senate life, and this invariably imposes hardships on all family members.

I know Mike is really too young to retire for good. He's just moving from the public sector to the private sector and I wish him well. With seemingly boundless energy and enthusiasm, I have every confidence he will succeed at whatever he undertakes.

POLISH-AMERICAN HERITAGE MONTH

Mr. RIEGLE. Mr. President, I am proud to join with Senator SIMON and my fellow colleagues in commemorating "Polish American Heritage Month." At this time, I rise to celebrate the spirit of Polish-Americans and to recognize the outstanding accomplishments of this community throughout the history of this country.

More than 10 million Americans are proud to claim Polish ancestry. Ten percent of this total reside in my home State of Michigan and hold positions in many areas of our society.

It is only appropriate that we celebrate the contributions of Polish-Americans during the month of October because on the 11th of this month, we honor one of the great Americans of Polish descent, Count Casimir Pulaski. His heroic participation in the Revolutionary War reached an abrupt halt on that date in 1779 when he died defending Savannah, GA, from British forces. Known today as the Father of the American cavalry, Pulaski's idealism and strong belief in democracy and freedom brought him from Poland to fight for American independence.

Another famous Polish-American, Thaddeus Kosciuszko, also distinguished himself as a Revolutionary War hero by strengthening the fortifications at Saratoga, NY. He helped engineer the turning point of the War for American Independence by defeating the British forces at Saratoga.

These are only two examples of the many Polish-Americans who have had an impact on our society and have enriched our national heritage. Yet, all Polish-Americans are living symbols of the commitment to freedom and liberty which Pulaski and Kosciuszko represented. The Polish-American community has long fought for freedom and human rights in Poland, offering their support in the form of sorely needed moral and material assistance. Now that Poland has shed its Communist rulers, Americans of Polish ancestry can rejoice and renew ties to their homeland in ways which were impossible only a few short years ago.

The Polish-American community has taken great care to safeguard cherished Polish traditions while keeping pace with the changing needs and concerns of its members in our modern society. In fact, much of Polish culture has become an important part of our own national history.

Mr. President, as we celebrate this "Polish American Heritage Month," let us acknowledge with deep appreciation the many lasting contributions of Polish-Americans to this great country, and the richness they bestow upon America's diverse cultural fabric.

FROM THE RELIGIOUS FREEDOM RESTORATION ACT

Mrs. FEINSTEIN. Mr. President, just the other day, the Religious Freedom Restoration Act of 1993, a bill designed to restore legal safeguards for the free exercise of religion undermined by a 1990 Supreme Court decision, passed the Senate by a nearly unanimous vote of 97 to 3. I am pleased to say that I was a cosponsor of this important legislation and that I voted for its final passage.

I wish the RECORD to clearly reflect my disappointment, however, that an amendment offered by Senator REID to expressly exempt prisons from the bill's requirements failed. Although a supporter of the fundamental aims of the bill, Mr. President, I was—and remain—concerned that prison administrators will be required by the Religious Freedom Act to accommodate inmate demands for special treatment, such as special diets and dress privileges, that will be both costly to State prison systems and potential security risks.

For example, in my own State of California, the warden of San Quentin—having noticed particular patterns in recent escape attempts—banned certain kinds of civilian clothing. That regulation was successfully challenged by inmates in State court on the grounds that the regulation was not the "least restrictive means" of achieving the prison system's objective of increased security. Rather, the court held that the prison could and should have hired more staff to meet that end.

Although reversed on appeal, this decision illustrates the special litigation burden that the least restrictive means test required by the Religious Freedom Act can and will impose on already overburdened and financially strapped prison systems. Requests by inmates for special diets, as well, will only exacerbate the problem.

Constitutional law is by nature a matter of striking the right balance between society's needs and individual rights, Mr. President. I commend Senator REID for his attempt to recalibrate the balance in a reasonable and measured way to prevent the abuse of a necessary and well-intentioned bill. It is unfortunate that a majority of our colleagues did not join us in that effort.

Nonetheless, Mr. President, by once again making absolutely clear that Government may burden the free exercise of religion only for the most compelling of reasons and in the narrowest possible way, the Religious Freedom Restoration Act repairs serious damage done to a pillar of our democracy. That is why I, and virtually all of my colleagues in the U.S. Senate, resoundingly approved this important legislation.

Thank you, Mr. President.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,420,682,377,339.12 as of the close of business yesterday, October 28. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $17,210.54.

ORDER OF PROCEDURE

Mr. PRYOR. Mr. President, the following unanimous-consent requests have been cleared on the Republican side of the aisle.

WORLD POPULATION AWARENESS WEEK

NATIONAL ADOPTION WEEK

NATIONAL RED RIBBON WEEK FOR A DRUG FREE AMERICA

Mr. PRYOR. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from and the Senate proceed en bloc to the immediate consideration of Senate Joint Resolutions 135, 145, and 147; the joint resolutions each to be read a third time, passed, the preambles be agreed to en bloc, the motions to reconsider be laid upon the table en bloc; that the consideration of each item appear individually in the RECORD; and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

So the joint resolution (S.J. Res. 135) designating the week beginning October 25, 1993, as "World Population Awareness Week", was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 135

Whereas the population of the world today exceeds 5.5 billion and increases at the rate of some 100 million per year;

Whereas more than 90 percent of world population growth occurs in developing countries, those least able to provide even basic services for their citizens;

Whereas rapid population growth and overconsumption are major deterrents to sustainable development;

Whereas 40 countries with 40 percent of the population of the developing world are currently unable to provide enough food for their inhabitants to meet average nutritional requirements;

Whereas the global community has for more than 25 years recognized the basic right of individuals to voluntarily and responsibly determine the number and spacing of their children;

Whereas expanded accessibility to family planning has led to a world with 400 million fewer people than there might have been;

Whereas at least one-half of the women of reproductive age in developing countries want to limit the number of their children, but lack the means or ability to gain access to modern family planning methods;

Whereas numerous studies provide compelling evidence of a strong correlation between a smaller desired family size and the elevation of the status of women, especially through opening educational and employment opportunities; and

Whereas preparations are underway for the 1994 International Conference on Population and Development (ICPD) in Cairo, Egypt, focusing world attention on the integral linkage between population, sustained economic growth and sustainable development—more specifically, the importance of family planning, the role of women, the effects of migration, the need for increased resources, and the devastation caused by AIDS: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 25, 1993, is designated as "World Population Awareness Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a week with appropriate programs, ceremonies, and activities.

So the joint resolution (S.J. Res. 145) to designate the period commencing on November 21, 1993, and ending on November 27, 1993, and the period commencing on November 20, 1994, and ending on November 26, 1994, each as "National Adoption Week," was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 145

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 15 years;

Whereas the Congress recognizes that belonging to a secure, loving, and permanent family is every child's right;

Whereas the President of the United States has actively promoted the benefits of adoption by implementing a Federal program to encourage Federal employees to consider adoption;

Whereas approximately 36,000 children who may be characterized as having special needs, such as being of school age, being members of a sibling group, being members of a minority group, or having physical, mental, or emotional disabilities are now in foster care or in institutions financed at public expense and are legally free for adoption;

Whereas public and private barriers inhibiting the placement of special needs children must be reviewed and removed where possible to assure their adoption;

Whereas the adoption of institutionalized or foster care children by capable parents into permanent homes would ensure an opportunity for their continued happiness and long-range well-being;

Whereas the public and prospective parents must be informed that there are children available for adoption;

Whereas the media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will provide publicity and information to heighten community awareness of the crucial needs of children available for adoption; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and in the best interest of the public generally: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on November 21, 1993, and ending on November 27, 1993, and the period commencing on November 20, 1994, and ending on November 26, 1994, are each designated as "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe each week with appropriate ceremonies and activities.

So the joint resolution (S.J. Res. 147) designating October 23, 1993, through October 30, 1993, as "National Red Ribbon Week for a Drug-Free America," was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 147

Joint resolution designating October 23, 1993, through October 30, 1993, as "National Red Ribbon Week for a Drug-Free America".

Whereas substance abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas substance abuse is a major public health threat and is one of the major causes of preventable disease, disability, and death in the United States today;

Whereas illegal drug use is not limited to persons of a particular age, gender, or socioeconomic status;

Whereas the drug problem appears to be insurmountable, but the United States has begun to lay the foundation to combat the use of illegal drugs;

Whereas the United States must continue the important strides made to combat substance abuse;

Whereas it has been demonstrated through public opinion polls that the American people consider drug abuse one of the most serious domestic problems facing the United States and have begun to take steps against it;

Whereas the National Family Partnership has declared October 23, 1993, through October 30, 1993, as "National Red Ribbon Week", has organized the National Red Ribbon Campaign to coordinate the week's activities, has established the theme, "Neighbors—Drug Free and Proud" for the week, and has called for a comprehensive public awareness, prevention, and education program involving thousands of parent and community groups across the country;

Whereas any use of an illegal drug is unacceptable and the illegal use of a legal drug cannot be tolerated; and

Whereas substance abuse destroys lives, spawns crime, undermines our economy, and threatens our security as a Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) October 23, 1993, through October 30, 1993, is designated as "National Red Ribbon Week for a Drug-Free America";

(2) the President is authorized and directed to issue a proclamation calling on the people of the United States—

(A) to observe the week by holding conferences, meetings and other activities to support community education, and with other appropriate activities, events and educational campaigns; and

(B) both during the week and thereafter, to wear and display red ribbons to present and symbolize commitment to a healthy, drug-free life style, and to develop an attitude of intolerance concerning the use of drugs; and

(3) Congress recognizes and commends the hard work and dedication of concerned parents, youth, law enforcement officials, educators, business leaders, religious leaders, private sector organizations, and Government leaders in combating substance abuse.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM (for himself, Mr. HATCH, Mr. GRASSLEY, and Mr. SPECTER):

S. 1602. A bill to amend the Sherman Act to restore fair competition in the ocean shipping industry; to the Committee on the Judiciary.

By Mr. COCHRAN:

S. 1603. A bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers; to the Committee on Governmental Affairs.

By Mr. GLENN (for himself, Mr. LEVIN, Mr. PRYOR, Mr. AKAKA, and Mr. LIEBERMAN):

S. 1604. A bill to provide for greater regulatory flexibility for small governments, lessen compliance burdens on small governments, test innovative regulatory methods, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SARBANES (for himself, Mr. MITCHELL, Mr. AKAKA, Mr. MOYNIHAN, Mr. DORGAN, Mr. INOUYE, Mr. KENNEDY, Mr. METZENBAUM, Mr. ROCKEFELLER, Mr. LEVIN, Mr. JOHNSTON, Mr. WOFFORD, Ms. MIKULSKI, Mr. ROBB, Mr. PRESSLER, Mr. DURENBERGER, Mr. HATCH, and Mr. STEVENS):

S.J. Res. 150. Joint resolution to designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL (for himself, Mr. LOTT, Mr. ROTH, Mr. FAIRCLOTH, and Mr. WARNER):

S. Con. Res. 49. Concurrent resolution expressing the sense of the Congress that the current Canadian quota regime on chicken imports should be removed as part of the Uruguay Round multilateral trade negotiations and that Canada's imposition of quotas on United States processed chicken violates article XI of the General Agreement on Tariffs and Trade; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. HATCH, Mr. GRASSLEY, and Mr. SPECTER):

S. 1602. A bill to amend the Sherman Act to restore fair competition in the ocean shipping industry; to the Committee on the Judiciary.

ACT TO RESTORE FAIR COMPETITION IN THE OCEAN SHIPPING INDUSTRY

• Mr. METZENBAUM. Mr. President, I introduce a bill to restore fair competition in the ocean shipping industry. The time has come to repeal the ocean shipping industry's special exemption from our Nation's fair competition laws. That exemption is costing American consumers billions of dollars every year in cartel overcharges. It is also increasing the cost of our exports that move by ship, which is putting U.S. businesses at a serious competitive disadvantage abroad. A recent study commissioned by the Advisory Commission on Conferences in Ocean Shipping [ACCOS] estimated that ocean shipping cartels increase transportation costs by up to $3 billion a year. Given the fragile state of our economy, we simply can't tolerate a cartel that makes it more costly for U.S. producers to sell overseas.

Ocean shipping conferences—which are associations of competing carriers—have enjoyed some degree of special protection from our Nation's antitrust laws since 1916. However, the situation became much worse with passage of the 1984 Shipping Act. That act gave ocean shipping conferences blanket immunity from the antitrust laws, and thereby eliminated any protection that consumers and shippers might have had from those cartels.

When that act was being debated, I warned my colleagues that giving ocean shipping conferences broad antitrust immunity would "raise costs to exporters, drive up retail prices of imported goods, and force consumers to bear increased transportation costs." I was right then, and I am right now—we need to repeal this costly and unnecessary exemption without delay.

I am also concerned about some of the more recent abuses of the shipping cartels' blanket antitrust immunity. Specifically, shipping conferences have colluded to close selected U.S. ports and to neutralize nonconference competitors through the use of so-called discussion and stabilization agreements.

Let me explain. Last year, the members of the North Europe—USA Rate Agreement Conference [NEUSARA] agreed to eliminate services to the port in Philadelphia, PA. NEUSARA controls nearly 63 percent of the cargo in Philadelphia, therefore the boycott by NEUSARA was expected to have disastrous economic effect on Philadelphia and the entire Delaware Valley. Estimates were that $900,000 in direct revenues, 45 jobs and $133,470 in State and local taxes are in jeopardy because of NEUSARA's collusive agreement to eliminate services.

The fact is that antitrust immunity has allowed ocean shipping conferences to decide which U.S. ports will survive andprosper and which U.S. ports will go under. That simply is not a power that shipping conferences should have over U.S. ports.

Ocean shipping conferences are also using their antitrust immunity to neutralize their low-cost nonconference competitors through the use of so-called discussion or stabilization agreements. These collusive agreements allow conference carriers and independent carriers to form mega-conferences for the explicit purpose of increasing prices, and restricting capacity.

The July 26, 1991, Journal of Commerce reported that one such mega-conference, the Transpacific Stabilization Agreement [TSA] had increased eastbound prices to an average of $400 per container above what they would have been otherwise. The article stated "that TSA alone could be costing U.S. importers and consumers anywhere from $625 million to well over $1 billion a year." And, the total impact on consumers of these mega-conference agreements and collateral relationships could be as much as $5 to $10 billion.

Although our lax antitrust policy allows TSA to operate with impunity, the European Community [EC] appears to be cracking down on its European counterpart the Trans-Atlantic Agreement [TAA]. In a May 1993 decision the EC found that TAA's collusive tactics were "directly contrary to the interests of shippers who are obliged to reflect them in their selling price or their margin without benefiting from any immediate advantage in terms of quality of service." The EC also stated that "such price agreements the purpose of which is such a considerable increase in freight rates cannot be regarded as allowing consumers a reasonable share of the benefits." It is absurd for the United States to condone the very same kind of ocean shipping cartel agreement that the EC has condemned as anticompetitive.

Finally, it is clear to me that antitrust immunity has not improved the financial health of the ocean shipping industry in the United States. Rather, I believe that it contributed to its demise. Specifically, on August 5, 1993, the heads of the last two major U.S. ocean shipping lines—Sea Land Services, Inc. and American President Lines—announced that they were withdrawing a sizeable number of their ships from the U.S. market, and placing them under foreign control. That leaves the U.S. firms with little or no presence in the international ocean shipping industry. It also means that we are permitting a foreign dominated cartel to exploit American shippers and consumers by continuing to give them antitrust immunity. I believe that every Member of the Senate will agree that we should not be protecting foreign dominated cartels in any industry from our Nation's fair competition laws.

I should note that repealing this special antitrust exemption for ocean shipping cartels has broad bipartisan support. Republican Senators ORRIN HATCH, CHARLES GRASSLEY, and ARLEN SPECTER are cosponsoring the bill. Likewise, James Rill, the Bush administration's antitrust chief has supported repeal. In testimony before the ACCOs Rill stated that:

> Collective rate making by [ocean shipping] conferences results in higher ocean shipping rates than would exist in a competitive market. Because of higher rates, some shippers do not purchase as much shipping service as they otherwise would. Some transactions that ought to take place do not and the economic and total welfare of a nation suffers as a result [because] U.S. exporters lose sales abroad and imported goods are more costly to American consumers.

In summary, I believe that it is high time that ocean shipping conferences were subjected to the fair competition laws that govern virtually every other industry in the United States. The American people can no longer afford to give these foreign-dominated conferences unbridled discretion to raise prices, reduce capacity, neutralize low-cost competitors, and close ports at their whim. I urge my colleagues to join me in repealing special antitrust protection for the ocean shipping industry.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1602

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Act To Restore Fair Competition in the Ocean Shipping Industry".

SEC. 2. TERMINATION OF ANTITRUST EXEMPTION.

The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (commonly known as the Sherman Act) (15 U.S.C. 1 et seq.) is amended by adding at the end the following new section:

"OCEAN COMMON CARRIERS

"SEC. 9. (a) DEFINITIONS.—In this section, 'antitrust laws' and 'ocean common carrier' have the meanings stated in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702).

"(b) TERMINATION OF EXEMPTION.—The exemption from the antitrust laws provided by section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706), insofar as it applies to ocean common carriers, is terminated effective January 1, 1994.".●

● Mr. HATCH. Mr. President, for the past 10 years, I have strenuously opposed an antitrust exemption to ocean shipping conferences put in place by the 1984 Shipping Act.

The exemption tolerates practices that the history of our antitrust legislation has condemned—practices which disarm competition.

The formation of a new super-conference, the Trans-Atlantic Agreement, promises to undermine still further the ability of our commodity shippers to compete efficiently in a rapidly globalizing market where price management can make the difference between life and death for many firms of all sizes. A coalition of 15 shipping lines will raise rates, and limit capacity. This is a classical definition of predatory practices: increase business by eliminating the competition.

THE LAST STRAW FOR MANY

Mr. President, the continued arrogance implicit in allowing a select group of ocean carriers to remain outside the regulatory constraints that foster free and open competition has brought out the opposition.

The Alliance for Competitive Transportation [ACT], and other shipper lobbying groups, are now demanding the changes that this amendment would bring. These groups include the major trade associations representing chemicals, forest and paper products, agriculture, automobiles, rubber, and plastics, as well as dozens of other individual companies, collectively representing a great share of our overseas trade.

Before I proceed further, Mr. President, I must command my good friend, the Senator from Ohio, for taking this type of landmark action as one of his several last acts as a member of this body. It is a fitting tribute to one who has devoted so many years to making our economic system open to all.

DECADE-OLD WARNINGS NOW HAUNT US

Mr. President, I warned in my floor statements opposing the 1984 Shipping Act 10 years ago that "Cartels, by their very nature, promote price fixing conspiracy. Fixed prices discourage competition, and without competition, consumers invariably suffer."

Look what has happened since the Shipping Act was adopted. Our agriculture shippers have lost $5.08 billion, an amount equivalent to 20 percent of all agricultural exports. The cartel premium has today added 18 percent to the cost of ocean transportation. This has reduced the value of agricultural sales by 4.6 percent. It couldn't come at a worse time as our farm communities need still bigger overseas markets just to break even.

CONFERENCE SHIPPING ARGUMENTS WEAKEN ON CLOSE ANALYSIS

Mr. President, the ocean cartels tell us that this price-fixing scheme is needed to preserve the U.S. merchant fleet. They cite 50 percent reductions in the number of ocean-carrier vessels over the past 20 years.

The argument is beguiling. What they don't tell us is that shipping technologies, such as containerization, have actually resulted in more cargo being carried by fewer ships, a conclusion reached by a GAO study.

And they certainly don't tell us that the shipping cartels have actually hindered growth. Their higher rates and limited shipping services have increased use of airline shipping, for one thing, although cargo size and volume impose upper limits on how much can be transferred to this type of conveyance.

For those shipping lines that remain in the trade, they have threatened to seek foreign flag status rather than deal with the price-gouging cartels.

Worst of all, independent carriers can be intimidated into cooperating with the cartels since the latter can lowball even the best price of an independent shipping line, without risking the criminal sanctions of the antitrust laws that other price-fixing groups would face.

Mr. President, the Metzenbaum amendment may be the last real chance to restore our merchant marine to competitive status. At a time when Presidents Bush and Clinton have given due priority to the expansion of trade, and when Vice President GORE's own National Performance Review—the so-called reinventing government effort—has urged the elimination of the shipping conference antitrust exemptions, Congress cannot allow another decade of anticompetitive practices to be tolerated.●

● Mr. GRASSLEY. Mr. President, I welcome the opportunity to join my colleague from Ohio in introducing an important piece of legislation to fight offshore cartels. Unlike the foreign export cartels that we have been fighting since the last Congress, the cartels we seek to combat with this bill are only offshore in the sense that they operate on the oceans.

Oceans shipping conferences—a euphemism for maritime cartels—have enjoyed statutory protection from antitrust liability since 1916. The most recent recodification of this exemption occurred with the enactment of the Shipping Act of 1984. Unfortunately, the main effect of this exemption has been to allow merchant marine carriers to fix artificially high freight rates and to control competition.

The people who suffer are American businesses dependent upon shipping as well as American consumers and workers. Our standard of living is hindered and the volume of trade is reduced.

Last year, the Advisory Commission on Conferences in Ocean Shipping reported numerous examples of the damage this antitrust exemption is causing.

One chemical company decided to build overseas instead of expanding their U.S. operations, in part, because it was unable to negotiate a long-term, confidential contract commitment for ocean transportation.

Fish processors lost market share in Europe because carriers refused to negotiate.

Lumber exporters face competitive disadvantages with Canadians who benefit from deregulated ocean transportation.

Consumers pay more at a department store because of the retailer's inability to obtain contractual commitments assuring flexible service.

The Commission found abuse after abuse, impacting all sectors and regions of our country.

Mr. President, a report prepared for the Department of Agriculture by Dr. Allen Ferguson, entitled "Maritime Policy and Agricultural Interests: Impacts of the Conference System" found that "the 'cartel premium' attributable to conference market power amounts to some 18 percent of the cost of ocean transportation." He found that with a sampling of only six commodities, the elimination of this antitrust exemption would increase revenues of agriculture anywhere from $239 million to $400 million per year.

In fact, Vice President GORE's National Performance Review task force on transportation recommended the elimination of this antitrust exemption for ocean conferences. The task force pointed to the fact that the Justice Department estimates these conferences increase the cost of shipping by at least 10 to 15 percent, while providing U.S. and foreign shippers a backdoor, hidden subsidy of $2 to $3 billion per year.

Mr. President, this practice must come to an end, and I am proud to join Senator METZENBAUM and others in taking this necessary action.●

By Mr. COCHRAN:

S. 1603. A bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers; to the Committee on Governmental Affairs.

U.S. FISH AND WILDLIFE SERVICE REFUGE OFFICERS CIVIL SERVICE AMENDMENTS ACT OF 1993

• Mr. COCHRAN. Mr. President, today I am pleased to introduce a bill that will extend to the full-time law enforcement officers of the Refuge Division of the U.S. Fish and Wildlife Service the same retirement provisions that are applicable to other law enforcement officers under the civil service retirement system.

I commend my colleague from Maryland, Senator MIKULSKI, for her introduction earlier this year of similar legislation to extend these civil service retirement benefits for law enforcement officers to INS inspectors, inspectors and canine enforcement officers of the Customs Service, and revenue officers of the Internal Revenue Service.

The bill I am introducing today, will provide the same benefits under the civil service retirement system to the full-time officers who enforce the law in our National Wildlife Refuge System.

I hope Senators will support this legislation.•

By Mr. GLENN (for himself, Mr. LEVIN, Mr. PRYOR, Mr. AKAKA, and Mr. LIEBERMAN):

S. 1604. A bill to provide for greater regulatory flexibility for small governments, lessen compliance burdens on small government, test innovative regulatory methods, and for other purposes; to the Committee on Governmental Affairs.

SMALL GOVERNMENTS REGULATORY IMPROVEMENT AND INNOVATION ACT OF 1993

• Mr. GLENN. Mr. President, I rise today to introduce the Small Governments Regulatory Improvement and Innovation Act of 1993—legislation designed to lessen regulatory compliance and cost burdens on small governments.

As many of my colleagues are aware, Wednesday was National Unfunded Mandates Day, or NUMD for short. State and local officials from all over the United States gathered in Washington to send a message to the Federal Government—Stop burdening us with your responsibilities, your paperwork and administration, and your regulations, unless you give us the help to go with it. In layman's terms, they are saying—"Stop passing the buck, without the bucks."

Estimates by the Congressional Budget Office [CBO] show that the cost to State and local governments of Federal legislative and regulatory mandates rose from $225 million in 1986 to $2.8 billion in 1991. While the CBO data is limited in scope, it clearly shows that cost of Federal mandates has been increasing—this increase occurring during a period when we saw an overall decline in Federal aid to State and local governments. A study by the city of Columbus showed that compliance costs of Federal environmental laws and regulations in nine Ohio metropolitan areas would rise from $183 million in 1992 to $301 million by 1996. This translates into an indirect tax of $225 per household, up from $137 in 1992.

Clearly, Federal regulatory and legislative burdens are increasing on smaller governments at a time when these governments are hard strapped for resources to pay for these mandates. That's why I'm introducing the Small Governments Regulatory Improvement and Innovation Act. The legislation seeks to lessen the burden of Federal regulatory mandates through improvements in the Federal rulemaking process to give greater regulatory flexibility to smaller governments, as well as give greater consideration to the cost impact of Federal regulation.

The legislation accomplishes these objectives through a number of ways. First, consistent with the Clinton administrations Executive orders on regulatory review and intergovernmental relations, the bill establishes a strong role for OMB in reviewing agency rules and regulations that impact small governments. Secondly, agencies must identify their most costly regulations on small governments, and then come up with more flexible, less costly alternatives. In addition, the bill sets up Small Government Coordinators in the major regulatory agencies and establishes an advisory Council on Small Governments to provide advice and analysis to OMB on regulations affecting small governments. And finally, the bill sets up pilot programs to experiment with bold, innovative regulatory approaches.

I would note that coverage of some of the provisions in this bill extend to small business as well. The pilot programs in section 7 of the bill are of particular note to small business as are provisions in section 10 which tighten agency waiver authority of the Regulatory Flexibility Act.

The theme of this bill is flexibility. Laws protecting public safety, human health, and the environment are vital and necessary. However, that doesn't mean we can't use a little more common sense, as well as pay greater attention to cost issues, in promulgating regulations to implement those laws. In many cases, I believe we can fully meet the objectives of our environmental statutes while at the same time reducing their costs and burdens on those directly affected.

The bill encourages innovation and new ways of thinking in the rulemaking process. It is fully consistent with the President's initiatives in the National Performance Review of making the Federal Government more efficient, responsive, and workable.

Mr. President, in closing, I would say that my Committee on Governmental Affairs will be taking a leadership role on this issue of Federal mandates. We will be having a kick-off hearing next Wednesday at 9:30 a.m.

I ask unanimous consent that a copy of the bill be inserted into the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Governments Regulatory Improvement and Innovation Act of 1993".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) better determine the cost and other impacts of regulation on small governments;

(2) encourage the use of more flexible regulatory approaches that lessen compliance burdens on small governments; and

(3) test innovative methods of regulation.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "small government" means a small governmental jurisdiction as defined under section 601(5) of title 5, United States Code;

(2) the term "agency" means any agency as defined under section 551(1) of title 5, United States Code;

(3) the term "Director" means the Director of the Office of Management and Budget;

(4) the term "Council" means the Council on Small Governments established under section 8;

(5) the term "small entity" means a small entity as defined under section 601(6) of title 5, United States Code; and

(6) the term "Administrator" means the Administrator of the Small Business Administration.

SEC. 4. AGENCY RESPONSIBILITIES.

(a) GUIDELINES.—The head of each agency shall, after opportunity for public comment, issue guidelines consistent with section 6(b) of this Act to ensure implementation of chapter 6 of title 5, United States Code, by the agency.

(b) PLANS.—The head of each agency shall develop a plan to inform, educate, and advise small entities on compliance with any rule that has a significant impact on small entities. Such plan shall be published in the Federal Register in the notice of proposed rulemaking and the final rulemaking notice for any such rule, and shall include a listing of—

(1) local and regional workshops for the purpose of providing and receiving information about the impact of the rule;

(2) written guidance and other applicable publications and their availability; and

(3) relevant Federal, State, and local technical assistance programs.

(c) REPORTS.—The head of each agency shall report annually to the Administrator and to the Director on the agency's implementation of this Act and compliance with the provisions of chapter 6 of title 5, United States Code.

SEC. 5. SMALL GOVERNMENT COORDINATORS.

(a) ESTABLISHMENT.—There is established in each agency the position of Small Government Coordinator who shall report directly to the head of the agency. The Small Government Coordinator shall—

(1) communicate the small government perspective on agency rules and policies during the development of such rules and policies;

(2) oversee and report to the agency head on agency efforts to comply with chapter 6 of title 5, United States Code, as such chapter applies to small governmental jurisdictions, including—

(A) participation in the development of agency guidelines for the full implementation of chapter 6 of title 5, United States Code, as such chapter applies to small governmental jurisdictions; and

(B) the development of alternative regulatory proposals that accomplish the stated objectives of applicable statutes and which minimize the impact of regulations on small governments by working with—

(i) agency regulatory policy personnel;

(ii) national organizations representing small governments;

(iii) local elected officials;

(iv) public policy experts;

(v) the Administrator;

(vi) the Director; and

(vii) the Council;

(3) advising the agency head on establishing electronic or other means of information collection to gather data on small governments;

(4) advising the agency head and the Director on the development and implementation of the pilot program established under section 6; and

(5) providing technical assistance to small governments on compliance with agency regulations.

(b) PERSONNEL.—To the greatest extent practicable, the head of each agency shall designate existing personnel to perform the duties described under this section.

(c) WAIVER.—(1) The head of an agency may waive the requirements of this section if such agency head—

(A) in consultation with the Council and in concurrence with the Director, certifies that the agency does not issue a significant number of rules affecting small governments; and

(B) publishes such certification in the Federal Register.

(2) Such waiver shall be reviewed annually and such certification shall be made annually, if appropriate.

SEC. 6. REGULATORY COORDINATION.

(a) OFFICE OF INFORMATION AND REGULATORY AFFAIRS.—The Director shall delegate responsibility for the implementation of all duties of the Director under this Act to the Administrator of the Office of Information and Regulatory Affairs.

(b) GUIDELINES.—The Director, in consultation with the Administrator of Small Business, shall issue guidelines to agencies on the identification of rules having a significant impact on small entities. In issuing the guidelines, the Director shall consider—

(1) the number of small entities that may be impacted by a rule;

(2) the economic cost or benefit to small entities from compliance with a rule;

(3) the effect a rule may have on regional economies; and

(4) the reporting and paperwork requirements imposed on small entities by a rule.

(c) COMPLIANCE.—The Director, to the extent permitted by law and in consultation with the Administrator, shall be responsible for monitoring and coordinating agency compliance with the requirements of this Act.

SEC. 7. REGULATORY FLEXIBILITY PILOT PROGRAM.

(a) ESTABLISHMENT.—The Director, in consultation with agencies and the Council, shall establish pilot programs in at least 2 agencies to test innovative, and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small entities; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM CONTENTS.—The pilot programs shall focus on rules in effect or proposed rules, or a combination thereof, that have a significant impact on small entities, with equal emphasis given to rules that impact small governments, small business, and small organizations.

SEC. 8. THE SMALL GOVERNMENTS ADVISORY COUNCIL.

(a) ESTABLISHMENT.—(1) There is established a Small Governments Advisory Council composed of 9 representatives from small governments appointed by the President, of whom no more than 5 shall be from any one political party.

(2) No later than 6 months after the date of enactment of this Act, the President shall make the original appointments to the Council.

(b) MEMBERSHIP.—No less than 6 members of the Council shall be acting small governmental officials. Members of the Council shall—

(1) have an extensive understanding of and experience with the operations of small governments; and

(2) represent a balance with respect to the regions, the sizes of small governments, and the occupations represented on the Council.

(c) DUTIES.—The duties of the Small Governments Advisory Council shall be to—

(1) serve as a focal point for the receipt of comments concerning the regulatory policies and activities of agencies that affect small governments;

(2) advise the Small Government Coordinators as to the performance of their duties under section 5;

(3)(A) develop proposals for changes in the regulatory policies and activities of any agency which shall carry out the purposes of this Act; and

(B) communicate such proposals to the Director and appropriate agencies;

(4)(A) monitor the costs and other burdens of Federal regulation on small governments, including the cumulative effect of such regulation; and

(B) make legislative and nonlegislative proposals for eliminating excessive or unnecessary regulatory burdens placed on small governments;

(5) advise the Director on the implementation of section 6 as such section relates to small governments; and

(6) report annually to the Administrator and the Director on the actions of the Council under this Act, including—

(A) a summary of all proposals offered under subsection (c)(3);

(B) a detailed assessment, prepared in consultation with the Small Government Coordinators established under section 5, of the costs and other burdens of government regulation on small governments, including the cumulative effects of such regulation; and

(C) an assessment of the effectiveness of the pilot programs established under section 7.

(d) CHAIRMAN.—The Council shall elect a chairman and meet at the call of the chairman but no less often than every 6 months.

(e) MEETINGS.—The Director shall meet with the Council on a regular basis, but no less often than every 6 months.

(f) FEDERAL ADVISORY COMMITTEE ACT.—The Council shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out the provisions of this section.

SEC. 9. ASSISTANCE OF GOVERNMENT AGENCIES.

Consistent with applicable law, each department, agency, and instrumentality of the Federal Government shall furnish to the Council such reports and other information as the Council determines necessary to carry out its duties under this Act.

SEC. 10. TECHNICAL AMENDMENTS.

Chapter 6 of title 5, United States Code, is amended—

(1) in section 601(5) by inserting "Indian tribes," after "school districts,";

(2) in section 602(b) by inserting "the Director of the Office of Management and Budget and" after "transmitted to"; and

(3) in section 605(b)—

(A) in the first sentence by striking out "sections 603 and 604 of this title" and inserting in lieu thereof "sections 603(c) and 604 of this title"; and

(B) in the second sentence—

(i) by striking out "or at the time of publication of the final rule"; and

(ii) by inserting "the Director of the Office of Management and Budget and" after "such certification and statement to".•

• Mr. LEVIN. Mr. President, I am pleased to be an original cosponsor of the Small Governments Regulatory Improvement and Innovation Act being introduced today by my colleague, Senator GLENN. I commend him and his staff for their fine work in this important area. This bill is important in obtaining more effective and consistent application of and compliance with the Regulatory Flexibility Act of 1980.

I came to the Senate directly from local government. As a former Detroit City Council president, I am all too familiar with the difficulties local governments face in responding to the demands put on them by Federal agencies. All too often, the Federal programs we create to respond to real problems result in extensive regulations that sometimes bear little relationship to the real world. Frequently, the regulations are blind to the differences between regulated groups and this has been especially true in the case of small governments.

Federal agencies often regulate as if small communities are a small segment of our society even though that could not be further from the truth. Many here in Washington don't realize that over 70 percent of the general purpose governments in the United States have populations of less than 3,000 and half have populations under 1,000. Moreover, only 3 percent of localities in this country have more than 50,000 inhabitants. Consequently, when these small communities are faced with costly regulatory requirements, they don't have a very big tax base upon which to draw.

Small, local governments are frequently comprised of individuals who serve their communities on a volunteer, part-time or low-salary basis. Dedicated community officials oftentimes have very limited access to technical experts, legal counsel, or even computers. Given these real life conditions, Federal agencies need to pay particular attention to the burdens our Federal regulations can place on small communities. This burden can result in exactly what we don't want—non-compliance.

That's in part why we passed the Regulatory Flexibility Act in 1980—to force Federal agencies to take thelimitations of small entities like small local governments into account in issuing regulations.

In the fall of 1988, the Governmental Affairs Committee, of which I am a member, held a hearing on the effectiveness of this legislation in easing the regulatory burden on small entities. Unfortunately, we discovered that the act had not been consistently implemented and compliance by many agencies has been woefully inadequate, particularly with regard to small communities.

As a result of the problems uncovered at that hearing, Chairman GLENN and I, along with other members of the committee, introduced the Small Governments Regulatory Partnership Act to gain more effective compliance with the Regulatory Flexibility Act. Due to certain concerns raised regarding the structure of that bill, we continued to wrestle with the issue of how to sufficiently strengthen the Regulatory Flexibility Act to ensure compliance and to strengthen the voice of small communities in the regulatory process.

The legislation we are introducing today reflects the continued work that has been done to address this important issue. While the legislation has a specific focus on small governments, it includes provisions to increase compliance for small businesses and other small entities.

The bill requires increased involvement of the Office of Management and Budget's Office of Information and Regulatory Affairs in the development and oversight of agency plans for compliance with the Regulatory Flexibility Act [RFA]. Additionally, the act creates a regulatory pilot program to test new, more flexible regulatory approaches to achieve our regulatory goals. The bill also tightens the certification process which allows agencies to exempt themselves from their responsibilities under the Regulatory Flexibility Act.

With regard to small governments, it requires each agency to designate a small government coordinator, reporting directly to the agency head, who will monitor the agency's adherence to the RFA; make recommendations on less burdensome regulatory approaches; provide compliance assistance; and assist in the development of pilot programs. This position is modeled after the Environmental Protection Agency's Office of Small Community Coordinator, an office which I and other members of the Governmental Affairs Committee have fought to preserve and promote. Moreover, a new advisory council would be established to give small governments and their concerns the high-level presence they currently lack in the Federal regulatory process.

Mr. President, small communities should not feel lost in the wilderness when it comes to gaining information and assistance in complying with Federal regulations. The last thing we want is to frustrate the efforts of those individuals who are trying the best they can to comply with what we ask of them. There is no doubt that regulations are complex—one need only look at the courts to see how difficult it can be to understand just what a regulation requires or means.

I am pleased that the President, in his recent Executive order on regulatory policy, included a specific reference to the concerns of small communities in recognition of their special needs. This legislation will further strengthen agency sensitivity in this area. The sooner we pass this bill, the sooner we will realize our earlier promise to this country's small communities. Once again, I thank my friend from Ohio for his work in this area and I urge my colleagues' support.•

By Mr. SARBANES (for himself, Mr. MITCHELL, Mr. AKAKA, Mr. MOYNIHAN, Mr. DORGAN, Mr. INOUYE, Mr. KENNEDY, Mr. METZENBAUM, Mr. ROCKEFELLER, Mr. LEVIN, Mr. JOHNSTON, Mr. WOFFORD, Ms. MIKULSKI, Mr. ROBB, Mr. PRESSLER, Mr. DURENBERGER, Mr. HATCH, and Mr. STEVENS):

S.J. Res. 150. A joint resolution to designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week"; to the Committee on the Judiciary.

PUBLIC SERVICE RECOGNITION WEEK

Mr. SARBANES. Mr. President, I rise today to introduce a resolution designating the week of May 2–8, 1994, as "Public Service Recognition Week." I have introduced similar resolutions in previous Congresses to honor the public servants who so diligently and faithfully serve our Nation at the State, local, and Federal level.

The 9 million city and county workers, 4 million State employees, and 5 million Federal civilian and military employees who serve the public perform some of our Nation's most critical and important tasks. These are the men and women who defend our Nation and educate our children. They keep our food and drinking water safe and come to our aid should fire, flood, or other disasters strike our homes and communities. They work to find new treatments for cancer and AIDS and to develop new technologies to improve and enhance our lives.

Their collective mission is integral to preserving our health, safety, and standard of living, yet public servants are rarely recognized for their efforts unless there is a disruption in the level of service to which the public is accustomed. Consequently, theirs is a thankless job; and one which they have had to perform under increasingly adverse conditions.

Today, government at every level is bound by severe fiscal constraints. The lingering effects of a slack economy have exacerbated budgetary pressures and forced governments to cut back or eliminate basic services. States and municipalities have been particularly hard-hit and forced to lay off thousands of employees. Those who have not been laid-off are asked to provide the same services with fewer available resources.

I regret some in government have seized upon public employees' vulnerability in these tough economic times and attacked and denigrated them publicly. For more than a decade, public employees, especially at the Federal level, have confronted budget cuts which if not aimed at their very livelihood, targeted their pay or pensions or health benefits. Yet, despite what has been a hostile political and economic climate, public employees continue to perform their duties in an effective and efficient manner.

As we eagerly seek to engage the major challenges before us—the problems afflicting our economy, our health care system, and the safety of our streets—we must remember the millions of public servants who quietly attend to the people's work in Social Security and employment offices, in VA hospitals and health clinics, and in fire halls and police stations across our 50 States. As John F. Kennedy so succinctly put in 1961, it is they who "conduct our generation's most important business—the public's business."

Mr. President, by setting aside a week as "Public Service Recognition Week", we make a small but meaningful statement to public servants throughout the land—that their work, so often unrecognized, is vital and important and that we as individuals and as a Nation depend on it each and every day. I am most pleased to introduce this resolution and I urge my colleagues to join me in working for its swift passage and enactment.

ADDITIONAL COSPONSORS

S. 732

At the request of Mr. KENNEDY, the names of the Senator from California [Mrs. BOXER], the Senator from Wisconsin [Mr. KOHL], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 732, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 793

At the request of Mr. DURENBERGER, the name of the Senator from New

Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 793, a bill to amend the Federal Food, Drug, and Cosmetic Act to require that standards of identity for milk include certain minimum standards regarding milk solids, and for other purposes.

S. 993

At the request of Mr. KEMPTHORNE, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Nevada [Mr. BRYAN], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 1082

At the request of Mr. COCHRAN, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1082, a bill to amend the Public Health Service Act to revise and extend the program of making grants to the States for the operation of offices of rural health, and for other purposes.

S. 1116

At the request of Mr. BURNS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1116, a bill to amend the Internal Revenue Code of 1986 to clarify the deduction for expenses of certain home offices, and for other purposes.

S. 1288

At the request of Mr. AKAKA, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1571

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1571, a bill to improve immigration law enforcement.

SENATE JOINT RESOLUTION 90

At the request of Mr. ROBB, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 90, a joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

AMENDMENT NO. 1036

At the request of Mr. DORGAN his name was added as a cosponsor of amendment No. 1036 proposed to H.R. 3116, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

SENATE CONCURRENT RESOLUTION 49—RELATING TO THE CANADIAN QUOTA REGIME ON CHICKEN IMPORTS

Mr. SIMPSON (for Mr. MCCONNELL for himself and Mr. LOTT, Mr. ROTH, Mr. FAIRCLOTH, and Mr. WARNER) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 49

Whereas the United States chicken industry is the most effective in the world and produced approximately $16 billion worth of chickens in 1992;

Whereas Canada's chicken supply management system severely restricts the importation of United States chickens, resulting in $350,000,000 to $700,000,000 in lost sales;

Whereas Canada's chicken supply management system severely restricts the United States chicken processors and retailers from expanding into the Canadian market;

Whereas Canada's chicken supply management system protects the Canadian chicken growers while severely hurting both United States and Canadian processors and food service retailers;

Whereas Canada's chicken supply management system causes exceedingly high chicken prices and periodic supply shortages in Canada; and

Whereas Canada's chicken supply management system and the imposition of quotas on processed chicken contravenes Canada's obligations under Article XI of the General Agreement on Tariffs and Trade: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States, as part of the Uruguay Round multilateral trade negotiations, negotiate tariffication of Canada's chicken supply management system and the elimination of processed chicken from Canada's Import control List;

(2) the United States should insist under tariffication that the amount of chicken determined to be within quota be based on the total amount of chicken imported into Canada in 1993 through both global and supplemental import quotas;

(3) the United States should seek the elimination, or at the minimum, phase-out of the new duties imposed by Canada on chicken imports in accordance with the terms of the United States-Canada Free Trade Agreement; and

(4) the United States should oppose any activity on the part of Canada which results in lost sales for United States chicken exporters and restricts the United States access to Canada's chicken market.

• Mr. MCCONNELL. Mr. President, I rise today to introduce a resolution which seeks the removal of Canada's barriers to imports of United States chickens and chicken products in negotiations on the GATT round.

Since 1979, Canada has maintained a supply management system to control the Canadian chicken market through production and import quotas. Canada's regime severely limits access to the Canadian market by United States exporters and restricts expansion in Canada by United States companies in the chicken industry.

The United States has much to gain from an opening of Canada's poultry market. Chicken growing and processing in this country is a big business. Approximately 200,000 Americans are directly and indirectly employed in the chicken industry. Chicken is produced in 28 States. Production in 1992 was valued at $16 billion.

This issue is particularly important to me because Canada's chicken quotas restrict the ability of KFC, based in my State, to expand its Canadian operations. KFC's current sales of $600 million in Canada could be increased to $1 billion over the next 4 years if a larger, more secure supply of chicken were available. It would be if Canada dropped its quota system.

Currently, the United States exports roughly $90 million of chicken to Canada—only about 8 percent of total Canadian chicken consumption. Industry officials estimate that an open Canadian market would increase United States exports annually to between $350 to $700 million, resulting in 7,000 to 14,000 new United States jobs.

Now that the Uruguay round negotiations are near completion, it is vitally important that agreement be reached to provide immediate and significant export opportunities for America's highly competitive chicken industry.

Canada is the only major country with which the United States has an outstanding bilateral trade agreement directly impacting the results of the Uruguay round agricultural market access negotiations.

The United States-Canada Free Trade Agreement precludes Canada from introducing any new tariffs on goods originating in the United States. This obligation extends to any new tariffs resulting from tariffications in the Uruguay round. Any executive branch effort to amend the FTA which would nullify this trade agreement obligation on the part of Canada must be accompanied by a major concession on the part of Canada to significantly open its market to United States chicken exports.

I am also troubled by the fact that Canada's import quotas as they apply to processed chicken are inconsistent with GATT Article XI. The GATT has ruled on several occasions that highly processed food products—for example, chicken sandwich patties—clearly are not a "like product" to live or fresh whole chicken. Their inclusion in Canada's supply management system is patently in violation of GATT Article XI and Canada must not be allowed—through the negotiation of the Uruguay round agreement—to maintain restrictive trade barriers on processed chicken imports.

Mr. President, I have been pursuing this issue for several years now to no avail. The Canadians have avoided removing their import restrictions on chicken long enough. By supporting this resolution, the Senate will send Canada a clear message that the time has come for it to move its poultry supply management system into the 20th century. As part of the GATT round, we will accept nothing less than immediate and meaningful new export opportunities to the Canadian market.

AMENDMENTS SUBMITTED

INDOOR AIR QUALITY ACT OF 1993

BROWN AMENDMENT NO. 1092

Mr. WARNER (for Mr. BROWN) proposed an amendment to the bill (S. 656) to provide for indoor air pollution abatement, including indoor radon abatement, and for other purposes; as follows:

On page 96, strike line 1 through line 12.

ADDITIONAL STATEMENTS

FACES OF THE HEALTH CARE CRISIS

• Mr. RIEGLE. Mr. President, I rise today in my continuing effort to put a face on the health care crisis that is confronting America. Today I want to share the story of Leonard L. Ketelhut from Hazel Park, MI. Leonard, his wife Beverly, his 18-year-old daughter Patricia, and his 12-year-old daughter Kelly have been without health insurance since January 11, 1991, because Leonard's medical history has put him in what insurance companies consider a high risk category.

In 1979, Leonard was diagnosed with Hodgkin's disease, a curable form of cancer. After 6 years, several surgeries, and radiation therapy, Leonard's physician declared him cured in 1986. Since that time, Leonard has enjoyed good health.

From 1986 to 1991, Leonard worked for Modern Engineering, which provided benefits for himself and his family through Blue Cross/Blue Shield. When he was laid off in January of 1991, he could not afford to pay over $300 each month to continue the family's health insurance through the COBRA option.

For 2 years, Leonard looked for a job and couldn't find one. During that time he developed new skills by going to truck driving school.

Leonard was able to find another job in December of 1992. Unfortunately at this job he was denied health insurance because of his fight with cancer 10 years before. Health insurance is supposed to be there for those who get sick. Yet many insurers refuse to cover people who are at risk for getting sick. In a letter denying Leonard coverage, the insurance company wrote: "if someone with a potentially adverse health condition or history is approved for coverage, the result could be many claim dollars paid, leading to an overall increase in the cost of insurance for all participating employees in the program."

To make matters worse, Leonard was laid off from his job because the company claimed there wasn't enough work, even though Leonard had worked 56 hours the week before.

In April of this year, Leonard found another job—one that would provide health insurance through Blue Cross/Blue Shield after he had been with the company 90 days. Unfortunately, 9 days into the job Leonard shattered a bone in his wrist. He was eligible for workman's compensation which picked up the cost of his medical care for his wrist, but he lost his chance for health care coverage through his employer. He was replaced in the company and has no job to return to.

Leonard's wife, Beverly, provides day care at home, and thus has no means of obtaining health insurance through an employer. Combined with Leonard's $115 weekly workmen's compensation payments, her income puts the Ketelhuts over the salary limit for Medicaid. They cannot afford private insurance. It is only through good fortune that Leonard, Beverly, and their children have not suffered any serious illnesses since last January, aside from Leonard's injury to his wrist.

It is crucial that people like Leonard Ketelhut and his family have a guarantee of health insurance coverage regardless of their past medical history. All Americans deserve the peace of mind that guaranteed coverage can bring. I will continue to do everything I can to work with the President and First Lady to reform our health care system and provide access to affordable health care for all Americans.•

FAN KANE NEUROHABILITATION SERVICES FOR CHILDREN

• Mr. DECONCINI. Mr. President, I come before you today to speak about the wonderful work being done by the Fan Kane Neurohabilitation Services for Children in Tucson, AZ. The Fan Kane organization is dedicated to helping brain-injured children. This is a very difficult task which they are fulfilling admirably.

Ms. Kane originally started working with children in Cleveland during the late 1920's. She moved to Tucson, AZ in 1949 expecting to work in other fields. Thanks to some persuading by a friend, she soon returned to working with children. That year she helped to create the Cerebral Palsy Foundation of Southern Arizona, an organization that is running strong to this day. In 1950, she helped to create the Fan Kane fund for brain-injured children which enabled her to greatly expand her work with children.

The Fan Kane organization is designed to help children with brain traumas reenter society and gain independence and self-reliance. They have several therapists and volunteers who assist in rehabilitation, therapy, and provide individualized help for each child. There are part-time programs for children during the school year, and full-time programs during the summer. At any given time they will have between 25 to 30 children involved in their program.

Ms. Kane passed away in 1990 but this did not reduce the fine work that this organization continues to undertake. The Fan Kane organization has become highly respected in southern Arizona, and is now affiliated with the University of Arizona Medical School. I ask that my colleagues join me in commending, and congratulating the Fan Kane organization for their dedicated work and wish them the best of luck in the future.•

RECORD TO REMAIN OPEN UNTIL 3 P.M.

Mr. PRYOR. Mr. President, on behalf of the majority leader, I ask unanimous consent that the RECORD remain open until 3 p.m. today for the introduction of legislation and statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, NOVEMBER 1, 1993

Mr. PRYOR. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m., Monday, November 1; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there be a period for morning business, not to extend beyond 12 noon, with Senators permitted to speak therein for up to 5 minutes each, with Senator MURKOWSKI, of Alaska, recognized for up to 15 minutes following the announcement of the Chair, to be followed by Senator DORGAN for up to 10 minutes, with the time from 11 a.m. to 12 noon under the control of Senator BYRD, of West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, NOVEMBER 1, 1993, AT 10:30 A.M.

Mr. PRYOR. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate now stand in recess, as previously ordered.

There being no objection, the Senate, at 1:11 p.m., recessed until Monday, November 1, 1993, at 10:30 a.m.